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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION

Initial reports of States Parties due in 1992

Addendum

ISRAEL

[25 January 1994]

I. GENERAL INFORMATION

1. The State of Israel is a parliamentary democracy in which the Knesset (the legislature) enacts statutes which are interpreted and applied by an independent judiciary and enforced by the executive. Acts of torture, etc. as defined by the Convention are designated as criminal offences by penal legislation (see below) and perpetrators of such offences are tried and punished by the courts.

2. In addition to the criminal law, the law of civil wrongs enables a victim of torture to seek civil redress in damages for torts such as assault or false imprisonment. In appropriate cases, such civil action is available against the State or public officials.

3. Israel is a party to the International Covenant on Civil and Political Rights, provisions of which may be considered as of wider application than those of the Convention against Torture.

4. Under the Israeli constitutional system customary international law is a part of its legal system; however, international conventions are not part of the law of the land, nor can they be directly invoked before the courts. The provisions of international conventions have to be explicitly incorporated into national legislation. For details of such legislation applying the provisions of the Convention, see below.

5. As already stated, the ordinary courts have jurisdiction to try offences against the penal provisions prohibiting torture and similar acts. Moreover, those courts can award compensation in civil actions for damages. In addition, public officials who violate the criminal law or administrative directives by which they are bound (see below) are subject to disciplinary jurisdiction and may incur sanctions imposed by disciplinary bodies. This includes members of the General Security Services (GSS), as well as members of the Israel Defence Forces who are subject to court martial in respect of violation of military law involving torture or similar acts.

II. IMPLEMENTATION OF SPECIFIC PROVISIONS OF THE CONVENTION

Article 1

6. While Israeli legislation does not specifically define torture, statutory provisions clearly cover all acts of torture as found in the definition in article 1 of the Convention. (See remarks on art.4, below).

Article 2

7. A number of sections of the Penal Law, 5737-1977 provide criminal sanctions against acts of torture (see below). Reference should also be made to the Basic Law: Human Dignity and Freedom, enacted recently. Moreover, strict guidelines relating to methods of interrogation of security suspects are also directed to prevention or torture (see below).

8. Another relevant statutory provision is section 12 of the Evidence Ordinance [New Version], 5731-1971 which invalidated any confession made by an accused person not made freely and voluntarily.

9. Regarding article 2(3) of the Convention, we refer to section 24(1)(a) of the Penal Law, 5737-1977 which allows the defence of acting under superior orders only where the orders are lawful. Where an order is manifestly illegal, as would be the case with an order to commit acts of torture, acting under such order would clearly not constitute a defence for a person accused of committing such acts. On this, we would refer to the decision of the Supreme Court, sitting as High Court of Justice (27.12.89) to make absolute decree against the chief Military Advocate, the chief of the General Staff and others, requiring them to commit an army officer for trial before a court martial for committing acts of torture against residents of certain Arab villages in Samaria (administered territories) during the course of putting down the Arab uprising (intifada) at its inception in January 1988. According to the findings of an investigation instituted at the request of the International Red Cross, the residents had been bound and severely beaten by orders of the said army officer. The court characterized such acts as repugnant to civilized standards of behaviour and rejected the plea that they were carried out as a result of the "uncertainty" that prevailed as to orders for quelling the intifada. (High Court case No. 425/89 Piskei Din (Supreme Court Judgements), vol. 43, Part IV, p. 718).

Article 3

10. Under the Extradition Law, 5714-1954, a prior condition for any act of extradition is the existence of an extradition convention between Israel and the State to which it is proposed to extradite the offender.

11. Where a request for extradition is submitted by a foreign State, the Minister of Justice may direct that the person concerned be brought before a District Court to determine whether he is subject to extradition, and in pursuance of such direction, the Attorney General or his representative submits to the court a petition to declare the person concerned subject to extradition. If the statutory conditions are fulfilled, the court will make such a declaration, and the extradition will then eventually be carried out. A person declared subject to extradition does have a right of appeal to the Supreme Court sitting as a Court of Criminal Appeal within 30 days of the decision of the District Court. However, the final decision as to his extradition is, under the Extradition Law, at the discretion of the Minister of Justice.

Article 4

12. The following are the relevant provisions of the Penal Law, 5737-1977 providing criminal sanctions for acts of torture:

"CHAPTER NINE: Offences relating to Public Authority and the Administration of Justice

Article Four: Offences Committed in or Against the Public Service

277. Oppression by public servant. A public servant who does one of the following is liable to imprisonment for three years:

(1) uses or directs the use of force or violence against a person for the purpose of extorting from him or from anyone in whom he is interested a confession of an offence or information relating to an offence;

(2) threatens any person, or directs any person to be threatened, with injury to his person or property or to the person or property of anyone in whom he is interested for the purpose of extorting from him a confession of an offence or any information relating to an offence."

"CHAPTER ELEVEN: OFFENCES RELATING TO PROPERTY

Article Six: Deceit, Blackmail and Extortion

427. Blackmail with use of force. (a) A person who unlawfully uses force to induce a person to do some act or to refrain from doing an act which he is permitted to do is liable to imprisonment for seven years or, if the use of force leads to the doing or omission of the act, nine years.

(b) for the purposes of this section, a person who administers drugs or intoxicating liquors shall be treated as a person using force."

13. Regarding complicity of participation in torture, the following general provisions of the Penal Law, 5737-1977, are relevant:

"CHAPTER FOUR: PARTIES TO AN OFFENCE

25. In this chapter, 'offence' does not include a contravention.

26. Where an offence is committed, each of the following is deemed to have taken part in its commission and to bear responsibility for it:

(1) a person who does one of the acts or makes one of the omissions which constitute the offence;

(2) a person who, whether or not he is present at the time the offence is committed, does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;

(3) a person who, whether or not he is present at the time the offence is committed, counsels or procures any other person to commit the offence;

(4) a person who aids another in committing an offence by being present at the place where it is committed for the purpose of overawing opposition or of strengthening the resolution of the perpetrator or of ensuring the carrying out of the offence.

27. A person who procures another to do an act or make an omission which if he had himself done or made it would have constituted an offence on his part is guilty of that offence.

28. Where two or more persons associate to pursue an unlawful purpose, and in the course of its pursuit an offence is committed which by its nature is a probable consequence thereof, each of them present at the commission of the offence is deemed to have committed it.

29. Where a person counsels another person to commit an offence, and an offence is thereafter committed by the other person, the first-mentioned person is deemed to have counselled the offence actually committed even if it is not committed in the way counselled or is not the offence counselled, so long as the facts constituting the offence actually committed are a probable consequence of carrying out the counsel.

30. If any person has procured or counselled another person to commit an offence and before the commission of the offence has countermanded the commission, he shall not be deemed to have committed the offence if it is subsequently committed."

14. Regarding attempts to commit torture, the following general provisions of the Penal Law, 5727-1977 are relevant:

"CHAPTER FIVE: ATTEMPT AND INCITEMENT

31. In this chapter, 'offence' does not include a contravention.

32. A person who attempts to commit an offence shall unless some other punishment is provided be liable:

(1) to imprisonment for twenty years if the offence is punishable by death;

(2) to imprisonment for fourteen years if the offence is manslaughter;

(3) to imprisonment for ten years if the offence is any other offence punishable by imprisonment for life;

(4) in every other case, to half the punishment prescribed for the offence.

33. (a) A person is deemed to attempt to commit an offence when he begins to put his intention to commit it into effect by some overt act and by means adapted to achieve such intention, but does not achieve such intention to such an extent as to commit the offence.

(b) It is immaterial, except as regards punishment, whether the offender does all that is necessary on his part to complete the commission of the offence or whether the complete commission thereof is prevented by circumstances independent of his will or whether he desists of his own motion from further prosecution of his intention.

(c) It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

34. Any person who attempts to procure or incite another to do any act or make any omission, in Israel or elsewhere, which if it were done or made would constitute an offence under Israeli law or the laws of the place where it is proposed to be done or made shall be liable to the same punishment as if he had himself attempted to do the act or make the omission in Israel:

Provided that if the act or omission is proposed to be done or made at a place outside Israel:

(1) the punishment shall not exceed that which he would have incurred under the laws of that place if he had himself attempted to do the act or make the omission;

(2) he shall not be prosecuted save at the request of the State having jurisdiction in that place."

15. Mention must also be made of the Police Ordinance [New Version], 5731-1971, section 50 (a) of which, as amended in 1988, defines as a disciplinary offence as "an offence which prejudices good order and discipline, as specified in the Schedule." Item 19 of the Schedule to the Ordinance states the following to be a disciplinary offence: "Use of force against any person within the scope of fulfilment of duty, contrary to the standing orders of the Israel Police or to any other order lawfully given."

16. Police standing orders prohibit the use of force except in very clearly defined cases, i.e. resistance to arrest, attempt to escape from lawful custody, to overcome mob violence, in self-defence or to prevent a crime involving violence. In none of these circumstances would the use of torture be justified. An indictment under this provision may only be brought by decision of the Attorney General or of a person authorized by him.

17. The following are the penalties which a Police Disciplinary Tribunal may impose for disciplinary offences: reprimand; severe reprimand; fine of up to two month's pay; confinement to place of duty for up to 45 days; detention for up to 45 days; reduction in rank. Disciplinary proceedings may be instituted in addition to criminal proceedings for the same offence.

18. Equivalent provisions apply to prison officers under section 101 of the Prisons Ordinance [New Version], 5731-1971 and item 19 of the Schedule to that Ordinance.

19. Section 65 of the Military Justice Law, 5715-1955 provides as follows: "A soldier who strikes or otherwise maltreats a person committed to his custody or a soldier inferior to him in rank is liable to imprisonment for a term of three years." A soldier would be tried before a court-martial for such an offence.

Article 5

20. Israeli criminal jurisdiction is territorial in nature, covering all acts committed within the territory under its jurisdiction. The basic jurisdictional provision of the Penal Law, 5737-1977, is to be found in section 3 thereof:

"CHAPTER TWO: TERRITORIAL APPLICATION

> 3. Extent of jurisdiction. The jurisdiction of the courts in Israel in the matter of offences extends to the area of the State and its territorial waters and, by Law, also beyond the said area. Where an offence is committed partly within the jurisdiction, the person who commits it may be tried and punished as if he had committed it wholly within the jurisdiction."

21. Furthermore, Israeli courts are competent under section 6 of the said Law to try a national, a resident or a public servant of Israel who has committed a number of specific offences, among which are included oppression by a public

servant (section 277) abuse of office (section 280) and blackmail with use of force (section 427), all of which are quoted above (see remarks on art. 4). Section 6 reads as follows:

"Offences by public servants and offences in respect of public property.

6. (a) The courts in Israel are competent to try a national, a resident or a public servant of Israel who committed abroad one of the following offences:

(1) an offence under any of the sections of articles 4 and 5 of Chapter Nine of this Law;

(2) an offence under any of the sections of Chapter Eleven, except sections 401 and 429, and Chapter Twelve or under section 381 (2) or 489, which harms any property or rights of the State or of one of the bodies or associations specified in the Schedule.

(b) The Minister of Justice may, with the approval of the Constitution, Legislation and Law Committee of the Knesset, vary the Schedule by adding or deleting the names of bodies or associations."

22. Section 7 extends criminal jurisdiction to instances of injury to Israeli nationals and residents committed abroad:

"Injury to nationals or residents of Israel.

7. (a) The courts in Israel shall be competent to try under Israeli Law a person who committed abroad an act which would have been an offence had it been committed in Israel and which injured or was intended to injure the life, person, health, freedom or property of an Israeli national or resident of Israel.

(b) If the offence was committed in a place under the jurisdiction of another State, no information shall be filed under this section unless the act is also an offence under the law which applies in that place."

23. In this context, the following additional provisions of the Penal Law regarding jurisdiction should be noted:

"9. Attempt, incitement and conspiracy. The courts in Israel shall be competent to try, in addition to the parties to an offence under Chapter Four, a person who, in respect of an offence which a court is competent to try under this chapter, has done any of the acts mentioned in Chapters Five and Fourteen or in sections 260 to 262 of this Law.

"10. Restrictions. (a) No information shall be filed in respect of an offence under sections 4 to 9 save by the Attorney General or with his written consent.

"(b) No information shall be filed in respect of an offence under section 7 unless the penalty prescribed for it by Israeli law is imprisonment for a term of one year or more.

"(c) No person shall be brought to trial under sections 6 or 8 for an act or omission for which he has been brought to trial, and convicted or acquitted, abroad.

"(d) A person who has committed an offence under sections 4, 5 or 7 may be brought to trial in Israel even if he has already been brought to trial abroad for the act or omission; but if a person is convicted in Israel of an offence as aforesaid after being convicted thereof abroad, the court in Israel shall, in determining the penalty, have regard to the penalty he has undergone abroad.

"11. Saving of powers. The provisions of this chapter shall not derogate from any power under another law to try offences committed abroad."

Article 6

24. Under the general rules of criminal procedure, where jurisdiction exists, a person suspected of having committed an offence such as those constituting torture would be arrested and detained in custody, or he may be released on adequate bail in appropriate cases. Police investigation of the alleged offence would be initiated without delay.

25. Detainees who are foreign nationals are permitted to communicate with the diplomatic or consular representatives of their State of nationality.

Article 7

26. Persons suspected of having committed acts of torture would be prosecuted, if they are not extradited.

Courts or tribunals would decide on cases of alleged torture in the same way as they decide on any other cases of serious crimes. Standard of evidence required for proof of torture are the same whatever the basis of jurisdiction of the court.

Article 8

27. For Israeli provisions regarding extradition, see under article 3 above. Israeli law makes extradition conditional on the existence of an extradition treaty with the State requesting extradition. A multilateral treaty providing for extradition to which Israel and another State are party and fulfilling the provisions of Israeli law satisfies the statutory requirement.

Article 9

28. The statute regulating judicial assistance, both civil and criminal, is known as the Legal Assistance to Foreign States [Consolidated Version] Law, 5737-1977. The statute provides for service of documents, taking of

evidence, production of documents, seizure of documents or other articles, carrying out of searches and performance of other legal acts on behalf of foreign courts. Moreover, it provides for transfer abroad of prisoners and detainees for the purpose of giving evidence in foreign proceedings. The statute provides that judicial assistance may be withheld where it is likely to prejudice the sovereignty or security of Israel or any matter of public policy, or where there is lack of reciprocity between Israel and the State requesting the assistance.

29. Special regulations govern judicial assistance in criminal matter to States parties to the Strasbourg (Council of Europe) Convention of 20 April 1959, to which Israel is also a party.

Articles 11, 12 and 13

30. The State of Israel maintains that the basic human rights of all persons under its jurisdiction must never be violated, regardless of the crimes that the individual may have committed. To prevent terrorism effectively while ensuring that the basic human rights of even the most dangerous of criminals are protected, the Israeli authorities have adopted strict rules for the handling of interrogations. These guidelines are designed to enable investigators to obtain crucial information on terrorist activities or organizations from suspects who, for obvious reasons, would not volunteer information on their activities, while ensuring that the suspects are not maltreated.

The Landau Commission

31. The basic guidelines on interrogation were laid down by the Landau Commission of Inquiry. The Commission, headed by the former Supreme Court President, Justice Moshe Landau, was appointed following a decision of the Israeli Government in 1987 to examine the General Security Service's (GSS) methods of interrogation of terrorist suspects. In order to compile its recommendations, the Landau Commission examined international human rights law standards, existing Israeli legislation prohibiting torture and maltreatment, and guidelines of other democracies confronted with the threat of terrorism.

32. The Landau Commission envisioned its task as defining "with as much precision as possible, the boundaries of what is permitted to the interrogator and mainly what is prohibited to him". The Commission determined that in dealing with dangerous terrorists who represent a grave threat to the State of Israel and its citizens, the use of a moderate degree of pressure, including physical pressure, in order to obtain crucial information is unavoidable under certain circumstances. Such circumstances include situations in which information which an interrogator can obtain from the suspect can prevent imminent murder, or where the suspect possesses vital information on a terrorist organization which could not be uncovered by any other source (e.g. locations of arms or explosive caches or planned acts of terrorism).

33. The Landau Commission recognized the danger posed to the democratic values of the State of Israel should its agents abuse their power by using unnecessary or unduly harsh forms of pressure. As a result, the Commission recommended that psychological forms of pressure be used predominantly and

that only "moderate physical pressure" (not unknown in other democratic countries) be sanctioned in limited cases where the degree of anticipated danger is considerable.

34. It should be noted that the use of such moderate pressure is in accordance with international law. For example, when asked to examine certain methods of interrogation used by Northern Ireland police against IRA terrorists, the European Human Rights Court ruled that "[i]ll-treatment must reach a certain severe level in order to be included in the ban [of torture and cruel, inhuman or degrading punishment] contained in article 3 [of the European Convention on Human Rights]". In its ruling, that Court sanctioned the use of certain forms of pressure in the interrogation process, such as hooding (except during the actual questioning), sleep deprivation and reduction of food and drink supply.

35. The Landau Commission was aware that the issue of moderate pressure during interrogation is both a serious and a sensitive one. The guidelines regarding interrogation provide for limited forms of pressure under very specific circumstances, to be determined on a case-by-case basis. They by no means authorize indiscriminate use of force. Rather, specific circumstances have been identified and interrogation practices have been strictly defined in a manner that, in the opinion of the Landau Commission, "if these boundaries are maintained exactly in letter and in spirit, the effectiveness of the interrogation will be assured, while at the same time it will be far from the use of physical or mental torture, maltreatment of the person being interrogated, or the degradation of his human dignity".

36. To ensure that disproportionate pressure is not used, the Landau Commission identified several measures, which have been adopted and are now in force, namely:

1. Disproportionate exertion of pressure on the suspect is not permissible - pressure must never reach the level of physical torture or maltreatment of the suspect, or grievous harm to his honour which deprives him of his human dignity.

2. The use of less serious measures must be weighed against the degree of anticipated danger, according to the information in the possession of the interrogator.

3. The physical and psychological means of pressure permitted for use by an interrogator must be defined and limited in advance, by issuing binding directives.

4. There must be strict supervision of the implementation in practice of the directives given to GSS interrogators.

5. The interrogators' supervisors must react firmly and without hesitation to every deviation from the permissible, imposing disciplinary punishment, and in serious cases, causing criminal proceedings to be instituted against the offending interrogator.

37. Once these measures were set down, the Landau Commission went on, in a second section of its report, to detail precisely the exact forms of pressure permissible to the GSS interrogators. This section has been kept secret out of concern that, should the narrow restrictions binding the interrogators be known to the suspects undergoing questioning, the interrogation would be less effective. Palestinian terrorist organizations commonly instruct their members, and have even printed a manual, on techniques of withstanding GSS questioning without disclosing any information. It stands to reason that publishing GSS guidelines would not only enable the organizations to prepare their members better for questioning, but would reassure the suspect as to his ability to undergo interrogation methods without exposing vital information, thus depriving the GSS of the psychological tool of uncertainty.

Safeguards

38. Since the interrogation guidelines are secret, the Israeli Government recognized the importance of establishing safeguards and a system of review of interrogation practices in order to ensure that GSS investigators do not violate the guidelines. As a result, the GSS Comptroller was instructed to check every claim of torture or maltreatment during interrogation. Since 1987, the Comptroller has carried out this responsibility, initiating disciplinary or legal action against interrogators in cases where they have been found to have deviated from the legal guidelines.

39. The Landau Commission recommended that there be external supervision of GSS activities in addition to the GSS Comptroller. Since the Landau Commission issued its recommendations, the State Comptroller's Office has launched an examination of the GSS investigator's unit. Upon the completion of its inquiry, the State Comptroller's findings will be submitted to a special subcommittee of the Knesset (Israeli Parliament) State Comptroller Committee. Also in accordance with the recommendation of the Landau Commission, an additional review procedure exists whereby the conclusions of the special ministerial committee, referred to below, as well as the annual reports of the investigators' unit are brought to the attention of the Subcommittee for Services of the Knesset Foreign Affairs and Defence Committee.

40. In addition, an agreement between the State of Israel and the International Committee of the Red Cross (ICRC) provides for the monitoring of conditions of detention. Delegates from the ICRC are permitted to meet with detainees in private within 14 days of the arrest. ICRC doctors may examine detainees who complain of improper treatment. All complaints made by the ICRC regarding treatment of prisoners are fully investigated by the relevant Israeli authorities and the findings are made known to the ICRC.

41. In May 1991, a special ad hoc committee composed of members of the GSS and the Justice Ministry was appointed to review complaints against the conduct of GSS investigators during interrogation. The committee identified a number of cases in which investigators did not act in accordance with the guidelines for treatment of detainees. As a result of the Committee's findings, action has been taken against GSS investigators involved in these cases.

42. In order to further ensure the effectiveness of the review process it has recently been decided to set up an independent body to check claims of maltreatment instead of the GSS Comptroller. To this end, a unit has been established in the Justice Ministry under the supervision of the State Attorney, which will investigate all complaints of maltreatment in the future.

Review

43. As recommended by the Landau Commission, a special ministerial committee headed by the Prime Minister was established in 1988 under the previous Government to review periodically the interrogation guidelines themselves. This committee held several sessions but its work was cut short by the national elections which were held in June, 1992. Following the establishment of the new Government in July 1992 a new ministerial subcommittee composed of the Ministers of Justice and Police was appointed. This committee is currently reviewing the interrogation guidelines and will soon submit its conclusion and recommendations to the Cabinet.

44. In 1991, a petition was submitted to the Supreme Court of Israel sitting as the High Court of Justice by a detainee named Murad Adnan Salkhat and a private group named the Israel Public Committee Against Torture, challenging the legality of the guidelines and demanding that they be made public. This petition, which is currently pending, demonstrates the openness of the independent judiciary of Israel to adjudicate even highly sensitive matters relating to human rights and security.

IDF investigators

45. The Israel Defence Forces (IDF), like the GSS, has a strict policy of investigating every claim of maltreatment of detainees by IDF investigators. Soldiers who are found to have deviated from the strict IDF orders against violence or threat of violence in interrogation are either court-martialled or have disciplinary proceedings brought against them, depending on the severity of the charges. The IDF also appointed a commission to review interrogation practices and policies. On 10 May 1991, Major General (Reserve) Raphael Vardi was appointed to investigate claims of maltreatment of detainees in military investigation facilities in the administered areas. As a result of his inquiry, a number of interrogators found to have violated the norms were punished. In addition, Major General Vardi submitted a list of recommendations to the IDF Chief of Staff designed to reduce the possibility of maltreatment by IDF investigators. These recommendations have been adopted.

Article 14

46. In addition to the possibility of bringing a tort action for damages, the victim of an act of torture has a right to compensation under the general provisions relating to compensation for victims of crime. Section 77 of the Penal Law, 5737-1977 empowers a court that has convicted a person to require him to pay to the victim of his offence compensation for damage or suffering caused to him, and calculated on the basis of the time of commission of the

offence or of the time of the decision, whichever sum is higher. Compensation is recovered in the same way as a fine. The maximum amount payable to any individual is at the moment fixed at 37,500 New Shekels.

Article 15

47. Section 12 of the Evidence Ordinance (New Version), 5731-1971, entitled "Confessions" provides as follows:

> "12. Evidence of confession by the accused that he has committed an offence is admissible only when the prosecution has produced evidence as to the circumstances in which it was made and the court is satisfied that it was free and voluntary."

Article 16

48. The recently enacted Basic Law: Human Dignity and Freedom is relevant to this article, especially section 2, entitled "Preservation of Life, Body and Dignity", which states as follows: "2. No act shall be committed that harms the life, bodily integrity or dignity of any person as a human being." Section 4, entitled "Protection of Life, Body and Dignity", reads "Every person is entitled to protection of his life, bodily integrity and dignity." Section 11 provides:

> "Application 11. Every governmental authority shall be bound to respect the rights under this Basic Law."

Report of the Committee against Torture

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157. The Committee also recommends that more attention be given to adequate training on the prohibition of torture to medical personnel.

158. In addition, the Committee expects to receive answers to the various questions addressed to the Greek delegation, especially those concerning refugees.

Israel

159. The Committee considered the initial report of Israel (CAT/C/16/Add.4) at its 183rd and 184th meetings on 25 April 1994 (CAT/C/SR.183 and 184), and has adopted the following conclusions and recommendations:

A. Introduction

160. Israel ratified the Convention on 3 October 1991 and made reservations on articles 20 and 30. It also did not make the declarations to accept the provisions of articles 21 and 22 of the Convention.

161. The initial report was filed in a timely fashion and was well supported by the oral presentation of the delegation, which was both focused and informative.

B. Positive aspects

162. The Committee notes the way in which public debate is allowed in Israel on such sensitive matters as ill-treatment of detainees, both in Israel and the occupied territories.

163. The Committee is pleased to acknowledge the way in which the Israeli Medical Association reacted to prevent its members from participating in ill-treatment of detainees by filling in the "medical fitness forms".

164. The Committee is pleased to note that the General Security Service and police are no longer responsible for reviewing complaints of ill-treatment of detainees by their own members, and that such function is now the responsibility of a special unit of the Ministry of Justice. The Committee is also pleased to note that Israel has prosecuted interrogators who have breached domestic standards of conduct and has disciplined others.

C. Subjects of concern

165. There is real concern that no legal steps have been taken to implement domestically the Convention against Torture. Thus, the Convention does not form part of the domestic law of Israel and its provisions cannot be invoked in Israeli courts.

166. The Committee regrets the clear failure to implement the definition of torture as contained in article 1 of the Convention.

167. It is a matter of deep concern that Israeli law pertaining to the defences of "superior orders" and "necessity" are in clear breach of that country's obligations under article 2 of the Convention.

168. The Landau Commission Report, permitting as it does "moderate physical pressure" as a lawful mode of interrogation, is completely unacceptable to this Committee:

(a) As for the most part creating conditions leading to the risk of torture or cruel, or inhuman or degrading treatment or punishment;

(b) By retaining in secret the crucial standards of interrogation to be applied in any case, such secrecy being a further condition leading inevitably to some cases of ill-treatment contrary to the Convention against Torture.

169. The Committee is greatly concerned at the large number of heavily documented cases of ill-treatment in custody that appear to amount to breaches of the Convention, including several cases resulting in death that have been drawn to the attention of the Committee and the world by such reputable non-governmental organizations as Amnesty International, Al Haq (the local branch of the International Commission of Jurists) and others.

D. Recommendations

170. The Committee recommends:

(a) That all the provisions of the Convention against Torture be incorporated by statute into the domestic law of Israel;

(b) That interrogation procedures be published in full so that they are both transparent and seen to be consistent with the standards of the Convention;

(c) That a vigorous programme of education and re-education of the General Security Service, the Israel Defence Forces, police and medical profession be undertaken to acquaint them with their obligations under the Convention;

(d) That an immediate end be put to current interrogation practices that are in breach of Israel's obligations under the Convention;

(e) That all victims of such practices should be granted access to appropriate rehabilitation and compensation measures.

171. Finally, the Committee expresses its wish to cooperate with Israel and it is sure that its recommendations will be properly taken into consideration.

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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION

Second periodic reports of States parties due in 1996

Addendum

ISRAEL*

[17 February 1997]

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* The present document contains a revised version of the special report submitted by Israel on 6 December 1997 in accordance with a request made by the Committee against Torture on 22 November 1996. The second periodic report, when submitted by Israel, will be issued in a separate document. The initial report submitted by Israel is contained in document CAT/C/16/Add.4; for its consideration by the Committee, see documents CAT/C/SR.183 and 184 and Official Records of the General Assembly, Forty-ninth Session, Supplement No. 44 (A/49/46), paras. 159-171.

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I. ISRAEL'S INTERROGATION POLICIES AND PRACTICES

1. In the last month, the Supreme Court handed down a decision which cancelled an interim injunction ordering the General Security Service (GSS) to abstain from the use of any physical pressure during the interrogation of a detainee. Since this decision was the subject of much controversy and was given an utterly mistaken interpretation in the world media, we found it necessary to submit this paper in order to clarify Israel's interrogation policies and practices and in particular the above-mentioned decision of the Supreme Court.

2. We would like to emphasize that Israeli law strictly forbids all forms of torture or maltreatment. The Israeli Penal Code (1977) prohibits the use of force or violence against a person for the purpose of extorting from him a confession to an offence or information relating to an offence. Israel has signed and ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

3. The State of Israel maintains that the basic human rights of all persons under its jurisdiction must never be violated, regardless of the crimes that the individual may have committed. Israel recognizes, however, its responsibility to protect the lives of both Jews and Arabs from harm at the hands of terrorist organizations active throughout the world. To prevent terrorism effectively while ensuring that the basic human rights of even the most dangerous of criminals are protected, the Israeli authorities have adopted strict rules for the handling of interrogations. These guidelines are designed to enable investigators to obtain crucial information on terrorist activities or organizations from suspects who, for obvious reasons, would not volunteer information on their activities, while ensuring that the suspects are not maltreated.

II. THE LANDAU COMMISSION

4. The basic guidelines on interrogation were set by the Landau Commission of Inquiry. The Commission, headed by former Supreme Court President, Justice Moshe Landau, was appointed following a decision of the Government of Israel in 1987 to examine the General Security Service's methods of interrogation of terrorist suspects. In order to compile its recommendations, the Landau Commission examined international human rights law standards, existing Israeli legislation prohibiting torture and maltreatment, and guidelines of other democracies confronted with the threat of terrorism.

5. The Landau Commission envisioned its task as defining “with as much precision as possible, the boundaries of what is permitted to the interrogator and mainly what is prohibited to him”. The Commission determined that in dealing with dangerous terrorists who represent a grave threat to the State of Israel and its citizens, the use of a moderate degree of pressure, including physical pressure, in order to obtain crucial information, is unavoidable under certain circumstances. Such circumstances include situations in which information sought from a detainee believed to be personally involved in serious terrorist activities can prevent imminent murder, or where the

detainee possesses vital information on a terrorist organization which could not be uncovered by any other source (for example, location of arms or caches of explosives for planned acts of terrorism).

6. The Landau Commission recognized the danger posed to the democratic values of the State of Israel should its agents abuse their power by using unnecessary or unduly harsh forms of pressure. As a result, the Commission recommended that psychological forms of pressure be used predominantly and that only "moderate physical pressure" (not unknown in other democratic countries) be sanctioned in limited cases where the degree of anticipated danger is considerable.

7. It should be noted that the use of such moderate pressure is in accordance with international law. For example, when asked to examine certain methods of interrogation used by Northern Ireland police against IRA terrorists, the European Court of Human Rights ruled that "ill-treatment must reach a certain severe level in order to be included in the ban [of torture and cruel, inhuman or degrading punishment] contained in Article 3 [of the European Convention on Human Rights]". In its ruling, that Court disagreed with the view of the Commission that the above-mentioned methods could be construed as torture, though it ruled that their application <u>in combination</u> (emphasis added) amounted to inhuman and degrading treatment. The question whether each of these measures separately would amount to inhuman and degrading treatment was therefore left open by the Court.

8. The Landau Commission was aware that the issue of moderate pressure during interrogation is both a serious and a sensitive one. The guidelines regarding interrogation provide for limited forms of pressure under very specific circumstances, to be determined on a case-by-case basis. They by no means authorize indiscriminate use of force. Rather, specific circumstances have been identified and interrogation practices have been strictly defined in a manner that, in the opinion of the Landau Commission, "if these boundaries are maintained exactly in letter and in spirit, the effectiveness of the interrogation will be assured, while at the same time it will be far from the use of physical or mental torture, maltreatment of the person being interrogated, or the degradation of his human dignity".

9. To ensure that disproportionate pressure is not used, the Landau Commission identified several measures, which have been adopted and are now in force, namely:

(i) Disproportionate exertion of pressure on the suspect is not permissible - pressure must never reach the level of physical torture or maltreatment of the suspect, or grievous harm to his honour which deprives him of his human dignity.

(ii) The use of less serious measures must be weighed against the degree of anticipated danger, according to the information in the possession of the interrogator.

(iii) The physical and psychological means of pressure permitted for use by an interrogator must be defined and limited in advance, by issuing binding directives.

(iv) There must be strict supervision of the implementation in practice of the directives given to GSS interrogators.

(v) The interrogators' supervisors must react firmly and without hesitation to every deviation from the permissible, imposing disciplinary punishment, and in serious cases, causing criminal proceedings to be instituted against the offending interrogator.

10. Once these measures were set down, the Landau Commission went on, in a second section of its report, to precisely detail the exact forms of pressure permissible to the GSS interrogators. This section has been kept secret out of concern that, should the narrow restrictions binding the interrogators be known to the suspects undergoing questioning, the interrogation would be less effective. Palestinian terrorist organizations commonly instruct their members, and have even printed a manual, on techniques of withstanding GSS questioning without disclosing any information. It stands to reason that publishing GSS guidelines would not only enable the organizations to prepare their members better for questioning, but would reassure the suspect as to his ability to undergo interrogation methods without exposing vital information, thus depriving the GSS of the psychological tool of uncertainty.

III. SAFEGUARDS

11. Since the interrogation guidelines are secret, the Government of Israel recognized the importance of establishing safeguards and a system of review of interrogation practices in order to ensure that GSS investigators do not violate the guidelines. As a result, the GSS Comptroller was instructed to check every claim of torture or maltreatment during interrogation. From 1987 until the beginning of 1994, the Comptroller carried out this responsibility, initiating disciplinary or legal action against interrogators in cases where they have been found to have deviated from the legal guidelines. Early in 1994, in accordance with the recommendations of the Landau Commission, responsibility for investigation of claims of maltreatment was transferred to the Division for the Investigation of Police Misconduct in the Ministry of Justice under the direct supervision of the State Attorney.

12. The Landau Commission also recommended that there be external supervision of GSS activities. Since the Landau Commission issued its recommendations, the State Comptroller's Office has launched an examination of the GSS investigator's unit. Upon the completion of its inquiry, the State Comptroller's findings will be submitted to a special subcommittee of the Knesset (Israeli Parliament) State Comptroller Committee.

13. In addition, an agreement between the State of Israel and the International Committee of the Red Cross (ICRC) provides for the monitoring of conditions of detention. Delegates from the ICRC are permitted to meet with detainees in private within 14 days of the arrest. ICRC doctors may examine detainees who complain of improper treatment. All complaints made by the ICRC regarding treatment of prisoners are fully investigated by the relevant Israeli authorities and the findings are made known to the ICRC.

14. In May 1991, a special ad hoc committee composed of members of the GSS and the Justice Ministry was appointed to review complaints against the

conduct of GSS investigators during interrogation at the Gaza Prison investigation section. The committee identified a number of cases in which investigators did not act in accordance with the guidelines for treatment of detainees. As a result of the Committee's findings, action has been taken against GSS investigators involved in those cases.

IV. REVIEW

15. As recommended by the Landau Commission, a special ministerial committee headed by the Prime Minister was established in 1988 under the previous government to review periodically the interrogation guidelines themselves. On 22 April 1993, the ministerial committee determined that certain changes should be made in the GSS guidelines. On the basis of the committee's recommendations, new guidelines were issued to GSS investigators. The new guidelines clearly stipulate that the need and justification for the use of limited pressure by investigators must be established in every case, according to its own special circumstances. The guidelines point out that the use of exceptional methods was intended only for situations where vital information is being concealed and not in order to humiliate, harm or mistreat those under investigation. In addition, it is expressly prohibited to deny a person under investigation food or drink, to refuse him permission to use a bathroom, or to subject him to extreme temperatures. Since then the guidelines have been reviewed from time to time, including during the last year, in the light of the conclusions drawn from recent experience.

16. It should be noted that these guidelines are reviewed against a background of escalating terror. The years since the signing of the Oslo agreement in 1993 have been the bloodiest since the establishment of the State of Israel. During this period Palestinian terrorist groups, such as Hamas and Islamic Jihad, have planned and perpetrated numerous violent attacks which have resulted in the death and injury of hundreds of innocent victims. The spate of suicide bombings on buses and public places designed to terrorize the local population has made it imperative that the defence and security services work as effectively as possible to prevent further terrorist attacks and ensure the security of the population.

17. Within the last year a number of petitions have been submitted to the Supreme Court of Israel sitting as the High Court of Justice demanding that the court issue an injunction forbidding the GSS from using any force throughout the investigation. The court's decisions have dealt with these guidelines and their implementation on a case-by-case basis. Two cases of particular significance are worth mentioning.

18. In December 1995, the High Court of Justice issued an interim injunction on the basis of a petition brought by Abd al-Halim Belbaysi against the GSS (HCJ 336/96), to abstain from the use of physical pressure against the petitioner during his interrogation. At the request of the GSS, this interim order was later cancelled after the petitioner, who had earlier signed a written declaration denying any connection on his part to any illegal activity, admitted that he had planned the heinous terrorist attack at Beit Lid on 22 January 1995 at which two suicide bombers blew themselves up and killed 21 Israelis. Belbaysi confessed that three bombs had been prepared

at his home, that he himself had hidden the bombs in the vicinity of Beit Lid and that on the day of the attack he had handed over two bombs to the two suicide bombers and had driven them to the site of the attack.

19. Belbaysi also provided information which enabled the authorities to retrieve the third bomb, containing 15 kg of explosives, from its hiding place. During the investigation it also became apparent that Belbaysi had additional information regarding serious terrorist attacks in Israel planned for the near future. In order to uncover this essential information, the GSS appealed to the court asking it to cancel the injunction.

20. The court therefore accepted the argument of the GSS attorney that disclosure of this information by Belbaysi could save human lives. In light of this the court cancelled the interim injunction. At the same time the court emphasized the importance of adhering to the rule of law: "... it is clear that the cancellation of the interim order should not be seen as permission for the investigators to use measures which are not compatible with the law and the relevant guidelines."

21. In a more recent case, Muhammed Abdel Aziz Hamdan (HCJ 8049/96), the High Court again cancelled an interim injunction, which had been issued against the GSS following a petition by Hamdan, to abstain from the use of any physical pressure throughout his interrogation. This interim injunction was issued with the agreement of the GSS, who informed the court that at this stage of the investigation, they did not intend to use any physical pressure against the petitioner. However, within 24 hours, as a result of new inquiries and additional information regarding the petitioner, the GSS applied to the court for the cancellation of this interim injunction. It should be noted that Hamdan had previously been detained in 1992 at which time he admitted that he belonged to and was active in the Islamic Jihad cells. At that time he was included in the group of Islamic Jihad and Hamas activists who were deported to Lebanon. Upon his return, Hamdan was sentenced to three additional months of imprisonment, which he completed at the end of February 1994.

22. In July 1995 he was placed under administrative detention for one month, and in March 1996 he was arrested by the Palestinian Authority together with a number of activists of extreme terrorist organizations. He was released in August 1996. In October 1996, the GSS received information which raised definite suspicions that Hamdan had in his possession extremely vital information, the disclosure of which would help save human lives and prevent serious terrorist attacks in Israel, of which there was a real fear of their occurrence in the near future.

23. The conclusion was therefore reached that there was a vital need to immediately continue with the interrogation. It was at this point that the GSS petitioned the Supreme Court to cancel the interim injunction, as it was considered essential to waive the limitations of the interim injunction in order to be able to pressure Hamdan into disclosing information that could prevent danger to many human lives. The attorney for the GSS emphasized that "... the use of such pressure in the present circumstances is allowed by law". He also stated that the physical measures which the GSS wished to use did not amount to "torture" as defined in the Convention against Torture, and that

each of these measures fell under the defence of “necessity” as specified in section 34 (11) of the Penal Law, the conditions of which existed in the present case. In the light of the classified information presented to the court by the GSS, the court was satisfied that there was indeed an extremely high probability that Hamdan did indeed possess extremely vital information the immediate disclosure of which would prevent a terrible disaster and save human lives. In cancelling the interim injunction, the Court stated that “After reviewing the classified material presented to us, we are satisfied that the Respondent does indeed have in his possession information on which a clear suspicion can be based that the Petitioner possesses extremely vital information, the immediate disclosure of which will prevent the most serious attacks. Under these circumstances, we are of the opinion that there is no justification to continue with the interim injunction. Needless to say the cancelling of the interim injunction is not tantamount to permission to use interrogation methods against the Petitioner which are against the law.”

V. CONCLUSION

24. In conclusion, we would like first to note that as a result of GSS investigations of terrorist organizations' activists during the last two years, some 90 planned terrorist attacks have been foiled. Among these planned attacks are some 10 suicide bombings; 7 car-bombings; 15 kidnappings of soldiers and civilians; and some 60 attacks of different types including shootings of soldiers and civilians, hijacking of buses, stabbing and murder of Israelis, placing of explosives, etc.

25. The State of Israel prides itself on having an open society with a democratic legal system which is subject to public scrutiny and which respects human values. Israel has a unique procedure for the judicial review of complaints of alleged maltreatment or torture, namely, the Supreme Court of Israel sitting as a High Court of Justice. Anyone who believes he has been wronged - whether a citizen of Israel or someone merely under the jurisdiction of the Israeli authorities - can petition directly to the Supreme Court sitting as a High Court of Justice. Such a petition will be brought before a judge within 48 hours from the time of its submission. Every allegation of maltreatment is taken seriously and investigated. However, it should be noted that individuals arrested, tried or convicted have both personal and political motives for fabricating claims of maltreatment during interrogation. Personal motives include the desire to have a confession ruled inadmissible at trial, to present oneself as a “martyr”, or to escape retribution from Palestinian terrorist cells which have often assassinated or tortured individuals who have given information to the Israeli authorities. Political motives include the desire to spread anti-Israel disinformation in the form of unfounded human rights complaints, in order to undermine Israel's human rights image or discredit the GSS.

26. It is the unfortunate reality that, during times of political unrest and violence, restrictions must be placed on individuals who threaten the welfare of the State and its citizens. This paper has been aimed at demonstrating that, despite the harsh reality of continuing terrorism faced by the State of Israel, the State does everything in its power to uphold the rights of all persons under its jurisdiction while ensuring the safety of innocent individuals.

Annex

At the Supreme Court in Jerusalem
Sitting as a High Court of Justice

Before: President A. Barak
Justice M. Cheshin and Justice A. Matza

Applicant: Mohammed Abdel Aziz Hamdan

Represented by: Attorney Advocate Rosenthal from Jaffa St. 33 Jerusalem

vs.

Respondents: The General Security Service

Represented by: The Ministry of Justice, Jerusalem

Decision

President A. Barak

1. The Petitioner is an administrative detainee. He has been interrogated by the Respondent (General Secret Service), and has submitted a petition to this court on 12.11.96. In this petition he complained of the use of physical pressure against him during the interrogation. He requested that the Respondent show cause why he should not abstain from the use of these measures. In addition, an interim injunction was requested to prohibit the use of physical pressure until the decision is given on the petition.

The petition was scheduled for an urgent hearing on 14.11.96, and the State Attorney was informed of this on 13.11.96. The attorney for the Respondent, Mr. Shai Nitzan, asked for a postponement of the hearing. He stated that considering the short period of time that remained until the hearing he did not have enough time to carry out the necessary inquiries needed for the response to the petition. At the same time, it was noted that, “in accordance with the telephone inquiries made, the Respondent had no intention to use physical pressure against the petitioner at this stage of the interrogation.

Therefore, and without admitting to the veracity of the general facts presented in the petition, the Respondent informed the court that he agrees that an interim injunction be issued, barring the use of physical pressure against the Petitioner until the hearing of the actual petition”.

On the basis of the statement an interim injunction was issued on that day - 13.11.96, as requested in the petition.

2. Today, 14.11.96, an application on the part of the Respondent has been submitted to us, asking for an urgent hearing to cancel the interim injunction. In giving the reasons for this request, Mr. Nitzan stated that numerous inquiries had been made in the meantime, that the Respondent had received the most updated information regarding the matter under discussion.

Based on this information the Respondent has decided to request that the interim injunction issued by the court be immediately cancelled.

3. In his application the Respondent stated that already in 1992 the Petitioner had been detained for interrogation. He admitted then that he belonged to and was active in the Islamic Jihad cells. At the conclusion of the interrogation he was included in the group of Islamic Jihad and Hamas activists who were deported to Lebanon. Upon his return, the Petitioner was sentenced to 3 additional months of imprisonment, which he completed at the end of February 1994.

In July 1995 he was placed under administrative detention for one month. In March 1996 he was arrested by the Palestinian Authority together with a number of activities of extreme terrorist organizations. He was released in August 1996. The Petitioner remained free for 2 months until he was arrested on 22.10.96 and placed under administrative detention. This detention was based on information which connected him to the activities in the Islamic Jihad.

4. The Respondent notes in his application that a few days before the arrest of the Petitioner the Respondent received information which raised definite suspicions that the Petitioner had in his possession extremely vital information, the disclosure of which would help save human lives and prevent serious terrorist attacks in Israel, of which there was a real fear of their occurrence in the near future. The petitioner was therefore transferred to the detention facility in Jerusalem for interrogation.

In the course of the interrogation additional information accumulated which strengthened the previous information and the fears referred to above. In his application the Respondent stated that such information has been received during the last few days, including the previous night. The Respondent reached the conclusion that there was a vital and urgent need to continue the interrogation immediately without it being subjected to the limitations included in the interim injunction. The withdrawal of these limitations is necessary in order to enable the immediate uncovering of the information in the Petitioner's possession so that danger to human life is prevented. The Respondent pointed out that in his view the use of such pressure in the present circumstances is allowed by law. As specified in Section 34(11) of the Penal Law 1977, the use of physical pressure is permitted in a situation where conditions for the defense of necessity exist.

5. We have held a hearing of this application in the evening hours. We heard the arguments presented by Mr. Nitzan. He submitted that the physical measures which the Respondent wishes to use do not amount to “torture” as defined in the International Convention Against Torture. Mr. Nitzan also noted that each of these measures falls under the defense of necessity as specified in Section 34(11) of the Penal Law, the conditions of which exist in his view in the present case. As against this view, Mr. Rosenthal noted that the use of this defense cannot be made by the Respondent's interrogators. With the consent of Mr. Rosenthal, we have heard the Respondent's interrogators who have presented to us the overall intelligence picture which relates to the Petitioner in particular.

6. After reviewing the classified material presented to us, we are satisfied that the Respondent does indeed have in his possession information on which a clear suspicion can be based that the Petitioner possesses extremely vital information, the immediate disclosure of which will prevent a terrible disaster, will save human lives, and will prevent the most serious terrorist attacks. Under these circumstances, we are of the opinion that there is no justification to continue with the interim injunction (see Misc. Appl. HCJ 336/96 Abd Al Halim Belbaysi vs. The General Security Service) (not published). Needless to say the cancelling of the interim injunction is not tantamount to permission to use interrogation methods against the Petitioner which are against the law. With regard to this matter, we have not been given any information regarding the methods of interrogation which the Respondent wishes to use and we are not taking any stand regarding them. Moreover, our decision applies to the interim injunction only and it does not take any final position with regard to the questions of the principle which were raised before us and which relate to the application of the defense of necessity and its scope. Therefore, we decide to cancel the interim injunction which was issued on 14.11.96.

Justice A. Matza: I agree
Justice M. Cheshin: I agree

Decided as in the decision of President Barak
Given today, 3 Kislev 5756, 14.11.96

True copy of the original

Report of the Committee against Torture

General Assembly
Official Records • Fifty-second Session
Supplement No. 44 (A/52/44)



United Nations • New York, 1997

M. Israel

253. The Committee considered the special report of Israel (CAT/C/33/Add.2/Rev.1) at its 295th, 296th and 297th meetings, on 7 and 9 May 1997 (CAT/C/SR.295, 296 and 297/Add.1), and adopted the following conclusions and recommendations.

1. Introduction

254. The special report of Israel was submitted on 18 February 1997, pursuant to the request contained in the letter to the Permanent Representative of Israel to the United Nations Office at Geneva, dated 22 November 1996 (see para. 25 above). It responded to a number of concerns of the Committee contained in its conclusions on the first periodic report of Israel and the Committee's reaction to certain decisions of the Supreme Court of Israel. The Committee thanks the Israeli delegation for its informative opening statement and its frank and open responses to the Committee's questions.

2. Conclusions

255. The information provided by Israel in its special report and in the opening statement of its representatives was essentially a reiteration of its position described in the initial report, namely, that interrogation, including the use of "moderate physical pressure" where it is thought that interrogatees have information of imminent attacks against the State which may involve deaths of innocent citizens, is lawful if conducted in accordance with the "Landau rules", which permit "moderate physical pressure" to be used in strictly defined interrogation circumstances.

256. It is Israel's position that interrogations pursuant to the "Landau rules" do not breach prohibitions against cruel, inhuman or degrading treatment as contained in article 16 of the Convention against Torture and do not amount to torture as defined in article 1 of the Convention.

257. However, the methods of interrogation, which were described by non-governmental organizations on the basis of accounts given to them by interrogatees and appear to be applied systematically, were neither confirmed nor denied by Israel. The Committee must therefore assume them to be accurate. Those methods include: (1) restraining in very painful conditions, (2) hooding under special conditions, (3) sounding of loud music for prolonged periods, (4) sleep deprivation for prolonged periods, (5) threats, including death threats, (6) violent shaking, and (7) using cold air to chill, and are, in the Committee's view, breaches of article 16 and also constitute torture as defined in article 1 of the Convention. This conclusion is particularly evident where such methods of interrogation are used in combination, which appears to be the standard case.

258. The Committee acknowledges the terrible dilemma that Israel confronts in dealing with terrorist threats to its security, but as a State party to the Convention Israel is precluded from raising before this Committee exceptional circumstances as justification for acts prohibited by article 1 of the Convention. This is plainly expressed in article 2 of the Convention.

259. The Committee is also concerned that the effect of the Hamdan decision by the Israeli Supreme Court dissolving the interim injunction was to allow some of

the interrogation practices referred to above to continue and to legitimize them for domestic purposes.

3. Recommendations

260. The Committee recommends that:

(a) Interrogations applying the methods referred to above and any other methods that are in conflict with the provisions of articles 1 and 16 of the Convention cease immediately;

(b) The provisions of the Convention be incorporated by legislation into Israeli law, particularly the definition of torture contained in article 1 of the Convention, as is currently under consideration by the expert committee of the Ministerial Committee for Legislation;

(c) Israel consider making the declarations provided for under articles 21 and 22 and withdrawing its reservation to article 20 of the Convention;

(d) Interrogation procedures pursuant to the "Landau rules" in any event be published in full;

(e) Israel include information on the measures taken in response to these conclusions and recommendations in its second periodic report, which was due on 1 November 1996. That report should be submitted as soon as possible and in any event no later than 1 September 1997, in order to allow the Committee to consider it at its next session.

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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION

Second periodic reports of States parties due in 1996*

Addendum

ISRAEL

[26 February 1998]

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* The initial report submitted by the Government of Israel is contained in document CAT/C/16/Add.4; for its consideration by the Committee, see documents CAT/C/SR.183 and 184 and Official Records of the General Assembly, Forty-ninth session, Supplement No. 44 (A/49/44, paras. 159-171). For the special report, see CAT/C/33/Add.2/Rev.1; for its consideration, see CAT/C/SR.295, 296 and 297/Add.1 and Official Records of the General Assembly, Fifty-second session, Supplement No. 44 (A/52/44, paras. 253-260).

Introduction

1. This report is submitted pursuant to article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force with regard to Israel on 2 November 1991.

2. The present report supplements the initial report submitted by Israel in 1994 (CAT/C/16/Add.4) and the report submitted in 1996 (CAT/C/33/Add.2/Rev.1). Thus, for a comprehensive review it should be read in conjunction with those reports.

3. The report is divided according to the articles of the Convention. Since article 16 of the Convention widens its scope to also include a prohibition on cruel, inhuman and degrading treatment or punishment, the discussion under each article should be construed as covering both torture and cruel, inhuman or degrading treatment or punishment.

INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

Article 2 - Measures to prevent torture

Legislative measures bearing on the prohibition of torture and of cruel, inhuman or degrading treatment or punishment

Basic Law: Human Dignity and Liberty

4. In 1992, the Israeli Knesset enacted the Basic Law: Human Dignity and Liberty. The fundamental rights guaranteed in that basic law not only form the basis for interpretation of previous legislation and the limiting criteria for new laws; in addition, the Basic Law has itself stimulated numerous legislative efforts, in areas such as arrest and detention, searches and seizures, emergency legislation, privacy, imprisonment for civil debts, and the rights of patients, which aim to give the fullest practical realization of the principles embodied in the Basic Law.

5. Section 2 of Basic Law: Human Liberty and Dignity, which prohibits any “violation of the life, body or dignity of any person as such”, and section 4 of the Basic Law, which grants all persons the right to protection against such violations, have constitutional status in Israel's legislative framework. The Supreme Court arguably has the power to void any legislation enacted after the entry into force of the Basic Law which violates the above provisions; previously enacted laws may not be deemed void by the Court for this reason, but they will be interpreted in accordance with the fundamental principles of the sanctity of life, integrity of the body and primacy of human dignity, broadly construed. These provisions in the Basic Law, then, may be deemed to constitute a general prohibition of cruel, inhuman or degrading treatment or punishment, including torture, and are binding both vis-à-vis public and private entities.

General Security Service Bill

6. The functions, powers and structure of the General Security Service (GSS) have, to date, not been determined in any law but solely, and partially,

in government decisions. Over the years, a process has developed of giving expression in legislation to various powers of the GSS - for example, in the Secret Monitoring Law, 5739-1979, in the Criminal Record and Rehabilitation Law, 5741-1981, in the Privacy Protection Law, 5741-1981, in the Equal Opportunities in the Workplace Law, 5748-1988, and others. However, all of these concern only piecemeal arrangements in specific areas. The status, structure, functions and powers of the GSS and the modes of supervision over its activity have not as yet been given an overall arrangement in legislation.

7. This does not mean, of course, that the GSS exists and acts outside the law. It is a division in the Office of the Prime Minister, and the legal basis for its activity, in those areas that have not been set out in legislation, is found in government decisions, by virtue of "the general powers of government" granted to it in accordance with section 40 of Basic Law: The Government, and subject to the legal constraints on the exercise of such powers (*see* H.C.J. 5128/94, *Federman* v. *Minister of Police*, 48(5) P.D. 647, 651-654).

8. Over the last few decades there has been a growing international trend towards setting out, in legislation, the activities of the various secret services, and several countries have enacted laws in this area. The proposed law is intended to fill the gap in Israeli law in all matters related to the structure, purpose, functions and powers of the GSS, as well as scrutiny over its activities.

9. Because the GSS activity is, by definition, classified and protected, the efficacy of normal mechanisms of control, deterrence and balance that exist in a democratic society to guard against governmental arbitrariness and abuse of its power, such as a free press, parliamentary supervision, public opinion and judicial review, is severely limited with regard to such organizations. It is thus particularly important to create effective institutionalized arrangements and mechanisms for scrutiny, control and review of the activity of the GSS. This is achieved in the bill by a range of provisions and mechanisms.

10. Under the proposed law, the GSS will be subject to the authority of the Government, in a manner similar to the Israel Defence Forces as set out in Basic Law: The Army. The Government will appoint the Head of the GSS, on the proposal of the Prime Minister. The Government will approve the objectives of the GSS's activity, and will establish various directives regarding the fulfilment of its functions, in accordance with and subject to the provisions of the proposed law, which also include parliamentary oversight.

11. The Prime Minister is responsible for the GSS on behalf of the Government. To this end he or she has been given various powers in the proposed law, including the authority to promulgate regulations and rules, with the approval of the Ministerial Committee for Service Affairs and the Knesset Committee for Service Affairs, in all matters relating to the implementation of the law. The Prime Minister is also the person who will approve GSS Directives determined by the head of the GSS.

12. Under the proposed law, the Government has to appoint a special Ministerial Committee for Service Affairs, headed by the Prime Minister, which will act in the name of the Government in matters which the Government will

determine. The law also prescribes provisions for the composition of the Committee, to ensure that it will remain compact and businesslike.

13. The Committee will have various functions, in particular with respect to scrutiny and oversight of the GSS's activity. It is empowered to approve regulations and rules in respect of the implementation of the law. It is also entitled to receive periodic reports from the head of the GSS, and may demand special reports upon request.

14. Under the proposed law, the Subcommittee for Secret Services of the Knesset Defence and Foreign Affairs Committee will be established as the "Knesset Committee for Service Affairs". Regulations and rules for the implementation of the law require the approval of this Committee. It is also entitled to receive periodic reports from the head of the GSS.

15. The proposed law determines, for the first time, the functions and powers of the GSS. The objective of the GSS consists principally of protecting the security of the State, its governance and institutions, from the threat of terrorism, espionage, and other, similar threats. To this end the task of the GSS is to foil and prevent unlawful activity aimed at harming the aforementioned objectives. The GSS is also given duties in the realm of protecting persons, information and sites, security classification and vetting, settling security procedures for bodies designated by the Government, gathering and receiving information, and giving counsel and situation appraisals to the Government and other bodies which it designates.

16. To carry out its objectives and functions, the GSS has been given various powers, including conducting investigations, gathering and receiving information, powers of arrest and search, and search powers for intelligence purposes.

17. Also, a service Comptroller, who is not an employee of the GSS, is to be appointed by the Prime Minister. The Comptroller will be subject to the provisions of the Internal Audit Law, 5752-1992, with slight modifications. Among other duties, the Comptroller is to assist the Government and the Ministerial Committee in fulfilling their various functions, and may be charged with other functions, including handling inquiries, complaints and disciplinary complaints against the GSS from the general public, as well as complaints by GSS employees.

18. In addition, the GSS will continue to be subject to the scrutiny of the State Comptroller by virtue of section 9 of the State Comptroller Law [Consolidated Version], 5718-1958, and of the Division for the Investigation of Police Misconduct in the Ministry of Justice under chapter 4.2 of the Police Ordinance [New Version], 5731-1971; and also, of course, to judicial review, first and foremost by the High Court of Justice.

19. The bill was adopted by the Israeli Government on 2 February 1998. It was then put on the Knesset table for further consideration.

Proposed amendment of the Evidence Ordinance

20. The proposed amendment seeks, *inter alia*, to bring the Evidence Ordinance [new Version] in line with Basic Law: Human Liberty and Dignity and with article 15 of the Convention. It is therefore discussed under that article.

Other measures bearing on the problem of torture and of cruel, inhuman or degrading treatment or punishment

The Kremnitzer Committee

21. Following a report in 1993 by the Comptroller of the Israel Police which examined the systemic response to acts of violence by police personnel, the Minister of Police (now renamed the Minister of Internal Security) appointed a public commission, headed by the former dean of the Law Faculty at the Hebrew University, Professor Mordecai Kremnitzer, to propose a plan of action for dealing with the issue. The Kremnitzer Committee, as it is called, issued its report in June 1994, which included specific recommendations for the prevention and deterrence of violence by police officers. These recommendations may be summarized as follows.

22. Prevention of police violence should be achieved by:

(a) Improvement in screening candidates for enlistment;

(b) Involving more women in detective and fieldwork, so as to “soften” the contact between the police and citizens;

(c) Examining the disciplinary profile of police personnel prior to promotion;

(d) Placing emphasis on the responsibility of commanders to transmit the educational message directly to their charges, and especially regarding the equality of all persons and the rights of minorities; and

(e) Videotaping investigations and field operations.

23. The response to incidents of violence should include:

(a) Distinguishing between severe violence and the use of force which does not amount to severe violence; the former cases, according to the committee's recommendation, should be adjudicated before a specially appointed Magistrate Court judge. Where there are acts attributed to a police officer and the officer admits to them, or where there exists unequivocal evidence against such officer, then dismissal from the Police should be mandatory;

(b) Any police officer who is convicted of severe violence should likewise be dismissed; and

(c) Occurrences of unlawful use of force which do not amount to severe violence should be dealt with in disciplinary proceedings or by senior commanding officers. Repeat occurrences should result in dismissal from the police force.

24. Following publication of the Kremnitzer Committee's report, the Israel Police adopted its recommendations, and the Minister of Police appointed an oversight committee to ensure their implementation. While the oversight committee has only recently begun to function actively, the Israel Police has taken several measures to implement the committee's recommendations, such as strict screening of candidates for enlistment in the police, including weighing of sociometric tests indicating capacity for self-control and interpersonal skills; periodic evaluations of performance; training workshops in questioning persons who are not designated as criminal suspects, as well as in prevention of violence, human rights and equality before the law (some of these workshops were taught by members of independent human rights groups); giving an annual prize for tolerance to particular precinct stations; publishing a newsletter on police ethics; and starting an experimental "community policing" project in 10 precincts. In addition, the disciplinary desk of the Israel Police was expanded to a fully-fledged department, with added personnel, to improve the efficiency and quality of handling disciplinary complaints.

25. The response of the Israel Police thus far in implementing the recommendations of the Kremnitzer Report has met with praise from at least one prominent independent civil rights group.

Public Defender's Office

26. In 1995, a national public defender's office was created by legislation. The major impetus for forming the new department derived from the difficulties encountered by the courts in appointing experienced criminal attorneys to represent indigent persons suspected of serious offences. While it is too early to assess the performance of the new, State-funded department, it is anticipated that the augmented protection of the rights of criminal defendants and detainees by a highly trained corps of criminal defence attorneys will result, among other things, in a decrease in violent treatment on the part of law enforcement officials.

Article 4 - Criminal Legislation

27. In 1994, the Penal Law was amended by a revision of the general part, which sets out the legal principles of Israeli criminal law. This amendment includes a revision of the provisions relating to attempt, assistance, encouragement and incitement. These provisions are a matter of particular importance in cases of physical or psychological abuse. The following are the relevant provisions of Chapter Five of the Penal Law, entitled "Derivative Offences"*:

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* As no official translation of the amendment is yet available, the above is an unofficial translation.

“Title One: Attempt

“What constitutes an attempt

A person attempts to commit an offence, if he - with intent to commit it - commits an act that does not only constitute preparation, provided the offence was not completed.

“Commission of offence is impossible

For purposes of attempt, it shall be immaterial that the commission of the offence was impossible, because of circumstances of which the person who made the attempt was not aware or in respect of which he was mistaken.

“Special penalty for attempt

If a provision sets a mandatory penalty or a minimum penalty for an offence, then it shall not apply to an attempt to commit that offence.

“Exemption for remorse

If a person attempted to commit an offence, he shall not bear criminal liability therefor, if he proved that, of his own free will and out of contrition - he stopped its commission or substantively contributed to the prevention of results on which the completion of the offence depends; however, the aforesaid shall not derogate from his criminal liability for another completed offence connected to the same act.

“Title Two: Parties to an Offence

“Perpetrator

“(a) 'Perpetrator of an offence' includes a person who committed the offence jointly or who committed through another.

“(b) Participants in the commission of an offence, who perform acts for its commission, are joint perpetrators, and it is immaterial whether all acts were performed jointly or some were performed by one person and some by another.

“(c) A perpetrator of an offence through another is a person who contributed to the commission of the act by others who acted as his instrument, the other person being in one of the following situations, within their meaning in this Law:

(1) he is a minor or mentally incompetent;

(2) he lacks control;

(3) he has no criminal intent;

(4) he misunderstands the circumstances;

(5) he is under duress or has a justification.

"(d) for the purposes of subsection (c), if the offence is conditional on a certain perpetrator, then the person in question shall be deemed to have committed that offence even if the condition is only met by the other person.

"Incitement

If a person causes another to commit an offence by means of persuasion, encouragement, demand, cajolery or by means of anything else that constitutes the application of pressure, then he incites an offence.

"Accessory

If a person does anything, before an offence or during its commission, to make its commission possible, to support or protect it, or to prevent the perpetrator from being taken or the offence or its spoils from being discovered, or if he contributes in any other way to the creation of conditions for the commission of the offence, then he is an accessory.

"Penalty of accessory

The penalty for being an accessory to the commission of an offence shall be half the penalty determined by legislation for the commission of that offence; however, if the penalty set is:

(1) the death penalty or mandatory life imprisonment, then his penalty shall be 20 years' imprisonment;

(2) life imprisonment, then his penalty shall be 10 years' imprisonment;

(3) a minimum penalty, then his penalty shall not be less than half the minimum penalty;

(4) any mandatory penalty, then it shall be the maximum penalty and half thereof shall be the minimum penalty.

"Attempted incitement

The penalty for attempting to incite another to commit an offence shall be half the penalty for the commission of the offence itself; however, if the penalty set is:

(1) the death penalty or mandatory life imprisonment, then his penalty shall be 20 years' imprisonment;

(2) life imprisonment, then his penalty shall be 10 years' imprisonment;

(3) a minimum penalty, then his penalty shall not be less than half the minimum penalty;

(4) any mandatory penalty, then it shall be the maximum penalty and half thereof shall be the minimum penalty.

"Exemption for remorse

"(a) If a person was an accessory or if he incited another to commit an offence, he shall not bear criminal liability for being an accessory or for incitement, if he prevented the commission of the offence or its completion, or if he informed the authorities of the offence in time, in order to prevent its commission or its completion, or if - to that end - he acted to the best of his ability in some other manner; however, the aforesaid shall not derogate from his criminal liability for another completed offence connected to the same act.

"(b) For the purposes of this section, 'authorities' means the Israel Police or any other body lawfully empowered to prevent the commission or completion of an offence.

"Other or additional offence

"(a) If, while committing an offence, a perpetrator also committed another or an additional offence, and if, under the circumstances, an ordinary person could have been aware of the possibility that it would be committed, then:

(1) the other joint perpetrators shall also bear liability for it; however, if the other or additional offence was committed intentionally, then the other joint perpetrators shall bear liability for it only as an offence of indifference;

(2) a person who incited or was an accessory to it shall also bear liability, as an offence of negligence, if such an offence exists based on the same facts.

"(b) If the court found an accused guilty under subsection (a) (1) for an offence for which there is a mandatory penalty, then it may impose a lighter penalty on him."

Article 10 - Education and information

Israel Police

28. The Israel Police and the Prisons Service maintain thoroughgoing training programmes for personnel at all levels, in which their obligations regarding the respect and realization of civil and human rights are taught. These training programmes take three basic forms: required courses for all entry-level personnel, and subsequently for all personnel as a condition prior to promotion in rank; voluntary continuing education seminars on specific topics, which typically last between several days and one week; and periodic refresher courses.

29. Required courses for Israel Police personnel are taught at the National Police Academy in Shfar'am or at the Senior Officers' College near Netanya. All police employees must pass a two-month basic training course, which

includes a total of 47 hours of instruction in the areas of professional ethics, providing service to citizens, police powers, use of force, unlawful commands, and disciplinary violations.

30. The required courses for sergeants, captains, and senior staff officers also devote between 42 to 80 hours to instruction regarding the above matters, as well as to modules on competence in human relations, conflict resolution, investigation of police personnel, media in a democracy, citizens' complaints, family violence, treatment of juvenile offenders, legal and practical duties deriving from the right to human dignity, and inculcation of awareness of human rights. In addition, continuing education courses on specific topics, such as methods of investigation, arrest and searches, and so on, involve practical instruction in observance of human rights.

General Security Service

31. The GSS conducts courses and seminars at all levels of command and employment. These courses and seminars aim to instil principles and norms of human dignity and fundamental rights in employees, both at basic training and throughout the GSS. Special attention is given to the instruction of interrogators and their superiors. Particular emphasis is given to the rule of law and the GSS's commitment to the balance of interests required by law and by the practice of the courts.

Article 11 - Review of interrogation practices and treatment of persons subjected to detention and imprisonment

Review of interrogation practices

32. As explained under article 2, the Government of Israel recognized the importance of establishing systems of review of interrogation practices to ensure that GSS investigators do not violate the guidelines.

The State Comptroller's Office

33. In 1995, the State Comptroller's Office completed an examination of the GSS’s investigator's unit during the years 1990-1992. The State Comptroller's findings, which were submitted to a special subcommittee of the Knesset State Comptroller Committee, found several instances of deviations from the Landau Commission's guidelines, and recommended measures to ensure compliance. The findings themselves have not yet been made public.

Ministerial oversight

34. In accordance with the recommendations of the Landau Commission, a special Ministerial Committee headed by the Prime Minister was established in 1988 to review the GSS interrogation guidelines periodically.

35. In April 1993, the Ministerial Committee determined that several changes should be made in the GSS guidelines. On the basis of the committee's recommendations, new guidelines were issued to GSS investigators. The new guidelines clearly stipulate that the need and justification for the use of limited pressure by investigators must be established in every case, according to its own special circumstances. The guidelines emphasize that the use of

exceptional methods is intended only for situations in which vital information is being concealed, and not as a way to humiliate or mistreat those under investigation. They place a duty on the investigator to consider whether the means of pressure the use of which is being contemplated is proportional to the degree of foreseeable danger of the activity under investigation. Senior GSS staff must approve in writing the use of measures deemed to constitute moderate physical pressure, once again on a case-by-case basis, in light of the above criteria. In any case, it is expressly forbidden to injure or torture suspects, to deny them food or drink, to refuse permission to use the bathroom, or to subject the person to extreme temperatures for prolonged periods.

36. Since then, the guidelines have been reviewed from time to time by the Ministerial Committee, in the light of conclusions drawn from recent experience. The Ministerial Committee also reviews, in real time, specific cases of persons under investigation who are known to be active members of the military echelons of terror groups, and with regard to whom there are grounds to believe that they have knowledge of future terror attacks in the planning or execution stages.

Judicial review

37. All complaints of alleged mistreatment during investigation may be challenged directly to the Supreme Court sitting as a High Court of Justice. Any party who believes he or she has been wronged - not only the detainees themselves or their families, but, under the extremely flexible rules of standing in Israeli law, also virtually any person or group who claims an interest in legal or humanitarian issues involved - may have its petition heard by the High Court of Justice within 48 hours of being filed. Over the past few years several petitions have been filed with the Court seeking injunctions to forbid the GSS from using any force, or particular methods of pressure, throughout the investigation. The Court reviews each of these cases for their compliance with the detailed guidelines, and often, with the approval of the petitioner or his attorney, hears sensitive evidence in camera to examine whether the magnitude of foreseeable or imminent danger, and the grounds for believing that the suspect actually has vital information which is crucial to preventing such danger, are sufficiently clear to justify the use of the specific methods of interrogation in question. Two recent cases may be summarized briefly as follows.

38. Raaji Mahmad Saba (HCJ 5304/97) was arrested by the security services on 27 August 1997, on the grounds that he was a member of the armed wing of Hamas, the Islamic terrorist organization that has been responsible for many terrorist attacks, including the suicide bomb attacks on Israeli civilians in recent years.

39. On 14 September, Mr. Saba (through his own counsel) petitioned the Supreme Court, alleging that he was being subjected to torture during interrogation (this petition is currently pending before the Supreme Court). That same day the Supreme Court, in the light of this serious claim, made an interlocutory order requiring the Attorney-General to respond immediately to these allegations. In a night sitting on 15 September, counsel for the Attorney-General replied that no physical means of interrogation were to be used against the petitioner at this stage. As a result of this, the Supreme

Court dismissed the petition, but ordered the Attorney-General to personally oversee the interrogation process, in order to ensure that no unlawful forms of interrogation were used.

40. In addition, Mr. Saba twice petitioned the Israeli Supreme Court against a decision prohibiting him from meeting with his lawyer. The Supreme Court, having heard the attorney for the GSS and having received intelligence materials submitted to it with the consent of the petitioner, decided that the measure was justifiable on security grounds and in the interests of the investigation. The prohibition against meeting with his lawyer was later lifted. Three weeks later, the Supreme Court was again petitioned by Mr. Saba (through his counsel) who complained that he had once more been denied the right to meet with his lawyer. On the same day, the Court also received a notice from the attorney representing the GSS, stating that the prohibition would cease that night. On the basis of this notice Mr. Saba's counsel withdrew the petition. The prohibition was indeed lifted that night. On 18 October, Mr. Saba's interrogation ceased, since which time he has been held in administrative detention and is due for release in April 1998.

41. A number of facts in Mr. Saba's case may be highlighted. Firstly, at no point has Mr. Saba denied the accusations against himself, namely that he is a member of the military wing of Hamas, and has himself been involved in the organization of terrorist attacks. Additionally, while the GSS admitted that his interrogation was a matter of necessity, since Mr. Saba was in possession of information that was crucial for the investigation, to prevent imminent terrorist attacks. In any event, the measures used were designed to avoid both physical and mental harm, something that has been verified by several medical examinations of Mr. Saba. Finally, it should be noted that Mr. Saba has had recourse to the highest judicial authority in the country which, because of the seriousness of Mr. Saba's allegations, heard each of his petitions immediately.

42. It should be emphasized that the Supreme Court has convened - so far - on three occasions to hear his petitions and has even instructed (in order to ensure that there is no doubt that Mr. Saba’s basic rights are being respected) the Attorney-General to personally oversee the course of Mr. Saba’s interrogation.

43. The second case in point is that of Abd al-Rahman Ismail Ghanimat. Mr. Ghanimat is accused of being the leader of the Surif terrorist cell, which was responsible for the killing of tens of Israeli civilians and soldiers. He has admitted in investigation that he is a member of this cell and has admitted involvement in the terrorist actions attributed to it. These actions include the following: shootings on cars driven by Israelis between November 1995 and July 1996, including gunfire attacks on 9 December 1995, in which Jonathan Moschitz (44) and his 10-year-old daughter Lior were injured; on 16 January 1996, in which Oz Tivon, a 28-year-old doctor and Yaniv Shimel, his 21-year-old passenger, were killed; on 9 June 1996, in which Yaron (26) and Efrat Unger (26), a married couple, were killed; and on 26 July 1996, in which Uri Monk (53) was killed together with his 30-year-old son Ze’ev and his 25-year-old daughter-in-law Rachel. In each of these instances, Mr. Ghanimat was personally involved.

44. Following the July murders, the cell changed its modus operandi, deciding to abduct and murder soldiers. On 9 September 1996, members of the cell abducted Sharon Edri, a 20-year-old soldier, and within minutes of taking him, murdered him. The cell attempted further abductions unsuccessfully.

45. On 21 March 1997, members of the cell bombed the Apropos cafe in Tel Aviv in which three women, Anat Winter-Rosen (31), Yael Gil'ad (32) and Michal Midan Avrahami (31), were killed and 30 civilians injured.

46. It should be noted that the uncovering of the Surif terrorist cell in the wake of the Apropos bombing, and the investigation of various members of this group, led to the discovery of a large explosive device in the village of Surif - identical to the one used in the Apropos bombing and which, according to the investigation conducted into the members of the cell, was intended for a further attack similar to the Apropos bombing. Additionally, the body of Sharon Edri, which had been missing for over six months since his abduction, was located as a result of the interrogation of members of the Surif cell.

47. Following the arrest of Mr. Ghanimat and his subsequent confession, his investigators had reasonable grounds to suspect that he was in possession of additional information which would have helped in the prevention of further imminent terrorist attacks. It is clear therefore that the methods of interrogation used against Mr. Ghanimat were necessary in order to obtain as quickly as possible information that was essential in uncovering further terrorist actions, which would have led to the loss of further civilian lives.

48. Concerning the allegation made by Mr. Ghanimat that he was not permitted to sleep and was forced to sit for hours with a thick sack over his head, the attorney for the State argued that because of the urgency of the investigation and the fact that in the opinion of the GSS, Mr. Ghanimat was in possession of information vital for the prevention of further terrorist attacks, the investigation had to be intensive and Mr. Ghanimat was indeed not permitted to sleep whenever he so desired. Nevertheless, he was allowed to sleep whenever the requirements of the investigation so permitted. With regard to the sack covering Mr. Ghanimat's head, this was only used when he was in the presence of other suspects and was simply to prevent communication between them.

49. In the light of the above, it should be clear that urgent steps were necessary in order to stop further terrorist attacks. In any event, the measures used could hardly be viewed as forms of torture in any objective sense.

50. At the end of January, the investigation was concluded and an indictment was served on Mr. Ghanimat containing several counts, including all of the incidents recounted above. A remand hearing was held on 8 February and the next hearing is due for mid-March, Mr. Ghanimat being represented by an attorney of his choice.

51. In several other cases, the Court issued interim injunctions forbidding the use of physical pressure during GSS interrogations, which remained in force throughout the investigation. See, e.g., HCJ 2210/96, *Algazal v. General Security Service* (not yet published). Another petition, which challenged the legality of the GSS interrogation guidelines then in force and demanded that the secret portion of the Landau Commission report be

made public, was denied by the Court, inter alia because it was not linked to the application of these guidelines in the circumstances of a particular case (HCJ 2581/91, *Salkhat et al. v. State of Israel et al.*, 47(4) P.D. 837).

Treatment of persons subjected to detention or imprisonment

52. The fundamental right of detainees and prisoners to conditions ensuring basic maintenance of their human dignity has been articulated and enforced in a long line of judgements of the Israel Supreme Court. In *Yusef v. Director of Central Prison*, for example, the Court held that "the order of life in the prison by its nature requires an infringement of liberties which a free person enjoys, but such infringement must derive from the nature and needs of imprisonment, and not beyond that .... [t]he purposes of criminal punishment may not be achieved through violation of the prisoner's dignity or his humanity .... It is the right of every person in Israel who is sentenced to imprisonment (or lawfully detained) to be confined in conditions that allow for civilised human life .... Only 'the most serious reasons', such as special security measures that must be taken, may justify any deviation from this basic approach." (HCJ 540-546/84, 40 (1) P.D. 567, 573, see also HCJ 114/86, *Weill v. State of Israel et al.*, 41 (3) P.D. 477 (minimal civilized arrangements include the right to conjugal visits)).

53. Most of the basic conditions granted to prisoners and detainees as a matter of right, as well as limitations on measures that may impair their liberty or dignity and procedures for adjudicating prisoners' complaints, are provided for in legislation, primarily in the Prisons Ordinance [New Version], 5732-1971, and regulations thereunder. Other privileges or services have been given the status of a legal right by decisions of the Supreme Court, such as the presence in the prison facility of a social worker to deal with certain prisoner's concerns (*Yusef v. Director of Central Prison*, supra). Still other privileges, such as use of television and telephone, visits beyond the minimum provided by law, purchase of goods from the prison canteen, or receipt of newspapers and books, are granted as a matter of discretion by the prison director; in practice, these latter privileges are routinely granted.

Segregation and solitary confinement

54. Under section 21 (a) of the Prisons Regulations, 5738-1978, a senior prison official may order that a prisoner be confined separately from the rest of the prison population if he is convinced that doing so is necessary for reasons of State security, for maintenance of security, order or discipline in the prison, for protection of the safety or health of the prisoner or other prisoners, or at the prisoner's own request. This type of separate confinement is a preventive, not a punitive measure, and is to be distinguished from solitary confinement, which is discussed below.

55. Segregated prisoners have all of the rights and privileges of ordinary prisoners, except for conditions deriving by their nature from the fact of segregation. Such prisoners remain in their cells during the day hours, except for their daily excursion, family visits, medical care, visits with legal counsel, parole officer, social worker and so on. They are always accompanied by a warden whenever they are outside of their cell. Prisoners convicted of a criminal offence who are held in segregation for more than three months may be granted additional privileges and personal effects

(Part 14 of the Prison Commissioner's standing orders). The term of segregation is for 48 hours when ordered by a senior prison official; it may be extended for additional periods up to a total of 14 days with the consent of the director of the prison. Thereafter, separation may be extended only by order of the prison director, with the consent of the Commissioner of Prisons, provided that the justification for separation must be reviewed periodically (between 48 hours and two months, depending on the type of case in question), or at earlier intervals if the prisoner requests his separation. Any prisoner who is confined separately for a period exceeding eight months may lodge an appeal to the Commissioner of Prisons, who decides whether the separation will continue or cease. Certain classes of prisoners or detainees are segregated as a matter of law or policy from the rest of the prison population, such as known drug addicts or persons under administrative detention, and persons suspected or convicted of security-related offences.

56. Solitary confinement, on the other hand, is one of several punitive measures that may be imposed on a prisoner for violation of the prison code of conduct (section 56 of the Prisons Ordinance). Solitary confinement may be imposed only by the director or deputy director of the prison. As with all punitive measures, the decision to place a prisoner in solitary confinement may not be taken except following an investigation and a hearing at which the prisoner may hear the charges and evidence against him, and may defend himself properly (section 60 of the Prisons Ordinance). The maximum term of solitary confinement is 14 days, though the prisoner may not serve more than seven days consecutively, and must be given a break of at least seven days before solitary confinement is resumed.

57. All decisions regarding segregation and solitary confinement may be appealed directly to the appropriate District Court, and the District Court's decision may be appealed to the Supreme Court.

Contacts with the outside world

58. Immediately upon the arrest of any person, notification must be made to a relative or other person close to the detainee regarding the fact of the arrest and the place of detention.

59. Other rights of incarcerated persons to maintain contacts with the outside world vary according to the type of detention.

Visitation rights

60. Prisoners who have been convicted and sentenced for a criminal offence have the right to receive visitors, apart from legal counsel, at least once every two months, beginning after three months of imprisonment; such visitation rights may be increased as a privilege for good behaviour (section 47 (b) of the Prisons Ordinance). Persons who have been formally charged with a criminal offence have the right to receive visitors at least once a month (regulation 27A (b) of the Prison Regulations), and are to be given “every reasonable opportunity” to have contact with their friends and legal counsel (section 45 of the Prisons Ordinance). Persons who have been detained for criminal investigation, and have not yet been formally indicted, are not allowed visitors except with the permission of the police official in charge of the investigation.

61. Administrative detainees have a right to receive visits from immediate family members every two weeks; more frequent visits, as well as visits by persons other than immediate family and legal counsel, may be granted at the discretion of the director of the prison. The total number of visitors in any particular visit is limited to three persons in addition to the detainee's spouse and children, unless the prison director permits otherwise. The visitation rights of administrative detainees may be restricted only for reasons of State security. If such visitation rights are withheld for more than two months, the detainee may appeal before the Minister of Defence. All restrictions on the visitation rights of administrative detainees must be reviewed at least once every two months, if not earlier at the request of the detainee (regulation 11 of the Emergency Powers (Detention) (Conditions of Confinement in Administrative Detention) Regulations, 5741-1981). As with all decisions affecting the detainee or imprisoned convict, restrictions on visitation rights may be appealed before the District Court, and thereafter to the Supreme Court if necessary.

Correspondence

62. Prisoners who have been convicted and sentenced may write a first letter upon entering the prison, and then may write and receive correspondence freely after a period of three months. Detainees who have not been formally indicted are granted the right to maintain correspondence upon permission of the official in charge of the criminal investigation, or according to a court order. All detainees and prisoners who have the right to maintain correspondence are provided with writing paper, and may be exempt from postal expenses if the director of the prison decides that the prisoner's financial situation warrants such an exemption (regulation 32 of the Prisons Regulations).

63. Administrative detainees have the right to receive mail, and may normally send four letters and four postcards per month, not including correspondence with legal counsel or with official authorities (regulation 14 of the Emergency Powers (Detention) (Conditions of Confinement in Administrative Detention) Regulations, 5741-1981), or more with the permission of the prison director. The right of administrative detainees to send and receive mail may be restricted by the prison director if he is convinced that doing so is necessary for reasons of State security; in such circumstances, the prison director does not have to notify the detainee that a letter written by or to him has not been forwarded, except in the case of letters to or from family members (Id.).

Telephone

64. Until recently, the use of a telephone by prisoners and detainees was not granted by law, although it is routinely granted in practice. Under the recently enacted Criminal Procedure (Enforcement Powers - Arrest and Detention) Law, 5756-1996, detainees are specifically granted the right to use a telephone. Under both the current law and the previous regime, detainees who have not been formally indicted may have use of the telephone if the official in charge of the criminal investigation decides that such use will not impair a criminal investigation being undertaken at that time.

Furloughs

65. Detainees who have not yet been convicted and sentenced are not granted furloughs except by court order or by special permission in extenuating circumstances. While the right of convicted and sentenced prisoners to furloughs is not provided for in primary legislation, furloughs are granted according to the provisions of Prisons Commission standing order 12.05.01 of 1 December 1992, which has the status of law (section 80C (a) of the Prisons Ordinance). Such prisoners are categorized, within 30 days of their incarceration, into one of three groups for the purpose of determining their rights to furloughs: those who may not be granted furloughs except by permission of the Minister of Internal Security, either because their leaving the prison may pose a danger to public order and security, or due to an outstanding arrest warrant, or those who are detained by virtue of an extradition or deportation order; those who may be given furloughs according to conditions determined by the Israel Police; and those who may be granted furloughs with no such conditions. In general, prisoners have the right to furloughs after having completed one quarter of their sentence, or three years, whichever is earlier. Prisoners who are sentenced to life imprisonment may be granted furloughs only after their sentence is commuted to a specific period by the President of the State.

66. The length of the furlough is between 36 and 96 hours, and the frequency varies between once every three months and once a week (from Friday afternoon to Sunday morning), depending on the type of offence which the prisoner committed, his behaviour record in the prison, the type of rehabilitation programme in which the prisoner is participating, and other considerations. The interval between furloughs may be shortened in order to enable the prisoner to observe religious holidays outside of prison, or for family or medical reasons.

67. In addition, furloughs may be granted even though the prisoner has not completed the minimum portion of his sentence noted above, or even if the interval between furloughs has not transpired, in special circumstances, such as births, marriages or deaths in the family, memorial services, vocational testing, preparation of a rehabilitation programme, or medical reasons.

68. Persons imprisoned in the context of civil proceedings may be granted furloughs of 48 hours after having completed one quarter of their term of imprisonment or three months, whichever is earlier, and additional furloughs of 48 hours once every three months thereafter. If the term of civil imprisonment is four months or less, then the prisoner may be granted a furlough after having completed half of his sentence.

Conjugal visits

69. Under standing orders now in force, conjugal visits are allowed only for criminal prisoners who are serving long sentences and are not eligible for furloughs. The Prisons Service and the Ministry of Internal Security are currently investigating the possibility of extending this privilege to all persons incarcerated for criminal offences who are not granted furloughs.

Articles 12 and 13 - Procedures for complaints and disciplinary and criminal proceedings

70. The actions of law enforcement officials are subject to several overlapping legal institutions for review and sanctions. In general, each arm of the law enforcement authorities has disciplinary procedures, which may be initiated by the person claiming a violation, by other entities, or by the authorities themselves; all public servants are subject to the provisions of the criminal law; and detainees or prisoners may apply directly to the courts for relief against the action or decision in question.

Israel Police

71. Disciplinary proceedings are initiated by submission of a complaint to the disciplinary department of the Personnel Division at Central Headquarters or to one of its several branch offices. The Police may initiate disciplinary proceedings when it becomes aware of violations from other sources (e.g. statements of witnesses in the course of investigations or information forwarded by police personnel). In addition, the Department for Investigation of Police Personnel (DIPP) in the Ministry of Justice, which is responsible for most criminal investigations against police officers, transfers files to the Disciplinary Department of the Police both when the actions complained of fall short of a criminal offence but constitute a prima facie disciplinary violation, and also when criminal proceedings are brought against a police officer for actions which may entail parallel disciplinary sanctions.

72. If the Disciplinary Department, upon investigating the incident, finds that there is sufficient evidence of an infraction, then the matter is referred to a disciplinary tribunal, composed of either a single judge or a three-judge panel, depending on the gravity of the violation. (See generally Police (Disciplinary Proceedings) Regulations, 5749-1989; Police (Definition of Disciplinary Offences) Regulations, 5715-1955; Police Ordinance (New Version), 5731-1971, chapter 5.)

73. Alongside the disciplinary sanctions that may be imposed by a tribunal or single judge, the Police is bound to consider administrative sanctions against an officer who violates the law or internal standing orders. Administrative sanctions may be imposed at any time during the disciplinary or criminal proceedings, as well as after they are concluded. Such sanctions include dismissal from the police force, suspension, transfer to another position or department, demotion, postponement of promotion, and probation.

74. In 1992, a special department was set up at the Ministry of Justice - the Department for Investigation of Police Personnel (DIPP) - to investigate allegations of criminal conduct by police generally. Criminal investigations against police officers may be initiated by a complaint filed with the DIPP by the victim or his representative, by the DIPP itself as a result of information submitted to it by independent human rights groups or by entities within the Israel Police. A preliminary screening is carried out by a DIPP staff lawyer, who decides either to open an investigation or to close the file if the acts accused of do not give rise to a criminal offence (in the latter case the file may be transferred back to the Police for appropriate disciplinary measures). In the course of investigation, the DIPP staff takes

testimony from the complainant, the suspect and other witnesses, as well as any other evidence relevant to the case. If the investigation indicates sufficient evidence of a criminal offence, then the file is transferred to the District Attorney's Office in the region where the offence occurred, or, in cases of unlawful use of force, to the State Attorney's Office, for a final decision as to whether to file criminal charges against the police officer. Under current guidelines, all criminal trials against police officers are prosecuted by the District Attorney's office. The DIPP may also decide that the police officer should stand trial in disciplinary proceedings for the unlawful use of force, in lieu of criminal proceedings.

75. Following are statistics compiled by the Israel Police and the DIPP regarding treatment of disciplinary and criminal complaints, respectively.

Unlawful use of force by police officers
Number of complaints and results of investigation

Circumstances	1993	1994	1995	1996 a/
Investigation	119	95	97	70
Arrest	524	611	554	384
Conditions of detention	25	35	187	100
Refusal of citizen to identify himself or to accompany police officer	17	37	59	64
Search of suspect or premises	103	99	109	81
Violation of public order	110	122	233	106
Violation of order or discipline in a detention facility	44	34	26	35
Use of crude language	1	1	4	2
Traffic offences	101	120	161	113
Carrying out orders of the Execution Office (for civil judgement debts)	93	71	43	28
Holding persons in custody	103	40	47	54
Abuse of authority	283	286	334	70
Disputes between neighbours	2	6	4	2
Family disputes	1	1	1	1
Private disputes	4	5	4	13
On-duty dispute between two police officers	18	31	16	21
Argument between drivers	1	7	32	3
Training incidents	1	1	12	-
Demonstrations b/	-	-	1	32
Total files received	1 960	1 861	2 155	1 301
Referred for disciplinary trial	280	208	184	104
Final recommendation to file criminal indictment	52	40	53	20
Total files completed (including files from previous years)	1 979	1 876	2 001	1 428

a/ 1996 figures are for January-July.

b/ Demonstrations were inserted as a statistical category in 1996.

Disciplinary investigations and results		
Type of proceedings	1994	1995
Charge sheets (three-judge panel)	252	251
Complaints (single judge)	217	49
Disciplinary indictments adjudicated (all offences)		
Charge sheets	301	215
Complaints	217	51
Files received from DIPP		
Regarding use of force - recommendation to file criminal charges (total number of officers involved)	41 (64)	50 (92)
Regarding use of force - with recommendation to file disciplinary charge sheet (total number of officers involved)	168 (246)	127 (180)
Regarding use of force - with recommendation for trial before a single disciplinary judge (total number of officers involved)	79 (93)	47 (55)
Recommendation to weigh disciplinary sanctions (total number of officers involved)	307 (388)	366 (459)

76. Between 1992 and July 1996, DIPP investigated 211 cases involving the use of firearms, and 25 cases involving the use of force, or threat of using force, in order to extract a confession. In 1993, 15 officers were tried in criminal proceedings for involvement in offences amounting to assault; 12 of these officers were convicted, and 3 were acquitted. In 1994, 10 officers were convicted of such offences in criminal proceedings. In one noteworthy case, 5 police investigators in the Minorities Division of the Jerusalem Region were convicted in July 1995 for unlawful use of force in investigating suspects (Cr.F. 576/91, in the Jerusalem District Court). In September 1995 the defendants were sentenced to varying terms of imprisonment. The case is currently on appeal in the Supreme Court.

77. In 1994, 22 police officers were dismissed from the force, 2 of whom as a result of their involvement in violent offences (down from 18 dismissals as a result of violent offences in 1993); 13 others were dismissed for "unsuitability", which includes those who were involved in repeated incidents of unlawful use of force (in 1993, as a result of a special effort by the Police to remove the most problematic employees, 30 officers were dismissed for unsuitability). In 1995, 29 officers were similarly dismissed for unsuitability, and no officers were dismissed in 1995 as a result of violent offences.

78. One officer was suspended in 1994 (out of a total of 20 suspensions that year) and 8 in 1995, as a result of involvement in violent offences; in 1993, no such suspensions were made.

79. Alongside the ordinary criminal and disciplinary processes described above, detainees held in police lock-ups have the right to file for habeas corpus relief against any unlawful treatment, including torture or other cruel, inhuman or degrading treatment on the part of police officers.

Prisons Service

80. Currently, the disciplinary and criminal investigation procedures regarding Prisons Service personnel differs from those followed with regard to police officers. Any prisoner or detainee under the care of the Prisons Service may file a complaint regarding ill-treatment or conditions of detention to the director of the prison. In cases involving use of force, a special committee within the Prisons Service investigates the complaint and transfers the file to the Attorney-General, who decides whether to institute disciplinary or criminal proceedings. Disciplinary trials are held before a tribunal within the Prisons Service, which is similar in structure and procedures to that of the Israel Police (see generally the Prisons Ordinance, sect. 101 *et seq*. and second schedule defining disciplinary offences; and the Prisons (Disciplinary Procedures) Regulations, 5749-1989), while criminal files are transferred first to the Israel Police, for completion of the investigation, and then to the appropriate District Attorney's office for filing a charge sheet.

General Security Service

81. Complaints by persons detained by the General Security Service regarding their treatment during investigation may be filed by the detainee or his or her legal representative, by local or international human rights organizations (complaints have been filed by the Public Committee Against Torture in Israel, the Physicians' Association for Human Rights, Amnesty International and the ICRC, among others). All complaints are examined by a complaints review unit within the GSS, which is subordinate to the State Attorney's Office. In the event that complaints are submitted to other governmental authorities, they are transferred to the above complaints unit, which is solely responsible for the initial investigation. Complaints that give rise to a suspicion that a criminal offence was committed are transferred to DIPP at the Ministry of Justice.

82. In 1995, 81 such complaints were received regarding treatment of detainees during GSS investigations. Thirty-four of these complaints were filed by the detainee, 23 by the detainee's legal counsel, 9 by local organizations and 15 by international organizations. In some instances, several entities filed complaints regarding a particular case. In four cases during 1995, the complaints unit found deviations from lawful authority; these cases were dealt with administratively within the GSS, including sanctions against the persons involved. In one case, that of Samed abd al Harizat, a GSS investigator was tried in disciplinary proceedings before a special tribunal.

83. Detainees in the custody of GSS also have the right to petition the High Court of Justice directly for habeas corpus relief.

General Security Service Comptroller

84. Initially, the GSS Comptroller was instructed to examine all claims of torture or maltreatment during interrogation. From 1987 until 1994, the Comptroller carried out this review function, initiating disciplinary or legal action against interrogators in cases where they have been found to have deviated from the legal guidelines.

Department for Investigation of Police Personnel

85. In 1994, in accordance with the recommendations of the Landau Commission that there be external oversight of General Security Service activities, responsibility for claims of maltreatment by GSS interrogators was also transferred to DIPP, described above, under the direct supervision of the State Attorney. The activity of DIPP appears to have had a significant deterrent impact on the incidence of intentional physical abuse of detainees and citizens by law enforcement officials, including GSS interrogators. Statistical information regarding the performance of the DIPP appears above.

Israel Defence Forces

86. The IDF maintains a strict policy of investigating every claim of mistreatment of detainees by IDF investigators. Soldiers who are found to have deviated from IDF standing orders forbidding violence or the threat of violence in interrogations are either court-martialled or have disciplinary proceedings brought against them, depending on the severity of the charges. In 1991, IDF also appointed a commission to review its interrogation practices and policies, headed by Major General (Reserve) Raphael Vardi, which resulted in the punishment of several interrogators. The Vardi Commission also submitted a list of recommendations designed to reduce the possibility of mistreatment by IDF investigators, which have been adopted.

Article 14 - Compensation to victims

87. Persons who have been subjected to torture or to any other unlawful mistreatment may, in addition to criminal, disciplinary or habeas corpus proceedings, initiate a tort action for damages against the perpetrators and against the State. In cases of assault, the State, like any private employer, is immune from liability unless it is found to have approved the unlawful assault or to have retroactively ratified it.

88. In addition, victims may receive a certain degree of compensation in the context of criminal proceedings under section 77 of the Penal Law, 5737-1977, which empowers a convicting court to order the payment to the victim of a crime for damages or suffering. Such compensation is recovered in the same manner as a fine. Currently, the maximum amount payable to a particular victim is fixed at NIS 60,000 (about US$ 17,000).

Article 15 - Rules of evidence

Goldberg Committee

89. In 1993, the Minister of Justice and the Minister of Police appointed a public committee, headed by Supreme Court Justice Eliezer Goldberg, to examine the efficacy of convictions based solely or almost solely upon the defendant's confession, the availability of retrial, and other topics related to the rights of those investigated by the police. The Goldberg Committee's report, published in 1994, included recommendations aimed at ensuring that false confessions were not extracted by illegal means. Among other things, the Committee recommended employment of investigation techniques and technologies which have been developed elsewhere, and which have proven effective in fulfilling the purposes of the criminal investigation without resort to violence; increasing supervision of investigation by senior investigators; videotaping of any interview at which the interviewee's lawyer is not present; and giving the judge who presides over detention hearings more of a role in actively investigating the conditions of detention and the investigation.

90. An amendment to the Evidence Ordinance [New Version], 1971 is currently being prepared at the Ministry of Justice to implement the above recommendations of the Goldberg Committee.

91. The draft law stipulates that the statement of a defendant given outside the court shall not be admissible as evidence if it was given pursuant to inhuman treatment, real violence, physical torture, mental torture, severe humiliation, or as a result of the threat of any of the above to the defendant. However, independent evidence of guilt that was discovered by an inadmissible confession will still be admissible.

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General Assembly
Official Records
Fifty-third session
Supplement No. 44 (A/53/44)

Report of the Committee against Torture

United Nations • New York, 1998

4. Recommendations

219. The Committee recommends that the State party:

(a) Consider the possibility of making the declaration provided for in article 22 of the Convention;

(b) Adopt all necessary safeguards for the protection of refugees from neighbouring countries, in particular so as to ensure that in case of repatriation they are not placed in the situation referred to in article 3, paragraph 1, of the Convention.

N. Kuwait

220. The Committee considered the initial report of Kuwait (CAT/C/37/Add.1) at its 334th and 335th meetings, on 13 May 1998 (CAT/C/SR.334 and 335), and adopted the following conclusions and recommendations.

1. Introduction

221. Kuwait acceded to the Convention against Torture on 8 March 1996 and its initial report was due on 7 March 1997. The report was received in timely fashion on 15 October 1997.

222. The report accords generally with the guidelines for such reports.

2. Positive aspects

223. Kuwait seems to have in place the necessary legal institutions to combat torture.

224. Kuwait has confronted incidents of torture and prosecuted those responsible.

225. The Committee views as a positive step the setting up of a government-funded Torture Victims' Rehabilitation Centre in Kuwait.

3. Factors and difficulties impeding the application of the provisions of the Convention

226. The Committee is not aware of any factors that might impede the application of the provisions of the Convention.

4. Subjects of concern

227. The Committee is concerned that there is no defined crime of torture in Kuwait.

5. Recommendations

228. The Committee recommends that Kuwait consider withdrawing its reservations to the Committee's article 20 jurisdiction.

229. The Committee also recommends that Kuwait consider declaring in favour of articles 21 and 22 of the Convention.

230. The Committee further recommends that Kuwait consider enacting in its Criminal Code a defined crime of torture or, if the Convention applies by incorporation, an independent crime of torture.

231. The Committee looks forward to the additional explanations to be provided to it in writing as promised.

O. Israel

232. The Committee considered the second periodic report of Israel (CAT/C/33/Add.3) at its 336th and 337th meetings, on 14 and 18 May 1998 (CAT/C/SR.336 and 337), and adopted the following conclusions and recommendations.

1. Introduction

233. Israel signed the Convention on 22 October 1986 and deposited its instrument of ratification on 3 October 1991. The Convention entered into force in Israel on 2 November 1991. Upon ratification, Israel made a reservation in respect of articles 20 and 30. Israel has not declared in favour of articles 21 and 22. The second periodic report was due on 1 November 1996 and was received on 6 March 1998.

234. Israel had presented a special report (CAT/C/33/Add.2/Rev.1) at the Committee's request, and the Committee's conclusions and recommendations included the recommendation that the second periodic report of Israel be presented for consideration at the November 1997 session of the Committee. The second periodic report was prepared in accordance with the general guidelines concerning the form and content of such reports.

2. Positive aspects

235. Israel has embarked upon a number of reforms, such as the creation of the Office of Public Defender, the creation of the Kremnitzer Committee to recommend oversight of police violence, amendments to the Criminal Code, ministerial review of several security service interrogation practices and the creation of the Goldberg Committee relating to the rules of evidence.

236. Another positive aspect was the genuine dialogue that engaged the Committee and the Israeli delegation.

3. Factors and difficulties impeding the application of the provisions of the Convention

237. Israel points to the state of insecurity with which it copes, but the Committee notes that, pursuant to article 2, paragraph 2, this cannot justify torture.

4. Subjects of concern

238. The Committee is concerned about the following:

(a) The continued use of the "Landau rules" of interrogation permitting physical pressure by the General Security Services, based as they are upon domestic judicial adoption of the justification of necessity, a justification which is contrary to article 2, paragraph 2, of the Convention;

(b) Resort to administrative detention in the occupied territories for inordinately lengthy periods and for reasons that do not bear on the risk posed by releasing some detainees;

(c) The fact that, since military law and laws going back to the Mandate pertain in the occupied territories, the liberalizing effect of the reforms referred to in paragraph 235 above will not apply there;

(d) Israel's apparent failure to implement any of the recommendations of the Committee that were expressed with regard to both the initial and the special report.[5]

5. Conclusions and recommendations

239. Israel expressed concern that the Committee had not set out *in extenso* the reasoning behind its conclusions and recommendations with regard to Israel's special report. Of course, the dialogue between a State and the Committee forms part of the context upon which the Committee's conclusions and recommendations are made. However, in order to ensure that there is no room for doubt, it was on the basis of the following that the Committee found that its conclusions and recommendations with regard[6] to the Israeli special report should continue to form part of its conclusions and recommendations to the present report:

(a) Since the State party admits that it applies force or "physical pressure" to those in the custody of its officials, the State party bears the burden of persuading the Committee that such force or pressure offends neither articles 1 or 2 nor article 16 of the Convention;

(b) Since the State party admits to hooding, shackling in painful positions, sleep deprivation and shaking of detainees (through its delegates and courts, and supported by the findings of the United Nations Special Rapporteur on Torture)[7] the bare assertion that it is "not severe" is not in and of itself sufficient to satisfy the State's burden and justify such conduct. This is particularly so when reliable evidence from detainees and independent medical evidence made available to Israel reinforce the contrary conclusion;

(c) Given that Israel itself asserts that each case must be dealt with on its own "merits", but that for matters of security, material particulars of the interrogation cannot be revealed to the Committee, it follows that the conclusions of breach of articles 1, 2 and 16 must remain.

240. Accordingly, the Committee reaffirms its conclusions and recommendations with regard to Israel's initial and special reports:

(a) Interrogations applying the methods referred to above are in conflict with articles 1, 2 and 16 of the Convention and should cease immediately;

(b) The provisions of the Convention should be incorporated by legislation into Israeli law, particularly the definition of torture contained in article 1 of the Convention;

(c) Israel should consider withdrawing its reservations to article 20 and declaring in favour of articles 21 and 22;

(d) Interrogation procedures pursuant to the "Landau rules" should in any event be published in full.

241. The practice of administrative detention in the occupied territories should be reviewed in order to ensure its conformity with article 16.

242. The Committee would be remiss if it did not acknowledge that the Israeli delegation had initiated upon this occasion a genuine dialogue that revealed Israel's unhappiness with the current situation (without acknowledging any breach of the Convention) and its desire to cooperate with the Committee. The Committee, in its turn, respects Israel's right to present its position, even if the Committee disagrees with its reasons and conclusions, and expresses the genuine desire to continue the dialogue and to resolve the differences between Israel and itself.

P. Sri Lanka

243. The Committee considered the initial report of Sri Lanka (CAT/C/28/Add.3) at its 338th, 339th and 341st meetings, on 18 and 19 May 1998 (CAT/C/SR.338, 339 and 341), and adopted the following conclusions and recommendations.

UNITED
NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Third periodic reports due in 2000

Addendum

Israel*

[15 March 2001]

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* For the initial report of Israel, see CAT/C/16/Add.4; for its consideration, see CAT/C/SR.183 and 184 and Official Records of the General Assembly, forty-ninth session, Supplement No. 44 (A/49/44) paras. 159-171.

For the special report submitted at the request of the Committee, see CAT/C/33/Add.2/Rev.1; for its consideration, see CAT/C/SR.295 and 296 and Official Records of the General Assembly, fifty-second session, Supplement No. 44 (A/52/44), paras. 253-260.

For the second periodic report see CAT/C/33/Add.3; for its consideration, see CAT/C/SR.336, 337 and 339 and Official Records of the General Assembly, fifty-third session, Supplement No. 44 (A/53/44), paras. 232-242.

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Attachments*

A. Judgement of the Supreme Court: Public Committee against Torture in Israel v. the State of Israel

B. Basic Law: human dignity and liberty

* Available for consultation in the Secretariat's files.

Introduction

1. This report is submitted pursuant to article 19 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

2. Israel signed the Convention on 22 October 1986 and deposited its instrument of ratification with the Secretary-General of the United Nations on 3 October 1991. In accordance with Article 27.2 of the Convention, the Convention entered into force for Israel on 2 November 1991.

3. Israel submitted an initial report in 1994 (CAT/C/16/Add.4), a special report in 1996 (CAT/C/33/Add.2/Rev.1) and a second periodic report in 1998 (CAT/C/33/Add.3).

I. INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

4. The most significant and important new development since the submission of Israel's second Periodic report to the Committee Against Torture was the decision of Israel's Supreme Court in September 1999 concerning investigation methods used by the Israel Security Agency (ISA).[1] That was the decision of the Israel Supreme Court, sitting as the High Court of Justice, in September 1999, in the case of Public Committee Against Torture in Israel v. the State of Israel (HCJ 5100/94). A translation of that decision into English is attached to this periodic report as attachment A.

5. The Supreme Court, sitting as the High Court of Justice, had before it seven separate petitions challenging the methods used by the General Security Service (as it was then called) in the investigation of terrorist suspects. The importance of this decision is reflected in the fact that the case was heard by an expanded Supreme Court panel consisting of nine Supreme Court justices.

6. The case before the Supreme Court dealt with claims and allegations by the petitioners that certain interrogation methods used by investigators of the General Security Service during investigations were illegal. The State did not accept the contentions of the petitioners that the interrogation methods were illegal or that they constituted torture.

7. The Supreme Court in its decision did not find that the alleged interrogation methods constituted torture in violation of the Convention. In its unanimous decision, the Court held that the General Security Service was not authorized to use certain investigation methods (as set out in the Landau Commission report) that involved the use of moderate physical pressure, holding that such methods violate Israeli law.

8. The Government of Israel, in accordance with the Commissions of Inquiry Law, had appointed the Landau Commission. The Chairman of the Commission was Justice Moshe Landau, former President of Israel's Supreme Court. In the course of its inquiry, the Commission considered the legal status of the General Security Service, as well as the legality of the use of moderate means of physical pressure by investigators. Following the conclusion of its inquiry, the Commission issued a report in 1987. In its report, the Commission determined that

in dealing with dangerous terrorists who pose a grave threat to the State and its inhabitants, the use of moderate physical pressure might be unavoidable if it is necessary to obtain information for the protection of human life.[2]

9. The Supreme Court had three issues to resolve in this case: first, the petitioners had challenged the legal authority of General Security Service investigators to conduct interrogations of suspects; secondly, if they were found to have a general authority to conduct interrogations, were they empowered to use the physical means as set out in the complaints of the petitioners; and finally, if the use of such physical methods were necessary to save human lives, could this justify endowing General Security Service investigators with the authority to use such methods in those situations.

10. As to the first issue - whether the General Security Service investigators are empowered by law to conduct investigations - the Supreme Court found that there was no specific statutory provision authorizing the General Security Service investigators to conduct investigations.[3] The Court held, however, that General Security Service investigators did, in fact, have the legal authority to conduct investigations. The Court held that the statutory authority for that was to be found in section 2 (1) of the Criminal Procedure (Evidence) Ordinance. That law grants general legal authority to police officers to conduct criminal investigations. In addition, the Minister of Justice and the Minister for Public Security are authorized to empower other officials to conduct criminal investigations. The Minister of Justice, in accordance with this provision, authorized investigators of the General Security Service to conduct investigations of terrorist activities. The Court held that in view of the authorization by the Minister of Justice pursuant to this provision, investigators of the General Security Service had the same authority to conduct investigations of terrorist activities as was granted by the Ordinance to police officers to conduct investigations of criminal offences.

11. Consistent with the holding that General Security Service investigators derive their authority to investigate terrorist activities from the same statutory authorization granted to police officers, the Court determined that limitations imposed on police officers while conducting investigations of crimes also apply to General Security Service investigators. Aharon Barak, President of the Supreme Court, writing for the Court, set out this principle as follows:

> "The power to interrogate given to the GSS investigator is the same interrogation power that the law bestows upon the ordinary police force investigator. It appears that the restrictions applicable to the police investigations are equally applicable to GSS investigations. There is no statutory instruction endowing a GSS investigator with special interrogation powers that are either different or more serious than those given to the police investigator. From this we conclude that a GSS investigator, whose duty is to conduct interrogation according to the law, is subject to the same restrictions applicable to a police interrogation."[4]

12. After concluding, as set out above, that General Security Service investigators have authority to conduct investigations, the Supreme Court next examined the issue of whether that authority included the use of physical means during the course of an interrogation. In discussing the issue of the means used during an interrogation, the Court noted that, in a democratic regime, there was a clash between two values or interests:

> "A democratic, freedom-loving society does not accept that investigators use any means for the purpose of uncovering the truth. 'The interrogation practices of the police in a given regime', noted Justice Landau, 'are indicative of a regime's very character'. At times, the price of truth is so high that a democratic society is not prepared to pay it … The rules pertaining to investigations are important to a democratic State. They reflect its character. An illegal investigation harms the suspect's human dignity. It equally harms society's image."[5]

13. The Supreme Court then set out certain general principles concerning the "law of interrogation". The Court determined that:

> "[A] reasonable investigation is necessarily one free of torture, free of cruel, inhuman treatment of the subject and free of any degrading handling whatsoever. There is a prohibition on the use of 'brutal or inhuman means' in the course of an investigation. Human dignity also includes the dignity of the suspect being interrogated … These prohibitions are 'absolute'. There are no exceptions to them and there is no room for balancing. Indeed, violence directed at a suspect's body or spirit does not constitute a reasonable investigation practice."[6]

14. After setting out the general principles concerning the means of conducting a reasonable investigation, as set out above, the Court next examined each of the specific interrogation means, which the petitioners in the case had challenged. In a decisive manner, which left no room for doubt, the Court determined as follows:

(i) Concerning the use of shaking, the Court held that this is a prohibited investigation method, stating: "It harms the suspect's body. It violates his dignity. It is a violent method which does not form part of a legal investigation. It surpasses that which is necessary."[7]

(ii) Concerning the use of having a suspect crouch on the tips of his toes for long periods of time (the "frog crouch"), the Court held that "this is a prohibited investigation method. It does not serve any purpose inherent to the investigation. It is degrading and infringes upon an individual's human dignity."[8]

(iii) The Court held that painful handcuffing of a suspect is prohibited.[9]

(iv) The Court held that seating a suspect in the "Shabach" position is likewise prohibited. The court stated that such methods "do not fall within the sphere of a 'fair' interrogation. They are not reasonable. They impinge upon the suspect's dignity, his bodily integrity and his basic rights beyond what is necessary. They are not deemed as included within the general power to conduct interrogations."[10]

(v) The Court held that covering a suspect's head with an opaque sack during interrogation is prohibited, holding that such method is not inherent to an interrogation and that it is forbidden, stating that this "is not part of a fair interrogation. It harms the suspect and his (human) image. It degrades him …

All of these things are not included in the general authority to investigate. The covering of the head in the circumstances described … is prohibited."[11]

(vi) The Court next considered the playing of loud music while in the "Shabach" position and held that this method is prohibited.[12]

(vii) The Court further held that the use of such methods in combination is prohibited. The Court held that this is an unacceptable method and that the "duty to safeguard the detainee's dignity includes his right not to be degraded and not to be submitted to sub-human conditions in the course of his detention, of the sort likely to harm his health and potentially harm his dignity".[13]

(viii) Finally, the Court considered the use of deprivation of sleep during the course of an investigation. The Court noted that interrogations may be lengthy and as a "side effect" may cause a person not to be able to sleep during the interrogation. However, the situation changes if "sleep deprivation shifts from being a 'side effect' inherent to the interrogation, to [being] an end in itself. If the suspect is intentionally deprived of sleep for a prolonged period of time, for the purpose of tiring him out or 'breaking' him - it shall not fall within the scope of a fair and reasonable investigation. Such means harm the rights and dignity of the suspect in a manner surpassing that which is required."[14]

15. The Supreme Court next considered the third issue before the Court in these applications - whether the General Security Services may employ physical means in the course of interrogations where this is necessary to save human lives - the "necessity" defence. The State had based its arguments on this issue on the text of section 34K of Israel's Penal Law, which states as follows:

"34K - Necessity

A person will not bear criminal liability for committing an act that was immediately necessary for the purpose of saving the life, liberty, body or property, either of himself or his fellow person, from a real danger of serious harm, due to the conditions prevalent at the time the act was committed, there being no alternative means for avoiding the harm."

16. The State contended that investigators are entitled to use moderate physical pressure as a last resort in order to save human lives. The President of the Supreme Court, in the first paragraph of the judgement, described the background of constant threats to Israel's security and its civilian population posed by terrorists and terrorist acts, stating:

"The State of Israel has been engaged in an unceasing struggle for both its very existence and security, from the day of its founding. Terrorist organizations have established as their goal Israel's annihilation. Terrorist acts and the general disruption of order are their means of choice. In employing such methods, these groups do not distinguish between civilian and military targets. They carry out terrorist attacks in which scores are

> murdered in public areas, public transportation, city squares and centres, theatres and coffee shops. They do not distinguish between men, women and children. They act out of cruelty and without mercy."[15]

17. The Court pointed out that many attacks planned by terrorists had been successfully prevented due to investigation by the authorities responsible for fighting terrorism, and that the main organization responsible for fighting terrorism in Israel was the General Security Service. The State had argued that such means of investigation were employed only when necessary to save human lives, and that the above section of the Penal Law provided that in such circumstances these methods did not constitute a criminal offence. The State contended that as such action, in such circumstances, does not constitute a crime, there is no reason to prohibit it *ab initio*, and that the use of such methods should not be prohibited in such circumstances.[16]

18. The Court in its decision held that while there were differences of opinion on this issue, it was ready to assume that if an investigator used physical means in the course of an investigation, under the circumstances set out in the statute, and if he were indicted for having used such means, this defence might be available to him. However, the Court held that the "necessity" defence in the case of a criminal trial of the investigator could not serve as a statutory basis for authorizing, in advance, the use of such means in the course of an investigation. The fact that a certain action did not constitute a criminal offence did not authorize an investigator to use that method in the course of an investigation. The Court held:

> "The 'necessity' defense does not constitute a source of authority, allowing GSS investigators to make use of physical means during the course of interrogations … [T]he 'necessity' defense has the effect of allowing one who acts under the circumstances of 'necessity' to escape criminal liability … [I]t does not authorize the use of physical means for the purposes of allowing investigators to execute their duties in circumstances of necessity. The very fact that a particular act does not constitute a criminal act (due to the 'necessity' defense) does not in itself authorize the administration to carry out this deed and in doing so infringe upon human rights. The Rule of Law requires that an infringement of a human right be prescribed by statute, authorizing the administration to this effect. The lifting of criminal responsibility does not imply authorization to infringe upon a human right."[17]

19. In conclusion, the Supreme Court nullified the general directives that authorized the use during an interrogation of physical means that infringe upon a suspect's liberty.[18]

20. The importance, significance and difficulty of the Supreme Court decision must be viewed against the background that Israel's citizens and residents are under constant threat of murderous terrorist acts by persons who have no respect for the rule of law. The justices pointed this out in their decision. After recalling the difficult security situation facing Israel, as set out in paragraph 1 of the judgement, the justices acknowledged that this decision would not make it easier for the security forces to deal with this situation. However, the Court noted:

> "This is the destiny of democracy, as not all means are acceptable to it, and not all practices employed by its enemies are open before it … Deciding these applications weighed heavily on this Court. True, from the legal perspective, the road before us is

> smooth. We are, however, part of Israeli society. Its problems are known to us and we live its history. We are not isolated in an ivory tower. We live the life of this country. We are aware of the harsh reality of terrorism in which we are, at times, immersed. Our apprehension is that this decision will hamper the ability to properly deal with terrorists and terrorism which disturbs us. We are, however, judges. Our brethren require us to act according to the law. This is equally the standard that we set for ourselves. When we sit to judge, we are being judged. Therefore, we must act according to our purest conscience when we decide the law."[19]

Developments in the aftermath of the Supreme Court decision

The effect within the ISA

21. The Supreme Court decision, summarized above, had an immediate and profound effect on the conduct of all investigations by the Israel Security Agency (ISA).

22. The Israel Security Agency has always conducted investigations in accordance with the directives pertaining to such investigations. On the day that the Supreme Court decision was announced, 6 September 1999, the authorities of the ISA issued a directive to all personnel, including all investigators, directing that the decision of the Court should be strictly adhered to in all investigations conducted by the ISA.

23. While the present period of terrorism and terrorist activities against Israeli citizens and residents is a most difficult period, the investigators of the ISA are required to strictly adhere to the principles set out in the Supreme Court decision. If any investigator is found to have used physical pressure against a suspect during an investigation he will be disciplined, and where necessary will be dismissed from the Agency.

24. The principles set out in the Supreme Court decision, and the rules that now apply within the ISA as a result of that decision, are included in required courses, educational seminars and training programmes for all levels of ISA personnel.

Complaints concerning alleged misconduct by police personnel or by investigators of the Israel Security Agency

25. Persons who are detained by the Israel Police or by the Israel Security Agency for purposes of investigation are entitled to file complaints concerning any alleged mistreatment during such investigations. All such complaints are thoroughly investigated. The procedure followed in the investigation of such complaints will depend on whether the complaint involves a disciplinary action or a criminal offence.

26. If such investigation reveals a suspicion that a criminal offence may have been committed, the complaint is investigated by a special department within the Ministry of Justice - the Department for the Investigation of Police Misconduct (DIPM), which is directly responsible to the State Attorney. Any use of actual physical violence against a detainee is always treated and investigated as a criminal offence. During such investigation, the staff of the DIPM takes evidence from the complainant, from other witnesses and from the suspect. If the investigation

reveals evidence of a criminal offence, the case is transferred to the office of the District Attorney in the area where the offence occurred for a final decision on whether to file an indictment. The DIPM may also decide that the police officer or the ISA investigator should be the subject of disciplinary action, in lieu of, or in addition to, the criminal proceedings.

27. If the case involves disciplinary action to be taken against police personnel, the file in the complaint will be transferred for investigation and action by the Disciplinary Department of the Israel Police at the National Police Headquarters.

28. If the case involves disciplinary action to be taken against an investigator of the Israel Security Agency, an attorney in charge of the unit for this purpose in the office of the State Attorney at the Ministry of Justice conducts the investigation concerning the complaint. The attorney responsible for this unit states that since the Supreme Court decision in September 1999, it has been the strict policy of the Israel Security Agency that the ISA personnel may not use during the course of an investigation any of the interrogation methods which the Court held to be illegal. Indeed, since that decision, this unit has not received complaints from detainees alleging the use of such interrogation methods.

29. In addition, the Israel Security Agency has taken steps, with the assistance of the attorney in charge of this unit at the Ministry of Justice, to ensure that major improvements have been made in the living conditions of security prisoners and detainees held in detention in Israel's prisons.

30. One case currently being investigated by the DIPM may be of interest. It may be recalled that in October 2000, two Israeli reserve soldiers, made a wrong turn while driving in their car and mistakenly entered territory under the control of the Palestinian Authority. They were detained by Palestinian police at a checkpoint. The Israeli reserve soldiers were taken to a police station in the Palestinian town of Ramallah. There an unruly crowd, including Palestinian police, took part in a cruel and savage lynching of the two reserve soldiers and brutally murdered them. The bodies of the two men were thrown out to the crowd waiting outside, which mutilated their bodies. All of this was seen on live television worldwide. The Israeli security forces succeeded in arresting some of those responsible for these brutal acts of murder. One of those who were arrested complained of physical mistreatment during his interrogation at a Jerusalem police station. The State of Israel maintains that the basic human rights of all persons under its jurisdiction must never be infringed, regardless of the crimes the person or persons are suspected of having committed. The above complaint is currently being thoroughly investigated by the DIPM and, if shown to be true, disciplinary or criminal actions will be taken against the police personnel responsible.

Petitions to Israel's High Court of Justice

31. Petitions by detainees complaining of mistreatment during ISA investigations may be heard by Israel's Supreme Court, sitting as the High Court of Justice. A detainee, his family, or any person or group that claims an interest in legal or humanitarian issues, may file a petition with the High Court of Justice to seek an injunction to forbid the Israel Security Agency from using improper force or improper physical pressure during investigation. A number of such petitions have, in fact, been filed with and been heard by the High Court of Justice in the past.

32. Since the Supreme Court decision in September 1999 (reported above), two petitions have been filed with the High Court of Justice complaining of physical mistreatment during investigation by the Israel Security Agency. After these complaints were investigated by the authorities and found to be groundless, the petitioners withdrew their applications to the Court.

Legislative developments since the second periodic report

Legislative background

33. Acts of torture are designated as criminal offences under Israel's penal law. This law strictly forbids all forms of torture or other mistreatment.

34. Section 277 of Israel's Penal Law of 1977 specifically relates to the prohibition of acts of torture or other mistreatment by public servants. This section provides as follows:

> "277. Oppression by Public Servant
>
> A public servant who does one of the following is liable to imprisonment for three years:
>
> (1) uses or directs the use of force or violence against a person for the purpose of extorting from him or from anyone in whom he is interested a confession or information relating to an offence;
>
> (2) threatens any person, or directs any person to be threatened, with injury to his person or property or to the person or property of anyone in whom he is interested for the purpose of extorting from him a confession of an offence or any information relating to an offence."

35. Sections 427 and 428 of Israel's Penal Law of 1977 makes it a criminal offence to unlawfully use force or threats to force a person to do some act. These sections relate to such unlawful acts by the general public, including, of course, all State employees.

36. Section 427 provides:

> "427. Blackmail with Use of Force
>
> (a) A person who unlawfully uses force to induce a person to do some act or to refrain from doing an act which he is permitted to do is liable to imprisonment for seven years or, if the use of force leads to the doing or omission of the act, nine years ..."

37. Section 428 provides:

> "428. Blackmail by means of threats
>
> (a) A person who, in writing or by word of mouth, threatens a person with unlawful injury to his or another person's body, freedom, property, reputation or livelihood

unless he does some act or refrains from doing an act which he is permitted to do is liable to imprisonment for three years or, if the act is done or omitted because of or at the time of the threat, nine years …"

38. The above provisions in Israel's Penal Law effectively provide that all acts of torture, as defined in article 1 of the Convention, are criminal offences under Israeli law.

39. In addition to the prohibition of torture as set out in Israel's Penal Law, the prohibition against torture and other cruel, inhuman or degrading treatment or punishment is anchored in Israel's Basic Law. This is set out in the Basic Law: Human Dignity and Liberty, which was adopted by the Knesset in 1992, after Israel ratified the Convention against Torture. A translation of this Basic Law into English is provided in attachment B.

Legislation concerning Israel's Security Agency

40. Following a comprehensive examination of the significance of the Supreme Court judgement in the case of Public Committee against Torture in Israel v. the State of Israel (HCJ 5100/94), and notwithstanding the serious limitations that the Court's decision places on the ability and effectiveness of the security service to prevent ongoing terrorist attacks, the Israeli Government has decided not to initiate legislation that would authorize the use of physical means in investigations conducted by the ISA. The Government decided, instead, to focus on the improvement and strengthening of the ISA's general capabilities by an increase in manpower, improved technological equipment and similar measures. A special working group, headed by the Minister of Justice and the Deputy Minister of Defense, was appointed to seek effective means to implement this governmental decision.

41. A private member's bill was submitted to the Knesset by a group of Knesset members that would authorize the use of limited physical means of investigation in certain specific circumstances. The ministerial committee of the Government, headed by the Minister of Justice, opposed this proposed bill. This private member's bill has yet to be brought to a preliminary hearing before the Knesset. The Prime Minister of Israel publicly rejected the provisions of this private bill during a plenum session of the Knesset.

42. As reported in Israel's previous periodic report, the Government proposed a new law to the Knesset in February 1998 that would govern the structure and activities of the Israel Security Agency. This proposed new legislation, among other provisions, would provide new, additional mechanisms for the review of the activities of the ISA. The new proposed mechanisms would be in addition to current mechanisms for review, which include the possibility of petitions to the court system and investigations by the State Comptroller. This proposed legislation contains no provisions concerning the investigative methods which investigators of the ISA are permitted to use. This proposed law has passed its first reading in the Knesset and was transferred for further consideration to a special joint Knesset committee consisting of the Knesset Constitution, Law and Justice Committee and the Knesset Security and Foreign Affairs Committee.

43. In accordance with the proposed law, the ISA will be subject to the authority of the Government. The Government will appoint the director of the ISA, on the recommendation of the Prime Minister. The proposed law provides that a special ministerial committee of the

Government will be established which will be responsible for ministerial scrutiny and oversight of the ISA. The law also provides for parliamentary oversight of the activities of the ISA, which will be provided by a special committee of the Knesset. The proposed law further sets out the functions and powers of the ISA. The objectives of the ISA will include protecting the security of the State and protection for State authorities and State institutions from terrorism, espionage and other similar threats. The ISA would be given authority and power under the law to conduct investigations. The director of the ISA will provide periodic reports to the ministerial committee and to the Knesset committee.

44. This proposed law is currently pending before the aforementioned special joint committee of the Knesset.

II. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

45. The Committee, in its concluding observations following its consideration of Israel's second periodic report (A/53/44, paras. 232-242), did not request any additional information from the State of Israel.

III. COMPLIANCE WITH THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS

46. The Committee, in its concluding observations on Israel's second periodic report (A/53/44, paras. 232-242), made the following conclusions and recommendations (paras. 240-241):

> Paragraph 240 (a) "Interrogations applying the methods referred to above are in conflict with articles 1, 2, and 16 of the Convention and should cease immediately."

47. As set out in Israel's previous reports to the Committee, Israel asserts that the methods which had been employed in investigations by Israel's security service (referred to as the "Landau Rules") do not constitute torture or cruel, inhuman or degrading treatment and do not violate the provisions of the Convention.

48. Israel's Supreme Court, in a judgement handed down in September 1999, (Public Committee Against Torture in Israel v. the State of Israel), ruled that such interrogation methods are illegal under Israeli law, as they infringe on the dignity of the person being investigated. The Court, in its judgement, did not reject the arguments of the State that such interrogation methods did not constitute torture or cruel, inhuman or degrading treatment and do not violate the Convention. The judgement of the Supreme Court is summarized in part I of this third periodic report. An English translation of that decision is contained in attachment A to this report.

> Paragraph 240 (b) "The provisions of the Convention should be incorporated by legislation into Israeli law, particularly the definition of torture contained in article 1 of the Convention."

49. As stated in part I of this report, sections 277, 427 and 428 of Israel's Penal Law of 1977 (the texts of these sections are set out in part I of this report) strictly forbid all forms of torture or

maltreatment. Thus all acts of torture, as defined in article 1 of the Convention, are criminal acts under Israel's Penal Law. In addition, all forms of torture or other cruel, inhuman or degrading treatment or punishment are prohibited by Israel's Basic Law: Human Dignity and Liberty, which is set out in full as attachment B to this periodic report. This Basic Law has constitutional status within Israel's legislative framework. Section 2 of the Basic Law prohibits any violation of the life, body or dignity of any person. Section 4 guarantees to all persons the right to protection of their life, body and dignity. These provisions of the Basic Law constitute a prohibition of cruel, inhuman or degrading treatment or punishment, including torture. The Israeli Knesset enacted this Basic Law in 1992, after Israel ratified the Convention against Torture.

50. Following the unanimous decision of Israel's Supreme Court, in the case of Public Committee against Torture in Israel v. the State of Israel (as summarized in part I), it is clear that all provisions of the Convention are, in fact, a part of Israeli law. It is clear that any action that would constitute a violation of the Convention is a violation of the law of Israel and is prohibited under the law in Israel.

> Paragraph 240 (c) "Israel should consider withdrawing its reservations to article 20 and declaring in favour of articles 21 and 22."

51. Upon ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the State of Israel declared that in accordance with article 28 of the Convention, it did not recognize the competence of the Committee provided in article 20. Furthermore, the State of Israel did not declare in favour of articles 21 and 22 of the Convention, which recognize the competence of the Committee to receive and consider complaints from other States parties or from individuals, respectively.

52. Having reviewed the above declaration in light of the Committee's recommendations, Israel maintains that it is unlikely that the circumstances in the foreseeable future will permit it to change its position. However, Israel will continue to review its position in this regard.

> Paragraph 240 (d) "Interrogation procedures pursuant to the 'Landau rules' should in any event be published in full."

53. Israel's Supreme Court, in its judgement in the case of Public Committee against Torture in Israel v. the State of Israel (as reported herein), held that interrogation procedures pursuant to the "Landau rules" are illegal under Israel's law. Since September 1999, such methods are no longer used by Israel's security service. For this reason, the publication of such rules is no longer relevant.

> Paragraph 241 "The practice of administrative detention in the occupied territories should be reviewed in order to ensure its conformity with article 16."

54. Israel wishes to report that there has recently been a drastic reduction in the number of persons held in administrative detention, and at the present there are 11 persons being held in administrative detention for security reasons. In addition, no persons are being held in administrative detention in the occupied territories. The conditions in which such persons are

held in administrative detention do conform to article 16. Those held in administrative detention have the right to file petitions with the Courts in Israel to review the legality of their being held in detention, including the legality of the conditions of their detention.

Notes

[1] The former name of Israel's security service - General Security Service - has recently been changed to Israel Security Agency (ISA).

[2] Paragraph 16 of the Supreme Court decision, p. 10 of the English translation (attachment A).

[3] Paragraph 20 of the Supreme Court decision, p. 14 of the English translation (attachment A).

[4] Paragraph 32 of the Supreme Court decision, p. 21 of the English translation (attachment A).

[5] Paragraph 22 of the Supreme Court decision, pp. 15-16 of the English translation (attachment A).

[6] Paragraph 23 of the Supreme Court decision, p. 17 of the English translation (attachment A).

[7] Paragraph 24 of the Supreme Court decision, p. 17 of the English translation (attachment A).

[8] Paragraph 25 of the Supreme Court decision, pp. 17-18 of the English translation (attachment A).

[9] Paragraph 26 of the Supreme Court decision, p. 18 of the English translation (attachment A).

[10] Paragraph 27 of the Supreme Court decision, p. 18 of the English translation (attachment A).

[11] Paragraph 28 of the Supreme Court decision, p. 19 of the English translation (attachment A).

[12] Paragraph 29 of the Supreme Court decision, pp. 19-20 of the English translation (attachment A).

[13] Paragraph 30 of the Supreme Court decision, p. 20 of the English translation (attachment A).

[14] Paragraph 31 of the Supreme Court decision, pp. 20-21 of the English translation (attachment A).

[15] Paragraph 1 of the Supreme Court decision, p. 3 of the English translation (Attachment A).

[16] Paragraph 15 of the Supreme Court decision, pp. 9-10 of the English translation, and paragraph 33, pp. 21-22 of the English translation (attachment A).

[17] Paragraph 36 of the Supreme Court decision, pp. 23-24 of the English translation (attachment A).

[18] Paragraphs 37 and 38 of the Supreme Court decision, pp. 25-26 of the English translation (attachment A).

[19] Paragraphs 39-40 of the Supreme Court decision, pp. 26-27 of the English translation (attachment A).



United Nations

Report of the Committee against Torture

Twenty-seventh session
(12-23 November 2001)
Twenty-eighth session
(29 April-17 May 2002)

General Assembly
Official Records
Fifty-seventh session
Supplement No. 44 (A/57/44)

(p) Include, in its next periodic report, statistical data regarding torture and other forms of cruel, inhuman or degrading treatment or punishment, disaggregated by, inter alia, gender, ethnic group, geographical region, and type and location of detention. In addition, information should be provided regarding complaints and cases heard by domestic bodies, including the results of investigations made and the consequence for the victims in terms of redress and compensation;

(q) Widely disseminate the Committee's conclusions and recommendations throughout the country, in all appropriate languages.

Comments by the Government of Indonesia

46. The Committee considered the note verbale dated 7 December 2001 from the Permanent Mission of Indonesia to the United Nations Office at Geneva containing comments and additional information on the conclusions and recommendations adopted by the Committee. The Committee thanks the Government of Indonesia for the note and welcomes the significant number of legal and institutional reforms which are currently under way in Indonesia. The contents of the note verbale will be reproduced in document CAT/C/GC/2001/1.

Israel

47. The Committee considered the third periodic report of Israel (CAT/C/54/Add.1) at its 495th and 498th meetings, on 20 and 21 November 2001 (CAT/C/SR.495 and 498), and adopted the following conclusions and recommendations.

A. Introduction

48. The Committee welcomes the third periodic report of Israel, due on 1 November 2000 and received on 15 March 2001. The report is in full conformity with the guidelines of the Committee on the preparation of State party periodic reports.

49. The Committee compliments the State party for ensuring the submission of its periodic reports in a timely fashion and welcomes the continuation of a constructive dialogue with Israel.

B. Positive aspects

50. The Committee welcomes the following:

(a) The September 1999 Supreme Court judgement in the case of Public Committee against Torture in Israel v. The State of Israel which held that the use of certain interrogation methods by the Israel Security Agency (ISA) involving the use of "moderate physical pressure" was illegal as it violated constitutional protection of the individual's right to dignity;

(b) The issuance by authorities of the ISA of a directive to all personnel that the decision of the Court should be strictly adhered to in all investigations conducted by the ISA;

(c) The decision by the Government of Israel not to initiate legislation that would authorize the use of physical means in interrogations conducted by the police or the ISA;

(d) The Israeli Supreme Court decision of April 2000 according to which the continued detention of Lebanese detainees held in Israel who did not constitute a threat to national security could not be authorized and the subsequent release of many Lebanese detainees;

(e) Israel's regular contribution to the United Nations Voluntary Fund for Victims of Torture;

(f) The provision of prompt judicial review of persons under detention upon their petition to the Supreme Court;

(g) The transfer, in 1994, of the responsibility for investigation of complaints against the ISA to the Ministry of Justice;

(h) The creation of a judicial commission of inquiry into the events of October 2000, which resulted in the death of 14 persons.

C. Factors and difficulties impeding the application of the Convention

51. The Committee is fully aware of the difficult situation of unrest faced by Israel, particularly in the Occupied Territories, and understands its security concerns. While recognizing the right of Israel to protect its citizens from violence, it reiterates that no exceptional circumstances may be invoked as justification of torture (art. 2, para. 2, of the Convention).

D. Subjects of concern

52. The Committee expresses concern about the following matters:

(a) While acknowledging the importance of the September 1999 Supreme Court decision, the Committee regrets certain of its consequences:

(i) The ruling does not contain a definite prohibition of torture;

(ii) The Court prohibits the use of sleep deprivation for the purpose of breaking the detainee, but stated that if it was merely incidental to interrogation, it was not unlawful. In practice, in cases of prolonged interrogation it is impossible to distinguish between the two conditions;

(iii) The Court indicated that ISA interrogators who use physical pressure in extreme circumstances ("ticking bomb cases") might not be criminally liable as they may be able to rely on the "defence of necessity";

(b) Despite the Israeli argument that all acts of torture, as defined in article 1 of the Convention, are criminal offences under Israeli law, the Committee remains unconvinced and reiterates its concern that torture as defined by the Convention has not yet been incorporated into domestic legislation;

(c) Allegations continue to be received concerning the use of interrogation methods by the ISA against Palestinian detainees that were prohibited by the September 1999 ruling of the Supreme Court;

(d) Torture and ill-treatment of Palestinian minors is alleged, in particular of those detained in the Gush Etzion police station. The difference in the definition of a child in Israel and in the Occupied Territories is also a matter of concern. While under Israeli law majority is attained at the age of 18, military order No. 132 defines a minor as someone under the age of 16. (In Israel, including the Occupied Territories, no minors under the age of 12 years can be held criminally responsible);

(e) While noting a substantial decrease since the examination of its previous report in the number of persons held in administrative detention, the Committee continues to be concerned that administrative detention does not conform with article 16 of the Convention;

(f) The continued use of incommunicado detention, even in the case of children, is a matter of grave concern to the Committee;

(g) Despite the numerous allegations of torture and ill-treatment by law enforcement officials received by the Committee, very few prosecutions have been initiated against alleged perpetrators;

(h) While noting that according to the delegation any allegation of physical violence against a detainee is always treated and investigated as a criminal offence, the Committee is concerned that the Department for the Investigation of Police Misconduct (DIPM) may decide that a police officer or ISA investigator should only be subject to disciplinary action, in lieu of criminal proceedings. This may amount to a violation of article 7, paragraph 1, of the Convention;

(i) Israeli policies on closure may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment (article 16 of the Convention);

(j) Israeli policies on house demolitions may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment (article 16 of the Convention);

(k) The judicial practice of admitting objective evidence derived from an inadmissible confession is of concern to the Committee;

(l) The Committee is also concerned at instances of "extrajudicial killings" drawn to its attention.

E. Recommendations

53. The Committee makes the following recommendations:

(a) The provisions of the Convention should be incorporated by legislation into the domestic law of Israel; in particular, a crime of torture as defined in article 1 of the Convention should be enacted;

(b) The practice of administrative detention in the Occupied Territories should be reviewed in order to ensure its conformity with article 16;

(c) The State party should review its laws and policies so as to ensure that all detainees, without exception, are brought promptly before a judge and are ensured prompt access to a lawyer;

(d) The State party should ensure that interrogation methods prohibited by the Convention are not utilized by either the police or the ISA in any circumstances;

(e) In view of the numerous allegations of torture and other ill-treatment by law enforcement personnel, the State party should take all necessary effective steps to prevent the crime of torture and other acts of cruel, inhuman or degrading treatment or punishment and institute effective complaint, investigative and prosecution mechanisms relating thereto;

(f) All victims of torture and ill-treatment should be granted effective access to appropriate rehabilitation and compensation measures;

(g) The State party should desist from the policies of closure and house demolition where they offend article 16 of the Convention;

(h) The State party should intensify human rights education and training activities, in particular concerning the Convention, for the ISA, the Israel Defence Forces, police and medical doctors;

(i) Necessity as a possible justification for the crime of torture should be removed from the domestic law;

(j) Such legislative measures as are necessary should be taken to ensure the exclusion of not merely a confession extorted by torture, but also any evidence derived from such confession;

(k) Israel should consider withdrawing its reservation to article 20 and declaring in favour of articles 21 and 22.

UNITED NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Fourth periodic reports of States parties due in 2004

Addendum

ISRAEL* **

[2 November 2006]

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* For the initial report of Israel, see CAT/C/16/Add.4; for its consideration, see CAT/C/SR.183, CAT/C/SR.184 and CAT/C/SR.184/Add.1; and *Official Records of the General Assembly, Forty-ninth session, Supplement No. 49* (A/49/44), paras. 159-171.

For the special report, see CAT/C/33/Add. 2/Rev.1; for its consideration, see CAT/C/SR.295; CAT/C/SR.296; CAT/C/SR.297/Add.1; *Official Records of the General Assembly, Fifty-second session, Supplement No. 52* (A/52/44), paras. 253-260.

For the second periodic report, see CAT/C/33/Add.3; for its consideration, see CAT/C/SR.336 and CAT/C/SR.337; and *Official Records of the General Assembly, Fifty-third session, Supplement No. 53* (A/53/44), paras. 232-242.

For the third periodic report, see CAT/C/54/Add.1; for its consideration, see CAT/C/SR.495, and CAT/C/SR.498 and its conclusions and recommendations CAT/C/XXVII/Concl.5.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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Introduction

1. The Government of the State of Israel is pleased to submit its Fourth Periodic Report Concerning the Implementation of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. This Report describes the developments that took place since the submission of the Third Report in 2001 pursuant to article 19 of the Convention. In accordance with the reporting guidelines, this Report builds upon our previous reports.

2. Israel signed the Convention on 22 October 1986, and deposited its instrument of ratification with the Secretary-General of the United Nations on 3 October 1991. In accordance with Article 27(2), the Convention entered into force for Israel on 2 November 1991.

3. Israel submitted an initial report in 1994 (CAT/C/16/Add.4), a special report in 1996 (CAT/C/33/Add.2/Rev.1), a second periodic report in 1998 (CAT/C/33/ Add.3) and a third periodic report in 2001 (CAT/5/54/Add.1).

4. This Report was compiled by the Department for International Agreements and International Litigation in the Ministry of Justice.

5. The following is a short summary of the major changes since the submission of Israel's previous report; a full and complete description shall follow, as well as responses and additional relevant data to the committee's previous concluding observations.

6. In the realm of legislation, the State of Israel has concluded the *Israel Security Agency Law, 5762-2002*, regularizing the activities of its security agency.

7. Israel also amended its *Extradition Law*, 5714-1954 ("the *Extradition Law*"), to permit extradition of nationals in all cases. However, under the Amendment, the extradition of any person who is an Israeli citizen and resident at the time the offence was committed, is subject to a condition that he[1] be permitted by the requesting state to serve any sentence imposed on him following his extradition in Israel.

8. On 26 June 2006, the Knesset approved the *Criminal Procedure (Detainee Suspected of Security Offence) (Temporary Provision) Law*, 2006, that constitutes a Temporary Provision set for a defined period of 18 months, and also establishes specific provisions regarding delay in arraignment before a judge, as detailed in sections 95-100 below.

9. The courts play a pivotal role in promoting the Convention in Israel through their judicial decisions. Such a ruling since the submission of Israel's previous report is the May 2006 Supreme Court landmark decision laying down a court-made doctrine on the exclusion of unlawfully obtained evidence. The Court held that under appropriate circumstances, substantial

[1] Relating in this report to male and female alike.

illegality in obtaining the evidence shall lead to its exclusion, even if there is no suspicion as to the veracity of its content. (C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al*., as detailed in sections 80-85 below.

10. The Military Court of Appeals in A. 153/03 *Geva Sagi v. Chief Military Prosecutor*, accepted an appeal by the Military Prosecution against the ruling of the special court which convicted lieutenant colonel Geva Sagi, upon his confession, of an "inappropriate behaviour", as detailed in sections 57-65 below. The court demoted lieutenant colonel Geva to the rank of a First Lieutenant and described his threats as "shameful and extremely ugly", directly citing the Convention and previous High Court of Justice rulings.

11. In addition, law enforcement agencies continue to undergo comprehensive training regarding the Convention, its contents and values, to ensure that those are instilled among law enforcement personnel.

12. Educational programs run by the Police Education and Information Section are one example of law enforcement training. Such programs aim at assimilating various values among police officers, including human rights, tolerance in a multicultural society, elimination of prejudice, as well as issues relating to the Convention and its values. The Police School for Investigation and Intelligence incorporates the main provisions of the Convention regarding procedures and investigation ethics into the training of investigators and investigation officers.

13. The instruction of the Israel Security Agency (hereinafter "ISA") interrogators includes various components, such as training regarding the main issues of the Convention, its implications on interrogation methods, and the Supreme Court's landmark ruling in HCJ 5100/94, *Public Committee against Torture in Israel v. the State of Israel*. These contents are also an integral part of the ISA courses and seminars, both at basic training, and regular courses throughout the ISA.

14. The School for Military Law holds specific training activities for Israel Defence Forces (hereinafter "IDF") regarding human rights in general, and the prohibition on the use of torture and other cruel, inhuman or degrading treatment or punishment, in particular. These activities include lectures, producing learning aids and circulating informational material.

15. The Israel Prisons Service (hereinafter "IPS") officers and wardens undergo regular training and instructions through courses held in the Nir School for IPS officers and wardens, as well as in their respective units. Training regarding the Convention is an integral part of the IPS training at the individual unit level, in addition to the courses given to officers and wardens.

I. INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

16. As detailed in previous reports, Israel took upon itself to legislate a specific law regarding the ISA. The enactment of the *Israel Security Agency Law, 5762-2000* is the most significant new development since the submission of Israel's third periodic report to this committee. This

law addresses the major relevant issues concerning the mandate, operation, and scope of functioning of the ISA, as will be discussed below. [A translation is attached to this periodic report and marked "A".]

17. The Law states that the head of the Agency shall be appointed for a five-year term by the Government upon the proposal of the Prime Minister, unless the Government has prescribed a shorter term in its appointment resolution. The head of the Agency shall be in charge of the administration and operation of the ISA as well as the development of its capabilities.

18. The law specifically provides that the Prime Minister shall be in charge of the ISA on behalf of the Government; no mission shall be imposed on the ISA for the promotion of party-political interests.

19. The law also establishes a Ministerial Committee for the ISA which shall operate on its behalf in matters prescribed and be composed of five members, including the Prime Minister, the Minister of Defence, the Minister of Justice and the Minister of Public Security.

20. Section 7 of the law details the mission of the Agency, as follows:

> "The Agency shall be in charge of the protection of State security and the order and institutions of the democratic regime against threats of terrorism, sabotage, subversion, espionage and disclosure of State secrets; and the Agency shall also act to safeguard and promote other State interests vital for national State security, all as prescribed by the Government and subject to every law."

21. Next, the law particulates the ISA's functions:

> "(1) foiling and preventing illegal activities aimed at harming State security, or the order or institutions of the democratic regime;
>
> (2) protecting persons, information and places determined by the Government;
>
> (3) determining directives on security classification for positions and offices in the public service and in other bodies, as determined by the Government, except for public appointees and judges; and determining the security suitability of a person for a position or office that holds a security classification, including by the use of polygraph tests, all as shall be prescribed by rules. In this paragraph, "judges" means any person holding judicial authority under the *Basic Law: Judicature*, except candidates for the judiciary and except a military judge under the *Military Justice Law, 5715-1955* ("*Military Justice Law*");
>
> (4) establishing protection practices for bodies determined by the Government;
>
> (5) conducting intelligence research and providing advice and position appraisals for the Government and other bodies determined by the Government;
>
> (6) activities in any other area determined by the Government, with the approval of the Knesset Service Affairs Committee, which is designed to safeguard and promote State interests vital to the national security of the State;

(7) collection and receipt of information for safeguarding and promoting the interests set forth in this section.

22. Section 8 to this law also grants the ISA the following general powers for the purpose of fulfilling its functions in the receipt and collection of information: to pass on information to other bodies in accordance with rules to be prescribed and subject to the provisions of any law; to investigate suspects and suspicions in connection with the commission of offences or to conduct investigations for the purpose of preventing offences in certain prescribed areas; to enlist the assistance of any person who is not an ISA employee for the carrying out of tasks in accordance with rules to be prescribed; ISA officials shall have the powers of a police officers to fulfil certain functions, following authorization from the head of the ISA to enter certain premises not being a closed private structure, in order to conduct inspections and to carry out protective and preventative actions for a limited period.

23. Section 12 compels routine reports of the head of the ISA to the Ministerial Committee and to the Knesset Service Affairs Committee, from time to time and no less than every three months, on the activity of the Agency. Special reports shall be submitted to these Committees, at their request, pursuant to rules prescribed.

24. Section 13 to the law also affixes an agency comptroller, to be appointed by the Prime Minister in consultation with the head of the ISA. The Comptroller shall conduct internal auditing of the ISA pursuant to the provisions of the *Internal Auditing Law, 5752-1992*, and shall assist the Government and the Ministerial Committee in fulfilling their functions. The Comptroller shall submit an annual report on his findings, and any periodic report made by him, to the head of the ISA, the Ministerial Committee, and the Knesset Service Affairs Committee.

25. According to section 18, an ISA employee or a person acting on behalf of the agency shall not bear criminal or civil responsibility for any act or omission performed in good faith and reasonably by him within the scope and in performance of his function; yet the provisions of this section shall not derogate from disciplinary responsibility under the provisions of any law.

Article 3

26. The *Extradition Law* provides for the following procedural guarantees, as was reported in previous reports: where a request for extradition is submitted by a foreign state, the Minister of Justice may order that the person concerned be brought before a District Court judge to determine whether that person is subject to extradition, and in pursuance of such direction, the Attorney General or his representative submits to the Court a petition to declare the person extraditable. A person declared extraditable by the Court has a right of appeal to the Supreme Court sitting as a Court of Criminal Appeal within 30 days of the decision of the District Court. The final decision as to his extradition is, under the *Extradition Law*, at the discretion of the Minister of Justice. The discretion of the Minister may, however, be challenged before the Supreme Court sitting as the High Court of Justice on the grounds that the administrative decision whether to extradite was manifestly unreasonable.

27. The *Extradition Law* forbids the extradition of a person if acceding to the request for extradition militates against *ordre public* or an essential interest of the State. In addition, the Minister of Justice, like every other administrative functionary, must act in a reasonable manner in exercising the authority to decide on extradition. These legal principles would render it essentially impossible for someone to be extradited from Israel to a country where there are substantial grounds for believing that the extradited person would be in danger of being subjected to torture.

28. Furthermore, under Section 2B(a)(1) of the *Extradition Law*, a person shall not be extradited if the request for extradition was submitted for an offence of a political nature or was submitted in order to prosecute or punish a wanted person for an offence of a political character, although the extradition is not purportedly requested for such an offence.

29. According to the *Extradition Law*, an Israeli District Court will declare a person extraditable to a foreign country only if it is proven in court that there is evidence which would be sufficient for committing that person to trial for such an offence in Israel. The requirement to consider the prima facie evidence in the case also provides a safeguard against extradition requests that are groundless or arbitrary.

Article 5

30. Section 16 of the *Penal Law*, 5373 - 1977 ("the *Penal Law*"), was enacted in order to enable the prosecution of offenders accused of crimes against the law of the nations, to which the State of Israel is committed by international treaties to prosecute, regardless of whether the offender is an Israeli citizen or resident, and regardless of the place where the offence has been committed. Under this provision, Israel would have the jurisdiction to prosecute torture cases ,in any case where it did not extradite the accused person.

Article 7

31. As stated in Israel's response regarding Article 5, under Israeli law, Israel has the authority to prosecute acts of torture in any case where it did not extradite the accused person. It may be noted that Israel amended its *Extradition Law* in 1999 and 2001 to permit extradition of nationals. Under the current law, where a person was an Israeli citizen and resident at the time of the crime, extradition is subject to a condition that that person be granted by the requesting state the right to serve in Israel any sentence imposed on that person following that person's extradition. In short, Israel fully possesses the ability of extradition or prosecution in all torture cases.

32. As reported previously, courts or tribunals would decide on cases of alleged torture in the same way as they decide on any other cases of serious crimes. Standards of evidence required for proof of torture are the same regardless of the court's jurisdictional basis.

Article 8

33. The *Extradition Law* provides that an extradition offence is an offence which, had it been committed in Israel, would be punishable by a minimum imprisonment of one year or more. Acts of torture, which are cognizable offences under the *Penal Law*, are punishable by a term of imprisonment of more than one year. Therefore, they are extraditable offences.

34. Israel is a party to the European Convention on Extradition, which provides that every offence, for which the punishment is one year of imprisonment or more, is an extraditable offence. The new Extradition Convention concluded recently between Israel and the United States provides for a similar provision.

35. According to the *Extradition Law*, a prior condition for any act of extradition from Israel is the existence of an agreement on extradition between Israel and the state requesting the extradition. The term "agreement" has been defined in the Israeli law to include a bilateral or a multilateral treaty, such as the Convention Against Torture, which while not specifically an extradition treaty, contains provisions providing for extradition. Under Israeli law, an extradition agreement also includes a special agreement concluded between the State of Israel and a Requesting State concerning the extradition of a wanted person (an "ad-hoc agreement").

Articles 12 and 13

36. As detailed in Israel's previous reports, the actions and conduct of law enforcement officials are subject to several legal institutions for review and oversight. Overall, each branch of the law enforcement authorities has disciplinary procedures, which may be initiated by the person claiming a violation, by other entities, or by the authorities themselves. All public servants are subject to the provisions of the *Penal Law* and most of them to the regulations pertaining to governmental employees, detainees, prisoners or any other relevant person may apply directly to the courts or administrative proceedings for relief against the action or decision in question.

Israel police

37. As detailed in Israel's previous reports, the Department for Investigation of Police Officers in the Ministry of Justice is responsible for most criminal investigations against police officers. Disciplinary proceedings are initiated by submitting a complaint to the Disciplinary Department of the Personnel Division at the Police Central Headquarters, or to any of its branches. Also, administrative sanctions may be imposed at any time during the proceedings, as well as after the proceedings are completed.

38. Following are statistics compiled by the Department for Investigation of Police Officers regarding unlawful use of force by police officers:

Table 1

Unlawful use of force by police officers (2001-2004)

	2001	2002	2003	2004
Total complaints of unlawful use of force by police officers investigated	1 257	1 552	1 531	1 273
Criminal Proceedings	70	53	58	49
Disciplinary Measures	116	93	119	121
Lack of Guilt	331	322	306	354
Lack of Public Interest	97	70	87	65
Unknown Felon	53	39	49	47
Lack of Evidence	735	605	800	637

Source: The Department for Investigation of Police Officers, 2005.

39. The following are some of the most noteworthy examples of the Department's cases, indicative of the Department's diligence in completing the relevant investigations and ensuring utilization of the full extent of the law:

(a) Cr.C. 390/04 (District Court-Jerusalem) *The State of Israel v. Itai Brayer et. al.* (5.4.05). Three border police officers were convicted of causing severe bodily harm in aggravated circumstances, abuse of a minor or a helpless person, and obstruction of court procedures. They were sentenced to six to ten months of imprisonment, following a vigorous investigation by the Department for Investigation of Police Officers. The charge stemmed from an incident where the officers detained and assaulted two Palestinian teenagers. The Department considered the verdict too lenient and recommended that the State Attorney's Office appeal the verdict. Such an appeal was filed and is now pending before the Court;

(b) Cr.C. 436/04 (District Court-Jerusalem) *The State of Israel v. Nir Levy et. al.* (19.5.05). Five border police officers were convicted of assault under circumstances constituting a severe injury in aggravated circumstances, abuse of a minor or a helpless person, and obstruction of court procedures. They were sentenced to between four and fourteen and a half months of imprisonment. The indictments were filed shortly after an immediate and extensive investigation was completed by the Department, as to the circumstances of the case, involving the officers detaining a Palestinian resident, beating and abusing him;

(c) Cr.C. 907/05 (District Court-Jerusalem) *The State of Israel v. Bassam Wahabi et. al*. Four border police officers were indicted of man slaughter for detaining a Palestinian resident of Hebron and later throwing him off a moving military vehicle, which caused a severe head trauma that resulted in his death. The vehicle driver was recently convicted and sentenced to four and a half years of imprisonment. Proceedings against the remaining officers are still pending.

40. Following are statistics compiled by the Police Disciplinary Department regarding the treatment of cases forwarded by the Department for Investigation of Police Officers, recommending disciplinary measures:

Table 2

Cases handled by the Disciplinary Department (2001-2004)

Year	Cases received	Indictments filed to the Disciplinary Tribunal	Complaints Fact Sheets submitted
2001	151	61	41
2002	115	43	67
2003	80	16	28
2004	149	11	33

Source: Israel Police, 2005.

Israel Security Agency (ISA)

41. As detailed in Israel's previous reports, complaints against ISA personnel alleging the use of unlawful investigation techniques are dealt with by the Inspector for the Complaints within ISA (hereinafter, "the Inspector").

42. The head of this unit is appointed directly by the Minister of Justice and is granted the authority of a disciplinary investigator. Moreover, according to ISA rules of operation, the Inspector functions independently. No member in the ISA has the authority to interfere with its findings.

43. The Inspector functions under the close supervision of a high-ranking prosecutor from the State Attorney's Office. Additionally, following a full examination of the complaints, the Inspector's report is thoroughly reviewed by the above-mentioned prosecutor and in cases in which the issues at hand are sensitive or circumstances so necessitate, also by the Attorney General and the State Attorney.

44. A decision is made regarding the complaint, by the Attorney General, the State Attorney and the prosecutor only following a thorough examination of the Inspector's findings. The decision is an administrative decision, subject to the judicial review of the Supreme Court sitting as High Court of Justice, like any other administrative decision.

45. In 2004, section 49I1 of the *Police Ordinance* was amended, expanding the Department for Investigation of Police Officers' scope of authority over ISA interrogators. Their expanded authority of review now applies to every criminal offence committed in the course of fulfilling the ISA interrogators' undertaking, or in relation with their undertaking. This scope was previously limited to criminal offences committed in the course of an interrogation, or as regards to a detainee in custody for interrogation.

46. Statistics indicate that the Inspector has initiated 81 examinations in the year 2002, 129 examinations in 2003, 115 examinations in 2004, and 61 examinations in 2005 (as of mid-December). These examinations were the result of exterior complaints, as well as incidents alleged in internal ISA reports. Four cases resulted in disciplinary measures and several cases resulted in general remarks to ISA interrogators.

47. The following are details of complaints which lead to the disciplinary measures detailed below (detainees' actual names can be provided to the committee upon request):

(a) Following a complaint regarding the interrogation of F.T.A. it was found that an ISA interrogator behaved inappropriately, for which he was reprimanded. A general guidance on this matter was issued to all ISA interrogators;

(b) Following a complaint regarding the interrogation of H.M.H.A., two general remarks were issued to all ISA interrogators concerning reports transmitted during an interrogation;

(c) Following a complaint regarding the interrogation of M.A.R.B., Z.A.K. and M.M.M., certain general remarks concerning interrogation methods were relayed to all ISA interrogators.

(d) Following a complaint regarding the interrogation of K.M.K.K. a general remark as to the documentation of interrogation methods was issued;

(e) Following a complaint regarding the interrogation of M.A.Y., it was found appropriate to clarify the guidelines pertaining to an immediate report regarding a change in a detainee's medical condition whilst undergoing an interrogation.

Israel Defence Forces (IDF)

48. As detailed in Israel's previous reports, the IDF maintains a strict policy of investigating every claim of maltreatment by IDF soldiers. The IDF instructions specifically prohibit any improper attitudes towards detainees, and instruct as to the denunciation of any instance of an inappropriate behaviour of a soldier in relation to detainees. In cases of soldiers' misbehaviour of detainees and interrogatees, soldiers are either court-martialled or face other disciplinary proceedings, depending on the severity of the charges and policy of the Military Attorney's Office.

49. The interrogation of soldiers suspected of the above violations is performed by the Investigative Military Police. This unit is subordinate to the IDF General Staff, independent from the IDF regional commands, and therefore autonomous to handle the investigations within the auspices of the Military Attorney's Office.

50. The Military Attorney's Office and the military courts vigorously assist in upholding the above stipulated norms. Below are some noteworthy examples of such enforcement against soldiers deviating from the above norms: two soldiers charged with beating cuffed detainees while transporting them from the Beit El military court to a detention facility were sentenced to seven to ten months of imprisonment by the Military Court of Appeals; In another case several soldiers charged with assault, aggravated assault, and abuse of Palestinian residents at the Calandia checkpoint were sentenced to four to nine months of imprisonment.

Article 14

51. The Tel Aviv District Court, in *C.C. 22502/04 State of Israel v. Mustafa Dirani* (19.12.05), rejected the State's request to dismiss the civil suit brought by Mr. Mustafa Dirani for the torture he allegedly suffered during his detention in Israeli prison.

52. Mustafa Dirani, a Lebanese citizen and a member of the Hezbollah terrorist organization, was captured and brought to Israel by IDF forces in 1994. Due to his activities in the Lebanese Amal movement and his responsibility in the capture of Ron Arad, a missing IDF navigator, he was interrogated for several months in 1994. Mustafa Dirani was held in administrative detention from 1994 until his release and return to Lebanon in the course of a prisoners-exchange pact completed in early 2004.

53. The State claimed that since Mustafa Dirani was released in a prisoners-exchange pact, and due to the fact that since his return to Lebanon he has rejoined the Hezbollah terrorist organization, the Court should dismiss his request for damages The Court emphasized that according to Israeli law, even if Mustafa Dirani is to win his lawsuit and found to be entitled for damages, he will not be able to receive the money because the law prohibits any transfer of money to citizens of an enemy state. The Court however rejected the State's position that the inability to transfer the money renders the entire lawsuit "theoretical".

54. The Court stipulated that "[t]his lawsuit is brought in order for the court to determine whether the applicant's rights have been violated, whether he is entitled for damages and what is the amount of damages he should receive. The law prohibiting him for physically obtaining the money does not make the issue theoretical". The Court further stated that "[i]t is hard to accept the claim that a person who claims that he had been severely tortured while detained in Israel has no real interest in clarifying this issue in the court of law and that he has no interest that the court impose upon those who are responsible the duty to pay damages for such a severe harm inflicted on his body and honour, even if the applicant will not, at this stage or even ever, be able to receive the money."

55. After discussing relevant international law instruments, the Court concluded that although customary international law requires states to allow persons who have been injured by faults of the state to bring lawsuits, they are mute on the issue whether such obligation arises when the persons involved are enemies. The Court held that "[t]his is an issue to be determined by Israeli law."

56. The court stipulated that: "the position claiming that the purpose of the lawsuit is to slander the state is unacceptable, noting that: "[i]f the claims of the applicant that he has been severely tortured are proven true, this would not constitute a defamation of the country, on the contrary, this would be an act of unveiling the truth, a matter necessary in order to purify the system. It is the state's interest that these difficult claims, whose mere presentation severely shadows the investigation techniques in Israel, be thoroughly examined and clarified." The Court's concern was that by dismissing the lawsuit after Dirani had already given testimony, and with the state not providing any response, might "be interpreted as [having a] lack of willingness or ability to deal with the applicant's claims. This would severely damage the state's reputation locally and abroad as a state governed by the rule of law."

Article 16

57. On 5 August 2004, the Military Court of Appeals accepted an appeal by the Military Prosecution against the ruling of the Special Court which convicted lieutenant colonel Geva Sagi, upon his confession, of "inappropriate behaviour" under section 130 of the *Military Justice Law* (A. 153/03 *Geva Sagi v. Chief Military Prosecutor*).

58. Lieutenant colonel Geva had been sentenced to 60 days imprisonment, and his rank was demoted from Lieutenant Colonel to a Major. In the appeal, the prosecution requested the Court of Appeals to further demote his rank.

59. The Court convicted lieutenant colonel Geva after he admitted to threatening Tarek, a 28 year-old resident of the Duha village, whose father was requested for questioning by the security forces.

60. The Court held that lieutenant colonel Geva, while searching for a person requested for questioning, threatened that person's son, Tarek, telling him that he would kill him if he did not indicate his father's whereabouts. The Court's judgement also described a series of humiliating and sexually degrading acts made by the defendant, including a threat to burn Tarek if he did not indicate where certain weapons were hidden.

61. The Court of Appeals ruled that the described abuse was performed during an investigation, which in itself, was for a worthy purpose. On the other hand, the Court stressed that acts of abuse against the local population are harmful both to the victim and to the IDF. "A commander who does not understand and assimilate the limits of the military use of force established by the principle of human dignity, and substantially deviates from these limits, is not worthy of command. No difference exists between an abuse of a subordinate, a soldier, an enemy or a simple person. The same rule applies for a commander who deviates from the orders concerning his subordinates and the commander who abuses a Palestinian, a suspect or an innocent, in order to force him to disclose information. Both commanders are unworthy of the command."

62. Regarding the case at hand, the Court of Appeals ruled that "it is possible that details could have been taken from Tarek concerning his father and concerning the place the gun was hidden. However, even if in that situation it was appropriate to interrogate him, there exist legal and moral rules which dictate the proper method of interrogation. The same applies even if Tarek himself had been the primary suspect."

63. The Court described lieutenant colonel Geva's threats towards Tarek as "shameful and extremely ugly", and stated that: "[n]o words can describe our shock." "Although it is only one incident, yet its escalation into a series of continuous actions, is inappropriate and ugly from its very beginning to its end".

64. Citing the Convention and previous High Court of Justice rulings, the Court held that "even if we accept the claim that the aggressive dimension in the defendant's behaviour had been relatively limited, for there had been no physical contact between him and Tarek, it appears that the defendant's actions fall within the absolute prohibitions referred to by the High Court of Justice. This is so both because of the severe humiliation entailed in the undressing of a person in front of other people, as well as because of the harsh violence towards the man's spirit."

65. The Court accepted the appeal and, as noted above, demoted lieutenant colonel Geva to the rank of a First Lieutenant.

Legislative developments since the Third Periodic Report

66. As detailed above, the most significant and important new development since the submission of Israel's Third Periodic Report to the Committee Against Torture was the enactment of the *Israel Security Agency Law, 5762-2002*.

Article 9

67. Israel is in compliance with the obligations of Article 9 of the Convention.

68. The Statute replacing Israel's previous *Legal Assistance Law* of 1977 and regulating judicial assistance, both civil and criminal, is known as the *International Legal Assistance Law*, 5758-1998 ("*International Legal Assistance Law*"). This Statute provides for the service of documents, taking of evidence, production of documents, seizure of documents or other articles, carrying out of searches and performance of other legal acts on behalf of foreign states.

69. Moreover, it provides for transferring prisoners and detainees abroad for the purpose of testifying in proceedings taking place overseas. The Statute provides that judicial assistance may be withheld where it is likely to prejudice the sovereignty or security of Israel or any matter of public policy, or where the assistance is requested with respect to a political, a military or a fiscal offence, or where the request relates to a procedure that intends to harm a person due to their political opinions, their race, nationality, religion, sex or social group, or in the absence of reciprocity between Israel and the state requesting the assistance.

70. The *International Legal Assistance Law* permits assistance to be granted even in the absence of a treaty on legal assistance.

Article 12 and 13

71. In 2004, section 49I1 of the *Police Ordinance* was amended, expanding the Department for Investigation of Police Officers' scope of authority over the ISA interrogators, applying to every offence committed in the course of fulfilling their undertaking, or in relation with their undertaking. This scope was previously limited to offences committed in the course of an interrogation, or during a detainee's custody for interrogation.

Article 14

72. Section 77 of the Penal Law, enabling the courts to order compensatory damages to a victim of a crime for damages or suffering, was amended in 2004 in order to raise the amount awarded to the victim. Presently, the maximum amount payable to a particular victim is fixed at 228,000 NIS (app. 50,000 US$). Rulings of the Supreme Court since the Third Periodic Report.

Article 3

73. In accordance with article 3, prohibiting the extradition of a person to another state where there are grounds for believing that he would be in danger of being subjected to torture, the court in Cr.A. 7569/00 *Genadi Yegudayev v. State of Israel* (23.5.02), ruled that Mr. Yegudayev is extraditable only after receiving the following assurances from the Government of Russia. (1) It

was assured that Mr. Yegudayev will not be subject to any kind of torture or inhuman treatment; (2) he would be entitled to a visit by an Israeli representative; and (3) he would be entitled to due process of law for all the rights provided to him in the European Extradition Treaty.

74. Section 2B(a)(8) of Israel's *Extradition Law* states that a person shall not be extradited to the requesting state where the extradition is likely to harm public order. The term "public order" has been interpreted by the Israeli Supreme Court to mean "the basic values of the State and the society, those values which express the moral and justice sense of the public in Israel." Specifically, in Cr.A. 7569/00 *Yegudayev v. the State of Israel*, Deputy President M. Heshin declared that "a substantial concern as to physical injury or abuse of someone extradited to another country would clearly contradict the public order of Israel, and where the Court is convinced that such is the danger to a person, the Court shall deny the request of the [requesting] state and shall not declare the person extraditable."

Article 11

75. In accordance with article 11, and in conformity with the ongoing cooperation with the International Committee of the Red Cross (ICRC), the High Court of Justice accepted the petition of Sheikh Abd El Karim Ubeid and Mustafa Dirani (HCJ 794/98, *Sheikh Abd El Karim Ubeid and Mustafa Dirani v. Minister of Defence et al., (23.8.01)*), and ordered the Minister of Defence to allow representatives of the Red Cross to visit the petitioners, who were being held in administrative detention.

76. Here, the Court held that although the petitioners are members of the Hizbollah terrorist organization, the State is committed to their humanitarian rights as provided by international law. The Court has stated that "… Israel is a democracy that respects human rights and takes humanitarian considerations seriously. Israel adheres to these principles because of the humanism and mercifulness which form an integral part of its character as a Jewish and democratic state. Israel makes these considerations because the human dignity of a person is important for the state even if that person is an enemy".

Articles 12-13

77. In HCJ 11447/04, The *Centre for Defence of the Individual v. the Attorney General* (14.6.05), the Court rejected two petitions requesting an additional investigation of alleged torture and humiliation in the facility known as 1391.

78. The Court held that the decision was made following a very thorough preliminary examination carried out by the Military Attorney General and the Ministry of Justice, and was supported by the evidence gathered. The Court therefore held that in the instant case, the process which led to the decision not to open a criminal investigation was reasonable.

79. The Court also stated that it is difficult to establish criteria for the extent and quality of the examination needed; and that its thoroughness depends on various considerations that are particular to each case. In the case, the Court rejected the petition, stating that they were convinced that the extent and quality of the examination undertaken by the authorities was reasonable.

Article 15

80. In May 2006, the Supreme Court gave a landmark decision, laying down a court-made doctrine on the exclusion of unlawfully obtained evidence (C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al.*), relating to a soldier who was not advised of his right to legal counsel prior to his interrogation, and its affect on the admissibility of his confession while under interrogation.

81. The Court held that "[a]chieving justice is also based on the manner by which the court reaches a decision under the circumstances of the case before it. Basing an indictment on evidence obtained unlawfully or through the substantial violation of a protected human right, allows the investigation bodies to enjoy the fruit of their sin and may create an incentive for improper investigation methods in the future … under appropriate circumstances, substantial illegality in obtaining the evidence, shall lead to its exclusion, even if there is no suspicion as to the veracity of its content".

82. In this case, the Court adopted a relative exclusion doctrine, according to which the court may rule on the inadmissibility of evidence on the basis of the manner by which it was obtained, if two conditions are fulfilled: (1) the evidence was obtained unlawfully; and (2) admission of the evidence will harm the defendant significantly in regard to his right to fair proceedings, in a way and to an extent which is not in accordance with the limitation paragraph of *Basic Law: Human Dignity and Liberty*.

83. The Court held that "… the exclusion of evidence according to the said doctrine requires a causal connection between the administration of the improper methods of investigation and the collection of the evidence." The Court also held that exclusion of evidence can be exercised even when the right violated is not of a constitutional nature.

84. The Court enumerated a list of non-exhaustive circumstances which should be considered by courts deliberating upon the possibility of excluding evidence: (1) The nature and severity of the illegality involved in obtaining the evidence; (2) The influence of the improper method of investigation upon the evidence obtained; and (3) The social harm versus benefit involved in exclusion of the evidence.

85. This judgment also analyzed section 12 of the *Evidence Ordinance (new Version)*, 5731 - 1971 ("the *Evidence Ordinance*"). While the Court did not rule on exclusion of the defendant's confession on these grounds, it held that the said section should be interpreted more widely on the basis of the new Basic Laws. According to this holding, a wider array of circumstances may now justify excluding confessions on the basis of section 12.

II. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

86. The Committee, in its concluding observations following its consideration of Israel's third periodic report (C/XXVII/Concl. 5 (2001)), did not request additional information from the State of Israel.

III. COMPLIANCE WITH THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS

87. The Committee, in its concluding observations on Israel's Third Periodic Report (C/XXVII/Concl. 5 (2001)), made the following recommendations (paras. 7 a)-k)):

(a) The provisions of the Convention should be incorporated by legislation into the domestic law of Israel, in particular a crime of torture as defined in article 1 of the Convention should be enacted

88. As stated in our previous report, all acts of torture, as defined in article 1 of the Convention, are criminal acts under Israel's legislation. In addition, all forms of torture or other cruel, inhuman or degrading treatment or punishment are prohibited by Israel's Basic Law: Human Dignity and Liberty.

89. Moreover, the Supreme Court has recently held that "… the nature and extent of the unacceptable methods of interrogation included today in the scope of 'harming the human character of the interrogatee' may be wider than in the past. This, in light of the interpretative impact of the *Basic Law* and considering the international contractual law that Israel is a party to." (C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al.* (4.5.06))

(b) The practice of administrative detention in the Occupied Territories should be reviewed in order to ensure its conformity with article 16

90. Israel's position on the applicability of CAT beyond its territory has been presented at length to the Committee on previous occasions and remains unchanged. In our view, the current procedure of administrative detention conforms with the principles of international humanitarian law, and indeed it has regularly been reviewed by the Israeli judicial system and the military legal system on this basis. Israel wishes to clarify that this measure can only be used on an exceptional basis when the evidence in existence is clear, concrete and trustworthy but for reasons of confidentiality and protection of intelligence sources, cannot be presented as evidence in ordinary criminal proceedings.

(c) The State party should review its laws and policies so as to ensure that all detainees, without exception, are brought promptly before a judge, and are ensured prompt access to a lawyer

Arraignment before a judge

Criminal offences

91. Section 29 of the *Criminal Procedure (Powers of Enforcement - Arrests) Law*, specifies that a person arrested without a warrant must be brought before a judge as soon as possible, and no later than 24 hours following the arrest, with a special provision regarding weekends and holidays. Following the completion of the above measures, the detainee shall be brought promptly before a judge, or released from custody.

92. Section 30 allows for an additional 24-hour extension based on the need to perform an urgent interrogation, which cannot be performed unless the detainee is in custody, and cannot be

postponed following his arraignment; or if an urgent action must be taken regarding an investigation in a security-related offence. Following the completion of the above measures, the detainee shall be brought before a judge swiftly, or released from custody.

93. The Criminal Procedure (Powers of Enforcement - Arrests) (Arrangements for Holding Court Hearings according to Section 29 to the Law) Regulations, 5757 - 1997 provide special arrangements concerning the arraignment of detainees on weekends and holidays in order to properly balance respect for the holidays with the individual rights of the detainee.

Security related offences

94. A person arrested in accordance with the *Emergency Powers (Arrests) Law*, 5739 - 1979 ("the *Emergency Powers (Arrests) Law*"), according to an order issued by the Minister of Defence, shall be arraigned before the president of a District Court no later than 48 hours following the arrest. If not brought before the president within 48 hours, he shall be released unless another ground for arrest is proven to the president of a District Court (section 4). The 48-hour period does not include holidays.

95. On 26 June 2006, the Knesset approved the *Criminal Procedure (Detainee Suspected of Security Offence) (*Temporary *Provision) Law, 2006*, that constitutes a *Temporary Provision* set for a defined period of 18 months.

96. The law regulates the powers required for the enforcement authorities in order to investigate a detainee suspected of terrorism or security offences. Such investigations necessitate special enforcement powers due to the special characteristics of both the offences and the perpetrators. The main provisions of the law result from the exceptional circumstances of such a security offence.

97. Section 3 of the law stipulates that the appointed officer may delay the arraignment before a judge to a maximum of 48 hours from the arrest, if the officer is convinced that the cessation of the investigation would truly jeopardize the investigation. The officer may decide to delay the arraignment for another 24 hours if he is convinced that the cessation of the investigation would truly jeopardize the investigation or may harm the possibility to prevent harming human lives.

98. The officer may delay the arraignment for additional 24 hours for the same reason, provided that he explains his decision in writing and obtains the approval of the relevant approving authority. A delay of over 72 hours also requires the approval of the Head of Investigations Department of the ISA, or his deputy. In any case, the maximum delay would not exceed 96 hours from the time of the arrest.

99. It must be emphasized that the initial stage of the investigation of a detainee suspected of terror and security offence is critical for the investigation in many ways, such as the possibility to use the information obtained during the investigation to prevent imminent terror attacks. Therefore the legislator asserted that the provision concerning this delay in arraignment is properly balanced with the need to protect human lives.

100. Moreover, as a way of further assuring the rights of the detainee, and in light of the temporary nature of the law, during the duration of the law, the Minister of Justice would be

obligated to report to the Committee of Constitution, Law and Justice of the Knesset on the implementation of the law every six months. The report would include, *inter alia*, detailed information concerning postponements in bringing a detainee before a judge (including the number of cases in which the postponement occurred and the duration of such postponements).

Soldiers - IDF

101. According to the Military Justice Law, following an amendment in 2000, the maximum period a soldier can be held under arrest before he is brought before a judge is 48 hours.

Access to legal counsel

102. In a recent decision by the Supreme Court, the Court held that "[t]here is no dispute as to the high standing and central position of the right to legal counsel in our legal system." (C.A. 5121/98, Prv. *Yisascharov v. The Head Military Prosecutor et. al.* (4.5.06)). Here, the Court adopted a relative exclusion doctrine, according to which the court may rule on the inadmissibility of a confession due to the interrogator's failure to notify the soldier of his right to legal counsel.

Criminal offences

Detainees

103. Section 11 of the *Criminal Procedure (Powers of Enforcement - Arrests)(Terms of Detention) Regulations*, 5757 - 1997, stipulates that the date of a detainee's meeting with an attorney shall be predetermined, and that the commander of the detention facility shall enable the first meeting of a detainee with an attorney, at their request, even during extraordinary hours.

104. Section 34 of the *Criminal Procedure (Powers of Enforcement - Arrests) Law*, states that a detainee has the right to meet and consult with a lawyer. Following a detainee's request to meet with an attorney or the request of an attorney to meet a detainee, the person in charge of the investigation shall enable the meeting without a delay. This meeting can be delayed if, in the opinion of the police officer in charge, such a meeting necessitates terminating or suspending an investigation or other measures regarding the investigation, or substantially puts the investigation at risk. The officer in charge shall provide a written reasoned decision to postpone the meeting for the time needed to complete the investigation, provided this deferment does not exceed several hours.

105. The officer in charge can further delay this meeting if he issues a sufficiently reasoned decision that such a meeting may thwart or obstruct the arrest of additional suspects in the same matter, prevent the disclosure of evidence, or the capture of an object apprehended regarding the same offence. Such additional delay shall not exceed 24 hours from the time of arrest. An additional 24 hours deferment (to a total of 48 hours) can be granted, if the officer in charge provides an elaborated written decision that he is convinced that such postponement is necessary for safeguarding human life, thwarting a crime, or is in relation to a security offence under certain provisions. However, such a detainee shall be given a reasonable opportunity to meet or consult with a legal counsel prior to the arraignment before a court of law.

Prisoners

106. A recent amendment to the *Prisons Ordinance*, 1971 (amendment No. 30, dated July 2005) further stipulates the conditions for a prisoner meeting with an attorney for professional service. According to section 45, this meeting shall be held in private and in conditions allowing for the confidentiality of the matters and documents exchanged, and in such a manner that enables supervision of the prisoner's movements. Following the prisoner's request to meet with an attorney for professional service, or the request of an attorney to meet a prisoner, the director of the prison shall facilitate the meeting in the prison during regular hours and without delay.

107. Section 45A of the *Prisons Ordinance* relates to all prisoners, except for detainees who have yet to be indicted. This section authorizes the IPS Commissioner and the director of the prison to postpone or stop such a meeting for a set period of time if there is a substantial suspicion that meeting with a particular lawyer will enable the commission of an offence risking the security of a person, public security, state security or the prison security, or a prison offence substantially damaging to the prison discipline and that brings about a severe disruption of the prison procedures and administration. The director of the prison may delay such a meeting for no longer than 24 hours, and the IPS Commissioner may order an additional 5 days delay, with the agreement of the District Attorney. Such a reasoned order shall be given to the prisoner in writing, unless the IPS Commissioner specifically orders it shall be given orally. The reasoning may be withheld under certain limited provisions. Decisions rendered according to section 45A may be appealed to the relevant District Court.

108. The District Court may further extend the above time-periods up to 21 days, following an application of the representative of the Attorney General, based on one of the grounds specified above. The maximum delay shall not exceed 3 months. Such a decision can be appealed to the Supreme Court. A Supreme Court judge may further extend these periods based on one of the grounds specified above.

Security-related offences

109. According to section 35 of the *Criminal Procedure (Powers of Enforcement - Arrests) Law*, a detainee in a security related offence shall have access to legal counsel as soon as possible, unless one of the following applies: the meeting may thwart the arrest of other suspects; the meeting may disrupt the disclosure of evidence or its capture, or disrupt the investigation in any other manner; or preventing the meeting is necessary to hinder an offence, or preserve human life.

110. Further details are given in the *Criminal Procedure (Powers of Enforcement - Arrests)(Deferral of a Detainee in Security Offence's Meeting with an Attorney) Regulations*, 5757 - 1997. Under this enactment, a meeting between an attorney and a detainee held on security related offences may be postponed for a maximum 6 day period if a well reasoned statement is submitted by one of the following authorities: the head of an investigative team or the head of the Investigation Department in the ISA authorized by the head of the ISA; a police officer ranked chief superintendent and above, as authorized by the Chief of the Police; or an officer of the IDF ranked Lieutenant Colonel and above, as authorized by the head of the Intelligence Branch of the army.

111. This period can be extended to a maximum limit of 10 days, in a reasoned written decision, by the head of the Investigation Department in the ISA, a police officer ranked commander and above, or an IDF officer ranked colonel and above. Such a decision can be appealed to the president of a District Court and subsequently, to the Supreme Court. Following the termination of such an interrogation, the detainee shall be allowed to meet with an attorney.

112. According to section 35(d) of the *Criminal Procedure (Powers of Enforcement - Arrests) Law*, the president of a District Court may further extend the above 10 day period for an additional period, up to 21 days, following a written application, substantiated by an affidavit and authorized by the Attorney General, based on one of the grounds specified above.

113. Recently, in Cr.C. 10879/05, *Al Abid v. State of Israel (18.12.05)*, the Supreme Court addressed the issue of a detainee's right to meeting with an attorney while in custody. During Al Abid's detention, a court order was issued postponing his meeting with an attorney. When that period concluded, he was not informed of his right to meet with an attorney.

114. The Court stipulated that "the postponement of a meeting between a detainee and his lawyer on the basis of security reasons compels the authorities to inform the detainee of the postponement. Moreover, when the security impediment no longer exists, it is the duty of the authorities to inform the detainee that he is entitled to meet a lawyer. This is a fundamental right; the parties concerned must, through appropriate instructions, ensure the fulfilment of this right frequently". The court added that even during regular police interrogations, where the detainee relinquishes the right to meet with an attorney and in cases where the interrogation is prolonged, "it is appropriate to remind the detainee of his right to meet an attorney". By interpreting the *Criminal Procedure (Powers of Enforcement - Arrests) Law*, the Court explained that when there exists an impediment (prescribed by the law) for a meeting between a detainee and an attorney, and whenever this impediment is removed, the detainee must be immediately informed of the removal and must be allowed to meet with an attorney.

Soldiers - IDF

115. According to section 227A1 of the *Military Justice Law*, a soldier who is detained and likely to be arrested has the right to legal counsel, and the right to be notified thereof. This was recently upheld by the Supreme Court in C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al.* (4.5.06).

(d) The State party should ensure that interrogation methods prohibited by the Convention are not utilized be either the police or the ISA in any circumstances

ISA

116. The ISA interrogators operate in accordance with standard operational procedures, detailed acceptable interrogation techniques, and receive extensive training on permissible investigation methods. These methods and techniques are evaluated routinely by the ISA in order to assess their adaptability to the current situation.

117. The ISA rules and procedures are fully in accordance with the provisions of the Convention, and the ISA interrogators are instructed to uphold them meticulously.

(e) In view of the numerous allegations of torture and other ill treatment by law enforcement personnel, the State party should take all necessary effective steps to prevent the crime of torture and other acts of cruel inhuman or degrading treatment or punishment, and institute effective complaint, investigative and prosecution mechanisms relating thereto

118. Effective complaint, investigative and prosecution mechanisms exist throughout the relevant law enforcement authorities, as detailed in our previous reports, as well as in sections 36-50 above. In addition, the following are important highlights affecting these mechanisms:

Israel police

119. The Israeli Police and the Department for Investigation of Police Officers in the Ministry of Justice views instances of police officers' violence against citizens in general, and specifically, against those who are in custody, with great severity. Serious efforts are being undertaken to eliminate any form of such abuse. Cases of alleged violence are investigated thoroughly and meticulously, using all means to exhaust the interrogation and bring to justice those found to be unnecessarily violent or acting in an unreasonable manner.

120. Some of the major considerations in determining the reasonableness of such action are the purpose and specific circumstances of the use of force, the justification for the use of force and the extent in which it exceeded reasonable use of force, the severity of the use of force and the severity of the physical harm caused, if any.

121. The Police Disciplinary Tribunal, residing in a case of unlawful use of force towards a non-officer, shall be composed of two police officers and a public representative. The purpose of convening such a tribunal is to elevate the public's trust in police treatment of complaints regarding the unlawful use of force. The tribunal may impose penalties ranging between fines, warnings, reprimands, confinement, demotion, or incarceration.

122. In certain cases, when the use of force is relatively trivial, the Department submits complaint fact sheets, judicially reviewed by a single Tribunal judge through an expeditious process, without legal counsel. The Tribunal considers the type of injury, the results of the use of force, the location of the offence, the officer's disciplinary record and his personal circumstances.

ISA

123. Since the submission of Israel's previous report, thousands of investigations have been conducted, and a relatively low number of complaints have been filed - numbering around several dozen a year. Most of these complaints were found to be unjustified. When complaints were found to be justified, measures were taken against the investigators involved.

124. Prior to the year 2000, hundreds of petitions concerning the investigation methods of the ISA were filed to the Supreme Court, sitting as High Court of Justice. In sharp contrast, since the Supreme Court handed down its decision concerning the investigation methods of the ISA, only several petitions have been submitted to the High Court of Justice challenging investigation

methods. At present, there are no petitions pending from interrogated suspects, or from non-governmental organizations such as B'tselem, and Physicians for Human Rights. As the figures indicate, the High Court of Justice's ruling has had dramatic effect.

125. To this date, no complaint has led to findings that a criminal offence has been committed. However, several disciplinary proceedings have been taken against several ISA personnel. Furthermore, several complaints resulted in a re-evaluation of interrogation techniques and conditions, and subsequent amendments and clarifications of procedures were made.

126. The criteria for distinguishing between a recommendation for a criminal procedure and disciplinary measures are not obvious or precise, as demonstrated in Supreme Court rulings in related matters. In order to make such a distinction, the Court considers the investigator's degree of deviation from normal investigative behavior as well as his mental state. These factors help determine the type of punishment or disciplinary measure.

127. It is noteworthy to mention that the ISA has a highly evolved process of examining certain deviations, including those not resulting in formal complaints. The ISA is constantly adjusting its procedures and regulations in this regard.

Israel Prisons Service (IPS)

128. Every prisoner or detainee under the care of the IPS has the following complaint mechanisms regarding the staff and wardens' use of force:

(a) Filing a complaint to the director of the prison;

(b) Petitioning the relevant District Court in a prisoner's petition, in accordance with section 62A of the *Prisons Ordinance* and the *Procedures (Prisoners Petitions) Regulations*, 5740-1980;

(c) Filing a complaint to the Warden's Investigation Unit (WIU), through the IPS or directly to the Unit. This Unit is part of the Israeli Police, and its members are police officers. The findings of the WIU are subject to the State Attorney's Office scrutiny, who decides whether to institute disciplinary measures or criminal proceedings; or

(d) Filing a complaint to the Prisoners Complaint Ombudsman, who is a member of the Ministry of Public Security's internal comptroller unit that has the authority to inquire. Following the completion of the inquiry, and based on its findings, the complaint shall be forwarded to the WIU or the Disciplinary Branch in the IPS.

129. Additionally, Section 71 of the *Prisons Ordinance* establishes rules for official visitors in prisons. These visitors are appointed by the Minister of Public Security and are comprised of lawyers from the Ministry of Justice and other Governmental Ministries, who are appointed on a yearly basis, either for a specific prison, or nationwide. Section 72 of the *Prisons Ordinance* grants official visitor authorities to Supreme Court judges and the Attorney General [in prisons] throughout Israel, and to District and Magistrate Courts judges in prisons in their jurisdiction. Official visitors are allowed to enter the prisons at any given time (unless special temporary circumstances apply), inspect the state of affairs, prisoners' care, prison management, etc. During these visits, the prisoners may approach the visitors and present their complaints,

including grievances pertaining to use of force. Prisoners may also make a complaint with the director of the prison and ask for an interview with an official visitor. Attorney General's Guideline (No. 4.1201. (1.5.75), updated - 1.9.2002) broadened the scope of the above to also include detention facilities and detention cells in police stations.

130. According to the IPS' recent statistics, in 2004, 231 cases of use of force were opened in the WIU; as well as 160 in 2005 (as of 15 November). Roughly 30% of the cases resulted in disciplinary measures, and 3% resulted in criminal proceedings.

131. Disciplinary measures are mostly instituted when the findings indicate that Prison Services' procedures were deviated from to a significant enough degree that would merit a criminal offense, or due to lack of evidence. The penalties in these disciplinary measures range between punishments such as fines, warnings, reprimands, confinement, and demotion.

(f) All victims of torture and ill-treatment should be granted effective access to appropriate rehabilitation and compensation measures

132. In C.C. 1569/98, *Guneimat v. Ami et al*. (27.11.05), the Jerusalem District Court ordered the payment of 50,000 NIS (roughly 13,000$), as compensation for the pain and suffering caused to Mr. Guneimat for physical and emotional harm inflicted upon him during an ISA interrogation. The Court emphasized that the use of the claimed methods had not been proven. However, the defendants requested the Court to consider the claims raised by the applicant as if they were true (for the tort claim only).

133. The Court here held that: "Accepting the applicant's version obliges the grant of appropriate compensation for the pain and suffering inflicted upon him due to the violation of his rights. Previous rulings had granted compensation for lesser violations of greatly more important rights. It is therefore obvious that severe violations of such fundamental rights entitle the applicant to compensation for the suffering inflicted upon him during the torture."

(g) The State party should desist from the policies of closure and house demolition where they offend article 16 of the Convention

134. See Israel's reply in section 90 above.

(h) The State party should intensify human rights education and training activities, in particular concerning the Convention, for the ISA, the Israel Defence Forces, police and medical doctors

Police

135. The Police Education and Information Section operates educational programs aimed towards incorporating various values into police officers' work, including tolerance within a multicultural society, elimination of prejudice and promotion of human rights, as well as awareness of issues relating to the Covenant and its values.

136. The educational programs operate in the police units through special educational workshop days as well as within the overall training framework that includes seminars, courses, etc. In the last few years, special emphasis is given to the training of commanders in all levels, since they are in the best position to influence the values of their subordinates.

137. The Police School for Investigation and Intelligence incorporates the main provisions of the Covenant regarding procedures, basic flaws, investigation ethics, and "right and wrong" behaviors, into the training of investigators and investigation officers.

ISA

138. The instruction of the ISA interrogators includes various contents, such as training regarding the Convention, its subject matter, and its broader implications. As well, such instruction brings interrogators up to date on the Supreme Court ruling in HCJ 5100/94, *Public Committee against Torture in Israel v. the State of Israel*. These contents are also an integral part of the ISA courses and seminars both at basic training and throughout the ISA.

139. These courses and seminars aim to instil principles and norms of human dignity and fundamental rights in employees, both at basic training and throughout the ISA. Particular emphasis is placed on adherence to the rule of law and to the ISA's commitment to the balance of interests required by law and by the practice of the courts.

IDF

140. The School for Military Law holds a variety of training activities for IDF forces regarding human rights in general, and the prohibition on the use of torture and other cruel, inhuman or degrading treatment or punishment, in particular. These activities include lectures, learning aids and comprehensive written materials.

141. In the period since the submission of Israel's previous report, hundreds of lectures were given to regular forces, as well as reserve forces prior to their reserve duty. Lectures were attended by combat forces, officers' course cadets, military police investigators, security analyzers and medical care personnel in detention facilities, as well as to commanders throughout the army.

142. These activities specifically laid emphasis on issues such as arrest and detention practices, detainee's rights, international humanitarian law and rules of conduct during an armed conflict.

143. Additionally, the School for Military Law issued an educational computer program, titled "Principles of Conduct during Armed Conflict", regarding the adequate treatment of prisoners and detainees, emphasizing the strong prohibition against inhuman or degrading treatment of prisoners and detainees. This program is a vital tool in IDF combatants and commanders' instruction.

IPS

144. The IPS officers and wardens undergo regular training and instructions through courses held in the Nir School for IPS officers and wardens, as well is in their respective units. Training regarding the Convention is an integral part of the IPS overall training at the unit level, as well as in courses given to officers and wardens.

(i) Necessity as a possible justification to the crime of torture should be removed from the domestic law

145. The use of the "necessity" defence is regulated in article 34K of the *Penal Law*, exempting a person from a criminal liability "… for committing an act that was immediately necessary for the purpose of saving the life, liberty, body or property, either of himself or his fellow person, from a real danger of serious harm, due to the *conditions* prevalent at the time the act was committed, there being no alternative means for avoiding the harm."

146. As explained in Israel's previous report, the Supreme Court, in HCJ 5100/94, *Public Committee against Torture in Israel v. the State of Israel* addressed the issue of the "necessity" defence in length.

147. The Court here held that if investigators used physical means in the course of an investigation, under the circumstances set out in the law, and if an indictment was submitted against them for the use of such means, it was willing to assume that this defence might be available to them. The Court specifically stated that the "necessity" defence does not constitute a source of authority that allows ISA investigators to make use of physical means during the course of interrogations.

(j) Such legislative measures as are necessary should be taken to ensure the exclusion of not merely a confession extorted by torture but also any evidence derived from such confession

148. As detailed in sections 80-85 above, on May 2006, the Supreme Court rendered a landmark decision, laying down a court-made doctrine for the exclusion of illegally obtained evidence. (C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al.*).

(k) Israel should consider withdrawing its reservation to article 20 and declaring in favour of articles 21 and 22

149. Having reviewed the aforementioned declaration, and taking note of the Committee's recommendations, Israel maintains that it is unlikely that circumstances in the foreseeable future will permit it to change its position in this regard. However, Israel will continue periodic reviews of its position.

UNITED NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Concluding observations of the Committee against Torture

ISRAEL

1. The Committee considered the fourth periodic report of Israel (CAT/C/ISR/4) at its 878th and 881st meetings (CAT/C/SR.878 and 881), held on 5 and 6 May 2009, and adopted, at its 893rd meeting (CAT/C/SR.893), the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Israel, which is in conformity with the Committee's guidelines for reporting.

3. The Committee expresses its appreciation for the extensive written responses to its list of issues (CAT/C/ISR/Q/4 and Add.1), which provided important additional information, and for the oral responses to the numerous questions raised and concerns expressed during the consideration of the report. The Committee also appreciates the expert delegation of the State party and the open and comprehensive dialogue conducted.

B. Positive aspects

4. The Committee welcomes that, in the period since the consideration of the last periodic report (CAT/C/54/Add.1), the State party has ratified the following instruments:

a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

b) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

5. The Committee notes with appreciation the decisions of the Supreme Court of Israel on the case *Yisacharov v The Head Military Prosecutor et. al.*, C.A. 5121/98, which calls for the exclusion of a confession or evidence obtained unlawfully or in violation of a defendant's right to fair procedure; and the case *Physicians for Human Rights et al. v. Minister of Public Security*, HCJ 4634/04, declaring that the State of Israel must provide a bed to every prisoner held in an Israeli prison as a basic condition for living in dignity.

6. The Committee also notes with appreciation the enactment of the Israel Security Agency Law No. 5762-2002, regulating the mandate, scope and function of this institution and regularizing its activities so that it is supervised by and reports to a Ministerial Committee and other official bodies.

7. The Committee welcomes the appointment of the Israel Prison Service as the authority in charge of many Israeli detention facilities, some of which were formerly controlled by the military and the police.

8. Additionally, the Committee welcomes the State party's affirmation that training concerning the Convention and the prohibition of torture is conducted in courses for security, police and military officials, including with regard to the Supreme Court's 1999 ruling on the prohibition on torture, affirming that "these prohibitions are 'absolute'. There are no exceptions to them and there is no room for balancing."

9. The Committee notes again, with appreciation, the way in which public debate ensues on such sensitive matters as torture and ill-treatment of detainees, both in Israel and the occupied Palestinian territories. It welcomes the State party's cooperation with non-governmental organizations that provide relevant reports and information to the Committee and encourages the State party to further strengthen its cooperation with them with regard to the monitoring and implementation of the provisions of the Convention. In this connection, the Committee also notes with appreciation the prompt judicial review of persons under detention upon their petition to the Supreme Court, and the role of non-governmental organizations in facilitating and lodging such appeals.

C. Factors and difficulties impeding the application of the Convention

10. The Committee is fully aware of the situation of unrest prevailing in Israel and in the occupied Palestinian territories. The Committee reiterates its recognition of the State party's legitimate security concerns and its duty to protect its citizens and all persons under its jurisdiction or de facto control from violence. However, the Committee recalls the absolute nature of the prohibition of torture contained in article 2, paragraph 2, of the Convention, stating that "no exceptional circumstances whatsoever may be invoked as a justification of torture."

11. The Committee notes the State party's continued argument that the Convention is not applicable to the West Bank or the Gaza Strip and the claim that this position stems inter alia from longstanding legal considerations that encompass the original drafting history of the Convention as well as from changed practical developments since Israel's last appearance before the Committee, including the 2005 withdrawal of Israeli forces from the Gaza Strip, the dismantling of its military government and its evacuation of over 8,500 civilians from Gaza. In addition, the Committee notes the State party's argument that the 'law of armed conflict' is the *lex specialis* legal regime that takes precedence. However, the Committee recalls its general

comment No 2 (2007) that State parties' obligation to prevent acts of torture or ill-treatment in any territory under its jurisdiction must be interpreted and applied to protect any person, citizen or non-citizen, without discrimination subject to the de jure or de facto control of a State party. The Committee further notes (a) that the State party and its personnel have repeatedly entered and established control over the West Bank and Gaza; (b) that, as acknowledged by the State party's representatives during the dialogue with the Committee, security detainees from the area are, in substantial numbers, detained in prisons within the boundaries of the State of Israel; and (c) that Israel admittedly maintains "full jurisdiction" over cases of violence in the territories by Israeli settlers against Palestinians. Thus, the State party maintains control and jurisdiction in many aspects on the occupied Palestinian territories. Furthermore, the Committee notes with appreciation the State party's affirmation that "an Israeli official is liable to Israel's criminal jurisdiction for any unlawful conduct committed inside or outside the territory of Israel, provided that the official operates within his official capacity." As to the *lex specialis* argument, the Committee recalls that it considers that the application of the Convention's provisions are without prejudice to the provisions of any other international instrument, pursuant to paragraph 2 of its articles 1 and 16. Additionally, the Committee considers that, as stated by the International Court of Justice in its Advisory Opinion, international human rights treaties ratified by the State party, including the Convention, are applicable in the occupied Palestinian territories.[1]

12. In any event, the Committee notes that the State party has acknowledged that its actions in the West Bank and Gaza warrant scrutiny. It also notes that the State party has responded to and elaborated on many questions regarding the West Bank and Gaza posed by the Committee in the written list of issues and the oral discussion.

D. Principal subjects of concern and recommendations

Definition of torture

13. The Committee notes the State party's explanation that all acts of torture are criminal acts under Israeli law. Nevertheless, the Committee reiterates its concern expressed in its previous concluding observations that a crime of torture as defined in article 1 of the Convention has not been incorporated into Israeli domestic legislation.

The Committee reiterates its previous recommendation that a crime of torture as defined in article 1 of the Convention be incorporated into the domestic law of Israel.

Defense of 'Necessity'

14. Notwithstanding the State party's assurances that following the Supreme Court's decision in H.C.J. 5100/94, *Public Committee against Torture in Israel v. The State of Israel* determined that the prohibition on the use of 'brutal or inhuman means' is absolute, and its affirmation that 'necessity defense' is not a source of authority for an interrogator's use of physical means, the Committee remains concerned that the 'necessity defense' exception may still arise in cases of 'ticking bombs,' i.e., interrogation of terrorist suspects or persons otherwise holding information about potential terrorist attacks. The Committee further notes with concern that, under Section 18

[1] International Court of Justice, *Legal consequences of the construction of a wall in the Occupied Palestinian Territories,* Advisory opinion of 9 July 2004.

of the Israel Security Agency (ISA) Law 5762-2002, "an ISA employee (…) shall not bear criminal or civil responsibility for any act or omission performed in good faith and reasonably by him within the scope and in performance of his function". Although the State party reported that Section 18 has not been applied to a single case, the Committee is concerned that ISA interrogators who use physical pressure in "ticking bomb" cases may not be criminally responsible if they resort to the necessity defense argument. According to official data published in July 2002, 90 Palestinian detainees had been interrogated under the "ticking bomb" exception since September 1999.

The Committee reiterates its previous recommendation that the State party completely remove *necessity* as a possible justification for the crime of torture. The Committee requests that the State party provide detailed information on the number of "ticking bomb" Palestinian detainees interrogated since 2002.

Basic safeguards for detainees

15. The Committee is concerned that while the Criminal Procedure Law and the Prisons Ordinance stipulate conditions under which detainees are entitled to meet promptly with a lawyer, these can be delayed, subject to written requests, if it puts the investigation at risk, prevents disclosure of evidence, or obstructs the arrest of additional suspects, and security-related offenses or terrorism charges permit further delays. Notwithstanding the safeguards provided by law and reaffirmed by the Supreme Court of Israel in its 2006 decision on the case *Yisacharov v The Head Military Prosecutor et. al.*, C.A. 5121/98, for ordinary cases, there are repeated claims of insufficient legal safeguards for security detainees. The Committee also notes with concern that the 2006 Criminal Procedure Law allows detention for up to 96 hours of persons suspected of security offenses before being brought before a judge – although the State party claims a majority of cases are brought within 14 hours– and up to 21 days without access to a lawyer– despite the State Party's claim that more than 10 days is "seldom used".

The Committee calls upon Israel to examine its legislation and policies in order to ensure that all detainees, without exception, are promptly brought before a judge and have prompt access to a lawyer. The Committee also emphasizes that detainees should have prompt access to a lawyer, an independent doctor and family member, these are important means for the protection of suspects, offering added safeguards against torture and ill-treatment for detainees, and should be guaranteed to persons accused of security offenses.

16. While appreciating the adoption of the Criminal Procedure (Interrogating Suspects) Law of 2002, which requires that all stages of a suspect's interrogation be recorded by video camera, the Committee notes with concern that the 2008 amendment to this law exempts interrogations of detainees accused of security offenses from this requirement. The State party has justified this on budgetary limitations and stated that the exemption of security-related suspects will only apply until December 2010.

Video recording of interrogations is an important advance in protection of both the detainee and, for that matter, law enforcement personnel. Therefore, the State party should, as a matter of priority, extend the legal requirement of video recording of interviews of detainees accused of security offenses as a further means to prevent torture and ill-treatment.

Administrative detention and solitary confinement

17. The Committee has expressed concern that administrative detention does not conform to article 16 of the Convention because, among other reasons, it is used for "inordinately lengthy periods." Administrative detention thus deprives detainees of basic safeguards, including the right to challenge the evidence that is the basis for the detention. Warrants are not required and the detainee may be de facto in incommunicado detention for an extended period, subject to renewal. While the State party explains that this practice is used only exceptionally when confidentiality make it impossible to present evidence in ordinary criminal proceedings, the Committee regrets that the number of persons held in administrative detention has risen significantly since the last periodic report of the State party. According to the State party, 530 Palestinians are being held in administrative detention under Israeli security legislation and, according to non-governmental sources, as many as 700. The Committee also notes with concern that the Unlawful Combatants Law No. 5762-2002, as amended in August 2008, allows for the detention of non-Israeli citizens falling into the category of "unlawful combatants", who are described as "combatants who are believed to have taken part in hostile activity against Israel, directly or indirectly" for a period of up to 14 days without any judicial review. Detention orders under this law can be renewed indefinitely; evidence is neither made available to the detainee nor to his lawyer and, although the detainees have the right to petition to the Supreme Court, the charges against them are also reportedly kept secret. According to the State party, 12 persons are detained under this law at present.

> **The State party should review as a matter of priority its legislation and policies to ensure that all detentions, and particularly administrative detentions in the West Bank and Gaza Strip, are brought into conformity with article 16 of the Convention.**

18. The Committee is concerned at reports received by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism of solitary confinement used by prison authorities as a means of encouraging confessions from minors or as a punishment for infractions of prison rules. It is alleged that security detainees are kept in interrogation facilities, ranging from three to six square meters, with no windows or access to daylight or fresh air.

> **The Committee once again calls upon Israel to examine its legislation and policies in order to ensure that all detainees, without exception, are promptly brought before a judge and have prompt access to a lawyer. The State party should amend current legislation in order to ensure that solitary confinement remains an exceptional measure of limited duration, in accordance with international minimum standards.**

Allegations of torture and ill-treatment by Israeli interrogators

19. The Committee is concerned that there are numerous, ongoing and consistent allegations of the use of methods by Israeli security officials that were prohibited by the September 1999 ruling of the Israeli Supreme Court, and that are alleged to take place before, during and after interrogations. According to the State party, there were 67 investigations opened by the Inspector for Complaints against ISA interrogators in 2006, and 47 in 2007, but none resulted in criminal charges.

The State party should ensure that interrogation methods contrary to the Convention are not utilized under any circumstances. The State party should also ensure that all allegations of torture and ill-treatment are promptly and effectively investigated and perpetrators prosecuted and, if applicable, appropriate penalties are imposed. The Committee reiterates that, according to the Convention, "no exceptional circumstances," including security or war or threat to security of the State, justify torture. The State party should intensify human rights education and training activities to security officials, including training on the prohibition of torture and ill-treatment.

Complaints and need for independent investigations

20. The Committee notes that, out of 1,185 complaints investigated by the Israeli police for improper use of force during 2007, 82 criminal procedures have been initiated. The State party has noted the difficulty in investigating this type of complaints arguing that police officers are authorized to use reasonable force in the necessary cases.

The Committee requests information on the number of criminal procedures that have resulted in convictions of the accused and the penalties imposed.

21. While noting the State party's clarification that "every claim regarding the use of allegedly impermissible means of interrogation is examined by the Inspector for Complaints," the Committee is concerned that none of the over 600 complaints of ill-treatment by ISA interrogators received by the Inspector of Complaints between 2001 and 2008 has resulted in a criminal investigation. Although under supervision of the Attorney General, the Inspector of Complaints is an ISA employee. The Committee notes that, according to information received by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, out of 550 examinations of torture allegations initiated by the General Security Services (GSS) inspector between 2002 and 2007, only 4 resulted in disciplinary measures and none in prosecution. While the State party's representatives explained that there is a lack of evidence for pursuing and substantiating these complaints, and that the persons submitting them are engaged in a "campaign" alleging false information, the Committee has been informed by non governmental organizations that there is a decline in the number of complaints submitted, allegedly due to a sense of futility based on the absence of indictments and a sense of de facto impunity.

The State party should duly investigate all allegations of torture and ill-treatment by creating a fully independent and impartial mechanism outside ISA.

Non-refoulement and risk of torture

22. While the Committee is aware of the fact that Israel hosts increasing numbers of asylum-seekers and refugees on its territory, and whereas the principle of non-refoulement under article 3 of the Convention has been recognized by the High Court as a binding principle, the Committee regrets that this principle has not been formally incorporated into domestic law, policy, practices or procedure. The responses submitted by the State party all refer only to its obligations under the 1951 Convention Relating to Refugees and its 1967 Protocol, but do not even allude to its distinct obligations under the Convention.

The principle of non-refoulement should be incorporated into the domestic legislation of the State party, so that the asylum procedure includes a thorough examination of the merits of each individual case under article 3 of the Convention. An adequate mechanism for the review of the decision to remove a person should also be in place.

23. The Committee notes with concern that, under article 1 of the draft amendment to the 1954 Infiltration to Israel Law (Jurisdiction and Felonies) Act, which was passed on 19 May 2008 in first reading by the Knesset, any person having entered Israel illegally is automatically presumed to constitute a risk to Israel's security and falls within the category of "infiltrator" and can therefore be subjected to this law. The Committee is concerned that article 11 of this draft law allows Israeli Defence Forces (IDF) officers to order the return of an "infiltrator" to the State or area of origin within 72 hours, without any exceptions, procedures or safeguards. The Committee considers that this procedure, void of any provision taking into account the principle of non-refoulement, is not in line with the State party's obligations under article 3 of the Convention. The Israeli Government reported 6,900 **"**infiltrators**"** during 2008.

The Committee notes that the draft amendment to the Infiltration to Israel Law, if adopted, would violate article 3 of the Convention. The Committee strongly recommends that this draft law be brought in line with the Convention and that, at a minimum, a provision be added to ensure an examination into the existence of substantive grounds for the existence of a risk of torture. Proper training of officials dealing with immigrants should be ensured, as well as monitoring and review of those official's decisions to ensure against violations of article 3.

24. The Committee notes with concern that, on the basis of the "Coordinated Immediate Return Procedure", established by Israeli Defense Force order 1/3,000, IDF soldiers at the border – whom the State party has not asserted have been trained in legal obligations under the Convention – are authorized to execute summary deportations without any procedural safeguards to prevent refoulement under article 3 of the Convention.

The Committee notes that such safeguards are necessary for each and every case whether or not there is a formal readmission agreement or diplomatic assurances between the State party and the receiving State.

Prohibition of unlawful or coerced evidence

25. While welcoming the Supreme Court decision *Prv. Yisascharov v the Head Military Prosecutor et al,* C.A. 5121/98, which laid down the doctrine of exclusion of unlawfully obtained evidence, the Committee notes that the question of determining whether or not to admit such evidence is left to the discretion of the judge.

The State party should prohibit by law that any statement which is established to have been made as a result of torture cannot be invoked as evidence in any proceedings against the victim, in line with article 15 of the Convention.

Detention facility 1391

26. Notwithstanding the information from the State party that ISA secret detention and interrogation facility known as "Facility 1391" has not been used since 2006 to detain or interrogate security suspects, the Committee notes with concern that several petitions filed to the

Supreme Court to examine the facility were rejected and that the Supreme Court has found that Israeli authorities acted reasonably in not conducting investigations on allegations on torture and ill-treatment and poor detention conditions in the Facility.

The State party should ensure that no one is detained in any secret detention facility under its control in the future, as a secret detention center is *per se* a breach of the Convention. The State party should investigate and disclose the existence of any other such facility and the authority under which it has been established. It should ensure that all allegations of torture and ill-treatment by detainees in Facility 1391 be impartially investigated, the results made public, and any perpetrators responsible for breaches of the Convention be held accountable.

Juvenile detainees

27. While noting the State party's argument that several measures are being implemented to ensure children's rights, including the preparation of a draft bill on the establishment of a new youth court, the Committee remains concerned at the differing definitions of a child in Israel – where legal age is attained at the age of 18–and in the occupied Palestinian territories –where legal age is attained at 16. The Committee notes the State party's explanation that Palestinian juveniles under age 18 are treated as minors when imprisoned within the State of Israel. Nonetheless, it expresses deep concern at reports from civil society groups that Palestinian minors are detained and interrogated in the absence of a lawyer or family member and allegedly subjected to acts in breach of the Convention in order to obtain confessions. The Committee is further concerned by the allegations that approximately 700 Palestinian children annually were charged under military orders and prosecuted by Israeli military courts and that 95 per cent of these cases have relied on confessions as evidence to obtain a conviction.

Military order No. 132 should be amended to ensure that the definition of minor is set at the age of 18, in line with international standards.

28. The Committee also notes with concern that all but one of the prisons where Palestinian juveniles are detained, are located in Israel, which hinders prisoners from receiving family visits, not only because of the distances, but also since some relatives have been denied necessary permits for security reasons, in 1,500 out of 80,000 cases, according to the State party and more often according to non-governmental sources.

The State party should ensure that juvenile detainees are afforded basic safeguards, before and during interrogations, including prompt access to an independent lawyer, and independent doctor and family member from the outset of their detention. Furthermore, the State party should ensure that cases against juveniles are not decided solely on the basis of confessions, and that the establishment of a youth court is completed as a matter of priority. In addition, every effort should be made to facilitate family visits to juvenile detainees, including by expanding the right to freedom of movement of relatives.

Use of force or violence during military operations

29. Notwithstanding the ongoing indiscriminate rocket attacks against civilians in southern Israel which reportedly provoked Israel to exercise its right to defend its population by launching operation "Cast Lead" against Hamas in the Gaza Strip, the Committee is concerned over the

insufficient measures taken by the State party to protect the civilian population of the Gaza Strip and to prevent the harm, including many hundreds of deaths, of Palestinian civilians, including minors, caused as a result of the Israeli military operation. A report of nine United Nations experts describes civilians, including medical workers–16 having allegedly been killed and 25 injured while on duty. As confirmed by Israeli investigators, there were severe effects on civilians as a result of Israeli weaponry containing phosphorus, although it was reportedly aimed to create smoke screens or uncover tunnel entrances in Gaza. Notwithstanding the State party's argument that this weapon is not banned by international humanitarian law and was not aimed at personnel, the Committee is concerned about its use in a densely populated area and the severe pain and suffering that this weapon caused, including deaths of persons who reportedly could not be duly treated at hospitals in Gaza, which were unable to provide palliative services for several reasons, including a lack of proper knowledge of the weaponry employed, as well as being used as headquarters, command centres and hiding places for Hamas attacks.

The State party should conduct an independent inquiry to ensure a prompt, independent and full investigation into the responsibility of state and non-state authorities for the harmful impact on civilians, and to make the results public.

30. The Committee has received reports that the "blockade" imposed on the Gaza Strip, especially aggravated since July 2007, has obstructed the distribution of humanitarian aid before, during and after the recent conflict, and has limited other human rights of the inhabitants, particularly the right to freedom of movement, of both juveniles and adults.

The State party should reinforce its efforts to ensure that humanitarian aid is accessible to ease the suffering of Gaza inhabitants as a result of the restrictions imposed.

31. Notwithstanding the State party's legitimate security concerns, the Committee is seriously concerned at the many allegations provided to the Committee from non-governmental sources on degrading treatment at checkpoints, undue delays and denial of entry, including for persons with urgent health needs.

The State party should ensure that such security controls are conducted in accordance with the Convention. In this regard, the State party should provide sufficient and adequate training for personnel to avoid unnecessary stress on persons travelling through checkpoints. The State party should consider, as a safety measure, establishing an urgent complaints mechanism for any persons claiming they have been subjected to undue or improper threats or behaviors. Further, consideration should be given as a matter of urgency to the availability of emergency medical personnel to assist persons in need.

Settler violence

32. The Committee notes with interest the State party's acknowledgement that "Israel has full jurisdiction" over cases of settler violence in the West Bank against Palestinians. It appreciates the statistics provided regarding the criminal enforcement of such matters as disorderly conduct, land disputes, and the overall increase in law enforcement involving Israelis, including investigations and indictments as well as administrative measures limiting movement of Israeli settlers who may endanger the lives and security of Palestinians. While appreciating that a special inter-ministerial committee has been created to address these cases, and to

coordinate among the IDF, the Police, the State Attorney's Office, and the ISA, the Committee expresses concern about such violence, especially its rising number.

Any allegation of ill-treatment by Israeli settlers, like others under the State party's jurisdiction, should be promptly and impartially investigated, those responsible be prosecuted and, if found guilty, appropriately punished.

House demolitions

33. While recognizing the authority of the State party to demolish structures that may be considered legitimate military targets according to international humanitarian law, the Committee regrets the resumption by the State party of its policy of purely "punitive" house demolitions in East Jerusalem and the Gaza Strip despite its decision of 2005 to cease this practice.

The State party should desist from its policies of house demolitions where they violate article 16 of the Convention.

Allegations of torture and ill-treatment by Palestinian forces

34. According to reports before the Committee, both Hamas security forces in Gaza and Fatah authorities in the West Bank have carried out arbitrary arrests, abductions and unlawful detentions of political opponents, denied them access to a lawyer and subjected detainees to acts of torture and ill-treatment. Reportedly, those detained have been denied, inter alia, basic due process rights and the right to prompt and effective investigations. Additionally, an increase in such incidents¸ including deliberate maiming, as well as extrajudicial killings, was reported to have been conducted by Hamas forces in Gaza, allegedly against Fatah security services officials or persons suspected of collaboration with Israeli forces, during and after Operation Cast Lead.

The Palestinian authorities in the West Bank should take immediate measures to investigate, prosecute and appropriately punish persons under their jurisdiction responsible for these abuses; additionally, Hamas authorities in the Gaza Strip should take immediate steps to end its campaign of abductions, deliberate and unlawful killings, torture, and unlawful detentions, and to punish those responsible. The creation of an independent, impartial and non-partisan commission of experts to investigate these abuses should receive attention as a matter of priority.

35. The Committee encourages the State party to ratify the Optional Protocol to the Convention.

36. The Committee also encourages the State party to consider making the declarations under articles 21 and 22 of the Convention, thereby recognizing the competence of the Committee to receive and consider inter-state and individual communications.

37. The Committee encourages the State party to withdraw its declaration prohibiting article 20 inquiries.

38. The Committee invites the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.

39. The State party is encouraged to disseminate widely the report and response to the list of Issues submitted by Israel to the Committee and the concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

40. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 15, 19, 20, 24 and 33 above.

41. The State party is invited to submit its next periodic report, which will be considered as its fifth periodic report, by 15 May 2013.

United Nations CAT/C/ISR/CO/4/Add.1

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention

Follow-up responses of Israel to the concluding observations of the Committee against Torture (CAT/C/ISR/CO/4)*

[3 August 2010]

* In accordance with the information transmitted to State parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Please recycle

1. As requested by the Committee in its concluding observations (para. 40) dated 23 June 2009, pursuant to paragraph 2 of rule 67 of the Committee's rules of procedure, the State of Israel respectfully presents the information requested:.

Paragraph 15 of the concluding observations

The Committee calls upon Israel to examine its legislation and policies in order to ensure that all detainees, without exception, are promptly brought before a judge and have prompt access to a lawyer. The Committee also emphasizes that detainees should have prompt access to a lawyer, an independent doctor and family member are important means for the protection of suspects, offering added safeguards against torture and ill-treatment for detainees, and that these should be guaranteed to persons accused of security offenses.

Access to legal council

2. In a recent decision released by the Supreme Court, the Court held that "[t]here is no dispute as to the high standing and central position of the right to legal counsel in Israel's legal system" (C.A. 5121/98, Prv. *Yisascharov* v. *The Head Military Prosecutor et. al.* (4 May 2006)). In the case at hand, the Court adopted a relative exclusion doctrine, according to which the court may rule on the inadmissibility of a confession due to the interrogator's failure to notify the soldier of his right to legal counsel.

Criminal offences

Detainees

3. Section 34 of the Criminal Procedure (Powers of Enforcement - Arrests) Law, 1996-5756, states that a detainee is entitled to meet and consult with a lawyer. Following a detainee's request to meet with an attorney or the request of an attorney to meet with a detainee, the person in charge of the investigation shall enable the meeting without delay, unless as stipulated below. The meeting can be delayed if, in the opinion of the police officer-in-charge, such a meeting necessitates terminating or suspending an investigation or other measures regarding the investigation, or substantially places the investigation at risk. The officer in charge shall provide a written reasoned decision to postpone the meeting for the time needed to complete the investigation, provided this deferment does not exceed several hours.

4. The officer in charge can further delay this meeting if he/she issues a sufficiently reasoned decision that such a meeting may thwart or obstruct the arrest of additional suspects in the same matter; prevent the disclosure of evidence, or the capture of an object regarding the same offence. Such additional delay shall not exceed 24 hours from the time of arrest. An additional 24 hour deferment (to a total of 48 hours) can be granted, if the officer in charge provides a detailed written decision that he/she is convinced that such postponement is necessary for safeguarding human life, or thwarting a crime. However, such a detainee shall be given a reasonable opportunity to meet or consult with legal counsel prior to their arraignment before a court of law. Data indicates that this additional extension is seldom used.

5. In Israel, Section 11 of the Criminal Procedure (Powers of Enforcement - Arrests) (Terms of Detention) Regulations 5757 – 1997, stipulates that the date of a detainee's meeting with an attorney shall be coordinated in advance, and that the commander of the detention facility shall enable the first meeting of a detainee with an attorney, at their request, even during extraordinary hours.

Prisoners

6. A 2005 Amendment to the 1971 Prisons Ordinance, further stipulates the conditions for a prisoner's meeting with an attorney for receipt of professional services. According to Section 45, this meeting shall be held in private and under conditions guaranteeing the confidentiality of the matters discussed and documents exchanged, and in such a manner that enables supervision of the prisoner's movements. Following the prisoner's request to meet with an attorney for professional service, or the request of an attorney to meet with a prisoner, the director of the prison shall facilitate the meeting in the prison during regular hours and without delay.

7. Section 45A of the Prisons Ordinance relates to all prisoners, except for detainees who have yet to be indicted. This section authorizes the Israel Prisons Service's (IPS) Commissioner and the Prison Director to postpone or stop such a meeting for a set period of time if there is a substantial suspicion that meeting with a particular lawyer will enable the commission of an offence risking the security of a person, public security, State security or the prison's security, or a prison offence substantially damaging to the prison discipline and which brings about a severe disruption of the prison's procedures and administration. The Prison Director may delay such a meeting for no longer than 24 hours, and the IPS Commissioner may order an additional five days' delay, with the agreement of the District Attorney. Such a reasoned order shall be given to the prisoner in writing, unless the IPS Commissioner specifically orders it shall be given orally. The reasoning may be withheld under certain limited provisions. Decisions rendered according to section 45A may be appealed to the relevant District Court.

8. The District Court may further extend the above time-periods up to 21 days, following an application by a representative of the Attorney General, based on one of the grounds specified above. The maximum delay shall not exceed a period of three months. Such a decision can be appealed to the Supreme Court. A Supreme Court judge may further extend these periods based on one of the grounds specified above.

Security related offences

9. In accordance with article 35 to the Criminal Procedure Law, (Enforcement Powers - Arrests) 1996- 5756, in exceptional cases (the meeting may thwart the arrest of other suspects; the meeting may disrupt the discovery of evidence or its capture, or disrupt the investigation in, any other manner; or preventing the meeting is necessary to hinder an offence, or preserve human life), it is possible to postpone a meeting with legal counsel on specific grounds. Preventing a detainee from meeting his/her attorney constitutes grave harm to his/her rights, and thus such harm is tolerated only when such prevention is necessary due to security reasons and for the sake of the interrogation.

Arraignment before a judge

Criminal offences

10. Section 29 of the Criminal Procedure (Powers of Enforcement - Arrests) Law, specifies that a person arrested without a warrant must be brought before a judge as soon as possible, and no later than 24 hours following the arrest, with special provision being made regarding weekends and holidays. Following the completion of the above measures, the detainee shall be brought promptly before a judge, or released from custody.

11. Section 30 allows for an additional 24-hour extension based on the need to perform an urgent interrogation, which cannot be performed unless the detainee is in custody, and cannot be postponed following his/her arraignment; or if an urgent action must be taken regarding an investigation in a security-related offence. Following the completion of the

above measures, the detainee shall be brought before a judge swiftly, or released from custody.

12 The Criminal Procedure (Powers of Enforcement - Arrests) (Arrangements for Holding Court Hearings according to Section 29 to the Law) Regulations, 5757 – 1997 provides special arrangements concerning the arraignment of detainees on weekends and holidays in order to properly balance respect for the holidays with the individual rights of the detainee.

Security-related offences

13. The Criminal Procedure (Detainee Suspected of Security Offence) (Temporary Provision) Law 5766-2006 (hereinafter: The Criminal Procedure (Detainee Suspected of Security Offence) (Temporary Provision)) regulates the powers required by the enforcement authorities in order to investigate a detainee suspected of terrorism or security offences. Such investigations necessitate special enforcement powers due to the special characteristics of both the offences and the perpetrators. The main provisions of the Law result from the exceptional circumstances of such a security offence.

14. Section 3 of the Law stipulates that the appointed officer may delay the arraignment before a judge to a maximum of 48 hours from the time of arrest, if the officer is convinced that the cessation of the investigation would truly jeopardize the investigation. The officer may decide to delay the arraignment for a further 24 hours if he/she is convinced that the cessation of the investigation would truly jeopardize the investigation or may harm the police's ability to prevent harm to human lives.

15. The officer may delay the arraignment for an additional 24 hours for the same reason, provided that he/she explains his/her decision in writing and obtains the approval of the relevant approving authority. A delay of over 72 hours also requires the approval of the Head of the Investigations Department of the Israel Security Agency (ISA), or his/her deputy. In any case, the maximum delay should not exceed 96 hours from the time of arrest.

16. The initial stage of the interrogation of a detainee suspected of terrorist and security offences is critical for the investigation in many ways, such as the possibility to use the information obtained during the investigation to prevent imminent terrorist attacks. Therefore the legislator asserted that the provision concerning this delay in holding an arraignment is properly balanced with the need to protect human lives.

17. Moreover, as a way of further assuring the rights of the detainee, and in light of the temporary nature of the Law, during the duration of the Law, the Minister of Justice is obligated to report to the Constitution, Law and Justice Committee of the Knesset regarding the implementation of the law every six months. The report shall include, inter alia, detailed information concerning postponements in bringing a detainee before a judge (including the number of cases in which postponements occurred and the duration of such postponements).

18. According to information brought by the Israel Security Agency before the Knesset Constitution, Law and Justice Committee, from July 1, 2006 up until December 31, 2006 – the arraignment of one person was postponed between 48-72 hours in accordance with Section 3(1) of the Law, and the arraignments of two persons were postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2007 – the arraignments of four persons were postponed between 48-72 hours in accordance with Section 3(1) of the Law, and the arraignment of one person was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2008, the arraignments of two persons were postponed between 48-72 hours in accordance with Section 3(1) of the Law, and the arraignment of none (0) was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2009, the arraignments of five persons were postponed for no longer then 48 hours in accordance

with Section 3(1) of the Law, and the arraignment of none (0) was postponed between 72-96 hours in accordance with Section 3(2) of the Law.

19. Israel maintains its position that the provisions of the Law dealing with arraignments before a judge and access to legal counsel are in accordance with article 2 of the Convention.

Arraignment before a judge

20. A decision to extend an arrest must be brought before a judge, as a rule, within 24 hours from the time of arrest. This occurs in the vast majority of cases. This limitation is deviated from only in rare instances, and even in those cases, the maximum delay is a total of 96 hours.

Access to legal counsel

21 The authorities take every measure to limit the use of the provision allowing for the authorities to postpone a meeting with legal counsel; hence, the use of this tool in Israel is exceptional. Prevention of a meeting for more than 10 days is seldom used.

Note also that for the purpose of extending the arrest period, the suspect is brought before a judge.

22 As for the issue of a court session in absentia, is should be stressed that in February 2010, the Israeli Supreme Court repealed Section 5 to the Criminal Procedure (Detainee Suspected of Security Offence) (Temporary Provision) Law, which allowed a court to decide on detention on remand without the presence of the detainee for no longer than 20 days (*Cr.C 8823/07 Anonymous* v. *The State of Israel*). The initial purpose of this Section of the Law was to improve the ability of law enforcement agencies to conduct effective interrogations of suspects in security offences. In its decision, The Supreme Court found that this section, particularly when combined with other legal provisions, might gravely harm the rights of the suspect and prejudice the effectiveness and fairness of the judicial process. The Court was not convinced that the purpose of the Section could not be achieved by way of other means. Thus, the Court ruled that Section 5 is unconstitutional since it is incompatible with *Basic Law: Human Dignity and Liberty*.

Paragraph 19 of the concluding observations

The State party should ensure that interrogation methods contrary to the Convention are not utilized under any circumstances. The State party should also ensure that all allegations of torture and ill-treatment are promptly and effectively investigated and perpetrators prosecuted and, if applicable, appropriate penalties are imposed. The Committee reiterates that, according to the Convention, "no exceptional circumstances" including security or a war or threat to security of the State justifies torture. The State party should intensify human rights education and training activities to security officials, including training on the prohibition of torture and ill-treatment

23. The allegations referred to by the Committee are based on complaints made by individuals who for the most part have a clear interest against the State of Israel and the Israeli security forces. Thus, this mechanism is often used as a method by which to burden the security agencies in Israel in their ongoing fight against terrorism.

24. Nevertheless, every complaint made by an interrogatee is examined by the Inspector for Complaints against ISA Interrogators (hereinafter: The Inspector). The Inspector functions under the close supervision of a high-ranking prosecutor from the State Attorney's Office, who answers to the State Attorney and the Attorney General. The

purpose of the examination is to examine whether the interrogators acted according to the law and procedures. The examination is performed thoroughly and impartially.

25. The fact that none of the examinations opened during the years 2006-2009 resulted in the submission of criminal charges indicates that all the interrogations were conducted according to law and procedures, and no ill-treatment or torture took place during the interrogations. However, certain procedures and interrogation techniques were modified as a result of some investigations. Additionally, during the years 2003-2009, ten examinations were opened as a result of complaints forwarded solely by the investigators themselves. Further, 55 examinations were opened based on the reports of investigators to the inspector regarding complaints of interrogatees made to the International Committee of the Red Cross (ICRC) and other public organizations.

26. The number of examinations, per year is as follows:

– 2006 – 67 examinations

– 2007 – 47 examinations

– 2008 – 30 examinations

– 2009 – 50 examinations

27. Israel's Security Agency and its employees act within the framework of the law, and are subject to internal and external review by, inter alia, the State Comptroller, the State Attorney, the Attorney General, the Knesset and the High Court of Justice in Israel.

28. Detainees receive all the humanitarian rights provided by the Conventions Israel is a party to and by Israeli law, including access to legal counsel and meetings with ICRC representatives.

29. In 2009, Israel's High Court of Justice rejected a petition claiming that the Government and the ISA disregarded the High Court of Justice ruling in *HCJ 5100/94 The Public Committee against Torture in Israel* v. *The State of Israel.* Thus, the Court found no legal and/or factual basis for this claim.

Paragraph 20 of the concluding observations

Information on the number of criminal procedures that have resulted in convictions of the accused and the penalties imposed

30 In order to fulfil their duties, police officers are authorized to use reasonable force in necessary cases. The difficulty in investigating complaints regarding the improper use of force is in the examination of circumstances which justified the use of force, and the justification for the amount of force used.

31. Since the use of force can be seen as a tool for police officers when exercising their duties, in certain cases the complaints are handled by way of disciplinary measures. Disciplinary measures are used in cases where the police officers were authorized to use force, but the force used has slightly deviated from the reasonable force needed. The advantage of the disciplinary procedure is the opportunity it provides for an examination of an event from organizational, educational and other important points of view.

32. The following are some of the most noteworthy examples of the Department's cases, indicative of the Department's diligence in completing the relevant investigations and ensuring utilization of the full extent of the law:

– In Cr.A 5136/08 *The State of Israel* v. *Ynai Lalza* (31.3.09), the Supreme Court accepted the State's appeal and raised the period of incarceration of a Border Patrol policeman who was convicted by the Jerusalem District Court, from six and a half years to

eight and a half years' imprisonment. The defendant was convicted for participating in a series of acts of severe abuse and aggression against several Palestinians in Hebron, one of whom died after he was pushed out of a moving police vehicle. The Court described the acts committed by the defendant as severe, outrageous and villainous and added that these actions undermine the fundamental bases of justice and human decency. The Court indicated that the punishment for such offenses must serve to condemn the behaviour and express its anomalousness.

– Cr.C. 907/05 (District Court-Jerusalem) *The State of Israel* v. *Bassam Wahabi et. al*. Four border police officers were indicted of man slaughter for detaining a Palestinian resident of Hebron and later throwing him off a moving military vehicle, which caused a severe head trauma that resulted in his death. The vehicle's driver was recently convicted and sentenced to four and a half years' imprisonment. Proceedings against the remaining officers resulted in sentences of between four and a half and eight and a half years of imprisonment.

– Cr.C. 390/04 (District Court-Jerusalem) *The State of Israel* v. *Itai Brayer et. al.* (5 April 2005). Three border police officers were convicted of causing severe bodily harm in aggravated circumstances, abuse of a minor or a helpless person, and obstruction of court procedures. They were sentenced to six to ten months of imprisonment, following a vigorous investigation by the Department for Investigation of Police Officers.

– Cr.C. 436/04 (Jerusalem District Court) *The State of Israel* v. *Nir Levy et. al.* (19 May 2005). Five border police officers were convicted of assault under circumstances constituting a severe injury in aggravated circumstances, abuse of a minor or a helpless person, and obstruction of court procedures. The indictments were filed shortly after an immediate and extensive investigation was completed by the Department, as to the circumstances of the case, involving the officers detaining a Palestinian resident, beating and abusing him. They were sentenced to between four and fourteen and a half months of imprisonment.

33. In 2009, 93 proceedings against police officers ended: 68 cases concluded with a conviction, 20 cases concluded with acquittals and five cases had different outcomes. There is no correlation between the lack of proceedings that were initiated in one year and others that have been closed during the same year, due to differences in the length of proceedings following each complaint.

34. Below are further examples which evidence the above principles:

– A border police officer was convicted of manslaughter and sentenced to two years' imprisonment for killing an infiltrator in Jaffa.

– A police officer was sentenced to one year's imprisonment for assaulting a detainee and accepting a bribe.

– Two Border police officers were convicted of assault causing actual bodily harm in aggravating circumstances and subornation in connection with an investigation, and were sentenced to six and four months' imprisonment respectively.

– Border police officers who assaulted a woman were sentenced to one year's imprisonment.

– A police officer was sentenced to one year's imprisonment for assaulting a demonstrator.

Paragraph 24 of the concluding observations

The Committee notes that such safeguards are necessary for each and every case whether or not there is a formal readmission agreement or diplomatic assurances between the State party and the receiving State.

Data regarding the scope of the infiltration phenomenon

35. During 2008, 7,703 people infiltrated Israel unlawfully through the Egyptian border. 75 per cent of the infiltrators that were caught during 2008 came from Sudan and Eritrea and 10 per cent of them were women and children.

36. In 2008, there was an increase of more than 30 per cent compared to 2007 in the rate of infiltrations of African origin entering Israel through the Egyptian border.

37. In 2009, 4,439 people infiltrated Israel unlawfully through the Egyptian border, whereas since January 2010 more than 7,300 people have infiltrated Israel unlawfully - a further increase in this phenomenon.

38. The infiltrators have entered Israel unlawfully, directly from a country in which they had already found protection or from a country that is a party to the Refugees Convention where an effective possibility to apply for asylum already exists. The infiltrators can therefore be returned to the country of "First Asylum". This practice also complies with the general understanding of conclusion No. 58 of the UNHCR ExComm (UNHCR ExComm, 'Problem of Refugees and Asylum-Seekers Who Move in an Irregular Manner from a Country in Which They Had Already Found Protection', Conclusion No. 58 (XL), 13 October 1989).

Coordinated Immediate Return Procedure

39. In accordance with the understanding between the former Israeli Prime Minister and the President of Egypt, an immediate return to Egypt of an infiltrator who crossed the border unlawfully into Israel is possible, following coordination with the relevant Egyptian authorities and in accordance with the criteria and guidelines established in the Procedure.

40. "Coordinated Immediate Return" is conducted at the Israeli-Egyptian border under Israel Defense Force (IDF) standard operational order no. 1/3.000 titled "Immediate Coordinated Return Procedure – Infiltrators Crossing the Egyptian-Israeli Border". The procedure is currently under the review of the Israeli Supreme Court, in a case pending before the Court (H.C.J. 7302/07 *The Hotline for Migrant Workers* v. *The Minister of Defense*). It should be stressed that for the time being, the court has decided not to intervene with the Procedure.

41. The Procedure's goal is to determine the actions for dealing with infiltrators, commencing at the time of their apprehension by IDF forces and/or Border Patrol units and until the time of their coordinated return to Egypt. In addition, the Procedure aims to define the reasons and circumstances for an immediate coordinated return of infiltrators and the relevant persons involved in the procedure and their authorities.

42. According to the principle of non-refoulement, a customary principle of international law, a person shall not be expelled to a country where his life or liberty might be at risk on the grounds of race, religion, nationality, affiliation to certain social groups or a political agenda.

43. As stated by the Committee, this principle was recognized in article 3 of the Convention. According to this article, a State party shall not expel or return a person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture. In addition, this principle is also recognized in article

33 of the Convention relating to the Status of Refugees, and constitutes part of Israeli law according to the Supreme Court of Israel, sitting as the High Court of Justice, in *HCJ 4702/94, El- Tahii et. al.* v. *Minister of Interior*.

44. In accordance with the Procedure, a limited number of high-ranking officers were authorized to order the coordinated immediate return of infiltrators to the Egyptian authorities.

45. The Procedure specifies several conditions for the execution of the Procedure. For example, the authorized commander can order the coordinated return, only after confirming with the relevant Egyptian authority that no harm will be done to the returned infiltrator. Additionally, it is also required that the infiltrator undergo questioning by a specially trained agent prior to his/her return, in which it will be determined whether there is any concrete danger or a possibility of such danger posed to him/her.

46. Under the Procedure, the authorized commander is required to consider all the data gathered during the questioning, including the personal circumstances of every infiltrator, prior to ordering the coordinated immediate return. In any situation where there are grounds on which to believe that there is danger to the life or liberty of the infiltrator in Egypt, the return to Egypt will not be carried out.

47. Further, in the event of a dilemma arising in regard to a certain case, the authorized commander must seek guidance from the Southern Command Legal Advisor.

48 Thus, the authority to act in accordance with the Procedure is satisfied only in suitable cases and subject to the abovementioned conditions of the Procedure and the principal of non-refoulement. There had been several cases in which an Authorized Commander decided not to carry out the return due to developments in the field that led him to think that the infiltrator(s) might be in danger once they are returned to Egypt.

49. In addition, following H.C.J. 7302/07 *The Hotline for Migrant Workers* v. *The Minister of Defense*, the IDF Deputy Chief of Staff appointed a high-ranking officer to examine the implementation of the Procedure by IDF soldiers in the field. The investigating officer found that return of infiltrators at the Egyptian border is carried out according to the Procedure**.**

50. Further, below is a detailed account of the process of the Procedure, as well as the training provided to the officials in charge of implementing the Procedure:

The procedure's stages

Apprehension

51. Immediately after capture, an infiltrator or a group of infiltrators will be examined in order to rule out and if needed to neutralize any security threats posed by him/her/them.

Questioning

52. After ruling out any threat, the infiltrator will undergo an initial questioning either at the site where he/she was apprehended or at an IDF base. This questioning shall be conducted by a trained IDF soldier or by a Border Patrol Policeman for no more than three hours after the apprehension (or no more than six hours in case of a group of infiltrators). The purpose of the questioning is to gather crucial information about the infiltrator and to allow him/her to make claims regarding any threat against his/her life if he/she is returned to Egypt or regarding his/her status as an asylum-seeker. If the person makes such claims, he/she will be asked to specify the circumstances his/her claims are based upon.

53. If the questioning provides preliminary possible grounds for such claims, the person shall not be returned through this Procedure, but shall be transferred to the Ministry of Interior for extensive questioning by the specially designated unit.

54. If the questioning does not give rise to suspicion that the infiltration was related to State security or criminal activity – the person will be dealt with according to the Procedure with the aim being his/her immediate coordinated return to Egypt, so long as this is possible and in accordance with international law and the State's obligations. If however the questioning does reveal that the infiltration was related to State security or criminal activity the person will be transferred to the relevant security authorities.

Holding of an infiltrator by the IDF

55. Holding of an infiltrator in the short period of time until his/her coordinated return, shall be affected, based on legal authority, at an IDF's military base. Immediately after his/her capture and during his/her holding in a military facility, the infiltrator shall be held in proper conditions including the provision of water, food and if necessary medical examination by an IDF physician.

Registration and documentation

56. According to the Procedure, every infiltrator should be registered and documented, to the extent possible:

– Photographs of the infiltrator should be taken near the border.

– Photographs of the area of infiltration.

– Registration and documentation of the documents in the infiltrator's possession, such as immigration documents (e.g. passport), documents regarding contacts with United Nations agencies in Egypt and in other countries, information regarding the person's status in Egypt, regarding places he/she stayed before his/her apprehension etc.

– Photographs of the infiltrator's possessions and equipment, including weapons.

– The possessions of an infiltrator who is to be returned to Egypt according to the Procedure will be returned to him/her. The possessions of an infiltrator who is to be transferred to the immigration authorities for further security interrogations – his/her possessions will be handled according to the relevant procedures.

Temporary deportation order

57. No later than three hours after the apprehension of an infiltrator (or six hours in cases of a group of infiltrators) a temporary deportation order will be issued against him/her. The Order will be valid for 24 hours, and will be issued by an officer of the rank of Lieutenant Colonel or Captain, who has been authorized for this purpose by the Minister of Defense according to the Prevention of Infiltration Law 5714-1954 (the "Prevention of Infiltration Law"). The temporary deportation order constitutes a legal document authorizing the holding of the infiltrator at a military base.

Permanent deportation order

58. After the expiry of the temporary deportation order, and in cases where the coordinated return is delayed, a permanent deportation order will be issued in accordance with the Prevention of Infiltration Law. The order will be issued by the head of the operations division, and constitutes the legal authorization for the IDF's holding the

infiltrator until his/her coordinated return (or until he/she is transferred to the immigration authorities).

Examination of the return of the infiltrator

59. A person will not be returned to Egypt according to the Procedure, if the authorized persons consider that there is a risk to the infiltrator's life or liberty if he/she is returned. Note that the possibility of a trial or a prison sentence imposed on the returned person for infiltration or any other criminal offences does not constitute a risk to life or liberty. In addition, a person will not be returned to Egypt according to the Procedure if the findings of his/her questioning give rise to the suspicion that the infiltration was carried out for security related purposes.

Training of personnel for questioning infiltrators

60. Article 14 of the Procedure stipulates that the officials who perform the questioning and the authorized commanders shall participate in a training seminar every four months. The seminar contents include background to the phenomenon of refugees; the authorities and responsibilities of IDF soldiers; IDF procedure regarding immediate coordinated returns; emphasis on treatment and questioning and more.

61. In its response to H.C.J. 7302/07 *The Hotline for Migrant Workers* v. *The Minister of Defense,* the State took upon itself to train soldiers for the purpose of questioning infiltrators. Hereinafter are the main training programmes which were carried out to that end by the State.

62. On 21 September 2008, a training seminar was held for over 30 IDF's soldiers and officers and Border Patrol Policemen serving in the Southern Command in high ranking command positions. The training included the following:

– Law and judicial review – description of the legal background of the IDF's treatment of infiltrators, including Prevention of Infiltration Law, Entry into Israel Law and the United Nations 1951 Convention Relating to the Status of Refugees. This chapter also included reference to the above mentioned appeal, the sensitivity needed when dealing with infiltrators, as well as a description of the Governmental Ministries and agencies dealing with this issue and the relations between these factors and the IDF.

– The powers granted to IDF soldiers – description of the authorities given to IDF soldiers in the field. Special emphasis was placed on the powers afforded to soldiers regarding arrest, detention and search according to the Criminal Procedure (Enforcement Powers - Arrests) Law 5756-1996, and the Prevention of Infiltration (Offences and Trial) Law 5714-1954. In addition, the authority of the IDF to hold infiltrators until they are deported under deportation orders was also detailed.

– IDF procedure regarding immediate coordinated returns – the procedure was explained while emphasizing the importance of questioning the infiltrators, completing a report containing the infiltrator's answers, and the report's importance to the entire process of coordinated return. In addition, every question in the questionnaire was explained and rationalized and the participants were presented with cases and reactions regarding questions and statements of infiltrators during the questioning. The participants were also presented with the State's position regarding the possibility of coordinated return and different aspects of the importance of coordination with Egypt.

63. On 11 November 2008, another training session was held for 25 soldiers and officers serving in various units dealing with infiltrators in the IDF's Southern Command. This particular training session was wider and more extensive and was presented by personnel of the Ministry of Justice, the Ministry of the Interior and the Southern Command Legal

Advisor. The training focused on the operational and legal aspects of the coordinated return process, while emphasizing the importance of completing a detailed report regarding the apprehension of an infiltrator. During the training, the soldiers and officers were presented with different aspects of the importance of questioning an infiltrator, the importance of clarifying dilemmas which may arise during the questioning, the need to obtain the identity of the infiltrator in order to assist the immigration authorities and certain political aspects regarding the return of infiltrators to their state of origin. In addition, the trainees were presented with governmental activities held at the inter-ministerial level for dealing with the phenomenon, the severity of the phenomenon, the importance of conducting proper questioning of infiltrators etc.

64. These training sessions have continued to be conducted every few months in 2009-2010, or less when needed, so that the units dealing with infiltrators will be capable of questioning them properly, according to the Procedure.

65. The participants stated that the training contributed greatly to their understanding of the issue and the importance of the questioning procedure.

66. In accordance with the IDF's Southern Command guidelines, the participants will act as focal points in their units regarding the Procedure. In addition, according to the Southern Command guidelines, only soldiers that attended the above-mentioned training will be authorized to question infiltrators, complete questioning reports and deal with the Procedure together with the coordination units and in accordance with the IDF guidelines.

67. There is a great improvement in the assimilation of the Coordinated Return Procedure among the Southern Command units. The brigade stationed on the Israeli-Egyptian border issued a leaflet to all of its soldiers and commanders, clarifying the importance of the Procedure.

Paragraph 33 of the concluding observations

The State party should desist from its policies of house demolitions where they violate article 16 of the Convention.

68. Since September 2000, Israelis have been the victims of a relentless and ongoing armed conflict with Palestinian terrorist group's intent on spreading death and destruction, killing more than 1,178 Israelis and injuring more than 8,000.

69. In light of this unprecedented lethal threat, Israeli security forces have sought to find effective and lawful measures that may minimize the occurrence of such terrorist attacks in general, and suicide terrorism in particular, and discourage potential suicide bombers. Faced with the failure of the Palestinian leadership to comply with its obligations to fight terrorism, Israel has been compelled to combat this ongoing threat to the inherent right to life of Israeli citizens throughout Israel.

Demolition of structures that pose a security risk

70. One such security measure is the demolition of structures that pose a real security risk to Israeli forces.

71. Palestinian terrorists often operate from within densely crowded civilian neighbourhoods in grave breach of international law, whether firing from within these buildings or activating roadside charges from orchards and fields. In such instances, military necessity dictates the demolition of these locations. Under international law, such locations are considered legitimate targets for attack. Therefore, in the midst of combat, when dictated by operational necessity, Israeli security forces may lawfully destroy structures used by terrorists.

72. A further instance necessitating the demolition of buildings is the use made by terrorist groups of civilian buildings in order to conceal openings of tunnels used to smuggle arms, explosives and terrorists from Egypt into the Gaza Strip. Similarly, buildings in the West Bank and the Gaza Strip are exploited for the manufacturing and concealment of weapons and explosive devices used against Israel, including the Qassam missiles fired on an almost daily basis against Israeli civilian population centres. The demolition of these structures is often the only way to combat these threats effectively.

73. In this regard, Israel's security forces adhere to the rules of the International Law of Armed Conflict and are subject to the scrutiny of Israel's High Court of Justice in hundreds of petitions frequently brought by Palestinians and human rights organizations.

74. These counter-terrorism measures, by any reasonable standard, do not constitute a form of "collective punishment" as some have claimed. While the security measures do unfortunately cause hardship, in certain cases, to those not involved in terrorism, this is categorically not their intent.

75. Wherever possible, even in the midst of military operations, Israel's security forces go to great lengths to minimize the effects of security measures on the civilian population not involved in terrorism. In this context, Israel adopts measures in order to ensure that only terrorists and the structures they abuse are targeted.

Demolition of structures due to planning and zoning violations

76. The Military Commander enforces the planning and building laws which were in place prior to 1967, in order to fulfil his/her duty under international law to respect, unless absolutely prevented, the law in place and to safeguard public order in the Area.

77 Accordingly, the demolition of buildings constructed illegally is carried out lawfully and in order to enforce the planning and building laws.

78. All demolitions are conducted in accordance with due process guarantees, such as the right to a fair hearing and the full opportunity to take measures towards the legitimization of an illegal building by completing and submitting requests for a building permit or by proposing a planning amendment.

79. Moreover, the process is subject to judicial review before the Israeli High Court of Justice, without distinction on the basis of race or ethnic origin

Demolition of homes of perpetrators of suicide attacks

80. Another method employed by Israel against terrorists is the demolition of houses resided in by those who had carried out suicide attacks or other grave terrorist attacks, or those who are responsible for sending suicide bombers on their murderous missions. The legality of this method, used for deterrence and not as a punitive measure, was upheld in numerous cases by the Israeli High Court of Justice, relating both to houses situated in the West Bank as well as in Israel's own territory.

81. In early 2005, Israel temporarily suspended the use of this method, following prolonged internal deliberations. However, in the first six months of 2008, the city of Jerusalem suffered a series of terrorist attacks, claiming the lives of 11 Israelis and injuring over 80. These attacks were the "peak" of a terrorist wave which began in 2007, characterized by the direct and active participation of inhabitants of the neighbourhoods of eastern Jerusalem, who abused their status in Israel as permanent residents. In light of this rapid deterioration and the tremendous risk posed by the involvement of the residents of the neighbourhoods of eastern Jerusalem in terrorist activities, the Minister of Defense found it necessary to resume the use of this method. Subsequently, the Chief of the Homefront Command decided to partially seal (as an alternative to total or partial demolition) one

house and partially destroy another, resided in by the perpetrators, both of which are located in the neighbourhoods of eastern Jerusalem.

82. Consequently, the families of the perpetrators petitioned the High Court of Justice. In its judgment denying the petition, the Court reaffirmed the legality of the measure; once again, it reiterated that the measure is employed not as a form of punishment but as a deterrent, the employment of which is at the discretion of the Government. Accordingly, the latter may change its policy on the matter in light of changing circumstances. Therefore, the Court rejected the argument made by the petitioners that the decision to suspend the use of the measure rendered its application illegal, and accepted the State's position that the terrorist wave in the neighbourhoods of eastern Jerusalem, due to its unique characteristics, presented a substantial risk to Israel's security which justified the recourse to the measure of house demolition. (H.C.J. 9353/08 *Hisam Abu-Dhim et. al.* v. *The Chief of the Homefront Command* (5 Jan. 2009)

83. A request for a further hearing was denied by the High Court of Justice, who determined that its judgment was grounded in its previous rulings on the issue, and that the matter did not warrant further deliberations (Re.Ad.H. 181/09 *Hisam Abu-Dhim et. al.* v. *The Chief of the Homefront Command* (6 Jan. 2009)

United Nations CAT/C/ISR/5

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure

Fifth periodic reports of States parties due in 2013

Israel* **

[Date received: 17 November 2014]

* The fourth periodic report of Israel is contained in document CAT/C/ISR/4; it was considered by the Committee at its 878th and 881st meetings (CAT/C/SR.878 and 881), held on 5 and 6 May 2009. For its consideration, see the Committee's concluding observations (CAT/C/ISR/CO/4).

** The present document is being issued without formal editing.

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I. Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

Question No. 1 of the list of issues (CAT/C/ISR/Q/5) prepared by the Committee

1. Acts and behaviors defined as "torture" under Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") and Article 7 of the Covenant on Civil and Political Rights ("ICCPR") may constitute offences under the Israeli *Penal Law* 5737-1977 ("*Penal Law*").

2. Infliction of physical harm is criminalized in the *Penal Law* in the chapter on offences concerning harm and wounding.[1] In addition, the *Penal Law* includes an offence of "Assault that causes actual bodily harm" (Section 380). Inflicting mental pain could fall under the offence of "Threats" (Section 192). Furthermore, in certain cases, it may be possible to apply certain related offences: those in the *Penal Law* that criminalize causing mental or physical harm and committing physical, mental or sexual abuse,[2] as well as the offence of "Abuse" provided in Section 65 of the *Military Justice Law 5715-1955* ("*Military Justice Law*"), which concerns a soldier who abuses a person under her/his custody. In addition, Section 277 of the *Penal Law* and Section 119 of the *Military Justice Law* prohibit public servants and soldiers from using or ordering the use of force or violence in order to extort a confession or information.[3] Outside the context of an investigation, the offence of "Abuse of office" under Section 280 of the *Penal Law* prohibits public servants and soldiers from arbitrarily infringing a person's rights while abusing their authority; this could include acts that involve causing mental suffering.[4] Finally, there is a positive duty to attend to the health and livelihood of a helpless person (Section 322 in conjunction with Section 377 of the *Penal Law*), which applies to anyone responsible for a helpless person – that is, a person who is unable to provide for his own sustenance for various reasons, including due to her/his arrest.

[1] "Harm with aggravating intent" under Section 329 of the Penal Law, "Grievous harm" , under Section 333, "Wounding" under Section 334 and "Harm and wounding under aggravating circumstances" under Section 335.

[2] "Violence against a minor or helpless person" and "Abuse of a minor or helpless person" under Sections 368B and 368C of the *Penal Law*.

[3] See for example: Section 277 of the *Penal Law*:

Pressure by public servant

1. A public servant who is doing one of the following, is liable to three years imprisonment:
   (1) Using or ordering to use force or violence against a person, in order to extort from that person or from another person in whom she/he has an interest, a confession of an offence or information concerning an offence;
   (2) Threatening a person or ordering a person to be threatened, with bodily injury or damage to her/his property or of another person in whom that person has an interest in, in order to extort from him/her a confession of an offence or information about an offence.

[4] Section 280 of the *Penal Law*:

Abuse of office

1. A public servant who is doing one of the following, is liable to three years imprisonment:
   (1) while abusing his authority he performs or ordering to perform an arbitrary act that injures the rights of another person;
   (2) […].

3. Furthermore, abuse or cruel treatment towards a victim of an offence has been legislated to create harsher criminal punishment. Section 40I(a)(3),(4),(10) and (11) of the *Penal Law*, which was amended in the past year as part of Amendment No. 113 to the *Penal Law (Construction of Judicial Discretion in Punishment)* includes "the cruelty, violence and abuse by the perpetrator against the victim of the offence or her/his exploitation" as a factor to be considered by the court for determining punishment which may have aggravated the circumstances of the offence. Additional factors for determination include the damage resulting from the offence or an abuse of power by a public servant whilst performing her/his statutory duties.

4. Although the Convention does not expressly require State Parties to implement a specific crime labeled "torture", a possible legislation of such an offence is currently an issue under review by the Examination and Implementation Team of the Second Turkel Report. The Turkel Commission was appointed by the Israeli Government on 14 June 2010, following the maritime incident of 31 May 2010. In its Second Report the Turkel Commission reviewed Israel's mechanisms for examining and investigating complaints and claims of violations of the laws of armed conflict. One of the Commission's Recommendations (No. 1) was the incorporation of an offence prohibiting torture into the Israeli *Penal Law*.

Question No. 2

Necessity defense

5. The necessity defense, as stipulated in Section 34(11) of the *Penal Law*, is one of the defense claims afforded to a defendant in the criminal proceedings in Israel and remains in Israeli legislation. In H.C.J 5100/94 *The Public Committee against Torture et. al. v. The State of Israel et. al.* (6.9.99), the High Court of Justice held that this defense could apply to a defendant accused of using unnecessary or excessive physical pressure. In 2012, a petition was submitted requesting that the Attorney General instruct the Department for Investigations against Police Officers ("DIPO") to initiate an investigation against employees of the Israel Security Agency ("ISA") in a specific case, according to the petitioners the necessity defense does not apply in this case. This petition is still pending (H.C.J. 5722/12 *Asad Abu Gosh et. al. v. The Attorney General et. al.* (pending)).

ISA interrogators

6. The ISA is responsible by law for the safeguarding of Israel's national security and State institutions from terrorist threats, espionage and other threats. In order to fulfill its purpose, the Agency performs, among other things, interrogations of suspects in terrorist activity, as is done is many countries across the world. The main goal of such interrogations is data gathering, intended to foil and prevent terrorist acts aimed at Israel and its inhabitants.

7. The ISA and its employees act within the limits of the law and are subject to constant internal and external supervision and review, including by the State Comptroller, the State Attorney's Office, the Attorney General, the Knesset (Parliament) and every instance of the courts, including the High Court of Justice.

8. The ISA operates in accordance with the ruling of the High Court of Justice, and specifically the ruling concerning ISA interrogations from 1999 (H.C.J. 5100/94 *The Public Committee against Torture v. The State of Israel* (6.9.99)).

9. The detainees undergoing ISA interrogation receive all the rights to which they are entitled according to Israeli law and international conventions to which Israel is a party,

including the rights to legal representation, medical care and visits by the International Committee of the Red Cross ("ICRC").

10. Furthermore, any case of alleged wrongdoing by an ISA investigator can be referred to the Inspector for Complaints against ISA Interrogators ("Inspector"), as shall be elaborated in Israel's reply to Question 29 below.

11. It should be noted that the mechanism of issuing complaints against the ISA is often used as a method by which to burden and hinder the security agencies in Israel in their ongoing fight against terrorism.

Case law

12. On April 26, 2010, the High Court of Justice, in a panel of three judges headed by the then President Dorit Beinisch (retired), rejected a petition submitted by the Public Committee against Torture requesting that the Court order the ISA to avoid enchainment by handcuffs during their interrogations and to establish rules regarding the use of restraint measures that do not cause pain or harm to interrogatees and the frequency of their use. The State, in its submissions to the Court, stated that when deciding whether or not to use enchainment, the ISA primarily considers the medical situation of an interogatee, whether the interogatee is an elder, a minor under 16, or female. Furthermore, the ISA's decision to ultimately handcuff an interogatee during interrogation will only be allowed after the consideration of the intelligence information concerning her/his violence offences; the age of the interrogatee; the interrogator's assessment of the interrogatee's danger to the public, including the interrogatee behavior during her/his detention and in the interrogation room. The ISA confirmed that every individual complaint is examined according to strict procedures by the Inspector and the Inspector's Supervisor in the State Attorney's Office. Ultimately, given the existence of the complaint procedure and the general nature of the petition, the Court did not find it necessary to consider the data before it supporting the request to end all use of the method of enchainment. The Court further noted that the legal advisor of the ISA reviews the methods in place. Therefore, based on all these reasons, the Court rejected the petition (H.C.J. 5553/09 *The Public Committee against Torture et. al. v. The Prime Minister et. al.* (26.4.10)).

Question No. 3

13. A petition for disclosure of similar details was submitted to the Jerusalem District Court, pursuant to the *Freedom of Information Law* 5758-1998, and rejected by the Court (Ad.P. 8844/08 *The Public Committee against Torture v. The Supervisor of the Freedom of Information Law within the Ministry of Justice* (25.2.09)).

Question No. 4

14. The ISA does not use threats against family members as a method of interrogation. Family members are detained or interrogated only when there are concrete suspicions against them and not for the purpose of creating a misrepresentation to the subjects of interrogation, to illicit information.

15. Complaints by interrogated persons regarding illicit detention of family members are examined by the Inspector and the Inspector's Supervisor in the State Attorney's Office, and in each case, the ISA is called upon to explain the arrest of the family member and the subject-matter connection between the investigation and the detention. A breach of the rules may result in disciplinary or criminal measures against the ISA personnel involved.

Case law

16. On September 9, 2009 the High Court of Justice ruled in a case concerning the alleged practice of ISA investigators to manipulate suspects through various references to the fate of their family members. In particular, the petitioners sought to bring an end to the alleged practice of threatening suspects that harm would come to their family members in the event that they failed to properly cooperate with their investigators.

17. The Court noted that the Assistant to the Attorney General, in his letter to the petitioners, stated that the ISA had examined this issue and had emphasized that detention of an interrogatee's family member is legal when it is done in relation to the same criminal offence. The response of the Assistant to the Attorney General indicated that in such circumstances, there is no hindrance to inform one relative about the detention of the other, including allowing them to meet. However, when a detainee's relative is not arrested (and there are no legal grounds for her/his arrest), there is no justification to create a false display in which the detainee's relative is detained. The Assistant to the Attorney General also noted that there was no cause to take such an action by the ISA, from which a false display was created as if the detainee's father had been detained.

18. During the proceedings, the State stated that since the delivery of the Assistant to the Attorney General's letter, the ISA reiterated the internal procedure on the matter. Also on this basis, the petition was dismissed (H.C.J 3533/08 *Mison Swetti et. al. v. The Israeli Security Agency et. al.* (9.9.09)).

Article 2

Question No. 5

Audio/visual documentation of interrogations

19. The *Criminal Procedure (Interrogation of Suspects) Law* 5762-2002 ("*Criminal Procedure (Interrogation of Suspects) Law*") requires that the Israel Police ("Police") carry out audio or visual recording of criminal suspect questioning (Sections 7 and 11). An exception to such recording has been provided for by Section 17 of the same law, that the Police can be exempt from such video recording in cases dealing with security offences. Though the Police is still required to keep a record of such security investigations in writing as part of the Police obligation to properly document all investigations.

20. The Section 17 exemption is a temporary provision that was extended in 2012 and is scheduled to expire in July 2015. The idea behind the exception is that if, for whatever reason, such a recording reached the hands of the terrorist organizations, it could be used to the advantage of these organizations to study the interrogation procedures and methods. In addition, such documentation may deter interrogatees from providing information, due to the fear that the cooperation with the interrogating authorities will be discovered to or revealed by their families, friends and the terrorist organization to which they belong to.

21. The Ministry of Justice and other relevant Ministries are in the process of analyzing whether the temporary provision related to an exemption for video recording should remain in effect for security related investigations, in particular by analyzing similar procedures used in other countries connected with security-related and terrorist offences. This follows the Ministerial Legislation Committee's examination in July 2012 of the temporary provision, when the Committee ultimately decided that the temporary provision should remain in effect for at least three additional years, given the importance and sensitivity of the security issues the provision is intended to protect. Together with the comparative research of this sensitive area, the Government is also analyzing other possible alternatives to the temporary provision, including the possibly of making the information gathered in

such security investigations protected by a confidentiality privilege, and narrowing the current term "security offence" to mean that the action was carried out in circumstances in which there is a fear of harm to State security or was carried out in connection to an act of terrorism.

22. It should be noted that the Turkel Commission, the Public Commission to Examine the Maritime Incident of 31 May 2010, recommended in its Second Report (February 2013) titled: "Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law" (recommendation No. 15) that there shall be full visual documentation of the ISA interrogations, according to rules that will be determined by the Attorney General in coordination with the Head of the ISA. This recommendation, as all other recommendations, shall be reviewed by the Examination and Implementation Team of the Second Turkel Report's Recommendations.

Case law

23. On February 6, 2013, the High Court of Justice rejected an appeal filed by "Adalah – the Legal Center for Arab Minority Rights in Israel" against the Ministry of Defense, in which the petitioners requested the Court to revoke Section 17 of the *Criminal Procedure (Interrogation of Suspects) Law* and to instruct the ISA to visually document interrogations of suspects in security offences. The Court determined, *inter alia*, that in this case, when the arrangement of the temporary provision and the definition of a "security offence" are being reviewed by the State, the petitioners should wait for the results of the examination. Consequently, the Court found no room to intervene and dismissed the case (H.C.J. 9416/10 *Adalah the Legal Center for Arab Minority Rights in Israel et. al. v. The Ministry of Defense et. al.* (6.2.13)).

Question No. 6

Arraignment before a judge

Criminal offences

24. Section 29 of the *Criminal Procedure (Powers of Enforcement – Arrests) Law* 1996-5756 ("*Criminal Procedure Law (Enforcement Powers – Arrests)*"), specifies that a person arrested without a warrant must be brought before a judge as soon as possible, and no later than 24 hours following the arrest, with special provision being made regarding weekends and holidays. Following the completion of the above measures, the detainee shall be brought promptly before a judge, or released from custody. Section 30 allows for an additional 24 hour extension based on the need to perform an urgent interrogation, which cannot be performed unless the detainee is in custody, and cannot be postponed following her/his arraignment; or if an urgent action must be taken regarding an interrogation in a security-related offence. Following the completion of the above measures, the detainee shall be brought before a judge swiftly, or released from custody.

Security-related offences

25. The maximum times for bringing detainees suspected of security offences before a judge are found within the *Criminal Procedure (Detainee Suspected of Security Offence)(Temporary Provision) Law* 5766-2006 ("*Criminal Procedure (Detainee Suspected of Security Offence) Law").* Section 3(1) of the Law provides that the appointed officer may delay the arraignment before a judge to a maximum of 48 hours from the time of arrest, if the officer is convinced that the cessation of the investigation would significantly harm the investigation. According to Section 3(2) of the Law, the officer may decide to delay the

arraignment for a further 24 hours if she/he is convinced that the cessation of the investigation would significantly harm the investigation resulting in the foiling of efforts to prevent harm to human lives. In such case the officer must do so in writing and to obtain the approval of the Head of the Investigations Department of the Israel Security Agency (ISA). Section 3(3) of the Law allows the court, under extreme circumstances, in accordance to a request by the Head of the ISA and the approval of the Attorney General, to extend the periods over 72 hours to a maximum of 96 hours, if the court is convinced that the cessation of the investigation would significantly harm the investigation resulting in the foiling of efforts to prevent harm to human lives.

26. According to information brought by the Israel Security Agency before the Knesset Constitution, Law and Justice Committee, in 2013 the arraignment of **3** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **none** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2012 the arraignment of **12** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **eight** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2011 the arraignment of **4** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **none** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2010, the arraignment of **7** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **none** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2009 the arraignment of **5** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **none** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. For further elaboration on this matter, please see "Follow-up responses of Israel to the concluding observations of the Committee against Torture (CAT/C/ISR/CO/4/Add.1)", paras. 10-20.

Access to legal counsel

Criminal offences

27. Within the criminal context, a suspect should be notified upon her/his arrest of her/his right to meet with a lawyer. If there is no restriction by law, the Israeli Prisons Service ("IPS") allows the detainee to meet with her/his lawyer immediately and without need for coordination.

28. For further elaboration on this matter, please see "Follow-up responses of Israel to the concluding observations of the Committee against Torture (CAT/C/ISR/CO/4/Add.1)", paras. 2-8.

Security-related offences

29. Security related offences sometimes call for an exception to immediate access to legal representation, when the detainee is considered as a serious threat to national security and access to legal representation could jeopardize crucial information gathering questioning of the suspect or accused. Section 35 of the *Criminal Procedure Law (Enforcement Powers – Arrests)* provides for this exception and enables investigators to postpone the meeting between a detainee and her/his lawyer up to 21 days.

30. For further elaboration on this matter, please see Follow-up responses of Israel to the concluding observations of the Committee against Torture (CAT/C/ISR/CO/4/Add.1), para. 9.

31. Given the importance of the right to legal representation, a decision to delay a detainee's legal consultation is never arbitrarily made. Any decision to postpone such a

meeting is reached after a full examination of the individual circumstances of the case, the concrete necessity of postponement in each and every case, and the existence of one of the reasons stipulated by law allowing for postponement.

32. Even in a case where a decision is made to postpone the meeting with a lawyer, officials in charge of the investigation tend to only delay the meeting slightly. This is to adhere to a proportionality policy that the delayed access to legal representation should be relative to the seriousness of the offence and the risk of potential harm of the suspect to national security and to allow investigators to review the necessity of this postponement measure according to the development of the investigation.

33. During 2011, against the backdrop of gathered intelligence whereby visits by lawyers were used for coordination and mediation between terrorist organizations and their imprisoned activists or between security prisoners who are members of a terrorist organization who are imprisoned in different prisons, legislative amendments were made to allow for postponed legal representation, when there was a substantial suspicion of the described result. Section 45A of the *Prisons Ordinance (New Version)* 5732-1971 ("*Prisons Ordinance*") was amended to include the clause that when there is a substantial suspicion that allowing the prisoner to meet with a specific lawyer would facilitate the transfer of information between prisoners or between prisoners and persons outside the prison, and there is a fear that transferring the aforementioned information is connected to promoting the activity of a terrorist organization or done under its guidance, the meeting may be postponed. However, this Amendment does not prevent the prisoner from meeting with another lawyer, if she/he decides to do so. Furthermore, the periods of time listed in the section for imposing such a restriction have been amended.

34. During 2012, Section 45A1 was added to the *Prisons Ordinance*. According to this Section, the IPS Commissioner may impose a limit on the number of lawyers with which a prisoner who is a member of a terrorist organization and was convicted of security offences (or a group of such prisoners) may meet concurrently (without imposing restrictions on the identity of the lawyers with which she/he/they meet), if she/he notices that a prisoner is meeting with several lawyers, in a manner that raises substantial suspicion that the meetings are not used for receiving professional counseling, and she/he has a substantial suspicion that these meetings are used to harm State's security, public order or discipline and orders of the prison.

Public Defender Office

35. Pursuant to section 18(a)(7) of the Public Defender Law 5766-1995 ("Public Defender Law"), the Public Defender Order (Representation of Indigent Detainees) 5758-1998 ("Public Defender Order") and the Public Defender Regulations (Eligibility for Representation to Additional Minors) 5758-1998 ("Public Defender Regulations"), all minors who are detained for investigation and all indigent detained adults are eligible to representation by a public defender.

36. In order to fulfill the provisions of the Law and Regulations, the Israeli Public Defender Office operates a system of lawyers on duty and on-call across the country, starting at 7 a.m. until late at night, including on weekends. Since August 2012, there has been an expansion of the working hours to eventually become a 24 hours/day-seven days/week system.

37. The activities of the Public Defender Office have resulted in a significant change in the representation of detainees. Today, according to information gathered by the Public Defender Office, most of the persons that are detained for investigation are being represented by Public Defenders in hearings concerning the extension of their detention. Furthermore, the Public Defender Office often become a major player in the subsequent

criminal proceedings, representing most of the accused in criminal cases in the State of Israel, thus substantially reducing the rate of non-represented defendants in proceedings.

38. As for representation before the courts, the rate of the non-represented defendants in the Magistrates Courts is approximately only 15%. The Public Defender Office estimates that it represents approximately 60% of the defendants in the Magistrates Courts, around 80% of the defendants in the Juvenile Courts, and more than 50% of the defendants in the District Courts.

39. However, with regard to the right to consult a lawyer before and during a police investigation, the Public Defender Office maintains that in the majority of the cases, the Police informs the Public Defender Office of the arrest of the detainees after they were already investigated, so the effectiveness of the exercise of the right to counseling at this time is substantially impaired.

Case law

40. Following a petition to the High Court of Justice in 2011, the military orders were updated to allow military detainees to meet with their lawyer outside working hours. Due to this amendment of Military Ordinance No. 5136, the Court found no room to issue an *order nisi* in this case (H.C.J. 7071/11 *Corporal Sharon Cohen v. The Military Advocate General* (25.7.12)).

41. On January 8, 2012, the Supreme Court accepted an appeal permission request on the grounds that a Public Defender had not been appointed for the defendant, a prisoner, during the time of his petition to the District Court. The Supreme Court ordered that the Public Defender Office must represent the prisoner in his petition, and cancelled the District Court decision (M.A 8702/11 *Roiter v. The State of Israel* (8.1.12)).

42. On November 23, 2011, the High Court of Justice addressed an appeal of an accused, convicted of murder by the Tel Aviv District Court, who argued his conviction should be quashed as it was based on a confession made under threat during his police investigation.

43. The Court determined, *inter alia*, that the petitioner's confession to the police investigators was void since it was given under threats and while he was prevented from meeting his lawyer. The Court reiterated that the right to consult with a lawyer is one of the fundamental rights of detainees, enshrined in the State's law and jurisprudence. The goal of the legal representation in the criminal procedure is to ensure the right to due process. The Court noted that the police investigation was made more problematic since the police investigator told the petitioner that his lawyer did not care about him and could not help him. Ultimately, although the Court decided the confession given to the police investigator was inadmissible, the accused had separately confessed to the police informant and this confession was declared admissible. Consequently, the appeal was rejected on the basis of this second admissible confession (Cr.A. 5956/08 *Saliman Al-Uka v. The State of Israel* (23.11.11)).

44. On November 3, 2010 the Supreme Court ruled that the notice given to someone being held by the Police for investigation should include simultaneously, the information of the right to legal counsel and the right to have a Public Defender appointed. The Court determined that the appropriate time for giving this notice of both these rights, should be prior to the commencement of a person's investigation (Cr.A. *8974/07 Hunchian Lin v. The State of Israel* (03.11.10)).

45. On August 31, 2010, the Nazareth District Court accepted a petition filed by a security detainee against the IPS, which requested the Court to allow him to meet with his lawyer without any glass partition between them, same as the procedure of meetings of

non-security detainees with their lawyers. The basis for the procedure that meetings between security detainees/prisoners and their lawyers should be with a glass partition, unless the Prison's Director decides in exceptional circumstances to remove the partition, was found in the Israeli Prisons Service Directive Number 04.34.00.

46. The Court ruled, *inter alia*, that the Directive was void and reiterated that the right to counsel is part of the constitutional right to due process, and use of a glass partition between a lawyer and prisoner is an infringement upon this right. The Court noted that although the right to counsel is not absolute, there was no ground for the inclusion of a glass partition and the distinction between security and non-security detainees with regard to the execution of the right to counsel. Thus, the Court accepted the petition allowing the prisoner to meet his lawyer without a glass partition between them (Pr.P.C. 49300-07-10 *Amir Machul v. Israel Prisons Service* (31.8.10)).

Access to a physician

47. Section 9 of the *Criminal Procedure Law (Enforcement Powers – Arrests) Law*, sets the conditions of detention. Sub-section (b)(1) stipulates that a detainee is entitled, *inter alia*, to the medical treatment required to maintain his/her health, and to appropriate supervision conditions as required by a physician. Within this context, Regulation 16 to the *Criminal Regulations (Powers of Enforcement- Arrests)(Conditions of Detention)* 5757-1997 ("*Conditions of Detention Regulations*") stipulates that any detainee requesting medical treatment is entitled to be examined by a medic or a physician at his/her detention facility and also that any detainee is entitled to receive medical treatment necessary to maintain her/his health, according to the determination of a doctor within her/his detention facility, in a manner to be set in the ordinances. In addition, Section 6 of the *Prisons Ordinance* states that any prisoner that enters into the IPS's facilities will be examined by a physician as part of her/his admission process. This provision applies also to detainees.

48. The duties of the physicians working in IPS facilities are to treat the medical needs of the prisoners and detainees. These medical needs supersede any other needs or requirement of the IPS system. The physicians working in IPS facilities perform their duties as required by the law in Israel and by the universal rules of medical ethics. Under this legal and ethical framework they treat detainees and prisoners with full dedication to the detainees' and prisoners' wellbeing, and prepare independent professional opinions on their medical conditions, as required and in full adherence to their medical confidentiality. Any decision regarding the type of treatment or need for medical evacuation is of the medical staff alone. It should be emphasized, that the Police and ISA interrogators are conscious of any complaint made by, and medical problem of, detainees and prisoners and direct them for medical treatment without delay when required.

49. Every IPS detention facility employs a general physician, a dentist, a narcology specialist, a psychiatrist and a professional medic providing regular services. Examinations by expert doctors are made possible in the IPS medical center, prison infirmary and hospital clinics upon request. Where a need arises for a medical specialist or if there is a need of hospitalization, the proper coordination is made with the relevant hospital and the Ministry of Health.

50. In addition, the IPS operates a separate detention wing intended for prisoners with acute physical and mental disabilities in which prisoners with chronic illnesses may be cared.

51. Furthermore, Israeli Prisons Service Directive Number 04.46.00 allows for and regulates private doctors' visitations to prisoners for medical treatment. According to the Directive, a prisoner may be examined by a private doctor at her/his own expense in certain circumstances, subject to a preliminary medical examination by the IPS doctor. However,

as was recently upheld by the High Court of Justice rejecting a prisoner's appeal for a private dentist, when a required medical service is not unique, urgent or lifesaving and the IPS provides a reasonable and adequate alternative medical treatment, the interest of the IPS in providing equal treatment to all prisoners, justifies its rejections of certain requests by prisoners to be treated by private doctors (H.C.J. 1233/13 *Shay Shirazi v. The Israeli Prisons Service* (05.03.13)).

Meeting with family members

52. As a rule, news of the person's arrest is forwarded to her/his family and to the ICRC.

53. The Israeli Law provides that prisoners, administrative detainees and detainees are entitled to family visits: prisoners are entitled to a visit once every two months unless the Prison Director resolved otherwise (Section 47(b) of the *Prisons Ordinance (New Version)* 5731-1971, and Section 19A of the *Prisons Regulations* 5738-1978); administrative detainees are entitled to a visit once every two weeks for a period of 30 minutes (Section 11(a) of the *Emergency Powers (Arrests)(Conditions of Administrative Detention)* 5741-1981; and detainees are entitled to a visit once a week for a period of 30 minutes (Section 12A of the *Criminal Procedure Regulations (Enforcement Powers – Arrests) (Conditions of Detention)* 5757-1997).

54. The Israeli Prisons Service Directive Number 04.42.00 "Arrangement of Visitation of Prisoners" regulates the right of a detainee who is arrested until the completion of legal proceedings against him/her to receive visitors once a week and for a period of 30 minutes. The detention facility's director has discretion to extend the duration of visits and allow additional visitors. A detainee, against whom an indictment has not yet been submitted, may not receive visitors (for fear of effecting the investigation), unless the supervisor of the investigation has approved it. The supervisor may also set conditions for such a visit. As for criminal and security prisoners who have already been convicted, they are entitled to a fortnightly visit of 45 minutes duration. The Directive contains provisions allowing the IPS to prohibit visits by specific visitors, or to a certain prisoner, for a limited period of time, when there is a reasonable suspicion that these visits are used to harm State's security or the safety of the public.

Maintaining contact with families

55. In order to maintain contact with their families, both criminal and security prisoners are entitled to send and receive letters and are entitled to receive family visits (as stated above, unless there is a specific security prohibition on such visitations).

Additional safeguards and remedies available to detainees and prisoners

Legislation

56. Amendment No. 42 to the Prisons *Ordinance* of May 2012, added Sections 11B to 11E to the Ordinance. These Sections require standardized detention conditions for prisoners, including adequate sanitation conditions, medical treatment and supervision according to an IPS physician's determination, bed and mattress, the ability to hold personal items, adequate food and water, cloths, items for personal hygiene, adequate lighting and ventilation, and the ability to go outdoors daily. Additionally, Section 11C provides the right to leisure or educational activities in accordance with Israeli Prisons Service Directives and other Regulations. According to Section 11D, the IPS Commissioner must examine the possibility of rehabilitation of a prisoner who is an Israeli citizen or resident, and will take the necessary steps to ensure maximal integration of that prisoner in rehabilitation activities during her/his time in prison. These Sections include certain exceptions regarding Security Prisoners.

57. Furthermore, during 2012, Section 68A of the *Prisons Ordinance*, concerning administrative release of prisoners for reasons of over-populated detention facilities, has been amended. As part of the amendment, the prisoners demographic to which this section applies, has been reduced to include only prisoners sentenced to less than four years, or those who have been sentenced for longer periods, but the Parole Committee finds them eligible for release on parole (including having served a minimum of two thirds of their sentence). In this amendment the obligation to report to the Knesset was extended to include annual reports regarding the number of prisoners released under administrative release.

58. In 2012, the *Release from Prison on Parole Law* 5761-2001, was amended, including the expansion of Section 7 regarding early release of a prisoner for medical reasons, on certain conditions. The Law now allows the Parole Committee to instruct an early release of a prisoner with severe medical conditions including constant need for artificial respiration, advanced dementia, constant unconsciousness, cancer or the need for transplant surgery, in accordance with conditions specified in the Law.

Case law

59. On January 12, 2014, the Central District Court accepted a petition by several prisoners to re-instate the cancelled Israeli Prisons Service Directive Number 04.41.00, which had allowed private therapists to enter prisons for the preparation of personalized rehabilitation programs for prisoners. The purpose being then to present these proposed rehabilitation programs to the Parole Committee. The Court ruled that in order to allow all prisoners to have a professional opinion regarding rehabilitation presented to the Parole Committee on their behalf, pre-approved therapists need to be allowed to enter the prisons (P.P. 22925-12-13 (Central District Court) *Ben Hayun et. al. v. The Israeli Prisons Service et. al.* (12.1.14)).

60. On December 24, 2012, the Supreme Court rejected an appeal submitted by several security prisoners, appealing the decision not to allow them to study their first university degree at the "Open University of Israel"; a privilege, however, granted to criminal prisoners. The IPS decision refusing studies was applied to both Jewish and Arab security prisoners. The Court held that there was no legal or constitutional foundation for obliging the IPS to allow prisoners to study in higher education institutes during their imprisonment. The Court deliberated whether the distinction between allowing and disallowing criminal and security prisoners constituted discrimination; however ultimately decided that it was not wrongful discrimination within this context. However, the Court mentioned that several of the security prisoners were already on the verge of completing their first degree when the IPS decision was made, and so suggested that the decision be reviewed in regards to these individual cases. The Court granted these prisoners the right to appeal the IPS decisions in their case to the District Court (Re. Ap. H.C.J 4063/12 *Saeed Saleh v. The Israeli Prisons Service* (24.12.12)). On October 28, 2013 a request for an additional hearing following this judgment by the Supreme Court was granted by the Supreme Court (Ad. h. 204/13 *Saeed Saleh v. The Israeli Prisons Service* (pending)).

61. On March 15, 2012, the Administrative Court accepted a petition of a prisoner, in which the petitioner requested the Court to order the IPS to provide a special meal during Muslim holidays for Muslim prisoners. The Court held that as an administrative authority, the IPS must strictly ensure the right to equality between prisoners, subject to the restriction of their detention. The Court acknowledged that although receiving a special meal was not a basic right of prisoners, given that the IPS had chosen to provide special meals on Jewish religious holidays, the IPS must then also provide this privilege to non-Jewish prisoners on their respective religious holidays. Consequently, the Court accepted the petition (P.Pt 43249-09-11 *Mahmud Magadba v. The Israeli Prisons Service* (15.03.12)).

Question No. 7

Security-related offences detainees meetings with a lawyer

62. Please see Israel's reply to Question 6 above.

63. During the past few years, there has been a conscientious, substantial decrease in the number of detainees whose meetings with their lawyers were postponed due to an ISA interrogation, even though this includes an increased threat to Israeli State security.

64. On the issue of arrest of minors and their representation by the Public Defender's Office, please see Israel's reply to Question 33 below.

Meetings of detainees with their lawyer in the West Bank

Non-application of the Convention against Torture in the "Occupied Palestinian Territory"

65. According to the Israeli legal system, international conventions (as opposed to customary international law), only apply if they are formally legislated by the Knesset. This is the case with the CAT, which is implemented throughout Israel through a wide range of legal instruments, including the country's Basic Laws, laws, orders, regulations, municipal bylaws, and Court rulings.

66. The applicability of the Human Rights Conventions to the West Bank has been the subject of considerable debate in recent years. In its Periodic Reports, Israel did not refer to the implementation of the Convention in these areas for several reasons, ranging from legal considerations to the practical reality.

67. The relationship between different legal spheres, primarily the Law of Armed Conflict and Human Rights Law remains a subject of serious academic and practical debate. For its part, Israel recognizes that there is a profound connection between human rights and the Law of Armed Conflict, and that there may well be a convergence between these two bodies-of-law in some respects. However, in the current state of international law and state-practice worldwide, it is Israel's view that these two systems-of-law, which are codified in separate instruments, remain distinct and apply in different circumstances.

68. Israel's position on the applicability of CAT beyond its territory has been presented at length to the Committee on previous occasions and remains unchanged.

69. Jerusalem and the Golan Heights – In accordance with Section 1 of the *Basic Law: Jerusalem, Capital of Israel* 1980-5740 and Section 1 of the *Golan Heights Law* 1981-5742, Israeli law applies to the eastern neighborhoods of Jerusalem and to the Golan Heights, respectively.

Time between apprehension and appearance before a judge – security-related offences

70. The request for data on the number of persons apprehended pursuant to military legislation and the amount of time between apprehension and appearance before a judge has been addressed above under Question 6.

Question No. 8

Administrative detentions

71. Please see Israel's reply to Question 7 above.

Incarceration of Unlawful Combatants Law 5762-2002

72. On June 11, 2008 the Supreme Court upheld the constitutionality of the *Incarceration of Unlawful Combatants Law* 5762-2002 ("*Incarceration of Unlawful Combatants Law*"), while addressing the substantial legal aspects of unlawful combatant incarceration, for the first time since the Law was enacted in 2002 (Cr.A. 6659/06 *Anonymous v. The State of Israel* (11.6.08)).

73. While reaffirming the legality of the specific incarceration orders, the Supreme Court held that the Law meets the standards of both Israeli constitutional law and the Law of Armed Conflict (applicable to Israel's fight against various terrorist groups) – noting that the Law as a whole does not infringe the right to liberty in a disproportional manner and finding it to be consistent with the administrative detention provisions in the *Fourth Geneva Convention relative to the Treatment of Civilian Persons* (1949).

74. The Supreme Court ultimately held that the principle Sections of the Law had correctly struck the intended delicate balance between international human rights standards and the legitimate security needs of the country, as the Law was designed to address.

75. As for the application of the Law, in the twelve years since the enactment of the *Incarceration of Unlawful Combatants Law*, a total of 50 persons have been detained according to the Law. Twelve persons were detained during the Second Lebanon War in 2006, 30 were detained during operation "Cast Lead" (late 2008-early 2009) and eight on other occasions. **As of October 1, 2014,** there is one person (an adult male) who is detained according to this Law, he was brought for a judicial review of his detention in August and the Be'er-Sheva District Court affirmed his detention. An additional review is scheduled for February 2015, unless he will be released prior to that date.

Question No. 9

Definition of terrorism and security

76. The definition of a "suspect of security offences" in enshrined in several laws. The most updated definition in the legislation is the definition of "security offence" within the Criminal Procedure (Detainee Suspected of Security Offence), "an offence as detailed as follows, when committed under circumstances that might raise a suspicion of harm to the State's security, and linked to terrorist activity". This definition assures the narrow application of the provisions of this law only to those who are suspected in involvement in terrorist activity.

77. The most recent development in the efforts to fight terrorism is the current work on the Fight against Terrorism Bill 5771-2011. In August 2011, this bill was approved by the Knesset in the first reading and is currently under review by the Knesset Constitution, Law and Justice Committee. This bill endeavored to clarify various definitions including "act of terrorism", "terrorist organization" and "member in a terrorist organization". Some of the definitions were adapted to match similar definitions in other countries with a similar justice system to that of Israel. In any case, all of these definitions were carefully drafted to provide law enforcement authorities with effective and precise tools in their fight against terrorist organizations and terrorism, while simultaneously protecting human rights and due process.

78. This bill, upon its enactment will nullify current legislation in the field of counter-terrorism, including: the Prevention of Terrorism Ordinance 5708-1948, Prohibition of Financing Terrorism Law 5761-2005 and some of the Defense Regulation (State of Emergency)1945.

Review of the legislation governing the state of emergency

79. The State of Israel continues to remain in an officially-proclaimed "state of public emergency", as it has since May 19, 1948, four days after its founding. The original declaration of a state of emergency was issued by the Provisional Council of State, in the midst of the war with neighboring states and the local Arab population, which began several months prior to the declaration of Israel's independence on May 14, 1948. Since then, the state of emergency has remained in force due to the ongoing state of war and violent conflict between Israel and its neighbors, including the constant attacks on the lives and property of its citizens.

80. Nevertheless, Israel has been considering refraining from extending the state of emergency any further. This cannot take place immediately, however, as certain laws, orders and regulations are based upon the existence of this state of emergency. Consequently, these legal instruments must be revised, so that crucial matters of the State are not left unregulated when the state of emergency is eventually removed. Importantly, several laws essential to the war against terrorism are contingent on the existence of a declared state of emergency.

81. On December 16, 2013 the Knesset declared a state of emergency for six additional months in order to enable the continued legislative changes. The state of emergency is currently in force until **December 31, 2014**.

82. In preparation for this change, the Ministry of Justice has been reviewing relevant legislation and preparing required amendments. Several laws, which were previously dependent on the state of emergency, have since been repealed or amended, and other legislative changes are in various stages of preparation. In June 2009, the Joint Knesset Committee for Declaring a State of Emergency established a committee to supervise this work, which has become increasingly intensive.

83. On May 8, 2012, Israel's High Court of Justice rejected a petition submitted by the Association for Civil Rights in Israel, to cancel the declared state of emergency in Israel. The Court decided to cancel a previous *order nisi* and to strike off the petition since the proceedings had been exhausted and especially due to the legislative progress to enact and amend laws that would allow the future cancelation of the state of emergency, as they would not be dependent on the state of emergency. The Court held that although the work on this issue was not yet complete, the legislators should be allowed to continue the amendment process already begun; and that the Court should not interfere with these processes. It indicated that the legislature's work already undertaken in this area, demonstrates the authorities' understanding of the need to begin departing from the state of emergency legislation which has been in place since the State's establishment. The Court emphasized, however, that the reality of the Israeli situation is still sensitive and complex and does not allow for leaving the authorities without the necessary powers they require in potential times of emergency. The Court further noted that Israel is a normal State which is not normal – it is a normal State in the sense that it is an active democracy which observes basic rights, among them free elections, freedom of speech, independence of the Courts and legal advice. However it is not normal since the threats over its existence have not yet been lifted, it is the only democracy under such threats and the fight against terrorism still continues and will probably continue in the near future (H.C.J. 3091/99 *the Association of Civil Rights in Israel v. The Knesset* (8.5.12)).

Question No. 10

Solitary confinement

84. Section 56 of the *Prisons Ordinance* outlines 41 prison offences for which a prisoner can be found accountable, including quarreling with other prisoners, destruction of prison property and escaping or attempting to escape the prison. According to Section 58 of the *Prisons Ordinance* one of the penalties, which can be given by an authorized warden is a term in solitary confinement, for no longer than 14 days. However, Section 58 provides that a prisoner will not spend a term longer than seven consecutive days in solitary confinement and will continue the sentence only after an interval of seven days. According to the same section, only the Prison Director or the Deputy Director may impose a sentence longer than seven consecutive days of solitary confinement.

85. It should be noted that Israeli Prisons Service Directive Number 04.13.00 "Disciplinary Rules for Prisoners", which was updated on September 20, 2011, includes a table that details the maximal punishment for each offence, according to the particular circumstances. According to this table, some offences are not punishable by solitary confinement; for others, solitary confinement is limited to seven days.

86. The Supreme Court has interpreted this authority by stating that the confinement of a prisoner under secluded and unsociable conditions constitutes an extraordinary action, as life among other human beings constitutes a basic human need. Accordingly, such living conditions may be deprived or limited only given special and substantial grounds. Even providing that such grounds existed, placing prisoners under such conditions must be limited to the minimal duration necessary, and the authorized agency must continuously reevaluate the need for these conditions, as part of its duty to limit the harm caused to prisoners. The Court further ruled that the longer the duration of the secluded conditions, the greater the burden on the authorized agency to explain the necessity in doing so (Ap.R.P. 10/06 *Atias v. The IPS* (9.5.06)). This ruling was reaffirmed in Ap.R.P. 8048/10 *Abutbul v. Israel* (24.2.11).

87. On April 14, 2010, the High Court of Justice dealt with a petition concerning the above-mentioned Section 58 of the *Prisons Ordinance* which establishes the terms for holding prisoners in solitary confinement. The petitioner claimed that the Section was in contravention of the *Basic Law: Human Dignity and Liberty*, since it denies the prisoner's right to proper living conditions that allow for a dignified, healthy existence. It was further claimed that the use of solitary confinement under this section amounts to a cruel and degrading form of punishment.

88. Ultimately, the Court dismissed the petition and held that Section 58 of the *Prison Ordinance* was compatible with the *Basic Law: Human Dignity and Liberty* (H.C.J. 1475/10 *Moshe Cohen v. The State of Israel* (14.4.10)).

Question No. 11

Solitary confinement

89. The IPS is not able to provide aggregated data on the use of this measure, as it is used mostly for short periods of time, commonly two to three days, in accordance with the provision detailed in the reply to Question 10 above.

Family visits of Palestinian prisoners

Visitation of prisoners by families from the West Bank

90. The State of Israel acknowledges the importance of maintaining family visitations, and as clarified in H.C.J. 11198/02 *Salah Diria v. The Head of the Military Detention Facility* (16.2.03) – "The State does not dispute the prisoners' right to receive family visitations".

91. In order to accommodate the visits of immediate family members, a procedure was formed whereby prisoners' family members may file requests through the ICRC, to allow entry into Israel specifically for visitation purposes. If no security hindrance exists to prevent the family member's entry into Israel, a visitation permit to visit the incarcerated relative is granted.

92. The above-mentioned procedure reflects a proper balance between the will and willingness to enable family visitations, and the security considerations that must be taken into account.

93. The State of Israel is committed to enabling family visitations of residents of the West Bank with their family members incarcerated in Israel, and in fact does so while allowing thousands of visits annually.

94. In certain cases, where the security forces provides a security concern regarding the allowance of the relative/s to enter Israel, a visitation permit may still nonetheless be issued; however rather for a shorter duration of 45 days. Upon the permit's expiration, family members are entitled to file a request for the renewal of the permit, subject to an individual security check. The current policy, according to which the objection of the security forces, based on an individual examination can constitute ground to prevent the entry of a resident of the West Bank to visit her/his imprisoned family member, was approved by the High Court of Justice (H.C.J.11515/04 *Nada Muhammad Hassan v. The Commander of the IDF Forces in the West Bank* (10.1.05)).

Family visit program for prisoners from the Gaza Strip

95. Following an Israeli initiative in collaboration with the ICRC on July 16, 2012, the previous "blanket ban" on visits of family members from the Gaza Strip to prisoners has been lifted, allowing prisoners who are Gaza residents to receive family visits whilst detained in Israeli prisons. The visits are coordinated between the Israeli authorities and the ICRC, following security examinations of the relatives requesting entrance into Israel. The visits are arranged on a weekly basis (every Monday). Every week, 50 prisoners are allowed to receive 150 visitors all together. Each prisoner is allowed to receive up to four visitors, not including the prisoner's children under the age of eight.

96. Currently, due to security reasons derived from the latest escalation between Israel and the Hamas terrorist organization, the IDF halted the visits from the Gaza Strip. In this regard, it should be noted that the High Court of Justice determined that the basic humanitarian needs of the residents of the Gaza Strip, that Israel is obligated to provide, do not include entry to Israel for the purpose of prisoners' visitations (H.C.J. 5268\08 *Rami Tzaker Ismail Inbar et. al. v. The Minister of Defense et. al.* (09.12.2009)).

97. With regard to **the provision of medical care** please see Israel's reply to Question 6 above. As described, all prisoners, whether Israeli, Palestinian or otherwise, are provided with the same access to medical care.

Question No. 12

General

98. In recent years the State of Israel has been facing a massive wave of illegal immigration of persons who, in the vast majority of the cases, cross the border illegally from Egypt. This particular border is 220 kilometers long and, until recently, was an open, unfenced border without any real obstacles.

99. According to the estimations of the relevant authorities, by October 5, 2014 over 64,000 persons had entered Israel illegally, and about 47,000 persons are staying in Israel after entering it illegally.

100. The phenomena began with the illegal arrival of a few persons from Sudan, and in 2006, over 700 foreign residents entered Israel illegally, in 2007 about 5,100 were caught, in 2008 – 8,900, in 2009 – 5,300, in 2010 – 14,700, in 2011 – 17,300 and in 2012 10,400 entered Israel illegally. Since mid-2012 until today the numbers of illegal arrivals decreased significantly, with only 45 illegal arrivals during 2013 and 19 in 2014 (until May 21). This decrease is attributed to the building of the fence between Egypt and Israel and the beginning of the implementation of the amended *Prevention of Infiltration (Offences and Jurisdiction) Law* 5772-2012 ("*Prevention of Infiltration Law"*) in June 2012. The majority of the illegal immigrants are from Eritrea (67%) and Sudan (25%) alongside other African countries.

101. In this regard, Israel currently grants protection to more than 45,000 people and providing these individuals access to certain basic human rights without a need to prove *prima facia* that they have an individual claim to stay in Israel. Those individuals amount to approximately 95% of all individuals that entered Israel illegally through its southern border.

102. The problem of controlling its borders while upholding the rule of law is not unique to Israel. Many other countries face similar dilemmas, and Israel cooperates closely with those countries in order to develop the appropriate legal mechanisms to cope with these challenges. However, the situation in Israel tends to be much more complicated than in other developed countries for a few key reasons. Firstly, Israel is the only developed country with a long land border with the African continent – making it a highly-desired destination for land immigration, by cutting the need for expensive and often dangerous transportation, such as by boats. Secondly, in light of the tight control of European borders, many immigrants have turned to Israel instead, believing it to be an easier option to seek for a better economic situation. Thirdly, the current regional instability which touches almost all of Israel's borders, together with the fact that a significant portion of these individuals come from Sudan – a country openly hostile towards Israel and which does not recognize its existence – adds to the security challenges Israel faces. Moreover, many scholars see migration as a regional phenomenon and believe that the policies for coping with it should be regional, rather than national. However, due to Israel's unique situation in the Middle East and lack of regional cooperation, it is impossible for the country to develop regional strategies for cooperation with its neighbors and with countries of origin, as do other states facing similar challenges.

103. This unique situation resulted in the need to take several immediate steps to deal with the large and constant wave of illegal entrance into Israel in the last few years. This includes the construction of a physical barrier on the Egyptian-Israeli border, the expansion of the detention facilities in the south of the country and several amendments to the relevant legislation. These measures are an honest attempt to try and control Israel's borders and reduce the financial incentives attracting arrival in Israel; while simultaneously adhering to the rule of law and respecting the human rights of all individuals in its territory.

Amendments to the Prevention of Infiltration (Offences and Jurisdiction) Law 5714-1954

104. Amendment No. 3 to the *Prevention of Infiltration Law* was enacted on January 18, 2012 as a temporary provision for a period of three years, in order to deal with the large and constant wave of illegal entrance into Israel in the last few years. In the amended Law, an "infiltrator" is defined as: "a person who is not a resident according to the definition in Section 1 of the *Population Registry Law* 5725–1965, who entered Israel other than by way of a border station prescribed by the Minister of Interior according to Section 7 of the *Entry into Israel Law* 5712–1952" ("*Entry into Israel Law*").

105. Under the amended Section 30A of the *Prevention of Infiltration Law*, a person who entered Israel illegally could have been held in detention for a period of up to three years, subject to certain exceptions. This Section was implemented as of June 2012.

106. On September 16, 2013, the High Court of Justice ruled on a petition filed by several NGOs and asylum seekers, regarding the constitutionality of Amendment No. 3 to the *Prevention of Infiltration Law*. An extended panel of nine judges ruled that holding persons in detention for up to three years, subject to certain exceptions according to Section 30A under the Amended Law, constituted a material violation of their rights, including liberty and dignity, as enshrined in the *Basic Law: Human Dignity and Liberty*. The Court determined that this violation did not meet the proportionality criteria contained in the Basic Law, and was therefore unconstitutional. Consequently, the Court annulled Section 30A of the Amended Law. Furthermore, the State was given 90 days to examine the possibility of releasing the 1,750 people held in detention pursuant to this Section, on the basis of Section 13F of the *Entry into Israel Law*, which was deemed applicable (H.C.J. 7146/12 *Naget Serg Adam et. al. v. The Knesset et. al.* (16.9.13)).

107. On December 10, 2013, the Knesset approved Amendment No. 4 to the *Prevention of Infiltration Law* (described below), which was drafted, *inter alia*, following the High Court of Justice's ruling that annulled Section 30A of Amendment No. 3. to the Law. Amendment No. 4 to the *Prevention of Infiltration Law* was enacted for a period of three years and was scheduled to expire on December 9, 2016.

108. Amendment No. 4 to the *Prevention of Infiltration Law* included two key changes:

(a) A new version of Section 30A which was annulled by the High Court of Justice is included. It stipulated that a person who enters Israel illegally could be held in detention for a period of up to one year, subject to certain exceptions at the discretion of the Border Control Commissioner at the Ministry of Interior. This amended section applied only to persons who entered Israel illegally after its enactment, as of December 10, 2013;

(b) The establishment of a new "Holot" facility for persons who entered Israel illegally and were already in Israel when the new Section 30A came into existence (stipulated in Chapter 4 of the Amended Law). According to Amendment No. 4, the Border Control Commissioner was authorized to place such persons in the new facility; from which they are allowed to exit during the daytime; however they have a duty to report to the facility three times a day. The facility is closed at night. Amendment No. 4 further stipulated that this new facility shall provide its inhabitants with suitable living conditions, including health, welfare services and a small financial allowance. The new facility's inhabitants are not permitted to work outside the facility, but some are able to do so inside the facility, in exchange for reasonable remuneration. Since the enactment of the Amended Law, and during the deliberations in the Internal Affairs and Environment Committee of the Knesset, the Ministry of the Interior declared that currently no women and children are about to be summand to stay in the new facility.

109. Amendment No. 4 to the *Prevention of Infiltration Law* also set instructions to safeguard order and discipline in the new facility. It also included measures which can be taken in cases of violations of these instructions, including, in some cases, transfer to a detention facility for periods set by the Law.

110. Since the Court's ruling on September 16, 2013 in the *Adam* case, the Population and Immigration Authority at the Ministry of Interior has examined the possibility of releasing the people held in detention pursuant to the previous Amendment No. 3 to the *Prevention of Infiltration Law*. Until December 9, 2013, 1,200 cases were examined and 707 people were released from detention. By December 13 2013, 483 people that were held in "Saharonim" detention facility were transferred to the new facility "Holot". By December 23, 2013, more than 360 of them did not report to the facility, thus violating the rules applied in the facility. Due to this violation of rules some of them were transferred to "Saharonim" detention center.

111. On September 22, 2014, the High Court of Justice ruled on a further petition filed by several NGOs and asylum seekers, regarding the constitutionality of Amendment No. 4 to the *Prevention of Infiltration Law*. The extended panel consisted of nine judges, six of which ruled that holding persons for up to a year in detention constituted a material violation of their rights, including liberty and dignity, as enshrined in the *Basic Law: Human Dignity and Liberty*. The Court determined that this violation did not meet the proportionality criteria contained in the Basic Law, and was therefore unconstitutional. Consequently, the Court annulled Section 30A of the Amended Law, and ruled that the *Entry into Israel Law*, applies instead.

112. Furthermore, the Court (by a majority decision of seven judges) decided to annul Chapter 4 of the Amendment, which established the new "Holot" facility, which annulment is to take effect in 90 days. However, the duty to report to the facility each day at noon was annulled with effect on September 24, 2014, such that until the entry into force of the annulment of Chapter of 4, persons will need to report only in the morning and evening. The Court pointed to the absence of a time limit for staying in the new facility, the duty to report three times a day given that the facility is located far from any locality and the existence of disciplinary measures and sanctions in case of violations of the applicable instructions. The collective effect of these aspects, together with other considerations, led the Court to conclude that Chapter 4 violates the rights enshrined in the *Basic Law: Human Dignity and Liberty* in a manner that does not meet the proportionality criteria contained in the Basic Law, and was therefore unconstitutional (H.C.J. 8425/13 *Gabrislasy et. al. v. The Knesset et. al.* (22.9.14)).

Case law

113. On April 30, 2013, the Administrative Court in Be'er-Sheva accepted a petition filed by an Eritrean woman and her two daughters, aged 8.5 and 11, for their release from custody due to unique humanitarian circumstances. The Court accepted the claim that "minors" may be construed as special humanitarian justification for release under Section 30A(b)(2) of the *Prevention of Infiltration Law*, as amended in January 2012 (Amendment No. 3). The Court held that the release of minors from detention is a matter of judicial discretion, taking into account the minor's age and the particular circumstances, and it is not only limited to unaccompanied minors. The Court further noted that according to Section 30A(b)(1) of the *Prevention of Infiltration Law* as amended, an almost categorical reason for release from custody exists regarding a minor is that the continuation of "holding him/her in custody may cause harm to her/his health and there is no other way to prevent the said harm." The Court held that babies and infants require special treatment due to their young age. The Court also noted that the mere age of the appellants was to be considered a special humanitarian consideration, as their prolonged detention and uncertain

prospects of release (due to Israel's decision not to deport Eritrean citizens), were sure to affect them emotionally and hamper their emotional development. The Court ruled that the matter will be returned to the Detention Review Tribunal of Infiltrators' Custody in order to examine other options for the petitioners, such as placing them in the Carmel shelter in Osffiya, which in recent years housed many women who were released from the "Saharonim" facility (Ad.P. 44920-03-13 *(Be'er-Sheva), Saba Tedsa et. al. v. The Ministry of Interior* (30.4.13)).

Question No. 13

General

114. The State of Israel has been making considerable efforts in its battle against trafficking in persons. Much has been done during the last few years, but more is still required.

115. On 2006 the *Anti-Trafficking Law (Legislation Amendments*), 5767-2006 was enacted and, *inter alia*, created five offences, which together encompass the main aspects of the trafficking phenomenon. The common denominator of the five core offences is that they all criminalize conduct by which a person is objectified and denied his or her basic human dignity and freedom. All five are punishable with severe prison terms.

Table No. 1
Elaboration of the Five Core Offences in the *Penal Law*

Name	*Section of the Penal Law*	*Description of the Offence*	*Maximum Prison Term*
Trafficking in persons	377A (a)	A transaction in a human being for purpose of (1) organ removal, (2) illicit surrogacy, (3) slavery, (4) forced labor, (5) prostitution, (6) participation in a pornographic publication or exhibition, or (7) committing a sexual offence against the victim.	16 years; 20 years if the victim is a minor
Abduction for the purpose of trafficking	374A	Inducing a person to move from one place to another, by means of threats or force or by fraudulently obtaining her/his consent, for any of the purposes of trafficking in persons as detailed in Section 377A (a).	20 years
Holding a person under conditions of slavery	375A	Holding a person under conditions of slavery for the purpose of work or services, including sexual services.	16 years; 20 years if the victim is a minor
Forced labor	376	Forcing a person to work, whether for remuneration or not by means of force, other means of pressure or threats of force or pressure, or by fraudulently obtaining her/his agreement.	7 years
Causing a person to leave her/his country for purposes of prostitution or slavery	376B	Causing a person to leave the country in which she/he resides in order to engage him/her in prostitution or to hold him/her under conditions of slavery.	10 years

116. In addition, there are various related offences, which are not considered "trafficking" as defined above, yet are often (though not necessarily) related to trafficking, such as pandering, managing a property for the purpose of engaging in prostitution, withholding a passport, charging excessive brokerage fees, etc.

117. During 2013, 39 women in Israel were recognized as victims of trafficking in persons, 31 of them were Sinai victims (see definition in paragraph 120) who were held under conditions of slavery for the purpose of proving sexual services; 26 men were recognized as trafficking in persons victims, 24 of them were Sinai victims who were held under conditions of slavery for the purpose of proving services.

118. In its Trafficking in Persons Report for 2012-2013, the United States' State Department ranked Israel as Tier 1 – a demonstration of the U.S. Government's recognition of Israeli practical efforts taken to fight trafficking in persons ("TIP") and an important external evaluation that Israel is fully meeting the minimal standards required for the eradication of TIP.

119. Some of the measures Israel has taken to prevent, prosecute and rehabilitate TIP during 2013 are as follows:

(a) **Prosecution** – There has been a marked reduction in the overall numbers of cases of trafficking for prostitution and related offences, as compared to the 2012 data. This is the fruit of comprehensive steps (prosecution, prevention and protection) and cooperation between government, civil society and the Knesset.

(b) **Prevention** – Further extensive specialized training has been provided for the personnel of all the relevant branches of Government focusing on identification and cultural sensitivity. This included victim identification training for people working on cases of individuals who entered Israel through the Egyptian border unlawfully, such as judges of the Detention Review Tribunals of Infiltrators' Custody and staff of the detention facilities.

(c) **Rehabilitation** – On December 16, 2013, an additional shelter with 18 places for women who are victims of trafficking was opened ("Tesfa" – Hope). The objective of this shelter is to expand the number of places for women that were identified as victims of trafficking and are eligible to a year of rehabilitation. The shelter gives comprehensive psychosocial solutions, as well as all the other services that are provided at the Ma'agan Shelter. All the shelters are currently equipped to deal with a total of 106 victims of trafficking in persons and slavery: 35 places within the Ma'agan Shelter for women, 35 places in the Atlas Center for men, 18 places within transitional apartments, and 18 places in the additional extension of the Ma'agan Shelter (Tesfa) for women who are victims of trafficking and slavery.

Sinai victims

120. Persons who entered Israel illegally through the Egyptian border crossed through the Sinai Peninsula, and in some cases, while on Egyptian ground, such individuals were held in camps ("Sinai Camps") where they suffered heinous crimes and grave abuse at the hands of their captors, for the purpose of obtaining ransom from their family members in their countries of origin ("Sinai victims").

121. Some of those Sinai victims were forced to provide sexual services to their captives and others, who were compelled to forced labor and were held in slavery conditions, are considered as TIP victims, despite the fact that the offences against them were conducted outside of Israeli borders, by foreign nationals.

122. During 2012, the Deputy State Attorney (Criminal Affairs) directed the Police to investigate complaints regarding heinous abuse in Sinai and determined that under special circumstances, following the conclusion of the investigation, it is possible to consider

indicting a non-Israeli citizen, who is currently present in Israel but participated in the heinous abuse in the Sinai Camps. A specific Directive was issued and circulated on this matter.

Data regarding trafficking in persons: investigations and prosecutions

123. The following table summarizes available Police data regarding investigations and arrests on charges of trafficking in prostitution and related offences:

Table No. 2
Investigations of Trafficking for the Purpose of Prostitution and Related Offences between 2006 and 2013

Year/ Offence	*Penal Law Section*	*07*	*08*	*09*	*10*	*11*	*12*	*13*
Trafficking in persons for the purpose of engaging them in prostitution	377A	21	10	6	4	6	13	2
Holding a person under conditions of slavery for purpose of sexual services	375A	No data available				1	2	2
Abduction of a person for the Purpose of Trafficking	374A	No data available				7	3	2
Causing a Person to Leave her/his Country for Purposes of Prostitution	376B	No data available				4	10	1
Total		**21**	**10**	**6**	**4**	**18**	**28**	**7**

Source: Israel Police, 2013.

124. The following table indicates the number of cases that were decided by the Israeli Courts regarding trafficking and related offences in 2013:

Table No. 3
Prosecutions and Convictions – Trafficking for Slavery and Forced Labor – 2013

	Trafficking in Persons for the Purpose of Prostitution and/or Related Offences	*Trafficking in Persons for the Purpose of Slavery and Forced Labor and/or Related Offences*	*Trafficking in Organs and/or Related Offenses*
Indictments	17 cases (22 defendants):[5] • Trafficking offences only: 2 cases (2 defendants) • Trafficking and related offences: 7 cases (8 defendants) • Related offences only: 10 cases (12 defendants)	0 cases (0 defendants): • Trafficking and related offences:0 cases (0 defendants) • Related offences only: 0 cases (0 defendant)	Trafficking in Organs: 0 case (0 defendants)

[5] Note that there is overlap in two of the cases mentioned in this table entry. Few of the cases stated above involved several defendants, of which some were indicted on "trafficking and related offence" charges, and some were indicted on "related offence" charges only. Accordingly, the same cases are mentioned twice in this table entry.

	Trafficking in Persons for the Purpose of Prostitution and/or Related Offences	*Trafficking in Persons for the Purpose of Slavery and Forced Labor and/or Related Offences*	*Trafficking in Organs and/or Related Offenses*
Convictions (including cases from previous years)	24 cases (33 defendants):[6] • Trafficking only: 1 case (1 defendant) • Trafficking and related offences: 8 cases (17 defendants) • Original indictments for Trafficking and related offences resulting in convictions in related offences only: 2 cases (2 defendants) • Related offences only: 13 cases (16 defendants)	3 cases (4 defendants): • Trafficking and related offences: 2 cases (3 defendants) • Related offences only: 1 cases (1 defendants)	2 cases: • Related offences only: 2 cases (3 defendants) Note: the indictment is not under the Penal Law but rather under the Organ Transplant Law 5768-2008 (the "Organ Transplant Law").

Source: Ministry of Justice, 2013.

Case law: Trafficking in persons – sentencing

125. In regard to verdicts sentenced for trafficking offenders, please see references to three of the most prominent cases on the issue, rendered in 2012-2013:

Trafficking in persons for the purpose of slavery

126. On September 10, 2013, the Jerusalem District Court convicted a defendant of "holding a person under conditions of slavery" (Section 375A of the *Penal Law*) and of additional and related offences. The defendant committed all the offences against six women that lived with him and bore his children, and against his children and the stepchildren (children of the women) – 17 children in total. The defendant used various vicious methods including starvation, confinement, forced separation between a mother and her infant child, severe assaults, severe sexual assaults and different punishments in order to humiliate them and to prove their total subordination and obedience to him. On October 17, 2013, the defendant was sentenced to 26 years imprisonment, suspended imprisonment and ordered to pay 100,000 NIS (26,246 USD) in compensation to the four complainants. The State Attorney's Office filed an appeal against the leniency of the sentence and the defendant filed an appeal against his conviction and the severity of the punishment. The appeals are scheduled to be heard in November 2014 (S.Cr.C 6749-08-11 *The State of Israel v. Anonymous (*Jerusalem District Court*)* (10.9.13)).

127. On February 29, 2012, the Jerusalem District Court convicted, for the first time, two defendants for the trafficking offence of "holding a person under conditions of slavery" (Section 375A of the *Penal Law*). The case involved a couple which was charged for

[6] Note that there is overlap in few of the cases mentioned in this table cell. Few of the cases stated above involved several defendants, of which some were indicted on "trafficking and related offence" charges, and some were indicted on "related offence" charges only. Accordingly, the same cases are mentioned twice in this table entry. Furthermore, some were originally charged with TIP and eventually convicted with related offences only, while others in the same indictment were convicted with TIP. Note that out of the 24 cases 13 were indicted during 2013 and sentenced during 2013. In four cases the defendants were convicted during 2012 and were sentenced in 2013. Out of the 24 cases, in three there were convictions and the defendants are awaiting sentence.

abusive behavior and imposing slavery conditions towards its Philippino domestic care giver. Although the circumstances did not include physical violence, the couple removed and withheld the victim's passport. Moreover, during her 22 month employment period, she was denied basic rights such as work breaks, vacation days and the ability to attend church and to socialize with people outside her employment. Additionally all her movements were supervised, and when the couple went on vacation, they locked her in the house and replaced her cellular phone with one which could only receive incoming calls. Though her employers resided in a spacious villa, she was made to sleep on a folding bed in a hall leading to the bathroom. She worked from 07:00 until 22:00 and sometimes longer, only being allowed two short meal breaks. The victim was locked in the house at all times, aside from a few occasions when she accompanied the family outside the home or ran errands on their behalf, in which cases the defendants carefully followed and watched her.

128. On June 10, 2012, the Court sentenced the defendants to four months' imprisonment, to be served as a suspended prison sentence in the form of community service. Moreover, the Court ordered a 2,000 NIS (524 USD) fine and 15,000 NIS (3,937 USD) to be paid as compensation to the complainant.

129. The Court explained that the lenient sentence was given due to several mitigating circumstances. This, in addition to the fact that this is a precedential conviction, since the limits of this offence have not been set yet.

130. The legislation for the offence of holding a person under conditions of slavery has a minimum sentence of four years imprisonment, unless the Court decides there are special grounds to deviate from this minimum sentence. The grounds must be considered and noted by the Court, as was done in this case.

131. Following their conviction, the defendants appealed to the Supreme Court, their appeal is still pending. Their request to suspend the payment of the fine and compensation was denied by the Supreme Court (Cr.C. 13646-11-10 *The State of Israel v. Ibrahim Julani and Basma Julani* (10.6.12)).

Trafficking in persons for the purpose of prostitution

132. On January 12, 2012, the Tel Aviv-Jaffa District Court convicted Rami Saban and four other defendants for the offence of "trafficking in persons for the purpose of prostitution". This landmark case demonstrates the serious efforts of Israeli authorities, in prosecuting human trafficking offenders.

133. The facts of the case involve a central trafficking figure who operated his "prostitution business" between 1999 and 2008, both in Israel and outside the country. The main indictment was filed against eight defendants who were charged with trafficking in persons for the purpose of prostitution, maintaining several places for the purpose of prostitution (during 1999-2006) and inducing women to leave their country to engage in prostitution and related offences.

134. Evidence presented to the Court indicated that until 2006, victims of trafficking in prostitution were brought to Israel, however by 2007, many were redirected to Cyprus as the "trade" had become too risky, even for experienced traffickers.

135. On May 10, 2012, the defendants were sentenced as follows:

136. **Defendant 1** was sentenced to 16 years imprisonment, concurrent activation of two conditional imprisonments, accumulative to the imprisonment sentence, so that the defendant will serve an overall period of 18 years and 7 months. He was ordered to pay 15,000 NIS (3,937 USD) in compensation to each of the eleven victims, and fined 150,000 NIS (39,370 USD). **Defendant 2** was sentenced to three years' imprisonment, suspended imprisonment, ordered to compensate one of the victims 15,000 NIS (3,937 USD) and fined

20,000 NIS (5,249 USD). **Defendant 3** was sentenced to 10 years' imprisonment, suspended imprisonment, ordered to compensate nine victims of 10,000 NIS (2,624 USD) each and was fined 100,000 NIS (26,246 USD). **Defendant 4** was sentenced to six years' imprisonment, suspended imprisonment, ordered to compensate nine victims 5,000 NIS (1,312 USD) each and fined 60,000 NIS (15,748 USD). **Defendant 7** was sentenced to 12 months' imprisonment, suspended imprisonment, ordered to pay 300,000 NIS (78,740 USD) through forfeiture and fined 10,000 NIS (2,624 USD). One defendant was acquitted, after it was determined that his behavior was immoral but not criminal, whilst another defendant was convicted but had reached a separate plea bargain with the prosecution.

137. The defense lawyers tried to claim that as the phenomenon of trafficking in persons had been vastly eradicated in Israel, it was no longer necessary to create deterrence against it; so the Court should not make an example of this case. The Court rejected this statement and ruled that the required message to be sent was that anyone even considering committing such offences depriving another person of his or her liberty and controlling him or her in such a way, would receive the most serious of punishments (S.Cr.C. 1016/09 *The State of Israel v. Rami Saban* (12.1.12)).

138. These five defendants have since submitted appeals to the Supreme Court which has resulted in the following amendments to some of the sentences: the sentence of **Defendant 2** was reduced to 16 months and 10 days imprisonment; the sentence of **Defendant 3** was reduced to eight years and the Court added a fine of 1,235,745 NIS (324,342 USD); the sentence of **Defendant 4** was reduced to four years and ten months, as he was acquitted of two offences previously upheld by the Tel Aviv-Jaffa District Court. Following this acquittal, his ordered compensation for two of the victims was cancelled; the sentence of **Defendant 7** was reduced to six months imprisonment and the Court added a fine of 300,000 NIS (78,740 USD). (Cr. A. 4031/12 *The State of Israel v. Rami Saban* (11.12.13)).

Question No. 14

Legislation

139. Israel's *Penal Law* expressly contains special provisions aimed at combating domestic violence and specifically protecting minors and vulnerable individuals from such abuse. For instance, various offences of violence in the *Penal Law* set harsher sentences when these crimes are conducted against family members – an assault against a family member, including spouses – doubles the maximum sentence applied in non-family circumstances. Similarly, "sexual assault against a minor" or "an abuse of a minor" set harsher punishments when the offender is the minor's guardian.

140. In addition, the *Prevention of Domestic Violence Law* 5751-1991 ("*Prevention of Domestic Violence Law*") enables victims of domestic violence to request the Court to issue protection orders, especially restraining orders and other protection measures, by a simple and accessible procedure created for cases of domestic violence. Furthermore, the *Rights of Victims of Crime Law* 5761-2001 ("*Rights of Victims of Crime Law*") provides protection of victims' rights in criminal investigations and for their involvement through all stages of legal proceedings.

National domestic and sexual violence investigative mechanism

141. Owing to their special characteristics, domestic violence offences require special treatment. Accordingly, a specially trained task force of 220 investigators specializing in the investigation and treatment of domestic violence and sex offences exists in Israel. Operating since 1998, the task force now has investigators in every police station around the country. As part of the Police work in dealing with violent offences against women,

there is a special emphasis on conducting full investigations of complaints and on collaborating with other government officials providing treatment within the community.

142. Due to the realization that treatment of domestic violence offences requires multi-disciplinary intervention, the Police joined the "Police Social Workers" project. This is a joint venture by the Ministry of Social Affairs and Social Services, the Police and the Ministry of Public Security. This project is currently operating in 19 municipalities, as part of the national Centers for the Treatment and Prevention of Domestic Violence, together with 16 police stations. In the framework of this project, the social worker conducts "real time" meetings with victims or the assailants, or shortly after the complaint is submitted, which allow for a prompt preliminary diagnosis and threat assessment in the police stations.

Measures to combat violence against minors

143. The treatment of cases concerning domestic violence and violence against minors is prioritized within the various District Attorneys' Offices. The different units try to handle these cases within time frames which are much shorter than the maximum periods of time provided by law or by the State Attorney's Guidelines. Furthermore, many cases in such offences are handled as "arrest cases", meaning the suspect is investigated in custody and the case is forwarded to the prosecution in order to submit a request for detention until the completion of proceedings during the detainee's arrest period. Various directives provided by the State Attorney emphasize the need to treat these cases with extra sensitivity, and include several considerations that should guide the prosecutors, for instance when conducting a plea bargain, sentencing hearings etc.

Training on domestic and sexual violence

144. The Police special task force on domestic violence investigations goes through intensive training, which includes, among other, two one-week courses regarding sexual offences and domestic violence. The training introduces Police guidelines on the issue and includes focused studies on the specific aspects of domestic violence, providing theoretical and practical information as to the social, legislative and judicial requirements and realities. For example, the participants take part in lectures and discussions regarding risk assessment, prevention of access to weapons, specific provisions of legislation, treatment of battering men, special characteristics of child-witnesses of domestic violence, models for collaboration with different welfare bodies, protection orders and their violations. In addition, the participants take part in a workshop aimed at encouraging victims of violence to come forward, including visiting a shelter for battered women. All persons who currently work as domestic violence investigators have taken part in this training, and have been subsequently approved to treat cases of domestic violence. In addition to this initial training, continued in-depth seminars and advanced studies are conducted on domestic and sexual violence, including providing updates of legislation, policy or information in this field. Furthermore, as part of weekly meetings within the various police units, all policemen are informed of new Court rulings, legislation, procedures and instructions in domestic violence treatment.

145. State Attorney's lawyers also undergo professional training to deal with offences of domestic violence and sexual offences within the family and against women in general. Some seminars are conducted by the Institute of Legal Training for Attorneys and Legal Advisers in the Ministry of Justice (the "Institute"), whilst others are held by the Haruv Institute (founded by Schusterman Foundation Israel (SFI)). Additionally, seminars conducted in the prosecution units and guest lectures are occasionally dedicated to this topic.

146. Moreover, the Jerusalem District Legal Aid Administration works in close cooperation with the Center for Treatment and Prevention of Domestic Violence in

Jerusalem. This includes conducting think-tanks headed by judges who run joint seminars for lawyers and social workers from the two organizations and cooperation on specific cases which require both therapeutic and legal attention.

Statistical data on incidents of domestic violence

147. The Police is working to prevent and uncover offences according to the characteristics of the crimes, irrespective of the perpetrator's identity and her/his classification as part of a specific segment of the Israeli population. Therefore, the statistical data is not separated by populations – geographically, religiously or otherwise.

148. As of October 15, 2013, 18,250 domestic violence cases were opened against 20,947 suspects (both men and women). The majority of these complaints were filed by women. In 2012, 21,351 cases of domestic violence were recorded (both of men and women), an increase of 4.8% compared to the number of cases recorded in 2011 (21,384). Of the total number of complaints in 2012, only in 65% of the cases (13,828 cases) women were the victims.

149. The percentages of the total number of domestic violence cases recorded by October 2013, pertained to the following complaints: 7% concerned assault and battery, 17% concerned threat offences, 17% concerned violation of a legal order, 6% concerned malicious damage to property, 1% concerned sexual offences and 12% related to other offences.

150. According to Police data, in 2013 (as at December 19), 15 women were murdered by their spouses in Israel. Of these women, four were new immigrants from the former Soviet Union, one was a new immigrant from Ethiopia, four were foreign citizens and one was an Arab woman. In 2012 (as of the beginning of November), 13 women were murdered by their spouses. This figure represents a slight decrease compared to previous years (20 women were murdered in 2011 and 18 in 2010).

151. During 2011, the Health System reported 4,761 cases of domestic violence and sexual assault of women or girls that were identified by the staff when arriving to receive medical treatment in hospitals, health clinics and mother and child health care clinics. This number is slightly higher than that reported during 2010 of 4,310 incidents. Out of all the cases reported to the health system, 3,772 incidents were located in the hospitals and health clinics and 1,039 in the Mother and Child health clinics.

Safe shelters for victims of domestic violence

152. There are 14 shelters for victims of domestic violence throughout the country; that may accommodate approximately 160 women and 320 children simultaneously. During 2012, 672 women and 992 children resided in these shelters; of which 233 (35%) of the women were from the Arab population, and 351 (52%) were Jewish, out of which 77 women were ultra-orthodox or devoutly religious.

153. Women typically reside in the shelters for a period of several months. As a general rule, the shelters are available, but under unusual circumstances when they are all at full capacity, unique and adequate solutions have been found so that all women ultimately receive an appropriate responses.

154. Two of the above 14 shelters are intended for Arab women, two other shelters have mixed Arab and Jewish women and have Arabic-speaking staff, two shelters are intended for ultra-orthodox Jewish women and two others accommodate women with special needs, in association with the Ministry of Health (each of this special needs shelter can accommodate three women). All of the shelters are operated by organizations and associations chosen by government tenders.

155. On November 5, 2012, the Knesset enacted the *Welfare Service Law (Adaptation Grant for Women who stayed at a Shelter for Battered Women)* 5773-2012 ("*Welfare Service Law (Adaptation Grant for Women who stayed at a Shelter for Battered Women)*"). According to the Law, a woman who stayed at a battered women's shelter at least 60 days, will be entitled to an adaptation grant, provided according to a rehabilitation program within 60 days upon her leaving of the shelter. This is conditional on the fact she does not return to her former permanent place of residence. According to the Law, the grant will be a sum of 8,000 NIS (2,099 USD) for each woman, and for women with children an additional 1,000 NIS (262 USD) will be provided for each child.

156. On December 2, 2013 the Knesset amended the *Welfare Service Law (Adaptation Grant for Women who stayed at a Shelter for Battered Women)* to include that the grant must be paid no later than 60 days after the application for such as grant is submitted.

Treatment and rehabilitation of victims of domestic violence

157. In addition to the shelters described above, the Ministry of Social Affairs and Social Services provides service for treatment of domestic violence, throughout the country. This service is run through 88 centers and units, to men, women and children alike. The treatment can be both individual and/or group treatment. The centers also have inter-governmental programs such as "Friendship and Relationships without Violence" – a preventive program for minors in cooperation with the Ministry of Education, combining the provision of social workers from the centers to work with women who are victims of violence and with violent men in the police stations, and a bridging program for treatment of immigrants (in cooperation with the Ministry of Aliya and Immigrant Absorption).

158. During 2011, the centers for treatment of domestic violence received 11,750 patients: 67% women, 26% men and 7% children. 14% of the patients in the centers were from the Arab population.

159. Furthermore, the Ministry of Social Affairs and Social Services assists non-profit organizations to operate 11 Regional Centers for victims of sexual assault. These centers provide a hotline and first aid services to the victims, and assist them in contacting relevant services within the community. Furthermore, there are five treatment centers providing physical, mental, medical, psychiatric and legal care to the female victims of sexual assault, as well as additional social services, such as employment search and vocational training, with help from associated services within the community.

160. The treatment of female minors who have been victims of sexual assault is conducted both within special units which assist female minors at risk, and in specialized care centers established by the Child and Youth Service within the Ministry of Social Affairs and Social Services. Additionally, most minors' homes intended for female minors operate a designated program for female minors who were the victims of sexual assault. These programs include both individual and group therapy.

Legal support for victims of domestic violence

161. The Legal Aid Law 5732-1972, and the Legal Aid Regulations 5733-1973 ("Legal Aid Regulations"), apply in general three tests for eligibility of legal aid: the legal field of the lawsuit, financial eligibility and likelihood of winning the case. These criteria are applicable in an equal manner to all populations in Israel. Due to the commitment of the Legal Aid Administration's to equality in granting legal aid, the database available is not divided according to populations. However, the Legal Aid Administration is set towards diverse representation; legal teams (including receptionists, administrative workers and lawyers) in the various districts across the country include employees from diverse

populations, and the Legal Aid Administration also offers representation at the various religious courts.

162. The Legal Aid Administration provides representation according to the eligibility criteria provided by law, *inter alia*, in cases under the jurisdiction of the Family Matters Court (Regulation 5(1) to the *Legal Aid Regulations*). Representation is also provided for victims of domestic abuse in various civil proceedings, including:

(a) Requests for a protection order against the violent element under the *Prevention of Domestic Violence Law*;

(b) Submitting a claim for restrictive injunctions and requests for temporary restrictive injunctions in the Family Matters Court;

(c) Submitting a claim for quiet and peaceful residence as part of an alimony claim;

(d) Torts claim against the violent element;

(e) Claim for the annulment of a guardianship.

Representation of Minors in proceedings according to the Youth Law (Care and Supervision) 5720-1960 ("Youth Law – Care")

163. The Youth *Law – Care* regulates the treatment of minors "in need" as defined by law by the welfare authorities. Section 2 defines minors "in need" to include situations such as when the guardian of a minor neglects her/his care and supervision, when a minor is subject to destructive influences, when her/his physical or mental wellbeing may be impaired. Amongst these situations are cases of minors who have experienced abuse and degrading treatment by their parents, family members or others. Section 3 defines the methods of treatment of a minor declared as "in need", including removing the minor from the parents' custody to the custody of welfare services if there is a fear for the minor's physical or mental wellbeing, or her/his development.

164. The Legal Aid Administration is working to provide independent and separate representation for minors in the proceedings before Juvenile Courts, in accordance with the growing global recognition of the need for separate representation for minors. Over the past few years, there has been a substantial increase in the number of minors represented by the Legal Aid Administration in legal proceedings. The Administration has represented minors who have been subject to physical (including sexual) and/or mental abuse within their families, or in other homes in which they have been placed by welfare services, as well as represented minors who were victims of cult violence. The Legal Aid Administration assists in transferring such minors to appropriate places where they can receive appropriate care and attention.

Police handling of domestic violence in different populations

165. The Police is committed towards addressing any complaint or suspicion of an offence, including sexual offences within every population, without discrimination based on religion, race, gender or any cultural consideration.

166. As is often the case within any society, there is a general difficulty in uncovering and reporting incidents of sexual offences and domestic violence. Even more so within conservative communities, where conservative social norms create a culture that prefers resolution of problems internally, and possible imposition of "codes of silence" and refraining from reporting to the authorities. In some cases, these criminal offences are not perceived as illegal, but as legitimate behavior.

167. In attempting to overcome this difficulty, the training provided to investigators in this field directly addresses the question of traditional, conservative populations and the investigation obstacles inherent to such a cultural denomination.

168. Furthermore, the Police is fully committed to involving representatives of aid organizations for the victims of sexual assault during the investigation and the treatment of the victims, including aid centers for victims from both the Arab and the Jewish populations. The relationship between the Police and aid organizations leads to the incorporation of the aid organizations' representatives as companions for the victims of sexual assault from these populations, in order to alleviate the process for them and bridge the gap and difficulty associated with being exposed to police investigation.

169. This contact with the aid organizations contributes to the desire to increase the rate of cases reported within these populations.

Question No. 15

The deadly "Bar Noar" shooting incident

170. On July 8, 2013 the State Attorney's Office filed an indictment against Mr. Hagai Felisian in the Tel-Aviv District Court, accusing him of two counts of murder and 10 counts of attempted murder for the shooting event at the Tel Aviv social and advocacy center "Bar Noar" on August 1, 2009.

171. On March 2014, due to new evidence, this indictment was canceled. Currently the investigation of the incident is still ongoing.

Working connections between the LGBT community and the Police in Tel Aviv-Jaffa

172. Police and representatives of the LGBT Community in Tel Aviv-Jaffa have met on several occasions, during which time the Police invited representatives to contact the Police anytime, on all matters. Since then, a contact person in the central police station in Tel Aviv-Jaffa (Lev Tel Aviv), has been designated to liaise with the LGBT community. The Police station conducts organized and regular surveillance activities in the area of the LGBT center in Meir Garden and in the areas of clubs mainly attended by members of the LGBT community in Tel Aviv-Jaffa. Furthermore, in addition to the routine activity and the daily working relationship with the LGBT community, the Lev Tel Aviv station increases its activities during the Tel Aviv-Jaffa gay pride week and during the pride parade that is held, for several years, in the area of the station.

Demonstrations in Israel

173. Freedom of expression and the right to demonstrate are fundamental democratic rights strongly upheld within the State of Israel. As a rule, restrictions on demonstrations in the State of Israel apply to two kinds of demonstrations, according to Sections 83-85 of the *Police Ordinance (New Version)* 5731-1971 ("*Police Ordinance*") taking place outdoors. First, in cases of gatherings of more than 50 people who are convening to hear a lecture or speech about a topic of state interest. Second, in cases of marches of more than 50 people. These particular demonstrations require authorization according to the Law. In other kinds of demonstration, such as demonstrations by a smaller group of people, as well as immobile demonstrations which do not include speeches or lectures (however large), usually there is no need for Police authorization and these demonstrations are not subject to any administrative impediments.

174. According to Section 85 of the *Police Ordinance*, the organizer of a demonstration which requires such a permit is required to apply to the Police. The District Commander

has the ability to either authorize the demonstrations without any pre-conditions, to require certain conditions for granting the permit, or to disallow the demonstration altogether.

175. Decisions by the High Court of Justice, as well as the Attorney General's Guidelines, have limited the discretion of the District Commander on this topic, based on the constitutional nature of the right to demonstrate. The right to demonstrate has been recognized by the High Court of Justice as a basic right, either as derived from the freedom of expression or as a distinct liberty of itself (H.C.J. 148/79 *Saar v. The Minister of Interior and of Police* (31.5.79)).

176. The High Court of Justice decisions have held that the Police may only prohibit a demonstration if there is a near certainty of actual damage to another protected interest, such as public safety or if the demonstration entails the committing of a criminal offence (H.C.J. 153/83 *Levy v. The Southern District Commissioner of Police* (13.5.84); H.C.J. 6658/93 *Am Kalavie v. CO Jerusalem Station* (14.7.94)).

177. Additionally, the Police may apply reasonable restrictions regarding the timing, location and manner of demonstration, in order to balance between the right to demonstrate and other rights and interests, such as freedom of movement.

Article 3

Question No. 16

The immediate coordinated return procedure

178. The practice of returning persons who entered Israel illegally through the Egyptian border and were caught by the Israeli Defense Forces ("IDF"), known as the "coordinated return procedure", was put on hold by the IDF in March 2011 due to the recent geo-political changes in Egypt that no longer allowed the former coordination to take place. The Israeli commitment not to use the procedure of coordinated returns to Egypt was stated by the State to the High Court of Justice on March 2011 in H.C.J. 7302/07 *Hotline for Migrant Workers v. The Minister of Defense* (7.7.11), as part of the litigation on the matter. Considering the State's position, the petition was rejected by the Court on the grounds of it becoming a hypothetical petition. The State's commitment on this regard still stands and no coordinated returns are conducted.

Question No. 17

179. Israel signed the Convention Relating to the Status of Refugees (1951) (Refugee Convention) in 1951 and ratified it in 1954. The principle of *non-refoulement* enshrined in Article 33 of the Refugee Convention constitutes a fundamental principle of international law and was enshrined into Israeli case law two decades ago through the High Court of Justice ruling of H.C.J. 4702/94 *Al-Tai v. The Minister of Interior* (11.9.95). In the *Al-Tai* case, the former President of the Supreme Court, Justice Aharon Barak, determined that the principle of *non-refoulement*, according to which a person cannot be deported to a place where her/his life or liberty will be endangered, is not limited only to refugees. Justice Aharon Barak held that the principle of *non-refoulement* is applicable to any government authority decision dealing with the deportation of a person from Israel.

Case law

180. On July 7, 2013, the Supreme Court rejected an appeal filed by several Ivory Coast nationals against the decision to deny their individual requests for asylum. The appellants stayed in Israel as a result of a policy of temporary group *non-refoulement* protection, following the State of Israel's denial of their individual asylum requests. Following the

State's termination of the temporary group *non-refoulement* protection policy, the petitioners requested that their individual asylum requests would be reviewed claiming that while staying in Israel they had joined the FPI political party which subsequently became the opposition party in the Ivory Coast – so they were in danger if they were to be sent back to their country. After reviewing the State's response and the evidence, the Court rejected the appeal stating that the decision of the relevant authorities was reasonable according to the evidence before them. In addition the Court stated that the appellants only proved their membership in the FPI party without demonstrating their engagement in any political activity beyond that membership. Consequently, the Court was not persuaded that the appellants' activity in the Israeli FPI branch was likely to cause their persecution, or threat to their lives or liberty, in the Ivory Coast. The Court examined the individual applications of the appellants, however, ultimately held that the appellants did not prove any overwhelming evidence of any change in circumstances that could entitle them to refugee status. Consequently, the Court held that the lower Court's decision had been given in accordance with the Law and rejected the appeal (Ad.A. 4922/12 *Anonymous v. The Ministry of Interior et. al.* (7.7.13)).

181. On July 7, 2012 the Jerusalem District Court ruled in a petition against the Minister of Interior's decision, following the declaration of independence of Southern Sudan, informing the nationals of Southern Sudan living in Israel that they were required to return to their country. Moreover the decision stated that beginning on April 1, 2012, enforcement activities would be taken against illegal immigrants of Southern Sudan who refuse to leave. According to the Court this decision essentially ended the temporary group *non-refoulement* protection policy which had applied to Southern Sudan nationals. The Court rejected the appeal, stating that due to the respondent notification that an individual examination would be made; there was no basis of the petitioners claim that there was an obligation to continue the policy of temporary group *non-refoulement* protection. The Court further noted that despite the fact that the respondent and the experts agree that the situation in some areas of Southern Sudan is problematic, violent and even dangerous; the petitioners did not substantiate their claim that this was the situation across the whole of Southern Sudan and would consequently endanger every national. The Court further noted that the petitioners did not demonstrate that the decision to stop the temporary policy and return Southern Sudan nationals to their place of origin (or another region in the county that does not endangers their life or liberty), was unreasonable (Ad.P. 53765-03-12 (Jerusalem District Court) *ASSAF the Aid Organization for Refugees and Asylum Seekers in Israel. et. al. v. The Minister of Interior* (7.7.12)).

Question No. 18

182. Israeli law contains two main mechanisms for the deportation of a person who stays illegally in Israel: one is the *Entry into Israel Law* dealing with persons who have no legal permit to stay in Israel, and the other is the *Prevention of Infiltration Law* dealing with persons who entered Israeli illegally, not through an official border crossing point.

183. Section 13 of the *Entry into Israel Law* stipulates that the Minister of Interior may deport a person staying in Israel without a permit illegally, via a deportation order. The deportation order shall be in writing and the person shall not be deported sooner than three days after the order was served to him/her (unless he or she decides to leave earlier). Section 13 authorizes the Border Control Commissioner to delay the deportation for a maximum period of fourteen days, so to allow the person to attend to her/his legal matters in Israel. The Border Control Commissioner may extend this period due to special humanitarian reasons.

184. Over the years the courts have defined the authority of the Minister of Interior under this Section. Accordingly, it has been established that the Minister's discretion is subject to

judicial review and that judicial scrutiny will be exercised in accordance with the court's rules concerning administrative discretion.

185. The discretion of the Minister of Interior under Section 13 has been further defined through a series of Population and immigration Authority Procedures such as Procedure concerning the Issuance of a Deportation Order (No. 01.4.1110), which allows for a stay of deportation in certain cases, based on medical emergencies; Procedure concerning Requests to Delay Deportation/Grant Temporary Status for Medical Reasons (No. 5.2.0038), or humanitarian grounds; Procedure concerning Work of the Inter-Ministerial Committee for Granting Humanitarian Status (No. 5.2.0022).

186. Alternatively, the *Prevention of Infiltration Law* establishes mechanisms for persons who have entered Israel not through a declared crossing point. Section 30(a1) of the *Prevention of Infiltration Law* stipulates that "a deportation order under Sub-section (a) shall not be carried out until after the Minister of Defense or a senior State employee authorized by him/her has determined that this can be done, considering the personal circumstances of the infiltrator and of the country to which she/he is to be deported". According to this Section a person will not be deported without a decision by a high ranking official, on the basis of examining the individual circumstances of the potential-deportee and the country of destination for her/his deportation – two elements forming an integral part of the examination of the danger posed to the life and liberty of a person as a result of deportation.

187. In one of its most important decisions, establishing rules which limited the authority to deport under the *Entry into Israel Law* and the *Prevention of Infiltration Law*, the High Court of Justice ruled, *inter alia*, that the authority to deport must be exercised while taking into account the sanctity of human life and freedom, as established in *Basic Law: Human Dignity and Liberty*. Therefore, the Court ruled that the authority to deport may not be exercised if the deportee's life or liberty is threatened (H.C.J. 4702/94 *Al-Tai v. Minister of Interior* (11.9. 95)).

188. In Ad.P. 7079/12 *The State of Israel v. Asmara Ahunum Germey* (10.12. 12) the Supreme Court reiterated its ruling in *Al-Tai* and determined that the authority to deport was subject to the *non-refoulement* principle, according to which one may not be returned to a country where her/his life is in danger.

189. It should be stressed that issuance of a deportation orders (either through the *Entry into Israel Law* or the *Prevention of Infiltration Law*) is, like all administrative acts in Israel, subject to judicial review and may be challenged through appeal to Administrative Courts.

Question No. 19

190. The State of Israel does not extradite a person to a State where she/he would be in danger of being subject to torture. Accordingly, before signing or ratifying extradition agreements the relevant authorities examine the human rights situation in the State in question, particularly in relation to torture.

191. Extradition proceedings to and from Israel are regulated by the *Extradition Law* 5714-1954 ("*Extradition Law*"). Section 2B(A)(8) of the *Extradition Law* regarding exemptions to extradition stipulates, *inter alia*, that a person will not be extradited to a requesting State when complying with the extradition request might violate public order in Israel. In addition, according to Section 18 of the *Extradition Law*, after a person is declared by a court to be extraditable, the Minister of Justice may order the extradition of the person to the requesting State.

Case law

192. On November 29, 2012, the Supreme Court rejected an appeal filed by Alexander Cvetković against the Attorney General, in which the appellant requested the Court to revoke the Jerusalem District Court's decision to extradite him to Bosnia-Herzegovina for his alleged involvement in genocide and crimes against humanity. The appellant argued that his extradition would violate public order pursuant to Section 2B(a)(8) of the *Extradition Law*. The appellant claimed that his right to due process would not be respected in Bosnia and that harsh prison conditions there would pose danger to his life. The Court held that a violation to public order claim would only be accepted in exceptional cases, where injury to the defendant's right to due process would be extremely severe if he was extradited; which in this case, could not be proven. The Court emphasized that Bosnia-Herzegovina had committed itself to ensuring the safety of the appellant while in its custody – by holding him in a separate wing with adequate supervision and close protection, and guaranteeing that he would be able to receive frequent consular visits. Consequently, the Court rejected Cvetković's request to revoke the lower court's decision to extradite him (Cr.A. *6322/11 Alexander Cvetković v. The Attorney General* (29.11.12)).

193. On March 10, 2010, the High Court of Justice rejected a petition, in which the petitioner claimed that even though he had been declared extraditable by the District Court, the Minister of Justice's decision to extradite him to Ukraine had to be revoked due to new evidence that would create a substantive danger to his life if ultimately extradited. Moreover, the petitioner claimed that the Minister of Justice signed the extradition order without carrying out any serious examination of, or giving due weight to his arguments. The Court noted that Article 3(1) of the CAT stipulates that: "No State Party shall […] extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture". Accordingly, the High Court of Justice determined that only in extraordinary and exceptional circumstances where there is a well-established and substantial danger to the life of a person if extradited, can the Minister of Justice choose not to order the extradition, according to Section 18 of the *Extradition Law*. In the present case, the Court found that there was no solid factual basis to support the petitioner's arguments, and therefore rejected the petition (H.C.J. 9420/09 *Anonymous v. The Minister of Justice* (10.3.10)).

Question No. 20

Asylum seekers

194. Following are statistics compiled by the Population and Immigration Authority regarding the processing of asylum requests pursuant to the Procedure of Treatment of Asylum Seekers in Israel, entered into force on January 2, 2011. The data is provided for years 2009-2013:

Table No. 4
Processing of Asylum Applications 2009-2013

	2009 (from July)	*2010*	*2011*	*2012*	*2013 (until August)*
Number of applications submitted	4,530	5,391	3,584	1,096	2,593
Number of applications that were rejected prima facie*	----------	----------	3,968	964	98
Number of in depth interviews conducted	1,429	3,688	2,100	1,896	2,968

Source: Ministry of Interior, Population and immigration Authority 2013.

* The prima facie rejection procedure entered into force at the end of 2010.

Table No. 5
Main Countries of Origin of Asylum Seekers* (July 2009-August 2013)

Country of origin	*Number of asylum seekers*
The Republic of Sudan	2,237
Philippines	1,695
Nigeria	1,677
Ethiopia	1,236
Eritrea	1,107
Ivory Coast	908
Georgia	789
China	507
India	395
Nepal	378

Source: Ministry of Interior, Population and immigration Authority 2013.

* Pursuant to the Procedure of treatment of asylum seekers in Israel, entered into force on January 2, 2011.

195. Out of the total asylum applications submitted in Israel in recent years, 2,841 were submitted by Sudanese and Eritrean who underwent an initial interview (as of March 3, 2014). 1,485 out of them were interviewed in depth. Until March 3, 2014, 453 cases were closed, out of which in two cases Eritreans were recognized as a refugee.

Process of granting refugee and humanitarian status

196. The Procedure of treatment of asylum seekers in Israel establishes the Advisory Committee to the Minister of Interior, regarding the granting of refugee status. The Advisory Committee is comprised of a chairman, who is not a civil servant, and three permanent members, from three different Ministries: Justice, Foreign Affairs and Interior. The Committee convenes once a month and additionally whenever necessary. The Committee discussed, from July 2009 until August 2013: 80 cases in 2013 (until August); 27 cases in 2012; 77 cases in 2011; 39 cases in 2010 and 19 cases in 2009.

197. Between 2010 and 2013, 30 people were granted refugee status by the Minister of Interior, following recommendations of the Advisory Committee.

198. For example, in November 2011, the Advisory Committee recommended to the Minister of Interior to grant a refugee status to an albino toddler from the Ivory Coast and her parents, due to a real risk to her life in her State of origin. It is a known phenomenon in Africa that albinos are sometimes murdered and their bodies are dissected, for trafficking in their organs. The committee's recommendation was approved by the Minister of Interior and the refugee status was granted.

199. Additionally, the Israeli Inter-Ministerial Committee for Granting Humanitarian Status in Israel, which was established according to the Population and Immigration Authority Procedure No. 5.2.0022, may grant humanitarian status to a person on a case by case basis.

Table No. 6
Review by the Israeli Inter-Ministerial Committee for Granting Humanitarian Status, 2009 to 2013

	2009	*2010*	*2011*	*2012*	*2013 (until July)*
Number of times the Committee was convened	8	10	13	12	7
Number of applications before the Committee	196	304	286	212	135
Approved	91	125	147	105	72
Rejected	93	132	112	96	45
Under inquiry	5	18	22	11	17
Removed*	7	29	5	0	1

Source: Ministry of Interior, Population and immigration Authority 2013.

* Removed – the application was removed from the Committee's agenda on the grounds of lack of cause or lack of authority.

Question No. 21

200. Persons who entered Israel illegally through the Sinai desert were, in some cases, held in camps ("Sinai Camps") where they suffered heinous crimes and grave abuse at the hands of their captors, for the purpose of obtaining ransom from their family members living in Israel or abroad ("Sinai Victims"). Some of them, who were brutally injured, and in many cases were raped by the Bedouins, on their way to Israel, can be recognized in Israel as victims of trafficking in persons for the purposes of slavery or prostitution **despite the fact that the offences against them were conducted outside of Israeli borders, by foreign nationals**.

201. For further information on Sinai Victims please see Israel's reply to Question 13 above.

Identification of victims of trafficking in persons in the detention facilities

202. In 2012, the IPS adopted a formal procedure to ensure a uniform and streamlined method of identifying signals raising suspicion of possible trafficked persons and relaying such information to the Police and Legal Aid Administration.

203. According to Government Resolutions No. 2806 of December 1, 2002 and No. 2607 of December 2, 2007, any case where there is a suspicion that a person may be a victim of trafficking in persons ("TIP"), the case must be transferred to the Police for investigation.

204. The IPS procedure provides that if a staff member in a detention facility believes that a detained individual has been the victim of any abuse due to slavery or trafficking, or if a detained individual alleges this to be the case, the staff member must notify and deliver a written report to the social worker in the facility. The social worker then must forward the report to the representative of the Police and Legal Aid Administration. Each of these bodies is responsible for follow-up within their respective fields of activity. Due to the importance of the issue, each Prison Director must ensure that all staff members of the detention facility are informed of the procedure. This procedure was monitored throughout its first year of implementation and results show that it has been effective and no problems or faults were detected.

205. Furthermore, every asylum seeker in a detention facility must be brought before a judge of the Detention Review Tribunal of Infiltrators' Custody. These judges are well informed and are acutely aware of the characteristics of trafficked victims, and would alert the Police of any cases they suspect to be trafficking-related.

206. Once the Police receive a report from the detention facility, an alert from a judge or other indication of a potential victim of TIP, the Police must investigate whether there is sufficient evidence that the person indeed is, or was, a trafficking victim. If the Police determine that such initial evidence exists, the victim will be transferred to a specialized TIP victims' shelter.

207. The Police's threshold for admitting a person to such a shelter is relatively low: if there is any preliminary evidence suggesting that the person might be a victim of trafficking, the person is promptly referred to a shelter. The shelters receive every individual referred to them by the Police.

Treatment of trafficked victims – specialized shelters

208. Victims of trafficking are afforded three fundamental types of rights: shelter, free legal aid and ability to work. These rights (except for the visas granted during court cases) are not contingent upon cooperation with law enforcement. The shelters are supervised and financed by the Ministry of Social Affairs and Social Services and run by an NGO; legal aid is State-funded, by the Legal Aid Administration of the Ministry of Justice and provided to all TIP victims; work visas are provided by the Population and Immigration Authority in the Ministry of Interior. The victims are directed to the shelters, and are also directed to aid organizations that provide additional legal aid, including with regards to the question of their status as refugees.

209. Two Governmental Resolutions on the issue of victims of TIP in prostitution, slavery and forced labor, set up the "Ma'agan" shelter for female victims and the "Atlas" center for male victims, in February 2004 and July 2009 respectively. The shelters provide holistic treatment to victims and are currently equipped to deal with a total of 88 victims: 35 places within the Ma'agan Shelter, 35 places in the Atlas Center and eighteen places within transitional apartments. In 2013, the services available for the treatment of victims of trafficking and slavery were expanded and include 18 additional places, in a new shelter for women called "Tesfa – Hope". Accordingly, the shelters are now equipped to deal with 106 victims of trafficking in persons and slavery.

210. The shelters provide all the necessary services and treatment to the victims, including meeting their physical, medical, emotional and social needs. During their residence in the shelter, a unique rehabilitation program is designed for them.

211. The shelters are staffed with professional employees of diverse backgrounds and specializations. The staff includes a manager, administrative team (including a secretary and maintenance supervisor), social workers, instructors, educators, translators, volunteers, mediators and security crew. These are complemented by two weekly visits by a doctor and visits by a psychiatrist as needed, as well as external professional instructors who lead workshops and classes such as sports, yoga, dance, arts and crafts workshops, and Hebrew and English lessons. The shelters provide an open, tolerant, attentive, sensitive and rehabilitative environment for victims of trafficking.

Legal aid for victims of trafficking

212. The Legal Aid Administration is part of the Ministry of Justice, and provides free legal assistance to victims of trafficking, in a broad range of cases, such as restitution claims, visa applications and assistance to victims in the context of civil proceedings. Among the victims assisted were victims that were held in the Sinai camps in Egypt.

213. During 2013, the Legal Aid Administration received 270 requests from victims, of which 70 requests were from victims of slavery or forced labor in Israel, and 13 requests from victims of trafficking for the purpose of prostitution or related offences in Israel; 187 requests were from African individuals who entered Israel through the Egyptian border unlawfully and were victims of cruel and degrading treatment in the Sinai Camps on their way; of which 20 requests were from unaccompanied African minors (or claiming to be minors).

214. In 2012, 40 victims who were recognized by the Police as persons who were held under slavery conditions were still detained at the "Saharonim" facility – since there was no room in the shelters for victim of trafficking in persons. In January 2013, one of the victims requested legal aid in filing a request to be released to her cousin's house until there is vacancy in the Ma'agan Shelter. The woman claimed that staying in custody is causing her mental torment and distress. Following a meeting with the woman's relative, who agreed to take care of the woman, a request was filed to the Detention Review Tribunal. The Tribunal rejected the request and the Legal Aid Administration appealed this decision to the Be'er-Sheva District Court. On March 6, 2013, the Court accepted the appeal and determined that the humanitarian distress in this case is severe and exceptional and ordered the immediate release of the woman to her cousin's house until there will be a place for her at the Ma'agan Shelter.

215. In 2013, following this verdict and following requests of the Legal Aid Administration, 18 men and 36 women who were recognized by the Police as TIP victims were released from custody to relatives' or friends' homes until admission to the shelters. All were released following a hearing in the Detention Review Tribunal, with the presence of the family member or friend, and after an examination of their hosts.

"Saharonim" detention facility

216. Please see Israel's reply to Question 12 above regarding the legal basis for the detention of people who enter Israel illegally.

217. Every detainee arriving to "Saharonim" detention facility is examined by a medical assistant and a physician. This initial medical treatment includes immunization, tuberculosis tests, as well as a meeting with a social worker. The detainees receive eating utensils, clothing and shoes, bed sheets and towel, toiletries, and hygiene products when needed.

218. In "Saharonim" detention facility there are health and social services including two physicians and 11 medical assistants, a dentist, and social workers. The detainees have unlimited access to the social workers and interpreters, and vice-versa. In relevant cases, a detainee is escorted to medical examinations and psychiatric treatment outside the facility.

219. In the detention facility there are public phones, postal services and TV sets with 11 different channels. Each wing includes showers, self-service laundry facilities etc.

Articles 5 to 9

Question No. 22

220. The Israeli State Attorney's Office has not extradited any person either from Israel nor has it requested the extradition of a person to Israel according to the CAT, nor handled any cases in which an allegation of torture or inhuman treatment was substantiated.

Question No. 23

221. Please see Israel's reply to Question 22 above.

Question No. 24

222. Due to the unique current geo-political situation in the region, the Police is not cooperating with neighboring states regarding legal assistance.

Article 10

Question No. 25

Police

223. The Police Education and Information Section operates educational programs aimed towards ensuring various values are incorporated into police officers' work, including tolerance within a multicultural society, elimination of prejudice, and raising awareness of the relevant human rights conventions.

224. The educational programs are run both on special educational workshop days and generally within the overall Police training framework that includes seminars and courses. In the last few years, special emphasis is given to the training of Police commanders in all levels, since they are in the best position to influence their subordinates.

225. The Police School for Investigation and Intelligence incorporates into the training of investigators and investigation officers the main provisions of the relevant human rights conventions and Law of Armed Conflict regarding procedures and investigation ethics, including "right and wrong" behaviors.

Israeli Defense Force (IDF)

226. The School for Military Law holds a variety of training activities for IDF forces regarding human rights and the Law of Armed Conflict. These activities include lectures, use of learning aids such as computer programs and comprehensive written materials.

227. Every year, hundreds of lectures are given to IDF soldiers both in mandatory service and reserve. Lectures are attended by combat forces, officers' course cadets, Military Police investigators, security analyzers and medical care personnel in detention facilities, as well as to commanders throughout the IDF.

228. These activities specifically place an emphasis on issues such as arrest and detention practices, detainee's rights, the Law of Armed Conflict and rules of conduct during an armed conflict.

229. The following are some of the tools that were developed as a part of the training activities for IDF forces stationed along crossing points:

(a) Creation of a designated security crossings unit of the Military Police, headed by an officer with the rank of Colonel. The unit operates in security crossings positioned along the security fence which was created to ensure national security by preventing the passage of terrorist factions from the West Bank into Israel. The unit was established with the specific intention, in addition to maintain security, to simultaneously uphold the quality of life of both the Israeli and the Palestinian populations;

(b) The soldiers are taught Arabic and meet with members of humanitarian organizations in order to better understand the humanitarian needs of the Palestinian population. Special emphasis is given to the issue of human dignity and the soldiers are taught a variety of relevant basic information, such as the basics of the Islamic religion and traditions, the Palestinian culture, with specific attention to cultural sensitivities and care required towards Palestinian women. In order to ensure protection of their dignity, the examination of women asking to cross the border is performed solely by Military Police

women who are stationed at the crossings. In addition, the soldiers receive regular lectures from a representative of the office of the Coordinator of the Government Activities in the Territories and an officer from the Military Advocate General's Office.

Israeli Prisons Service (IPS)

230. The IPS officers and wardens undergo regular training and instructions through courses held in the School for IPS officers and wardens, as well is in their respective units. Training regarding the relevant human rights conventions is an integral part of the general IPS training at the unit level, as well as in specific courses given to officers and wardens. This training includes topics such as prevention of the use of force, ethics in the warden's work, and values of the rights and liberties of the prisoner. These issues are also routinely addressed during training and guidance of other staff member of the prisons. Additionally, ethics and values workshops were also held for the senior staff in the prisons.

231. In the recent years there have been workshops conducted for all staff members at the "Saharonim" and the "Givon" detention facilities regarding the identification of trafficked victims, as was detailed in Israel's reply to Question 21 above. These workshops are conducted by the National Anti-Trafficking Unit in the Ministry of Justice several times a year.

Israel Security Agency (ISA)

232. In 2013, the Legal Department of the ISA and dozens of ISA personnel underwent specific training on international law, including human rights law, the core human rights conventions and the work of the Human Rights Treaty Bodies.

233. Moreover, ISA interrogators are taught in detail about the relevant human rights conventions, including their implications in the unique Israeli context. This is done both during preliminary and continued ISA training. These courses and seminars aim to instill the importance of principles of human dignity and fundamental human rights, together with the upholding of the rule of law and practices stipulated by the courts.

Question No. 26

234. Please see Israel's reply to Question 25 above.

Question No. 27

235. It should be noted that the Turkel Commission, the Public Commission to Examine the Maritime Incident of 31 May 2010, recommended in its Second Report (February 2013)(recommendation No. 16) that the Head of the Investigations and Intelligence Department at the Police should ensure that in the framework of training the investigators, proper emphasis is placed on the relevant rules of international law, especially CAT, the UN Standard Minimum Rules for the Treatment of Prisoners, UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the Istanbul Protocol. This recommendation applies to all of the bodies that deal with investigations into incidents to which international law applies.

236. This recommendation, as all other recommendations in the Report, shall be reviewed by the Examination and Implementation Team of the Second Turkel Report's Recommendations. Specifically, the Istanbul Protocol is being examined in order to fully understand its implications on the IPS and other authorities. As part of this learning process, on February 25, 2014, the Inspector for Complaints against ISA Interrogators ("Inspector") and the Inspector's supervisor attended a seminar conducted by the Israeli Medical Association and the Public Committee against Torture in Israel on the Istanbul Protocol and its implications.

237. Additionally, please see Israel's reply to Question 25 above.

Question No. 28

238. The Population and Immigration Authority personnel who are trained to be part of the Refugee Status Determination Unit (RSD) undergo a four week course on topics specifically related to refugees and asylum seekers. This includes the Refugee Convention, relevant Human Rights conventions (including to the CAT) and Israeli laws, and trafficking in persons. The course was co-developed and first conducted in 2009 by the Ministry of Interior, UNHCR, the Hebrew Immigrant Aid Society (HIAS) and the United States Department of Homeland Security.

239. The judges of the Detention Review Tribunals of Infiltrators' Custody undergo specialized training with respect to trafficking in persons and the Sinai Camps. The most intensive training to date was a seminar regarding trafficking in persons that was conducted in 2011, attended by the all the judges of the Tribunal. Two additional seminars were conducted in 2012 regarding trafficking in persons, focusing on issues such as the cultural aspects of victims of trafficking, the identification of victims of trafficking in persons and modern slavery. Those seminars have helped in raising these judges' awareness to the victims of the Sinai Camps, as well as to victims of trafficking in persons.

240. For further information regarding human rights trainings please see Israel's reply to Question 25 above.

Article 11

Question No. 29

Inspector for complaints against Israel Security Agency (ISA) interrogators

241. According to Section 49(9)(1) of the *Police Ordinance*, opening an investigation against an ISA employee is a discretionary decision of the Attorney General, the State Attorney or one of her/his deputies. If so decided, such an investigation will be conducted by the DIPO. However, in order to decide whether or not to conduct such an investigation, a preliminary examination is to be undertaken by the Inspector for Complaints against ISA Interrogators ("Inspector"). Following such an examination, the Inspector's findings are transferred to her/his Supervisor, a senior advocate in the State Attorney's Office, who decides if there is sufficient evidence to recommend opening an investigation.

242. Following comprehensive intergovernmental deliberations as well as several NGOs' petitions to the High Court of Justice, the Attorney General announced in November 2010 that the Inspector, which had previously been a role within the ISA, would become part of the Ministry of Justice and would be subordinate to the Director General of this Ministry.

243. This reform, which establishes an external inspector to examine complaints concerning ISA Interrogations, was supported by the Head of the ISA, the State Attorney and the Director General of the Ministry of Justice.

244. Israel is pleased to announce that the procedure of transferring the Inspector to the Ministry of Justice is complete. In June 2013, Colonel (Ret.) Jana Modzgvrishvily, the former Chief Military Prosecutor, was chosen to serve as the Inspector. Recently another position in the unit was filled and a third position is scheduled to be filled temporarily. The unit in the ISA was disbanded.

Case law

245. On October 21, 2012 the High Court of Justice issued a partial judgment on a petition submitted by the Public Committee against Torture and the Swetti family requesting that the Court instruct the Attorney General to order the Department of Investigation of Police Officers ("DIPO") to launch a criminal investigation against ISA investigators who were involved in Mahmoud Swetti's interrogation. It was alleged that during Swetti's interrogation, ISA officers created a false display and had Mr. Swetti believe that his father and wife had been arrested and detained.

246. The petitioners argued that no legal remedy other than filing a petition to the High Court of Justice was available by law, as criminal procedure allows the request of a review by the Attorney General only following a decision not to file an indictment, and does not include an equivalent remedy regarding a decision not to open a criminal investigation. The Court ruled that as was decided in H.C.J. 1265/11 *The Public Committee against Torture et. al. v. The Attorney General* (6.8.12) the petitioners can request the Attorney General to review the decision not to open a criminal investigation against the ISA investigators. The Court recommended that the period of appeal over a decision not to open an investigation in these specific cases be extended in order to allow the petitioners to request the Attorney General to review the decision (H.C.J. 1266/11 *Mahmoud Swetti et. al. v. The Attorney General* (21.10.12)).

247. On 12 November 2012 a final decision in the petition was rendered by the Court, allowing the submission of an appeal until 12 December 2012. The appeal was submitted and denied and another petition was submitted on the matter. The petition is still pending (3990/14 *Mahmoud Swetti et. al. v. The Attorney General* (pending)).

248. On August 6, 2012, the High Court of Justice issued a partial judgment regarding complaints concerning the Inspector. The petition included complaints regarding the Inspector's authority to examine complaints against ISA Interrogators, the duty of the Police or the Attorney General (or another authorized body such as the DIPO) to investigate any complaint regarding an offence of an ISA employee, and the question of the independence of the Inspector, who was at that time, an ISA employee.

249. The Court noted that a preliminary examination, prior to a decision regarding opening a criminal investigation, may be part of the decision-making process in the State Attorney's Office and held that such a preliminary examination is an acceptable course of action.

250. The Court also noted that in regard to the authority to order a criminal investigation, as determined by the Court in previous rulings, the authorities are not obligated to automatically open an investigation following a complaint; but rather such a duty to open an investigation is conditioned on sufficient evidence which justifies it.

251. The Court noted that in light of the principle authority to conduct a preliminary examination, and the need for sufficient evidentiary infrastructure to justify the opening of a criminal investigation, the mechanism of the Inspector and the Inspector's Supervisor (a senior lawyer in the Israeli State Attorney's Office of the Ministry of Justice, appointed by the Attorney General) strikes an appropriate balance between all the relative interests, in parallel with the recently completed process of the Inspector becoming part of the Ministry of Justice.

252. The Court also noted that the conducting of such a preliminary examination by someone who will not be an ISA employee, but rather an employee of the Ministry of Justice, will also serve the public interests in safeguarding the ISA interrogation methods by ensuring that efficient interrogation tools are used within the boundaries of the law, which will assist in protecting confidential information.

253. The Court recommended a minor amendment to the current Section 49 (9)(1) of the *Police Ordinance*, that would give the authority to the Inspector's supervisor to open investigations. This amendment is required, according to the Court, so that the same entity would be able to decide upon the opening and closing of investigations. As for the possibility to request a review on such decision, the Court held that the request should be made to the entity with supervisory powers on the authority authorized to open an investigation.

254. The Court found that the availability of an appeal process, both by requesting the Attorney General to review the Inspector's decision, followed by the possibility to petition for judicial review by the High Court Of Justice, provide adequate safeguards for complainants.

255. The Court did not examine the cases of the specific plaintiffs but rather recommended that the period of appeal over a decision not to open an investigation in these specific cases be extended in order to allow them to request the Attorney General to review the decisions (1265/11 *The Public Committee against Torture et. al. v. The Attorney General* (6.8.12)). Other issues that were still pending in the petition were deleted with the mutual consent of the parties (12.11.12).

256. Following the recommendation of the High Court of Justice regarding a minor amendment to Section 49(9)(1) of the *Police Ordinance*, the issue is under consideration in the Ministry of Justice. Furthermore, as a consequence of the High Court of Justice recommendation, currently all cases in which the Inspector's Supervisor decided not to pursue a criminal investigation are concluded in concurrence with the Deputy State Attorney (Criminal Affairs).

257. In addition, there are several pending petitions before the High Court of Justice on related matters, including: H.C.J 2268/13 and H.C.J. 9132/12 *Anonymous v. The State of Israel* requesting to establish a timeframe for preliminary investigations conducted by the Inspector; H.C.J. 8899/13 *Anonymous v. The Attorney General* regarding the interrogations of women; H.C.J. 5722/12 *A.A.G. et. al. v. The Attorney General et. al.* requesting that the Court instruct the Attorney General and the State Attorney to order a criminal investigation into allegations of abuse and torture by a number of ISA interrogators involved in the interrogation of a suspect.

Question No. 30

Alleged cases of torture, ill-treatment and disproportionate use of force by law enforcement officials

258. Every complaint or report of torture, ill-treatment or disproportionate use of force is investigated promptly by the relevant authorities.

259. A number of sections of the *Penal Law* provide criminal sanctions against acts of torture, as was described in Israel's reply to Question 1 above. Specifically, the *Basic Law: Human Dignity and Liberty* provides that there shall be no violation of the life, body or dignity of any person.

260. Another relevant statutory provision is Section 12 of the *Evidence Ordinance [New Version]* 5731-1971 ("*Evidence Ordinance*") which invalidates any confession made by an accused person which was not freely and voluntarily provided.

261. Section 34M of the *Penal Law* provides the defense of a person's conducting of an act if so obligated or authorized to do so according to the Law (Section 34M(1)), and if the person is acting according to an order of an authorized authority to which she/he was obligated to obey, except if the order was clearly illegal (Section 34M(2)). Where an order

is manifestly illegal, as would be the case with an order to commit acts of torture, the claim that one was acting under such order does not constitute a valid defense for the committing such acts.

262. In addition, the IPS, the ISA, the Police and the Ministry of Public Security are routinely subjected to inspection by the State Comptroller.

Israel Police officers

263. The Police and the Department for Investigation of Police Officers (DIPO) in the Ministry of Justice views instances of police officers' ill-treatment and disproportionate use of force against detainees with the utmost severity.

264. Serious efforts are being undertaken to eliminate any form of such abuse. Cases of alleged violence are thoroughly investigated, using all means to exhaust an investigation and bring to justice those found to be unnecessarily violent or acting in an unreasonable manner.

265. The Police Disciplinary Tribunal is a semi-judicial administrative body which specifically deals with cases concerning unlawful use of force by police officers. It is comprised of two police officers and a public representative and has the purpose of upholding the public's trust in Police treatment of complaints regarding the unlawful use of force. The tribunal may impose penalties ranging between fines, warnings, reprimands, confinement, demotion, or incarceration.

266. In certain cases, when the use of force is relatively trivial, the Department submits complaint fact sheets, reviewed by a single Tribunal judge through an expeditious process, without legal counsel. The Tribunal considers the type of injury, the results of the use of force, the location of the offence, the officer's disciplinary record and her/his personal circumstances.

267. The DIPO is responsible for most criminal investigations against police officers. Disciplinary proceedings are initiated by a complaint submitted to the Disciplinary Department of the Personnel Division at the Police Central Headquarters, or to any of its branches. Administrative sanctions may be imposed at any time during the proceedings, or after they are completed.

Israeli Prisons Service (IPS) personnel

268. Every prisoner or detainee under the care of the IPS has access to the following complaint mechanisms concerning grievances regarding the staff and wardens', including claims of wrongful use of force:

(a) Filing a complaint to the Director of the prison;

(b) Petitioning the relevant District Court in a prisoner's petition, in accordance with Section 62A of the *Prisons Ordinance*, and the *Procedures (Prisoners Petitions) Regulations* 5740-1980;

(c) Filing a complaint to the Unit for Investigation of Wardens ("UIW"), through the IPS or directly to the Unit. This Unit is part of the Police, and its members are police officers. The findings of the UIW are subject to the State Attorney's Office scrutiny, who decides whether to institute disciplinary measures or criminal proceedings;

(d) Filing a complaint to the Prisoners Complaint Ombudsman, which is part of the Ministry of Public Security's Internal Comptroller Unit. Following the completion of such an inquiry of a complaint, and based on its findings, the complaint will either be forwarded to the UIW or the Disciplinary Branch of the IPS;

(e) Requesting a personal visit of an official visitor appointed by the Minister of Public Security, according to Section 72B of the *Prisons Ordinance*.

269. In addition, Section 71 of the *Prisons Ordinance* establishes rules for Official Visitors in prisons. These Visitors are appointed by the Minister of Public Security and are comprised of lawyers from the Ministry of Justice as well as few representatives of the Israel Bar Association who are appointed on a yearly basis, either for a specific prison, or nationwide. Section 72 of the *Prisons Ordinance* grants Official Visitor authority to Supreme Court judges, the Attorney General, the Chairpersons of the Internal Affairs and Environment Committee and the Constitution, Law and Justice Committee of the Knesset in prisons throughout Israel; to District and Magistrates Courts judges, in prisons in their jurisdiction. Official Visitors are allowed to enter the prisons at any given time (unless special temporary circumstances apply), to inspect the state of affairs, prisoners' care, prison management, etc. During these visits, the prisoners may approach the visitors and present their complaints, including grievances pertaining to use of force. As mentioned above, prisoners may also make a complaint to the Director of the prison and during an Official Visitor's visit, request for an interview with such a Visitor. Attorney General's Guideline (No. 4.1201. (1.5.75), updated – 1.9.2002) broadened the Official Visitors' scope of the above to also include detention cells in police stations and courts. ICRC personnel also conduct visits to prison facilities.

Israel Security Agency (ISA) interrogators

270. The ISA and its employees must act within the limits of the law and are subject to both internal and external supervision and review. This includes review by the Inspector for Complaints, by the State Comptroller, the State Attorney's Office, the Attorney General, the Knesset and every instance of the courts, including the High Court of Justice.

271. Such mechanisms for supervision of the ISA are provided for in the *Israel Security Agency Law* 5762-2002, which aim to ensure that the ISA acts according to its mandate and within the scope of its legislated functions, and that its members do not engage in ill treatment or disproportionate use of force.

Alleged cases of torture, ill-treatment and disproportionate use of force made before a prosecutor or judge

272. If the complaint of abuse is brought before a judge, the practice requires that she/he shall document the complaint in the court records and refer it for an investigation by the Police (in cases where the suspicion of abuse is by a civilian), or to the DIPO (in cases where the suspect of abuse is a police officer).

273. If the complaint of abuse is brought before a prosecutor, according to internal directives she/he shall document the complaint in an official memo and refer it to the Police (in cases where the suspicion of abuse is by a civilian), or to the DIPO (in cases where the suspect of abuse is a police officer). Furthermore, according to Israeli Law and courts rulings when the complaint is made by a suspect or a defendant, claiming to have been subjected to violence by the ISA, IPS or the Police, where the suspect or the defendant was investigated by the DIPO, the prosecutor should receive and forward any investigation material obtained from the DIPO to the defense lawyer, as part of her/his handling of the criminal case.

Medical treatment and reports to the authorities in cases of violence

274. During general medical training, physicians, nurses and medical staff are all taught to detect, and how to provide special treatment to, victims of violence, including victims of torture, abuse and rape. Awareness of special sensitivity required towards women and

children is also taught. Physicians and medical staff are guided to pay attention to signs of violence, and to ask particular questions according to a questioning form. There is an obligation on physicians to note any suspicion of abuse and to immediately report to the Police each case in which such a suspicion arises. If there are distinct physical injuries indicating violence, the physician must ask the patient specific questions surrounding the circumstances in which they occurred, and must make a medical record of her/his suspicion of violence as well as the examinee's answers.

275. Victims of rape are usually transferred to rape centers. The staff of these centers include physicians, nurses and social workers who are specifically trained in this area; with the medical staff having participated in a specialized, three month course held in the United States. These centers are adapted to providing immediate medical services to rape victims and are equipped with technology for collecting and analyzing relevant evidence for possible indictment.

276. In instances where a victim is identified several weeks or months after a rape has occurred, they are not generally transferred to these rape centers but rather are referred for general medical treatment by a doctor (given the inability to collect relevant physical evidence weeks after a rape event). Where the doctor or member of the medical staff is satisfied that there is possible mental injury due to the event, even in instances where the victim does not have physical injuries, the victim is referred to a psychiatrist.

Question No. 31

277. Israel does not hold persons in secret facilities. Allegations of torture and ill-treatment in facility 1391 ("facility") were investigated by the competent authorities, and no grounds for criminal proceedings against any of the facility's staff members were found. This issue was later examined by the High Court of Justice, which upheld the findings.

278. To date, no detainee was held in the facility since 2006.

279. On January 20, 2011 the High Court of Justice dismissed a petition filed by Member of Knesset (MK) Zehava Gal-On and the Center of the Defense of the Individual, in which the petitioners requested the Court to reveal the location of facility 1391 and to allow members of the Knesset to visit the detention facility. The Court determined, *inter alia*, that the balance between the competing interests in the present case, namely parliamentary review of the facility to ensure protection of basic rights of detained individuals, versus national security interests, justified restricting the visit of Knesset members to the facility. As the State explained to the Court, specific permission had already been granted to MKs who were members of the Secret Services Subcommittee of the Foreign Affairs and Defense Committee of the Knesset. The Court ruled that this permission guaranteed that the public interest in the existence of parliamentary review of the facility was being upheld, whilst simultaneously the public interest in keeping the location of the facility unidentified for security reasons.

280. The Court further noted that the existence of the facility was publicly known and was not denied by the State. According to the procedures, the detention of a detainee in the facility was subject to authorization by senior staff and the duration of their detention at the facility was short. The Court noted that the relevant bodies would be notified on the arrest of a person and that people would not "disappear" when they were brought to the facility. In addition, an address for inquiries for the submissions of requests was provided. The Court ruled that the procedures of the facility were in accordance with Israeli and international law.

281. The Court concluded that although the arrangement formulated by the State harmed the rights of the detainees and their families to receive information of the exact location of the facility, this harm was proportionate to the threat posed by exposing the location, due to

security considerations. The Court held the harm was proportionate due to three restrictions provided for in the State's arrangement for the facility. First, people who were Israeli citizens or West Bank residents were not to be held in the facility. Second, only senior staff would be allowed to authorize the detention of a person at the facility. Third, the maximum length of detention at the facility was very short, as the main goal of the facility was use as interrogation facility in special security circumstances (H.C.J. 8102/03 *MK Zehava Galon v. The Minister of Defense*, and H.C.J. 9733/03 *The Center for the Defense of the Individual v. The State of Israel* (20. 1.11)).

Question No. 32

282. The following table indicates the number of Security Prisoners from the West Bank in Israeli prisons:

Table No. 7
Total Number of Prisoners – Residents of the West Bank – Security Prisoners 2013

	Sentenced	*Detained*	***Total***
Men	2,689	3,490	**6,209**
Women	8	11	**19**
Total	**3,498**	**2,700**	**6,228**

Ministry of Public Security, August 2014.

* Another 30 prisoners are currently not considered sentenced nor detained and possibly are being shifted from one category to another.

283. Please see Israel's reply to Question 11 above regarding family visits of families of Palestinian prisoners from Gaza Strip and from the West Bank.

Question No. 33

Detention and imprisonment of minors in Israeli legislation

284. Arrest and detention of minors is regulated by the Youth Law (Trial, Punishment and Modes of Treatment) 5731-1971 ("Youth Law – Trial"). Amendment No. 14 to the Law, which entered into force in July 2009, greatly improved the treatment of minors in detention and subsequent criminal proceedings.

285. Section 10A of the Youth Law – Trial, titled "Detention of Youths as a Last Resort and Consideration for Arrest" expressly stipulates that a minor shall not be subjected to arrest if there is a way to achieve the goal of the detention through an alternative measure which impairs her/his liberty to a lesser extent; More so, it stipulates that the detention must be for the shortest time possible. When deciding to detain a minor, considerations including her/his age as well as the potential effects of detention on her/his physical and mental wellbeing, and her/his development, will all be taken into account.

286. Furthermore, Section 10C of the Youth Law – Trial stipulates that a minor under 14 will be arraigned before a judge after 12 hours.

287. Section 25 of the Youth Law – Trial stipulates that a minor may be kept in a closed residence in lieu of a detention. Additionally, in cases where there are mandatory maximum punishments stipulated by law there is no obligation to sentence minors to life imprisonment, mandatory punishments or minimum punishments, notwithstanding other provision of the law. The Section further stipulates that when sentencing a minor, the

Juvenile Court shall consider her/his age at the time of committing the offence. A minor who is under fourteen at the time of sentencing shall not be subjected to imprisonment.

288. Section 26 of the Youth Law – Trial provides alternative measures which the Juvenile Court may order in lieu of imprisonment, including: placing the minor under probation; receiving a commitment from the minor or her/his parent regarding her/his future conduct; placing the minor in a closed residence facility; charging the minor or her/his parent with a fine, trial expenses or compensation to the injured party.

Representation of minors charged with criminal offences

289. Pursuant to section 18(a)(7) of the *Public Defender Law*, the *Public Defender Order*, and the *Public Defender Regulations*, all minors who are detained for investigation are eligible to representation by a public defender.

290. The Public Defender Office represents a significant portion of minors who are ultimately charged with criminal offences. In 2013, 14,464 proceedings were conducted in Juvenile Courts which constituted approximately 13% of the proceedings conducted by the Public Defender Office that year. In 2012, 15,484 proceedings were conducted in Juvenile Courts which constituted approximately 14% of the proceedings conducted by the Public Defender Office that year.

291. Representation of minors requires expertise in the specialized law that relates to minors; a specialization that the Public Defender Office has acquired. Lawyer-client relationships in the field also require flexibility and creativity, focusing on representation of the minor to seek a holistic approach to her/his treatment. To this end, the Public Defender Office dedicates significant efforts to finding adequate private therapeutic frameworks to present to the Juvenile Courts as alternatives to detention.

Solitary confinement of minors

292. Regulation 13 of the Youth Law (Trial, Punishment and Modes of Treatment)(Conditions of Holding a Minor in Detention or Imprisonment) 5773-2012 ("Youth Law – Trial Regulations") determines that a confinement cell where a minor is being held shall be located within the wing where other prisoners or detainees are being held, so that the minor may maintain eye contact with the IPS wing's staff. The regulation further provides that prison healthcare staff shall monitor the condition of such a minor, as the situation may require. Regulation 11 of the Youth Law – Trial Regulations requires that the minor's parents be informed if a punishment of solitary confinement was imposed on their child.

Education of children in detention

293. A wide range of education services are provided to children in detention, including classes operated by the Ministry of Education that are available in the different prisons. For example, in the Juvenile Ofek Prison there are 10 classes for minors who are Israeli residents that create a continuity of the minor's education in the community and allow the detained minor to take the matriculation certificate.

294. All the teachers in the prison school have the proper qualifications and certification from the Ministry of Education. The classes are overseen by the Ministry of Education and the Unit for the Promotion of Youth, regardless of the nature of crimes the child has committed.

295. Furthermore, please see Israel's reply to Question 7 above.

Articles 12 and 13

Question No. 34

296. All complaints submitted to the Inspector for Complaints against ISA Interrogators ("Inspector") are examined independently, impartially and properly. So far, these complaints have not resulted in any prosecutions. However, some of them prompted changes in procedures and methods of interrogation.

297. The new Inspector has been conducting an examination of all of the means available to her in her new position. In addition, with the aim of expanding the transparency of the examination process, the Inspector conducted several meeting with representatives of the ICRC and of several non-governmental organizations.

298. In 2014, for the first time, testimonies were collected from detainees who were interrogated and were released. In addition, also for the first time, representatives of an NGO were allowed to be present in a meeting between the Inspector and a complainant – also with the aim of increasing the transparency of this process.

299. Following complaints of lengthy examinations of complaints, the Inspector, geared towards closing examinations that are overdue and with the purpose of curbing current examinations, is working to close all open complaint files regarding complaints that were served before 2013.

300. It should be mentioned that between the years 2009-2012 the vast majority of complaints submitted to the Inspector were forwarded to the Inspector by the ISA interrogators themselves, after they received complaints from interrogatees.

301. For further information regarding the Inspector please see Israel's reply to Question 29 above.

Question No. 35

Additional information of cases against police officers which concluded with a conviction

302. In 2009, 68 cases against police officers concluded with convictions. The penalties imposed in these cases included:

(a) In six cases, the offenders were sentenced to imprisonment, suspended imprisonment and compensation to the complainant or a fine;

(b) In 15 cases, the offenders were sentenced to imprisonment to be served as community service, together with suspended imprisonment and compensation to the complainant or a fine;

(c) In 20 cases, the offenders were sentenced to suspended imprisonment and compensation to the complainant or a fine;

(d) In 26 cases, the offenders were sentenced to community service and/or compensation to the complainant.

303. Since 2009, hundreds of additional cases regarding alleged use of force by police officers were investigated by the DIPO. However, the number of such cases has declined over the years: in 2010 – 679 cases; in 2011 – 526 cases; in 2012 – 344 cases (and an additional 74 cases in which an initial investigation was conducted); in 2013 – 197 cases (and an additional 91 cases in which an initial investigation was conducted). These cases alleging use of force include a variety of claims and complaints, with varied levels of violence and severity and only few of them amounting to abuse. It should be mentioned that

the DIPO data system is not divided into claims or findings of abuse and therefore the cases cannot be presented according to this information.

304. A relevant case of alleged Police abuse was decided by the Jerusalem Magistrate and then District Court. On September 13, 2009, the Jerusalem District Court accepted an appeal filed by the two appellants against four policemen requesting to increase the compensation granted to them by the Jerusalem Magistrate Court. The Magistrate Court had found that the four policemen had attacked the appellants while they themselves were not subject to any danger. According to the Jerusalem Magistrates Court's ruling, after the appellants showed their valid entry permit to Israel to the policemen, they asked to search them and took them to a nearby forest, where the policemen attacked and hit them on their face, shoulders and back. The Court held, upon consideration of the physical injuries, in addition to the sense of helplessness, humiliation, insult and mental suffering, sustained, and the violation of the petitioners' right to dignity – the compensation should be raised. It awarded each of the appellants compensation of 40,000 NIS (10,498 USD) (instead of 10,000 NIS (2,624 USD)) and 15,000 NIS (3,937 USD) worth of expenses (C.A. 3128/09 (Jerusalem District Court) *Anonymous et. al. v. The Israel Police et. al.* (13.09.09)).

Israeli Prisons Service (IPS) officials accused of abuse

305. In recent years, the following criminal proceedings were filed against IPS wardens for allegations of use of force: against three wardens in 2013, against one warden in 2012, against four wardens in 2011 (two of which were involved in the same case), against two wardens in 2010 and against one warden in 2009.

306. The number of complaints against wardens using force against prisoners has been declining over the past four years, relative to earlier years. In 2014 (until the end of June) 25 cases were investigated by the Unit for the Investigation of Wardens (UIW) which is a part of the Police, resulting in the filing of four disciplinary statements of claim. In 2013, 57 cases were investigated by the UIW, resulting in the filing of six disciplinary statements of claim. In 2012 (until the End of October) 98 complaints were handled by the Unit for the Investigation of Prison Wardens which is a part of the Police, resulting in the filing of two disciplinary statements of claim. The most common disciplinary measures imposed upon wardens were severe reprimands, fines, confinement and suspended imprisonment. In 2011, 132 complaints were handled, resulting in three disciplinary statements of claim and one disciplinary procedure before the IPS Disciplinary Tribunal. In 2010 the unit handled 109 complaints which resulted in nine indictments and four disciplinary procedures before the IPS Disciplinary Tribunal. Finally, during 2009, the UIW handled 185 complaints which resulted in three disciplinary charges in the IPS Disciplinary Tribunal and two disciplinary procedures before the IPS Disciplinary Tribunal. The most common disciplinary measures imposed by the Tribunal were severe reprimands, fines, confinement to their place of employment and suspended imprisonment.

307. For example, on June 3, 2012 the IPS Disciplinary Tribunal sentenced a warden who was convicted of unlawful use of force, to five days of detention and seven days suspended imprisonment. On June 11, 2012 the IPS Disciplinary Tribunal convicted a warden of unlawful use of force and sentenced him to a fine and five days suspended imprisonment. On July 9, 2012 the IPS Disciplinary Tribunal sentenced a warden who was convicted in unlawful use of force to seven days suspended imprisonment and a fine.

IDF soldiers accused of abuse

308. In November 2012, the Military District Court convicted two IDF soldiers of assault under aggravated circumstances, and sentenced one of them to six and a half months imprisonment and the other to five and a half months imprisonment. The soldiers were also sentenced to suspended imprisonment and had their ranks demoted. This case involved

circumstance in which a military unit was responsible for capturing and holding a Palestinian who had infiltrated Israel from the Gaza Strip. However, two of the soldiers, instead of holding the Palestinian as required according to the IDF regulations, beat him, while filming the incident with their cellular phone. The Military Court ruled that these soldiers exploited the helplessness of the Palestinian who was handcuffed and blind folded and harmed the integrity of his body and his human dignity. The Court approved a plea bargain reached by the parties while taking into consideration the defendants' personal circumstances. Additional two soldiers who were involved in this incident were also charged with assault under aggravated circumstances.

309. In another case, an IDF soldier was charged with assault and improper conduct by a soldier. According to the indictment dated October 2012, after legally detaining a Palestinian at a checkpoint and handcuffing him, the soldier proceeded to beat and kick the detainee unlawfully.

Question No. 36

310. For further information regarding the Inspector for Complaints against the ISA Interrogators please see Israel's reply to Question 29 above.

Question No. 37

311. Please see Israel's reply to Question 7 above.

Question No. 38

312. Israel is unable to provide additional data regarding this matter since this information is classified for national security reasons. Note that all proceedings concerning this matter are under close judicial scrutiny**.**

Question No. 39

Submission of complaints regarding alleged ill-treatment at IPS facilities

313. The IPS allows prisoners to file their complaints directly to the Unit for Investigation of Wardens (UIW) within the Police, either by phone, in writing via a closed envelope which can be placed in a designated mailbox inside the prison, or through the Prison Director. Please see Israel's reply to question 35 above for further information on this matter.

314. During 2011 the Unit for Investigation of Wardens (UIW) within the Police was connected to the IPS computer systems to enable the Unit's access to videos and photographs of the public areas of various prisons. The measure provides the UIW access to the best material available to fulfill its role in investigating any misconduct by prison wardens.

315. Additionally, over the past few years, digital cameras have been placed in all IPS medical clinics, and according to prison orders, any prisoner who complains about physical injury resulting from an alleged use of force (by another prisoner of by a warden) is photographed by the medic, and the documentation is maintained in the IPS computer system.

Submission of complaints regarding alleged ill-treatment by the police

316. The Police and the DIPO in the Ministry of Justice views instances of police officers' ill-treatment and disproportionate use of force against detainees with the utmost

severity and if found guilty of such conduct, are dealt with accordingly, as described in Israel's reply to Question 35 above.

317. State Attorney's Guideline number 2.18 "Prosecution Policy in Cases in Which a Suspect of an Offence against an Officer Complains of Use of Force by an Officer" stipulates several principles which improve the complaint mechanism process and the review of complaints regarding police officers' violence. First, a complaint regarding use of force by police officer will be prioritized, in terms of handling, over an opposite investigation, in which a person is claimed to have used force against a police officer (i.e. forceful resistance of arrest, escaping legal custody, etc.). An indictment will not be filed against a person who used force against a police officer, until permission is obtained from the DIPO. Second, the prosecutor handling the case of a complaint by an individual against a police officer must verify that the Police have transferred all the relevant materials to the DIPO to investigate the complaint.

Submission of complaints regarding alleged ill-treatment by ISA interrogators

318. For further information regarding the Inspector for Complaints against the ISA Interrogators please see Israel's reply to Question 29 above.

Obtaining medical records in cases of abuse

319. A complainant, who claims to be a victim of ill-treatment or torture and wishes to obtain medical records, can do so in two ways. One is receiving medical documentation from the medical facility in which she/he was treated. If the complainant was detained, there is an obligation that the detainee be examined upon entering the facility and the detainee is also subsequently entitled to receive medical care at any time upon request. The documentation of these examinations is included as investigation material, if any suspicion of abuse or torture is being investigated. The second method is conducting a "Clinical Forensic Examination" within the Forensic Institute (or an autopsy, if the complainant is deceased). The examination by the Forensic Institute depends on the suitability of the case for such an examination: for legal conclusions cannot be reached for each and every physical injury. The investigation authorities, including the DIPO, maintain a direct connection with the Forensic Institute, including consultation regarding any conclusions which may be adduced from a pathological examination.

Question No. 40

Israeli Prisons Service (IPS)

320. According to Israeli Prisons Service Directives, in any case where a prisoner alleges she/he had been harmed through use of force, she/he is almost immediately questioned by the Prison Director or the Deputy Director, and any claim of unlawful use of force is immediately and directly reported to the Unit for Investigation of Wardens (UIW) within the Police, and to the relevant staff.

321. Furthermore, when the UIW opens an investigation against a warden pursuant to a complaint by a prisoner, simultaneous measures are taken according to instructions, to guarantee separation between the complaining prisoner and the warden.

Israel Police

322. Detainees and prisoners in Israel are under the responsibility of the IPS. Therefore, if they exercise their rights and lodge a complaint against police officers while in a detention facility or prison, they are not under the authority of the subjects of complaint, consequently there is no fear of retaliation.

323. Moreover, Section 249 of the *Penal Law* stipulates that harassing any witness in an investigation or a trial constitutes a criminal offence. Consequently, if such crimes are committed, a complaint can be filed, and will be addressed accordingly.

Question No. 41

Independence of the judiciary in Israel

324. According to Basic *Law: The Judiciary*, the courts and tribunals throughout Israel must adhere to strict principles of independence from the two other branches of government. The *Basic Law*: *The Judiciary* further provides that all judges must be independent from political and financial persuasions, and are subject only to the law; "[a] person in whom judicial power is vested shall, in judicial matters, be subject to no authority but that of the law." This applies to any person vested with judicial power (i.e. in administrative tribunals).

325. Other principles the judiciary in Israel must abide by are neutrality, fairness, impartiality, and objectivity. There is no trial by jury in Israel and court sessions are open to the public, with only a few exceptions in cases requiring the protection of a victim or witness, national security issues or discretion of the judge in circumstances of a particular case.

326. The independence of the Israeli judiciary is further demonstrated through the selection process of judges. Judicial appointments are a-political. According to the *Basic Law: The Judiciary*, selection is carried out by the Judicial Selection Committee, which is chaired by the Minister of Justice and further composed of the Chief Justice of the Supreme Court, two other judges of the Supreme Court, a Government Minister (chosen by the Government), two Members of the Knesset (chosen by the Knesset) and two representatives of the Israel Bar Association. The cross-section of the Committee ensures that there are representatives from all three branches of government and the legal profession.

327. The process of electing judges is regulated by the *Judiciary Rules (Working Procedures of the Judicial Selection Committee)* 5744 – 1984. As part of the process the candidates list is published in the Israeli Official Records, following which, every citizen may contact the Committee within 20 days with a reasoned explanation of opposition to a particular candidate. Only after the publication interviews are conducted with the candidates by a subcommittee of the Judicial Selection Committee. Following this, a final decision over whether to confirm or reject a candidate is made by the Committee.

328. Judicial independence continues through the judge's term of office. The *Basic Law: The Judiciary* guarantees that judicial appointment is permanent. According to the *Courts Law*, the term expires when a judge reaches the age of 70 or upon resignation. According to Section 7(4) and 7(5) of the *Basic Law: the Judiciary*, a judge may only be removed from office following a decision by the Disciplinary Court or upon a decision of the Judicial Selection Committee at the proposal of the Minister of Justice, the Ombudsmen of the Israeli Judiciary or Chief Justice of the Supreme Court. Such a decision must be supported by seven of the nine Committee members.

Training on the prohibition of torture and ill-treatment for lawyers and judges

329. The Institute of Legal Training for Attorneys and Legal Advisers in the Ministry of Justice ("Institute") has frequently conducts many seminars, courses and vocational training days attended by hundreds of legal practitioners, to raise the awareness within the legal profession about human rights issues including those related to torture and ill-treatment. Various training courses during 2009-2014 focused on the following issues:

(a) **Trafficking in persons** – Legal aid to trafficked victims, treatment of trafficked victims, economical aspects surrounding the trafficking in persons phenomenon, brokers fees as a trafficking against persons offence for the purpose of slavery, NGOs whose work relates to trafficking in persons (October 22, 2009; March 16, 2010; October 16, 2013);

(b) **Women and the law** – Women in incarceration, women as offenders/in crime, women and terrorism (January 26, 2012; March 20, 2014);

(c) **Domestic violence and sex crimes** – release on probation and the protection of the public from sex offenders, the prevention of violence, rehabilitation of prisoners convicted of domestic violence or sex crimes, domestic violence and the issue of protective orders, violence against immigrants, supervision of sex offenders and assessment of the danger they pose, (March 11, 2010; November 15, 2012; December 14, 2014);

(d) **Rights of the child** – The civil and international perspectives, children involved in crime, child representation, children and terrorism, investigations of minors, minors as suspects, detainees and defendants in the criminal process, children victims of sex crimes (May 13, 2010; December 2, 2010; April 1, 2014; September 18, 2014);

(e) **The struggle against racism and discrimination** – Prevention of discrimination in public services, equality in the workplace, the Arab minority in Israeli law, offenses that concern incitement to racism, equality in law (January 30, 2014; October 30, 2014);

(f) **Human Rights and the criminal process** – Rehabilitation of former prisoners, punishment and alternative to punishment (February 27, 2014; July 7, 2014).

330. Similarly, the Institute of Advanced Judicial Studies for Judges also holds lectures, seminars and courses for judges of all instances on various human rights issues. Courses include topics such as trafficking in persons, equality and discrimination, Israeli Arabs (culture and customs), labor laws, social security, and immigration and refugee law.

Article 14

Question No. 42

331. Persons convicted of terrorism related crimes have the same right to appeal as other individuals, as enshrined in Israeli Law.

Right to appeal in Israeli law

332. The right of appeal is enshrined in the *Courts Law (Consolidated Version)* 5744-1984 ("*Courts Law*"), and is considered to be one of the fundamental principles of the Israeli legal system (Section 17 of the *Basic Law: The Judiciary*; Sections 41(a) and 52(a) of the *Courts Law*). As a rule, the right to appeal exists regarding any criminal and civil procedure, in every instance, including military instances. There is also a possibility to request permission for a second appeal; so if a proceedings begins in the Magistrate Court, it is possible (if a second appeal request is accepted) to continue a proceedings up until the highest court in the country, the Israeli Supreme Court (Section 41(b) of the *Courts Law*).

333. Relating to the appellant jurisdiction of the Supreme Court, judges can sit singly on appeals of the following lower court decisions: an interim ruling of a District Court, a sentencing decision of a single District Court judge, or a sentencing or substantive decision of the Magistrate Court. Generally, however, as an appellant court, the Supreme Court will sit as a three judge panel, with a possibility for requesting re-deliberation by an extended quorum (of uneven numbers of judges of five or more) when the case includes fundamental

legal questions and constitutional issues of particular importance (Section 18 of *Basic Law: The Judiciary*, Section 30 of the *Courts Law*). Another possible way is to request a re-trial for various reasons, including a fear of abuse of the law (Section 19 of *Basic Law: The Judiciary*, Section 31 of the *Courts Law*).

334. In practice, the courts mention the option of appeal and the time in which the defendant may make such an appeal, in the written judgment provided to the defendant and her/his lawyers.

335. On March 27, 2011, the *Criminal Procedure Law (Enforcement Powers – Arrests)* was amended so that an appeal of a District Court decision concerning arrest and release must be subject to the Supreme Court's approval (Amendment No. 8). Before Section 53(a)-(a1)(1) was amended, appeal to the Supreme Court was not subject to such an approval.

Question No. 43

Compensation for victims of torture and ill-treatment

336. Israeli legislation provides the same monetary compensation regime and relevant rules for all victims; irrespective if they are victims of an offence whose circumstances contained torture or any other form of abuse and ill-treatment, or other offences.

337. Section 77 of the *Penal Law* authorizes the courts to include as part of sentencing, monetary compensation to the victim of an offence, up to the limit of 258,000 NIS (67,716 USD). The victim has a right to write a Victim Impact Statement which describes her/his damages including relevant documentation according to Section 18 of the *Rights of Victims of Crime Law*. Furthermore, the prosecutor may, when necessary, inform the victim as to ways to obtain the documentation and evidence required for determining the damages.

338. A convicted person can be required to pay compensation for the damage or suffering caused to the victim, depending on the offences which were committed, the extent of damage or injuries caused and other relevant circumstantial factors of the case. The amount of compensation to be provided will be either the value of the damage or suffering caused on the day the offence was committed, or alternatively the value of such damage and suffering on the day the decision of compensation is rendered, whichever is greater. For purposes of collection, compensation under this section is treated like a fine. Furthermore, any amount paid or collected on account of a fine when compensation is also due, shall first be allocated to compensation.

339. It should be noted that a convicted person who is required to pay compensation according to Section 77 of the *Penal Law* does not pay directly to the victim of the crime, but rather through the court. Hence, there is no direct contact created between the perpetrator and the victim. If the convicted person fails to pay the compensation on schedule, the Center for Collection of Fines, Fees, and Expenses, an auxiliary unit of the Ministry of Justice, proceeds to collect the relevant sum and the victim is not required to take action through the Executions Office.

340. The provision of compensation as part of sentencing is aimed to ease the victim's suffering and to prevent the need to conduct a separate civil procedure for compensation and from enduring once again the difficulties of the legal process, including testifying and cross examination.

341. Since January 2013, according to section 3A of the *Center for Collection of Fines, Fees, and Expenses Law* 5755-1995, if the court includes compensation under section 77 of the *Penal Law* to a victim who is a minor, the Center for Collection of Fines, Fees, and

Expenses will pay up to 10,000 NIS (2,624 USD) immediately to the victim, regardless of whether the offender paid the money.

342. It should be noted that compensation available under Section 77 of the *Penal Law* does not restrict the victim's right to seek compensation under any other laws, such as under the *Tort Ordinance [New Version]* 5728-1968. More so, Section 77 does not restrict a victim from receiving representation from the Legal Aid Administration in such civil suits (depending on eligibility criteria).

343. If a victim of an offence believes that the amount of compensation the court awarded under Section 77 of the *Penal Law* is inadequate, and wishes to file a civil lawsuit against the convicted person, with or without others, she/he is entitled to do so through two different procedures. First, the victim may file a civil lawsuit according to Section 77 of the *Courts Law*. Such a lawsuit can be filed only against the convicted person and is submitted to the court that convicted the perpetrator and to the same judge. All factual determinations made during the criminal proceedings are admissible in the civil case without the need for the victim to reprove them. The second option is to file an ordinary and independent civil lawsuit, whether against the convicted person or against him/her and others parties who might also be liable for compensation to the victim.

Committee on claims by medical staff regarding alleged damages caused to detainees

344. In January 2012, the Ministry of Health's Deputy Director General appointed a committee to examine medical staff reports of injuries sustained by detainees, which medical staff claimed had occurred during interrogation procedures. Five distinguished members were appointed to take part in this committee, headed by Professor Tzvika Shtern. On May 2014 the appointment was revised to include four distinguished members, still headed by Professor Tzvika Shtern.

345. The committee is authorized to examine medical staff complaints by approaching relevant organizations and authorities in order to receive their responses and to recommend to the Ministry of Health the proper procedures required to handle the case. The committee is further authorized to forward such reports to the relevant authorities and to make recommendations to the Ministry of Health and the Israeli Medical Association's Ethics Board, as to continued inquiries and procedures into the matter. The committee received and examined a complaint from an NGO, after which the committee found that there was no need for it to continue handling the particular matter because the incident had already been reported to the DIPO and an indictment was filed.

Question No. 44

346. Please see Israel's reply to Question 43 above regarding compensation to victims of torture and ill-treatment.

347. As for Israel's pardon policy, Israel's Law does not make any reference to alleged torture or abuse of detainees or prisoners and the issue of their ability to claim compensation as part of their pardons.

Article 15

Question No. 45

348. The Supreme Court ruling in C.A. 5121/98 *Prv. Yisascharov v. The Head Military Prosecutor et. al*. (4.5.06) created new case law regarding the admissibility of evidence obtained illegitimately in Israel. In that case, the Supreme Court recognized two avenues for examining the admissibility of a suspect's confession. Firstly, via Section 12 of the

Evidence Ordinance which stipulates that a confession by a suspect, and later a defendant, which was obtained through illegal measures impairing her/his free will to admit the commitment of the crimes of which she/he was accused, cannot be admitted as evidence in her/his trial. Secondly, a doctrine by which the court has discretion to invalidate the admissibility of evidence in a criminal proceeding, if it ascertained that it was obtained illegally and that using it during the trial would be a serious infringement upon the accused's right to a fair trial. The *Yisascharov* ruling was later developed in several other fundamental Supreme Court cases, and the development of the doctrine of inadmissibility of evidence is still an ongoing process within the Israeli legal system, as stated by the Supreme Court (C.A. 2939/09 *Filza v. The State of Israel* (15.10.09)).

349. On August 1, 2011, the Supreme Court denied an appeal filed by Mr. Eitan Farhi against The State of Israel, in which the petitioner appealed against his conviction by the Tel Aviv District Court for severe sexual offences and, in the alternative, against his sentence. The petitioner claimed that his conviction was based on, *inter alia*, central evidence that was obtained illegally since he agreed to give a DNA sample to the Police on condition that this sample only be used for the investigation of a particular murder case and not for the investigation of any other crimes.

350. The Court determined that using the DNA sample as evidence would infringe upon the petitioner's right to due process and to privacy and therefore concluded that the evidence should be excluded for use as evidence for deciding other crimes committed. Furthermore, the Court determined that a different DNA sample that was taken from the petitioner's cigarette in a later stage of the investigation should also be excluded, since it was taken with the purpose of legalizing the earlier DNA sample and to ensure its admissibility. The Court relied on the *Yisascharov* ruling and the evidentiary doctrine of relativism, which provides the Court with discretion to exclude evidence which stems from the central evidence. However, even after excluding both DNA samples, the Court ruled that the evidential basis was well established in this case, and so the appeal should therefore be denied (Cr.A. 4988/08 *Eitan Farhi v. The State of Israel* (01.8.11)).

351. On November 4, 2009 the High Court of Justice accepted an appeal filed by Mr. Assaf Shay regarding his conviction in the District Court of manslaughter, where he had been found responsible for a fatal car accident. The conviction was based on his statements made in the police station after the accident. The Supreme Court found that the statements were given contrary to the *Yisascharov* ruling, as the right to consult a lawyer was breached in two main aspects. First, the police investigator did not notify the accused before he was questioned, regarding his right to consultation with a lawyer. Second, the investigation continued despite the accused's request to consult with a lawyer. The Court ruled that this constituted a grave violation of the right to legal consultation, and so the statement was inadmissible as evidence. Following the Court's exclusion of such illegally obtained evidence, the accused was convicted of the lesser crime of causing death by negligence (Cr.A. 9956/05 *Assaf Shay v. The State of Israel* (04.11.09)).

352. On September 22, 2009, the Supreme Court acquitted the late Mr. Yoni Elzam who had been accused of murder, after disqualifying his confession, which the Court held had been obtained by illegal methods. Mr. Elzam had confessed the crime to uncover police officers, who had pretended to be his cellmates in order to extract a confession. The Court held this was a violation of the defendant's rights to remain silent, to legal consultation, and to a fair trial. The defendant was subsequently murdered after his confession and several hours before he was scheduled to testify against another detainee. The Court further criticized the police investigators for not allowing the defendant to meet with his new lawyer when he had requested to do so. Section 34(6) of the *Criminal Procedure Law (Enforcement Powers – Arrests)* allows the meeting with legal counsel to be postponed under unique circumstances, and pursuant to a detailed decision in writing providing the

reasons for such a delay. In this case, the Police had decided to postpone the meeting because they suspected that the suspect was on the verge of confessing to investigators (after he had confessed to the undercover policemen). However, the Court held that this was not a legitimate reason for postponing consultation with a lawyer, and thus acquitted the defendant posthumously (C.A. 1301/06 *Yoni Elzam's Estate v. The State of Israel* (22.9.09)).

353. In regard to Mr. Islam Dar Ayoub, please see Israel's reply to Question 7 above.

Question No. 46

354. This issue is being discussed by an Advisory Committee to the Minister of Justice on the issue of criminal procedure and evidence. The committee, headed by Supreme Court Judge Edna Arbel, has held several meetings regarding the amendment of Section 12 of the Evidence Ordinance and the discussions are ongoing.

355. Please see Israel's reply to Question 45 above regarding the current legal position of the inadmissibility of evidence (and specifically confessions) obtained by illegal methods.

Article 16

Question No. 47

356. In regard to the Jahalin tribe, please see Israel's reply to Question 7 above.

Rights of minorities in Israel

357. Rights of minorities in Israel are protected in various ways, by a series of legislative acts, regulations, case law and Government Resolutions. These legal measures ensure that, in addition to other rights, minorities are guaranteed equality under Israeli Law.

Equality in the Basic Law: Human Dignity and Liberty

358. The principle of equality is a fundamental principle in the Israeli legal system as apparent both in legislation and case law.

359. The *Basic Law: Human Dignity and Liberty*, protects basic guarantees of personal freedom within the framework of Israel's Jewish and democratic character. This Basic Law stipulates, *inter alia*, that: There shall be no violation of the life, body or dignity of any person; There shall be no violation of the property of a person; All persons are entitled to protection of their life, body and dignity; There shall be no deprivation or restriction of the liberty of a person by imprisonment, arrest, extradition or otherwise (unless as provided by law); There shall be no violation of rights under this Basic Law except by a law befitting the values of the State of Israel, enacted for a proper purpose, and to an extent no greater than is required.

360. The Israeli judiciary, spearheaded by the Supreme Court, has a significant role in interpreting, guiding and promoting the principle of equality and the prohibition on discrimination, in the context of contentious and politically-charged or security-related issues.

Legislation

361. The right to equality, to be enjoyed by all populations in Israel, is enshrined in several legislative acts, in order to relay a clear and unequivocal message regarding the importance of this right and, accordingly, the importance of the duty to exercise equality and the prohibition of discrimination within the Israeli legal system.

362. For example, *The Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law* 5761-2000 ("*Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*") prohibits discrimination by an individual operating a public place, to exclude certain groups from use of such a venue. Violation of the Law is both a civil wrong and a criminal offence punishable by fine. The Law applies to the State and has been applied broadly to a host of public places, including schools, libraries, pools, stores, and other places serving the public. Court decisions have upheld this broad interpretation of the Law.

363. Section 3 of the Law prohibits discrimination on the basis of race, religion or religious affiliation, nationality, country of origin, gender, sexual orientation, views, political affiliation, personal status, or parenthood, in the provision of public products or services, and in the permission of entrance to a public place, by an individual who provides such products or services, or operates a public place. Amendment No. 2 of March 30, 2011, broadened the Law's definition for prohibited discrimination by including the act of setting irrelevant terms conditioning the enjoyment of public services or products. In addition, the Law is presumed to be violated, where it has been proven that a defendant delayed the provision of a public service or product or the entrance to a public place for persons related to a certain group indicated in Section 3, while providing without delay, in similar circumstances, for persons who are not related to that group.

364. In addition to this legislation which enshrines the obligation to ensure equality and to prohibit discrimination, and which applies to all citizens of Israel, there are also several laws which offer affirmative action, providing special opportunities for certain minority or disadvantaged groups, which suffer from discrimination. This affirmative action is intended to promote opportunities for minority groups who have historically been discriminated, to provide them with equal access to the rest of society. In the Israeli case such groups include, *inter alia*, Arab, Druze and Circassian and Ethiopian populations.

365. *The Expansion of Adequate Representation for Persons of the Druze Community in the Public Service (Legislative Amendments) Law* 5772-2012 is an example of such legislation. This Law further expanded the already existing affirmative action scheme applicable to persons of the Druze community, by requiring government corporations with more than 50 employees, as well as municipalities in which at least one tenth (but no more than 50%) of the residents are Druze, to apply the Law's affirmative action requirements with respect Druze, for all the positions and ranks within these corporations. The amendment further mandates corporations and municipalities to actively promote the appropriate representation of their employees, by designating specific positions to be fulfilled by Druze candidates and by guiding the corporations and municipalities when considering candidates with equal credentials, to give preference to the applicant belonging to this minority group. These requirements apply to all types of job openings as well as internal promotions within government corporations and municipalities.

366. The Expansion of Adequate Representation for Persons of the Ethiopian Community in the Public Service (Legislative Amendments) Law 5771-2011, is a similar law to provide greater employment opportunities for the Ethiopian community in the public service. Enacted in March 28, 2011, this Law drastically expanded the already existing affirmative action scheme applicable to individuals who were born in Ethiopia or who have at least one parent born in Ethiopia, by requiring Government Ministries and agencies, government corporations with more than 50 employees, and municipalities, to apply the Law's affirmative action requirements with respect to persons of Ethiopian descent, for all the positions and ranks within these bodies. Similar to the equivalent Druze legislation, the amendment requires that such governmental bodies designate specific positions to be fulfilled by candidates of Ethiopian descent and provides guidance to these bodies about

preferential allocation of jobs to Ethiopian candidates, both as new roles and internal promotions.

Case law

367. On June 12, 2013, the Haifa Magistrate Court validated an agreement between the plaintiffs and respondents and awarded each of the plaintiffs 25,000 NIS (6,561 USD) as they were refused by a contractor to purchase an apartment in Acre, allegedly due to the fact they were Arab Israelis. The suit was filed in accordance to the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law. Israel Land Authority was also one of the respondents and as part of the agreement stated that it would, within 90 days, add to its contracts with the entrepreneurs of building projects a sanction of agreed compensations whenever it would find that the entrepreneurs have violated the obligation not to wrongfully discriminate in the process of marketing the apartments to the public (C.M. 12-12-1749 *Sami Huari et. al. v. Moshe Hadif Building and Investments LTD* (12.6.13)).

368. On May 22, 2012, the High Court of Justice accepted petitions filed against the Government of Israel by residents of the Arab and Druze localities of Mazra'a, Kisra-Smia and Beit-Jann. These petitioners challenged the fact that they had not been included among localities eligible for tax benefits, and that the criteria for such eligibility was not defined. The Court ruled that the lack of criteria for determining the tax benefits discriminated the residents of Mazra'a, Kisra-Smia and Beit-Jann, since they were not eligible for tax benefits while adjacent Jewish localities were eligible. This arbitrary distribution of public resources contradicted the Basic Law: Human Dignity and Liberty and infringes upon their basic right to equality. Subsequently the Court granted tax benefits to the residents of Mazra'a, Kisra-Smia and Beit-Jann. However, the Court suspended its Judgment for one year in order to allow the Government and the Knesset to establish clear criteria for eligibility for tax benefits until May 23, 2013. In the absence of new legislation, the three Druze localities: Mazra'a, Kisra-Smia and Beit-Jann have since been receiving tax benefits (H.C.J 8300/02 *Gadban Nasser et. al. v. The Government of Israel et. al.* (22.5.12)).

Question No. 48

369. Please see Israel's reply to Question 7 above.

Question No. 49

370. Please see Israel's reply to Question 7 above.

Question No. 50

371. Please see Israel's reply to Question 7 above.

Question No. 51

Demolition of homes of perpetrators of suicide attacks

372. The demolition of houses resided in by those who committed grave terrorist attacks, such as suicide bombings or kidnappings is a lawful method used in accordance to Regulation 119 of the *Defense Regulations (State of Emergency)* 1945. The legality of this method, used deterrence and not as a punitive measure, was upheld in numerous cases by the Israeli High Court of Justice, relating both to houses situated in the West Bank as well as in Israeli territory.

373. For further elaboration on this matter, see Follow-up responses of Israel to the concluding observations of the Committee against Torture (CAT/C/ISR/CO/4/Add.1), paras. 70-75.

Demolition of structures due to planning violations

374. Urban and regional planning law and polices exist in order to provide structure and facilitate the needs of local populations, both current and future. In Israel, local municipalities, together with the Government, implement urban and regional planning law and polices in order to ensure both individual and public needs are fulfilled. However, there are many houses built without required permits and contrary to various planning laws and planning policies. Illegal constructions have a harmful effect on the broader local population interests, and consequently in some situations the Government and/or local municipalities must decide whether or not to deal with the illegal construction by demolition.

375. All demolitions are decided upon without distinction on the basis of race or ethnic origin of the owner or the tenant of the structure. If demolition of a structure is decided, it is conducted in accordance with due process guarantees. These include the right to a fair hearing, which is subject to judicial review and the right to appeal. Those affected by a demolition order are entitled by law to appeal to the Supreme Court.

376. In 2013 (until August 15), 13 demolition orders against illegal construction were implemented in the eastern neighborhoods of Jerusalem. In one case, the demolition was carried out by the illegal structure's owner. For comparison, in 2013, 46 demolition orders were implemented in the western neighborhoods of Jerusalem. In 2012, 24 demolition orders against illegal construction were executed in the eastern neighborhoods of Jerusalem. In six cases the demolition was carried out by the illegal structure's owner. For comparison, in 2012, 48 demolition orders were implemented in the western neighborhoods of Jerusalem. During 2011, only several demolitions were carried out in the eastern neighborhoods of Jerusalem. In addition, during 2010, 23 structures were demolished.

377. In addition, please see Israel's reply to Question 7 above.

Other Issues

Question No. 52

Arrangement to release Corporal Gilad Shalit in exchange of prisoners

378. During October 2011, Israel agreed to exchange with the Hamas terrorist organization, prisoners convicted of planning, participating in and executing terrorist activities, in order to secure the return of Corporal Gilad Shalit, an IDF solider who had been kidnapped by Hamas and kept in captivity for over five years.

379. As part of this exchange, certain prisoners, serving life sentences for terrorist related activities, which had not yet finished serving their time (some were released after serving short periods of time), were released upon their consent on condition that they would voluntarily leave for other countries instead of returning to the West Bank or Gaza. The periods during which they would not return to the West Bank or Gaza were stipulated in the release arrangements. The exchange did not require them to forgo any of their rights, and deportation orders were not issued. It should be stressed that no one was subjected to forceful exile, and the entire process was based on consent.

380. The arrangements also included provision for some of the released prisoners to gradually return over the course of a few years, subject to coordination with Hamas.

Question No. 53

Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003

381. Following the incessant wave of terrorist attacks in March of 2002, when 135 Israelis were killed and 721 were injured, the Government decided in May 2002 to temporarily suspend the granting of legal status to Palestinians from the West Bank and Gaza living with their Israeli citizens or residents' spouses in Israel. This had previously been recognized through the process, and intention, of creating family unification. Subsequently, the *Citizenship and Entry into Israel Law (Temporary Provision)* 5763-2003 ("*Citizenship Law (Temporary Provision)*") was enacted in July 2003, limiting the possibility of granting residents of the West Bank and Gaza Israeli citizenship, even in situations which had previously called for family unification. Prior to the implementation of the *Citizenship Law (Temporary Provision)*, in dozens of cases, people who had received Israeli status based on family unification reasons, were found to have been involved in various terrorist activities against the Israeli population.

382. The Law enables entry to Israel for the purposes of medical treatment, employment, or other temporary grounds, for an overall period of up to six months.

383. The Law's constitutionality has been scrutinized twice and in January 2012 been upheld by a majority of the High Court of Justice sitting in an extended panel of eleven judges (H.C.J. 466/07, 544/07, 830/07, 5030/07 *MK Zehava Galon et. al. v. The Minister of Interior et. al*. (11.1.12)).

384. The Law has been extended several times and it is currently in force until April 30, 2015.

Question No. 54

385. In regard to para. 15. Please see Israel's reply to Question 6 above.

386. In regard to para. 19. Please see Israel's reply to Questions 2, 25 and 29 above.

387. In regard to para. 20. Please see Israel's reply to Question 35 above.

388. In regard to para. 24. Please see Israel's reply to Questions 16 above.

389. In regard to para. 33. Please see Israel's reply to Question 51 above.

Question No. 55

390. Please see Israel's reply to Question 7 above.

Question No. 56

391. Despite periodic consideration of its position on the matter, Israel is not planning on ratifying the Optional Protocol at this stage as it is not persuaded that this will provide substantial added value to the eradication of torture or ill-treatment, given the well-established mechanisms that already exist in Israel for these purposes. As detailed above and in the previous reports, Israel's legal system affords numerous opportunities, for individual and groups alike, to seek remedies and redress for any alleged violations of CAT. This equally applies to people in detention or imprisonment, who have various internal and judicial mechanisms available should they feel their rights have been infringed.

II. General information on the national human rights situation, including measures and developments relating to the implementation of the Convention

Question No. 57

Significant developments in the legal and institutional Framework regarding human rights

Ratification of the Convention on the Rights of Persons with Disabilities

392. Israel is pleased to report that in September 2012, the Israeli Government ratified the Convention on the Rights of Persons with Disabilities ("CRPD").

393. Israel signed the CRPD on March 30, 2007, and since then undertook extensive work in order to ratify this important Convention, including the examination of relevant legislation and preparation of required legislative amendments.

394. The ratification procedure was led by the Commission for Equal Rights of Persons with Disabilities in the Ministry of Justice, with the participation of other relevant Government Ministries, among them the Ministries of Social Affairs and Social Services, Foreign Affairs and Finance.

395. This ratification is an important step in enhancing the protection of human rights in Israel, particular those of persons with disabilities.

Legislation – general

396. On June 10, 2013, the Knesset approved Amendment No. 26 to the *Religious Judges Law (Dayanim)* 5715-1955, which stipulated at least one of the two representatives (from the Government, Knesset and the Israeli Bar Association) of the Committee in charge of appointments of Religious Judges for the religious Jewish courts in Israel, must be female. Additionally, the 11th member of the Committee must be a rabbinic advocate that will be elected by the Minister of Justice. These amendments are intended to provide better representation for women in this important Committee.

397. In August 2011, Amendment No. 4 to the *Student's Rights Law* 5767-2007 was enacted, which provided that every academic institution must determine modifications accorded to students on account of fertility treatment sessions, pregnancy, childbirth, adoption or receiving a child for foster care or custody. This amendment is intended to promote gender equality and provide solutions for a variety of family units, by increasing the flexibility related to filling academic assignments.

Case law

Police detention and search

398. On October 14, 2012, the Tel Aviv Magistrate Court criticized the Police for an unnecessary detention of a person suspected of theft for 24 hours. The suspect was held in custody on the grounds of potential foiling of investigation efforts and causing risk to a person's security, despite the fact that his questioning had been completed, and thus the investigation had been concluded. The Court held that although this was not a case of false detention (as the detainee was, indeed, a suspect), the arrest was unnecessary and the detainee could have been released by the police officer on duty at the station, without a request for release being filed to the Court (which was what caused such a delay in the release). The Court emphasized that the Police, in its enforcement capacity, should serve as

a role model for all other State authorities in adhering to the letter of the law and not abusing or neglecting to use its authority. The Court reiterated that suspects should be considered innocent until proven guilty, and that mere suspicions should not lead to detention, or unnecessary extended detention, except in unique circumstances stipulated by law (Re.R. 4082-10-12 *The State of Israel v. Shimon Haliyah* (14.10.12)).

399. On January 9, 2011, Haifa's Magistrate Court ruled concerning a lawsuit filed by Dina and Eduard Zorkin against the Police, in which they claimed for compensation due to their psychical injuries caused by the police officer during a search of their apartment. The Court determined that the claimants were unlawfully assaulted by the policemen, and emphasized that the authorities are not exempt from tort liability. The Court ruled in favor of the claimants and awarded them 35,000 NIS (9,186 USD) and 25,000 NIS (6,561 USD) respectively in compensation (C.C. 2599-08 *Dina Zorkin et. al. v. The Israel Police* (9.1.11)).

Due process

400. On April 3, 2013, the High Court of Justice ruled on a petition in which the petitioner claimed he had a right to question, during a judicial review before the Military Court, the ISA interrogator in his case about the extension of his administrative detention. The Military Court denied the request to do so, suggesting rather that the defense lawyer direct his question to the Military Prosecutor, and stated that the decision whether to subpoena an ISA interrogator would depend on the answers provided. The Court ruled that although ISA interrogators could be subpoenaed to appear before a Military Court for the purpose of judicial review, the procedure is a unique one and there is no obligation to do so. The Court commended the Military Court's discretion in offering a gradual solution (questioning the Prosecutor and then making a decision whether to subpoena the ISA interrogator) and dismissed the petition (H.C.J.1738/13 *Abid Al-Hakeem Bawatnee v. Justice of the Military Court of Appeal* (3.4.13)).

401. On December 12, 2012, the Supreme Court addressed the issue of paraphrasing confidential material in order to assist the defendant in criminal cases. In this case, the State based its indictment on confidential materials, and the defendant received a paraphrase of this material while his appeal (regarding the confidentiality of the materials) was pending. The State claimed that this paraphrase was granted *ex gratia*. The Court held that receiving a paraphrased version of the confidential material used to indict the defendant is part of the defendant's entitlement to any material which may assist him/her in preparing his defense. The Court determined that the State's protecting against the disclosure of confidential evidence is subject to the principle that in cases where evidence is necessary for the accused's defense, the confidentiality of the evidence must be lifted; which in turn may lead to the cancelation of the criminal procedure and to the acquittal of the accused, if such confidential evidence is required to be revealed. In this particular case, the Court did not find that the confidential material contained necessary information to the accused's defense (excluding one issue on which the Court did reveal more information) and therefore denied the appeal (Cr.C. 3811/12 *Muhammad Agabaria et. al. v. The State of Israel* (10.12.12)).

Foreign workers rights

402. On June 22, 2014 the High Court of Justice decided that within a year, the State must establish special health arrangements that would approximate the rights and guarantees of foreign domestic workers who have resided in Israel over a lengthy period of time, to those that apply to Israeli residents.

403. Justice Edna Arbel, in her ruling, stated that foreign workers could not be treated merely as a means that produce certain social benefits, while turning a blind eye to their own rights and requirements. The Court ruled that the right to health constituted a basic

human right that is in the core of the right to live with dignity. Accordingly, the Court concluded that a failure to issue regulations that apply the health rights of *National Health Insurance Law* 5754-1994 to foreign domestic workers who have resided in Israel over a lengthy period of time was unreasonable (H.C.J. *1105/06 Worker's Hotline v. The Minister of Social Affairs and Social Services et. al.* (24.6. 14)).

Discrimination

404. On September 9, 2013, the Haifa District Court sentenced a man to four years in prison after he was convicted of arson and threats of a racial nature against a group of Ethiopian tenants of a residential building in Haifa where the convicted person's mother lived. At four different occasions the accused threatened the tenants by calling "to burn the Ethiopians down" and in two occasions he set fire to one of the tenants' car and to the building's entrance. The Court noted that: "there exists a clear sense of hatred and racism manifested in the accused's actions and words. This phenomenon must be rejected and uprooted." (C.C. 40112-07-12 *State of Israel v. Logasi* (9.9.13)).

405. On November 10, 2011, the Tel Aviv-Jaffa Magistrate Court accepted a suit filed by a man, claiming he was refused entry into a nightclub in Tel Aviv-Jaffa due to his skin color. The Court stated that the club violated the *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*, since no reason regarding the refusal of entrance was given. Moreover, the respondents failed to prove that their business' policy did not constitute prohibited practice of costumers' discrimination on the grounds of race and/or origin, as required by the Law. The Court stated that according to the Law, the club's owners were liable for the violation, since they did not prove they have taken reasonable steps to prevent discriminative behavior at their business. The Court awarded the plaintiff compensation of 17,000 NIS (4,461 USD) (C.M. 969-03-11 *Jacob Horesh v. Tesha Bakikar LTD* (10.11.11)).

406. In 2011, the Equal Employment Opportunities Commission represented 21 Arab employees who claimed they had been fired by their employer, a supermarket chain, because of their Arab nationality. The Commission claimed that the law prohibited dismissal based on this ground. The Court accepted the petition and annulled all 21 dismissals, and determined that the employer had to conduct a hearing for each of the aggrieved employees prior to any possible dismissal (58041-03-11 *Sawiti Anas et. al. v. Almost Free Warehouse Chain Store R.A. Zim Direct Marketing L.T.D.*).

407. An additional case that was examined by the Equal Employment Opportunities Commission concerned indirect discrimination against Arab taxi drivers. Following receipt of a complaint by an Arab taxi driver who was denied employment by a taxi company which provided a transport services to Ben Gurion Airport, the Commission investigated the basis for such exclusion. As part of its review, the Commission discovered that the tender for such transport services between the Airports authority and taxi company, included a clause which required that taxi drivers had to have completed national army service. This precondition for employment automatically disqualified Arab drivers, who do not (unless they voluntarily chose to) complete military service in Israel. Following its inquiry, the Commission called for the discriminatory clause to be cancelled. The taxi company did so and subsequently hired the Arab driver who had submitted the case to the Commission; and other Arab drivers were invited to apply for additional similar positions.

408. On September 6, 2009, the Tel Aviv-Jaffa Labor Court ruled that the prerequisite of serving military service set by Israel Railways Company as part of its requirements for employment of new supervisors constituted discrimination against citizens who do not serve in the IDF. The Court emphasized the importance of the right to equality and the prohibition of discrimination, which form the basis of all other basic rights, as well as the

values of democracy, and noted that the law also prohibits indirect discrimination (C.M. 3863/09 *Abdul-Karim Kadi et. al. v .Israel Railways et. al.* (6.9.09)).

Same-sex couples

409. The prohibition of discrimination on the basis of sexual orientation is an important part of the Israeli legislation and can be found in several laws, including the *Patient's Rights Law* 5756-1996, *Equal Employment Opportunities Law* 5748-1988 and *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*.

410. On September 3, 2012 the Jerusalem Magistrate Court ruled in favor of a lesbian couple, which sued the Yad HaShmona Guest House for its refusal to provide venue for the couple's nuptial party. The guest house stated the couple's sexual orientation as grounds for its refusal and claimed that Yad HaShmona, the owner of the guest house, is a locality of Messianic Jews, which regard homosexual relationships as contradicting their religious beliefs. The Court held that the Guest House meets the definition of "public place" under the *Prohibition of Discrimination in Products, Services and Entry to Public Places Law*. Therefore, the owners are prohibited from refusing to hold an event on grounds of sexual orientation. The Court addressed the balance between religious freedom and the prohibition of discrimination and rejected the defendants claim that this instance may be construed as an exception under Section 3(d)1 to the Law, which states that religious discrimination is permissible "where it is required by the character or nature of the … public place". The Court ruled that this exception should be interpreted carefully so as to allow discrimination only in limited situations, such as in public places of worship. The Court ruled that the appellants will be compensated with 30,000 NIS each (7,874 USD) that will serve both for restitution and for education and awareness raising to human dignity and equality (C.C. 5901-09, *Yaacobovitch et. al. v. Yad HaShmona Guest House and Banquet Garden et. al.* (3.9.12)).

411. On June 17, 2014 the Jerusalem District Court rejected an appeal filed by Yad HaShmona and reaffirmed that appellants could not rely on the said exception, as the business was not religious in character and did not provide religious services. Moreover, the Court noted that the appellant operated a business that depicted itself as open to the entire public and was therefore committed to the obligations this entailed. The Court stressed that the principle of equality was a fundamental principle of Israel's legal system and that discrimination seriously harmed human rights, as it could lead to humiliation and undermine human dignity (C.A 5116-11-12 *Yad HaShmona Guest House and Banquet Garden v. Yaacobovitch et. al.* (17.6.14)).

412. On September 7, 2012, the Tel Aviv District Labor Court recognized three children (twins and a boy), who were born to a homosexual couple in two different surrogacy procedures within two months from each other, as triplets for the purpose of an enlarged birth grant payment from the National Insurance Institute. The Court interpreted the *National Insurance Law* 5755-1995 so that the intention of the legislator was to relive the burden on parents and support them when having more than two babies. The Court emphasized that the law should be adapted to the modern social reality in which there are different family units and parenting options, as outlined in legislation in the *Agreements for Carrying Embryos (Approval of an Agreement and Status of an Infant*) *Law* 5756-1996. (L.C. 12398-05-11 *S.S.K et. al. v. The National Insurance Institute* (7.9.12)).

413. On September 14, 2010, the Supreme Court ruled that the Jerusalem municipality had to allocate financial support towards the Jerusalem Open House for Pride and Tolerance activities. On appeal by the Open House, the Court emphasized that the Municipality was to provide support, as it would to any other social organization, and that the funding was not specifically to fund special needs of gay community members

(compared with support provided to gay communities in other large cities). (Ad.P.A. *343/09 The Jerusalem Open House for Pride and Tolerance v. The Jerusalem Municipality et. al.* (14.9. 10)).

414. On January 31, 2010, the Regional Labor Court held that a same-sex spouse, who becomes a widower, is entitled to receive dependent's pension under the law. The Court held that it could come to this decision, despite the fact that the couple had not disclosed their relationship to their families or friends. The Court stated that in examining whether the couple should be recognized as a couple by the test at common law, the Court should take into consideration the special circumstances of this type of relationship, and in such cases, it should adapt the burden of proof for establishing their relationship. In this case, the Court recognized the spouses as a couple based on the common law definition, on the basis of mutual residence and joint household, and consequently the widower was entitled to receive his spouse's pension (La.C. 3075/08 *Anonymous v. "Makefet" Pension and Compensation Center LTD* (31.1.10)).

Representation of women in the civil service and in decision-making positions

415. The advancement of gender equality and the promotion of women's rights have been on the agenda of every Israeli Government since the foundation of the State of Israel. The *Equal Rights for Women Law* 5711-1951 ("*Equal Rights for Women Law*"), enacted only three years after the State was founded, is a testimony to the emphasis placed on gender-related issues dating back to the State's inception.

Legislation

416. On June 23, 2014 the Knesset approved an amendment to the *Local Authorities (Election Financing) Law* 5753-1993. According to the amendment, a party list, which at least one third of its elected council members are women, shall receive 15 percent more public financing (a sum determined by the number of seats the party list has received in the election proportionate to the total number of council seats). The amendment applies to municipalities as well regional and local councils.

417. On March 30, 2011, the Knesset enacted the Expansion of the Appropriate Representation of Women Law (Legislative Amendments) 5771-2011 ("Women Representation Law"). This law amended both the Equal Rights for Women Law and the National Commissions of Inquiry Law 5728-1968, to obligate appropriate representation of both men and women in national inquiry committees of the Government. The new Female Representation Law amended the Equal Rights for Women Law such that the Authority for the Advancement of the Status of Women in the Prime Minister's Office (the "Authority") must establish a list of women who are suitable and qualified applicants to take part in such committees. According to Section 3(4)(3) of the Amendment, a woman who considers herself suitable to be included in the Authority's list, may apply to the Authority to be included. According to Section 3(4)(5)(a) of the Amendment, in cases where the appointing body is unable to locate, on its own initial search, an appropriate female candidate to become a committee member, the appointing body must then enquire with the Authority for details concerning appropriate female candidates for the committee's area of specialization.

Arab population within the civil service

418. Since 1994, the Government has implemented measures to enhance the integration of the Israeli Arab and Druze populations into the Civil Service, such as issuing of tenders for mid-level positions solely to members of these minorities.

419. On September 14, 2011, the Civil Service Commissioner ("Commissioner") applied to all the Government Ministries' General Directors as well as to the National Hospitals'

Directors, regarding the promotion of appropriate representation of the Arab, Druze and Circassian populations within the Civil Service. In its letter, the Commissioner referred to both *Civil Service (Appointments) Law* 5719-1959 and Government Resolution No. 2579 as legal duties obligating the General Directors to implement appropriate representation of the said population among their employees. The letter further mentioned that the Civil Service Commission is operating in accordance with these duties and cooperating with the Government Ministries towards the integration of the Arab population within the Civil Service.

420. In order to achieve the objective set by the Government, the Commissioner requested each Ministry to consolidate, in collaboration with the Civil Service Commission Planning and Supervision Department, a detailed plan regarding the advancement of appropriate representation for Arab, Druze and Circassian populations within the timetable set by the Government. According to the Commissioner's request, the Ministries must designate positions for these minority populations and specify the measures that will be taken by them in order to encourage appropriate candidates to apply for positions at the Civil Service.

421. In January 2012, the Civil Service Commission issued a letter to all Government Ministries and State Hospitals' Director Generals, regarding a new procedure for hiring employees to conform with Government Resolution No. 2579, by which at least 10% of the Civil Service employees should be of the Arab population. According to the new procedure, every Ministry or auxiliary unit must refer to the Planning and Supervision Department any request for the hiring of new employees. The Department will then determine the minimum number of positions that will be manned by people from the Arab population. Any Ministry or unit that meets the 10% requirement is then exempt from this procedure. According to the procedure, the allocation of the new positions to be manned by Arab candidates will be as follows: If there is a request for three or more new positions – at least 30% shall be designated for Arab employees. If there is a request for two new positions – at least one of them (50%) shall be manned by Arab employee and if there is a request for only one new position – it shall be manned by an Arab candidate.

422. In 2011, the Equal Employment Opportunities Commission (part of the Ministry of Economy) established a project with the European Union, to focus in 2012-2013 on integrating Israeli Arabs into the Israeli work force. The project included seminars, awareness raising activities and research activity on the following key topics: the promotion of diversity and integration of all Israeli populations to finding employment in the public sector; the integration of the Arab population in the private sector, and the required decrease in the salary gaps between men and women.

Data regarding current representation of Arab, Druze and Circassian employees in the civil service

423. The percentage of Arab, Druze and Circassian employees in the Civil Service has steadily increased over the last few years: from 6.97% in 2009, 7.52% in 2010 and 7.78% in 2011. By 2012, 8.37% of all the Civil Service employees were Arabs, including Bedouins, Druze and Circassians (5,520 employees out of 65,953). In April 2014, 8.82% of all the Civil Service employees were Arabs, including Bedouins, Druze and Circassians – 6,451 employees out of 73,100 – an increase of 1,469 Arab employees (26.6%) within two years.

424. As of June 2013, 1,730 positions in the Civil Service had been specifically designated for members of the Arab population (309 of which were new positions created and were in various stages of manning).

425. Furthermore, in order to better inform Israeli Arabs of the specialized tender positions available in the Civil Service and to improve working conditions of these populations, the Government ran a media campaign in 2012 through the "Authority for the Economic Development of the Arab, Druze and Circassian Populations" in the Prime Minister's Office. Simultaneously, a specialized website was established in which tenders, information and successes stories were published – to make the Civil Service more accessible to the Arab population.

426. An increase of Arab population representation in the Civil Service is also evident in percentages of Arab employees in Government Ministries. In 2012, 38.5% of employees in the Ministry of Interior were Arab. In 2012, 13.04% of employees in the Ministry for Development of the Negev and Galilee were Arab, and prior to that in 2011, 16.28% were Arab (in increase from 12.1% in 2009). In 2012, 10.09% of employees in the Ministry of Social Affairs and Social Services were Arab; whilst in 2012, 7.33% of employees in the Ministry of Justice were Arab, an increase from 6.94% in 2011. In 2012, 6.75% of employees in the Ministry of Tourism were Arab. In 2012, 6.56% of employees of the Ministry of Transportation were Arab, an increase from 5.47% in 2011.

427. In 2012, an overall percentage of 14.28% of all new employees integrated into the Civil Service were Arabs, Druze and Circassians, a continued increase from 12.77% in 2011, 11.09% in 2010, and 9.3% in 2009.

428. The number of Arab women employed in the Civil Service has also increased in recent years. In 2012 there has been an increase of 14.4% compared to 2011 (2,140 in 2012 compared to 1,869 in 2011). The rates of Arab, Druze and Circassian newly integrated female employees are also on the rise. In 2011, 44.8% of all recently accepted Arab, Druze and Circassian employees were women (compared to 35.9% in 2011).

429. An increase is also evident in the number of Arab, Druze and Circassian individuals with academic degrees being employed by the Civil Service (53.7% in 2012, 52.58% in 2011 and 50.37% in 2009). This trend correlates with the general governmental position to specifically allocate Civil Service positions to be filled by Arab, Druze and Circassian individuals with higher education.

430. Many of the Arab-Israeli employees within the Civil Service obtain and maintain senior level positions, with decision-making capacity. Civil Service employees from this population fulfill important roles such as investigative engineers, clinical psychologists, senior tax investigators, senior economists, senior electricians, geologists, department comptrollers, lawyers and educational supervisors. Data indicates an increase of 6.6% in the number of Arab employees holding senior positions in 2012 (543 compared to 509 in 2011). These employees serve the good of the Israeli community as a whole and are a driving force behind the integration of the Arab minority into the Israeli society.

Persons with disabilities in the civil service

431. In 2012, the Civil Service designated for the first time 90 positions for persons with disabilities. A circular regarding these positions were disseminated to all Government Ministries. This was done in order to better integrate people with disabilities into the Civil Service and workforce generally.

Persons of the Ethiopian population in the civil service

432. The Ethiopian population constitutes approximately 1.5% of the Israeli population; this number paralleling the percentage of Ethiopians who are represented in the Civil Service (approximately 1.4%). In order to increase Ethiopian representation in the Civil Service, particularly for those with higher education, Government Resolution No. 2506 of November 2010 created 30 positions (13 of which were new), specifically to be fulfilled by

people of Ethiopian decent. The resolution was implemented in 2013, and has increased the Ethiopian population representation in Civil Service. The current increase of Ethiopian workers in Civil Service, in a variety of positions, is ongoing.

Question No. 58

Administrative measures

Segregation of women in the public sphere

433. On January 5, 2012, the Attorney General appointed an inter-ministerial team headed by the Deputy Attorney General (Civilian Affairs) to examine the marginalization of women from the public sphere in certain places across the country. The team was established following an increasing number of instances reported of discrimination against women and their exclusion them from the public sphere, often through verbal and physical violence. The establishment of the team followed the creation of a separate, but connected, inter-ministerial committee for the prevention of exclusion of women from the public sphere, that was headed by the Minister of Culture and Sport.

434. The team appointed by the Attorney General was directed to examine the legal aspects surrounding this phenomenon and to provide recommendations (including any possible legislative amendments) to combat this discrimination, either through criminal or administrative measures.

435. Representatives from the Ministries of Transportation and Road Safety, Health, Interior, Communication, and Religious Services appeared before the team; as did representatives from the Police, the Commission for Equal Employment Opportunities, and the Second Authority for Television and Radio. The Legal Advisor to the Municipality of Beit Shemesh also presented to the team, as some of the reported incidents of segregation of women in the public sphere were in this municipality. The team also received applications from various individuals, organizations and Knesset Members regarding the issue. These applications presented a variety of views and opinions about the discrimination and the public segregation between men and women which sometimes occurred in Israel. The team examined all the views presented to it.

436. The Ministry of Justice team submitted its report with recommendations to the Attorney General in March 2013 (following the inter-ministerial committee's report provided to the Government on March 11, 2012). As a preliminary remark, the team emphasized that discrimination of women, which sometimes manifested itself as an "exclusion of women", is a grievous phenomenon characterized by discrimination against any and all women. This discrimination, it submitted, undermines the foundations of the democratic State of Israel, which recognizes the human value of all people.

437. The team then continued to provide recommendations on specific issues:

(a) The separation between men and women during funerals in certain cemeteries, and the prohibition on women to give a eulogy, amounts to wrongful discrimination. The team recommended that the Ministry of Religious Services provide for the immediate cessation of these prohibitions on women (with an exception in cases where the deceased's family expressly requests the implementation of such measures, following which the Jewish burial society should be permitted to provide for this temporarily);

(b) The segregation between men and women in certain national ceremonies and events. The team explained that the responsibility to protect human rights is entrusted first and foremost on the public authorities. Therefore, a Government Ministry or another public authority is not authorized to conduct a governmental or national event where men and women are separated. The committee noted that women have a full and equal right to take

part in these events, both as audience members and as participants. The team also noted that at such public events, the posting of any signs, placing of any barriers or any other measures taken in order to direct a crowd for separate seating or participation, is also prohibited. This is so, even if it is requested by some of the participants. The team noted that the only exception to this recommendation relates to events of a religious nature, and when the public authority believes that the vast majority of the attendees desire such separation for religious reasons;

(c) The team recommended that the Ministry of Health undertake to end any segregation in Health Funds branches where segregation between men and women occurs. The committee held that such separation is unwarranted given the focus on medical care provision to a patient should be done only using medical considerations. The team also recommended that the Ministry of Health should act immediately to ensure the relevant Director General issues a circular on this matter;

(d) The team noted that the problem of separation on certain public bus lines still persists, and is occasionally accompanied by verbal insults, and sometimes threats, towards women. The team recommended that on all public bus lines, women's boarding of buses through the back door (as is done in segregated lines) be prohibited and that all passengers be required to board through the front door and pay the driver directly. Additionally, the committee noted that all passengers must be allowed to freely choose their seat. The team recommended that the Ministry of Transportation and Road Safety order operators of public buses to immediately cease from allowing any passenger to board through the back door. In addition the team recommended that the Ministry increase the enforcement and supervision of public transportation companies, to ensure equal and non-discriminatory use of public transportation services;

(e) The team noted that signposts calling for women to choose different routes or dress modestly express a message that women are not free to use any area of the public sphere equally; and infringes upon women's human dignity. The team recommended that municipalities which hold the authority to regulate the matter of posting signposts in the public domain and provide licenses for such signposting must refrain from allowing such posts calling for segregation under its control. The team recommended that when considering whether to call for removal of certain signposts, the municipality shall attach great importance to the harm the signs will likely cause, and if found to be severe, should act not only for their removal but also for the prosecution of the people responsible for placing, according to the law. The team also recommended that the Ministry of Interior should exert its monitoring and supervising authorities in order to ensure that the municipalities will uphold their duties regarding this issue;

(f) According to the team, the policy of the "Kol Ba-Rama" radio station not to broadcast women's voices or hire women as broadcasters infringes the fundamental rights of equality and freedom of expression. The team noted that the fact that this station is intended for a religious public does not mitigate these discriminations. The team advised the Second Authority for Television and Radio to end this policy within a six month time frame and to remove this discriminatory platform.

438. The team members were divided whether a legislative amendment for criminal sanctions was required to deal with this discriminatory phenomenon. On the one hand, some held that the severity of the phenomenon warranted stricter effective sanctions, by characterizing these actions as criminal offences. On the other hand, some advocated that the use of criminal law, which is one of the strongest tools that the Government has to control the public, is too powerful and intrusive to be used in situation where such behavior which, although wrong and offensive, may not necessarily be characterized as criminal. These advocates instead suggested that administrative measures should be implemented.

The team recommended leaving this decision for the Attorney General to decide, together with the other recommendations specified throughout the report.

439. Recently, the Attorney General decided to promote a draft bill containing criminal offences on the issue. The draft bill is still in legislation stages.

Circulars of the Ministry of Education Director-General on the prevention of abuse of helpless minors

440. The Ministry of Education has a clear policy regarding the prevention of the abuse of helpless minors. The Ministry policy is automatically activated when any information regarding pupils who have been abused is received, such that the social services or to the Police are contacted to enable intervention and treatment to the pupil who was allegedly abused.

441. The Ministry of Education's policy is stipulated in Circulars of the Ministry of Education Director General:

(a) Circular of the Ministry of Education Director General 5769/3(b) "The Duty to Report a Crime Committed against a Minor According to The Law and The Questioning of Pupils as Victims or Witnesses" provides for reporting requirements the supervisor of the minor within the family or from outside the family, of any suspicion of an offence committed against a minor. The Circular emphasizes the responsibility of the education system to report of any injured pupils and to respond in a professional manner when the information is received.

(b) Circular of the Ministry of Education Director General 5763/6(b) "Educational System's Mandatory Reporting Mechanism for Dealing with Teachers who have Injured Pupils" stipulates the required instructions when a suspicion regarding pupils injured by a teacher arises. The Circular states that a duty to report is applicable in cases where a suspicion arises that a pupil is being abused. According to the Circular, corporal punishment is considered physical violence, and there is a duty to report it.

442. Furthermore, the Circular of the Ministry of Education Director General 5770/a(3) "Promoting Safe Climate and Coping with Violent Incidents in Educational Institutions" expressly and comprehensibly outlines the prohibition of corporal punishment in schools. This Circular conforms to the *Pupils' Rights Law* 5761-2000 ("*Pupils' Rights Law*"). The Circular emphasizes that a teacher or school's response to a pupil's violation of disciplinary rules, needs to be proportionate, reasonable and suitable to the level of the violation. In any case where discipline actions may be taken against the pupil, the accusations must be explained to the pupil and she/he must be given the opportunity to respond. This opportunity for the pupil to be heard must take place, to every extent possible, before a decision is made regarding possible disciplinary actions against the pupil. Contrary to this requirement, the Circular provides that the school staff may take disciplinary actions without first hearing from the pupil, if an immediate response is required or when there are other justified circumstances.

443. The Circular further stipulates that the school code must be in accordance with the *Pupils' Rights Law* and in particular with Section 10 of this Law, which provides that a pupil should be disciplined, when necessary, in a manner that respects human dignity. This includes not being subject to physical or degrading disciplinary measures.

444. The Circular forbids the punishment of pupils in any of the following forms: any types of corporal punishment, degrading punishment (insult in public, verbal abuse that might include mockery, insult or humiliation), transferring a pupil temporarily to a lower grade, reducing a grade for inappropriate behavior, responding in a way that might

jeopardize the pupil or harm her/his safety or health, and punishing a pupil for something her/his parents did or did not do.

Additional measures

Additional vocational days for non-Jewish religious holidays

445. Haifa is Israel's third largest city in population and has residents of Jewish, Islamic, Christian and Druze faiths. The Haifa University student population is a reflection of this multi-faith community. In May 2013, the Haifa University Senate decided to institute three additional days of university vacation according to the most important holidays of the Christianity, Islam and the Druze religion – Christmas, Eid Al-Fitr (Feast of Breaking the Ramadan Fast), and Eid al-Adha (also called Feast of the Sacrifice). The holy days are in addition to other days of existing holidays of other religions. This decision was made following the work of a special committee established by the University, with the participation of students' representatives. According to Haifa University's President, this decision reflects the University's vision to promote academic excellence in research and teaching, whilst simultaneously maintaining tolerance and acceptance.

Question No. 59

Implementation of the Committee's previous concluding observations

446. The State of Israel adheres to the Convention and the values it upholds, including the implementation of the CAT Committee's Concluding Observations, as demonstrated throughout this 5th Periodic Report by the State of Israel to the CAT Committee.

447. The seriousness which the State of Israel attaches to human rights matters is demonstrated by the establishment in 2011 of a joint inter-ministerial team, headed by the Ministry of Justice's Deputy Attorney General (Legal Advice), specifically to review and implement the Concluding Observations of the various Human Rights Committees, including those of the CAT Committee.

448. This inter-ministerial team meets to examine the various U.N. Human Rights Committees' Concluding Observations and following its work since its establishment has made several significant changes with regards to human rights legislation in Israel.

449. Currently the inter-ministerial team is headed by the Ministry of Justice's Deputy Attorney General (International Law) and only recently was convened to further discuss the last CRC Concluding Observations.

Cooperation with civil society in the preparation of periodic reports to the Committee

450. When preparing its periodic reports to the CAT and other UN Human Rights Committees, Israel makes a concerted effort to involve civil society in the process, to every extent possible. Prior to commencing the drafting of such a periodic report (such as this current one) – the various UN Human Rights Committee's documents are studied, including the previous reports of other countries, Concluding Observations and General Comments issued by the Committee since the last Israeli report was submitted. In addition to letters that are sent out to all the relevant Ministries and Governmental bodies, letters are also sent out to the relevant and leading NGOs, inviting them to submit comments prior to the compilation of the report, both through direct application, and a general invitation to submit remarks posted on the Ministry of Justice web site. Civil Society contributions are given substantial consideration during the drafting of the Report. In addition, the Ministry of Justice actively seeks data and information on the relevant NGOs' websites, such

information may include legal action taken by these NGOs as well as also opinions and reports on various issues.

451. Since 2012, the Ministries of Justice and Foreign Affairs participate in a joint project which aims to improve cooperation between State authorities and civil society organizations, specifically relating to the reporting process to the UN Human Rights Committees. This joint project was initiated by the Minerva Center for Human Rights at the Hebrew University of Jerusalem's Faculty of Law. The ultimate goal of this project is to enhance the cooperation between the parties in implementing Human Rights Conventions in Israel in the best possible manner.

452. The first stage of this joint project entailed creating a joint forum, attended by representatives of various State authorities and civil society organizations, as well as academics. The forum continues to meet occasionally in order to improve the cooperation and knowledge-sharing between the parties, and to discuss the preparation of Israeli reports submitted to UN Human Rights Committees, as well as the Concluding Observations implementation in Israel. Once an Israeli draft report to the UN Human Rights Committee is concluded by the State, civil society organizations are invited to comment on it prior to its submission.

453. The first periodic report that was chosen for this project was the 4th Periodic Report by the State of Israel to the ICCPR Committee. The second periodic report that was chosen was this report, the 5th Periodic Report by the State of Israel to the CAT Committee. This Periodic Report's draft has been sent to the relevant civil society organizations in order to receive their input on it.

Dissemination of human rights conventions to the general public

454. All of the Human Rights Conventions and Protocols that Israel is a party to can be found on the website of the Ministry of Justice in Hebrew, English, and Arabic. Also, the full body of work with the United Nations human rights committees, including Israel's initial and periodic reports, lists of issues adopted by the committees, replies to the lists of issues, concluding observations adopted by the committees, follow-up to Israel's oral presentations as requested by the various committees in their concluding observations and other related documents can also be found on the Ministry of Justice's website.

455. In 2012, all the concluding observations relating to Israel adopted by all the human rights committees were translated to Hebrew and published on the Ministry of Justice website. Where available, links to the United Nations translation into Arabic of those concluding observations are also published.

456. In 2012, Israel also began the process of translating its periodic reports to the United Nations human rights committees into Hebrew, and, once completed, those will also be published on the Ministry of Justice website in due course.

United Nations CAT/C/ISR/CO/5

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the fifth periodic report of Israel*

1. The Committee against Torture considered the fifth periodic report of Israel (CAT/C/ISR/5) at its 1416th and 1419th meetings (CAT/C/SR.1416 and 1419), held on 3 and 4 May 2016, and adopted the present concluding observations at its 1428th and 1429th meetings, held on 12 May 2016.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its fifth periodic report under it, as it improves the cooperation between the State party and the Committee, and focuses the examination of the report as well as the dialogue with the delegation.

3. The Committee appreciates the dialogue with the State party's delegation and the responses provided orally and in writing to the questions and concerns raised during the consideration of the report.

B. Positive aspects

4. The Committee welcomes the ratification by the State party of the Convention on the Rights of Persons with Disabilities, on 28 September 2012.

5. The Committee also welcomes the legislative and judicial measures taken by the State party in areas of relevance to the Convention, including:

(a) The adoption of Amendment No. 14 to the Youth (Trial, Punishment and Modes of Treatment) Law 5731-1971, in July 2009, which, inter alia, gives precedence to rehabilitation over punishment for children accused and/or convicted of a crime;

(b) The Supreme Court ruling in Ad.P 7079/12 *The State of Israel v. Asmara Ahunum Germey* (10.12.12), in which it reiterated its previous jurisprudence that the authority to deport may not be exercised if the deportee's life or liberty is threatened, and determined that the authority to deport is subject to the principle of non-refoulement.

* Adopted by the Committee at its fifty-seventh session (18 April-13 May 2016).

6. The Committee further welcomes the initiatives of the State party to adopt policies and administrative measures to give effect to the Convention, including:

(a) The establishment in 2010 under government resolution 1796 of an independent public commission mandated, inter alia, to assess whether the existing mechanisms for investigating alleged violations of the laws of armed conflict meet the State party's obligations under international law (Turkel Commission);

(b) The establishment in 2011 of a joint interministerial team, headed by the Ministry of Justice Deputy Attorney General, to review and implement the concluding observations of human rights treaty bodies;

(c) The adoption in 2012 by the Israeli Prison Service of a formal procedure to ensure a uniform and streamlined method for identifying signals raising suspicion of possible trafficked persons and relaying such information to the police and legal aid administration;

(d) The appointment in 2012 by the Deputy Director General of the Ministry of Health of a committee to examine medical staff reports of injuries sustained by detainees;

(e) The transfer in 2013 of the role of the Inspector for Complaints against Israel Security Agency interrogators from the Israel Security Agency to the Ministry of Justice;

(f) The establishment in 2014 under government resolution 1143 of a team to review and implement the recommendations contained in the second report of the Turkel Commission.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. While noting with appreciation the information provided by the State party under the follow-up procedure (CAT/C/ISR/CO/4/Add.1), the Committee regrets that the recommendations identified for follow-up in its previous concluding observations concerning basic safeguards for detainees, allegations of torture and ill-treatment by Israeli interrogators, and house demolitions (CAT/C/ISR/CO/4, paras. 15, 19 and 33, respectively), have not yet been fully implemented.

Scope of applicability of the Convention

8. The Committee regrets the State party's continued argument that the Convention does not apply in all the Occupied Territories and notes that this position is contrary to the views of the Committee as set forth in its previous concluding observations (CAT/C/ISR/CO/4, para. 11), other treaty bodies and the International Court of Justice. The Committee notes with appreciation the statement by the delegation that the comments made by the Committee regarding the scope of applicability of the Convention "will be brought to the attention of the highest levels of [the] Government, and will be given serious consideration". While acknowledging that during the dialogue the State party's delegation addressed the Committee's questions relating to the Occupied Palestinian Territory, the Committee regrets that the written report did not contain detailed information on the implementation of the Convention in it (art. 2).

9. **Recalling its previous concluding observations (CAT/C/ISR/CO/4, para. 11) and its general comment No. 2 (2007) on the implementation of article 2 by States parties, the Committee calls on the State party to immediately reconsider its position and acknowledge that the Convention applies to all individuals who are subject to its jurisdiction. In this respect, the Committee reaffirms that the Convention applies to**

all territory and persons under the jurisdiction of the State party, including the Occupied Territories, in accordance with the Committee's general comment No. 2 (2007), the views of other treaty bodies and the jurisprudence of the International Court of Justice.

National human rights institution

10. While noting the State party's support for the establishment of a national human rights institution in line with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) expressed in the context of its universal periodic review by the Human Rights Council (see A/HRC/25/15, para. 136.25 and A/HRC/25/15/Add.1, para. 9), the Committee is concerned that such an institution has not yet been established (art. 2).

11. **The Committee recommends that the State party establish an independent national institution for the promotion and protection of human rights in full compliance with the Paris Principles.**

Definition and criminalization of torture

12. The Committee remains concerned that a specific offence of torture based on the definition in article 1 of the Convention has not yet been adopted. It notes that a bill incorporating a separate offence of torture into Israeli law is in the process of being drafted by the Ministry of Justice at the instruction of the Attorney General (arts. 1, 2 and 4).

13. **Recalling its previous recommendations (A/57/44, para. 53 (a), and CAT/C/ISR/CO/4, para. 13), the Committee calls upon the State party to take the measures necessary to speed up the process aimed at incorporating a specific offence of torture into domestic law and to ensure that the offence provides for a definition of torture that is in full conformity with the definition contained in article 1 of the Convention and for penalties that are commensurate with its grave nature, in accordance with article 4 (2).**

Necessity defence

14. The Committee regrets that the State party has not provided the information requested by the Committee on use of the necessity defence in the context of interrogations. The Committee recalls that article 2 (2) of the Convention provides that the prohibition of torture is absolute and non-derogable and that no exceptional circumstances whatsoever may be invoked by a State party to justify acts of torture. In this respect, the Committee is concerned that the necessity defence, which is contained in section 34 (11) of the Penal Law as a defence afforded to any defendant in criminal cases, has not been explicitly excluded for cases involving torture. Thus it could still be invoked *post factum* as a possible justification for torture in the context of interrogations carried out in situations involving impending threats to human lives and as a result lead to a lack of proper accountability (art. 2).

15. **The Committee recommends that the State party incorporate into domestic law the principle of the absolute prohibition of torture in conformity with article 2 (2) of the Convention and, recalling its previous recommendations (A/57/44, para. 53 (i) and CAT/C/ISR/CO/4, para. 14), that it completely remove necessity as a possible justification for torture.**

Access to a lawyer and arraignment before a judge

16. While noting that as a general rule persons deprived of liberty are enabled to meet with their lawyer without delay, the Committee remains concerned that legislation still

permits that these meetings be delayed under certain conditions, which in the case of detainees accused of security-related offences could extend for a maximum of 21 days under the Criminal Procedure (Enforcement Powers — Arrests) Law 1996-5756 and for a maximum of 60 days under the law applicable in the West Bank. While noting that as a general rule persons arrested without a warrant must be brought before a judge as soon as possible and no later than 24 hours following the arrest, the Committee is also concerned that legislation still allows that this period be delayed for up to 96 hours in relation to persons accused of security-related offences (art. 2).

17. **The Committee recalls its previous recommendations (A/57/44, para. 53 (c) and CAT/C/ISR/CO/4, para. 15) and recommends that the State party adopt the measures necessary to ensure, in law and in practice, that all persons deprived of liberty, irrespective of the charges brought against them, the law applicable to them or wherever they may be located, are afforded all legal safeguards from the very outset of the deprivation of liberty, including the rights to be assisted by a lawyer and to be brought before a judge without delay.**

Audio-visual documentation of interrogations of security suspects

18. Recalling its previous recommendation (CAT/C/ISR/CO/4, para. 16), the Committee is concerned that the requirement under the Criminal Procedure (Interrogation of Suspects) Law 5762-2002 that the police carry out audio or visual recording of criminal suspects' interrogations does not yet extend to the interrogation of persons accused of security-related offences owing to several extensions of temporary section 17 of the law, which provides for such exception. While regretting that the said law does not apply to interrogations by the Israel Security Agency, the Committee notes with interest that the Ministry of Justice is conducting staff work regarding the implementation of the recommendation made by the Turkel Commission and the Implementation Team (Ciechanover Commission) relating to the installation of cameras in all Israel Security Agency interrogation rooms, which will broadcast to a control room, regularly and in real-time, via closed-circuit. However, it regrets the lack of clarity about whether such interrogations will also be recorded so as to be available to be used as evidence in courts (arts. 2 and 11).

19. **The State party should adopt the legislative and other measures necessary to ensure the compulsory audio-visual recording of all criminal suspects' interrogations, including those of persons accused of security-related offences. Audio-visual footage should be monitored by an independent body and kept for a period sufficient for it to be used as evidence in courts.**

Independent medical examinations of persons deprived of liberty

20. The Committee is concerned at allegations of instances in which physicians of the Israeli Prison Service have failed to report injuries indicative of abuse and regrets not receiving information about the number of cases of suspected torture or ill-treatment identified and reported by Israeli Prison Service medical staff to the police during the reporting period. While taking note of the statement by the delegation that physicians serving in Prison Service facilities perform their duties as required by the law and the universal rules of medical ethics, the Committee notes that these professionals are directly employed by the prison services, which may compromise their independence (art. 2).

21. **The State party should urgently take the measures necessary to guarantee in practice that physicians and other medical staff dealing with persons deprived of liberty duly document all signs and allegations of torture or ill-treatment and report them without delay to the appropriate authorities. It should also consider transferring responsibility for all types of health care of persons deprived of liberty to the Ministry**

of Health in order to ensure that medical staff can operate fully independently from the custodial authorities.

Administrative detention and Incarceration of Unlawful Combatants Law

22. The Committee reiterates its previous concerns regarding administrative detention and detention under the Unlawful Combatants Law 5762-2002 in the State party (CAT/C/ISR/CO/4, para. 17). In particular, it is concerned that, pursuant to relevant legislation, detainees may be deprived of basic legal safeguards as, inter alia, they can be held in detention without charge indefinitely on the basis of secret evidence that is not made available to the detainee or to his/her lawyer. The Committee takes note of the affirmation by the delegation that the number of people in administrative detention increased since September 2015 with the escalation of violence. In this connection, the Committee is gravely concerned that at the time of the dialogue there were 700 persons, including 12 minors, in administrative detention. It is further concerned that three of those persons have been held in administrative detention for more than two years. The Committee also notes that at the time of the dialogue there was one person held under the Unlawful Combatants Law (arts. 2 and 16).

23. **The State party should:**

(a) **Urgently take the measures necessary to end the practice of administrative detention and ensure that all persons who are currently held in administrative detention are afforded all basic legal safeguards;**

(b) **Take the measures necessary to repeal the Incarceration of Unlawful Combatants Law 5762-2002.**

Solitary confinement and other forms of isolation

24. While taking note that a prisoner can be held in solitary confinement as a punishment for infractions to the Prisons Ordinance for a maximum of 14 non-consecutive days, the Committee is concerned that persons can also be held in separation, allegedly in conditions of isolation that are similar to those prevailing in solitary confinement, during significantly longer periods for interrogation purposes or for other reasons such as State or prison security. In this respect, the Committee notes with concern the reports that persons who suffer from mental health problems can also be held in separation if they are deemed to pose a threat to themselves or other inmates. The Committee is further gravely concerned that solitary confinement and separation can also be applied to minors and, in this respect, it expresses concern at allegations that many children have been held in separation for interrogation purposes. The Committee regrets the lack of statistical data from the State party on the use of separation during interrogation (arts. 2, 11, 15 and 16).

25. **The State party should:**

(a) **Ensure that solitary confinement and equivalent measures are used only in exceptional cases as a measure of last resort, for as short a time as possible and subject to independent review, in line with international standards;**

(b) **Put an immediate end and prohibit the use of solitary confinement and equivalent measures for juveniles and persons with intellectual or psychosocial disabilities;**

(c) **Compile, provide to the Committee and regularly publish comprehensive disaggregated data on the use of solitary confinement and equivalent measures.**

Hunger strikes

26. While taking note of the affirmation by the delegation that hunger strikes are handled with the utmost sensitivity to the prisoners' rights, the Committee is concerned at allegations of instances in which prisoners who engaged in hunger strikes were punished or subjected to ill-treatment. It is also concerned that, on 30 July 2015, the Knesset passed the Amendment to the Prisons Ordinance Law (Prevention of the harm caused by hunger strikes), which, according to the information provided to the Committee, allows the President of the District Court or his/her Deputy to authorize, under certain conditions, medical treatment of hunger strikers, including feeding, without their consent. While taking note that to date this amendment has not been applied and that its validity is currently under consideration by the Supreme Court, the Committee considers that feeding against the will of persons deprived of liberty on hunger strike who are able to take informed decisions would constitute ill-treatment in violation of the Convention (art. 16).

27. **The State party should guarantee that persons deprived of liberty who engage in hunger strikes are never subjected to ill-treatment or punished for engaging in a hunger strike and are provided with necessary medical care in accordance with their wishes. It should also take the legislative and other measures necessary to ensure that persons deprived of liberty, competent to take informed decisions, who engage in hunger strikes are never subjected to feeding or other medical treatment against their will, as these are practices that may amount to torture or ill-treatment.**

Juvenile detainees

28. While taking note of the provisions of the Youth Law (Trial Punishment and Modes of Treatment) 5731-1971 relating to the arrest and detention of minors and of positive developments in the juvenile military justice system applicable in the West Bank, including the establishment of a juvenile military court in 2009, the increase of the age of majority from 16 to 18 years for the purposes of adjudication in 2011 and other measures providing for safeguards and guarantees for minors, the Committee is concerned at reports that such legal developments are not always implemented in practice, in particular with respect to Palestinian minors accused of security-related offences. In this respect, it is concerned at allegations of many instances in which Palestinian minors were exposed to torture or ill-treatment, including to obtain confessions; were given confessions to sign in Hebrew, a language they do not understand; and were interrogated in the absence of a lawyer or a family member. The Committee is also concerned that many of these children, like many other Palestinians, are deprived of liberty in facilities located in Israel, thus hindering access to visits of relatives who live in the Occupied Palestinian Territory. The Committee is further concerned that at the time of the dialogue there were 12 minors in administrative detention and 207 Palestinian minors residents of the West Bank in detention for security-related offences (arts. 2, 11, 12, 13, 14, 15, and 16).

29. **Recalling its previous recommendation (CAT/C/ISR/CO/4, para. 28), the Committee calls upon the State party to redouble its efforts with a view to:**

(a) **Ensuring that the deprivation of liberty of minors, irrespective of the charges brought against them, is a last resort, limited to the shortest possible period, and that it is reviewed daily with a view to eliminating it;**

(b) **Systematically ensuring that all minors deprived of liberty are afforded all the basic legal safeguards from the very outset of the deprivation of liberty; that they have a lawyer and/or a trusted adult present at every phase of the proceeding, including during interrogations; and that evidence obtained without observing these provisions are inadmissible in court;**

(c) **Preventing, investigating and adequately sanctioning practices involving torture or ill-treatment. It should also ensure that minors who were victims of torture or ill-treatment are afforded appropriate redress, including the means for as full rehabilitation as possible;**

(d) **Facilitating visits from relatives and friends, in accordance with international standards.**

Allegations of torture and ill-treatment

30. The Committee is concerned at allegations of torture and other cruel, inhuman or degrading treatment or punishment of persons deprived of liberty, including minors. According to these allegations, torture and ill-treatment are mostly perpetrated by law enforcement and security officials, mainly from the Israel Security Agency, the police and the Israeli Defence Forces, particularly during arrest, transfer and interrogation. In addition, the Committee remains concerned at allegations that Israel Security Agency interrogators continue to resort to interrogation methods that are contrary to the Convention, such as stress positions and sleep deprivation, and regrets the lack of clarity about the use of restraints during interrogations. The Committee is also concerned at information received that there is no proper accountability for torture and ill-treatment. In this respect, while taking note of the assertion by the State party that all complaints submitted to the Inspector for Complaints against Israel Security Agency interrogators are examined independently, impartially and properly, the Committee is particularly concerned that so far none of the hundreds of complaints brought against them have resulted in prosecution (arts. 2, 11, 12, 13, 14, 15 and 16).

31. **The State party should:**

(a) **Reaffirm the absolute prohibition of torture and publicly warn that anyone committing such acts or otherwise complicit or acquiescent in torture will be held personally responsible before the law for such acts and will be subject to criminal prosecution and appropriate penalties;**

(b) **Take effective measures with a view to ensuring that interrogation methods contrary to the Convention are not used under any circumstances and avoid the use of restraints during interrogation as much as possible or apply them, only if strictly regulated, as a measure of last resort, when less intrusive alternatives for control have failed and for the shortest possible time;**

(c) **Ensure that all instances and allegations of torture and ill-treatment are investigated promptly, effectively and impartially and that alleged perpetrators are duly prosecuted and, if found guilty, punished with sentences that are commensurate with the gravity of their acts;**

(d) **Ensure, without prejudice to the presumption of innocence, that officials who are suspects of having perpetrated torture and ill-treatment are immediately suspended from duty for the duration of the investigation, particularly when there is a risk that they might otherwise be in a position to repeat the alleged act, to commit reprisals against the alleged victim or to obstruct the investigation;**

(e) **Provide effective remedies and redress to victims, including fair and adequate compensation, and as full rehabilitation as possible.**

Allegations of excessive use of force

32. The Committee is concerned at allegations of excessive use of force, including lethal force, by security forces, mostly against Palestinians in the West Bank, including East Jerusalem, and the access-restricted areas of the Gaza Strip, particularly in the context of

demonstrations, in response to attacks or alleged attacks against Israeli civilians or security forces, and to enforce the access-restricted areas of the Gaza Strip. In this respect, the Committee notes with concern that, when referring to the responses of the State party's security forces to attacks or alleged attacks by Palestinians against Israelis, the United Nations High Commissioner for Human Rights noted that "some of these responses strongly suggest unlawful killings, including possible extrajudicial executions" (A/HRC/31/40, para. 10). The Committee is also concerned at reports that accountability for instances of excessive use of force is rare (arts. 2, 12, 13, 14 and 16).

33. **The State party should make more vigorous efforts to effectively prevent and sanction incidents of excessive force, including by ensuring that:**

(a) **Law enforcement and security officials are adequately trained in and comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, including in the access-restricted areas of the Gaza Strip;**

(b) **The rules of engagement or regulations on opening fire are fully consistent with the Convention and other relevant international standards. In this respect, the Committee encourages the State party to implement the recommendation made by the Secretary-General to "[carry] out an independent review and any necessary revisions of rules of engagement or regulations on opening fire to ensure their consistency with international law" (see A/70/421, para. 72 (b));**

(c) **All instances and allegations of excessive use of force are investigated promptly, effectively and impartially by an independent body, that alleged perpetrators are duly prosecuted and, if found guilty, adequately sanctioned.**

Prohibition of coerced evidence

34. The Committee is concerned at allegations of instances in which coerced evidence was used in courts, including in military courts to sentence children, despite the jurisprudence of the Supreme Court regarding the inadmissibility of evidence obtained illegitimately. Recalling its previous recommendation (CAT/C/ISR/CO/4, para. 25), the Committee observes with interest the information provided by the delegation that a bill has been drafted that, inter alia, will expressly establish the inadmissibility of a confession procured under torture (art. 15).

35. **The state party should:**

(a) **Take effective measures to ensure in practice, where there is an allegation that a statement was made under torture, that such a statement is not invoked as evidence in any proceeding, except when invoked against a person accused of torture as evidence that the statement was made;**

(b) **Speed up the process to adopt the bill referred to by the State party and ensure that it explicitly prohibits the use as evidence in any proceedings of any statement (either confession or any other type of statement) which is established to have been made as a result of torture, except when invoked against a person accused of torture as evidence that the statement was made.**

Checkpoints

36. Recalling its previous concluding observations (CAT/C/ISR/CO/4, para. 31), the Committee remains concerned at allegations of instances of degrading treatment at checkpoints and of undue delays or denials of passage, including in emergency cases (art. 16).

37. **The State party should take effective measures, including adequate training for relevant personnel, to ensure that security controls at checkpoints are carried out in a humane and respectful way, in accordance with the Convention. It should also ensure that there are no undue delays or restrictions for the passage of persons, in particular in emergency cases.**

Allegations of acts of violence by State party's settlers

38. While taking note of the measures taken by the State party to address settler-related violence, including the establishment in March 2013 of the Nationalistic-Motivated Crimes Unit, a special police unit operating within the West Bank, the Committee is concerned at allegations that acts of violence by settlers of the State party against Palestinians continue to be committed in the West Bank, including East Jerusalem (art. 16).

39. **The State party should take more effective measures to prevent acts of violence by settlers. In line with the Committee's previous recommendation (CAT/C/ISR/CO/4, para. 32), the State party should also redouble its efforts with a view to ensuring that all allegations of acts of violence perpetrated by settlers are promptly and impartially investigated; that the alleged perpetrators are brought to justice and, if found responsible, appropriately punished; and that victims are afforded appropriate redress.**

House demolitions

40. Recalling its previous concluding observations (CAT/C/ISR/CO/4, para. 33), the Committee is concerned that the policy of punitive demolitions of houses resided in by perpetrators or alleged perpetrators of attacks against Israelis was resumed in July 2014 after having been suspended and not used, with two exceptions in 2008 and 2009, since 2005 (art. 16).

41. **The State party should take all the measures necessary to put an end to the policy of punitive house demolitions, as it violates article 16 of the Convention.**

Postponement of return of bodies

42. The Committee is concerned at information that, at the time of the dialogue, the State party was postponing, on the basis of security concerns the return of the bodies of 18 Palestinians to their families. In this respect, the Committee notes the information provided by the delegation that, after a new evaluation of all the relevant circumstances, the State party has agreed to initiate the return of the bodies for the purpose of burial, subject to arrangements to guarantee that the burial process would be conducted in a secure and non-violent manner (art. 16).

43. **The State party should take the measures necessary to return the bodies of the Palestinians that have not yet been returned to their relatives as soon as possible so they can be buried in accordance with their traditions and religious customs, and to avoid that similar situations are repeated in the future.**

Detention of persons entering the State party irregularly

44. The Committee takes note of the decisions adopted by the High Court of Justice in 2013-2015 relating to the detention regime under the Prevention of Infiltration Law and of the amendments that were made to the law as a result. However, it is concerned that the current text of the law provides that a person who enters Israel irregularly, with certain exceptions, is to be detained for a period of up to three months. The Committee notes that, according to the law, if the person cannot be deported, that period is followed by up to 12

months of mandatory residence in the "Holot" open facility, of which certain groups of persons, such as women and children, are exempted (arts. 2, 11 and 16).

45. **The State party should take the legislative and other measures necessary with a view to ensuring that the detention of persons entering its territory irregularly is only used as a last resort, when determined to be strictly necessary and proportionate in each individual case, and for as short a period as possible.**

Asylum seekers and refugees

46. The Committee is concerned at the low recognition rate of refugees and regrets not receiving clarifications about the "prima facie rejection procedure". The Committee takes note of the information provided by the State party concerning the criteria to be met before signing agreements with third countries for the relocation of nationals of Eritrea and the Sudan who entered the State party irregularly; however, it regrets that these agreements are made confidential by the countries involved, which hinders public scrutiny of whether the protection needs of the persons to be relocated would be adequately covered. While noting that the State party's delegation stated that, according to the information available to them, there were no violations to the principle of non-refoulement with regard to the persons relocated in the context of the said agreements, the Committee is concerned by information that some of the Sudanese and Eritrean nationals who were relocated in 2014 and 2015 pursuant to these agreements did not receive permission to stay in the third countries and therefore faced a risk of being sent to their countries of origin. While taking note that the "coordinated return procedure" with Egypt was put on hold in March 2011, the Committee is also concerned at allegations of incidents taking place after that date when Israeli Defence Forces reportedly returned people to Egypt shortly after they crossed the border without conducting an interview. The Committee notes with appreciation the procedure in place for the identification of victims of trafficking and the rights afforded to them, including shelter and free legal aid. While noting that victims of trafficking could have also been victims of torture and that upon arrival at "Saharonim" detention centre all persons are examined by a physician, the Committee is concerned that the measures taken by the State party do not seem to fully ensure the effective identification of victims of torture among asylum seekers and to guarantee that they receive adequate State-sponsored holistic rehabilitation support and free legal aid when they do not qualify as victims of trafficking (arts. 2, 3, 14 and 16).

47. **The State party should:**

(a) **Guarantee in practice that all asylum seekers have access to efficient refugee status determination procedures that include a thorough examination of the merits of each individual case under article 3 of the Convention;**

(b) **Ensure that effective procedures are in place to identify as early as possible all victims of torture among asylum seekers, in particular by conducting thorough medical and psychological examinations, and that, when signs of torture or traumatization have been detected, victims have immediate access to specialized medical and psychosocial services;**

(c) **Guarantee that all asylum seekers have access to independent, qualified and free-of-charge legal assistance during the entire asylum procedure;**

(d) **Refrain from removing any person from the State party without previously conducting a thorough risk assessment of situations covered by article 3 of the Convention;**

(e) **Ensure that relocation agreements with third countries are transparent and establish effective guarantees against refoulement and post-return monitoring mechanisms.**

Redress and rehabilitation

48. While taking note of the information provided by the State party on the legislative provisions governing monetary compensation for victims of offences, the Committee regrets the lack of sufficient information on other forms of redress available for victims of torture and ill-treatment, in particular rehabilitation programmes or services. In this respect, the Committee notes with appreciation the system of rehabilitation for victims of trafficking, but regrets that a system of similar characteristics for victims of torture does not seem to have been set up (art. 14).

49. **The State party should take the measures necessary to ensure that all victims of torture and ill-treatment who are subject to its jurisdiction obtain redress and have an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible, as required by article 14 of the Convention and elaborated in the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties. It should also ensure that specialized, holistic rehabilitation services, including medical and psychological assistance, are available and promptly accessible to all victims of torture and ill-treatment.**

Training

50. The Committee takes note of the human rights training provided to members of the police, Israeli Defence Forces, the Israeli Prison Service, the Israel Security Agency, the Population and Immigration Authority, the judiciary and legal practitioners. It also notes that, during general medical training, physicians and medical staff are taught how to detect and provide special treatment to victims of violence, including torture. However, the Committee regrets the lack of specific and regular training on how to detect and document cases of torture and other cruel, inhuman or degrading treatment or punishment in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) (art. 10).

51. **The State party should:**

(a) **Redouble its efforts with a view to ensuring that all persons involved in the custody, interrogation and treatment of persons deprived of liberty are well acquainted with the provisions of the Convention, in particular with the absolute prohibition of torture, and are fully aware that violations will not be tolerated and will be investigated, and that those responsible will be prosecuted;**

(b) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify and document cases of torture and ill-treatment in accordance with the Istanbul Protocol;**

(c) **Take the measures necessary to evaluate the effectiveness and impact of educational and training programmes relating to the Convention and the Istanbul Protocol.**

Follow-up procedure

52. **The Committee requests the State party to provide, by 13 May 2017, information on follow-up to the Committee's recommendations on independent medical examinations of persons deprived of liberty, administrative detention, solitary**

confinement and other forms of isolation, and allegations of torture and ill-treatment (see paras. 21, 23 (a), 25 (b) and 31 (b) above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

Other issues

53. **Recalling its previous concluding observations (CAT/C/ISR/CO/4, paras. 35-37), the Committee again encourages the State party to:**

(a) **Become a party to the Optional Protocol to the Convention;**

(b) **Consider making the declarations under articles 21 and 22 of the Convention, in order to recognize the competence of the Committee to receive and consider inter-State and individual communications;**

(c) **Withdraw its reservation to article 20 of the Convention.**

54. **The Committee invites the State party to consider becoming a party to the core United Nations human rights treaties to which it is not yet party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the International Convention for the Protection of All Persons from Enforced Disappearance; and to the protocols to the core United Nations human rights treaties to which it is not yet a party, namely, the Optional Protocol to the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.**

55. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.**

56. **The Committee requests the State party to submit its sixth periodic report by 13 May 2020. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, submit to the State party a list of issues prior to reporting.**

United Nations CAT/C/ISR/CO/5/Add.1

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the fifth periodic report of Israel

Addendum

Information received from Israel on follow-up to the concluding observations*

[Date received: 19 September 2017]

1. As requested by the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in its concluding observations dated May 13, 2016, the State of Israel respectfully presents the following information.

Independent medical examinations of persons deprived of liberty (concluding observation No. 21)

GOI Reply:

2. General — Every Israeli Prisons Service detention facility employs a general physician, a dentist, a narcology specialist and a professional medic who provide regular services. A medical examination is available daily in all Israeli Prisons Service facilities and prisoners may be examined upon request. Examinations by specialists are also provided in prison infirmaries, Israeli Prisons Service medical centers, and hospital clinics. Gynecological examinations are performed when necessary and upon the request of female prisoners.

3. In addition, a prisoner may request to have an examination done by a private physician at her/his own expense. Such a request is considered by the prison's medical team, which conducts a preliminary medical examination, in accordance with criteria set out in Israeli Prisons Service Commission standing order No. 04.46.00.

4. On May 3, 2017, the Lod District Court rejected a petition submitted by two petitioners who requested that specialists be present in prisons regularly, based on recommendations made by the Committee for the Examination of Medical Services Provided to Prisoners of 2002 ("the report"). This report referred to issues such as doctors' training, subordination and supervision of IPS medical staff, appointment of an ombudsman for prisoners' complaints regarding medical issues in the Ministry of Public Security, treatment of prisoners with disabilities, nutrition etc.

* The present document is being issued without formal editing.

5. The respondents argued that the report does not require a specialist to be placed in every prison and that prisoners may be seen by specialists at medical centers and nearby hospitals.

6. The Court accepted the respondents' position that the report does not require specialists to be placed in every prison. It also noted that during the lengthy deliberation period, new clinics and medical centers staffed by specialists were established in the Israeli Prisons Service southern, central and northern districts. The Court therefore rejected the petition, but ordered the Israeli Prisons Service to publish the dates on which specialists would be available in the prisons and their area of expertise every month. (Pr.P.C. 5236-11-12 *Mahmud Magadba v. Israel Prison Service*, (03.05.16)).

7. Following this decision, one of the petitioners appealed to the Supreme Court. In its response to the petition, the State reiterated its position that the report does not require a specialist to be permanently present in each prison. Moreover, it stressed its commitment to implementing the recommendations of the report. For example, the State noted that it had authorized the budget for the establishment of a medical center staffed by specialists in the "Hadarim" compound, which is to be renovated this year, and that the IPS is negotiating with one of the nearby hospitals regarding the operation of specialist services in this IPS compound. The State further noted that the IPS is publishing the monthly schedules of specialists, as ordered by the District Court. This petition is still pending. (Ap.R.P. 4026/16 *Mahmud Magadba v. Israel Prison Service*, (14.02.2017)).

8. In addition, prisoners with chronic illnesses are treated in a detention facility that the Israeli Prisons Service operates for prisoners with physical and mental disabilities.

9. Israeli Prisons Service Physicians — The duty of physicians working in Israeli Prisons Service facilities is to respond to the medical and health care needs of inmates. These duties supersede any other need or requirement of the Israeli Prisons Service system. Israeli Prisons Service physicians do not approve or take part in the investigation or punishment of an inmate.

10. Examining Medical Staff Reports on Detainees' Injuries — In January 2012, the Ministry of Health's Deputy Director General established a Committee to examine medical staff's reports of injuries allegedly sustained by detainees during interrogation procedures. The Ministry of Health notified all hospital staff in Israel of the establishment of the Committee. The Committee is authorized to approach the relevant authorities for their responses to the claims raised and to make recommendations to the Ministry of Health and the Israeli Medical Association's Ethics Board as to the necessary and proper procedures to handle the case. In one instance, the Committee received and examined a complaint from an NGO, after which it found that there was no need for it to continue handling the particular matter because the incident had already been reported to the Department for Investigation of Police Officers in the Ministry of Justice and an indictment was filed.

Measures necessary to end the practice of administrative detention and ensure that all persons who are currently held in administrative detention are afforded all basic legal safeguards (concluding observation No. 23 (a))

GOI Reply:

11. Administrative detention is a security measure recognized in international law, and explicitly in Article 78 of the Fourth Geneva Convention. It allows for the temporary internment of an individual when required by security exigencies. In accordance with the requirements set out in both international and domestic law, administrative detention orders are used as a preventive measure where there is a reasonable basis to believe that the detention is absolutely necessary for clear security purposes. Administrative detention is not employed where the security risk can be addressed by other legal alternatives, especially criminal prosecution.

12. Note that prior to the issue of an administrative detention order, an internal supervisory procedure is conducted regarding both legal and operational aspects, and only

following this procedure, when it is determined that administrative detention is the only way to prevent the threat posed by the relevant person, the Military Commander signs the order. After an order has been signed, a judicial review is conducted before a military judge, in which the detainee is represented by an attorney and may present his/her arguments. The judge receives all the materials, including any confidential materials, upon which the order was issued. The Court may hold an *ex-parte in-camera* hearing in order to hear additional details from security authorities, in which he/she can ask the State representatives any question. The judge has wide discretion concerning the approval of the order and may approve the order for its entire duration, order to shorten it or not extend it without new intelligence information or a change in circumstances, or cancel the order. Following this decision, each party may file an appeal to the Military Court of Appeals, in which the order is re-examined by a judge. Here, the detainee is again represented by an attorney. Following the Court's decision, each party may appeal to the High Court of Justice (HCJ).

13. In 2017 (until September 10th), about 395 such appeals were filed to the HCJ. Several other aspects, regarding the maintenance of due process when applying this measure, are put in place in the relevant legislation, such as a six (6) months maximum period per order, and a mandatory judicial review of each order.

Solitary confinement and other forms of isolation (concluding observation No. 25 (b))

GOI Reply:

14. During the dialogue with the Committee on May 3rd and 4th, 2016, Israel gave a presentation regarding "Solitary Confinement and Separation within Israeli Prisons Service facilities".

15. Solitary confinement — The manner and the extent of the use of solitary confinement with regard to **Israeli prisoners** comply with international law standards and must be strongly distinguished from *incommunicado* detention.

16. Solitary confinement is used only in a limited and closed list of 41 **disciplinary offences** set in Section 56 of the *Prisons Ordinance 5732-1971*; thus, the Israeli practice adheres to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

17. Solitary confinement is employed in an extremely restricted manner and for short and limited periods of time, with a maximum of 14 days. Where solitary confinement is prescribed for a period of time exceeding seven (7) days, there must be a seven (7) day break immediately following the first seven (7) days of confinement, such that a prisoner will not spend more than seven (7) consecutive days in solitary confinement. In addition, a period of more than seven (7) days in solitary confinement can be imposed only by the Prison Director or his/her deputy, and must follow a disciplinary hearing. Prior to the disciplinary hearing, the prisoner receives a 48-hour notice, during which he/she can prepare his/her arguments and summon witnesses, if he/she chooses to do so. Thus, the confinement would never be "Indefinite or exceptionally prolonged", in accordance with Rule 43 of the Mandela Rules.

18. During the course of the solitary confinement, contact is maintained with the officials in the ward — prison guards and social workers as well as with physicians/paramedics upon request, and the prisoner's attorneys, unless in exceptional circumstances. A minor will see a social worker every day that he/she spends in solitary confinement. This again differs from *incommunicado* detention, where no one, apart from the authorities, may have contact with the detainee.

19. These rules apply equally to criminal as well as security prisoners. Security prisoners also receive regular visits from the ICRC.

20. Separation is not a punitive measure but rather a preventive procedure which is intended to prevent prisoners from harming themselves or other prisoners, as well as for other reasons such as state or prison security. A prisoner held in separation may be held

alone or together with another prisoner ("separation in a pair"), as decided according to the grounds for his/her separation as well as the prisoner's characteristics.

21. The conditions provided in separation are similar to the conditions provided to all other prisoners, including: medical care, meetings with his/her attorneys, social workers and family visits. The separation ward is equipped with a television, video game consoles, telephone, books and newspapers.

22. This preventive measure of separation is subject to reconsideration procedures, judicial review and appeal.

Effective measures to ensure that interrogation methods contrary to the Convention are not used under any circumstances ((concluding observation No. 31 (b))

23. According to the *Security Agency Law* 5762-2002, the Israeli Security Agency (ISA) internal rules and procedures, as well as its methods of interrogation, are confidential, for security reasons.

24. It should be emphasized, that the Israel Security Agency and its employees are required to act within the limits of the law and are subject to both internal and external supervision and review. This includes the Inspector for Complaints against Israeli Security Agency (ISA) Interrogators, the State Attorney, the Attorney General and every instance of the courts, including the High Court of Justice.

Additional Information

The Counter-Terrorism Law 5776-2016

25. On June 15, 2016, as part of Israel's ongoing battle against terrorism, the Government of Israel enacted the *Counter Terrorism Law* 5776-2016. This detailed and carefully-designed new law is part of an effort to provide law enforcement authorities with more effective tools to combat modern terrorist threats while incorporating additional checks and balances necessary to safeguard against unreasonable violations of individual human rights. The Law provides, among other things, updated definitions of "terrorist organization", "terrorist act" and "membership in a terrorist organization", detailed regulations for the process of designating terrorist organizations, and enhanced enforcement tools, both criminal and financial. This Law allows the relevant authorities to fight terrorism without being depended on a declaration on a state of emergency. The Law nullified previous legislation in the field of counter-terrorism such as the *Prevention of Terrorism Ordinance* 5708-1948, which was linked to a state of emergency. Additional legislation is currently being reviewed and amended in order to disconnect it from the requirement of having a declared state of emergency.

Positive updates concerning the Inspector for Complaints against Israel Security Agency Interrogators:

- In July 2016, the Israeli Prisons Service Commission published an amendment to its standing order titled "Rules of Conduct for Israeli Prisons Service wardens", in which Section 12 was added. This Section lays out the obligation of prisons to transfer any complaint against Israel Security Agency interrogators, or information that has otherwise come to their attention, to the Office of the Inspector in the Ministry of Justice.
- The leaflet of rights provided to every Israel Security Agency interrogate was updated recently to include a woman's right to the presence of another woman during her interrogation.
- The Inspector's Case Status — as of June 2017, there were 139 open cases. The complaint in 50% of these cases was received in 2016-2017, in 47% of these cases

the complaint was received in 2014-2015, and in 3% of these open cases the complaint was received in 2013.

- The Inspector recently received two (2) additional positions for her department. One position has already been filled and the second is in advanced stages of staffing.

Audio or Visual Documentation of Interrogation

Israel Security Agency Israel Security Agency Interrogations

26. The Turkel Commission[1] recommended that there be full visual documentation of Israel Security Agency interrogations, according to rules that will be determined by the Attorney General in coordination with the Head of the Israel Security Agency (Second Report, Recommendation No. 15).

27. In this regard, the Implementation Team recommended that cameras be installed in all Israel Security Agency interrogation rooms. According to the recommendation, these cameras are to broadcast, regularly and in "real-time", via closed Ministry of Justice-circuit, to a control room located in an Israel Security Agency facility in which interrogations are not conducted. The broadcast is to be accessible and available to a Ministry of Justice supervisor at any time without prior notice. The interrogators will have no indication of when the Ministry of Justice supervisor is watching them in the control room. In the event that the Ministry of Justice supervisor believes that illegal means have been used during the interrogation, he or she has an obligation to immediately report the matter to the Inspector for Complaints against Israel Security Agency Interrogators.

28. The Israeli Security Cabinet adopted the recommendations of the Implementation team. Consequently, the Ministry of Justice is currently conducting advanced stages of the staff work required to implement this recommendation.

Police Investigations

29. The *Criminal Procedure (Investigation of Suspects) Law* 5762-2002 (Sections 7 and 11) requires Israeli Police to carry out audio or visual recording of criminal suspect questioning, where the crime carries a penalty of imprisonment of ten years or more. A temporary provision in the law, which has been extended several times, states that this obligation to document does not apply to the investigation of a suspect relating to a security offence. Note that the Law does not apply to Israel Security Agency interrogations.

30. On December 12, 2016, the Knesset approved Amendment No. 8 to the *Criminal Procedure (Interrogation of Suspects) Law* whereby the questioning of a suspect in relation to a security offence is subject to random inspections and supervision according to police procedures that are to be approved by the Minister of Public Security and the Attorney General. The Amendment provides that the supervising authority will be allowed to conduct such inspections in regard to all ongoing interrogations, at any time, without any advance notice and without the interrogators being aware of such inspections. The Knesset's Constitution, Law and Justice Committee is to receive annual reports on the implementation of this Amendment.

31. Several NGOs filed a petition to the High Court of Justice against the constitutionality of this temporary provision. On January 15, 2017, the Court ruled that the petition was not ripe for adjudication, noting that the required implementing procedures were yet to be formulated. The Court stressed that these procedures must be strict, both in regard to the number of inspectors and the working procedures. The Court therefore dismissed the petition without prejudice. (H.C.J. 5014/15 *Adalah v. The Minister of Public Security* (15.1.17)).

[1] The Public Commission to Examine the Maritime Incident of May 31, 2010 (hereinafter "**the Turkel Commission**"). For further details of the composition of the Turkel Commission and its mandate, please *see*: www.turkel-committee.gov.il.

Hunger Strikes by Prisoners

GOI Reply:

32. On July 30, 2015, the *Amendment to the Prisons Ordinance Law (Prevention of Harm Caused by Hunger Strikes)* 5775-2015 (Amendment no. 48) was approved by the Knesset. To date, **the Law has not been applied**, even though several long and life threatening hunger strikes have since taken place, including in the last few months.

33. On September 11, 2016, the High Court of Justice ruled on a petition filed by the Israeli Medical Association and several additional NGOs against the constitutionality of this Amendment. The Court ruled that the Amendment is constitutional as it delicately balances the values of sanctity of life and public interest on the one hand and the right of the individual to human dignity, including autonomy and freedom of speech on the other hand.

34. In regard to Section 19 (14) (e) of the law, the main purpose of which is to safeguard security, the Court ruled that this section is constitutional but that it must be used very narrowly and is subject to appropriate evidence. (*H.C.J. 5304/15 The Israeli Medical Association v. The Israeli Knesset* (11.9.16)).

Procedure for Handling Asylum Seekers in Israel

GOI Reply: Gender Sensitivity in Request for Asylum

Gender Sensitivity in Request for Asylum

35. In February 26, 2017, the Government of Israel Regulation processing Asylum Requests (Population and Immigration Authority Regulation No. 5.2.0012) was updated as follows. A section entitled "*Gender Sensitivity in the process of refugee status determination (RSD)*" was added to existing regulations and procedures, with the aim of highlighting gender sensitivities. The underlying idea of the Gender Sensitivity Section is the acknowledgement that gender is an important attribute in asylum requests and their processing, and thus, the Population and Immigration Authority's policy must be adjusted accordingly. Please note that the Gender Sensitivity Section does not create an additional form of persecution under the 1951 Convention.

36. This Section provides that RSD interviews will be conducted with sensitivity to gender issues that might affect the interviewee's feelings or behavior or impact on his/her testimony. Furthermore, the Section stipulates that victims of gender-based violence, including sexual violence, must be treated with the utmost respect and sensitivity.

37. The Section further requires the following: (1) The training program of RSD Unit employees must include training regarding gender issues such as: the psychological effect of traumatic experiences (unwillingness to provide all details, difficulties in remembering past events and in providing testimony, etc.); cultural perceptions of women in countries of origin and their influence on asylum seekers; (2) Guidelines for the interview process: (a) The interviewer must inform the interviewee at the beginning of the interview of her/his right to request an interviewer of the same gender, subject to personnel availability at the RSD Unit; (b) Family members, including spouses should not be present at the interview, and each interview should be held individually; (c) The interviewee shall be given a proper opportunity to share her/his experience of any gender-based persecution or gender-based violence that she/he has suffered. This testimony shall be taken into consideration in the deliberation of her/his asylum application; (d) Additional caution should be taken in order to prevent repeated trauma to the interviewee; the interviewer must abstain from any request for extensive description of the traumatic event which is unnecessary for the final decision. An interviewee that has difficulty in completing her/his testimony shall be given an opportunity to complete the interview at another time.

United Nations CAT/C/PSE/1

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Initial report submitted by the State of Palestine under article 19 of the Convention, due in 2015*

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Part I. General information

A. Introduction

1. This report, which is the official initial report for the State of Palestine, was prepared in accordance with obligations arising under article 19 of the Convention against Torture and Other Cruel, Degrading or Inhuman Treatment or Punishment. The State of Palestine acceded to the Convention, without any reservations, on 1 April 2014. It has also acceded to numerous other conventions and treaties on human rights and international humanitarian law that also prohibit all forms of torture.

2. During the preparation of this and other treaty body reports due for submission, the Government of the State of Palestine provided a sound constitutional, legislative and procedural environment in line with the Committee's general comment No. 2 of 2002 on the establishment of national institutions to facilitate the implementation of the Conventions. On 7 May 2014, the President of the State of Palestine, Mahmoud Abbas, issued a decree on the formation of a standing national committee at the ministerial level to follow up on the accession by the State of Palestine to those international conventions and treaties. The committee is chaired by the Ministry of Foreign Affairs and Migrants and its members are drawn from other ministries and competent government institutions. The Independent Commission for Human Rights acts as an observer to monitor the fulfilment of obligations arising from accession to the treaties in question. Moreover, a committee was set up in 2017 to harmonize existing legislation with international treaties and conventions. It is chaired by the Ministry of Justice and composed of members from the competent government institutions and civil society organizations. Its mandate is to review legislation and the compatibility of its provisions with those of international conventions to which the State of Palestine has acceded.

3. After acceding to the human rights conventions, the State of Palestine adopted a national policy agenda for the period 2017–2022 and announced its commitment to the United Nations 2030 Agenda for Sustainable Development. Those commitments have been incorporated into the national policy agenda out of a sense of duty to the Palestinian people and in order to guarantee their fundamental freedoms and human rights, justice and equality, as well as providing opportunities for and protecting marginalized groups.

4. On 28 December 2017, the State of Palestine signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, demonstrating the seriousness of its political will to prevent torture and ensure accountability in that regard. It is one of the most important steps taken by the State of Palestine since its accession to the United Nations human rights treaties in 2014. Thereafter, the Palestinian Government announced its commitment to establishing an independent national preventive mechanism for the prevention of torture, as stipulated by the Optional Protocol. The core mandate of the mechanism will be to visit all places of detention in order to prevent torture and ensure that living and health conditions in them are proper, and to coordinate with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The State of Palestine is currently working with national and international partners, including Palestinian civil society organizations, to set up the mechanism.

5. This report was prepared by a committee of government institutions formed at the behest of the standing national committee and chaired by the Ministry of Interior. Its members were drawn from the Ministry of Justice, the Office of the Public Prosecutor, the Commission on Detainees Affairs, the Ministry of Social Development, the Ministry of Health, the Military Justice Commission and the Supreme Judicial Council.

6. In preparing the report, the committee benefited from information and reports provided by civil society organizations working in related areas. As part of its ongoing cooperation with those organizations, the committee also held two national consultation sessions to present and discuss the report in the West Bank and the Gaza Strip. The latter had to be held because participating organizations encountered difficulties in travelling from the Gaza Strip owing to discriminatory measures taken by the occupying Israeli

authorities. The committee used the comments of those organizations to enrich and amend the report.

7. The report contains a general overview and a detailed picture of the existing national laws and regulations in the State of Palestine relating to the implementation of the provisions of the Convention. It also contains data, information and statistics regarding efforts at the national level to stop torture and inhuman and degrading treatment.

8. The legal situation and reality on the ground in the Gaza Strip are also examined in the report. Since they imposed a stringent and unlawful blockade in 2007, the occupying Israeli authorities have increasingly detached Gaza, which is an integral part of the territory of the State of Palestine, from its natural anchorage. To this day, they have continued to subject it to measures that flout international law, repeated aggression and unrelenting collective punishment. They have split the Palestinian people demographically, curtailing freedom of movement and contact between the West Bank, including East Jerusalem, and the Gaza Strip, in direct, systematic and broad violation of the human rights of all Palestinians. At the same time, Israel, the occupying Power, has targeted the institutions of the State of Palestine and its officials, thereby limiting its capacity to meet its obligations and responsibilities to the people with a sufficiently high degree of professionalism and effectiveness. Violations by occupying forces against the security authorities are set forth in an accompanying table.

9. In mid-2007, the Hamas movement led a coup d'état in the Gaza Strip by, the most serious consequence of which has been to split the Palestinian political system. The Gaza Strip is legally subject to the authority of the State of Palestine and the actions taken by Hamas there since that time are inadmissible and illegal in the eyes of the Government of the State of Palestine. This has been underlined repeatedly in statements by the President of the State of Palestine, numerous government officials, faction heads and civil society leaders.

10. Violations of the Convention by Israel, the occupying Power, are also addressed in the report. Since occupying Palestinian territory in 1967, it has systematically violated the human rights of Palestinians on a large scale. The living conditions of Palestinian detainees held in the prisons of the Israeli occupiers are addressed, with supplementary data and statistics on the racist policy pursued by the occupying Israeli authorities in their torture and inhuman treatment of those detainees. The information contained in the report regarding the systematic violations by Israel, the occupying Power, must be seen in the light of its legal and moral responsibility and international obligations vis-à-vis the Palestinian people, who have been subjected to its colonial authority and are afflicted by its repressive and arbitrary practices, and the need for legal accountability. One of its greatest obligations, as a party to the Convention, is to ensure that people it has subjugated are not tortured. The violations by the occupying Israeli authorities include even the refusal to release the bodies of Palestinian martyrs, which amounts to collective punishment and a violation of the Convention. Moreover, Israel, the occupying Power, continually places obstacles in the way of the State of Palestine, thus preventing it from developing its justice and security sector.

11. The State of Palestine wishes to stress that the submission of this report does not absolve Israel, the occupying Power, of its legal responsibility under international law, in particular international humanitarian law and human rights law. That includes its obligation to uphold the provisions of the Convention and submit a report on its compliance with those provisions in the Occupied Palestinian Territory, including East Jerusalem. That obligation is alluded to in the advisory opinion of the International Court of Justice, issued in 2004, on the legal consequences of the construction of a wall in the Occupied Palestinian Territory.

B. Legal framework

12. The State of Palestine declared its commitment to abide by the principles and purposes of the United Nations and its Charter and the Universal Declaration of Human Rights in the Palestinian Declaration of Independence, issued in 1988 by the Palestinian National Council. The Declaration also served to announce the creation of the State of

Palestine as a free and independent State based on the principle of full equality of rights and freedoms among all Palestinians, wherever they might be, within a democratic parliamentary system based on principles of social justice, equality and non-discrimination in public rights. The Declaration of Independence thereby also served to set forth the intention of the State of Palestine to adhere to the human rights system as enshrined in international treaties and conventions, including the Convention against Torture, and, in order to safeguard that commitment, laid the groundwork for a legal system rooted in the rule of law and an independent judiciary.

13. Torture and maltreatment are explicitly prohibited under the Amended Basic Law of 2003, as further amended (art. 13).[1] A range of other guarantees to ensure the right of persons to be protected from torture and the commitment of the State of Palestine to prevent it are also set forth, specifically in article 11.[2]

14. Torture is prohibited under the criminal, procedural, security and administrative laws of Palestine. Perpetrators of torture are subject to criminal penalties such as imprisonment and fines and/or disciplinary penalties ranging up to dismissal from service. Key legislation in this regard includes: the Jordanian Criminal Code No. 16 of 1960, in force in the West Bank; the British Mandate-era Criminal Code (No. 74 of 1936), in force in the Gaza Strip; the Palestine Liberation Organization Revolutionary Criminal Code of 1979, in force in the West Bank and the Gaza Strip; the Military Code of Criminal Procedure of 1979; the Palestinian Code of Criminal Procedure (No. 3 of 2001); the Correctional and Rehabilitation Centres Act (No. 6 of 1998); the Palestinian Security Forces Service Act (No. 8 of 2005), the Decree-Law of 2016 on the protection of juveniles and other laws to which reference is made throughout the report.

15. With regard to measures and policies relating to the prohibition of torture and other forms of cruel, inhuman and degrading treatment, on 14 May 2013 (prior to accession to the Convention), the President of the State of Palestine issued instructions prohibiting any form of torture and all practices that violate human rights and dignity to all bodies authorized to carry out arrests, detention and investigations. He also stressed the need for measures to develop monitoring tools and make them operational in order to ensure the application of those instructions and laws on human rights and the prohibition of torture and inhuman treatment.

16. On 19 April 2010, the Director-General of Police issued circular No. 6 of 2010 on refraining from the use of violence, torture and all forms of cruel and degrading treatment in dealings with the public. In 2011, the Ministry of the Interior issued a rule book governing the use of force and firearms by members of the Palestinian security forces. Similarly, under the code of ethics and public conduct for members of the Palestinian security forces, which was approved by the President of the State of Palestine on 26 February 2018, the use of violence, torture and all forms of cruel and degrading treatment in their dealings with the public is prohibited; the definition of torture contained in the Convention was adopted in the code. The Ministry of the Interior has held numerous training courses on the subject to raise awareness among security personnel, including those who carry out arrests and administer detention in places of deprivation of liberty, of human rights and about combating torture on the basis of the aforementioned codes and other guidelines developed by the Ministry.

[1] Article 13 stipulates that: 1. No one shall be subjected to any form of coercion or torture. Defendants and persons deprived of their liberty shall be treated with dignity. 2. Any statement or confession provided in violation of the provisions of paragraph 1 of this article shall be null and void.

[2] Article 11 stipulates that: Personal freedom is an inalienable, guaranteed natural right, and no one may be arrested, searched, detained or have any restriction or prohibition placed on his or her freedom of movement, except by a warrant issued by a court in accordance with the law. The duration of pretrial detention is determined by the law and no one may be detained or imprisoned in places other than those subject to the laws regulating prisons.

Part II. Articles of the Convention

Article 1
Definition of the offence of torture

17. Torture is not defined as a crime in the legislation in force in the State of Palestine, under which it is merely classed as a misdemeanour and not a felony. This is set forth in article 208 of the Jordanian Criminal Code,[3] article 108 of the British Mandate-era Criminal Code[4] and article 280 of the Revolutionary Criminal Code.[5] Under article 7 of the Decree-Law of 2016 on the protection of juveniles, it is prohibited to subject juveniles to physical or mental torture, cruel and degrading punishment or treatment, or such that is demeaning to human dignity. In a similar vein, torturing inmates and using lewd language with them is prohibited under articles 37 and 40 of the Correctional and Rehabilitation Centres Act, which stipulate that prisoners must not be subjected to public vilification or poor ventilation and lighting conditions while being transported.

Article 2 (para. 1)
Measures necessary to prevent torture

18. The laws in force contain numerous safeguards and measures aimed at preventing acts of torture or other forms of cruel, inhuman or degrading treatment and punishment, ensuring that their perpetrators do not go unpunished, overseeing places of detention and correctional and rehabilitation facilities, and setting forth the terms and conditions for arrest and detention. Under the Basic Law, no one may be arrested, searched, detained or have any restriction or prohibition placed on his or her freedom of movement, except by a warrant issued by a court. No one may be detained or imprisoned in places other than those designated for that purpose in article 11 (para. 2). Under article 105 of the Code of Criminal Procedure, the duration of pretrial detention may not exceed 24 hours. The director of the centre or place of detention must hand over the accused to the Office of the Public Prosecutor for investigation within 24 hours. After questioning, the Prosecutor may detain the accused for 48 hours where so determined by the courts in accordance with the law. Under articles 99 and 100 of the Code, the Prosecutor has the obligation to perform a physical examination of the accused and officially record any visible injuries and their causes.

[3] Article 208 of the Jordanian Criminal Code provides that: 1. Anyone who subjects a person to any form of violence or force for the purpose of obtaining a confession of an offence or information pertaining thereto shall be liable to imprisonment for a term of between three months and three years. 2. Where such acts of violence or force cause illness or injury, the penalty shall be imprisonment for a term of between six months and three years, unless such acts warrant a more severe penalty.

[4] Article 108 of the British Mandate-era Criminal Code provides that any person employed in the public service who subjects or orders the subjection of any person to force or violence for the purpose of extorting from him or from any member of his family confession of an offence or any information relating to an offence, is guilty of a misdemeanour. Crimes are divided into categories by their degree of gravity:

1. Felony: this is the most serious type of offence and is punishable under the law by the death penalty, hard labour for life or a shorter term, or imprisonment for a term of not less than three years;

2. Misdemeanour: less serious than a felony, it is punishable under the law by imprisonment for a term not exceeding three years, a fine, or both, depending on the nature of the offence;

3. Contravention: the simplest and most minor type of offence, it is punishable under the law by imprisonment for a term of 1 to 10 days and a fine.

[5] Article 280 provides that: (a) Anyone who subjects a person to illegal acts of violence with a view to obtaining from him or her a confession to an offence or information pertaining thereto shall be liable to imprisonment for a term of not less than three months; (b) Where such acts of violence cause illness or wounds, imprisonment shall be for a term of not less than six months; (c) Where torture causes death, the penalty shall be imprisonment with hard labour for a term of not less than five years.

19. Under article 7 of the Correctional and Rehabilitation Centres Act, any person who is detained or arrested or has restrictions otherwise placed on their liberty in accordance with the law shall be held in a place of detention designated for that purpose by decision of the Minister of the Interior. He or she shall be informed of the reasons for their arrest, the charges against them, their right to appoint defence counsel for the duration of proceedings and their right to contact family members. The article underscores the legal principle of the presumption of innocence until the accused's guilt is established in a definitive ruling handed down in a trial held in accordance with the legal procedures, as set forth in article 14 of the Basic Law.

20. Article 13 of the General Intelligence Service Act (No. 17 of 2005) and article 8 of Decree-Law No. 11 of 2007 on preventive security contain general provisions stipulating the obligation to uphold the rights, freedoms and legal safeguards provided for in Palestinian legislation and international treaties, including the right to physical integrity and freedom from torture and inhuman and degrading treatment.

Article 2 (para. 2)
Provisions in cases of necessity and emergency situations

21. Under the Amended Basic Law (art. 110, para. 1), threats to national security arising from war, invasion, armed insurrection or natural disaster constitute states of emergency. Article 111 stipulates that no restrictions may be imposed on fundamental rights and freedoms except where necessary in order to achieve the aim stated in the decree declaring the state of emergency. In other words, any arrest or detention carried out under a state of emergency is reviewed by the Office of the Public Prosecutor or the competent court within 15 days of the date of arrest. The person arrested has the right to appoint counsel of his or her choice.

22. In 2007, the President of the State of Palestine, in accordance with the Amended Basic Law and the emergency powers vested in him by it, issued presidential decrees declaring a state of emergency throughout the State of Palestine and the formation of a Government to implement it, following the military coup d'état carried out by the Hamas movement in the Gaza Strip.

Article 2 (para. 3)
Invoking orders by superiors as justification

23. Under the Security Forces Service Act, any member of the security forces who, in the discharge of their duties, acts in a manner that is incompatible with their functions or whose conduct or comportment brings disrepute to the office is liable to be punished. There are no exemptions, except where it is established that the official acted on the orders of a superior who insisted that the orders be carried out, despite having been warned by the official that such orders contravened the law. In such cases, the superior alone shall be liable in accordance with articles 173 and 194 of the Act. Under article 4 (para. 3) of the code of ethics and rules of public conduct of the Palestinian security forces, neither orders from superiors nor exceptional circumstances, such as war or the threat thereof, internal political instability or any other public emergency situation, may be invoked to justify torture or maltreatment, cruel, inhuman or degrading punishment, or other forms of abuse.

State of necessity and Israeli occupation law

24. Torture is prohibited under international law under all circumstances, including in times of war or public emergency. It is a basic principle of international customary law that applies to all States, including those that have not ratify or acceded to any of the international treaties expressly prohibiting torture and its use on any person under any circumstances. Despite this and the fact that Israel, the occupying Power, is a party to the Convention, it continues unabated to torture and inflict other inhuman and shameful treatment on Palestinian prisoners and detainees in prisons of the occupying authorities. Palestinian inmates, in particular children, face cruel and inhuman prison conditions and

numerous practices on the part of the occupying Israeli forces that are demeaning to their human dignity and designed to break and humiliate them.

25. The prison authorities and investigators invoke the requirements of "necessity"; according to some interpretations of the outcome of the torture case heard by the Supreme Court of Israel in 1999, Palestinian detainees can be seen as "ticking time bombs" on whom moderate physical pressure may be brought to bear by the occupation authorities in investigations in order to extract confessions and information from them. The "ticking time bomb" label is applied to any case in which a detainee is believed to have information, the disclosure of which would prevent a potentially fatal imminent attack from taking place. In 1999, therefore, the Supreme Court (an arm of the colonial occupation authorities) ruled, with regard to torture, that reasonable means of pressure could be used on Palestinian detainees during their interrogation. That ruling is in addition to the many other decisions taken by the occupying authorities with regard to prisoners that permit and legalize torture.

26. The Supreme Court ruling left the door wide open to the use of torture and other cruel, inhuman and degrading treatment against Palestinian prisoners on the pretext of necessity. The Israeli occupation prison authorities and investigators, including those attached to Shabak, are exploiting the Court's ruling cynically to use cruel physical methods on anyone being investigated in connection with allegedly serious security matters. Thus, under the ruling, the "necessity" defence exempts investigators who employ prohibited interrogation methods from criminal responsibility, because the physical methods used are deemed to be nothing more than a necessary by-product of such interrogations, which, as a rule, are kept secret and not reviewed by any independent external body.

Article 3
Prohibition of the extradition, expulsion or return of any person to a State where they might be subjected to torture

27. The extradition, expulsion or return of a person to another State where he or she might be liable to be tortured is not explicitly addressed in Palestinian extradition laws, since the extradition of any Palestinian national anywhere for any reason is prohibited under article 28 of the Amended Basic Law.[6]

28. Under article 6 of the Extradition Act of 1927, in force in the West Bank, and article 7 of the Extradition Act of 1926, in force in the Gaza Strip, a fugitive criminal shall not be extradited if the crime requesting his extradition is of a political nature. The extradition of fugitive criminals in cases where they might be liable to be tortured is not prohibited under either Act. Extradition is addressed in the General Intelligence Service Act, article 16 of which provides that provisions regarding persons accused of extraditable crimes contained in treaties between the State of Palestine and other States must be observed in a manner that is not at variance with the law.

29. Under article 9 of the Extradition Act in force in the Gaza Strip, read together with article 2 of the Act, the justice of the peace is competent to consider extradition and expulsion cases, whereby the justice of the peace is the chief magistrate of the court of first instance, which is thus the competent court for the consideration of such cases. No requests for extradition, expulsion, deportation were recorded or appealed before the courts in the period covered by this report.

Article 4
Legislative provisions criminalizing torture

30. The provisions of the Code of Conduct for Law Enforcement Officials, which was adopted under General Assembly resolution 34/169 of 1979, apply in the State of Palestine

[6] Article 28 stipulates that no Palestinian shall be expelled from the homeland, deprived of return, prevented from leaving, stripped of his or her nationality or handed over to any foreign party.

and establish the responsibilities of all law enforcement officials, including the police and military: serving the community (art. 1); respecting human dignity and human rights (art. 2), including confidentiality (art. 4); prohibiting torture (art. 5); and fully safeguarding the health of persons held in their custody (art. 6).

31. The prohibition of torture and measures to counter it in the State of Palestine are also addressed in article 4 (para. 1) of the Code, which stipulates that, in line with the law and international instruments, members of the security forces shall refrain from carrying out any acts of torture or cruel, degrading or inhuman treatment, whether physical or mental, consenting to such acts or tacitly permitting them to be carried out, whether directly or through third parties.

32. Under the Criminal Code in force in the West Bank, acts of violence or force committed for the purpose of obtaining a confession to an offence or information pertaining thereto, whether or not committed by a public official, are punishable by imprisonment for a term of between three months and three years. The Code further stipulates that, where such acts cause illness or injury, the penalty shall be imprisonment for a term of between six months and three years.

33. Under the Criminal Code in force in the Gaza Strip, any person employed in the public service who subjects or orders the subjection of any person to force or violence for the purpose of extorting from him or from any member of his family confession of an offence or any information relating to an offence is guilty of a misdemeanour. Such a person shall be liable to imprisonment for a term of between one week and three years, a fine ranging from 5 to 200 dinars or bail bond.

34. Under the criminal laws, any person who intentionally strikes, injures or harms a person through any act characterized by violence or assault that results in illness or leaves the person unable to work for a period exceeding 20 days is liable to imprisonment for a term ranging from three months to three years.

35. Where the act in question leaves a person unable to work for less than 30 days, the penalty increases to a term of imprisonment not exceeding one year or a fine not exceeding 25 dinars or both. Under articles 333–345 of the Criminal Code in force in the West Bank and articles 238–244 and 248–251 of the Criminal Code in force in the Gaza Strip, the penalty is even more severe where the act results in the amputation or incapacitation of a limb or extremity or sensory disability, causes severe disfigurement or any other permanent disability or triggers a miscarriage. Under article 330 of the Criminal Code in force in the West Bank, the offence of manslaughter as a result of striking or injuring a person with a non-lethal instrument shall be punishable by hard labour for a term of not less than five years.

36. Under article 280 of the Revolutionary Criminal Code of 1979, illegal acts of violence with a view to obtaining a confession to an offence or information pertaining thereto are punishable by imprisonment for terms of not less than three months. Where such acts of violence cause illness or wounds, imprisonment shall be for a term of not less than six months. Where torture causes death, the penalty shall be hard labour for a term of not less than five years.

37. Pursuant to article 4 of Decision No. 172 of the Minister of the Interior, dated 20 August 2009, it is incumbent on all direct superiors and persons in leadership positions, within the limits of their authority, to apply penalties decided by the courts to any members of the security forces found to have subjected detainees to torture or inhuman treatment.

38. As for holding law enforcement officials accused of torture or inhuman or degrading treatment to account, the aforementioned penalties are insufficient to constitute a deterrent, are not commensurate with such criminal acts and do not conform with international conventions.

General guarantees

39. Under article 32 of the Amended Basic Law, the crime of torture is not subject to any statute of limitations; it provides that any violation of public rights or liberties guaranteed by the Basic Law and the laws in force constitutes an offence not subject to any

statute of limitations with respect to civil or criminal proceedings that may ensue. By law, victims may therefore assert their rights at any time. Current criminal legislation also provides that the statute of limitations for misdemeanours is three years. In that case, the provisions of the Basic Law, which is the cornerstone of legislation, take precedence.

40. Under article 207 of the Criminal Code in force in the West Bank, any public officials entrusted with the investigation and prosecution of crimes who neglect or delay reporting a crime of which they have become aware in the course of their work are liable to a penalty of imprisonment for a term ranging from one week to one year. Similarly, such officials who neglect or delay notifying the competent authority about a felony or misdemeanour of which they have become aware in the discharge of their official duties are liable to imprisonment for a term ranging from one week to three months. Medical professionals who, while assisting an apparent victim of a felony or misdemeanour, fail to inform the competent authorities are also liable to such penalties. Such acts are exempt from penalties where the offences require that a complaint be filed in order to be prosecuted.

41. With regard to disciplinary accountability, where law enforcement officials commit illegal acts they are held accountable in accordance with the general provisions on administrative and legal accountability stipulated by the law. For example, under articles 47–59 and 72 of the Judicial Authority Act (No. 1 of 2002), an official of the Office of the Public Prosecutor may receive a warning if he or she commits a breach of his or her professional duties. Disciplinary proceedings may ensue where the official fails to heed the warning. In such cases, proceedings may be conducted only on the basis of an inquiry by a judge of the Supreme Court. Such proceedings result in either the official's resignation or retirement.

42. The accountability of other law enforcement officials not employed by the Office of the Public Prosecutor is governed by articles 19–21 of the Code of Criminal Procedure, under which the Public Prosecutor, in his or her capacity as overseer of the work of law enforcement officials, has the authority to institute disciplinary measures that may include separation from service for any official who commits a breach or dereliction of his or her professional duties. Under the Security Forces Service Act, any member of the security forces who, in the discharge of their duties, acts in a manner that is incompatible with their functions or whose conduct or comportment brings disrepute to the office is liable to be punished, without prejudice to eventual civil or criminal proceedings, as is deemed to be necessary. There are no exemptions, except where it is established that the official acted on the orders of a superior who insisted that the orders be carried out, despite having been warned by the official that such orders contravened the law. In such cases, the superior alone shall be liable in accordance with articles 173 and 194 of the Act. This provision applies to all law enforcement personnel. Under article 218 of the Act, judicial rulings regarding administrative liability may be handed down under the Civil Service Act where there is a failure to hold perpetrators to account administratively under the aforementioned laws.

43. Members of the Palestinian security services who are alleged to have abused detainees are investigated and the completed files submitted to the competent court for due processing upon receipt by the Office of the Military Prosecutor in the West Bank of the relevant complaints. In 2015, four convictions were handed down, with sentences ranging from three to six months. Two cases resulted in acquittal for lack of evidence and another in a disciplinary penalty. Two further cases are pending before the courts and 12 others remain under investigation by the Office of the Military Prosecutor.

Cases of torture and inhuman practices (2014 to 2017)

	2014		2015		2016		2017	
Type of charge	*No. of cases*	*Legal action taken*	*No. of cases*	*Legal action taken*	*No. of cases*	*Legal action taken*	*No. of cases*	*Legal action taken*
Homicide	2	Court rulings handed down in both cases	10	Court rulings handed down in seven cases, three of them by military tribunals	7	Pending before military tribunals	1	Under investigation
Deprivation of liberty			3	Court rulings handed down in all three cases	13	Seven cases dismissed for lack of evidence and six pending before military tribunals	8	Two cases dismissed for lack of evidence, five under investigation and one pending before military tribunals
Torture							2	Under investigation
Kidnapping			1	Court ruling handed down	3	Court rulings handed down	1	Case dismissed for lack of evidence
Complaints by civil society institutions								
Al-Haq							2	Under investigation
Independent Commission for Human Rights							14	Under investigation

Persons charged with maltreatment of detainees or extraction of information by force (2016 to 2018)

Number of persons charged, by agency

	Agency	*No.*
1	Police	137
2	General Intelligence Service	6
3	Preventive Security Service	5
4	National Security Forces	4
5	Medical services	4
6	Customs	3
7	Civil defence	2
8	Intelligence services	1

Number of cases, by legal action taken

	Legal action taken	*No.*
1	Cases kept on file	39
2	Cases resulting in acquittal	40
3	Cases resulting in conviction	24
4	Cases pending trial	34
5	Cases under investigation	36

Note: The discrepancy in the totals between the two tables is due to the fact some persons were charged in multiple cases.

Situation of women inmates

44. With regard to the rights of female prison inmates, article 24 of the Correctional and Rehabilitation Centres Act stipulates that male inmates be housed separately from their female counterparts, thereby rendering spoken or visual contact between them impossible. Juvenile detainees are held in separate facilities altogether. Under article 27, special allowance is made for pregnant inmates. It provides that, from the time pregnancy becomes apparent until 60 days after delivery, pregnant inmates receive special treatment in terms of food, rest and work schedules. They are looked after and provided with medical care under a physician's supervision and the necessary arrangements are made for delivery to take place in hospital. Article 28 provides that, where a woman gives birth in a correctional centre and that is noted neither in the official records nor in the birth certificate, it shall be deemed that the child's place of birth was the hospital. The child remains in the care of its mother until it reaches 2 years of age. The facility director ensures that nursing mothers are housed separately from other inmates. Under article 402 of the Code of Criminal Procedure, a custodial sentence may be stayed in the case of a pregnant woman until three months after she has given birth.

45. Women inmates are accorded special treatment, in that they are entitled to more frequent external contact, including two visits a week without dividers between them and their visitors. They may also make telephone calls periodically. All their personal hygiene and other needs are met by the administration of the correctional and rehabilitation facilities. All the needs of any children born in the facilities, such as clothing and medical treatment, are also covered, as indeed are any other needs that women inmates and their children may have.

Women detainees in the prisons of the Israeli occupiers

46. The health conditions experienced by Palestinian women inmates in the prisons of the Israeli occupiers are extraordinary. They are systematically subjected to various forms of physical and mental torture and a policy of medical neglect. They are deprived of even the most basic health-care services and healthy food. The ill are made to wait for treatment and are given medication past its use by date. Inmates with chronic illnesses are deprived of their medication while others are denied essential surgery.

47. The conditions of detention in which Palestinian women are held are wretched, with poor ventilation, high humidity and significant overcrowding. They are sorely lacking in general cleaning materials and insecticides, and there is no separate housing for inmates with contagious diseases. They lack access to gynaecological care, which is especially problematic for those who were pregnant when detained and require medical follow-up. They are forced to give birth with their hands bound, regardless of the pain they endure in labour and childbirth.

Prohibition on the torture of juveniles

48. Under Palestinian law, the rights of children in conflict with the law are safeguarded to the same degree as for adults. That is set forth explicitly in article 5 of the Decree-Law

on the protection of juveniles with regard to their arrest, detention and trial.[7] Juveniles are guaranteed legal representation under article 10[8] and the right to humane treatment under article 7,[9] under which it is also prohibited to submit them to physical or mental torture or cruel, inhuman or degrading treatment or punishment. Under the Decree-Law, the juvenile prosecution service may hold a juvenile in a social welfare centre under the supervision of a child protection officer for not more than 48 hours, unless the court orders otherwise under the rules set forth in the Code of Criminal Procedure. Under articles 68 and 69 of the amended Palestinian Children's Act, the torture or inhuman or degrading treatment of juveniles is prohibited.[10]

49. The provisions of the Decree-Law on juvenile protection are consistent with international standards, in particular with regard to the principle of safeguarding the best interests of the juvenile throughout the preliminary investigation, investigation and sentencing stages, the jurisdiction over which is entrusted to the special police unit for juveniles under article 15.[11] Article 16 stipulates the establishment of a specialized juvenile justice unit.[12] The jurisdiction *ratione materiae* and *ratione personae* of the juvenile court is enshrined in article 26,[13] while article 24 addresses juvenile justice procedures.[14] Under Palestinian law, juveniles may not be sentenced to death, life imprisonment or hard labour under any circumstances. The sensitive age of juveniles and international principles were

[7] Under article 5 (para. 1), persons shall not be criminally liable for offences they commit, or if they are found to be at risk of delinquency, when under the age of 12 years. Under paragraph 2, read in conjunction with the provisions of the Palestinian Children's Act, a child under the age of 12 years shall be considered at risk of delinquency if he or she is involved in an act constituting a felony or misdemeanour and shall be placed under the supervision of a child protection officer.

[8] Article 10 provides that juveniles involved in felonies and misdemeanours must be represented by a defence lawyer during the preliminary investigation and at trial. Where a lawyer is not appointed, the Office of the Public Prosecutor or the court, depending on the circumstances, shall provide the juvenile with counsel at their expense.

[9] Article 7 stipulates that all juveniles shall enjoy the right to be treated in a manner commensurate with their age and which protects their honour and dignity and facilitates integration into society: Juveniles shall not be subjected to physical or mental torture, or to cruel or degrading treatment or treatment demeaning to human dignity (para. 1); No juvenile shall be liable to the death penalty or fines (para. 2); Juveniles shall be subject to restraints only in cases where their insubordination or belligerence make them necessary and then only to the extent required (para. 3); Prevention, education and rehabilitation shall be favoured over provisional arrest or measures involving deprivation of liberty, in particular of a short-term nature, except in difficult cases and in line with the child's best interests (para. 4).

[10] Article 68 stipulates that no minor shall be subjected to physical or mental torture or any form of cruel, degrading or humiliating punishment or treatment. Article 69 stipulates that minors accused of an offence have the right to be treated in a manner commensurate with their age, to the protection of their honour and dignity and to the possibility of being reintegrated into and playing a constructive role in society. The State shall take all the legislative and other measures necessary to uphold that right. 3. Prevention, education and rehabilitation shall, as far as possible, be favoured over provisional arrest or measures involving deprivation of liberty.

[11] Under article 15, a special police unit in each governorate, as required by the circumstances, shall have exclusive jurisdiction for juveniles and minors at risk of delinquency. The units shall be formed under a decree of the Minister of the Interior, which shall provide for the assignment to them of female personnel.

[12] Article 16 stipulates that: 1. Pursuant to the provisions of this Act, a justice unit for the prosecution of juveniles and children at risk of delinquency shall be established within the court. 2. The unit shall conduct investigations in line with the procedures set forth in the Code of Criminal Procedure, insofar as they are not inconsistent with the provisions of this Act. It shall direct the child protection officer to compile an activities and social inquiry file necessary to establish the truth and obtain an understanding of the child offender's personality and the appropriate means for his or her rehabilitation and protection.

[13] Article 26 stipulates that: 1. The court alone has jurisdiction over matters concerning juveniles and children in situations of difficulty that pose a threat to their physical or mental well-being or who are at risk of delinquency, in accordance with the Palestinian Children's Act. 2. Where a criminal offence is attributed to a juvenile acting in conjunction with an adult, the juvenile shall be tried separately.

[14] Article 24 stipulates that: 1. Each court shall have one or more chambers to hear cases involving juveniles. 2. The court shall sit on weekends, official holidays and evenings when necessary or the best interests of the child so require. 3. The court may sit where the social welfare centre is located.

both taken into account in the drafting of the Decree-Law on juvenile protection (or Juvenile Protection Act) in 2016. Under the Decree-Law, prevention and education are favoured to the degree possible over preventive arrest.

50. The court, therefore, is not concerned merely with establishing the facts of the crime and applying the law. An integral part of its jurisdiction is to take measures to protect minors in situations of difficulty that pose a threat to their physical or mental well-being and to shield them from delinquency. This area of jurisdiction, which is novel in Palestine, has a positive impact on minors and society. It is administered at the political, legislative and judicial levels, alongside measures taken by other specialized bodies designated by a number of institutions, primarily the Ministry of Social Development, and dovetails with current approaches to combating crime. The Ministry of Justice continues to develop plans for such specialized courts in order to meet its desired goals in this regard. Among the main raisons d'être for the court is to simplify trial proceedings and ensure that they remain confidential, prohibit hearings from being made public, ensure that the testimony is heard from persons concerned with the juveniles' best interests, and provide legal aid. Sentences handed down by the court are not recorded as prior convictions once juveniles reach adulthood.

51. The term "penalties" is avoided in the Decree-Law. Instead, in article 46,[15] reference is made to special measures for juveniles over the age of 15 years. The system of juvenile justice is thus not based on the notion of punishing juveniles for their acts. Rather, decisions are taken on the time needed to rehabilitate and integrate them into society. One of the measures stipulated in article 36[16] may be applied or they may be sentenced to community service, as provided for by the law.

52. With regard to policy, the legislative, executive and judicial branches in the State of Palestine, together with human rights institutions, are united in their determination to continue work on building a legislative and judicial environment for the rehabilitation of young people in conflict with the law. That in itself demonstrates the awareness in Palestine of the importance of protecting young people from delinquency, treating them properly and rehabilitating them. Palestinian legislators have not ignored restorative justice with regard to young people in conflict with the law, or alternatives to placement in welfare facilities. Also worthy of mention are: the children's protection division and child protection officers in the Ministry of Social Development; social welfare facilities; the priority given to prevention, education and rehabilitation; the avoidance of punishment involving the deprivation of liberty, except as a last resort and for the shortest possible term; ensuring equal rights between the sexes and guarantees of due process.

Progress achieved

53. After the adoption of the Decree-Law on the protection of juveniles, a completely separate criminal justice system for juveniles and children at risk of delinquency was introduced. It includes special police units for juveniles, a special juvenile division of the Office of the Public Prosecutor and a special juvenile court of first instance.

[15] Article 46 stipulates that: 1. If a juvenile aged not less than 15 years and not more than 18 years commits a felony, the court may rule that he or she be placed in a social welfare facility, as follows: (a) For a term not exceeding nine years for offences punishable by death; (b) For a term not exceeding seven years for felonies punishable by life imprisonment; (c) For a term not exceeding five years in the case of other felonies; (d) A juvenile who commits a misdemeanour punishable by imprisonment shall be confined in a social care facility for a period not exceeding one third of the maximum prison term under the law. The court may, instead of confinement, apply one of the measures set out in article 26 with respect to the juvenile; (e) The foregoing provisions notwithstanding, the court may apply provisions on mitigating judicial circumstances set forth in the Criminal Code, within the permissible legal limits applying to criminal acts committed by juveniles.

[16] Article 36 provides that juveniles below the age of 15 years who commit criminal acts may be sentenced to one of the following measures: 1. Reprimand; 2. Referral; 3. Occupational training; 4. The imposition of specific duties; 5. Options decided by the judges; 6. Probation; 7. Placement in a social welfare facility; 8. Placement in a specialized hospital.

Conditions of detention for Palestinian children in the prisons of the Israeli occupiers

54. Under the Israeli occupation, Palestinian children suffer from an ongoing policy of arbitrary detention and torture, even though, under international law, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, which were adopted under General Assembly resolution 45/113 of 14 December 1990, and Israeli law, persons under the age of 18 are deemed to be juveniles. Under current Israeli military law and the Israeli justice system in the Occupied Palestinian Territory, however, persons under the age of 16 years are treated as adults. Pursuant to Military Order No. 132, the Israeli occupation authorities may even arrest children as young as 12 years of age. As a result, they are tried by military tribunals under laws applying to adults, not those in force for juveniles. No account is taken in the courts of their age, nor are there specific courts for them. The result, of course, is that they are not treated as minors as stipulated under international guarantees, in particular those relating to the protection of juveniles deprived of their liberty and, specifically, under article 16 of the Convention on the Rights of the Child, which provides that: "No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. The child has the right to the protection of the law against such interference or attacks."

55. Since the onset of the Israeli occupation of the Palestinian territories, the matter of arrests has been a source of grave concern not only because of their significant and growing number, but also because all age groups and both sexes are affected. Not only are adult men and women being arrested, but also minors, both boys and girls. Perhaps the most worrying aspect is that the authorities are increasingly targeting young Palestinians below the age of 18 years. More than 1,200 Palestinian children have been arrested and imprisoned by the occupying Israeli authorities since 2000; more than 240 continue to languish in the prisons of the Israeli occupiers today. In 2018 alone, more than 900 Palestinian children aged between 11 and 18 years were arrested.

56. Most of them are held in the prisons of HaSharon, Ofer and Megiddo. A number are also held in detention centres such as Huwwarah, Gush Etzion and Maskubiyah. Children from Jerusalem and the 1948 zones are held in Giv'on prison in Ramallah, in spite of the fact that the transfer of Palestinian prisoners to prisons inside the occupied territories is a grave breach of international humanitarian law.

57. The suffering of Palestinian child prisoners starts from the moment of their arrest. They are routinely detained at military checkpoints, taken from their homes in the middle of the night or picked up when they are on their way to school in the early morning or on their way home. Their hands are bound, and they are blindfolded. The occupying Israeli police usually begin interrogating them as soon as they arrive at the police station, subjecting them to considerable psychological and physical pressure and a torrent of threats and insults. The aim is to intimidate and unnerve them and extract confessions. Most end up by confessing to having thrown stones and sign statements and other documents, the purport of which they do understand, that are written in Hebrew, a language that they do not understand.

58. The occupying Israeli authorities deprive Palestinian child prisoners of their most basic rights, enshrined in international instruments, including: the right not to be subject to arbitrary arrest, the right to be notified of the charges; the right to a lawyer; the right of the family to be notified of the charges and the place of the child's detention; the right to appear before a special juvenile court; the right to deny and appeal against the charges; the right to make external contact and the right to humane and decent treatment. Aside from the oppressive isolation that children experience in prison and the difficult living conditions in their approximately one-and-a-half-square-metre, dank, putrid and gloomy cells, they are deprived of sleep for days on end and poorly fed. All of that flies in the face of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

59. While in arbitrary detention, child prisoners are subjected to various forms of torture and cruel, inhuman and degrading treatment. They are completely isolated from their families and lawyers, especially during the preliminary investigation phase. Torture is also used to extract confessions from children. They are held for an initial period of four days, extended thereafter for another four days by order of the investigation unit (they must

appear before a military tribunal within eight days of their arrest). All of this constitutes a violation of Principle 21 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and article 40 (2) (b) (iv) of the Convention on the Rights of the Child, under which it is forbidden to abuse the position of detainees in order to compel them to confess or implicate themselves in a crime or provide information implicating others. It also violates article 37 (c), which stipulates that every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.

60. Israeli military tribunals have not shrunk from handing child prisoners harsh sentences, including exorbitant fines. Children in occupied Jerusalem have been targeted for arrest since 2014. The tendency has been to release them on payment of a fine or bail by a third party, to place them under house arrest or to remove them from their place of residence. Penalties imposed on Palestinian children were stiffened recently with the adoption by the Israeli Ministerial Committee for Legislation of tougher penalties for stone-throwing. Under the first part of the new law, stone-throwing is punishable by imprisonment for a minimum term of four years. Under the second part, the families of anyone convicted of an offence under the law shall be stripped of their economic and political rights, such as national insurance benefits, child benefit, allowances for disabled children and any other benefits. This is a form of collective punishment designed to push Palestinians out of their territory.

61. The most common forms of torture and cruel, inhuman and degrading treatment to which Palestinian child prisoners are subjected while in arbitrary detention in Israeli prisons include:

- The denial of their right to education;
- The absence of mental health care and professionals in prison facilities;
- The denial of regular visits by family members because they live in the occupied territories;
- Intimidation and harassment in detention;
- The sense of solitude and isolation;
- Attempts by the Israeli occupiers' intelligence services to recruit them;
- The denial of parental visits and its psychological impact on them;
- Medical neglect and the lack of health care;
- Beatings, intimidation and threats of beatings by investigating officials of the Israeli occupation prison authorities;
- Sexual harassment of some children, who are threatened with beatings if they attempt to complain to the prison authorities. In one instance, a child who did complain was assaulted by convicted criminals who slashed his legs with knives;
- Imprisonment together with convicted criminals;
- Subjection to attempted sexual harassment and verbal and physical abuse.

Article 5
Jurisdiction

Military tribunals

62. The Palestinian Military Justice Commission is an independent judicial body that deals with crimes committed by members of the Palestinian security forces. It consists of military tribunals established under article 101 (para. 2) of the Amended Palestinian Basic Law and the Office of the Military Prosecution,[17] which reports to the head of the Military

[17] Article 101 (para. 2) of the Amended Basic Law provides that military tribunals shall be established by specific laws and that they shall have no jurisdiction beyond military matters.

Justice Commission. The Office is headed by the Military Prosecutor, who is assisted by a team of prosecutors in the investigation of complaints of offences committed by Palestinian security forces personnel pursuant to articles 13–24 of the Palestine Liberation Organization Revolutionary Code of Criminal Procedure of 1979, as amended. The structure of the system of military tribunals and their areas of jurisdiction are set forth in articles 119–123 of the Code, which provide for a Central Military Tribunal, a Standing Military Tribunal, a Military Court of Appeals, a Special Military Tribunal and the Military Field Court.

63. The jurisdiction of the military tribunals is as follows:

- The Central Military Tribunal tries offences for which the penalty does not exceed one year, except in the case of those committed by officers. Appeals against its rulings may, in accordance with article 240 of the Code, be lodged within 10 days before the Chief Military Justice;
- The Standing Military Tribunal is mandated to deal with all offences except where otherwise stipulated. That includes all misdemeanours committed by personnel and officers of the security forces punishable by prison terms of more than one year and terms of hard labour, pursuant to articles 121 and 126 (b);
- The Military Court of Appeals is competent to hear any appeal against judgments and rulings handed down by the Standing Military Tribunal as a court of first instance and those handed down by the Special Military Tribunal, which examines offences committed by officers with the rank of major and above and other cases referred to in the decision regarding its establishment, as well as offences committed by officers from the rank of second lieutenant to major. The Court's rulings are subject to appeal within one month of their being handed down;
- The Military Field Court has jurisdiction for offences committed in the course of military operations, as set forth in the decision regarding its establishment and in accordance with the law.

Territorial, personal and extraterritorial jurisdiction of Palestinian law

64. Under article 14 of the Judicial Authority Act, regular Palestinian courts have jurisdiction to hear all disputes and try all offences except where specifically stipulated otherwise. Under articles 7, 8 and 10 of the Criminal Code in force in the West Bank, the provisions of the Code apply to anyone who commits an offence set forth therein in Palestine and to any Palestinian national who, when outside the State of Palestine, commits, takes part in, instigates or is an accessory to a felony or misdemeanour punishable by law. They apply equally to offences committed by Palestinian officials outside the State of Palestine in the discharge of their duties and by members of the Palestinian foreign service and consular staff who do not enjoy diplomatic immunity, as well as to offences perpetrated on board foreign aircraft passing through Palestinian airspace where either the offender or the victim is Palestinian, or where the aircraft lands in Palestinian territory after the offence is committed.

65. Under the Code, Palestinian courts also have jurisdiction for offences that occur at the instigation of or with the complicity of foreign nationals, provided that the offence is punishable under Palestinian law and the State of which they are nationals has not requested their extradition. The provisions of the Code apply to any Palestinian or foreign national who commits, takes part in, instigates or is an accessory to a felony or misdemeanour abroad that threatens the security of the State or who forges the State seal, currency, banknotes or securities issued by Palestinian or foreign banks that are legal tender or traded in Palestine. It follows, therefore, that Palestinian courts may exercise extraterritorial jurisdiction and try foreign nationals charged with offences committed outside Palestine, including crimes against physical integrity, provided that such foreign nationals are resident in the State of Palestine, that the State of which they are nationals has not requested their extradition or that such a request has been turned down and the offence is punishable under Palestinian law.

66. Under articles 6 and 7 of the Criminal Code in force in the Gaza Strip, the courts do not have extraterritorial or personal jurisdiction over nationals or foreign nationals who commit any offence, regardless of its nature, outside Palestine. The Code stipulates that the jurisdiction of Palestinian courts extends to all of Palestine and its coastal waters to a distance of three nautical miles.

67. Article 165 of the Code of Criminal Procedure in force in the West Bank and the Gaza Strip, on spatial jurisdiction, stipulates that where an offence that is punishable under Palestinian law occurs abroad and the perpetrator has no fixed address in Palestine, he or she shall be prosecuted before the competent court.

68. The jurisdiction of Palestinian courts is addressed in article 163 of the Code of Criminal Procedure, where it is stipulated that the jurisdiction of the courts shall be determined by the place in which the offence occurred or the place in which the offender resides and where he or she was apprehended. Article 166 stipulates that, where an offence punishable under the provisions of the Palestinian Criminal Code falls only partly within the jurisdiction of the Palestinian courts, it shall be treated as if it fell wholly within their jurisdiction.

69. Under article 28 of the Basic Law, the extradition of Palestinian nationals who are charged with an offence is totally prohibited. Under article 10 (para. 1) of the Criminal Code of 1960, such persons shall be tried before Palestinian courts. The procedures set forth in the Code of Criminal Procedure apply to court proceedings, evidence and other procedural matters. Where the perpetrator is a foreign national residing in Palestine whose extradition has not been requested, he or she comes under the jurisdiction of the Palestinian courts and is subject to Palestinian law in accordance with article 10 (para. 4) of the Code.

70. The Supreme Judicial Council has no record of any cases involving foreign nationals being brought before Palestinian courts because their extradition to another State had been refused; the trial of foreign nationals accused of the crime of torturing Palestinians outside Palestine; or the acceptance or refusal of any extradition requests in Palestine.

71. Through its occupation of Palestinian territory, Israel, the occupying Power, exercises illegal control over the crossing points and land, sea and air borders of the State of Palestine. It thus controls the flow of persons and imposes restrictions on the movement of Palestinian and other travellers entering or exiting the State of Palestine. The Israeli occupation also constitutes a stumbling block for the exercise by Palestinian courts of their territorial and personal jurisdiction in Area C, which accounts for 61 per cent of the West Bank, and in occupied East Jerusalem.

Article 6
Jurisdiction over accused persons who are foreign nationals

72. Under articles 11 and 12 of the Extradition Act of 1927 and articles 10–12 of the Extradition Act of 1926, the competent judge may order the arrest of a person accused of committing an offence requiring extradition to a foreign State, where the arrest warrant issued by that State is duly certified and evidence has been submitted to the court in compliance with the law. If the person has been found guilty of the offence, the competent judge may order the person’s arrest or release. In any case, such rulings may be appealed within 15 days of their issue and appeals may be appealed against within the same period under the rules set forth in the Code of Criminal Procedure. Upon issuing the arrest warrant, the judge must place the offender in custody, in a prison or other place of detention, until an order for his or her extradition is issued. Under the laws referred to above, the judge must inform the fugitive offender that he or she will not be extradited for 15 days and has the right to challenge the ruling before the Court of Appeals.

73. A foreign national who is detained in the State of Palestine shall by law be able to contact representatives of his or her country. Under article 123 of the Code of Criminal Procedure, a person charged with an offence also has the right to contact his or her family and a lawyer. Nothing in the law prohibits that.

Article 7
Due process measures for foreign nationals

74. The constitutional and legal rights of detainees and persons charged with offences to proper treatment and due process throughout the judicial and legal proceedings (questioning, investigation and trial) are guaranteed under the Basic Law, Code of Criminal Procedure and Judicial Authority Act, regardless of whether the accused is a Palestinian or foreign national. This is also affirmed in articles 15[18] and 16[19] of the General Intelligence Service Act.

Safeguards for the accused during questioning

75. Before trial, the accused enjoy such safeguards as the inadmissibility of being arrested, searched, imprisoned, detained or held in custody, or having their freedom of movement curtailed or prohibited except by a warrant issued by a court in accordance with article 11 (para. 2) of the Basic Law. Article 29 of the Criminal Procedure Code provides that arresting, imprisoning or curtailing the freedom of a person without a warrant shall be deemed arbitrary except, as provided for in article 30 of the Code, where a person is caught in the act of committing felonies or misdemeanours that are punishable by prison terms of more than six months or where the offender or person charged with committing an offence refuses to provide his or her name and address or has no fixed abode. The Code also stipulates that the accused shall be treated with dignity and come to no physical or mental harm. The period for which the accused may be held in custody is also regulated by law, as indicated earlier in this report.

76. Under the Criminal Code of 1960, the imprisonment or detention of a person in circumstances other than those stipulated by the law constitutes a punishable offence. Under article 12 of the Basic Law, the accused is entitled to have access to information concerning him or herself and, under article 112 of the Code of Criminal Procedure, a person who is arrested or detained has the right to be told of the reason for the arrest or detention and to be informed promptly of the charges in a language that he or she understands. With regard to the pretrial questioning stage, safeguards are built in to Palestinian law ensuring that, inter alia, the accused shall only be questioned when cognizant of the charges and presented with the evidence against him or her. Moreover, under article 12 of the Basic Law and article 102 of the Code of Criminal Procedure, the accused has the right to obtain the assistance of a defence lawyer without delay and questioning must take place within 24 hours of arrest.

Safeguards for the accused in court

77. Under Palestinian law, defendants are assured of a fair trial and decent treatment during court proceedings. The judiciary and judges are independent and subject only to the authority of the law. Interference by any other authority in their work or in matters of justice is not permitted. Defendants on trial are guaranteed the constitutional and legal safeguards enshrined in Palestinian laws, as stipulated in articles 97 and 98 of the Basic Law and articles 1 and 2 of the Judicial Authority Act. Under Palestinian law, the defendant is presumed innocent throughout the investigation and trial stages until found guilty in a definitive ruling by the competent court. The presumption of innocence places the burden of proof on the prosecution (Office of the Public Prosecutor) and the principle of in *dubio pro reo* applies. Moreover, the defendant shall not appear in court shackled or in a cage for defendants. He or she shall appear wearing his or her own clean clothes.

78. The defendant has the right to a public hearing, except in limited cases where considerations of public order or morals justify the closure of proceedings. The defendant has the right to be represented by defence counsel throughout the hearings. Where he or she

[18] Article 15 stipulates that: 1. If the arrested person is a foreign national, he or she shall be assisted in contacting the nearest representative of the State of which he or she is a national. 2. The General Intelligence Service shall notify the other country concerned where the circumstances dictate.

[19] Article 16 stipulates that persons charged with extraditable offences shall be subject, unless otherwise contrary to the law, to extradition treaties between Palestine and other States.

has not appointed counsel, the court shall assign him or her a lawyer with not less than five years of professional experience (article 244 of the Code of Criminal Procedure), where the court of first instance holding the hearings is constituted as a criminal court competent to rule on all the felonies and associated misdemeanours contained in the indictment (art. 168). Under the law, the defendant may not be removed from hearings unless he or she disrupts them in a manner that necessitates such action. The court, however, shall keep the defendant apprised of all measures taken in his or her absence.

Other safeguards to curb torture and maltreatment

79. Under Palestinian law, persons accused of offences have the right not to be held in custody or imprisoned in any place other than those designated by specific legislation on the prisons system, i.e., correctional and rehabilitation centres and places of detention facilities established by the law. Prison directors may only admit inmates on receipt of a signed order by the competent authorities. They must abide by the specified term of detention and not hold inmates thereafter. Under articles 99 and 100 of the Code of Criminal Procedure, a representative of the Office of the Public Prosecutor shall carry out a physical examination of the accused prior to the commencement of questioning and take note of any visible injuries and their causes. The representative also has the authority to order medical and psychological examinations of the accused where he deems it necessary or at the request of the accused or their counsel.

Article 8
Extradition of perpetrators of the offence of torture

80. Although torture and maltreatment, as per the Convention, are not explicitly referred to in Palestinian law as extraditable crimes, there is nothing in the law exempting the perpetrators of such crimes from extradition. Under the Extradition Act of 1926, in force in the Gaza Strip, and the Extradition Act of 1927, in force in the West Bank, the offence of unlawful arrest is extraditable, and unlawful arrest is a form of maltreatment.

81. Under the Act of 1927, for an offence to be extraditable, it must be punishable as if it had been committed on Palestinian territory, defined as the West Bank, and included in the list of extraditable offences contained in the Act. Under the Act of 1926, on the other hand, all offences, whether punishable by law or merely referred to in the list of offences in the Act, even if they are not punishable under Palestinian law, are extraditable. The crime of torture is not among them.

82. Article 28 of the Basic Law stipulates an exception to the obligation of the State of Palestine to extradite, whereby the extradition of Palestinian nationals to a foreign country is prohibited. Further exceptions are set forth in the two aforementioned Extradition Acts in force in the West Bank and the Gaza Strip.

Article 9
Judicial cooperation in matters of criminal procedure related to the offence of torture

83. The State of Palestine is a signatory to the Riyadh Arab Agreement on Judicial Cooperation, which forms the bedrock of judicial and legal cooperation between the Arab States parties with regard to the gamut of offences and guarantees mutual judicial assistance. Part 2 of that Agreement addresses the publication and notification of judicial and non-judicial documents and papers, while Part 3 regulates the matter of rogatory commissions. The State of Palestine has become a member of the Arab Criminal Police with a view to working with Arab police entities to combat crime. The European Union Police Mission has also worked with the Palestinian police on the legal and professional development of the international police unit within the Palestinian police force and the training of its personnel.

84. In the area of international cooperation to combat crime, the State of Palestine acceded to the United Nations Convention against Transnational Organized Crime in 2015 and joined the International Criminal Police Organization (INTERPOL) on 27 September 2017. Thereafter, it established INTERPOL Palestine (the National Central Bureau of INTERPOL). It has been given the equipment that it needs to do its work and staffed with a group of experienced police officers who are proficient in the foreign languages required for their assignment, and several courses have been held on how to use the INTERPOL network and on article 3 of the organization's constitution, as set forth below:

Title of the session	*Venue*	*Number of trainees*
Coexistence and sharing of experiences	Jordan	2
Capacity-building for INTERPOL officers	Turkey	5
Training in the use of the INTERPOL network and on article 3	State of Palestine	9

Article 10
Policies and measures

1. Ministry of the Interior

A. Instructions

85. In 2003, the Ministry of the Interior issued standing binding instructions to all training departments at security agencies to incorporate human rights training as a mandatory component of all training courses, regardless of the subject or nature of the training. The Ministry of the Interior and the security agencies began to develop a Democracy and Human Rights Unit at the Ministry of the Interior and complaints departments at the Ministry and all security agencies. The purpose was to promote awareness of human rights concepts among the staff of the security agencies so that they would be mindful of those concepts when dealing with the public.

86. The Ministry of the Interior has issued instructions to circulate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to all security agencies and their staff so that they can become acquainted with its provisions and comply with them in the course of dealing with the public. A CD has been produced containing the Convention, its Optional Protocol and the Istanbul Protocol, and has been adopted as part of the training curriculum for all Palestinian law enforcement agencies.

- In 2017, the Minister of the Interior issued a decision creating a special team to monitor the Ministry's compliance with human rights principles and the rule of law. The goal was to increase human rights awareness within the Ministry and security agencies and ensure that human rights are protected. That team works on the sections of periodic and annual reports and other publications required by conventions to which the State of Palestine is a party that relate to the work of the Ministry. It collects information related to legislation regulating the work of the Ministry and the Palestinian security forces and submits the draft laws and other information that are relevant to the strategic plans and policies followed by the Ministry and the security forces. It monitors human rights violations by the Ministry and the security forces and suggests mechanisms to limit such violations and prevent them from turning into systematic practices.

87. The Ministry of the Interior and the security forces, in collaboration with national partners from Government agencies and civil society institutions, as well as the relevant international agencies, has produced a manual of standard operating procedure for health-care services at correctional and rehabilitation centres. The goal is to increase awareness among staff at detention facilities and correctional and rehabilitation centres of the most advanced treatment methods, in accordance with national legislation and international agreements to which the State of Palestine has acceded, so that standardized up-to-date health-care services are provided to all inmates at correctional and rehabilitation centres.

Similarly, legal units at the Palestinian security agencies have been standardized through the adoption of a manual of operating procedure in collaboration with the relevant civil society and human rights institutions.

88. In partnership with the Hurriyyat Centre, the bill of detainee rights has been developed for interrogation, detention and correctional and rehabilitation centres, both civilian and military.

89. In 2018, the President of the State of Palestine signed a code of ethics and public conduct for members of the Palestinian security forces. It is to be used as a reference for the security forces in the course of carrying out their duties, in order to ensure that they are able to achieve a balance between protecting public rights and freedoms and the need to maintain security and order, consistent with international standards.

B. Memorandums of understanding

90. In 2017, the Ministry of the Interior signed a memorandum of understanding with Najah University to provide academic training on torture prevention for Ministry and security service staff using the Istanbul Protocol as a training tool. There have also been efforts to raise awareness about the Convention and torture prevention in all incarceration institutions, as well as within the Ministry of the Interior, the Ministry of Justice, and the forensic and military medical services agencies. The goal is to develop a national team that specializes in torture prevention on the basis the Istanbul Protocol standards.

91. A study was prepared in cooperation with the Treatment and Rehabilitation Centre for Victims of Torture on the compliance of Palestinian legislation with the Convention against Torture and the adoption of that Convention for the purposes of both harmonizing legislation and training.

92. In 2018, the Ministry of the Interior signed a cooperation agreement with the Muwatin Institute at Birzeit University to implement a training curriculum, entitled “Human Rights and Democracy Guide for the Security Forces and State Institutions”. Some 50 staff from the Ministry of the Interior and the security forces received training in the preparation of human rights training guides, and trainers were trained to transmit their experience to their agencies through ongoing education and by incorporating human rights issues into their annual plans and field activities.

93. A letter of commitment was signed between the General Intelligence Service and the Geneva Centre for the Democratic Control of Armed Forces (DCAF) to strengthen channels of communication with civil society and the media on the methods for addressing complaints that are followed by the enforcement authorities and security services, and to enhance the capacity of enforcement agencies and security services to handle complaints of torture and abuses of physical integrity.

94. In April 2017, the State of Palestine renewed its memorandum of cooperation with the International Committee of the Red Cross (ICRC), reaffirming the authority granted to ICRC to make periodic visits to correctional and rehabilitation centres.

C. Training

95. The Ministry of Interior conducts ongoing human rights training for all members of the security forces, including raising awareness about obligations stemming from the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and the Optional Protocol to the Convention against Torture.

96. The various Palestinian security services held over 416 training courses, lectures and workshops on a range of human rights issues, including torture, dealing with children and women victims of violence, psychological and social counselling, family protection, categorization of inmates, and relevant laws. Human rights training sessions were also held for Palestinian judges and prosecutors. Details are provided in the tables below.

Central report on human rights training for 2014

	Title of session	*Number of participants*	*Duration of session*	*Entity supporting the training*
1.	Human rights	17	5 days	State of Palestine
2.	The basic crime scene	19	12 days	State of Palestine
3.	Approaches to interviewing children	22	5 days	The European Mission
4.	Human rights	24	5 days	State of Palestine
5.	Standard operating procedures (family protection unit)	19	2 days	State of Palestine
6.	Intervention and referral procedures for battered women under the referral system II	5	3 days	UNODC
7.	Curbing child labour and the economic exploitation of children in accordance with the Labour Act and international standards.	3	2 days	Defence for Children International
8.	Human rights	20	5 days	State of Palestine
9.	Curbing child labour	1	2 days	Defence for Children International
10.	Training for family protection unit staff	9	18 days	State of Palestine
11.	Psychological and social counselling	1	2 days	SAWA Foundation
12.	First guide on ensuring human rights	20	4 days	State of Palestine
13.	Human rights	18	3 days	State of Palestine
14.	The role of the police in child protection	20	1 day	Palestinian Red Crescent
15.	Enshrining and honouring human rights	10	4 days	State of Palestine
16.	Violence and interrogation	1	5 days	State of Palestine
17.	Juvenile justice	1	1 day	European Union
18.	Training for the Women and Child Protection Unit	12	18 days	State of Palestine
19.	The role of the police in child protection	13	2 days	Palestinian Red Crescent
20.	First guide on ensuring human rights	19	3 days	State of Palestine
21.	Human rights	19	5 days	State of Palestine

	Title of session	*Number of participants*	*Duration of session*	*Entity supporting the training*
22.	First guide on ensuring human rights	20	3 days	State of Palestine
23.	International training programme for women's safety and security	1	19 days	Sweden
24.	Family justice project	5	1 day	European Union
25.	International conference on penal reform and human rights	1	2 days	European Mission/Sweden
26.	International conference on challenges to security and human rights in the Arab region	1	2 days	Council of Arab Ministers of the Interior
27.	Training seminar entitled: Peace and women's security	1	14 days	European Mission/Sweden
28.	Strengthening the relationship between the Palestinian citizen and the security agencies	1	1 day	National Security Service
29.	Violence and interrogation	2	3 days	Ministry of the Interior
30.	Enshrining and honouring human rights	5	4 days	Ministry of the Interior
31.	Violence and interrogation	2	3 days	Ministry of the Interior
32.	Conference: Towards a better future in which human rights are protected	1	1 day	Treating torture victims
33.	Enshrining and honouring human rights	5	4 days	Ministry of the Interior
34.	International law and human rights	1	1 day	Political guidance
35.	International law and human rights	1	1 day	Political guidance
36.	Citizenship and human rights	3	3 days	Independent Commission for Human Rights
37.	The principles of international humanitarian law	1	4 days	Ministry of the Interior
38.	Persons with special needs	3	1 day	Palestine
39.	Dealing with women and children victims of violence	2	2 days	Ministry of the Interior
40.	Violence and interrogation	1	3 days	Ministry of the Interior
41.	Enshrining and honouring human rights	25	15 days	Ministry of the Interior

	Title of session	*Number of participants*	*Duration of session*	*Entity supporting the training*
42.	The rights of the child under Palestinian law and international conventions	20	1 day	UNDP
43.	Women's rights: human rights	21	3 days	UNDP
44.	Public lecture on the global campaign against violence against women	200	1 day	UNDP

Central report on human rights training for 2015

	Title of session	*Number of participants*	*Duration of session*	*Entity supporting the training*
1.	Ensuring human rights (correctional and rehabilitation centres)	19	4 days	State of Palestine
2.	Joint workshop for prosecutors and police on creating a common understanding of measures to limit, assess and manage risk in the context of family protection	15	1 day	European police mission
3.	First guide on ensuring human rights	18	4 days	State of Palestine
4.	First training session on dealing with victims of violence	12	3 days	SAWA Foundation
5.	Palestinian women's social and economic rights: access to inheritance	5	1 day	European Union
6.	Human rights	14	5 days	State of Palestine
7.	Second training session on dealing with victims of violence	21	3 days	SAWA Foundation
8.	Mechanisms and skills for holding personal status hearings for women victims of violence in safe houses	6	1 day	UN-Women
9.	Human rights	13	4 days	State of Palestine
10.	Training of trainers for the care of juveniles, the juvenile justice project	2	10 days	European Union
11.	First training guide to ensuring human rights in correctional and rehabilitation centres	15	5 days	State of Palestine
12.	Training session on the national referral system for battered women	5	30 days	Ministry of Women's Affairs
13.	Human rights	12	26 days	State of Palestine
14.	Enshrining and honouring human rights	10	4 days	Independent Commission for Human Rights

	Title of session	*Number of participants*	*Duration of session*	*Entity supporting the training*
15.	Human rights	13	5 days	State of Palestine
16.	Session on the rights of inmates and detainees	10	3 days	Independent Commission for Human Rights
17.	First training guide on ensuring human rights	15	4 days	State of Palestine
18.	Maintaining order while respecting human rights	13	3 days	Independent Commission for Human Rights
19.	First guide on ensuring human rights	20	4 days	State of Palestine
20.	Promoting human rights and gender diversity concepts for women police officers	10	3 days	Independent Commission for Human Rights
21.	Visits to courts, juvenile detention facilities and correctional and rehabilitation centres	3	11 days	European Union
22.	Conference on achieving a balance between counter-terrorism and human rights	2	2 days	Council of Arab Ministers of the Interior
23.	Visits to learn about the design and management of correctional and rehabilitation centres	2	2 days	INL
24.	Arab session for the training of trainers in international humanitarian law	1	12 days	Red Cross
25.	First guide on ensuring human rights	20	4 days	State of Palestine
26.	Strengthening human rights and gender diversity for female police officers	10	3 days	Independent Commission for Human Rights
27.	First conference for human rights officials in the Arab Ministries of the Interior	1	6 days	Council of Arab Ministers of the Interior
28.	Workshop on implementation of the Convention against Torture	1	4 days	Morocco
29.	Preserving security and order while maintaining respect for human rights	14	3 days	Ministry of the Interior
30.	Workshop on developing the capacities of women	2	21 days	China
31.	Enshrining and honouring human rights	5	5 days	Ministry of the Interior
32.	The rights of detainees and prisoners	5	3 days	Independent Commission
33.	Human rights workshop	35	2 days	Hurriyyat Centre

	Title of session	*Number of participants*	*Duration of session*	*Entity supporting the training*
34.	Human rights workshop	8	2 days	Hurriyyat Centre
35.	Human rights workshop	25	2 days	Hurriyyat Centre
36.	International human rights standards and law enforcement	17	2 days	Red Cross
37.	Enshrining and honouring human rights	5	4 days	Ministry of the Interior
38.	The rights of detainees and prisoners in correctional and rehabilitation centres and detention facilities	6	4 days	Ministry of the Interior
39.	Human rights and criminal procedure	5	3 days	Ministry of the Interior
40.	Women’s rights	1	1 day	Political guidance
41.	Workshop on the CEDAW convention and Security Council resolution 1325 (2000)	1	1 day	
42.	National conference on the benefits and challenges for Palestine of signing the Optional Protocol to the Convention against Torture	2	1 day	
43.	Human rights workshop	4	2 days	
44.	Workshop on strengthening the social and economic rights of Palestinian men and women	29	1 day	
45.	Workshop on supporting victims of human trafficking and the national referral system	1	2 days	
46.	Session on the rights of detainees and prisoners in correctional and rehabilitation centres and detention facilities	28	3 days	
47.	Session on preserving security and order while maintaining respect for human rights	28	2 days	
48.	Session on human rights and proper criminal procedure	22	3 days	
49.	Session on promoting human rights and gender diversity concepts for women members of the Palestinian security forces	26	3 days	
50.	Enshrining and honouring human rights	22	4 days	

Central report on human rights training for 2016

	Title of session	*Number*	*Duration of session*	*Entity supporting the training*
1.	First guide on ensuring human rights	14	4 days	State of Palestine – Police
2.	Human rights	18	1 day	State of Palestine – Police
3.	Enshrining and honouring human rights	10	4 days	Treatment and Rehabilitation Centre for Victims of Torture
4.	Human rights	9	1 day	State of Palestine Police
5.	Training on the national referral system for battered women	8	8 days	State of Palestine, Ministry of Women's Affairs
6.	Protecting an enabling battered women and survivors of violence – Victims of violence	7	98 days	State of Palestine, Ministry of Social Development
7.	Family protection and juvenile courts on juvenile law	13	1 day	State of Palestine, Ministry of Social Development
8.	Legal framework governing the handling by the family protection and juvenile court of battered women and girls with disabilities	13	2 days	QADER for institutional development, Bethlehem
9.	Legal framework governing the handling by the family protection and juvenile courts of battered women and girls with disabilities	12	2 days	QADER for institutional development, Bethlehem
10.	International human rights law and standards related to police work	25	1 day	Red Cross
11.	Legal framework governing the handling by the family protection and juvenile courts of women and girls with disabilities	9	2 days	QADER for institutional development, Bethlehem
12.	International human rights law and standards as they relate to police operations	25	1 day	Red Cross
13.	Preserving security and order while maintaining respect for human rights	5	3 days	Independent Commission for Human Rights
14.	Legal framework governing the handling by the family protection court of women and girls with disabilities	12	2 days	QADER for institutional development, Bethlehem
15.	Investigation procedures for domestic violence cases	14	3 days	UN-Women
16.	Raising the capacities of specialists in supporting battered women	1	14 days	Korea

	Title of session	*Number*	*Duration of session*	*Entity supporting the training*
17.	UNICEF regional workshop on child justice	1	3 days	UNICEF
18.	Second conference for human rights officials in the Arab Ministries of the Interior	1	3 days	Secretariat of the Council of the Arab Ministers of the Interior
19.	Enshrining and honouring human rights	5	4 days	Treatment and Rehabilitation Centre for Victims of Torture
20.	Preserving order while maintaining respect for human rights	2	3 days	Political commissioner
21.	Enshrining and honouring human rights	5	4 days	Ministry of the Interior
22.	Code of conduct for security forces	3	1 day	Ministry of the Interior
23.	Department of military correctional and rehabilitation centres	1	28 days	Military intelligence
24.	Town hall meetings run by the Jerusalem Legal Aid and Human Rights Centre	3	1 day	Jerusalem Legal Aid Centre
25.	Empowering women and children and raising awareness among men to combat gender-based violence	1	51 days	Political guidance
26.	Building a culture of nonviolence and repudiation of ideological extremism	1	1 day	Political guidance
27.	International day against torture	1	1 day	Political guidance
29.	First meeting of the Steering and Follow-up Committee of the Regional Programme for the Arab States to Prevent and Combat Crime, Terrorism and Health Threats, and to Strengthen Criminal Justice Systems in Line with International Human Rights Standards (2016–2021)	1	2 days	Secretariat of the Council of the Arab Ministers of the Interior

Central report on human rights training for 2017

	Title of session	*Number*	*Duration of session*	*Entity supporting the training*
1.	Legal framework governing the handling by family protection courts of women with disabilities	16	2 days	QADER for community development
2.	National referral system for battered women	6	4 days	Ministry of Women’s Affairs/United States Agency for International Development (USAID)
3.	Techniques for interviewing children	15	3 days	European police mission

	Title of session	*Number*	*Duration of session*	*Entity supporting the training*
4.	Guide to ensuring human rights at correctional and rehabilitation centres	17	4 days	Police
5.	National referral system for battered women, Nablus police station	6	4 days	Ministry of Women's Affairs/USAID
6.	Techniques for interviewing children	8	2 days	European police mission
7.	First guide on ensuring human rights in correctional and rehabilitation centres	19	4 days	Police
8.	National referral system for battered women, Nablus police station	6	4 days	Ministry of Women's Affairs/USAID
9.	National referral system for battered women, Tubas police station	6	4 days	Ministry of Women's Affairs/USAID
11.	National referral system for battered women, Qalqilyah police station	6	4 days	Ministry of Women's Affairs/USAID
12.	National referral system for battered women, Janin police station	5	4 days	Ministry of Women's Affairs/USAID
13.	National referral system for battered women, Tulkarm police station	5	4 days	Ministry of Women's Affairs/USAID
14.	First guide on ensuring human rights and second guide on operation of correctional and rehabilitation centres	200	24 days	Police
15.	National referral system for battered women, Bethlehem police station	6	4 days	Ministry of Women's Affairs/USAID
16.	International human rights law and standards for the police in Nablus	25	1 day	ICRC
17.	National referral system for battered women, Hebron police station	6	4 days	Ministry of Women's Affairs/USAID
18.	International human rights law and standards, Hebron police	25	1 day	ICRC
19.	International human rights law and standards, Bethlehem police	26	1 day	ICRC
20.	Family protection and juvenile crime	12	1 day	UN-Women and the European Union Police Mission
21.	International human rights law and standards, Nablus police	30	1 day	ICRC
22.	International human rights law and standards for the police in Janin	22	1 day	ICRC
23.	Techniques for interviewing children, family and juvenile protection officers and prosecutors	6	2 days	European Union Police Mission
24.	Psychological and social support for family protection officers	4	2 days	Ministry of Social Development
25.	Psychological and social support for family protection officers	5	2 days	Ministry of Social Development

	Title of session	*Number*	*Duration of session*	*Entity supporting the training*
26.	International human rights law and standards, special police forces	28	1 day	ICRC
27.	Techniques for interviewing children, family and juvenile protection officers and prosecutors	5	2 days	European Union Police Mission
28.	International conference on a human-rights approach to conflict in the Arab region	1	2 days	Council of Arab Ministers of the Interior
29.	Training session for the committee preparing a training guide on juvenile justice	1	5 days	Defence for Children International
30.	Freedom of expression and the safety of journalists	3	3 days	Ministry of the Interior
31.	Freedom of expression and the safety of journalists	3	3 days	Ministry of the Interior
32.	The International Red Cross and Red Crescent emblem	20	1 day	Ministry of the Interior
33.	Standard operating procedures for health services provided in correctional and rehabilitation centres	2	1 day	Ministry of the Interior
34.	Annual International Human Rights Day conference	1	1 day	Human Rights Association
35.	The dividing line between freedom of opinion and expression and the right to peaceful assembly	4	1 day	European Union Police Mission

2. The Ministry of Foreign Affairs and Expatriates

97. The Ministry of Foreign Affairs and Expatriates, in its capacity as Chair of the national standing committee that follows up the accession of the State of Palestine to international conventions and treaties, and the Independent Commission for Human Rights, as the national human rights institution and an observer in the national committee, have signed a memorandum of understanding with a view to combining in a joint national effort to raise awareness within Palestinian society of the rights and duties entailed by accession to international agreements. That effort would be in parallel with the work being done by each of them separately. They would provide the necessary training to the relevant parties with a view to improving understanding of agreements and developing capacities to make use of international mechanisms and benefit from the best experiences of the Independent Commission for Human Rights in the area and from the foreign relations of the State of Palestine.

98. The Independent Commission participates in the drafting of reports submitted to international bodies by providing information and advice that is needed to compile such reports, and by ensuring that they are transparent and inclusive. It takes part in national consultations on drafting the periodic reports required by human rights conventions. The Ministry engages in ongoing consultations with the Independent Commission for Human Rights on legislative, legal and political reforms, and harmonizing legal provisions with the commitments of the State of Palestine under international agreements. It sets up cooperation mechanisms for implementing obligations stemming from accession to those agreements and ensures that they guarantee the rights and freedoms of the Palestinian people, especially with respect to accountability for the occupying Power and justice for victims.

99. The Ministry of Foreign Affairs and Expatriates, in collaboration with the Office of the High Commissioner for Human Rights, the Ministry of Education and Higher Education and the Independent Commission for Human Rights, celebrated International Human Rights Day on 10 December 2015 by creating a poster containing the articles of the Universal Declaration of Human Rights in simplified language for schoolchildren. It was distributed in all schools in the West Bank and the Gaza Strip. That was in addition to taking part in a morning radio programme at a Palestinian school that is affected daily by violations committed by the Israeli occupiers, and participation in an awareness-raising programme on the state of human rights in Palestine.

100. The Ministry created and distributed a booklet containing the basic human rights agreements to which the State of Palestine had acceded in 2014, with a view to raising public awareness of the content of those agreements.

3. Ministry of Justice

101. The Ministry of Justice is the entity responsible for taking measures to protect the basic freedoms of citizens in accordance with the Palestinian Basic Law, ensuring implementation of regional and international conventions and treaties having to do with basic rights and freedoms, and proposing policies, plans, programs and measures to ensure the promotion, protection and realization of human rights in coordination with the competent authorities.

102. Article 10 of the Correctional and Rehabilitation Centre Act grants the Ministry of Justice the power to inspect correctional and rehabilitation centres by making field visits and hearing prisoner complaints, in addition to following up coordination with the relevant official parties to draft the relevant plans, studies and legislation.

103. The Ministry’s Department of Forensic Medicine conducts examinations to detect torture of inmates in correctional and rehabilitation centres and detention facilities.

104. Among the achievements of the Ministry of Justice was the signature of a memorandum of understanding with the Treatment and Rehabilitation Centre for Victims of Torture on improving the capacities of human rights and legal staff to document allegations of torture and other violations in Palestine with the General Directorate of the Police. The goal was cooperation to facilitate implementation of the provisions of the Correctional and

Rehabilitation Centres Act, and to study ways of improving operations in compliance with international standards for prisoners.

105. The Ministry of Justice and the Italian Agency for Development Cooperation signed a memorandum of understanding to support a human rights unit as part of a training programme on monitoring correctional and rehabilitation centres and compliance with international instruments.

4. Office of the Public Prosecutor

106. The human rights unit of the Office of the Public Prosecutor is working to mainstream and instil principles and standards of international law. It operates in accordance with the provisions of the Basic Law and the national justice sector strategy for 2018-2022, and in the context of a comprehensive vision for the State of Palestine after it had acceded to numerous treaties and protocols and join various international organizations. The office has prepared a handbook on operating procedure and another on the competencies of its various departments, divisions and branches, to be used in workshops for prosecutors and staff. The unit provides training courses to meet the needs of prosecutors in areas of their work relevant to international agreements to which the State of Palestine is a party, especially as regards juvenile justice, gender equality and guarantees for fair trials.

107. It develops and prepares methods and standards for monitoring prisons and detention facilities to ensure compliance with human right standards under the Mandela Rules. It ensures follow-up of periodic inspections of prisons and detention facilities. It prepares relevant reports and monitors violations so that they can be addressed in accordance with procedures and the law. It conducts its work through prosecutors' offices throughout the governorates.

108. It investigates complaints, including complaints submitted electronically and any complaints having to do with torture and maltreatment.

5. Ministry of Health

109. In accordance with the provisions of the Public Health Act, the Ministry of Health provides mental health services at 14 community clinics in health directorates in the West Bank. They include a centre specializing in the psychological health of children and adolescents. Mental and psychological health services are also offered at the Bethlehem Psychiatric Hospital. Health services are also provided to persons released from Palestinian correctional and rehabilitation centres. When needed, specialists are called in to examine, analyse and treat cases at correctional and rehabilitation centres. That is done in coordination with the General Directorate of Correctional and Rehabilitation Centres. These services are provided free of charge and are included in the Government health insurance scheme.

110. Government clinics also provide mental health services to persons who have been released from the prisons and detention facilities of the occupying Israeli authorities.

6. Ministry of Social Development

111. The Ministry of Social Development takes the lead in regulating and administering the social protection sector. It develops the relevant policies via active coordination and partnership with all relevant agencies. It carries out the tasks of monitoring, supervising and providing services to all the groups covered under the social protection sector in the State of Palestine.

112. The Ministry has assigned a special section within its organizational structure made up of qualified counsellors to supervise and follow-up conditions among prisoners of both genders in the correctional and rehabilitation centres. It offers the following services:

- It provides social welfare and psychological counselling services for inmates. These are provided to prisoners by a welfare counsellor during a visit to a correctional and rehabilitation centre. A qualified counsellor makes at least one weekly visit, during which he provides individual and group counselling services to inmates. He helps

them stay connected with the outside world and overcome any psychological problems from which they may be suffering.

- It organizes meetings and recreational activities for inmates on special social and national occasions.
- It provides cash assistance to a number of inmates who are suffering from economic hardship.
- It provides recommendations on home visits for prisoners who have demonstrated good behaviour.
- It helps inmates contact their families and it contacts family members about visiting their incarcerated relatives.
- It arranges visits by children to their mothers imprisoned in correctional and rehabilitation centres.

113. Activities have been conducted to promote the rule of law as part of the Justice and Security for the Palestinian People programme (SAWASYA) with the support of UN-Women. Women inmates in correctional and rehabilitation centres in Jericho, Ramallah and Janin were supplied with personal items for themselves and their children, including basic hygiene supplies and other necessary items. First-class transportation was provided for their families.

114. A special department has been established to protect children victims of violence, abuse and neglect, as well as children who have committed violations of law. It is staffed by qualified counsellors, who follow up cases of juvenile delinquency in accordance with the 2016 decree-law on protecting juveniles. There is also the 2017-2020 strategy for protecting juveniles, which was drafted in cooperation with partners in the juvenile justice sector. It provides for the needs of the centres, including special standards for the court developed by House of Hope that meet international standards. There is also a code of conduct for people who work with children and juveniles in coordination with juvenile welfare centres and local community institutions that offer vocational training to juveniles.

115. The Ministry of Development also provides centres for the protection of children victims of violence, abuse and neglect. Those centres provide care, protection and psychological support services for children. The Ministry also provides centres for the care and protection of juvenile delinquents, such as House of Hope in Ramallah. In that connection, the Ministry has prepared an instructional handbook for juvenile centres. It provides detailed instructions on handling juveniles from the moment they are taken in by a centre to the moment they leave.

116. A special unit was established to protect and enable marginalized women, especially those who are victims of violence, and to provide shelter for women who are victims of violence and abuse, and whose lives are under threat. In the West Bank, there are three centres devoted to that purpose. One of them, the Mihwar Centre in Bethlehem, is affiliated with the Ministry of Social Development and operates under its supervision. The Ministry also oversees centres for the protection of women affiliated with non-governmental institutions. That includes three centres, two of which are in the West Bank and one of which is in the Gaza Strip.

117. These centres provide protection for women and children victims of violence and empower the Palestinian family and society in general. Operation of the protection centres is covered by the 2011 statute for the protection centres and 2013 national referral system. A national team was formed to ensure implementation of the statute by all partners. A handbook was prepared to clarify roles and ensure integrated operations based on human rights principles. Efforts are now under way to establish protection networks for women victims of violence in cooperation with partners, and in particular the Ministry of Women's Affairs and the Women's Centre for Legal Aid and Counselling. That includes the provision of health care free of charge for victims of violence and abuse in coordination with the Ministry of Health.

118. The Ministry also supervises and monitors the work of centres that provide residential and day services to persons with special needs, including monitoring the condition of residents.

119. With a view to coordinating Government and non-governmental efforts to ensure a life of dignity for persons with disabilities, a Presidential Decree was issued in 2012 amending the Presidential Decree of September 2010 concerning the Supreme Council for Persons with Disabilities. The Decree provides that the Council would consist of 16 agencies, including government agencies, civil society agencies, organizations of persons with disabilities and the private sector, together with the Independent Commission for Human Rights as an observer. It follows up implementation of the law and international agreements that the Palestinian Authority has acceded to concerning persons with disabilities.

120. The Ministry also supplies inclusiveness and disability counsellors in all the governorates. Their job is to provide protection, support and interventions in cases of violations committed against persons with disabilities.

Data on residential care centres in the West Bank

Name of centre	*Address of centre*	*Goals of centre*	*Target group*	*Yearly average*
The Arab Orthodox Benevolent Society	Jerusalem, Ayzariyah, Zahr Burukah	Care and rehabilitation of persons with severe mental and motor disabilities	Persons with severe disabilities (motor, intellectual and mental) age 4 and up	65–70
Qubaybah Shelter	Jerusalem, Qubaybah, main road	Full care and shelter for older persons	Age 60 and up	35
Our Lady of Sorrows House	Jerusalem, Ra's Kabsah	Care and protection for older Palestinians (male and female) in Jerusalem; shelter, food and psychological care	Older Palestinians in and around Jerusalem, age 60 and up	43
Islamic Mercy Charitable Organization for the Elderly	Jerusalem, Jabal al-Mukabbir, old Bethlehem road	Elder care, including shelter, medical and food services; a life of dignity for older persons, especially those with no other source of care	Elderly persons (male and female) in Palestine age 60 and up	15
Russian Monastery, Maskub	Jerusalem, Al-Tur, across from Maqasid Hospital, Rabi'ah al-Adawiyah Street	Residential care for older and needy cases	Older women only Some residents under 60, in cases of need	40
Jil al-Amal Foundation	Ayzariyah, main street, near Jerusalem Health Directorate	Care, education, shelter, medical treatment, clothing and food for orphans and children with social issues	Orphans with social issues ages 5 to 12	45
The Arab Academy	Jerusalem, Abu Dis	Comprehensive care for orphan children and social hardship cases, including education, food, care and protection	Children ages 12 to 18	60 orphans 18 poor persons
Association of Friends of the Islamic Home for Orphans	Ras al-Bustan, Ayzariyah, behind the water tower	Care for orphan girls, including shelter, clothing, housing, food and academic and vocational education	Orphan girls and some social hardship cases age 5 and up	45

Name of centre	*Address of centre*	*Goals of centre*	*Target group*	*Yearly average*
Industrial Islamic Orphanage	Ayzariyah, main street, near Jerusalem Health Directorate	Residential care and vocational education for orphan children and social hardship cases	Orphans and social hardship cases ages 6 to 18	50, with capacity for 200
Arab Children's Home Foundation	Jerusalem, Abu Ubaydah Amir bin al-Jarrah	Care and shelter for orphan Palestinian girls from poor backgrounds. Academic education and extracurricular activities	Orphan girls in need and schoolgirls ages 3 to 18	
Women's Federation Association, Birah	Birah, Madaris Street, across from the Birah municipality	Care and shelter for older women including healthcare and other services for older women	Elderly persons and special cases with no caregivers	20
Women's Federation Association, Ramallah	Ramallah, near Ramallah Government Hospital	Care for older persons, male and female	Older persons, male and female	22 older women 18 older men
Friends of the Blind Association	Birah, Jinan neighbourhood, Nur Street, across from the Ministry of Awqaf	Care for vision-impaired children Education services and assistive devices Provision of educational opportunities Awareness raising on visual impairment Integration of blind persons into society	Persons with visual disabilities ages 5 to 18	38 occupants receiving residential care 33 clients receiving daily services
Bayt al-Rifah villa	Ramallah and Birah, Sath Marhaba	Provision of social care and ensuring a life of dignity for older persons and social hardship cases Provision of living needs Health and health insurance services	Elderly persons and special cases ages 34 to 94	Approximately 25 occupants
Centre for Child Protection	Ramallah, Baytuniya, Old City	Protection and care for child victims of violence and broken homes	Children ages 6 to 18	25 to 30 annually
House of Hope Social Observation and Welfare Centre	Ramallah, Jaffa Street, across from the Abu Raya rehabilitation hospital	Care, protection, rehabilitation and shelter for juvenile delinquents ages 12 to 18	Juvenile delinquents ages 12 to 18 (arrested or under investigation)	Approximately 200 per year
Saint Nicholas Charitable Association for the Elderly	Near Zaytunah al-Siyahiyah, Jadawil Street, Bayt Jala	Care, shelter, treatment and rehabilitation for older people and Alzheimer patients	Elderly women aged 60 and up	30 occupants

Name of centre	*Address of centre*	*Goals of centre*	*Target group*	*Yearly average*
Antonian Charitable Society	Saqa neighbourhood, Antonian Society street, Bethlehem, Izzah camp	Care, shelter, treatment and rehabilitation for older people and Alzheimer's disease patients	Male and female older persons ages 60 and up	Approximately 30 occupants
Mihwar Centre for Women's Protection	Bayt Sahur, Bayt Bassah, next to the Muhandisin residences	Protection, safety, rehabilitation and empowerment for women victims of violence, and protection for children of battered women Reinforcing family and social relationships based on dialogue and acceptance of the other Shelter services, social and legal counselling, rehabilitation, and various community-based prevention programmes	Married women victims of domestic and social violence age 18 and up, and married girls under 18 Children of battered women accompanying their mothers (females, and males under 12)	Approximately 60 women and 20 accompanying children
Home for Girls Foundation	Bayt Jala, education complex	Protection, care, shelter and rehabilitation for children and women victims of any kind of violence, abuse, exploitation, neglect or maltreatment that might threaten their safety or their physical or mental health; reintegration into the family or a protective environment	Girl victims of violence, abuse and exploitation ages 13 to 18	Approximately 20 occupants
Yamimah Foundation	Bayt Jala, 117 Sadr Street	• Care for persons with complex mental disabilities • Development of work in the area of mental disability • creation of a safe environment for persons with disabilities • training and education for people in the villages around the city of Bethlehem in how to deal with any children they have who suffer from disabilities; the foundation also has a daytime centre for vocational training, education and other activities	Children with severe mental and physical disabilities ages 3 to 20	Approximately 30 boys and girls with disabilities
National Society for the Vision Impaired	Bayt Jala, Amayir street, near Zaytunah village	Improving the quality of life of and enabling blind and visually impaired Palestinians by raising their cultural, intellectual, social and economic levels	Blind children ages 7 to 18	Approximately 18 male and female children
House of Hope association for the blind and persons with special needs	Bethlehem, Jerusalem–Hebron road, Bab al-Zuqaq, near the Bank of Jordan	Residential services, education and health care for the blind and persons with special needs	Blind children and young people and persons with moderate mental disabilities of both sexes ages 7 to 20	Approximately 30 male and female occupants
SOS Children's Villages	Bethlehem, Karkafah	Care, shelter and rehabilitation for children with no family caregivers and orphans	Children and young people of both sexes with no family caregivers ages 1 to 20	

Name of centre	*Address of centre*	*Goals of centre*	*Target group*	*Yearly average*
Baby Jesus Bethlehem	Bethlehem, Muhafazah road, near Terra Sancta school	Care for children with physical and mental disabilities	Disabled children of both sexes up to age 15	32 male and female children
Arab Women's Union, Tulkarm	Tulkarm, western neighbourhood, behind Zakat hospital	Shelter and health and social care for children with disabilities	Children with moderate mental disabilities and Down's syndrome, boys and girls, ages 6 to 18	Ages 10 to 15
Arab Society for Orphans	Tulkarm, western neighbourhood, behind the municipal park	Childcare for orphans, shelter, food, health and social care, and education	Orphan children and children from broken homes, male and female Ages 6 to 18	Approximately 60 males and female children
Bayt al-Ajdad Society for the care of older people	Tulkarm, Dayr al-Ghusn, centre of town	Shelter and health and social care for older persons and persons with special needs of both sexes	Older persons and persons with special needs, male and female	Approximately 26 older persons
Centre for Child Protection	Tulkarm, Red Crescent Society	Shelter, health and social care, and protection for orphans, children of unknown parentage and battered children	Orphan children, children of unknown parentage and battered children: boys ages 1 day to 12 years and girls ages 1 day to 14 years	Approximately 30 male and female children
Home for the Elderly	Nablus, Rafidiyah, street 15	Healthcare and shelter for older persons of both sexes	Persons ages 60 and up	20 older persons, male and female
Home for Orphan Girls Foundation	Nablus, Headquarters of the Women's Union	Shelter for orphan girls	Orphan girls ages 6 to 10	25 children
House of Love and Harmony	Nablus, Rafidiyah, Marij street	Care and shelter for older persons	Elderly persons ages 60 and up	30 older persons
Mother Teresa mission	Nablus, old Najah street	Care and shelter for children with disabilities	Older persons and children with disabilities	15 male and female occupants
Al-Bayt al-Amin	Nablus, Ma'ajin, across from Al-Quds Open University	• Protection and care for women victims of violence • Health, legal. psychological, educational and rehabilitative services • Strengthening and supporting the relationship between the client and her family, and establishing family relations based on respect for the rights of each individual member • Reintegration of the client into society in a manner that guarantees protection and a life of safety and dignity	Married women victims of domestic and social violence age 18 and up, and married girls under 18 Adolescent children accompanying battered women (female children of all ages and male children up to the age of 12)	Approximately 74 women and 8 adolescent children

Name of centre	*Address of centre*	*Goals of centre*	*Target group*	*Yearly average*
Women's Emergency Protection Centre	Jericho, Amman street, near the Development Society	• Specialized centre providing primary services to women victims of violence including examinations and diagnoses • Protection of women from all forms of violence, including legal and social services • Shelter for battered women for a period of no more than one month, except in exceptional cases	• Married women victims of domestic and social violence age 18 and up, and married girls under 18 • Accompanying children of battered women (girls, and boys up to age 10)	Approximately 25 women and children
Bayt al-Ajdad Centre for the care of older people	Jericho, Qasr Hisham Street, near the Jericho Governorate offices	• Care and shelter for older persons of both sexes • Health services (physical and psychological), support mechanisms and counselling for older persons • Home care services for a number of older persons suffering from social and economic hardship • Day services for older people	Older persons age 60 and up of both sexes	75 occupants are receiving shelter, and a number of others are receiving day services
Association for Justice for the Children of Martyrs	Jericho, Uqbat Jabr camp, Quds Street	Residential care, protection, psychological rehabilitation and vocational training for children and young people who are dropouts, children of persons in need and social hardship cases	Children and young people ages 11 to 17	Approximately 50
Al-Khalil Charitable Association Orphanage	Hebron, Duwayriban	Residential care, clothing, food, education, counselling and recreational services for male orphan children	Male orphan children ages 6 to 18	Approximately 150 children
Al-Khalil Charitable Association Orphanage	Hebron, Salam Street, Murabba'at Sabtah	Residential care, clothing, food, education, counselling and recreational services for female orphan children	Orphan girls ages 6 to 18	Approximately 180 children
Charitable Association for the Blind	Hebron, next to the Royal factory	Care and rehabilitation of blind children	Blind children ages 6 to 14	Approximately 60 male and female children
Ihsan Charitable Association	Hebron, Bi'r al-Mahjar	Comprehensive care and shelter for persons with mental disabilities	Persons with mental disabilities ages 16 to 60	Approximately 140
Apostolic School	Hebron, Ayn Sarah Street	Care and shelter for orphans and poor children	Orphans and poor children ages 6 to 14	Approximately 30
Home for the Elderly	Janin, Basatin neighbourhood	Care and shelter for older persons	Age 60 and up	
Association for the Care and Rehabilitation of the Blind	Janin, Suwaytat	Care, shelter, rehabilitation and education for blind children	Blind children	
Al-Ghadd Centre for Autism	Janin, Jabiriyat	Care for autistic children		

Name of centre	*Address of centre*	*Goals of centre*	*Target group*	*Yearly average*
Amal Charitable Association for the Deaf	Qalqiliyah, Kafr Saba neighbourhood, Salam Street	Care, rehabilitation, education, shelter and social integration for deaf children	Education for deaf children (boys and girls) ages 5 to 18	65 male and female occupants
Murabitat Charitable Association	Qalqiliyah, electricity project street, across from the former Civil Defence building	Care, education, rehabilitation and shelter for persons with disabilities, including mute and deaf persons	Residential services for deaf children Females ages 5 years and up Males ages 5 to 14	Approximately 25 occupants
Iman Home for the Care and Shelter of Children	Qalqiliyah - Kafr Saba neighbourhood, across from the Islamic kindergarten	Care, shelter, education and rehabilitation for orphan children and social hardship cases	Children ages 3 to 13 for males, and ages 3 and up for females	Approximately 35 male and female occupants
Dar al-Bayda' Centre	Salfit, centre of town	Care, shelter, protection and rehabilitation of children with mental disabilities	Children with mental disabilities Males ages 5 to 12 Females ages 5 to 15	30-35 boys and girls annually
Wafa Centre for the Elderly	Salfit, Madaris Street	Care, protection and shelter for older persons	Older women ages 60 and up	Approximately 11 older persons

Number of visits by counsellors and social workers (2014)

Centre	*Entity*	*No. of visits*	*Type of visit*
Bethlehem	Ministry of Social Development	42	Psychosocial support
Janin	Ministry of Social Development	30	Psychosocial support
	Defence for Children International		Psychological and legal support for juveniles
Nabulus	Ministry of Social Development	52	Support, psychological catharsis and lectures
	Defence for Children International		Psychological and legal support for juveniles
	The Centre for Democracy and Conflict Resolution (3 visits)		Social intervention
Ramallah	Ministry of Social Development	31	Psychosocial support
	Treatment and Rehabilitation Centre for Victims of Torture		Psychological support
	Defence for Children International		Miscellaneous activities and interviews
Jericho	Ministry of Social Development	39	Psychosocial support
	Treatment and Rehabilitation Centre for Victims of Torture		Psychological support
	Defence for Children International		Miscellaneous activities and interviews

Centre	*Entity*	*No. of visits*	*Type of visit*
Hebron	Ministry of Social Development	7	Psychosocial support
	Treatment and Rehabilitation Centre for Victims of Torture		Individual and group catharsis sessions
Tulkarm	Ministry of Social Development	31	Psychosocial support
	Defence for Children International		Psychological support

Number of visits by counsellors and social workers (2015)

Centre	*Entity*	*No. of visits*	*Type of visit*
Bethlehem	The Ministry of Social Development	42	Psychosocial support
Janin	Ministry of Social Development	30	Psychosocial support
	Defence for Children International		Psychological and legal support for juveniles
Nabulus	Ministry of Social Development	52	Support, psychological catharsis and lectures
	Defence for Children International		
	The Centre for Democracy and Conflict Resolution	3	Psychological and legal support for juveniles
			Social intervention
Ramallah	Ministry of Social Development	31	Psychosocial support
	Treatment and Rehabilitation Centre for Victims of Torture		Psychological support
	Defence for Children International		Miscellaneous activities and interviews
Jericho	Ministry of Social Development	39	Psychosocial support
	Treatment and Rehabilitation Centre for Victims of Torture		Psychological support
	Defence for Children International		Miscellaneous activities and interviews
Hebron	Ministry of Social Development	7	Psychosocial support
	Treatment and Rehabilitation Centre for Victims of Torture		Individual and group catharsis sessions
Tulkarm	Ministry of Social Development	31	Psychosocial support
	Defence for Children International		Psychological support

Number of visits by counsellors and social workers (2016)

Centre	*Entity*	*No. of visits*	*Type of visit*
Bethlehem	Ministry of Social Development	42	Psychosocial support
Janin	Ministry of Social Development	30	Psychosocial support
	Defence for Children International		Psychological and legal support for juveniles
Nabulus	Ministry of Social Development	52	Support, psychological catharsis and lectures
	Defence for Children International		
			Psychological and legal

Centre	*Entity*	*No. of visits*	*Type of visit*
	The Centre for Democracy and Conflict Resolution	3	support for juveniles Social intervention
Ramallah	Ministry of Social Development	31	Psychosocial support
	Treatment and Rehabilitation Centre for Victims of Torture		Psychological support
	The global movement to defend the children		Miscellaneous activities and interviews
Jericho	Ministry of Social Development	39	Psychosocial support
	Treatment and Rehabilitation Centre for Victims of Torture		Psychological support
	Defence for Children International		Miscellaneous activities and interviews
Hebron	Ministry of Social Development	7	Psychosocial support
	Treatment and Rehabilitation Centre for Victims of Torture		Individual and group catharsis sessions
Tulkarm	Ministry of Social Development	31	Psychosocial support
	Defence for Children International		Psychological support

Article 11
Interrogation rules, instructions and methods

121. Legislation in force provides for legal guarantees with regard to methods used in the interrogation, arrest and treatment of detainees. That helps to prevent torture and inhuman treatment. We note in particular the provisions of article 11 of the Basic Law.[20]

122. The Code of Criminal Procedure defines interrogation as the detailed questioning of the accused in connection with the acts attributed to him, during which he shall be confronted with inquiries, questions and suspicions related to the accusation and asked to respond thereto. The Code restricts the authority to conduct interrogations in felony and misdemeanour cases to the Office of the Public Prosecutor. When the suspect appears for interrogation, the prosecutor must ascertain and confirm his personal details, including his name and identity. Then he may interrogate and question him about the charge made against him. The statements of the accused are recorded in the interrogation file. This all happens after he has undergone a physical examination and note has been made of all external injuries and the causes thereof. In addition, the necessary medical and psychological examinations are conducted on the suspect upon his demand, the demand of his attorney or the demand of the prosecutor.

123. The Code charges members of the Office of the Prosecutor with the task of supervising and overseeing officers of the court, as well as identifying and investigating crimes committed within their areas of competence. The Public Prosecutor has the right to request that the competent authorities take disciplinary action against anyone found to be in violation of their obligations or in dereliction of their duties, without prejudice to their further criminal accountability. Military judicial officers are subject to the authority of the Chief Military Prosecutor, as are all members of the Office of the Military Prosecutor. He has the authority to oversee judicial proceedings and supervise correctional and

[20] Article 11 provides as follows: 1. Personal freedom is an inalienable, guaranteed natural right. 2. no one may be arrested, searched, detained or have any restriction or prohibition placed on his or her freedom of movement, except by a warrant issued by a court in accordance with the law. The duration of pretrial detention is determined by the law and no one may be detained or imprisoned in places other than those subject to the laws regulating prisons.

rehabilitation centres and detention facilities in accordance with the provisions of articles 16 and 17 of the 1979 Code of Military Justice.

Government oversight

124. The Correctional and Rehabilitation Centres Act (No. 6 of 1998), article 10, grants authority to oversee correctional and rehabilitation centres to the Minister of the Interior, the Minister of Justice, the Public Prosecutor and the Justices of the Supreme Court. They are supposed to make sure that health and living conditions in detention facilities and correctional and rehabilitation centres meet the requirements stipulated in laws and international instruments and that the rights of inmates and detainees are protected, including their right to continuous attention to their health, their right to their sleeping quarters and cells inspected periodically by a doctor and the right to be transferred to a clinic or hospital when necessary. The Act also grants the Minister of the Interior the right to coordinate with the Minister for Social Development in the appointment of qualified inspectors and social workers to study the psychological and social condition of inmates.

125. Article 354 of the 1979 Code of Procedure of Revolutionary Criminal Tribunals provides that members of the Office of the Public Prosecutor are accessories to the crime of deprivation of freedom and should be prosecuted if they neglect their duty to oversee correction centres. The Code stresses the individual responsibility of members of the Office of the Prosecutor to ensure that rights and freedoms are protected and their obligation to inspect places of detention. That duty is confirmed by article 126 of the Code of Criminal Procedure and article 70 of the Judiciary Act (No. 1 of 2002).

126. The Executive Authority has issued several sets of standing instructions urging officials to comply with laws and instructions issued to ensure the right of detainees and inmates to dignified living conditions in which their rights are protected. Those instructions include their right not to be subject to torture or inhuman or degrading treatment. Those sets of instructions include the following:

- Instructions issued by the President the State of Palestine on 13 September 2009 addressed to all agencies that detain persons. Those instructions stressed the need to refrain from any form of torture and all practices that violate human rights and dignity. They have been circulated to the heads of the security agencies.
- Decision No. 149 of 2009 concerning compliance by the security services with rules and standards for treating detainees. Article 1 of that Decision provides that all members of security services must comply with legal provisions regarding arrest, detention and search, and must respect the human rights, public freedoms and human dignity of detainees. Article 2 provides that all detainees shall at all times be treated humanely by the security services and with respect for their basic human dignity. They may be detained only in properly equipped detention centres that meet all health requirements. Under article 3 of that Decision, members of the security services are under an obligation to refrain from permitting or approving any physical or psychological punishment of detainees, and also to refrain from taking part in any kind of torture of detainees.
- Decision No. 172 issued by the Minister of the Interior on 17 September 2009 concerning security detainees in Junayd prison in the city of Nabulus. That decision provides that for the purposes of operation and in the public interest, the interrogation system should be reformed and no form of torture or any other method that detracts from human dignity should be employed. The detention system should be reformed, and detainee contentions should be improved, including food, medical services, lodging and recreation.
- Decision No. 192 issued by the Minister of the Interior on 1 December 2009 concerning disciplinary offences committed by members of the Palestinian security forces that involve harming, torturing or abusing others in violation of humanitarian values and legislation in force. First-degree violations are punishable by the administrative penalty of separation from service.

- Circular No. 6 of 2010 issued on 19 April 2010 by the Director-General of the Palestinian police prohibiting the use of violence, torture or any other form of cruel or degrading treatment when dealing with citizens.
- The written instructions issued by the heads of the security agencies to law enforcement officials urging them to comply with legal procedures when apprehending, detaining, interrogating, searching or taking statements from suspects, or remanding them for prosecution. The instructions also stressed the need to take measures to prevent detainees from being subjected to torture or maltreatment.
- The instructions issued by the Military Prosecutor General to military prosecutors requiring them to visit and inspect correctional and rehabilitation centres and detention facilities at least once per month, submit reports, and provide monthly disclosures of the names of detainees. He also issued instructions prohibiting detention, or any other form of confinement outside of correctional and rehabilitation centres.
- The administrations of all the security agencies intend to approve and adopt codes of conduct governing the conduct of their members that will ensure proper treatment of detainees and suspects. The codes require compliance with legal provisions and human rights principles when conducting any legal procedures and when dealing with detainees, especially during apprehensions, detentions and searches. They also stressed the need to refrain from excessive use of force.
- The organizational structure of each of the law enforcement agencies includes a department for the receipt and consideration of complaints. That includes complaints about torture or maltreatment. That is in addition to a department of inspection and supervision. The State of Palestine has tried to strengthen the oversight mechanisms for enforcing rules on detention, preventive detention and the treatment of detainees with a view to preventing any instances of torture or inhuman treatment.
- Human rights units have been created in ministries and Government departments. That includes complaints departments at the Ministry of the Interior and the Ministry of Justice. Those departments receive and address complaints from citizens on human rights matters in general and torture in particular.

Supervision of detention facilities is carried out through surprise visits that are conducted regularly by inspectors from the Palestinian Ministry of Justice. They send their observations to the Ministry of the Interior, the director of the relevant correctional centre and the director of the police on an ongoing basis.

Inspection of correctional and rehabilitation centres by Government agencies

Agency	*Year*	*Number of visits to General Intelligence detention facilities*	*Number of visits to Military Intelligence detention facilities*	*Number of visits to Preventive Security detention facilities*
Office of the Public Prosecutor/senior prosecutors	2014	24	Monthly periodic visits	Monthly periodic visits
	2015	24	Monthly periodic visits	Monthly periodic visits
	2016	24	Monthly periodic visits	Monthly periodic visits
	2017	24	Monthly periodic visits	Monthly periodic visits
	2018	24	Monthly periodic visits	Monthly periodic visits

Oversight of correctional and rehabilitation centres by Government agencies/police

Agency	*Year*	*No. of visits*
Ministry of Justice	2015	1
	2017	2

Agency	*Year*	*No. of visits*
Supreme Judicial Council	2014	14
	2015	16
	2016	15
	2017	19
Office of the Public Prosecutor/senior prosecutors	2014	14
	2015	11
	2016	25
	2017	36

Civil oversight

127. Pursuant to the Palestinian Basic Law, article 31, and Presidential Decree No. 59 of 1994, the Independent Commission for Human Rights was granted the authority to monitor and ensure that the basic requirements for the protection of human rights are incorporated in all Palestinians laws, legislative acts and regulations, and are observed in the operation of the agencies and institutions of the State of Palestine. That Commission handles cases and complaints involving any human rights violations committed against citizens by the executive authority. It conducts periodic inspection visits to detention facilities and correctional and rehabilitation centres to make sure that there are no legal violations.

128. The Ministry of the Interior and the Independent Commission signed a memorandum of understanding to facilitate the work of the Independent Commission's inspectors during their visits to correctional and rehabilitation centres and detention facilities, and to guarantee that they can exercise their periodic supervision authority, on the understanding that the Commission will record its observations and inquiries, and submit them to the director of the prison and the Minister of Interior.

129. The Ministry of the Interior and Palestinian civil society institutions signed several memorandums of understanding allowing the latter to visit and inspect places of detention and correctional and rehabilitation centres, view prisoner conditions and talk and listen to prisoners. One of those institutions is the Treatment and Rehabilitation Centre for Victims of Torture. There have also been a number of oral understandings between the heads of security agencies and the Al Haqq organization, as well as other organizations, on conducting surprise inspection visits to detention facilities.

130. Among the initiatives of the State of Palestine for cooperation with international human rights organizations, we note the agreement that was signed by the Ministry of the Interior and the International Committee of the Red Cross and the agreement that was signed by the Ministry of the Interior and the Office of the High Commissioner for Human Rights in Palestine. Those agreements grant those two institutions the authority to visit all correctional and rehabilitation centres and detention facilities, view conditions of detention, interview detainees without a representative of the correctional centre present and submit observations and recommendations to the relevant authorities.

International oversight

131. On 28 December 2017, the State of Palestine signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, thereby demonstrating the seriousness of its political will to prevent torture and ensure accountability in that regard. It is one of the most important steps taken by the State of Palestine since its accession to the United Nations human rights treaties in 2014. Thereafter, the Palestinian Government announced its commitment to establishing an independent national mechanism for the prevention of torture, as stipulated by the Optional Protocol. The core mandate of the mechanism will be to visit all places of detention in order to prevent torture and ensure that living and health conditions in them are proper, and to coordinate with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It can also make visits to Palestinian correctional and rehabilitation centres. The State of Palestine is currently working with national and

international partners, including Palestinian civil society organizations, to set up the mechanism.

132. On 7 March 2019, the Subcommittee on Prevention of Torture sent a letter announcing its intention to visit the State of Palestine in accordance with articles 11/1 (b/i) and 13/2 of the Optional Protocol. It also requested the State of Palestine to supply it with information and data on places of detention. The visit was to take place between 5 and 12 April 2019. The State of Palestine assigned a contact person for the Subcommittee to make arrangements for the visit and submitted the requested data and information. However, on 5 April 2019, the Office of the High Commissioner for Human Rights in occupied Palestine informed the Palestinian Ministry of Foreign Affairs and Expatriates that Israel, the occupying Power, had refused to grant entry visas to the members of the Subcommittee. That prevented them from making their visit and thereby deprived Palestine of its right to receive recommendations from the Subcommittee on Prevention of Torture that might have made a major contribution to improving Palestinian detention facilities and correctional and rehabilitation centres. In keeping with the political will of the State of Palestine to combat torture in cooperation with local partners from civil society institutions (especially rights organizations), as well as international partners (above all the Subcommittee on Prevention of Torture), the State of Palestine hereby renews its invitation to the Subcommittee on Prevention of Torture to visit the State of Palestine.

Inspection visits to correctional and rehabilitation centres by the Independent Commission for Human Rights

Year	*Number of visits to intelligence services detention facilities*	*Number of visits to police detention facilities*
2014	156	93
2015	156	96
2016	156	118
2017	156	114

Inspection visits of intelligence services correctional and rehabilitation centres by local civil society institutions

Agency	*Year*	*No. of visits*
Hurriyyat Centre	2014	132
	2015	144
	2016	132
	2017	156
Al-Haqq	2014	114
	2015	78
	2016	114
	2017	126

Inspection visits to intelligence services correctional and rehabilitation centres by international organizations

Agency	*Year*	*No. of visits*
International Committee of the Red Cross	2014	156
	2015	156
	2016	156
	2017	156
	2018	156

Inspection visits to police correctional and rehabilitation centres by international organizations

Agency	*Year*	*No. of visits*
International Committee of the Red Cross	2014	44
	2015	65
	2016	35
	2017	47
Office of the High Commissioner for Human Rights	2014	0
	2015	1
	2016	0
	2017	2

Regulation of places of confinement and detention

133. The Basic Law provides that imprisonment or detention is permitted only in places that are subject to the laws regulating prisons. Articles 1-3 of the Correctional and Rehabilitation Centres Act provides that such centres shall be established and their locations determined by decision of the Ministry of the Interior. They are attached to the Ministry and are overseen and supervised by the General Directorate of Correctional and Rehabilitation centres. Article 125 of the Code of Criminal Procedure prohibits the confinement of any person anywhere other than correctional and rehabilitation centres and places of detention designated by law.

134. Articles 1 and 9 of the Decree-Law on preventive security grant the Minister of the Interior the authority to establish fixed detention facilities affiliated with the General Directorate of Preventive Security independent of the correctional and rehabilitation centres, provided that he keeps the Minister of Justice and the Public Prosecutor informed of their status and any alterations made to them. Those articles also stipulate that those centres are to be treated as legal detention facilities run by preventive security personnel. In that connection, we note that the State of Palestine does not have non-public or secret prisons. However, Israel, the occupying Power, has set up illegal prisons on Palestinian territory that are not subject to any human rights standards. Israel also perpetrates all kinds of violations against Palestinians arrested by the occupying forces. In addition, the illegal settlements contain numerous detention facilities in which torture and abuse are practiced with complete impunity.

Qualifications for law enforcement personnel and correctional and rehabilitation centre staff

135. Article 86 of the Basic Law provides that the appointment of all public officials in the State, whether civilian or military, and the conditions of their employment must be in accordance with the law. The provisions of the Palestinian Security Forces Service Act are applicable to persons responsible for the confinement and protection of detainees. They are security officials appointed to military service. This is provided that there is no legislation containing other special provisions regulating their work as a special category. The Palestinian Security Forces Service Act specifies as conditions for the appointment of military personnel that they must not have been convicted by a court or disciplinary committee for a dishonourable act, even if they were subsequently reinstated or covered under a general amnesty, and that they be of good conduct, good reputation and medically fit for the post.

136. Articles 107 and 108 of the Basic Law provide that the Public Prosecutor shall be appointed by the President on the recommendation of the Supreme Judicial Council. The law specifies the conditions for their appointment. Articles 16, 61 and 63 of the Judiciary Act provide that anyone appointed as a prosecutor must not have been convicted by a court or disciplinary committee for a dishonourable act, even if they were subsequently reinstated or covered under a general amnesty, that they be of good conduct and good reputation, that

they terminate any membership of any political party or organization, and that they be proficient in the Arabic language.

The condition of correctional and rehabilitation centres in the West Bank

137. There are three types of detention facilities in the West Bank, depending on period of detention and affiliation. The first type are permanent detention facilities. Persons are placed in them in accordance with the Correctional and Rehabilitation Centres Act. They are affiliated with the General Directorate of Correctional and Rehabilitation Centres. Living conditions and other aspects of those centres are subject to the provisions of the Correctional and Rehabilitation Centres Act. The second type are temporary detention facilities (police holding facilities) where people are held for no more than 24 hours. They are subject to oversight by the police directorate where the facility is located. Detention conditions in those centres are subject to the provisions of the Palestinian Code of Criminal Procedure. The third type are detention facilities affiliated with the security services. Those facilities are affiliated with one of the security services in the West Bank, which are Preventive Security, General Intelligence and Military Intelligence.

138. There are 13 detention facilities affiliated with Preventive Security. That service has a main detention centre in each governorates of the West Bank where suspects are held and interrogated. Those centres are subject to central oversight by the service's General Directorate in Ramallah. They are not subject to judicial oversight. However, they are subject to periodic visits from the Independent Commission for Human Rights and the International Committee of the Red Cross.

139. There are 11 centres affiliated with the General Intelligence Service. That service has a main detention centre in each governorate of the West Bank, with the exception of Jericho, where the central detention and interrogation facility is attached to the Jericho detention facility. Suspects are held and interrogated in those centres. Those centres are subject to central oversight by the service's General Directorate in Ramallah.

140. The detention and interrogation procedures of the Military Intelligence Service are conducted in accordance with the memorandum issued by the Military Prosecutor. Detention of suspects may be extended in accordance with the 1979 Revolutionary Act. They are military personnel and are brought before military courts. From a legal standpoint, there is no law that deals specifically with the arrest and detention of military personnel by the Military Intelligence Service. There are instructions issued by the President of the State of Palestine on 10 July 2011, which were circulated to all the security services. Those instructions require all soldiers brought up on military or criminal charges to be remanded to the Military Intelligence Service. The Minister of the Interior and National Security also issued instructions on 19 August 2007 that require soldiers accused of offences to be remanded to the Military Intelligence service. They were circulated to the heads of the security agencies. From an administrative standpoint, this kind of detention is subject to oversight by the Ministry of the Interior.

Preventive Security detention facilities

	Governorate	*Detention centre*
1	Ramallah	General Headquarters detention facility
2	Hebron	Hebron Directorate detention facility
3	Bethlehem	Hebron Directorate detention facility
4	Jericho	Jericho detention facility
5	Janin	Janin Directorate detention facility
6	Tulkarm	Tulkarm Directorate detention facility
7	Qalqiliyah	Qalqiliyah Directorate detention facility
8	Salfit	Salfit Directorate detention facility

	Governorate	*Detention centre*
9	Tubas	Tubas Directorate detention facility
10	Nabulus	Nablus Directorate detention facility
		North detention facility (Junayd)
11	Zahiriyah	South detention facility

Police detention facilities

	Governorate	*Names of detention facilities*
1	Jerusalem	Suburban Police Directorate holding facility
2	Bethlehem	Bethlehem Correctional and Rehabilitation Centre
		Governorate Police Directorate holding facility
		Criminal Investigations holding facility
		Bayt Fajjar Police Station holding facility
		Bayt Sahur Police Station holding facility
		Ubaydiyah Police Station holding facility
		Bayt Jala Police Station holding facility
		Directorate juvenile holding facility
3	Ramallah	Ramallah Correctional and Rehabilitation Centre
		Governorate Police Directorate holding facility
		Dar al-Amal juvenile welfare home/Ministry of Social Development
4	Janin	Janin Correctional and Rehabilitation Centre, and women’s prison
		Janin Governorate Police Directorate holding facility
		Arrabah Police Station holding facility
		Jalqamus Police Station holding facility
		Yamun Police Station holding facility
		Maythalun Police Station holding facility
		Zababidah Police Station holding facility
		Jaba’ Police Station holding facility

	Governorate	*Names of detention facilities*
5	Hebron	Zahiriyah Correctional and Rehabilitation Centre
		Halhul Police Station holding facility
		Sa'ir Police Station holding facility
		Bani Na'im Police Station holding facility
		Yata and Samu' Police Station holding facility
		Dura Police Station holding facility
		Zahiriyah Police Station holding facility
		Nuba Police Station holding facility
		Idhna Police Station holding facility
		Juvenile holding facility
		Investigations holding facility
		Women's holding facility
6	Nabulus	Nabulus Correctional and Rehabilitation Centre
		City centre holding facility
		Investigations holding facility
		Aqraba Police Station holding facility
		Tall Police Station holding facility
		Northern Asirah Police Station juvenile holding facility
7	Tulkarm	Tulkarm Police Station holding facility
		Juvenile holding facility
		Anti-drug holding facility
		Bayt Lid Police Station holding facility
		Tulkarm Correctional and Rehabilitation Centre
8	Qalqiliyah	Governorate Police Directorate holding facility
		Juvenile holding facility
		Women's holding facility
		Kafr Zibad and Kafr Thulth Police Station holding facility (out of operation due to lack of medical facilities)
9	Tubas	Governorate Police holding facility
		Juvenile holding facility
		Tamun Police Station holding facility
10	Jericho and the Jordan Valley	Jericho Correctional and Rehabilitation Centre and separate women's wing
		Police Directorate holding facilities, with separate juvenile facility
11	Salfit	Detention centre in the city police station, also contains juvenile holding facility

General Intelligence detention facilities

	Governorates	*Names of detention facilities*
1	Hebron	Intelligence Service detention facility
2	Bethlehem	Intelligence Service detention facility
3	Ramallah and Jerusalem	Intelligence Service Detention Centre
4	Nabulus (Junayd prison)	Intelligence Service detention facility
5	Tubas	Intelligence Service detention facility
6	Salfit	Intelligence Service detention facility
7	Tulkarm	Intelligence Service Detention Centre
8	Qalqiliyah	Intelligence Service detention facility
9	Janin	Intelligence Service detention facility
10	Jericho	Intelligence Service detention facility
11	Jericho	Central Intelligence detention centre

Military Intelligence detention facilities

Number	*Governorates*	*Names of detention facilities*
1	Nabulus	Military correctional and rehabilitation centre
		Nablus Intelligence detention facility
2	Jericho	Military correctional and rehabilitation centre
3	Ramallah	Ramallah/Umm Sharayit Intelligence detention facility
4	Janin	Janin Intelligence detention facility
5	Tulkarm	Tulkarm Intelligence detention facility
6	Qalqilyah	Qalqiliyah Intelligence detention facility
7	Tubas	Nablus Intelligence detention facility
8	Salfit	Salfit Intelligence detention facility
9	Bethlehem	Bethlehem Intelligence detention facility
10	Hebron	Hebron Intelligence detention facility

Number of detainees in correctional and rehabilitation centres (2014–2017)

	2014		*2015*		*2016*		*2017*	
Centre	*Males*	*Females*	*Males*	*Female*	*Males*	*Females*	*Males*	*Females*
Bethlehem	1 011	50	1 034	43	1 001	49	683	38
Janin	2 526	75	2 226	71	1 590	60	1 210	98
Nabulus	3 035	0	1 905	0	1 744	0	1 174	0
Ramallah	2 453	67	1 465	73	1 278	84	1 058	72
Jericho	1 111	22	1 136	27	869	38	628	40
Hebron	972	0	574	0	578	0	481	0

	2014		2015		2016		2017	
Centre	*Males*	*Females*	*Males*	*Female*	*Males*	*Females*	*Males*	*Females*
Tulkarm	1 265	0	1 052	0	864	0	499	0
Total	**12 373**	**214**	**9 392**	**214**	**7 924**	**231**	**5 733**	**248**
Grand total	**12 587**		**9 606**		**8 155**		**5 981**	

Number of detainees sentenced to correctional and rehabilitation centres (2014-2017)

	2014		2015		2016		2017	
Centre	*Males*	*Females*	*Males*	*Females*	*Males*	*Female*	*Males*	*Females*
Bethlehem	457	23	531	16	466	12	297	22
Janin	1 096	23	1 016	22	763	29	664	41
Nabulus	1 517	0	835	0	805	0	512	0
Ramallah	1 087	14	573	21	568	32	482	22
Jericho	507	7	569	13	419	20	286	17
Hebron	449	0	261	0	251	0	179	0
Tulkarm	503	0	452	0	382	0	209	0
Total	**5 616**	**67**	**4 237**	**72**	**3 654**	**93**	**2 629**	**102**
Grand total	**5 683**		**4 309**		**3 747**		**2 731**	

Number of detainees held in and sentenced to correctional and rehabilitation centres (2014–2017)

Year	*No. of detainees*	*No. of convicted persons*
2014	190	498
2015	267	496
2016	322	575
2017	327	605
2018	49	112

The condition of correctional and rehabilitation centres in the Gaza Strip

141. The Ministry of the Interior in the Gaza Strip has established a number of detention facilities in various governorates in the Gaza Strip to alleviate overcrowding in the main centres. Those facilities are as follows:

- The Southern District correctional and rehabilitation centre located in Khan Yunus Governorate, where prisoners from the southern governorates of the Gaza Strip (Rafah and Khan Yunus Governorates) are housed;
- The Central District correctional and rehabilitation centre located in Central Governorate, where prisoners from Central Governorate are housed;
- The North Gaza correctional and rehabilitation centre located in the town of Bayt Lahiya in North Gaza Governorate, where prisoners from North Gaza Governorate (Jabaliyah, Bayt Lahiya and Bayt Hanun) are housed.

142. In all the correctional and rehabilitation centres in the Gaza governorates, prisoners are taken in based on orders from the Office of the Public Prosecutor or the competent courts. That happens after they have been arrested in accordance with procedure. They may also be taken in based on a judicial ruling from the competent court. The operation of all the centres is overseen by male and female officers and police personnel from the General Directorate of Correctional and Rehabilitation Centres.

Violations perpetrated by the Israeli occupiers against Palestinian security and law enforcement institutions and personnel

143. Israeli violations against Palestinian security and law enforcement institutions and personnel are standing in the way of the rule of law in the State of Palestine. Ever since Israel began its occupation of Palestinian territory, it has been trying to undermine the Palestinian justice and security sector. It has enacted racist laws that infringe on the sovereignty of the State of Palestine. That is in addition to the direct violations it perpetrates on the ground. Most notably, it has targeted Palestinian security, justice and law enforcement institutions and arrested and imprisoned their personnel.

Israeli violations committed against State of Palestine institutions and their personnel in 2014

Arrest of military personnel

Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of detainees	14	5	19	15	24	8	13	23	121

Raiding of homes of military personnel

Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of raids	45	8	53	91	46	11	26	79	359

Clashes with Palestinian security forces

Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
Number of clashes	11	3	43	23	33	12	15	51	191

Israeli violations committed against State of Palestine institutions and their personnel in 2015

Arrest of military personnel

Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of detainees	8	8	10	21	28	10	11	16	112

Raiding of homes of military personnel

Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of raids	27	20	63	76	29	6	22	52	295

Clashes with Palestinian security forces

Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of clashes	14	4	18	45	28	29	11	31	180

Israeli violations committed against State of Palestine institutions and their personnel in 2016

Arrest of military personnel									
Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of detainees	11	12	7	21	34	6	7	14	112
Raiding of homes of military personnel									
Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of raids	21	38	49	65	26	8	26	49	282
Clashes with Palestinian security forces									
Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of clashes	17	30	26	30	27	10	8	22	177

Israeli violations committed against State of Palestine institutions and their personnel in 2017

Arrest of military personnel									
Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of detainees	9	10	9	25	27	7	11	11	109
Raiding of homes of military personnel									
Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of raids	27	7	29	26	25	14	25	43	196
Clashes with Palestinian security forces									
Governorate	Janin and Tubas	Tulkarm	Qalqilyah and Salfit	Nablus	Ramallah and Jerusalem	Jericho and the Jordan Valley	Bethlehem	Hebron	Total
No. of clashes	5	13	13	21	30	5	19	28	134

Article 12
Investigation procedures

144. Palestinian legislation in force ensures that any incident or anyone accused of torture is investigated promptly and impartially, in accordance with article 12 of the Palestinian Basic Law, which provides that the accused must be tried without delay. With regard to criminal investigations, the Office of the Public Prosecutor alone has the authority to initiate criminal proceedings under article 1 of the Code of Criminal Procedure, which

grants the power to institute proceedings to the Public Prosecutor or a prosecutor within the Office of the Public Prosecutor. Pursuant to article 56, the Office of the Public Prosecutor must initiate and complete the investigation and then commence proceedings as soon as it becomes aware that the crime has been committed. Under articles 18-21 of the Revolutionary Criminal Code, the Military Prosecutor General and his deputies are authorized investigate crimes committed by military personnel as soon they become aware of the commission thereof and to take the measures required by law.

145. With regard to disciplinary investigations, we referred earlier in this report to the provisions of the Palestinian Security Forces Service Act and the Civil Service Act related to the opening of an investigation, and also to the provisions concerning which authorities have the power to order that an investigation be conducted, the composition of investigative and disciplinary commissions, and suspension of employees who are being investigated. We have also provided information on procedures currently in effect, including the ability to conduct medical examinations without delay and the availability of forensic expertise.

146. Persons who have been tortured or maltreated may lodge a complaint directly with the security services, the legislative and governmental oversight authorities, or the relevant civil society organizations. They may also lodge a complaint with the Independent Commission for Human Rights, which treats with great seriousness any allegations received concerning maltreatment or torture during arrest or detention. It seeks to verify claims by requesting medical reports, conducting physical examinations of complainants and hearing witnesses. When the Independent Commission is convinced that an allegation is genuine, it communicates and corresponds with the director of the relevant agency. The Independent Commission has received many written responses from the security services with regard to several complaints. The quality of the responses from the security agencies has improved, in particular those provided by police in the West Bank.

Article 13
Lodging and addressing complaints

147. The State of Palestine guarantees any person who has been tortured or subjected to maltreatment or inhuman treatment in its territory the right to lodge a complaint with the competent authorities and agencies. The State also guarantees the right of such persons to have their complaints considered seriously, expeditiously and impartially. Looking at the procedures in effect, the nature of complaints made and the organizational structures of the law enforcement agencies, we find that those agencies are constantly evolving thanks to the strong desire of the State to protect rights and fulfil its obligations under the Convention.

148. Under Palestinian law, certain authorities are authorized to visit and inspect Palestinian correctional and rehabilitation centres, as stated earlier in the report. Under article 12, the Director-General of the correctional and rehabilitation centres must review and inspect all detention centres periodically. Moreover, under article 18, the Director-General is authorized to accept complaints from inmates and make comments. That same article provides that inmates have the right to lodge a complaint or make a request, which is then entered into a special register and sent to the competent authority, and it provides that the response thereto shall be conveyed immediately upon receipt.

Judicial disputes

149. Judicial remedies can be sought through the Public Prosecutor and the courts, the independence and impartiality of which are guaranteed under the Basic Law. Article 6 of the Basic Law provides that the rule of law is the basis of governance in Palestine, and that all organs, agencies, institutions and persons are subject to the law. Moreover, article 9 provides that Palestinians are equal before the law and the judiciary, without discrimination on the grounds of race, sex, colour, religion, political opinion or disability, while article 30 provides that the right to litigate is guaranteed to all people, that all Palestinians have the right of recourse to the courts and that judicial proceedings shall be regulated by law so as to ensure that cases are settled expeditiously.

150. Pursuant to articles 1 to 7 of the Code of Criminal Procedure, the victim of an act of aggression, torture, maltreatment or inhuman treatment has the right to lodge a complaint with the competent judicial authorities (Office of the Public Prosecutor). Under article 22 of the Code, judicial police commissioners are authorized to receive reports and complaints about crimes, which they must refer to the Office of the Public Prosecutor without delay. They are also authorized to conduct inspections and obtain the information and clarifications required to facilitate investigations, and to consult specialized experts. Article 23 of the Code furthermore provides that judicial police commissioners must provide the competent court with any transcripts and items seized that are relevant to the offence and that they must follow up thereon with the court. Once the investigation of a complaint has been concluded, the Office of the Public Prosecutor must act upon the outcome, whether that be that the act is not punishable or that the case should be kept on file. In the latter case, the prosecutor must submit his opinion on the matter to the Public Prosecutor by means of a memorandum. If the act is deemed to be a violation, the case is referred to a justice of the peace, and if it is deemed to be a misdemeanour, it is referred to the competent court. However, if the act constitutes a felony, the accused is indicted and the case is referred to the Public Prosecutor or one of his deputies.

151. Article 127 of the Code of Criminal Procedure provides that a detainee or prisoner has the right to file a written or oral complaint with the Office of the Public Prosecutor through the director of the correctional and rehabilitation centre, who must accept the complaint and, after entering it into a special register maintained at the centre, forward it to the Office of the Public Prosecutor. Under article 153 of the Code, the complainant has right to appeal against the decision to keep a case on file by making a request to the Public Prosecutor, who must take a decision thereon within one month of its submission. The complainant may appeal against the decision of the Public Prosecutor with the competent court that is hearing the case, the decision of which shall be final. In any event, the Public Prosecutor may reopen the case file if new evidence becomes available or the perpetrator is identified.

152. Articles 40-51 of the Revolutionary Code of Criminal Procedure (1979) set out the procedures for making, investigating and referring complaints. The victim of a felony or misdemeanour may submit a complaint to the Public Prosecutor, who must initiate an investigation immediately. If the Public Prosecutor determines that the complainant does not set out clear reasons, that the perpetrator is unknown or that the documents provided by the complainant do not support adequately the complaint, he must initiate an investigation in order to identify the perpetrator. The Revolutionary Code, in its article 103, enumerates the decisions that the Public Prosecutor can take upon completing investigation of a complaint. He may halt prosecution, order that further investigations be conducted or refer the accused to his commander, if the act constitutes a disciplinary offence. If the Public Prosecutor concludes that the act is a felony or misdemeanour, he will then indict the accused and refer him to the competent court. The decisions of the Public Prosecutor in such matters may be challenged within five days before the Chief Military Justice.

Administrative disputes

153. The State of Palestine has strived to enhance the effectiveness of the complaints units of government ministries, institutions and departments. To that end, the Cabinet adopted decision 09/03/05/*mim waw/alif qaf* (2005), pursuant to which public complaints units were established in the various ministries to receive complaints from citizens and employees, and Decision No. 8 regulating the complaints units was issued on 22 September 2019. The complaints units operate as part of an approved, centralized and unified governmental system for complaints that regulates the operations of the complaints units of the various ministries, which report to the complaints directorate of the Cabinet. A common set of regulations and a procedural manual have been developed for the units of the various ministries that outline the procedures for lodging, addressing, considering, following up on and deciding whether to accept or reject a complaint. Should a complaint be rejected, the complainant has the right of resort to the judiciary, which will adjudicate his complaint.

154. Human rights units have been established in the criminal justice system of the State of Palestine (Ministry of the Interior, Ministry of Justice, Office of the Public Prosecutor,

Supreme Judicial Council and the Cabinet). Those units have helped the authorities to respond better to citizens' complaints about abuses committed by law enforcement officers. The existence of such units enables citizens to lodge a complaint about any crime of torture or maltreatment committed by any employee.

Civil disputes

155. The Independent Commission for Human Rights of Palestine is an important and effective body. It receives communications from citizens concerning allegations of human rights violations, including allegations of torture or maltreatment. The Independent Commission follows up with the competent authorities on complaints and allegations that it has received. In addition, as stated earlier in this document, it visits and inspects detention centres in the State of Palestine.

Independent National Commission of Inquiry

156. On 1 July 2015, the President of the State of Palestine, Mahmoud Abbas, issued a decree establishing the Independent National Commission of Inquiry and mandated it to follow up on the report of the international independent commission of inquiry on the 2014 Gaza conflict, which was established pursuant to Human Rights Council resolution S-21/1, adopted on 23 July 2014. In that resolution, the Human Rights Council decides to urgently dispatch an independent, international commission of inquiry to investigate all violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory, including East Jerusalem, particularly in the occupied Gaza Strip. After that presidential decree was issued, the Palestinian Cabinet issued its resolution (No. 17/65/05 *mim waw/ra' ha'*) endorsing the establishment of the Independent National Commission of Inquiry to review and study the report of the international independent commission of inquiry on the 2014 Gaza conflict.

157. The international commission was established in order to determine the facts and circumstances of the violations and the crimes perpetrated and identify those responsible, and to make recommendations, in particular on accountability measures, all with a view to avoiding and ending impunity and ensuring that those responsible are held accountable. The international commission called upon the occupying Israeli authorities to conduct a thorough, transparent, objective and credible investigation and review of the policies governing military and law enforcement operations, with a view to ensuring compliance with international humanitarian and human rights laws. However, the occupying Power refused to deal with the international commission and did not allow it to enter the State of Palestine.

158. In addition, the international commission called upon the Government of the State of Palestine and the de facto authorities in the Gaza Strip to carry out genuine investigations into violations of international humanitarian and human rights laws and to ensure meaningful accountability for the perpetrators. It also called upon them to ensure that human rights are protected, and victims are given redress; take measures to prevent extrajudicial executions, eliminate torture and cruel, inhuman and degrading treatment; and cooperate with national investigations aimed at bringing to justice those responsible for violations of international law.

159. The international commission, in the course of its dealings with Palestinian agencies, including requests for information and the taking of testimony and recording of statements, noted that the working methods of some official Palestinian institutions had improved and that they were showing greater respect for human rights. That was particularly true with regard to the Palestinian police, thanks to the advancements made by its departments, its adherence to the rules and procedures set out in local and international law, and its compliance with the instructions of the Palestinian leadership to respect human rights. In addition to existing coordination arrangements with other security agencies aimed at maintaining public security, the accession of the State of Palestine to the relevant international conventions has helped to consolidate and promote human rights concepts in the State of Palestine.

160. In that connection, the Independent National Commission of Inquiry submitted its report, in which it states that Israel, the occupying Power, had committed war crimes and crimes against humanity, including torture, and had pursued a policy of systematic and widespread collective punishment against Palestinians.

Arbitrary detention is a form of inhuman treatment

161. Under the penal laws of the State of Palestine, in particular article 346 of the Criminal Code (1960), which is in force in the West Bank, and article 262 of the Criminal Code (1936), which is in force in the Gaza Strip, depriving any person of his liberty without justification and unlawfully is an offence that is punishable by a term of not more than one year imprisonment or a fine. The penalty is increased if the offender falsely claims that that he holds an official position or is in possession of a legal warrant for the arrest of the victim, or if the offence is committed against an official who is performing his duties or as a result of what he has done in the performance of duties.

Arbitrary administrative detention of Palestinians in Israeli occupation prisons, a form of inhuman and degrading treatment

162. The occupying Israeli forces continue to issue arbitrary administrative detention orders against Palestinians, without charge or trial, relying on so-called secret files and secret evidence that the detainee or his lawyer are not allowed to examine. An administrative detention order can be renewed an unlimited number of times. It is a form of punishment and a political measure that reflects the official government policy of the occupying Power of using administrative detention as collective punishment against Palestinians.

163. According to the data, since 1967, the occupying Israeli forces have arrested more than 50,000 Palestinians under administrative detention orders, without charge and without trial. In 2018, more than 482 Palestinian detainees continued to be arbitrarily detained in the prisons of the Israeli occupiers pursuant to administrative detention orders.

164. Palestinians living in the occupied city of Jerusalem and Palestinians who are within the 1948 territories are arbitrarily arrested pursuant to the provisions of the Emergency Powers (Detention) Act of 1979, which is part of Israeli legislation. The Act empowers the Minister of “Defence” to order administratively that a person be detained for a period not exceeding six months, without limitation on the number of times that the validity of the order may be extended.

165. The Incarceration of Unlawful Combatants Act is applied to Palestinians from the Gaza Strip, who can be arrested and held without trial. Under that Act, an unlawful combatant is defined as any person who participates in operations against Israel, the occupying Power, even indirectly, or any person who belongs to a force that is fighting against Israel, the occupying Power.

166. Most detainees are held in the Ofer, Negev and Megiddo camps, and female Palestinian prisoners who have been placed in administrative detention arbitrarily are held in Hasharon prison. A person who has been placed in administrative detention can be brought before a judge within eight days from the date on which the administrative detention order was issued, whereas that period is 48 hours under Israeli law. This period is established at the discretion of the occupying Power and the so-called military commander, who is authorized to make adjustments whenever necessary. Accordingly, in April 2002, the period was extended to 18 days. It used to be the case that a six-month order had to be legally reviewed by a military judge twice during that period, and there was a right to lodge an appeal against every decision handed down by a judge. However, since April 2002, that procedure is no longer in effect. An order is now reviewed only once, but the right to appeal against the decision was maintained.

167. In most administrative detention cases, the representative of the occupying Power, who is called the “Israeli military commander”, relies on classified material, which is the principal form of evidence used against detainees. The Israeli authorities claim that such evidence cannot be disclosed in order to safeguard the sources of the information or because its disclosure might reveal the manner in which it was obtained. In several cases,

the Israeli Supreme Court has ruled that it is possible not to disclose such evidence and allowed the authorities to disregard the suspect's right to fair trial. That position violates the right of the person who has been placed in administrative detention to know the reason for his arrest and his right not to be arrested or detained arbitrarily. Administrative detention review hearings are classified as non-public hearings, that is to say closed sessions that the public or family members are not allowed to attend. Only the lawyer, the detainee, the judge, the military prosecutor of the occupiers and, occasionally, the representatives of the occupiers' intelligence services are present at those hearings, thereby depriving the detainee of his right to a public trial.

Article 14
Redress and compensation

168. Palestinian law guarantees the right to justice for victims of torture, inhuman or degrading treatment, and their right to claim appropriate compensation. If the torture leads to the death, the victim's heirs and those who inherit his rights are also entitled to claim compensation. Article 32 of the Palestinian Basic Law is one of the primary pieces of legislation that guarantees this right.[21]

169. Under the Code of Criminal Procedure, the victim of any crime or infringement may bring a civil action in order obtain fair compensation for the harmed suffered as a result thereof. Pursuant to articles 3 to 7 of the Code, the Public Prosecutor must initiate a criminal action if the victim brings a civil action in accordance with the rules set out in the law. Cases that have been suspended by law owing to the filing of a complaint or the initiation of civil action by the victim may be deferred until a final judgement has been handed down. If there are multiple victims, it is sufficient for one of them to file the complaint; if there are multiple accused and the complaint is filed against one of them, it is considered as having been filed against the rest.

170. Articles 194-204 of the Code of Criminal Procedure set out the procedures that must be followed in a civil action that is brought by the victim of a crime in order to obtain compensation. The victim's right to compensation is established in article 194 (1).[22]

171. The law guarantees the right of detainees who have been found innocent to be compensated. That is one of the most important additions to the Palestinian Criminal Code; a person who is found innocent after retrial has the right to claim compensation from the State, as provided in article 387 of the Code.[23]

172. Article 94 of the Palestinian Security Forces Service Act provides that an officer who violates orders shall bear civil liability therefor. Such violations may include committing the crimes of torture or inhuman or degrading treatment. Article 173 of that Act addresses offences committed by non-commissioned officers and members of the security services.[24]

[21] Article 32 provides that any violation of personal freedoms, the sanctity of human life or any other public rights and freedoms guaranteed by the Basic Law or the laws in force constitutes an offence that is not subject to any statute of limitations with respect to civil or criminal proceedings, and that the National Authority shall provide fair compensation to anyone who suffers harm as a result thereof.

[22] Paragraph 1 of article 194 provides that any victim of a crime may petition the prosecutor or the court in which the case is being heard and expressly invoke his civil right to be compensated for the harm that he has suffered as a result of the crime.

[23] Article 387 of the Code of Criminal Procedure provides as follows: 1. A person who has been acquitted after retrial is entitled to claim compensation from the State for the harm suffered as a result of the earlier judgement. 2. If the convicted person is deceased, the request for compensation can be made by the spouse and the lineal ascendants and descendants. 3. The State may retract compensation from civil rights plaintiffs, informants or those who bore false witness that led to the handing down of a sentence.

[24] Article 94 of the Palestinian Security Forces Service Act provides that any officer who fails to carry out the duties stipulated in hat Act or the decisions issued by the competent minister, or who acts in a manner that is incompatible with his functions, or whose conduct or comportment brings disrepute to the office, shall be liable to disciplinary action, without prejudice to eventual civil or criminal

173. It should be noted that the Civil Wrongs Ordinance (1944), which is in force in Palestine, provides that anyone who has suffered any injury or damage by reason of any civil wrong committed in Palestine shall be entitled to receive compensation from the perpetrator of the offence. Under that Ordinance, damage is defined as loss of life, or loss of, or detriment to, any property, comfort, bodily welfare, reputation or other similar loss or detriment. Fault is defined as any act of any person, or failure by any person to do an act, or failure by any person to use proper skill or to take proper care:

(a) being an act or failure which, if damage is caused thereby, constitutes the civil wrong mentioned in section 50 or 55A, or any other civil wrong for which provision is made in this Ordinance; or

(b) being an act or failure referred to in paragraph (a) or (b) of subsection (1) of section 50, which is the cause, or one of the causes, of damage to himself.

174. The Ordinance also addresses damages to persons as a result of negligence, which is a defined as consisting of: 1. Doing some act which in the circumstances a reasonable prudent person would not do, or failing to do some act which in the circumstances such a person would do, or 2. Failing to use such skill or to take such care in the exercise of a profession, trade or occupation as a reasonable prudent person qualified to exercise such profession, trade or occupation would in the circumstances use or take.

175. Breach of statutory duty is defined as the failure by any person to perform a duty imposed on him by any law other than this Ordinance, being a law which, on proper construction thereof, was intended to be for the benefit or protection of any other person, whereby such other person suffers damage of a kind or nature contemplated by such law.

176. Under article 925 of the Ottoman Civil Code (Mecelle), which is in effect in Palestine, compensation may be demanded for damage wrongfully caused to a person.[25]

177. In 2015, the first lawsuit was filed in Palestinian courts in the West Bank seeking compensation for a citizen who claims to have been tortured. No verdict had been handed down in the case as of the date on which this report was prepared.

Accession to the Rome Statute of the International Criminal Court

178. On 1 January 2015, the State of Palestine, acting pursuant to article 12, paragraph 3 of the Rome Statute establishing the International Criminal Court, deposited a declaration that granted retroactively to the Court the power to consider the crimes that have been committed by the Israeli occupying authorities since 13 June 2014. The State of Palestine then deposited its instrument of accession to the Rome Statute of the International Criminal Court, and it entered into effect on 1 April 2015.

179. On 16 January 2015, the Office of the Prosecutor of the International Criminal Court opened a preliminary examination into the situation in the State of Palestine in order to determine the extent to which the criteria for an investigation established by the Rome Statute are applicable to the situation in the State of Palestine.

180. The accession of the State of Palestine to the Rome Statute underscores that it agrees with the international community's view that torture in certain circumstances and cases can be considered a war crime and a crime against humanity. Committing torture is a serious crime and the perpetrators thereof must be held accountable.

proceedings, where necessary. An officer who was following orders shall not be exempt from punishment. 2. An officer who was following the orders of his commander or supervisor shall not be exempted from punishment unless it is established that the offence was committed as a result of executing an order given to him by this commander or supervisor, despite the fact that the latter had been informed that the order would result in a violation. In such cases, the responsibility rests solely with the person who gave the order. 3. The officer bears civil responsibility only for his own mistakes.

[25] Article 925 of the Ottoman Civil Code provides that the liability of a person who is the cause of an act, as referred to above, to make good any loss sustained thereby depends upon such act being of a wrongful nature. Any act by any person that causes harm to others must be compensated.

Violations committed by Israel, the occupying Power, of the Convention against Torture during the Israeli aggression against the occupied Gaza Strip in 2014

181. The consequences of the 2014 Israeli aggression against the occupied Gaza Strip were devastating at various levels, whether economic, social, political, material or human. During that aggression, Israel, the occupying Power, committed various war crimes: it killed civilians, destroyed civilian property and used prohibited weapons, including white phosphorus, indiscriminately burning, maiming and permanently disabling hundreds of Palestinian civilians in the Gaza Strip. The Israeli aggression and the subsequent collective denial of Palestinian human rights in the Gaza Strip have created harsh living conditions characterized by extensive pain and suffering. Living in the Gaza Strip, which has been subjected to an illegal blockade by Israel since 2007, has become a form of physical and psychological torture. Following are some of the most notable direct or indirect violations of the Convention against Torture that Israel has committed:

- 1,410 Palestinians, including 355 children, 240 women, 134 civilian police and 1,032 other civilians were killed, 18 of whom were assassinated, and 5,380 persons were injured, including 1,872 children and 800 women.
- A total of 11,122 homes were destroyed in the war, of which 2,627 were totally destroyed and 8,495 were partially destroyed, displacing their inhabitants and dispersing them among their relatives or friends, or forcing them to take refuge in schools or set up tents on the ruins their homes.
- A total of 581 public institutions were destroyed, of which 149 were totally destroyed and 432 partially destroyed; the facilities of 31 non-governmental organizations, 53 United Nations institutions and 60 health-care institutions, including 15 hospitals, were struck by shells and 29 ambulances were destroyed.
- Half of all water networks and 55 per cent of electricity grids were destroyed.
- A total of 3,900 manufacturing establishments ceased operations, more than 40,000 persons in the agricultural sector lost their jobs and 90,000 persons in various other sectors lost their jobs, pushing the poverty rate in the Gaza Strip to 79 per cent. According to United Nations statistics, 88 per cent of the total population of the Gaza Strip have applied for food aid.
- A total of 396,599 fruit-bearing trees and 51,699 non-fruit-bearing trees were uprooted and 999,785 dunums of vegetables were destroyed.
- A total of 695 commercial establishments were destroyed, of which 165 were totally destroyed and 528 partially destroyed.
- A total of 650 vehicles were destroyed, of which 334 were totally destroyed and 316 partially destroyed.

Violations of the Convention committed by Israel, the occupying Power, in response to protests in the Occupied Palestinian Territory

182. At the end of March 2018, Palestinians in the Gaza Strip began protesting peacefully near the border fence against the blockade that has been imposed on Gaza for years. The United Nations commission of inquiry on the 2018 protests in the Occupied Palestinian Territory confirmed in its report that the occupying Israeli forces had committed murder and deliberately caused severe suffering, which is a form of torture that is banned under the Convention. In addition, the commission reported that the occupying Israeli forces had killed civilians who had not been directly involved in protests and that Israeli forces had engaged in other inhuman practices that could be characterized as crimes against humanity and war crimes, because 189 civilians were injured as a result of their actions. Moreover, 6,103 Palestinians had been struck by live rounds and 23,313 others injured by the end of 2018, with Israel having deliberately targeted protected groups, including children, persons with disabilities, journalists and medical personnel.

Article 15
Inadmissibility of statements obtained through torture

183. Palestinian law prohibits the use of statements obtained by force or coercion as proof of crimes. Article 13 of the Palestinian Basic Law provides that confessions obtained through torture or coercion are invalid. That prohibition is reaffirmed by article 214 of the Code of Criminal Procedure, which provides that in order for a confession to be valid, it must be: 1. Made freely and voluntarily, and without material or moral pressure, or promises; 2. Consistent with the circumstances of the incident; 3. Constitute clear and unequivocal admission of having committed the crime. Accordingly, convictions based on such confessions are considered invalid under article 477 of the Code of Criminal Procedure, which provides that actions arising from a wrongful action are invalid.

Conviction of Palestinians by the courts of the Israeli occupiers on the basis of statements and confessions obtained through torture

184. Israeli investigators who interrogate Palestinian detainees torture them and treat them inhumanly, in order to weaken them and pressure them psychologically. Detainees are prevented from seeing a lawyer for up to 60 days or having contact with their families and informing them that they have been arrested or transferred from one investigation centre to another. In addition, they are placed in cells with asafir (birds), misled, threatened with death and deprived of sleep. Palestinian detainees are then forced, under psychological pressure, to sign a statement in Hebrew that they do not understand, despite the fact that they have a right to obtain a translation of the statement and be informed of the charges against them. Such statements are used against them later, when they appear before the military judge, in order to ensure that they are convicted.[26]

Article 16
Cruel, inhuman or degrading treatment or punishment

16.1 Prohibition of cruel, inhuman or degrading treatment or punishment

185. Beating, wounding, committing any act of violence against or assaulting inmates or detainees while they are in a detention or correction and rehabilitation centre is considered to be an inhuman and degrading act. Under articles 333 and 334 of the Jordanian Criminal Code, should such an act cause a person to become ill or unable to work for a period of more than 20 days, the perpetrator shall be sentenced to a term of three months to three years in prison, and if the aforementioned period is less than 20 days, the punishment shall be internment for a term of one year. Under article 335 of the Code, if the act results in the injury or removal of an organ, the amputation or loss of use of a limb, the loss of one of the senses, or a serious deformity or any other disfigurement, the perpetrator shall be sentenced to a term of hard labour that is not to exceed 10 years.

186. Under article 5 of the Criminal Code, 1936, grievous harm is defined as any harm which amounts to dangerous harm, or seriously or permanently injures health or comfort, or which is likely so to injure health or comfort, or which extends to permanent disfigurement or to any permanent or serious injury to any external or internal organ, membrane or sense. Moreover, harm is defined as any bodily hurt, disease or disorder, whether permanent or temporary. Under article 238 of that Code, any person who unlawfully does grievous harm to another is guilty of a felony and is liable to imprisonment for seven years, while article

[26] *Asafir* is the term used by Palestinian detainees for agents in the prisons of the occupiers. The term is derived from the manner in which those agents surrender themselves to the prison administration. They wait for prison administrators to conduct a head count or search detainees, whereupon they seize the opportunity to flee to the prison office, like a bird flying away from its nest. When someone surrenders himself to the prison administration, it is said that he is a bird.

Israeli intelligence puts these birds in prison cells and wings, in order to obtain information about the detainees. Those agents extract confessions from the detainees in several ways, including but not limited to provocation, enticement, pressure, threat, tricks and deception.

250 provides that any person who commits an assault occasioning actual bodily harm is guilty of a misdemeanour.

187. Inmates and detainees may experience various forms of abuse, including verbal violence, such as the use of defamatory and degrading language. Under the laws in force, such conduct is punishable. For example, pursuant to article 358 of the Jordanian Criminal Code, defamation is a crime that is punishable by a term of imprisonment ranging from 2 months to 1 year, while denigration, whether in words or deeds, verbal insults or use of lewd language is punishable by a term of imprisonment that is not to exceed one month. On the other hand, the British Mandate-era Criminal Code provides that the offence of defamation is punishable by imprisonment for one year, while article 37 of the Correctional and Rehabilitation Centres Act (1998) prohibits using lewd or degrading language with inmates.

188. Article 343 of the Jordanian Criminal Code provides that any person who causes the death of another person as a result of negligence, lack of care or failure to observe laws and regulations shall be punished by a term of imprisonment ranging from six months to three years. On the other hand, article 218 of the British Mandate-era Criminal Code provides that any person who unintentionally causes the death of another person is liable to imprisonment for two years.

189. Inmates or detainees may be threatened while they are in correctional and rehabilitation centres. That is an inhuman and degrading practice, and the criminal codes in effect consider such acts to be punishable crimes. The threat can take the form of doing unjustified harm, whether in words or by one of the means set out in the law, with a view to having a profound effect on the victim.

The arbitrary refusal of the occupying Israeli authorities to hand over the bodies of Palestinian martyrs as a form of harsh collective punishment

190. In March 2016, the Government of the Israeli occupiers announced that it was prohibiting the handover and return of the bodies of Palestinian martyrs to their families amid Israeli demands that their bodies should be interred in numbered cemeteries.[27] Although the occupying authorities are negotiating with the families or the lawyers of the victims and with representatives of the State of Palestine, they are setting illegal and unacceptable conditions for the handover of bodies, including the requirement that a forensic autopsy must not be carried out. They are even preventing medical teams and representatives of the Office of the Public Prosecutor from examining a body while it is in the hospital.

191. The occupying authorities' decision not to hand over the bodies of the deceased is an international crime that is punishable by international law. The decision to retain the bodies of the deceased clearly contravenes article 130 of the Fourth Geneva Convention and article 34 of Additional Protocol I to the Geneva Conventions, which imposes a legal obligation on the occupying authorities to bury persons who have died for reasons related to occupation or in detention in a manner that accords with the deceased's religious practices. The occupying authorities are also obliged, as soon as circumstances permit, to provide accurate data and information about the deceased, protect and maintain their graves, facilitate access to their gravesites by relatives and regulate the practical arrangements for such access, and facilitate the return of the remains of the deceased and of personal effects to the next of kin.

192. The Israeli policy of systematically retaining the bodies of martyrs is part of the policy of collective punishment that is practised by the occupying authorities against the Palestinian people. The most serious consequence of that policy is the impossibility of conducting a forensic autopsy, thus helping to conceal, in part, evidence of extrajudicial killings.

[27] Numbered cemeteries are a code name for the large number of secret cemeteries in which Israel, the occupying Power, has been burying the bodies of victims and prisoners. Numbered cemeteries, which have been around for some time, currently hold the bodies of a large number of Palestinian prisoners who died in Israeli prisons.

193. The Israeli occupiers continue to belittle the dignity of martyrs by inhumanly retaining their bodies for long periods of time. The inhuman manner in which the bodies of the victims had been handled and stored became apparent when they were handed over to the Palestinian Ministry of Health. The bodies had been frozen and stored at a temperature of -60° C, and there were more than 10 bullets in each body.

194. The occupying Israeli authorities are still holding the bodies of more than 20 Palestinian martyrs who were killed in 2018 alone, bringing to 294 the total number of bodies that have been detained since the Israeli occupation of the Palestinian territories began. They refuse to surrender the bodies of the deceased to their relatives for burial in accordance with religious practices and in a dignified manner. Such conduct constitutes torture and inhuman and degrading treatment that belittles the dignity of the martyrs and their relatives, and it is another form of collective punishment.

The Israeli occupiers' policy of demolishing the homes of Palestinian civilians as a form of harsh collective punishment

195. Israel, which has been the occupying Power since 1967, has pursued a policy of demolishing the homes of Palestinians in the West Bank, including East Jerusalem, as a means of collectively punishing the Palestinian population. The aim of that policy is to harm the relatives of Palestinians accused of carrying out martyrdom operations against occupying Israeli forces, or the families of Palestinian prisoners, in order to deter Palestinians from carrying out such operations.

196. Since 2009, the Government of the Israeli occupiers has stepped up its policy of demolishing homes and buildings as a means of collectively punishing the Palestinian families of the accused. These demolitions are part and parcel of its policy of forcibly displacing the population and increasing its occupation of Palestinian land. As at March 2019, Israel had demolished 5,884 Palestinian buildings and structures, displacing 9,210 Palestinians and affecting the lives of 71,672 Palestinians.

Solitary confinement of Palestinian prisoners in the jails of the occupying Israeli authorities

197. Solitary confinement is one of the cruellest forms of punishment that the occupying Israeli authorities use in respect of Palestinian detainees, who are placed in solitary confinement for extended periods in cells that fail to meet the minimum standards and requirements of dignified human existence. Cells are usually dark, cramped and filthy, their walls constantly moist and covered with mould and they are equipped with old squat toilets out of which rats and rodents emerge. All of this causes serious health and psychological problems for Palestinian detainees.

198. The policy of placing prisoners in solitary confinement has become a systematic practice that is authorized by the so-called legislative authority of Israel, the occupying Power, and implemented by its executive authority, which sets out procedures and rules specifically for that purpose. The policy of placing Palestinian prisoners in solitary confinement has been in effect for as long as Palestinians have been held in Israeli prisons. Dozens of Palestinian detainees have been placed in solitary confinement for extended periods of time, and the application of this policy has increased over time. The purpose of prolonged solitary confinement is to humiliate and physically and psychologically destroy Palestinian detainees.

199. On 20 July 2015, Israel, the occupying Power, adopted the "force feeding" act, under which prisoners on hunger strike can be force-fed. The act gives the courts the power to authorize the force-feeding of a prisoner, in order to break his will. This act gives the occupiers a pretext for torturing prisoners who are on hunger strike. By violating their right and freedom to control their own bodies, they deprive them of the last means of legitimate, peaceful protest available to them. Moreover, the act allows the Israeli occupying authorities not to bring the detainee before a judge for a period of 96 hours, while preventing him from seeing his lawyer or a family member. It also allows the courts to extend the detention period in the absence of the detainee and exempts the occupying security forces from the requirement to make an audio-visual record of the interrogation of

detainees, thus giving the occupiers the ability to interrogate them by using torture and inhuman and cruel treatment and to pressure them into making false and invalid confessions.

16.2 Measures taken by the State of Palestine to reduce the incidence of inhuman and degrading treatment

200. Earlier in this report, in our comments on the implementation of articles 10, 11, 12 and 13 of the Convention, we stated that the laws in effect in the State of Palestine criminalize and prohibit any act of cruel, inhuman or degrading treatment or punishment. To that end, we drew attention to the relevant articles of the Jordanian Criminal Code (1960), the British Mandate-era Criminal Code (1936) and the Military Criminal Code (1979). In addition to the above, the State of Palestine has taken many other measures to prevent the criminal acts mentioned in article 16 (2) by adopting codes of conduct for law enforcement personnel, including the following:

- Civilian Police Act and its amendments;
- Security Forces Judicial System Act;
- Bill on supply and logistics (third reading in the Cabinet);
- Code of conduct for judges;
- Code of conduct for staff of the Office of the Public Prosecutor;
- Code of conduct and ethics for members of the police;
- Code of conduct for members of the Civil Defence;
- Code of conduct for members of the Preventive Security Service;
- Code of conduct and ethics for employees of General Intelligence (updated);
- Code of conduct for civil servants;
- Booklet on disciplinary offences for members of the Palestinian Security Force;
- Regulations on the use of force and firearms by members of the security forces;
- Code of ethics and conduct for members of the security forces;
- Manual of procedure for health-care services;
- Unified manual of operational procedures for the complaint units of the security services.

16.3 Living conditions in police stations and correctional and rehabilitation centres

201. The laws in effect set out measures to ensure that individuals and inmates who are detained in police stations and correctional centres are provided with appropriate living conditions. Those measures are as follows.

Services available to inmates at correctional and rehabilitation centres in the West Bank

202. Health services: Pursuant to articles 13-15 and 27-29 of the Correctional and Rehabilitation Centres Act, the Correctional Centres Department, in cooperation with military medical services, provides inmates with health-care services and, in cooperation with the Ministry of Social Development and civil society organizations, gives them access to psychologists and social workers. The aim is to assess the social and psychological situation of inmates and provide them with social and psychological support. A doctor must inspect the areas in which inmates sleep or are held in solitary confinement, and he must evaluate the inmates' health, treat the sick, transfer those whose condition requires to a clinic or a specialized hospital, isolate those suspected of having an infectious disease until they recover and have their clothing, bedding and food disinfected.

203. Rehabilitation services: Palestinian correctional and rehabilitation centres, in cooperation with civil society organizations, run educational, vocational and rehabilitation

programmes for inmates, so that they can improve themselves and reintegrate into society. Such programmes including mosaic-making, tailoring and shoemaking.

204. Sports services and programmes: Correctional and rehabilitation centres offer sports programmes and equipment for inmates, so that they can take part in recreational activities and maintain their health.

205. Legal aid programme: The Correctional and Rehabilitation Centres Department, with the support of UN-Women, and as part of a project entitled "Security and justice for the Palestinian people", which is aimed at promoting the rule of law in the Occupied Palestinian Territory, has organized a number of activities that are aimed at preserving the rights of women inmates in correctional and rehabilitation centres. Those activities include providing women inmates with psychological support, offering training workshops on how to generate income, hiring lawyers to provide legal support to women inmates who do not have a lawyer, providing counselling to impoverished women and meeting the personal needs of women inmates.

206. Food services: Correctional and rehabilitation centres provide nutritionally diverse meals, so that inmates can maintain their health, and they offer a special food programme for pregnant inmates.

207. Under the law, an inmate is guaranteed the right to bathe at least twice a week in summer and at least once a week in winter; wash his face and limbs twice a day, once in the morning and once in the evening; wash his clothes at least once a week; cut his hair once a month; and shave his beard at least twice a week. The management of correctional and rehabilitation centres must provide inmates with lighting, heating on cold days and deliver meals to them in the designated location in their quarters and at the scheduled time.

Challenges related to delivery of health-care services in correctional and rehabilitation centres

208. Despite the improvements that correctional and rehabilitation centres have made in relation to health care, some correctional centres still lag behind. Some centres do not have medical clinics or full-time doctors and nurses, and most centres do not have a dentist or a psychologist. This forces the management of those centres to transfer sick inmates to government hospitals or military medical services facilities.

209. Most correctional and rehabilitation centres in the State of Palestine were destroyed by the occupying Israeli forces after the outbreak of the Aqsa intifada in 2000. This has had a significant impact on their performance and limited their ability to fulfil their basic purpose. This led the Correctional and Rehabilitation Centres Department to seek alternative solutions to the problem, including repairing some of the centres, such as the ones in Janin, Nablus and Zahiriyah.

Medical visits and services (by number of inmates referred for treatment) for 2014

	Centre *Service provider*	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*	*Total*
1	General medicine clinic (in the centre)	2 144	5 976	1 178	3 757	3 834	2 200	2 220	21 309
2	Dental clinic (in the centre)	912	1 172	403	705	882	428	269	4 771
3	Military medical services	165	5	60	0	1	219	13	463
4	Government hospital	131	162	101	104	98	76	109	781
5	Bethlehem Hospital	7	11	46	2	3	30	1	100

	Centre *Service provider*	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*	*Total*
6	Ministry of Health	169	89	29	70	41	0	7	405
7	Outside clinics	107	294	0	87	62	0	0	550
8	Referrals for treatment abroad	6	22	35	9	14	1	5	92
9	Private doctor at the centre	15	33	3	9	31	0	20	111
Total		**3 656**	**7 764**	**1 855**	**4 743**	**4 966**	**2 954**	**2 644**	**28 582**

Medical visits and services (by number of inmates referred for treatment) for 2015

	Centre *Service provider*	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*	*Total*
1	General medicine clinic (in the centre)	2 140	668	1 106	4 200	2 759	2 212	2 619	15 704
2	Dental clinic (in the centre)	997	1 365	312	809	656	479	362	4 980
3	Military medical services	196	24	47	10	0	48	15	340
4	Government hospital	202	175	125	121	66	104	120	913
5	Bethlehem Hospital	6	19	60	0	8	21	3	117
6	Ministry of Health	214	171	24	101	48	0	10	568
7	Outside clinics	90	325	4	202	35	0	0	656
8	Referrals for treatment abroad	13	27	6	7	7	11	6	77
9	Private doctor at the centre	21	31	0	30	48	0	12	142
Total		**3 879**	**2 805**	**1 684**	**5 480**	**3 627**	**2 875**	**3 147**	**23 497**

Medical visits and services (by number of inmates referred for treatment) for 2016

	Centre *Service provider*	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*	*Total*
1	General medicine clinic (in the centre)	2 788	6 799	1 130	5 641	2 634	3 239	2 079	24 310
2	Dental clinic (in the centre)	205	1 128	294	771	9 402	429	253	4 022
3	Military medical services	194	18	43	0	0	43	7	305
4	Government hospital	235	240	118	157	45	288	83	1 166
5	Bethlehem Hospital	9	3	36	0	2	12	0	62
6	Ministry of Health	25	84	14	102	46	0	15	286
7	Outside clinics	144	257	0	142	40	0	0	583
8	Referrals for treatment abroad	16	5	3	16	2	2	5	49
9	Private doctor at the centre	23	32	8	14	34	6	11	128

	Centre *Service provider*	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*	*Total*
Total		**3 639**	**8 566**	**1 646**	**6 843**	**3 745**	**4 019**	**2 453**	**30 911**

Medical visits and services (by number of inmates referred for treatment) for 2017

	Centre *Service provider*	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*	*Total*
1	General medicine clinic (in the centre)	3 076	7 291	1 280	5 056	5 240	3 095	1 686	26 724
2	Dental clinic (in the centre)	1 271	1 473	302	685	941	507	303	5 482
3	Military medical services	142	34	21	0	0	219	0	416
4	Government hospital	105	234	161	158	85	192	71	1 006
5	Bethlehem Hospital	2	11	80	2	2	12	1	110
6	Ministry of Health	27	67	7	15	161	0	4	281
7	Outside clinics	236	312	0	130	144	0	0	822
8	Referrals for treatment abroad	15	27	9	6	8	14	2	81
9	Private doctor at the centre	25	44	4	17	26	1	11	128
Total		**4 899**	**9 493**	**1 864**	**6 069**	**6 607**	**4 040**	**2 078**	**35 050**

Living and health conditions of prisoners in the prisons of the Israeli occupiers

210. Israel Prison Service forces continue to deny Palestinian prisoners and detainees their fundamental rights. Hundreds of Palestinians prisoners and detainees are still unable have family visits, while dozens remain in solitary confinement cells on the grounds that they violated prison regulations or for security reasons. Those forces also continue to deny detainees the right to education, in an ongoing effort to avoid honouring their obligations under the agreement of 14 March 2012. Under that agreement, prisoners were to be removed from isolation wings, the living conditions of all prisoners were to be improved, and prisoners and detainees were to be allowed to receive regular visits from their relatives. Moreover, verbal commitments were made to curtail the arbitrary application of the administrative detention policy.

211. From 1967 to 7 February 2019, a total of 218 Palestinian prisoners died in the prisons of the Israeli occupiers. Of that number, 75 were murdered, 7 were shot inside prisons, 63 died as a result of deliberate medical negligence, a form of torture and maltreatment that is practised systematically and broadly by Israel against Palestinian prisoners, and 73 died under direct torture.

Ill prisoners

212. There are more than 1,800 ill prisoners, or nearly a quarter of all inmates, in the occupiers' prisons. Among them are 26 prisoners suffering from cancer, 80 who have various disabilities (physical, psychological and sensory) and others suffering from chronic and serious diseases. They live in deplorable conditions because of deliberate neglect, cruel torture, abuse of patients, lack of assistive devices, disregard for pain and indifference to suffering and needs, all of which exacerbates their condition and gives rise to the possibility

of developing permanent disabilities as a result of the circumstances that they must endure. They need continuous health care, yet they do not receive any treatment or the minimum level of health care. The prisoners suffering from the most serious and incurable diseases reside in the Ramla Prison Clinic, which always lacks the capacity to provide the minimum level of health care.

213. In addition to the suffering that they endure as a result of the policy of deliberate medical negligence, some prisoners were arrested after they had been wounded by bullets fired by the occupying authorities in the course of their broad-scale and intensive detention campaigns, while other prisoners were abducted from ambulances and hospitals.

Conclusion

214. The State of Palestine is a peace-loving country that believes in justice, democracy and human rights and abides by the Charter of the United Nations and the international conventions to which it has acceded. In keeping with the efforts of the State of Palestine to establish human rights in the country, the Convention against Torture was the first of the human rights instruments to which it became a party, having acceded thereto in 2014. It then proceeded to accede to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of Persons with Disabilities.

215. The State of Palestine has adopted a national policy agenda for the period 2017–2022 that incorporates its undertakings pursuant to the human rights instruments to which it has acceded. That decision reaffirms the determination of the State of Palestine to fulfil to the utmost its responsibilities towards its citizens and to guarantee their fundamental freedoms, safeguard their human rights and ensure that they enjoy justice and equality, and to protect marginalized groups and provide them with opportunities. The State of Palestine has implemented various reforms, which are detailed in this report, since it acceded to the Convention. Those reforms, which include legal measures, such as the adoption of new laws and the amendment of existing ones, and administrative measures, such as the issuance of various instructions, orders and regulations, are an embodiment of the national political agenda and vision of the State of Palestine, of which respecting human rights, in particular those that are set out in the Convention, is of paramount importance.

216. On 29 December 2017, the State of Palestine acceded to the Optional Protocol to the Convention against Torture, thereby reaffirming that it is making progress in its efforts to combat torture. Moreover, its unstinting and ongoing efforts, in collaboration with national partners from civil society institutions that focus on human rights, the Independent Human Rights Commission and international partners, including the Subcommittee on Prevention of Torture, demonstrate that it is continuing to make progress towards fulfilling its commitments under the Convention.

United Nations CAT/C/ISR/6

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Sixth periodic report submitted by Israel under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2020*, **

[Date received: 30 December 2020]

* The present document is being issued without formal editing.
** The annex to the present report may be accessed from the web page of the Committee.

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Introduction

1. Upon submission of its Sixth Periodic Report to the Committee against Torture (CAT), the State of Israel wishes to make the following clarification.

2. The COVID-19 pandemic has struck the State of Israel on March 2020. In order to mitigate the damages caused and threats posed by the pandemic, the Government has adopted several temporary orders and regulations for time of emergency. While addressing some of these orders and regulations throughout this report, given their temporary nature, the State of Israel will hereby focus on the legal situation applicable regardless of the pandemic.

Reply to paragraph 1 of the list of issues (CAT/C/ISR/QPR/6)

Medical Care

3. For general information on medical treatment of detainees, please see Israel's Fifth Periodic Report to CAT (Question No. 6).

4. A prisoner would be allowed the option of getting a second medical opinion from a private medical practitioner, if the practitioner is a specialist in the relevant area of medicine, after he/she received a medical opinion from an Israeli Prison Service (IPS) physician, in accordance with IPS Commission standing order No. 04.46.00 – Private Medical Practitioner Visits in Prisons for Second Medical Opinion. The same applies to psychiatrists. The order refers to the entrance of physicians into IPS facilities in order to receive a second medical opinion, and not visits of specialists in order to corroborate or refute claims of torture or abuse. For further data, please see Question No. 34 below.

5. Additionally, all claims of violence inside IPS facilities reach the highest ranks and mandate a medical examination of the complainant, all in accordance with IPS Commission standing order No. 02.04.00 – Rules on Reasonable Use of Force in the Line of Duty, which includes rules on handling and documenting the injury. The IPS medical staff must thoroughly document the physical state of the prisoner following a claim of reasonable use of force towards a prisoner, regardless of whether or not a complaint was submitted. Criminal issues are examined by the Unit for Investigation of Wardens (UIW), an independent Police unit.

Solitary Confinement

6. *Incommunicado* detention is not practiced in Israel.

7. For general information on solitary confinement, please see Israel's Fifth Periodic Report to CAT (Question No. 10).

8. Separation is not a punitive measure but rather a preventive procedure regulated by the *Prisons Ordinance (New Version)* 5731-1971 (the "*Prisons Ordinance*"*)* and by IPS Commission standing order No. 04.03.00, which is intended to prevent a prisoner, including prisoners with mental disabilities, from harming themselves or harming other prisoners or the prison's staff, among other reasons. Separation may also be used due to state or prison security. A prisoner held in separation may be held alone or together with another prisoner (group separation), according to the reasons for separation as well as the prisoner's characteristics. The conditions provided in separation include: medical care, meetings with an attorney, an hour in the prison yard, meetings with a social worker and visits. The living conditions in the separation ward include a television, telephone, books and newspapers. This preventive measure of separation is subject to re-examination procedures, judicial review and appeal. It is used only when there is no other way to accomplish the aims of a separation. The authority to hold a prisoner in separation is constantly monitored and requires timely reevaluation in order to minimize the separation time.

Solitary Confinement with Regard to Israel Security Agency (ISA) interrogations

9. Solitary confinement is not used as an interrogation method nor as a punitive measure by the ISA. However, naturally, during interrogations there might be a need to separate between several detainees for the purpose of the investigation.

10. The detainees have continuous and frequent contact with the IPS personnel, as well as the medical personnel. They also meet with representatives of the ICRC and relevant diplomatic representatives and are arraigned to extend their arrest, where they are represented by their attorneys, all in accordance with the law.

11. Meeting with a lawyer during this period of time may be suspended for up to twenty-one (21) days regarding interrogatees held in accordance with Section 35 of the *Criminal Procedure (Powers of Enforcement - Arrests) Law 5756-1996* (the *"Criminal Procedure (Arrests) Law"*), due to the risk of potential harm of the suspect to the arrest of other suspects, to the revealing of an evidence or to its capture, to the prevention of crime or for the protection of life. Postponing the meeting with a lawyer for more than ten (10) days and up until the maximum period of twenty-one (21) days requires an approval by the court.

12. When an ISA interrogatee is under investigation, his/her family or their lawyer are informed of their arrest and location.

Solitary Confinement and Separation of Minors

13. Holding a minor in solitary confinement is done only in extreme cases. When considering holding a minor in separation, such decision is reviewed prior to the beginning of the separation itself by four (4) professionals of the incarceration facility, including a social worker when it is a single separation. The use of such separation is only permitted when based on professional considerations and according to the child's best interest.

Reply to paragraph 2 of the list of issues

14. The inter-governmental team's work on the Draft bill on Torture is ongoing.

Reply to paragraph 3 of the list of issues

15. According to the Israeli legal system, international conventions (as opposed to customary international law), only become part of the domestic law if they are formally legislated by the Knesset (the Israeli Parliament). This is the case with the CAT, which is fully implemented through a wide range of legal instruments, including the country's Basic Laws, laws, orders, regulations, municipal bylaws, and Court rulings.

16. The applicability of the human rights conventions to the West Bank has been the subject of considerable debate in recent years. In its Periodic Reports, Israel did not refer to the implementation of the Convention in these areas for several reasons, ranging from legal considerations to the practical reality.

17. Israel's position on the inapplicability of CAT beyond its territory has been presented at length to the Committee on previous occasions and remains unchanged.

Reply to paragraph 4 of the list of issues

The "Necessity" Defense

18. The "necessity" defense, as stipulated in Section 34(11) of the *Penal Law* 5737-1977 (the "*Penal Law*"), is one of the defense claims for a defendant in the criminal proceedings in Israel. In H.C.J 5100/94 *The Public Committee Against Torture in Israel et. al. v. The State of Israel et. al.* (6.9.99), the High Court of Justice (HCJ) held that this defense could apply to a defendant accused of using unlawful physical pressure during interrogation.

19. The number of ISA interrogations with respect to which the "necessity" defense was raised is scant and represents a minute percentage of all ISA interrogations of persons that were suspects of terrorist activity.

20. According to the *Israel Security Agency Law* 5762-2002, the ISA internal rules and procedures as well as methods of interrogations are confidential.

21. A petition for disclosure of similar details was submitted to the Jerusalem District Court, in pursuance to the *Freedom of Information Law* 5758-1998, and rejected by the Court (Ad.P. 8844/08 *The Public Committee Against Torture in Israel v. The Supervisor of the Freedom of Information Law within the Ministry of Justice* (15.2.09)).

22. For further examples for relevant cases, please see our Reply to Question No. 30 below, concerning H.C.J. 5722/12 *As'ad Abu-Gosh v. The Attorney General* (12.12.2017) and H.C.J. 9018/17 *Fares Tbeish et. Al. v. The Attorney General et. al.* (26.11.18). For further elaboration, please see Israel Fifth Periodic Report to CAT (pp. 5-6).

Reply to paragraph 5 of the list of issues

Access to a lawyer

23. The right to counsel was recognized as a basic right in a 2006 Supreme Court decision, where the Court held that "[t]here is no dispute as to the high standing and central position of the right to legal counsel in Israel's legal system." (Cr.A. 5121/98 Prv. *Yisascharov v. The Head Military Prosecutor et. al.* (4.5.06)). The Court in this case adopted a relative exclusion doctrine, according to which the Court may rule on the inadmissibility of a confession due to the interrogator's failure to notify a soldier of his right to legal counsel.

24. On August 2, 2018, the Supreme Court in the Cr.A. 2868/13 *Haybavtov v. The State of Israel* case acquitted the appellant of murder and other offenses due to the violation of his rights during the investigation, and in particular a severe violation of the right to counsel, which resulted in the appellant's inadmissible confession. The Court therefore held that the confession should be excluded, and acquitted the appellant. The Supreme Court further held that in light of the importance of the right to counsel, investigators must verify that the suspect is aware of his/her right, and that in the event they choose to waive this right, it should be done in an informed and explicit manner. Therefore, the Court held that investigators are required to document the waiver of the right to consultation by a suspect using an audio-video recording.

25. The right of detainees to access to an attorney is further anchored in IPS Commission standing order No. 04.34.00 "Provision of Professional Services to Prisoners and Detainees by Attorneys". The Provision deals, *inter alia,* with coordinating and arranging prisoners' meetings with lawyers for the provision of professional service.

The right to consult with a public defender before questioning

26. The right to consult with a public defender before questioning has seen improvement in recent years. Israel has taken several important steps in the field, including: expanding the Public Defender's Office (PDO) response to detainees for purposes of investigation to a 24/7 format, opening a dialogue with the Police on all levels, and using an available and detailed database gathered by the PDO. For statistics, please see Annex I.

27. For further information, see Israel's Fifth Periodic Report to the ICCPR (p. 30).

The right of pretrial detainees to have access to a lawyer

28. Section 34 of the *Criminal Procedure (Arrests) Law* states that a detainee is entitled to meet and consult with a lawyer. Following a detainee's request to meet with an attorney or the request of an attorney to meet a detainee, the person in charge of the investigation shall enable the meeting without delay, unless, such a meeting necessitates terminating or suspending an investigation or other measures regarding the investigation, or substantially places the investigation at risk. The officer in charge shall provide a written reasoned decision

to postpone the meeting for the time needed to complete the investigation, provided this deferment does not exceed several hours.

29. The officer in charge can further delay this meeting if he/she issues a sufficiently reasoned decision to the effect that such a meeting may thwart or obstruct the arrest of additional suspects in the same matter, prevent the disclosure of evidence, or the capture of an object regarding the same offence. Such additional delay shall not exceed 24 hours from the time of arrest. An additional 24-hour deferment (to a total of 48 hours) can be granted, if the officer in charge provides an elaborate written decision that he/she is convinced that such postponement is necessary for safeguarding human life, or thwarting a crime. However, such a detainee shall be given a reasonable opportunity to meet or consult with legal counsel prior to their arraignment before a court of law.

30. Section 11 of the Criminal Procedure (Powers of Enforcement - Arrests) (Terms of Detention) Regulations 5757 – 1997 (the "Criminal Procedure (Arrests) (Terms of Detention) Regulations"), stipulates that the date of a detainee's meeting with an attorney shall be coordinated in advance, and that the commander of the detention facility shall enable the first meeting of a detainee with an attorney, at their request, even during extraordinary hours.

The right of convicted prisoners to have access to a lawyer

31. The *Prisons Ordinance* stipulates the conditions for a prisoner's meeting with an attorney. According to Section 45, the meeting shall be held in private and in conditions allowing for the confidentiality of the matters discussed and documents exchanged, and in such a manner that enables supervision of the prisoner's movements. Following the prisoner's request to meet an attorney, or the request of an attorney to meet a prisoner, the director of the prison shall facilitate the meeting in the prison during regular hours and without delay.

32. Section 29(b) of the *Prisons Ordinance* authorizes the IPS Commissioner and the Prison Director to postpone or stop such a meeting for a set period of time if there is a substantial suspicion that meeting with a particular lawyer will enable the commission of an offence risking the security of a person, public security, state security or the prison security, or a prison offence substantially damaging the prison discipline and that brings about a severe disruption of the prison procedures and administration.

33. According to Section 45A(b) of the *Prisons Ordinance*, which relates to all prisoners, except for detainees who have yet to be indicted, the Prison Director may delay such a meeting according to reasons elaborated under the Law for no longer than 72 hours, and the IPS Commissioner may order an additional 24 hours' delay. Another postponement can be approved with the agreement of the District Attorney for up to ten (10) days.

34. Decisions rendered according to section 45A may be appealed to a District Court. This decision will be given only after the prisoner and his/her attorney was given a right to present their arguments before the IPS. Note that according to this section the delay applies only to a specific attorney while the prisoner can meet with another attorney. The decision may be appealed to the Court.

35. A District Court may further extend the above time-periods to up to six (6) months, following an application of the representative of AG, based on one of the grounds specified above. The maximum delay shall not exceed one (1) year, but if it was delayed for more than six (6) months, the decision would be subject to a judicial review every three (3) months (Section 45A(7)). Such a decision can be appealed to the Supreme Court. A Supreme Court judge may further extend these periods based on one of the grounds specified under the law.

36. Medical Treatment of persons deprived of their liberty and the right to request and receive an examination by an independent physician of their choice: Please see our reply to Question No. 1 above.

37. The right of persons deprived of their liberty to be informed of their rights and of the charges against them and to notify a relative of their arrest.

38. According to Section 6(c) of the Police National Headquarters Order 14.01.34 on the clarification of the detainee's rights, a police officer who has decided to arrest a person is

personally obliged to clarify to the detainee, among others, of the reason for his/her arrest, i.e., the suspicions against him/her and the grounds for the arrest, in a language which the detainee understands. Furthermore, according to Section 6(d) of the said Order, information concerning the arrest and the whereabouts of a detainee will be provided without delay to a relative of the detainee's choice, except in such case where the detainee had requested to refrain from doing so.

39. For information on the improper use of handcuffs as a means of investigation, please see Annex I.

Arraignment before a judge and detention registers

40. The rights of the detainees to be brought before a judge immediately and regardless of the reason for their arrest is anchored in *Criminal Procedure (Arrests) (Terms of Detention) Regulations*. This is conducted according to a regulated work procedure between the IPS and the courts: the Procedure for Handling Summons to Court 06.01. Based on this procedure, the IPS, the Courts and the Police collaborate in order to summon detainees to the courts. This procedure regulates the work of the registration offices and the Court Summons Center, responsible for keeping updated detention registers.

41. For further information, please see Israel's Fifth Periodic Report to the CAT (Question No. 6).

Juvenile detainees

Representation of Minors in Criminal Proceedings by the PDO

42. Amendment No. 14 to the *Youth Law (Trial, Punishment and Modes of Treatment)* 5731-1971 (hereinafter: *Youth Law (Trial)*), which entered into force on July 30, 2009, amended *The Public Defender's Office Law* 5755-1995, entitling minors to legal representation in all stages of the criminal proceeding by the PDO.

43. Prior to a police investigation, the Police should notify the minor on his or her right to a legal counsel. In addition, a minor is entitled to be investigated with the presence of a parent or other family relative, and to consult with him/her during the investigation, unless in exceptions such as a risk posed to the process of investigation; security offences and more.

The right to ensure the availability of legal aid

Representing children in civil and administrative proceedings

44. The Legal Aid Administration (LAA) at the MoJ is the main provider of legal services for children in child protection proceedings in Israel. The National Child Representation Unit (NCRU) within the LAA is providing high-quality, child-friendly, and accessible legal aid service for children and youth, free of charge; and promotes their right to access to justice, particularly in child protection proceedings.

45. All child legal aid services are provided by the LAA free of charge. Children are represented from birth until they turn eighteen (18). For statistics, please see Annex I.

46. Since August 2018, (following Amendment No. 20 to the *Legal Aid Law* 5732-1972), the NCRU also provides legal aid and assistance to children and youth victims of severe sexual abuse, both throughout the criminal law proceedings against the perpetrator, as well as during any legal or administrative proceeding connected to the penal proceedings (such as protection orders, civil tort suits, etc.).

47. The NCRU has been designed and operates in accordance with leading human rights principles and criteria: accessibility, affordability, quality and non-discrimination, as designated by the relevant human rights instruments and guidelines.

48. For further information on the LAA, please see Israel's Fifth Periodic Report to CAT, para. 145.

49. For information on legal aid for family members of victims of homicide, please see Annex I.

The Number of Arrests

50. Police data indicate that during 2018 there was a decrease of about 11.3% in the number of arrests conducted compared to the previous year. Government Resolution (GR) No. 4346 (9.12.2018) established a public committee, headed by the former President of the Jerusalem Magistrate's Court, to examine the arrests of suspects for investigation purposes.

51. The PDO has been implementing a systematic plan of action for decreasing the number of arrests. This issue is addressed through individual tasks, such as: training the defense attorneys; distribution of unique professional guidelines to attorneys representing in arrest proceedings; monitoring of proactive proceedings filed in appropriate cases such as petitions, requests for leave of appeal, periodic reviews, requests for release at the initial detention stage by the officer in charge, and requests for compensation for false arrests.

52. Recent Police data indicate a general decrease in the number of arrests, and a significant reduction in the number of detainees held for 24 hours. These figures indicate an improvement in the rate of cases where the suspects are released at the police station.

53. The Probation Service Administration has been working to reduce the time needed to prepare their report, through adding new positions and cooperation with the PDO. Following these measures, the time period required to file detention reports was shortened to two (2) weeks.

Family Visits

54. For information on family visits, see Israel's Fifth Periodic Report to the ICCPR (p. 29).

Reply to paragraph 6 of the list of issues

55. The following information pertains to administrative detainees held in Israeli territory, and is without prejudice to Israel's position on the applicability of CAT beyond its territory, as provided in our Reply to Question No. 3 above.

Administrative Detention

56. Administrative detention is an exceptional measure, applied only where there is clear, concrete and trustworthy evidence that an individual is engaged in acts that endanger the security of the state or human life. It is always used only as a preventative measure of last resort, where the security risk cannot be addressed by other legal means, such as criminal prosecution.

57. The legal basis for administrative detentions in Israel is the *Emergency Authorities (Detention) Law* 5739-1979. This instrument is designed primarily as a domestic security measure, which typically applies to individuals posing a severe threat to state security, and accords the Minister of Defense the authority to issue such warrants.

58. In addition, the respective local legislation in the West Bank grants all relevant security detainees the right to appeal the order to the Military Court of Appeals, for judicial review. Petitioners may be represented by counsel of their choice at every stage of these proceedings and have a right to examine the unclassified evidence against them. All individuals have the additional right to petition the HCJ for a repeal of the order. The judicial organs reviewing each and every order carefully examine whether the criteria outlined in case law and legislation are fully met.

59. Detainees are given an explanation of the grounds for the administrative order and have a right to examine the unclassified evidence against them.

60. An administrative detention order is limited to a period of six (6) months and its extension requires the reevaluation of the relevant intelligence and enables further judicial review and appeal.

61. Issuance of administrative detention orders against detainees who pose a danger to public security in the West Bank, in those cases outlined above, is recognized by international law and is in full conformity with Article 78 of the *Fourth Geneva Convention 1949.*

62. Between the end of 2016 and August 2018, the number of Palestinian administrative detainees has dropped by 37%.

63. As of August 19, 2020, there were one (1) Israeli national and five (5) Israeli residents held in administrative detention.

The Incarceration of Unlawful Combatants Law 5762-2002

64. No change has occurred in this area since the submission of Israel's Fifth Periodic Report to CAT.

65. Over the past several years, there were no individuals detained under the *Incarceration of Unlawful Combatants Law*.

Reply to paragraph 7 of the list of issues

ISA Interrogations

66. Following issuance of the Turkel Report, reported in Israel's Fifth Periodic, the Government has steadily worked to implement the various recommendations. Notably, in January 2014, a professional inter-agency team of experts ("the Implementation Team"), was appointed. The Implementation Team thoroughly reviewed the Commission's recommendations and considered the most effective measures for their implementation. The Implementation Team submitted its report to the Prime Minister in September 2015. The Israeli Security Cabinet approved the Implementation Team's Report in July 2016. An inter-agency team continues to regularly monitor the completion of this process and reports to the Prime Minister every six (6) months.

67. In recommendation No. 15, the Turkel Commission recommended strengthening the thoroughness and effectiveness of the investigations of the Inspector for Complaints against ISA Interrogators Unit (hereinafter: the "Inspector") by requiring video recording of interrogations conducted by ISA, to be made according to rules that would be prescribed by the Attorney General (AG) in coordination with the Head of the ISA. The Implementation Team recommended the installation of cameras in all ISA interrogation rooms, that will broadcast regularly via closed circuit to a control room located in an ISA facility where interrogations are not conducted. The control room will be accessible and available to an external supervising entity on behalf of the MoJ at any time. The interrogators will have no indication of when the MoJ supervisor is watching them in the control room. The supervising entity must report immediately to the Inspector if he/she believes that illegal means have been used during the interrogation. The Israeli Security Cabinet adopted the recommendations of the Implementation Team and after the completion of the necessary technical arrangements and recruitment of suitable supervisors by the MoJ, along with the completion of a work protocol, the supervisors began their work in January 2018. During 2019-2020, hundreds of control and supervision hours were conducted by the supervisors (with an average of 80 to 100 monthly hours).

Police Investigations

68. For information on audio and visual recording of Police investigations, please see Israel's Fifth Periodic Report to the ICCPR (Question No. 14).

69. At present, the State of Israel does not intend to amend Section 17 to the Criminal Procedure (Interrogation of Suspects) Law 5762-2002 (the "Criminal Procedure (Interrogation of Suspects) Law").

Reply to paragraph 8 of the list of issues

National Institutions for the Protection of Human Rights in Israel

70. The Unit for the Coordination of the Fight against Racism–In 2016, GR No. 1958 established the Unit for Coordination of the Fight against Racism within the Ministry of Justice (MoJ). The Unit is in charge of supervising the implementation of the recommendations of the inter-ministerial team to combat racism, as well as receiving complaints concerning discrimination and racism from all populations and forwarding them to the relevant authorities, monitoring the handling of these complaints, composing an annual report regarding the Unit's responsibilities and actions, and examining required legal amendments.

71. The Early Childhood Council - Please see Annex I.

72. The Children's and Youth Complaints Commission for Out-of-home Placed Children- Please see Annex I.

73. For further information on national human rights institutions, please see Israel Fifth Periodic Report to the ICCPR (Question No. 3); for further information on mechanisms for the protection of human rights, please see Israel's Core Document of 2008 (HRI/CORE/ISR/2008) and as amended in 2014 (HRI/CORE/ISR/2015) (Article 2(IV)(A)(vi) to (xiii)).

Reply to paragraph 9 of the list of issues

74. In the past few years, following a number of Supreme Court decisions, several changes were made in the policy concerning asylum seekers, *inter alia*, regarding deductions from salaries for deposits, detention and renewal of permits, as detailed bellow.

Closing of "Holot" Detention Facility

75. Over the past decade, tens of thousands of people have entered Israel illegally, not through a border station. Initially, these people had been placed in custody under the *Entry into Israel Law* 5712-1952, for a relatively short period of time, given the limitations on the length of custody as set by this law. On December 17, 2014, Amendment No. 5 to the Law entered into force (for further information, please see Israel's Fifth Periodic Report to the CAT (Question No. 12)).

76. On August 11, 2015, the HCJ rejected the majority of claims in a petition filed against the said amendment and ruled that the new amendment is constitutional except for the provision that enabled illegal migrants to stay in "Holot" facility for up to twenty (20) months. The Court found this period was disproportionate and gave the Knesset a six (6) months period to enact a new amendment to the Law. In the interim, the Court set a twelve (12) months period as the maximum. (H.C.J. 8665/14 *Dasseta v. The Knesset* (2.2.2015)).

77. Following this HCJ decision, in February 2016, the Knesset approved Amendment No. 6 to the *Prevention of Infiltration (Offences and Jurisdiction) Law* which sets the maximum period a person can be held in "Holot" facility at twelve (12) months. On November 19, 2017, the Government approved a Resolution to close the Holot facility within four (4) months and on March 2018, the facility was closed.

Deduction from Salaries

78. On April 23, 2020 the Supreme Court ruled that the obligation requiring people who entered Israel illegally through the Egyptian border to deposit 20% of their salary as an incentive to leave Israel is unconstitutional and ordered its nullity (H.C.J. 2293/17 *Garsgher et. al. v. The Knesset)*.

79. The Court determined that the deposit would be based only on the employer component (16%) and approved the operation of the "administrative deduction" mechanism, according to which certain amounts can be deducted from the employee's deposit, if the employee leaves the country after the departure date as set by the authorities is delayed. The

law determines deduction levels in accordance with the length of the delay, and states that the deduction will not exceed 33% of the deposit.

80. Since the Court's decision, 13,808 online applications have been processed for the employee's share of the deposit money. So far, as of July 2020, a total of 200,733,008NIS (58,435,668 USD) has been transferred to the employees.

No Deportation to States in which there is a Danger of Torture

81. The State of Israel is fully committed to the principle of *non-refoulement* and does not return any person to a country where he/she may be at risk of being tortured. We are not familiar with a claim of deportation to a state in which there is a risk of torture.

82. In a case brought recently before the Supreme Court, it was ruled that a fear of being subjected to female genital mutilation (FGM) was a ground for granting asylum. It was agreed by both parties that FGM may establish a well-founded fear of persecution and the main point of discussion was regarding the availability of an internal flight or relocation alternative for the family within Ivory Coast. The Court ruled that in the circumstances of the case (the agents of the persecution, lack of sufficient State protection, the religious and gender-based persecution), the availability of alternative places of living must be examined meticulously. The Court ruled that the relocation alternative offered to the family in this case did not address the concern and therefore they could not be removed to Ivory Coast (Ad.Ap.Rq. 5040/18 *Anonymous s. The State of Israel* (09.02.2020)).

83. The State filed a request for additional hearing on this matter, which focused on the Court's determination regarding the question of who carries the initial burden of proof for the existence of an internal flight or relocation alternative. The request was rejected by the Court on July 6, 2020 (Ad.Ad.H. 1893/20 *The State of Israel v. Anonymous et. al.* (6.7.20)).

Renewal of Permits

84. With respect to working permits, according to Section 2(a)(2) of the *Entry into Israel Law*, the duration of a tourist visa is three (3) months, during which one will not be permitted to work. Eritreans and Sudanese who entered Israel illegally through the Egyptian Border and may not be returned to their countries of origin receive temporary residence permit which is renewed periodically. The PIA recently issued several changes regarding the license renewals as detailed below.

85. On October 10, 2019, the PIA declared that Eritrean citizens who entered Israel illegally through the Egyptian Border will receive temporary residence permit pursuant to Section 2(a)(5) to the *Entry into Israel Law* for a period of six (6) months each time and the previous notification in their passports regarding the limit on the possibility to work, will be deleted. Eritrean citizens holding a B/1 visa (temporary employment permit) will receive it for a period of six (6) months at a time.

86. Sudanese citizens who entered Israel illegally through the Egyptian Border will receive temporary residence permit pursuant to Section 2(a)(5) of the Law, for a period of one (1) year at a time. Sudanese citizens holding a B/1 visa will also receive it for a period of one (1) year at a time. The previous notification in the passports of persons from Darfur, the Blue Nile and the Nuba Mountains regarding the limit on the possibility to work, will be deleted.

87. Due to the COVID-19 pandemic, the PIA notified on May 12, 2020 that the permits and visas of Eritrean and Sudanese citizens who entered Israel illegally through the Egyptian Border and are holding temporary residence permits pursuant to Section 2(a)(5) of the Law or a B/1 visa, will be extended every two (2) months automatically, from the expiry date of their permits, until a new decision is made.

88. Additionally, in the last few years, the Government adopted resolutions granting 800 temporary residence (A/5) visas on humanitarian grounds (in addition to previous 600 recipients) to the Sudanese residents of Darfur, the Nuba Mountains and the Blue Nile who applied for asylum and have met the conditions laid down in the resolutions. This visa grants the recipient social rights, national health insurance and the right to work. Moreover, in July 2019 the Government ordered the granting of additional 300 B/1 visas to the said populations.

Health Services

89. Health services and social security benefits - The *National Insurance Law* 5755-1995 and the *National Health Insurance Law* 5754-1994 apply to Israeli residents and citizens. Section 2 of the *National Insurance Law* defines who is not considered a resident in this regard.

90. People who entered Israel illegally from the Egyptian border are granted National Insurance Institution (NII) coverage in the following designated insurance categories, insofar as they are working in Israel: maternity insurance, work accident insurance and insurance against bankruptcy of the employer. These are all given to the workers regardless of whether or not their employer made the payments to the NII. In addition, they are entitled to health insurance funded by their employer.

91. Following the outbreak of the Covid-19 pandemic, the MoH has instructed all directors of general hospitals as well as the Magen David Adom (the national emergency medical services organization) to provide foreigners staying in Israel with equal medical services as those provided to Israeli nationals in the context of the Covid-19 pandemic. In addition, the MoH's instructions concerning the pandemic are translated into various languages, published at the MoH's website and distributed to relevant NGOs.

Social Services

92. Inter-Ministerial Committee Reviewing the Social Rights Granted to Migrants Who May Not be Returned to Their Countries of Origin- for further information please see Annex I.

93. With respect to the deprivation of liberty of migrants, please see our Reply to Question No. 25 below.

Reply to paragraph 10 of the list of issues

94. The State of Israel has been facing a very large number, respective to its size, of asylum applications. Since 2009, approximately 70,000 applications were submitted. The PIA is working to improve the services provided and to shorten the waiting time for processing the applications.

95. According to the PIA procedures, handling of the asylum applications is conducted pursuant to the Israeli law, while observing Israel's obligations under the Convention and Protocol relating to the Status of Refugees of 1951 and 1967 respectively, and in accordance with the obligations under Article 3 of the CAT.

96. According to the procedure, the PIA must ensure that information sheets will be available at places of custody, at its offices and on its website. The information includes the manner of submitting an asylum application, the procedure for handling applications, obligations of the asylum seeker and the asylum seeker's right to contact a legal representative of his/her choice and of the scope of representation to which he/she is entitled in the process. According to the procedure, an asylum seeker will not be removed from Israel, until completion of reviewing his/her asylum application, in accordance with the principle of *non-refoulement*.

97. The PIA has a designated unit that handles asylum applications in Israel – the RSD Unit. The decisions of the PIA and of the Minister of Interior to deny an asylum application are subject to an appeal to the Appeals Tribunal, a specialized tribunal in the field of immigration that has been established within the MoJ in 2014. Such appeals are filed frequently. Additional appeals may be filed to a District Court and with the Court's permission to the Supreme Court.

98. Currently, all foreigners desiring to apply for refugee status may do so through an online application form, available at: https://govforms.gov.il/mw/forms/RSDform@piba.gov.il. Following the completion of the online request, applicants are summoned for identification, verification and registration with

border control at the PIA branch in the city of Bnei Brak. Afterwards, applicants are invited to a refugee status interview, held at the PIA branch in Tel Aviv-Jaffa.

99. Since the establishment of the Appeals Tribunal, thousands of appeals have been filed against the decisions of the PIA, mainly by foreign nationals whose applications for asylum were denied. Any decision made in the case of a foreign national which denies all or part of the application, must inform the applicant of their right to appeal to the tribunal and bring the matter to judicial review.

100. In the five (5) years prior to the establishment of the tribunal (2009-2013), between 2,560 and 3,070 appeals were filed each year, and in the first half of 2014, 1,163 appeals were filed. Following the establishment of the tribunal, in June of 2014, there was a significant rise in appeals filed: 2,355 in the second half of 2014; 5,195 in 2015; 4,300 in 2016; 6,014 in 2017; 7,034 in 2018; and 2,322 in the first half of 2019. In 2018, more than 50% of the appeals were denied in a ruling, more than 20% became redundant due to the PIA responding or deciding to reconsider its decision, approx. 6% were accepted, and the rest ended with rejection of the appeal, partial acceptance, etc. Of the 5,889 appeals in 2018, 59% regarded asylum seekers and illegal immigrants, 15% regarded family reunification, 12% regarded a humanitarian matter, and 6% regarded entry and visitation. Child registration, residence, work and studies, citizenship, detention in Holot facility and others, each consisted of 3% or less of the total number of appeals. In addition, the decisions of the Appeals Tribunal may also be appealed before the District Court, in its capacity as the Administrative Affairs Court. Additionally, every foreign national placed in custody is brought as soon as possible, and no later than 96 hours, for review before the Detention Review Tribunal (DRT). This Tribunal proactively examines the situation of the foreign nationals, as stated, without the need for a preliminary appeal from the foreign national.

101. With respect to the suspensive effect of the appeal of a deportation decision, usually, when such an appeal is submitted alongside a request for an interim suspension order, the removal of the appellant from Israel is suspended until the end of the proceedings. In addition, even if an interim suspension order is not granted, due to the prompt nature of these proceedings, the decision will be given prior to the date scheduled for the removal. In 2019, 34 appeals out of 202 cases were granted (sixteen (16) cases are still pending); and in 2020 (as of September 2, 2020), seven (7) appeals out of 42 were granted (eleven (11) cases are still pending).

Identification and treatment of vulnerable persons seeking asylum in Israel

102. Gender sensitivity- In February 26, 2017, the Regulation on Processing Asylum Requests (PIA Regulation No.5.2.0012) was updated and a designated section entitled "*Gender Sensitivity in the process of refugee status determination (RSD)*" was added, with the aim of highlighting gender sensitivities.

103. The Gender Sensitivity Section provides that RSD interviews will be conducted with sensitivity to gender issues that might affect the interviewee's feelings or behavior, or impact her/his testimony. Furthermore, the Section stipulates that victims of gender-based violence, including sexual violence, must be treated with the utmost respect and sensitivity.

104. A further example for developments in the field of gender sensitivity is the HCJ ruling concerning FGM as a ground for granting asylum (please see our Reply to Question No. 9 above).

105. Victims of trafficking in persons (TIP) - As a rule, TIP victims are not held in detention in Israel. Every identified TIP victim is transferred to a shelter for TIP victims. Victims may leave the shelters at will, unless law enforcement agencies estimate that they are at risk, in which case they are to remain in the shelter until it is assessed that they are no longer at risk. Victims are provided escort to the courts and the State Attorney's Offices (SAO), as well as to medical institutions. This service is provided to support the victims emotionally and psychologically, as well as for their personal safety.

106. For further information, please see Annex I.

107. The DRT and the Appeals Tribunal Referral Procedure for TIP victims- The DRT and the Appeals Tribunal operate under the MOJ. The DRTs are charged with exercising legal

scrutiny of the detention orders that are issued by the Supervisor of the Border Control Administration. The tribunals are not authorized to review deportation orders. The Appeals Tribunal has authority over Appeals against PIA decisions regarding foreign nationals. The Tribunal's decisions may be appealed to the Administrative Courts.

108. The Tribunal notifies the Police Anti-Trafficking Coordinating Unit (PTC) and the LAA of cases they suspect are trafficking related. The LAA provides the alleged TIP victim with a lawyer and the PTC examines the available evidence and decides whether to recognize the detainee as a TIP victim. Once a detainee is identified as a victim, they are released from detention and offered to be transferred to the TIP shelters. Note that in all the court hearings in the Tribunal, a translator is present. If no translator is available, the court session is postponed unless the detainee speaks the same language as the Judge. The DRT and its personnel consider the translator to be a fundamental component of the process, since it allows for a better, more effective identification of the victim of trafficking. In 2018, five (5) cases were referred from the tribunals to the relevant authorities – including the LAA, the PTC, and the National Anti-Trafficking Unit (NATU).

Reply to paragraph 11 of the list of issues

109. Between 2009 to 2019, 64,542 asylum requests were submitted in Israel, of which 55 have been approved. Please see also our reply to Question No. 9 above; For the requested statistics, please see Annex I.

Extraditions

110. Between 2016-2019, twenty-five (25) wanted persons were extradited (as will be detailed below). The majority of the wanted persons had status in the State of Israel, i.e. were Israeli citizens or residents, or were at least entitled to the right to immigrate to Israel and become an Israeli citizen under the *Law of Return* 5710-1950, and some of the latter even began a naturalization process.

111. For information on extraditions please see Israel's Fifth Periodic Report to CAT (Question No. 19); for the requested statistics, please see Annex I.

Safe Relocation to Third Countries

112. Israel had reached arrangements with two (2) third countries for the safe relocation of persons from Sudan and Eritrea who entered Israel through the Egyptian border illegally. The Government has considered this plan a more appropriate way to deal with the situation, due to the unique circumstances that Israel is facing and the geo-political context in the Middle East.

113. Ultimately, for various reasons, the arrangements were not fully implemented. Anyone who wishes to leave Israel voluntarily to these countries can still do so with State assistance according to these arrangements. Based on routine exams conducted by PIA, there have been no known cases of violations of the principle of *non-refoulement*. For further information, please see Annex I.

114. Voluntary departure data over the years 2015-2019- Please see Annex I.

115. Data regarding voluntary departure of persons who entered Israel illegally during 2012-2018- Please see Annex I.

Reply to paragraph 12 of the list of issues

116. In six (6) cases in which Israeli citizens who were also Israeli residents were extradited, the requesting country undertook to allow the wanted persons to return to Israel for the purpose of serving their prison sentence if convicted and sentenced to imprisonment. In some cases, the wanted persons exercised their right to return and some waived it. In addition, in two (2) cases, the requesting country's assurance for a retrial was demanded, after the wanted

persons were sentenced *in absentia*. The monitoring of the fulfillment of the obligation is coordinated with the corresponding authority.

117. Regarding the undertakings made by the State of Israel, in the relevant period, in two (2) cases Israel provided, at the request of the relevant country, assurance to respect procedural rights such as deduction of detention days, and in three (3) cases, it gave assurance to respect procedural rights and respect human rights as required – an assurance that was required under the laws of the requesting country.

Reply to paragraph 13 of the list of issues

118. No change has occurred in this area since the submission of Israel's Fifth Periodic Report to CAT.

Reply to paragraph 14 of the list of issues

119. During the reporting period, extradition agreements with Brazil and India came into effect. Under these agreements, extradition offenses were defined as offenses for which, in both countries, a sentence of at least one (1) year of imprisonment can be imposed. Acts included in the CAT are prohibited under the *Penal Law*, and penalties of at least one (1) year of imprisonment may be imposed in respect thereof. Therefore, under Israeli law these constitute extradition offenses.

120. Both agreements include a clause that allows countries to refuse extradition for an offense of a political nature. However, the countries have agreed to view as an exception to this rule any offense for which the two (2) contracting countries have an obligation to extradite pursuant to a multilateral international treaty. Brazil, like Israel, is a party to the CAT and therefore, the clause prevents both Israel and Brazil from arguing that any of the offenses included in the CAT is a political offense or political act. India, on the other hand, has signed the convention but has not yet ratified it, and thus the clause of the extradition treaty with India can be seen as a kind of declaration of intent: when India ratifies the CAT, an obligation will be created between the countries to comply with the terms of the Convention.

Reply to paragraph 15 of the list of issues

121. According to Section 18 of the *Extradition Law*, only after a person is declared by a court to be extraditable, the Minister of Justice may order the extradition of the person to the requesting State.

122. In Israel, a legal infrastructure has been established for the enforcement of a prison sentence in lieu of extradition for the serving of the sentence, when extradition is not possible for reasons of citizenship. In 2018, as part of the *Serving a Prison Sentence in Prisoner's Country of Citizenship Law* 5757-1996, the State of Israel enforced a prison sentence imposed in France on two (2) Israeli citizens.

Reply to paragraph 16 of the list of issues

123. The State of Israel did not sign new legal aid treaties during the period in question.

Reply to paragraph 17 of the list of issues

Israel Police

124. The Police Education and Information Section operates educational programs aimed at ensuring that human rights values are incorporated into police officers' training and fieldwork, such as tolerance within a multicultural society, elimination of prejudice and

awareness of human rights conventions. Special emphasis is given to training police commanders, in light of their direct influence on their subordinates.

125. The Police School for Investigation and Intelligence incorporates into its training the main provisions of the relevant human rights conventions and the law of armed conflict regarding procedures and investigation ethics.

126. In May 6, 2018, the Office of the Deputy to the Attorney General (International Law) in cooperation with the NGO "the Public Committee Against Torture in Israel", had conducted a one-day training seminar for the UIW in the Israel Police and the Inspector in the MoJ on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol"). The following subjects were addressed: the international terms and standard of torture, cruel and degrading treatment and imprisonment conditions; the obligation to investigate such treatment; and conducting interviews with the complainant in accordance with international law.

The IPS

127. IPS officers and wardens undergo regular training at the School for IPS Officers and Wardens, as well as in their respective units. This training includes topics such as prevention of the use of force, warden's ethics, values of human dignity and liberty, and the rights and liberties of the prisoner. These issues are also routinely addressed during training and guidance of other prison staff members.

The ISA

128. The Legal Department of the ISA and dozens of ISA personnel have undergone specific training on international law, including human rights law, the core human rights conventions, and the work of the UN Treaty Bodies.

129. Moreover, ISA operational personnel are taught, in detail, about the relevant human rights conventions, including their implications in the unique Israeli context. This is done both during preliminary and advanced ISA training, as part of the process of implementing the recommendations of the Turkel Implementation Team. These courses emphasize the importance of fundamental human rights principles, together with upholding the rule of law and practices stipulated by the courts.

The IDF

130. The School of Military Law hosts multiple training exercises for IDF forces on human rights law and the law of armed conflict. These exercises include lectures and academic courses which provide both practical and theoretical applications of international law. They analyze real and fictional operational cases designed specifically for the participants and their military specialty. In addition, commanders and the IDF's International Law Department take part in operational exercises in order to provide the forces with the professional tools that will allow them to face such challenges in accordance with international law.

131. Every year, hundreds of lectures are given to IDF soldiers and commanders who serve their mandatory service, as well as to reserve soldiers. These exercises place special emphasis on complex issues such as arrest and detention practices, the legal responsibilities of soldiers and their commanders, as well as the laws and rules of conduct during an armed conflict. For further information, please see Annex I.

132. Furthermore, Military Police investigators undergo comprehensive training on various issues related to the manner of conducting an investigation. These trainings focus on investigatees' rights and how to conduct investigations under reasonable conditions and in accordance with the law. Every soldier being questioned under warning by the Military Police is entitled to legal representation by a military defense attorney free of charge, who will also accompany them in the criminal proceedings, if the investigation leads to the opening of such proceedings.

The Population and Immigration Authority

133. Personnel in the RSD Unit in the PIA undergo a three (3)-week course on topics related to refugees and asylum seekers. This includes the Refugee Convention, human rights conventions, Israeli laws and TIP. The course was co-developed and first conducted in 2009 by the MoI, UNHCR, the Hebrew Immigrant Aid Society (HIAS), and the United States Department of Homeland Security.

134. On 16 February, 2017, a designated training of the RSD Unit staff in the PIA regarding women asylum seekers and gender-sensitivity took place. The training included sessions on crime victims' rights, women from Eritrea and Sudan, women asylum seekers in Israel, and on mental health issues among women asylum seekers and the way they are reflected in interviews.

The Institute of Legal Training for Attorneys and Legal Advisers in the MoJ

135. The Institute of Legal Training for Attorneys and Legal Advisers in the MoJ regularly conducts many seminars, courses, and vocational training, attended by hundreds of practitioners, to raise awareness of human rights issues and eliminate racial discrimination. For further information, please see Annex I.

The Institute of Advanced Judicial Studies

136. For information on the training provided to judges by the Institute, please see Annex I.

Reply to paragraph 18 of the list of issues

137. For information concerning training provided to prosecutors by the Institute of Legal Training for Attorneys and Legal Advisers in the MoJ and the School of Military Law, please see Annex I.

138. For information concerning training programmes provided to judges, please see our reply to Question No. 17 above.

Reply to paragraph 19 of the list of issues

139. The means and degrees of force utilized by Israeli security forces, including the IDF, are governed by clearly worded and defined Rules of Engagement (RoE), all of which are subject to rigorous and thorough scrutiny by military and governmental bodies.

140. The RoE are written with close legal guidance of the MAG to ensure that they comply with relevant provisions of national law and with treaty and customary international law, and in particular with the relevant rules of the law of armed conflict. These rules are periodically reviewed and updated in accordance with the changing operational needs aimed to ensure that they comply with the relevant requirements of both international and national law. In addition, some of the RoE are also approved by the AG.

141. Weapons systems employed by Israeli security forces, including less-lethal weapons (such as tear gas etc.), are subject to certain restrictions on use and to detailed professional instructions for use. These rules and procedures receive strict and comprehensive scrutiny by the command chain of the military and the Government, including an in-depth assessment of the physical effects of such systems as well as full legal reviews.

142. Training - All Israeli security forces undergo comprehensive training so as to be able to implement these rules and procedures properly and operate the appropriate equipment and weaponry relevant for the required mission, including less-lethal weapons.

143. Issues relating to the Law of Armed Conflict and Human Rights Law, including the use of lethal force, detention powers and the authority to use firearms in different situations are taught and discussed in a variety of lectures and training delivered by the IDF School of Military Law. Additional training regarding these issues is conducted, *inter alia*, in the

Officers course, Company Commanders courses, Battalion Commanders courses, as well as in the different IDF schools and colleges (the Tactical Command College training, Sea Captains training, Command and Staff courses, etc.). In addition, particular training is given to soldiers and officers carrying specific roles which involve direct contact with the population, i.e., combat interrogators and civilian population officers (charged with coordinating with the population in humanitarian issues in times of war).

144. Any allegations regarding the excessive use of force or violations of the RoE by IDF forces are given consideration and are examined in full. Where sufficient information or evidence is brought to the attention of the investigatory authorities that indicates a suspicion of a violation of the law, the authorities will order the opening of a criminal investigation into the matter.

Reply to paragraph 20 of the list of issues

Methods of interrogations

145. According to the *Israel Security Agency Law*, the ISA internal rules and procedures as well as methods of interrogations are confidential. A petition for disclosure of similar details was submitted to the Jerusalem District Court, and was rejected by the Court (Ad.P *8844/08 The Public Committee against Torture in Israel v. The Supervisor of the Freedom of Information Law within the Ministry of Justice* (15.2.09)).

Amendments to the Youth Law (Trial)

146. In the last decade, together with another wave of terrorism, there has been an increase in the phenomenon of stone-throwing related violence (e.g. stones were thrown at cars, buses, pedestrians, and police personnel), oftentimes by minors. Due to the serious nature of this kind of violence, which can result in grave damage to life and limb, offenders are often remanded to custody. However, it is common for offenders who are minors to be released on bail during the legal proceedings, in many instances with the approval of the State.

147. For example, in June 2020, Amendment No. 22 to the *Youth Law (Temporary Order)*, relating to the possibility of sentencing a minor under the age of 14 to a prison sentence, on the condition that she/he be held in a children closed facility rather than a prison until she/he reaches the age of 14, has expired. In addition, the *Youth Law* was amended in 2015 to extend the court's power to impose a fine on the parents of a minor, in addition to a criminal conviction.

148. For information on the Shapiro Commission appointed to examine the required adaptations of the *Criminal Procedure (Interrogation of Suspects) Law*, please see Annex. I.

Minors and Terrorism

149. Israel faces a complex and difficult reality of ongoing terrorism. Unfortunately, serious offenses have been committed by minors, including minors aged 13 and 14, and on occasion, the victims of these crimes have been minors themselves.

150. For further information on this topic, please see our reply to Question No. 5 above.

Reply to paragraph 21 of the list of issues

151. For Statistical data: Please see Annex I.

Criminal Prisoners

General living conditions

152. Section 11B to the *Prisons Ordinance* specifies the appropriate living conditions of prisoners. The conditions include the following:

- A prisoner will be held in proper conditions that will not harm his/her health and dignity;
- A prisoner will be entitled to: proper sanitary conditions, medical care and suitable supervision in accordance with the instructions of an IPS physician; bed, mattress and blankets for personal use; food and water; clothes, personal hygiene products; reasonable lighting and ventilation conditions in the cell; and a daily walk in the open air. These rights are to be presented in a noticeable place in the detention facility.

153. The *Prisons Regulations (imprisonment conditions)* 5770-2010, specifies the requirement of living conditions of prisoners, instructing, for example, that every prison cell will have a window that allows ventilation or other means of reasonable ventilation, a toilet and sink in each cell and separation that allows privacy, shower and food requirements, lighting, a prisoner's living space, hygiene conditions, the right to a daily walk in the fresh air etc.

Medical Care

154. Please see our reply to Question No. 1 above.

Visits and Family Relations

155. Generally, family visits are allowed for criminal prisoners and are held according to IPS procedure No. 04.42.00. This procedure specifies the frequency of the visits, the persons who can visit the prisoner, the duration of a visit (30 minutes in general), the number of visitors (up to three (3) adult visitors with which the prisoners' minor children may come along), special instruction regarding minor prisoners, and instructions in regard to the ability to approve additional visits, and special visitors etc.

156. In addition, contact with families is also maintained through letter correspondence and postcards, and there are public telephones in the wings.

157. For information on the case of Pr.Ap.Rq.H.C.J. 4277/20 *IPS v. Abed Marai* (June 24, 2020), please see Annex I.

Access to Legal Counsel

158. Prisoners are entitled to meet with their lawyers and receive consultations; these meetings are held with or without a divider, depending on the circumstances. The transfer of legal material between the lawyer and the prisoner is subject to attorney-client privilege and the legal material is forwarded directly to the inmate.

Leisure activities

159. According to Section 11C of the *Prisons Ordinance*, prisoners are entitled to take part in educational or vocational activities conducted within the prison, as determined by IPS regulations. They are also allowed to receive books, magazines and papers, as well as to spend one (1) daily hour in the prison courtyard and the Prison Director is authorized to extend this hour. They are mostly given three (3) daily hours in the prison courtyard.

Religious rights

160. Prisoners are allowed to uphold their religious duties under the prison's security limitations, as elaborated under Regulations 44-46 of the *Prisons Regulations* 5738-1978.

Security Prisoners

161. Generally, the conditions granted to security prisoners are determined by the IPS Commission standing order No. 03.02.00.

162. Due to ongoing security risks posed by security prisoners, specific limitations are applied to their vacations, visits and conjugal visit rights. The need to impose such limitations was recognized, scrutinized and affirmed by the Supreme Court in several cases (for example: Pr.P.A 1076/95 *State of Israel v. Samir Kuntar* (13.11.96) and more recently in H.C.J

6956/09 *Yuness v. Israel Prisons Service* (2010); H.C.J 6314/17 *Namnam v. The Government of Israel* (2019)).

163. Nevertheless, security prisoners are offered a variety of services and benefits that enable their detention in appropriate and adequate conditions, whilst fully respecting their distinctive needs according to international law standards.

164. With regard to all prisoners (security and criminal), breaches of order and discipline in detention facilities necessitate the use of disciplinary and administrative measures, which are carried out in accordance with IPS procedures.

Medical care and religious rights

165. Please see the abovementioned information regarding criminal prisoners.

Family Visits

166. Generally, family visits are allowed for security prisoners and are held according to IPS procedures.

167. For information on the case of H.C.J 6314/17 *Fadi Sammy Namnam et. al. v. The State of Israel et. al.* (4.6.19), please see Annex I.

168. In addition to family visits, security related prisoners receive visits from representatives of the ICRC and diplomatic representatives.

Access to Legal Counsel

169. Please see the abovementioned information regarding criminal prisoners.

Living conditions monitoring mechanisms

170. The living conditions of security related prisoners, as with all other prisoners, are inspected by Official Visitors in prisons. Any complaints concerning living conditions raised before ICRC representatives, Official Visitors, and representatives from all the different mechanisms that handle the complaints of security prisoners, such as the State Comptroller's Office, the internal review mechanism of the IPS, the review mechanism of the Ministry of Public Security (MoPS), court petitions, public applications of prisoners etc., are brought to the attention of the IPS authorities.

General Living Conditions

171. Security prisoners are given food provided by the IPS and may, as a privilege, depending upon their behavior, purchase food at the prison's canteen.

172. Prisoners are allowed to hold educational activities, receive books, magazines and papers.

173. Prisoners are allowed one (1) daily hour in the prison courtyard and the Prison Director is authorized to extend this hour. They are mostly given three (3) hours per day.

174. As of May 2019, all ISA interrogation facilities have been adapted with lighting infrastructures allowing dimming the lights in the cells at night.

Judicial Review

175. Any prisoner seeking to contest an individual decision in his/her matter or to challenge a general claim regarding the conditions of detention, may address the prison authorities or petition the District Court in a Prisoner Petition, according to Section 62A of the *Prisons Ordinance*.

176. Official visitors – please see the reply to Question No. 29 below.

Reducing overcrowding in prisons in the course of the reporting period and imprisonment alternatives

177. During the reporting period, and in particular following the HCJ ruling on prisoners and detainees' living space *(*H.C.J. *1892/14 The Association for Civil Rights in Israel et. al. v. The Minister of Public Security et. al.* (13.6.17); for further elaboration, please see Annex I) the following amendments have been made in the legislation and in GRs in order to address overcrowding in prisons:

(a) Extending the periods of time of community service in lieu of imprisonment: On April 1, 2019, Amendment No. 133 (Temporary Order) to the Penal Law entered into force, according to which, the possibility of imposing a sentence of imprisonment in the form of community service was extended from a period of six (6) months to a period of nine (9) months;

(b) Expanding the deployment of Community Courts: Community Courts began to operate in Israel as a pilot program in November 2014, serving various populations. Community Courts use a judicial and rehabilitative approach, aiming to reduce incarceration and prevent recidivism. These Courts deal solely with criminal proceedings while focused on the cooperation between the courts and the law enforcement agencies, the welfare services, education authorities and the community. In GR No. 1840 (August 2016), The Government ordered the expansion of this program with the aim of operating at least one (1) Community Court in each of Israel's six (6) judicial districts, and to date Community Courts operate in Be'er-Sheva, Nazareth, Ramla, Jerusalem, Haifa and Tel Aviv-Jaffa;

(c) Administrative Release: On November 7, 2018 Amendment No. 54 (Temporary Order) to the Prisons Ordinance was approved by the Knesset. This amendment extended the remaining imprisonment periods under the administrative release arrangement, allowing a prisoner to be released before the end of his/her full sentence. However, according to the amendment, a prisoner will not be released in accordance with this section, unless he/she has completed at least half of his/her imprisonment sentence. This temporary amendment was introduced in order to contribute to the reduction of overcrowding in prisons, and to increase the living area of the remaining prisoners in the short term, so as to comply with the requirements of the HCJ in its decision from June 2017 (see further elaboration below), until the long term solutions agreed upon by the State are implemented. This amendment does not apply to security prisoners, prisoners who were convicted for terrorist offences under the Counter-Terrorism Law 5776-2016 (the "Counter-Terrorism Law") and prisoners who were tried in Military Courts for particular security related offences that may only be prosecuted in such courts. Currently there is a pending petition in this regard (H.C.J. 1406/19, A.A.M (Minor) et. al. v. The Knesset et. al. (pending). On August 2, 2020, the Government adopted a Resolution on the enlargement of the living area of prisoners and the promotion of imprisonment and rehabilitation alternatives in order to comply with the HCJ's decision, according to which, a temporary amendment bill will be published within the next 60 days, that will propose a new procedure for the administrative release arrangement;

(d) Adopting the recommendations of the committee regarding the implementation of the recommendations of the public committee for the Examination of the Punishment and Treatment of Convicted Offenders: GR No. 3595 (February 25, 2018) adopted the recommendations of the Prosecution Team for examining the implementation of the Dorner Report. The guiding principle of these recommendations is that where considerations of competence or level of risk do not necessitate imprisonment or detention, and when the defendant can be introduced into an actual rehabilitation procedure tailored to his/her needs, outside of jail, the rehabilitation procedure should be favored over imprisonment or detention. Additional budgets and positions were allocated towards the implementation of these recommendations, likely to have an impact on occupancy in prisons and detention centers;

(e) The establishment of new prison facilities and renovation of existing ones: Israel has expanded the living area per prisoner to 3 square meters and is gradually increasing it to 4.5 square meters per prisoner in compliance with the HCJ ruling (H.C.J. 1892/14). Thus far, 45% of the prison cells are in compliance with the standard set by the Court (excluding

the Zalmon prison facility, where the cells are sized 3.8 square meters per prisoner, including the toilet but not including the shower). For further information, see Annex I;

(f) Extension of the quota for prisoners and detainees under electronic supervision: The quota of prisoners and detainees designated for imprisonment alternatives with electronic supervision was extended to 1,000 prisoners. A further extension to 1,250 prisoners was confirmed by the Knesset on 26 August, 2020. For further information, please see Annex I;

(g) Conditional early release: A unit for conditional early release of prisoners sentenced to short-term prison sentences was established within the IPS. This unit is certified to discuss and decide on requests for the conditional early release of prisoners convicted for up to one (1) year imprisonment. The unit was established in order to improve the conditional early release mechanism and to alleviate the backlog faced by the release committees.

GR No. 3595 adopted following the HCJ Ruling on Prisoners and Detainees' Living Space

178. On 25 February, 2018, GR No. 3595 on improving prison facilities and living space was issued. It included the above-mentioned means of operation.

179. Subsequently, the Government presented to the Court an elaborated plan to implement the judgment. The State requested the Court to extend the deadlines which were initially decided by the Court. The Court granted the Government an extension of the deadlines (initially set to April 30, 2019 and May 2, 2020).

180. In May 2019, the Government reported to the Court that it had successfully met the first deadline.

181. On April 28, 2020, the State requested the Court to hold a session on the implementation of its decision and to delay the second deadline. On 30 April, 2020, the HCJ agreed to delay the second deadline as per the State's request, while the State's request to have the session is still pending before the Court.

182. On August 2, 2020, the Government adopted GR 291, aimed at reaching full compliance with the HCJ's decision by the end of 2023 at latest. The State submitted an updated request to the Court in accordance with the said timelines, and the hearing is scheduled for December 30, 2020.

Case Law

183. For information, please see Annex I.

Reply to paragraph 22 of the list of issues

Minors

184. In recent years a significant decline is evident in the number of detained and convicted minors in prisons. For statistics, please see Annex I.

185. Minor criminal detainees are held in the Ofek Juvenile Prison and security detainees are transferred to the minors' wings in Ofer, Damon and Megiddo prisons. During their investigation, minors are held in separate designated cells for minors.

186. The IPS' approach towards minors is rehabilitative and treatment-oriented, based on the assumption that every young adult perpetrating an offense can be reformed and has the potential for rehabilitation and that one should do everything possible to help the minor reintegrate back into society in a normative manner.

187. Ongoing contact is maintained with the minors' parents and, if needed, with community authorities, including the parole services, Youth Protection Authority and social care services. IPS takes steps to separate minors from adults in the detention facilities and in the escort vehicles of the "Nachshon" Unit.

188. For further information on the recommendations for legislative amendments on the issue of minors in prison, please see our reply to Question No. 20 above.

Female Inmates in the IPS

189. The IPS has dedicated special efforts in recent years in order to address the issue of female prisoners.

190. Female criminal prisoners are held in the Neve Tirtza facility, and female security prisoners are held in special wings in the Damon prison.

191. There is no separation between criminal prisoners, regardless of their place of residence. Similarly, there is no separation based on religion between prisoners. However, in all prisons there is a strict separation between prisoners with a drug addiction and prisoners without any narcotic background. Division is also based on the classification of the prisoners as criminal or security prisoners; adults and minors; pretrial detainees and convicted detainees.

192. The treatment of prisoners is performed on an individual basis. Special attention is given to every prisoner through professional assistance by physicians, social workers and other officials.

Female minors in IPS facilities

193. As a general rule, there is a strict distinction and separation between minors and adults in prison. As there are very few minor female prisoners, they are treated on an individual basis, strictly following and abiding by laws pertaining to minor's rights. It is important to note that the small number of minor prisoners is a result of a policy that seeks to deal with minor criminals through special institutions and programs for rehabilitation, making imprisonment the very last option.

Births and Child Raising at IPS Facilities

194. Pregnant women prisoners are granted special treatment and are closely monitored by a physician. Women prisoners deliver in civilian hospitals and after labor, mothers are treated by a special joint committee of the prison authorities and municipal social workers. Female inmates are allowed to raise their children in special conditions until the age of two (2); these special conditions include the supervision of expert physicians and mother and child stations. The choice between keeping the child in prison and giving the child to a family is given to the mother.

Nutrition

195. The IPS menus were checked and approved by a nutritionist, according to the updated United States Department of Agriculture recommendations and adapted to the different populations of IPS, *inter alia*, women inmates, for example by adding milk to increase calcium provided to women.

196. The menu for pregnant women is enriched with vegetables, cheese, milk and supplements according to physician orders.

197. All prisons menus are similar and feedback received from prisoners show satisfaction from the food given.

Physical Search

198. There are very clear instructions and procedures that allow for physical search on female prisoners during entrance and exits from the cells and the different wings. The search is done by female wardens.

Persons with disabilities

199. In every entry of a detainee into a detention facility, an assessment is carried out by the relevant staff members regarding his/her unique needs, based on which his/her integration in the facility is conducted.

200. Pursuant to Section 19A of the *Welfare (Treatment for Persons with Intellectual-Developmental Disabilities*) *Law* 5729-1969, where a Court ordered the arrest of a person,

and the Court is convinced that that person has an intellectual-developmental disability, the Court shall order that that person be held in separation if possible, or in a closed facility, except in such case where the Court is of the view that the best interest of the inmate does not so require. The inmate shall not be transferred to a closed facility before his/her investigation is completed.

201. According to Section 16 to the *Treatment for Persons with Mental Disabilities Law* 5751-1991, where a Court orders the arrest of a person, and the Court is of the view that that person is mentally disabled and his/her condition requires hospitalization, the Court may order that that person be held in a hospital determined by the regional psychiatrist or in the psychiatric division of a prison, insofar as the hospital may ensure the conditions required for the investigation of the inmate, if the criminal procedure so requires. The Court shall not issue the said order before it has received a psychiatric opinion. For that purpose, the Court shall order that the person be brought for a psychiatric examination.

202. Data on Indictments against Minors and Minors Convictions: Please see Annex I.

203. Restorative Justice: Alternative Models to the Criminal Proceeding: Please see Annex I.

204. Inter-Ministerial Committee on Minors Recidivism: Please see Annex I.

205. Head of Juvenile Justice (HJJ) and the Inter-Ministerial Coordinator (IMC) at the MoJ: Please see Annex I.

Alternative measures for detention of minors

206. Section 26 of the *Youth Law (Trial)* provides alternative measures which the Juvenile Court may order in lieu of imprisonment, including: placing the minor under probation; receiving a commitment from the minor or her/his parent regarding her/his future conduct; placing the minor in a closed residence facility; charging the minor or her/his parent with a fine, trial expenses or compensation to the injured party.

207. The MoPS, together with the Youth Villages directors and the Ministry of Economy, lead various programs for violence and drug and alcohol use prevention in 24 Youth Villages, and participates in their funding. About 4,500 youth and children at risk are educated in these Youth Villages. The prevention programs included also children and youth who are victims of offenses. Note that Youth Villages often serve as alternative for arrest/detention for delinquent youth, and in this framework the youth are treated in various prevention programs.

208. For further information on imprisonment alternatives, please see our Reply to Question No. 21 above.

Reply to paragraph 23 of the list of issues

209. Separation and solitary confinement- For information on solitary confinement and separation, please see our reply to Question No. 1 above.

210. Solitary confinement is rarely utilized and is supervised within the IPS. The IPS distinguishes between solitary confinement and separation of certain segments of the prison populations as a preventative measure. As part of the implementation of the medical treatment guidelines established by medical professionals at the Department for Legal Psychiatry in the Ministry of Health (MoH), the IPS collects information regarding past disciplinary action taken against inmates with mental or psychosocial disabilities. These guidelines were adopted to provide the relevant treatment to mentally disabled inmates, in accordance with their individual needs.

211. For data on the use of solitary confinement, please see Annex I.

212. For information on solitary confinement and separation of minors, please see our reply to Question No. 1 above.

Protected Prison Wards

213. According to Prison Order 04.66.00, protected prison wards serve as transitional wards for prisoners who were taken out of separation, but are still experiencing difficulties in integrating and interacting with other prisoners. The aim of this temporary stage is to assist the prisoner in his/her future re-integration into the ordinary wards.

214. Most of the prisoners in the protected prison wards are held in the cell together with other prisoners. In addition, the courtyards in the protected prison wards are common and may serve several prisoners at a time.

215. Moreover, the prisoners in the protected prison ward are entitled to private meetings with a social worker, group therapy workshops and group or private educational activities. The religious practices of the prisoners in these wards are also protected and respected.

Reply to paragraph 24 of the list of issues

216. Medical Care for prisoners - please see our reply to Question No. 1 above.

217. All prisoners in custody are treated in accordance with the *Prisons Ordinance* and IPS Commission standing order No. 04.44.00 on the medical treatment of a prisoner.

218. In 2017, the MoH concluded the Berlovich Committee Report concerning the medical response and services provided to inmates held in IPS facilities. It is the MoH's position that the provision of medical services at the IPS is both reliable and in line with accepted standards. As such, individual complaints are thoroughly reviewed and appropriately handled. Furthermore, on December 11, 2019, a committee, headed by the Ombudsman for the Medical Professions, was appointed with the mandate of examining reports relayed by medical professionals concerning injuries sustained by inmates during interrogations. These Committees were preceded by a committee established by the MoH in 2012 (for further information, please see Israel's Fifth Periodic Report to CAT (pp. 63-64)).

219. With respect to identifying and documenting medical conditions that raise concerns of torture (according to the Istanbul Protocol), the medical team operates according to Medical Procedure 09-1005 on photographing and documentation of prisoners' and/or prison guards' bruises. The procedure instructs photographing and documentation of bruising caused by an unusual event such as: accident, use of force against prisoners, brawl, assault etc.

220. For information on the cases of H.C.J. 6369/20 Maher Ahras v. The Military Commander for Judea and Samaria, H.C.J. 7236/18 Physicians for Human Rights – Israel v. Israel Prison Service and Pr.Ap.Rq.H.C.J. 6214/19 Wadia Abu Amar v. State of Israel – Israel Prison Service, please see Annex I.

Detainees on hunger strike

221. Hunger strikers are under continuous medical supervision and monitoring by the IPS medical team, and are transferred to the hospital for examination and hospitalization in the event their medical condition so requires. The treatment is performed in accordance with the procedures of the MoH.

222. 115 security prisoners went on a hunger strike on the last hunger strike during August-September 2019. Three (3) of them also refrained from drinking (dry hunger strike), but received fluids transfusion. Of the 115 security prisoners who went on a hunger strike, 40 were held in solitary confinement due to the hunger strike. As for November 2019, the IPS reported seven (7) hunger-striking inmates.

223. On July 30, 2015, Amendment No. 48 to the *Prisons Ordinance (Prevention of the Harm Caused by Hunger Strikes)* 5775–2015, was approved by the Knesset. To date, the Law has not been utilized and no hunger-striking inmates have been fed absent consent. Furthermore, no inmates have passed away due to a hunger strike as of the enactment of the Law. Two (2) broad hunger strikes have taken place since. Applying the law will only take place in exceptional circumstances, as a measure of last resort. According to this Amendment,

forced medical treatment to a prisoner shall be approved only under specific provisions, stipulated under the Law. Further, no complaints have been registered in the MoH by inmates on hunger strikes concerning the quality of medical services provided to them.

224. Based on a written opinion by a physician which states that there is a substantial risk that a hunger strike may endanger the life of a prisoner, or that he/she may suffer a severe and irreparable disability if medical treatment is not provided, the Prisons Commissioner, with the approval of the AG, can apply to the President of the District Court or his/her Deputy for a judicial approval to provide forced medical treatment to the hunger striking prisoner. Before rendering its decision, the Court shall consider the opinion of the relevant Ethics Committee and hear the prisoner or her/his representative, unless if time does not allow further delays, due to the prisoners' health condition. The prisoner has the right to appeal the Court's decision to the Supreme Court.

225. The prisoner must be represented by a lawyer, and the State is obliged to provide her/him with legal representation if she/he is not represented.

226. It is important to emphasize that even after receiving a judicial approval, the Law does not oblige a physician to forcibly treat a prisoner, but only allows him/her to do so. Thus, the physician is free to act upon her/his own ethical beliefs.

Disciplinary and administrative measures relating to hunger striking prisoners

227. Hunger strikes are seen in the IPS as impeding IPS' goal to protect the life and well-being of prisoners. As such, the IPS applies different disciplinary and administrative measures to minimize and prevent hunger strikes and their damages. *Criminal Procedure (Arrests) Law*, Criminal *Procedure (Arrests) (Terms of Detention) Regulations*, *Prisons Ordinance* and *Prisons Regulation* 5738-1978 as well as IPS Commission standing orders 04.16.00, 04.13.00 and 04.33.00 regulate these measures.

228. Hunger strikes may lead to disciplinary proceedings and punishment upon conviction. Prisoners may face disciplinary proceedings for a hunger strike under the following offences: avoidance of eating meals, throwing or damaging food or commission of any other act that interferes with the order or discipline. The punishment given to **convicted prisoners** varies from warnings, severe warnings and fines to fourteen (14) days of solitary confinement (with a break), and in the case of substantive damage a fine not exceeding 2,822 NIS (819 USD) and not higher than the estimated costs of the damage caused.

229. Parallel to disciplinary measures used, administrative measures may also be implemented, after a hearing in which the hunger striking prisoner may present his/her arguments. These measures mainly include the revocation of privileges such as visitations, the use of phones (aside from contacting lawyers), canteen privileges, the use of electronic devices, books, cigarettes, newspapers, etc.

230. Pretrial detainees may face disciplinary proceedings under the offence of interfering with the order and discipline, and due to violation of the obligation to follow orders regarding the daily routine and behavioral practices of the detention facility, both of which include hunger strikes. The punishment given to those convicted varies from revocation of the right to personal belongings, of visitation rights, of the right to receive correspondence and of the right to phone calls, all for six (6) months, to seven (7) days of solitary confinement. Additionally, if the detainee received privileges additional to those mandated by law, those may also be revoked following a hearing.

231. For information on the case of H.C.J. 5304/15 The Israeli Medical Association v. The Israeli Knesset (11.9.16), please see Annex I.

Reply to paragraph 25 of the list of issues

232. As of July 2020, there are 45 illegal immigrants in detention, all held in the Giv'on facility, of them 38 men, seven (7) women and no children. Due to the Covid-19 pandemic, Saharonim facility was vacated in order to serve as a designated facility for infected detainees. Hence, all irregular migrants were temporarily moved to the Giv'on facility. For further

elaboration on the conditions of detention and health care provision at Saharonim facility prior to the outbreak of the pandemic, please see Annex I.

233. In each facility, various steps were taken in order to ensure the rights of the detainees as well as to improve their living conditions as much as possible according to the characteristics of each facility, as detailed below.

234. Yahalom is a flight, escort and detention unit located in Ben Gurion Airport. The unit is designated to hold those denied entry as stated in the provisions of Sections 9 and 10(b) of the *Entry into Israel Law* and a place to hold illegal immigrants before they are removed from the state, as stated in Sections 13a and 13b of the Law, and in the *Entry into Israel Order (Special Place for Immigration Detention)* 5767-2007.

235. A person whose entry into Israel was denied, will remain at Yahalom until his return flight. In the exceptional case where a person remains at Yahalom for more than fourteen (14) days, his/her matter will be brought before the Supervisor of the Border Control Administration, in order to examine the continuation of his/her detention at Yahalom. In even more exceptional cases, if it is decided to extend that person's stay in Yahalom, a periodic examination will be conducted by the Supervisor of the Border Control Administration, after fourteen (14) days from the date of the recent examination made in his/her matter until his/her departure from Israel. In any event, any person held at Yahalom for such reasons has the right to access judicial proceedings at any point during his/her stay.

236. Illegal immigrants without valid stay permits or whose stay is in violation of the conditions of their permit will be brought before the Supervisor of the Border Control Administration, in order to examine his/her matter. The Supervisor may issue a detention order according to Section 13a(d) of the Entry Into Israel Law. If the Supervisor has found that that person is staying in Israel illegally and is not intending to leave the country independently or subject to the exceptions under Section 13f of the Law, the Supervisor will issue a detention order in the Giv'on facility (or in Yahalom, under certain circumstances). Insofar as a deportation order is issued, the illegal immigrant will remain in the country for three (3) more days, in order to enable him/her to submit an application for judicial review of the decision. In addition, within 96 hours from the beginning of his/her detention, the illegal immigrant will be brought automatically before the DRT for the examination of his/her detention. The illegal migrant may be represented at all times. So long as that person is not removed from Israel, his/her stay in detention will be periodically examined by the DRT every 30 days or according to the decision of the DRT, or pursuant to the request of the illegal immigrant, according to the earliest date. In case where an illegal migrant has submitted an asylum request, his/her request will be examined regardless of the proceedings relating to his/her removal and detention.

Detention Conditions

237. Notices detailing the rights of persons whose entry into Israel was denied are posted in the facility in the relevant languages. Upon their arrival at the facility, each person goes through a reception interview, ascertaining his/her general condition, medical condition and the medications he/she uses. In addition, they receive explanation about what objects they may carry with them and are provided with a sheet, a towel, and hygiene products. The detained person maintains the right to make telephone calls, as well to meet with a lawyer and to be visited by his/her first-degree relatives and by consular representatives from his/her country of origin.

238. The stay at the facility is made in separate rooms for men and women (families are placed together in a designated room). During the stay at the facility, three (3) daily meals are served, while each person may request extra portions, both during the meals and throughout the day.

The Detention of Asylum Seekers

Legislation update

239. In recent years a legal and constitutional debate took place concerning detention of asylum seekers. On November 19, 2017, the Government approved a resolution to close the

Holot facility within four (4) months and on March 2018, the facility was closed. As of this decision there are no asylum seekers held in Holot facility.

Saharonim Facility

240. Note that due to the Covid-19 Pandemic, 'Saharonim' was evacuated and most of the foreign detainees were transferred to the Giv'on facility.

241. With respect to the early identification of victims of torture and measures taken to ensure that such individuals are not detained in the context of asylum procedures, please see our Reply to Question No. 10 above and Question No. 35 below.

Reply to paragraph 26 of the list of issues

242. Section No. 56 to the *Prisons Ordinance* determines that an inmate who, *inter alia*, fought with another prisoner (56(1)), caused violence and dis-obedience (56(25)), participated in an attack against a warden or another inmate (56(26)), committed an attack or used force that amounts to an offence (56(33)), or committed any other act or behavior […] harming the prison's order or discipline (56(41)), has committed a prison offence. Sections 57 and 58 to the Ordinance contain instructions regarding the way such offences are to be tried and the available sanctions in such cases. According to Section 58(a) to the *Prisons Ordinance*, for example, a prisoner that has engaged in violent acts against another prisoner may face myriad sanctions, including, *inter alia*, being given a warning, a fine, or being placed in isolation for up to fourteen (14) days. Section 58 also includes instructions in regard to cancellation or mitigation of the sanctions by the relevant authority in case there are special reasons that justify doing so.

243. In regard to prevention measures taken against violence between inmates - IPS Commission standing order No. 04.04.00 addresses the protection of prisoners whose life are endangered by other prisoners. This standing order specifies the reasons for defining an inmate in need of such protection and the authority of a district committee of the IPS to so decide. The order also stipulates instruction regarding the place of incarceration of inmate in need of such protection, the ability of an inmate to appeal against such protection and means of monitoring such protection within each IPS facility.

244. In addition, IPS Commission standing order No. 04.13.00 regarding discipline measures against prisoners, instruct that an inmate who, *inter alia*, fought with another prisoner, caused violence and disobedience, participated in an attack against a warden or another inmate, committed an attack or used force that amounts to an offence, or committed any other act or behavior […] harming the prison's order or discipline, will be liable to disciplinary measures.

245. IPS Commission standing order No. 04.15.00 includes instruction regarding restraining measures against prisoners, including in an event when he/she is trying to harm themselves or other inmates, including in regard to the authority required for the use of such measure, limitation on the use of restraints, the requirement to report the use of such measure etc.

246. Also, IPS Commission standing order No. 03.09.00 mandates the obligation of reporting any incident that takes place within IPS facilities.

247. With respect to preventive measures, please see our reply to Question No. 1 above.

Reply to paragraph 27 of the list of issues

248. In regards to the transportation of detainees, following a petition filed by nine (9) female security detainees to the HCJ, and at the Court's request, the IPS has initiated an assessment of all transportation of prisoners, including, *inter alia*, transportation to and from courts and police stations, in order to evaluate the necessary steps for the full separation of female and male prisoners. Alongside the said assessment, the State informed the Court that the remedy sought by the applicants as per the separation of female security prisoners from

male detainees, was unequivocally fulfilled with respect to transportation of security inmates to military courts in Salem and Ofer. Seeing as the Court's ruling requires gender-based separation among the entire prisoner population during transport, the State noted that the implementation of said remedy will require intricate and widespread coordination with all relevant actors, as well as designated funds.

249. In regards to detainees' access to laboratories during transportation, the State noted that prisoners may use the toilets at every stop. Further, staff are instructed to actively ask prisoners before every stop if they wish to use the laboratories. The said instruction is regulated in the Prisoners Living Conditions Order, a protocol followed by both IPS staff and the "Nachshon" Unit.

250. On June 18, 2020, the HCJ dismissed the petition on the grounds that the remedies requested by the petitioner are currently under review and are being properly addressed. The Court further noted that individuals will not be estopped from bringing claims in regards to these issues (HCJ 3354/17 *Awiwi et. al. v. Israel Prisons Service et. al.* (18.6.2020) (merged with HCJ 5/19 *Roan Dar Abu Matar et al. v. The Israel Prisons Service et. al.*).

Reply to paragraph 28 of the list of issues

Death of an inmate within IPS facility

251. According to IPS Commission standing order No. 04.63.00, the death of an inmate will be announced by a physician, and the report on the death to the IPS and the Police is conducted according to IPS Commission standing order No. 03.09.00. The family of the inmate receives the news of the inmate's death through designated personnel, trained for the task, including at least two (2) IPS staff members. In rare cases, when the District Commander considers that the team would be endangered, he/she may allow informing the inmate's family via phone call.

252. In the case of the death of an inmate who is a resident of the West Bank and not an Israeli citizen, the Coordinator of Government Activities in the Territories and the ICRC are notified. In the case of the death of an inmate who is a resident or citizen of a State that has diplomatic relations with Israel, the Consular Affairs Department in the Ministry of Foreign Affairs (MoFA) is notified, and shall relay the information to the relevant consulate. In the case of the death of an inmate who is a resident or citizen of a State that does not have diplomatic relations with Israel, the ICRC is informed. In the case of the death of an inmate who was a soldier tried in a military court, the IPS shall inform the Military Police, who shall inform the family of the deceased.

253. An investigative committee, which includes a physician, is formed and tasked with examining the causes of death and the actions of IPS staff. The committee has access to the pathological report, where issued.

254. In addition, every detainee under the care of the IPS can file, *inter alia*, a complaint to the UIW, either by phone, in writing via a closed envelope which can be placed in a designated mailbox inside the prison, or through the Prison Director. The findings of the UIW are subject to the SAO scrutiny, who decides whether to institute disciplinary measures or criminal proceedings.

Death of an inmate in Police custody

255. The Department for Investigation of Police Officers (DIPO) is authorized to investigate suspected criminal offenses of Police officers for which the punishment exceeds one (1) year in prison. For data provided by the DIPO in this regard, please see Annex I.

256. For further information on compensation for victims of torture and ill-treatment, please see Israel's Fifth Periodic Report to CAT (pp. 62-64).

Reply to paragraph 29 of the list of issues

IPS

Independent Monitoring of Detention Conditions

257. Every prisoner or detainee under the care of the IPS has access to the following complaint mechanisms concerning grievances regarding the staff and wardens, including claims of excessive use of force:

- Filing a complaint to the Prison Director;
- Petitioning the relevant District Court in a prisoner's petition;
- Filing a complaint to the UIW, through the IPS or directly to the UIW. The UIW was established under the Police so as to ensure a neutral investigation of claims concerning IPS personnel;
- Filing a complaint to the Prisoners Complaint Ombudsman, which is part of the MoPS's Internal Comptroller Unit.

258. For further information, please see Israel Fifth Periodic Report to the CAT (Question No. 30).

259. During the reporting period, the UIW has investigated 94 cases concerning allegations for use of unlawful force by wardens.

ISA

260. The ISA and its employees act within the limits of the law and are subject to both internal and external supervision and review, including by the State Comptroller, the Inspector at the MOJ, the AG, the SAO, the Knesset and every instance of the courts, including the HCJ.

261. The ISA operates in accordance with the ruling of the HCJ, and specifically the ruling concerning ISA interrogations from 1999 (H.C.J. 5100/94 *The Public Committee against Torture in Israel v. The State of Israel*).

262. Detainees undergoing ISA interrogation receive all the rights to which they are entitled according to Israeli law and international conventions to which Israel is a party, including the rights to legal representation, medical care and visits by the ICRC.

263. Furthermore, any case of alleged wrongdoing by an ISA investigator can be referred to the Courts and the Inspector.

264. Investigations of Alleged Cases of Torture - complaints submitted to the Inspector are examined independently and impartially. The Inspector conducts a thorough preliminary examination of such complaints. The preliminary inquiry process includes reviewing all the relevant documents, and interviewing the complainant and his/her interrogators, as needed. The Inspector's unit concludes its inquiry with a recommendation on the measures to be taken, such as: criminal investigation, prosecution, disciplinary action, drawing conclusions for the organization or recording the complaint.

265. Following such an examination, the Inspector's findings are transferred to the Inspector's supervisor, a senior advocate in the SAO, who examines if there is sufficient evidence to recommend opening an investigation. The decision whether to open such an investigation was delegated to the Deputy State Attorney (Special Affairs). A criminal investigation is opened upon a reasonable suspicion that an offence was committed, based on the existing evidence that were gathered by the Inspector.

266. The Inspector's preliminary inquiry process has been reviewed and approved by the HCJ (H.C.J. 11/1265 *The Public Committee Against Torture in Israel v. The Attorney General* (14.2.2011)) and its extensive and comprehensive work has been recognized in its ruling (H.C.J. 5722/12 *As'ad Abu-Gosh v. The Attorney General* (12.12.2017), H.C.J. 9018/17 *Fares Tbeish et. Al. v. the Attorney General et. al.* (26.11.18)).

267. The status of cases handled by the Inspector - Please see Annex I.

Positive updates concerning the Inspector

268. Currently, three (3) investigators are employed in the Inspector Unit, as well as an administrative coordinator and three (3) students, in addition to the Inspector.

269. In July 2016, the IPS Commissioner published an amendment to its standing order No. 02.39.00 titled "Rules of Conduct for IPS Wardens", in which Section 12 was added. This Section sets out the obligation of a warden to transfer any complaint or information regarding a suspicion against ISA interrogators, through the prison commander, to the Inspector. To date, several complaints have been filed through this channel.

270. In addition, as of July 2020, the online complaint form at the Inspector's webpage has been made available also in Arabic.

271. The leaflet of rights provided to every ISA interrogatee has been updated to include the right of women to the presence of another woman during their interrogation.

272. As a general rule, the deadline for collecting statements from complainants shall not exceed 48 hours as of the moment the complaint was submitted.

273. The following measures were taken with respect to training:

(a) During 2020, one (1) of the unit's investigators participated in a juvenile investigators' training;

(b) Over 2020, the unit's investigators were trained through different simulations of questioning and investigations models. In addition, the investigators have visited the Police's forensic labs.

The Police

274. On November 8, 2020, the AG informed the Minister of Justice of amendments adopted to improve DIPO's procedures and timelines for handling complaints against Police personnel. These amendments include, among others, the shortening of the time for handling a complaint by DIPO's investigations section to 75 days, and the shortening of the time for handling cases by DIPO's prosecution section to six (6) months. In cases concerning hate crimes, racially motivated crimes and crimes against persons with disabilities, a unique arrangement has been agreed upon, according to which the time for handling a complaint by both the investigations and the prosecution sections in DIPO will be limited to four (4) months altogether. Where required, fixed terms were set for extensions of the said time limits, which may be granted subject to the approval of the certified authorities.

275. In addition, on November 18, 2020. The Minister of Justice has ordered the Director General of the MoJ, along with the Head of DIPO, to complete the personnel exchange process, so as to ensure that operating Police officers permanently posted in DIPO will no longer be employed therein. This is in order to ensure the neutrality of the investigations and to restore the public's trust in DIPO. The process is to be completed by the end of 2020, while two (2) high ranking Police officers have already been released from DIPO.

276. In order to improve DIPO's accessibility to complainants, an online complaint form has been published in DIPO's webpage during November 2020. The form is accessible to persons with disabilities, and will also be made available in Arabic.

277. For further information on recent State Attorney Guidelines concerning treatment of complaints made against Police personnel and for statistical data regarding the DIPO, please see Annex I.

Military Police

278. Complaints received regarding the conduct of Military Police officers in the course of their duties, including complaints regarding Military Police investigators, are handled by the Internal Investigation Unit, which is a military unit that is not subordinate to the Military Police Corps. This Unit works alongside the Military Prosecution Office. In addition, the Military Prosecution Office supervises the conduct of the Military Police based on reports it

receives. In cases where exceptional events or inappropriate actions taken are revealed, the Military Prosecution examines the admissibility of the evidence, determining whether it should be disqualified from the criminal proceedings against the interrogatee, and whether the proceedings should be avoided altogether.

Case law

279. With regard to the HCJ ruling regarding Fares Tbeish, please see our Reply to Question No. 30 below.

280. For information on H.C.J. 6036/19 *Ahmad Salah Musa v. The Attorney General*; S.Cr.Ca. (Be'er-Sheva District Court) 32966-12-17 *The State of Israel v. Meir Merotzagai;* H.C.J. 8899/13 *Anonymous v. The Attorney General* (24.1.16)); and Ci.C. (Ashkelon Magistrate's Court) 39124-05-17 *Yalo et. al. v. The State of Israel*, please see Annex I.

Reply to paragraph 30 of the list of issues

281. Israel is deeply committed to standards of international law regarding the prevention of ill treatment of detainees. This is exemplified by the comprehensive supervision and review mechanisms to which every state authority that has responsibility for detainees is subject. These mechanisms ensure that every complaint or report of torture, ill treatment or disproportionate use of force by state agents is investigated promptly, thoroughly and meticulously, in accordance with relevant international norms and standards.

282. For information on the HCJ rulings regarding Fares Tbeish (26.11.18) and Abu-Gosh (12.12.17), please see Annex I.

Reply to paragraph 31 of the list of issues

283. Please see the MoJ's paper on "Palestinian Minors in Military Juvenile Justice System", at the link below: https://www.justice.gov.il/Units/YeutzVehakika/InternationalLaw/MainDocs1/PalestinianMinors2018.pdf.

Reply to paragraph 32 of the list of issues

284. With respect to Israel's position on the applicability of CAT beyond its territory, please see our Reply to Question No. 3 above.

Reply to paragraph 33 of the list of issues

285. With regard to information about the Inspector, please see our Replies to Questions No. 7 and 29 above.

286. With respect to the investigation of allegations of acts of torture and ill treatment by IPS, Police and Military Police personnel, please see our Reply to Question No. 29 above.

Reply to paragraph 34 of the list of issues

287. As explained in our reply to Question No. 24 above, it is the MoH's position that the provision of medical services at the IPS is both reliable and in line with accepted standards. As such, submitted complaints are thoroughly reviewed and appropriately handled. Furthermore, on December 11, 2019, a committee, headed by the Ombudsman for the Medical Professions, was appointed with the mandate of examining reports relayed by medical professionals concerning injuries sustained by inmates during interrogations.

Reply to paragraph 35 of the list of issues

Redress and compensation measures

288. For further information on compensation for victims of torture and ill-treatment, please see Israel's Fifth Periodic Report to CAT (pp. 62-64).

Case law

289. For information on the cases of Cr.Ap.Rq. 2707/17, Anonymous v. The State of Israel; Appeal 5492-17 Anonymous v. The Population and Immigration Authority; and Ad.Ap. 22981-02-13 Tosfay (Prisoner) v. The Ministry of Interior (the Administrative Court in Be'er-Sheva), please see Annex I.

Reparation programmes for victims of severe violence and heinous crimes and ill-treatment

290. In general, in the offences of TIP and holding a person under conditions of slavery, the Law dictates that the Court must explain its decision to abstain from awarding compensation in the verdict – making compensation the default.

291. Section 77 of the *Penal Law* authorizes the courts to include, as part of the sentence, monetary compensation to the victim of an offence up to the limit of 258,000 NIS (approximately 72,937 USD). This legislation covers the possibility of monetary compensation for victims of an offence of torture or any other form of abuse and ill-treatment, as well as other offences.

292. At present, there are no specific monetary compensation measures that are available only to victims of torture or their families.

LAA

293. The LAA, operating under the auspices of the MoJ, has been representing victims of TIP (Section 377A of the *Penal Law*) and victims of the slavery offense (Section 375A of the *Penal Law*). Victims need not travel to the LAA offices; rather, the LAA staff regularly visits the detention facilities and the shelters, and collects their complaints.

294. Legal aid is granted free of charge, and the victims are exempted from the economic eligibility test as set by the *Legal Aid Law 5732-1972*, usually required in order to prove one's entitlement for free legal aid services.

295. The LAA represents victims in (1) damages and monetary claims against the offenders and in (2) procedures in accordance with the *Entry into Israel Law (*which include requests for a one (1) year stay permit for the purpose of rehabilitation, and requests for release from detention and for receiving a legal status in Israel).

296. During 2019, the LAA received a total of 89 referrals based on offenses of TIP and slavery, among them sixteen (16) referrals of Sinai victims.

The SAO

297. The SAO recognizes the importance of compensation for the victims, and works to ensure it is paid in practice. To that end, when making a plea bargain in TIP cases, the prosecution requires that the funds for victim compensation are deposited ahead of time, and before the agreement is presented to the court.

Dedicated Forfeiture Fund

298. *The Anti-Trafficking Law (Legislation Amendments) 5767-2006* established a special Forfeiture Fund (hereafter: "The Forfeiture Fund"), where forfeited property and fines from TIP and slavery offenses are deposited and are dedicated to various causes in combating TIP– with a special emphasis on victim protection and compensation. Institutions, Government bodies and NGOs may apply for funds, as well as, uniquely, victims of the offences, who may ask for funds for the purposes of rehabilitation, as well as to request court ordered

compensation which they have been unable to collect from the offenders. The Law gives precedence to victim protection, ordering that at least half of the funds each year be allocated to that purpose.

299. In 2018, the Forfeiture Fund was not able to accept requests, as no new assets or funds were deposited. However, it continued to pay out and follow up on requests from previous years. On October 31, 2019 the Committee concluded its assessment of around 60 new requests which were submitted to it, and the total sum of the fund, 420,000 NIS (121,800 USD), was distributed between them.

The inter-ministerial pilot mapping project relating to the victims of severe violence and heinous crimes in the Sinai camps

300. Between 2009 and 2014, a significant number of migrants, mostly from Sudan, Eritrea, and Ethiopia, were kidnapped by foreign nationals to Sinai, some while travelling through Egypt and some from their countries of origin. Their kidnappers would often use severe violence and heinous crimes against their victims to obtain their relatives' phone numbers in order to demand ransoms. Approximately 500 victims of the Sinai camps have been recognized as trafficking or slavery victims since arriving in Israel, and they are thus granted the full protection and aid previously outlined. In 2019, three (3) victims of the Sinai camps have been recognized as trafficking victims. The distinction between Sinai victims who are also recognized as being victims of slavery or TIP, and those who do not fall within that definition, is based on the wording of Section 377a and Section 375a of the *Penal Law*, which set the legal criteria for TIP and slavery offences, respectively.

301. Between 2017 and 2018, the Ministry of Justice led an inter-ministerial pilot mapping project in order to identify the number, characteristics, and needs of Sinai victims who were not recognized as TIP victims but remain in a severe humanitarian condition. The inter-ministerial team included officials from the MoH, the MoLSAaSS, the PIA and the LAA at the MoJ, and was headed by the NATU.

302. The inter-ministerial team conducted in-depth examinations of 102 Sinai victims referred to it by relevant civil society organizations as being in a severe humanitarian condition. Following these examinations, the team formulated several ministry-specific responses to assist this population, as well as an identification mechanism to determine the total size of the group of Sinai victims who were not recognized as trafficking victims but who are in a severe humanitarian condition. After extensive analysis, in collaboration with the relevant NGOs, it was determined that this group includes less than 300 individuals, and so a rehabilitation program for a maximum of 300 persons was devised to comprehensively treat this population.

303. The rehabilitation program proposed by the inter-ministerial team received ministerial approval, subject to the passing of a GR. However, although the wording of the GR was drafted and agreed upon, and the rehabilitation program was authorized subject to the MoF's approval, the Government was ultimately dispersed for the first election of 2019 before the GR could be voted on. To date, the draft GR is still being discussed, largely due to the electoral events of 2019–2020 and the current Covid-19 Pandemic.

304. Identification of victims of TIP or slavery from the Sinai camps raises certain challenges. This is because, in most cases, the atrocities took place many years ago, outside Israeli borders, so access to evidence is severely limited. Nevertheless, the LAA, the Police and the NATU invest great efforts in order to streamline the screening process, identify the victims and provide them with the appropriate care. For example, the NATU has held a series of inter-ministerial meetings aimed at improving the identification process and interviews held by the PIA officials, making sure the interview is held with maximum sensitivity, including gender-based sensitivity, and privacy, encouraging the victims to supply relevant information. Subsequently, a new questionnaire basis was distributed, enabling the streamlining of a more sensitive interview.

305. In addition, several seminars and trainings on the treatment of Sinai victims have been conducted in recent years, in all relevant bodies and authorities, including judges and court personnel of the DRTs, judges and staff of the Appeals Tribunals, staff of the IPS and officials of the PIA.

306. Rights of TIP victims: Please see Annex I.

Reply to paragraph 36 of the list of issues

307. In regard to the principle of inadmissibility of evidence, please see Israel's Fifth Periodic Report to CAT (Question No. 45).

308. The Institute of Advanced Judicial Studies holds periodical seminars regarding issues relating to criminal law, including new information and innovations in this field and aspects relating to the stage of investigation, rights of suspects and sentencing.

Case Law

309. For information on the cases of Cr.C. 893-01-16 *The State of Israel v. C.Y.B (Minor)* (Lod District Court) (1.1.19) and Cr.C. 932-01-16 *The State of Israel v.* Amiran Ben-Uliel *et. al.* (Lod District Court), please see Annex I.

310. With respect to the HCJ ruling regarding Abu-Gosh (12.12.17), please see our Reply to Question No. 30 above.

Reply to paragraph 37 of the list of issues

Israel's Investigation and Prosecution of Ideologically Motivated Offences Against Palestinians in the West Bank

311. Israel has a deep commitment to the rule of law. In recent years, Israel has taken extensive measures to prevent violence in general, and against Palestinians in particular. In addition, efforts have been made to investigate criminal complaints and to prosecute perpetrators when appropriate. In particular, Israeli officials, including high-ranking politicians and senior officials from law-enforcement bodies, have declared an unequivocal zero-tolerance policy towards the phenomenon of "price-tag" offences by Israeli extremists against Palestinians.

312. In recent years, Israeli authorities made considerable efforts to enhance law enforcement in the West Bank, which have led to a significant decrease in ideologically-based offences and an increase in the number of investigations and the rate of prosecution. These efforts included the establishment of designated taskforces, increased allocation of funds, and the addition of professional manpower.

313. For information on the cases of Cr.A. 1466/20 The State of Israel v. Anonymous (22.7.2020); Cr.C. 41705-08-14 The State of Israel v. Lior Cohen (7.7.19); Cr. Ap. 6928/18 The State of Israel v. Yehuda Asraf (16.8.18); Cr.C. 31351-12-14 The State of Israel v. Itzhak Gabay (1.12.15); Cr.A. 401/16 The State of Israel v. Yitzhak Gabay (28.9.16); The Jerusalem District Court, S.Cr.C. 34700-07-14, The State of Israel v. Yossef Haim Ben David (19.4.2016); Cr.A. 5794/15 The State of Israel v. Shlomo Tweeto et. al. (31.1.16); and Cr.C. 4001-05-15 The State of Israel v. Shlomo Tweeto et. al. (22.7.15), please see Annex I.

Reply to paragraph 38 of the list of issues

314. With respect to Israel's position on the applicability of CAT beyond its territory, please see our Reply to Question No. 3 above.

Reply to paragraph 39 of the list of issues

315. With respect to Israel's position on the applicability of CAT beyond its territory, please see our Reply to Question No. 3 above.

316. The security checks and law enforcement personnel in the Land Crossings Authority undergo numerous specialized courses and training on subjects such as: religion and Islam, quality of service, Arabic language studies, ethics etc., with the aim of providing a humane

and respectful service in the security checks. Additionally, the Authority has been conducting satisfaction surveys targeted at the people crossing with the aim of improving and optimizing the procedure.

317. As part of the initial training of the crossings forces in the IDF, the following classes are given:

- The authorities of the military officer with an emphasis on search, holding and arrest;
- The need for crossings – the overall political context;
- Islamic culture, respectful discourse with persons passing through the crossing;
- Ethics, values and decision making.

318. In addition, over the past few years, the annual training program of the Military Law School includes training in the form of a legal lecture on courses and educational conferences of the "Erez" and "Taoz" Crossings battalions in the Military Police Corps; the lecture is aimed at the command level, ranging from the sergeant level to the battalion commander level (Lieutenant Colonel). In the lecture, the following topics are discussed:

(a) The legal framework for the crossings forces activities, with an emphasis on the characteristics of the routine security operations;

(b) Obligations and authorities of the crossings forces, including the powers of holding, detention, search, duty of intervention and prohibition of standing by in the face of a threat to the wellbeing, body or life of a person;

(c) Major offenses and their characteristics, including the prohibition of abuse of authority and the prohibition of inflicting harm on persons in custody;

(d) Obligations relating to crime scene examinations, obligations regarding documentation, reporting and cooperating with investigative institutions.

319. Complaints regarding the conduct of a crossings soldier can be received via two (2) channels: (1) the submission of a complaint to the Internal Investigation Unit; (2) the submission of an inquiry to the military commander through public inquiries. Such inquiries also reach the MAG in the West Bank. Upon the arrival of an inquiry regarding the conduct of a crossings soldier, it is transferred to the examination of the relevant entities – the commander of the relevant crossings battalion and the other relevant commanders, in order to examine the complaints and to investigate them.

320. In accordance with the above, a decision is made regarding the steps to be taken: clarification of procedures, disciplinary action or criminal prosecution.

Reply to paragraph 40 of the list of issues

The return of bodies of deceased Palestinians to their relatives

321. With respect to the burial of the remains of terrorists, on September 9, 2019, the HCJ ruled that the Military Commander is authorized to order a temporary burial of enemy soldiers or terrorists remains, while protecting the dignity of the deceased and of his/her family, for reasons of State security and the safety of its citizens, for the purpose of negotiating the return of Israeli soldiers (dead or alive) and Israeli citizens held by the terrorist organizations. For information on the events leading to this decision in the cases of H.C.J. 4466/16 *Mohamad Alian et. al. v. The IDF Commander of the West Bank et. al.* (14.12.17) and Ad.H.H.C.J 10190/17 *The IDF Commander of the West Bank et. al. v. Mohamad Alian et. al.* (9.9.19), please see Annex I.

322. On September 2, 2020, the Security Cabinet adopted a resolution which amended the conditions under which remains of terrorists will be returned. This resolution, along with other issues in this context, is currently the subject of ongoing judicial proceedings before the HCJ.

Amendments to the Counter-Terrorism Law

323. With respect to the *Counter-Terrorism Law*, which was enacted on June 15, 2016, on March 7, 2018, the Knesset approved Amendment No. 3 to the Law in which, among other things, it vested a Police District Commander with the authority to issue an order authorizing to delay the transfer of a terrorist's body to his/her relatives for up to ten (10) days for one (1) of the following three (3) grounds: a reasonable threat that the funeral will cause serious harm to life; a reasonable threat of the commission of a terrorist act; or a reasonable threat of incitement to terrorism or identification with a terrorist organization or a terrorist act during the funeral. Such an order may be extended from time to time, as necessary, by the Police General Commissioner until the implementation of the terms set for the funeral (Section 70B).

324. Prior to this Amendment, the Police relied on Sections 3 and 4A to the *Police Ordinance* to delay the provision of a terrorist's remains to his/her relatives for the purpose of protecting public order. However, in the Jabarin case the HCJ ruled that these sections do not constitute sufficient legal basis for such delay and explicit legal authorization is required for such action (H.C.J. 5887/17 *Ahmad Moussa Jabarin et. al. v. The Israeli Police et. al.* (25.7.17)). In addition, this Amendment also vested the Police with the authority to set terms in regard to a funeral of a person who committed or attempted to commit a terrorist act and subsequently died ("a Terrorist"). According to this Amendment, a Police District Commander is authorized to issue an order setting certain conditions in regard to a funeral of a terrorist, for the purpose of protecting the safety and the security of the public, including the prevention of riots, incitement to terrorism or identification with a terrorist organization or a terrorist act. Such conditions may refer to the number and identity of the funeral participants, the funeral time and date, its route and in certain cases the place of burial, while considering the family's position on this issue. A Police District Commander may also order to deposit a guarantee in order to ensure the implementation of these conditions (Section 70A).

325. For further elaboration on the *Counter-Terrorism Law*, please see our Reply to question No. 43 below.

Reply to paragraph 41 of the list of issues

Protection of Journalists

326. The State of Israel attaches great importance to the protection of the freedom of journalism, as part of the freedom of expression, which constitutes a fundamental right in its legal system.

Human rights defenders and aspects relating to freedom of expression in Israel

327. Israel has an active civil society, with hundreds of NGOs operating in a large number of issues, including human rights issues. Israel, as a democratic society, places no legal restrictions on the right of organizations to engage in activities for the promotion and observance of human rights, which fully enjoy the freedom to associate and to pursue their various aims, according to the applicable law.

328. There is no dispute however, that an organization or an individual that presents itself as a human rights organization/activist/defender is not exempt from obeying the law. In any case, each individual is afforded the rights and protections provided by law, including the different aspects of the right to due process.

329. Cooperation with Civil Society Organizations- NGOs in Israel maintain a constructive discourse with different Government authorities, and are active in initiating legislation, in raising awareness and in assisting the promotion of human rights in policy building, inter-ministerial teams and more, in various aspects of life: social economic rights, civil rights, women rights and more. The Government constantly strives to enhance cooperation with human rights NGOs on different issues.

330. Since 2012, the MoJ and the MoFA, together with the Minerva Center for Human Rights at the Hebrew University of Jerusalem, have been participating in a project centered

on the reporting process to the UN Human Rights Treaty Bodies. Meetings attended by representatives of Government ministries, NGOs and academics are held, in which NGOs are invited to comment on drafts of Government reports. NGOs are also encouraged to submit shadow reports to the committees.

331. In 2017, as part of the ongoing cooperation between civil society and Government authorities, the MoJ and MoFA initiated a "*Round Tables*" project. This project included six (6) discussion sessions, which offered a unique platform for open discourse between civil society, academics and Government representatives on core human rights issues including LGBT rights; issues effecting Israelis of Ethiopian descent; the Bedouin population; women's rights; rights of persons with disabilities; and social and economic rights in the periphery.

332. In September 2017, the AG penned a letter to members of the Government and to the CEO of the Association for Civil Rights in Israel, emphasizing the importance of professional discourse between state authorities and civil society including by way of participation of public servants in relevant events and conventions. Such collaboration, as the AG stated, contributes greatly to the promotion of the public interest.

333. Freedom of Assembly- please see Israel's Fifth Periodic Report to the CAT (Question No. 15).

334. In this regard, AG Guideline 3.1200, which was last updated in March 2010, further requires the allocation of Police forces with the objective of protecting the demonstration and its participants from any form of external harassment. For information on the HCJ ruling in the case of *The Movement for Quality Government in Israel v. The Police (H.C.J. 6536/17)*, please see Annex I.

Reply to paragraph 42 of the list of issues

335. Israel's reservation to Article 20, which pertains to the confidential inquiry mechanism based on information received by the Committee, is reviewed periodically. At present, Israel maintains its position on this matter.

336. Despite periodic consideration of its position on the matter, Israel is not planning on ratifying the Optional Protocol at this stage. As detailed above and in the previous reports, Israel's legal system affords numerous opportunities, for individual and groups alike, to seek remedies and redress for any alleged violations of CAT. This equally applies to people in detention or imprisonment, who have various internal and judicial mechanisms available should they feel their rights have been infringed.

337. For the reasons mentioned above, at present, Israel is also not planning on making the declarations provided for under Articles 21 and 22 of the Convention.

Reply to paragraph 43 of the list of issues

The *Counter-Terrorism Law* (and Amendment No. 3)

338. With respect to the *Counter-Terrorism Law* (and Amendment No. 3), which was enacted on June 15, 2016, as part of Israel's ongoing battle against terrorism, the law is part of an effort to provide law enforcement authorities with more effective tools to combat modern terrorist threats while incorporating additional checks and balances necessary to safeguard against inappropriate violations of individual human rights. The Law provides, *inter alia*, updated definitions of "terrorist organization", "terrorist act" and "membership in a terrorist organization", detailed regulations for the process of designating terrorist organizations, and enhanced enforcement tools, both criminal and financial. The Law nullified previous legislation in the field of counter-terrorism such as the *Prevention of Terrorism Ordinance* 5708-1948, that was linked to a state of emergency. Additional legislation is currently being reviewed and amended in order to disconnect it from a state of emergency. This law does not create discrimination on the grounds of gender, race, color,

decent or national or ethnic origin and does not subject individuals to racial or ethnic profiling or stereotyping.

339. Indictments pursuant to the *Counter Terrorism Law*- Please see Annex I.

Training provided to law enforcement officers on the *Counter-Terrorism Law*

340. As part of the ISA training process, lessons, lectures and training sessions are given to employees on all matters pertaining to international law, with an emphasis on human rights relevant to their practice. The same standards are also reflected in the ISA Investigation Supervision Mechanism, which is responsible for thoroughly investigating any claim raised by an interrogatee regarding any deviation from the observance of human rights and human dignity (for further elaboration, see our reply to Question 33 above).

341. In addition, the MoJ has conducted trainings concerning the Law for attorneys working at the SAO in 2016, following its adoption, as well as on May 1, 2018. The MoJ also heads a security forum, composed of all State Attorney's Offices and security bodies, which convenes four (4) times a year, where information and training on subjects relating to security-related offences and, *inter alia*, the *Counter-Terrorism Law*, are delivered.

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Prison conditions and the rehabilitation process of inmates

342. With respect to prison conditions and the rehabilitation process of inmates, the case of Pr.P. 4051-01-19 *Kariv v. Israel Prisons Service* (District Court Lod) (10.5.20) indicates a positive institutional development in this field. For information on the said case, please see Annex I.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the initial report of the State of Palestine*

1. The Committee considered the initial report of the State of Palestine[1] at its 1921st and 1924th meetings,[2] held on 19 and 20 July 2022, and adopted the present concluding observations at its 1932nd and 1933rd meetings, held on 26 and 27 July 2022.

A. Introduction

2. The Committee welcomes the submission of the initial report of the State party, along with the supplementary information provided during the consideration of the initial report. It regrets, however, that the report was submitted more than four years late.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation and the responses provided to the questions and concerns raised during the consideration of the initial report.

4. The Committee recognizes that the ongoing Israeli occupation of the territory of the State party, the expansion of settlements and the continued blockade of the Gaza Strip, which are illegal under international law,[3] pose severe challenges for the State party in fully implementing its obligations under the Convention and lead to grave violations of the rights of Palestinians, such as arbitrary detention, torture and ill-treatment, excessive use of force and abuse by Israeli security forces, acts of violence by Israeli settlers, restrictions on freedom of movement, forced displacement and evictions, seizure of private land, house demolitions and illegal settlements, restrictions on gaining access to health-care services and denial of access to humanitarian aid. The Committee recalls the obligations of Israel, as the occupying Power, under international humanitarian law and international human rights law.[4] It recognizes that the above-mentioned challenges limit the State party's effective control of its jurisdiction over its own territory and its capacity to effectively prevent and combat torture and ill-treatment. However, it reminds the State party that the Convention is applicable in its entire territory and that the State party should take all possible measures to implement it in all parts of the territory. In that regard, the Committee regrets that, notwithstanding the agreement between the Fatah and Hamas movements to end Palestinian division signed on 12 October 2017, the State party has made limited progress in resolving internal political issues that negatively affect the full enjoyment by Palestinians in the West Bank, including

* Adopted by the Committee at its seventy-fourth session (12–29 July 2022).

1 CAT/C/PSE/1.

2 See CAT/C/SR.1921 and CAT/C/SR.1924.

3 See Security Council resolution 2334 (2016) and other relevant Security Council resolutions, including resolutions 242 (1967), 338 (1973), 446 (1979), 452 (1979), 465 (1980), 476 (1980), 478 (1980), 1397 (2002), 1515 (2003), 1850 (2008) and 1860 (2009). See also the Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004); and Human Rights Council resolutions S-9/1 and S-12/1.

4 See CAT/C/ISR/CO/5.

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East Jerusalem, and the Gaza Strip of their rights under the Convention and contribute to the political and geographic fragmentation of the State party's territory. It notes that, owing to this fragmentation, Palestinians continue to be subjected to multiple legal systems that impede the full realization of their rights under the Convention.[5]

B. Positive aspects

5. The Committee welcomes the accession to or ratification of the following international instruments by the State party since its accession to the Convention:

(a) The Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict, on 2 April 2014;

(b) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 29 December 2017;

(c) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 10 April 2019;

(d) The International Covenant on Civil and Political Rights, on 2 April 2014;

(e) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 18 March 2019;

(f) The International Covenant on Economic, Social and Cultural Rights, on 2 April 2014;

(g) The International Convention on the Elimination of All Forms of Racial Discrimination, on 2 April 2014;

(h) The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, on 2 April 2014 and 10 April 2019, respectively;

(i) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 2 April 2014 and 10 April 2019, respectively;

(j) The International Convention on the Suppression and Punishment of the Crime of Apartheid, on 2 April 2014;

(k) The Rome Statute of the International Criminal Court, on 2 January 2015;

(l) The United Nations Convention against Transnational Organized Crime, on 2 January 2015;

(m) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 29 December 2017;

(n) The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on 29 December 2017.

6. The Committee welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including the adoption of the following:

(a) Amendments to the Personal Status Law, in 2019, which increase the minimum age of marriage for girls and boys to 18 years;

(b) Decree-Law No. 4 on the protection of Palestinian juveniles, in 2016.

7. The Committee commends the State party's initiatives to amend its policies and procedures in order to afford greater protection of human rights and to apply the Convention, in particular the following:

[5] CERD/C/PSE/CO/1-2, paras. 3–4; CRC/C/PSE/CO/1, paras. 4–5; and CEDAW/C/PSE/CO/1, paras. 9–10.

(a) The strategic plan for the protection of children (2018–2022) and the sectoral strategy on juvenile justice;

(b) The intersectoral plan for gender equality and justice (2017–2022);

(c) The national observatory to study violence against women, in 2016;

(d) The national strategy for justice and rule of law (2014–2016);

(e) The strategic plan for combating violence against women (2011–2019);

(f) The Special Prosecutor's Office to combat gender-based violence against women and girls.

D. Principal subjects of concern and recommendations

Legal status of the Convention

8. While commending the State party for ratifying the Convention without reservations, the Committee is concerned about the interpretation of the Supreme Constitutional Court, in its decisions No. 4 (2017) of 19 November 2017 and No. 5 (2018) of 12 March 2018, according to which international treaties acceded to by the State party take precedence over national legislation only insofar as they are consistent with the national, religious and cultural identity of the Palestinian Arab people, which may impede the enjoyment of the rights set forth in the Convention. The Committee is also concerned that the Convention has not yet been published in the Official Gazette to make it enforceable in the State party[6] (arts. 2 and 4).

9. **The State party should:**

(a) **Fully and expeditiously incorporate the provisions of the Convention into its national law, including through publication in the Official Gazette, and take all possible measures to ensure its implementation throughout its territory;**

(b) **Ensure that the interpretation of the Supreme Constitutional Court, in its decisions No. 4 of 19 November 2017 (2017) and No. 5 (2018) of 12 March 2018 and their application, do not prevent people living in the territory of the State party from fully enjoying their rights under the Convention.**

Harmonization of legislation and compliance with the Convention

10. While welcoming the establishment in 2017 of a legislative harmonization committee to review all laws to ensure their compliance with the human rights treaties to which the State party has acceded, including the Convention, the Committee is concerned that this committee has only reviewed selected laws and that no timeline has been established to fully harmonize domestic legislation with the provisions of the Convention. The Committee is also concerned that:

(a) The Palestinian Legislative Council was dissolved by the Supreme Constitutional Court, in its decision No. 10 on 12 December 2018;

(b) Since the suspension of the Council in 2006, the State party has legislated by decree-laws issued by the President, which are neither recognized nor enforced in the Gaza Strip, leading to further fragmentation of the legal system and subjecting Palestinians in the Gaza Strip and the West Bank, including East Jerusalem, to multiple sets of laws affording varying levels of protection;

(c) No time frame has been set for the review and adoption of draft laws, such as the draft penal code, the draft criminal procedure code, the draft decree-law on family

[6] CERD/C/PSE/CO/1-2, paras. 9–10; CRC/C/PSE/CO/1, paras. 6–7; and CEDAW/C/PSE/CO/1, paras. 12–13.

protection, the draft personal status code and the draft decree-law on the rights of persons with disabilities[7] (arts. 2 and 4).

11. **The Committee urges the State party to:**

(a) **Restore the democratic legislative process to facilitate the harmonization of the different sets of laws implemented in the Gaza Strip and the West Bank, including East Jerusalem, to ensure that all persons living under the jurisdiction of the State party are protected equally under the law;**

(b) **Adopt a clear time frame for the completion of the review of the existing legislative framework, in collaboration with civil society organizations, to ensure compliance with the provisions of the Convention;**

(c) **Expedite the review of draft laws, including the draft penal code, the draft criminal procedure code, the draft decree-law on family protection and the draft decree-law on the rights of persons with disabilities to ensure their compliance with the Convention and their adoption.**

Definition and criminalization of torture

12. The Committee notes that torture is explicitly prohibited under article 13.1 of the Palestinian Basic Law 2003 and that such prohibition may be inferred from a number of existing laws.[8] It also notes that a comprehensive definition of torture in conformity with that provided for in article 1 of the Convention was included in Decree-Law No. 25 on the National Commission against Torture, which was published in the Official Gazette on 25 May 2022. However, the Committee is concerned that torture is considered a misdemeanour and that punishments are not commensurate with the gravity of the acts and are subject to amnesty as well as to statutes of limitations (arts. 1 and 4).

13. **The State party should ensure that its criminal legislation, including the draft penal code, encompasses a definition of torture that covers all the elements contained in article 1 of the Convention. The State party should also ensure that acts of torture are punishable by appropriate penalties that take into account their grave nature, in accordance with article 4 (2) of the Convention, and are not subject to amnesty or pardon. Moreover, the State party should ensure that the scope of the definition of torture is extended to anyone who attempts to commit torture or who is complicit or participates in torture. In that regard, the Committee wishes to draw the State party's attention to its general comment No. 2 (2007), in which it pointed out that serious discrepancies between the definition in the Convention and the definition in domestic law created actual or potential loopholes for impunity. Furthermore, the State party is invited to amend its domestic legislation to incorporate a provision on the non-applicability of statutes of limitations to the crime of torture.**

Absolute prohibition of torture

14. The Committee is concerned that there is no clear provision in the State party's legislation to ensure that the prohibition against torture is absolute and non-derogable. It is also concerned that, according to the Jordanian Penal Code of 1960 and the British Mandate Penal Code of 1936, which are applicable in the West Bank and the Gaza Strip, respectively, as well as the Palestinian Revolutionary Penal Code of 1979, which is applicable in both the West Bank and the Gaza Strip, a person may be exempt from criminal liability for acts of torture or ill-treatment if such acts are perpetrated while obeying an order issued by a competent authority that must be obeyed by law, unless that order is illegal. The Committee regrets the lack of information on whether mechanisms or procedures for protecting

[7] CERD/C/PSE/CO/1-2, paras. 13–14; CRC/C/PSE/CO/1, paras. 8–9; CEDAW/C/PSE/CO/1, paras. 14–15.

[8] Such as the Penal Procedures Law (3) of 2001, the General Intelligence Law (17) of 2005, the Law Relating to Reformatory and Rehabilitation Centres ("Prisons"), No. 6 of 1998, the Law of the Palestinian Child, No. 7 of 2004 and Decree-Law No. (4) of 2016 on the protection of juveniles.

subordinates from reprisals exist so as to enable them to refuse to obey illegal orders in practice (art. 2).

15. **The State party should ensure that the principle of absolute prohibition of torture is incorporated into its legislation and that it is strictly applied, in accordance with article 2 (2) of the Convention. The State party should also ensure that an order from a superior officer may not be invoked as justification for torture and, to that end, establish a mechanism for the protection of subordinates who refuse to obey such an order and ensure that all law enforcement officers are informed of the prohibition against obeying unlawful orders and are made aware of the protective mechanisms put in place.**

State of emergency

16. While taking note of the state of emergency declared by the State party on 5 March 2020 to protect public health, following the onset of the coronavirus disease (COVID-19) pandemic, the Committee is concerned that the continuous extension of the state of emergency to date, through the regular adoption of new declarations by presidential decrees and decree-laws, does not meet the requirements set forth in the Basic Law of 2003,[9] raising concerns about the legality of the emergency measures taken in response to the pandemic. It is also concerned at allegations that human rights defenders, journalists, political opponents and government critics have been subjected to excessive use of force and arbitrary arrest and detention under such emergency measures (art. 2).

17. **The State party should limit the declaration and duration of a state of emergency to situations in which it is strictly necessary and at all times respect the provisions of the Convention, recalling that no exceptional circumstances may be invoked as a justification for torture.**

National human rights commission

18. While noting that the Independent Commission for Human Rights has been granted "A" status by the Global Alliance of National Human Rights Institutions since 2015, the Committee is concerned that the draft law formalizing the establishment of the Commission has not yet been adopted, notwithstanding its submission to the Palestinian Legislative Council in 2005.[10] It is also concerned that the resources allocated to the Commission are insufficient to allow it to perform all its functions effectively, notably its role in conducting visits to places of detention and in receiving and investigating complaints about alleged human rights violations. Moreover, the Committee is concerned that the mandate of the Commission does not allow it to conduct unannounced visits to places of deprivation of liberty. It is further concerned about the lack of information regarding concrete measures taken by the State party to ensure effective implementation of the Commission's recommendations, in particular with regard to follow-up investigations, prosecutions and the outcome of cases referred by the Commission to the prosecution services concerning torture allegations (art. 2 (1)).

19. **The State party should formalize in law the establishment of the Independent Commission for Human Rights and take the necessary measures to ensure the Commission's functional independence by guaranteeing it an adequate budget that allows it to fulfil the mandate entrusted to it, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The State party should also ensure that the Commission is able to conduct unannounced and regular visits to all detention facilities in the State party. Lastly, the State party should take all necessary measures to ensure effective implementation of the Commission's recommendations and, in particular, follow up on complaints of torture lodged with the Commission, undertake effective investigations and prosecutions of perpetrators and provide redress to victims.**

[9] Article 110 of the Basic Law of 2003 permits a state of emergency to be declared for a maximum of 60 days with the approval of two thirds of the members of the Palestinian Legislative Council.

[10] CERD/C/PSE/CO/1-2, paras. 15–16.

Fundamental legal safeguards

20. While taking note of the procedural safeguards to prevent torture and ill-treatment that are enshrined in the Basic Law of 2003 and Criminal Procedure Code of 2001, the Committee regrets the absence of an explicit provision on the right to have access to a lawyer immediately upon arrest and that articles 97 and 98 of the Criminal Procedure Code allow the interrogation of detainees without the presence of a lawyer "in the event of a flagrant crime, necessity, urgency, or fear that the evidence may be lost". It is also concerned about reports indicating that persons in custody are not routinely afforded all fundamental legal safeguards from the very outset of deprivation of liberty, in practice in both the West Bank and the Gaza Strip. In that respect, it has been reported that: (a) lawyers are sometimes not allowed to meet with their clients during the period of the investigation; (b) timely access to an independent medical examination is not a standard practice aimed at uncovering signs of torture and ill-treatment, in particular for persons in pretrial detention; (c) the right to notify a relative or a person of one's choice is often delayed; and (d) arrested persons are often brought before the competent authority several days or even weeks after their arrest, well beyond the 24-hour legal limit, extendable for another 48 hours, which may leave suspects vulnerable to an increased risk of torture or ill-treatment. The Committee is further concerned about reports that, in February 2022, the President of the State party signed five decree-laws amending the Criminal Procedure Code No. 3 of 2001, the Civil Procedure Code No. 2 of 2001, the Law on Evidence No. 4 of 2001, the Law on Formation of Courts No. 5 of 2001 and the Judicial Authority Law No. 1 of 2002, which raise concerns regarding the protection of the principle of presumption of innocence, the renewal of pretrial detention without the presence of the defendant or his or her lawyer, the right of defence and the imposition of a higher accountability threshold for crimes committed by public servants and law enforcement officials (art. 2).

21. **The State party should:**

(a) **Ensure that all persons deprived of their liberty are afforded, in law and in practice, all fundamental legal safeguards from the very outset of their detention, including notably:**

(i) **Being informed of the reasons for the arrest and the nature of any charges against them, in a language that they understand;**

(ii) **Being informed of and having their right guaranteed to unimpeded access to an independent lawyer of their choice or, if necessary, to free legal aid of adequate quality, including during the initial interrogation and inquiry;**

(iii) **Having the right to request and receive an independent and confidential medical examination, free of charge, or by a doctor of their choice upon request;**

(iv) **Having their medical records immediately brought to the attention of a prosecutor as an object of investigation whenever the findings or allegations may indicate torture or ill-treatment;**

(v) **Being able to notify a family member, or any other person of their choice, of their detention immediately after apprehension;**

(vi) **Being brought before a judge within the time frame prescribed by law;**

(vii) **Being registered at the place of detention;**

(viii) **Being able to challenge the legality of their detention at any stage of the proceedings;**

(b) **Establish a central register of detention for all detainees at all stages of their deprivation of liberty, including during transfers to different places of detention, and indicate the type of information recorded and the specific measures taken to ensure accurate record-keeping as an important safeguard against incommunicado detention and enforced disappearance;**

(c) **Review the five decree-laws amending the Criminal Procedure Code No. 3 of 2001, the Civil Procedure Code No. 2 of 2001, the Law on Evidence No. 4 of 2001, the Law on Formation of Courts No. 5 of 2001 and the Judicial Authority Law No. 1 of**

2002, in consultation with the Independent Commission for Human Rights and civil society organizations, to ensure compliance with the provisions of the Convention;

(d) **Provide information to the Committee on the number of complaints received regarding failure to respect fundamental legal safeguards and on the outcome of such complaints, including the disciplinary measures taken against officials who fail to afford fundamental legal safeguards, in the next periodic report.**

Arbitrary detention

22. The Committee is concerned about reported cases of persons detained in the West Bank under the custody of the Joint Operations Committee[11] who have been kept in detention despite release orders issued by the courts. It is concerned that those detainees were only released once a written approval was provided by the President of the Palestinian Authority or the Prime Minister for their release (arts. 2, 11 and 16).

23. **The State party should take all necessary measures to ensure that all judicial orders to release individuals from detention are promptly implemented, including those concerning individuals detained under the custody of the Joint Operations Committee.**

Administrative detention

24. The Committee is greatly concerned at the continuous recourse to administrative detention by the State party under the Jordanian Crimes Prevention Act of 1954, which is applicable in the West Bank and allows for detention without charge, and raises issues about the separation of powers between the executive and judicial branches. It is particularly concerned at the increasing number of persons held in administrative detention and for long periods, during which detainees are deprived of procedural guarantees. It is also concerned that administrative detention is used against women and girls who are victims of violence, under the pretext of protecting them (arts. 1, 2, 11 and 16).

25. **The State party should abolish the practice of "protective custody" in cases of gender-based violence. It should also ensure that all detainees, including those kept in any form of administrative detention, are afforded, in law and in practice, all fundamental procedural safeguards from the very outset of their deprivation of liberty. The State party should develop and implement alternatives to administrative detention and should use detention only as a last resort and, when detention is necessary and proportionate, for as short a period as possible. The State party should take immediate measures to amend or repeal the Jordanian Crimes Prevention Act of 1954 with a view to bringing it into compliance with international human rights standards and with the State party's obligations under the Convention.**

Unofficial places of detention

26. The Committee is concerned about reports that individuals are held in unlawful and incommunicado detention by Palestinian armed groups, including the military wing of the Hamas Al Qassam brigades and the Islamic Jihad military wing Saraya Al Quds, for "collaboration with the enemy" and criticizing armed groups. It is further concerned about allegations of torture and ill-treatment being perpetrated in such unofficial places of detention (arts. 2 and 11).

27. **The State party should take all possible measures to ensure that no one is held in unofficial places of detention on its territory, including by non-State actors. The Committee urges the State party to investigate the existence of any unofficial detention places and identify those who establish and maintain them and engage in practices of torture.**

[11] The Joint Operations Committee (formerly known as the Joint Security Committee) serves as a joint structure of the Palestinian security services, with the stated aim of centralizing the investigation of security-related crimes and those involving members of the security forces.

Allegations of widespread torture or ill-treatment and the lack of accountability

28. The Committee is concerned about consistent reports indicating that persons in custody, including in the facilities under the authority of the security forces and intelligence services in both the West Bank and the Gaza Strip, are subjected to torture or ill-treatment, in particular during the investigation stage of proceedings. It observes that the mechanisms established by the State party to receive and investigate complaints of torture and ill-treatment by officials lack confidentiality and fail to protect complainants and witnesses, while existing investigation bodies, principally the Public Prosecutor, lack the necessary independence as they belong to the same structure that employs the alleged perpetrators. The Committee is also concerned that only a few complaints of torture and ill-treatment have led to prosecution and almost none to conviction of the perpetrators, which contributes to a climate of impunity (arts. 2, 11–13 and 16).

29. **The State party is urged to immediately adopt measures to ensure accountability for all acts of torture or ill-treatment involving all perpetrators by undertaking prompt, impartial and effective investigations into complaints through an independent mechanism that complies with the requirement of institutional independence in order to avoid conflicts of interest in the investigation of complaints by peers, by prosecuting perpetrators of such violence and by punishing them with appropriate penalties. The State party is also urged to ensure, in practice and as required under applicable law, that persons under investigation for having committed acts of torture or ill-treatment are immediately suspended from their duties and remain so throughout the investigation. The State party should conduct investigations on its own initiative, whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed, put in place an independent, effective, confidential and accessible complaints mechanism in all places of detention, including police custody facilities and prisons, and ensure that complainants are protected against any ill-treatment, intimidation or reprisals as a consequence of their complaint. The State party should also compile and disseminate up-to-date statistics on the complaints filed, investigations conducted, prosecutions initiated and convictions handed down in cases involving allegations of torture and ill-treatment.**

Confessions obtained through torture and ill-treatment

30. The Committee is concerned about reports indicating that, despite the existing legal provisions set forth in article 13.2 of the Basic Law regarding the inadmissibility of evidence obtained by torture and duress, coerced confessions are reportedly admitted as evidence in court. Moreover, the information before the Committee suggests that the allegations of forced confessions under torture or ill-treatment made before a trial or appeal judge are often ignored and not thoroughly pursued and that serious shortcomings in documenting signs of physical and psychological torture are often caused by the lapse of time between the alleged event and its belated investigation (art. 15).

31. **The State party should ensure in practice that confessions obtained through torture or ill-treatment are ruled inadmissible, except when they are used as evidence against a person accused of committing torture, and that such cases are investigated. It should expand specialized training programmes for both judges and prosecutors to ensure their ability to effectively identify torture and ill-treatment and investigate all allegations of such acts; develop training modules for law enforcement officers on non-coercive interviewing and investigation techniques; provide the Committee with information on any cases in which confessions were deemed inadmissible on the grounds that they had been obtained through torture or ill-treatment; and indicate whether any officials have been prosecuted and punished for extracting such confessions.**

Excessive use of force against demonstrators

32. The Committee is concerned about the allegations of the excessive use of force in both the West Bank and the Gaza Strip, notably the use of lethal weapons resulting in deaths and injuries, including of children, arbitrary arrests, incommunicado detention and torture and ill-treatment of peaceful protesters by the security forces, as well as by unidentified armed

elements in the context of demonstrations that have occurred while enforcing measures designed to control the COVID-19 pandemic and in the aftermath of the postponement of national elections in April 2021 and Nizar Banat's death in custody in June 2021. The Committee is also concerned about the reported excessive use of force by the Palestinian security forces, including the use of tear gas and sound bombs, in Palestinian refugee camps. The Committee takes note of the State party's commitment to ensuring accountability for the above acts. However, it regrets the lack of public reports on the investigations carried out into those incidents, the limited progress made on investigations and the fact that only a handful of prosecutions have been undertaken to date (arts. 2, 12–14 and 16).

33. **The State party should:**

(a) **Review domestic legislation on the use of force and weapons and develop clear guidelines, if necessary, incorporating the principles of lawfulness, necessity and proportionality and the precautionary principle, bring the laws and regulations governing the use of force into line with international standards, in particular the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, and provide systematic training to all law enforcement officers on these international standards;**

(b) **Ensure that law and order is maintained, to the greatest extent possible, by the civilian authorities and that all officers can be effectively identified at all times when carrying out their functions to help to ensure individual accountability and protection against acts of torture and ill-treatment;**

(c) **Ensure that prompt, impartial and effective investigations are undertaken into all allegations relating to the excessive use of force by State and non-State actors, and ensure that the perpetrators are prosecuted and that the victims or their families receive full redress.**

Human rights defenders, journalists and political opponents

34. The Committee is concerned that human rights defenders, including advocates for women's rights, journalists, bloggers, political opponents and government critics continue to report acts of intimidation, harassment, violence, arbitrary arrest and detention, prosecution and torture or ill-treatment by the security forces and intelligence agencies in both the West Bank and the Gaza Strip. It is concerned by the lack of effective protection provided by the State party to human rights defenders, journalists, political opponents and civil society actors at risk, including by promptly, effectively and impartially investigating, prosecuting and punishing such crimes. It also regrets the lack of information about measures to ensure the promotion of the civic space, where individuals can meaningfully exercise their right to freedom of expression and association and promote human rights in a safe environment (arts. 2, 12, 13 and 16).

35. **The State party should ensure that human rights defenders, including women human rights defenders, journalists, bloggers, political opponents and government critics are protected from acts of intimidation, harassment, violence, arbitrary arrest and detention, prosecution and torture or ill-treatment to which they may be exposed because of their activities, and should take all measures to promptly, effectively and impartially investigate any such allegations and punish those responsible. It should also take additional measures to promote the civic space.**

Conditions of detention

36. While acknowledging the steps taken by the State party to improve conditions in places of detention, the Committee is concerned about reports indicating overcrowding and poor material conditions in places of deprivation of liberty, in particular insalubrity and inadequate hygiene, lack of ventilation, water supply and sanitation problems, the poor quality of the food provided, shortages in medical and health-care services, including mental health care, and limited recreational or educational activities to foster rehabilitation. Of particular concern are the unsuitable material conditions of detention for women and girls, notably pregnant women and women with babies, in the West Bank and the Gaza Strip. The

Committee is further concerned about the reported prolonged use of solitary confinement and ill-treatment of those detained in the Gaza Strip for drug-related offences, suspected collaboration with Israel or alleged affiliation with Fatah and Salafist groups. It regrets the lack of comprehensive official data on the number of pretrial detainees and convicted prisoners and the location and occupancy rate of all places of deprivation of liberty, disaggregated by the facilities under the auspices of all relevant ministries or other authorities (arts. 2, 11 and 16).

37. **The Committee calls upon the State party to intensify its efforts to bring conditions of detention into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules). The State party should, in particular:**

(a) **Take all measures to reduce overcrowding in prisons, including by making more use of alternatives to detention and continuing to implement plans to develop and renovate the infrastructure of prisons and other detention facilities;**

(b) **Guarantee that the basic needs of persons deprived of their liberty are satisfied, including with regard to water, sanitation and food, and increase the number of trained and qualified prison staff, including medical staff, to ensure the proper medical and health care of prisoners, in accordance with rules 24–35 of the Nelson Mandela Rules;**

(c) **Facilitate access to recreational and cultural activities in places of detention, as well as vocational training and education, with a view to supporting the rehabilitation of detainees in the community;**

(d) **Ensure that female prisoners, in particular those who are pregnant or with babies, have access to adequate health facilities and hygienic services and are detained in gender-sensitive conditions;**

(e) **Ensure that prisons are adapted to the needs of detainees with disabilities;**

(f) **Bring its legislation and practice on solitary confinement into line with international standards, particularly rules 43–46 of the Nelson Mandela Rules;**

(g) **Ensure that prompt, impartial and effective investigations are undertaken into all allegations relating to acts of torture and ill-treatment by prison personnel and that the alleged perpetrators are prosecuted and adequately punished;**

(h) **Provide the requested data on the number of pretrial detainees and convicts in all facilities in its next periodic report.**

Pretrial detention

38. The Committee is concerned about the reported high number of people placed in pretrial detention, many of them in prolonged pretrial detention. It is also concerned that, as a result, inmates on remand are not systematically separated from convicted prisoners, nor women from men or children from adults (arts. 2, 11 and 16).

39. **The State party should ensure that the regulations governing pretrial detention are scrupulously respected and that such detention is resorted to only in exceptional circumstances and for limited periods and in accordance with the law, taking into account the principles of necessity and proportionality. It should further ensure the separation of pretrial detainees from convicted prisoners, women from men and children from adults in all places of detention.**

Monitoring of detention facilities

40. The Committee welcomes the State party's accession to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 29 December 2017, and that a number of governmental institutions, international

organizations and civil society actors are invested with powers of supervision over places of detention and custody. It also takes note of the publication in the Official Gazette of Decree-Law No. 25 on the National Commission against Torture on 25 May 2022. However, the Committee is concerned that the Decree-Law provides for the establishment of a government-led national preventive mechanism whose members are to be selected and appointed by the President of the Palestinian Authority upon the recommendations of the Council of Ministers, which is likely to affect the Commission's functional independence. It further regrets the lack of information on steps taken by the State party to follow up on visit reports and on the measures taken to implement the recommendations put forward by monitoring bodies (arts. 2, 11 and 16).

41. **The State party should:**

(a) **Promptly review, in consultation with the Independent Commission for Human Rights and civil society organizations, Decree-Law No. 25 on the National Commission against Torture to ensure the full operational independence and financial autonomy of the Commission, in line with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the guidelines of the Subcommittee on the Prevention of Torture on national preventive mechanisms;**[12]

(b) **Take all possible measures to ensure that international and national monitors are able to undertake regular, independent and unannounced visits to all places of deprivation of liberty in the State party and speak confidentially to all detained persons;**

(c) **Take appropriate steps to implement the recommendations put forward by monitoring bodies following their visits to detention facilities, in particular where allegations of torture or ill-treatment are raised in the reports.**

Deaths in custody

42. The Committee regrets the lack of reliable information and statistical data on the total number of deaths in custody for the period under review, disaggregated by place of detention, the sex, age and ethnicity or nationality of the deceased and the cause of death. It is also concerned about the allegations that causes of death in custody include torture and the lack of health care, and regrets the lack of information on investigations undertaken in that regard. The Committee is particularly concerned about the case of Nizar Banat, who died in custody in June 2021 after being arrested and allegedly severely beaten and tortured in detention by the Hebron preventative security forces. It is further concerned that the State party has so far failed to ensure accountability for Nizar Banat's death, as the 14 officers initially charged with his death by a military court were temporarily released in June 2022 (arts. 2, 11 and 16).

43. **The State party should:**

(a) **Compile and provide to the Committee detailed information on the cases of death in all places of detention, in both the West Bank and the Gaza Strip, their causes and the outcome of the investigations into the deaths;**

(b) **Ensure that all deaths in custody are promptly and impartially investigated by an independent entity, including by means of independent forensic examinations, and, where appropriate, apply the corresponding sanctions, in line with the Minnesota Protocol on the Investigation of Potentially Unlawful Death;**

(c) **Assess and evaluate the existing programmes for the prevention, detection and treatment of chronic, degenerative and infectious diseases in prisons, and review the effectiveness of strategies for the prevention of suicide and self-harm;**

(d) **Ensure that all those responsible for the torture and killing of Nizar Banat, including higher ranked officials who may have been involved in the incident, are duly**

[12] CAT/OP/12/5.

prosecuted and punished, with appropriate sanctions imposed by a civil court with due process and fair trial guarantees.

Mental health institutions

44. The Committee is concerned that the State party failed to adopt and implement legislation prohibiting forced medical treatments, physical and chemical restraints and solitary confinement of persons with psychosocial or intellectual disabilities in psychiatric institutions. It also notes with concern that there are no measures taken to enable persons deprived of their liberty in such facilities to have access to mechanisms designed to investigate allegations of human right violations, in particular torture or ill-treatment. Furthermore, it is concerned about reports of ill-treatment and the possible torture of persons with disabilities within residential care settings, including physical violence, intimidation and abuse. Moreover, it regrets the lack of information on the number of persons with disabilities deprived of their liberty, their legal status and the conditions in which they reside, as well as on the work of the oversight mechanisms responsible for inspecting and monitoring psychiatric institutions (art. 2, 11 and 16).

45. **The State party should expeditiously adopt the draft decree-law on the rights of persons with disabilities, as well as a comprehensive law on mental health to explicitly prohibit forced medical treatments, physical and chemical restraints and the solitary confinement of persons with psychosocial or intellectual disabilities in psychiatric institutions. It should also train health-care professionals on the rights of persons with disabilities, specifically on the right to free and informed consent. It should further ensure that instruments of restraint and force can only be used in accordance with the law and under appropriate supervision and for the shortest time necessary, and that their use is limited to that which is strictly necessary and proportionate. Finally, it should ensure that psychiatric institutions are adequately monitored and that effective safeguards are in place to prevent any torture or ill-treatment of persons in such facilities.**

Juvenile justice

46. While welcoming the adoption of Decree-Law No. 4 of 2016 on the protection of Palestinian juveniles, the Committee is concerned about reports that it is not being enforced in the Gaza Strip. It is also concerned that the Palestinian Children's Act of 2004 (as amended in 2012) and the Decree-Law on the protection of Palestinian juveniles, applicable in the West Bank, set the minimum age of criminal responsibility at 12 years, while the Juvenile Offenders Law No. 2 of 1937, applicable in the Gaza Strip, sets it at 9 years. Furthermore, the Committee is concerned that children are sometimes held in detention centres for adults, that children in detention, both in the West Bank and in the Gaza Strip, are reportedly ill-treated and that there is limited information on the use of non-custodial measures[13] (arts. 2, 11 and 16).

47. **The State party should take all possible measures to implement Decree-Law No. 4 of 2016 on the protection of Palestinian juveniles and international juvenile justice standards, in particular the Beijing Rules, in all parts of the State party. It should also: (a) raise the minimum age of criminal responsibility to an internationally acceptable standard; (b) promote non-custodial and non-judicial measures, such as diversion, probation, mediation, counselling or community service, wherever possible, for all child offenders; (c) ensure that ill-treatment of children in places of deprivation of liberty does not occur; and (d) provide qualified and independent legal aid free of charge to children in conflict with the law and offer child-friendly and accessible complaint mechanisms.**

Death penalty

48. While welcoming the accession of the State party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death

[13] CRC/C/PSE/CO/1, paras. 58–59.

penalty, on 18 March 2019, and the de facto moratorium on the implementation of the death penalty in the West Bank, where no executions have been carried out since 2005, the Committee is concerned that Palestinian legislation continues to provide for the death penalty for a range of relatively less serious offences, in contravention of international legal standards that limit its application to crimes of extreme gravity involving intentional killing.[14] It is also concerned that death sentences are still handed down in the Gaza Strip, including by military courts against civilians without due process and fair trial guarantees, and that executions are still held. It is further concerned that death-row inmates face conditions of detention that, in and of themselves, can amount to ill-treatment. Moreover, it is concerned that, given the current political divide between the Palestinian authorities in the West Bank and the de facto authorities in Gaza, those sentenced to death in Gaza may not be able to exercise their right to seek a pardon or have their sentence commuted by the President of the Palestinian National Authority, as provided for in article 109 of the Basic Law of 2003 (arts. 2, 11 and 16).

49. **The State party should take affirmative steps to formalize the moratorium on the death penalty, with a view to abolishing it in law in both the West Bank and the Gaza Strip, in line with its obligations under the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. It should also intensify its efforts to commute all death sentences into alternative penalties, ensure that conditions of detention for condemned prisoners do not constitute cruel, inhuman or degrading punishment or treatment, strengthen legal safeguards and guarantees of due process in all phases of the proceedings and concerning all offences, and take all possible measures to prohibit military courts from exercising jurisdiction over civilians in the Gaza Strip.**

Gender-based violence

50. The Committee welcomes the State party's measures to combat violence against women, including the adoption of Decree-Law No. 5 in March 2018 repealing article 308 of the Jordanian Penal Code of 1960, which is applicable in the West Bank and which exonerated perpetrators of the crime of rape if they married the victim, the repeal of article 340 of the Jordanian Penal Code and the revisions to articles 98 and 99 thereof, which provided for mitigating factors in cases of homicide of women or so-called "honour killings". However, the Committee is concerned about:

(a) The delay in the adoption of the draft family protection law, although it has already been reviewed by the legislative harmonization committee;

(b) The increased number of femicide cases since the outbreak of the COVID-19 pandemic in 2020 and the persistence of so-called "honour-killings" and domestic and sexual violence, which remain socially accepted and underreported owing to the stigma suffered by victims;

(c) The arbitrary arrest and detention of women, including victims of gender-based violence, on discriminatory charges of sexual offences such as adultery and "moral misconduct";

(d) The lack of family protection units in the Gaza Strip, despite the high incidence of gender-based violence against women, including domestic violence (arts. 2, 12–14 and 16).[15]

51. **The State party should:**

(a) **Expedite the adoption of the draft family protection law and the draft penal code to ensure that all cases of gender-based violence, especially those that engage the international responsibility of the State party under the Convention, in particular femicides, so-called "honour crimes" and sexual and domestic violence, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately and that the victims or their families receive redress, including adequate**

[14] See article 6.2 of the International Covenant on Civil and Political Rights and paragraph 35 of the Human Rights Committee general comment No. 36 (2019).

[15] CEDAW/C/PSE/CO/1, paras. 26–27.

compensation and rehabilitation, and have access to legal assistance, safe shelters and the necessary medical care and psychosocial support;

(b) **Intensify efforts to raise awareness among both men and women, including through educational and media campaigns, of the criminal nature of gender-based violence against women in order to challenge its social acceptance and address the stigma discouraging victims from reporting it;**

(c) **Amend its legislation to ensure that victims of sexual abuse are not punished if they press charges, and immediately release and compensate women and girls who have been convicted of sexual offences such as adultery and "moral misconduct";**

(d) **Take concrete steps to establish adequately resourced family protection units in the Gaza Strip to provide services to women and girls who are victims of gender-based violence, including domestic violence.**

Redress, including compensation and rehabilitation

52. The Committee is concerned about the lack of explicit provisions in domestic legislation that provide for the right of victims of torture and ill-treatment to fair and adequate compensation, including the means for as full medical and psychosocial rehabilitation as possible, as required under article 14 of the Convention. It also regrets that the State party has failed to provide comprehensive information on the redress afforded to victims of torture or their families by the courts or other State bodies since the entry into force of the Convention in the State party (art. 14).

53. **The State party should review its legislation to include explicit provisions on the right of victims of torture and ill-treatment to redress, including fair and adequate compensation and as full a rehabilitation as possible, and ensure that victims may, inter alia, seek and obtain prompt, fair and adequate compensation, including in cases where the civil liability of the State party is involved, in accordance with the Committee's general comment No. 3 (2012). It should also compile and disseminate up-to-date statistics on the number of victims of torture and ill-treatment who have obtained redress, including medical or psychosocial rehabilitation and compensation, as well as on the forms of such redress and the results achieved.**

Training

54. The Committee acknowledges the efforts made by the State party to develop and implement education and training programmes in human rights, including modules on the Convention covering the absolute prohibition of torture, for judges, prosecutors and members of the security forces. However, it regrets the lack of training on the contents of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol as revised). The Committee also regrets that no mechanism for evaluating the effectiveness of training programmes has been established, as well as the absence of specific training for the military, the intelligence agencies and relevant medical personnel (art. 10).

55. **The State party should:**

(a) **Further develop mandatory initial and in-service training programmes to ensure that all public officials are well acquainted with the provisions of the Convention, especially the absolute prohibition of torture, and that they are fully aware that violations will not be tolerated and will be investigated, and that those responsible will be prosecuted and, on conviction, appropriately punished;**

(b) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify cases of torture and ill-treatment, in accordance with the Istanbul Protocol as revised;**

(c) **Develop and apply a methodology for assessing the effectiveness of educational and training programmes in reducing the number of cases of torture and**

ill-treatment and in ensuring the identification, documentation and investigation of such acts, as well as the prosecution of those responsible.

Follow-up procedure

56. **The Committee requests the State party to provide, by 29 July 2023, information on follow-up to the Committee's recommendations on the definition and criminalization of torture, the national human rights commission and the monitoring of detention facilities (see paras. 13, 19 and 41 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the present concluding observations.**

Other issues

57. **The Committee encourages the State party to consider making the declarations under articles 21 and 22 of the Convention.**

58. **The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.**

59. **The Committee also invites the State party to submit a core document in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents**[16] **and paragraph 16 of General Assembly resolution 68/268.**

60. **The Committee requests the State party to submit its next periodic report, which will be its second, by 29 July 2026. To that end, the Committee invites the State party to accept, by 29 July 2024, the simplified reporting procedure consisting of the transmittal, by the Committee to the State party, of a list of issues prior to the submission of the report. The State party's replies to that list of issues would constitute its second periodic report under article 19 of the Convention.**

[16] HRI/GEN/2/Rev.6, chs. I and III.

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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Initial reports submitted by States parties under articles 16 and 17 of the Covenant

Addendum

ISRAEL

[28 November 1997]

GE.98-15120 (E)

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Introduction

1. Israel ratified the International Covenant on Economic, Social and Cultural Rights in August 1991. The Covenant came into force with respect to Israel on 3 January 1992. The following is the combined initial and second reports submitted by Israel in pursuance of articles 16-17 of the Convention and of the guidelines issued by the Committee on Economic, Social and Cultural Rights. The aim of this report is to provide a description of the legal and social situation relevant to the implementation of economic, social and cultural rights in Israel.

2. The information contained in this report relies primarily on materials, data and legal research supplied by the relevant government ministries and institutes. Non-governmental organizations (NGOs) also provided valuable information. Independent and academic research has been surveyed and a reading list is provided at the end of the report. Annexed to the report are legal texts and specialized publications.*

I. BACKGROUND INFORMATION

A. Land and people

Geography

3. Israel's area within its boundaries and ceasefire lines is 10,840 square miles (27,800 sq. km). Long and narrow in shape, it is some 280 miles (450 km) in length and about 85 miles (135 km) across at the widest point.

4. The country may be divided into four geographical regions: three parallel strips running north to south and a large, mostly arid zone in the southern half.

Demographics

5. As of October 1997, the total population of Israel numbered 5,863,000 with over 4.7 million Jews (80.2 per cent of the total population), 872,000 Muslims (14.9 per cent), about 190,000 Christians (3.2 per cent) and around 100,000 Druze and members of other faiths (1.7 per cent).

6. The population of Israel increased in 1996 by 140,000, of whom 88,000 were Jews, representing a lower rate of increase than in 1995. In 1990-91, at the height of immigration from the former USSR and the Commonwealth of Independent States, the average annual growth rate was 250,000. Since the beginning of 1990 the population of Israel has increased by 26.3 per cent!

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* The reading list and the annexed materials are available for consultation at the Office of the United Nations High Commissioner for Human Rights.

7. The birth rate in 1995 was 21.1 per 1,000, while the infant mortality rate was 6.8 per 1,000. As of 1993, life expectancy for male Israelis was 75.3 years and for female Israelis 79.5 years. The total fertility rate was 2.9 per 1,000. Twenty-nine point seven per cent of the population was under 14 while 9.5 per cent of the population was 65 or older.

8. Israel has a literacy rate of over 95 per cent.

The economy

9. Israel's Gross Domestic Product (GDP) in 1996 was 272.8 billion new Israeli shekels (NIS) (approximately US$ 85 billion) in 1995 constant prices. GDP per capita for this period was approximately NIS 48,000 (approximately $15,000). The external debt was $44.28 billion.

10. The dollar exchange rate at the close of 1990 was NIS 2.048 per $1, and at the close of 1995, NIS 3.135 per $1. The annual average of the dollar exchange rate in 1990 was NIS 2.0162, and in 1995, stood at NIS 3.0113. In 1997 the dollar exchange rate was about NIS 3.5 per $1.

Language

11. Hebrew and Arabic are the official State languages. They are primary languages of instruction in compulsory education and either may be used by a member of the Knesset (Israel's parliament) to address the House. Israel television and radio broadcast in Hebrew, Arabic and, to a lesser extent, English, Russian and Amharic.

B. General political structure

Recent history

12. The State of Israel was founded on 15 May 1948. Israel represents the culmination of almost 2,000 years of longing on the part of the Jewish people for the re-establishment of an independent State. A guiding principle for all governments of Israel since its inception has been the “ingathering of the exiles”, the historic return of the Jewish people to its ancestral land. This concept was enshrined in the Declaration of Independence and has continued to be a major component of Israel's national life to the present day. In the words of Israel's Declaration of Independence, the State “extend(s its) hand to all neighbouring States in an offer of peace and good neighbourliness”.

13. In 1977 the late President of Egypt, Anwar Sadat, became the first Arab head of State to visit Israel. In 1979 a treaty of peace was signed between Israel and Egypt. The Madrid Peace Conference was convened in October 1991. It was the first time that Israel, the Syrian Arab Republic, Lebanon, Jordan and the Palestinians had met in an open and public setting for the specific purpose of negotiating peace. In September 1993, Israel and the Palestine Liberation Organization (PLO) signed the Declaration of Principles on Interim Self-Government Arrangements in Washington D.C. and in November 1994, Israel and Jordan concluded a peace treaty, formally ending 46 years of conflict. In

September 1995 Israel and the PLO signed the Interim Agreement on the West Bank and the Gaza Strip, and by 1999 the Final Status Agreement regarding these territories is due to be signed.

Structure of government

14. Israel is a parliamentary democracy, consisting of legislative, executive and judicial branches. Its institutions are the Presidency, the Knesset (parliament), the Government (Cabinet), the judiciary and the Office of the State Comptroller.

15. The system is based on the principle of separation of powers, with checks and balances, in which the executive branch (the government) is subject to the confidence of the legislative branch (the Knesset) and the independence of the judiciary is guaranteed by law.

The Presidency

16. The President is the head of State and his office symbolizes the unity of the State, above and beyond party politics.

17. Presidential duties, which are primarily ceremonial and formal, are defined by law. Among the President's formal functions are the opening of the first session of a new Knesset, accepting the credentials of foreign envoys, signing treaties and laws adopted by the Knesset, appointing judges, appointing the Governor of the Bank of Israel and heads of Israel's diplomatic missions abroad, pardoning prisoners and commuting sentences on the advice of the Minister of Justice. The President's approval is required prior to the dissolution of the Knesset by the Prime Minister.

18. The President, who may serve two consecutive terms, is elected every five years by a simple majority by the Knesset from among candidates nominated on the basis of their personal stature and contribution to the State.

The Knesset

19. The Knesset is the House of Representatives of the State of Israel; its main function is to legislate.

20. Elections for the Knesset and for the Prime Minister are held simultaneously. They are secret, and the entire country constitutes a single electoral constituency.

21. Knesset seats are assigned in proportion to each party's percentage of the total national vote. A party's surplus votes which are insufficient for an additional seat are redistributed among the various parties according to their proportional size resulting from the elections, or as agreed between parties prior to the election.

22. The Knesset is elected for a term of four years, but may dissolve itself or be dissolved by the Prime Minister, with the President’s approval, before the end of its term. Until a new Knesset is formally constituted following elections, full authority remains with the outgoing Government.

23. The Knesset operates in plenary sessions and through 13 standing committees: the House Committee; the Foreign Affairs and Security Committee; the Finance Committee; the Economics Committee; the Interior and Environment Committee; the Education and Culture Committee; the Labour and Social Affairs Committee; the Constitution, Law and Justice Committee; the Immigration and Absorption Committee; the Committee for State Audit Affairs; the Committee on the War against Drug Addiction; the Science Committee and the Committee for Advancing the Status of Women.

24. In plenary sessions, general debates are conducted on government policy and activity, as well as on legislation submitted by the government or by individual Knesset members. Debates may be conducted in Hebrew and Arabic; simultaneous translation is available.

The Government

25. The Government (Cabinet of Ministers) is the executive authority of the State, charged with administering internal and foreign affairs, including security matters. Its policy-making powers are very wide and it is authorized to take action on any issue which is not delegated by law to another authority. The Government usually serves for four years, but its tenure may be shortened by the resignation of the Prime Minister or by a vote of no confidence.

26. The Prime Minister is elected directly by popular vote, simultaneously with the Knesset elections. Until the 1996 elections, the task of forming a government and heading it was assigned by the President to the Knesset member considered to have the best chance of forming a viable coalition government.

27. The ministers are responsible to the Prime Minister for the fulfilment of their duties and accountable for their actions to the Knesset. Most ministers are assigned a portfolio and head a ministry; others serve without a portfolio but may be called upon to take responsibility for special projects. The Prime Minister may also serve as a minister with a portfolio.

28. The number of ministers, including the Prime Minister, may not exceed 18, nor be less than 8. At least half of the ministers must be Knesset members, but all must be eligible for candidacy as Knesset members. The Prime Minister, or another minister with prime ministerial approval, may appoint deputy ministers, up to a total of six; all must be Knesset members.

C. The judiciary

29. The absolute independence of the judiciary is guaranteed by law. Judges are appointed by the President, on the recommendation of a special nominations committee comprised of Supreme Court judges, members of the bar, ministers and Knesset members. Judges' appointments are with tenure, until mandatory retirement at age 70.

30. Magistrates' and District Courts exercise jurisdiction in civil and criminal cases, while juvenile, traffic, military, labour and municipal appeal courts each deal with matters coming under their jurisdiction. There is no trial by jury in Israel.

31. In matters of personal status such as marriage, divorce and, to some extent, maintenance, guardianship and the adoption of minors, jurisdiction is vested in the judicial institutions of the respective religious communities: the rabbinical court, the Muslim religious courts (Sharia courts), the religious courts of the Druze and the juridical institutions of the nine recognized Christian communities in Israel.

32. The Supreme Court, seated in Jerusalem, has nationwide jurisdiction. It is the highest court of appeal on rulings of lower tribunals. In its capacity as High Court of Justice, the Supreme Court hears petitions in constitutional and administrative law issues against any government body or agent, and is a court of first and last instance.

33. Although legislation is wholly within the competence of the Knesset, the Supreme Court can and does call attention to the desirability of legislative changes. It also has the authority to determine whether a law properly conforms with the Basic Laws of the State and to declare a law void.

D. The State Comptroller

34. The State Comptroller carries out external audits and reports on the legality, regularity, economy, efficiency, effectiveness and integrity of the public administration in order to assure public accountability. Israel recognized the importance of State audit in a democratic society and in 1949 enacted a law which established the State Comptroller's Office. Since 1971, the State Comptroller has also fulfilled the function of Public Complaints Commissioner (ombudsman) and serves as an address to which any person may submit complaints against State and public bodies which are subject to the audit of the Comptroller.

35. The State Comptroller is elected by the Knesset in a secret ballot for a five-year term. The Comptroller is accountable only to the Knesset, is not dependent upon the Government, and enjoys unrestricted access to the accounts, files and staff of all bodies subject to audit. The Comptroller's activities are carried out in cooperation with the Knesset Committee for State Audit Affairs.

36. The scope of State audit in Israel is among the most extensive in the world. It includes the activities of all government ministries, State institutions, branches of the defence establishment, local authorities, government corporations, State enterprises, and other bodies or institutions declared subject to audit.

37. In addition, the State Comptroller has been empowered by law to inspect the financial affairs of the political parties represented in the Knesset, including election campaign accounts and current accounts. When irregularities are found, monetary sanctions are imposed.

E. Basic Laws

38. Israel has no formal constitution as yet. However, most chapters of the prospective constitution have already been written, and enacted as Basic Laws.

39. The Basic Laws are adopted by the Knesset in the same manner as other legislation. Their constitutional import is derived from their nature and, in some cases, from the inclusion of “entrenched clauses” whereby a special majority is required to amend them.

40. The following are the Basic Laws of the State of Israel:

The Knesset (1958)

State Lands (1960)

The President (1964)

The State Economy (1975)

The Israel Defence Forces (1976)

Jerusalem (1980)

The Judicature (1984)

The State Comptroller (1988)

Human Dignity and Liberty (1992)

Freedom of Occupation (1992)

The Government (1992)

41. A draft Basic Law: Social Rights Bill has been is pending in the Knesset since 1993, when for the first time in Israel's history the Government agreed to include social rights in fundamental rights legislation. Even though economic, social and cultural rights are recognized in Israel, whether directly by law, regulations or case-law, or indirectly by administrative programmes, they still lack constitutional status. This issue is further dealt with in the part of this Report dealing with article 2 of the Covenant.

II. INFORMATION CONCERNING GENERAL PROVISIONS OF THE COVENANT

Article 1 - Self-determination

42. Israel's recognition of the universal right to self-determination is embodied in its Declaration of Independence, which contains a clear commitment to the principles of the Charter of the United Nations. The right to self-determination is central to the establishment of the State of Israel, especially after the Holocaust. In the Supreme Court's words:

"Certainly, all the citizens of Israel - Jews and non-Jews - are 'shareholders' in the State, and the proposition that the State is the 'State of all its citizens' does not detract from it being a Jewish State, and if one wishes: the Jewish State. We must remember - how can we forget - that the Jewish people did not have any other state but the State of Israel, the State of the Jews. However, within the State, all citizens enjoy equal rights."
C.A.P. 2316/96 Issacson v Registrar of Political Parties, Takdin-Supreme vol. 96 (2) 306, 319.

Article 2 - State responsibility, non-discrimination, international cooperation

State responsibility

43. Economic, social and cultural rights are widely recognized in Israel, whether directly by law, regulations or case-law, or indirectly by administrative programmes. Since its creation, the State's commitment to the full realization of these rights has never been politically challenged. Moreover, social services of all sorts have dramatically expanded over the years, notwithstanding Israel's security challenges on the one hand and huge waves of immigration on the other, both of which have had an obvious drastic impact on the State's available resources. This commitment is clearly revealed in each of the substantial parts of this report (arts. 6-15).

44. It is worth stressing here the existence of a definite and steady trend of welfare legalization in Israel. The best example is the Assurance of Income Law 1980, which created a legal right to basic income as a safety net to ensure subsistence. This right, implemented by the National Insurance Institute, replaced the previous administrative programme operated by social workers. Under the previous programme, social workers had the authority to decide whether, in their professional judgement, an individual in need was entitled to a basic allowance, in addition to determining the level of such an allowance. Such examples are found in various parts of this report. It is fair to say in general that the majority of the rights covered by the Covenant are today legalized, even though the process has still to be completed.

45. Furthermore, there are definite indications that welfare and labour rights might undergo an even greater change with respect to their status - from regular legal rights to constitutional rights. Such indications can be found both in the legislative and the judicial fields.

Basic Law: Social Rights Bill (1993)

46. A draft Basic Law: Social Rights Bill has been pending in the Knesset since 1993. Its main provisions are:

"1. The fundamental human rights in Israel are based on the recognition of the importance of a human being, of the sanctity of his life, and of his free existence, and they shall be respected in accordance with the principles of the Declaration of Independence of the State of Israel.

"2. This Basic Law aims to protect the social rights of man, so as to embody in this Basic Law the values of the State of Israel as a Jewish and democratic State.

"3. Every resident is entitled to his basic needs for the protection of a dignified human existence, inter alia in the field of labour, wage and work conditions, in the field of learning and education and in health and social welfare; this right shall be implemented or regulated by governmental authorities in accordance with law, and subject to the financial ability of the State, as determined by the government.

"4. Workers are entitled to organize in workers' organizations of their choice, and employers are entitled to organize in employers' organizations of their choice; such organizations may conclude collective agreements, all in accordance with the principles of labour law.

"5. Workers are entitled to strike, in accordance with the principles of labour law, in order to protect their rights and advance their economic and social interests.

"6. The rights protected in this basic law shall not be impaired, save by way of a law, or through specific authorization in law comporting with the values of the State of Israel as a Jewish and democratic State, for a proper purpose, and not exceeding what is strictly required.

"7. Every authority in any branch of government, and all that act in its name, must respect the rights in this Basic Law.

"8. None of the rights in this basic law shall be invoked in a manner which compromises the State's existence, its democratic regime, or serve to oppress human rights."

47. The future of this draft is not clear. But the fact that for the first time in Israel's history the government agreed in 1993 to include social rights in fundamental rights legislation, is symbolically important. It demonstrates the depth of Israel's commitment to the rights covered by the present Covenant.

The judiciary

48. Constitutional recognition of fundamental rights can come about through case-law, as has happened in Israel in the area of civil rights. This at least means such rights are taken seriously for the purpose of interpretation of statutes or filling legislative lacunae. As far as economic and social rights are concerned, there is yet limited judicial activity, apart from the right to form trade unions and the right to strike, which are regarded as fundamental rights.

49. The Supreme Court made the following interesting remarks as to the State's duty to provide for the weak and poor:

> "A democratic government in its very essence, and according to its values, will look after the citizen's present and future welfare. It will strive to provide employment, a minimum wage, and social rights, so that he who has laboured all those years and reached retirement age is insured as much as possible and does not fall as a burden upon society. If a democratic administration can afford to invest the necessary resources, it should provide for citizen pension rights on its own initiative, and in good time ... The Basic Law, as mentioned above, is grounded in the values of the State of Israel as a democratic state. Caring for a citizen's welfare, making sure his needs are met and securing his future comports with the values of the State of Israel as a democratic state and corresponds with the values of Judaism which have always set a priority on caring for the citizen and providing for his basic needs. It has been said, for example, that charity is one of the three most important deeds which constitute the moral basis of this world [cite omitted] ... Open and hidden acts of compassion and charity, being nothing but expressions of care for another, so that he does not suffer hunger or deprivation, are advocated and encouraged in clear and explicit messages rooted in ancient tradition. Ensuring that all the needs of the citizen are met as well as those of the resident and gentile, and preserving their standard of living and quality of life is also amongst the blessed values in Jewish tradition."
> H.C. 726/94, 878/94 Klal Insurance Company Ltd. v. Minister of Treasury, P.D. vol. 48 (5) 441, 476.

50. Justice Aharon Barak, the President of the Supreme Court has remarked that the "right to decent living conditions" should be construed from the Basic Law: Human Dignity and Liberty (Barak 1994, pp. 416-7), but no case has been brought to the court yet.

51. In sum, since no serious attempt to induce the judiciary to recognize social rights as fundamental rights has yet been made, the exact constitutional status of economic, social and cultural rights under Israeli law still awaits decisive developments, legislative as well as judicial.

Non-discrimination

52. As far as State and public agencies are concerned, the non-discrimination principle is totally binding in Israel. The Israeli Declaration of Independence declares the State's commitment to "civil and social equality". Using this source, among others, the High Court of Justice has long enshrined the right to equality and has repeatedly expressed the following view:

> "The rule according to which it is prohibited to discriminate between people on grounds of race, sex, nationality, ethnic sect, state of origin, religion, opinion or social status is a fundamental constitutional principle, inherent to our most basic legal norms."
> H.C. 721/94 El Al Israeli Airlines v. Danilovitch, P.D. vol. 48 (5) 749, 760.

53. The courts have created an effective body of jurisprudence, resulting in granting relief to any person able to prove discrimination on the part of any person or body acting under the law. Welfare and other social services are no exception to this rule, as it is clear from the following and representative citation:

> "... guaranteeing equal opportunities for the handicapped costs money. A society raised on the values of human dignity, liberty and equality is willing to pay the necessary price ... As we have mentioned, regulations require that special toilets for the disabled be installed in ... the school. The purpose of this provision is to enable the handicapped child to integrate in the school in a manner similar to that of any other child, and to thereby guarantee his dignity and enable him to enjoy equal educational opportunities."
> H.C. 7081/93 Botzer v. Municipal Authority Maccabim-Reut, Takdin-Supreme vol. 96 (1) 818, 821-822

54. Statutory entitlements are generally based upon residence, not nationality, let alone race, religion, sex, etc. For example, education rights apply to any "child"; workers rights apply to any "employee"; social security is usually based upon "residence", except for three aspects of social security which apply to all "employees". A detailed account of the application of the non-discrimination principle is given in each chapter of this report. The issue of foreign workers is elaborated on in the chapter dealing with article 6 of the Covenant.

55. Non-discrimination statutory provisions are generally rare in Israeli law. Nevertheless, some of the rights under the Covenant are specifically subject to such provisions, which are discussed in the body of this report. These provisions are the following (the statutes referred to are attached in annex 1A to this report):

> The right to work (art. 6) and the right to just and favourable conditions of work (art. 7): Equal Employment Opportunities Law 1988, Article 2 and 2A; Employment Service Law 1951, Article 42 and 42A; (Male and Female) Workers Equal Pay Law 1996, Article 1 and 2; Equal Retirement Age for Male and Female Employees Law 1987, Article 2; Public Service (Appointments) Law 1959, Article 15A; Work and Rest Hours Law 1951, Article 9C;
>
> Health rights (art. 12): National Health Insurance Law 1994, Article 21(a) and 31;
>
> Education rights (arts. 13-15): National Education Law 1959, Article 2.

International cooperation

56. The State of Israel is deeply involved in international cooperation. The Department of International Cooperation of the Ministry of Foreign Affairs (DIC) is devoted to promoting assistance programmes in the fields of training, research and consultations. Remaining committed to the universal goal of poverty reduction, the focus has been on the enrichment of human resources and institution-building, to enable individuals to participate in the development

of their own society in such fields as market-oriented agriculture, women in the development process, environmental conservation, health care, micro-enterprise and community development. In 1996, there were 4,045 participants in 144 training courses conducted in Israel, and 5,327 participants shared in 120 local courses held in 47 countries worldwide.

57. As aid to Africa comprises approximately 25 per cent of the DIC training activities and long-term projects, a special team of experts has been appointed to study the present Africa-Israel relationship in order to formulate a more positive programme for future cooperation. Aside from designing bilateral development cooperation strategies with client countries, according to specific national priorities, high priority has been given to multilateral activities and increasing cooperation with international organizations. A multilateral agreement between Israel, the Palestinian Council, Luxembourg and Morocco was signed relating to an agricultural project in the Gaza Strip, and agreements were signed in 1996 between DIC, UNDP, UNESCO and FAO on development cooperation and institution-building programmes.

58. Peace in the Middle East will be secured only when it takes root in the everyday lives of people in the region. Therefore, cooperation with countries, authorities, NGOs and the private sector in the Middle East/North African region, as well as with the Gulf States, will continue to be a basic objective of Israel's development programme. Comprehensive regional cooperation will begin to be translated into practice when peace agreements are reached, but there is no need to wait until then to begin working together. DIC hopes to serve as a bridge between the people of the region.

59. Many DIC programmes have been achieved through resources generously provided by the United States Agency for International Development (USAID) and the Kingdom of the Netherlands' Ministry of Foreign Affairs. Additional resources are provided by the Danish International Development Agency (DANIDA); Norway's International Development Agency (NORAD); Sweden's International Development Agency (SIDA); the Federal Republic of Germany's Ministry of Economic Cooperation; the Inter-American Development Bank; the Organization of American States and various United Nations bodies and agencies (the Department of Development Support and Management Services of the Secretariat, UNDP, WHO, FAO, UNESCO, WMO). (The DIC Activity Report, 1996, Israel Ministry of Foreign Affairs).

60. All the above accounts for international assistance granted by Israel. Of the international assistance that Israel receives, only a small portion is granted in order to meet social needs and even then, only for the absorption of immigrants. The United States of America grants Israel $8 million each year; Germany provides Israel with loans the sum of which varies over the years according to immigration rates (DM40 million for the years 1997-1998, which is less than in the midst of the last immigration wave). It should be borne in mind that between the beginning of 1989 and August 1997 Israel has absorbed 742,000 immigrants, with a total population of 4,678,000 by the end of 1988 - an increase of 16.6 per cent in the total population in less than a decade!

Article 3 - Prohibition of discrimination between men and women

61. The guidelines issued by the Committee under the present Covenant do not require a general overview of the equal right of men and women to the enjoyment of all the economic, social and cultural rights set forth in the Covenant. This topic will be elaborated separately in each part of this report.

62. Further reading with special focus on this subject can also be found in Israel's combined initial and second report concerning the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, submitted in May 1997 to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) and published as United Nations document CEDAW/C/ISR 1-2 of 8 April 1997. Reference to the said report will be made easier by using the following chart:

Article of the Covenant	Article and chapter of the Convention
Arts. 2-3: Non-discrimination	Art. 1: Definition of discrimination
	Art. 2: Obligations to eliminate discrimination
Art. 6: Right to work	Art. 4: Acceleration of equality
Arts. 6-7: Work and conditions of work	Art. 11: Employment
Arts. 9 and 11: Social security and subsistence	Art. 13(2): Social benefits and welfare
Art. 10: Family	Art. 16(5),(7),(8),(11): Family
Art. 12: Health rights	Art. 12: Access to health care
Arts. 13-14: Education rights	Art. 10: Education

III. INFORMATION CONCERNING SPECIFIC RIGHTS

Article 6 - The right to work

Related international conventions binding Israel

63. Israel has been a party to the International Labour Organization (ILO) Employment Policy Convention, 1964 (No. 122) since 1970; Israel's last report relates to 1995.

64. Israel has been a party to the Forced Labour Convention, 1930 (No. 29) since 1955; Israel's last report relates to 1990.

65. Israel has been a party to the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) since 1959; Israel's last report relates to the years 1992-1993.

66. Israel has been a party to the International Convention on the Elimination of All Forms of Racial Discrimination since 1979; Israel’s last report was filed in July 1997 and relates to the years 1991-1996.

67. Israel has been a party to the Convention on the Elimination of All Forms of Discrimination against Women since 1991; Israel’s last report was filed in May 1997.

68. International covenants ratified by Israel are normally not part of Israeli internal law unless given statutory recognition by the Knesset. Nevertheless, international labour conventions, especially ILO standards, have had a tremendous influence on the development of the Israeli Labour Law, both statutory and judicial. These standards are embodied in the content of the labour statutes. The Labour Courts also frequently use such conventions, even those which have not been ratified, for the interpretation of statutes and as a criterion for testing the validity of contract terms.

Employment and unemployment

Level and trends

69. Over the past 10 years, from 1986 to 1996, Israel’s economy has expanded at a rapid rate. Gross domestic product increased by 65 per cent in constant prices between 1986 and 1996, with the majority of the growth (42 per cent) concentrated between 1989 and 1995. This is a significant achievement that has brought per capita GDP in Israel to a level not far below the average among western nations.

70. GDP grew in 1996 by 4.5 per cent to reach NIS 272.8 billion (in 1995 constant prices; approximately $85 billion). GDP per capita grew in 1996 by 1.8 per cent, reaching about NIS 48,000 (in 1995 constant prices; approximately $13,000). This growth was at a lower rate than in the previous two years and preliminary forecasts for 1997 indicate a further slowing in the pace of economic activity in the current year.

71. The expansion in economic activity has been accompanied by considerable growth in domestic employment, including the successful absorption of a large wave of immigration which began toward the end of 1989 (generating a rise of 16.6 per cent in the Israeli population by the end of 1997 - less than a decade!).

72. In 1996 there were 2.1 million workers employed in Israel. The unemployment rate was then 6.7 per cent, the lowest since 1992, when unemployment reached 11.2 per cent of the labour force; this was at the height of the influx into the labour market of new immigrants, with some 85 per cent of these coming from the former Soviet Union.

73. Employment trends among particular categories of workers. The following table presents the principal labour force characteristics of various categories of Israeli workers: men, women, Jews, Arabs, younger and older workers, development area residents and new immigrants, showing changes in the number employed and the unemployment rate for these groups in 1986, 1991 and 1996. More extensive data is given table 1 annexed to this section.

	Per cent change in employment		Unemployment rate per cent		
	1991-1996	1986-1991	1986	1991	1996
Total population	27.1	15.7	7.1	10.6	6.7
Jews	26.0	14.4	6.6	10.6	6.7
Arabs and others	35.4	26.4	10.5	10.5	6.2
Men	20.4	12.8	6.5	8.6	5.8
Women	37.3	20.4	7.9	13.4	7.8
Aged 15-17	36.7	-1.7	20.5	23.7	19.7
Aged 18-24	52.6	13.8	18.6	22.2	12.8
Aged 45-54	65.8	19.8	3.3	6.9	4.5
Aged 55-64	25.6	9.3	2.0	7.2	4.8
Residents in development areas	60.7	-	-	15.4	10.5
New immigrants	353.0	-	-	38.5	9.3

74. Generally speaking, from 1991 to 1996, the employment of most categories of workers shown above increased more than the average rate and employment among new immigrants rose particularly rapidly. Interestingly, this growth was smaller amongst Jews and men, which constitute the two broader (but not exclusive) categories of workers in Israel. This pattern could already be discerned before 1991, between 1986 and 1991, but was less pronounced.

75. Regarding unemployment rates, the data indicate that over the past 10 years, the highest rates are to be found among the youngest workers, aged between 15 and 24. Unemployment has been high as well amongst workers living in the country's development areas. Unemployment rates of new immigrants were typically high shortly after their arrival in Israel and declined rapidly as they learned the language and adapted their skills to the local labour market. Over the longer term, the most vulnerable groups of Israeli workers are probably young workers (although the large majority of this age group attends school and does compulsory army service) and the residents of outlying development areas where job opportunities may be limited.

76. Initial figures for 1997 indicate that unemployment may be worsening this year. Rising unemployment will, of course, necessitate a re-evaluation of employment and unemployment policies and measures.

Employment policies

77. As can be seen from the data on unemployment in Israel, the unemployment rate has fallen steadily since 1992, when it stood at 11.2 per cent, to 6.7 per cent in 1996. With unemployment at this level, the Government considers the economy to be at near full employment.

78. In general, difficulties in employment management are associated with cyclical variations in economic growth. Therefore, the objectives of economic policy are the encouragement of long-term economic growth and expansion of job opportunities and the implementation of short-term measures to reduce unemployment.

79. Israel has encountered a particular problem as a result of the large influx of new immigrants, mostly from the former Soviet Union, which began towards the end of 1989. Immigration reached a peak in 1990 when about 200,000 entered Israel (and 276,000 more in 1991). Between 1992 and 1996, approximately 75,000 to 80,000 new immigrants arrived annually. Despite the high level of economic activity during most of the period from 1990 to 1996, unemployment rose significantly, from 8.9 per cent in 1989 to 11.2 per cent in 1992. Thereafter, unemployment declined, reaching 6.7 per cent in 1996. This was achieved through short-term programmes of financial assistance to industrial firms willing to increase the numbers of workers employed, the creation of temporary jobs in the public sector and through the expansion of vocational training, in particular, skill-updating and retraining courses for university graduates and on-the-job training. The number of new immigrants in vocational training rose from an average of about 1,300 per month in 1990 to 6,000 per month in 1993. By 1996, the number of new immigrants in vocational courses declined to about 2,000 per month, as the flow of new arrivals slowed and their absorption into jobs in Israel increased. Unemployment among new immigrants fell from 38.5 per cent in 1991 to 9.3 per cent in 1996, an achievement which was due to a combination of the Government's measures and the economy's expansion during the period.

80. Mention should also be made of a temporary employment programme initiated in 1992, when unemployment reached an unusual peak. Projects were initiated to provide employment in the development of archeological and tourist sites and in environmental improvements. By 1993, 3,500 unemployed persons were working in these jobs each month for an average of 17 days each. This rose to 3,800 workers in 1994 (for 18 days per month each) and has since declined as unemployment fell due primarily to the expansion of economic activity in Israel. In the first six months of 1997, only 700 persons were employed for approximately 15 days per month in these temporary jobs.

81. The Government's long-term economic programmes focus on measures to maximize the economy's productivity. Such measures include privatization of Government-owned enterprises, encouragement of competition among domestic producers of goods and services and between domestic and foreign producers through the reduction of trade barriers, and the minimization of the use of employment projects for the temporary relief of unemployment.

Employment and individual freedom

82. At the most basic level, the employee-employer relationship is a contractual one. The fundamental principle of "freedom of contract" (entrenched since 1992 in the Basic Law: Human Dignity and Freedom) applies to labour contracts as well. This includes both the freedom to enter a labour relation or to chose not to do so, and the freedom to define the content of such a relation. Hence, as a general rule, the individual right to work exists only where there is an individual labour contract or a relevant collective agreement and its scope is to be determined by them.

83. This contractual approach has led Israeli courts to somewhat restrict the availability of enforcement as a remedy for dismissal in breach of a personal labour contract. Such remedy may be granted by statute or by a collective agreement (as described below). It should be noted that this issue is one of the most controversial in Israeli labour law, and differences exist in its regard within the Supreme Court itself.

84. Nonetheless, "freedom of contract" is not the only principle governing the present topic. In light of the basic inequality between the two sides of a labour contract - the employee and the employer - freedom of contract alone is not enough to protect worker's rights. Protective labour law principles and statutes in Israel have important implications for the protection of the right to work.

85. Protection of job security through collective agreements (and extension orders) is in fact very efficient for organized workers, who constitute the vast majority of workers in Israel. It is so deeply entrenched in the system that it is sometimes criticized, mostly by employers.

86. Many collective agreements include a provision that employees dismissed as a result of cutbacks are entitled, during a given period, to be given priority in any return to work. Furthermore, collective agreements also often set procedures for determining the justification for dismissal by the employer. The most common procedure of this sort is the "bipartite committee", composed of the employer and trade union representatives. Should such committee reach a dead end, the dispute is commonly brought to arbitration.

87. Direct statutory protection of security of employment is exceptional and applies to particular kinds of workers as follows (see full text of the laws referred to in annex 1A to this report):

(a) Female workers during maternity leave (including up to six months after giving birth in case of medical grounds for absence) and pregnancy (under certain conditions) - see the Employment of Women Law 1964, article 9;

(b) Workers serving in the army reserve - the Discharged Soldiers Reinstatement Law 1949, articles 37 and 41;

(c) War invalids - regulations issued under the Discharged Soldiers Reinstatement Law 1949, article 31;

(d) Employees who are members of a “safety committee” and “safety delegates” in connection with the fulfilment of their statutory functions - the Labor Inspection (Organization) Law 1954, articles 17 and 24;

(e) Workers who are relatives of fallen veterans, during a five-year period of statutory extension of their retirement age, or in relation with it - the Rehabilitation Law 1950, Fallen Soldiers Families (Pensions and article 33A);

(f) Civil servants and workers in other public services in relation to complaints they have filed with the State Comptroller - the State Comptroller Law (New Version) 1958, article 45C.

88. In addition, there are three forms of State regulation of recruitment and employment, which indirectly enhance individual opportunities for employment.

89. The first is in the Employment Service Act 1959, which created the Israeli Employment Service. This is a national public corporation under the responsibility of the Minister of Labor and Social Affairs, whose main purpose is to match employment seekers with vacancies as notified by employers. An employment service office is provided for in every urban area throughout the country. According to the National Insurance Law (Revised Version) 1995, reporting to the Employment Service office is a precondition for receiving unemployment allowance where no suitable work was offered (see details under article 9 of the Covenant).

90. “Private Employment Services”, commonly called “Placement Agencies”, are also regulated by the State under the Employment Service Law 1959 (Part 4). They are required to obtain a permit from the Ministry of Labor and Social Affairs, who supervises them.

91. Replying to public discontent with the proliferation of private agencies operating in various ways in the area of employment management, the Employment of Workers by Manpower Contractors Law 1996 was enacted. The difference between a “manpower contractor” and a private “placement agency” is that the former remains the employer after placing the employee at work at a third party's workplace. The “manpower contractor” differs, in turn, from a regular contractor in that the contract with the third party is limited to the provision of personnel management services. The Law requires any “manpower contractor” to obtain a permit after depositing a satisfactory financial guaranty, to be used by the State for the benefit of workers in the case of breach of contract by the agency. The Law also compels the “manpower

contractor" to provide employees with a written contract. It also nullifies the validity of clauses seeking to limit the employee's freedom to be at some point in the future hired by the third party. A petition to the High Court of Justice is still pending waiting for judgement, seeking to declare unconstitutional the legal provisions requiring financial guarantee as a precondition for issuing a permit.

92. The Ministry of Labor and Social Affairs is charged with the enforcement of the Employment of Workers by Labor Contractors Law. Since its entry into force in September 1996, almost 200 agencies have requested permits, about 170 of which have obtained such.

93. The "restraint of trade" doctrine is another important instance of protective principle, sometimes reducing the effect of "freedom of contract" and enhancing working opportunities. Under this doctrine, a clause in a contract of employment which seeks to restrict the freedom of an employee to work at any time at a particular kind of occupation is valid only when the said restrictions are deemed reasonable, for example when their purpose is the protection of the employer's trade secrets or other confidential information. Otherwise, the employee's consent is considered void.

94. The enactment in 1992 of the Basic Law: Freedom of Occupation added a constitutional aspect to the issue of choice of occupation in general and to the courts' reasoning in "restraint of engagement in trade" cases in particular. The reasonability of a restraint of engagement in trade clause is now a complex issue of reaching the right balance between "freedom of contract" and "freedom of occupation", taking into account the competing rights of all parties involved (the employer, the employee and the third party who wishes to hire the latter), as well as the public interests normally taken into consideration in such cases under regular constitutional law.

95. Last but not least, freedom of choice of occupation is also indirectly promoted by the legal provisions and principles prohibiting discrimination in recruitment, dealt with in section 3(a) below.

Technical and vocational training programmes

(i) Vocational guidance

96. Psychological and vocational counselling services are provided by the Vocational Guidance Division of the Employment Service (this State institution is described in greater detail in section 3(a) below). Services include vocational guidance for individuals (about 5,000 persons per year), vocational diagnosis and testing, job analysis and classification, collection and dissemination of employment information and instruction for personnel involved in vocational guidance activities in schools, local labour exchanges, etc.

97. No data is available on the operations of vocational guidance by the demographic characteristics of those using the services.

(ii) Vocational and technical education within the formal education system sponsored by the Ministry of Education

98. In general, vocational education is available within the formal education system at the secondary and post-secondary levels, with introductory and exploratory vocational courses provided in grade 9 (intermediate level).

99. The vocational schools offer students a variety of both academic and vocational subjects, including commercial and secretarial studies, fashion and textile design, basic technical skills (metalworking, mechanics and electricity, for example), computer science and electronics. In addition, there are agricultural schools and nautical schools combining specific vocational training with academic studies. In recent years, technological development has given rise to increased efforts to adapt vocational school curricula to the economy's need for an expanding supply of skilled workers training in modern technology. To this end, computer studies have been introduced and twelfth-year students work one or two days a week in industrial plants in order to familiarize themselves with innovations in production methods.

100. There are three paths within vocational schools: a combination of a full academic programme (leading to matriculation) with vocational training; vocational studies (leading to a diploma); and practical vocational education stressing practical application (leading only to a certificate).

101. Within the last 10-15 years, the number of students receiving vocational training in secondary schools has grown by 50 per cent, an increase attributed by the Ministry of Education primarily to the growing number of youngsters remaining in school after the age of compulsory attendance. The majority of such youngsters are being absorbed into the vocational education network as opposed to the academic education network.

102. At the post-secondary level, advanced vocational training is available to students who have completed a full secondary school course of study. In 1993/94 (the latest year for which data is available), there were 224 of these institutions throughout the country (in Hebrew and Arab networks), of which 32 provided teacher training (for primary and intermediate schools) and 101 for training of practical engineers and technicians. The remainder offered qualified nurses' training, training in paramedical occupations, business and clerical courses and arts courses (fashion, design, graphics, etc.). In 1993/94, 59,000 students were studying in post-secondary (non-academic) institutions, an increase of 67 per cent over 1985/86, with substantial growth in all fields of study.

(iii) Vocational training for adults and youth sponsored by the Ministry of Labor and Social Affairs

103. In addition to the vocational education frameworks described above, the Ministry of Labor and Social Affairs sponsors an extensive network of vocational training courses for adults (aged 18 and over) and youths (aged 15-18) for the purposes of assisting workers in expanding their employment horizons, enlarging the pool of skilled workers available to the economy and implementing the training aspects of national economic policy in

the field of manpower. Training activities are undertaken in close cooperation with industries, employers' organizations and the trade union movement.

104. Adult training activities include:

(a) Courses for the acquisition of basic skills;

(b) Short extension and evening courses for supplementing training and refreshing skills;

(c) Vocational rehabilitation for the handicapped;

(d) Training of manpower for emergencies;

(e) Training of practical engineers, technicians and instructors in these subjects;

(f) Training and retraining programmes for new immigrants, returning Israeli residents and other special groups, as required;

(g) On-the-job training programmes to train manpower in new and advanced techniques.

105. Training activities are mainly conducted in vocational training centres located throughout the country. Most courses are run by established schools selected by the Ministry, which supervises their operation and subsidizes the trainees (usually unemployed, referred to the schools by the Employment Service). Occupational standards are determined and maintained by the Ministry through supervisors and Ministry licensing examinations. The Ministry of Labor and Social Affairs also offers financial incentives (such as transportation and subsistence allowances, tuition exemptions and scholarships) to students studying preferred trades.

106. In addition to its regular, ongoing training activities, the Ministry of Labor and Social Affairs also initiates and carries out programmes to meet the needs of specific groups in the population requiring special assistance in preparing themselves to join the labour market. Currently, there are special programmes in operation and in the planning stages to offer vocational training to immigrants from Ethiopia, from the former Soviet Union (both adults and young people) and women.

107. In 1996, about 130,000 adults were studying in Ministry of Labor and Social Affairs-sponsored programmes, receiving basic and supplementary vocational training in such fields as practical engineering, metalwork, electricity and electronics, mechanics, domestic economy, hotel management, paramedical occupations and computer science.

108. The Ministry of Labor and Social Affairs is obligated by law to provide training for young people, aged 15 to 18, who have dropped out of the formal education system (see the Youth Labor Law 1953, Part Six and the Apprenticeship Law 1953 in annex 1 to this report - "Labour Laws"). The Ministry has developed several training frameworks to meet the laws' requirements and to suit the needs of those youngsters coming under Ministry care. Youth Training activities include:

1. Apprenticeship programmes combining practical occupational instruction in craft shops and industrial plants with general school studies one or more days a week.

2. Industrial schools, providing post-elementary general and vocational training. The students acquire their vocation through practical work combined with general studies and theoretical training in their vocation. These schools function in cooperation with automotive repair shops, industrial plants and hotels.

3. Other frameworks for skill acquisition:

(a) Work groups, which are intended for young people who, for various reasons, cannot be absorbed into regular employment. This framework also combines work with general studies.

(b) Pre-military service courses, coordinated with the army, intended for 16-17½ year-olds to acquire a vocation useful both during the period of army service and after discharge from military service.

(c) Programmes for problem youngsters combining vocational training with general studies and social adjustment training.

109. In 1996, approximately 12,500 youngsters aged 15 to 18 studied in programmes sponsored by the Ministry of Labor and Social Affairs, more than 75 per cent of them in industrial schools.

Employment opportunities among particular categories of workers

Prohibition of discrimination

110. Certain labour laws prohibit discrimination among candidates for employment or employees.

111. The Employment Service Law 1959 states (see the full text in annex 1 to this report - "Labour Laws"):

"42.(a) When offering employment the Employment Service shall not discriminate against a person on account of his age, sex, race, religion, nationality, State of origin, views or membership in a political party, and a potential employer will not refuse to admit a worker on these grounds, whether or not he was sent to work through the Employment Service.

(b) It will not be considered discrimination when the nature or essence of the position or matters of State security prevent the referral or admission of a person to the said position.

42A. An employer in need of employees shall not advertise a job offer which constitutes discrimination under Article 42."

112. This law became less central with the enactment in 1988 of the Equal Employment Opportunities Law 1988, and even more so when substantially amended in 1995. The latter law includes various norms, the principal one being the following (see the full text in annex 2 to this report):

"2.(a) An employer shall not discriminate between his employees or job-applicants on account of their sex, sexual orientation, personal status, parenthood, age, religion, nationality, State of origin, views or membership in a political party, in relation to all of the following:

1. Hiring;

2. Job conditions;

3. Job promotion;

4. Vocational training or advanced studies;

5. Firing or Termination Compensations;

6. Retirement benefits and payment granted to an employee;

"(b) For the purposes of subsection (a) the introduction of irrelevant conditions will be considered discriminatory.

"(c) It will not be considered discrimination under this article when the act is necessarily linked to the nature or essence of the job or position.

"2A. (a) an employer shall not require from a job applicant or an employee the details of his military health classification and will refrain from using that information, if he learns about it, in any matter enumerated in article 2(a)(1)-(6).

"(b) ...

"(c) ...

"(d) In this article, 'military health classification' – is the numeric symbol the Israel Defense Force attributes to a person to indicate his medical compatibility to military service in the various units and positions in the Israel Defense Force."

113. The Equal Employment Opportunities Law 1988 is a modern statute, including various enforcement mechanisms, some of which were unprecedented in Israeli labour law. Breach of the Law constitutes both a civil wrong and a

criminal offence. Civil proceedings can be initiated by a worker, a trade union or a civil rights movement. The courts are given special competence to grant compensation even when no material damage was caused. Special protection is granted to a worker filing a complaint under the Law. Supervision and enforcement authority is given to the Minister of Labor and Social Affairs.

114. The Enforcement Division of the Ministry examines complaints from individuals and initiates its own investigations. In 1996, workplaces employing more than five persons were investigated for possible violations relating to sexual harassment at work, discrimination in hiring, promotion and wages, exercise of parents' rights and discriminatory advertisements offering employment.

115. Since the enactment of the Law in 1988 relatively few cases of discrimination at work have been brought to the courts, most of these being for unlawful publication of job advertisements. The 1995 amendment brought about a few more cases, but the main deterrent factor has continued to be the apparent lenience of the courts, apparent mainly in the small sums awarded in compensation.

116. The National Labor Court recently issued a decision promising to become a landmark case. Not only was the compensation award significantly upgraded, the Court made important statements that will undoubtedly enhance the importance of this Law:

> “Human beings were born in the image of God. However, they did not descend upon this world as identical to each other. Every person possesses an individual character, his own physiological features and different colour of skin. Hence, in some aspects it may be the case that these differences should lead to differentiated treatment. For example, when different physiological features are involved, different medical treatment may be warranted on that account. However, the basic proposition should be that despite the difference between persons, every human should be treated equally as such.”

> “Equality was considered by our jurisprudence, both that of the Supreme Court and that of the National Labor Court, as a fundamental right, even before the enactment of the Basic Law, 'The right has graduated' and is now a constitutional right. I do not believe that human dignity and freedom can be discussed without equality, and equality on the job even the more so. A substantial part of our lives is spent in work, and discrimination and degradation cannot be tolerated at the workplace.

> “... [T]he right to equal treatment is a fundamental value of democratic system of law. When we discuss equality, we address both formal and substantive equality. Formal equality requires prima facie that people of equal virtues shall receive equal treatment. On the other hand, substantive equality requires that people, even if they differ in irrelevant features, shall receive equal treatment – not necessarily an identical job, but an equal opportunity to receive a suitable job.

> "In light of the above-mentioned, it can be concluded, that the underlying ideas behind the standard of behaviour required from a potential employer, is that the questions [in the job interview] shall not include any trace of a stereotyped approach. It should be asked whether the mere asking of a question characterized by stereotyped thinking during a personal interview or on tender invitation forms, is sufficient to hold the potential employer liable. I believe it is enough. Furthermore, when the required qualifications are typically better suiting men than women, it must be shown that the required advantage is necessary linked to the position offered, and that it is impossible to settle for any less. The correct avenue is to examine the person on his own merits, and not the features of the group to which he belongs."
>
> National Labor Court case 1997/3-129 Plotkin v. Eisenberg Brothers Ltd., pp. 6, 8-11, 21.

117. The prohibition of discrimination on the basis of sexual orientation was strongly promoted in 1995 by a comprehensive Supreme Court decision, in which an employer was ordered to grant an employee's homosexual partner a certain work-benefit intended for a worker's spouse. This ruling has clear implications for cases of discrimination in hiring.

118. Discrimination on the basis of religion is also specifically covered by article 9C of the Work and Rest Hours Law 1951. This provision prohibits refusal to hire an employee who refuses to work on his religious holidays and prohibits forcing such a worker to pledge to work on such days as a condition for being hired.

119. The significance of all the above goes beyond discrimination in recruitment and covers the whole of labour relations, but discrimination in recruitment is one of the contexts where the statute should prove most influential. This is particularly so in view of the known tendency of workers to refrain from suing their employer as long as the relation is ongoing, and in view of the fact that discrimination in recruitment results in no labour relations at all.

120. Most discrimination cases concern gender discrimination. There is in Israel no data relating to other kinds of discrimination, besides the complex issue of foreign workers dealt with below.

Factual situation

121. Presented below are statistics available on the actual situation in Israel regarding vocational guidance, vocational training, employment and occupation, according to conditions relevant to the non-discrimination principle. It should be noted at the outset that statistics by race or colour are not considered relevant to Israel and are not collected.

(i) Vocational training

122. Shown below are statistics for 1996 on adults in vocational training programmes of the Ministry of Labor and Social Affairs, by sex and population group:

	Thousands	Per cent
All students	130.0	100.0
Men	76.7	59.0
Women	53.3	41.0
Jews	113.5	87.3
Arabs and others	16.5	12.7

Source: Israel, Ministry of Labor and Social Affairs Vocational Training Division.

(ii) Employment

123. Data for 1996 of employed persons by sex and population group are shown below:

	Thousands	Per cent
All employed persons	2 012.8	100.0
Men	1 147.0	57.0
Women	865.8	43.0
Jews	1 753.3	87.1
Arabs and others	259.5	12.9

Source: Israel, Central Bureau of Statistics, Labour Force Survey, 1996.

(iii) Occupation and continent of birth

124. Data for 1995 of Jewish employed persons by continent of birth and occupation are shown in the following table, presenting, for 1995, employed persons by occupation, sex and population group. According to the data in this table, more than a quarter of employed Israelis work in academic professions or technical occupations; a third are clerical and sales personnel and 25 per cent are skilled workers, primarily in industry and construction:

1995				
Jews				
Occupation and sex	Total	Israel-born	Asia/Africa	Europe N. America
	(Thousands)			
Grand total 1/	1 715.3	945.5	267.3	496.4
Academic professionals	212.3	111.7	15.5	84.5
Other professionals and technicians	245.9	146.9	26.3	71.9
Managers	92.7	58.2	12.8	21.6
Clerical workers	309.0	204.9	40.6	62.7
Agents, sales and service workers	300.4	170.4	56.5	72.6
Skilled agricultural workers	36.9	24.3	6.0	6.5
Industry, construction and other skilled workers	364.6	171.8	70.2	121.0
Unskilled workers	136.0	47.3	35.9	51.9
Males - Total	931.9	494.8	163.9	270.1
Academic professionals	112.2	54.4	10.5	47.0
Other professionals and technicians	95.8	54.5	11.1	29.9
Managers	74.2	46.1	11.5	16.6
Clerical workers	83.0	45.4	16.9	20.4
Agents, sales and service workers	137.4	82.0	26.5	28.6
Skilled agricultural workers	31.4	21.5	5.0	4.8
Industry, construction and other skilled workers	316.3	157.5	62.0	95.3
Unskilled workers	68.2	25.9	17.1	24.7
Females - Total	783.4	450.7	103.4	226.3
Academic professionals	100.1	57.3	5.0	37.5
Other professionals and technicians	150.1	92.4	15.2	42.0
Managers	18.5	12.1	1.3	5.0
Clerical workers	226.0	159.5	23.7	42.3
Agents, sales and service workers	163.0	88.4	30.0	44.0
Skilled agricultural workers	5.5	2.8	-1.0	1.7
Industry, construction and other skilled workers	48.3	14.3	8.2	25.7
Unskilled workers	67.8	21.4	18.8	27.2

Source: Israel, Central Bureau of Statistics, Labour Force Survey, 1996.

1/ Includes persons whose occupations are unknown.

125. With respect to the continent of birth, as of 1995, more than half (55 per cent) of the Jewish employed population was born in Israel. Of the remainder, 16 per cent are immigrants from Asian and African countries and 29 per cent from European and North and South American countries. By occupation, almost a third of those Jews born in Europe and the United States worked in academic and professional occupations, compared with 27 per cent of the Israeli-born and 16 per cent of those born in Asia and Africa. Among all three groups, about 20-25 per cent were employed as skilled workers in industry and construction.

126. As apparent from the data in table 2 of this section's annex, among the Israeli Arab working population, of whom the overwhelming majority are men, half worked as skilled labour in industry and construction. Labour force participation is very low among Israeli Arab women. Of those who are employed, a quarter work in academic and professional fields, 35 per cent are clerical and sales workers and an additional 35 per cent are employed in industry as skilled and unskilled labour.

Foreign workers

127. The phenomenon of foreign workers is not unique to Israel. Statistics from the ILO show that around a third of the developed countries have absorbed significant amounts of this workforce. 1/

128. Until recently the bulk of foreign workers in Israel were Palestinians from the West Bank and Gaza Strip. With the increase in the number of terrorist attacks and the concomitant need to close off the territories, a large number of workers came to Israel from all over the world, in particular from Romania and other Eastern European countries, the Philippines, Thailand and other countries in South-East Asia, Africa and South America. They are nearly all employed in the building sector, agriculture, nursing and hotels; a small number are employed in industry and public services.

129. Out of around 2,131,400 workers in Israel in 1996, about 118,000 were foreign workers with permits: 94,000 from all around the world and around 24,000 Palestinian workers from the West Bank and Gaza Strip.

130. The exact number of foreign workers without permits is unknown. The estimate of the Israeli Employment Service is that as of summer 1997 there were 100,000 such workers.

131. As the various types of foreign workers now constitute some 10 per cent of the Israeli workforce, the State has been forced to take a number of steps, as set out below, making a definite distinction between the legal and the practical aspects of the problem.

1/ W.R. Buhaning, The Employment of Foreign Workers - A Guide for Policy and Practice, International Labour Office, Geneva, p. 1.

Foreign workers and total employment in Israel: 1996, 1991 and 1988 (thousands)

	1988	1991	1996
All employed	1 497.9	1 652.1	2 131.4
Israelis	1 453.1	1 583.3	2 012.8
Palestinian workers (with permits)	41.5	60.7	24.2
Other foreign workers (with permits)	3.3	8.1	94.4

Source: Israel: Central Bureau of Statistics and Employment Service.

(i) The legal status of foreign workers in Israel

132. It should be noted at the outset that in addition to being a party to the current Covenant, Israel is a party to the ILO. Migration for Employment Convention (Revised) 1949 (No. 97) (Israel's last report covers the years 1988-1994) and to the Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48) (Israel's last report covers the years 1979-1982).

133. As prescribed by international law and the basic principles of the legal system in Israel, one can safely say that the law in Israel does not discriminate between foreign workers and resident Israeli workers:

The Equal Employment Opportunity Law 1988 prohibits discrimination on the basis of "nationality" or "State of origin" as regards granting work opportunities and determining conditions of work;

The labour laws in Israel that determine the basic rights of the worker (minimum wage, hours of work and rest, prohibition on delaying salary payment, severance pay, safety in the workplace, etc.) apply to every "worker", irrespective of his/her citizenship. This is also the case with regard to other rights stemming from collective agreements and extension orders;

Educational services are provided without distinction to the children of Israeli residents and to the children of foreign workers;

With regard to health services, a distinction should be made between emergency services, granted without distinction to anyone arriving at the outpatients emergency ward of hospitals, and health insurance and other services to which the foreign worker is not entitled on the basis of the National Health Insurance Law 1994. The foreign worker is thus required to insure himself. The exception to this are the three branches of National Insurance - work accidents, maternity and

childbirth - which apply by law (the National Insurance Law (revised version) 1995) to all “workers”, as opposed to the other branches which are dependent on the person being a “resident”;

Welfare services are provided to foreign workers and their families without distinction. There is a statutory requirement on the relevant authority to intervene (such as in the event of violence in the family, sexual assault of minors, neglect of minors, adoption, etc.). As regards other services which are provided to Israelis as part of the benefit programme of the Ministry of Labor and Welfare, the policy is to distinguish between legal and illegal workers: legal workers are entitled to the services provided to Israeli residents, while illegal workers are entitled to emergency services only, with the view to assisting them and their families in leaving the country.

(ii) The reality with regard to foreign workers in Israel

134. In reality, as opposed to the legal situation, foreign workers are more vulnerable than other workers to the possibility of being exploited by employers and the various employment agencies.

135. The employing a foreign worker requires a special residence permit which the relevant employer has taken out for the explicit purpose of the worker working with him alone. In applying the Entry into Israel Law 1952, the Ministry of the Interior makes the granting of a residence permit for the purposes of work conditional on receiving a permit from the Employment Service. The Employment Service in this area operates according to a policy which determines those sectors which require foreign workers, setting quotas for each sector. To get a permit from the Employment Service, the employer has to leave a monetary guarantee of several thousand new shekels to guarantee that the worker will remain with him and leave the country on completion of the work. The employer undertakes in writing to provide the worker with adequate housing, to pay his medical insurance, and to give the worker a copy of his employment contract in a language which the worker understands.

136. The authorities are thus faced with a dilemma. On the one hand is the need to reduce the foreign workforce and in particular combat the phenomenon of remaining in Israel illegally. On the other, it is impossible to ignore the vulnerability of foreign workers, including those with proper work permits. Hence government policy is to act on two levels: to improve enforcement and prevent illegal entry into the country, including returning illegal workers to their country of origin; and improving the help provided to legal foreign workers in enforcing their rights.

137. Below are the main steps currently being taken in the legal and administrative spheres so as to achieve the Government's target of reducing the number of foreign workers while combating discrimination against them.

(iii) The Foreign Workers Administration

138. In 1996, the Government decided to set up the Foreign Workers Administration. The move stemmed from the fear of losing control over the number of foreign workers and from the experience of European countries in this area where the increasing number of foreign workers was accompanied by serious social problems (xenophobia, unemployment, crime, etc.). The job of the Administration is to coordinate the activities of the various authorities involved so as to improve both enforcement of the law and the care for the foreign workers themselves, particularly those in Israel with a permit. The Minister of Labour and Social Affairs is the head of the Ministerial Committee dealing with foreign workers. On 1 June 1997 a full-time chairperson was appointed to the Administration and the body began to work.

139. The first goal set by the Government for the Administration is to curb the phenomenon of workers without permits and gradually reduce the number of permits by 500 workers a month. In the four months since its setting up the Administration recorded a drop of 15,000 in foreign workers with permits.

140. The second goal for the Administration is to coordinate the various non-profit organizations on behalf of the foreign workers, in particular those in Israel with permits, and also directly help the workers themselves by providing information on their rights. However, the Administration is currently still preoccupied with trying to curb the increase of foreign workers, so it will be a while before it can concentrate on providing actual help to foreign workers.

(iv) Legal initiatives

141. The Foreign Employees (Unlawful Employment) Law 1991 sets out criminal prohibitions on employers and employment agencies with respect to employment or detention of a worker without a permit.

142. The power of enforcement under the above law resides with the Minister of Labour and Social Affairs. In the enforcement unit of the Ministry of Labor and Social Affairs 63 inspectors are currently employed, half of whom are assigned to the subject of foreign workers. Eighteen of these are employed in tracking down foreign workers in Israel without permits, 6 investigate the living conditions of foreign workers and 10 investigate their conditions of work and pay. The inspectors are empowered to impose fines on employers who have not paid workers; however, they are unable to compel the employer to pay the unpaid salary. In special cases the inspectors can bring an indictment, such as where the offences are recurrent or particularly serious. For the purposes of tracking down and expelling illegal workers a joint operation is conducted with the Police and the Ministry of Interior, since inspectors of the Ministry of Labor and Social Affairs are not empowered to deport individuals.

143. A government bill is designed to compel employers to provide proper living conditions for their foreign workers, to issue each foreign worker with a copy of his or her contract in a language the worker understands, and to provide health insurance. The bill increases the severity of the punishments that can be meted out to employers, improves the supervision capacity of the Minister of Labour and Social Affairs, and confers supervisory powers on the new bodies described above. The bill is currently at an advanced stage of becoming law.

144. It should be noted that the proposed law is exceptional in terms of the duties it imposes on employers in Israel. It is not normally acceptable in Israeli labour law (as elsewhere) to impose such direct duties on the employer by means of legislation. These are normally obligations which employers accept on themselves, as part of collective agreements, if at all. The measure being introduced here stems from regarding legal foreign workers as requiring greater protection than that granted local workers.

145. Thus, government policy is on the one hand to increase supervisory control and enforcement so as to reduce the phenomenon of foreign workers, and on the other to take steps for the protection of the rights and welfare of legal foreign workers.

Distinctions explicitly permitted

146. Article 2 (c) of the Equal Employment Opportunities Law 1988 cited above explicitly states that the non-discrimination prohibition does not apply when a distinction is "necessarily linked to the nature or essence of the job or position". It is not clear yet how this rule will be interpreted, but inference can be made by analogy from the famous High Court of Justice decision in the Alice Miller case. The court overturned the Israeli Air Force's refusal to recruit a woman to its air-pilot training course. The argument that the position was inherently suitable for men only was rejected by the court, which forced the Air Force to recruit Mrs. Miller, stating:

> "The right to dignity, which encompasses the prohibition of discrimination against women, is one of the most important and fundamental human rights. As a rule, humiliating a woman through discrimination on a gender basis constitutes a grave insult to her person."
> H.C. 4541/93 Miller v. Minister of Defense, P.D. vol. 49 (4) 94, 141.

147. There also exist statutory provisions giving priority to military veterans, single mothers and new immigrants in the domains of recruitment and vocational training. Such preferences are considered legitimate in the light of the special difficulties these categories of workers usually face because of their social condition. They have never been challenged in the courts.

Table 1. Employment and unemployment of Israelis: situations, levels and trends: 1996, 1991 and 1986

				Per cent change		
	1996	1991	1986	1986-1996	1991-1996	1986-1991
Total population						
Aged 15 and over (thousands)	4 019.9	3 427.7	2 906.3	38.3	17.3	17.9
In civilian labour force:						
Number (thousands)	2 156.9	1 770.4	1 471.9	46.5	21.8	20.3
Participation rate (%)	53.7	51.7	50.6			
Employed (thousands)	2 012.8	1 583.3	1 367.9	47.1	27.1	15.7
Unemployed						
Number (thousands)	144.1	187.2	104.0	38.6	-23.0	80.0
Unemployment rate (%)	6.7	10.6	7.1			
Jews						
Aged 15 and over (thousands)	3 362.6	2 902.2	2 479.7	35.6	15.9	17.0
In civilian labour force:						
Number (thousands)	1 880.2	1 556.4	1 302.9	44.3	20.8	19.5
Participation rate (%)	55.9	53.6	52.5			
Employed (thousands)	1 753.3	1 391.6	1 216.4	44.1	26.0	14.4
Unemployed						
Number (thousands)	127.0	164.7	86.5	46.8	-22.9	90.4
Unemployment rate (%)	6.7	10.6	6.6			
Men						
Aged 15 and over (thousands)	1 959.7	1 678.9	1 429.8	37.1	16.7	17.4
In civilian labour force:						
Number (thousands)	1 217.8	1 042.7	903.6	34.8	16.8	15.4
Participation rate (%)	62.1	62.1	63.2			
Employed (thousands)	1 142.0	952.8	844.9	35.8	20.4	12.8
Unemployed						
Number (thousands)	70.8	89.9	58.7	20.6	-21.2	53.2
Unemployment rate (%)	5.8	8.6	6.5			

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Table 1 (continued)

				Percent change		
	1996	1991	1986	1986-1996	1991-1996	1986-1991
Population aged 18 to 24						
Aged 15 and over (thousands)	2 698.9	1 739.2	1 448.5	86.3	20.1	20.0
In civilian labour force:						
Number (thousands)	2 208.2	1 425.9	1 168.7	88.9	54.9	22.0
Participation rate (%)	81.8	82.0	80.7	-		
Employed (thousands)	2 065.9	1 371.9	1 128.7	83.0	50.6	21.5
Unemployed						
Number (thousands)	142.3	53.9	40.0	255.8	164.0	34.8
Unemployment rate (%)	6.4	3.8	3.4	-		
Population aged 25 to 54						
Aged 15 and over (thousands)	5 273.8	3 957.9	3 411.0	54.6	33.2	16.0
In civilian labour force:						
Number (thousands)	4 226.0	3 184.3	2 691.4	57.0	32.7	18.3
Participation rate (%)	80.1	80.5	78.9	-		
Employed (thousands)	4 052.9	3 042.3	2 612.8	55.1	33.2	16.4
Unemployed						
Number (thousands)	173.2	142.0	78.7	120.0	21.9	80.4
Unemployment rate (%)	4.1	4.5	2.9	-		
Population aged 55 to 65						
Aged 15 and over (thousands)	1 383.2	1 167.0	1 009.0	37.1	18.5	15.7
In civilian labour force:						
Number (thousands)	788.7	616.2	507.0	55.6	28.0	21.5
Participation rate (%)	57.2	52.8	50.2			
Employed (thousands)	779.6	602.0	503.8	54.7	29.5	19.5
Unemployed						
Number (thousands)	9.1	14.1	3.2	184.4	-35.5	340.6
Unemployment rate (%)	1.2	2.3	0.6	-		

Source: Israel Central Bureau of Statistics, Labour Force Surveys.

a/ Data from 1990 onwards.

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Table 11 (continued)

				Percent change		
	1986	1991	1986	1986-1996	1991-1996	1986-1991
Population aged 18 to 24						
Aged 15 and over (thousands)	406.9	508.9	490.1	20.5	-3.7	25.0
In civil labour force:						
Number (thousands)	302.1	378.9	368.6	22.0	-2.7	25.4
Participation rate (%)	74.2	74.4	75.2	-	-	-
Employed (thousands)	286.8	361.4	352.3	22.8	-2.5	26.0
Unemployed						
Number (thousands)	15.3	17.5	16.3	6.5	-6.9	14.4
Unemployment rate (%)	5.1	4.6	4.4	-	-	-
Population aged 25 to 44						
Aged 15 and over (thousands)	1,577.3	1,925.5	1,827.1	15.8	-5.1	22.0
In civil labour force:						
Number (thousands)	1,276.6	1,614.1	1,569.4	23.0	-2.8	26.4
Participation rate (%)	80.9	83.8	85.9	-	-	-
Employed (thousands)	1,249.5	1,581.6	1,551.6	24.2	-1.9	26.6
Unemployed						
Number (thousands)	27.2	32.4	17.8	-34.6	-45.1	19.1
Unemployment rate (%)	2.1	2.0	1.1	-	-	-
Population aged 45 to 54						
Aged 15 and over (thousands)	1,332	1,607.7	1,740.1	30.6	8.2	20.7
In civil labour force:						
Number (thousands)	1,188.75	1,521.6	1,680.2	41.4	10.4	28.0
Participation rate (%)	89.27	94.6	96.6	-	-	-
Employed (thousands)	1,169.69	1,514.6	1,623.0	38.8	7.2	29.5
Unemployed						
Number (thousands)	19.16	7.1	57.2	198.6	705.6	-63.0
Unemployment rate (%)	1.61	0.5	3.4	-	-	-
Population aged 55 to 64						
Aged 15 and over (thousands)	1,187.1	1,348.9	1,476.8	24.4	9.5	13.6
In civil labour force:						
Number (thousands)	708.91	827.9	885.6	24.9	7.0	16.8
Participation rate (%)	59.71	61.4	60.0	-	-	-
Employed (thousands)	695.98	809.4	852.3	22.5	5.3	16.3
Unemployed						
Number (thousands)	12.93	18.5	33.4	158.4	80.5	43.1
Unemployment rate (%)	1.82	2.2	3.8	-	-	-
Population aged 65 and over						
Aged 15 and over (thousands)	557.3	725.5	944.1	69.4	30.1	30.2
In civil labour force:						
Number (thousands)	29.6	44.1	73.4	148.3	66.4	49.0
Participation rate (%)	5.31	6.1	7.8	-	-	-
Employed (thousands)	29.5	43.6	72.8	146.8	67.0	47.8
Unemployed						
Number (thousands)	0.12	0.5	0.6	400.0	20.0	316.7
Unemployment rate (%)	0.41	1.1	0.8	-	-	-
Population aged 15 to 17						
Aged 15 and over (thousands)	388.75	521.6	647.2	66.5	24.1	34.2
In civil labour force:						
Number (thousands)	88.27	91.0	112.6	27.6	23.7	3.1
Participation rate (%)	22.7	17.4	17.4	-	-	-
Employed (thousands)	80.69	87.4	104.3	29.3	19.3	8.3
Unemployed						
Number (thousands)	7.16	3.6	8.3	15.9	130.6	-49.7
Unemployment rate (%)	8.07	3.9	7.4	-	-	-

Source: Israel Central Bureau of Statistics, Labour Force Surveys.

1/ Arrivals from 1990 onwards.

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Table 11 (continued)

				Percent change		
	1986	1991	1986	1986-1996	1991-1996	1986-1991
Population aged 18 to 24						
Aged 15 and over (thousands)	406.9	508.9	490.1	20.5	-3.7	25.0
In civil labour force:						
Number (thousands)	302.1	378.9	368.6	22.0	-2.7	25.4
Participation rate (%)	74.2	74.4	75.2	-	-	-
Employed (thousands)	286.8	361.4	352.3	22.8	-2.5	26.0
Unemployed						
Number (thousands)	15.3	17.5	16.3	6.5	-6.9	14.4
Unemployment rate (%)	5.1	4.6	4.4	-	-	-
Population aged 25 to 44						
Aged 15 and over (thousands)	1,577.3	1,925.5	1,827.1	15.8	-5.1	22.0
In civil labour force:						
Number (thousands)	1,276.6	1,614.1	1,569.4	23.0	-2.8	26.4
Participation rate (%)	80.9	83.8	85.9	-	-	-
Employed (thousands)	1,249.5	1,581.6	1,551.6	24.2	-1.9	26.6
Unemployed						
Number (thousands)	27.2	32.4	17.8	-34.6	-45.1	19.1
Unemployment rate (%)	2.1	2.0	1.1	-	-	-
Population aged 45 to 54						
Aged 15 and over (thousands)	1,332	1,607.7	1,740.1	30.6	8.2	20.7
In civil labour force:						
Number (thousands)	1,188.75	1,521.6	1,680.2	41.4	10.4	28.0
Participation rate (%)	89.27	94.6	96.6	-	-	-
Employed (thousands)	1,169.69	1,514.6	1,623.0	38.8	7.2	29.5
Unemployed						
Number (thousands)	19.16	7.1	57.2	198.6	705.6	-63.0
Unemployment rate (%)	1.61	0.5	3.4	-	-	-
Population aged 55 to 64						
Aged 15 and over (thousands)	1,187.1	1,348.9	1,476.8	24.4	9.5	13.6
In civil labour force:						
Number (thousands)	708.91	827.9	885.6	24.9	7.0	16.8
Participation rate (%)	59.71	61.4	60.0	-	-	-
Employed (thousands)	695.98	809.4	852.3	22.5	5.3	16.3
Unemployed						
Number (thousands)	12.93	18.5	33.4	158.4	80.5	43.1
Unemployment rate (%)	1.82	2.2	3.8	-	-	-
Population aged 65 and over						
Aged 15 and over (thousands)	557.3	725.5	944.1	69.4	30.1	30.2
In civil labour force:						
Number (thousands)	29.6	44.1	73.4	148.3	66.4	49.0
Participation rate (%)	5.31	6.1	7.8	-	-	-
Employed (thousands)	29.5	43.6	72.8	146.8	67.0	47.8
Unemployed						
Number (thousands)	0.12	0.5	0.6	400.0	20.0	316.7
Unemployment rate (%)	0.41	1.1	0.8	-	-	-
Population aged 15 to 17						
Aged 15 and over (thousands)	388.75	521.6	647.2	66.5	24.1	34.2
In civil labour force:						
Number (thousands)	88.27	91.0	112.6	27.6	23.7	3.1
Participation rate (%)	22.7	17.4	17.4	-	-	-
Employed (thousands)	80.69	87.4	104.3	29.3	19.3	8.3
Unemployed						
Number (thousands)	7.16	3.6	8.3	15.9	130.6	-49.7
Unemployment rate (%)	8.07	3.9	7.4	-	-	-

Source: Israel Central Bureau of Statistics, Labour Force Surveys.

1/ Arrivals from 1990 onwards.

Table 2. Employed persons by occupation, sex and population group, 1995

Occupation	Grand total			Jews			Arabs and others		
	(in thousands)								
	Total	Males	Females	Total	Males	Females	Total	Males	Females
Total	2 012.8	1 146.9	865.8	1 753.3	941.9	811.4	259.5	205.0	54.5
Academic professionals	243.3	130.9	112.4	230.6	121.2	109.3	12.7	9.7	3.1
Other professionals and technicians	274.5	111.2	163.3	253.9	102.4	151.5	20.6	8.58	11.9
Managers	104.3	83.3	21.0	100.3	79.6	20.7	3.9	3.7	0.3
Clerical workers	332.2	89.5	242.7	316.6	82.9	233.7	15.6	6.6	9.0
Agents, sales workers and service workers	343.3	164.0	179.3	308.0	139.0	169.1	35.3	25.0	10.3
Skilled agricultural workers	41.5	36.2	5.3	34.0	30.0	4.7	6.8	6.2	0.6
Industry, construction and other	487.6	427.3	60.4	359.8	310.1	49.7	127.9	117.2	10.7
Unskilled workers	170.4	92.4	78.0	135.7	66.1	69.6	34.7	26.3	8.4
Unknown	15.6	12.2	3.4	13.7	10.6	3.2	1.9	1.6	0.3
	Percentage distribution								
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Academic professionals	12.2	11.5	13.0	13.3	13.0	13.5	4.9	4.8	5.7
Other professionals and technicians	13.7	9.8	18.9	14.6	11.0	18.7	8.0	4.3	21.9
Managers	5.2	7.3	2.4	5.8	8.5	2.6	1.5	1.8	0.6
Clerical workers	16.6	7.9	28.1	18.2	8.9	28.9	6.1	3.2	16.6
Agents, sales workers and service workers	17.2	14.5	20.8	17.7	14.9	20.9	13.7	12.3	19.0
Skilled agricultural workers	2.1	3.2	0.6	2.0	3.2	0.6	2.6	3.0	1.1
Industry, construction and other	24.4	37.7	7.0	20.7	33.3	6.1	49.7	57.6	19.7
Unskilled workers	8.5	8.1	9.0	7.8	7.1	8.6	13.5	12.9	15.5

Source: Israel, Central Bureau of Statistics, Labour Force Survey, 1996.

Article 7 - Just and favourable conditions of work

Related international conventions binding Israel

148. Israel is a party to numerous related ILO conventions. The following are those of the most general application:

Equal Remuneration Convention, 1951 (No. 100) since 1965; last report relates to the years 1991-1993;

Weekly Rest (Industry) Convention, 1921 (No. 14) since 1951; last report relates to the years 1990-1993;

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) since 1961; last report relates to the years 1990-1993;

Labor Inspection Convention, 1947 (No. 81) since 1955; last report relates to the years 1989-1990;

Holidays with Pay Convention, 1936 (No. 52) since 1951; last report relates to the years 1990-1993;

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) since 1958; last report relates to the years 1991-1995.

Remuneration

Methods for fixing wages

149. The Wage Protection Law 1958 is the legal source in Israel of an employee’s right to remuneration for his or her work. This law defines “wages” in the broadest fashion, determines the time for the payment of wages, creates a right to “wage delay compensation” (including “compensation for delay in severance pay”), prohibits certain deductions from wages and creates a supervisory system under the authority of the Ministry of Labor and Social Affairs (see the full text in annex A to this report).

150. It is fair to say, however, that wages are fixed in Israel primarily by collective agreements and extension orders and only secondarily by individual labour contracts (notwithstanding the Minimum Wage Law dealt with under the next section). The Wage Protection Law does not stipulate the level of remuneration. Even with respect to modes of payments, it leaves much room for collective bargaining to set different arrangements than those prescribed by the law. Moreover, according to section 21 of the Collective Agreements Law 1957, collective agreements can only add to the minimum rights laid down by protective labour statutes - as they in fact do. Similarly, individual labour contracts can only add to the employee's rights laid down by statute or by an applicable collective agreement.

151. As a matter of fact, the vast majority of employees in Israel are covered by collective agreements. The exact number is hard to determine, but it is normally estimated at around 80 per cent. Collective agreements determine scales of wages unique to each trade union. This has created a complex system of occupational and national wage scales. Even when these scales are formally autonomous, they interact with one another in the course of collective bargaining because of workers' demands for adjustments and linkages.

152. The effectiveness of collective bargaining in wage-fixing is enhanced by the use of "extension orders" under sections 25-33G of the Collective Agreements Law 1957 (see the full text in annex A to this report). The most significant example in this respect relates to "cost-of-living increment". This wage adjustment system, essential in a market used to high levels of inflation, is activated by collective bargaining at the national level, between the most representative organizations of employees and employers. The outcome is then extended by administrative order to all employees in Israel.

153. Were it not for the Labor Courts, the complexity of the wage system would lead to abuses of workers. The Courts have already produced a tremendous corpus of case law, and they are still playing a crucial role in securing workers' rights. A good illustration is the complex task of distinguishing the "basic wage" from special "wage supplements". Such supplements come into being for various reasons, some genuinely related to aspects of the work done, others merely bogus. Bogus wage supplements endanger the basis of wages in general, and undermine the wage protection rules laid down by the law. The Courts' contribution here is in looking beyond the denomination of a wage supplement and at its real substance, always bearing in mind the legitimate interests of the employee.

Minimum wages

154. The Minimum Wage Law 1987 imposes a duty to pay no less than the determined minimum wage. Violation of this is both a civil wrong and a criminal offence.

155. The main feature of this statute is that its provisions determine the minimum wage and the mechanism for its adjustment, leaving no room for collective or individual bargaining.

156. "Minimum wage" means, after the 1997 amendment, 47.5 per cent of the "average wage". The "average wage" is in turn determined by the National Insurance Law 1995 according to the actual distribution of income in the market (see further information on "average wage" under article 9 of the Covenant). In setting the minimum wage at 47.5 per cent of the average wage, the Minimum Wage Law takes into account the needs of workers and their families. As recognized by the National Labor Court:

> "The machinery for adjusting the minimum wage was also amended in 1997. The basic calculation is made on the 1st of April each year. This basis must be increased in accordance with changes made in wages by general collective agreement, each time such changes occur (section 4)."

157. The table below shows minimum and average wages in 1986, 1991 and 1996 in relation to the cost-of-living index:

Period	Minimum wage per month	Average wage per month	Cost-of-living index	Minimum wage to average wage
	(Current NIS)		(1987 = 100.0)	(%)
1986	347	1 071	83.4	32.4
1991	1 161	2 656	194.9	43.7
1996	1 996	4 876	333.1	40.6

	Per cent changes			
1986-1991	234.6	148.0	133.7	-
1991-1996	71.9	83.6	70.9	-
1986-1996	475.2	355.3	299.4	-

Source: Israel, Ministry of Labor and Social Affairs and Central Bureau of Statistics.

158. Since the coming into effect of the Minimum Wage Law in 1987, there has been a serious erosion in the minimum wage. The minimum wage in 1991 was in fact 44 per cent of the average wage and even dropped to 41 per cent in 1996. This failure of the minimum wage to keep pace with the rise in the general level of wages between 1991 and 1996 was a principal factor behind the 1997 amendments, which both raised the minimum wage from 45 per cent to 47.5 per cent of the average wage and improved the machinery of adjustment, mostly by increasing the frequency of adjustments.

159. Another important feature of this law is that it applies to all “employees”. A distinction is nevertheless made in the law itself on the basis of age. The legal arrangements described above constitute the general rule and apply to employees aged 18 or over (sect. 2). Employees under the age of 18 also have the right to a minimum wage, but the content of the rules differs. Section 16 of the Law empowers the Minister of Labor and Social Affairs, with the approval of the Knesset Committee for Labor and Social Affairs, to set different standards for young employees. Ministerial Orders issued under this authority in 1987 set a lower minimum wage, ranging from 60 per cent to 83 per cent of the regular minimum wage, according to the youngster's age, the kind of wages paid and whether he or she is an “apprentice”.

160. The Minimum Wage Law also gives the Minister of Labor and Social Affairs supervisory and enforcement powers. The Enforcement Division of the Ministry investigates reports from the public of suspected violations of the Law. The Enforcement Division also initiates its own inspections of the various sectors of the economy and in the regions, industries, and enterprises known to be especially problematic with regard compliance with the the Law (i.e. employers of foreign workers).

161. When a violation is discovered, a letter of warning is sent to the employer. If the violation is rectified, including compensation for any prior periods of failure to pay the legal minimum wage, then no further action is taken. Almost all cases (99 per cent) are settled in this way rather than through taking legal action against the employer. The Enforcement Division reinvestigates former violators periodically to check on continued compliance with the Law.

162. During 1996, the Enforcement Division investigated close to 3,000 enterprises, employing approximately 50,000 workers, with respect to compliance with the Minimum Wage Law. As a result of this supervision, more than 3,000 workers received compensation totalling NIS 1.5 million.

163. Finally, various provisions were added to the law in 1997 in an attempt to encourage employees to file complaints, in order to further promote the implementation of this basic right. Section 7A prohibits an employer from harming an employee with regard to his or her wage, promotion or other conditions of work or from dismissing him or her after claiming violation of the terms of this law. Section 8A empowers the courts to enforce the labour contract when compensation only is judged insufficient sanction. Last but not least, section 14A is intended to help workers of “manpower contractors” (see definition and details under article 6 of the Covenant), by rendering liable under the law the actual person for whom the employee works, in addition to the manpower contractor's liability as the legal employer. Considering that this category of workers seems to be one of those most affected by non-compliance with the Minimum Wage Law, this latter amendment should prove significant.

Equal pay for work of equal value

164. The legal history in the domain of equality of remuneration in Israel reveals an evolving public awareness. The Male and Female Workers Equal Pay Law 1996 totally reshaped the Male and Female Workers Equal Pay Law 1964. The main progress to be noted is a change of conception, from “equal pay for equal work” to “equal pay for work of equal value”. The concept of “job analysis”, crucial for comparing “work of equal value”, is now for the first time given legal significance. The new law enables workers to go beyond the commonly used job descriptions, so as to conduct substantial comparisons between apparently different jobs.

165. The Law empowers the Labor Court to appoint a job analysis expert, whether by request of a party or on its own initiative (sect. 5). Discretion is left to the court to decide if the party or the State Treasury will bear the costs. Due to this Law, this field of expertise will undoubtedly develop. Mention should be made in this context of job analysis and classification

undertaken by the Vocational Guidance Division of the Employment Service, for the use of individuals as well as the Vocational Training Department of the Ministry of Labor and Social Affairs.

166. These concepts are relatively new in the Israeli labour market, so it is too soon to evaluate the Law's impact. But the legal development is in itself remarkable. This relative activism on the part of the legislator is due to recognition of the fact that the legal system has traditionally failed to secure equality of remuneration between men and women. The fact that this is the case in most, if not all, industrial countries has not deterred the Knesset from action.

167. Nevertheless, the overall trend in Israel is one of slow improvement. Women's hourly average wages are still lower than those of men. Over the past 20 years, women's hourly wages have risen somewhat on the average relative to those of men: from 77 per cent in 1975 to about 81 per cent in 1995. By occupation, as shown below, women earned most compared to men (89.5 per cent) in the category “other professionals and technicians” which includes principally kindergarten and primary school teachers, practical engineers and technicians, nurses and paramedical workers. Women earned least relative to men (57 per cent) as skilled workers in industry and construction.

Urban wage and salary workers:

Women's hourly wages as a per cent of men's hourly wages, 1995

Occupation	Per cent
Total	80.7
Academic professionals	79.4
Other professional and technicians	89.5
Managers	75.3
Clerical workers	75.8
Sales and services workers	64.2
Skilled workers in industry and construction	56.9
Unskilled workers	78.3

Source: Israel, Central Bureau of Statistics, Income Surveys, 1995.

168. In the civil service there was a salary gap of 29 per cent between men and women's average monthly salary for full-time work in 1988, slightly diminishing to 28 per cent in 1990 (Efroni 1990). Recent data supplied by the Treasury Department indicates a further decrease down to a gap of 24 per cent in 1996 (CEDAW, pp. 139-142).

Income distribution of employees

169. Shown below are the few data available on income distribution in Israel. No differentiation is made here between workers in the public and private sectors, nor between actual pay and non-monetary benefits.

Urban employees by sex and by income from wages and per hour salaries, 1995

Hourly wage group (NIS)	Total	Men	Women
All employees (thousands)	1 535.0	837.9	697.1
Percentage distribution	100	100	100
Up to 7.9	6.1	4.3	8.3
8.00 - 11.99	17	14.2	20.3
12.00 - 15.49	16.7	17.3	16.1
15.50 - 19.99	16.5	17.4	15.4
20.00 - 29.99	19.8	20.3	19.1
30.00 - 49.99	17.1	17.8	16.4
50.00 and over	6.9	8.8	4.6
Average hourly wage (NIS)	24	25.9	20.9

Source: Israel, Central Bureau of Statistics, Income Surveys, 1995.

170. Additional data on distribution of income is gathered in Israel not by wage and salary of workers, but by households headed by such workers. The table below provides further data on income distribution among such households:

Urban households headed by wage-earning and salaried workers by deciles of gross monthly money income per household and by characteristics of household head, 1995

	Deciles of income										
	Total	1	2	3	4	5	6	7	8	9	10
Upper limit of decile (NIS)	-	2 834	3 810	4 679	5 606	6 655	7 850	9 397	11 820	15 809	-
Gross money income per household (NIS)	8 320	2 050	3 340	4 234	5 161	6 127	7 237	8 578	10 547	13 667	22 228
Average age of household head	40.4	36.5	37.6	37.6	38.7	39.5	40.8	40.8	42.5	44.0	45.9
Average persons per household	3.9	2.6	3.4	3.9	3.9	4.1	4.0	4.1	4.4	4.1	4.2
All household heads	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Year of schooling											
up to 8	12.5	23.6	19.2	17.0	16.2	13.4	10.7	9.1	8.9	5.4	1.4
9-12	43.5	43.2	50.9	47.7	49.9	49.5	47.9	44.6	45.7	34.5	21.5
13+	44.0	33.1	29.9	35.3	34.0	37.2	41.4	46.3	45.3	60.1	77.1
Age											
up to 34	35.4	56.2	49.3	46.0	40.3	38.0	34.8	33.2	24.2	20.0	12.3
35-54	50.7	30.4	37.8	43.3	46.6	50.6	50.7	53.7	63.0	61.2	69.4
55-64	11.4	8.4	9.7	8.8	10.9	9.6	11.7	11.5	11.3	16.3	16.3
65+	2.5	5.0	3.2	1.9	2.2	1.8	2.9	1.5	1.5	2.6	2.0
Jews - Total	88.1	81.2	80.6	80.8	81.1	88.8	90.5	91.7	93.7	95.1	97.5
Continent of birth											
Asia-Africa	16.2	17.4	17.6	12.9	12.6	16.4	18.0	19.8	19.3	16.6	11.7
Europe-America	28.8	31.0	27.0	27.8	31.5	31.2	29.4	28.4	24.4	28.9	28.2
Israel	42.7	32.3	35.1	39.6	36.6	44.0	42.6	43.1	50.0	49.7	57.4
Non-Jews - Total	11.9	18.8	19.4	19.2	18.9	11.2	9.5	8.3	6.3	4.9	

Source: Israel, Central Bureau of Statistics, Income Surveys, 1995.

171. The data shown above is of relative value for the present purposes, but is the best available. It relates to “income” from all jobs held by all earners in a household, together with allowances, overtime, premiums, income from self-employment, property, interests and dividends, pensions, etc. Non-recurrent income is not included. The demographic and educational characteristics detailed in the table refer to the head of household - i.e. the oldest working person. These data are not available by gender.

172. The data in the above table indicate a correlation between income in Israel and both the level of education and age. Income also tends to be higher among Jews than among non-Jews.

Occupational health and safety

173. Occupational health and safety at the workplace are protected in Israel by different legal arrangements. At the most basic level, social security and regular torts law entitle employees to compensation in the event of work-related injuries (see further detail under article 9 of the Covenant). In addition, protection of workers from work risks is promoted by different laws which create a rather complex regulatory scheme of standards and of institutions to monitor these standards.

174. The Work Safety Ordinance (New Version) 1970 is the main law defining standards for an appropriate environment for people to work in (see the full text in annex A to this report). It deals with safety in areas such as machinery, prevention of falls, entry into confined space, means of escape in the event of fire, etc. It also regulates health hazards, including the control of exposure to hazardous materials, medical supervision, the welfare of employed persons and the control of environmental factors such as temperature, ventilation, lighting, etc.

175. Many regulations have been enacted, in addition to this ordinance, which concern work safety and hygiene, including regulations which control exposure by setting occupational standards. These involve the periodic monitoring of the workplace environment and biological monitoring in order to detect early and minor changes of workers’ health at a sub-clinical stage and remove workers from further exposure. These regulations refer to: asbestos, arsenic, benzene, noise, ionizing radiation, metals (lead, mercury, cadmium, chromium, etc.), organic solvents, pesticides and other substances. Some regulations prohibit the use of dangerous agents such as certain carcinogens. Others deal with issues such as safety on building sites or in electricity works, protecting workers by the obligatory use of personal protective gear and other measures.

176. The Labor Inspection (Organization) Law 1954 creates the legal basis for most of the organizations which deal with issues relating to safe and healthy working conditions in the State of Israel (see the full text in annex 1 to this report). The law creates regulatory organizations of various sorts: State organs, public corporation and private bodies. The following is a brief survey of this rather complex system.

The Inspection Service of the Ministry of Labor and Social Affairs

177. The Inspection Service is legally mandated to supervise labour safety, occupational hygiene and welfare in places where people work or are intended to work. The main targets of the inspection service are:

To prevent work accidents;

To prevent occupational diseases which can be caused by exposure to chemicals or physical hazards;

To raise the level of safety in workplaces where there are machines, processes, handling of materials, storage, etc.;

To maintain appropriate working conditions.

178. For these purposes the law empowers the Inspection Service's inspectors to issue safety orders, prohibiting the use of any machine, installation, equipment or material which endangers the welfare or health of a person. Another instrument is the improvement order by which the occupier of a workplace is required to comply with legal provisions relating to the safety, health, hygiene or welfare of persons working in the workplace. The inspectors carry out regular inspections, investigate work accidents and in general seek to use their authority to achieve the above-mentioned goals. They also supply technical information and advice to employers and workers on the most effective means of complying with legal requirements.

179. The Inspection Service employs 75 labour inspectors and runs the Industrial Hygiene Laboratory. In addition, there are 15 assistant labour inspectors whose main role is to visit workplaces to check working conditions; safety and occupational hygiene, and to instruct managers, supervisors and employees on the safety and health aspects of their work.

180. In 1996 the Inspection Service performed 60,761 inspections of workplaces: more than half of the visits were in industry and workshops, about 15,700 of the inspections were made on building sites, while the rest were at agricultural workplaces, harbours, gas and oil storage facilities, etc. The inspectors carried out 957 investigations of work accidents and cases of occupational disease. The Industrial Hygiene Laboratory performed 3,204 environmental tests in places of work measuring the levels of hazardous materials such as dust, gases and fumes in the air inhaled by workers. Other tests were performed to measure the levels of noise, temperature and other environmental factors.

181. There is a serious problem with traditional health and safety inspection techniques, because of the inability to supervise all places of work with the limited staff available. An inspector today has to check and inspect some 1,000 workplaces, a task which is virtually impossible to carry out in full. As a result, the Ministry of Labor and Social Affairs is now developing a new approach as follows:

Providing the opportunity for workplaces to adopt health and safety management standards which they may maintain themselves, allowing the labour inspectors to take a supervisory “back seat” role;

Emphasizing the prevention of hazards at source by obliging manufacturers and importers to introduce only equipment and materials which meet safety and health standards;

Creating a newly revised and up-to-date information system which will enable inspectors to focus their resources in areas needing priority attention. This information system will also be shared with other institutions like the Institute for Safety and Industrial Hygiene (see below) in deciding upon policy.

The Institute for Safety and Hygiene

182. The Labor Inspection (Organization) Law 1954 also created a specialized public corporation - the Institute for Safety and Hygiene. This institute is legally autonomous from the State but is under the ministerial responsibility of the Minister of Labor and Social Affairs. Its roles are to conduct courses and activities aimed at heightening safety awareness and to carrying out research and publishing its findings.

Private regulatory bodies

183. The law also mandates the occupiers of workplaces of more than 50 workers to appoint safety officers, who must be authorized by the Inspection Service. These officers have an important role. Their duty is to use their professional skills and knowledge to promote safety issues in workplaces. They have the legal power to stop any work, machine or process in the workplace if it creates an immediate danger to a worker.

184. The law also mandates the establishing of safety committees in workplaces with 25 employees or more. The duties of these committees are: to clarify causes and circumstances of work accidents; to propose measures for their prevention; to recommend improvements and to advise regarding safety regulations.

185. In addition, the employer has to provide all workers with updated information about hazards that exist in the workplace, and to instruct them on how to perform their work safely and to avoid occupational hazards. Furthermore, in every workplace with 50 employees or more a safety programme has to be prepared which includes a timetable to perform all changes and improvements needed to raise the level of safety in the workplace and maintain the workplace with minimum risk to workers.

186. All workers in the State of Israel are included in the existing protective schemes provided by law and benefit equally from them.

Data on work injuries, fatalities and injury compensation

187. The following table relates to work injuries in the State of Israel from 1992 to 1996:

Year	Number of injuries	Number of workers	Incidence (%)
1992	74 213	1 650 200	4.50
1993	74 701	1 846 900	4.04
1994	81 179	1 969 200	4.12
1995	84 884	2 093 000	4.05
1996	92 140	2 133 700	4.31

188. The following table relates to fatalities from work accidents 1995/1996:

Sector	1996	%	1995	%
Industry	22	25	24	30
Building	49	55	40	49
Agriculture	5	6	5	6
Quarries	1	1	1	1
Ports	1	1	0	0
Trains	1	1	0	0
Other	10	11	11	14
Total	89	100	81	100

189. The following statistics relate to the number of people receiving injury compensation in 1996 according to branches of work:

Total	92 274	
Self-employed	10 418	
Employed (salaried)	81 856	
of which:		
Agriculture, forest, fishing	5 050	6.2%
Industry, small industry	26 200	32.0%
Building	10 634	13.0%
Electricity, water	1 013	1.2%
Commerce, finance	7 827	9.6%
Transportation, communication	5 791	7.1%
Services	24 455	29.9%
Other	886	1.1%
		(including Palestinian workers and foreign workers)

190. The following information relates to injury compensation in 1996 according to sex and age:

	Total	-17	18-24	25-34	35-44	45-54	55-60	61-64	65+
Total	92 274	793	13 550	24 428	22 892	18 605	7 187	2 833	1 986
%	100	0.86	14.68	26.47	24.81	20.16	7.79	3.07	2.15
Males	73 599	718	11 284	20 655	18 332	13 646	5 105	2 268	1 591
%	100	0.98	15.33	28.06	24.91	18.54	6.94	3.08	2.16
Females	18 675	75	2 266	3 773	4 560	4 959	2 082	565	395
%	100	0.4	12.13	20.2	24.42	26.55	11.15	3.03	2.12

More detailed data are not available and will hopefully be provided in the next report under the Covenant.

Equal opportunity for promotion

191. The Equal Employment Opportunities Law, 1988 prohibits discrimination in the area of promotion. This law was discussed above in the context of the right to work. There are only a few additions that need to be made here.

192. The first landmark decision in Israel on the issue of discrimination at work, given by the National Labor Court in 1974, dealt directly with the issue of promotion. In the absence of an immediate statutory source, the Court based its reasoning on the illegality of a collective contract contradicting public policy, discrimination being seen as such a contradiction.

193. Promotion rights are primarily found in collective agreements. Consequently, equality of opportunity in promotion remains a question of non-discrimination in collective agreements. Factual data are hard to gather on such matters.

194. Finally, equal opportunity in promotion should be indirectly enhanced by the development of “job analysis”, which is developing for the sake of claims under the Female and Male Workers Equal Pay Law, 1996. This should be so because opportunities for promotion are obviously dependent on the jobs available, which are in turn dependent on the job descriptions considered relevant by the employer. Using job analysis should widen the range of factors to be considered in granting promotion and make it more difficult for employers to discriminate in promoting workers.

Rest and leisure

195. Rest and leisure-related rights are secured in Israel on two levels: several protective laws define binding minimum standards; additional rights stem from collective agreements and sometimes from extension orders.

196. The Hours of Work and Rest Law 1951 defines the length of the working day, the working week, weekly rest and work breaks (see full text in annex A to this report). It sets the procedure for employing workers beyond the quota of hours provided for in the law or during the weekly rest, including the compensation to be paid for such overtime work. Breach of this law is grounds for a civil suit by the employee, and in some instances constitutes a criminal offence of the employer. In addition, the law provides the Ministry of Labor and Social Affairs with various powers, mainly for supervision, inspection and the issuance of exceptional work permits.

197. The Annual Leave Law 1951 defines the right to annual leave and its duration, as well as remuneration during such leave (see full text in annex A to this report). It also covers such issues as the amount of leave that may be accumulated and the limitation period for bringing actions to court under the law. The law also includes criminal and regulatory provisions similar to those of the Work and Rest Hours Law 1951.

198. Collective agreements commonly grant more generous rights than those laid down by the above two laws and extension orders are commonly issued. As a result, for about 80 per cent of workers these statutes are of little importance.

199. A shift took place in Israel between 1995 and 1997 from a six to a five-day working week. This shift is one of the best examples of the importance of collective bargaining. A general collective agreement was first reached in 1995 at the national level by the most representative organizations of employees and of employers. This agreement was a year later extended to the vast majority of workers in Israel. Accordingly, the maximum “working week” for most workers went down, firstly to 45 hours a week and, as from 1 July 1997, to 43 hours. The legislator then amended the law in 1997 so that the maximum “working week” was set to 45 hours a week (instead of 47 hours).

200. Neither of the above laws applies to all employees. Each law specifies certain types of workers excluded from coverage (section 30 (a) of the Hours of Work and Rest Law 1951 and section 35 (a) of the Annual Leave Law 1951). But none of the categories is based on discrimination. The exclusions stem from the characteristics of specific sorts of employment, not from personal characteristics of the employee.

201. A distinction between Jews and non-Jews is made in the Hours of Work and Rest Law 1951, which requires explanation. For Jews, weekly rest must include Saturday - the Jewish religious rest day (Sabbath), whereas for non-Jews it must include either Friday, Saturday or Sunday, according to the worker's custom (sect. 7). The Israeli courts have explained this difference by noting the two objects of the law: one, social - to protect workers' health by providing for rest - the other being to conserve the Jewish people's heritage and to respect the religious feelings of broad parts of the population. One should bear in mind that a large number of non-religious Jews still define themselves as “traditionalist” and cherish the fact that Sabbath is a common special day.

202. In addition to the above laws, below are the laws enumerating the public holidays employees are entitled to without pay deduction:

(a) Religious holidays of members of the Jewish, Muslim, Christian and Druze communities in Israel;

(b) Independence Day;

(c) Election Day.

203. The employers' obligation to pay workers for public holidays is stipulated in the collective bargaining agreements for each economic sector.

Article 8 - Collective labour rights

Related international conventions binding Israel

204. Israel has been a party to the International Covenant on Civil and Political Rights since 1991. Israel's initial report is to be submitted this year.

205. Israel has been a party to the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), since 1957; the last report relates to the years 1992-1993.

206. Israel has been a party to the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98), since 1957; the last report relates to the years 1993-1994.

207. As already mentioned, the ILO standards have had and still retain tremendous influence on the shape of Israeli labour law. This is even more so as far as collective labour law is concerned. In the first place, a central statute in this field, the Collective Agreements Law 1957, was deliberately drafted so as to comply with the ILO Convention No. 98. Secondly, important issues in this field are not covered by legislation but by judicial precedents, which have always been primarily influenced by ILO conventions and standards.

Formation of trade unions and membership

208. While trade unions in Israel have statutory status and powers (described below), there is no law regulating their formation and the conditions for joining them. Nevertheless, the right to organize in trade unions is recognized by Israeli courts as a fundamental principle, whether as part of the civil right to organize or as a specific worker's right. As the High Court of Justice stated in a recent landmark case:

> “The right of association is 'one of the human liberties' [cite omitted], and it is deeply entrenched and well protected in the jurisprudence [cite omitted]. This is so in general, and also in

respect of the right to organize in a trade union [cite omitted] ... Indeed, in Israel too, workers of all kinds are entitled to establish an organization of their choice, without any prior authorization requirement.

"The right to freedom of association, and its various components, is not written in a code of legislative acts. This right was recognized in two international labour conventions ... Those treaties were not incorporated into Israeli law. Nevertheless, the trend to reconcile domestic law and the State's international obligations as undertaken in treaties, has led to the recognition that 'according to the international labour law which is binding in Israel, the right of workers to organize is ensured' [cite omitted]. In light of the essence of this right, it can be said that 'the freedom of Israeli workers to form trade associations is one of the fundamental bases of our democratic society ... and the Court has been and will continue to be diligent in securing its existence and giving optimal meaning and validity to its protection' [cite omitted]. It should be noted, that not long ago it was proposed that the right to organize in trade unions be incorporated in the draft Basic Law: Social Rights Bill, and thereby accord it a constitutional status ... Although this proposed legislation was not adopted, the status of freedom of association as a fundamental principle of the system was not impaired."
H.C. 7029/95 The New General Workers' Histadrut v. The National Labour Court, Amit et al., Takdin-Supreme vol. 97 (1), 38, pp. 51 and 89-90.

209. The right thus includes the right to form a union, the freedom of operation of a union, and the right to freely join a union, including the right not to join one.

The right to form a trade union

210. As a general rule, any group of workers can form a labour union, but for this union to have legal power it must meet the recognized characteristics of a workers' organization and it must be representative.

211. The Labour Courts have developed a significant set of tests for the identification of an organization as a trade union:

Stability: the organization needs to be created with no time limit or for a long period, not for a particular bargaining session;

By-laws: the organization has to have by-laws regulating its aims, its institutions and their power, conditions for membership, and the like;

Personal and voluntary membership: a trade union must be based on the personal and free consent of workers to accept membership. This applies to becoming a member as well as to forfeiting membership;

Workers' representation: the vast majority of members have to be employees;

Aims: the organization's aims have to be first and foremost collective bargaining with the employer for the purpose of fixing working conditions and workers' rights within collective agreements;

Independence: a trade union has to be independent from the employer and free to operate without external intervention;

Internal democracy: a trade union has to respect minimal democratic principles such as periodic, free and equal elections of representatives, with the participation of all member workers, public accountability of representatives, freedom of speech of workers and principles of non-discrimination.

Incorporation: there is no requirement to be formally incorporated.

212. Representation requirements are defined in the Collective Agreements Law 1957 according to the type of agreement (see full text in annex A to this report). Section 2 of this law distinguishes between a “special collective agreement”, which relates to a particular undertaking or employer, and a “general collective agreement”, which relates to branches of employment in the whole country or in a particular area. For both types, the basis of representation is the “greatest number of organized employees to whom the agreement is to apply”; for a “general” agreement, representation is a function of membership only; for a “special” agreement, it is either membership or other form of representation (i.e. by a special decision by workers), but the organization must represent not less than one third of the total number of employees to whom the agreement is to apply (see sections 3 and 4 of the Law).

Number and structure of trade unions in Israel

(i) The Histadrut

213. There exist in Israel a relatively large number of trade unions. The most prominent is the General Federation of Labor - Histadrut. It was created in 1920, long before the creation of the State. Its name was then the General Federation of Jewish Workers in Israel and it was changed in 1966, reflecting the fact that the Histadrut had become representative of all workers, including non-Jews. In 1996 it was renamed again The New Histadrut, reflecting a change in leadership. According to its by-laws, any worker aged 18 or over who is not a member of another labour organization may become a member. In fact, Histadrut membership extends across a broad spectrum: production workers and clerks, blue and white collar workers, urban and rural workers, academicians and unskilled labourers, retired persons and students, Jews and non-Jews, men and women, and so on.

214. The Histadrut's highest legislative institution is its National Conference, whose candidates are elected in proportional and secret elections on the basis of political party lists. The main Israeli parties are

represented. The Labour Party retained its majority until 1994, when it had to enter a coalition with a new list that had taken over. The Secretary-General has always been a Labour Knesset member, except for a period of about two years between 1994 and 1996.

215. Histadrut's activities traditionally aim to be of a holistic nature, including trade union, social security and mutual aid, labour economy, culture and education. However, trade union activities are today undoubtedly the most important. These are conducted according to the Histadrut by-laws on three levels: the workers' committee in every plant which represents all workers in the plant; a local or regional worker's council representing the Histadrut at the local level; and the national union, which is organized by profession, occupation or industry. There are 37 national unions operating under the Histadrut umbrella. Each national union is empowered to sign collective agreements on behalf of the Histadrut.

216. The vast majority of Israeli employees belong to the Histadrut. Up until 1995 membership in the Histadrut was linked with membership in the General Health Fund, the main provider of health services in the country, which is affiliated to the Histadrut. As a result there were many members who were not workers and a portion of the General Health Fund was transferred to the Histadrut. This link was severed in 1995 when a new National Health Insurance Law remodelled the system of funding of health providers in Israel, resulting in a certain cut in the Histadrut membership. There is no doubt, however, that the Histadrut still remains the largest and most representative workers' organization in Israel. Exact membership numbers are no longer disclosed by the Histadrut.

217. The prominence of the Histadrut gives it a special status. General collective agreements between the Histadrut and the Coordinating Council of the Economic Organizations (relating to the private sector) or between the Histadrut and the Government (relating to the public sector) are the most influential instruments shaping labour relations and working conditions in Israel today, especially when extended by extension order. Examples of the sort can even be found in various parts of this report, as with regard to "wage fixing" and the "cost-of-living increment", or the shortening of the "working week". A dramatic illustration of the importance of this instrument was in 1985, when the inflation rate had got out of control, reaching around 400 per cent annually, and an emergency economic plan was badly needed. An economic package was eventually finalized at the highest level on a tripartite basis - between the Finance Minister, the Secretary-General of the Histadrut and the Chairman of the Coordinating Council of the Economic Organizations. This deal is considered to have greatly contributed to saving the Israeli economy.

(ii) Labour organizations other than the Histadrut

218. Some of the free professions are organized within the Histadrut, but a few others are organized in independent trade unions: the Medical Federation, the Journalists' Union, the High School Teachers' Union and the University Teachers' Union. Some unions, although organized within the Histadrut, enjoy a high degree of autonomy, such as the Union of Engineers and Architects.

219. Other unions in Israel are of a general character, like the Histadrut, but with far fewer members and less political and social influence. The differences between them and the Histadrut are ideological. The largest such organization is the National Workers' Federation, which offers a more nationalist platform than the somewhat socialist one of the Histadrut. It does not publish numerical information on its membership and usually has not been successful in becoming the representative organization in places of employment. There also exist a few small labour organizations of religious orientation. These organizations have never really competed with the Histadrut, but have come to agreements with it, granting them representation in delimited places of employment.

220. Although one can doubt the significance of the role played by non-Histadrut labour organizations in shaping Israeli labour relations, their continued existence does attest to the reality of freedom of formation and operation of trade unions. Furthermore, national unions within the Histadrut have sometimes threatened to step out and gain independence, affirming their legal right to do so. This aspect of trade unions' rights has had its influence on the Histadrut itself.

Individual freedom to join a trade union

221. No employee in Israel can be forced to join a labour organization. This clearly derives from the norm mentioned above, according to which “voluntary membership” is an inherent characteristic of a labour union. This was stated by the Labour Court on various occasions such as the following:

> “Whereas 'freedom of association' is directed, essentially, towards the relevant public, the 'right to associate' is directed at the individual. The 'right to associate' ensures that the individual is always able to join an organization of his choice.”
> 1975/5-1 Markovitz Leon et al. v. Histadrut, PDA 6, 197.

222. As to the meaning of “voluntary membership” the court has made it clear -

> “Voluntarism in our context means that membership in the association is the result of the will of the person in question; if he so chooses - he may join the association; if he so chooses - he may leave it. The answer to the question whether membership in an association is voluntary may be found in its code.”
> 1982/5-2 Histadrut v. The Paz Senior Workers’ Association, PDA 14, 367, 385.

223. Collective agreements in Israel also reflect this principle. These commonly set arrangements of the “agency shop” type: the employer recognizes the labour organization with which the agreement is made as his or her counterpart for collective bargaining, and agrees that collective agreements with this organization should apply to all workers employed by him or her. But in contrast to “closed shop” arrangements, according to which the employer undertakes not to hire employees who do not join the labour organization with

which the agreement was made, “agency shop” arrangements leave the individual workers the choice whether to join the union or not. However, this arrangement requires employees who choose not to be members of a union to pay a “trade union service fee”.

224. The said service fee, which is lower than the membership fee and does not confer membership rights or duties, is considered a fair contribution in return for services. One should remember that collective agreements can only add to the workers' rights and may apply also to workers who are not members of the union but who are employed at the workplace covered by the agreement. The trade union service fee gained statutory recognition in 1964, when the Wages Protection Law 1958 was amended to include “trade union service fees” among the permissible deductions from a worker's wages.

225. The legitimacy of “closed shop” arrangements was dealt with in brief by the Labour Court in a relatively recent case.

Freedom of operation of trade unions

226. Labour unions in Israel are free to formulate their constitutions without any interference on the part of the State. This basic principle is clearly recognized by the Labour Court:

> “One of the elements of 'freedom of association' is the right of the organization to make its own constitution, in accordance with the laws of the State, as long as such laws are not contradictory to the principle of freedom of association.”
> 1975/5-1 Markovitz Leon et al. v. Histadrut, PDA 6, 197.

227. Freedom to organize goes with its accompanying rights; these together make up the civil liberties necessary to the continuous and routine operation of trade union activities, such as personal freedom, protection from arbitrary arrest or imprisonment, freedom of expression and so on. Labour organizations have always enjoyed such liberties in Israel, and their application to labour relations is taken for granted.

228. A union's freedom also means autonomy in collective bargaining. This would have no meaning without collective agreements being granted recognition. The Collective Agreements Law 1957 not only recognizes collective agreements and grants them the power to determine workers' rights, it also keeps to a minimum the possibility for State interference. Thus, to be recognized a collective agreement need only be filed for registration, the registrar having no discretion on the matter. Furthermore, a claim with regard to representation can only be initiated by another employees' organization (art. 6 of the Collective Agreement Law 1957).

229. Nevertheless, since collective agreements have the effect of law for the workers to whom they apply, commonly recognized restrictive principles apply. Although the content of a collective agreement is left to the parties to define, it is not allowed to contravene the law or fundamental public interests. In this spirit, the Labour Court decided that principles of

regular contracts law in Israel - such as the duty of “good faith” in negotiations or the various grounds for nullity of contracts - apply to collective bargaining and agreements. The doctrine of “fair representation” is applied as well.

The right to strike

The status of the right to strike

230. The right to strike as such is not regulated by an explicit legal provision, however, it is uncontested that such a right exists under Israeli law. On countless occasions the Labour Courts and ordinary courts of Israel have recognized explicitly or implicitly the right of workers to strike as a basic liberty. In a landmark case, the Supreme Court of Israel analysed the status of the right to strike:

> “The statutory law in Israel does not include a specific provision granting workers the right to strike, but the issue of striking is mentioned in many legislative acts ... [list of provisions omitted]. Despite the lack of a positive legislative provision concerning the 'right' to strike, its existence has been recognized by the Labour Courts and the ordinary courts. In Case 31/4-4 [Labour Court cite omitted], it was stated that 'the view that participation in a strike suspends the labour contract, and does not constitute a breach of contract is derived from the right to strike, and although in Israel this right is not explicitly provided for in a legislative act, it arises from the ILO Right to Organize and Collective Bargaining Convention, ratified by Israel, and is supported by the various provisions in labour laws’ [additional citations omitted]. In C.A. 573/68, P.D. vol. 23 (1), 516, the Supreme Court (opinion of Judge Berenson) recognized the legality of a strike which 'conformed with and was legal under tort laws'. In C.A. 25/71, P.D. vol. 25 (1) 129, 131, Judge H. Cohen wrote the following: 'It can be said that nothing could be further from the Israeli legislator's mind than the intent to abolish the institution of strikes: if one of the English judges referred in a recent judgement to the right to strike as a “sacred cow”, we should consider it at least a sacred tradition which can no longer be doubted.' In C.S.A. 1, 2/86, P.D. vol. 40 (2) 406, 415, [Supreme Court] President Shamgar held that Article 19 of the Collective Agreements Law, 1957 is designed to protect the right to strike. Consequently, it can be said that the 'right' to strike has gained a strong position in Israeli legislation and case law.”
> C.A. 593/81 Ashdod Car Factories Ltd. v. Chizik, P.D. vol. 41 (3) 169, 191.

231. In parallel, the courts have recognized as a corollary of the right to strike the employer's right to order a lock-out. However, such action on the part of the employer can only be taken as a defensive measure (i.e., as a reaction to a strike) and must be proportional in its effect to the measures taken by the employees.

232. The already mentioned Basic Law: Social Rights Bill addresses the right to strike (in art. 5). Its adoption would build upon the existing recognition

of the right to strike and afford it additional constitutional protection, thus securing not only the status of this right but also its scope. Such protection is needed to counter the possible restrictive effects of the existing Basic Laws which gave constitutional status to the rights to property and to freedom of contract.

The content of the right to strike

233. The term “strike” has been defined by judicial precedents. A strike is basically a collective measure applied in the context of a labour dispute between recognized parties. Even though protection is given to the individual employee, the exercise of this right is not left in his hands but to the recognized party to a labour dispute - his or her labour organization. Or, in the wording of the Settlement of Labour Disputes Law 1957 (art. 3):

> “In a labour dispute between the employer and his employees or some of his employees, the parties to the dispute are the employer and the labour organization representing most of the employees affected by the dispute, and in the absence of such a labour organization, the representatives elected by most of these employees, whether for general matters or for the specific labour dispute.”

234. The right to strike is implemented in Israel by granting special protection to workers and their organizations when going on strike:

(a) First and foremost, participation in a strike shall not be considered a breach of individual labour contract, including individual obligations under a collective agreement (art. 19 of the Collective Agreements Law 1957). The strike only suspends the labour contract, but does not provide legal justification for its termination;

(b) Second, a strike does not constitute a breach of contract for the purposes of presenting a tort claim for “causing a breach of contract” (art. 62 (b) of the Torts Ordinance (Revised Version));

(c) A strike does not interrupt continuity in employment for the purposes of calculating benefits under the various protective labour laws, such as pension (art. 3 (2) of the Public Service (Pensions) Law (Consolidated Version) 1970), severance compensation (art. 2 (6) of the Severance Pay Law 1963), annual leave (art. 4 (4) Annual Leave Law 1951), rights of veterans (art. 4 (b) of the Discharged Soldiers Reinstatement Law 1949) and soldiers in reserve service (art. 7 (c)(3) of the Reserve Service (Benefits) Law 1952);

(d) A strike regarded as legitimate by the courts will not give grounds for an injunction against the strikers' union, and no relief will be granted in favour of a party to a strike who acts unlawfully or in bad faith. The courts are guided in this regard by general principles as well as by the Settlement of Labour Disputes Law 1957. This law places limitations on strikes (described below), hence supporting the view that strikes that meet those conditions are legitimate.

(e) Lastly, the Employment Service may not interfere with strikes, and is prohibited from referring potential employees to replace workers on strike (art. 44 of the Employment Service Law 1959).

Restrictions placed on the right to strike

235. The right to strike in Israel is not unlimited, and certain restrictions have been recognized by the courts based on various sources - legislation, labour organizations' by-laws, collective agreements - and with the guidance of ILO standards. It should be noted that similar restrictions, created by all three alternative sources of law, apply with regard to lock-outs.

(i) Restrictions in legislation

236. Article 5 A of the Settlement of Labour Disputes Law 1957 imposes a technical prerequisite on the right to strike:

> "Notwithstanding Article 5, a party to a dispute must give notice [of dispute] to the other party and to the chief official, on every strike or lock out, whichever is relevant, at least fifteen days before their initiation."

This provision has been explained by the Supreme Court as introducing a compulsory "cooling off" period designed to enable the parties to the dispute to resolve their differences through negotiations.

237. The Labour Courts have placed a broad construction on this provision and required prior notice in a range of partial work sanctions such as slow-downs, refusal to work overtime and partial strikes. In the public sector, failure to serve notice would automatically lead to the classification of the strike as unprotected.

238. Article 37 A and B of the Labour Dispute Settlement Law 1957 provides that a strike in the public sector which takes place within the duration of a collective agreement (with the exception of a strike unrelated to wages or social conditions, approved by a qualified labour union), or in the absence of such agreement and not authorized by the qualified labour union organs, will be classified as an unprotected strike.

239. The classification of a strike as unprotected does not necessarily imply that it is also unlawful, but such determination will result in the loss of some of the privileges accorded to participants in a lawful and protected strike.

240. Article 37 A of the Labour Dispute Settlement Law 1957 permits political strikes (i.e. strikes unrelated to wages or social conditions) in the public sector, even during the life of the collective agreement, on condition that they are approved by the qualified union organ. No similar provision can be found with regard to the private sector. Thus, no strike will be recognized as lawful in that sector during the life of a collective agreement.

(ii) Restrictions in union by-laws

241. The labour unions have voluntarily provided, in their constitutive instruments and other by-laws, for certain procedures to be complied with in every case a strike is to be called. For instance, the constitution of the Histadrut lays down a system of consultations and voting procedures involving the national union representatives, the local workers' committees and the Histadrut Workers' Council. Failure to comply with these procedures would lead to the classification of the strike as an unlawful (or a “wildcat”) strike.

(iii) Restrictions in collective agreements

242. In many collective agreements a provision prohibiting strikes for their duration can be found. Furthermore, the Labour Courts have held that an implicit presumption of non-strike obligation can be found in any collective agreement. In addition, any difference pertaining to the implementation of the agreement should be resolved through the mechanisms provided for in the agreement, or, in their absence, through the Labour Courts. Thus, unless there is some indication to the contrary in the agreement itself, strikes conducted during the life of a collective agreement are unlawful. This line of decisions of the Labour Courts has been significantly narrowed by the Supreme Court, which has held that the obligation not to strike is valid only if the other party keeps his or her obligations under the agreement.

(iv) Additional restrictions in case law

243. The main restriction imposed by the Courts on the right to strike stems from a Supreme Court decision that the immunity granted under article 62 of the Torts Ordinance (Revised Version), dealing with the tort of “causing a breach of contract”, does not extend to encompass other torts. Consequently, strikers can be held liable under several wrongs, such as negligence, trespassing, misappropriation of personal property and nuisance. This decision implies that the right to strike can only be applied subject to the non-commission of a tort vis-à-vis third parties.

244. Another limitation involves the purpose of the strike. A strike cannot be considered lawful if it has nothing to do with labour relations. Hence, a political protest can only lead to a short protest strike. The exact definition of “political strike” in this sense is rather dynamic and hard to grasp.

245. Additional restrictions apply to unprotected strikes in the Public Sector:

(a) The Employment Service may send replacement workers to substitute the strikers;

(b) A strike can be deemed a breach of the collective employment agreement;

(c) Immunity under article 62 of the Tort Ordinance (Revised Version) is lost (but only vis-à-vis the direct parties to the labour dispute).

Statistics on strikes in Israel

246. The following figures amply demonstrate the frequent use made of the right to strike by employees in Israel and of employers' lock-outs.

Year	No. of slow-downs	No. of strikes and lock-outs (excluding slow-downs)	No. of persons involved in strikes and lock-outs	Work days lost
1960		135	14 420	49 368
1965		288	90 210	207 561
1970		163	114 941	390 260
1971		169	88 265	178 621
1972		168	87 309	236 058
1973	54	96	122 348	375 023
1974	49	71	27 141	51 333
1975	62	117	114 091	164 509
1976	76	123	114 970	308 214
1977	57	126	194 297	416 256
1978	55	85	224 354	1 071 961
1979	97	117	250 420	539 162
1980	54	84	91 451	216 516
1981	59	90	315 346	782 305
1982	79	112	838 700	1 814 945
1983	47	93	188 305	977 698
1984	74	149	528 638	995 494
1985	64	131	473 956	540 232
1986	92	142	215 227	406 292
1987	89	174	814 501	995 546
1988	93	156	327 193	516 071
1989	58	120	209 841	234 073
1990	75	117	571 172	1 071 279
1991	52	77	38 776	97 923
1992	64	114	211 833	386 658
1993	40	73	462 208	1 636 866
1994	38	75	106 047	792 533

The armed forces, the police and the administration of the State

247. Any group of workers can form a trade union, with a few exceptions. Members of the police force are prohibited by law from creating an organization of their own, but they are allowed to join regular trade unions. Judges traditionally do not consider themselves ethically free to organize, even though there is no statutory provision on the matter. In any case, the courts have ruled that the status of judges is a special one, and that they are not “employees”. Civil servants, on the other hand, are under no limitation whatsoever to organize and they have done so.

248. Furthermore, the courts have held that in circumstances where the exercise of the right to strike would cause detriment to another vital interest in an irreconcilable way, the right to strike may be restricted. Thus, soldiers and policemen cannot strike.

249. Regarding civil servants, the right to strike may be restricted for “indispensable” workers in specific key positions, who perform crucial tasks for the safeguard of vital public interests (i.e. certain medical functions, vital social services, supply of vital public commodities, and so on). Use of governmental emergency powers is then made to order individual workers to stay at work. Breach of such orders can be sanctioned by penal law.

250. It should be stressed, however, that the use of emergency orders is dependent upon specific approval by the Cabinet. Furthermore, according to the Attorney-General's Directives, consultation with the Attorney-General’s office is also required, and each individual order to be issued is then checked.

Article 9 - The right to social security

Related international conventions binding Israel

251. Israel is a party to the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) and regularly submits reports to the advisory committee on the measures taken to give effect to the provisions of the Convention. Its last report relates to the years 1992-1995.

252. Israel is also a party to the ILO Maintenance of Migrants' Pension Rights Convention (No. 48) since 1963; the last report covers the years 1979-1982.

253. In addition, since 1965 Israel is a party to the ILO Equality of Treatment (Social Security) Convention (No. 118); Israel's last report covers the years 1991-1993.

Social security branches in Israel

254. Most social security schemes in Israel are public and regulated by the National Security Law (Revised) 1995. The full text of this comprehensive law is attached in annex 2 to this report. The Law combines two kinds of

arrangements: insurance-based rights, proportionate to the premiums paid; and arrangements aimed at assisting people in need. The Supreme Court declared the social purpose of this central piece of legislation as follows:

> "The purpose is to guarantee sufficient living resources to the insured, their dependants and their survivors, every time their income decreases or disappears due to one of the reasons enumerated in the law, such as injury on the job, unemployment, birth, death, etc."
> C.A. 255/77 The National Insurance Institute v. Almohar, P.D. vol. 29 (1) 11, 13-14.

255. The following branches of social security exist in Israel and are administered by the National Insurance Institute (hereinafter "NII"): maternity benefits; old-age benefits; disability (invalidity) benefits; survivors' benefits; work (employment) injury benefits; unemployment benefits; child allowances (family benefits). In addition, the NII is responsible for administering the following benefits and compensations: long-term care, mobility, income maintenance support, accident injury, rights of volunteers, hostile action casualties, violence in family, "Prisoners of Zion", "Righteous Gentiles", reserve duty service, insurance of employees of bankrupt and liquidated firms, guarantee of alimony payments and others.

256. The NII is also responsible both for collection and distribution of insurance premiums in relation to health services, according to the National Health Insurance Law which came into effect in January 1995. (Full account on this topic is provided under article 12 of this report.)

Maternity benefits

(i) Coverage

257. The following benefits are granted:

(a) Hospitalization grant, maternity grant and birth allowance to:

(i) Insured woman or wife of insured individual, even if she gave birth outside Israel;

(ii) Employee or self-employed woman working in Israel or the wife of an employee or self-employed individual working in Israel for at least six months immediately preceding the birth, even if not residents of Israel, provided she gave birth in Israel;

Paragraph (ii) above does not apply to an individual who lives in the territories or within the Palestinian Autonomy and is not an Israeli resident as defined by law;

(b) Maternity allowance and vacation pay to:

(i) An employee or self-employed woman, aged 18 or over, working in Israel;

(ii) A woman aged 18 or over in vocational training; a woman employee working abroad under certain conditions;

(c) Risk Pregnancy Benefit to a resident of Israel who is an employee or self-employed woman.

(ii) Nature and level of benefits

258. The maternity grant, given to the mother in the hospital to purchase a layette for the newborn child, is paid at the following rates: 20 per cent of the average wage* for one child, 100 per cent of the average wage for twins, and an additional 50 per cent of the average wage for every additional child born in the same birth. The grant for a multiple birth is determined according to the number of children who remain alive at least seven days; if they leave the hospital before the end of the seven-day period immediately following the birth, the grant is determined according to the number of children who leave the hospital.

259. An adopting parent receives a grant equivalent to the maternity grant, according to the number of children under 10 years old who were adopted on the same day.

260. Maternity allowance is paid at a rate of 100 per cent of the average daily income of the entitled woman in the three months preceding the determining date, from which income tax and (national and health) insurance contributions are deducted.

261. Other benefits under maternity insurance include the birth allowance, paid for six months to a mother who gives birth to three or more children at one birth; the risk pregnancy benefit, paid to a woman who ceases work due to need for precautionary rest as a result of a risk pregnancy; and the special allowance and benefit, paid to the widower of a woman who died while giving birth or within a year of giving birth.

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* The reference is to the average wage according to the National Insurance Law, for purposes of benefits and insurance contributions. It is calculated according to a method determined in the Law, on 1 January of every year, and it is updated each time a cost-of-living compensation is paid to employees.

(iii) Method of financing

262. Financing of this branch is based on insurance premiums, or contributions (compulsory payments as percentage of wages or income), as follows:

	Full rate	Reduced rate*
Employee	0.60%	0.33%
Employer	0.15%	0.15%
Self-employed	0.75%	0.48%
Other insured	0.25%	0.11%
Government		
- for employee	0.10%	0.03%
- for self-employed	0.10%	-

* Employees, self-employed and insured workers who are non-workers and non-self-employed pay reduced rates of insurance contributions on the part of income which is up to half the average wage according to the National Insurance Law, beginning in January.

Old-age benefits

(i) Coverage

263. An Israeli resident, aged 18 or over, unless immigrated for the first time at age 60 or over, is insured for old-age benefits. A new immigrant who is not insured due to his age at the time of his immigration and who has reached pension age is eligible for a special old-age benefit. This benefit is not covered under the National Insurance Law but rather under a special agreement, and is paid at the same rate as the regular old-age pension.

264. A recent enactment which is to be gradually implemented enables a housewife whose husband is insured or a widow receiving a pension to be covered if she does not work outside the home, was born after 31 December 1930, is between the ages of 60 and 65, and is a resident of Israel. A married woman who does not work outside her home and who receives a general disability pension, as well as other individuals not covered in compulsory insurance, may insure themselves through voluntary insurance.

(ii) Coverage and nature of benefits

265. The basic old-age pension is intended to guarantee a minimum level of basic subsistence. Men aged 70 and over and women aged 65 and over are paid at a uniform rate of the average national wage, in accordance with percentages prescribed by law and according to the number of the insurees' dependants. For men aged 65-70 and women aged 60-65, payment of pension is conditional on a means test.

266. The pension rates, as percentage of the average wage, are as follows: single person – 16 per cent; couple – 24 per cent; couple with one child – 29 per cent; couple with two or more children – 34 per cent; single person with one child – 21 per cent; single person with two or more children – 26 per cent. Pension payments are adjusted whenever the average wage is adjusted.

267. The dependants' increment is paid for husband or wife, and for each of the first two children of the person receiving pension on condition that they do not receive a pension themselves. Increment rates are included in the pension rates given above. A housewife is not entitled to a dependant's increment, but to the basic pension only.

268. Other increments include seniority increment (2 per cent of the pension for each year in excess of 10 years' insurance, up to a ceiling of 50 per cent of the pension), deferred retirement income (5 per cent of the pension for each year that the person – aged 65-70 for men, 60-65 for women – was not eligible for a pension because he/she has an earned income, up to a ceiling of 50 per cent of the pension) and income supplement.

(iii) Method of financing

269. The old-age and survivors' pensions are financed by insurance contributions and by government participation, as follows:

(a) Insurance contributions

	Full rate	Reduced rate
Employee	2.70%	1.46%
Employer	1.85%	1.85%
Self-employed	4.55%	2.63%
Other insured	5.42%	2.63%
Housewife	exempt	
Government		
- for employee	0.87%	0.19%
- for self-employed	0.87%	0.07%

(b) Government participation

The Government provides allocations at the rate of 15 per cent of total insurance contribution receipts, full financing of pensions to new immigrants, and financing of income supplement to pension recipients.

Disability benefits

(i) Eligibility

270. An Israeli resident aged 18 or over and not yet 65 (man) or 60 (woman) is eligible.

(ii) Coverage

271. The monthly disability pension is paid at the rate of 25 per cent of the average wage for a single person whose degree of disability is at least 75 per cent. This pension is increased by 7 per cent. For those with a lower disability degree, the pension is calculated at a rate proportionate to the disability degree. The pension is adjusted whenever the average wage is adjusted.

272. The dependant's increment, as a percentage of the average wage, is as follows: for dependent spouse - 12.5 per cent, based on a means test; for each of the first two children – 10 per cent, with an increase of 7 per cent for each additional child. The dependant's increment is also subject to a means test of the disabled person. A housewife is entitled to dependant's increment for her children only.

273. Other benefits under General Disability Insurance include:

(a) Attendant's allowance: a pension equivalent to 50 per cent, 100 per cent or 150 per cent of the full individual pension is paid to the severely disabled who are dependent on the help of others for the performance of everyday tasks or who are in need of supervision;

(b) Survivor's grant: a one-time grant equivalent to the amount of the average wage paid to the spouse, or in the absence thereof, to the child or children of a deceased person who received a disability pension;

(c) Disabled child benefit: a pension equivalent to 30-120 per cent of the full individual pension, paid to assist parents with the heavy burden of caring for a disabled child at home;

(d) Special benefit for new immigrant: similar to the attendance allowance, paid to severely disabled new immigrants.

(iii) Method of financing

274. Disability benefits are financed from insurance contributions, as follows:

	Full rate	Reduced rate
Employee	1.30%	0.71%
Employer	0.38%	0.38%
Self-employed	1.68%	0.95%
Other insured	1.95%	0.87%
Housewife	exempt	
Government		
- for employee	0.27%	0.09%
- for self-employed	0.27%	0.02%

Further, the State finances the special benefit for new immigrants.

Survivors' benefits

(i) Eligibility

275. Same as for old-age benefits above, with the following exception: a married woman whose husband is insured or a widow who receives a pension, if she does not work outside her home is not covered by compulsory insurance; there is, however, an arrangement for voluntary insurance.

(ii) Coverage

276. The survivors' pension is paid to the survivors of a deceased insured individual at levels similar to those of the old-age pension. Pension rates (as a percentage of the average wage) are as follows:

For widow/widower with a child, or aged 50 or above	16%
For each child of the above	7.5% increment
For widow/widower aged 40-49 without child	12%
For children for whom the widow/widower is not eligible for an increment	10% for a single child 7.5% for each child if there is more than one child
For children who have no parents or whose surviving parent permanently lives abroad	10% for each child

277. If both parents die, a child is entitled to receive two survivors' pensions by force of these two separate entitlements.

278. Pensions are adjusted whenever the average wage is adjusted. Increments to the pension include seniority increment and income supplement.

(iii) Method of financing

279. See old-age benefits above.

Employment injury benefits

(i) Eligibility

280. Covered for employment injury benefits are the following groups: employees (except for policemen, jailers and defence employees), self-employed persons, vocational trainees, persons undergoing vocational rehabilitation, working prisoners, foreign residents (including residents of the Territories and the Autonomy, working in Israel), Israelis working abroad for an Israeli employer – under certain conditions; persons whose wages are determined by law (such as Knesset members).

(ii) Coverage

281. The main benefits are the injury allowance and the work disability benefit (pension and grant).

282. The injury allowance is paid for the period of incapacity to work as a result of the work injury (work accident or occupational disease), for a maximum period of 182 days beginning from the day after the injury, calculated by day, on the basis of 75 per cent of the injured person's wages liable for insurance contributions in the quarter-year prior to the injury. The daily injury allowance has a maximum limit. Injury allowance is not paid for the first two days after the injury, unless the injured person was not capable of working for at least 12 days.

283. If the person becomes disabled as a result of the work injury and has a permanent disability degree of 20 per cent or over, he receives a monthly work disability pension according to the degree of medical disability, paid at a rate proportionate to the wages and degree of disability. The pension is updated according to the cost-of-living increment and according to the changes that took place in the average wage as it was on the previous 1 January. A person receiving a disability pension who belongs to a low-income group is entitled to an income supplement. Work disabled with a disability degree of 5-19 per cent receive a one-time work disability grant equivalent to “the daily injury allowance x 21 x the disability degree”.

284. Other benefits under work injury insurance include a special grant to the disabled with difficulty in walking and benefits to dependants (widows/widowers).

(iii) Method of financing

285. Work injury benefits are financed by insurance contributions, as follows:

	Full rate	Reduced rate
Employee	no payment	
Employer	0.53%	0.53%
Self-employed	0.53%	0.33%
Other insured	no payment	
Government		
- for employee	0.17%	0.01%
- for self-employed	0.17%	0.02%

286. The Government participates in providing an income supplement to the disabled and their dependants under the Income Support Law.

Unemployment benefits

(i) Eligibility

287. An Israeli or temporary resident who is an employee between the ages of 18 and 65, and a soldier within one year of demobilization from regular service are eligible.

(ii) Nature and level of benefits

288. The daily unemployment benefit is calculated at rates determined by law, on the basis of the daily average wage of the unemployed person during the last 75 work days of the qualifying period, up to the wage ceiling that has been determined.

289. For a demobilized soldier, the rate is determined on the basis of the daily average wage, calculated as 80 per cent of half the average wage, but not more than 80 per cent of the minimum wage.

(iii) Method of financing

290. Unemployment benefits are financed from insurance contributions, as follows:

	Full rate	Reduced rate
Employee	0.15%	0.08%
Employer	0.04%	0.04%
Ministry of Defence	unemployment benefit to soldiers released from the standing army	
Government		
- for employee	0.11%	0.07%

Child allowances

(i) Eligibility

291. All residents are covered.

(ii) Coverage

292. The child allowance is a monthly allowance paid to families according to the number of children in the family. The allowance rates, linked to the credit point as in the Income Tax Order, are as follows: for each of the first two children – one credit point (NIS 144 in January 1997); for the third child – 2.0 credit points; for the fourth child – 4.05 credit points; for the fifth child – 3.4 credit points; for the sixth child – 3.75 credit points; for the seventh and each additional child – 3.5 credit points.

293. The allowance rates are updated at the beginning of every fiscal year at the full rate of the previous year's rise in the Consumer Price Index, and whenever a cost-of-living increment is paid.

294. It should be noted that until 1994 there was a Special Increment for Veterans to the children's allowance, paid to families in which one of whose members served in the Israeli Defence Forces or other security branches. In January 1994 began a process of equalization of the level of the children's allowance, irrespective of military service. In the course of this process, which continued until the beginning of 1997, the number of child-allowance points of a family that did not receive Special Increment for Veterans was gradually equalized to the number of points of a family that did receive this increment. This amendment led to a rise in the level of the children's allowance paid to about 220,000 families with three or more children.

(iii) Method of financing

295. Child allowance is financed from insurance contributions, as follows:

	Full rate	Reduced rate
Employee	no payment	
Employer	1.88%	1.88%
Self-employed	1.88%	1.18%
Other insured	2.48%	1.10%
Government	0.60%	0.04%
- for employee		
- for self-employed	0.60%	0.06%

296. The Government participates at a rate of 160 per cent of total insurance contribution receipts.

Expenditures

297. Social security benefit payments amounted in 1995 to 7.0 per cent of GNP and 12.1 per cent of the government budget, as compared with 5.3 per cent of GNP and 3.5 per cent of the government budget in 1984. The main reason for the increased share of benefit payments in both GNP and the government budget is the massive immigration to Israel from the former Soviet Union and Ethiopia, which increased the number of benefit recipients, especially recipients of old-age pensions, children's allowances and unemployment benefits, by more than 60 per cent.

Combined public and private social security schemes

298. In the 50 years since its establishment, the State of Israel has succeeded in building a comprehensive system of social protection encompassing both social insurance and social assistance programmes. The National Insurance Institute is responsible for the administration of the social insurance programmes, as well as for payment of benefits under the social assistance programme, anchored in the Income Maintenance Law, 1990.

299. The majority of the formal social security schemes provide long-term benefits, which guarantee minimum subsistence by means of a flat-rate benefit (e.g. to every elderly person, to the disabled) as well as income supplements for those with no other sources of income. Other schemes (e.g. unemployment, maternity) provide short-term benefits aimed at providing income to persons

temporarily out of work, and these are paid at rates relative to previous wages. Thus, in most cases, the formal system is sufficient for providing social protection to all sectors of the population. However, a number of informal arrangements do exist regarding a number of schemes, and these will be briefly outlined below.

The pension system

300. The pension system in Israel today consists of two main tiers: the first is the formal State one, whose main function is to provide the country's citizens with basic economic protection and a minimum level of subsistence. This tier is operated by the National Insurance Institute. The second tier is intended to supplement the income of the worker and his/her family so that he/she may maintain a standard of living similar to the one he/she enjoyed when he/she worked, in terms of a defined percentage of his/her work income. This tier is operated not by the State, but by means of the voluntary public insurance arrangements of the trade unions.

301. The second tier consists mainly of insurance arrangements within seven Histadrut (General Federation of Labor) pension funds and another eight smaller pension funds, together covering over 80 per cent of employees in Israel. Such insurance arrangements are often anchored in collective work agreements between employers and employees, and guarantee pensions related to the workers' wage level. Some pension funds provide their members with additional social rights under these agreements. Some of such collective agreements are extended by extension order (this tool is described under article 8 of this report) to cover all workers in specific branches of labour. This tier also includes all civil servants and municipal employees who enjoy a budgetary pension under a special law.

302. A third, far less comprehensive tier consists of private savings which may amount to a significant share of retirement income for many individuals.

Long-term care

303. The Long-Term Care Insurance (LTCI) scheme in Israel, implemented by the NII, provides a service benefit to the elderly who are largely dependent on the help of others to perform everyday functions (dressing, eating, washing, mobility in the home, etc.). Those entitled to the benefit receive long-term care services from a basket of services defined by law, which includes: assistance of care-givers in the performance of everyday functions in the home and household management, care in day-care centres for the elderly, laundry services, etc. The benefit is paid to the organization providing the services, and not directly to the elderly person.

304. This benefit was enacted in 1986 as a new chapter within the National Insurance Law (chap. 6 E). From its early stages, the purpose of this legislation was not to finance existing formal services, but to complement the then-existing system of service provision in terms of scope and quality, as well as to enhance the family's role as primary care-giver. LTCI was viewed at the first stage of implementation as an additional element in the broader spectrum of long-term care, both institutional and non-institutional.

305. Research has shown that in Israel the family is the primary provider of long-term care to the elderly and is in fact the most important resource in this care. Studies show that prior to the implementation of the law in 1988, approximately 80 per cent of the elderly dependent in functional activities of daily living were receiving care from family members, while formal services provided by Government and public agencies covered a much lower proportion of the aged. The legislators of LTCI were interested in encouraging the continued provision of informal care provided by the family, and thus did not exclude from eligibility for benefit individuals who were receiving adequate care from informal sources, thus recognizing the implied costs of this informal care.

306. Under the law, two rates of benefit are provided: the first, equivalent to a full disability pension, or 10 hours of care per week, for an elderly person who has become dependent to a large extent on the help of others for the performance of everyday functions or who is in need of supervision; and the second rate, equivalent to 150 per cent of a full disability pension, or 15 hours of care per week, for an elderly person who has become completely dependent on the help of others for the performance of everyday functions or who is in need of constant supervision. In any event, the payment of benefit is not higher than the recompense for the actual hours of care provided.

307. Since the law was first implemented, hundreds of service-providers have been set up and consolidated, about half of them public non-profit organizations and half commercial profit businesses. In many cases, the hours of care covered by LTCI are not sufficient, and the elderly persons' families supplement these with additional hours of care paid for privately from their own pockets, often by the same companies. In any case, the care provided by outside help, whether it is financed totally or only partially by social security, does not take the place of the family in the care of the elderly person, but only eases its burden of care.

The Counselling Service for the Elderly and Pensioners

308. In 1972 the NII developed a Counselling Service for the Elderly and Pensioners within its own framework. In addition, a group of friendly home visitors was organized to visit elderly people who were unable to come themselves to the local branches of the NII in order to receive aid and advice. The service is based on the work of volunteers, themselves elderly, who belong to and are supervised by the system which supplies the welfare services, but are not tied to its formal procedures. Thus, they may act as informal mediators between the system and the needy elderly.

309. The aim of the service is to improve the services provided to the elderly by the NII and not to limit itself to the granting of monetary pensions only. The NII recognized the need to place an informal system of advice and mediation not connected with bureaucratic procedures at the disposal of the elderly and pensioners in order to ensure that pensioners maximize the use of their social security rights and welfare services in the community. The project proved itself, and today operates in all NII local branches throughout the country.

Equality in social security

310. The social security system in Israel is universal with most programmes covering all residents of the country. Social security benefits are aimed particularly at the most vulnerable and disadvantaged groups: the elderly (old-age, survivors and long-term care benefits), the disabled (general disability benefits, work disability benefits, mobility allowances), the poor (income maintenance benefits), divorced and separated women (alimony guarantee payments), children (children's allowances) and the unemployed (unemployment allowances). It may therefore be stated that there are no groups which do not enjoy the right to social security at all, or who do so to a significantly lesser degree than the majority of the population.

311. The Government endeavours to ensure that the right to social security, which is both inherent and explicitly guaranteed by law, is indeed enjoyed by all, and the measures it takes in this respect are detailed below. Furthermore, it reviews legislative measures to improve the situation of various sectors of the population.

312. Regarding women, it should be noted that regardless of their personal status, women who work outside of their homes and who are paid for their work are entitled to all the benefits from the NII to which men of similar status are entitled.

313. Women, except for “housewives” (to be discussed separately), are eligible for all the benefits that are set forth in the National Insurance Law (NIL) under the same conditions as men. They are covered by work injuries insurance, vocational training, survivors' benefits, accident insurance, children's allowance, unemployment insurance, disability insurance, insurance of employee in bankrupt and liquidated firms, reserve duty benefits and long-term care insurance.

314. There are no distinctions in the law regarding the contributions (premiums) of men and women to the NII. The amount of contributions of each insured person is set as a percentage of the insured person’s income, regardless of gender. It should be pointed out that only housewives (married women whose spouses are insured and who do not work outside their home) are exempt from contributions toward the benefits to which they are entitled to under the law.

315. Housewives are not covered by all types of insurance. Housewives are not considered workers according to the NIL, and therefore are not eligible for income-replacement benefits such as work injuries insurance, maternity allowance, unemployment insurance, insurance of employees in bankruptcy, and to seniority increments to the old-age pension. Women are eligible for old-age pension from the age of 60 and men from the age of 65, subject to a means test, and from the age of 65 for women and 70 for men, regardless of income. This distinction is due to the differences in retirement age that still exist in Israel, and women have the option to retire at the age of 60. All women, including housewives, are insured by long-term care insurance, and the conditions of entitlement are identical to that of men with one distinction: the age of entitlement for women is 60 and for men 65.

316. Distinctions exist between housewives and all other insured persons regarding disability insurance. A housewife requires at least 50 per cent medical disability to qualify for benefits compared with 40 per cent medical disability for other insured persons.

317. Differences also exist between the definitions of widower and widow pertaining to survivor's benefits under work injuries insurance. A widower is defined as (i) someone who has a child living with him or (ii) is unable to support himself or (iii) whose income is not more than a determined sum. A widow is defined as someone who is (i) 40 years or over, or (ii) has a child living with her, or (iii) is unable to support herself.

Administrative measures

318. NII is first and foremost concerned that the individual take full advantage of his/her social insurance rights. Every insured person who dutifully paid insurance contributions during his/her working years is entitled to receive complete and reliable information on his/her rights and to ensure they are drawn on. The NII believes that the insuring body, namely itself, is at least partly responsible for guaranteeing these rights and that it should not be left to the extent to which the individual is capable of doing so. The NII has initiated a number of activities aimed at increasing the awareness of the insured person's rights, providing the means for the person to take full advantage of his/her rights, and minimizing the bureaucratic procedures involved.

319. Following are the main such activities:

(a) Once a year, every beneficiary receives an annual confirmation detailing the types of benefits he/she receives and the monthly sums transferred to his/her account over the past year. This confirmation is recognized by all public authorities, such as government ministries, local authorities and health funds, for purposes of granting a wide range of discounts and benefits to specific population groups; for example, discounts in urban taxes, discounts in rents in public housing, discounts in telephone fees, etc.;

(b) Just before a man reaches the age of 65 or a woman the age of 60, he/she receives a letter in the mail informing him/her of possible rights to an old-age pension, the rules of entitlement and a claims form. This guarantees that the pension is initiated immediately upon retirement, without any unnecessary bureaucratic delay;

(c) The family of every child born in a hospital is automatically entitled to child allowances, without the mother having to submit a claims form to the NII. This automatic registration is made possible due to an agreement signed between the NII, the Ministry of the Interior and the hospitals, according to which the hospitals inform the NII and the Ministry simultaneously of every live birth and the identifying data on the mother. This serves as a basis for including the newborn child in the children's file at the NII and for paying the allowance directly to the mother's bank account;

(d) Many new immigrants are entitled to receive benefits, such as special old-age benefits and child allowances, from the NII immediately upon their arrival in Israel. In order to guarantee immediate commencement of rights, all the demographic information needed by the NII is received on magnetic tape directly from the data file produced at the airport. In this way, new immigrant families receive all benefits due them without having to report personally to a local branch of the NII and submit a claim;

(e) Information booklets on national insurance rights, including amendments in relevant laws, are published regularly in various languages, and distributed to all health and social service agencies in the community;

(f) Intensive use is made of the local and national press, and prime-time spots are purchased on the national radio and television stations to pass on information to the public;

(g) Sophisticated computerized technology has been installed in each of the NII's local branches, so that every claimant can receive immediate information on the state of his/her account and on the benefits being paid him/her.

320. The many and varied methods used in Israel to transfer information to the public on its rights have been proven extremely effective in guaranteeing that persons take full advantage of their rights to the various benefits paid by the NII. An ongoing follow-up study carried out on this topic shows that close to 98 per cent of the entire potential population of beneficiaries receives benefits at the scope and level that they are entitled to under law. In the NII's opinion, it is impossible to ensure that 100 per cent of the population maximizes its entitlement benefits and recognizes the fact that despite all its sincere efforts, there will always remain a marginal percentage of the population that does not receive the benefits to which it is entitled. Its experience has shown that projects aimed at the full implementation of rights has led to rather disappointing results, ones certainly not justifying the high costs entailed.

Legislative measures

321. The following measures taken to implement rights to social security in legislation, should be noted.

322. Women. Housewives traditionally were not entitled to old-age pensions in their own right. They were thus exempt from paying contributions to the NII, and received half of the old-age pension of their spouses. In 1996, in order to achieve greater gender equality in the social security system, the law was amended and housewives now receive the minimum old-age pension although they are still exempt from contributions. As a result, within a few years all women in Israel, regardless of their working status, will be covered by old-age insurance.

323. The elderly. Another vulnerable group which has received careful attention and allocation of resources in Israel are the aged, especially those who are severely dependent due to functional disability, chronic disease and cognitive impairment. The State continues to provide personal care services

at home and in day centres to over 8 per cent of its elderly population under its community Long-Term Care Insurance Law of 1988. This law provides personal care on the basis of personal entitlement, thus enabling even severely disabled elderly people to remain at home, with dignity and in familiar surroundings, as long as they are able, and reduces the burden of care borne by the family.

324. The poor. As part of its programme to combat poverty and income gaps, the Government raised the level of old-age pensions by 7 per cent. Various legal provisions exist for the elderly to further improve their economic situation and enhance their quality of life and participation in society by significantly subsidizing municipal taxes, public transportation and medication for low-income groups.

325. The underlying principle of new anti-poverty legislation in Israel has been to equalize the rights to social protection between genders and among various groups of beneficiaries having similar needs, as well as raising the minimum income guaranteed to the most vulnerable groups: the elderly and single-parent families.

326. In order to reduce the number of families living below the poverty line, Israel has continued to expand its Law for Reducing the Scope of Poverty and Income Gaps, aimed at increasing protection of the most vulnerable social groups. Recent legislation significantly increased benefits paid to the elderly, the disabled, as well as single-parent families. In order to reduce poverty among large families, which constitute the most at-risk poverty group in Israel, the Government has completed final steps to raise the level of its universal child allowances to large families which will include groups which previously did not have full coverage.

327. One of Israel's most important recent accomplishments was the implementation of a National Health Insurance Program. Since 1995 there effectively has been universal coverage based on a comprehensive basket of health services. A more equitable system of health tax has been established with especially low health insurance rates set for low wage earners and all recipients of income maintenance benefits. Low contribution rates have also been set for all elderly recipients of old-age pensions. The effectiveness of this law will be measured to a large degree by the degree of equity in the access to quality health care for poor and other marginalized groups, which will be carefully monitored during the next few years.

328. Further review of trends and changes in national legislation, court decisions, etc. is available in the NII's report, Summary of Developments and Trends in Social Security - 1996, submitted to the International Social Security Association (ISSA).

Conclusion

329. Regarding measures taken to improve the lot of the vulnerable groups, it may be concluded that although we have been successful in reducing unemployment levels, pockets of high unemployment remain, especially in outlying development areas. The Government's policy is to continue allocating resources for the reduction of unemployment and poverty in these areas, thus reducing dependency on social support systems.

330. In order to continue Israel's war on poverty it is incumbent on policy makers not only to increase benefits but also to expand funding sources. Therefore, one important direction for policy will be the close examination of our social security system with the objective of increasing the degree of progressivity in our system, both in terms of taxes and the system of benefits targeted at the most vulnerable groups.

International cooperation and assistance

331. The International Labour Organization (ILO) and the ISSA provide the National Insurance Institute with a great deal of technical assistance, mainly by means of study grants abroad to senior employees of the NII. The NII, on its part, endeavours to reciprocate by assisting in guidance and instruction of workers studying abroad, particularly workers from Asia and Africa. Israel belongs to the Asian-African branch of ISSA, and within this framework participates in most regional conferences.

332. Furthermore, Israeli representatives regularly participate in the ISSA General Assembly meetings that take place every three years and in the technical activities of the organization by means of the various permanent committees, such as by replying to questionnaires distributed periodically.

333. However, the main mutual activity of Israel and ISSA is in the field of research. Israel actively participates in ISSA research conferences by preparing research papers and presenting them at almost every conference. In 1979 a research conference on the topic of “The Mutual Relationships between the Direct Taxation System and Social Insurance” took place in Jerusalem in 1979, and in 1989 our capital once again hosted a research conference on the subject of long-term care services for the very old. In January 1998 we are again scheduled to host an ISSA research conference on the subject of the impact of social insurance and other social support benefits on human behaviour.

334. In conclusion, the cooperation between ISSA and Israel contributes considerably to both sides. The experience of other countries has helped us in the development and expansion of various social security schemes, while Israel's contribution is expressed mainly in research and distribution of research findings to other countries through ISSA. Thus, the main goal of ISSA as an international organization – the promotion and development of social security in the world by means of international cooperation – is realized.

Article 10 - Familial rights

Related international conventions binding Israel

335. Israel is a party to the Convention on the Elimination of All Forms of Discrimination against Women, and in May 1997 submitted its first report to the United Nations Committee on the Elimination of Discrimination against Women.

336. Israel is a party to the ILO Minimum Age Convention, 1973 (No. 138). Its last report was submitted in 1996 and relates to the years 1991-1995.

337. Israel is a party to the International Covenant on Civil and Political Rights and to the Convention on the Rights of the Child since 1991, and will soon be submitting its initial reports on both Covenants.

Meaning of "family"

The definition of the term "family" in Israeli law

338. The term "family" is not uniformly defined in Israeli law, and different definitions can be found in distinct acts of legislation. Depending on their legislative purpose, some acts have taken a wide encompassing approach and defined the term "family" broadly. Hence, in the Domestic Violence Prevention Law, 1991, a "family member" is defined as: "spouse, parent, or parent's spouse, spouse's parent or his or her spouse, grandfather or grandmother, child or spouse's child, brother or sister, brother-in-law or sister-in-law, uncle or aunt, cousin or niece; whoever is responsible for the living, health, education or welfare needs of a minor or incapacitated person who is living with him/her, and a minor or incapacitated person living with such a guardian". For this law's purposes there is no difference between a present and a former family member.

339. A similarly broad definition can be found in the Court for Family Matters Law, 1995. A person's family member is defined there as – "(a) his/her spouse, including a partner for life, his/her ex-spouse, his/her spouse the marriage with whom has been annulled, provided that the subject matter of the proceedings is a consequence of the relation between them in the time period they were man and wife; (b) his/her child, including his/her spouse's child; (c) his/her parents, his/her spouse's parents or their spouses; (d) his/her grandchild; (e) his/her grandparents; (f) his/her or his/her spouse's brothers and sisters. A parent – includes a step-parent or a legal guardian".

340. At the same time, other acts have adopted a stricter reading of the term. For example, in the National Security Law (Revised Version), 1995, a family member is considered to be only "one of the parents, a child, a grandchild, a brother or a sister". Similarly, in the Equal Employment Opportunities Law, 1988, family members are narrowly defined as "spouse, parent, child, grandchild, brother, sister or a spouse of any of those".

341. The approach taken by the Israeli courts in ascertaining the meaning of the term "family" or "spouse" is also a functional approach which takes into account the policy goals of the pertinent legislation or agreement. Consequently, the courts have tended in some cases to stretch the concept of family beyond traditional understanding. Thus, the Supreme Court held that a tort victim has the right to claim compensation for services received from the kibbutz (collective farm) he/she lived on, on similar terms to the right to claim for services rendered by family members:

> "... [T]he ideological principle and social structure of the kibbutz are unique and universally incomparable ... [L]egally speaking, the structure is based upon collective equality between the individual members ... In theory and in practice, the sum of all individual members constitute one big family ... ."
> C.A. 619/78 Hunovitz v. Cohen, P.D. vol. 35 (4) 281, 295-96

342. In another case, which dealt with the term “spouse”, the Supreme Court accepted a petition of a homosexual flight attendant to enjoy a work benefit normally accorded to an employee's heterosexual “spouse”:

> “The desirable test should therefore examine the relevancy of the sexual orientation to the work benefit granted to the spouse. The purpose test meets this requirement. According to that test, there will not be any differentiation between a homosexual and heterosexual spouse if the companionship relations between the couple meet the standards which fulfil the purpose for which the right or benefit is being conferred ... . In our matter, the flight ticket was not intended exclusively for spouses married to employees, and in any case the purpose of the benefit could not have been the encouragement of traditional family life. The benefit was granted to an employee for the spouse with whom he is sharing his life in reality. Although the (airline) did not intend to implement the arrangement on homosexual couples, the companion's sex is irrelevant to the purpose for which the benefit was given.”
> H.C. 721/94 El Al Israeli Airlines v. Danilovich, P.D. vol. 48 (5) 749, 785-86

Meaning of family in administrative practice

343. Many individual entitlements to social services and benefits are shaped taking into account familial recourses. By “family” one usually means in the present context the nuclear family: parents and children. But the structure of family is in a constant state of flux. On one hand, single parenthood has risen sharply in the last 10 years (1985: 54,600; 1995: 91,900) and the state of non-marital cohabitation is partly recognized by the State for purposes of social security, pension, damages awards under torts law, resident's protection against eviction, income tax regulations, and administrative or legal benefits of various sorts. On the other hand, the concept of “extended family” is used more and more, clearly including grandparents, brothers and sisters, even though it still lacks clarity in public cognition. (The status of the “tribe”, for example, is scarcely considered in this context.) In short, the legitimacy of “non-traditional” family types and the dynamic nature of families now seems to be widely recognized, but concepts still have to be shaped and sharpened.

344. In allocating resources the Government aims to support various forms of “family”, while not taking a stand on which concept of family is preferable. Some benefits exist for small single-parent families and others provide added financial assistance to those families which have four or more children. At the same time, the weakened ties with extended family are being strengthened through benefits which encourage families to provide care for their ageing relatives within their own homes.

345. The practical nature of allocating resources across the social spectrum, while healing the damage caused by Israel's push into modernity, is a daunting task. Nonetheless, each form of family is legitimate in the eyes of the State and is accorded a considerable degree of both social and financial support under the law.

Majority

346. Majority, for the purposes of civil law, takes place at different ages, depending upon the specific issue. For the purposes of responsibility in civil legal proceedings, it is 18 years old. Upon reaching majority, a person may make a legal contract, sue or be sued, or carry out any other legal action or process. Prior to the age of 18, any legal action or contract entered into by a minor may be voided by his/her parent or guardian.

347. Criminal liability. Generally, majority for the purpose of criminal liability is the age 12. Adolescents by the age of 18 are to be tried at a special juvenile court. There are specific legal provisions for exceptional cases where a youngster may nevertheless be tried as an adult.

348. The right to vote. The right to vote in national and municipal elections is granted to all citizens or residents, respectively, who have reached the age of 18.

349. Military conscription. An individual is eligible for conscription into the Israeli Defense Forces from the day of his/her eighteenth birthday. A person aged 17½ may volunteer for the armed forces providing that his/her parents have given permission.

350. Consent to marry. Women may marry without their parent's/guardian's permission from the age of 17 except for special circumstances. There is no minimum age for males. A revision of the status quo as to the age of consent for males is presently under consideration.

351. Legal capacity and compulsory psychiatric hospitalization. A youth aged 15 or older may appeal an order for his/her compulsory hospitalization in a psychiatric institution. In such cases, the court appoints a legal representative to present the interests of the youth during the appeal process.

Assistance to the family and its protection

The fundamental right to family life

352. The right to family life was addressed by the Supreme Court on several occasions. It has stated:

> “Every person has the right to form a family and have children.” A.C.R. 2401/95 Nahmani v. Nahmani, Takdin-Supreme vol. 96 (3) 526

353. The court emphasized in some of its decisions the autonomy of the family unit and its immunity from State intervention:

> “In principle, the autonomy to raise a family, plan a family and give birth to children is a matter of personal privacy. Human liberty encompasses the freedom of independent choice on matters of marriage, divorce, birth and any other private matter within the personal autonomy. Judge Ben-Ito has pointed in the said C.A. 413/80 that: 'conception, pregnancy and birth are intimate events which are all

included in the realm of personal privacy. The State does not interfere in that area, except for reasons of special weight related to the need to protect individual rights or a significant public interest' [cite omitted]."

"..."

"The aspiration to minimize State involvement in relations within the family unit, whether direct intervention or judicial intervention, emphasizes the unit's right to autonomy, and the protection from interference in the relations between the family and the State and between the different members of the family unit. Situations where intervention is required are normally sensitive and complex, and it is needed where a crisis in the family unit has occurred and State intervention through the courts is designed to solve problems that the parties failed to settle on their own."
C.A. 5587/93 Nahmani v. Nahmani, Takdin-Supreme, vol. 95 (1) 1239, 1241.

354. Furthermore, the court recognized as a constitutional human right the right to parenthood:

"The right to become a parent is a fundamental human right to which everyone is entitled."
C.A. 451/88 Anonymous v. The State of Israel, P.D. vol. 44 (1), 330, 337.

And so is the case of the right of parents to raise and educate their children, as they think best:

"The right of parents to raise and educate their children as they think best is a basic constitutional right, and a natural right which is inherent to, and stems from, the links parents have to their children. The family unit does not exist outside the constitutional system, but it is an integral part thereof. Parents are entitled, within the family unit, to exercise rights recognized and protected by constitutional law. The right of parents to have custody of their children and to raise them, with all this implies, is a natural and primary constitutional right, which gives expression to the natural connection between parents and their children [cite omitted]. This right is reflected in the privacy and autonomy that the family enjoys. Parents are autonomous in making decisions relevant to their children in the areas of education, lifestyle, residence etc. Interference on behalf of society and the State in these decisions is an exception which must be justified [cite omitted]. This approach is based upon the belief that 'the family is the basic and most ancient social unit in human history that has been, and still is, the element that facilitates and secures the continued existence of human society' [cite omitted]."
C.A. 2266/93 Doe v. Roe, P.D. vol. 49 (1) 229, 238-89.

Marriage

355. The Marriage Age Law, 1950, states that the minimum marital age for all women in Israel is 17. No minimum age for men is set. Since the substantive law that applies in matters of marriage is derived from the individual's religious law, the minimum age for men would be drawn from religious law.

356. The minimum age requirement is accompanied by provisions that make the arrangement of under-age marriages a criminal offence punishable by up to two years' imprisonment. The possible offenders include the person who arranges the marriage, the person who conducts the marriage, and the marrying man himself. The under-age woman is excluded. The law also provides that the mere fact that a marriage was conducted in violation of this law is a ground for divorce.

357. Article 5 of the Marriage Age Law, 1950 provides for two alternative grounds for judicial permission of under-age marriage. The first one relates to circumstances in which the under-age woman is pregnant from or has given birth to the child of the man whom she asks permission to marry. No age limit at all is attached to this ground for exception. The second relates to unspecified “special circumstances” that would justify immediate marriage, provided the woman is over 16 years old. Since the legislature has left those “special circumstances” unspecified, the Supreme Court has taken it upon itself to provide instructions as to the substance of those circumstances. In one of the leading cases, then Justice Barak firmly stated that a community's custom and tradition do not justify marital exception, since it is those traditions and customs that the Marriage Age Law, 1950 was set to abolish.

358. Criminal sanctions contribute to the reduction of the phenomenon of marriages involving minors. However, it has not been eliminated altogether, as can be seen from the following tables, which contain data on marital ages in Israel.

Marriage of minors up to age 17

Year	Jews			Muslims		
	Brides		Grooms	Brides		Grooms
	Up to 16	17	17	Up to 16	17	17
Average 1975-1979	12.3	48.4	1.2	19.6	133.1	2.2
Average 1985-1989	2.4	17.4	0.3	15.4	140.2	1.7
1991	0.9	13.9	0.1	10.1	179.1	0.7
1992	0.7	11.4		0.5	179.7	
1993*	0.6	10.6	0.2			

* Statistics are not available for this year for Muslims.

Source: Central Bureau of Statistics.

Marriage of young people up to age 19

Age	Jews	Muslims	Christians	Druze
	Grooms			
Total	26 680	7 857	795	703
Total to age 19	652	540	5	53
Up to 17	18	16		
18	166	186	5	16
19	468	338		37
	Brides			
Total	26 680	7 857	795	703
Total to age 19	3 258	3 845	149	386
Up to 16	27	15	4	2
17	397	1 558	28	157
18	1 147	1 207	45	117
19	1 687	1 045	72	110

359. Since questions of marriage and divorce are determined by religious law alone, the secular legislature cannot decree bigamous marriages invalid when such marriages are recognized by the relevant religious laws, but can only operate against them through criminal law. Section 176 of the Penal Law, 1977, makes bigamy a criminal offence punishable by five years' imprisonment. Sections 181-182 prohibit forcing divorce upon one's wife with no judicial decree of divorce, and makes the arrangement of such prohibited marriages or divorces a criminal offence. Sections 179-180 provide exceptions for the rule against bigamy. Section 180 applies to all individuals whose religious affiliation is other than Jewish, and indicates that incapacitation of one's spouse or seven years' absence therefrom may justify marriage to another person. Section 179 applies only to Jewish people, providing immunity to a person whose second marriage was permitted by a rabbinical court's judgement that underwent the specific Halachic procedure to make it religiously valid.

360. Since religious law accommodates bigamous marriage, further legislative intervention must be made in particular areas of law where the interests of the two wives may conflict. Such accommodations were developed in response to certain population groups who immigrated to Israel. For example, the Successions Law, 1965 specifically states (in section 146) that when a man who dies was married to two women, both of them shall share in the estate, where ordinarily the estate is given to the sole wife of the deceased.

Strengthening and protecting the family

361. The basic premise of the Israeli law is that the primary obligation to support the members of a family lies with the family itself. This principle is anchored in the Legal Capacity and Guardianship Law, 1962, which defines the duties of parents and guardians. As the “natural guardians” of their minor children, parents have both a statutory obligation and a right to attend to their child's needs, including education and upbringing, vocational training, and maintenance of the child's property. Their guardianship also includes the right to custody of the child and the right to represent the child. These rights have been interpreted by the Israeli courts as “the right to fulfil their obligations”. (Full text of the law is attached in annex 2 to the present report.)

362. Nevertheless, the State recognizes its obligation to protect families whenever family members substantially fail to fulfil their responsibility. Various laws grant intervention powers to the authorities (at the municipal or national level), requiring judicial approval. These powers range from issuing specific instructions to the child's parent or guardian on how to care for the child to extracting the child from their custody and assuming responsibility for the child's care, whether temporarily or definitively in the form of an adoption order. Such main laws are the Youth (Care and Supervision) Law, 1960 and the Adoption of Children Law, 1981. (Full texts attached in annex 2 to the present report.)

363. In addition, various Israeli penal laws prescribe criminal sanctions against parents or other primary care-givers for abandonment and neglect, assault and molestation (including physical, emotional or sexual molestation), and set grounds for the courts to issue protection orders against a violent family member in the home of either the child or the spouse.

364. The primary consideration in all the above cases involving children is “the best interests of the child”. This concept lies at the core of a huge jurisprudence, too complex to be reviewed here. In general much weight is given by the courts to the professional opinion presented in written reports by welfare officers, who are trained social workers appointed under each law.

365. In addition to intervention powers to deal with acute crises, the Government attempts to facilitate and maintain the establishment of a family by means of various social programmes and economic benefits.

366. The main economic benefits granted by the State to aid families are part of the social security schemes provided by law on a universal basis to all families in Israel (these schemes are detailed in this report under article 9). Child allowances, designed to prevent a reduction in the standard of living of families that may result from the burden of raising additional children, provide tax relief and the payment of allowances through the social security system. Increments to benefit for dependent children are paid with old-age pensions, survivors' pensions, disability pensions, in-home care for the elderly. There are no situations in which families do not enjoy any benefit of assistance, or who do so to a significantly lesser degree than the majority of the population.

367. Special assistance to single-parent families are anchored in the Single Parent Law, 1992. (The full text of this law is attached in annex 2 to this report.) This law defines a “single parent” in broad terms applying to both women and men. The law entitles single parents to a special education grant, priority in vocational training programmes and in day-care facilities, and it raises the level of assistance in housing aid schemes. This is also provided for under the Maintenance of Income Law, 1980.

368. There exist other administrative programmes which aid families in need in various ways. For example, low-income working parents may apply to send their pre-school-aged children to government-supported day-care centres; the Health Ministry runs family health clinics in every city, which provide public counsellng, self-help groups, parenting classes, and primary health care for toddlers. Such programmes are based on need, whether implied in the qualification criteria of the programme or determined by means tests.

369. Israel also has an active voluntary sector, many of its organizations directed towards family and education-oriented projects.

370. There is a high level of interaction between the Government and the various voluntary bodies. The Government, in line with its policies, encourages volunteerism through support of existing voluntary organizations and involvement of volunteers in government agencies, and encourages residents to participate in the decision-making process on matters affecting their own neighbourhoods and communities.

371. The Government considers welfare services its responsibility, but in some service areas it relies on non-governmental organizations (NGOs) to provide welfare services as well as some of the money that is required.

372. Institutions for children in Israel are supervised by the Ministry of Labor and Social Affairs, under the provisions of the Supervision of Children's Institutions (Care Centers) Law, 1965. By-laws and regulations were drawn up by the Ministry regarding all aspects of the institutions' operations, e.g. structures, plant maintenance, supplies, personnel, professional services, etc. There is extensive supervision of all institutions for children up to the age of 12. All institutions, except for those for delinquent or mentally handicapped children, are run by NGOs. The institution determines the type of child it wants to receive.

373. An interministerial finance committee determines the level of financial support to be provided by the Government. At present, this support accounts for 85 per cent of the cost of the child in the institution. The NGOs must provide the additional 15 per cent. A special government building fund provides funding for the building of day-care centres in cooperation with the NGOs, turning them over to the municipal authority which in turn passes the centre on to the NGO for day-to-day operation. Negotiations take place annually regarding the Government's participation in child support in the day-care centres. Today the Government covers the cost of 75 per cent for each child and the NGO 25 per cent.

Equality of treatment

374. No sector of the population is excluded by law or administrative rule from receiving any of the above services. But many of the services available are restricted by budget, and the Ministry of Labor and Social Affairs has received complaints that the amount of resources allocated to the Jewish sector of the population outweighs the amount of money and resources presently directed at the non-Jewish sectors of the population.

375. Unfortunately, differential data regarding budget allocation to municipalities for social services relevant to the present Covenant are still not available.

Maternity protection

376. Labour law protection for working women is a combination of a long-standing system of benefits, provided largely through the social insurance system, for supporting mothers and their families during pregnancy, birth, and post-natal care. The result is an efficient system of maternity protection.

Maternity leave and protection of pregnant working women

377. The Women's Employment Law, 1954, establishes the right of a woman to take a paid 12-week maternity leave. Under special circumstances, including sickness, the birth of more than one child or the need for the baby's hospitalization, the leave may be extended. For four months following her regular maternity leave, a woman who works full-time may leave work for one hour each day without affecting her salary. In addition, this law provides for a woman's right to extend her absence from work - without pay but also without concern that her employment may be terminated - for an additional period which is determined by how long she was employed before the leave.

378. A recent amendment to the said law allows for men to take half of the 12-week maternity period in place of the mother, even if his spouse is not employed. This amendment recognizes the legitimate desire of many fathers to bond with their infants during this crucial period, the shifting burden of parenting upon the male, and the success of women and their legitimacy in the workplace.

379. Maternity leave is mandatory and may be taken at any point after the middle of the seventh month of pregnancy. Both men and women are allowed to take leaves of absence, characterized as sick leave, while undergoing fertility treatments. Likewise, pregnant women are entitled to paid absences from work for routine medical examinations. When high-risk pregnancy causes inability to work, the woman is entitled to her salary from the National Insurance Institute and her seniority rights are protected.

380. This same law ensures the woman's job security. An employer cannot terminate an employee during her pregnancy; if an employee is dismissed during her pregnancy, the employer has committed a crime and is subject to

prosecution, while the worker is reinstated. If the worker has not informed her employer of her pregnancy (this is not compulsory until the fifth month) and is terminated, she will be reinstated, but the employer is not guilty of committing a crime.

381. The prohibition on terminating employment has an exception. The Minister of Labor and Social Affairs has the authority to grant permission to an employer if he/she is satisfied that there is no link between termination of work and maternity. The department at the Ministry charged with control powers under the Women's Employment Law also conducts the necessary inquiries for the purpose of deciding on these permission applications.

382. While the employer is not responsible for paying an employee's salary while she is on maternity leave, the employer is legally bound to continue making payments into the employee's retirement fund and any other recognized employer-employee contribution-driven plans.

Coverage and benefits

383. The first benefit is free hospitalization for the baby's delivery. This hospitalization is covered as part of the basket of services in Israel's comprehensive National Health Insurance Law, 1995. The benefit is paid directly to the hospital. Costs are covered also in the event of a stillbirth.

384. After the baby has been born, the parents receive from the National Insurance Institute (NII) a maternity grant, to defray the costs of outfitting their home for the baby. This benefit is equal to 20 per cent of the average wage. In the event of multiple births, the sum rises significantly (see birth allowance below).

385. The maternity grant is paid to all residents or wives of residents, even if they gave birth outside of Israel, as well as to non-resident women working in Israel or wives of non-resident men working in Israel, provided they gave birth In Israel.

386. There is also a grant for adopting parents, equivalent to the maternity grant, based on the number of children under the age of 10 who were adopted on the same day.

387. If three or more children are delivered in the same birth, families receive a birth allowance for six months. The purpose is to alleviate the special costs incurred with multiple births. For the third child, the benefit is equal to 50 per cent of the average salary. For the fourth child, it equals 75 per cent and for the fifth (or more) it equals 100 per cent.

388. The maternity allowance (or vacation pay in the case of adopting parents) is paid to a working mother during her 12 weeks of legally mandated maternity leave. The benefit is equal to 100 per cent of the woman's average salary during the previous three months, up to a ceiling, and is paid by the NII. This benefit is taxed and social insurance payments are deducted.

389. The birth protection allowance is meant for women who, on doctor's orders, must take a leave from work of over 30 days in order to successfully bring their baby to term. This benefit, which is 25 per cent of the average wage, is paid by the NII.

History and development

390. Maternity insurance was embodied in 1954 in the National Insurance Law, and was one of the first divisions of the National Insurance Institute. Maternity insurance was considered of utmost importance to the welfare of the family in general and to the working mother in particular.

391. The changes pertaining to maternity allowance which took place between 1954 and 1995 share a clear common denominator: the widening of the circle of women entitled to maternity allowance, both by changing the calculation of the qualifying period and by changing the definition of the entitled population. The rates of the allowance were not changed until 1995, when it was increased from 75 per cent of the woman's (gross) previous wages to 100 per cent of her (net) wages.

392. The main changes which occurred in the maternity grant since 1954 can be summed up as follows:

(a) 1955: the size of the maternity grant aimed at acquiring a layette in the case of a multiple birth was increased.

(b) 1986:

(i) Distinction was made within the maternity grant between the layette grant aimed at acquiring a layette and the hospitalization grant paid directly to the hospital, except in cases in which the birth took place in a hospital in which there was no payment arrangement with the NII (such as hospitals abroad). In such cases the mother submits receipts and is reimbursed, up to the amount of the grant determined by law. The layette grant is given as a cash payment directly to the mother by the hospital in which she gives birth;

(ii) A method for adjusting the maternity grant was determined: 20 per cent of the average wage for purposes of benefit payments in January every year, with additional adjustments reflecting cost-of-living increments. Thus, the real value of the maternity grant is maintained and anchored in law; its adjustment is automatic and not subject to the discretion of the Minister of Labor and Social Affairs, as previously.

393. The birth allowance was added in 1986 within the framework of maternity insurance: the birth allowance is paid to a family in which three or more children were born in the same birth, of which three or more remained alive

for a period of time determined by law, in order to help the family overcome the economic burden of a multiple birth. The risk pregnancy benefit was instituted in 1991. Free hospitalization for delivery prior to the enactment of the National Health Insurance Law in January 1994 was paid by the NII.

Equality

394. All of the above-mentioned maternity protections and benefits are granted to all citizens and residents of the State of Israel, regardless of race or religion. Only those who have not paid their social insurance dues for a minimum number of months in the two years preceding the child's birth are not entitled to full financial benefits granted by the NII. There are no groups of women who do not enjoy any maternity protection whatsoever or who do so to a significantly lesser degree than the majority. (Additional information is provided in this report under article 9 of the Covenant - Social Security.)

Youth protection

395. The Youth Employment Law, 1953, prohibits employment of persons under the age of 15. During summer the minimum age drops to 14, but permission from the Ministry of Labor and Social Affairs is required. Moreover, youngsters over the age of 15 who are still under the purview of the Compulsory Education Law may be employed only in accordance with the Apprentice Law, 1953. (Full texts of these two laws are attached in annex 1 to this report.) A labour contract with a person under minimum age is void, even with the consent of his/her parent or guardian.

396. According to official government data, about 30,000 young people aged 15-18 were legally employed in 1995. This figure represents 11 per cent of Israel youth. There are no accurate data describing the distribution of working youth according to sector or type of employment, nor are there data on the extent of employment of youth within the household. Youth on kibbutzim (collective farms) often work there during school vacations, largely in agriculture, service occupations or light industry. The number of youth in this group is small since the total percentage of people of all ages who reside on kibbutzism is less than 3 per cent of the country's population.

397. It is believed that there are a few tens of thousands of children employed illegally in Israel. Their employment is illegal either due to the children's age or because they are working longer hours than the maximum permitted by law. Most of these children and youth are employed as physical labourers in outdoor markets and other temporary jobs. In 1994 the Israeli police established a unit for the enforcement of labour laws. This unit has made concerted efforts to enforce child labour laws.

398. Lately, the distribution of information on child labour laws to both youth and employers has increased. Printed materials have been prepared and distributed by voluntary organizations such as the National Center for the Child and the Union of Youth Workers, an organization created specifically to represent the rights of workers under the age of 19.

399. There are no accurate official data regarding the phenomenon of illegal employment. However, the common perception among government officials is that there has been a slight decrease in illegal child labour in the last two years. It is nonetheless clear that in order to reduce the instance of illegal child and youth labour, better enforcement is needed, as is better awareness of labour laws among children and employers.

400. Finally, legal provisions pertaining to special protection of children within the family, such as protection from neglect, child abuse of all sorts, etc., have been described in paragraphs 352-375 and are relevant in the present context also.

Article 11 - The right to an adequate standard of living

401. The right of everyone to enjoy an adequate standard of living is generally considered as obvious and is recognized under the Israeli legal system. This recognition is not embodied in one single legal text. Instead, there exist various legal entitlements and administrative measures aimed at securing everyone's subsistence, which are described in this chapter. All together, these entitlements and measures embody a definite commitment on the part of the State to securing a decent standard of living for everyone.

402. Furthermore, one can say that the "right to basic needs", as a coherent right standing on its own, is an emerging concept in the Israeli legal culture. There are a few signs to support this statement that should be briefly surveyed before going into the details of housing and food rights.

403. The most evident indication of the emergence of a constitutional right to basic needs is the already mentioned Basic Law: Social Rights Bill (1993). One should also recall the interpretation given to the Basic Law: Human Dignity and Freedom (1992) in one of the Supreme Court President's books, according to which the right to basic needs is part of the constitutional right to human dignity (Barak 1994:416).

404. Also important in this context are various remarks made by the Israeli courts. The Supreme Court has dealt with the right to basic living conditions mainly in the context of providing minimal guarantees to those affected by the exercise of legal rights. One example of such a guarantee is the case of alimony and child support payments. The court has ruled that even when such payments can be normally withheld (e.g. for refusal of the recipient to respect the rights of the supporting party), this rule does not apply when the recipient lacks basic living needs:

> "We agree that a minor that refuses to follow a court order, and in the case before us, refusal to attend meetings provided for in the divorce agreement, can be regarded as a rebel. However, even a rebellious child does not lose his (or her) entitlement for child support. The exemption the father enjoys is not definitive in all circumstances because it is not permitted to bring even a rebellious son or daughter to the verge of hunger and leave him or her with nothing."
> C.A. 1741/93 Azoulai v. Azoulai, Takdin-Supreme, vol. 94 (2) 1784.

405. A similar problem has risen in the case of traffic accidents that deprive the victim of living resources before the completion of the legal proceedings. In order to alleviate this problem the legislator amended the Compensation for Traffic Accidents Victims Law 1975 and introduced the possibility of claiming intermediate compensations, on which the Supreme Court remarked:

> "The underlying idea of the institution of immediate compensation, and the goal the legislator has set in this legislative innovation, is to provide with great urgency the victim of a traffic accident the sum required to cover his/her expenses, including hospitalization expenses, and his/her and his/her family's living needs, until a final decision is reached concerning the compensation he/she is entitled to. The general thrust is to deliver those funds to the victim as soon as possible, so to provide him/her and his/her family with these basic needs, which cannot be put on hold until his/her claim is being adjudicated in normal proceedings which may take very long ..."
> C.A. 387/82 Karnit – Compensation for Traffic Accident Victims Fund v. Assido, P.D. vol. 40 (4) 213, 219.

406. In another case, the Supreme Court discussed the Judgment Execution Law, 1967, which limits the creditor's right of recovery, in light of the social conditions of the debtor:

> "The legislator did not wish that the operation of the execution mechanism would cause the debtor to lose all of his possessions and become a burden on society. This is the basis for several provisions stemming from what are essentially social ideas, which were stipulated in the said law and involve taking into account the circumstances of the debtor.
>
> "For instance, [in] Chapter B which deals with seizure of chattels ... Article 22 determines which chattels may not be seized. The enumeration reveals that these are chattels which are necessary for the nutrition needs of the debtor and his/her family, clothing and furniture vital to them, tools and machines which are the source of the debtor and his/her family's livelihood (with certain limits), etc. This is also the case with seizure of property held by a third party ... [T]he provision of Article 50 (a) to the said law lists what are assets held by a third party that may not be seized ... This section encompasses, among other things, minimal monetary sums held by a third party that constitute part of the indebted party's wage ... which is necessary for his sustenance so he will not suffer poverty and hunger-related disgrace ... The common denominator to all the above-mentioned provisions in the law is the degree of consideration given to the circumstances of the debtor, on the basis of the important and worthy social principle we have described."
> C.A. 711/84 Israel Discount Bank Ltd. v. Fishman, P.D. vol. 41 (1) 369, 374-375

407. The Supreme Court addressed on several occasions the question of what are minimal standards of living in the context of imprisonment conditions, and held that:

> "In Israel, an imprisoned or arrested person is entitled to be incarcerated under conditions which allow civilized human life. We do not attribute any importance to the fact that this right was not codified in an act of legislation. This right is a fundamental human right and in a law-respecting democratic state it is so obvious as if it was formally written and enacted. We have already had the opportunity to emphasize that if incarceration is intended, as an act of necessity, to deprive a person from his/her physical freedom, it does not purport to deprive from him/her his/her self-image and humanity ...
>
> "What are the conditions that allow civilized human life? A civilized human being has spiritual needs in addition to his physical living needs: He can, for instance, survive and live by eating with his bare hands. However, a civilized human being needs a plate, spoon and fork to eat with. A civilized person is not necessarily full of civility, but he is living in a time and place characterized by that civilization ... [I]t is thus necessary to establish minimal standards to meet the 'conditions that allow civilized human life' in prison. At the same time, the more these standards are added upon and improved, the better it is – whereas he who detracts from them and does not meet them, fails to meet a minimal obligation of civilization ...
>
> "[T]he standards should be determined according to the needs of an ordinary person. As long as we force a prisoner – even one that recently arrived as an uninvited guest or an enemy and harasser - to stay in an Israeli prison, he/she is entitled to living conditions according to the minimal standards of people in Israel, and we must secure or grant them."
> H.C 221/80 Darwish v. The Prison Service, P.D. vol. 35 (1) 536, 538-40 [minority opinion, rejected on other grounds]

408. The above citations are not representative of a coherent and systematic judicial approach. Examples of disregard of socio-economic factors in judicial reasoning can also be found in Israeli jurisprudence. But these are encouraging signs when evaluated in the context of a growing awareness of social rights as fundamental or constitutional rights.

The current standard of living of Israel's population

Available data on living standard and poverty

(i) Standard of living

409. The following tables present the main available data up to this date on the standard of living in Israel.

BUDGET OF URBAN HOUSEHOLDS, BY DECILES OF NET OVERALL INCOME PER STANDARD PERSON AND STATUS AT WORK OF HOUSEHOLD HEAD
1992/93

	Status of work of household head			Decile										Total
	Not working	Self - employed	Employee	Upper	9	8	7	6	5	4	3	2	Lower	
Upper limit of deciles (NIS)					3 460.0	2 687.0	2 198.0	1 885.0	1 818.0	1 385.0	1 182.0	976.0	760.0	
Households in population (thousands)	435.7	145.8	695.1	127.8	127.7	127.7	127.7	127.5	127.7	127.6	127.8	127.7	127.5	1 276.7
Average persons per household	2.7	4.1	3.8	2.3	3.1	3.3	3.3	3.5	3.4	3.7	3.9	4.2	4.1	3.5
Average standard persons per household	2.3	3.2	3	2.1	2.6	2.7	2.8	2.8	2.8	3.0	3.0	3.2	3.1	2.8
Average earners per household	0.4	1.7	1.6	1.4	1.6	1.6	1.5	1.4	1.2	1.2	0.9	0.9	0.5	1.2
NIS per household per month at average prices of survey period														
Net overall income	3 510	6 615	5 765	9 943	7 901	6 629	5 632	4 941	4 143	3 798	3 262	2 786	1 881	5 092
Gross money income	2 948	8 100	6 274	11 737	8 946	7 103	5 844	4 971	3 992	3 682	2 972	2 547	1 673	5 348
Net money income	2 819	5 618	4 979	8 514	6 703	5 589	4 767	4 205	3 461	3 219	2 702	2 369	1 615	4 315
Money expenditure	2 818	5 023	4 738	5 650	5 611	5 243	4 638	4 196	3 722	3 658	3 204	2 929	2 299	4 115
OVERALL GROSS INCOME - TOTAL	3 640	9 097	7 059	13 166	10 144	8 143	6 709	5 707	4 674	4 262	3 532	2 964	1 939	5 125
From work	765	7 443	5 679	8 967	7 708	6 088	4 821	4 074	3 070	2 852	2 038	1 627	779	4 203
From capital	897	1 223	855	2 397	1 428	1 170	967	780	688	546	534	372	225	912
From pensions	730	108	118	1 176	492	396	398	237	239	116	131	52	(16)	325
From allowances and assistance	1 248	323	408	625	516	489	523	610	678	748	829	913	919	685
NON-CONSUMPTION EXPENDITURE - TOTAL	178	2 554	1 349	3 504	2 322	1 558	1 121	798	547	478	291	185	61	1 087
Compulsory payments	130	2 482	1 295	3 223	2 243	1 514	1 077	766	531	463	270	178	58	1 033
Transfers to other households	48	72	54	281	78	44	44	(32)	(15)	15	(21)	(7)		54
CONSUMPTION EXPENDITURE - TOTAL	3 652	6 308	5 758	7 481	7 179	6 574	5 749	5 137	4 585	4 380	3 890	3 427	2 613	5 102
Food	590	977	831	827	908	867	851	733	735	764	705	683	581	765
Vegetables and fruit	182	269	228	226	252	241	236	216	213	220	196	200	170	217
Housing	867	1 266	1 018	1 654	1 448	1 293	1 087	985	874	789	761	613	439	994
Dwelling and household maintenance	355	606	492	724	649	585	502	437	405	377	334	303	266	458
Furniture and household equipment	185	293	338	426	352	351	333	295	258	250	189	203	149	281
Clothing and footwear	172	353	378	332	377	369	353	300	269	283	274	270	217	304
Health	309	406	383	538	491	464	398	372	321	313	273	247	186	360
Education, culture and entertainment	318	754	810	836	930	910	743	909	620	570	469	355	223	635
Transport and communication	450	1 047	950	1 488	1 392	1 126	901	785	597	553	480	364	217	790
Miscellaneous goods and services	227	337	330	430	378	367	347	317	293	260	209	191	165	296

AVERAGE GROSS MONTHLY MONEY INCOME OF URBAN HOUSEHOLDS, BY SOURCE

Financial data - at uniform prices of each surveyed year

	1995	1994	1993	1990	1985
Household head - employee					
Households (thousands)	863.5	796.1	732.6	632.8	599.1
Average persons per household	3.9	3.7	3.8	3.8	3.8
Average age of household head	40.4	40.9	41.0	41.2	41.1
Average earners per household	1.7	1.7	1.7	1.6	1.6
Average monthly money income (NIS)					
per household - gross	8 320	7 341	6 048	46 027	1 250
- net	6 468	5 862	4 882	3 231	927
per standard person - gross	2 720	2 448	1 983	1 337	411
- net	2 115	1 954	1 600	1 073	305
Average net money income per standard person					
Per cent real (1) change	-1.7	8.7	0.9	-1.1	
Gini coefficient	0.243	0.252	0.230	0.220	0.218
SOURCES OF INCOME - TOTAL (per cents)	100.0	100.0	100.0	100.0	100.0
Employed work - total	85.8	85.8	85.7	87.7	89.6
Income of household head	61.8	61.9	62.7	66.4	69.1
Income of household head's spouse	16.7	17.6	16.5	16.0	15.4
Income of other earners	7.3	6.3	6.4	5.2	5.1
Self-employed work	2.5	2.0	2.4	2.7	1.6
Property and assistance	11.3	12.1	12.0	9.6	8.8
Thereof assistance and allowances from institutions	7.6	7.3	7.6	6.1	5.7
Household head not working					
Households (thousands)	372.6	368.2	367.3	338.4	271.1
Average persons per household	2.2	2.3	2.4	2.3	2.3
Average age of household head	62.4	61.1	60.0	60.2	61.2
Average earners per household	0.1	0.1	0.1	0.1	0.2
Average monthly money income (NIS)					
per household - gross	2 690	2 252	1 939	1 327	374
- net	2 576	2 207	1 903	1 287	367
per standard person - gross	1 326	1 065	897	623	180
- net	1 270	1 044	881	604	177
Net money income per standard person					
Per cent real (1) change	10.6	5.6	-1.5	5.6	
Gini coefficient	296	0.275	0.272	0.275	0.266
SOURCES OF INCOME - TOTAL (per cents)	100.0	100.0	100.0	100.0	100.0
Work	4.4	9.7	8.0	10.0	9.4
Property and assistance in Israel - total	88.9	83.5	86.5	83.3	80.9
Capital and property	3.4	2.2	2.7	2.6	2.8
Pensions	29.2	26.0	24.7	24.4	23.9
Allowances and assistance from institutions	55.0	53.7	57.2	54.4	52.6
Assistance from private persons	1.3	1.6	1.8	1.9	1.5
Property and assistance from abroad	6.6	6.9	5.6	6.8	9.7

URBAN HOUSEHOLDS HEADED BY EMPLOYEES, BY DECILES OF GROSS MONTHLY MONEY INCOME
PER URBAN HOUSEHOLD AND BY CHARACTERISTICS OF HOUSEHOLD HEAD
1995

	Deciles of income										
	Upper	9	8	7	6	5	4	3	2	Lower	Total
Upper limit (NIS)		15 809	11 820	9 397	7 850	6 655	5 606	4 679	3 810	2 834	
Gross money income per household (NIS)	22 228	13 367	10 547	8 578	7 237	6 127	5 161	4 234	3 340	2 050	5 320
Net money income per household (NIS)	14 364	10 076	8 267	7 080	6 136	5 300	4 567	3 829	3 100	1 947	6 468
Average persons per household	4.2	4.1	4.4	4.1	4.0	4.1	3.9	3.9	3.4	2.6	3.9
Average standard persons per household	3.3	3.2	3.4	3.2	3.2	3.2	3.1	3.1	2.8	2.3	3.1
Average age of household head	45.9	44.0	42.5	40.8	40.8	39.5	38.7	37.6	37.6	36.5	40.4
TOTAL (per cents)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Years of schooling											
Up to 8	(1.4)	(5.4)	8.9	9.1	10.7	13.4	16.2	17.0	19.2	23.6	12.5
9 - 12	21.5	34.5	45.7	44.6	47.9	49.5	49.9	47.7	50.9	43.2	43.5
13 +	77.1	60.1	45.3	46.3	41.4	37.2	34.0	35.3	29.9	33.1	44.0
Age											
Up to 34	12.3	20.0	24.2	33.2	34.8	38.0	40.3	46.0	49.3	56.2	35.4
35 - 54	69.4	61.2	63.0	53.7	50.7	50.6	46.6	43.3	37.8	30.4	50.7
55 - 64	16.3	16.3	11.3	11.5	11.7	9.6	10.9	8.8	9.7	8.4	11.4
65 +	(2.0)	(2.6)	(1.5)	(1.5)	(2.9)	(1.8)	(2.2)	(1.9)	3.2	5.0	2.5
Jews - total	97.5	95.1	93.7	91.7	90.5	88.8	81.1	80.8	80.6	81.2	88.1
Continent of birth											
Asia - Africa	11.7	16.6	19.3	19.8	18.0	16.4	12.6	12.9	17.6	17.4	16.2
Europe - America	28.2	28.9	24.4	28.4	29.4	31.2	31.5	27.8	27.0	31.0	28.8
Israel	57.4	49.7	50.0	43.1	42.6	41.0	36.6	39.6	35.1	32.3	42.7
Arabs and others	(2.5)	(4.9)	(6.3)	8.3	9.5	11.2	18.9	19.2	19.4	18.8	11.9

URBAN HOUSEHOLDS HEADED BY EMPLOYEES BY DECILES OF NET MONTHLY MONEY INCOME PER STANDARD PERSON AND BY CHARACTERISTICS OF HOUSEHOLD HEAD
1995

	Deciles of income										
	Upper	9	8	7	6	5	4	3	2	Lower	Total
Upper limit (NIS)		3 887	3 154	2 608	2 246	1 947	1 680	1 441	1 182	912	
Gross money income per household (NIS)	19 279	13 005	10 734	8 773	7 470	6 480	5 706	4 880	4 082	2 769	8 320
Net money income per household (NIS)	12 599	9 487.0	8 242.0	7 018.0	6 205.0	5 527.0	4 952.0	4 330.0	3 690.0	2 623.0	6 468.0
Average persons per household	2.8	3.2	3.5	3.6	3.7	3.8	4.0	4.3	4.7	5.0	3.9
Average standard persons per household	2.4	2.7	2.9	2.9	3.0	3.1	3.2	3.3	3.5	3.7	3.1
Average age of household head	46.0	44.2	42.0	41.7	40.1	40.6	38.5	37.9	37.5	35.6	40.4
TOTAL (per cents)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Years of schooling											
Up to 8	(1.5)	(3.7)	5.5	9.4	8.8	13.6	11.6	16.4	24.0	30.5	12.5
9 - 12	19.4	33.2	42.7	48.5	46.1	44.5	50.1	49.8	52.6	48.4	43.5
13 +	79.1	63.1	51.8	42.1	45.0	42.0	38.3	33.8	23.4	21.2	44.0
Age											
Up to 34	24.1	26.5	27.9	31.1	36.8	33.5	38.3	41.8	43.1	51.2	35.4
35 - 54	47.4	52.0	56.0	53.0	50.0	53.8	52.9	49.0	48.9	43.6	50.7
55 - 64	23.0	17.1	13.5	13.0	11.9	10.4	7.2	7.4	6.4	4.5	11.4
65 +	5.5	4.4	(2.6)	(2.9)	(1.3)	(2.3)	(1.6)	(1.8)	(1.5)		2.5
Jews - total	98.4	98.7	97.3	95.0	92.6	92.8	86.4	82.1	73.5	64.2	88.1
Continent of birth											
Asia - Africa	9.8	13.8	15.1	20.2	15.6	20.2	14.4	14.6	19.2	19.2	16.2
Europe - America	31.4	33.9	26.8	28.3	28.5	35.5	31.9	31.3	23.1	17.1	28.8
Israel	57.0	51.1	54.9	46.5	48.3	36.6	39.0	36.0	30.1	27.6	42.7
Arabs and others			(2.7)	(5.0)	(7.3)	(7.2)	13.6	17.9	26.5	35.8	11.9

HOUSEHOLDS, BY HOUSING DENS ITY, RELIGION, CONTINENT OF BIRTH, PERIOD OF IMMIGRATION, AND TYP E OF LOCALITY OF RESIDENCE OF HOUSEHOLD HEAD

1996

	Averag	Persons per room								Total	
	density	3.00 +	2.50 - 2.99	2.01 - 2.49	2.00	1.50 - 1.99	1.01 - 1.49	1.00	-1.00	%	000
JEWS	0.97	0.8	0.8	0.8	3.9	9.4	16.9	22.2	45.3	100.0	1 340.0
Continent of birth and period of immigration											
Israel	1.03	1.1	1.1	0.8	4.6	10.6	19.7	23.7	38.4	100.0	564.8
Father born:											
Israel	0.99	(1.7)	(1.5)	(0.6)	3.9	7.5	14.8	26.3	43.8	100.0	104.2
Asia - Africa	1.15	1.3	1.4	1.1	6.8	15.5	24.0	23.2	26.8	100.0	261.0
Europe - America	0.91	(0.7)	(0.5)	(0.7)	2.0	5.5	16.5	23.1	50.9	100.0	197.2
Asia - Africa	0.99	0.9	(0.6)	1.3	4.3	11.0	17.3	18.2	46.5	100.0	281.4
Up to 1960	0.93	(0.7)	(0.2)	(1.0)	3.2	8.8	15.4	18.0	52.6	100.0	179.0
1961 - 1964	1.12	(1.0)	(1.5)	(1.3)	6.0	15.3	23.1	18.6	33.2	100.0	41.4
1965 +	1.11	(1.5)	(0.9)	(2.3)	6.1	14.3	19.1	18.6	37.2	100.0	57.7
Thereof: Asia	0.94	(0.4)	(0.3)	(0.9)	4.0	9.3	16.0	17.8	51.2	100.0	130.3
Up to 1960	0.91	(0.5)	0.4	(0.9)	3.5	8.3	14.5	17.8	54.2	100.0	99.2
1961 - 1964	1.08	-	-	-	(7.8)	(15.0)	(24.4)	(13.5)	38.1	100.0	6.7
1965 +	1.01	(0.1)	-	(1.0)	(5.0)	11.6	20.2	19.8	42.0	100.0	22.9
Europe - America	0.88	(0.3)	0.6	(0.4)	3.0	6.9	13.3	22.7	52.8	100.0	486.0
Up to 1960	0.65	(0.1)	(0.3)	(0.1)	(0.5)	2.5	4.7	13.5	78.4	100.0	159.6
1961 - 1964	0.83	-	(0.4)	(0.3)	(0.9)	(4.5)	11.8	20.3	61.8	100.0	23.8
1965 - 1974	0.87	(0.2)	(0.7)	(0.5)	(2.3)	5.4	15.4	19.6	55.9	100.0	56.9
1975 - 1979	0.94	(0.3)	(1.0)	(1.1)	(2.3)	(7.5)	14.6	23.2	50.0	100.0	25.8
1980 - 1989	0.93	(0.8)	(0.8)	(0.9)	(2.4)	7.2	16.9	19.2	51.9	100.0	28.9
1990 - 1991	1.07	(0.3)	(0.7)	(0.6)	4.4	10.5	21.4	33.6	28.5	100.0	100.3
1992 +	1.08	(0.4)	(1.0)	(0.6)	7.1	12.4	17.3	30.6	30.7	100.0	87.2
Type of locality of residence (size of locality)											
Urban localities	0.97	0.8	0.8	0.7	4.0	9.3	16.8	22.3	45.3	100.0	1 254.7
Jerusalem	1.06	2.5	1.7	(1.3)	5.3	11.3	16.2	19.4	42.2	100.0	119.1
Tel Aviv - Yafo	0.87	(0.4)	(0.7)	(0.6)	4.2	6.6	10.7	22.5	54.4	100.0	139.7
Haifa	0.84	(0.4)	(0.5)	(0.2)	(1.9)	5.6	11.1	22.8	57.6	100.0	82.6
100 000 - 199 999	1.01	0.9	1	1.1	4.2	10.2	18.6	21.2	42.7	100.0	368.9
50 000 - 99 999	0.97	(0.3)	(0.5)	(0.7)	3.0	9.6	19.5	21.9	44.4	100.0	141.9
20 000 - 49 999	0.96	(0.5)	(0.4)	(0.5)	3.6	8.7	16.8	24.9	44.7	100.0	255.8
10 000 - 19 999	1.00	(0.5)	(0.5)	(0.7)	4.7	11.6	18.7	23.1	40.3	100.0	85.8
2 000 - 9 999	0.99	(0.6)	(1.0)	(0.7)	4.7	10.1	19.2	22.0	41.8	100.0	60.9
Thereof:											
Development											
localities	1.03	(0.5)	(0.6)	(0.8)	4.4	11.4	18.8	24.5	39.1	100.0	157.6
North	1.00	(0.5)	(0.6)	(0.5)	3.9	10.1	17.9	25.1	41.4	100.0	83.3
South	1.05	(0.6)	(0.5)	(1.1)	5.1	12.9	19.7	23.8	36.4	100.0	74.4
Rural localities	0.98	(0.6)	(1.1)	(0.8)	3.3	9.7	18.4	20.6	45.5	100.0	85.3
Moshavim	0.93	(0.3)	(1.0)	(0.5)	(2.8)	8.1	17.2	20.9	49.1	100.0	44.1
Villages	1.02	(1.0)	(1.1)	(1.2)	(3.8)	11.3	19.7	20.3	41.6	100.0	41.2
ARABS AND											
OTHERS	1.52	9.1	7.1	6.3	14.0	19.7	16.2	14.2	13.4	100.0	200.8
Moslems	1.74	11.3	8.2	8.0	15.6	21.3	15.1	10.3	10.3	100.0	141.6
Christians	1.27	(2.9)	(4.0)	(2.2)	10.4	19.2	18.3	22.7	23.4	100.0	37.2
Druze & others	1.37	(5.7)	(5.5)	(0.7)	9.9	15.9	19.8	24.7	16.9	100.0	22.1
Type of locality of residence (size of locality)										100.0	
Urban localities	1.62	9.2	7.1	6.1	14.0	19.4	16.0	14.4	13.8	100.0	189.6
Jerusalem	2.13	27.5	14.3	6.7	14.3	11.3	(5.7)	12.2	8.1	100.0	30.5
10 000 +	1.45	4.8	4.3	4.5	12.1	21.9	17.9	17.7	16.8	100.0	84.9
2 000 - 9 999	4.62	6.7	7.5	7.7	16.0	19.9	18.1	11.6	12.6	100.0	74.2
Rural localities	1.68	(8.6)	(7.0)	(8.2)	14.1	25.2	19.3	(10.0)	(7.7)	100.0	11.3

HOUSEHOLDS, BY POPULATION GROUP, HOUSING DENSITY AND CONTINENT OF BIRTH OF HOUSEHOLD HEAD, AND CHILDREN IN HOUSEHOLD

1996

Population group persons per room and continent of birth	Average children per household		Children in household					Thereof: households with children aged up to 17 - total	All households
	Households with children aged up to 17	All household	6 +	4 - 5	3	2	1		
			Per cents						Thousands
JEWS - GRAND TOTAL (1)	2.21	1.08	2.6	10.1	19.6	33.4	34.3	100.0	658.0	1 339.7
Up to 0.99	1.54	0.30	-	(0.9)	10.0	30.8	58.3	100.0	119.5	606.6
1.00 - 1.99	2.16	1.55	0.9	9.5	22.4	35.8	31.6	100.0	464.1	647.7
2.00 - 2.99	3.37	2.94	13.7	28.5	18.2	25.7	13.9	100.0	64.6	74.1
3.00 +	5.17	4.87	42.7	28.7	(11.6)	(8.5)	(8.4)	100.0	9.6	10.2
Israel - total	2.35	1.47	3.0	11.1	23.1	35.1	27.7	100.0	352.6	564.7
Up to 0.99	1.62	0.52	-	(1.1)	11.8	35.3	51.7	100.0	69.3	216.8
1.00 - 1.99	2.31	1.85	1.0	10.4	27.2	37.2	24.1	100.0	244.0	304.3
2.00 - 2.99	3.63	3.26	15.0	34.3	18.4	24.5	7.8	100.0	33.1	36.8
3.00 +	5.62	5.39	49.7	(28.1)	(12.5)	(5.7)	(3.9)	100.0	6.1	6.4
Asia - Africa - total	2.32	1.03	3.2	12.8	21.2	29.8	33.0	100.0	125.2	281.4
Up to 0.99	1.50	0.20	-	(0.5)	(10.3)	28.2	61.0	100.0	17.7	130.7
1.00 - 1.99	2.25	1.54	(1.3)	12.2	23.7	31.7	31.2	100.0	89.7	130.7
2.00 - 2.99	3.39	3.04	14.5	28.0	22.0	21.8	13.8	100.0	15.5	17.3
3.00 +	4.36	3.94	(26.8)	(31.4)	(5.4)	(21.1)	(15.4)	100.0	2.2	2.5
Europe - America - total	1.84	0.67	1.4	6.1	11.5	32.5	48.5	100.0	176.4	485.8
Up to 0.99	1.37	0.17	-	(0.8)	(5.9)	22.7	70.7	100.0	32.2	256.0
1.00 - 1.99	1.82	1.11	(0.4)	6.0	12.5	35.3	45.8	100.0	127.4	208.4
2.00 - 2.99	2.81	2.23	(10.2)	16.4	13.7	32.6	27.1	100.0	15.5	19.6
3.00 +	(4.31)	(4.02)							(1.2)	(1.3)
ARABS AND OTHERS - GRAND TOTAL	3.06	2.25	8.8	26.9	19.8	25.3	19.3	100.0	148.2	201.2
Up to 0.99	1.45	0.40	-	(3.3)	(5.1)	(23.6)	67.9	100.0	7.4	26.9
1.00 - 1.99	2.45	1.82	(1.0)	16.9	25.9	32.5	23.7	100.0	74.8	100.8
2.00 - 2.99	3.64	3.20	12.8	42.4	15.5	19.5	10.0	100.0	48.3	54.9
3.00 - 3.99	4.80	4.53	34.4	39.6	(10.9)	(9.3)	(5.7)	100.0	12.4	13.2
4.00 +	4.47	4.45	(32.8)	(29.9)	(13.7)	(19.1)	(4.4)	100.0	5.3	5.3

Incl. Continent of birth not known.

HOUSEHOLDS, BY HOUSING DENSITY, SIZE OF HOUSEHOLD AND POPULATION GROUP

1996

Persons per room	Persons in household									
	Average per household	7 +	6	5	4	3	2	1	Total %	000
JEWS - TOTAL	3.32	4.3	6.8	14.6	18.4	15.5	22.9	17.5	100.0	1 340.0
Up to 0.49	1.16	-	-	-	(0.2)	(1.1)	13.1	85.5	100.0	145.7
0.5	1.51	-	-	-	(0.4)	3.5	42.5	53.6	100.0	114.9
0.51 - 0.99	2.70	(0.1)	1.1	5.9	14.8	23.0	49.3	5.8	100.0	346.2
1.00	3.25	(0.4)	2.5	13.5	25.9	30.1	18.5	9.1	100.0	296.7
1.01 - 1.49	4.59	5.1	8.7	35.9	42.3	5.1	3.0	-	100.0	225.9
1.50 - 1.99	5.27	13.8	29.0	35.6	7.3	14.4	-	-	100.0	125.2
2.00	5.14	15.0	37.8	9.0	21.1	5.4	10.3	(1.4)	100.0	52.5
2.01 - 2.49	7.58	81.7	(18.4)	-	-	-	-	-	100.0	10.6
2.50 - 2.99	6.88	48.7	-	37.3	(14.0)	-	-	-	100.0	11.0
3.00 +	7.87	59.8	20.6	(6.9)	(1.7)	(10.1)	(0.8)	-	100.0	10.2
ARABS AND OTHERS - TOTAL	5.06	24.3	15.7	16.8	16.6	11.2	10.0	5.4	100.0	200.8
Up to 0.99	2.21	(0.2)	(1.4)	(2.1)	(6.9)	21.1	41.3	27.0	100.0	26.9
1.00	3.00	-	(0.8)	7.2	28.2	30.3	22.4	11.2	100.0	28.5
1.01 - 1.49	4.56	7.8	(6.2)	31.2	45.2	(5.8)	(3.8)	-	100.0	32.5
1.50 - 1.99	5.39	16.8	29.4	33.6	6.0	14.3	-	-	100.0	39.6
2.00	5.62	20.5	45.1	8.4	18.9	(1.0)	(4.6)	(1.6)	100.0	28.1
2.01 - 2.49	7.39	91.2	(8.8)	-	-	-	-	-	100.0	12.5
2.50 - 2.99	7.36	65.5	-	32.3	(2.3)	-	-	-	100.0	14.3
3.00 +	8.39	71.2	18.9	(3.8)	(4.5)	(1.6)	-	-	100.0	18.4
					Average no. of persons per room					
Jews		1.87	1.44	1.22	1.06	0.89	0.65	0.41		0.97
Arabs and others		2.41	1.77	1.55	1.28	1.02	0.76	0.53		1.62

HOUSEHOLDS, BY POPULATION GROUP, SIZE OF HOUSEHOLD AND ROOMS IN DWELLING

1996

Rooms in dwelling	Persons in household							Total
	7 +	6	5	4	3	2	1	
JEWS TOTAL - thousands	58.2	91	195.9	246.5	208.2	306.3	233.9	1 340.0
- per cents	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1	-		(0.1)	(0.1)	(0.5)	1.8	11.8	2.6
1.5	(0.2)	(0.4)	(0.3)	(0.6)	1.4	2.2	8.6	2.4
2	(2.5)	(1.8)	2.1	4.5	8.7	18.0	26.4	11.4
2.5	2.1	(2.1)	2.4	3.7	5.5	9.5	10.6	6.1
3	17.1	21.8	22.8	32.4	43.0	41.2	31.2	33.1
3.5	5.6	5.1	7.1	6.4	6.6	5.1	2.5	5.4
4	35.3	34.7	31.5	31.2	23.0	16.0	7.3	22.7
4.5+	37.2	33.9	33.8	21.2	11.3	6.3	1.6	16.2
Average rooms per person	0.53	0.70	0.82	0.94	1.13	1.53	2.45	1.03
ARABS AND OTHERS								
TOTAL - thousands	48.9	31.5	33.7	33.4	22.4	20.0	10.9	200.8
- per cents	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1	(1.1)	(0.4)	(1.8)	(2.5)	(1.3)	(6.4)	33.2	3.6
2	7.8	10.6	14.0	16.9	26.5	38.0	39.3	17.6
3	45.3	43.8	46.4	47.0	46.9	39.5	23.4	43.9
3.5+	45.8	45.2	37.9	33.7	25.3	16.1	(4.0)	34.8
Average rooms per person	0.42	0.57	0.65	0.78	0.98	1.31	1.88	0.62

(ii) Poverty

410. Poverty data in Israel have been systematically collected and published since the early 1970s by the National Insurance Institute (NII). The annual report on poverty submitted to the Government receives wide coverage by the media, raising the major issues on the public agenda as well as helping the Government reassess its policy to reduce poverty.

411. The definition of poverty adopted by the NII is a relative one, by which a family is considered poor when its standard of living falls considerably below the average. Although a family's standard of living is a multidimensional concept, expressed through various aspects (income, housing, health, education, etc.) the poverty measure is based on income data only, which are available on an ongoing basis. The poverty line in Israel is defined as 50 per cent of the net median income, adjusted to family size.

412. According to the NII 1993 report, 16 per cent of all families have net incomes below the poverty lines, with the average net income of a poor family being 75 per cent of the poverty line. Transfer payments, especially NII benefits, play a crucial role in reducing poverty and income disparities. In the absence of transfer payments (mainly NII benefits), 34 per cent of all families would be classified as poor, implying that transfers have reduced the poverty incidence by more than one half. Although transfer payments, mainly to low-income groups, contribute significantly to the reduction of poverty among the elderly, the non-employed and large families, poverty is still more frequent among these groups: almost one fifth of the elderly, one third of the large families and one half of the non-employed are poor. Poverty is also relatively high among non-Jewish families – more than one third are poor.

413. These data should be read in conjunction with the following tables, presenting the resources and their use, including GNP, GDP, per capita GNP and GDP, private consumption expenditure over the years as well as GNP by deciles.

414. One of the factors contributing to the extent of poverty in Israel is the wide variation in family size. A significant percentage of the Israeli population has four or more children and a large percentage of these children grow up in these families. This means that with a given inequality in the wage structure, more poverty and inequality are generated because of the differences in family size. Family size differences are highly correlated with ethnic background. Large families are much more widespread in the Arab population and among certain sub-groups within the Jewish population. This serves to exacerbate inequalities among ethnic groups and the relative concentration of poverty within these groups.

415. Poverty among children and women is of special concern to policy makers: 20 per cent of all children in Israel live in families whose income is below the poverty line. Poverty among families headed by women is more frequent than among families headed by men. Almost one third of the families with children headed by women are poor, compared with 15 per cent of families with children headed by men.

RESOURCES AND USES OF RESOURCES

	Gross national product	Less: net factor payments paid abroad	Gross domestic product	Per capita		Gross domestic product of the business sector	Less:		Gross domestic product	Less: Imports of goods and services	Uses of resources				
				Gross domestic product	Private consumption expenditure		Ownership of dwellings	Services of general government and non-profit institutions			Exports of goods and services	Gross domestic capital formation	Private government consumption expenditure	General government consumption expenditure	Total
	At current price NIS thousand			At constant prices NIS		NIS million									
1950	44	3	47	10 109	5 538	7 062	1 626	5 666	12 806	4 698	562	5 710	7 016	5 304	17 418
1951	67	4	71	11 151	5 745	9 275	1 940	7 298	16 663	5 018	783	6 748	8 585	6 433	21 172
1952	97	11	108	10 831	5 738	9 674	2 306	7 275	17 397	4 616	1 025	5 802	9 216	6 336	21 256
1953	119	17	136	10 389	5 776	9 349	1 580	7 422	17 145	4 712	1 260	4 854	9 532	6 653	21 169
1954	163	16	179	12 116	6 485	11 268	1 842	8 804	20 471	5 188	1 793	5 417	10 956	7 754	24 679
1955	201	15	216	13 291	6 737	12 676	3 179	10 543	23 265	5 582	1 843	6 670	11 792	9 012	27 619
1956	244	13	257	13 859	7 081	13 915	3 553	10 971	25 340	6 500	2 099	6 305	12 947	12 275	30 655
1957	280	19	299	14 286	7 166	15 273	3 865	11 477	27 580	6 445	2 512	7 387	13 834	10 730	32 508
1958	323	24	347	14 799	7 621	16 494	4 179	11 908	29 600	7 234	2 797	7 933	15 242	11 183	35 320
1959	371	26	397	16 185	8 108	18 858	4 588	12 648	33 374	7 751	3 686	8 668	16 719	11 796	39 271
1960	420	26	446	16 806	8 471	20 203	5 016	13 016	35 578	8 924	4 654	9 098	17 932	12 515	42 720
1961	484	54	538	18 017	9 089	22 637	5 375	14 074	39 455	11 021	5 399	10 834	19 904	14 533	48 831
1962	556	84	640	18 965	9 619	25 149	5 750	15 025	43 395	12 673	6 342	11 957	22 010	16 034	54 420
1963	727	39	766	20 157	10 178	27 977	6 193	16 363	47 968	13 545	7 286	12 355	24 221	17 817	59 555
1964	839	50	889	21 283	10 841	30 987	6 693	17 509	52 728	15 417	7 728	14 978	26 858	18 468	66 148
1964	761	117	878	21 013	10 578	30 792	6 445	16 985	52 059	14 951	7 563	14 978	26 207	18 052	64 959
1965	903	149	1 052	22 226	11 116	33 657	6 894	18 908	56 957	15 248	8 200	15 068	28 486	20 112	69 635
1966	998	158	1 156	21 880	11 058	33 470	7 391	19 905	57 527	15 160	9 065	12 624	29 074	22 029	70 020
1967	1 030	175	1 205	21 675	10 928	33 569	7 807	21 861	58 853	16 606	9 818	9 782	29 671	29 420	73 053
1968	1 393	24	1 417	24 194	12 006	39 879	8 567	22 693	67 900	21 561	12 540	14 566	33 694	31 983	87 390
1969	1 607	28	1 635	26 536	12 854	45 756	9 064	24 540	76 536	24 827	13 409	18 433	37 074	37 045	99 166
1970	1 877	35	1 912	27 708	12 761	49 167	9 809	26 571	82 403	29 242	14 712	20 903	37 950	46 124	109 939
1971	2 356	43	2 399	29 872	13 030	55 513	10 740	28 003	91 687	32 356	18 187	25 603	39 992	47 315	122 099
1972	3 033	57	3 090	32 755	14 007	63 332	11 857	29 411	102 907	32 749	20 649	28 718	44 005	46 961	132 537
1973	3 034	111	3 945	33 212	14 681	64 338	13 099	34 597	107 916	44 270	21 779	30 306	47 702	66 036	151 523
1974	5 463	157	5 620	33 836	15 255	67 880	14 217	36 036	113 870	44 573	22 995	29 182	51 338	67 977	157 181
1975	7 895	271	8 166	34 277	14 882	70 067	15 396	34 537	118 231	46 448	23 400	30 596	51 331	74 877	163 412
1976	10 291	323	10 614	34 071	15 278	70 045	16 736	39 008	120 098	45 150	26 840	26 927	53 853	68 926	163 251
1977	15 223	332	15 555	34 010	15 706	70 874	17 818	40 019	122 529	43 780	29 983	24 974	56 583	61 101	163 472

RESOURCES AND USES OF RESOURCES (continued)

	Gross national product	Less: net factor payments paid abroad	Gross domestic product	Per capita		Gross domestic product of the business sector	Less:		Gross domestic product	Less: Imports of goods and services	Uses of resources				
				Gross domestic product	Private consumption expenditure		Ownership of dwellings	Services of general government and non-profit institutions			Exports of goods and services	Gross domestic capital formation	Private government consumption expenditure	General government consumption expenditure	Total
	At current price NIS thousand			At constant prices NIS		NIS million									
1978	24 531	636	25 167	34 665	16 684	73 633	18 699	41 780	127 562	48 430	31 361	25 622	61 395	65 842	174 037
1979	45 940	1 562	47 502	35 423	17 502	77 200	19 543	43 433	133 588	49 764	32 304	28 839	66 306	61 402	180 971
1980	107 245	3 802	111 047	35 841	16 547	80 592	20 337	43 595	138 343	46 676	34 819	25 037	63 870	66 108	180 852
1981	256 073	6 350	262 423	36 877	18 381	85 467	21 112	43 976	144 844	51 438	36 645	23 962	72 196	70 381	193 068
1982	579 212	17 780	596 992	36 706	19 510	85 968	21 888	45 397	146 889	53 277	35 370	27 646	78 106	65 809	197 405
	NIS million														
1983	1 496	46	1 542	36 957	20 832	88 565	22 521	45 810	150 644	56 898	35 957	30 755	84 916	62 787	205 722
1984	7 286	326	7 612	37 013	19 017	90 709	23 168	46 324	153 940	56 296	40 839	28 565	79 094	66 453	207 549
1985	27 331	1 119	28 450	37 983	18 925	96 288	23 742	46 117	160 781	55 770	44 929	25 049	80 110	68 875	212 390
1986	42 423	1 561	43 984	38 733	21 448	101 346	24 161	45 324	166 503	60 915	47 425	26 897	92 198	62 176	224 522
1987	54 774	1 804	56 578	40 487	22 990	109 787	24 610	45 631	176 881	72 465	52 274	28 184	100 440	73 426	248 337
1988	68 474	1 779	70 253	41 216	23 634	113 739	25 134	47 347	183 065	70 338	51 510	28 712	104 973	71 520	251 116
1989	83 333	2 204	85 537	41 066	23 320	115 115	25 709	48 047	185 547	66 889	53 566	28 128	105 364	65 408	248 944
1990	103 310	2 496	105 806	42 192	23 865	123 764	26 348	48 820	196 622	72 963	54 624	34 944	111 217	69 746	266 440
1991	132 198	2 490	134 688	41 895	24 100	131 566	27 049	50 771	207 341	84 261	53 214	48 645	119 274	72 762	289 334
1992	157 568	3 202	160 770	43 130	25 084	142 568	28 449	51 333	220 979	91 725	60 501	51 870	128 519	72 918	310 563
1993	181 978	2 940	184 918	43 432	26 230	147 428	29 720	52 795	228 511	104 706	66 835	54 110	138 007	76 216	332 414
1994	219 872	3 313	223 185	45 184	27 908	159 057	30 689	55 135	243 962	116 142	75 278	58 788	150 683	76 319	359 870
1995	255 901	5 272	261 473	47 098	29 184	173 029	31 612	56 529	261 170	126 075	82 918	64 802	161 832	77 693	387 245
1996	296 956	6 856	303 812	47 949	29 927	182 089	32 761	57 964	272 813	135 718	87 079	69 206	170 276	81 971	408 531
				At current prices											
1996	296 956	6 856	303 812	53 397	33 012	200 549	38 006	65 257	303 812	141 634	93 660	73 181	187 831	90 774	445 446

PRIVATE CONSUMPTION EXPENDITURE, BY OBJECT AND TYPE

NIS million

	1996	1996	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983
	At current prices	At 1995 prices (1)													
1. NATIONAL PRIVATE CONSUMPTION EXPENDITURE - GRAND TOTAL (2 + 6)	187 831	170 276	161 832	150 683	138 007	128 619	119 274	111 217	105 364	104 973	100 440	92 198	80 110	79 094	84 916
2. CONSUMPTION EXPENDITURE BY ISRAELI HOUSEHOLDS (3 - 4 + 5)	183 469	166 349	157 967	146 979	134 572	125 285	116 147	108 308	102 530	10 228	97 565	89 454	77 700	76 833	82 625
Consumption of Israeli abroad	8 995	8 967	8 253	7 520	6 119	5 367	5 347	5 133	5 268	4 595	4 310	4 025	3 437	4 702	5 034
Consumption of non-residents in Israel	9 709	8 803	9 151	7 873	7 223	6 690	4 487	5 232	5 567	5 044	5 709	4 842	6 142	5 688	5 137
Consumption expenditure of households in the domestic market - total	184 182	166 185	158 865	147 286	135 573	126 484	115 111	108 309	102 829	102 579	98 959	90 229	80 369	77 916	82 828
By object															
Beverages and tobacco	40 983	37 131	35 414	33 245	30 611	28 464	27 350	25 940	24 729	24 412	23 220	21 493	20 408	19 822	19 789
Clothing, footwear and personal effects	11 064	10 385	10 302	9 463	8 218	6 906	6 036	5 585	5 173	5 408	5 655	4 595	3 794	3 303	3 861
Housing	42 437	36 753	35 457	34 421	33 334	31 904	30 321	29 515	28 796	28 154	27 567	26 979	26 285	25 447	24 553
Electricity and fuel - home consumption (1)	3 958	3 575	3 340	3 141	2 968	2 824	2 304	2 173	2 116	1 954	1 765	1 634	1 539	1 529	1 642
Furnishings and household equipment	13 711	12 750	12 072	10 057	9 055	8 154	7 294	6 635	5 772	5 827	5 744	5 290	3 473	3 183	4 431
Household maintenance	5 347	4 868	4 554	4 269	4 160	3 776	3 611	3 551	3 363	3 432	3 286	3 034	2 917	2 804	2 798
Personal care and health	11 627	10 668	10 033	9 402	8 453	7 634	6 952	6 657	6 285	5 779	5 512	4 935	4 442	4 412	4 472
Transport and communication	25 340	23 227	21 570	19 614	17 714	17 507	14 108	12 268	1 151	12 622	11 368	9 832	8 460	9 094	10 372
Relaxation and entertainment	16 179	14 680	14 440	13 081	11 684	10 913	9 315	9 207	9 281	9 210	9 407	8 415	7 697	6 819	6 991
Goods and services	13 534	12 147	11 684	11 104	10 438	9 891	9 509	8 552	8 056	7 964	7 176	6 780	6 284	6 606	7 017

PRIVATE CONSUMPTION EXPENDITURE, BY OBJECT AND TYPE (continued)

	1996	1996	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983
	At current prices	At 1995 prices (1)													
By expense															
... goods - total	21 223	20 092	19 048	16 427	14 790	14 716	11 811	9 800	8 367	9 659	8 911	7 869	5 162	5 163	7 575
Furniture	5 166	4 712	4 410	4 025	3 526	3 104	2 899	2 578	2 548	2 395	2 362	2 215	1 747	1 655	1 878
Household equipment	8 545	8 038	7 662	6 054	5 541	5 057	4 409	4 066	3 252	3 449	3 398	3 092	1 842	1 654	2 576
Personal transport equipment	7 512	7 342	6 976	6 414	5 776	8 709	4 542	3 112	2 523	3 953	3 189	2 546	1 663	2 265	3 818
... goods - total	69 856	63 300	60 708	56 568	51 677	46 942	43 421	41 019	39 074	38 576	37 335	33 335	30 374	28 980	29 763
Beverages and tobacco	40 983	37 131	1	33 245	30 611	28 464	27 350	25 940	24 729	24 412	23 220	21 493	20 408	19 822	19 789
Fuel and electricity	7 747	6 467	6 115	5 746	5 380	5 101	4 320	3 969	3 965	3 725	3 437	3 093	2 752	2 668	2 660
Clothing, footwear and personal effects	11 064	10 385	10 302	9 463	8 218	6 906	6 036	5 585	5 173	5 408	5 655	4 595	3 794	3 303	3 861
... household goods	1 747	1 638	1 498	1 446	1 590	1 302	1 224	1 220	1 090	1 140	1 009	866	873	825	830
Beauty care and medical products	5 335	4 945	4 647	4 363	3 703	3 191	2 756	2 626	2 466	2 134	2 077	1 758	1 518	1 557	1 573
Books, newspapers and stationery	1 739	1 550	1 450	1 289	1 310	1 187	1 069	1 069	1 131	1 066	1 211	1 016	919	797	866
...goods and miscellaneous	1 241	1 184	1 282	1 040	943	924	820	766	752	775	703	650	439	372	453
Housing	42 437	36 753	35 457	34 421	33 334	31 904	30 321	29 515	28 796	28 154	27 567	26 979	26 285	25 447	24 553
Other services	50 666	46 0	43 652	40 350	36 707	34 031	30 972	29 644	28 807	27 775	26 955	24 700	23 413	23 082	23 321
6. NON-PROFIT INSTITUTIONS (2) - TOTAL	4 362	3 927	3 865	3 719	3 454	3 258	3 166	2 944	2 893	2 779	2 990	2 885	2 541	2 354	2 347
Medical institutions	643	581	559	530	489	546	518	502	583	635	790	815	577	415	408
Education, culture and research , welfare and religious institutions	2 318	2 276	2 048	1 889	1 891	1 624	1 610	1 442	1 363	1 242	1 282	1 211	1 155	1 153	1 128
Unions, political organizations, etc.	1 401	1 070	1 258	1 308	1 071	1 078	1 029	992	968	967	1 014	966	998	1 036	1 077

(iii) Physical quality of life index

416. Israel still does not have a physical quality of life index. The Ministry of Labor and Social Affairs plans to create one, with the help of the National Council for Diminishing Social Gaps and War on Poverty (described below).

The right to adequate food

417. The right to adequate food is fully recognized by governmental and non-governmental organizations in Israel. Food provision for indigent people is part of the social assistance offered by the Ministry of Labor and Social Welfare, the National Insurance Institute, the municipalities and various voluntary organizations (e.g. ESHEL - The Association for Planning and Developing Services for the Aged in Israel). This right is implemented in two ways: indirectly, by securing a sufficient basic income, and directly, by either supplying food or food-related services.

Income Maintenance

418. Income for subsistence is provided by the various social security schemes under the National Insurance Law - described in this report under article 9 - supplemented by the Assurance of Income Law 1980.

419. The Income Maintenance Law, 1980 basically provides a “safety net”: whoever lacks the defined minimal income, taking into account income from most social security branches, has the right to receive from the NII a monthly allowance up to the allowed minimum. It may be said that anyone in vital need is entitled under the law, except for a person capable of working who refuses to do so (i.e. refusal of a suitable occupation proposed via the Employment Service). The full text of the law is attached in annex A to this report.

420. The Assurance of Income Law does not apply to new immigrants, income maintenance for whom is provided by the Immigration and Absorption Ministry according to the Absorption Basket Law 1994 and the Ministry's detailed administrative directives.

421. The Welfare Services Law 1958 defines the State's duty, together with the municipalities, to provide assistance to residents in need. Regulations issued under this law define the term “in need” for this purpose to include all sorts of personal needs. As to the content of this duty, the law basically refers to the rules issued by the director general of the Ministry of Labor and Social Affairs. These rules cover all personal social services. Mention should be made here of the “special needs programme”. Under this programme, social workers in local welfare services may grant assistance needed for provision of particular vital items like clothes, blankets, heaters and similar basic supplies. This discretionary power is used until reaching the limit of the budget set for this purpose.

Nutrition services

422. Special assistance is provided to those in need of special dietary food due to medical conditions (metabolic disorders, celiac disease, etc.). This assistance is provided by Department of Nutrition in the Ministry of Health in the form of subsidies.

423. Young children and babies are tracked by the Family Health Centers stationed in every neighbourhood throughout the country. Public health nurses, all trained in nutrition, run these centres. In each region and district there are Public Health Services Headquarters, where public health dietitians are part of the team. They are involved in almost all the nutritional aspects of the population, including senior citizens and the very old.

424. Special efforts are aimed at developing health promotion nutrition projects, tailored for the special needs of each community and in consideration of the local characteristics (culture, age, background, needs, etc.).

425. The Central Bureau of Statistics (CBS) has conducted several surveys concentrating on the living conditions in Israel. Some of these provide valuable information on nutrition or have implications for nutrition policy:

The Food Balance Sheet

CALORIES AND NUTRIENTS PER CAPITA PER DAY

	1996	1995	1990	1980	1970	1960	1950
Calories (Kcal)							
TOTAL	3,471	3,433	3,089	2,979	2,988	2,772	2,610
Cereals and cereal products	1,031	1,030	986	1048	1,067	1,157	1,260
Potatoes and starches	86	91	66	89	79	77	98
Sugar and honey	446	424	381	323	376	311	184
Chocolate, sweets and jam	131	119	101	90	84	68	82
Miscellaneous grains and	207	198	152	114	96	85	62
Vegetables	124	122	103	69	77	67	65
Fruit and melons	195	212	169	150	164	147	105
Oils and fats	573	539	486	496	452	406	343
Meat	336	352	317	284	264	143	95
Eggs	60	63	72	77	89	73	61
Fish	25	27	18	12	16	18	58
Milk and dairy products	257	256	238	227	224	220	197
Protein (grams)							
TOTAL	105.0	106.2	97.4	92.2	91.5	85.1	83.9
Thereof: animal	52.5	54.1	49.9	45.4	44.3	34.0	32.2
Cereals and cereal products	32.9	32.9	31.7	34.1	34.6	39.7	41.4
Potatoes and starches	1.8	1.9	1.4	1.9	1.8	1.7	2.2
Chocolate, sweets and jam	0.6	0.5	0.5	0.4	0.3	0.1	0.2
Miscellaneous grains and	8.9	8.6	6.8	5.0	4.5	4.0	3.2
Vegetables	5.7	5.4	5.1	3.5	3.7	3.5	2.9
Fruit and melons	2.6	2.8	2.0	1.9	2.3	2.1	1.8
Meat	27.1	28.5	25.6	22.5	20.8	11.8	7.4
Eggs	4.6	4.8	5.5	5.9	6.8	5.5	4.6
Fish	4.4	4.6	3.4	2.4	2.7	3.0	7.1
Milk and dairy products	16.4	16.2	15.4	14.6	14.0	13.7	13.1
Fat (grams)							
TOTAL	133.7	130.3	117.6	111.5	104.3	86.7	73.9
Thereof: animal	45.9	45.7	42.6	38.7	38.3	27.9	23.9
Cereals and cereal products	4.3	4.3	4.1	4.3	4.4	4.8	5.4
Potatoes and starches	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Chocolate, sweets and jam	2.4	1.8	2.2	2.0	1.8	0.8	1.3
Miscellaneous grains and	13.5	13.1	9.2	7.0	5.5	5.0	2.9
Vegetables	1.2	1.0	1.0	0.6	0.7	0.4	0.2
Fruit and melons	2.8	3.1	3.2	2.5	2.0	1.4	1.1
Oils and fats	65.0	31.2	55.3	56.3	51.5	46.3	39.0
Meat	24.3	25.3	22.9	20.7	19.3	10.3	6.9
Eggs	4.3	4.6	5.2	5.6	6.4	5.2	4.4
Fish	0.6	0.8	0.4	0.3	0.4	0.6	3.3
Milk and dairy products	15.2	15.0	14.0	12.1	12.2	11.8	9.3

VITAMINS AND MINERALS PER CAPITA PER DAY

Milligrams, unless otherwise stated

Commodity	Iron (Fe)	Calcium (Ca)	Ascorbic acid	Niacin	Riboflavine	Thiamin (Vitamin B)	Vitamin A intm. units
				1950			
TOTAL	15.0	850	125	13.4	1.79	1.92	3,195
Cereals and cereal products	8.5	272	-	6.9	0.81	1.32	-
Potatoes and starches	0.7	9	10	1.6	0.04	0.10	-
Chocolate, sweets and jam	0.1	6	1	-	0.01	-	2
Miscellaneous grains and nuts	0.9	38	-	0.7	0.02	0.09	9
Vegetables	1.5	60	61	0.8	0.10	0.11	1,372
Fruit and melons	1.2	51	52	0.5	0.06	0.12	416
Oils and fats	-	-	-	-	-	-	584
Meat	0.7	4	-	1.8	0.07	0.03	51
Eggs	0.9	19	-	-	0.12	0.04	371
Fish	0.3	13	-	0.8	0.05	0.02	18
Milk and dairy products	0.2	378	2	0.3	0.51	0.09	372
				1970			
TOTAL	16.3	722	130	16.8	1.42	1.68	4,212
Cereals and cereal products	7.1	103	-	5.2	0.29	0.92	-
Potatoes and starches	0.6	7	8	1.2	0.03	0.08	-
Chocolate, sweets and jam	0.2	7	-	-	0.01	-	2
Miscellaneous grains and nuts	1.3	60	-	1.0	0.03	0.12	16
Vegetables	1.8	59	65	1.4	0.13	0.16	1,594
Fruit and melons	1.4	55	55	1.0	0.11	0.15	827
Oils and fats	-	-	-	-	-	-	483
Meat	2.0	13	-	6.2	0.15	0.10	249
Eggs	1.4	27	-	0.1	0.17	0.06	548
Fish	0.1	5	-	0.4	0.01	0.01	2
Milk and dairy products	0.4	386	2	0.3	0.49	0.08	491
				1990			
TOTAL	17.1	747	145	19.0	1.45	1.68	4,417
Cereals and cereal products	6.4	65	-	4.7	0.19	0.85	-
Potatoes and starches	0.5	6	6	1.0	0.02	0.06	-
Chocolate, sweets and jam	0.4	10	-	0.1	0.02	-	3
Miscellaneous grains and nuts	1.9	104	1	1.5	0.06	0.18	24
Vegetables	2.3	76	92	1.9	0.20	0.23	1,818
Fruit and melons	1.4	51	44	0.9	0.12	0.12	1,038
Oils and fats	-	-	-	-	-	-	162
Meat	2.6	17	-	8.1	0.18	0.12	399
Eggs	1.1	22	-	-	-	0.04	444
Fish	0.1	5	-	0.5	0.02	-	1
Milk and dairy products	0.4	391	2	0.3	0.51	0.08	528
				1996			
TOTAL	18.5	813	200	20.9	1.48	1.83	4,822
Cereals and cereal products	6.6	67	-	5.0	0.19	0.88	-
Potatoes and starches	0.6	7	8	1.3	0.03	0.08	-
Chocolate, sweets and jam	0.5	11	1	0.1	0.02	-	4
Miscellaneous grains and nuts	2.7	134	-	1.8	0.08	0.23	23
Vegetables	2.6	83	110	2.2	0.22	0.26	2,287
Fruit and melons	1.4	70	79	1.1	0.12	0.14	1015
Oils and fats	-	-	-	-	-	-	89
Meat	2.7	19	-	8.6	0.19	0.12	442
Eggs	0.9	18	-	-	0.11	0.04	368
Fish	0.1	7	-	0.6	0.02	0.01	1
Milk and dairy products	0.4	397	2	0.2	0.50	0.07	593

FOOD BALANCE SHEET, 1996

Commodity	Per capita supplies					Annual quantities, tons						
						Available supply						
	Fat grams per day	Protein grams per day	Calories (Kcal) per day	Food (net) Grams per day	Food (net) Kg. per year	Food (net)	Other supply and waste	Total	Imports	Exports	Change of stocks	Production
GRAND TOTAL	133.7	105.0	3,471									
CEREALS AND CEREAL PRODUCTS - TOTAL	4.3	32.9	1,031									
Wheat	4.0	30.8	922	263.6	96.2	548,400	387,100	935,500	854,600	125,800	-21,700	185,000
Rice, milled	0.2	1.8	99	27.4	10.0	56,900	-	56,900	87,800	339,000	-3,000	-
Other cereals	0.1	0.3	10	2.8	1.0	5,100	-	5,100	3,800	-	-	1,300
POTATOES AND STARCHES - TOTAL	0.1	1.8	86									
Potatoes and potatoes flour	0.1	1.8	75	102.7	37.5	213,700	46,400	26,100	12,700	95,000	400	342,800
Conflour	-	-	11	3.0	1.1	6,200	14,500	20,700	200	100	300	20,900
SUGAR AND HONEY - TOTAL	-	-	446									
Sugar	-	-	443	114.5	41.8	238,400	44,900	283,300	411,900	128,600	-	-
Honey	-	-	3	1.1	0.4	2,500	-	2,500	300	200	100	2,500
CHOCOLATE, SWEETS AND JAM	2.4	0.6	131	35.3	12.9	73,100	-	73,100	35,500	16,000	12,600	66,200
MISCELLANEOUS GRAINS AND NUTS - TOTAL	13.5	8.9	207									
Pulses, edible, dry	0.3	3.4	56	15.9	5.8	33,696	1,400	35,096	25,172	5,606	-9,000	6,530
Sesame, groundnuts and sunflower	8.9	4.3	106	24.2	8.8	50,140	510	50,650	42,600	25,200	-500	32,750
Nuts	4.3	1.2	45	7.4	2.7	15,300	-	15,300	13,500	1,300	-1,000	2,100
VEGETABLES	1.2	5.7	124	523.0	190.9	1,088,197	94,260	1,182,457	78,612	167,283	-	1,271,128
FRUIT AND MELONS - TOTAL	2.8	2.6	195									
Citrus fruit	0.2	1.0	57	205.2	74.9	426,924	4,401	431,325	18,635	520,050	-	932,740
Fresh fruit, excl. citrus	2.5	1.3	119	195.8	71.4	406,170	63,440	469,610	16,448	97,865	24,984	576,011
Watermelons and sugar melons	0.1	0.3	12	90.4	33.0	188,636	6,941	195,577	47	33,650	-	229,180
Dried fruit	-	-	7	2.9	1.1	6,113	-	6,113	4,163	11	-1,650	400
OILS AND FATS - TOTAL	65.0	0.0	573									
Vegetable oils, refined, edible	48.5	-	429	38.8	14.2	10,100	28,800	129,900	38,000	10,800	40,000	142,700
Margarine	15.0	-	130	18.1	6.6	37,400	800	38,200	4,100	600	-	34,700
Butter	1.5	-	14	1.9	0.7	4,200	3,000	7,200	100	300	-500	6,900
MEAT - TOTAL	24.3	27.1	336									
Beef, fresh and frozen, carcass weight	7.9	6.9	101	46.6	17.0	96,800	-	96,800	50,400	1,200	-3,600	44,000
Beef, Offal and other edible parts	0.5	1.0	9	6.3	2.3	13,300	-	13,300	1,900	-	-3,600	7,800
Sheep and goats, carcass weight	0.3	0.3	4	3.3	1.2	6,640	-	6,640	500	260	-	6,400
Other meat	1.9	0.5	20	5.2	1.9	11,000	-	11,000	-	-	-	11,000
Poultry (dressed, not drawn)	13.7	18.4	202	145.5	53.1	303,100	-	303,100	-	11,700	-	314,800
EGGS	4.3	4.6	60	41.4	15.1	85,900	-	85,900	-	1,300	3,000	90,200
FISH	0.6	4.4	25	35.3	12.9	72,750	-	72,750	46,500	100	-1,350	25,000
MILK AND DAIRY PRODUCTS - TOTAL	15.2	16.4	257									
Cow's milk	4.8	5.6	102	169.9	62.0	353,200	794,500	1,147,700	-	13,400	-	1,161,100
Sheep and goats' milk	0.5	0.5	7	9.1	3.3	18,800	12,400	31,200	-	-	-	31,200
Milk, dried	-	0.3	3	0.8	0.3	2,100	11,000	13,100	2,700	3,500	-1,100	12,800
Cheese	5.8	7.9	85	46.6	17.0	96,850	-	96,850	1,000	3,900	-1,050	98,700
Sour milk, etc.	4.1	2.1	60	58.6	21.4	122,800	-	122,800	100	12,700	-	135,400

426. Review of the food balance sheets collected annually from 1947-1996 reveals an increase in per capita consumption of calories from 2,610 to 3,471 kcal/day, an increase of 33 per cent. Interesting to note are a marked increase in the consumption of fat from 343 to 573 kcal/day, an increase of 67 per cent; the increase in the consumption of vegetables from 65 to 124 kcal/day, an increase of 90 per cent; the increase of consumption of fruits from 105 to 195 kcal/day, an increase of 85 per cent and the increase of consumption of meat from 95 to 336 kcal/day, an increase of 253 per cent.

427. The main data from the latest household expenditure survey were produced above. These surveys, collected every four or five years, have provided data needed for the establishment of nutrition policy: food subsidies and price control, nutrition education and promotion programmes, etc. Six special surveys were done in the past, and six more are ongoing. These surveys are either cross-sectional, small-scaled, or targeted to suspected vulnerable groups. Additionally, there is an ample number of surveys done by academia in different parts of the country, or in diverse sub-groups of the population. These surveys used different methodologies, conducted at different times, and provide non-generalizable information. Therefore, they cannot be directly compared, or lead to a sound national nutrition policy.

428. It is necessary to look beyond the overall per capita aggregate in order to determine how the nutritionally vulnerable groups fare. In order to overcome the lack of data regarding geographical areas, sub-populations etc., a first National Nutrition Survey (NNS) is planned. The NNS will furnish information on food and nutrition intakes, dietary practices, physical activity, smoking habits, anthropometric data, socio-economic status, health status, and nutrition knowledge and attitudes of a representative sample of 4,500 Israelis, aged 12 to 75. The project is the largest and most comprehensive food and nutrition survey of Israel's population ever undertaken. Preparations started in 1997 and data collection will take place continuously from April 1998 to May 1999. This survey will provide information regarding indigent populations and vulnerable groups, and a database for public health policy decisions.

429. On the basis of the available data only the following comments as to potential areas of concern can be made:

While the unemployment rate is fluctuating, there is no available data to show its nutritional effect in all social groups.

The Government is contemplating a reduction in monetary subsidies and price controls. Such reduction, if applied to basic food items, may jeopardize vulnerable populations in the future.

<u>Methods of improvement of production, conservation and distribution of food</u>

430. The Ministry of Agriculture deals with planning of the production of the various categories of agricultural produce and its supply to the population. The Ministry deals with agricultural development and economic consolidation of

rural settlements, as well as the development and allocation of the State's water resources, and responsibility for its lands. The following is a brief survey of the Ministry's activities relevant to the present report.

431. The Authority for Settlement, Agriculture and Rural Planning and Development deals with the gamut of problems of agriculture planning in the short and long term, making forecasts of requirements and strategic market research; allocation of growing and production quotas in the various branches; preparation of multi-year programmes, development programmes for agricultural infrastructure, regional plants and settlement patterns; conducting of research in agricultural and rural fields; referral of international projects in the sphere of agriculture and development of weak areas. This sphere of activity also includes contact with international institutions abroad and referral of the agricultural produce of neighbouring areas.

432. The Division for Land Preservation and Drainage is in charge of the development of regional and national economic plans for the utilization of waste water and preservation of the land resources, run-off water and natural vegetation, as well as for drainage and protection from flash floods of agricultural and built-up areas. To this end, the Division collects and analyses the natural data and determines the means for implementing the programmes. The Division is responsible for 42 drainage authorities and eight pasture authorities, which implement the regional and national plans and, through land preservation cells in the districts, instructs and guides farming settlements in the implementation of plans for local drainage and reservoirs. The Division undertakes land and pasturing surveys, land preservation planning research on regional and local drainage, reservoirs and pastures, and applied research (carried out at erosion research stations). The basis for every land preservation and pasturing programme is the land survey and the vegetation survey.

433. The Agricultural Research Administration coordinates the activity of research institutes and agricultural farms throughout the country, and deals with a wide range of subjects, from promotion of new products to the adjustment of mechanization and agricultural technology. The Administration deals also with development of products that can withstand disease and pests and development of innovative storage suitable for today's produce.

434. The Instruction and Professional Service helps farmers with instruction, planning and development of rural settlements. Advice and growing directives are given for the utilization of production elements according to each region’s climatic and agricultural character. The Service coordinates the range of actions in the fields of instruction, development and professional promotion in all branches and activities of the agricultural settlement. The professional units of the Service advise the senior echelons of the Ministry in policy formulation, and direct and guide the instruction units in the districts, at the regional instruction offices and in the field services. Ten instruction units in the districts and the offices deal with agricultural instruction and advice, arrange field days and demonstrations, study days, short courses and, of course and primarily, instruction for the farmer at his farm. In conjunction with the other units of the Ministry, special emphasis

can be placed on activities to promote exports, replace imports and offer instruction to young settlements in accordance with the trends and work aims of the Ministry.

435. The Agricultural Investments Administration encourages capital investments in agriculture, promotes exports of agricultural produce and works for utilization of the natural conditions and experience latent in the agricultural sector. The administration was set up in order to operate the Encouragement of Capital Investment in Agriculture Law, 1980. The Government appoints the director of the Administration (at the recommendation of the Minister of Agriculture) and members of the Administration are appointed by the Ministers of Agriculture and Finance. The administration approves plans in accordance with the planning principles that the Ministry of Agriculture formulates for each budget year, after a branch, economic and professional examination. The law works to encourage investments in two ways: (a) a grant of 40 per cent of the investment; (b) income tax concessions for all the approved programmes - expressed by accelerated depreciation and an income tax ceiling of up to 30 per cent for companies and for an individual who is not a company who keeps separate two-sided books of account for the enterprise; 15 per cent for recipients of dividends from the companies. The concessions are given for the first five profitable years of the project but for not later than the twelfth year from the date on which approval was given for the programme. Farmers with land, water and a production quota are eligible to submit an application for approval of a programme.

436. The Division for Protection of Flora prevents the penetration of new diseases through control over imports and quarantining plants. It issues certificates of health for agricultural produce according to the requirements of the importing countries. It monitors diseases and their incidence and prepares lists of where they are found in the country. It locates and destroys new diseases that have entered the country before they become established here, and fights diseases that have entered and prevents their spread and consolidation. It also licenses and registers the supervision over pesticides for agricultural use and the examination of pesticide remnants; manages a computerized information centre in conjunction with the Agricultural Investments Administration; supervises plant reproductive material and seeds being traded; approves improved seeds; marks and registers mother trees and plants; supervises agricultural produce for export (fruit, vegetables and flowers); supervises and licenses fodder and additives to animal fodder; provides services for farmers for testing for diseases and their prevention and testing of pesticide preparations and fodder testing; and conducts applied research on subjects associated with the foregoing activities.

437. The Veterinary Services see to the health of livestock and other animals. The Veterinary Institute is responsible for health supervision and prevention of diseases and their spread.

The right to adequate housing

438. Throughout its 50-year history, Israel has maintained a steadfast commitment to the goal of a decent home in a suitable living environment.

Although no comprehensive legislation mandates this objective, such as is the case in other countries, all the coalitions that have formed the Government since the establishment of the State have consistently sought to achieve this goal through various administrative programmes.

439. The well-founded objective of adequate housing for all citizens has been expressed differently during the last five decades – both because of the changing scope of housing need and because the variable conditions have led to modified definitions of need and to various forms of government involvement in housing provision.

The “hands on - hands off” policies of government involvement

440. A historical overview of housing policy in Israel indicates a steady decline in government involvement and an increasing reliance on the private sector. This trend has been disrupted from time to time, especially during periods of increased immigration that markedly affected the housing cycle, or when greater emphasis was placed on achieving other national objectives such as population dispersal to peripheral regions.

441. During the first 20 years after independence (1948-1967), national housing policy was implemented by what may be characterized as the State's “mighty hand”. During this period, more than two thirds of all dwelling units built were contracted by the Government, as opposed to private developers. Government agencies under the aegis of the Ministry of Construction and Housing (hereinafter “MCH”) were mandated with taking charge of the completed units and renting them to eligible families, primarily new immigrants from Europe and North Africa.

442. Over the subsequent 20 years, when the State exerted what may be termed a “guiding hand”, about one third of all new construction was government contracted, with the housing market being influenced by means of various government-initiated supply and demand mechanisms. The supply of government-owned units was still increasing and the eligible population groups for public rental units was expanded to include non-immigrant families living in substandard or overcrowded conditions.

443. Beginning in the mid-1980s, government housing policy was characterized by what may be termed a “disappearing hand” – striving to achieve Adam Smith's “invisible hand” – as the State increasingly relied on market forces and operated within the framework of a privatization policy. Concomitant with this policy, the national Government undertook a campaign to sell publicly owned rental units to the tenants. The outcome of this policy was a reduction of publicly owned stock by almost 30 per cent.

444. In the first half of the 1990's, a surge of immigrants from the former Soviet Union resulted in a population increase of approximately 12 per cent and a fourfold rise in annual housing demand. The privatized orientation experienced difficulties in meeting the housing demands of these new arrivals, especially since the immigrants represented a “needy” population group and thus a less profitable sector of the market. As a result, greater

governmental incentives were required to stimulate the market to achieve the needed levels of construction. Significantly, these units were built to be sold and, at least initially, were not designated to be rented to individuals or families eligible for public housing.

445. This brief period may be termed the “outstretched hand” by those who justify the intensified involvement, or the “meddling hand” by those who disdain the form of government intervention that was adopted, and the concomitant effects on the housing market.

Housing situation in Israel

446. The first and foremost source of data relevant to this part of the present report is based on a Family Expenditure Survey conducted by the Central Bureau of Statistics in 1992/93.

447. The existing data do not always distinguish between different population sub-groups. It is expected that more detailed information on housing conditions of various groups will be available in 1998, when the decennial census results are published.

448. It should be stressed that the MCH conducts periodic surveys of housing needs for different groups. These studies, conducted over the years, have focused on a variety of potentially vulnerable groups, such as the elderly, Arabs, single parents, immigrants, young couples, discharged soldiers, families living in development towns or in disadvantaged neighbourhoods, low-income households, physically challenged persons, etc. The results serve as the basis for calibrating the various parameters and adjusting eligibility criteria for all MCH housing assistance programmes. Since these groups may include both needy and resourceful households, the MCH programmes integrate the socio-economic characteristics of these groups without necessarily formulating a specific programme exclusively for a particular population sub-group.

449. The following is a short summary of the main findings of the Family Expenditure Survey, supplemented by additional data, when available.

(i) Tenure

450. The majority of Israel's households own their own home. In 1991 almost 72 per cent of all households were owner-occupiers. Almost one quarter (23.9 per cent) were renters, while the remaining 4 per cent lived in a variety of arrangements, especially where housing was provided within the context of work. Among the renter households, 2.1 per cent were classified as “protected” tenants under rent control legislation. Renter households may also be classified according to the type owner: 6.7 per cent of the rental households are rented from publicly owned units and 13.9 per cent from privately owned units. A breakdown of these data by deciles is included in the table shown below.

451. Through financial assistance programmes (described further below) 65 per cent of all new households purchase their own apartment within the first three years after marriage, and 91 per cent within 10 years of marriage. Thus young couples (married during the period 1982-1993) achieved the following ownership rates:

Length of marriage (years)	Ownership rate (%)
1-3	64.9
3-5	72.0
5-7	82.4
9-11	90.9
11-13	91.9

452. Of the new immigrants who arrived in Israel between 1989 and 1994 from the former Soviet Union, nearly 70 per cent own their housing today:

Year of immigration	Ownership rate (%)	No. of immigrants
1989	90.5	24 050
1990	84.4	199 516
1991	76.0	176 100
1992	.3	77 057
1993	68.7	76 805
1994	59.2	79 844
1995	47.1	76 362

(ii) Affordability

453. The data based on the family expenditure survey of 1992/93 indicate that the expenditure for housing for the average household was 19.48 per cent of overall consumption expenditures. The average outlay for the lowest two income deciles was 17.41 per cent, compared with 21.15 per cent for the two highest deciles. See a further breakdown in the following two tables.

SELECTED DATA ON HOUSING, BY DECILES OF NET INCOME PER HOUSEHOLD

	Deciles										
	10	9	8	7	6	5	4	3	2	1	Total
Households in population (thousands)	127.7	127.7	127.8	127.5	127.9	127.5	127.6	127.7	127.8	127.5	1 276.7
Persons in household	4.30	4.37	4.10	3.93	3.93	3.64	3.43	3.00	2.41	1.63	3.47
Standard persons in household	3.32	3.35	3.20	3.08	3.09	2.90	2.80	2.54	2.19	1.68	2.81
Earners in household	2.07	1.89	1.72	1.44	1.34	1.19	0.99	0.69	0.51	0.22	1.21
HOUSEHOLDS - TOTAL (PERCENTAGES)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Thereof:											
Households with owned dwelling	92.5	87.9	86.1	78.6	76.9	72.5	66.5	64.2	50.1	36.1	71.2
Households with rented dwelling	5.3	9.0	11.0	16.2	17.9	23.7	28.4	29.0	42.2	56.3	23.9
AVERAGE ROOMS PER DWELLING											
All households	4.30	4.01	3.55	3.45	3.24	3.17	2.94	2.84	2.50	2.17	3.22
Owned dwelling	4.34	4.04	3.60	3.54	3.32	3.29	3.02	3.01	2.72	2.48	3.45
Rented dwelling	3.67	3.85	3.28	3.15	3.01	2.81	2.82	2.58	2.31	1.97	2.62
HOUSING DENSITY (PERSONS PER ROOM)											
All households	1.00	1.09	1.15	1.14	1.21	1.15	1.17	1.06	0.96	0.75	1.08
Owned dwelling	1.00	1.08	1.16	1.14	1.23	1.13	1.12	0.99	0.84	0.68	1.07
Rented dwelling	0.97	1.16	1.15	1.11	1.13	1.24	1.29	1.22	1.14	0.83	1.12
AVERAGE VALUE OF OWNED DWELLING (thousands NIS)	540.2	420.3	354.4	301.9	277.4	261.4	228.6	216.9	209.2	163.0	318.9
EXPENDITURE ON HOUSING AND MAINTENANCE OF DWELLING											
Imputed housing expenditure per owned dwelling	1 764	1 386	1 162	997	914	866	757	710	691	529	1 048
Arnona tax per owned dwelling	182	155	129	1 220	106	101	92	81	67	46	116
Insurance of owned dwelling	69	41	35	35	19	13	10	12	8	4	28
Maintenance of owned dwelling	899	699	587	518	454	402	392	357	306	207	522
Maintenance of rented dwelling	685	678	630	463	358	294	267	226	201	138	284
Rent per rented dwelling	1 134	1 393	1 077	900	949	816	640	610	504	307	651
NET INCOME PER HOUSEHOLD											
All households	12 196	8 171	6 659	5 578	4 741	4 075	3 384	2 748	2 117	1 246	5 092
Owned dwelling	12 080	8 184	6 665	5 589	4 737	4 082	3 388	2 758	2 118	1 339	5 714
Rented dwelling	13 986	8 039	6 617	5 522	4 764	4 066	3 382	2 725	2 118	1 177	3 434

SELECTED DATA ON HOUSING, BY STATUS AT WORK AND
CONTINENT OF BIRTH OF HEAD OF HOUSEHOLD

	Non-Jews	Continent of birth			Jews - total	Status at work			Total
		Israel	Asia - Africa	Europe - America		Not working	Self employed	Employee	
Households in population (thousands)	126.9	413.6	290.1	445.3	1 148.9	435.7	145.8	695.1	1 276.7
Persons in household	5.43	3.51	3.67	2.75	3.26	2.70	4.08	3.83	3.47
Standard persons in household	3.86	2.86	2.93	2.40	2.70	2.34	3.17	3.04	2.81
Earners in household	1.32	1.42	1.24	0.96	1.19	0.37	1.70	1.63	1.21
HOUSEHOLDS - TOTAL (percentages)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Thereof:									
Households with owned dwelling	93.0	68.3	75.4	65.0	68.8	66.4	79.2	72.5	71.2
Households with rented dwelling	3.0	24.2	20.2	32.0	26.2	27.3	15.1	23.6	23.9
AVERAGE ROOMS PER DWELLING									
All households	3.41	3.29	3.34	3.02	3.20	2.87	3.62	3.35	3.22
Owned dwelling	3.47	3.59	3.50	3.29	3.45	3.06	3.78	3.61	3.45
Rented dwelling	2.16	2.59	2.92	2.52	2.62	2.50	2.93	2.66	2.62
HOUSING DENSITY (PERSONS PER ROOM)									
All households	1.59	1.07	1.10	0.91	1.02	0.94	1.13	1.14	1.08
Owned dwelling	1.60	1.08	1.09	0.82	0.99	0.91	1.13	1.14	1.07
Rented dwelling	1.46	1.03	1.13	1.17	1.11	1.04	1.14	1.17	1.12
AVERAGE VALUE OF OWNED DWELLING (thousands NIS)	184.6	368.0	310.4	332.3	339.0	294.9	385.1	318.0	318.9
EXPENDITURE ON HOUSING AND MAINTENANCE OF DWELLING									
Imputed housing expenditure per owned dwelling	612	1 212	1 023	1 086	1 114	970	1 256	1 046	1 048
Arnona tax per owned dwelling	110	131	108	111	117	84	145	128	116
Insurance of owned dwelling	5	35	21	37	32	24	25	32	28
Maintenance of owned dwelling	512	602	451	502	524	411	635	560	522
Maintenance of rented dwelling	161	327	297	252	286	237	460	295	284
Rent per rented dwelling	283	720	331	744	656	497	983	719	651
NET INCOME PER HOUSEHOLD									
All households	4 170	5 844	4 945	4 758	5 196	3 510	6 615	5 765	5 092
Owned dwelling	4 241	6 635	5 530	5 560	5 936	3 986	6 898	6 435	5 713
Rented dwelling	2 330	3 944	3 006	3 284	3 450	2 526	5 121	3 868	3 434

(iii) Sanitation facilities

454. The level of facilities in dwelling units is an important component of household living conditions. About 71 per cent of all households lived in dwelling units equipped with one toilet, while 28 per cent lived in units with two toilets or more. Similarly 75 per cent of all households lived in units with a bath while almost 25 per cent lived in dwelling units equipped with a shower only. These data refer to a survey of all recognized cities and townships, but did not include “illegal settlements” (dealt with further below). More comprehensive information covering these sites will be available next year, following the processing of the most recent decennial census information.

(iv) Density

455. Housing density, as measured by the number of persons per room, has declined over the years as the size of households has decreased and the average dwelling unit increased. The 1992/93 survey reveals an average of 1.1 persons per room (kitchen and bathroom not included). At the upper end of the density scale 12 per cent of all households live with between 1.5 and 1.99 persons per room, while an additional 11 per cent of households have more than two persons per room.

456. According to recent data for the year 1996 the average number of persons per room is under 1 per cent for Jews and stands at 1.62 per cent for non-Jews:

HOUSEHOLDS, BY HOUSING DENSITY, SIZE OF HOUSEHOLD AND POPULATION GROUP
1996

Persons per room	Persons in household									
	Average per household	7 +	6	5	4	3	2	1	Total %	000
JEWS - TOTAL	3.32	4.3	6.8	14.6	18.4	15.5	22.9	17.5	100.0	1 340.0
Up to 0.49	1.16	-	-	-	(0.2)	(1.1)	13.1	85.5	100.0	145.7
0.5	1.51	-	-	-	(0.4)	3.5	42.5	53.6	100.0	114.9
0.51 - 0.99	2.70	(0.1)	1.1	5.9	14.8	23.0	49.3	5.8	100.0	346.2
1.00	3.25	(0.4)	2.5	13.5	25.9	30.1	18.5	9.1	100.0	296.7
1.01 - 1.49	4.59	5.1	8.7	35.9	42.3	5.1	3.0	-	100.0	225.9
1.50 - 1.99	5.27	13.8	29.0	35.6	7.3	14.4	-	-	100.0	125.2
2.00	5.14	15.0	37.8	9.0	21.1	5.4	10.3	(1.4)	100.0	52.5
2.01 - 2.49	7.58	81.7	(18.4)	-	-	-	-	-	100.0	10.6
2.50 - 2.99	6.88	48.7	-	37.3	(14.0)	-	-	-	100.0	11.0
3.00 +	7.87	59.8	20.6	(6.9)	(1.7)	(10.1)	(0.8)	-	100.0	10.2
ARABS AND OTHERS - TOTAL	5.06	24.3	15.7	16.8	16.6	11.2	10.0	5.4	100.0	200.8
Up to 0.99	2.21	(0.2)	(1.4)	(2.1)	(6.9)	21.1	41.3	27.0	100.0	26.9
1.00	3.00	-	(0.8)	7.2	28.2	30.3	22.4	11.2	100.0	28.5
1.01 - 1.49	4.56	7.8	(6.2)	31.2	45.2	(5.8)	(3.8)	-	100.0	32.5
1.50 - 1.99	5.39	16.8	29.4	33.6	6.0	14.3	-	-	100.0	39.6
2.00	5.62	20.5	45.1	8.4	18.9	(1.0)	(4.6)	(1.6)	100.0	28.1
2.01 - 2.49	7.39	91.2	(8.8)	-	-	-	-	-	100.0	12.5
2.50 - 2.99	7.36	65.5	-	32.3	(2.3)	-	-	-	100.0	14.3
3.00 +	8.39	71.2	18.9	(3.8)	(4.5)	(1.6)	-	-	100.0	18.4
		Average no. of persons per room								
Jews		1.87	1.44	1.22	1.06	0.89	0.65	0.41	100.0	0.97
Arabs and others		2.41	1.77	1.55	1.28	1.02	0.76	0.53	100.0	1.62

Source: CBS Statistical Abstract of Israel 1997.

(v) Public housing eligibility

457. Approximately 120,000 housing units (7.5 per cent of total households in Israel) are administered by public housing companies. Two such companies maintain units in numerous cities and towns throughout the country, while the remaining are primarily jointly owned national-municipal companies. Eligibility for publicly owned rental units is set by criteria described below. The most recent official figures indicate that approximately 2,000 families are on waiting lists for public housing.

(vi) Homelessness

458. Out of a population of over 5.8 million only about 3,000 persons are estimated to be “homeless”. Social service agencies at the national level under the aegis of the Ministry of Labor and Social Welfare, working in conjunction with the local municipalities, have provided assistance to approximately 1,200 homeless persons since 1990. The Ministry's annual budgetary appropriations for addressing the needs of homeless persons amounts to NIS 4.5 million ($1.3 million). Moreover, the various assistance programmes, described further in this chapter, typically render homelessness in Israel a temporary situation.

459. The special situation of two particularly vulnerable sub-groups need further elaboration: new immigrants from Ethiopia and Bedouins living in illegal settlements.

460. New immigrants from Ethiopia. There are today in Israel a total of about 57,000 Ethiopian Jews, who immigrated in two major waves in the mid-1980s and in 1991. They have large families and about 60 per cent of them are under age 18. There is a high percentage of single-parent families (about 25 per cent), about three times the national rate. Their integration into Israeli society has raised some major challenges.

461. The immigrants who came in the 1980s were settled directly into local communities in which they, for the most part, established permanent residence based on the provision of public housing. By the time the 1991 wave arrived, the public housing stock in the central cities had been used up. It should be taken into account that at that time there were already some 300,000 new immigrants from the CIS in the country. The newcomers from Ethiopia were at first housed in hotels and various absorption centres. Later, they were provided with caravans in 22 mobile home sites. Some 6,930 households from the CIS and 4,920 households from Ethiopia were housed in caravan sites. Efforts to provide these immigrants with permanent housing have proven effective, as shown in the following table:

	The situation in September 1992		The situation in April 1996	
	Families	Singles	Families	Singles
Caravan sites	3 720	1 200	450	910
Absorption centres	1 460	500	250	320
Hotels	157	-	-	-
Other	-	-	-	200
Total	5 337	1 700	700	1 340

462. A contributing factor of change was the initiation in 1992 by the Ministry of Immigrant Absorption of an unprecedented mortgage programme (described below).

463. Occupants of illegal settlements (mostly Bedouins). The right to decent housing is recognized in Israel within the legal framework of town planning and local government organization. However, this does not mean having the right to live anyplace one chooses. There exist in Israel about 53,000 people, mostly Bedouins, living in settlements of all sizes, which do not fit in the urban and rural planning schemes designed by the relevant authorities under Israeli law. Such settlers consistently refuse governmental aid proposals for resettling in appropriate locations. The following is a detailed account of the legal and factual situation regarding illegal settlements in Israel.

464. The Bedouins started settling in the land of Israel in the fifth century A.D. This process continued, most notably during the time of the Ottoman Administration over the region, and throughout the period of the British Mandate, preceding the establishment of the State of Israel. This gradual process has continued up to contemporary times.

465. A great deal of the lands which the Bedouins claim are of the legal type named muwat, i.e. land that is not privately owned or possessed. The relevant laws regarding muwat lands were implemented in 1858, in accordance with paragraph 6 of the Ottoman statute over this area. Paragraph 103 of the same law determines that the possession of the muwat land which is not privately owned, is conditioned by an initial permit.

466. During the British Mandate similar laws were enacted. Thus, the Land Ordinance (Mewat) 1921 states:

> "Any person who, without obtaining the consent of the Director of Lands, breaks up or cultivates any waste land shall obtain no right to a title deed for such land and shall further be liable to be prosecuted for trespassing."

467. As for cultivating land without a formal permit before the publishing of this Ordinance, it was possible to formalize a legal right to the land by filling out a request with the Land Clerk within two months of the Ordinance's publication. Following the publication of the Ordinance, the Bedouins did not register the lands they were inhabiting. A great many have no written documents proving their rights. Nevertheless, both the Ottoman Administration and the British Mandate officials decided not to evacuate the Bedouin inhabitants from the lands they effectively were inhabiting.

468. Indeed, traditional Bedouin law is significantly different from that implemented by the Ottoman Administration, including different ways of proof with no need to issue formal written documents. However, Israel's law of land rights does require written documents for any land transaction.

469. Nevertheless, the Government finds it hard to meet the basic needs of the people, being obliged to provide services, such as water, electricity, roads, health care, and sanitary and educational facilities, without prior and proper planning.

470. Back in the 1960s and 1970s, a national plan for handling the Bedouin illegal settlement problem in the south had been formed. According to the plan, seven urban towns were to be established for the entire Bedouin population in the south. The Bedouins willing to settle there were to be compensated properly and to be transferred to the towns. Today, around 40,000 people who accepted the national plan reside in those towns. Unfortunately, more than 50 per cent of the Bedouin population still live in illegal settlement locations. Their main demand is to be permitted to form rural settlements, where they could practise traditional habitation.

471. Currently, a Planning and Building Law (Reformation - Demolishing Orders) Bill is being debated in the Knesset. The main goal of this proposed legislation is a total ban on the implementation of any demolishing order in any illegal settlement until a proper solution has been found for the inhabitants.

472. Israel acknowledges that it cannot impose upon the entire Bedouin population an urban solution which would be contrary to its wish and traditional way of life. Hence, in 1995, the Minister of Housing instructed that the existing policy be changed. The Minister developed a new strategy aimed at promoting a better quality of life for the entire Bedouin population while maintaining the traditional Bedouin way of life. Investments in the Bedouin sector have increased from NIS 50 million in 1989, to NIS 138 million in 1993-1995. New guidelines issued by the Housing Minister directed that investments in infrastructure should be on a level comparable to that in Jewish settlements.

473. According to the new guidelines:

(a) The Ministries of Interior and Housing are to plan two or three new urban towns for 20,000 people. Their living would be earned from agriculture and sheep;

(b) Agricultural settlements - two to three new agricultural settlements are to be established, each accommodating 600 families;

(c) Ten agricultural farms are to be planned for around 5,000 people;

(d) Five to seven shepherds' settlements for around 100 families are to be planned.

474. In 1996 a special Knesset commission examined this issue. One of its recommendations was to find a compromise; whereas on the one hand some of the illegal settlements would be recognized, on the other hand, proper compensation for concession of the land would be granted. The commission also agreed that aside from providing compensation, the towns where the Bedouins would reside should meet their needs and characteristics. Resources for additional settlements will be allocated and the number, location and

distribution of their inhabitants stipulated. Furthermore, it also recommended that arbitrators be appointed for rapid processing of Bedouin claims, and that Bedouin settlements be connected to electricity and sewage systems more rapidly.

475. The Supreme Court has addressed on several occasions the unique problem of illegal settlement and inadequate housing conditions in the Bedouin sector in Israel, and has expressed its approval of the government policy to encourage the transfer of Bedouins into permanent settlements built on State lands. The following citation sums up the problem from a legal point of view:

> "In the State of Israel, the Bedouins constitute an ethnic minority of unique character. The Bedouins are originally nomadic tribes whose economy was based on camel and sheep herding ... In recent decades a gradual process of change has occurred within the Bedouin tribes marking a shift from nomadic life to semi-nomadic life and permanent settlement. The move to permanent settlements was unplanned and unorganized, and was thus characterized through negative phenomena of illegal construction, taking possession of State lands and lack of vital services. Consequently, a governmental policy was determined, in as early as in the 1960s, which stated the need to settle the Bedouins in planned permanent settlement, so that the phenomena of illegal construction and taking possession of State lands would be stopped and the provision of orderly public services such as education, health, hygiene and other municipal services could be facilitated ... The establishment of permanent settlements for Bedouins required therefore unique planning of the settlement to the needs, practices and traditions of the Bedouins, since otherwise the Bedouins would have refused to move to the permanent settlements ... The establishment of the permanent settlements was also intended to offer adequate housing solutions to the Bedouin families living in illegal houses, so that those illegal houses could be demolished and the area of land cleared ... The establishment of permanent settlements could also facilitate and assist future agreements with the Bedouins pertaining to the property rights in lands in dispute ...
>
> "The Bedouin towns are established on State lands and/or land expropriated especially for the purpose of establishing a permanent Bedouin town. The appropriation of land for building the Bedouin permanent settlements in the Negev are for Bedouins only, and is being done at a specially low and State-subsidized price, all this in order to encourage permanent settlement of the Bedouins which comports with the important public considerations described above ... [T]here is a public interest to assist the Bedouins in permanently settling in towns ... and the preferential treatment given to them ... is anchored in reasonable and pertinent considerations ..."
> H.C. 528/88 Avitan v. Israel Land Administration, P.D. 43 (4) 297, 300-304

476. Data on settlements in the south. The Bedouin population is spread throughout the northern part of the Negev, mostly in the Sayig area covering 1.5 million dunam. Some 40 per cent of the area is being utilized by the Bedouin for habitation, pasture and agriculture. The total Bedouin population

in the south is estimated today to be 100,000 people. About 50,000 live in “illegal” settlements. The yearly natural growth of this population is about 5.6 per cent, at this rate the total Bedouin population in the south will number 120,000 by the year 2000. It is worthwhile noting that the total population of Israel is some 5.8 million people, meaning that the number of inhabitants living in “illegal” settlements in the southern part of the country is less than 1 per cent of the total Israeli population.

477. The “illegal” settlements are excluded from the formal population survey. There are no updated and exact data regarding the size of the population or its composition. Nevertheless, in 1991 the Ministry of Interior conducted a survey to evaluate the size of the population and other demographic data. According to the survey there are 108 tribes divided into several settlements. The total number of temporary settlements is estimated to be 1,213. The total number of housing units in the settlements is estimated to be 9,273. According to these data, the population in the area totals a minimum of 46,000 and a maximum of 93,000 inhabitants (calculated at five people per housing unit minimum, 10 people per housing unit maximum). In addition there are some 64 small settlement points (less than 50 housing units per settlement) with 1,350 housing units, and 40 large settlement points (more than 50 housing units per settlement) with 7,923 housing units. Average density for small settlements is 21 housing units per settlement. Average density for large settlements is 192 housing units per settlement.

478. Data on settlements in the north. The number of Bedouin in the northern part of Israel is estimated to be 38,000 people. Of them the number of people in illegal settlements is 3,000.

479. Prospects for the future. In light of the principle of equality, Israel cannot accept a wide range of illegal housing in the Bedouin settlements. Nevertheless, the Government acknowledges the fact that illegal building in this case is done out of necessity. An effort is being made to reduce the implementation of demolition orders until a permanent solution can be found. Since the beginning of the 1990s there is an ongoing process of accepting the claims of the Bedouin representative organizations.

480. Nine of the 40 settlements legalization - eight were legalized during the years 1995-1996 (government decisions Nos. 4377, dated 14 December 1994; 4569, dated 3 January 1995; and 206, dated 24 December 1995). Today, the administrative planning for the settlements is approaching completion. Government decision No. 206 determined that consultations would continue over the ninth locality.

481. Consultations over other small illegal settlements - mostly comprised of single families - are continuing out of a commitment to the late Prime Minister Rabin's declaration that the Government favoured the integration of smaller illegal settlements into larger legal ones, adopting one of the following alternatives: keeping the rights to their agricultural land, substituting lands, receiving compensation for the lands. In May 1996, the Government also decided on a special allocation of NIS 5 million for providing infrastructure to the newly recognized settlements.

482. The Attorney-General took it upon himself on 15 June 1997 to call upon the Ministry of Interior to find creative solutions to speed up the planning process regarding those settlements which have been legalized, so that basic services as water, electricity, education and so on could be provided soon. As to the other settlements, the Attorney-General decided to urge the Prime Minister to establish an interministerial committee to coordinate the various current governmental activities, with clear instructions to be more sensitive to the humanitarian aspect of the problem. The Attorney-General's main suggestion was to tackle the problem on a practical level, looking for ad hoc solutions, taking into consideration distinctions between old and new homes, small and large settlements, whether houses were placed on already planned lands, etc.

Overview of current housing assistance programmes

483. The Ministry of Construction and Housing (MCH) utilizes various policy tools aimed at creating an adequate supply of affordable housing that meets the needs of the country's various population groups. The Ministry's NIS 10 billion ($2.9 billion) budget covers the entire housing production process from planning and land allocation, via construction and infrastructure provision, to mortgage financing and public housing. The overall strategy is an enabling one whereby the Government makes resources available both on the supply side and on the demand side to provide the means for various types of households to purchase housing.

(i) Supply-side policies

484. The MCH undertakes a variety of measures aimed at increasing the supply of housing. These measures include:

Statutory planning of new cities, towns and neighbourhoods;

Land tenders housing, out of State-owned lands;

Planning and provision of residential infrastructure, including electricity, water and sewage, drainage and communications networks (in peripheral parts of the country designated as national priority zones, discounts covering up to 50 per cent of overall costs are provided for the residential infrastructure);

Planning and financing of public facilities such as schools, day care centres, community centres, libraries, public gardens and parks, etc.

485. Land use falls under the purview of the Planning and Building Law 1965. This law establishes a three-tiered system of statutory bodies and plans at the national, district and local levels. National plans are formulated by the National Planning and Building Board and approved by the Government; district plans are prepared by six District Planning Committees and approved by the National Board; and local plans are prepared by Local Planning Boards or by private entrepreneurs and approved at the local or district levels depending on the scope and complexity of the plan. Building permits and inspection of construction to ensure compliance with the local code is administered by local planning committees. The full text of this law is attached in annex A to this report.

486. Further mention should be made of land tenders for housing. In 1996 the MCH and the Israel Lands Administration (ILA) issued a variety of tenders for land planned for some 46,000 dwelling units. These tenders include: “Lowest Price to the Consumer”, in which competition among builders focuses on marketing the finished units to eligible families at the lowest per metre price; “Cooperative Housing” built in conjunction with municipalities for eligible households; “Net Housing” in which the Government coordinates between a contractor, selected by competitive bid, and eligible families who have been selected by lottery; as well as the traditional regular bids for land without any limitations set on price or eligibility criteria. In all cases, the land offered for tender has a site plan approved by the various statutory planning bodies. Furthermore, the land is serviced with residential infrastructure provided either by the MCH, the ILA or a relevant municipal agency.

(ii) Demand-side assistance

487. The MCH provides demand-side housing assistance in a variety of forms. These include:

Mortgages - approximately 50,000 subsidized mortgages annually;

Rent supplements - approximately 140,000 rent supplements monthly;

Public housing - approximately 7,000 new tenants annually.

488. Before providing further details on each form of assistance, it is important to note their common principles:

(a) Building a partnership between the individual and the State in solving housing problems: the assistance is conditioned on the individual’s financial participation, according to his/her needs and resources;

(b) Leaving the choice to the individual as to the preferred solution of the available assistance schemes;

(c) Defining qualifications for assistance and the level thereof according to objective criteria;

(d) Providing clear information on the various existing privileges, in order to minimize the level of an individual's dependence on the authorities;

(e) Granting the services within a framework of specialized agencies, such as mortgage banks and public housing corporations. The goal of the MCH is to concentrate on policy-making, allocating resources, delineating rules for achieving its goals and supervising performance.

(iii) Mortgage assistance

489. Mortgages are provided for the acquisition of housing (first- or second-hand), building one's own home, or apartment enlargement. In 1996 more than 52,000 government-sponsored mortgages were provided to the various categories of eligible households, 90 per cent of whom were first-time home-owners. Most of the subsidies for the loans are financed by the national

budget. In 1995 over 96 per cent of the loans were financed by the Government; the remaining 3.5 per cent were financed and backed by private banks, with a government subsidy to cover the difference between the market interest rate and the special interest rate for such loans. The overall budget for these loans was in 1996 approximately NIS 6 million ($1.7 million), which represents 3.4 per cent of the 1996 total national budget.

490. The central precondition for eligibility for mortgage assistance is to be a “non-homeowner”: this term applies to a household in which neither spouse is currently or previously a homeowner (retainer of property rights in an apartment or house) nor has received in the past governmental assistance for housing. Non-homeowners are then divided into several groups, according to their status (immigrant/non-immigrant) and their family status (singles, couples, single-parent families). The assistance level is defined by different parameters that vary among the different groups (i.e. years of marriage, number of children, size of original family, etc.). In general, these parameters imply situations of socio-economic need and are aimed at quantifying such needs (every parameter determines a certain amount of points, which add up to determine the level of assistance). For the Young Couples Program, for example, the number of children and the number of siblings of both spouses have been found to serve as an indirect measure of equity accumulation, reflecting the local pattern in which parents often help their children in making the initial down-payment for housing.

491. Further differentiation may be made in exceptional cases on the basis of a “severity test” which is determined according to the extent of distress, its length, the size of the family, etc. Finally, the Families of Single-Parent Law and the Absorption of Discharged Soldiers Law 1994 prescribes an increase in the level of assistance to these two specific sectors of the population, also assuming the existence of increased needs. The final, and important, criterion of level of assistance is the geographic site chosen for the realization of the mortgage assistance. The country is divided in four zones, depending on the governmental preferences and based on geo-political considerations. Development towns, for example, are usually included in the zone where the level of assistance is the greatest. As a general rule, assistance in peripheral areas is greater than that in the centre of Israel.

492. In exceptional cases an appeal against refused requests for assistance can be filed to a local Housing Assistance Committee, composed of representatives of governmental and municipal housing officials. A district Housing Assistance Committee exists as a higher appeal instance. Finally, there exists in the MCH headquarters a Central Appeal Committee, which is given discretion to grant assistance in deviation from the rules, in order to address particular and unusual problems.

493. In the last decade there has been a significant growth in the rate of young Israeli couples that have exercised their right to subsidized mortgages. Available data enable comparison between the years 1984-1986 and 1994-1996 and show an average growth of about 40 per cent - from 37 per cent to over 51 per cent. The most dramatic growth of mortgage realization is among the Arab population (680 per cent), and the Druze population (about 59 per cent).

Data	1984-1986	1994-1996	Change
Average number of marriages	29 714	36 229	21.7%
Jews	23 673	27 150	14.7%
Arabs	5 543	8 327	50.2%
Druze	498	752	50.9%
Average number mortgages executed	10 930	18 657	70.7%
Jews	10 481	15 182	50.9%
Arabs	229	2 319	912.7%
Druze	219	526	139.8%
Percentage of realization	36.8%	51.5%	40.0%
Jews	44.3%	58.2%	31.5%
Arabs	4.1%	27.9%	680.1%
Druze	44.0%	70.0%	58.9%

494. Other specialized programmes for mortgage assistance include:

Single-parent - for single parent households;

Immigrants - for new immigrants, especially from the CIS and Ethiopia;

Elderly - for those of retirement age;

Singles - for single-person households;

Development areas - for purchasing housing in designated development areas;

Urban renewal - for purchasing or upgrading units in "Project Renewal" neighbourhoods.

495. Single-parent families. The level of assistance to this group is relatively higher than for most non-homeowners. The Single-Parent Families Law 1992 was enacted in recognition of the fact that this group is especially vulnerable and the chances of a single parent (usually a single mother) purchasing housing are of the lowest. Recently, a special increase in assistance was added for single-parent families which have seniority as such

of over five years. The mortgage rates for this group approaches the rate of the highest levels of couples assistance, i.e. who reach these levels after a longer period. The following table illustrates the form and level of mortgage assistance for this group:

Assistance for single-parent families (in NIS)

Status	Mortgage rate	Portion which is a conditional grant	Initial monthly return
Zone No. 1 sing. fam. + child	153 000	47 000	535
+ over 5 years	170 000	53 000	590
Zone No. 2 sing. fam. + child	163 700	50 300	573
+ over 5 years	181 900	56 700	631
Zone No. 3 sing.fam. + 0-3 child	124 000	31 000	468
sing. fam. + 4-5 child	136 000	35 000	508
sing. fam. + 6 + child.	146 000	37 000	647
Zone No. 4 sing. fam. + 0.3 child	138 000	45 000	461
sing. fam. + 4-5 child	149 000	45 000	461
sing. fam. + 6 + child	159 000	52 000	530

496. Singles. Singles over the age of 27 are entitled to assistance with mortgages for housing purchase only. The level of assistance is determined according to age, while individuals over the age of 35 are entitled to almost the same assistance level which is granted to couples. Recently there has been an improvement for individuals over the age of 45, both by raising the level of assistance itself and by increasing the portion which is a conditional grant.

497. The elderly. In general, an elderly person is an individual over the age of 65. A woman can be considered elderly by age 60. At certain assistance levels, elderly persons without children can get the same amounts as families with children.

498. Immigrants. Housing assistance is crucial to Israel's policy of encouraging immigration. Most new immigrants lack a stable financial basis and need some time to obtain a steady and remunerative employment. Hence the assistance made available to new immigrants, which is higher than to most of the non-immigrant groups. Entitlement for assistance as an immigrant is nevertheless basically limited to seven years, after which he/she is considered as a non-immigrant. Concerning new immigrants from Ethiopia, in light of their rather unique situation, there are special criteria which further raise the level of mortgages up to over NIS 365,000, of which about 90 per cent is a grant, with a special initial monthly return of NIS 157. (For comparison, see the table presented above relating to assistance to single parents.)

499. Substitution or enlargement of residence. Although most assistance schemes are intended for "non-homeowners", there are also programmes aimed at solving acute housing problems of homeowners. Improving housing conditions is sometimes vital, such as for health or safety reasons, overcrowding and other hardship conditions. Assistance is offered in such cases to people in need, based on established socio-economic criteria. A main scheme of such assistance exists in the context of Project Renewal, which designates disadvantaged neighbourhoods, establishes a decision-making process designed to empower their residents, and allocates resources for a variety of projects, including improvement of housing conditions. Another important criteria to be mentioned here is over-crowded housing. Assistance to solve problems of overcrowding is available for households with more than 2.2 persons per room or when the apartment's size is too small relative to the number of persons living in it:

Number of persons	2	3	4	5	6	7	8	9
Area (square meters)	22	39	48	58	68	78	88	98

500. The various levels of assistance are described in the next chart (in NIS):

Family size and overcrowding	Mortgage	Portion which is a conditional grant	Initial monthly return
Over 4 persons/room			
0-6 persons	58 000	10 000	252
7-8 persons	80 000	32 000	252
9 persons	89 000	41 000	252
10+ persons	98 000	50 000	252
Over 3 persons/room			
0-6 persons	46 000	6 000	210
7-8 persons	66 000	26 000	210
9 persons	75 000	35 000	210
10+ persons	84 000	44 000	210

501. Finally, the eligibility for the substitution or enlargement of a residence due to health problems is determined according to the opinion of a medical consultant of the MCH. The level of assistance is identical to other sorts of assistance for housing improvement.

(iv) Rent supplements

502. This programme is aimed to provide assistance in renting private-market apartments. The population groups that are eligible for rent supplements are primarily vulnerable groups. These include: new immigrants, who receive a graduated stipend that decreases over a five-year period; single-parent households - for three years; households whose income falls below a minimum and who exercise their full employment potential; couples who have accumulated 1,400 points or more for three years (according to the criteria of eligibility for mortgage assistance to non-homeowners, as described above), regardless of income. When a means test applies, the main test in use is a proof of eligibility for one of the various subsistence allowances provided by the National Insurance Institute. Aid is also provided to persons in the process of a divorce and responsible for a child/children, and to a single parent who waived her/his housing rights as part of the divorce agreement. The programme is usually aimed as a temporary solution for one to three years, but low-income families according to special criteria, are entitled to unlimited extensions in assistance. The administrative process for realizing the right to rental assistance resembles that provided for subsidized mortgages (described above).

503. Empirical data for 1996 show that rent supplements were made available to more than 140,000 households each month. Of the 142,000 households that received rent supplements at the end of 1996, almost 113,000 (80 per cent) were new immigrants; 13,000 (9 per cent) were young couples with the requisite number of points; 6,300 (4.4 per cent) were single-parent households; and 2,800 (2 per cent) were elderly households, other than those included in the immigrant families.

(v) Public housing - Placement in publicly owned buildings with a subsidized rent

504. According to the MCH rules there are certain criteria for entitlement to a public housing unit. Priority is given to single-parent households with three or more children, to families whose members have a physical disability and to particularly low income households. Rental rates are set at three different levels, provided that the maximum level of assistance does not exceed 95 per cent of the actual rent. The main criteria under public housing assistance schemes are:

(a) Initial allocation:

(i) Certain non-homeowners - couples, one-person families, single-parent families, elderly persons, handicapped persons - with a means test;

(ii) Residents in unfit accommodation - without any means test;

(b) Change of residence within public housing:

(i) Health problems - without any means test;

(ii) Overcrowded conditions - without any income test.

505. Means tests take into consideration the overall income of the household. The entitlement rate is also influenced by the geographic location of units throughout the country. Generally speaking, there is a large reservoir of apartments held by the MCH and its agents, mostly in peripheral areas of the country. If an appropriate apartment is not available, there is a possibility that the Ministry will finance the acquisition of one to enable placement of an applicant eligible for subsidized rent. Such acquisition is decided according to the financial abilities of the Ministry. In 1996, about 100 such units were purchased to address particularly acute problems.

(vi) Special asistance of the Ministry for Labor and Social Affairs

506. Temporary relief of acute housing crises. There are three different types of such special assistance programmes: participation in rate fees; participation in house-repair expenses; participation in house-moving expenses. The general purpose of the programme is to provide a temporary “safety net” for people with an acute housing crisis. The aid is for a maximum period of two months and its goal is to prevent further aggravation of the situation. It is aimed at persons without any other alternative, who are in extreme personal or familial distress (or in danger thereof) because of exceptional housing conditions. Income tests similar to those used by the MCH is an additional condition. Eligibility is decided on the basis of a report made by a professional social worker. A common factor taken into consideration in this context is the existence or absence of a natural family capable of helping. Assistance is also provided when a judicial opinion recommends or orders separate residences.

507. Special assistance to the homeless. Treatment units in seven municipalities in different parts of the country provide a network of services for homeless persons. These services include: (a) shelter - emergency shelter during which efforts are made to establish eligibility for ongoing assistance; (b) treatment - a rehabilitation centre for treatment and diagnosis to help undertake the process of rehabilitation and the return to a more normal framework of living; (c) satellite apartments serving as “links” to facilitate the return to the community. In addition, the Ministry of Labor and Social Affairs has established supplementary services and sheltered housing for two small sub-groups with additional needs: (a) alcoholics; and (b) those with emotional or physical disabilities. The services are conducted in cooperation with other national government agencies, including MCH, the Ministry of Immigrant Absorption, and the Ministry of Health, as well as municipal welfare services. This joint effort illustrates the widely accepted commitment on the part of government (both national and local) to taking responsibility for administering the needs of homeless individuals.

The legal framework of housing assistance

508. The Israeli legal framework relating to housing can be divided into two sorts of legal arrangements: (a) administrative directives, which define most of the assistance schemes; and (b) statutes and legal precedents which affect housing rights in the market.

509. The Housing Loans Law 1991 at first sight seems to contradict the validity of the previous distinction, since it creates a legal right to Government-subsidized mortgages. The Law sets a minimum range of mortgage assistance and stipulates maximum levels of interest rate. The Law furthermore authorizes the Minister of Construction and Housing, in conjunction with the Minister of Finance, to provide supplementary assistance at rates to be determined between them. The full text of this law is attached in annex A to this Report.

510. However, the law defines the content of the right by way of referral to the existing rules issued by the MCH. Therefore, no real change occurred since its enactment, and it will remain so until new rules are issued. One can nevertheless say that provisions which until this law was passed were mere “administrative directives”, must now be considered as secondary legislation even though they are not published as such. In any case, new rules under this law are in preparation, in the normal format of secondary legislation, and should be issued soon.

511. The legal status of the administrative directives, which define almost all housing assistance programmes described in the previous section, is the following: the Government may modify or abolish them at will, or even deviate from them in particular cases since they are mere “internal directives” guiding the use of discretion in administrative decisions. These directives have, however, legal implications: their content as well as their use or misuse by officials are subject to judicial scrutiny under regular administrative law. Hence decisions according to the said directives may not discriminate, be arbitrary or unreasonable.

512. Mention was made in the previous sections of two laws granting rights to housing assistance to specific groups - the Absorption of Discharged Soldiers Law 1994 and the Single-Parent Families Law 1992. These laws are of limited scope when put in the perspective of all the assistance programmes in place. Furthermore, they merely increase the level of assistance for specific vulnerable groups, as opposed to creating a right standing by itself.

513. The above legal analysis concerns direct assistance to be provided by State or other public agencies. One must keep in mind that there exist in Israel various legal provisions that indirectly affect housing rights and opportunities, often in a way that diminishes the need for direct assistance. Such is the Protection of Tenants Law (Revised Version) 1972. This Law applies only to the housing units it defines (constituting about 2.1 per cent of total rental households). Accordingly, tenants are protected from raises in rent over a certain sum defined by governmental ordinance under the Law. This Law also protects the tenants to which it applies from eviction in contradiction to defined grounds, and gives the courts full discretion to oppose an eviction plea whenever it believes it is needed for “reasons of justice”. As a matter of fact, this provision has made eviction from protected tenants almost impossible.

514. Also important in the present context is the Rental and Borrowing Law 1971, which defines the division of responsibility between landlords and their tenants as far as maintenance of the housing unit is concerned.

515. The Sales Law 1968 is a generalized consumer protection-related law. It specifies the rights and responsibilities of the consumer and seller, and outlines the various remedies available in case of breach of the law. The Sales Law (Apartments) 1973 further protects those purchasing new dwelling units from contractors. The Law delineates a standard sales format outlining the physical features of the dwelling unit, and provides for remedies in instances of disparities between the sales contract and the completed unit. The Law additionally defines the minimum guarantee period for various components of the dwelling unit or building. Finally, the Sales Law (Guarantees for the Investment of Purchasers of Apartments) 1974 focuses on providing financial guarantees to the purchasers of apartments from building contractors during the construction process. The law calls for the seller to provide bank guarantees or insurance to the purchaser to protect all payments made before the title transfer is completed.

516. Finally, legal arrangements exist for the provision of substantive reductions or even a total waiver of homeowners' municipal tax in cases involving very low income owners, according to various means tests.

Government policy to combat poverty in Israel - Recent trends and developments

Existing policy

517. Increased resources have been allocated to programmes for promoting social development in the last several years. The areas which have received greatest attention in terms of planning, allocation of funds, and reorganization include improved quality of education and reforms in income maintenance, direct taxation and health care systems. The principles underlying the current government policy to reduce poverty and income disparities are:

- Raising the minimum income guaranteed to the most vulnerable groups: the elderly, the disabled and one parent families.

- Equalizing social security rights of beneficiaries of equal needs.

- Reducing the burden of direct taxes while preserving the delicate balance between efficiency and equity. Equity has been preserved by broadening the tax basis and reducing the marginal tax rates for low income groups.

- Enhancing social protection to new immigrants via the various assistance programmes.

- Guaranteeing by legislation the universal access to health services.

- Allocating more resources to improve the educational system in quantitative as well as qualitative terms.

- Introducing improvements in selected areas of the social services provided to vulnerable populations

- Increasing Social Protection to the most vulnerable groups: The Single-Parent Families Law 1992 and the Reduction of Poverty and Income Disparities.

518. The Single-Parent Families Law, enacted in 1992, has strengthened the social protection for one-parent families with low income, by increasing the level of their means-tested benefit (i.e. the minimum subsistence income), as well as by awarding them child-education grants and priority in vocational training. The law brought about an equalization of rights among the various types of one-parent families, under the principle of “equal treatment for families with equal needs”.

519. In 1994, the Minister of Labor and Social Affairs initiated the law for the Reduction of Poverty and Income Disparities. This was enacted in part in response to the publication of data that indicated an increase in the rate of poverty in the last several years. The fact that such a law has been enacted reflects the society’s recognition and commitment to alleviate economic hardship and reduce income inequality. Under this law, the means-tested benefits paid to the elderly and one-parent families, as well as the disability benefits for families with children, have been raised significantly and now exceed the poverty line. Also, beneficiaries aged 46 and over received an increment of the benefit, in view of their little likelihood of finding a job. It is estimated that the law will bring about a one third reduction in the incidence of poverty. The resources for financing the increased benefits have been raised mainly by a light cut in the level of the universal child allowances, with the exception of those paid to large families, as well as by an increment in government participation in the financing of social security benefits. A complementary proposal, submitted to the government by the Minister of Labor and Social Affairs and now under discussion, would extend the increased means-tested benefits to all families with children.

Towards universality of Child Allowance Programs

520. In 1993-1994 the Government completed the final steps necessary to establish a universal child allowance scheme, by which a unified allowance would be granted to every family in Israel in accordance with the number of children. These steps included abolishing the income test for small families as a prerequisite for entitlement to child allowances and gradually extending the child allowance increments provided to veterans of the armed services to the entire population. The purpose of these changes was to overcome the low take-up rate of child allowances by small low-income families (only 50 per cent of eligible families had received the allowance) and to base the child allowance level on the number of children alone, irrespective of income and service in the armed forces. This should enhance the equity of the scheme and bring about an improvement in the well-being of families with children, in particular large non-Jewish families, most of whom were previously ineligible for the special increments provided to those who served in the armed forces.

Tax reforms

521. An exceptional number of reforms in the Israel direct tax system took place during the last decade. Since 1984, the Government has undertaken several policy measures to reduce the income tax burden, mainly to enhance work incentives and promote economic growth. These measures, which have been gradually implemented over the decade brought about a reduction in the marginal income tax rates. (The lowest rate has been reduced from 25 per cent to 15 per cent, and the high from 60 per cent to 48 per cent.) High-income earners have benefited more than low-income earners from these tax changes. To compensate for the adverse effects on equity, complementary steps have been, and will be, implemented in the tax schemes of the social security and health systems, so as to improve overall equity of direct taxes.

522. Under the Reduction of Poverty and Income Disparities Law which came into force in 1995, the social security tax basis will be broadened - by raising the tax basis ceiling and by including income components currently exempt from taxation - and the rate levied on low incomes will be reduced by 50 per cent. This policy has also been adopted as part of the National Health Insurance Law 1995. Its importance lies not only in achieving a more equitable distribution of the tax burden, but also in reducing the poverty trap afflicting many workers who currently straddle the borderline between low paid jobs and unemployment. Furthermore, under the reformed health tax scheme, special attention has been paid to vulnerable groups, such as the elderly or widow/widowers, who will pay only a minimum flat rate contribution.

The National Council for Diminishing Social Gaps and War on Poverty

523. The National Council for Diminishing Social Gaps and War on Poverty was founded by the Government in August 1996 and began operating in May 1997. Its mandate includes defining “poverty”, indicating its causes and trends, submitting to the government proposals for a national policy, innovative reform projects and ways to enhance empowerment of disadvantaged groups and finally, running pilot projects.

524. Whereas the Israeli Government has always been deeply involved with social policy and social assistance, it is the first time an attempt is made to provide national leadership with comprehensive and systematic data and approach.

525. The council's composition combines professionalism and empowerment. The Labor and Social Affairs Minister chairs an assembly of about 70 members, of whom 60 per cent represent governmental and public agencies, universities, religious and spiritual circles, and 40 per cent are community representatives (volunteers, representatives of relevant NGO’s, local community leaders, etc.). Members of the assembly take part in specialized working committees, headed by prominent specialists. The council is activated and coordinated by a gearing committee and a coordinator, under the direction of the Director General of the Ministry for Labor and Social Affairs. A decision on its budget is still to be made. For the meantime, it is mainly based on volunteer participation and on modest funds provided by the Ministry.

International cooperation

526. The Center for International Agricultural Cooperation and Instruction at the Ministry of Agriculture assists developing countries, mainly in Africa, Asia and Central and South America. The aid is given as direct instruction, conducting courses for further training in Israel, mobile courses in the target countries, and also advice with the planning of different agricultural ventures. The centre coordinates activity in joint research for developing countries. The research is coordinated with academic agricultural research centres in Israel. Thanks to the fruitful cooperation between researchers and research institutions in Israel, by the funding countries and the developing countries, the funding countries are expanding this activity for the coming years. There is also cooperation on the subject with a number of non-governmental organizations overseas, and, in many instances, a funding source for development of the projects, training courses and research, is involved. The contacts with these bodies is fully coordinated with the Ministry of Foreign Affairs.

527. The centre, together with the Ministry of Foreign Affairs, has run courses and trained manpower in various agricultural matters for hundreds of students in Israel, as well as 60 mobile courses in countries in Latin America, Asia, Africa, Egypt and Eastern Europe. The activities include the sending of experts for long-term agricultural projects, setting up a sample farm, consultating in the framework of agricultural projects and providing other advice in coordination with, and at the request of, the various countries.

528. During the last year, joint activities with countries that have recently renewed ties with Israel has increased - among them: China, India and various countries of the former Soviet bloc.

Article 12 - The right to the highest attainable standard of health

Introductory overview

529. Israel is a member party of the World Health Organization (WHO). Israel's last report to the WHO, “Highlights on Health in Israel”, was submitted in 1996 and covers data up to 1993. It is attached in Annex 3 of this report.

530. This introductory overview is a reproduction of the summary of the report, updated to 1996, with the addition of the following table, which presents the main data on the indicators of the physical and mental health of the Israeli population and on the change in these indicators over time:

SELECTED HFA INDICATORS FOR ISRAEL

Indicator title	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
1. Demographic and socio-economic																
Mid-year population, total	3,879,000	3,949,700	4,026,700	4,037,600	4,159,100	4,232,900	4,298,800	4,368,900	4,441,600	4,518,200	4,660,100	4,946,200	5,123,500	5,261,400	5,399,300	5,539,700
Mid-year population, male	1,938,300	1,973,000	2,010,800	2,011,600	2,075,700	2,112,300	2,144,600	2,179,000	2,215,100	2,253,200	2,321,000	2,458,300	2,543,000	2,609,400	2,675,800	.
Mid-year population, female	1,940,700	1,976,700	2,015,900	2,026,000	2,083,400	2,120,600	2,154,200	2,189,900	2,226,500	2,265,000	2,339,100	2,487,900	2,580,500	2,652,000	2,723,500	.
Live birth, total	93,484	93,308	96,695	98,724	98,478	99,376	99,341	99,022	100,454	100,757	103,349	105,725	110,062	103,330	114,543	117,182
Live birth, male	48,144	47,204	49,566	50,838	50,914	50,911	50,936	50,559	51,603	51,638	53,013	54,141	56,603	57,775	58,855	60,155
Live birth, female	45,340	46,104	47,129	47,886	47,564	48,465	48,405	48,463	48,851	49,119	50,336	51,584	53,459	45,555	55,688	57,027
Total fertility rate	3.14	3.06	3.12	3.14	3.13	3.12	3.09	3.05	3.06	2.90	2.80	2.80	2.70	2.80	2.90	.
% Unemployed persons, total	5	5	5	5	6	7	7	6	6	9	10	11	11	10	8	6
Annual rate of inflation	133	102	132	191	445	185	20	16	16	21	18	18	9	11	15	8
GNP, US$ per capita	5,423	5,746	5,968	6,526	5,977	5,474	6,677	7,881	9,660	9,633	10,958	11,766	12,589	12,346	13,580	15,406
GDP, US$ per capita	5,615	5,887	6,151	6,729	6,240	5,699	6,922	8,140	9,911	9,887	11,223	11,987	12,822	12,522	13,752	15,660
GDP, PPP$ per capita	6,922	7,756	8,269	8,813	9,221	9,807	9,947	10,728	11,339	11,794	12,647	13,288	13,942	14,346	15,205	16,273
2. Health status																
Number of deadborn fetuses, 1,000 + grams	422	504	482	506	469	459	423	457	453	418	343	396	409	.	.	
Number of deaths, 0 - 6 days, 1,000 + grams	.	385	328	380	370	321	325	317	326	280	293	258	242	204	208	193
Number of live births, 1,000 + grams	.	91,205	94,224	96,765	96,157	97,248	97,637	97,801	99,119	99,406	101,283	104,182	107,132	109,149	111,391	113,993
Number of deaths, 0 - 6 days, 500 + grams	.	629	550	608	575	551	525	522	469	461	460	414	408	339	365	331
Number of deadborn fetuses, 500 + grams	455	547	529	539	509	524	478	517	515	469	381	448	458	.	.	.
New cases, tuberculosis	249	227	232	222	257	368	239	184	226	160	234	505	345	419	343	392
New cases, hepatitis - total	3,924	4,525	3,146	3,898	4,965	4,558	3,208	2,058	2,813	2,452	2,650	1,751	1,353	3,547	3,891	2.308
New cases, hepatitis - A	.	.	.	.	.	.	.	.	.	.	.	.	1,037	3,041	3,483	2,165
New cases, hepatitis - B	.	.	.	.	.	.	.	.	.	.	.	.	139	138	132	69
New cases, syphilis	.	.	.	.	122	160	54	32	41	45	.	.	156	118	.	
New cases, gonococcal infections	.	.	.	.	644	674	424	127	135	146	0	0	0	0	0	0

Indicator title	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
New cases, pertussis	19	25	62	78	7	24	47	96	7	260	189	35	99	138	71	59
Number of new cases, measles	215	228	7,864	129	137	3,005	1,951	438	178	29	212	991	66	141	1,565	28
Number of new cases, malaria	.	.	.	.	.	.	36	94	268	251	183	67	213	58	26	45
Number of new cases, diphtheria	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0
Number of new cases, tetanus	2	3	3	2	2	3	1	1	3	1	0	5	0	2	1	1
Number of new cases, acute poliomyelitis	11	8	5	4	1	2	0	2	16	0	0	0	0	0	0	0
Number of new cases, congenital rubella	.	.	.	.	.	.	0	2	.	.	.	0	6	2	1	0
Number of new cases, neonatal	0	1	2	1	0	0	0	1	2	1	0	0	0	0	0	0
Number of new cases, rubella	881	451	602	2,302	7,189	556	284	4,220	1,718	354	99	437	2,145	104	62	46
Number of new cases, mumps	3,041	5,956	5,092	3,904	6,584	2,113	1,052	2,579	6,999	891	364	349	676	895	891	117
Estimated cumulative cases, HIV seropositive	.	.	.	.	.	.	.	.	.	.	.	.	.	.	2,000	2,000
New cases, clinically diagnosed AIDS	.	0	2	8	5	10	25	19	24	34	45	37	39	55	32	53
Hospital discharges: infectious and parasitic diseases	.	.	.	.	.	.	.	22,798	.	.	.	.	.	.	30,245	.
Hospital discharges: all cancers	.	.	.	.	.	.	.	30,632	.	.	.	.	.	.	54,374	.
Number of new cases of cancer, all sites, total	8,866	8,942	8,980	8,663	9,785	9,930	10,106	10,088	10,165	10,987	12,253	13,109	13,354	14,072	.	.
Number of new cases of cancer, all sites, male	4,400	4,409	4,393	4,273	4,794	4,883	4,961	4,992	4,878	5,283	5,820	6,117	6,389	6,694	.	.
Number of new cases of cancer, all sites, female	4,466	4,533	4,587	4,390	4,991	5,047	5,145	5,096	5,278	5,704	6,433	6,992	6,965	7,378	.	.
Number of cases, malignant neoplasms, total	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

Indicator title	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Number of cases, malignant neoplasms, male	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Number of cases, malignant neoplasms, female	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Number of new cases of trachea/ bronchus/lung cancer, total	718	715	757	755	858	883	792	870	829	937	946	949	905	987	.	.
Number of new cases of trachea/ bronchus/lung cancer, male	536	532	565	543	637	647	554	654	601	667	692	680	661	700	.	.
Number of new cases of trachea/ bronchus/lung cancer, female	182	183	192	212	221	236	238	216	228	270	254	269	244	287	.	.
New cases, cancer of the female breast	1,174	1,152	1,243	1,128	1,317	1,289	1,360	1,305	1,409	1,616	1,811	2,005	2,049	2,153	.	.
New cases, cancer of the cervix	64	82	86	85	66	95	79	91	97	124	118	117	148	139	.	.
Number of cases, diabetes mellitus	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Number, mental health patients in hospital, 365 + day	6,163	6,106	6,141	6,102	5,977	5,854	5,606	5,285	5,076	5,014	4,951	4,865	4,812	4,824	4,771	4,578
Number of new cases of mental disorders	4,548	4,486	3,962	3,570	3,812	3,485	3,124	3,115	2,933	3,196	3,293	3,558	3,517	3,699	3,714	4,141
Number of new cases of alcoholic psychosis	13	5	30	31	39	28	22	26	29	23	27	35	38	35	45	51
Number of cases, mental disorders	8,678	.	.	8,164	8,059	7,780	.	7,167	7,036	.	6,877	.	6,867	6,866	6,949	6,846
Hospital discharges: diseases of circulatory system	.	.	.	.	.	.	.	64,876	.	.	.	.	.	.	102,302	.
Hospital discharges: ischaemic heart disease	.	.	.	.	.	.	.	31,127	.	.	.	.	.	.	47,439	.
Hospital discharges: cerebrovascular diseases	.	.	.	.	.	.	.	7,365	.	.	.	.	.	.	12,425	.
Hospital discharges: diseases of respiratory system	.	.	.	.	.	.	.	41,060	.	.	.	.	.	.	65,368	.
Number of cases, chronic obstructive pulmonary diseases	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

Indicator title	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Number of cases, malignant neoplasms, male	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Number of cases, malignant neoplasms, female	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Number of new cases of trachea/ bronchus/lung cancer, total		718		715		757		755		858		883		792	870	.
Number of new cases of trachea/ bronchus/lung cancer, male		536		532		565		543		637		647		554	654	.
Number of new cases of trachea/ bronchus/lung cancer, female		182		183		192		212		221		236		238	216	.
New cases, cancer of the female breast		1,174		1,152		1,243		1,128		1,317		1,289		1,360	1,305	.
New cases, cancer of the cervix		64		82		86		85		66		95		79	.	
Number of cases, diabetes mellitus	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Number, mental health patients in hospital, 365 + day		6,163		6,106		6,141		6,102		5,977		5,854		5,606	5,285	
Number of new cases of mental disorders		4,548		4,486		3,962		3,570		3,812		3,485		3,124	3,115	
Number of new cases of alcoholic psychosis		13		5		30		31		39		28		22		
Number of cases, mental disorders		8,678	.		8,164		8,059	.		7,780	7,167	.	7,036		6,877	
Hospital discharges: diseases of circulatory system	.	.	.	.	.	.	.	64,876	.	.	.	.	.	102,302	.	
Hospital discharges: ischaemic heart disease	.	.	.	.	.	.	.	31,127	.	.	.	.	.	47,439	.	
Hospital discharges: cerebrovascular diseases	.	.	.	.	.	.	.	7,365	.	.	.	.	.	12,425	.	
Hospital discharges: diseases of respiratory system	.	.	.	.	.	.	.	41,060	.	.	.	.	.	65,368	.	
Number of cases, chronic obstructive pulmonary diseases	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

531. The population of Israel is relatively young. This is understandable in light of the fact that the population has increased almost sixfold since the country's independence in 1948, mainly as a result of immigration.

532. Life expectancy at birth in Israel was 76.6 years in 1992, close to the average in the European Union (EU). Male life expectancy was 74.7 years, the third highest among a reference group of 20 European countries*. In marked contrast, female life expectancy was 78.5 years, sixteenth highest and well below the EU average of 80.0 years. Thus, the difference in life expectancy in Israel between men and women is the smallest of the 20 reference countries. The same situation existed in 1994 when life expectancy for men was 75.5 years and for women, 79.5 years. This mortality pattern, where male mortality is among the lowest in the reference countries, while that of women among the highest, also holds for all the main causes of death.

533. Infant mortality declined by 37 per cent between 1982 and 1992, but remained the second highest among the reference countries. By 1995, however, the rate had fallen from 7.5 to 6.8 per 1,000 live births.

534. The Standardized Death Rate (SDR) for cardiovascular diseases in the 0-64 age group was close to the EU average in 1992. The SDRs for ischaemic heart disease were the fifth highest of the reference countries for women but the eighth lowest for men. The SDRs for cerebrovascular diseases in the 0-64 age group were close to the EU average for women and below the average for men. In both these diseases, both male and female SDRs fell sharply from 1982 to 1992.

535. The SDR for cancer in the 0-64 age group was one of the lowest in the European reference countries. The overall cancer rate for men was the lowest of all these countries, while the rate for women was close to the EU average. The SDR for external causes was below the EU average for men and close to the average for women. With respect to suicide, Israeli males show a lower average than general in the EU (its increase of 43 per cent over the last 10 years is, however, one of the highest) but the rate for women is about the average.

536. Nationwide health promotion programmes have gained momentum during the last few years, especially those emphasizing physical activity. The percentage of smokers in the over-20 population declined from 38 per cent in 1973 to 31 per cent in 1992. Among women the drop was even greater. A number of new laws restricting smoking in public areas and workplaces have recently come into force. Alcohol consumption in 1993 was the lowest of all the reference countries.

537. Persons aged 20-74 who were taking medication or following a special diet for hypertension make up 8.5 per cent of the population. The prevalence of high-serum cholesterol (240 mg/dl or more) in the working population

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* The 15 member States of the European Union plus Iceland, Israel, Malta, Norway, and Switzerland.

aged 20-64 is 18.3 per cent. Some 25 per cent of this population has been estimated to be overweight. Since the 1950s, the intake per head of total calories, fats, animal fats, and protein has increased. The level of leisure-time activity in the general population is low: some 20 per cent of persons aged 14+ participate in such activity at least once a week.

538. Environmental control is the joint responsibility of the Ministry of Health and the Ministry of the Environment. Popular awareness of environmental issues is growing: air and water quality are the key issues.

539. Health expenditure has continued to rise as a percentage of GNP, reaching 8.7 per cent in 1995.

National health policy

540. After years of political and professional debate, the health-care system in Israel is at last in the process of fundamental reform, both of its conceptualization and its services. There are three major elements to the reform:

- a National Health Insurance Law
- the withdrawal of the Government from direct health-care provision
- the internal reorganization of the Ministry of Health.

The National Health Insurance Law

541. The Israeli Government has always assumed its responsibility to ensure universal enjoyment of basic health services. This commitment, which grew in scope over the years, was for the first time legally entrenched, with the enactment of the National Health Insurance Law 1994, which came into effect in January 1995. The following is the main features of this complex piece of legislation. (The full text is attached in Annex 1 to this report.)

542. This new law is based on mandatory insurance. All residents of Israel are insured by one of the four authorized health funds, each of which must provide, at least, the basic package of services and medications, as detailed in the law. Health insurance premiums are centrally collected by the National Insurance Institute, in the same way Social Security Insurance is collected (see under article 9 of the Covenant). These premiums are then distributed to the Health funds according to a capitation formula. It should be stressed that one’s right to health services is secured even in case insurance premiums failed to be paid.

543. The basic package of services mandated by the law includes all basic physical and mental primary care, including services and medications. Every insured person has the right to choose his/her health fund and no fund may refuse to enrol an applicant, regardless of age, or physical or mental condition.

544. The State's responsibility under the law is not only to regulate the activities of the Health funds (including recognition, supervision, enforcement, etc.). Actually, regulation powers were always given to, and used by, the Minister of Health in various laws - the People's Health Ordinance 1940, the Physicians Ordinance [New Version] 1976, the Dentists Ordinance [New Version] 1976, the Rights of the Patient Law 1996 (full text of the latter is attached in Annex 2 to this report).

545. The importance of the National Health Insurance Law in the context of the present Covenant, lies in that it imposes on the Ministry of Finance the final responsibility to refund the health funds for any gap between their income from insurance premiums and their factual expenses on all services mandated by the law.

Withdrawal of the Government and reorganization of the Ministry of Health

546. The Ministry of Health's goal is to concentrate on policy-making, long-term planning, setting performance standards, quality control and quality insurance, and the evaluation of essential data. Hence, internal reorganization of the Ministry has already resulted in the establishment of new departments, e.g. a department of performance standards.

547. The Ministry owns and operates a portion of Israeli hospitals - 23 per cent of general hospitals, 50 per cent of mental health hospitals, and 4 per cent of geriatric hospitals. The remainder are profit-making or public non-profit facilities. Under the reformed system, government hospitals will become self-financing, non-profit facilities. The Ministry of Health will supervise their operation but not participate directly in their day-to-day operation.

548. The first steps taken by the Government towards transformation of its hospitals into legally autonomous entities have encountered resistance, especially from trade unions. The process is certainly going to be a long one.

549. At community level, primary health care is provided in Israel by the following:

- Health fund clinics
- Hospital outpatient clinics and emergency rooms
- Private clinics
- Family health centres (also provide preventive care).

550. Most primary care is supplied by the four health funds, either by direct provision through its own clinics and medical staff or by purchase. Member premiums cover the cost of most of these services, both outpatient and in-patient, as well as medications. Each insured person is free to choose any

of the general practitioners or specialist physicians from the list employed by his/her health fund. Most affiliated physicians are not paid fee-per-visit but by salary or reimbursement.

551. A national survey of health services utilization, conducted in the first quarter of 1993, showed that 83 per cent of the most recent visits to a general practitioner/family doctor were made to health fund clinics, 12 per cent to private clinics, and 3 per cent to hospital outpatient clinics or emergency rooms. With respect to visits to specialists, 61 per cent took place at health fund clinics, 21 per cent at hospital outpatient clinics or emergency rooms, and 16 per cent at private clinics.

552. Family health centres span the whole country, operated by central government, local government authorities or the health funds, according to an agreed geographical distribution. Some 1,000 cover the urban areas while public health nurses visit small and peripheral localities at least once every two weeks. The services provided comprise physicians' examinations, developmental examinations, monitoring of breastfeeding, vaccination, and guidance and advice to mothers.

Long-term policy

553. In 1989 the Ministry of Health issued its Guidelines for Long-term National Health Policy in Israel, in which it formulated recommendations incorporating and promoting equity in health, health promotion and disease prevention, community involvement, intersectoral cooperation, primary medical care and international cooperation as the six principles underlying health objectives and priorities for Israel.

554. The strategy that follows aims at translating a number of policy goals into specific activities based on solid epidemiological data. The strategy is based on the following principles:

(a) Equity in health: While absolute equity in health is out of reach for biological/genetic reasons, the National Health Insurance Act that came into force on 1 January 1995 at least ensures equity of access to health-care services for the whole population. In addition, emphasis will be placed on reducing the gaps in health status between different population groups, such as new immigrants from specific countries, certain ethnic minorities, and people living in underprivileged areas.

(b) Primary health care: The main means for ensuring equity will be primary health care, as defined by the World Health Organization under its policy of Health for All by the Year 2000. Primary care will include health promotion, health protection, disease prevention, medical care, and rehabilitation and will be delivered by multidisciplinary teams of staffers from medicine, nursing, social work, and other health professions.

(c) Government responsibility: The Government will assume responsibility for the health of the people to the same degree as its responsibility for its welfare in other domains, such as security and education. It will be accountable to the people for the health service it guarantees.

(d) The rights of individuals and the general public: Individuals and the public at large will have the right to participate actively in shaping public health services and in supervising them. The Government will encourage such participation, which will include public debate, including in the mass media.

(e) Appropriate health technology: The Government will take measures to ensure the use of the appropriate technology, from the scientific, technical, social and economic points of view, in all areas of health care. It will encourage all concerned to take similar measures.

(f) Intersectoral and interdisciplinary action: To ensure an appropriate level of health, the Government will foster coordinated action by all sectors and disciplines concerned.

(g) Relationship between divisions of the health-care system: The Government will ensure appropriate mutual relationship between the primary, secondary and tertiary sections of the health system. This will entail removing unnecessary duplication, strengthening primary care, and providing incentives to hospitals to support other divisions of the system.

(h) Command and coordination: The Ministry of Health will provide command and coordination across all components of the strategy. In view of the intersectoral nature of the strategy, it will be approved by the Government as a whole.

555. The strategy has the following components:

- A demographic and epidemiological overview, describing the historical factors and current health situation that led to the strategy.

- The 1995 Health Care System Reforms introducing universal national health insurance and managerial autonomy for public hospitals, and reshaping the functions of the Ministry of Health.

- Substantive health programmes. A number of programmes have been selected for priority attention. Specific targets have been set, and related activities have been allocated to sectors, institutions, professions, and public bodies within the health-care system.

- Monitoring and evaluation are integral parts of the strategy. Inter alia, the degree of observance of strategy principles will be measured. Indicators will be developed to measure quality of life and welfare, including indicators of disability-adjusted life-year gain.

The following is the list of priority programmes:

(a) Health promotion

(b) Family health

(c) Control of cardiovascular diseases

(d) Control of malignant diseases

(e) Control of diabetes

(f) Mental health

(g) Control of substance abuse and alcoholism

(h) Prevention of accidents and physical and sexual violence

(i) Oral health

556. In addition, mention should be made of the National Council for Community Health. This council was established in 1996 with the mandate to advise the Ministry of Health on policy on primary health care. The council has recommended that by the year 2000 each resident should have a designated "personal physician", who will provide for them a coordinated and integrated health package.

Health expenditures

557. Health expenditure as a percentage of GNP reached 8.7 per cent in 1995, compared to 8.9 per cent in 1994, 7.8 per cent in 1992, and 7.8 per cent in 1989. In 1993, households financed 52 per cent of national expenditure on health care via health insurance premiums and out-of-pocket costs, as against 32 per cent in 1984. The difference is explained by the fact that premiums and out-of-pocket costs have been considerably raised. In 1984, households' payments to health funds covered 12 per cent of national health expenditure, in 1993 the amount was 25 per cent. This reduction in the proportion of health-care costs funded from general taxation has put an increasing burden on households. Out-of-pocket costs to households for medications and services from private physicians, clinics, and dentists accounted for 20 per cent of total health-care expenditure in 1984 and for 27 per cent in 1993. In the same period, central government financing decreased from 52 per cent to 44 per cent of total health-care costs.

558. Hospital care continues to consume the greater part of health-care spending. This percentage rose continuously until 1980 when it reached 47 per cent of current spending. It then gradually declined, until 1994 when the percentage spent on hospital care was 41 per cent. For the last decade, spending on community-based facilities and preventive care has remained constant at around 33 per cent, rising to 38 per cent in 1994, of which some 60 per cent-70 per cent goes on primary care.

Health indicators of the World Health Organization

559. The trend in the infant mortality rate per 1,000 live births has been as follows:

Table 1: Infant mortality 1989-1995

	Total	Jews	Non-Jews
1989	10.1	8.2	14.7
1990	9.9	7.9	14.9
1991	9.2	7.2	14.2
1992	9.4	7.5	14.3
1993	7.8	5.7	12.8
1994	7.5	5.7	11.5
1995	6.8	5.6	9.6

560. A large part of the fall in infant mortality is due to the fall in mortality from infectious diseases and pneumonia. Death from congenital disorders is also showing a downward trend. In every population group, the higher the mother's education level, the lower the infant mortality rate. Mothers in the age groups "Less than 20" and "35+" show a higher infant mortality rate than mothers in the 20-34 age group.

Table 2: Infant mortality (rate per 1,000 live births) by religion and age of neonate at death, 1990-1994

	Total		Early neonatal mortality 0-6 days		Late neonatal mortality 7-27 days		Post-neonatal mortality 28-365 days	
	Rate	Per cent	Rate	Per cent	Rate	Per cent	Rate	Per cent
Total	8.8	100	4.1	46.6	1.4	15.9	3.2	36.4
Jews	6.8	100	3.6	52.9	1.2	17.6	2.0	29.4
Non-Jews	13.5	100	5.3	39.2	1.9	14.1	6.3	46.7

561. From 1990 to 1994, almost half the deaths of neonates occurred in the first six days of life, this proportion being much lower among non-Jews than among Jews (39.2 per cent v. 52.9 per cent). The disparity in post-neonatal death rates (28-265 days) between Jews and non-Jews is particularly wide (2.0 v. 6.3) and so is the disparity in the percentage of post-neonatal deaths in total infant mortality (29.4 per cent v. 46.7 per cent). The reason for the relatively high rates of mortality in the post-neonatal period among non-Jews should be investigated, as death at this time of life is usually associated with environmental factors, such as infectious diseases and accidents, and is to a considerable extent preventable. (Programmes for dealing with this problem are detailed below, in Section 7.)

Table 3: Infant mortality (rate per 1,000 live births) in 24 countries 1983-1993

Country	1983	1993
Turkey	82.9	52.6
Portugal	19.2	8.7
Greece	14.6	8.5
USA	11.2	8.3
Belgium	10.6	8.0
Israel	13.7	7.8
Jews	11.4	5.7
Non-Jews	22.7	13.1
Spain	10.9	7.6
Italy	12.3	7.3
New Zealand	12.5	7.3
Canada	8.5	6.8
Austria	11.9	6.5
France	9.1	6.5
The Netherlands	8.4	6.3
Australia	9.6	6.1
Ireland	9.8	5.9
Germany	10.2	5.8
Switzerland	7.6	5.6
Denmark	7.7	5.4
Norway	7.9	5.0
Iceland	6.2	4.8
Sweden	7.0	4.8
Finland	6.1	4.4
U.K.	10.1	6.6*
Japan	6.2	4.5*

* 1992

562. Israel is currently in 19th place out of the 24 developed countries in the above table (compared to 21st place in 1983), with an infant mortality rate about that of Italy, Belgium and Spain. The rate among Israeli Jews is close to that in Germany, Denmark and Switzerland, ranking 7th out of the 24.

563. Water supply: Almost all Israeli households (99.8 per cent) are connected to the main water supply networks. About two thirds of Israel's water is pumped from the Sea of Galilee and the national aquifer. Galilee water is piped all the way to the south of the country. For about 50,000 Bedouin, the majority in the Negev (south), water is not piped directly to the family home but to Mekorot National Water Co. standpipes, from where it is carried by vehicle, camel, or on foot to the family home.

564. Sewage: Most households (80 per cent) dispose of their sewage via the central sewage system. Some small settlements use septic tanks and cesspools, but they are gradually being connected to the central sewage system.

565. Immunization: The percentage of children immunized against diphtheria, pertussis, tetanus, measles and poliomyelitis is as follows:

	DTP 4 doses	eIPV 3 doses	OPV 3 doses	MMR 1 dose
1993				
Total	92	93	93	95
Jews	91	92	92	94
Non-Jews	94	95	95	96
1994				
Total	91	92	92	94
Jews	90	91	91	93
Non-Jews	93	94	93	97
1995				
Total	94	95	95	95
Jews	93	94	94	94
Non-Jews	98	99	98	98

* Israel no longer immunizes routinely against tuberculosis, except for new immigrants from Ethiopia, India and Yemen.

566. Life expectancy data are as follows:

LIFE EXPECTANCY(1), BY SEX AND POPULATION GROUP

	Arabs and others		Jews		Total population	
	Females	Males	Females	Males	Females	Males
1930 - 1932			62.7	59.9		
1933 - 1935			61.8	59.5		
1936 - 1938			64.5	60.8		
1939 - 1941			64.6	62.3		
1942 - 1944			65.9	64.1		
1949			67.6	64.9		
1950 - 1954			70.1	67.2		
1955 - 1959			71.8	69.0		
1960 - 1964			73.1	70.6		
1965 - 1969 (2)			73.4	70.2		
1970 - 1974 (2) (3)R	71.9	68.5	73.8	70.6	73.4	70.1
1975 - 1979	72.0	69.2	75.3	71.7	74.7	71.2
1975	71.5	68.2	74.5	70.9	73.9	70.3
1976	72.4	69.6	75.4	71.6	74.8	71.2
1977	71.3	68.5	75.4	71.9	74.7	71.3
1978	72.0	69.1	75.6	71.9	75.0	71.5
1979	73.1	70.0	75.8	72.3	75.3	71.8
1980 - 1984 (2) R	74.0	70.8	76.5	73.1	76.1	72.7
1980	73.4	70.0	76.2	72.5	75.7	72.1
1981	74.2	70.6	76.3	73.1	75.9	72.7
1982 (2)	73.3	70.3	76.2	72.8	75.8	72.5
1983	74.1	71.2	76.6	73.2	76.2	72.8
1984	74.2	71.5	77.1	73.5	76.6	73.1
1985 - 1989	75.5	72.7	77.8	74.1	77.4	73.8
1985	75.8	72.0	77.3	73.9	77.0	73.5
1986	75.0	72.2	77.1	73.5	76.8	73.2
1987	75.8	73.2	77.7	73.9	77.0	73.6
1988	75.1	72.4	78.0	74.2	77.5	73.9
1989	75.5	73.1	78.5	74.9	78.1	74.6
1990 - 1994	76.3	73.5	79.2	75.5	78.8	75.1
1990	75.9	73.3	78.9	75.3	78.4	74.9
1991	75.7	74.2	79.0	75.4	78.5	75.1
1992	75.5	72.4	78.9	75.2	78.4	74.7
1993	76.9	73.6	79.5	75.7	79.1	75.3
1994	77.1	73.8	79.7	75.9	79.4	75.5

(1) Data for multi-year periods are arithmetical means of the yearly expectancies.

(2) Exct. war casualties: see introduction.

(3) For total population and Arabs and others - averages of 1971-1974.

567. The relatively low life expectancy for Israeli women has not yet been explained. It appears to be related to a relatively high mortality from cardiovascular diseases and breast cancer.

568. Access to trained personnel: The entire population has access to trained personnel for the treatment of common diseases and injuries and a regular supply of 20 essential drugs is available within one hour's walking or travelling distance.

569. All pregnant women have access to trained personnel during pregnancy. In 1992, the maternal death rate was 5.45 per 100,000 live births, having risen from the level in 1979-1980. The 1990-1992 rate was the ninth lowest of all European Union countries. All infants have access to trained health care.

Environmental control

570. Environmental control, as far as health protection is concerned, is the joint responsibility of the Ministry of Health and Ministry of Environment.

Water pollution

571. Wastewater from households, agriculture and industry can pollute natural water sources. The Israeli Supreme Court on several occasions has recognized the importance of protecting the environment against industrial harm. It recently called for more severe sentences for offenders:

> "With the increase in public awareness to offences related to protection of environment and prevention of water contamination, the legislator has been induced to determine significant penalty levels for these offences. ... Not only is this offence grave by itself, for it might adversely affect the public's standard of living and health, but ... the appellant continued to break the law after having been given a warning ... it is thus time to raise the level of penalties."
> P.Cr. A. 244/96 The Chim Nir Air Services Management and Airlines (1991) Ltd. v. State of Israel, Takdin-Supreme, vol. 96 (1) 6, 6-7.

572. Considerable efforts are made to prevent water pollution. Effluents are recycled for secondary use. Administrative authorities have been set up to control the effluent contamination of groundwater and rivers and to promote the restoration of rivers. Treated effluents are mainly kept to agricultural use. Standards of effluent quality are strictly monitored to prevent damage to public health and crops.

573. Water for domestic use is inspected and tested for bacteria and unwanted chemicals in compliance with regularly updated national standards and the recommendations of the WHO. In the past four years, water quality has substantially improved. In 1994, only 4 per cent of all test results showed the possibility of contamination. Fuel disposal and agricultural practice are also causes of water contamination.

Air pollution

574. The main sources of air pollution are energy production, transport, and industrial manufacture. A new national air quality policy was drawn up in 1994, as follows: preventing air pollution by integrating environmental considerations into physical planning, regular monitoring and periodic control

systems, legislation and enforcement (including ambient and emission standards), reducing sources of pollution, and reducing pollutant emissions from motor vehicles.

575. The energy economy is based on fossil fuels, mainly oil and coal. The pollution released into the atmosphere by fuel combustion shows that levels of sulphur oxides and lead have fallen, but levels of carbon dioxide, carbon monoxide, nitrogen oxides and hydrocarbons have risen. There has been no change in the concentrations of suspended particulate matter.

576. In 1994, 63 air quality monitoring stations were in operation. All monitor sulphur dioxide, most monitor nitrogen oxides and particulate matter, and a few monitor ozone and/or carbon monoxide. New devices monitor airborne chemicals at hazardous waste disposal sites. The limited information available indicates that sulphur dioxide levels are mostly below regulation limits, nitrogen dioxide is significantly above the limit in some areas, and ozone levels in most places exceed recommended limits.

577. As it stands today, the monitoring network is not an adequate basis for formulating a national air quality management programme. Therefore, Israel has just completed the draft plan of a multi-million-dollar national air monitoring network with a central data storage and display centre. The new network will comprise three operational levels - local monitoring stations, regional control centres and a national data processing centre. Monitoring stations will vary according to the pollutants likely to be found. Fifty new stations are planned to reinforce the existing 63. The network is to be constructed over a three-year period.

Farmland contamination

578. Three major groups of pollutants endanger farmland – fertilizers, heavy metals, pesticides and other organic additives.

579. The overuse or improper management of fertilizers results in soil pollution, mostly by nitrates. The pollution of drinking water sources by nitrates leaching from farmland has already been recorded. The accumulation of nitrates in edible crops is an obvious danger.

580. The main source of heavy metals in farmland is irrigation with polluted water or the application of contaminated solid additives. The high pH value of soil in Israel reduces the danger of plant uptake of, and water contamination by, heavy metals.

581. The use of pesticides imposes an obvious danger of toxic traces remaining in edible crops, as well as posing a risk to farmers. Residues in soil may reach water sources or be taken up by crops or other components of the soil biota, and thus reach the food chain.

Preventive care

582. The chief means of preventing infectious diseases is the vaccination programme administered by Mother and Child Clinics to neonates and toddlers. Population coverage is among the highest in the world, as stated above "Immunization".

583. In addition, cases of bacterial meningitis (meningococcal and H. influenza b) or hepatitis A, all the patient's contacts are treated by preventive measures, administered without payment by District Health Office (DHO) staff. The DHOs also monitor sanitary conditions in children's residential institutions and nursing homes to prevent illness spread by fecal-oral routes. On every report of a food-borne outbreak, DHO staff track down the source of the outbreak and take the necessary steps to improve conditions.

584. Under article 15 of the People's Health Ordinance 1940, the Director-General of the Ministry of Health or a District Health Office have the power to have any person infected with an infectious disease placed in a hospital for infectious diseases or other appropriate form of isolation, should his/her current accommodation not permit taking the precautions necessary to contain the spread of the disease.

Vulnerable groups

585. Until the end of 1994, most residents of the State of Israel were insured voluntarily in four health funds which provided medical services to 95 per cent of the population, each fund having its own particular conditions of coverage. About 200,000-300,000 persons (including about 90,000 children) were not insured in any of these funds, some of them of their own free will, preferring a private medical service, and others due to their inability to afford the monthly payment.

586. In addition to these four funds, there were (and still are) voluntary medical services available for the needy, both in the Jewish sector, mainly in ultra-orthodox circles, and in the non-Jewish sector, in charity organizations run by the various churches.

587. In January 1995 the Health Insurance Law came into effect, introducing far-reaching changes in the health system of Israel, especially in terms of equality in enjoyment of health services. One of the foremost changes was that every resident in Israel became obliged to insure him/herself in health insurance. (The definition of "resident" being the one used in the National Insurance Institute.) A person who wishes to be insured above and beyond what is provided by the basic "basket of services" defined in the law may arrange for additional, supplementary insurance by means of programmes offered by the health funds and authorized by the Ministry of Health and by the supervisor of insurance in the Ministry of Finance. The operation of the supplementary insurance programmes is closely followed and supervised by the State authorities in order to ensure that the services included therein are indeed provided in addition to the basic basket, and not instead of them.

588. Furthermore, the health funds very quickly improved their services, especially within Arab communities, in order to raise their number of members and accordingly - their funding (which the law sets by a per capita formula). Since 1993 the Ministry of Health spent about 6.5 million NIS (approximately $1.8 million) in building tens of new Mother and Child Health Care services in Arab towns and villages. The Ministry's budgets during the same period also included a sum of about 9.7 million NIS (approximately $2.7 million), aimed at "closing the gaps within Arab sector" in the field of preventive care.

589. The Ministry of Health is working intensively to reduce the Israeli Arab infant mortality rate, which is higher than among Jewish Israelis. The infant mortality rate is indeed a product of socio-economic conditions. For instance, an important reason for the gap on this indicator between Jews and non-Jews is the much higher rate of marriage between close relatives among Arabs, and particularly among Bedouin, as compared to Jews, so that the rate of congenital defects in Arab neonates is very high.

590. In the framework of the Ministry's education/information project to reduce the incidence of very young wives giving birth and to reduce infant mortality in high risk groups, an information/education campaign is being conducted on the results of inter-familial marriage. Several mobile Family Health Clinics travel among the nomadic Bedouin tribes in the south and Arab settlements of the north in an "outreach" campaign, one of whose main efforts is to raise immunization coverage for neonates and children. It should be noted that immunization coverage among the Arab population as a whole is very high - over 95 per cent.

591. One prong of the project attempts to discourage marriage among close relatives; another attempts to encourage pregnant women to make more use of in utero diagnostic procedures; and a third aims to encourage mothers to make more use of the Mother and Child Health Care services dispersed throughout the country. One cannot measure the short-term results of such projects. More time is required before measurable results are to be expected.

592. Nevertheless, the overall health-care situation of the Bedouin, living mainly in the sparsely populated areas of the south of the country, is worse than that of the general population. The radical solution is their transfer to permanent settlements, which is current national policy. Detailed analysis of this topic is provided in this report under article 11 of the Covenant ("Illegal Settlements").

593. In the interim, the following special measures are being taken:

- Every Bedouin school has running water installed;

- Every Bedouin encampment is connected on request to the Mekorot pipe-system;

- The quality of Mekorot-supplied water is regularly sampled;

- Leaflets are distributed explaining how to prevent infection via the water supply between standpipe and the encampment and within the encampment.

Community participation

594. Eighteen Israeli towns are participants in the Healthy Cities Project, whose objectives are as follows:

(a) To eliminate or reduce health status disparities between population groups;

(b) To help develop preventive medicine;

(c) To promote health.

595. All measures are based on a local needs assessment and are carried out with the cooperation of local citizens. Each participating town prepares a health profile of the town and then appoints a Project Steering Committee, comprising representatives of all health-care service providers in the town (including volunteers) and of the public. The committee reviews the health status profile and then defines needs and the priority between them.

596. Local Community Centres in Israel also run health promotion programmes.

Health education

597. The relatively high rate of HIV infection among Ethiopian Jews in Israel has persuaded the Government to allocate an NIS 4.5 million budget to a multi-project AIDS prevention plan. The planned projects are targeted at three groups of population:

(a) HIV patients and carriers. Coordinators from the Ethiopian community will make contact with all HIV patients and carriers in their local communities. They will help them communicate with the professionals at the local AIDS Treatment Centre and educate them in ways to avoid spreading the disease, principally by teaching safe sex;

(b) The Ethiopian community at large. Health education projects for schools, the army, and higher educational institutions are planned. The mass media will also be used;

(c) Israeli (non-Ethiopian) care-givers. Seminars will be conducted periodically for teachers, social workers, health-care professionals, and workers in immigrant absorption who come into contact with Ethiopians. The aim is to help the professionals understand Ethiopian culture and thus enable them to be more sensitive and effective in their dealings with Ethiopian clients.

598. Projects are under way in the towns Afula, Hadera, and Beersheva, among the non-Jewish population, to discourage marriage between close relatives and to encourage the acceptance of antenatal screening for congenital defects.

Article 13 - The right to education

The legal framework

599. Education constitutes an important value in Israeli society. In the words of the Supreme Court of the State of Israel:

> "Education is indeed a social instrument, the importance of which cannot be overstated. It is one of the most important functions of government and of the State. Education is vital for the existence of a free, living and functioning democratic system. It is a necessary element, which is required for anyone's self-fulfilment. It is vital for the existence of society, where people live and take action to improve their personal welfare, and contribute thereby to the well-being of the entire community. ... Education is undoubtedly an important tool in securing the rights and liberties of every individual, and in realizing his basic political rights, including freedom of speech, and the right to elect and to be elected."
> H.C. 1554/95 Friends of "GILAT" Association v. Minister of Education and Culture, Takdin-Supreme, vol. 96 (2) 457.

600. The inclusion of "freedom of education" among the values enshrined in Israel's Declaration of Independence serves as further evidence to the importance attributed to education in Israel.

601. The basic components of the right to education - the right of every child to receive free education, and the parents' right to choose the kind of education given to their children, has been guaranteed by one of the first legislative acts of the Knesset, the Compulsory Education Law 1949. According to this law, compulsory education applies to all children between the ages of five (compulsory kindergarten) and 15 (10th grade) inclusive, and it is to be provided free of charge. In addition, the law provides for free education for adolescents aged 16 and 17 (11th-12th grades), as well as for 18-year-olds who did not complete their schooling in 11th grade in accordance with the official curriculum. While the State has sole responsibility for the provision of free education, the maintenance of official educational institutions is the joint responsibility of the State and the municipal education authorities. Parents have the right to choose one of the recognized educational trends of education (State or State-religious) for their children. (See below.) They also have the right to send their children to independent parochial schools, which are not run by the State, but are under its supervision.

602. Important additions to the original version of this law include a prohibition against discrimination on sectarian basis in acceptance, placement, and advancement of pupils as well as a prohibition against punishing pupils for actions or omissions on the part of their parents.

603. Another important law is the State Education Law 1953. This law provides for a six-day school week and determines the content and procedures of State education. State education is defined as education provided by the State on the basis of the curriculum approved and supervised by the Ministry of Education and Culture, without any affiliation to a party, communal body, or any other non-government organization. According to the law, State

education is to be based on the values of Israel's culture, the achievements of science, love of the homeland, loyalty to the State and people of Israel, heroism and remembrance of the Holocaust, practice in agricultural work and handicrafts, pioneer training, and building a society on the foundations of freedom, tolerance, mutual assistance and love of mankind.

604. The law establishes two State education trends: State and State-religious education. State-religious education is identical in its structure to the ordinary State education system, but offers a more religious oriented curriculum and usually employs a mostly religious teaching staff. This law enables the Minister of Education, Culture and Sport to approve increasing the existing curriculum by up to 25 per cent, if 75 per cent of the parents request it.

605. Other relevant laws are:

- The Council for Higher Education Law 1958 - which establishes a council responsible for authorizing and accrediting institutions for higher education to award degrees.

- The School Inspection Law 1968 - which regulates the terms for operation of schools existing outside the ordinary school system.

- The Special Education Law 1988 - which establishes a separate education system designed to meet the needs of children with disabilities.

- The Long School Day Law 1990 - which defines the length of the school day.

606. A separate legal regime applies vis-à-vis pupils with physical or mental disabilities. The Special Education Law 1988 prescribes free education for all such children and adolescents from the ages of five to 18. According to this law by 1998, free special education for disabled individuals will be expanded to include those aged 3 to 21.

607. In 1990, the Knesset enacted the Long School Day Law 1990 designed to guarantee more school hours for all pupils in the K-12 grades. The law stipulates that the duration of the school day shall be eight hours, or less as decided by the Minister of Education and Culture. For budgetary reasons, the law is to be gradually implemented over a period of 10 years.

608. In 1996, the total number of children enrolled in the education system under the supervision of the Ministry of Education, Culture and Sport reached about 1,490,000 - from the pre-primary level to the end of secondary school. Other eligible pupils attend schools supervised by the Ministry of Religious Affairs and by the Ministry of Labor and Social affairs. Combined with the above figures, it is estimated that nearly 100 per cent of the children in the primary school age group attend school, as do over 90 per cent of the adolescents eligible for secondary education.

The constitutional status of the right to education

609. While it is impossible to contest the legal existence of the right to education, the scope of constitutional protection accorded to it has not yet been defined by the courts of Israel. On one occasion, a Supreme Court judge held that the right to education is not a constitutional right, citing the absence of a positive constitutional rule to that effect. However, the President of the Supreme Court in a recent case expressed the opinion that the matter is not yet settled and that the above-mentioned judicial opinion is not binding upon the full court.

Structure of the education system

610. The Israeli education system includes several main levels: pre-primary, primary, secondary, post-secondary, higher education and adult education.

Pre-primary education

611. The pre-primary education system consists of a network of kindergartens. In 1996, the kindergarten system involved 320,000 children ranging from age two to five years, attending municipal, public and private institutions. Younger children normally attend similar day-care institutions, or are put under the supervision of nannies. The goal of early childhood education is to lay an educational foundation, which includes the development of language and thought, learning and creative abilities, social and motor skills.

Primary and secondary education

612. Until 1968, the school system of Israel was divided into primary school (1st-8th grades) and high school (9th-12th grades). In 1968, a reform was decided upon which divided the system into three educational institutions:

(a) Primary school (1st-6th grade);

(b) Lower secondary school (7th-9th grade);

(c) Upper secondary school (10th-12th grade).

613. The purpose of the reform was to improve scholastic achievements and encourage social integration of various sectors of society. At the same time, the period of compulsory education (which used to be 9 years - from compulsory kindergarten to the 8th grade) was extended until the 10th grade (inclusive), bringing the total period compulsory education to 11 years. The reform was, and still is, being implemented slowly, and in 1996 27 per cent of the pupils were still attending schools according to the old system. In upper secondary education, pupils can choose between academic and technological/ vocational tracks. In any case, all tracks are generally available and accessible to all, and are free of charge.

Higher education

614. The higher education system in Israel comprises eight universities (including the Open University in Tel-Aviv). In addition, there are several other non-university institutions of higher education which award Bachelor's

degrees in several specific areas only, such as business administration, law, technology, arts and crafts, and teacher training. The system also includes regional colleges which offer academic courses under the auspices and academic responsibility of the universities.

615. A recent feature of the higher education system in Israel is the establishment of general colleges providing a broad spectrum of degree programmes at the undergraduate level. These colleges are being established to meet the increasing demand for higher education which is expected to continue and grow in the first decade of the twenty-first century.

616. Admission to universities and colleges is based upon the high school matriculation certificate and the results of a psychometric examination, without any discrimination on grounds of religion, sex, nationality or any other consideration except academic achievements. Matriculation examinations are administered in Hebrew, Arabic, English, Russian, French and Amharic (Ethiopian), or in other languages if so required. Psychometric examinations are administered in the following languages: Hebrew, Arabic, English, Russian, French or Spanish.

617. University and college education is not free of charge. University tuition is determined in accordance with the decision of a public committee. At present the average undergraduate tuition fees is about 10,000 NIS (approximately $3,000) per annum and may be paid in advance or in instalments. There is a national network of assistance to students in need of aid for socio-economic reasons. This comes in addition to a wide range of public and private foundations that award grants, scholarships and loans. Colleges are considered private institutions and thus their tuition fees are determined by market forces.

Adult education

618. Adult education plays an important role in the educational process. It offers programmes targeted to all population sectors for continuing primary, secondary, pre-academic (university preparatory programmes) and academic education. Furthermore, in Israel, adult education has a special importance since Israel is an immigrant country, absorbing immigration from all parts of the world. Hence, special language and cultural studies are given in new immigrants' schools. All of these activities are carried out by the Ministry of Education, as well as by a wide range of non-governmental organizations and institutions.

619. The objectives of the Ministry of Education, Culture and Sport in the area of adult education are:

- To inculcate the Hebrew language and its culture in new immigrants, and in particular, to divert specific resources for the absorption of Ethiopian immigrants in the area of language, culture and education within Israeli society.

- To narrow the educational gaps within the adult population in Israel; to expand the frameworks of primary and secondary education in all population sectors.

- To expand the knowledge and horizons of the adult student, and to provide him/her with opportunities to enrich the areas of his/her interest, inter alia, through the development of hobbies and creative talents.

- To provide tools for developing skills that will improve adults' functioning in their various roles within the family and community.

620. As a result of the availability of a complementary system of fundamental education, and due to the improved enforcement of the Compulsory Education Law, the number of persons with four or less years of formal education decreased among the non-Jewish population, from 28.9 per cent in 1980 to 15.9 per cent in 1994, while among the Jewish population, the numbers fell respectively from 10.3 per cent to 5.4 per cent.

Organizational difficulties in realizing the right to education

621. While virtually everyone within the eligible age group attends primary school, as far as secondary education is concerned, there is a drop-out problem, especially in the non-Jewish sector.

622. The policy of the Ministry of Education is to make every effort to prevent youth from dropping out and to raise the percentage of those attending school. The stated objective is that every boy and girl, except in extreme cases, shall complete 12 full years of schooling. Schools are obligated by the Ministry's policy to assist and encourage every pupil to continue his/her studies through 12th grade, despite the fact that school attendance is not compulsory over the age of 16.

623. In recent years, preventing pupils from dropping out of formal studies has become one of the primary tasks of the education system. Schools are required to refrain from past practices of abetting unwanted pupils to leave school. Instead, schools should try to increase the pupils' endeavours in their studies and do all that they can to prevent them from dropping out. To further advance this policy goal, financial incentives are given by the Ministry to schools that succeed in reducing drop-out rates.

624. In cases where placement in an alternative educational framework would be for the pupil’s benefit, the school is instructed by the Ministry to assist him/her in finding the most suitable alternative educational framework.

625. One of the main factors which influences the extent of the drop-out phenomenon is the transition between different educational frameworks. The most problematic transitions are:

(a) From primary schools to lower secondary schools/four-year secondary schools;

(b) From lower secondary schools to upper secondary schools;

(c) Between classes in the upper secondary school.

626. One of the stated purposes of the 1968 reform was to postpone the transition from elementary school to high school from 8th to 9th grade. With regard to higher education, budgetary difficulties prevent at present the granting of free education.

Statistical data

Literacy

627. The following tables introduce, in several disaggregated forms, the figures pertaining to the extent of formal education possessed by the adult population of Israel throughout the years 1961-1995. It divides the population by Jews and non-Jews, sex, age and country of origin. According to this data, in 1995 only 4 per cent of the total Israeli population lacked any formal primary education.

Persons aged 15 and over, by population group, years of schooling, sex and age a/

Sex and age	Years of schooling								Total b/	
	Median	16 +	13 - 15	11 - 12	9 - 10	5 - 8	1 - 4	0	Per cents	Thousands
	Jews									
1961	8.4	3.6	6.3		34.6	35.4	7.5	12.6	100.0	1,300.9
1970	9.3	4.9	8.1		39.7	31.7	6.3	9.3	100.0	1,809.6
1975	10.3	7.0	10.7	26.1	18.8	25.5	4.3	7.6	100.0	2,708.2
1980	11.1	8.5	12.3	30.4	17.2	21.3	3.9	6.4	100.0	2,315.8
1985	11.5	10.2	14.2	33.6	16.6	17.3	3.1	5.0	100.0	2,511.3
1990	11.9	12.2	16.0	38.0	13.5	13.7	2.4	4.2	100.0	2,699.3
1993	12.0	13.8	18.5	39.3	13.0	11.6	2.1	3.7	100.0	3,102.9
1994	12.1	14.6	19.3	37.3	12.6	10.8	2.0	3.4	100.0	3,181.1
TOTAL - 1995										
- Thousands		501.5	662.6	1,198.5	387.5	326.4	62.9	99.1	100.0	3,269.3
- Per cents	12.2	15.5	20.5	37.0	12.0	10.1	1.9	3.1	100.0	
AGE										
15 - 17	11.2	-	0.5	55.1	42.7	1.3	(0.3)	(0.1)	100.0	229.3
18 - 24	12.3	3.5	25.3	63.2	5.2	2.1	0.3	0.4	100.0	532.1
25 - 34	12.9	22.0	26.6	41.0	6.5	2.6	0.4	0.9	100.0	610.4
35 - 44	12.8	23.4	24.0	32.5	12.0	6.6	0.4	1.1	100.0	613.6
45 - 54	12.8	24.6	22.1	27.1	11.6	11.5	1.1	(2.0	100.0	452.5
55 - 64	11.6	15.2	17.6	24.0	10.9	19.6	5.0	7.7	100.0	335.5
65 +	9.6	9.5	12.9	18.7	12.9	28.7	7.0	10.3	100.0	495.9
Men - total	*12.3*	*17.4*	*18.8*	*38.0*	*12.6*	*9.7*	*1.8*	*1.7*	100.0	*1,588.0*
15 - 17	11.2	-	(0.8)	53.2	44.1	1.7	(0.2)	-	100.0	118.0
18 - 24	12.2	4.2	*21.4*	64.1	6.9	2.6	(0.4)	(0.4)	100.0	271.2
25 - 34	12.9	22.9	24.7	40.0	7.6	3.6	(0.5)	0.7	100.0	307.9
35 - 44	12.8	25.5	21.8	32.5	12.4	6.6	0.4	0.8	100.0	302.2
45 - 54	12.7	27.2	19.3	28.4	12.2	10.6	0.8	1.5	100.0	219.8
55 - 64	11.9	19.4	16.7	25.2	10.3	20.4	4.4	3.6	100.0	156.6
65 +	10.4	13.1	13.9	19.7	11.5	28.2	7.3	6.3	100.0	212.2

(continued)

Sex and age	Years of schooling								Total b/	
	Median	16 +	13 - 15	11 - 12	9 - 10	5 - 8	1 - 4	0	Per cents	Thousands
	Jews									
Women - total	*12.2*	*13.6*	*22.0*	*36.2*	*11.4*	*10.4*	*2.1*	*4.3*	100.0	*1,681.3*
15 - 17	11.3	-	(0.2)	57.2	41.2	(1.0)	(0.3)	(0.1)	100.0	111.4
18 - 24	12.4	2.9	29.4	62.0	3.4	1.6	(0.2)	(0.5)	100.0	260.8
25 - 34	13.0	21.1	28.5	42.1	5.3	1.6	(0.4)	1.0	100.0	302.5
35 - 44	12.8	21.4	26.0	32.7	11.5	6.5	(0.4)	1.5	100.0	311.4
45 - 54	12.8	22.1	24.8	26.1	10.9	12.2	1.4	2.5	100.0	232.6
55 - 64	11.3	11.5	18.4	22.9	11.3	19.0	5.5	11.3	100.0	178.8
65 +	9.1	6.8	12.1	17.9	13.9	29.3	6.7	13.3	100.0	283.8
	Arabs and others									
1961	1.2	1.5			7.6	27.5	13.9	49.5	100.0	136.3
1970	5.0	(0.4)		1.7	13.0	35.1	13.7	36.1	100.0	223.2
1975	6.5	1.4	3.1	9.1	12.6	38.0	12.9	22.9	100.0	279.8
1980	7.5	2.2	5.5	13.5	16.0	33.9	10.0	18.9	100.0	344.5
1985	8.6	2.5	5.9	19.2	19.3	32.0	7.7	13.4	100.0	428.2
1990	9.0	3.0	6.1	23.2	17.4	30.8	6.5	13.0	100.0	502.0
1993	9.7	3.7	7.4	26.4	18.9	26.5	6.2	10.9	100.0	579.2
1994	10.0	4.3	8.4	27.8	18.4	25.1	5.9	10.0	100.0	607.9
TOTAL -										
- Thousands		23.9	60.7	177.5	120.1	151.5	36.7	56.2	100.0	533.9
- Per cents	10.2	4.6	9.6	28.1	19.0	24.0	5.8	8.9	100.0	
AGE										
15 - 17	10.5	-	0.2	38.3	46.5	12.2	(1.0)	(1.8)	100.0	69.8
18 - 24	11.6	2.2	15.8	44.8	18.5	15.5	1.3	1.9	100.0	150.5
25 - 34	11.0	7.5	10.6	32.4	20.6	24.2	2.3	2.4	100.0	167.8
35 - 44	9.0	6.8	10.6	17.4	14.9	37.8	6.5	6.0	100.0	107.5
45 - 54	7.0	5.9	7.5	9.8	9.4	34.3	14.8	18.3	100.0	64.3
55 - 64	4.7	3.8	5.9	6.2	5.1	27.2	21.2	30.6	100.0	40.2
65 +	1.1	(1.5)	(2.4)	6.3	4.6	17.2	15.3	52.7	100.0	33.7
Men - total	*10.6*	*5.9*	*9.4*	*30.6*	*20.6*	*24.4*	*5.0*	*4.1*	100.0	*315.7*
15 - 17	10.5	-	(0.2)	37.1	46.4	13.4	(1.3)	(1.6)	100.0	35.7
18 - 24	11.6	2.2	*15.6*	45.0	20.3	14.9	(1.1)	(0.9)	100.0	76.4
25 - 34	11.3	9.1	9.3	37.1	21.2	20.8	(1.4)	(1.1)	100.0	83.9
35 - 44	10.2	9.7	11.0	21.8	17.8	33.2	3.4	3.1	100.0	53.2
45 - 54	8.1	8.9	7.9	10.6	12.5	44.3	10.7	5.1	100.0	32.1
55 - 64	6.5	(5.1)	(5.8)	8.8	(6.5)	37.8	23.0	13.0	100.0	19.5
65 +	3.5	(2.5)	(1.5)	(5.6)	(3.6)	27.7	24.5	34.6	100.0	14.9
Women - total	*9.7*	*3.2*	*9.9*	*25.7*	*17.4*	*23.6*	*6.6*	*13.6*	100.0	*318.2*
15 - 17	10.6	-	(0.2)	39.5	46.5	11.1	(0.7)	(2.0)	100.0	34.1
18 - 24	11.6	2.2	15.9	44.7	16.7	16.1	(1.5)	2.9	100.0	74.1
25 - 34	10.6	5.9	11.8	27.8	20.1	27.6	3.2	3.6	100.0	83.9
35 - 44	8.0	3.9	10.2	13.0	(12.0)	42.7	9.5	8.7	100.0	54.3
45 - 54	4.9	(2.9)	7	9.0	6.4	24.2	18.9	31.6	100.0	32.2
55 - 64	1.6	(2.5)	(6.1)	(3.8)	(3.8)	17.2	19.6	47.0	100.0	20.8
65 +	0.7	(0.6)	(3.0)	(6.8)	(5.4)	8.9	8.2	67.1	100.0	18.8

Source: Central Bureau of Statistics.

a/ Till 1985 - Persons aged 14 and over.

b/ Incl. Not known.

Attendance rates in the education system

628. The following tables reveal the gradual increase in the number of pupils in the Israeli education system. The first table shows the current number and rate of attendance in State schools. The second table presents the 1996 figures on the number of primary and secondary education pupils divided into four education sectors (the Jewish, Arab, Bedouin and Druze sectors). The third table reflects the increase in number of students in all educational institutions; the fourth table deals with primary and secondary education only, and illustrates the changes in number of Jewish and non-Jewish pupils in every school grade, throughout the years.

Number of students enrolled in 1996 in the pre-school, primary and secondary education system and their percentage in their total age group population:

Pre-school education	Primary education	Secondary education	
Kindergartens (ages 2-5)	Primary School (Grades 1-8)	Lower Secondary (Grades 7-9)	Upper Secondary (Grades 9-12)
320,000	690,000	193,000	288,000
(90%)	(96%)		(90%)

	Free and compulsory education	Free education
ages 1-5	ages 5-16	ages 16-18

Source: Ministry of Education, Culture and Sport and the Central Bureau of Statistics.

629. The above figures do not include pupils attending Talmud-Torah (Orthodox Jewish) pre-schools, and institutions under the supervision of the Ministry of Religious Affairs and the Ministry of Labor and Social Affairs (vocational and industrial schools).

Number of pupils in schools by sector and by level, 1996
(thousands of pupils)

Sector	Total	Primary education	Lower secondary education	Upper secondary education
Total	1 171	690	193	288
Jewish	938	540	152	246
Arab	169	108	28	33
Bedouin	36	26	6	4
Druze	28	16	7	5

* The figures in this table do not include kindergartens and higher education.

630. There are approximately 1,170,000 pupils in schools: about 80 per cent of them are in the Jewish sector, about 14 per cent are in the Arab sector, about 3 per cent in the Bedouin sector, and about 2 per cent in the Druze sector.

Pupils in educational institutions

	1995/96	1994/95	1979/80	1969/70	1959/60	1948/49
1. GRAND TOTAL (2 + 12)	1,721,303	1,684,456	1,200,638	823,491	578,003	140,817
Educational system (3 + 12)	1,656,247	1,592,465	1,156,636	797,191	567,051	140,817
Other institutions (11)	58,793	56,200	44,000	26,300	10,952	
			Hebrew education			
2. TOTAL (3 + 11)	1,451,939	1,428,882	1,023,410	711,954	531,923	129,688
3. EDUCATIONAL SYSTEM TOTAL (4 through 10)	1,393,139	1,372,682	979,410	685,654	520,971	129,688
4. KINDERGARTENS a/	289,100	288,900	246,500	107,668	75,699	25,406
5. PRIMARY EDUCATION - TOTAL	540,821	540,254	436,387	394,354	375,054	91,133
Primary schools	528,429	527,328	424,173	375,534	357,644	91,133
Schools for handicapped children	12,392	12,926	12,214	18,820	17,410	
POST-PRIMARY EDUCATION b/ - TOTAL (5+7)	391,794	384,328	216,602	137,344	55,142	10,218
6. Intermediate schools	150,804	142,750	72,792	7,908	-	-
7. Secondary schools - total	240,990	241,578	143,810	129,436	55,142	10,218
secondary one-track	118,044	123,790	91,138	98,591		
secondary multi-track	122,946	117,788	52,672	30,845		
Type of secondary education						
General	122,283	121,385	61,583	63,731	32,894	7,168
Continuation classes	9,478	8,918	6,438	8,508	7,065	1,048
Technological/vocational	102,716	104,436	70,681	49,556	10,167	2,002
Agricultural	6,513	6,839	5,108	7,641	5,016	
8. POST-SECONDARY INSTITUTIONS	46,514	42,548	25,341	11,894	5,801	1,295
9. NON UNIVERSITY INSTITUTIONS FOR HIGHER EDUCATION	23,210	19,402	-	-	-	-
10. UNIVERSITIES	101,700	97,250	54,480	35,374	9,275	1,635
11. OTHER INSTITUTIONS	58,800	56,200	44,000	26,300	10,952	-
for primary education c/	26,300	18,800	10,500	-	-	-
for post-primary education age d/	18,300	25,000	25,700	-	-	-
for post-secondary education age e/	14,200	12,400	7,800	-	-	-
			Arab education			
12. EDUCATIONAL SYSTEM - TOTAL (13 through 17)	269,364	255,574	177,225	110,537	46,080	11,129
13. KINDERGARTEN f/	26,100	26,100	17,344	14,211	7,274	1,214
14. PRIMARY EDUCATION - TOTAL	152,544	145,416	121,985	85,449	36,729	9,991
Primary schools	150,083	143,158	121,101	85,094	36,652	9,991
Schools for handicapped children	2,461	2,258	884	355	77	-

	1995/96	1994/95	1979/80	1969/70	1959/60	1948/49
POST-PRIMARY EDUCATION	88,494	82,312	37,276	10,507	1,958	14
- TOTAL (15 + 16)						
15. Intermediate schools	44,984	39,699	14,803	2,457	-	-
16. Secondary schools - total	43,510	42,613	22,473	8,050	1,958	14
Secondary one-track	15,929	19,277	17,373		1,958	14
Secondary multi-track	27,581	23,336	5,100		-	-
TYPE OF SECONDARY EDUCATION						
General	30,124	31,928	19,034	6,198	1,933	14
Technological/vocational	12,765	10,070	2,645	1,462	-	-
Agricultural	621	615	794	390	23	-
17. POST-SECONDARY INSTITUTIONS	2,226	1,746	621	370	121	-
- TOTAL						
Teacher training colleges	1,598	1,193	485	370	121	-
Other post-secondary institutions	628	553	136			-

Source: The Central Bureau of Statistics.

a/ Incl. an estimate of children aged 6 (about 4,100 in 1995/96) who attend kindergartens.

b/ Incl. also students in these institutions who study toward a first academic degree.

c/ Religious schools.

d/ Pupils in apprentices schools and in industrial schools of the Ministry of Labor and Social Welfare and pupils in "Small Yeshivot".

e/ "Great Yeshivot".

f/ Compulsory only.

Pupils in primary and post-primary education, by grade

	1995/96	1994/95	1989/90	1979/80	1969/70	1959/60	1948/49
GRAND TOTAL	1,173,663	1,152,310	1,006,935	812,250	603,716	461,491	108,131
	Hebrew education						
VIII - total	76,598	77,780	72,394	54,212	49,570	38,431	7,335
Thereof: intermediate schools	50,395	49,518	42,562	25,047	2,279	-	-
Special primary classes	3,287	3,506	3,088	2,013	4,087	3,381	-
of unspecified grade							
IX - total	75,208	73,902	67,446	51,584	43,926	21,841	4,461
Thereof: intermediate schools	48,283	44,073	38,318	22,667	-	-	-
X	72,163	70,814	62,426	44,857	35,402	15,263	2,936
XI	69,712	70,862	57,654	37,211	28,902	10,707	1,896
XII - total	67,515	65,544	52,735	31,316	20,503	6,581	925
Thereof: in secondary (1) general	35,279	34,227	25,956	14,557	13,363	4,256	
XIII	3,468	3,479	2,456	1,155	435	-	-
XIV	1,207	1,050	740	354	268	-	-
	Arab education						
Total	*241,038*	*227,728*	*207,807*	*159,261*	*72,018*	*31,905*	*6,780*
I	27,070	23,668	20,611	18,931	11,328	6,219	2,012
II	23,943	22,585	19,549	18,448	10,927	5,403	1,346
III	23,142	22,556	19,674	17,879	9,639	5,081	1,179
IV	23,239	21,611	19,314	17,634	8,972	3,921	959
V	22,010	22,082	20,303	16,651	8,314	2,860	608

	1995/96	1994/95	1989/90	1979/80	1969/70	1959/60	1948/49
VI	22,524	21,270	20,521	15,065	7,036	2,802	375
VII - total	21,005	19,738	19,962	14,280	5,981	2,679	231
Thereof: intermediate schools	16,082	14,220	10,103	5,383	466	-	-
VIII - total	20,875	19,480	19,556	13,582	4,679	1,888	56
Thereof: intermediate schools	15,640	13,717	10,208	5,151	321	-	-
Special primary classes of unspecified grade	458	363	20	49	50	23	-
IX - total	18,818	16,725	16,639	8,748	2,491	465	14
Thereof: intermediate schools	14,080	11,762	8,617	4,269	-	-	-
X	14,296	14,687	13,066	7,067	1,224	209	-
XI	12,211	12,001	9,984	4,633	842	186	-
XII - total	11,286	10,795	8,550	3,743	535	139	-
Thereof: in secondary general	8,193	8,100	6,575	3,171	469	139	-
XIII	161	167	58	-	-	-	-

Source: The Central Bureau of Statistics.

(1) Excl. pupils in continuation classes (2,543 in 1994/95 and 2,836 in 1995/96).

Adult education

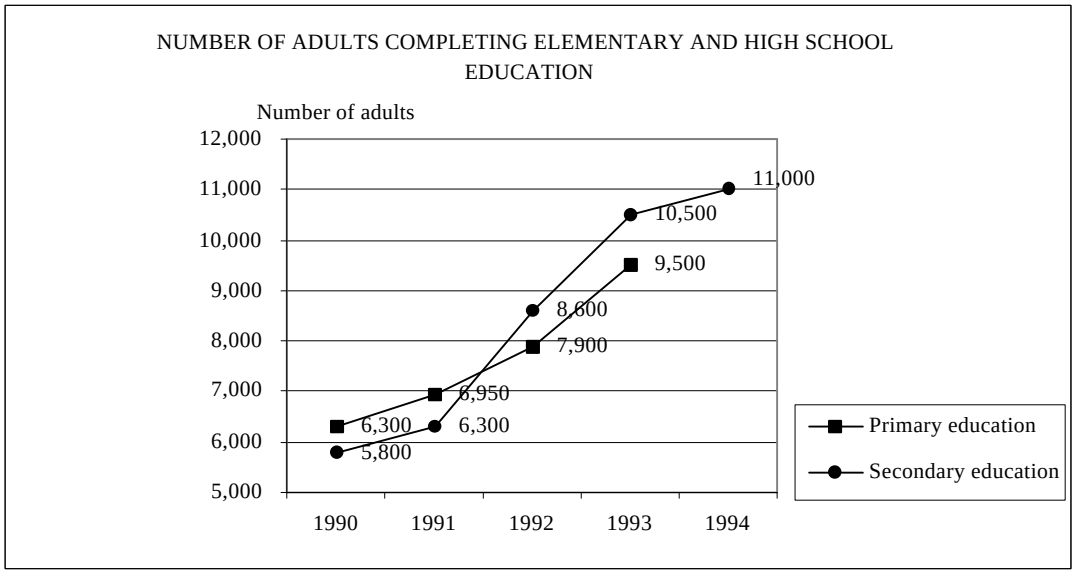
631. The first of the following tables illustrates the number of adults engaged in elementary/remedial education (primary and secondary), pre-academic and academic special adults' programmes and immigrant absorption programmes. The second table shows the annual growth in the number of adults who complete their primary and secondary education.

Participation in adult education

	Pre-Academic Preparatory Programmes	Immigrant Absorption Programmes	Primary Education	Secondary Education	Popular Universities
1990	6 001				
1991	6 784	138,152			19,276
1992	7 669	116,985	6,300	5,800	20,190
1993	7 789	77,871	6,950	6,300	23,368
1994	7 807	64,304	7,900	8,600	28,684
1995	8 588	67,304	9,500	10,500	31,349
1996 (forecast)		68,000		11,000	

Source: Central Bureau of Statistics and the Ministry of Education, Culture and Sport.

632. The increase in number of participants in elementary Hebrew language class programmes during the early 1990s is due to the dramatic influx of immigrants from the former Soviet Union to Israel in that period.



Source: Ministry of Education, Culture and Sport.

Higher Education

633. The following tables show the number of students in higher education institutions, and their disaggregation by degree, field study, sex, age, population group and origin.

Number of Students in Institutions of Higher Education

	1990	1994	1995	1996	1997
Total Students	76,000	108,300	116,000	123,000	135,000
Students in Colleges	8,300	16,800	19,400	28,000	36,500
Students in Universities	67,700	91,500	96,600	95,000	98,500

Source: Central Bureau of Statistics.

634. By the year 2000, an increase of 16 per cent over 1995 is expected in the number of students in institutions of higher education. Most of the increase is expected to be in enrolment to colleges.

Students in universities, by degree, field of study, sex, age, group and origin

Per cents

	1992/93										
	Engineering and architecture	Agriculture	Sciences and mathematics	Medicine a/	Law	Social sciences	Humanities	Total	1989/90	1984/85	1974/75
FIRST DEGREE - TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Thereof: women	18.2	41.2	44.3	71.4	46.6	55.9	74.0	54.0	51.3	48.3	44.8
Age											
Up to 19	12.4	2.3	13.0	8.4	7.2	4.6	5.4	7.6	7.3	6.4	6.9
20 - 21	17.4	7.5	24.3	20.4	19.6	17.4	18.7	19.0	17.6	16.6	23.5
22 - 24	36.1	44.8	43.1	45.6	44.2	46.4	39.5	42.2	39.8	37.2	41.3
25 - 29	30.4	39.5	17.3	17.5	23.7	22.0	20.9	22.2	24.5	24.7	18.2
30 - 34	2.8	4.6	1.6	3.0	2.6	3.8	5.3	3.7	5.1	7.2	4.0
35 +	0.8	1.3	0.7	5.0	2.4	5.9	10.1	5.3	5.7	7.9	6.0
Population group											
Jews	95.1	98.3	91.8	92.5	94.0	96.1	91.9	93.8	93.3	92.1	96.5
Arabs & Others	4.9	1.7	8.2	7.5	8.0	3.9	8.1	6.2	6.7	7.9	3.5
ORIGIN (OF JEWS) - TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Israel	31.5	43.7	30.0	31.5	39.1	32.6	29.0	31.5	28.8	19.2	7.9
Asia - Africa	23.0	17.4	20.7	20.1	19.5	28..4	31.8	26.3	27.9	27.1	18.3
Europe - America	45.5	38.9	49.3	48.4	41.4	39.0	39.2	42.3	43.3	53.7	73.8
SECOND DEGREE - TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Thereof: women	21.7	46.8	48.7	49.8	38.4	52.9	73.7	53.5	50.3	46.8	35.2
Age											
Up to 24	11.6	11.9	28.9	25.6	15.4	9.2	6.6	13.2	13.6	12.4	22.8
25 - 29	51.7	51.3	53.2	46.5	46.8	48.2	28.6	44.1	44.1	42.0	52.2
30 - 34	22.3	16.4	12.5	13.9	21.4	19.6	17.1	17.7	19.4	21.8	11.2
35 - 44	12.0	16.7	4.6	10.5	13.4	17.3	27.8	17.1	18.3	16.7	
45 +	2.3	3.8	0.8	3.5	3.0	5.6	19.9	7.9	4.6	7.1	13.8
Population group											
Jews	98.2	97.5	96.9	94.6	97.0	98.4	96.2	97.2	96.7	96.8	98.7
Arabs & Others	1.8	2.5	3.1	5.4	3.0	1.6	3.8	2.8	3.3	3.2	1.3

(continued)

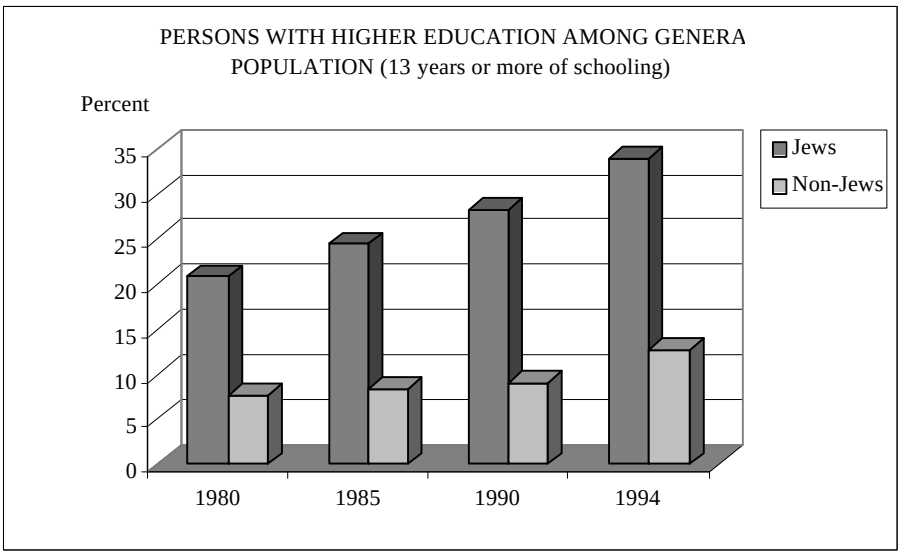
	1992/93										
	Engineering and architecture	Agriculture	Sciences and mathematics	Medicine a/	Law	Social sciences	Humanities	Total	1989/90	1984/85	1974/75
ORIGIN (OF JEWS) - TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Israel	23.8	31.4	29.7	26.3	32.5	29.0	22.7	27.0	22.9	13.1	6.4
Asia - Africa	20.5	20.4	18.3	18.9	18.1	24.4	25.2	22.3	19.9	16.5	11.2
Europe - America	56.8	48.2	52.0	56.8	49.4	46.6	52.1	50.8	57.2	70.4	82.4
THIRD DEGREE - TOTAL	100.0	100.0	100.0	100.0		100.0	100.0	100.0	100.0	100.0	100.0
Thereof: women	21.0	42.9	41.3	65.4		46.1	54.4	43.8	41.3	39.7	25.9
Age											
Up to 29	23.2	25.0	40.9	29.6		13.0	7.0	26.6	25.6	21.6	48.2
30 - 34	42.2	28.7	39.2	27.3		26.0	17.6	32.0	35.1	32.6	25.4
35 - 44	29.6	26.7	16.2	30.1		43.1	40.5	28.0	29.0	31.8	
45 +	5.0	9.6	3.7	13.0		17.9	34.9	13.4	10.3	14.0	26.4
Population group											
Jews	97.2	94.1	96.2	88.6		98.2	97.0	96.3	96.1	97.3	99.7
Arabs & Others	2.8	5.9	3.6	11.4		1.8	3.0	3.7	3.9	2.7	0.3
ORIGIN (OF JEWS) – TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Israel	16.2	21.4	25.7	19.8		18.7	16.3	21.7	17.1	9.1	4.6
Asia – Africa	14.7	16.4	14.0	16.7		12.6	14.2	14.5	15.5	12.5	9.5
Europe – America	69.1	62.2	60.3	61.5		68.6	69.5	63.9	67.4	78.4	85.9

Source: Central Bureau of Statistics.

a/ Incl. paramedical courses.

635. The next table illustrates the increase over time in the percentage of Israelis with higher education.

Persons with higher education among the general population (13 years or more of schooling)



Source: Central Bureau of Statistics.

636. The number of persons with higher education among the Jewish population grew between 1980 and 1995 by about 63 per cent (from 20.8 per cent to 33.9 per cent); among the non-Jewish population, the number of persons with higher education grew about 65 per cent (from 7.7 per cent to 12.7 per cent).

Drop-out rates

637. The following data shows the scope of the problem of drop-outs and the continuing trend of reduction in the size of this phenomenon:

Number of children and youth not attending school
(Ages 6-17)
Children and youth

	1992	1993	1994	1995
Total	52 260	42 300	37 000	30 000

Percentage of children and youth not attending school

	1992	1993	1994	1995
Percentage	4.5%	3.6%	3.1%	2.5%

Source: Ministry of Education, Culture and Sport, based on Central Bureau of Statistics Data.

Attendance of 14-17 year olds in the Jewish education system - percentages

	1980	1985	1990	1994
Total	79.5	86.9	90.5	94.4
Boys	72.9	80.7	85.5	90.9
Girls	86.5	93.7	95.7	98.1

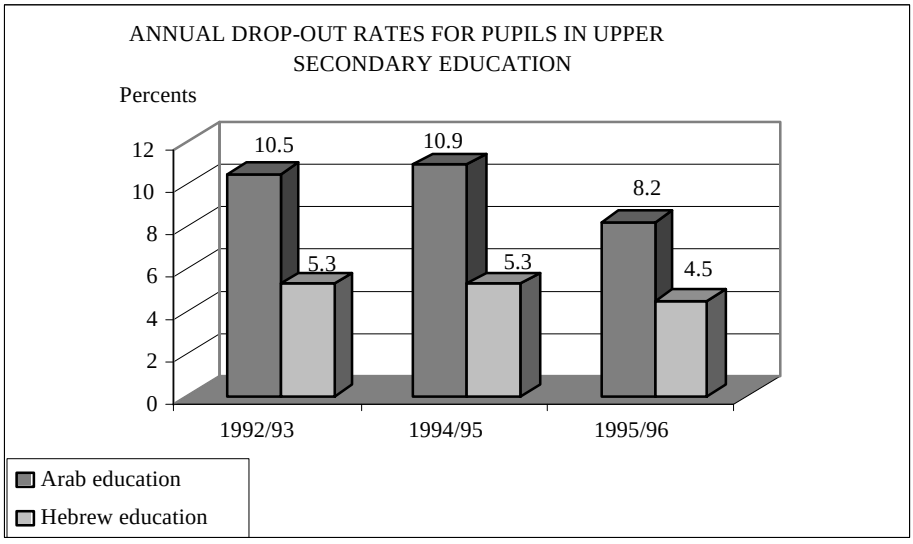
14-17 year olds in Arab education - percentages

	1980	1985	1990	1994
Total	51.3	62.1	62.8	66.4
Boys	58.0	65.6	66.4	65.2
Girls	44.0	58.1	58.9	67.5

Source: Central Bureau of Statistics.

* These figures relate only to pupils in institutions under the supervision of the Ministry of Education. If data from the Ministry of Labor and Social Affairs and the Ministry of Religious Affairs are added, the attendance rates will be higher.

Annual drop-out rates for pupils in upper secondary education



Source: Central Bureau of Statistics.

Pupils in grades IX-XII by grade and school leaving

	1994/95-1995/96				1993/94-1994/95		1991/92-1992/93	
	IX-XII		IX-XI		IX-XI		IX-XI	
	Per cent	Absolute numbers	Per cent	Absolute numbers	Per cent	Absolute numbers	Per cent	Absolute numbers
GRAND TOTAL	100.0	290 578	100.0	212 716	100.0	210 834	100.0	207 429
Did not leave school	91.5	265 925	88.6	188 428	87.3	183 985	86.6	179 634
Left school - total	8.5	24 653	11.4	24 288	12.8	26 849	13.4	27 795
Left the educational system (dropped out)	5.2	14 574	7.1	14 384	8.0	16 801	7.6	15 743
Dropped out								
at the end of school year	3.6	10 553	5.0	10 553	5.9	12 342	5.8	12 048
during the school year	1.4	4 021	1.8	3 831	2.1	4 459	1.8	3 695
Left for another school	3.5	10 079	4.7	9 904	4.8	10 048	5.8	12 052
	Hebrew education							
TOTAL	100.0	248 917	100.0	181 575	100.0	179 415	100.0	178 122
Did not leave school	91.7	228 210	88.8	161 162	87.7	157 432	87.2	155 264
Left school - total	8.3	20 707	11.2	20 413	12.2	21 983	12.8	22 858
Left the educational system (dropped out)	4.7	11 137	6.4	11 012	6.9	12 397	6.7	11 926
Dropped out								
at the end of school year	3.3	8 086	4.5	8 086	5.0	8 937	5.0	8 938
during the school year	1.2	3 051	1.6	2 926	1.9	3 460	1.7	2 988
Left for another school	3.8	9 570	5.2	9 401	5.3	9 586	6.1	10 932
	Arab education							
TOTAL	100.0	41 661	100.0	31 141	100.0	31 419	100.0	29 307
Did not leave school	90.5	37 715	87.6	27 268	84.5	26 553	83.2	24 370
Left school - total	9.5	3 945	12.4	3 875	15.5	4 866	16.8	4 937
Left the educational system (dropped out)	8.3	3 437	11.0	3 372	14.0	4 404	13.0	3 817
Dropped out								
at the end of school year	5.9	2 467	7.9	2 467	10.8	3 405	10.8	3 110
during the school year	2.3	970	2.9	905	3.2	999	2.4	707
Left for another school	1.2	509	1.6	503	1.5	462	3.8	1 120

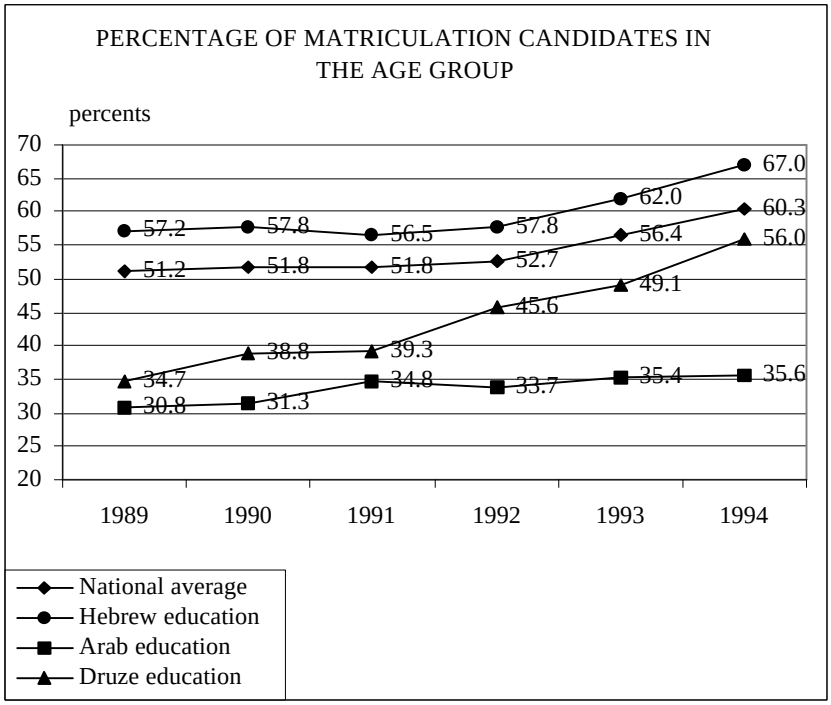
Source: Central Bureau of Statistics.

638. The total effect of these figures shows a clear trend of constant increase in the percentage of adolescent pupils who remain in school and a matching decrease in drop-out rates. This trend can be seen both in Jewish and Arab education sectors, and among both boys and girls. Since the 1990s, in both Jewish and Arab education sectors, the percentage of attendance among female pupils has been higher than that of male pupils every year.

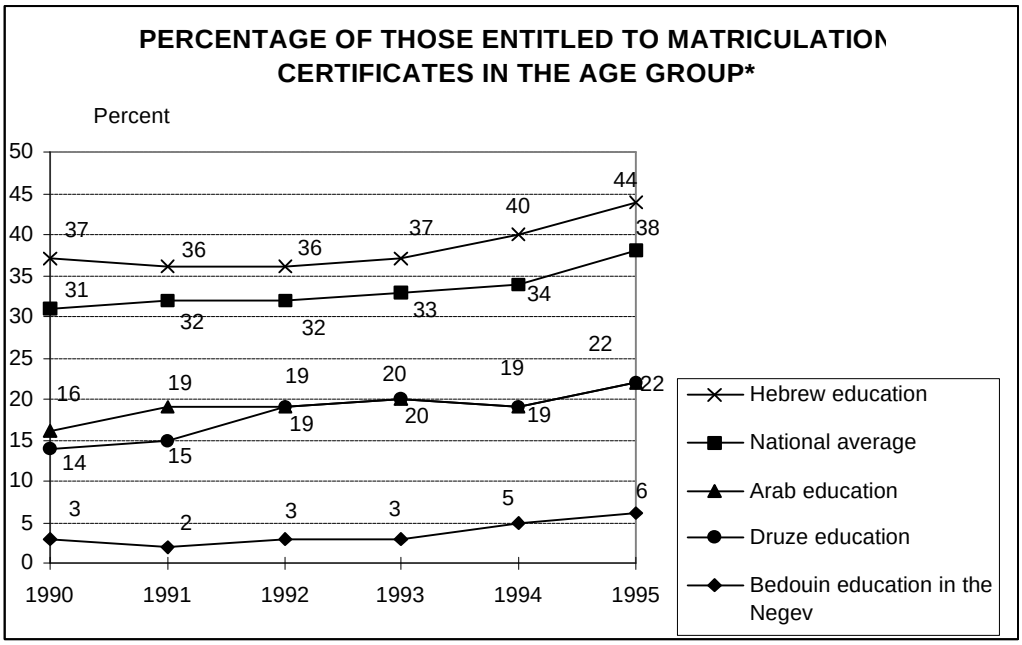
Graduating rates at all levels

639. The following tables show the percentage of pupils entitled to matriculation certificates upon their graduation from high school and the ratio between those examinees who meet the requirements for matriculation certificate and those who do not (disaggregated into Jews and non-Jews, sex and type of school):

Percentage of matriculation candidates (age 17 in the population)



Source: Ministry of Education, Culture and Sport.



Source: Ministry of Education, Culture and Sport, Economics and Statistics Division Examination Information Centre of the Examinations Division and the Senior Division of Information System.

* Age 17 in the population.

640. The graph shows that over the years there has been an increase in the percentage of those who are entitled to matriculation certificates in the age group, primarily in recent years.

Examinees in matriculation exams by qualification for certificate and various characteristics

EXAMINEES IN MATRICULATION EXAMS BY QUALIFICATION FOR CERTIFICATE AND VARIOUS CHARACTERISTICS

	Examinees					
	Not entitled	Entitled	Total	Not entitled	Entitled	Total
	Per cent			Absolute numbers		
Grand total						
1987	39.6	60.4	100.0	14 917	22 740	37 657
1991	36.0	64.0	100.0	16 648	29 577	46 225
1992	37.5	62.5	100.0	18 640	31 005	49 645
1993	39.9	60.1	100.0	22 073	33 200	55 273
1994	41.1	58.9	100.0	24 954	35 765	60 719
1995	34.1	65.9	100.0	19 972	38 566 a/	58 538
Hebrew education						
1987	37.2	62.8	100.0	12 094	20 389	32 483
1991	32.7	67.3	100.0	12 792	26 362	39 154
1992	35.3	64.7	100.0	15 033	27 605	42 638
1993	37.3	62.7	100.0	17 657	29 668	47 325
1994	38.5	61.5	100.0	20 088	32 135	52 223
1995	31.1	68.9	100.0	15 477	34 331	49 808
Track						
General	25.4	74.6	100.0	9 162	26 852	36 014
Technological	45.8	54.2	100.0	6 315 b/	7 479	13 794
Sex c/						
Boys	33.1	66.9	100.0	7 517	15 196	22 713
Girls	29.4	70.6	100.0	7 877	18 957	26 834
Origin c/						
Israel	28.4	71.6	100.0	5 317	13 433	18 750
Asia-Africa	39.4	60.6	100.0	6 094	9 356	15 450
Europe-America	25.6	74.4	100.0	3 818	11 105	14 923
Arab education						
1987	54.6	45.4	100.0	2 823	2 351	5 174
1991	54.5	45.5	100.0	3 856	3 215	7 071
1992	51.5	48.5	100.0	3 607	3 400	7 007
1993	55.6	44.4	100.0	4 416	3 532	7 948
1994	57.1	42.9	100.0	4 846	3 640	8 486
1995	51.6	48.5	100.0	4 495	4 235	8 730
Track						
General	47.9	52.1	100.0	3 445	3 754	7 199
Technological	68.6	31.4	100.0	1 050 d/	481	1 531
Sex e/				2 204		
Boys	53.6	46.4	100.0	2 289	1 908	4 112
Girls	49.6	50.4	100.0		2 327	4 616
Religion e/				3 407		
Muslims	55.0	45.0	100.0	487	2 787	6 194
Christians	38.3	61.7	100.0	591	784	1 271
Druzi	47.5	52.5	100.0		652	1 243

Source: Central Bureau of Statistics.

a/ In addition in 1995, 1,456 were entitled to external matriculation certificates.

b/ In the technological track 2,392 examinees received a technological certificate without a matriculation certificate.

c/ The total only include a number of examinees whose sex and/or origin are not known.

d/ In the technological track 291 examinees received a technological certificate without a matriculation certificate.

e/ The total only includes a number of examinees whose sex and/or religion are not known.

641. The next tables include statistics on graduating students in Israel's universities, in the Open University (a distance-learning institution), non-university high education institutions and teachers' training colleges:

RECIPIENTS OF DEGREES FROM UNIVERSITIES, BY DEGREE, FIELD OF STUDY AND INSTITUTION

	Annual per cent change (1)							
	1994/95	1989/90	1979/80	1994/95	1993/94	1989/90	1979/80	1969/70
	1989/90	1979/80	1970/71					
	All degrees recipients							
TOTAL								
- Absolute numbers	5.7	4.0	5.3	18 339	16 139	13 915	9 371	5 566
- Per cent				100.0	100.0	100.0	100.0	100.0
Thereof: women	7.4	5.2	7.1	54.7	54.6	50.5	45.1	38.1
Degree								
First degree	5.2	5.2	5.2	71.7	71.8	73.2	72.0	73.0
Second degree	6.2	5.4	7.4	20.5	19.7	20.0	17.6	14.5
Third degree	5.2	1.8	4.7	3.2	3.4	3.2	4.0	4.3
Diploma	11.7	-2.2	2.8	4.6	5.1	3.5	6.4	8.2

Source: Central Bureau of Statistics.

	RECIPIENTS OF FIRST DEGREE FROM THE OPEN UNIVERSITY BY SEX AND FIELD BY SEX AND OF STUDY									
	1994/95	1993/94	1992/93	1991/92	1990/91	1989/90	1988/89	1987/88	1984/85	1982/83
TOTAL	650	615	405	350	339	304	281	194	101	41
Men	270	275	185	196	178	154	153	90	64	28
Women	380	340	220	154	161	150	128	104	37	13

Source: Central Bureau of Statistics.

FIRST DEGREE STUDENTS IN HIGHER NON-UNIVERSITY INSTITUTIONS FOR HIGHER EDUCATION BY FIELD OF STUDY, YEAR OF STUDY AND SEX

Field of study	1994/95	1993/94	1990/91	1989/90	1988/89	1986/87	1984/85	1979/80
TOTAL	3 476	2 658	1 233	1 055	953	662	457	197
Technology sciences a/	141	120	178	140	112	120	127	30
Economics and business administration (1)	584	657	100	98	124	61	50	-
Arts and design a/	318	301	222	162	205	170	141	92
Law	253	171	-	-	-	-	-	-
Teaching - total a/	2 177	1 409	733	655	512	311	139	75
Kindergarten	33	14	-	-	-	-	-	-
For grades I-II	331	206	82	69	73	8	-	-
For grades III-VI	562	339	96	67	40	9	-	-
For grades VII-X	685	455	216	201	208	127	85	75
For all grades b/	478	353	299	274	160	129	18	-
Informal education	55	42	40	44	31	38	36	-

Source: Central Bureau of Statistics.

a/ See introduction.

b/ Including physical education, music and special education.

642. The following numbers relate to graduates receiving B.Ed. Degrees at teacher's training colleges:

1980 75 graduates

1983 127 graduates

1987 311 graduates

1990 655 graduates

1993 1,026 graduates

1994 1,409 graduates

Education budgets

643. As the following data illustrate, the amount of government resources spent on education is gradually increasing in absolute terms (exceeding the inflation rate in Israel), in expenditure per pupil, and as a percentage of the total State budget and the GNP:

National expenditure on education, by type of expenditure and main services (1971-1994)

	Grand total at current prices as per cent of GNP	Grand total
1970/71	7.4	4 017
1971/72	7.7	4 523
1972/73	7.5	4 860
1973/74	8.1	5 198
1974/75	7.8	5 450
(1) 1974/75	8.4	5 844
1975/76	8.0	5 873
1976/77	8.2	5 773
1977/78	8.5	5 936
1978/79	8.8	6 198
1979/80	8.6	6 279
1980/81	8.1	6 171
1981/82	8.1	6 336
1982/83	8.3	6 493
1983/84	8.0	6 641
1984/85	8.4	6 653
(1) 1984/85	9.2	7 661
1985/86	8.2	7 604
1986/87	8.4	7 830
1987/88	8.4	8 094
1988/89	8.6	8 304
1989/90	8.5	8 391
1990/91	8.6	8 820
Calendar years		
1990	8.5	8 770
1991	8.5	9 321
1992	8.6	9 960
1993	8.9	10 492
1994	9.2	11 060

Source: Central Bureau of Statistics.

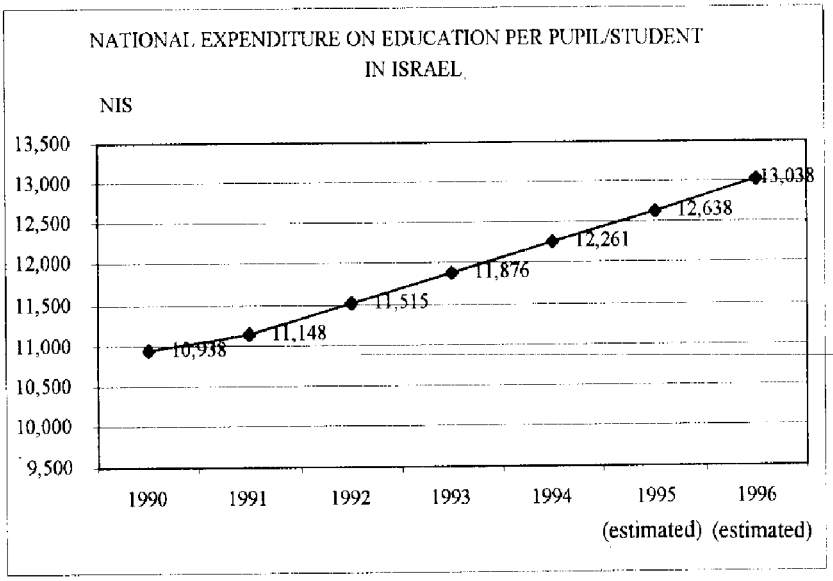
National expenditure on education of the Ministry of Education, Culture and Sport, 1994-1996

Year	Fixed amount (1995)	Actual amount
1994	11.6 billion NIS	10.6 billion NIS
1995	13.8 billion NIS	13.8 billion NIS
1996	15.1 billion NIS	16.4 billion NIS

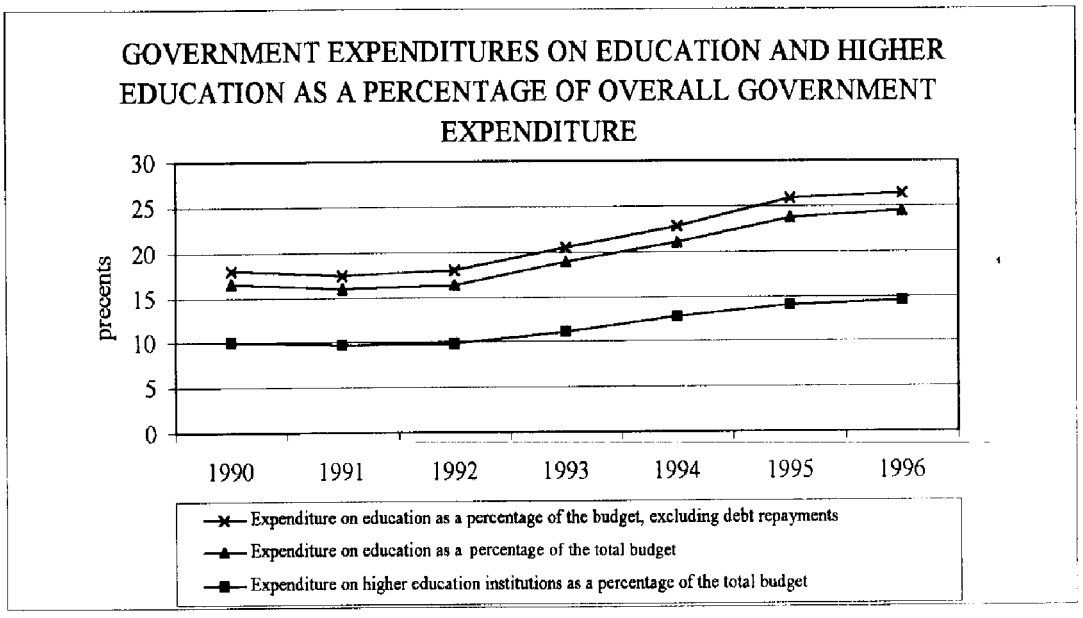
After discarding the effects of inflation.

Source: Ministry of Education, Culture and Sport.

644. The real increase in the education budget between 1994-1996 was 30 per cent; the nominal increase was 55 per cent.

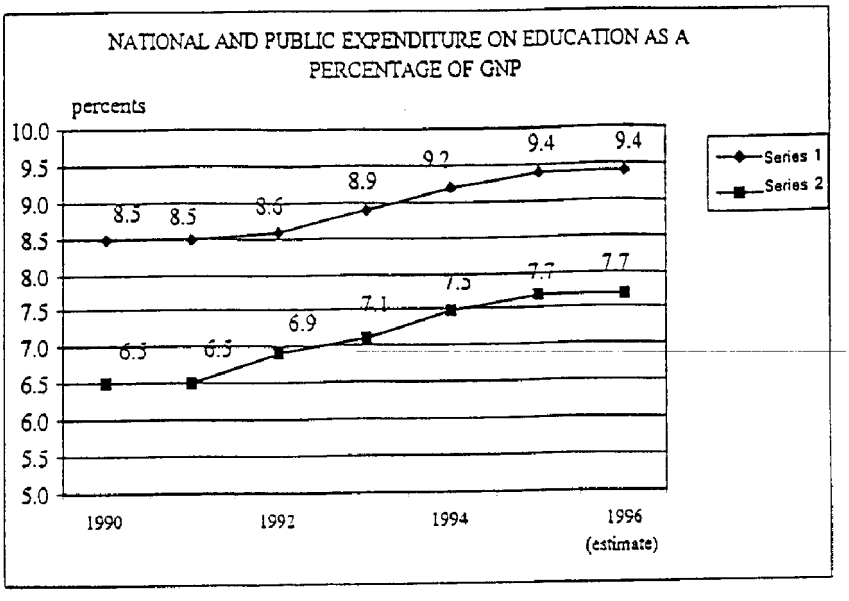


Note: 1995-1996 statistics are listed as estimates.



Source: Ministry of Finance.

645. This table clearly establishes a gradual increase since 1990 in the portion of the total budget allocated to education expenditures. The 1997 government expenditure on education represents 10 per cent of the overall government expenditures.



Source: Central Bureau of Statistics.
National Expenditure
Public Expenditure

Construction of new schools

646. In recent years, the Ministry of Education, Culture and Sport has allocated special budgets for building new schools, and expanding and renovating existing ones. In 1996, NIS 234 million ($66.8 million) were allocated for the construction of new schools and classrooms, 1,743 of which were built that year. The need for such intensive construction originates from absorbing the children of new immigrants into the education system, natural population increase, and the establishment of new neighbourhoods throughout the country.

647. In addition, in 1996, NIS 199 million ($56.8 million) were allocated for the continued construction of 1,168 classrooms; NIS 96 million ($27.4 million) were allocated for the renovation of school buildings (over 200 schools were renovated in 1996); NIS 28 million ($8 million) were allocated for the construction of school gyms; additional NIS 15 million ($4.3 million) were allocated for equipping new classrooms; NIS 16 million ($4.6 million) were allocated for the expansion of regional colleges; and NIS 21 million ($6 million) for fencing and protection of education institutions.

648. In 1996, priority in construction was accorded to confrontation-line localities (settlements near the borders), localities included in supportive-intervention programmes (mainly disadvantaged areas), and cities with a mixed population - especially Jerusalem.

649. The Vicinity of Schools: Under the Compulsory Education Law, the State must ensure that schooling facilities are available to students within their municipal district, and pupils must enrol in a recognized school in that same district. The State Education Law adds a further requirement - that enrolment be made at a school close to the pupil's residence.

650. Due to Israel's small size, an efficient transportation system and the large number and dispersion of schools, education institutions are available, by and large, to everyone within a relatively close vicinity, even in the more rural areas of the country.

Schooling schedules

651. In recent years, the Ministry of Education, Culture and Sport has taken upon itself to establish an outline programme regulating the schooling schedules of the various components of the education system. An outline programme has been promulgated and implemented in kindergartens and secondary schools (lower and upper). In primary education, however, the organization of studies is in a transitional stage and has not yet been completed.

652. The following table relates to Programmes for Kindergartens:

Elements	Daily time (in minutes) in accordance with age		
	2	-	6
Acquisition and consolidation of life skills and habits (including personal hygiene, care of clothes, and meals)	90	-	45
Free Play	90	-	60
Expression through materials	45	-	60
Planned social activity (free movement, using playground apparatus and movement lessons)	45	-	45
Directed learning activity	30	-	60
Total	330 (5.5 hours)	- -	330 (5.5 hours)

Source: Ministry of Education, Culture and Sport.

653. The programme contains six elements which are essential foundations in the work of all kindergartens. Their organization is flexible and adapted to the shared and differing needs of each child.

Primary education

654. The primary education system is currently in a transitional stage, in preparation for a reorganization of the structure of studies in primary schools. The main feature of the proposed change is striking a balance between the previously dominant approach, according to which a single discipline of teaching subjects in conformity with a predetermined schedule of hours is enforced, and a modern inter-disciplinary approach to teaching. According to the latter approach, schools enjoy a greater degree of discretion and the Ministry's role is limited to setting guidelines.

655. It is the current policy of the Ministry of Education, Culture and Sport to encourage school autonomy in establishing the schedule of hours and deciding the curriculum. However, such autonomy is subject to the requirements of the State Education Law 1953 (which mandates a six day school week, unless the Minister of Education determines otherwise), and of the Long School Day Law 1990 (which mandates an eight-hour school day, unless the Minister of Education determines otherwise). Furthermore, Ministry-issued guidelines as to the percentage of hours given to certain topics (e.g., mathematics, language skills, science, human studies, etc.) must be followed.

656. It is estimated that at present only about a third of the primary schools in Israel enjoy an autonomy along the above described lines.

Secondary education

657. The following tables are the official schedule of hours to be followed by the secondary schools in Israel, divided into lower and upper secondary schools and by education sector. The total numbers of hours appearing in these tables under the term "Weekly hours" is the aggregate number of standard hours throughout all grades represented in each schedule.

Schedule of hours in Lower Secondary School
in Hebrew education (7th-9th grades)

Subjects/Fields	Weekly hours: State education	Weekly hours: State religious education
Hebrew	12	11
English	11	11
Arabic/French	9	9
Mathematics	14	14
Science and technology	18	15 a/
Bible	14	12
Oral Law and Judaism		12-14
History, Geography, humanistic and social studies	16	12
Arts	4	3
Education and civics (individual and society)	7	7
Physical education	6	3-5
TOTAL	111	111
Yeshiva and ulpana b/ track: Advanced Oral Law and elective programmes		(2 additional weekly hours)

a/ In State religious education, the subject "Science and technology" will be taught for 18 hours, as in State education. The necessary addition of hours for this purpose will not be allocated as part of the hour framework assigned to lower secondary schools.

b/ Intensive religious school for girls.

Schedule of hours in Lower Secondary School in Arab and Druze education (7th-9th grades)

Subjects/Fields	Weekly hours
Arabic	15
English	12
Hebrew	12
Mathematics	14
Science and technology	18
Arab culture or Islam or Christianity or Druze heritage	7
History, geography, humanistic and social studies	16
Arts	4
Education and civics (individual and society)	7
Physical education	6
TOTAL	111

Source: Ministry of Education, Culture and Sport.

Schedule of hours in Upper Secondary School in Jewish education (10th-12th grades)

Field	Number of hours per pupil			
Hebrew education	State education		State religious education	
Hebrew	12		11	
English a/	9-11		9-11	
Arabic a/	3		3	
Mathematics	9		9	
Natural Sciences/technology b/	8		8	
Bible and Jewish Studies	9		20-26	
History, Geography, humanistic and social studies	8		8	
Elective subject	6		6	
Education and civics	7		7	
Essay-writing workshop c/	2		2	
Physical education	6		6	
Basket of hours for intensive and expanded study	26.28	32.34	16-24	24-32
TOTAL	107 c/	113	113	121
	General	Technology	General	Technology

Source: Ministry of Education, Culture and Sport

a/ French may be substituted for English as the first foreign language or for Arabic as a second foreign language. Children born abroad may substitute their mother tongue as the second foreign language.

b/ In rural schools, the study of “life and agricultural sciences” is compulsory.

c/ In the technological track, the hours allotted for the composition workshop may be used for the study of technological subjects.

Schedule of hours in Upper Secondary School in Arab and Druze education (10th-12th grades)

Field	Number of hours per pupil	
Arabic	12	
English	9-11	
Hebrew	9	
Mathematics	9	
Natural sciences/technology	8	
Arab culture or Islam or Christianity of Druze heritage	3-4	
History, humanities and social studies	8	
Elective subject	6	
Education and citizenship	7	
Essay-writing workshop a/	2	
Physical education	6	
Basket of hours for intensive and expanded study	25-28	31-34
TOTAL	107	133
	General	Technology

a/ In the technological track, the hours allocated to the composition workshop may be used for the study of technological subjects.

Equal educational opportunities

Ratio of males to females in the education system

658. Whereas in primary education, there is almost universal attendance by the relevant age group, in secondary education, there is a problem of drop-outs. Dropping out is more common with boys, and consequently, the ratio of males to females in secondary education tilts slightly in favour of the latter. The percentage of entitlement to matriculation certificate is also higher amongst female pupils than male pupils (52 per cent in comparison with 41 per cent in 1994/5).

Pupils in schools by type of school, age and sex

Rates per 1000 in respective group of population								
	Age							
	17	16	15	14	14-17			6-13
					Girls	Boys	Total	
1993/94	799	865	921	945	920	856	885	956
	Hebrew education							
1969/70	438	603	742	910	707	631	668	984
1979/80	625	743	856	946	865	729	795	967
1989/90	827	884	929	966	957	855	905	958
1993/94	866	930	978	998	981	909	944	955
1994/95 Total	885	943		995	996	926	959	955
Primary education	7	10	13	65	23	28	25	813
Post-primary education								
Intermediate schools	-	-	124	582	177	180	178	138
Secondary schools - total	878	933	873	348	796	718	756	4
General (2)	463	484	458	182	459	336	396	3
Technological/vocational and agricultural	415	449	415	166	337	382	360	1
	Arab education							
1993/94	525	603	705	742	675	652	664	958
1994/95 Total					592	657	673	958
Primary education	-	-	-	-	19	22	20	821
Post-primary education								
Intermediate schools	-	-	81	559	153	163	158	136
Secondary schools - total	544	590	643	196	520	472	495	1
General (2)	402	431	473	176	404	341	372	1
Technological/vocational and agricultural	142	159	170	20	115	131	123	-

Source: Central Bureau of Statistics.

659. In institutions of higher education, there are, today, more women than men studying for their Bachelor's and Master's degrees. However, a greater proportion of men is enrolled in doctoral programmes.

Students in post-secondary non-university institutions by field of study, sex and age a/

Year of study, sex and age	Field of study							
	Other	Arts, design and architecture	Clerical work, law, administration, economics etc.	Paramedical occupations	Qualified nurses	Practical engineering, technical work etc.	Teacher training	Total
1970/71	1 265	876	1 364	600	1,177	4 793	5 442	15 517
1974/75	1 801	1 835	2 353	607	1 219	7 355	11 057	26 227
1979/80	1 737	1 375	2 176	475	1 961	7 857	11 770	27 351
1984/85	874	1 003	2 384	748	1 567	13 288	11 872	31 736
1989/90	807	1 503	1 944	742	1 273	10 747	8 291	25 307
1992/93	1 219	1 248	4 714	812	1 363	14 538	11 689	35 583
1994/95	1 339	4 541	6 905	738	1 334	18 245	9 446	42 548
1995/96	1 179	5 197	7 720	621	1 668	19 310	10 819	46 514
GRAND TOTAL								
Hebrew education - total	1 163	5 197	1 687	621	1 668	18 661	10 312	45 309
Year of study								
I	71	2 956	5 713	308	873	11 251	3 352	25 164
II	426	1 565	1 717	156	480	6 645	3 173	14 162
III	26	514	257	116	244	577	3 053	4 787
IV	-	162	-	41	71	188	734	1 196
Sex								
Men	521	1 296	3 628	238	170	13 406	1 950	21 209
Women	642	3 901	4 059	383	1 498	5 255	8 362	24 100
Age								
Up to 24	498	2 616	2 995	409	851	13 092	7 584	28 045
25-29	248	1 806	2 388	122	375	3 613	1 321	9 873
30 and over	417	775	2 304	90	442	1 956	1 407	7 391
Arab education	16	-	33	-	-	649	507	1 205

Source: Central Bureau of Statistics.

a/ Excl. students studying towards a first degree in non-university institutions for higher education.

Weak and disadvantaged population groups

660. Since the education laws equally apply to every child and adolescent in Israel, without any discrimination, the right to education belongs to everyone. Furthermore, under Israeli administrative law the education authorities (as any other governmental authority) may not adopt discriminatory policies. However, in practice, certain population groups are found to be in a disadvantageous position and special efforts have been made by the authorities to foster and support their education.

General programmes of assistance

661. The activities of the Ministry of Education, Culture and Sport, directed to help pupils of all sectors of the population, focus upon two target groups: “pupils with potential” - 12th grade students who complete their education without a matriculation certificate but have the potential to achieve one; and “pupils at risk” - pupils who might drop out, have done so already, or are exposed to other risks.

662. The following programmes are employed to help “pupils with a potential”:

(a) Maavar (“Moving on”)

This is a programme designed to promote pupils to go from partial to full matriculation. It offers classes in the framework of an upper-secondary school. In 1996, approximately 10,000 pupils attended this programme.

(b) Tahal (“Second Chance”)

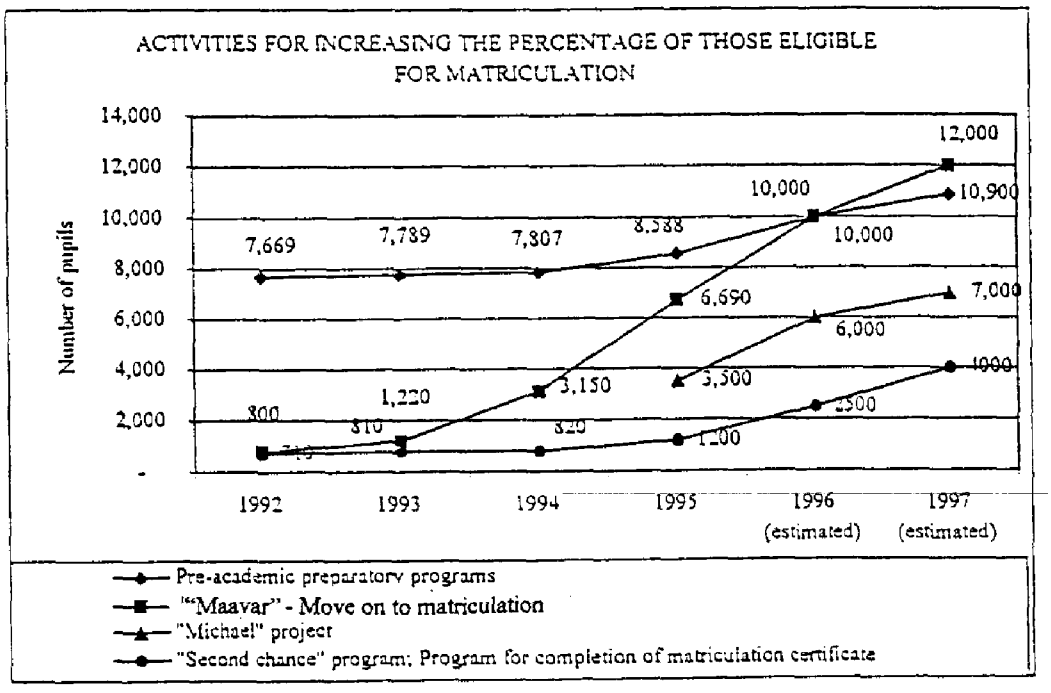
This matriculation completion programme is offered to pupils who attended the 12th grade in a matriculation track, but failed to take or pass between one and three different curriculum subjects necessary for the completion their matriculation certificate. Pupils are given intensive courses on different curriculum subjects (and receive a deferment of their military service). In 1996, about 2,530 pupils participated in this programme.

(c) Pre-academic preparatory programmes

This track provides demobilized soldiers another chance to complete their matriculation certificates and helps them improve their chances of admission into higher education institutions. About 10,000 pupils studied in such programmes in 1996.

(d) Michael (“Utilizing Personal Skills for Excellence”)

This programme offers assistance to 10th and 11th grade pupils in development towns (often areas with difficult socio-economic conditions), and other disadvantaged areas in studying for the matriculation examinations. In 1996, approximately 6,000 pupils attended this programme.



Source: Ministry of Education, Culture and Sport.

* The figures for the pre-academic programmes do not include pupils studying in external schools under the terms of the Demobilized Soldiers Act (1984). From 1995, however, these figures do include pupils in external schools as part of the matriculation completion project (i.e. pupils who lack just one examination).

663. The following programmes and measures are employed to help "pupils at risk":

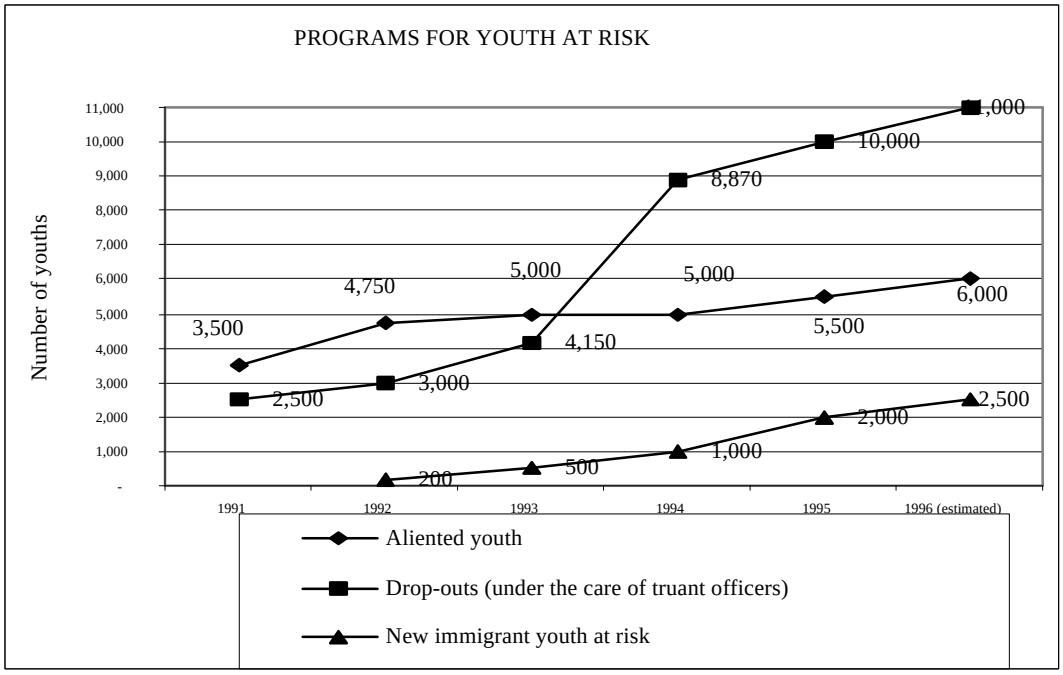
(a) Programmes of preventive intervention and assistance intended to combat the phenomenon of dropping-out have been operating in 1996 in 110 schools.

(b) Truant officers locate and work with drop-outs. In 1996, 11,000 drop-outs were reached by these activities.

(c) Special activities have been undertaken to help reintegration of drop-outs in schools.

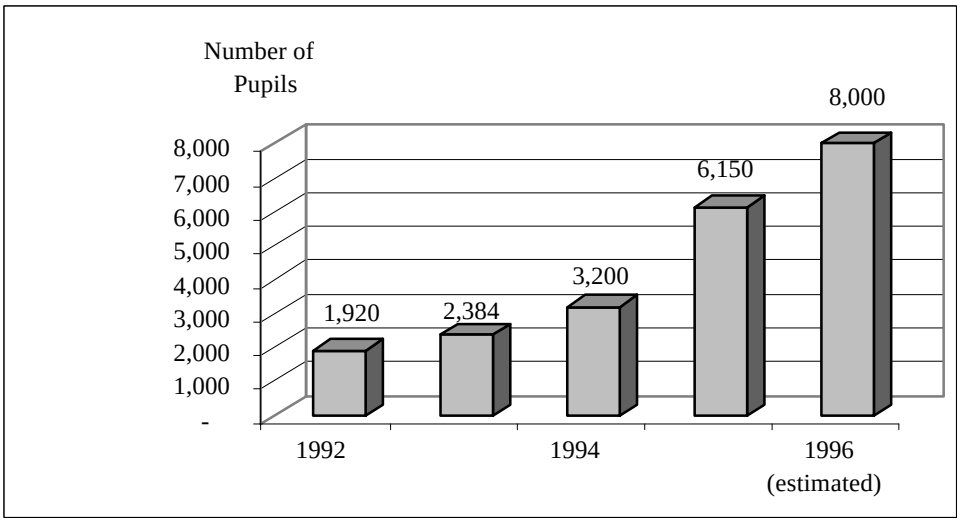
(d) "Children's home" programmes and afternoon-care centres give pupils a place to stay after school hours, until the evening. In 1996 about 500 such programmes and centres were serving approximately 8,000 children.

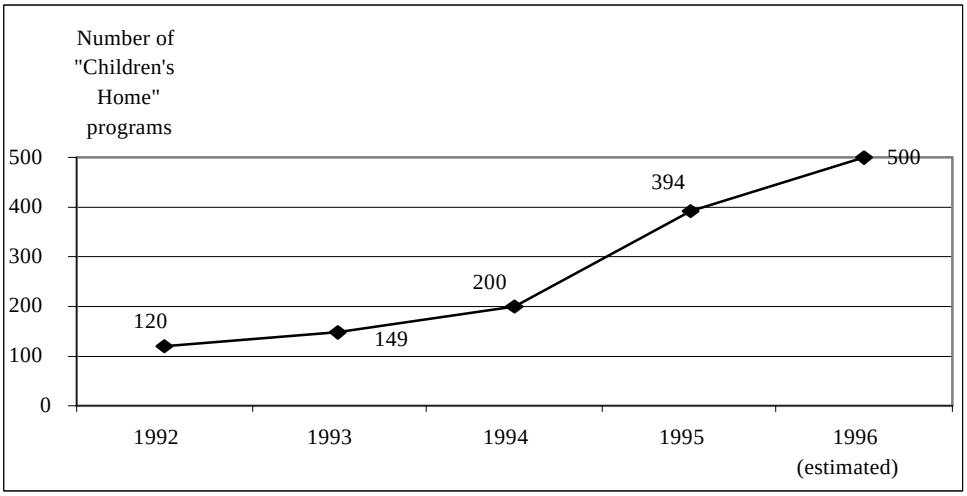
(e) Differential benefits programme - schools who are successful in preventing drop-outs and increasing the number of pupils taking the matriculation exams and the number of pupils who are eventually entitled to receive matriculation certificates receive special financial benefits from the Ministry of Education, Culture and Sport.



Source: Ministry of Education, Culture and Sport.

Expansion of after-school "children's home" programmes and day-care centres





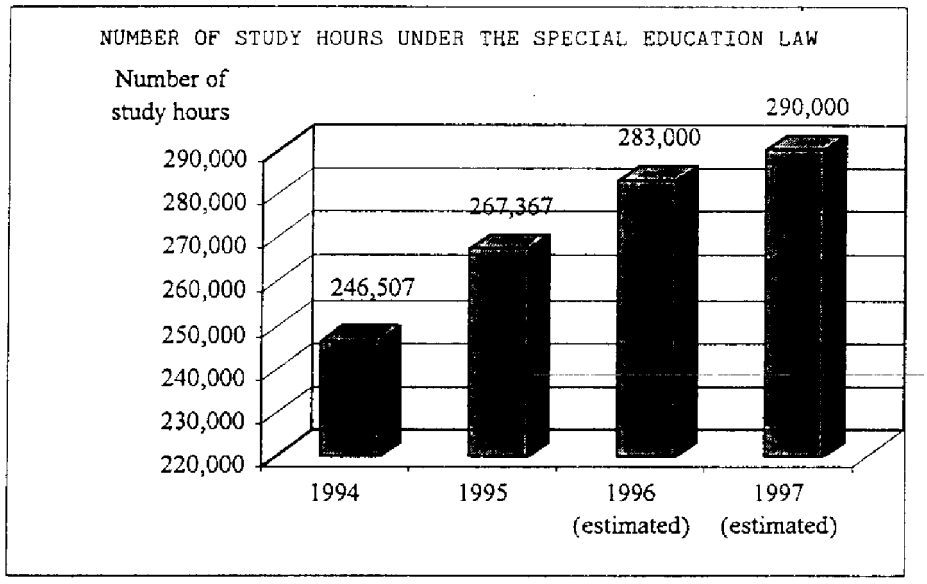
Source: Ministry of Education, Culture and Sport.

Specific programmes of assistance offered to specified population groups

664. Children with learning disabilities: As mentioned above, a special education system exists alongside the regular system, which is available for pupils aged 3-21. In recent years there has been an increase in the resources allocated to special education and in the 1996 budget the amount reached a record NIS 1.2 billion ($34.3 million). It thus became possible to extend the application of the law to age groups 3-5 and 18-21 prior to the originally estimated date. Furthermore, pupils with serious disabilities were provided with longer school days and classes during ordinary school vacations.

665. It is however the goal of the Ministry of Education, Culture and Sport to encourage the integration of children with mild disabilities into the ordinary school system. Therefore, a special programme was initiated to teach teachers how to help pupils with disabilities and how to create a tolerant atmosphere towards them among the ordinary pupils. Moreover, a special differentiated curriculum is being developed to accommodate the needs of such disabled pupils.

666. In 1996, there were approximately 37,000 pupils aged 3-21 years in the various special education frameworks. In addition, about 40,000 more pupils were integrated in the regular school system, but received special assistance from special education resources. It should be noted that the percentage of all pupils in Israel enrolled in special education has declined in the last 10 years.



Source: Ministry of Education, Culture and Sport.

Arab and Druze Sectors

667. The Arab and Druze pupils have achieved, on average, lower scores on past national assessment tests than their Jewish counterparts. Similarly, drop-out rates are higher in these sectors, and matriculation entitlement percentage is lower. This gap in educational achievements is attributed to inadequate channelling of resources to these sectors in the past, to socio-economic problems, and inferior infrastructure. Furthermore, teaching hours used to be fewer in these sectors in comparison with the Jewish sector, and teachers used to be less well-trained.

668. Determined to close this gap, the Ministry of Education in 1991 embarked on a five-year programme intended to equalize the educational and budgetary standards of these sectors to that of the Jewish education sector.

The special measures taken under the programme were as follows:

- Construction of classrooms;

- Adding classroom hours;

- Teacher training and in-service teacher training;

- Pedagogic assistance for teachers - teacher-trainers and pedagogic centres;

- Developing curricula and textbooks, and producing programmes for educational television;

- Nurturing gifted pupils

- Expanding the truant officers scheme and the psychological counselling and guidance services;

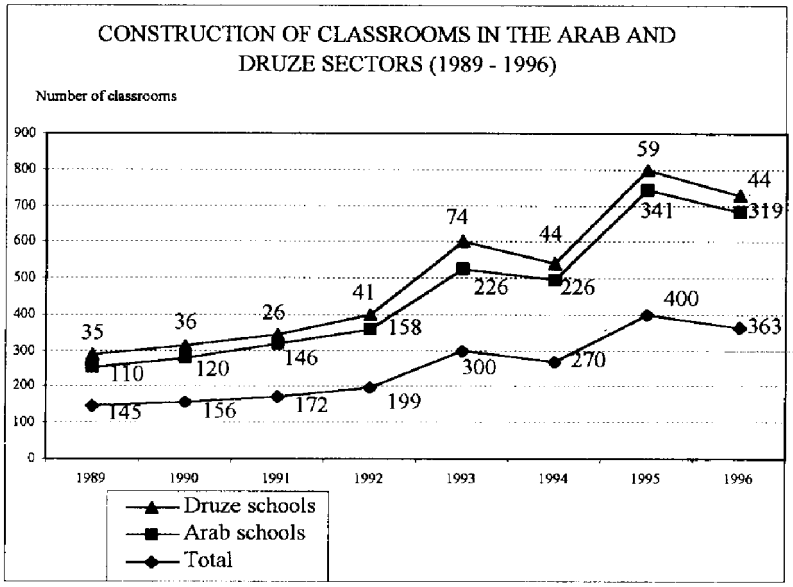
- Expanding activities to prevent dropping out;

- Significant expansion of special education;

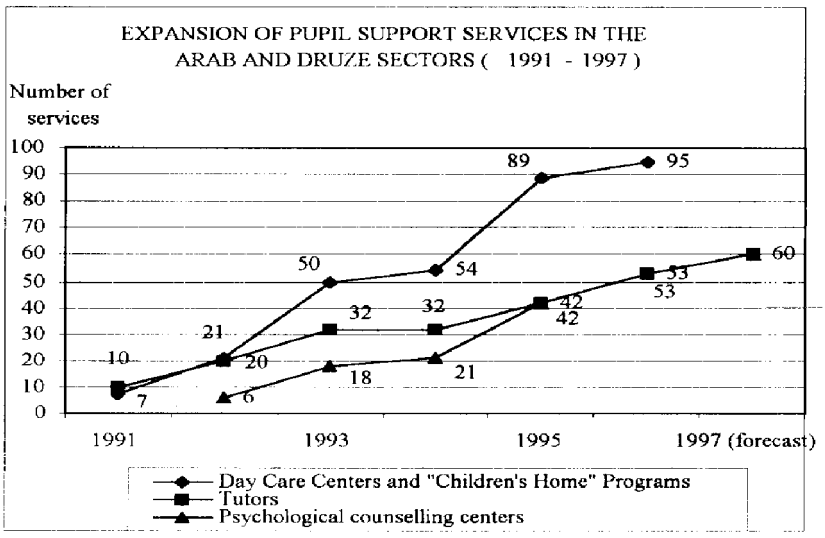
- Expanding informal education

- Increasing budgets for culture and sport.

669. The five-year programme has been successful in narrowing the gaps between the Arab and Druze and the Jewish education systems, but has failed to close the gap altogether. It should be noted, however, that in one area - academization of teaching staff - the achievements in the Arab sector in upper secondary education have recently surpassed those of the Jewish sector.



Source: Ministry of Education, Culture and Sport.



Source: Ministry of Education, Culture and Sport.

New immigrants

670. Being an immigrant absorbing society, Israel's educational system faces the challenge of integrating immigrant pupils who do not know the language, and come from varying educational and cultural backgrounds. The education system offers such pupils additional teaching hours for up to the first three years (sometimes in their native language), and undertakes programmes to smooth the process of their integration.

671. In many cases, due to a lack of previous formal education, immigrants from Ethiopia face unique problems in their absorption in the education system. In order to address this special problem, the Ministry of Education, Culture and Sport has established a special steering committee to focus on the integration of Ethiopian immigrant pupils. Half of the members of the steering committee are themselves Ethiopian immigrants.

672. Measures already taken by the Ministry in order to facilitate the integration of Ethiopian immigrants include supplementary after-school programmes and the allotment of additional teaching hours throughout their entire education. Special attention has been given to the problem of drop-outs among Ethiopian immigrants. The policies and programmes that have been implemented resulted in considerable success.

Specially targeted action

673. The Ministry of Education, Culture and Sport has identified over 30 municipalities facing special problems in terms of educational achievements, and has developed special programmes involving the participation of the local communities to improve the situation in those targeted towns and villages. The list of targeted municipalities includes Jewish, Arab, Druze, Bedouin and mixed settlements.

674. The following list relates to the geographical Dispersion of Targeted Localities:

Jerusalem	North
Beit Shemesh	Bir El-Maksur
Maale Adumim	Beit Jan
Neve Yaakov	Beit Shean
Pisgat Zeev	Hazor Haglilit
Haifa	Tiberias
Or Akiva	Yokneam
Gissar A-Zarka	Maale Yosef
Daliyat El-Carmel	Marom Hagalil
Ussifiya	Upper Nazareth
Tirat HaCarmel	Acre
Kiryat Yam	Afula
South	Kiyat Shemona
Ofakim	Shlome
Beersheva	Centre/Tel Aviv
Yeroham	Or yehuda
Mizpe Ramon	Bat Yam
Netivot	Yehud
Kiryat Gat	Rosh HaAyim
Tel Sheva	Ramla/Lod

Source: Ministry of Education, Culture and Sport.

Language facilities

675. The language used in the school system and teacher's training is either Hebrew (Jewish sector) or Arabic (Arab and Druze sectors). Some schools have started to offer special language where immigrant pupils are taught some of their courses in their native language.

676. In Arabic-speaking schools, pupils learn Hebrew and English as second and third languages, whereas in Hebrew-speaking schools, English and Arabic are taught as foreign languages. In some schools French is taught as a second language (instead of English or Arabic), and since 1997 other languages, such as Russian were introduced into the elective curriculum.

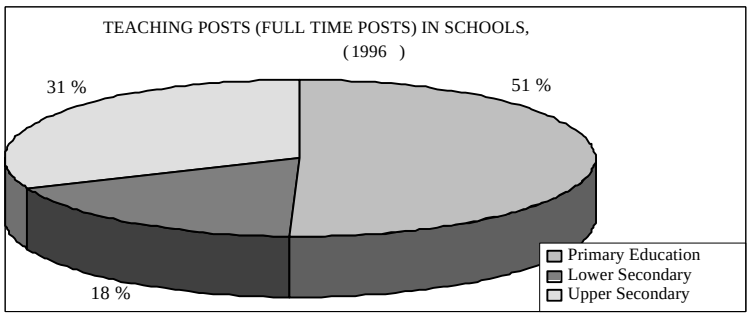
677. Adult new immigrants are offered basic Hebrew-language classes in new immigrant's schools especially created to teach elementary language skills. In 1996, 68,000 persons attended schools.

Conditions of teaching staff

678. There are approximately 80,000 full-time teachers in all levels of the Israeli primary and secondary system. The following table demonstrates their distribution to sectors and school levels:

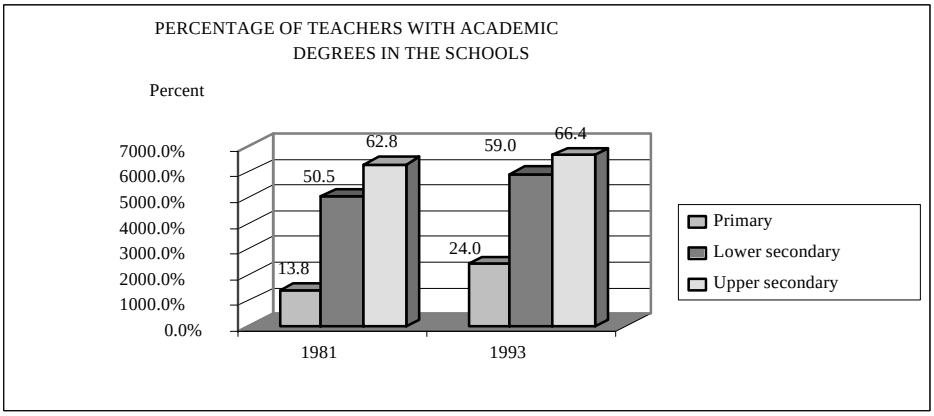
Teaching posts (full-time) in schools, 1996

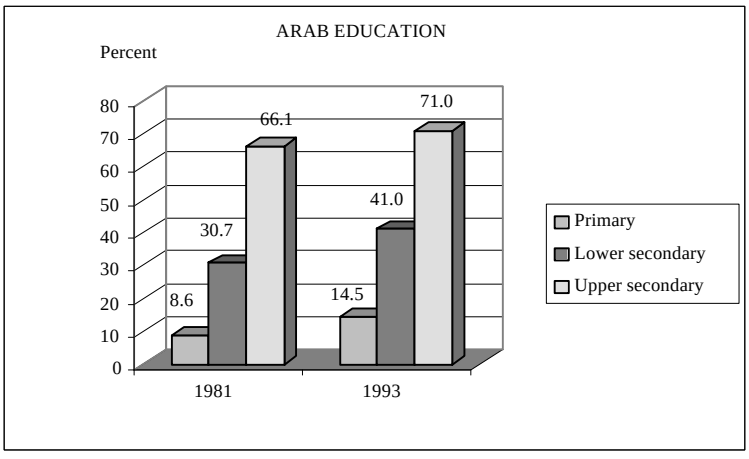
	Total	Hebrew education	Arab education
Total	79 010	66 050	12 960
Primary Education	39 920	32 600	7 320
Lower Secondary	14 380	11 740	2 640
Upper Secondary	24 710	21710	3 000



Source: Ministry of Education, Culture and Sport.

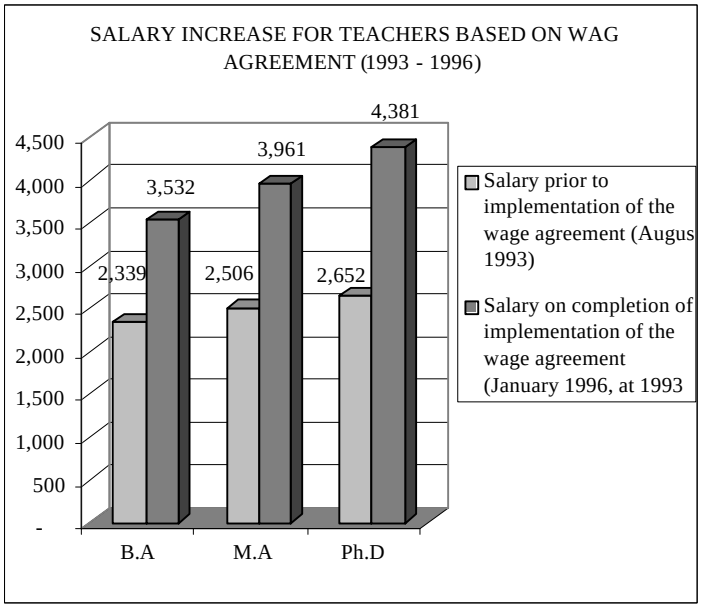
679. In addition there are about 22,000 part-time teachers in primary and secondary schools, and 50,000 teachers in kindergartens and other educational frameworks. It is the policy of the Ministry of Education, Culture and Sport to support the academization of teachers. Most teacher trainees now study toward an academic degree (B.Ed. or B.A.), and practising teachers are encouraged to get such a degree if they do not already have one. By virtue of this policy the percentage of academics among teachers has increased.





Source: Ministry of Education, Culture and Sport.

680. Another Ministry policy involves the goal of improving the status and social standing of teachers and educators. In this vein, a public campaign was launched in the media, under the slogan “A good teacher is a teacher for life”. A special effort was made by the Ministry and teachers' associations to improve teachers' salaries. This effort resulted in a sharp increase in teachers' salaries between 1993-1996



Source: Ministry of Education, Culture and Sport.

681. Teachers' salaries are negotiated between the two teachers' associations and the Ministry of Education, Culture and Sport. They are calculated in accordance with the individual teacher's formal education, length of service in the teaching force, amount of accumulated in-service teacher education, and non-teaching school positions by the teacher.

682. Hence, for example, in June 1996 a kindergarten teacher with 16 years of experience earned NIS 5,386 gross (about $1,800), a primary school teacher with 18 years of experience earned NIS 5,559 gross ($1,850), and a lower secondary school teachers with B.A. degree and 18 years of experience earned NIS 5,784 gross (about $1,930).

683. In 1995, pre-school teachers' average salary constituted over 97 per cent of the average salary in the State administration; primary school teachers earned on average 99 per cent of the average salary in the State administration; and secondary school teachers earned on average 103 per cent of the average salary in the State administration.

Responsibility for the establishment and administration of schools

684. Responsibility for the establishment and administration of schools within the framework of compulsory education is divided between the Ministry of Education and the local authorities. Other bodies that may be involved in the establishment and administration of upper secondary schools are public education networks and private bodies. However, the Ministry of Education is responsible for licensing and supervision of all such schools.

685. A distinction is made between State education, State-religious education, and independent, but recognized, educational institutions. The latter are also supported by the State and subject to supervision over their curricula, in accordance with the curriculum and degree of governmental involvement in their operation. There is an insignificant number of other private schools not included in one of these categories.

686. In order to establish a school, private or recognized, a permit needs to be requested from the Ministry of Education, Culture and Sport. The School Inspection Law 1968 requires the Ministry to verify the preservation of adequate educational standards, and to consider the proposed curriculum, schooling schedule, school facilities, safety features, teaching equipment, available financial resources, the type of school and the ages and needs of potential pupils before granting permits.

687. There is no difficulty in moving from one type of school to another, and parents are free to choose the kind of school they wish to send their children to, as long as the school in question operates with State permission.

Article 15 - The right to take part in cultural life and enjoy scientific progress

The right to take part in cultural life

Funding

688. As an indication of its commitment to the promotion of culture in Israel and to increase the people's participation in cultural life, the Government of Israel invests significant resources in culture-related activities, supporting directly and indirectly a wide range of both public and private cultural activities throughout the country.

National expenditure on culture, recreation and sports and its financing, by sector, kind of expenditure and activity

At current prices

	Financing sector a/						Executive						
	Thereof:								Government				
	Deficit of non-profit institutions	Local authorities	Government and national institutions	Households	Grand total		Business	Private non-profit institutions	Non-profit institutions	Local authorities	Government and national institutions	Grand total	
	Per cents					NIS million	Per cents						NIS million
1990	-12.1	15.2	7.3	89.6	100.0	5 221.8	65.2	10.4	8.2	14.0	2.2	100.0	5 221.8
1991	1.5	16.2	6.4	75.9	100.0	6 602.0	65.2	10.5	8.4	14.1	1.8	100.0	6 602.0
1992	1.8	14.1	6.5	77.7	100.0	8 084.0	66.6	10.3	8.8	12.4	1.9	100.0	8 084.6
1993							67.9	9.8	8.5	12.0	1.8	100.0	9 890.6
1993 - GRAND TOTAL	2.0	13.7	6.4	77.9	100.0	9 890.6	69.0	9.4	8.1	11.7	1.8	100.0	12 054.5
Current expenditure	*2.1*	*11.8*	*5.3*	*80.8*	*100.0*	*9*	71.9	9.4	7.6	9.7	1.4	100.0	11 586.0
Cultural heritage	7.5	22.2	28.4	41.9	100.0	*458.7*	9.7	35.0	46.3	8.2	0.9	100.0	269.4
Literature and printed matter	0.3	8.0	3.7	88.0	100.0	228.8	83.5	3.2	1.6	10.1	1.5	100.0	820.3
Music and perfoming arts	4.1	0.8	3.8	91.4	100.0	769.6	84.8	11.0	3.9	0.4	-	100.0	2 736.0
Visual arts	-4.6	20.3	-	84.4	100.0	2 307.9	62.1	5.3	32.5	-	0.2	100.0	98.3
Cinema and photography	0.2	1.0	1.2	97.6	100.0	84.4	98.8	0.4	0.3	-	0.5	100.0	605.0
Radio and television	-	-	-	100.0	100.0	573.2	100.0	-	-	-	-	100.0	2 454.0
Socio-cultural activities	5.7	39.5	23.0	31.9	100.0	1 759.2	-	16.4	40.0	33.4	10.3	100.0	1 257.5
Sports and games	0	11.5	4.4	84.1	100.0	1 058.4	70.2	14.8	5.1	8.6	1.3	100.0	1 429.2
Nature and the environment	2.6	44.9	1.7	50.7	100.0	1 223.8	29.6	24.8	1.5	44.1	0	100.0	865.3
Gambling	-	-	-	100.0	100.0	735.4	100.0	-	-	-	-	100.0	913.0
General administration on non-apportionable activities	4.8	71.4	5.7	18.1	100.0	619.6	-	19.2	12.8	66.4	1.6	100.0	118.0
Fixed capital formation	*13.7*	*0.1*	*55.0*	*31.3*	*100.0*	98.3	*0*	5.7	*10.6*	*70.0*	*13.7*	*100.0*	*488.6*
						431.9							

a/ 1993 is the last year for which there are detailed data on financing of national expenditure on culture, recreation and sports.

National expenditure on culture, recreation and sports, by kind of expenditure and activity

	National expenditure on culture as a per cent of the GDP	Fixed capital formation	Thereof: General administration and non-apportionable activities	Gambling	Nature and the environment	Sports and games	Socio-cultural activities	Radio and television, cinema and photography	Music and performing arts	Cultural heritage, literature and visual arts	Current expenditure - total	Grand total
	NIS million, in current prices											
1994		488.6	118.0	913.0	865.3	1 429.2	1 257.5	3 059.4	2 736.0	1 188.0	11 566.4	12 054.9
	Per cents											
1990	5.0	5.9	0.8	6.0	7.6	10.4	11.3	21.5	25.0	11.5	94.1	100.0
1991	4.9	5.1	0.8	5.8	7.6	11.7	11.1	22.3	24.3	11.2	94.9	100.0
1992	5.1	4.6	1.0	5.6	8.1	13.1	11.1	22.0	23.3	11.3	95.4	100.0
1993	5.4	4.4	1.0	6.3	7.4	12.4	10.7	23.6	23.2	11.0	95.6	100.0
1994	5.7	4.1	1.0	7.6	7.2	11.9	10.4	25.4	22.7	9.9	95.9	100.0
	NIS million, in 1990 prices											
1990		306.3	42.1	313.4	396.9	542.5	592.5	1 121.1	1 304.2	602.9	4 915.6	5 221.9
1991		289.3	47.2	324.3	425.9	660.9	624.7	1 258.9	1 370.7	632.3	5 344.9	5 634.2
1992		280.7	60.2	336.0	480.0	691.3	655.6	1 469.5	1 446.4	670.3	5 809.4	6 090.0
1993		299.0	65.4	420.0	510.9	881.0	688.3	1 724.2	1 601.2	709.6	5 899.7	6 600.7
1994		296.2	67.3	550.0	527.4	961.0	726.5	2 120.4	1 684.4	671.6	7 308.6	7 604.8

689. The Ministry of Education, Culture and Sport which is responsible for promoting culture in Israel, gives direct financial assistance to some 300 cultural and art institutions, supports culture-related projects, sponsors initiatives in the area of culture, organizes cultural activities in various regions of the country intended for a variety of populations, encourages the artistic endeavours of amateurs, and helps cultural groups preserve their heritage and foster their culture. The Ministry of Education, Culture and Sport, in cooperation with the Ministry of Foreign Affairs, also invests resources designed to promote cultural relations and exchanges between Israel and other countries. The Ministry's budget is presented in the following table.

Participation of the Ministry of Education, Culture and Sport in the budgets of cultural institutions - 1997
(by 1997 budget, in thousands of NIS, and by per cent)

Field	Budget	Distribution by %
Total	445 398	100
Israel Association of Community Centers	124 354	28
Theatres	68 683	16
Music (orchestras, operas, choirs, institutions)	46 115	11
Museums, plastic arts	32 607	7
Orthodox Jewish cultural enterprises	27 718	6
Research institutes and cultural centres	23 278	5
Dance	14 910	3
Public libraries	14 867	3
Omanut l'Am (“Arts for the People” association)	13 764	3
Film	13 688	3
Corporations engaged in cultural activity	11 692	3
Schools of art	9 544	2
Literature journals	9 256	2
Torah culture projects	8 527	2
Festivals	8 283	2
Druze and Arab culture	4 789	1
Ethnic heritage	4 776	1
Cultural absorption and Israeli culture abroad	3 346	*
Public archives	1 703	*
Arts and crafts classes for amateurs	1 480	*
Jewish philosophy	969	*
Consulting, surveys and organization publications	853	*
Training administrators of cultural organizations	306	*

* Total of all the items marked with (*) amounts to 2 per cent of the budget.

690. One of the most important tools of cultural promotion in Israel are the 170 community centres throughout the country. These centres offer communities, especially those with weaker population concentrations, various cultural-related activities, such as art classes, dance troupes, choirs, theatre groups, etc. Reflective of the policy of the Ministry of Education, Culture and Sport to give high priority to community-oriented cultural activity is the fact that the largest item on the Ministry's culture budget is the financial support allocated to the Israeli Association of Community Centers, which is responsible for the establishment, supervision and support of the community centres.

691. Allocations for cultural institutions and projects are made objectively, based upon equal criteria, taking into consideration the nature and conditions of the activities, their qualitative scope and circumstances, as well as the special needs of each institution and project. Governmental support is offered either as grants or loans to organizers and producers of cultural events (e.g., public theatres, museums), or as a direct support of the individual artists engaged in the cultural activity.

692. The Ministry of Education, Culture and Sport offers several prizes as an additional method of supporting artists. They include a prize for painting and sculpture which is awarded every year to five artists (providing for their sustenance for a whole year), and prizes for young plastic artists and teachers, yearly grants for creativity to writers, poets, and translators. Financial support to cultural activities is also provided by municipal authorities, public and private foundations, private persons, endowments and corporations.

693. The municipalities invest part of their budget in improving cultural facilities, supporting local artists, and sponsoring communal cultural activities. The local authorities are often assisted by private contributions raised by private and public foundations (e.g., the Jerusalem Foundation, the Tel Aviv Foundation for Culture and Art, and the Haifa Development Foundation).

694. Several of the public foundations are financed by the Government (e.g., the Fund for Promotion of Israeli Quality Films and the New Fund for Documentary Films), thus reflecting further indirect investment in culture by the Government. Two important methods of support through public foundations are the Loan Fund for Producers, under which a government fund subsidizes interest on bank loans taken by private producers of artistic productions, and the Fund for the Promotion of Writers which supports writers in Israel according to the number of times their books have been borrowed from public libraries.

695. Foundations and contributors are often associated with major cultural institutions and bodies such as the Israel Philharmonic Orchestra, Israel Museum and Tel Aviv Museum. Associations of friends of major cultural institutions make an important contribution through fund-raising activities inside and outside Israel, and by way of lobbying for public support.

696. A leading example of the involvement of private corporations in culture is Business for the Arts, a non-profit organization that forges links between the Israeli business community and various cultural and artistic enterprises on a “quid pro quo” basis - mainly by offering advertisement of sponsoring

businesses (e.g., by way of an ad in a theatre programme). Banks and other business enterprises also serve as direct sponsors, on a regular basis, of activities in the field of art and culture.

697. A unique project, privately initiated, involves the Omanut l'Am (Arts for the People) association. The association has taken upon itself to provide residents of remote areas (outside the main cultural centres) with equal access to cultural and artistic activities. A further aim of Omanut l'Am is to promote art education and appreciation. It sponsors some 12,000 artistic activities annually in all areas of the arts, throughout the country. The association is also involved in cultural-related activities in schools. As indicated above, the Ministry of Education, Culture and Sport directs significant budgetary resources to support the activities of Omanut l'Am.

698. A special Culture Administration was established within the Ministry of Education, Culture and Sport to further support the proper functioning of art and cultural institutions in Israel, including the formulation of long- and short-term policy. The administration also deals with the promotion of amateur activities, absorbing of new immigrant artists, folklore and ethnic heritage, art festivals, and research and science institutes, such as the Academy of the Hebrew Language, the Ben-Gurion Heritage Institute in the Negev and the Yad Itzhak Ben-Zvi Institute for Eretz Israel Studies and Research.

699. Several consultative public councils operate in affiliation with the Culture Administration: the Public Council for Culture and Art,which is a general policy consultative council composed of public figures from the art community; the Public Council for the Promotion of Culture and Art in Neighborhoods and Development Towns contributes to activity among disadvantaged populations; and the Council for Public Libraries and the Council for Museums, both operating under the provisions of the public libraries and museums laws, respectively.

The institutional infrastructure of cultural life in Israel

700. Two laws have been legislated to regulate the operation of specific cultural institutions: the Public Libraries Law 1975 and the Museums Law 1983.

701. The Public Libraries Law defines the responsibility of the State to establish public libraries and specifies the conditions for according a library the status of a public library (thus making it eligible to receive public funds). There are some 950 public library facilities in Israel, as well as school libraries and other libraries throughout the country. Hence, in almost every city or town there is at least one public library. The libraries house books in Hebrew, English, Arabic, Russian, German, French, Spanish, Romanian and Hungarian. There are also some mobile libraries available, designed especially for the use of the members of the armed forces and to accommodate the residents of remote settlements and neighbourhoods.

702. The Museums Law determines the criteria for establishment and recognition of museums by the Museum Council, composed of public figures. Israel has 180 museums of various kinds: art, nature, science, archaeology, history, technology, and other themes.

703. Many other cultural institutions, while not regulated by law, are actively supported by the State:

704. Theatres - There are 21 established theatre groups in Israel performing in theatres around the country. The larger theatre groups are based in Tel Aviv, Haifa, Jerusalem and Beersheva. In addition, special theatre festivals are held annually throughout the country, most notable of which are the Acre Festival for Alternative Theater, the Teatronetto - festival of solo performances in Tel Aviv, and The Jerusalem Puppet Theater. Besides professional theatrical activities, there are several informal community theatres performing in local community centres. In addition to Hebrew-language theatre, there are also theatre groups regularly performing in Arabic, Russian, Yiddish and English.

705. Music - There are some 50 music-oriented organizations in Israel, including 17 orchestras, The Israel Opera, 10 choirs, and various music schools. The Israel Philharmonic Orchestra is counted among the world's best symphony orchestras. At least one concert hall can be found in almost every major town in Israel, hosting various musical performances. In addition, many musical events are held outdoors. Examples of annual music festivals are the Abu Gosh Vocal Music Festival, the Zimria (folk singing festival), the Arad Israeli Pop Music Festival, the Eilat Jazz Festival, and the Rubinstein International Competition for Pianists.

706. The plastic arts - A great number of unique institutions, associations and projects operate throughout the country (e.g., the Ceramic Artists Association, the Association for Jewish Art, professional associations for design, etc.). Art exhibitions are presented in a large number of museums, public and private art galleries, and in private workshops and homes in every part of the country.

707. Films - In recent years, approximately 10 feature films and 30 documentary films are produced in Israel every year. Domestic and foreign films are screened in a large number of cinemas throughout the country. Classic films are being re-screened in the three Cinemateques operating in Tel Aviv, Jerusalem and Haifa. In addition, international film festivals are held annually in Jerusalem and Haifa. Film-making is taught at the universities and in several film schools.

708. Literature - Some 20 literary periodicals are published every year and some 15 similar literary projects exist, organized by various organizations such as the Association of Hebrew Writers and the Association of Writers. In addition, all major newspapers carry a special weekly section on literature and poetry. Books are readily available in the many book stores and public libraries throughout the country. “Hebrew Book Week”, a book fair held in every city, is a popular annual event. Moreover, international book fairs held in Israel, such as the Jerusalem International Book Fair, are also open to the public.

709. Museums such as Beit HaSofer and Beit Agnon in Jerusalem, and Beit Bialik in Tel Aviv host a variety of literary activities, and offer the public information and exhibits on the works and life of important writers.

710. Dance - Twenty dance groups, several dance academies and dance performance centres (e.g., the Susan Dellal Tel Aviv Dance Center) operate in Israel. There are both professional ballet and modern dance companies, most notably Bat-Sheva, The Israel Ballet, Bat Dor and U'dmama (performed mostly by the deaf). Several other troupes focus on popular folklore such as the

Jerusalem Dance Company. Israeli and foreign companies perform throughout the country, usually in concert halls. Special dance festivals are held annually in different places in the country. The most notable of these is the Carmiel Folk Dance Festival. Due to the large popularity of folk-dancing in Israel, many community centres throughout the country offer dancing activities and classes.

Cultural and entertainment shows - theatres, orchestras and dance groups

	Spectators (thousands)	Runs	Works of art		Shows	Institutions 1/
			Thereof: Israeli	Total		
Theatres						
1989/1990	1 999.2	5 525	65	136	136	11
1990/1991	1 394.0	4 218	92	151	151	11
1991	1 910.4	4 782	50	148	148	11
1992	2 029.8	4 696	41	159	159	11
1993	1 800.4	5 246	91	171	171	13
1994	1 886.6	4 987	73	145	145	12
1995	1 942.1	5 075	81	162	162	12
Orchestras and opera						
1989/1990	699.5	767	42	693	252	11
1990/1991	609.1	690	50	598	256	11
1991	708.2	852	50	715	303	13
1992	765.0	1 099	42	743	302	13
1993	794.6	937	33	574	285	13
1994	950.8	928	94	894	299	11
1995	1 098.0	1 063	53	803	341	12
Dance groups						
1989/1990	259.3	503	55	85	94	8
1990/1991	233.7	506	69	108	107	8
1991	311.8	599	69	95	105	8
1992	262.1	504	67	84	58	6
1993	327.7	645	62	91	81	7
1994	315.0	602	68	100	71	7
1995	399.8	621	75	103	78	7

Source: The Central Bureau of Statistics.

1/ Institutions that reported (see explanation in introduction).

Cultural identity and heritage of population groups

711. Being a multicultural society, Israel assists various groups in preserving and promoting their culture.

Arab, Druze and Circassian cultural heritage

712. Assistance is given to the promotion of the cultural heritage of Arab, Druze and Circassian minority groups. In these sectors, the State supports, inter alia, oriental orchestras, museums, theatres, and dance groups. Events such as the Arab Culture Month, the Olive Festival (of the Druze in the Galilee) and the Circassian Culture Festival (held in Kfar Kama and Richniya, in the Upper Galilee) have become an important part of the cultural life of those sectors of the population and attract many visitors. In addition, literary works and journals are regularly published in the Arabic language, thus accommodating the needs of the Arabic-speaking sectors.

713. Examples of specific cultural institutions supported in the Arab sector are the professional Arab theatres – such as the Nationwide Arab Theater, and the Beit Hagefen theatre in Haifa – and the Arab Orchestra, which plays Arab classical music. There are various museums dedicated to Arab and Islamic culture, most notably, the Institute for Islamic Art in Jerusalem and the Museum for Arab Folklore (see below). In the Druze sector, the State supports two professional and six amateur theatre companies, four music centres, two professional singing ensembles, and five representative dance companies. Infrastructure has been laid for three Druze museums, and at present there is a library in each of the 16 Druze villages in the country.

Jewish cultural heritage

714. In addition, Israel encourages and fosters cultural activities designed to preserve and promote traditional Jewish heritage of all kinds. Since Jews have come to Israel from 102 countries, different traditions and cultural heritage were introduced in Israel by members of the various Jewish communities. It is the policy of the Ministry of Education, Culture and Sport to support the continued existence of this cultural heterogeneity, which constitutes part of the cultural identity of the nation. Hence, support is given to dozens of professional and amateur performing groups of dancers, singers and music ensembles who preserve the cultural tradition and ethnic heritage of the various communities.

715. Examples of such groups are the Inbal Dance Company, inspired by the Yemenite Jewish heritage; the Ha'Breira Ha'Tivit musical ensemble which draws upon North African ethnic roots; The East and West Orchestra, which also draws upon the heritage of Mediterranean countries and North Africa; and Bustan Avraham, which combines Jewish and Arab cultural elements.

716. Jewish religious scholastic achievements constitute an integral part of the Jewish, and thus Jewish-Israeli, culture. The teaching of its various elements, such as the Bible, Talmud, legends, religious law, and Jewish philosophy, as well as related Jewish music, art and history, is held in several institutional and cultural frameworks.

717. Languages which were developed and used by the Jews in the Diaspora are considered part of the national cultural heritage. In order to preserve two of these languages – Yiddish and Ladino - in which some of the greatest cultural achievements of the Jewish people were created, the Knesset enacted in 1966, the National Authority for Yiddish Culture Law and the National Authority for Ladino Culture Law. Both laws provide for the recognition of these two languages and cultures; the promotion and encouragement of contemporary artistic works in those languages; assistance for institutions in which activity relating to these cultures takes place (e.g., Yiddish-speaking theatre); compilation of cultural treasures, both oral and written, in and relating to these languages; and encouraging the publication of selected works in these languages as well as adequate translations into Hebrew. The annual budgeting allocations for each of these languages amounts to approximately NIS 750,000.

Institutions involved in the promotion of cultural identity

718. Universities and research institutes conduct studies of ethnic cultures, and conferences and symposia are held on the subject. Numerous academic publications dealing with a wide spectrum of topics relating to cultural identity are published every year.

719. Several museums in Israel focus upon various population groups and the preservation of their unique cultures:

- The Museum of the Jewish Diaspora (Tel Aviv) - relates the unique story and culture of the Jewish people since the time it exiled from its homeland and presents its history, tradition and heritage.

- The Center for Babylonian Heritage (Or Yehuda) - presents the culture, art, history and folklore of Iraqi Jewry.

- The Museum for Arab Folklore (Acre) - exhibits traditional arts and folklore items of the Arab population.

- The Institute for Islamic Art (Jerusalem) - houses extensive permanent exhibitions of pottery, textiles, jewellery, ceremonial objects and the like, covering a thousand years of Islamic art, Spain to India, and features temporary exhibits on special themes.

- The Center for the Integration of Oriental and Sephardi Jewish Heritage constitutes another source of information on Jewish culture. This centre, located in the Ministry of Education, is responsible for the integration of Oriental and Sephardi Jewish heritage into the various sectors of education and culture.

The role of mass media and communication in promoting participation in cultural life

720. Legislation in the field of mass communications exists in a number of spheres:

721. The Broadcasting Authority Law 1965 - The law regulates the activities of the Broadcasting Authority responsible for several TV and radio channels. Among the roles of the authority are the broadcasting of educational and informative programmes, as well as entertainment in the areas of culture, science and the arts; strengthening of the links to Jewish heritage; reflecting the life and cultural treasures of Jewish communities in different countries; promoting Jewish and Israeli creative work; and accommodating the needs of the Arab-speaking population. The Broadcasting Authority gives ample expression to Israeli cultural production and creation. In a recent move, one of the authority's radio stations has begun to play Israeli music only.

722. The Second Authority for Television and Radio Law 1990 - This law defines the functions of the Second Authority, which is responsible for the commercial TV Channel 2, and regional radio stations. Among the roles of the authority is the provision of suitable expression to the cultural variety of Israeli society, of Israeli minorities and of the different international cultures. In order to further promote Hebrew and Israeli works, Channel 2 franchise-holders are required to broadcast local productions (i.e., productions made in Israel in the Hebrew language), for at least one third of the air time. The franchise-holders are also required to invest in Israeli cinematic films.

723. The “Bezeq” Law, 1982 - This law addresses, among other things, the operation of cable and satellite TV broadcasting in Israel. It prescribes the taking into consideration of the cultural variety of the Israeli society and the needs of different regions of the country. Consequently, it facilitates the establishment of local community channels and the preparation of programmes on cultural subjects, including those of minority cultures.

724. The media plays an important role in promoting participation in the cultural life of Israel. Many radio and television programmes are dedicated to art, literature, movies, theatre, Jewish culture and other ethnic cultures. Special broadcasts cover cultural and artistic events and report on festivals and shows held inside and outside Israel. In addition, advertisements for cultural performances appear in all media channels. Programmes in Arabic and in other languages used in Israel (English, Russian, and Amharic) are also offered on TV and radio.

725. The Ministry of Education, Culture and Sport operates an educational television service which is granted by law broadcast time on the private and public channels. Educational television aims, inter alia, to increase participation in cultural life; to provide learning and knowledge in culture and art, science, communications and other fields; to increase involvement in educational, cultural and social matters; and to give expression to all facets of the cultural heritage of Israel's citizens.

726. Further sources of promotion of culture through the mass media are the Open University (a distance learning institution designed to promote academic education among wide populations) which broadcasts classes on radio and TV; foreign TV channels broadcasting in Israel through cable channels; and the Internet.

727. All daily newspapers include special sections and supplements devoted to cultural issues and cover on a regular basis cultural events. In addition, a number of culture-related journals are published on literature, art, photography and other subjects.

Preservation and display of mankind's cultural heritage

728. Much attention is paid in Israel to the preservation and presentation of antiquities and historical sites.

729. Preservation of antiquities - The preservation of antiquities dating from before 1700 CE falls under the jurisdiction of the Antiquities Authority. The latter operates in accordance with the Antiquities Authority Law 1978. The authority deals with the excavation, preservation, development, and restoration of antiquities and antiquities sites; supervision of archaeological excavations; management, safeguarding and supervision of the State's antiquities treasures; and the carrying-out of inspections intended to ensure prevention of infringements of the Antiquities Law.

730. Many important archeological findings, such as the Dead Sea Scrolls, are presented in museums and cultural centres. In addition, many sites such as Massada, Nabatian and Byzantine cities, Roman theatres, ancient synagogues, and prehistoric caves are open to the general public. The maintenance and operation of such sites (as opposed to their excavation and restoration) are the responsibility of the National Parks, Natural Reserves and Commemoration Sites Council.

731. Preservation of other sites - The Public Council for Preservation of Sites is in charge of the preservation of sites and buildings of historical value from after 1700 CE (e.g., the “illegal” immigrants camp from pre-State days at Atlit and buildings in Tel Aviv designed in the Bauhaus style).

732. The State of Israel is involved in professional international cooperation in the field of preservation and restoration of cultural treasures, through the International Centre for the Study of the Preservation and Restoration of Cultural Property and the International Council of Monuments and Sites.

Freedom of artistic creation and performance

733. It is the policy of the Ministry of Education, Culture and Sport to support the protection of artistic creation and performance. Artists in Israel express themselves in various artistic fields and often express political views. However, government support is afforded without any discrimination on the basis of the political views of the artist in question, and some of the artistic projects which are receiving State funds reflect sharp criticism of the Government.

734. Although a film-rating commission with censorship powers still exists in Israel (whereas other forms of official non-security-related censorship have been abolished), the Supreme Court of Israel (sitting as an administrative court) exercises broad powers of review over its decisions, and has nullified on several occasions decisions to censor controversial artistic films

(involving pornography). The court has held that freedom of artistic and creative expression is a protected constitutional right which can only be restricted in extreme situations involving a clear showing of severe threat to public order or safety.

735. The Supreme Court has stated that:

> "This rule gives constitutional protection not only to the general freedom of expression, but also to the freedom of artistic expression. This last freedom can be regarded as part of the freedom of expression, 'from which, in part, the freedom of artistic creation in literature and in all forms of expression, is derived' [cite omitted]. 'Freedom of expression is the artist's liberty to open his/her heart, fly high and liberate his/her thoughts' [cite omitted] ... It is based on the conception of human beings as autonomous individuals entitled to self-fulfilment as creators and consumers of such creative work. It is the freedom to choose themes and the way of their presentation, and the other person's liberty to hear and absorb them. Of course, the freedom of artistic expression is not an absolute freedom. As is the case with other liberties, it is only of relative value, and it can be limited for a proper cause, provided that the restriction is not excessive."
> H.C. 4804/94 Station Film Co. v. The Films and Plays Review Council, Takdin-Supreme, vol. 97 (1) 712, 718.

736. Furthermore, the Court states that:

> "... [O]ur perceptions do not permit us to place restrictions upon the freedom of expression because of a non-extreme hardship caused thereby. Only the infliction of a deep, extraordinary and blatant insult may justify limiting the freedom of expression [cite omitted] ... As to the degree of probability that damage will occur ..., we have adopted a rule saying that only proximate certainty that public order or safety will be jeopardized may permit a restriction on the application of the right in a concrete case by a statutory authority ..."
> H.C. 806/88 City Studios, Inc. v. The Films and Plays Review Council, P.D. vol. 43 (2) 22, 30.

Professional education in culture and art

737. There are 14 professional post-secondary art schools, recognized by the Ministry of Education, Culture and Sport, which provide training in a variety of artistic areas. Seven of these institutions have been authorized by the Council of Higher Education to grant academic degrees to graduates. These include Bezalel - the academy of arts and design - the Rubin Academy of Music, and the Shenkar School of Fashion and Textile. In addition, universities have art departments in which the history of art, art appreciation, film-making, theatre, music and other culture-related topics are taught. Regional colleges also have art departments in which programmes and courses in film-making, theatre, plastic arts, dance, music and other art forms are given.

738. Certain universities and colleges also offer study programmes in the administration of cultural institutions.

Other measures for the conservation, development and diffusion of culture

739. The Mediterranean Culture Forum: In order to improve the coordination activities aimed at integrating cultural preservation, a Forum for Mediterranean Culture has been jointly established by the Ministry of Education, Culture and Sport, Ministry of Foreign Affairs, The Van Leer Research Institute and Mishkenot Sha'ananim Cultural Center. The forum initiates various activities to preserve and disseminate a combination of eastern and western Mediterranean culture. At this stage, the forum is initiating 10 projects dealing with topics such as: Jewish, Christian and Muslim relations; relations between Sephardim (Jews originating from Muslim countries) and Ashkenazim (Jews originating from European countries) through theatrical performances, music, journals and films; and the exchange of culture, knowledge and tradition.

740. The Israel Prize: The prize is awarded in the fields of science and art, commemorating the lifetime achievements of renowned personalities, scholarly thinkers, promoters of Israeli heritage, scientists, writers, cultural figures and artists. It expresses the State's gratitude of the recipients' activities and achievements, as well as their contribution to society. The Israel Prize is awarded annually on the basis of the recommendations of a public committee, with the approval of the Minister of Education, Culture and Sport.

741. Special cultural programmes for the disadvantaged: Much attention is being given by the Ministry of Education, Culture and Sport to the cultural needs of disadvantaged groups and sectors of the population. This includes supporting cultural activities for the disabled such as dance groups, orchestras and choirs for handicapped youth, the wheelchair-bound and children suffering from Down Syndrome.

742. Promotion of culture within education: Subjects related to the arts and culture are taught in all levels of the education system. Literature, foreign languages, arts, photography, theatre and film are part of both the compulsory and elective curriculum. There are also several adult education arts and culture programmes. Within the framework of secondary education, there are special schools for the arts which place special emphasis on the arts, in addition to the regular curriculum.

743. Cultural enrichment is an important educational element. Schools receive a "culture basket" which includes annual attendance at some five to seven artistic performances per student. Furthermore, a wide variety of cultural activities take place within the schools themselves, including student orchestras and choirs, dance troupes and theatre groups.

744. In addition, many cultural activities for children and youth take place in community centres, in cultural, youth and sports centres, youth clubs, youth and in various other extracurricular activities.

745. With the aid of Mifal Hapayis (the National Lottery), the Government is building 70 centres for science and the arts in lower secondary schools (for the 12 to 14-year-old age group), in consonance with the policy to develop

interdisciplinary curricula in science and the arts. Construction of 45 such centres began during 1996-1997. Other cultural facilities in schools throughout the country include performance arenas and art workshops.

746. Another “access to culture” project under way is the computerization of libraries, and the establishment of Internet access in libraries and schools.

International cultural cooperation

747. Israel has cultural agreements with a large number of countries worldwide. Some thirty public festivals are held in Israel, some of which include the participation of many artistic groups from abroad. Many of the world’s leading performing artists perform in Israel on a commercial basis. Similarly, important international art exhibitions are presented in Israel from time to time.

748. The State of Israel, Israeli organizations and individuals are members of various international cultural and art organizations. Israeli artists participate on a regular basis in conferences worldwide, some of which convene in Israel. Throughout the years, Israel has obtained valuable cooperation on the part of international organizations and foundations in the field of culture.

The enjoyment of scientific progress

Institutional promotion of research and development

749. The basic structure of the R & D system in Israel was laid down in the late 1950s by a high-level committee headed by Ephraim Katzir, himself a scientist of world renown and later-President of Israel. The committee suggested that each ministry be made responsible for R & D within its own areas of public accountability; and that all R & D activities be directed and coordinated by a Chief Scientist. The committee's recommendations were adopted by the Government in 1968. Hence, a two-tier approach exists wherein each ministry remains free to pursue its own R & D agenda while two high-level forums were created to ensure inter-ministerial cooperation and collaboration. The first is the Ministerial Committee for Science and Technology; and the second is the Chief Scientists' Forum. Both forums are headed by the Minister of Science.

750. In addition, the consultative National Council for Research and Development (NCRD) advises the Government in its consolidation of a comprehensive national R & D policy, and provides it assistance in determining the allocation of resources to scientific institutions and projects. In 1994, a temporary committee, The Executive National Committee for the Development of Scientific and Technological Strategic Research (the “Committee of Thirteen”), was established by the NCRD to identify priority areas. (See below.)

751. The implementation of Israel’s R & D policy is divided among three different ministries:

- Basic research is under the responsibility of the Ministry of Education, Culture and Sport. The general basic research budgeting policy is not decided by the Ministry itself, but rather by an independent Council for Higher Education (composed largely by public figures in the field of higher education), chaired by the Minister of Education. The Council also has a six-member Planning and Budgeting Committee which authorizes the actual allocation of governmental funds to universities and other institutes of higher education. In the performance of its role, the Ministry of Education receives the advice of yet another consultative committee: the Israel Academy of Sciences and Humanities, a statutory body composed of leading academics. In 1987 the academy submitted to the Government a master-plan for basic research, which has been approved and is being implemented gradually.

- Strategic-generic R & D is supervised by the Ministry of Science. The Executive National Committee for the Development of Scientific and Technological Strategic Research (the Committee of Thirteen) was established in 1994 by the NCRD and the Ministry of Science to identify priority areas, with market potential, suitable for a concerted national strategic R & D effort. Special supervision committees were subsequently assigned the role of supervising the progress in each of the priority areas determined by the Committee of Thirteen. These areas include biotechnology, electro-optics, micro-electronics, advanced materials, and telecommunications and information technologies.

- Applied industrial R & D is within the powers of the Ministry of Industry and Trade. The Ministry, operating through the office of its Chief Scientists, provides support to specific R & D projects of perceived commercial utility.

The national R & D budget

752. Israeli industry has traditionally under-invested in long-term R & D. The business sector in Israel invests on average 36 per cent of the total national expenditure on R & D compared to an average of 51 per cent for Organization for Economic Cooperation and Development countries. Two national programmes attempt to compensate for this failure on the part of industry:

1. The Ministry of Science provides additional R & D funds to high priority fields. The ministry aims to create a critical mass of knowledge, know-how and experience in priority areas to be later diffused in industry and implemented in the creation of new and advanced value-added products.

2. The Ministry of Industry and Trade funds shorter-term industry-motivated R & D, and supports factories and other industry businesses investing in R & D. The Ministry normally funds 66 per cent of the research costs of approved projects.

753. Strategic generic research accounts for only 8 per cent of the government national R & D budget. In comparison, basic research receives 34 per cent of the budget and applied industrial research – through the Office of the Chief Scientist of the Ministry of Industry and Trade – 38 per cent.

Expenditure of government ministries on civilian R & D, by type of expenditure

	Transfers	Purchases of civilian R & D	Intramural expenses			Total
			Current expenses	Wages	Total	
	NIS million, at current prices					
1990	335	33	61	67	128	436
1991	443	33	63	81	150	532
1992	530	45	81	91	172	747
1993	727	41	76	110	188	956
1994	347	53	122	164	286	1 286
1995	-	-	-	-	-	1 457
	At 1989 prices					
1990	286	28	52	56	108	422
1991	322	29	50	56	105	456
1992	340	23	52	57	110	478
1993	411	23	44	71	115	549
1994	487	27	52	81	133	647
1995	-	-	-	-	-	654
	Per cent change in previous year					
1990	10.0	-13.7	-14.4	6.7	-4.7	4.0
1991	12.5	4.3	-5.0	0.2	-2.3	8.2
1992	5.5	-1.4	5.7	2.3	4.2	4.7
1993	20.3	-18.2	-16.3	23.6	4.6	14.8
1994	18.5	15.4	18.2	14.1	15.7	17.8
1995	-	-	-	-	-	1.1

Source: The Central Bureau of Statistics.

National expenditure on civilian R & D,
by operating and financing sector

	Operating				
	Private non-profit institution	Higher education a/	Government	Business	Total
	At current prices				1993
TOTAL - NIS million	325.0	1 431.0	504.2	1 331.3	4 312.1
- per cents	7	35	12	46	100
Financing sector					
Business	0	1	0	34	36
Government	3	16	3	12	40
Higher education a/	0	10	0	0	10
Private non-profit inst.	3	2	2	0	7
Rest of the world	1	6	1	0	7
	NIS million, at 1989 prices				
1989	164	636	260	934	1 994
1990	173	678	245	931	2 027
1991	176	693	265	1 028	2 162
1992	180	774	284	1 117	2 355
1993 b/	196	820	285	1 153	2 454
	Per cent change c/ on previous year				
1990	5.7	6.6	-5.8	-0.3	1.7
1991	1.8	2.3	8.2	10.3	6.6
1992	2.3	11.7	7.2	8.7	8.8
1993 b/	8.9	5.9	0.4	3.2	4.2

Source: The Central Bureau of Statistics.

a/ Incl. the Universities and Weizman Institute of Science.

b/ Early estimate.

c/ Per cent change was calculated before rounding.

Expenditure on separately budgeted research in universities by scientific field, institution and source of funding

At 1990/91 prices

	1990/91	1988/89	1984/85	1981/82
	NIS million			
TOTAL (1)	274.2	260.2	273.6	140.3
	Per cents			
TOTAL (1)	100.0	100.0	100.0	100.0
Scientific field				
Natural sciences and mathematics	51.3	58.0	43.2	45.6
Engineering and architecture	13.7	12.3	17.1	19.7
Agriculture	3.7	3.6	5.3	4.2
Medicine and paramedical courses	13.9	13.1	14.0	14.3
Social sciences and other	17.3	12.8	14.4	15.6
Institution				
The Hebrew University	32.4	31.8	35.4	36.8
Technion R & D Foundation	15.3	14.3	13.4	20.2
Tel-Aviv University	15.4	7.8	10.5	14.1
Bar-Ilan University	4.0	4.3	3.3	3.1
Haifa University	0.6	0.3	0.7	0.7
Ben-Gurion University of the Negev	10.2	3.5	6.6	6.8
Weizmann Institute of Science	22.1	31.4	23.5	16.3
Source of financing				
Israel - Total	56.7	55.4	57.7	56.4
Academic	6.3	5.6	6.2	7.0
Public	42.0	34.0	36.3	43.6
Private	6.4	10.3	12.5	7.8
Foreign sources	41.3	46.6	42.3	41.6
	Per cent financing of Israeli sources			
Scientific field				
Natural sciences and mathematics	50.0	45.2	51.8	.
Engineering and architecture	77.0	63.3	77.2	.
Agriculture	71.7	74.6	52.3	.

Source: The Central Bureau of Statistics.

Support of scientific activity and dissemination of scientific knowledge

754. Special projects: The Government of Israel supports several programmes designed to promote unique scientific activity and disseminate scientific knowledge.

755. Ministry of Science projects: The Ministry of Science gives support to a wide range of special programmes. Support is normally given for only one year at a time, but grantees are encouraged to re-submit an application for further funding. Applications for support are reviewed according to the Ministry of Science's current criteria for sponsoring public bodies and projects (which were last updated in April 1995). Emphasis is placed on the geographic and demographic dispersion of scientific and technological activities and knowledge, both to peripheral regions and to the populations of immigrants from the former USSR and Ethiopia. The major areas of support are:

756. Regional research and development centres: The Ministry of Science supports regional R & D centres in peripheral areas which strive to create and stimulate science and technology R & D activities intended to benefit the region in which they are situated, and to attend to the needs of local population. Currently, five such regional R & D centres receive Ministry funding: the Golan R & D Center; the Mitzpeh Ramon Center in the northern Negev; the Katif Center for the Study of Coastal Deserts; the Galilee Center for R & D (which promotes R & D by the Israeli Arab scientific community); and the Hatzevah R & D Center, in the southern Arava Negev region.

757. Enrichment activities - science and technology: The Ministry of Science supports a wide range of programmes aimed at advancing the scientific and technological literacy of the general public, with priority given to educating children and youth outside the main urban centres. In particular, support is offered to unique extracurricular activities not available through the education system due to budgetary constraints; programmes for populations who otherwise have limited selection of enrichment activities; programmes for the disadvantaged, and programmes for the Arab and Druze minority sector. Only projects open to all residents of the locality in which they take place, on a non-discriminatory basis, are eligible for support.

758. Some of the programmes under this category which were funded in 1997 are: science workshops, seminars, summer schools and scientific tours for youth and children; the establishment of scientific facilities such as a communication station, a small scale observatory, and scientific activity centres; the publication of the first few issues of a new popular scientific journal in Arabic; scientific exhibitions; and scientific competitions. Overall, 15 projects at a total cost of around $300,000 were funded in 1997.

759. Two national science museums operate under the auspices of the Ministry of Science: The National Museum for Science and Technology of Haifa, and The Science Museum of Jerusalem. These museums receive part of their annual income ($1 million in 1997) from the Ministry.

760. The Ministry of Science also organized in 1996 and again in 1997 a special event - "The Opening of the Scientific Year", the purpose of which was to bring public attention to the importance of scientific activity for

improving the quality and standard of living in Israel. On this occasion, and in order to encourage youth involvement with science, the Ministry invited adolescents from all over the country to present their unique projects to representatives of the scientific community, and held a competition on the best popular scientific article. The Ministry of Science is considering to make this event a tradition, and is currently planning next year's competition.

761. Encouragement of scientific interchange: Apart from the support given by the Ministry of Science to bi-national and international conferences and seminars (see infra), it also provides partial financial assistance for national conferences conducted under the auspices of other private or public institutions. This support is aimed at creating opportunities for high-level scientific interchange. The additional support offered by the Ministry encourages, whenever possible, students and young scientists to attend them.

762. Ministry of Trade and Industry projects: The Ministry of Trade and Industry operates several “technology incubators”. Their aim is to create a supportive framework that will enable resource-limited scientists and engineers to work on R & D projects. The incubators offer the developer of a scientific research project a broad logistic infrastructure, including laboratories, instruments, economic management, legal advice and other services.

763. Twenty-eight incubators are operating at present around the country, encompassing 230 running projects (half of which were initiated by new immigrants). Some 1,100 workers are employed in incubators (about 80 per cent of whom are also new immigrants). Every month, an average of 10 new projects are approved for funding by the Ministry. Incubator-sponsored projects may last up to two years. Subsequent research may be eligible for other Ministry financing programmes.

764. The Agricultural Research Administration: Of special importance to scientific progress in Israel are the R & D activities of the Agricultural Research Administration, operating within the Ministry of Agriculture. The administration operates seven research institutes and several experiment stations and experimental farms, and has carried out hundreds of research projects throughout the country.

- The Centre for Field and Garden Crops studies cultivation techniques, strains of plants, medical agricultural, agro-technical methods and biotechnology.

- The Institute for Plantations tests new species and strains for marketing qualities, irrigation and fertilization methods, climate and soil adaptability; studying ways of controlling fruit ripening and designing orchards.

- The Institute for Animals studies feeding; reproduction and fertility in cattle and sheep, qualities of eggs and poultry; study of animal hybridization and genetic engineering.

- The Flora Protection Institute conducts research projects for identifying plants' diseases; development of environment-friendly pesticides and of resistive plants.

- The Land and Water Institute studies irrigation methods and water and land quality.

- The Institute for Technology and Storage of Agricultural Produce examines the handling of agricultural products, and the development of healthy food products.

- The Agricultural Engineering Institute carries research projects concerning agricultural machinery and their adaptation to Israeli agriculture.

- The Center for International Agricultural Cooperation and Instruction (operated jointly with the Ministry of Foreign Affairs) runs training courses in agricultural development intended for hundreds of students. Some course are given outside Israel to foreign agriculturists (e.g. in Latin America, Asia, Africa, Egypt and Eastern Europe).

765. Research grants and scholarships are awarded by several private and public funds, in addition to the regular university funding. This system constitutes an important source of support in scientific activity. Examples of such financial support are the following funding programmes:

766. The Council for Higher Education offers over 20 three-year grants (Alon Grants for Young Scientists) annually, which permit outstanding young scientists to find posts at the universities; The Rashi Foundation, a private fund, partly supported by the public Planning and Budgeting Committee, provides 15 immigrant scientists with annual grants; (the Guestella Foundation); Similar grants are awarded to another 15 senior immigrant scientists by the Berekha Foundation; The Israel Academy of Sciences and Humanities supports research programmes concerning the fauna, flora and geology of Israel; and The Rothschild Foundation supports new immigrants studying for a doctorate in natural sciences.

767. Publications: Numerous scientific publications are published in Israel every year. Some of these publications are funded by the academic institutions, whereas others are supported by public and private bodies.

Freedom of scientific research and creative activity

768. The protection of scientific and creative expression is considered part of the freedom of speech, which constitutes a fundamental value of the Israeli legal system. The Supreme Court of Israel has stated:

> “The important issues, that the decision in the present case is hinged upon, are freedom of speech and academic freedom. We must protect them in every way, we are obliged to defend them and we must nurture them as if they were 'protected natural treasures’. We need to further recall that the protection granted to these liberties through a Basic Law, or

> by way of constitutional interpretation that construes them as originating from a Basic Law, or declarations on the part of State authorities committing themselves to those principles, is not enough. A necessary prerequisite to the existence of these freedoms is the existence of public trust in their actual implementation. If a person does not truly believe that he/she is entitled to freedom of speech or academic freedom, subject of course to recognized limitations, he/she is bound to act as if those freedoms do not exist. If the public does not believe in them, the liberties are expected to recede ...
>
> "The reasons for protecting academic freedom are numerous and diverse, and much written about. Research, studying and teaching in every field of the human spirit, without ball and chain, are uplifting for any individual within society, and through their effect upon the individual they affect the society as a whole. It also fulfils a basic human need ... Among the reasons for protecting this freedom, it is possible to refer to the society's interest in promoting values such as: 'knowledge, individual self-fulfilment, curiosity, etc. – values the promotion of which sometimes neglected, since they are outside the centre of attention of the executive social institutions. Therefore, it is the role of universities to research, accumulate knowledge and teach' [cite omitted]. The basic proposition is that a teacher in the academic world is entitled to conduct research and teach in his/her area, in whatever way he/she sees fit, and it is best that non-academic elements will impose minimal restrictions upon him/her, his/her students and their interaction."
> Cr.A. 2831/95 Elba v. The State of Israel, Takdin-Supreme, vol. 96 (3) 97, 171-175

769. Hence, scientific publications and interchange cannot be restricted save in extreme situations, i.e. where they almost certainly threaten public safety or order. Furthermore, according to the principles of Israeli administrative law, the Government cannot withhold support from a scientific or creative expression merely by reason of objection to the contents of that expression.

International cooperation

770. Israel's scientists are very much interwoven in the international scientific community. One third of all Israeli scientific papers in international journals include foreign co-authors. Academics receive generous professional travel and sabbatical allowances as part of their terms of employment. Most postdoctoral fellows spend one or two years in world-class research centres abroad before beginning their research careers.

771. International scientific cooperation is particularly vital for Israel in several ways. Joint research programmes and cost-sharing help stretch Israel's limited research budget, and gives Israeli scientists access to large multi-billion-dollar research facilities that Israel cannot afford to duplicate. Collaboration with scientists abroad provides intellectual synergy with a large pool of talent and helps Israel maintain world-class scientific standards despite its small size.

772. In accordance with this approach, the Ministry of Science administers various international programmes which are intended to facilitate and encourage collaboration between researchers from Israel and foreign countries. In particular, it operates programmes of scientific cooperation based on bilateral agreements with 26 countries around the world. Support is given in the following three areas of activities:

- joint research projects;

- exchange of scientists (at different levels of seniority: doctoral students, junior and senior researchers);

- joint conferences.

773. Within the framework of each agreement, and in coordination with the respective country, the Ministry periodically issues invitations to submit proposals, directed for researchers competing for joint funding.

774. Each year the Ministry of Science supports two international scientific conferences, and several bilateral ones. In order to ensure wide dissemination of cutting-edge scientific knowledge the Ministry regularly subsidizes the entrance fee of participants from the general public in such conferences.

775. The biggest international scientific cooperation programme in which Israel is taking part involves the European Union. Israel joined the EU Fourth Framework Program for R & D in 1996. The agreement commits Israel to pay an annual membership fee of $40 million. In return, Israeli scientists are able to participate and compete for grants in the following four activities: research projects with scientists from EU; research projects with scientists from non-EU member States; grants for dissemination and implementation of research results; and, grants for training and mobility of researchers (conferences, mutual visits, scholarships, etc.).

776. The agreement is based on the principle of reciprocity, and entitles researchers from the EU to have access to Israel's national programmes for R & D. This obligation on the part of Israel is currently in the implementation process.

777. The Ministry of Science coordinates Israeli participation in several international organizations and research facilities, such as CERN (European Nuclear Research Center), EMBO (European Molecular Biology Organization), EMBL (European Molecular Biology Laboratory) and UNESCO.

778. In the last two years Israel gained observer status in the Organization for Economic Cooperation and Development and participates in the organization's activities in the area of science and technology, sharing information and acquiring further knowledge on science and technology policy. Israel has also been invited by the North Atlantic Treaty Organization to take part in the organization's scientific activities, under its Mediterranean Dialogue.

779. Additional international cooperation is exercized by the Israel Academy of Sciences and Humanities. The Academy operates a scientific centre in Cairo, the aim of which is to assist Israeli researchers in work associated with Egypt and its culture, and to encourage cooperation with Egyptian researchers in all spheres of science and research. The academy also has an observer status at the European Foundation for Science and takes part in its activities. Among them are the meetings of the permanent committee of the foundation for humanities, social sciences, the European councils for medical research, the European councils for scientific research and the four "scientific nets" of the foundation. It also represents Israel at the International Council of Scientific Unions (ICSU).

780. The academy runs scientists' exchange programmes with academies in Western Europe and Eastern Europe and promotes contacts with national academies and scientific research communities throughout the world.

The legal protection given to intellectual property

781. Literary and artistic works are protected in Israel by copyright and performers' rights laws. Scientific inventions are protected by the patent laws. The basic principle, according to which intellectual property is protected under Israeli law, was reiterated by the Supreme Court of Israel:

> "The right of the creator vis-a-vis his/her creation is also a fundamental principle – the right to protection of property rights. This principle is enshrined in Article 3 of the Basic Law: Human Dignity and Liberty, according to which it is prohibited to interfere with one's property. In the jurisprudence of this court the principle was enumerated among the fundamental values, on the same level of freedom of speech [cite omitted]. In the framework of property rights, it is natural that intellectual property is also protected."
> P.C.A 2687/92 Geva v. Walt Disney Corp., P.D. 48 (1) 251, 269

Copyrights

782. Israel's main copyright law – the Copyright Law is based on the United Kingdom Copyright Act of 1911. However, it forms only a part of Israeli copyright statutory law. The other primary copyright statutory instruments include the Copyright Ordinance 1924; Copyright Order (Berne Convention) 1953; and the Copyright Order (Universal Copyright Convention) 1955.

783. Protection granted to the holder of a copyright includes the exclusive right to (a) copy or reproduce the work; (b) translate or otherwise adapt the work; (c) distribute copies of the work; and (d) publicly communicate the work. It is not necessary to submit a formal application in order to obtain copyright protection in Israel. It is generally recommended that authors mark their works with a copyright notice including the author's name and the date of creation. Copyright protection subsists for the life of the author and for a period of 70 years after his/her death .

784. Both civil and criminal remedies against breaches of copyrights are provided for in the law. The civil remedies include action for damages, accounting for profits, and court seizure orders and injunctions. As to

criminal remedies, the Copyright Ordinance 1924, as amended subsequently, provides that commercial infringement of a copyright copies constitutes a criminal offence punishable by up to three years of imprisonment and the possible seizure and destruction of infringing copies. The law also provides for limitations and exceptions to the protection of the copyright: fair use of the protected material is permitted if used for private study, research, criticism, review, or a journalistic summary.

785. Several significant amendments have been introduced in the Copyright Ordinance which have substantially modified the law and brought it to date with recent developments.

1. In 1981, the concept of moral rights was added to the law. Consequently, each author has the right to have his/her name applied to his/her own work, as well as the right to seek relief against distortion, modification or derogatory actions in relation to the work, which may offend the author's reputation or dignity.

2. Since 1988 computer software is also protected by copyright on the same terms as "literary works".

3. Since March 1996 the renting and leasing rights of audio and visual copyrighted works belong exclusively to the copyright holder. Furthermore, the Government was instructed to transfer 5 per cent of the market retail proceeds from the sales of blank audio and video cassettes (deducted from VAT proceeds), to right holders subject to the supervision of a special committee.

4. The protection of copyright laws has been extended to databases and compilations, even if the "raw material" data was a matter of public property.

786. Israel is a member of the following conventions:

- The Berne Convention under its Brussels Act,

- The Universal Copyright Convention under its initial Act,

- The Geneva Convention of 1971 for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms, and

- The World Trade Organization, and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

787. Lastly, the Copyright Law Reform Committee set up by Israel's Ministry of Justice has completed its work and a new draft copyright bill has been distributed for comment to members of the public.

788. Performers' rights: under the Performers' Rights Law 1984, a singer, actor, music player, dancer, or any other performer of a literary, artistic, dramatic or musical work is entitled to prevent the recording, copying, broadcasting and commercial use of his/her performance without permission. The court may order to confiscate unauthorized copies of the performance.

Patents

789. Patents are protected in Israel by two separate acts: The Patents Law 1967 and the Patents and Designs Ordinance. Under these laws an inventor may register a patent to an invention if he/she can prove innovation, usefulness, commercial applicability and inventive progress. The proprietor of a patent is entitled to prevent anyone from using the patent without his/her permission.

790. The Registrar of Patents is authorized to issue coercion permits, enabling others to use the patented invention, if he/she is convinced that the proprietor is exploiting the monopoly over the patent. Other restrictions imposed upon the scope of protection offered by the patent system is the limited life span of a registered patent (20 years), and the exclusion of inventions constituting bodily medical treatments, and artificial animal and plant species from the system.

791. The policy considerations underlying the institution of patents and its interplay with coercion permits was analysed at length by the Supreme Court of Israel:

> "The purpose of the patent system is not a mere consideration granted to the inventor in return for the public benefit derived from his/her invention. The purpose is also to encourage research. Exchange of opinions, information and thoughts is essential to the advancement and fruition of research. But until the research receives protection in the form of exclusivity, it is only natural that inventors will seek to keep their invention confidential, and look for the most efficient use thereof. Early recognition of an invention will not necessarily discourage other researchers, so that they will no longer pursue the same area. On the contrary, in the absence of a patent protection system, it is feared that some will settle for plagiarizing an existing invention. A protection against imitation will encourage additional research, designed to find other uses, advancements, innovations and refinement beyond the existing and protected patent. This is how the patent system offers incentives for originality and creative imagination. Early publicity (which will not be facilitated unless a patent exists) will create interest in the scientific community, bolster team work and encourage further independent research. It is a case of 'writer's jealousy which advocates wisdom'. Furthermore, lacking the incentive created by exclusiveness, which ensures a financial reward for breakthrough findings, the requisite research resources will not be made available ..."
>
> C.A. 665/84 Sanopy Ltd. v. Unipharm Ltd., P.D. vol. 41 (4) 729, 743

“The patent system involves a conflict between two important public interests. On the one hand, the interest of development and inventive creation, and on the other, the interest of free economic activity. To advance the first set of interests, the legislator must provide an economic incentive to the inventor ... Therefore, the legislator decided to establish the patent system and grant the inventor exclusive monopoly on the use of the invention, thereby guaranteeing him/her reimbursement for developing expenses and a certain profit, i.e. an incentive to invest in the invention. But this solution implies compromising the other public interests mentioned above, to the extent that monopoly hinders free competition. And so, in order to protect this interest, the legislator decided to restrict the inventor’s monopoly. In this restricted monopoly we can find what the legislator deems to be the optimal balance between the two colliding principles. These restrictions include the power of the patent registrar, in cases of 'monopoly abuse' on the part of the patent owner, to end the monopoly and permit another person to use the patented invention [cite omitted]. Another restriction can be found in the fact that monopoly is given for a limited time only.”
C.A. 427/86 Blass v. Kibbutz Hashomer Hatzair Dan, P.D. vol. 43 (3) 312, 336.

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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

ISRAEL

1. The Committee considered the initial report of Israel on the implementation of the Covenant (E/1990/5/Add.39), together with the written replies to the list of issues, at its 31st to 33rd meetings, held on 17 and 18 November 1998, and adopted [1] the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report which generally conforms to its guidelines on the preparation of reports. The Committee regrets, however, the delay in the submission of the report.

3. The Committee expresses appreciation for the presentation of the State's representatives and the additional information they provided during the dialogue. The Committee also takes note of the extensive information submitted to it by a large number of non-governmental organizations which was available to the Committee for its dialogue with the State party.

1/ At its 53rd meeting (nineteenth session) held on 2 December 1998.

B. Positive factors

4. The Committee welcomes the enactment in 1995 of the National Health Insurance Law which provides for primary health care and ensures equal and adequate health services for each citizen and permanent resident of Israel. The Committee also welcomes the amendment in 1996 of the same law to enable housewives to receive the minimum old-age pension while remaining exempt from contributions.

5. The Committee welcomes the recent establishment of the Authority for the Advancement of the Status of Women which is vested with advisory powers with respect to policies to promote gender equality, eliminate discrimination against women and prevent domestic violence against women.

6. The Committee takes note of the statement by State party's representatives that with respect to the Covenant's applicability in the occupied territories, Israel accepts direct responsibility in some areas covered by the Covenant, indirect responsibility in other areas and overall significant legal responsibility across the board. This conforms to the Committee's view that the Covenant applies to all areas where Israel maintains geographical, functional or personal jurisdiction.

C. Factors and difficulties affecting the implementation of the Covenant

7. The Committee notes that Israel's emphasis on its security concerns, including its policies on closures, has hampered the realization of economic, social and cultural rights within Israel and the occupied territories.

D. Principal subjects of concern

Land and people

8. The Committee notes with concern that the Government's written and oral reports included statistics indicating the enjoyment of the rights enshrined in the Covenant by Israeli settlers in the occupied territories but that the Palestinian population within the same jurisdictional areas were excluded from both the report and the protection of the Covenant. The Committee is of the view that the State's obligations under the Covenant apply to all territories and populations under its effective control. The Committee therefore regrets that the State party was not prepared to provide adequate information in relation to the occupied territories.

Status of the Covenant

9. The Committee notes that economic, social and cultural rights have not been granted constitutional recognition in Israel's legal system. The Committee is of the view that the current Draft Basic Law: Social Rights does not meet the requirements of Israel's obligations under the Covenant.

Discrimination

10. The Committee expresses concern that excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second-class status to its non-Jewish citizens. The Committee notes with concern that the Government of Israel does not accord equal rights to its Arab citizens, although they comprise over 19 per cent of the total population. This discriminatory attitude is apparent in the lower standard of living of Israeli Arabs as a result, inter alia, of lack of access to housing, water, electricity and health care and their lower level of education. The Committee also notes with concern that despite the fact that the Arabic language has official status in law, it is not given equal importance in practice.

11. The Committee notes with grave concern that the Status Law of 1952 authorizes the World Zionist Organization/Jewish Agency and its subsidiaries, including the Jewish National Fund, to control most of the land in Israel, since these institutions are chartered to benefit Jews exclusively. Despite the fact that the institutions are chartered under private law, the State of Israel nevertheless has a decisive influence on their policies and thus remains responsible for their activities. A State party cannot divest itself of its obligations under the Covenant by privatizing governmental functions. The Committee takes the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies constitute an institutionalized form of discrimination because these agencies by definition would deny the use of these properties to non-Jews. Thus, these practices constitute a breach of Israel's obligations under the Covenant.

12. The Committee notes with deep concern the situation of the Jahalin Bedouin families who were forcibly evicted from their ancestral lands to make way for the expansion of the Ma'aleh Adumim and Kedar settlements. The Committee deplores the manner in which the Government of Israel has housed these families - in steel container vans in a garbage dump in Abu Dis in subhuman living conditions. The Committee regrets that instead of providing assurances that this matter will be resolved, the State party has insisted that it can only be solved through litigation.

13. The Committee notes with concern that the Law of Return, which allows any Jew from anywhere in the world to immigrate and thereby virtually automatically enjoy residence and obtain citizenship in Israel, discriminates against Palestinians in the diaspora upon whom the Government of Israel has imposed restrictive requirements which make it almost impossible to return to their land of birth.

Employment

14. The Committee notes with concern the rapid growth of unemployment in Israel as a result of which more and more workers are employed in low-paying part-time work where they have little or no legal protection.

15. The Committee notes with regret that more than 72 per cent of persons with disabilities are unemployed. The new Law of Equality for People with Disabilities 1998 has not set any quota for the employment of such persons.

16. The Committee is alarmed that only half of the workers entitled to the minimum wage actually get it, and that foreign workers, Palestinians and "manpower contractor" workers are particularly vulnerable in this regard.

Closure

17. The Committee regrets that the Government of Israel has maintained "general closures" continuously since 1993, thereby restricting and controlling the movement of people and goods between Israel and the West Bank and the Gaza Strip, between Jerusalem and the West Bank and between the West Bank and the Gaza Strip. The Committee notes with concern that these restrictions apply only to Palestinians and not to Jewish Israeli citizens. The Committee is of the view that closures have cut off Palestinians from their own land and resources, resulting in widespread violations of their economic, social and cultural rights, including in particular those contained in article 1 (2) of the Covenant.

18. The Committee notes with grave concern the severe consequences of closure on the Palestinian population. Closures have prevented access to health care, first and foremost during medical emergencies, which at times have tragically ended in death at checkpoints and elsewhere. Workers from the occupied territories are prevented from reaching their workplaces, depriving them of income and livelihood and the enjoyment of their rights under the Covenant. Poverty and lack of food aggravated by closures particularly affect children, pregnant women and the elderly who are most vulnerable to malnutrition.

19. The Committee is concerned at the forcible separation of Palestinian families because of closures and the refusal of Israeli authorities to allow students in Gaza to return to their universities in the West Bank.

Permanent residency law

20. The Committee expresses its concern at the effect of the directive of the Ministry of the Interior, according to which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their "centre of life" for the past seven years. The Committee also regrets a serious lack of transparency in the application of the directive, as indicated by numerous reports. The Committee notes with concern that this policy is being applied retroactively both to Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. This system has resulted in, inter alia, the separation of Arab families and the denial of their right to social services and health care, including maternity care for Arab women, which are privileges linked to residency status in Jerusalem. The Committee is deeply concerned that the implementation of a quota system for the reunification of Palestinian families affected by this residency law involves long delays and does not meet the needs of all divided families. Similarly, the granting of residency status is often a long process and, as a result, many children are separated from at least one of their parents and spouses are not able to live together.

Land use and housing

21. The Committee is deeply concerned about the adverse impact of the growing exclusion faced by Palestinians in East Jerusalem from the enjoyment of their economic, social and cultural rights. The Committee is also concerned over the continued Israeli policies of building settlements to expand the boundaries of East Jerusalem and of transferring Jewish residents into East Jerusalem with the result that they now outnumber the Palestinian residents.

22. The Committee deplores the continuing practices of the Government of Israel of home demolitions, land confiscations and restrictions on family reunification and residency rights, and its adoption of policies which result in substandard housing and living conditions, including extreme overcrowding and lack of services, of Palestinians in East Jerusalem, in particular in the old city.

23. The Committee notes with concern the situation of Arab neighbourhoods in mixed cities such as Jaffa and Lod which have deteriorated into virtual slums because of Israel's excessively restrictive system of granting government permits without which it is illegal to undertake any kind of structural repair or renovation.

24. The Committee notes that despite State party's obligation under article 11 of the Covenant, the Government of Israel continues to expropriate Palestinian lands and resources for the expansion of Israeli settlements. Thousands of dunams (hectares) of land in the West Bank have recently been confiscated to build 20 new bypass roads which cut West Bank towns off from outlying villages and farmlands. The consequence - if not the motivation - is the fragmentation and isolation of the Palestinian communities and facilitation of the expansion of illegal settlements. The Committee also notes with concern that while the Government annually diverts millions of cubic metres of water from the West Bank's Eastern Aquifer Basin, the annual per capita consumption allocation for Palestinians is only 125 cubic metres while settlers are allocated 1,000 cubic metres per capita.

25. The Committee expresses its concern over the plight of an estimated 200,000 uprooted “present absentees”, Palestinian Arab citizens of Israel most of whom were forced to leave their villages during the 1948 war on the understanding that they would be allowed by the Government of Israel to return after the war. Although a few have been given back their property, the vast majority continue to be displaced and dispossessed within the State because their lands were confiscated and not returned to them.

Unrecognized villages

26. The Committee notes with deep concern that a significant proportion of Palestinian Arab citizens of Israel continue to live in unrecognized villages without access to water, electricity, sanitation and roads. Such an existence has caused extreme difficulties for the villagers in regard to their access to health care, education and employment opportunities. In addition, these villagers are continuously threatened with demolition of their home and confiscation of their land. The Committee regrets the inordinate delay in the

provision of essential services to even the few villages that have been recognized. In this connection, the Committee takes note that while Jewish settlements are constructed on a regular basis, no new Arab villages have been built in the Galilee.

27. The Committee regrets that the Regional Master Plan for the Northern District of Israel and the Plan for the Negev have projected a future where there is little place for Arab citizens of Israel whose needs arising from natural demographic growth are largely ignored.

28. The Committee expresses its grave concern about the situation of the Bedouin Palestinians settled in Israel. The number of Bedouins living below the poverty line, their living and housing conditions, their levels of malnutrition, unemployment and infant mortality are all significantly higher than the national averages. They have no access to water, electricity and sanitation and are subjected on a regular basis to land confiscations, house demolitions, fines for building “illegally”, destruction of agricultural fields and trees, and systematic harassment and persecution by the Green Patrol. The Committee notes in particular that the Government's policy of settling Bedouins in seven “townships” has caused high levels of unemployment and loss of livelihood.

Other concerns

29. The Committee notes with regret the large gaps within the Israeli educational system. Dropout rates are higher and eligibility for matriculation certificates is lower within certain segments of society: Arabs and Jews in poor neighbourhoods and in development towns, where many of the residents are Jews of Asian and African origin, including Ethiopian Jews. The Committee is particularly concerned about the gap in educational expenditure per capita for the Arab sector which is substantially less than for the Jewish sector.

30. The Committee notes with concern that the recently adopted Arrangements Law has the effect of eroding the principles of universality and equality set out in the National Health Insurance Law. The Arrangements Law imposes payments for medical services in addition to the health tax; a periodic health tax links the amount of tax required to the amount of health services needed, thereby increasing inequality in health care. In spite of assurances that the Knesset sets a cap on such taxes, the Committee is concerned that this provision does not conform to the Government's avowed commitment to an equitable health-care system.

31. The Committee notes with grave concern the high incidence of domestic violence against women which is estimated at 200,000 cases per year. The Committee is concerned about the situation of non-Jewish women who are reportedly worse off in terms of living conditions, health and education. The Committee is concerned at persistent reports that the Dimona nuclear plant could pose a serious threat to the right to health and to the environment unless urgent preventive measures are undertaken.

E. Suggestions and recommendations

32. The Committee requests the State party to provide additional information on the realization of economic, social and cultural rights in the occupied territories, in order to complete the State party's initial report and thereby ensure full compliance with its reporting obligations. Detailed information, including the latest statistical data, is also requested on the progressive realization of economic, social and cultural rights in East Jerusalem, keeping in mind the concerns raised by the Committee in the relevant paragraphs of these concluding observations. In addition, the Committee also requests updated information on the target dates for recognizing unrecognized villages and a plan for the delivery of basic services, including water, electricity, access roads, health care and primary education, to which the villagers are entitled as citizens of Israel. The Committee requests that the additional information also include an update of the Outline Plan of Ein Hod and on progress in the recognition of Arab El-Na'im, as well as an update on the Jahalin Bedouins who are presently camped in Abu Dis awaiting a court decision on their resettlement. The Committee requests the submission of the detailed additional information in this respect in time for the twenty-third session of the Committee in November-December 2000.

33. The Committee calls upon the State party to undertake the necessary steps to ensure the full legal application of the Covenant within the domestic legal order.

34. The Committee calls upon the State party to ensure equality of treatment of all Israeli citizens in relation to all Covenant rights.

35. The Committee urges the State party to review the status of its relationship with the World Zionist Organization/Jewish Agency and its subsidiaries, including the Jewish National Fund, with a view to remedying the problems identified in paragraph 11 above.

36. In order to ensure respect of article 1 (2) of the Covenant and to ensure equality of treatment and non-discrimination, the Committee strongly recommends a review of re-entry policies for Palestinians who wish to re-establish their domicile in their homeland, with a view to bringing such policies level with the Law of Return as applied to Jews.

37. The Committee calls upon the State party to take all necessary steps to reduce unemployment and to ensure proper enforcement of Israel's protective labour legislation, including assigning additional personnel to enforce such legislation. Special attention should be accorded to enforcing the Minimum Wage Law, the Equal Pay for Men and Women Law, and the Equal Opportunities in Employment Law.

38. The Committee calls upon the State party to complete the process of implementing the Law of Equality for People with Disabilities and to address the problem of accessibility to public buildings, including schools, and public transportation by persons with disabilities.

39. The Committee urges the State party to respect the right to self-determination as recognized in article 1 (2) of the Covenant, which provides that “in no way may a people be deprived of its own means of subsistence”. Closure restricts the movement of people and goods, cutting off access to external markets and to income derived from employment and livelihood. The Committee also calls upon the Government to give full effect to its obligations under the Covenant and, as a matter of the highest priority, to undertake to ensure safe passage at checkpoints for Palestinian medical staff and people seeking treatment, the unhampered flow of essential foodstuffs and supplies, the safe conduct of students and teachers to and from schools, and the reunification of families separated by closures.

40. The Committee calls upon the State party to reassess its Permanent Residency Law with a view to ensuring that its implementation does not result in impeding the enjoyment of economic, social and cultural rights by Palestinians in East Jerusalem. In particular, the Committee urges the State party to remove the quota system currently in place so that families separated by residency rules can be reunited without delay.

41. The Committee calls upon the State party to cease the practices of facilitating the building of illegal settlements and constructing bypass roads, expropriating land, water and resources, demolishing houses and arbitrary evictions. The Committee urges the State party immediately to take steps to respect and implement the right to an adequate standard of living, including housing, of the Palestinian residents of East Jerusalem and the Palestinian Arabs in the mixed cities. The Committee strongly recommends equal access to housing and settlement on State land for the “present absentees” who are citizens of Israel. The Committee recalls in this connection its General Comment No. 4.

42. The Committee urges the State party to recognize the existing Arab Bedouin villages, the land rights of the inhabitants and their right to basic services, including water.

43. The Committee calls upon the State party to undertake measures addressing the inequalities in the educational system at the secondary and university levels, particularly in terms of budget allocations. The Committee recommends that a study be made of the viability of establishing an Arab university within Israel for the purpose of ensuring equal opportunities and access to higher education in the respective official languages.

44. The Committee urges the State party to adopt effective measures to combat domestic violence against women and to promote equal treatment of women in the field of employment, including in the Government and in education and health.

45. The Committee requests the State party to ensure the wide dissemination in Israel of these concluding observations.

46. The Committee reiterates that the additional information requested in these concluding observations should be submitted in time for the twenty-third session of the Committee in November-December 2000.

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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Additional information submitted by States parties to the Covenant following the consideration of their reports by the Committee on Economic, Social and Cultural Rights

Addendum

ISRAEL*

[20 April 2001]

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* At its 31st, 32nd and 33rd meetings held on 17 and 18 November 1998 (E/C.12/1998/SR.31, 32 and 33), the Committee considered the initial report of Israel on the rights referred to in articles 1 to 15 of the Covenant (E/1990/5/Add.39).

As requested by the Committee in its concluding observations (E/C.12/1/Add.27), the Government of Israel submitted additional information relating to the consideration of that report by the Committee, which is reproduced in the present document.

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Introduction

1. This document includes:

(a) Additional information requested by the Committee on Economic, Social and Cultural Rights (hereinafter "The Committee") in its concluding observations (E/C.12/1/Add.27 of 4 December 1998, paragraph 32; hereinafter "concluding observations");

(b) Replies to the concluding observations of the Committee, based on the relevant parts of the State of Israel's second periodical report on the International Covenant on Economic, Social and Cultural Rights (ICESCR), due to be submitted to the Committee by 31 March 2001(hereinafter "the second report"). The data in the aforementioned report includes all available data up to August 2000.

I. ADDITIONAL INFORMATION

A. Applicability of the ICESCR to the West Bank and the Gaza Strip

2. In its concluding observations on Israel's initial report, the Committee questioned Israel's position regarding the applicability of the ICESCR to the West Bank and the Gaza Strip. Israel has consistently maintained that the Covenant does not apply to areas that are not subject to its sovereign territory and jurisdiction. This position is based on the well-established distinction between human rights and humanitarian law under international law. Accordingly, in Israel's view, the Committee's mandate cannot relate to events in the West Bank and the Gaza Strip, inasmuch as they are part and parcel of the context of armed conflict as distinct from a relationship of human rights.

3. Furthermore, pursuant to the Israeli-Palestinian Interim Agreement of 1995,[1] and the consequent documentation and undertakings of the Palestine Liberation Organization (PLO),[2] the overwhelming majority of powers and responsibilities in all civil spheres (including economic, social and cultural), as well as a variety of security issues, have been transferred to the Palestinian Council, which in any event is directly responsible and accountable vis-à-vis the entire Palestinian population of the West Bank and the Gaza Strip with regard to such issues. In light of this changing reality, and the jurisdiction of the Palestinian Council in these areas, Israel cannot be internationally responsible for ensuring the rights under the ICESCR in these areas.

4. The fact that the Palestinian Council does not represent a State does not, in itself, preclude its responsibility in the sphere of human rights protection. In fact, this is also evident under article XIX of the *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip*, according to which the Palestinians have taken it upon themselves to exercise their powers and responsibilities "with due regard to internationally accepted norms and principles of human rights and the rule of law". Similarly, under article II (C) (4) of the *Wye River Memorandum*, the Palestinian Police is obliged "to exercise its powers and responsibilities with due regard to internationally accepted norms of human rights and the rule of law, and be guided by the need to protect the public, respect human dignity and avoid harassment".

5. In this respect, it should be noted that without prejudice to its basic position, Israel has been willing - and, in fact, has done so in the context of its oral presentation of its initial report - to cooperate with the Committee and provide relevant information to the extent possible, with regard to the exercise of those powers and responsibilities, which according to the agreements reached with the Palestinians, continue to be exercised by Israel in the West Bank and the Gaza Strip.

B. The population in the eastern neighbourhoods of Jerusalem

6. The Committee showed particular concern for the realization of economic, social and cultural rights by Arab residents in the eastern neighbourhoods of Jerusalem. This warrants some comment in light of the historical, cultural and demographic background.

7. In the light of some 3,000 years of history, it is somewhat unusual that the distinction between the eastern and western areas of Jerusalem is based solely on the 19-year period between 1948 and 1967, when Jerusalem was divided. From 1948 to 1967, eastern Jerusalem was a cluster of villages with a rural character and was never developed. Since 1967, eastern Jerusalem has developed into a modern urban environment. Western Jerusalem, on the other hand, was throughout the period a modern capital city, whose neighbourhoods had developed since 1914 according to urban plans based on the city's special topography. Thus, in 1967, at the reunification of Jerusalem, significant gaps in urban development existed between the eastern and western parts of Jerusalem.

8. The villages located in the eastern sector of the city developed from family settlements, and the tendency was for small parcels of land to be owned by a variety of private landlords. Land registration was not systematic or up to date, and thus ownership is unclear and there are many instances of more than one claim to ownership of the same parcel of land. Urban planning is based on land ownership; redesigning and updating the registration system prior to preparation of urban plans involves extensive surveying, and this process is as yet incomplete.

9. As a result, there are many cases of inability to prove land ownership, or of two landlords claiming ownership of the same parcel of land. The municipality of Jerusalem has a policy of accepting affidavits regarding ownership from village Mukhtars or neighbours.

10. In these villages, private considerations traditionally take precedence over communal interests. Thus, projects such as road building, which the residents may want, are problematic as they involve taxation and land expropriation. In fact, residents of the eastern neighbourhoods of Jerusalem are not required to participate directly in the cost of developing or renewing the infrastructure of their neighbourhoods, while residents of western Jerusalem are obliged to make substantial contributions towards the costs of such projects.

11. In 1967, residents of the eastern neighbourhoods of Jerusalem used wells to obtain water. The reunification of Jerusalem necessitated the unification of all infrastructure systems. Accordingly effective water and sewage systems have now been set in place.

12. Natural increase in the population in the eastern neighbourhoods of Jerusalem has always exceeded the natural increase of the Jewish population. In 1967, the city's population consisted

of 197,000 Jews (74.2 per cent) and 68,000 Arabs (25.8 per cent). In 1999, the Jewish population of the city had grown to 429,000 (69 per cent of the population), while the Arab population had grown to 193,000 (31 per cent of the population).

13. The increase in the number of housing units built since 1967 corresponds to the proportions of the population - as do current plans to build 15,000 new housing units in the eastern neighbourhoods of Jerusalem and 35,000 in the Jewish sector.

14. The traditional rural buildings in the eastern neighbourhoods of Jerusalem consisted of detached homes for the extended family on privately owned land. This proved to be very land-consuming, in comparison with the apartment blocks which characterize Jewish neighbourhoods. In the Arab sector, there is an average of 11 people living in 1.9 housing units per dunam (approximately ¼ acre) of land, while in the Jewish sector the figure is 19 people living in 5.9 units per dunam of land.

15. Much of the public building in the western neighbourhoods of Jerusalem has been financed by private donations received from the Jewish Diaspora, whereas the Municipality of Jerusalem and the government finance public building in all parts of the city.

16. The Municipality of Jerusalem has given priority to a development programme for eastern neighbourhoods of Jerusalem, in coordination with the Government of Israel. The total sum required to bridge the gap is estimated at 520 million New Israeli Shekels (NIS). The Government allocated NIS 450 million for this purpose. The sum of NIS 60.1 million was allocated by the Government in 1999 especially for the development of the eastern neighbourhoods of Jerusalem.

17. Between 1997 and 1999 a number of important projects were completed in the eastern neighbourhoods of Jerusalem. This included the construction of roads (NIS 42 million), improvements to existing roads (NIS 40 million), water and sewage systems (NIS 40 million), community centres (NIS 10 million) and other projects (NIS 47 million) for a total of NIS 179 million.

18. Town plans are in the process of being prepared for all neighbourhoods of the city. Whereas in the Jewish neighbourhoods it takes an average of three years to establish such plans, in the eastern neighbourhoods of Jerusalem, the historical factors outlined above cause the process to take considerably longer.

19. In Jerusalem, the policy has been to plan development in cooperation with the residents of the eastern neighbourhoods; for example in Tsur Baher, near Har Homa, 400 units to be built on government land will be marketed by an Arab association. The area has been re-zoned to allow for more intensive construction: 75 per cent of the land may be built on, as opposed to the 50 per cent which had been originally allocated.

20. At A-Sawaneh, a camp for homeless people had been set up on land belonging to the WAKF (Moslem Charitable Endowment), where a special education school was planned. The WAKF tacitly cooperated with the Municipality in evicting the residents of the camp and gave the land to the school, which was built by the Municipality.

21. All building plans are subject to approval by the District Planning and Building Committee. The rate of application for building permits corresponds approximately with the percentages of the population. In the first half of 1999, approximately 20 per cent of the total number of applications were received from residents of the eastern neighbourhoods of Jerusalem. Of the total applications for building permits which were received, approximately 60 per cent of those submitted by residents of the eastern neighbourhoods were approved and approximately 67 per cent of those submitted by residents of western Jerusalem were approved. In western Jerusalem, building infringements almost invariably consist of illegal additions built onto a legal building, such as a room in a courtyard or an attic added in a roof space. In the eastern neighbourhoods of Jerusalem, they typically take the form of entire buildings illegally constructed without a permit. Thus, demolitions in the eastern part of Jerusalem are far more extensive than in the western part of the city.

22. With respect to the demolition of illegally constructed buildings, the policy of the Municipality of Jerusalem is to issue a demolition order where the construction of such illegally constructed buildings interferes with plans for public facilities, such as schools or roads, or with the city's historical heritage. The Interior Ministry also has the authority to demolish illegal buildings. During the past years, there has been a growing trend of constructing buildings in the eastern neighbourhoods of Jerusalem which have been constructed without a permit. In 1997 the total number of such illegal new buildings was 202, in 1998 it was 485 and in 1999 it was 554. Only a small number of demolition orders are actually carried out each year.

Figures for the period between 1 January 1999–30 June 1999

	The western neighbourhoods of Jerusalem	The eastern neighbourhoods of Jerusalem
Applications for Administrative Demolition orders	9 orders	50 orders
Administrative Demolition orders carried out	4 orders	11 orders

It should be stressed that all demolitions are conducted with due process and subject to judicial review.

C. "Unrecognized villages"

23. Please refer to section II.M.4 in the Replies below.

D. An outline plan for the delivery of basic services to unrecognized villages

24. The situation regarding delivery of basic services to unrecognized villages is described below in the section II.M.4. As stated there, an outline plan for the villages without basic services has been established in specific governmental decisions and actions.

E. Situation in Ein Hod and Arab El-Naim

25. This issue is addressed below in section II.M.4. The village Arab El-Naim will be recognized when its plans are completed and approved. With respect to Ein Hod, its building plans are completed and await approval. When these plans are approved, it will be possible to go forward with infrastructure plans (electricity, water, sewage and communication).

F. The Jahalin Bedouins

26. The Committee showed particular concern for the situation of the Jahalin Bedouin families. This is a nomad Bedouin tribe which has never had a permanent residence. After the city of Ma'ale Edomim was built, the Jahalin took up residence near the city, on land which had already been purchased by other people.

27. The Jahalin filed a complaint with Israel's Supreme Court in 1996. The Supreme Court rejected their claim for the land. The court determined that the Jahalin came to that site only after the city had been built.

28. The Government then sought to move the Jahalin families to another site approximately one kilometre away from the previous site. The new site is located near a main road and is near a Palestinian settlement, which can provide them with civic services.

29. Each family was given a plot of land, registered in its name. The Government conducted a land-development project, which included connecting the site with the electrical power grid and laying down water lines. The plans were approved, and it was decided not to collect the taxes and fees that each resident would usually have had to pay with the development plan. Despite the fact that the Jahalin families resided in tents, which they retained, they were also given steel containers in which they could put their belongings. They were also encouraged to build permanent housing. The Government also gave each family that voluntarily moved, a sum of money to assist it during the interim period. These arrangements were agreed upon in the context of a settlement reached following a second petition by the Jahalin families to the Supreme Court, which was given force on 7 February 1999 (the full text of the settlement is enclosed herewith*). In sum, the living conditions of the Jahalin families have improved since their move to the new site.

II. REPLIES

30. The following paragraphs are replies to the Committee's "Principal subjects of concern" set out in the concluding observations (paras. 9-31).

A. Land and People (paragraph 8 of the concluding observations)

31. This issue is addressed in the Additional Information in section I.A above.

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* Available from the Secretariat.

B. Status of the Covenant (paragraph 9 of the concluding observations)

32. The draft Basic Law: Social Rights was discussed in the initial report. The Committee stated that its wording did not meet the requirements of Israel's obligations under the Covenant. The draft Basic Law: Social Rights is no longer pending in the Knesset. The future of such legislation is not clear. However, the rights protected by the Covenant are a part of the ongoing public debate in Israel and appear in regular curricula of law faculties. Moreover, economic, social and cultural rights are increasingly recognized as constitutional rights in Israeli jurisprudence. Further details will be submitted with Israel's second periodic report.

C. Equality for non-Jewish citizens (paragraph 10 of the concluding observations)

33. The Committee noted its concern that an excessive emphasis upon the Jewish character of the State may encourage discrimination. In this context, it is important to note a decision taken by the Government of Israel in October 2000 directly relating to this issue. This decision followed thorough preparatory work, involving most governmental agencies. The decision states in general that:

> "The Government of Israel regards itself as obligated to act to grant equal and fair conditions to Israeli Arabs in the socio-economic sphere, in particular in the areas of education, housing and employment.
>
> "The Government of Israel regards the socio-economic development of the Arab-sector communities of Israel as contributing toward the growth and development of all of Israel's society and economy.
>
> "The Government shall act for the socio-economic development and advancement of the Arab-sector communities and to reduce the gaps between the Arab and Jewish sectors …".

34. The gradual implementation of this decision has already begun, but its full realization still awaits the passage in the Knesset of the Annual Budget Law for 2001. This decision reflects the Government's appreciation that progress in closing the gaps between Jews and Arabs has not been satisfactory during the past years.

35. The full text of this decision and further details will be submitted in Israel's second periodic report.

36. Furthermore, during the years 1995-1999 there was a five-year programme of development in the Druze and Circassian sectors. This programme included a budget of NIS 1,070 million (approximately US$ 250 million), which was primarily directed to different objectives, such as sewage, water, roads, electricity, health, housing and others.

37. On 30 July 2000, the Government decided to embark on a programme for the year 2000. This programme gave assistance to 11 local authorities with high rates of unemployment and continuing difficult social-economic conditions. This programme focuses on public utilities, public institutions and infrastructure. Among these authorities are three which contain mixed

Jewish and Arab populations: Lod, Ramla and Acre (which were also mentioned in the concluding observations). In addition, there is also a large Bedouin village included in this programme - Tel Sheva. Further details on this issue will be addressed in Israel's second periodic report.

38. Regarding the status of the Arabic language, under directive number 21.556A of the Attorney-General, concerning the translation of official documents from Arabic, it is prohibited to demand that a citizen must translate into Hebrew an official document which is in the Arabic language, such as a marriage certificate, a divorce certificate, etc. as long as this certificate was issued by an authority which is recognized by the State of Israel. In addition, the Attorney-General's directive prescribes that the Government must make its legal forms available in both Hebrew and Arabic. Furthermore, under a specific directive issued by the Attorney-General to the Ministry of Transportation, new car licence plates may carry the name of the State of Israel in Arabic as well as in Hebrew. The aims of the new directive are to emphasize the official status of the Arabic language in Israel, as well as to increase consciousness to the needs of minorities in Israel.

39. In another directive, the Attorney-General has directed all legal advisers of the civil service that all public tenders are to be published in both an Arabic language newspaper and a Hebrew one, as well as to be made available on the Internet. The directive stresses that it is prohibited to distinguish between public tenders according to their relevance to the Arab sector. Furthermore, the duty to translate the public tenders into Arabic rests with the Government.

40. Further details on the status of the Arabic language will be addressed in Israel's second periodic report.

D. **"Institutional equality"** (paragraph 11 of the concluding observations)

41. Regarding the comment concerning "institutional discrimination", notice should be taken of a recent decision of Israel's Supreme Court in the case of A'dal Ka'adan. The court ruled that it is the duty of the State and of the Israel Land Commission to give equal treatment for all in respect of land use (HCJ 6698/95 A'dal Ka'adan v. The Israel Lands Administration). The petitioners in this case were an Arab couple wishing to build a home in Katzir, a communal settlement in the Eron River region in the north of Israel. The Jewish Agency, in collaboration with the Katzir Cooperative Society, established this settlement in 1982 on State land that had been allocated to the Jewish Agency (via the Israel Lands Administration) for that purpose.

42. The Katzir Cooperative Society only accepted Jewish members. As such, it refused to accept the petitioners and allow them to build their home in the communal settlement of Katzir. The petitioners claimed that the policy constituted discrimination on the basis of religion or nationality and that law with regard to State land prohibits such discrimination.

43. The Supreme Court ruled that land allocation must be on an equal basis, that allotting land for the sole use of Jews in that area was illegal, and that allotting land to the Jewish agency, when the Agency discriminates, is also illegal as it constitutes indirect discrimination. This ruling reinforced the principle of non-discrimination regarding land use, although it was limited to the particular facts of this case. The general issue of use of State lands for the purposes of

settlement raises a wide range of questions. First, the decision in the Ka'adan case was not directed at past allocations of State land. Second, it focused on the particular circumstances of the communal settlement of Katzir. In discussing this issue, the Court did not take a position with regard to other types of settlements (such as commune-based kibbutz or moshav).

E. The Jahalin Bedouins (paragraph 12 of the concluding observations)

44. Please refer to paragraphs 26-29 above.

F. The Law of Return (paragraph 13 of the concluding observations)

45. The Committee noted its concern over the discrimination it perceived in Israel's Law of Return. The Israeli Law of Return personifies the very essence of the State of Israel as a "Jewish and Democratic State". During the period from 1939 onwards, it should be recalled that the gates of Mandatory Palestine, and in fact, nearly all countries, were closed to Jewish immigration, thus contributing to the death of millions of Jews in Europe at the hands of Nazi Germany during the Second World War. In the aftermath of the horrors of the War, and following the establishment of the State of Israel, Israel's founders enacted the Law of Return to give formal expression to the three central tenets underlying the establishment of the State as the only homeland for the Jewish people. That is to say, the creation of a Jewish State in the land of Israel, the ingathering of the Jewish exiles, in particular after the unfolding horrors of the Holocaust, and the preservation of a strong bond between the State of Israel and other Jewish communities around the world.

46. The Law of Return of 1950 and the Nationality Law of 1952 provide a right for Jews to immigrate to Israel and to automatically acquire Israeli nationality. This privilege, granted as part of Israel's immigration policy, is clearly a domestic matter, subject to the sovereign discretion of the State. However, it should also be emphasized that non-Jews are not prevented from immigrating to Israel, nor are there any restrictions on any particular group. Non-Jews who wish to acquire Israeli citizenship may duly apply for such citizenship in accordance with Israel's Nationality Law.

47. In this respect, Israel is not different from most other States which, upon attaining their statehood, and in accordance with the principle of self-determination, granted preference for the purpose of obtaining nationality of that State to individuals with certain social, cultural, or ethnic links to the State.

48. The Committee suggested in its concluding observations that the Law of Return should be placed on an equal footing with a Palestinian claim for a right of return. Israel's position maintains that a clear distinction should be drawn between its Law of Return and any Palestinian claim to a right of return. Further, this subject is part of the outstanding issues under negotiations between Israel and the Palestinians.

G. Employment (paragraph 14 of the concluding observations)

49. The Committee noted its concern over the rapid growth of unemployment in Israel. In fact, most of the increase in unemployment since 1996 stems from a slowdown in economic

activity in Israel and from exposure to globalization. Furthermore, an expansion of economic activity beginning in the second quarter of 1999 was accompanied by a decline in the unemployment rate, which had increased from 1996 to 1999, while employment continued its moderate growth.

50. New immigrants, mainly from the former Soviet Union, continue to arrive in Israel, albeit at a slower pace on the average than in the earlier years of the decade. Between 1996 and 1999, Israel's labour force grew by close to 9 per cent, in good part due to the entry of new immigrants into the labour market.

51. During 1997 to 1999, employment increased relatively slowly compared to the five preceding years (2 per cent per year in 1997-1999 as compared to 4.9 per cent per year in 1991-1996). In the period 1997-1999, the rise in employment was particularly pronounced among new immigrants, averaging 9.5 per cent per year. Employment among the very young, aged 15-17, declined by 8 per cent and remained stable among those aged 18-24. Both of these developments reflected the long-term trends in these age groups towards extended education and army service, as well as the effects of the slower economic activity in those years.

52. With respect to unemployment, the highest rates continue to be found among young workers aged 15 through 24. Unemployment was also particularly high among Arabs and other non-Jewish population groups in Israel, as well as among residents of development areas and new immigrants.

53. As mentioned, unemployment has worsened since 1997. Rising unemployment has necessitated a re-evaluation of employment and unemployment policies and measures. To the extent that data for 2000 are available, the trend seems to have been reversed during the year 2000.

54. Relatively small enterprises and enterprises whose products face competition from imports are particularly vulnerable to the slowdown in economic activity in Israel and from exposure to globalization, mentioned above. The employees of such firms are typically older workers and those with low education levels. It is almost certain that in some of these enterprises labour laws are not observed as they should be. Data show that during the past three years long-term unemployment has risen sharply, from 12 per cent to 16-17 per cent of the labour force.

55. Although data for the end of 1999 and the first half of 2000 indicate the possibility of sustained improvement in the employment situation in Israel, the significant rise in unemployment during 1997, 1998 and most of 1999 required the formulation and implementation of new employment policies and measures.

56. In recent years, there has been a growing awareness of the need for government intervention to assist the unemployed whose chances of returning to work would be hampered without such assistance. Various government ministries are involved in income-maintenance programmes and vocational training to help the unemployed.

57. Unemployment among **new immigrants** continues to be a problem. Unemployment among new immigrants rose steadily from 9.3 per cent in 1996 to 11.4 per cent in 1999. Such rates were substantially above the average for the economy as a whole in those years. From 1997 through 1999, the influx of new immigrants averaged 66,500 per year. The proportion of new immigrants in the labour force rose from 12 per cent in 1996 to 17 per cent in 1999.

58. Programmes to improve job opportunities for **new immigrants**, as well as the unemployed among **other groups** in the labour force, have included principally:

- streamlining of the public Employment Service activities to encourage employers to seek workers through the Employment Service and to improve the matching of job vacancies with job seekers;

- temporary employment programmes in the public sector;

- vocational training, retraining and on-the-job training.

59. Regarding unemployment among the **Bedouin** population, their rate of unemployment today is more than 20 per cent, as measured by generally accepted international definitions, compared to 8.3 per cent among the population as a whole. In recent years, the Government has undertaken projects to reduce the extent of unemployment among the Bedouin, including vocational training for adults and subsidized employment, particularly in areas related to tourism, such as in national parks and at archaeological sites.

60. With respect to unemployment among women, four authorities are presently actively engaged in Israel in promoting employment opportunities for **women**: the Authority for the Status of Women in the Prime Minister's Office; the Knesset Committee to Advance the Status of Women; the Unit for the Advancement and Integration of Women in the Civil Service Commission; and the Unit for Advancement of Women in the Ministry of Labour and Social Affairs.

61. With respect to women's advancement in government service, in 1999 the Unit for the Advancement and Integration of Women brought before the Civil Service Commissioner recommendations to require each government office to carry out a detailed investigation of women's advancement, to set specific goals on women's appointments for each government office, to include the subject of women's status in all educational activities undertaken by the Civil Service Commission and to promote changes in the State Service Law to make the Director-General of each government office directly responsible for implementing the Law in his or her office.

62. With regard to employment opportunities for women in Israel, the Authority for the Status of Women and the Knesset Committee on the Status of Women focused in 1999 and 2000 on the following areas: an initiative to train women soldiers in new military skills reserved in the past for men; an initiative to open new positions in the police force for policewomen with better

prospects of advancement and higher salaries; encouragement of Arab women to join the police force; and encouragement of Arab women to train as social workers in the Arab sector, which currently lacks sufficient social workers.

63. The public works programmes were addressed in Israel's initial report. These programmes have been continued since 1996 in an effort to find temporary solutions for the unemployed. The Government's interest in extending the scope of these projects should be noted, particularly among the long-term unemployed who have lost their skills and work habits. The Ministry of Labour and Social Affairs is developing programmes which combine vocational training and/or general education courses with employment on public works projects to increase the skills of such persons for the long term. Ministry of Labour and Social Affairs data indicate that in 1997, an average of 870 unemployed were working an average of about 18 days per month. This rose in 1998 to 1,280 persons working 17 days per month and, in 1999, to approximately 1,700 persons employed 17 days a month.

64. Further details regarding various employment issues will be addressed in Israel's second periodic report.

H. **Employment of persons with disabilities** (paragraph 15 of the concluding observations)

65. Regarding the employment situation of persons with disabilities, unfortunately the unemployment rates for such persons are relatively high. In a survey conducted by the Service for the Blind of the Ministry of Labour and Social Affairs, it was found that the rate of unemployment of blind persons was 72 per cent (March 1997). The estimate of the Rehabilitation Department of the Ministry of Labour and Social Affairs with respect to the rate of unemployment among persons with severe disabilities, physical illness, mental illnesses and retardation is 70-75 per cent. In a needs survey (1992), unemployment levels among deaf people aged 30-64 were found to be at 18-22 per cent. Moreover, experts in this field have indicated professional flaws in the policies of employment rehabilitation of people with disabilities. In particular, they have indicated that there was insufficient referral towards the free market, as opposed to the segregated employment frameworks which fail to utilize the qualifications and personal employment potential of such employees.

66. Persons with disabilities also earn relatively low wages: the Minimum Wage Law, 5747-1987 does not apply to protected enterprises and employees. Section 17 (a) of the Law authorizes the Minister of Labour and Social Affairs to prescribe in Regulations that the provisions of the Law will apply with respect to employees who have physical, mental or intellectual handicaps and are employed in protected enterprises in which the State Treasury participates in their budget. The Minister has not yet enacted such Regulations. In 1997, the Minimum Wage Law was amended (sect. 17 (b)) and the Minister was authorized to prescribe in regulations a reduced minimum wage for persons with disabilities employed in the free market. The regulations have yet to be enacted. (Draft regulations were recently circulated for the comments of the pertinent government ministries and public organizations.)

67. The **Equal Rights for People with Disabilities Law, 1998** regulates the right of people with disabilities to employment equality. Section 8 of the Law prohibits discrimination in employment on the grounds of disability and includes an obligation to make reasonable adjustments. Pursuant to the Law, the Minister of Labour and Social Affairs and the Minister of Finance are charged with the enactment of regulations to determine State participation in financing the adjustments. Such regulations have not yet been enacted. Section 9 of the Law prescribes, as a transitional provision for seven years, the duty of a person who employs in excess of 25 employees to ensure a fair representation of persons with disabilities. In addition, section 28 of the Law contains an indirect amendment of the State Service (Appointments) Law, 5719-1959 with respect to the duty of fair representation of persons with disabilities in the State Service. Section 16 of the Law prescribes that the Minister of Labour and Social Affairs shall initiate and develop programmes for employment rehabilitation of people with disabilities and that he shall submit a report each year on this matter to the Labour, Social Welfare and Health Committee of the Knesset. As of the present time, no such report has been submitted to the Knesset. Draft regulations regarding granting priority to persons with disabilities to receive parking spaces at workplaces was recently submitted by the Minister of Labour and Social Affairs to the Labour, Social Welfare and Health Committee of the Knesset, and a meeting was convened for the approval thereof.

68. Last year the Bar Association (Examination Arrangements in the Laws of the State of Israel and Practical Matters) Rules, 5723-1962 were amended, providing as follows:

> "(a) With respect to a written examination under Rule 18B, the examining committee, at the request of an examinee who is a person with a disability, within the meaning in the Equal Rights for People with Disabilities Law, 5758-1998, may determine for such person appropriate modifications on account of such disability which shall ensure that he or she will be examined under conditions which are equal, as far as possible, to those of the other examinees."

69. Altogether, the above-mentioned demonstrates that Israel is making an effort to decrease the unemployment rates among people with disabilities.

I. **Minimum Wage** (paragraph 16 of the concluding observations)

70. The Committee was concerned that only half of the workers who are entitled to minimum wage actually received it. The reliability of such data is now known to be problematic, due to difficulties in determining the number of workers who are in fact entitled to minimum wage. According to a recent study conducted by the Ministry of Labour and Social Affairs, the percentage of workers who do not receive the legal minimum wage (per hour) is about 5.5 per cent of **the whole working population**.

71. The **Minimum Wage Law, 1987** was revised and strengthened in 1997. This Law is enforced by the Enforcement Division of the Ministry of Labour and Social Affairs. The Ministry's inspectors regularly conduct on-site inspections at workplaces throughout the country. Employers who violate this law are fined or, in rare cases, prosecuted, and are required to pay workers the differences between the actual wages paid and the statutory wages, in accordance with the Law.

72. Enforcement covers all workers: adult Israelis, teenage workers, Palestinian workers, foreign workers and workers hired by manpower contractors. The last three groups were of special concern to the Committee.

Minimum Wage Law Enforcement Report (1996)

With findings

Date	Male workers					Female workers					Total	Total No. of employers (cases)
	Foreigner	Jew	Arab	Jewish youth	Arab youth	Foreigner	Jew	Arab	Jewish youth	Arab youth		
1996	1 096	916	781	63	37	66	1 654	890	39	127	5 669	284
Summer raids				32					37	1	70	27
Total	1 096	916	781	95	37	66	1 654	890	76	128	5 739	311

Without findings

Date	Male workers					Female workers					Total	Total No. of employers (cases)
	Foreigner	Jew	Arab	Jewish youth	Arab youth	Foreigner	Jew	Arab	Jewish youth	Arab youth		
1996	3 096	13 775	2 713	311	103	420	18 874	2 077	405	151	41 925	331
Summer raids		32		371	1		25		350	18	797	30
Total	3 096	13 807	2 713	682	104	420	18 899	2 077	755	169	42 722	361

Minimum wage violation compensations

Sector	No. of female workers	Total in NIS	No. of male workers	Total in NIS
Jewish	789	159 337	520	114 158
Arab	1 005	170 321	318	87 188
Jewish youth	36	3 951	58	6 981
Arab youth	85	23 586	61	7 354
Foreigners			371	881 710
Total	1 915	357 196	1 328	1 100 224
Cumulative total	3 243 workers received 1 457 421 NIS			

Source: Ministry of Labour and Social Affairs.

Minimum Wage Law Enforcement Report (1997)

With findings

Date	Male workers					Female workers					Total	Total No. of employers (cases)
	Foreigner	Jew	Arab	Jewish youth	Arab youth	Foreigner	Jew	Arab	Jewish youth	Arab youth		
1997	1 609	631	45	32	9	160	698	178	27	8	3 397	358

Without findings

Date	Male workers					Female workers					Total	Total No. of employers (cases)
	Foreigner	Jew	Arab	Jewish youth	Arab youth	Foreigner	Jew	Arab	Jewish youth	Arab youth		
1997	856	19 430	2 389	614	131	143	16 966	1 159	386	84	42 208	346

Minimum wage violation compensations

Sector	No. of female workers	Total in NIS	No. of male workers	Total in NIS
Jewish	589	124 190	604	93 625
Arab	136	33 877	63	17 016
Jewish youth	34	9 928	23	5 779
Arab youth	3	946	1	218
Foreigners	-	-	1 195	3 063 471
Total	762	168 943	1 886	3 180 110
Cumulative total	2 648 workers received 3 349 053 NIS			

Source: Ministry of Labour and Social Affairs.

73. The last years show an increasing enforcement activity:

Inspections, violations and compensation 1998-1999

	1998	1999
Workplaces inspected	2 560	6 500
No. of workers at inspected sites	17 780	36 000
Men	11 316	27 000
Women	6 464	9 000
No. of violations of the law	3 884	1 981
Men	3 159	1 720
Women	725	261
Compensation (back pay) by employers	NIS 6.2 million	NIS 4.7 million
Men	NIS 5.7 million	NIS 4.5 million
Women	NIS 0.5 million	NIS 0.2 million

Source: Ministry of Labour and Social Affairs.

74. In 2000, the policy concerning the enforcement of the minimum wage (described in Israel's initial report) was revised. From now on, an extended effort will be made to take legal action against employers violating the law, seeking compensation by the employer for the workers - especially in serious cases. However, the success of this policy depends on adequate means being allocated to the Ministry in the 2001 budget.

75. Among foreign workers, it is estimated that a higher percentage of workers do not receive the legal minimum wage (per hour of work). It is for this reason that much of the enforcement efforts are being directed to this part of the labour market.

J. **"Manpower Contractors"** (last part of paragraph 16 of the concluding observations)

76. The case of "manpower contractors", which was of particular concern to the Committee, was recently addressed by the Knesset. Responding to such concerns, the Minister of Labour and Social Affairs initiated a draft bill in 1999 aimed at radically reforming the existing law. While the Government was still discussing this proposal, a private Knesset member succeeded in passing a private member's bill. As a result, the law was radically amended in 2000.

77. This amendment limits the use of workers through such contractors to a maximum of nine months, plus six additional months by special permit of the Minister of Labour and Social Affairs. It also stipulates that a contract worker posted in the same user enterprise over the said time limit will automatically be considered as the user enterprise's employee. Additionally, a contract worker is entitled, from his first day at the user enterprise, to the same rights enjoyed by the user enterprise's employees of similar occupation and seniority at the workplace.

78. This amendment was due to have taken effect in January 2001. It constitutes a major reform, affecting about 6 per cent of the salaried workers in Israel. Thus, a period of time was required before its entry into force. However, even this period now seems insufficient, at least for the public sector. The amendment necessitates a reconsideration of the form of employment of thousands of contract workers posted in the public sector. Thus, the Government has requested the Knesset to postpone the entry into force of this amendment until January 2002, in order to complete its reorganization. This request is still pending in the Knesset, within the legislative drafts accompanying the passage of the annual governmental budgets.

79. In addition, the Minister of Labour and Social Affairs has used his enforcement powers against many employment agencies, when complaints and inquiries have shown infractions of the law, including the legal obligations of an agency as an employer. Such administrative activities have produced in one or more of the following results:

(a) Reimbursement by the agency of sums due to its employees;

(b) Limiting the scope of an agency's activities until fulfilment of certain conditions;

(c) Appointing an accountant to verify compliance by an agency of certain fiscal conditions;

(d) Penal indictment, mainly to enforce the prohibition against operating an agency without a permit;

(e) Cancellation of a permit.

80. Finally, it should be noted that the number of authorized employment agencies in Israel has now reached 300. It is noteworthy that more than 100 agencies which were operating before the entry in force of the law in 1996 have ceased to operate following its implementation.

K. Closures (paragraphs 17-19 of the concluding observations)

81. From 1998 through September 2000 (the last relevant date for the requested additional information), there were only five closures per year. Most of these were on non-working days in Israel. In the year 2000, up until September, only two days of closure were enforced. These closures were coordinated with the Palestinian Authority. Prior to September 2000 - the date of the current outbreak of violence in the West Bank and the Gaza Strip - closures were not an issue that affected the daily life of the Palestinian population.

82. Prior to September 2000, any person with a job who satisfied certain criteria received a permit to enter Israel to work. This included being married, being over 21 years old, having children and no previous involvement in criminal activities.

L. Permanent residency (paragraph 20 of the concluding observations)

83. A significant change has occurred on this subject since the Committee's comment. On 31 October 1999, the criteria pertaining to the loss of residency changed, following a petition to Israel's Supreme Court, in the case of The Centre for the Protection of the Individual v. The Minister of the Interior (HCJ 2227/98). This case is still pending before the Court. The original criteria had determined that any resident who moves his or her centre of life outside of Israel for seven years or more would lose his residency. Under the new policy, this rule is not applied to a person who maintains a "proper link" to Israel during the said period. Furthermore, persons who have lost their permanent residence status since 1995 may now regain it: persons who visited Israel since leaving the country and who have lived here for two years will be viewed as having received a new permanent residence permit since their arrival. Whoever lost his or her permanent residency status without notice from the Ministry of the Interior will be viewed as having a permanent residence permit if he or she visited Israel during the time that his or her Leaving Card is valid. These new criteria are more lenient. They were enacted to minimize the retroactive aspect of this directive and to increase the transparency of this process. (The Committee had been concerned about both of these issues.)

84. The Committee further expressed concern with the process of family reunification for foreign spouses. This process is a gradual process, which lasts approximately five years from the day of the request. During the waiting period the spouse receives visiting visas and temporary residency licences, so that he or she can work and live in Israel.

85. The probation period test has three criteria: (a) whether the spouse is indeed a genuine spouse; (b) whether the spouse is not a risk to the security of Israel or to public safety; and (c) whether the spouse's centre of life is in Israel. At the end of this process the spouse receives a permanent residency license.

86. Since 1990, there have been approximately 10,000 reunification applications in the eastern neighbourhoods of Jerusalem, most of which were received between the years 1994 and 1995. Due to lack of manpower, combined with the high number of applicants, the length of time that it took to complete the process increased. In 1999, the Interior Ministry increased the number of personnel dealing with these requests, creating a special team for this purpose. Since then the length of time needed to complete this process has decreased, and the whole process became more efficient. As of now, all requests filed up to the year 2000 have been dealt with. During 2001 it should be possible to give immediate response to each application. However, a final response may still take months, since the process is a complicated one.

87. Of the 10,000 applications, 6,000 are in various stages of the process. Most of the applicants have received visiting and residency permits, and live in Israel with their spouses. Seven hundred applicants have completed the process to receive a permanent residency permit and are now permanent residents. The remainder have received a negative answer to their application. Negative answers are due to failure to meet the various criteria: sincerity of marriage, that the spouse's centre of life is in Israel, or a criminal or security problem.

88. Israel's Supreme Court, in its decision in HCJ 3648/97 Stamka v. The Minister of Internal Affairs, ruled that there must be equality in the status of spouses of Jewish and non-Jewish Israeli citizens concerning the acquisition of Israeli citizenship by marriage. This was done by upholding a change in the Ministry of the Interior's policy, which no longer favours Jewish citizens by automatically granting citizenship to their foreign national-spouses. The Supreme Court held that section 4 (a) of the Law of Return should apply solely to the spouses of new Jewish immigrants, and not to those of Israeli Jewish citizens, regardless of their ethnic origin.

M. Land use and housing

1. Eastern neighbourhoods of Jerusalem (paragraphs 21-22 of the concluding observations)

89. See section I.B in the Additional Information above.

2. Arab neighbourhoods in cities with mixed Jewish and Arab populations (paragraph 23 of the concluding observations)

90. The situation in cities with mixed Jewish and Arab populations, such as Jaffa and Lod, was of concern to the Committee. This situation has been addressed by two Government decisions, already mentioned. In one decision, on 30 January 2000, the Government decided to embark on a programme for the year 2000. This programme gives assistance to 11 local authorities with high rates of unemployment and continuing difficult social-economic conditions.

The programme focuses on public utilities, public institutions and infrastructure. Among these authorities are three municipalities with mixed Jewish and Arab populations: Lod, Ramla and Acre. Further details on this issue will be submitted in Israel's second periodic report.

3. Israeli settlements in the West Bank and the Gaza Strip
(paragraph 24 of the concluding observations)

91. Please refer to Israel's position on the applicability of the Covenant in this regard as set out in section I.A of the Additional Information above.

4. The Bedouin unrecognized villages - provision of basic utilities and status (paragraphs 26 and 28 of the concluding observations)

Provision of basic utilities

92. A recent budget proposal for the years 2001-2004 requests the allocation of NIS 1,195,050,000, based on a four-year plan, for the completion of development and infrastructure in the existing Bedouin towns. This is a significant sum, which is to be used to complete the infrastructure in existing Bedouin settlements to construct water and sewage infrastructure where it is incomplete and for the establishment of public facilities such as schools, clinics, etc.

93. The total funds allocated to the Bedouin sector within Israel's budget for the year 2000 were increased threefold in comparison to the period of Israel's initial report.

94. Water is allocated to the Bedouin community living in illegally constructed villages through the "Water Connections Allocation Committee". Within the last three years, the total number of connections to the water main lines has increased from 60 connections to 260 connections. Except for 50,000 of the Bedouin population, all of the unrecognized villages have a connection to water services. The 50 per cent of the Bedouin population who live outside the recognized settlements are allowed to tap into the National Water Carrier system at designated sites in order to bring drinking water to their homes.

95. The establishment of a sewage system is under the authority of the local municipalities. The minority local municipalities receive generous loans for this purpose which exceed those furnished to Jewish local municipalities.

96. The Israeli Government seeks to establish six new "Service Centres" for the Bedouins living in the Negev. When completed, these centres will contain facilities for various service providers, ranging from educational facilities, religious centres and health centres to shopping and industrial facilities. It is planned that these centres will be built outside of existing towns, with the purpose of serving as a basis for new Bedouin towns.

97. Since Israel's initial report, new industry and trade centres have been built in Hura, Segev Shalom and Aroer.

98. Electricity. Until 1996, most unrecognized villages could not be connected to electricity as a result of section 157A of the Planning and Building Law which prohibited the connection to the electricity grid of illegally built buildings (i.e. buildings not having received building permits or which deviated from the terms of such permits). This section was introduced to provide an effective sanction against the disregard by builders of planning regulations. The provision, which also prohibits hook-up of water and telephones, applies equally to the entire population. However, the Knesset decided to mitigate the effect of the section on the Bedouin unrecognized villages and passed a special law (The Supply of Electricity (Special Provisions) Law, 1996) allowing the connection of illegally constructed buildings in a large number of Bedouin villages to the electricity grid, provided that there was no outstanding court order to demolish the building and that it was built prior to Section 157A coming into force (1987). The special law should facilitate the connection of approximately 10,000 buildings to the electricity grid. To date 4,000 buildings, mostly in unrecognized villages, have been approved for connection.

99. Health. Since Israel's initial report, five additional Health Fund medical clinics (Kupat Holim) were built to provide for the needs of Bedouin living outside the Bedouin towns, raising the total of such clinics to seven. In addition, five new Mother and Child Health Clinics (Tipat Halav) have recently been built in Bedouin towns.

100. The infant mortality rate of Bedouin in the Negev is 13 per 1,000 population. Of these, 5.8 per 1,000 die of congenital malformations and inherited diseases, more than double the average national rate. This is due to a very high rate of first cousin-marriages (above 45 per cent) and second-cousin marriages (above 10 per cent) in this population. For the past six years, the Ministry of Health has been funding a programme aiming at reducing infant mortality, through a multiphase, multidisciplinary programme. This programme has been designed in concert with the Bedouin population to be culturally appropriate and culturally sensitive.

101. Education. Regarding education, it should be emphasized that pupils in unrecognized villages are entitled to the same level of education as all other pupils in Israel. However, it is not possible to build elementary and high schools in every village, whether recognized or not. Thus, 11 per cent of the pupils in Israel (Jews and non-Jews) study at regional schools that serve rural localities. Thus, it is not uncommon that even *recognized* localities do not have their own local schools.

102. Pupils in the non-Jewish sector who reside in localities that have no recognized municipal status attend schools in recognized localities. However, there are logistic difficulties in providing access to schools for pupils from unrecognized villages, since schools are built in accordance with approved zoning plans to meet primarily the needs of the recognized settlements. However, in any case, transportation services to schools are provided by the State for most pupils in unrecognized villages.

103. Furthermore, the special situation of pupils from unrecognized villages is given consideration by the education authorities. The education system allocates extra resources (primarily study hours) to schools whose pupils suffer from environmentally caused academic disadvantages. A special index is used to determine the eligibility of schools to receive such additional resources and one of the criteria of this index in the non-Jewish sector is the inclusion

of pupils from unrecognized villages. In other words, the higher the percentage of pupils who come from families that reside in unrecognized villages, the more resources are allocated to the school. Thus, schools with pupils from unrecognized villages receive additional teaching hours which enable them to deal with the specific problems of this population (most notably, poor domestic complementary studying conditions).

104. All the Bedouin pupils study in 53 primary schools and 10 secondary schools. In the unrecognized settlements there are 15 primary schools and 80 kindergartens for children from the age of three.

105. The education system in the Bedouin sector faces many difficulties that are partially due to the unique Bedouin style of life in a plethora of unplanned settlements and to their culture:

(a) Girls drop out of school at a young age because they get married or due to cultural traditions;

(b) Boys leave the education system early to enter the work force;

(c) Polygamy (up to 4-5 wives per man) raises the birth rate (5 per cent per year), causes irreparable psychological damage to children, as well as unemployment, neglected and destroyed homes, low educational achievements, etc.;

(d) Many Bedouin pupils prefer to receive a certificate at the end of 12 years of education, instead of a matriculation certificate.

106. Nevertheless, in recent years there has been a remarkable improvement in the situation of the Bedouin education system:

(a) The number of pupils, and especially female pupils, is continually increasing. This means that the phenomenon of dropping out of the school system is continually decreasing;

(b) The educational achievements in primary education have improved during the last two years due to an intensive programme of pedagogical intervention;

(c) A retired Jewish principal has been assigned to every school principal to provide guidance both in the area of education and in management;

(d) A computerized centre has been established to reduce the phenomenon of school drop-outs. There is a computerized follow-up of pupils at risk and much effort is being invested in bringing them back to their studies;

(e) Ben-Gurion University and the Kaye College have strengthened the teaching forces in the secondary education system in order to increase the number of pupils who receive matriculation certificates. Over the last three years the number of pupils receiving matriculation certificates has constantly increased, from 10 per cent to 32 per cent;

(f) The number of Bedouin teachers in the system continues to increase. Today they make up 60 per cent of all the teachers in the Bedouin educational sector system in contrast to four years ago when they comprised only 40 per cent of the teachers.

Comparative statistics, by year, in the Bedouin educational sector

Number of pupils

Year	Pupils
1998	40 006
1999	43 741
2000	47 253

Number of teachers

Year	Teachers
1998	1 721
1999	1 881
2000	2 150

Matriculation certificates

Year	Percentage of pupils receiving matriculation certificates
1998	15%
1999	29%
2000	30%

107. Right to plant. The Government is not aware of any policy which denies landowners the right to plant fruits and vegetables. It may be the case that such restrictions are imposed on illegal occupiers of land.

Planning

108. A few preliminary points should be noted. There have been no expropriations of Bedouin land since 1989, aside from expropriation for the purpose of road or railroad construction. The last expropriation, which occurred in 1989, was done for the purpose of building a new Bedouin town.

109. The information received by the Committee regarding *ownership claims on Bedouin lands* is inaccurate. The Land Settlements Department was not established to address Bedouin land claims, but was established by the British Mandatory government in the 1930s to deal with various land claims in the absence of legally registered rights in Mandatory Palestine. Since

then, the Department has addressed title claims involving all sectors of the population in Israel, including, inter alia, Bedouin claims. Legal title must be proven before the Department in accordance with the rules laid down by law, and the Department has little, if any discretion in the matter. It can neither grant title where none has been proven, nor revoke title where it has been established.

110. Bedouin land claims are dealt with by the Department in the same manner in which all such claims are treated. Near the end of 1998, 3,274 such claims were presented by Bedouins claiming a total of 730,000 dunams. The Land Rights Settlement Ordinance [New Version], 1969 authorizes the Department to admit land claims if proof of registered ownership or uninterrupted possession is provided. However, in many cases Bedouin claims are not supported by proper documentation establishing ownership. Furthermore, Bedouin land title claims are often exorbitant, and cover huge areas of land through which they moved during the years, without maintaining continuous possession. Thus, most claims do not satisfy the legal requirements provided in the law.

111. Nonetheless, in an attempt to come up with pragmatic solutions, the Government has decided to approve financial settlement with the Bedouins. In 168 cases, a settlement has been reached and in 527 other cases the Government has expropriated the land in question and is negotiating a financial settlement (to date, compensation has already been paid for 46,000 dunams of the 75,000 taken). The Department is negotiating a settlement for the remaining 2,500 land claims raised by the Bedouins, covering an area of 550,000 dunams.

112. Finally, hardly any of the illegal Bedouin houses in the Negev have been demolished within the last two years. According to recent estimates, there are currently over 60,000 illegal houses in the Negev.

Planning - the Bedouin sector in the north

113. In 1998, the Government decided to embark upon a five-year programme to develop the Bedouin settlements in the north. The budget for this programme should be NIS 615 million (approximately US$ 154 million), from 1999 to 2003. This programme encompasses many subjects, including developing new neighbourhoods, building public institutions, building roads, sewage, industrial areas, improving the education system, building social services institutions and more. This programme has been in progress since 1999, although it has not been fully implemented in every area, because of administration problems.

114. The following table provides information concerning several prior decisions to give a legal municipal status to several “unrecognized villages”. These villages are currently in different stages of the process for approving the plans. Settlements with approved plans may go forward with infrastructure plans (electricity, water, sewage and communication). These settlements are:

	North District	Haifa District
Plans in planning stages	1. Sawaid Hamira 2. Arab El-Naim	
Plans in approval stages	1. Hussnia 2. Ras El-Ein	1. Ein Hod
Plans approved	1. Dmeira 2. Kamane	1. Hawaled 2. El Arian

115. As can be seen in the above table, the village of Arab El-Naim will be recognized after its plans are completed and approved. Ein Hod's building plans are completed and await approval (both these settlements were of special concern to the Committee).

Planning - the Bedouin sector in the south

116. There are now, according to estimates, more than 120,000 Bedouins living in the Negev desert area, in the south of Israel, with a yearly population growth rate of about 5.8 per cent .

117. In 1999, the Government decided on the establishment of up to five new Bedouin towns. Under a special new arrangement made for the compensation of Bedouins moving into towns or recognized villages, Bedouins shall not be charged for the land in the new village. Moreover, they shall receive significant compensation for any property they had to abandon at the illegal settlement.

118. A new proposal seeks to establish four additional Bedouin settlements: two villages, a suburban town and an agricultural village. In addition, two new neighbourhoods are to be built in existing towns.

119. The aforementioned decisions gained the support of the Ministry of Health, the Ministry of Education and the General Health Fund. Each of these will be responsible for the establishment of its institutions in the new settlements, in order to provide for the establishment of an infrastructure of schools and health services.

120. On 21 August 2000 the Government decided to embark upon a new policy regarding the Bedouin population in the south. The purpose of this new programme is to close the social and economic gaps which exist between this population group and the rest of the population.

121. The Government's new programme includes the building of new settlements for the Bedouin sector. An attempt will be made to meet the requirements of the Bedouin population for additional land. However, ownership of land will no longer be a precondition for supplying services. New settlements have already been decided upon and will include Mareit (Darajat), Beit-Pelet, and Beit-Hil. Regarding these new settlements, plans were already presented to the planning institutions for approval. The new settlements of Hawashla, UmBetin, Tarabin AlSana, and Molada are still in the planning stage.

122. To sum up the planning situation in the south:

	South District
Plans in planning stages	Hawashla, UmBetin, Tarabin AlSana, and Molada
Plans in approval stages	Tarabin A-Sana Beit Pelet, Mareit and Be'er Hail Kochle
Plans approved	

N. Regional master plans (paragraph 27 of the concluding observations)

123. The Committee was concerned with the Regional Master Plans for the North District of Israel and for the Negev. This issue concerns more the needs of the Israeli Arabs than the Bedouin "unrecognized villages" situation, which was dealt with in the preceding section.

124. It should be noted that a new district plan for the North District of Israel was deposited on 7 September 1999. Most of the development suggested in the new plan is in the central sector of the Galilee, where 41 per cent of the Jewish population in the district resides and 82 per cent of the Arab population in the district resides. The accelerated development of this sector will increase the standard of living for both population groups, and especially the Arab population because of its more substantial weight. Furthermore, the plan gives special consideration to the special demographic needs of the Arab population, which are greater than those of the Jewish population group.

125. New Arab settlements are not in planning due to a policy the purpose of which is to develop existing settlements. This policy was adopted on the basis of trend analysis and interviews with the heads of the Arab population. This is linked with the phenomenon of illegal construction in the Arab sector, which is in itself a complex issue.

126. The Arab population growth rate is 3 per cent per year. The number of new families that need housing is about 10,000 a year. A large part of the Arab population solve this housing problem within the confines of existing familial housing (by enlarging an existing house or adding another building in a family courtyard). Every year the pressure for adding more plots and enlarging existing settlements grows. The phenomenon of illegal construction is fuelled by these factors.

127. Illegal construction occurs, in part, on land owned by a family which is not approved for residence. Additional instances of illegal construction take place by seizing public lands. Ordinarily, Arab housing is in single-story buildings, in low-density construction. With time these buildings become multi-storey buildings through enlargement for descendants. The only high-density construction in the Arab sector is in Jewish-Arab communities or mostly Jewish

communities. Since the size of such communities cannot increase indefinitely, and since the problem worsens each year, there is a growing need to move toward multi-storey (high-density construction).

128. Regarding the Negev area in the south of the country, a new district plan was approved on 23 January 2000. Among this plan's goals are to integrate the Bedouin population in the south. It increases the area of the Bedouin city of Rahat and of six other Bedouin settlements.

129. The Bedouins, however, have petitioned Israel's Supreme Court, contending that the district plan does not reflect their need for rural settlements. The petition is currently pending before the Court.

130. It should be noted that in a recent survey conducted by the Government, out of 74 communities with mostly Arab population, 37 had approved local plans, while the rest were in various stages of approval or planning.

O. **Disparities in the educational system** (paragraph 29 of the concluding observations)

131. The issue of eliminating disparities in the educational system in Israel is a priority on Israel's agenda. The main priorities for the Ministry of Education beginning in 1999 were: closing the gaps by raising peripheral municipalities and weak population groups; affirmative action for the Arab educational system; elevating special education; increasing the number of students with matriculation entitlement. Further details on this issue will be included in Israel's second periodic report.

132. The gap between the Arab and Druze pupils and their Jewish counterparts is still evident. The Arab and Druze sectors receive relatively higher rates of construction budgets. Furthermore, the five-year programme begun in 1991 has been completed after narrowing but not closing the mentioned gap. The Ministry of Education has therefore put affirmative action at the head of its agenda. In 1999, the Ministry of Education embarked on a new five-year programme and other activities. These are intended to equalize the educational and budgetary standards of these sectors with that of the Jewish education sector.

133. The Ministry of Education has allocated an extra budget of NIS 250 million (approximately US$ 62.5 million), over a period of five years, beginning in the year 2000. A steering committee for the programme has determined a basic programme for its application, based on the recommendations of three different committees.

134. The programme's main goals include:

(a) Increasing the number of pupils eligible for matriculation;

(b) Reducing dropouts;

(c) Increasing the amount of teaching classes;

(d) Improving the psychological assistance and the counselling sectors;

(e) Improving the special education;

(f) Improving the technological education;

(g) Training the teaching, psychological and counselling staffs.

135. The programme operated in the following areas in 2000:

(a) It upgraded 1,526 computer stations;

(b) It gave scientific equipment to kindergartens and primary education schools;

(c) It increased the number of pupils eligible for matriculation;

(d) It developed curricula;

(e) It trained teaching staff.

136. Disparities between the Arab sector and the rest of the population still exist, especially in post-secondary education. The gaps are even larger when observing only the female population. The rate of Arab students attaining matriculation is about half that of the Jewish sector, and among these only a quarter apply to universities. Among the Jewish population, only about 5.5 per cent do not work or study, compared to 14.3 per cent in the Arab population. Only about 25 per cent of the Arab sector study in technological education, compared to about 30 per cent for the rest of the population. Half of the classes in Arab technological education are at a level of study which is not sufficient to qualify them for the matriculation examinations.

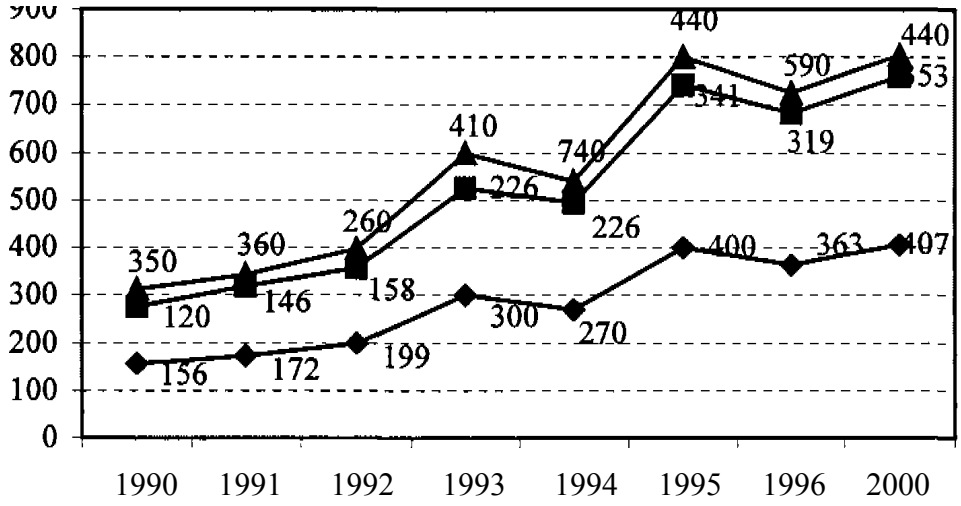
137. These gaps are the reason for the policy of affirmative action taken by the Ministry of Education.

138. Further details on these issues will be included in Israel's Second Periodic Report.

139. Apart from the aforementioned activities of the Ministry of Education, one should recall the recent governmental decision on affirmative action in the Arab sector (reported in the Replies in paragraph 33 above).

CONSTRUCTION OF CLASSROOMS IN THE ARAB AND DRUZE SCHOOLS (1990-2000)

Number of classrooms



▲•Druze schools

■•Arab schools

♦•Total

Source: Ministry of Education.

P. The National Health Insurance Law (paragraph 30 of the concluding observations)

140. The Committee's statement regarding the changes in the National Health Insurance Law (as amended by the Arrangements Law for the year 1998) is partially inaccurate. There is no periodic health tax that is linked to the amount of health services needed, but rather a requirement for a minimal co-payment for certain services, in a manner designed to minimize the impact on the weaker socio-economic groups.

141. At the inception of the National Health Insurance Law in 1995, residents were required by the health-care services providers (four in number) to make co-payments for medications. One health-care service provider also required co-payments for visits to medical specialists. In 1998, the other three providers were authorized to require co-payments in various minimal amounts for visits to specialists and certain outpatient clinics. The co-payments are permitted once per calendar quarter per specialist visited, subject to a quarterly maximum payment per individual and a maximum payment per family, regardless of the number of family members for which the family head is responsible.

142. The change in the National Health Insurance Law was made in order to allow greater financial flexibility for the health-care providers, as an incentive to reduce unnecessary use of

medical services, and to reduce the budget deficits of the health-care providers. In order to avoid harming the weakest socio-economic groups and to minimize the impact on others, the co-payment requirement is subject to the following limitations:

(a) Residents receiving supplemental income payments pursuant to the National Insurance Law are exempt;

(b) Residents receiving support payments pursuant to the Maintenance (Assurance of Payment) Law are exempt;

(c) Residents receiving invalidity or disability payments pursuant to the National Insurance Law are exempt;

(d) Residents who have AIDS, cancer, kidney disease requiring dialysis or other specified illnesses are partially exempt;

(e) There is no co-payment requirement for visits to primary care physicians, paediatricians, gynaecologists or internal medicine specialist.

143. In addition to the exemptions specified above, the Ministry of Health periodically reviews the impact of the co-payment requirement to determine if changes are warranted.

144. Additionally, it must be noted that the "basket of services" which is provided to insured persons pursuant to the National Health Insurance Law is reviewed at least annually, and medical technologies and procedures, as well as new medications, are added.

Q. **Domestic violence against women** (paragraph 31 of the concluding observations)

145. This issue was of concern to the Committee. Protection from violence is provided at 12 shelters for battered women, located throughout Israel. Due to their particular cultural and religious needs, there are special Centres for Arab women and for ultra-Orthodox Jewish women. Together, these shelters provide emergency intervention for nearly 1,600 women and children yearly. The Ministry of Labour and Social Affairs covers 75 per cent of the cost of these shelters, and the remaining 25 per cent is provided by women's volunteer organizations. In recognition of the particular needs of the Arab community, the Ministry of Labour and Social Affairs covers 100 per cent of the operating costs of such shelter.

146. The shelters provide professional counselling, legal advice and assistance, childcare and rehabilitation. Several shelters also have multilingual staff and volunteers in order to assist immigrant women. Children continue in community-based day-care or elementary school frameworks while residing in the shelter. However, some shelters restrict, for reasons of space, the number of children a woman can bring with her to the shelter. Of course, this restriction creates an untenable conflict for some women. In addition, there are 30 transitional apartments which provide women with additional options when they are ready to leave the shelters.

147. A unique shelter for abusive men who have been removed from their homes by court orders, has been established. In this shelter, the men receive group and individual treatment, as well as consciousness-raising and behaviour modification opportunities.

148. At least 10 hotlines are devoted to battered women throughout the country; one is devoted to Arabic speakers, while Russian and Amharic speakers are available on most of the others. Callers receive advice and information from trained volunteers.

149. The Authority for the Advancement of the Status of Women (AASW) has initiated a programme of workshops in all government ministries regarding violence against women.

150. Police treatment of domestic violence: police personnel currently receive special training for dealing with family violence. Police policy provides that domestic violence be treated as a violent crime and that the victim be protected. Furthermore, the police may continue to investigate a complaint of violence even if the woman withdraws her complaint. However, as in most countries, the majority of abused women do not file complaints with the police.

151. The police also have the prerogative of filing a report even if the abused woman declines to do so. Women's organizations report that cooperation with the police is generally effective, and the Minister of Public Security has appointed an Adviser on Violence against Women.

152. There are 25 Centres for the Prevention of Violence in the Family located throughout the country. These centres are jointly funded and administered by the Ministry of Labour and Social Affairs, women's organizations and the local authorities. The centres provide direct treatment, visiting centres where parents and children who have been separated can meet (under supervision, if necessary), legal advice, research and information.

153. A women's NGO, in conjunction with Physicians for Human Rights, has developed a project to train multidisciplinary emergency room staff and to improve their sensitivity and their treatment of women suffering from battering and violence. The three-session training course includes lectures and small-group workshops, as well as work with the hospital's administration and management. Based on a pilot trial, the project has been extended to four hospitals.

154. The law has recognized the "Battered Women's Syndrome", acknowledging the right of a battered woman to defend herself against her attacker and effectively broadening the definition of "self-defence".

155. Furthermore, the Knesset has passed an amendment to the Penal Code to allow the courts to impose more lenient sentences on victims of severe abuse who have been convicted of murdering the perpetrator of the abuse. While the amendment is not limited to abuse within the family, it seems that this will be among its most important applications.

156. Israel's eight rape crisis centres receive over 10,000 referrals each year. These centres also maintain hotlines and provide educational services. Public support for the rape crisis centres remains low; donations provide most of the support. The centres report that while police

directives are meant to provide sensitive and effective care for the victim, the implementation of these directives is not uniform throughout the country. Moreover, in Israel, as in other countries, assaulted women are often reluctant to contact the police.

157. In March 1995, the Knesset appointed a Parliamentary Committee of Inquiry to investigate the subject of women murdered by their spouses and life partners. The mandate of the Committee was further broadened to include the investigation of violence against women. The Inquiry Committee presented its conclusions and recommendations in June 1996. This comprehensive report analysed the causes of domestic violence, the adequacy and efficacy of existing services, and gaps in the provision of service. The report presented comprehensive, integrated and binding recommendations to each of the relevant ministries.

158. The Government decided in 1998 to establish an inter-ministerial committee to deal with issues of law enforcement and strengthening of existing services. The committee was chaired by the Director-General of the Ministry of Labour and Social Affairs and included representatives from the Prime Minister's Office, the AASW, the Ministry of Public Security, the Ministry of Health, the Ministry of Education and women's organizations. In 1997/98, the Prime Minister's office sponsored a national media campaign against violence against women, including a National Hotline and Referral Service.

Notes

[1] *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip* (28 September 1995).

[2] *The Wye River Memorandum* signed on 23 October 1998, and the *Sharm-el-Sheikh Memorandum* of 4 September 1999.

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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Second periodic reports submitted by States parties under articles 16 and 17 of the Covenant

Addendum

Israel*

[3 August 2001]

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* The initial report submitted by the Government of Israel was considered by the Committee on Economic, Social and Cultural Rights at its nineteenth session in 1998 (see E/C.12/1998/SR.31-33 and concluding observations E/C.12/1/Add.27, additional information submitted by the Government of Israel (E/1989/5/Add.14) was considered by the Committee at its twenty-sixth (extraordinary) session in 2001).

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Introduction

1. Israel ratified the International Covenant on Economic, Social and Cultural Rights (hereafter - the Covenant) in August 1991. The Covenant entered into force with respect to Israel on 3 January 1992. The following is the second periodic report submitted by Israel pursuant to articles 16-17 of the Covenant and of the guidelines issued by the Committee on Economic, Social and Cultural Rights.

2. The present report presents information pertaining to changes that have occurred since the initial report submitted by Israel in November 1997 (hereafter - the initial report). This information relies on the same sources that were used for the initial report. This report follows the initial report's editing. It reflects all data available as of August 2000.

3. Mr. Michael Atlan, Adv., has prepared the report with the help of Mr. Guy Lurie, on behalf of the Ministry of Labour and Social Affairs and under the supervision of the Ministry of Justice and the Ministry of Foreign Affairs.

4. Annexed to the report are recent specialized publications and legal texts, including a comprehensive and updated version of all labour laws in Israel (annex I).*

Applicability of the Covenant to the West Bank and the Gaza Strip

5. In its concluding observations on Israel's initial report, the Committee questioned Israel's position regarding the applicability of the Covenant to the West Bank and the Gaza Strip. Israel has consistently maintained that the Covenant does not apply to areas that are not subject to its sovereign territory and jurisdiction. This position is based on the well-established distinction between human rights and humanitarian law under international law. Accordingly, in Israel's view, the Committee's mandate cannot relate to events in the West Bank and the Gaza Strip, inasmuch as they are part and parcel of the context of armed conflict as distinct from a relationship of human rights.

6. Furthermore, pursuant to the Israeli-Palestinian Interim Agreement of 1995,[1] and the consequent documentation and undertakings of the Palestine Liberation Organization,[2] the overwhelming majority of powers and responsibilities in all civil spheres (including economic, social and cultural), as well as a variety of security issues, have been transferred to the Palestinian Council, which in any event is directly responsible and accountable vis-à-vis the entire Palestinian population of the West Bank and the Gaza Strip with regard to such issues. In light of this changing reality, and the jurisdiction of the Palestinian Council in these areas, Israel cannot be internationally responsible for ensuring the rights under the Covenant in these areas.

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* Texts of the annexes can be consulted in the files of the secretariat.

7. The fact that the Palestinian Council does not represent a State, does not, in itself, preclude its responsibility in the sphere of human rights protection. In fact, this is also evident under article XIX of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, according to which the Palestinians have taken it upon themselves to exercise their powers and responsibilities "with due regard to internationally accepted norms and principles of human rights and the rule of law". Similarly, under article II (c) (4) of the Wye River Memorandum, the Palestinian Police is obliged "to exercise its powers and responsibilities with due regard to internationally accepted norms of human rights and the rule of law, and be guided by the need to protect the public, respect human dignity and avoid harassment".

8. In this respect, it should be noted that without prejudice to its basic position, Israel has been willing - and, in fact, has done so in the context of its oral presentation of its initial periodic report - to cooperate with the Committee and provide relevant information to the extent possible, with regard to the exercise of those powers and responsibilities, which according to the agreements reached with the Palestinians, continue to be exercised by Israel in the West Bank and the Gaza Strip.

Article 1 of the Covenant: self-determination

9. No change has occurred on this subject since Israel's initial report.

Article 2 - general principles: State responsibility, non-discrimination and international cooperation

1. State responsibility

10. Economic, social and cultural rights continue to be widely recognized in Israel, whether directly by law, regulations or case law, or indirectly by administrative programmes.

11. The trend of legalization of welfare in Israel, described in the initial report, has continued since then. The two best examples are the Equal Rights for People with Disabilities Law, 1998 (the English translation is provided in annex II;* additional discussion on this Law is included below under this report on article 2); the Infants at Risk Law, 2000 (there is still no English translation available at present; see further on this law under article 10).

Economic, social and cultural rights as constitutional rights

12. Israel's draft Basic Law: Social Rights, which was reported in Israel's initial report, is no longer pending in the Knesset. The future of such legislation is still not clear. However, the rights protected by the Covenant are now part of the ongoing public debate and appear in regular curricula of law faculties. Moreover, the economic, social and cultural rights are more and more recognized as constitutional rights in the jurisprudence of Israel's Supreme Court. We would like to point out two basic approaches to this matter.

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* Texts of the annexes can be consulted in the file of the secretariat.

13. The first is an interpretative approach. In the initial report, mention was made that Justice Aharon Barak, the Supreme Court President, had given his opinion in academic writings that the "right to decent conditions of living" should be construed as being included in the Basic Law: Human Dignity and Liberty (Barak, 1994, pp. 416-417). It was also stated that no case on this subject had yet been brought before the Supreme Court. This interpretative approach is now apparent in a few recent judicial decisions, even though there is still no binding precedent supporting it.

14. In a recent judgement, delivered on 19 March 2001 by the Supreme Court in the case of Gamzo v. Ishayahu (REC 4905/98) the Court used the said approach for the purpose of interpreting the Enforcement of Judgments Law - 1967. This law grants discretionary power to spread alimony payments when necessary due to "special reasons". The court ruled that these "special reasons" include protecting the "hard core" of the right to a minimal standard of living, the right to adequate food and the right to proper health care of both the debtor and the holder of the right to alimony. The court added (holding with the said "interpretive approach") that the "hard core" of these rights is protected by the Basic Law: Human Dignity and Liberty.

15. In a National Labour Court Case (1997/4-265) Hassid v. The National Insurance Institute (NII), the National Labour Court adjudicated a homeless person's claim of entitlement to income benefits from the NII, despite his inability to support the application with details of his address, which are necessary to verify the authenticity of the application. The Court interpreted the Basic Law: Human Dignity and Liberty as encompassing within its scope of protection a commitment on the part of the State to ensure a minimum standard of living, and held that the Income Support Law must be read in light of this Basic Law. The Court thus ruled that the NII wrongfully rejected the plaintiff's application and ordered it to reprocess the application, notwithstanding the incompleteness of the information.

16. In C.A. 3275/98, Welfare Officer, the City of Holon v. Anonymous, the Tel Aviv District Court reviewed a request by the social services for an Order to perform an operation on a two-year-old girl. Her mother, a Moldavian citizen, who left Israel shortly after giving birth to the girl, had deserted the girl. The Court held that by accepting the Convention on the Rights of the Child, the State took upon itself the obligation to provide children with the highest attainable level of health, and ordered that a medical procedure necessary to improve the girl's quality of life be performed regardless of her nationality.

17. A second approach recognizes economic, social and cultural rights as autonomous constitutional values. This path was taken in a decision issued in 1998 (H.C. 450/97), Tnuffah, Manpower Services and Maintenance Ltd. v. Ministry of Labour and Social Affairs, in which the Supreme Court upheld the constitutionality of legislation requiring manpower contractors to deposit with the Ministry of Labour and Social Services a bank guaranty to ensure the fulfilment of their obligations vis-à-vis their employees. The Court held that while this requirement places limits on the freedom of occupation, such a restriction is necessary and appropriate. In the words of the President of the Court, Justice Aharon Barak (at para. 12):

> Defending workers' rights is a proper purpose; guaranteeing workers' social security is a proper purpose; observance of a statutory legal framework to protect workers is a proper purpose. Indeed, protection of workers' rights is of fundamental social importance in our

> society. For constitutional purposes it is a "proper purpose". The respondents have been correct to observe that there is a vital public need in regulating the business of manpower contractors and defending the interests of a particularly weak sector of employees.

18. Justice Dorner, went on, in the same case, to call for judicial restraint while protecting the rights to property and freedom of occupation, whenever this has to be balanced against the protection of basic workers' social rights. She added:

> … [We] are dealing with social legislation intended to protect workers. In regard to such legislation, the Court must exercise extreme caution not to harm workers' rights in order to satisfy individual rights such as freedom of occupation and the right to property.

19. Such duality of approaches is clearly manifested in the wording of Judge Elishevah Barak, currently Deputy President of the National Labour Court. She had already written in a decision issued in 1996, while sitting as a Regional Labour Court Judge, that:

> The right to work is also one of the basic human rights and as long as the State of Israel has no Basic Law: Social Rights, one should hold these individual rights as included in human dignity … This right derives from the notion that human dignity presupposes a minimal human existence … The right is, in my opinion, included in the term "human dignity" in Basic Law: Human Dignity and Liberty, because even though this is a social right, it is a social right of the individual, and not of the public. This right also derives from Basic Law: Freedom of Occupation. This right includes not only the right not to live in the street and not to starve. Human dignity is also impaired when one is forced to inaction, even if one is not starving while earning wages.
>
> (Taba 54/3-289 Dr. Orly Peret v. Dr. Amitzur Farkash)

20. Additional and more specific judicial decisions of this nature can be found in subsequent parts of this report.

21. Lastly, mention should be made of a new section added to the Equal Rights for Women Law, 1951 (sect. 6), in an amendment enacted in April 2000, according to which: "Any woman and man has the equal right to an existence in human dignity, including equality at work, in education, health, housing, environmental protection and social welfare."

22. This provision clearly assumes the existence of social rights in general, and of the right to decent living conditions in particular, even though it directly prescribes only a norm of equality.

2. Non-discrimination

23. A detailed account of recent application of the non-discrimination principle is given in each chapter of this report. There are mentioned here only issues of general and broad implications. Special attention has been given to the Committee's concerns and observations in its concluding observations on Israel's initial report.

Israel and the law of return

24. In its concluding observations on Israel's initial periodic report, the Committee expressed its concern (paragraph 13 of the concluding observations):

> "… [T]hat the Law of Return, which permits any Jew from anywhere in the world to immigrate and thereby virtually automatically enjoy residence and obtain citizenship in Israel, discriminates against Palestinians in the diaspora upon whom the Government of Israel has imposed restrictive requirements that make it almost impossible to return to their land of birth."

25. The Israeli Law of Return personifies the very essence of the State of Israel as a "Jewish and democratic State". During the period from 1939 onward, it should be recalled that the gates of Mandatory Palestine, and in fact, nearly all countries, were closed to Jewish immigration, thus contributing to the death of millions of Jews in Europe at the hands of Nazi Germany during World War II. In the aftermath of the horrors of World War II, and following the establishment of the State of Israel, Israel's founders enacted the Law of Return to give formal expression to the three central tenets underlying the establishment of the State as the only homeland for the Jewish people. That is to say, the creation of a Jewish State in the land of Israel, the ingathering of the Jewish exiles, in particular after the unfolding horrors of the Holocaust, and the preservation of a strong bond between the State of Israel and other Jewish communities around the world.

26. The Law of Return of 1950 and the Nationality Law of 1952 provide a right for Jews to immigrate to Israel and to automatically acquire Israeli nationality. This privilege, granted as part of Israel's immigration policy, is clearly a domestic matter, subject to the sovereign discretion of the State. However, it should also be emphasized that non-Jews are not prevented from immigrating to Israel, nor are there any restrictions on any particular group. Non-Jews who wish to acquire Israeli citizenship may duly apply for such citizenship in accordance with Israel's Nationality Law.

27. In this respect, Israel is not different from most other States, which upon attaining their statehood, and in accordance with the principle of self-determination, granted preference for the purpose of obtaining nationality of that State to individuals with certain social, cultural, or ethnic links to the State.

28. The Committee suggested in its concluding observations that the Law of Return should be placed on an equal footing with a Palestinian claim for a right of return. Israel's position maintains that a clear distinction should be drawn between its Law of Return and any Palestinian claim to a right of return, and that this subject is presently part of the outstanding issues under negotiations between Israel and the Palestinians.

Non-discrimination of non-Jews in Israel

29. A recent High Court decision gave great impetus to the principle of non-discrimination of non-Jews in Israel. The court ruled that it is the duty of the State and of the Israel Lands Administration to give equal treatment for all in respect of land use (HCJ 6698/95

A'dal Ka'adan v. The Israel Lands Administration). The petitioners in this case were an Arab couple wishing to build a home in Katzir, a communal settlement in the Eron River region at the north of Israel. The Jewish Agency in collaboration with the Katzir Cooperative Society established this settlement in 1982 on State land that had been allocated to the Jewish Agency (via the Israel Lands Administration) for such a purpose.

30. The Katzir Cooperative Society only accepted Jewish members. As such, it refused to accept the petitioners and allow them to build their home in the communal settlement of Katzir. The petitioners claimed that the policy constituted discrimination on the basis of religion or nationality and that the law with regard to State land prohibits such discrimination.

31. The Supreme Court ruled that land allocation must be on an equal basis, that allotting land for the sole use of Jews in that area was illegal, and that allotting land to the Jewish Agency, when the Agency discriminates, is also illegal as it constitutes indirect discrimination. This ruling reinforced the principle of non-discrimination regarding land use, although it was limited to the particular facts of this case. The general issue of use of State lands for the purposes of settlement raises a wide range of questions. First, the decision in the Ka'adan case is not directed at past allocations of State land. Secondly, it focused on the particular circumstances of the communal settlement of Katzir. In discussing this issue, the Court did not take a position with regard to other types of settlements (such as commune-based kibbutz or moshav).

A multi-year plan for development of Arab-sector communities

32. Like the Committee, the Israeli Government is also concerned about the need to eliminate gaps between Jews and Arabs in Israel. The following is a comprehensive government resolution, taken in October 2000, regarding all aspects of social development of Arab-sector communities. This decision was taken following thorough preparatory work involving most governmental agencies. The decision, translated in full from the original Hebrew version, is as follows:

> "In general
>
> (A) The Government of Israel regards itself as obligated to act to grant equal and fair conditions to Israeli Arabs in the socio-economic sphere, in particular in the areas of education, housing and employment.
>
> (B) The Government of Israel regards the socio-economic development of the Arab-sector communities of Israel as contributing toward the growth and development of all of Israel's society and economy.
>
> (C) The Government shall act for the socio-economic development and advancement of the Arab-sector communities and to reduce the gaps between the Arab and Jewish sectors, pursuant to the following plan, as set forth by the Prime Minister's Office and the Ministerial Committee on Arab-sector Affairs in cooperation with the Director-General of the Prime Minister's Office and the representatives of the Arab authorities.

(D) The development plan is based on working jointly with the Arab authorities. This cooperation lays down a position on the recovery plans implemented through the Ministry of the Interior in the various authorities, as well as on the maintenance of good management (the application of municipal bylaws, collection of municipal taxes, compliance with construction laws, etc.).

(E) The cost of the development plan for the Arab-sector communities shall total NIS 4 billion for the years 2001-2004 (attached are pages 20-23 detailed table - Appendix 1). This sum includes an additional sum of NIS 2 billion in excess of the existing development budgets in the government ministries for the Arab-sector communities, including NIS 1 billion as an additional payment from the Ministry of Finance for the budget of the ministries. These budgets include the share of the Arab-sector communities in the development budgets of the government ministries designated for the entire population and include all the development budgets for the sector during the term of the plan.

(F) The development plan shall incorporate Arab local authorities and Arab communities located within regional councils (attached are pages 24-26, list of communities - Appendix 2).

(G) An inter-ministerial team, headed by the Prime Minister's Office and with the participation of the Ministry of Finance and other ministerial representatives, as required, shall coordinate the workings of the staff, including the mode of implementation, planning the operations, priorities, budgetary amounts and timetables for performance. The inter-ministerial team shall oversee and control the mode of implementation of the development plan by the government ministries and, in cooperation with the representatives of the Arab sector, shall perform an annual evaluation in relation to performance of the plan.

Ministry of the Interior

(A) General

The Ministry of the Interior shall allocate NIS 412 million for development of Arab-sector communities, an annual average of NIS 103 million for the years 2001-2004.

(B) Advancement of master schemes, outline schemes and detailed schemes

The Ministry of the Interior shall act to advance the master plans, the outlines and detailed plans in the Arab-sector communities as set forth in Government Resolution No. 1433, dated 30 March 2000, in addition to updating plans in communities where outlines require updating. The plan shall be financed by means of a special budget in the amount of NIS 28 million, approved by government resolution.

The Ministry of the Interior - NIS 9.4 million;

The Israel Lands Administration - NIS 4.75 million;

Local Authorities - NIS 1.25 million;

The Ministry of Finance - NIS 12.7 million.

A joint team of the Ministries of the Interior and Finance, the Israel Lands Administration and the Prime Minister's Office shall discuss any expansion of scope of performance of planning in additional communities by means of an additional budget of NIS 12 million, taking into account the requirements and the pace of performance of the plans.

(C) The Ministry of the Interior shall allocate NIS 22 million for restoration, establishment and development of religious institutions in the Arab-sector communities, NIS 5.5 million in each of the years 2001-2004. The sources of funding each year shall be as follows:

The Ministry of the Interior - NIS 4.5 million;

The Ministry of Finance - NIS 1 million.

Ministry of Construction and Housing

(A) Development of older neighbourhoods

The Ministry of Construction and Housing shall coordinate the infrastructure development project in the Arab-sector communities, including new infrastructure and improvement of existing infrastructure, with a budgetary scope of NIS 220 million, an average of NIS 55 million for each of the years 2001-2004, where the sources of funding for each year shall be as follows:

The Ministry of Construction and Housing - NIS 23 million;

The Ministry of Finance - NIS 32 million.

The plan includes NIS 1.025 million per year in the neighbourhoods physical restoration clause - for the purpose of renovating dwellings owned by elderly people living alone. The communities are: Kfar Manda, Kfar Kana, Mashad, Tamra, Majd el-Kroom.

The scheme shall include budgets from the Ministries of Transport, Interior and Construction and Housing for the roads and internal routes as stated in this Resolution and shall be implemented jointly by three government ministries: the

Ministry of Construction and Housing, the Ministry of Transport and the Ministry of the Interior, coordinated and administered by the Ministry of Construction and Housing and the Prime Minister's Office.

(B) Development of new neighbourhoods using high-density construction

1. The Ministry of Construction and Housing shall allocate NIS 120 million for development of new neighbourhoods in the Arab-sector communities, to be constructed using high-density public building, mainly on State lands, a total of 5,000 dwelling units, averaging NIS 30 million for each of the years 2001-2004, pursuant to existing arrangements between the ministries and the arrangements to be agreed upon between the ministries following the examination referred to in clause 3 below.

2. Locating the lands for high-density construction shall be implemented in coordination with the Israel Lands Administration, the Ministry of the Interior and the local authorities. The Israel Lands Administration shall transfer the authority for planning and development to the Ministry of Construction and Housing, at its request, for implementation of the plan.

3. The standard of development in the new neighbourhoods shall meet acceptable standards, such that the cost thereof shall not exceed NIS 70,000 per residential unit. The amount of subsidy in the high-density construction shall not exceed NIS 35,000 per residential unit. Those communities to benefit from the subsidy shall be those on the map of national priority areas. Furthermore, the feasibility of encouraging such neighbourhoods in those communities located outside the priority areas shall also be examined.

4. The Ministry of Construction and Housing shall allocate an additional NIS 40 million for the development of new neighbourhoods on private lands located within the bounds of the Arab-sector communities to be constructed using high-density public construction in a total of not less than 50 dwelling units per neighbourhood; NIS 10 million on average for each of the years 2001-2004.

By developing new neighbourhoods on private lands, the aid will include funding for planning (at the detailed plan stage), in addition to contributions toward development in an amount not exceeding 50% of the approved infrastructure tariffs up to a ceiling of NIS 20,000 per residential unit. The budget shall be given to those neighbourhoods and buildings where building permits have been granted after 1 January 2001.

5. Construction density on the sites to be chosen pursuant to this chapter shall not be below six residential units per dunam (net).

(C) Development of public institutions

1. The Ministry of Construction and Housing shall allocate NIS 320 million as participation in the construction of public institutions for cultural, social and sports activities in the Arab-sector communities, an average of NIS 80 million for the years 2001-2004, where the sources of funding shall be as follows:

The Ministry of Construction and Housing - NIS 10 million;

The Ministry of Finance - NIS 70 million.

2. This budget does not include construction of public institutions under the Report of the Committee of the Directors-General on Construction of Public Institutions, but does include budgets to be allocated to public institutions pursuant to other standards in the years 2000-2004.

3. Those institutions to be constructed as first priority shall include community centres of various sizes and sports halls, in large communities with over 5,000 inhabitants and subject to availability of implementation.

4. In the performance of the plan and the scope of participation, supplementary sources of financing shall be taken into account, such as Mifal Hapayis (National Lottery) budgets, public institutions standard budgets and the development budgets of the Ministry of the Interior.

5. The Ministry of Construction and Housing shall set a programme for public building, approve the work plans of the communities and coordinate the implementation of construction of the buildings; the maximum sum for a single public institution shall not exceed the amount determined in the Report of the Committee of the Directors-General on Construction of Public Institutions.

Ministry for National Infrastructure

(A) Administration for Sewage Infrastructure

1. The Administration for Sewage Infrastructure shall make loans and grants available to the Arab-sector authorities for regulation of the internal sewage system, conduit lines and end installations, in accordance with those budgetary restrictions stated in clause 2 hereafter.

2. The Ministry of National Infrastructures shall allocate NIS 400 million for the years 2001-2004, where 50% of this amount is allocated in loans toward solutions to deal with waste in the Arab-sector communities. The allocation shall be made in accordance with needs. The amount shall be increased and allocated by the Ministry for National Infrastructures by the Ministry of Finance.

A joint team of the Ministry for National Infrastructures (the Water Commission and the Sewage Administration), the Ministry of Finance and the Prime Minister's Office shall determine by 30 November 2000, the parameters for the plans based on the principle of a grant of up to 50% of the amount of invested capital. As a general rule, the solutions for dealing with waste shall be compiled fully and systematically and shall include, as required, completion of internal systems, conduit lines and end installations. Solutions for utilizing purified waste water shall be funded from the budget designated for this purpose by the Ministry for National Infrastructures.

3. The Administration for Sewage Infrastructure shall direct the Arab-sector authorities in regulating those matters amounting to a prerequisite for receiving loans and grants, including approval of bylaws.

(B) Israel Lands Administration

The Israel Lands Administration shall allocate NIS 4.75 million as participation toward promoting master plans, outlines and detailed plans for the Arab-sector communities, as set forth in section C, in the section on the Ministry of the Interior, above.

Ministry of Transport

(A) Internal roads

The Ministry of Transport shall allocate NIS 180 million for implementing internal road systems and safety projects in the Arab-sector communities; NIS 45 million for each of the years 2001-2004.

(B) Regional roads

The Public Works Administration (Ma'atz)

The Public Works Administration shall allocate about NIS 325 million for the development of a network of roads in the areas of the Arab-sector communities; NIS 81.25 million for each of the years 2001-2004.

Ministry of Trade and Industry

(A) Development of industrial zones

The Ministry of Trade and Industry shall allocate NIS 120 million in the years 2001-2004 for locating suitable areas and developing infrastructures in six industrial zones in densely-populated Arab areas common to a number of authorities, subject to planning availability and economic analysis. Funding sources shall be, on average as follows:

The Ministry of Trade and Industry - an average of NIS 15 million;

The Ministry of Finance - an average of NIS 15 million;

The budgetary expenditures shall not be subject to income from development of the areas.

(B) Benefits to industrial zones

All the benefits awarded to enterprises located in industrial zones in national priority areas (aid, grants, discounts, etc.), within the ambit of the Encouragement of Capital Investments Law, based on geographic location, shall apply to the industrial zones in section A above. The Ministry of Trade and Industry, the Ministry of Finance and the Prime Minister's Office shall examine additional modes of encouraging the above industrial zones.

(C) Development of trade and services areas

The Ministry of Trade and Industry shall allocate NIS 80 million for development of services and trade areas in the Arab-sector communities, subject to planning availability and an economic analysis, NIS 20 million for each of the years 2001-2004. Funding sources shall be as follows:

Ministry of Trade and Industry - NIS 10 million;

Ministry of Finance - NIS 10 million;

The budgetary expenditures shall be made available, without being contingent on income.

Ministry of Tourism

(A) Tourism infrastructure

The Ministry of Tourism shall allocate NIS 20 million for development of tourism infrastructure in the Arab-sector communities, NIS 5 million for each of the years 2001-2004.

(B) Guest rooms

The Ministry of Tourism shall allocate NIS 4 million to support setting up guest rooms (Tzimmerim) in the Arab-sector communities, according to the rules customary at the Ministry of Tourism, NIS 1 million for each of the years 2001-2004.

Ministry of Agricultural and Rural Development

(A) Agricultural investments

The Ministry of Agriculture shall allocate NIS 20 million to promote investments for the development of agriculture in the Arab-sector communities, NIS 5 million for each of the years 2001-2004.

(B) Beit Natufa Valley Project

Upon the initial analysis of the project, the amount of the investment stands at approximately NIS 60 million. A team of the Ministries of Agriculture, National Infrastructure, Ministry of Finance and Prime Minister's Office shall examine feasibility and viability of the project, including the possibility of implementing the project in stages, dividing the financing between various government ministries and contribution from other users, beyond the contribution amounting to half of the aforesaid cost to be financed by the Ministry of Finance. The team shall conclude its work within three months.

Ministry of Education

(A) Construction of classrooms

The Ministry of Education shall allocate NIS 700 million for construction of classrooms in elementary and high schools, in addition to pre-compulsory kindergarten classrooms, an average of NIS 175 million for each of the years 2001-2004. Sources of funding each year shall come from the Ministry of Education and Payis (lottery).

(B) Pedagogical plans

The Ministry of Education shall allocate a sum of NIS 280 million in the years 2001-2004 for various pedagogical plans to advance the education system in the Arab sector, NIS 70 million on average for each of the years 2001-2004. Funding sources for each year shall be as follows:

The Ministry of Education - NIS 50 million;

The Ministry of Finance - NIS 20 million.

(C) Technological education

The Ministry of Education shall allocate NIS 66 million for opening new courses of study in high schools and in post high-school institutions in technological fields, NIS 16.5 million for each of the years 2001-2004. Funding sources (average) each year shall be as follows:

The Ministry of Education - NIS 8.25 million;

The Ministry of Finance - NIS 8.25 million.

The Ministry of Labour and Social Affairs

Vocational training

The Ministry of Labour and Social Affairs shall allocate a total amount of NIS 268 million for setting up engineering-technician and vocational training courses, NIS 67 million for each of the years 2001-2004.

This clause includes an amount of NIS 24 million for opening supplementary education classes for women, NIS 6 million for each of the years 2001-2004. Funding sources for each year shall be on average as follows:

The Ministry of Labour and Social Affairs - NIS 47 million;

The Ministry of Finance - NIS 20 million.

Ministry of Health

Health stations

The Ministry of Health shall allocate NIS 10 million for construction of family health stations and oral health stations in the Arab-sector communities, NIS 2.5 million for each of the years 2001-2004. Funding sources (average) for each year shall be as follows:

The Ministry of Health - NIS 1.25 million;

The Ministry of Finance - NIS 1.25 million.

Ministry of Public Security

Police stations

The Ministry of Public Security shall allocate NIS 120 million for construction of police points and stations in the Arab-sector communities, NIS 30 million for each of the years 2001-2004. Funding sources shall be as follows:

The Ministry of Public Security - NIS 10 million;

The Ministry of Finance - NIS 20 million.

Ministry of Science, Culture and Sport

(A) Construction of cultural institutions and sports installations

The Ministry of Science, Culture and Sport shall allocate NIS 28 million for construction of cultural institutions and sports installations, NIS 7 million for each of the years 2001-2004. Funding sources for each year shall average as follows:

The Ministry of Science, Culture and Sport - NIS 3.5 million;

The Ministry of Finance - NIS 3.5 million.

(B) Infrastructure for regional R & D centres

The Ministry of Science, Culture and Sport shall allocate NIS 16 million for improvement of the physical infrastructure of regional R & D centres in the Arab-sector communities, NIS 4 million for each of the years 2001-2004 from a budgetary supplement from the Ministry of Finance budget.

(C) Support of cultural, artistic and sport activities

The Ministry of Science, Culture and Sport shall allocate NIS 91 million to assist cultural, artistic and sports activities, an average of NIS 22.75 million for each of the years 2001-2004.

Prime Minister's Office

Operation

The Prime Minister's Office shall allocate NIS 8 million for operation, overseeing and control of implementation of the plan, including appointment of projectors for promoting the various component parts of the scheme, NIS 2 million."

33. The implementation of this decision has already begun, but its full realization still awaits the passage in the Knesset of the annual budget law for the year 2001.

Amendment of the Equal Rights for Women Law, 1951 (2000)

34. A comprehensive amendment of the Equal Rights for Women Law, 1951 was enacted in April 2000. Please refer to a detailed description of this law provided below under the discussion of article 3 (see also at the end of paragraph 1 above).

Equal Rights for People with Disabilities Law, 1996: Background

35. On 23 February 1998, the Equal Rights for People with Disabilities Law, 1998 (hereinafter: the "Equality Law") was adopted by the Knesset, anchoring for the first time the right to equality and human dignity of people with disabilities and creating a new system of

obligations for the State of Israel vis-à-vis its disabled residents. The principal impetus for enactment of the Equality Law was "The Report of the Public Committee to Review Comprehensive Legislation in the Matter of the Rights of People with Disabilities" (hereinafter the "Public Committee") which was submitted to the Minister of Justice and the Minister of Labour and Social Affairs in July 1997.

36. The Equal Rights for People with Disabilities Law came into effect on 1 January 1999. The law, which was eventually adopted by the Knesset, was only part of the original proposed bill. It includes basic principles, general principles, equality of employment, accessibility to public transportation and establishment of a commission on equal rights for people with disabilities. The remaining chapters of the bill were re-tabled before the Fifteenth Knesset within the Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999. This bill passed its preliminary reading (22 December 1999) and is currently being debated in the Labour, Social Welfare and Health Committee of the Knesset.

37. On 1 August 2000, the establishment of the Equal Rights for People with Disabilities Commission was formally announced, and it is presently in its formative stages. Nevertheless, although two years have elapsed since the entry of the Equal Rights for People with Disabilities Law into effect, the majority of its provisions have not yet been fully implemented.

38. At the same time, and as shall be elaborated hereunder, laws and legislative amendments are being enacted in specific areas promoting the state of rights of particular groups of people with disabilities (the mentally ill, disabled infants, mentally retarded persons, etc.).

39. On 5 October 1999 a strike was conducted by handicapped persons in Israel, demanding that the Israeli Government grant them basic living conditions and, specifically, the correction of flaws in the area of National Insurance benefits. After 37 days of demonstrating in front of the Ministry of Finance, the Government decided to respond to the demands of the persons with disabilities, and improvements were made to the entitlements of those persons with severe disabilities, in the area of mobility allowances and special services allowances.

Accessibility

40. Most public buildings and sites in Israel are inaccessible to people with disabilities who are wheelchair-bound. (Government offices, local authority offices, schools, universities, coffee houses, theatres, restaurants, courts, and others.)

41. An amendment to the Planning and Building Law, 5728-1968, and accompanying regulations at the beginning of the 1980s provided that a building permit would not be granted for a public building if no special arrangements for handicapped persons had been provided for in the plans. However, this arrangement only applied to public buildings. Moreover, the arrangement was based on a distinction between Type A public buildings and Type B public buildings, where the latter, which include, for example, schools, government ministries and local authorities, were only obliged to make special arrangements on one floor in order to obtain a

building permit. The Local Authorities (Provisions for Disabled Persons) Law, 5748-1988, obliges local authorities to lower sidewalks on pedestrian crossings and junctions. Even these minimal provisions are not enforced as they should be.

42. In general, public transportation in Israel is, to a large extent, inaccessible for persons with disabilities. There are no public buses which a wheelchair-bound person is able to utilize.

43. The Equal Rights for People with Disabilities Law provides people with disabilities with a right of access to public transportation (city buses, trains, boats, air transport) and charges the Minister of Transport with the enactment of regulations to determine the modes of transportation and the times for arranging accessibility. These regulations have not yet been enacted. Recently a petition was submitted to the High Court of Justice by 20 organizations acting to advance the equality of people with disabilities. In an interim order, the Court ordered the Minister of Transport to submit draft regulations to the Knesset by the commencement of the winter session.

44. There was a recent importation of a new type of taxi-cab suitable for wheelchair-confined persons.

45. The Knesset and Prime Minister Elections Law (Consolidated Version), 5729-1969, prescribes an unequal arrangement concerning the accessibility of polling stations for people with disabilities, primarily aimed at providing at least one accessible polling station for every 20,000 residents. A similar arrangement is provided in the Local Authorities (Elections) Law, 5725-1965. Following a petition to the High Court of Justice on the eve of the last elections for the Fifteenth Knesset and Prime Minister, the Elections Law was amended by a transitional provision whereby every person with mobility disabilities may vote in his own area of residence at any polling station for disabled persons, by a method of "double envelopes". This transitional provision is essentially not valid with respect to future elections.

46. Information services are not accessible to people with sensory disabilities (people who are visually challenged, the blind, people who are hard of hearing or deaf).

47. Television programmes are not accessible to people who are hard of hearing or deaf: the Deaf Persons Relief Law, 5752-1992 includes two provisions requiring the Broadcasting Authority: (a) to translate at least one news programme a week into sign language; (b) to accompany a quarter of those broadcasts which are not live broadcasts with subtitles - Hebrew broadcasts with Hebrew subtitles, and Arabic broadcasts with subtitles in Arabic. As a result of two petitions to the High Court of Justice (1994), every Thursday the Broadcasting Authority now translates the late night news into sign language. This programme is broadcast at 23h 30. A petition was recently filed (22 August 2000) in the High Court of Justice by the Bekol Association, an organization for the hard of hearing and hearing impaired, requesting an order that the Broadcasting Authority fulfil its obligation under the Deaf Persons Relief Law and accompany one-quarter of its aforesaid broadcasts with subtitles. An interim order was granted by the court.

48. Unfortunately, women with disabilities still face severe discrimination in the area of access to health services, in general, and in particular in the area of gynaecological care.

49. The proposed bill on equal rights for people with disabilities which is now pending before the Knesset and which was mentioned above, includes an innovative and comprehensive arrangement in the area of physical, sensory and social accessibility.

Employment

50. Unfortunately, unemployment rates among people with disabilities are relatively high. In a survey conducted by the Service for the Blind of the Ministry of Labour and Social Affairs, it was found that the rate of unemployment of blind persons was 72 per cent (March 1997). The estimate of the Rehabilitation Department of the Ministry of Labour and Social Welfare with respect to the rate of unemployment among people with severe disabilities, physical illness, mental illnesses and retardation is 70-75 per cent unemployment. In a needs survey (1992), unemployment levels among deaf people aged 30-64 were found to be at 18-22 per cent. Moreover, experts in this field have indicated professional flaws in the policies of employment rehabilitation of people with disabilities in Israel. In particular, these experts have indicated that there is insufficient referral toward the free market, as opposed to segregated employment frameworks which fail to utilize the qualifications and personal employment potential of such employees.

51. People with disabilities in Israel earn low wages. The Minimum Wage Law, 5747-1987 does not apply to protected enterprises and employees who "earn" several hundred shekels, unrelated to their output. Section 17 (a) of the Law authorizes the Minister of Labour and Social Affairs to prescribe in Regulations that the provisions of the Law will apply with respect to employees who have physical, mental or intellectual handicaps and are employed in protected enterprises in which the State Treasury participates in their budget. The Minister of Labour and Social Affairs has yet to enact such Regulations. In 1997, the Minimum Wage Law was amended (section 17 (b)) and the Minister of Labour and Social Affairs was authorized to prescribe in regulations a reduced minimum wage for people with disabilities employed in the free market. The regulations have yet to be enacted. (Draft regulations were recently circulated for the comments of the relevant government ministries and public organizations.)

52. The Equal Rights for People with Disabilities Law stipulates the right of people with disabilities to employment equality. Section 8 of the law prohibits discrimination in employment on the grounds of disability and includes an obligation to make reasonable adjustments. Pursuant to the Law, the Minister of Labour and Social Affairs and the Minister of Finance are charged with the enactment of regulations to determine State participation in financing the adjustments. Such regulations have not yet been enacted. Section 9 of the Law prescribes, as a transitional provision for seven years, the duty of a person who employs in excess of 25 employees to ensure fair representation of people with disabilities. In addition, section 28 of the Law contains an indirect amendment to the State Service (Appointments) Law, 5719-1959 with respect to the duty of fair representation of people with disabilities in the State Service.

53. Since the date that this law came into effect, no activity has yet been undertaken to promote the aforesaid fair representation. Section 16 of the law prescribes that the Minister of Labour and Social Affairs shall initiate and develop programmes for employment rehabilitation of people with disabilities and that he shall submit a report each year on this matter to the Labour, Social Welfare and Health Committee of the Knesset. As of the present time, no such

report has been submitted to the Knesset. Draft regulations regarding the granting of priority to people with disabilities in being given parking spaces at workplaces was recently submitted by the Minister of Labour and Social Affairs to the Labour, Social Welfare and Health Committee of the Knesset and a meeting was convened for the approval thereof. Last year the Bar Association (Examination Arrangements in the Laws of the State of Israel and Practical Matters) Rules, 5723-1962 was amended, and it now provides as follows:

(a) With respect to a written examination under Rule 18B, the examining committee, at the request of an examinee who is a person with a disability, within the meaning in the Equal Rights for People with Disabilities Law, 5758-1998, may determine for such person appropriate modifications on account of the disability which shall ensure that he or she will be examined under conditions which are equal, as far as possible, to those of the other examinees.

Community housing (art. 11 of the Covenant)

54. One of the problems that people with disabilities are still facing in Israel is the preference for institutional frameworks, as opposed to living in the community, particularly for mentally-handicapped and mentally ill people. Thousands of people with disabilities in Israel live in remote and crowded institutions, outside the community and under depersonalized conditions, severely infringing upon their privacy and personal autonomy.

55. Leading professionals in this field have already determined that the quality of life and development of people with disabilities at all levels improves when they live in the community, in their natural environment. The situation in Israel stands in contrast to this:

(a) Out of 7,400 intellectually retarded people living outside their homes, approximately 6,000 of them are living in 53 institutions. New institutions are continually being constructed. Families and associations wishing to exercise the right of mentally retarded people to live in community housing are restrained by the authorities. The major part of the budget in the area of housing for people with disabilities is steered toward institutions;

(b) In Israel there are 6,700 people hospitalized in psychiatric hospitals. Over half of these people are hospitalized only due to a lack of any framework of community housing, rather than on clinical grounds (letter from the Ministry of Health to the Public Committee dated 4 March 1997);

(c) In March 1999, the Public Committee submitted a report on the examination of the condition of mentally ill Holocaust survivors hospitalized in psychiatric hospitals in Israel. The findings were particularly grave with respect to State treatment of these Holocaust survivors;

(d) This phenomenon of institutionalization also includes scores of people with physical disabilities living in institutions and even in hospital.

56. The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999, which is currently pending

before the Knesset includes an arrangement in the area of housing, principally the anchoring of the right of the disabled person to live in the community and the obligation of the State to grant the disabled person assistance which will guarantee the actual realization of this right.

57. Recently, Amendment 4 to the Welfare (Treatment of Mentally Handicapped Persons) Law, 5729-1969, was enacted by the Knesset. This amendment provides an obligation for the State to allocate resources for housing frameworks and day frameworks for mentally retarded persons and further provides that when determining the type of housing framework, the assessment committee will give priority to community housing.

58. On 5 July 2000, the Rehabilitation of Mentally Disabled People in the Community Law, 5760-2000, was enacted, prescribing the right of a mentally- disabled person to a rehabilitation basket in the community, including in the areas of housing, employment, completion of education, society, leisure and others.

Education (art 13)

59. Pupils, parents and teachers who are wheelchair-bound are unable to enter the large majority of school buildings in Israel, as well as classrooms and various study and social facilities. As stated above (see the section on accessibility above), the law suffices with making one floor accessible in a school, even where there are modern buildings with many floors and levels. Even this minimalist legislation is not sufficiently enforced. In the case of Botzer et al v. "Maccabim-Reut" Local Council et al, 50 (1) P.D. 19, the High Court of Justice determined (in March 1996) the right of a wheelchair-bound pupil to independent, safe and dignified accessibility at school. However, this precedent did not bring about any meaningful change beyond that particular case, and the Ministry of Education has still not prepared any multi-year plan on accessibility in schools in Israel.

60. The objective of the Ministry of Education is to integrate pupils with disabilities into the ordinary education system. However, for many years the view has prevailed in the Ministry of Education that pupils with disabilities who are integrated in regular schools lose their basket of rights under the law. The numerous complaints reaching the Ministry of Education on this matter, and regarding the state of special education in Israel in general, led former Minister of Education, Yossi Sarid, to appoint a "Committee to Examine the Implementation of the Special Education Law". On 20 July 2000, the Committee submitted the report on its recommendations, the main points of which were: recognition of the right of pupils with special needs to study together with children of their own age, to reach results according to their ability by being allowed to realize their potential, and the duty of society to prevent this right from being forfeited, other than in exceptional cases, taking into consideration the wishes of the family.

61. A gap still exists, in the area of special education, between the Jewish sectors and minority sectors: most children with disabilities in the Arab and Bedouin sectors do not study in educational frameworks which meet their needs; schools for special education for minorities which exist in these sectors do not answer the minimum level of conditions required in an educational framework. Children of various ages and with various disabilities study in the same classes, and there is a severe lack of professional personnel to deal with those children having special needs, such as speech therapists, occupational therapists, physiotherapists, and others.

The Ministry of Education recently made a renewed declaration concerning its policy of closing gaps in this area within four years. This period of time is necessary in order to train special teachers in these areas who speak Arabic who will be able to work with such children.

62. The Rehabilitative Day-Care Centres Law, 2000, a private initiative, was recently enacted. This new law sets out the right of an infant with severe disabilities to treatment in a rehabilitative day care centre, on the basis of a basket of services (the Law came into effect on 9 April 2001).

63. The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999, which is currently pending before the Knesset includes a chapter anchoring the right of a person with disabilities to education and schooling according to his needs.

Culture and leisure (art. 15)

64. As is generally known, recreation and leisure are taking up increasingly more time in the modern life of individuals. This area is no less important for people with disabilities. Israel has a diverse cultural life. However, people with disabilities, both adults and children, are often not able to partake in such activities as most cultural and leisure sites are still inaccessible to persons with physical or sensory disabilities (see above). Further, most cultural activities taking place are not accessible to people with intellectual retardation. In addition, local governments which are in charge of these areas have no national planning, there is no special department and there is no exclusive budget for activity for people with disabilities. As a result of this lack of appropriate attention to the special needs of adults and children with disabilities in this area, their social isolation increases.

65. The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999, which is currently pending before the Knesset includes a provision imposing an obligation on the State to initiate and develop programmes in the areas of culture, leisure and sport for people with disabilities, giving priority to their integration into regular programmes.

3. International cooperation

66. No changes have occurred since the submission of Israel's initial report.

Article 3: Prohibition of discrimination between men and women

67. Since Israel's initial report several important developments have taken place.

The Authority for the Advancement of the Status Women

68. An Authority for the Advancement of the Status of Women was established under the auspices of the Prime Minister's Office, in pursuance with the Authority for the Advancement of the Status of Women Law, 1998. The Authority is invested with advisory powers and may suggest policies to the Government, which are designed to advance women, promote gender equality, eliminate discrimination against women and prevent domestic violence targeted against women. In addition, the Authority supervises, inter alia, the gender policies of the different governmental bodies, monitors the implementation in Israel of the Convention on the Elimination of All Forms of Discrimination Against Women, promotes public awareness on the need to advance women and initiates legislative proposals and research.

69. The following are the main programmes and achievements of the Authority:

- Enforcement of laws relating to women's rights in the workplace, including equal pay, equal opportunities, prevention of discrimination; and shattering of the "glass ceiling";

- Institution of a Programme for Gender Equality in the schools, currently implemented throughout the educational system, from pre-schools through teacher-training colleges throughout the country. This programme is scheduled to run for four years;

- Consolidation and monitoring of funds allocated to the advancement of the status of women in the various ministries and statutory authorities, in order to maximize efficiency;

- Initiation of an out-reach programme for the early detection of breast cancer among hard-to-reach populations;

- Establishment of an informative Web site for women;

- Initiation of a project of informative and educational lectures and programmes for civil servants and in the Israel Defense Forces;

- Sponsorship of a series of literacy projects for women in the Arab and Bedouin sectors; this programme is the result of the express requests of the women themselves; and

- Sponsorship of a project of empowerment among single-parent families headed by women, focusing on skills needed for finding and maintaining employment.

70. A detailed survey of these programmes is provided in the Authority's National Report on the Status of Women in Israel "Beijing 5+", published in June 2000 (and provided in annex III to the present second periodic report).*

* Texts of the annexes can be consulted in the files of the secretariat.

Amendment of the Equal Rights for Women Law, 1951 (2000)

71. The Equal Rights for Women Law, 1951 was comprehensively amended in April 2000. (The full text of the amended law is provided in annex IV to this present Second Periodic Report.)* The following are the principal amendments:

(a) A paragraph was added to state the purpose of the law, which is "to prescribe principles to guarantee full equality between men and women, in the spirit of the principles of the Declaration of Establishment of the State of Israel";

(b) A provision was introduced permitting affirmative action, in order "to rectify a former or existing discrimination against women" or for the "advancement of equality of women";

(c) A set of rights were added:

(i) "Any woman or man has an equal right to an existence in human dignity, including equality at work, in education, health, housing, environmental protection and social welfare";

(ii) The right of a woman concerning her body;

(iii) The right to protection from violence, sexual harassment, sexual abuse and traffic of women;

(iv) The right to adequate representation of women in all public services;

(d) As already mentioned above (under art. 2 in para. 1) the new section 6 states as follows:

> Any woman or man has the equal right to an existence in human dignity, including equality at work, in education, health, housing, environmental protection and social welfare.

72. Lastly, mention should be made that all the above provisions shall not affect the validity of any law in force at the eve of commencement of the amending law. This is also true for the regulation of age retirement and pension plans for women regulated by collective agreements.

The Prevention of Sexual Harassment Law, 1998

73. Undoubtedly, one of the most progressive pieces of legislation enacted in recent years in Israel has been the Prevention of Sexual Harassment Law, 5758-1998.

74. This law passed its final reading in the Knesset in 1998 on International Women's Day and entered into force six months later, on 20 September 1998. During the course of the

* Texts of the annexes can be consulted in the files of the secretariat.

legislative process, women's NGOs presented their experiences, showing that a significant proportion of Israeli women were subjected to advances, remarks or contact of a sexual nature, which are unwanted and unwelcome, or suffer from threats or offers of remuneration for the purpose of sexual gratification. As in other countries, sexual harassment occurs in the workplace as well as in other social contexts.

75. Prior to the enactment of the law, the only express statutory provision relating to sexual harassment was to be found in section 7 of the Employment (Equal Opportunities) Law, 1988. This provision prohibited explicitly sexual harassment of the "quid pro quo" variety, i.e. adverse treatment in the work context, such as dismissal or denial of work-related benefits, in return for failure to respond to sexual advances. There was no clear statutory provision which related to any other form of sexual harassment, such as the creation of a "hostile work environment", or which dealt with sexual harassment occurring outside the workplace.

76. Benefiting from the social and legal lessons of a number of countries, the new law comprises a number of innovative provisions:

(a) The purpose of the law, as stated in the opening section, "is to protect human dignity, liberty and privacy and to promote equality between the sexes". The wide scope of this section on the purpose of the law was deliberate and based on the experience of a number of countries, where the courts have developed sexual harassment law on the basis of general anti-discrimination provisions. The initiators of the new legislation, which included Dr. Orit Kamir of Hebrew University, Jerusalem, and the Israel Women's Network, were of the opinion that it was important for the new legislation not to fall into the trap of classifying sexual harassment as a problem of discrimination alone. Thus, various questions, such as whether the law relates to sexual harassment of men or same-sex sexual harassment, would be avoided;

(b) At the centre of the new law are the definitions of sexual harassment and "adverse treatment" or "retaliation". The law rejects any kind of objective test, i.e. a test that would define sexual harassment as an act that a reasonable person would treat as harassment. Rather the core definitions of sexual harassment (s.3 (a) (4) and (5)) prescribe a subjective test, requiring the recipient of repeated references or proposals of a sexual nature to show that he or she is not interested in such proposals. ''Showing lack of interest" need not be verbal, it can be by conduct, but in general, the law takes the view that recipients must themselves object to acts which are potentially sexual harassment. A number of important exceptions were made to this rule and they appear in the definition of sexual harassment. The exceptions fall into two categories: the first being acts such as indecent acts or blackmail where the act itself is of a serious criminal nature; the second being when the act has been committed by exploiting a position of authority, e.g. education, medical treatment or employment;

(c) Unlike other countries, under the Israeli law sexual harassment and adverse treatment are both criminal offences and civil wrongs, and this dual approach would seem to express the serious view taken by Israeli society in relation to acts of sexual harassment and adverse treatment. The law addresses harassment of women in a broad range of situations, involving relationships of authority and dependence, employment and medical treatment;

(d) Of prime importance are the provisions relating to employers' responsibilities. Based on the law in other countries, such as the United States of America, Canada, United Kingdom and Australia, employers are required to take reasonable measures to prevent the occurrence of sexual harassment or other adverse treatment committed by one of its employees in the work context. Employers and co-workers are also required to institute a complaints procedure. An employer who employs more than 25 employees is required to publish a code of practice on sexual harassment, based on the model code of practice published by the Minister of Justice with the agreement of the Minister of Labour and Social Affairs. An employer who does not comply with these special statutory obligations is held to be vicariously liable for acts of sexual harassment committed by his employees in the work context.

77. Feedback received in the last 18 months since the law came into force shows that the law is being implemented, and that there is a dramatic increase in the number of complaints filed concerning sexual harassment, particularly in the workplace and in the army. Women's organizations that campaigned for the law stress that they are now able to give legal assistance to women who have been sexually harassed whereas such women had no legal redress prior to the enactment of the new law. In fact, only recently the Israeli courts convicted a former high-ranking government minister of violating the law, after his former subordinates filed complaints against his alleged misconduct.

Domestic violence against women

78. Protection from violence is provided at 12 shelters for battered women, located throughout the country. Due to their particular cultural and religious needs, there are special centres for Arab women and for ultra-Orthodox Jewish women. Together, these shelters provide emergency intervention for nearly 1,600 women and children yearly. The Ministry of Labour and Social Affairs covers 75 per cent of the cost of these shelters, and the remaining 25 per cent is provided by women's volunteer organizations. In recognition of the particular needs of the Arab community, the Ministry of Labour and Social Affairs covers 100 per cent of the operating costs of that shelter.

79. The shelters provide professional counselling, legal advice and assistance, childcare and rehabilitation. Several shelters also have multilingual staff and volunteers in order to assist immigrant women. Children continue in community-based day care or elementary school frameworks while residing in the shelter. However, some shelters restrict, for reasons of space, the number of children a woman can bring with her to the shelter. In addition, there are 30 transitional apartments which provide women with additional options when they are ready to leave the shelters.

80. A unique shelter for abusive men who have been removed from their homes by court injunctions has been established. In this shelter, the men receive group and individual treatment, as well as consciousness-raising and behaviour modification opportunities.

81. At least 10 hotlines are devoted to battered women throughout the country; one is devoted to Arabic speakers, while Russian and Amharic speakers are available on most of the others. Callers receive advice and information from trained volunteers.

82. The Authority for the Advancement of the Status of Women (AASW) has initiated a programme of workshops in all government ministries regarding violence against women.

Police treatment of domestic violence

83. Police personnel currently receive special training for dealing with family violence. Police policy provides that domestic violence be treated as a violent crime and that the victim be protected. Furthermore, the police may continue to investigate a complaint of violence even if the woman withdraws her complaint. However, as in most countries, the majority of abused women do not file complaints with the police.

84. The police also have the prerogative of filing a report even if the abused woman declines to do so. Women's organizations report cooperation with the police generally effective, and the Minister of Public Security has appointed an Advisor on Violence Against Women.

85. There are 25 centres for the Prevention of Violence in the Family located throughout the country. These centres are jointly funded and administered by the Ministry of Labour and Social Affairs, women's organizations, and the local authorities. The centres provide direct treatment, visiting centres where parents and children who have been separated can meet (under supervision if necessary), legal advice and research and information.

86. A women's NGO, in conjunction with Physicians for Human Rights, has developed a project to train multidisciplinary emergency room staff and to improve their sensitivity and their treatment of women suffering from battering and violence. The three-session training course includes lectures and small-group workshops, as well as work with the hospital's administration and management. Based on a pilot trial, the project has been extended to four hospitals.

87. The law has recognized the "battered women's syndrome", acknowledging the right of a battered woman to defend herself against her attacker and effectively broadening the definition of "self-defense".

88. Furthermore, the Knesset has passed an amendment to the Penal Code to allow the courts to impose more lenient sentences on victims of severe abuse who have been convicted of murdering the perpetrator of the abuse. While the amendment is not limited to abuse within the family, it seems that this will be among its most important applications.

89. Israel's eight rape crisis centres receive over 10,000 referrals each year. These centres also maintain hotlines and provide educational services. Public support for the rape crisis centres remains low; donations and contributions provide most of the support. The centres report that while police directives are meant to provide sensitive and effective care for the victim, the implementation of these directives is not uniform throughout the country. Moreover, in Israel, as in other countries, assaulted women are often reluctant to contact the police.

90. In March 1995, the Knesset appointed a Parliamentary Committee of Inquiry to investigate the subject of women murdered by their spouses and life partners. The mandate of the Committee was further broadened to include the investigation of violence against women. The Inquiry Committee presented its conclusion and recommendations in June 1996. This

comprehensive report analysed the causes of domestic violence, the adequacy and efficacy of existing services, and gaps in the provision of service. The report presented comprehensive, integrated and binding recommendations to each of the relevant ministries.

91. The Government decided in 1998 to establish an inter-ministerial committee to deal with issues of law enforcement and strengthening of existing services. The committee was chaired by the Director-General of the Ministry of Labour and Social Affairs and included representatives from the Prime Minister's Office, the AASW, the Ministry of Public Security, the Ministry of Health, the Ministry of Education and women's organizations. In 1997-1998, the Prime Minister's office sponsored a national media campaign against violence against women, including a National Hotline and Referral Service.

Additional information

92. For further information regarding gender equality, please refer to the forthcoming Second Periodic Report of the State of Israel on the Implementation of the Convention on the Elimination of Discrimination against Women (CEDAW), especially with regard to:

- Women in political and public life, following the 1998 municipal elections and the 1999 national elections;
- Women in the Israel Defense Army, following legislative and policy changes, almost equalizing opportunities of women in the military service;
- Domestic violence and trafficking of women, following recent legislative changes;
- Updated data on women's situation in the realms of employment, health and education; and
- Affirmative action regarding appointments of women in the public service, following a landmark decision of Israel's Supreme Court.

Article 6: The right to work

Related international conventions binding Israel

93. Since its initial report under the Covenant, Israel submitted updated reports under the following International Labour Organization Conventions, which relate to the years 1998-1999:

- Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- Employment Policy Convention, 1964 (No. 122);
- Forced Labour Convention (No. 29).

Employment and unemployment: Level and trends

94. From 1997 through 1999, economic expansion in Israel was very moderate. GDP (gross domestic product) grew (in constant prices) by 3 per cent in 1997 and by 2.2 per cent in the years 1998 and 1999. According to the Bank of Israel's *Annual Report, 1999*, during 1999, "There was a turnaround in economic activity. After falling in the first quarter of the year, GDP grew sharply for the rest of 1999. Accelerated activity was led by a recovery in domestic demand and in exports and was accompanied by an increase in the current-account deficit."

95. In 1999, GDP reached NIS 417.4 billion (in current prices), approximately US$ 101 billion, based on the average exchange rate for the shekel in 1999. Per capita GDP averaged US$ 16,600 (in current prices) for the 1997-1999 period, up from US$14,700 in the 1993-1996 period. However, in each year 1997 through 1999, growth in population exceeded growth in aggregate GDP so that GDP per capita fell by almost 6 per cent between 1997 and 1999.

96. The expansion of economic activity beginning in the second quarter of 1999 was also accompanied by a decline in the unemployment rate, which had increased from 1996 to 1999, while employment continued its moderate growth.

97. As noted in Israel's initial report, 2 million persons were employed in Israel in 1996. This increased to 2.1 million in 1999, a rise of 2 per cent per year since 1996. Unemployment, however, also rose steadily, from 6.7 per cent in 1996, to 7.7 per cent in 1997, 8.5 per cent in 1998 and 8.9 per cent in 1999. It reached a high of 9.7 per cent (seasonally unadjusted) in the third quarter of 1999, declined to 8.8 per cent in the last quarter of 1999 and then to an average of 8.2 per cent in the first half of 2000. New immigrants, mainly from the former Soviet Union, have continued to arrive in Israel, albeit at a slower pace on the average, than in the earlier years of the decade. Between 1996 and 1999, Israel's labour force grew by close to 9 per cent, in large part due to the entry of new immigrants into the labour market.

*Employment trends among particular categories of work*ers

98. Below is an updated table showing the changes in employment and unemployment of various categories of Israeli workers. (More complete data is provided in Table 7 of this section.)

Table 1

	Employment (average annual % change)		Unemployment rate (%)			
	1991-1996	1996-1999	1996	1997	1998	1999
Total	4.9	2.0	6.7	7.7	8.5	8.9
Jews	4.7	1.9	6.7	7.6	8.2	8.5
Arabs and others	6.3	2.5	6.2	8.1	10.7	11.4
Men	3.8	0.8	5.8	6.8	8.0	8.5

Table 1 (continued)

	Employment (average annual % change)		Unemployment rate (%)			
	1991-1996	1996-1999	1996	1997	1998	1999
Women	6.5	3.5	7.8	8.8	9.2	9.4
Aged 15-17	6.5	-7.9	19.7	21.2	21.8	18.6
18-24	8.8	0.7	12.8	14.2	16.5	16.6
45-54	10.6	6.5	4.5	5.7	6.4	6.6
55-64	4.7	1.0	4.8	5.1	6.6	6.7
Development areas	10.0	2.7	10.5	12.7	11.5	11.9
New immigrants	35.3	9.5	9.3	10.0	11.2	11.4

Source: Israel, Central Bureau of Statistics, Labour Force Surveys.

99. As noted above, in 1997 to 1999, employment increased relatively slowly compared to the five preceding years (2 per cent per year in 1997-1999 as compared to 4.9 per cent per year in 1991-1996). In the period 1997-1999, the rise in employment was particularly pronounced among new immigrants, averaging 9.5 per cent per year. Employment among the very young, aged 15-17, declined by 8 per cent and remained stable among those aged 18-24, both of these developments reflecting the long-term trends in these age groups toward extended education and army service, as well as the effects of slower economic activity in those years.

100. With respect to unemployment, the highest rates continue to be found among young workers aged 15 through 24. Unemployment was also particularly high among Arabs and other non-Jewish population groups in Israel, as well as among residents of development areas and new immigrants.

Employment policies

101. As foreseen in Israel's initial report, unemployment has increased since 1997. Rising unemployment has necessitated a re-evaluation of employment and unemployment policies and measures, as described below. To the extent that data for 2000 is available, the trend seems to have been reversed during the year 2000.

102. Most of the increase in unemployment since 1996 stems from a slowdown in economic activity in Israel and from exposure to globalization, with relatively small enterprises and enterprises whose products face competition from imports being particularly vulnerable to the situation. The employees of such firms are typically older workers and those with lower education levels. It is almost certain that in some of these enterprises labour laws are not observed as they should be. The data show that during the past three years the proportion of long-term unemployed has risen sharply from 12 per cent to 16-17 per cent of the labour force.

103. Although data for the end of 1999 and the first half of 2000 indicate the possibility of sustained improvement in the employment situation in Israel, the significant rise in unemployment during 1997, 1998 and most of 1999 required the formulation and implementation of new employment policies and measures.

104. In recent years, there has been a growing awareness of the need for greater government intervention to assist the unemployed whose chances of returning to work would be hampered without such assistance. Various government ministries are involved in income maintenance programmes and vocational training to help the unemployed.

105. Unemployment among new immigrants to Israel continues to be a problem. As shown in the table above, unemployment among new immigrants rose steadily from 9.3 per cent in 1996 to 11.4 per cent in 1999. Such rates were substantially higher than the average for the economy as a whole in those years. From 1997 through 1999, the influx of new immigrants averaged 66,500 per year. The proportion of new immigrants in the labour force rose from 12 per cent in 1996 to 17 per cent in 1999.

106. Programmes to improve job opportunities for new immigrants, as well as the unemployed among other groups in the labour force, have included principally:

- Streamlining of the public Employment Service activities to encourage employers to seek workers through the Employment Service and to improve the matching of job vacancies with job seekers;

- Temporary employment programmes in the public sector;

- Vocational training, retraining and on-the-job training.

107. As shown in Table 1 (annexed to the section on article 6), the rate of unemployment among the Israeli Arab population is higher than among the Israeli Jewish population. The Government's resolution adopted in October 2000, as set out in full in article 2 above, attempts to address this gap by allocating additional resources for vocational training for this sector of the population.

108. Regarding unemployment among the Bedouin population, their rate of unemployment today is more than 20 per cent, as measured by accepted international definitions, compared to 8.3 per cent among the population as a whole. In recent years, the Government has undertaken projects to reduce the extent of unemployment among the Bedouin, including vocational training for adults and subsidized employment, particularly in areas related to tourism, such as in national parks and at archaeological sites.

109. With respect to unemployment among women, four authorities are currently actively engaged in Israel in promoting employment opportunities for women: the Authority for the Status of Women in the Prime Minister's Office; the Knesset Committee to Advance the Status of Women; the Unit for the Advancement and Integration of Women in the Civil Service Commission; and the Unit for Advancement of Women in the Ministry of Labour and Social Affairs.

110. With respect to women's advancement in government service, in 1999 the Unit for the Advancement and Integration of Women brought before the Civil Service Commissioner, recommendations to require each government office to carry out a detailed investigation of women's advancement, to set specific goals on women's appointments for each government

office, to include the subject of women's status in all educational activities undertaken by the Civil Service Commission and to promote changes in the State Service Law to make the director-general of each government office directly responsible for implementing the law in his or her office.

111. With respect to employment opportunities for women in Israel, the Authority for the Status of Women and the Knesset Committee on the Status of Women focused in 1999 and 2000 on the following areas: an initiative to train women soldiers in new military skills reserved in the past for men; an initiative to open new positions in the police force for policewomen with better prospects of advancement and higher salaries; encouragement to Arab women to join the police force; and encouragement of Arab women to train as social workers in the Arab sector which currently lacks sufficient social workers.

112. The public works' programmes noted in Israel's initial report have been continued since 1996 in an effort to find temporary solutions for the unemployed. The Government's interest in extending the scope of these projects should be noted, particularly among the long-term unemployed who have lost their skills and work habits. The Ministry of Labour and Social Affairs is developing programmes which combine vocational training and/or general education courses with employment on public works projects to increase the skills of such persons for the long term. Ministry of Labour and Social Affairs data indicate that in 1997, an average of 870 unemployed were working an average of about 18 days per month. This rose in 1998 to 1,280 persons working 17 days per month and, in 1999, to approximately 1,700 persons employed 17 days a month (see below "vocational guidance").

113. The Government's long-term economic programmes continue to emphasize the measures noted in Israel's initial report.

Employment and individual freedom: The right to work as a constitutional right

114. Decisions issued by Israel's Labour Courts in the last four years have included general statements which would appear to accord to the "right to work" a basic value, deriving it either from the basic right to human dignity or from the right to freedom of occupation (Jerusalem District Labour Court 54/3-289 Dr. Orly Peret v. Amitzur Farkash, 9 January1996; District Labour Courts Reports, vol. 5, p. 632); (National Labour Court 300337/98 Tayizy Arian v. The Courts' Administration, 20 January 2000; National Labour Court Reports, vol. 33 (1), p. 20).

115. However, in none of the cases did such a right make a difference by itself. Thus, it is fair to assess that the constitutional status of the right to work is still an open issue.

The right to work as a statutory right

116. Since Israel's initial report, an additional case of statutory protection of security of employment was introduced. The Women's Labour Law was amended in 2000, prohibiting the dismissal of a woman due to an absence from work where it is necessary for her to hide from her battering husband.

117. Scholars and workers' organizations have lately criticized the Employment of Workers by Labour Contractors Law, 1996, described in the initial report. The National Labour Court also pointed out, in a few occasions, flaws in the existing law, especially in cases where the use of contract labour was made for long periods. In the leading case of Tzvi Shaffir the Court stated:

> I consider the form of employment through contract labour agencies or contractors, for long periods of time, as a negative trend in labour relations, detrimental to the protection of workers provided by labour law, both at the individual and the collective level … A person employed for a long period by one same user enterprise should be considered as the user's employee. Otherwise, there will exist two classes of workers at the workplace: those protected by the collective agreements and extension orders applying to the user and those deemed to be employed by the manpower agency which is not bound by these agreements and orders … Such workers become a kind of 'outlaws' within the user's workplace.
>
> National Labour Court 57/3-56 Tzvi Shaffir v. Netiv Bitzuah Taassyaty Inc. National Labour Court Reports, vol. 32, p. 241.

118. Responding to such concerns, the Minister of Labour and Social Affairs initiated a draft bill in 1999 aimed at radically reforming the existing law. While the Government was still discussing this proposed bill, a private Knesset member succeeded in passing a private members bill. As a result, the law was radically changed in 2000.

119. The amendment limits the use of workers through such contractors to a maximum of nine months, plus six additional months by special permit of the Minister of Labour and Social Affairs. It also stipulates that a contract labour worker posted in the same user enterprise over the said time limit will automatically be considered as the user enterprise's employee. Additionally, a contract worker is entitled, from his first day at the user enterprise, to the same rights enjoyed by the user enterprise's employees of similar occupation and seniority at the workplace.

120. This amendment took effect only in January 2001. It constitutes a major reform, affecting about 6 per cent of the salaried in Israel. Thus, a period of adjustment before its entry into force was necessary. However, even this period was deemed insufficient, at least for the public sector. The amendment necessitates a reconsideration of the form of employment of thousands of contract labour workers posted in the public sector. For this reason, the Government requested the Knesset to postpone the entry into force of this amendment to January 2002, in order to complete its reorganization. This request is still pending in the Knesset.

121. The Ministry of Labour and Social Affairs is now completing a systematic survey in order to quantify and qualify the population of contract labour employees in Israel. Detailed factual information will therefore be provided in future reports.

122. Concerning the administrative control aspects of the law, some important development took place since the initial report. First, mention was made in the initial report of a petition to

the High Court of Justice, seeking to declare unconstitutional the legal provisions requiring financial guaranty as a pre-condition for issuing a permit to a contract labour agency. In 1998, the High Court of Justice, in its final judgement upheld the constitutionality of this requirement, in a leading precedent (HCJ 450/97 Tnuffah, Manpower Services and Maintenance Ltd. v. Ministry of Labour and Social Affairs). This court decision was described earlier in this report under article 2.

123. In addition, the Minister of Labour and Social Affairs has used his enforcement powers against many agencies, when complains and inquiries have shown infractions of the law, including the legal obligations of an agency as an employer. Such administrative activities have had one or more of the following results:

- Reimbursement by the agency of sums due to its employees;
- Limiting the scope of an agency's activities until fulfilment of certain conditions;
- Appointing an accountant to verify compliance by an agency of certain fiscal conditions;
- Penal indictment, mainly to enforce the prohibition against operating an agency without a permit;
- Cancellation of permit.

124. Finally, it should be noted that the number of authorized agencies has now reached 300. It is noteworthy that more than 100 agencies, which were operating before the entry in force of the law in 1996, have ceased to operate following its implementation.

The right to work in Israel's case law

125. The "restraint of trade" doctrine mentioned in the initial report has been further entrenched in recent judicial cases. Mention should be made of a new leading case known as the "Checkpoint case" (BSHA 27/99 Dan Prumer Checpoint Software Technologies Inc. v. Redgard Inc., NLC, 4.06.99). The National Labour Court considered a contract obligating an employee of a high technology firm to abstain, for 22 months after termination of the contract, from being employed in a competing firm. The employee was a specialist in software development in the field of computer security, who had acquired additional knowledge and expertise while at work during the period of the contract. The District Labour Court had issued a temporary injunction prohibiting the employee to begin employment by Checkpoint, a rival firm. The majority ruling at the National Labour Court annulled the injunction.

126. The importance of this case lies less in the principles applied than in their application in such a case. The court exercised a balance of rights and interest similar to the approach described in the initial report. However, commentators have criticized the decision as being improper by granting such protection to a specialized employee in the high technology industry, where many employees are, in fact, in such a strong position regarding the employer that they do not need special protection. Some even argued that this precedent would eliminate, in fact, the

employer's protection of its trade secrets and even endanger the viability of the whole high technology industry. It should be noted that the Court addressed this practical concern in its decision. It also stressed the notion that an expertise, even if gained on the job, is part of the personal qualifications of an employee. As such, it is part of his property, which should be protected under the basic right to property, entrenched in the Basic Law: Human Dignity and Liberty. Overall, this approach in effect promotes the right to work of a worker.

Technical and vocational training programmes: Vocational guidance

127. No change has occurred since Israel's initial report.

Vocational and technical education within the formal education system sponsored by the Ministry of Education

128. The number of students receiving vocational training in secondary schools has continued to increase rapidly in absolute and relative terms. In the school year 1999/2000, 115,000 students (in the Hebrew and Arab systems) were in vocational/technological educational tracks, an increase of 17 per cent over 1998/99. In 1999/2000, the total number of pupils in secondary education rose by only 2 per cent.

129. No updated information is available on the number of institutions providing advanced vocational training. However, regarding the number of students, in 1998-1999, 53,000 students were studying in these schools, close to half in programmes for practical engineers and technicians, 20 per cent in teacher training, 15 per cent in clerical work and business administration and the rest in nursing, paramedical occupations, arts, architecture and design.

Vocational training for adults and youth sponsored by the Ministry of Labour and Social Affairs

130. The following tables show the scope of vocational training sponsored by the ministry in the year 1999, while further details are provided afterwards:

Table 2

Youth Training, 1999

Frameworks	1999
Total No. of students	14 280
Apprenticeship	7 280
Industrial schools	6 400
Adolescents	600

Table 3

The National Institute for Technological Training, 1999

Frameworks	1999
Total No. of students	22 500
Practical engineers and technicians	22 500

Table 4

Adult Vocational Training, 1999

Total No. of students	59 307
Retraining of academics	9 000
Adult basic training	29 095
On-the-job training	1 212
Supplementary courses	1 000
Private sector courses supervised by the Bureau	20 000 approx.

Vocational courses for adults

131. The Manpower Training and Development Bureau at the Ministry of Labour and Social Affairs (hereinafter, the Bureau) initiates and carries out training and retraining day and evening courses for adults in its own training centres, in training centres run by other agencies and in training centres jointly maintained by the Bureau and private bodies.

132. In-service vocational training: About 50 per cent of these training courses are implemented by institutes for integrated in-service training of "ORT" and "AMAL" (two large private educational networks), the remainder being implemented by either direct or joint activities.

133. Retraining for university graduates: In order to provide constructive answers to the demand for trained personnel above secondary school level, and at the same time to solve the problem of unemployment of graduates (Israelis and new immigrants), the Bureau runs two centres for the retraining of graduates in Tel Aviv and Haifa. This is in addition to specific courses held throughout the country.

134. Training of labour force for states of emergency: The Bureau carries out special activities for the training and staffing of essential posts for a state of emergency. Within this framework, the Bureau operates a special centre for the training of drivers which supplies in-service training for drivers in driving, hauling, wreck-extraction, etc.

Vocational training for youth

135. Some of these courses are designed for marginal youth, (see Table 2 above) and in these cases the group of trainees is always under the guidance of a social worker. About 10 per cent of these courses are offered in boarding schools, which provide an attractive setting for the vocational training and education of the adolescent.

136. According to the Apprenticeship Law, 1953 a youngster may be employed as an apprentice in trades which the Minister of Labour and Social Affairs had declared as apprenticeship trades. In conformity with this law, the youngster learns the trade through work and must study in approved vocational classes. The Ministry of Labour and Social Affairs supervises the progress in his or her vocational studies in the workshop and in school, through apprenticeship inspectors and by periodic examinations. Graduates receive official trade certificates.

137. In conformity with an amendment to the law promulgated in 1972, all working youngsters (including in professions not yet promulgated as apprenticeship trades) must study at least one day a week, like apprentices. For organizational and budgetary reasons, this law is being implemented by stages. It began to be applied in the school year 1972/73 and it was assumed that all working youth would become pupils under the law by the school-year 1990/91. It seems now that due to budgetary limitations, the complete implementation of the law for all working youngsters will be postponed to a later date.

138. The apprenticeship studies are provided in apprenticeship schools, which are run by vocational networks such as ORT, AMAL, Women's Council and others. Youngsters in this category are, by law, exempt from school fees.

Training of technicians and practical engineers

139. The training of technicians and practical engineers (see Table 3 above) is the function of the National Institute for Technological Training, which carries out this activity in cooperation with the Ministry of Education and Culture. The programme is carried out with the assistance of 41 schools and branches. The Institute also constitutes the official framework for the provision of pedagogical services to schools (study programmes, supervision, examinations and issuing of diplomas to successful graduates).

Integrated programmes of the Bureau and the high-tech industry

140. The growth of the Israeli high–tech industry has already made it a major part of the GNP. Due to this process, the need for trained manpower in many fields within this industry is growing as well. A group of leading industries in Israel joined together in order to strengthen the link between the needs of their enterprises and the bureau's training network (i.e. the Israeli National Institute for Technological Training). Their main objectives are to emphasize the importance of interdisciplinary understanding, as a part of the curricula for technicians and practical engineers and to develop an interdisciplinary curriculum, based on the actual situation of the whole industry.

141. Today 10 colleges for technicians and practical engineers are involved in this programme in the areas of electricity; electronics; machinery; controlling systems; air condition; chemistry and biotechnology. It is important to mention that this programme is followed with a "training of trainers" refreshment course. The project also opened a hot-line for teachers. A Web site is also under construction, which will serve teachers and students interested in the areas involved. Finally, the whole programme is under systematic assessment and evaluation.

Training for women

142. With regard to female participation in the labour force, there are two groups – ultra-orthodox Jewish women and Arab women – who require special programmes and measures, due to the cultural factors affecting their potential entry into the labour market. The development of tools to assist their integration into the labour market is being undertaken currently within the framework and limitations noted above.

143. In the field of vocational training, the intention is to continue the policy of devoting special budgets to training for women. As described in the following paragraphs, some special programmes are targeted to women in general, while others target especially vulnerable groups of women.

144. The Ministry's unit for the Advancement of Women has as its main goal to increase employability of women and their economic independence, through policies of professional and personal growth. The unit's initiatives are as follows.

(a) Workshops for women, including new immigrants, non-Jewish and ultra-orthodox women:

- Type I: Self-empowerment and work skills - in addition to retraining courses.

- Type II: Entrepreneurship and work skills - in addition to retraining courses.

- Type III: Orientation towards employability and job searching - within the community. (1996 - 20 workshops; 1997 - 55 workshops; 1998 - 70 workshops; 1999 - 80 workshops; 2000 – 120 workshops (1,800 participants); total: 345 workshops; (3,500 participants)). Participants report improved self-image, personal and professional empowerment and better assessment of the job market. Participants in the entrepreneurship workshops report a better understanding and knowledge of the various aspects of small business establishment. Participants in the workshops in the community usually enjoy continued professional assistance. These women join various activities at the end of the workshops, such as: education completion, Hebrew classes (mainly non-Jewish and new immigrants), vocational training, employment or some form of voluntary activity.

(b) Courses for entrepreneurship and small business (130 hours): These are courses for women with entrepreneurial spirit and/or plans, but without access to training because of economic, geographical or cultural obstacles. This training enhances their chances of establishing a viable business and improving their economic status - the rate of business

establishment among the participants is 20 per cent-50 per cent. Some start their business ventures at a later stage. Others, realising the implications, prefer to look for a regular job. Businesses started by participants are mainly in services, such as: catering, child nurseries, alternative medicine, bed and breakfast, beauty, flowers and gift shops, secretarial services and manpower services. Some join their husbands as full partners in establishing or running a family business (1996 - 2 courses for Bedouin women; 1997 - 2 courses: 1 for Arab women, 1 for Jewish women; 1998 - 1 course for ultra -orthodox women; 1999 - 2 courses: 1 for ultra-orthodox women, 1 for Druze women; total: 130 participants).

(c) Workshops and counselling for professionals working with women within the community: The aim is provision of knowledge and tools, thus empowering women and counselling them towards advancement and employment. Participants include training counsellors in renewal projects of inner city neighbourhoods (started in 1997); senior staff of vocational training centres (started in 1998); and social workers - 2 workshops in 1998 (on-going counselling, while operating community joint workshops for women).

(d) New target populations: In 2000, the unit enlarged the scope of its workshops activities, to include additional groups: those at a stage of career decision making, such as education completion students, preparatory course students; and groups with special needs, such as persons with disabilities during vocational training in rehabilitation centres and unemployed single parents.

(e) A pilot programme - "Learn a profession and be successful". The Bureau, in collaboration with Women's Rights NGOs, initiated a new pilot programme aimed at reducing poverty among women. This includes workshops on empowerment and work skills, completion of education and in giving participants in the pilot priority in acceptance to regular vocational training and entrepreneurship courses. Several locations in Jewish and Arab municipalities were chosen in which unemployment exceeds 10 per cent.

Employment opportunities among particular categories of workers: prohibition of discrimination

145. The Equal Employment Opportunities Law, 1988: In the past years, the Enforcement Division of the Ministry of Labour and Social Affairs increased its activities under this law: it conducted 167 investigations in 1996; 99 in 1997; 264 in 1998; 290 in 1999 and 597 during 2000 (until August).

146. The Legal Department pressed charges during year 2000 (until August), in six cases, and had at that time 51 more indictments in preparation. Many cases involve unlawful advertisement. A few cases involve alleged substantial discrimination. There is still no substantial body of jurisprudence on this type of case. There are a few instances of relatively heavy fines imposed, i.e. a fine of NIS 10,000 for unlawful advertisement.

147. The Equal Employment Opportunities Regulations, 1999 established the legal framework for the appointment of a public council, holding advisory powers with regard to the implementation of the Equal Opportunities Law, 1988.

148. The Equal Employment Opportunities Law, 1988 was amended in 1998 by the Prevention of Sexual Harassment Law, 1998, in a manner that broadened section 7 regarding "sexual harassment" as well as "adverse treatment" that follows sexual harassment. There are still no leading judgements to report on this issue, but there are a few cases in which settlements were reached in light of the amended law, so that its influence is already substantially felt in the field. Further information on this new legislation is provided in this report under article 3.

149. It should be noted that other recent amendments in employment legislation also aim at indirectly improving the situation of women. This applies to the fields of foreign workers and manpower contractors, since the rate of women in these groups is relatively high.

Factual situation: employment

150. Data for 1999 on employed persons by sex and population group are shown below:

Table 5

	Thousands	Percentage
All employed persons	2 136.7	100.0
Men	1 176.2	55.0
Women	960.5	45.0
Jews	1 857.1	86.9
Arabs and others	279.7	13.1

Source: Israel Central Bureau of Statistics, Labour Force Survey, 1999.

Occupation and continent of birth

151. The table below presents data for 1999 on Jewish employed persons by occupation, by continent of birth and by sex. In 1999, almost 30 per cent of employed Israeli Jews worked in academic, professional and technical occupations, 36 per cent were clerical and sales personnel, while 18 per cent were skilled workers in manufacturing, construction and other industries. In comparison with the occupational distribution in 1995, a distinct shift had occurred by 1999: the proportion of Israeli Jews employed as skilled industrial workers declined while the proportion working in academic, professional, technical, managerial and other white-collar occupations rose.

152. With respect to the continent of birth, in 1999, close to 60 per cent of the Jewish employed population was Israeli-born, 29 per cent came from European countries and the American continent and 12.5 per cent were born in Asian and African countries. In comparison with the situation in 1995, in 1999, more of the Jewish population was born in Israel, coupled with a considerable drop, both absolute and relative, in Israeli Jews born in Asian and African countries. Due primarily to the continued immigration to Israel from the former Soviet Union, the proportion born in European and American countries remained at the same level in 1999 as in 1995 (29 per cent).

153. In 1999, a third of those Jews born in Europe and the Americas worked as academics and professional personnel, compared with 30 per cent of the Israel-born and 18 per cent of those born in Asia and Africa. The decline which occurred between 1995 and 1999 in the number and proportion employed as skilled industrial workers was particularly sharp among the Israel-born though noticeable, as well, among workers born in Europe and the Americas and in Asia and Africa.

Table 6

Jewish workers, by occupation, continent of birth and sex, 1999
(in thousands)

Occupation and sex	Total	Israel-born	Asia/Africa	Europe/ America
Grand total[a]	1 857.1	1 083.0	233.2	534.6
Academic professionals	247.0	141.8	13.9	90.7
Other professionals and technicians	287.9	179.6	28.1	80.1
Managers	130.0	88.7	14.2	26.7
Clerical workers	341.7	237.0	35.3	68.3
Agents, sales and service workers	349.1	200.2	57.1	90.1
Skilled agricultural workers	33.4	22.7	4.6	5.3
Skilled industrial workers	330.6	162.2	52.2	113.5
Unskilled workers	137.4	50.8	26.7	59.9
Men - Total	964.6	553.4	133.5	274.0
Academic professionals	128.3	68.6	9.2	49.6
Other professionals and technicians	112.8	65.9	11.9	34.3
Managers	97.4	65.9	12.0	19.4
Clerical workers	85.8	54.2	13.5	17.8
Agents, sales and service workers	151.4	97.9	23.2	29.6
Skilled agricultural workers	28.0	19.9	3.9	4.1
Skilled industrial workers	288.4	150.0	47.4	90.7
Unskilled workers	72.3	31.0	12.4	28.5
Women - Total	892.5	529.7	99.7	260.5
Academic professionals	118.7	72.6	4.8	41.2
Other professionals and technicians	174.9	112.8	16.5	45.7
Managers	33.0	23.3	2.3	7.0
Clerical workers	254.4	181.7	21.7	50.6
Agents, sales and service workers	197.2	102.2	33.9	60.5
Skilled agricultural workers	5.4	3.2	0.8	1.3
Skilled industrial workers	41.9	13.2	5.3	22.9
Unskilled workers	66.9	20.7	14.4	31.3

Source: Israel Central Bureau of Statistics, Labour Force Survey, 1999.

[a] Includes persons whose occupations are unknown.

154. Among the Israeli Arab working population (see Table 8 of the section on this article), in 1999, as in 1995, the large majority are men, 51 per cent of whom were employed as skilled industrial workers. Labour force participation of Arab women remains low, though rising slowly. In 1999, the proportion of employed Israeli Arab women among all Israeli Arab workers increased from 21 per cent in 1995 to 24 per cent in 1999. Of the women who were employed in 1999, 28 per cent work in academic and professional fields, 36 per cent were clerical and sales workers and 34 per cent were employed in industry as skilled and unskilled labour.

Foreign workers

155. In recent years the phenomenon of foreign workers, described in the initial report, raised great concerns because of its implications in the realms of labour, employment and welfare. Consequently, the Foreign Workers (Prohibition of Unlawful Employment and Assurance of Fair Conditions) Law, 1991 was revised, in an amendment that came into force on 1 July 2000. (An English translation of the amended version of this law is included in annex I to the present Report.)*

156. The first aspect of the 2000 amendment concerns foreign workers' labour rights, in particular:

- The right to a labour contract in writing in the foreign worker's language, along with a Hebrew version. It should be noted that a written contract is not required in regular labour law, except for the case of contract labour workers for whom there is no language requirement;

- The obligation to provide the worker with medical insurance, at the expense of the employer; and

- The obligation to provide "proper lodging", mostly at the expense of the employer.

157. In addition, the employer is now obliged to submit monthly reports to the Employment Service's payments division about payment of wages for every foreign worker he employs. He is also required to keep a copy of the medical insurance, wage slips and a register of each worker's hours of work and rest at the place of work.

158. In July 2000, four sets of regulations under the amended law came into force. They include: the specifications of a "proper lodging"; the maximum amounts that an employer may deduct from the worker's salary by way of reimbursement of the employer expenses on lodging; the documents that the employer is required to keep; details concerning the employer's reporting obligations.

159. The amendment also introduced compulsory fees on employers of foreign workers. Administrative fines for violation of the law had earlier been raised in 1998 from NIS 2,000 to NIS 5,000. The new amendment in 2000 raised the amount of fines determined by the law to NIS 80,000. Nine new offences were also added by the 2000 amendment, mainly for violation

* Texts of the annexes are available for consultation in the files of the secretariat.

of foreign workers' rights. A section was added which provides protection against an employer impairing a foreign worker's wages and work conditions, on the basis of a complaint by the foreign worker or by someone on his behalf. The range of liability for violations of the law was also broadened to cover contractors active in this field, arranging living conditions, medical insurance, wages etc. The supervision authority of the inspectors enforcing the law was also expanded, to grant them the right to seize documents at the place of work, such as wage slips and registers of work and rest hours.

160. In addition, the Employment Service Law was amended, to expand the prohibition on private agencies to charge payment from the work seeker. This amendment aims at preventing an agency from evading the law by using an individual acting de facto, but not de jure, on its behalf in Israel or abroad.

The factual situation of foreign workers

161. Since the 2000 amendment came into force only recently, the information below relates to the legal situation prevailing before it came into effect. Information on the enforcement of the amended law will be available in future reports. According to data supplied by the Employment Services the number of permits issued this year to employ foreign workers amounts to 72,445. Estimates by the Central Bureau of Statistics indicate that around 150,000 workers are presently employed in Israel, of which part are legally employed and part are illegally employed. Thus, it is possible to estimate that the number of illegal foreign workers approximately equals the legal workers. These data seem positive in the light of the declared policy of the Government to reduce the scope of foreign workers employed in Israel.

162. According to data of the Ministry of Interior the following are the countries from which the foreign workers come:

- Europe: Poland, Bulgaria, Romania, Yugoslavia and the former Soviet Union;
- Asia: Philippines, Thailand, India and China;
- Africa: Ghana and Nigeria;
- South and Central America: Colombia, Bolivia, Ecuador, Chile and Brazil.

163. The Foreign Workers Administration, mentioned in Israel's initial report, regularly distributes an information leaflet among the workers arriving at Israel's Ben Gurion international airport. These leaflets, written in a number of languages, list the employer's legal obligations towards foreign workers. It also provides the telephone number of a hot-line, to which one can file complaints to the Enforcement Division of the Ministry of Labour and Social Affairs. Anonymous complaints are also dealt with. Similar material is also being distributed by various NGOs active in this field.

164. The Foreign Workers Administration acts for the purpose of enforcing the duties of employers towards their foreign workers in accordance with the labour laws. This activity by the Foreign Workers Administration is on the rise: in 1998, 1,198 employers were

fined (5,081 work sites were inspected, involving 10,740 workers). During the period between November 1999, and August 2000, 2,262 employers were fined for illegal employment, for which NIS 11 million was collected in fines. During that period 359 employers did not pay the administrative fine and preferred to go to trial.

Table 7

Employment and unemployment of Israelis: levels and trends, 1996-1999

	1996	1999	Average annual percentage change	
			1991-1996	1996-1999
Total population				
Aged 15 and over (thousands)	4 019.9	4 358.5	3.2	2.7
Civilian labour force:				
Number (thousands)	2 156.9	2 345.2	4.0	2.8
Participation rate (%)	53.7	53.8		
Employed (thousands)	2 012.8	2 136.7	4.9	2.0
Unemployed				
Number (thousands)	144.1	208.5	-4.9	13.1
Unemployment rate (%)	6.7	8.9		
Jews				
Aged 15 and over (thousands)	3 362.6	3 616.2	3.0	2.5
Civilian labour force:				
Number (thousands)	1 880.2	2 029.4	3.9	2.6
Participation rate (%)	55.9	56.1		
Employed (thousands)	1 753.3	1 857.0	4.7	1.9
Unemployed				
Number (thousands)	127.0	172.4	-5.0	10.7
Unemployment rate (%)	6.7	8.5		
Men				
Aged 15 and over (thousands)	1 959.7	2 116.3	3.1	2.6
Civilian labour force:				
Number (thousands)	1 217.8	1 285.0	3.1	2.6
Participation rate (%)	62.1	60.7		
Employed (thousands)	1 147.0	1 176.2	3.8	0.8
Unemployed				
Number (thousands)	70.8	108.8	-4.7	15.4
Unemployment rate (%)	5.8	8.5		

Table 7 (continued)

	1996	1999	Average annual percentage change	
			1991-1996	1996-1999
Women				
Aged 15 and over (thousands)	2 060.1	2 242.2	3.3	2.9
Civilian labour force:				
Number (thousands)	939.1	1 060.2	5.2	4.1
Participation rate (%)	45.6	47.3		
Employed (thousands)	865.8	960.5	6.5	3.2
Unemployed				
Number (thousands)	73.3	99.7	-5.6	6.3
Unemployment rate (%)	7.8	9.4		
Arabs and others				
Aged 15 and over (thousands)	657.3	742.2	4.6	4.1
Civilian labour force:				
Number (thousands)	276.6	315.8	5.3	4.5
Participation rate (%)	42.1	42.5		
Employed (thousands)	259.5	279.7	6.3	2.5
Unemployed				
Number (thousands)	17.2	36.1	-5.1	3.2
Unemployment rate (%)	6.2	11.4		
Aged 15-17				
Aged 15 and over (thousands)	303.2	324.1	1.0	1.7
Civilian labour force:				
Number (thousands)	38.5	29.6	4.0	-8.4
Participation rate (%)	12.7	9.2		
Employed (thousands)	30.9	24.1	6.5	-7.9
Unemployed				
Number (thousands)	7.6	5.5	0.3	-10.2
Unemployment rate (%)	19.7	18.6		
Aged 18-24				
Aged 15 and over (thousands)	698.9	739.9	3.8	1.9
Civilian labour force:				
Number (thousands)	304.2	325.1	5.0	2.2
Participation rate (%)	43.5	43.9		
Employed (thousands)	265.3	271.2	8.8	0.7
Unemployed				
Number (thousands)	38.9	53.8	-5.9	11.4
Unemployment rate (%)	12.8	16.6		

Table 7 (continued)

	1996	1999	Average annual percentage change	
			1991-1996	1996-1999
Aged 25-54				
Aged 15 and over (thousands)	553.1	671.5	6.9	6.7
Civilian labour force:				
Number (thousands)	422.1	520.8	8.2	7.3
Participation rate (%)	76.3	77.6		
Employed (thousands)	402.9	486.3	10.6	6.5
Unemployed				
Number (thousands)	19.2	34.5	-0.3	21.6
Unemployment rate (%)	4.5	6.6		
Aged 55-64				
Aged 15 and over (thousands)	383.3	402.3	2.7	1.6
Civilian labour force:				
Number (thousands)	188.7	198.1	2.4	1.6
Participation rate (%)	49.2	49.2		
Employed (thousands)	179.6	184.8	4.7	4.1
Unemployed				
Number (thousands)	9.1	13.3	-5.6	13.5
Unemployment rate (%)	6.7	4.8		
Residing in development areas				
Aged 15 and over (thousands)	417.9	452.0	6.5	2.6
Civilian labour force:				
Number (thousands)	218.9	240.9	6.5	3.2
Participation rate (%)	52.4	53.3		
Employed (thousands)	195.9	212.2	9.9	3.7
Unemployed				
Number (thousands)	23.0	28.8	-1.3	7.8
Unemployment rate (%)	10.5	11.9		
New immigrants[a]				
Aged 15 and over (thousands)	553.7	719.5	21.3	9.1
Civilian labour force:				
Number (thousands)	296.0	397.8	25.2	10.4
Participation rate (%)	53.4	55.3		
Employed (thousands)	268.6	352.6	33.8	9.5
Unemployed				
Number (thousands)	27.4	45.2	-5.8	18.2
Unemployment rate (%)	9.3	11.4		

Source: Israel Central Bureau of Statistics, Labour Force Surveys.

[a] Arrivals from 1990 onwards.

Table 8

Employed persons, by occupation, sex and population group, 1999

All workers	in thousands			per cent distribution		
Occupation	Total	Men	Women	Total	Men	Women
Total	2 136.6	1 176.2	960.5	100.0	100.0	100.0
Academic professions	264.7	141.1	123.6	13.0	12.2	12.5
Other professions and technicians	309.6	121.8	187.8	14.7	10.5	19.7
Managers	133.6	100.7	33.0	6.3	8.7	3.5
Clerical workers	358.4	94.6	263.9	17.0	8.2	27.7
Agents, sales and service workers	387.3	177.9	209.4	18.3	15.3	21.9
Skilled agricultural workers	39.3	33.6	5.7	1.9	2.9	0.6
Manufacturing, construction and other skilled workers	444.7	391.7	53.0	21.0	33.8	5.6
Unskilled workers	175.7	97.8	77.9	8.3	8.4	8.2
Unknown	23.1	16.9	6.2	-	-	-
Jews						
Total	1 857.1	964.6	892.5	100.0	100.0	100.0
Academic professions	244.5	126.2	118.3	13.3	13.3	13.3
Other professions and technicians	284.9	110.7	174.2	15.5	11.7	19.7
Managers	128.1	95.8	32.4	7.0	10.1	3.7
Clerical workers	337.5	84.7	252.8	18.4	8.9	28.5
Agents, sales and service workers	345.0	149.2	195.8	18.8	15.7	22.1
Skilled agricultural workers	32.6	27.7	5.0	1.8	2.9	0.6
Manufacturing, construction and other skilled workers	326.0	284.4	41.6	17.8	29.9	4.7
Unskilled workers	137.5	71.1	66.4	7.5	7.5	7.5
Unknown	20.9	14.8	6.1	-	-	-
Arabs and Others						
Total	279.5	211.6	68.0	100.0	100.0	100.0
Academic professions	20.3	14.9	5.3	7.3	7.1	7.8
Other professions and technicians	24.7	11.1	13.6	8.9	5.3	20.1
Managers	5.5	4.9	0.6	2.0	2.3	0.9
Clerical workers	21.0	9.9	11.1	7.6	4.7	16.4
Agents, sales and service workers	42.3	28.7	13.6	15.2	13.7	20.1
Skilled agricultural workers	6.7	6.0	0.7	2.4	2.9	1.0
Manufacturing, construction and other skilled workers	118.7	107.3	11.3	42.8	51.2	42.8
Unskilled workers	38.3	26.8	11.5	13.8	12.8	17.0
Unknown	2.2	2.1	0.1	-	-	-

Source: Israel Central Bureau of Statistics, Labour Force Survey, 1999

Article 7: The right to just and favourable conditions of work

1. Related international conventions binding Israel

165. Since its initial report under the Covenant, Israel submitted updated reports under the following ILO Conventions, which relate to the years 1998-1999:

- Equal Remuneration Convention, 1951 (No. 100);
- Labour Clauses (Public Contracts) Convention (No. 94);
- Weekly Rest (Industry) Convention (No. 14);
- Weekly Rest (Commerce and Offices) Convention (No. 106);
- Holidays With Pay Convention (No. 52);
- Holidays With Pay (Agriculture) Convention (No. 101);
- Night Work of Young Persons (Non-Industrial Occupations) Convention (No. 79);
- Night Work of Young Persons (Industry) Convention (Revised) (No. 90);
- Protection of Wages Convention (No. 95);
- Medical Examinations of Young Persons (Non-Industrial Occupations) Convention (No. 78);
- Medical Examinations of Young Persons (Industry) Convention (No. 77);
- Minimum Age Convention (No. 138).

2. Remuneration

(a) Methods for fixing wages

166. No changes have occurred since Israel's initial report.

(b) Minimum wages

167. The following table shows minimum and average wages in 1996 and 1999 in relation to the cost-of-living index. The minimum wage in 1999 was, on the average, 43.6 per cent of the average wage in the economy.

Table 9

Minimum wage, average wage and cost of living, 1996 and 1999

Period	Minimum wage per month	Average wage per month	Cost of living index	Minimum wage to average wage
	(Current NIS)		(1998 = 100.0)	(in per cent)
1996	1 996	4 876	87.0	40.6
1999	2 755	6 323	105.2	43.6
	Average annual per cent change			
1991-1996	11.5	12.8	11.3	-
1996-1999	11.3	9.0	6.5	-

Source: Israel Ministry of Labour and Social Affairs and Central Bureau of Statistics.

Enforcement of the Minimum Wage Law

168. As reported, the Minimum Wage Law, 1987 was amended and strengthened in 1997. The law is enforced by the Enforcement Division of the Ministry of Labour and Social Affairs. The Ministry's inspectors regularly conduct on-site inspections at work places throughout the country. Employers who violate this law are fined or, in rare cases, prosecuted, and are required to pay workers the differences between the actual wages paid and the statutory wages, in accordance with the law.

169. Enforcement covers all workers: adult Israelis, teenage workers, Palestinian workers, foreign workers and workers hired by manpower contractors. The following are data concerning enforcement of the Minimum Wage Law, which were not included in Israel's initial report.

Table 10

Minimum Wage Law enforcement report (1996)

With findings (investigation leading to legal action being taken (administrative fines and/or indictment))

Date	Male workers					Female workers					Total	Total number of employers (cases)
	Foreigner	Jew	Arab	Jewish youth	Arab youth	Foreigner	Jew	Arab	Jewish youth	Arab youth		
1996	1 096	916	781	63	37	66	1 654	890	39	127	5 669	284
Summer raids				32					37	1	70	27
Total	1 096	916	781	95	37	66	1 654	890	76	128	5 739	311
Without findings												
1996	3 096	13 775	2 713	311	103	420	18 874	2 077	405	151	41 925	331
Summer raids		32		371	1		25		350	18	797	30
Total	3 096	13 807	2 713	682	104	420	18 899	2 077	755	169	42 722	361

Table 10 (continued)

Minimum wage violation compensations				
Sector	Number of female workers	Total in NIS	Number of male workers	Total in NIS
Jewish	789	159 337	520	114 158
Arab	1 005	170 321	318	87 188
Jewish youth	36	3 951	58	6 981
Arab youth	85	23 586	61	7 354
Foreigners			371	881 710
Total	1 915	357 196	1 328	1 100 224
Cumulative total	3 243 workers received 1 457 421 NIS			

Source: The Ministry of Labour and Social Affairs.

Table 11

Minimum Wage Law enforcement report (1997)

With findings												
Date	Male workers					Female workers					Total	Total number of employers (cases)
	Foreigner	Jew	Arab	Jewish youth	Arab youth	Foreigner	Jew	Arab	Jewish youth	Arab youth		
1997	1 609	631	45	32	9	160	698	178	27	8	3 397	358
Without findings												
1997	856	9 430	2 389	614	131	143	6 966	1 159	386	84	2 208	346

Minimum Wage violation compensations				
Sector	No. of female workers	Total in NIS	No. of male workers	Total in NIS
Jewish	589	124 190	604	93 625
Arab	136	33 877.63	63	17 016
Jewish youth	34	9 928	23	5 779
Arab youth	3	946	1	218
Foreigners	-	-	1 195	3 063 471
Total	762	168 943	1 886	3 180 110
Cumulative total	2 648 workers received 3 349 053 NIS			

Source: The Ministry of Labour and Social Affairs.

170. The latest years show an increasing enforcement activity:

Table 12

Inspections, violations and compensation 1998-1999

	1998	1999
Work places inspected	2 560	6 500
Number of workers at inspected sites	17 780	36 000
Men	11 316	27 000
Women	6 464	9 000
Number of violations of the law	3 884	1 981
Men	3 159	1 720
Women	725	261
Compensation (back pay) by employers	NIS 6.2 million	NIS 4.7 million
Men	NIS 5.7 million	NIS 4.5 million
Women	NIS 0.5 million	NIS 0.2 million

Source: The Ministry of Labour and Social Affairs.

171. In 2000, the policy concerning the enforcement of the minimum wage (described in Israel's initial report) was revised. From now on, an expanded effort will be made to take legal action against employers violating the Law, seeking compensation from the employer for the workers - especially in serious cases. However, the success of this policy depends on adequate means being allocated to the ministry in the 2001 budget.

172. According to a recent study conducted by the Ministry of Labour and Social Affairs, the percentage of workers who do not receive the legal minimum wage (per hour) is about 5.5 per cent of the whole working population. Data based on the number of workers who are in fact entitled to minimum wage is problematic and cannot be relied upon.

(c) Equal pay for work of equal value

173. Women's wages, though still lower than men's, have continued to improve. In 1998, women's average hourly wages were 83 per cent of men's. By occupation, their hourly wages are still highest, relative to men, in the category "other professional and technicians" (89 per cent). Women earn the least, relative to men, among skilled industrial and construction workers, but this ratio has improved from 57 per cent in 1995 to 63 per cent in 1998. In both 1997 and 1998, women worked on the average 25 per cent fewer hours per week than men.

Table 13

Urban wage and salary workers: women's hourly wages as a per cent of men's hourly wages, 1995 and 1998

Occupation	Percentage	
	1995	1998
Total	80.7	82.9
Academic professionals	79.4	85.7
Other professional and technicians	89.5	89.1
Managers	75.3	75.4
Clerical workers	75.8	70.3
Sales and services workers	64.2	71.0
Skilled workers in industry and construction	56.9	63.0
Unskilled workers	78.3	77.9

Source: Israel, Central Bureau of Statistics, Income Surveys, 1995, 1998.

174. In 1999, the Be'er Sheva District Labour Court, in one of the only court procedures ever held on the application of the Male and Female Workers Equal Pay Law, 1996, decided that an employer must release to the claimant details regarding the salaries of male employees in the workplace. Preferring to address the principle of equality and the claimant's right to pursue her employer and choosing to ignore potential damage to the secret nature of other workers' salaries, the Court granted the requested relief to the claimant (*Simi Nidam v. Rali Electrics and Electronics*).

175. It should be noted that during the period of this report, the labour court did not order job evaluations to be conducted under the Male and Female Workers Equal Pay Law, 1996.

176. In a National Labour Court discussion concerning the validity of the proposed voluntary retirement plan, which the General Health Insurance Fund (Kupat Holim Klalit) offered its veteran employees - a proposal which offered more advantageous terms to men than that offered to women and which also had consequences on the future pension plans of each gender - the Court decided that according to the Law on the Equal Age of Retirement for Men and Women Employees, 1987, which stipulates that a woman may retire from her job at any age between a woman's retirement age and that of a man's, the proposed terms of voluntary retirement were discriminatory. However, the majority opinion was that the claimants' acceptance of the terms of their retirement should in effect be seen as a renunciation of their right to choose the age of their retirement (as stipulated in the Law on the Equal Age of Retirement for Men and Women), thus denying their entitlement to the financial compensation requested in court. Only the minority opinion of the Court expressed the view that the discrimination between male and female workers present in the early retirement agreement was an essential element of that agreement and no acquiescence on the part of the female workers could rectify such discrimination (Eytana Niv and others v. Kupat Holim Klalit; A petition to the High Court of Justice is still pending).

177. As to women's wages within the civil service, the positive trend described in Israel's initial report has continued. The wages of women in 1999 were 20 per cent below those of men in the civil service compared to 24 per cent in 1996 (source: data presented by the Treasury to the Knesset Committee on the Status of Women, Report to the 15th Knesset, August 2000). For further information on this topic, refer to Israel's second report to the Committee on the Elimination of Discrimination against Women, submitted this year.

(d) Income distribution of employees

178. Below are the data for 1998 on income distribution in Israel.

Table 14

Urban employees, by gross income per hour from wages and salaries and by sex, 1998

	Total	Men	Women
All employees (number in thousands)	1 720.2	929.3	790.9
Gross hourly wage groups (NIS):	Per cent distribution:		
Total	100.0	100.0	100.0
Up to 11.99	7.0	5.7	8.6
12.00-14.99	8.0	6.9	9.4
15.00-17.49	11.6	10.7	12.6
17.50-19.99	9.0	9.2	8.7
20.00-22.49	6.3	6.4	6.2
22.50-24.99	6.8	6.7	6.9
25.00-29.99	10.1	10.6	9.6
30.00-34.99	11.0	11.1	10.8
35.00-44.99	9.9	9.4	10.5
45.00-64.99	9.9	10.7	9.1
65.00+	10.4	12.7	7.6
Average hourly wage (NIS)	34.5	36.9	30.6

Source: Israel, Central Bureau of Statistics, Income Surveys, 1998.

179. Presented below is an updated table with data for 1998 showing the distribution of income for urban households headed by wage and salary workers.

Table 15

Urban households headed by wage and salary workers, by deciles of gross monthly money income and by characteristics of household head, 1988 deciles of income

	Total	1	2	3	4	5	6	7	8	9	10
Upper limit of decile (NIS)	-	3 614.5	4 893.5	6 104.0	7 352.0	8 824.5	10 504.5	12 634.0	15 838.0	21 568.5	-
Gross money income per household (NIS)	11 228.3	2 655.2	4 290.7	5 513.0	6 732.3	8 038.6	9 634.6	11 556.6	14 094.4	18 319.0	1 425.7
Average age of household head	39.7	35.1	36.9	37.9	38.6	39.0	39.4	40.4	40.9	43.0	45.3
Average persons per household	3.8	2.5	3.4	3.7	4.0	4.0	4.1	4.1	4.2	4.2	4.1
All heads of household	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Years of schooling:											
Up to 8	8.0	13.9	15.8	12.9	11.8	7.3	6.6	5.0	4.3	2.1	0.6
9 to 12	43.5	44.4	50.3	53.7	50.6	51.2	50.4	46.1	36.7	31.6	19.8
13+	48.5	41.8	33.9	33.4	37.6	41.5	43.1	48.9	59.0	66.3	79.6
Age:											
Up to 34	38.0	58.2	48.9	44.9	42.6	40.1	37.0	37.1	32.4	23.2	15.2
35-54	50.8	31.7	42.1	43.9	46.2	49.2	55.2	50.7	56.4	64.8	67.9
55-64	9.2	7.0	7.3	8.9	8.7	8.6	6.7	10.2	9.0	10.9	14.3
65+	2.1	3.1	1.7	2.3	2.6	2.0	1.2	1.9	2.1	1.2	2.7
Jews - Total	86.5	79.2	74.2	79.0	80.4	85.2	88.4	91.9	93.2	95.4	98.3
Continent of birth:											
Asia-Africa	13.2	9.2	11.6	13.2	14.3	10.1	14.4	16.5	17.8	14.7	9.8
Europe-America	28.4	34.0	29.2	29.6	27.8	28.8	27.0	24.7	26.9	27.4	28.8
Israel	44.7	35.8	33.1	36.1	38.0	45.7	47.0	50.6	48.4	53.0	59.6
Non-Jews - Total	13.5	20.8	25.8	21.0	19.6	14.8	11.6	8.1	6.8	4.6	1.7

Source: Israel, Central Bureau of Statistics, Income Surveys, 1998.

3. Occupational Health and Safety

180. Since Israel's initial report, a number of regulations have been amended, at the initiative of the Labour Inspection Service of the Ministry of Labour and Social Affairs, to meet with changes in technology.

181. Following is an update on the Service's enforcement activities. There are now 70 labour inspectors and 10 assistants. In 2000, the Service conducted 61,736 inspections of workplaces, 12,800 of which were at building sites. The Industrial Hygiene Laboratory performed 3,405 environmental tests. The inspectors carried out 455 investigations of work accidents and occupational diseases. In Israel's initial report it was noted that 957 investigations were conducted. But this number included not only systematic investigations, but also various consultations. Since that time, the Service changed its enforcement policy. The practice of consultations has practically been abolished, enabling an increase in the number of investigations. Thus, the number of investigations reported in this present Report do not represent less activity than in 1996.

182. Furthermore, the results of the enforcement activities have improved as can be seen from the following updated data on work injuries, fatalities and injury compensation. There has been a clear reduction in the number of work injuries and in fatalities, even though the number of workers has increased.

Table 16

Work injuries 1995-1999

Year	Number of injuries	Number of workers	Incidence (%)
1995	84 344	2 093 000	4.2
1996	92 274	2 133 700	4.3
1997	84 069	2 152 900	3.9
1998	82 511	2 192 600	3.8
1999	73 690	2 227 300	3.3

Source: The Labour Inspection Service, The Ministry of Labour and Social Affairs.

Table 17

Fatalities from work accidents 1999-2000

Sector	1999	%	2000	%
Industry	8	12	10	15
Building	34	52	29	48
Agriculture	2	3	4	7
Quarries	1	2	0	-
Ports	4	6	0	-
Trains	2	3	1	2
Other	15	22	17	28
Total	66	100	61	100

Source: The Labour Inspection Service, The Ministry of Labour and Social Affairs.

Table 18

Injury compensation in 1996 according to branches of work

Total	73 684 workers
Self employed	7 820
Employed (salaries)	65 864

Source: Including Palestinian workers and foreign workers.

Table 19

Injury compensation in 1999 according to sex and age

	Total	0-17	18-24	25-34	35-44	45-54	55-60	61-64	65+
Total	73 684								
%	100	0.4	12.9	26.8	24.5	22.7	7.3	3.3	2.1
Males	56 312								
%	100	0.5	13.5	28.7	24.6	20.8	6.4	3.4	2.2
Females	17 372								
%	100	0.2	10.7	20.8	24.1	29.0	10.1	3.2	1.9

4. Equal opportunity for promotion

183. No changes have occurred since Israel's initial report.

5. Rest and leisure

184. The following data concerns the enforcement by the Ministry of Labour and Social Affairs of the Hours of Work and Rest Law, 1951 since the initial report: in 1996 - 119 employers were brought before courts; in 1997 - 210 and in 1998 - 84. In 1999 the sanction for breaching this law became an administrative fine, and thus far only one case was brought to court.

Article 8: Collective labour rights

1. Related international conventions binding Israel

185. Since its initial report, the State of Israel has submitted the following reports to international bodies:

- Israel's initial report on the implementation of the International Covenant on Civil and Political Rights, was filed in February 1998 (CCPR/C/81/Add.13);

- Israel's last report to the International Labour Organization pursuant to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), was recently filed and relates to the years 1998-2000.

2. Forming trade unions and joining them

186. Since the initial report, the legal protection for the right to organize in trade unions was expanded, by several important judicial decisions.

187. In the case of Mifealey Tahanot v. Israel Yaniv (46/3-209 National Labour Court, November, 1996), the Court cancelled the dismissal of two workers after finding that the real ground for dismissal was their initiative to organize a workers committee. The company had no previous workers organization. The two employees had clear intentions to initiate collective bargaining with the employer. This landmark case was important in two respects. First, it laid down two alternative legal grounds for the recognition of the right to organize as a basic right: (a) the right derives from the concept of human dignity entrenched in Basic Law: Human Dignity and Liberty; (b) the right derives from the general right to equality, namely the prohibition to discriminate against workers on irrelevant grounds, like involvement in organizational activities. This issue was developed in the Delek case discussed below.

188. Secondly, regarding the question of which remedy is available in case of a breach of this right, the court recognized its competence to issue a reinstatement order. This was seen as an important initiative. As mentioned in the initial report, reinstatement at work is generally limited in Israeli case law to dismissals in contradiction to a collective agreement, a specific legal provision and within the public service where norms of administrative law apply in addition to private contract law. This remedy had previously been ruled out in private labour contract relations, by the High Court of Justice, in light of a provision in a contract law according to which a court should not order the enforcement of a personal contract. The novelty of the Mifealey Tahanot case lies in considering a breach of a basic right as a legal ground for permitting the enforcement of a private labour contract.

189. This ruling was recently clearly reinforced in the Horn & Leibivitz Transport Co. v. The Histadrut case (99/323 National Labour Court, July 2000). This company had dismissed a group of drivers who tried to organize themselves into a union, just after the Histadrut had expressed its willingness to recognize it under its federation. The Regional Labour Court issued a temporary reinstatement order, until completion of proceedings. The company appealed to the National Labour Court, which upheld the decision of the Regional Labour Court. The Court's rulings at both instances were based on prior decisions, which had recognized the right to organize in labour unions as a basic human right. Here again, the remedy of reinstatement was declared the most effective one in order to protect this right, since an employer might not be deterred by the threat of compensation alone, while deciding how to respond to his employees' organizational activities.

190. Interestingly, the company then reacted by firing about a hundred more drivers, arguing that it had to close the whole department. The Histadrut then threatened the company that it intended to appeal to the Court in a contempt of court proceeding. The conflict ended by the signing of a collective agreement with the company.

191. In the case of Delek The Israeli Petrol Company v. The Histadrut (98/4-10 National Labour Court), the National Labour Court extended the concept of the legal basis for the

recognition of the right to organize, already introduced in the Mifealey Tahanot case mentioned above. The court ruled in favour of the protection of such workers' right to organize. It stated that:

> … the right to organize protects the worker's dignity at the place of work, where he usually spends a third of his day. The individual worker has less power than the employer, and in most cases he is unable to conduct fair negotiations. Joining a workers' union bolsters the worker's strength and provides a balance in his negotiations with the employer … in many cases the individual worker's dignity will only be secured by joining a group of workers, i.e. a workers union.

192. The court also rationalized the right to organize as "a two-dimensional right, realized in the actions of both the group and the individual".

193. Finally, the court further developed the interpretation of the legal right to organize on the basis of the non-discrimination principle. The question arose in this case in light of the fact, that the Delek company decided to dismiss employees, in the context of legitimate economic dismissal in accordance with the collective agreement in force. However, the employees which it decided to dismiss were mostly members of the representative labour organization at the place of work. Only a few employees were dismissed who were not members of the representative labour organization. The court ruled that consideration by the employer of union membership, when deciding upon economic dismissals, amounted to unjustified discrimination between workers.

The right to organize a trade union

194. Since Israel's initial report, the right to organize a trade union was further qualified in the landmark decision of Tadiran Kesher Inc. et al. v. The Histadrut (97/41-96 National Labour Court, February 1998). During the term of a collective labour agreement, the Tadiran company underwent a structural change, dividing itself into three companies. The question that arose was which new company should be the bargaining unit under the agreement. The workers wanted it to be a single one; Tadiran wanted to conduct three distinct bargaining units. A strike broke out on this issue, and the employer filed a motion for a temporary injunction ordering the workers back to work.

195. The National Labour Court denied the motion. Judge Gerald Adler, President of the National Labour Court sought a proper balance between the basic right of employees to organize and to choose their representative organization, and the employer's basic right to property entrenched in Basic Law: Human Dignity and Liberty. The employer's prerogative to manage his business was here countered by the workers' basic rights. The Court held:

> When balancing between the workers' right to organize and the employer's right to manage his business, a special weight should be given to the workers' right, because their fate is embedded in the rights that are to be entrenched in the collective agreements applying to them. The employer's right to be part of a change in the bargaining unit is a relative one and is subordinate to the condition that it is not intended to impair organizational rights of workers … The employer and the labour union have therefore to

> agree on the structure of bargaining appropriate for them. In a democratic society there is great importance in granting dignity and liberty to each worker. An expression of this is the worker's power to participate in the determination of the bargaining unit in which he belongs. This includes the power to influence changes in the bargaining unit, by way of negotiations between the labour organization which represents the workers and the employer who provides them with work.

196. The court decided that until an agreement was reached on the determination of the bargaining unit, the regular rules regarding industrial conflicts would apply, and the workers' right to strike was upheld.

Number and structure of trade unions in Israel

197. No notable change in the structure of labour movements in Israel has occurred since the submission of Israel's initial report. The Histadrut still remains the largest and most representative workers' organization in Israel and still refrains from disclosing exact numbers on its membership.

Individual freedom to join a trade union

198. No notable change has occurred on this issue since the submission of Israel's Initial Report, except for the Tadiran case discussed above, which reiterated the individual freedom of a worker to choose his union.

Freedom of operation of trade unions

199. Since the submission of Israel's initial report, the labour courts provided further qualifications of the already recognized freedom of operation of trade unions. In the case of Haifa Chemicals Inc. v. David Raviv and The Histadrut (57/4-10 Haifa Regional Labour Court, 5 January 1997 and 57/4-43 National Labour Court, 19 January 1997), a motion for an injunction was filed by the employer against actions taken by the workers' organization at the place of work during a strike. The strike broke out after the employer had announced its intention not to renew any collective agreement at the plant. Workers' actions during the strike included blocking the plant's gates and preventing movements of trucks and employees, as well as acts of sabotage within the plant. The employer demanded protection of his property rights through a motion for an injunction. The Regional Labour Court issued a detailed order, which still left room for organizational activities, in particular allowing the presence of 50 workers within the plant and the holding of demonstrations (but not blockage) within the plant near its gates only. The order was construed in order to enable all maintenance activity within the plant, as well as freedom of movement and action to the management members. The ruling was framed in the context of balancing conflicting rights. The court was ready to recognize that the right to strike and the freedom of expression and the freedom of protest of workers could justify to some degree the disregard of the employer's basic property rights, but not to negate them totally.

200. This decision was appealed and the National Labour Court overruled it partly. The details of the order were changed, leaving more room for the employer to operate during the

strike. For instance, the court permitted demonstrations near the gates, but only outside the plant and it allowed workers' presence within the plant, but only of members of the worker's organization. Moreover, the National Labour Court also saw the case as one involving a balance of conflicting rights. It, too, was ready not to decide the case strictly on the basis of an analysis of the employer's property rights, which were undoubtedly impaired by the worker's acts.

3. The right to strike

(a) The status and content of the right to strike

201. Since the submission of Israel's initial report a significant decision was given in the case of Mekorot Inc. v. The Histadrut (99/19 National Labour Court, August 1999). Mekorot Inc. is a governmental corporation, responsible for the supply of water to most Israelis. The right of its workers to strike was contested in this case by the public employer on the ground that such strike would impair its ability to provide vital services. The court granted only a limited injunction against the strikers. It held that the right to strike is a relative one, which must be balanced against conflicting rights. Therefore, the injunction was construed in a way that left room for a strike but not at the price of leaving the public with no water. The Court permitted the workers to work only during the limited time normally worked during the Saturday day of rest and holidays. It also urged the parties to return to negotiations and instructed them to report to the court within four days.

Restrictions placed on the right to strike

202. Since the submission of Israel's initial report an important court decision was given, which qualified the implication of a strike which is classified as "unprotected". As explained in the Initial Report, an unprotected strike will usually result in a court injunction ordering the workers to return to work. Nevertheless, this was not so in the case of The Tel Aviv-Jaffa Workers' Organization v. The Tel Aviv-Jaffa Municipality (97/41-92 National Labour Court, February 1998). Even though the strike in this case was conducted without respecting the normally required "cooling-off" period, the court protected it. In the midst of collective negotiations, the municipality had tried to by-pass the workers' union, by hiring a private contractor to provide services normally provided by the municipality's employees. The court considered this kind of privatization as a unilateral act by the employer, especially threatening both the individual workers and the workers' organization at the place of work. The court therefore used its discretion to not grant the injunction which had been requested by the employer. It should be mentioned that one of the judges in the panel issued a dissenting opinion, not refuting the court's power to use discretion, but arguing that the circumstances in the present case did not justify such an exceptional step.

(b) Statistics on strikes in Israel

203. The figures presented in the initial report can now be updated as follows:

Table 20: Strikes in Israel

Year	Number of "works to rule"	Number of strikes and lock-outs (excluding works to rule)	Number of persons involved in strikes and lock outs	Work days lost
1960		135	14 420	49 368
1965		288	90 210	207 561
1970		163	114 941	390 260
1971		169	88 265	178 621
1972		168	87 309	236 058
1973	54	96	122 348	375 023
1974	49	71	27 141	51 333
1975	62	117	114 091	164 509
1976	76	123	114 970	308 214
1977	57	126	194 297	416 256
1978	55	85	224 354	1 071 961
1979	97	117	250 420	539 162
1980	54	84	91 451	216 516
1981	59	90	315 346	782 305
1982	79	112	838 700	1 814 945
1983	47	93	188 305	977 698
1984	74	149	528 638	995 494
1985	64	131	473 956	540 232
1986	92	142	215 227	406 292
1987	89	174	814 501	995 546
1988	93	156	327 193	516 071
1989	58	120	209 841	234 073
1990	75	117	571 172	1 071 279
1991	52	77	38 776	97 923
1992	64	114	211 833	386 658
1993	40	73	462 208	1 636 866
1994	38	75	106 047	792 533
1995	51	71	75 792	257 796
1996	28	75	124 215	190 146
1997*				
1998	10	53	275 478	1 227 722
1999	33	67	293 057	1 564 827

* Data for 1997 is still not available due to a change in the method and in the body responsible for gathering the data.

4. The armed forces, the police and the administration of the State

204. No notable change occurred on this issue since the submission of Israel's initial report.

Article 9: The right to social security

1. Related international conventions binding Israel

205. Since its initial report, Israel has filed a new report on the International Labour Organization Equality of Treatment (Social Security) Convention (No. 118), which covers the years 1992 to 1995.

2. Social security branches in Israel

(a) Maternity benefits

206. As of May 1998, the husband of a woman who has given birth and is entitled to maternity leave, may partially replace her in her maternity leave and, for the period of his leave, receive maternity allowance instead of her.

(b) Old-age benefits

207. Mention was made in Israel's initial report of an amendment to the law concerning married, non-working, women - "housewives". As of January 1996:

- A housewife is entitled to an old-age pension, provided she was born after 31 December 1930 and was a resident of Israel between the ages of 60 and 65. This is so, even though a housewife does not pay national insurance premiums;

- As of March 1999, the children of a housewife are eligible to a survivor's pension if their mother passes away;

- A housewife is also entitled to a survivor's pension;

- Voluntary insurance remains available to complement this partial compulsory coverage.

208. It should be noted that applications for old-age pensions are initiated by the National Insurance Institute (NII). Every man and woman, approximately two months before reaching pension age, receives a claims form for old-age pension from the NII (in which most information is already filled in and needs only to be verified), together with an accompanying explanatory letter.

209. As mentioned in the initial report, there are increments to the old-age benefits, such as seniority increment, deferred retirement income and income supplement. The ceiling limiting the seniority increment is 50 per cent of the pension, and the ceiling of the deferred retirement income is 25 per cent of the pension.

(c) Disability benefits

210. In January 1998, a comprehensive reform in the scheme of benefits for disabled children came into effect. It reorganizes, and to a large extent broadens, the various grounds or categories of entitlement to benefit for disabled children.

211. Further, following an agreement between the Ministry of Finance and the National Insurance Institute, the rights of severely disabled persons were significantly expanded as of November 1999. A brief summary of the improvements:

- A housewife entitled to "attendance" allowance now receives this allowance at a higher rate than previously (the same rate paid to other disabled). As reported in the initial report, this "attendance" allowance is paid to the severely disabled who are dependent on the help of others for the performance of everyday tasks or who are in need of supervision;

- Severely disabled persons who receive both disability pension and attendance allowance may now receive mobility benefits as well;

- The means test for entitlement to the special attendance allowance for working disabled persons has been made more flexible;

- Notable improvements have been made in the scope of persons eligible for mobility allowance, as well as in the amount of this allowance.

212. In addition to the various benefits for the disabled, the NII provides, through the Fund for the Development of Services for the Disabled, funding for the enhancement of the existing network of services for the disabled in Israel, and the development of new services. As of January 1999, there were approximately 1,000 active projects, of which some 200 were approved during 1998.

213. In the framework of this Fund, an allotment of NIS 22.6 million was approved in May 1999, to assist in the planning and development of accessibility of the disabled in public places, such as schools, community centres, libraries and courts.

214. Among other benefits under General Disability Insurance, mention was made in Israel's initial report of special benefit for new immigrants. This benefit is equivalent to disability pension plus attendance allowance, and is paid to entitled disabled new immigrants.

(d) Survivors' benefits

215. Since Israel's initial report, the only change to be noted is that which entitles the children of "housewives" to survivors' pension, as already described above (under "old-age benefits").

(e) Employment injury benefits

216. In addition to the groups covered for employment injury benefits, already mentioned in Israel's initial report, mention should be made of the following group which is now covered: a person training under the Emergency Work Service Law, 1967.

217. With regard to the work disability grant mentioned in Israel's Initial Report, workers disabled with a disability degree of 1 to 20 per cent (exclusive) receive a one-time work disability grant equivalent to 70 monthly pensions.

(f) Income support benefits

218. In May 2000, the National Insurance Institute ("NII") paid income support benefits to approximately 127,131 families which did not earn the minimum level of income as determined by the Income Support Law, 5740-1980, and which were not covered by other income maintenance programmes.

(g) Child allowances

219. Every single-parent family with a child between the ages of 6 and 14 is eligible for a study grant, paid at the beginning of every school year. In 1998, coverage of the study grant was broadened to include also large families, which receive a subsistence benefit from the NII. In 1999, coverage was further broadened to include orphans, abandoned children, children who immigrated to Israel without an insured person and women residing in shelters for battered women.

220. As explained in Israel's initial report, Child Allowance rates are linked to the unit of "one credit point", as defined in the Income Tax Order. The actual value of one credit point is now NIS 171 per month (as of January 2000).

221. Up until 1997, the NII followed a policy of setting off children's allowances against any income tax debts of the parents. This policy had a disproportionate effect on poorer families. In 1997, the National Insurance Regulations in this regard were amended and the provision under which the set-off policy had operated was nullified

222. In January 2000, a family with one child received NIS 171 a month (approx. US$ 43); a family with two children received NIS 342; with three children - NIS 684; four children - NIS 1,377; and five children - NIS 1,959 per month. In 1999, 891,500 families received children's allowances, amounting to 19 per cent of the total benefits paid by the National Insurance Institute (NII).

3. Expenditures

223. Social security benefit payments amounted to 8.7 per cent of the GNP in 1999, and 8.9 per cent in 1998. Israel's Initial Report showed a clear increased share of benefit payments in both the GNP and government budget during the decade until 1995. The increase continued in 1997, stabilized in 1998 and rose slightly in 1999.

4. Combined public and private social security schemes

(a) The pension system in Israel

224. The pension system in Israel as depicted in the Initial Report, has undergone a change concerning the budgetary pension, which all civil servants and municipal employees receive under a special law. A comprehensive collective agreement was concluded in 1998, aimed at the gradual abolition of the budgetary pension system and its replacement with the regular pension schemes existing in collective agreements. The implementation of this agreement is still pending, due to practical and legal problems that arose after its signing. The issue is pending before the courts.

225. There is still no legislation insuring any type of pension scheme to all workers. Israeli NGO's regularly criticize the Government on this issue. The reality is that this is a rather complex and difficult issue. Every Minister of Labour and Social Affairs who has entered into office since Israel's initial report has pledged and has made actual attempts to act on this issue. Private Knesset members have introduced new proposed legislation. However, the implications of such legislation, in terms of governmental expenditures, as repeatedly pointed out by the Ministry of Finance, seem to be too serious to be overcome in the near future. Nevertheless, the issue is regularly re-evaluated within the relevant government ministries.

(b) Long-term care

226. The year 1998 marked a decade since the enactment of the Long-term Care Insurance Law. The Law has had a very favourable impact on the lives of tens of thousands of dependent elderly and their families. Long-term care insurance has recently been the focus of a comprehensive re-examination, with the aim of attaining a more equitable and efficient allocation of resources for the benefit of the dependent elderly population.

227. One of the results of this re-examination has been the introduction in March 2000, of the short-term nursing benefit, a new and unique benefit paid for a period of 60 days, mainly to patients having acute functional difficulties.

5. Equality in social security

228. Since the submission of Israel's initial report, there have been some notable positive changes enhancing equality in social security, which have already been presented in this report:

- The gradual erosion in the historical distinctions existing between "housewives" and other women in old-age benefits, survivors' benefits and disability insurance;

- The improvements in the benefits of severely disabled persons.

229. In order to further promote the welfare of women in Israel, a steering committee has been set up which is headed by the Director General of the NII.

230. In addition, mention should be made of a number of examples of recent legislation bearing on the subject of gender equality in social security:

- The definition of "self-employed" was changed, allowing women who work part-time to be insured for employment injury and to be eligible for maternity allowance;

- Payment of maternity allowance to fathers, allowing women to return to work before the end of the 3-month maternity leave, leaving the infant with its father;

- The period during which a woman must rest, due to risk pregnancy, is now considered part of the qualifying period for purposes of maternity allowance;

- The expansion of the definition of single-parent family, to include women who have just begun the divorce process, in civil or religious courts.

Benefit recipients in the eastern Jerusalem neighbourhoods

231. The Committee expressed its concern in its concluding observations regarding the coverage of Arab population living in the eastern neighbourhoods of Jerusalem. The following tables show the actual situation for 1999 of both aspects to be taken into consideration: the benefits granted and the contributions collected.

Table 21

Benefit recipients in the eastern neighbourhoods of Jerusalem out of total recipients of benefits from NII, December 1999

	Total recipients	Recipients in Eastern Jerusalem	Rate of benefit recipients out of residents (%)	
			In Israel	In Eastern Jerusalem
Total residents (December 1998)	-	-	6 041 400	196 600
Old-age and survivors	644 792	7 454	10.7	3.8
Thereof: Old age	540 054	4 629	8.9	2.4
Survivors	104 738	2 825	1.7	1.4
With income supplement	199 894	3 511	3.3	1.8
Income support	116 158	1 565	1.9	0.8
Long-term care	88 723	[a]	1.5	0
Alimony	23 710	259	0.4	0.1
Unemployment	106 213	[a]	1.8	0
General disability	130 854	1 394	2.2	0.7
Disabled child	14 469	497	0.2	0.3
Mobility	14 523	70	0.2	0
Attendance allowance	15 172	189	0.3	0.1
Families with children	902 207	8 753	14.9	9.5
Families with 4 plus children	147 403	8 530	2.4	4.3
Children	2 097 345	64 265	34.7	32.7
Employment, injured, disabled and dependants	25 705	356	0.4	0.2
Injury allowance	6 075	[a]	0.1	0
Hostile action casualties	2 608	24	0	0
Maternity allowance	5 432	[a]	0.1	0

[a] The data are included in the total number of recipients in the main Jerusalem branch.

232. One should note the relatively low rate of collection of contributions to the NII from residents of eastern Jerusalem, even though these are obligatory under the National Insurance Law.

Table 22

Collection of contributions from residents of eastern Jerusalem (estimates), 1999

	Nationwide total	Eastern Jerusalem	Eastern Jerusalem as % of nationwide total
Number of insured Persons			
Employees	1 714 400	34 300	2.0
Non-employees	871 368	23 928	2.7
Total collection (NIS million per 1999)	23 734	85	0.4
Average wage per employee (NIS per month)	5 827	3 063	52.6
Average income per employee (NIS per month)	6 068	2 478	40.8

The poor

233. The principal recent developments in the area of poverty in Israel have been as follows. The following table clearly shows that in 1997, the incidence of poverty in Israel stabilized, and that it remained stable in 1998 as well.

Table 23

Poor population in Israel, under selected poverty measures, 1997-1999

Poverty measure	Before transfer payments and direct taxes	After transfer payments only	After transfer payments and direct taxes	Percentage of decrease stemming from transfer payments only	Percentage of decrease stemming from transfer payments and direct taxes
1997					
Poor population					
Families	514 920	239 558	285 456	-	-
Persons	1 677 201	824 288	1 009 957		
Children	650 484	348 721	432 015		
Poverty Incidence (%)					
Families	32.0	14.9	17.7	53.5	44.5
Persons	30.3	14.9	18.2	50.8	39.8
Children	34.4	18.5	22.9	46.4	33.6

Table 23 (continued)

Poverty measure	Before transfer payments and direct taxes	After transfer payments only	After transfer payments and direct taxes	Percentage of decrease stemming from transfer payments only	Percentage of decrease stemming from transfer payments and direct taxes
1998					
Poor population					
Families	548 100	238 700	292 500		
Persons	1 789 800	846 200	1 033 000		
Children	705 800	360 700	439 500		
Poverty Incidence (%)					
Families	32.8	14.3	17.5	56.5	46.6
Persons	31.5	14.9	18.2	52.7	42.3
Children	36.7	18.7	22.8	48.9	37.7
1999					
Poor population					
Families	552 800	258 900	308 300		
Persons	1 813 300	947 700	1 133 900		
Children	719 300	427 700	509 700		
Poverty Incidence (%)					
Families	32.2	15.1	18	53.2	44.2
Persons	31.2	16.3	19.5	47.8	37.5
Children	36.7	21.8	26	40.6	29.2

Source: The National Insurance Institute.

234. The relative stability in the incidence of poverty in Israel that characterized the population as a whole was also observed among specific population groups, with the exception of families headed by an elderly person, single-parent families and new immigrant families, whose poverty incidence declined in 1998. This stability is notable, in view of the recession in economic activity and the slack in the labour market. It testifies to the central role played by the system of transfer payments in ensuring economic protection in times of unemployment and distress.

235. The improvement in families headed by an elderly person was not only in the incidence of poverty among these families, but also in the average income per poor family. The major reason for this is the increase which occurred in 1998 in the basic old-age benefit and the minimum income – relative to the average wage in the economy and the poverty line.

236. The decline in the incidence of poverty among single-parent families is attributed to a large extent to the improvement, which occurred in 1998, in the level of the income support benefit relative to the average wage in the economy and the poverty line.

237. The Public Council for Reducing Gaps in Society and the War on Poverty submitted its final recommendations in December 1999. The Council examined economic and social distress not only from the point of view of income, but also in the areas of education, housing, health and social services. It recommended measures for improving the existing methods of measuring poverty and incomes gaps, and increasing the knowledge of these phenomena, in order to build a more concrete basis for developing social policy and early intervention programmes.

238. Under an amendment to the National Insurance Law passed in November 1998, the NII now pays wage-replacing benefits at the least on the basis of the minimum wage. This change should have a noticeable impact in the future.

239. For a further review of trends and changes in national legislation, court decisions, etc., please see the National Insurance Institute's report, Summary of Developments and Trends in Social Security - 1999, submitted to the International Social Security Association (ISSA) (attached in annex V of the present report).*

Article 10: Familial rights

1. Related international conventions binding Israel

240. Israel is a party to the Convention on the Elimination of all Forms of Discrimination Against Women. In May 1997, Israel submitted its initial report to the Committee on the Elimination of all Forms of Discrimination Against Women. Its second report will be submitted in the coming months.

241. Since 1991, Israel has been a party to the International Covenant on Civil and Political Rights. Its second report will also be submitted to the Committee in the coming months.

242. Since 1991, Israel has been a party to the International Convention on the Rights of the Child, and will soon be submitting its initial report.

243. Israel is a party to the ILO Minimum Age Convention 1979 (No. 138). Its last report for the years 1996-2000 was submitted in August, 2000.

2. Meaning of "family"

(a) The definition of the term "family" in Israeli law

244. No change has occurred since Israel submitted its Initial Report.

(b) Meaning of family in administrative practice

245. No change has occurred since Israel submitted its initial report.

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* The annexes can be consulted in the archives of the secretariat.

3. Majority

246. No change has occurred since Israel submitted its initial report, except the amendment of the Marriage Age Law 1960, described below under "Marriage".

4. Assistance to the family and its protection

(a) The Fundamental Right to Family Life

247. *The Halperin Committee*: At the present time, ovules donation is permitted under Israeli law only in the case of a self-donation by a woman undergoing IVF treatment. Following an ongoing public debate on the subject, the Minister of Health decided, on 29 February 2000, on the establishment of a public committee, to examine the social, ethical, religious and legal aspects of ovules donation. The committee is examining, inter alia, the legitimacy of an ovule donation from a woman other than the one undergoing the IVF treatment, and the appropriate supervision and registration procedures of such process. The committee will also look into the desirability for legislation to regulate the rights and duties of all parties involved in such IVF process, including the resulting children, and shall submit its recommendations as to any related subject which it finds relevant. (More information about the actions of the committee can be obtained from the Israeli Ministry of Health Web site, www.health.gov.il).

248. *Surrogate Motherhood*: As of October 2000, 78 surrogacy agreements were approved, resulting in the birth of 26 children in 19 childbirths (due to the prevalence of twins). Two other surrogate mothers are currently pregnant. Twenty-five couples whose agreements had been approved terminated the process midway, or completed the surrogacy process which did not result in a pregnancy. Two of the prospective parents gave birth to children unaided by a surrogate after the approval of their surrogacy agreements.

(b) Marriage

249. In the initial report it was stated that women may consent to marry without their parent's or guardian's permission from the age of 17, whereas there was no minimum age for males to consent to marry. The Marriage Age Law, 1950, was amended in 1998, and in accordance with the amendment, the rules applying to female youngsters now apply equally to males.

250. Article 5 of the Marriage Age Law, 1950, provided for two alternative grounds for judicial permission of under-age marriage. The amendment in 1998 added a third ground which permits a young male to marry, if the woman he wants to marry became pregnant or gave birth to his child.

(c) Strengthening and protecting the family

251. As far as economic benefits granted by the State to aid families see under article 9 in this report (social security).

Family reunification

252. In its concluding observations to Israel's initial report. The Committee further expressed concern with the process of family reunification for foreign spouses. This process is a gradual process, which lasts approximately five years from the day of the request. During the waiting period the spouse receives visiting visas and temporary residency licenses, so that he or she can work and live in Israel.

253. The probation period test has three criteria: (a) whether the spouse is indeed a sincere spouse, (b) whether the spouse is not a risk to the security of Israel or to public safety, and (c) whether the spouse's centre of life is in Israel. At the end of this process the spouse receives a permanent residency licence.

254. Since 1990 there have been approximately 10,000 reunification applications in the eastern neighbourhoods of Jerusalem, most of which were in the years 1994-1995. Due to lack of manpower, combined with the large number of applicants, the length of time that it took to complete the process increased. In 1999, the Interior Ministry increased the number of personnel dealing with these requests, creating a special team for this purpose. Since then the length of time needed to complete this process has decreased, and the whole process became more efficient. As of now, all requests filed up to the year 2000 have been dealt with. During 2001, it should be possible to give immediate response to each application. A final response will still take a matter of months, since the process is a complicated one.

255. Of the 10,000 applications, 6,000 are in various stages of this process. Most of these applicants have received visiting and residency permits, and effectively live in Israel with their spouses. Seven hundred have completed the process and have received a permanent residency permit and are now permanent residents. The remainder have received a negative answer to their application. Negative answers are due to failure to meet the various criteria: sincerity of marriage, that the spouse's centre of life is in Israel, or a criminal or security problem.

256. Israel's Supreme Court, in its decision in HCJ 3648/97 Stamka v. The Minister Of Internal Affairs, ruled that there must be equality in the status of spouses of Jewish and non-Jewish Israeli citizens concerning the acquisition of Israeli citizenship by marriage. This was done by upholding a change in the Ministry of Interior's policy, which no longer favours Jewish citizens by automatically granting citizenship to their foreign national spouses. The Supreme Court held that section 4 (a) of the Law of Return should apply solely to the spouses of new Jewish immigrants, and not to those of Israeli Jewish citizens, regardless of their ethnic origin.

(d) Equality of treatment

257. *Discrimination due to Sexual Orientation*: On 21 February 2000, the High Court of Justice ordered the Minister of Interior to register the adoption of a child by his mother's lesbian partner in the Population Registration. The Court upheld the validity of an adoption order granted by a court in the child's native state of California, and rejected the registration clerk's

claim that the registration of two mothers of one child is "biologically impossible" (HCJ 1779/99 Brener-Kadish v. the Minister of Interior). It should be noted that a request for a rehearing by an extended panel of the Supreme Court has been filed in this matter.

5. Maternity protection

(a) Maternity leave and protection of pregnant working women

258. The Women's Employment Law, 1954, has been amended several times since the submission of Israel's initial report.

259. In general, there is an ongoing move from protective-paternalistic legislation which restricts the participation in the workforce by pregnant women and women who gave birth, to legislation which sees the family-unit as a whole and advances greater involvement of fathers in child-rearing.

260. For example, the 1998 amendment to the Employment of Women Law, 1954 has given a pregnant woman the option to decide whether or not to work over-time, provided she supplies her employer with a medical certificate. The law thus trusts the woman as capable of assessing her exact physical and emotional condition, as well as her economic needs.

261. Similarly, the prohibition against employing a woman during her period of maternity pay-leave had been criticized. This rule was amended in 1997, to allow the couple to decide for themselves who would take the maternity leave during the second half of the 12-week maternity-leave period following the birth of a child. This particular change is even more revolutionary than the first change mentioned above, in the sense that it relates to deeply held public convictions and perceptions of motherhood versus fatherhood. Indeed, data from the National Insurance Institute indicates that this new law has been ahead of the public opinion. In 1999, two years since its enactment, only 218 of the fathers have taken advantage of this option to take the last six weeks of the maternity leave instead of their wives. When compared to the total requests presented that year, this constitutes a mere one-third of one per cent (0.33 per cent) of the requests.

262. Likewise, the right to the 12 weeks of maternity pay-leave in the case of an adoption of a child, which until 1998 could be claimed only by the adoptive mother, is now being awarded to either of the adoptive parents according to their own choice.

263. In addition, the Sick Pay (Absence from Work due to Pregnancy and Childbirth by Spouse) Law, 2000, entitles an employee to take seven days of sick leave per year, out of his total amount of "sick days" for the purpose of accompanying his spouse to treatments or medical examinations related to her pregnancy or to her delivery.

264. A 1999 Tel Aviv District Labour Court decision has adopted a broad interpretation to the privilege of a working mother to pass her right for a shorter working day to her spouse. The court stated that this privilege is reserved to all working mothers, regardless of whether they are hired employees or self-employed. The court held that this interpretation, which expands the circle of male workers willing to tend to their children while their spouse is working, was in

accordance with the principles of basic equality as well as with the objective of the Equal Employment Opportunities Law, and should be seen as encouraging the incorporation of women within high-ranking positions. It must be pointed out that the Na'amat Women's Organization joined in the case alongside the husband-claimant (Menahem Yahav and Na'amat v. The State of Israel).

265. The 1998 amendment to the Employment of Women Law, 1954 also extended the period of the protection during which pregnant women, women on maternity leave and women who are on high-risk pregnancy leave cannot be dismissed from their place of employment. This period was extended by the amendment for an additional 45 days after the woman's return to work. This amendment will make it far less tempting for employers to hire replacements during the employee's absence where such replacement would simply stay on once the protected employee can be legally fired. The amendment further prohibits any cutback in a pregnant employee's post without permission from the Minister on Labour and Social Affairs.

266. However, it must be noted that the percentage of such permissions for dismissals or for diminishing pregnant employees' posts has increased from approving 50 per cent of the requests in 1997, to 54 per cent in 2000.

267. Thus, in the first nine months of 2000, 339 permissions for dismissals were given (77 of the permissions were justified by financial difficulties the workplace was facing at the time of dismissal, and another 43 permissions followed the employee's consent). In 82 of the 213 cases in which permissions were denied, the employee returned to work before the decision was given.

Table 24

Applications and permissions for dismissals of pregnant employees, 1997-2000

Year	Number of applications	Number of permissions
1997	760	385
1998	844	468
1999	828	419
2000 (first nine months)	627	339

Source: Ministry of Labour and Social Affairs.

268. As to the procedural aspects of handling these cases, in the course of the year 2000 the department supervisors began to provide the worker with the employer's request for her dismissal, so that her right to be heard can be more efficiently effected.

269. Finally, in 2000, an amendment to the Employment of Women Law, 1954 granted an employee the rights to absence from work and to protection from dismissal, when her absence is due to her need to stay in a battered women's shelter. The law defines "shelter" broadly, including any residence used for hiding from a battering spouse, provided that a social worker certifies that the woman or her child is endangered.

(b) Benefits and cash payments

270. As of April 2000 women who are unable to work due to a high-risk pregnancy receive the equivalent of their salary from the NII, up to 100 per cent of the average wage.

271. The "maternity grant" given to the mother immediately upon birth of her baby or to the adoptive parents, to help cover some of the initial costs of preparing their home for the baby, is currently equivalent to NIS 1,269 (slightly over US$ 300).

272. From the third child onward, families receive an additional "birth allowance" for 20 months. The allowance is equal to a certain percentage of the average monthly salary, which decreases with time.

273. Presently, the "maternity grant" is only given to women who give birth in a recognized medical facility. This legal situation is problematic, especially for Bedouin women who occasionally give birth outside these medical institutions. Several draft laws seek to extend the range of maternity grant receivers, to include women who do not give birth in an official medical institution. These draft laws are still in the primary stages of the legislative process. Another draft law in its primary stages seeks to prohibit the dismissal of a worker undergoing in vitro fertility treatments (IVF). (Additional information is produced in this report under the section on article 9.)

(c) History and development

274. See annex V for a summary of developments and trends in Social Security - 1999.*

(d) Equality

275. No changes have occurred since the submission of Israel's initial report.

6. Youth protection

276. The Youth Employment Law, 1953, prohibits employment of persons under the age of 15. This law has been amended since the submission of Israel's initial report. The main amendments consist of the following:

- The penal sanctions were made more stringent;
- The matter of use of youth in appearances and publications was regulated;
- The matter of medical examinations of youngsters was regulated.

277. For detailed information on these matters, please refer to Israel's report to the ILO under Minimum Age Convention (No. 138), submitted in August 2000.

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* Text of the annexes can be consulted in the archives of the secretariat.

278. It should be stressed that the State of Israel is preparing its initial report according to its obligation under the Covenant on the Rights of the Child. The said report will provide more data, as well as more in-depth analysis of regulations and practices relevant to child protection.

Article 11: The right to an adequate standard of living

279. Since the submission of Israel's initial report the right of every person to an adequate standard of living has continued to develop as a normative concept in the Israeli legal culture and jurisprudence.

280. The courts clearly accord great importance to the notion of a right to a "dignified existence". For example, the National Labour Court's wording of the purpose of unemployment benefits is "… to enable workers, expelled from the work force, dignified existence until they are accepted to their new job …" (National Labour Court, Yafit Gisin v. National Insurance Institute, Taba 98/0-48, 10 August 1998).

281. Paragraph 5 of the Severance Pay Law grants a deceased employee's right to severance pay to his or her survivor. Holding that "The purpose of this statute was to enable survivors an honourable existence …" the court denied an employer the right to deduct from the severance pay a debt of the deceased employee (National Labour Court Balk Chemicals Inc. v. Sarah Feler, Taba 57/3-124, 28 June 1998).

282. Israel's initial report mentioned the interpretation given to the Basic Law: Human Dignity and Freedom (1992) in a book written by Justice Aharon Barak, the president of Israel's Supreme Court, according to which the right to basic needs is part of the constitutional right to human dignity, entrenched in the basic law (Barak 1994:416). This approach was adopted by Judge Elishevah Barak, currently deputy president of the National Labour Court, in a decision already reported in article 2 of this report. According to Judge Elishevah Barak the right to work "derives from the notion that human dignity presupposes a minimum of human existence …" (Taba 54/2-289 Dr. Orly Peret v. Dr. Amitzur Farkash*)*. Judge E. Barak went on to explicitly state that this right is protected under the Basic Law: Human Dignity and Freedom (1992).

283. While the above decisions still do not constitute a coherent and systematic judicial approach, a recent binding precedent from the Supreme Court on the issue should be taken into account.

284. In a judgement delivered on 19 March 2001 by Israel's Supreme Court in the case of Gamzo v. Ishayahu (REC 4905/98), the court interpreted the Enforcement of Judgments Law, 1967 in a novel manner. This law grants discretionary power to spread alimony payments whenever needed due to "special reasons". The court ruled that these "special reasons" include protecting the "hard core" of the right to minimal standard of living, the right to adequate food and the right to proper health care of both the debtor and the holder of the right to alimony. The court added (holding with the said "interpretive approach") that the "hard core" of these rights is protected by the Basic Law: Human Dignity and Liberty.

285. This new precedent constitutes a further step towards recognition of the right to a "minimal" standard of living, at least for the purposes of interpretation of statutes. In the context of this ruling, there was no need to consider recognition of a concept of "decent" standard of living as well.

1. The current standard of living of Israel's population

(a) Available data on living standard and poverty

Standard of living

286. The following tables (issued by the Central Bureau of Statistics in 2000) present the main available data up to the date of this report on the standard of living in Israel.

Table 25

Survey of household expenditure 1997

Urban households

Monthly income and expenditure, by deciles of net income per standard person 1998

	Deciles										
	10	9	8	7	6	5	4	3	2	1	Total
Upper limit of decile (NIS)		6 033	4 859	4 020	3 426	2 892	2 478	2 061	1 694	1 263	
Households in sample	689	622	634	606	603	566	570	555	536	481	5 862
Households in population (thousands)	167.1	167.1	167.1	166.6	167.6	167.2	166.9	167.2	167.2	167.4	1 671.4
Average number of persons in household	2.7	2.8	3.1	3.2	3.4	3.4	3.5	3.8	4.4	3.8	3.4
Average standard persons in household	2.4	2.4	2.6	2.7	2.8	2.8	2.8	3.0	3.3	3.0	2.8
Average earners in household	1.5	1.4	1.5	1.4	1.3	1.2	1.0	0.8	0.7	0.4	1.1
NIS per household per month at average prices of 1998											
Gross money income	25 977	14 675	12 113	10 136	8 456	6 755	5 620	4 820	4 175	2 566	9 330
Compulsory payments	8 431	3 786	2 739	2 036	1 447	1 055	714	534	376	217	2 064
Net money income	17 546	10 889	9 374	8 100	7 010	5 700	4 905	4 286	3 799	2 349	7 267
Money consumption expenditure	10 880	9 012	7 691	7 064	6 666	5 775	5 472	5 241	5 018	4 073	6 688
CONSUMPTION EXPENDITURES - TOTAL	14 090	11 510	10 110	9 120	8 706	7 568	7 109	6 638	6 245	4 680	8 577
Food (excl. fruit, vegetables)	1 584	1 418	1 288	1 204	1 245	1 115	1 115	1 124	1 219	934	1 224
Vegetables and fruit	391	354	330	316	340	316	297	301	318	251	321
Housing	2 591	2 312	2 238	2 108	2 105	1 964	1 843	1 721	1 545	1 054	1 948
Dwelling and household maintenance	1 420	1 026	909	793	794	669	626	559	544	415	775
Furniture and household equipment	626	736	577	514	454	316	448	364	322	197	455
Clothing and footwear	448	376	341	289	288	283	290	309	294	223	314
Health	612	529	399	371	358	295	256	238	195	141	339
Education, culture, entertainment	2 148	1 708	1 475	1 347	1 220	1 081	801	811	674	571	1 183
Transport and communications	3 613	2 577	2 103	1 765	1 526	1 163	1 088	851	829	592	1 610
Miscellaneous goods and services	659	476	452	413	376	366	343	360	305	301	405

Table 26

Average gross monthly money income of households, by source of income

Financial data - at uniform prices of each

Surveyed year	Self-employed		All population	
	1998	1997	1998	1997
Households (thousands)	157.4	165.7	1 671.3	1 609.3
Average number of persons per household	4.0	4.1	3.4	3.4
Average age of household head	45.2	45.0	46.3	46.3
Average earners per household	1.7	1.7	1.2	1.2
Average monthly money income (NIS)				
per household - gross	14 119	13 350	9 330	8 849
- net	10 012	9 441	7 267	6 862
per standard person - gross	4 481	4 231	3 363	3 164
- net	3 178	2 992	2 619	2 454
Sources of income - total (percentages)	100.0	100.0	100.0	100.0
Employed work	17.7	16.9	64.6	64.6
Self-employed work	70.0	71.0	12.0	13.0
Property and assistance	11.8	11.6	22.5	21.3
Thereof: assistance and allowances				
- from institutions	5.6	5.6	13.7	13.2
- from capital	3.2	3.4	2.2	1.9
Property and assistance from abroad	0.5	0.5	0.9	1.1

Table 27

Average gross monthly money income of urban households, by source of income, 1997

Financial data - at uniform prices of each

	Surveyed year				
	1997	1996	1995	1990	1985
Household head - employee					
Households (thousands)	896.9	871.4	863.5	632.8	599.1
Average persons per household	3.8	3.8	3.9	3.8	3.8
Average age of household head	40.5	40.5	40.4	41.2	41.1
Average earners per household	1.7	1.7	1.7	1.6	1.6
Average monthly money income (NIS)					
Per household - gross	10 519	9 254	8 320	4 027	1 250
- net	8 066	7 200	6 468	3 231	927

Table 27 (continued)

	Surveyed year				
	1997	1996	1995	1990	1985
Per standard person - gross	3 447	3 035	2 720	1 337	411
- net	2 643	2 361	2 115	1 073	305
Net money income per standard person					
Percentage real change[a]	2.7	0.3	10.3	21.0	. .
Gini coefficient	0.241	0.238	0.243	0.220	0.218
Sources of income - total (percentages)	100.0	100.0	100.0	100.0	100.0
Employed work - total	85.9	86.1	85.8	87.7	89.6
Income of household head	61.3	61.1	61.8	66.4	69.1
Income of household head's spouse	17.6	17.3	16.7	16.0	15.4
Income of other earners	7.0	7.7	7.3	5.2	5.1
Self-employed work	2.5	2.1	2.5	2.7	1.6
Property and assistance	11.7	11.8	11.3	9.6	8.8
Thereof: assistance and allowances from institutions	7.9	8.0	7.6	6.1	5.7
Household head not working					
Households (thousands)	401.1	392.5	372.6	338.4	271.1
Average number of persons per household	2.3	2.2	2.2	2.3	2.3
Average age of household head	61.3	61.6	62.4	60.2	61.2
Average earners per household	0.04	0.05	0.04	0.09	0.08
Average monthly money income (NIS)					
Per household - gross	3 367	2 932	2 690	1 327	374
- net	3 204	2 805	2 576	1 287	367
Per standard person - gross	1 617	1 450	1 326	623	180
- net	1 539	1 385	1 270	604	177
Net money income per standard person					
Percentage real change (1)	1.9	-2.0	17.7	17.4	. .
Gini coefficient	0.296	0.291	0.296	0.275	0.266
Sources of income - total (percentages)	100.0	100.0	100.0	100.0	100.0
Work	4.7	5.2	4.4	10.0	9.4
Property and assistance in Israel - total	89.5	87.9	88.9	83.3	80.9
Capital and property	3.7	3.2	3.4	2.6	2.8
Pensions	27.6	25.4	29.2	24.4	23.9
Allowances and assistance from institutions	56.3	56.8	55.0	54.4	52.6
Assistance from private persons	1.9	2.5	1.3	1.9	1.5
Property and assistance from abroad	5.7	6.9	6.6	6.8	9.7

[a] Nominal change on the previous year specified in the table after deduction of change in the Consumer Price Index.

Table 28

Households headed by employees, by deciles of gross monthly money income per urban household, and by characteristics of household head, 1998

	Deciles of income										
	Upper	9	8	7	6	5	4	3	2	Lower	Total
Upper limit (NIS)	-	21 557	15 837	12 633	10 504	8 822	7 349	6 104	4 892	3 614	
Gross money income Per household (NIS)	31 426	18 319	14 094	11 557	9 635	8 039	6 732	5 513	4 291	2 655	11 228
Net money income Per household (NIS)	20 222	13 316	10 937	9 386	8 097	6 886	5 891	4 928	3 928	2 477	8 608
Average number of persons per household	4.2	4.2	4.2	4.1	4.1	4.0	4.0	3.7	3.4	2.5	3.8
Average standard Persons per household	3.3	3.3	3.2	3.2	3.2	3.1	3.1	3.0	2.8	2.3	3.0
Average age of household head	45.3	43.0	40.9	40.4	39.4	39.1	38.6	37.9	36.9	35.2	39.7
Total (percentages)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Years of schooling											
Up to 8	0.6	2.1	4.3	5.0	6.6	7.3	11.8	12.9	15.8	13.9	8.0
9-12	19.8	31.7	36.7	46.1	50.4	51.2	50.6	53.7	50.3	44.4	43.5
13+	79.6	66.3	59.1	48.9	43.1	41.5	37.6	33.4	33.9	41.8	48.5
Age											
Up to 34	15.2	23.2	32.4	37.1	37.0	40.1	42.6	44.9	48.9	58.2	38.0
35-54	67.9	64.8	56.4	50.7	55.2	49.2	46.2	43.9	42.1	31.7	50.8
55-64	14.3	10.9	9.0	10.3	6.7	8.7	8.7	8.9	7.3	7.1	9.2
65+	(2.7)	(1.2)	2.1	(1.9)	(1.2)	2.0	(2.6)	(2.3)	(1.7)	3.1	2.1
Jews - total	98.3	95.4	93.2	91.9	88.5	85.2	80.4	79.0	74.1	79.2	86.5
Area of birth											
Asia-Africa	9.8	14.7	17.8	16.5	14.4	10.1	14.4	13.2	11.6	9.2	13.2
Europe-America	28.8	27.4	26.9	24.7	27.0	28.8	27.8	29.6	29.2	34.1	28.4
Israel	59.6	53.0	48.4	50.6	47.0	45.7	38.0	36.1	33.1	35.8	44.7
Other religions	(1.7)	(4.6)	(6.8)	8.1	11.6	14.8	19.6	21.0	25.9	20.9	13.5

Table 29

Households headed by employees, by deciles of net monthly money income per standard person and by characteristics of household head, 1998

	Deciles of income										
	Upper	9	8	7	6	5	4	3	2	Lower	Total
Upper limit (NIS)	-	5 340	4 154	3 471	2 958	2 573	2 210	1 869	1 520	1 166	
Gross money income Per household (NIS)	27 386	17 864	13 989	11 796	10 113	8 533	7 474	6 244	5 266	3 601	11 228
Net money income Per household (NIS)	17 882	12 775	10 628	9 416	8 257	7 192	6 418	5 473	4 715	3 317	8 608
Average number of persons per household	2.8	3.3	3.4	3.6	3.7	3.8	4.0	4.2	4.7	4.8	3.8
Average standard	2.4	2.7	2.8	2.9	3.0	3.0	3.1	3.2	3.5	3.6	3.0
Persons per household - average age of household head	46.1	42.7	40.9	40.8	39.9	39.0	37.9	37.4	37.6	34.4	39.7
Total (percentages)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Years of schooling											
Up to 8	1.0	(1.9)	2.3	(4.7)	5.9	8.9	7.1	9.8	16.3	22.3	8.0
9-12	18.3	27.3	34.1	43.0	48.2	48.0	57.8	49.9	56.1	52.1	43.5
13+	80.7	70.8	63.6	52.3	45.9	43.1	35.1	40.3	27.6	25.7	48.5
Age											
Up to 34	24.6	29.3	33.7	34.8	37.7	40.4	39.3	45.4	38.8	55.6	38.0
35-54	48.1	55.2	54.7	53.4	51.1	49.9	53.2	47.3	55.0	40.3	50.8
55-64	20.8	13.1	10.1	9.2	8.8	8.4	6.6	5.6	5.3	3.8	9.2
65+	6.6	2.4	(1.5)	(2.6)	(2.5)	(1.2)	. .	(1.8)	. .	. .	2.1

Table 29 (continued)

	Deciles of income										
	Upper	9	8	7	6	5	4	3	2	Lower	Total
Jews - total	99.1	98.1	97.4	95.4	91.8	91.7	84.2	80.1	70.5	56.9	86.5
Area of birth											
Asia-Africa	9.5	12.9	13.5	14.3	14.3	14.1	14.0	12.8	15.3	11.0	13.2
Europe-America	30.8	30.1	30.8	31.0	30.7	32.2	30.2	29.2	23.0	16.2	28.4
Israel	58.7	55.1	53.0	49.2	46.8	45.1	39.8	38.0	32.0	29.7	44.7
Other religions	. .	1.9	(2.6)	(4.7)	(8.2)	8.3	15.8	19.9	29.5	43.1	13.5

Table 30

Households, by housing density, religion, continent of birth, period of immigration and type of locality of residence of household head, 1999

	Average density	Persons per room								Total %	'000
		3.00+	2.50-2.99	2.01-2.49	2.00	1.50-1.99	1.01-1.49	1.00	-1.00		
Jews (3)	0.91	0.5	0.7	0.7	2.8	7.3	14.7	22.4	51.0	100.0	1 456.5
Place of birth and period of immigration											
Israel	0.98	0.9	1.0	1.1	3.5	9.0	17.7	23.3	43.5	100.0	655.7
Father born in:											
Israel	0.93	1.0	0.8	1.0	3.2	7.2	13.9	23.0	49.9	100.0	149.2
Asia-Africa	1.09	0.9	1.3	1.3	5.2	12.9	22.9	24.2	31.5	100.0	290.9
Europe-America	0.88	0.7	0.9	0.9	1.4	5.0	13.4	22.4	55.4	100.0	214.1
Asia-Africa	0.90	0.4	0.6	0.9	2.6	8.3	14.3	18.1	54.8	100.0	267.8
Up to 1960	0.82	. .	. .	. .	1.8	5.8	11.1	18.0	62.4	100.0	161.2
1961-1964	1.03	. .	. .	. .	4.8	13.4	19.5	16.4	43.4	100.0	40.0
1965+	1.01	. .	. .	1.7	3.3	11.4	19.4	19.0	43.3	100.0	64.6
Thereof: Asia	0.86	. .	. .	. .	1.6	7.0	14.4	18.0	57.7	100.0	123.8
Up to 1960	0.81	. .	. .	. .	1.7	5.8	11.1	17.7	63.1	100.0	88.3
1961-1964	0.97	-	-	. .	-	14.9	22.0	. .	51.1	100.0	7.1
1965+	0.99	. .	. .	. .	. .	8.3	23.2	21.0	42.7	100.0	27.4
Europe-America	0.81	0.2	. .	. .	1.9	4.6	11.1	23.4	58.3	100.0	529.4
Up to 1960	0.60	. .	-	-	. .	1.1	2.6	11.0	84.8	100.0	147.2
1961-1964	0.75	-	-	. .	-	. .	9.4	19.4	68.3	100.0	20.5
1965-1974	0.81	. .	-	-	1.9	5.3	11.3	18.3	62.8	100.0	61.6
1975-1979	0.91	. .	. .	. .	. .	5.3	12.0	26.2	50.5	100.0	24.9
1980-1989	0.87	-	. .	. .	. .	3.8	17.1	19.8	56.1	100.0	30.9
1990-1991	0.94	. .	. .	. .	2.3	5.6	16.0	33.8	41.4	100.0	106.6
1992+	0.95	. .	. .	. .	3.3	7.5	14.9	32.0	41.2	100.0	135.5
Type of locality of residence (size of locality)											
Urban localities	0.91	0.5	0.7	0.8	2.8	7.2	14.4	22.4	51.3	100.0	1 378.1
Jerusalem	1.01	1.6	2.1	2.6	4.2	7.8	12.0	20.7	49.0	100.0	122.5
Tel Aviv-Yafo	0.79	. .	. .	. .	2.6	4.1	8.4	21.9	61.4	100.0	138.2
Haifa	0.80	. .	. .	-	1.9	5.4	8.7	22.9	59.9	100.0	85.6
100,000-199,999	0.94	0.5	0.5	0.6	3.1	8.2	17.5	21.9	47.7	100.0	427.6
50,000-99,999	0.89	. .	. .	. .	2.2	6.8	14.7	22.4	52.4	100.0	167.4
20,000-49,999	0.91	. .	0.6	0.7	2.1	7.3	14.9	22.8	51.3	100.0	274.2
10,000-19,999	0.94	. .	-	. .	4.2	8.5	17.7	23.2	45.9	100.0	75.0
2,000-9,999	0.91	. .	. .	. .	2.2	7.5	13.7	25.2	49.6	100.0	87.2
Thereof:											
Development localities (4)	0.96	. .	0.6	1.1	2.6	9.1	16.2	24.5	45.6	100.0	172.8
North	0.93	. .	. .	1.1	1.9	8.1	15.2	24.9	48.1	100.0	91.5
South	1.00	. .	. .	. .	3.5	10.2	17.3	24.1	42.8	100.0	81.2
Rural localities	0.94	. .	. .	. .	3.0	8.2	18.5	22.5	45.8	100.0	78.4
Moshavim	0.94	. .	. .	. .	3.3	8.2	18.2	22.8	45.8	100.0	48.9
Villages	0.94	. .	. .	. .	. .	8.2	19.1	21.9	45.7	100.0	29.4
Other	1.50	7.9	5.5	5.2	11.8	17.6	17.3	16.7	18.1	100.0	239.7
Religions											
Muslims	1.64	10.9	7.1	6.9	13.0	18.2	17.7	13.0	13.2	100.0	160.0
Christians	1.14	. .	. .	. .	9.6	17.5	16.0	22.1	30.9	100.0	40.6
Druze	1.44	. .	6.8	. .	12.6	22.7	17.0	16.1	18.0	100.0	20.1
Others	0.99	. .	. .	-	. .	. .	16.7	37.5	32.6	100.0	18.8
Type of locality of residence (size of locality)											
Urban localities	1.50	7.5	5.2	5.1	12.0	17.7	17.4	16.7	18.4	100.0	231.7
Jerusalem	1.78	17.9	8.6	5.6	14.4	15.3	15.5	10.6	12.1	100.0	35.1
10,000+	1.39	5.1	3.3	4.2	12.1	17.5	17.8	18.8	21.3	100.0	132.1
2,000-9,999	1.53	6.9	7.3	6.5	10.5	19.3	17.7	15.9	15.9	100.0	64.4
Rural localities	1.82	17.5	12.6	. .	. .	13.6	13.2	16.7	. .	100.0	7.9

Table 31

Households, by religion, housing density and continent of birth of household head and children in household, 1999

Religion, persons per room and continent of birth	Average children per household		Children in household					Thereof: Households with children aged up to 17 - total		All households
	Households with children aged up to 17	All households	6+	4-5	3	2	1			
			Percentages						Thousands	
Jews - grand total (1)	2.18	0.99	2.7	9.2	18.4	33.5	36.2	100.0	661.2	1 456.5
Up to 0.99	1.56	0.31	. .	1.2	9.5	31.4	57.7	100.0	146.7	741.0
1.00-1.99	2.14	1.50	0.9	8.8	21.9	35.7	32.7	100.0	451.8	644.0
2.00-2.99	3.71	3.27	18.2	32.2	14.2	25.0	10.5	100.0	54.3	61.2
3.00+	6.11	5.57	52.8	26.6	. .	. .	. .	100.0	7.3	7.6
Israel - total	2.34	1.42	3.3	10.4	21.4	35.3	29.5	100.0	398.7	655.7
Up to 0.99	1.62	0.53	. .	. .	10.9	35.5	52.4	100.0	93.3	284.8
1.00-1.99	2.29	1.85	0.9	10.1	26.3	37.5	25.2	100.0	264.8	327.2
2.00-2.99	3.88	3.67	20.0	35.9	15.1	23.5	5.4	100.0	34.6	37.0
3.00+	7.18	6.42	66.1	22.1	. .	. .	. .	100.0	5.4	5.5
Asia-Africa - total	2.22	0.83	2.8	11.7	19.7	27.8	37.9	100.0	99.7	267.8
Up to 0.99	1.55	0.17	-	. .	10.6	26.4	61.7	100.0	16.3	146.2
1.00-1.99	2.17	1.44	. .	11.0	22.7	29.6	35.6	100.0	72.1	108.8
2.00-2.99	3.54	3.24	18.1	31.3	13.1	19.7	17.8	100.0	9.8	10.9
3.00+	(4.61)	(4.35)	. .	. .	. .	. .	. .	. .	(1.0)	(1.0)
Europe-America - total	1.75	0.53	1.1	4.8	10.1	32.5	51.5	100.0	161.2	529.4
Up to 0.99	1.39	0.17	-	. .	5.5	23.1	69.5	100.0	36.7	308.3
1.00-1.99	1.76	0.97	. .	4.3	11.3	35.4	48.4	100.0	113.7	206.1
2.00-2.99	2.82	2.15	12.1	19.3	12.0	35.2	21.3	100.0	9.6	13.1
3.00+	. .	(2.20)	-	. .	. .	. .	. .	. .	. .	(1.0)
Other religions										
Grand total	3.04	2.17	9.2	26.1	18.9	23.6	22.2	100.0	1 71.3	239.7
Up to 0.99	1.39	0.38	-	. .	. .	26.2	70.9	100.0	12.4	43.4
1.00-1.99	2.46	1.85	1.3	18.8	23.9	29.8	26.3	100.0	92.9	123.5
2.00-2.99	2.81	3.40	15.7	42.4	17.3	16.8	7.7	100.0	47.6	53.8
3.00+	5.04	4.82	38.5	37.6	9.5	8.4	6.0	100.0	18.2	18.8

Table 32

Households by housing density, size of household and religion, 1999

Persons per room	Persons in household									
	Average per household	7+	6	5	4	3	2	1	Total %	'000
Jews (2) - Total	3.18	3.9	5.4	12.8	18.4	16.1	24.6	18.7	100.0	1 456.5
Up to 0.49	1.18	-	-	-	. .	0.9	15.0	83.9	100.0	182.4
0.5	1.58	-	-	-	. .	4.9	46.0	48.6	100.0	139.7
0.51-0.99	2.73	. .	0.8	5.8	15.4	25.0	47.8	5.0	100.0	418.8
1.00	3.30	. .	2.4	13.8	28.5	28.7	17.1	9.3	100.0	325.3
1.01-1.49	4.61	5.2	9.1	35.2	42.6	5.4	2.5	-	100.0	213.2
1.50-1.99	5.34	16.3	28.0	33.8	7.4	14.4	-	-	100.0	105.5
2.00	5.27	15.4	39.1	7.7	23.1	3.2	10.9	0.5	100.0	40.5
2.01-2.49	7.78	87.9	12.1	-	-	-	-	-	100.0	10.8
2.50-2.99	7.48	59.2	-	30.6	10.2	-	-	-	100.0	9.9
3.00+	8.20	66.2	16.2	. .	. .	5.4	-	-	100.0	7.6
Other religions - Total	4.85	21.4	14.5	15.7	16.8	14.2	10.9	6.6	100.0	239.7
Up to 0.99	2.21	. .	. .	. .	7.4	26.2	36.8	27.8	100.0	43.4
1.00	3.28	. .	. .	7.5	28.6	35.9	16.6	9.8	100.0	40.1
1.01-1.49	4.77	5.6	11.4	31.1	42.7	4.4	4.9	-	100.0	41.3
1.50-1.99	5.71	20.3	27.8	34.7	5.7	11.5	-	-	100.0	42.0
2.00	5.83	20.7	47.1	7.9	15.4	3.9	5.0	-	100.0	28.2
2.01-2.49	7.82	91.9	8.1	-	-	-	-	-	100.0	12.4
2.50-2.99	7.95	71.5	-	25.4	. .	-	-	-	100.0	13.0
3.00+	8.51	73.1	18.3	. .	. .	. .	-	-	100.0	18.8
Average number of persons per room										
Jews		1.85	1.39	1.17	1.03	0.85	0.64	0.39		0.91
Other religions		2.37	1.72	1.48	1.20	0.94	0.75	0.48		1.50

Table 33

Households by religion, size of household and number of rooms in dwelling, 1999

Rooms in dwelling	Persons in household							
	7+	6	5	4	3	2	1	Total
Jews								
Total - thousands	56.7	78.8	187.0	268.3	235.1	357.7	272.8	1 456.5
- percentages	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1	-	-	. .	. .	. .	1.2	11.1	2.5
1.5	-	-	. .	0.4	0.6	1.5	7.8	2.0
2	1.2	1.5	1.6	3.5	6.5	15.6	24.9	10.5
2.5	2.0	1.7	1.7	2.9	4.9	8.3	10.2	5.7
3	18.8	20.0	19.1	27.5	39.7	42.1	32.0	32.1
3.5	3.7	3.7	4.2	6.4	6.2	5.7	2.7	5.0
4	35.0	33.9	33.1	34.6	26.4	18.0	8.6	24.1
4.5+	39.3	39.2	40.0	24.5	15.5	7.7	2.7	18.2

Table 33 (continued)

Rooms in dwelling	Persons in household							
	7+	6	5	4	3	2	1	Total
Average rooms per person	0.54	0.71	0.85	0.97	1.18	1.56	2.53	1.09
Other religions								
Total - thousands	51.3	34.6	37.5	40.1	33.9	26.0	15.9	239.7
- percentages	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1	. .	. .	. .	. .	. .	5.4	25.0	3.2
2	7.5	9.3	9.9	11.8	17.6	33.3	41.0	15.3
3	40.2	41.4	44.9	44.0	47.9	45.0	25.0	42.2
3.5+	51.0	49.0	44.4	43.0	33.3	16.3	9.0	39.3
Average rooms per person	0.42	0.58	0.67	0.83	1.05	1.33	2.09	0.66

Poverty

287. The principal recent developments concerning the dimensions of poverty in Israel have been reported above under article 9 of this report (paras. 233-239).

288. As was set out in Israel's initial report, data on the topic of poverty should be read in conjunction with the tables presenting the resources and their use, including GNP, GDP, per capita GNP and GDP, private consumption expenditure over the years as well as GNP by deciles. Such tables, as updated since the initial report, are as follows:

Table 34

Resources and uses of resources

	Gross national income	Less: net income paid abroad	Gross domestic product	Per capita		Gross domestic product of the business sector	Less:		Gross domestic product	Less: imports of goods and services	Uses of resources				
				Gross domestic product	Private consumption expenditure		Ownership of dwellings	Services of general government and non-profit institutions			Exports of goods and services	Gross domestic capital formation	Private consumption expenditure	General government consumption expenditure	Total
	At current prices			At constant prices											
	NIS (thousands)			NIS		NIS million									
1950	46	1	47	10 155	5 441	7 109	1 623	5 703	12 864	4 606	575	5 534	6 893	5 450	17 383
1951	70	1	71	11 202	5 644	9 337	1 936	7 346	16 739	4 920	801	6 539	8 434	6 610	21 129
1952	107	1	108	10 880	5 637	9 738	2 302	7 323	17 476	4 526	1 048	5 623	9 054	6 511	21 213
1953	134	2	136	10 436	5 674	9 411	2 576	7 471	17 223	4 620	1 288	4 704	9 364	6 836	21 126
1954	178	1	179	12 172	6 371	11 342	2 837	8 862	20 564	5 086	1 834	5 250	10 763	7 968	24 629
1955	214	2	216	13 352	6 619	12 760	3 173	10 612	23 371	5 473	1 885	6 465	11 585	9 260	27 563
1956	256	1	257	13 922	6 956	14 007	3 547	11 043	25 456	6 373	2 147	6 111	12 719	12 614	30 593
1957	297	2	299	14 352	7 040	15 375	3 858	11 553	27 706	6 320	2 569	7 159	13 591	11 026	32 442
1958	345	2	347	14 867	7 487	16 603	4 172	11 986	29 735	7 093	2 860	7 688	14 974	11 491	35 249
1959	395	2	397	16 259	7 965	18 983	4 580	12 732	33 527	7 599	3 770	8 400	16 425	12 121	39 192
1960	443	3	446	16 883	8 322	20 337	5 008	13 101	35 741	8 750	4 760	8 817	17 617	12 860	42 634
1961	533	5	538	18 099	8 929	22 787	5 366	14 167	39 635	10 806	5 522	10 500	19 554	14 934	48 732
1962	632	8	640	19 051	9 450	25 316	5 741	15 124	43 593	12 425	6 486	11 588	21 623	16 476	54 310
1963	762	4	766	20 249	9 999	28 162	6 183	16 470	48 187	13 280	7 451	11 974	23 795	18 308	59 434
1964	884	5	889	21 380	10 650	31 192	6 682	17 625	52 969	15 116	7 904	14 516	26 386	18 977	66 014
1964 (2)	866	12	878	21 109	10 392	30 996	6 434	17 096	52 297	14 659	7 735	14 516	25 746	18 549	64 828
1965	1 038	15	1 052	22 328	10 921	33 880	6 882	19 033	57 217	14 951	8 386	14 603	27 985	20 666	69 494
1966	1 140	16	1 156	21 980	10 864	33 692	7 378	20 037	57 790	14 864	9 271	12 234	28 563	22 636	69 879
1967	1 188	18	1 205	21 774	10 736	33 791	7 794	22 005	59 122	16 282	10 041	9 480	29 150	30 230	72 906
1968	1 393	24	1 417	24 304	11 795	40 143	8 553	22 843	68 210	21 140	12 825	14 116	33 102	32 864	87 214
1969	1 607	28	1 635	26 658	12 628	46 059	9 049	24 702	76 886	24 342	13 713	17 864	36 422	38 065	98 966
1970	1 877	35	1 912	27 835	12 536	49 493	9 792	26 746	82 780	28 671	15 046	20 258	37 283	47 395	109 718
1971	2 356	43	2 399	30 009	12 801	55 881	10 722	28 187	92 106	31 724	18 600	24 813	39 289	48 619	121 853
1972	3 033	57	3 090	32 905	13 761	63 751	11 837	29 605	103 377	32 110	21 118	27 832	43 232	48 255	132 270

Table 34 (continued)

Resources and uses of resources

	Gross national income	Less: net income paid abroad	Gross domestic product	Per capita: Gross domestic product	Per capita: Private consumption expenditure	Gross domestic product of the business sector	Less: Ownership of dwellings	Less: Services of general government and non-profit institutions	Gross domestic product	Less: imports of goods and services	Uses of resources: Exports of goods and services	Gross domestic capital formation	Private consumption expenditure	General government consumption expenditure	Total
	At current prices			At constant prices											
	NIS (thousands)			NIS		NIS million									
1973	3 834	111	3 945	33 364	14 423	64 764	13 077	34 825	108 409	43 406	22 273	29 370	46 863	67 855	151 217
1974	5 463	157	5 620	33 990	14 987	68 329	14 193	36 274	114 391	43 703	23 517	28 281	50 436	69 850	156 864
1975	7 895	271	8 166	34 434	14 620	70 531	15 370	37 784	118 772	45 541	23 932	29 652	50 429	76 940	163 083
1976	10 291	323	10 614	34 227	15 009	70 509	16 707	39 265	120 647	44 269	27 449	26 096	52 907	70 826	162 922
1977	15 223	332	15 555	34 166	15 430	71 343	17 788	40 283	123 089	42 925	30 664	24 203	55 588	62 784	163 143
1978	24 531	636	25 167	34 823	16 390	74 120	18 668	42 056	128 145	47 485	32 073	24 831	60 315	67 656	173 686
1979	45 940	1 562	47 502	35 585	17 273	77 800	19 510	43 719	134 199	48 793	33 037	27 949	65 140	63 094	180 606
1980	107 245	3 802	111 047	36 005	16 256	81 126	20 353	43 883	138 975	45 765	35 609	24 264	62 747	67 927	180 487
1981	256 073	6 350	262 423	37 048	18 058	86 043	21 077	44 266	145 517	50 434	37 477	23 226	70 927	72 328	192 688
1982	579 212	17 780	596 992	36 876	19 175	86 547	21 851	45 696	147 571	52 237	36 173	26 796	76 733	67 630	197 017
	NIS millions														
1983	1 496	46	1 542	37 129	20 466	89 161	22 483	46 112	151 344	55 787	36 773	29 810	83 423	64 524	205 316
1984	7 286	326	7 612	37 185	18 683	91 319	23 129	46 629	154 655	55 197	41 767	27 687	77 704	68 292	207 140
1985	27 325	1 119	28 444	38 159	18 593	96 936	23 702	46 420	161 528	54 681	45 949	24 279	78 702	70 780	211 972
1986	42 631	1 561	44 192	38 913	21 070	102 028	24 121	45 622	167 277	59 725	48 502	26 070	90 577	63 896	224 080
1987	54 769	1 804	56 573	40 645	22 578	110 470	24 569	45 846	177 574	71 422	53 467	27 654	98 641	75 503	248 214
1988	68 389	1 779	70 168	41 340	23 201	114 332	25 092	47 525	183 618	69 388	52 680	28 110	103 053	73 582	250 906
1989	83 241	2 204	85 445	41 148	22 886	115 536	25 665	48 255	185 916	65 879	54 844	27 504	103 402	66 835	248 404
1990	103 556	2 462	106 018	42 412	23 414	124 743	26 304	49 060	197 644	72 163	55 923	34 622	109 112	71 917	266 816
1991	132 966	2 484	135 450	42 314	23 610	133 602	27 003	50 912	209 414	83 538	54 371	49 480	116 846	75 208	290 863
1992	159 334	3 267	162 601	43 727	24 505	144 951	28 401	52 257	224 037	90 535	61 933	52 534	125 552	76 418	312 514
1993	183 912	3 920	187 832	44 155	25 570	150 646	29 689	53 516	232 320	103 283	68 114	56 072	134 533	79 624	334 902
1994	223 821	4 170	227 991	46 073	27 330	163 519	30 715	55 398	248 760	114 417	76 902	60 817	147 564	79 360	363 010
1995	260 250	4 595	264 845	47 765	28 735	176 817	31 728	56 307	264 851	122 986	83 639	66 311	159 330	78 557	387 837

Table 35

Private consumption expenditure, by object and type of expenditure

	NIS millions														
	1999	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986
	At current prices	At 1995 prices(1)													
1. National private consumption expenditure - grand total (2+6)	248 606	189 501	183 252	176 973	168 931	159 330	147 564	134 533	125 552	116 846	109 112	103 402	103 053	98 641	90 577
2. Consumption expenditure by Israeli households (3-4+5)	243 128	185 233	179 229	173 074	165 351	155 994	144 221	131 670	122 665	114 101	106 584	100 930	100 666	96 113	88 153
3. Consumption of Israelis abroad	9 305	8 391	7 726	6 997	6 343	5 620	5 998	5 013	4 346	4 682	4 672	4 795	4 182	3 923	3 664
4. Consumption of non-residents in Israel	12 819	7 472	6 592	7 175	8 131	9 138	9 529	8 854	7 840	5 061	6 024	6 411	5 809	6 574	5 575
5. Consumption expenditure of households in the domestic market - total	246 642	184 433	177 992	173 201	167 138	159 512	147 650	135 409	126 102	114 617	107 948	102 519	102 304	98 733	90 053
By object															
Food beverages and tobacco	51 873	38 423	37 914	37 941	37 131	35 414	33 245	30 611	28 464	27 350	25 940	24 729	24 412	23 220	21 493
Clothing footwear and personal effects	10 695	9 575	9 403	9 438	9 828	10 011	9 288	8 155	6 890	6 021	5 572	5 161	5 395	5 641	4 584
Housing	57 058	41 621	40 247	38 639	36 947	35 468	34 412	33 334	31 918	30 334	29 527	28 809	28 166	27 579	26 991
Electricity and fuel - home consumption (2)	5 483	4 128	4 108	3 844	3 575	3 340	3 141	2 968	2 824	2 304	2 173	2 116	1 954	1 764	1 634
Furniture furnishings and household equipment	20 217	16 126	15 528	14 591	13 184	12 167	10 195	9 074	8 128	7 271	6 614	5 754	5 809	5 726	5 273
Household maintenance	7 587	5 536	5 178	4 931	4 683	4 358	4 076	3 970	3 603	3 464	3 429	3 272	3 368	3 254	3 005
Personal care and health	15 123	11 654	11 341	10 255	10 249	9 801	12 521	11 034	9 984	9 091	8 706	8 231	7 556	7 222	6 497
Transport and communications	35 055	26 424	24 723	24 326	23 181	21 976	19 810	17 759	17 481	14 086	12 249	11 529	12 606	11 353	9 819
Recreation and entertainment	24 962	17 289	16 522	16 216	15 740	15 228	13 457	11 751	10 859	9 269	9 162	9 235	9 165	9 361	8 374
Other goods and services	18 590	13 623	12 999	13 001	12 622	11 751	8 212	7 862	7 380	6 955	6 322	5 959	5 663	5 314	5 020
By type															
Durable goods - total	28 045	22 788	22 093	21 511	20 527	19 143	16 567	14 807	14 683	11 785	9 778	8 348	9 637	8 891	7 851
Furniture	7 032	5 268	5 415	5 078	4 796	4 477	4 059	3 534	3 102	2 897	2 577	2 547	2 393	2 361	2 214
Household equipment	13 185	10 890	10 120	9 520	8 388	7 690	6 156	5 553	5 033	4 388	4 046	3 236	3 432	3 382	3 077
Personal transport equipment	7 828	6 532	6 450	6 881	7 343	6 976	6 414	5 776	6 709	4 542	3 112	2 523	3 953	3 189	2 546

Table 35 (continued)

NIS million															
	1999	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986
	At current prices	At 1995 prices (1)													
Non-durable goods - total	86 385	65 273	64 585	63 476	62 924	60 641	56 503	51 631	46 906	43 388	40 987	39 044	38 546	37 306	33 309
Food beverages and tobacco	51 873	38 423	37 914	37 941	37 131	35 414	33 245	30 611	28 464	27 350	25 940	24 729	24 412	23 220	21 493
Fuel and electricity	10 611	6 949	6 894	6 679	6 467	6 115	5 746	5 380	5 101	4 320	3 969	3 965	3 725	3 437	3 093
Clothing, footwear and personal effects	10 695	9 575	9 403	9 438	9 828	10 011	9 288	8 155	6 890	6 021	5 572	5 161	5 395	5 641	4 584
Non-durable household goods	2 884	2 102	1 970	1 849	1 708	1 545	1 474	1 599	1 303	1 225	1 221	1 091	1 141	1 009	867
Personal care and medical products	7 008	5 537	5 615	4 770	4 947	4 717	4 405	3 711	3 186	2 752	2 622	2 462	2 131	2 074	1 756
Books newspapers and stationery	1 705	1 288	1 314	1 354	1 434	1 394	1 259	1 301	1 186	1 069	1 069	1 130	1 066	1 211	1 016
Recreation goods and miscellaneous	1 609	1 375	1 463	1 416	1 409	1 445	1 115	962	920	817	763	750	772	700	648
Housing	57 058	41 621	40 247	38 639	36 947	35 468	34 412	33 334	31 918	30 334	29 527	28 809	28 166	27 579	26 991
Other services	75 154	54 674	51 032	49 577	46 740	44 260	40 654	36 609	33 753	30 580	29 370	28 580	27 587	26 816	24 605
6. Non-profit institutions(a) - Total	5 478	4 262	4 018	3 893	3 580	3 336	3 371	2 867	2 915	2 777	2 555	2 511	2 412	2 595	2 504
Health institutions	865	751	705	690	606	574	580	556	624	591	574	666	725	902	931
Education culture and research welfare and religious institutions	2 775	2 006	1 809	1 771	1 623	1 437	1 453	1 347	1 325	1 263	1 095	1 036	943	974	920
Trade unions political organizations etc.	1 838	1 495	1 503	1 432	1 351	1 325	1 338	960	966	922	890	869	867	910	867

a Excluding non-profit institutions financed mainly by the Government; excluding expenditure on food and medical products which are included in other items of consumption.

Physical quality of life index

289. As mentioned in its initial report, Israel still does not have a physical quality of life index. The National Council for Diminishing Social Gaps and the War on Poverty has recommended creating one but its recommendation has not yet been acted upon.

2. The right to adequate food

290. No notable changes have occurred in the manner in which this right is viewed by the Government by the bodies responsible for offering assistance and in the way the right is implemented.

(a) Income maintenance

291. No notable changes have occurred on this issue since the submission of Israel's initial report.

(b) Nutrition services

292. Pursuant to a recent amendment to the National Health Insurance Law special assistance is provided to those who need special dietary food due to "medical conditions" as a part of the "basket of services" provided under the law. The data provided in Israel's initial report concerning nutrition is hereby updated as follows:

Table 36

The Food Balance Sheet: calories and nutrients per capita per day

	1999	1998	R1997	1990	1980	1970	1960
	Calories (Kcal)						
Total	3 543	3 616	3 503	3 089	2 979	2 988	2 772
Cereals and cereal products	1 112	1 184	1 085	986	1 048	1 067	1 157
Potatoes and starches	96	91	88	66	89	79	77
Sugar and honey	461	463	459	381	323	376	311
Chocolate, sweets and jam	202	195	187	101	90	84	68
Miscellaneous grains and nuts	135	132	153	152	114	96	85
Vegetables (1)	121	120	103	103	69	77	67
Fruit and melons (1)	162	195	196	169	150	164	147
Oils and fats (1)	579	567	558	486	496	452	406
Meat	343	338	340	317	284	264	143
Eggs	58	58	58	72	77	89	73
Fish	25	27	25	18	12	16	18
Milk and dairy products (1)	249	246	251	238	227	224	220
	Protein (grams)						
Total	105.3	107.1	104.4	97.4	92.2	91.5	85.1
Thereof: animal (1)	52.7	52.2	52.5	49.9	45.4	44.3	34.0
Cereals and cereal products	35.8	38.2	34.9	31.7	34.1	34.6	39.7
Potatoes and starches	2.1	2.0	1.9	1.4	1.9	1.8	1.7
Chocolate, sweets and jam	1.2	1.2	1.1	0.5	0.4	0.3	0.1
Miscellaneous grains and nuts	5.9	5.9	7.3	6.8	5.0	4.5	4.0
Vegetables (1)	5.5	5.4	4.4	5.1	3.5	3.7	3.5
Fruit and melons (1)	2.1	2.2	2.3	2.0	1.9	2.3	2.1

Table 36 (continued)

	1999	1998	R1997	1990	1980	1970	1960
	Protein (grams)						
Meat	28.1	27.6	27.7	25.6	22.5	20.8	11.8
Eggs	4.4	4.4	4.4	5.5	5.9	6.8	5.5
Fish	4.4	4.5	4.4	3.4	2.4	2.7	3.0
Milk and dairy products (1)	15.8	15.7	16.0	15.4	14.6	14.0	13.7
	Fat (grams)						
Total	133.7	132.3	130.8	117.6	111.5	104.3	86.7
Thereof: animal (1)	44.3	44.0	44.3	42.6	38.7	38.3	27.9
Cereals and cereal products	4.6	4.9	4.5	4.1	4.3	4.4	4.8
Potatoes and starches	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Chocolate, sweets and jam	6.0	5.8	5.2	2.2	2.0	1.8	0.8
Miscellaneous grains and nuts	8.0	7.8	8.3	9.2	7.0	5.5	5.0
Vegetables (1)	1.1	1.0	1.0	1.0	0.6	0.7	0.4
Fruit and melons (1)	3.8	4.3	4.0	3.2	2.5	2.0	1.4
Oils and fats (1)	65.8	64.4	63.4	55.3	56.3	51.5	46.3
Meat	24.7	24.4	24.6	22.9	20.7	19.3	10.3
Eggs	4.2	4.2	4.2	5.2	5.6	6.4	5.2
Fish	0.8	0.9	0.8	0.4	0.3	0.4	0.6
Milk and dairy products (1)	14.6	14.5	14.7	14.0	12.1	12.2	11.8

Table 37

Vitamins and minerals per capita per day

Milligrams, unless otherwise stated

Commodity	Iron (Fe)	Calcium (Ca)	(Vit. C) Ascorbic acid	Niacin	Riboflavin	Thiamine (Vitamin B1)	Vitamin A Intrn. units
	1990						
Total	17.1	747	145	19.0	1.45	1.68	4 417
Cereals and cereal products	6.4	65	-	4.7	0.19	0.85	-
Potatoes and starches	0.5	6	6	1.0	0.02	0 06	-
Chocolate, sweets and jam	0.4	10	-	0.1	0.02	-	3
Miscellaneous grains and nuts	1.9	104	1	1.5	0.06	0.18	24
Vegetables (1)	2.3	76	92	1.9	0.20	0.23	1 818
Fruit and melons (1)	1.4	51	44	0.9	0.12	0.12	1 038
Oils and fats (1)	-	-	-	-	-	-	162
Meat	2.6	17	-	8.1	0.18	0.12	399
Eggs	1.1	22	-	-	0.13	0.04	444
Fish	0.1	5	-	0.5	0.02	-	1
Milk and dairy products (1)	0.4	391	2	0.3	0.51	0.08	528

Table 37 (continued)

Commodity	Iron (Fe)	Calcium (Ca)	(Vit. C) Ascorbic acid	Niacin	Riboflavin	Thiamine (Vitamin B1)	Vitamin A Intrn. units
	1990						
	R1997						
Total	17.8	731	169	20.5	1.50	1.78	4 213
Cereals and cereal products	7.0	71	-	5.3	0.21	0.94	-
Potatoes and starches	0.6	7	8	1.4	0.03	0.08	-
Chocolate, sweets and jam	0.7	21	1	0.1	0.03	-	7
Miscellaneous grains and nuts	1.7	62	-	1.5	0.08	0.19	23
Vegetables (1)	2.0	73	86	1.6	0.17	0.20	1 702
Fruit and melons (1)	1.6	62	72	1.0	0.14	0.13	971
Oils and fats (1)	-	0	-	-	-	-	97
Meat	2.8	20	-	8.9	0.19	0.12	475
Eggs	0.9	18	-	-	0.11	0.04	359
Fish	0.1	8	-	0.5	0.03	0.01	2
Milk and dairy products (1)	0.4	390	2	0.2	0.51	0.07	577
	1998						
Total	18.9	740	175	21.1	1.56	1.90	4 684
Cereals and cereal products	7.7	78	-	5.7	0.23	1.03	-
Potatoes and starches	0.7	8	9	1.4	0.03	0.09	-
Chocolate, sweets and jam	0.9	24	1	0.2	0.03	-	7
Miscellaneous grains and nuts	1.4	56	-	0.9	0.04	0.14	17
Vegetables (1)	2.5	89	108	2.0	0.23	0.25	2 142
Fruit and melons (1)	1.4	61	55	1.1	0.14	0.14	1 026
Oils and fats (1)	-	-	-	-	-	-	96
Meat	2.8	19	-	9.0	0.20	0.13	464
Eggs	0.9	18	-	-	0.11	0.04	356
Fish	0.2	7	-	0.6	0.03	0.01	5
Milk and dairy products (1)	0.4	380	2	0.2	0.52	0.07	571
	1999						
Total	18.4	734	173	20.9	1.54	1.82	4 606
Cereals and cereal products	7.3	74	-	5.4	0.21	0.96	-
Potatoes and starches	0.7	8	9	1.5	0.04	0.09	-
Chocolate, sweets and jam	0.9	24	1	0.2	0.04	0.01	7
Miscellaneous grains and nuts	1.5	59	-	1.0	0.05	0.14	23
Vegetables (1)	2.4	86	115	2.0	0.21	0.22	2 251
Fruit and melons (1)	1.3	52	46	0.9	0.14	0.14	824
Oils and fats (1)	-	-	-	-	-	-	96
Meat	2.9	19	-	9.1	0.20	0.13	469
Eggs	0.9	18	-	-	0.11	0.04	356
Fish	0.1	7	-	0.6	0.03	0.01	4
Milk and dairy products (1)	0.4	387	2	0.2	0.51	0.08	576

Table 38

Food balance sheet, 1998 (annual quantities, tons)

Commodity	Per capita supplies			Food (net)		Available supply						
	Fat grams per day	Protein grams per day	Calories (Kcal) per day	Grams per day	Kg. per year	Food (net)	Other supply and waste (1)	Total	Imports	Exports	Change of stocks	Production
Grand total	132.3	107.1	3 616	. .	. .							
Cereals and cereal products - Total	4.9	38.2	1 184									
Wheat (2)	4.6	36.1	1 079	308.2	112.5	674 900	936 100	1 611 000	1 596 600	139 900	1 700	156 000
Rice (milled)	0.2	1.8	95	26.3	9.6	57 500	-	57 500	85 600	34 100	-6 000	-
Other cereals	0.1	0.3	10	2.8	1.0	6 000	-	6 000	4 900	-	600	1 700
Potatoes and starches - Total	0.1	2.0	91									
Potatoes and potato flour	0.1	2.0	81	111.5	40.7	244 000	35 900	279 900	20 600	60 000	14 100	333 400
Cornflour	-	-	10	2.7	1.0	6 000	19 800	25 800	1 500	100	500	24 900
Sugar and honey - Total	-	-	463									
Sugar	-	-	458	118.4	43.2	258 900	45 500	304 400	440 000	135 600	-	-
Honey	-	-	5	1.6	0.6	3 300	-	3 300	700	-	-100	2 500
Chocolate, sweets and jam	5.8	1.2	195	48.3	17.6	105 400	-	105 400	38 900	7 600	-	74 100
Miscellaneous grains and nuts - Total	7.8	5.9	132									
Pulses, edible, dry	0.2	3.2	49	14.1	5.2	31 365	1 450	32 815	21 600	5 185	-7 000	9 400
Sesame, groundnuts and sunflower	3.1	1.5	36	6.9	2.5	14 540	48 610	63 150	43 100	17 300	-8 000	29 350
Nuts	4.5	1.2	47	7.7	2.8	16 900	-	16 900	11 800	300	-3 000	2 400
Vegetables (2)	1.0	5.4	120	508.2	185.5	1 112 923	73 988	1 186 911	132 139	263 807	-	1 318 579
Fruit and melons (2) - Total	4.3	2.2	195									
Citrus fruit	0.1	0.6	35	122.2	44.6	267 700	4 100	271 800	7 800	624 800	-	888 800
Fresh fruit, excl. citrus (2)	4.1	1.3	140	221.0	80.6	482 500	55 200	537 700	24 600	65 600	-25 800	552 900
Watermelons and sugar melons	0.1	0.3	13	97.8	35.7	213 800	7 900	221 700	100	26 300	-	247 900
Dried fruit	-	-	7	2.9	1.1	6 700	-	6 700	6 500	-	-	200

Table 38 (continued)

Commodity	Per capita supplies			Food (net)		Available supply						
	Fat grams per day	Protein grams per day	Calories (Kcal) per day	Grams per day	Kg. per year	Food (net)	Other supply and waste (1)	Total	Imports	Exports	Change of stocks	Production
Oils and fats (2) - Total	64.4	-	567									
Vegetable oils, refined, edible	48.5	-	429	48.5	17.7	106 100	28 900	135 000	42 600	12 000	40 000	144 400
Margarine	14.1	-	122	17.0	6.2	37 300	800	38 100	4 000	700	-	34 800
Butter	1.8	-	16	2.2	0.8	4 700	3 000	7 700	200	200	500	8 200
Meat - Total	24.4	27.6	338									
Beef, fresh and frozen, carcass weight	7.3	6.4	93	42.7	15.6	93 300	-	93 300	69 200	18 200	1 500	43 800
Beef, Offal and other edible parts	0.4	0.8	7	4.9	1.8	10 900	-	10 900	3 000	-	-	7 900
Sheep and goats, carcass weight	0.3	0.4	4	3.3	1.2	7 000	-	7 000	1 200	400	-	6 200
Other meat	2.0	0.5	21	5.5	2.0	12 200	-	12 200	-	-	-	12 200
Poultry (slaughtered)	14.4	19.5	213	154.5	56.4	338 100	-	338 100	-	17 700	-	355 800
Eggs	4.2	4.4	58	40.0	14.6	87 400	-	87 400	-	4 200	-4 800	86 800
Fish	0.9	4.5	27	37.0	13.5	80 100	-	80 100	38 300	300	-12 000	30 100
Milk and dairy products (2) - Total	14.5	15.7	246									
Cow's milk	4.7	5.6	101	168.5	61.5	368 891	807 929	1 176 820	-	20 300	-	1 197 120
Sheep and goats' milk	0.5	0.5	7	9.4	3.4	20 200	13 500	33 700	-	-	-	33 700
Milk, dried	-	0.5	5	1.4	0.5	3 200	12 300	15 500	4 800	500	-100	11 100
Cheese	5.2	7.1	76	43.1	15.8	95 200	-	95 200	500	3 100	500	98 300
Sour milk, etc.	4.1	2.0	57	63.0	23.0	137 600	-	137 600	600	9 700	-	146 700

Table 39

Food balance sheet, 1999 (annual quantities, tons)

Commodity	Per capita supplies			Food (net)		Available supply						
	Fat grams per day	Protein grams per day	Calories (Kcal) per day	Grams per day	Kg. per year	Food (net)	Other supply and waste (1)	Total	Imports	Exports	Change of stocks	Production
Grand total	133.7	105.3	3 543	. .	. .							
Cereal and cereal products - Total	4.6	35.8	1 112									
Wheat (2)	4.3	33.6	1 006	287.4	104.9	639 600	981 600	1621 200	1 628 500	137 000	-100,700	29 000
Rice (milled)	0.2	1.8	95	26.3	9.6	58 600	-	58 600	84 100	34 000	-8 500	-
Other cereals	0.1	0.4	11	3.3	1.2	7 200	-	7 200	6 200	-	800	1 800
Potatoes and starches - Total	0.1	2.1	96									
Potatoes and potato flour	0.1	2.1	86	118.9	43.4	264 400	34 400	298 800	21 500	71 300	-	348 600
Cornflour	-	-	10	2.7	1.0	6 100	18 800	24 900	100	500	-	25 300

Table 39 (continued)

Commodity	Per capita supplies			Food (net)		Available supply						
	Fat grams per day	Protein grams per day	Calories (Kcal) per day	Grams per day	Kg. per year	Food (net)	Other supply and waste (1)	Total	Imports	Exports	Change of stocks	Production
Sugar and honey - Total	-	-	461									
Sugar	-	-	456	117.8	43.0	262 600	53 000	315 600	450 000	134 400	-	-
Honey	-	-	5	1.6	0.6	3 900	-	3 900	800	-	-100	3 000
Chocolate, sweets and jam	6.0	1.2	202	49.4	18.0	109 900	-	109 900	38 000	6 600	-	78 500
Miscellaneous grains and nuts - Total	8.0	5.9	135									
Pulses, edible, dry	0.3	3.1	50	14.2	5.2	32 180	1 770	33 950	20 500	-	-3 000	10 450
Sesame, groundnuts and sunflower	3.2	1.6	38	7.3	2.7	16 540	. .	. .	58 200	16 000	4 100	..
Nuts	4.5	1.2	47	7.7	2.8	17 100	-	17 100	12 800	300	-2 000	2 600
Vegetables (2)	1.1	5.5	121	511.8	186.8	1 139 326	91 359	1 230 684	114 648	212 970	-	1 329 006
Fruit and melons (2) - Total	3.8	2.1	162									
Citrus fruit	0.1	0.6	31	106.3	38.8	236 550	3 300	239 850	8 700	492 250	-	723 400
Fresh fruit, excl. citrus (2)	3.6	1.1	113	174.4	63.7	388 940	56 800	445 740	16 740	63 000	3 900	495 900
Watermelons and sugar melons	0.1	0.4	14	106.3	38.8	236 300	8 200	244 500	200	26 600	-	270 900
Dried fruit	-	-	4	1.8	0.7	5 030	-	5 030	5 200	300	-	130
Oils and fats (2) - Total	65.8	-	579									
Vegetable oils, refined, edible	49.9	-	441	49.9	18.2	110 900	27 500	138 400	46 800	15 000	45 000	151 600
Margarine	14.1	-	122	17.0	6.2	38 100	800	38 900	6 000	300	-	33 200
Butter	1.8	-	16	2.2	0.8	5 000	2 800	7 800	200	300	-	7 900
Meat - Total	24.7	28.1	343									
Beef, fresh and frozen, carcass weight	7.5	6.6	96	44.1	16.1	98 200	-	98 200	68 400	18 200	-3 600	44 400
Beef, Offal and other edible parts	0.4	0.9	8	5.5	2.0	12 200	-	12 200	4 300	-	-	7 900
Sheep and goats, carcass weight	0.3	0.4	4	3.3	1.2	7 400	-	7 400	1 600	400	-	6 200
Other meat	2.0	0.5	21	5.5	2.0	12 200	-	12 200	-	-	-	12 200
Poultry (slaughtered)	14.5	19.7	214	155.4	56.7	346 000	-	346 000	-	17 200	-	363 200
Eggs	4.2	4.4	58	40.0	14.6	89 300	-	89 300	-	3 900	-1 400	91 800
Fish	0.8	4.4	25	36.6	13.4	81 000	-	81 000	35 400	500	-16 000	30 100
Milk and dairy products (2) - Total	14.6	15.8	249									
Cow's milk	4.7	5.6	102	169.6	61.9	377 600	799 200	1 176 800	-	17 200	-	1 194 000
Sheep and goats' milk	0.4	0.4	7	8.5	3.1	19 000	13 500	32 500	-	-	-	32 500
Milk, dried	-	0.6	6	1.6	0.6	3 700	11 300	15 000	4 800	800	-400	10 600
Cheese	5.4	7.2	77	43.5	15.9	97 800	-	97 800	800	3 300	-600	99 700
Sour milk, etc.	4.1	2.0	57	63.3	23.1	141 000	-	141 000	100	12 200	-	153 100

293. A review of the food balance sheets collected annually from 1947 to 1999 reveals an increase in per capita consumption of calories from 2,610 to 3,543 kcal/day, an increase of 36 per cent. It is of interest to note the marked increase in the consumption of fat from 343 to 579 kcal/day, an increase of 69 per cent; the increase in the consumption of vegetables from 65 to 121 kcal/day, an increase of 86 per cent; and the increase in the consumption of meat from 95 to 343 kcal/day, an increase of 260 per cent.

The household expenditure survey

294. The main data from the latest survey was produced above, and has shown no notable change since the initial report.

Special surveys

295. It is necessary to look beyond the overall per capita aggregate in order to determine how the nutritionally vulnerable groups fare. The Ministry of Health (Department of Nutrition and the Israeli Center for Disease Control) has completed the initial stage of the first National Health and Nutrition Survey ("NNS"). A random population sample was extracted to yield 4,500 Israelis, ages 25 to 64 years old. The NNS was designed to monitor food intake, nutritional habits, exercise, smoking, knowledge and attitudes regarding lifestyle, health and nutrition status of the population. This is the largest and most comprehensive nutrition survey ever carried out in Israel. The findings are used to form a basis for formulation of dietary guidelines and recommendations for Israel, and aid in identifying areas requiring development of intervention programmes, such as food fortification. The survey provides information regarding minorities and vulnerable groups, and a database for public health policy decisions, as well as health and nutrition education and promotion programmes. Additional NNS surveys are being carried out in specific population groups. In 2001, the NNS survey will concentrate on infants, children and adolescents. The potential areas of concern and the policy for Israel have remained the same since submission of the initial report.

(c) Methods of improvement of production, conservation and distribution of food

296. No notable changes have occurred on this issue since the submission of Israel's initial report.

3. The right to adequate housing

(a) **Housing situation in Israel**

Tenure

297. There is little more data available beyond that which was reported in Israel's initial report based on the Family Expenditure Survey conducted by the Central Bureau of Statistics in 1992-1993, so the data reported in the initial report is still viable.

298. Of the new immigrants who arrived in Israel between 1989 and 2000 from the former Soviet Union, the situation today shows an increase in the ownership rate with approximately 75 per cent of the new immigrants owning their own home. The breakdown is as follows:

Table 40

New immigrants and home ownership

Year of immigration	Ownership rate %	No. of immigrants
1989	91	24 050
1990	88	199 516
1991	81	176 100
1992	77	77 057
1993	76	76 805
1994	69	79 844
1995	63	76 362
1996	49	70 919
1997	32	66 221
1998	16	56 726

Affordability

299. See the breakdown in the following table:

Table 41

Selected data on housing, by deciles of net income per standard person, 1998

	Deciles										Total
	10	9	8	7	6	5	4	3	2	1	
Owned dwellings											
Households in sample	593	528	535	491	482	427	401	353	295	127	4 232
Households in population (thousands)	143.1	139.0	141.0	133.4	135.9	126.0	115.1	102.2	89.4	45.3	1 170.4
Average persons in household	2.8	2.9	3.2	3.3	3.6	3.6	3.8	4.5	5.4	5.8	3.7
Average standard persons in household	2.4	2.5	2.7	2.8	2.9	2.9	3.0	3.4	3.9	4.1	2.9
Average earners in household	1.5	1.4	1.5	1.4	1.3	1.2	0.9	0.8	0.7	0.4	1.2
Rooms per dwelling	4.4	4.0	4.0	3.7	3.7	3.6	3.5	3.6	3.5	3.3	3.8
Rooms for living	4.4	3.9	4.0	3.7	3.6	3.6	3.5	3.6	3.5	3.2	3.8
Housing density	0.6	0.7	0.8	0.9	1.0	1.0	1.1	1.3	1.6	1.8	1.0
Percentage of owned dwelling	85.6	83.2	84.4	80.1	81.1	75.4	69.0	61.1	53.5	27.1	70.0
Value of owned dwelling (thousands) (1)	1 193.0	859.0	772.0	675.0	621.0	590.0	542.0	498.0	449.0	356.0	697.0
	NIS										
Housing expenditure	2 654	2 374	2 285	2 176	2 165	2 070	1 955	1 921	1 899	1 769	2 178
Consumption from owned dwelling	2 436	2 225	2 201	2 080	2 049	1 991	1 907	1 910	1 890	1 753	2 083
Insurance of dwelling, content	120	70	49	41	29	20	11	7	4	2	41
Water, current consumption	99	93	87	91	94	74	83	86	80	98	88
Electricity, current consumption	233	201	199	187	184	164	168	174	165	165	187
Gas, current consumption	5	9	7	9	10	12	16	20	22	28	12
Gas, central installation	16	18	19	23	18	19	20	15	18	10	18
Tenants' committee fees	97	66	55	50	46	44	35	22	23	14	50
Municipality tax	330	251	239	227	194	180	166	153	147	145	213
Mortgage repayments	939	659	705	752	611	535	474	497	284	186	611
Other housing loans repayments	156	124	125	150	158	93	98	121	83	5	121
Rented dwellings											
Households in sample	69	74	73	93	100	112	130	171	214	332	1 368
Households in population (thousands)	17.4	22.7	18.7	27.8	25.3	33.2	37.7	55.5	68.6	115.3	422.2
Average persons in household	2.0	2.3	2.3	2.3	2.8	2.6	2.7	2.5	3.0	3.0	2.7

Table 41 (continued)

	Deciles										Total
	10	9	8	7	6	5	4	3	2	1	
Average standard persons in household	2.0	2.1	2.2	2.1	2.5	2.3	2.4	2.2	2.5	2.5	2.4
Average earners in household	1.5	1.5	1.4	1.5	1.5	1.3	1.1	0.7	0.7	0.3	0.9
Rooms per dwelling	3.7	3.2	3.1	3.0	3.1	3.0	3.0	2.9	3.1	2.7	3.0
Rooms for living	3.4	3.1	3.0	2.8	2.9	2.9	2.8	2.6	2.8	2.6	2.8
Housing density	0.6	0.7	0.8	0.8	1.0	0.9	1.0	1.0	1.1	1.2	1.0
Percentage of rented dwelling	10.4	13.6	11.2	16.7	15.1	19.9	22.6	33.2	41.0	68.9	25.3
	NIS										
Housing expenditure	2 130	2 000	1 874	1 793	1 788	1 570	1 501	1 351	1 055	739	1 312
Rent on dwelling or room	2 066	1 968	1 832	1 732	1 706	1 521	1 434	1 271	998	719	1 261
Insurance of dwelling, content	27	17	24	14	15	7	6	2	1	1	7
Water, current consumption	86	45	51	48	64	58	50	53	58	48	54
Electricity, current consumption	153	155	138	119	164	125	113	108	113	101	118
Gas, current consumption	1	3	3	4	3	6	4	6	6	6	5
Gas, central installation	13	10	10	14	16	16	16	20	19	15	16
Tenants' committee fees	62	49	41	46	44	43	41	36	26	18	34
Municipality tax	229	236	163	162	152	141	130	82	89	68	115
Mortgage repayments	535	275	341	186	288	205	405	93	45	12	156
Other housing loans repayments	24	72	57	44	126	4	63	7	5	1	26

Sanitation facilities

300. No notable change occurred on this issue since the initial report.

Density

301. This is the most recent data available on housing density:

Table 42

Households, by housing density, size of household and religion, 1999

Persons per room	Persons in household									
	Average per household	7+	6	5	4	3	2	1	Total %	'000
Jews - total	3.18	3.9	5.4	12.8	18.4	16.1	24.6	18.7	100.0	1 456.5
Up to 0.49	1.18	-	-	-	..	0.9	15.0	83.9	100.0	182.4
0.5	1.58	-	-	-	..	4.9	46.0	48.6	100.0	139.7
0.51-0.99	2.73	..	0.8	5.8	15.4	25.0	47.8	5.0	100.0	418.8
1.00	3.30	..	2.4	13.8	28.5	28.7	17.1	9.3	100.0	325.3
1.01-1.49	4.61	5.2	9.1	35.2	42.6	5.4	2.5	-	100.0	213.2
1.50-1.99	5.34	16.3	28.0	33.8	7.4	14.4	-	-	100.0	105.5
2.00	5.27	15.4	39.1	7.7	23.1	3.2	10.9	0.5	100.0	40.5
2.01-2.49	7.78	87.9	12.1	-	-	-	-	-	100.0	10.8
2.50-2.99	7.48	59.2	-	30.6	10.2	-	-	-	100.0	9.9
3.00+	8.20	66.2	16.2	..	..	5.4	-	-	100.0	7.6
Other religions - total	4.85	21.4	14.5	15.7	16.8	14.2	10.9	6.6	100.0	239.7
Up to 0.99	2.21	..	..	..	7.4	26.2	36.8	27.8	100.0	43.4
1.00	3.28	..	..	7.5	28.6	35.9	16.6	9.8	100.0	40.1
1.01-1.49	4.77	5.6	11.4	31.1	42.7	4.4	4.9	-	100.0	41.3
1.50-1.99	5.71	20.3	27.8	34.7	5.7	11.5	-	-	100.0	42.0
2.00	5.83	20.7	47.1	7.9	15.4	3.9	5.0	-	100.0	28.2
2.01-2.49	7.82	91.9	8.1	-	-	-	-	-	100.0	12.4
2.50-2.99	7.95	71.5	-	25.4	..	-	-	-	100.0	13.0
3.00+	8.51	73.1	18.3	..	..	..	-	-	100.0	18.8
		Average no. of persons per room								
Jews		1.85	1.39	1.17	1.03	0.85	0.64	0.39		0.91
Other religions		2.37	1.72	1.48	1.20	0.94	0.75	0.48		1.50

Public housing eligibility

302. Public housing companies administer approximately 107,000 housing units (7.5 per cent of total households in Israel). The most recent official figures indicate that approximately 2,500 families are listed on waiting lists for public housing.

303. In 1998, the Public Housing Law (Purchase Rights), 1998, was enacted which gives public housing tenants purchasing rights. This law will enter into force at the earliest in 2001. In addition, the Government is selling public housing units to tenants within the framework of a special arrangement. According to this, the tenants may purchase their unit at a substantial discount, proportional to the number of years they have lived in the unit, provided they have lived in the unit a minimum of 12 months and that they do not have another apartment. The discount is 3 per cent of the price of the unit, per year of living in the unit, up to a 90 per cent discount on the part of the price, not amounting to more than NIS 600,000. People with disabilities receive higher discounts. The right to purchase is also given to a relative of a deceased tenant, who lived with the tenant for three years prior to his death. The income from these sales is designated for financing long-term solutions for those eligible for public housing.

304. Up until September 2000, several thousand such units were sold. The sale is continuing, but implementation of this programme is not as easy as expected. There are, for example, instances of disagreement between tenants and governmental housing companies regarding the assessment of the level of participation in repairs to be made before turning over the ownership to the tenant.

Homelessness

305. The number of "homeless" persons in Israel at the present is estimated to be approximately 2,000.

306. In December 2000, the Ministry of Labour and Social Affairs published the results of a survey it conducted on the socio-demographic characteristics of homelessness in Israel. This survey is based on a sample of 644 homeless persons approached by the social services during the year 1997. According to this survey, the vast majority of homeless persons (76.2 per cent) are new immigrants who have exhausted their various rights to assistance: 85.7 per cent of all homeless persons are males; 83.4 per cent declare themselves as Jews, 11.7 per cent - Christians and 1.1 per cent - Muslims; 62.3 per cent have secondary and postsecondary education; 77.5 per cent are 24-55 years old (the sample did not cover youngsters under the age of 18); 71.5 per cent speak the Hebrew language; 44.1 per cent have no special working skills (22.6 per cent are blue-collar workers); 59.9 per cent were diagnosed as suffering from mental disorders (29.4 per cent suffer from addiction, 23.9 per cent from mental illness). Finally, 94.7 per cent of the sample were singles with few familial ties in Israel (only 28.9 per cent reported having actual contacts with their relatives).

307. Most homeless persons (86.6 per cent) stay in the large cities (Tel Aviv, Jerusalem and Haifa); 63.1 per cent stayed in the streets for 1-6 months and 21.3 per cent for over one year. Most of the chronic homeless persons suffer from addiction of some kind.

308. About 20 per cent of the homeless persons in the survey had contacted the social services on their own initiative. All others were reached with the help of local social workers, police or other public enforcement forces, neighbours, passers-by or benevolent organizations.

309. This survey opens the way for further research. For example the survey found that most homeless persons were males. Is this due to the fact that the social services reach fewer women than men, or is it due to a relative sensitivity of the social safety nets to the needs of single-mothers? Furthermore, can anything be inferred from the survey concerning youth homelessness? The Ministry of Labour and Social Affairs will undoubtedly address such questions in the future.

Non-discrimination in housing

310. Special attention was accorded in the initial report to two particularly vulnerable sub-groups:

- New immigrants from Ethiopia
- Bedouins living in illegally constructed settlements.

In addition, the relative situation of Arab Israelis continues to be a source of concern, even though important improvements in the situation can be reported.

New immigrants from Ethiopia

311. As of December 1999, 60,563 immigrants from Ethiopia had settled in Israel. This population group is relatively young (60 per cent are younger than 18 years old), with a large number of children in the families and a high percentage of single parent families (more than 25 per cent). By the end of 1999, the population of this group has reached 74,000 people.

Table 43

Ethiopian immigrants

	Situation in April 1996		Situation in August 2000	
	Families	Singles	Families	Singles
Caravan sites	450	910	165	567
Absorption Centres	250	320	857	179
Hotels	-	-	-	108
Other	-	200	-	-
Total	700	1 340	1 022	854

312. It should be mentioned that although there are more immigrants coming into Israel from Ethiopia (8,106 immigrants between April 1996 to August 2000), the numbers of families and singles in caravan sites are constantly decreasing. Following a governmental decision of January 1999, immigrants are no longer settled into caravan sites. The fast decline in people living in caravan sites is also due to the relatively high mortgage rate given to Ethiopian immigrants wishing to purchase a home.

Table 44

Housing loans

	Overall loan (NIS)	Amount of the loan given as a grant (NIS)
Families without children	286 000	245 000
Families with up to 3 children	351 000	310 000
Families with more than 4 children	416 000	375 000

Israeli Arabs

313. The following relates mainly to issues that were not dealt with in the initial report, but which were raised by the Committee.

314. An important decision was taken by the Government in October 2000, which was reported under article 2 in this report. This government decision is directly relevant to the issue of equal enjoyment of housing rights. As this decision is quite recent, its implementation will be reported in Israel's next periodic report. However, the decision itself, reflects the Government's appreciation that progress in closing the gaps between Jews and Arabs has not been advancing quickly enough in recent years.

315. The important new High Court decision in the case of A'dal Ka'adan (also reported under article 2), may also prove to have dramatic impact. This will also be evaluated in Israel's next periodic report.

316. Regarding planning in Arab sectors, a new district plan for the northern district of Israel was deposited on 7 September 1999. Most of the suggested development is in the central sector of the Galilee, in which 41 per cent of the Jewish population of the district reside, and 82 per cent of the Arab population of the district reside. The accelerated development of this sector will increase the standard of living for both population groups, and especially the Arab population due to its more substantial weight. Furthermore, the scheme gives special consideration to the special demographic needs of the Arab population, which are higher than the Jewish population group.

317. New Arab settlements are not planned, because of a policy of developing the current settlements. This policy was adopted on the basis of trend analysis and interviews made with the heads of the Arab population.

318. Regarding the south of the country, a new district plan was approved on 23 January 2000. Among this Plan's goals are to integrate the Bedouin population in the south. It increases the area of the Bedouin city of Rahat, and of six other Bedouin settlements.

319. However, the Bedouins have petitioned Israel's Supreme Court, contending that the new district plan does not reflect their need for rural settlements. The petition is currently pending before the court.

320. It should be noted that in a recent survey conducted by the Government, it was found that of 74 settlements with mostly Arab population, 37 had approved local plans, with the rest in various approval or planning stages.

321. Illegal building in the Arab sector is a complex issue. The Arab population growth rate is 3 per cent per year. The number of new families that need housing is about 10,000 a year. A large part of the Arab population solve this housing problem within the confines of existing familial housing (by enlarging an existing house or adding another building in a family courtyard). Every year the pressure for adding more plots and enlarging existing settlements grows. The phenomenon of illegally constructed building is fuelled by these factors.

322. Illegally constructed building occurs in part on land owned by a family, which is not approved for residence. Another part of the illegal construction takes place by seizing public lands. Traditionally, Arab building of residences is done in single-story buildings, in "low-density" construction. With time, these buildings become multi-story buildings through enlargement for descendants. The only high-density construction in the Arab sector is done in mixed Jewish-Arab communities or mostly Jewish communities. Since the size of such communities cannot increase indefinitely, and since the problem worsens each year, there is a growing need for a move toward multi-story (high-density) construction.

323. Regarding issues of entry and residence, it should be noted that Israel allows the entry of Palestinian spouses married to Israeli Arabs in a process of family reunification and the return of residency. Family reunification was discussed under article 10 of this periodic report.

324. Regarding the current residency of Palestinians in Israel, it should be pointed out that on 31 October 1999, the criteria pertaining to the loss of residency changed, following a petition to Israel's Supreme Court, in the case of The Center for the Protection of the Individual v. The Minister of the Interior (HCJ 2227/98), which is still pending. The original criteria had determined that any resident who moves his centre of life outside of Israel for seven years would lose his residency. Under this new policy, this rule is not applied to a person who retains a "proper link" to Israel during the said period. Furthermore, people who lost their permanent residence status since 1995, may now regain it: such person who visited Israel since leaving the country and lived here for two years, will be viewed as having received a new permanent residence permit since his arrival. Whoever lost his permanent residency status without notice from the Ministry of the Interior, will be viewed as having a permanent residence permit if he or she visited Israel during the time that his or her Leaving Card is valid. These new criteria are more lenient, and were enacted to minimize the retroactive aspect of this directive, and to increase the transparency of this process.

The population in the eastern neighbourhoods of Jerusalem

325. The situation of the residents of the eastern neighbourhoods of Jerusalem should be seen in the proper historical, cultural and demographic background.

326. In the light of some 3,000 years of history, it seems most curious that the distinction between the eastern and western areas of Jerusalem is based solely on the 19-year period between 1948 and 1967, when Jerusalem was divided. During that 19-year period, eastern Jerusalem, which was a cluster of villages with a rural character, was never developed. Since 1967, eastern Jerusalem has developed into a modern urban environment. Western Jerusalem, on the other hand, was, throughout the period a modern capital city whose neighbourhoods had developed since 1914 according to urban plans based on the city's special topography. Thus, in 1967, at the reunification of Jerusalem, significant gaps existed between the eastern and western parts of Jerusalem.

327. The villages located in the eastern sector of the city developed from family settlements, and the tendency was for small parcels of land to be owned by a variety of private landlords. Land registration was not systematic and was not up-to-date. Thus legal ownership of particular tracts of land is often unclear and there are many instances of more than one claim to ownership to the same parcel of land. Urban planning is based on land ownership; re-designing and updating the registration system prior to preparation of urban plans involves extensive surveying, and this process is as yet incomplete.

328. As a result, there are many cases of difficulty and inability to prove legal land ownership, or of two or more persons claiming ownership of the same land. The municipality of Jerusalem has a policy of accepting affidavits regarding ownership from village Mukhtars or neighbours.

329. In these villages, private considerations traditionally take precedence over communal interests. Thus, projects such as road building, which the residents may want, are problematic as they involve taxation and land expropriation. In fact, residents of the eastern neighbourhoods of Jerusalem are not required to participate directly in the cost of developing or renewing the infrastructure of their neighbourhoods, while residents of western Jerusalem are obliged to make substantial contributions towards the costs of such projects.

330. In 1967, residents of the eastern neighbourhoods of Jerusalem used wells to obtain water. The reunification of Jerusalem necessitated the unification of all infrastructure systems. Accordingly, effective water and sewage systems have been set in place.

331. Natural increase in the population in the eastern neighbourhoods of Jerusalem has always exceeded the natural increase of the Jewish population. In 1967, the city's population consisted of 197,000 Jews (74.2 per cent) and 68,000 Arabs (25.8 per cent). In 1999, the Jewish population of the city had grown to 429,000 (69 per cent of the population), while the Arab population had grown to 193,000 (31 per cent of the population).

332. The increase in the number of housing units built since 1967 corresponds to the proportions of the population – as do current plans to build 15,000 new housing units in the eastern neighbourhoods of Jerusalem and 35,000 in the Jewish sector.

333. The traditional rural building in the eastern neighbourhoods of Jerusalem consisted of detached homes for the extended family on privately owned land. This has proven to be very land-consuming, in comparison with the apartment blocks which characterize Jewish neighbourhoods. In the Arab sector, there is an average of 11 people living in 1.9 housing units per dunam (approximately one quarter acre) of land, while in the Jewish sector the figure is 19 people living in 5.9 units per dunam of land.

334. Much of the public building in the western neighbourhoods of Jerusalem has been financed by private donations received from the Jewish diaspora, whereas the Municipality of Jerusalem and the Israeli Government finance public building in all parts of the city.

335. The municipality of Jerusalem has given priority to a development programme for the eastern neighbourhoods of Jerusalem, in coordination with the Government of Israel. The total sum required to bridge the gap is estimated at 520 million New Israeli Shekels (NIS). The Government allocated NIS 450 million for this purpose. The sum of NIS 60.1 million was allocated by the Government in 1999 especially for the development of the eastern neighbourhoods of Jerusalem.

336. Between 1997 and 1999, a number of important projects were completed in the eastern neighbourhoods of Jerusalem. This included the construction of roads (NIS 42 million), improvements to existing roads (NIS 40 million), water and sewage systems (NIS 40 million), community centres (NIS 10 million) and other projects (NIS 47 million) for a total of NIS 179 million.

337. Town plans are in the process of being prepared for all neighbourhoods of the city. Whereas, in the Jewish neighbourhoods it takes an average of three years to establish such plans, in the eastern neighbourhoods of Jerusalem, the historical factors outlined above cause the process to take considerably longer.

338. In Jerusalem the policy has been to plan development in cooperation with the residents of the eastern neighbourhoods; for example in Tsur Baher, near Har Homa, 400 units to be built on government land will be marketed by an Arab association. The area has been re-zoned to allow for more intensive construction: 75 per cent of the land may be built on, as opposed to the 50 per cent which had been originally allocated.

339. At A Sawaneh, a camp of homeless people had been set up on land belonging to the WAKF (Moslem Charitable Trust), where a special education school was planned. The WAKF tacitly co-operated with the municipality in evicting the residents of the camp, and gave the land to the school, which was built by the municipality.

340. All building plans are subject to approval by the District Planning and Building Committee. The rate of application for building permits corresponds approximately with the percentages of the population. In the first half of 1999, approximately 20 per cent of the total number of applications were received from residents of the eastern neighbourhoods of Jerusalem. Of the total applications for building permits which were received, approximately 60 per cent of those submitted by residents of the eastern neighbourhoods were approved and approximately 67 per cent of those submitted by residents of western Jerusalem were approved. In

western Jerusalem, building infringements almost invariably consist of illegal additions built on to a legal building, such as a room in a courtyard or an attic added in a roof space. In the eastern neighbourhoods of Jerusalem, they typically take the form of entire buildings illegally constructed without a permit. Thus, demolitions in the eastern part of Jerusalem are far more extensive than in the western part of the city.

341. With respect to demolitions of illegal buildings, the policy of the municipality of Jerusalem is to issue a demolition order where the construction of such illegal buildings interfere with plans for public facilities, such as schools or roads, or with the city's historical heritage. The Interior Ministry also has the authority to demolish illegal buildings. Throughout the past years, there has been a growing trend of illegal construction of buildings without a permit in the eastern neighbourhoods of Jerusalem. In 1997 the total number of these such illegal new buildings was 202; in 1998 it was 485 and in 1999 it was 554. Only a small number of demolition orders are actually carried out each year:

Table 45

Demolition orders: Figures for the period between 1 January 1999-30 June 1999

	Western neighbourhoods of Jerusalem	Eastern neighbourhoods of Jerusalem
Applications for administrative demolition orders	9 orders	50 orders
Administrative demolition orders carried out	4 orders	11 orders

It should be stressed that all demolitions are conducted with due process and subject to judicial review.

The Bedouin "Unrecognized Villages"

342. Israel's initial report expressly recognized the problematic aspects of this issue. The following are developments that have occurred since then regarding the provision of basic utilities and planning.

Provision of basic utilities

343. A recent budget proposal for the years 2001-2004, based on a four-year plan for the completion of development and infrastructure in the existing Bedouin towns, requests the allocation of NIS 1,195,050,000. This is a significant sum, which is to be used to complete the infrastructure in existing settlements, to construct water and sewage infrastructure where it is incomplete and for the establishment of public facilities such as schools and clinics.

344. The total funds allocated to the Bedouin sector within Israel's budget for the year 2000 have increased threefold in comparison to the period of Israel's initial report.

345. Water is allocated to the Bedouin community living in illegally constructed villages through the "Water Connections Allocation Committee". During the last three years, the total number of connections to the water main lines has increased from 60 connections to 260 connections. Except for 50,000 of the Bedouin population, all of the unrecognized villages have a connection to water services. The 50 per cent of the Bedouin population who live outside the recognized settlements are allowed to tap into the National Water Carrier system at designated sites in order to bring drinking water to their homes.

346. The establishment of a sewage system is under the authority of the local municipalities. The minority local municipalities receive generous loans for this purpose which exceed those allocated to Jewish local municipalities.

347. The Israeli Government seeks to establish six new "service centres" for the Bedouins in the Negev. When completed, these centres will contain facilities for various service providers, ranging from educational facilities, religious centres and health centres to shopping and industrial facilities. It is planned that these centres will be built outside of existing towns, with the purpose of serving as a basis for new Bedouin towns.

348. Since Israel's initial report, new industry and trade centres have been built in Hura, Segev Shalom and Aroer.

349. Until 1996, most unrecognized villages could not be connected to electricity due to provisions of Section 157A of the Planning and Building Law. This section prohibits the connection to the electricity grid of illegally-built buildings (i.e. buildings not having received building permits or which deviated from the terms of such permits). This section was introduced to provide an effective sanction against the disregard of planning regulations. The provision, which also prohibits hook-up of water and telephones, applies equally to the entire population. However, the Knesset decided to mitigate the effect of the section on the Arab unrecognized villages, and passed a special law (The Supply of Electricity (Special Provisions) Law, 1996) allowing the connection of illegal buildings in a large number of Arab villages to the electricity grid, provided that there was no outstanding court order to demolish the building and that it was built prior to Section 157A coming into force (1987). The special law should facilitate the connection of approximately 10,000 buildings to the electricity grid. To date 4,000 buildings, mostly in unrecognized villages, have been approved for connection.

350. Since Israel's initial report, five additional Health Fund medical clinics ("Kupat Holim") were built to provide for the needs of Bedouin living outside the Bedouin towns, raising the total of such clinics to seven. This is in addition to five new Mother and child health clinics ("Tipat Halav") have recently been built in Bedouin towns.

351. The infant mortality rate of Bedouin in the Negev, as a whole, is 13 per 1,000 population. Of these, 5.8 per 1,000 die of congenital malformations and inherited diseases, more than double the average national rate. This is due to a very high rate of first cousin marriages (above 45 per cent) and second cousin marriages (above 10 per cent) in this population. For the past six years, the Ministry of Health has been funding a programme aiming at reducing infant mortality, through a multiphase, multidisciplinary programme. This programme has been designed in concert with the Bedouin population to be culturally appropriate and culturally sensitive.

352. With regard to education, it should be emphasized that pupils in unrecognized villages are entitled to the same level of education as all other pupils in Israel. However, for obvious reasons, it is not possible to build elementary and high schools in every village, whether recognized or not. Hence, 11 per cent of the pupils of Israel (Jews and non-Jews) study in regional schools that serve rural localities. Thus, it is not uncommon that even recognized localities do not have their own local schools.

353. Pupils in the non-Jewish sector who reside in localities that have no recognized municipal status attend schools in recognized localities. However, there are various other logistic difficulties in providing access to schools for pupils from unrecognized villages, since schools are built in accordance with approved zoning plans to meet primarily the needs of the recognized settlements. However, in any case, transportation services to schools are provided for most pupils in unrecognized villages.

354. Furthermore, the special situation of pupils from unrecognized villages is given consideration by the education authorities. The education system allocates extra resources (primarily study hours) to schools whose pupils suffer from environmentally caused academic deficiencies. A special index is used to determine the eligibility of schools to receive such additional resources and one of the criteria of this index in the non-Jewish sector is the inclusion of pupils from unrecognized villages. In other words, the higher the percentage of pupils who come from families that reside in unrecognized villages, the more resources are allocated to the school. Thus, schools with pupils from unrecognized villages receive additional teaching hours which enables them to deal with the specific problems of this population (most notably, poor domestic complementary studying conditions).

355. All the Bedouin pupils study in 53 primary schools and 10 secondary schools. In the unrecognized settlements there are 15 primary schools and 80 kindergartens for children from the age of three.

356. The education system in the Bedouin sector faces many difficulties that are partially the result of the unique Bedouin style of life in a plethora of unplanned settlements as well as their culture. (For a more detailed discussion, please refer to paragraph 6 (f) under the discussion of article 13.)

357. Regarding the right to plant, the Government is not aware of any policy which denies landowners the right to plant fruits and vegetables. It may be the case that such restrictions are imposed on illegal occupiers of land.

Planning

358. A few preliminary points should be noted: there have been no expropriations of Bedouin land since 1989, aside from expropriation for the purpose of roads or railroad construction. The last expropriation, which occurred in 1989, was done for the purpose of building a new Bedouin town.

359. The information received by the Committee regarding ownership claims on Bedouin lands, is inaccurate. The Land Settlements Department was not established to address Bedouin

land claims, but was established by the British Mandatory Government during the 1930s to deal with various land claims in the absence of legally-registered rights in mandatory Palestine. Since then, the department has addressed title claims involving all sectors of the population in Israel, including inter alia Bedouins claims. Legal title must be proven before the department in accordance with the rules laid down by law, and the department has little, if any, discretion on the matter. It can neither grant title where none has been proven, nor revoke title where it has been established.

360. The department deals with Bedouin land claims in the same manner in which all such claims are treated. Near the end of 1998, Bedouins claiming a total of 730,000 dunams presented 3,274 such claims. The Land Rights Settlement Ordinance [New Version], 1969, authorizes the department to admit land claims if proof of registered ownership or uninterrupted possession is provided. However, in many cases Bedouin claims are not supported by proper documentation establishing ownership; furthermore, Bedouin land title claims are often exorbitant, and cover huge areas of land through which they have moved over the years, without maintaining continuous possession. Thus, most claims do not satisfy the legal requirements provided in the law.

361. Nevertheless, in an attempt to come up with pragmatic solutions, the Government has decided to approve financial settlement with the Bedouins. In 168 cases, a settlement has been reached, and in 527 other cases the Government has expropriated the land in question and is negotiating a financial settlement (to date, compensation has already been paid for 46,000 dunams of the 75,000 taken). The department is negotiating a settlement to the remaining 2,500 land claims raised by the Bedouins, covering an area of 550,000 dunams.

362. Finally, hardly any of the illegally constructed Bedouin houses in the Negev have been demolished within the last two years. According to recent estimates, there are currently over 60,000 illegal houses in the Negev.

Planning - the Bedouin Sector in the North

363. In 1998, the Government decided to embark upon a five-year programme to develop the Bedouin settlements in the North. The budget for this programme should be NIS 615 million (approximately $154 million), from 1999 to 2003. This programme encompasses many subjects, including developing new neighbourhoods, building public institutions, building roads, sewage, industrial areas, improving the education system, building social services institutions and more. This programme has been in progress since 1999, although it has not been fully implemented in every area, because of administration problems.

364. The following table provides information concerning several prior decisions to give a legal municipal status to several “unrecognised villages”. These villages are currently in different stages of the process for approving the plans. Settlements with approved plans may go forward with infrastructure plans (electricity, water, sewage and communication). These settlements are:

Table 46

Settlements with approved plans

	North District	Haifa District
Plans in planning stages	1. Sawaid Hamira 2. Arab El-Naim	
Plans in approval stages	1. Hussnia 2. Ras El-Ein	1. Ein Hod
Plans approved	1. Dmeira 2. Kamane	1. Hawaled 2. El Arian

365. As can be seen in the above table, the village of Arab El-Naim will be recognized after its plans are completed and approved. Ein Hod's building plans are completed and await approval (both these settlements were of special concern to the Committee).

Planning - the Bedouin sector in the South

366. There are now, according to estimates, more than 120,000 Bedouins living in the Negev desert area, in the South of Israel, with a yearly population growth rate of about 5.8 per cent.

367. In 1999, the Government decided on the establishment of up to five new Bedouin towns. Under a special new arrangement made for the compensation of Bedouins moving into towns or recognized villages, Bedouins shall not be charged for the land in the new village. Moreover, they shall receive significant compensation for any property they abandoned at the illegal settlement.

368. A new proposal seeks to establish four additional Bedouin settlements: two villages, a suburban town and an agricultural village. In addition, two new neighbourhoods are to be built in existing towns.

369. The aforementioned decisions gained the support of the Ministry of Health, the Ministry of Education and the General Health Fund. Each of these will be responsible for the establishment of its institutions in the new settlements, in order to provide for the establishment of an infrastructure of schools and health clinics.

370. On 21 August 2000, the Government decided to embark upon a new policy regarding the Bedouin population in the South. The purpose of this programme is to close the social and economic gaps, which exist between this population group and the rest of the population.

371. The Government's new programme includes the building of new settlements for the Bedouin sector. An attempt will be made to meet the requirements of the Bedouin population for additional land. However, ownership of land will no longer be a precondition for supplying

services. New settlements have already been decided upon, and will include Mareit (Darajat), Beit-Pelet and Beit-Hil. Regarding these new settlements, plans have already been presented to the planning institutions for approval. The new settlements of Hawashla, UmBetin, Tarabin Al-Sana and Molada are still in the planning stage.

Table 47

Planning situation in the South

	South District
Plans in planning stages	Hawashla, UmBetin, Tarabin Al-Sana and Molada
Plans in approval stages	Tarabin Al-Sana Beit Pelet, Mareit and Be'er Hail Kochle
Plans approved	-

The Jahalin Bedouins

372. Of particular concern is the situation of the Jahalin Bedouin families. This is a nomad Bedouin tribe, which has never had a permanent residence. After the city of Ma'ale Edomim was built, the Jahalin took up residence near the city, on land which had already been purchased by other people.

373. The Jahalin filed a petition with Israel's Supreme Court, which rejected their claim to the land. The court determined that the Jahalin came to that site only after the city had been built.

374. The Government then sought to move the Jahalin families to another site approximately one kilometre from the previous site. The new site is located near a main road and is near a Palestinian settlement, which can provide them with civic services.

375. Each family was given a plot of land, registered in its name. The Government conducted a land development project, which included connecting the site with the electrical power grid and laying down water lines. The plans were approved, and it was decided not to collect the usual taxes and fees that each resident would have had to pay with the development plan. Despite the fact that the Jahalin families resided in tents, which they retained, they were also given steel containers in which they can put their belongings. They are also encouraged to build permanent housing. The Government also gave each family that voluntarily moved, a sum of money to assist it during the interim period. These arrangements were agreed upon in the context of a settlement reached following a second petition by the Jahalin families to the Supreme Court. These arrangements were given force on 7 February 1999.

376. As a result of the above efforts, the living conditions of the Jahalin families have improved since their move to the new site.

(b) Overview of current housing assistance programmes

377. The Ministry of Construction and Housing now has a budget of NIS 10.7 billion (approximately $2.7 billion). There have been no notable changes in the Ministry's programmes since the submission of Israel's initial report.

Supply-side policies

378. No notable changes have occurred on this issue since the submission of Israel's initial report.

Demand -side assistance

379. No notable changes have occurred on this issue since the submission of Israel's initial report.

Mortgage assistance

380. Single-parent families: as reported in Israel's initial report, the level of assistance to this group is relatively higher then for most other non-homeowners. The following table illustrates the form and level of mortgage assistance for this group:

Table 48

Assistance for single-parent families (in NIS)

Years as single-parent	Mortgage rate	Portion which is a conditional grant	Initial monthly payment	Addition mortgage for each month of military service	Part of which is a conditional grant
3-5	168 000	46 200	614	1 680	462
Over 5	190 000	52 200	693	1 900	522

381. Singles over the age of 30 are now entitled to assistance for mortgages only for the purchase of housing, while the other age groups remain the same as reported in Israel's initial report.

382. For the elderly, no notable changes have occurred on this issue since the submission of Israel's initial report.

383. Regarding immigrants, no notable changes have occurred on this issue since the submission of Israel's initial report. As reported in Israel's initial report concerning new immigrants from Ethiopia, in light of their rather unique situation, there are special criteria that further raise the level of mortgages (see above).

384. No notable changes have occurred on the issue of substitution or enlargement of residence since the submission of Israel's initial report.

Rent supplements

385. Provisional data for the year 2000 show that rent supplements were made available to more than 168,500 households each month. Of these households, almost 134,600 were new immigrants; 15,000 were young couples with the requisite number of points; 8,300 were single-parent households; and 2,800 were elderly households, other than those included in immigrant families.

Public housing - placement in publicly-owned buildings with a subsidized rent

386. No notable changes have occurred on this issue since the submission of Israel's initial report.

Special assistance of the Ministry for Labour and Social Affairs

Temporary relief in acute housing crisis

387. No notable changes have occurred on this issue since the submission of Israel's initial report.

Special assistance to homeless

388. No notable changes have occurred on this issue since the submission of Israel's initial report.

(c) The legal framework of housing assistance

389. No notable changes have occurred on this issue since the submission of Israel's initial report.

4. Government policy to combat poverty in Israel - recent trends and developments

390. This topic is also dealt with in this second periodic report under article 9 (last paragraphs). It is also mentioned at the beginning of this present article, in connection with the tables on GDP and GNP.

391. During the years 1995-1999, there was a five-year programme of development in the Druze and Circassian sectors. This programme included a budget of NIS 1,070 million (approximately $250 million), which targeted different objectives, such as sewage, water, roads, electricity, health, housing and others.

392. On 30 January 2000, the Government decided to embark on a programme for the year 2000. This programme gave assistance to 11 local authorities with high rates of unemployment and continuing difficult social-economic conditions. This programme focuses on public utilities, public institutions, and infrastructure. Among those local authorities are three

which contain mixed Jewish and Arab populations: Lod, Ramla and Acre (which were also mentioned in the Committee's concluding observations on Israel's initial report). In addition, there is also a large Bedouin village included in this programme – Tel Sheva.

Article 12: The right to the highest attainable standard of health

393. Israel's last report to the World Health Organization was submitted in 2000 and covers data up to 1998.

394. For further details, please refer to Israel's "Selected Health For All Indicators" Report, submitted to the WHO in 2000 (provided in annex VI to the present report).*

395. The population in Israel is still relatively young as reported in Israel's initial report. Life expectancy now is slightly higher than reported in the initial report. Life expectancy at birth in Israel was 78.4 years in 1996, close to the average in the European Union. Male life expectancy was 76.3 years in 1996 and 76.1 years in 1998, the third highest among a reference group of 20 European countries. In marked contrast, female life expectancy was 79.9 years in 1996 and 80.3 in 1998. These figures are below the EU average of 81.0 in 1996. The difference in life expectancy in Israel between men and women is the smallest of the 20 reference countries in 1998. The same situation existed in 1994 when life expectancy for men was 75.5 years and for women 79.5 years, as reported in Israel's initial report.

396. The mortality pattern shown by the life expectancy figures, in which male mortality is among the lowest in the reference countries, while that of women is among the highest, also appears in all main causes of death.

397. The Standardized Death Rate (SDR) for cardiovascular diseases in the 0-64 age group was close to the EU average in 1997 - 9.97 in Israel; 9.94 in EU. The SDRs for ischaemic heart disease were the fifth highest of the reference countries for women but the eighth lowest for men. The SDRs for cerebrovascular disease in the 0-64 age group is above the EU average for women and below the average for men. In both these diseases, both male and female SDRs fell sharply from 1982 to 1992.

398. Nation-wide health promotion programmes have gained momentum during the last few years, especially those emphasizing physical activity. The percentage of smokers in 1990 among people aged 20-plus was 35 per cent. In 2000, the percentage of smokers among people aged 20-plus was 30 per cent (among Jews, 36 per cent of males and 27 per cent of females; among non-Jews, 53 per cent of males and 10 per cent of females). Smoking is restricted in public areas and in the workplace. Alcohol consumption in 1993 was lowest of all reference countries.

399. Health expenditure as a percentage of the GDP was 8.7 per cent in 1998.

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* Texts of the annexes can be consulted in the archives of the secretariat.

National Health Policy: The National Health Insurance Law - 1994

400. The National Health Insurance Law has greatly improved the universality and equality of health-care services provided to the Israeli population as a whole, and for the Bedouin population in particular. Every Bedouin resident now enjoys comprehensive health insurance (before the passage of the law, 40 per cent had no health insurance). The National Health Insurance Law has encouraged the health providers to build more clinics in the Bedouin population centres, both in established settlements and outside of established settlements. The health tax which funds the National Health Insurance is a progressive tax, tied to income and not to the amount of required health services. Over and above the improvements noted above, additional funds have been allocated for the financing of construction and operation of additional Mother and Child health care centres in the unrecognized Bedouin villages in the Negev. Similarly, the need for additional medical clinics (for medical care given pursuant to the National Health Insurance Law) has been surveyed and steps have been taken to insure the construction and operation of additional clinics.

401. The Committee's statements in its concluding observations regarding the changes in the National Health Insurance Law (as amended by the Arrangements Law for the year 1998) is partially inaccurate. There is no periodic health tax linked to the amount of health services needed, but a requirement for a minimal co-payment for certain services, in a manner designed to minimize the impact on the weaker socio-economic groups.

402. At the inception of the National Health Insurance Law in 1995, residents were required by the health-care services providers (four in number) to make co-payments for medications. One health care service provider also required co-payments for visits to medical specialists. In 1998, the other three providers were authorized to require co-payments in various minimal amounts for visits to specialists and certain outpatient clinics. The co-payments are permitted once per calendar quarter per specialist visited, subject to a quarterly maximum payment per individual and a maximum payment per family, regardless of the number of family members for which the family head is responsible.

403. The change in the National Health Insurance Law was made in order to allow greater financial flexibility for the health-care providers, as an incentive to reduce unnecessary use of medical services, and to reduce the budget deficits of the health-care providers. In order to avoid harming the weakest socio-economic groups and to minimize the impact on others, the co-payment requirement is subject to the following limitations:

- Residents receiving supplemental income payments pursuant to the National Insurance Law are exempt;

- Residents receiving support payments pursuant to the Maintenance (Assurance of Payment) Law are exempt;

- Residents receiving invalidity or disability payments pursuant to the National Insurance Law are exempt;

- Residents who have AIDS, cancer, dialysis or other specified illnesses, are partially exempt;

- There is no co-payment requirement for visits to primary care physicians, pediatricians, gynaecologists or internal medicine specialists.

404. In addition to the exemptions specified above, the Ministry of Health periodically reviews the impact of the co-payment requirement to determine if other changes are warranted.

405. Additionally, it must be noted that the "basket of services" provided to insured persons, pursuant to the National Health Insurance Law, is reviewed at least annually and medical technologies and procedures as well as new medications are periodically added.

Health indicators of the World Health Organization

406. The trend in the infant mortality rate per 1,000 live births has been as follows:

Table 49: Infant mortality 1989-1998

Year	Total	Jews	Non-Jews
1989	10.1	8.2	14.7
1990	9.9	7.9	14.9
1991	9.2	7.2	14.2
1992	9.4	7.5	14.3
1993	7.8	5.7	12.8
1994	7.5	5.7	11.5
1995	6.8	5.6	9.6
1996	6.3	5.0	9.3
1997	6.4	5.0	9.4
1998	5.9	4.7	8.5
1999	5.8	4.5	8.4

407. A large part of the fall in infant mortality is due to the fall in mortality from infectious diseases and pneumonia. Death from congenital disorders is also showing a downward trend. In every population group, the higher the mother's educational level, the lower the infant mortality rates. Mothers in the age groups "less than 20" and "35-plus" show a higher infant mortality rate than mothers in the 20-30 age group.

Table 50

Infant mortality (rate per 1,000 live births) by religion and age of neonate at death - 1993-1996

	Total		Early neonatal mortality 0-6 days		Late neonatal mortality 7-27 days		Post-neonatal mortality 28-365 days	
	Rate	Per cent	Rate	Per cent	Rate	Per cent	Rate	Per cent
Total	7.1	100	3.3	46.7	1.2	16.9	2.6	36.4
Jews	5.5	100	2.9	52.4	1.0	18.9	1.6	28.7
Other religions	10.8	100	4.3	39.9	1.6	14.4	4.9	45.7

408. From 1990 to 1994, almost half the deaths of neonates occurred in the first six days of life, this proportion being much lower among non-Jews than among Jews (39.9 per cent v. 52.4 per cent). The disparity in post-neonatal death rates (28-265 days) between Jews and non-Jews is particularly wide (4.9 v. 6.3) and so is the disparity in the percentage of post-neonatal deaths in total infant mortality (28.7 per cent v. 45.7 per cent). The reason for the relatively high rates of mortality in the post neonatal period among non-Jews is usually associated with congenitive malformation and socio-economic factors, and is to a considerable extent preventable (programmes for dealing with this problem are detailed below in the section titled: "Vulnerable Groups").

409. It should be noted that among Jewish, Christian and Druze newborns, infant mortality rate fell to 7.5 deaths for every 1,000 live births, as intended in the Ministry of Health's objectives for the year 2000, which had been set in 1989. Among the Muslim population, despite the continuing decrease in child mortality rate, the aforementioned objectives are yet to be achieved.

Table 51

Infant mortality (rate per 1,000 live births) in 24 countries 1983-1996

Country	1983	1993	1996
Turkey	82.9	49.3	42.2
Portugal	19.3	8.7	6.9
Greece	14.6	8.5	7.3
United States	11.2	8.3	
Belgium	10.4	8.0	
Israel	13.5	7.8	6.32
- Jews	11.4	5.7	5
- Non-Jews	22.7	13.2	9.3
Spain	10.9	6.7	5.5
Italy	12.1	7.1	6.2
New Zealand	12.5	7.3	
Canada	8.5	6.3	

Table 51 (continued)

Country	1983	1993	1996
Austria	11.9	6.5	5.1
France	9.1	6.5	4.8
Netherlands	8.4	6.3	5.8
Australia	9.6	6.1	
Ireland	10.2	6.1	6.0
Germany	10.2	5.8	5.0
Switzerland	7.6	5.6	
Denmark	7.7	5.4	5.6
Norway	7.9	5.1	
Iceland	6.2	4.8	
Sweden	7.0	4.8	3.8
Finland	6.1	4.4	3.9
United Kingdom	10.2	6.6	6.1
Japan	6.2	4.5	

410. No major change occurred in water supply and sewage since the submission of Israel's initial report.

Table 52

Immunization: percentage of children immunized

Vaccine	DTP 4 doses	EIPV 3 doses	OPV 3 doses	MMR 1 dose	HBV-3	HIB3
1993						
Total	92	93	93	95		
Jews	91	92	92	94		
Non- Jews	94	95	95	96		
1994						
Total	91	92	92	94		
Jews	90	91	91	93		
Non- Jews	93	94	93	97		
1995						
Total	94	95	95	95	93	
Jews	93	94	94	94	92	
Non- Jews	98	99	98	98	96	
1996						
Total	93	93	92	94	96	92
Jews	91	91	91	93	96	91
Non- Jews	96	96	96	98	96	95
1997						
Total	92	92	92	94	97	92
Jews	92	91	91	93	97	91
Non- Jews	93	94	94	96	97	95

Table 52 (continued)

Vaccine	DTP 4 doses	EIPV 3 doses	OPV 3 doses	MMR 1 dose	HBV-3	HIB3
1998						
Total	93	92	92	94	97	94
Jews	91	91	91	93	97	93
Non- Jews	94	95	94	97	97	96

DTP = diphtheria tetanus pertussis
EIPV = enhanced injectable polio vaccine
OPV = oral polio vaccine
MMR = measles mumps rubella
HBV3 = hepatitis B vaccine
HIB = haemophilias influenza type B

411. Life expectancy data are as follows:

Table 53

Life expectancy by sex and religion

Year of birth	Other religions		Jews		Total population	
	Females	Males	Females	Males	Females	Males
1930-1932	..	..	62.7	59.9	..	..
1933-1935	..	..	61.8	59.5	..	..
1936-1938	..	..	64.5	60.8	..	..
1939-1941	..	..	64.6	62.3	..	..
1942-1944	..	..	65.9	64.1	..	..
1949	..	..	67.6	64.9	..	..
1950-1954	..	..	70.1	67.2	..	..
1955-1959	..	..	71.8	69.0	..	..
1960-1964	..	..	73.1	70.6	..	..
1965-1969	..	..	73.4	70.2	..	..
1970-1974	71.9	68.5	73.8	70.6	73.4	70.1
1975-1979	72.0	69.2	75.3	71.7	74.7	71.2
1975	71.5	68.2	74.5	70.9	73.9	70.3
1976	72.4	69.6	75.4	71.6	74.8	71.2
1977	71.3	68.5	75.4	71.9	74.7	71.3
1978	72.0	69.1	75.6	71.9	75.0	71.5
1979	73.1	70.0	75.8	72.3	75.3	71.8
1980-1984	74.0	70.8	76.5	73.1	76.1	72.7
1980	73.4	70.0	76.2	72.5	75.7	72.1
1981	74.2	70.6	76.3	73.1	75.9	72.7
1982	73.3	70.8	76.2	72.8	75.8	72.5
1983	74.1	71.2	76.6	73.2	76.2	72.8

Table 53 (continued)

Year of birth	Other religions		Jews		Total population	
	Females	Males	Females	Males	Females	Males
1984	74.2	71.5	77.1	73.5	76.6	73.1
1985-1989	75.5	72.7	77.8	74.1	77.4	73.8
1985	75.8	72.0	77.3	73.9	77.0	73.5
1986	75.0	72.2	77.1	73.5	76.8	73.2
1987	75.8	73.2	77.7	73.9	77.0	73.6
1988	75.1	72.4	78.0	74.2	77.5	73.9
1989	75.5	73.1	78.5	74.9	78.1	74.6
1990-1994	76.3	73.5	79.2	75.5	78.8	75.1
1990	75.9	73.3	78.9	75.3	78.4	74.9
1991	75.7	74.2	79.0	75.4	78.5	75.1
1992	75.5	72.4	78.9	75.2	78.4	74.7
1993	76.9	73.6	79.5	75.7	79.1	75.3
1994	77.1	73.8	79.7	75.9	79.4	75.5
1995	77.3	73.8	79.8	75.9	79.5	75.5
1996	77.7	74.9	80.3	76.6	79.9	76.3
1997	77.3	73.9	80.5	76.4	80.1	75.9
1998	77.7	74.3	80.7	76.5	80.3	76.1

Access to trained personnel

412. There has been no change in access to trained personnel since the submission of Israel's initial report.

Environmental control

413. There has been no change on this issue since the submission of Israel's initial report.

Preventive care

414. Under paragraph 15 of the Public Health Ordinance, 1940, the Director General of the Ministry of Health or the District Health Officer has the power to require any person infected with an infectious disease to be placed in a hospital for infectious diseases or other appropriate form of isolation, should his or her current accommodation not permit taking the precautions necessary to contain the spread of the disease. Currently, this authority is used only in cases of tuberculosis and then only pursuant to court order.

Vulnerable groups

415. The effects of the Health Insurance Law on vulnerable groups are clearly apparent. Since the enactment of this law, the health funds have rapidly improved their services, especially within Arab communities, in order to raise their number of members and accordingly their funding (which the law sets pursuant a per capita formula).

416. Since 1993, the Ministry of Health has spent NIS 47 million (approximately US$ 11.4 million) in building 103 new mother and child health clinics in Arab towns and villages (8 of them are public dental clinics). The Ministry's budgets during the same period also included NIS 54.5 million (approximately $13.5 million) aimed at "closing the gaps within the Arab sector" in the field of preventive care.

417. The sums mentioned above are in addition to the "regular budget" of preventive care services supplied to the population as a whole, including the Arab sector.

418. The Ministry of Health is working intensively to reduce the Israeli Arab infant mortality rate, which is higher than among Jewish Israelis. The infant mortality rate is indeed a product of socio-economic conditions. An important reason for the gap between Jews and non-Jews in this indicator, is the very high rate of marriage between close relatives among Muslim Arabs (about 40 per cent), as compared to the rate for Jews. Therefore, the rate of congenital defects in Arab neonates is very high. Additionally, due to religious attitudes, many of the pregnant women among Muslim Arabs refuse to terminate pregnancies when congenital malformation is diagnosed before birth.

419. One aim of the Ministry of Health's education/information project is to discourage marriage among close relatives; another attempts to encourage pregnant women to make more use of in-utero diagnostic procedures; and a third objective is to encourage mothers to make more use of the mother and child care services dispersed throughout the country. One cannot measure the short-term results of such projects. More time is required before measurable results can be expected. A new project of pre-conceptional intervention aimed at reducing congenital malformations has been launched and 60 per cent of the targeted population is in the Muslim Arab population. Despite the above, infant mortality in the Muslim Arab sector has declined each year and is the lowest in the entire Muslim world.

420. All of the recognized and unrecognized Bedouin villages have connections to running water, except for the 50,000 Bedouins that are mentioned in Israel's initial report. These Bedouins receive water through standpipes, from which it is carried by vehicle, camel or on foot to the family home. The establishment of a sewage system is under the authority of the local government and the minority localities receive loans for this purpose which are more generous than those allocated to Jewish localities.

421. The infant mortality rate of Negev Bedouin is 13 per 1,000. Of this rate, 5.8 per 1,000 die of congenital malformations and inherited diseases, more than double the rate of infant deaths from this cause nationally (2.5 per 1,000). This unusually high rate is due to the very high rate of first cousin marriages (above 45 per cent) and second cousin marriages (above 10 per cent) in this population. The Ministry of Health has been funding a programme for the past six years whose aim is to try to reduce infant mortality due to intermarriage, through a multi-phase, multi-disciplinary programme that has been designed together with the Bedouin population to be culturally appropriate and culturally sensitive.

422. It should be noted that the infant mortality rate for Bedouin in the Negev is lower than the infant mortality rate of Arab populations in neighbouring countries.

423. Fifty per cent of Bedouin live in established settlements, in modern towns with municipal infrastructure, including running water in every home (that meets the Israeli standards for drinking water quality), electricity and sanitation services, as well as all the usual municipal services, such as local health clinics for curative as well as preventive maternal and child health care and educational services. The 50 per cent of Bedouin who live outside of established settlements are allowed to tap into the National Water Carrier system at designated sites in order to obtain drinking water that meets national standards, as stated above.

424. Five new Mother and Child Health Clinics ("Tipat Halav") have recently been built in Bedouin towns. Since the submission of Israel's initial report, five additional Health Fund medical clinics ("Kupat Holim") were built to provide for the needs of Bedouins outside the Bedouin towns, raising the total of such clinics to seven.

425. Other changes in the situation of the Bedouin population were referred to above in the section on housing (discussion of article 11).

Community participation

426. No notable change occurred on this issue since the submission of Israel's initial report.

Health education

427. Coordinators from the Ethiopian community make contact with all HIV patients and carriers in their local communities. They help them communicate with professionals at the local AIDS treatment centre and educate them in ways to avoid spreading the disease, principally by teaching safe sex. Mobile medical teams set up clinics in mobile home sites populated by the Ethiopian community. Transportation to AIDS centres is paid for. Social workers help the patients with their psycho-social problems related to their illness.

428. Health education projects are being conducted by Ethiopian health educators in absorption centres, schools, the army and in higher educational institutions. Community theatre and video films are used during these workshops. Dramas concerning AIDS prevention are broadcast in Amharic-language radio and television programmes. It must be noted that for the most part, immigrants from Ethiopia come from the lowest socio-economic strata of a country that is ranked among the least developed countries in the world.

Article 13: The right to education

1. The legal framework

429. The Compulsory Education Law, 1949, which was referred to in Israel's initial report, is being gradually applied to children ages 3-4 in certain areas in need. Thus the law applied in the year 2000 to 56,000 children of ages 3-4. As before, this education is to be provided free of charge.

430. As mentioned in the initial report, in 1990, the Knesset enacted the Long School Day Law. This law was repealed and replaced in 1997 by the Long School Day and Enrichment

Studies Law, 1997. The purpose of this law is to add study and education hours to the existing hours in educational institutions. The Minister of Education may, with the approval of the Education and Culture Committee of the Knesset, prescribe a different number of study hours for the Long School Day in certain educational institutions or study classes, provided that the number of weekly study hours shall not be less than 41 hours. For budgetary reasons, there is a gradual implementation of this law, starting with the 1997/98 school year, according to priorities set by the Minister.

431. In 2000, the total number of children enrolled in the education system under the supervision of the Ministry of Education reached about 1,500,000 - from the pre-primary level to the end of secondary school. Other eligible pupils attend schools supervised by the Ministry of Religious Affairs and by the Ministry of Labour and Social Affairs. Combined with the above figures, it is estimated that nearly 100 per cent of the children in the primary school age group attend school, as well as about 95 per cent of the adolescents eligible for secondary education.

The constitutional status of the right to education

432. No notable changes have occurred on this issue since the submission of Israel's initial report.

2. Structure of the education system

433. No notable changes have occurred in this structure since the submission of Israel's initial report.

(a) Pre-primary education

434. In 2000, the kindergarten system involved 270,000 children, ranging from age 2 to 6 years, attending public institutions (not including municipal and private institutions).

(b) Primary and secondary education

435. The 1968 reform is still being implemented slowly, and in 1999 - 26 per cent of the pupils were still attending schools according to the old system. There has been a decrease in these figures since 1996, as this is a new measuring system involving actual data and not an estimate.

(c) Higher education

436. As mentioned in Israel's initial report, university tuition is determined in accordance with the decision of a public committee, once every five years. At present the average undergraduate tuition fees is about NIS 10,500 (approximately US$ 2,600) per annum. A public committee is currently discussing tuition fees and assistance to students for the next five years (2002-2006) with the aim of alleviating the financial burden on students.

(d) Adult education

437. The number of persons with only four years or less of formal education has continued to decline, and there has been an improvement in the situation in all sectors. Among the non-Jewish population, the number of such persons decreased from 15.9 per cent in 1994 to 12.5 per cent in 1998, while among the Jewish population, the numbers fell to 4 per cent.

(e) Organizational difficulties in realizing the right to education

438. There has been no notable change in the policy of the Ministry of Education to make every effort to prevent youth from dropping out and to raise the percentage of those attending school (more information on this issue is provided below).

3. Statistical data

(a) Literacy

439. The following tables introduce the figures pertaining to the extent of formal education possessed by the adult population of Israel throughout the years 1961-1998. It divides the population by Jews and non-Jews, sex, age and country of origin. According to this data, in 1998, 5 per cent of the total Israeli population had only 0-4 years of formal primary education.

Table 54

Persons aged 15 and over, by religion, years of schooling, age and sex, 1999

Year	Years of schooling								Total	
	Median	16+	13-15	11-12	9-10	5-8	1-4	0	%	Thousands
Jews										
1961	8.4	3.6	6.3		34.6	35.4	20.1		100.0	1 300.9
1970	9.3	4.9	8.1		39.7	31.7	15.6		100.0	1 809.6
1975	10.3	7.0	10.7	26.1	18.8	25.5	11.9		100.0	2 708.2
1980	11.1	8.5	12.3	30.4	17.2	21.3	10.3		100.0	2 315.8
1985	11.5	10.2	14.2	33.6	16.6	17.3	8.1		100.0	2 511.3
1990	11.9	12.2	16.0	38.0	13.5	13.7	6.6		100.0	2 699.3
1995	12.2	15.5	20.5	37.0	12.0	10.1	5.0		100.0	3 269.3
1997	12.4	16.6	21.6	36.9	11.2	9.3	1.5	2.8	100.0	3 433.1
1998	12.4	17.0	22.0	36.6	11.3	9.1	1.4	2.6	100.0	3 511.2
1999 - Total										
- thousands		630.9	823.7	1 304.6	398.9	298.9	49.8	89.7		3 616.2
- %	12.5	17.5	22.9	36.3	11.1	8.3	1.4	2.5	100.0	

Table 54 (continued)

Year	Years of schooling								Total	
	Median	16+	13-15	11-12	9-10	5-8	1-4	0	%	Thousands
Age										
15-17	11.1	-	0.4	51.5	45.5	2.3	0.1	-	100.0	251.4
18-24	12.4	3.6	28.8	61.7	4.2	1.3	0.2	0.2	100.0	577.5
25-34	13.3	25.9	28.9	37.3	5.5	1.7	0.2	0.5	100.0	677.6
35-44	13.1	24.9	26.1	34.1	9.7	4.2	0.2	0.7	100.0	606.5
45-54	13.0	25.6	24.2	28.7	10.7	9.2	0.5	1.0	100.0	591.3
55-64	12.3	20.2	21.5	23.4	10.7	16.0	2.9	5.0	100.0	352.5
65+	10.7	11.4	15.6	20.0	11.7	25.1	5.8	10.2	100.0	559.0
Men - Total	12.5	18.5	21.2	37.6	11.9	8.1	1.2	1.5	100.0	1 744.3
15-17	11.0	-	0.5	49.7	46.4	3.1	0.2	-	100.0	130.2
18-24	12.3	3.2	24.1	64.8	5.7	1.7	0.1	0.2	100.0	294.4
25-34	13.1	24.4	28.0	37.5	7.1	2.3	0.2	0.4	100.0	338.7
35-44	13.0	25.1	24.2	34.1	10.8	4.7	0.3	0.7	100.0	292.4
45-54	13.0	27.7	22.1	28.4	11.1	9.2	0.5	0.8	100.0	285.7
55-64	12.5	25.0	19.2	24.4	10.8	16.0	1.8	2.7	100.0	164.5
65+	11.2	15.6	15.4	21.2	10.6	24.7	5.9	6.4	100.0	238.1
Women - Total	12.5	16.6	24.5	35.1	10.3	8.5	1.6	3.4	100.0	1 871.9
15-17	11.2	-	0.3	53.4	44.5	1.4	0	-	100.0	121.2
18-24	12.6	4.0	33.6	58.4	2.6	0.8	0.2	0.3	100.0	283.0
25-34	13.4	27.4	29.7	37.1	3.8	1.1	0.1	0.6	100.0	338.9
35-44	13.2	24.7	27.8	34.1	8.6	3.7	0.2	0.7	100.0	314.0
45-54	13.0	23.7	26.1	28.9	10.2	9.2	0.5	1.2	100.0	305.6
55-64	12.1	16.0	23.6	22.6	10.5	16.1	3.9	7.1	100.0	187.9
65+	9.9	8.3	15.7	19.1	12.6	25.3	5.8	13.1	100.0	320.9
Other religions										
1961	1.2	1.5			7.6	27.5	63.4		100.0	136.3
1970	5.0	(0.4)		1.7	13.0	35.1	49.8		100.0	223.2
1975	6.5	1.4	3.1	9.1	12.6	38.0	35.8		100.0	279.8
1980	7.5	2.2	5.5	13.5	16.0	33.9	28.9		100.0	344.5
1985	8.6	2.5	5.9	19.2	19.3	32.0	21.1		100.0	428.2
1990	9.0	3.0	6.1	23.2	17.4	30.8	19.5		100.0	502.0
1995	10.2	4.6	9.6	28.1	19.0	24.0	14.7		100.0	633.9
1997	10.6	6.1	11.9	28.4	18.8	22.3	4.8	7.7	100.0	695.7
1998	10.8	7.5	12.2	28.2	18.5	21.1	5.6	6.9	100.0	730.7

Table 54 (continued)

Year	Years of schooling								Total	
	Median	16+	13-15	11-12	9-10	5-8	1-4	0	%	Thousands
1999 - Total										
- thousands		56.0	81.2	219.0	135.6	156.4	38.1	51.5		742.1
- %	10.8	7.6	11.0	29.7	18.4	21.2	5.2	7.0	100.0	
Age										
15-17	10.8	-	-	44.8	43.9	8.3	1.3	1.1	100.0	72.6
18-24	11.7	3.8	19.3	43.0	17.6	13.4	1.7	1.7	100.0	162.3
25-34	11.4	10.4	12.3	35.0	18.0	19.8	1.8	2.5	100.0	197.4
35-44	10.6	12.8	10.2	22.6	18.7	26.8	4.8	3.9	100.0	138.9
45-54	7.4	9.8	8.5	13.5	10.9	36.3	10.5	10.4	100.0	80.1
55-64	6.0	5.4	6.6	8.7	7.0	32.2	16.9	22.7	100.0	49.7
65+	2.1	2.2	3.7	5.0	5.0	18.8	20.5	44.3	100.0	40.8
Men - Total	11.0	38.0	10.3	31.1	20.5	21.0	4.8	3.2	100.0	371.9
15-17	10.8	-	-	43.7	44.8	8.1	1.9	0.3	100.0	36.3
18-24	11.6	3.2	17.2	43.1	20.9	12.7	1.5	1.1	100.0	82.6
25-34	11.5	11.7	11.0	36.1	19.9	18.2	2.0	1.0	100.0	99.8
35-44	11.2	16.0	10.9	24.9	20.6	21.8	3.4	2.3	100.0	71.1
45-54	9.5	13.9	8.8	16.2	13.6	37.9	4.8	4.0	100.0	39.7
55-64	7.4	6.9	4.9	10.5	8.1	44.9	16.2	6.9	100.0	24.7
65+	4.0	2.3	2.3	6.4	3.5	26.0	31.2	26.6	100.0	17.4
Women - Total	10.5	6.2	11.7	28.3	16.2	21.4	5.5	10.7	100.0	370.2
15-17	10.8	-	-	45.8	43.1	8.6	0.6	1.9	100.0	36.2
18-24	11.9	4.4	21.5	43.0	14.2	14.2	0.6	2.3	100.0	79.6
25-34	11.4	9.1	13.5	33.9	16.0	21.4	1.6	4.1	100.0	97.6
35-44	9.7	9.4	9.6	20.2	16.7	32.0	6.2	5.6	100.0	67.8
45-54	7.0	5.7	8.2	10.9	8.2	34.7	16.1	16.6	100.0	40.4
55-64	3.6	4.0	8.4	6.8	6.0	19.7	17.7	38.6	100.0	24.9
65+	0.9	2.2	4.8	3.9	6.1	13.4	12.6	57.6	100.0	23.3

Source: The Central Bureau of Statistics.

(b) Attendance rates in the education system

440. The following tables reveal the gradual increase in the number of pupils in the Israeli education system. The first table shows the current number and rate of attendance in State schools. The second table presents the 1999 figures on the number of primary and secondary

education pupils divided into four education sectors (the Jewish, and non-Jewish sectors). The third table reflects the increase in number of students in all educational institutions since the submission of Israel's initial report. The fourth table deals with primary and secondary education only, and illustrates the changes in number of Jewish and non-Jewish pupils in every school grade, during the years.

Table 55

Number of students enrolled in 1999 in the pre-school, primary and secondary education system and their percentage in their total age group population

Pre-school education	Primary education		Secondary education
	Free and compulsory education		Free education
Ages 3-5	Ages 5-15		Ages 16-18
Public kindergartens	Primary school (grades 1-8)	Lower secondary (grades 7-9)	Upper secondary (grades 10-12)
270 000 (72%)	731 000 (98%)	200 000	301 000 (93%)

Source: Ministry of Education and the Central Bureau of Statistics.

441. The above figures do not include pupils attending Talmud-Torah (Orthodox Jewish) pre-schools, and institutions under the supervision of the Ministry of Religious Affairs and the Ministry of Labor and Social Affairs (vocational and industrial schools).

Table 56

Number of pupils in schools by sector and by level, 1999 (thousands of pupils)*

Sector	Total	Primary education	Low secondary education	Upper secondary education
Total	1 230	730	240	300
Jewish	998	556	187	255
Non-Jewish	232	174	53	45

* The figures in this table do not include kindergartens and higher education.

(There are approximately 1,270,000 pupils in schools: about 79 per cent of them are in the Jewish sector and 21 per cent in the non-Jewish sector.)

Table 57

Pupils in educational institutions

	1999/00*	1998/99R	1979/80	1969/70	1959/60	1948/49
1. Grand total (2+12)	1 917 388	1 875 580	1 200 636	823 491	578 003	140 817
Educational system (3+12)	1 873 388	1 831 391	1 156 636	797 191	567 051	140 817
Other institutions (11)	44 000	44 189	44 000	26 300	10 952	-
	Hebrew education					
2. Total (3+11)	1 580 554	1 552 901	1 023 410	712 954	531 923	129 688
3. Educational system - Total (4 through 10)	1 536 554	1 508 712	979 410	686 654	520 971	129 688
4. Kindergartens (1)	310 000	307 346	246 600	107 668	75 699	25 406
5. Primary education - total	563 839	556 401	436 387	394 354	375 054	91 133
Primary schools	550 674	545 090	424 173	375 534	357 644	91 133
Schools for handicapped children	13 165	11 311	12 214	18 820	17 410	. .
Post-primary education - Total (6+7)	446 706	441 763	216 602	137 344	55 142	10 218
6. Intermediate schools	188 122	186 628	72 792	7 908	-	-
7. Secondary schools - Total	258 584	255 135	143 810	129 436	55 142	10 218
Secondary one-track	143 728	139 289	91 138	98 591	. .	. .
Secondary multi-track	114 856	115 846	52 672	30 845	. .	. .
Type of secondary education						
General	143 075	154 816	61 583	63 731	32 894	7 168
Continuation classes	9 452	8 975	6 438	8 508	7 065	1 048
Technological/vocational	100 657	85 753	70 681	49 556	10 167	2 002
Agricultural	5 400	5 591	5 108	7 641	5 016	. .
8. Post-secondary institutions (2)	50 000	46 682	25 341	11 894	5 801	1 296
9. Non-university institutions for higher education (3)	53 089	47 390	-	-	-	-
10. Universities	112 920	109 130	54 480	35 374	9 275	1 635
11. Other institutions	44 000	44 189	44 000	26 300	10 952	-
For primary education age (4)	-	-	10 500	-	-	-
For post-primary education age (5)	20 000	20 466	25 700	-	-	-
For post-secondary education age (6)	24 000	23 733	7 800	-	-	-
	Arab education					
12. Educational system - Total (13 through 17)	336 834	322 679	177 226	110 537	46 080	11 129
13. Kindergartens (7)	49 000	47 681	17 344	14 211	7 274	1 124
14. Primary education - Total	182 519	174 271	121 985	85 449	36 729	9 991
Primary schools	180 266	171 711	121 101	85 094	36 652	9 991
Schools for handicapped children	2 253	2 560	884	355	77	-
Post-primary education - Total (15+16)	101 979	98 330	37 276	10 507	1 956	14
15. Intermediate schools	53 708	52 963	14 803	2 457	-	-

Table 57 (continued)

	1999/00*	1998/99R	1979/80	1969/70	1959/60	1948/49
	Arab education					
16. Secondary schools - Total	48 271	45 367	22 473	8 050	1 956	14
Secondary one-track	16 258	15 788	17 373	. .	1 956	14
Secondary multi-track	32 013	29 579	5 100	. .	-	-
Type of secondary education						
General	33 327	31 655	19 034	6 198	1 933	14
Technological/vocational	14 472	13 098	2 645	1 462	-	-
Agricultural	472	614	794	390	23	-
17. Post-secondary institutions - Total	3 336	2 397	621	370	121	-
Teacher training colleges	(8)336	(8)273	485	370	121	-
Other post-secondary institutions	3 000	2 124	136	. .	. .	-

Source: The Central Bureau of Statistics.

442. The changes in the figures in the last table since the submission of Israel's initial report were due only to demographic changes.

Table 58

Pupils in primary and post-primary education, by grade

	*1999/00	R1998/99	1989/90	1979/80	1969/70	1959/60	1948/49
	Hebrew education (2)						
Grand total	1 295 343	1 270 765	1 006 935	812 250	603 716	461 491	108 131
Total	1 010 845	998 164	799 128	652 989	531 698	429 586	101 351
I	84 936	86 304	70 569	66 166	48 803	48 427	15 125
II	86 802	83 267	68 058	64 797	48 217	50 724	12 124
III	84 878	83 745	68 782	65 576	47 624	51 067	12 665
IV	84 755	86 071	67 492	62 736	50 422	47 389	11 882
V	87 299	85 183	66 933	59 396	51 248	44 897	11 793
VI	86 209	84 269	69 131	57 221	50 541	45 388	10 447
VII - Total	84 014	86 547	69 224	54 395	51 750	45 350	9 762
Thereof: intermediate schools	61 359	63 716	39 728	25 078	5 629	-	-
VIII - Total	87 622	84 011	72 394	54 212	49 570	38 431	7 335
Thereof: intermediate schools	64 790	62 493	42 562	25 047	2 279	-	-
Special primary classes of unspecified grade	685	-	3 088	2 013	4 087	3 381	-
IX - Total	84 769	85 703	67 446	51 584	43 926	21 841	4 461
Thereof: intermediate schools	61 594	60 419	38 318	22 667	-	-	-
X	83 671	78 946	62 426	44 857	35 402	15 263	2 936
XI	78 024	76 411	57 654	37 211	28 902	10 707	1 896
XII - Total	72 423	73 057	52 735	31 316	20 503	6 581	925
Thereof: in general secondary (1)	41 542	45 879	25 956	14 557	13 363	4 256	. .
XIII	3 619	3 178	2 456	1 155	435	-	-
XIV	1 139	1 472	740	354	268	-	-

Table 58 (continued)

	*1999/00	R1998/99	1989/90	1979/80	1969/70	1959/60	1948/49
	Arab education						
Total	284 498	272 393	207 807	159 261	72 018	31 905	6 780
I	29 409	29 812	20 611	18 931	11 328	6 219	2 012
II	29 653	27 745	19 549	18 448	10 927	5 403	1 346
III	28 027	26 948	19 674	17 879	9 639	5 081	1 179
IV	27 068	27 536	19 314	17 634	8 972	3 921	959
V	27 566	24 673	20 303	16 651	8 314	2 860	608
VI	24 300	23 304	20 521	15 065	7 036	2 802	375
VII - Total	25 252	24 730	19 962	14 280	5 981	2 679	231
Thereof: intermediate schools	18 797	18 718	10 103	5 383	466	-	-
VIII - Total	25 249	23 067	19 556	13 582	4 679	1 888	56
Thereof: intermediate schools	18 668	17 623	10 208	5 151	321	-	-
Special primary classes of unspecified grade	53	-	20	49	50	23	-
IX - Total	22 177	22 050	16 639	8 748	2 491	495	14
Thereof: intermediate schools	16 243	16 622	8 617	4 269	-	-	-
X	17 272	15 597	13 066	7 067	1 224	209	-
XI	14 769	14 009	9 984	4 633	842	186	-
XII - Total	13 412	12 731	8 550	3 743	535	139	-
Thereof: in general secondary	9 579	8 991	6 575	3 171	469	139	-
XIII	236	191	58	-	-	-	-
XIV	55	-	-	-	-	-	-

Source: The Central Bureau of Statistics.

(c) Adult education

443. The following table shows the number of adults engaged in elementary/remedial education (primary and secondary), pre-academic and academic special adults' programmes and immigrant absorption programmes. In the years since the submission of Israel's initial report, there has been stability in the situation in adult education.

Participation in adult education

444. The declining figures in immigrant absorption programmes, is due to the decline in the number of immigrants.

Table 59

	Pre-academic preparatory programmes	Immigrant absorption programmes	Primary education	Secondary education	Popular universities
1996	10 100	63 500	9 500	11 000	32 100
1997	10 800	68 800	9 500	11 000	33 400
1998	10 900	64 600	9 500	11 000	36 200

Source: Central Bureau of Statistics and the Ministry of Education.

(d) Higher education

445. The following tables show the number of students in higher education institutions and their separation into degree, field of study, sex, age, population group and origin. There has been a major increase since the submission of Israel's initial report in the number of students all across the board.

Table 60

Number of students in institutions of higher education

Year	1995	1996	1997	1998	1999
Total students	116 700	125 400	135 500	150 200	158 700
Students in colleges	19 400	23 700	31 600	41 100	47 400
Students in universities	97 300	101 700	104 900	109 100	111 300

Source: Central Bureau of Statistics.

446. By the year 1999, an increase of 26 per cent over 1995 was reached in the number of students in institutions of higher education (instead of 16 per cent, as was expected in Israel's initial report).

Table 61

Students in universities, by degree, field of study, sex, age, religion and origin
(Percentages, unless otherwise stated)

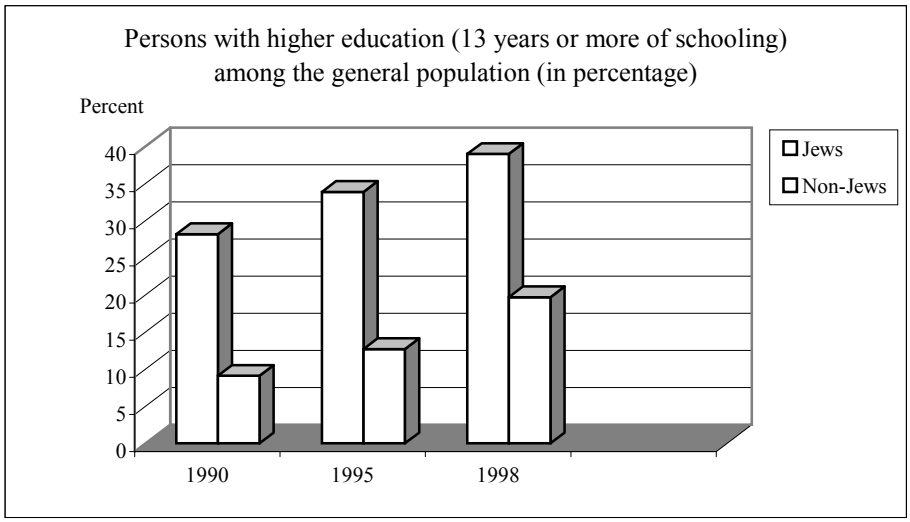
	1998/99									1995/96	1989/90	1984/85
	Engineering and Architecture	Agriculture	Sciences and Mathematics	Para-medical studies	Medicine	Law	Social Sciences	Humanities	Total			
First degree - total												
- Absolute numbers	11 050	743	11 653	4 622	1 225	3 441	20 301	20 782	73 820	68 950	46 960	44 355
- Percentages	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Thereof: women	23.0	56.0	43.0	81.2	46.9	52.3	63.8	70.8	56.6	56.5	51.3	48.3
Age												
Up to 19	7.9	1.0	8.6	4.8	10.8	4.3	3.0	4.1	5.2	6.3	7.3	6.4
20-21	13.7	12.4	19.9	21.5	23.2	19.1	16.6	16.2	17.0	18.3	17.6	16.6
22-24	43.8	48.0	46.6	46.9	43.8	46.1	48.1	39.6	44.6	41.4	39.8	37.2
25-29	32.4	32.7	23.4	20.2	21.5	25.3	22.3	24.4	24.7	24.0	24.5	24.7
30-34	1.8	4.0	1.3	2.5	0.4	3.0	4.1	6.2	3.7	4.1	5.1	7.2
35+	0.4	1.9	0.3	4.1	0.2	2.3	5.9	9.5	4.8	6.0	5.7	7.9
Religion												
Jews	92.5	97.8	92.5	88.2	90.8	92.3	93.6	88.2	91.3	93.0	93.3	92.1
Other religions	7.5	2.2	7.5	11.8	9.2	7.7	6.4	11.8	8.7	7.0	6.7	7.9
Origin (of Jews) - total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Israel	37.6	43.1	37.5	31.4	45.4	42.1	35.1	32.3	35.5	32.5	28.8	19.2
Asia-Africa	21.9	16.5	19.3	20.0	16.1	23.2	29.3	32.9	26.3	27.1	27.9	27.1
Europe-America	40.6	40.5	43.2	48.6	38.5	94.7	35.6	34.8	38.2	40.3	43.3	53.7
Second degree - total												
- Absolute numbers	2 466	424	2 729	671	1 967	886	12 381	8 051	29 577	25 450	16 100	12 765
- Percentages	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Thereof: women	22.2	50.5	44.3	86.7	47.3	49.9	56.8	75.8	57.7	56.4	50.3	46.8
Age												
Up to 24	12.7	8.6	25.6	6.4	30.3	8.6	7.8	7.5	11.1	11.7	13.6	12.4
25-29	56.1	7.3	60.2	31.3	55.0	61.3	52.7	32.4	48.1	45.4	44.1	42.0
30-34	20.7	21.6	10.5	20.1	11.6	19.7	19.2	19.2	18.2	17.5	19.4	21.8
35-44	8.2	7.2	2.7	26.6	2.1	8.7	1.9	22.0	14.0	16.5	18.3	16.7
45+	2.3	5.2	1.0	15.6	1.0	1.6	6.4	18.8	8.7	8.9	4.6	7.1
Religion												
Jews	96.4	99.3	96.4	96.1	92.8	95.4	98.3	94.1	96.7	97.0	96.7	96.8
Other religions	3.6	0.7	3.6	3.9	7.2	4.6	1.7	5.6	3.6	3.0	3.3	3.2

Table 61 (continued)

	1998/99									1995/96	1989/90	1984/85
	Engineering and Architecture	Agriculture	Sciences and Mathematics	Para-medical studies	Medicine	Law	Social Sciences	Humanities	Total			
Origin (of Jews) - total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Israel	28.7	42.7	34.0	24.2	37.7	43.0	32.1	23.8	30.4	29.7	22.9	13.1
Asia-Africa	21.0	17.9	17.0	21.1	16.9	21.0	26.0	28.7	24.6	24.4	19.9	16.5
Europe-America	50.2	39.4	49.0	54.7	45.4	36.1	41.9	47.5	45.0	45.9	57.2	70.4
Third degree - total												
- Absolute numbers	484	221	2 575	83	201	87	904	1 752	6 307	5 470	3 910	3 215
- Percentages	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Thereof: women	26.4	45.7	45.0	(54.2)	69.7	(46.0)	54.8	60.8	50.3	47.8	41.3	39.7
Age												
Up to 29	21.2	22.3	43.3	(38.0)	23.9	(29.4)	22.3	7.3	26.8	25.8	25.6	21.6
30-34	38.6	41.1	38.4	(39.4)	33.9	(37.6)	27.3	18.3	31.1	34.1	35.1	32.6
35-44	30.8	21.8	14.5	(16.9)	28.6	(21.2)	30.6	32.2	24.0	24.3	29.0	31.8
45+	9.4	14.7	3.4	(5.6)	13.6	(11.7)	19.8	42.2	18.2	15.9	10.3	14.0
Religion												
Jews	98.4	96.4	96.6	(85.7)	92.1	(96.5)	96.7	96.8	96.5	96.5	96.1	97.3
Other religions	1.6	3.6	3.4	(14.3)	7.9	(3.5)	3.3	3.2	3.5	3.5	3.9	2.7
Origin (of Jews) - total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Israel	21.0	33.5	31.0	(20.6)	23.2	(37.3)	27.5	19.4	26.2	26.3	17.1	9.1
Asia-Africa	19.2	16.3	16.0	(10.3)	12.0	(11.8)	16.4	13.8	15.4	15.7	15.5	12.5
Europe-America	59.8	50.2	53.0	(69.1)	64.8	(50.9)	56.1	66.8	58.4	58.1	67.4	78.4

447. The next table illustrates the increase over a period of time in the percentage of Israelis with higher education.

Figure 1



Source: Central Bureau of Statistics.

448. The number of persons with higher education among the Jewish population grew between 1980 and 1999 by about 88 per cent (from 20.8 per cent to 39.0 per cent); among the non-Jewish population, the number of persons with higher education grew by about 156 per cent (from 7.7 per cent to 19.7 per cent). All these figures are higher than those observed in 1995.

(e) Drop-out rates

449. The following data shows the scope of the drop-out problem. In the Jewish sector there has been a slight reduction of this phenomenon, but in the non-Jewish sector there has been a slight increase. The reason for that is that these figures relate only to attendance in institutions under the supervision of the Ministry of Education. Many non-Jews moved to institutions under the Ministry of Labour and Social Affairs. Moreover, combining the figures of attendance in institutions under the Ministry of Education, the Ministry of Labour and Social Affairs and the Ministry of Religious Affairs, the drop-out rates show a trend of stability or even a slight reduction.

450. The rates of attendance in the education system among pupils aged 4-17 reached 90 per cent in 1995, and 92 per cent in 1998. These statistics refer to the number of pupils enrolled in frameworks supervised by the Ministry of Education. It should be noted that attendance rates in the Arab education sector are still lower than for Hebrew education. If attendance figures for the Ministry of Education, Ministry of Labour and Social Affairs, and the Ministry of Religious Affairs are combined, the results show an attendance rate of 98 per cent among 15 year-olds, 95 per cent for 16 year-olds, and 89 per cent for 17 year-olds.

Table 62

Number of children and youth not attending school (ages 6-17)
Children and youth

	1994	1995	1998
Total	37 000	30 000	30 700
Percentage	3.1	2.5	2.4

Source: Ministry of Education, based on Central Bureau of Statistics Data.

Table 63

Attendance of 14-17 year-olds in the Jewish education system - percentages

	1980	1985	1990	1995	1998
Total	79.5	86.9	90.5	94.4	94.5
Boys	72.9	80.7	85.5	90.9	91.9
Girls	86.5	93.7	95.7	98.1	97.3

Table 64

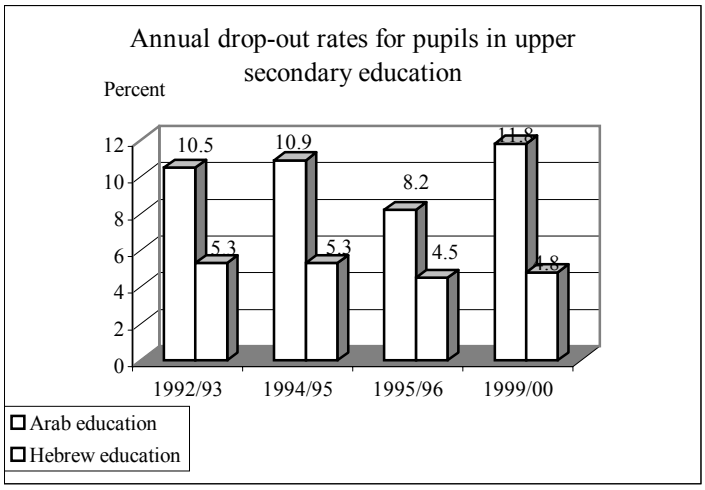
14-17 year-olds in Arab education - (percentages)

	1980	1985	1990	1995	1998
Total	51.3	62.1	62.8	66.4	78.9
Boys	58.0	65.6	66.4	65.2	75.5
Girls	44.0	58.1	58.9	67.5	82.5

Source: Central Bureau of Statistics.

* These figures relate only to pupils in institutions under the supervision of the Ministry of Education. If data from the Ministry of Labour and Social Affairs and the Ministry of Religious Affairs are added, the attendance rates will be higher.

Figure 2



Source: Central Bureau of Statistics.

Table 65

Pupils in grades 9-12 by grade and school leaving

	1998/99-1999/00				1997/98-1998/99		1991/92-1992/93	
	9-12		9-11		9-11		9-11	
	%	Absolute numbers	%	Absolute numbers	%	Absolute numbers	%	Absolute numbers
Grand total	100.0	396 974	100.0	306 956	100.0	296 663	100.0	207 429
Did not leave school	81.9	324 971	77.0	236 213	77.3	229 250	86.6	179 634
Left school - total	18.1	72 003	23.0	70 743	22.7	67 413	13.4	27 795
Left the educational system (dropped out) - total	6.0	23 607	7.2	22 347	7.3	21 648	7.6	15 743
Dropped out at end of school year	4.4	17 279	5.5	17 279	5.7	16 775	5.8	12 048
During the school year	1.6	6 328	1.7	5 068	1.6	4 873	1.8	3 695
Left for another school	12.1	48 396	15.8	48 396	15.4	45 765	5.8	12 052
Hebrew education								
Total	100.0	329 920	100.0	253 536	100.0	245 727	100.0	178 122
Did not leave school	83.4	275 261	78.8	199 793	78.8	193 585	87.2	155 264
Left school - total	16.6	54 659	21.2	53 743	21.2	52 142	12.8	22 858
Left the educational system (dropped out) - total	4.8	15 708	5.8	14 792	6.0	14 625	6.7	11 926
Dropped out at end of school year	3.5	11 409	4.5	11 409	4.6	11 216	5.0	8 938
During the school year	1.4	4 299	1.3	3 383	1.4	3 409	1.7	2 988
Left for another school	11.8	38 951	15.4	38 951	15.2	37 517	6.1	10 932

Table 65 (continued)

	1998/99-1999/00				1997/98-1998/99		1991/92-1992/93	
	9-12		9-11		9-11		9-11	
	%	Absolute numbers	%	Absolute numbers	%	Absolute numbers	%	Absolute numbers
	Arab education							
Total	100.0	67 054	100.0	53 420	100.0	50 936	100.0	29 307
Did not leave school	74.1	49 710	68.2	36 420	70.0	35 665	83.2	24 370
Left school - total	25.9	17 344	31.8	17 000	30.0	15 271	16.8	4 937
Left the educational system (dropped out) - total	11.8	7 899	14.1	7 555	13.8	7 023	13.0	3 817
Dropped out at end of school year	8.8	5 870	11.0	5 870	10.9	5 559	10.6	3 110
During the school year	3.0	2 029	3.1	1 685	2.9	1 464	2.4	707
Left for another school	14.1	9 445	17.7	9 445	16.2	8 248	3.8	1 120

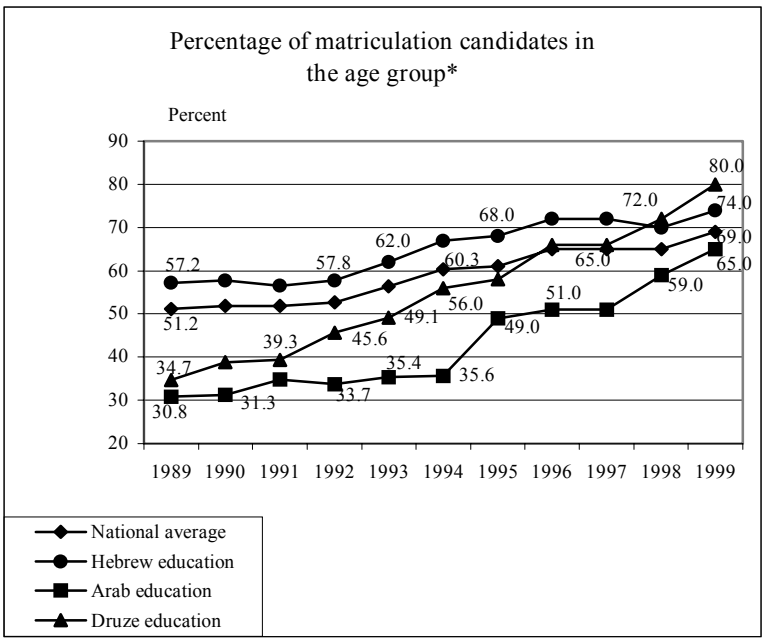
Source: Central Bureau of Statistics.

451. These figures show a trend of constant increase in the percentage of adolescent pupils who remain in school. The trend in the Arab education sector is less clear, but may be defined as "stable". Since the 1990s, in both Jewish and Arab education sectors, the percentage of attendance among female pupils has been higher than that of male pupils every year.

(f) Graduating rates at all levels

452. The following tables show the percentage of pupils entitled to matriculation certificates upon their graduation from high school and the ratio between those examinees who meet the requirements for matriculation certificate and those who do not (separated into Jews and non-Jews, sex and type of school). These tables indicate that there is an increase in the percentage of those entitled to matriculation, and the percentage of candidates to matriculation:

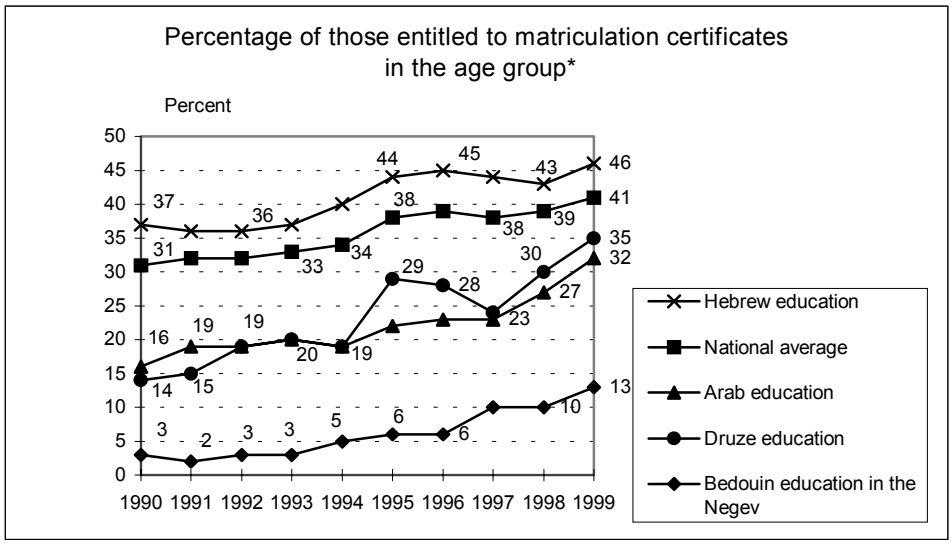
Figure 3



Source: Ministry of Education, Economics and Statistics Division Examination Information Center of the Examinations Division and the Senior Division of Information Systems.

* Age 17 in the population.

Figure 4



Source: Ministry of Education, Economics and Statistics Division Examination Information Center of the Examinations Division and the Senior Division of Information Systems.

* Age 17 in the population.

453. The graph shows that the last five years have seen a great increase in the percentage of those who are matriculation candidates and of those who are entitled to matriculation certificates in the age group, especially in the Bedouin, Druze and Arab education sectors.

Table 66

Examinees in matriculation exams by qualification for certificate and various characteristics

	Not entitled	Entitled	Total	Not entitled	Entitled	Total (1)
Grand total	Percentage			Absolute numbers		
1987	39.6	60.4	100.0	14 917	22 740	37 657
1991	36.0	64.0	100.0	16 648	29 577	46 225
1995	34.1	65.9	100.0	19 972	38 566	58 538
1996 (2)	35.3	64.7	100.0	22 138	40 644	62 782
1997	37.1	62.9	100.0	23 443	39 713	63 156
1998 (2)	36.8	63.2	100.0	24 294	41 666	65 960
1999	36.6	63.4	100.0	26 048	45 115	71 163
Hebrew education						
1987	37.2	62.8	100.0	12 094	20 389	32 483
1991	32.7	67.3	100.0	12 792	26 362	39 154
1995	31.1	68.9	100.0	15 477	34 331	49 808
1996 (2)	32.6	67.4	100.0	17 406	36 020	53 426
1997	34.6	65.4	100.0	18 525	34 950	53 475
1998 (2)	34.4	65.6	100.0	19 275	36 806	56 081
1999	34.5	65.5	100.0	20 783	39 486	60 269
District						
Jerusalem	31.4	68.6	100.0	1 991	4 349	6 340
Northern	37.0	63.0	100.0	2 489	4 230	6 719
Haifa	32.0	68.0	100.0	2 718	5 783	8 501
Central	34.3	65.7	100.0	6 153	11 782	17 935
Tel Aviv	33.6	66.4	100.0	4 190	8 264	12 454
Southern	39.0	61.0	100.0	3 242	5 078	8 320
Supervision						
General	34.9	65.1	100.0	16 649	31 010	47 659
Administration of religious education	31.0	69.0	100.0	3 602	8 008	11 610
Other religious	53.2	46.8	100.0	532	468	1 000
Examination profile						
Academic emphasis	29.6	70.4	100.0	13 015	31 006	44 021
Technological emphasis	47.8	52.2	100.0	7 768	8 480	16 248
Sex						
Boys	38.0	62.0	100.0	10 473	17 090	27 563
Girls	30.5	69.5	100.0	9 629	21 907	31 536

Table 66 (continued)

	Not entitled	Entitled	Total	Not entitled	Entitled	Total (1)
Grand total	Percentage			Absolute numbers		
Origin						
Israel	32.2	67.8	100.0	9 447	19 848	29 295
Asia-Africa	40.8	59.2	100.0	5 792	8 414	14 206
Europe-America	30.2	69.8	100.0	4 326	9 981	14 307
Arab education						
1987	54.6	45.4	100.0	2 823	2 351	5 174
1991	54.5	45.5	100.0	3 856	3 215	7 071
1995	51.6	48.5	100.0	4 495	4 235	8 730
1996 (2)	50.6	49.4	100.0	4 732	4 624	9 356
1997	50.8	49.2	100.0	4 918	4 763	9 681
1998 (2)	50.8	49.2	100.0	5 019	4 860	9 879
1999	48.3	51.7	100.0	5 265	5 629	10 894
Examination profile						
Academic emphasis	43.4	56.6	100.0	3 617	4 713	8 330
Technological emphasis	64.3	35.7	100.0	1 648	916	2 564
Sex						
Boys	53.6	46.4	100.0	2 590	2 240	4 830
Girls	43.1	56.9	100.0	2 561	3 383	5 944
Religion						
Muslims	49.8	50.2	100.0	3 985	4 022	8 007
Christians	31.4	68.6	100.0	404	881	1 285
Druze	54.5	45.5	100.0	863	720	1 583

454. The following tables include statistics on graduating students in Israel's universities, in the Open University (a correspondence educational institution), non-university high education institutions and teachers' training colleges. These tables show a trend of an increasing amount of graduating students, and indicate that there are more women graduating than men:

Table 67

Recipients of degrees from universities, by degree and institution

Degree	1998/99	1997/98	1996/97	1989/90	1979/80	1974/75	1959/60	1948/49
Grand total	24 955	23 807	23 106	13 915	9 371	5 566	1 237	193
First degree	16 094	16 235	16 478	10 192	6 740	4 064	779	135
Second degree	7 162	5 957	5 085	2 790	1 652	807	337	48
Third degree	688	745	637	450	378	238	81	10
Diploma	1 011	870	906	483	601	457	. .	. .

Table 67 (continued)

Degree	1998/99	1997/98	1996/97	1989/90	1979/80	1974/75	1959/60	1948/49
Hebrew University								
Total	4 973	4 722	4 679	3 593	2 396	2 622	707	58
First degree	3 237	3 030	3 100	2 412	1 430	1 849	315	-
Second degree	1 402	1 324	1 184	909	594	411	323	48
Third degree	205	217	188	133	130	135	69	10
Diploma	129	151	207	139	242	227	. .	. .
Technion - Israel Institute of Technology								
Total	2 176	2 146	2 242	1 816	1 347	1 032	464	135
First degree	1 453	1 446	1 655	1 313	1 045	791	404	135
Second degree	591	522	446	403	226	177	48	-
Third degree	117	148	94	86	53	54	12	-
Diploma	15	30	47	14	23	10	-	-
Tel Aviv University								
Total	5 566	5 706	6 016	4 035	2 452	1 203	18	-
First degree	3 401	3 672	4 154	2 940	1 734	935	12	-
Second degree	1 763	1 659	1 543	877	527	141	6	-
Third degree	158	150	139	100	83	4	-	-
Diploma	244	225	180	118	108	123	-	-
Bar-Ilan University								
Total	5 302	4 724	4 139	1 621	1 265	423	48	-
First degree	3 831	3 549	3 120	1 266	1 045	309	48	-
Second degree	1 125	908	740	236	121	47	-	-
Third degree	81	76	50	31	34	-	-	-
Diploma	265	191	229	88	65	67	-	-
Haifa University								
Total	3 110	3 259	3 119	1 400	1 015	187	-	-
First degree	2 042	2 375	2 401	1 160	863	157	-	-
Second degree	821	657	538	133	68	-	-	-
Third degree	15	17	17	2	-	-	-	-
Diploma	232	210	163	105	84	30	-	-
Ben Gurion University of the Negev								
Total	3 687	3 090	2 751	1 308	775	23	-	-
First degree	2 130	2 163	2 048	1 101	623	23	-	-
Second degree	1 392	820	578	165	59	-	-	-
Third degree	39	44	45	23	14	-	-	-
Diploma	126	63	80	19	79	34	-	-
Weizmann Institute of Science								
Total	141	160	160	142	121	76	-	-
Second degree	68	87	56	67	57	31	-	-
Third degree	73	93	104	75	64	45	-	-

Table 68

Recipients of first degree from the Open University by sex and field of study

	1998/99	1997/98	1996/97	1995/96	1994/95	1993/94	1992/93	1991/92	1990/91	1989/90
Total	1 234	1 129	1 048	650	615	405	350	339	304	281
Men	535	501	615	270	275	185	196	178	154	153
Women	699	628	433	380	340	220	154	161	150	128
Field of study										
Humanities and social sciences	1 128	1 028	954	581	550	357	317	296	270	243
Sciences and mathematics	106	101	94	69	65	48	33	43	34	38

Table 69

First-degree students in non-university institutions for higher education, by field of study, year of study and sex

Year of study	Fifth	Fourth	Third	Second	First	Total
1981/82	-	343	453	546	685	2 027
1984/85	-	706	656	684	835	2 881
1994/95	77	3 326	5 105	5 374	5 520	19 402
1998/99	198	6 608	12 231	12 943	15 446	47 425
1999/2000 - Total	255	8 151	13 823	14 320	16 708	53 257
Field of study						
Teacher training	-	4 379	5 542	5 190	4 899	20 004
Technology sciences	-	1 076	2 568	2 970	4 729	11 343
Economics and business administration	255	386	1 881	1 935	1 948	6 405
Arts design and architecture	-	680	693	786	1 050	3 209
Law	-	1 582	1 574	1 629	1 786	6 571
Communications	-	41	449	478	617	1 585
Social sciences		13	1 116	1 332	1 679	4 140
Thereof: Women						
Total	107	5 324	8 517	8 363	8 979	31 290
Teacher training	-	3 764	4 704	4 323	3 937	16 728
Technology sciences	-	273	665	703	1 038	2 679
Economics and business administration	107	143	772	750	767	2 539
Arts design and architecture	-	403	484	500	721	2 108
Law	-	710	735	742	880	3 067
Communications	-	24	314	348	410	1 096
Social sciences		7	843	997	1 226	3 073

Table 70

Recipients of degrees from universities, by field of study, sex, age, religion and origin

(Percentages, unless otherwise stated)

	1998/99								1994/95	1984/85
	Engineering and architecture	Agriculture	Sciences and Mathematics	Medicine	Law	Social sciences	Humanities	Total		
First degree:										
Total										
- Absolute numbers	1 785	161	2 000	1 022	1 120	5 637	4 510	16 235	13 154	8 113
- Per cent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Thereof: women	18.8	51.6	44.1	78.9	43.6	61.5	74.0	57.8	55.3	49.0
Age										
Up to 21	1.5	0.0	7.4	4.4	0.4	2.2	1.2	2.5	3.4	3.2
22-24	28.8	17.4	33.5	34.8	24.4	29.6	25.2	28.6	29.1	24.8
25-29	60.9	73.9	54.0	49.0	62.0	52.1	46.3	52.4	51.5	49.5
30-34	8.2	6.2	4.1	4.6	9.3	7.2	10.3	7.8	7.7	11.1
35-44	0.5	2.5	0.9	4.8	2.6	6.6	11.0	6.0	5.8	8.0
45+	0.1	0.0	0.2	2.4	1.3	2.3	6.1	2.7	2.5	3.4
Religion										
Jews	94.1	98.6	94.6	91.2	94.6	96.5	92.1	94.3	94.9	95.3
Other religions	5.9	1.4	5.4	8.8	5.4	3.5	7.9	5.7	5.1	4.7
Origin (of Jews)										
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Israel	35.7	46.0	33.7	33.4	41.9	31.9	27.8	32.4	31.8	16.5
Asia-Africa	22.1	16.7	19.5	17.7	21.4	29.8	33.3	27.2	27.4	24.3
Europe-America	42.2	37.4	46.7	48.9	36.7	38.3	38.9	40.4	40.8	59.2

Table 70 (continued)

	1998/99								1994/95	1984/85
	Engineering and architecture	Agriculture	Sciences and Mathematics	Medicine	Law	Social sciences	Humanities	Total		
Second degree:										
Total										
- Absolute numbers	439	87	639	537	116	1 480	669	5 957	3 767	2 140
- Per cent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Thereof: women	22.8	55.2	48.5	54.2	44.8	50.2	77.6	54.6	49.7	40.8
Age										
Up to 24	0.7	2.3	6.9	0.4	0.9	0.8	1.0	1.5	2.6	2.3
25-29	43.3	45.3	66.5	50.1	41.4	33.6	17.7	35.9	35.2	39.4
30-34	32.8	31.4	19.8	36.0	38.8	30.0	20.4	27.6	28.6	32.5
35-44	17.4	14.0	5.8	8.5	17.2	23.4	28.3	20.6	22.1	16.7
45+	5.8	7.0	1.1	5.0	1.7	12.2	32.6	14.3	11.5	9.1
Religion										
Jews	97.9	97.7	96.2	94.0	97.4	98.8	97.2	97.6	97.4	97.1
Other religions	2.1	2.3	3.8	6.0	2.6	1.2	2.8	2.4	2.6	2.9
Origin (of Jews)										
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Israel	25.1	32.0	29.6	29.7	34.4	27.4	20.8	26.3	27.6	11.6
Asia-Africa	17.2	17.7	16.2	15.7	18.6	24.9	25.3	22.5	23.2	14.0
Europe-America	57.7	50.3	54.2	54.6	47.1	47.7	54.0	51.2	49.2	74.4
Third degree:										
Total										
- Absolute numbers	103	38	358	36	5	80	125	745	579	356
- Per cent	100.0	…	100.0	…	…	100.0	100.0	100.0	100.0	100.0
Thereof: women	19.4	…	40.2	…	…	47.5	38.4	41.3	39.0	32.6
aged 35+	52.7	…	31.9	…	…	74.7	95.9	49.8	53.5	55.3

Table 71

Number of graduates receiving B.Ed. degrees at teacher's training colleges

1980	75 graduates
1983	127 graduates
1987	311 graduates
1990	655 graduates
1993	1 026 graduates
1994	1 409 graduates
1995	2 144 graduates
1997	2 884 graduates
1998	3 701 graduates

4. Education budgets

455. As the following data illustrates, the amount of government resources spent on education has remained the same since Israel's initial report, as a percentage of the total State budget and the GNP, but it should be mentioned that this percentage is relatively high:

Table 72

National expenditure on education, by type of expenditure and main services

(1990-1998)

Calendar years	Grand total at current prices as percentage of GNP
1990	8.5
1991	8.5
1992	8.6
1993	9.1
1994	9.5
1995	9.9
1996	10.1
1997	10.1
1998	10.1

Source: Central Bureau of Statistics.

Table 73

National expenditure on education of the Ministry of Education, 1995-1998

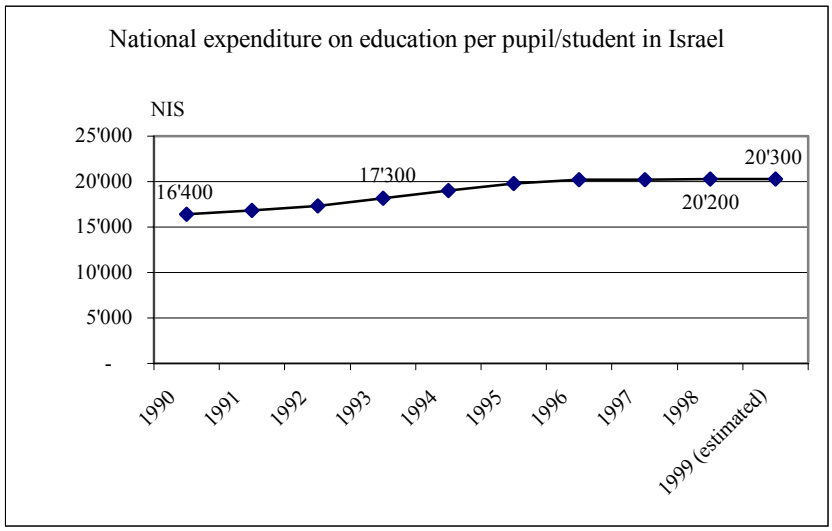
Year	Fixed amount (1995)*	Actual amount
1995	25.6 billion NIS	25.6 billion NIS
1996	26.8 billion NIS	30.6 billion NIS
1997	27.4 billion NIS	34.0 billion NIS
1998	28.4 billion NIS	37.3 billion NIS

Source: Ministry of Education.

* After adjustment for the effects of inflation.

456. Figure 5 shows a stable educational budget per pupil, and not a decreasing one according to some critics:

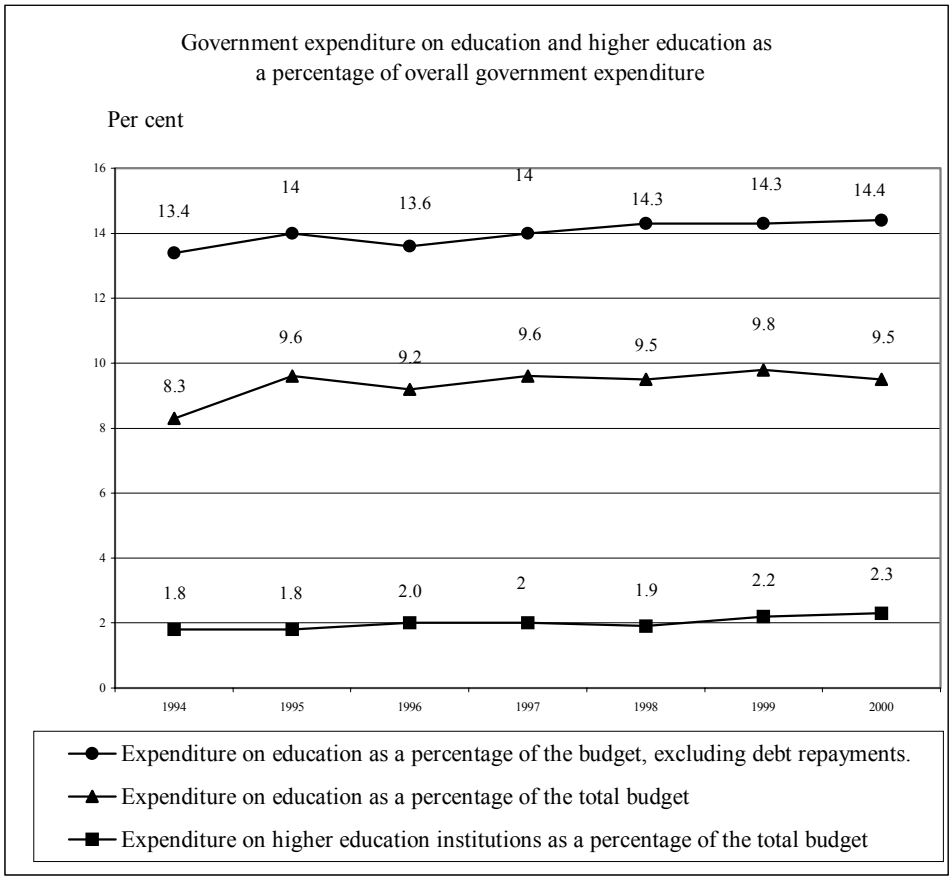
Figure 5



Note: 1999 statistics are listed as estimates.

457. Figure 6 shows a stable percentage of governmental expenditure on education over the past few years and an increasing percentage in higher education:

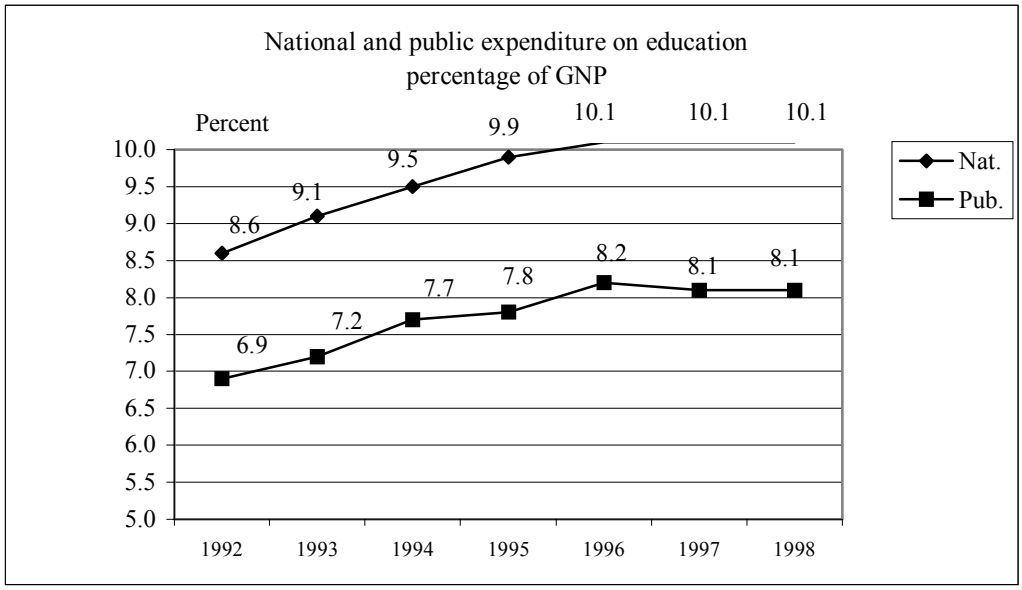
Figure 6



Source: Ministry of Finance.

458. Figure 7 clearly establishes a gradual increase since 1990 in the portion of the total budget allocated to education expenditures. In the past three years since the submission of Israel's initial report there has been stability in the budget. The 2000 government expenditure on education represents 10 per cent of the overall government expenditures.

Figure 7



Source: Central Bureau of Statistics.

Construction of new schools

459. As set out in Israel's initial report, in recent years the Ministry of Education has allocated special budgets for building new schools, and expanding and renovating existing ones. This trend still continues.

460. In 2000, NIS 779 million (approximately $192.7 million) were allocated for the development budget. In addition, NIS 693 million (approximately $171.4 million) were allocated in 2000 for the continued construction of 1,880 new classrooms; NIS 25 million (approximately $6.2 million) for the renovation of school buildings; an additional NIS 18 million (approximately $4.5 million) for equipping new classrooms and NIS 20 million (approximately $4.9 million) for schools' peripheral expenditures.

461. In 2000, priority in construction of classes was accorded to the Arab and Druze population. 31.5 per cent (593 classrooms) of the classrooms built were intended for the Arab, Druze (54 classrooms) and Bedouin education sectors (these sectors constitute 20 per cent of the entire population).

The vicinity of schools

462. No notable changes have occurred on this issue since the submission of Israel's initial report.

5. Schooling schedules

(a) Programmes for kindergartens

463. No notable changes have occurred on this issue since the submission of Israel's initial report.

(b) Primary education

464. The reorganization of the structure of studies in primary schools, which was reported in Israel's initial report, has been completed.

465. The schools now operate according to a small number of principles: autonomy of the school, encouraging advancement of students according to their individual personality; and improving language skills. There is only a basic scheduling programme, and the school determines most of its content. The basic scheduling programme is based on seven basic approaches to education, which determine the subjects of study in the programme:

Approach	Areas of study
Symbolic-linguistic	Languages
Symbolic-logical	Mathematics
Cultural-heritage	Culture studies, according to the educational sector
Humanistic	Patriotism, citizenship and democracy, geography and history
Scientific-technological	Sciences, technology, information/communication
Aesthetic-artistic	Literature, music, painting, dance, theatre
Kinetic-physical	Physical education, dance

(c) Secondary education

466. No notable changes have occurred on this issue since the submission of Israel's initial report. It should be noted that the method of financing the secondary education system is per student. This financing depends on class level, area of study and teacher profile. This type of financing system gives a budgetary advantage to technological areas of study, to areas of study in which students take matriculation examinations, and to special programmes of assistance (which will be mentioned in the next section).

6. Equal educational opportunities

467. The Ministry of Education regards as its main obligation the need to deal with the gaps in the educational system in Israel. The main priorities for the Ministry beginning in 1999 were:

closing gaps by elevating peripheral municipalities and weak population groups; affirmative action for the Arab educational system; elevating special education; and increasing the number of students with matriculation entitlement.

468. The leading programmes in these priorities are:

- Implementing the Free Compulsory Education Law for ages 3-4 in places of need in all population groups (mentioned later in this article);

- Several programmes for raising the level of matriculation entitlement (mentioned later in this article);

- Several programmes for preventing dropping out (mentioned later in this article);

- A five-year programme for affirmative action in the Arab sector (mentioned later in this article);

- An affirmative action programme in the area of construction (mentioned later in this article).

469. The Ministry of Education has placed three other subjects at a high priority level. These are: reducing violence and use of drugs in schools, furthering science and technology education; and taking action for the purpose of both strengthening democratic sentiments among students and Jewish learning. These subjects are closely related to closing gaps and helping weak population groups.

(a) Ratio of males to females in the education system

470. The percentage of entitlement to matriculation certificate is still higher among female pupils than male pupils, 56 per cent in comparison with 47 per cent in 1999, from those finishing the 12th grade, which indicates an improvement. The next table shows the number of pupils in schools. The figures are problematic due to a change in the way the data is processed, which is more accurate and not based as much on estimates. Furthermore, observe the notes made about the drop-out rates, in 3 (e) of this article.

471. No major change occurred in the male/female proportion in institutions of higher education, since the initial report.

Table 74

Pupils in schools, by type of school, age and sex

(Rates per 1,000 in respective group of population)

	Age							
	17	16	15	14	14-17			6-13
					Girls	Boys	Total	
1996/97 - Grand total	832	900	932	910	947	888	917	950
1997/98 - Grand total	850	904	941	970	947	890	918	963
1998/99 - Grand total	846	913	942	984	956	897	926	976
	Hebrew education							
1969/70	438	603	742	910	707	631	668	…
1979/80	625	743	856	946	865	729	795	…
1989/90	827	884	929	966	957	855	905	…
1996/97	881	940	960	964	978	919	948	945
1997/98	888	943	980	986	973	919	945	963
1998/99 - Total	896	947	977	997	982	929	955	978
Primary education	5	6	9	44	15	17	16	800
Post-primary education								
Intermediate schools	3	9	155	713	222	223	223	173
Secondary schools - Total	888	933	813	240	745	689	716	4
General	561	585	496	98	516	355	433	4
Technological/vocational and agricultural	327	348	317	142	229	333	283	-
	Arab education							
1996/97	626	719	803	865	808	754	780	972
1997/98	674	738	830	904	825	755	789	957
1998/99 - Total	683	756	794	926	835	753	793	972
Primary education	6	8	16	64	23	25	24	807
Post-primary education								
Intermediate schools	3	12	93	720	210	221	216	165
Secondary schools - Total	675	736	685	143	603	506	553	-
General	489	535	498	119	458	356	406	-
Technological/vocational and agricultural	186	202	186	24	144	150	147	-

Source: Central Bureau of Statistics.

Table 75

Students in post-secondary non-university institutions by field of study, sex and age[a]

Year of study, sex and age	Field of study							
	Other	Arts, design and architecture	Clerical work, law, administration, economics, etc.	Para-medical occupations	Qualified nurses	Practical engineering, technical work, etc.	Teacher training	Total
1970/71	1 265	876	1 364	600	1 177	4 793	5 442	15 517
1974/75	1 801	1 835	2 353	607	1 219	7 355	11 057	26 227
1979/80	1 737	1 375	2 176	475	1 961	7 857	11 770	27 351
1984/85	874	1 003	2 384	748	1 567	13 288	11 872	31 736
1989/90	807	1 503	1 944	742	1 273	10 747	8 291	25 307
1992/93	1 219	1 248	4 714	812	1 363	14 538	11 689	35 583
1994/95	1 339	4 541	6 905	738	1 334	18 245	9 446	42 548
1995/96	1 179	5 197	7 720	621	1 668	19 310	10 819	46 516
1997/98	2 251	5 837	7 988	536	1 859	24 830	9 620	53 172
1998/99	1 972	6 510	7 753	613	1 874	24 830	9 620	53 172
Grand total								
Hebrew education - total	1 636	6 419	7 542	613	1 812	23 317	9 347	50 686
Year of study								
I	913	3 337	5 125	398	830	13 772	3 585	27 960
II	648	1 941	1 522	139	572	8 928	3 175	16 925
III	75	759	579	76	298	454	2 161	4 402
IV	-	382	316	-	112	163	426	1 399
Sex								
Men	671	1 943	2 977	200	200	17 103	1 115	24 209
Women	965	4 476	4 565	413	1 612	6 214	8 232	26 477
Age								
Up to 24	548	2 513	2 360	384	764	15 535	7 907	30 011
25-29	381	2 738	2 677	127	368	5 473	1 037	12 801
30 and over	707	1 168	2 505	102	680	2 309	403	7 874
Arab education	336	91	211	-	62	1 513	273	2 486

Source: Central Bureau of Statistics.

[a] Excluding students studying towards a first degree in non-university institutions of higher education.

(b) Weak and disadvantaged population groups

General programmes of assistance

472. The following programmes were mentioned in Israel's initial report. These programmes are designed to help "pupils with a potential" (which was defined in that report). Updated data are as follows:

- Mabar ("Moving on"): in 2000, approximately 19,400 pupils attended this programme, compared to 10,000 in 1996;

- Tahal ("Second Chance"): in 2000, about 2,800 pupils participated in this programme, compared to 2,530 in 1996;

- Pre-academic preparatory programmes: about 10,700 pupils studied in such programmes in 1999, compared to 10,000 in 1996;

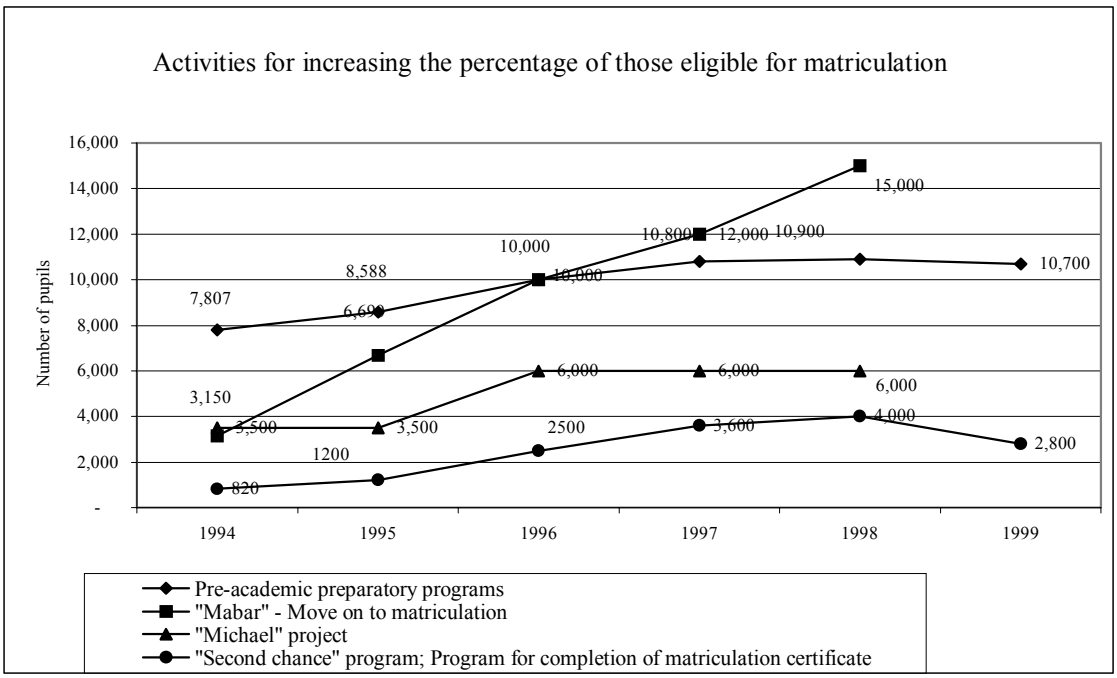
- Michael ("Utilizing personal skills for excellence"): in 2000, approximately 8,400 pupils attended this programme, compared to 6,000 in 1996.

473. There are also new programmes:

- Malbam: this is an experimental programme, with a modular approach towards the matriculation exams, for pupils studying at educational centre and in special guidance classes at comprehensive schools. Until the present, they were not expected to take the matriculation exams, and their teachers were not trained for preparing them for the exams. In 2000, about 3,200 pupils participated in this programme;

- Second Chance - Technicians: this is a programme for completing matriculation exams with up to seven general studies credits, in addition to seven credits of technological studies, which are obligatory for acceptance into a technician's study track.

Figure 8



Source: Ministry of Education.

***** The figures for the pre-academic programmes do not include pupils studying in external schools under the terms of the Demobilized Soldiers Law, 1984. From 1995, however, these figures do include pupils in external schools as part of the matriculation completion project (i.e. pupils who lack just one examination).

****** The figure for the "Mabar" programme in 1999, is 19,480; the figure for the "Michael" programme is 8,400; the figure for the Pre-academic preparatory programmes in 2000 is 10,900.

474. It should be noted that in the past few years, a few programmes for the prevention of "drop-outs" were enlarged, while a few were reduced. Some new radical programmes were initiated, like "Ometz" and "Day Boarding Schools" (mentioned below). This explains the decrease in the amount of activities in some of the programmes in the graph, and the increase in others.

Programmes and measures employed to help ***"pupils at risk"***

475. Programmes of preventive intervention and assistance intended to combat the drop-out phenomenon have been operating in 2000 in 70 schools, compared to 110 in 1996. Truant officers locate and work with pupils including drop-outs. In 2000, 47,000 pupils including 7,000 drop-outs, were reached by these activities, compared to 11,000 in 1996. Special activities are still undertaken to help reintegration of drop-outs in schools.

476. The "Day Boarding School" programme was developed in 1995. The aim of the programme is to advance the personal academic and educational achievements of weaker pupils.

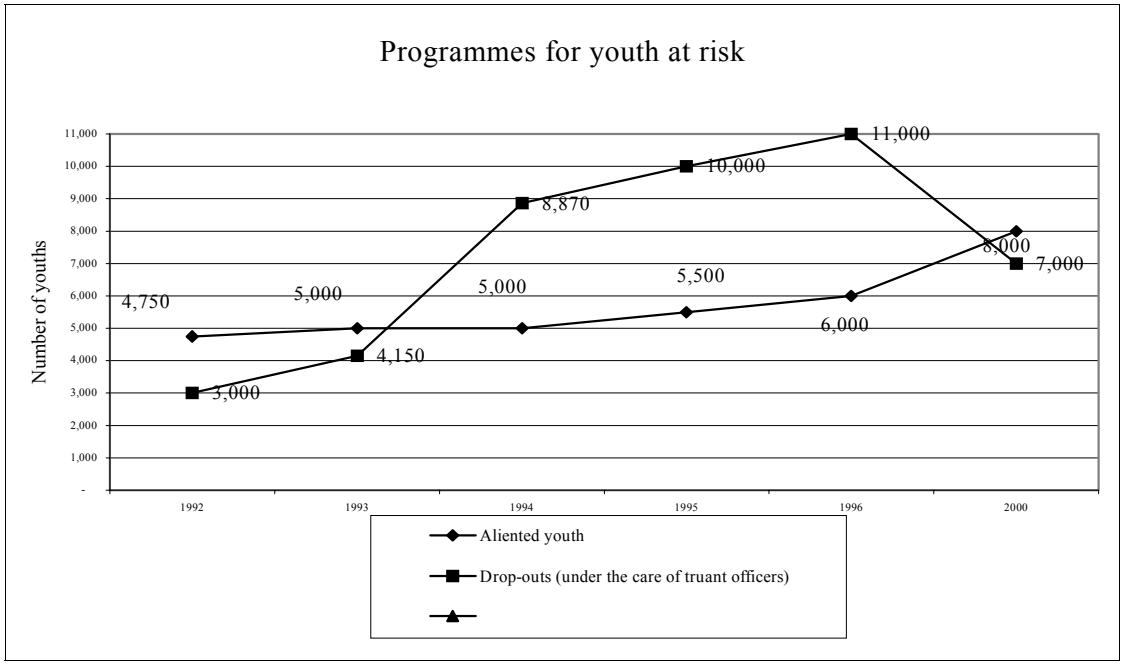
The programme's activities take place in schools and kindergartens, four days a week, 3-4 hours per day. The majority of the time is dedicated to educational activities (homework preparation and studies), and the rest to social activities and cultural enrichment. In 2000, 50,000 pupils participated in these activities.

477. "Children's home" programmes and afternoon-care centers in schools give pupils a place to stay after school hours, until the evening. In 2000, about 740 such programmes and centres were serving approximately 10,000 children, compared to 500 programmes serving 8,000 children in 1996. The Differential Benefits programme has not changed.

478. Individualized treatment is available as immediate assistance for pupils who are at high risk, especially those with a serious family background, who have dropped out of the system or who cannot be accepted within the system in their present condition. The educational intervention they receive is intensive for a short period of time, and long-term monitoring follows this until the child can adjust to being in school.

479. "Ometz" (faith in myself, ready to try, anticipating achievements) is a special curriculum that is challenging and fast paced, aimed at producing a positive learning experience that can motivate the pupils via impressive success and academic achievements. The programme is designed for pupils with eight or more failing grades, who perceive themselves as being incapable of achieving anything and who have no motivation to learn. In 2000, the programme took place in 130 schools.

Figure 9



Source: Ministry of Education.

Figure 10

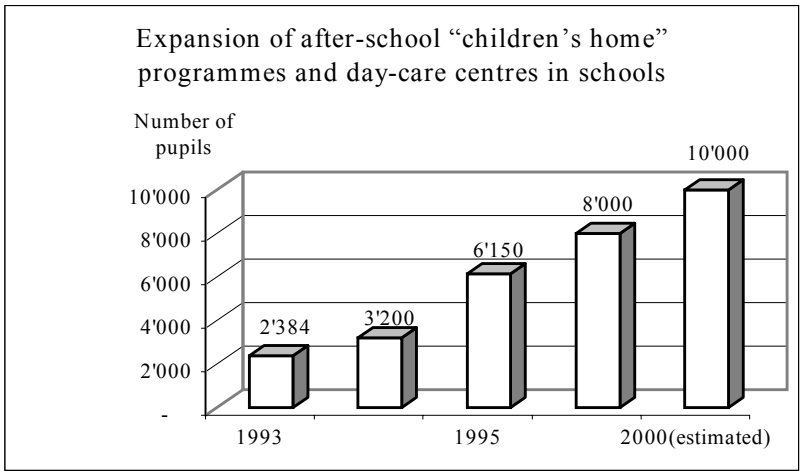
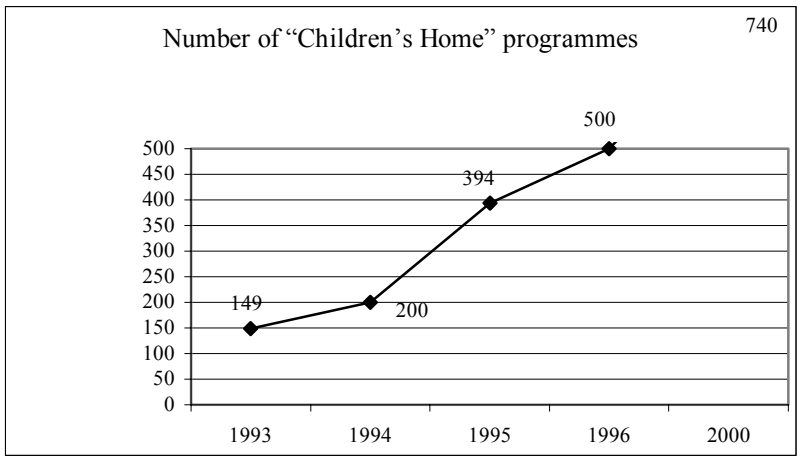


Figure 11



Source: Ministry of Education.

480. Differential benefits programme. There has been no notable change since the submission of Israel's initial report.

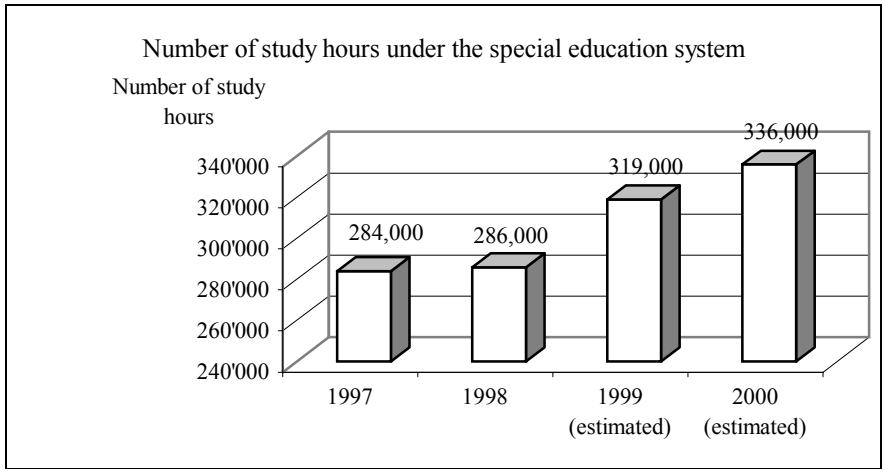
(c) Specific programmes of assistance offered to specified population groups

Children with learning and other disabilities

481. The number of students in the special education system decreased due to integration programmes, which integrate children with disabilities into the regular education system. The number of schooling hours available in the special education system increased. Moreover, the increase in resources allocated to special education has continued and in the 2000 budget NIS 1.7 billion (approximately $400 million) was allocated for this purpose.

482. In 2000, there were approximately 35,000 pupils aged 3-21 years in the various special education frameworks. In addition, about 90,000 pupils were integrated into the regular school system, but received special assistance from special education resources. It should be noted that from 1994 to 2000, the number of pupils in Israel enrolled in special education has declined by about 3,000 pupils.

Figure 12



Source: Ministry of Education.

Access for students with disabilities to schools

483. Ever since 1994, local authorities must provide certified architectural plans regarding schools that include four main elements which concern people with disabilities:

- New schools must have ramps and elevator shafts, for easier access;
- The first floor must contain a lavatory, especially designed for people with disabilities;
- In existing schools, the local authorities must ask for assistance from the Ministry of Education for installing special equipment to help people with disabilities to move up and down stairs;
- Towards the beginning of the school year, the school management must place students with disabilities in classes in the first floor.

Access to laboratories and libraries still constitutes a problem.

(d) Arab and Druze sectors

484. The reported gap between the Arab and Druze pupils and their Jewish counterparts is still evident. These sectors receive relatively higher rates of construction budgets as mentioned

earlier. Furthermore, the five-year programme begun in 1991 has ended after narrowing, but not closing, the gap. The Ministry of Education has therefore put affirmative action at the head of its agenda. In 1999, the Ministry of Education embarked on a new five-year programme and other activities. These are intended to equalize the educational and budgetary standards of these sectors to that of the Jewish education sector.

485. The Ministry of Education has allocated an extra budget of NIS 250 million (approximately $62.5 million), over a period of five years, beginning in the year 2000. A steering committee for the programme has determined a basic programme for its application, based on the recommendations of three different committees.

486. The programme's main goals include:

- Increasing the number of pupils eligible for matriculation;
- Reducing drop-outs;
- Increasing the amount of teaching classes;
- Improving the psychological assistance and the counselling sector;
- Improving the special education;
- Improving the technological education;
- Training the teaching, psychological and counselling staff.

487. The programme operated in the following areas in the year 2000:

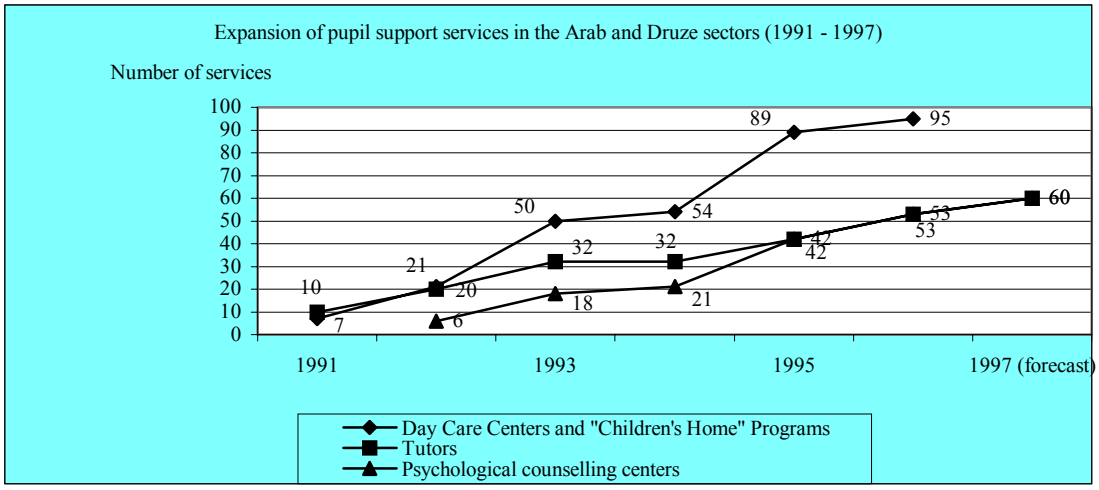
- It upgraded 1,526 computer stations;
- It gave scientific equipment to kindergartens and primary education schools;
- It increased the number of pupils eligible for matriculation;
- It developed curricula;
- It trained teaching staff.

488. This part of the report shows that significant discrepancies still exist between the Arab sector and the rest of the population, especially in post-secondary education. The gaps are even larger when observing only the female population (although there is no gap between female population in other sectors). Among the Arab sector, the number of students attaining matriculation is about half that of the Jewish sector, and among these only a quarter apply to universities. Among the Jewish population, only about 5.5 per cent do not work or study, compared to 14.3 per cent in the Arab population. Only about 25 per cent of the Arab sector

study in technological education, compared to about 30 per cent in the rest of the population. Half of the classes in Arab technological education are at a level of study not intended to qualify them to take the matriculation examinations.

489. These gaps are the reason for the policy of affirmative action taken by the Ministry of Education. An example of this affirmative action can be seen in the following chart:

Figure 13



Source: Ministry of Education.

(e) New immigrants

490. The policies on this issue remain unchanged, and no notable change occurred since the initial report. It should be noted that the Ministry for the Absorption of Immigration has programmes for helping immigrants, especially from Ethiopia, which include additional classes in several subjects. The overall budget for this purpose in the Ministry for the Absorption of Immigration and NGOs, is about NIS 300 million (approximately US$ 75 million).

(f) The Bedouin sector

491. With regard to the Bedouin population living in unrecognized villages, it should be emphasized that pupils there are entitled to the same level of education as all other pupils in Israel. For obvious reasons, it is impossible to build elementary and high schools in every village, whether recognized or not. Hence, 11 per cent of the pupils of Israel (Jews and non-Jews) learn in regional schools that serve rural localities. Thus, it is not uncommon that even recognized localities do not have their own local schools. Pupils in the non-Jewish sector who reside in localities that have no recognized municipal status attend schools in recognized localities. However, there are many more logistic difficulties in providing access to schools for pupils from unrecognized villages, since schools are built in accordance with approved zoning plans to meet primarily the needs of the recognized settlements. However, in any case, transportation services to schools are provided for most pupils in unrecognized villages.

492. Furthermore, the special situation of pupils from unrecognized villages is taken into consideration by the education authorities. The education system allocates extra resources (primarily study hours) to schools whose pupils suffer from environmentally caused academic deficiencies. A special index is used to determine the eligibility of schools to receive such additional resources and one of the criteria of this index in the non-Jewish sector is the inclusion of pupils from unrecognized villages. In other words, the higher the percentage of pupils who come from families that reside in unrecognized villages, the more resources are allocated to the school. Thus, schools with pupils from unrecognized villages receive additional teaching hours which enables them to deal with the specific problems of this population (most notably, poor domestic complementary studying conditions).

493. All the Bedouin pupils study in 53 primary schools and 10 secondary schools. In the unrecognized villages, there are 15 primary schools and 80 kindergartens for children from the age of three.

494. The education system in the Bedouin sector faces many difficulties that are partially the result of the Bedouin style of life in a plethora of unplanned settlements and their culture. Girls drop out of school at a young age because they get married or due to tradition. Boys leave the education system early to enter the work force. Polygamy (up to four to five wives per man) raises the birth rate (5 per cent per year), causes irreparable psychological damage to children, as well as unemployment, neglected and destroyed home and low educational achievements. Also, many Bedouin pupils want to receive a completion certificate at the end of 12 years of education, instead of a matriculation certificate. Nevertheless, in recent years there has been a remarkable improvement in the situation of the Bedouin education system. Some evidence:

(a) The number of pupils, and especially female pupils is continually increasing. This means that the phenomenon of dropping out of the school system is continually decreasing;

(b) The educational achievements in primary education have improved during the last two years due to an intensive programme of pedagogical intervention;

(c) A retired Jewish principal has been assigned to each school principal to guide him and instruct him both in the area of education and in management;

(d) A computerized centre has been established to reduce the phenomenon of dropping out of school. There is a computerized follow-up of pupils at risk and much effort is invested in bringing them back to their studies;

(e) Ben-Gurion University and the Kaye College have strengthened the teaching forces in the secondary education system in order to increase the number of pupils who receive matriculation certificates. Over the last three years the number of pupils receiving matriculation certificates has increased from 10 to 32 per cent;

(f) The number of Bedouin teachers in the system continues to increase. Today they constitute 60 per cent of all the teachers in the Bedouin educational sector system in contrast to four years ago when they comprised only 40 per cent of the teachers.

Table 76

Comparative statistics, according to years, in the Bedouin educational sector

Number of pupils

Year	Pupils
1998	40 006
1999	43 741
2000	47 253

Number of teachers

Year	Pupils
1998	1 721
1999	1 881
2000	2 150

Matriculation certificates

Year	Percentage of pupils receiving matriculation certificates
1998	15%
1999	29%
2000	30%

495. The Bedouin way of life in a plethora of unplanned clusters, and a number of connected factors, have affected the Bedouin educational system. Recently the Ministerial Committee for Arab Affairs decided to establish another 16 permanent villages for Bedouins, in addition to the 7 that already exist. The Ministry of Education has agreed to join this decision and will establish its institutions in these new villages. This has yet to be approved by the Knesset within the budget law for the year 2001.

496. The Bedouin residents will have to settle in one out of these 23 villages which presently exist or which are to be established. Thus, it is hoped that the phenomenon of the unrecognized villages will disappear.

(g) Specially targeted action

497. The Ministry of Education has identified 12 municipalities facing special problems in terms of educational achievements, and has developed a special programme involving the participation of the local communities to improve the situation in those targeted towns and villages. Each locality has defined its needs. The subjects were brought up in an inter-ministerial forum, and subjects were selected.

498. These include implementation of the Compulsory Education Law, 1949 for children ages 3-4, which means giving free education to these children (as mentioned above), and activating day boarding school centres in kindergartens.

499. The geographical dispersion of targeted localities include towns in the South (Dimona, Ofakim, Yeruham, Mizpe Ramon, Kiryat Gat, Tel Sheva), in the Centre/Tel Aviv (Ramle, Lod), and in the North (Beit Shean, Upper Nazareth, Acre).

Source: Ministry of Education.

Eastern neighbours of Jerusalem

500. The Ministry of Education and the municipality of Jerusalem have prepared an integrative programme for the furthering of education in the eastern neighbourhoods of Jerusalem. This programme began in 1999. The goals of this programme are: improving achievements in basic subjects; reducing the drop-out phenomenon; developing a local educational leadership; improving teaching; improving the educational environment, including introducing computers into the classrooms; and closing the gaps in services and posts.

7. Language facilities

501. As reported in Israel's initial report, adult new immigrants are offered basic Hebrew language classes in new immigrants' schools especially created to teach elementary Hebrew language skills. In 1998, 64,600 persons attended such schools. The reduction in the amount of those attending these schools is due to the reduction in the number of immigrants. Other than that, no notable change occurred since the submission of Israel's initial report.

8. Conditions of teaching staff

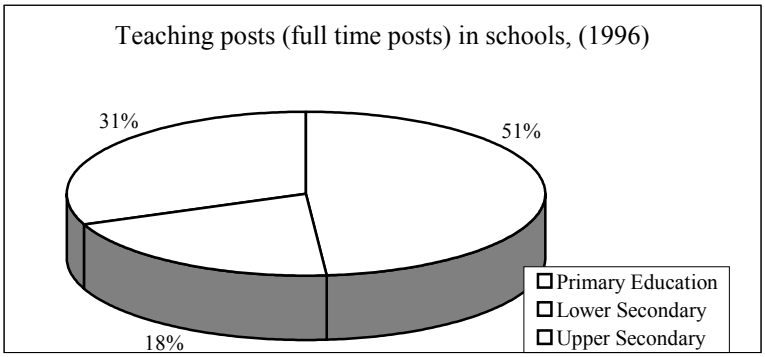
502. There are now approximately 86,000 full-time teachers in all levels of the Israeli primary and secondary system, compared to 80,000 reported in Israel's initial report. The following table demonstrates their distribution to sectors and school levels:

Table 77

Teaching posts (full-time) in schools, 1999

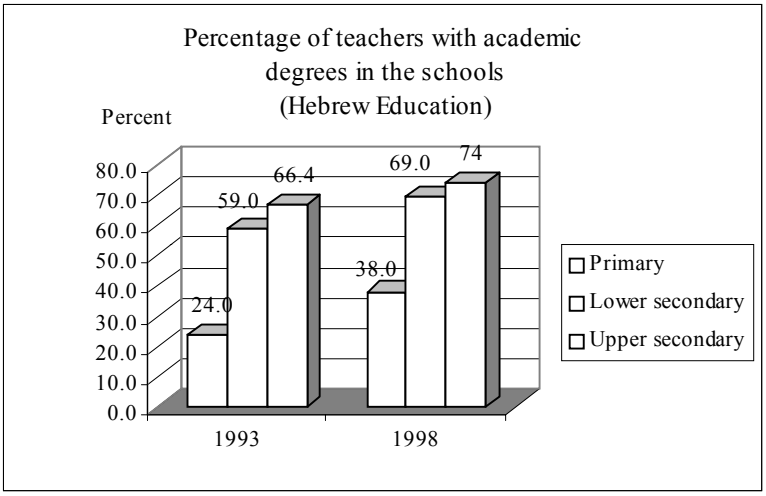
	Total	Hebrew education	Arab education
Total	85 700	69 800	15 900
Primary Education	41 700	32 900	8 800
Lower Secondary	17 300	14 100	3 200
Upper Secondary	26 700	22 800	3 900

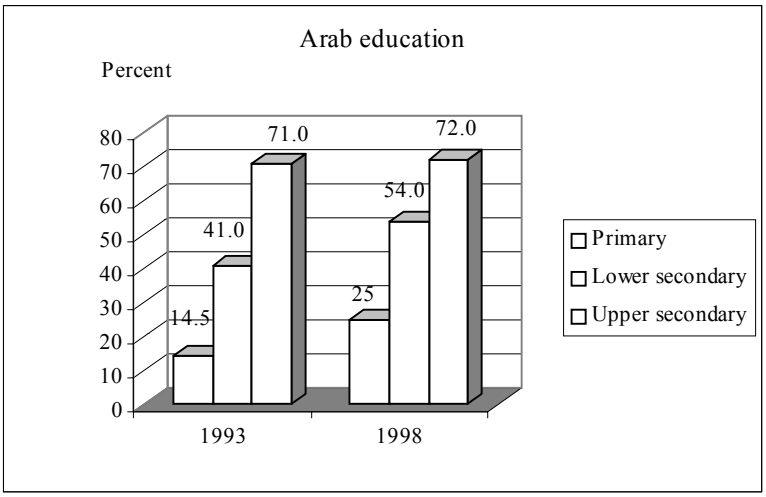
Figure 14



Source: Ministry of Education.

Figure 15





Source: Ministry of Education.

503. No notable changes have occurred on the issue of teachers' salaries since the submission of Israel's initial report.

9. Responsibility for the establishment and administration of schools

504. No notable changes have occurred on this issue since the submission of Israel's initial report.

Article 15: the right to take part in cultural life and enjoy scientific progress

The right to take part in cultural life: funding

505. The Ministry of Science, Culture and Sport, which is responsible for promoting culture in Israel, gives direct financial assistance to some 650 cultural and art institutions compared to the figure of 300 reported in Israel's initial report.

506. It should be noted that since Israel's initial report the Ministry of Education, Culture and Sport has been reorganized into two Ministries. The first is the Ministry of Education, whose activities were dealt with in article 13 above. The second is the Ministry of Science, Culture and Sport whose activities will be dealt with in the present article.

507. The budget of the Ministry of Science, Culture and Sport is presented in the following table:

Table 78

Participation of the Ministry of Science, Culture and Sport in the budgets of cultural institutions (2000)

(According to the budget for the year 2000, in thousands of NIS, and by per cent)

Field of Activity	Budget	Distribution by percentage
Total	375 200	100
Theatres	84 147	22
Music (Orchestras, Operas, Choirs, Institutions)	59 328	16
Museums, plastic arts	32 160	9
Research institutes and cultural centres	22 284	6
Dance	20 272	5
Film	18 338	5
Culture in Jerusalem	15 288	4

Table 78 (continued)

Field of Activity	Budget	Distribution by percentage
Schools of art	14 697	4
Literature journals	13 517	4
Financing the Senior Citizens Law - 1989	12 309	3
Ethnic heritage	12 081	3
Public libraries	10 882	3
Organizational expenditure, acquirements consulting and surveys	10 682	3
Omanut l'Am ("Art for the People" association)	9 576	3
Festivals	8 433	2
Druze and Arab culture	5 886	2
Reserve for Cultural activity	3 860	1
Renovation of cultural structures	3 175	1
Preservation sites	2 986	*
Cultural prizes	2 747	*
Cultural activity in neighbourhoods	2 344	*
Arts and crafts classes for amateurs	1 956	*
Grants and loans to artists	559	*
Israeli culture abroad	500	*

*Total of all the items marked with (*) amount to 4 per cent of the budget.

Table 79

National expenditure on culture, entertainment and sports and its financing by sector, type of expenditure and activity

	Financing sector (a)						Operating sector						
	Thereof:						Business	Private non-profit institutions	Governmental sector				
	Deficit of non-profit institutions	Local authorities	Government and national institutions	Households	Grand total				Non-profit institutions	Local authorities	Government and national institutions	Grand total	
	Percentages					NIS million	Percentages						NIS million
1990	-12.1	15.2	7.3	89.6	100.0	5 221.8	65.2	8.2	10.4	14.0	2.2	100.0	5 221.8
1991	1.8	16.0	6.5	75.7	100.0	6 625.2	64.9	10.7	8.6	14.0	1.8	100.0	6 625.2
1992	2.1	14.1	6.5	77.3	100.0	8 244.4	65.4	10.3	9.0	13.5	1.9	100.0	8 224.4
1993	2.4	13.6	6.5	77.5	100.0	9 870.9	66.6	8.9	7.5	15.1	1.8	100.0	9 870.9
1994	4.7	15.8	7.1	72.4	100.0	12 642.4	65.8	9.7	9.3	13.5	1.6	100.0	12 642.4
1995	5.1	14.4	6.1	74.3	100.0	16 406.8	67.7	10.5	8.2	12.0	1.4	100.0	16 406.8
1996	2.8	13.5	5.4	78.3	100.0	18 381.0	67.4	10.3	8.1	13.0	1.2	100.0	18 381.0
1997-Grand total	4.2	15.7	5.1	75.0	100.0	20 609.6	67.6	10.1	8.0	13.3	1.0	100.0	20 609.6
Current expenditure	4.2	11.3	4.8	79.8	100.0	19 447.7	71.6	10.4	7.8	9.3	0.9	100.0	19 447.7
Cultural heritage	16.6	18.8	15.6	49.0	100.0	782.2	5.4	50.1	38.2	6.7	0.2	100.0	782.2
Literature and printed matter	1.7	8.7	1.8	87.8	100.0	1 310.4	83.9	3.9	1.7	9.4	1.1	100.0	1 310.4
Music and performing arts	10.2	1.2	4.4	84.2	100.0	3 416.7	79.5	15.8	3.8	0.8	0.1	100.0	3 416.7
Visual arts	(32.2)	-	0.1	132.1	100.0	139.5	60.2	5.6	34.2	-	-	100.0	139.5

Table 79 (continued)

	Financing sector (a)						Operating sector						
	Thereof:						Business	Private non-profit institutions	Governmental sector				
	Deficit of non-profit institutions	Local authorities	Government and national institutions	Households	Grand total				Non-profit institutions	Local authorities	Government and national institutions	Grand total	
	Percentages					NIS million	Percentages						NIS million
Cinema and photography	(2.6)	-	3.0	99.6	100.0	1 108.6	98.4	0.4	0.2	-	1.1	100.0	1 108.6
Radio and television	-	-	-	100.0	100.0	4 620.6	100.0	-	-	-	-	100.0	4 620.6
Socio-cultural activities	11.2	35.2	31.4	22.1	100.0	1 696.6	-	14.4	50.3	27.5	7.8	100.0	1 696.6
Sports and games	4.8	8.3	1.2	85.8	100.0	3 444.9	78.8	11.5	3.6	5.6	0.5	100.0	3 444.9
Nature and environment	0.8	50.7	1.3	47.2	100.0	1 310.3	23.4	26.6	1.2	48.7	-	100.0	1 310.3
Gambling	-	-	-	100.0	100.0	1 253.7	100.0	-	-	-	-	100.0	1 253.7
General administration on non-apportionable activities	7.1	94.8	1.0	(2.9)	100.0	364.2	-	9.7	7.0	83.3	-	100.0	364.2
Fixed capital formation	4.5	90.4	10.3	(5.2)	100.0	1 161.9	-	5.4	11.7	80.9	2.0	100.0	161.9

(a) 1995 is the last year for which there are detailed data on financing of national expenditure on culture entertainment and sport.

Table 80

National expenditure on culture, entertainment and sports, by type of expenditure and activity

	National expenditure on culture as a percentage of G.D.P	Fixed capital formation	Thereof:								Current expenditure - total	Grand total
			General administration and non-apportionable activities	Gambling	Nature and environment	Sports and games	Socio-cultural activities	Radio and television, cinema and photography	Music and performing arts	Cultural heritage, literature and visual arts		
NIS million, at current prices												
1997	6.1	1 161.9	364.2	1 253.7	1 310.3	3 444.9	1 696.6	5 729.2	3 416.7	2 232.1	19 447.4	20 609.6
Percentages												
1990	5.0	5.4	0.9	6.4	8.1	11.0	12.1	22.8	26.5	12.2	94.1	100.0
1991	4.9	5.4	0.9	6.1	8.3	18.2	12.1	23.3	19.1	12.0	94.6	100.0
1992	5.1	5.9	1.1	5.8	8.4	13.7	11.5	23.0	24.2	12.4	94.1	100.0
1993	5.3	6.7	1.9	6.7	7.7	18.1	10.1	25.1	19.1	11.2	93.3	100.0
1994	5.6	5.9	2.0	7.7	7.7	19.1	9.8	25.7	16.8	11.3	94.1	100.0
1995	6.3	4.7	1.8	5.9	6.9	21.5	9.0	26.1	17.1	11.1	95.3	100.0
1996	6.1	5.2	1.9	6.2	7.0	21.3	8.9	25.1	17.2	12.3	94.8	100.0
1997	6.1	5.6	1.9	6.4	6.7	17.7	8.7	29.5	17.6	11.4	94.4	100.0
NIS million, at 1990 prices												
1990		306.3	42.1	313.4	396.9	542.5	592.5	1 121.1	1 304.2	602.9	4 915.6	5 221.9
1991		289.3	47.2	324.3	425.9	660.9	624.7	1 258.9	1 370.7	632.3	5 344.9	5 634.2
1992		423.6	59.6	336.0	477.0	687.0	642.5	1 469.5	1 440.4	697.4	5 809.4	6 233.0
1993		489.1	132.2	420.0	529.4	882.4	625.0	1 724.1	1 605.5	713.5	6 632.1	7 121.2
1994		590.2	138.6	550.4	572.3	1 038.1	686.4	2 328.2	1 715.5	772.2	7 531.7	8 121.9
1995		492.8	142.5	507	573.8	1 697.9	719.3	2 690.1	1 473.4	843.9	8 647.9	9 140.7
NIS million, at 1995 prices												
1995		774.1	281.1	925	1 080.1	3 361.1	1 404	4 079.8	2 670.3	1 831.3	15 632.7	16 406.8
1996		891.6	293.9	973.2	1 101.7	323.0	1 418.3	4 042.6	2 709.6	1 837.6	15 607.4	16 499.0
1997		969.5	300.8	1 035.5	1 091.4	2 957 6	1 440.2	4 894.7	2 888.7	1 849.2	16 458.1	17 427.6

508. It can be seen from table 93 that the total national expenditure on culture, recreation and sports has increased considerably. This is true for the years 1993 (the last year for which detailed data was provided in Israel's initial report) to 1997 (the last year for which there are detailed data on financing of national expenditure). This is also true for most individual cultural activities. Especially noteworthy is the positive change in the national expenditure on culture as a percentage of GDP. Despite this fact, the total budget of the Ministry of Science, Culture and Sport in the year 2000 is significantly less than reported in Israel's initial report. This is mainly due to the elimination of the Ministry's financing of the Israel Association of Community Centers. This is due to the reorganization of the Ministry since the initial report (reported at the beginning of this section). Notwithstanding this change in the Ministry's budget, the major expenditures have seen a mixed tendency.

509. There has been no notable change in the principal tools and projects for cultural promotion in Israel since the submission of its initial report, in the method of allocation of funds nor in the administrations and bodies acting in these areas in Israel other than those reported in the following paragraphs.

510. The Loan Fund for Productions programme has been cancelled.

511. The Omanut l'Am (Art for the People) Association mentioned in the initial report currently sponsors some 6,500 artistic activities held annually in all areas of the arts compared to 12,000 such activities as reported in Israel's initial report.

The institutional infrastructure of cultural life in Israel

512. There are now some 1,200 public library facilities in Israel as compared to the 950 reported in Israel's initial report, as well as school libraries and other libraries throughout the country. The number of museums in Israel has remained relatively unchanged. As reported in Israel's initial report, many other cultural institutions, in various areas of the arts, although not regulated by law, are actively supported by the State:

- Theatres -There are 27 established theatre groups in Israel performing in theatres throughout the country as compared to the 21 reported in Israel's initial report;

- Music - There are some 60 music-oriented organizations in Israel, including 24 orchestras, the Israel Opera, 22 choirs, music schools and many other organizations, representing an increase in the number reported in Israel's initial report;

- Dance - 21 dance groups, several dance academies and dance performance centres currently operate in Israel compared to 20 reported in Israel's initial report;

- The plastic arts - No significant change has occurred on this subject since the submission of Israel's initial report;

- Films - In the year 2000, the national Israel Film Council was established in order to fund, guide and promote film-making in Israel. In recent years, approximately 10 feature films and 30 documentary films are being produced annually in Israel;

- Literature - The Ministry of Science, Culture and Sport supports 3 more literary periodicals than reported in Israel's initial report for a total of 23 literary periodicals which are published every year, as well as some 15 literary projects.

513. The following table shows the positive change in the past few years in cultural and entertainment shows.

Table 81

Cultural and entertainment shows - theatres, orchestras and dance groups[a]

Spectators (thousands)		Runs	Work of art		Shows	Institutions[b]
			Thereof Israeli	Total		
Theatres						
1991	1 910.4	4 782	50	148	148	11
1992	2 029.8	5 046	65	159	159	11
1993	1 800.4	5 246	91	171	171	13
1994	1 888.6	4 987	73	145	145	12
1995	1 942.1	5 073	81	162	162	12
1996	2 110.8	5 208	107	183	183	12
1997	2 233.4	5 454	100	195	195	12
1998	2 704.3	6 388	147	218	218	16
1999	3 418.2	9 160	215	297	297	31
Orchestra and opera						
1991	708.2	852	50	715	303	13
1992	765.0	942	57	743	302	13
1993	1 006.2	937	33	574	285	12
1994	950.8	928	94	894	299	11
1995	1 098.0	1 063	53	803	341	12
1996	1 121.4	1 093	99	905	383	12
1997	1 161.2	961	67	832	311	11
1998	1 324.1	1 042	69	848	313	12
1999	1 203.4	1 546	167	1 400	437	26
Dance groups						
1991	311.8	599	69	95	105	8
1992	267.1	504	67	84	58	6
1993	327.7	645	62	91	81	7
1994	314.8	602	68	100	71	7

Table 81 (continued)

Spectators (thousands)		Runs	Work of art		Shows	Institutions[b]
			Thereof Israeli	Total		
1995	399.8	621	75	103	78	7
1996	294.2	628	87	117	108	7
1997	333.6	590	73	103	115	7
1998	413.1	610	50	69	122	8
1999	464.5	838	125	140	129	21

[a] Source: Centre for Cultural Information and Research.

[b] Institutions that reported.

Cultural identity and heritage of population groups

514. As reported in Israel's initial report, being a multi-cultural society, Israel assists various groups in preserving and promoting their cultural heritage.

Jewish cultural heritage

515. The annual budgeting allocations for the Ladino and Yiddish languages according to the laws reported in Israel's initial report currently amounts to approximately NIS 1.6 million, as compared to NIS 750,000 reported in the initial report.

Arab, Druze and Circassian cultural heritage

516. In the Druze sector, the State supports 3 professional and 3 amateur Druze theatre companies, 2 professional singing ensembles, and 12 representative dance companies, which is a significant increase compared to the figures reported in Israel's initial report.

Institutions involved in the promotion of cultural identity

517. There has been no notable change on the subject of museums focusing upon various population groups in Israel or on the subject of universities and research institutes since the submission of Israel's initial report.

The role of mass media and communication in promoting participation in cultural life

518. Legislation in the field of mass communications exists in a number of spheres. The Broadcasting Authority Law, 1965 regulates the activities of the Israel Broadcasting Authority (IBA), now responsible for 2 TV channels and 10 radio channels. The IBA now also broadcasts in a satellite channel, which mainly airs the sessions of the Israeli parliament (the Knesset) and its committees.

519. The Second Authority for Television and Radio Law, 1990 was amended in March 2000 to make it possible to establish another commercial TV channel (hereafter: "The Third

Channel"), in addition to the "Second Channel" reported in Israel's initial report, under the supervision of "Second Authority" (reported in the initial report). In 2000, the Second Authority for Television and Radio published a tender in search of prospective franchisers for the operation of an additional commercial channel ("the Third Television Channel"). The projected time for the beginning of the broadcasts of the Third Channel is the last quarter of the year 2001.

520. In addition, the said amendment has increased the amount of Israeli productions required in the broadcasts of the Second Channel to at least 40 per cent of all broadcasts (section 59a of the Law) compared to the current requirement of one third of all broadcasts.

521. In addition, the amendment has established a requirement for broadcasting programmes in the Arabic and Russian languages, through speech or translation. The required figure is not less than 50 per cent of the total broadcasts for each language (section 4 of the amendment). The amendment has also changed the Second Authority's functions and duties. They now include catering to the needs of the Arabic-speaking sector, promoting peace and understanding with neighbouring countries and to give a proper venue to the cultural diversity of the Israeli society (section 5 of the Second Authority Law).

522. There has been no notable change in the "Bezeq" Law, 1982 since the submission of Israel's initial report.

523. No notable change has occurred on the subjects of Educational Television, the Open University, foreign TV channels broadcasting in Israel through cable channel satellite and the Internet since the submission of Israel's initial report. No notable change has occurred on the subject of newspapers and similar, since the submission of Israel's initial report.

Preservation and display of mankind's cultural heritage

524. No change has occurred on this subject since the submission of Israel's initial report.

Freedom of artistic creation and performance

525. No change has occurred on this subject since the submission of Israel's initial report.

Professional education in culture and art

526. There are currently 21 professional post-secondary art schools, recognized by the Ministry of Science, Culture and Sport, which provide training in a variety of the artistic areas, as compared to 14 reported in Israel's initial report. Certain universities and colleges offer study programmes in the administration of cultural institutions, besides other programmes reported in Israel's initial report.

Other measures for conservation, development and diffusion of culture

527. No change has occurred on this subject since the submission of Israel's initial report.

International cultural cooperation

528. There are currently 35 public festivals held in Israel annually, compared to 30 reported in the initial report. Some of these festivals include the participation of many artistic groups from abroad.

Status of the Arabic language

529. Hebrew and Arabic are the official languages of the State of Israel (section 82, King's Order in Council on Palestine, 1922). This is also reflected in several provisions in Israeli law, which mandate the use of the two languages, cumulatively or alternatively in public life.

530. There have been four major changes in the status of the Arabic language since the submission of Israel's initial report:

(a) Official documents: Under directive number 21.556A of the Attorney-General, concerning the translation of official documents from Arabic, it is prohibited to demand that a citizen must translate into Hebrew an official document, which is in the Arabic language, such as a marriage certificate or a divorce certificate, as long as the certificate was issued by an authority which is recognized by the State of Israel. In addition, the Attorney-General's directive prescribes that the Government must now make its legal forms available in both Hebrew and Arabic;

(b) Vehicle licence plates: Under a specific directive issued by the Attorney-General to the Ministry of Transportation, new car licence plates may carry the name of the State of Israel in Arabic as well as in Hebrew. The aims of the new directive are to emphasize the official status of the Arabic language in Israel, as well as to increase consciousness of the needs of minorities in Israel;

(c) Publication of public tenders in Arabic: the Attorney-General has directed all the legal advisors in the civil service that all public tenders are to published in both an Arabic-language newspaper and a Hebrew one, as well as to be made available on the Internet. The directive stresses that it is prohibited to distinguish between public tenders according to their relevance to the Arab sector. Furthermore, the duty to translate the public tenders into Arabic rests on the Government;

(d) The Second Authority for Television and Radio Law, 1990 - The 2000 amendment of the law, already mentioned above, established a requirement for broadcasting programmes in the Arabic and Russian languages, through speech or translation. The required figure is not less than 50 per cent of the total broadcasts for each language (section 4 of the amendment), as reported above in this article in the section on the Second Authority for Television and Radio Law, 1990.

The enjoyment of scientific progress

Institutional promotion of research and development

531. The Ministerial Committee for Science and Technology and the Chief Scientists Forum are now headed by the Minister of Science, Culture and Sport. The implementation of Israel's research and development policy is divided between three different ministries:

- Basic research is now under the responsibility of the Ministry of Education. The general basic research budgeting policy is not decided by the ministry itself, but rather by an independent Council for Higher Education, as reported in Israel's initial report;

- Strategic-generic research and development is supervised by the Ministry of Science, Culture and Sport;

- Applied industrial research and development is under the authority of the Ministry of Industry and Trade, as reported in Israel's initial report.

The national research and development budget

532. No significant change occurred on this subject since the submission of Israel's initial report, as seen in the following tables.

Table 82

Expenditure of Government ministries on civilian research and development by type of expenditure*

Year	Transfers	Purchases of civilian R & D	Intramural expenses			Total
			Current expenses	Wages	Total	
	NIS million, at current prices					
1990	335	33	61	67	128	436
1991	443	33	63	81	150	532
1992	530	45	81	91	172	747
1993	727	41	76	110	188	956
1994	347	53	122	164	286	1 286
1995	1 133	54	113	175	288	1 457
1996	1 227	56	190	171	361	1 644
1997	1 588	64	181	170	351	2 003
1998	1 718	51	160	187	347	2 116
1999	2 111	69	179	196	375	2 554

* Source: The Central Bureau of Statistics.

Table 83

National expenditure on civilian research and development, by operating and financing sector*

	Operating sector				
	Private non-profit institutions	Higher education (1)	Government	Business	Total
	At current prices 1997				
Total - NIS million	556	2 346	972	6 920	10 794
- %	5.2	21.7	9.0	64.1	100.0
Financing sector					
Business	0.6	1.0	. .	54.3	55.9
Government	2.7	12.6	7.9	9.8	33.0
Higher education (1)	0.1	3.2	. .	. .	3.3
Private non-profit inst.	0.7	1.1	0.3	. .	2.2
Rest of the world	1.0	3.9	0.8	. .	5.7
	NIS million, at 1989 prices				
1990R	173	678	245	1 224	2 319
1991R	176	706	265	1 389	2 536
1992R	180	748	292	1 513	2 733
1993R	205	781	292	1 643	2 921
1994R	200	812	282	1 849	3 143
1995R	224	842	276	1 938	3 280
1996R	223	863	301	2 190	3 577
1997R*	230	903	294	2 369	3 796
1998*	243	945	299	2 559	4 046
1999*	252	992	299	2 818	4 361
	% change (2) on previous year				
1990R	5.7	6.5	-5.8	1.5	2.4
1991R	1.8	4.2	8.2	13.5	9.3
1992R	2.3	5.9	10.2	8.9	7.8
1993R	13.9	4.4	0.0	8.6	6.9
1994R	-2.4	4.0	-3.4	12.5	7.6
1995R	12.0	3.7	-2.1	4.8	4.4
1996R	-0.4	2.5	9.1	13.0	9.1
1997R*	3.1	4.6	-2.3	8.2	6.1
1998R*	5.7	4.7	1.7	8.0	6.6
1999*	3.7	5.0	0.0	10.1	7.8

* Source: The Central Bureau of Statistics.

Table 84

Expenditure on separately budgeted research in universities by scientific field, institution and source of funding

At 1997-1998 prices

	1997/98	1995/96	1993/94	1992/93
	NIS million			
Total (1)	813.2	767.5	743.4	674.5
	Percentages			
Total	100.0	100.0	100.0	100.0
Scientific field				
Natural sciences and mathematics	52.0	49.3	54.7	53.4
Engineering and architecture	12.8	12.0	12.2	13.0
Agriculture	5.5	5.0	4.7	5.7
Medicine and paramedical courses	6.4	6.6	8.5	8.6
Social sciences and other	23.3	27.1	19.9	19.3
Institution				
The Hebrew University	30.2	31.6	31.5	32.3
Technion R & D Foundation	12.3	14.4	13.9	14.7
Tel Aviv University	16.3	13.5	15.4	12.8
Bar-Ilan University	6.7	6.9	4.8	4.2
Haifa University	3.6	2.9	0.7	0.9
Ben Gurion University of the Negev	10.6	10.4	12.2	12.4
Weizmann Institute of Science	20.5	20.2	21.5	22.8
Source of financing				
Internal sources - total	20.4	22.3	20.5	21.6
External sources - total	79.6	77.7	79.5	78.4
Israel - total	54.2	53.3	50.8	46.6
Public	35.2	39.0	32.0	29.5
Business	7.5	5.3	7.9	8.0
Private - non-profit institutions	2.1	2.3	4.8	2.2
Universities	0.9	1.2	0.8	1.2
Long-term national funds	6.6	4.9	4.0	4.6
Unknown	1.9	0.7	1.2	1.1
Abroad	15.2	13.6	17.8	20.3
Bi-national funds	10.2	10.8	10.9	11.3

Source: The Central Bureau of Statistics.

Support of scientific activity and dissemination of scientific knowledge

Special projects

533. The Government of Israel still supports several programmes designed to promote unique scientific activity and disseminate scientific knowledge.

Ministry of Science, Culture and Sport projects

534. No change has occurred on this subject since the submission of Israel's initial report.

Ministry of Trade and Industry projects

535. No notable change has occurred on this subject since the submission of Israel's initial report.

The Agricultural Research Administration

536. No notable change has occurred on this subject since the submission of Israel's initial report.

Research grants and scholarships

537. No notable change has occurred on this subject since the submission of Israel's initial report.

Publications

538. No notable change has occurred on this subject since the submission of Israel's initial report.

Freedom of scientific research and creative activity

539. No notable change has occurred on this subject since the submission of Israel's initial report.

International cooperation

540. No notable change has occurred on this subject since the submission of Israel's initial report.

The legal protection given to intellectual property

541. No notable change has occurred on this subject since the submission of Israel's initial report.

Notes

[1] Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (28 September 1995).

[2] The Wye River Memorandum signed on 23 October 1998, and the Sharm-el-Sheikh Memorandum of 4 September 1999.

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UNITED NATIONS **E**

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COMMITTEE ON ECONOMIC, SOCIAL
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13-31 August 2001

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

ISRAEL

1. At its 39th meeting, held on 17 August 2001, the Committee considered the additional information (E/1989/5/Add.14) submitted by the State party in response to the request made by the Committee in its concluding observations (E/C.12/1/Add.27, para. 32) adopted at its nineteenth session in 1998 with respect to the initial report of Israel on the implementation of the Covenant (E/1990/5/Add.39) and adopted, at its 47th meeting, held on 23 August 2001, the following concluding observations.

2. In paragraph 32 of its concluding observations on the initial report of Israel, the Committee requested the State party "to provide additional information on the realization of economic, social and cultural rights in the occupied territories, in order to complete the State party's initial report and thereby ensure full compliance with its reporting obligations". The Committee requested that the additional information be submitted in time for its twenty-fourth session in November/December 2000.

3. In a note verbale dated 3 November 2000, the Permanent Mission of Israel to the United Nations Office at Geneva informed the Committee that the additional information would be included in the State party's second periodic report, which the State party planned to submit no later than March 2001.

4. In a letter dated 1 December 2000 to the Permanent Representative of Israel (E/2001/22-E/C.12/2000/21, annex X), the Chairperson of the Committee reminded the State party that the Committee had called for the additional information to be submitted in time for the twenty-fourth session and emphasized that some of the additional information concerning the occupied territories had been requested "in order to complete the State party's initial report and thereby ensure full compliance with its reporting obligations". Since the additional information formed part of the State party's initial report, it should be submitted, and would be considered, separately from the State party's second periodic report.

5. The Chairperson urged the State party to submit by 1 March 2001 up-to-date information on the realization of economic, social and cultural rights in the occupied territories, giving particular attention to the issues that were identified in the concluding observations, as well as those mentioned in the letter. The Committee scheduled its consideration of the additional information for the afternoon of 4 May 2001 and invited the State party to participate in the discussion.

6. The additional information was received on 20 April 2001, too late for it to be translated into the working languages of the Committee, as required by rule 24 of its rules of procedure, for the twenty-fifth session. Consequently, the consideration of the additional information had to be postponed again to the Committee's extraordinary session in August 2001. The State party was informed of the deferral in a letter dated 11 May 2001.

7. At its twenty-fifth session, the Committee invoked rule 64 of its rules of procedure, which provides that the Committee may make suggestions and recommendations of a general nature on the basis of its consideration of reports submitted by States parties and reports submitted by specialized agencies, in order to assist the Economic and Social Council to take action in pursuance of articles 21 and 22 of the Covenant. Accordingly, the Chairperson addressed a letter (E/2001/77) dated 11 May 2001 to the President of the Council, enclosing a copy of a letter of the same date addressed to the State party citing alleged violations of the Covenant which had been brought to the Committee's attention.

8. In a note verbale dated 14 August 2001, the Permanent Mission of Israel to the United Nations Office at Geneva informed the Committee that owing to complications concerning preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance scheduled to take place in Durban, South Africa, the delegation of the State party would be unable to travel to Geneva to attend the Committee's extraordinary session. The State party also informed the Committee that it had submitted its second periodic report and requested that the additional information previously submitted to the Committee be considered together with the second periodic report at a future session of the Committee.

9. At its 39th meeting, on 17 August 2001, a representative of the Government of Israel read a statement before the Committee, but declined to participate in the consideration of the additional information that was scheduled for that meeting. The Committee therefore decided to proceed with the consideration of the additional information in accordance with the decision taken at its twenty-fifth session.

10. The Committee noted that the additional information submitted by the State party did not include information on the realization of economic, social and cultural rights in the occupied territories, except in relation to East Jerusalem. In the absence of such information in relation to the other occupied territories, and in accordance with its procedure concerning reports that had not been submitted or were overdue, which the Committee had begun to apply at its ninth session, the Committee proceeded to discuss the situation in the occupied territories. This would complete the consideration of the State party's initial report.

11. The Committee deplores the State party's refusal to report on the occupied territories and the State party's position that the Covenant does not apply to "areas that are not subject to its sovereign territory and jurisdiction". The Committee's views on this issue have already been firmly expressed in its previous concluding observations (E/C.12/1/Add.27). The Committee notes the statement of the State party in paragraph 5 of the additional information it submitted to the Committee, that powers and responsibilities "continue to be exercised by Israel in the West Bank and Gaza Strip" according to agreements reached with the Palestinians.

12. The Committee rejects the State party's assertion regarding the distinction between human rights and humanitarian law under international law to support its argument that the Committee's mandate "cannot relate to events in the Gaza Strip and West Bank". The Committee reminds the State party that even during armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights as part of the minimum standards of human rights are guaranteed under customary international law and are also prescribed by international humanitarian law.

13. The Committee expresses its deep concern about the State party's continuing gross violations of economic, social and cultural rights in the occupied territories, especially the severe measures adopted by the State party to restrict the movement of civilians between points within and outside the occupied territories, severing their access to food, water, health care, education and work. The Committee is particularly concerned that on frequent occasions, the State party's closure policy has prevented civilians from reaching medical services and that emergency situations have ended at times in death at checkpoints. The Committee is alarmed over reports that the Israeli security forces have turned back supply missions of the International Committee of the Red Cross and the United Nations Relief and Works Agency for Palestine Refugees in the Near East attempting to deliver food, water and medical relief to affected areas.

14. The Committee continues to be concerned that the State party's Law of Return denies indigenous Palestinian refugees the right to return to their homes and properties.

15. The Committee urges the State party to exercise its powers and responsibilities to put an end to the violence, the loss of human lives and the restrictions imposed on the movement of

civilians between points within and outside the occupied territories. In this regard, the Committee urges the State party to implement without delay its obligations under the Covenant and to desist from decisions and measures resulting in violations of the economic, social and cultural rights of the population living in the occupied territories. The Committee expresses its firm conviction that the implementation of the International Covenant on Economic, Social and Cultural Rights can play a vital role in procuring a lasting peace in Israel and Palestine.

16. The Committee reiterates its request that the State party provide information on the realization of economic, social and cultural rights in all occupied territories. This information should be submitted in time for it to be considered together with the State party's second periodic report, which is tentatively schedule for the thirtieth session of the Committee in April/May 2003. The rest of the information already submitted will be considered together with the second periodic report.

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AND CULTURAL RIGHTS
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5-23 May 2003

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

Israel

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Israel on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.32) at its 17th, 18th and 19th meetings, held on 15 and 16 May 2003 (E/C.12/2003/SR.17, 18 and 19), and adopted, at its 29th meeting, held on 23 May 2003 (E/C.12/2003/SR.29), the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of the State party, which was prepared in general conformity with the Committee's guidelines. The Committee appreciates the extensive written replies to the list of issues, as well as the readiness of and efforts made by the high-level delegation to respond to the oral questions. The members of the delegation were knowledgeable with respect to most of the Covenant rights, but the Committee regrets that a number of the questions it posed during the dialogue remained unanswered.

3. The Committee notes with appreciation the large amount of information received from non-governmental organizations concerning the implementation of the Covenant in the State party.

B. Positive aspects

4. The Committee welcomes the steps undertaken by the State party to implement the Multiyear Plan for the Development of Arab Sector Communities (2000), aimed at closing the gap between Jews and Arabs by promoting equality in the enjoyment of economic, social and cultural rights.

5. The Committee notes with appreciation the various affirmative action measures taken, as mentioned in the State party's replies to the list of issues, with respect to various disadvantaged sectors such as the Arab Druze, Circassian and Bedouin communities, despite the decline in economic growth in the State party in recent years.

6. The Committee further notes with appreciation that the Supreme Court's rules of standing have been relaxed, allowing any person, regardless of citizenship, residency or other status, who contends that his or her rights were unlawfully denied or infringed, formal access to the Court, and allowing even for an *actio popularis*. In particular, the Committee particularly appreciates that in the State party, plaintiffs seeking remedy for alleged violations of economic, social and cultural rights have access to and can make use of the judiciary system, which provides opportunities for the justiciability of the rights enshrined in the Covenant. In this regard, the Committee welcomes the information given on cases before the courts, in which reference has been made to Covenant provisions.

7. The Committee further notes the amendment to the Women Equal Rights Act in April 2000.

8. The Committee welcomes the improvements in the conditions for foreign workers, allowing them to change employers for the legal duration of their stay, prohibiting employers from withholding workers' passports, as well as the regulations regarding the system of compulsory health insurance for these foreign workers.

9. The Committee notes that, while gaps still remain, the State party has achieved some positive results towards expanding basic education and special education for non-Jewish sectors.

10. The Committee notes with appreciation the efforts undertaken by the State party to address the problem of trafficking and exploitation of persons, such as the criminalization of trafficking, increased penalties for trafficking of minors, and the enhanced cooperation between government agencies to combat trafficking with a victim-sensitive approach.

C. Factors and difficulties impeding the implementation of the Covenant

11. The Committee reiterates its statement made in previous concluding observations that Israel's continuing emphasis on its security concerns, which have even increased in recent years, has impeded the realization of economic, social and cultural rights within Israel and the occupied territories.

D. Principal subjects of concern

12. The Committee notes with regret that a number of the issues raised in its concluding observations of 1998 (E/C.12/1/Add.27) and 2001 (E/C.12/1/Add.69) remain outstanding issues of concern. In this regard, the Committee reiterates its concerns raised in 1998 (E/C.12/1/Add.27, paras. 11, 25, 26 and 28) and in 2001 (E/C.12/1/Add.64, para. 14).

13. Despite the positive measures mentioned in paragraph 6 of the present concluding observations, the Committee reiterates its concern that the Covenant has not been incorporated in the domestic legal order, and can therefore not be directly invoked before the courts.

14. The Committee regrets that the judgement of the *Qa'dan* case has still not been implemented.

15. The Committee also reiterates its concern about the State party's position that the Covenant does not apply to areas that are not subject to its sovereign territory and jurisdiction, and that the Covenant is not applicable to populations other than the Israelis in the occupied territories. The Committee further reiterates its regret at the State party's refusal to report on the occupied territories (E/C.12/1/Add.27, para. 11). In addition, the Committee is deeply concerned at the insistence of the State party that, given the circumstances in the occupied territories, the law of armed conflict and humanitarian law are considered as the only mode whereby protection may be ensured for all involved, and that this matter is considered to fall outside the sphere of the Committee's responsibility.

16. The Committee is deeply concerned about the continuing difference in treatment between Jews and non-Jews, in particular Arab and Bedouin communities, with regard to their enjoyment of economic, social and cultural rights in the State party's territory. The Committee reiterates its concern that the "excessive emphasis upon the State as a 'Jewish State' encourages discrimination and accords a second-class status to its non-Jewish citizens" (ibid., para. 10). This discriminatory attitude is apparent in the continuing lower standard of living of Israeli Arabs as a result, inter alia, of higher unemployment rates, restricted access to and participation in trade unions, lack of access to housing, water, electricity and health care and a lower level of education, despite the State party's efforts to close the gap. In this regard, the Committee expresses its concern that the State party's domestic legal order does not enshrine the general principles of equality and non-discrimination.

17. The Committee is concerned that in spite of the enactment of the Equal Rights for People with Disabilities Law in 2000, the majority of its provisions have not been implemented. The situation is aggravated for persons with disabilities from the Arab sector.

18. The Committee is particularly concerned about the status of "Jewish nationality", which is a ground for exclusive preferential treatment for persons of Jewish nationality under the Israeli Law of Return, granting them automatic citizenship and financial government benefits, thus resulting in practice in discriminatory treatment against non-Jews, in particular Palestinian refugees. The Committee is also concerned about the practice of restrictive family reunification with regard to Palestinians, which has been adopted for reasons of national security. The Committee reiterates its concern in this regard (ibid., para. 13 and E/C.12/1/Add.69, para. 14).

19. The Committee deeply regrets the refusal of the State party to provide in its second periodic report additional information on the living conditions of population groups other than Israeli settlers in the occupied territories as requested in its 2001 concluding observations. The Committee continues to be gravely concerned about the deplorable living conditions of the Palestinians in the occupied territories, who - as a result of the continuing occupation and subsequent measures of closures, extended curfews, roadblocks and security checkpoints - suffer from impingement of their enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular access to work, land, water, health care, education and food.

20. The Committee expresses its concern about the general increase in unemployment in the State party, which rose from 6.7 per cent in 1996 to 10.5 per cent in 2002, as well as about the significant increase in unemployment of the non-Jewish sectors: 13.5 per cent for the Arab sector and more than 15 per cent for the Bedouin sector. The Committee also expresses concern about the rate of unemployment in the occupied territories, which is over 50 per cent as a result of the closures which have prevented Palestinians from working in Israel.

21. The Committee is concerned about the persisting inequality in wages of Jews and Arabs in Israel, as well as the severe under-representation of the Arab sector in the civil service and universities.

22. The Committee is concerned about the fact that it is extremely difficult for Palestinians living in the occupied territories and working in Israel to join Israeli trade unions or to establish their own trade unions in Israel.

23. The Committee expresses concern about the fact that the Jewish religious courts' interpretation of personal status law with respect to divorce is discriminatory as regards women, especially the regulation that allows the husband to remarry even when the wife is opposed to the divorce, whilst the same rules do not apply to the wife.

24. The Committee is particularly concerned about information received concerning the construction of a "security fence" around the occupied territories, which allegedly would infringe upon the surface area of the occupied territories and which would limit or even impede access by Palestinian individuals and communities to land and water resources. The Committee regrets the fact that the delegation did not respond to questions by the Committee concerning the security fence or wall during the dialogue.

25. The Committee is particularly concerned about limited access to and distribution and availability of water for Palestinians in the occupied territories, as a result of inequitable management, extraction and distribution of shared water resources, which are predominantly under Israeli control.

26. The Committee reiterates its grave concern about the continuing practices by the State party of home demolitions, land confiscations and restrictions on residency rights, and its adoption of policies resulting in substandard housing and living conditions, including extreme overcrowding and lack of services, of Palestinians in East Jerusalem, in particular in the old city (E/C.12/1/Add.27, para. 22). Furthermore, the Committee is gravely concerned about the continuing practice of expropriation of Palestinian properties and resources for the expansion of Israeli settlements in the occupied territories (ibid., para. 24).

27. The Committee continues to be concerned about the situation of Bedouins residing in Israel, and in particular those living in villages that are still unrecognized (ibid., para. 28). Despite measures by the State party to close the gap between the living conditions of Jews and Bedouins in the Negev, the quality of living and housing conditions of the Bedouins continue to be significantly lower, with limited or no access to water, electricity and sanitation. Moreover, Bedouins continue to be subjected on a regular basis to land confiscations, house demolitions, fines for building "illegally", destruction of agricultural crops, fields and trees, and systematic harassment and persecution by the Green Patrol, in order to force them to resettle in "townships". The Committee is also concerned that the present compensation scheme for Bedouins who agree to resettle in "townships" is inadequate.

E. Suggestions and recommendations

28. The Committee urges the State party to take into consideration the subjects of concern and to give effect to the recommendations contained in its 1998 and 2001 concluding observations.

29. The Committee urges the State party to undertake steps towards the incorporation of the Covenant and its provisions in the domestic legal order. The Committee refers the State party to its general comment No. 9 on the domestic application of the Covenant.

30. The Committee urges the State party to undertake steps to facilitate the implementation of the judgement in the *Qa'dan* case.

31. The Committee recognizes that the State party has serious security concerns, which must be balanced with its efforts to comply with its obligations under international human rights law. However, the Committee reaffirms its view that the State party's obligations under the Covenant apply to all territories and populations under its effective control. The Committee repeats its position that even in a situation of armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law and are also prescribed by international humanitarian law. Moreover, the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under article 2 (1) for the actions of its authorities. The Committee therefore requests that the State party provide more extensive information on the enjoyment of economic, social and cultural rights enshrined in the Covenant by those living in the occupied territories in its next periodic report.

32. The Committee reiterates its recommendation that the State party take steps to ensure equality of treatment for all Israeli citizens in relation to all Covenant rights (ibid., para. 34).

33. The Committee urges the State party to undertake effective measures to combat discrimination against persons with disabilities, especially by providing access to public facilities and promoting access to basic services and employment, with particular attention to persons with disabilities from the Arab sector.

34. The Committee reiterates its recommendation (ibid., para. 36) that in order to ensure equality of treatment and non-discrimination, the State party undertake a review of its re-entry and family reunification policies for Palestinians.

35. The Committee reiterates its request that the State party provide detailed information on the enjoyment of economic, social and cultural rights of all population groups living in the occupied territories in its next periodic report (ibid., para. 46 and E/C.12/1/Add.69). The Committee also calls upon the State party to give full effect to its Covenant obligations and, as a matter of the highest priority, to undertake to ensure safe passage at checkpoints for Palestinian medical staff and people seeking treatment, the unhampered flow of essential foodstuffs and supplies, free movement to places of employment, and the safe conduct of students and teachers to and from schools (E/C.12/1/Add.27, para. 39).

36. The Committee recommends that the State party take effective measures to reduce the rate of unemployment, and pay particular attention to reducing the inequalities between the Jewish and non-Jewish sectors with respect to employment. The Committee further recommends that the State party ensure that workers living in the occupied territories are permitted to continue to work in Israel.

37. The Committee strongly recommends that the State party take measures to reduce the inequalities in wages between Jews and Arabs, in conformity with the principle of equal pay for work of equal value, as enshrined in article 7 of the Covenant.

38. The Committee recommends that the State party take steps to ensure that all workers working in Israel can exercise their trade union rights, in accordance with article 8 of the Covenant.

39. The Committee recommends that the State party take steps to modify the Jewish religious courts' interpretation of the law concerning divorce to ensure equality between men and women, as provided for in article 3 of the Covenant.

40. The Committee urges the State party to ensure that any security measure it adopts does not disproportionally limit or impede the enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular access to land and water resources by Palestinians, and that adequate restitution and compensation are provided to those who have incurred damage to and loss of property and lands as a result of these security measures.

41. The Committee strongly urges the State party to take immediate steps to ensure equitable access to and distribution of water to all populations living in the occupied territories, and in particular to ensure that all parties concerned participate fully and equally in the process of water management, extraction and distribution. In that connection, the Committee refers the State party to its general comment No. 15 on the right to water.

42. Reiterating its earlier recommendation (ibid., para. 41), the Committee urges the State party to cease the practices of facilitating the building of Israeli settlements,

expropriating land, water and resources, demolishing houses and carrying out arbitrary evictions. The Committee also urges the State party to take immediate steps to respect and implement the right to an adequate standard of living, including housing, of the Palestinian residents of East Jerusalem and the Palestinian Arabs in cities with mixed populations. The Committee recalls in this connection its general comments No. 4 (the right to adequate housing) and No. 7 (forced evictions). The Committee requests the State party to provide detailed information on this issue in its next periodic report.

43. The Committee further urges the State party to recognize all existing Bedouin villages, their property rights and their right to basic services, in particular water, and to desist from the destruction and damaging of agricultural crops and fields, including in unrecognized villages. The Committee further encourages the State party to adopt an adequate compensation scheme for Bedouins who have agreed to resettle in "townships".

44. The Committee encourages the State party to continue to provide human rights education in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary.

45. The Committee also encourages the State party to develop the system of mixed schools for Jewish and Arab pupils, in order to promote understanding, tolerance and friendship among the citizens of the country.

46. The Committee requests the State party to disseminate its concluding observations widely among all levels of society and to inform the Committee of all steps taken to implement them in its next periodic report. It also encourages the State party to continue to consult with non-governmental organizations and other members of civil society when preparing its third periodic report.

47. The Committee requests the State party to submit its third periodic report by 30 June 2008.

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Committee on Economic, Social and Cultural Rights

Implementation of the International Covenant on Economic, Social and Cultural Rights

Third periodic reports submitted by States parties under articles 16 and 17 of the Covenant

Israel*

[20 January 2009]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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Introduction

1. This is the Third Periodic Report of the Government of the State of Israel, submitted to the United Nations Committee on Economic, Social and Cultural Rights, in accordance with the requirements of articles 16–17 of the International Covenant on Economic, Social and Cultural Rights. (hereinafter referred to as the "Covenant" or the "CESCR"). This report has been compiled by the Human Rights and Foreign Relations Department at the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other Government bodies. Israeli Non-Governmental Organizations ("NGOs") were also invited to submit comments prior to the compilation of the present report, both through direct application, and a general invitation to submit remarks posted on the Ministry of Justice website. Their contributions were given substantial consideration.

2. Since the submission of the Second Periodic Report (UN document – E/1990/6/Add.32), many legislative, administrative and judicial developments relevant to the implementation of the Covenant occurred. A short summary of the main changes is included below. This report provides a comprehensive account of these developments. It also addresses the comments made in the concluding observations by the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.90) dated May 23, 2003.

3. In terms of legislation, since the submission of Israel's previous periodic report, noteworthy steps have been taken to promote economic, social and cultural rights issues. Some of the more prominent new laws include the *Increasing Participation in the Work force and* Reducing *Social Gaps (Negative Income Tax) Law* 5767-2007, (the *"Increasing Participation in the Work force and Reducing Social Gaps (Negative Income Tax) Law")* which endeavours to reduce poverty and increase work force participation rates, providing remuneration for labor to low income-earners. In accordance with an amendment to the *Equal Employment Opportunities Law* 5748-1988, dated January 3, 2006, an Equal Employment Opportunities Commission was established within the Ministry of Industry, Trade and Labor.

4. In 2008, the Knesset enacted the Encouragement of the Advancement and Integration of Women in the Work force and the Adjustment of Work places to Women's Needs Law 5768-2008, (the "Encouragement of the Advancement and Integration of Women in the Work force and the Adjustment of Work places to Women's Needs Law") granting monetary incentives to employers in the private sector who endeavour to integrate and promote women in their business, as well as employers who modify the workplace and work conditions to the needs of women and parents.

The Women's Employment Law 5714-1954 (the "Women's Employment Law"), was amended several times between 2006 and 2008, to ensure a full range of rights for working women, including different aspects of job security (further detailed below) as well as further elaborating and enhancing the maternity protection of women.

In 2007, the Knesset enacted the Gender Implications of Legislation Law (Legislative Amendments) 5676-2007 (the "Gender Implications of Legislation Law"), which imposes a duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset.

In 2008, the Law of Execution, 5678-2008, was amended (Amendment no. 29) in order to strengthen the protection provided by the Law to the right to adequate housing, stipulating that in situations of evictions due to debt, mortgage or pledge, the provision of an alternative housing prior to the eviction is obligatory.

In 2007, The *Compulsory Education Law* 5709-1949, was amended in order to mandate compulsory education to youth between the ages of 15–17 (inclusive) – attending the 11th and 12th grades.

The *Free* Education *for Sick Children Law* 5761-2001, was enacted in 2001, aimed at advancing equal opportunity in education for sick children and providing a suitable educational framework for children in hospitals or at home due to long term illness.

5. The fundamental rights protected by the Covenant are effectively protected through *legislation*, judicial decisions and otherwise. However, Israel has not enacted any further basic laws (*Israel's* constitutional law) on economic, social and cultural rights since the submission of its previous periodic reports.

6. With respect to judicial decisions, the Supreme Court has continued to play a major role in the implementation of the rights protected by the Covenant. In 2005, while addressing the issue of standard of living, the Supreme Court residing as High Court of Justice *held* that the State is obligated to maintain a 'safety net' designed to ensure that the condition of the underprivileged would not deteriorate to one of existential deprivation in the sense of a shortage in food, places of residency, sanitation, health-care services and such (H.C.J 366/03 *The Commitment to Peace and Social Justice Association v. The Minister of Finance*).

On November 21, 2006, the Supreme Court took the laudatory step of recognizing civil marriages which had taken place between Jewish Israeli residents and citizens outside of Israel (H.C.J 2232/03 Anonymous v. The Rabbinical Court of Appeals).

Several important Judiciary developments have occurred since the submission of Israel's previous report, broadening the meaning of family in administrative practice, with regard to same-sex couples. On November 21, 2006, the Supreme Court handed down a landmark decision concerning the rights of same-sex couples. It held that a wedding certificate from a foreign country in which same-sex marriages are recognized, could allow the couple to be registered as married by the Ministry of the Interior. In a significant decision dated January 2005, the Supreme Court accepted the appeal of two women, a same-sex couple, to adopt each other's children.

7. Lower Court instances also significantly contributed to the protection of human right, as the National Labor Court concluded that a decision of the Minister of Transport and Road Safety to allow transport operatives other than those on strike to provide transportation in the midst of a cessation of services in the city of Beer-Sheva, caused severe, direct, and intentional damage to the workers' right of association and their right to strike (L.C 57/05 *The New Histadrut v. The Minister of Transport* (3.3.05)).

In April 2008, the District Court of Tel-Aviv, while residing as an Administrative Court, reaffirmed the importance of protecting workers' rights when it annulled a tender issued by the Municipality of Bat-Yam due to a concern that the winning company could not uphold its obligations regarding the workers' rights (Ad.P 1464/07 *Preach Hashaked Inc. v. The Municipality of Bat-Yam et. al.* (14.4.2008)).

In July 2007, the District Labor Court further broadened the legal protection of the right to organize in trade unions under Israeli jurisprudence, ordering the reinstatement of the petitioner following his wrongful dismissal stemming from his unionizing activity (C.M. 6726/07 *Alon Leigh Green v. Excellent Coffee Ltd.* (18.7. 2007)).

8. The Following report addresses the main issues raised by the Covenant in the period between the submission of the Israel's previous Periodic report and December 2008, as well as concerns raised by the Committee on Economic, Social and Cultural Rights.

Article 1
Self-determination

9. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 2
General principles: State responsibility, non-discrimination and international cooperation

State responsibility

10. Economic, social and cultural rights continue to be widely recognized in Israel, whether directly by law, regulations or case law, or indirectly by administrative programs.

11. The trend of legalization of welfare in Israel, described in previous reports, has continued, as detailed throughout this report.

12. The Courts in Israel often refer to the provisions of the ICESCR when discussing issues concerning the various rights enshrined in the Covenant. The High Court of Justice, for example, addressed the Covenant in relation to Article 13 regarding the right to free primary education (H.C.J 7351/03 *Rishon Lezion Municipal Parent Organization et. al. v. The Minister of Education, Culture and Sports et. al*. (18.7.2005)). Other examples can be found in the High Court of Justice's references to the Covenant in relation to Article 11 regarding the right to an adequate standard of living (H.C.J 366/03 *The Commitment to Peace and Social Justice Association v. The Minister of Finance* (12.12.05)), as well as in relation to Article 12 regarding the right to the highest attainable standard of health (H.C.J 3071/05 *Gila Luzun v. The State of Israel* (28.7.08)).

13. District Courts and Labor Courts also refer to the Convent in their rulings. For example, the Jerusalem District Court addressed the Covenant in relation to Article 11 regarding the right to an adequate standard of living, concerning the right for housing (C.A (Jerusalem) 6184/05 *Moshe Zrihan v. "Amidar" – National Housing Company* (20.3.2007)).(A.C. (Haifa) 518/06 *Ishmael Abu-Tzalih et. al. v. The Governmental Authority for Water and Sewage et. al*. (07.02.2008)).

14. Considerable educational resources are also dedicated to the advancement and promotion of the rights enshrined in the Covenant through the continuation and enhancement of human rights education, as also encouraged by the committee in its concluding observations to Israel's previous periodic report. Further information on this matter is provided in Article 13 below.

Economic, social and cultural rights as constitutional rights

15. As mentioned above, economic, social and cultural rights are widely protected in legislation, and continue to be recognized as having a constitutional status in Israeli jurisprudence, led by the world renowned Israeli Supreme Court for its professionalism and relentless efforts to enshrine human rights. Various judicial decisions of this nature will be detailed in subsequent parts of this report.

16. In 2007, the Government adopted a Socio-Economic Agenda geared towards reducing socio-economic gaps in the Israeli society, while maintaining a growth-oriented policy. In order to implement the Socio-Economic Agenda and formulate appropriate measures, an inter-ministerial committee was established, headed by the General Director of the Ministry of Finance. The committee set up various working groups engaged in defining targets for improving the socio-economic situation, creating tools for encouraging

employment and monitoring the application of these tools and the manner in which their efficiency is measured.

17. The Socio-Economic Agenda is based on short, medium and long-term measures, focusing on improving the situation of the weaker strata by increasing employment rates and wages, and reducing poverty. Accordingly, following the inter-ministerial committee's activity, the Government adopted two objectives for medium-term socio-economic policy: employment objective – increasing the employment rate among the 25–64 age group from 69.1% to 71.7% by 2010; and poverty reduction objective – the income of the lowest quintile will increase by 10% more than the per capita GDP growth rate in the years 2008–2010, while the proportion of income from labor in the lowest quintile's income will increase from 43% to 45%.

18. In order to attain these objectives, various short, medium and long term measures were formulated, taking under consideration the specific needs and characteristics of the weak populations in Israeli society. Among the measures developed, further elaborated throughout this report, are specifically designated vocational training programs, including programs to encourage vocational training for occupations in-demand in the labor market; establishing the Authority for Economic Development of the Arab Population; measures for integrating income maintenance recipients in the labor market; measures to promote women's employment such as extending assistance provided by means of day-care centers, a measure that supports the employment of women and increases the disposable income; and advancing the integration of persons with disabilities in the work force.

19. The earned income tax credit (EITC – that is, negative income tax), is an additional innovative mean for reducing poverty among working families and raising work force participation rate. This, by increasing the remuneration for labor to low income-earners. A detailed program for applying EITC in Israel has already been compiled, and began to operate in recent months in accordance with the *Increasing Participation in the Work Force and Reducing Social Gaps (Negative Income Tax) Law*, enacted on December 27, 2007.

20. The amount of remuneration is determined as a function of the employee's income, the number of children in the family and the total income of the household. The program will be applied in stages, initially concerning paid-employees in 17 municipalities (including 5 Arab and the new regional Bedouin municipality of Abu-Basma), and by 2010, the program will be extended to cover the entire country, and apply to both self-employed workers and paid-employees. A quarter of a million households will be eligible for the benefit once the program is applied nationwide.

21. As mentioned above, one of the Agenda's objectives is to increase the rate of employment among the 25–64 age group to 71.7% by 2010. As a result of the substantial improvement in the labor market during recent years, the employment rate reached 71.2% in the second quarter of 2008.

22. The Government acknowledges the importance of education as a catalyst for reducing socio-economic gaps and increasing social mobility. For this purpose, a broad reform was consolidated and gradually implemented in order to advance the educational system. The reform, further elaborated in Article 13 below, includes the extension and alteration of the teachers' workweek, creation of a rewarding wage system and flexibility in management per individual school, enhancing professional training and reducing the number of pupils in each class. In 2008, the reform is applied in 813 primary and post-primary schools throughout the country. In 2009, the reform will be applied in 700 additional schools, thus being applied in most primary schools is Israel.

23. Alongside the Socio-Economic Agenda, the Government adopted a program for the encouragement of the periphery areas. The gap between the periphery and the center is expressed in employment rate, socio-economical variants, and the realization of capital,

physical and human potential. The need to reduce gaps between the periphery and the center, obligates specific designated resources.

24. Another aspect of the activity to promote the peripheral regions in the country is the *National Strategic Plan for the Development of the Negev*, established by Government's Resolutions .no 4415 (20.11.05), no. 3489 (31.3.05) and no. 4092 (9.8.05). The Government's comprehensive plan covers a nine year period, from 2006 through 2015, and seeks to develop the Negev by improving infrastructure and the educational system, increasing employment and the population in the Negev and reducing discrepancies in income between Negev residents and the rest of Israel. Between the years 2006 and 2015, the Government plans to allocate, directly and/or indirectly, 17 billion NIS ($4.47 billion) to the development of the Negev.

Non-discrimination

25. In its concluding observations with regard to Israel's previous periodic report, the Committee expressed concern "that the State party's domestic legal order does not enshrine the general principles of equality and non-discrimination". We wish to reiterate in this regard, that the principle of equality is a fundamental principle in the Israeli legal system as portrayed both in legislation and adjudication, has already been described in detail in Israel's initial and periodic reports.

26. The *Basic Law: Human Dignity and Liberty* purports to protect basic guarantees of personal liberty within the framework of Israel's Jewish and democratic character. The goal of the Basic Law is "to defend Human Dignity and Liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic State."

27. The Basic Law stipulates, *inter alia*, the following: There shall be no violation of the life, body or dignity of any person as such; There shall be no violation of the property of a person; All persons are entitled to protection of their life, body and dignity; There shall be no deprivation or restriction of the liberty of a person by imprisonment, arrest, extradition or otherwise (unless as provided by law); There shall be no violation of rights under this Basic Law except by a law befitting the values of the State of Israel, enacted for a proper purpose, and to an extent no greater than is required.

28. Furthermore, many laws emphasize the principle of equality, as detailed extensively in Israel's initial and periodic reports.

29. The principle of equality is also enhanced through adjudication, as the Supreme Court of Israel plays a pivotal role in its promotion through the development of jurisprudence dealing with contentious and highly charged political and security-related issues, for example:

- 29.1. **H.C.J. 11163/03, The High Follow-up Committee for the Arab Citizens in *Israel et. al. v. The Prime Minister of Israel*** (27.02.06) – The High Court of Justice has affirmed the principles of equality and non-discrimination of any kind, and asserted that the allocation of resources on the basis of any discriminatory criteria is unacceptable. A unanimous ruling was issued to cancel the Government's Resolution establishing national priority areas in Israel, alleging it as discriminatory on the basis of national origin. The Supreme Court held that the Government must respect the principle of equality and is prohibited from discriminating against the minority citizens of Israel. The Court stated that all governmental acts must be performed in conformity with the Basic Laws and in conformity with the values of Israel as a Jewish and democratic State. The Court emphasized that the basic values of Israel are human dignity, liberty, equality, the right to property, etc. The Court noted that the prohibition to violate these values became even stronger following the legislation, in 1992, of *Basic Laws: Human Dignity and Liberty* and *Freedom of*

Occupation, which granted these values a higher and more significant status in the Israeli legal system.

Note that the issue of implementation of this decision is currently pending before the High Court of Justice.

- 29.2. **H.C.J. 3939/99** ***Kibbutz Sde-Nahum et. al. v. Israel Land Administration et. al.*** (29.08.02) – The High Court of Justice held that the Israel Land Administration must administer State lands while protecting the public interest, which includes the protection of the land for the benefit of the larger public, and refraining from granting unjustified land-related benefits to others. As expected from any other administrative body, the Administration must act fairly to promote the general principle of distributive justice in allocation of public resources. The Court also noted the difference between discrimination and legitimate distinction. Consequently, the Court held that a decision to allocate lands exclusively to a specific population, not based on a legitimate distinction, is prohibited.
- 29.3 **H.C.J. 1113/99** ***Adalah et. al. v. The Minister of Religious Affairs, et. al.*** (18.4.00) – the Supreme Court accepted the petitioners demand to instruct the Minister of Religious Affairs to establish clear, non-discriminatory criteria for the distribution of resources to all cemeteries. The Court ruled that the Minister of Religious Affairs should allocate money designated for cemeteries on an equal basis and according to the proportionality test (population percentage). Furthermore, the Court ruled that: "The resources of the State, whether land or money…belong to all citizens and all citizens are entitled to enjoy them according to the principle of equality, without discrimination based on religion, race, gender or other prohibited consideration". In his judgment, the former President of the Supreme Court, Justice Aharon Barak, stressed that the right to equality is a constitutional right incorporated in the right to human dignity.

30. A further detailed account of recent applications of the non-discrimination principle is given throughout the report. Mentioned here are only issues of general and broad implications. Special attention has been given to the Committee's concerns and observations in its concluding observations following the presentation of Israel's second periodic reports.

The Law of Return 5710-1950

31. This issue has been extensively discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Non-discrimination on the basis of age

32. As detailed in Israel's previous reports, the *Equal Employment Opportunitie*s *Law* 5748-1988 (the "*Equal Employment Opportunities Law*"), prohibits discrimination of an employee by his employer on the basis of several characteristics detailed in the Law, including age. In H.C.J 10076/02 *Dr. Yuri Rosenbaum et. al. v. The Israel Police Inspector General and the Israel Prisons Service Commissioner* (12.12.2006), the High Court of Justice upheld the prohibition of age discrimination, while discussing a petition regarding mandatory retirement age in the Civil Service. The *Civil Service Law (Retirement) (Integrated Version*) 5730-1970 (the "*Retirement Law"*), requires the mandatory retirement of employees in the civil service upon reaching the age of 65 (currently 67, as elaborated in Article 3 below). The Law excludes the Police and the Israel Prisons Service's (hereinafter: "IPS") employees from the mandatory retirement arrangement, empowering the Police Inspector General and the IPS Commissioner to allow police officers and wardens employed for more than 10 years, to retire upon reaching the age of 55 (currently 57).

Therefore the Police and IPS consolidated internal procedures which determined the age of 55 as the mandatory retirement age for police officers or wardens employed for more than 10 years.

Here, two wardens and a policewoman appealed against their mandatory retirement at the age of 55, claiming that the retirement age constitutes a discrimination against them, in comparison to other Civil Service employees who are required to retire at the age of 65. The Court held that the relevant comparison group is Civil Service employees as a whole, as the State is considered the employer of all Civil Service employees. Therefore, the State cannot define different mandatory retirement age for different sections in the Civil Service, as it constitutes age discrimination as defined in section 2 to the Equal Employment Opportunities Law.

The Court accepted the appeal, declared the annulment of the Police and IPS internal procedures and ordered the reinstatement of the petitioners. However, due to the wide implications of this judgment on the Police and IPS, the annulment of the mandatory retirement age internal procedures was delayed for a period of 18 months in order to complete all necessary adjustments. Consequently, in November 2008, a revised internal police procedure was published.

33. In another case, the Tel-Aviv District Labor Court awarded an employee pecuniary damages for unlawful termination of employment, and non-pecuniary damages for the termination of employment on discriminatory grounds. The Court determined that the employer, Iberia Spanish Airlines, had discriminated against its employee on the basis of her age, as it fired her when she reached the age of 60, and for that reason alone. The company claimed that the termination of employment was conducted willingly, as the employee expressed her wish to early retirement. However, the Court found this claim to be unfounded. The Court held that there were no indications of dissatisfaction regarding the employee's performance, or that the termination of employment was conducted in the course of cutbacks or due to the employee's wish. Therefore, the Court found that the termination of employment constituted a violation of section 2 of the *Equal Employment Opportunities Law*, as it discriminated against the employee based on her age (La. (Tel-Aviv) 2539/03 *Barbara Hollestain v. Iberia Spanish Airlines* (19.10.2006)).

Non-discrimination of minority populations in Israel

34. As detailed in Israel's second periodic report, in October 2000, the Government consolidated a comprehensive multi-year plan addressing all aspects of development for the Arab population (hereinafter: "the 2000 multi-year plan"). The 2000 multi-year plan operated from 2001 until December 31, 2004, during which the Government successfully implemented 87% of the plan.

35. Although the economic situation has led the Government to decide on an overall cutback during these years, figures show that during 2001 and 2002, the implementation rate of the plan was 90%, in 2003 – 81%, and in 2004 – 85%.

36. Incomplete implementation of the plan in some cases is due to the aforementioned cutbacks, as well as bureaucratic barriers and budget deficits in some of the municipalities where cooperation is required for the successful implementation of the plan.

37. In August 2006, the Government resolved to commence on two additional multi-year plans (2006–2009) for the socio-economic development of Arab localities in the North, particularly concerning education, housing and employment: Resolution no. 412 on the development of the Druze and Circassian populations, in the amount of 447 million NIS ($120 million), and Resolution no. 413 for the development of the Bedouin population, in the amount of 318 million NIS ($85 million).

38. The consolidation of the multi-year plans by the Government lasted for several months, as the preparations of the plans involved the heads of the Druze, Circassian and Bedouin municipalities respectively, as well as representatives of the relevant Government Ministries. Additional input was sought from a wide range of sources.

39. The new development plans focus on three main issues: investment in human resources with a special emphasis on the empowerment of women, economic development, and employment – including the development of tourism as a source of income.

40. The budget required for the implementation of the plans was allocated by the relevant Government Ministries, in addition to a special budget of the Prime Minister's Office designated to the non-Jewish population. The current implementation rate of both Resolutions is 88%.

41. Note that these plans continue on from previous multi-year plans implemented and completed since the submission of Israel's previous periodic report.

42. Furthermore, Government Resolutions no. 412 and no. 413 are supplemental to the development budgets that the Ministry of the Interior allocates to local municipalities, the subsidies given to retired soldiers in purchasing land plots and housing construction, and segments of the budget set aside for the rehabilitation of Northern Israel, adopted following the Second Lebanon War.

43. Concerning the Bedouin population in the Negev (South), reference should be made to the aforementioned National Strategic Plan for the Development of the Negev. The Plan was devised, in part, to assist the Bedouins living in the Negev. For example, one of the plan's goals is adding approximately 20,000 jobs for the Negev population within 10 years. Among the endeavors to attain this goal, the plan seeks to encourage businesses and employment within the Bedouin population through financial assistance to entrepreneurs, vocational training and developing commercial areas and joint industry zones.

44. **The Authority for Economic Development of the Arab Population, including Druze and Circassian**. On February 15, 2007 the Government decided to establish, within the Prime Minister's Office, the Authority for Economic Development of the Arab Population, including the Druze and Circassian (hereinafter: the "Authority"). The aim of the Authority is to realize, to its maximum, the economic potential of the minority population, through the encouragement of productive economic activity within this population, and its integration into the national economy. Among its functions, the Authority will operate as coordinator for the purposes of integration and supervision with regard to government activities concerning the economic advancement of the Arab population.

45. The establishing of the Authority is in progressive stages. Recently, Mr. Aiman Dar Saif, a former executive in the Prime Minister's Office, was appointed as the Authority's director. Alongside the Authority, an Advisory Committee will operate, with half of its members being Arab experts and business men and women.

46. **Investment Fund for Businesses in the Arab Population**. In December 2006, the Director General of the Prime Minister's Office (PMO) announced the decision to establish a private equity *fund*, in cooperation with the private sector. The fund will invest an overall sum of 160 million NIS ($42.1 million) over 7 to 10 years in businesses in Arab localities. Any factory, company or business will be able to apply for 2–4 million NIS ($526,315–$1,052,631) in financing, thus enabling 40–80 companies to receive financing assistance in exchange for stocks.

47. **Development of industrial zones**. In 2006, following Government Resolution no. 249, the *Encouragement of Capital Investments Order (Development* Areas*)* 5763-2002 *(*the *"Encouragement of Capital Investments Order"),* was amended in order to include all

minority localities in the definition of "Development Area A", thus enabling plants in industrial areas in these localities to receive various tax benefits and grants as stipulated in the Order and the *Encouragement of Capital Investments Law* 5719-1959 *(*the *"Encouragement of Capital Investments Law").* Furthermore, on January 7, 2007, the Government resolved to expedite the marketing of lands for industrial purposes in "Development Area A", thus facilitating the expedition of land marketing in these localities, as well as subsidizing the land development expenses, as stipulated in the Resolution.

48. Between the years 2005 and 2008, activities in industrial zones in Arab and Druze localities were subsidized by the Ministry of Industry, Trade and Labor, in sums amounting to 28,665,967 NIS ($7,543,675.5). As part of these activities, 1,008 square kilometers of State-owned land in these areas was marketed.

49. In 2005 and 2006, the Government made 2 additional resolutions (Resolution No. 3957 dated July 22, 2005, and Resolution No. 632 dated November 5, 2006), establishing a plan for the development and expansion of new and existing industrial zones, as well as assistance to small businesses in Arab, Druze and Bedouin localities. The Government allocated a total of 119 million NIS (31,315,789$) in the years 2005–2006 for this purpose.

50. **Development of road infrastructure**. In accordance with the aforementioned multi-year plan of October 2000, between the years 2001 and 2004, the Ministry of Transport and Road Safety allocated a budget of 180 million NIS ($48 million) for the development of intra-municipal road infrastructure and safety projects (45 million per year), and a budget of 325 million NIS ($87 million) for the development of inter-municipal road infrastructure (81.25 million NIS – $21.96 million per year) in various Arab localities.

51. During the years 2005–2007, the Ministry continued to advance the development of intra-municipal infrastructure in the Arab localities. Furthermore, the Ministry continues to develop inter-municipal infrastructure through the allocation of budgets to the local municipalities towards their development of infrastructure in their jurisdiction, or through managing companies. During these years, 94,386,900 NIS ($25,509,972) was allocated for development projects for the Druze and Circassian population, 69,652,880 NIS ($18,825,102) for projects in the Bedouin towns in the North, 34,790,000 NIS ($9,402,702) for the Bedouin towns in the Negev and 230,448,321 NIS ($62,283,330) towards Arab localities.

52. During the first half of 2008, the Ministry allocated a budget of 52.2 million NIS ($14 million) towards the development of intra-municipal infrastructure, from which 7.8 million NIS ($2.1 million) for Bedouin localities in the Negev, 11.8 million NIS ($3.19 million) for Bedouin localities in the North, 6.1 million NIS ($1.64 million) for the Druze and Circassian localities and 26.4 million NIS ($7.13 million) for Arab localities. Furthermore, during this period of time, the Ministry allocated an additional 29.3 million NIS ($7.19 million) for development of infrastructure and safety projects in these localities.

53. According to the Ministry's estimates, by the end of 2008, the Ministry will have allocated another 20 million NIS ($5.4 million) for additional funding of uncompleted projects.

54. The inter-municipal infrastructure development is performed by 'Ma'atz' – Israel National Road Company Inc., according to a five-year plan which determines the projects to be carried out. The current plan is for the years 2005–2009. According to the five-year plan, 2.333 billion NIS ($630,540,540) was allocated for the development, maintenance and reconstruction of inter-municipal infrastructure in the Arab localities.

55. According to information provided by 'Ma'atz', by the beginning of 2008, a total of 315.26 million NIS ($85.2 million) was invested in the development of inter-municipal

infrastructure in the minorities' localities. An additional amount of 1.0111 billion NIS ($273,270,270) will be allocated for the completion of remaining projects. Furthermore, during 2008–2009, another 1.0065 billion NIS ($272,027,027) will be allocated according to the five-year plan, for the development, maintenance and reconstruction of inter-municipal infrastructure in minorities' localities.

56. **National-Civil Service**. The Public Commission for National-Civil Service (hereinafter: the "Commission"), which had been established on August 1, 2004, was mandated to examine the issue of civil service for populations not performing military service. In February 2005, the Minister of Defense adopted the Commission's recommendations advising that all Israeli citizens and residents, not recruited to military service such as most ultra-orthodox Jews and most of the Arab population, will perform civil service.

57. Government Resolution no. 4598, dated December 18, 2005, stressed the importance of promoting the possibility to perform either military or civil service as part of equality and division of the burden among the Israeli society. During the Government meeting that resulted in the above Government Resolution, instructions were set with regard to the realization of the civil service initiative. It also established the Civil Service Administration (hereinafter: "the Administration").

58. Government Resolution no. 2295, dated August 19, 2007, establishes a new National-Civil Service Administration. The new administration mandate is to regulate and coordinate the implementation of the National-Civil Service program in order to enable youth from all segments of the population exempt from military duty, to take part in the program for a period of 1–2 years, performing activities aimed at promoting the society in general and weak populations in particular, thus enhancing the linkage between the individual and the State.

59. The Resolution stresses the voluntary nature of the National-Civil Service, and its help in reducing inequality between people who serve in the military or any other voluntary service, and those who do not serve, and will increase the possibility of all those serving to integrate in the civil life.

This Resolution encountered strong resistance from different Arab leaders and from the Arab High Monitoring Committee.

60. However, according to a survey conducted, the majority (74%) of the Arab youth are willing to take part in such program. Moreover, since the application of the Government Resolution, the numbers of National-Civil Service members have been increasing steadily – from 240 applicants in 2006, to 628 in 2007, and 1,050 in 2008.

61. The National-Civil Service is an independent body, without linkage to the military system and the military service. That is excluding issues relating to the postponement of the military service for yeshiva students according to the *Service Postponement to Yeshiva Students who's Torah – their Craft La*w 5767-2007 (the "*Service Postponement Law*").

62. The main challenges the Administration faces are the creation of attractive service options for youth from the different populations, countering opposition in different sectors and providing professional training where needed.

63. The Administration is responsible to present to the Government, after consultation with a public committee, a program for long-term operation, including ways to extend the volunteering group, and other plans of action. Furthermore, the Administration is in charge of initiating programs needed in order to present information, raise awareness, and broaden the public involvement in the National-Civil Service subject.

64. The Prime Minister's Office is currently promoting legislation to anchor the National-Civil Service program, and to equalize the conditions and entitlements of those who perform military service with those who perform National-Civil Service.

Appropriate representation

65. **The Civil Service**. In 2000, *the Civil Service (Appointments) (Amendment no. 11) (Appropriate Representation) Law* 5760-2000 (the "*Civil Service (*Appointments*) Law*"), was enacted by the Israeli Knesset in order to ensure that minorities and under-represented populations such as women, persons with disabilities, and the Arab, Druze and Circassian populations are represented in the Civil Service according to their proportion in the eligible work force population. The Law requires appropriate representation of the various groups throughout the Civil Service, at all levels and in all professions.

66. On November 30, 2003, the Government consolidated Resolution no. 1073 concerning appropriate representation for persons with disabilities in the Civil Service. Among the measures set out in the Resolution is the appointment of Equality for Persons with Disabilities Supervisors in each Ministry, whose task it is both to promote the employment of persons with disabilities in the Civil Service and to make the Ministry more accessible to persons with disabilities in general. The Government further decided to give priority to persons with severe disabilities in appointments and promotions in the Civil Service.

67. The *Civil Service (Appointments) Law* was amended in 2005, in order to include persons of Ethiopian origin among the various groups entitled to appropriate representation in the Civil Service. Following this amendment, the Government accepted Resolution no. 1665 concerning allocation of positions in the Civil Service for persons of Ethiopian origin and giving them priority in appointments and promotions.

68. On March 12, 2006, the Government decided (Resolution no. 4729), based on section 15A of the *Civil Service (Appointments) Law*, to designate 337 employment positions towards the integration of the Arab population, including Druze and Circassians, into the Civil Service between the years 2006 and 2008. In addition, the Government decided to establish an inter-ministerial team charged with examining further ways of promoting appropriate representation of Arabs in the Civil Service. On July 16, 2006, the inter-ministerial team submitted its recommendations.

69. On August 31, 2006, the Government adopted Resolution no. 414 adopting most of the inter-ministerial team's recommendations, including: determination of new objectives for advancing appropriate representation of Israeli Arabs in the Civil Service, such that Arabs would constitute 8% of all Civil Service employees by the end of 2008, and 10% by the end of 2010. In addition, it was decided that until the end of 2008, 20% of all new positions would be allocated for Arabs. Previous decisions to give priority to Arab-Israelis in appointments and promotions were extended by a further four years. Each Ministry was required to appoint a supervisor charged with the advancement of Arab representation and an inter-ministerial team to ensure the implementation of the Resolution would be established.

70. On November 11, 2007, the Government adopted Resolution no. 2579 amending the previous Resolution no. 414. According to the new Resolution, Arabs, including Druze and Circassians, are to consist of 10% of all Civil Service employees by the end of the year 2012. In addition, 30% of all new positions until 2012 are to be allocated to this population. In order to achieve these objectives, the Resolution requires all Government Ministries to consolidate a five-year working plan. The Resolution further requires that priority be given to Israeli-Arabs appointments and promotions until the end of 2012. The Resolution establishes an Inter-ministerial team headed by the Director General of the Ministry of

Justice to follow-up on the implementation of the provisions detailed above by every Government Ministry and look into ways of removing barriers from the integration of Israeli Arabs into the Civil Service. Following this Resolution, the Civil Service Commission is in constant contact with each Ministry, monitoring its progress in moving towards the goals set by the Government.

71. Data indicates a steady increase in the rates of Arab, Druze and Circassian employees in the Civil Service. As of November 2008, 6.5% of employees in the Civil Service were Arabs, Druze and Circassians (in comparison to 6.17% in 2007).

72. Furthermore, 8.7% of all new employees integrated in the Civil Service in 2007 were Arabs, Druze and Circassians, In comparison to 6.9% in 2005, and 4.26% in 2003. It should be noted that the rates of women among the Arab, Druze and Circassian newly integrated employees are also on the rise. In 2007 39.8% of all recently accepted Arab, Druze and Circassian integrated employees were women, in comparison to 37.7% in 2005, and 34.2% in 2003.

73. An increase is also evident in the employment of Arab, Druze and Circassian academics in the Civil Service. In 2007, 46.82% of Arab, Druze and Circassian Civil Service employees had an academic degree, in comparison to 43.7% in 2006. This trend is correlated with the general trend of allocating positions intended for the integration of Arab, Druze and Circassian academics.

74. Data also indicates an increase in the number of Arab employees in senior ranks – 376 employees in 2007, in comparison to 347 in 2006.

75. On March 12, 2006, the Government of Israel made a resolution, at the request of the Ministry of Justice, in the matter of suitable representation among interns in the Ministry of Justice (Resolution no. 4730). The Government decided, *inter alia*, as follows:

> "A. In accordance with the provisions of section 15A(b)(2) of the *Civil Service (Appointments) Law* to designate, insofar as possible, some ten per cent of the annual class of interns in the Ministry of Justice solely for the employment of candidates who qualify for an internship in the Ministry of Justice and fulfill one of these:
>
> *the candidate is a member of the Arab population, including Druze and Circassian;*
>
> *the candidate or one of his/her parents was born in Ethiopia;*
>
> *the candidate is a "person with a severe disability" within its meaning in section 35.252 of the Civil Service Regulations…*"

76. In accordance with the aforesaid resolution, it was decided to compile a directory of candidates that will effectuate the aforesaid Government Resolution with respect to "suitable representation" and will include candidates who meet the criteria set forth in the Government's Resolution and whose particulars and qualifications make them suitable for internship. Accordingly, in 2008, the Ministry of Justice announced, for the second year, the creation of such a directory of candidates for internship positions for September 2008 and March 2009.

77. **Local municipalities**. In the 88 local councils or municipalities which serve towns and villages where the population is primarily composed of Arabs, Druze, Bedouins or Circassians, the employees of the local government bodies are almost exclusively composed of members of those minorities. In larger municipalities with mixed populations, such as Jerusalem, Haifa and Lod, members of minorities are employed at a level which approaches their overall representation in the population, although less so at the most senior positions.

78. **Government Companies**. Under an amendment to the *Government Companies (Amendment 11) Law* 5735-1975 (the "*Government Companies Law*"), dated June 11, 2000, the Arab population (defined as including people of Druze and Circassian origin) must be appropriately represented on the board of directors of every government company and statutory corporation. According to data gathered in December 2008, 47 out of 586 directors, (8.02%), were of Arab origin, including Druze and Circassian, in comparison, to 10 (1.7%) in 2001.

79. In H.C.J. 10026/01 *Adalah v. the Prime Minister of Israel et. al*. (02.04.03*)* the Court discussed the issue of the appointment and representation of Arabs, specifically women, to the boards of directors of government companies, as the petitioner claimed that the implementation pace of the *Government Companies Law* by the Government was unsatisfactory and inconsistent with its obligation. The Court dismissed the petition, determining that the gradual implementation of the Law is inevitable, and pointing out that the petitioner itself agreed that an appropriate representation of the Arab population cannot be achieved in two or even several years. The Court further held that the Government endeavors to implement the Law and fulfill its obligations are sufficient.

80. On June 27, 2007, the Jerusalem District Court determined that an Arab citizen could not be disqualified from being appointed to the board of directors of Keren Kayemeth Le'Israel (KKL) – the Jewish National Fund, which is a dual entity committed to the principal of equality (OP 5299/06 *Uri Bank v. Keren Kayemeth Le'Israel KKL*). The petitioners requested the Court to annul the election of new directors to KKL which had taken place on July 13, 2006, due to fundamental deficiencies in the process, and the election of Mr. Radi Sfori, an Israeli Arab elected as a representative of the Meretz Party.

The Court discussed whether the procedure of appointing new directors to KKL was in line with the *Companies Law 5759-1999*, and whether an Israeli Arab could be appointed as director of a corporation defined as being "trustee of the Jewish people in the land of Israel". The Court stated that the appointment procedure was not deficient, and refused to annul the elections. It held that former court decisions acknowledged the duty of every authority in Israel to treat all different individuals in the State equally. Although KKL is a private company – it shall apply the principle of equality since it is a dual entity.

81. **The Judiciary**. In the last 10 years there has been a significant increase in the number of Arab citizens working in the Israeli judicial system. This is greatly the result of the increase of appointments of members of minority populations within the Ministry of Justice. Currently, 38 out of 576 judges are members of minority populations, half of which were appointed in the last 10 years. The distribution of appointments within the Arab population is as follows: 14 Muslim judges – 8 were appointed in the last 10 years, 17 Christian judges – 12 were appointed in the last 10 years, 7 Druze judges – 5 were appointed in the last 10 years.

82. **Minorities' terms of employment in the Civil Service**. In addition to increasing representation of minority groups, the Civil Service Commission has also taken steps to better accommodate the various needs and lifestyles of minority employees at work. Holiday and vacation time is provided according to the relevant religious holidays, such that Muslim employees are entitled to a day off during the Ramadan, and Christians can choose Sunday as their day off from work.

83. Furthermore, members of the Arab population employed in the Civil Service enjoy a unique benefit in the form of State participation in the rent paid by them for apartments in the vicinity of their workplace and funding of weekly commute expenses.

Arab cooperative societies

84. All Israeli NGOs are treated equally. In 2007, The Registrar of Cooperative Societies published on its internet web site a document in Arabic entitled the "The Proper Administration of Cooperative Societies", which is a translation of a document in Hebrew first issued in October 2002. Additionally, the Registrar employs an Arab lawyer who handles applications in Arabic, a contractor lawyer who is fluent in Arabic and is involved particularly in registration, and two other Arab accountants who examine NGOs' files. The Registrar and its representatives took part in a number of conferences organized by Arab representatives and attended lectures concerning the different requirements of the Registrar.

85. **Land allocation**. The Supreme Court ruling in H.C.J. 6698/95 *Ka'adan v. The Israel Lands Administration (ILA)* was discussed in Israel's previous periodic report. In response to that judgment, the ILA, in cooperation with the Jewish Agency for Israel, issued new admission criteria to be uniformly applied to all applicants seeking to move into small, communal settlements established on State-owned land. These criteria stipulate that the applicants must be over the age of 20, have applied as an individual or a couple (including families), maintain sufficient economic resources, and be suitable for a small communal regime.

If **the** Committee rejects an application for admission, the reasons for rejection are to be based upon an objective, professional, and independent opinion. Any criterion for admission is to be examined in advance by the Administration and publicized.

The decisions of the committee are subject to review by a Public Appeals Committee, which is to be chaired by a retired judge. Application forms and the rules of procedure of the Appeals Committee are to be made available to the public.

86. On January 22, 2007, the High Court of Justice had rejected the petition of "Hasolelim" Rural Community Association Inc., filed against the decision of the Israel Lands Administration (ILA), dated March 2, 2006, to allocate a lot for residence to Ibrahim and Hilda Dwiri in the neighborhood of Kibbutz Hasolelim ("Nof-Alonim") despite the pre-requisite for admission to the neighborhood, of military service.

The Court explained in its decision, that the Israel Lands Council is the authorized body to set the land policy of Israel, and the ILA is the authorized body to act upon such policy and to supervise its realization.

Although the Court had established that in light of the above it did not need to address the petitioners' claims with regard to the justifications to reject the admission of the Dwiri family, it nevertheless emphasized the extraordinary severity of differentiation on the basis of nationality. (H.C.J. 7574/06, *"Hasolelim" Rural Community Association Inc. v. The Israel Lands Administration*).

Equal rights for persons with disabilities

87. The State of Israel signed the Convention on the Rights of Persons with Disabilities on March 31, 2007, thus expressing its commitment to the advancement and the protection of the rights of persons with disabilities. The Ministries of Justice and of Foreign Affairs are currently examining the necessary measures towards the ratification of the Convention, including the legislative amendments required.

88. **The Commission for Equal Rights of People with Disabilities**. Since Israel's previous periodic report, the Commission for Equal Rights of People with Disabilities (hereinafter: "the Commission") was established, its powers were broadened and the number of employees significantly increased. The Commission includes three main units: Accessibility, Integration in Society and the Legal Department. The Commission's work is aimed at promoting public policies regarding the rights of persons with disabilities as well

as providing assistance to individuals who encounter difficulties. Alongside the Commission operates a steering committee, composed mainly of persons with different disabilities who represent the main organizations operating in the field.

89. **Legislation**. As set out in detail in Israel's previous report, the central piece of legislation in this field is the *Equal Rights for People with Disabilities Law* (the "*Equal Rights for People with Disabilities Law"*), enacted by the Knesset on February 23, 1998. The *Equal Rights for People with Disabilities Law* established, for the first time, the statutory right to equality and human dignity for persons with disabilities and created a new system of obligations for the State of Israel *vis-à-vis* its disabled citizens. In addition to chapters concerning fundamental and general principles, the *Equal Rights for People with Disabilities Law* comprised operative chapters on employment, public transport services and the establishment of the Commission for Equal Rights of Persons with Disabilities. The Law was amended in 2004, so as to extend the application of the temporary provision requiring adequate representation of persons with disabilities in the work force, for a further period expiring in 2010.

90. In 2005, the Law was amended again, adding section E1 – Public Places and Public Services. This section incorporated many new and important elements into the Law, including: prohibition of discrimination in public services, in public places and products, accessibility of public places, accessibility to public services, restrictions on the statutory duty of accessibility and accessibility to education, higher education institutions and educational services. The Law was further amended in 2007 and 2008, in order to promote effective implementation of the accessibility provisions – the 2007 amendment dealing with implementation of the new provisions concerning licensed accessibility experts, and the 2008 amendment strengthening the provisions on accessibility to educational facilities.

91. In this regard, mention must be made to an amendment to the *Immovable Property Law* 5729-1969, passed on December 4, 2001, facilitating the statutory framework for accommodations and adjustment of the common parts of apartment buildings to the needs of a resident with disabilities, in certain circumstances even without the consent of other residents.

92. The enactment of the accessibility amendment to the *Equal Rights for People with Disabilities Law* in 2005, was followed by the passage that same year of two additional related laws – the *Investigation and Testimony Procedures (Suitability to Persons with Intellectual or Mental Disability) Law* 5765-2005, (the *"Investigation and Testimony Procedures (Suitability to Persons with Mental or Physical Disability) Law"*) and the *Broadcasting Television (Subtitles and Signing) Law* 5765-2005, (the *"Subtitles and Signing Law"*), further elaborated below.

93. In December 2007, *the Prohibition of Slander Law 5726-1965*, was amended by the Israeli Knesset. According to the revised Law, making a mockery of or humiliating persons with disabilities because of said disability – whether it is psychological, mental (including cognitive), physical, permanent or temporary, shall be considered unlawful and prohibited slander.

94. According to a recent Amendment to the *National Health Insurance Law* 5754-1994, (the *"National Health Insurance"*) (Amendment 43) dated November 5, 2008, children with Autistic disorders will receive 3 hours' a week of paramedical treatment (physiotherapy, speech therapy and occupational therapy). These treatments will require a minimal co-payment of 23 NIS ($6) per session. The Amendment will be gradually implemented, commencing on January 1, 2009.

Employment of persons with disabilities

95. As set out in Israel's previous report, the employment provisions of the *Equal Rights for People* with Disabilities *Law* prohibit discrimination on the basis of disability, oblige employers to make reasonable work accommodations and require appropriate representation of persons with disabilities in the work force.

96. Since the submission of Israel's second periodic report, the Government promulgated various regulations with a view of promoting greater participation in the work force by persons with disabilities. The *Equal Rights for People with Disabilities (Preference in Parking* Spaces *in the Work place) Regulations* 5762-2001, oblige employers to provide each disabled employee with an accessible designated parking space for his/her exclusive use. These regulations apply to every employer who has at least six employees, and who has provided designated parking spaces for at least three of them. Under the *Equal Rights for People with Disabilities* (*State Participation in Financing Accommodations) Regulations* 5766-2006, employers are entitled to a refund from the Government on expenses made in adjusting the workplace to the disability, work and daily needs of disabled employees (subject to a maximum sum per employee).

97. In addition, the employment provisions of the *Equal Rights for People with Disabilities Law* have been the subject of a growing body of case law.

98. In the first case to be decided, L.C 2968/01 *Balilti v. Jerusalem Post Publications Ltd* (2.12.01), the Jerusalem District Labor Court held that the duty to ensure proper representation of persons with disabilities according to section 9 of the *Equal Rights for People with Disabilities Law*, includes giving priority to persons with disabilities over other similarly qualified employees when selecting for redundancy.

99. In 2003, addressing the duty to make reasonable accommodations, the Tel Aviv District Labor Court held that an employer is obligated to find alternative suitable employment for an employee who has become disabled during the course of his employment (C.M. (Tel Aviv) 5712/03 *Steinberg v. Israel Electric Co.* (30.12.03)).

100. In another case, in 2005, the Nazareth District Labor Court ruled that the phrase "accommodation" is not limited to the physical adjustment of structures, equipment or accessories, but extends to making accommodations of an economic nature. Thus, an employer is obligated to continue employing an employee who became disabled, and pay him the same salary, even if there is a decrease in his/her productivity due to the disability, unless the employer can prove that this imposes an unreasonable burden on his/her business. In this case, the Court held that an employee with cancer constitutes a person with a disability for the purposes of the *Equal Rights for People with Disabilities Law* (L.C (Nazareth) *1732/04 De Castro Dekel v. M.B.A Hazore'a* (10.07.05)).

101. Labor courts have also dealt with cases of persons with Intellectual and/or Mental disabilities, whose work capacity is diminished due to their disabilities. The courts ruled that such persons are to be regarded as "workers" and as such are entitled to all the benefits of an employer-employee relationship, including the applicability of all relevant labor laws. In both decisions, the employers were obligated to compensate the plaintiffs retroactively (L.C (Tel-Aviv) 10973/04 *Goldstein v. Na'amat*; L.C (Haifa) 3327/01 *Roth v. Ram Buildings Ltd*).

102. As a result of these decisions and with a view of encouraging the employment of persons with Intellectual and/or Mental disabilities in supported employment in the open labor market, a law was enacted in 2007 – the *Equal Rights of Persons with Disabilities Employed as Rehabilitated Persons (Temporary Provision) Law*. According to this Law, a person whose work capacity is less than 19% shall not be considered an employee, but rather a rehabilitated person. As such the entire body of labor laws does not apply, but at

the same time the new Law gives a rehabilitated person the right to remuneration for work and decent work conditions concerning matters such as leave, sick pay, hours of work and travel expenses. This law supplements the *Minimum Wage (Adjusted Wage for Employees with Disabilities Having Reduced Ability to Work) Regulations* 5762-2002, promulgated on February 21, 2002, concerning adjustments to the minimum wage for persons who are at various levels of diminished work capacity as the result of a disability. The objective of the Regulations is to encourage employers to hire employees whose work capacity is diminished due to disability, by enabling them to pay such employees less than the minimum wage. The Regulations set a reduced minimum wage scale which corresponds with work capacity. Thus an employee whose work capacity is reduced by between 25–50% is entitled to 75% of the minimum wage; an employee whose work capacity is reduced by between 50–70% is entitled to 50% of the minimum wage; and an employee whose work capacity is reduced by over 70% is entitled to a third of the minimum wage. Under the Regulations, the person with disability is required to apply to the Ministry of ITL requesting a determination of his/her reduced work capacity, resulting in the entitlement to a reduced minimum wage. The Regulations apply to employment in the open labor market, as opposed to sheltered employment. In the first 20 months of the implementation of the Regulations, 1,600 persons with disabilities have applied to have their minimum wage adjusted, and in 1,255 of these cases the wage was, in fact, adjusted.

103. On July 27, 2008, the *National Insurance Law (Consolidated Version)* 5755-1995 (the "*National Insurance Law"*) was amended (Amendment no. 109) in order to further facilitate the integration of persons with disabilities into the labor force. The amendment is the end product of a process designed to sever the linkage between disability, social security and unemployment. Prior to the amendment, a person with disability entitled to the National Insurance Disability Benefit had little if no incentive to take him/herself off social security and enter the labor market, since a salary exceeding the level of Disability Benefit would disqualify him/her from receiving the benefit, even where he/she lost his/her job thereafter. Eliminating the Disability Benefit trap was a centerpiece of the Report issued by the Public Commission for the Examination of Disabled Persons' Issues and The Promotion of their Integration into the Community. The Commission, headed by retired Justice Laron, presented its Report on April 21, 2005, having been appointed by the Government following a major strike of persons with disabilities in 2002. The recent amendment to the *National Insurance Law*, which is the outcome of the Government's adoption of the Laron Commission's Report, enables a person with disability to earn a relatively high monthly salary (7,000 NIS – 1,842$) without having to forgo his/hers National Insurance Disability Benefit entitlement.

Accessibility

104. The extensive aforementioned 2005 amendment to the *Equal Rights for People with Disabilities Law*, prohibits disability-based discrimination in the operation of public places and the provision of public services, and requires that these be made accessible, such that persons with disabilities will be able to benefit to the full extent from public services and will be able to enter a public place, move around and enjoy its facilities in full. The new accessibility regime applies to public places and services operated by the State and other public authorities, as well as to those operated by the private sector.

105. According to the Law, existing buildings, as well as new construction must be made accessible. Special provisions of the new legislation are devoted to accessibility and non-discrimination related to specific areas – insurance contracts, schools and higher educational institutions, roads and infrastructure in general and emergency services.

106. In addition to radically changing the norms governing accessibility, the 2005 amendment establishes a wide range of enforcement mechanisms: obtaining and renewing a

business licence will now be conditional on securing the approval of a licensed accessibility expert, to the effect that the requirements of the new accessibility regime have been complied with. The accessibility expert's approval is likewise a pre-condition for obtaining planning permission and completing other planning procedures.

107. At the core of the new provisions on enforcement are a number of key powers with which the Commission for Equal Rights for Persons with Disabilities has been invested: in order to secure implementation of the accessibility requirements, the Commission may either file a civil claim or, subject to providing notice as required by the Law, issue an accessibility order setting out the various steps required in order to make a particular place or service accessible, together with a time frame for so doing. Violation of the terms of an accessibility order is considered a criminal offence.

108. Various regulations have been promulgated to accommodate the aforementioned accessibility amendments: *The Equal Rights for* People *with Disability (Licensed Building, Infrastructure and Environment Accessibility Experts) Regulations* 5767-2007, and *the Equal Rights for People with Disabilities (Licensed Service Accessibility Experts) Regulations* 5767-2007, prescribe the prerequisites for the registration of a licensed building, infrastructure and environment accessibility experts, and licensed service accessibility experts respectively.

Transportation

109. Legislation requiring the accessibility of public transportation was part of the original Equal Rights for People with Disabilities Law. The Equal Rights for People with Disabilities (Accessibility to Public Transportation) Regulations 5763-2003, set out in detail the obligations of public transportation operators (trains, boats, air transportation, municipal bus lines, central bus stations, train stations, airports, etc.) to provide accessibility for persons with disabilities.

Community housing

110. **Community housing for people with Intellectual Disabilities**. To date, it is estimated that 33,000 people with intellectual disabilities live in Israel, 25,000 of which receive care from the social services. Some reside at home while others live in various residential services facilities.

111. Currently, 63 residential facilities provide housing for people with Intellectual disabilities: 9 governmental facilities accommodating 1,816 residents, 40 private facilities accommodating 3,740 residents and 14 public facilities run by non-profit organizations, accommodating 1,175 residents.

112. In addition there are several community housing options: 140 foster families, 48 hostels (up to 24 residents in each), 21 communal houses (up to 15 residents in each) and 166 apartments in the community (up to 6 residents per apartment).

113. An amendment to the *Welfare (Treatment of Persons with Intellectual Disabilities) Law* 5729-1969, enacted in 2000, provides that when it is decided that a person with an Intellectual Disability should live outside his/her family home, priority should be given to housing in the community. The Department for the Treatment of the Intellectually Disabled within the Ministry of Social Affairs and Social Services, acts to implement this priority, as the general trend is to transfer people from residential facilities to community housing in the form of hostels. In practice housing in the community is now the dominant option, such that two-thirds of people with Intellectual Disabilities living outside their family homes live in the community.

114. Following a recent petition to the Supreme Court, the limitations set by the Ministry of Social Affairs and Social Services upon community housing have been narrowed down and are confined to cases where the medical services provided in the Community are insufficient or cases of violence or severe behavioral problems. In order to implement the new policy, the Ministry of Social Affairs and Social services has decided to establish hostels in the community, in which between 16 and 24 persons with Intellectual Disabilities will reside. The revised policies of the Ministry relating both to the limitations on living in the community and the building of hostels in the community have recently been approved by the Supreme Court (H.C.J 3304/07 *Lior Levi et. al v. The State of Israel et. al.* (24.9.08)).

115. **Community housing for people with Physical Disabilities**. The Department for Rehabilitation in the Ministry of Industry, Trade and Labor, which is responsible for the treatment of people with physical or sensory disabilities, allocates 85% of its budget towards Community Housing (mainly hostels and apartments). The remaining portion of the budget is used to maintain existing residential facilities. Since 2001, no new residential facilities have been established, as the majority of the budget is invested in community housing. Recently, the Department published tenders for the establishment of new hostels for people with severe disabilities. Moreover, the existing facilities will be obligated to reassign appropriate persons from residential facilities to community housing.

Culture and leisure

116. Several important developments have occurred since Israel's previous periodic report in this regard. Firstly, the many advancements in accessibility mentioned earlier, influence all aspects of life for the disabled, including access to cultural events and leisure sites.

117. Recently, a number of resort sites have been made accessible for the disabled with the help of the National Insurance Institute funds.

118. In September 2008, new regulations were promulgated, obligating the adjustment of various public sites to the needs of persons with disabilities. The *Equal Rights for People with Disabilities (Site Accessibility Adjustments) Regulations 5768-2008*, lay down the accessibility requirements for archeological sites, national parks and nature reserves, as well as other areas, mainly forests, managed by the Jewish National Fund or on its behalf. According to these Regulations, new sites will not open for public use unless the accessibility requirements are met. Existing sites are compelled to gradually fulfill the requirements within 10 years.

119. The *Television Broadcasts (Subtitles and Sign Language) Law*, mentioned above institutes a comprehensive statutory scheme in this field, thereby replacing its predecessor, the far narrower *Deaf Persons Relief Law* of 1992. The new Law applies broader responsibilities and restrictions on broadcasters in order to enhance, to the fullest extent, disabled persons' accessibility to television broadcastings.

120. In 2008, the Council for Cable TV and Satellite Broadcasting, a public body established under the *Telecommunications Law* 5742-1982, decided on a separate definition of "prime-time" for children's channels, so that the requirement for subtitles will coincide with the relevant viewing hours for children with hearing impairments. The Council also decided on a list of children's programs of major interest that will be subtitled.

International cooperation

121. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Additional information

122. For further information regarding the elimination of all forms of discrimination, please refer to the 10th–13th Combined Periodic Report of the State of Israel on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), submitted in May 2005, as well as the Third Periodic Report of the State of Israel on the Implementation of the Covenant on Civil and Political Rights (ICCPR), submitted in July 2008.

Article 3
Prohibition of discrimination between men and women

123. The Israeli courts continue to protect and uphold the principle of equality and prohibition of discrimination, including gender discrimination. In the wording of the Tel-Aviv Labor Court in La.A. 8704/06 *Nadav Fitusi v. N&B Bogin Sports Center Ltd*: "any discrimination based on gender is a negative social phenomenon that is to be uprooted completely. The prohibition on discrimination derives not only from the provisions of the *Equal Employment Opportunities Law* 5758-1988, but also from the general principle of equality which is part of our legal system and anchored in *Basic Law: Human Liberty and Dignity*".

In this case, the plaintiff was employed by the respondent as a gym instructor and was dismissed from work following the respondent's desire to replace him with a female instructor. There was no disagreement among parties that the dismissal was due solely to the plaintiff's gender.

The Court held that in order to prove discrimination, the worker needs only to convince the court that such prohibited consideration was actually a factor for the employer's decision, even if it was not the main reason. Based on section 10 of the *Equal Employment Opportunities Law*, the Court ordered the respondent to pay 30,000 NIS ($8,108) compensation to the plaintiff, considering the specific circumstances of the case.

Childcare services expenditures

124. On April 3, 2008, the Tel-Aviv District Court determined that expenses paid for childcare services, such as nursery and after-school programs, are expenses made for the purpose of generating an income, therefore can be deducted from the taxable income of a mother each tax year. The Court determined that these costs are essential in allowing the integration of mothers to young children in the labor market.

Here, the Court held that a mother of two children, a lawyer with a private practice, needs to work long hours in order to succeed in her profession, and therefore must find a solution for the care and supervision of her children during her working hours. However, the tax authorities did not agree to deduct the expenses paid for childcare from the taxable income. The Court held that distinction shall be made between the component of care and supervision (including the amount of money necessary to operate a childcare institution) to the component of education and enrichment the children receive while in those childcare institutions.

The Court emphasized the fact that the premise is the right of the two spouses to fulfill their career aspirations, their right to realize their will to practice their occupation and create a livelihood for themselves and their family members. The placement of children who need adult supervision in childcare institutions is done for the purpose of allowing both parents to work. Therefore, the Court ordered that the tax authorities deduct 2/3 of the expenses

paid in the years in dispute. (I.T.A (Tel-Aviv) 1213/04 *Vered Peri* v. *The Income Tax Assessor of the Dan Metropolitan Area* (03.04.2008)).

125. On May 12, 2008, the State of Israel submitted an appeal to the Supreme Court, and the proceedings are still pending. (C.A. 4248/08 *The Income Tax Assessor of the Dan Metropolitan Area v. Vered Peri*).

The Retirement Age Law, 5763-2004

126. In January 2004, The Knesset approved the *Retirement Age Law* 5763-2004 (the "*Retirement Age Law*"), implementing more equable norms regarding retirement age.

127. The new Law equalizes the mandatory retirement age (67) and the early retirement age (60) for both men and women. As for the retirement age which grants the right to Old Age benefit – commencing on April 1, 2004, the retirement age is gradually raised until it will eventually reach 67 for men and 62 for women.

128. Regarding women who were born in 1950 and onwards, the Law orders the Minister of Finance to appoint a public committee, comprised of Government, employees' and employers' representatives, for the examination of the retirement age for women.

The Gender Implications of Legislation Law (Legislative Amendments)

129. On November 25, 2007, the Knesset enacted the *Gender Implications of Legislation Law* which imposes a duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset. The Law's aim is to expose any hidden inequalities between men and women that might be present in various bills, in order to advance the status of equality between both genders. According to the Law, the Authority for the Advancement of the Status of Women will submit to the relevant Knesset committee an opinion concerning the gender implications of any bill or secondary legislation, when brought for its consideration or approval. This will allow Knesset members participating in committee hearings to become acquainted with any gender implications inherent in legislation, if such implications in fact exist. In addition, the submission of these opinions will be anchored in *the Authority for the Advancement of the Status of Women Law* 5758-1998 (the "*Authority for the Advancement of the Status of Women Law*") as one of the official functions of the Authority.

The Encouragement of the Advancement and Integration of Women in the Work force and the Adjustment of Work places to Women's Needs Law

130. On April 10, 2008, the Knesset enacted The Encouragement of the Advancement and Integration of Women in the Work force and the Adjustment of Work places to Women's Needs Law. The purpose of the new Law is to generate a change in the business culture in Israel and promote public awareness in order to encourage employers to advance and integrate women in the workplace and, inter alia, adjust the workplace to the needs of women and parents. According to the new Law, monetary incentives will be granted by the Minister of Industry, Trade and Labor (hereinafter: "ITL") to employers in the private sector who endeavor to integrate and promote women in their business, as well as employers who modify the workplace and work conditions to the needs of women and parents.

131. The new Law requires the Minister of ITL to establish a Public Council for the Integration and Advancement of Women in the Workplace, which will function as an advisor to the Minister on the issue of women in the workplace, including measures to implement the provisions of the Law. The Public Council is made up of 11 members – representatives of different Government Ministries, experts in Gender studies, representatives of women's NGOs, representatives of the Authority for the Advancement of

the Status Women, the Equal Employment Opportunities Commission and representatives of trade unions and employers' associations. A retired female judge will head the Public Council.

132. The Minister of ITL is required to submit an annual report on the implementation of the Law to the Knesset Committee on the Status of Women and to the Knesset Committee on Labor, Welfare and Health.

133. This Law has the potential of serving as an incentive to employ more women, promote women to senior positions and to modify the work conditions to the unique needs of women, thus increasing women's economic independence.

The Collection and processing of statistics

134. A recent amendment (June 2008) to the *Statistics Ordinance [New Version]*, 5372-1972, determines that the collection and processing of statistics relating to individuals and the publication of the results by the Central Bureau of Statistics, shall include statistics by gender, unless the National Statistician has determined, regarding a specific matter, that there are circumstances justifying deviation from the general rule. The National Statistician may determine that the collection and processing of statistics and the publication of the results shall include statistics by gender in matters that have gender related implications, even if they do not pertain to individuals. According to the Amendment, The Central Bureau of Statistics shall publish, at least once a year, results deriving from the collection and processing of statistics that include statistics by gender. The Central Bureau of Statistics shall appoint, following consultation with the Authority for the Advancement of the Status of Women, an employee who shall be responsible for the implementation of this section. The amendment will enter into force on January 1, 2009.

135. *The Equal Rights for Women Law* 5711-1951, (the "*Equal Rights for Women Law*") was also amended in 2008, to add two important sections relating to the collection and processing of information: Section 3A determines that any person or an entity requiring a person to state, in a form or other document, the names of one his/her parents should require the names of both parents (as long as the person has that knowledge). Section 6C3 determines that a public body that regularly collects and processes information regarding individuals, and publishes that information for statistical purposes, shall include in its activity reference to gender. The relevant Minister or the person in charge may determine, regarding a specific matter, that there are circumstances justifying not doing so. The person in charge may determine that the collection and processing of statistics and the publication of the results shall include statistics by gender, even if the information does not pertain to individuals on matters relating to gender. The amendment will enter into force on January 1, 2009.

The Authority for the Advancement of the Status of Women

136. The Authority for the Advancement of the Status of Women has provided a detailed survey of its actions and programs entitled "Beijing +10", this survey was published in March 2005.

Amendment of the Equal Rights for Women Law

137. Prior to the abovementioned Amendment, the *Equal Rights for Women Law* was amended in 2005. The fourth Amendment to the Law (July 20, 2005), determined that any task force appointed by the Government for the creation of foreign and/or interior national policies (including negotiation teams working towards a peace agreement) must include an appropriate number of women. In order to effectively implement and enforce the provision, the appointing body must report on its composition to the Authority for the Advancement

of the Status of Women, which will in turn examine the details. Ultimately, such information will be compiled in an annual report concerning the adequate representation of women in national policy task forces, to be submitted to the Knesset Committee on the Status of Women. Current data indicate that 37% of all representatives in governmental committees and work-teams are women.

Amendment of the Prevention of Sexual Harassment Law 5758-1998, (*the "Prevention of Sexual Harassment Law"*)

138. In general, the *Prevention of Sexual Harassment Law* requires that the victim express his/her lack of interest in order for the situation to constitute as an act of sexual harassment. Nevertheless, as detailed in Israel's previous report, a number of important exceptions were made to this rule. Under the circumstances of those exceptions, even though the victim did not show a lack of interest, a "sexual harassment presumption" is applied. These exceptions can be divided into two main categories, the first are acts that constitute serious criminal offenses regardless of the sexual harassment offense, such as indecent actions or blackmail; the second category consists of cases wherein an individual exploits a position of authority, which can occur in educational, medical and employment contexts.

139. In 2004 and 2007, the Law was amended in order to broaden the "sexual harassment presumption" to include the following victims:

139.1. A minor (under 15), where the harasser is an adult, even though the act was not committed by exploiting a position of authority.

139.2. A pupil of the 12th–14th grades where the act was committed by exploiting a position of authority in education.

139.3. A rehabilitated person, as specified under the *Equal Rights of Persons with Disabilities Employed During Rehabilitation (Temporary Provision) Law 5767-2007* (the "*Equal Rights of Persons with Disabilities Employed During Rehabilitation Law"*), while employed, and by exploiting a position of authority.

Sexual harassment in the workplace

140. According to the *Prevention of Sexual Harassment Law*, an employer who employs more than 25 employees is obligated to prescribe a code of practice detailing the principal provisions of the Law concerning sexual harassment and adverse treatment in the labor relations sphere, and the procedures prescribed by the employer for filing complaints in respect to sexual harassment or adverse treatment and for dealing with such complaints prescribed by the employer. The employer must publish the code of practice among his/her employees. The Law further obligates the employer to appoint a supervisor of sexual harassment issues. The supervisor is responsible, *inter alia*, for handling sexual harassment and adverse treatment complaints, and to take measures aimed at raising his/her employees' awareness of the issue.

141. During 2007, the Authority for the Advancement of the Status of Women (hereinafter: "the Authority") began collecting data on the implementation of the obligation to appoint a supervisor in local municipalities and in government companies. By the end of 2008, 900 out of 2,600 employers the Authority approached in the private sector, 172 out of 250 local municipalities and 48 out of 65 government corporations, 140 kibbutzim and all Government Ministries and agencies have appointed a supervisor.

142. Near the end of 2007, the first training course for supervisors was launched by the Authority in cooperation with the Union for Local Authorities in Israel.

143. An enforcement and awareness promotion campaign of the Authority in conjunction with the Enforcement and Regulatory Administration within the Ministry of Industry, Trade and Labor, was launched in October 2007. During the joint campaign, model codes of practice were distributed in workplaces throughout the country and data on the implementation of the provisions of the Law was collected. Inspections were performed in 163 workplaces, in which 15,000 workers are employed altogether. The inspections revealed that the majority of employers (66%) comply with the obligation to publish a code of practice.

144. Model codes of practice in various languages (Hebrew, Arabic, Russian, Amharic and English) are also easily accessible on the Authority's website.

145. In the past years, the Supreme Court demonstrated a rigorous approach towards sexual harassment in the workplace, among others it was established that the term "position of authority" is not limited only to an employer or a direct superior, but also refers to any position of influence, power or authority (C.S.A 1599/03 *Tapiro v. The Civil Service Commission* (16.12.03)).

146. In another decision concerning sexual harassment in the workplace, the Supreme Court rejected an appeal from the nursing deputy director in the Mental Health Centre in Beer-Sheva, who had been convicted of harassing nurses during a training course (C.S.A 11976/05 *Ruchi Halil v. The Civil Service Commission* (11.04.07)). The Court found that the appellant had repeatedly spoken to his subordinates in a manner that contained sexual content, which is considered to constitute sexual harassment according to the Law. The Disciplinary Court sentenced the appellant to severe reprimand, a rank reduction of one level for a period of two years, removal to a different governmental hospital and disqualification from service in the training of nurses for a period of three years.

147. In yet another case, the Supreme Court accepted the State's appeal requesting a more severe punishment for the director of the communications division in the Ministry of Defense, who was convicted of sexually harassing 3 workers from his division (C.S.A 7233/02 *The State of Israel v. Shahar Levi (01.05.2003)*). The Supreme Court President considered the circumstances of the case, in which the senior director had repeatedly harassed his subordinate, and had furthermore attempted to prevent her from complaining against him by abusing his authority and position of power over her and other subordinated workers, and held that he should not be employed in the civil service. The director was therefore sentenced to severe reprimand, immediate dismissal and disqualification from employment in the civil service until the age of 65.

148. In a recent case, The National Labor Court held that for relationships between colleagues based only upon random sexual relations, defense claims arguing consent or seduction by the victim will not be heard. There is an obligation to report to the superior or the head of the organization of the existence of a relationship and the fact that it is consensual, in order to avoid liability *(*La.A 274/06 *Anonymous v. Anonymous*).

The Prevention of Stalking Law 5762-2001, (*the "Prevention of Stalking Law"*)

149. On October 16, 2001, the Knesset enacted the *Prevention of Stalking Law* designed to protect people from having their lives, privacy, or personal choices disrupted; and from suffering physical injury at the hands of another person who has stalked or has caused them physical harm. The Law defines stalking as "harassment of an individual by any other individual, or by making threats against an individual under circumstances that provide a reasonable basis for assuming that the stalker or person posing a threat, might continue to harm and disrupt the victim's life, privacy or choice, or could potentially cause physical harm". Stalking may include the following acts: spying, ambush, or any other activity tracking the actions of an individual or infringing upon an individual's privacy; inflicting

actual harm or even the threat of it; establishing verbal, written or any other form of contact with the individual; damaging an individual's property, tarnishing an individual's reputation or limiting an individual's freedom of movement.

150. According to the Law, if the Court finds an individual guilty of stalking, it is entitled to impose a restraining order prohibiting that individual from committing any of the following acts: harassing the victim in any form or in any location, threatening the victim, spying, ambushing, tracking the movements or actions of the victim or infringing upon the victim's privacy in any other manner and establishing any verbal, written or other form of communication with the victim. If the circumstances of the stalking provide a reasonable basis to fear continued disruption or actual harm to another individual's life, the court is entitled to include in the restraining order a ban on committing the following acts: being present within a delimited distance of the victim's residence, car, workplace, school or any other location the victim regularly attends; bearing or possessing firearms, including weapons issued by the security authority or any other government authorities, all against the victim or a relative of the victim, either explicitly or implicitly, directly or indirectly.

151. In 2008, the *Prevention of Domestic Violence Law* 5751-1991, was amended to stipulate that a court should not reject a request for a protection order according to this Law or a request for an order for prevention of stalking according to the *Prevention of Stalking Law*, before giving the claimant a chance to articulate his/her claims. This amendment embodies the intergovernmental committee for prevention of domestic violence recommendation. Given that in most cases, the victim is a woman, the instruction prescribed by the Law, facilitates women in receiving their personal liberty and by doing so, assists them in better integrating in society.

Trafficking in women

152. Since the submission of Israel's previous periodic report, Israel has taken several dramatic steps in combating trafficking in persons for all purposes, as will be detailed under Article 6 below. This issue has been given great attention, and was promoted in all levels – legislative, judicial and administrative. This resulted in a sharp decline in the number of victims of trafficking for prostitution. For further detailed information regarding the prevention of trafficking in women and the treatment and assistance to trafficking victims, please refer to the Third Periodic Report of the State of Israel on the implementation of the Covenant on Civil and Political Rights (ICCPR).

Rehabilitation and treatment of women engaged in prostitution

153. In January 2007, substantial Government funds were allocated for the rehabilitation and treatment of women engaged in prostitution, and an inter-ministerial committee was established, headed by the Director of the Authority for the Advancement of the Status of Women. The implementation of the program began in 2008, according to which emergency-apartments will be initiated to supply women engaged in prostitution with temporary shelter, the mobile clinic for the treatment of girls and women engaged in prostitution will be upgraded and expanded, a national hotline will be activated to give initial relief to their distress, a treatment shelter for mental treatment and lengthy rehabilitation will be established, day-centers for mental and vocational rehabilitation and a preventative and an educational campaign for schools and the general public will be launched. The implementation of these programs has commenced in Tel-Aviv and Haifa.

Additional information

154. For further information regarding gender equality, please refer to the Third Periodic Report of the State of Israel on the Implementation of the Covenant on Civil and Political Rights (ICCPR), especially with regard to:

- Prevention and treatment of Domestic Violence against Woman
- Treatment of Victims of SexualViolenceWomen's representation in Political Parties and the Knesset
- Women in Government, Local Authorities and the Civil Service
- Women in the Judiciary and Lawyers in the Public Sector
- Women in the Military and the Police

Article 6
The right to work

Related international conventions binding Israel

155. Since the submission of its second periodic report, Israel submitted several updated reports under International Labor Organization Conventions, as detailed under Article 7 below.

Employment and unemployment: levels and trends

156. The Israeli economy has enjoyed a period of rapid growth over the last few years. During the years 2004 and 2005, the Gross Domestic Product (GDP) grew at an average annual rate of 5%, with 5.2% growth in 2006. This growth rate was fuelled mainly by rapidly expanding exports, which were demand induced, and was accompanied by other economic indicators such as a clear reduction in unemployment, an impressive reduction in public deficit, and a surplus in the balance of payments – in sharp contrast to the deficit that was the norm during previous decades. Actual GDP in current prices amounted to 633 billion NIS ($166 billion) in 2006, compared to 589 billion NIS ($155 billion) in 2005.

157. With the relatively low influx of new immigrants to Israel, population growth has stabilized at around 1.8% per annum, meaning that the GDP per capita increased dramatically and stood at more than 3% per annum during this period. Despite the war in Lebanon during the summer of 2006, the economy remained largely unaffected, mainly as a result of the flexibility of the work force, the hi-tech nature of exports along with the geographical location, and a strong commitment to meet global deadlines in export markets.

158. The GDP per Capita in 2006, reached 78,546 NIS ($20,140) representing a rise of 3.2% compared to 2005.

159. The rapid economic growth continued in the year 2007 at a similar pace to that of 2006 – this despite a clear slowdown in many leading world economies towards the end of the year.

160. As noted in Israel's previous periodic report, 2.1 million persons were employed in Israel in 1999. This increased to 2.6 million in 2006, an annual rise of 2.7% since 1999. Unemployment continued to decline and in 2007 stood at 7.3%, in comparison to 8.9% in 1999.

Table 1
Employment and unemployment: levels and trends, 1999–2007

	1999	*2006*	*2007*
Total population			
Aged 15 and over (thousands)	4 358.5	5 053.1	5 142.4
Civilian labor force:			
Number (thousands)	2 345.2	2 809.7	2 893.8
Participation rate (%)	53.8	55.6	56.3
Employed (thousands)	2 136.7	2 573.6	2 682
Unemployed			
Number (thousands)	208.5	235.1	211.8
Unemployment rate (%)	8.9	8.4	7.3
Jews			
Aged 15 and over (thousands)	3 616.2	4 104	4 168.2
Civilian labor force:			
Number (thousands)	2 029.4	2 402.2	2 459.2
Participation rate (%)	56.1	58.5	59
Employed (thousands)	1 857	2 209.8	2 291.6
Unemployed			
Number (thousands)	172.4	192.4	167.6
Unemployment rate (%)	8.5	8	6.8
Men			
Aged 15 and over (thousands)	2 116.3	2 459.5	2 504.3
Civilian labor force:			
Number (thousands)	1 285	1 502.1	1 546.7
Participation rate (%)	60.7	61.1	61.8
Employed (thousands)	1 176.2	1 383.6	1 441.9
Unemployed			
Number (thousands)	108.8	118.5	104.8
Unemployment rate (%)	8.5	7.9	6.8
Women			
Aged 15 and over (thousands)	2 242.2	2 593.7	2 638.1
Civilian labor force:			
Number (thousands)	1 060.2	1 307.6	1 347.1
Participation rate (%)	47.3	50.4	51.1
Employed (thousands)	960.5	1 190	1 240.1
Unemployed			
Number (thousands)	99.7	117.6	107.0
Unemployment rate (%)	9.4	9	7.9
Arabs and others			
Aged 15 and over (thousands)	742.2	949.1	974.2

	1999	*2006*	*2007*
Civilian labor force:			
Number (thousands)	315.8	407.5	434.6
Participation rate (%)	42.5	42.9	44.6
Employed (thousands)	279.7	363.8	390.4
Unemployed			
Number (thousands)	36.1	43.7	44.2
Unemployment rate (%)	11.4	10.7	10.2
Aged 15–17			
Aged 15 and over (thousands)	324.1	346.3	350.6
Civilian labor force:			
Number (thousands)	29.6	32.5	32.6
Participation rate (%)	9.2	9.4	9.3
Employed (thousands)	24.1	24.1	24.1
Unemployed			
Number (thousands)	5.5	8.4	8.6
Unemployment rate (%)	18.6	25.9	26.3
Aged 18–24			
Aged 15 and over (thousands)	739.9	794	801.2
Civilian labor force:			
Number (thousands)	325.1	338.7	340.5
Participation rate (%)	43.9	42.7	42.5
Employed (thousands)	271.2	279.4	289.2
Unemployed			
Number (thousands)	53.8	59.3	51.3
Unemployment rate (%)	16.6	17.5	15.1
Aged 25–54			
Aged 15 and over (thousands)	2 292.2	2 646.6	2 683.4
Civilian labor force:			
Number (thousands)	1 739.1	2 035.4	2 087.9
Participation rate (%)	75.9	76.9	77.8
Employed (thousands)	1 604.8	1 891.5	1 958.1
Unemployed			
Number (thousands)	134.3	144	129.8
Unemployment rate (%)	7.7	7.1	6.2
Aged 55–64			
Aged 15 and over (thousands)	402.3	566.7	601.4
Civilian labor force:			
Number (thousands)	198.1	332.6	363.1
Participation rate (%)	49.2	58.7	60.4
Employed (thousands)	184.8	310.9	343.8

	1999	*2006*	*2007*
Unemployed			
Number (thousands)	13.3	21.7	19.3
Unemployment rate (%)	6.7	6.5	5.3
Residing in development areas			
Aged 15 and over (thousands)	452	505.7	512.4
Civilian labor force:			
Number (thousands)	240.9	285	288.7
Participation rate (%)	53.3	56.4	56.3
Employed (thousands)	212.2	253.9	259.0
Unemployed			
Number (thousands)	28.8	31	29.7
Unemployment rate (%)	11.9	10.9	10.3
New immigrants			
Aged 15 and over (thousands)	719.5	853.3	877.7
Civilian labor force:			
Number (thousands)	397.8	507.4	530.5
Participation rate (%)	55.3	59.5	60.4
Employed (thousands)	352.6	470.7	497.1
Unemployed			
Number (thousands)	45.2	36.7	33.4
Unemployment rate (%)	11.4	7.2	6.3

Source: The Ministry of Industry, Trade and Labor, 2008.

Employment trends among particular categories of workers

161. New immigrants, mainly from the former Soviet Union, continued to arrive in Israel, albeit at a slower pace than in the previous decade. Since 1999, the rate of immigration has decreased sharply and the rate of unemployment among this group dropped to a level of just 6.3% by 2007 (in comparison to 11.4% in 1999).

162. In the period between 1999 and 2006, unemployment was particularly pronounced among the 18–24 years age group, however a decrease in this category was apparent as unemployment stood at 16.6% in 1999 and lowered to 15.1% in 2007.

163. Although decline in unemployment was also evident among the Arab population, unemployment rates remain relatively high. The figures were as follows: 11.4% of Arabs were unemployed in 1999, which decreased to 10.2% in 2007. This compares to an 8.5% unemployment rate among the Jewish population in 1999, which declined to 6.8% in 2007.

Employment policies

164. The recent dramatic downward trend in unemployment is a clear reflection of the economic growth mentioned earlier. The actual unemployment rate dropped from 10.9% in the first quarter of 2004 to 7.7% in the fourth quarter of 2006. The downward trend continued in the following year, 2007, as well.

165. The increasingly globalized nature of commerce has meant that much of the expansion of Israeli exports are a testament to their relative market leadership which

enables increased sales volume even in the face of intensifying world competition. The labor market reflects these changes insofar as the demand for certain professional workers, particularly in the hi-tech field, is marked.

166. As mentioned in Israel's previous report, there has been a growing awareness of the need for greater Government intervention to assist the unemployed whose chances of returning to work would be hampered without such assistance. Consequently, various Government Ministries are involved in income maintenance programs and vocational training to help the unemployed.

167. Programs to improve employment opportunities have included principally:

167.1. Streamlining of the Employment Service's activities to encourage employers to seek workers through the Employment Service and to improve the matching of job vacancies with job seekers;

167.2. Bringing long-term recipients of welfare payments back into the labor market and assisting them in becoming self-sufficient ("Lights for Employment" program);

167.3. Vocational training, retraining and on-the-job training (elaborated below).

168. The "*Lights for Employment*" program was instituted in August 2005, aimed towards bringing recipients of welfare payments back into the labor market, and assisting them in becoming self-sufficient. The program has been initiated as a pilot in several areas in Israel. The program is based on enabling legislation which defines the principles and aims of the program (the *Economy Policy Law for the fiscal year 2004 (Legislative Amendments)* 5764-2003). In July 2007, this Law was amended and the program has been extended until July 31, 2009. Four centers have been established and are operated by private enterprises (Jerusalem, Ashkelon, Hadera-Netanya, Nazareth-Ein Mahal).

Promoting employment opportunities among minority populations

Tourism

169. Since the submission of Israel's second periodic report, the Government has invested vast efforts towards developing *tourism* as a source of employment and income among the Arab population, as part of the general effort to promote and advance economic prosperity in the Arab population, thus reducing gaps in comparison to the Jewish population.

Accordingly, in the 2000 multi-year plan and the 2 additional multi-year plans for the development of the Arab population in the North (mentioned under Article 2 above), emphasis was given to this issue and the required budget was allocated.

170. Between the years 2000 and 2008, the Ministry of Tourism invested 21,173,000 NIS ($5,571,842) towards the development of tourism infrastructures in Arab localities. The Ministry of Tourism further provides financial assistance and professional guidance to entrepreneurs in establishing rural-accommodation units (Zimmers), as well as in other tourism-related initiatives.

Agriculture

171. The Ministry of Agriculture and Rural Development invests significant efforts and resources towards the development and advancement of agriculture activity in the minority populations, thus maintaining and creating new employment opportunities. In 2007 and 2008, the Ministry allocated a budget of 20 million NIS ($5.12 million) towards agricultural development in Arab localities, in two main spheres – general infrastructure and the individual farmstead.

172. With regard to general infrastructure, the Ministry provides financial assistance (grants for 60%–100% of the cost) for reconstruction of agriculture roads in all of the Arab localities throughout the country. In addition, the Ministry provides financial assistance for the removal of pens and cowsheds located in the center of Arab villages, and relocating them in designated areas on State lands outside these villages, as well as on private lands.

173. The Ministry participates (grants for 60% of the cost) in the reconstruction and replacement of main water pipes for agricultural use in the Arab villages throughout Israel. The Ministry also assists in the preparation of programs for agriculture tourism in the Arab villages, including in the Negev.

174. The development activity concerning the individual farmstead can be divided into three major branches – livestock, vegetables crops and plantation. With regard to the livestock branch, financial assistance (60% of the cost) is provided for establishing milking facilities. Activities to promote the vegetable crops branch include financial assistance (30% of the cost) in order to facilitate building greenhouses for vegetable growing for the local market, in the framework of the program for strengthening northern Israel. Financial assistance is further provided for the creation of vegetable growing habitats in the Jewish fallow year, for local marketing. The activity concerning the plantation branch includes assistance in the establishment of packinghouses and ice houses (in the framework of the program for strengthening northern Israel), and financial support for planting olive and almond trees – which varies according to geographic location (20% in central Israel, 25%–40% in the north).

175. The aforementioned development activities are additional to the utilization of additional funding offered to the general public.

176. In addition, the Ministry decided to allocate 2 million cubic meters of water for Bedouin farmers who will receive the water according to a procedure created for this purpose.

177. In order to minimize the damage inflicted on Arab farmers due to general cutback in water for agriculture Israel, in was decided to lead a special water allocation policy to the Arab population. Accordingly, since 2006, the water quotas for Arab farmers are determined according to their actual use in the previous three years. Consequently, these farmers did not suffer from the cutbacks executed in the last years due to the water shortage.

178. **The Beit Netofa Valley Project** detailed in Israel's previous report has progressed since then. Agriculture associations for the farmers of Araba and Sakhnin were created, and are expected to receive ownership of the project and manage it after its completion.

The Bedouin population in the Negev (south)

179. In order to encourage employment among members belonging to minority populations in the southern Negev area, it was decided that a factory/entrepreneur in the industrial field, services or tourism, that employs at least 4 new employees from the Bedouin or the Jewish Ultra-Orthodox population in the Negev, will be entitled to reimbursement of 15%–20% of these workers' monthly wage costs for a period of 5 years. The employer will also receive reimbursement for the costs of organized transportation to and from the workplace, up to a total of 3,000 NIS ($810) per worker, annually.

180. The Ministry of ITL is aware of the inherent difficulties faced by entrepreneurs from the Bedouin population, such as limited financial capability, and is therefore taking action to bridge the gaps. The Ministry of ITL has established a designated Center for Nurturing Entrepreneurship among the Arab and Bedouin populations located in Rahat that is better equipped to serve these populations' needs. Furthermore, in order to support entrepreneurs

among the Bedouin population in the Negev, the Ministry of ITL has established a unique loan fund for small enterprises.

181. **Employment centers for the Bedouin population**. In the framework of cooperation between the Government and the American Jewish Joint Distribution Committee, it was decided to create unique employment centers in the Bedouin localities. These centers will assist in enhancing the number of employed persons, aid in the creation of small businesses and enterprises, and lead change in employment related perceptions and norms in the Bedouin population, including encouraging the employment of women while providing them with unique training for that purpose. Three such Centers are to be established in the upcoming year.

182. Furthermore, as mentioned under Article 2 above, the *Encouragement of Capital Investments Order*, was amended in order to strengthen the Arab localities, including the Bedouins communities. There are currently seventeen planned industrial areas in the Southern district, three (17%), of which are in the Bedouin towns – Rahat, Segev Shalom and Hura. Additionally, two new industrial areas currently in advanced stages of planning also service the Bedouin population – Shoket, (for Hura, Lakia, Meitar and Bney Shimon), and Lehavim, (for Rahat, Lehavim and Bney Shimon). Development of all these areas is uniform and subject to the same general criteria.

183. Special vocational training and unique programs for the Bedouin population were developed, in order to increase employment rates and increase the number of students, both male and female, enrolled in higher education courses.

184. An economic model for Bedouin women in the weaving, needlework and food fields, was formulated, where the women market their products in special fairs and abroad. The women will be prepared for the process that includes building a business organization model, creation of a unique product line and the proper means of marketing. The project will last three years, during which the women will open independent businesses. Currently, the project runs in Kseife and 20 women are participating in it.

Employment opportunities for persons with disabilities

185. With respect to employment opportunities for persons with disabilities, since the submission of Israel's previous periodic report significant legislative and judicial developments have occurred concerning the promotion of the integration of persons with disabilities into the work force and the improvement of their rehabilitation process. These developments are elaborated in Article 2 above.

186. Recent data shows a moderate improvement in the rate of employment among persons with disabilities, especially among those with severe disabilities (42% in 2005, compared to 36% in 2002).

187. According to the Commission for Equal Rights of Persons with Disabilities, adults with disabilities of employment age (aged 20–64) constitute 17.6% of the population. The rate of employment among persons with disabilities is lower than that of the rest of the population, especially among those with severe disabilities, thus contributing to increased levels of poverty and social exclusion. Furthermore, the rate of unemployment among the disabled population is very high, especially for persons with severe disabilities.

Table 2
Employed persons, unemployed persons and persons not in the workforce by severity of disability, ages 20–64, 2005 (%)

Level of disability	*Employed persons*	*Unemployed persons*	*Persons not in the work force*
Without disability	69.3	5.7	25.0
With a problem, but without disability	69.9	6.2	25.8
Moderate disability	52.1	6.7	41.1
Severe disability	33.4	8.4	58.1

Source: The Commission for Equal Rights of Persons with Disabilities, Persons with Disabilities in Israel, 2007.

Table 3
Unemployed persons out of the workforce, ages 20–64, 2005 (%)

Level of disability	*Unemployed persons*
Severe disability	20
Moderate disability	11.4
With a problem, but without disability	8.4
Without disability	7.6

Source: The Commission for Equal Rights of Persons with Disabilities, Persons with Disabilities in Israel, 2007.

188. **Employment of Persons with Disabilities by Gender**. Examination of the relative employment status of men and women with disabilities shows no significant difference between them.

189. The National Insurance Institute (hereinafter: "NII") is in charge of payment of pensions to certain populations, as defined by law and regulation. The general disability pension is designed to act as minimum income to provide for daily existence for persons with disabilities.

Table 4
Persons with disabilities in Israel by severity of disability, employment and type of pension, ages 20–64, 2005 (%)

		Unemployed persons			*Employed persons*		
Type of pension	*Severity of the disability*	*Receiving pension*	*Not receiving pension*	***Total***	*Receiving pension*	*Not receiving pension*	***Total***
General disability pension	Severe	25.2	41.3	**66.5**	3.4	30	**33.5**
	Moderate	9	38.5	**47.5**	1.5	51	**52.5**
	Total	**15.1**	**39.6**	**54.7**	**2.2**	**43**	**45.3**

Type of pension	Severity of the disability	*Unemployed persons*			*Employed persons*		
		Receiving pension	*Not receiving pension*	***Total***	*Receiving pension*	*Not receiving pension*	***Total***
Other pension from the National Insurance Institute	Severe	41.3	25.2	**66.5**	6.2	27.3	**33.5**
	Moderate	23.3	24.2	**47.5**	4.9	47.6	**52.5**
	Total	**30.1**	**24.6**	**54.7**	**5.4**	**39.9**	**45.3**

Source: The Commission for Equal Rights of Persons with Disabilities, Persons with Disabilities in Israel, 2007.

190. Assessments of income per capita show that the average income per capita in households where severely disabled persons live stands at 60% of that of households that do not contain disabled persons, and 70% of that of households in which moderately disabled persons live.

Table 5
Average income per capita (net) of persons with disabilities, as per cent of income of persons with no chronic health problem or disability, 2002–2006

Disability	*2002*	*2003*	*2004*	*2005*	*2006*
With a problem but not a disability	105	112	107	109	110
Moderate disability	84	84	84	83	85
Severe disability	74	71	66	67	73

Source: The Commission for Equal Rights of Persons with Disabilities, Persons with Disabilities in Israel, 2008.

191. In 2005, the Ministry of ITL established the Department for Integration of Persons with Disabilities in the Work force. The Department is charged with promoting the integration of persons with disabilities in the open labor market as opposed to sheltered employment, through, *inter alia*, the implementation of the *abovementioned Equal Rights for People with Disabilities Regulations (State Participation in Financing Adjustments) Regulations and the Minimum Wage (Adjusted Wage for Employees with Disabilities Having Reduced Ability to Work) Regulations.*

Employment and individual freedom: the right to work as a constitutional right

192. This issue has been extensively discussed in Israel's previous reports. No change has occurred in this area since the submission of the second *periodic* report.

The right to work as a statutory right

193. Among the developments in this field, several cases of statutory protection of job security were introduced. The *Women's Employment Law* was amended several times in 2007 and 2008, to ensure a full range of rights for working women, including different aspects of job security (further detailed below).

194. As detailed in Israel's previous report, scholars and workers' organizations have criticized the *Employment of Workers by Labor Contractors Law* 5756-1996, described in Israel's initial report. The National Labor Court also pointed out, on several occasions, flaws in the existing Law, especially in cases where the use of contract labor was made for long periods. As mentioned in Israel's previous report, in response to the concerns raised,

the Law was radically changed in 2000, limiting the employment periods of workers through contractors, and equalizing the contract workers' rights to those provided by the user enterprise to its employers of similar occupation and seniority.

195. The amendment constituted a major reform, affecting about 6% of those salaried in Israel. Thus, a period of adjustment before its entry into force was necessary. Due to the complexity of the situation, detailed in Israel's previous report, the provision concerning the equalization of employers' rights entered into force in July 2001, whereas the provision concerning the limitation of employment periods entered into force in January 2008.

196. The Ministry of ITL invests many efforts towards the enforcement of the Law. These efforts have resulted in one or more of the following towards employers: non renewal of licenses; refusal to grant licenses; conditioning the issuance of new licenses; increased use of financial guarantee as precondition for issuing a license; confiscation of the guarantee; insertion of conditions to an existing license; licensing cancellation; reimbursement by the agency of sums due to its employees; appointment of an accountant to verify compliance by an agency of certain fiscal conditions – as a result of the verification an agency may be requested to increase the financial guarantee; penal indictment, mainly to enforce the prohibition against operating an agency without a permit.

197. On February 16, 2004, a general collective agreement was reached between the Employers' and the Employees' Organizations in the labor contracting sector. The purpose of the agreement is to protect the rights of the contract labor workers, including their employment conditions and social benefits. The agreement applies employment conditions such as working hours, yearly vacations, travel expenses, sick pay, clothing expenses, pension arrangements, contributions to mutual funds, etc. The agreement applies, through an expansion order by the Minister of ITL, to all labor contractors, even if they are not members of the Employer's Organization that signed the agreement.

198. Finally, since Israel's last report, the number of authorized agencies has significantly decreased to 223.

199. On May 28, 2008, the Tel-Aviv District Labor Court determined that the 38 petitioners who were employed in the Ministry of Education through different manpower companies are to be recognized as civil servants since the beginning of their employment in the Ministry. The petitioners worked extensive periods of time in the Ministry of Education through different manpower companies, they were accepted to work by the Ministry, and were referred to the manpower companies to arrange their wage and formal working conditions. The Court determined that the State, as a public employer, is imposed with expanded liability, since, inter alia, it serves as a model that can affect the formation of norms in employment relationships in the private sector as well. According to the Court, employees employed by the State for a long period of time in one workplace side by side with civil servants performing similar work, will benefit not only the same salary conditions but also similar job security, and equal right for promotion, including equal right to compete in internal tenders. (La.C 6141/03 *Lone Hillwi et. al. v. The State of Israel – The Ministry of Education* (28.05.2008)).

The right to work in Israel's case law

200. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Technical and vocational training programs: vocational guidance

201. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Vocational training for adults and youth sponsored by the Ministry of Industry, Trade and Labor

202. The Unit for Manpower Training and Development in the Ministry of Industry, Trade and Labor (hereinafter: "the Unit") offers courses for adults and youth in three main frameworks: training for adults in day and evening courses, training for youth and training for technicians and practical engineers.

Vocational courses for adults

203. The professional training for adults takes place in the framework of day studies, supplementary evening courses and technician and practical engineering training:

203.1 *Day training*: Intended for job seekers referred by the Employment Service, and focuses on populations receiving income support, especially in professions which are lacking manpower on a national level over long periods of time (e.g. metal, construction, electricity). The training is given by expert trainers from technical colleges, specialized schools and government training centers.

203.2 Over the past several years, the Unit has operated training programs for individual employers in the framework of "class in the factory" and "placement class" (see Table 6 below). The "class in the factory" program is carried out in cooperation with the employer and frequently takes place at the workplace. The program is tailor-made according to the needs and requirements of the employers. The participants are chosen according to qualifications determined by the employer.

203.3 In the placement class program, the educational institution that conducts the course, undertakes to find employment to 50% of the graduates. The training lasts between four and twelve months.

203.4 An additional training framework that takes place at the workplace is called "internal training program" and requires the employment of new workers in full time positions with minimum wage salaries.

203.5 *Commercial schools* – Training is carried out by schools recognized by the Ministry of ITL and are pedagogically supervised by the Unit. They teach professions for which there is a national economic demand. The program is intended for the general public and the tuition is paid in full by the students.

It should be noted that in all frameworks (day training and commercial schools), academic and practical exams are administered. Those who successfully complete the exams are granted a diploma, professional certificate or professional license.

Table 6
Adult vocational training comparative data, 2002–2007

Year	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*
Total	**60 638**	**48 015**	**47 395**	**50 146**	**40 690**	**43 707**
Day training	28 049	15 248	12 971	9 095	6 927	3 330
Retraining of academics	2 844	1 940	806	771	472	225
Classes with placement			158	1 253	1571	1 710
Classes in the workplace	125	108	247	351	242	162

Year	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*
On the job training		401	301	115	206	131
Supplementary studies and evening courses	29 620	30 318	32 912	38 561	31 272	38 149

Source: The Ministry of Industry, Trade and Labor, 2008.

Vocational schools for youth

204. Vocational training for youth programs are geared towards enabling youth to acquire a profession by combining both education and vocational experience. The Ministry of ITL facilitates vocational training for youth in 70 different fields.

205. In 2007, 14,200 pupils attended 71 Vocational Training Institutions supervised by the Ministry, of which 11,555 (81.4%) were boys and 2,641 (18.6%) were girls. 55.6% of the pupils were Jewish, 28.7% were Muslim, 3.7% were Druze and 3.2% were Christian.

206. The prominent fields of training in 2007 were automotive, electricity and electronics, administration and metal working.

Training of technicians and practical engineers

207. As detailed in Israel's previous report, the training of technicians and practical engineers is the function of the National Institute for Technological Training (MAHAT), within the Ministry of ITL. The program is carried out with the assistance of 80 technical colleges throughout the country. The Institute also constitutes the official framework for the provision of pedagogical services to these colleges (study programs, supervision, examinations and issuing of diplomas to successful graduates).

208. MAHAT offers special programs to assist weak populations so that they may more easily integrate into the work force. For example, the Jewish Ultra-Orthodox community (especially women), single parent families (especially women), Bedouins and new immigrants in need of professional retraining.

209. During 2007, MAHAT certified 21,197 technicians and practical engineers (in comparison to 29,715 in 2006).

Integrated programs of the Ministry of Industry, Trade and Labor and the High-Tech industry

210. As part of the Ministry and High-Tech's integrated project detailed in Israel's previous report, a website was established to provide information to institutions interested in training technicians and practical engineers as well as to potential students interested in these fields.

Training of women

211. As detailed in Israel's previous report, with regard to female participation in the labor force, two groups — Ultra Orthodox Jewish women and Arab women — require special programs and measures, due to the religious-cultural factors affecting their potential entry into the labor market.

212. In the field of vocational training, the policy of devoting special budgets to training women continues. Some of the special programs target women in general, while others specifically target vulnerable groups of women.

213. The Department for the Advancement of Women within the Ministry of ITL endeavors to increase the employability of women and, consequently, their economic independence. Several of the Department's initiatives are as follows:

(a) *Self-empowerment workshops and entrepreneurship workshops*, including new immigrants, Arab women and ultra-orthodox women. These workshops also focus on work skills and additional retraining courses.

Between the years 2002 and 2007, 370 workshops were provided to some 6,500 participants. The participants report improved self-image, personal and professional empowerment and better assessment of the job market. Participants in the Entrepreneurship Workshops report a better understanding and knowledge of the various aspects of small business establishment. Participants in the workshops usually enjoy continued professional assistance. These women undertake various activities at the end of the workshops such as acquiring education, Hebrew classes, vocational training, employment or some form of voluntary activity.

(b) *Programs for integrating single parents into the work force*: between the years 2003 and 2005, the Ministry of ITL operated a program intended for single parents receiving allowances or alimony from the National Insurance Institute, in order to integrate them into the work force. The program was launched as a pilot and then incorporated into the regular long term program of the Ministry. The program provides assistance in financing child care by subsidizing payments for afternoon programs and day-care centers. Financial assistance is also provided for babysitting during non-conventional hours and during summer vacation. The program also addresses professional training aspects, through a voucher system to courses recognized by the Manpower Training and Development Unit.

In August 2008, the Unit began to offer professional consultants to help identify appropriate training courses and job placement services according to the individual needs and qualifications of the participants in the program. During 2008, an additional program will be launched to encourage single parents to participate in the program to encourage the development of entrepreneurship skills, and thus, the ability to establish small businesses.

An additional pilot program established by the Ministry of ITL was launched on September 1, 2008. As part of the new program, training centers for single parents, receiving allowances or alimony, will be established. Through courses operated in these centers, the participants will acquire skills to enable them to enter or re-enter the job market. Following a two month course, the participants will be directed to specific training courses or jobs to suit their individual qualifications.

(c) *Courses for entrepreneurship and small business*: courses for women with entrepreneurial spirit and/or plans, but without access to training because of economic, geographical or cultural obstacles. The training enhances their chances of establishing a viable business and improving their economic status. The courses are provided by the Ministry of Industry, Trade and Labor and the Israel Small and Medium Enterprises Authority, through Centers for the Promotion of Entrepreneurship (CPEs). Currently, 24 CPEs are located throughout the country. In addition to training, these centers also provide assistance and counseling in the process towards the establishment of a small business.

214. **Vocational training for Arab women**. Over the course of the past few years, there has been an increase in the rates of employment among Arab women, yet these rates remain relatively low. Academic education and vocational training are the key components for the integration of Arab women into the work force, yet various barriers are inhibiting their integration into these educational and training systems: *Education* – traditional professions are substituted with professions that require specific know-how; the study of many technological professions requires knowledge in mathematics and English. *Social/Cultural Barriers* – The traditional stands and cultural stigmas among the Arab population define the

acceptable limits to traveling alone to school and work. Arab women are often reluctant to attend courses that require traveling to other towns. Not all vocational courses are available in the women's residential towns, often because of lack of proper framework, candidates, and future job opportunities.

215. Due to the above, many Arab women attend "traditional" courses that are local, and are likely to enable them to meet the requirements of local job opportunities, whether full or part time. This is not the case with regard to education, computers, graphics or technical assistants/engineering. Additionally, the employment opportunities in these fields, in some of the residential towns, are very limited.

216. In that regard, during 2006, an education program was implemented for the coordinators of the Project for the Advancement of the Bedouin population in the North, dealing with the issue of social/cultural barriers, motivation, recruitment of candidates and persistency through vocational training. Also, in order to rectify the current situation, joint efforts are made by the Ministry of ITL, local authorities, social services, vocational training institutes and employers in order to provide vocational training, and to create more feasible job offers for Arab women.

217. In addition to the general training system provided by the Ministry of ITL, there are special programs for Arab women, aimed at bridging the gaps and increasing women's participation in training courses.

218. **Day-care centers – Arab and Bedouin localities**. Arab women are considered the primary caretakers for children; this is one of the factors that explain the low percentage of women participating in the work force. The Government, through the Authority for the Advancement of the Status of Women, has invested great efforts in enhancing the awareness among women of their own career options and self-fulfillment. Recent years' growing participation of Arab, including Bedouin, women in the work force created a need for day-care centers and nurseries. The Government has moved to meet these needs.

219. As a matter of Policy, the Ministry of Construction and Housing works on the construction of day-care centers throughout the country on the basis of one daycare for every 1,600 housing units. Two centers have been built, in the Bedouin town of Rahat. Fourteen additional centers are under construction: nine in the Northern area, four in the Central area and one in Jerusalem.

220. The system includes 2,200 nurseries (ages 0–3), among them, 900 are in the Arab localities, providing a solution for 1,500 children of working mothers and 3,000 children to mothers on social welfare. In addition, day-care centers operating in the Arab municipalities provide a solution for another 1,000 children. Such nurseries and day-care centers allow mothers to work, as well as provide a source of income for the women operating them.

221. In 2007, the Government allocated funding for the establishment of 150 buildings designated for day-care centers, 17 of which in Arab municipalities.

Employment opportunities among particular categories of workers: prohibition of discrimination

222. In July 2004, the Enforcement and Regulatory Administration was established in the Ministry of ITL (hereinafter: "the Administration"). The Administration is responsible for enforcing and regulating 17 labor laws protecting workers in Israel, including the *Equal Employment Opportunities Law*. The data below therefore relates to the period between 2004 and 2007.

223. In 2004, 460 investigations were initiated and 120 administrative fines were imposed. In 2005, 146 investigations were initiated and 44 administrative fines were

imposed. In 2006, 187 investigations were initiated and 59 administrative fines were imposed. In 2007, 84 investigations were initiated and one administrative fine was imposed.

Factual situation: employment

224. Data for 2007 on employed persons by gender and population group is shown below:

Table 7
Employed persons in 2007 by gender and population group

	Thousands	*Percentage*
All employed persons	2 682.0	100.0
Men	1 441.9	53.8
Women	1 240.1	46.2
Jews	2 291.6	85.4
Arabs and others	390.4	14.6

Source: Israel Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

225. Data for 2007 on employed persons by occupation, gender and population group is shown below. The data indicates that in 2007, 31.9% of employed Israeli Jews worked in academic, professional and technical occupations, 38.4 % were clerical and sales personnel, while nearly 16 % were skilled workers in agriculture, manufacturing, construction and other industries. Unskilled workers comprised 6.4%.

226. Among the Israeli Arab population, 19.2% worked in academic, professional and technical occupations, 23.7% were clerical and sales personnel, and nearly 42 % were skilled workers in agriculture, manufacturing, construction and other industries. Unskilled workers comprised 13%.

Table 8
Employed persons, by occupation, gender and population group, 2007

	In thousands			*Per cent distribution*		
Occupation	***Total***	*Men*	*Women*	***Total***	*Men*	*Women*
All workers						
Total	**2 682**	**1 441.9**	**1 240**	**100**	**100**	**100**
Academic professions	**374.7**	193.5	181.2	**14.0**	13.4	14.6
Other professions and technicians	**421.9**	172.6	249.3	**15.7**	12	20.1
Managers	**174.2**	124.3	49.8	**6.5**	8.6	4
Clerical workers	**426.2**	111.2	315	**15.9**	7.7	25.4
Agents, sales and service workers	**539.7**	244.8	294.9	**20.1**	17	23.8
Skilled agricultural workers	**32.3**	29.1	3.3	**1.2**	2	0.3
Manufacturing, construction and other skilled workers	**483.3**	433.5	49.9	**18**	30.1	4
Unskilled workers	**199.6**	111.9	87.6	**7.4**	7.8	7.1
Unknown	**30.1**	21	9.1	**1.1**	1.5	0.7

Occupation	In thousands			Per cent distribution		
	Total	Men	Women	**Total**	Men	Women
Jews						
Total	**2 291.6**	**1 162.4**	**1 129.2**	**100**	**100**	**100**
Academic professions	**347.3**	176.5	170.8	**15.2**	15.2	15.2
Other professions and technicians	**376.6**	155.1	221.5	**16.4**	13.3	19.6
Managers	**166.3**	117.8	48.4	**7.3**	10.1	4.3
Clerical workers	**397.3**	100.1	297.2	**17.3**	8.6	26.3
Agents, sales and service workers	**473.9**	207.1	266.7	**20.7**	17.8	23.6
Skilled agricultural workers	**25.7**	22.9	2.9	**1.1**	2	0.3
Manufacturing, construction and other skilled workers	**333.6**	291.3	42.2	**14.6**	25.1	3.7
Unskilled workers	**144.6**	74.1	70.5	**6.3**	6.4	6.2
Unknown	**26.3**	17.4	8.9	**1.2**	1.5	0.8
Arabs and others						
Total	**390.4**	**279.5**	**110.9**	**100**	**100**	**100**
Academic professions	**27.4**	17	10.4	**7**	6.1	9.4
Other professions and technicians	**45.4**	17.5	27.8	**11.6**	6.3	25.1
Managers	**7.9**	6.5	1.4	**2**	2.3	1.2
Clerical workers	**28.9**	11.1	17.8	**7.4**	4	16
Agents, sales and service workers	**65.8**	37.6	28.2	**16.9**	13.5	25.4
Skilled agricultural workers	**6.6**	6.2	0	**1.7**	2.2	0
Manufacturing, construction and other skilled workers	**149.8**	142.1	7.6	**38.4**	50.9	6.9
Unskilled workers	**55**	37.8	17.5	**14.1**	13.5	15.5
Unknown	**3.8**	3.6	0.2	**1**	1.3	0.2

Source: The Ministry of Industry, Trade and Labor, 2008.

Foreign workers

227. Israel is a destination country for migrant workers from Asia, Eastern Europe and Africa. The main countries of origin of foreign workers in Israel are: China, the Philippines and Thailand. In 2007, the Minister of ITL issued 92,344 permits for employment of foreign workers in various permitted fields (Nursing care – 51,744; Agriculture – 28,500; Construction – 12,000; Industry – 1,100; Restaurants – 900).

228. Migrant workers coming to Israel in search of employment are motivated mostly by harsh economic conditions and low wages in their countries of origin. By coming to Israel they hope to earn high wages and guarantee a solid financial future for themselves upon return to their home countries. Some enter Israel by illegally crossing the southern border of Israel or illegally at its airports, using either a forged tourist visa or a false Jewish identity. The vulnerability of these persons exposes them to the risk of being exploited for easy financial gain. This vulnerability may be heightened by requirements to pay high middleman fees in their countries of origin.

229. Currently employers may be prosecuted for violations of the labor laws in Israel, including the *Foreign Workers Law* 5751-1991 (the "*Foreign Workers Law*"), which, as mentioned in Israel's previous report, was revised in 2000 to ensure the protection of foreign workers' rights.

230. The *Employment Service Law (Amendment no. 14)* 5764-2004 – criminalizes the collection of illegal excessive recruitment fees from foreign workers, and makes this crime punishable by up to 6 months imprisonment and/or attended by a fine of up to 200,000 NIS ($55,054). The Amendment also applies a temporary order (in force until June 2009) amending the *Prohibition on Money Laundering Law*, 5760-2000, making the collection of exorbitant fees an origin offence.

231. The *Employment Service (Recruitment Fees) Regulations* 5766-2006 – cap the permitted recruitment fees of Israeli recruitment agencies at 3,135 NIS, (approximately $825) or 88% of the monthly minimum wage, minus any sum already paid by the worker to a foreign recruitment agency. The agency may, however, be legitimately reimbursed from the foreign worker for the cost of airfare from the source country to Israel. The Regulations also state the terms under which it is permitted to collect the fee, for example, a detailed contract must have effect between the agency and the worker. Additionally, the Regulations outline the circumstances under which a recruitment agency shall reimburse payments collected from a foreign worker.

232. The *Employment Service (Provision of Information) Regulations* 5766-2006, (the "*Employment Service (Provision of Information)* Regulations") – these regulations require a recruitment agency to provide foreign workers with all relevant information relating to their rights and obligations as foreign workers in Israel, for example, information as to the permitted recruitment fees, etc.

233. **Investigations and fines statistics:**

233.1 The number of fines imposed upon employers of foreign workers for breach of the Foreign Workers Law by the Enforcement Division of the by the Foreign Workers Department: 2002 – 1,847; 2003 – 1,816; 2004 – 7,996; 2005 – 8,356; 2006 – 8,111; 2007 – 3,565.

233.2 The amount of fines imposed by the Enforcement Division of the Foreign Workers Department: 2002 – 865,300 NIS ($233,864); 2003 – 34,191,000 NIS ($9,240,810); 2004 – 118,625,500 NIS ($32,060,945); 2005 – 131,592,000 NIS ($35,565,405); 2006 – 169,830,900 NIS ($45,900,243); 2007 – 64,358,000 NIS ($17,394,054).

233.3 Number of investigations opened against employers of foreign workers: 2002 – 4,073; 2003 – 8,496; 2004 – 9,834; 2005 – 4,170; 2006 – 3,743; 2007 – 3,111.

234. The following is an example of one 2008 decision regarding the severity with which the courts and the authorities regard breaches of the *Foreign Workers Law* concerning foreign worker's rights. On July 17, 2008, the National Labor Court accepted the State appeal, regarding the leniency of the punishment imposed on the defendants. The defendants were convicted of employing a foreign worker without a lawful license, without arranging medical insurance for him, without providing him with a contract in a language he understood and without stipulating the details of his salary, and the deductions from it. The worker, after working for only a month, was hurt in a work related accident (which was later defined as a traffic accident since it involved a fork-lift). The worker was taken by ambulance to a hospital, but was admitted anonymously since the employing company denied knowing his details and denied his relationship with the company. The District Labor Court imposed a lenient fine of 50,000 NIS ($13,157) on the company and 15,000 NIS ($3,947) on its manager, since it determined that the employment was only for a short

period of time, and did not involve personal gain for the defendants, as well as lack of prior convictions.

235. The State appealed the leniency of the fine, which constituted only 15% of the maximum penalty stipulated in the *Foreign Workers Law*, claiming it does not reflect the severity of the offences, as the defendants evaded their responsibilities as employers, and deserted the worker without financial backup or support in a time of distress and uncertainty that amounted to risk on his health. The National Labor Court accepted the appeal and imposed a 150,000 NIS ($39,473) fine on the company as well as a 45,000 NIS ($11,842) fine on its manager (Cr. A 27/07 *The State of Israel v. Thesa Import and Export of Wood Inc.* at el. (21.5.08)).

236. **Revocation of permits to employ foreign workers**. In 2007, in the field of nursing care, 20 employers had their permits revoked and an additional 21 employers had their permits limited or made conditional. In the agriculture field, 14 employers had all/part of their permits revoked and 4 employers had their permits limited or conditioned. In the restaurant field, the permit of one employer was revoked and later restored under warning following a process of repairing the faults found. In the industry field, 2 employers had all/part of their permits revoked and 3 employers had their permits limited. In the construction field, one manpower agency employing foreign workers had its permit revoked and a portion of the monies secured by a bond which the agency had posted with the Ministry, were transferred to company's workers who had not received their salaries.

237. **Actions against Recruitment Agencies**. During 2007, approximately 50 licensed recruitment agencies with special permits to recruit foreign workers were inspected and investigated by the Ministry of ITL.

- In 42 cases, both the licenses and permits of the agencies were revoked
- In 4 cases, the permits given to the agencies to recruit foreign workers were revoked for a set period
- In 4 cases the permits given to the agencies to recruit foreign workers were revoked indefinitely and one permit was granted on probation

The revocations were based on the following grounds: unlawful collection of fees from foreign workers, recruitment of workers done in collaboration with a non-licensed agency, false social worker reports, unlawful transfer of foreign workers and bringing a foreign worker to Israel contrary to the terms of the permit.

Seven agencies appealed their license/permit revocations to the District Labor Court; their appeals were denied.

238. **Dissemination of information regarding rights among foreign workers**. A special workers' rights brochure ("Zchuton") regarding the rights of foreign workers in the construction field, was issued by the Ministry of ITL in English, Russian, Romanian, Turkish, Thai and Chinese. The "Zchuton" instructs the workers to contact the Ombudswoman (detailed below) in any case of breach of the rights discussed therein.

239. The Licensed Manpower Companies employing foreign workers in the construction field are obligated to distribute the special "Zchuton" for the construction branch to each foreign worker they employ, and the directors of the companies must provide the Foreign Workers Department in the Ministry of ITL with an affidavit stating that they take personal responsibility for the distribution of this "Zchuton" to each worker.

240. Furthermore, as discussed above, the *Employment Service (Provisions of Information) Regulations* require recruitment agencies to provide foreign workers with all the information relating to their rights and obligations as foreign workers in Israel (e.g. permitted fees' rates, etc.).

241. In addition, a brochure discussing the general labor rights of foreign workers in Israel is published on the website of the Ministry of ITL in English, Hebrew, Chinese, Thai, Russian, Romanian and Turkish. This brochure is also distributed by the Ministry of the Interior to each foreign worker who arrives at the Ben Gurion Airport.

242. An additional method of disseminating information has been implemented by the Israeli Embassy in Thailand. In cooperation with the Ministry of ITL and the Thai Labor Ministry, a brochure has been launched discussing the rights of foreign workers in Israel. The booklet, in Thai, gives information about the labor and social security rights of workers and includes other information, such as relevant phone numbers, medical treatment facilities and basic Hebrew. The booklet is attached to the passport of each worker that receives a visa.

243. **Medical insurance**. The *Foreign Workers Law* requires employers to arrange broad medical insurance for employees who are foreign workers. Employers who violate this obligation may face criminal prosecution.

244. An **Ombudswoman for the complaints of foreign workers** was appointed in the Ministry of ITL. Her mandate is to safeguard the rights of foreign workers employed in Israel, and to handle complaints from foreign workers, employers, citizens, NGOs, associations and the media. The Ombudswoman has the authority to recommend that a criminal investigation be carried out by the Enforcement Division, as well as to initiate administrative proceedings. The Ombudswoman serves a central coordinating function in reviewing complaints and deciding if they are violations of regulatory laws or crimes of slavery, forced labor or trafficking. She then refers them to the proper authority (the Ministry of ITL if a regulatory violation is involved and the Police if a crime of trafficking, slavery or forced labor is involved).

245. **Bilateral agreements**. Government Resolution no. 2211 dated August 12, 2007 directed the Minister of ITL and the Ministry of Foreign Affairs to promote bilateral agreements with foreign workers' countries of origin, and to consider including in such agreements directives concerning International Organization of Migration (IOM) supervision of the recruitment process to eliminate illegal recruitment practices. Subsequent to this Resolution, an inter-ministerial committee was formed. The committee consolidated a draft agreement that was sent to IOM for review and subsequently sent to the Thai Government for comments. The Government intends to propose the agreement to the major foreign workers' countries of origin in the future.

Trafficking in persons

246. On October 29, 2006, the *Anti Trafficking Law* 5766-2006, came into force. The Law promulgates a broad trafficking crime for a number of illegal purposes: prostitution, sexual crimes, slavery or forced labor, removal of organs, pornography and using the body of a person to give birth to a baby who is then taken from her. The crime is addressed with a punishment of 16 years of imprisonment, and 20 years of imprisonment if the offence is committed against a minor. The Law includes a full panoply of crimes in order to address gradations of exploitation: slavery – 16 years of incarceration; trafficking for the purpose of slavery or forced labor – 16 years of incarceration; forced labor – 7 years of incarceration; exploitation of vulnerable populations – 3 years of incarceration. For the first time, Israel has a slavery offense, a broad forced labor offence with heightened sentencing and heightened punishment for exploitation of vulnerable populations. The new legislation reflects an approach that requires the integration of a series of tools and actors to combat trafficking in persons. It also places emphasis on the prohibition of all forms of slavery and forced labor.

247. With regard to trafficking for the purpose of slavery or forced labor, the following crimes have been established: trafficking in human beings for the purpose of slavery or forced labor (section 377A (a) of the *Penal Law*), holding a person under conditions of slavery (section 375A of the *Penal Law*), forced labor (section 376 of the *Penal Law*), and exploitation of vulnerable populations (section 431 of the *Penal Law*). In addition, the abduction offence has been broadened to include two new offences: (1) abduction for the purpose of slavery or forced labor and conveying a person beyond the boundaries of a State (sections 374A and 370 of the *Penal Law*) and (2) causing a person to leave a State for the purposes of prostitution or slavery (section 376A of the *Penal Law*).

248. These criminal offences exist alongside various regulatory offences intended to protect foreign workers, for example, the *Foreign Workers Law* and the *Employment Service Law 5719-1959 ("Employment Service Law")*. However, their inclusion in the Penal Law accords them a higher level of criminality and better expresses society's moral condemnation.

Article 7
The right to just and favorable conditions of work

Related international conventions binding Israel

249. Since its previous report under the Covenant, Israel submitted updated reports under the following ILO Conventions:

- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) – relating to the years 2001–2006
- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) – relating to the years 2005–2006
- Migration for Employment Convention (Revised), 1949 (No. 97) – relating to the years 2001–2006
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98) – relating to the years 2005–2006
- Equal Remuneration Convention, 1951 (No. 100) – relating to the years 2005–2006
- The Social Security (Minimum Standards) Convention, 1952 (No. 102) – relating to the years 2001–2006
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111) – relating to the years 2005–2006
- Equality of Treatment (Social Security Convention, 1962 (No. 118) – relating to the years 2001–2006
- Employment Policy Convention, 1964 (No. 122) – for the years 2005–2006
- Worst Forms of Child Labor Convention, 1999 (No. 182) – relating to the year 2006
- Forced Labor Convention, 1930 (No. 29) – relating to the year 2005
- Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) – relating to the years 2001–2005
- Medical Examination of Young Persons (Non – Industry Occupations) Convention, 1946 (No. 78) – relating to the years 2001–2005

- Night Work of Young Persons (Non – Industry Occupations) Convention, 1946 (No. 79) – relating to the years 2004–2005
- The Labor Inspection Convention, 1947 (No. 81) – relating to the years 2004–2005
- Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) – relating to the years 2001–2005
- Protection of Wages Convention, 1949 (No. 95) – relating to the years 2001–2005
- Labor Clauses (Public Contracts) Convention, 1949 (No. 94) – relating to the years 2004–2005
- Abolition of Forced Labor Convention, 1957 (No. 105) – relating to the years 2004–2005.
- Minimum Age Convention, 1973 (No. 138) – relating to the years 2004–2005
- Rural Workers' Organizations Convention, 1975 (No. 141) – relating to the years 2001–2005

Remuneration

Methods for fixing wages

250. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Minimum wages

251. The number of work hours per week at regular pay is 43 hours, according to the *Minimum Wage law* 5747-1987, (the "*Minimum Wage Law*"). The minimum wage is updated every year on April 1, and constituted 47.5% of the average wage. On June 19, 2006, the Knesset approved the *Minimum Wage Law (Raising Minimum Wage) (Temporary Order)* 5768-2006, aimed towards gradually raising the minimum wage. The Temporary Order set a minimum wage which constitutes more than 47.5% of the average wage. According to the *Temporary Order*, in the period between June 1, 2006, and March 31, 2007, the monthly minimum wage was 3,585 NIS ($943); between April 1, 2007, and June 30, 2008, the monthly minimum wage was 3,710 NIS ($976), and as of July 1, 2008, the monthly minimum wage is 3,850 NIS ($1,013). The Temporary order will remain in force until the sum of 3,850 NIS ($1,013) will constitute less than 47.5% of the average wage. The sum is to be reviewed in April 2009.

Enforcement of the Minimum Wage Law

252. Several amendments have been made to the *Minimum Wage Law* since Israel's previous periodic report. In 2002, the Law was amended so that criminal and civil liability may be imposed with regard to the Law, in situations involving a manpower contractor, an employer and an employee. The Law stipulates specific circumstances, where criminal and/or civil liability may be imposed directly on the actual employer and/or the manpower contractor. In addition, the amendment obligates the employer to post a notice concerning the rights of the workers in accordance with the *Minimum Wage Law*.

253. In an amendment from 2006, the definition of "monthly minimum wage" was amended in order to increase the level of minimum wage, as detailed above.

254. The Enforcement and Regulatory Administration was established in July 2004, within the Ministry of ITL in order to efficiently implement the provisions of the Law. Prior to the establishment of the Administration, four separate departments in the Ministry

of ITL were responsible for the enforcement of various social-labor laws. The new Administration centralized the enforcement and licensing authorities in the field, except for the laws concerning foreign workers, which are handled by the Foreign Workers Department. Enforcement inspectors have been trained to enforce the full range of labor laws.

255. Enforcement measures are carried out through the following activities:

(1) Investigating complaints submitted to the Administration.

(2) Self-initiated supervision by conducting on-site inspections at workplaces throughout the country.

(3) Raising awareness among populations in need of protection by the Administration, as well as among employers.

256. Employers who infringe upon the Law may be fined or subject to a prison sentence. In addition, employees may sue the employer for compensation for the gap between the actual wages paid and the statutory wages.

257. Enforcement covers all workers: adults, teenage workers, Palestinian workers, foreign workers and workers hired by manpower contractors. The following are data concerning the enforcement of the *Minimum Wage Law*.

Table 9
Minimum wage law enforcement report (2005–2007)

Year	*Investigations opened*	*With findings*	*Without findings*
2005	290	161	129
2006	401	237	164
2007	390	247	143

Source: The Ministry of Industry, Trade and Labor, 2008.

258. According to information from the Ministry of ITL, 767 investigations were initiated in 2004 and 291 administrative fines were imposed. In 2005, 243 investigations were initiated and 213 administrative fines were imposed; in 2006, 395 investigations were initiated and 99 administrative fines were imposed, and in 2007, 357 investigations were initiated and 60 administrative fines were imposed.

259. On February 4, 2007, the Government consolidated Resolution no. 1134 aimed towards reducing socio-economic gaps in the Israeli society and increasing participation in the work force. Among the measures determined in the Resolution is improving the enforcement capabilities of the Enforcement and Regulatory Administration, through:

259.1 Substantial enlargement of the Administration personnel.

259.2 Improving the technological (computerized) capabilities and increasing the budget allocated for inspection through outsourcing.

259.3 Establishing a mechanism, in coordination with the labor organizations, to facilitate quick and efficient handling of complaints filed against employers.

259.4 Increasing awareness amongst employers and the pubic as to the provisions of the Law.

260. Recently, the District Court of Tel-Aviv, while residing as an Administrative Court, reaffirmed the importance of protecting workers' rights, as it annulled a tender issued by the Municipality of Bat-Yam due to a concern that the winning company cannot uphold its

obligations regarding the workers' rights. The Court held that "accepting an offer that does not enable the protection of the minimal rights of the workers, constitutes a deviation from the reasonability sphere, as a situation where a public authority contributes to unlawful proceedings cannot be accepted." The Court further held that: "The issue at hand is a tender to provide cleaning services, where the main component is the wage of the employees. Experience shows, that these workers, in any case, receive minimum wages, and there is no room for additional erosion of their rights; and in a detriment cost offer, it is more likely that the workers will carry the burden of the "cost" of deficit and not their employer, as there is a presumption that it does not intend to provide services without profit, and it has the power to inflict the detriment results of the tender upon the workers shoulders." (Ad.P 1464/07 *Perah Hashaked Inc. v. The Municipality of Bat-Yam et. al.* (14.4.2008)).

261. In another recent ruling, the District Labor Court determined that failure to pay workers the minimum wage they are entitled to, on time as stipulated by law, constituted a criminal offence committed by the employer. Here, the employer failed to pay his employees their wages, and gave them several small sums of money as pocket money instead. The employer claimed that he did fulfil the requirement to pay minimum wage, only in delay, therefore a criminal offence under the *Minimum Wage Law* was not consolidated. The employer also claimed that the *Minimum Wage Law* did not determine the time of payment. The Court emphasized that the determination of minimum wage is a fundamental basis for all policy aimed at fighting poverty and fulfilling the needs of the workers and their families. The basic purpose of the determination of minimum wage is to ensure hired employees the social protection needed. According to the Court, the purpose of the Law and the legislator intention are detailed in the law's explanatory notes, according to which: […] the uniqueness of the Israeli society from the beginning of its formation is the assurance of decent living for all. The society engraved on its flag, after difficult struggles, to ensure the right of a working person to earn a living from his/her job, and to live respectably out of it, as a proud working person and not as a person supported by welfare". This principle is also stipulated by the legislator in section 14 to the *Minimum Wage Law* according to which lack of paying minimum wage to the employee constitutes a criminal offence (*Cr. R (Tel-Aviv) 420/06 The State of Israel – The Ministry of Industry, Trade and Labor v. Sega Enterprise (1996) Inc.* (26.6.08)).

Enforcement of labor law in Arab localities

262. In 2005, the annual working program for the Enforcement and Regulatory Administration included three special focus points: employers and employees from the Arab population; employers of new immigrants; businesses in the security field.

263. A major obstacle to the enforcement of labor laws in Arab places of employment is the unwillingness of the local population to cooperate with the Ministry, mostly due to fear of loosing their source of income.

264. In December 2004, the Administration initiated a wide-scale awareness pilot campaign on labor law. This pilot program was carried out in the Arab city of Shfara'm, with a population of 30,000 Muslims and Christians. The Administration coordinated gatherings and meetings with employers and employees, as well as 1,300 high school students in Shfara'm, and also visited 50 places of employment. During these meetings, the Administration learned of the public's awareness of their rights in the labor law, educated them on these rights, and circulated written materials in Arabic.

265. In the course of these meetings the Administration took note of several problematic employers and gave them due notice. In May, 2005, the Administration conducted inspections of 25 places of employment in order to examine the situation there. The Administration received very little, if any, cooperation from the local population, especially from female employees. In addition to their fear of loosing their jobs, many of these women

are connected through family ties with their employers, and therefore are even more reluctant to complain.

266. During 2008, the Administration performed similar projects in the Arab cities of Yarka and Joulis. Furthermore, 15 Arab youths, both male and female, have recently begun performing national civil service in the framework of the Administration. During their national civil service, these young persons carry out awareness raising activities concerning labor laws among the Arab population throughout the country.

267. The Administration prepared pamphlets on the *Minimum Wage Law* and the *Youth Employment Law* 5713-1953, (the "*Youth Employment Law*") and translated them into Arabic. Thousands of these pamphlets were circulated throughout the Arab population. Moreover, an enforcement campaign focusing on the *Youth Employment Law* was carried out in Nazareth.

268. In April 2005, The Haifa District Labor Court ordered a marketing firm and its director to pay 150,000 NIS ($40,500) in compensation to a female employee due to violation of the *Minimum Wage Law*. M.I.RA. Panorama, located in the Druze village of Usfiya, paid their female employees approximately half the hourly minimum wage. The Court emphasized the gravity of any violation of the *Minimum Wage Law* as well as the importance of the deterrence of any such violations, and concluded its verdict by stating that violations of the *Minimum Wage Law* constitute a grievance to the workers dignity as a person. (C. 88/03 *The Ministry of Industry, Trade and Labor v. M.I.RA. Panorama*, (3.4.05)).

Equal pay for work of equal value

269. Gaps remain between male and female salaries. According to recent data (2006), on average men earned a 57% higher income than women.

270. One explanation for this gap is shorter working hours (or lower availability for work) of women. In 2006, employed men worked an average of 46 hours a week, compared to employed women, who worked 35 hours a week – a 31% difference. However, in 2006, women's average income per hour was 37.1 NIS ($10.02) and men's – 44.8 NIS ($12.1), a 21% gap, indicating that the difference cannot be solely attributed to the number of working hours.

271. In 2006, women's average hourly wages were 80.5% of the men's. By occupation, their hourly wages are highest, relative to men, in the category "other professional and technicians" (86.5 %). Women earn the least, relative to men, among skilled industrial and construction workers (92.3%).

Table 10
Urban wage and salary workers: women's hourly wages as a percentage of men's hourly wages, 1995, 1998 and 2006

	Percentage		
	1995	1998	2006
Total	**80.7**	**82.9**	**80.5**
Occupation			
Academic professionals	79.4	85.7	74.9
Other professional and technicians	89.5	89.1	86.5
Managers	75.3	75.4	89.9
Clerical workers	75.8	70.3	79.9

	Percentage		
	1995	1998	2006
Sales and services workers	64.2	71.0	73.7
Skilled workers in industry and construction	56.9	63.0	92.3
Unskilled workers	78.3	77.9	73.2

Source: Israel, Central Bureau of Statistics, Income Surveys, 1995, 1998, 2006.

272. Arab women employees earned 8% more per hour, than Arab men. In terms of gross monthly salary, Arab men's salaries were 35% higher than the Arab women's salaries. The difference in the monthly salary is due to the gap in men's working hours compared to the women's – a difference of an average of 15 monthly hours.

273. Thirty-five per cent of employed Arab women are employed in academic, independent and technical professions, 27% in clerical work and up to 25% in sales and agencies as compared to Arab men – 27% employed in academic, independent and technical professions and 35% as professionals and non professionals.

274. A recent report by the Wage and Labor Accord Unit in the Ministry of Finance, regarding salary expenses in the Civil Service, reveals a trend of reducing wage differences between male and female Civil Service employees.

275. The salaries of men and women in the Civil Service in various grades were compared through an analysis of two periods: November 2006 in comparison to May 2002, and November 2006 in comparison to May 1997. It should be noted that November and May are months in which special salary additions (one-time) are not paid. The salary data examined were: number of positions, average pensionable salary, average overtime work, average expense reimbursement and average gross salary.

276. The most significant phenomena that took place in these periods were the relative growth in the number of women employed in the Civil Service in comparison to the number of men, and the significant reduction in the expense reimbursement gap between women and men, a trend that also continued in 2007.

277. In comparison to 1997, the data indicates that the gap between men and women employees with regard to overtime has risen by 3%. In the remaining three elements, gaps were reduced: at a rate of 2% for pensionable salary, at a rate of 15% for expense reimbursement and at rate of 3% in gross salary.

278. Regarding employees in management positions, the data reveals that over a period of nine years, the ratio of men's positions to women's positions was significantly reduced, meaning that more women are employed in the management ranking. In all indexes of salary, other than in overtime, a reduction occurred in the gaps. Only with regard to overtime work, the gap increased at a rate of 5%. The considerable reduction in the expense reimbursement section (15%) should be noted.

279. It should be noted that a significant part of the existing gap derives from placement in the various grades. Evidently, the employee's position and grade have a significant influence on his/her salary. Since most female employees in the Civil Service hold administrative positions and are thus occupying lower grades than male employees, their salaries are lower.

280. As in other aspects of protecting equality, the judicial branch in Israel takes an active part. In October 2002, the High Court of Justice delivered its ruling in the petition concerning case of Eytana Niv, detailed in Israel's previous report. The ruling dealt with early-retirement arrangements for the Fund's employees, which provided preferable

benefits to male employees up to the age of 65, whilst granting female employees these benefits only up to the age of 60. The Court defined discrimination as "an unequal and unjust treatment given to equal persons". The Court thus stipulated that the Fund must provide women with the same rights as men within the retirement arrangements, and that the Fund discriminated against the petitioners. The Court also stated that equality is a fundamental value in the Israeli legal system and that gender-based discrimination is one of the gravest forms of discrimination. The State of Israel, throughout the years, anchored equality between the genders and only exceptional considerations would justify overpowering it. Discriminating against women is clearly contrary to public order and essentially null. Subsequently, the Court ordered the removal of the discriminating provisions of the early-retirement arrangements (*H.C.J 6845/00 Eitana Niv et. al. v. The Klalit Health Fund* (9.10.02)).

281. On July 26, 2007, while rejecting an appeal by a former female employee who claimed she was discriminated against in salary and retirement benefits, the National Labor Court emphasized that the prohibition of discrimination derives from the principle of equality and is anchored in the *Equal Pay for Male and Female Employees Law*, 5724-1964, (the "*Equal Pay for Male and Female Employees Law*") and the *Equal Employment Opportunities Law*.

Here, a former female employee in the Knesset claimed that she was discriminated against in salary and retirement benefits in comparison to her male counterparts. The Court found that the appellant failed to prove that she experienced discrimination in comparison to her male colleagues, neither on the basis of the *Equal Pay for Male and Female Employees Law* nor on the basis of *Equal Employment Opportunities Law*, since she did not prove any linkage between the claimed discrimination and her being a woman. (La.A. 222/06 *Shoshana Kerem v. The State of Israel*).

282. On November 20, 2007, the State Labor Court ruled that "freedom of contract" does not justify discrimination such as that evidenced by paying different salaries to men and women performing the same tasks. The court stated that in these circumstances, the principle of equality prevails over freedom of contract (L.A 1156/04 *Orit Goren v. Home Center (Do It Yourself) Ltd.*). Here, the plaintiff resigned after 4 months of work, after her employer denied her claim that she was being discriminated against in salary. She had compared her salary to that of a male worker who received 1,500 NIS ($405.4) a month more than she did, although they both performed the same duties. In response, the respondent claimed that the difference in salary was the end result of negotiations held with all workers before they were hired to work, and during which the plaintiff had demanded less money than the other worker. The Lower Court ruled that there was no justification for the difference in salaries paid to the plaintiff and her colleague, and stated that the plaintiff was being discriminated against based solely on her gender.

The National Labor Court rejected the position that "freedom of contract" justified discrimination between salaries, and unanimously approved the Lower Court's decision, granting 7,000 NIS ($1,891.9) in compensation to the plaintiff for her 4 months of work, based on the *Equal Pay for Male and Female Employees Law*. However, the majority opinion ruled that as the difference in salary was the result of negotiations made prior to employment, the plaintiff had not been discriminated against based on the Equal Employment Opportunities Law, and therefore had no right to compensation for non-pecuniary damage in contrast to the lower court's ruling. Nevertheless, the dissenting opinion of the National Labor Court's President, argued that there was no difference in the level of proof required for granting compensation for violations of both laws, and accepted the lower court's ruling, granting additional compensation to the plaintiff based on the *Equal Employment Opportunities Law*.

283. In November 2003, the Labor Court in Be'er Sheva ruled in favor of a female employee who received a lower salary than her male counterparts (La. 1576/99 *Simmy Niddam v. Rally Electricity and Electronics Ltd.* (03.11.03)). The Court granted the plaintiff all social benefits along with compensation for grief caused to her in the sum of 30,000 NIS (approximately $8,100).

Income distribution of employees

284. The following are data on income distribution in Israel for 2007:

Table 11
Gross income per employee by occupation and gender, 2007

	Employees (thousands)	*Gross income (NIS per month)*	*Gross income (NIS per work hour)*	*Work hours per week*
All employees				
Academic professionals	296	12 672	73.2	40.9
Associate professionals and technicians	363.4	7 732	51.3	35.9
Managers	130.3	16 993	80.6	49.4
Clerical workers	424.3	6 499	39.6	39.2
Agents, sales workers and service workers	442.4	5 007	31.6	38.5
Skilled workers	419.9	6 573	33.4	47
Unskilled workers	192.3	3 753	25.1	36.9
Total	**2 326.8**	**7 662**	**44.9**	**40.8**
Males				
Academic professionals	147.6	15 775	80.8	45.6
Associate professionals and technicians	145.5	9 937	56.3	41.5
Managers	93.0	18 527	83.1	51.9
Clerical workers	107.7	8 383	44.1	44.9
Agents, sales workers and service workers	184.5	6 688	36.2	44.4
Skilled workers	372.6	6 801	34.1	47.5
Unskilled workers	106.2	4 354	26.2	41
Total	**1 201.2**	**9 267**	**48.2**	**45.7**
Females				
Academic professionals	148.5	9 587	63.4	36.1
Associate professionals and technicians	217.9	6 260	46.9	32.1
Managers	37.4	13 175	72.7	43.1
Clerical workers	316.6	5 858	37.7	37.3
Agents, sales workers and service workers	257.9	3 804	27.3	34.3
Skilled workers	47.3	4 772	26.6	43.3
Unskilled workers	86.1	3 011	23.3	31.9
Total	**1 125.6**	**5 949**	**40.5**	**35.6**

Source: Central Bureau of Statistics, Publications, Income Survey, 2007.

Table 12
Monthly income by status at work of head of household, 2007

	Status at work of head of household			
	Not working	*Self-employed*	*Paid employed*	***Total***
Households in population (thousands)	525.1	196.9	1 349.8	**2 071.8**
Gross monthly income per household (NIS)	5 302	18 262	15 127	**12 935**
Gross monthly income per person (NIS)	2 368	4 803	4 143	**3 910**
Net monthly income per household (NIS)	4 948	13 804	12 120	**10 463**
Net monthly income per standard person (NIS)	2 406	4 566	4 126	**3 843**

Source: Central Bureau of Statistics, Publications, Income Survey, 2007.

Occupational health and safety

285. There are currently 62 labor inspectors and 15 assistants in the Inspection Service of the Ministry of ITL (hereinafter: "the Service"). In 2006, the Service conducted 27,477 inspections of workplaces, 6,014 of which were at construction sites. The inspectors carried out 634 investigations of work accidents and occupational diseases; imposed 1,494 *safety* and health violation orders (requiring immediate action); and imposed 778 safety and health improvement orders.

286. The Industrial Hygiene Laboratory performed 2,473 occupational-monitoring. In addition, the laboratory examined 2,469 monitoring reports *conducted* by private laboratories.

287. As indicated in Israel's previous report, the results of the law enforcement activities have been constantly improving as can also be seen from the *following* updated data on work injuries, fatalities and injury compensation. The trend portrayed in Israel's previous report continues as a reduction in the number of work injuries and in fatalities is evident, in spite of an increase in the number of workers.

Table 13
Work injuries, 2000–2006

Year	*Number of injuries*	*Number of workers*	*Incidence (%)*
2000	76 185	2 133 800	3.57
2001	69 087	2 559 000	2.70
2002	70 025	2 570 200	2.72
2003	61 539	2 591 600	2.38
2004	65 776	2 637 000	2.49
2005	63 856	2 725 600	2.34
2006	64 296	2 804 200	2.29

Source: The Labor Inspection Service, the Ministry of Industry, Trade and Labor, 2008.

Table 14
Fatalities from work accidents, 1999–2007

Sector	*1999*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*
Industry	8	10	10	19	8	21	16	22	11

Sector	*1999*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*
Construction	34	29	31	31	34	15	24	30	25
Agriculture	2	4	2	2	3	3	6	4	2
Quarries	1	0	0	0	1	0	2	0	2
Ports	4	0	5	0	2	2	2	0	0
Trains	2	1	0	3	0	1	0	0	0
Other	15	17	12	7	12	10	4	5	11
Total	**66**	**61**	**60**	**62**	**60**	**52**	**54**	**61**	**51**

Source: The Labor Inspection Service, the Ministry of Industry, Trade and Labor, 2008.

Table 15
Injury compensation in 2007, by branches of work

	Receivers of injury compensation		
	Absolute numbers	*Percentage*	*Average days of inability to work*
All insured	67 657	100.0	33.9
Paid employees	61 661	91.1	32.6
Self-employed	5 996	8.9	47.3

Source: The Ministry of Industry, Trade and Labor, 2008.

Table 16
Injury compensation in 2007, by gender and age

		Age							
Gender	***Total***	*0–17*	*18–24*	*25–34*	*35–44*	*45–54*	*55–59*	*60–64*	*65+*
Total	**67 657**								
Per cent	**100**	0.4	10.9	25.1	22.7	23	10.1	5.5	2.6
Males	**47 928**								
Per cent	**100**	0.5	11.9	26.9	23.4	20.3	8.6	5.2	2.9
Females	**19 792**								
Per cent	**100**	0.18	8.27	20.6	21.1	27.7	13.9	6	2

Source: The Labor Inspection Service, The Ministry of Industry, Trade and Labor, 2008.

Promotion of equal opportunities

288. In accordance with an amendment to the Equal Employment Opportunities Law dated January 3, 2006, an Equal Employment Opportunities Commission was established, within the Ministry of Industry, Trade and Labor.

289. The Commission is charged with the promotion, implementation and civil enforcement of all legislation relating to equal opportunities in employment, with the exception of legislation relating to persons with disabilities, which is the responsibility of the Commission for Equal Rights of Persons with Disabilities. As such, the mandate of the Equal Employment Opportunities Commission includes the Equal Employment Opportunities Law, Equal Pay for Male and Female Employees Law, the Women's Employment Law, the Prevention of Sexual Harassment Law (in relation to employment),

the Hours of Work and Rest Law 5711-1951 (hereinafter: the "Hours of Work and Rest Law), the Discharged Soldiers (Job Reinstatement) Law, 5709-1949, the Equal Rights for Women Law, the Employment Service Law, Protection of Employees (Exposure to Offences of Unethical Conduct and Improper Administration) Law 5757-1997, and legislation concerning adequate representation of women, people with disabilities, Israeli Arabs and persons of Ethiopian origin in the public sector.

290. The Commission is charged, inter alia, with a wide range of duties, including fostering public awareness by way of education, training and public relations; promoting programs and activities; co-operating with other entities including employees and employers; conducting research and collecting information; making interventions, by leave of the court, in legal proceedings; dealing with complaints relating to violation of the constituent legislation, including by way of filing a civil action in the courts; applying to the court for general orders instructing employers to take general measures regarding all or part of their work force or employment applicants.

291. The Equal Employment Opportunities Commission commenced operation at the beginning of 2008, following the Government's decision in November 2007, to appoint Adv. Tziona Koenig-Yair as the First National Commissioner. In addition three regional commissioners are in the process of being appointed.

292. More recently, the advisory committee to the Commission has been appointed. Under the amendment to the Law, the 21-member committee comprises of representatives of the Authority for the Promotion of Women's Status, the Commission for Equal Rights of Persons with Disabilities, Government Ministries, NGOs, trade unions and employers' associations. Appropriate representation being given, insofar as is possible, to women, Israeli Arabs and persons with disabilities.

293. Since her appointment, the National Commissioner manned 3 additional positions, published a pamphlet dealing with employment rights which was distributed to 300,000 employers and employees, and is now being translated into Arabic.

294. Since September 2008, the services provided by the Commission include the handling of 150 specific applications, 3 law suits currently being prepared and many preliminary measures taken regarding discrimination by employers.

295. At the end of each year the Commissioner is required to submit an annual report to the Minister of ITL, who shall forward the report with his/her comments to the Knesset Committee for the Advancement of the Status of Women, and to the Knesset Committee for Labor, Welfare and Health.

Rest and leisure

296. The following data concerns the enforcement of the *Hours of Work and Rest Law* by The Enforcement and Regulatory Administration of the Ministry of ITL, since Israel's last report: in 2005 – 523 investigations were initiated and 99 administrative fines were imposed. In 2006 – 641 investigations were initiated and 182 administrative fines were imposed. In 2007 – 685 investigations were initiated and 309 administrative fines were imposed. Between the years of 2006–2008, 170 criminal indictments were filed.

Article 8
Collective labor rights

Related international conventions binding Israel

297. Since submission of Israel's previous periodic report, the following Reports were submitted: Israel's Third Periodic Report on the implementation of the International Covenant on Civil and Political Rights, submitted in July 2008; Israel's Fourth Periodic Report on the implementation of International Convention on Elimination of All Forms of Discrimination against Women, submitted in June 2005; Israel's 10th–13th Combined Periodic Report on the International Convention on Elimination of all forms of Racial Discrimination, submitted in September 2005.

Forming trade unions and joining them

298. A recent decision by the District Labor Court, has further broadened the legal protection of the right to organize in trade unions under Israeli jurisprudence (C.M. 6726/07 *Alon Leigh Green v. Excellent Coffee Ltd.* (18.7. 2007)).

Here, the petitioner requested the Court to revoke his dismissal by the respondent, which he claimed was wrongful and the result of his unionizing activity. According to the petitioner, prior to his unionizing activity, the respondent considered him to be a good employee and even promoted him to shift manager. The respondent argued that it was not the petitioner's desire to execute his right to form a union that led to his dismissal, but rather the deterioration in his performance as a shift manager.

The Court addressed Section 33J(a) of the *Collective Agreements Law* 5717-1957, which states, *inter alia*, that an employer shall not dismiss an employee, worsen an employee's work conditions, or prevent a person from being hired due to membership or activity in an employees union or committee, or due to efforts to establish an employees union or committee. The rationale portrayed in the Law, in accord with similar principles derived from case law in the Labor Courts, is that discriminating against an employee on the basis of his membership in an employees union violates the principle of equality as well as the right to form and join unions. Therefore, pursuant to both law and case law, the court must protect employees when there is concern that employers acted against them in violation of the basic right to form and join unions. The Court held that the respondent did not meet the burden to prove that the petitioner's dismissal was due to his performance and was not due to his unionizing activity.

As an exceptional remedy, the Court ordered the reinstatement of the petitioner, in accordance with section 33k to the Law. The Court held that indeed, the rule is that labor relations must not be compelled, and that monetary compensation should suffice, particularly when discussing the private sector. Yet, here is an exceptional case where the respondent's conduct amounted to an infringement of the employee's constitutional right, which no monetary compensation can remedy. Such an exceptional violation of a constitutional right that is a 'privilege' and beyond the employee's general rights, brings about exceptional consequences. This being the case, even with regard to a private entity.

299. Recently, the National Labor Court determined that an organization may not be considered a representative trade union, if it differentiates between men and women, in a way that constitutes discrimination against women, such as preventing them from taking part in the democratic process that is to elect and be elected to the organization's institutions. *Moreover*, it may not be considered a trade union, as it does not have a democratic nature and proceedings (La.C. 9/07 *Ultra-Orthodox Kindergarten Teachers Organization v. The Teachers of Agudat Israel Histadrut* (15.09.2008)).

The right to organize a trade union

Number and structure of trade unions in Israel

300. No notable change in the structure of labor organizations in Israel has occurred since the submission of Israel's previous reports. *The* Histadrut still remains the largest and most representative workers' organization in Israel and still refrains from disclosing exact numbers on its membership.

Individual freedom to join a trade union

301. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Freedom of operation of trade unions

The right to strike

The status and content of the right to strike

302. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Restrictions placed on the right to strike

Statistics on strikes in Israel

303. The figures presented in Israel's previous report can now be updated as follows:

Table 17
Strikes in Israel, 2000–2007

Year	*Number of "slow-downs"*	*Number of strikes and lock-outs (excluding slow-downs)*	*Number of persons involved in strikes and lock-outs*	*Work days lost*
2000	56	54	297 882	2 011 263
2001	58	62	426 560	2 039 973
2002	34	47	1 647 810	1 488 120
2003	64	60	1 258 904	2 725 159
2004	55	49	722 875	1 224 423
2005	44	57	103 666	244 236
2006	40	35	125 730	136 189
2007	37	30	386 075	2 548 627

Source: The Ministry of Industry, Trade and Labor, 2008.

The armed forces, the police and the administration of the State

304. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 9
The right to social security

Related international conventions binding Israel

305. Israel has filed new reports on the ILO Equality of Treatment (Accident Compensation) Convention (No. 19), the ILO Social Security (Minimum Standards) Convention (No. 102) and the ILO Equal Treatment (Social Security) Convention (118) – all discussing the years 2001–2006.

306. Furthermore, Israel has ratified bilateral social security conventions with the Czech Republic (2002) and Canada (2003), bringing the total number of these conventions to fifteen. Israel, as an immigration country, is interested in such conventions in order to assure each beneficiary an adequate benefit for prior social security credits in their country of origin.

307. Another purpose of these international conventions is the need to avoid dual coverage and contributions for workers posted temporarily by their employer in another country, while assuring continuity of protection and adequate benefits under the social security legislation of their country of origin.

Social security branches in Israel

308. Commencing in 2006, all social security benefits are indexed to the Consumer Prices Index, and not the average wage.

Maternity allowance

309. As of January 1, 2005, the National Insurance Institute (NII) pays a maternity grant, which is provided to post-natal new mothers in order to help cover the cost of a layette for the newborn child, directly into the mother's bank account, granted approximately one month after the birth date. The maternity grant was previously paid by means of a check given to the mothers in the hospital where the birth took place.

310. As of January 1, 2008, a "maternity grant" given to a new mother upon the birth of her first baby, or to the adoptive parents upon adoption, will equal 1,489 NIS (slightly more than $402). The maternity grant for a second child will be equivalent to 670 NIS (slightly over $181), and for every third and additional child to the family it will be the equivalent of 447 NIS (slightly over $120).

311. Commencing on January 1, 2006, women who are unable to work for a period of at least 30 consecutive days, owing to their high-risk pregnancy, are to receive "maternity allowance". The amount per day is the lower of the following two amounts: the basic amount divided by 30 – 248 NIS ($65); or the woman's salary divided by 90.

312. The NII pays a benefit to a mother who has given birth to three or more children in one birth, and again at the end of a 30-day period after the date of birth, if at least three of these children have survived. The childbirth allowance is paid, in addition to the maternity grant, for the period from the first day of the month following the birth, up until 20 months from that date.

313. **Automatic payment of Maternity Allowance**. Both employed and self-employed women are entitled, upon giving birth, to a Maternity Allowance from the NII for the period of their Maternity Leave from work. As of January 1, 2006, self-employed women receive the allowance automatically, without having to submit a claim.

314. The temporary order regarding Maternity Allowance for fathers who take maternity leave instead of the mother, detailed in Israel's previous report, was anchored since then in

both the *National Insurance Law* and the *Women's Employment Law*. Data indicate a significant rise in the number of men receiving Maternity Allowance. In 2007, the number of men receiving Maternity Allowance was 246, in comparison to 128 in 2003.

Old-age benefits

315. As detailed in Israel's previous periodic report, applications for Old-Age Pensions are initiated by the NII. Every man and woman, approximately two months before reaching pension age, receives a claims form for Old-Age Pension from the NII, together with an accompanying explanatory letter.

316. ***Retirement Age Law***. As mentioned earlier under Article 3 above, in 2004, the Knesset enacted the *Retirement Age Law*, under which, starting from July 1, 2004, the retirement age, and consequently the age of entitlement to Old-Age Pension, is gradually raised as follows: the conditional age or retirement age (age of entitlement to Old-Age Pension conditioned by a means test) will be gradually raised until it eventually reach 67 for men and 62 for women. The absolute age or pensionable age (age of entitlement to Old-Age Pension that is not conditioned by a means test) is gradually raised for women until it eventually reaches 70 (the same as for men). Prior to the change, the conditional age of entitlement to Old-Age Pension was 65 for men and 60 for women, while the absolute age was 70 for men and 65 for women. The new Law has implications on the definition of insured persons and many other social security branches, such as Disability, Unemployment, Income Support, Mobility and Long-term care.

317. On March 19, 2007, the ***Electricity Economy Law,* 5756-1996**, was amended and section 31a was added. According to the new section, persons who reach the retirement age and are entitled to income support, are entitled to a 50% discount on the first 400 KWH for domestic monthly use. The new section further invests the Minister of National Infrastructure with the authority to determine, in consultation with the Minister of Social Affairs and Social Services, other populations who may also be entitled to the reduced payment benefit.

Disability benefits

318. **Entitlement of returning resident to Disability Pension**. According to Amendment no. 53 to the *National Insurance Law* approved in 2002, a Disability Pension may also be granted to a person whose incapacity to work began when he was not a resident of Israel, if the impairment that led to the incapacity to work, began when the person was a minor (under 18) residing in Israel. Prior to the amendment of the Law, one of the prerequisites for entitlement to the Disability Pension was that the incapacity to work began when the person was an Israeli resident, except for new immigrants who are entitled to the Pension even if their incapacity began before they became Israeli residents. The amendment, in effect as of September 1, 2002, is meant mainly to meet the needs of returning residents.

319. **Broadening the definition of a new immigrant with regard to Disability Pension eligibility**. A recent amendment to the *National Insurance Law* broadened the definition of a new immigrant to include persons holding a visa for temporary or permanent residence in Israel who receive a basket of services from the Ministry of Immigrant Absorption. For these persons, entitlement to the Disability Pension begins 12 months after they entered the country, but not before July 1, 2006, when the amendment came into effect.

320. ***Retirement Age Law*: implications on Disability Insurance**. The *Retirement Age Law* has widened the scope of persons eligible for Disability Pension. Insured persons for purposes of Disability Insurance are now defined as "Israeli residents who are aged 18 or older but who have not yet reached the retirement age". This age is being gradually raised,

as detailed above, to 67 for men and 62 for women, and in the meantime varies in accordance to the person's month of birth. The change is in effect as of April 1, 2004; it applies to men who reached the age of 65 and to women who have reached the age of 60 on or after July 1, 2004.

321. ***Compensation for Poliornyelitis Victims Law* 5767-2007**. The new Law aims to provide compensation to Israeli residents (as defined in the *National Insurance Law*) who were infected with the Poliornyelitis disease while residing in Israel, and consequently became paralyzed. The compensation will be allocated according to medical disability degrees, which will be determined as stipulated under the *National Insurance Law.*

Benefits provided under the Law are additional to the general Disability and/or Mobility Benefits to which the polio victim may be entitled.

322. **Children with Disabilities**. The NII pays a special benefit for disabled children, defined as follows: children under the age of 18 (including adopted children or step-children) of an insured person, or of an insured person who died as an Israeli resident, who is of the following:

- A child (from age 3) dependent on the help of others for the performance of everyday functions (dressing, eating, washing, mobility in the home and the permanent presence of another, as defined in the regulations) to a degree significantly greater than is normal for his/her age group
- A child (more than 91 days old) in need of constant supervision
- A child with a special impairment, that is: (from birth) Down's syndrome or a deterioration in hearing, or (more than 91 days old) a vision impairment, autism, psychosis or a severe developmental retardation (the latter until the age of 3)
- A child (over 91 days) in need of special medical treatment as defined in the regulations, due to a severe chronic disease

Survivors' benefits

323. **Initiating claims for Survivors' Pension**. In keeping with the NII's policy of endeavoring to initiate substantiated claims whenever possible, in order to ensure maximal utilization of rights, a new campaign to initiate claims for Survivors' Pensions began in 2006. The target population includes spouses and children (under 22 years of age) of deceased insured persons, who have not yet submitted a claim for a Survivor's Pension.

324. **Automatic payment of Survivors' Pension**. As of 2006, Survivors' Pension is paid automatically to the following groups:

324.1 Widows to whom a Dependant's Increment had been paid to their husbands' Old-Age Pension;

324.2 Widows who receive Old-Age Pension by virtue of having accumulated a qualifying period, in the same bank account as their husbands'.

Dependence allowance

325. Section 135 to the *National Insurance Law* stipulates that once a widow remarries she is entitled to receive two benefit payments, but forfeits her claim to the monthly Dependence Allowance. The Law defines a wife as including common-law wife.

326. In La.A. 1407/04 *The National Insurance Institution v. Nehama Freeman* (8.11.06), the National Labor Court debated whether a widow who became a common-law wife, did not remarry, and attained a higher economic status than other widows, shall continue to enjoy the Dependence Allowance granted to widows. The Court held that although the

economic status of a common-law wife is better than that of a widow, it still is not a relationship as stable as marriage – since the parties may separate at any given moment, the woman may be suddenly returned to the economic status of a widow. According to the decision, the equalization tendency found in the legislation and in the rulings of courts is aimed at equalizing the rights and benefits received by a common-law wife to those received by married women. However, the issue raised was the negation of a benefit; the Court found that such negation needs to be interpreted narrowly and that therefore, if the legislator wishes to negate a right or a benefit it must be explicitly written in the Law.

Employment injury benefits

327. **Grant following the death of work – injured disabled person, not resulting from the work injury**. In 2001, an amendment to section 310 of the *National Insurance Law* was approved, enabling payment of a grant to the dependents of a work – injured disabled person whose death was not a result of his/her work injury. In accordance with the conditions stipulated in the Law, a grant in a sum equivalent to 60% of the full disability pension of the disabled person, multiplied by 36, is paid to the dependents. The grant is paid in two installments, the first upon the death of the disabled person, and the second after one year has elapsed since his/her death. Prior to the change, when a work injured disabled person died as a result of something other than his/her work injury, his/her monthly pension was ceased, and a grant was paid – at the rate of the average wage. This sum was paid only to the dependants of a disabled person who had a permanent medical disability of at least 50%, and to the dependants of an elderly disabled person.

The new grant is of a higher rate, and is paid to the dependants of all work – injured disabled persons, thus improving their economic situation. It should be noted that when a work injured person dies as a result of his/her work injury, his/her dependents continue to receive a monthly pension.

Income Support benefits

328. Income Support is a partial benefit provided to a person whose income from work or any other source (such as the Old-Age Pension) is lower than the Minimum Guaranteed Income (MGI), necessary for subsistence according to the law. Since 2002, many changes have been made in the amounts of the Old-Age Pension relative to the MGI. Therefore, in 2006 the NII decided to re-examine entitlement to income supplement, based on claims previously submitted and denied, acting under the assumption that the financial situation of the claimant has not changed.

329. In 2006, the NII paid Income Support benefits to approximately 130,341 families who did not earn the minimum level of income as determined by the *Income Support Law* 5740-1980 (the *"Income Support Law"*,) and who were not covered by other income maintenance programs.

330. **Exemption from the Employment Test requirement**. One of the basic prerequisites for eligibility for an Income Support benefit is satisfying the Employment Test: registration at the labor exchange as a job-seeker or participant in the *"Lights for Employment"* program. Only if the Employment Service is unable to offer a job does an individual become eligible for an Income Support benefit. The Employment Test is meant to verify that a claimant for Income Support benefit was not able to find employment, unless he/she is not capable of earning a living or is unsuitable for placement at any job. There are several categories of persons exempt from this requirement, such as single parents with small children, persons caring for a sick relative, etc. Under an amendment to the *Income Support Law*, in effect as of 2002, a mother in a foster family caring for a child up to the age of 7 is also exempt from satisfying the Employment Test in order to receive Income Support benefit. Another amendment to the Law, in effect as of 2007, determines

that persons aged 25 or over, with medical disability degree of 75% or more, as well as disabled housewives, are also exempt from the Employment Test.

331. **Vehicle ownership**. According to an amendment to the *Income Support Law* dated December 26, 2006, the ownership of a vehicle does not, under certain conditions, disqualify a person from eligibility for Income Support benefit. Previously, a person who owned a vehicle, other than a motorcycle, was not eligible for an Income Support benefit, unless he/she had impaired mobility or needed the vehicle in order to access medical treatment. The amendment aspires to remove obstacles from Income Support recipients who need a vehicle in order to work.

Child allowances

332. As reported in Israel's previous periodic report, all families residing legally in Israel, regardless of income, are entitled to "Child Allowance", a monthly grant that increases with the number of children in the family. The Government policy of reducing Child Allowances – the first stage of which was carried out from 2002 to 2004 – will continue until 2009. The policy is being partially implemented by means of temporary orders and partially as permanent legislation. By the end of the legislative process in 2009, the allowance will be a fixed amount for every child in all families, regardless of the child's place in the family.

Commencing from January 2008, a family with one child receives 152 NIS a month (approximately $41); a family with two children receives 304 NIS ($82); with three children – 486 NIS ($131); four children – 823 NIS ($222); and five children – 1,160 NIS ($313) per month. The amount per every child born after June 1, 2003, is 152 NIS ($41).

In 2005, 956,294 families received child allowances, amounting to 19% of the total benefits paid by the National Insurance Institution (NII). In 2006, 968,282 families received child allowances, amounting to 17.6% of the total benefits paid by the NII.

333. In accordance with the *Economy Policy Law for the Fiscal Year 2004 (Legislative Amendments)*, the *National Insurance Law* was amended and section 68(c) was added. The new section provides that a parent who is entitled to Child Allowance for three or more children, and receives one of the following benefits: Income Support, Alimony, Survivors' Pension with Income Supplement or Old-Age Pension with Income Supplement, will receive a monthly increment to the child allowance at a rate of 0.59 of a credit point for each of the third and fourth child in the family (106 NIS ($28)).

334. The NII also provides a Study Grant for every child between the ages of 6 and 14 in entitled families, at the beginning of the school year. Entitled families are: single-parent families; families with 4 or more children who receive one of the following benefits: Income Support, Alimony, Disability, Old-Age, Survivors' Benefit; a child orphaned from both parents; an abandoned/orphaned child as defined in the *Income Support Law*; a child who immigrated to Israel without an insured parent; and women residing in a shelter for battered women, under certain conditions.

Special Social Funds

335. Within the endeavors to aid and advance the weak populations in Israeli society, the NII maintains 5 Special Social Funds dedicated to the development of infrastructure and services for these populations, by encouraging service-providing organizations (Governmental, Municipal and Non-Governmental) to expand the scope and accessibility of the welfare services they provide to various population groups insured and supported by the NII:

335.1 the Fund for Development of Services for the Disabled.

335.2 the Fund for Activities Aimed at Work Safety and the Prevention of Work Accidents.

335.3 the Fund for Development of Long-Term Care services.

335.4 the Fund for the Development of Services for Children and Youth, (established in 2004).

335.5 the Fund for Special Initiatives.

336. The activities of the Funds are anchored in the *National Insurance Law*, and four of them draw their budget from a percentage of the annual allocation earmarked for the insurance branch to which they are attached. The Fund for Special Initiatives has its own particular budget, since the projects it sponsors are geared towards all the Institute's beneficiaries.

337. The Funds act as catalysts for the development of services in the community by providing preliminary financial assistance for the initiatives of service-providers who undertake to continue to maintain and operate these services on their own for an extended period.

The pension system in Israel

338. On July 19, 2007, the Federation of Israeli Economic Organizations and the Histadrut Trade Union, signed a collective agreement concerning an extensive pension insurance arrangement for all workers. The collective agreement came into force on January 1, 2008, following the issuance of an expansion order by the Minister of ITL validating the agreement.

339. The collective agreement will only apply to employees who do not have a beneficiary pension arrangement. An employee who has a beneficiary pension arrangement will not be affected, the beneficiary arrangement will continue to apply in its current form and his/her rights will not be subtracted from. The agreement applies to every employee from the age of 21 for men, and 20 for women.

340. The agreement stipulates that, *inter alia*, as of January 1, 2009, each employee will be entitled to pension allocation after completing six months of employment. During the adjustment period until January 2009, the entitlement will apply to all employees who on January 1, 2008, completed nine months of employment. An employee, who began his/her employment in a workplace and has pension insurance, will be entitled to pension allocation from the first day of his/her employment; the carrying out of the allocation will begin either after three months of employment retroactively, or at the end of the tax year, whichever is earlier.

341. The salary insured is the salary as determined by the *Severance Payment Law* 5723-1963, and shall include the basic pay and all additional wage components to which the employee is entitled. The maximal insured wage equates to the average wage.

Each employee is entitled to choose the pension fund or the retirement fund and notify the employer within 60 days of commencing employment.

Long-term care

342. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Expenditures

343. Social security benefits payments amounted to 6.9% of the GNP in 2007, and 7.1% in 2006. Israel's second periodic report presented a clear increased share of benefit payments in both the GNP and the Government budget until 2002 (8.9%). A decreasing trend began in 2003 (8.3%) and continued until 2007.

Equality in social security

344. Since the submission of Israel's previous report, there have been some notable positive changes enhancing equality in social security, which have been presented in this report.

Article 10
Familial rights

Related international conventions binding Israel

345. Since 1991, Israel is a party to the Convention on the Elimination of all Forms of Discrimination Against Women. In May 2005, Israel submitted its Fourth Periodic Report to the Committee on the Elimination of all Forms of Discrimination Against Women. Its fifth report will be submitted in 2009.

346. Since 1991, Israel has been a party to the International Covenant on Civil and Political Rights. Its third report was submitted to the Committee in July 2008.

347. Since 1991, Israel has been a party to the International Convention on the Rights of the Child, submitted its Initial Report in 2001 and its second periodic report will be submitted in 2009.

348. Since the submission of Israel's second periodic report, a report under the ILO Minimum Age Convention 1979 (No. 138), was submitted relating to the years 2004–2005.

Meaning of "family"

The definition of the term "family" in Israeli law

349. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Meaning of family in administrative practice

350. Several important judiciary developments have occurred since the submission of Israel's previous report, broadening the meaning of family in administrative practice, with regard to same-sex couples.

351. On November 21, 2006, the Supreme Court handed down a landmark decision concerning the rights of same-sex couples. It held that a wedding certificate from a foreign country in which same-sex marriages are recognized, could allow the couple to be registered as married by the Ministry of the Interior. Five gay couples who held wedding ceremonies abroad petitioned to the Supreme Court following the Ministry of the Interior's refusal to register them as married (H.C.J 3045/05 *Ben-Ari v. The Ministry of the Interior*, H.C.J 3046/05 *Bar-Lev v. The Ministry of the Interior*, H.C.J 10218/05 *Herland v. The Ministry of the Interior*, H.C.J 10468/05 *Lord v. The Ministry of the Interior* and H.C.J 10597/05 *Remez v. The Ministry of the Interior*).

The Supreme Court based its decision on a previous Supreme Court ruling (H.C.J 143/62 *Fonk-Shlezinger v. The Minister of the Interior*) in which a distinction was made between the duty to register marriages, and the question of recognition of their status. The Supreme Court determined that the Ministry of the Interior must not discriminate against same-sex couples who hold a wedding certificate from a foreign country that permits same-sex marriages. Nevertheless, the Supreme Court noted that by doing so, it does not grant a new status to same-sex marriages, and reiterated that it is the role of the Knesset to endow as much.

352. In an innovative judgment, the Nazareth District Court determined that the term "man and woman" in the *Inheritance Law* 5725-1965, (the "*Inheritance Law*") includes spouses of the same gender. The judgment was based upon the general inclination to broaden the interpretation of the term "spouse" in the *Inheritance Law*. (C.A. 3245/03 *A.M. v. The Attorney General* (11.11.04)).

353. In a significant decision dated January 2005, the Supreme Court accepted the appeal of two women, a same-sex couple, to adopt each other's children. The Court ruled that under the *Children Adoption Law* 5741-1981, each case should be examined on its own merits and all the relevant circumstances need to be taken into consideration. The Court emphasized that the decision solely concerns this couple and is not a principled one, thus leaving the question of same-sex relationships for a later date. The Court recommended that the Knesset amend the Law to provide a solution to a real problem, and attempt to bypass ideological controversial problems that the issue presents (C.A. 10280/01 *Yaros-Hakak v. The Attorney General* (10.01.05)).

354. On April 19, 2007, The Haifa Labor District Court accepted a claim against the "Mivtachim" pension fund, and determined that a surviving partner of a lesbian relationship was eligible to the legal rights of an "insured widow", and not of an "insured widower" (D.L.C 1758/06 *Moyal-Lefler v. Mivtachim*). Following this decision, the plaintiff is to be paid a Survivors' Pension of 40% as opposed to only 20%.

The Court concluded that in this instance, the plaintiff was the deceased's spouse, and was publicly recognized as her common-law wife. Therefore, she was eligible to a Survivors' Pension, according to the rules of the pension fund. The Court stated that "the distinction between men and women in the rules of the respondent and the *National Insurance Law* derives from a similar rationale – a reflection of the economic situation in which we live, where women's incomes are lower than men's, and their promotion in the labor market is more difficult. Therefore there is a justification for the preference of widows as it narrows the existing gap between men and women."

The Court held that the plaintiff should be classified as a female widow, and not as a widower. She was therefore eligible for the rights of an "insured widow", and the pension as stated in the rules of the pension fund.

Majority

355. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Assistance to the family and its protection

The fundamental right to family life

356. **Fertility treatments**. There are 24 fertility departments in Israel, 9 in governmental hospitals, 11 in public hospitals and 4 in private hospitals. In 2006, 25,552 cycles of IVF treatment were performed (in comparison to 20,886 cycles in 2002), resulting in 6,473 pregnancies and 4,298 live births (5,229 children). The percentage of live births in Israel

per treatment cycle has been relatively steady since 1996 (15.8 %) and in 2006 it stood at 16.8%.

357. In February 2007, the *Equal Employment Opportunity Law* was amended to add a specific prohibition on discrimination against an employee due to fertility treatment or IVF treatment.

358. The accumulative number of applications for surrogate motherhood, as of December 2007, is 450, resulting in 194 children in 160 successful child births (due to 32 labors of twins and one set of triplets being born). Out of the 450 applications some were made by couples for the second time after a success or a failure to conceive on the first application. Some of the applications never reached the stage of signing an agreement. At least two of the prospective mothers gave birth.

Marriage

359. ***Family Matters Court Law* 5755-1995** (*"Family Matters Court Law"*). Until 2001, the Muslim and Christian courts had exclusive jurisdiction in all family matters, including women's and children's alimony, property issues, child maintenance, guardianship and parental matters. In November 2001, the *Family Matters Court Law* was amended to create parallel jurisdiction in Family Matters Court in all issues concerning the personal status of Muslims and Christians (matrimonial assets, custody, child support, family violence and in the case of Muslims, also parenthood) under the jurisdiction of the civil system, excluding questions of marriage and divorce which remain exclusively under religious jurisdiction.

360. **Minimum marriageable age for men and women**. The phenomenon of underage marriage still takes place in certain segments of Israeli society, including those of the Ultra-Orthodox Jews, Jews originating from Georgia and Arabs.

361. In 2005, 30 requests to allow the marriage of minors were submitted to family matters courts – 17 were approved. During the years 1997–2005, more than a half of the 251 requests for marriage of minors were approved. During the years 2000–2006, 41 complaints were submitted to the Police due to violations of the *Marriage Age Law* 5710-1950. In half of those cases criminal files were opened. In all other cases it was decided not to prosecute.

362. ***Dissolving of Marriage Jurisdiction (Special Cases and International Jurisdiction) Law* 5729-1969**. The Law concerning the dissolution of marriage of persons with no religious affiliations or different religions was amended in July 2005, to allow for either spouse to apply directly to a Family Matters Court in matters of marriage dissolution, instead of applying first to the President of the Supreme Court. In suitable cases, the Family Matters Court may seek consultation from the relevant religious court to determine whether it is necessary to dissolve the marriage according to the religious law of either spouse in order to allow him or her to remarry. The amended Law also includes international jurisdiction provisions of Family Matters Courts.

363. **Upholding Divorce Decree**. In two Amendments to the *Rabbinical Courts (Upholding a Divorce Decree) Law* 5755-1995, the legislator extended the powers granted to the Rabbinical Court when dealing with a husband reluctant to give his wife a "*Get*" (divorce decree), thus preventing her from re-marrying. The first Amendments, dated June 1, 2004, empowered Rabbinical Courts to order the reluctant husband to remain in isolation for an initial period of 14 days (previously 5 days) and for continuous periods thereafter, pursuant to certain limitations. The Second Amendment, dated July 25, 2007, enables the Rabbinical Courts, in certain circumstances, to foreclose or withhold pensions and other allowances in a progressive manner as stipulated in the Law, as well as possessions including personal effects and real estate.

364. On July 21, 2008, the Jerusalem Family Matters Court compensated a woman in the amount of 550,000 NIS ($148,648) due to her husband's lack of compliance to the order of the Rabbinical Court, stipulating the need for a divorce between the couple (F.C. (Jerusalem) 6743/02 *K. v. K.* (21.6.08)). The woman filed for divorce at the Rabbinical Court in 1998, and in 2006, that Court ordered the husband to grant a divorce decree to his wife. The Family Matters Court determined that due to the lingering of the divorce process the husband inflicted extensive emotional suffering upon his wife, even more so after his refusal to comply with the order of the Rabbinical Court. Therefore, the Family Matters Court decided to compensate the woman for the emotional pain she suffered. However, this decision does not repeal the need to receive the husband's consent to the divorce in order for it to become valid.

365. With regard to the issue of women remarriage in cases where the husband is opposed to the divorce, please refer to the Israel's periodic reports on the implementation of the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

366. **Division of property**. The Knesset recently amended the *Division of Property between Spouses Law*, 5733-1973, in order to allow the division of property prior to the divorce or end of marriage. According to Jewish "*Halach*a", both spouses must consent to the divorce. The purpose of the Amendment is to prevent the possibility of one spouse to require the other spouse to relinquish his/her property rights, as a condition for his/her consent to divorce.

The Amendment further broadened the incidence of the Law, to include marriage annulment, declaration that the marriage was void and separation according to religious law that does not allow divorce, in addition to divorce.

The Amendment added Section 5A(a), according to which, the court may allow, under certain circumstances, the realization of the right to division of property, namely the right of each spouse to half of the couple's total property, prior to the divorce or the marriage annulment in each of the aforementioned forms.

According to Section 5A(b), the court may shorten the periods stipulated in section 5A(a), if it deems it appropriate. Furthermore, in certain circumstances, namely the involvement of violent elements, the court may order the division of property even if the situation does not comply with the terms stipulated in section 5A(a).

According to Section 5A(c) the court may condition the execution of a division of property request, in the deposition of a written letter of consent to receive or give a *Get* from the applicant.

367. **Civil marriages**. On November 21, 2006, the Supreme Court took the laudatory step of recognizing civil marriages which had taken place between Jewish Israeli residents and citizens, outside of Israel (H.C.J 2232/03 *Anonymous v. The Rabbinical Court of* Appeals). A Jewish man, who wanted to divorce his wife after having been civilly married outside of the State, turned to the Rabbinical Court which stated that the marriage should not be recognized, and are therefore dissolved. The wife, who did not wish to divorce her husband, petitioned the decision to the High Court of Justice. The Court determined that the Rabbinical Court could not dissolve the marriage based on the fact that the marriage was not performed according to Jewish "*Halacha*". It further noted that civil marriages are indeed valid in Israel. The Supreme Court based the recognition of civil marriages, *inter alia*, on international private law, and further determined that the necessity to validate these marriages is strengthened by the right to marriage and family life, and the obligation to respect the familial unit.

368. **Spouses**. On April 15, 2007, the Nazareth Family Matters Court rejected a lawsuit brought by two children of a deceased man against his second wife. In the claim, the children requested the rights to a property of their father's that the second widow had inherited (Nazareth F.C 001180/04 *A.Z and P.Z v. V.Z et. al.*). The plaintiffs claimed that their father's widow had a new spouse and that according to a condition in their father's testament, she lost the right to the property under those circumstances and the children were subsequently to inherit it.

The Court held that the meaning of the word "spouse" as it appeared in the testament should be interpreted as a relationship characterized by economic management of a family unit, stemming from a joint family life. This meaning complied with the testimony's objective that the children would inherit the property only if the wife developed a serious and permanent relationship with her new partner, similar to the one she had with the deceased.

The Court decided that in this case, the relationship between the respondent and her partner was based on friendship and intimacy, but could not be characterized as incorporating the economic management of a joint family unit. Therefore, the new couple could not be considered as 'spouses' according to the terms of the testament, and the lawsuit was rejected.

Strengthening and protecting the family

369. In a precedent decision, the National Labor Court rejected an appeal submitted by the State, regarding the interpretation of section 4(a)(1) to the *Equal Employment Opportunities Law*. The State claimed that the proper interpretation of the Law should grant similar benefits to male and female employees in the same workplace, upon fulfilling the condition that their female spouse is employed and that there is a similarity between the benefits granted in both their workplaces. The Court rejected the State's claim, and reaffirmed the decision of the District Labor Court, which held that the petitioner was entitled to a shorter workday, the same as given to his female co-workers, despite the fact that his wife was not entitled to similar benefits in her workplace. The Court stipulated that the purpose of the *Equal Employment Opportunities Law* is to implement the principle of equality, which is a fundamental principle, in all matters relating to employment relations. The Court held that the purpose of the Law was to grant parental benefits to one of the parents, according to their preference, and to prevent dual-use of the same rights by both parents (La.A. 1155/02 *The State of Israel v. Alexander Muskalnenko* (31.8.2003)).

370. For discussion of the financial and economical benefits granted by the State to aid families, please see Article 9 above.

Protection of children

371. By the end of 2007, 2,408,400 children made up 33.3% of the total population of the State of Israel, in comparison to 33.8% in 2000.

372. In 2007, 8% of all children in Israel lived in a single parent family, in comparison to 6.8% in 1995. The number of children who immigrated to Israel since 1990 and presently reside in Israel is approximately 90,000.

373. In 2007, 24.8% of families with children were under the poverty line, a decline in comparison to 25.5% in 2006.

374. For discussion of the financial and economical benefits granted by the State for the protection of children, please see Article 9 above.

375. Indications of information concerning the implications of legislation can be found in the *Rights of the Child Law* 5762-2002. This Law requires the systematic inclusion of explanatory notes in every bill regarding its expected implications on the rights of children.

Provision of welfare services

376. In January 2007, there were 418,527 children known to the social services departments, this consists of nearly 20% of all children in Israel. From January 2001 to January 2007, there was an increase of 44% in the number of children in the social services system. 326,588 children were defined by the social services departments as 'children at direct risk or family risk' – indicating that the child's development and his/her reasonable manner of life are at risk and he/she may require assistance.

Child abuse

377. In 2006, 8,222 children that had been victims of sexual and violent offences under the age of 14 were investigated by a children's investigator, in comparison to 8,328 in 2005 and 5,704 children in 2000. Despite the gradual increase in the number of children interrogated by a children's investigator, the percentage of girls interrogated has declined from more than two thirds of the children investigated in 1990 to less than half in 2005. Out of all children interrogated, 55% were victims of abuse within the family, 30.3% were victims of sex offences, 9.4% were witnesses of sex offences, and 5% were suspects of committing sex offences.

378. A 2001 Amendment expanded the *Evidence Procedure Revision (Protection of Children) Law* 5715-1955 (section 1A), stipulating that a child could be investigated by a children's investigator concerning related offences. The expansion was designed to prevent a situation in which a child might be investigated by a children's investigator concerning an offence included in the Law (sex and severe violence offences), but could not be investigated concerning a related offence – a situation which invariably led to a splitting-up of the investigation.

379. A 2004 Amendment made several other changes, including:

379.1 The implementation of special procedures allowing children to testify in court in relation to offences to which the Law applies (section 2(d)). In this regard, the child's testimony will be permitted by the children's investigator subject to certain conditions being met. The investigator may require, for example, that the child testify via closed circuit television, on one specified date, not on the witness stand, in the judge's chamber, and so on.

379.2 Decisions of the children's investigator and the Court concerning testimony and testimonial measures will be concluded only after hearing the opinion of the child, if he/she can express his/her own opinion. The child's opinion will be weighed according to his/her age and his/her maturity (section 2(f)).

379.3 Once the children's investigator reaches a decision as to the child's testimony, he/she must, without delay, reevaluate his/her decision, considering; admission of the child's testimony if he/she has allowed the child to testify, or the trial, if he/she has prohibited the child's testimony (section 2(g)).

379.4 A decision of a childrens' investigator may be re-examined by a senior children's investigator (section 2(h)).

380. A 2005 Amendment constituted the rule that investigation of a child must be conducted with his/her parents' knowledge, except in certain circumstances. For example: if there is concern as to any damage to the child's physical and mental wellbeing, if the suspect is a family relative and there is a concern of possible damage to the child, and if

there is substantial difficulty in informing the parent by reasonable effort and the delay might foil the investigation or any crime prevention (section 4A). In addition, the amended Law states that if an investigation without the parents' knowledge is required, the child may, under specific conditions, be taken out from the place where he/she is staying (school, kindergarten, etc.), in order to conduct the required investigation. The conditions include such requirements as having had consultation with education personnel who know the child, supplied explanations to the child, provided identification details of the children's investigator to the administrator of the place, etc.

381. A 2005 amendment stated that a child with an Intellectual Disability is to be investigated by a special children's investigator in accordance with the *Investigation and Testimony Procedures (Suitability to Persons with Intellectual or Mental Disability Law).*

382. Section 361 of the *Penal Law* was amended in 2001 (Amendment 59), and now determines that leaving a child under the age of six without appropriate supervision, in circumstances that endanger the child's life, hurt or might hurt the health or well-being of the child, is a criminal offence.

383. **Sexual Abuse**. Since 2002, there have been several Amendments to section 354 of the *Penal Law* concerning restrictions on limitation in sex offenses against minors. Currently, the Law stipulates that in the case of offenses committed against a minor by a person responsible for the minor, the limitation period shall begin when he/she reaches the age of twenty eight. If the offenses were committed by a person above the age of fifteen who is not a relative, or responsible for the minor, the limitation period shall begin when the minor reaches the age of eighteen. In addition, a 2001 Amendment (Amendment 61) to the *Penal Law* removed the element of 'use of force' from sex offenses, which has effectively shifted the focus of the investigation to absence of consent. A 2003 Amendment (Amendment 77), also added an offence concerning the sexual exploitation of a patient by a mental therapist (Section 347A).

384. On July 12, 2007, the *Limitation Law* 5718-1958, was amended (Amendment 4) in order to extend the limitation period for civil suits concerning sexual assault or abuse of minors. The amendment relates to a civil suit concerning sexual assault of a minor, or child abuse by a family member or a person responsible for the child, as well as the sexual assault of a person between the ages of 18 and 21, while exploiting relations of dependence, authority, trust or treatment, or if the sexual assault was committed by a family member. In these cases, the limitation period will not commence before the victim reaches the age of 28. The Law further stipulates that if an indictment was filed, the civil limitation period will not end until one year had passed after a conclusive verdict was delivered.

385. **Child Prostitution**. Section 214 of the *Penal Law* was amended in 2007 (Amendment 93), and the short two-year limitation period for submission of indictments concerning pornographic advertisements of minors was annulled. The *Penal La*w was amended in 2006, so that section 15 now applies the principal of extraterritoriality to pornography and prostitution offences committed against minors. It is currently possible to try offenders in Israel for such offences, even though the act might not constitute a criminal offence in the country in which it was performed (no double criminality is required).

386. **The Committee for Examination of the Conditions of Children at Risk**. According to Government Resolution no. 1007, dated November 16, 2003, Israel's former Prime Minister and former Minister of Social Affairs and Social Services, appointed a public committee for the examination of the conditions of children and youth at risk or in distress. On September 12, 2006, following a report submitted by the committee in March 2006, the Government accepted Resolution no. 477 on the gradual implementation of a plan recommended by the committee. In 2007, the implementation of the plan began in several towns in Israel with a special annual budget of 200 million NIS ($52,631,578).

Foreign workers' children

387. In 2007, approximately 1,000 children of foreign workers lived in Israel. In July 2007, 975 children of foreign workers under 5 years old were treated in family health-care centers in the city of Tel-Aviv.

388. Since the submission of Israel's previous periodic report, there has been some progress in the legal status of foreign workers' children. Government Resolution no. 3807, dated June 26, 2005, was amended by Government Resolution no. 156, dated June 18, and states the following:

> "Upon request, the Minister of the Interior is entitled to grant permanent residency status to children of illegal immigrants who have been part of Israeli society and culture, if they fulfill the following conditions:
>
> (a) The child has lived in Israel for at least 6 years (as of the date of the Resolution), and has entered Israel prior to the age of 14. A short visit abroad will not be viewed as an interruption of this time period;
>
> (b) Prior to the child's entry or birth, the parents must have entered Israel legally, and with an entry permit in accordance with the *Entry into Israel Law*, 5712 -1952;
>
> (c) The child speaks the Hebrew language;
>
> (d) The child is in first grade or above, or has completed his studies;
>
> (e) Those filing the request will be required to submit documentation or participate in hearings, in order to prove that they fit the abovementioned criterion."

The Minister can grant temporary residency status in Israel to the parents and the siblings of the child, as long as they have lived in the same household from the child's day of entry or birth in Israel, and are in Israel as of the date of this Resolution. If there is no reason for objection, the temporary residency status will be renewed until the child reaches the age of 21. At that point, the parents and the siblings will be entitled to file a request for permanent residency status.

389. As of November 3, 2008, approximately 862 requests have been filed of which 430 were accepted, 417 were rejected and 15 remain pending due to lack of adequate documentation. In the case of 349 rejected requests, appeals were filed to the committee of appeals. On review, 127 applications were accepted by the Ministry of the Interior, and 193 rejected. An additional 24 appeals were referred to the committee that reviews humanitarian issues, and 8 appeals are currently under review.

Youth protection

390. As detailed in Israel's previous report, the *Youth Employment Law* prohibits employment of persons under the age of 15. Under the Law, an executive (as defined by the Law) in a corporation has a duty to supervise and adopt all necessary measures in order to prevent infringements of the Law by the corporation or one or more of its employees. A 2000 amendment to the Law broadened the duty to include the responsibility of executives in public bodies to ensure that contractors hired by the public body, do not violate the Law. With regard to the duty of public executives according to the amendment, the Law enumerates the different measures the executive must adopt in order to fulfill his/her duty.

391. In 2007, the Law was further amended in order to allow the employment of a minor between the ages of 16 and 18, after 23:00 pm, where the employment of the minor is required due to a declaration of a "state of emergency" or in workplaces where work is conducted in shifts. According to the Law, the Minister of Industry, Trade and Labor is

authorized to approve such employment, only where convinced that the health and welfare of the minor are protected.

Table 18
Population age 15–17 by work, studies, gender and population group, 2001–2007

	2001			*2006*			*2007*		
	Arabs	*Jews*	***Total***	*Arabs*	*Jews*	***Total***	*Arabs*	*Jews*	***Total***
Grand total									
Thousands	77.9	258.4	**336.3**	85.2	254.4	**346.3**	89.7	255.8	**350.6**
Percentage	100	100	**100**	100	100	**100**	100	100	**100**
Work	3.2	9	**7.6**	3.5	8	**7**	2.5	8.3	**6.9**
Thereof: Study	1.2	7.6	**6.1**	-	6.9	**5.3**	-	7.2	**5.5**
Do not study	2.2	1.4	**1.6**	3.3	1.1	**1.7**	2.2	1.1	**1.4**
Do not work	96.8	91	**92.4**	96.5	92	**93**	97.5	91.7	**93.1**
Thereof: Study	82.1	85.6	**84.8**	82.6	86.2	**85.2**	85.1	86.3	**85.9**
Do not study	14.7	5.4	**7.6**	13.8	5.8	**7.8**	12.4	5.5	**7.2**
Men									
Thousands	38.9	134	**172.9**	43.7	130.8	**177.7**	45.8	130.9	**179.4**
Percentage	100	100	**100**	100	100	**100**	100	100	**100**
Work	5.6	9.4	**8.6**	6.6	8.8	**8.3**	4.3	8.6	**7.6**
Thereof: Study	-	7.8	**6.4**	-	7.6	**5.8**	-	7.7	**5.8**
Do not study	4.1	1.6	**2.1**	6.2	1.3	**2.5**	3.9	0.9	**1.8**
Do not work	94.4	90.6	**91.4**	93.6	91.1	**91.7**	95.7	91.4	**92.4**
Thereof: Study	77.7	84.9	**83.3**	79.9	85.2	**83.9**	82.9	85.9	**85**
Do not study	16.4	5.6	**8.1**	13.7	6	**7.8**	12.8	5.5	**7.4**
Women									
Thousands	38.9	124.4	**163.3**	41.5	123.7	**168.6**	43.9	124.8	**171.2**
Percentage	100	100	**100**	100	100	**100**	100	100	**100**
Work	-	8.4	**6.7**	-	7.1	**5.5**	-	8	**6.1**
Thereof: Study	-	7.2	**5.8**	-	6.2	**4.7**	-	6.8	**5.1**
Do not study	0.3	1.2	**0.9**	-	1	**0.8**	-	1.2	**1**
Do not work	99	91.6	**93.3**	99.5	92.8	**94.4**	99.4	92	**93.9**
Thereof: Study	86.2	86.4	**86.4**	85.5	87.1	**86.7**	87.3	86.6	**86.8**
Do not study	12.8	5.1	**7**	14.0	5.7	**7.8**	12.1	5.4	**7.1**

Source: The Central Bureau of Statistics, 2002, 2007, 2008.

Table 19
Minimum wage for youth (in accordance with the minimum wage regulations (working youth and apprentices) 5747–1987)

Age	*% of the Minimum wage of an adult*	*Minimum wage per month*	*Minimum wage per hour*
Under 16	70%	2597.13 NIS	15.01 NIS

Age	*% of the Minimum wage of an adult*	*Minimum wage per month*	*Minimum wage per hour*
Under 17	75%	2782.64 NIS	16.08 NIS
Under 18	83%	3079.45 NIS	17.80 NIS
Apprentice	60%	2226.11 NIS	12.87 NIS

Source: Ministry of Trade, Industry and Labor Ministry, April 2007.

Family reunification

392. In its concluding observations to Israel's last periodic report the Committee expressed concern with the process of family reunification for foreign spouses.

393. Since the outbreak of the armed conflict and hostilities between Israel and the Palestinians towards the end of the year 2000, which led, *inter alia*, to the commission of dozens of suicide bombings inside Israel, there has been a growing involvement in assistance to terrorist organizations on the part of Palestinians originally from the West Bank and the Gaza Strip. Such individuals carry Israeli identity cards pursuant to procedures of family unification with Israeli citizens or residents, allowing their free movement between the West Bank and the Gaza Strip and into Israel.

394. In order to prevent such potential danger posed by former residents of these areas during the current armed conflict, the Government decided in May 2002 to temporarily suspend granting them legal status in Israel, through the process of family unification. The decision was adopted following the horrendous wave of terrorist attacks in March of 2002, when 135 Israelis were killed and another 721 were injured.

395. In addition, between September 2000 and the end of 2006, 38 of the 172 terrorist attacks carried out in Israel, were committed by such individuals. Those injured in these 38 terrorist attacks constitute 86% of the total number of injured by terrorist attacks. In fact, in 2007, a 20-year-old woman, whose mother is an Israeli-Arab from Kfar Qasem and whose father is Palestinian, was caught — merely 12 minutes before exploding herself in a restaurant in Israel — using a bomb that was stored during the previous night, in the home of a relative in Kfar Qasem.

396. This situation is the result of the genuine difficulties in obtaining information concerning residents of the West Bank, following Israel's transfer of powers and responsibilities and termination of daily presence in this area pursuant to the Israeli-Palestinian Interim Agreement, dated September 28, 1995.

397. Israel, as any other State, is entitled to control entry into its territory, and more so, during times of armed conflict, when persons requesting to enter may potentially be involved in acts of violence and terrorism against its citizens.

398. On July 31, 2003, the Knesset enacted the *Citizenship and Entry into Israel Law (Temporary Provision)* 5763–2003, which limits the possibility of granting residents of the territories Israeli citizenship pursuant to the *Citizenship Law* 5712–1952, including by means of family unification; and the possibility of granting such residents residence permits into Israel pursuant to the *Entry into Israel Law* 5712–1952. The Law was amended in 2005 and 2007, in order to expand the humanitarian relief it initially provided. The amendments also expanded the applicability of the Law to citizens of enemy States (namely, Iran; Syria; Lebanon; and Iraq).

399. The Law enables entry into Israel for the purposes of medical treatment, employment, or other temporary grounds, for an overall period of up to six months.

400. In addition, the Minister of the Interior may authorize a request for family unification for those who are married to an Israeli spouse, and are residents of the area, for men over the age of 35 and women over the age of 25. The Law further authorizes the Minister of the Interior to grant residence permits to children of such a couple that are minors under the age of 14. With regard to children of such a couple that are minors over the age of 14, the Law stipulates that the Minister of the Interior has the authority to grant temporary permits under certain conditions.

401. The Law further allows the Minister of the Interior, due to special humanitarian reasons and according to a recommendation of a professional committee appointed for this purpose, to grant temporary residence permits for a resident of the area or a citizen of Iran, Iraq, Syria or Lebanon, who have a family member legally residing in Israel, and to approve a request for stay permit of a resident of the area who has a family member legally residing in Israel.

402. Such a decision of the Minister of the Interior is to be reasoned and given in writing, within 6 months from the day that the professional committee received all the necessary documents.

403. The Law stipulates that a request can be denied in cases where the Minister of the Interior or certain security functionaries assert that the person, or a family member of first relation, poses a security threat.

404. In cases where a person or a family member has been known to act for the benefit of the State of Israel, the Law enables the Minister of the Interior and certain security functionaries to grant permits to a resident of the area.

405. The Law does not change the status of persons who already received their status prior to the day the Law came into effect. However, those persons' status shall not be advanced, but rather left static.

406. The Law was initially enacted for a period of one year. At the end of that period in August, 2004, the Law was extended for another six months. It was re-extended in February 2005 for a period of four more months and has been further extended until August 31, 2005. The revised Law was published on August 1, 2005 and was invoked until March 31, 2006. At the end of that period it was extended until April 2007, and later an amended version was extended until July 31, 2008, and re-extended until July 31, 2009.

407. The Law's constitutionality was scrutinized and recently upheld by the Supreme Court in *H.C.J. 7052/03, 7102/03 Adalah et. al. v. The Minister of the Interior (14.5.06)*. The High Court of Justice, residing in an extended panel of eleven judges, rejected the petitions against the legality of the Law, by a six to five vote.

408. On December 17, 2007, the Minister of the Interior announced the formation of the professional committee according to the Law, and proclaimed its members.

409. New petitions against the constitutionality of the Law are pending before the High Court of Justice. On July 31, 2008, The State submitted its arguments. (*H.C.J cases 466/07, 544/07, 830/07, 5030/07 MK Zehava Galon et. al. v. the Minister of the Interior et. al.*)

Equality of treatment

410. Significant developments which occurred since the submission of Israel's previous report concerning the definition of "family" in reference to same-sex couples are detailed above.

Maternity protection

Maternity leave and protection of pregnant working women

411. Between the years 2006 and 2008, a number of significant amendments were made to the *Women's Employment Law*, further elaborating and enhancing the maternity protection of women, while continuing the legislative trend detailed in Israel's previous report, which considers the family-unit as a whole and advances greater involvement of fathers in child-rearing:

411.1 Amendment No. 33 (February 2007) – Extended the period in which a woman returning to work after her maternity leave may not be dismissed from her place of employment from 45 days to 60 days.

411.2 Amendment No. 34 (March 2007) – Prior to the amendment, a woman who was hospitalized during her maternity leave for at least two consecutive weeks, was entitled to extend her maternity leave for the period of her hospitalization, but not for more than four weeks. The amendment allows the extension of the maternity leave even if the period of hospitalization was not consecutive.

411.3 Amendment No. 35 (March 2007) – The criminal fine for violating provisions of the *Women's Employment Law* was doubled and the incarceration period was lengthened.

411.4 Amendment No. 36 (March 2007) – Extended the period in which a woman absent from work due to her stay in a shelter for battered women may not be dismissed upon her return to work, from 60 to 90 days.

411.5 Amendment No. 37 (May 2007) – The Maternity leave was extended from 12 to 14 weeks.

411.6 Amendment No. 38 (June 2007) – The temporary provision allowing for paternity leave in the case of a mother conceding her rights to a leave to her spouse, has become final.

411.7 Amendment No. 39 (August 2007) – Addresses several issues:

411.7.1 It allows for a woman to shorten her maternity leave in case of her giving the infant up for adoption or in the case of a surrogate mother.

411.7.2 It also allows for a man whose spouse has given birth and can not care for the infant due to a handicap or illness to take a paternity leave for the full period in which she is unable to care for the infant. According to the amendments, his paternity leave does not cancel the mother's right to her leave. A parallel amendment was made to the *National Insurance Law* to allow the father on leave to collect a birth allowance in addition to the allowance paid to the mother.

411.7.3 A woman may be absent from work due to her pregnancy upon a doctor's approval. If she is not entitled to payment from the health insurance or from her employer, her absence will be considered as sick leave.

411.7.4 When a pregnant woman, due to the nature or conditions of her work or workplace, is unable to continue her work, she may be absent upon doctor approval. Her absence without pay will be permitted only if her employer can not find an alternative suitable position for her. Her seniority will not be affected by her absence.

411.7.5 A nursing mother who is not legally allowed to work in certain jobs due to her nursing condition, and is not entitled to vacation days after her

maternity leave, may be absent from work. Her absence will be considered vacation without pay.

411.7.6 Upon fulfillment of certain conditions specified in the Law, the termination of a limited term contract, will be considered a dismissal when concerning circumstances such as pregnancy, maternity leave, fertility leave, etc.

411.7.7 A right of appeal has been granted to an employee regarding decisions made by the government official in charge of allowing dismissals or cutting back of a post during pregnancy.

411.8 Amendment No. 40 (August 2007) – Imposition of responsibility on employers who have caused the dismissal of a pregnant woman employed as a contract worker in violation of the Law.

411.9 Amendment No. 41 (October 2007) – Extending the prohibition on dismissal of an employee undergoing fertility treatment for having a second child, as well as for a first child.

411.10 Amendment No. 42 (February 2008) – An employer is prohibited from scheduling a woman in night shifts or during the weekly rest, for four months following her return from maternity leave unless she has agreed to do so, in writing (certain jobs are not included, such as hospital work, etc.).

411.11 Amendment No. 43 (February 2008) – Prevents the possibility of overlap between the period of notice for dismissal, and the periods during which the Law prohibits dismissal.

411.12 Amendment No. 44 (March 2008) – Prior to the amendment the Law allowed for a vacation without pay after maternity leave, on the condition that the employee worked for at least 24 months prior to the birth. The amendment allows for this right after only 12 months of employment prior to the birth.

411.13 In addition, as of September 2007, a man can replace his wife on maternity leave if she is not capable of caring for the newborn due to her health condition, even if 6 weeks have not yet elapsed since the birth as usually required – if the infant is in the father's custody and in his sole care. This maternity leave for the father includes extension of the leave due to a multiple birth or hospitalization of the infant.

412. *The Women Employment (Periods and Rules for Payment to the Pension Fund) Regulations* 5768-2008, entered into force in September 1, 2008. According to the new Regulations, during maternity leave, the employer is obligated *to* continue transferring payments to the employee's pension fund, in the same manner and amount, as prior to the maternity leave. The respective amount that the employee is required to transfer will be deducted from the last salary prior to the maternity leave, and the first salary following the conclusion of the leave. The Regulations stipulate that these provisions are unconditional.

The Regulations further determine that during maternity protection leave, the employer is obligated to transfer payments to the employee's pension fund, only if the employee fulfilled her respective obligation to transfer payments to the fund throughout her maternity protection leave.

413. On August 24, 2006, the Jerusalem District Labor Court ordered compensation to be paid by the ISS Ashmoret Company Ltd. to their employee, who was illegally dismissed from her job when 7 months pregnant, without the approval of the Women Labor Supervisor in the Ministry of ITL (LC. *001452/*04 *Ayenalem Ababito v. ISS Ashmoret Company Ltd*). The Court accepted all of the plaintiff's claims, and determined that the

respondents had illegally dismissed her from her job when they discovered she was pregnant. In accordance with the *Equal Employment Opportunities Law*, the Court imposed personal responsibility on both the branch director, and the regional director of the employee.

The Court also ordered that the ISS Company pay the employee approximately 300,000 NIS ($78,947), in compensation for dismissal, mental anguish, loss of earnings and loss of maternity allowance.

Benefits and cash payments

414. For an extensive reference to Maternity Benefits see Article 9 above.

415. A recent amendment to the *Sick Pay Law (Absence from Work due to a Child's Sickness)* 5753-1993, (18.3.2008) extended the number of days for which a single parent or a parent who has sole care of his child may receive sick pay, from 12 to 16 days leave to tend to a sick child (compared to the standard 8 days).

Equality

416. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic *report*.

Article 11
The right to an adequate standard of living

417. As detailed in Israel's previous reports, the right to an adequate standard of living is well recognized in the Israeli society and legal system, where the judiciary, executive and legislative branches are all committed to continued fulfillment thereof.

418. Many Government branches contribute to the advancement of the standard of living throughout the Israeli society, among which are the Ministries of Health, National Infrastructures, Industry, Trade and Labor and Social Affairs and Social Services. A prominent example for the State of Israel's adherence to provide an adequate standard of living can be found in the National Insurance Institute and its activity, which is designed to guarantee weak populations and families, that are in temporary or long term difficulties, a financial basis for adequate existence. The NII services, described in further detail under Article 9 above, are equally accessible to the different populations in the Israeli society.

419. The courts in Israel continue to play a central role in the protection of the right to an adequate standard of living. The issue of standard of living was addressed by the Supreme Court, residing as the High Court of Justice, in a petition filed by the Commitment to Peace and Social Justice Association – (H.C.J 366/03 *The Commitment to Peace and Social Justice Association v. The Minister of Finance* (12.12.05)). In its ruling, the Court emphasized that while *Basic Law: Human Dignity and Liberty* does entail an obligation of the State to ensure human dignity, it does not provide an absolute and total protection of social rights. In this regard however, the State is obligated to maintain a 'safety net' designed to ensure, that the condition of the underprivileged would not deteriorate to one of existential deprivation in the sense of a shortage in food, places of residency, sanitation, health-care services and such.

The current standard of living of Israel's population

Available data on living standard and poverty

- Standard of living

420. In 2007, the gross monthly income per household was 12,935 NIS ($3,495), which constitutes an actual increase of 4.2% compared to 2006. A 4% actual increase of the gross monthly income occurred regarding households headed by an employee, and a 2.7% actual increase regarding households headed by a self-employed person.

421. The following tables present the main available data on the standard of living in Israel:

Table 20
Monthly income and expenditure, by deciles of net income per standard person, 2006

	Deciles										
	10	*9*	*8*	*7*	*6*	*5*	*4*	*3*	*2*	*1*	***Total***
Upper limit of decile (NIS)	-	8 935	6 906	5 689	4 882	4 119	3 470	2 839	2 206	1 598	**-**
Households in sample	664	642	667	608	635	611	636	615	613	568	**6 259**
Households in population (thousands)	202.5	202.6	202.9	202.6	202.8	202.7	202.6	202.6	202.8	202.7	**2 026.8**
Average number of persons in household	2.6	2.7	3.1	3	3.2	3.3	3.2	3.6	4	4.5	**3.3**
Average standard persons in household	2.3	2.4	2.6	2.5	2.7	2.7	2.7	2.9	3.1	3.3	**2.7**
Average earners in household	1.6	1.5	1.6	1.4	1.4	1.4	1.2	1	0.8	0.4	**1.2**
NIS per household per month at average prices of 2006											
Gross money income	34 635	19 996	16 528	12 873	11 351	9 506	7 543	6 343	5 061	3 405	**12 345**
Compulsory payments	9 705	4 266	3 092	1 974	1 468	1 070	755	576	337	214	**2 271**
Net money income	24 931	15 728	13 436	10 900	9 883	8 436	6 788	5 767	4 724	3 191	**10 074**
Money consumption expenditure	14 798	11 819	10 411	8 652	8 439	8 060	7 003	6 700	5 883	5 345	**8 711**
Consumption expenditures – total	**19 423**	**15 336**	**13 610**	**11 408**	**10 873**	**10 128**	**8 861**	**8 317**	**7 095**	**6 282**	**11 133**
Food (excl. fruit, vegetables)	2 095	1 867	1 621	1 444	1 414	1 414	1 309	1 358	1 259	1 196	**1 496**
Vegetables and fruit	419	402	396	334	336	345	317	339	330	327	**355**
Housing	3 489	3 012	2 839	2 654	2 430	2 252	2 146	1 909	1 696	1 359	**2 378**
Dwelling and household maintenance	2 095	1 626	1 376	1 136	1 091	994	891	880	786	673	**1 155**
Furniture and household equipment	841	620	549	448	358	352	369	344	231	230	**434**
Clothing and footwear	662	466	419	335	377	404	331	328	282	235	**384**
Health	1 168	761	690	602	531	525	407	381	310	323	**570**
Education, culture, entertainment	2 480	2 299	2 142	1 575	1 608	1 538	1 168	860	781	674	**1 512**

	Deciles										
	10	*9*	*8*	*7*	*6*	*5*	*4*	*3*	*2*	*1*	***Total***
Transport and communications	5 336	3 601	2 971	2 402	2 135	1 755	1 582	1 387	943	912	**2 302**
Miscellaneous goods and services	822	746	607	522	551	536	431	435	425	378	**545**

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

Table 21

Gross monthly monetary income per households, by source of income and by employment status of household head

Surveyed year	*2003*	*2004*	*2005*	*2006*
Household head – self-employed				
Households (thousands)	174.1	176.5	182.4	202.9
Average persons per household	4	3.9	3.8	3.8
Average age of household head	45.2	46.5	46.2	46
Average earners per household	1.7	1.7	1.7	1.7
Average monthly money income (NIS)				
Per household – gross	14 904	14 679	15 766	17 687
– net	10 797	11 006	11 904	13 633
Per standard person – gross	4 750	4 763	5 233	5 829
– net	3 442	3 571	3 951	4 493
Sources of income – total (percentages)	**100**	**100**	**100**	**100**
Paid employed work	20.8	22.4	19.8	19.3
Self-employed work	66.1	62.2	66.1	60.7
Property and assistance in Israel	13.2	15.4	14.1	(20)
Thereof: Assistance and allowances				
– from institutions	5.9	6	4.8	4.7
– from capital	(2.9)	(3.2)	(3.9)	-
Property and assistance from abroad	-	-	-	-
Household head – Employee				
Households (thousands)	1 187.5	1 233.6	1 269.1	1 292.3
Average persons per household	3.7	3.7	3.7	3.7
Average age of household head	40.2	40.5	40.5	40.5
Average earners per household	1.6	1.6	1.7	1.7
Average monthly money income (NIS)				
Per household – gross	13 377	13 613	14 014	14 468
– net	10 385	10 702	11 189	11 686
Per standard person – gross	4 505	4 606	4 739	4 917
– net	3 498	3 621	3 784	3 972

Surveyed year	*2003*	*2004*	*2005*	*2006*
Gross money income per household				
Percentage real change	(4.9)	2.2	1.6	1.1
Gini coefficient	0.375	0.380	0.386	0.385
Sources of income – total (percentages)	**100**	**100**	**100**	**100**
Paid employed work – total	**83.9**	**83.3**	**82.6**	**81.9**
Income of household head	59.5	58.1	58	57
Income of household head's spouse	17.3	18.2	18.2	17.7
Income of other earners	7	7	6.4	7.2
Self-employed work	2.9	3.5	3.3	3.6
Property and assistance	13.3	13.2	14.1	14.6
Thereof: assistance and allowances from institutions	7.5	6.7	6.5	6.6
Household head – not working				
Households (thousands)	540	536.3	538	529.9
Average number of persons per household	2.4	2.4	2.3	2.3
Average age of household head	61	60.8	61.4	62.2
Average monthly money income (NIS)				
Per household – gross	4 594	4 575	4 789	5 121
– net	4 354	4 253	4 472	4 778
Per standard person – gross	2 143	2 146	2 260	2 435
– net	2 031	1 995	2 110	2 272
Gross money income per standard person				
Percentage real change [(1)]	1.9	0	3.3	4.7
Gini coefficient	0.397	0.402	0.399	0.399
Sources of income – total (percentages)	**100**	**100**	**100**	**100**
Thereof: Property and assistance in Israel total	**98.7**	**99**	**98.7**	**98.7**
Capital and property	-	(6.9)	7.3	6.8
Pensions and provident funds	29.5	30.2	31.1	33.1
Allowances and assistance from – institutions	54.8	53.4	52.0	49.2
Assistance from private persons	2.6	2.9	2.7	(2.7)
Property and assistance from abroad	3.5	4.3	4.3	5.8

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

Financial data – at uniform prices of each surveyed year.

[(1)] Nominal change on the previous year specified in the table after deduction of change in the Consumer Price Index.

Poverty

422. The year 2000 witnessed a slight decline in the incidence of poverty in Israel. The percentage of families, whose net income (after transfer payments and direct taxes) was below the poverty line, fell from 17.8% in 1999 to 17.6% in 2000. In 2002 there was no change in the incidence of poverty. In 2003, following reductions in several national insurance (Social Security) benefits and a tax reform, the scope of poverty in Israel

expanded. Further expansion occurred in 2004. The figures for 2006 as well as for the last survey conducted in 2007, indicate a slight decline in the rate of poor families in Israel (20% in 2006 and 19.9% in 2007). The poverty rate among individuals and among children also reduced – in 2007, 23.8% of the individuals were poor, in comparison to 24.5% in 2006. With regard to children – 34.2% lived in poverty in 2007, in comparison to 35.8% in 2006.

423. A reduction in poverty incidence among large families (at least 4 children) is also evident – 56.5% in 2007, compared to 60% in 2006. A similar reduction also occurred among Arab families which constitute a significant fraction of families of 4 or more children – 51.4% in 2007, in comparison to 54% in 2006. However, gaps remain in poverty incidents among the Jewish and the Arab populations.

424. In recent years, there has been an impressive growth in the Israeli economy and a significant recovery of the labor market in all its sectors. It is estimated that the growth in employment opportunities in the course of 2007, as well as the raising of the minimum wage in April 2007, and the raising of the Old-Age Pensions, are the main contributors to the reduction in poverty. These factors are also estimated to further assist in decreasing the incidence of poverty according to economic income, and to the stabilization or slight decline in the incidence of poverty according to net income.

425. As was set out in Israel's previous reports, data on the topic of poverty should be read in conjunction with the tables presenting the resources and their use, including GNP, GDP, per capita GNP and GDP, private consumption expenditure over the years as well as GNP by deciles. Such tables, as updated since the last report, are as follows:

Table 22
Gross domestic product and uses of resources, 2002–2007 (million NIS, at market prices unless otherwise stated)

Year			*2002*	*2003*	*2004*	*2005*	*2006*	*2007*
Per capita	Gross domestic product	NIS	80 620	80 225	82 789	86 258	90 843	93 808
	Private consumption expenditure		45 227	44 611	46 389	48 129	50 055	52 892
Gross domestic product excluding net taxes on imports			507 364	515 405	539 020	571 384	613 652	641 335
Gross domestic product exclud. Start-up companies			523 816	532 713	559 541	592 374	635 076	668 218
Gross domestic product of the business sector			369 521	381 862	404 064	433 926	470 168	497 609
Product of housing services			63 015	58 911	60 982	63 347	64 095	64 882
Product of general Gov. services and non-profit institutions			97 139	95 908	98 668	100 500	106 513	111 061
Gross domestic product			529 675	536 680	563 713	597 773	640 776	673 552
Less: imports of goods and services			203 244	202 024	234 435	258 474	275 788	302 136
	Exports of goods and services		186 888	198 057	234 604	256 640	278 287	290 746
	Gross domestic capital formation		96 158	92 753	98 312	112 536	121 663	135 454
		General Gov. consumption expenditure	152 732	149 461	149 372	153 536	163 541	169 720
		Collective Gov. final consumption expenditure	82 492	80 448	78 821	80 878	87 485	88 843

Year				*2002*	*2003*	*2004*	*2005*	*2006*	*2007*
Uses of resources	Final consumption expenditure	Actual individual consumption	Individual Gov. final consumption ex.	70 240	69 012	70 551	72 658	76 057	80 877
			Private consumption ex.	297 140	298 434	315 860	333 535	353 073	379 769
			Total	**367 381**	**367 446**	**386 411**	**406 193**	**429 129**	**460 646**
		Total		**449 873**	**447 894**	**465 232**	**487 071**	**516 614**	**549 488**
Grand total				**732 919**	**738 704**	**798 148**	**856 247**	**916 564**	**975 688**

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

Table 23
Gross national income and gross domestic product, 2002–2007

	Gross national income	*Less: net income paid abroad*	*Gross domestic product*
Year	*At current prices NIS million*		
2002	509 419	20 256	529 675
2003	517 734	18 946	536 680
2004	547 243	16 470	563 713
2005	590 746	7 027	597 773
2006	641 196	-422	640 776
2007	673 419	133	673 552

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

Table 24
Private consumption expenditure, by purpose and type of expenditure

	In millions, at 2005 prices (3)			*In millions, at current prices*
	1997	*2002*	*2007*	*2007*
1. National private consumption expenditure – grand total (2+6)	**246 501**	**303 926**	**369 968**	**379 769**
2. Consumption expenditure by Israeli households (3-4+5)	239 789	294 019	358 445	367 683
3. Consumption of Israelis abroad	7 710	9 809	12 333	11 298
4. Consumption of non-residents in Israel	18 324	10 366	13 192	12 901
5. Consumption expenditure of households in the domestic market – total	**249 253**	**294 579**	**359 311**	**369 285**
By purpose				
Food, beverages and tobacco	49 854	55 044	63 392	68 486
Clothing, footwear and personal effects	10 972	11 972	17 354	17 615
Housing	48 747	60 594	69 407	67 494
Electricity, fuel and water – home consumption (1)	9 342	11 794	13 213	13 213
Furniture, furnishings and household equipment	12 722	16 799	23 852	23 081

	In millions, at 2005 prices (3)			*In millions, at current prices*
	1997	*2002*	*2007*	*2007*
Household maintenance	8 755	11 108	12 586	12 890
Personal care and health	13 954	18 680	23 597	24 518
Transport and communications	42 737	53 132	66 801	69 564
Recreation and entertainment	29 504	28 641	37 740	39 858
Other goods and services	23 075	27 071	31 324	32 567
By type				
Durable goods – total	**22 980**	**27 580**	**37 096**	**36 964**
Furniture	6 102	7 128	8 160	8 400
Household equipment	6 755	9 691	15 699	14 681
Personal transport equipment	11 141	11 034	13 224	13 883
Non-durable goods – total	**94 005**	**106 476**	**128 191**	**135 154**
Food, beverages and tobacco	49 854	55 044	63 392	68 486
Fuel, electricity and water	18 930	21 446	25 121	26 672
Clothing, footwear and personal effects	10 972	11 972	17 354	17 615
Non-durable household goods	3 931	4 862	5 729	5 703
Personal care and medical products	6 196	8 161	10 631	10 711
Books, newspapers and stationery	2 391	2 585	2 619	2 676
Recreation goods and miscellaneous	1 816	2 423	3 387	3 292
Housing	48 747	60 594	69 407	67 494
Other services	83 995	100 040	124 613	129 673
6. Non-profit institutions (2) – total	**6 768**	**9 905**	**11 528**	**12 086**
Health institutions	796	1 534	1 708	1 827
Education, culture and research, welfare and religious institutions	5 016	6 826	7 840	8 182
Trade unions, political organizations, etc.	1 002	1 557	1 979	2 077

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

Fuel for personal transport equipment is included in the item "Transport and communication".

Excluding non-profit institutions financed mainly by the Government.

The estimates at 2005 prices were obtained by chaining estimates of each year to previous year prices. Due to the chaining, the expenditure components do not add up to the total.

The right to adequate food

426. Table 24 above reveals the distribution of households' expenditure. The data indicates that in 2006, 16.6% of households' consumption expenditure was utilized toward food acquisition.

427. In 2007, the Minister of Social Affairs and Social Services established an Inter-ministerial Committee to examine the Government's role and responsibility for ensuring food security for its citizens. The Committee included representatives from various Ministries (Social Affairs and Social Services, Health, Finance, Education, Justice, ITL,

Agriculture and Rural Development, and Pensioner's Affairs) as well as representatives of the National Insurance Institute. The Committee invited the public to participate in the process and many organizations submitted written positions and/or appeared before the committee. The committee also heard academic experts in relevant fields.

In March 2008, the Committee submitted its conclusions and recommendations. According to the committee, in 2006, 31% of families in Israel had to relinquish basic food ingredients in order to finance the purchase of other essential products and services, a slight decline in comparison to 34% in 2003. Among the Jewish population, 29% of the families had to relinquish basic food ingredients in comparison to 32.8% in 2003. Among the Arab population, 37.3% of the families had to relinquish basic food ingredients in comparison to 38.3% in 2003. However, the situation among the elderly and the Jewish Ultra-Orthodox population deteriorated. Data further indicated that incidence of food insecurity rises with the increase in the number of children in the family. While the situation has improved regarding families with up to three children, data reveals an increase in food insecurity rates among families with at least four children.

The Inter-Ministerial Committee examined the different measures adopted in Israel, as well as in different economies worldwide to enhance food security, such as nutrition services in schools, food pantries, public kitchens, family budget management educational campaigns, subsidy, transfer payments and financial support. According to the Committee, the State of Israel has always recognized its responsibility to care and provide assistance to those in need. The Government has carried out this responsibility through a policy of transfer payments and financial benefits to ensure sufficient income. The Government has preferred financial assistance policies over direct involvement in food provision, as have most Western economies, due to negative implications that often result from such involvement. Therefore, NGOs play a pivotal and significant role in nutritional assistance and food distribution in Israel, in the form of food pantries and public kitchens.

The Inter-Ministerial Committee's recommendations were as following:

1. Regulating the NGOs' activity towards food provision, both in times of emergency and peace, in order to better facilitate their activity, including the allocation of governmental funds.

2. The establishment of an Advisory Public Committee for Nutritional Security.

3. Re-evaluation of the transfer payments and benefits policy, and to consider establishing designated nutrition services.

4. Institutionalizing the collection of data relating to food security.

428. The Inter-Ministerial Committee's recommendations were not adopted by the Government, due to an objection of the Ministry of Finance. However, a joint team comprising representatives of the Ministries of Finance and Social Affairs and Social Services was established, and is currently working towards adapting and consolidating appropriate measures in order to facilitate the adoption and execution of the Committee's recommendations.

Prior to the consolidation of the Inter-ministerial Committee, the NGO "Latet" petitioned the High Court of Justice, requesting that the Court determine that the State is obligated to allocate funds for the construction and operation of a logistical infrastructure that will coordinate collection, procurement, and distribution of nutritional assistance. (H.C.J 1925/07 *Latet Organization et. al. v. The Prime Minister et .al.*) The petition was erased due to the publication of the Committee's recommendations and their adoption by the Government.

Income maintenance

429. Developments regarding financial benefits, including income support are detailed under Article 9 above.

Nutrition indicators

430. The data provided in Israel's previous periodic report concerning nutrition is hereby updated as follows:

Table 25
The food balance sheet: calories and nutrients per capita per day

	1990	*2000*	*2004*	*2006*
Calories (Kcal)				
Total	**3 089**	**3 556**	**3 649**	**3 643**
Cereals and cereal products	986	1 095	1 255	1 220
Potatoes and starches	66	85	128	124
Sugar, sweet and honey (1)	482	651	214	208
Legumes, oil grains and nuts	152	142	198	228
Vegetables and melons (2)	103	103	187	182
Fruits (2)	169	186	203	192
Oils and fats	486	629	716	698
Meat	317	344	346	395
Eggs	72	49	46	47
Fish	18	26	16	18
Milk and dairy products	238	246	306	293
Beverages	-	-	34	37
Protein (Grams)				
Total	**97.4**	**104.3**	**112.5**	**115**
Thereof: animal	49.9	52.2	53.9	56.8
Cereals and cereal products	31.7	35.2	38.2	37.1
Potatoes and starches	1.4	1.8	1.8	1.7
Sugar, sweets and honey (1)	0.5	1.3	-	-
Legumes, oil grains and nuts	6.8	6.6	8.7	10.1
Vegetables and melons (2)	5.1	4.8	6.7	6.4
Fruit (2)	2	2.4	2.5	2.4
Meat	25.6	28.4	31.5	34.7
Eggs	5.5	3.8	3.9	3.9
Fish	3.4	4.5	2.9	3.3
Milk and dairy products	15.4	15.5	15.6	14.9
Beverages	-	-	0.7	0.5

	1990	*2000*	*2004*	*2006*
Fat (Grams)				
Total	**117.6**	**139.6**	**148.8**	**150.6**
Thereof: animal	42.6	43.3	43	46.3
Cereals and cereal products	4.1	4.5	7	6.7
Potatoes and starches	0.1	0.1	0.1	0.1
Sugar, sweets and honey (1)	2.2	6.6	-	-
Legumes oil grains and nuts	9.2	7.9	12.2	13.6
Vegetables and melons (2)	1.0	0.8	1.8	1.7
Fruits (2)	3.2	5	3	2.7
Oils and fats	55.3	71.4	81	78.9
Meat	22.9	24.7	23.3	27.3
Eggs	5.2	3.6	3.1	3.1
Fish	0.4	0.8	0.4	0.4
Milk and dairy products	14	14.2	16.2	15.5
Beverages	-	-	0.7	0.6

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

[1.] Until 2000 the group included chocolate, sweets, sugar, jam and honey.

[2.] Until 2000, the fruit group included melons.

[3.] In 2001 the factors for calculating nutrition values were updated.

Table 26

Supply of vitamins and minerals per capita per day (milligrams, unless otherwise stated)

Commodity	*Iron (Fe)*	*Calcium (Ca)*	*(Vit. C) Ascorbic acid*	*Niacin*	*Riboflavin*	*Thiamine (Vitamin B1)*	*Vitamin A Intrn. units*
2005							
Total	**27.2**	**900**	**205**	**34.4**	**1.7**	**2.2**	**7 094**
Cereals and cereal products	17.5	118	-	15.8	0.3	1.3	0.5
Potatoes and starches	0.8	6	17	1.3	-	0.1	-
Sugar, sweets and honey	-	1	-	-	-	-	-
Legumes (incl. Soya beans oilseeds and nuts)	2.7	50	1	1.8	0.1	0.2	19
Vegetables and melons	2.2	77	104	3.7	0.1	0.2	4 561
Fruit	0.8	59	76	1.1	-	0.1	713
Oils and fats	-	-	-	-	-	-	41
Meat	2.3	19	3	10	0.2	0.1	1 054
Eggs	0.5	16	-	-	0.2	-	200
Fish	0.2	17	-	0.3	-	-	5
Milk and dairy products	0.2	532	5	0.4	0.8	0.2	502
Beverages	-	5	-	-	-	-	-

Commodity	*Iron (Fe)*	*Calcium (Ca)*	*(Vit. C) Ascorbic acid*	*Niacin*	*Riboflavin*	*Thiamine (Vitamin B1)*	*Vitamin A Intrn. units*
2006							
Total	**27.8**	**892**	**205**	**35.2**	**1.7**	**2.4**	**7 056**
Cereals and cereal products	17.7	120	-	16.1	0.3	1.3	1
Potatoes and starches	0.7	6	17	1.2	-	0.1	-
Sugar, sweets and honey	-	1	-	-	-	-	-
Legumes	3.1	55	1	2	0.1	0.3	22
Vegetables and melons	2.2	78	104	3.5	0.1	0.3	4 799
Fruit	0.6	55	76	1.1	-	0.1	467
Oils and fats	-	1	-	-	-	-	-
Meat	2.5	20	3	10.4	0.3	0.1	997
Eggs	0.5	16	-	-	0.2	-	200
Fish	0.3	20	-	0.5	-	-	6
Milk and dairy products	0.2	517	5	0.4	0.7	0.2	488
Beverages	-	5	-	-	-	-	-

Source: Central Bureau of Statistics, Food Supply Balance Sheet, 2008.

Methods of improvement of production, conservation and distribution of food

431. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

The right to adequate housing

432. On November 4, 2008 the *Law of Execution* was amended (Amendment no. 29) in order to strengthen the protection provided by the Law to the right to adequate housing. The Law stipulates that in situations of evictions due to debt, mortgage or pledge, the provision of an alternative housing prior to the eviction is obligatory.

According to the Law, the Registrer of the Execution Bureau, may not order the eviction of the indebted and his/her family members who reside with him/her, unless it is established that the indebted and his/her family either have a reasonable alternative housing, have the financial means to afford one or are provided with an alternative housing.

The protection provided by the Law also applies to evictions due to the carrying out of a mortgage or to the realization of a pledge. According to the Amendment, one can not waive the protection while pledging or mortaging his/her property.

Affordability

433. See the breakdown in the following table:

Table 27
Selected data on housing, by deciles of households, by net income per standard person, 2006

	Deciles										
	10	*9*	*8*	*7*	*6*	*5*	*4*	*3*	*2*	*1*	***Total***
Owned dwellings											
Households in sample	561	527	554	482	476	441	424	393	328	241	**4 427**
Households in population (thousands)	167.1	163.6	169	159.2	152.1	143.1	133.3	129.3	106.6	85.2	**1 408.5**
Average persons in household	2.7	2.9	3.2	3.2	3.5	3.5	3.5	4.1	4.9	6.4	**3.6**
Average standard persons in household	2.4	2.5	2.7	2.7	2.8	2.9	2.8	3.2	3.6	4.4	**2.9**
Average earners in household	1.6	1.5	1.6	1.4	1.4	1.3	1.2	1	0.8	0.6	**1.3**
Rooms per dwelling	4.7	4.3	4.3	4	3.9	3.8	3.7	3.8	3.7	3.9	**4**
Rooms for living	4.6	4.2	4.2	4	3.9	3.8	3.7	3.7	3.7	3.8	**4**
Housing density	0.6	0.7	0.8	0.8	0.9	0.9	1	1.1	1.3	1.7	**0.9**
Percentage of owned dwelling	82.5	80.7	83.3	78.6	75	70.6	65.8	63.8	52.6	42	**69.5**
Value of owned dwelling (thousands) (1)	1 388	1 009	863	763	686	626	610	645	595	609	**808**
Monthly expenditure											
Consumption expenditure	19 728	15 423	13 692	11 694	11 056	10 205	9 056	9 004	8 306	8 282	**12 141**
Housing expenditure	3 502	3 030	2 811	2 764	2 444	2 357	2 217	2 030	1 946	1 853	**2 576**
Consumption of housing services in owned dwelling	3 126	2 846	2 657	2 640	2 384	2 305	2 189	1 997	1 920	1 805	**2 455**
Insurance of dwelling, content	118	84	51	41	38	17	15	10	3	5	**43**
Water, current consumption	140	126	126	118	113	105	110	108	131	126	**120**
Electricity, current consumption	416	362	351	319	316	323	301	307	315	326	**337**
Gas, in containers	24	35	42	30	43	47	50	70	75	113	**48**
Gas, central installation	33	27	41	41	31	38	35	29	28	13	**33**
Tenants' committee fees	138	99	84	86	59	52	45	30	23	12	**69**
Municipality tax	482	402	350	294	283	241	219	215	207	147	**299**
Mortgage repayments	1 686	1 067	1 114	1 069	1 006	844	791	434	357	232	**929**
Other housing loans repayments	150	72	88	128	114	133	56	76	39	4	**93**
Rented dwellings											
Households in sample	86	94	92	97	116	135	184	188	255	299	**1 546**
Households in population (thousands)	29.3	32.2	27.7	33.5	36.5	46.6	59.6	59.8	84.9	106.4	**516.7**
Average persons in household	2	2.4	2.5	2.4	2.5	2.8	2.7	2.7	2.8	2.9	**2.7**
Average standard persons in household	1.9	2.2	2.3	2.2	2.2	2.4	2.4	2.4	2.4	2.5	**2.3**
Average earners in household	1.5	1.5	1.8	1.5	1.5	1.5	1.3	1	0.8	0.3	**1.1**
Rooms per dwelling	3.5	3.4	3.4	3.2	3	3.3	3.2	3.2	2.9	2.9	**3.1**

	Deciles										
	10	*9*	*8*	*7*	*6*	*5*	*4*	*3*	*2*	*1*	***Total***
Rooms for living	3.4	3.3	3.3	3	2.9	3.1	3	2.9	2.7	2.6	**2.9**
Housing density	0.6	0.7	0.8	0.8	0.9	0.9	0.9	0.9	1.1	1.1	**0.9**
Percentage of rented dwelling	14.5	15.9	13.7	16.5	18	23	29.4	29.5	41.9	52.5	**25.5**
Monthly expenditure											
Consumption expenditure	17 022	15 552	13 168	10 470	10 010	10 313	8 608	7 073	5 533	4 681	**8 646**
Housing expenditure	3 332	2 970	3 043	2 208	2 100	1 977	2 018	1 662	1 366	920	**1 847**
Rent on dwelling or room	2 999	2 811	2 857	2 174	1 964	1 945	1 924	1 563	1 309	898	**1 757**
Water, current consumption	94	90	90	79	80	78	77	68	70	67	**76**
Electricity, current consumption	370	269	287	235	247	239	217	196	188	169	**221**
Gas, in containers	11	12	15	12	21	22	19	22	27	32	**22**
Gas, central installation	23	25	19	32	24	27	23	30	30	29	**27**
Tenants' committee fees	80	91	86	82	62	86	51	45	33	17	**52**
Municipality tax	354	288	286	217	212	228	174	156	108	98	**179**

Source: Central Bureau of Statistics, 2008.

Sanitation facilities

434. As part of the abovementioned 2000 multi-year plan, extensive sewage infrastructure projects were completed in 73 Arab localities (affecting a total of 700,000 residents).

435. In February 4, 2007, the Government consolidated an additional multi-year plan to promote and assist in the construction and development of sewage infrastructure in Arab, Druze and Circassian localities, as well as Bedouin localities in the North (Government Resolution no. 1140). The multi-year plan is to be implemented in the years 2007–2011, and a total budget of 400 million NIS ($105 million) was allocated to that end. According to the Government Resolution, as a prerequisite for the implementation of the plan, the localities are required to establish Water and Sewage Corporations, as stipulated in the *Water and Sewage Corporations Law* 5761-2001. Progress has been made towards the establishment of Water and Sewage Corporations by the localities, however they have yet to be completed.

Density

436. The following is recent data on housing density:

Table 28
Households by housing density, size of household and population, 2007

	Persons in household									
Persons per room	*Average per household*	*7+*	*6*	*5*	*4*	*3*	*2*	*1*	***Total %***	*'000*
Jews (1) – total	**3.10**	**4**	**5**	**11.9**	**16.6**	**16.8**	**25.7**	**20**	**100**	**1 721.4**
Up to 0.49	1.26	-	-	-	-	2	20.9	76.9	**100**	278.9

	Persons in household								
Persons per room	*Average per household*	*7+*	*6*	*5*	*4*	*3*	*2*	*1*	***Total %***	*'000*
0.5	1.69	-	-	-	-	6.7	54.6	38.4	**100**	200.4
0.51–0.99	2.86	0.3	1.1	6.7	16.9	30.2	41.5	3.3	**100**	526.3
1.00	3.41	0.5	3	16.6	30.2	26	13.9	9.8	**100**	341.5
1.01–1.49	4.77	7.1	12.3	36.6	38	4.3	1.7	-	**100**	214.5
1.50–1.99	5.56	21	30.4	30.2	6.3	12.1	-	-	**100**	96.1
2.00	5.71	24	40.8	11.2	10.9	-	9.3	1.2	**100**	32.2
2.01–2.49	8.09	92.4	-	-	-	-	-	-	**100**	11.8
2.50–2.99	7.92	71.1	-	24.1	-	-	-	-	**100**	8.3
3.00+	8.48	69.1	14.7	-	-	-	-	-	**100**	6.7
Arabs – total (2)	**4.86**	**19.8**	**15.4**	**19.2**	**18.3**	**11.4**	**10.8**	**5**	**100**	**279.2**
Up to 0.99	2.29	-	-	3.7	8.6	20.7	43.9	22.6	**100**	51.3
1.00	3.47	-	-	9.3	39.6	31.3	12.4	5.4	**100**	46.0
1.01–1.49	4.77	6.9	5.1	43.1	41.6	2.2	-	-	**100**	50.9
1.50–1.99	5.78	23.2	33.6	32.2	2	9	-	-	**100**	58.6
2.00	6.10	23.7	51.5	3.8	16.2	-	4.1	-	**100**	29.1
2.01–2.49	7.96	95.5	-	-	-	-	-	-	**100**	13.4
2.50–2.99	7.91	63.5	-	34.1	-	-	-	-	**100**	12.6
3.00+	7.81	61.4	22.8	7.6	7	-	-	-	**100**	17.1
Average number of persons per room										
Jews		1.75	1.31	1.12	0.97	0.78	0.58	0.37		0.84
Arabs		2.19	1.69	1.41	1.17	0.93	0.67	0.43		1.43

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

[1] Excluding institution and those living outside localities (Bedouin in the South and others) and excluding also those living in student dormitories and in kibbutzim and excluding also absorption centers.

[2] Including unknown number of rooms.

Public housing

437. On July 17, 2008, the Standard Contracts Tribunal ended a long legal dispute between "Amidar" – the national housing company, and its tenants, concerning the standard contract applied between them. The Court determined that several unfair conditions in the existing standard contract should be amended, and that the amended contract shall apply retroactively on similar contracts that have already been signed (St.Con.Trib 803/07 *The Community Advocacy Association v. The Attorney General et. al.*).

Street dwellers

438. The Ministry of Social Affairs and Social Services, defines a "street dwellers" as a person, man or women, who resides on the street, in an abandoned house or in public parks, suffers from severe physical and mental neglect, and is alienated and disassociated from family and friends. These people are characterized with instability in residence and mobility throughout the country, mostly lacking personal documentation. Some suffer from

addiction to psychoactive substances (drugs and alcohol) and have a history of personal and family crises. Most of them are diagnosed as suffering from a dual prognosis – mental illness and addiction.

439. The Ministry's goal is firstly to prevent street dwellers' deaths and to provide them with adequate living conditions. The Ministry aims to assist the street dwellers in epitomizing their legal rights (social security benefits, personal documentation, etc.) and eventually achieve full re-integration into the community. In order to achieve these goals, the Ministry works in conjunction with local authorities and other relevant Ministries. In May 2004, the General Manager of the Ministry published an updated directive regarding treatment programs for street dwellers (replacing the 1997 directive) to all local authorities. These directives are updated occasionally as necessary.

440. In addition, the Government specifically designates budgets for the treatment of street dwellers, which are allocated to the local authorities, in order to encourage the development of programs for the treatment and integration of street dwellers at the local level, and in order to enhance the responsibility of the local authority for the street dwellers in its jurisdiction.

441. Fourteen local facilities are currently providing treatment for street dwellers, 2 of which opened during 2008. These facilities provide a range of treatment frameworks – over-night shelters, rehabilitation facilities with or without accommodations, and transitional housing apartments. In addition, 4 national facilities provide treatment for severe cases and for persons referred by municipalities that do not operate local treatment facilities. These include the "House for Life" program, which, as of 2007, offers a treatment framework for street dwellers who are unable to rehabilitate, and unable to live independently in the community.

442. During 2007, 1,737 street dwellers received treatment, 232 of them in the national facilities. The estimate is that some 1,000 street inhabitants do not receive any treatment, because of both their mobility and of their distrustful and reluctant approach towards the establishment.

443. In recent years, data regarding the treatment of "street dwellers" in Israel has been systematically collected. Statistically – 91% of the street inhabitants who receive treatment are males. 39% are single and 53% are divorced. 80% of the street dwellers receiving treatment are between the ages of 26–55. (56% are between the ages 36–55). 64% are new immigrants (mostly from the former Soviet Union). 45% suffer from alcoholism, 33% from drug addiction and 30% are addicted to both drugs and alcohol.

444. Forty-one per cent of those approaching the facilities were referred by the municipality hot-line, or special patrols arranged by the authorities along with a social worker. Another 10% were referred by medical facilities such as hospitals, etc. 29% were seeking treatment on their own initiative.

445. A significant decrease in the death rate of the street inhabitants is evident. In 2007, there were 28 reported incidents of street dwellers' deaths, in comparison to 79 in 2002.

Non-discrimination in housing

The Arab population

Representation in the National Council for Planning and Construction

446. The National Council for Planning and Construction (hereinafter: the "Council") comprises 32 members; third of which are representatives of Ministers (appointed by the Ministers), another third are representatives of municipal authorities (appointed by the

Minister of the Interior), and the final third are public representatives (partially appointed by the Minister of the Interior).

The Ministry of the Interior, ensures a balanced representation of all communities, regions and populations, including the Arab population in the Council; in that regard, 4 of the 32 Council members are Arabs.

Planning Scheme for the Arab population

447. In recent years, the Department of Planning in the Ministry of the Interior, initiated an extensive project towards the preparation of updated planning schemes for the majority of Arab localities.

448. The objectives of the project are:

- Improvement of the quality of life in the localities, including a significant increase in dwelling areas, employment areas, open spaces, and public facilities as well as suitable infrastructure – in order to address the needs of the localities in the long run
- Regulation of the planning situation, in order to meet the needs of the localities and their integration in the surrounding area
- Providing a planning basis towards the integration of the minorities' localities in the social-economical development of the Israeli society in general

449. Seventy per cent of the Arab localities in Israel are included in the project (87 out of 128 localities). Most of the remaining localities have approved planning schemes, which adhere to their developmental needs. In some of these localities, the planning schemes are promoted by the local authorities themselves.

450. So far, 60 million NIS ($16.2 million) were allocated for the promotion of the planning project. It is notable, that in spite of wide-ranging cutbacks in the Ministries' budgets in the past few years, the budget allocated for this project has increased.

451. The project is supported by several Government Resolutions, and is based on the national planning policy as formed and adopted in the **NOP 35** – the National Outline Plan for Construction, Development and Conservation. The national planning policy indicated new development trends for localities as well as diverse density rules based on the size of the locality, its social and economical status and its demography.

452. The planning schemes implement several fundamental principles:

- Solutions for anticipated population growth
- Designation of public areas for public institutions, green areas and infrastructure layout
- Designation of State's land to construction for the benefit of the homeless and for the fulfillment of public needs
- Development of regional or joint employment areas in order to enhance the incomes of the local authorities
- Creation of a framework of regional solutions in a variety of fields such as environmental protection, public transportation, burial, etc.
- Suitability to the special needs of the different populations and the uniqueness of each locality (for example: land ownership, preservation of the rural or urban character, preservation of traditions and religious values, commerce and occupation according to the needs of the locality, etc.)

- Creation of joint employment areas for the Jewish and Arab local authorities in order to promote the economical integration of the Arab localities, and in order to increase the income of both Jewish and Arab local authorities

453. Each plan is promoted by a professional planning panel, hired by the Department of Planning and accompanied by a broad steering committee, headed by representatives from the Department. Each committee includes representatives from the local authority, the relevant Ministries and the neighboring local authorities, the Jewish National Fund (Keren Kayemeth Le'Israel), the Society for the Protection of Nature in Israel, and Israel Nature and National Parks Protection Authority.

454. Stemming from the appreciation of the importance of the community's involvement in the decision making processes affecting its daily life and the nature of its place of residence, a special emphasis is placed on the participation of the local community in the planning process.

455. In addition to the full participation of the local leadership, the effort to include the local community in the planning process is carried out through diverse methods according to the character of the locality and its social structure. These include focus groups, distribution of questionnaires, open assemblies to present the plan and receive comments, etc.

456. The success of the planning project depends, first and foremost, on the assumption of responsibility by the local leadership, by supporting the project, promotion of detailed planning in compatibility with the planning scheme, executing expropriation for public purposes, collection of fees and development taxes and law enforcement against illegal construction. The Department of Planning in the Ministry of the Interior is doing its utmost in order to achieve the improvement needed for all fractions of the Arab population in Israel.

457. Notice should be given to the fact that most of the Arab localities have a planning scheme, even if not an updated one, initiated back at the 1980's by the Government.

A new Arab city

458. The Department of Planning recently began background work in order to examine the possibility of creating a modern city for the Arab population in Israel. Aimed towards the broadening of the possibilities and mobility of the population, creating value and merchantability for the land, stimulating the creation of a social-economical middle-class and to strengthening the financial, social and cultural resources.

Allocation of financial benefits

459. In H.C.J. 2101/99 *Shibli and ACRI v. The Minister of Construction and Housing* (21.04.02), Israel's Supreme Court examined the method of allocating rental benefits. The State noted a recent change to its allocation policy that would remove any distinctions with regard to benefit allocations. Basically, the determining factor is linked to the number of residents and the percentage of housing used for rental properties. The complainant nevertheless claimed that the State's policy was discriminatory in result because most Arab towns were small and thus not entitled to such benefits. The Court held in April 2002, that the Government should be given the opportunity to implement the new program to adequately determine whether it is discriminatory in result.

460. Another notable case concerning rental benefits was presented to the Be'er Sheva Administrative Court (A.C.A. *335/04 Vered Pinhasi v. The State of Israel*, (22.11.04)). The claimant was married to a non-citizen Palestinian with 5 children and in dire need of rental assistance. The State denied such benefits because she was married to a non-citizen. The

Court held that such a basis was incorrect and contrary to the interests of justice and fairness, such that the claimant and her family should not be denied such assistance.

461. On December 13, 2006, the Supreme Court rejected a petition filed by Adalah against the Ministry of Construction and Housing, challenging the governmental policy of providing financial support — in the form of low-interest governmental loans — for home mortgages to Israeli citizens who have completed their military or national-service. The petitioners argued that the extended support for housing mortgage loans discriminates against Arab citizens of Israel, who are not required to perform military or national-service. The petitioners contended that the performance of military service is irrelevant to the purpose of supplemental governmental housing support, which is to assist the socio-economically disadvantaged to find housing solutions.

Here, the Court held that there is no impediment in principle to granting benefits to those who have completed full military and national-service above that which is afforded in the *Absorption of Discharged Soldiers Law* 5754-1994 (the "*Absorption of Discharged Soldiers Law*"), provided that the use of the military service criterion is justified in the circumstances.

The former president of the Supreme Court, Justice Barak, rejected Adalah's argument that in this case the use of this criterion results in discrimination against Arab citizens. Barak reasoned in this regard that "a distinction made on the basis of the national or military service criterion is not necessarily a permissible distinction or illegal discrimination: this depends on the circumstances. Those who have completed military or national service differ in many respects, as a group, from those who did not. Thus, for example, those who have completed military or national service dedicate much of their time and energy for the benefit of the general public. They cannot work or make a living during their service period. As long as this distinction is based on these factors, and as long as it is relevant in a given situation, it should not be considered illegal discrimination."

462. Adalah's motion for an additional hearing before an expanded panel of Supreme Court Justices in order to re-consider the decision was rejected (H.C.J. 11956/05, *Suhad Bishara, et. al. v. The Ministry of Construction and Housing*).

463. On June 17, 2008, the *Absorption of Discharged Soldiers Law* was amended, stipulating that recognized higher education, vocational training or academic preparatory institutions, may consider military service among the considerations in determining entitlement to dormitories or other financial benefits.

Dwellings in Jerusalem

464. In 2007, 283 building applications, which make up 12% of the total number of applications, were received from residents of the eastern neighborhoods of Jerusalem. Of the 283 applications, 135 (47%) were granted. Residents in the western parts of Jerusalem submitted 2,095 applications, of which 1,505 (71%) were granted.

465. **Illegal construction**. In the western parts of Jerusalem, building violations almost invariably consist of additions to a legal building, such as the addition of a room in courtyard or an attic within a roof space. In the eastern part of Jerusalem, violations typically take the form of entire buildings constructed without a permit. Thus, demolitions in the eastern neighborhoods of Jerusalem are far more dramatic than in the western part of the city. All demolitions are conducted with due process and are subject to judicial review.

Table 29
Requests submitted for building permits, 2002–2007

Neighborhood	*Year of request*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	***Total***
Western neighborhoods of Jerusalem	New building	139	135	179	199	207	171	**1 030**
	Additional building	1 656	1 650	2 002	2 085	1 964	1 955	**11 312**
	Total building	**1 795**	**1 785**	**2 181**	**2 284**	**2 171**	**2 126**	**12 342**
Eastern neighborhoods of Jerusalem	New building	94	57	112	147	150	155	**715**
	Additional building	61	78	112	11	116	128	**606**
	Total building	**155**	**135**	**224**	**258**	**266**	**283**	**1 321**

Source: Jerusalem Municipality, 2008.

Table 30
Building permits granted, 2002–2007

Neighborhood	*Year of request*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	***Total***
Western neighborhoods of Jerusalem	New building	124	140	112	141	175	151	**843**
	Additional building	1 217	1 167	1 357	1 552	1 552	1 508	**8 353**
	Total building	**1 341**	**1 307**	**1 469**	**1 693**	**1 727**	**1 659**	**9 196**
Eastern neighborhoods of Jerusalem	New building	98	62	51	78	88	82	**459**
	Additional building	64	56	65	61	56	68	**370**
	Total building	**162**	**118**	**116**	**139**	**144**	**150**	**829**

Source: Jerusalem Municipality, 2008.

Table 31
Demolition orders carried out, by year and neighborhood, 2004–2007

Year	*Western neighborhoods of Jerusalem*	*Eastern neighborhoods of Jerusalem*
2007	35	69
2006	37	71
2005	26	76
2004	13	115
Total	**11**	**331**

Source: Jerusalem Municipality, 2008.

Table 32
Building offences – cases opened by year and neighborhood, 2004–2007

Year	*Western neighborhoods of Jerusalem*	*Eastern neighborhoods of Jerusalem*
2007	992	1 081
2006	1 241	901

Year	*Western neighborhoods of Jerusalem*	*Eastern neighborhoods of Jerusalem*
2005	1 272	857
2004	980	710

Source: Jerusalem Municipality, 2008.

The Bedouin population in the south

466. Currently, approximately 115,000 Bedouins (65% of the total Bedouin population) live in urban and suburban centers which have been legally planned and constructed. All existing towns have approved plans and include infrastructure such as schools, clinics, running water, electricity, etc.

467. There are six (6) existing suburban Bedouin towns in the Negev: Laqiya, Hura, Kseife, Arara in the Negev, Tel-Sheva and Segev Shalom, in addition to the city of Rahat. Although the seven existing towns can effectively provide a proper solution to the Bedouin population's needs, subject to their expansion, the Government decided that another nine (9) new towns for Bedouins should be established. The Government did so based on the desire to please the Bedouin population and in consideration of their special needs, including their desire to settle according to a tribal format.

468. Consequently, there are nine (9) new planned towns. Of those Tarabin is now being populated and 100 new houses have been built, Abu Krinat and Bir Hadaj are under construction, and Kasar A-Sir, Marit (Makhol), Darjat, Um Batin, Mulada and El Seid are all undergoing planning procedures. Further three towns are undergoing statutory approval procedures: Ovdat, Abu Tlul, and El-Foraa. A regional municipality was founded for nine of the new towns. It is called "Abu Basma", and was officially established on February 3, 2004.

469. Since its establishment, the Abu Basma regional municipality invested significant efforts and resources in ameliorating infrastructure in its jurisdiction, including roads, sanitation and water infrastructure. The regional council also promoted the construction of educational facilities, community centers, leisure facilities and other service provision facilities. The Abu-Basma Regional Council also initiates projects in areas of education, welfare and employment.

470. In two different resolutions made in 2003 (April and September), the Government created a comprehensive plan for the Bedouins, including investments of 1.1 billion NIS ($297,297,297) in the improvement of infrastructure, and founding public institutions over the next 6 years.

471. Following lessons learned from past planning committees, the planning authorities performed this task in constant consultation with Bedouin representatives who provided input as to their vision of every town's desired character depending on such characteristics as whether the town is built for an agrarian population with a special needs for designated flocking areas; whether the town is planned for a group that requires strict separation to be maintained between the various tribes or whether the town is designed for a population that has a more urban character.

472. On July 15, 2007, the Government concluded the following resolution concerning the establishment of a new Authority in the Ministry of Construction and Housing dealing entirely with development for the Bedouin population, including the expansion of towns, and provision of housing solutions for all Bedouins. Its text is as follows:

"D. The Government decided to establish, in the Ministry of Construction and Housing, the Authority for the Regulation of the Bedouin Residence in the Negev, whose purpose, functions and organizational structure are as follows:

- The care of Bedouin residence in the Negev, including:
    - Ascertaining claims of ownership over the land
    - Arranging permanent residences, including infrastructure and public services, both in existing towns and new towns
    - Aid in incorporation in employment
    - Coordination of education, welfare and community services
- The functions of the authority and its main powers:

  1. Accumulating information concerning the existing situation of the population, whether scattered or located in existing towns, including claims of ownership.

  2. Initiation and execution of land arrangements.

  3. Initiation of statutory planning, in coordination with the Planning Administration in the Ministry of the Interior, of suitable residence solutions, including solutions that address the characteristics of the group, social reciprocation, possible locations, etc.

  4. Promoting the planning and development of local and regional infrastructure for permanent solutions.

  5. Accompanying the population through all the stages of residence.

  6. Giving recommendations on the issue of enforcement priorities.

  7. Coordination and synchronization between the various authorities, while accompanying, tracking and supervising the execution of decisions made by authorities.

  8. The aforementioned functions of the Authority will not detract from the powers of the various Government Ministries, or the powers of the local authorities according to the law.

- The proposed organizational structure of the Authority is designed to enable the efficient execution of all its goals and functions, as follows:

  1. The Authority will act within the framework of the Ministry of Construction and Housing.

  2. Alongside the Authority, an Inter-Ministerial steering committee will be established; whose function will be to discuss the obstructions in the way of arranging the residence and implementing the goals of the Authority. At the head of the steering committee will be the General Director of the Ministry of Construction and Housing.

  3. A council will be appointed to the Authority, whose functions will be to lay out the Authority's line of action and advise the General Manager of the Authority in all that regards the execution of the Authority's policy. The council will be composed of 21 members, among them: 14 relevant Government representatives, (Construction and Housing – chairman, Finance, Justice, Education, the Interior, Industry, Trade and Labor, Health, Social Affairs and Social Services, Tourism, the Negev, the Galilee, Public Security, Agriculture and Rural Development,

Environmental Protection and Transportation and Road Safety), and 7 public representatives who will be appointed by the Minister of Construction and Housing. Of the 7 public representatives, 4 will be from the Negev Bedouin and will have no ownership claims to the land.

4. The operational responsibility of the Authority will be in the hands of the Authority's General Manager. Underneath him will operate various sections, whose areas of occupation will be, inter alia, land transactions; programs and residence; planning, development and construction; community; legal counseling; finances and logistics and research, propaganda and documentation. The land transaction section will be subject, statutorily, to the authority of the Israel Land Administration.

5. A concessions and proceeds committee will act, alongside the General Manager of the Authority. The Committee will be headed by a retired judge, and its function will be to make recommendations concerning agreements brought before it, on the basis of the standards set out in the law. The recommendations of the committee will be submitted for approval by the Authority's general manager."

473. The Government has further decided:

1. To request the General Director of the Ministry of Construction and Housing to make recommendations to the Government, within 30 days, and in coordination with the General Director of the Prime Minister's Office and the Supervisor of Budgets in the Ministry of Finance and the Civil Service Commissioner, on the kind of budgetary resources and personnel that are required to finance and otherwise execute this decision.

2. To entrust the Minister of Construction and Housing with the appointment of a public committee headed by a retired Supreme Court Justice, and of whose members, at least half will be representatives of the relevant Government Ministries, including representatives of the Ministries of Construction and Housing, Finance, the Prime Minister, Agriculture and Rural Development, the Negev and the Galilee, the Interior, Justice, the Transportation and Road Safety, and the Israel Land Administration. In addition to this the Minister will appoint public representatives, among them representatives of the Bedouin population that have no ownership claims to land. The committee will submit its recommendations to the Minister in order to draft a bill concerning the regulation of the Bedouin population in the Negev, including the sum of the reparations required, arrangements for allocating alternative land, civil enforcement and a schedule of the execution of arrangements. The committee will submit its recommendations within three months. The committee will act under the framework of a budget and land inventory that it will determine in coordination with the General Director of the Prime Minister's Office, the General Director of the Ministry of Construction and Housing and the Supervisor of Budgets in the Ministry of Finance, within 30 days.

Within the framework of Government policy regarding Bedouin residence and land in the Negev, and as an important step integrating other Government plans for the development of the Negev and the Galilee, the Government has promoted various resolutions enhancing the treatment of the Bedouin population in the Negev.

Nonetheless, owing to the complexity of designing solutions for various issues, and the prolongation of the treatment in the availability of the land in the area of permanent towns, which are designed to receive the Bedouin population living in the illegal clusters, there is a need to coordinate the totality of the plans within the organized framework of an authority, which will deal with the issues in a coordinated and expansive manner.

474. In spite of the establishment of a number of permanent towns for the Bedouins, about 63,000 Bedouins (35%) still choose to live in illegal clusters of buildings throughout the Negev, ignoring the planning procedure of the planning authorities in Israel. This illegal building is carried out without any preparation of plans as required by the *Planning and Building Law*, 5725-1965, and with no pre-approval by the planning authorities. In addition, it causes many difficulties in terms of providing services to the residents of these illegal villages.

475. Note that a solution to the housing problem of the greater part of the Bedouins living in the illegal villages will be achieved subsequent to the completion of the nine new towns.

476. The Government is encouraging movement to permanent towns by providing unique financial benefits to all the residents of the Bedouin Diaspora who seek to move to permanent towns, regardless of their economic condition or any entitlement test. These benefits include, *inter alia*, provision of land plots for free or for very low cost, and compensation for demolition of illegal structures.

477. The Advisory Committee on the Policy regarding Bedouin towns has been established, in its present form, on October 24, 2007, based on Government Resolution no. 2491. The Advisory Committee's task is to present recommendations regarding a comprehensive, feasible and broad-spectrum plan which will establish the norms for regulating Bedouin housing in the Negev, including rules for compensation, mechanisms for allotment of land, civil enforcement, a timetable for the plan's execution, and proposed legislation's amendments, where needed.

478. The Advisory Committee comprises seven members and one chairperson, former Supreme Court Justice Mr. E. Goldberg. Note that two of the Advisory Committee members are Bedouin representatives.

479. The Advisory Committee began its sessions in January 2008, after having received over a hundred letters from the public, together with numerous other written materials and documentation. The Advisory Committee's hearings were public and took place in Beer Sheva.

480. The Advisory Committee has held tens of sessions and has heard many depositions from various sources, including Bedouin representatives, various stakeholders, experts in the relevant fields (*inter alia*, town planners, geographers, anthropologists, historians, sociologists and lawyers), and the general public. The Advisory Committee has also heard representatives of public bodies and institutions, including Municipal Authorities, public figures, Knesset members, and NGOs.

481. The Advisory Committee has held four field study trips in the Negev region in order to further deepen its knowledge on the subjects within its mandate.

482. The Advisory Committee has concluded its public discussions in May 2008, and on December 11, 2008, submitted its final recommendations to the Government.

483. **Spraying of Crops in the Negev**. In its concluding observations concerning Israel's second periodic report, the Committee on Economic, Social and Cultural Rights expressed its concern regarding claimed destruction of Bedouin agricultural crops, "in order to force them to resettle in 'townships'". In this regard it should be mentioned that in on April 15, 2007, the Supreme Court issued its decision, regarding a petition concerning spraying operations in the Negev, performed by the Israel Lands Administration (ILA) (H.C.J. 2887/04 *Saleem Abu Medeghem, et. al. v. Israel Lands Administration, et. al.*). In its decision, the Court mentioned, *inter alia*, to the Committee's concluding observations.

The Court affirmed the State's right to prevent illegal invasion of State-owned land. However, the Court held that the method of spraying crops is not consistent with the law.

Justice Joubran held that despite the fact that the State has a right to prevent unlawful invasion to State-owned land, the actions of the State are illegal as they did not receive the proper authorization according to the law, and constitutes violation of the Bedouin right to health. Justices Arbel and Naor determined that the State acted within its authority. However, the measure used, aerial spraying of the crops, is not consistent with the proportionality principle anchored in the limitation clause in the *Basic Law: Human Dignity and Liberty*, since it violates the right to human dignity of the Bedouin population as not in all of the aerial spraying incidents, they received proper notice in advance of the intention to spray their crops, and as it might have caused actual damage to their health and physical integrity.

484. ***The Electricity Supply Law (Temporary Order) 5756-1996***, was enacted to solve the problem of providing electricity to Arab and Druze citizens whose houses had been built without building permits, and were consequently not connected to the central electricity grid. This Law was amended in 2001, extending the temporary supply for a period of 7 years. In 2004, the Law was amended again, so that the extension would cease as of May 31, 2007. Since the enactment of the Law and up until May 31, 2007, the Electricity Administration approved linking 8,941 buildings to the electricity grid.

485. **Public Transportation**. On July 19, 2007, the Ministry of Transport and Road Safety published a tender for the operation of 10 lines of public bus transportation to serve more than 60,000 residents in the region of the Bedouin town Rahat. The tender was published in the framework of the Ministry's plan to expand public transportation services in Bedouin towns to equalize them with those in Jewish towns, as Bedouin towns currently lack an organized system of public transportation.

According to the tender, 4 city lines will operate in Rahat, and another 4 inter-city lines will connect Rahat with the city of Beer-Sheva and the new train station recently opened in Lehavim-Rahat. Another 2 lines will connect the towns of Hura and Laqiya with the Bedouin market in Rahat. The plans for the new lines were carried out following surveys conducted that determined the needs of local residents. Local residents also participated in special workshops on the issue.

The winning company will be obliged to sell reduced tickets to youths, the elderly and other eligible persons such as students. The company will also be obliged to issue a monthly ticket allowing unlimited travel on all bus lines in the Beer-Sheva metropolis. In addition, the winning company will be obliged to use new buses, and keep high standards of service. The tender was completed, and is currently awaiting a final decision concerning the winning company.

486. **Social Services**. In May 2004, the Center for the Welfare of the Bedouin Family was established in Beer Sheva by the Ministry of Social Affairs and Social Services. The Center has two main goals:

486.1 To provide assistance to the Bedouin community in matters related to conflict and tension resolution in the family, as well as to provide therapeutic interventions.

486.2 A center for the prevention of, and education on, domestic violence.

The center is financed and supervised by the Ministry of Social Affairs and Social Services and is operated by the Bedouin association of "Elwaha" which is manned by specialized social workers.

The center provides many uniquely adapted services. For example assistance is given in locating Bedouin families willing to take in female Bedouin victims of violence, allowing those women to remain within the Bedouin community whilst protecting them from further violence. These women stay in the foster family are financed by the Ministry of Social Affairs and Social Services. Following its establishment, the center has become an integral

part of the community, and an essential tool at the disposal of the courts which may refer battering men to be treated in the center.

487. Social Services operate in the Bedouin towns, as well as in illegal Bedouin villages. There are around 30 monthly appeals to Social Services from Bedouin women. Each receives individual care. There are also several Bedouin couples undergoing couple therapy. Note that the operation of the abovementioned center has improved the treatment of domestic violence in the Bedouin population, enabling matter-of-fact, focused and efficient care to be provided, free from community and family pressures.

488. In 2008, the Service for Girls and Young Women handles about 380 young Bedouin women annually, 300 in the south and 80 in the north providing both individual and group treatment.

Planning – the Bedouin population in the north

489. Updated plans for all Bedouin localities in the north, are either already available or in process of planning (by the Ministry of the Interior or by local and governmental authorities).

490. Furthermore, the Department of Planning in the Ministry of the Interior promotes detailed plans to the unification and distribution of the Bedouin towns in the north – the first step includes six localities and is allocated a budget of 4 million NIS ($1,052,631).

Supply-side and demand-side policies

491. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Housing assistance, including mortgage, rent supplements, temporary relief in acute housing crisis and special assistance to homeless

492. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

The legal framework of housing assistance

493. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 12
The right to the highest attainable standard of health

494. The Right to a Dignified Death. On December 6, 2005, the Knesset enacted the *Terminally Ill Patient Law*, which provides an answer to the medical-ethical dilemma present in the treatment of terminally-ill patients. The Law is based on the recommendations of a public committee appointed by the Minister of Health in 2000. The Committee consisted of 59 members representing different related areas relevant to the issue, such as: medicine, nursing, social work, religion, philosophy, law and ethics. The Law is based on the values of the State of Israel as a Jewish and democratic State, and attempts to create a balance between the values of sanctity of life, quality of life and respect for a person's autonomous will.

495. The Law presumes that every person has the will to carry on living, unless it is proven otherwise. Furthermore, in case of any doubt, the will to live shall be preferred (section 4a). One shall not avoid granting medical treatment to a terminally ill patient

unless it is clear, according to specific conditions, that the patient has no will to continue living (section 4b). If the terminally ill patient has "capacity", meaning that he is more than 17 years old, can express his/her will, was not declared incapacitated, or excluded from this status due to a documented and justified medical decision, then any decision concerning his/her medical treatment shall be subject to his/her implicit will. If the terminally ill patient does not have "capacity", any decision concerning his/her medical treatment shall follow his/her preliminary instructions, the instructions of an empowered person or a decision of an "institutional committee" as defined below. If there are no such instructions or decisions, a decision whether to avoid granting medical treatment to the terminally ill patient will be made by the responsible physician, having had consideration of an implicit testimony from the patient's relative, and in the absence of such relative, considering the position of the patient's guardian (section 4b (1) and (2)).

496. The Law states that a terminally ill patient's will to not have his/her life extended shall be respected, and that providing him with medical treatment is to be avoided (section 8). Nevertheless, it shall be clarified that the Law does not allow committing an act, including a medical act, which is intentionally directed to cause the terminally ill patient's death, or which will certainly result in death, even if committed from means of grace and compassion (section 12). In addition, assisting the patient to commit suicide or stopping a consecutive medical treatment are both prohibited (sections 13 and 14a accordingly). However, it is permitted to avoid the innovation of a consecutive medical treatment which has been terminated only due to medical reasons, or the innovation of a cyclic medical treatment (section 14b).

497. The Terminally Ill Patient Law contains different provisions constituting the manner and procedure in which a person can express, in advance, his/her will concerning his/her medical treatment in the event that he becomes terminally ill. In addition, the Law states that every medical institution will appoint, in consultation with a state committee, institutional committees which are to determine in cases of conflict or if there is any doubt as to how to treat the terminally ill patient. These committees will consist of four physicians, a nurse, a social worker or a clinical psychologist, an academic specializing in philosophy or ethics, a jurist qualified to be appointed as a district judge and a public representative or religious personality.

498. In 2007, the national expenditure on health was 7.9% of the GDP, similar to the national expenditure in 2006. 36% of the national expenditure was financed by households, and 37% by Government budget.

499. In a survey conducted by the Ministry of Health during 2003-2004, the following results were received (the rates are per 100 residents): 53.1% of Israeli women and 57.3% of Israeli men assessed their general health, including their physical and mental health as very good or excellent. In the Jewish population, 55.2 % of the women and 59.1% of the men assessed their health as very good or excellent, compared to 53% of the women and 54.9% of the men in the Arab population.

500. Regarding smoking, 18.6% of the women, and 36.1% of the men reported that they smoked cigarettes, at least once a day. Among the Jewish population 19.8% of the women and 32.1% of the men reported that they smoke, compared to 4.6% of the women and 55.2% of the men in the Arab population. Regarding their Body Mass Index (BMI), 13.9% of the men and 15.7% of the women reported of BMI of 30 or more, based on self reported weight and height.

Quality measures program

501. *The National Health Insurance Law* provides for the creation of research and evaluation organizations (the Health Council, the Israel Institute for Health Policy and

Health Services Research), in order to oversee and assess the effect of the Law on the quality, effectiveness and cost of health services in Israel. Within this context, it became necessary to create a system of indicators for community health care in Israel, which would enable ongoing evaluation of the level of treatment relative to national and international indicators.

502. The Quality Indicators of Community Health Care Program was initiated by researchers at Ben-Gurion University of the Negev, in conjunction with the four Israeli health funds (HMOs), and with the support of the Israel Medical Association and the sponsorship of the Israel Institute for Health Policy and Health Services Research. In March 2004, the Ministry of Health declared this activity to be a national program, and it is led by a steering committee made up of all the participating organizations.

503. The main objectives of the National Program are to improve the quality of community health care in Israel by ongoing measurement of performance, and to provide information to the public and to policymakers regarding the quality of health services in Israel. The program allows routine and dynamic quality assessment of the preventive, diagnostic, therapeutic and rehabilitative services supplied by the health funds.

504. To date, 69 indicators have been developed in six main medical fields and are regularly measured throughout the Israeli population. This ongoing scientific infrastructure assists in national prioritizing during policy making and induces quality improvement. The information is also available and open to the general public, inviting them to assess the quality of services in Israel and consume them in an informed and responsible way.

505. The annual National Quality Indicators for Community Health Care Report was first published in 2004. The current report (2008) presents data for 2005-2007. The data presented in the 2008 report relates to six fields of community health care – flu vaccination, screening for detection of colorectal cancer and mammography for detection of breast cancer, asthma treatment, treatment of diabetes, treatment of children and cardiology treatment. According to the Report, continued improvement has been recorded in most of the indicators examined. National performance was rated as high for most indicators, also when compared to international standards. The annual reports are available on the NIHP website: http://www.israelhpr.org.il.

Health indicators of the World Health Organization

Infant Mortality

506. The trend in infant mortality rate, per 1,000 live births, has been as follows:

Table 33
Infant mortality, 2004–2007

	Total population		*Jews*		*Muslims*		*Christians*		*Druze*	
Year	*Absolute numbers*	*Rates*	*Absolute numbers*	*Rates*	*Absolute numbers*	*Rates*	*Absolute numbers*	*Rates*	*Absolute numbers*	*Rates*
2004	670	4.6	315	3.1	319	8.8	8	3.3	11	4.3
2005	628	4.4	313	3.1	277	8.1	8	3.2	15	5.9
2006	594	4	312	3	252	7.3	4	-	13	5
2007	586	3.9	309	2.9	250	7.2	7	2.8	15	6

Source: The Ministry of Health and the Israel Central Bureau of Statistics, Abstract of Israel, 2008.

507. Recent statistics indicate continuance decrease in infant mortality rates, from 4.6 deaths per 1000 live births in 2004, to 3.9 in 2007. Among Jewish and Christian newborns, the infant mortality rate fell even furthermore to 2.9 and 2.8 deaths for every 1,000 live births, respectively. A large part of the decrease in infant mortality rates is due to the decrease in mortality caused by infectious diseases, decrease in prenatal mortality and pneumonia. Death from congenital disorders is also showing a downward trend.

508. Among the Muslim population, despite the continuing decrease, the child mortality rate is still relatively high and stands at a rate of 7.2 deaths per every 1,000 live births. The gap between the communities stems from a number of factors, among them the high rate of consanguineous marriage – approximately 35% in the Arab population and approximately 60% in the Bedouin population, religious prohibition against abortion even in medically recommended cases, as well as socio economic differences.

Immunization rates

509. Following are data concerning immunization rates:

Table 34
Immunization: percentage of children immunized by the age of two years, 2005

Vaccine	*Diphtheria Tetanus Pertussis DTP 4*	*Poliomyelitus Vaccine IPV 3*	*Poliomyelitus Vaccine OPV 3*	*Measles Mumps Rubella MMR 1*	*Hepatitis A Vaccine HAV 1*	*Hepatitis B Vaccine HBV 3*	*Haemophilias Influenza type B HIB 4*
Total	**93**	**95**	**93**	**94**	**90**	**96**	**93**
Jewish	91	94	91	93	88	96	91
Other religions	98	97	97	98	96	96	98

Source: The Ministry of Health, 2008.

Life expectancy

510. In 2007, life expectancy for Israeli women was 82.5 years, and for Israeli men – 78.8 years. Elderly people (65+) comprise 9.8% of the population as of 2006 (only 3.3% among the Arab population). In 2006, persons over 65 made up 11.2% of the female population, compared to 8.5% of the male population.

Table 35
Life expectancy by gender and population group, 2001–2007

Year	*Males*			*Females*		
	Jews	*Arabs*	***Total***	*Jews*	*Arabs*	***Total***
2001	77.9	74.5	**77.3**	81.6	77.8	**81.2**
2002	78.1	74.7	**77.5**	81.9	77.9	**81.5**
2003	78.3	74.9	**77.6**	82.2	78.2	**81.8**
2004	78.7	75.4	**78.0**	82.7	79.6	**82.4**
2005	79.0	74.9	**78.2**	82.6	78.6	**82.2**
2006	79.3	74.6	**78.5**	82.6	78.1	**82.2**
2007	79.5	75.3	**78.8**	82.9	78.8	**82.5**

Source: The Ministry of Health, 2008.

511. The following table reveals the main causes for death between the years 1998–2005:

Table 36
Mortality rates, by cause (total population)

Cause of death	*Number in mortality list 2 of ICD-10*	*1998–2000*	*2001*	*2003*	*2001–2004*	*2005*
Other diseases	47+72	62	56	62	59	59
Other ischemic heart diseases (other than acute myocardial infarction)	53(1)	69	55	52	51	47
Diabetes mellitus	46	38	39	42	39	35
Cerebrovascular diseases	55	41	44	37	40	38
Other heart diseases	54	39	38	34	36	34
Acute myocardial infarction	52(2)	31	29	28	27	23
Reminder of malignant neoplasms	44	25	21	25	22	21
Malignant neoplasms of trachea, bronchus and lung	32	20	21	21	21	20
Kidney diseases	65	16	23	20	23	25
Malignant neoplasms of colon and anus	28	20	21	19	19	19
Chronic lower respiratory infections	61	19	18	17	17	17

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

Note: In 2005 the rate of signs, symptoms and ill-defined causes was 31 (Per 100,000 residents).

Rates per 100,000 residents.

By ICD-10 (International statistical classification of diseases and related health problems 10th edition).

Access to trained personnel

512. Medical clinics for the treatment of common diseases and injuries exist in each locality consisting of more than 100-150 residents. In addition, as prescribed by the *National Health Insurance Law* detailed in Israel's previous reports, every Israeli resident is entitled to health insurance, including extensive medical treatment and medicine provision.

513. Health care is also accessible to foreign workers, who are entitled to medical insurance, as detailed under Article 6 above. Moreover, children of illegal *migrant* workers, are also entitled to medical insurance provided by Israeli Health Funds.

514. In 2006, the number of physicians in Israel was 25,138 (37 per 10,000 residents) and the numbers of nurses and midwifes was 42,609 (62 per 10,000 *residents*), constituting a ratio of 1.7 nurses and midwifes to physicians. Moreover, the number of pharmaceutical personnel was 4,958 (7 per 10,000 residents), and the number of dentists was 7,726 (11 per 10,000 residents). The rate of hospital beds in 2006 was 60 per 10,000 residents.

515. Mention should be made to a study initiated by the Ministry of Health, which indicated lessened access to medical personnel in peripheral areas in the northern and southern parts of the country. Other than the general shortage in medical personnel, one of the major hindrances is the great difficulty in recruiting medical personnel to reside and

serve in these remote areas of the country. The Ministry of Health devotes significant efforts, including financial incentives, and assistance in housing and spousal employment opportunities, towards encouraging medical personnel to relocate to these areas, yet thus far the problem still remains.

516. Ninety-nine per cent of childbirths take place in hospitals, under trained personnel supervision. In December 2005, the *Population Registry Law* 5725-1965, was amended for the regulation of births occurring outside of a medical institution. Women who give birth at home or on the way to the hospital are entitled to comprehensive post-natal care in the hospital for themselves and their infants.

517. The maternal mortality rate has remained low. In 2006, there were only 9 cases of maternal mortality.

Environmental control

518. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Preventive care

519. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Water Supply

Water supply to the Bedouin illegal villages

520. As detailed above in this report, most of the Bedouins in the Negev live in urban and suburban centers, all of which have approved plans and provide all necessary infrastructures including running water supply. The remaining Bedouin population reside in illegal villages, these illegal villages cause difficulties in terms of supplying the residents with the necessary services, especially water.

521. While the Government does not question its duty to supply its inhabitants with services such as water, it is practically impossible to supply it to sporadic destinations disregarding the national construction and planning programs. Nevertheless, in anticipation of the completion of the establishment of additional permanent Bedouin towns and the regulation of water supply systems, the Ministerial Committee for the Arab Population has decided to build "Water Centers". Following that decision, instructions have been given concerning the planning of water supply systems to several centers in the Negev called "Water Centers". The Water Centers are a result of the Government's understanding of the needs and current realities of the Bedouin population and its efforts to improve their living conditions. The planning of the centers take into account an amount of water suitable for the magnitude of population expected in 2020. These systems will enable to supply water to a significantly larger portion of the Bedouin population, than the portion receiving water supply today through individual connections. There are currently 5 Water Centers, which are located in the most populated areas of the Bedouin Diaspora, compatible to Government's plans for the establishment of permanent towns.

522. An additional method used, is through direct water connections to the main water pipeline, granted to a minimum of 10 families. Due to the problematic nature of these connections, which require the transfer of the water to illegal villages, this method is less frequently used than previously. The connection to such pipelines is approved by the Water Committee, which evaluates requests for connections to pipelines, as well as negotiates in cases of disputes between residents of the Diaspora over ownerships of such connections. Between 2001 and 2006, the Water Committee convened 16 times and examined 306

requests to be connected to pipelines and for settlement of disputes. It should be explained, that rejection of requests for connections is mostly due to technical grounds which prevent the possibility to make such connections (such as topographic difficulties, etc.). Also, according to "Mekorot" — the Israel National Water Corporation — numerous pirate connections to pipelines are present without the authorization of the water committee.

Vulnerable groups

523. As detailed in Israel's previous periodic report, the *National Health Insurance Law*, has had an apparent positive effect on the provision of health care to vulnerable groups in the Israeli.

524. The required co-payments, detailed in Israel's previous periodic report, are limited by Law. The maximal rates were recently updated. Moreover, in order to avoid harming the most vulnerable groups, the co-payment requirement in subject to further limitations, including exemption and reduction for specific vulnerable groups, such as people with disabilities, elderly persons with low socio-economic status and persons with certain chronic diseases. However, the co-payment requirements are under constant critique.

525. In a position paper published in July 2008, by 'ADVA Centre' and 'Physicians for Human Rights – Israel' titled "Co-Payments for Health Services: Agreeing but not Doing", the two NGOs claim that co-payments for prescription medications and medical examinations expand the inequality regarding accessibility to health services. The NGOs recommend the cancellation of participation payments for prescription medications and medical services, and offer alternative ways to expand the financial sources as an alternative to the cancellation of the abovementioned payments.

526. According to another position paper published by 'Physicians for Human Right – Israel', in May 2008, titled "Inequality in distribution of special medical instruments throughout Israel", the peripheral areas are discriminated against when compared to the centre of Israel. The Paper further states that the Ministry of Health deviates from the regulation regarding distribution of special medical instruments and does not enforce its own regulation by allowing the positioning of additional medical instruments in Tel-Aviv.

Health care in the Arab population

527. In 2005, a report regarding the health condition of the Arab population in Israel was published by the I.C.D.C. – Israeli Center for Disease Control. The report demonstrates positive changes of the health conditions of the Arab population. According to the report, infant death rate decreased, as did the death rate due to heart and vascular diseases. The rate of the population's vaccination coverage had increased and so did the use of mammography for early detection of breast cancer.

528. According to the report, there is a noticeable improvement in the level of health-care services and accessibility to these services among the Arab population. As of 2005, at least one primary medical clinic and at least one family health-care station provide services in each Arab locality.

529. The report reveals an increase in illnesses such as diabetes and obesity, especially among older Arab women. An additional increase is found in the numbers of malignant Neoplasms (note that except lung cancer, the rates of malignant Neoplasms among the Arab population is lower then that of the Jewish population).

The Bedouin population in the south

530. As noted above, all existing Bedouin towns have approved plans and include infrastructure such as medical clinics, running water, electricity, etc. The cost of a visit to the clinic is identical throughout the country. That is, a visit will generally be free.

531. The General Health Services Department operates a special health service for the Bedouin population that includes an ambulance service for Bedouins, run by a Bedouin employee. This ambulance ensures constant access between the hospital and the community. This enables a talented professional staff to evaluate the living conditions of patients prior to their release from hospitalization. Additionally, the ambulance transports patients to the hospital and back when they are in need of emergency care.

532. In addition to eighteen Mother and Child Health Clinics located in Bedouin towns, and a mobile family care unit, six new Mother and Child Health Clinics (Tipat Halav), have recently been constructed in the illegal villages. These Mother and Child Health Clinics are equipped like every other Mother and Child Health Clinic in the country.

533. Furthermore, in addition to the thirty-two Health Fund medical clinics already existing in the Bedouin towns, 9 Health Fund medical clinics have been built to provide for the medical needs of Bedouins living in illegal villages. The clinics are all computerized, air conditioned, and they are fully equipped according to the standards upheld by all the Health Funds in the country.

534. There have been other major improvements in the past decade. Improved immunization coverage of Bedouin infants in the Negev, for example, resulted in a significant decrease in vaccine-preventable infectious diseases. Recent 2006 figures indicate that 90%-95% of the Bedouin children have completed all necessary vaccinations by age three – a sizeable improvement compared to a rate of 27% in 1981. Two mobile immunization teams managed by the Ministry of Health also provide home immunizations to infants in Bedouin families living outside of permanent towns, whose families do not bring them to one of the Mother and Child Health Clinics for treatment. A computerized tracking system allows the Ministry of Health to identify infants who are overdue on their immunization schedule and to send one of the mobile immunization teams to immunize them.

535. There has also been an important improvement in the growth of Bedouin infants and toddlers over the past two decades, indicating improved nutrition. Moreover, there has been increased compliance with recommendations for supplemental folic acid among Bedouin women in their fertile years, and a decrease in the incidence of open neural tube defects (NTDs) among Bedouin fetuses and infants. Unfortunately there are still high rates of congenital malformations and inherited diseases among Bedouin infants, due to multiple factors including the tradition of consanguineous marriage, as well as cultural-religious-social barriers to pre-marital and pre-natal screening for inherited diseases.

536. The infant mortality rate of Bedouin infants in 2005 was 15:1000, representing a decline from the rate in 2004. It should be noted that the infant mortality rate among Bedouin infants living in illegal villages was essentially lower than that among Bedouin infants living in permanent towns. The Government is continuing to open Maternal and Child Health clinics in illegal villages and new MCH centers are being built to serve the population.

537. Furthermore, the Government has been funding several special projects to improve the health and expand the health-care services provided to Bedouins living in illegal villages. One of these programs is a special long-term intervention program to decrease infant mortality among the Bedouins. The program is community-based and boasts a wide-consortium of participants, including representatives from the Bedouin community

leadership and the educational system, along with providers of curative and preventative health-care services, the Department of Health in the Community and the Department of Epidemiology of the Faculty of Health Sciences of Ben-Gurion University of the Negev.

538. Free genetic testing and counseling is also funded by the Government, for any member of a tribe in which the prevalence of a serious inherited disease, for which a genetic test is available, is above 1:1000.

539. The Government also participates in an intervention program to decrease the rate of home accidents among Bedouin children, and has funded the building of additional MCH clinics for Bedouins currently living in illegal villages (additional clinics are being built by the main HMO serving the Bedouins).

540. There has been a decline in the incidence of infectious disease among Bedouin infants over the past decades. Bedouin infants and children have lower rates of pertussis, tuberculosis and HIV infection. Furthermore, due to high immunization coverage among Bedouin infants, indicating good access and utilization of preventive health-care services, there have been no cases of the measles since 1994 and no cases of poliomyelitis, diphtheria, congenital rubella, neonatal tetanus or tetanus in Bedouin children of the Negev since 1990. During the period of 2000–2003, no cases of the mumps were reported. Only one or two cases of Homophiles influenza invasive disease between 2000 and 2002, and none were reported in 2003. There is, however, generally a higher rate of infectious disease among Bedouin infants than among Jewish infants of the same age.

541. Specialty physician services are being provided to the Bedouin community in the Negev, including: Pediatrics, General Internal Medicine, Neurology, Family Medicine, Dermatology, Gynecology and Obstetrics, Ear, Nose and Throat, Ophthalmology, Orthopedics, Gastroenterology, Cardiology, Surgery and Trauma, Pediatric Surgery and Pediatric Pulmonary Medicine. In addition, every resident has equal access to all the specialty clinics at the Soroka University Medical Center.

542. The Government, as well as the main HMO serving the Bedouin population, undertake major efforts to train and recruit Bedouin physicians and nurses. The Government provided all the funding required for three classes of Bedouin students to complete their training as registered nurses, including funding their transportation to the nursing school, a meal allowance during their studies, and special remedial lessons to assist those who needed it. The Government has similarly provided special funding to hire Arab physicians and nurses.

543. Students participating in the third course are committed to serving their first three years of practice after graduation wherever the Ministry of Health decides their services are needed. This will guarantee that the trained nurses serve the target population, the Bedouins. In addition, the first female Bedouin physician in Israel, has completed her degree. She was part of the special “Cultivating Medicine in the Desert” program aimed at incorporating more Bedouins into the health sector. Currently, six Bedouin women are studying medicine; 35 Bedouin women have completed degrees in various health professions; and 45 additional women are studying health sciences.

544. In July 2008, Physicians for Human Rights-Israel — published a report titled: “Ana Huna (I am here) — Gender and Health in the Unrecognized Villages of the Negev”. The report is critical of the healthcare services granted to Bedouin women in the Negev, as well as the problems on providing of infrastructure and public transportation, making it difficult for Bedouin women to reach distant healthcare centers in cases where the villages have no clinic or have one that lacks full services. The report also stipulates that the communication between the medical staff and some of the women is problematic due to language barriers. However, as detailed above, significant improvements have been made in the past years

regarding the provision of health care for Bedouin women, and the Bedouin population as a whole.

Community participation

545. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 13
The right to education

The legal framework

546. In 2007, The *Compulsory Education Law* 5709-1949, was amended in order to broaden its scope and apply compulsory education to youth between the ages of 15 and 17 (inclusive) – attending the 11th–12th grades. Prior to the amendment, education for the 11th–12th grades was free, yet not compulsory. In the aim of protecting the youth in this vulnerable stage from negative influences, and to prepare them and provide better tools for their successful integration as productive adults in the future, the Government decided to provide an obligatory educational framework rather than an optional one. Another desired effect of the Law, is a decrease in drop-out and removal of pupils rates, by compelling the provision of solutions within the education system to all pupils in this age group. The Law is to be fully implemented until 2009 to pupils attending the 11th grade, and until 2010 to those attending the 12th grade.

547. Due to budgetary constraints, the gradual implementation of the *Long School Day and Enrichment Studies Law* 5757-1997 (the *"Long School Day and Enrichment Studies Law"*), detailed in Israel's previous report, is to be completed until 2014.

548. ***The Daily Meal for the Pupil Law 5765-2005*** (*the "Daily Meal for the Pupil Law*"). On January 6, 2005, the Knesset enacted the *Daily Meal for the Pupil Law* with the goal of creating a nutrition service to provide warm meals to pupils in primary schools where the long school day is applied, according to the *Long School Day and Enrichment Studies Law* detailed in Israel's previous report. On April 28, 2008 the Law was amended to include children attending Pre-School where the long school day is applied. According to the amendment, the Law also applies to other Pre-School frameworks where 41 hours of education per week are provided. In these frameworks a warm meal will be provided to pupils on days they attend pre-school for at least 8 hours.

Section 3 to the Law stipulates that each pupil will receive one warm meal per day, according to a well-balanced and varied menu which will be determined by the Ministry of Health, and will take into consideration the age and needs of the pupils.

The Law is to be gradually implemented. The Minister of Education, in conjunction with the Minister of Finance, will determine the population of pupils regarding which the Law will be implemented each year.

The nutrition service is co-funded by the Ministry of Education and the local municipalities. The Law permits the local municipality to collect participation payments from parents, yet the Law requires the Minister of Education's consent to do so. The parental participation payment will be determined by the Minister, according to socio-economic standards and in the framework of payments stipulated in the *Compulsory Education Law*.

549. ***The Free Education for Sick Children Law*** **5761-2001**. This Law is aimed at advancing equal opportunity in education for sick children and providing a suitable

educational framework for children in hospitals or at home due to long term illness. The purpose of the Law is to preserve the normative lifestyle of these children. The educational framework for children in hospitals or at home aim, is to identify the special educational needs of the sick child and to enable, subject to the learning capacities and medical condition of the child, the promotion of his/her development. According to the Law, the Minister of Education will introduce a special educational program for sick children to be implemented in their own homes or in hospitals with the consent of the parents. Section 7 to the Law stipulates that the implementation of the Law will be gradual, commencing in 2006.

550. **Removal of pupils from the educational system**. In 2004, the Minister of Education published Regulations regarding the removal of pupils from the educational system (*Compulsory Education (Rules for the Permanent Removal of a Pupil Due to School Achievement) Regulations* 5765-2004).

551. These Regulations include a prohibition on removing a pupil in the 1st–6th grades from school due to lack of achievement in studies. Regarding pupils in the 7th–12th grades, removal from school shall not be made on the basis of lack of achievement unless the pupil fails at least 70% of the mandatory subjects for that school year, and if the failure did not occur due to illness, death of a family member, separation or divorce of the pupils parents or other exceptional event which, according to the educational personnel, led to the failure.

The principal of the school from which the pupil is removed, and the Head of the Local Council's Education Department, will make an effort to find an alternative educational system best fit for the pupil upon removal. This shall be done in accordance with the *Pupils Rights (Publishing Orders and Pupil Removal) Regulations* 5762-2002 (the *"Pupils Rights (Publishing Orders and Pupil Removal) Regulations"*).

552. *The Pupils Rights (Publishing Orders and Pupil Removal) Regulations*, establish rules regarding the removal of pupils from school. Among them is the necessity of performing a hearing before finalizing the removal decision. The pupil or his/her parents can file an appeal with the Head of the Ministry of Education's District, according to section 6(a), and a hearing should be held within 14 days according to the provisions of section 6(b) before a hearings panel. The pupil and his/her parents may state their claims in person or by an appointed representative.

The constitutional status of the right to education

553. The Tel-Aviv District Court, while residing as an Administrative Court ,ordered the Municipality of Holon to fully subsidize the cost of school books and school transportation for the child of a mentally ill mother, deeply in debt, and whose father passed away. The municipality did not contest the unfortunate financial status of the mother, but rather its inability to fully subsidize the child's needs due to the existing obligations of its municipal welfare department. Although the Court found no deviation from the law or procedures relevant to the issue at hand, it declared that it is within its power to issue a remedy in the interest of justice because of the importance of the principle of free education. Thus, the fact that a remedy was not stipulated anywhere in statutes did not prevent the Court from fashioning an adequate judicial remedy. The Court determined that the right to education is essential to every child in order to fully realize their skills and abilities and emphasized that financial difficulties of the parent should not preclude the child from receiving an education (Ad. A. (Tel-Aviv) 2402/05 *Anonymous v The Ministry of Education et. al*. (13.06.2006)).

Structure of the education system

554. As of 2004, the budget system has been set on a differential basis (based on the "Shoshani Report"). According to this new method, each school will receive a budget per

pupil, in accordance with the number of pupils in the school and their socio-economical background. For a pupil with a greater educational gap, a budget consisting of a greater number of hours will be granted. The new differential budget system significantly increases the budget granted to populations of a lower economical background, including pupils from the Arab, Druze, and Bedouin populations.

555. **Bilingual Education**. In its concluding observations concerning Israel's previous periodic report, the committee encouraged the development of the system of mixed schools for Jewish and Arab pupils, in order to promote understanding, tolerance and friendship among the citizens of the country. A prominent example for bilingual education can be found in the village "Neve Shalom – Wahat al-Salam". "Neve Shalom – Wahat al-Salam", situated equidistant from Jerusalem and Tel-Aviv-Jaffa, was founded in the early 1970's. By 2007 more than 50 families had come to live in the village, with an equal number of Jewish and Arab families. Eventually, the village will include 140 homes.

556. The Bilingual educational system developed and implemented in "Neve Shalom – Wahat al-Salam" is one of the many expressions of coexistence in their community, as well as other communities in the area. The bilingual educational system, extending from nursery to junior high-school levels, enrols some 200 children, 90% of which come from surrounding Arab and Jewish communities. Similar bilingual and intercultural educational frameworks operate in Jerusalem, Misgav and Kfar Kara.

557. Note that parents are entitled to enrol their children to an educational institution (kindergarten or school) of their choice within their local municipality, whether the spoken language is Hebrew, Arabic or a bilingual institution, whereas the only limitation is that preference in enrolment is given to children who reside in proximity to the educational institution.

558. Needless to mention that there is a great variety of programs in Israel dedicated to the promotion of coexistence and cooperation among Israel's Jewish and Arab populations, either through education, cultural initiatives or Inter-Municipal Collaboration for the welfare of the different communities, as elaborated throughout this report.

Statistical data

559. In 2006/7, the total number of children enrolled in the education system under the supervision of the Ministry of Education reached nearly 1,900,000 – from the pre-primary level to the end of secondary school, of which 1,381,101 were Jewish and 465,016 were Arabs.

560. The total national expenditure on education in 2007, amounted to 56.2 billion NIS ($14.7 billion), comprising 8.5% of the Gross Domestic Product. The total national expenditure on education (in constant prices) in 2007 increased by 5% following a 2% increase in 2006 and 2005 each.

Literacy

561. In similarity to Israel's previous report, the number of persons with only four years or less of formal education has continued to decline, and there has been an improvement in the situation across the board. Among the Arab population, the number of persons without any formal education decreased from 7.0% in 2002 to 6.1% in 2006, while among the Jewish population, the numbers fell from 2.5% to 2.1% respectively. The number of persons with 1–4 years of formal education also decreased from 4% among the Arab population in 2002, to 3.9% in 2006, and among the Jewish population – from 1.2% in 2002 to 1% in 2006.

562. The following tables introduce the figures pertaining to the extent of formal education possessed by the adult population of Israel throughout the years 2002–2006. It divides the population by population group, gender and age. According to this data, in 2006, 1.5% of the total Israeli population had only 1–4 years of formal primary education, while 2.8% had no formal education:

Table 37
Persons aged 15 and over, by population group, years of schooling, age and gender, 2007

	Years of schooling								***Total***	
Year	*Median*	*16+*	*13–15*	*11–12*	*9–10*	*5–8*	*1–4*	*0*	***%***	*Thousands*
Total population										
2002	12.4	17.2	21.3	35.6	11.6	9.4	1.6	3.2	**100**	4 706.2
2004	12.5	18.4	21.9	35.3	11.2	8.6	1.6	2.9	**100**	4 876
2006	12.5	19.8	22	34.9	10.9	8.2	1.5	2.8	**100**	5 053.1
2007 – total										
- thousands		1 035	1 143.4	1 792.7	535.4	403.5	62.1	129.8		5 142.4
- percentages	12.6	20.3	22.4	35.1	10.5	7.9	1.2	2.5	**100**	
Age										
15–17	11.1	-	0.3	52.4	44.1	2.8	-	0.3	**100**	350.6
18–24	12.4	4.3	26.9	60.9	4.7	2.4	0.3	0.5	**100**	801.2
25–34	13.6	28.6	28.3	31.2	6.7	3.9	0.3	0.9	**100**	1 077.1
35–44	13.2	28.9	22.7	33.3	7.8	5.5	0.5	1.3	**100**	852.5
45–54	12.9	25.6	23.1	29.7	9.8	8.6	1.1	2	**100**	753.8
55–64	12.8	25.5	21.9	24.6	9.8	13.1	1.8	3.3	**100**	601.4
65+	11.4	15.2	18.6	20	10.7	20.7	4.7	10.1	**100**	705.8
Men – total	**12.5**	**20.3**	**21.4**	**36.5**	**11.4**	**7.9**	**1.1**	**1.4**	**100**	**2 504.3**
15–17	11.1	-	-	51.5	44.2	3.6	-	-	**100**	179.4
18–24	12.3	3.8	22.2	64	6.4	3.1	0.3	-	**100**	408.4
25–34	13.5	25.7	29.6	31.6	7.9	4.3	0.3	0.6	**100**	541.8
35–44	13.1	28.3	22.1	33.9	8.8	5.5	0.5	0.9	**100**	422.3
45–54	12.9	26.1	21.8	30.8	10.7	8.5	0.9	1.1	**100**	363.8
55–64	12.9	27.3	20.9	24.6	10.4	13.5	1.3	1.9	**100**	287.2
65+	11.8	19.9	17.1	20.9	10	21.4	4.7	6.1	**100**	301.5
Women – total	**12.6**	**20.3**	**23.3**	**33.8**	**9.7**	**7.9**	**1.4**	**3.6**	**100**	**2 638.1**
15–17	11.1	-	-	53.2	43.9	2	-	-	**100**	171.2
18–24	12.5	4.8	31.7	57.7	3	1.8	-	0.8	**100**	392.8
25–34	13.9	31.6	26.9	30.9	5.5	3.6	0.3	1.1	**100**	535.3
35–44	13.4	29.5	23.4	32.7	6.7	5.4	0.5	1.7	**100**	430.2
45–54	13	25.1	24.2	28.7	9	8.7	1.4	2.9	**100**	390
55–64	12.7	23.8	22.9	24.5	9.3	12.7	2.2	4.6	**100**	314.3
65+	11.1	11.7	19.7	19.3	11.2	20.2	4.8	13.1	**100**	404.3

	Years of schooling								***Total***	
Year	*Median*	*16+*	*13–15*	*11–12*	*9–10*	*5–8*	*1–4*	*0*	***%***	*Thousands*
Jews										
2002	12.6	19	23	36.8	10	7.4	1.2	2.5	**100**	3 848.8
2004	12.7	20.4	23.8	36	9.6	6.7	1.1	2.3	**100**	3 975.8
2006	12.8	22	24.2	35.5	9.2	6	1	2.1	**100**	4 104
2007 – total										
- thousands		936.8	1 015.4	1 459.6	366.9	244.2	34.3	75.7		4 168.2
- percentages	12.8	22.7	24.6	35.3	8.9	5.9	0.8	1.8	**100**	
Age										
15–17	11.1	-	-	53.5	43.8	2.2	-	-	**100**	255.8
18–24	12.4	3.9	28.2	63.7	2.9	0.9	0.2	0.2	**100**	614
25–34	14.4	32.5	32.4	29.4	3.7	1.4	0.2	0.4	**100**	833.6
35–44	14.1	33.5	25.9	33.6	4.5	1.4	0.3	0.8	**100**	660.8
45–54	13.4	28.3	25.3	31.5	8.8	4.8	0.2	1.2	**100**	631.2
55–64	13.2	27.8	23.5	26.7	9.9	9.9	0.7	1.5	**100**	528.2
65+	11.6	15.9	19.4	21	11.2	20.7	3.9	7.9	**100**	644.6
Men – total	**12.8**	**22.7**	**23.8**	**36.5**	**9.4**	**5.7**	**0.7**	**1.2**	**100**	**2 016.9**
15–17	11.1	-	-	52.6	43.6	3.3	-	-	**100**	130.9
18–24	12.3	3.9	23.5	66.7	4.2	1.4	-	-	**100**	314
25–34	14.2	29.1	34.3	29.5	4.8	1.8	-	0.4	**100**	418.7
35–44	14	33	25.4	33.6	5.2	1.8	0.3	0.7	**100**	325.6
45–54	13.3	28.3	24	32.3	9.3	5	-	0.9	**100**	302.9
55–64	13.3	29.5	22.3	26.7	10.3	9.4	0.6	1.1	**100**	251.9
65+	12	20.8	17.9	22	10.5	20.1	3.6	5	**100**	273
Women – total	**12.9**	**22.6**	**25.3**	**34.2**	**8.4**	**6.1**	**0.9**	**2.5**	**100**	**2 151.3**
15–17	11.2	-	-	54.5	44.1	1.1	-	-	**100**	124.8
18–24	12.6	3.9	33	60.5	1.6	0.5	-	0.4	**100**	300
25–34	14.6	36	30.5	29.3	2.5	0.9	0.2	0.4	**100**	414.9
35–44	14.2	34.1	26.3	33.6	3.8	1.1	-	1	**100**	335.3
45–54	13.5	28.2	26.4	30.9	8.3	4.6	-	1.4	**100**	328.3
55–64	13.1	26.2	24.5	26.7	9.5	10.4	0.8	1.9	**100**	276.3
65+	11.3	12.3	20.5	20.2	11.8	21.1	4.1	10	**100**	371.7
Arabs										
2002	10.9	7.7	10.7	30.9	19.2	20.6	4	7	**100**	747.2
2004	11.1	8	10.4	32.9	18.7	19	4.4	6.5	**100**	783.1
2006	11.1	8.9	10.3	32.7	18.8	19.3	3.9	6.1	**100**	841.2
2007 – total										
- thousands		78	87.9	303.8	153.3	155	27.4	53.1		863
- percentages	11.3	9.1	10.2	35.4	17.9	18.1	3.2	6.2	**100**	

	Years of schooling								Total	
Year	*Median*	*16+*	*13–15*	*11–12*	*9–10*	*5–8*	*1–4*	*0*	*%*	*Thousands*
Age										
15–17	11	-	-	50.2	44	4.2	-	-	**100**	89.7
18–24	12.1	6.1	22.1	50.9	11	8	-	1.5	**100**	172.6
25–34	11.8	15.1	11.2	39.1	17.6	13.7	0.8	2.5	**100**	217.1
35–44	11.2	12	8.3	33.1	20.4	21.6	1.6	3.1	**100**	168
45–54	9.4	10.1	6.7	20.8	15.6	32.7	6.9	7.3	**100**	105.1
55–64	6.9	4.9	5.2	9	8.5	42	11.3	19.1	**100**	61.1
65+	3.5	2.7	3.2	10	3.9	24	16.2	40.4	**100**	49.4
Men – total	**11.3**	**9.3**	**9.4**	**37.4**	**19.8**	**18.7**	**2.7**	**2.8**	**100**	**437.1**
15–17	11	-	-	49.4	45.2	4.4	-	-	**100**	45.8
18–24	11.9	3.9	17.1	54.7	13.8	9.3	-	-	**100**	88.4
25–34	11.8	14.3	10.9	40	18.8	13.5	0.9	1.6	**100**	110.2
35–44	11.3	12.1	7.9	35.3	22.2	19.6	1.4	1.3	**100**	85.8
45–54	10.5	13.8	7.4	24.1	18.3	29.6	4.5	2.3	**100**	53.3
55–64	7.8	7.9	7.5	9.8	10	48.5	7.5	8.8	**100**	30.3
65+	6.3	4.9	3.9	10.8	4.9	38.3	17.7	19.5	**100**	23.5
Women – total	**11.2**	**8.9**	**11**	**33.3**	**15.9**	**17.4**	**3.7**	**9.7**	**100**	**425.9**
15–17	11.1	-	-	51.1	42.8	4	-	-	**100**	43.9
18–24	12.4	8.4	27.4	47	8	6.7	-	2.6	**100**	84.3
25–34	11.8	16	11.4	38.2	16.3	13.9	-	3.4	**100**	106.9
35–44	11.1	11.9	8.6	30.7	18.4	23.6	1.8	5	**100**	82.2
45–54	8.2	6.3	6	17.4	12.8	35.8	9.4	12.4	**100**	51.8
55–64	5.6	-	2.9	8.2	7	35.6	15	29.2	**100**	30.9
65+	0.9	-	-	9.3	-	11.2	14.9	58.5	**100**	26

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2007, 2008.

Attendance rates in the education system

563. The following table reveals the continuing gradual increase in the number of pupils in the Israeli education system:

Table 38
Pupils in educational institutions, 2004–2008

Year		*2004/05*	*2005/06*	*2006/07*	*2007/08*
Grand total		**2 084 525**	**2 093 329**	**2 160 427**	**2 187 494**
Hebrew education	**Grand total**	**1 648 289**	**1 641 538**	**1 691 087**	**1 708 277**
	Kindergartens	313 801	315 000	340 114	350 000
	Primary education	574 468	584 441	598 029	604 725
	Post primary education	472 139	469 387	467 721	462 360

Year		*2004/05*	*2005/06*	*2006/07*	*2007/08*
	Post secondary institutions	51 195	52 601	51 332	51 000
	Non-universities for higher education**	77 738	82 023	97 923	104 689
	Universities	124 430	123 010	121 234	121 003
	Other institutions	34 518	15 076	14 734	14 500
Arab education	**Grand total**	**436 236**	**451 791**	**469 340**	**479 217**
	Kindergartens	89 400	92 000	94 383	95 000
	Primary education	212 638	221 133	231 268	236 885
	Post primary education	132 225	136 804	141 279	144 932
	Post secondary institutions	1 973	1 854	2 410	2 400

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006, 2007, 2008.

** Incl. students for first degree in academic colleges and in education colleges. As of 2006/07, includes 5,668 students enrolled in continuing studies towards a first degree in education (B.Ed.).

Higher education

564. In 2006/7, 261,788 students attended higher education institutions (universities, colleges and the Open University). The following table shows the number of students in universities and their aggregation into degree, field of study, gender, age and population group:

Table 39
Students in universities, by degree, gender and population group (percentage, unless otherwise stated)

	2004/05	*2005/06*	*2006/07*
First degree – total			
Absolute numbers	78 247	76 707	76 155
Percentages	100	100	100
Thereof: women	55.3	55	54.8
Population group			
Jews and others	89.9	89.4	88.8
Thereof: Jews	86.6	86.1	85.5
Arabs	10.1	10.6	11.2
Second degree – total			
Absolute numbers	35 165	34 935	33 817
Percentages	100	100	100
Thereof: women	57.3	56.6	56.3
Population group			
Jews and others	94.5	94.2	93.9
Thereof: Jews	92.6	92.2	91.9
Arabs	5.5	5.8	6.1

	2004/05	*2005/06*	*2006/07*
Third degree – total			
Absolute numbers	9 315	9 715	9 972
Percentages	100	100	100
Thereof: women	52.1	52.5	53
Population group			
Jews and others	96.6	96.7	96.5
Thereof: Jews	94.3	94.5	94.3
Arabs	3.4	3.3	3.5

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

Dropout rates

565. In 2007, 91.4% of adolescents aged 15–17 attended school, 1.4% worked and did not study and 7.2% neither worked nor studied (a decline in comparison to 2006 (7.8%)). 92% of the girls aged 15–17 attended school in comparison to 91% of the boys. Among the Jewish population 5.4% of the youth aged 15–17 neither worked nor studied (5.5% male and 5.4% female), in comparison to 12.5% among the Arab population (12.7% male and 12.1% female).

566. The following table presents data on drop out rates, according to grade, gender and population group:

Table 40
Pupils in grades 7–12 dropout rates by population group, grade and gender

		Hebrew education				*Arab education*			
		2003/04–2004/05	*2004/05–2005/06*	*2006/07–2007/08*	*2006/07–2007/08*	*2003/04–2004/05*	*2004/05–2005/06*	*2005/06–2006/07*	*2006/07–2007/08*
Grand total		**523 029**	**521 032**	**520 189**	**519 615**	**140 145**	**147 912**	**154 967**	**160 729**
	Total	**86 145**	**88 670**	**86 331**	**86 924**	**28 156**	**30 460**	**30 298**	**30 729**
Grade 7	Thereof: % dropped out of educational system	1.6	1.1	0.5	0.8	1.9	1.9	1.3	1.1
	% of boys	2.1	1.4	0.8	1.3	1.9	1.9	1.4	1.2
	1. % of girls	1.1	0.7	0.3	0.4	1.9	1.9	1.3	1.0
	Total	**84 888**	**84 562**	**87 745**	**85 591**	**27 477**	**28 314**	**30 518**	**30 487**
Grade 8	Thereof: % dropped out of educational system	3.3	2.6	2.2	2.7	4.2	3.5	3.9	4.1
	% of boys	4.2	3.4	2.8	3.8	5.4	4.3	4.9	5.1
	2. % of girls	2.3	1.7	1.5	1.6	2.9	2.6	2.8	3.0
	Total	**90 282**	**87 775**	**87 573**	**89 257**	**26 697**	**26 813**	**27 767**	**29 508**
Grade 9	Thereof: % dropped out of educational system	4.3	3.9	3.0	3.2	11.8	10.9	11.7	12.3
	% of boys	6.0	5.5	4.4	4.8	15.9	14.2	15.8	17.0
	3. % of girls	2.5	2.2	1.4	1.7	7.6	7.5	7.3	7.4

		Hebrew education				*Arab education*			
		2003/04–2004/05	*2004/05–2005/06*	*2005/06–2006/07*	*2006/07–2007/08*	*2003/04–2004/05*	*2004/05–2005/06*	*2005/06–2006/07*	*2006/07–2007/08*
	Total	**88 565**	**89 494**	**87 359**	**87 425**	**21 393**	**24 237**	**24 381**	**25 273**
Grade 10	Thereof: % dropped out of educational system	4.7	4.0	3.4	3.7	8.0	6.9	6.6	6.6
	% of boys	6.3	5.5	4.7	5.3	11.1	10.6	9.7	10.3
	4. % of girls	2.9	2.3	1.9	1.9	5.0	3.4	3.5	3.0
	5. Total	**87 180**	**87 692**	**88 160**	**86 636**	**18 816**	**20 148**	**22 729**	**22 866**
Grade 11	Thereof: % dropped out of educational system	5.2	5.8	5.3	6.3	6.5	6.7	5.3	6.3
	% of boys	8.5	8.3	7.9	9.5	8.4	9.6	7.5	9.3
	% of girls	3.5	3.2	2.7	2.9	4.7	4.0	3.3	3.5
Grade 12	**6. Total**	**85 969**	**82 839**	**83 021**	**83 782**	**17 606**	**17 940**	**19 274**	**21 866**
	Thereof: % dropped out of educational system	1.7	1.8	1.7	1.7	1.2	1.9	1.9	1.7
	% of boys	2.6	2.6	2.5	2.6	2.3	2.2	2.4	2.2
	7. % of girls	0.9	0.9	0.8	0.7	0.9	1.6	1.4	1.3

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

Graduating rates at all levels

567. The following table show the percentage of pupils entitled to matriculation certificates upon their graduation from high school and the ratio between those examinees who meet the requirements for matriculation certificate and those who do not (separated into population group and gender):

Table 41
Examinees and entitlement to matriculation certificates, 2006

	Examinees		*Entitled to a certificate*	
	Total	*% of pupils in grade XII*	***Total***	*% of pupils in grade XII*
Hebrew education	**67 210**	82.4	**44 778**	54.9
Male-minors	**31 954**	80.4	**19 682**	49.5
Female-minors	**35 256**	85.7	**25 096**	61.0
Arab education	**15 303**	90.1	**7 872**	46.3
Male-minors	**6 786**	86.1	**2 873**	36.5
Female-minors	**8 517**	91.2	**4 999**	55.3
Religion: Muslim	**11 981**	89.4	**5 854**	43.7
Christians	**1 555**	94.2	**1 005**	60.9
Druze	**1 733**	95	**996**	54.6

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

568. The percentage of entitlement to matriculation certificate continues to be higher among female pupils than male pupils. In 2006, in the Hebrew education system, 85.7% of the female-minors in the 12th grade age group took matriculation exams (84.3% in 2002), compared to only 80.4% of the male-minors (75.1% in 2002). Female-minors' entitlement to a matriculation degree was also higher and stood at 61%, compared to 49.5% of the male-minors.

569. Among the Arab education system, 91.2% of the female-minors in the 12th grade age group took the matriculation exams (91.7% in 2002), compared to 86.1% of the male-minors (84% in 2002). Arab Female-minors' entitlement to a matriculation degree was also higher than male-minors (56.3% and 36.5%, respectively).

570. Note that one third of those pupils unsuccessful in the 1997 and 1998 matriculation exams completed the requirement for a certificate within 8 years of their graduation.

571. The following data include statistics on graduating students in Israel's universities, in the Open University (a correspondence educational institution), non-university higher education institutions and teachers' training colleges. Similarly to Israel's previous report, these tables indicate a continuing trend of an increasing amount of graduating students. Also similar to Israel's previous report, the tables indicate that there are more women graduating than men:

Table 42
Recipients of degrees from universities

Degree	*1999/00*	*2004/05*	*2005/06*	*2006/07*
Grand total	**26 743**	**30 779**	**32 254**	**33 380**
First degree	17 298	17 827	19 014	19 527
Second degree	7 528	10 703	11 093	11 762
Third degree	800	1 206	1 209	1 288
Diploma	1 117	1 043	938	803

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007, 2008.

Table 43
Degree recipients from universities by gender, age and population group (percentage unless otherwise stated)

	2003/04	*2005/06*	*2006/07*
First degree – total			
Absolute numbers	17 989	19 014	19 527
Percentages	100	100	100
Thereof: women	58.9	58.2	58.7
Population group			
Jews and others	91.6	92.1	91.7
Thereof: Jews	89.6	89.7	89
Arabs	8.4	7.9	8.3
Second degree – total			
Absolute numbers	10 135	11 093	11 762
Percentages	100	100	100

	2003/04	*2005/06*	*2006/07*
Thereof: Women	57	57.5	56.3
Population Group			
Jews and others	95.5	95.6	95.6
Thereof: Jews	94.5	94.3	94
Arabs	4.5	4.4	4.3
Third degree – total			
Absolute numbers	1 135	1 209	1 288
Percentages	100	100	100
Thereof: women	50.1	51	53

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

572. In 2006/7 the total of 20,942 recipients received first degrees from non-university higher education institutions and teachers' training colleges: 2,095 from the Open University, 12,206 from various academic colleges and 5,433 teachers' training colleges.

Construction of new schools

573. Since Israel's previous report, there has been a steady increase in the number of schools and teachers in the Hebrew Education system, as well as a significant increase in the Arab Education system. The total number of schools in the Jewish population rose by 6.4% (from 2,957 in 2000, to 3,145 in 2007). During these years, the total number of schools in the Arab population rose by 28.7% (from 582 to 749 schools).

The vicinity of schools

574. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Human rights education

575. In 2008, the Ministry of Education had begun the implementation and assimilation of a fundamental change in teaching civic studies, including Human Rights issues. The goal is to increase the teaching hours allocated to the subject so far. In the extended program, there is an even greater emphasis on economic, social and cultural rights.

576. Educational programs concerning human rights issues are operated routinely throughout the country. Israel has developed special programs such as an annual "Human Rights Day". Each year, the "Human Rights Day" is dedicated to a different aspect of human rights, and a relevant curriculum and teaching material is developed in both Arabic and Hebrew. In 2003, for example, the "Human Rights Day" addressed the issue of tolerance towards "others" and the issue of social rights. In 2004, the Ministry of Education developed a learning kit dealing with social rights, which included references to both Jewish and Islamic cultures and traditions. In 2005, emphasis was given to rights of persons with disabilities. In 2006, the topic chosen was the right to an adequate standard of living and in 2007 – the right to highest attainable standard of health.

577. Since 2005, the Ministry of Foreign Affairs, in cooperation with several NGOs and the office of the United Nations Special Coordinator for the Middle East Peace Process, is sponsoring the simulation program "Israel Model United Nations", with the participation of numerous Jerusalem high-schools from all parts of the city and all segments of society. The project strives to expose participants to the United Nations' variegated activities, instilling

awareness of the major challenges confronting the global arena, whilst inculcating a spirit of tolerance and inter-cultural dialogue. Forming part of the well-established Model United Nations program that operates extensively throughout the world, the program goes some way towards improving the image of the United Nations in Israel. With several new initiatives to expand Model United Nations activities to Israeli institutes of higher learning in 2009, the IMUN program holds promise of becoming an important facet of educational dialogue in Israel.

Equal educational opportunities

Gender equality

578. Data concerning the ratio of males to females in different educational aspects is detailed throughout this Article, specifically regarding attendance and graduation rates (including higher education), years of schooling, etc.

579. The Ministry of Education has established a special department dedicated to the promotion of gender equality within the School System. The Ministry maintains an active, useful, and user-friendly website that not only provides information about the Ministry's programs and projects, but additionally provides visitors with perspectives on the meaning of gender equality and women's empowerment. The language of the website, and of directives issued by the Ministry of Education, reveal a clear commitment to gender equality and provide definitive guidelines for teachers and all school officials.

580. The current Minister of Education and her Director General are both women, and feminists themselves. The Minister of Education has repeatedly and explicitly declared that gender equality is not merely a "program" or a "project"; but a life-style. To that end, all schools are committed the creation and maintenance of an educational climate conducive to equality and mutual respect.

581. In 2003, the Director General of the Ministry of Education issued a circular dealing with various aspects of gender equality, such as the development of new educational materials conducive to gender equality, the advancement of equal opportunities, the abandonment of dated stereotypes, the empowerment of educational leadership among teachers and principals, and more.

582. The Ministry of Education offers numerous In-Service Training Programs for teachers in order to increase their awareness of, and skills in the promotion of, gender equality. Nation-wide programs such as "Girls Leading a Change" empower high school pupils, while the school curriculum formally addresses issues such as gender, government and politics. Recently, the Ministry has instituted a matriculation program in gender studies.

583. In 2005, the Ministry of Education instituted several educational programs designed to further enhance equal opportunity between the genders within the education system. The abovementioned program "Girls Leading a Change" was initiated by the Women's' Association in Israel to encourage empowerment and leadership amongst young women in high schools. The program was later broadened to include young men, and is now called "Girls and Boys Leading a Change". In 2007, the program was operating in more than 60 high schools in Israel, including schools in Arab localities, and involved more than 2,500 young women and men.

Also in 2005, the Ministry of Education together with the Authority for the Advancement of the Status of Women held 10 one-day seminars (in which more than 1,500 school principals participated) on the subject of encouraging girls to engage in the fields of mathematics and exact sciences. The seminars dealt with the following issues: raising awareness of professional and management teams for this matter, illustrating the perceived barriers to female participation in this field, illustrating the actual ability of female students

and methods of deconstructing these barriers, development of an intervention program encouraging female participation in these fields from an early age, and other relevant issues.

584. Furthermore, the Minister of Education appointed a special committee to examine the extent to which gender stereotypes were to be found in educational textbooks. After receiving the findings, the Minister decided not to incorporate books imbued with gender stereotypes into the education system, and those books already in use in the school system which promoted gender stereotypes, would be gradually replaced.

585. The Ministry has made a particular commitment to promoting the talents of young girls and women who display exceptional aptitudes in mathematics and science. These programs are based on the concept of enhancing gender equality, and allowing each child to pursue his/her innate talents and inclinations without deference to social pressures and inflexible gender expectations.

586. "Bnot Mitzvah" – the Jewish ritual when a girl reaches 12 years old, is used as a school event for the 6th graders and as a tool to highlight the female empowerment, and different substances regarding women leaders, influential women that changed society, women combatants, pioneers and others. This includes outer activities as well as in-school ones. The pupils examine the status of women in Israel and in other countries, and search for disciplines promoting women and allowing them to progress.

587. Empowering female pupils in the general school system is aimed at promoting leadership and empowerment of pupils in the 7th–9th grades, that includes themes promoting awareness to gender equality and its influence on all aspects of life. The program includes raising awareness to the possibilities facing the pupils in fulfillment of their personal potential, skills advancement and social and personal awareness to changes needed in the social and personal aspects of the family, the society and the education system. It also includes raising appreciation to the ability and potential of women to integrate in the economic, political, technological and military sectors and the importance of such integration. The program also includes activities with the male pupils aimed at changing their gender perceptions.

588. Empowering Arab female pupils program is aimed at promoting and changing personal and social perspectives while emphasizing the role of women in the family, the society and in the workplace. The program targets 7th–9th graders and includes themes promoting awareness of stereotypes regarding both genders in the Arab society, their perception of their abilities and dreams, etc. The program includes corresponding activities with the male pupils aimed at changing their gender-based perceptions.

589. Empowering female pupils in the religious schools is performed while considering the changes in society in general and the religious society in particular. Coping with these developments requires these religious young women a re-evaluation of the fulfillment of the roles that fashion the home, family and society. This program includes 10 meetings and is targeted at pupils in the 7th–9th grades.

590. **Promotion of equality in human dignity**. The basis of the program is that gender equality also means equality in human dignity between the genders. Among the goals of the program is raising the personal capability of teenagers to deal with changing social circumstances with the peer group (peer pressure, social struggles, friendship, relationships, etc.), and with the relationship with the adult world (authority, requesting help, etc). During the program the pupils study social perceptions and equality on the basis of human dignity of men and women. The program is introduced to pupils in the 7th–10th grades.

591. **Women in science and technology**. The National Council for the Promotion of Women in Science and Technology was established in the year 2000. The Council's goals

are to serve as a network facilitator linking adult and adolescent women in the field of science and technology, to serve as a contact point for voicing problems related to women's roles in science, to collect information regarding programs promoting women's role in science, to propose and implement programs that will promote women in science, to raise public awareness regarding the state of women in science and to coordinate between public and private initiatives for the advancement of women's involvement in science.

Children with disabilities

592. In 2007, 293,000 disabled or chronically ill children resided in Israel, making up 12.8% of the total child population of the country. Approximately 176,000 children (out of the 293,000), were disabled or suffered from a chronic illness that affected their daily functioning and had persisted for more than one year. These children made up 7.7% of the total child population.

593. The percentage of children with special needs who have at least one disability stands at 9.1% among Bedouin children (in the southern Negev area), 8.3% among the total population of Arab children and 7.6% among Jewish children.

594. In 2007, 15.8% of pupils with special needs in primary and post primary education, attended special schools, 22.3% attended special classrooms in regular schools and 61.8% were integrated in regular schools. Regarding the attendance of children with special needs in kindergarten – 66.4% attend special classes and 43.6% are integrated in regular education.

595. The *Special Education Law* 5748-1988 (the "*Special Education Law*"), was amended in 2002 to add a chapter dealing with integration of children with special needs. The purpose of the amendment was to equalize the services provided to children integrated in regular schools with those provided to children in the special education facilities. The amendment further obligates the Placement Committee to prefer the placement of a child with disability in a regular educational facility. Among the purposes of the amendment is the integration of children with disabilities within the regular education system while enlarging the budget designated for the purpose from year to year. The amendment applies thus far to children aged 5 and older.

596. Recently, the *Rights of Pupils with Learning Disabilities in Secondary Education Facilities Law* 5768-2008, was enacted. This Law asserts the rights of pupils with learning disabilities to adjustments in the criteria for admission to secondary education facilities (academic, technological, rabbinical or professional), as well as in exams and other assignments throughout the school years.

597. An internal procedure of the Ministry of Education enables all pupils with disabilities to receive the necessary accessibility adjustments in the educational facility they attend, by providing the required financing according to specific blueprints submitted to the Ministry by the relevant local authority.

598. The *Safe Transportation of Children with Disabilities Law* 5754-1994 (the "*Safe Transportation of Children with Disabilities Law*"), was enacted in order to ensure the safe transportation of children with disabilities to and from their educational facility. According to the Law, a child with a disability is entitled to transportation arrangement adapted to his/her needs and the type of disability, from his/her residence to the educational facility he/she attends. The Law stipulates that the local authority, in which the child with disability resides, is responsible for providing the required transporting.

599. On June 18, 2008, the Be'er-Sheva Magistrate's Court awarded compensation to a minor child with a disability and her parents, since the municipality failed to provide the minor with adequate transportation to school as stipulated by the *Safe Transportation of*

Children with Disabilities Law. Due to this municipality's failure to provide transportation, the parents endured financial expenses – buying a car suitable to bring the child to school, adjusting the car to the disability, and driving her to school which resulted in absence of the father from his/her workplace and loss of income, as well as loss of social benefits on his/her part. The Court determined that the municipality's budget considerations cannot justify the non fulfillment of an obligation by law, the municipality must allocate a budget in order to fulfill the requirements stipulated by law, even if funding from Government Ministries is lacking or insufficient. Therefore, the Court awarded compensation in the amount of 30,000 NIS ($7,894) for the loss of income and social benefits, 10,000 NIS ($2,631) for distress and 50,000 NIS ($13,157) for the costs of the car (C.C (Be'er-Sheva) 2159/03 *Pada Ov Jama v. The Municipality of Rahat* (15.6.2008)).

600. In a recent case, the Tel-Aviv District Court, residing as an Administrative Court, addressed the scope of the State's obligation to provide free education to children with disabilities. The petitioners contested an internal directive of the Ministry of Education, according to which, commencing in the 2007/8 school-year, supervisors of special education schools may authorize reinforcement assistants for special education classes, however, they may not authorize personal assistants. The petitioners claimed that the directive violates the right of a child with disability to free education as anchored in the *Special Education Law*.

The Court determined that the State has a substantial obligation, stipulated in the *Special Education Law*, to provide free education for children with disabilities, and therefore cannot rid itself from its obligation once a child is placed in the special education system. A directive that negates the ability of an individual or a group of individuals, such as persons in need of personal assistance, to realize their fundamental right of education, contradicts the said obligation. The Court determined that it is essential that the Ministry's policy take individual circumstances into consideration. The preference of a strict framework of rules over the treating of the exceptional cases by allowing deviation from the rule, may constitute a breach of a fundamental right of a child to special education, and as such is invalid. The Court further determined that the Ministry of Education directive forbidding the authorization of personal assistants in the special education system is void and shall be rephrased to allow the integration of personal assistants to a pupil in exceptional and justified cases (Ad.P 1214/08 *Orel (minor) et al. v. The Ministry of Education et al.* (07.09.2008)).

601. In September 2007, the Minister of Education established a public committee, headed by the retired Supreme Court Justice Dalia Dorner, to examine the special education school system in Israel. The Dorner Committee, operating these days, was established in order to examine the Ministry of Education's policy towards children with special needs, examine the allocation of the Ministry's budget towards treating these children, draw an action plan and set a list of priorities in this regard, with consideration given to the budgetary constraints of the Ministry.

Arab population

602. Since 2000, a unique program has been implemented exclusively within the Arab population. This program is geared towards training teachers; training educational advisors for an M.A.; advancing the teachers professionally; creating programs aimed towards encouraging students to achieve greater results in their native language, mathematics and sciences; implementing programs geared towards increasing the number of pupils eligible for a Matriculation Certificate; programs to prevent drop-outs, investment in computers, equipment and physical infrastructure, including technological and science classes for the higher division classes, etc. This program has resulted in great achievements: a steady rise in students' achievements in national exams, the reduction of gaps in the achievements of

middle-school pupils in mathematics and sciences, an increase in the number of pupils and decrease in the number of drop-outs, an increase in the number of pupils eligible for Matriculation Certificate, change of attitudes towards education and school among female pupils, significant increase in the number of pupils that participate in science and technology competitions.

603. Updated information concerning construction of schools, teaching positions, attendance and graduation rates with regard to the Arab population is provided throughout this Article.

604. It must be mentioned that on November 23, 2008, the Appointments Committee of the Higher Education Council bestowed the title of professor on Haula Abu-Bakar, a teacher and lecturer at Jezreel Valley College, making her the first female Israeli-Arab professor in Israel.

The Bedouin population

605. According to the multi-year plan, a budget was allocated towards establishing additional educational facilities in Bedouin localities both in the North and the South. As part of the Ministry of Education's scheme to advance the educational framework in the Bedouin localities, funding was allocated towards establishing and upgrading science and computes laboratories. Pedagogic counsels providing assistance to school principals in preparing the school's work plan and funding were allocated for reinforcement hours for pupils in need in all levels of education, in order to reduce pedagogic gaps, including raising matriculation certificate entitlement rates.

606. In addition, a program for training Bedouin teachers and assisting them in the first stages of their employment was initiated in order to reinforce the teachers' status and to improve their pupils' achievements. Currently, 165 teachers participate in the program. An additional training program for the amelioration of the teaching staff in secondary education was also initiated in cooperation with the Ben-Gurion University.

607. Commencing in 2006, every first and second grade class in the Bedouin localities that consisted of more then 28 pupils, was divided in to two classes and received 10 additional hours per week.

608. Positive results of these efforts are apparent – the rate of 12th grade Bedouin pupils entitled to matriculation certificates increased by 6% between 2004 and 2007.

Training for professional personnel

609. Guidance Counselors — Between 2004 and 2008, 3 training courses for Guidance Counselors were opened — 2 in the North and 1 in the South.

610. In addition, 2 classes of learning functions diagnosticians were opened, one in Sakhnin College (north), and the second in Be'er-Sheva (south) in the framework of the Open University.

611. Psychologists – additional positions for psychologists were allocated, yet a shortage of positions per pupils and of educational psychologists persists.

Special education frameworks

612. Four special education schools and 25 kindergartens are currently serving the Bedouin population in the South, as well as 3 Regional Support Centers. In 2008, two additional Regional Support Centers were opened, as well as 10 classes in primary schools. In addition, all primary and intermediate schools received additional reinforcement teaching hours.

613. In the North – a new school for severe Intellectual Disabilities was established, as well as 6 special education kindergartens. In addition, 4 classes in secondary schools were added, as well as 3,000 hours of integration.

The Bedouin population in the south

614. Since its establishment in 2004, the new Abu-Basma municipality invested many efforts towards improving educational facilities for the Bedouin population in the region, including those residing in illegal villages. Between April 2004 and July 2008, the establishment of 2 kindergarten classes in 3 different localities (total of 6 classes) was completed, 4 additional classes are in construction. 66 new Primary school classes were established in different localities, 42 additional classes are under construction, 10 of which are nearing completion, and 16 additional classes are in planning stages.

615. Since 2004, three High Schools were established in the illegal villages of Abu-Krinat, Al-Huashlla and Bir-Hadge. The schools contributed greatly to the significant reduction in dropout rates, especially among Bedouin girls, who previously were not sent to school by their parents, due to the distance of the school from the village and religion and cultural barriers. Construction of new High School classes in kasar-a-Sar is in its final stages.

616. *The 'Daroma' (South) program* – In 2004, the Ministry of Education commenced a program to improve educational achievements among exceptional pupils in the 10th–12th grades. The Daroma program now operates in 5 Bedouin High-Schools (approximately 300 pupils). The purpose of the program is to advance these pupils in Mathematics and English, develop their learning skills and prepare them for the Psychometric test required for enrollment in higher education institutions. The pupils participate in courses in academic institutions such as the Ben-Gurion University. The program also focuses on self-empowerment and activities within the community and for its benefit. A similar program will commence in 2009, in the Abu-Basma municipality and in Tel-Sheva in the South. Such a program is also operating in the North entitled "Heznek Atidim".

617. Extracurricular activities program is also operated in the Bedouin localities in the Negev, in conjunction with the Ministry for the Development of the Negev and the Galilee, and the Israel Association of Community Centers. The program provides scholarships for extracurricular activities, for children in the 4th to 6th grades in the Negev.

618. In 2008, the Ministry of Education announced its intention to grant Bedouin students studying engineering, technology and science with tuition grants and scholarships in the amount of 5,000 NIS ($1,315) each, for the upcoming academic year. The scholarships are intended to further encourage Bedouin students to achieve higher education.

619. In accordance with Government Resolutions no. 412 and no. 413 dated August 2006, The Authority for the Advancement of the Status of Women grants scholarships for Bedouin female students in the North, as well as for Druze and Circassian female students. In 2007/8, 75 scholarships were granted. The Authority recently published an announcement inviting Bedouin, Druze and Circassian women to submit applications for the upcoming year.

Language facilities

620. As reported in Israel's initial report, new adult immigrants are offered basic Hebrew language classes in new immigrants' schools especially created to teach elementary Hebrew language skills. In 2006/7 25,322 persons attended such schools, which consisted of a total of 1,404 classes. 14,126 attended primary new immigrants' schools (Primary Ulpanim) and 11,196 attended continuation new immigrants' schools (Continuation Ulpanim).

Conditions of teaching staff

621. The following table relates to the number of teachers in the educational system, as well as the average working hours of teachers. The table reveals a continuing increase in the number of teachers throughout the education system and in all levels of education. As indicated in the following table, between the years 2000 and 2007, 2,738 teachers were added to the Hebrew Education, and 9,193 were added to the Arab education:

Table 44
Teaching staff, by level of education and average work hours per week, 1999–2007

	1999/2000	*2004/05*	*2006/07*	*2007/08*
Hebrew education				
Grand total – Absolute numbers	**91 067**	**97 014**	**97 562**	**99 217**
Primary education – total	43 426	45 600	46 447	47 474
Average work hours per week	22.6	22.5	22.6	22.6
Intermediate school – total	17 385	19 294	18 452	18 169
Average work hours per week	19.9	20.9	20.8	21.2
Secondary school – total	31 293	33 394	33 472	34 350
Average work hours per week	18.3	18.7	18.7	18.6
Arab education				
Grand total – Absolute numbers	**18 835**	**25 447**	**27 864**	**28 846**
Primary education – total	11 001	14 671	16 426	17 120
Average work hours per week	24.9	24.4	24.4	24.1
Intermediate school – total	3 732	5 195	5 095	5 189
Average work hours per week	20.4	21.2	20.7	21.1
Secondary school – total	4 095	5 383	5 809	6 151
Average work hours per week	23	22.5	22.6	22.8

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

622. There are now approximately 153,863 full-time teachers' positions in all levels of the Israeli primary and secondary system, compared to 86,000 reported in Israel's previous periodic report. The following table demonstrates their distribution:

Table 45
Teaching posts (full-time) in schools, 2007/08

	Total	*Hebrew education*	*Arab education*
Total	**153 863**	**121 288**	**32 575**
Primary education	**68 186**	50 497	17 689
Intermediate schools	**24 687**	19 336	5 351
Secondary schools	**44 488**	37 750	6 738

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

623. As part of the reform in the education system mentioned earlier, the teachers' work week was extended and altered and a new rewarding wage system was created. The new work week was extended to 36 hours per teacher, 26 of which will be devoted to teaching a class, 5 hours devoted to teaching individual children or small groups and 5 hours devoted to other assignments. The teachers' salary was adapted and raised by 26%. In addition, in order to enhance and improve the teachers' professional in-service training and development, the promotion criteria were altered to include a prerequisite of professional training participation.

Responsibility for the establishment and administration of schools

624. No notable changes have occurred on this issue since the submission of Israel's previous report.

Article 15
The right to take part in cultural life and enjoy scientific progress

The right to take part in cultural life: funding

625. In 2007, the national expenditure on culture, recreation and sports constituted 5.5% of the Gross Domestic Product, a slight increase in comparison to the years 2004–2006 when the national expenditure on culture comprised 5.4% of the GDP.

626. In 2007, of the total national expenditure on culture, recreation and sports, 9.4% were spent on cultural heritage, literature and visual arts, 21.5% were spent on music and performing arts, 22.6% on radio, television, cinema and photography, 10.2% on socio-cultural activities, 23.7% on sports, games, computers and internet, 5.8% on gambling as well as on nature and environment, and 4.9% were spent on fixed capital formation.

The institutional infrastructure of cultural life in Israel

627. **The National Council for Culture and Art**. On November 12, 2002, the Knesset enacted the *Culture and Arts Law* 5762-2002, which created the National Council for Culture and Art as an advisory body assisting the Minister of Science, Culture and Sports, as well as other Government bodies, in issues relating to arts, culture and the financing of cultural institutions. The role of the National Council is to promote and initiate policies and programs encouraging art and culture, ensuring the freedom of creation and the expression of the cultural variety of the Israeli society. The National Council is required to suggest multi-year policy plan in the fields of arts and culture, including the financing of institutions in the field. The council was established in 2004.

628. **National Library**. On November 26, 2007, the Knesset enacted the *National Library Law* 5767-2007, declaring the library at the Hebrew University as the National Library, Prior to the Law, the library at the Hebrew University performed as a de-facto national library but was not legally recognized as such. According to Law, the National Library is intended to accumulate, preserve, nurture and bequeath knowledge, heritage and culture resources, in general, and those linked to the State of Israel, the land of Israel and the Jewish people, in particular.

629. In 2000, the Israeli Film Council was established, in accordance with the *Film Law* 5759-1999, enacted on January 10, 1999. The Council's aim is to encourage the Israeli film industry, promoting freedom of creation and expression of the cultural variety in Israeli society. The council's roles are to advise the Minister of Science, Culture and Sports on all relevant issues regarding the film industry, including defining criteria for financial support

to public institutions dedicated to encouraging and promoting creation, production and distribution of Israeli films as well as international cooperation.

Cultural identity and heritage

Jewish heritage

630. In January 2007, the Knesset approved the creation of two national heritage authorities, for the heritage of the Jewish community of Bukhara and for the heritage of the Jewish community of Libya. Each of these heritage authorities are mandated to preserve the heritage culture of its community, and to research and document it (The *National Authority for the Cultural Heritage of the Bukhara Jewish Community Law* 5767-2007, and the *National Authority for the Cultural* Heritage *of the Libyan Jewish Community Law* 5767-2007).

631. On December 6, 2005, the Knesset enacted the *Diaspora Museum Law* 5765-2005, recognizing the Diaspora Museum in Tel-Aviv as the national center for Israeli communities in Israel and abroad, and to ensure its existence. According to the Law the Diaspora Museum functions and responsibilities are to present items relating to the Israeli communities and to the history of the Jewish people, to conduct research and to bring together knowledge on issues relating to the Jewish people. In addition, its roles include the creation of a reservoir of genealogical trees and family names of Jewish families in the world, and to create a database of Jewish communities in the world and their history. The Ministry of Education, Culture and Sports is in charge of executing this law, and the State will participate in the funding of the Diaspora Museum.

632. The *Council for Commemoration of the Sephardic and Eastern Heritage Law* 5762-2002, was enacted on November 13, 2002. According to the Law, the Minister of Science, Culture and Sports and the Minister of Religious Affairs will appoint the Council for Commemoration of the Sephardic and Eastern Heritage, to advise the Ministers regarding promotion, assistance, and encouragement of activity relating to the heritage of the Spanish Jewry.

Druze heritage

633. On June 4, 2007, the Knesset enacted the *Druze Cultural Heritage Center Law* 5767-2007, which purpose is to facilitate the establishment of a Druze Cultural Heritage Center in Israel. According to the Law, the Government shall designate the necessary budget for the establishment, operation and maintenance of the Center. The Center will include a research institute, a museum and an archive of Druze heritage, culture and history. The Center will develop and promote research activities as well as educational programs, including tours, lectures, conferences and exhibitions geared towards developing, enriching and promoting knowledge relating to the different aspects of the Druze culture, history and heritage.

The role of mass media and communication in promoting participation in cultural life

634. Developments concerning accessibility of persons with disabilities to television broadcasts are detailed above, under Article 2 above.

635. The Council for Cable TV and Satellite Broadcasting is a public council established under the *Telecom Law*. Its fundamental task is to regulate the Israeli Cable and Satellite multi-channel subscriber television by representing, protecting and promoting the public interests in this field. These interests include ensuring maximal diversity and pluralism by the broadcasting channels and the contents they deliver; improvement of technologies and

services; increasing the supply of content and freedom of choice for subscribers; development and production of original Israeli content; minimizing prices, etc.

636. The realization of these targets promotes in turn the participation in local cultural life and the exposure to foreign cultural life, of all Israeli citizens who subscribe to multi-channel television. In the years 2001–2007, these have included on average approximately 80%–85% of Israeli households.

The development and production of original Israeli content

637. The Council for Cable TV and Satellite Broadcasting is responsible for ensuring that the Cable and Satellite TV licensees invest between 8%–12% of their yearly income towards the production of original Israeli content of various genres, and decide and declare the specific requirements for the fulfillment of this obligation.

638. In previous years, the licensees have invested significant amounts in original Israeli production: in 2003 – 198,338,624 NIS ($53,605,033), in 2004 – 245,947,713 NIS ($66,472,354), in 2005 – 248,615,342 NIS ($67,193,335) and in 2006 – 237,326,932 NIS ($64,142,414).

639. The development of the local production industry has, and continues, to broaden the array of possibilities of expression of the multitude of cultures, tastes and opinions within the Israeli public, enriches Israeli culture, enables varied representations of current issues, and strengthens the grasp of the modern Hebrew language as well as offers broadcasting in other widespread languages in Israel such as Arabic, Russian and Amharic.

640. Moreover, developing the local production industry creates multitudes of new jobs for Israelis by enlarging and developing existing professional fields such as production, writing, directing, acting, photography, technology, etc. Another added value of this activity is the promotion of the Israeli creation, and thus, the Israeli culture, way of life and economy, overseas. In various countries, Israeli films and programs are sold to other broadcasters, and succeed in international festivals, as has happened quite frequently in recent years.

Initiating and granting licenses for designated channel broadcasting

641. The Council for Cable TV and Satellite Broadcasting has granted designated channel licenses to a Russian-Speaking channel and an Israeli music channel. These channels are financed by commercials (as opposed to all multi-channel TV channels that are financed by subscribers' fees). Each channel is unique, and has its own specific characterization, designed to enable expression of an array of specific cultural niches of Israeli society. Hence, the producing and broadcasting of these channels, bears an important national and democratic significance. In 2008, the Council decided on re-issuing previous tenders that had not yet materialized, for licenses for an Israeli Arab-speaking channel and a Jewish Tradition channel.

Community TV broadcasting

642. The Council for Cable TV and Satellite Broadcasting promotes, regulates and supports the broadcasting of community programming, produced mainly by volunteers of various local communities, including community centers, elderly people, new immigrants, students, various religious groups, independent groups, etc.

643. The broadcasts allow the participants and the communities to express themselves on screen and present their interests, activities and talents, and thus participate in cultural life. It also allows the general public to be familiarized with these communities, including their problems and successes, that otherwise may not receive public exposure.

Approval for broadcasting of foreign television channels

644. The supply of foreign TV channels offered to the Israeli viewers included about 50 channels in the year 2002. Between the years 2002 and 2007, the airing of 40 additional foreign channels was approved.

Protection of children

645. In 2001 the Knesset approved the *Classification, Marking and Prohibiting of Harmful Broadcasts Law* 5761-2001. The Law determined that broadcasts including visual, verbal or vocal elements of violence, sexual acts or cruelty, or that raise a probable concern that they encourage criminal behavior or the use of illegal drugs, will be marked as broadcasts that are not appropriate for children under a certain age.

646. The Law distinguishes between 3 marking categories, in accordance with their substance: programs inappropriate for children under the age of 8, programs inappropriate for children under the age of 14 and programs inappropriate for children under the age of 18. These categories were formed by the Ministry of Communications, after consulting with the various relevant bodies.

Preservation and display of mankind's cultural heritage

647. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Freedom of artistic creation and performance

648. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Status of the Arabic language

649. On March 21, 2007, the Knesset approved the *High Institute for the Arabic Language Law* 5767-2007, according to which, the Arabic Language Academy was established. Among its functions, the Arabic Language Academy is charged with researching the Arabic language and its cultural and historic resources, promoting the study of terminology, grammar, vocabulary, pronunciation and transcription. The Academy also addresses linguistic innovation and the adaptation of the Arabic language to the modern and computerized reality. According to the Law, the Institutions activities are financed by Government budget.

650. H.C.J. 4112/99 *Adalah v. Municipality of Tel Aviv et al.* (25.7.2002) addressed the duty of municipalities in which Arabs reside, to use the Arabic language along with Hebrew in all municipal signs. The Supreme Court determined that two principles are important in this context: the protection of the individual's right to a language, and the right to equality. This is due to the fact that the language comprises part of the individual's personality and the instrument through which he thinks and communicates with others. The Supreme Court stipulated that: "Indeed language plays a major role in human existence for both the individual, and for society. Using language we express ourselves, our individuality and our social identity. Take away a person's language and you have taken away his essence". The Court further stated that a language receives special importance when it is the language of the minority. The Supreme Court stressed the status of equality as one of Israel's fundamental values, according to which rights for language and equal use of municipality's services are to be assured, due to the duty to maintain equality among residents of the State.

The Court ordered the immediate use of Arabic in all new signs or instances where old signs are replaced. In major roads or public institutions, and side streets in districts with a

significant Arabic-speaking population, signs must be altered within 2 years. Finally, regarding remaining signs, the Court required a change within 4 years from the date of the judgment.

Additional information

651. For additional information regarding the Right to Equal Participation in Cultural Activities, please refer to the 10th–13th Combined Periodic report of the State of Israel on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, submitted in May 2005.

Sporting activities

Prevention of hostility in sports events

652. The *Safety in Public Places Law* 5722-1962, was amended (Amendment 3) in July 2005, to specifically prohibit racially motivated expressions at sporting events. Consequently, indictments were filed against defendants who shouted racial remarks during soccer matches.

653. Even prior to the abovementioned Amendment, actions were taken by the State Attorney's Office, considering racial remarks against the Arab population as incitement to racism and taking criminal measures on their account. Criminal investigations were opened in a number of cases of incitement to racism against the Arab population in soccer games, and indictments were filed. Several cases were concluded and the defendants were convicted.

654. In July 2008, the *Prohibition of Violence in Sporting Events Law* 5768-2008, was enacted in order to facilitate the safe and peaceful manner of sporting events by broadening the definition of racist display and facilitating training for security personnel as well as broadening their responsibilities and authorities. The Law further establishes a Committee for the Prevention of Violence in Sports geared towards the elimination of the phenomenon.

Women in sports

655. The Authority for the Advancement of the Status of Women, together with the Ministry of Science, Culture and Sports, have designed a unique training course for women, educating them on ways to become active and committed members of local and national Councils for the Advancement and Administration of Sports in Israel.

656. Section 9A to the *Sports Law* 5748-1988, (the "*Sports Law*") was adopted at the end of 2003, stipulating that all State supported sports organizations, including sports associations, bodies, unions and federations, shall provide appropriate representation of women. This appropriate representation concerns both staff and management, and shall include all categories of positions. Under section 9B, sports organizations shall submit annual reports to the Knesset Committee on implementation of this section. This amendment stems from the realization that as in many other areas of life, promoting women's role in sports requires their full involvement, not only in sporting activities themselves, but also as decision makers and in managerial roles.

657. In an innovative ruling, the High Court of Justice examined the issue of the fund allocation to sports institutions, and ruled that in order to redress long-standing inequality issues, local councils should allocate funds for women's sports at 150% of that allocated to men's sports (H.C.J 5325/01 *L.C.N Association for the Advancement of Women Basketball v. Ramat-Hasharon Local Council*). Similarly, the public committee that determines criteria for the allocation of public funding for sports has recommended the application of

affirmative action plans to boost allocation towards women's sports, and has instituted programs to implement them.

658. On March 21, 2005, the Government decided on the establishment of the Public Council for Women's Sports (Resolution no. 3416). Also that year, a national program for women's sports was presented by the Sports Administration and was approved by the Ministry of Education. A budget of 80 million NIS ($21,052,631) was allocated for the program's operation by the Council for Sports' Gambling Arrangements, for a period of 8 years, and additional 1.8 million NIS ($473,684) per year was allocated by the Ministry of Science, Culture and Sports, also for a period of 8 years.

659. In 2007, the Department for Women's Sports was established at the 'Wingate' institute. The Department is responsible for the operation and execution of the national program, including all its goals and targets, such as: increasing the number of the female athletes in Israel, development of excellence and leadership among women in the various sports, and in the fields of management, coaching and refereeing.

Promotion of new sporting fields

660. In 2005, the *Sport Driving Law* 5766-2005, was legislated in order to facilitate and regulate the practice of this field. According to the Law, an Authority for Sport Driving was established within the Ministry of Science, Culture and Sports, and in 2007, several accommodating regulations were promulgated. The Law will enter into force upon completion of the promulgation of the remaining necessary regulations.

The enjoyment of scientific progress

Institutional promotion of research and development

661. The ***National Council for Civil Research and Development Law* 5762-2002**, was enacted on November 19, 2002. According to the Law, a National Council for Civil Research and Development will be created, to serve as an advisory body to the Government and Ministries on issues relating to research and development in the civil sector. The council's roles include recommending to the Government on a national comprehensive policy, annually and perennially, in the fields of civil research and development, to set priorities in this context, to recommend on development of infrastructures for research and execution of projects in the fields of science and technology, etc.

The Council was established in August 2004, and operates in the fields of energy, technology and engineering, medicine and bioscience, and computer science. The council cooperates with universities, research centers, industrial centers, and regional research and development centers. Following an amendment to the Law, issued on December 27, 2007, the National Council for Civil Research and Development will receive its budget from the Ministry of Science, Culture and Sports.

The national research and development budget

662. The following table reveals the scope of the Government's expenditure on civil research and development between the years 2002 and 2007:

Table 46
Expenditure of Government Ministries on civilian research and development, by type of expenditure, 2002–2007

			Intramural expenses			
Year	*Transfers*	*Purchases of civilian R & D*	*Intermediate consumption*	*Labor costs*	***Total***	***Total***
	NIS million, at current prices					
2002	1 886	88	150	193	**343**	**2 317**
2003	2 126	101	179	177	**356**	**2 574**
2004	1 690	156	152	198	**350**	**2 196**
2005	1 562	128	155	191	**346**	**2 036**
2006	1 614	129	136	199	**355**	**2 078**
2007	1 473	117	152	203	**355**	**1 945**

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

* Excluding the Planning and Budgeting Committee of the Council for Higher Education.

Freedom of scientific research and creative activity

663. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

International cooperation

664. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

The legal protection given to intellectual property

665. On November 25, 2007, the Knesset enacted the *Copyright Law* 5767-2007. The new Law came into force in May 2008, replacing the previous Copyright Law of 1911.

666. The new Law provides an up-to-date comprehensive framework for the protection of works of copyright, portraying the proper balance between the need to facilitate incentives to creation by giving financial rights concerning the creation itself, and the need to enable the public to use these creations for the promotion of knowledge and culture, all the while preserving the freedom of expression and creation and assuring free and fair competition.

667. The Law accommodates Israel's international obligations concerning the protection of intellectual property including those deriving from the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and the International Convention for the Protection of Performers, Producers, Phonograms and Broadcasting Organizations.

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Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant

Concluding observations of the Committee on Economic, Social and Cultural Rights

Israel

1. The Committee on Economic, Social and Cultural Rights considered the third periodic report of Israel on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/ISR/3) at its 35th, 36th and 37th meetings, held on 16 and 17 November 2011 (E/C.12/2011/SR.35-37), and adopted, at its 59th meeting held on 2 December 2011, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Israel and the written replies to its list of issues. It also notes with appreciation the high level of the State party's delegation, and its positive and constructive engagement with the Committee.

3. The Committee, reminds the State party, while noting its serious security concerns, of its obligation to report and to fully guarantee and implement the Covenant rights for all persons in all territories under its effective control.

B. Positive aspects

4. The Committee notes with appreciation efforts made by the State party in promoting the implementation of economic, social and cultural rights. The Committee welcomes in particular:

(a) The enactment in July 2011 by the Knesset of the National Council for Nutrition Security Law;

(b) The amendment in July 2010 of the Equal Employment Opportunities Law;

Please recycle

(c) The enactment in 2008 by the Knesset of the Encouragement of the Advancement and Integration of Women in the Work Force and the Adjustment of Workplaces to Women's Needs Law;

(d) The rendering of the Supreme Court in June 2011 of a decision affirming that access to water is a basic human right;

(e) The ruling by the High Court of Justice in February 2011 determining that the Ministry of Education was required to take concrete measures to promote the right to education for children in East Jerusalem and address the lack of classrooms;

(f) The adoption in October 2011 of the Trajtenberg report recommendations to lower the cost of living, ease the financial burden of poorer and middle-class families and increase the supply of affordable housing.

C. Principal subjects of concern and recommendations

5. The Committee notes with concern that most of the recommendations addressed to the State party following the consideration by the Committee of the State party's second periodic report in 2003 are still valid today.

The Committee recommends that the State party follow up on those recommendations that were issued in 2003 and that are still valid today.

6. The Committee remains concerned that, in spite of the fact that domestic courts have referred to Covenant rights in judicial decisions, the Covenant rights have not been incorporated in the domestic legal order with the consequence that the citizens can not directly invoke the rights contained in the Covenant before domestic courts.

The Committee urges that the State party incorporate the rights of the Covenant in its domestic legal order. The Committee recommends that the State party establish training programmes for the legal profession, including the judiciary, on the scope and function of the Covenant and of the State party's obligation to effectively implement binding human rights obligations at the domestic level. The Committee draws the attention of the State party to its general comment No.9 (1998) on the domestic application of the Covenant.

7. The Committee notes with regret that the State party has not yet established an independent national human rights institution.

The Committee recommends that the State party establish an independent national human rights institution in compliance with the principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles).

8. The Committee regrets the absence in the State party's third periodic report as well as in its replies to the list of issues of information related to the enjoyment of economic, social and cultural rights as enshrined in the Covenant in the Occupied Palestinian Territory.

The Committee urges the State party to include information on the enjoyment of economic, social and cultural rights as enshrined in the Covenant in the Occupied Palestinian Territory in its fourth periodic report. The Committee reminds the State party of the Advisory Opinion rendered on 9 July 2004 by the International Court of Justice, as the United Nations' principal judicial body, which stated that Israel is bound by the Covenant with regard to the Occupied Palestinian Territory and that it

should also not raise any obstacle to the exercise of such rights in those fields where competence has been transferred to the Palestinian authorities.

9. The Committee is concerned about the continuing obstacles to employment by the Arab Israeli population, the considerably higher levels of unemployment rates of the Arab Israeli population, and the concentration of members of the Arab, Druze and Circassian population in some sectors characterized by low wages, including agriculture and the hotel and restaurant sector. (art. 6)

The Committee recommends that the State party take immediate steps to increase employment opportunities in towns and villages for Arab Israelis, and report on progress achieved in its next periodic report.

10. The Committee is concerned about the high unemployment level of persons with disabilities, despite the many projects and instruments established by the State party in this regard. (art.6)

The Committee urges the State party to effectively implement its measures to overcome the obstacles faced by persons with disabilities in accessing the labour market, and to report in its next periodic report on the impact of such measures on the unemployment rate of persons with disabilities.

11. The Committee is concerned about the negative impact of the budget cuts since 2009 regarding the Employment Service, as well as reductions in the expenditures on vocational training programmes. (art. 6)

The Committee recommends that the State party take measures to strengthen the Employment Service, both in terms of its budget as well as human resources and services it offers, such as vocational training vouchers.

12. The Committee is concerned about serious obstacles to the enjoyment of the right to work of: (a) Palestinians in the West Bank whose agricultural land has been rendered inaccessible or difficult to reach by the construction of the Wall and the limited allocation of permits and opening times of the Wall gates; (b) Palestinian farmers in the Gaza Strip whose agricultural land lies in or near the buffer zone; and (c) Palestinian fishermen in Gaza. (art.6)

The Committee urges the State party to ensure that Palestinians enjoy unimpeded access to their agricultural lands in all their territories, and recommends that the State party clearly demarcate the buffer zone to the extent strictly necessary to address its security concerns and effectively inform the civilian population in the Gaza Strip of the extent of its applicable regime. The Committee recommends that the State party conduct investigations of the killings and injuries of workers in the buffer zone, providing victims with an adequate remedy. Furthermore, the Committee calls on the State party to recognize and respect the right of the Palestinian people to the marine resources, including the right to fish in the territorial sea and Exclusive Economic Zone of the Gaza Strip.

13. The Committee is concerned about the continuing wage gap between men and women, in both the Jewish and the Arab Israeli population groups. (art.7)

The Committee recommends that the State party effectively implement measures to ensure equal pay for work of equal value, between men and women, in both the Jewish and the Arab Israeli population groups.

14. The Committee is concerned about the persistent and significant wage disparities between the Arab Israeli and the Jewish population groups, despite recent improvements as explained by the State party delegation during the dialogue. The Committee is also

concerned that approximately 12 per cent of Arab Israelis are paid below the minimum wage. (art.7)

The Committee reiterates its previous recommendation that the State party take measures to eliminate inequalities in wages between Jews and Arab Israelis, in conformity with principle of equal pay for work of equal value, as enshrined in article 7 of International Covenant on Economic, Social and Cultural Rights, and ensure that wages are never lower than the established minimum.

15. The Committee is concerned about recent legislation which prescribes that persons with disabilities have a wage that in certain circumstances is 30 per cent of the minimum wage. (art.7)

The Committee recommends that the minimum wage be fully applicable to persons with disabilities The Committee further recommends that the State party make sure that this should not result in the reduction of employment opportunities for persons with disabilities.

16. The Committee is concerned that Palestinians living in the Occupied Palestinian Territory and working in Israel are not allowed to be members of the General Federation of Laborers in Israel, which has been assigned by law with the responsibility to protect Palestinian workers' rights in Israel and retains half of the union fees collected from those workers. (art.8)

The Committee recommends that the State party take steps to allow that all Palestinians living in the Occupied Palestinian Territory and working in Israel can join the General Federation of Laborers in Israel, in accordance with article 8 of the Covenant.

17. The Committee is concerned about the revocation of residency permits of Palestinians living in East Jerusalem, which results in the loss, among other things, of their right to social security, including access to social services (art.9).

The Committee calls upon the State party to put a stop to the revocation of residency permits of Palestinians living in East Jerusalem. The Committee urges the State party not to hinder the enjoyment of their right to social security, including access to social services. The Committee also urges the State party to ensure the right of access to social security on a non-discriminatory basis, especially for disadvantaged and marginalized individuals and groups. In this respect, the Committee draws the attention of the State party to its general comment No.19 (2007) on the right to social security.

18. The Committee, while recognizing the efforts undertaken by the State party to combat domestic violence, is concerned that the prevalence of domestic violence against women and girls has not decreased significantly. It is also concerned that domestic violence is not defined as a crime in the Penal Code. (art.10)

The Committee recommends that the State party define domestic violence as a crime in the Penal Code and intensify its efforts to prevent and combat domestic violence, including through awareness-raiding campaigns aimed at all segments of the population. It recommends that the State party ensure an effective access to justice for victims of domestic violence, ensure the prosecution and punishment of perpetrators of such violence, and adopt effective protection measures, especially restraining orders. The Committee furthermore recommends that the State party provide training on domestic violence for the police, judiciary and other relevant officials.

19. The Committee is concerned that the State Party has not provided sufficient information concerning education, services and programmes on sexual and reproductive health aimed at the most vulnerable segments, such as women and young people from the Arab Israeli population group and those living in the Occupied Palestinian Territory.

The Committee recommends that the State party increase its efforts in the creation of educational programmes and services on sexual and reproductive health for all the population, especially women and young people from the Occupied Palestinian Territory and the Arab Israeli population group.

20. The Committee is concerned that the Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003, as amended in 2005 and 2007, imposes severe restrictions on family reunification. (art.10)

The Committee urges the State party to guarantee and facilitate family reunification for all citizens and permanent residents irrespective of their status or background, and ensure the widest possible protection of, and assistance to, the family.

21. The Committee is concerned that the State party continues to be a country of destination for trafficking in persons. (art.10)

The Committee calls on the State party to ensure full and effective implementation of its Anti-Trafficking Law and the two national plans to combat trafficking in persons. It urges the State party to take all appropriate measures to ensure that all perpetrators are prosecuted and brought to justice, and that victims have access to adequate protection and assistance.

22. The Committee is concerned that, in the case of a divorce, custody of children up to the age of six is always given to mothers, and that fathers are often required to pay child support awards that exceed their income, and if not that their freedom of movement is seriously curtailed. The Committee is concerned that divorced fathers often are required to visit their children in supervised visitation centers during their working hours, which leads to the accumulation of work absences and the risk of dismissal. (art.10)

The Committee recommends that the State party amend the Capacity and Guardianship Law so that custody of children up to the age of six is not always given to mothers, and ensure that child support awards do not lead to an inadequate standard of living for the father.

23. **The Committee recommends that the State party take measures so as to enable the Palestinian Authority to exercise its functions and powers emanating from the 1995 Interim Agreement, including the transfer of tax revenues to it (art.11).**

24. The Committee is concerned about the high incidence of poverty among families in the State party, in particular among the Arab Israeli population, as well as in the Occupied Palestinian Territory. The Committee is furthermore concerned about the high rate of privatization of social services. (art.11)

The Committee recommends that the State party establish a comprehensive policy to address the problem of poverty and social exclusion, accompanied by adequate budget allocations and a scaling down of the privatization of social services. The Committee recommends that the State party focus its efforts in particular on the Arab Israeli population, Ultra-Orthodox Jewish families and disadvantaged and marginalized groups such as older persons, persons with disabilities and asylum-seekers. The Committee also recommends that the State party ensure timely and unfettered access by the humanitarian organizations operating in the Occupied Palestinian Territory to the Palestinian population, including in all areas affected by

the Wall and its associated regime. The Committee refers in this regard to its 2001 Statement on Poverty and the Covenant on Economic, Social and Cultural Rights.

25. The Committee is concerned about the lack of social housing units, the limited availability of affordable housing, and the lack of regulation of the private rental market. (art.11)

The Committee recommends that the State party take immediate steps to ensure the availability of affordable housing, by adopting a national strategy and a plan of action on adequate housing, by increasing the number of social housing units, and by offering increased rental assistance. The State party should also ensure a proper regulation of the private rental market. The Committee also urges the State party to expeditiously implement the Planning and Construction Procedures for the Acceleration of Construction for Housing Purposes Law 5771-2011. The Committee also draws the attention of the State party to its general comment No.4 (1991) on the right to adequate housing.

26. The Committee is deeply concerned about home demolitions and forced evictions in the West Bank, in particular Area C, as well as in East Jerusalem, by Israeli authorities, military personnel and settlers. (art.11)

The Committee urges the State party to stop forthwith home demolitions as reprisals and ensure that evictions in Area C are in conformity with the duty (a) to explore all possible alternatives prior to evictions; (b) to consult with the affected persons; and (c) to provide effective remedies to those affected by forced evictions carried out by the State party's military. The Committee recommends that the State party ensure that the development of special outline plans and closed military zones are preceded by consultations with affected Palestinian communities. The Committee also recommends that the State party review and reform its housing policy and the issuance of construction permits in East Jerusalem, in order to prevent demolitions and forced evictions and ensure the legality of construction in those areas. The Committee furthermore urges the State party to intensify efforts to prevent attacks by settlers against Palestinians and Palestinian property in the West Bank, including East Jerusalem, and investigate and prosecute criminal acts committed by settlers.

27. The Committee is concerned that the Plan for the Regularization of Bedouin Housing and for the Economic Development of the Bedouin Population in the Negev, based upon the recommendations of the Goldberg Committee and adopted in September 2011, foresees a land planning scheme that will be operated in a short and limited period of time, and includes an enforcement mechanism for the implementation of the planning and construction laws. (art.1)

The Committee recommends that the State party ensure that the implementation of the Plan does not result in the forceful eviction of Bedouins. The Committee recommends that any eviction should be based on free, prior and informed consent and that those relocated are offered adequate levels of compensation, in line with the Committee's general comment No.7 (1997) on the right to adequate housing: forced evictions.. The Committee also recommends that the State party officially regulate the unrecognized villages, cease the demolition of buildings in those villages, and ensure the enjoyment of the right to adequate housing.

28. The Committee is concerned about the increasing food insecurity among disadvantaged and marginalized individuals or groups, including older persons, the Jewish Ultra-Orthodox population group, and Palestinians living in the Occupied Palestinian Territory. It is also concerned about the rising prices of consumer goods and the increasing share that these take in the overall family household budget. (art.11)

The Committee recommends that the State party intensify its efforts to address food insecurity and hunger in the State party, as well as in the Occupied Palestinian Territory, focusing on all disadvantaged and marginalized individuals or groups, without discrimination. The Committee recommends that the State party urgently adopt the report and implement the recommendations of the Inter-ministerial Committee set up to examine the Government's role and responsibility for ensuring food security for all its citizens, submitted to the Ministerial Committee for Social Affairs in March 2008. The Committee also urges the State party to establish the Food and Nutrition Security Council, in line with National Council for Nutrition Security Law 5771-2011, and task it to set up a nutrition security policy.

29. The Committee is concerned that Palestinians living in the Occupied Palestinian Territory do not have access to sufficient and safe drinking water and adequate sanitation. It is also concerned about the continuing destruction of the water infrastructure in Gaza and in the West Bank, including in the Jordan Valley, under military and settler operations since 1967. (art.11)

The Committee urges the State party to take measures to ensure the availability of sufficient and safe drinking water and adequate sanitation for Palestinians living in the Occupied Palestinian Territory , including through the facilitation of the entry of necessary materials to rebuild the water and sanitation systems in Gaza. The Committee urges the State party to take urgent steps to facilitate the restoration of the water infrastructure of the West Bank including in the Jordan Valley, affected by the destruction of the local civilians' wells, roof water tanks, and other water and irrigation facilities under military and settler operations since 1967. The Committee draws the State party's attention to its general comment No.15 (2002) on the right to water.

30. The Committee is concerned about the unequal treatment of Bedouin women and girls with regard to education, employment, and health, especially those living in unrecognized villages. (arts. 3, 11, 12, 13 and 14)

The Committee recommends that the State party continue to take measures to improve the situation of Bedouin women and girls with regard to their access to health care, education and employment.

31. The Committee is concerned that the National Health Insurance Law excludes persons who are not in possession of a permanent residence permit, denying in practice the access to adequate health care for Palestinians with temporary permits, migrant workers as well as refugees. The Committee is also concerned about the infant and maternal mortality rates among the Arab Israeli and Bedouin population groups (art.12).

The Committee recommends that the State party extend the coverage under the National Health Insurance Law to persons not in possession of a permanent residence permit, so as to ensure universal access to affordable primary health care for all. The Committee also urges the State party to intensify its efforts to lower the infant and maternal mortality rates among the Arab Israeli and Bedouin population groups.

32. The Committee is concerned that Palestinians living in the Occupied Palestinian Territory, especially those living in the closed zones between the Wall and the Green Line, and in Gaza, have severely restricted access to health facilities, goods and services. (art.12)

The Committee recommends that the State party take measures so as to enable the Palestinian Authority to exercise its functions and powers emanating from the 1995 Interim Agreement. The Committee urges the State party to ensure unrestricted access to health facilities, goods and services, including urgency treatment, for Palestinians living in the Occupied Palestinian Territory , especially those living in the

closed zones between the Wall and the Green Line, i.e. seam zones. The Committee also urges the State party to take disciplinary action against checkpoint officials who are found responsible for unattended roadside births, miscarriages, and maternal deaths resulting from delays at checkpoints, as well as maltreatment of Palestinian ambulance drivers. The State party should take urgent measures to ensure Palestinian women's unrestricted access to adequate prenatal, natal and post-natal medical care. The State party should also take measures to ensure the availability and accessibility of psychological trauma care for people living in Gaza, in particular children.

33. The Committee is concerned that the school dropout rate is systematically higher in Arab schools compared to Hebrew schools, especially in Grade 9. It is also concerned about the serious shortage of classrooms in schools for Arab Israeli children, as well as in the Occupied Palestinian Territory. (arts. 13 and 14)

The Committee recommends that the State party intensify its efforts to lower the high dropout rate for Arab Israeli and Bedouin children, including through strict enforcement of the Compulsory Education Law 5709-1949. The Committee recommends that the State party take the necessary measures to address the serious shortage of classrooms in schools for Arab Israeli children and in the Occupied Palestinian Territory. The Committee also urges the State party to ensure that children living in East Jerusalem are able to be absorbed in the regular education system through the establishment of adequate infrastructures, and until such time to provide financial coverage for alternative educational frameworks as an interim solution, in line with the decision of the High Court of Justice of 6 February 2011.

34. The Committee is concerned that the education system still does not provide adequate support to children with disabilities. It also notes with concern reports of the lack of services provided in practice to children with disabilities in regular schools, effectively limiting their integration into regular class settings. (arts.13 and 14)

The Committee recommends that the State party adopt measures in the law and in practice to ensure the implementation of inclusive education of children with disabilities, such as the obligatory training of all teachers (beyond special education teachers), to require individual education plans for all students, ensure the availability of assistive devices and support in classrooms, educational materials and curricula, ensure the accessibility of physical school environments, encourage the teaching of sign language, and allocate the necessary budget for all those measures. The Committee draws the attention of the State party to its general comment No.5 (1994) on persons with disabilities.

35. The Committee is concerned that Palestinian children living in the Occupied Palestinian Territory are not able to enjoy their right to education, as a consequence of restrictions on their movement, regular harassment by settlers of children and teachers on their way to and from school, attacks on educational facilities, and sub-standard school infrastructure. The Committee also notes with concern that there are as many as 10,000 unregistered children in East Jerusalem, out of which around 5,500 are of school age but do not attend school due to their lack of registration. (arts. 13 and 14)

The Committee recommends that the State party take measures so as to enable the Palestinian Authority to exercise its functions and powers emanating from the 1995 Interim Agreement, ensuring the right to education for Palestinian children living in the Occupied Palestinian Territory. The Committee also urges the State party to address violations of the right to education, including those stemming from restriction on movement, incidents of harassment and attacks by the Israeli military and settlers

on school children and educational facilities, as well as non-attendance caused by a lack of registration.

36. The Committee is also concerned that the measures adopted by the State party to restrict freedom of movement of both people and goods in the Occupied Palestinian Territory severely impede the Palestinian population's access to religious sites, cultural exchanges and events. (art.15)

The Committee recommends that the State party take measures to ensure that Palestinians living in the Occupied Palestinian Territory can exercise their right to take part in cultural and religious life, without restrictions other than those that are strictly proportionate to security considerations and are non-discriminatory in their application, in accordance with international humanitarian law. The Committee also recommends that holy sites in the Occupied Palestinian Territory are protected against demolition and desecration, in accordance with the Protection of Holy Places Law 5727-1967.

37. The Committee is concerned that the measures adopted by the State party to relocate the Arab-Bedouin villages in new settlements will negatively affect their cultural rights and links with their traditional and ancestral lands.

The Committee recommends that the State party fully respect the rights of the Arab-Bedouin people to their traditional and ancestral lands.

38. **The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and ratify the Convention on the Rights of Persons with Disabilities.**

39. **The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, translate and publicize them as far as possible and inform the Committee of the steps taken to implement them in its next periodic report. It also encourages the State party to engage all the relevant actors, including non-governmental organizations and other members of civil society, in the process of discussion at the national level prior to the submission of its next periodic report.**

40. **The Committee requests the State party to submit its fourth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 2 December 2016.**

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Committee on Economic, Social and Cultural Rights

Fourth periodic report submitted by Israel under articles 16 and 17 of the Covenant, due in 2016*, **

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* The present document is being issued without formal editing.
** The annexes to the present report are available on the Committee's web page.

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Introduction

1. Hereinafter is the Fourth Periodic Report of the Government of the State of Israel, submitted to the United Nations Committee on Economic, Social and Cultural Rights, in accordance with the requirements of Articles 16–17 of the International Covenant on Economic, Social and Cultural Rights (hereinafter – the "Covenant" or the "CESCR").

2. Since the submission of our Third Periodic Report many developments relevant to the implementation of the Covenant have taken place. This report provides a comprehensive account of the most significant developments. It also addresses the comments made in the concluding observations by the Committee (E/C.12/ISR/CO/3) dated December 2, 2011.

3. Israeli Non-Governmental Organizations ("NGOs") were invited to submit comments prior to the compilation of the report, both through direct application, and a general invitation to submit remarks posted on the Ministry of Justice (MoJ) website.

General

4. Incorporation of Covenant rights – The fundamental rights protected by the Covenant are effectively protected through legislation, judicial decisions and otherwise. Israel has not enacted any further *basic laws* on economic, social and cultural rights since the submission of our previous report. For recent significant developments in legislation, policy and institutional frameworks, see below.

5. Review and implementation of concluding observations – A joint inter-ministerial team, headed by the Deputy Attorney General (International Law), was established in 2011 in order to further the implementation of the concluding observations of UN *human* rights committees. The work of this inter-ministerial team has brought about several significant changes. For significant examples, see Annex I.

6. Training on the application of the Covenant – With reference to the Committee's recommendation regarding training programmes for the legal profession and *judiciary*, a wide range of training days on Human Rights Conventions have been held. For details, see Annex I.

7. Independent human rights institution – There are several national institutions that operate in Israel and provide services for the protection of human rights, such as the State Comptroller and Ombudsman, the Equal Employment Opportunities *Commission* (EEOC), the Commission for Equal Rights for Persons with Disabilities, the Authority for the Advancement of the Status of Women (AASW) and others.

8. Non-application of the Covenant in the "Occupied Palestinian Territory" – It is Israel's position that the Covenant is not applicable beyond a State's national territory. For an elaboration of this position, see our Second Periodic Report, pp. 3–4.

Article 1

9. Self-determination – No change has occurred in this area since the submission of our third periodic report.

Article 2

10. International economic and technical assistance – Israel's Agency for International Development Cooperation (MASHAV) – MASHAV aims to contribute to the prosperity and well-being of populations facing severe development challenges. To this end, it promotes and engages in development cooperation. For details of MASHAV's extensive activities in 2016, see Annex I.

11. International social security conventions – These agreements maintain the social rights of those who move from one country to the other and prevent the duplication of national insurance contributions.

12. International Cooperation regarding trafficking in persons – see under Article 6; regarding rights of foreign workers, specifically by means of bilateral agreements with their countries of origin – see under Article 6; regarding the preservation of nutritional security pertaining to animal products – see under Article 11B; regarding disease prevention – see under Article 12; in the Scientific and Cultural Fields – see under Article 15.

13. Statistical data on the enjoyment of covenant rights – Data on the progress made in securing the enjoyment of the Covenant rights by all has been included throughout this report.

Article 3

Developments in gender equality – general

Israel recently submitted its sixth periodic report to the CEDAW committee, outlining in detail developments in gender equality legislation. The following are significant highlights

14. Restructuring of the Authority for the Advancement of the Status of Women – Government Resolution No. 2331 (December 14, 2014), "Promoting gender equality and integration of gender thinking", ordered the restructuring of the AASW and defined its main tasks, including promoting gender equality in the public and private sectors; presenting opinions on gender aspects of legislation, resolutions and budget and creating a knowledge center. Some of the many activities of the AASW are outlined in this report, including in relation to sexual harassment (below); promotion of employment opportunities (Article 6) and promotion of wage equality (Article 7).

15. For details of the AASW's budget, see Annex II. Note the very significant increase in the 2017 annual budget.

16. Implementing Gender Mainstreaming in Government Ministries – the AASW promulgated a Gender Mainstreaming Guide providing guidelines on the implementation of policies for gender equality, such as the examination of plans and budgets from a gender perspective.

17. An Inter-ministerial Team for National Action Plan – an inter-ministerial team was established to formulate an action plan for the advancement of gender equality. This was submitted to the Knesset and the Government in 2013.

18. Gender Mainstreaming in Local Authorities – More than 170 local authorities have enrolled in a plan for gender equality which includes activities regarding work and employment; financial empowerment; advancement of women to key positions; gender-related health issues; prevention of violence against women, and more. The project began in 2017.

19. Establishing a Ministerial Committee on Gender Equality – Under Government Resolution No. 36 (May 26, 2015), the Government established a Ministerial Committee on Social Equality charged with promoting gender equality. For recent examples of the committee's meetings, see Annex I.

20. Gender Responsive Budgeting – Government Resolution No. 2084 (October 7, 2014) adopted the conclusions of a Committee for Evaluating Gender Aspects of the State Budget, submitted in July 2014. For details, see Annex I.

21. Civil Service Targets – In July 2014, the Civil Service Commission (CSC) presented each Government Ministry with individual targets for the promotion of women to senior positions to be reported upon twice a year. The Civil Service Commissioner also distributed operating guidelines for reducing gender wage gaps.

22. Call for research proposals – For details of Ministry of Science, Technology and Space (MoSTaS) calls for research proposals for the advancement of women, see Annex I.

Women in the civil service

23. Israel's sixth periodic report to the CEDAW Committee includes details of developments in the promotion of women in the Civil Service. For details, see Annex I.

Women in the public sphere

24. Israel's sixth periodic report to the CEDAW Committee contains details of the steps taken to contend with incidents involving the exclusion of women from the public sphere. For details, see Annex I. For examples of recent case law, see Annex III.

25. For additional details regarding the promotion of women and women's rights, see Articles 6, 7, 9, 12 and 13.

Article 6

Employment data

26. For data concerning the employment of different populations, including average wages, see Annex II.

The employment service

27. In its previous concluding recommendations, the Committee recommended that Israel take measures to strengthen the Employment Service. We are pleased to report that the Employment Service budget has almost doubled since the submission of our previous report and now operates through a greater variety of means. For details, see Annex II. The following are a number of the main employment programs:

28. "Employment circles" – This program, launched in 2014, aims to facilitate the employment of recipients of income supplement benefits, thus decreasing their *dependency* on benefits. It has led to an impressive reduction in the numbers of recipients of income supplements seeking employment. For details, see Annex I.

29. Employment integration grant for outlying areas – This pilot program, launched in 2016, is aimed at job seekers who live in outlying areas who manage to find work far from home. For details, see Annex I.

30. Training vouchers – These are offered to those eligible, including persons who receive income supplement benefits or unemployment benefits. They may be used for a wide range of courses, from event photography and tour guiding to public ***vehicle*** driving and accounts management.

Promotion of the Arab population in the labour market

31. Occupational Guidance Centers – In recent years, twenty-one occupational guidance centers serving minority populations have been established, at a total cost of 200 Million NIS (55.6 Million USD). These have served about 17,000 applicants, approx. 10,000 of which have found employment.

32. In 2015, a new center was established in Beit-Hanina, in the eastern neighbourhoods of Jerusalem. It has provided services to approx. 1,200 residents.

33. Other Placement Services – The Authority for the Economic Development of the Minorities Sector (AEDMS) and the NGO "Kav Mashve" operate career centers for universities candidates from minority populations. 1,017 placements have been made within these programs. Two (2) other NGOs (*Tsofen* and *ITWORKS*) have been selected to assist in placements in hi-tech companies.

34. Additional steps – For the integration of universities graduates from minority populations into the public sector and for financial incentives for businesses that employ

populations with high unemployment and improvements in public transportation, see Annex I.

The promotion of women from minority populations in the labour market

35. In recent years, the integration of Arab women in the labour market has been given significant attention in research and government investment. As a result, the employment rate of Arab women is on the rise. For additional information, see Annex II.

36. Five-year Interministerial Program – Government Resolution No. 4193 (January, 2012) set forth a five-year program for raising employment in minority populations, particularly amongst Arab women, with a budgetary scope of 730 Million NIS (203 Million USD) (approximately 85% of which is committed or being authorized). For details, see Annex I.

37. Day Care Centers in Minority Communities – A new procedure enables communities with a low socioeconomic index to benefit from Government support of up to 100% of the cost of construction of day care centers. Further to Government Resolution No. 4193, more places have been offered to children of Arab women who are employed in part-time positions.

38. "Women of Valor" – This program provides social support for women, particularly from the Arab population, with less than 12 years of education who are seeking employment. For details, see Annex I.

39. Additional steps – For details of a nursing program for Arab women in the South; a loan foundation for small businesses owned by women from minority populations; professional training vouchers, educational programs offered to Arab women and a media campaign to encourage the employment of minorities, see Annex I.

Promotion of the Bedouin population into the labour market

40. A five-year plan for the economic growth and development of the Bedouin population in the Negev was implemented between 2012 and 2016, with a total budget of 1,263 Billion NIS (350.83 Million USD) (Government Resolution No. 3708, September, 2011). This plan included the following employment and training programs:

41. Employment Centers – The first employment center was opened in Hura in 2010. As of September 2017, there are nine (9) centers that provide guidance and placements in all Bedouin localities. For additional data, see Annex I.

42. Reimbursement of Wages – A factory or entrepreneurial business in the industrial, services or tourism fields, which employs at least four (4) new employees from the Bedouin or the ultra-Orthodox Jewish population in the Negev, is entitled to a reimbursement of 15%–20% of these workers' monthly wages for a period of five (5) years. The employer is also reimbursed for the costs of organized transportation to and from the workplace, to a total of 3,000 NIS (U.S. $811) per worker, annually.

43. Additional steps – For details of vocational training, the construction of industrial parks in Bedouin localities, training for local authority officials and others; programs to encourage entrepreneurship; and improvements in public transport, see Annex I.

Promotion of persons of Ethiopian descent in the labour market

44. There has been a significant increase in the employment rates of people of Ethiopian descent, such that they are now similar to those of the general population – 65.3% compared to 64.2% of the general population, although the average wage remains lower than average.

45. Employment centers – The Ministry of Education (MoE), together with the American Jewish Joint Distribution Committee (JDC), have initiated a four (4) year program to promote employment by providing education and training, with a total budget of 15 Million NIS (4.2 Million USD). As of June 2017, there are nine (9) such employment centers specially geared for the needs of the Ethiopian population.

46. Additional steps – For information on vocational training; placement of university and college graduates; and promoting the employment of women of Ethiopian descent, see Annex I.

Promotion of persons with disabilities into the labour market

47. Israel's initial report concerning the implementation of the Convention on the Rights of Persons with Disabilities (CRPD), submitted in May 2017, contains a detailed account of the steps that have been taken in this regard. For significant highlights concerning affirmative action by large employers, centers that provide support for employers of persons with disabilities (PWD) and more, see Annex I.

Promotion of senior citizens into the labour market

48. The Committee for the Integration of Senior Citizens into Employment and the Community – This inter-ministerial sub-committee was appointed in August 2013, following the establishment of the Strategic Committee for the Aging of the Population.

49. Government Resolution No. 834 (December 2015) – Outlines steps for the integration of senior citizens into employment. Ongoing programs include "The Experience-Required" Program. This includes a job placement website adapted to senior citizens and a call center that offers assistance in all aspects of job seeking. The program also refers job seekers to workshops, including computer skills. It offers dozens of lectures and workshops on preparing for retirement.

50. Media Campaign – During August 2015, a media campaign seeking to challenge stereotypes presented the benefits of employing senior citizens.

51. Additional steps – For details on employment centers for senior citizens, integration of senior citizens into the public services, entrepreneurship programs and corporate responsibility, see Annex I.

Employment programs run by the ministry of labour, social affairs and social services

52. (The MoLSAaSS) runs several employment programs aimed at specific populations, including women, young families at risk, victims of violence, etc. It also runs programs to help employed people escape the cycle of poverty. For details, see Annex I.

Legal safeguards to protect workers from unfair dismissal

53. This has been discussed in our previous reports. In addition, following judicial rulings of Labour Courts in the last two (2) decades, employers who seek to fire an employee are obligated to conduct a hearing in order to allow the employee to present his/her case regarding the intention of dismissal. For additional details on the requirement to conduct a hearing, see Annex I

54. Enforcement – For recent data on the enforcement of the Prior Notice for Dismissal and Resignation Law 5761-2001, see Annex II.

Article 7

Minimum wage

55. The legal framework governing the minimum wage has been outlined in our previous reports.

56. Increase in minimum wage – Following agreements in late 2014 and early 2015 between the Presidium of Business Organizations and the General Federation of the Trade Unions ("Histadrut"), which were later anchored in legislation, the minimum wage in Israel has increased incrementally from 4,300 NIS to 5,300 NIS (1,195 and 1470 USD respectively). For additional details, and information on minimum wage for youth, see Annex II.

57. **Persons with disabilities** – In its previous concluding observations, the distinguished Committee recommended that the minimum wage be fully applicable to PWD, whilst ensuring that this not result in the reduction of employment opportunities. For information on this issue please see Israel's third periodic report (section 102). An additional plan defines special provisions for PWD that are recognized as being in the process of rehabilitation (rehabilitee). These are persons that have been evaluated to have less than 81% of the regular work capacity in the same job and workplace. These persons are employed without a worker-employer relationship, yet they receive part of their rights under labour laws which employees are entitled to, such as a certain amount of remuneration (occupational remuneration) and are provided with certain benefits given to other workers such as days of leave, sick days, travel expenses, and maternity leave.

58. Apart from these exceptions (i.e. rehabilitees and persons with reduced work capacity), PWD are entitled to the same rights as any other employee, and must be compensated with a suitable wage that is at least the minimum wage. Failure to pay minimum wage, or if applicable adjusted minimum wage, constitutes an administrative violation which is subject to a financial sanction of 35,000 NIS (9,162 USD) and in appropriate cases prosecution of the violator. The violator is liable to a penalty of up to one (1) year imprisonment or a criminal fine of 226,000 NIS (59,162 USD).

59. For recent data, see Annex I.

60. Enforcement – For recent data on the enforcement of the minimum wage, see Annex II.

Conditions for workers

61. Conditions for workers, including overtime, paid and unpaid leave have been discussed in our previous reports. The following are a number of updates.

62. Enhancing the Enforcement of Labour Laws Law 5772-2011 – This law established administrative fines for the violation of labour laws and imposed direct responsibility for certain workers' rights on the recipients of security, cleaning and catering services provided by contractors. For details, see Annex I.

63. Prohibition of Receiving Collateral from an Employee 5772-2012 – This law prohibits an employer from receiving security or collateral from an employee as a condition for her/his employment or to guarantee continued employment. It also applies to temporary employees and those employed via a contracting company.

64. Amendment to the Foreign Workers Law 5761-1991 – A 2017 amendment directs the making of regulations to establish the different methods by which foreign workers may be paid. It also authorizes the Ombudswomen for Foreign Workers Rights to revoke a permit if an indictment has been filed for a serious offense which implies that the employer is not worthy of a permit. For details of both amendments, see Annex I.

65. For recent data relating to the enforcement of working conditions, see Annex II; for recent case law relating to the working conditions of care-workers, see Annex III.

Reconciliation of family and personal life

66. Regulations for Promoting the Integration and Advancement of Women in Employment and Adapting the Workplace to Women's Needs 5774-2013 – The Promoting the Integration and Advancement of Women in Employment and Adapting the Workplace To Women's Needs Law 5768-2008, empowers the MoLSAaSS to grant financial awards to employers who encourage the integration and promotion of women in the workplace. The Regulations set out criteria for the granting of awards, such as the creation of official employer policy on integration of women and work-family balance, policy on pregnant working women, training of women and career paths for women.

67. Parental Hour – A 2017 amendment to the Women's Employment Law 5714-1954 extends eligibility to a shorter working day during the first four (4) months after maternity leave to women who do not work full-time, as specified. An additional amendment

provides that the shorter working day can be used alternately by the father and the mother, the designated parent within a surrogacy process or an adoptive parent.

68. In July 2015, the CSC approved a shorter working day for a parent of a child up to one (1) year-old for men whose spouse is on maternity leave.

69. Maternity Leave – For updates with regard to maternity leave, see Article 10 below.

70. For information on steps taken to promote a better work-life balance in the public sector, see Annex I.

Equal pay for work of equal value

71. Israel's recent sixth periodic report to the CEDAW committee included a detailed presentation of this issue. Below are a number of the most significant developments.

72. Male and Female Workers (Equal Pay) Law 5756-1996 – A 2014 amendment requires public bodies that report on employees' salaries to include a gender salaries account. An additional amendment from the same year authorizes Labour Courts to award monetary compensation for a violation of the law even if no monetary damage has been incurred.

73. Gender Salary Gaps Survey – In 2015–2016, the EEOC at the MoLSAaSS conducted a survey which examined prevailing perceptions of employers regarding gender salary gaps. For some examples and data regarding gender gaps in salary, see Annex I.

Programs to promote gender equality in wages – EEOC

74. For data regarding individual complaints of discrimination in the workplace, see Annex I. For significant case law following EEOC civil actions, see Annex III.

75. "Of Equal Worth" – This was a 2012–2015 joint venture of the EEOC and three (3) different NGOs ("Shatil", the Israel Women Network and "Adva"), funded by the EU, that aimed to reduce gender pay gaps. One of the products developed by the venture is the "Salary Gaps Calculator", an innovative tool for gender-related analysis of an organization's pay data. For details, see Annex I.

76. MoSTaS training kit – In late 2015, the MoSTaS, in cooperation with Google, launched a training kit on implicit and unconscious gender biases in the workplace. This can be downloaded from the Ministry's website.

Sexual harassment

77. This issue has been discussed in previous reports. The following are a number of significant updates.

78. A National Plan – Following the decision of the Ministerial Committee on Gender Equality, which received a status of a Government Resolution (No. 3229 of December 7, 2017), a committee was established to formulate a national plan for the prevention of sexual harassment, headed by the Director General of the Authority for the Advancement of the Status of Women. For details, see Annex I.

79. Prevention of Sexual Harassment Law 5758-1998 – A number of amendments have been made to this law, including to the statute of limitations for a sexual harassment lawsuit, to the ability to claim compensation without proof of damages and to the definition of positions of authority or dependency. For details, see Annex I.

80. Prevention of Sexual Harassment Regulations (Amendment) 5774-2014 – This obliges institutions of higher education to take steps to prevent sexual harassment. Institutions with 2,000 students or more are also obliged to appoint two (2) trained persons responsible for this issue.

81. A Voluntary Code for the Prevention of Sexual Harassment – In 2016, the Association of Rape Crisis Centers, in collaboration with the MoEI and the Standards Institution published a "Voluntary Code for the Prevention of Sexual Harassment at Work", elaborating on issues that the law does not address.

82. Insurance Indemnity – In May 2014, the Ministry of Finance (MoF) issued a binding procedure according to which insurance companies may not grant indemnity to a defendant for costs incurred by sexual harassment.

83. Activities of the AASW – For details, see Annex I.

84. Enforcement Statistics – For data on the enforcement of the Prevention of Sexual Harassment Law, see Annex II.

Health and safety at work

85. A long list of legislation and regulations ensure safety and health in the workplace. For significant measures that have recently been added to these frameworks, see Annex I.

86. For data relating to the activity of the MoLSAaSS Labour Inspection Service, see Annex II.

Article 8

Trade unions

87. Since the submission of our third periodic report, dozens of new trade unions have been established, some in new fields such as the communications and insurance industries. This increase follows a number of judicial decisions in which courts ruled that employees should not be prohibited from unionizing, increased competition between labour unions and increased awareness amongst employees of their rights.

88. Freedom to form a trade union – No change has occurred since the submission of our third periodic report.

89. Individual Freedom to join a trade union – This issue has been discussed in Israel's previous reports. In 2009, the Collective Agreements Law 5717-1957 was amended in order to impose criminal liability on an employer who refrained from hiring a person, worsened terms of employment or dismissed an employee because of membership, non-membership or discontinuance of membership in a trade union.

90. Foreign Workers According to the Histadrut constitution, any worker over the age of 18, who is a civilian or resident or migrant worker who is lawfully employed in Israel, and which undertakes to accept the Histadrut Constitution, its principles and the decisions of its institutions, may become a member of the Histadrut. Since some of the asylum seekers (Visa 2(A)(5)) have no prohibition and/or restrictions and are currently allowed to work, is was decided that asylum seekers that hold a valid permit of this kind, will be accepted as members of the Histadrut. The Histadrut's Tel Aviv-Jaffa District established a department for foreign workers that serve as a center for assistance and professional protection for this community. For a recent judicial decision on this matter, see Annex III.

91. Independence of trade unions – This has been discussed in Israel's previous reports. No change has occurred since the submission of the third periodic report.

Collective agreements

92. In 2009, the Collective Agreements Law 5717-1957 was amended in order to require employers to negotiate with new trade unions, although there is no obligation to reach an agreement with regard to a new collective agreement. For details, see Annex I.

93. New Collective Agreements – Significant collective agreements are signed from time to time between employers, employees and trade unions. For data regarding collective agreements that have been recently registered, see Annex II.

The right to strike

94. No change has occurred in this area since the submission of the third periodic report.

95. Public Services – For additional information concerning "public services" in this regard, see Annex I.

96. For data concerning strikes, industrial sanctions, persons involved and working days lost, see Annex II. For a recent ruling regarding the constitutional nature of the right to strike, see Annex III.

Article 9

Social security coverage

97. This issue has been discussed in our previous reports. The following branches of social security are all covered: health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability and survivors and orphans. For significant amendments that have been made to entitlement to social security since our last report, see Annex I.

98. Holocaust survivors and older persons – In April 2014, the Government approved Resolution No. 1568 titled "National Plan for Assisting Holocaust Survivors" The Plan is designed to reduce the gaps created as a result of formers agreements on this issue and to equalize the entitlement conditions to all Holocaust survivors in Israel. For additional information, see Annex I.

99. General disability pension – Significant amendments have been introduced in this field, among them Amendment No. 201 to the National Insurance Law of January 2018, determines that as of January 2018, the disability pension will be gradually increased and as of January 2021, the annual increase will be in attached to the rate of increase of the national average salary (on January 1 of each year). For additional information, see Annex I.

Periodic review of benefits

100. Section 1 of the National Insurance Law requires that the "basic amount" defined in the law, which is the basis for the calculation of NII allowances, is updated in January of every year. Since 2006, this is done in accordance with the rise in the consumer index over the previous year. Additionally, the NII frequently assesses the scope of allowances in light of changes in the poverty line and the effect of allowances on overcoming poverty. Recently, the Economic Efficiency Law (Legislation Amendments for Achieving the Budget Goals for 2019), made some significant changes in the area of long-term care benefits, for additional information, see Annex I. For recent changes made as a consequence of increases in minimum wage, including the restructuring of the entitlement to long-term care benefits in order to enable the same number of nursing hours, even given an increase in the minimum wage and the cost of care, see Annex I.

Non-contributory social assistance

101. As a rule, all residents are obliged to pay national insurance fees, including those who are not working. Exceptions to this rule include married women and widows who do not work outside of the home. This latter group is nevertheless entitled to the great majority of the allowances, except those intended for employees, without the accumulation of privileges attached to employment.

102. Moreover, certain allowances are financed by the MoF and are not dependent on the payment of national insurance payments. These include income support, alimony, old age and survivors' benefits for elderly new immigrants, benefits given to those who affected by ringworm, polio, acts of hostility, and more.

Private social security

103. There are no private social security schemes in Israel.

Equal enjoyment of pension rights

104. Entitlement to Pension – There is no distinction between the enjoyment of pension rights between men and women. Note that in the previous generation of Pension Funds that

were closed in 1995 women have the ability to withdraw their pensions at the age of 62 rather than 67 in the existing Pension Funds.

105. Retirement Age and Old-Age Pension Benefits – According to the Retirement Age Law 5763-2004, the retirement age, and consequently the age of entitlement to old-age pension benefits, is 67 for men and 62 for women. The Law set a mechanism which was supposed to raise the retirement age for women, incrementally, to the age of 64. In 2017, the implementation of this mechanism was made conditional on the submission of the Minister of Finance's recommendation to the Knesset Finance Committee, following the work of a professional, interdisciplinary Public Committee. According to an amendment made in 2017 to the Retirement Age Law, the Knesset Committee is to address these recommendations no later than February 2018.

106. Regardless of these developments, the "entitlement age" for women, that is to say, the age at which a woman is entitled to an old age pension regardless of income or qualifying period, is being raised, incrementally to equal that of men (70 years).

107. No distinction is made between men and women regarding qualifying periods or amounts.

108. For details of the increase in the old-age pension benefit and for the reduction in the qualifying period required for a "seniority supplement" to this pension, see Annex I. For judicial decisions, see Annex III.

Social security entitlements of non-nationals

109. The National Insurance Law and the National Health Insurance Law apply to Israeli residents. Section 2 of the National Insurance Law defines who is not considered a resident in this regard.

110. Persons who are employed in Israel but are not citizens or residents (mostly foreign workers) are granted NII coverage in the following designated insurance categories: maternity insurance, work accident insurance and insurance against bankruptcy of the employer. In addition, they are entitled to child benefits and health insurance. For details, see Annex I.

111. For information on the right to health services – See below, under Article 12; for International social security conventions – see above under Article 2; for examples of recent relevant Court rulings, see Annex III.

Expiration of residency status

112. The Committee expressed concern about the revocation of permanent residency permits held by residents of the eastern neighbourhoods of Jerusalem. In this context we wish to clarify that permanent residency can expire when the person leaves Israel for a period longer than seven (7) years or acquires citizenship or residency in another country. Expiration of residency is relevant only with regard to residence abroad for a period longer than seven (7) years, rather than a temporary stay abroad. Moreover, a person can regain residency, if he or she maintains an affinity to Israel despite life abroad, if he or she lived in Israel for two (2) consecutive years, and if certain conditions were met (this however does not relate to the revocation of residency due to terrorist activity).

113. The following statistics relate to residents of eastern neighbourhoods of Jerusalem whose residency expired: 2017 – 22 persons (10 women and 11 men), 2016 – 53 persons (27 women and 26 men), 2015 – 89 persons (37 women and 52 men), 2014 – 69 persons; 2013– 93 persons and in 2012 there were 114 expirations of residency. As can be seen, these figures are extremely small.

114. For recent judicial rulings on this matter, see Annex III.

Article 10

The right to enter a marriage with full and free consent

115. This issue has been detailed in Israel's previous reports. The following are significant updates.

116. Amendment to the Marital Age Law 5710-1950 – In December 2013, the Knesset amended the Marital Age Law (Amendment No. 6) raising the minimum marital age from 17 to 18. For details, see Annex I. For data, see Annex II.

117. Police Enforcement of the Marital Age Law – The Police deal with violations of the Marital Age Law. Police officers hold periodic meetings with representatives of the PIBA to ensure that they receive the relevant information. In addition, all police districts are given lectures on the Law's implementation and enforcement.

118. Prosecution according to the Marital Age Law – In May 2018, the Attorney General's Guideline No. 4.1113 concerning the Attorney General's policy regarding applications for a marriage of minor permit was published.

119. Also, in May 2016, the State Attorney published a Guideline entitled "The Prosecution Policy regarding the marriage of a minor's offence", setting out the Prosecution's policy in respect to this offence. For details regarding these guidelines, see Annex I. For recent case law, see Annex III.

120. Eliminating Polygamy – The Government recently reaffirmed its commitment to tackling this phenomenon (Government Resolution No. 2345, January, 2017). For details, including the establishment of an inter-ministerial committee, an Attorney General guideline on prosecution policy and educational endeavours, see Annex I.

121. Measures to prevent the phenomena of women whose husbands refuse to grant a divorce ("Agunot") – A number of important additional measures have been taken in this regard. For details, see Annex I.

Citizenship and entry into Israel law (temporary provision) 5763-2003

122. In its concluding observations to Israel's last periodic report the Committee expressed concern with the process of family reunification for foreign spouses. In January 2012, for the second time, an extended panel of the Supreme Court scrutinized and upheld, by a majority, the constitutionality of the Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003 (H.C.J. 466/07, 544/07, 830/07, 5030/07 *MK Zehava Galon et. al. v. The Minister of Interior et. al.*). The Law was extended several times and it is currently valid until June 30, 2018.

123. Nevertheless, the Supreme Court has stated that there is room to consider some changes in policy, given the length of time that has passed since the enactment of the Law and the difficulties that it has caused. In light of this, the Minister of Interior initiated a number of changes aimed at providing humanitarian relief. For example, the Advisory Committee to the Minister may now determine, in relevant humanitarian circumstances, to recommend a permit valid for two (2) years, as opposed to just one (1) year. In 2016, The Minister of Interior decided to approve the upgrading of the status of persons who hold staying permits in Israel and their family reunification requests that were filed until 2003 were approved, so they and their minor children will receive an A/5 permit to reside in Israel. This upgrade is subject to several tests, among them: proving the existence and sincerity of the marriage, center of life test and lack of criminal and security prevention). So far 1,600 persons received such an upgraded permit, which entitles its owner to national insurance and health insurance.

124. See Article 12 below for details of the health insurance arrangement established in 2012 for the benefit of persons who hold temporary permits for stay in Israel pursuant to the Citizenship and Entry into Israel Law.

Parental custody in divorce and child support

125. In recent years, the recommendations of two (2) public committees were submitted to Ministers of Justice – one regarding parental responsibility in divorce and the other regarding child support. These recommendations have yet to evolve into law, although there have been a growing number of judicial decisions that determine joint, equal or shared custody. However, in most cases, the main guardian remains the woman. For a recent precedential case on these issues, see Annex III.

Tender years doctrine

126. In its concluding observations, the Committee expressed concern that, in the case of a divorce, custody of children up to the age of six (6) is given to mothers. To clarify, where there is a conflict between parents, Family Matters Courts and Religious Courts are obliged to consider the best interests of child as a primary consideration. According to the law, both parents share equal parental responsibility towards their children. However, the law enshrines a "tender years" presumption whereby children under the age of six (6) should be in custody of the mother, unless the court considers that there are special circumstances to rule otherwise.

127. In December 2011, a public committee recommended cancelling this presumption and provided a number of guidelines to be considered in determining custody and contact issues, including the physical and emotional wellbeing of the child and domestic violence. These recommendations were adopted by the former Minister of Justice, and were presented in a governmental bill, but are still publicly debated.

Social services for families

128. More than half of the cases known to social services departments are family-related. Most therapeutic intervention is provided by the family's social worker, although where needed, the family is referred to a specialized social worker. For details, see Annex I.

Equality of access to childcare

129. Lower Contribution to the Cost of Day-care centers – Following the recommendations of a Public Committee on poverty in 2013, as outlined below, the MoLSSaSS significantly lowered the contribution paid by parents of poor families for the day-care of toddlers at-risk. For details, see Annex I.

130. Day-care centers in minority communities – For increased Government support of day-care centers in minority localities, see Article 6 above.

Social services for older persons in the community

131. Social services that enable older persons to remain in their normal living environment for as long as possible include day centers, social programs, enrichment centers and a "Supportive Community" program which includes a hot-line, health care services and a community counsellor. For details, see Annex I.

132. For further social services, including a Government call center, see below under "Economic, Social and Cultural Rights of Older Persons".

Social services for people with disabilities

133. A detailed up-to-date account of the services that enable PWD to live independently within the community was presented in Israel's initial report concerning the implementation of the CRPD, submitted in May 2017. For significant highlights of the main developments since the submission of our third periodic report, see Annex I.

Health care

134. For details of the accessibility of health facilities, see Article 12.

Maternity protection

135. This issue has recently been presented in detail in Israel's sixth periodic report to the CEDAW committee. It has also been discussed in our previous reports. The following are significant relevant updates.

136. Extension of maternity leave – A 2010 amendment to the Women's Employment Law extended maternity leave to 26 weeks, of which 14 remained with payment and 12 without. An employer is prohibited from firing an employee during this extended period. A further amendment, made in March 2017, extended maternity leave for which parental allowance is paid from 14 to 15 weeks.

137. Parental leave – A father may now take paid parental leave for a period of one or more weeks (instead of a minimum of three (3) weeks). Furthermore, he may take seven (7) days of parental leave simultaneously with his wife, according to the provisions of the Law. Also, according to Amendment No. 60 of 2018 to the Women's Employment Law, a mother that gave birth to more than one child in a multiple delivery is entitled to extend her maternity leave by three (3) additional weeks for every child that was born in that delivery (from the second one). A further period is given to the spouse of such a mother. For details, see Annex I.

138. An amendment to the National Insurance Law 5755-1955 in 2016 provides that an employee whose wife is self-employed is entitled to parental leave in lieu of his wife. Note that a recent amendment allows for the granting of certain social rights to those holding temporary status (A/5, A/2, A/2, A/4) without the previously required waiting period pf 183 days.

139. Additional amendments – For details with regard to the protection of pregnant women against dismissal, absence from work of a spouse following birth, maternity leave in the event that the infant is hospitalized and absence from work due to fertility treatment, see Annex I.

140. National Insurance – For information on national insurance benefits given in the event of birth, and during maternity leave, see Article 9.

141. Foreign workers who are pregnant – Subsequent to a High Court of Justice (HCJ) ruling on this matter, Population and Immigration Authority (PIBA) published in 2013 an amended "Procedure regarding Pregnant Foreign Workers" whereby a foreign worker who is legally employed and pregnant is entitled to remain in Israel in accordance with the provisions of the procedure. A female worker who gave birth during her first 63 months of employment may choose either to leave Israel with the child and then to return and continue working in Israel, or to prolong her stay in Israel, with the child, up to 63 months from having first received a B1 visiting visa. For details on this ruling, see Annex III.

Paid employment of children

142. This issue has been presented in our previous reports. The following are significant amendments that have been legislated since the submission of our third periodic report.

143. Youth Employment Law 5713-1953 – As mentioned in our previous reports, this law prohibits the employment of youth under the age of 15. A number of amendments augmented the protection afforded to youth. See Annex I.

144. Additional provisions for the protection of youth in the workplace – See Annex I.

145. Enforcement – In the summer of 2014, the MoEI conducted a nationwide enforcement campaign relating to the enforcement of youth labour laws, with special emphasis on the employment of youth in event halls. In 2015, the MoEI conducted a publicity campaign aimed at employers of youth in order to reinforce compliance with the law. For data on the enforcement of the *Youth Employment Law*, see Annex II.

Economic, social and cultural rights of older persons

146. There are currently almost 940,000 older persons (ages 65 and over) in Israel, approximately 11.1% of the overall population. Over 95% reside in the community.

147. Government Call Center – The Ministry of Social Equality (MoSE) runs a call center which provides information and advice in all matters relating to socio-economic rights of older persons. For examples, see Annex I.

148. The call center also provides assistance in cases of violence against older persons, maintains contact with the welfare authorities and the Police, relaying information, including regarding possible economic exploitation.

149. Public Service for Older Persons – A 2017 amendment to the Senior Citizens Law 5750-1989 mandates that a public service for which there is a queue (for example, services given in the post office, government offices etc.) shall be offered to a person above the age of 80, upon request, without the need to queue.

150. For information on the promotion of employment amongst older persons, social security benefits, social services, food aid, health services and continuing education, see Articles 6, 9, 10, 11B, 12 and 13.

Programs against abuse, abandonment, negligence and ill-treatment of older persons

151. Social Services – Approx. 55 local authorities (out of 255) have units dedicated to handling mistreatment of the older persons. They specialize in locating and identifying victims of abuse, treating them and other family members and handling offenders. In 2014, 5,318 older persons were treated in these units. Social workers in all authorities may refer older persons to immediate protection in respite care or, or if need be, to nursing homes.

152. For details on training in the identification of older persons who are victims of abuse, inheritance planning, personal security in the community, the work of NGOs in this field and for data regarding criminal proceedings, see Annex I.

Economic and social rights of asylum seekers

153. General – Asylum seekers who are granted refugee status receive a temporary residency permit and are eligible to all social rights.

154. Social security – Asylum seekers whose requests for asylum are under deliberation, and are employed, are entitled to rights in three (3) insurance branches, like other non-residents. See Article 9 for further details.

155. Health – For health services offered to asylum seekers, see under Article 12.

156. Education – The Compulsory Education Law 5709-1949 applies to every child residing in the country, including children of asylum seekers. An Inter-Governmental Committee headed by the Director General of PIBA is currently examining the need to broaden the social rights of asylum seekers.

157. Employment – Complaints regarding employment of asylum seekers are brought before the Police or the relevant enforcement authority. Violations of employment law are enforced. Legal aid is provided without charge in cases in which there are indications of trafficking or forced labour, etc.

158. Family reunification of non-residents – Current PIBA policy is not to grant separate work and stay permits to spouses of temporary foreign workers (similar to tourists and illegals) currently in Israel, as this has been found to encourage illegal overstay. Note, that foreign workers receive a temporary stay visa, conditional on the understanding that they are not entitled to settle permanently.

159. A foreign worker may of course marry an Israeli citizen. The citizenship procedure is set out in PIBA procedures published on their website. During this process, the foreign worker is entitled to a temporary stay permit.

160. With regard to refugees who have been recognized as such by the Minister of interior, requests for family reunification with a spouse and minor children are brought before the Director General of the PIBA, alongside a recommendation from an inter-ministerial advisory committee.

Criminalization of domestic violence

161. Domestic violence is criminalized in Israel. For details, see Annex I. For statistics regarding criminal enforcement, see Annex II.

Combating domestic violence

162. Since the submission of our previous report, the Prevention of Domestic Violence Law 5751-1991 was amended to allow the Court to extend the validity of a protection order for up to an additional year, for special reasons.

163. Police reviews – The Police conduct several periodic reviews of the treatment of domestic violence offences each year, in every police district and in several stations. Ongoing discourse with leaders of minority groups is also held, focused on improving accessibility and encouraging women to approach the Police.

164. Placement of social workers in police stations – This project aims to strengthen cooperation between the Police and welfare authorities, provide initial assistance to victims and to prepare appropriate intervention and assistance programs in advance, including risk assessment. For details, see Annex I.

165. Centers for Prevention and Assistance – For data regarding the activities of these centers, see Annex I.

166. Additional steps – An inter-ministerial committee on preventing domestic violence was established and its recommendations considered. For details, see Annex I. For details of rehabilitation hostels for abusive men, prevention programs for youth and the obligation of public health officials to report suspicious incidents, see Annex I.

The support and rehabilitation of victims

167. The MoLSAaSS offers a range of services for families coping with violent situations. These include shelters, transitional apartments, financial grants, assistance in housing, an emergency hotline, child and youth emergency centers and other services for children. For details of these programs and relevant data, see Annex I.

Raising public awareness and training

168. Raising awareness amongst health care professionals – In 2000, the MoH established a designated staff department, the National Social Work Service, which is responsible for the promotion of the identification of victims of domestic violence and sexual assault and for the quality of care provided to the victims. Many training days on this subject have been given over the years.

169. Raising public awareness – For the important work of the AASW in raising public awareness, including annual awareness campaigns and a state-sponsored event held in the President's residence, see Annex I.

170. Police training – Training courses are given to a wide-range of police officers. For details, see Annex I.

Trafficking in persons

171. In its concluding observations to Israel's last periodic report the Committee expressed concern that Israel ensure the full and effective implementation of its Anti-Trafficking Law. Recent years have shown that Israel has continued to make remarkable progress in its efforts to eliminate trafficking in persons. The United States' State Department has ranked Israel in Tier 1 for seven (7) consecutive years – an important external evaluation that Israel is fully meeting the minimal standards required for the eradication of TIP.

172. As a result of combined and sustained efforts, there has been a significant decrease in the number of cases of trafficking in persons for the purpose of prostitution, which nowadays rarely appears in its "classic form". However, new patterns of trafficking, where violence and withholding of passports are not present and victims are seemingly not

frightened or subjected to control of another person, pose challenges which are being addressed.

173. For a number of examples of the many measures employed to combat all forms of trafficking in persons, see Annex I.

174. Investigations, prosecutions and convictions – Data demonstrates a decline in the volume of cases of trafficking in persons for the purpose of prostitution, reflecting the success of the combined efforts of all parties in previous years. See Annex II.

175. Precedential Judicial decisions – For recent case law, see Annex III.

Assistance and protection to victims

176. Israel provides services to assist victims of trafficking, none of which are contingent upon cooperation with law enforcement. These include medical services, including psychiatric care; legal aid; shelters; work permits; and a forfeiture fund which allocates budgets for rehabilitation and protection of victims, and to bodies providing victim aid and combatting trafficking. For details, see Annex I.

Article 11

A. The right to the continuous improvement of living conditions

Poverty line

177. The definition and calculation of the national poverty line has been discussed in our previous reports. There have been no changes in this regard.

178. Each year the NII publishes a report on the extent of poverty and social gaps. Recent data reveals improvements in the measures of inequality and poverty. These are attributable to the changes in policy that have brought about an increase in net disposable income for families, older persons and younger persons, particularly in the lower and middle earning groups – primarily the increase in the minimum wage and in child and older person benefits. Increased rates of employment are also a contributing factor. For recent data, see Annex II.

National action plan to combat poverty

179. In its previous concluding observations, the Committee recommended that the State party establish a comprehensive policy to address the problem of poverty. We are pleased to report that this matter has been given serious attention. In 2013, the Minister of MoLSAaSS appointed a broad public committee to formulate recommendations for a national action plan to combat poverty and create equality of opportunity. The following are some main points of the national plan as implemented by different Ministries:

180. The National Insurance Institute (NII) – Following the recommendations of the public committee, the NII amended the income test for income supplement benefits; increased income supplement benefits for older persons; created a savings account for every child; and created a heating benefit. For details, see Annex I.

181. The MoLSAaSS – In 2015, the MoLSAaSS founded a poverty response program which operates in 94 localities with a low socio-economic index, at a cost of some 100 Million NIS per year (27.8 Million USD). This program includes two (2) sub-programs, which are based on poverty-conscious social work and inclusive practices. For details and data regarding the programs, see Annex I.

182. The MoF – As reported in our third periodic report, the Increasing Participation in the Work Force and Reducing Social Gaps (Negative Income Tax) Law 5768-2007, initiated an “earned income tax credit” (EITC – that is, negative income tax) as an innovative means for reducing poverty amongst working families and raising participation in the workforce. Since the submission of our third periodic report, a number of amendments have broadened the eligibility for EITC. For details, see Annex I.

183. For information relating to the promotion of employment amongst disadvantaged populations, including professional training vouchers – see Article 6; for information relating to developments in the eligibility for public housing, see Article 11D.

B. The right to adequate food

The national council for food security

184. Following the Committee's previous concluding observations, we are pleased to update regarding the legislation of *The National Council for Food Security Law* 5771-2011, which aims "to promote nutritional security amongst the residents of Israel, in the spirit of human dignity and the principles of equality, justice and fairness…" and established the National Council for Food Security which advises the Minister of Labour, Social Affairs Social Services in this regard. For details of the mandate of the National Security Council and its recent activity, see Annex I.

Food aid

185. The MoLSAaSS provides support for programs for older people, community programs and daytime centers which include meals. Hot meals are provided to the homes of older people, specifically Holocaust survivors, in conjunction with the Conference on Jewish Material Claims against Germany. For details, see Annex I.

The quality and safety of animal and plant produce

186. For details, see Annex I.

Food waste

187. Following a survey conducted by the Ministry of Agriculture and Rural Development (MoAaRD) concerning food loss at the production stage, the Ministry is currently reviewing policy tools, prior to the adoption of a strategic plan. For details of this and other ongoing projects, see Annex I.

The dissemination of nutritional principles

188. The Nutrition Department in the Ministry of Health (MoH) works in several ways to disseminate knowledge of healthy nutrition, including amongst disadvantaged populations. For details, see Annex I.

189. Food in schools – The new Supervision on Food Quality and Proper Nutrition in Education Institutions Law 5774-2014 authorizes the Minister of Education to set terms and conditions regarding the food and nutritional values of foods sold in education institutions. The Law also requires food suppliers to publish the nutritional composition of foods sold within the institution.

190. Additional guidelines – new guidelines have been adopted or updated in order to ensure or encourage proper nutrition: Nutrition and Food in Summer Camps for Children and Youth (2016); MoH Protocol on Healthy Food in Hospitals (2017); and MoH Circular on Healthy Food in Mental Health Institutions (2012).

Access of disadvantaged populations to food

191. Allocation of Reused Water for Agricultural Purposes – In 2014, transitional regulations were published that give priority to farmers from among the Arab population in the allocation of reused water for agricultural purposes, at a subsidized price (Water (Criteria for the Allocation of Water for Agriculture) (Transitional Provisions) Regulations 5774–2014).

192. Allocation of Quotas for Milk and Egg Production – for information on Quotas for Milk and Egg Production, including on allocation of such Quotas to breeders of the Arab, Druze or Circassian populations, see Annex I.

193. Simplifying the Procedure for Proving Ownership Rights of Private Land for the Purposes of Subsidies and Allocation of Resources – Allocation of water for agriculture, quotas for milk and egg production and agricultural subsidies require the applicant to demonstrate legal ownership of the relevant land. Farmers from the Arab population often face difficulty in doing so since the transfer of rights is often not updated in the Land Registry. In 2015, the MoAaRD published a procedure aimed at facilitating proof of ownership. The procedure is presently implemented with reference to a long list of subsidies (rural development, land preservation, the encouragement of capital investments in agriculture, natural disasters, pasture and more) and in relation to allocations of water, milk and egg production quotas.

194. Efforts to eradicate the Brucellosis Disease in the Negev – A number of Government Ministries embarked upon a multi-year project (2014–2019) for the reduction of Brucellosis Disease in sheep and goat herds in the Negev, in the wake of increased human contraction. For details, see Annex I.

C. The right to water

Adequate and affordable access to safe water

195. Ensuring the supply of safe water in adequate quantities is part of the overarching goal of Israel's water economy. It is achieved in a number of ways, including by sustainable, long-term planning and development of water infrastructure and economic regulation which sets cost-based rates in order to ensure the funding of required infrastructure investments. For details, see Annex I.

196. Desalination – Five (5) large-scale seawater desalination facilities and some smaller brackish water desalination facilities currently provide about 50% of domestic water requirements. Regulations govern the quality of desalinated water.

Access to sufficient and safe water

197. In general, the water supplied in Israel, especially for home consumption, is of high quality and safe according to international standards. The quality and reliability of supply is guaranteed, among other things, by the connection of every locality to the national water system. Remaining localities which still rely on disconnected water sources are undergoing development planning.

198. In some cases of illegal construction, there may be legal or practical obstacles to connecting to the supply infrastructure and water is obtained from a more central point in the public system.

199. Access to Water in Bedouin Communities – Following a pilot program that began in 2014, water provision to Bedouin communities is currently done through direct private water connections to the main water pipeline, through its own water meter.

Affordability of water services

200. General – Water and sewage rates are determined in a manner intended to cover the overall recognized expenses of suppliers so as to ensure the efficient allocation of supply. For details, see Annex I.

201. Discounted rates – The Water Rules (Determining the Recognized Amount) 5776-2016 introduced discounted rates for groups of persons in need. For details, see Annex I.

202. Disconnection of water supply – the Water and Sewage Corporation Rules (Disconnection of Water Supply) 5776-2015 dramatically amended the instances in which water supply may be disconnected. For details, see Annex I.

Monitoring the quality of water

203. For details, see Annex I.

Education concerning the use of water

204. There is a high level of awareness in Israel, ingrained in early education, of informed and economical water use. For details of measures taken, including regarding the use of water in times of crisis, see Annex I.

D. The right to adequate housing

Homelessness

205. Data – According to data held by the Ministry of Construction and Housing (MoCH), during the course of 2016, 1,267 people defined as "street dwellers" by their local social services department received a monthly allowance. This is not necessarily indicative of the total number of homeless people, some of which may not have been identified by social services.

206. Services – These were outlined in our previous report. The MoLSAaSS offers services for street-dwellers within the community, including provision of make-shift shelters for overnight use in emergency situations, as well as rehabilitative and occupational services throughout Israel. This program assists 1,800 street-dwellers annually.

207. Public Housing – For updates relating to public housing, see below.

Affordable housing

208. Acceleration of Construction – The Planning and Building Proceedings for the Acceleration of Residential Construction (Transitory Provisions) Law 5771-2011 was enacted in order to expedite the construction of affordable housing, creating a new planning committee for this purpose. This was replaced in 2014 by the Promotion of Construction in Preferred Residential Sites (Transitory Provisions) Law 5774-2014 which established special planning procedures for preferred residential sites, in order to accelerate the construction of housing in these areas. In particular, these provisions provide fast track for setting detailed plans in order to enable issuing building permits and provide sufficient housing supply.

209. According to the Central Bureau of Statistics (CBS), whereas 2009 saw the start of construction of 35,165 new apartments (defined as the moulding of the building's foundations), 2015 saw the start of construction of 50,558 new apartments.

210. Additional amendments set in 2018 were designed to increase the availability of affordable rental housing, see Annex I.

211. Taxation – In 2016, the Economic Efficiency (Legislative Amendments in the Implementation of Economic Policy for the Budget Years of 2017 and 2018) Law 5777-2016 imposed a "multiple apartments" tax on the third or more apartment owned. The Law was approved by the Knesset, yet did not enter into force. Five petitions were filed to the HCJ against Chapter 12 of the Law. For a recent judicial decision on this matter, see Annex III.

212. Regulation of the private rental market – In its previous concluding observations, the Committee expressed concern with regard to regulation of the private rental market. We are pleased to report a number of significant steps recently taken in this regard.

213. On 13th June 2016, the Government directed the Minister of Finance to establish an inter-ministerial committee to examine incentives for landlords to rent their properties for a period of at least five (5) years at a set, index linked, rental price. This resolution also directed the establishment of a MoJ's Committee to recommend measures that may be taken to improve the efficiency of dispute resolution between landlords and tenants, including the establishment of a designated court to this end (Government Resolution No. 1528).

214. Following the work of the inter-ministerial committee in July 2017, the Knesset approved Amendment no. 1 to the Rental and Loan Law 5777-2017, which includes a special chapter regarding rental for residential purposes. This chapter regulates, among other things, the relations between the tenant and the owner, and increases the protection

and certainty in this market. The chapter sets instruction in regard to the contract (requirement of a written contract), the apartment (it defines apartments as "inhabitable" if they lack, for example, plumbing, electricity or natural light), define the landlord's responsibilities for repairs, including timeframes; types of payments that the owner can collect for the tenant, the amount of collateral which the owner may demand, instruction in regard to the end of the legal relations between both sides etc.

215. Rental Assistance – In its previous concluding observations, the Committee recommended increasing rental assistance. We are pleased to report that since the submission of our third periodic report, and following two (2) Government Resolutions (of March 2012, allocating 160 Million NIS (43.8 Million USD) to this issue and of January 2016, allocating additional 47 Million NIS (13 Million USD)).

216. In March 2012, Government Resolution No. 4433 regarding "Increase in Government Aid in the Field of Housing and Preservation of the Stock of Public Housing for Eligible Persons" allocated a budget of 160 Million NIS (44.5 Million USD) for the increase of rent subsidies.

Public housing

217. See our previous reports for details of the legislative and policy frameworks relating to public housing in Israel. Below are some amendments that have been made since our third periodic report.

218. Eligibility criteria – A number of substantial updates have been made to broaden the eligibility criteria for obtaining public housing. For details, see Annex I.

219. The Management of Public Housing – During the years 2015–2016, the MoCH invested 393 Million NIS (109.2 Million USD) in the maintenance of public housing.

220. Waiting Lists for Public Housing – For details of waiting lists for public housing and an increase in rent contributions given to those on the waiting list, see Annex I.

221. Increasing availability of Public Housing – In its previous concluding observations, the Committee recommended increasing the number of social housing units. We are pleased to inform the Committee that approx. 1,850 additional apartments have been purchased from funds accumulated from the sale of other public housing apartments, at a cost of about one Billion NIS. Furthermore, two (2) government agencies (the "Jewish Agency" and "Amigur", who manage some of the public housing) are planning the construction of 2,650 housing units in retirement homes, by 2020. For details, see Annex I.

222. Publication of Tenders for the Sale of Public Housing in Arabic – In 2017, "Amidar", a national housing company, began to publish tenders for the sale of housing in Arabic as well as in Hebrew. The MoCH has established a special website in Arabic that includes all information presented in the Hebrew website and additional information specifically intended for the Arab population. Such information covers the governmental program for affordable housing ("A Price for Residents"), the procedure for participating and upgrading participation in the program, financial benefits, the technical specifications of the flats on offer, etc. Furthermore, in 2015–2016, the Ministry widely published campaigns aimed at the Arab population through advertising "A Price for Residents" projects in Nazareth and in Sakhnin. The Ministry continues to operate to promote linguistic accessibility for the Arab population.

Accessibility

223. Israel's initial report concerning the implementation of the CRPD includes a detailed account of the steps taken to improve the accessibility of housing for PWD. For details of the most significant measures, see Annex I. For recent case law, see Annex III.

Preventing housing on polluted sites

224. Legislative and other measures ensure that housing is not built on polluted sites or in immediate proximity of sources of pollution. For details, see Annex I.

Legal provisions governing eviction from housing

225. For data relating to evictions over the past five (5) years, see Annex II. These figures demonstrate that there is a steady decline in the number of eviction orders granted each year. Moreover, only approx. 3% of the eviction orders are executed, due to settlements reached with the debtor prior to eviction and to the fact that several orders may relate to the same property.

Legal provisions governing eviction from public housing

226. The MoCH may initiate eviction proceedings against squatters or tenants with a monetary debt. In both situations, there is a central committee that examines every case on its merits and exhausts an administrative procedure prior to the initiation of legal proceedings.

227. In 2016, a public committee was formed in order to examine eviction from public housing. It suggested that eviction proceedings no longer be pursued in relation to tenants with monetary debt, but rather replaced by improvements in debt collection. The committee also recommended the establishment of an interdepartmental committee charged with examining the circumstances of squatters (note however that the chairperson and committee members were disputed regarding these recommendations). Following these recommendations and the above-mentioned disagreement, the Director General applied to the Attorney General and requested his decision on the matter. In August 2017, a meeting was held with representative of the MoCH and MoJ, in which it was decided that in regard to persons who are entitled and received public housing but are indebted for rent payments – an eviction will only be conducted in extreme and exceptional cases after all other procedure for the rent collection have been utilized and the tenant is unwilling to pay the debt. In regard to squatters to public housing – it was decided that such persons such be evicted with no exceptions pursuant to the law. It was further agreed that in order to deal with dozens cases of squatting, a set of rules addressing the priorities for eviction will be developed, and approved by the Deputy Attorney General (Civil Affairs).

228. For data on persons evicted from public housing from 2011–2014, see Annex II.

Illegal structures in the eastern neighbourhoods of Jerusalem

229. In its previous concluding observations, the Committee expressed concern regarding the demolition of illegal structures in the eastern neighbourhoods of Jerusalem.

230. Illegal construction harms the local population, as it does not take into consideration planning policies and parameters that are needed to ensure quality of life, the welfare of the population and public needs. Enforcement measures against illegal structures are adopted in accordance with legal guarantees and following due process, subject to judicial review and the right to appeal. Authorities exercise discretion in the execution of demolition orders and give priority to the demolition of illegal structures that pose an obstacle to city development, for example, an illegal structure that blocks a sewer pipe system, a planned school, access to roads, etc.

231. For data regarding the demolition of illegal structures in the eastern neighbourhoods of Jerusalem and, conversely, construction permits granted, see Annex II.

Planning and housing in the Bedouin population

232. In its previous concluding observations, the Committee expressed concern regarding planning and eviction in the Bedouin population.

233. In November 2015, the MoAaRD completed a study designed to collect demographic information and planning data concerning the Bedouin population in the Negev. On the basis of this study, recommendations were formulated to expand existing localities and establish new ones, whilst regularizing some Bedouin localities at their current location. For details of the Bedouin localities with approved outline plans, see Annex I.

234. With regard to the planning related to the rest of the clusters in the Bedouin diaspora, planning companies were recruited to conduct feasibility studies and to examine special planning solutions. This process is being conducted with the participation of the population in each region. These companies are currently conducting field surveys and are to make planning recommendations for the consideration of the Authority for the Regularization of the Bedouin Housing in the Negev. This course of planning, with special emphasis on the participation of the Bedouin population, is unprecedented in Israel.

235. The Government encourages movement to regulated localities by providing unique financial benefits. These benefits include, *inter alia*, provision of land plots for free or at very low cost and compensation for the demolition of unauthorized structures.

236. With regard to demolition of illegal structures, note that enforcement activities are conducted only against structures that were constructed after 2010, in areas that do not belong to any local authority. All enforcement activities are conducted according to the law. For data relating to the demolition of illegal structures, see Annexes I and II.

Article 12

National health system

237. As prescribed by the National Health Insurance Law detailed in Israel's previous reports, every Israeli resident is entitled to health insurance, including extensive medical treatment and medicine provision. The following are a number of important recent amendments which extended health coverage to a number of other groups.

238. Health Insurance for Palestinian Residents who Hold Stay Permits – The National Health Insurance Regulations (Enrolment in a Health Fund, Rights and Duties of Recipients of Residence Visas under the Citizenship and Entry into Israel Law (Temporary Order) (5763-2003), 5776-2016 came into effect on August 1, 2016. These Regulations entitle recipients of stay permits under Sections 3, 3A(2) and 3A1(A)(2) of the Citizenship and Entry into Israel Law (Temporary Order) 5763-2016 to register in a health fund and to receive services similar in scope to those given to Israeli residents (with the exception of health services provided abroad), against co-payment as is the practice in the particular fund.

239. The population in question includes Palestinian minors who have received a stay permit in order to reside with a parent legally residing in Israel, Palestinian residents who have received a stay permit to reside with a spouse and those who have received the stay permit on special humanitarian grounds. Since the Law has entered into force, approximately 2,716 permit holders joined an HMO health insurance plan.

240. Health Insurance for Minors without Civil Status – The MoH signed an agreement with the Meuhedet Health Fund for the provision of the full range of health services (with the exception of health services provided abroad) to minors resident in Israel without civil status. This agreement was renewed in 2015, with a number of significant improvements. For details, see Annex I. Since the renewal of the agreement, there has been a steady increase in the enrolment of previously uninsured minors. For data, see Annex II.

241. Health Care for Foreign Workers – In June 2014, the HCJ ordered the State to bring health care arrangements for foreign workers in the care giving field, who have been legally resident in Israel for over ten (10) years, closer to the arrangements applicable to Israeli residents (H.C.J.1105/06 Workers Hotline v. The Minister of Social Services) Consequently, in 2016, an amendment was made to the Foreign Workers Order (Employee Health Benefits Package) 5761-2001, which regulates the health services to which legal foreign workers in the care giving field are entitled. For details, see Annex I. For data regarding gaps in health parameters, such as life expectancy, between the Jewish and Arab Population, see Annex I.

Accessibility of health facilities

242. Health funds – Health Funds are obliged to make vital health services available to every patient. Each Health Fund has developed a system for provision of home visits to the elderly and to PWD. In April 2017, the MoH distributed a circular defining "home-bound" patients to whom such services should be offered.

243. Equal Rights of Persons with Disabilities (Accessibility Adjustments to Health Services and Places Providing These Services) Regulations 5776-2016 – Regulations published in September 2016 address the physical accessibility adjustments that need to be made to existing medical facilities.

244. Home care – The MoH is developing networks to enable further care and rehabilitation in the home, with an emphasis on continuity of care, and offers support programs for individuals in their transition from hospitalisation to community.

Health services in outlying areas

245. Health services in the Negev – On 23rd September, 2014, the Government allocated 100 Million NIS (27.8 Million USD) for the development of health services in the Negev area (Resolution No. 2025).

246. Incentives to Health Funds – Between 2011 and 2013, the MoH offered Health Funds incentives totalling 20 Million NIS (5.6 Million USD) per annum for infrastructure improvements in outlying areas. For details, see Annex I.

247. New hospitals – The MoH has decided to open two (2) new general hospitals, one in Be'er-Sheva, the other in Haifa. 15 Million NIS (4.2 Million USD) were allocated for the years 2015–2016, for the purpose of establishment of a new hospital in Be'er-Sheva, and the land for the hospital has been allocated. As for the Haifa hospital, the allocation is in the planning stages. A medical school in the Northern Galilee has also been established.

248. For details of the allocation of hospital beds, staff and other resources, and new incentives for physicians willing to move to outlying areas, see Annex I.

Reducing inequalities in healthcare

249. In recent years, the MoH has enhanced efforts to minimize gaps in health care and address inequalities in health.

250. Unit for Reducing Inequalities – This Unit, established in 2013, is charged with narrowing disparities in economic accessibility to health services, including reducing the impact of cultural differences in the use and quality of health services. For details of the Unit's activities and achievements, see Annex I.

251. Incentivising Health Funds – In 2012–2014, approx. 55 Million NIS (15.3 Million USD) were distributed to projects aimed at narrowing geographic or social disparities. Funding criteria for 2015–2016 added emphasis on services provided where there are social disparities, including interventions in the fields of pre-diabetics, diabetes and child obesity in the Arab population.

252. Mental Health Services – The transfer of responsibility for mental health services within the community to Health Funds has resulted in the establishment of dozens of new clinics, many of which are in outlying areas.

253. Investments – For an estimate of the funds invested by the MoH to reduce inequalities in healthcare, see Annex II.

Measures to reduce inequalities in relation to persons of Ethiopian descent

254. The MoH has put together a series of policies aimed at the inclusion of persons of Ethiopian descent, focusing on improving cultural accessibility, adequate representation, accessibility to health rights, reducing diabetes and strengthening confidence in the health system, including reducing the duration for addressing complaints of racism to less than 48 hours. For further examples, see Annex I.

Health services available to the Bedouin population

255. Health clinics and medical services – As of April 2016, there are 60 health clinics providing for the Bedouin population in the Negev, including independent physicians who work with these clinics and provide services. Local medical services are also available outside the Bedouin localities, such as in Be'er-Sheva, Yeruham, Arad, Dimona, Omer, Mitzpe-Ramon, etc.

256. Clinics in unauthorized villages located throughout the Negev are computerized, air conditioned, and equipped according to the standards followed by all the Health Funds in the country.

257. Nurses Serving the Bedouin Population – As of April 2016, there are 871 employed nurses who treat patients of all populations in the southern district, 100 of whom specifically serve the Bedouin population. For more information, see Annex I.

258. Medical Centres – In 2014, the Government undertook to establish six (6) medical centers providing services during night hours and on weekends in the Negev area (when regular clinics are closed), among them in Bedouin localities (Ar'ara, Rahat, Kuseife and one that will serve Lakiya, Hura and neighbouring localities). The total budget for this issue is 18.5 Million NIS (5.15 Million USD) (Resolution No. 2025).

Health care for women in the Arab population

259. Leadership in health – In addition to the general measures outlined above for the reduction of inequalities, programs designed especially for women in the Arab population also include a "Leadership in Health" program. This program includes a series of workshops for women from the Arab population who want to be community leaders on health and nutrition, addressing studies that show high obesity rates among Arab women. For details, see Annex I.

260. Child and maternity care – See below.

Health services for non-residents

261. In addition to the legislative amendments presented above, a number of medical services are available to migrants and foreign workers. These include emergency medical treatment, medical services given to infants and pregnant women (including routine immunizations), volunteer clinics that provide medical and mental health services, a community program for HIV/AIDS treatment and oncology treatment. For details, see Annex I.

The cost of health-care services

262. The total budget of the MoH for 2018 currently stands on 35.46 Billion NIS (9.85 Billion USD) (5 Billion NIS (1.39 Billion USD) of which as an expenditure which is depended on income) and additional 409 Million NIS (113.6 Million USD) as authorization for future budgetary obligation.

263. The total budget of the MoH for 2019 currently stands on 42 Billion NIS (11.7 Billion USD) (38 Billion NIS as Net expenditure and 4 Billion NIS as expenditure depended on income) and additional 500 Million NIS (138.8 Million USD) as authorization for future budgetary obligations. In addition, the budget for the medical services health basket, which is financed by the health insurance tax (collected by the National Insurance Institute) and supplementary State budget transferred to the HMOs, is expected to be 53.4 Billion NIS (gross) (14.83 Billion USD).

264. Funding of Health Funds – For updates, see Annex I.

Approval of drugs and medical equipment

265. For details of the legislative arrangements in place to ensure that drugs and medical equipment are scientifically approved and have not expired or become ineffective, see Annex I.

Training of health personnel on health and human rights

266. For details, see Annex I.

Child and maternal health

267. Parenting Skills – The "Possible and Healthy" ("Efshari-bari") initiative aims to develop the well-being of toddlers by providing tools for improving the child-parent bond and for creating a family environment conducive to optimal parenting through a healthy lifestyle and attentive nourishment. The MoH and Joint Israel are leading this program based on an evidence-based model developed in the UK.

268. Infant hearing screening – In 2010, a successful national infant hearing screening program was launched. For details, see Annex I.

269. Genetic Testing – Measures have been taken to improve accessibility to genetic testing in order to reduce congenital anomalies. Additional genetic tests have been included in the services covered by National Health Insurance.

270. National Screening Plan for Breast Cancer Detection and Treatment of Myomas – For details, see Annex I; Immunisation programs – See below.

Child and maternal health in the Bedouin population

271. Main Projects – In September 2011, the Government authorised 90 Million NIS (24.3 Million USD) for social and communal issues, including health, in the Negev (Government Resolution No. 3708). This was allocated to the increase of Bedouin women mediators working towards the reduction of infant mortality; continued research to map genetic diseases unique to the Bedouin population; enriching flour with folic acid for the benefit of pregnant women; and establishing healthcare centers within the largest schools in the Bedouin population.

272. An updated plan was approved in February 2017, encompassing the improvement of health services, including emergency health services, safety issues and better responses to the health needs of young children (Resolution No. 2397), with a budget of 10 Million NIS (2.85 Million USD).

273. Immunization – The coverage of Bedouin children is over 90%, which is similar to the general population. Vaccinations are conducted in clinics and by mobile immunization teams which reach infants in the Bedouin diaspora. A computerized tracking system enables the identification of infants who are overdue for their vaccinations. 2014 figures show that the rate of influenza immunization among the Bedouin population significantly surpasses that of the general population (41.8% and 31.3% respectively).

274. Mother and child healthcare stations – As of October 2017 there are 47 mother and child health stations located in the southern district, 27 of which (57%) are designated for the Bedouin population. As of April 2016, there were 128 positions of mother and child health nurses in the southern district, 73 positions of which are designated for clinics that serve the Bedouin population specifically. 90% of these positions were filled.

275. In February 2017, the Government resolved to renovate the mother and child health clinics in certain localities, including Bedouin ones, with a total budget of 40 million NIS (10.5 million USD (Resolution No. 2397).

276. An additional budget of 5 Million NIS (1.38 Million USD) was approved by the MoH in order to better cope with health needs at the Bedouin population including – special training for nurses and doctors as well the mediators that work with the mother and the child.

277. School nurses – As of April 2016, there were 44.75 positions for school nurses in the southern district. Of these, 35 positions (78.2%) were designated for schools of the Bedouin population, and these positions have been filled.

278. Autism – Following findings that there is under-diagnosis of children within the autism and communication impairment spectrum amongst the Bedouin population in the Negev, a special program has been initiated to diagnose and treat children. Since the

program began in 2010, 120 children have been diagnosed and have begun treatment, in contrast to the three (3) that were known when the program began.

Infant mortality

279. Data – Israel's infant mortality rate continues to decrease, from 6.3 deaths for every 1,000 live births between 1996 and 1999, to 3.1 deaths in 2015. There remain gaps in infant mortality rates between different populations, although the decrease in rates is common to all. For more details, including on gaps between infant mortality between different populations, see Annex I. For statistical information on infant mortality rate, see Annex II.

Fertility treatment, contraceptives and sexual health

280. This has been discussed in our previous reports. In 2010, an amendment was made to relevant regulations to enable women to freeze eggs in order to preserve their fertility. Further legislation was passed governing egg donation, subsequent to which regulations regarding compensation for egg donation were published. For recent court rulings on the matter of fertility treatments, see Annex III.

Raising awareness of sexual health

281. In its previous concluding observations, the Committee recommended that Israel increase its efforts in the creation of educational programs and services on sexual and reproductive health. In this regard, schools all over the country study and discuss sexual education and gender issues in several educational, such as: Life Skills", "Preparation for Family Life" and "Worth Talking". These programs include topics such as: physical development, dating and relationships, love, sexual and gender identity, gender equality, sexual relations, couple and sexual communication, birth control, pregnancy, adolescent prostitution, gender diversity, various family types, career planning, warning lights in a relationship and how to receive assistance and more. Schools can also choose to focus on gender studies in many ways and programs offered by the Gender Equality Unit in the MoE. Such programs are taught to all pupils Jewish and Arab alike, for information on education programs in schools in the Arab population and Jewish religious communities, see annex I. Over the past years, greater emphasis has been placed on the fine line between normative and harmful behaviour. The activities focus on positive communication, consent, mutuality, sexual relations and birth control.

282. In 2013, an HPV immunization program was initiated for eighth-grade female pupils. In 2015 the program was expanded to include boys as well. This program includes an explanation of the ways the virus is transmitted, including an explanation regarding safe sex.

Diseases linked to water and adequate sanitation

283. Waterborne infections – Since drinking water is treated and inspected frequently (see Article 11C above), waterborne infections are rare. Pathogens are generally spread through contamination of food rather than water.

284. Sanitation – Updated regulations, published in 2010, set higher levels of treatment in existing and future wastewater plants. For details, see Annex I.

285. Access to sanitation – As of 2014, 99.9% of the population had access to sanitation. For additional data, see Annex II.

286. Access to sanitation in the Bedouin localities – Further to Government Resolution No. 546 (July, 2013), a comprehensive waste management program has been launched, including the establishment of regional and local recycling infrastructures, the rehabilitation and evacuation of waste hazards, including collector lines and sewage infrastructures; and education and explanatory activities concerning environmental protection, enforcement and regulation. 40 Million NIS (approx. 11.1 Million USD) has been allocated to this program.

Infectious disease control

287. Immunization Programs – In addition to a consistent program for primary childhood and school-age immunizations, immunizations are offered to high risk groups and during

outbreaks of infectious diseases. The immunization program is updated periodically. For details of recent updates to child and adult vaccinations, see Annex I.

288. Influenza prevention – Each year the MoH updates its guidelines on preventing seasonal influenza and leads the national preparedness drive for pandemic influenza. Guidelines are also issued for treating people exposed to avian flu.

289. Additional measures taken to control contagious diseases – The MoH continues to update the list of notifiable diseases outlined in the Public Health Ordinance 1940. These include those of international significance, diseases under vaccination supervision, zoonotic diseases, foodborne diseases and others. Beyond regular epidemiological investigations, work is also being done on select issues as needed.

290. For details of the work undertaken and programs initiated relating to foodborne diseases (including the successful curbing of a salmonellosis outbreak in 2015); hepatitis B and C; cutaneous leishmaniosis; west Nile fever and rabies prevention, see Annex I.

291. Morbidity prevention among individuals traveling abroad and returning from overseas – For details, see Annex I.

292. International cooperation – The MoH receives reports from around the world related to health threats to the State of Israel and is tasked with reporting to bodies around the world of occurrences in its territory, in line with the obligations of Israel as a member of the World Health Organization.

Substance abuse

293. Tobacco – For examples of measures that have been taken since the submission of our previous report, including smoking prevention in the Arab population and tobacco control in the vicinity of schools, see Annex I.

Alcohol

294. Prevention of Alcohol Abuse – In 2009, the Government authorised a two-stage plan for the reduction of the exaggerated consumption of alcohol (Resolution No, 907). This included legislative steps, public awareness campaigns, youth education and the establishment of an inter-ministerial committee to formulate further steps. For more details, see Annex I.

295. Legislation – Further to this Resolution, several laws were adopted, including new restrictions on the advertising and marketing of alcoholic beverages. For details, see Annex I.

296. Training – For details, see Annex I.

297. Educational programs for youth – Programs for preventing the use of drugs, alcohol, tobacco and dangerous substances are incorporated into the school program. At high school level, the program includes lectures for parents, pupils and educators. For details of these programs, the work undertaken with pupils who are involved in drug abuse, and a MoE Youth Leadership program in this field, see Annex I.

Treatment and rehabilitation of drug users

298. The MoH operates several different types of rehabilitation centers for adults and youth. For details of recent improvements and of persons treated, see Annex I.

299. Services provided by MoLSAaSS – The Addiction Treatment Service in MoLSAaSS, is responsible for social services offered to persons suffering from alcohol, drug or gambling addictions and their families. The Service sets national policy, initiates and adapts rehabilitation and treatment programs, budgets and supervises treatment frameworks.

300. Services, both ambulatory and residential, are provided by local authorities and voluntary organizations. These services are provided by 936 social workers, counsellors and other professionals.

301. For details regarding treatment services, number of persons treated and budget allocated, see Annex I.

Prevention of HIV/AIDS

302. Preventative Measures – For details of measures taken with regard to each risk group, see Annex I.

303. Prevention and treatment of HIV/AIDS amongst persons of Ethiopian descent – A unique program provides HIV carriers from within this community with support and assistance from specially trained coordinators and social workers. For details, see Annex I.

304. Education in schools – In addition to programs relating to sexual education outlined under Article 13, schools are required to discuss HIV/AIDS with pupils. Around the World AIDS Day, the MoE's Psychology and Counselling Service uploads updated material to its website, including recommended workshops. Community organizations, such as the Israel AIDS Task Force, deliver training in schools.

Support to persons with HIV/AIDS

305. Support for carriers and their families is provided first and foremost by the social and psychological teams at eight (8) AIDS centers throughout the country. Dedicated staff is available after hours to provide support and answer questions. They also conduct home visits and accompany patients, where needed, to other services. AIDS centers have space for family discourse and support.

Dealing with stigma and discrimination

306. MoH guidelines issued in 2011 strictly forbid discrimination against HIV positive patients in all health facilities. Guidelines issued in 2017 underscore this in relation to dentistry. Cases of discrimination are brought to the attention of the MoH.

307. MoE Director-General guidelines underscore that pupils with HIV/AIDS are entitled to the same rights as all other pupils. Schools or kindergartens may not limit the educational or social activities of these pupils, unless a doctor directs otherwise.

308. Each year the MoE publish on its website contents intended for teachers, pupils and parents, regarding dealing with stigmas and discrimination. For example, each year towards World AIDS Day, the Ministry publish materials that promoted educational discourse on the matter, which include messages of tolerance towards others including patients and carriers and the importance using contraception's and of safe sex. An additional example is the international day dedicated for the fight against homophobia in the month of May. Each year the Ministry publishes dedicated contents that allows teaches and parents to explain and educate for tolerance, gender equality and gender identity. In 2017, 9th to 12th grade pupils from all populations underwent lectures and workshops by professionals, educational counsels and by members of the LGBTI community.

Affordable access to essential drugs

309. Universal health care includes affordable access to essential drugs, including anti-retroviral medicines and medicines for chronic diseases. Therefore, for residents, the treatment of HIV/AIDS, including all drugs, is included in the services to which they are entitled free of charge.

310. Foreign residents, including those with no legal status and no medical insurance, may receive treatment through a special community program set up in 2014 by the AIDS and Tuberculosis Department in the MoH, with the involvement of AIDS clinics, NGOs, pharmaceutical companies and other commercial organisations. It is funded through a combination of Government budgets, donations of ART drugs by pharmaceutical companies and a volunteer pharmacist service.

The use of restraints in psychiatric hospitals

311. Restraining orders are issued only in accordance to the law and are used only in cases of imminent danger of physical harm to the patient or to others, as a consequence of deterioration in her/his mental health condition, and not as a means of "punishment".

312. In May 2016, the MoH Director General appointed a steering committee to examine possible plans to reduce the use of mechanical restraints in Israel. The Committee was headed by the Ombudsman of the Medical Professions at the MoH and included professionals from mental health departments, the Commissioner for Equal Rights of Persons with Disabilities and more. As of March 2017, the use of such restraints has already decreased by more than 50%. In June 2017, the Committee published its recommendations that include, *inter alia*, a recommendation to introduce methods that will replace restraining measures thus enabling immediate professional, safe and non-aggressive treatment for challenging patients' behaviours, and a three-year plan to reduce the use of such restraints in the medical system. In the practical aspect, the Committee determined that retraining patients is allowed only in very exceptional and narrow situations of real and immediate threat to the life or limb of the patient, other patients or a staff member, and only if every other alternative have failed. The Committee further recommended that restraints will be used for the shortest time period required until the immediate threat is over. It was further recommended that a restrained patient is to be examined by a physician every hour, in order to examine if he/she can be released. The Committee also recommended that a hospital will not have restraining authority for more than 24 hours, and in exceptional cases in which a Hospital Director considers it necessary, he/she must request a special permit from a designated psychiatric committee. If this committee provides such a permit for up to 24 additional hours, the relevant patient will have the right to appeal to a court of law and receive free of charge legal aid. The Committee further recommended that minors (under the age of 13) will not be restrained or put in isolation alone and for more than one (1) hour. The committee suggested that its recommendations will be anchored by legislation.

313. In April 2018, a Circular of the MoH Director General was published. The Circular states that the mechanical restraints of a patient and her/his isolation are extreme measures, which can be taken only in unusual circumstances, and only for the purpose of preventing immediate substantive physical danger to the patient or her/his surroundings. It was further instructed that it is prohibited to impose mechanical restraints or isolation on a patient in the following situations: as a measure of punishment; as an educational measure; during a psychomotoric unrest that does not endanger the patient and her/his environment; when the patient refuses to comply with instructions; as a means of discipline and more. According to the Circular, an instruction for the imposition of mechanical restraints or isolation of a patient will only be given based on the medical considerations, and solely for the purpose of preventing danger to the patient or her/his surrounding, and when such risk is of a high level of certainty. In general, isolation should be preferred over restraint, but if there is an alternative measure that can reduce the harm caused to the patient, her/his health and her/his dignity – the staff must prefer such alternative. The restraining of the patient should be for the shortest period possible, and will terminate when the circumstances for the provisions of the restraint cease to exist.

Article 13

Education on economic, social and cultural rights

314. The Department of Civil Education and Co-existence in the MoE promotes human rights education and activities to bring together different groups in Israeli society. For example, days which reinforce issues of rights and equality are marked with expansive activities (such, for example, as Human Rights Day and International Day for the Elimination of Racial Discrimination); schools run programs to promote tolerance and prevent racial discrimination; teach classes on civic and democratic values and "life skills" classes which include topics such as gender-based discrimination and LGBTI rights and prevention of domestic violence.

315. The MoE also offers hundreds of hours of professional development for teachers and others on democratic values, dignity, pluralism, tolerance and preventing discrimination. For more details, see Annex I.

Free, compulsory primary education

316. This issue has been discussed in Israel's previous reports. As outlined, education is compulsory and free for all until the age of 17 (12th grade). In 2015, the Compulsory Education Law 5709-1949 was applied such that state kindergartens now provide free education to children from age three (3).

317. Implementation of the Long School Day – The full implementation of the Long School Day and Enrichment Studies Law 5757-1997 has been postponed for an additional three (3) years, until 2019. For details, see Annex I. As of December 2016, this law is implemented in schools in 106 communities and in kindergartens in 92 communities, according to socio-economic parameters.

318. Parental payments – Parental payments may be requested for compulsory or elective services. The only compulsory service is the insurance of personal accidents. All other services are elective. Schools are instructed that pupils must not be prevented from participating in activities due to financial difficulties. For details, see Annex I. For details of the maximum amounts permitted for collection during the 2016–7 academic year, see Annex II.

319. Special education – Special education services are provided for children with special needs between the ages of 3 to 21 who are entitled to such services by law. For numbers of pupils and classrooms for pupils with disabilities, according to population, see Annex II.

320. School meals – For additional developments concerning meals served at schools, see Annex I.

321. The Early Childhood Council – In August 2017, the Knesset passed a new law which directs the establishment of an Early Childhood Council. For details, see Annex I.

Secondary education

322. Prohibition of discrimination – The Pupil's Rights Law disallows any form of discrimination in the registration of pupils to schools. In 2011 and in 2014 this law was amended to include country of origin, sexual orientation and gender identity in the list of grounds upon which discrimination is prohibited.

323. New Educational Programs – The MoE has launched four (4) programs aimed at pupils with high scholastic achievements, two (2) of which are aimed at pupils from disadvantaged backgrounds. For details, see Annex I. For statistical data concerning participation, see Annex II.

324. Programs for the promotion of education amongst minority groups – See below.

325. Data – For data concerning pupils in schools by level of education, distribution of pupils by classrooms and populations, literacy rates and the extent of formal education possessed by the adult population during the years 2006–2014, by population group, gender and age, see Annex II.

Technical and vocational education

326. High school pupils choose a theoretical or vocational-technological track. The vocational-technological track offers specialized programs in a broad range of fields, including machinery, electronics, healthcare and biotechnology. For more details, see Annex I.

327. Over the last five (5) years, the number of pupils in these various programs has grown from 100,000 to 150,000.

328. Technological Education in the Bedouin population – The MoE runs three (3) technological high-schools for Bedouin pupils in the Negev (in Hura, Rahat and Segev-Shalom). In 2015, 1,090 pupils, both male and female, attended these schools.

329. Between 2013–2015, a practical engineering course was attended by 171 Bedouin students in the Negev, both men and women. This included a full scholarship, monthly stipend, transportation fees, personal tutoring and placement assistance following graduation for Bedouin students who met the requirements.

Higher education – accessibility to the Arab population

330. In recent years, the rate of Arab students among the total students studying for their first degree has been steadily increasing. According to figures from the Council for Higher Education (CHE) in 2014–2015, the percentage of Arab students studying for a bachelor's degree stood at 14.6%, compared to 9.9% in 2006–2007. For more data on the accessibility of the Arab population to higher education, see Annex II.

331. Multi-year plan – In January 2010, the Planning and Budgeting Committee (PBC) of the CHE launched a multi-year plan for the years 2011–2016 to make higher education more accessible to minority populations, including the ultra-Orthodox population, with a budget of approx. 500 Million NIS (138.9 Million USD).

332. As part of this plan, guidance centers aimed at the Arab population have been established, preparatory colleges at which minority students study receive State funding and a wide range of courses including academic preparation, social guidance and scholarships are offered to students from the Arab population. For more details, See Annex I.

333. Plans for a state-funded academic college – The CHE has also started the process of establishing a state-funded academic college in an Arab locality in northern Israel. This institute will render higher education more accessible to the Arab population, especially to women.

334. Universities Psychometric Entry Test – The Psychometric Entrance Test (PET) is a standardized national exam in Israel, generally taken as a higher education admissions exam. It may be taken in Hebrew, Arabic, Russian, French, Spanish, or Hebrew/English. The PET is evaluated for cultural fairness, with sensitivity to gender, religion and population. The Arabic version of the test is drafted by native Arabic speakers who ensure that there are no unequal reference points in the different versions. The MoSTaS allocates scholarships to Arab students for the preparatory course.

335. Arabic language education – In 2014 the CHE appointed a committee to evaluate study programs in Arabic. This committee, composed in part of international experts, examined Arabic language education at four (4) Israeli universities. In its report, the committee expressed satisfaction with the level of Arabic teaching and commended the Hebrew University in this matter.

Integration of persons of Ethiopian descent in higher education

336. In June 2016, following the recommendations of a working group that examined the obstacles faced by persons of Ethiopian descent, the CHE decided to implement a number of measures aimed at increasing the participation of Ethiopian students in higher education. 100 Million NIS (28.6 Million USD) have been allocated to fund additional classes, personal tutors, employment preparation courses, stipends and scholarships.

337. In 2017, the CHE established a Steering Committee that includes representatives of the Academia, public representatives and students, the majority of which are of Ethiopian descent. The Steering Committee examined this issue including barriers, and required changes, and in 2017 presented it preliminary recommendations to the PCB. The Steering Committee recommended inter alia, on the following:

- The expansion of the "achievements" program that operates in 32 cities and municipalities, in which young persons of Ethiopian descent who are most suitable for higher education are located and receive assistance in accessing higher education institutions. In addition, in order to assist persons of Ethiopian descent to better prepare for the psychometric exam (higher education entry exam), vouchers are allocated for preparation courses and a budget was allocated for pre-academic colleges for the provision of academic or financial assistance for students of Ethiopian descent;

- The Steering Committee noticed that while the rate of the Ethiopian population in Israel is about 1.7% the rate of students of Ethiopian descent is only 1.1%. Therefore, the PCB set a target of reaching at least a rate of 1.7% of students of Ethiopian descent at the end of the current five-year plan;
- The Council also set a goal of decreasing the dropout rate of first degree rate students of Ethiopian descent, which is 20% higher than that of the general population, by allocating personal academic tutoring classes and financial assistance if needed, financing residence is students dormitories is required, psychologic assistance (personal or group sessions), including by diagnosing learning disabilities. The total annual budget per student for this issue is between 4,000 and 5,500 NIS (1,100–1,530 USD);
- Excellence program for students of Ethiopian descent – In the frame of this program students of Ethiopian descent will receive enrichment and empowerment classes and academic and financial assistance if needed;
- The CHE sees great importance in transferring students of Ethiopian descent from programs that were intended specifically for them, to general programs;
- In addition, the Steering Committee also formed a plan to absorb academic staff members of Ethiopian descent in higher education institutions. According to this plan, as of 2018–9 academic year the PBC will allocate two (2) three-year scholarships for this purpose, and in the following years this number shall increase to four (4) such scholarships. The total budget for this plan is 9.5 Million NIS (2.64 Million USD);
- The MoSTaS is operating since 2017, a program intended to for encourage students of Ethiopian descent to study second, third and post doctorate degrees, with scholarship of 50,00, 80,000 and 100,000 NIS respectively (13,900, 22,200 and 27,800 USD respectively). The Ministry of Aliya and Immigrant absorption also provides scholarships for third degree students in the sum of 72,000 NIS (20,000 USD);
- In addition to the steps described above, there are additional measures which are taken by the relevant higher education institution, i.e. personal assistance, cognitive counselling, instrumental enrichment course, test preparation workshops etc.

Integration of ultra-orthodox students in higher education

338. The PBC invests significant efforts and resources in order to allow the ultra-Orthodox population to integrate into the higher education system and subsequently into the labour market.

339. In 2012, the PCB and the CHE established a five-year program aimed at integrating the ultra-Orthodox population into academic frameworks which are adapted for them. As part of the plan, ultra-Orthodox frameworks were established near universities and colleges, under their responsibility.

340. A 2016 evaluation of the program reveals that the program exceeded most of its goals. Several petitions were filed to the HCJ against these programs, claiming, inter alia, that these program permit gender separation. These petitions are still pending before the Court.

341. The PBC also established a program for scholarships and loans for ultra-Orthodox students. During 2016 2,500 ultra-Orthodox students participated in this program, 50% of whom were women.

Integration of women in higher education

342. In 2013, the Committee for the Promotion and Representation of Women in Higher Education was established in order to examine the main issues and obstacles to the representation of women in Academia. In July 2015 it published its recommendations focusing on three (3) prominent issues – encouraging women towards academic research,

recruiting women into the academic staff and promoting women in the senior academic staff.

343. In July 2015, the PBC and the CHE approved several resolutions on the basis of these recommendations. For details, see Annex I.

Access of students with disabilities to higher education

344. For a number of recent legislative amendments improving accessibility of higher education to PWD, see Annex I.

Adult and continuing education

345. For details, see Annex I. For further education programs offered to Arab and Bedouin women, see Article 6.

National expenditure on education

346. The MoE allocates funding in accordance with clear and transparent criteria which ensure equality, whilst providing additional budgets where needed for educational and socio-economic reasons. In recent years, the MoE has allocated a major part of its additional resources deferentially, giving preference to peripheral areas, weaker populations, and accordingly to the Arab population. Thus for example, in the MoE's budget for 2018, 69.3 Million NIS (19.25 Million USD) were allocated by the MoE for additional education services for the Bedouin population in the Negev. Also in 2018, 239.3 Million NIS (66.47 Million USD) were allocated for the establishment of new classrooms in Arab and Bedouin localities (together with additional budget of 178.1 Million NIS (49.47 Million USD) as an authorization for budget obligation), and additional 27 Million NIS (7.5 Million USD) were allocated for the establishment of new classrooms in Druze localities (together with additional budget of 13.5 Million NIS (3.75 Million USD) as an authorization for budget obligation). For data on national expenditure, see Annex II.

Investment in schools for Arab, Druze, Bedouin and Circassian populations

347. Data – For disaggregated information on pupils by level of education, see Annex I. For data relating to numbers of classrooms, see Annex II.

348. National plans – A number of Government resolutions have sought to define five-year plans which direct substantial investment into education and the building and refurbishment of schools for the Arab, Bedouin, Druze and Circassian populations. For details, see Annex I.

349. Financial assistance – The MoE oversees a scholarship assistance plan to assist pupils from weak families from all populations, including the Arab, Bedouin, Druze and Circassian populations. These assist in funding general parental payments, learning aids and assistance in payments for field trips and socio-educational activities. In 2015, an estimated 44% of the budget was allocated to pupils of Arab, Bedouin, Druze and Circassian populations.

350. Construction of new Schools – In its concluding observations, the Committee recommended that measures be taken to address the shortage of classrooms in schools for Arab Israeli children. In this regard, there has been a steady increase in the number of schools. From 2010 to 2015, the number of schools in the Arab system rose by 15.1% (from 878 to 1,011). By way of comparison, the number of schools in the Hebrew system rose by 9.3% (from 3,480 to 3,807).

351. Schools in the eastern neighbourhoods of Jerusalem – New schools have been constructed in the eastern neighbourhoods of Jerusalem. These schools contain approx. 800 classrooms. An additional 1,000 classes are in planning and construction stages. New sport halls were also established in Beit Safafa, Al-Issawiya, and other neighbourhoods.

352. Every year, the Jerusalem Municipality opens on average more than 100 new classrooms. Temporary solutions are provided where needed, including adding transportation to existing schools, renting buildings and "evening schools". In the years

2011–2015, 20 Million NIS (5.6 Million USD) were allocated for the renting of 255 classrooms.

353. For initiatives to improve the quality of education in the eastern neighbourhoods of Jerusalem, including the distribution of computers, lengthening the school day, science programs and scholarships, see Annex I.

354. New Schools for the Bedouin Population – In the last five (5) years, over 30 new schools were established for the Bedouin population, in addition to new kindergartens. Most of the schools are equipped with science laboratories, computer classrooms and other advanced educational tools.

355. Schools serving the Bedouin population which have adopted specially developed educational programs receive budgetary priority and pedagogical support, as part of the Marom program for elementary schools and middle schools. Over the last three (3) years and during the next two (2) years, these schools will receive additional school hours as part of the differential budget.

356. Special Education Frameworks Serving the Bedouin Population – A three-part rehabilitation complex for Bedouin children with special needs in Tel-Sheva is under construction in accordance with Government Resolution No. 3148 of 2011. One part is fully operational and provides education services to 270 Bedouin children. It comprises of eight (8) kindergarten classrooms, a school with ten (10) classrooms for children with mobility and/or moderate mental disabilities, and an elementary school with ten (10) classrooms for children with mental disabilities. The second part of the complex will include a rehabilitative day-care center, health and rehabilitation center, a center for art therapy treatment, and a research unit under the auspices of the Ben-Gurion University. The third part of the complex will include two (2) post-elementary schools and a sports center. One of these schools was approved for construction. In total, 550 children will attend this three-part complex upon its completion.

Language of instruction

357. For details, see Annex I.

358. Arabic language – The MoE has implemented educational programs to enhance knowledge of the Arabic language in kindergartens and in elementary schools for the Arab population. In addition, in 2015, the MoE allocated 2,156 weekly hours in order to encourage the learning of the Arabic language, including lessons on the Arab world, Arab culture, and Islam.

Mixed schools

359. For information on mixed schools in which pupils of different populations study together, see Annex I.

Investment in the education of pupils of Ethiopian descent

360. General overview – Following two (2) important Government Resolutions, a series of round tables and a public consultation exercise, below are a number of important steps that have been taken. For details of these Resolutions, and the budgets allocated, see Annex I.

361. Educational programs – The MoE undertook an examination of all existing programs, including those run by NGOs, in light of the basic tenants. A committee was also formed to examine and authorize special programs or frameworks for pupils of Ethiopian descent, both in formal and informal education. An educational unit on Ethiopian heritage was incorporated into the general curriculum.

362. Increasing parental involvement – This has included the creation of parent groups for every age-group in about 25 schools with a high percentage of pupils of Ethiopian descent.

363. Academic support – As of November 2017, a program to provide academic support in core studies, including the provision of food during the extra classes, has aided almost

7,000 pupils of Ethiopian descent in 35 areas. A similar program provides support in l62 additional schools. Additional projects at pre-school and elementary school level have focused on Hebrew language skills.

364. Matriculation – 49.24% of pupils of Ethiopian descent are eligible for a full matriculation certificate, compared to 64.2% of the general population. The MoE has created programs to enhance rates of matriculation amongst pupils of Ethiopian descent. As of November 2017, 220 pupils participated in 45 programs, run in 28 schools with a high percentage of pupils of Ethiopian descent. “Virtual coaching” is also offered in order to improve academic achievement.

365. Social support –teachers and social workers have been trained in cultural sensitivity and dialogue; seven (7) psychologists, who have also received training in cultural sensitivity, have been placed and trained in local authorities with a high percentage of pupils of Ethiopian descent in special education.

366. The Research Institute for Innovation in Education at the Hebrew University runs a project that trains high school girls of Ethiopian descent to aid other children of Ethiopian origin in the development of cognitive, social and linguistic skills, to better prepare these children for school.

367. Financial aid – The MoE has developed a program of coupons which enable each child of Ethiopian descent to participate in an after-school activity in her/his neighbourhood. As of November 2017, approx. 60% of these coupons had been utilized, with an expectation that over 80% will be used.

368. The MoE also allocates financial assistance to children of Ethiopian descent to the sum of 400 or 800 NIS a month (105 or 210 USD), based on their date of immigration. In 2015, a total of 10,322 pupils received this assistance.

The education of girls

369. Admission criteria – The Compulsory Education Law makes no distinction between boys and girls. Schools are generally not permitted to have admission criteria and their intake is determined by catchment area alone. This is true of both mixed and single-sex schools. For more details, see Annex I.

370. The value of educating girls – This is generally appreciated in Israel by all segments of society.

371. Sciences, technology, engineering and mathematics (STEM) – For information on the efforts made to augment the education of girls in the STEM subjects, see Annex I.

372. Prevention of Early Marriage – For details of efforts made by the MoE to prevent early marriages, which have a direct effect on the education of girls, see Annex I.

Drop-out rates

373. The Pedagogical Administration at the MoE has defined reducing dropout rates as a central objective of their work plan for the coming years.

374. Statistics – Action taken in recent years has significantly reduced, in almost every grade, the dropout rate among all the populations in Israel. The total dropout rate has decreased by 42.8% between 2010 and 2013.

375. For information on the dropout rate in Jewish and Arab populations, see Annex I. For information on the eligibility for matriculation certificates, see Annex I.

376. Attendance Officers – Attendance officers regularly visit schools in order to maintain school attendance, in accordance with the Compulsory Education Law (Section 4). For data regarding their work with different populations, see Annex I.

377. Guidelines and Procedures – For updates, see Annex I.

378. Encouraging achievement – The MoE runs programs to improve the achievements of pupils who are at risk of dropping out. For examples of programs, see Annex I.

Article 15

Access to cultural activities for all segments of the population

379. Broadcasting of sports events – MoCS regulations provide that sports events of national importance be aired on public channels.

Participation of older persons and persons with disabilities in cultural life

380. Senior Citizens (Reductions to Cultural Performances and Museums) Regulations 5758-1998 requires cultural institutions to offer senior citizens tickets at a reduced price.

381. The MoSE is operating an initiative titled "Tuesday in suspenders" by which senior citizens are entitled to tickets to cultural events at reduced prices (such as movie and theatre tickets etc.).

382. In the frame of the national sport week held by the Ministry of Culture and Sport (MoCS), on May 3, 2018, the 11th local children's' Olympic Games were opened. These games host competitions in 28 sports fields and are participated by 6,200 children between the ages 11–16 from all populations. The list of participants also includes children with disabilities and foreign representatives (this year from Greece, Slovenia and Lithuania).

383. Accessibility of sports and cultural facilities – Legislative amendments – For details of a number of important legislative amendments, see Annex I.

384. Funding – The MoCS assists in making cultural institutes and sports activities accessible to PWD. For details relating to funding approved in 2014, see Annex I.

385. The MoAaRD has funded an agreement with the Israel Organization for the Disabled for the operation of ten (10) sports groups for persons with disability in the Bedouin population at a cost of 500,000 NIS (approx. 142,857 USD).

386. Access to published works for persons who are blind – In March 2016, Israel ratified the WIPO's Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which establishes an exception to intellectual property laws to enable the creation of a copy of a published work, in a format suitable for use and enjoyment by persons who are visually impaired without requiring the consent of the right-holder.

Enhancement of access to the cultural heritage of mankind, including through new information technologies

387. On November 2017, in a joint project of the Prime Minister's office and the MoCS, the National Museum Internet Portal[1] was initiated. This Portal currently includes and provides access to over 63,000 items, which are located in Israeli museums that receives State financial support. This portal received international recognition by its parallel European portal – European Collections, out of the understanding that items held in Israeli museums hold profound value to the history of mankind and human history.

388. In recent years another three (3) heritage sites located in Israel were recognized by UNESCO as World Heritage Sites: Beit Guvrin National Park, Nahal Mearot Nature reserve and Beit Shearim National Park. All of these sites as well as 22 additional recognized World Heritage Sites located in Israel, and many other sites, are open and accessible to the public.

Encourage participation in cultural life by children, including from poorer families, and migrant or refugee children

389. In recent years during the holidays of Sukkot, Passover and Hanukah the MoCS has held many festivals across Israel, with an emphasis on peripheral areas that included many free activities for children and participants of all populations. For example, during Sukkot

[1] http://www.museumsinisrael.gov.il/he/Pages/default.aspx.

2016, about 50 festivals were held nationwide by various local authorities and with the support of the MoCS, which included many free activities performances and shows.

390. In this regard please also see above information on the local children Olympic Games.

391. Prevention of Violence, Hostility and Racism in Sports Events – See Annex I.

392. National expenditure on culture, entertainment and sport – See Annex II.

Promotion of cultural diversity

393. Arab Heritage and Culture – In March 2016, the Minister of Culture and Sport presented the Ministry's five-year plan for the promotion of the Arab population, including an additional budget for cultural initiatives and events. The 2016 budget for cultural activities was doubled to 20 Million NIS (5.6 Million USD).

394. Andalusian Orchestra – In September 2017, the MoCS issued a new regulation, according to which the status of an Israeli Andalusian Orchestra that shall be chosen (an Orchestra playing classic Middle Eastern and Northern-African music) will be upgraded and shall be recognized as a national orchestra alongside the Philharmonic Orchestra. According to this regulation, the orchestra that shall be chosen by the music department and the council for culture and art in the MoCS will be entitled to an increased budget of five Million NIS (1.39 Million USD).

395. The Status of the Arabic Language – On May 24, 2016, the Knesset marked its first-ever Arabic Language Day. For details, see Annex I.

396. Arabic language cable channel – In September 2011, the regulatory body granted a licence for an Arabic language cable channel "Hala TV", which started broadcasting in March 2012. Note that this channel is available both through cable and satellite platforms.

School and professional education in culture and the arts

397. The Committee for the Empowerment of the Heritage of Sephardi and Mizrahi Jews – This Committee was appointed in February 2016 in order to examine ways to enrich the national curriculum (especially in history and literature) regarding Mizrachi and Sfaradic Jewish culture. The recommendations, submitted in June 2016, included the recommendation to make the study of Mizrahi and Sfaradic history and culture compulsory in the Hebrew education system; creating an educational television series on the history of Mizrahi and Sfaradic culture; increasing research within humanity faculties; and establishing a Mizrahi and Sfaradic heritage museum.

398. The MoE – In order to encourage and present cinema productions made by persons of Ethiopian descent, the MoE decided to publish a tender for the operation of friendly environment cinema incubators, which will assist creators of Ethiopian descent, present their works and creations and allow them to provide contents to TV and Internet networks.

399. The MoCS – The Ministry published a tender for the establishment of financial assistance fund for independent creators. In the frame of this fund a sum of 500,000 NIS (139,000 USD) will be allocated to creators of Ethiopian descent. Note that the Ministry supports festivals and cultural events celebrating the heritage of the Ethiopian Jewry; the Ministry's work plan regarding the establishment of a society for the commemoration of the Ethiopian Jewry is in advance stages and several project in this frame are already being implemented (religious poetry festival, festival to commemorate the Sigd holiday etc.). In addition, the Ministry provides scholarships to pupils of peripheral areas, including those of Ethiopian descent.

400. Essay and research competition – The Unit for Israeli Communities' Heritage in the MoE holds an annual essay and research competition on issues relating to the heritage of all of Israel's communities.

Affordable access to the benefits of scientific progress

401. The MoSTaS is dedicated to promoting science and technology in the general public and one of its main goals is to encourage pupils to study these fields. Each year it holds a series of extra-curricular activities aimed at making science more accessible to youth, with special emphasis placed on the inclusion of minority groups. These programs include the promotion of digital literacy in outlying areas; informal education in the exact sciences, particularly in areas ranked in low socio-economic brackets; improving accessibility to the ultra-Orthodox population and space-related activities for the general public, including pupils from Arabic schools.

402. For details, see Annex I. For a summary of science related activities, including budgets, see Annex II.

Measures to prevent the misuse of scientific and technical progress

403. National Council for Civil Research and Development – as detailed in our third periodic report, the role of the National Council is to make recommendations on national policy in the fields of civil research and development, including the development of infrastructure for research and projects in science and technology.

404. The National Council for Medical Bioethics – This council was established in 2004 to make recommendations to all branches of Government on ethical issues and social and legal ramifications of research developments in biology, bio-technology, medicine and genetics.

405. The High Committee for Human Subject Experiments (Helsinki Committee) – This multi-disciplinary committee examines research proposals in the fields of human genetics, reproductive technologies and other fields, as requested. It also examines policy in these fields. It serves as an advisory committee to the Minister of Health and to the Science and Technology Committees of the Knesset on developments in medicine, science, biotechnology, bioethics and more.

Effective protection of the moral and material interests of creators

406. According to the Copy Rights Law 5768-2007, regulates the protection of the moral right of the creator, by which the creator is entitled and may also collect a fee for the use made in her/his right. The moral right consists of two (2) rights: the right to attribution (credit) and the right to perfection of the creation so that no alteration or misrepresentation that harms the name or dignity of the creator is made.

407. The Rights of Performers and Broadcasters Law 5744-1984, regulate the protection of the right of the performer, which includes, inter alia, the right to receive proper royalties for the presentation or playing of his/her performance, as well as the moral performance right.

Freedom of scientific research and creative activity

408. No change has occurred in this area since the submission of the third periodic report.

International contacts and cooperation in the scientific and cultural fields

409. The Foreign Scientific Relations Department in the MoSTaS initiates and carries out a wide range of international collaborations. These include membership in international organizations working in the field of gender equality (such as the Helsinki Group advising the European Commission on the advancement of women and gender); membership in international and multinational science and technology organisations (for example, CERN, Horizon 2020, European Molecular Biology Laboratory, the European Cooperation in Science and Technology and many more); state-level scientific collaboration agreements; bi-national funding of joint research programs (for example, in 2016 Israel took part in 59 new bi-national studies in neuroscience, Nano technologies, remote learning, communication, material engineering and many more areas, in addition to ongoing studies initiated in previous years); and hosting and assisting international scientific meetings and conferences.

410. In addition, the Israel Space Agency promotes collaborations with its international counterparts.

411. The MoFA works to enhance cultural relations with different countries, in conjunction with the artistic, literary and scientific community, professional organisations and other Government Ministries. For example, projects in 2016 included music, literary and film festivals around the world.

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Committee on Economic, Social and Cultural Rights

Concluding observations on the fourth periodic report of Israel*

1. The Committee considered the fourth periodic report of Israel (E/C.12/ISR/4) at its 36th and 37th meetings (see E/C.12/2019/SR.36 and 37), held on 2 and 3 October 2019, and adopted the present concluding observations at its 60th meeting, held on 18 October 2019.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report by the State party, despite the delay in submission, and the supplementary information provided in the replies to the list of issues (E/C.12/ISR/Q/4/Add.1). The Committee appreciates the constructive dialogue held with the State party's interministerial delegation.

3. While welcoming the establishment of a joint interministerial team tasked with reviewing and implementing the concluding observations of the human rights treaty bodies, the Committee regrets the lack of consultation with stakeholders, including civil society, during the process of preparing the fourth periodic report.

B. Positive aspects

4. The Committee welcomes the State party's ratification in 2012 of the Convention on the Rights of Persons with Disabilities.

5. It also welcomes the adoption of Amendment No. 200 to the National Insurance Law, which provides a gradual increase in the general disability allowance by 2021, and the progress made by the State party in those areas relating to the rights enshrined in the International Covenant on Economic, Social and Cultural Rights indicated below.

C. Principal subjects of concern and recommendations

Applicability of the Covenant

6. The Committee is concerned that, despite its previous recommendations (E/C.12/ISR/CO/3, para. 6), the State party has still not taken any measure to incorporate the Covenant in the domestic legal order and that the provisions of the Covenant cannot be invoked before, or directly applied by, the courts, other tribunals or administrative authorities.

* Adopted by the Committee at its sixty-sixth session (30 September–18 October 2019).

7. **The Committee reiterates its previous recommendations that the State party incorporate the rights of the Covenant in its domestic legal order. It also recommends that the State party enhance judicial training on the nature and scope of the State party's obligation under the Covenant and on the justiciability of the Covenant. The Committee draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.**

Application of the Covenant to the occupied territories

8. The Committee reiterates its deep concern about the State party's position that the Covenant is not applicable beyond its sovereign territory and that, given the circumstances in the occupied territories, the law of armed conflict and humanitarian law exclusively are considered to be applicable. The Committee also reiterates its regret that the State party refuses to report on the situation in the occupied territories.

9. **The Committee reminds the State party that the applicability of its human rights obligations in the Occupied Palestinian Territory, as well as the concurrent application of international human rights law and international humanitarian law in a situation of armed conflict or occupation, have been affirmed by the International Court of Justice in its advisory opinion rendered on 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. This is also the view consistently adopted by various human rights treaty bodies, including the Committee, and expressed in the relevant resolutions of the General Assembly and in the reports of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, the Secretary-General and the United Nations High Commissioner for Human Rights. The Committee urges the State party to comply with its obligations under the Covenant in line with the advisory opinion of the International Court of Justice. It also reiterates its previous recommendation that the State party include, in its fifth periodic report, information on the situation regarding the Covenant rights enjoyed by people in the Occupied Palestinian Territory.**

State party's policies relating to the Occupied Palestinian Territory

10. While noting the serious security situation affecting the State party, the Committee remains deeply concerned about the severe impact of the policies adopted by the State party relating to the Occupied Palestinian Territory, namely the closure policy and the related permit regime regarding the Gaza Strip and the occupation and settlement policy in the West Bank, including East Jerusalem, on the enjoyment of Covenant rights by people living there, including the rights to work, food, water and sanitation, health and education, and to their cultural rights. It is also concerned about the expansion of Jewish settlements in the West Bank, including East Jerusalem, and the occupied Syrian Golan, including through delegated powers granted to organizations such as the World Zionist Organization and the Jewish National Fund.

11. **The Committee reminds the State party that it has positive and negative obligations with regard to the Occupied Palestinian Territory, depending on its level of control and the transfer of authority, that it should not raise any obstacle to the exercise of such rights in those fields where competence has been transferred to the Palestinian authorities and that any measures taken by the State party should ensure that the legislative and policy measures relating to the occupied territories taken by the State party as the occupying Power do not result in any permanent alteration in the political or legal status of the territories or have irreparable consequences for the people living there. The Committee urges the State party:**

(a) **To immediately lift the blockade on and the closures affecting the Gaza Strip and provide unrestricted access for the provision of urgent humanitarian assistance;**

(b) **To reduce the restrictions on items on the dual-use list to minimum levels, as strictly required by security imperatives;**

(c) **To take immediate steps to facilitate the free movement of Palestinians within the Occupied Palestinian Territory, including East Jerusalem and the Gaza Strip, and ensure that any measures restricting the free movement of civilians and goods from, into and within the Gaza Strip are in line with its obligations under the Covenant;**

(d) **To immediately halt and reverse all settlement policies and developments in the West Bank, including East Jerusalem, and the occupied Syrian Golan, and rescind the delegated powers granted to organizations facilitating settlement such as the World Zionist Organization and the Jewish National Fund, and discontinue supporting these organizations.**

National human rights institutions

12. While noting that several national human rights institutions exist in the State party, including the Office of the State Comptroller and Ombudsman, the Committee remains concerned that they do not meet the criteria set out in the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and that there is no lead agency to coordinate their activities.

13. **The Committee recommends that the State party take concrete steps to establish an independent national human rights institution in line with the Paris Principles, including by strengthening the independence of existing institutions.**

Free disposal of natural wealth and resources

14. The Committee is concerned about reports that the State party has given licences to Israeli and multinational companies for oil and gas extraction and renewable energy projects in the occupied Syrian Golan and the Occupied Palestinian Territory without consulting the affected communities while prohibiting Syrians and Palestinians from accessing, controlling and developing their natural resources. It also regrets the lack of information on the measures put in place by the State party to ensure that the companies do not infringe human rights while operating in the occupied territories (art. 1 (2)).

15. **The Committee recommends that the State party immediately cease to issue licences for the exploitation of natural resources in the occupied territories and that it regulate the operations and activities of Israeli and multinational companies operating in the occupied territories in order to ensure their compliance with human rights standards. The Committee draws the attention of the State party to its general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities.**

Basic Law: Israel – the Nation State of the Jewish People

16. The Committee is deeply concerned about the possible discriminatory effect of the Basic Law: Israel – the Nation State of the Jewish People on non-Jewish people in the State party with respect to their enjoyment of Covenant rights. It is also concerned that this Basic Law, by viewing the development of Jewish settlements as a national value, may further deteriorate the situation regarding economic, social and cultural rights in the occupied territories, which have already significantly been hampered by the settlement policy (arts. 1 (1), 2 (2) and 15).

17. **The Committee urges the State party to review the Basic Law with a view to bringing it into line with the Covenant or to repealing it and to step up its efforts to eliminate discrimination faced by non-Jews in their enjoyment of Covenant rights, particularly the rights of self-determination and non-discrimination and to cultural rights.**

Non-discrimination

18. The Committee notes the absence of comprehensive anti-discrimination legislation in the State party and is concerned that the existing anti-discrimination legislation is not fully in line with article 2 (1) of the Covenant, given the limited prohibited grounds of

discrimination, and that the State party has not taken any step to review existing legislation (art. 2 (2)).

19. **The Committee recommends that the State party review existing anti-discrimination legislation or adopt comprehensive anti-discrimination legislation with a view to ensuring that such legislation prohibits all direct, indirect and multiple forms of discrimination, on all grounds, including language, colour, social origin, property, sexual orientation, birth or other status, and provides for effective remedies for victims of discrimination. The Committee draws the attention of the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

Bedouin people

20. While noting the adoption in 2017 of the Socioeconomic Development Plan for Negev Bedouin 2017–2021 (Government resolution No. 2397), the Committee is concerned about:

(a) The large number of unresolved land claims;

(b) The absence of meaningful participation of and consultation with the affected Bedouin communities in the formulation of the plan;

(c) Reports that Bedouin people in unrecognized villages in the Negev Desert have been evicted from their homes and ancestral lands and forced to relocate to recognized Bedouin townships;

(d) The substandard living conditions in both the unrecognized villages and the recognized townships, which are characterized by very limited access to adequate housing, water and sanitation facilities, electricity and public transportation (arts. 1 (1) and 11).

21. **The Committee recommends that the State party:**

(a) **Step up its efforts to resolve the pending land ownership claims in a timely, transparent and effective manner;**

(b) **Consult with the affected Bedouin communities on the implementation of Government resolution No. 2397 and ensure that any policy affecting the Bedouin people is formulated and implemented following a meaningful consultation with and with the participation of the affected Bedouin communities;**

(c) **Immediately stop the eviction of Bedouin people living in unrecognized villages from their homes and ancestral lands and recognize their villages;**

(d) **Improve living conditions and infrastructure in all Bedouin residential localities in the Negev area.**

Refugees and asylum seekers

22. The Committee is concerned about the excessively large number of outstanding asylum applications and the negligible number of people granted refugee status. It is also concerned that asylum seekers, including Eritrean and Sudanese asylum seekers who fall under the State party's temporary non-return policy and who are de facto permanently living in the State party, are not legally allowed to work and have very limited access to social security benefits and health-care services. It is further concerned about the fact that the Law for the Prevention of Infiltration (1954) requires employers to deposit 20 per cent of the monthly salaries of Eritrean and Sudanese asylum seekers into a departure fund, resulting in about 50 per cent of them earning less than the minimum wage, with severe consequences to their ability to access and enjoy Covenant rights, particularly the rights to health and to education (arts. 2 (2), 6 and 9).

23. **The Committee recommends that the State party:**

(a) **Improve the refugee status determination procedure with a view to facilitating the processing of applications and enhancing the fairness and effectiveness of the procedure;**

(b) **Allow asylum seekers to enter the labour market;**

(c) **Expand the social assistance benefits granted to asylum seekers, including health insurance, paying special attention to the needs of marginalized and disadvantaged persons, including persons with disabilities, women, children and older persons;**

(d) **Repeal the Law for the Prevention of Infiltration or amend it with a view to making it consistent with the Covenant.**

Right to work

24. While appreciating the overall increase in labour market participation and employment in the State party, the Committee is concerned that certain groups continue to be limited in the enjoyment of their right to work and are concentrated in low-paying sectors. The Committee regrets the lack of comprehensive and disaggregated data on the realization of the right to work (art. 6).

25. **The Committee recommends that the State party intensify its efforts to increase the labour market participation of persons with disabilities, Bedouins, Arab women and ultra-Orthodox Jewish men, including by providing vocational education and training tailored to their experience and level of job skills and by fully implementing the quota for the employment of persons with disabilities. It also recommends that the State party provide comprehensive and disaggregated data on the realization of the right to work, including on labour force participation, employment, unemployment and underemployment, in its fifth periodic report.**

Occupational safety and health

26. The Committee is concerned about the lack of progress made in reducing occupational injuries and fatalities and the significant decrease in the number of labour inspections carried out from 2006 to 2016 (art. 7).

27. **The Committee recommends that the State party intensify its efforts to reduce occupational injuries and fatalities, including by raising the awareness of employers and workers about workplace safety and measures that could be taken to prevent injuries and fatalities and by strengthening labour inspections. It also recommends that the State party include information on accidents and diseases in the fifth periodic report.**

Right to just and favourable conditions of work

28. While noting that in Israel 58 per cent of migrant workers, most of them women, are employed as caregivers on a live-in basis, the Committee is concerned that these workers are excluded from the applicability of the Hours of Work and Rest Law of 1951 and that their working conditions are not effectively monitored by the labour authorities. While noting that the State party has concluded bilateral agreements with some of the countries of origin of migrant workers to protect their rights, the Committee is concerned that workers from countries that do not have a bilateral agreement with the State party may be at risk of exploitation and abuse (art. 7).

29. **The Committee recommends that the State party take measures:**

(a) **To ensure that live-in caregivers are adequately paid for overtime work and provided with a weekly rest period of not less than 25 hours, including by extending the application of the Hours of Work and Rest Law to include these workers;**

(b) **To enable the labour inspectorate to effectively monitor the working conditions of live-in caregivers and put in place accessible complaints mechanisms for workers in this sector;**

(c) **To ensure that the provisions relating to the protection of the rights of migrant workers in bilateral agreements are in line with the Covenant and that there is full compliance with these provisions;**

(d) **To ensure that the rights of workers from countries that do not have a bilateral agreement with the State party are protected on an equal footing with those of workers covered by bilateral agreements.**

Sexual harassment in the workplace

30. The Committee is concerned about the frequent incidence of sexual harassment in the workplace, despite the adoption of the Prevention of Sexual Harassment Law of 1998, and about the very small number of cases investigated and leading to prosecution (arts. 3 and 7).

31. **The Committee recommends that the State take measures to strengthen the enforcement of the Prevention of Sexual Harassment Law, that it conduct training to raise the awareness of law enforcement officials about gender-related issues and that it ensure that reports of sexual harassment are duly investigated and prosecuted, that perpetrators are adequately punished and that victims have access to appropriate redress, including compensation.**

Trade union rights

32. The Committee is concerned about reports that workers in the occupied Syrian Golan are less well informed or aware of their rights, including trade union rights, thereby making it less likely that they will claim their rights or seek effective remedies in cases of violation of their rights (art. 8).

33. **The Committee recommends that the State party ensure that complaints mechanisms are put in place for workers in the occupied Syrian Golan and that it take the measures necessary, including in cooperation with trade unions, to raise workers' awareness of their rights under the Covenant and the complaints mechanisms available to them.**

Right to social security

34. The Committee is concerned about the continuing disparity of five years in the retirement age of men and women in the State party, which has led to a gender gap in pensions. It is also concerned that the old-age pension is insufficient for providing recipients with a decent living given the high incidence of poverty among older persons in the State party. The Committee regrets the lack of detailed information provided by the State party relating to social security benefits (arts. 3, 9 and 11).

35. **The Committee recommends that the State party take the steps necessary to equalize the retirement ages of men and women with a view to closing the gender gap in pensions and that it increase the old-age pension to a level that provides recipients with a decent standard of living. It also requests the State party to include, in its fifth periodic report, detailed information on the coverage and level of social security benefits, on the indexation of those benefits and on the measures taken to extend the coverage of social security benefits to foreign workers with temporary stay visas and asylum seekers.**

Protection of the family

36. The Committee is concerned that, despite its previous recommendation, the "tender years" presumption in the Legal Capacity and Guardianship Law still remains (arts. 3 and 10).

37. **The Committee recommends that the State party amend the Legal Capacity and Guardianship Law with a view to abolishing the "tender years" presumption and ensuring that all decisions on child custody are made in accordance with the principle of the best interests of the child.**

Personal status laws

38. While noting that religious courts have exclusive jurisdiction on issues relating to marriage and divorce, whereas the civil family courts have parallel jurisdiction on custody

and alimony, the Committee is concerned that different laws and regulations apply to the parties in a dispute depending on their religion and denomination, which results in different rules and levels of protection in matters of personal status (arts. 3 and 10).

39. **The Committee recommends that the State party assess the current system of religious law governing marriage and divorce with a view to harmonizing it with the provisions of the Covenant, particularly the provisions on non-discrimination in the enjoyment of Covenant rights (art. 2 (2)) and on the equal enjoyment by men and women of the economic, social and cultural rights in the Covenant (art. 3).**

Family reunification

40. The Committee is concerned about the fact that the Citizenship and Entry into Israel Law (Temporary Order) prohibits Palestinians from the West Bank or the Gaza Strip and who are married to Israeli or East Jerusalem residents to exercise family reunification with their spouses and that this prevents them from enjoying their right to family life. It is also concerned that many families in the West Bank, including East Jerusalem, who have relatives in the Gaza Strip remain separated for years due to the closure policy of the State party. Furthermore, it is concerned about the risk that Palestinian women whose right to reside in East Jerusalem or in Israel is dependent on their husband's status may, in case of divorce, lose that right, which may in turn result in them staying in abusive relationships (art. 10).

41. **The Committee recommends that the State party review the Citizenship and Entry into Israel Law (Temporary Order) with a view to bringing it into line with its obligations under article 10 of the Covenant and to facilitating the exercise of family reunification for all citizens and permanent residents irrespective of their status or background.**

Poverty

42. The Committee is concerned about the high and growing incidence of poverty in the State party, particularly among older persons, Bedouin families, Arab Israeli families and ultra-Orthodox families. It is also concerned about the high level of income inequality in the State party, which is the highest of States members of the Organization of Economic Cooperation and Development (art. 11).

43. **The Committee recommends that the State party combat poverty, including by undertaking a comprehensive analysis of the underlying causes of poverty among particularly affected groups and by adopting concrete and targeted measures to address the incidence of poverty among these groups. It also recommends that the State party take effective measures to reduce income inequality among the population, including by reforming the tax system and the social security system.**

Poverty and food insecurity in the Gaza Strip

44. The Committee is concerned about reports that half the population of Gaza lives in poverty and that about two thirds of households in Gaza have been suffering from food insecurity, which is largely attributable to the State party's closure policy. Moreover, and notwithstanding the explanation provided by the delegation, the Committee remains concerned about the long-lasting and hazardous impact of the aerial herbicide sprayed by private companies hired by the Ministry of Defence in areas adjacent to the fence between Israel and Gaza. It is particularly concerned about the impact of such activities on the productivity of the crops and on the soil in nearby areas in Gaza. The Committee is also concerned about restrictions imposed on the access of Palestinians to their agricultural land, water sources, irrigation facilities and marine resources. It is further concerned about the confiscation of and damage to fishing boats, which has deprived Palestinians of their means of subsistence (arts. 6, 11 and 12).

45. **The Committee refers the State party to paragraph 11 (a) and (b) of the present concluding observations. It recommends that the State party commission a scientific assessment of the impact on Palestinians of herbicide spraying, in particular on their livelihoods, health, food security and environment, and that it respond appropriately**

to the relevant findings. In the interim, the State party should, on the basis of the precautionary principle, cease such spraying. The Committee also recommends that the State party ensure that farmers and fishermen have free access to their land, to their irrigation facilities and to their marine resources and that it refrain from confiscating and damaging boats and fishing equipment and restricting the movement of Palestinian fishermen and fishing communities.

Water and sanitation

46. The Committee is concerned that none of the unrecognized villages in the Negev are connected to the national water network and that the majority of Bedouin villages, recognized or unrecognized, are not connected to a sewage disposal infrastructure. The Committee is also concerned about the impact of the State party's occupation and settlement policy and of its destruction of Palestinian water infrastructure on Palestinians in the Occupied Palestinian Territory in accessing water, which results in them living far below the extreme water scarcity level, which in turn engenders serious health consequences (art. 11).

47. **The Committee recommends that the State party take all measures necessary:**

(a) **To ensure that all the Bedouin villages, recognized or unrecognized, are connected to the national water network and to a sewage disposal infrastructure;**

(b) **To cease the destruction of Palestinian water infrastructure and ensure that Palestinians have access to sufficient quantities of safe and clean drinking water.**

Right to housing

48. The Committee is concerned about the decline in public expenditure in the housing sector and in the number of social housing units. It regrets the lack of detailed information on the situation of homelessness and of persons living in inadequate housing (art. 11).

49. **The Committee recommends that the State party increase the budget allocated to the housing sector with a view to expanding social housing to disadvantaged and marginalized individuals and families and that it include, in its fifth periodic report, information on the situation of homelessness and of persons living in inadequate housing and on the provision of social housing, including relevant statistical data.**

Planning and zoning in the West Bank, including East Jerusalem

50. The Committee is concerned about the discriminatory effect of planning and zoning laws and policies on Palestinians and Bedouin communities in the West Bank, as illustrated by the fact that less than 1 per cent of the land in Area C and 13 per cent of the land in East Jerusalem is allocated for the construction of infrastructure for Palestinians. The Committee is also concerned that the process of applying for building permits is long, complicated and expensive and that few such applications are approved, which has led to high numbers of evictions and demolitions in the West Bank, including East Jerusalem (arts. 2 (2) and 11).

51. **The Committee recommends that the State party review planning laws and policies in the West Bank, including East Jerusalem, to ensure that they are compliant with its obligations under the Covenant and that it end zoning practices. The Committee also recommends that the State party reform the construction permit system in the West Bank, including East Jerusalem, with a view to preventing demolitions and forced evictions because of a lack of a construction permit and that it ensure that demolitions are carried out only as a last resort, when strictly necessary and as required for a legitimate State purpose, in accordance with its obligations under the Covenant. The Committee draws the attention of the State party to its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.**

Practice of demolishing homes as a form of punishment

52. The Committee is concerned about reports that the family homes of alleged perpetrators of attacks against Israeli civilians and security forces are being demolished as a

form of punishment. The Committee notes a report of the United Nations Office for the Coordination of Humanitarian Affairs indicating that a total of 53 residential structures were demolished as a form of punishment or sealed from 1 January 2015 to 31 May 2018, which resulted in the forced eviction of 323 persons (arts. 2 (2) and 11).

53. **The Committee urges the State party to immediately cease the practice of collectively demolishing houses and private property as a form of punishment and to ensure that victims of such practice are provided with full and effective reparations, including restitution of the affected properties.**

Right to health

54. The Committee is concerned that the level of funding allocated to the health-care sector, as a share of the gross domestic product, grew by only 0.4 per cent between 2000 and 2017, despite a significant growth in the population, which has led to a lack of medical personnel and critical medical equipment, long waiting times and a high incidence of hospital-acquired infections. It is also concerned about the disparities between urban and peripheral areas in terms of availability, accessibility and quality of health-care services. The Committee is also concerned about the disproportionately poor health status of the Arab and Bedouin populations in the State party, including the disproportionately higher rates of infant mortality compared with those of the general population (arts. 2 (1)–(2) and 12).

55. **The Committee recommends that the State party increase the budget allocated to the public health-care sector and intensify its efforts to ensure equal access to quality health-care services, regardless of place of residence, particularly for those living in peripheral areas. It also recommends that the State party take concrete measures to address the disproportionately poor health status of the Arab and Bedouin populations.**

Access to health-care services

56. While noting that the National Health Insurance Fund does not cover foreign workers and that employers are obliged to provide foreign workers with medical insurance under the Foreign Workers Order (Employee Health Benefits Package), the Committee is concerned about the high incidence of non-compliance by employers, which has effectively deprived many foreign workers of their right to health. The Committee is also concerned that asylum seekers, including Eritrean and Sudanese nationals who are in the State party under the temporary non-return policy, are not allowed to work in the State party, are not covered by health insurance and have no access to public health-care services, except in medical emergencies. It is also concerned that, by the decision taken by the State party in 2018, children of undocumented migrant workers and asylum seekers whose application for asylum has been refused are excluded from a health insurance programme provided through an agreement with Meuhedet. The Committee is further concerned that budgetary constraints, a shortage of medical professionals and poor infrastructure restrict the availability of and accessibility to health-care services to foreign workers, refugees and asylum seekers in State-funded clinics, particularly the Terem Clinic and the Gesher Clinic (arts. 10 and 12).

57. **The Committee recommends that the State party:**

(a) **Take the measures necessary to ensure that migrant workers and asylum seekers have equal access to preventive, curative and palliative health-care services, regardless of their legal status and documentation, including by extending the coverage of national health insurance to them;**

(b) **Ensure that all children, regardless of their legal status, have access to health-care services at all times;**

(c) **Expand the provision of health-care services, including for mental health care, by State-funded clinics to asylum seekers and enhance the accessibility of such services, including by providing additional financial resources.**

58. The Committee is concerned about the very limited availability of health-care services and the deteriorating quality of such services in the Gaza Strip due to restrictions on dual-use items, including essential medical equipment and supplies, and the escalation of hostilities, which have forced residents to seek medical treatment in the West Bank or in Israel. It is also concerned about the lengthy and complicated exit-permit system, which has impeded the ability of residents of the Gaza Strip to access medically recommended treatment that is not available in Gaza in the West Bank, including East Jerusalem, in Israel and abroad. Furthermore, it is concerned that in recent years there has been a significant increase in the number of requests for permits that have been refused or delayed, with devastating consequences, including the death of patients waiting for permits and the carrying out of critical medical procedures on children without their parents at their side (art. 10 and 12).

59. **The Committee recommends that the State party:**

(a) **Facilitate the entry of essential medical equipment and supplies and the movement of medical professionals from and to Gaza;**

(b) **Review the medical exit-permit system with a view to making it easier for residents of Gaza to access, in a timely manner, all medically recommended health-care services;**

(c) **Ensure that all children referred for medical treatment outside Gaza can be accompanied by at least one parent.**

Clinical trials on human beings

60. The Committee is concerned about the absence of framework legislation regulating clinical trials and that clinical trials have been carried out on human beings in the absence of appropriate regulatory processes (art. 12).

61. **The Committee recommends that the State party adopt framework legislation regulating clinical trials on human beings, protect the right to health of persons participating in such trials and put in place effective oversight mechanisms. It also recommends that the State party ensure that thorough investigations are carried out in cases of unregulated medical trials and that appropriate remedies are provided to participants.**

Right to education

62. While noting the measures envisaged by the State party to improve access by disadvantaged and marginalized children to education, the Committee remains concerned that the level of funding allocated to the education sector, as a share of the gross domestic product, has stagnated during the past 10 years despite the continuous growth of the population. It is also concerned about the disproportionately high dropout rates among Bedouin students and the large gaps in the educational achievements between Arab students and Jewish students. It is further concerned about the shortage of classrooms and kindergartens in Bedouin neighbourhoods and the proliferation of poor-quality and unsupervised private kindergartens that are attended mostly by children of asylum seekers. The Committee is also concerned about the large portion of students with disabilities enrolled in special classes or special schools (arts. 13–14).

63. **The Committee recommends that the State party step up its efforts:**

(a) **To increase the public funding allocated to the education sector;**

(b) **To identify why so many Bedouin students drop out of school and take effective measures to address the situation;**

(c) **To improve the quality of education provided to Arab students with a view to enhancing their academic achievement;**

(d) **To address the shortage of classrooms and kindergartens in Bedouin neighbourhoods;**

(e) **To increase the number of public kindergartens and regulate and closely monitor the quality and educational environment of private kindergartens;**

(f) **To expand inclusive education opportunities for students with disabilities to attend mainstream schools.**

Access to education

64. The Committee is concerned about the restricted access of students to education in the Occupied Palestinian Territory, in particular:

(a) The shortage of school facilities due to the frequent demolition of school buildings and the confiscation of school premises or educational materials by Israeli authorities, as well as difficulties in obtaining construction permits and securing construction materials, most of which are banned under the dual-use item regime;

(b) The precarious learning environment in which Palestinian students are being educated due to the armed or non-armed searches of Palestinian schools carried out by Israeli security forces;

(c) The frequent incidence of harassment of or threats against students and teachers by security forces or Israeli settlers at checkpoints or along roads, which particularly impedes female students from going school (arts. 10, 13 and 14).

65. **The Committee recommends that the State party:**

(a) **Rescind demolition and stop-work orders against schools;**

(b) **Place limits on Israeli security forces entering school facilities and carrying out searches to the extent strictly required, paying particular attention to the need to ensure a safe and protected learning environment for Palestinian students;**

(c) **Take effective measures to ensure the unhindered and safe access of students and teachers to schools without harassment or threats, investigate and punish acts of harassment and intimidation by Israeli settlers and security forces, and prosecute those responsible;**

(d) **Endorse the Safe Schools Declaration and take concrete measures to deter the military use of schools, including by integrating the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict into domestic military policies and operational frameworks.**

Access to higher education

66. The Committee is concerned about the blanket ban on education in the West Bank imposed since 2014 on students from the Gaza Strip, which has limited their access to higher education in particular. It is also concerned at the serious impact of the dual-use list on the ability of students in the Gaza Strip to enjoy their right to education, particularly in the fields of science and engineering, and the benefits of scientific progress and its applications due to the lack of essential education materials and equipment (arts. 13 and 15).

67. **The Committee urges the State party to lift the above-mentioned blanket ban and to allow the entry into Gaza of the materials and equipment necessary for educating students in the fields of science and engineering.**

Cultural rights

68. While noting that the State party is a pluralist country composed of people from diverse cultural backgrounds, the Committee is concerned about the lack of measures taken to promote cultural diversity. Moreover, notwithstanding the explanation given by the delegation, it is concerned about the fact that the status of Arabic has been downgraded from an official language to a language with special status through the adoption of the Basic Law: Israel – the State Nation of the Jewish People. It is also concerned by the very low level of funding allocated to the Academy of the Arabic Language, which amounted to 1,450,000 new shekels for 2019, especially given that the Arab population makes up 20 per cent of the State party's population (art. 15).

69. **The Committee recommends that the State party take the measures necessary to promote diverse cultures, including by raising awareness of the various cultures of the Arab population, the Bedouin people, migrant workers and asylum seekers. It also recommends that the State party reinstate Arabic as an official language and promote its use, including by strengthening the Academy of the Arabic Language, inter alia by allocating more financial resources to it.**

Protection of and access to historical and religious sites

70. The Committee is concerned that Palestinians living in the Gaza Strip are impeded from visiting religious sites in the West Bank, including East Jerusalem, due to the closure policy of the State party and that Palestinians living in the West Bank too are restricted from visiting religious sites in East Jerusalem. The Committee regrets the lack of detailed information on the measures taken by the State party to protect historical and religious sites of all religions in the Occupied Palestinian Territory (art. 15).

71. **The Committee recommends that the State party ensure that Palestinians living in the Occupied Palestinian Territory exercise their right to take part in cultural and religious life without restrictions other than those that are strictly proportionate to security considerations and are not discriminatory in their application in accordance with article 15 (1) (a) of the Covenant, as interpreted in the Committee's general comment No. 21 (2009) on the right of everyone to take part in cultural life.**

D. Other recommendations

72. **The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the State party's attention to its statement on the pledge to leave no one behind (E/C.12/2019/1).**

73. **The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).**

74. **The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the national and district levels, in particular among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.**

75. **In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations contained in paragraphs 11 (c) and (d) (State party's policies relating to the Occupied Palestinian Territory), 17 (Basic Law: Israel – the Nation State of the Jewish People) and 23 (refugees and asylum seekers) above.**

76. **The Committee requests the State party to submit its fifth periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 31 October 2024. In addition, it invites the State party to update its common core document, as necessary, in accordance with the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. I).**

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Committee on Economic, Social and Cultural Rights

Initial report submitted by the State of Palestine under articles 16 and 17 of the Covenant, due in 2016*

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Introduction

1. In an expression of its respect for the principles and the spirit of international human rights law, on 1 April 2014 the State of Palestine acceded to the International Covenant on Economic, Social and Cultural Rights. The present report was drafted in fulfilment of the commitments and duties incumbent upon the State of Palestine under the Covenant, particularly article 16. In addition to national measures, frameworks and standards, the report covers in particular the legislative, administrative and judicial aspects relating to the provisions of the Covenant.

2. The State of Palestine is under military occupation on the part of Israel and this report will throw some light on the colonialist policies of that occupation and the serious, systematic and widespread violations that infringe the provisions of the Covenant. In fact, the Israeli occupation authorities deliberately and systematically target Palestinians on a wide scale including through extrajudicial killings, arbitrary detention, torture, displacement, forced migration, confiscation of lands and depletion of natural resources.

3. Following the accession of the State of Palestine to a number of international conventions and treaties, on 7 May 2014 the President of the State of Palestine issued a decree for the formation of a ministerial-level standing national committee to follow up on that accession. The committee is chaired by the Ministry of Foreign Affairs and Migrants with members drawn from other ministries and competent institutions, and with the Independent Commission for Human Rights acting as observer, and its purpose is to monitor the fulfilment of obligations arising from accession to the various treaties. The ministerial-level standing committee established a subcommittee of experts who oversee the preparation of the official reports of the State of Palestine under the various treaties and, in its turn, the subcommittee established a series of working groups each of which is responsible for a specific treaty. A working group was thus set up for the International Covenant on Economic, Social and Cultural Rights, with members drawn from the official institutions involved with the implementation of the Covenant. The information contained in the present report was gathered from the institutions concerned by the Palestinian Central Bureau of Statistics. The ministerial-level standing committee also established a subcommittee to harmonize domestic legislation with the State's international obligations. This subcommittee is currently reviewing a number of pieces of extant legislation, as well as bills for laws and new legislation, to ensure that they are consistent with the international obligations of the State of Palestine. In particular it is examining a draft law on the protection of the family from violence, the Cybercrime Act, the Labour Code and a draft criminal code.

4. A draft of the present report was transmitted for consideration to representatives of civil society institutions and Palestinian human rights organizations, who then participated in the national consultations conducted by the State of Palestine concerning the report. Since Israel, the occupying power, bars civil society institutions in the Gaza Strip from accessing the West Bank, two separate meetings were held: one at the Ministry of Foreign Affairs and Migrants, on 13 December 2017, with civil society institutions in the West Bank including Jerusalem; and another by videoconference at the Independent Commission for Human Rights, on 6 February 2018, with civil society institutions in the Gaza Strip. The consultations were attended by representatives of ministries of the State of Palestine and of civil society and human rights institutions working in the Occupied Palestinian Territory. The substance of the report was discussed and civil society offered comments, facilitating the preparation of the final version.

5. In this connection, it should be noted that the State of Palestine declared its commitment to the 2030 Agenda for Sustainable Development as soon as it had been adopted by the General Assembly of the United Nations in 2015. Indeed, most of the items on that Agenda reflect obligations under the Covenant and other human rights treaties, in particular eradication of poverty, gender equality and the right to drinking water and sanitation. In addition to this, Palestine was among the States that presented their voluntary national review on the implementation of the 2030 Agenda at the 2018 high-level political forum on sustainable development.

6. The submission of the present report does not exempt Israel, the occupying power, from reporting on its own compliance with the provisions of the International Covenant on Economic, Social and Cultural Rights in the Occupied Palestinian Territory including East Jerusalem, on the basis of its obligations and responsibilities as an occupying power, in accordance with international humanitarian law and international human rights law, as well as on the basis of the advisory opinion given by the International Court of Justice in 2004 on the legal consequences of the construction of a wall in the Occupied Palestinian Territory.

Article 1

For more than 10,000 years the Palestinian people have uninterruptedly been born, grown and lived in the land of their ancestors, Palestine. During that time, they have preserved their national identity and their immovable right to self-determination along with other inalienable rights. Despite the historical injustice they have suffered, the unlawful and long-standing Israeli occupation and the denial of their right to self-determination and independence, the Palestinian people remain wedded to all their rights as recognized under international treaties and conventions as well as under resolutions concerning people's right to self-determination – and in particular the Palestinian people's right to self-determination – of the United Nations, international institutions, the Human Rights Council and the General Assembly as well as under resolutions 181 (1947) and 194 (1948) and under Security Council resolutions 242 (1967), 338 (1973) up to and including 2334 (2016).

The Palestine Liberation Organization (PLO) was established as an inclusive political framework and the sole legitimate representative of the Palestinian people, recognized at the level of the United Nations and internationally. It has guided the Palestinian people on their journey towards the realization of their inalienable rights, notably the right to self-determination, the right of return and the independence of the State of Palestine with Jerusalem as its capital, on the basis of the natural, historical and legal right of the Palestinian Arab people to their homeland, Palestine.

The Palestinian National Council (PNC) adopted the National Charter and the PLO Statutes as the two supreme constitutional documents underpinning the Palestinian people's exercise of their right to self-determination. The Charter regulates the operations of the National Council as a representative institution for the Palestinian people and the highest legislative authority, and it envisages an executive body in the form of the Executive Committee.

The State of Palestine recognizes the right to self-determination for all, as proclaimed in the Declaration of Independence, which is an expression of the national will of Palestinians as represented by the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people.

The Declaration of Independence, which is a constitutional and foundational document, emphasizes the commitment of the State of Palestine to the principles and objectives of the United Nations and to the Universal Declaration of Human Rights. It further stipulates that the "State of Palestine is the State of Palestinians wherever they may be. Therein they shall develop their national and cultural identity, enjoy full equality of rights, and have their religious and political beliefs and human dignity safeguarded under a democratic parliamentary system based on freedom of opinion; freedom to form parties; respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour, or between men and women, under a constitution that ensures the rule of law and an independent judiciary, in full consistency with the age-old spiritual and cultural heritage of Palestine embodying tolerance and religious coexistence."

The Palestinian Government promulgated the Palestinian Basic Law in 2001 (amended in 2003) to create a transitional document guaranteeing the fundamental rights and principles that enable the Palestinian people to exercise their right to self-determination and that enable the political process to achieve that end, until the adoption of an official constitution for the State of Palestine.

The Palestinian Basic Law, as amended in 2003, contains a body of articles intended to fulfil the Palestinian people's right to self-determination. These include:

Article 2, which states that the people are the source of authority;

Article 5, which stipulates that the system of governance in the State of Palestine is to be democratic;

Article 26, which affirms the right of Palestinians to participate in the political process.

The Basic Law includes a raft of provisions relating to political participation and the democratic system of governance, such as the election of the Head of State (art. 34); the election of members of the Legislative Council and the definition of its role (art. 47); and the composition of the Legislative Council (art. 48). These measures are intended to fulfil the right to self-determination and the principle according to which the people are the source of authority. The Basic Law goes on to define certain components of the Palestinian political process; for example, in article 63 which defines the Council of Ministers as the basic executive organ of government.

Laws have been passed to regulate the mechanisms and means whereby the elective political process is conducted:

- Local Council Election Act No. 10 of 2005;
- Decree-Law No. 1 of 2007, which regulates general (presidential and legislative) elections.

The domestic laws of the State of Palestine address the importance of involving women in the political process and set quotas for them.

The first legislative and presidential elections were held in 1996. In 2005, voters were again called to the urns to elect a President, and a new Legislative Council was elected in 2006. The division of Palestinians and the refusal of Israel, the occupying power, to allow the electoral process in occupied Jerusalem has prevented further legislative and presidential elections from being held.

Exercising the right to self-determination under occupation

Israel, the occupying power, constitutes the fundamental obstacle in this connection and it works to prevent the Palestinian people from exercising their rights. In this it receives support and encouragement from parties intent upon undermining the international multilateral system, a system founded on laws and rights, and upon preventing the establishment of a democratic and equitable international order in which peoples, including the Palestinian people, can fulfil their inalienable rights. Chief among those rights is the right to self-determination, independence and return for Palestine refugees on the basis of General Assembly Resolution 194, as well as the right to economic, social and cultural development.

The Government of the Israeli occupation continues to set up a colonialist system based on racist laws that deprive the Palestinian people of the right to self-determination and steal large portions of land for the construction of the wall and of illegal settlements. Furthermore, the occupying forces deliberately carry out arbitrary arrests and prosecute Palestinians in sham courts that lack minimum fair trial guarantees. The International Court of Justice, for its part, has also stated that the wall of expansion and annexation, and the system underpinning it, constitute a serious violation of the right to self-determination of the Palestinian people.

The Israeli system of expansion and colonialism over occupied Palestinian land is the principal cause hindering the Palestinian people's exercise of natural and legal sovereignty over their own territory and resources. The occupying authorities disrupt the development of the Palestinian people and make constant structural changes to prevent Palestinians from enjoying their rights and their resources.

Israel, the occupying power, has been imposing a military and economic blockade on the Gaza Strip since 2006 and has been responsible for repeated military incursions and the destruction those incursions have wreaked. Moreover, the occupying authorities prohibit the entry of basic supplies, including foodstuffs, into the Gaza Strip and their repeated acts of

aggression have not only killed and injured thousands of Palestinians but have damaged the environment and provoked a humanitarian crisis. The amount of groundwater suitable for human consumption has dropped to just 5 per cent of available groundwater supplies leading to concerns among United Nations agencies and others that the Gaza Strip will not be viable for life by 2020.

The occupying authorities continue to prevent millions of Palestine refugees from fulfilling their right and their desire to return to the homeland from which they were displaced, in accordance with General Assembly Resolution 194 (1948).

Since its illegal annexation of Jerusalem, Israel, the occupying power, has been taking steps which it describes as "legal" or "administrative" but which are in fact racist measures that aim to change the legal condition and status of the occupied city. In this connection, it carries out acts of ethnic cleansing, seizes lands and property, forcibly evicts Palestinians, destroys their homes, breaks up their families and restricts residency. The purpose of this is to empty Jerusalem of its original Palestinian inhabitants and alter the demographic makeup of the city.

The unlawful policies and practices of Israel have impeded the Palestinian people's right to an independent and geographically contiguous State of Palestine, with Jerusalem as its capital, a State where life is viable and which is able to develop economically, socially and culturally. They have likewise impeded the ability of the Palestinian Government to adopt and implement national policies in various areas of life. Nonetheless, attempts at national reconciliation have continued with a view to ending the division among Palestinians, and efforts are ongoing to put an end to the occupation and to ensure that the Palestinian people can exercise their right to self-determination and their natural and legal sovereignty over their own land.

Sustainable development and the right to self-determination

Despite the colonialist occupation policies that seek to undermine the developmental efforts of the State of Palestine, sustainable development nonetheless lies at the core of the vision of self-determination held by the leaders and government of the Palestinian people. This includes the right to dispose of natural resources as sovereign rights holders and the economic, social and cultural empowerment of citizens. This position of the State of Palestine has been expressed through its commitment to the 2030 Agenda for Sustainable Development; its adherence to the Rio Declaration and the principles enshrined therein concerning the rights to self-determination and development of peoples under foreign occupation; and its unreserved accession to human rights treaties. In fact, the Government of the State of Palestine believes that sovereignty over natural resources, enjoyment of the benefits of sustainable development and not being left behind are among the most important aspects of the exercise of the right to self-determination.

Article 2

1. The Palestinian Declaration of Independence guarantees human rights and public freedoms in the State of Palestine, stipulating that the State of Palestine is "the State of Palestinians wherever they may be. Therein they shall develop their national and cultural identity, enjoy full equality of rights, and have their religious and political beliefs and human dignity safeguarded under a democratic parliamentary system based on freedom of opinion; freedom to form parties; respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour, or between men and women, under a constitution that ensures the rule of law and an independent judiciary, in full consistency with the age-old spiritual and cultural heritage of Palestine embodying tolerance and religious coexistence." The Declaration also emphasizes the commitment of the State of Palestine to the principles and objectives of the United Nations, to the Universal Declaration of Human Rights and to the principles and policies of non-alignment.

2. The Palestinian Basic Law, as amended in 2003, in chapter II on public rights and freedoms, embraces a number of principles that also figure in the Universal Declaration of

Human Rights and in international human rights treaties. In fact, article 2 (2) of the Covenant states that economic, social and cultural rights are to be exercised by all persons without discrimination, setting a framework for full compliance with the principle of equality and the prohibition of discrimination. This is reflected in article 9 of the Basic Law, which reads: "Palestinians shall be equal before the law and the courts, without distinction on the basis of race, sex, colour, religion, political views or disability."

3. The Basic Law, moreover, includes certain provisions intended to protect particular categories, in the form of positive measures in favour of certain societal groups such as persons with disabilities, minorities and women. Palestinian laws, in fact, seek to ensure a dignified life for persons with disabilities and those who support them while article 22 (2) of the Palestinian Basic Law stipulates that the welfare of families of martyrs, detainees, the injured and persons with disabilities is a duty to be regulated by law, and the State of Palestine guarantees them education as well as health and social insurance.

4. Article 2 of Disability Rights Act No. 4 of 1999 states that persons with disabilities have the right to enjoy a free and dignified life and to have access to services of various kinds. Nor may their disability be a reason for depriving them of the exercise of any other rights. The Act also guarantees the right of persons with disabilities to create their own organizations and associations and it requires the State to provide habilitation in various forms, depending upon the nature of the disability of each individual. The persons concerned are required to meet no more than 25 per cent of the relative costs, while persons with a disability that has been occasioned by the occupation are fully exempt from all costs.

5. The State of Palestine recognizes the need to safeguard the right to work for persons with disabilities, to which end article 10 of Disability Rights Act No. 4 of 1999 requires government-run and private enterprises to ensure that 5 per cent of their workforce is made up of persons with a disability. This figure was adopted on the basis of the fact that most institutions employ fewer than 20 workers, and was subsequently reaffirmed in the Palestinian Labour Code (Act No. 7 of 2000).

6. **The situation for persons with disabilities in the State of Palestine**: A 2011 survey on persons with disabilities in Palestine pointed to a disability rate in Palestinian society of 2.7 per cent, under a narrow definition of disability, but of 7 per cent under a broad definition of disability. Disability among males stood at 2.9 per cent and among females at 2.5 per cent. The highest disability rates were in the governorate of Janin with 4.1 per cent followed by Hebron with 3.6 per cent, while the lowest was in the governorate of Jerusalem with 1.4 per cent. The survey showed that the most widespread form of disability was motorial (48.5 per cent) followed by slow learning (24.7 per cent). However, the true disability rate is higher, also for the following reasons:

(a) Concealment of disability, especially females with disabilities, as some families – out of social considerations – fail to register girls (or boys) with disabilities;

(b) The absence of an agreed and common definition of persons with disabilities in the State of Palestine;

(c) The lack of unified information in a single register, as a number of official bodies (the Ministry of Social Development, the Ministry of Health and the Ministry of Education and Higher Education) and the General Union of People with Disabilities record cases of disability as they become aware of them;

(d) The difficult economic situation, which causes families to submit inaccurate information in order to obtain support and subsidies.

7. With a view to prohibiting discrimination, the Palestinian Labour Code considers women and men on an equal footing vis-à-vis non-discrimination in working conditions. According to article 100 of the text: "Under the provisions of the present Code and of regulations issued under the Code, discrimination between men and women is prohibited." The Code does, however, envisage measures that may be considered as positive discrimination in favour of women; for example, article 101 forbids the employment of women in hazardous or onerous jobs, as identified by the Minister. It also prohibits overtime during pregnancy and in the six months following childbirth, and it places a ban on women working at night, with the exception of jobs defined by the Council of Ministers. The Civil

Service Act is another law that provides employment safeguards for women as it envisages equal wages without discrimination on the basis of sex and equal rights to aspire to senior positions for both sexes, also without discrimination.

8. For its part, the 2005 Local Council Election Act also envisages positive discrimination by assigning quotas for women and allocating minimum levels for female representation on electoral lists. Under the Act, the first three names on each list must include at least one woman, the following four names must include at least one woman and the five names after that must also include at least one woman. In addition, the Act allocates 6 (out of a total of 66) seats to Christians, as determined by presidential decree, under the mixed electoral system.

9. Persons with disabilities are not discriminated against in any way with regard to their right to health, to medical care, to basic social services, to social security, to education and vocational training or to participate in cultural activities on an equal footing with others. Article 22 of the Basic Law, as amended in 2003, states that social and health insurance as well as pensions for disability and old age are to be regulated by law; that the welfare of families of martyrs, detainees, the injured and persons with disabilities is a duty that is likewise regulated by law and that the State of Palestine is to guarantee them education as well as health and social insurance. Article 16 of the Basic Law prohibits any form of medical or scientific experiment without the prior legal consent of the party involved and it states that medical tests and treatment or surgical procedures may be conducted only under the relevant law. According to article 24 of the Basic Law: “Education, which is the right of all citizens, is compulsory up to the end of the basic level at least and is free of charge in public schools, academies and institutions.”

Article 3
Equality of rights between men and women

10. With the Palestinian Declaration of Independence, issued by the Palestinian National Council in 1988, the late Palestinian President Yasser Arafat announced the establishment of the State of Palestine with its legal foundations and principles, its legislative system and its institutions. This includes the principle of equality before the law and the courts. The Declaration stipulates: “The State of Palestine is the State of Palestinians wherever they may be. Therein they shall develop their national and cultural identity, enjoy full equality of rights, and have their religious and political beliefs and human dignity safeguarded under a democratic parliamentary system based on freedom of opinion; freedom to form parties; respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour, or between men and women, under a constitution that ensures the rule of law and an independent judiciary, in full consistency with the age-old spiritual and cultural heritage of Palestine embodying tolerance and religious coexistence.” In this way, the Declaration of Independence laid the foundations for a pluralistic, democratic and parliamentary system based on fair treatment for women and full equality between them and men under a constitution that protects human rights and social justice while ensuring rule of law and an independent judiciary.

11. The Palestinian Basic Law, as amended in 2003, includes a number of legal safeguards intended to guarantee the principles of non-discrimination and of equality between men and women in all areas, as well as other human rights and public freedoms and the exercise thereof. Article 9 of the Basic Law states: “Palestinians shall be equal before the law and the courts, without distinction on the basis of race, sex, colour, religion, political views or disability.” Having established the right of women to full equality before the law and the courts as a supreme and binding legal principle, the Basic Law then extends that right to allow women the enjoyment and exercise of all human rights and public freedoms without discrimination. In addition to this, the Basic Law also addresses the principle of rule of law which, in article 6, is described as the basis of governance in Palestine and as a fundamental legal guarantee protecting the human rights of women against all persons, groups and public, private or civil bodies. This includes the State and State agencies, which are accountable

under their own laws and are required to treat all persons equally. In the case of any violation of these provisions recourse may be made to an independent judiciary.

12. Apart from the provisions of the Palestinian Basic Law that guarantee gender equality and non-discrimination, the introduction to the Law includes the following text: "The present Basic Law has established a firm foundation that represents the collective conscience of our people with its spiritual components, its national faith and its nationalist loyalty. The chapters of the Basic Law contain a body of advanced constitutional rules and principles that regulate general and individual rights and liberties in a manner that achieves justice and equality for all, without discrimination."

13. The draft Palestinian criminal code prohibits discrimination, including gender-based discrimination, and envisages imprisonment and fines for anyone who commits acts falling under that definition. The code defines discrimination in the following terms: "Any differentiation among natural persons on the basis of national or social origin, colour, sex, family status, state of health, disability, political opinion, trade union affiliation, or actual or presumed affiliation or non-affiliation with a race, nation, lineage or specific religion."

14. Successive Palestinian governments have consistently adhered to the provisions of the Palestinian Basic Law and the Declaration of Independence in this regard, and have preserved the political, social, economic and legal gains made by Palestinian women.

15. Despite the foregoing, equality between women and men in some areas remains hostage to the social reality and the cultural heritage of certain communities in Palestinian society. And in matters relating to personal status, Palestinians are subject to rules and institutions the authority of which stems from religious laws and beliefs.

16. It should be noted that domestic laws emanating from the Palestinian Legislative Council generally incorporate the principle of gender equality and non-discrimination. The best examples of this are Civil Service Act No. 4 of 1998, which regulates public-sector employment, and the Palestinian Labour Code (Act No. 7 of 2000), which regulates workers in the private and the civil sectors. Both those laws place women and men on an equal footing vis-à-vis the right to work, job opportunities, wages and other rights relating to public-, private- or civil-sector work. Work, in fact, is considered to be a right for all citizens who are capable of performing it, and the State of Palestine applies the principle of equal opportunity in access to work and appointment to public-sector posts and functions.

17. The Palestinian Government has taken a number of administrative measures to prevent discrimination against women and to uphold their rights in various sectors. The Ministry for Women's Affairs was established in 2004 with the function of promoting gender-related issues in governmental institutions and developing national policies rooted in principles of equality and respect for women's rights. In 2007, the Palestinian President approved the revised structure of governorates under which all governorates are to have women and child bureaus to provide care and support for women and children in political, social and economic fields. Under a 2008 decree of the Council of Ministers, gender units have been reconstituted and reactivated as part of the structure of ministries and government institutions to ensure that gender-related issues are duly institutionalized and integrated across different sectors and to assess and follow up on government programmes and policies from a gender perspective. In collaboration with the General Union of Palestinian Women and other women's institutions and centres, the Ministry for Women's Affairs issued the "Charter of Palestinian Women's Rights", which was adopted by the Palestinian President on 8 March 2008. The Charter, which is based on the principle of equality between men and women in all areas and on non-discrimination, calls upon the relevant bodies to be guided by the text and to consider the Charter as the government-endorsed reference for all matters related to planning, policymaking and legislative amendments in areas that affect women and their rights.

18. The Palestinian Government has made significant progress in limiting the discrimination and prejudice that women face. It has achieved this by adopting various up-to-date mechanisms and plans to remove the barriers standing in the way of effective equality and equal participation of men and women. One of the steps taken in that regard was the 2014 accession, without any reservations, to the Convention on the Elimination of All Forms of Discrimination against Women. In order to respond to the effective needs of women, the

Ministry for Women's Affairs then adopted a number of strategic mechanisms, policies and plans including the cross-sectoral national strategic plan to promote justice and equality between the sexes 2014–2016; the national strategic plan against violence against women 2011–2019; and the national strategic plan for the integration of gender into the fields of water and solid waste. These efforts culminated in 2016 when the Palestinian Government developed a general nationwide framework for the implementation of Security Council resolution 1325 (2000) on women, peace and security. This was followed by efforts to involve women in consultations on how to implement the resolution at the national level, in cooperation with United Nations agencies.

19. In addition to this, the Palestinian National Policy Agenda 2017–2022 emphasizes the ongoing commitment of the State of Palestine to building a national system that is based on human rights and that provides more comprehensive, integrated and sustainable social protection for gender. In fact, the issue of gender equality and the empowerment of women has long occupied an important place in the hierarchy of government priorities and the Government has allocated $9 million to the process of reviewing laws and legislation to ensure that they take due account of women's rights, do not contain discriminatory provisions and are consistent with international standards and treaties. This process includes capacity-building programmes on gender; analytical studies to provide information on gender gaps; services, protection against violence and access to justice for women; and raising community awareness about violence against women. Part of the funds will also be directed to support the development of gender-responsive policies and budgets. In its Decree No. 1/05/13/M.W/S.F. of 2009 the Council of Ministers insisted that the annual budgets of government departments should be gender-sensitive and that gender units should be involved in their preparation.

20. The Palestinian Council of Ministers adopted Decree No. 366 of 2005 regarding the protection of women against violence. The Decree defines violence against women as any physically, sexually or psychologically violent act that takes place in the family or the community in violation of current law, and it assigns the responsibilities required for the implementation of the Decree to ministries and other competent bodies. The Ministry of the Interior is designated to provide qualified female staff to deal with cases of violence against women in police stations. At the same time, the Ministry of Justice, in coordination with the Public Prosecutor, is designated to issue instructions for members of the Office of the Public Prosecution on providing protection for female victims of violence and on placing them in shelters run by the Ministry of Social Development until such time as the factors motivating such placement no longer subsist. For its part, the Ministry of Health is designated to provide psychiatrists specialized in violence against women. In addition, doctors who treat women are required to write a psychiatric report to be annexed to the treatment report and sent to the Office of the Public Prosecution. Lastly, the Ministry of Social Development is designated to include female victims of violence as urgent special cases in its relief and development programmes. Responsibility or coordination between the various ministries involved in the implementation of the Decree is entrusted to the Ministry of Women's Affairs.

21. The Palestinian Government has set up a national committee against violence against women and it has adopted strategies to prevent discrimination and ensure equality for women. These include the national strategy for Palestinian women and the national strategic plan against violence against women 2011–2019.

In 2013, the Council of Ministers approved the "*Takamol*" national referral system for women who have suffered violence. The system, which includes a set of rules that together have come to constitute a national charter for the treatment of female victims of violence, sets forth the rights and obligations that underpin the professional relationship between the women and their service providers (doctors, social workers and police). For example, it prohibits service providers from exploiting female victims in any way and requires them to maintain a purely professional relationship with the women. It also forbids pursuing any kind of relationship outside the professional sphere, discontinuing services to pressure the women for unlawful ends (be they social, material or sexual) and obtaining any recompense for the performance of professional duties. Furthermore, service providers are required to show respect and appreciation to female victims of violence, including respect for their right to take whatever decision they consider appropriate for their own lives, to provide services

without discrimination and to maintain the confidentiality of all information and dealings with the women. Confidentiality may not be breached nor information published without the written consent of the woman concerned.

22. In 2011, in the face of increased "honour killings of women" by members of their families and the absence of deterrent penalties, the President issued a decree to abrogate provisions that could mitigate penalties against the authors of such offences or exonerate them altogether. However, this did not prevent perpetrators from benefiting from the mitigating grounds envisaged in general provisions of criminal law. Indeed, committing an offence in a fit of extreme anger as envisaged in article 98 of the Jordanian Criminal Code (Act No. 16 of 1960), which is applicable in the West Bank; obtaining pardon from the victim's blood relatives (her family) who waive their rights against the perpetrator; seeking clemency from the judge; or any other legally mitigating grounds such as those contained in articles 99 and 100, all constitute grounds the ultimate effect of which is to mitigate the penalty imposed against the perpetrator, be it by force of law or by virtue of the judge's discretionary authority. It was for this reason that a decree-law was issued in 2014 under which persons responsible for honour killings against women are explicitly exempted from benefiting from mitigating grounds in cases where they commit their crimes in a fit of extreme anger.

23. In 2014, Palestinian Civil Police Force adopted a unified procedural guide for its family protection units in the West Bank. The units, which were set up in 2004, specialize in cases involving women, who either approach the units directly or are referred thereto and who are provided with protection against violence. Police teams have been given training in the use of the guide. The Office of the Public Prosecution has also established a gender unit and it has formed a committee to develop unified procedures for prosecutors who investigate, prosecute and pursue cases involving violence against women and children. Twenty prosecutors have been designated to receive gender-related cases, to follow the relative court proceedings and to file appeals against any final rulings that are inconsistent with the law. For its part, the Supreme Judicial Council has also set up a gender unit to follow up on the administrative and judicial aspects of gender-related cases. Buildings housing offices of the Public Prosecution have special rooms for cases involving female victims of violence, in order to protect their confidentiality, and other rooms for determining cases of rape. Prosecutors have also been given the role of supervising family protection units by making field visits, examining registers and, if a case is closed, informing the Office of the Public Prosecution of the circumstances of that closure.

24. In order to protect female victims of violence, a national system for the review of critical cases has been established. Its purpose is to take preventive action regarding offences against women, children and marginalized persons in the State of Palestine, to identify shortcomings in public policies and services regarding protection, to seek the support of politicians and decision makers to address those shortcomings and to move towards a system capable of responding to the needs of women, children and persons at risk and of protecting them and their rights. This system works thanks to cooperation between institutional stakeholders such as the Ministry of Social Development, the Ministry of Health, the Ministry of Education and the police.

25. The Independent Commission for Human Rights (Bureau of Grievances), which was established pursuant to Presidential Decree No. 59 of 30 September 1993, has the task of monitoring the operation of the various departments, agencies and institutions of the State of Palestine and of reviewing current laws, legislation and regulations to ensure that they duly safeguard human rights. As part of its work, the Commission set up a unit to receive complaints of violations against the rights of citizens of either sex and, in 2014, it received a total of 294 complaints from women, 188 from the West Bank and 106 from the Gaza Strip; the Commission provided advice to the women concerned and represented them before the competent courts.

26. The Ministry of Justice preceded the Independent Commission by establishing a citizens' complaints department in 2004. The department receives complaints from citizens regarding human rights violations, either by individuals or by State institutions, including complaints regarding women's rights. It then follows up, also by appealing directly to the

institutions concerned, in order to rectify the situation and restore matters to their correct course.

27. As concerns judicial proceedings in Palestine, there has been general progress in the way trials relating to the protection of human rights are conducted, including those relating to rights of women. Civil society institutions also play an important role in raising awareness about women's rights and in running campaigns that focus on issues such as discrimination and gender quality. Such institutions act as a kind of regulatory instrument monitoring the activities of official institutions in Palestine and as an authority to which women can turn to defend them and to communicate with the competent authorities on their behalf.

28. Act No. 6 of 2005 envisaged the establishment of a maintenance fund to provide protection against abusive husbands who deprive women of their rights and leave them destitute. The fund undertakes to disburse the court-ordered maintenance if the spouse is absent, his whereabouts are unknown, he does not have the assets to fulfil the court ruling or for any other reason. The amounts are disabused within a maximum of 15 days from the completion of the application process, and the State has determined a financial allocation for the fund as part of its general budget.

29. Work is currently underway on new bills in which women are accorded fair treatment and which are free from discriminatory provisions. These include the draft criminal code, which criminalizes a number of behaviours and actions against women and includes offences that are not addressed in existing laws, such as trafficking in women and sexual harassment. With respect to the old Criminal Code, which is still in force in the State of Palestine, the new bill also amends definitions and increases penalties relating to offences of which women are victims.

30. Measures have also been taken to protect women working in the private and civil sectors from discriminatory acts. Under the Palestinian Labour Code, a labour inspection body was established as part of the Ministry of Labour with responsibility for monitoring the implementation of labour legislation, particularly with regard to working conditions, and for receiving and investigating reports and complaints from workers. Thus, all working women are able to report to the inspection body in regard of any violation committed by their employer, any discrimination they might suffer or any disciplinary measure imposed against them. The Labour Code prohibits the dismissal or termination of service of working women (or men) on the grounds that they have submitted a report or complaint. The labour inspection body enjoys judicial authority and has the right to inspect workplaces without prior notice and to inquire of employers and workers – together, individually or in the presence of witnesses – about the implementation of labour legislation. It also has the right to examine any documentation relating to working conditions. If an employer is found to have committed an offence, including discriminatory acts against women, the inspection body draws up a report then takes the due action and imposes the due sanctions.

In addition, the Labour Code requires employers to display the rules governing the employment of women in a visible position in the place of work. This is so that women can learn about their labour-related rights and obligations and the remedies available to them and thus improve their ability to claim their entitlements.

31. Out of its general budget, the Palestinian Government makes monthly cash allocations to the families of martyrs, the injured and detainees in order to alleviate the impact of the crimes committed under the Israeli occupation. Those crimes cause greater harm to women, especially if they result in the killing, detention or injury of a family member or a breadwinner and the loss of sources of income.

32. Decrees, circulars and regulations have been issued that have contributed, at least in part, to ensuring that Palestinian women receive fair treatment in a number of areas, particularly in matters relating to personal status. For example, the Palestinian Ministry of the Interior has issued circulars concerning the right of women to retain their own family name after marriage and – once they have reached the legal age of majority – their right to obtain a passport without the consent of their husband or father.

33. The Bureau of the Chief Qadi has also issued circulars that are relevant in this connection. These cover matters related to the separation of inheritance quotas between heirs

and the fact that they cannot be registered until four months have passed since the death of the legator; the registering of divorce documents in sharia courts; the requirement for a husband to inform his wife before marrying a second woman and to inform the second wife that he is already married; cases involving *khul'* divorce; and rights to visit and host children. In addition, each sharia court has a "family guidance and conciliation" division which works to strengthen family ties, resolve marital disputes and reconcile spouses.

34. As concerns the right to education, official and unofficial bodies such as the Ministry of Labour, the Ministry of Education and Higher Education and the Ministry of Social Development, have taken operational measures and rolled out practical tools to reduce the phenomenon of school dropout and, particularly, the phenomenon of child labour.[1]

35. The Ministry of Health has applied positive discrimination to address the needs of women and ensure they are treated fairly in the field of health care. It has integrated reproductive health services, pregnancy care and family planning into its primary health-care centres, and it has established mother and child units as part of the structure of those centres. The objective is to improve access to integrated and high-quality reproductive health services in mother and child clinics at the primary health-care level, particularly in marginalized areas and in areas where movement has been rendered difficult by the wall of annexation and expansion and by Israeli military checkpoints. Another objective is to provide quality services in hospitals, particularly in maternity and post-natal units.

36. The Ministry – in coordination with the Ministry of Education and Higher Education – runs weekly lectures on reproductive health in schools. It is also preparing a number of guides such as a unified national guide on reproductive health services, a unified national guide on safe childbirth in hospital, a referral system between primary care units, hospitals and support services, and training materials on women's health for staff.

37. In its national strategic plan for health 2014–2016, the Ministry of Health has sought to guarantee Palestinian citizens' right to access the health care they require by ensuring health services and facilities for all categories of citizen, particularly women, whatever their place of residence. It has also sought to achieve quality in the provision of health services, to increase the satisfaction of citizens and to reduce the number of referrals for treatment abroad.

With its primary care services, the Ministry of Health provides health care free of charge to mothers, pregnant women and children up to the age of 3.

38. As concerns protecting women from diseases they might contract as a consequence of violence, health-service providers – particularly those working in the primary health-care centres of the Ministry of Health (mother and child, family protection and reproductive health clinics) – provide services to female victims of violence, in accordance with codes of conduct and operation, and intervention and treatment mechanisms envisaged in the "*Takamol*" national referral system for women who have suffered violence. This covers aspects such as testing, diagnosis, treatment, empowerment and raising women's awareness about their human and health-related rights. The women are then referred to other sectors where they can obtain psychosocial, legal and support services to protect them against violence. At the same time, their cases continue to be monitored and they are given counselling and guidance, particularly pregnant women and women and girls who have suffered rape.

39. Efforts are currently being made in the various gender-related fields. At the level of the media, there is a focus on producing a media discourse that is sensitive to gender issues and that seeks to combat violence against women and girls in the State of Palestine. In the academic world, work is underway to create specializations on gender and women's issues in Palestinian universities. Moreover, efforts are currently being made to provide legal aid for Palestinian women, as envisaged in the law, and the State is assigning lawyers to pursue the cases of female detainees being held in the prisons of the Israeli occupation.

40. The "*Tawasol*" women's coalition has been set up as a quasi-governmental body for women that aims to achieve gender equality. The coalition is seeking to build a comprehensive database on women in order to provide decision makers with data that will enable them to develop strategies with a gender perspective and to facilitate the exchange of

[1] For more information on this matter, see the section relating to the right to education.

information between women's institutions. It also hopes to strengthen partnership between the Government and the institutions of civil society, to help change stereotypical views of women and of their role in all areas of society and to promote and develop support and guidance mechanisms for female victims and survivors of violence.

41. Despite this generally positive climate and the adoption of numerous legislative, administrative and judicial measures, Palestinian women remain subject to a body of conflicting and discriminatory legislation which has been drawn from various sources. These include Ottoman, British, Jordanian and Egyptian provisions and racist Israeli military laws and orders in addition to Palestinian laws and legislation.

Articles 4 and 5

42. The rights enshrined in the International Covenant on Economic, Social and Cultural Rights are recognized in the Palestinian Basic Law, as amended in 2003. Article 11 of that Law reads: "Personal freedom is a natural right that is guaranteed and may not be violated." This means that no exception may be made for any violation affecting the rights and freedoms envisaged in the Covenant, the implementation of which is regulated and guaranteed by the Palestinian Basic Law.

43. As an expression of the political will to respect human rights and the rights of citizens, the State of Palestine acceded to the core human rights treaties in 2014. It did so, moreover, without reservations thereby guaranteeing all the rights enshrined in those instruments, without exception.

44. Following accession to the human rights treaties, the Constitutional Court issued its Interpretive Ruling No. 5/2017 on 12 March 2018 to define the nature of the relationship between international law, particularly human rights treaties, and Palestinian domestic law. The ruling outlined the legislative hierarchy applicable in the State of Palestine with the Declaration of Independence at the apex followed by the Basic Law, then international treaties and conventions (which have to meet the formal requirements to acquire force of law) and, lastly, national laws and legislation.

45. The Palestinian Basic Law, as amended in 2003, contains a chapter (arts. 110 to 114) dedicated to the provisions applicable during a state of emergency. This includes the general constitutional restrictions applicable in states of emergency and the special powers whereby the President can limit public freedoms in order to face such exceptional circumstances. The chapter also declares the inadmissibility of restrictions on fundamental rights and freedoms and stipulates that any detentions during a state of emergency must meet minimum requirements vis-à-vis the rights and fundamental freedoms of individuals.

Article 111 of the Basic Law reads: "No restrictions may be imposed on fundamental rights and freedoms save to the extent necessary to fulfil the goal stated in the decree declaring a state of emergency."

46. The State of Palestine has taken no action aimed at restricting the rights enshrined in the Covenant. Moreover, any violation of fundamental human rights is penalized under the Palestinian Basic Law, as amended in 2003, article 30 (2) of which states: "No law may contain provisions that shield any administrative decision or action against review by the courts."

47. Article 32 of the Basic Law stipulates: "Any violation of any personal freedom, of the sanctity of the private life of human beings, or of any of the rights or liberties guaranteed under the Basic Law or any other law shall be considered a crime. Criminal and civil cases resulting from such violations shall not be subject to any statute of limitations. The National Authority shall guarantee just compensation to those who suffer harm in that connection."

48. However, the colonialist policies and practices of Israel, the authority responsible for the unlawful occupation, and its systematic and widespread violations of international law in the Occupied Palestinian Territory prevent the Palestinian people from exercising their rights as guaranteed under international law, including the economic, social and cultural rights enshrined in the Covenant.

49. At the internal Palestinian level, the rights contained in the Covenant, as well as other rights, have been affected by the division resulting from the 2007 takeover by Hamas in the Gaza Strip and its unlawful monopoly over legislative authority there, which has required a state of emergency to be declared in the State of Palestine, pursuant to the amended Basic Law of 2003. With the failure of efforts towards achieving reconciliation and holding legislative elections, legislation has had to be replaced with decree-laws, which are issued by the President of the State of Palestine to meet the changing needs of the Palestinian people. These have included the 2016 Decree-Law on Social Security – issued to respond to a fundamental requirement of Palestinian society and to meet the obligations of the State of Palestine under international treaties – and the Public Education Act, issued in early 2017. One of the most significant aspects of these decrees is their consistency with the international obligations of the State of Palestine, and the most important legislative priority remains that of unifying legislation across the two parts of the nation and removing any provisions that are inconsistent with those international obligations.

50. The illegal occupation of Palestinian territory by Israel is one of the largest obstacles preventing the realization of the rights enshrined in the Covenant, particularly in the so-called "Area C", which makes up 60 per cent of the surface area of the West Bank, including East Jerusalem. That Area is under the effective control of Israel, the authority responsible for the unlawful occupation, which is seeking to annex it illegally by proceeding unilaterally and taking no account of the Palestinian people who detain legal and political sovereignty over the Area. In addition to this are the Israeli efforts to change the demographic makeup of East Jerusalem and "Area C" using facilitations that aim to encourage colonists to move and settle in the Occupied Palestinian Territory, including East Jerusalem.

51. A deterioration in the economic, social and cultural conditions of the Palestinian people is being deliberately imposed by the occupying authorities, who exercise effective control over East Jerusalem and the so-called "Area C" where they employ administrative measures as a means to debilitate Palestinian residents and impose restrictions, using racist barriers with the aim of depriving them of the right of movement and impelling them to emigrate. The economic and social conditions of the population in those areas is critical compared to the economic and social conditions enjoyed by the illegal colonists who have been settled there by Israel, the occupying power in the West Bank and East Jerusalem. The policies of the occupiers towards Palestinians and their economic and social rights are not limited to lengthy, complex and costly administrative and bureaucratic procedures, which deprive many people of their fundamental rights, but actually amount to systematic and widespread violations of the rights of the Palestinians who live in areas under the direct and effective control of the occupation. A good example of this is the demolition of housing carried out by the occupying power's so-called "Civil Administration" in "Area C" under pretexts such as "absence of authorization" and "security", and the plans to expel Bedouin communities in the Khan al-Ahmar area. It should be noted, moreover, that authorization procedures in areas under the direct control of the occupation, including fees, are imposed irrespective of the low income and standard of living of Palestinian families. This is to ensure the demographic superiority of the colonists and to pave the way for the annexation of the Occupied Palestinian Territory.

52. The discriminatory policies of the occupation affect all the rights enshrined in the International Covenant on Economic, Social and Cultural Rights. The abuse of procedures for obtaining authorization to construct homes or public facilities affects the right to education by causing overcrowding in schools, which has led some schools to institute double shifts, morning and evening, to accommodate all pupils. Those policies also affect the right to health as there are not enough health facilities to meet the needs of Palestinians in "Area C" and in East Jerusalem. In fact, health facilities in East Jerusalem – in particular the Makassed Charitable Society Hospital and the Augusta Victoria Hospital – also provide services to residents of the suburbs of Jerusalem, who are excluded by Israel, the occupying power, through its unlawful annexation of Jerusalem and its unilateral changes to the city map. They also serve sick and injured persons from various parts of the West Bank, where treatment might not be available, and from the Gaza Strip. In addition to this, the policies themselves pose a threat to the health of Palestinians because the occupiers' excessive use of force leads to deaths and disabling injuries among Palestinians. The contrast in standards of living, income and services between Palestinian families in "Area C" and in East Jerusalem

and the income of settler families in the same areas gives an indication of the extent of the discrimination practised by the occupying power against Palestinians and of the obstacles the latter face in seeking to exercise their right to a decent standard of living. Occupation policies throughout the West Bank directly and indirectly affect all these rights. The settlement system, including military checkpoints and racist and illegal bypass roads, affects the extent to which Palestinians living, working or studying near the settlements are able to enjoy their fundamental rights, whether enshrined in the Covenant or in other treaties. This is because, by affecting the right of movement, the system determines the extent to which Palestinians are able to access the facilities where they can exercise those rights. It also disrupts official Palestinian institutions as they seek to exercise their authority in villages and cities of the Occupied Palestinian Territory where the occupiers deliberately neglect the human rights of Palestinians.

53. The same situation prevails in the Gaza Strip, which has been under illegal Israeli military blockade since 2007. During the blockade and the aggressive military operations launched by Israel, the authority responsible for the illegal occupation, the social and economic situation in the Gaza Strip has deteriorated to become the lowest in the State of Palestine. During the attacks of summer 2014, the unjustified and excessive use of force by the occupying forces led to the destruction of thousands of homes and the displacement of the families living in them. Schools were also destroyed, including schools run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) where citizens whose own homes had been destroyed had taken refuge to escape areas where shelling and clashes were taking place. UNRWA schools, it should be noted, all fly United Nations flags. Health facilities and hospitals were also affected by the shelling, precisely at the time when they were most needed, thereby throwing fuel on the flames of the humanitarian crisis in Gaza and affecting citizens' right to health over the long term, particularly in view of the overcrowding and the scarcity of basic medical necessities in local hospitals. One of the effects of the blockade is that Israel, the occupying power, can control what materials enter the Gaza Strip and, using vague pretexts, it can prohibit the entry of many vital necessities. Thus, for example, the occupying power has placed certain foodstuffs on its list of "dual use items", which are prohibited from entering the Gaza Strip. The criteria used for placing items on the list are ambiguous and take no account of the actual needs of citizens living in the Strip. The list has had the effect of impeding the entry of the materials necessary to reconstruct homes and facilities destroyed by Israeli attacks against Gaza, and matters have reached a point where even foodstuffs are not admitted under the criteria used to compile the list.

Article 6

54. The Palestinian legal system considers work to be a right guaranteed under the Basic Law, which describes work as "a right, a duty and an honour" that the State seeks to provide to everyone able to perform it. The legal framework regulating work was completed under the Labour Code (Act No. 7 of 2000), which reaffirms the status of the right to work without discrimination between men and women. The Code also specifies that a minimum of 5 per cent of the workforce in all establishments must be constituted of persons with special needs.

55. The Palestinian Labour Code broadly outlines the principles underpinning the right to work and identifies the desired outcomes, and it sets forth the measures and policies to adopt to uphold and safeguard that right. These are aimed at combating unemployment and creating jobs as well as at training and qualification. The Code states that the Council of Ministers is to establish a committee on labour policy made up of the three parties involved in the production process (government, employers and workers) with the task of proposing public policies in the area of employment, training and vocational guidance.

56. By the end of 2015, the unemployment rate in the State of Palestine stood at 25.9 per cent of the workforce of both sexes over the age of 15. This represents a small drop compared with the unemployment rate of the previous year 2014, which had been 26.9 per cent. The figures for the end of 2015 show that unemployment among females was higher (39.2 per cent) than that among males (22.5 per cent). The unemployment rate in the State of Palestine in the period 2014–2015 is schematized in the table below.

Year	*Female unemployment*	*Male unemployment*	*Total*
2014	38.4 %	23.9 %	26.9 %
2015	39.2 %	22.5 %	25.9 %

57. As the body competent to take specific measures aimed at reducing unemployment, the Ministry of Labour provides training and vocational qualification services. In cooperation with its social partners and with support from international institutions, the Ministry has developed some basic labour strategies, including the following:

- *Strategy for vocational and technical education and training*: The overarching aim of this strategy is to create an efficient, capable, enterprising, adaptable, innovative and outstanding workforce in Palestine in order to curb poverty and to drive social and economic development. This is to be achieved by delivering high-quality, demand-oriented vocational and technical education and training linked to all sectors of the economy, at all levels and to all people;
- *National Employment Strategy*: This aims to create the right conditions – in terms of policies, measures, institutions and infrastructure – to accommodate the growth in the Palestinian workforce in such a way as will reduce poverty. Given the high rates of unemployment and the low level of wages, the strategy sees changing the perspective of young people as an important objective with a view to providing suitable and sustainable jobs for the future;
- *Charter for decent work in the Palestinian territories*: The charter constitutes the basis for the development of a national plan and government programmes to promote decent work. It has several areas of focus including that of promoting job opportunities in the Palestinian territories in order to eliminate unemployment and poverty.

58. As concerns vocational training and education, training centres belonging to the Ministry of Labour have rolled out 21 free training programmes via 69 training courses run at vocational training centres in the following governorates:

- Jericho: a multipurpose vocational training centre; a vocational training centre in the city of Yatta and the Jericho vocational training centre;
- Bethlehem: the Beit Jala vocational training centre;
- Ramallah and Birah: the Mahmoud Uthman vocational training centre and the Beit Aour al-Tahta vocational training centre;
- Nablus: the Nablus vocational training centre;
- Qalqilyah: the Qalqilyah vocational training centre;
- Tulkarm: the Tulkarm vocational training centre;
- Janin: the Jalil vocational training centre;
- Jerusalem and environs: the Ayzariyah vocational training centre;
- Governorate of Salfit: the Salfit vocational training centre (under construction).

59. Students applying to enrol in the Ministry’s training centres must undergo an entrance exam as well as an individual interview. While taking account of the objective criteria for admitting students who wish to join these programmes, the Ministry accords priority to persons with special needs, and efforts are currently being made to qualify 40 trainers in how to deal with such persons, in cooperation with the Bethlehem Arab Society for Rehabilitation. In the next phase, the Ministry is seeking to provide training on how to deal with persons with special needs using sign language.

Thirteen of the 21 programmes adopted in 2015/16 were vocational diploma-level programmes in the following specialities:

1. Electrical installations
2. Quantity surveying
3. Tailoring and fashion design
4. Cosmetology and hairdressing
5. Auto electrics
6. Auto mechanics
7. Office secretarial skills
8. Building and construction
9. Painting and plastering
10. Air conditioning and refrigeration
11. Trade and commerce
12. Maintenance and installation of networks
13. Electrical installations and the mounting of solar panels

The remaining programmes were as follows:

1. Working in aluminium
2. Tiling and paving
3. Metalwork
4. Installation of medical equipment
5. Sales representative
6. Auto bodywork and painting
7. Installation and maintenance of alarm systems
8. Auto electromechanics

60. Since 2015, the Ministry of Labour has been taking the following steps with a view to reducing unemployment:

- It has worked to create job opportunities, both through visits to companies and via the media. In 2015, a total of 3,627 job openings were created of which 350 actually led to employment;
- It has sought to network with institutions operating in the field of development and financial credit, in which regard it arranged 1,009 visits to companies at various sites in governorates across the West Bank in 2015;
- It has provided vocational guidance and counselling to 2,058 jobseekers;
- It has provided vocational guidance and counselling via 12 employment bureaus in universities, benefiting 1,039 students;
- It monitors the employment of workers on the local and external market via employment offices belonging to the Ministry of Labour;
- It has set up a labour-market information system to register jobseekers and match them with available openings.

61. In addition, the Ministry of Labour follows up on all matters related to the receipt and distribution of permits for Palestinian workers who work in the occupying State, who numbered 57,000 at the end of 2015. This includes monitoring their labour-related rights. The social rights those workers accrued in that year amounted to 185,426,649 new shekels. From its headquarters and its departments in the governorates, the Ministry of Labour issues certificates of aptitude for persons wishing to work abroad. It has distributed 810 such certificates, 767 to men and 43 to women.

62. In 2015 the Ministry of Labour launched the employment councils the purpose of which is to combat unemployment. They undertake the following activities:

- Continuing to develop the labour-market information system at the level both of programming and of information input;
- Preparing the list of 20,000 Palestinian workers to work in the State of Qatar, as per an agreement reached with that country;
- Setting up an employment and social protection fund pursuant to Decree No. 9 of 2003 to support employment and business enterprise programmes for young people.

Arbitrary dismissal

63. Palestinian law provides workers with guarantees to protect them against arbitrary dismissal. The Palestinian Labour Code (Act No. 7 of 2000) states that the termination of an employment contract by an employer without due reason constitutes arbitrary dismissal. The Code states, furthermore, that workers who have suffered arbitrary dismissal retain all their labour rights and are entitled to compensation equivalent to two months' wages for each year of employment, with a maximum equivalent to the wages they would earn over two years of employment. In cases involving piecework or work on commission, compensation for arbitrary dismissal is calculated on the basis of the average monthly wage of the worker in the last year of work.

64. In order to safeguard the rights of workers following arbitrary dismissal, as well as other labour rights, the Palestinian Labour Code exempts workers from the payment of court fees in labour-related cases. This is intended to facilitate workers' access to the courts in order to protect their labour rights.

65. One of the main reasons for the high unemployment rate remains the Israeli occupation of Palestinian territory. In fact, the systematic and widespread policies of occupation – which consist in the confiscation of lands, violations of the right to movement, the looting of natural resources and other colonialist practices – rob Palestinians of their right to work, work which would provide them with a decent life, empower them economically and facilitate their enjoyment of other rights. Data compiled by international institutions indicates that Israeli activities in the Dead Sea region, which occupies 87 per cent of the area of the Jordan Valley and which Israel is seeking to annex unlawfully, is depriving between 60,000 and 80,000 Palestinians of job opportunities in agriculture. At the same time, vast areas of the Jordan Valley have been seized and allocated to 9,500 illegal settlers. Unemployment among Palestinians is expected to increase after the racist Government of Israel and the United States Administration set their sights against UNRWA, which is a major employer of the Palestinian people and particularly of the refugees who were forcibly displaced following the Nakba of 1948 and their descendants. Those people have been denied the right to work in their own lands and the right to live in the homes that were stolen from them during the Nakba, as well as their right of return as enshrined in General Assembly Resolution 194.

Articles 7 and 8

66. The Palestinian legal system affords relative flexibility vis-à-vis the minimum wage, in accordance with variables affecting standards of living. The Labour Code includes provision for a wage committee, to be established by the Council of Ministers and to include representatives from government, workers and employers. Representatives from the latter two categories are to be appointed by trade unions and employers' associations. The committee is responsible for examining public policy in regard of wages and determining the extent to which it is consistent with living standards. It makes recommendations in that connection to the Council of Ministers, which then issues a decree setting the level of minimum wages on the basis of those recommendations. The wage committee meets periodically, at least once a year, to scrutinize any changes in living standards and to assess the necessary adjustments to the minimum wage. In case of need, it also meets in extraordinary session at the request of its Chair or of the representatives of any of the three parties represented on the committee.

In line with this procedure, the Palestinian Council of Ministers issued Decree No. 01/21/14/M.W/S.F on 9 October 2012, setting the minimum wage in all areas of the State of Palestine as follows:

- The minimum monthly wage in all sectors was set at 1,450 shekels;
- The minimum daily wage in all sectors was set at 65 shekels;
- The minimum hourly wage in all sectors was set at 8.5 shekels;.

The Decree came into force on 1 January 2013.

67. Although both the Basic Law and the Labour Code prohibit discrimination between men and women in labour rights, in practical terms there is, in fact, a widening wage gap between men and women. In 2015, the average monthly wage of men stood at 3,203 shekels whereas for women it was just 2,405 shekels.

68. Certain categories, such as domestic workers, are not covered by the Palestinian Labour Code and it is left to the executive to decide what is the best course of action to take. Thus the Minister of Labour issued Decree No. 6 of 2013, which concerns domestic workers and states that their wages are to be paid in cash and are to be no less than the legally stipulated minimum wage.

Conditions of work

69. Palestinian law includes general provisions setting minimum standards to ensure that all workers are able to enjoy suitable working conditions.

Some of the basic conditions envisaged in the Labour Code are set forth below:

- An upper limit of 45 hours of work per week, distributed over 5 or 6 days. The Code also envisages a reduction of at least 1 hour per day for jobs that are dangerous or harmful to health or that are performed at night;
- An upper limit on overtime of 12 hours per week;
- The right to paid weekly rest, which workers may accumulate and take once a month;
- Daily working hours are to be interspersed with one or more periods of rest of up to 1 hour;
- For each hour of overtime workers are to be paid for one and a half hours;
- Workers are entitled to an annual paid holiday of two weeks, which is to be increased to three weeks for workers engaged in jobs that are dangerous or harmful to health, and for workers who have been employed for more than five years;
- Workers are entitled to other holidays for religious and cultural festivals, which are not to be calculated as part of their annual holiday. They are also entitled to leave for the death of relatives and for other reasons, as well as sick leave of up to 28 days per year.

The Palestinian Labour Code includes a number of additional provisions concerning the work of women, in which regard see article 3 of the Covenant concerning non-discrimination against women.

70. The issue of sexual harassment in the workplace – or even of sexual harassment in general – is not contemplated in any legislation currently in force in the State of Palestine, be it criminal legislation (the Jordanian Criminal Code (Act No. 16 of 1960) in the West Bank or the Mandate Criminal Code (Act No. 74 of 1934) in the Gaza Strip) or in labour legislation (the Palestinian Labour Code (Act No. 7 of 2000) or the Palestinian Civil Service Act).

The provisions applied in such cases, then, are the general legal provisions concerning crimes against honour or crimes against public order and public morals, with their respective penalties. This covers offences such as rape, indecent assault, inappropriate advances and indecent acts or comments. The penalties for such offences are more severe if the perpetrator has responsibility or authority over the victim; for example, employers or hierarchical superiors.

71. The Palestinian draft criminal code aspires to overcome the shortcomings in current legislation by envisaging the crime of sexual harassment which it defines as: “Any repeated and insistent annoyance of others through acts, words or gestures such as would undermine their dignity or offend their modesty with a view to eliciting a response to sexual desires – or to the sexual desires of a third party – or to applying pressure such as to weaken their resolve to resist such desires.” The draft criminal code penalizes sexual harassment with a fine and a term of imprisonment of up to 6 months, that term being increased to up to 2 years if the perpetrator has professional or effective authority over the victim.

72. Sexual harassment is a sensitive topic about which it is difficult to obtain accurate statistics and figures, due to the associated social stigma that may lead victims not to report offences. In addition, prevalent societal norms in some sectors of the community might tend to place the blame, at least partially, upon the female victim in cases of crimes against honour. This is particularly so in marginalized areas and areas where, due to the occupation, the Government of the State of Palestine faces difficulties in exercising effective control. In those areas, which often suffer grim socioeconomic circumstances, ancestral social customs are strengthened and, in the absence of effective State control, provide an alternative source of protection and security for individuals and families.

73. As concerns the working environment and occupational health and safety, the Palestinian Labour Code contains general provisions defining the responsibilities of companies and employers to meet occupational health standards and to make working conditions as safe as possible. Under the Code, the Council of Ministers, acting on a proposal of the Minister of Labour, is to issue occupational health and safety regulations. These cover the following:

- Personal protection to shield workers against workplace hazards and occupational diseases;
- Workplace health standards;
- First aid for workers in companies;
- Periodical medical tests for workers, as determined by the Ministry of Health, with the costs being borne by the companies concerned.

74. The Labour Code requires employers to issue occupational health and safety instructions accompanied by a list of relevant sanctions, once these have been approved by the Ministry of Labour in order to ensure that they meet minimum occupational health and safety requirements. Employers must then display those instructions in a place visible to all their workers. Under the Code, moreover, it is forbidden to make workers bear any of the costs arising from health and safety measures.

75. Under the Public Health Act No. 20 of 2004, the Ministry of Health also has some responsibilities vis-à-vis occupational health and safety. The Act allows the Ministry to establish the means to ensure health and safety in the workplace and to create a continuous inspection mechanism. The Act also gives the Ministry authority to license companies and to issue prior written approval for any kind of activity that might affect public health or the environment.

Right to form trade unions

76. Article 25 (2), (3) and (4) of the Palestinian Basic Law, as amended in 2003, regulates labour relations in such a way as to ensure justice for all parties involved and to provide welfare, security and health and social care to workers. Under the Basic Law, union organization and strikes are defined as rights that are regulated by law.

77. The Palestinian Labour Code guarantees workers in the private sector the right to form trade unions but it does not set forth the objective conditions or official requirements to do so. The Ministry of Labour monitors the activity of trade unions in the State of Palestine by attending their conferences, approving their budgets and overseeing their elections to ensure they are consistent with the statutes of the union concerned, as approved by its general assembly and endorsed by the Ministry of Labour.

78. In cooperation with workers' and employers' representatives, and with funding from the International Labour Organization (ILO), the Ministry of Labour is drafting a trade union law. A draft text has been completed and is currently being examined by representatives of the three parties involved in the production process.

79. Collective bargaining mechanisms are protected and regulated under the Labour Code, which defines them as the dialogue between a trade union or its representatives and the employer or employers, or their representatives, the purpose of which is to resolve a collective grievance, improve working conditions or enhance productivity. Collective bargaining is conducted in accordance with the law, either at company level between

employers and management on the one hand and workers' representatives on the other or, at the level of a particular economic sector, between representatives of employers in that sector and the relative trade union or, at the national level, between the employers' federation and the trade union federation. The aim of such negotiations is to reach a collective working agreement that is binding upon both sides for a period of three years. Negotiations for the next agreement begin, at the request of one of the two parties, three months prior to the end of the previous agreement and the first agreement remains in force until a new agreement is reached. At a minimum, the agreement must make provision for the following:

- Freedom to engage in trade union activity;
- Minimum wage for all types of work;
- Conditions for employing and dismissing workers;
- A bilateral committee to resolve any dispute that may arise concerning the application of the agreement.

80. The Palestinian Labour Code envisages a mechanism for resolving collective labour grievances, which are defined in the Code as any dispute that arises between, on the one hand, one or more employers and, on the other, workers or a group of workers regarding a matter of collective interest. In such a case, and if the dispute cannot be resolved by negotiation, either of the two parties involved may have recourse to a mediator of the Ministry of Labour who then has 10 days to resolve the dispute. If the mediator is unable to find a solution, the matter is referred to the Minister of Labour who, in turn, refers it to a conciliation committee, which is headed by an official of the Ministry of Labour and has representatives appointed in equal numbers by employers and workers. If the conciliation committee is also unable to resolve the dispute, either of the two parties may turn to the courts. If neither of the parties choses to exercise this right and the dispute in question has a bearing on the public interest, the Minister of Labour can require the two parties involved in the dispute to appear before a committee of arbitration, which is headed by a judge and has a representative from the Ministry of Labour, a workers' representative and an employers' representative. In 2015, the department of the Ministry of Labour responsible for collective labour grievances helped to conclude 12 collective labour agreements, all of which were deposited with the Ministry of Labour in accordance with the law.

Right to strike

81. The right to strike is guaranteed under the Basic Law, article 25 (4) of which stipulates that it may be exercised within the limits of law. The same right is envisaged in the Labour Code where the legality of strikes is enshrined in article 66, while article 67 regulates the conditions under which the right to strike may be exercised. The Civil Service Act and other laws governing workers in certain public sector institutions – such as the Palestinian Security Forces Military Service Act No. 8 of 2005 and the Palestinian Diplomatic Corps Act of 2005 – do not contain explicit provisions regulating strike action. For this reason, strikes in the public sector are based on general norms that are drawn from the Basic Law, with recourse also to the provisions of the Labour Code. In this connection, article 67 of the Labour Code includes provisions governing strike action as well as company closure by management. Under that article, the party intending to strike must give written notification to the company management and to the Ministry of Labour at least two weeks prior to the action. This period is extended to four weeks in the case of a company that constitutes a public facility. The notification must be signed by 51 per cent of the workers in the company in the case of a strike or by the administrative board in the case of a company closure. Under the law, it is forbidden to strike during the course of collective bargaining to resolve a dispute and a strike must cease when the dispute that occasioned it has been submitted to an arbitrating body.

Work in illegal settlements and in Israel, the occupying power

82. Many Palestinians find themselves obliged to work in illegal settlements located in the Occupied Palestinian Territory and within the Green Line between the Occupied Palestinian Territory and Israel, the authority responsible for the unlawful occupation. They are compelled to do so due to high unemployment and low income and standards of living, particularly among citizens residing in "Area C" and East Jerusalem, who face various

obstacles to their socioeconomic development due to the colonialist and racist policies the occupation authorities apply against them. Data collected by ILO indicates that the income that can be earned by working in the illegal settlements or within the Green Line is 2.2 times the amount that can be earned on the Palestinian labour market, particularly for residents of "Area C". Indeed, many Palestinians living in those marginalized areas resort to working in the settlements and within the Green Line without obtaining work permits from the occupation authorities, which renders them more vulnerable to exploitation, curtailment of their labour rights and arbitrary dismissal.

83. ILO data also indicates that the number of Palestinians working in the illegal settlements or within the Green Line is steadily increasing, reaching 131,000 in 2017. The wages those workers earn constitute 24.4 per cent of the entire amount of wages earned by Palestinians in the Occupied Palestinian Territory. There is no precise figure as to the number of persons working without a permit, as such data is difficult to obtain.

84. The Palestinian Ministry of Labour follows up on all matters related to the receipt and distribution of work permits and the labour rights of Palestinians who work within the Green Line. This does not apply to the settlements because work in the settlements is illegal under Decree-Law No. 4 of 2010, which aims to prohibit and boycott products from the settlements. At the end of 2015, 57,000 Palestinians were working inside the Green Line and the social rights those workers accrued in that year amounted to 185,426,649 shekels.

Article 9
Public pensions

85. Public officials who come under the Civil Service Act are also subject to the Public Pensions Act No. 7 of 2005, which was amended by Decree-Law No. 5 of 2007 and Decree-Law No. 1 of 2008. The Public Pensions Act applies to all employees in the public sector, including diplomatic and law enforcement personnel (although certain aspects regarding the security sector are covered in the Palestinian Security Forces Insurance and Pensions Act No. 16 of 2004). The Public Pensions Act is also applicable to staff of local bodies and of civil society institutions that are affiliated to the retirement system, and to members of the Palestine Liberation Organization who hold positions of responsibility abroad. These categories receive a pension as envisaged in the Public Pensions Act in the following cases:

- Retirement;
- Old age or incapacity;
- Decease.

86. The Public Pensions Act was a brainchild of the Palestinian Pension Agency, which regulates pensions and disburses benefits in accordance with the law. The Agency's resources come from deductions made to participants' salaries, contributions from the organizations that pay out the salaries and returns on the Agency's investments, as well as other resources resulting from its activities.

The public pensions system has two fundamental components:

(a) Defined benefits system;

(b) Defined contribution system.

87. Under the defined benefits system, the government pays in the equivalent of 9 per cent of the employee's salary while the employee pays in 7 per cent. In the defined contribution system, both the employee and the Government pay in 3 per cent of the salary. When it comes to calculating benefits, old-age pension is calculated on the basis of 2 per cent for each year of service, taking account of the average salary over the last three years of pensionable service. Contributors are also entitled to a pension in case of incapacity on grounds of health, which is likewise calculated on the basis of 2 per cent for each year of service, taking account of the average salary over the last three years of pensionable service, the years of service calculable for the purposes of the pension being the number of years of effective service up to the date of the injury or incapacity plus half the remaining years up to the age of mandatory retirement.

Thus, the number of years calculable for pension purposes cannot exceed 35. In addition to this, in case of incapacity or old age, employees (or their heirs if they have died as the result of a workplace injury) are entitled to an insurance pay-out from the Pension Agency, which is calculated as a percentage on the basis of age, as set forth in the following table from article 25 of the Public Pensions Act.

Up to the age of	*Insurance pay-out (%)*	*Up to the age of*	*Insurance pay-out (%)*
25	267	43	147
26	260	44	140
27	253	45	133
28	247	46	127
29	240	47	120
30	233	48	113
31	227	49	107
32	220	50	100
33	213	51	93
34	207	52	87
35	200	53	80
36	193	54	73
37	187	55	67
38	180	56	60
39	173	57	53
40	167	58	47
41	160	59	40
42	153	60	33

Employees acquire eligibility to a pension under the following rules and conditions:

- Reaching the mandatory retirement age of 60 with not less than 15 years of service;
- Completing 20 years of service and being 55 years old;
- The lower limit of pension entitlement is reached by persons who have completed 25 years of service and reached the age of 50 and who work in security, radiology laboratories and centres, oil and gas exploration or mines;
- Persons who are 60 and are not entitled to a pension receive their contributions and the interest accrued in a single pay-out upon reaching the age of 60.

In order to obtain an incapacity pension, persons must meet the following criteria:

- The person concerned must be under the age of 60;
- The person concerned must not be eligible to an old-age pension or early retirement;
- The person's state of incapacity must be confirmed by a committee appointed by the Pension Agency, which reviews and assesses the case.

Heirs' entitlement to a pension arises if the deceased was receiving or was entitled to receive a pension at the time of death.

Social security

88. The State of Palestine adopted a comprehensive social security system in September 2016 with the passage of Social Security Decree-Law No. 6 of 2016, which was drafted in cooperation with ILO. The purpose of the Decree-Law is to provide social security benefits to insured persons and their families, on the basis of principles of equity, sustainability, transparency and efficiency. The system covers groups that are outside the insurance and

security schemes for government workers. In fact, the Social Security Decree-Law includes a raft of social insurance provisions for persons who are not covered under the Public Pensions Act No. 7 of 2005 or the Palestinian Security Forces Insurance and Pensions Act No. 16 of 2004. To that end a separate fund has been set up, overseen by the Social Security Corporation, which was brought into being under the Decree-Law. The following forms of social security are envisaged:

- Coverage for old age, incapacity and natural death;
- Coverage against workplace injuries;
- Maternity coverage;
- Coverage against illness;
- Health coverage;
- Unemployment coverage;
- Family compensation.

89. Coverage for old age, incapacity and natural death, coverage against workplace injuries and maternity coverage are mandatory for all groups. Initially, the Social Security Decree-Law was applied to these three basic categories (i.e., coverage for old age, incapacity and natural death, coverage against workplace injuries and maternity coverage) with the rest being introduced gradually. Social security under the Decree-Law is contribution-based with a 7.5 per cent deduction from the worker's monthly salary and a payment of 8.5 per cent of the worker's monthly salary on the part of the employer.

90. When the Social Security Decree-Law was first enacted in March 2016, it met with a wave of criticism from civil society and trade unions. Thus, consultations to amend the Decree-Law were held between the Palestinian Government and its critics, and those amendments were effectively introduced by September 2016. One of the criticisms levelled against the Social Security Decree-Law concerned the issue of contributions, because it envisaged that workers should pay 7.5 per cent of their monthly salary while the employer paid 8.5 per cent, which is the same percentage as employers pay for end-of-service indemnities. The Social Security Decree-Law has also been criticized for not granting the same privileges as those envisaged under the Public Pensions Act. Yet another criticism concerns the way in which the family of a deceased worker receives indemnity, which requires the worker to have spent 24 months in his post, something that is not required under the Public Pensions Act where the family of the deceased receives payment immediately after the death.

91. The question of the minimum amount of benefits is addressed in several provisions of the Decree-Law. Article 52, for example, states that the mandatory minimum pension for an insured person entitled to a pension must not be less than 75 per cent of the minimum wage or of the individual poverty threshold, whichever is higher. In cases of complete and permanent incapacity, article 58 of the Decree-Law sets the minimum incapacity pension for insured persons at not less than 40 per cent of the average monthly wage during the period in which the contributions were being made, up to a maximum of 10 years prior to the onset of the incapacity, or at not less than 75 per cent of the minimum wage or of the individual poverty threshold, whichever is higher. Under article 59, the pension for partial permanent incapacity is to be calculated as a percentage of the full pension for complete and permanent incapacity. Lastly, article 67 of the Decree-Law states that the pension in cases of natural death must not be less than the minimum wage or the individual poverty threshold, whichever is higher.

92. With regard to the periodic review of minimum levels, article 101 of the Decree-Law states that benefits are to be revised, at least once every three years, by decree of the administrative board of the Social Security Corporation, on the basis of the increase in the consumer price index in the country during that period. It should be noted that the minimum levels stipulated in the Decree-Law are insufficient to ensure an adequate standard of living for beneficiaries and their families, even if the higher of the minimum amounts stipulated in the text are applied. The underlying problem lies in the value of the minimum wage which,

being 1,450 shekels, means that the mandatory pension for insured persons is 1,087 shekels, which is not enough to meet basic monthly needs, given standards of living in Palestine.

93. This Decree-Law does not guarantee benefits received under the system of non-contributory social assistance for disadvantaged and marginalized persons and their families, who are not covered by contribution-based social security programmes. However, this matter is addressed indirectly in article 102 of the Decree-Law which states that it is not permissible to withhold the benefits to which insured persons or their heirs are entitled under the Decree-Law save to pay a debt of spousal maintenance or a debt due to an institution. The amount withheld must not amount to more than a quarter of the benefit concerned and the priority is to be given to spousal maintenance.

94. The Social Security Decree-Law also envisages an optional supplementary system for old-age pensions, which depends on fixed contributions that are applicable – on a voluntary basis – to insured persons, but not to trainees. The system is funded through contributions paid by the employer and the insured person, calculated on the basis of the part of the insured person's monthly wage that surpasses the maximum insurable wage, as per article 42 (1) (a) of the Decree Law. This is without prejudice to acquired rights or to the right to end-of-service indemnity, which surpasses the maximum insurable wage specified in the Labour Code, and to all agreed financial rights which surpass the maximum end-of-service indemnity. The insured person receives a lump sum equivalent to the value of the amount accumulated on his personal account plus interest, which can also be changed into life-long or fixed-term instalments. If the insured person dies before reaching the legal retirement age, that person's heirs are entitled to a lump sum equivalent to the amount accumulated on the person's personal account plus interest.

95. With regard to health care, article 74 states that medical coverage for workplace injuries should include the costs of medical treatment and hospitalization as well as costs for transportation resulting from the injury and rehabilitation services and devices, including prosthetic limbs. As concerns maternity care under the Decree-Law, article 88 states that maternity coverage should include a monthly cash payment during the period of maternity leave (insured women are entitled to 12 weeks of maternity leave on the basis of a medical report establishing the expected date of birth). This is conditional upon the payment of at least three months' contributions during the year prior to the maternity leave. The insured woman may also absent herself from work for reasons specified by law while receiving a monthly amount equivalent to the average monthly wage she was receiving during the last three months she was paying contributions prior to maternity leave.

Article 10
Family rights

96. Issues relating to family and personal status in the State of Palestine are regulated by a number of different laws. Muslims in the West Bank come under the Jordanian Personal Status Act No. 61 of 1976 while Muslims in the Gaza Strip are subject to the Ottoman Personal Status Act of 1918 and to the Family Rights Act of 1954, which was issued during the Egyptian administration of the Strip. The provisions of these laws are drawn directly from rules governing the family enshrined in Islamic sharia. The Palestinian Basic Law allows Christian communities to establish their own legal and judicial system wherewith to regulate matters relating to personal status. As a consequence, Christians are subject to a variety of personal status laws according to the particular community to which they belong. For example, the Code of Canon Law of 1983, the Personal Status Act for Catholic Communities and the Byzantine Family Code (for the Orthodox Churches).

97. Under Islamic personal status laws, women do not enjoy the same legal power to conclude a marriage contract as do men. Indeed, men are considered to have full jurisdiction over themselves and are entitled to conclude a contract of marriage without the consent of a "guardian" once they are over the age of 13, but women do not have the same faculty. As a general rule, women cannot marry of their own volition and power to arrange their marriage lies with a man in their family (for example, a father, brother, paternal uncle, etc.). This does not apply to women who have already been married. The same holds true for Christian

communities where, under personal status laws Christian women (like Muslim women) often cannot marry of their own volition, whereas men can.

98. Palestinian courts have taken a number of preventive legal measures to expedite cases involving families that have forced their daughters into marriage and, sometimes, into prostitution. For example, the Chief Qadi and President of the Supreme Council of the Sharia Courts issued a circular to sharia court judges emphasizing the importance of ascertaining the conditions for marriage. These include the consent of the woman, corroboration that she is over the age of 18, verification of the future place of residence of the couple following their marriage, existence of a medical examination showing that the man is not carrying HIV/AIDS and verification that there are no other sharia or statutory impediments to the marriage.

Protection for working mothers

99. The Palestinian Labour Code envisages special protection for mothers. Article 103 of the Code states that working women who, before each birth, have spent 180 days working have the right to paid maternity leave of 10 weeks, of which at least 6 weeks following the delivery. It is prohibited, moreover, to dismiss a woman during such leave unless it is shown that she did other work during that period.

100. Under article 101 of the Code, pregnant women may not work overtime hours during their pregnancy or for six months after giving birth. Moreover, article 1 of Decree No. 2 of 2004 of the Minister of Labour prohibits the employment of women in work that is hazardous or arduous such as the manufacture and use of insecticides, welding which gives rise to harmful rays and noxious gases and work with solvents used in chemical cleaning processes on machines and clothing. Article 3 of the Decree prohibits the employment of pregnant or breastfeeding women in the following: industrial process involving the use of mercury, such as the silvering of mirrors; work at metal or glass smelting furnaces; work involving the use or manufacture of lead or metal alloys containing more than 10 per cent lead; work requiring exposure to fumes or smoke from oil derivatives; work requiring exposure to ionizing radiation; spray painting; rubber manufacture; manufacture of fertilizers of any kind; and the manufacture or repair of batteries.

101. The concept of protection for working mothers is applied differently by, on the one hand, private establishments that are subject to the Labour Code and, on the other, public-sector institutions that are subject to the Civil Service Act. The Act grants paid maternity leave of three months from the time the person concerned enters hospital as well as an hour off work each day to breastfeed until the infant reaches the age of 1. In addition to this, pregnant women are granted paid leave if their state of health requires home rest. Although both laws envisage non-discrimination between men and women, they do not grant paternity leave to men.

102. Pregnant women are provided with all forms of preventive care free of charge. This includes prenatal monitoring throughout pregnancy, the free provision of dietary supplements and other preventive interventions. Medical services are also made available in cases of high-risk pregnancies with free specialist consultancies, except in cases where the pregnant woman needs to be admitted to hospital.

Protection for children

103. Under the Palestinian Children's Act No. 7 of 2004, all children have the right to a standard of living that is adequate to ensure their physical, mental, spiritual and social development, while the State is to take all measures necessary to secure that right. Parents bear joint responsibility for the upbringing of their offspring, ensuring their development, providing guidance and meeting their needs in a manner consistent with their evolving abilities. The parents or guardians also have a duty to pay for their children's food, clothing, housing and education.

104. The Act also insists on the importance of preventive efforts within families as part of the actions they undertake on behalf of their children. This is to maintain the fundamental role that families have and to reaffirm parents' responsibility vis-à-vis the care, upbringing and education of children and thus ensure their optimal natural development. In cases where

children do not obtain the care to which they are entitled from the persons who are naturally supposed to provide that care – i.e., parents or guardians – they are placed as a matter of urgency in the child protection centre in Beitunia or the care home for girls in Beit Jala where they can be provided with basic psychosocial, counselling and educational services. If children are found to require permanent care, a process of inter-institutional coordination takes place after which they are transferred to a permanent care home. The condition of children in such homes is professionally monitored by child protection counsellors who work for departments of social development.

105. All children who meet certain conditions set by the State and by State institutions are entitled to social assistance. They are:

(a) Orphans or children of unknown parentage;

(b) Children in social care institutions;

(c) Children of divorced or abandoned women who have no one to maintain them;

(d) Children of persons who are incarcerated, missing or incapable of work due to illness or disability and who have no one to maintain them;

(e) Children of families whose homes have been destroyed or burned down;

(f) Children of persons with disabilities or with chronic diseases;

(g) Children who are triplets, quadruplets , etc.

Through its orphan protection counsellors in the governorates, the Ministry of Social Development, coordinates with associations and institutions involved in caring for such categories. The Ministry also provides assistance to orphaned children and to families with special needs.

106. As concerns protection measures, the Palestinian Children's Act recognizes the right to protection against all forms of physical, moral or sexual violence and abuse, as well as against abandonment, neglect and other forms of ill-treatment and exploitation. In that regard, the State is to take all legislative, administrative, social, educational and preventive measures necessary to secure the rights of children. Child protection counsellors provide children with protection and care against all forms of abuse and neglect, and it is up to them to decide – having fully assessed the family's circumstances and taking account of the child's best interests – whether to reintegrate a child into the family or to place the child in a permanent care home. According to article 56 of the Palestinian Children's Act, when a case is reported child protection counsellors must take measures to protect the child in question, also by preventing any contact between the child and the parties responsible for the situation that threatens his or her physical or mental health and safety. This might involve protecting the child within the family or placing the child with another family or in a temporary protection centre. For its part, the Ministry of Health is currently working on a child-protection system of its own, which will involve investigation, referral, early intervention, awareness-raising among families and the community and communication with relevant government agencies to curb violence, abuse and exploitation against children.

The Palestinian Children's Act addresses the issue of child labour and places an outright ban on the employment of children under the age of 15. It prohibits, furthermore, the employment or involvement of children in hazardous work or in jobs and professions – as specified by the Ministry of Labour – which could hinder their education or damage their physical and mental health and well-being. This applies even if they work for first-degree relatives. Anyone who violates these provisions is liable to a fine of between 1,000 and 2,000 Jordanian dinars (JD). The penalty is increased according to the number of children who are victims of the violation and is redoubled in the case of repeat offences. Moreover, in the case of repeat offences, the Minister of Labour can, at the proposal of the Minister of Social Development, order the full or partial closure of the establishment responsible for the violations.

107. The Act also addresses the conditions of employment and labour rights of juveniles. It requires employers to arrange for an initial medical examination of juveniles, before they join the workforce, to be followed by periodic medical checks. For its part, Decree No. 1 of

2004 of the Minister of Labour prohibits the employment of juveniles in remote locations far from civilization, and it prohibits juveniles from working overtime or being employed on a piecework basis. The Children's Act requires that the daily working hours of juveniles be reduced by not less than one hour per day. It also states that juveniles may not work for more than four hours consecutively and stipulates their right to one or more periods of rest of not less than one hour as well as annual leave of three weeks, which cannot be postponed. The Act also includes provisions to ensure that juveniles are able to participate in vocational training programmes run by the Ministry of Labour and to attend Ministry-supervised private centres that provide training in trades and professions of all kinds.

108. The employment of children is regulated by a number of policies, plans, strategies and procedures:

- A strategic plan for the labour sector and a charter for decent work in the State of Palestine, which prioritize the improved effectiveness, reach and quality of the labour inspection body to enable it to exercise its legal mandate to regulate and protect working juveniles;
- The annual and periodic plans of the Ministry of Labour, which include activities and interventions intended to regulate working juveniles across all areas of the Ministry's operations. This includes inspections, work protection, employment, vocational training, labour relations, wages and social security;
- Under chapter VI of the Palestinian Labour Code, the Ministry of Labour has legal jurisdiction to monitor the application of the Code in the workplace, particularly vis-à-vis the work of juveniles;
- The Palestinian Labour Code envisages penalties of between JD 200 and JD 500 against employers who violate its article 134. The penalty is increased according to the number of workers who are victim of the violation and is redoubled in the case of repeat offences;
- The National Committee on Child Labour was established pursuant to Decree No. 80 of 2013 of the Minister of Labour. The Committee, which includes representatives from Government and from employers' organizations, evaluates and reviews national child labour policies and ensures coordination between official and unofficial bodies.

109. Child protection networks run campaigns in the field and carry out tours of inspection in shopping centres, industrial facilities and public establishments. These activities are carried out in cooperation with representatives of partner institutions that are part of child protection networks such as the family protection unit of the Palestinian Police, the governorates, the Ministry of Labour and the Palestinian Red Crescent Society. Checks are made to detect cases of working children under the age of 15, or of children who are over 15 but who work under inadequate health and safety conditions. Children under the age of 15 are referred to the police family protection unit and are dealt with by child protection counsellors in the departments of social development. The children's cases are examined individually to understand the reasons that led them to work and a plan of action is put in place along with measures to guarantee the child's right to education and protection. In addition, the child's parents or caregivers are required to sign a pledge in which they undertake not to exploit the infant economically.

110. Child protection networks work in schools to raise awareness about children's rights and the dangers of child labour. These activities target both children and their parents and seek to draw attention to the risks of children working when under the legal age. Other awareness-raising campaigns take place across audiovisual media focusing on child rights and child labour, the negative impact of work, the risks children face when working and their deprivation of the rights envisaged in the Palestinian Children's Act.

111. The Palestinian Children's Act includes provision for the welfare of children who have been deprived of a natural family environment, be it permanently or temporarily. This is delivered via alternative care, either in another (alternative) family or, if no family is available, in a public or private social care institution.

112. The Ministry of Social Development acts to ensure the due implementation of the Palestinian Children's Act and of the Foster System Regulations, which were endorsed by the Palestinian Council of Ministers in 2013. Children placed with foster families receive a number of services including protection, medical care and treatment and the possibility to obtain a birth certificate and passport, as well as regular follow-up for both the child and the foster family.

113. The State of Palestine has made significant progress on the question of juveniles in conflict with the law. Decree-Law No. 4 of 2016 regarding the protection of juveniles defines a juvenile as a child who is under the age of 18 at the time of committing a criminal act or when at risk of falling into delinquency. The juvenile's age is established by an official document, in the absence of which the age is to be determined by an expert appointed by the courts or by the Office of the Public Prosecutor for Juveniles. The new Decree-Law – which represents a step forward in the criminal policies applied to juveniles, who are now treated as victims – came as the culmination of the State's concern for juveniles, which began a number of years ago. The National Committee for Juvenile Justice was established in 2010 under the leadership of the Ministry of Social Development and with the following institutional membership: the Ministry of the Interior (Police), the Ministry of Justice, the Ministry of Education and Higher Education, the Supreme Judicial Council, the Office of the Public Prosecution, the Ministry of Health, the Ministry of Labour, the Ministry of Women's Affairs, the Independent Commission for Human Rights and Defense for Children International – Palestine Section. The National Committee has the role of identifying needs and priorities at the national level and developing plans and programmes regarding juvenile justice. The Committee then established a technical subcommittee, which drafted the 2016 Decree-Law regarding the protection of juveniles. Prior to that, the law applicable to juveniles had been the Jordanian Juveniles Act No. 16 of 1954 in the West Bank and the Egyptian Juvenile Offenders Act of 1937 in the Gaza Strip. An executive committee has been set up by the Ministry of Social Development to follow up on the application of the new Decree-Law.

114. In 2013, thanks to collaboration between the Ministry of Social Development and the United Nations Development Programme (UNDP), the State of Palestine came up with a system of legal aid for juveniles in conflict with the law. The system was rolled out in the West Bank where three lawyers were appointed to deal with such cases in the north, centre and south of the region. The legal aid offered to juveniles and their referral to different institutions has contributed to their reintegration. Legal assistance has been provided to 919 juveniles since the programme was launched. In the years 2014 and 2015, 645 cases were resolved while a further 274 were processed. In 2015, legal assistance was provided in 167 cases of robbery, 120 cases involving violence, 19 cases involving sexual disorders, 7 drug-related cases, and 24 cases of minor infractions such as traffic violations. Alongside the non-governmental organizations (NGOs) that offer these services, the Bar Association adopted a legal aid system in 2016 under which it will provide legal representation to all persons of insufficient means who stand accused of crimes that attract a prison sentence. Under the system, juveniles will receive this service automatically irrespective of their lack of means or possibility of going to prison. The Bar Association is developing a legal mechanism for the care and protection of adolescents as well as a code of conduct that takes account of the interests of marginalized groups, including children.

115. In 2016, the Ministry of Social Development developed and reviewed its strategic plan for juvenile justice, with support from the United Nations Children's Fund (UNICEF). This process led to a long-term five-year plan and a short-term one-year plan (a road map). The plans envisaged the formation of a committee to monitor law enforcement as part of the National Committee for Juvenile Justice, with members from competent ministers and from Defense for Children International. They also included provision for a survey regarding the services provided to juveniles by civil society institutions in the areas of, firstly, rehabilitation and, secondly, non-custodial measures. Lastly, the plans aimed to build capacity among childhood counsellors with theoretical and practical training.

116. Another step taken by the State of Palestine to provide a judicial system specifically for juveniles was the establishment of a special unit to deal with juveniles, as part of the structure of the Palestinian Police. In addition, 12 members of the Office of the Public

Prosecution have been assigned to deal with cases involving juveniles. More recently, under the new Decree-Law regarding the protection of juveniles, a special juvenile court has been established as part of each court of first instance.

117. At departments of social development in the governorates, probation officers are present when juveniles are questioned by police or prosecutors, and they maintain contact with the parents regarding the provision of legal assistance to the juvenile. A social report about the young person is submitted to the court with a recommendation as to the best course of action to pursue in the case. The Ministry provides juveniles who have been convicted by the courts with protection and welfare in juvenile care institutions.

Persons with disabilities

118. Article 10 of Persons with Disabilities Act No. 4 of 1999 states: "The Ministry is responsible for coordinating with all relevant stakeholders authorities to provide care and habilitation for persons with disabilities." Article 5 of the Act stipulates: "The State is to provide various forms of habilitation for persons with disabilities, depending upon the nature of their disability."

119. Accordingly, the Ministry of Social Development makes the following services available to persons with disabilities: residential social welfare services for persons with severe disabilities who have no one to provide for them; health insurance and access to diagnosis and classification to determine degree of disability; early detection of disability; assistive devices and equipment as part of an emergency assistance programme; school and university fee exemptions for persons with disabilities in education; and assistance in cash and in kind. Under article 6 (2) of the Persons with Disabilities Act, all means of transport for individuals with disabilities are exempt from fees, customs duties and taxes. The Ministry grants the exemptions to applicants who meet the required conditions.

Older persons

120. Article 21 of the Basic Law grants all individuals irrespective of their age the freedom to engage in economic activity, in accordance with the law. Article 22 of the Basic Law states that social and health insurance, as well as pensions for incapacity or old age are to be regulated by law.

121. The draft criminal code addresses the protection of older persons from all forms of violence and abuse, and makes children responsible for caring for their parents. A draft law on the rights of older persons was completed a few years ago and is part of the legislative programme of the Palestinian Government, although it has yet to be approved. The fact that the new law has not been enacted means that its implementing regulations have not been issued and nor have the regulations governing care homes for older persons.

122. Nonetheless, via its home for older persons in the governorate of Jericho, the Ministry of Social Development provides care and accommodation for older persons who have suffered violence or have no one to care for them and nowhere to stay. In addition to this, through geriatric care counsellors at departments of social development in the governorates, the Ministry coordinates with institutions in the local community to provide care and shelter for older persons who have suffered violence or ill-treatment or have no one to care for them and nowhere to stay.

Asylum seekers

123. Due to the specific nature of the Palestinian situation, the State of Palestine is unable to take in refugees. This is because the occupying State controls all entry and exit crossings of the Occupied Palestinian Territory and has usurped the power to decide whether or not foreigners are allowed to enter the State of Palestine.

124. It should be noted that nearly half the Palestinian people have been refugees in the diaspora since 1948 and that the occupying State does not allow Palestinian citizens in the diaspora to return to their homeland, even though that State was primarily responsible for their displacement. The Palestine Liberation Organization continues to work with the State

of Palestine to find a just solution to the refugee issue and to implement the right of return, in accordance with General Assembly resolution 194 (1948).

Domestic violence

125. Article 295 of the Jordanian Criminal Code (Act No. 16 of 1960) penalizes sexual relations between a girl aged between 15 and 18 and a person charged with her care. According to that provision, a fixed term of imprisonment with hard labour is to be imposed on any legitimate or illegitimate ascendent of a girl aged over 15 but under 18 who has sexual relations with that girl. This also applies to the husband of the girl's mother or paternal grandmother as well as to persons responsible for the girl's education or who hold authority over her. The same penalty is applicable if the author of the offence is a cleric or a director or employee of an employment bureau and they commit the offence by abusing their authority and the facilities that arise from such authority. A full chapter of the Code (arts. 273 to 278) focuses on offences affecting the family.

Articles 42 to 49 of the Children's Act No. 7 of 2004 envisage protection for children from all forms of violence and exploitation.

The Social Development Act No. 14 of 1956 gives the Ministry overall responsibility for the welfare of children and mothers.

Under Regulation No. 12 of 2011 regarding centres for the protection of female victims of violence, those centres are to provide protection, support and rehabilitation for victims of domestic violence.

Council of Ministers Decree No. 01/79/13/M.W/S.F, which was issued in 2013, concerns a national referral system for female victims of violence and regulates the relationship between the three partner institutions (the Ministry of the Interior, the Ministry of Social Development and the Ministry of Health) in protecting women who have suffered violence.

The Government is working on the final version of its draft law on the protection of the family from violence, which criminalizes aggression against children or women, including spousal rape.

126. Spousal rape, however, is not criminalized under current law in the State of Palestine; indeed, the Personal Status Act overlooks it entirely. This is because the cultural heritage surrounding family life, which is linked to certain schools of Islamic sharia, considers that a husband has a right to have sex with his wife, irrespective of her consent. This is why new laws, and particularly the draft criminal code, need to address this issue and close the loopholes in existing legislation, which the State of Palestine inherited from earlier periods in its history.

127. A person who commits rape is liable to a term of imprisonment of not less than 5 years and, if the victim is under 15, to a term of imprisonment of not less than 7 years. If the victim is over 15 but under 18 and the perpetrator is a legitimate or illegitimate ascendent of hers, the penalty is imprisonment for between 3 and 15 years, at the discretion of the judge. If a valid contract of marriage is concluded between rapist and victim, the prosecution of the offender is discontinued or, depending upon the circumstances, the enforcement of his sentence is suspended. This constitutes a double punishment for the victim and opens the way to impunity for perpetrators. Thus, the Office of the Public Prosecution has retained its right to prosecute the offence (or to enforce the sentence) in cases where the marriage ends with divorce for the woman, without legitimate reason, within 3 years in the case of less serious offences and within 5 years in the case of more serious offences. According to records held by the gender unit of the Office of the Public Prosecution, there were some 30 cases of rape in the West Bank in the period between 2013, 2014 and up to 22 June 2015.

128. The draft Palestinian criminal code envisages rigorous imprisonment or life imprisonment for anyone responsible for raping a female who is under the age of 18 or who, due to weakness or physical, psychological or mental incapacity, is unable to oppose resistance. Moreover, it does not exempt perpetrators from criminal proceedings if they marry their victim; however, it does not criminalize spousal rape. In general terms, the draft criminal code expands the scope of criminalization of gender-based acts of violence, with a particular

focus on offences against women, which attract more severe penalties. These include offences such as incest, indecent assault, inappropriate advances, indecent acts or comments, seduction through promise of marriage and instigation to break marital ties. For example, under current criminal law, persons who commit incest are liable to a term of imprisonment of between 2 and 3 years, irrespective of whether one of the offenders has legal or effective authority over the other. This is because, in all cases, incest is considered to be a less serious offence. However, the new draft code distinguishes between two different situations. In the first case, where one of the parties to the incest has legal or effective authority over the other, the party holding that authority is liable to a term of imprisonment of not less than 7 years (the act being considered a more serious offence) while the other is liable to a term of imprisonment of up to 3 years (the act being considered a less serious offence. In the second case, where incest occurs between two persons neither of whom has authority over the other, each of them is liable to a term of imprisonment of not less than 5 years (the act being considered a more serious offence). The draft criminal code goes even further by considering the mere fact of committing a crime against a woman to constitute, of itself, a circumstance liable to aggravate the penalty prescribed for that crime, whatever it may be.

129. As for protection, women's counsellors at departments of social development take in and assist female victims of violence who turn to the departments or to the family protection units run by the police or by the governorates. There, the women and their children can be provided with protection, care and guidance, and efforts can be made to reintegrate them into the community. In cases where their lives might be at risk, they are given protection in cooperation with three centres present in the West Bank (the Mehwar Centre in Bethlehem, which is a governmental institution run by the Ministry of Social Development; the Safe House in Nablus, which belongs to the Family Defence Society; and the Emergency Centre in Jericho, which is associated with centres for the legal and social guidance of women). There, the women and their children can receive all the legal, psychological, social and health services they require.

130. The provision of protection to female victims of violence also involves empowering them across a range of areas:

- Education: providing beneficiaries with secondary and university-level education;
- Economic empowerment: providing beneficiaries in protection centres with training in professions of their choice, such as cosmetology or tailoring;
- Providing work for survivors of violence: the work is provided in centres run by the Ministry as well as in other centres, although there are some difficulties in this regard;
- Awareness-raising: activities are conducted to raise awareness about women's rights, gender, domestic violence and protection. These activities are directed at beneficiaries themselves, at women's counsellors and at the residents of protection centres.

Human trafficking

131. Certain provisions contained in some domestic Palestinian laws contemplate traditional offences that are akin to human trafficking. In particular, the Palestinian Children's Act, the Palestinian Labour Code and the Jordanian Criminal Code, which is in force in the West Bank, cover offences such as prostitution, child labour and child abuse. For its part, the draft Palestinian criminal code includes detailed provisions that explicitly and directly criminalize and punish human trafficking offences. The draft code also considers slavery to be a form of human trafficking and focuses particular attention on the categories most at risk, particularly women and children.

132. Many pieces of legislation in Palestine serve to protect women and girls from sexual exploitation in all its forms, although they do not make explicit provision for human trafficking offences. Thus in 2014 – pending the enactment of the draft Palestinian criminal code – the State of Palestine acted to protect such persons by signing and ratifying the relevant international treaties; i.e., the Convention on the Rights of the Child and the United Nations Convention against Transnational Organized Crime. In addition to this, while still under the British Mandate in 1932, Palestine acceded to the 1904 International Agreement

for the Suppression of the White Slave Traffic and the 1921 International Convention for the Suppression of the Traffic in Women and Children.

133. Prostitution is illegal under the criminal laws of the West Bank and the Gaza Strip, which penalize incitement or coercion to practise prostitution, the exercise of prostitution and living off the earnings of prostitution. The relevant provisions, which are contained in a separate section dedicated to licentious behaviour and offences against public morals, envisage a term of imprisonment of between 1 month and 3 years for anyone who, whether in Palestine or abroad, leads or attempts to lead a female under the age of 20 into prostitution or who leads or attempts to lead anyone under the age of 15 to commit sodomy. The same laws envisage a penalty of up to 2 years' imprisonment for anyone, male or female, who knowingly derives their income entirely or in part from the earnings of a woman who exercises prostitution.

134. The same laws also prohibit opening locations in which to exercise prostitution, and anyone who furnishes, rents or owns a site for purposes of prostitution, or who participates in the use of a site as a place of prostitution, is liable to a term of imprisonment of up to 6 months. The laws also punish the offence of trafficking in women, and anyone who detains a woman against her will in any place to practise prostitution or in a house of ill-repute is liable to a term of imprisonment of up to 2 years. Moreover, anyone who – using threats, intimidation, deception or drugs – leads or attempts to lead a woman into an act of illicit intercourse is liable to a term of imprisonment of between 1 and 3 years. The law also envisages punishment for anyone who, entrusted with the care of a child, allows the child to reside in or frequent a house of ill-repute.

135. Child marriage is considered to be a form of trafficking in women, and the criminal laws in force in the West Bank and the Gaza Strip envisage a term of imprisonment of up to 6 months for anyone who marries a girl under the age of 15, or officiates or helps to officiate at such a marriage in any way. Moreover, under the criminal laws of the Gaza Strip, anyone married to a girl under the age of 15 who has conjugal relations with her or who attempts to facilitate such relations using any material means or device is liable to a term of imprisonment of 2 years. The Gaza laws also impose a sentence of 5 years' imprisonment upon anyone who has illicit intercourse with a female aged between 16 and 21, or who assists another to engage in such intercourse, if the female is a descendant of the perpetrator or of the perpetrator's wife or if he is her guardian, responsible for her upbringing or otherwise holds authority over her.

136. These laws also penalize sexual offences committed against women such as rape, indecent assault, inappropriate advances, indecent acts or comments. The Palestinian Labour Code, moreover, prohibits women from working at night.

137. Under Decree-Law No. 9 of 2007 concerning money laundering, money resulting from the sexual exploitation of women and children is considered to be illicit and to constitute grounds for the offence of money-laundering. Perpetrators are liable to a term of imprisonment of 15 years as well as heavy fines.

138. The draft Palestinian criminal code envisages severe penalties for vice-related crimes, and it dedicates an entire section to crimes that offend human dignity, including the crime of human trafficking. Article 468 of the draft code, for example, envisages a term of imprisonment of up to 7 years for anyone who, whether in Palestine or abroad, leads or attempts to lead a female into prostitution or who leads or attempts to lead a boy under the age of 18 into vice and immorality. That penalty increases to up to 10 years' imprisonment if the female is under the age of 18 or if force, threats or deception are employed against her. Any person, male or female, who habitually engages in prostitution is liable to a term of imprisonment of up to 7 years, while anyone who opens a house or other location in which to exercise prostitution, who administers such an establishment or assists in running it in any way is liable to a term of imprisonment of up to 10 years. The draft code also covers the question of living off the proceeds of prostitution by stating that anyone who knowingly derives their income from the earnings of a female or male who practises prostitution is liable to a term of imprisonment of up to 7 years. All the aforementioned provisions also envisage the imposition of heavy fines.

139. The draft Palestinian criminal code penalizes all forms of human trafficking, particularly trafficking in women. Perpetrators of the offence face a fixed term of imprisonment as well as a fine of between JD 20,000 and JD 40,000 or a fine equivalent to the proceeds of the offence, whichever is greater. The penalty is increased if the offender has established an organized criminal group for the purposes of human trafficking; if the act was accompanied by threats, abuse or torture; if the offender is related to – or has authority over – the victim; if the offender is a public official; if the crime results in the death, disability or illness of the victim; or if the victim lacks capacity or has a disability.

140. There are no detailed studies or accurate statistics regarding the trafficking of women and their exploitation in prostitution in the State of Palestine. This is due to the sensitivity of that issue in the Palestinian cultural and social milieu. However, the studies that do exist indicate that human trafficking activities are practised in a limited and unregulated manner. It is important also to mention other factors that further complicate efforts to curb human trafficking, gain access to victims and prosecute and punish perpetrators. These factors are the Israeli occupation with its fragmentation of Palestinian territory; the isolation of large areas; the military checkpoints, the settlements, the wall of expansion and annexation and the bypass roads; the continuing control of the borders of Palestine; and the absence of government control over the facilities that employ Palestinian workers (men and women) or over the working conditions to which they are subjected, both in Israel and in the settlements.

141. The Minister of Labour has issued a decree regulating domestic work. Under the decree – which defines the nature of such work, working hours and employer obligations – it is the responsibility of the Ministry of Labour to stipulate and oversee adherence to domestic employment contracts. The Ministry also has the power to take measures and impose penalties if it receives complaints or information concerning violations to the rights of domestic workers.

142. With regard to trafficking in human organs, article 16 of the Palestinian Basic Law stipulates: “It is prohibited to conduct any form of medical or scientific experiment without the prior legal consent of the party involved, while medical tests and treatment or surgical procedures may be conducted only under the relevant law. The transplantation of human organs and other new scientific developments are to be regulated by law and are to serve legitimate humanitarian purposes.” The draft criminal code envisages a term of imprisonment of up to 5 years for persons who undertake to sell an organ of their own body while purchasers and intermediaries are liable to the same penalty. Anyone who, knowing an organ to have been sold, performs a surgical operation to remove that organ from a body or to transplant it into another body is liable to a term of imprisonment of up to 7 years. The sentence is to be one of rigorous imprisonment if the offence was committed by an organized group or if it was committed in the context of *hudud*.

Article 11
Poverty

143. The State of Palestine is among the least developed countries according to General Assembly resolution 43/178 of 1988, which recognizes the difficulty of achieving development for the benefit of the Palestinian people under occupation. Thus, the main cause for the widespread poverty is the Israeli occupation and the policies of that occupation, which aim to assign all life sustaining resources to settlers in the illegal settlements at the expense of the Palestinian people, their natural resources and their land. This restricts the Palestinian people in the exercise of the very rights they need to exercise in order to overcome poverty, such as the right to self-determination, the right to sustainable development, the right to movement and the right to life.

144. The Palestinian Central Bureau of Statistics has set the national poverty line in accordance with a domestic definition of the concept of poverty, which is based on the official definition of poverty established in 1997. The definition, which embraces absolute and relative criteria, is based on a budget for the basic needs of a family of five (two adults and three children). Two poverty lines have been traced on the basis of the real consumption patterns of families (issued by the Palestinian Central Bureau of Statistics on 10 July 2015).

145. It should be noted that there is, as yet, no national plan to combat poverty although, as of mid-2017, a national team has been working on drafting a multi-dimensional poverty plan and there are policies and programmes that aim to reduce the impact of poverty on families and individuals. In addition, economic empowerment and social rehabilitation programmes enable families and individuals to launch income-generating projects, and this too acts as a form of relief assistance.

146. The Ministry of Social Development is responsible for monitoring programmes aimed at combating and reducing the impact of poverty. As part of those programmes, baskets containing relief aid are provided to families living below the poverty line. The families are also given cash assistance every three months, free health insurance for all their members and full exemption on charges for external medical treatment, while 36 per cent of them receive food assistance every three months. Furthermore, the families are provided with emergency assistance as required; they are exempted from school fees and pay lower university tuition fees in some universities.

147. The Ministry of Social Development gives all families, without exception and unconditionally, the right to apply for its services. Methodologies for targeting families have been introduced, with the approval of the Council of Ministers. The Ministry provides basic services to the family as a single unit, while also focusing on each individual family member. Single persons are considered to constitute a family while persons with special needs within a family are assisted with additional services over and above the basic services. In this way, the services and interventions reach all the subgroups within the family.

Right to adequate nourishment

148. Under article 17 of the Public Health Act of 2014, the Ministry of Health coordinates with the bodies responsible for overseeing the circulation of foodstuffs. Those bodies monitor imported foodstuffs, which arrive at customs posts and are not allowed to enter without clearance from the Ministry, as well as locally produced foodstuffs in the places where they are prepared and processed. According to article 18 of the Act, foodstuffs may not be marketed if "they contravene the specifications and conditions set by the Ministry, if they have been adulterated in any way, if they are unfit for human consumption or if they are harmful to human health". The department for nutrition registers all special foodstuffs and monitors them on the market. These include: "Micronutrient-fortified foods, infant formula, follow-on formula, baby and infant food, nutritional products for athletes, dietary supplements, medically prescribed foodstuffs, foods for weight loss and foodstuffs that claim to have health or nutritional benefits." On a separate front, the Ministry is implementing a national system for the marketing of breast milk substitutes, which includes a ban on advertising or promoting any breast milk substitute.

149. Under article 25 of the Act, officials of the Ministry are to test samples of the food in circulation using a sampling mechanism governed by regulations issued in accordance with the Act. Under article 26, the samples are to be tested in Ministry-designated laboratories as soon as they have been taken and the parties concerned are to be informed of the results of the analysis within no more than 15 days. The Ministry collects samples on a random basis to ascertain food quality and addresses any violations it encounters.

150. The Ministry also takes steps to raise awareness about the principles of nutrition. In that regard, and acting in cooperation with the competent authorities under article 36 of the Act, the Ministry develops text-based and audiovisual educational programmes on health and the environment. Article 38 of the Act states that it is the responsibility of the Ministry, acting through its department for school health and cooperating with the competent authorities, to develop educational programmes on health and the environment then roll them out in nurseries, schools and universities. As part of its national strategic plan for health 2014–2016, the Ministry has intensified its health awareness and education campaigns, particularly on non-communicable diseases and their various risk factors. The second programme under the strategic plan includes the promotion of healthy lifestyles and public health programmes.

151. Ministry of Health departments for school health, health education, nutrition and environmental health conduct awareness-raising campaigns among school students, mothers

and the community at large on healthy and balanced diets and the avoidance of unhealthy eating habits.

152. A document on policies, strategies and a national plan for nutrition in Palestine 2015–2017 was developed on the basis of the right to food, as part of a food security programme the third pillar of which concerns food security and nutritional safety. The document prioritizes food security, and efforts to implement it are being made by the competent authorities in Palestine.

153. The Ministry of the Economy organizes the various sectors of the market and regulates business transactions. It monitors the commodities entering the market in order to ensure the safety and quality of goods and products and to protect citizens from fraudulent practices. It accomplishes this task via the department for consumer protection, which operates under Consumer Protection Act No. 21 of 2005 and its implementing regulations of 2009. For its part, Act No. 4 of 2010 regarding the boycott of goods from the settlements aims to block any goods and services produced in illegal settlements on the Palestinian Occupied Territory, to provide better marketing opportunities for Palestinian goods and to raise citizens' awareness about the negative effects of promoting products from the settlements.

Right to access water

154. Measures taken to ensure that all persons are able to access affordable and sufficient water that is safe for personal and domestic use are regulated by Water Act No. 14 of 2014. The purpose of the Act is to develop water resources in Palestine through integrated sustainable management, with a view to increasing capacity, improving quality, preserving and protecting water resources from pollution and depletion, and improving and increasing the standard of water services.

155. The Act considers all hydric resources in Palestine to be public property and grants power to manage those resources to the Water Authority, which is mandated to distribute them fairly and efficiently. The Act, furthermore, decrees the inviolability of hydric resources and of water and sewage facilities, in line with criteria established by the Council of Ministers, and it states that all individuals have the right to obtain sufficient potable water of adequate quality, at prices to be determined under a system of tariffs issued by the Council of Ministers. Under the Act, it is forbidden to interrupt the supply of water to users who, due to financial inability, fail to pay their bills.

156. The management of water resources in the State of Palestine is divided into different levels that operate integrally. Regulation and oversight is the responsibility of the Water Sector Regulatory Council, which oversees the quality of water and sewerage services and ensures that prices remain reasonable for all the parties involved. It also issues authorization for water-related facilities and projects. On a separate front, the Palestinian Water Authority is responsible for strategy and planning in the water sector and, thus, regulates the supply of water to service providers.

157. Under article 2 (11) of the Public Health Act, the Ministry of Health conducts periodic tests of drinking water to ensure that it remains fit for human consumption. Indeed, the Ministry acts to ensure the availability of safe drinking water by screening it for biological or chemical contaminants in the Central Public Health Laboratory. The Ministry also chlorinates collective wells, wherever they may be located, as well as wells run by local authorities whence water is distributed to homes. Ministry policies also include a system for the epidemiological monitoring of diseases, including waterborne diseases. The system envisages rapid intervention to reduce the propagation of disease as well as the testing and treatment of water, the raising of public awareness, the treatment of persons who fall sick and the provision of free medicines. Also under the system, samples are collected from open water reservoirs and from wastewater sites and tested for the presence of the poliovirus. The actions of the Ministry of Health are not limited to drinking water but also include the water of swimming pools, which also undergoes periodic testing and is regularly chlorinated. The Ministry also monitors compliance with the sanitary conditions set forth in instructions issued by the department for environmental health.

158. The water sector in the State of Palestine is being affected by the occupation, which depletes Palestinian national resources, including water resources, and denies the Palestinian

people access thereto. Israel, the occupying power, supplies large amounts of Palestinian water in the West Bank to the illegal settlements. This water is, in fact, stolen. Data supplied by the Water Authority and by the Palestinian Central Bureau of Statistics indicates that the amount of water available to an Israeli settler in the West Bank is about eight times the amount available to a Palestinian citizen. And the water crisis in "Area C" of the West Bank, including East Jerusalem is growing. Those areas are, in fact, under the complete control of the occupying forces who apply discriminatory policies the overall effect of which is to provide a high level of well-being for settlers while almost entirely neglecting local Palestinians. The occupiers have raised the cost of permits for building facilities, including water facilities, in those areas while, at the same time, preventing the Palestinian Government from establishing the necessary infrastructure there. In the Gaza Strip – which already suffers from overpopulation and difficult living conditions as a result of the blockade that began in 2007 and the three wars waged by Israel since then – the water sector is affected by the fact that upwards of 90 per cent of groundwater is polluted. This fact has led a number of United Nations agencies to express concerns about whether the Strip will be liveable by the end of the current decade. In general, the population of the Gaza Strip is reliant on desalination plants which do not produce enough water to meet their needs.

159. Despite these problems, public water supply networks in the State of Palestine are largely able to ensure access for citizens, and data from the Palestinian Central Bureau of Statistics shows that 94.9 per cent of Palestinian families are connected to the public water system. Those who are not connected to the system rely for drinking water on unofficial suppliers, a process that often requires walking long distances and making a physical effort to transport the water, not to mention the elevated costs involved. The Palestinian Government is doing what it can to close this gap by supporting citizens who rely on such services and monitoring the prices of the water thus supplied. Although the Government has drawn up a plan for the communities that are cut off from the water supply or that do not receive water as they should, it is nonetheless forced to rely on unofficial suppliers as those communities remain under occupation.

160. The infrastructure crisis in the water sector essentially concerns sewerage, and the significant shortage in sanitation infrastructure outside the main cities has left communities in "Area C" and "Area B" without sewerage altogether. In that connection, 38.4 per cent of families in the West Bank are connected to the sewerage system as compared to 83.5 per cent of families in the Gaza Strip. This means that not less than 32.6 per cent of Palestinian families rely on absorption pits or other alternative means of sanitation.

Right to adequate housing

161. In 2014, in collaboration with the United Nations Human Settlements Programme (UN-Habitat), the Ministry of Public Works and Housing conducted an in-depth study on housing in the State of Palestine. In addition to this, at the end of 2013, the Ministry issued a document on the condition of the housing sector in the State. The document considered all matters related to housing, taking account of its significance, the impact of the occupation on its development and the political, institutional and legal frameworks affecting it as well as its financial, economic and cultural dimensions. The results of the study, and of a 2015 survey into housing conditions conducted by the Palestinian Central Bureau of Statistics, showed that 0.5 per cent of families in the State of Palestine are deprived of adequate shelter, 8.7 per cent live in unsafe structures, 13.2 per cent live in inadequate and severely overcrowded structures and 5.5 per cent do not have a waste collection service.

162. The Ministry of Public Works and Housing has formulated national housing policies with a view to promoting that sector and to identifying a global vision that embraces strategic objectives and plans of action. Undoubtedly the most important objective is to develop operational strategies and plans that will enable all citizens to enjoy adequate housing; however, there are a number of obstacles that stand in the way of achieving this. One of these is the lack of available financial resources and the fact that the State of Palestine is reliant on donations and support from abroad in order to finance its budget. The Ministry of Public Works and Housing is attempting to overcome this obstacle by developing a strategic partnership between the public sector and the private sector (developers, contractors, housing cooperatives and investors) to build accommodation units and to plan and develop the

necessary infrastructure and services to enable citizens to enjoy adequate housing. In addition, a strategy is being studied that would involve cooperation with donor States to provide support for housing projects and infrastructure.

163. The other obstacle consists in the policies of the Israeli occupation which involve the confiscation of lands, the construction of illegal colonies and bypass roads, the division of the territory of the State of Palestine and the arbitrary obstruction of development in the West Bank, including East Jerusalem. These policies weigh heavily against the completion of housing projects. The Israeli occupation holds authority over more than 60 per cent of the area of the West Bank, which is the area necessary for Palestinian urban expansion there, while the remaining areas are constantly diminishing due to population growth rates and the intensification of forced displacement of marginalized communities from "Area C" and the countryside, generally towards the big cities. In 2017, according to the Office for the Coordination of Humanitarian Affairs (OCHA) bureau in the Occupied Palestinian Territory, the occupying authority appropriated more than one third of East Jerusalem to build illegal Israeli settlements, with only 13 per cent remaining for Palestinians. At least one third of the houses in East Jerusalem were built without authorization from the occupying authorities, which means that they are at risk of being demolished. In addition to this, the arbitrary policies pursued by the occupying authorities by establishing "permanent residency" for Palestinians living in Jerusalem has led many of them to reside in specific areas in order to preserve their status and to be able to live and work in Jerusalem. This has led to severe overcrowding and urban congestion in vital areas located at the entrances to Palestinian cities.

164. These policies have led to a significant rise in land and real estate prices in all West Bank cities and in the costs of building housing units, meaning that broad swathes of society are no longer able to own their own home. This has had a negative impact on government programmes and plans to provide out adequate and low-cost housing projects for large segments of Palestinian society.

165. Occupation policies that violate Palestinians' right to housing are not limited to confiscating land and obstructing the development of the Palestinian people, they also include arbitrary demolitions. These are carried out by Israel, the occupying power, either as a punitive measure contrary to international law (a policy which increased during the first and second intifadas) or as an administrative measure in the context of refusing to concede authorizations for Palestinian urban expansion. It also involves the destruction of Palestinian homes under other pretexts, a practice that has rendered many Palestinian families homeless.

166. The obstacles the occupation places in the way of the right to housing for Palestinians also extend to the Gaza Strip, which is already suffering from severe overcrowding as well as difficult living conditions for the vast majority of its inhabitants, of whom Palestinian refugees account for an estimated two thirds. Moreover, with its aggression of summer 2014, the occupying State completely destroyed a total of 12,576 housing units and partially destroyed a further 6,455. This means that, by the end of the attacks, some 19,000 units were uninhabitable, according to OCHA statistics. Moreover, because of the obstacles the occupation authorities places on the importation of construction materials, those houses have still yet to be rebuilt and refurbished.

167. In spite of these difficulties, the State of Palestine had been able to carry out a number of low-cost housing projects, mostly aimed at public-sector employees as detailed below:

Northern governorates

Name of project	*Governorate*	*Number of dwellings built*	*Date of completion*
Marj al-Ghazal	Jericho	50	1998
Austrian project (Al-Karama), first phase	Nablus	136	2000
Arab Al-Rashayida	Bethlehem	105 rooms	2000
Austrian project (Al-Karama), second phase	Nablus	22	2012

Name of project	*Governorate*	*Number of dwellings built*	*Date of completion*
Qalqilya project	Qalqilya	74	2012
Total		**387**	

Southern governorates

Governorate	*Governorate*	*Number of dwellings built*	*Date of completion*
North Gaza	1 450	75	2000
Gaza	33	204	2000
Al-Wusta	660		2001
Khan Younis	360	145	2001
Rafah	30		2001
Total	**2 533**	**424**	

Indicator	*Indicator updated*	*Year*	*Value*
Average number of rooms per dwelling	Annually	2017	3.6
Average population density	Annually	2017	1.4

168. The Ministry has provided cooperative housing associations with government land at symbolic prices, benefiting some 5,800 families.

169. Housing policies include strategies to provide housing to persons with special accommodation requirements, including families with female breadwinners, the very poor, families with members with disabilities and disadvantaged families many of which have large numbers of children. Notably, these strategies include the creation of a government-backed housing fund to help low-income families access affordable housing. The target groups are families with lower-than-average income who are below the family poverty line as defined by law. This can include government employees, private-sector wage earners or other groups; it can also include vulnerable and highly disadvantaged families in which the head of the household is a woman, a widow or a combat veteran. In such cases, the target group will require additional subsidies in order to participate in the programme.

170. In the case of families where the head of the household is a woman, priority is given to developing infrastructure, supporting efforts to recondition homes and building decent new housing in villages and other areas where such disadvantaged households live. This is achieved by supporting women's associations, which are the principal institutions of coordination, and by targeting subsidies to enable families with female breadwinners to enjoy adequate accommodation and to help them pay for the services they require.

171. As concerns the environmental safety of housing, responsibility for building housing units lies with municipalities and village councils. The department for health in the governorate then approves the construction following an environmental assessment to ensure that there are no risk factors that may threaten the health of residents and that the natural environment is such as to ensure safe and suitable housing.

Article 12

172. The right to health is addressed in several articles of the Palestinian Basic Law. Article 16 considers the right to health in the context of the right to physical safety and prohibits any form of medical or scientific experiment without the prior legal consent of the party involved. It also prohibits medical tests, treatment or surgical procedures except in the framework of the law. Article 22 states that public institutions have a duty to provide health care as well as health and social insurance to the families of martyrs, detainees, the injured and persons with

disabilities. The same article also regulates labour rights and guarantees health and social care for workers.

173. The details of national health policy are enshrined in the Public Health Act according to which it is the responsibility of the Ministry of Health to run the State's preventive, diagnostic, therapeutic and rehabilitative services. The Ministry is also to create the health institutions necessary to that end, to provide health insurance in line with available resources and to perform other duties with a view to supporting the health sector.

174. The State of Palestine has adopted a health policy that embraces preventive health initiatives such as a national vaccination programme against communicable diseases and preventable disabilities, and early disease and disability detection programmes accompanied by the provision of the necessary treatment, depending upon the Ministry's available resources. The policy also envisages initiatives to raise awareness in all health-related areas in order to increase the knowledge of citizens, improve their attitudes and behaviour and help them embrace healthy lifestyles that will promote their own health and that of their families.

175. The costs of health-care services and private or public health insurance are such as to make them accessible to all, including socially marginalized groups. The Ministry of Health provides primary health-care services, testing and treatment for communicable diseases and treatment for mental illness and cancer free of charge and without the need for health insurance. Other medical treatment services are covered by a health insurance system that is affordable and available to all citizens. It should be noted, moreover, that 7.7 per cent of insured families are covered by free health insurance from the Ministry of Social Development or the Ministry of Labour.

176. Health insurance covers treatment in centres and clinics run by departments of health and in State-run hospitals. It also covers 95 per cent of the costs of treatment in private hospitals, when patients have been referred there by the referrals committee and the service procurement department of the Ministry of Health, and it covers rehabilitation services and physiotherapy for cases referred by the Ministry's service procurement department. However, it does not cover cosmetic surgery, orthodontics, fertility treatment, prosthetic limbs or assistive medical devices.

177. There are six kinds of government health insurance in Palestine. These are compulsory insurance (for employees of the government sector and of municipalities and contractual workers), voluntary insurance, insurance for workers in Israel, contractual insurance, social development insurance and insurance for Palestinian prisoners and their families. In 2014, a total of 150,464 families were participating in these various forms of insurance in the West Bank, in addition to 12,515 families with free health insurance. Since 2000, the Government has been covering unemployed persons with its "Al-Aqsa insurance". This is a form of free health insurance that is made available to the unemployed, families in need and persons whose earnings are lower than the minimum wage. In all, some 215,000 families benefit from this insurance. Under a presidential decision issued on 26 June 2007, all residents of the Gaza Strip are fully exempt from fees for health services provided by ministries and government agencies or institutions, including services dispensed for the first time after that date. This means that the free health insurance coverage for residents of the Gaza Strip is 100 per cent. In the West Bank, 162,979 families have government insurance, including 12,515 families with free health insurance. Alongside government health insurance, there is also a private health insurance as well as NGO insurance and UNRWA insurance.

178. Primary health-care centres in Palestine – which numbered 767 in 2014 – are distributed throughout the country, particularly in rural communities and in "Area C". Of these, 61.5 per cent belong to the Ministry of Health while the others are run by UNRWA and NGOs. The Ministry of Health is the main provider of secondary health-care services (hospitals) in Palestine where it owns and operates 26 hospitals containing 3,259 beds in all governorates. In all, there are 80 working hospitals in the State of Palestine with a capacity of 5,939 beds. Of these, 50 are located in governorates of the West Bank with a capacity of 3,052 beds (59 per cent of the total) while the rest are in the Gaza Strip. The Ministry oversees the issuance of licences to hospitals and other health institutions belonging to the private sector and NGOs. It also has authority to monitor and inspect health-care institutions to

ensure that they are adhering to the standards laid down in the Public Health Act and operating in accordance with the conditions set forth in their licence.

179. Civil society organizations run 34 hospitals with a capacity of 1,967 beds, while the private sector has 16 hospitals with a capacity of 512 beds. For its part, UNRWA has just 1 hospital in the governorate of Qalqilyah, with a capacity of 63 beds. The military provides medical services via 3 hospitals with a capacity of 138 beds. In addition to this, the Ministry is currently overseeing the construction of a private cancer and marrow transplant hospital and a private ophthalmology hospital.

Indicator	*Indicator updated*	*Year*	*Value*
Number of hospitals	Annually	2015	80
Number of doctors per 1,000 inhabitants	Annually	2016	1.7
Number of beds per 1,000 inhabitants	Annually	2015	1.3

180. Measures are taken to ensure that preventive, therapeutic and rehabilitative health facilities, as well as medical equipment and services, are available to everyone, including older persons. As concerns persons with motorial disabilities, certain obstacles remain regarding the adaptation of buildings (especially departments of health) where access is available only on the ground floor but not on upper floors. This is not a problem in primary health-care clinics which, since in general they are single-storey, are easily accessible to persons with disabilities. Nonetheless, such centres lack beds that are suitable for persons with motorial disabilities, unlike State-run hospitals, which are equipped to take in persons with such disabilities. No health centres, departments of health or State-run hospitals are equipped to deal with persons with visual and hearing disabilities.

181. The Ministry of Health does not offer habilitation services and there are no habilitation centres in the institutions it runs. However, it does purchase such services from the private sector and it ensures they are covered under the health insurance it provides. As part of its disability programme, the Ministry of Health has issued directives that aim to improve adaptation in departments of health and clinics in rural areas. Due to the shortage of financial resources, the Ministry cooperates with international organizations such as Handicap International and with Palestinian institutions such as the Young Men's Christian Association to refurbish certain clinics and health centres for persons with motorial disabilities. The Ministry has also adopted guidelines for the future to train medical personnel on optimal ways of dealing with persons with disabilities and to train health workers in sign language.

182. There are areas in which there are no hospitals run by the Ministry of Health. One of these is occupied Jerusalem and its suburbs and "Area C", where there are only primary health-care centres. Citizens in the Jerusalem suburbs who have health insurance can access treatment in the Makassed Charitable Society Hospital (which is run by a private association) via a direct referral from the department of health for the suburbs of Jerusalem, without need for a referral from the service procurement department.

183. Medicines are provided to sick persons who have medical insurance under a policy whereby the patient contributes 5 shekels per dose, with the dose varying according to the kind of medicine involved (be it pills, liquid or suppositories) and the nature of the illness (acute or chronic). In the case of acute illness, the patient contributes 5 shekels per 20 pills, 6 suppositories or single bottle of liquid medicine. Patients with chronic conditions pay 5 shekels per 30 pills. Some medications, due to their nature or effectiveness are excluded from this regime, such as certain antibiotics and injections.

184. The allocation for medicines amounts to 12 per cent of the budget of the Ministry of Health including salaries and for 21 per cent not including salaries. In 2015, it stood at US$ 205 million while in the same year the Ministry distributed medicines to hospitals and health departments to a value of 230 million shekels.

185. The national drug policy followed by the Ministry of Health aims to ensure the provision of first-rate medication, something it achieves by verifying the quality, safety and effectiveness of all medicines, medicinal herbs and dietary supplements. Thus, using

different systems, the Ministry of health strives to provide secure, effective and high-quality drugs that conform to approved standards. To this end, the Ministry registers medications, certifies the factories where they are produced, inspects pharmaceutical corporations, monitors drugs in circulation and ensures that medicines are justly distributed and affordable.

186. Pharmaceutical corporations are inspected and monitored according to specific standards and rules. The drugs they produce are checked for quality then, once they are on the market, random tests are carried out in public health laboratories, which are responsible for monitoring medicines and medical devices. For its part, the general pharmaceutical department of the Ministry of Health runs an annual or biannual programme to monitor the manufacture and distribution of drugs. It also examines quality-related complaints, in which regard it takes all measures envisaged under laws, regulations and decrees, and it monitors counterfeit medications that circulate illegally.

187. As concerns appropriate training for health workers, including training in health and human rights, health teams receive constant training from the technical departments of the Ministry of Health to help them keep abreast of scientific and practical developments. In addition, specialized training is offered to new staff so as to prepare them to work in the Ministry of Health. At the same time, various forms of training (such as short and medium-length courses) are offered outside Palestine with support from international and foreign institutions such as the World Health Organization (WHO) and UNICEF. In cooperation with An-Najah National University, the Ministry of Health has provided scholarships to a number of doctors in areas such as psychology and family health. New nursing staff undergo a two-month training course in the operational mechanisms of the various sections (including health clinics) within departments of health. This training is dispensed by the heads of section.

188. Article 22 (3) of section IV of the Palestinian Children's Act No. 7 of 2004, as amended, states that the Ministry of Health is to provide free health-care services to children under the age of 6, in accordance with rules and standards defined in the Act and in a way that does not conflict with the Public Health Act, the Health Insurance Act or other relevant laws. Under article 4 of the Public Health Act No. 20 of 2004, the Ministry is to accord priority to health care for women and children, this being an integral part of development strategy. Article 5 of the Act stipulates that the Ministry is to provide preventive, diagnostic, therapeutic and rehabilitative services related to the health of women and children, including the following:

- Premarital medical examinations conducted in coordination with the Ministry of Islamic Endowments, which is the authority responsible for marriages between Muslims. In order to preserve the health of the spouses and of their eventual offspring, a marriage contract cannot be concluded until after the test has been carried out. The procedure consists in a blood sample taken at a department of health, which exist in all Palestinian governorates, which is them tested for thalassemia, hereditary haemophilia and AIDS;
- Care for women, particularly during pregnancy, childbirth and breastfeeding. Nurses at primary health-care clinics conduct awareness-raising activities aimed at encouraging mothers to breastfeed their offspring, while community activities are carried out by female health educators at the department for health education and promotion, which is part of the General Department for Public Health. The development of a pregnancy is monitored to ensure it is proceeding well and laboratory tests are conducted free of charge. Women are provided with dietary supplements, also free of charge and, in the last three months of pregnancy, inoculated against tetanus to protect their infant against that disease. Pregnant women facing complications are referred to a specialist government doctor for diagnosis, treatment and ultrasound examinations;
- Follow-up on the development and growth of the child. Nurses in "healthy child" clinics at the primary health-care centres run by departments of health monitor children's growth and development with measurements of height, weight, head and chest circumference and fontanels. In addition, departments for community health, which are part of the General Department for Public Health, monitor the motorial, psychological, mental and sensory development of infants up to the age of 3.

189. The Ministry of Health provides children with postnatal care in "healthy child" clinics and medical clinics. It monitors the children's growth and development, promotes breastfeeding, works on the early detection of potential disabilities or diseases and administers vaccinations.

190. The department for school health monitors children in kindergartens where it conducts activities to raise health awareness among teachers and monitors the environmental health situation of kindergarten structures. The department has issued a guide for kindergarten teachers to enable them to deal with matters related to the children's physical and psychological health and to provide first aid. The guide also identifies factors and issues that have a bearing on health, such as the kindergarten environment and the health education of the children there. In this regard, it should be noted that 54 per cent of children between the ages of 3 and 6 attend kindergartens in Palestine. The Ministry of Health is currently working in partnership with other ministries to develop a national strategy for early childhood that will cover all children from birth to age 6, including those who do not attend kindergarten.

191. Children receive various vaccinations, according to their age and the disease concerned, on the basis of vaccination protocols determined by the national immunization committee, and they undergo clinical examinations for the early detection of hip dysplasia and other physical deformities and disabilities. Preventive testing is also conducted to detect the presence of phenylketonuria. This consists in taking a blood droplet from the infant's heel, which is then tested free of charge at the Central Public Health Laboratory. All children up to the age of 1 are given free supplements (vitamin A and D drops) as well as a dose of blood supplements between the ages of 6 months and 1 year. Treatment for sick children is provided free of charge in primary health-care clinics with parents contributing 2 shekels per dose of any medication the child requires, up to the age of 6.

192. The Ministry of Health provides sexual and reproductive health services to mothers using the methods of family planning available. It also conducts preventive health campaigns such as pap smears for the early detection of cervical cancers and free biennial breast-cancer screening for women over the age of 40. In addition to this, it provides health advice for mothers in all matters concerning the health of women and children, particularly with regard to pregnancy, childbirth, family planning, prevention of sexually transmitted diseases, cancer and the importance of early detection, breastfeeding and the importance of monitoring children's growth and development.

193. Under the Public Health Act, the Ministry is to take preventive and therapeutic measures to limit the spread of communicable diseases. For this reason, Palestine implements a broad-ranging national immunization programme which, in line with the relevant WHO recommendations, employs vaccinations to control preventable communicable diseases. One of the most significant achievements of the Ministry of Health in this connection is the eradication of polio, no cases of which have been recorded for some 20 years. In addition to this, Palestine has been free from measles and neonatal tetanus since 1999.

194. Immunization takes place in primary health-care clinics and centres, while in the case of remote areas, small and marginalized rural communities, zones that fall within "Area C" and Bedouin areas, immunization services are provided by mobile clinics. The bulk of immunization services is provided by the Ministry of Health, followed by UNRWA, while the Union of Health Work Committees (an NGO) provides immunizations in East Jerusalem. As for mosquito-borne communicable diseases, the department for environmental health of the Ministry of Health conducts spraying operations and drains swamps and water collection sites using integrated vector management. This process takes place three times a year in areas particularly exposed to the spread of germ-carrying mosquitoes.

195. As of April 2016, there had been a total of 88 cases of HIV/AIDS. Of these, 69 were cases of persons who had tested positive for HIV and 19 were cases of persons who had developed AIDS. The Ministry seeks to prevent HIV and other sexually transmitted diseases through blood screening campaigns, which are conducted with full confidentiality by departments of health, and it runs educational and awareness-raising activities that are aimed in particular at adolescents, university students and persons who work in the occupying State. HIV tests are offered in departments of health and at two central clinics, one in the West Bank and the other in the Gaza Strip. Analyses are then conducted by the Central Public

Health Laboratory. Persons who fall ill with the disease are also treated at the two aforementioned clinics. For patients with other sexually transmitted diseases, the Ministry of Health provides medicines free of charge and offers psychosocial support for patients and their families with a view to achieving acceptance and reducing the social stigma of the disease.

196. Article 6 of the Anti-Smoking Act No. 25 of 2005 prohibits the sale, distribution, display or advertising of tobacco for persons under the age of 18. Work is currently under way on drafting a law on dangerous drugs and psychotropic substances. For its part, the Ministry runs activities and campaigns at the national level to reduce smoking and curb the use of dangerous drugs. According to statistics of the Ministry of Health, there are between 80,000 and 85,000 drug users in the West Bank and East Jerusalem and 220,000 in the Gaza Strip, while drug addicts number around 22,000 or 23,000 in the West Bank, including East Jerusalem, and around 40,000 in Gaza. The Ministry of Health has established a centre that offers substitution treatment where addicts receive psychosocial support and help to throw off their addiction and integrate back into normal life. Around 140 heroin addicts have turned to the centre, of whom 6 per cent have been cured, reintegrated into the community and found decent work. Substitution treatment consists in giving addicts doses of heroin substitutes, under medical supervision. Patients must first undergo the necessary laboratory tests and they are provided with psychosocial support throughout the process. The Ministry of Health has plans to build two more substitution treatment centres in the northern and the southern regions of the West Bank as the current centre serves only the central region. The Ministry also plans to build a drug-addiction treatment centre in Bethlehem. The new centre will be able to offer accommodation for cases that need particular care and its services will cover the entire country.

197. As concerns mental health, article 2 (1) of Decree No. 113 of 2004 of the Council of Ministers concerning the government health insurance system stipulates that treatment for persons with chronic mental conditions is to be part of the services provided free of charge by the Ministry of Health. Thus, patients with psychological and mental conditions are treated in facilities run by the Ministry where they are provided with medication free of charge and their condition is constantly monitored by doctors, psychologists and social workers. There are 13 community psychological health centres in the West Bank as well as a specialized children's centre in the Hebron department of health, while in Gaza there are 6 community psychological health centres. In addition to this, the West Bank and the Gaza Strip each have a psychiatric hospital.

198. The strategic psychological health plan 2015–2019 highlighted the importance of continuing to develop community psychological health services and of integrating them into primary care, with a particular emphasis on interventions in times of crisis. Community psychological health services have been developed over recent years and professional staff have been trained to provide optimal services. A rehabilitation programme has been developed for patients at the psychiatric hospital, and a day centre has been established in the Gaza Strip. In 2014, a total of 2,257 new psychological cases were recorded in the West Bank (which amounts to 89 per 100,000).

199. The department for school health in the Ministry of Health is working to implement a psychological health programme in schools. This preventive programme – which is based on the principle of early detection of behavioural, psychological and neurological disorders – is being run in partnership with the educational guidance department, which is part of the department of education. Once a case has been detected, psychologists refer it for follow-up to the psychological health clinics run by the department of health. The same psychologists also organize awareness-raising activities on psychological, mental and behavioural health topics for school students.

200. The Ministry of Health is developing programmes to make psychological health services part of the public health services delivered through primary health-care clinics, and it will continue to provide training to doctors and medical staff to facilitate that end. With the signing of the Juveniles Act on the part of the President of the State of Palestine, the Ministry is also drawing up policies and programmes regarding health and juvenile justice.

Challenges and constraints

201. The Ministry of Health faces numerous challenges and constraints that significantly affect the implementation of many of its programmes and strategies. These include the following:

- The Israeli occupation, the political situation under that occupation and the complete blockade of the Gaza Strip are all factors that hinder access to health services, especially in "Area C". Moreover, Israeli control over crossing points hinders or delays the entry of the medical equipment necessary for the work of the Ministry of Health and its institutions. In addition, the proliferation of illegal colonies increases the inflow of wastewater into Palestinian territory and makes it more difficult to travel between cities, villages and the countryside. The arbitrary policies pursued by the Israeli occupiers have also contributed to rises in indicators of disability, poverty, unemployment, psychological disorders and violence.
- The shortage of qualified personnel, particularly specialized doctors and nurses, has been provoked by a number of causes. These include the brain drain, low wages, a poor system of incentives in the public sector and inadequate human-resources planning at the national level.

Articles 13 and 14

202. Article 24 of the Palestinian Basic Law, as amended, states: "Education, which is the right of all citizens, is compulsory up to the end of the basic level at least and is free of charge in public schools, academies and institutions." Under article 37 of Palestinian Children's Act No. 7 of 2004, all children have the right to free education in State-run schools until completion of the secondary level; moreover, education is compulsory up to the end of the higher basic level at least, and the State take all measures necessary to prevent children dropping out of school early. Article 38 of the Children's Act states that all children are to be able to enjoy their right to education on an equal footing.

203. The Ministry of Education and Higher Education has accorded particular attention to the roll-out of plans and programmes aimed at improving the school environment, enhancing teaching methods, enriching the curriculum, imparting life skills, developing relationships with the local community and promoting other mechanisms intended to make schools child friendly in all aspects of the educational process. In addition to this, the Ministry of Education and Higher Education has been working to develop a policy to curb violence in schools, in which regard it has issued a number of regulations and instructions prohibiting the use of any form of violence within schools.

204. The educational process in the State of Palestine includes the following stages:

- Stage 1: Pre-school education (kindergarten), which covers children between the ages of 4 and 5 years and 5 months;
- Stage 2: General education, which includes the following:

    (a) Basic (compulsory) education: This begins when students enter first grade at the age of 5 years and 6 months, and it continues for 10 years until the end of tenth grade. These stages are compulsory;

    (b) Secondary education:

    - Academic secondary education: This lasts two years and includes science, humanities, legal and commercial subjects. The students prepare to take the general secondary (orientation) examination and those who succeed can be admitted to university;
    - Vocational secondary education: This too lasts two years and covers five subjects: industry, commerce, agriculture, nursing and hoteliery and home economics. The students prepare to take the general vocational secondary examination, which enables them to enrol in community colleges and in some university faculties.

205. The duration of the academic year is as follows: It begins on 1 September of one solar year and ends on 30 June of the following solar year; in other words, it lasts nine months and contains an estimated 180 or 190 school days. The school week lasts five days. There are two stages of study:

- Basic education, which is subdivided into the lower basic level (first to fourth grade) and the higher basic level (fifth to tenth grade);
- Secondary education, which is subdivided into academic secondary education, which covers literature, science, commerce and law (first and second secondary grades), and vocational secondary education, which is further subdivided into home economics and hoteliery.

206. With a view to ensuring that education is consistent with the needs of life and work, the Ministry of Education and Higher Education has rolled out its third strategic plan which has a number of goals. These include promoting national identity and citizenship; focusing on strengthening the values system and the rule of law; expanding the vision of education with a view to getting beyond the mere acquisition of local or international diplomas and underlining the importance of citizenship and twenty-first century skills; student-focused learning; and promoting opportunities for creativity, enterprise and balanced development. Emphasis is also given to striking a balance between Palestinian education and the labour market. This requires an effort on the part of State institutions, the Ministry of Education and Higher Education and local and international partners to integrate vocational and technical subjects into general education through the official curriculum as well as through curricular and extracurricular activities up to the end of the basic level (tenth grade). It also requires that a greater proportion of students be enrolled in vocational courses at the secondary level. To this end, it is important to intensify awareness-raising and vocational counselling to direct parents and students towards vocational education and training; to draw attention to factors that lead to success in employment and self-employment; to adapt vocational education curricula to the needs of community life; to ensure that the skills required by the labour market are taught in existing training units; and to establish new training units that focus on life skills and business enterprise. A plan was rolled out in the academic year 2017/18 to expose students in the seventh to ninth grades to three areas of vocational training (painting and woodwork, interior décor and tailoring). In that same academic year, around 2.3 per cent of students were enrolled in vocational education (3.6 per cent in the West Bank and 0.6 per cent in the Gaza Strip).

207. Efforts have also been made to promote enterprise, creativity and the use of technology in education. In fact, the Ministry of Education and Higher Education dedicates particular care to enterprise and creativity, which it considers to be vital for leveraging the Palestinian economy, encouraging critical thinking in students, fostering a competitive and productive spirit and exploiting modern technology to bridge gaps and reconcile differences between educational areas in Palestine. Thus, in order to promote enterprise and creativity in the educational system, strategic partnerships have been forged with Palestinian, regional and international institutions. In addition, support initiatives have been launched and the technological infrastructure of schools has been brought into line with unified standards established by the Ministry of Education and Higher Education in cooperation with its strategic partners. This has opened horizons for Palestinian students with creative ideas in science or literature or who have entrepreneurial projects, to communicate with their peers in the wider world and represent the State of Palestine on the international stage. The Ministry is also pursuing digitalization as one of the most important aspects of educational development with a view to improving the quality of education in Palestinian schools through the use of information technology.

208. The smart learning programme concerns schools that focus on educating their students in the competencies and outcomes of the main curricula. Under an annual plan for 2019, the Ministry will continue to extend the smart learning programme, with two main objectives: firstly, a horizontal expansion of the schools that currently implement the programme and, secondly, the integration of an estimated 50 new schools into the programme.

209. Curricula are based on national, intellectual, social and cognitive foundations and have the goal of promoting culture and respect for others. Palestine is a peace-loving nation

that pursues international understanding and cooperation on the basis of justice, equality, freedom, dignity and human rights. It adheres to values and principles that promote human beings and enhance their intellectual qualities, focusing particularly on science, work, ethics and ideals, the role of education in economic and social development and active participation in the construction of a humane society. The State works to consolidate democracy and the rule of law and to provide equal educational opportunities for all Palestinians without discrimination. To this end it ties education to development and seeks to consolidate its link to vocational and technical training, thereby responding to the economic needs of society by creating a well-trained work force and seeking to ensure that each individual can contribute to the advancement of the community.

210. The Palestinian curriculum was compiled and standardized across the West Bank and the Gaza Strip in 2000, a process that was completed in 2006. Before that date, the Jordanian curriculum had been followed in the West Bank and the Egyptian curriculum in the Gaza Strip. The new curriculum includes the following features:

- A change in the stereotypical view of women and an emphasis on their participation alongside men in social, cultural and political roles;
- The integration of certain features of international humanitarian law, children's rights and human rights.

211. Efforts are currently being made to develop a comprehensive, integrated and unified plan wherewith to evaluate and reform school curricula. The plan embraces a number of components such as a teacher training strategy, an e-learning initiative, the digitalization of the curriculum, kindergarten curricula and curricula for informal education (literacy and adult education).

212. Palestinian school curricula cover economic, social and cultural rights in the world and in Palestinian society. They also embrace issues such as gender and there are special curricula for Christian and Islamic education from first grade up to secondary (orientation) level. Students are provided with a stimulating environment thanks to guidance for teachers in the use of technical educational equipment. Moreover, students are encouraged to learn by following textbook-linked activities and to discover the environment through various educational, cultural and social activities. Curricula also focus on communication with parents and take account of the psychological needs of students thanks to the presence of educational counsellors in schools.

School enrolment fees

213. Article 24 (1) of the Palestinian Basic Law, as amended, stipulates that education is the right of all citizens, is compulsory up to the end of the basic level at least and is free of charge in public schools, academies and institutions. This is reaffirmed in the Decree-Law on Public Education which, consistent with the international obligations of the State of Palestine, promotes the right to education as enshrined in the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child. As concerns higher education, article 2 of the Higher Education Act No. 11 of 1998 states: "Higher education is the right of all citizens who meet the academic and substantive requirements prescribed in the present Act and in regulations issued pursuant thereto."

214. As concerns school fees and the measures taken to rescind them, contributions for schooling are collected from students on the basis of criteria established at the beginning of the academic year. According to those criteria, symbolic fees are paid by students who are able to do so, while students in difficult circumstances, families of martyrs, the injured, detainees, persons with disabilities and persons suffering from thalassemia or haemophilia are exempted from the fees, wholly or in part. Students whose families receive cash assistance form the Ministry of Social Development are wholly exempted from payment of contributions, with the Ministry paying 50 per cent of the contributions due from each student under lists submitted by the regions to the department for social development.

215. The sharia courts also play an important role in ensuring that children of both sexes are able to exercise their right to education up to university level, at the expense of their father or, if the father is absent, of the person responsible. This is conditional upon the student being

successful in his or her studies, upon not working and earning a living and, in the case of females, upon being unmarried.

216. The contributions collected at the beginning of the academic year are as follows:

(a) Fifty shekels (US$ 15) for the basic level from first grade to tenth grade;

(b) Seventy shekels (US$ 20) for the secondary level from eleventh grade to twelfth grade;

(c) Seventy shekels (US$ 20) for the vocational secondary level, in addition to which vocational students of industry or agriculture are required to pay a further 60 shekels (US$ 18) in insurance, which is returned to the student wholly or in part upon graduation;

(d) Four hundred shekels (US$ 115) if a student has to repeat the second secondary level (twelfth grade) in a State-run school and has made no other contributions.

Partial exemption from school fees

217. Partial exemption from contributions for schooling is accorded as follows:

(a) Children of persons who – whether in service, retired or deceased – work or worked in education and higher education, in State-run universities and faculties receive a 50 per cent reduction in school fees;

(b) A reduction of 10 shekels (US$ 2.5) is made from the fees of each student who has one or more siblings enrolled in the two levels; only the higher rate of deduction is admitted and the two exemptions may not be accumulated;

(c) School finance and social committees are granted the power to exempt students with special needs – such as the children of the poor or of the unemployed – from between zero and 100 per cent of the fees. Any exemptions must not exceed 10 per cent of the overall school fees due to the establishment in question and the department of education is to be provided with a detailed list of the names of the students who require such exemptions.

218. Textbooks for the basic level of education are distributed free of charge to all students, with the exemption of English textbooks for which students are required to pay. This latter provision does not apply to students who are registered as special cases with the Ministry of Social Development or to the children of martyrs. Students are required to provide a uniform at their own expense, depending upon their age category.

School enrolment rates

219. There is a 55.1 per cent rate of enrolment in kindergartens most of which belong to the private sector and are not free of charge. Efforts are being made to add propaedeutic classes in State-run schools for girls, and 63 such classes were established by the 2014/15 school year.

220. Although education at the basic level is mandatory and practically free of charge in State-run and UNRWA-run schools, the overall enrolment rate in basic level education in the academic year 2013/14 stood at just 95.3 per cent. This means that 4.7 per cent of students were not enrolled in school.

221. The net enrolment rate in secondary education (eleventh and twelfth grades) stood at 68.2 per cent in the academic year 2013/14. This means that 37.8 per cent of young people of an age to pursue secondary education were not, in fact, attending school, although this proportion is dropping year on year. The net enrolment rate in basic level education for 2016/17 was 97 per cent, meaning that just 3 per cent of students were not enrolled in the system. In 2017/18, the net enrolment rate in higher education was 45 per cent (35 per cent among males and 56 per cent among females).

222. Vocational education remains weak, attracting just 1.92 per cent of students most of whom are male because, given the current social climate in Palestine, it is difficult for females to attend vocational education.

Right to education for persons with disabilities

223. The adoption on the part of the Ministry of Education and Higher Education of a policy of integrating students with disabilities into State-run schools through its inclusive education programme was followed by the enactment of the Disability Rights Act No. 4 of 1999. The Act regulates all the rights of persons with disabilities, including their right to education; however, it lacks accountability mechanisms and monitoring systems to ensure it is fully enforced. In addition to this, it conflicts with other legislation regulating disability rights, such as the Labour Code which requires employers to reserve at least 5 per cent of available posts for persons with disabilities.

224. Data compiled by the Palestinian Central Bureau of Statistics in 2011 indicates that illiteracy rates among persons with disabilities are high (50 per cent), being greater in the Gaza Strip than in the West Bank. The statistics also show that – despite the fact that 16 years have passed since the roll-out of the inclusive education programme in State-run institutions – 37.6 per cent of persons with disabilities have never been enrolled in school at all, 33.8 per cent enrolled then dropped out without completing the secondary level and 87.3 per cent are unemployed.

225. As of the year 2012/13, 5,152 students with special needs were integrated into State-run schools in the West Bank, where they account for 0.96 per cent of the entire student body. It should be noted that the statistics do not reflect the true situation for students with disabilities because they focus solely on visible disabilities and not on other conditions, such as learning difficulties, intellectual disabilities and autism. This is due to a lack of appropriate assessment and diagnosis tools to determine the real number of students with disabilities who have been integrated into school.

226. The Ministry appointed inclusive education counsellors to monitor the students and facilitate their integration into schools; however, by the end of the academic year 2012/13, the number of such counsellors had fallen from 36 in 16 departments (an average of 2 or 3 counsellors per department in West Bank schools) to 27 (an average of one per department). The counsellors were able to attend various training courses on disability; however, they did not undergo systematic development in disability studies or follow specializations in a particular form of disability, and most of them do not have an academic background in disability.

227. Although the Ministry of Education and Higher Education has provided educational aids and assistive devices to persons with manifest disabilities (hearing aids, Perkins Braillers, wheelchairs, spectacles, etc.), evidence points to a lack of equipment and facilities in many schools, particularly institutions where students with non-manifest disabilities have been integrated. It is, in fact, difficult to identify such students and precisely understand their needs in the Palestinian context due to a lack of diagnostic equipment suitable for identifying such non-manifest conditions (intellectual disabilities, autism, learning difficulties).

228. The evaluation mechanisms used lack credibility because they are unable to take account of the individual capacities of the integrated students.

229. The Ministry has produced a Braille curriculum in a number of subjects for students who are blind, although it is still in need of some readjustment in order to be suitable for all students. The physical environment has still not been adapted for all categories of disability because efforts have thus far focused only on motorial disabilities while overlooking other kinds of disability. By the academic year 2012/13, 1,013 State-run schools in the West Bank had been physically adapted with special staircases and ramps for students. A further 492 schools had not been adapted while a further 62 establishments could not be adapted.

230. A secondary level examination for students with disabilities has been developed which, at the current stage, is limited to manifest conditions (visual, hearing and motorial disabilities). This process has encountered a number of challenges, the most important of which are:

(a) The examination is presented to students with disabilities in the same way as that in which it is presented to students without disabilities. In fact, no allowance can be made for certain students with disabilities, such as by presenting the exam in Braille or printed

using a special machine for students who are blind, as that would reduce the number of observers and books for other students;

(b) The examination is presented to all students without exception, without specific evaluation criteria for certain categories, some of whom have a great deal of difficulty in writing;

(c) Persons with certain categories of disability face considerable difficulties in following the established curriculum.

231. The Ministry has allocated resource rooms in the form of classrooms annexed to regular schools. The resource rooms, which contain equipment, educational games and special furniture, are staffed by special education teachers. Students spend part of their day there to study Arabic and mathematics while they study other subjects in the regular classroom. As of 2013, there were 82 resource rooms distributed across the various departments of education; however, they have still not been incorporated into the school system as a whole as an integral part of the education of students with disabilities, because there is no clear policy on how they should operate.

232. A project for resource centres was rolled out in 2005 and centres have been opened in Ramallah, in Gaza and in the department of education of South Hebron. The concept behind the resource centres, each of which has five specialists, is that they should provide support services and other facilities for speech therapy, occupational therapy, counselling and special education. The services are provided by a specialized mobile team, which makes field visits, provides evaluations and individualized plans and trains teachers and families with a view to the optimal integration of students with disabilities.

Vocational and technical education

233. Vocational schools provide students with the knowledge and skills they need to join the labour market or to enrol in institutions of higher education. Students – who are trained to master all skills related to a profession – spend half of their time studying academic subjects, in accordance with their study plan, and the other half on specialized subjects and practical training. Vocational education has various branches: industry, agriculture, home economics and hoteliery. The Ministry of Education and Higher Education has developed a national strategy for vocational and technical education and training that is in line with global trends. The strategy has been reviewed by specialized teams composed of a wide range of public- and private-sector stakeholders.

Educational syllabus in vocational schools

234. *Vocational syllabus*: This is available to students who have successfully completed the eleventh grade of vocational education in specialized and general subjects. At the end of the secondary level, the students sit the examination for the secondary level general certificate, which qualifies them to enrol in institutions of higher education (universities and technical colleges) or in colleges that specialize in their particular area.

235. *Applied syllabus*: This is available to students who have successfully completed only the specialized subjects. At the end of the secondary level, they sit the vocational schools' comprehensive practical examination, which qualifies them to enter the labour market or to enrol in a number of specialized vocational diploma programmes. Once a year has passed, they can sit the examination for the secondary level general certificate in the general subjects that are still outstanding then complete their education in institutions of higher education (universities and technical colleges) or in colleges that specialize in their particular area.

236. There are 18 vocational schools in Palestine, including 13 State-run schools, which offer specializations in industry and agriculture. Vocational schools exist in all educational departments in the West Bank, except Jericho and Tubas. There are no State-run vocational schools in the educational departments of Jerusalem and its environs, or in Bethlehem. In addition, there are vocational schools, also offering specializations in industry and agriculture, in the educational departments of northern, eastern and central Gaza.

The table below shows the number of students enrolled in vocational and industrial education across all schools and centres

Year	*First year of secondary education*	*Second year of secondary education*	*Total*
2010/11	5 167	4 453	9 620
2011/12	5 171	4 575	9 746
2012/13	4 907	1 571	6 478

237. Overall enrolment rates for secondary education in the academic year 2012/13 were 73.5 per cent, of which 72.2 per cent in general secondary education and 1.3 per cent in vocational education.

238. The problems that hinder women from taking up vocational and technical education have been highlighted in a number of studies. They are:

- The small number of institutions offering programmes suitable for women, which limits their options regarding this form of education;
- The cultural and social heritage that underpins the general attitude of society towards vocational and technical education as being inferior;
- The limited awareness among female principals, teachers and students at the secondary level about the importance of vocational and technical education;
- The fact that a large number of girls tend towards open education, which reinforces their reluctance to enrol in institutions of vocational and technical education;
- The low rate of participation of women in the labour market (15 per cent, compared to 67 per cent among men); the reason for this is that 65 per cent of women are involved in housework and 27 per cent are studying;
- The high rate of female unemployment (22 per cent), a rate which increases with increasing level of education and reduces with increasing age.

Higher education

239. There are 52 accredited and licensed institutions of higher education in Palestine. Of these, 14 are universities in the traditional sense, 1 is an open university, 19 are university faculties and 18 are colleges. A total of 221,395 students were enrolled in the academic year 2014/15, 133,363 males and 88,033 females, while the teaching staff numbered 7,130.

240. In the academic year 2014/15, the overall enrolment rate for higher education among the population aged between 18 and 22 was 44 per cent, 34.6 per cent among males and 53.8 per cent among females.

241. The proportion of persons aged 15 and over who have completed at least degree-level university education is 12.1 per cent, while 9.4 per cent of persons have not completed any level of education whatsoever. The figures show that there is a bias in academic attainment in favour of men rather than women as the proportion of males who have completed at least degree-level university education is 12.4 per cent while the proportion of females is 11.7 per cent.

242. Students who have completed the twelfth grade in all subjects proceed to the general secondary (orientation) examination which, if they pass successfully, gives them entrance to State-run and private universities and institutes, depending upon their grades. They are accepted on the basis of standards that each educational institution sets for itself, in line with its own vision and philosophy of student admittance and university education.

243. A decree-law was enacted in March 2018 to regulate higher education in the State of Palestine. It guarantees the right to higher education under specific conditions and grants academic freedom and freedom to conduct research. The decree-law envisages the formation of the Higher Education Council and includes provision to update regulations and directives enshrined in existing laws. It also envisages the formation of the Advisory Council of the

Scientific Research Support Programme (Horizon 2020) and the restructuring of the Scientific Research Council.

Literacy and adult education

244. A number of institutions are involved in activities related to adult education and literacy: the Ministry of Education and Higher Education, the Ministry of Labour, the Ministry of Social Development, civil society organizations, cultural centres and the private sector.

245. The most significant programmes in this regard are:

(a) *Illiteracy eradication programme*: This programme is offered to all persons aged between 14 and 64 who have not mastered reading, writing or numeracy and who have no formal education or who completed one or two years of basic education before circumstances forced them to leave school. Illiteracy is not a major phenomenon or intractable problem in the State of Palestine. In 2013, in fact, 96.3 per cent of the above-mentioned age group could read and illiteracy rates stood at 2.9 per cent among males and 9.1 per cent among females. Students in this field enrol for a period of two academic years at the end of which they sit an examination and, if successful, receive a certificate that is equivalent to the basic sixth grade certificate. The following figures give some indication of the efforts made by the Ministry of Education to combat illiteracy. There has been a rise in the number of literacy and adult education centres, with 90 centres in the year 2013/14 as compared to 79 in the year 2011/12. In all, 1,533 students frequented literacy centres in 2013/14, of whom 51.34 per cent (787) were males and 48.66 per cent (746) were females.

(b) *Parallel education programme*: This programme is offered to persons who, having completed five or six years of basic education, have dropped out of school and engaged in working life. Students in this field enrol for a period of two academic years at the end of which they sit the prescribed examination and, if successful, receive a certificate that is equivalent to the basic ninth grade certificate. There has been a rise in the number of parallel education centres, with 23 centres in the year 2013/14 as compared to 11 in the year 2011/12. In all, 277 students frequented parallel education centres in 2013/14, of whom 51.99 per cent (144) were males and 48.01 per cent (133) were females. The concept of literacy has evolved into adult education and continuing education, and a strategy for adult education was launched in 2016. The Ministry of Education and Higher Education grants permits to cultural and educational centres in the private sector that teach vocational and semi-vocational skills to the public at large, in order to serve the Palestinian labour market. In addition to this, there are continuing education centres in Palestinian universities.

(c) *Evening classes programme*: This is intended for secondary school students with low levels of attainment.

(d) *Semi-formal and continuing education*: Semi-formal education is usually provided by ministries other than the Ministry of Education and Higher Education (the Ministry of Labour and the Ministry of Social Development among others), as well as by local and international charitable organizations, employers' organizations, workers' federations, religious bodies and private institutions. Continuing education, for its part, is a key element of engagement with processes of economic and social change. Part of continuing education is vocational training, which is provided by two types of institutions: (1): Those offering formal training programmes; i.e., community colleges, Palestinian technical colleges and vocational secondary schools; (2) Those offering semi-formal training programmes; i.e., vocational training centres run by the Ministry of Labour.

Indicator	*Indicator updated*	*Year*	*Value*
Illiteracy rate in persons aged 15 and over	Annually	2016	3.1 %
Number of schools	Annually	2017/18	2 998
Number of students	Annually	2017/18	1 253 238

Vocational training programmes

246. Vocational training programmes can best be summarized according to the entity responsible for delivering them, as follows:

- *Vocational training programmes of the Ministry of Labour*: These are basic training programmes for young persons and retraining programmes to improve the skills of adults. More than 37 training programmes are offered in centres run by the Ministry of Labour (9 centres in the West Bank and 4 in the Gaza Strip). The programmes can be divided into two groups: vocational training programmes for the industrial sector and vocational training programmes for the commerce and service sectors. In order to be admitted to the centres, applicants must be more than 16 years old and meet the academic requirements for the course they wish to follow.

- *Vocational training programmes of the Ministry of Social Development*: These programmes are aimed at the reintegration of young persons who have dropped out of school, persons with social issues, persons with disabilities and marginalized groups. The 26 different programmes are offered by 7 centres in the West Bank and 12 in the Gaza Strip. In order to be admitted to these youth habilitation centres, applicants must be under 19, they must have been referred by a probation officer of the Ministry of Social Development and they must be in a fit state of health. Only applicants with limited income can be admitted to centres for persons with disabilities while admittance to the other centres is conditional upon applicants being from families that already benefit from services provided by the Ministry of Social Development or being former detainees.

- *Vocational training programmes of UNRWA associations specializing in long-term training*: The purpose of these programmes, which are aimed exclusively at refugee children, is to turn out a trained workforce capable of performing skilled labour in the industrial and service sectors, in order to meet the needs of a developing society. There are 22 such programmes in the West Bank while 36 programmes are delivered through 7 centres run by UNRWA in the Gaza Strip. In order to be admitted to the centres to pursue specializations that result in diplomas equivalent to those issued by vocational training centres, applicants must have successfully completed the ninth or tenth grade; whereas, in order to be admitted to pursue specializations that result in diplomas equivalent to those issued by community colleges, applicants must have obtained the general secondary education certificate.

- *Vocational training programmes of development institutions and NGOs*: The programmes offered by these entities include basic training programmes, capacity-building programmes and special programmes for marginalized social groups. The entities involved have linked the concepts of training and development in industry, services, agriculture and management, particularly regarding the creation and running of small-scale enterprises, which are sometimes also linked to loan programmes.

- *Training programmes provided by charitable organizations*: These programmes mainly target marginalized social groups, particularly women, the poor and others, and their purpose is to help members of those groups access job opportunities.

- *Training programmes provided by private training centres*: These are provided by for-profit organizations that operate – mostly as cultural centres licensed by the Ministry of Education and Higher Education – in the field of vocational education and training with a view to building capacity in line with the needs of the local market. The courses mostly focus on management, computing, languages and other areas that do not require large financial investments. There are 91 licensed cultural centres in the West Bank and about 80 private centres in the Gaza Strip.

- *Training programmes provided by government institutions*: The activity of the Government has been accompanied by an expansion in the number of institutions that provide training with the specific aim of turning out qualified personnel to work in certain public-sector posts that are vital in order to construct and protect the nation. These include training, inter alia, in policework and criminology. Six government institutions in the Gaza Strip offer 22 programmes to all social groups, with the

exception of the Public Security Forces and Police College, whose programmes are available only to the military and persons who work in government institutions.

- *Training via literacy and adult education programmes*: Adult education and training programmes are provided mainly through cultural centres, where courses focus on computing, commerce, health care, engineering, agriculture, journalism, electronics, mechanics, etc.
- *Cultural centres*: These centres are located throughout the West Bank and Gaza Strip. Some are licensed by the Ministry of Education and Higher Education while others are unlicensed. The importance of cultural centres lies in the fact that they provide education and training to all sectors of society of all age groups and educational levels, enabling the targeted groups to gain all the skills and competencies they need.
- *Continuing education departments in Palestinian universities*: These departments provide high-quality and up-to-date training to develop and build the capacity of certain target groups, based on the needs of Palestinian society. They also contribute to identifying and defining local needs using scientific methods, promoting networking and cooperation across various sectors of society, forging regional and international relations to locate sources of material and moral support, strengthening coordination and communication, providing a resource centre for academic research and conducting polls and surveys on important issues affecting Palestinian society.
- Training and habilitation programmes for teachers and officials of the Ministry of Education and Higher Education and departments of education, as well as courses for new teachers and administrators.

Gender equality in the right to education

247. There is nothing to prevent either males or females from enrolling in education at any level. This applies particularly to kindergarten and to the basic level of education; however, there are some cultural barriers that prevent a small proportion of the population from enrolling their daughters at the secondary and/or university levels. Reasons for this include early marriage or the distance between the school or university from the female student's place of residence, particularly in "Area C" where access to schools can require students to pass close to Israeli colonies. Nonetheless, it is decreasing dramatically as a cultural phenomenon as the education of girls has become part of the culture of Palestinian society, also because of the important contribution they make to family income.

Relevant indicators

- Using the criterion of a ratio between 0.95 and 1.05 as parity or quasi-parity, most quantitative indicators show that gender parity has been achieved. The most significant of these are enrolment in kindergarten, enrolment in basic education and the rate of school retention up to fifth grade;
- Some elements of disparity have emerged in indicators regarding secondary education, the rate of school retention up to tenth grade, the completion of basic education, the rate of transition from basic to secondary education and the percentage of qualified teachers;
- Qualitative indicators regarding attainment in standardized national and international exams (Trends in International Mathematics and Science Study (TIMSS)) show that females exceed males. The same applies to the life skills indicator where females excel against males in all grades, while the school life expectancy indicator also shows a difference in favour of females;
- There are numerous studies to indicate that levels of violence, of whatever form or type, are more prevalent in male schools than female schools;
- The gap in reading ability between females and males (adults and young persons aged 15 and over) narrowed in the period 2004–2013, although reading abilities among males remain higher than among females;

- The gap in reading ability between females and males (adults and young persons aged between 15 and 24) narrowed in the period 2004–2013; reading abilities were higher among males than among females in 2004 but parity has been achieved since 2009;
- The gap in overall kindergarten enrolment rates between females and males narrowed in the period 2004–2013; overall enrolment rates were higher among males than among females in 2004 but parity has been achieved since 2013;
- In the period 2004–2013, overall enrolment rates in first grade fluctuated somewhat, sometimes in favour of males, sometimes equal and sometimes in favour of females, without following any consistent pattern;
- Over the years, the parity indicator in overall enrolment rates in basic level education has tended to move in favour of females although with some fluctuation up and down;
- The parity indicator in net enrolment rates in basic level education was even in 2004 but began to tilt in favour of females from 2009–2013 with some fluctuation in the rate of increase;
- The parity indicator regarding rate of school retention up to fifth grade (basic education) tended in favour of females in 2004; by 2009 it had evened out and, as of the current year, it remains even;
- Over the years, the parity indicator regarding rate of school retention up to tenth grade has tended to increase steadily in favour of females.

248. The Ministry has taken a number of steps to make all forms of secondary education accessible to everyone:

- It has expanded vocational and technical education, especially for females after tenth grade, whom it has encouraged to enrol in this kind of education;
- It has opened new schools and courses of study in remote areas, particularly for female students;
- It has introduced vocational guidance into schools;
- It has introduced science classes into rural schools to serve close-knit communities;
- It has separated certain mixed classes in community environments where mixing is considered unacceptable.

School dropout

249. The dropout rate for the academic 2016/17 was 0.92 percent: 1.6 per cent for males and 0.78 per cent for females. These figures are not considered to be high.

250. Nonetheless, the Ministry makes significant efforts to reduce school dropout rates to the extent possible and to address the impact of the phenomenon through outreach programmes and follow-up with individuals who have dropped out of school. It has also introduced parallel education and literacy programmes as well as other initiatives listed below:

(a) It has opened new schools and courses of study in remote areas, particularly for female students;

(b) It has opened new “caravan” schools for Bedouin communities;

(c) It refers students who have left school in order to work to the child protection network, in partnership with the Ministry of Social Development, with a view to protecting them against child labour and making them aware of their right to education;

(d) It runs programmes to integrate children with disabilities into schools.

Article 15

251. The Ministry of Culture is the official body overseeing cultural life and cultural rights. It holds that authority within the institutional structure of the State of Palestine wherewith it

guarantees the cultural rights of the Palestinian people within the territory of the State of Palestine. The right to participate in cultural life is enshrined in article 24 (3) of the Palestinian Basic Law, which guarantees the independence of universities, institutes of higher education and centres of scientific research and states that the law is to guarantee the freedom of academic research as well as of literary, cultural and artistic creativity. Cultural rights are an integral part of the exercise of the right to self-determination on the part of the Palestinian people, as well as being an instrument with which to resist the occupation and a means to empower individuals to achieve economic and social development.

252. The issue of cultural rights is addressed in a number Palestinian domestic laws:

- Press and Publication Act No. 9 of 1995;
- Decree-Law No. 16 of 2015 regarding the State of Palestine Awards in literature, arts and humanities;
- Cable and Wireless Communications Act No. 3 of 1996;
- Act No. 1 of 2000 regarding charitable and civil society associations and the registration of cultural centres;
- Decree No. 367 of 2005 of the Council of Ministers regarding the establishment of a cultural development fund to support creativity and excellence.

253. A number of bills with a bearing on cultural life have been proposed and are awaiting enactment at the appropriate time. They include:

- A bill regarding freedom of access to information and confidentiality of information;
- A bill regarding copyright and related rights;
- A bill regarding the deposit of works;
- A bill regarding the Palestinian National Library;
- A bill regarding the Palestinian National Archives;
- A bill regarding the protection of intangible cultural heritage;
- A bill reading industrial property (patents, trademarks, etc.).

254. At the institutional level, cultural rights cut across the jurisdictions of a number of official bodies in the State of Palestine, all of which are active in the cultural sphere. Thus, apart from the Ministry of Culture itself, the Ministry of Tourism and Antiquities, the Ministry of Education and Higher Education, the Ministry of Information, the Ministry of Islamic Endowments and Religious Affairs and the Ministry of Foreign Affairs all play a cultural role, in one way or another, in that their activities have a bearing on the administration of cultural property and cultural resources and they are responsible for policies that have some impact on the cultural sector. In addition to this, a number of quasi-governmental institutions also play a role. These include the Higher Council for Youth and Sports, and the Supreme National Committee for Education, Culture and Science, which is responsible for coordinating between Arab, regional and international institutions and the Government of the State of Palestine. Another body is the Supreme Council for Education, Culture and Science, which is part of the Palestine Liberation Organization; it develops public policies and strategies, publishes works by Palestinian writers and organizes initiatives such as an education project in Palestinian refugee camps in Lebanon, in cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO).

255. Under a 2009 decree of the Council of Ministers, the Ministry of Culture has established cultural advisory councils in each governorate. The councils act as an institutional infrastructure that regulates cultural interaction within the governorate, brings official and civil society institutions operating in the cultural sphere into contact with cultural personalities and figures, helps to form a pluralistic national cultural landscape and creates an environment conducive to the future development of the culture of the Palestinian people, within the framework of a humanitarian culture based on respect for others.

256. Official institutions of the State of Palestine that operate in the realm of cultural rights undertake the following activities:

- Enhancing and promoting pluralistic and egalitarian cultural awareness, and broadening the scope of cultural and artistic activities;
- Supporting the cultural status of East Jerusalem in order to preserve its special position in the formation of the Palestinian-Arab cultural identity;
- Improving the level and quality of cultural productions, supporting and nurturing creative and gifted persons, and establishing an annual tradition of motivational prizes;
- Investing in curricular and extracurricular activities aimed at establishing the values of pluralism, democracy, participation, citizenship and equality of the sexes;
- Reactivating, encouraging and developing communication between Palestinians at home and abroad;
- Strengthening and expanding the range of cultural communication and exchange with Arab and non-Arab peoples;
- Investing in the material and intangible infrastructure of cultural life;
- Investing in the protection and preservation of Palestinian heritage and cultural identity;
- Encouraging traditional and craft industries and protecting their production facilities.

257. Government institutions active in the cultural sector operate through programmes, including the following:

- The Culture for All programme, the intention of which is to foster a more enabling environment for the dissemination of a democratic and humane Arab national culture; the development of citizenship based on pluralism and respect for the values of equality, social justice and human dignity; the establishment of a stimulating environment for cultural innovation; attention to Jerusalem, marginalized areas and areas vulnerable to attacks by the occupation and settlers; and the official promotion of cultural communication between Palestinians, wherever they may be, Arab peoples and humankind;
- The Cultural Heritage Protection programme, the purpose of which is to protect and revive Palestinian national heritage by collecting, documenting, archiving and cataloguing that heritage; supporting cultural products rooted in cultural heritage as well as Palestinian traditional and craft industries, and disseminating Palestinian national heritage at home and abroad.

258. The cultural sector in the State of Palestine is notable for the plethora of activities run by both civil society and governmental institutions. These institutions have played an important role in the protection and promotion of Palestinian cultural life in the territory of the State of Palestine that has been occupied since 1967. That role has not been limited merely to promoting Palestinian cultural identity as part of the national struggle against occupation, it has also extended to embrace the rise of feminist and student movements in the West Bank, including East Jerusalem, and the Gaza Strip. There are currently 400 civil society institutions operating in the field of culture in the State of Palestine where they work to preserve historical and oral heritage.

259. In addition to this, a number of institutions belonging to the private sector – as well as foreign and international institutions – are also involved in cultural activities. Private companies operating in the realm of culture, though few in number, often work in the creative industries, film production and publishing. Nonetheless, the cultural role played by the private sector, particularly as regards funding cultural activities, is currently limited and infrequent in the Palestinian cultural milieux. Foreign institutions frequently act as a platform for exchange and communication between Palestinians who speak foreign languages and foreigners who reside in the State of Palestine, providing educational programmes on the cultures of the various countries in question and of the State of Palestine. Many of those same institutions are also involved in funding the activities of local cultural organizations. Some of the foreign institutions that fund such activities may not themselves be cultural in nature, such as the European Union which provides annual support for a number of cultural activities

in the Occupied Palestinian Territory. Because of the poor funding of local civil society cultural institutions and the limited financial returns that cultural activities bring, many institutions rely on foreign funding to support their work. This in turn conflicts with certain elements inherent to Palestinian cultural identity such as the legacy of the struggle against occupation and the symbolic significance of martyrs and detainees.

260. Lastly, the cultural institutional structure of the State of Palestine also includes a number of artistic and cultural federations and unions. Like civil society cultural institutions, these bodies play an important role in promoting Palestinian national cultural identity in the context of the struggle against occupation. Using various channels, they offer readings of revolutionary texts, poetry and theatre that help to reinforce the cultural component of the Palestinian national movement. These bodies include the General Union of Palestinian Women, the General Union of Palestinian Writers and Journalists, the General Union of Palestinian Figurative Artists, the General Union of Palestinian Expressive Artists and the General Union of Palestinian Teachers.

Government actions

261. The Government of the State of Palestine is working to revive the culture sector through strategies of which the most recent were the strategy for culture and heritage 2011–2013 and the strategic plan for 2014–2016, which the Government adopted as part of its programme to end the occupation and to build State institutions. In partnership with the cultural advisory councils in the West Bank and with other cultural institutions, and in coordination with ministries active in cultural affairs, the Ministry of Culture has – in the context of the implementation of national plans – acted to disseminate a discourse that emphasizes the promotion of a democratic, creative and renewed national culture, a culture that respects and safeguards pluralism, ensures openness to others, works to develop citizenship and upholds the values of equality, freedom, social justice and human dignity. At the same time, it seeks to expand the circle of participants in cultural life by targeting young people in schools, universities and marginalized areas. The Ministry of Culture is also concerned to promote the developmental aspects of culture as a means of economic and social advancement by empowering different groups of people to participate actively in the formation of a renewed cultural identity and by changing negative stereotypes in society, thereby further expanding the circle of cultural participants.

262. The activities of the Ministry of Culture include the protection and renewal of heritage, the preservation of Palestinian literary patrimony and the development of a programme to safeguard the cultural status of Jerusalem in order to preserve its special position in the formation of the Palestinian-Arab national identity. The Ministry seeks to enliven cultural life in East Jerusalem by allocating grants from the Cultural Fund (fourth session) to support cultural institutions in the City. In fact, according to a decree adopted at a conference of ministers of culture of the League of Arab States on 27 October 2010, Jerusalem is the permanent capital of Arab culture and is twinned on an annual basis with each designated Arab cultural capital.

The Ministry of Culture also supports cultural exchange activities and it participates – either directly or via groups of artists – in both regional and international festivals. One of the most outstanding initiatives of the State of Palestine in this connection was the Palestinian cultural week in Tlemcen, which was designated as the capital of Islamic culture in 2011. In addition, a number of writers and artists participated in the “Philastiniat” programme in Milan and the Ministry also took part in an Arab-Chinese arts festival. In addition to this, the State of Palestine holds the annual Palestine International Book Fair, which involves local, Arab and international publishing houses and plays host to a number of Arab writers, poets and intellectual figures. As part of its efforts to promote culture among children, the Ministry of Culture organizes an annual children’s creative story writing competition in which regard it cooperates with the Ministry of Education and Higher Education to ensure the broadest possible involvement of children in the initiative. Each year, the Ministry of Culture presents the State of Palestine Awards in literature, arts and humanities the purpose of which is to motivate artists and literary figures to continue giving the best of themselves.

Higher Council for Innovation and Excellence

263. This Council – which was established under Presidential Decree No. 7 and Presidential Decree No. 95, both of 2012 and is answerable to the Office of the President – seeks to create a Palestinian society that is rich in creativity and that performs outstandingly in all areas of life. This is to be achieved by investing in the creative energies that are latent among the Palestinian people so that innovation can play its vital role in fostering strength, resilience and prosperity; to establish a culture of innovation and excellence within Palestinian society, to empower creative persons equally and to reinforce the creative structure across different sectors. The Higher Council for Innovation and Excellence has the following objectives:

- Disseminating and promoting a culture of innovation among young Palestinians through the development of a code of conduct that incorporates values, guidelines and standards that aim to stimulate creativity;
- Reinforcing the creative structure across different sectors by supporting institutions that work in the field of innovation and excellence, building their institutional capacity, encouraging them to coordinate and combine their efforts, and integrating roles so as to improve their social impact and avoid overlap; also, encouraging the private sector in the Occupied Palestinian Territory and in the diaspora to invest in innovation and to form multilateral partnerships;
- Ensuring that the State of Palestine is appropriately and effectively represented within regional and international innovation systems; this includes facilitating access to networking opportunities and transferring appropriate innovations, technology and knowledge into the national setting;
- Opening channels of communication with Palestinians in the diaspora by creating innovative ways and programmes to facilitate and encourage the use of the resources they can offer in the field of excellence and innovation;
- Defining national priorities in the field of creativity and innovation by collaborating with other competent institutions, both official and unofficial.

National register for the documentation of oral heritage

264. The purpose of the register is to gather and document Palestinian oral heritage, with a particular focus on folk stories (*hikaye*), and to preserve that heritage, which risks being lost due to the ongoing disintegration of Palestinian communities in the Occupied Palestinian Territory and the diaspora and adulterated by developments in technology and communications. In this regard, the Ministry of Culture has, to date, collected numerous *hikaye* from across the Palestinian governorates after UNESCO included the Palestinian *hikaye* as part the intangible cultural heritage of humankind. Some of the *hikaye* have been collected in a book entitled "*Law la salamak sabaqa kalamak*" and a new method of writing the *hikaye* has been developed that accurately reflects the dialects in which such stories are recounted.

Palestinian Heritage Day

265. Palestinian Heritage Day is celebrated annually on 7 October with the involvement of a large number of cultural institutions and associations. Events are held at schools and universities in governorates across the Occupied Palestinian Territory and include various heritage-related programmes and activities organized in partnership with civil society institutions.

National Culture Day

266. The State of Palestine celebrates its National Culture Day each year on 13 March. On that day, the Ministry of Culture holds an event at which the Palestinian people can rejoice in their cultural symbols and it seeks to increase cultural interaction in order to establish a national structure to promote cultural presence and identity. Activities are held throughout the Occupied Palestinian Territory, including Palestine refugee camps in the diaspora and some Palestinian towns and villages inside the Green Line.

Scientific and technological development in communications media

267. The State of Palestine strives to promote cultural rights in parallel with advances in science and technology, particularly in the communications media, and it seeks to protect citizens from any infringement to their personal freedoms that might result from such advances. The State has taken a stance on this question that avoids any restriction of freedoms, particularly the freedom to opinion and expression. In that connection, the State of Palestine has incorporated a body of cultural rights, which it deems worthy of protection, into its national development plans, including the right of access to information and the right to individual privacy. Specifically, this covers:

- Individual privacy in the circulation of information;
- The right to access and use services without discrimination;
- The rights of persons with disabilities and persons in marginalized areas;
- Freedom of access to information.

268. Israel, the occupying power, holds a hegemony over frequency allocations in the Occupied Palestinian Territory, including telephone, radio, television and satellite broadcasting frequencies, mobile phone bandwidths and international telecommunications channels. The occupying State also requires Palestinian telecommunications companies to use Israeli networks to reach abroad, which imposes a heavy financial burden on those companies to purchase licenses and strengthen networks in "Area C". All this affects individuals and their full enjoyment of cultural rights and access to information. Moreover, people are concerned that the occupying authorities are exploiting their dominance of the communications media to keep the Palestinian people under surveillance and monitor their private information.

Cultural rights of minorities

269. The cultural rights of minorities in the State of Palestine are not excluded from the principles applicable to cultural rights in general under the Palestinian legal system, as per the tenets enshrined in the Declaration of Independence and the Palestinian Basic Law. Indeed – in line with a multiculturalism based on non-discrimination among Palestinians for any reason, including race, gender and religion – the minority cultural component is considered to be an integral part of Palestinian culture as a whole.

270. Palestinians from various ethnic groups (Syriac, Armenian, African and Samaritan) enrich Palestinian culture by exercising their right to participate in cultural activities such as scouting movements, cultural associations, libraries, museums, sporting events and special schools which, in addition to the regular curriculum, teach languages such as Syriac, Armenian and Samaritan.

Cultural rights and persons with disabilities

271. Under the Palestinian Labour Code and Decree No. 45 of 2005 of the Council of Ministers, all governmental and non-governmental institutions are required to ensure that 5 per cent of their workforce is made up of persons with a disability. This provision also applies to cultural associations of all kinds. Positive measures towards promoting the cultural rights of persons with disabilities are still relatively limited in the State of Palestine, although the Palestinian Government has made a number of attempts in that regard. These include providing financial and moral support to groups of creative persons all of whom are blind, printing children's stories in Braille, distributing audiobooks and improving access to cultural institutions and events for persons with disabilities.

Women and cultural life

272. The Palestinian legal system envisages complete equality between men and women vis-à-vis cultural rights, in line with principles enshrined in the Palestinian Declaration of Independence and the Basic Law. However, the practical reality is that, thanks to certain factors rooted in families and local communities, some groups refuse to contemplate the creation of theatres or reject the idea that men and women can appear on stage together. In

this connection, advances have been made in some regions while in other regions matters remain unchanged. The increased involvement of women in education in recent years has enhanced their access to cultural life, chiefly through educational institutions, empowering them and enhancing their capacity, not merely as spectators but as active participants in cultural life.

The occupation and cultural rights

273. The practices of the Israeli occupation of the territory of the State of Palestine affect the cultural rights of Palestinians, directly and indirectly. Direct effects include the denigration of Palestinian national culture by the occupying authorities and hostility towards the Palestinian curriculum for its adherence to the historical narrative of the Palestinian people, their forced displacement and the denial of their cultural development. This is in addition to the demonization of the Palestine national liberation movement. Such practices also include the closure of theatres and cultural institutions such as the El-Hakawati Theatre in Jerusalem, which has been repeatedly closed by the occupying authorities.

274. Indirect impacts arise from the general effect of occupation practices on the cultural rights of Palestinians. The widespread displacement, which the Palestinian people have suffered since 1948 and which is constantly renewed, has contributed to rapid and radical changes in Palestinian society, which in turn undermines national cultural identity. In addition to this, practices such as the displacement and arbitrary detention of thousands of Palestinians deprives people of an environment conducive to creativity, in culture and in other areas. Arbitrary detention, which is often carried out in violation of the right to freedom of opinion and expression, leaves many Palestinian literary and artistic figures fearful of arrest for the work they do. In addition, the military checkpoints of the occupation, the racist separation wall and all the barriers put in place by the occupying State in pursuit of its illegal settlement policies hamper Palestinian access to exhibitions, theatres and other cultural forums.

Violations of cultural rights by the Israeli occupiers extend to Palestinian history and its material and intangible heritage. This includes the Judaization of Palestinian cities, particularly occupied Jerusalem, and the evacuation of Palestinian villages, which have been demolished without any regard for their cultural and historical value. Occupation policies seek to impose an artificial reality on Palestinian cities, particularly Jerusalem and Hebron, even going so far as to give streets and neighbourhoods Hebrew names and stealing the cultural patrimony of the Palestinian people and presenting as part of Israeli heritage, such as Palestinian embroidery and Palestinian traditional foods. This goes against UNESCO decrees that aim to safeguard the educational and cultural rights of the Palestinian people and to protect Palestinian heritage sites.

United Nations E/C.12/ISR/FCO/4

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Information received from Israel on follow-up to the concluding observations on its fourth periodic report*

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1. As requested by the United Nations Committee on Economic, Social and Cultural Rights in its concluding observations on the fourth periodic report of Israel, dated October 18, 2019, the State of Israel respectfully presents the following information:

Follow-up information relating to paragraph 11 (c) and (d) of the concluding observations (E/C.12/ISR/CO/4)

2. As has been previously clarified, it is Israel's position that the International Covenant on Economic, Social and Cultural Rights (hereinafter: "the Covenant") is not applicable beyond a State's national territory. For an elaboration of this position, see our Second Periodic Report, pp. 3–4.

3. Notwithstanding this position, in the spirit of openness with which Israel approaches the constructive dialogue with the honorable Committee, we respectfully present the following information.

Free movement of civilians and goods

4. According to international law, as a sovereign state, Israel has the authority to decide who may enter its borders. There is no right to enter the territory of the State for persons who are not citizens; this includes Palestinian residents of the West Bank and Palestinian residents of Gaza in particular, as Gaza is in a long-standing armed conflict with Israel.

5. Unlike in the West Bank, the Gaza Strip has not been under Israeli control since September 12, 2005, when Israel's last IDF forces left the area of the Gaza Strip following the implementation of Israel's "Disengagement Initiative". Since then, Israel clearly does not have effective control in the Gaza Strip. As a consequence, as also affirmed in 2007 by the Israeli High Court of Justice, Israel does not have a general duty to ensure the welfare of the population of the Gaza Strip. Rather, Israel's obligations towards the Gaza Strip stem from the continuing state of armed conflict with the Hamas terrorist organization and other terrorist organizations in Gaza. The Gaza Strip shares a border with Egypt, over which goods and persons transfer actively.

6. Following Hamas' violent take-over on the Gaza Strip, the area has turned into a "hostile zone" similar to an enemy state engaged in war against the State and its citizens. In light of the situation, the Israeli Government (GOI) (The Ministerial Committee on National Security Issues) resolved on September 19, 2007, to impose restrictions, inter alia, on the passage of goods and to limit movement of persons in and out of the Strip via Israeli sovereign territory, subject to humanitarian exceptions only.

7. The policy regarding movement between Israel, Gaza and the West Bank is decided based on security considerations, including: Hamas' control over Gaza; the non-stop violent actions of terrorist organizations against Israel from Gaza, which breach all standards of international law by launching rockets at Israel and committing and attempting attacks against Israeli citizens and soldiers; the efforts of terrorist organizations to exploit Palestinian citizens by enlisting them to commit terrorist attacks, pass along information, money or equipment for terrorist actions; and more.[1]

8. In June 2010, the GOI decided on a major shift in Israel's policy towards the Gaza Strip. This policy and its implementation included three (3) major aspects:

- All goods can enter the Gaza Strip freely, with the sole exception of goods that may pose a security risk to Israel, such as dual use materials, which will require authorization;
- A substantial increase in the capacity of the Kerem Shalom crossing, through which goods can enter the Gaza Strip (hundreds of truckloads daily);

[1] H.C.J. 9518/16 *Harel v. The Knesset* (5.9.17).

- Increased facilitation for projects funded and implemented by the International Community, including the entry of dual-use goods that are required for their implementation, subject to appropriate supervision.

9. Since then, subject to the security situation, Israel has continued implementing this revised policy towards the Gaza Strip. The policy regarding entry of Palestinians into Israel, including in order to transfer from the West Bank to Gaza and to leave the State, is publicly available on the Civil Administration's website, and is examined regularly by the relevant authorities, based on the developing security situation. The relevant authorities approve hundreds of thousands of requests to enter Israel each year, for a variety of purposes, including employment and commerce. Each week hundreds of thousands of Palestinians enter Israel from the West Bank and Gaza, and recently the number of permits from Gaza for commerce purposes was increased significantly. Regarding residents of the West Bank, each day approximately 100,000 Palestinian workers enter Israel, alongside tens of thousands of residents who enter for medical, commercial or other purposes. Note that there is no limitation on the freedom of movement within the West Bank, and checkpoints are not operational on a day-to-day basis (checkpoints are only temporarily established following a security incident or pursuant to security-related intelligence).The exit of Palestinian residents to foreign countries is conducted through the Allenby bridge and in many cases through the Ben Gurion Airport.

10. Regarding the movement of goods to and from Gaza, all goods that are not limited by Law may be transferred. Dual-use items (from a designated list) require specific authorization to ensure that they are not used by terrorist organizations. Goods are transferred based on the supply capabilities of the "Kerem Shalom" crossing, subject to coordination of their supply and requisite checks. Each week tens of thousands of tons of goods and hundreds of thousands of liters of gasoline and fuel enter Gaza from Israel and Egypt, in unprecedented amounts as compared to recent years.

World Zionist Organization and the Jewish National Fund

11. Section 6b(b)(1) of the *Status of the World Zionist Organization and the Jewish Agency for the Land of Israel Law* 1952-5713 states that the GOI, with the consent of the World Zionist Organization (WZO), is entitled to delegate some of its authorities regarding housing and certain other issues to the WZO via the Rural Growth and Development Division (the: "Division"). The Section specifies that agreements between the Division and the State will include mechanisms for supervision and control.

12. In Government Resolution No. 1998 (October 2016), following criticism raised regarding of the Division's conduct on behalf of various parties, the Government regulated the Division's work, delegated certain Government responsibilities to the Division and established a detailed mechanism for reviewing the Division's activities. It further included the establishment of a professional unit now under the Ministry of Hityashvut, which supervises the Division work. Additionally, the Division's financial support committee includes representation of Civil Service employees.

13. Following a petition to the High Court of Justice, the Court reviewed these delegation arrangements and approved them.[2] Regarding the supervision of the Division, the Court found that the Division is subject to the review and supervision mechanisms set in the delegation agreements and is forbidden from exceeding the set authorities delegated to it.

14. The State has authority over the Jewish National Fund (JNF) by law, and it is managed by the Israel Land Authority (ILA), pursuant to Israel Land Council guidelines. Such as all governmental bodies, the ILA is beholden to the principles of equality and non-discrimination regarding land management.

15. On June 19, 2018 the High Court of Justice ruled in a petition filed by the National Committee for Local Authorities, that requested the Court to cancel Section 4a(a) of the *Israel Land Administration* 1960-5720. This Section raised the respective portion of the JNF representatives. According to the petitioners, the mere involvement of the JNF

[2] H.C.J. 9518/16 *Harel v. The Knesset* (5.9.17).

representatives is a violation on the right to equality and dignity of the Arab population in Israel.

16. The Court determined that the JNF representation according to this section does not harm the principle of equality, as the land that is administrated by the Council is under the ownership of the Jewish National Fund. The Court emphasized that the Israel Land Council is obligated in its decision to the principle of equality and so does the Jewish National Fund Representative to the Council.[3]

Follow-up information relating to paragraph 17 of the concluding observations

17. The Basic Law is only one piece in the Israeli constitutional puzzle, and as was formally declared by the Attorney General, does not derogate in any manner from human rights protected under other Basic Laws of Israel (in particular Basic Law: Human Dignity and Liberty, and Basic Law: Freedom of Occupation) and does not affect the enjoyment – and protection – of rights of minority populations in Israel.

18. The Basic Law has to be read against this background. Alongside the Nation State basic law, Israel has also enacted almost 30 years ago the Basic Law: Human Dignity and Liberty. The High Court of Justice has interpreted this Basic Law as clearly protecting the principle of equality, specifically as an aspect of the right to human dignity, and defined this as a basic constitutional right. The principle of equality is deeply embedded in Israeli law as a fundamental human right that constitutes the highest of values in the Israeli democratic society.

19. The purpose of the Basic Law is to enshrine the character of the State of Israel as the nation-state of the Jewish people and the state in which the Jewish people uniquely exercise their right of self-determination in a Basic Law. This Jewish character was acknowledged by UN General Assembly Resolution No. 181 that acknowledged the need – and called for – the establishment of a Jewish State, which would serve as the home – and safe heaven – for the Jewish people.

20. The effect of the Basic Law on the enjoyment of rights covered by the Covenant was deliberated at length by the High Court of Justice, which in July 2021 issued the following ruling.[4]

21. On July 8, 2021, the High Court of Justice, presiding with a panel of 11 Judges, including the President and Vice President of the Supreme Court, rejected 15 petitions in which the petitioners argued that the *Basic Law: Israel – National State of the Jewish People* (hereinafter: the "Basic Law") is unconstitutional. Moreover, the Court declared that the Basic Law is to be interpreted through "affirmative interpretation," which reflects and realizes all other Basic Laws as well as the core principles and values of our justice system. The Court noted that the Basic Law is a part of Israel's growing constitution, which anchors the protection of Israel's identity as a Jewish state, without derogating from its identity as a Democratic state, as anchored in other Basic Laws, thus reflecting the State's constitutional principles.

22. According to the petitioners, the Basic Law denies the democratic identity of the state because it violates the principle of equality as well as disrupts the balance between the values of the State of Israel as a Jewish state and its values as a democratic state as enshrined by the Declaration of Independence.

23. The Court declared in a majority ruling (of 10 to 1) written by the President of the Supreme Court, that so long as the State does not have a full constitution, the Knesset as the constitutive body has but one limitation: it cannot enact a Basic Law that negates Israel's essence as both a Jewish and a democratic state. The Court did not interpret the Basic Law as impairing Israel's character as Jewish and democratic.

[3] H.C.J. 16/6411 *The National Committee for Local Authorities v. The Knesset.*

[4] H.C.J. 5555/18 *MK Akram Hasson et. al. v. The Knesset et. al.* (8.7.21).

24. The Court noted that the principle of equality is a core principle in Israel's legal system, the principle of equality, which applies to the rights of all citizens of Israel, including persons belonging to a minority population. While noting that it would be preferable that the principle of equality be anchored explicitly in a Basic Law, the Court emphasized that the fact that it is not, does not detract from its status as a constitutional principle.

25. The Court specified that pursuant to affirmative interpretation, Section 1(c) which anchors the right of self-determination to the Jewish people, does not impair or negate the right to cultural self-determination of persons belonging to a minority population within the state, and furthermore, it does not diminish any of the existing arrangements concerning the rights of non-Jewish persons belonging to a minority population.

26. In regard to Section 4, which recognizes Hebrew as the official main language, the Court noted, *inter alia*, that is does not impair the stance of the Arabic language as an official language and does not deny development and advancement in the public sphere. The Court further noted that the State and society are to continue to promote the stance of Arabic in the public sphere, expressing that this section "should be interpreted in a way that does not impair the status of the Arabic language neither in practice nor in spirit." In relation to Section 7 of the Basic Law, which declares the development of Jewish settlement as a national value, the Court noted that this section should be fulfilled with flexibility and through balance with the right to equality, and not in a manner which could allow discrimination against individuals who are not Jewish and their rights to land.

27. In regard to claims raised by the petitioners, arguing that the Basic Law contradicts Israel's obligation according to the International Law, including human rights conventions, the Court noted that the Sections of the Basic Law on which the petitioners focused do not contradict the provisions of international law and can be interpreted in a manner consistent with them.

28. In the Court's minority opinion, Justice Karra stipulated that the aforementioned Sections do indeed negate the heart of the State's democratic identity and should be cancelled, and that no interpretative framework could mend the unconstitutionality of the Basic Law.

Follow-up information relating to paragraph 23 of the concluding observations

Improving the refugee status determination procedure

29. The Refugee Status Determination (RSD) Unit in the Population and Immigration Authority is responsible for processing asylum requests in Israel. The RSD process is anchored in Procedure 5.2.0012 (hereinafter: "the Procedure"), which regulates the process for determining cases of asylum seekers and refugees by the Minister of the Interior, pursuant to the Convention Relating to the Status of Refugees 1951 and the Protocol Relating to the Status of Refugees 1967 (hereinafter: "the Refugee Convention"). The process is conducted in accordance with Israeli law, in consideration of the State's commitments stemming from the Refugee Convention.

30. On 23 June 2021, the Procedure was updated, with the aim of improving the services offered to asylum seekers as well as the efficiency and professionalism of the determination process itself, while balancing relevant considerations and striving to create the most proficient and effective process possible.

31. Note that prior to its entry into force, the Procedure was presented to the public as well as to the relevant bodies involved in various aspects of the asylum process, including the United Nations High Commission for Refugees and civil society. After conducting dialogue with the relevant bodies, the Procedure was amended and entered into force.

Allowing asylum seekers to enter the labor market

32. Asylum seekers in Israel are granted temporary stay permits, which are not categorized as work permits, pursuant to Section 2(a)(5) of the *Entry into Israel Law* 5712-1952. However, in the framework of H.C.J. 6312/10 *Kav L'Oved v. The Government of Israel*,

the State declared that despite the aforementioned legal status, there will be no enforcement against the employment of asylum seekers in practice. This declaration has been further anchored in Sections 1(e) and 1(f) of the RSD Procedure. Therefore, asylum seekers are able to enter the labor market, and their employment is protected under the relevant State labor laws, accordingly.

Expanding social assistance benefits

33. According to Ministry of Welfare and Social Affairs (MoWSA) Director General's Directive No. 100 for at-risk children and their families, all at-risk children, including children with disabilities, and their families, have access to any service, as is provided to any minor with civil status. Under this initiative, five (5) million NIS (approximately 1.38 million USD) is allocated every year for community solutions to be provided to those children and their families.

34. Additionally, there are various Government Resolutions pertaining to the provision of rehabilitation services to all victims of human trafficking without civil status. Under these resolutions, 580,000 NIS (approximately 160,000 USD) are transferred for the operation of a day center in Tel Aviv-Jaffa, and the annual budget for this shelter in 2020 was 771,400 NIS (242,355 USD). Migrants who may not be returned to their country of origin who are victims of trafficking or torture are integrated in these shelters and as of 2020, shelters for victims of prostitution as well. In 2020, 14 migrant women were integrated into a shelter for rehabilitation from prostitution, and in 2021 (as of November) an additional ten (10) were integrated.

35. The MoWSA Director General Circular No. 168 relates to the treatment of members of the migrant community who may not be returned to their country of origin – specifically those who are homeless, people with disabilities, and battered women at risk. Pursuant to the Circular, the Ministry offers 100% government subsidized placement in these frameworks, at the annual cost of over 10 Million NIS (approximately 2.78 Million USD).

36. Additionally, twenty (20) new social worker positions were opened in relevant localities in order to provide rehabilitation, support, and assistance to this population.

37. Regarding victims of domestic violence, according to current procedures, the Israel Police convene a meeting every six (6) months with officials from the MoWSA and local authorities to discuss general opportunities for cooperation and individual cases related to addressing domestic violence against migrant women. When a child is at risk, whether due to domestic violence or any other hardship, the child and their family are provided with solutions in the community just as any child with civil status. Additionally, as of the year 2020, two (2) Million NIS (approximately 642,258 USD) were allocated for treating migrant women who may not be returned to their country of origin who are victims of violence.

38. Note that during the COVID-19 pandemic, the MoWSA offered need-based prioritized additional grants to assist migrants who may not be returned to their country of origin that were in need.

Medical care

39. Pursuant to *Patients' Rights Law* 1996-5756, all persons are entitled to urgent medical care in a situation of medical emergency. Specifically, migrants, including minors, are offered the following health services (in addition to the aforesaid urgent medical treatments): preventive medicine for pregnant women, babies and infants at family health centers; primary health care in the *Terem* clinic for persons without civil status in Tel Aviv-Jaffa; and psycho-social and medicinal treatment in the *Ruth* clinic for mental health in Tel Aviv-Jaffa; and more. In addition, minors without civil status in Israel are offered subsidized medical treatments, through the Meuhedet Health Fund (an HMO). Foreign workers and employed persons without civil status are entitled to health insurance sponsored by their employer.

40. In addition, there are several specialized clinics and services which offer treatments to migrants in Israel, facilitated by non-governmental organizations or hospitals.

41. During the COVID-19 pandemic, migrants were ensured health services. In March 2020, hospital administrators and General Managers, as well as the General Manager of

Magen David Adom, were instructed by the Ministry of Health to offer all relevant COVID-19 tests, treatments and hotlines to all migrants in Israel. COVID-19 testing locations were open to all free of charge. Hospitals offered full treatment, including complex intensive care ventilation, ECMO and rehabilitation, free of charge.

42. Migrants were offered to vaccinate against COVID-19, in centers established throughout the country, including a specialized center in Tel Aviv-Jaffa. As of June 2021, the level of vaccination among migrants was high and comparable to that of the general Israeli population.

43. Moreover, an inter-ministerial committee was formed to examine offering subsidized health services to migrants who may not be returned to their country of origin. The committee reviewed the "Meuhedet" Health Fund 2001 arrangement for providing subsidized health services to minors without civil status, due to the ambiguity regarding its scope of application. Accordingly, the committee also discussed the possibility to extend the arrangement to adult migrants granted temporary group protection who may not be returned to their country of origin. On December 14, 2021, the Committee submitted its report to the Minister and Director General of the Ministry of Health, recommending that certain groups of foreign minors and adults granted temporary group protection that may not be returned to their countries of origin will receive health care plan subsidized by the State. The recommendations are being examined by the Minster of Health.

Repealing the Deposit Law

44. On April 23, 2020, the High Court of Justice ruled that the obligation requiring people who entered Israel illegally through the Egyptian border to deposit 20% of their salary as an incentive to leave Israel is unconstitutional and ordered its nullity. The Court determined that the deposit would be based only on the employer component (16%) and approved the operation of the "administrative deduction" mechanism, according to which, certain amounts can be deducted from the employee's deposit, if the employee leaves the country after the departure date as set by the authorities. The law determines deduction levels in accordance with the length of the delay, and states that the deduction will not exceed 33% of the deposit.[5]

[5] H.C.J. 2293/17 *Esther Tsgey Garsgher et. al. v. The Knesset et. al.* (23.4.2020).

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Initial and second periodic reports of States parties*

ISRAEL

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Introduction

Israel ratified the Convention on the Elimination of All Forms of Discrimination Against Women on October 3rd, 1991. The following is the Combined Initial and Second Report submitted by Israel to the Committee on the Elimination of Discrimination against Women. The Report was commissioned by the Ministry of Justice and the Ministry of Foreign Affairs.

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The aim of this Report is to give a comprehensive description of the legal and sociological situation of women in Israel. Accordingly, each chapter will be divided into legal and sociological sections. The detailed questions which formulated by the Internatioal Women's Rights Action Watch guided this Report, and will be addressed to the Israeli context.

During the course of the extensive research that was required for the production of this Report, all government ministries, as well as other relevant government institutes, were requested to supply information and data concerning their areas of operation. The information contained in the Report relies heavily on the materials supplied by the various ministries and institutes, as well as on information supplied by NGOs, and on other independent and academic research.

NGOs were significantly involved in the preparation of this report. All the major NGOs that deal with women's rights and women's status in Israel were contacted at the initial stages of the work. The organizations were asked to provide information about their activities, and to offer help in their areas of specialization. In addition, the preparation of this report was announced to the Feminist Conference in October 1996, in which all feminist organizations in Israel participated. Furthermore, an announcement about this project and an appeal for help in obtaining information was placed in the Israel Women's Network newsletter, which reaches over 1500 readers.

Background Facts and Figures About Israel

1. Land and People

1. 1. Geography

With Lebanon to the north, Syria to the northeast, Jordan to the east, Egypt to the southwest and the Mediterranean Sea to the west, Israel's area, within its boundaries and ceasefire lines, is 10,840 square miles (27,800 sq. km.). Long and narrow in shape, it is some 280 miles (450 km.) in length and about 85 miles (135 km.) across at the widest point.

The country may be divided into four geographical regions: three parallel strips running north to south and a large, mostly arid zone in the southern half.

1. 2. Demographics

As of June 1996, the total population of Israel numbered 5,685,500 of whom 4,598,300 were Jews and 1,087,500 were non-Jews. According to the latest figures available for the demographic breakdown of the non-Jewish population in Israel December 1994), at that time 781,500 were Moslems, 157,300 were Christians (Catholic, Protestant and Orthodox) and 91,700 were Druze.

The birthrate in 1995, was 21.1 per thousand while the infant mortality rate was 6.8 per thousand. As of 1993, life expectancy for male Israelis was 75.3 years and for female Israelis, 79.5 years. The total fertility rate was 2.9 per thousand. 29.7% of the population was aged 14 or younger while 9.5% of the population was aged 65 or older.

Israel has a literacy rate of over 95%.

1. 3. The Economy

Israel's Gross Domestic Product (GDP) in 1995 was 261.11billion New Israeli Sheqel (NIS) (approximately $85billion). GDP per capita was approximately 46,750 NIS (approximately $15,000). The external debt was $44.28billion.

The dollar exchange rate at the close of 1990 was 2.048 NIS per $1, and at the close of 1995, 3.135 NIS per $1. The annual average of the dollar exchange rate in 1990 was 2.0162, and in 1995, stood at 3.0113.

1. 4. Language

Hebrew and Arabic are the primary languages of instruction in compulsory education and either may be used by a member of the Knesset (Israel's parliament) to address the House. Israel television and radio broadcast in Hebrew, Arabic and, to a lesser extent, English.

2. General Political Structure

2. 1. Recent History

The State of Israel was founded on May 15, 1948. Israel represents the culmination of almost two thousand years of longing of the Jewish People for the reestablishment of an independent state. A guiding principle for all governments of Israel since its inception has been the "Ingathering of the Exiles," the historic return of the Jewish People to its ancestral land. This concept was enshrined in the Declaration of Independence and has continued to be a major component of Israel's national life to the present day.

Major events in Israel's history include its establishment and subsequent War of Independence (1948), the Six Day War of June 1967 and the Yom Kippur War of October 1973. In the words of Israel's Declaration of Independence, the State "extend(s its) hand to all neighboring states in an offer of peace and good neighbourliness".

In 1977 the late President of Egypt, Anwar Sadat, became the first Arab head of state to visit Israel. In 1979 a formal Treaty of Peace was signed between Israel and Egypt. The Madrid Peace Conference was convened in October, 1991. It was the first time that Israel, Syria, Lebanon, Jordan and the Palestinians met in an open and public setting for the specific purpose of negotiating peace. In September 1993 Israel and the PLO signed the Declaration of Principles in Washington DC, and in November 1994, Israel and Jordan concluded a peace treaty formally ending 46 years of conflict.

2. 2. Structure of Government

Israel is a parliamentary democracy, consisting of legislative, executive and judicial branches. Its institutions are the Presidency, the Knesset (parliament), the Government (cabinet), the Judiciary and the office of the State Comptroller.

The system is based on the principle of separation of powers, with checks and balances, in which the executive branch (the government) is subject to the confidence of the legislative branch (the Knesset) and the independence of the judiciary is guaranteed by law.

The President, *Nasi* in Hebrew, is the head of state and his office symbolizes the unity of the state, above and beyond party politics.

Presidential duties, which are primarily ceremonial and formal are defined by law. Amongst the President's formal functions are the opening of the first session of a new Knesset; accepting the credentials of foreign envoys; signing treaties and laws adopted by the Knesset; appointing judges, appointing the Governor of the Bank of Israel and heads of Israel's diplomatic missions abroad; pardoning prisoners and commuting sentences, on the advice of the Minister of Justice.

The President, who may serve two consecutive terms, is elected every five years by a simple majority of the Knesset from among candidates nominated on the basis of their personal stature and contribution to the state.

The Knesset is the House of Representatives of the State of Israel; its main function is to legislate. It took its name and fixed its membership at 120 from the *knesset hagedolah* (great assembly), the representative Jewish body convened in Jerusalem by Ezra and Nehemiah in the 5th century BCE.

Elections for the Knesset and for the Prime Minister are held simultaneously. They are secret, and the entire country constitutes a single electoral constituency.

The Prime Minister is elected directly by popular vote. Until the 1996 elections, the task of forming a government and heading it was assigned by the president to the Knesset member considered to have the best chance of forming a viable coalition government.

Knesset seats are assigned in proportion to each party's percentage of the total national vote. A party's surplus votes, which are insufficient for an additional seat, are redistributed among the various parties according to their proportional size resulting from the elections, or as agreed between parties prior to the election.

The Knesset operates in plenary sessions and through 12 standing committees: the House Committee; the Foreign Affairs and Security Committee; the Finance Committee; the Economics Committee; the Interior and Environment Committee; the Education and Culture Committee; the Labor and Welfare Committee; the Constitution, Law and Justice Committee, the Immigration and Absorption Committee; the State Control Committee; the Committee on the War Against Drug Addictions; and the Committee for Advancing the Status of Women.

In plenary sessions, general debates are conducted on government policy and activity, as well as on legislation submitted by the government or by individual Knesset members. Debates are conducted in Hebrew, but members may address the house in Arabic, as both are official state languages; simultaneous translation is available.

The Knesset is elected for a tenure of four years, but may dissolve itself or be dissolved by the Prime Minister before the end of its term. Until a new Knesset is formally constituted following elections, full authority remains with the outgoing government.

The Government (Cabinet of Ministers) is the executive authority of the state, charged with administering internal and foreign affairs, including security matters. Its policy-making powers are very wide and it is authorized to take action on any issue which is not delegated by law to another authority. The government usually serves for four years, but its tenure may be shortened by the resignation of the Prime Minister or by a vote of no-confidence.

The ministers are responsible to the Prime Minister for the fulfillment of their duties and accountable for their actions to the Knesset. Most ministers are assigned a portfolio and

head a ministry; others serve without a portfolio but may be called upon to take responsibility for special projects. The Prime Minister may also serve as a minister with a portfolio.

The number of ministers including the prime minister, may not exceed eighteen, nor be less than eight. At least half of the ministers must be Knesset members, but all must be eligible candidates for Knesset membership. The prime minister, or another minister with prime ministerial approval, may appoint deputy ministers, up to a total of six; all must be Knesset members.

3. The Judiciary

The absolute independence of the judiciary is guaranteed by law. Judges are appointed by the president, upon recommendation of a special nominations committee comprised of supreme court judges, members of the bar, and public figures. Judges' appointments are for life, with mandatory retirement at age 70.

Magistrates' and District Courts exercise jurisdiction in civil and criminal cases, while juvenile, traffic, military, labor and municipal appeal courts each deal with matters coming under their jurisdiction. There is no trial by jury in Israel.

In matters of personal status such as marriage, divorce, maintenance, guardianship and the adoption of minors, jurisdiction is vested in the judicial institutions of the respective religious communities: The rabbinical court, the Moslem religious courts (*sharia* courts), the religious courts of the Druze and the juridical institutions of the nine recognized Christian communities in Israel.

The Supreme Court, located in Jerusalem, has nationwide jurisdiction. It is the highest court of appeal on rulings of lower tribunals. In its function as a high court of justice, the Supreme Court hears petitions against any government body or agent, and is the court of first and last instance.

Although legislation is wholly within the competence of the Knesset, the Supreme Court can and does call attention to the desirability of legislative changes; as the High Court of

Justice, it has the authority to determine whether a law properly conforms with the Basic Laws of the state.

4. Basic Laws

Israel has no formal constitution. However, most chapters of the prospective constitution have already been written, and enacted as Basic Laws. The following are the Basic Laws of the State of Israel:

The Knesset (1958)
State Lands (1960)
The President (1964)
The State Economy (1975)
The Israel Defense Forces (1976)
Jerusalem (1980)
The Judicature (1984)
The State Comptroller (1988)
Human Dignity and Liberty (1992)
Freedom of Occupation (1992)
The Government (1992)

The Basic Laws are adopted by the Knesset in the same manner as other legislation. Their constitutional import is derived from their nature and, in some of them, from the inclusion of "entrenched clauses" whereby a special majority is required to amend them.

5. The State Comptroller

The State Comptroller carries out external audits and reports on the legality, regularity, economy, efficiency, effectiveness and moral integrity of the public administration in order to assure public accountability. Israel recognized the importance of state audit in a democratic society and in 1949 enacted a law, which established the State Comptroller's Office. Since 1971, the State Comptroller also fulfills the function of Public Complaints

Commissioner (ombudsman) and serves as an address for any person to submit complaints against state and public bodies which are subject to the audit of the comptroller.

The State Comptroller is elected by the Knesset in a secret ballot for a five-year term of office. The Comptroller is responsible only to the Knesset, is not dependent upon the government, and enjoys unrestricted access to the accounts, files and staff of all bodies subject to audit. The Comptroller carries out his/her activities in contact with the Knesset Committee for State Audit Affairs.

The scope of state audit in Israel is among the most extensive in the world. It includes the activities of all government ministries, state institutions, branches of the defense establishment, local authorities, government corporations, state enterprises, and other bodies or institutions declared subject to audit.

In addition, the State Comptroller has been empowered by law to inspect the financial affairs of the political parties represented in the Knesset, including election campaign accounts and current accounts. When irregularities are found, monetary sanctions are imposed.

ARTICLE 1

Definition of Discrimination Against Women

For the purposes of the Convention, the term "discrimination against women" means any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights, and fundamental freedoms in the political, economic, social, cultural, or any other field.

1.The Constitutional Level

Israel did not adopt a written constitution upon its establishment. Instead, it has chosen to enact "Basic Laws." In 1992, Israel enacted two new Basic Laws, which addressed human rights guarantees: 1) **Basic Law: Human Dignity and Liberty;**

2) **Basic law: Freedom of Occupation.** Many jurists in Israel, Chief Justice Barak central among them, refer to these two new basic laws as a "semi-constitution," and identify them as the beginning of the judicial review process in Israeli law, meaning that courts now have the power to strike down legislation that violates basic rights guaranteed by the two Basic Laws and which does not fulfill the requirements of the limitations clause in those laws.

The right to equality is not mentioned specifically as one of the basic rights in the Basic Laws. The source of this omission is the subject of debate among scholars. Some scholars attribute this omission to the problematic history of the right to full-equality in Israeli law due to religious considerations, as will be explained below. However, the more common opinion is the one advanced by Chief Justice Barak, namely that the scope of the basic right to human-dignity is very broad and encompasses various unenumerated human rights, such as the right to equality. This interpretation was approved in a number of Supreme Court cases.

2.Equal Rights Legislation

The constitutional level is but one level of normative regulation. In addition to this level, other legal sources for the creation of human rights exist, and these levels have special significance in Israel due to the lack of a written constitution. First and foremost is Israel's "birth certificate," the **Declaration of Independence**, which was one of the first of its kind to include sex as a group classification for the purpose of equal social and political rights. The document states: "The State of Israel will maintain equal social and political rights for all citizens, irrespective of religion, race or sex." Although lacking any constitutional force, this document has been interpreted by Israeli courts in such a way that often makes it very close to a constitutional document with constitutional powers.

The first significant legislative effort to implement the principle of gender equality was the enactment of the **Women's Equal Rights Law - 1951**. The law states in section 1 that one law applies to men and women regarding "any legal action," and that any law that discriminates against a woman as such shall be null and void. The law also equates the legal status of women to that of men. However, as an ordinary statute, this law does not carry any constitutional weight and any subsequent statute prevails over it. Furthermore, even though the law deals specifically with the rights of married women regarding property ownership, and with the rights of women as mothers regarding their children, it excludes the area of marriage and divorce from its jurisdiction. For political- religious reasons, this marriage and divorce exclusionary rule was an a priori condition to the enactment of the law.

Although it lacks constitutional force and can theoretically be revoked by subsequent legislation, the **Women's Equal Rights Law - 1951** was given great symbolic value in several Supreme Court cases in which it was labeled "an ideological law, revolutionary, a change of social structure." In many recent Supreme Court cases it was termed as "a majestic legislation."

The **Women's Equal Rights Law - 1951** guaranteed equal rights mainly in the public sphere. It referred primarily to the government and to its delegates, and not to private actors in the private sphere. This omission, however, was at least partly repaired by two complementary initiatives, from the legislature and from the judiciary. The legislative effort centered on the area of

employment, in both the public and the private sector. Judicial developments supplemented that and enhanced the notion of substantive equality.

3. Judicial Development of the Right to Equality

The judicial contribution in this area is part of an extremely broad effort undertaken by the Israeli Supreme Court, which began during the formative years of Israel's legal system. Lacking a written constitution, the Supreme Court assumed the responsibility for developing an "unwritten Bill of Rights," in which the right to equality and women's rights held an honorary position. The principle of gender equality was declared in the case law to be a fundamental tenet of the Israeli legal system. Like other "unwritten fundamental rights," Knesset legislation which contradicted it could prevail, but it was considered to be of supreme value to secondary legislation, such as administrative regulations and policies. If such practices contradicted the principle of gender equality they could be invalidated by the High Court of Justice, as indeed some of them were. Thus, for example, women were accorded the right to serve on religious municipal councils, and to become members of the election-committee of the municipal rabbi.

Lacking a statutory codification of the general right to equality, except for the **Women's Equal Rights Law - 1951**, the legal definition of equality and its inverse - discrimination, is found mainly in Israeli case law, and in scattered legislative expressions of the right to equality. Although most of the early cases suggest the implementation of a formal Aristotelian theory of equality, some clearly adopt the concept of substantive equality. Thus, the current legal definition of discrimination evidently fits that of the Convention.

4. The Elimination of Discrimination in the Private Sphere

It is unclear whether discrimination by private institutions and individuals is included in the legal definition of discrimination. Answers need to be deduced from the overall legal framework, including legislation and case law that involve women's rights.

First, the application of the principle of gender equality to private institutions and individuals is part of a larger legal framework known as "the privatization of constitutional norms." The central question here is whether constitutional rights and norms apply equally to relationships

between individuals and to the relationships between the government and individuals. In the past few years there has been a growing judicial tendency to apply principles and norms that were developed and recognized in the public sphere to the private sphere. This is particularly true when the "private" sphere contains such "hybrid" entities whose nature could be characterized as both public and private.

Following the **Equal Employment Opportunities Law - 1988,** which prohibits all forms of discrimination in the workplace, the question of whether the principle of equality applies to the private sphere was resolved with respect to labor market relations. Thus, for example, a *Moshav* (cooperative settlement), was ordered to abide by the constitutional principle of equality and not to discriminate against women in denying them the possibility of being recognized as "heads" of families. These occasional precedents should be viewed together with other cases that prohibited discrimination by private organizations on other grounds, such as nationality, ethnicity, or sexual orientation. When taken together, one can conclude that there is a consistent trend toward broader application of the right to equality and non-discrimination in the private sphere, while its protection depends on the specific balance between this right and the weight of the rights that may be understood to oppose it.

As to whether domestic violence and battered women are also included under the legal definition of discrimination, legislation that deals with aspects of violence against women suggests that this phenomenon is conceptualized as part of larger legislative concerns about discrimination on the basis of gender. This conclusion is supported, for instance, by themes expressed in the 1996 report issued by the Parliamentary Inquiry Commission on the question of Murder of Women by their Spouses (see Article 5). The report specifically states that the murder of women, and all forms of violence against women, can be understood as expressions of more general discrimination against women in Israeli society.

As to the question of gender discrimination in the domestic sphere, this sphere has been subject to intense regulations that affect women's status. These regulations, such as the **Spouses (Property Relations) Law - 1973**; **the Prevention of Violence in the Family Law - 1991**; and to some degree the **Women's Equal Rights Law - 1951**, are all attempts of the civil legal

system which suggest that the domestic sphere is not subject to laws which address gender equality.

4. 1.

The UN Convention's Internal Applications and Standing

Israel follows the dualistic approach to international law, whereby international law does not automatically become the law of the country, unless it is customary law. Where conventional law is concerned, it becomes part of the law of the country only insofar as it is incorporated into the local system. Otherwise, although it is binding upon the State on the international level, it cannot be enforced through the local judicial system. However, that is not to suggest that conventional law has no effect on the internal level. It serves as an interpretive tool, and in this capacity it serves as a guideline for monitoring State activities. Thus, there is a presumption that unless otherwise specifically indicated by the legislator, local law must conform to conventional law in force for Israel. Consequently, while CEDAW has no formal status under internal Israeli law, its directives function as an interpretive guide. Indeed, the fact that the UN Convention was ratified in 1991 and the human-rights Basic Laws were enacted in 1992 should be understood to be significantly related, for the Convention clearly had influence on the legislation of the Basic Laws. However, it is only in recent years that the Convention has begun to be invoked in Israeli law-review articles and in Israeli academic circles. It is hoped that these developments will soon reach the judiciary and the legislature.

As mentioned above, there are already several expressions of judicial conjecture regarding gender-equality and discrimination which are in complete conformity with the definitions set in the Convention. The stage is thus set for a more consistent, admissible use of the Convention itself in the legislature and judiciary.

No statutory or other kind of mechanism has yet been set to monitor the implementation of the

Convention. However, the proposed **Authority for the Advancement of Women Bill - 1996** specifically calls for the establishment of such a mechanism, as a central part of the Authority's other roles and powers. If this bill is passed, then a major advancement in securing women's rights and eliminating any gender discrimination will have been achieved.

ARTICLE 2

Obligations to Eliminate Discrimination

State parties condemn discrimination against women in all its forms, agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women and, to this end, undertake:

a) To embody the principle of equality of men and women in their national constitutions or other appropriate legislation if not incorporated therein, and to ensure, through law and other appropriate means the practical realization of this principle;

b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

d)To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

e) To take all appropriate measures to eliminate discrimination against women by any person, organization, or enterprise;

f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices which constitute discrimination against women;

g) To repeal all national penal provisions which constitute discrimination against women.

1. Legal Provisions

As explained under Article 1, Israel has no comprehensive constitution. The objectives of the Convention are realized through the provisions of specific pieces of legislation. These will be described in detail under the relevant articles. Since 1991, when Israel ratified the Convention, several especially noteworthy pieces of legislation have been enacted (all of them to be discussed in more detail in appropriate chapters below): the **Equal Pay (Male and Female Employees) Law - 1996,** the implementation of which remains somewhat precarious despite its clearly extensive potential; **The Single Parent Family Law - 1991;** the 1993 amendment to the

Government Companies Law - 1975; the 1995 amendment to the **State Service (Appointments) Law - 1959** (both amendments direct the use of affirmative action); the **Prevention of Violence in the Family Law - 1991**; and more.

2. Legal Recourse Available for the Pursuit of Women's Rights

One of the main obstacles standing in the way of the full implementation of women's rights and the advancement of women's status in Israel is the lack of a central organization to process complaints of women whose rights have been violated or who have suffered gender discrimination. The establishment of such an organization is a central goal of the proposed **Authority for the Advancement of Women Bill - 1996**, which would establish a national machinery for the protection and promotion of women's rights and status.

Until this bill is passed and such an Authority and ombuds-person are established, the formal-governmental mechanisms presently available for women include: the general Public Complaint's Commissioner; the Ministry of Labour's Division for Employment and the Status of Women; the Labour Courts system; and, when the Civil Service is involved, the Superintendent over Discipline in the Civil Service or the General Supervisor on the Advancement of Women in the Civil Service. Another governmental *de-facto* mechanism is the office of the Prime-Minister's Advisor on the Status of Women.

In addition to the formal-governmental mechanisms, there are several legal-aid lines and services operated by women's NGOs, such as the *Na'amat* Legal Council and the Israel Women's Network (IWN) Legal Commission, which give initial legal or other advice to women and which occasionally provide *pro bono* representation, mainly in precedent-setting cases. These mechanisms will be described under Article 3.

Only four (!) complaints to the Public Complaints Commissioner, out of a total of 6000-8000 per year since 1971, concerned gender discrimination or other violations of women's rights. Three of these complaints involved sexual harassment. The fourth involved a woman pilot who was refused employment by *El-Al*, the national Israeli air-carrier, which claimed to have excluded her as the result of a general policy of hiring only IDF air-force veterans. In addition, since 1990,

40 complaints were made to the Public Complaint Commissioner concerning insufficient police investigation of intra-family violence or untimely closure of such investigations. Complaints concerning untimely closure of police investigations are not investigated by the Commissioner, since these are handled under judicial appeal of police decisions.

3. Governmental Machineries, Mechanisms and Measures Established to Promote the Status of Women

3. 1. Investigative and Study Initiatives by the Government

The 1975 International Year for Women served as a trigger for the designation of an ad hoc Commission on the Status of Women, appointed by the late Prime Minister Yitzhak Rabin, and headed by Ora Namir, then a member of the Knesset (Labor Party), who later became Minister of Labor and Social Affairs.

3. 1. 1. General Examination of the Overall Status of Women in Israel

The Commission's main function was to investigate the issue of the status of women in Israel; it acted mainly as a fact-finding body but was alsoasked to present the government with proposals as to the social, cultural, educational, economic and legal measures that need to be taken in order to promote equality between men and women in all areas of life in Israel.

The Commission presented its report and recommendations in February 1978. The report made it clear that Israeli society had not been providing answers to the unique problems and obstacles that women faced in their struggle for full equality and participation. The Commission supplied the government with a list of 241 comprehensive recommendations and detailed proposals on how to improve the existing situation. These recommendations had the potential to serve as a blueprint for women's equality, yet few of them were adopted and implemented. An investigation conducted by Israel Women's Network (IWN) in 1988 revealed that out of the 241 recommendations only 32 had been fully implemented, 39 had been partially implemented, and the rest (170) had not been implemented at all.

3. 1. 2. Examination of Women's Status in Civil-Service

The Israeli government is the largest employer in Israel, and almost 60% (59.4%) of civil-servants are women. In 1989, the Koberski Commission finished its investigation of the civil service in Israel, which included a special report on the status of women in the civil service. The Commission's conclusions made it clear that discrimination against women is the major cause of women's low status in the service.

In order to implement recommendations for the improvement of the status of women, a sub-committee was established by the Ministry of Economics and Planning called the Ben-Israel subcommittee. This committee presented its proposals in December 1993. The proposals included specific directives for ensuring women's participation in tender committees; improving the function of the supervisors on the status of women in the different ministries; and securing firmer treatment of sexual harassment. Most of these proposals were adopted and incorporated into the **Civil Service Code**, and are in the process of being implemented.

These proposals include: 1) the decision to make the former requirement that both sexes be represented in tender committees mandatory (an exception to be made in unique cases upon the prior approval of the Commissioner), and negating the force of the decision of any committee that fails to uphold this requirement; 2) publication of a worker's rights manual for women employees in the civil service, prepared by the general-supervisor; 3) the preparation and dissemination of information and data regarding the status of women in the service among women organizations and Knesset committees; 4) the joint establishment of a Progressive Employer Award granted by the *Na'amat* women's organization, the Coalition of Industrialists, and the Union of Local Authorities, to be awarded to the public employer who demonstrates the greatest commitment to the advancement of women.

In addition, members of tender committees were specifically instructed not to present candidates with questions which discriminate on the basis of sex.

Other changes were made in the Civil Service Code, reflecting the progress made in recent years concerning the advancement of women. For example, the provisions that relate to family

members that may accompany an employee who is being sent oversees on a mission were changed from the gender-specific term of "wife," to the gender-neutral term of "spouse," thus providing men and women employees with equal opportunities to be sent on foreign service missions. With respect to the accommodation of motherhood, the former prohibition on employing a woman who is the mother of small children in overtime work was changed so as to let her choose whether or not to work overtime.

To conclude, it should be added that there is ongoing independent academic research in the areas of women studies, women's rights, and the status of women in Israel.

3. 2. Specific Mechanisms Implemented for the Improvement of the Status of Women

3. 2. 1. The Prime-Minister's Advisor on the Status of Women

The office of the Prime Minister's Advisor on the Status of Women, established in 1980 following the Namir Commission's recommendations, was charged with the task of advising the Prime Minister on all issues pertaining to women, and with coordinating the government's actions with relation to the status of women. The office, however, was not provided with special resources and its budget was to be drawn from the general budget of the Prime Minister's bureau. In addition, in 1992 the late Prime-Minister Rabin abolished the office of Prime Minister's Advisors altogether, including the office of the Advisor on the Status of Women. In its place, he formed a steering committee to reframe the structure of both the office of the Advisor and the function of the National Authority (described below). A new Advisor on the Status of Women was appointed in November 1993.

Following the 1996 elections, the government appointed a new Advisor on the Status of Women, and charged her with the task of putting together a campaign against family-violence, described under Article 5 below. The Advisor has also been charged with the task of composing the Israeli Report to the March 1997 UN Convention on the Status of Women, which describes the measures taken following the Beijing Conference. It is hoped that the position of the Office of the Advisor, together with the National Authority, will be promoted by the anticipated passage of

the **National Authority Bill**, and that its operation will be facilitated by a separate budget and facilities.

3.2.2 Special Machineries: National Council and Authority on the Status of Women

3. 2. 2. The statutory Authority's functions, as set in the proposed bill, will include: 1) the formulation of policy regarding gender equality and the elimination of discrimination against women; 2) the coordination and promotion of cooperation between state government, municipalities and others in the area of women's status; 3) advising the ministries on the implementation of equality laws (particularly on the implementation of the CEDAW Convention); 4) the establishment of special programs and services for women which promote gender equality; 5) the establishment of a research and public information center; and 6) the promotion of legislative measures for the advancement of women and the elimination of discrimination. The Prime-Minister's Advisor on the Status of Women will be in charge of both the Authority and a proposed Council, to be comprised of 34 members from various government offices and organizations, including representatives from women's organizations and academia. The Council's main role will be to outline policy for the Authority. In addition to the Authority, the bill also establishes the office of Commissioner for Women's Affairs, whose role it will be to handle direct complaints from the public concerning violations of women's rights or discrimination on the basis of gender. The Commissioner is to have investigatory powers equal to those of the general Public Complaints Commissioner, including the power to demand any documents and records necessary for the investigation. One deficiency in the current version of the bill is the lack of a provision calling for an independent budget for the Office of the Advisor. The present version simply states that the budget is to be allocated from the general budget of the Prime-Minister's Office.

3. 2. 3. The Knesset Committee for the Advancement of the Status of Women

An unusual coalition of women Knesset members from across the political map established the Committee for the Advancement of the Status of Women in 1992. The Committee has been instrumental in promoting important legislative measures and in raising awareness of women's concerns. The Committee has made significant contributions to the efforts to improve women's status and to focus pulic attention on "women's issues."

In January 1996, the Committee was granted the status of a permanent (standing) Knesset Committee, with the following tasks: 1) the advancement of women's equality in public representation, education, and personal status; 2) the prevention of discrimination on the basis of sex or sexual orientation in all areas; 3) the reduction of wage gaps in the economy and in the labor market; and 4) the elimination of violence against women. The Committee consists of 15 members (of whom 8 are currently men), and the chair rotates between two members, from the coalition and the opposition parties, respectively. Currently, the Committee operates three sub-committees on: 1) the advancement of women in the workplace and in the economy; 2) the advancement of Arab women; and 3) personal status. All other matters are dealt with by the Committee as a whole.

Among the recent legislation facilitated by the Committee's work are the **Equal Pay (Male and Female Employees) Law - 1996**; the **State Service (Appointments) Law (Appropriate Representation) (Amendment no. 7) - 1995** which introduces affirmative action into the civil service; the **Prevention of Violence in the Family Law (amendment no. 2) - 1996; Family Court Law - 1995**. All in all, over 40 legislative measures relating to the advancement of women's status have been passed since the establishment of the Committee. In addition, the Committee has also utilized other parliamentary means, such as the establishment and operation of the parliamentary investigative committee on women's murder by their spouses, discussed under Article 5 below.

The Committee's contribution to the advancement of women extends beyond the formal level of parliamentary performance to the more informal level of women's alliance building and coordination of activities for furthering the common goal of mobilization and social change. The Committee maintains close contacts with women's NGOs, and representatives from various NGOs regularly attend their meetings. Thus, for example, the Committee took upon itself to serve as the forum where all women's NGOs submitted their reports on measures taken following the Beijing Conference. It also receives input from women in senior positions in business and academia. It thus serves as a forum where women's voices are officially heard, and as a forum for political mobilization around women's issues.

3. 3. Governmental Performance in Civil-Service

In April 1985, the government adopted an additional recommendation of the Namir commission and decided that in each of the government ministries a supervisor on the status of women workers would be appointed. The roles that these supervisors were assigned include: 1) acting for the implementation of equal opportunities for women employees in all areas of the service; 2) monitoring the obligation to include women in all professional committees and in tender committees; 3) developing special tracks for the promotion of women; 4) acting for an increase in the percentage of women in top positions in the civil service; 5) handling women employees' complaints of gender discrimination, including sexual harassment complaints; and 6) preparing annual reports about progress made in this area. As with the Office of the Prime Minister's Advisor on the Status of Women, the decision did not allocate a special budget nor did it provide for additional supervisors for its implementation. Nevertheless, most ministries have appointed such supervisors. Several programs were established to facilitate their operation including a three-day seminar in which supervisors were supplied with theoretical tools to accomplish their task.

The April 1985 government decision to appoint the supervisors was part of a general resolution to promote the status of women in the civil service. Another important part of the resolution was the provision mentioned above, whereby women participate as members in every tender committee or professional committee. Other parts of the resolution, in addition to expressing commitment toward the advancement of women in civil service, ordered the establishment of a committee that would monitor the implementation of the whole resolution.

The departing Civil Service Commissioner designated a special post for the appointment of a general-supervisor on the advancement of women in the civil service, who is to be in charge of all matters concerning women and their advancement in the service and who reports directly to the Commissioner. The incoming Civil Service Commissioner proposed a reform in the civil service, which specifically included a plan to ensure the promotion of women in the service to senior positions. The effects of this reform can be seen in the 1996 establishment of a new unit in the Civil Service Commission, which is responsible for hiring and promoting women in the civil service. At the head of this Commission stands the general-supervisor mentioned above, assisted by a steering committee. In addition to handling issues related to the status of women in

the civil-service, this supervisor is in charge of implementing the 1995 amendment to the **State Service (Appointments) Law (Appropriate Representation) (Amendment no. 7) - 1995.**

An affirmative action policy was introduced into the civil-service through the **State Service (Appointments) Law (Adequate Representation) (Amendment no. 7) - 1995.** This amendment obligates the Civil Service Commissioner to use all necessary means to achieve the appropriate representation of both sexes in the civil service. The initial guidelines for the implementation of this amendment require the issuance of a report from the Commission to the various ministries, and vice-versa, regarding 1) the numbers and ranks of women in the service; 2) upcoming vacancies; 3) the rate of women in top positions in each ministry relative to their overall rate in the ministry; 4) the number of women selected in internal and external tenders; 5) the number of women holding personal contracts; and 6) the participation of male and female employees in seminars, educational tours abroad and so on, to assure adequate participation of women in these areas.

Other actions adopted by the Civil Service Commission following the 1995 amendment include the reading of the amendment to committee members at the beginning of every tender-committee section, with an emphasis on the explicit provision that preference be given to the candidate of the lesser represented sex, when the candidates' qualifications for the office are similar.

3. 4. Mechanisms for the Advancement of Women in Specific Government Ministries

Foremost among the specific mechanisms regarding the improvement of the status of women in the various government ministries is the Division for Employment and Status of Women in the Labour Ministry. Until February 1996, this Division was in charge of the implementation and enforcement of the **Equal Employment Opportunities Law - 1988.** The Division is responsible for various other aspects related to women's work; including: 1) the development of childcare programs; 2) the subsidization and supervision of childcare programs which are operated by women's organizations; 3) the provision of vocational training for unskilled women and for women who want to enter non-traditional fields of work; and 4) the dissemination of information and materials regarding women's rights, with specific focus on women's employment, and more.

3. 5. Measures Taken on the Municipal Level

As explained under Article 7 below, women's representation on the municipal level in Israel is only slightly more substantial than their representation on the national level. One measure that has been taken in order to compensate for the lack of formal representation on the municipal level is the nomination of an Advisor on the Advancement of Women in Local Authorities, appointed in 1994 by the Chair of the Union of Local Authorities in Israel. This appointment, supported by the Prime-Minister's Advisor on the Status of Women, reflects a change of attitude among municipal authorities by recognizing the need to take women's concerns more seriously. The Advisor is a member of the central administration of the Union of Local Authorities in Israel, and her policy was drafted by a Committee on the Status of Women. This Committee is composed of several members, mainly women members of local councils and is presently headed by the only woman who was elected as a head of a local council. On the basis of a decision made by the Administrator of the Union of Local Authorities, this Committee participates in all assemblies of heads of municipalities. The Advisor is in charge of establishing Women's Councils in each local council in Israel. So far, seventy such Women's Councils have been established in Israel, of which eight are in Arab localities. In addition, the Advisor is involved in promoting legislation dealing with women's daily concerns on the municipal level and cooperates closely with the Ministry of Labour and Welfare on issues such as shelters for battered women.

The aim of the establishment of local Women's Councils is to designate a special forum within which women's particular concerns and needs can be addressed. Among the taks of these councils are: 1) coordination between all women's organizations in the specific locality for the purpose of fulfilling women's local needs; 2) promotion of special educational programs on gender equality, prevention of family violence, and technological education for girls; 3) advancement of the institution of the long school-day and better day-care facilities; 4) provision of services for women with special needs such as single mothers, older women, immigrant women and Arab women; 5) advancement of municipal legislation for opening government and municipal bureaus in the afternoons and in the evenings; and more. The Women's Councils' work-plan is based upon the model provided by the first Women's Council established in Haifa in 1978, by the current Advisor on the Advancement of Women in Local Authorities. Each of

the Councils is headed by a woman who also acts as the Advisor on the Status of Women to the Head of the Municipal Council.

The main problem that these measures for the advancemnet of women are faced with is financial. Once again, no special budget was allocated for the full implementation of these plans. Currently there is an initiative before the Knesset to pass special legislation that would mandate the institution of Women's Councils in every municipality. However, the bill does not contain a provision for the allocation of a budget to finance the Councils and the work of the Advisors. So far, the work of the Women's Councils and their Chairs has been generally uncompensated and is voluntary.

ARTICLE 3

The Development and Advancement of Women

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

1. Non-Governmental Women's Organizations in Israel

1. 1. Introduction

Women's NGOs have always played a major role in advancing the status of women in Israel by changing the public perceptions of women, promoting women's role in the public and private spheres, operating day-care centers, operating emergency-lines for female victims of violence, operating shelters for battered women, and more. In addition, these NGOs have managed to put many of these issues on the public and government agendas.

The exact number of women's NGOs operating in Israel is estimated at 100. They vary tremendously in size, ideology, socio-economic characteristics of their members, activities, goals, and so on. Some concentrate on providing services to single-parent families, others to lesbian women, Arab women, and so on. The following paragraphs do not represent a comprehensive overview of all of these organizations; instead only a selection of the more major organizations are presented.

1. 2. Jewish Women's Organizations

The Israel Women's Network (IWN), founded in 1984, is known as one of the largest and most visible of women's organizations in Israel. The IWN works for the advancement of the status of women in Israel through education, legislation and legal activities. Committees of specialists have been set up on the topics of health, law, municipal and parliamentary work, violence in the family, and media/public relations. The Network works to end all discrimination against women and for equal representation of women in all political and public positions. The founders of the Network believed that women's status could best be advanced through legal action and political pressure, not through providing welfare. Training courses are offered through the Network to

women aspiring to political careers. Some of the Network's concrete activities include: 1) the maintenance of a resource and information center; 2) the publication of a newsletter; and 3) the operation of a legal aid hotline.

Na'amat - the Movement of Working Women and Volunteers, was founded in 1921 by idealistic women committed to equal rights for women and their empowerment; it is presently the largest women's movement in Israel. *Na'amat* is affiliated with the *Histadrut*, the largest workers' union in Israel and currently operates more than 100 local branches in workers' councils, 60 community centers, 250 neighborhood club rooms, and 40 legal offices. It also operates 350 day-care centers, and 14 vocational training schools. Its activities encompass almost all aspects of women's life in Israel, ranging from various family issues and needs (such as family-violence, single-parent families, and adoption), through employment and professional training, to legal activities, legislative initiatives and public representation. Following the Beijing Conference, *Na'amat* formulated a symbolic "Contract with the Women of Israel," signed by both the government of Israel and the women of Israel through *Na'amat* as their representative. In this symbolic contract, which was based on the Beijing Platform for Action, the government was to allocate a specific budget for the implementation of the Platform.

WIZO (Women's International Zionist Organization), was established in 1920 and is the second largest women's association in Israel. WIZO is primarily a non-political charity organization run by volunteers. In its early years, WIZO established mother and child clinics, day care centers, training courses for homemaking, agricultural schools and youth centers. Gradually, the organization has become more focused on social change and empowerment of women. WIZO has played a major role in bringing the problem of battered women to public attention, and has established shelters and hotlines for battered women and rape victims. In addition, WIZO operates 160 day-care centers, helps in the absorption and care for new immigrants, senior citizens and single-parent families, and offers legal advice to women, mainly on family issues. Most of WIZO's resources are derived from contributions solicited abroad.

Emunah is the largest Orthodox women's Zionist organization in Israel and is the woman's division of the National Religious Party. *Emunah*'s activities focus on community, educational and welfare work, through a network of 110 day-care centers, 4 children's homes, 6 high schools, and a women's college. It is involved in the absorption of new immigrants and works to

strengthen the family unit through family counseling services, legal advice to women on family issues, and through parenting groups.

The Feminist Movement was established in the early 1970s, and is one of the more radical women's movements in Israel; it focuses on body politics, abortion, and battered women and members of the Feminist Movement established the first shelters for battered women in Haifa and Herzliya. Since its establishment, the Feminist Movement has worked in the following areas: equal opportunity for women in education and work; the rights of divorced women; fair representation of women in politics; the fight against pornography and negative female images in the media. . During the 1980s, the Feminist Movement expanded its agenda to include issues of war and peace The Feminist Movement offers courses on a variety of subjects, puts out a newsletter and operates a library on feminism.

Isha le'Isha (Woman to Woman) - the Haifa Feminist Center, strives to fight against physical, sexual and psychological violence towards women, to improve existing services for the special needs of women, and to create conditions for cooperation between women from different social groups and backgrounds. To this end, it operates a project for adult women immigrants from Russia; an employment and absorption project for Ethiopian women immigrants; a project for Palestinian women; a project for women of oriental origins, and employment projects for women returning to work. In addition, they offer a range of courses including mechanics, car maintenance, self defense and basketball.

1. 3. Organizations for the Advancement of Arab Women

Few women's organizations have been set up by Arab women for Arab women in Israel. Recently, non-governmental Arab movements have begun to encourage women's participation in order to obtain foreign aid and support from international organizations that provide funds for weaker sectors in developing societies, such as women.

1. 3. 1. Arab Organizations for the Promotion of Women

Taandi, the Movement of Democratic Women, was founded in 1951 as the women's "division" of the Communist Party known today as *Hadash* (the Democratic Front for Equality and Peace), was the first organization to offer Arab women the opportunity for political involvement. By the

1970s, the Women's Democratic Movement enjoyed the active support of many Arab village women. Among *Taandi*'s achievements are the establishment and maintenance of 33 kindergartens in Arab villages and the celebration of March 8 as an International Women's Day in Arab sectors. The organization also provided vocational training for Arab village women, particularly in sewing. However, while the leaders of *Hadash* as well as the leaders of other Arab parties who established women's divisions in the 1970s (such as the Progressive Arab Party and the Democratic Arab Party) were known to be proud of the achievements of their women's division, they did not actually integrate them into the inner workings of the parties.

The Arraba Almostakbal Association is a community organization established to encourage women from the Arab village of Arraba to participate in public social life. The association offers courses in traditional occupations like sewing, as well as vocational courses. The association models itself after *"Gafra,"* the Movement of Palestinian and Arab Women in Israel, founded in the town of Taibe in 1990 in order to promote Palestinian women socially, economically, and politically. These organizations are currently waging a campaign against the widespread practice of arranged marriages in Arab villages.

Al Fanar (the lighthouse), also known as "The Movement of Palestinian Feminists," was established in 1990, as an informal study group on the status and treatment of women in Arab society. Since its establishment, the organization has primarily dedicated itself to fighting "honor" killings (the number of "honor" related murders per year is estimated between 20-40.) The organization considers acts of violence against women to be byproducts of the patriarchal structure of Palestinian society, and opposes it in the most radical fashion of all Palestinian Women's groups. *Al- Fanar* protests arranged marriages of women to their relatives, sexual and other physical assaults on women by their husbands and male relatives, denial of education and job opportunities to women who are taken out of school as teenagers to carry out domestic chores, and the spread of defamatory rumors and gossip about women as a means of controlling their behavior.

The organization has attracted widespread criticism for its radicalism from Arab political parties, and from the growing Islamic fundamentalist movement. On several occasions *Al-Fanar's* members have reportedly been threatened. However, a growing number of women have responded to *Al-Fanar's* advertisements for help, including assistance from a Jewish-run shelter

for battered women. Currently, *Al-Fanar* runs on a modest budget and is supported almost entirely by its members, though it has registered as a non-profit organization and is seeking contributions. It publishes a quarterly newsletter which is distributed door-to-door, and has published articles in Israeli Arab newspapers. While no accurate information is available as to the characteristics of its members, most of its members are believed to be single university graduates who reside in Haifa.

1. 3. 2. Other Organizations Which Promote Arab Women

Na'amat, the largest women's organization in Israel, is composed of both Jewish and Arab women and has opened branches in many Arab villages. As of 1987, *Na'amat* established 70 centers for vocational training and social activities in Arab villages and cities. However, Arab women have complained that the services provided for them are not proportional to their representation amongst the members of *Na'amat* and more funds should be allocated to servicesin the Arab sector. For example, only 5.17% of the daycare centers established by *Na'amat* have been established in Arab villages.

The Israeli League for the Promotion of Human Rights provides legal support for Arab women, particularly regarding labor disputes. The legal support is advertised through informative pamphlets put out by the organization in Arabic.

1. 4. Associations of Women's Organizations

The Council of Women's Organizations in Israel: An umbrella organization that connects *Emunah*, *Na'amat*, WIZO, *ANALI* - Liberal Women's Organizations, *Bnai Brith Women*, *Hadassa - Israe*l, Israel Association of University Women, Soroptomist International of Israel, and Women's Israel ORT, this Council represents Israel in the International Convention of Women and the International Convention of Jewish Women, both of which have advisory status to the UN. The Council's activities include: representing Israeli NGOs in international organizations, transferring information on the activities of these organizations to those outside Israel, and bringing information to Israel on activities regarding women which are being initiated in international organizations and in institutions of the UN.

ICAR - International Coalition for *Agunah* Rights. Established in 1993 in response to the plight of Jewish women who are refused a divorce, ICAR's purpose is to raise public awareness of this issue and to prompt the Jewish religious establishment in Israel and abroad to create solutions to the problem.

The Coalition of Help Centers for Victims of Sexual Attacks , collects and publishes statistical data and evaluations of the seven battered women's shelters in Israel in an annual report on the centers' activities. It also offers activities to raise public awareness about battered women and offers volunteer training courses for those who wish to work in battered women's shelters.

ARTICLE 4

Acceleration of Equality Between Men and Women

Adoption by State Parties of temporary measures aimed at accelerating de facto equality between men and women shall not be discrimination as defined in the present Convention, but shall in no way entail, as a consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

Adoption by State Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory.

1. Affirmative Action

1. 1. Affirmative Action in Government Corporations

The primary expression of affirmative action in Israeli law is section 18A of the **Government Corporations Law - 1975**, which was added in a 1993 amendment to the statute.

Currently, the most expansive formulation of affirmative action under Israeli law is the 1994 Supreme Court case of *Israel Women's Network v. The Government of Israel* (hereinafter the IWN case), which accepted the IWN's petition to void appointments of three men to the board of directors in two governmental corporations in which there were no women members. Justice Matsa's opinion, writing for the majority, is of particular significance, as it contains rigorous statements and far-reaching suggestions about the practice of affirmative action. Justice Matsa takes care to clarify from the beginning that section 18A is not simply a statutory embodiment of the well-entrenched right to equality, but the constitution of a novel norm which positively imposes proper representation of both genders in boards of directors and administrative councils of governmental and statutory corporations. Justice Matsa emphasizes the remedial purpose of the amendment, which aims at correcting the social distortion of women's minimal representation by means of positively imposing the norm of affirmative action. He then goes on to describe the special legislative measures which were essential for the entrenchment of gender

equality, as opposed to the general acceptance of the principle of equality at large. In a clear statement, Justice Matsa concludes that the low representation of women in governmental corporations' boards of directors is but one manifestation of the discrimination women face in Israeli society; he notes that this discrimination is not specifically intended nor ideologically mandated, but caused by internalized social norms and practices.

In an elaborate *dictum*, Justice Matsa rejects the notion that the approval of affirmative action was meant only as a temporary-extraordinary measure intended to specifically correct past discrimination, and not to maintain present and future social balance, and calls for its acceptance as an integral part and a main guarantee of the principle of equality, similar to the Canadian approach. Justice Matsa proposes to interpret section 18A in the context of the comprehensive social need to advance women's share in the labour market in general, and in managerial positions in particular. This statement, together with the adoption of the broad interpretation of **Basic Law: Human Dignity and Freedom** which incorporates the right to equality in the private sphere, initiates a movement towards legislative reform that would introduce an affirmative action policy into every part of the labor market, whether public or private.

1. 2. Affirmative Action in the Civil Service

In July 1995, the Knesset passed an amendment to the **Civil Service Law (Appointments)**, proposed as a private bill by Member of Knesset (MK) Dedi Tzucker. The amendment incorporates the practice of affirmative action into the civil service. The Civil Service Council supported the passage of the amendment, and participated in the deliberations surrounding the proposal. The amendment mandates appropriate representation of both sexes in the civil service, and reqquires the Civil Service Commissioner to act toward the achievement of this goal. Affirmative action is defined in the amendment as "preference given to the candidates who belongs to the gender that is not appropriately represented, where the two candidates' capabilities are comparable," (see Article 2).

1. 3. Public Perceptions Regarding Affirmative Action

A survey conducted in April 1996 to examine the public's perceptions of women's participation in politics revealed some very interesting results (hereinafter - **Women in Israeli Politics Survey**). The survey revealed general support for the use of affirmative action, especially among women. Affirmative action was seen as particularly important in national and local politics, but also in the labour market.

Most women think there is a need for affirmative action through the use of a quota system: 64% claim parties should ensure places on their election lists for women, 60% claim this should be done in other public institutes as well, and 51% think women should be given preference in the labour market. The differences in men's and women's perceptions are consistent, and most men (64%) clearly object to affirmative action for women in the workplace.

1. 4. Affirmative Action in Other Areas

There are already signs of positive adoption of the principle of affirmatve action in other areas beside employment in the labour market. In the area of sports, for example, new programs have been designed which allocate larger budgets to women's teams and to schools that operate such teams.

2. Special Measures Aimed at Protecting Maternity

The **Equal Employment Opportunity Law - 1988** contains provisions which are remarkably similar to the second section of Article 4 of the Convention. The law prohibits discrimination in the workplace, whether based on gender, sexual orientation, marital status, parenthood, race, age, religion, nationality, country of birth, political or other orientation. Neither governmental nor private employers may take the above classifications into account in determining hiring, promotion, termination of employment, training, or work and retirement conditions of employees, except in special cases where the unique nature of the position makes these classifications relevant. Protections offered to women employees which take into account their special needs as women or mothers are not to be considered discriminatory, although the law specifies that any such rights offered to working mothers must equally be given to men who

either have sole custody of their children, or whose wives work and have chosen not to make use of these provisions.

The specific contents of these measures are described in detail under Article 11 below. It should be added that overall, there is a steady movement away from protective-paternalistic legislation that limits women's participation in the workforce, to legislation which recognizes the need to support the family-unit as a whole and which facilitates greater involvement of fathers in child-rearing, while maintaining the exclusive special rights of women in those specific areas where women's maternal needs are directly connected to birth itself.

In addition to the legislative provisions accomodating motherhood and parenthood, there are specific provisions in collective agreements that grant working mothers special benefits such a shorter work-day, or the option of flexible working-hours, as in the Civil-Service, to fit their maternal obligations. These accommodations in collective agreements are generally granted to mothers alone.

ARTICLE 5 Sex Roles and Stereotyping

States Parties shall take all appropriate measures:

a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

1. Introduction

The discussion under this Article will be divided into several parts. The first part will describe women and the media in Israel, including stereotypes of women and pornography, as well as the role of women in the pornography industry. Next, select cultural and social phenomena which hamper women's advancement in society will be discussed, including: 1) the impact of religion on the status of women; 2) the specific problems facing immigrant women; 3) social factors that specifically affect Arab women in Israel; and 4) gender based violence.

2. Women Employed in the Media

A discussion of women's involvement in the Israeli media industry must be separated from a discussion of the portrayal of women in the Israeli media. The field of journalism is in the midst of a "feminization" process; the number of women in the media is increasing, and women are taking over many positions, at both high and low levels. It is hoped that the advancement of women in the field of journalism will soon have an effect on the prevalent stereotypes of women in the media, which in the past were promulgated by a male dominated media industry.

Contrary to images of women presented in the media, women who work in the media are part of a system in which progress in gender equality is clearly being made. In the years 1989-1990, 44% of the 211 new members of the various reporter unions were women, and in 1994, 49.6% of

the total 274 newspaper workers were women. Among 136 local papers, 36 had a woman as editor. In addition, a woman currently acts as head of the Israel Broadcast Committee, as well as the National Committee for Cable (the two broadcasting bodies in the country.)

A study by Y. Limor and D. Caspi (1994) provided figures on the issue of women of in the Israeli press. Their studies show that throughout the years, women have been holding an increasing percentage of positions. For example, the following table shows the increase in numbers and percentages of members, active and otherwise, of the newspaper organization (in Tel-Aviv and Jerusalem).

Table 1 - Active Members of the Newspaper Organization

	Tel-Aviv		Jerusalem	
	1991	1994	1991	1994
Total Members (including pensioners)	969	1162	835	826
Number of Women	335	428	240	267
Percentages	34.6	36.8	28.7	32.3
Active Members (without pensioners)	823	970	764	765
Number of Women	314	395	233	264
Percentages	38.2	40.7	30.5	34.5

Source: Limor and Caspi

A second chart displays the same growth; through a breakdown by years of the number of women reporters of the major Israeli newspapers:

Table 2 - Journalists in the Private Daily Papers

Year/ Paper	Yediot Achronot		Ma'ariv		Ha'aretz		Jerusalem Post	
	Men	Women	Men	Women	Men	Women	Men	Women
1955/6	32	1	34	1	37	2	33	10
percents	97	3	97.1	2.9	95	5	76.8	23.2
1966	71	7	68	6	48	4	35	8
percents	91	9	92.1	7.9	92.3	7.7	81.4	18.6
1976	85	12	92	12	72	5	44	11
percents	87.6	12.4	88.5	11.5	93.5	6.5	80	20
1986	90	39	101	32	69	19	60	14
percents	69.8	30.2	76	24	78.4	21.6	81.1	18.9
1991	110	64	112	44	85	48	37	24
percents	63.2	36.8	71.8	28.2	64.4	35.6	60.7	39.3
1994	*		140	88	122	85	36	27
percents	58.5	41.5	61.4	38.6	59	41	57.1	42.9

*The editors refused, for unpublished reasons, to release the number of workers, but provided the percentage of women

Source: Limor and Caspi

2. 1. Rank of Women's Positions

Much of Israel's electronic media is under the authority of The Israel Broadcast Authority. In this body much has been done in response to complaints of inequality directed at the media. Though women are obtaining high-ranking positions in newspapers, radio and television, the majority of central positions in editing and management remain in the hands of men. Although three women serve as editors of the weekend supplements of major papers, overall, women still comprise a minority of editors. The following table presents the breakdown of managers in the Broadcast Authority (1994), to illustrate the differences between men and women in upper level positions.

Table 3 - Women in Positions of Management

	Total Positions	Women	% Women
Radio			
Department Managers	37	16	43.2
Section Managers	13	3	23
Division Managers	7	1	14.2
Television			
Department Managers	14	4	28.5
Section Managers	15	5	33
Management and Administration			
Department Managers	18	7	38.8
Section Managers	19	5	26.3

Source: Israel Broadcasting Authority

As of 1995, the number of women versus men in the various forms of the media shows that women still make up less than half of the positions. Note that among the Arab language broadcasts, the differences are much greater.

Table 4 - Women in the Broadcast Authority

Department	Total Workers	Men	Women	% Women
Radio	416	222	194	46.6
Arabic Radio	112	70	42	37.5
Television	424	240	184	43.4
Arabic Television	54	40	14	30
Total	1006	572	434	43.1

Source: Israel Broadcast Authority

A further breakdown is provided in the following table, dividing the positions by topics and fields:

Table 5 - Women, by Department of Broadcast Authority

Department	Total Workers	Women	% Women	Men
Radio				
Total	416	194	47%	222
Management	2	1	50%	1
Executive	68	36	53%	32
News	124	40	32%	84
Program Editor	45	26	58%	19
Broadcasting	43	21	49%	22
Music	18	11	61%	7
Foreign Broadcasts	116	59	51%	57
Total Arabic	112	42	38%	70
Television				
Total	424	184	43%	240
Management	2	1	50%	1
PR and Bought Films	13	9	69%	4
Directors	26	8	31%	18
News	86	22	26%	64
Programming	76	37	49%	39
Production	221	107	48%	114
Total Arabic	54	14	26%	40
Grand Total	1006	434	43%	572

Source: Israel Broadcast Authority

A decision by the Authority prompted the establishment of a Committee for the Status of Women in the Broadcasting Authority. In addition, as the result of a joint initiative of the Committee, the Broadcast Authority, the Israel Women's Network, and the participants themselves, a series of courses on "Women in Broadcasting" began in November 1996. The goal

of the course was to enable women in influential positions in the Broadcast Authority to gain professional experience in an educational forum. An additional goal was to strengthen the self awareness of women in the business world in general and the field of media specifically. Due to its success, there are plans to continue the course in the future.

3.Women and Media in Israel

3. 1. Representation of Women in the Media

Israel was among 71 countries which participated in Media Watch's global media monitoring project. The results of the report clearly illustrate discrepancies between the number of male and female journalists and interviewees in Israel as opposed to other countries. Invariably, the numbers for Israel are lower than the global average.

Table 6 - Percentage of Women Reporters and Interviewees

Medium	Reporters		Interviewees	
	Global	Israel	Global	Israel
Newpapers	25	17	16	15
Radio	48	25	15	10
Television	43	30	21	9
Total Average	38.6	24	17.3	11.3

Source: Israel Women's Network

3. 2. Content Relevant to Women

An additional category researched in the report was the number of stories that deal with issues deemed specifically relevant to woman. As the following chart shows, Israel's overall average is well below the global average, but this is due to uneven distribution among the different mediums; on television, Israel is actually above the global average.

Table 7 - Percentage of Stories Dealing with Women's Issues

Medium	Global %	Israeli %
Newpapers	15	0
Radio	10	8.5
Television	9	10
Global Averag	11	6.15

Source: Israel Women's Network

Research on television in Israel revealed that women are often presented differently than men. Women are generally introduced by their first name, sex, family status, and a supporting description (the wife of, the niece of, etc.) while men are introduced by a description of their function, their professional grade, their full name, and family name. The same held true for a study of the written press.

In June 1995, an attempt was made to remedy this discrepancy in representation through a joint effort of the Israel Women's Network and the Broadcasting Authority. The aim of this action was to increase the number of women invited as guests to the radio and television industry, and to thereby combat the great discrimination in numbers mentioned above.

3. 3. Advertising

A review of the text and images used in Israeli advertising reveals widespread exploitation of female stereotypes. Women are often portrayed as helpless, dependent, ineffectual, emotional, vulnerable, subordinate, childish, and plain stupid (Lemish, in print). Overall, images used on Israeli television and advertising transmit an almost singular message: women are marginal to the political, cultural, and economic development of society.

For example, in a study called "Representation of the Sexes and Sexist Stereotypes Appearing in Advertising in the Israeli press" it was revealed that men were portrayed in advertisements as professionals 179 times, as opposed to 83 times for women, and that women's exposed body parts appeared more often than men's. These representations create a certain perception of a woman's role in the business world, and of women as sexual objects. Studies have also shown that women are used to advertise relatively cheap products, while more expensive products are advertised by men.

3. 4. Women and Crime

Women are often portrayed in the media as victims:

Table 8 - Percentage of Women Interviewed or Mentioned

percents

Medium	% Women	thereof: Victims
Television	9	66
Radio	10	57
Newspapers	15	72

Source: Israel Wome's Network

The global media monitoring project, in which Israel participated, focused on the portrayal of women in the media, particularly as victims. Internationally, 29% of the women interviewed or mentioned in television broadcasts were victims, as opposed to 10% of the men. In Israel, it was found that women appeared in the news as victims 65% of the time, which is more than double the world rate of 29%. One explanation for this statistic is that bereaved families are often shown on the news, and particular attention is often focused on grieving female family members.

3. 4. 1.Women as Criminals

A study of the representation of women criminals in the Israeli media revealed that media images of male and female offenders differ, the major difference being the attribution of responsibility (Weimann, Fishman). Female offenders are very often viewed as erring and misguided creatures who need protection and help rather than as dangerous criminals; in other words as "Pawns" rather than "Originators." This is evident primarily in cases of "male dominated crimes," such as crimes against the person, rather than crimes where male and female offenders are more evenly divided, such as fraud. The researchers conclude that this study confirms the prevalence of sex-role stereotypes in the press when women are represented as dependent, submissive, and weak, whereas men are portrayed as self-reliant, strong, and aggressive.

3. 5. Equal Language in Television

In 1993, the director of the Broadcasting Authority adopted a decision taken earlier by the Committee for Service Advertisements concerning the principle of equality between the sexes. The decision prescribes that:

1) Hebrew being a gender specific language, service advertisements shall address both sexes, or alternatively, use the plural "you."

2) It is forbidden to represent women as powerless and subservient in advertisements.

3) Advertisements which sell goods and ideas by using women as objects, sex objects, or by presenting their individual body parts, are prohibited because they are degrading to women.

4) An absolute interdiction was placed on the representation of every kind of violence, particularly violence between the sexes.

In the beginning of 1994, a second channel was added to Israel TV, which runs private advertisements. Here too, there are requirements for the approval of advertisements.

3. 6. Campaign Advertisements and Representation of Women

The last three elections have included television election campaigns. Representation of women in these television campaigns was extremely limited.

3. 6. 1. Limited Coverage

Study of the 1996 campaign revealed that only 17% of the images appearing in all printed campaign propaganda were of women, up only 1% from the earlier study of the 1988 campaign (Lemish, 1988). Moreover, women generally consituted less than 20% of all persons who represented the major parties on television. However, in the newly formed Arab parties, the percentage of women who appeared in their campaign literature reached 55%, and in the Arab-Jewish party *Hadash*, 60% were women. 29% of those who appeared in the left-wing party *Meretz*'s campaign literature were women, an improvement from 12% for the party's 1988 parallel party, *Ratz* (Lemish and Tidhar, 1996).

3. 6. 2. Content of the Representation

Out of the total number of topics addressed in campaign advertisements, only 25 speakers (1.3%) dealt directly with topics related to the status of women. In addition, it was found that women in political advertisements were more often younger women portrayed as anonymous figures (with no mention of their name, position, or title), who appeared in shorter time allotments than their male counterparts. When female candidates were covered, their emotional characteristics were emphasized more than their political opinions.

3. 7. Women as Agents of Change

It seems that in the past several years a gradual change is taking place within the Broadcast Authority and the media at large. More programs dealing with "women's issues," both in terms of traditional themes that are thought to interest women and in terms of social themes that concern women's status are being aired, mainly on the various radio stations. Many of these developments can be attributed to women journalists who initiate many of these programs. For example, the two most popular daily news programs on the leading national radio station are hosted by women, both of whom identify themselves as feminists, and who pay specific attention to questions of women's status and advancement. The first program, which is a prime-time news program, includes a regular weekly section where "honor and dishonor distinctions" on family-violence are awarded, with the cooperation of the organization of Men Against Family Violence. The second program, which goes beyond the head-line news, is hosted by an outspoken feminist who often provides explicitly feminist social critique to the issues she features.

3. 8. Media Campaigns Against Violence Against Women

3. 8. 1. *Ezrat Nashim* - To Increase Awareness of Help Centers

The recently formed voluntary association of *Ezrat-Nashim* (literally meaning "Women's Aid", but also the name of women's section in Orthodox synagogues), is comprised of leading women from the media. This group began a campaign to increase awareness of women's help centers and to raise money and public support for their operation. As of December 1996, the slogan, "they cannot force (double entendre: rape) you to keep silent," has appeared on numerous billboards and in television and radio announcements. In addition, a national toll-free telephone number was introduced, which a person in need can call from anywhere in the country. According to the organizer of this association, the number of calls has increased sevenfold since the introduction of the campaign.

In addition, as a result of the campaign:

1) The Prime Minister promised to match the sum raised by *Ezrat Nashim* (in addition to the 3 million NIS already dedicated to a campaign against violence, as explained below.)

2) The Minister of Labor promised to triple allocated funding for women's help centers.

3) The Minister of Treasury is working towards inserting a permanent allocation for women's help centers in the national budget; as are many local councils.

Thus, as a result of this high profile media campaign, increased funding has been given to the centers and national awareness about this issue has been raised significantly.

3. 8. 2. The Prime Minister's Campaign

One issue that gained much attention in the last election campaign was the issue of violence against women. Prime Minister Binyamin Netanyahu has decided to run a 3 million NIS media campaign to increase public awareness of the issue and of the **Prevention of Violence Law-1991**. This media campaign is intended to raise awareness about battered women, forewarn abusive men, increase public involvement, and instill the values of equality, tolerance and non-violence in the younger generation.

3. 8. 3. Other Programming

In addition, the army radio station recently devoted a full day's program to the issue of violence against women and local TV cable stations initiated similar campaigns about violence against women and family violence.

4. Pornography

Israeli law has dealt with the problem of pornography in several pieces of legislation: the **Cinema Ordinance** (enacted in 1927) which authorizes the Council for Scrutiny of Films and Plays to restrict the display of such materials for reasons of moral offense or corruption; the **General Import License-1978,** which prohibits the importation or the mailing of any obscene materials (inlcuding, books, magazines, etc.); the **Bezek Law-1982**, which regulates all the television broadcasting in Israel, and provides that a producer shall not run cable programs that have not received approval from the Council for Scrutiny or that contain obscene material as precluded in the **Penal Law-1977**; and the **Penal Law-1977** itself. Until 1991, section 214 of the **Penal Law** had prohibited the selling, possession, printing, display or publication of pornographic materials, where pornography was defined as material that potentially corrupts morality; case law has added the criteria of obscene material which lacks any artistic value.

A 1991 reform to the **Penal Law** shifted the focus from immorality to a clearer separation between the private and the public sphere, where protection from offensive materials should be guaranteed, and to increased emphasis on the dignity of the person. For example, section 214Ab(2), which was enacted in 1990, prohibits the representation of persons in a humiliating or degrading sexual manner, or in a manner that depicts the person as an available sexual object. Other provisions of the 1991 version of section 214 specifically outlaw: 1) the publication of obscene material or its preparation for publication, and 2) obscene performances in public places, or in any other place which is not private and is accessible to persons under 18 years of age. These violations are punishable by up to three years imprisonment. The use of a minor (under 18) in a pornographic publication or presentation in punishable by up to five years imprisonment.

The reforms were a result of a peculiar coalition between women's organizations and the religious parties and include the prohibition against exhibition of pornographic materials on "public boards," such as in bus stops, over public buses, on billboards and outdoor signs where the "captive audience" has no choice but to see it. The definition of "offensive representation" for this purpose includes, in addition to section 214Ab(2) mentioned above, a picture of a nude body or an intimate body part of a man or a woman; a picture which depicts sexual relations or sexual violence; a picture of partial nudity, either of a man or a woman; a picture which contains material offensive to the moral feelings of the public or of a part thereof; a picture which corrupts the public morality; or a picture which is harmful toward minors or their education.

In practice, the laws against pornography are rarely invoked. According to police data, in 1994 there were only three convictions for the offense of "Distribution of Offensive Material," though in 1995 the number rose to 16. The censorship of plays has in fact been revoked, and the censorship of films was effectively undermined in a recent Supreme Court ruling,making it largely inapplicable.

The Second Radio and Television Authority Council promulgated **Rules for the Second Television and Radio Authority (Ethics in TV Advertising) - 1994**, which outlaw the advertising of obscene materials or sex-services, and the broadcast of any commercial that depicts sexual relations, sexual insinuations, victims of sexual violence or initiators of sexual

violence, unless there is strong public interest for such a presentation, in line with any other legal provision. Supplementing these rules, the **Rules for the Second Television and Radio Authority (Prior Approval of TV Advertising) - 1994**, require the submission of any commercial to approval by the Second Authority Council. The Second Authority Council's 1995 report reveals that during that year, 8 commercials were canceled because of lewd content, or 0.33% of the total commercials that year.

5. Women and Religion in Israel

No report on the state of women in Israel can be complete without discussion of the place of religion in Israeli society and the influence of religion on women's daily lives.

5. 1.Women of the Wall

One social illustration of the effect of religion on Jewish women is apparent in the case of the Women of the Wall. This affair began in December 1988, when a group of Israeli and foreign women, representing all religious streams in Judaism, prayed together and read from a Torah scroll in the women's section of the Western Wall while wearing prayer-shawls; (practices which are traditionally reserved for men alone). The group was interrupted, attacked, and dispersed by ultra-orthodox men and women who were offended by its non-traditional practices. In March 1989 the group petitioned the High Court of Justice after being violently attacked on repeated occasions when they tried to pray, even without prayer-shawls and *Torah* scrolls. They asked the court to protect their right to freedom of religion by guaranteeing their right to pray as they wished at the Western Wall. In December 1989, the Minister of Religion amended the **Regulations on the Protection of Sacred Places for the Jewish People - 1981** to include a provision that prohibits the engagement in a religious ritual at the Western Wall that is not in accordance with the custom of the place and that offends the feelings of those praying there. The petitioners then amended their petition to include the nullification of this amendment. The Court gave its majority decision in January 1994, denying the petitions but recommending the establishment of a governmental committee to fully investigate the subject and search for an alternative solution that would guarantee the women's freedom of religion while minimizing the offense to the other worshippers at the sight. The resulting committee then recommended that the women be allowed to pray in the manner they wish but in a secluded section of the Wall,

removed from the main public area. The women objected to this solution, and their struggle continues.

6. New Immigrants from the Former USSR

This subchapter will review the status of female immigrants from the former Soviet Union.

Israel is a country of immigrants. Most of its citizens have immigrated from various countries and cultures and it is therefore important to evaluate immigrants' status. Indeed, the fact that Israel encourages immigration demands an in-depth analysis of the process of immigrant absorption and how this process is accelerated, an anlaysis that falls outside the purview of this report.

Between 1990 and 1995, 685,683 new immigrants, mostly from the former USSR, arrived in Israel. These immigrants formed 10% of the total population in Israel and 53% of them were women. The following table shows the breakdown among immigrants by sex and family status, and points to the large number of women, particularly those who are divorced or widowed among the new immigrants:

Table 9 - - Immigrants Aged 15 and Over

	Total	Never Married	Married	Divorced	Widowed
Women					
Absolute Numbers	33,624	6,698	17,563	4,478	4,885
Percents	100%	20%	52%	13%	15%
Men					
Absolute Numbers	27,387	7,123	17,151	2,099	1,014
Percents	100%	26%	63%	8%	4%

Source: CBS, SAI 1996

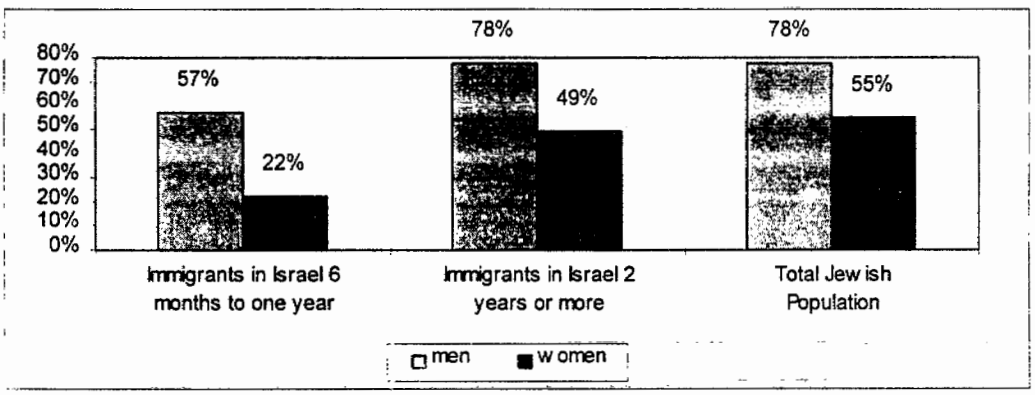
6. 1. Typical problems facing new female immigrants:

6. 1. 1.Lack of employment:

A countywide survey of new immigrants of employment age (ages 25 - 64) from the Former Soviet Union that was conducted by the JDC-Brookdale Institute in 1992 revealed some interesting facts (Naveh, Noam & Benita, 1995).

The findings of this survey indicate that half (51%) of these immigrants are employed. The employment rate is higher among men (67%) than among women (38%). The employment situation tends to improve over time, with an employment rate of 62% among immigrants who have been in the country for two years or longer (78% of men in this category and 49% of women) compared with 36% among those who have been in the country between six months and one year (57% of men, 22% of women).

Chart 1 - Employment Rates Among the General Jewish Population and Immigrants from the former Soviet Union



Source: Monthly Statistical Bulletin, 1992

According to the conventional definition, as used by Central Bureau of Statistics (CBS), a person is considered part of the work force if he or she is either employed or seeking employment (see definitions under Article 11 above). By this definition, 70% of the immigrants in this survey belonged to the work force, 51% actually employed, and 19% seeking employment. Roughly 85% of men are in the work force, and 58% of women. The rate of participation in the work force among immigrants is almost identical to that among corresponding age groups in the general Jewish population in Israel (70% and 72% respectively). The rate among immigrants who have been in the country for two years or longer is actually higher. However, the percentage

of immigrants seeking employment is more than double the corresponding figure among the general Jewish population.

This pattern is comparable among both male and female immigrants. Nonetheless when comparing the former occupation of the immigrants to their occupation in Israel, the percentage of women employed in unskilled labor is relatively higher than that of men, and the percentage of women who work in the same field in which they were formerly employed is relatively lower than that among men. Furthermore, upon examination of the distribution of working immigrant women in the various economic branches, the most striking figure is the high concentration of women in health services, welfare and social work, which comprises 22% of the total work force. (The next highest concentration is in wholesale and retail trade: 12%). The following table gives some indication of this phenomenon:

Table 10 - Immigrants, by Labor Force Characteristics and Occupation in Israel, Approximately a Year After Immigration

Immigrants who arrived from the USSR in October-December 1990, and October-December 1993

	Total		Men		Women	
	1992	1995	1992	1995	1992	1995
Total- Thousands	63.9	13.6	29	6.2	35	7.4
Labor Force Characteristics						
Total- Percents	100	100	100	100	100	100
In Civilian Labor Force	57.2	52.7	67.2	65.9	49	41.7
Not in Civilian Labor Force	42.8	47.3	32.8	34.1	51	58.3
In Civilian Labor Force- Total	100	100	100	100	100	100
Employed	67.7	87.2	76.6	89.3	57.6	84.3
Unemployed	32.3	12.8	23.4	10.7	42.4	15.7
Occupation in USSR						
Persons Employed in USSR-						
Thousands	43.8	8	21.9	4.2	21.9	3.8
Percents	100	100	100	100	100	100
Scientific and Academic Workers	36.2	22	32	18.9	40.4	25.5
Other Professional, Technical, and						
Related Workers	18.9	20.4	11.8	13.8	25.9	27.9
Skilled Workers in Industry, Mining,						
Building, Transport, and Other						
Skilled Workers	21	24.8	33.6	38.2	8.4	9.6
Other and Not Known Occupations	23.9	32.8	22.6	29.1	25.3	37
Occupation in Israel						
about a year after immigration						
Persons Employed in Israel						
Thousands	24.8	6.2	14.9	3.6	9.9	2.6
Percents	100	100	100	100	100	100
Scientific and Academic Workers	7.1	2.3	8	3.6	5.7	
Other Professional, Technical, and						
Related Workers	8.8	5.3	5.1	4.5	14.3	6.5
Skilled Workers in Industry, Mining,						
Building, Transport, and Other						
Skilled Workers	33.7	32.9	46.5	43.4	14.3	18.2
Other and Not Known Occupations	50.5	59.5	40.4	48.5	65.7	75

Source: CBS, SAI 1996

6. 2. Single parent immigrant families from the former USSR:

6. 2. 1. Introduction

The number of single parent families among new immigrants is larger than their number in the population in general. In 1993, the number of single-parent families was estimated to be roughly 18,000, 13% of all families with children (as opposed to 8% single parent families among the general population in 1993). This figure is increasing at a constant rate. In Israel, as in many other countries, women generally head these single parent families. Among new immigrants,

77% of these single mothers are divorced, 14% widowed and 9% single. 80% have one child, 17% have two, and half of the children in single parent families are 10 years of age or younger.

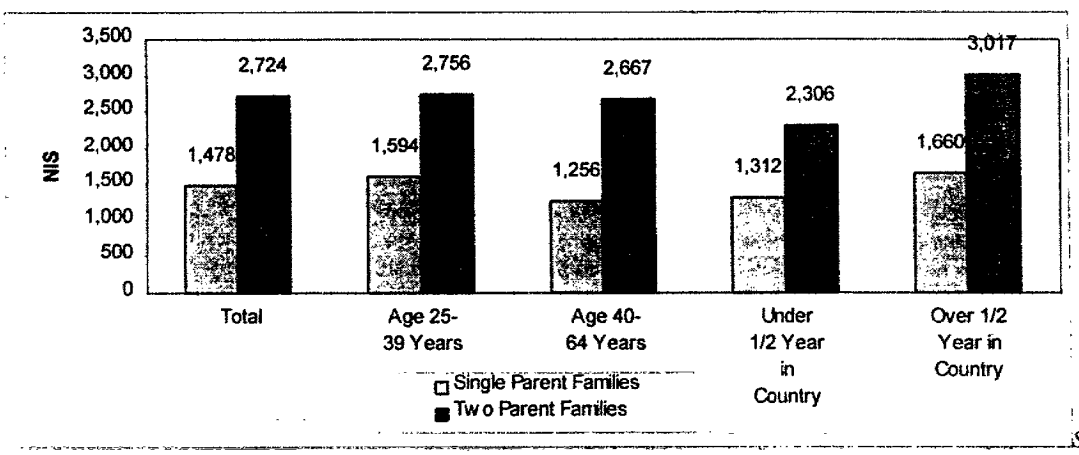
6. 2. 2. Employment in Israel

According to the JDC-Brookdale Institute study from 1992, married immigrant mothers have an economic advantage over single immigrant mothers. Among single mothers, only 26% are employed, 32% of younger women (aged 25-39) and 15% of older women (aged 40-64). Conversely, the employment rate among married women is 47- 49% among younger women, and 42% among older women. The employment rate among married women who have been in Israel for more than eighteen months (58%) is double the rate for those who have been in Israel under eighteen months (29%). Among single mothers the increase is less significant, from 21% to 32%. In addition, among single mothers there is a larger discrepancy between their field of employment in their country of origin and their employment in Israel. Married mothers also enjoy a higher level of job satisfaction than single mothers, particularly younger single mothers, who seem to be much less satisfied with their employment.

6. 2. 3. Financial Status

According to the JDC-Brookdale study that concentrated on single-mothers, the net income among the heads of single parent families is 1478 NIS. This figure is larger in younger age groups (25-39), and smaller in older age groups (40-64), 1594 NIS and 1265 NIS respectively:

Chart 2 --Average Net Income of Immigrant Families



Source: JDC Brookdale 1994

An additional indication of the increased financial difficulties faced by single parent families who are immigrants is the gap in the number of home owners. Only 7% of single parents own apartments as opposed to 32% of two parent families. This is important in a country where owning an apartment is preferable to renting.

6. 2. 4. Aid for Single Parent Immigrant Families

Single parent immigrants receive government aid provided for single parents as well as that provided for immigrants. According to the **Single Parent Family Law-1992**, single parents receive many benefits, as explained under Article 13 above.

In addition, single immigrant mothers may take part in professional training courses which are beneficial to their integration into the work force. More single mothers participate in these courses than single fathers (31% as opposed to 12%). This figure remains lower than the number of married female participants (31% among the single-mothers as opposed to 40% among the married mothers). Approximately half of the mothers (both single and married) who participate in these courses receive professional endorsement and half integrate into the work force in their profession. 35% of the single mothers who participated in these courses are employed, as opposed to 22% among those who did not participate. Among married mothers, 57% of those who participated in the course are employed, as opposed to 53% of those who did not participate. Thus, it is clear that these courses increase the chances of integration into the Israeli work force, though the gap in the employment rate between single and married mothers clearly remains.

7. Violence Against Women

7. 1. Sexual Violence--Legal Aspects

7. 1. 1. The Penal Law Today

According to section 345 of the **Penal Law-1977**, rape is defined as the penetration of a woman's sexual organ, where:

1. It has been done without her free consent, by use of force, infliction of physical suffering, exertion of pressure or threats of the above, whether these were done against a woman herself or against another individual;

2. She has consented, but such consent has been obtained fraudulently as regards the identity of the perpetrator or as regards the substance of the act;

3. The woman is a minor under 14 years of age, her consent being irrelevant;

or

4. The woman was unconscious or in any other condition which prevented resistance, and was thus exploited; or the woman suffered from mental illness or mental limitations which were exploited.

A differentiation is made between **rape**, for which the maximum punishment is 16 years imprisonment, and **aggravated rape**, for which up to 20 years may be imposed. Aggravated rape consists of any of the above acts, where the rapist: 1) threatens the use of weapons; 2) causes severe bodily or emotional damage or causes pregnancy; 3) abuses the woman before the act, during the act or after it; 4) commits the rape in the presence of others who are there in order to participate--actively or passively--in the commission of the rape. Similarly, the rape of a minor under 16 years of age, where the act is considered rape for reasons other than the age of the victim, is considered aggravated rape.

While the narrow definition of rape according to section 345 of the Penal Law excludes all acts committed either against males or against parts of the woman's body other than her sexual organ, section 347 defines other acts that "are to be considered rape" when committed in the circumstances enumerated in section 345 above. Such actions, defined as "sodomy," include the insertion of a male sexual organ into a person's anus or mouth, or the insertion of any other object into a person's anus.

While consensual intercourse with minors under the age of 14 is considered rape, consensual intercourse with minors between the ages of 14 and 16 is defined as a separate offense and is punishable by up to 5 years imprisonment. An exception is made for those rare instances where a minor under 16 is married. Sexual relations with minors between the ages of 16 and 18, where the perpetrator exploits either a position of authority or a relationship of dependence, or where the perpetrator offers false promises of marriage, are similarly punishable by up to 5 years in

prison. Likewise, one who exploits a working relationship or a position of authority, or who, despite being married, makes false promises of marriage in order to have sexual relations with a woman over the age of 18, is subject to 3 years imprisonment. A more specific criminal offense forbidding sexual harassment in the workplace is included in the **Equal Employment Opportunities Law-1988**.

While the high maximal punishments provided for in the **Penal Law-1977** represent a clear condemnation of sexual violence, in practice the sentences imposed rarely constitute more than a fifth of the maximum. A recently proposed controversial amendment to the **Penal Law-1977** seeks to remedy this situation by instituting a minimum punishment for those convicted of rape, constituting 1/4 of the maximum that may be imposed. According to the proposal, courts are to be permitted to deviate from this minimum only under special circumstances.

Sexual attacks that do not involve actual penetration of an individual's body are classified as "indecent acts" in section 348 of the law. Where such acts are committed under circumstances comparable to those of **rape** above, a maximum punishment of up to 7 years imprisonment may be imposed. Where, on the other hand, such acts are committed under circumstances parallel to those of **aggravated rape**, up to 10 years may be imposed. Where they are committed without the consent of the victim, but in circumstances unlike those enumerated in section 345, the maximum punishment is 3 years.

An important provision, specific to sexual offenses, states that the criminal liability of one who causes a sexual offense to be committed is equal to that of the individual who actually commits the offense.

7. 1. 2. The *Shomrat* Case

In 1993, the Supreme Court decided what has come to be known as the *Shomrat* case, a tragic incident involving the gang rape of a 14 year old girl by a group of 17 year old and older boys, fellow members of her Kibbutz collective settlement. For several consecutive days the group of boys forced her to have sexual intercourse with them, using various pressure tactics to overcome her lack of consent.

The Supreme Court's decision in the *Shomrat* Case has been recognized as a turning point in the Court's handling of rape cases. Explicitly declaring rape to be a crime against the human dignity of the victim, and rejecting stereotypical notions of women's sexuality which promote a forgiving attitude towards those who rape "loose" women, the court adopted a strong stance against the relevance of a woman's sexual history as evidence of her consent in the instance at hand. Similarly, the Court laid down clear guidelines consistent with the laws of evidence, prohibiting the admission of any evidence relating to the victim's sexual history. The Court also explicitly acknowledged the tendency of rape victims to refrain from coming forward with their complaints, holding that such delays in coming forward, when reasonably explained under the circumstances, do not impact upon the credibility of the victim as a witness.

Recognizing that the crime of rape as defined in the **Penal Law-1977** requires the use of force or the exertion of pressure against the victim, the Court held that such force need be neither immediate nor severe. Simply pushing the victim down onto the bed, or--as in this case--threatening the victim with social embarrassment, may suffice. Likewise, the Court recognized that the amended Code, which no longer speaks of the woman's **will**, but rather requires her **consent,** plainly does not demand that the victim actively resist the attempt, especially where it is clear that the victim is too frightened to do so. A verbal expression of non-consent is enough to constitute resistance, and in instances where the victim remains silent, the circumstances surrounding the incident will be evaluated to determine whether such silence implies consent. Objective circumstances--including, in the present case, the victim's age and the series of sexual acts performed upon her by a group of much older boys--may be relevant.

Despite the fact that the *Shomrat* case was relatively recent, many other cases decided since have relied upon and implemented its progressive approach. Some of these cases decided since the *Shomrat* trial, however, have raised questions regarding the extent to which the principles laid down in *Shomrat* will continue to be implemented by the Court in the future. In *Binyamin v. The State of Israel*, for example, a majority of the Justices held that where an experienced, adult woman involves herself in an intimate relationship and willingly engages in sexual activity other than intercourse, her rape by the partner with whom she is involved should be punished less severely than if she was raped by a stranger.

7. 1. 3. The Element of Consent and Issues of Evidence

Until 1982, conviction for rape could not be based on the sole testimony of the rape victim, unless such testimony was supported by corroborative evidence. In 1982, as part of a general reform of the laws of evidence, this requirement of corroboration was abolished. In its place, a special requirement was established that states that when courts decide to convict based on sole testimony of the victim, they must specify their reasons for doing so. Various steps have been taken to encourage and protect rape victims who choose to come forward. For many years, despite the general evidentiary requirement that witnesses be questioned only about relevant issues, and despite specific prohibitions on irrelevant questions intended to embarrass, deter, or frighten witnesses, courts tended to allow rape victims to be questioned about their personal sexual histories. In 1988 Section 2A was added to the **Procedural Amendment Law (Questioning of Witnesses), 1957**, forbidding courts from allowing victims of sexual crimes to be asked about their sexual history. The section specifies that in unique cases, where the court believes that enforcing this prohibition will cause an injustice to the accused, it may allow such questioning as long as it specifies its reasons for doing so. In the above *Shomrat* case, Justice Shamgar took a strong position against exposing rape victims to such lines of questioning, arguing that the stereotypes which prompt courts to view such questions as relevant must be condemned.

In 1995 the Knesset passed an additional amendment to the above law, **The Procedural Amendment Law (Amendment No. 2) (Questioning of Witnesses), 1995**, authorizing courts to order that the testimony of a complainant in a sexual offense be given in the accused's absence, where the court believes that the complainant or the complainant's testimony may otherwise be harmed. As this requires the making of logistical/technical arrangements in order to allow the accused to view the testimony, maintain contact with his defense attorney, and ask the complainant questions, implementation has been postponed until the beginning of 1997. This law also authorizes courts to request a professional evaluation of the victim's condition before sentencing a person convicted of a sexual offense, and determines that severe sexual offenses be dealt with by a panel of three judges (the latter provision having already begun to be implemented in 1995). Similar evidentiary provisions exist to ensure that minors testifying against their parents in cases relating to domestic violence not be required to testify in the parent's presence.

7. 1. 4. Sex Crimes Against Family Members

Section 351 of the **Penal Law-1977** specifically prohibits the commission of sexual offenses against family members who are minors, and provides severe maximal punishments comparable to those specified for aggravated rape. Any act of rape, or any act which according to the **Penal Law-1977** is to be "viewed as rape," which is committed against a family member who is a minor is punishable by up to 20 years in prison. As mentioned above, "rape" includes consensual intercourse with minors under the age of 14. Sexual, anal, or oral intercourse with a family member between the ages of 14 and 21 is punishable by up to 16 years in prison, whether or not the family member in question consents to the act. "Indecent acts" committed against minors who are family members are punishable by between 4 and 15 years. The law provides a wide definition of family-- including parents, spouses (and ex-spouses) of parents, grandparents, siblings, uncles or aunts, and in-laws. Siblings, uncles, aunts, and in-laws are liable according to this provision only if they themselves have reached the age of 15.

7. 2. Family Gender-Based Violence--Legal Aspects

In 1989, The Karp Committee, headed by the Deputy Attorney General Yehudit Karp, published a comprehensive report dealing with the phenomenon of domestic violence. The report recommended various measures to clarify the criminal nature of such abuse, to encourage various governmental and social institutions to cooperate in order to treat the problem, and to provide victims with emergency access to remedies that could provide immediate protection.

Perhaps the most important result to come of the report's findings was the passage of the **Prevention of Violence in the Family Law-1991**. Until then, no territorial legislation existed which enabled individuals suffering from domestic abuse to obtain emergency remedies to protect their immediate safety. In the absence of such legislation, a woman wishing to obtain a restraining order could do so only within the context of her applicable personal law.

The **Prevention of Violence in the Family Law-1991** operates independently of personal family law, and creates a "protective injunction," designed to provide immediate protection for those subjected to domestic violence. The law, which explicitly preserves the existing legal situation, has been interpreted by the Supreme Court as adding to the options already available according

to personal law. Worded in gender-neutral language so as to protect "family members" from domestic violence, the law considerably broadens the definition of "family," so as to include various relationships, past and present, within which such violence may occur. The law also explicitly defines "spouse" as including non-marital cohabitants.

The law specifies two instances in which the court may grant such an injunction: where the subject of the injunction has either "acted recently with violence towards a family member or committed a sexual offense against a family member," or where the subject's behavior may reasonably be regarded as constituting a "true physical danger" for the family member. While opposition to the inclusion of emotional abuse prevented the term "violence" from being explicitly defined in the law, and while some lower courts have held that the law applies only to physical violence, the issue has not yet been decided by the Supreme Court. A proposed amendment to the law seeks to allow protective injunctions to be given in cases of severe emotional abuse, but requires that this be done in the presence of both parties.

The law specifies four main remedies which may be included in the injunction, and which are designed to ensure the immediate safety of the abused family member. The injunction, which may be granted for up to three months at a time, and which may be renewed as needed for a total period of time not to exceed six months, may prohibit an individual from: entering or nearing the home of the family member in question, regardless of any rights he may have in the property of that home; harassing the family member in any manner, anywhere; acting in any manner so as to burden the family member's use of her property; or carrying a weapon. The court may also issue limitations upon an individual's ability to be armed if he is a member of the security forces (army, police, etc.).

According to a 1996 amendment to the law, a court which does not include in the injunction a prohibition against carrying a weapon must justify its decision in writing. In addition, the law authorizes the courts to require an individual to post bond in order to guarantee that the injunction be obeyed or to guarantee good behavior. The 1996 amendment further provides that the demand for bond, which may include "any instruction which, in the opinion of the court, is necessary to ensure the safety of the family member," may remain in effect for up to six months after the expiration of the protective injunction. In other words, the bond may remain in effect

for up to a year. Where the injunction prohibits an individual from entering or nearing the residence of a family member, failure to abide by the injunction may result in immediate arrest.

The law recognizes the profound emotional distress of the abused individual and therefore empowers the Attorney General and police prosecutors to intervene on behalf of those adults who are unable to act. This unique provision, allowing for action to be taken by individuals other than the adult victim, implies the acknowledgment of the helplessness characterized as "Battered Women's Syndrome," that often prevents abused women from actively seeking intervention. In an additional provision intended to make it easier for victims to come forward, the law similarly requires the court to handle the bureaucracy involved in filing a request for an injunction.

The tendency of battered women to revoke their complaints after they have turned to the police has made it very difficult for the police to provide a pro[illegible] law-enforcement response to domestic abuse. Steps have therefore similarly been taken within the police to ensure that cases pertaining to women who later withdraw their complaints are not closed. In order to prevent misuse of the remedies provided in the law, the law stipulates that where such misuse has been found to have occurred, the requesting party may be ordered to pay compensation.

This change of attitude reflected in the passage of the **Prevention of Violence in the Family Law-1991** may be observed in the judiciary as well. In the 1995 case of *Carmela Buhbut v. The State of Israel,* a woman sentenced to seven years imprisonment in the District Court for killing her abusive husband, successfully challenged the severity of her punishment. Justice Dorner, consenting to the majority opinion of Justice Bach, rejected the assumption that imposing a long prison sentence would deter other victims of abuse from taking the law into their own hands. Arguing that it is society's responsibility to provide battered women with alternatives other than recourse to violence, Dorner emphasized the fact that Buhbut's entire community--indeed her entire family--stood by in silence for years as she suffered. The sentence was reduced to three years, and the efforts of various public figures, including Knesset members, have since succeeded in having Ms. Buhbut paroled. A recent amendment to the **Penal Law-1977** allows courts to impose more lenient sentences on victims of severe abuse who have been convicted of murdering the perpetrators of the abuse. While the amendment is not limited to abuse within the family, it seems that this will be among its most important applications.

7. 2. 1. Other Recent Legislative Amendments

Another 1996 amendment to the **Penal Law-1977** makes further progress in recognizing abusive violence within the family as a special and uniquely severe form of assault. The amendment defines violence against family members as a special offense and provides a maximum punishment that is double the usual maximum punishment for assault. This amendment aims to ensure that courts treat the issue of domestic violence with the necessary severity and to counter trends of leniency in sentencing.

The **Penal Law-1977** was also changed in 1996 to extend the statute of limitations on sexual crimes committed against minors by their parents, guardians, or other family members. According to the amendment, the statute of limitations on such crimes begins when the minor reaches the age of 18. The section stipulates, however, that where ten or more years have passed since the crime was committed, the approval of the Attorney General is required before it may be prosecuted.

A 1996 Amendment to the laws of criminal procedure specifically includes reasonable suspicion that an individual committed an act of violence against a family member as grounds for arrest.

Other recent 1996 amendments to both the above **Prevention of Violence in the Family Law-1991** and to the **Penal Law-1977**, allow courts to require abusive individuals to undergo therapy. Where the court has granted a protective injunction, and where it believes the individual in question fit to participate in a treatment program, it may now include mandatory therapy among the requirements of the injunction. Similarly, according to the **Penal Law-1977**, courts may now order convicts who have committed acts of domestic violence to undergo group therapy. Courts are also provided with the option of ordering therapy without conviction in relevant criminal trials. These changes, which reflect a "therapeutic-social" response to domestic violence, are intended to facilitate models such as the Be'er Sheva model discussed below, which adopt a comprehensive community approach to solving the problem.

In 1995, the **Recompensation Law (Child Orphaned due to Domestic Violence), 1995** was passed so as to ensure that where one of a child's parents is killed by the other, the child will be

provided for financially. The law provides that where reasonable grounds exist to presume that one parent has committed a felony resulting in the death of the other, the child or children involved are eligible to receive monthly payments from the National Insurance Institute.

In addition to the various measures discussed above which empower the courts to prevent abusive spouses from carrying weapons, a proposed bill seeks to amend section 13 of the **Weapon Law-1949**, so as to authorize courts which convict individuals of domestic violence crimes to suspend whatever weapon license they may have and to limit their access to such weapons when they are performing reserve duty in the army. The proposal would require courts to note the special reasons why the prosecution's request for such limitations were denied, in any instance where the court decides not to issue them.

7. 2. 2. Spousal Murder

On March 7, 1995 the **Parliamentary Investigative Committee on the Murder of Women by their Spouses** was established to look for ways to limit the problem of spousal murder. Its findings were published in June, 1996. According to the Committee's report, there were a total of 613 murders in the years 1990-1995, of which 73 (11.9%) involved the killing of women by their husbands or spouses. In only 17% of the cases were there previous police complaints or files of domestic violence involving the perpetrator. Focusing on the general issue of domestic violence, the Report noted a number of areas in which society's handling of the problem of domestic violence remain to be improved. Among its main criticisms was a lack of sufficient coordination between the various governmental bodies that deal with the problem of domestic violence, and the related difficulty of determining precisely what programs are available.

7. 3. Extent of the Phenomenon of Sexual Violence Against Women

It is difficult to obtain precise statistics on the number of incidents of sexual violence which occur each year. Many instances go unreported, and victims often hesitate before turning to the

police or other treatment services for assistance. The **Israeli Sexual Assault Victim's Help Centers Union**, established in 1990, operates as the umbrella organization for various Help Centers throughout the country. Today there are eight Centers which belong to the Union, in Jerusalem, Tel-Aviv, Haifa, Ra'anana, Eilat, Be'er Sheva, Nazareth, and Kiryat Shmonah. While the Help Centers and their activities will be described below, statistics gathered by the Union may be helpful in understanding the extent of the phenomenon of sexual violence in Israel. The following table demonstrates the growth in the number of police files opened for sex crimes between 1990 and 1994.

Table 11 - -Files opened by Police for Sexual Violence Crimes, 1990-1994

Year	Rape	Forced Indecent Act	Other Sex Crimes	Total	Percent of Growth
1990	265	1,126	827	2,218	
1991	362	1,093	777	2,232	0.6
1992	409	1,162	964	2,535	13.6
1993	522	1,327	903	2,752	8.6
1994	513	1,351	988	2,825	2.7
Total	2,017	6,059	4,459	7,592	

Source: Help Centers Union

The Israeli Sexual Violence Victim's Help Centers Union also provides useful statistics regarding the number of incidents of sexual violence each year. Again, these numbers do not provide a comprehensive picture of the frequency of such attacks, since approximately two thirds of those who turned to the Help Centers did not report to the police; thus the statistics should be viewed as complementing one another.

Table 12 - -Requests Received by the Help Centers for Assistance Following Sexual Attack, 1990-1994

Regional Center	1994	1993	1992	1991	1990
Tel Aviv	1268	1317	1150	788	610
Haifa	471	506	586	379	274
Jerusalem	242	224	285	239	206
Ra'ananah	219	123	62	34	29
Eilat	56	50	57	38	30
Be'er Sheba	36	34	36	21	11
Nazareth	17	12	6	0	0
Total	2309	2266	2182	1499	1160

Source: Help Centers Union

Table 13 - -Breakdown of Requests of Assistance by Region and Year, 1994

Region	Tel Aviv		Haifa		Jerusalem	Ra'ananah	Eilat	Be'er Sheba	Nazareth	Total
	Women	Men	Jewish Women	Arab Women						1994
Month										
January	96	14	38	6	30	16	2	1	2	205
February	85	4	18	4	18	16	5	2	0	152
March	52	18	26	16	21	15	7	1	0	156
April	89	18	20	13	25	13	3	1	1	183
May	80	11	41	10	15	30	7	4	2	200
June	102	17	32	20	28	22	3	7	3	234
July	84	5	33	6	19	20	7	1	0	175
August	117	24	41	6	19	15	7	6	2	237
Septembe	100	4	18	6	8	15	4	2	2	159
October	108	7	29	6	16	26	2	1	2	197
November	107	5	31	4	27	14	4	5	0	197
December	114	7	35	12	16	17	5	5	3	214
Total	1134	134	362	109	242	219	56	36	17	2309

Source: Help Centers Union

It is interesting to note that while the number of requests for assistance following sexual attack has been rising steadily since 1990, the vast majority of this growth occurred during 1990-1992.

In most of the Help Centers throughout the country, rape, followed by sexual assault and then by incest, were the most common complaints. Despite the growth in the numbers of reported incidents each year, the relative number of requests relating to each type of crime has remained relatively consistent from year to year.

Table 14 - -Requests for Assistance Following Sexual Attack, by Type of Attack, 1994

	Total	
Type of Sexual Attack	no.	%
Rape	848	36.7
Attempted Rape	133	5.8
Gang Rape	104	4.5
Forced Sexual Contact for Extended Time	53	2.3
Paternal Incest	162	7
Fraternal Incest	83	4.8
Incest by Other	186	6.8
Sexual Abuse	512	22.2
Public Indecent Act	97	4.2
Sexual Harassment by Telephone	16	0.7
Sexual Harassment at Work	64	2.8
Sexual Harassment in the Army	21	0.9
Sex With Minors	17	0.7
Unknown	13	0.6
Total	2309	100

Source: Help Centers Union

Table 15 - -Perpetrator's Relationship to Victim, 1994

	Total	
Relationship	**no.**	**%**
Stranger	330	14.3
Superficial Aquaintance	287	12.4
Circumstantial	251	10.9
Friend/ Acquaintance	360	15.6
Spouse	111	4.8
Family Member	507	22
Unknown	463	20.1
Total	2309	100

Source: Help Centers Union

As can be seen by the table below, an overwhelming 73.1% of those who turned to a Help Center following a sexual attack chose to refrain from reporting the incident to the police. The Help Centers, which view their task as offering moral support and assistance to victims, follow a policy of respecting the victim's wishes as to whether to involve the police.

Table 16 -- Relationship Between Referral to Help Center and Reporting to Police

	Total	
Relationship	no.	%
Police Station First	316	14.5
Police Station After	117	5.4
Didn't turn to Police	1589	73.1
Unknown	153	7
Total	2175	100

Source: Help Centers Union

It is interesting to note that, as can be seen from the tables regarding the types of sexual violence reported to the police and to the Help Centers respectively, the proportion of incidents of sexual violence that consist of actual rape is much higher at the Help Centers than at the police. This tends to suggest that while rape victims prefer to turn to the Centers, victims of forced indecent acts and other types of sexual assault are less reluctant to turn to the police.

7. 3. 1. Police Handling of Sex Crimes Against Women

The 1981 police guidelines regarding the handling of rape complaints, still in force today, note that officers must carry out the necessary investigations while exhibiting consideration for the victim's suffering and making certain to preserve both her dignity and her privacy. Complete discretion is to be observed, and all investigation material is to be treated as classified. The complainants name or other personal information should not be published, and any line-ups must be done in a way that ensures her privacy. Only relevant and necessary questions are to be asked, and the investigation should be handled, if possible, by a woman police officer who has specialized in the area. The victim is to be brought to the hospital for a medical examination regardless of the hour at which she arrives at the station.

The Help Centers Union, together with the Israel Women's Network, has recently implemented a Victim's Assistance Program, the purpose of which is to both involve the victim in the criminal process and to provide her with assistance in legal proceedings. The program has been developed in conjunction with both the State Prosecution's Office and the Police. The Police have also recently taken steps ,including the distribution of a pamphlet prepared by the police and the Help Center's Union, which provides the victim with all the necessary information and advises her of her rights.

7. 3. 2. Prosecutorial Policy Regarding Sexual Violence Against Women

The State Prosecutor's Office has taken numerous steps to ensure that the interests of victims of physical violence, and especially victims of sexual violence, be protected throughout the criminal proceedings. Internal directives established in 1994 have been issued to the various prosecutors regarding assistance that should be given to victims of violent crime, including referral to relevant treatment, counseling and medical services and information on punitive damages to which the victim may be entitled as per section 77 of the **Penal Law-1977**.

7. 3. 3. Sentencing for Sex-Crimes

In their comprehensive study of gender-bias in the courtroom, Bryna Bogoch and Rochelle Don-Yechiya focused on sentences imposed for sex-crimes, as compared to sentences for other serious offenses. As their findings demonstrate, sex crimes continue to be treated in a way similar to other bodily harm offenses, despite legislative reforms which aim to increase the severity of sentences for sex crimes relative to other violent offenses. For a more detailed description of the study, see Article 15.

Despite various proposals, there is as yet no minimum punishment for sexual violence, and the trend of lenient sentencing has remained problematic. The average sentence for prison inmates in offenses for which the range of punishment is 5 years to life, is 37.5 months. For sexual offenses, the average is 24 months, while for bodily harm offenses it is 19 months. Overall, defendants tend to be sentenced to an average of one fifth of the maximum for the offense they are convicted of. In offenses against life, the average sentence is approximately 1/2 of the maximum, while in sexual offenses it is merely 15% of the maximum; in bodily harm offenses it is slightly less. Although the actual lengths of prison sentences in sexual crimes rose as a result of the reforms of 1988-90, the relatively low ratio of prison term to maximum sentence has remained constant. In rape cases, the ratio is slightly higher--1/5 of the maximum--which matches the general average noted above.

In over 1/3 of cases involving sexual violence, no prison term at all is imposed. According to this measurement, sexual offenses are not treated more seriously than other violent bodily harm

offenses, where prison sentences are also not imposed in more then 1/3 of the cases. In offenses against life, no prison term is given in 10% of the cases.

Similarly, the study found that lower sentences tend to be imposed for non-sexual domestic violence than for non-sexual violence against strangers. For sexual offenses, however, higher sentences have been given to those who assault members of their family than to those who assault others.

7. 3. 4. About the Help Centers

In addition to providing 24-hour emergency hotlines for victims of sexual violence in various centers throughout the country and providing individualized assistance and support groups for victims who so request, the Israeli Sexual Assault Victim's Help Centers Union works to increase public and political awareness of the phenomenon of sexual violence and to lobby on behalf of victims.

The Union has also worked to promote the "Clothesline Project" in Israel. The project began in the United States and has become an international response to sexual violence, with at least eight other countries taking part. Similar programs, such as "Take Back the Night" marches and vigils, and "See, Hear, and Speak" sessions, have been sponsored in large part by the Union, in conjunction with other NGO's.

7. 3. 5. Funding of the Help Centers

The budget of the Ministry of Labor and Welfare includes a section on "Rape Victim Treatment," classified as part of the "Service for Girls in Distress."

In a November 4, 1996 meeting of the Knesset Women's Status Committee, it was noted that funding of the Help Centers remains approximately 10% of their overall expenses. The Minister of Labor and Welfare promised to reevaluate the amount of funding provided, and there was talk of raising funding by 40%. Meanwhile, however, the Help Centers remain in danger of closing due to lack of sufficient funds.

7. 4. Extent of the Phenomenon of Domestic Violence

As with statistics regarding sexual violence against women, statistics on the number of battered women in Israel are only estimates. According to a conservative estimate, approximately 10% of married Israeli women are subject to domestic abuse, about 7% on an ongoing basis. 1994 reports of the Ministry of Labor and Welfare show the number of battered women in Israel to have reached 200,000. 27% of the 4850 instances in which women turned to legal aid services throughout the country in 1994 had to do with issues of violence against women.

Police files, which as explained above only began to keep systematic track of domestic violence reports in 1995 show that during 1995, the police received a total of 14,706 complaints of domestic violence submitted by women, constituting 76% of all domestic violence reports. In 7774 of the cases, criminal files were opened. There were 113 reported incidents of severe spousal sexual violence against women (forced rape or forced indecent acts, 110 of which were opened as criminal files and 13 of which remained with no criminal proceedings). The relative rarity of domestic sexual violence complaints can perhaps be explained by the reluctance of most victims of sexual violence within the family to come forward.

In 1995 a total of 9577 criminal files were opened regarding domestic violence (including both men and women as complainants), and 3538 were closed on various grounds. 3679 went to the prosecution, and 1524 were heard in court. 836 are in process at the police.

In 1996, a total of 14,967 incidents of domestic violence were reported to the police by women. Exact information regarding the handling of these incidents is as yet unavailable. Of these, 13,600 involved Jewish complainants, while 1367 involved Arab women.

7. 4. 1. Police Handling of Domestic Violence

Reports

In addition to serving as the basis for various legal reforms, the 1989 report of the Karp Committee prompted a complete re-evaluation of the treatment of domestic violence by the police, which had previously focused on "peace-making" between the spouses involved, rather than on enforcing the criminal law and bringing abusive husbands to justice.

The 1990 police guidelines discussed below were implemented largely as a result of the Karp report. In 1991 the State Comptroller included in the 42nd annual State Comptroller Report a study of the phenomenon of domestic violence and the way in which it is treated by the police. Indeed, the report noted a certain amount of improvement in the situation. However, it also found the implementation of the guidelines to be lacking in certain respects. In 1993, the Police Comptroller published a report on Police Handling of Violence Between Spouses, criticizing the lack of full implementation of the spirit and letter of the 1990 guidelines, and suggesting a more comprehensive approach that would combine determined use of criminal sanctions with coordinated long-term community intervention.

More recent reports have expressed satisfaction with the current trends within the police force, which has continued to move forward both in its theoretical approach and in the implementation of its policy. For example, In June of 1996 the Parliamentary Investigative Committee on the Murder of Women by their Spouses published its findings, and praised the police for the changes in its attitude towards domestic violence and for its current policy designed to deal harshly with abusive husbands and constructively cooperate with other community services. The Committee also noted a number of areas which remain to be improved.

In October 1995, an Inter-Ministerial Committee, comprised of members of all the relevant government offices and most of the women's organizations active in Israel, was established to appraise the various agencies which deal with the issue of battered women. It made various suggestions regarding the improvement of reporting mechanisms and legal aid available to women. Its Subcommittee on Police Affairs, comprised of representatives from the Police Force, the Ministry of Labor and Welfare, the Justice Ministry, women's organizations, and shelters for battered women, also published its findings. Affirming the importance of combining law enforcement with mandatory treatment, a majority of the members pointed to the dangers inherent in community treatment models, which may fail to place enough emphasis on the criminal nature of domestic violence.

The 1990 Police Guidelines

In 1990, in response to the Karp report, steps were taken to "professionalize" the treatment of domestic violence issues within the police. A special unit was established to monitor from above the treatment of violence in the family as a distinct issue. Similarly, "supervising officers," in

charge of ensuring policy implementation in the specific area of domestic violence, were appointed to police stations throughout the country.

Emphasizing the criminal nature of domestic violence and the obligation of the police to refrain from becoming involved in the substance of the conflict, the guidelines direct the police to give complaints of domestic violence high priority and act to criminally prosecute the perpetrator and to give the victim the assistance she needs. The guidelines, still in force today, also stress the importance of cooperation with welfare authorities.

Police officers who arrive on the scene of an incident of domestic abuse are instructed to stop whatever violence is taking place, assist the victim in receiving whatever medical care is necessary, take steps to record evidence and take testimony from the victims, and take the perpetrator to the station for questioning. Only where it is evident that the complaint was groundless, or where the offense committed was extremely light and there were no signs of physical harm or danger that the situation may deteriorate, may the police officer refrain from taking the suspect in for questioning. Where the couple has children under the age of 18, the officer must notify a contact in the Ministry of Labor and Welfare, who must then ensure that there is proper coordination between all social services.

When a victim arrives at the police station to complain, officers are instructed to first gather the victim's testimony. Steps must be taken immediately to locate the suspect, and the instructions require that he be questioned within one week, if possible. Similarly, the police are to ensure that medical treatment is provided where necessary.

According to the **National Health Regulations (Notification of Suspected Violence), 1975,** various health-care providers are required to notify the police when they suspect a patient has been subject to violence. The guidelines note that forms should be distributed in hospital emergency rooms to be filled out by hospital officials where relevant.

The victim is to be informed of the various community agencies which may assist her. Where immediate or emergency assistance is required, such as referral to a shelter for battered women and/or legal aid, the victim must be immediately assisted in contacting the relevant agencies. All requests by the victim, by her representative, or by a community treatment agency for

information on the police handling of her complaint, including information on whether the suspect has been arrested or released and all information pertaining to protective measures, are to be complied with.

The guidelines specifically state that, as a rule, there is public interest in prosecuting perpetrators of domestic violence. Only where the offense is uniquely light and there has been no previous complaint, may the officer in charge of the investigation decide to refrain from prosecution.

Acknowledging the role of threats and coercion in the decision of many battered women to revoke their complaints, the guidelines also emphasize that a victim's request to have her complaint revoked should not be the determining factor in a decision to refrain from criminal proceedings.

As a rule, files will not be closed due to lack of evidence where it's the complainant's word against the suspect's. Only where there are real grounds to doubt the victim's voracity will her word be regarded as insufficient evidence to continue the investigation.

7. 4. 2. The Be'er Sheva Model

The "Be'er Sheva Model," adopted as a result of the abovementioned 1993 Police Comptroller Report, views the exposure given to the family crisis when the police become involved in a specific incident as an opportunity for community intervention; not just to put a stop to the short-term violence, but also to get at the roots of the problem and provide a long-term solution. Thus, the police, which as a law-enforcement agency is competent to deal mainly with the symptoms of the problem, are to coordinate their activities with various community agencies equipped to deal with the underlying causes of the problem. The criminal aspect of the intervention is understood as one part of a more comprehensive approach centered around mandatory therapy for the perpetrator and community assistance for the victim.

The threat of criminal action is utilized so as to bring about the suspect's participation in a mandatory therapy program. The final decision regarding the fate of the criminal proceedings is to be postponed until the suspect undergoes treatment and the professional opinion of the treatment service is obtained.

Statistical studies have shown the Be'er Sheva model to be relatively successful. "Ping-Pong" complaints (the use of mutual complaints in divorce actions) and recurring incidents dropped significantly. A more serious police attitude towards those complaints which were made was observed, more files were opened, and more offenders were indicted. In general, there was a decrease in the number of instances of domestic violence reported, but since much of the decrease may be attributed to the drop in "ping-pong" complaints and recurrence, many who had previously refrained from reporting began to come forward. Various researchers, however, have criticized the model and contended that its effectiveness remains questionable.

7. 4. 3. 1993 - Today

Since the publication of the 1993 police comptroller's report, significant steps have been taken within the police to improve implementation of the 1990 guidelines and to operate according to the Be'er Sheva community model. In the past few years, a special Community Policing Unit was established to implement this notion of community coordination on a national scale. While not limited to domestic abuse issues, the Community Policing Unit has had a tremendous impact on the police approach to violence in the family, and versions of the Be'er Sheva model have since been adopted in over 20 police stations throughout the country, including Rishon le'Tzion, Jerusalem, Haifa, and Ramle.

In 1995, in response to criticism included in the 1993 police comptroller's report, a computerized system of recording instances of domestic violence, using special codes to note the relationship between the victim and the perpetrator, began to be implemented in police stations throughout the country. While computerized codes had been in use since 1993 to denote the victim's relationship to the perpetrator in cases where no criminal proceedings were pursued, only in 1995 was this extended to those which where criminal files were opened. This both represents an acknowledgment of the unique nature of violence that occurs within the family, and makes follow-up and accurate statistical evaluation possible for the first time. Steps have been taken to put together a monthly statistical report and to enforce statistical record-keeping on an ongoing basis.

Efforts have also been made to further enhance the professionalization of those police officers who handle domestic violence. All Supervising Officers participate in special training sessions, and many stations have instituted weekly classes on domestic violence. It has similarly been decided to establish a special office within the police force to handle these issues. Criticism has recently been directed at the fact that Supervising Officers tend to be overburdened, and that they are usually responsible for areas besides domestic violence. It has been recommended that Supervising Officers be allowed to focus all their attention on the issue of violence in the family, and that special police officers be designated to deal only with this issue.

A recent 1996 amendment to the **Law for the Prevention of Violence in the Family-1991** included police prosecutors as among those authorized to request defense injunctions on behalf of battered women. While most discussion of the options available to police has focused on the criminal sphere until now, this amendment will require the police to formulate a policy on when and under what circumstances to request such injunctions.

7. 4. 4. Statistical Data on Current Police Practices Regarding the Handling of Domestic Violence Cases

A criminal investigation file is opened by the police in approximately 50% of reported domestic violence involving women as victims.

Table 17 Police Handling of Domestic Violence Complaints, January-November, 1995

	Total	P.A.	%P.A.	A.T.	%A.T.
Total Offences Between Spouses	17628	8787	49.8	8841	50.2
Suspect: Male Partner	13373	7057	52.8	6316	52.8
Suspect: Female Partner	4255	1730	40.7	2525	59.3

Source: Israel Police, Statistics Dept.

("P.A." refers to instances where a criminal file has been opened, while "A.T." refers to those instances where no criminal proceeding has been pursued.)

7. 4. 5. Prosecutorial Policy Regarding Victims of Domestic Violence

In addition to the various guidelines discussed above in relation to victims of sexual and other violent crime, the State Prosecutor's Office follows special guidelines regarding the treatment of domestic violence within the family. These guidelines advise that, as a rule, the prosecution should strive to obtain the maximum sentences that may be imposed for severe instances of sexual violence. Similarly, prosecutors are instructed to consider plea bargaining where it may

be difficult to obtain a conviction, or where the trial itself may cause additional harm to the victim.

7. 4. 6. Centers for the Treatment and Prevention of Domestic Violence

The Ministry of Labor and Welfare maintains a number of programs and services for victims of domestic violence. Among the most important of these are the Centers for the Treatment and Prevention of Domestic Violence. The Centers were established primarily to provide telephone assistance to both victims and perpetrators of domestic violence, and to undertake various community projects for the prevention of violence in the family--including education and programs to increase awareness among professionals and among the public at large. The services provided include: diagnosis for the parties involved, individual, couple, family, and group therapy, preventive intervention, and training sessions for relevant professionals. In 1994 there were 9 centers, and by 1995 the number had nearly doubled to 15. Today, 19 such centers operate throughout the country, 9 of which are run in collaboration with various women's organizations, such as *Na'amat* and WIZO, and 10 of which are run primarily by the Ministry.

Among the projects undertaken in 1995 were 24 therapy groups for battering men, 33 support groups for victims, 18 seminars, 13 training sessions, 7 orientations, 13 special training sessions for police officers, and 56 training sessions for teachers, judges, doctors, prison service employees, and the army.

An additional program aimed at preparing employees of the centers to further deal with the problems of abused children and children who have witnessed violence between their parents has been planned for 1996-7.

In addition, the 150 Social Service Departments of the Ministry which operate throughout the country offer a complementary service to that of the centers. The activities of the Departments include referral to other services in emergency cases and various treatment programs and therapy sessions for battered women and abusive men.

7. 4. 7. Shelters for Battered Women

The first shelter for battered women was established in Israel in 1977. Today there are 12 such shelters throughout the country, the average shelter equipped to house between 12-15 women, together with their children. As women stay in the shelters for several months, relatively few women can be accepted at each shelter every year. As a result, the number of shelters and their geographical distribution do not meet the needs of the thousands of victims of domestic abuse who request acceptance each year, at least two-thirds of whom are rejected due to lack of space. According to a report of the Personal and Family Services branch of the Ministry of Labor and Welfare, 472 women and 695 children were housed by the 8 existing shelters in 1995.

In addition to the emotional, legal, and economic aid offered to those women who are accepted at shelters throughout the country, the shelters in Ashdod and Herzliya have instituted the "Halfway Project," designed to assist women in their transition back into life outside of the shelter.

The establishment of the shelters was financed by various non-profit organizations, with no governmental participation. The ongoing upkeep expenses of the shelters, on the other hand, are partially funded by the Ministry of Labor and Welfare. Until 1995, approximately 50% of the expenses were covered by the Ministry. In 1996, the Ministry raised its level of funding to 75%.

According to conservative estimates of the number of additional shelters required in Israel in order to reach a ratio of shelters per population comparable to that of other Western countries, at least 8 more shelters are needed.

7. 4. 8. Hotlines

Various women's organizations, with the participation of the Women and Girls' Service of the Ministry of Labor and Welfare, operate hotlines for battered women throughout the country. There are currently ten such hotlines in Israel, one of which operates in Arabic. Ensuring complete anonymity and confidentiality, the hotlines provide a 24-hour per day option for women throughout the country who wish to stop the violence, but who are unable to turn to the police or to make contact with treatment officials. They are run by volunteers who provide the callers with various information, and who serve as sympathetic listeners.

7. 4. 9. Coverage of Medical Treatment

Previous uncertainties regarding the extent of medical coverage given to sexually or physically abused women as part of their National Medical Insurance have been resolved. Today, the **National Health Insurance Law** covers any and all medical expenses incurred as a result of sexual or physical abuse against women.

7. 4. 10. Future Services to be Provided

1. Absorption Apartments: The project, which was slated to begin in the mid-October 1996, aims to provide an emergency solution for high-risk battered women who are unable to stay in a shelter. The locations of the apartments are to remain confidential, well-protected, and equipped with a special emergency button with which the police may be immediately notified of any danger. In the beginning, there will be 10 such apartments provided by the Building Ministry, and equipped to handle 120-240 women, together with their children.

2. Hostel for Abusive Men: The project was approved in December 1995 as part of the Special Project Fund of the National Insurance Institute. The purpose of the hostel is to create an intensive treatment center for abusive husbands, who must participate in therapeutic programs as a condition for suspending the criminal proceedings against them. It will also provide a temporary housing solution for men who have been issued injunctions to leave their homes. The hostel will be equipped to handle between 10 and 12 men at once, for periods of 3-4 months.

3. Various other planned projects include a recorded telephone message to provide information to victims in various languages, the establishment of a single emergency hotline to be accessible from all over the country, and additional training sessions for social workers and other individuals who work with victims of domestic abuse.

ARTICLE 6

Suppression of the Exploitation of Women

State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

1. General

There are no official numbers regarding the extent of prostitution and the traffic of women in Israel, but there is a general consensus that it is becoming more prevalent. A reporter who has done work in this area estimates that over 10,00 women in Tel Aviv alone engage in prostitution.

2.The Legal Framework

In addition to Israel's ratification of CEDAW in 1991, Israel has also ratified the 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, and the 1989 Convention on the Rights of the Child. In principle, the current Israeli legal framework for dealing with prostitution is based upon the abolitionist approach, as is the Convention's approach. However, the current legal arrangement and its method of enforcement suffer from inconsistencies and lack of protocol for dealing with the reality of prostitution. Prostitution in itself is not, and has never been, a crime under Israeli law, and the woman who engages in prostitution is not considered a criminal. Instead, the legal system engages in selective prohibition, by criminalizing exploitive conducts that surround prostitution, so that both the exploitive and practical aspects of prostitution are criminalized. Thus, engaging in prostitution as a client or sponsor is a criminal act, while prostitution itself is not.

"Procurement," defined as living off the profits or taking all or some profits from a woman who engages in prostitution, and solicitation of a woman to engage in prostitution, are crimes according to sections 199-201 of the **Penal Law-1977**, punishable by 5 years in prison, and up to 7 years under aggravating circumstances. Such aggravated circumstances include the following: when the woman is a minor under 18 years old; when the woman is the perpetrator's daughter, wife, or when he is her custodian, teacher, or otherwise in charge of her; when the perpetrator

accused of soliciting was armed during the act. Case law, however, had interpreted solicitation to mean proven engagement in prostitution, thus making it much more difficult to prosecute for solicitation. Under section 202 of the Penal Law, soliciting a woman to leave her home with the intention of engaging her in prostitution is punishable by 5 years imprisonment, and if the woman is a minor - by up to seven years. Soliciting a woman to leave the country for the same purpose is also punishable by seven years. Section 207 imposes mandatory imprisonment on perpetrators convicted under sections 199-202, with no possibility of a suspended sentence. This is a highly unusual provision in the context of the Israeli criminal law and indicates the gravity which the legislator had attributed to these crimes.

Thus, these laws present potentially broad means to intervene for the purpose of lessening the exploitation, degradation and dangers facing women who engage in prostitution. However, these sections are rarely enforced. Instead, the prostitutes themselves are often arrested, not for engaging in prostitution - since that is not a criminal offense, but for related practices such as the enticement of others to engage in indecent acts in public places, a felony punishable by three months in prison, according to section 209(a). Usually prostitutes are released after several hours, but sometimes they are charged under section 209(a), which was never intended to serve as a regulation of prostitution, or under section 216(a)(5) which prohibits "strolling." Another criminal offense directly applicable to women who engage in prostitution, is section 215(c) which states that being in a place for the purpose of engaging in prostitution, in circumstances which pose disturbance to neighbors or obstruction of traffic is punishable by up to one year in prison. Other crimes which may also be applicable to women prostitutes are sections 204-205 of the Penal Law, according to which the maintenance and management of a place for purposes of prostitution, including a motor vehicle or a vessel, are also criminal crimes, punishable by up to 5 years in prison. Similarly, lending a place for the purpose of prostitution is punishable by up to 6 months in prison. It should be noted that case law has interpreted these provisions to include situations in which women engage in prostitution in their homes, not just in brothels, or "massage institutes." These laws, again, are rarely enforced against women, as illustrated by the data supplied by the police in the following table.

Table 1 - Convictions in Prostitution Related Crimes

	1994			1995		
	Men	Women	Total	Men	Women	Total
Offence						
Procurement						
number	30	18	48	42	11	53
percent	62.5	37.5	100	79.2	20.7	100
Solicitation to Engage in Prostitiution						
number	3	1	4	15	2	17
percent	75	25	100	88.2	11.7	100
Solicitation to Prostitute						
number	8	3	11	12	5	17
percent	72.7	27.2	100	70.5	29.4	100
Keeping a House of Prostitution						
number	49	147	196	106	232	338
percent	25	75	100	31.3	68.6	100
Solicitation of Minors						
number	42		42	44	2	46
percent	100		100	95.6	4.3	100

Source: Israel Police

Notwithstanding the relatively large number of convictions, the overall level of enforcement remains rather low. In internal instructions issued by the State Attorney in January 1994, the police are instructed to commence investigations under each of the following circumstances: when minors are involved in prostitution; when those who engage in prostitution have been manipulated into it; when there is severe abuse of women who engage in prostitution by their procurer, including blackmail and violence; when additional criminal activity such as drug-abuse is taking place. When one of these circumstances occurs in relation to the prostitution-related offences described above, the State-Attorney Office shall consider pressing charges.

As to the specific legislation aimed at the prevention of traffic in women, the only specific expression is in section 202(2) mentioned above, regarding the solicitation of a woman to leave "the country," i.e. Israel, in order to engage in prostitution in another country. There is no parallel provision related to bringing women from another country into Israel for that purpose.

The legal framework theoretically offers means to criminally charge the clientele of the sex-industry under at least one section, namely section 210 of the **Penal Law-1977**, which states that approaching a minor under 16 or an adult woman with indecent insinuations is punishable by up

to three months in prison. This section however, has never been enforced against clients of prostitutes.

3. Evaluation of the Actual Situation

In the last few years, the problem of prostitution has grown in Israel, particularly among foreign women. It is difficult to obtain official statements regarding the exact extent of the phenomenon, but most of this traffic in women comes from the former USSR; some of these women enter Israel as tourists, though many of them are given false identities which facilitates their immigration to Israel. According to authorities at the *Neve Tirza* women's prison, there has been a steady increase in the numbers of foreign women involved in sex-work who are arrested for illegal stay in Israel and who are detained before being deported to their home-countries; in over 95% of the cases, these home countries were in the former USSR.

The average time these women spend in prison is 50 days, but detention may vary depending on the time needed to verify their identities and prepare the necessary documentation for their deportation. The women themselves are supposed to pay for their expenses, but when their resources are inadequate, the Ministry of Interior finances their deportation from a special budget.

On the governmental level, a special Service for Girls in Distress in the Ministry of Labor and Social-Services is in charge of prevention and rehabilitation programs for girls in these situations, as will be detailed below.

On the non-governmental level, there is only one organization which deals exclusively with the problem of prostitution, namely *Shani* - Israeli Abolitionist Center Against Contemporary Slavery, which is the Israeli branch established in 1995 of the International Abolitionist Federation. Several of the more general women's organizations in Israel have also recently become involved in this area.

NGOs who work in this area observe that there is no organized "sex tourism" into Israel, although it is not uncommon for some hotels to supply their guests with information about "sex services." Outgoing "sex tourism" prompted various NGOs to advance legislation to prohibit

Israeli citizens from engaging in commercial sexual-relations with minors outside the state of Israel.

4. Involvement of Minors in Prostitution

The issue of minors' involvement in prostitution is dealt with under the general provisions of ther **Penal Law-1977**, in the sections constituting aggravated circumstances, as described above. In addition, there is a special prohibition, punishable by three years in prison, against permitting a minor (defined as a person between 2-17 years old) who is under one's supervision to live in or frequent a place of prostitution. Similarly, permitting a minor under 18 who is under one's supervision to engage in enticement under section 209(a), is also punishable by three years in prison. As part of the growing awareness of this problem, there are several related bills in progress, aimed at preventing minors from involvement in prostitution.

There are few NGO's who are devoted to work in the area of child-prostitution, of these the most prominent are *Elem*, which deals solely with minors, and *Shani* - mentioned above. Recently, as a result of the rising awareness of this problem on the international level as well as in Israel, other NGOs who deal with children's rights have joined in efforts to combat child-prostitution.

The head of the *Elem* organization testified in the Knesset Education Committee about the methods that are used to identify vulnerable girls in nightclubs and force them into prostitution. Once again, no statistical data has been obtained to indicate the extent of this phenomenon. According to *Elem*, there are not enough social services which target this vulnerable population, particularly school dropouts, which could help prevent them from being drawn into prostitution.

Another major problem, according to those NGOs who deal with minors, is the growing market for child-pornography, which although not produced in Israel, is imported and sold freely in response to ever growing demand. The use of child pornography is explicitly dealt with under the section 214 of the Penal Code, which prohibits the publication and presentation of obscene materials.

One significant aspect of the spread of prostitution is the profusion of sex service advertisements in daily newspapers. The expansion of this phenomenon led to a private bill, proposed in 1995,

which would restrict these advertisements. Fearing restrictions on freedom of commercial expression, media and public representatives established an ad-hoc public committee which offered guidelines to publishers regarding these concerns. These guidelines were accepted by all the parties, including representatives of the written media. The significant consequences of this initiative were: 1) The cessation of advertisements which specifically mentioned or alluded to the age (under 18) of the women whose sex-services were being advertised. 2) The moderation of the overall tone of these ads and the pictures which accompany them.

5. Social Attitudes Towards Prostitutes

The overall attitude of courts toward prostitution can be characteized as negative; it is described as immoral and corrupt. The judicial attitude toward women who engage in prostitution is more complex, and varies according to the specific circumstances of each case. In some cases, sympathetic expressions toward these women can be found, in recognition of the harsh circumstances they face and the need to protect them from abuse and exploitation through appropriate legislation (*State v. Prosper*). More often, however, prostitutes are portrayed as untrustworthy witnesses and as deficient mothers.

5.1. The Connection between Prostitution and Women's Criminality (Mainly Drugs)

There is a significant correlation between prostitution and drug abuse. According to the *Neve Tirza* prison's officials' evaluation, of the 200 prisoners currently in *Neve-Tirza*, 70% are drug-addicts (mainly to heroine, which is the most common drug in Israel) and 10% are in a process of getting treated. Of the 80% with drug addictions, over 60% were involved in prostitution in order to finance their addiction.

6. Rehabilitation Programs for Women and Girls in Distress

When examining rehabilitation programs for women who engage in prostitution an important distinction should be made between those who are drug-addicts and those who are not. As mentioned above, some 80% of the women prisoners are drug addicts, and as the table below shows, there is a rise in the number of women drug abusers and other drug-related crimes.

Table 2 - Convictions in Drug-Abuse Offences

	1994			1995		
	Men	Women	Total	Men	Women	Total
Offence						
Use of Dangerous Substances						
number	3595	516	4111	5112	668	5780
percent	87.4	12.5	100	88.4	11.5	100
Trade in, Importing, or Exporting Drugs						
number	1675	157	1832	1600	144	1744
percent	91.4	8.5	100	91.7	8.2	100
Cultivating, Making, and Distribution of Drugs						
number	128	30	158	191	26	217
percent	81	18.9	100	88	1.9	100
Posession of Drugs Not for Personal Use						
number	2395	353	2748	2782	344	3126
percent	87.1	12.8	100	88.9	11	100

Source: Israel Police

A major rehabilitation organization for girls is the Service for Girls in Distress under the Ministry of Labour and Welfare, which treats adolescent girls age 13-22 in the Jewish population and up to age 25 in the Arab population. Of those treated at any given time, 20% are generally Arabs and 20% of are generally recent immigrants. They suffer from problems ranging from drug addiction to indiscriminatory sexual relations, and unwanted pregnancies, etc., which in many cases result from physical or sexual abuse in their families. The Service works to rehabilitate these girls and re-integrate them into society through therapy, vocational training, and IDF preparation classes which enables the Jewish girls to be conscripted into the army. The Service also operates halfway houses for girls age 17-18 who are capable of functioning independently. The length of stay in these halfway houses is generally one and a half years, and there are currently 6 such halfway houses, one of which is solely for Arab girls. In addition, there are two country-wide shelters, one for Jewish girls and one for Arab girls, which provide emergency protection and treatment of up to one month. Overall, the Service treated 5500 girls in 1993, 7744 girls in 1994, 9000 girls in 1995, and about 10,000 girls in 1996.

ARTICLE 7 Political and Public Life

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, and, in particular, shall ensure to women, on equal terms with men, the right:

a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

c) To participate in non-government organizations and associations concerned with the public and political life of the country.

1. The Right to Vote and Be Elected

There is full equality between men and women regarding the right to vote and to be elected in Israel. Section 5 of the **Basic Law: The Knesset** specifically states that every Israeli citizen aged 18 or older shall be entitled to vote, and section 6 of the same law states that every Israeli citizen aged 21 or older is entitled to run for election.

1. 1. Voting Patterns

Israeli elections consistently draw turnouts which are among the highest in the democratic world (on the average 85% of those eligible to vote). There is no noticeable difference between men and women regarding the participation in the act of voting. The percentage of men and women voters remains approximately the same (85%). Women in the Arab-Israeli community show a higher rate of voting (89.1%) than the men (80.5%).

As to the question of the relevance of gender in casting a ballot, in a national survey conducted recently, an overwhelming majority of both men and women (81% and 79%, respectively) replied that the issue did not have any impact whatsoever on their voting behavior.

2. Women as Members of Political Parties

Women operate within political parties under two categories: in specific women's sections and as individual members. They are considered to have a dual role: to recruit support for the party among women constituencies, and to promote women's representation in the party. The significance of women members in Israeli political parties was accentuated in the 1992 elections when primary elections were first held. The introduction of primaries as a means for selecting parliamentary candidates sharpened politicians' sensitivity to the public mood. In the primaries, only the registered members of a certain party may vote in that party's internal elections and can thereby decide who will be the party's candidates to the Knesset.

2. 1. Party Membership and Voting

In a survey conducted recently, 17.0% of the men and 10.9% of the women respondents reported actual membership in political parties. Moreover, 44.3% of the women polled stated that they did not support nor were they active in any political party.

Table 1 - Women Elected to Knesset, by Party

Party	Number of Men	Number of Women	% of Women in Party
		1996	
Labor	31	3	9%
Likud	30	2	6%
Meretz	7	2	22%
		1992	
Labor	40	4	9%
Likud	30	2	6%
Ratz	4	2	33%

This data shows that in left-wing parties (Ratz, Meretz, Labor) women representation is higher than in right-wing parties (Likud).

Today, a small number of women hold high-ranking positions in political parties in Israel. These include: Zehava Galon - General Secretary of *Meretz* (Israel Democratic Party), Tamar Guzanski - Leader of *Chadash* (Democratic Party for Peace and Equality), Limor Livnat (Likud) - Minister of Communications, and until recently, Shualmit Aloni who founded the Civil Rights Party and

served as Cabinet Minister under the government headed by the late Yitzhak Rabin. None of the religious parties had any female candidates in viable places on their party lists.

Women who attain top party positions, do not regard themselves as representing the female constituency but rather the public at large. Moreover, women members of parliament take pains to emphasize that their political careers are geared toward national ends, rather than towards promulgating women's interests.

2. 2. Public Awareness of Women Candidates

The media has a very important role in publicizing election campaigns, particularly of women. According to a poll conducted two months before the recent 1996 elections, 94% of the people interviewed said that they received information about women candidates from the media, while only 11% reported y received it from the candidates' public activity. In the same poll 68% of the people interviewed said they believed there was no discrimination between men and women by the media. 32% of the women interviewed and 25% of the men believed there was discrimination against women. The following table describes the sources by which members of the public gain recognition of the candidates.

Table 2 - Sources of Recognition

Source	Public Awareness		
	by Men	by Women	Total
Media	94.8%	93.3%	93.8%
Public Involvement	9.8%	12.0%	10.9%
Personal Knowledge	6.7%	7.0%	6.9%
Letters to Voters	1.0%	7.2%	2.5%
Other	1.0%	3.8%	2.0%

Source: The Institute for Spatial Analysis

This next table illustrates the effectiveness of campaigning by women candidates.

Table 3 - Public Awareness of Women Candidates

No. of Candidates Recognized	By Men (%)	By Women (%)	Total
0	13	21.9	17.8
1	.9	5.6	3.4
2	4.5	5.6	5.1
3	9.4	7.8	8.5
4	8.1	14.5	11.6
5	17.5	13.4	15.4
6 to 10	33.2	23.8	28
11 and up	13.5	7.4	10.1

Source: The Institute for Spatial Analysis

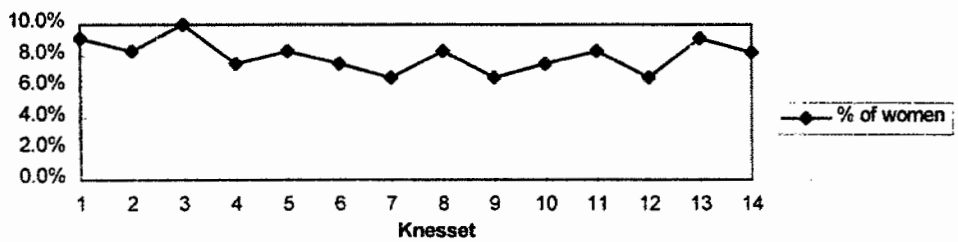
2. 3. Securing Places for Women

In the 1996 elections, 69 women ran for elections within the parties (primaries). The Labor party secured 6 places for women on its list (out of 44) and the Likud party secured 3 places for women (out of 42). *Meretz*, the Citizen Rights Party, secured 3 places on its list (out of 14).

After the votes were counted only 3 women were elected from the Labor party and only 2 women from the Likud party. From Meretz only 2 women were elected out of 9 Knesset members (constituting 22%). These results are primarily because the large parties diminished in their strength.

3. Women's Representation in the Knesset

Chart 1 -Women MKs Throughout the Years



In the 1996 elections only 9 women out of 120 were elected to the Knesset. This figure represents a decline in the number of women in the Knesset.

3. 1. Women as Knesset Members

Many of the powerful seats and positions in the Knesset have never been assigned to women. For example, there has never been a woman Knesset Speaker, though in many Knessets women have served as deputy speakers. On the two most powerful Knesset committees, the Foreign and Security Affairs Committee and the Finance Committee, few women have been assigned. As in other countries, there are many women on committees which are responsible for matters associated with traditional women's interests, such as education, welfare, and social services. In addition, women Member of Knesset have been active in promoting bills and petitions which have dealt with family, welfare, social and economic matters.

In the present Knesset (1996 elections) the nine women in the Knesset serve on one or more of the following Knesset committees: 1 woman on the Constitution, Law and Justice Committee, 3 women on the Labor Committee, 3 women on the Education and Culture Committee, 3 women on the Immigration Committee, 2 women on the Interior Committee.

4. Women in Government

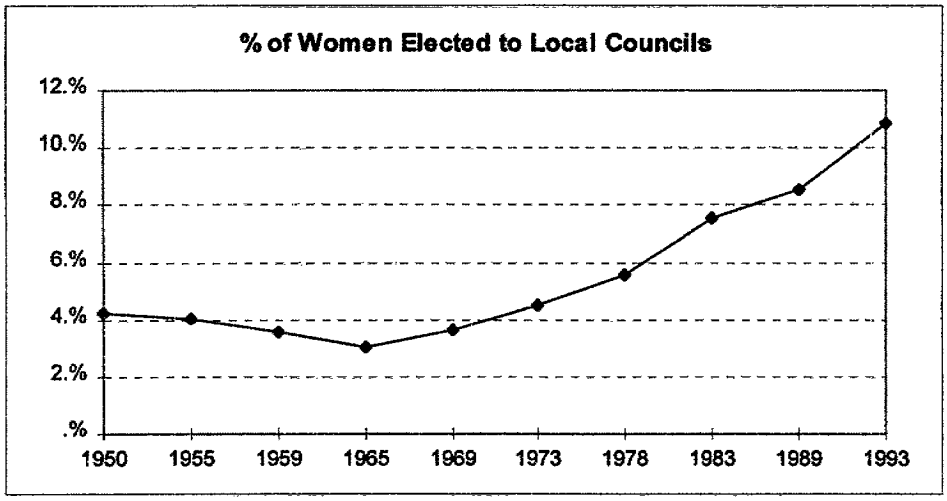
Since the emergence of the State of Israel, only one woman, Golda Meir, has served as prime minister. Having served in the Knesset since 1949, Golda Meir was elected prime minister in 1969 and held the prime minister's office until 1974.

Since the establishment of the State of Israel, six women have served as cabinet ministers. In the current government only 1 of 18 ministers is a woman (Limor Livnat, Minister of Communications). In addition, the heads of 2 government offices, the Environment Protection Department and the Justice Department, are women.

5. Women in Local Authorities

Data indicates women's representation in local authorities has been extremely limited. Nevertheless, there has been a significant increase in women's representation since the first local elections were held in 1950:

Chart 2 - Women Elected to Local Councils



During the State's existence, only six women have served as heads of local councils, none of them in a city with a population over 10,000. Currently, there is only one woman head of a local council, and seven women serve as deputy mayors.

6. Women in the Civil Service

6. 1. Ranks of Women in the Civil Service

Although women made up 59.4% of all civil-servants in December 1995, their rate among the senior staff (namely the three top ranks) of the four main classifications (which compose the main resource for managers in the civil service) was only 10.5%. Women's underrepresentation in the top positions is correlated by their overrepresentation in the lowest ranks (rank 8 and below), where they made up 64.2% of all workers in December 1995. Recent data submitted by the Civil Commission to the Knesset Committee on the Advancement of Women show that significant progress was made from December 1994 to December 1996: the number of women among the senior staff has more than tripled in those two years (from 25 to 85) so that women now make up 14% of the senior staff. However, this apparent progress is misleading, since between 1993 and 1994 a sharp decline in the rate of women in top positions took place, as a result of the new payment-agreements that were signed. This analysis is supported by an examination of the changes in the rate of women among the lowest ranks, relative to their total rate in those four main classifications: from December 1994 to December 1996 the total rate of

women increased from 53.5% to 54.3%, and their rate among the lowest ranks increased from 63.7% to 64.3%. In other words, women continue to be overrepresented in the lowest ranks of the Service.

6. 2.Tenders in the Civil Service

The increase of women's participation in internal job-tenders in the civil service, both as candidates and as appointees, is quite constant: in four years the percentage of women candidates has more than doubled, from 23.2% in 1993 to 51.9% in 1996, and the percentage of women who were appointed has likewise more than doubled, from 26.1% in 1993 to 55.7% in 1996. The situation in public tenders is far less positive: from a slight increase in the percentage of women candidates and appointees (from 33.6% in 1994 to 35.2% in 1995 among the candidates, and from 36% in 1994 to 36.7% in 1995 of those appointed), there was a sharp decline among women candidates, and an even sharper one of those appointed: only 30.3% among the candidates were women, and only 28.9% of those appointed were women. The decline in the actual number of women who presented their candidacy went from 3000 in 1994 to 1670 in 1996. Furthermore, while women are consistently appointed at a higher rate relative to the rate of women who presented their candidacy (with an exception in 1994 internal tenders), this has shifted in the 1996 public tenders. The Commission tries to explain this general decline by the overall cutbacks that were imposed on the Civil Service during 1996.

In 1996, an additional regression appears in the gender-composition of the tender committees. As explained under Article 2 above, one of the changes in the Civil Service Code following the 1993 Ben-Israel committee recommendations was reinforcement of the requisite representation of both sexes in tender committees. Although there was indeed a slow decline between 1993 to 1995 in the number of committees composed of men only, both in internal and public tenders (e.g. from 5.4% to 1.6% of all committees in internal tenders, and from 33.5% to 28.6% of all committees in public tenders), there was an unexplained increase in their percentage in 1996 (3.9% in internal tenders and 30.6% in public tenders).

A final piece of information concerning tenders will conclude this examination on a somewhat pessimistic note: upon examination of data that analyses the rates of candidacy and appointment in public tenders in five leading classifications (which together made up 80% of all public

tenders) along the line of specific ranks, it appears that during 1995-96, very few women presented their candidacy to the top three positions, and no women were appointed to them, except in the lawyers classification. Furthermore, there is a consistent decrease in both the rates of women candidates and the rates of women appointed as their rank increases.

Notwithstanding this analysis, an inner report of the Civil Service Commission from July 1995 analyzes the data gathered from all tender committees and concludes that at present, women stand a higher chance of being appointed in tender committees than men. The report raises the question of why so few women present their candidacy to these tenders. This is clearly one area in which more analytical energy needs to be invested.

7. Women in Public Institutions

7. 1. In the General Labor Union (Histadrut)

The General Labor Union is a powerful organization which acts an an umbrella for many workers' unions in Israel.

Table 4 - Women in the Histadrut

	Total	Men	Women	% of Women
Executive Committee:				
Members	188	158	30	16%
Deputies	194	155	39	20%
Histadrut Council:				
Members	508	392	116	23%
Deputies	257	181	76	30%
Histadrut Convention (Delegates)	1154	946	208	18%
Executive Committee of the Holding Co	22	20	2	9%
Secretaries of the Labor Councils	65	63	2	3%

7. 1. 1. Resolution Securing Equal Representation for Women

In January 1995 an important resolution was passed in the Histadrut Convention. This resolution added a provision to the articles of association of the Histadrut which demands that in every Labor Union there shall be at least 30% women. In addition, the same shall apply to all Workers' Committees.

7. 2. Workers' Committees and Labor Councils

At present, 10% of all workers' committees are headed by women, and 17% of the workers' committees membership is comprised of women. There are currently 3 women secretaries of Labor Councils, 2 women deputy-secretaries of Labor Councils, and 20 women secretaries of Labor Unions. Women hold managerial positions in many Labor Councils: there are presently 4 community welfare managers, 1 educational manager, 13 treasurers, 18 community managers, 3 absorption committee heads, 3 youth committee heads, 4 consumer committee heads, 10 cultural committee heads, 8 senior citizens committee heads, 19 accountants and one spokeswoman. Altogether, there are 530 women out of 1028 overall serving in labor councils, constituting 51% of those serving in labor councils.

8. The Judiciary

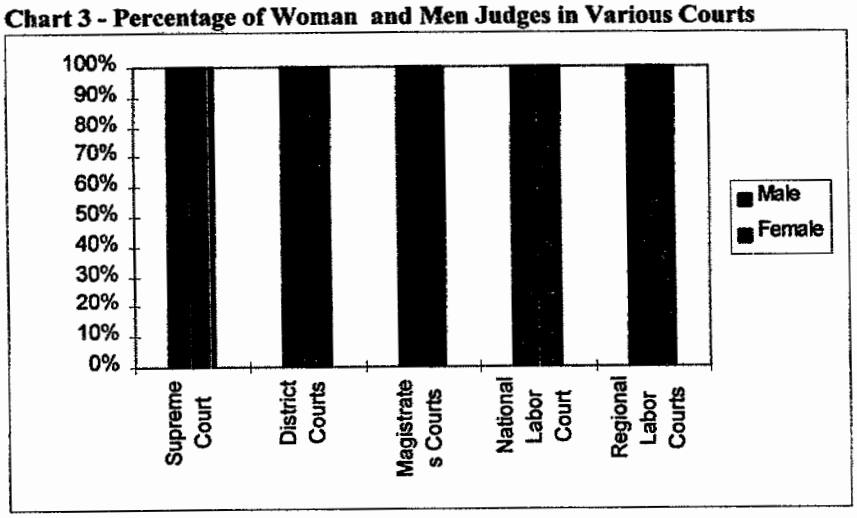
The percentage of women in the judiciary is extraordinarily high compared to other areas of public life. In all the different courts (Supreme Court, District Courts, Magistrate Courts, Labor Courts) there are 146 women judges and 229 men judges. In other words, women constitute **40%** of the judiciary in Israel.

Table 5 - Judges, by Courts

	Female	Male	Total	% of Women
JUDGES				
Supreme Court	3	11	14	21%
District Courts	23	67	90	26%
Magistrates Courts	87	121	209	42%
Traffic Courts	14	15	29	48%
National Labor Court	1	3	4	25%
Regional Labor Courts	18	12	30	60%
REGISTRARS				
Local Courts	28	22	50	56%
Regional Labor Courts	9	2	11	82%

Source: Central Courts Administration

Chart 3 - Percentage of Woman and Men Judges in Various Courts



Women's relatively large representation in the judiciary is also evidenced in the public sector of the legal profession. The present State Attorney is a woman. Her predecessor was the first woman to serve in this role and was later appointed to the Supreme Court. Four out of the five District Attorneys are women. In the District Attorneys offices, there are 207 women lawyers compared to 126 men, and 237 women public service attorneys compared to 115 men.

9. Representation in Religious Bodies

9. 1. Rabbinical Courts

The **Religious Judges Law - 1955** and the **Druse Courts Law - 1962** have been interpreted by Jewish, Muslim and Druse religious leaders to mean that only men can serve as judges in these courts. Consequently, Israel has expressed its reservation with regard to Article 7(b) of the Convention concerning the appointment of women to serve as judges of religious courts.

9. 2. Municipal Religious Councils

In recent years, changes have taken place in the representation of women in religious bodies. Following two landmark Supreme Court decisions in 1988, women were granted the right to participate in the committee for selection of chief rabbis and the right to participate in municipal religious councils. In *Poraz v. Tel Aviv Mayor,* the Supreme Court allowed women to participate in the committee for the selection of the Tel Aviv chief rabbi, emphasizing that exclusion of

women from serving on political committees which deal with religious matters constitutes discrimination and is therefore void. In *Shakdiel v. Minister of Religious Affairs*, the Supreme Court granted Leah Shakdiel the right to be elected to the religious council of the city Yeruham in southern Israel.

Despite this landmark decision, which opened the doors to women who wished to serve on municipal religious councils, the number of women on municipal religious councils remains small. Out of 139 religious councils, only 12 councils include a woman. Almost a decade after the Supreme Court decision, women still have great difficulties in getting elected to municipal religious councils.

10. Government Corporations

As explained in Article 4 above, an amendment to the **Government Companies Law 1975** was passed in 1993 which requires equal representation of both sexes in the board of directors of every government corporation. Furthermore, the amendment demands that in order to promote the goal of equal representation, the Ministers shall appoint directors from the less-represented sex until such equality is achieved.

A public committee, headed by a District Court Judge, was established to oversee the implementation of this amendment. The committee discovered that in most government corporations there were no female directors. Thus, the committee's main function has been to "remind" all government agencies of their duty, in accordance with the amendment, to appoint female directors to government corporations where openings are available.

This amendment came under judicial review when two government corporations, Israel Ports and Trains Authority and Israel Refineries, appointed two men to the board of directors, in each of which there were no women. The Supreme Court decided that these appointments were invalid because they disregarded the amendment. Justice Matza, delivering the opinion of the Court, justified the use of affirmative action in light of the conspicuous inequality of women representation in government corporations. Justice Matza relied on **Basic Law: Human Dignity and Liberty**, claiming that equality is an inherent attribute to a person's dignity. A more detailed description of the decision is found under Article 4 above.

According to a research conducted in 1996, this amendment's effects have been felt in 68% of government corporations. Still there are 18 corporations (16%) in which there are no women directors. In 12 corporations (11%) the number of women remains the same as it did in 1993, the year the amendment was passed. But there has been progress in many corporations: in 48% of those where there were no women directors in 1993, women have since been appointed as directors. In 21 corporations (18.9%) where women served as directors in 1993, there has been a significant increase in their number.

Although the amendment has caused a substantial improvement in women representation, progress remains to be done since in the majority of government corporations women still constitute **less than 30 % of the directors**.

11. Women's Political Activism

The involvement of women in extra-parliamentary political activity has been aimed at influencing the decision making process from the grassroots level. The focus of these groups has been organizing demonstrations, rallies, peace marches and other activities aimed at influencing public opinion.

In 1977 the peace movement known as **Shalom Achsav** (Peace Now) was established with the aim of pressuring the Israeli government to consider constructive peace proposals. Although many women participated in the activities of this movement it was not an exclusively a women's movement.

Many women have linked their broader political involvement with feminist political strategies. In 1982, after the Peace for the Galilee Operation in Lebanon, some fifty women, and a few men, joined together under the name "**Parents against the Silence**," to collect signatures and sign petitions calling for the withdrawal of Israeli troops from Lebanon. Another group called "**Women against the Invasion of Lebanon**" was formed consisting of feminist activists who demanded the immediate withdrawal of the troops from Lebanon.

After the Lebanon War ended, this group continued to operate under the name "**Women against the Occupation**." They protested the conditions under which Palestinian women were held in Israeli prisons.

After the Palestinian uprising (*intifada*) broke out in December 1987, a women's peace movement was formed which protested the military policy in the occupied territories. The group, called **Women in Black**, gathered every Friday afternoon wearing black at a central square in Jerusalem to mourn the victims of violence and called for the end of the occupation. Later this form of demonstration spread to 33 other locations in Israel. The Women in Black became an embodiment of peaceful protest which was widely imitated around the world.

Another peace group which was formed in Haifa was called **Women for Women**. This organization also demanded the end of the occupation and for the recognition of a national right to self-determination for the Palestinian inhabitants of the West Bank and Gaza Strip.

The **Women's Organization for Political Prisoners** (WOFPP) was founded in 1988 and focused on the fate of individual Palestinian women who had been imprisoned. The **WOFPP** continually brought human rights violations in military jails to the attention of the Israeli public.

All of the women's peace groups and activities have been guided by a desire to establish and institutionalize a Palestinian-Israeli dialogue. For this purpose, many joint conferences and demonstrations were held, and meetings between Israeli and Palestinian women were based on the assumption that concerned women could eliminate prejudices in personal conversations. The women's peace movement also managed to attract the attention of the Israeli population at large by organizing large-scale events and conferences which were open to the public. Thus, the peace initiative of the government headed by the late Yitzhak Rabin in 1993 can be partly attributed to the efforts and continued protest of the women's peace groups.

The efforts of Israeli women to join and influence the peace process continued after the Oslo Accords were signed in September 1993, when the **Jerusalem Link** was founded. The Jerusalem Link comprises a coordinating committee of two women's centers, independent of each other, one Jewish in West Jerusalem, "**Bat Shalom**" (Hebrew for Daughter of Peace), and the other Arab in East Jerusalem, "**Jerusalem Center for Women**". They organize joint demonstration

against human rights violations in Israeli jails and organize drives to collect signatures. Both organizations are concerned with promoting feminist ideas both in the Israeli and Palestinian public.

Another women's group called **Association of Women for Peace** was formed since the signing of the Oslo Accords. The association holds meetings of Israeli and Palestinian women, and its goal is to strengthen the peace process and to facilitate the implementation of the Interim Agreement between Israel and the Palestinian Authority.

Since the Oslo Accords, a right-wing women's group was formed in protest against Israeli concessions in the peace process. This group, called **Women in Green**, derives its name from its rival **Women in Black**. They participate in demonstrations which oppose the withdrawal of Israeli forces from the occupied territories, and protest the Israeli willingness to give up territory in exchange for peace.

12. Women in the Security Forces: Military and Police

12. 1. The Legal Framework

The **Defense Service Law-1986**, which replaced the 1949 version of the law, mandates service in the military for both men and women, while differentiating between the sexes regarding their conditions of service. Article 1 of the law states that the law applies to men between the ages of 18 and 54, and to women between the ages of 18 and 38. Gender-based differentiation is also made as regards the length of mandatory service in the Army, the extent of reserve duty obligations, voluntary service, and exemptions. According to the above law, women are exempt from mandatory service if they are married, pregnant, or mothers. In the very first years of the State, Prime Miniser Ben-Gurion made a political arrangement with the leaders of the ultra-orthodox community in Israel, whereby young men would be allowed to postpone or cancel their service in the army in order to study in religious academies. While this arrangement continues to be utilized today, its application is restricted to a narrow segment of the population. The **National Service Law, 1953** provides what may be seen as a parallel arrangement for young

women who, for religious or conscientious reasons, are reluctant to serve in the Army. According to the **National Service Law, 1953**, a woman may substitute military service with two years of national service. This provision, however, is not strictly enforced. As will be shown below, the percentage of women who do make use of the various exemptions is significantly higher than that of men.

The **Defense Service Law** itself does not differentiate between the duties that may be assigned to men and those which may be assigned to women. In practice, however, IDF policy has generally been to discourage and forbid women soldiers from serving in combat positions.

12. 1. 1.The Miller Case

Until 1956, a number of women served in the Air-Force as pilots of carrier planes. Later, the decision was made that training women as fighter pilots only to employ them as pilots of carrier planes was not cost-effective, especially given their relatively short terms of service. Since then, and until 1995, there was only one instance of a woman being accepted as a pilot trainee.

In 1995, the Supreme Court decided in the landmark *Alice Miller* case that the IDF could not claim logistical and budgetary constraints as justifications for excluding women from serving as pilots in the Air-Force. Relying on the **Defence Service Law, 1986**, the Army argued that the shorter mandatory service required of women, together with their more limited reserve-duty obligations and exemptions for pregnancy and childbirth, interfered with the ability of the Army to make efficient use of the resources and funds invested in the training of each individual pilot. In three separate majority opinions, the Court rejected this line of reasoning, holding instead that the principle of equality required the Army to overcome such obstacles and accommodate the natural biological needs of women, just as it would the natural needs of men. As Justice Matza stated: "Even if the assumption were that the average total contribution of the female pilot--from the point of view of length and continuity of service-- were less than that of the male pilot, this is a difference resulting from the very fact that she is a woman. This difference may not be held against her, and it can be dealt with logistically." Justice Matza, finding for Miller, suggested the Army conduct a trial period during which it would admit a limited number of female pilots and determine whether, in fact, such admission presented insurmountable obstacles.

The Army has since taken steps to implement the Alice Miller decision. Two classes of women candidates have begun the pilot training course, and guidelines have been established to adapt army policy regarding women's service to the potential reality of women combat pilots. The guidelines include provisions requiring women pilot candidates to volunteer to serve additional time and perform reserve duty, logistical arrangements regarding sleeping arrangements, and instructions regarding the event of pregnancy. They similarly provide that despite the general policy according to which the Commanding Officer (CO) of the Women's Corps has exclusive jurisdiction over women serving in the IDF (discussed below), women pilot candidates are to be subject to the jurisdiction of their course commanders. Perhaps most importantly (in light of the army's general policy regarding women in combat), the guidelines provide instructions whereby women pilots will perform combat duties or duties in hostile territory according to the decision of the CO of the Air Force, under the advisement of the Chief of Staff.

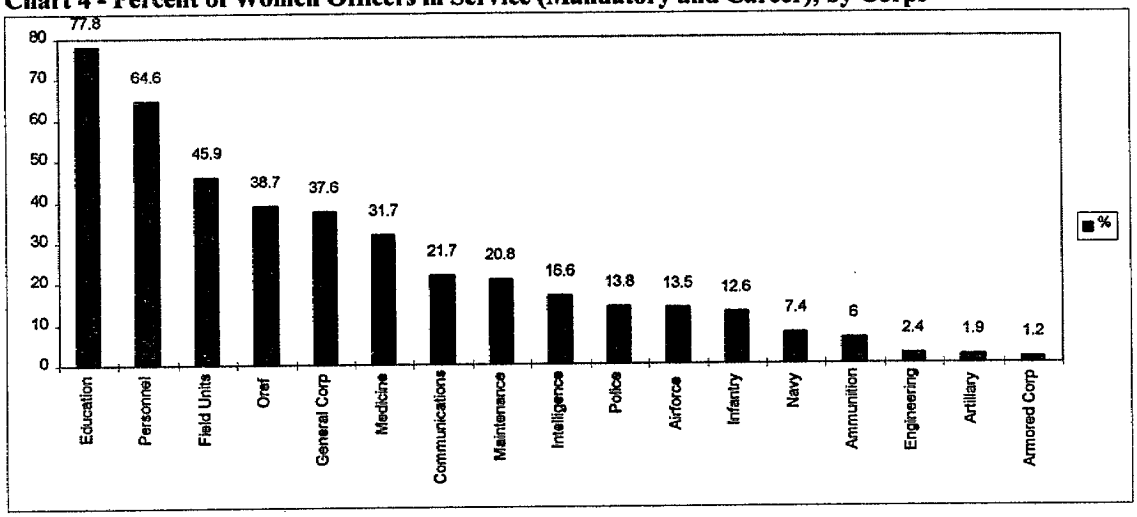
12. 2.Women and Men in the Military--Some Data

Approximately 42% of all conscripted soldiers in 1996 were women. While approximately 68% of draftable women were conscripted in 1996 (the remaining 32% receiving exemptions of one form or another), 83.3% of draftable men were enlisted.

12. 2. 1. Women and Men Officers

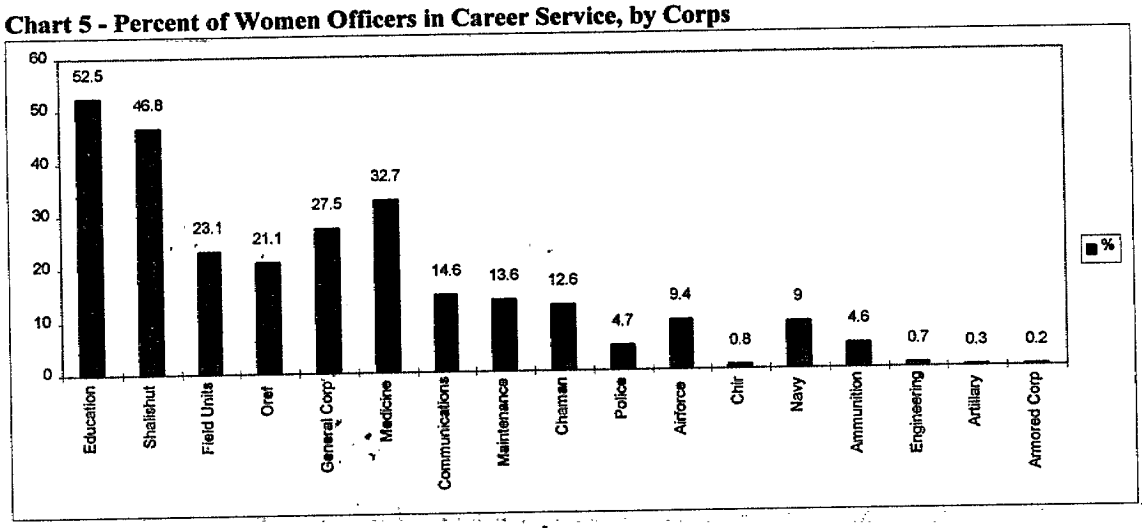
The graph below compares the 1995 proportion of women officers during mandatory service to the total number of officers, as distributed among the various corps.

Chart 4 - Percent of Women Officers in Service (Mandatory and Career), by Corps



Thus, the greater the combat component, the smaller the proportion of women officers. The graph below presents the same breakdown, this time for women career officers. It may be noted that in no corps do women constitute significantly more than half of the total career officers:

Chart 5 - Percent of Women Officers in Career Service, by Corps



Because women do not serve in combat positions, they are excluded from the upper echelons of the military hierarchy and confront a classic "glass ceiling" in their efforts to advance professionally. As can be seen from the table below, there were only nine women at the rank of

Colonel in 1985 and still only 11 in 1995, two of which served in *Chen* (the women's corps). In contrast, there was a significant increase in the proportion of women officers up to the rank of lieutenant colonel resulting from pressure from women wishing to move up the hierarchy and supported by the CO of Chen, as well as from the military's increased recognition of women's competence. It should also be noted that in 1995 women constituted two thirds of the second lieutenants, the lowest officer rank. The higher proportion of women junior officers among those in compulsory military service is explained by the profile characteristics of the women conscripted and the type of jobs women do. Women are recruited at what in military terms is defined as a significantly higher "quality-score" floor than men, and men with a high quality-score profile are more likely to be assigned to combat than to officer roles (Izraeli, 1997). Consequently, proportionately more women than men qualify to be officers and more are used in jobs of officer rank--mainly in the Personnel Corps. Furthermore, the proportion of women among Second Lieutenants has increased significantly in the last decade, as jobs done by women or to which women were transferred, primarily in the Personnel Corps, were upgraded from Non-Commissioned Officer to junior officer, resulting in an increase in the total number of officer roles at the lowest ranks:

Table 6 - Proportion of Women Among Officers, and Distribution of Officers by Gender and Rank

Rank	1985 % Women	1995 % Women	1995 Women	1995 Men
Major General	0	0		
Brigadier	0	0		
Brigadier General	0	0.8		
Colonel	1.5	2.2	2	1.8
Lieutenant Colonel	4.6	10.3	2.5	10.4
Major	13.6	21.2	14.1	25.7
Captain	12.1	22.5	12.4	20.9
First Lieutenant	15.3	37.3	32.7	26.8
Second Lieutenant		66.6	35.5	8.7
Civilians Employed by Military		18.4	2.6	5.5
Total		32.8	100%	100%

Source: IDF Spokesman

The following table shows the differences between men and women regarding the amount of time each serves in their rank before being promoted. At all levels, women must invest significantly more time before they are promoted to higher ranks. The graph differentiates between the General and Personnel Corps on the one hand, in which there is a relatively high

participation of women, and "the rest" of the IDF, including combat related fields on the other, where women's presence is far less marked:

Table 7 - Average Seniority (in months) Before Promotion- Women as Compared to Men

	General Army + Personnel		Rest of IDF*	
Advancement	Women Officers	Men Officers	Women Officers	Men Officers
Lt. Colonel- Colonel	135.2	79.9		78.1
Major- Lt. Colonel	90.1	75.4	101.4	69.7
Captain- Major	49.6	48.5	50.4	48.6
First Lt.- Captain	40	31.9	37.9	31.4

* Including Male Combat Positions

Source: IDF Spokesman

To round out the picture, the following table delineates the average age at which women receive their promotions, as compared to their male counterparts.

Table 8 - Average Age of Receiving Promotions

	General Army + Personnel		Rest of IDF*	
Advancement	Women Officers	Men Officers	Women Officers	Men Officers
Lt. Colonel- Colonel	48	40.1		39.4
Major- Lt. Colonel	35.4	35.9	37.3	35.3
Captain- Major	28.5	30.4	29.1	30.1
First Lt.- Captain	23.7	24.2	24.6	24.9

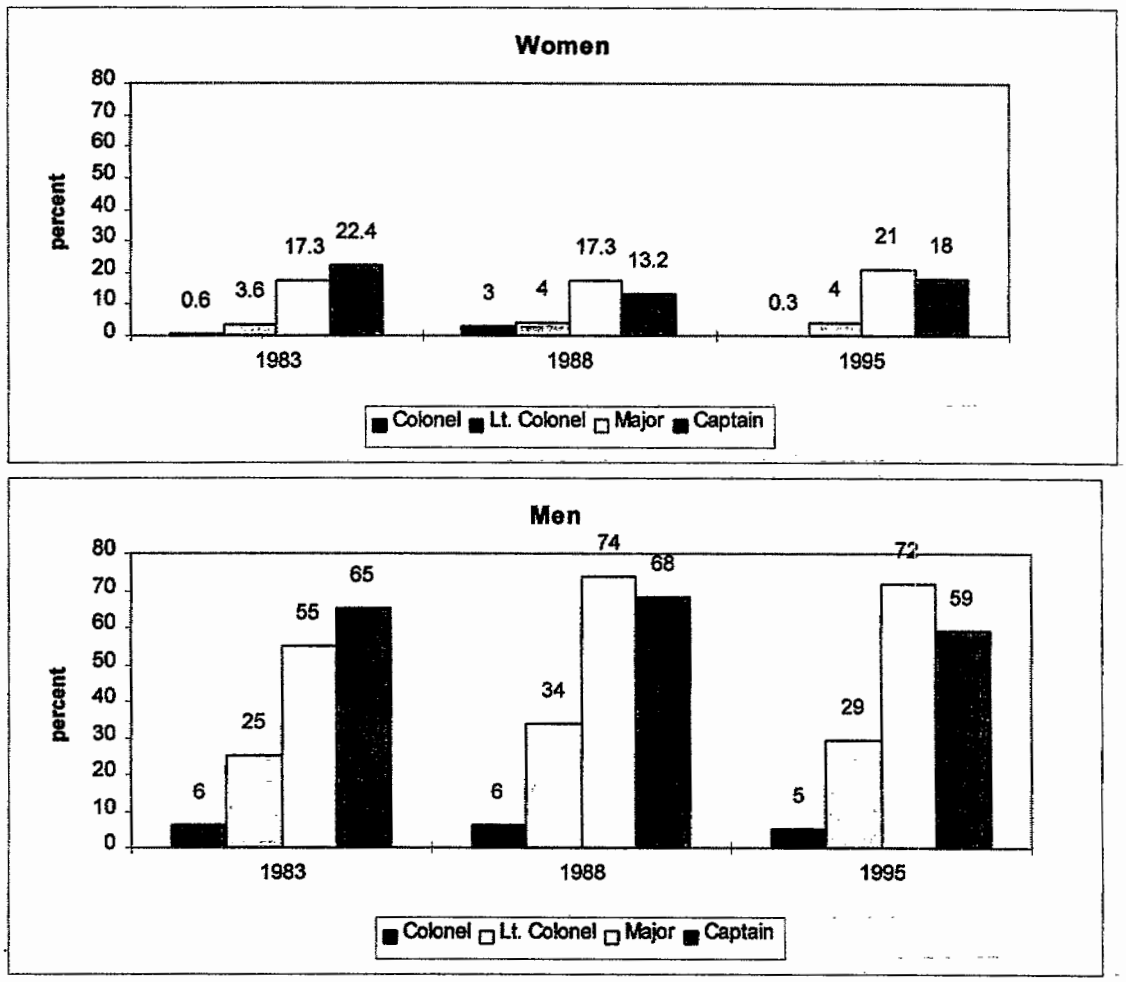
* Including Male Combat Positions

In 1995, a total of 3 officers were granted the title of Colonel.
One of them received her title at an advanced age.

Source: IDF Spokesman

The charts below compare the relative chances of men and women to be promoted at various levels of rank, in 1983, 1988, and 1995.

Chart 6 - Relative Chances of Reaching High Ranks



12. 2. 2. Distribution of Men and Women among Jobs in the Military

In recent years, more jobs have opened up to women in the army. In 1976, according to the abovementioned Commission on the Status of Women (1978), 210 out of 709 jobs were open to women, but women actually served in about half of those. Approximately 70% were in clerical positions. In 1988 women served in 234 of the approximately 500 jobs open to them. In 1996 they served in 282 of the 447 jobs open to them, while 178 were classified as combat positions and were closed to women. We can thus see that many more opportunities are open to women today than in the past.

The scope of this change, however, is significantly limited by the exclusion of women from combat roles. While the **Defense Services Law, 1986** no longer differentiates between men and women as regards the jobs which they are permitted to perform in the army, IDF policy continues to exclude women from combat positions. A differentiation should be made between positions which actually involve combat--which are closed to women--and non-combat positions in combat fields, which are open to women. Thus, for example, women may serve as instructors for jobs that are in fact combat jobs, but they are not allowed to perform those duties in the field. A third category involves jobs performed in combat areas. Combat areas are in principle also closed to women, unless specific approval has been granted. No women today, for example, serve in Lebanon, regardless of the actual content of the duty they perform. Women do perform non-combat functions in the West Bank and Gaza. In addition to the actual combat positions which are closed to women, various positions, while not actually involving combat, have traditionally been viewed as requiring previous combat experience and have thus been closed de facto to women as well. These include Chief Educational Officer, CO of Intelligence, CO of Personnel, Military Spokesperson, Chief Medical Officer, Chief Mental Health Officer, Chief Military Prosecutor, and President of the Appeals Court. The exclusion of women from these high-ranking positions has been criticized as withholding from women what could be an alternative route to leadership.

The use of women instructors for combat units was introduced in the early 1980's and has become relatively accepted. Between 1983 and 1993, women's representation among instructors grew by over 400%. Serving as an instructor for men-only units is therefore among the most prestigious jobs open to women. It should be pointed out, however, that the actual number of women instructors relative to male instructors remains low. The following table presents the breakdown of jobs held by women in the army, as compared with men:

Table 9 - Distribution of Conscripts by Gender and Job Category (1995)

Job Category	Women	Men
Quality	32.6	13
Maintenance/ Administration	39.1	18
Officers	6.4	4.6
Combat Instructors	4.6	19.8
Technical	1.7	18.1
Drivers	1.9	8.8
Not Yet Classified	13.7	17.5

Source: IDF Spokesman

A look at the composition of mixed courses for various jobs in the army shows the extent to which certain jobs are still considered "feminine," while other, relatively prestigious non-combat jobs, have become gender-neutral. Over 90% of participants in personnel and education-related NCO courses are women. On the other hand, courses for computer operators, air photo decoders, field security personnel, and flight supervisors have basically equal representations of both men and women:

Table 10 - Breakdown of Courses

Name of Course	No. per Year	Men	Women	Mixed	Total Students	Total Women	%	Total Men	%
NCO Personnel Planning	7	0	5	2	246	224	91	22	9
Coordinator Field Education	12	0	7	5	803	764	95.1	39	4.9
NCO Training	10	0	10	0	616	615	99.8	1	0.2
Computer Operator	3	0	0	3	154	78	50.6	76	49.4
Decoding Airial Photos	1	0	0	1	25	12	48	13	52
NCO Field Security	1	0	0	1	19	8	42.1	11	57.9
Flight Supervision	2	0	0	2	40	21	52.5	19	47.5

Source: Office of CO, Women's Corps

In certain areas, such as the technical branches, women's participation remains low despite the willingness of the army to accept women into such positions. This is mainly due to the fact that few women who are enlisted in the army have the pre-army training necessary to effectively fill these positions, and their short service makes it cost-ineffective for the army to specifically train them for these positions. As the technological services are among the most essential in the IDF, the lack of women's participation in this area of the army, together with their exclusion from combat and their exemption from reserve duty, mean that women are effectively absent from three of the most significant branches of the army. The army has recently become involved in various projects in conjunction with civilian industrial bodies, designed to encourage women to enter technological fields.

One project, which has not yet been implemented, aims to encourage 9th grade girls to enter technological areas of study in high school, the assumption being that they would then continue working in these fields both in the army and after. Another program aims to encourage women finishing high school to postpone their army service while obtaining a degree in one of the

technological fields, and then serve in the army in a position connected to what they have studied. This is part of a general program, called the *Atudah*, which enables men and women to postpone their army service while completing their studies beforehand. Women who join the *Atudah* program have a higher chance of actually performing their army service in their specialized area of study than do men, since men's ability to do so is subject to the army's need for combat soldiers.

12. 3. Interaction Between the Military and Civilian Life

Various researchers have referred to the paradoxical effect of the military on Israeli women's status (Izraeli 1997). On the one hand, Israel prides itself on being the only nation in the world where women, like men, are conscripted for mandatory service in the military. Given the importance of the army in Israeli society, this represents a mark of gender equality. However, military service for most women is quite different than it is for men. While a certain amount of progress has been made in the last decade regarding the improvement of women's status within the army, and while more and more jobs have been opening up to them, women continue to be excluded from combat positions. Thus women remain excluded from the upper echelons of the military leadership.

In order to understand the impact of this dynamic upon the status of Israeli women, it is necessary to understand the social and political significance of the army in Israel. As a country preoccupied with security concerns, Israel has been forced to invest a tremendous amount in the military, both financially and socially. The army is therefore one of the most important public institutions. Sociologists have pointed out the role that has been assigned to the army as a major source for the formation and recruitment of the political, and to a certain extent, economic elite (Izraeli, 1997; Yishai, 1997). It is an important channel for political recruitment and a recruitment pool for civilian managers in business and industry. It also serves as an educational and socializing agency and provides a source of personal identity as well as of national pride and identification.

As sociologists assert, the role of women within the army, therefore, has tremendous consequences for their status outside the army. The fact that no woman possesses rank over Brigadier General and that only men are found at the top echelons of the IDF, essentially means

that it is only men who define and detemine issues of national security. (Izraeli, 1997). As prestigious combat positions are virtually the only avenue to the most senior positions in the professional army, and the symbolic rewards and glory associated with them, women's exclusion from combat units means their exclusion from the top ranks of the army.

A recent study by Professor Izraeli shows that in some cases, the link between military and civilian success has even been institutionalized. For example, El-Al, Israel's national airline, recruits its pilots exclusively from the military. While this policy is currently being challenged in the Labor Court on the basis of the **Equal Employment Opportunies Law-1988** (see Article 2), and while women are currently being trained as IDF pilots, this restriction has meant that women can never be hired as El-Al pilots.

12. 4. The *Chen*--Women' Corps

Today, all women enter the army through the "Women's Corps" (called in Hebrew by the acronym *Chen*). The Women's Corps was created during the War of Independence and was based on a compromise between two competing models--the "Palmach" model, in which men and women served in mixed units, and the English model, in which women served separately in an auxiliary unit. There is no "Men's Corps" in the army, and all other corps are identified by their respective functions. *Chen* has formal responsibility for all women soldiers with regard to military training (including officer training), job assignments, discipline and judicial matters, as well as welfare and well-being, including protection from sexual harassment. Since 1983, *Chen* has had a Women's Corps Social Worker, whose job it is to assist women soldiers in handling their unique problems, including how to proceed if pregnant, how to manage various sexual issues, and how to deal with problems of sexual harassment.

Until 1987, the rank of the CO of *Chen* was that of Colonel. Only after intensive public pressure from women's organizations and women members of the Knesset, was the rank raised to that of Brigadier General, one rank below the CO of Personnel. Since the highest ranking woman in the IDF is a Brigadier General, and since there is only one woman of that rank, no woman is of high enough rank to participate in the meetings of the General Staff on a regular basis. The CO of *Chen* reports to the Chief of Personnel and may advise the Chief of Staff on matters of specific relevance to women. Until very recently, the CO of *Chen* was rarely consulted on matters of

general relevance to women. For example, she was not party to the relevant decisions to cut women's military service from 24 to 22 and then 21 months.

Until the mid 1970s, the gender regime of the military, like most other aspects of the IDF, was not open to public critique. A number of social and political developments in the 1970s paved the way for a greater awareness of women's problems in and regarding the army, and in 1978 the report of the **Prime Minister's Commission on the Status of Women** challenged the prevailing myth of gender equality. The most direct frontal attack on the gender practices of the military, however, came from hearings conducted in the Knesset standing Committee on the Status of Women (1992-1996) and from the 1995 Alice Miller case (mentioned above).

12. 5. Sexual Harassment in the Army

While the army has begun to recognize and deal with the problem of sexual harassment, its handling of the issue has been criticized by women's groups for focusing on treatment and guidance for the victims or potential victims, rather than on educating the men soldiers and commanders to behave properly. In the IDF, as in the civilian sector, it is lives of the women complainants which are disrupted by their coming forward, rather than those of the sexual harassers; the preferred solution in fact being to transfer the complainant to another base rather than to suspend the man.

All women soldiers who are conscripted into the army are provided with information about sexual harassment and about the options available to those who experience it. They are encouraged to view harassment as the fault of the perpetrator and to come forward and report the incidents. Confidentiality is ensured, and the soldier's right to choose which one of the available services she turns to is emphasized (i.e. Women's Corps Social Worker, Military Police, Women's Corps CO, immediate commander, etc.). Various services, such as a hotline for sexual harassment complaints and a program in which victims of sexual harassment are provided with the counseling of a *Chen* officer, have recently been implemented. A comprehensive proposal for dealing with the phenomenon of sexual harassment in the army has recently been discussed, and the likelihood of its implementation is high. This proposal provides a broad definition of sexual harassment, emphasizing that it may be verbal or physical, and that it may involve explicit or implicit exploitation of authoritative position. It also obligates various officials to report to

the military police all instances of physical harassment which come to their attention. Investigation by the police is then conditional upon the victim's consent and the Women's Corps Social Worker's assessment.

In 1994 the *Chen* Corps issued an internal report discussing the phenomenon of sexual harassment within the military, and found that most incidents of sexual harassment and indecent acts resulted only in absurdly low fines to be paid by the perpetrator. Recently, efforts have been made within *Chen* to ensure that punishments for sexual harassment reflect the severity of the damage caused to women soldiers who experience it, and in some cases sentences of 8 years imprisonment have been imposed. Similarly, the Personnel Division of the IDF recently decided to increase the severity of the punishments imposed and to ensure that any career soldier convicted of sexual harassment be discharged.

12. 6. Women in the Police

According to statistics of the Police Force of Israel, as of December 1995, women constituted approximately 18% of the Police (3583 women, as opposed to 16,490 men). While in 1995 women constituted approximately 25% of the applicants and only 12% of those who were eventually accepted, in the first part of 1996 (until May), women constituted 20% of the applicants and 20% of those who were accepted.

While the police force has no official policy regarding the areas within which women may serve, various positions either require army combat experience as a precondition for acceptance or indicate army combat experience as a preferred criterion. Given the policy of the IDF regarding women in combat, discussed above, this precondition effectively bars or hinders women from being able to serve in such positions.

In 1996 a petition was filed to the Supreme Court by several women applicants who felt that they had been discriminated against in their attempts to gain acceptance to the police force, and especially to what are considered "combat positions" within the force. In response to the petition, the Police decided to establish a committee to investigate the issue of women in the police force, and to reevaluate the policies according to which acceptance into its various branches is determined. The petition has not yet been decided by the Court.

ARTICLE 8

International Representation and Participation

State Parties shall take all appropriate measures to ensure to women, on equal terms with men and, without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

1. General

Women in Israel represent the Government on an international level, however the current numbers of women serving in this capacity are not yet equal to that of men. The present level of women's participation in the foreign service can be seen as a reflection women's overall position in the Israeli labor market, particularly in the civil service.

2. Details on Women's Representation

The following table shows the number of men and women in the foreign service.

Table 1 - Representation in the Foreign Service

	Home Office				Abroad		
	Men	Women	% Women		Men	Women	% Women
Diplomatic Status				**Diplomatic Status**			
Senior Ranks				*Senior Ranks*			
Ambassador	56	1	2%	Ambassador	14	1	7%
Minister	30	2	6%	Minister	45	-	0%
Minister Counselor	13	19	59%	Minister Counselor	54	6	10%
Junior Ranks				*Junior Ranks*			
Counselor	45	29	39%	Advisor	41	16	28%
First Secretary	29	40	58%	First Secretary	36	14	28%
Second Secretary	8	16	67%	Second Secretary	51	14	22%
Adminstrative Status							
Deputy Director General	13	-	0%				
Sub-Department Heads	9	3	25%				
Division Heads	58	14	19%				

Source: Ministry of Foreign Affairs

In 1996, 55 men and 21 women were recuited to the foreign service which indicates some improvement in women's representation.

Chart 1 -Percentage of Women New Recruits- Through the Years

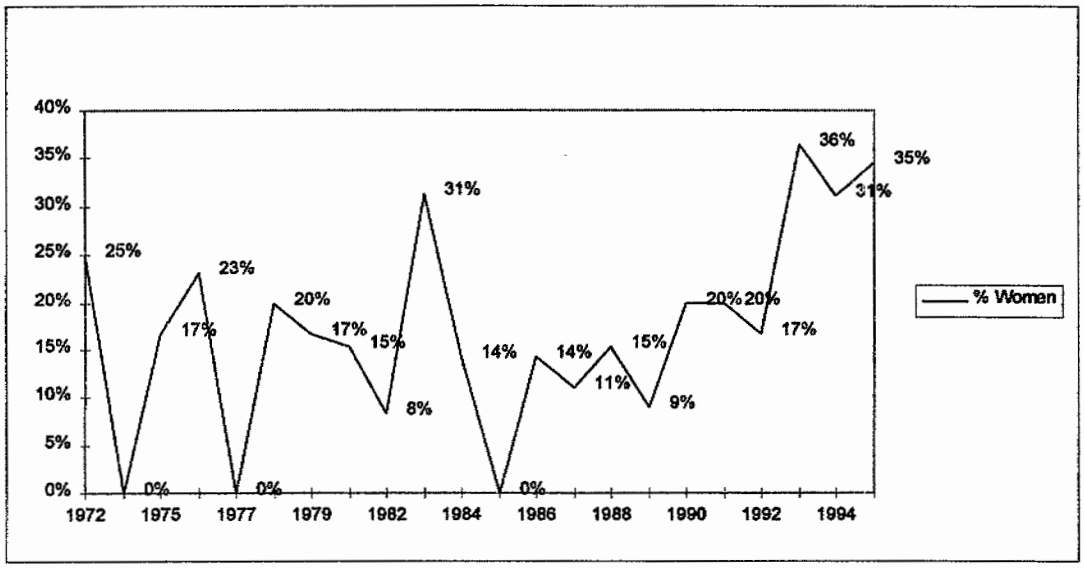


Table 2 - Number of New Recruits Through the Years

Year	Total	Men	Women
1972	4	3	1
1973	9	9	-
1975	6	5	1
1976	13	10	3
1977	10	10	-
1978	10	8	2
1979	6	5	1
1981	13	11	2
1982	12	11	1
1983	16	11	5
1984	7	6	1
1985	9	9	-
1986	21	18	3
1987	9	8	1
1988	13	11	2
1989	11	10	1
1990	15	12	3
1991	20	16	4
1992	18	15	3
1993	22	14	8
1994	45	31	14
1995	52	34	18

Source: Foreign Ministry

While there is no formal affirmative action policy in the foreign service, two years ago a decision to correct the discrimination in the numbers of women as heads of missions (which currently stands at 91 men and 9 women) was made, and a commitment to reach at least 50% female representation within ten years was taken. Of the 9 women heads of missions, 4 are political appointments (as are 7 of the 91 men).

3.Women Representatives to International Organizations

Israel has representatives in three of the Human Rights conventions of the UN: Convention on the Elimination of all Forms of Discrimination Against Women - Dr. Carmel Shalev; Convention on the Rights of the Child - Deputy Attorney General Yehudit Karp; and Convention on Political and Civil Rights - Prof. David Kretchmer. The first two are women.

Among the representatives to the Peace Talks with the Palestinians, the percentage of women varies. For the most part, there are no women in high level positions, although at the middle working levels they are fairly represented. This is partly a result of the fact that the talks are run mainly by representatives of the army or by former army officials.

ARTICLE 9 Nationality

State Parties shall grant women equal rights with men to acquire, change, or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

States Parties shall grant women equal rights with men in respect to the nationality of their children.

1. Citizenship

The **Nationality Law-1952** states that Israeli nationality is acquired in one of the following ways: through **The Law Of Return-1950;** residence in Israel; birth or naturalization. Israeli citizenship laws do not differentiate between men and women. Both genders have equal rights in regard to acquiring, changing or retaining their nationality. Neither the change of nationality by one member of a couple nor marriage to a non-citizen has any effect on one's citizenship. According to the laws relating to citizenship acquired by birth, both the father's and mother's citizenship carry equal weight.

According to **The Law of Return**, Jews and their relatives may acquire citizenship upon arrival in Israel. The law defines a Jew as either someone born to a Jewish mother, or a convert, and excludes Jews who have converted to another religion. The familial relationship required to determine Jewishness under **The Law of Return** is quite lenient and reaches back three generations. Its leniency is reflected in the fact that even one married to a grandchild of a Jew is entitled to acquire Israeli citizenship through **The Law of Return**.

In addition, other sections of **The Nationality Law** illustrate the identical rights available to both men and women. Section 7 states that the spouse of an Israeli national who has applied for citizenship through the naturalization process and who meets all the necessary requirements may obtain citizenship through naturalization even if he/she does not meet the necessary requirements. Furthermore, Section 8 of the law states that naturalization also confers Israeli

citizenship on the minor children of the naturalized person who were residents of Israel or the occupied territories at the time of his/her naturalization. However, if the minor was a citizen of another country, and both parents were entitled to custody, but only one went through the naturalization process, the child will not obtain citizenship if one parent declares that he/she is against his/her child becoming an Israeli citizen. In any case, these provisions do not differentiate between the parents at all on the basis of gender.

A 1980 amendment to **The Nationality Law** illustrates the effort that Israeli legislators put forth to avoid discriminating against women. In section 4 of the 1952 version of the law. It states that where one is born after ones father's death, it shall be sufficient that the father was an Israeli citizen at the time of his death in order for him/her to acquire Israeli citizenship. Following the amendments this section speaks of the situation where one is born after the death of either parent. Although practically this amendment seems superfluous, it represents a legislative attempt to create total gender equality within Israeli citizenship laws.

According to **The Passport Law 1952**, any Israeli citizen is entitled to a passport upon request. Furthermore, in section 3 it states that a minister may allow a child under the age of seventeen to obtain a joint passport with either one of the minor's parents. There is no distinction between the parents in either acquiring an independent passport for a child or in acquiring a joint passport. Under regular circumstances the passport is obtained upon the request of one parent. However, when parents are divorced or due to other exceptional circumstances, the agreement of both parents are necessary. In addition, since there are no restrictions on women's rights to travel, Israeli lawmakers felt it unnecessary to protect these specific rights in the law. Once again, the Israeli law in this area provides for equal and identical rights for both men and women.

2. Residency

According to section 2 of the **Entry into Israel Law -1952**, entrance and residential visas are issued based on the discretion of the Minister of Interior. The visas are issued according to the policy set by the Ministry of Interior. According to the existing policy, visas are given to spouses of permanent residents of Israel on the basis of family unity, subject to security and other limitations, and are distributed equally to both female and male spouses.

Regulation 12 of the **Regulations on Entry into Israel** states that the status of a child born in Israel but who is not a citizen is determined according to his or her parents' status. If the parents have different status, the child receives the status of the father or a guardian, unless the mother objects in writing. In such a situation, the child will receive the status of the parent as decided by the Minister of Interior. Due to the inequality in this regulation, the current practice, is to skip the first stage and decide the status of the child based on the parents' request. A child will be registered as a permanent resident upon the request of the parents, after proving that the central components of the family's life are in Israel.

ARTICLE 10 Education

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas n educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

d) The same opportunities to benefit from scholarships and other study grants;

e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

f) The reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely;

g) The same opportunities to participate actively in sports and physical education;

h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

1.General and Legal Introduction

The Israeli educational system consists of kindergartens; elementary schools; secondary schools (vocational and general), which are sometimes divided into upper school and middle schools, teacher-training institutions, post -secondary schools for continued and vocational studies, colleges and universities. The school year is approximately ten months long, and the study week in elementary schools is between 30-35 hours. In addition to formal studies, there is an

extensive range of extracurricular activities. The educational policy reflects the needs of Israeli society, including the absorption of immigrant students, the advancement of disadvantaged population groups and social and academic integration. The school system consists of two streams: State and State Religious. The State Religious system is autonomous with respect to pedagogic considerations and curriculum. The ratio of enrollment of Jewish students in the two streams is about 3/4 in the State system, to 1/4 in the State-Religious system. There are also independent "recognized" schools outside the State school system, most of which provide an ultra-orthodox Jewish religious education or Christian religious education. The independent "recognized" schools operate as non-profit organizations, financed by the government. The teachers who teach in those schools are not employed by the government, but rather by the schools themselves. The structure of the institutions and content of the studies in the non-Jewish sectors are analogous to those in the Jewish sector, with necessary differences that reflect the different languages and cultures of these populations. This Article will focus mainly on the Jewish schools within the State school system, which compose the majority of schools in Israel.

The Israeli education system is financed primarily by the central government and local education authorities. National expenditure on education has remained steady at 8.5% in recent years, but it is estimated that an increase in the prioritization of education will lead to an increase in the portion of the GNP allocated to education. According to the **Long School Day Law-1990**, which was passed under the initiative of the Knesset Committee on Education and Culture, and with the support of the Ministry of Education and of the social lobby in the Knesset, the duration of the school day shall soon be extended to eight hours. Although this law formally applies throughout the country, due to budgetary restraints, it has so far been implemented only in peripheral areas.

Through examining the legal basis of education within Israel, it is evident that the law provides equal opportunities for both men and women. According to **The Compulsory Education Law - 1949**, compulsory education is required for all children between the ages of 5 and 15. Education is provided free of charge through the age of 17, and for 18 year olds who have not yet completed the eleventh grade. In 1991 this law was amended and section 3B currently includes a prohibition against discrimination in acceptance, placement, and advancement of students. **The State Education Law-1953**, provides for a six day school week and determines the content and procedure of State education. It further states that State education is to be based on building

society on the foundations of freedom, equality, tolerance, mutual assistance and love of mankind. It should be noted that this law applies only to State schools, and excludes independent "recognized" schools. The Minister of Education, however, is authorized, under the **The School Inspection Law-1968** to apply those educational goals to the independent "recognized" schools as well. **The Special Education Law-1988**, mandates special education for individuals between the ages of 3 and 21 whose capacity for adaptive behavior is limited and who are in need of special education. **The Council For Higher Education Law-1958** defines the tasks of the Council For Higher Education, which is responsible for accrediting and authorizing institutions of higher education that award degrees.

2. Illiteracy Rates and Educational Levels

An illiterate person is defined by the Ministry of Education as a person who has had less than four years of schooling. The table below illustrates that although the total illiteracy rate is higher among women, there has been much improvement in this area.

Table 1 - Population with 0-4 Years of Education

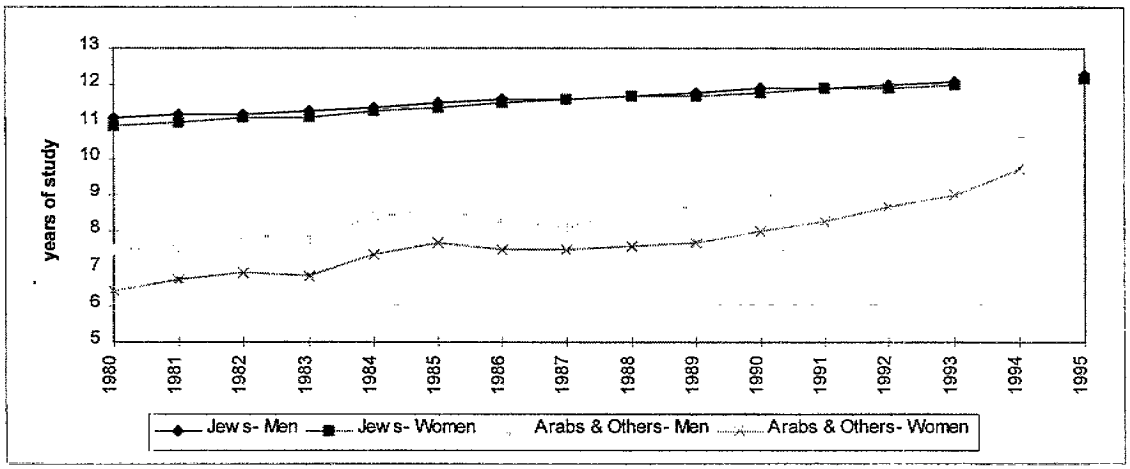
Jews				Arabs and Others			
Sex and Age	Thousands	Years of Schooling (percents)		Sex and Age	Thousands	Years of Schooling (percents)	
Women		0	1 to 4	**Women**		0	1 to 4
Total	1,681.30	4.3	2.1	Total	318.2	13.6	6.6
15-17	111.4	0.1	0.3	15-17	34.1	2	0.7
18-24	260.8	0.5	0.2	18-24	74.1	2.9	1.5
25-34	302.5	1	0.4	25-34	83.9	3.6	3.2
35-44	311.4	1.5	0.4	35-44	54.3	8.7	9.5
45-54	232.6	2.5	1.4	45-54	32.2	31.6	18.9
55-64	178.8	11.3	5.5	55-64	20.8	47	19.6
65+	283.8	13.3	6.7	65+	18.8	67.1	8.2
Men				**Men**			
Total	1,588.00	1.7	1.8	Total	315.7	4.1	5
15-17	118		0.2	15-17	35.7	1.6	1.3
18-24	271.2	0.4	0.4	18-24	76.4	0.9	1.1
25-34	307.9	0.7	0.5	25-34	83.9	1.1	1.4
35-44	302.2	0.8	0.4	35-44	53.2	3.1	3.4
45-54	219.8	1.5	0.8	45-54	32.1	5.1	10.7
55-64	156.6	3.6	4.4	55-64	19.5	13	23
65+	212.2	6.3	7.3	65+	14.9	34.6	24.5

Source: CBS, SAI 1996.

It is important to note that although the median years of schooling among Arab women is the lowest (9.7 years, as compared to 10.6 among Arab men, 12.2 among Jewish women and 12.3

among Jewish men), there is a steady increase in the educational level within the general Arab population, and when specific age groups are examined, within the group of Arab women.

Chart 1 -Median Number of Years of Study of over 15 year olds



Another indication of levels of education can be seen in the following table. The table illustrates that there is a somewhat low percentage of graduates of higher education. However, it difficult to gather an adequate understanding of the current percentages, since this table includes past, generations, when the education system was not as advanced.

Table 2 - Population Aged 15 and Over, and Last Educational Institute Attended, (percents)

in percents

	Academic	Post-Secondary	Secondary		Yeshiva	Primary and Inter-mediate	Did Not Attend School
			General	Vocational and Agricultural			
GRAND TOTAL							
total	19.6	11.3	26	20.3	1.9	16.9	4
men	20.1	9.6	23.4	24.3	3.8	16.7	2.1
women	19.3	13	28.5	16.3		17.1	5.8
JEWS							
total	21.8	12.4	24.6	23.1	2.2	12.9	3
men	22.1	10.4	21.1	27.6	4.5	12.6	1.7
women	21.6	14.4	27.8	18.8		13.1	4.3
ARABS AND OTHERS							
total	8.4	5.9	33.5	5.7		37.6	8.9
men	9.8	5.6	34.4	8.4		37.7	4.1
women	7	6.1	32.7	3.2		37.6	13.5

Source: CBS, SAI 1996

3. High Schools in Israel

3. 1. Basic Description of the School System and the Opportunities Available to Students in High Schools

In order to understand the relevance of much of the statistics and research conducted, it is essential to have a basic knowledge of the Israeli education system, especially the somewhat complicated divisions within the post-elementary (secondary) schools. The first six years of schooling, from the age of 6 to 12, are conducted in elementary (primary) schools. The next three years (13-15) are spent in intermediate schools, and from the ages of 16 to 18, education takes place in high-schools. The Israeli secondary-education system is made up of both technological/vocational and general high-schools. Most of the students that take their matriculation exams study in the general schools. The students within these high-schools select, with the help of advisors, a certain track within which to matriculate. This is accomplished by choosing to study specific subjects on enhanced levels. Towards the end of the intermediate school, the tracking process begins. Researchers describe the process as beginning in eighth or ninth grade, when the students are placed with the direction of an advisor, in either the technological or general track. As of 1985, 43.6% of girls studied in the general track, while

only 27.7% of boys studied in the general track. Students are able to study most subjects on a variety of levels, however, not every combination of subject and level is possible or available; in addition, in certain subjects, such as mathematics and English, a minimum required level of studies may be imposed by the school. Both boys and girls are able to learn the same subjects throughout elementary school and high-school. However, it is apparent that there are differences between the sexes regarding courses of study.

3. 2. General and Technological / Vocational Tracking

Table 3 - Students in Technological Secondary and Post Secondary Education

	Practical Engineers	Technicians	Matriculation Levels A,B.	Certificate Levels C.D., N.T.T. (P.T.T.)	Prepara-tory classes	Total
GRAND TOTAL (thousands)						
Total	1,050	3,646	67,580	35,869	6,361	114,506
Machinery	173	784	6,291	7,619	958	15,825
Electricity and Electronics	665	1,614	11,372	5,401	565	19,617
Building and Architecture	141	161	1,811	560	28	2,701
Biotechnology	18	21	516			555
Industry and Management		161	794	10	14	979
Fashion			1,932	3,970	790	6,692
Beauty Care				1,255	158	1,413
Nursing and Paramedical		260	1,072	95		1,427
Infant Education			636	948	44	1,628
WOMEN						
Total	151	893	30,855	16,816	2,730	51,445
Machinery	10	49	302	201	7	569
Electricity and Electronic	35	71	849	233	8	1,196
Building and Architecture	72	80	864	228	5	1,249
Biotechnology	10	13	180			203
Industry and Management		71	294		1	366
Fashion			1,875	3,820	777	6,472
Beauty Care				842	99	941
Nursing and Paramedical		223	957	95		1,275
Infant Education			595	918	31	1,544
TOTAL PERCENTAGES						
Total	0.9	3.2	59	31.3	5.6	100
Machinery	1.1	5	39.8	48.1	6.1	100
Electricity and Electronic	3.4	8.2	58	27.5	2.9	100
Building and Architecture	5.2	6	67	20.7	1	100
Biotechnology	3.2	3.8	93			100
Industry and Management		16.4	81.1	1	1.4	100
Fashion			28.9	59.3	11.8	100
Beauty Care				88.8	11.2	100
Nursing and Paramedical		18.2	75.1	6.7		100
Infant Education			39.1	58.2	2.7	100
PERCENTAGE OF WOMEN						
Total	14%	24%	46%	47%	43%	45%
Machinery	6%	6%	5%	3%	1%	4%
Electricity and Electronic	5%	4%	7%	4%	1%	6%
Building and Architecture	51%	50%	48%	41%	18%	46%
Biotechnology	56%	62%	35%			37%
Industry and Management		44%	37%	0%	7%	37%
Fashion			97%	96%	98%	97%
Beauty Care				67%	63%	67%
Nursing and Paramedical		86%	89%	100%		89%
Infant Education			94%	97%	70%	46%

Source: Current Briefings in Statistics

The table above depicts machinery or electronics as almost exclusively male subjects. It further shows building and architecture as subjects studied equally by men and women. Statistics reveal, as expected, that fashion and nursing/paramedics are clearly female dominated fields. Surprisingly, the majority of biotechnical engineers and technicians are women.

Table 4 - Matriculation Examinees and Percent Entitled to Certificates (Hebrew Education), 1993/94

	Boys	Girls
EXAMINEES		
Total	23,187	27,866
General	14,651	21,333
Technological/ Vocational	8,536	6,533
ENTITLED TO CERTIFICATES		
Total	14,130	17,887
General	9,771	15,307
Technological/ Vocational	4,359	2,580
PERCENT OF EXAMINEES ENTITLED		
Total	61	64
General	67	72
Technological/ Vocational	51	40

Source: CBS Education and Culture, Selected Data

3. 3. Matriculation Levels

In 10th grade, a gap in the math level between girls and boys becomes evident. Statistics show that in 1985 there was more than a 2:1 ratio of boys to girls in the five point math matriculation level. By 1992 there were no drastic changes in these results, but the ratio was reduced to slightly less than 2:1 (Amit 1993). It is essential to note that researchers show that the achievements of the girls before the division into levels, which is done in the 10th grade, are equal to or greater than the boy's achievements, and the gap is created only following the segregation into levels. Thus, girls tend to choose a matriculation level below their true abilities (Rom 1993). Researchers believe that the differences and gaps in the professions, levels, and achievements of the sexes are a direct result of the tracking system (Amit, Movshovitz- Hadar 1989). The tracking may limit one's access to certain areas in higher education and therefore effect the

profession one will chose. Thus, many researchers contend that the tracking system only helps to amplify the inequality.

Table 5 - Matriculation Examinees, and Percent Entitled to Certificate, by Subject

	Total	Courses of Exams in Enhanced Subjects				
	Absolute Numbers	2 or More Scientific and 2 or More Humanities Subjects	2 or More Scientific Subjects	2 or More Humanities Subjects	1 Scientific and 1 Humanities Subjects	Undefined Course
		Percentages of Total				
Hebrew Education						
Total	36,659	11.9	22	43	6	17.1
Boys	14,651	13.4	28.3	34	7.1	17.1
Girls	21,333	11.2	18.2	50.3	5.3	15.1
Percent Entitled to Certificates in Each Cell						
Total	69	96	94	71	57	15
Boys	67	95	93	65	51	11
Girls	72	98	95	74	62	21

Source: CBS, SAI 1995

It is evident in the above table that approximately 2/3 of all matriculation examinees are girls, and that a higher percentage of girls have passed their matriculation exams. The table also illustrates that a higher percentage of male examinees took the matriculation exam with two or more scientific subjects, while a higher percentage of female examinees took the exam with two or more humanities subjects.

3. 4. Education Rates, Attendance Rates and Drop-Out Rates

Among the non-Jewish population, there has been a drastic decrease in the educational gap between the sexes. While in 1949, girls made up only 18.6% of the students in elementary schools, by 1979 they made up 46.9% of the students. However, in comparison to the Jews, non-Jewish education is still low. In 1995, the median educational rate among the Jewish population aged 15 and over was 12.2 years, as opposed to 10.2 years among the non-Jewish population. Jewish men's median educational rate was 12.3, a little higher than the Jewish women's rate of 12.2. Arab men's median educational rate was 10.6, quite a bit higher than the Arab women's rate of 9.7. However, among Arab youth the gap between the education level of boys and girls is

diminishing. Statistics show that among Arab girls ages 15-17 the median educational rate in 1995 was even higher than that of Arab boys of the same age group, 10.6 years among the girls compared to 10.5 among the boys. The median rate among the 18-24 years old in the Arab sector was the same for men and women (11.6), and only among the older population group is the gap between men and women visible. Approximately 95% of the non-Jewish communities in Israel finish at least 8 years of education. The gap between the sexes that existed in Arab education has been bridged, and surprisingly enough Arab girls currently have a higher attendance rate (see table below).

As of the school year 1994/95, the attendance rates of 14-17 year olds in Jewish education revealed that 92.6% of boys and 99.6% of girls were continuing their education. Such post-elementary school attendance rates have increased dramatically within the past years, yet the gap between the sex has remained steady. As of 1994/95, the attendance rates of 14-17 year olds in Arab education revealed that 65.7% of boys and 69.2% of girls were continuing their education. This trend of continuing education is apparent through decreasing dropout rates. In Jewish education, there has been a decrease in the dropout rates from 20.4% in 1971/72 to 5.5% in 1991/92. In Arab education, drop-out rates have fallen from 25.3% in 1971/72 to 14% in 1991/92. There is, however, a problem with determining the dropout rate since there are no official statistics taken by the Ministry. It should be noted that the statistical data here is based on the amount of students that register for school, not the actual attendance rate.

Table 6 - Attendance Rates of 14-17 Year Olds, by Type of School and Religion

Rates per 1000 in respective group of population

	AGE 14-17		
	Girls	Boys	Total
Hebrew Education			
1969/70	707	631	668
1979/80	865	729	795
1989/90	957	855	905
1993/94	981	909	944
1994/95 Total	996	926	959
Primary Education	23	28	25
Post-Primary Education			
Intermediate Schools	177	180	178
Secondary Schools- Total	796	718	756
General	459	336	396
Technological/Vocational	337	382	360
Arab Education			
1993/94	675	652	664
1994/95 Total	692	657	673
Primary Education	19	22	20
Post-Primary Education			
Intermediate Schools	153	163	158
Secondary Schools- Total	520	472	495
General	404	341	372
Technological/Vocational	116	131	123

Source: CBS, SAI 1996

4. Talented and Gifted Children

The Minister of Education and Culture created a special Department to deal specifically with gifted children. The Ministry's express goal is to provide educational opportunities for gifted children which are suited to their special talents and skills, while adhering to the values of democracy and equality inherent in Israeli society. Some of the Department's activities include: testing gifted children throughout the country, establishing unique enrichment programs, and providing for in-service training and seminars for teachers of the gifted. The Ministry of Education's data, depicts a 2:1 ratio of boys to girls in the programs for gifted children. This ratio, calculated in both 1992 and 1996, has remained constant. The Ministry claims that this 2:1 ratio, also exists throughout the world and in professional literature.

5. Classroom Interaction and Teacher- Student Relationships

Classroom dynamics are important factors in the assessment of gender differences in the education system. Researchers state that teachers relate differently towards boys and girls, often unconsciously, and are more attentive to male students. This can be partly attributed to the fact that behavioral problems are more common among boys. Yet the message conveyed to girls is "to continue being cute and quiet," while the message to boys is "to try harder and improve" (Avrahami-Ainat 1989). In addition, these low expectations from girls lead to self fulfilling prophesies.

6. Activities and Educational Programs Adopted by the Ministry of Education in Order to Prevent Discrimination

6. 1. Gender Stereotypes Within School Books

Research conducted on messages conveyed in school-books, from 1989-1992 examined books from various subjects and intended for different age groups. The study revealed that women are depicted as being emotionally unstable, overly concerned with their appearance, weak, lacking personality, ignorant, jealous, disloyal, dependent, overly inquisitive, and as failing to contribute to society. These characteristics create negative stereotypes of women. In addition, men are mentioned in school books three times as often as women.

In 1993, in an attempt to combat sexist stereotypes, the Ministry of Education, Culture and Sport issued a new list of criteria for school books. Among these criteria are: 1) since Hebrew is a gender-specific language, grammar forms should be used in order to avoid being exclusive; 2) effort should be made to combat occupational stereotypes in textbooks and to prevent new stereotypes from being created; 3) it is important to stress that the choice of professions is open to everyone based on their individual strengths, abilities and talents, without discrimination on the basis of gender; 4) books must include equal use of descriptive character traits, so that a specific characteristic is not used exclusively for either men or women; 5) the activities and achievements of women should be described along side those of men; and 6) equality must be conveyed through the writing style; for example by not always referring to teachers in the feminine form.

Some critics of the education system point out that although the Ministry of Education has created a list of "rules" for improving the current situation, it must continue to act. These critics believe it is essential that: 1) the Ministry of Education carefully examines all the books they publish and concern itself with the content of privately published school books; 2) it is necessary to educate teachers about the existing sexist messages in school books, and to equip them with tools to deal with social messages that contrast with the goals of education and of an enlightened society; and 3) women's involvement in the Ministry of Education, especially at the higher levels may help the next generation create a society in which there is more equality between the sexes.

6. 2. Other Instructions and Intervention Programs of the Ministry of Education Which Aim to Prevent Discrimination

In addition to these concentrated efforts on the specific problem of stereotypical images in school books, the Ministry has acted in a variety of ways in order to eliminate and prevent gender discrimination. One such form of action is through issuing internal instructions and guidelines, such as those issued in 1986, in which the Ministry instructed nursery teachers to contain themselves from pressuring boys to act masculine or girls to act feminine.

There are also stipulations set out by the Ministry of Education in 1987, that currently guide girls to learn in technological schools, where in the past these schools were only for boys. This is partly implemented through cooperation with private educational initiatives, such as the *Na'aleh* Project. *Na'aleh*, an intervention program carried out in some upper and middle schools, allows for female students, parents, and school staff to work together and make careful decisions about studying sciences, such as math, physics, chemistry, and computers. These decisions include helping students decide which level matriculation exam is appropriate for them, and helping students choose a future profession. The program aims to increase the number of female students studying the sciences on a high level and to influence girls to study math on the five point (highest) matriculation level.

As a result of a report written following a one day seminar on equality within the education system, which was organized and written by the Israel Women's Network in 1993, the Minister

of education created a budget of resources and declared in the Knesset in 1995 a policy for the advancement of equal opportunity between the sexes in education. As part of the new policy, the Minister appointed a Supervisor on Equality between the Sexes within the Ministry of Education. A steering committee of the Israel Women's Network that consists of experts from different areas of education works together with the Supervisor to offer advice and provide support. One of the Supervisor's main activities so far has been the publication of a reader titled "A Gender Found Its Equality", which includes many articles, reform programs, and research findings on the issue of gender equality in education (Segen 1995). Other activities of the Ministry under the initiative of the Supervisor include: 1) building a training program for teachers; 2) establishing seminars to create awareness of the problem; 3) teaching children's magazines to be careful of hidden messages they might convey; 4) checking school books and curriculums; sending reports from time to time to the general administrator; 5) creating a connection with women's organizations in Israel; 6) establishing seminars for different audiences (teachers, advisors, administrators); and 7) coordinating activities with the educational television, academic institutions and local councils interested in the advancement of women.

The Ministry's plans for the future include, an experimental project known as "Equality 2000." Initiated by the Israel Women's Network, this project is a three year long intervention program which will be carried out within 5 different middle schools. While the execution of the program will be undertaken by the Ministry, the Network's steering Committee will also be involved. The project will involve 10-15 teachers within each school, who will be specifically trained to deal with issues of gender-equality. "Equality 2000" contains elements of both a research project and an active intervention program; it is meant to bring about change in the attitudes and behavior of teachers, advisors, administrators, students and parents regarding gender equality.

In addition, a number of books have been published recently by Israeli academic women, regarding gender equality in education. For example Her and Him in Class by Avrahami-Ainat, published in 1989, provides the teacher with important information, and suggests curriculums and activities aimed at creating equality.

6. 3. Young Leadership Programs in Schools

The position of girls in programs that cultivate young leadership seems to be at least equal, if not better to that of boys. In every school there are elections for a student council. Generally, representatives are chosen from each class. The Ministry's statistics depict a slightly higher number of girls chosen from eighth grade and above. Every school sends representatives to the local council. This council is composed of representatives from schools, community centers, youth groups, and different organizations. The national council which is made up of 40 representatives from all sectors of society: religious, secular, Druze, Arab, Bedouin; is currently headed by a girl, although the majority of the representatives are currently boys. In addition, three out of the four committees within the national council are currently headed by girls.

7. Sex Education and Education on Family Life

In 1987 the Ministry of Education stated that a program on sex education and education on family life is mandatory from first to twelfth grade. In elementary school children are taught the meaning of being a girl or boy and their respective roles in the family. In middle and high-schools the Ministry tries to convey awareness, understanding and knowledge of the meaning of force, being taken advantage of, and violence, as forbidden forms of relationships within family and outside of it. The basic view of the educational system is that sex education should not just include education on the physical aspects of sex, but rather it should also include information on the emotional and social aspects. The program concentrates on the following topics: physical development, body image, sexual identity, femininity/masculinity and equality between the sexes, family, reproduction, interpersonal and couple's relationships, and sexual health.

8. The State Religious Education

When discussing the values that the Israeli educational system wishes to promote among its students, the differentiation between the various streams within the State educational system should be noted. Specifically, it should be understood that the State-Religious education (SRE) stream is free to establish values and norms that guide its operation. According to estimates, 21% of Jewish students belong to the SRE stream, or approximately 235,000 children, 50% of whom are girls. Most SRE schools are segregated, with separate classes, often in separate

schools for boys and girls. The Administrator of the SRE estimates that, in the elementary level, 35% of the classes are separate, and in the high-school level, 90% of the classes are separate. The Administrator claims that the budget allocated to girls' schools is the same as the budget allocated to boys' schools.

9. Teachers

9. 1. Teaching- as a Feminine Profession

The teaching profession in Israel is composed primarily of women. As of 1992-93, more than 75% of all the teachers in Israel were women. Among Arabs however, the gap between the sexes within the teaching profession is considerably smaller. Furthermore as the level of the educational institution increases the female majority of teachers decreases. This is illustrated through the following 1993 statistics. in 1993, women made up 90.4% of teachers in Hebrew elementary schools and 53% of teachers within Arab elementary schools. In post- elementary schools women made up 70.2% of teachers in Hebrew schools and 29% in Arab schools. These post-elementary schools can be divided into middle school and upper school. Within middle schools 76% of the teachers in Hebrew education and 32% of the teachers in Arab education are women. In high schools, 62% of teachers in Hebrew education and 26% in Arab education are women. The percentage of women teachers has been steadily increasing throughout the past years.

Chart 2 -Increase of Women Teachers in Elementary Schools

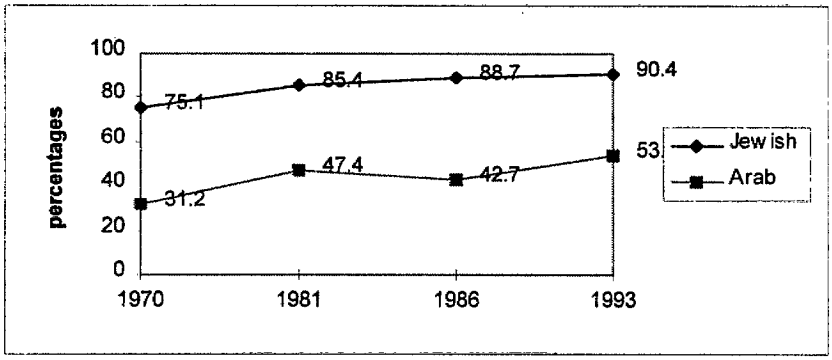
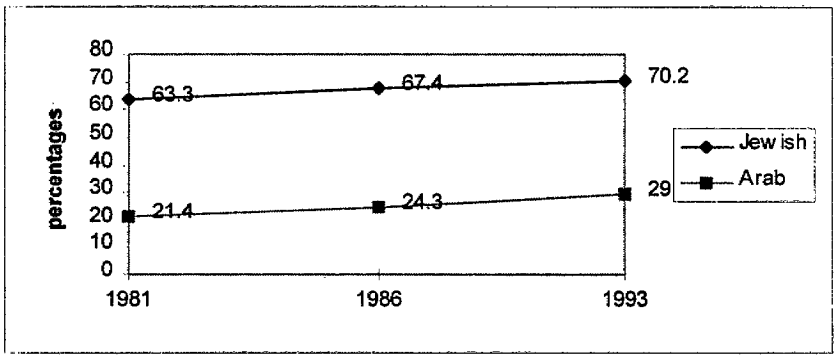


Chart 3 -Increase of Women Teachers in Secondary Schools



Source: Dr. Hertzog, CBS

Table 7 - Number of Teachers, by Years

	1948/49	1959/60	1969/70	1979/80	1989/90	1994/95	1995/96
Hebrew Education							
PRIMARY EDUCATION							
TOTAL	4,153	16,886	24,726	35,885	34,426	45,558	48,222
Thereof: Women	2,328	10,315	17,969	30,123	30,396	40,898	42,759
Percentage of Women	56%	61%	73%	84%	88%	90%	89%
POST PRIMARY EDUCATION							
INTERMEDIATE- Total			903	9,561	13,567	17,467	19,945
Thereof: Women			572	6,507	10,301	13,539	15,520
SECONDARY- Total	941	4,748	12,371	18,776	25,053	31,578	31,803
Thereof: Women	288	1,446	5,691	10,615	15,556	20,743	23,107
Arab Education							
PRIMARY EDUCATION							
TOTAL	170	1,195	2,524	6,279	6,640	8,772	9,396
Thereof: Women		377	783	2,894	3,250	5,035	5,584
POST PRIMARY EDUCATION							
INTERMEDIATE- Total			58	997	1,938	2,911	3,828
Thereof: Women			7	292	627	1,044	1,170
SECONDARY- Total		61	286	1,342	2,677	3,476	3,543
Thereof: Women		2	33	212	694	1,004	1,137

Source: CBS, SAI 1996

Table 8 - Number of Teachers, by Type of School

			JEWISH				ARAB			
			Total	Men	Women	%Women	Total	Men	Women	%Women
Total			76,993	14,195	60,675	79%	12,516	6,817	5,285	42%
Primary			40,375	3,857	36,114	89%	7,345	3,255	3,782	51%
Secondary	Total		37,691	10,709	25,262	67%	5,463	3,765	1,589	29%
	Middle School		15,582	3,359	11,781	76%	2,770	1,855	898	32%
	High School	Total	27,472	9,017	17,013	62%	3,057	2,182	783	26%
		track:theoretical	18,352	5,529	12,090	66%	2,389	1,751	573	24%
		Technological, Proffesional, Agricultural	11,472	4,250	6,431	56%	961	637	295	31%

*Margin of error 2%

Source: CBS, Ministry of Education, Culture, and Sport: Survey of Teaching Staff, 1992/3

Table 9 - Teachers by Subject

	Jewish		Arab	
	Primary School			
Subject	Total	% Women	Total	% Women
History	318	84.5	284	23.4
Bible	1,454	74.4		
Talmud	1,429	39.5		
Hebrew Language			608	36.1
Hebrew Literature	919	96.9	154	32.7
English	2,116	95.4	548	53.8
Arabic			1,453	50.2
General Teaching	16,545	94.6	1,699	69.1
Nature	1,872	92.3	524	34.8
Mathematics	3,273	89.5	1,130	47.3
Computers	569	84.4	92	39.8
Shop/ Arts/Crafts	1,569	93.2	188	86.5
Physical Education	1,828	67	309	13.8
	Middle School			
	Total	% Women	Total	% Women
History	1,072	75.8	118	25.6
Bible	1,599	74		
Talmud	1,221	42.5		
Islamic Culture			165	26.7
Hebrew Literature	1,466	93.5	187	25.7
English	1,746	89.3	315	45.5
Biology	1,054	86.4	131	45.8
Chemistry	159	77.3	71	31
Mathematics	1,963	76.1	391	25.6
Physics	529	63.4	84	32.1
Computers	290	67.1	63	30.2
Electronics	59	15.3	5	
Accounting	28	76		
	High School			
	Total	% Women	Total	% Women
History	1,490	64.9	140	10.9
Bible	2,203	68.5		
Talmud	874	28.3		
Islamic Culture			72	15.3
Hebrew Literature	1,811	87.8	141	90.3
English	2,174	84.9	281	48.9
Biology	1,071	78.8	164	27.4
Chemistry	667	79.9	128	19.7
Mathematics	2,200	65.8	310	20.8
Physics	840	40.3	135	10.8
Computers	379	67.6	72	16.9
Electronics	72	18.3	7	0
Accounting	86	87.2		

Source: CBS

9. 2. Teacher's Salaries

Inequality exists in the salary levels of men and women working within the educational system. Statistics reflect this relative inequality among the teaching staff. Recent data supplied by the Treasury Ministry regarding teachers' salaries who are employed by the Ministry of Education for full-time work reveals that overall, women earn on average 87% of men's salaries.

The table below which details the number of teachers in each salary level, further illustrates the differences in the salaries of men and women within the educational system.

Table 10- Salary Levels

	Primary Education				Secondary Education			
	Total	Men	Women	Unknown	Total	Men	Women	Unknown
Grand Total- Absolute Numbers								
Jewish								
Total Teachers	40,375	3,875	36,114	404	37,691	10,709	25,262	1,720
Salary Level:								
Dr. and M.A.	2,158	550	1,588	20	5,680	2,350	3,188	142
B.A.	7,157	1.007	6,069	81	16,027	3,592	12,086	349
Graduate	21,545	1,283	20,136	126	6,536	1,415	4,935	186
Certified	6,119	505	5,537	77	5,329	2,223	2,873	233
Not- Certified	1,904	269	1,607	28	813	213	555	45
Unknown	1,494	242	1,177	75	3,304	916	1,624	764
Arab								
Total Teachers	7,345	3,255	3,782	308	5,463	3,765	1,589	109
Salary Level:								
Dr. and M.A.	97	69	21	7	335	278	55	2
B.A.	956	492	371	93	2,505	1,739	747	19
Graduate	3,799	1,905	1,863	31	1,312	960	351	1
Certified	1,892	552	1,200	140	672	456	214	2
Not- Certified	494	206	264	24	287	147	134	6
Unknown	106	31	63	12	352	185	88	79

Source: Dr. Hertzog

9. 3. Administrative Positions.

The number of men working in educational institutions increases with the level of the position. Relative to men, there are many more women who have acquired Master and Doctorate degrees, yet who still work in non-administrative positions within the educational system (Hertzog).

Table 11- Teaching and Administrative Positions

	Primary Education				Secondary Education			
	Total	Men	Women	Unknown	Total	Men	Women	Unknown
Total Numbers								
Teachers (all)	40,375	3,857	35,114	404	37,691	10,709	25,252	1,720
Public	26,846	1,395	25,265	186	27,486	6,838	19,561	1,087
Religious Public	10,661	1,693	8,808	160	8,236	3,333	4,414	489
Private	2,870	769	2,041	61	1,894	530	1,260	104
Positions								
Principals	1,499	462	1,021	16	666	448	199	19
Public	948	148	797	2	382	225	149	8
Religious Public	414	232	174	9	199	157	33	9
Private	137	82	50	5	85	66	17	2
Vice Principals	507	127	377	3	674	316	335	23
Public	297	36	259	2	507	201	289	17
Religious Public	160	69	90	1	134	105	26	3
Private	50	22	28		33	10	20	3
Percentages								
Teachers (all)	100	9.6	90.4		100	29.8	70.2	
Public	100	5.2	94.8		100	25.9	74.1	
Religious Public	100	16.1	83.9		100	43	57	
Private	100	27.4	72.7		100	29.6	70.4	
Positions								
Principals	100	31.2	68.8		100	69.2	30.8	
Public	100	15.6	84.2		100	60.2	39.8	
Religious Public	100	57.3	42.7		100	82.6	17.4	
Private	100	62.1	37.9		100	79.5	20.5	
Vice Principals	100	25.2	74.8		100	48.5	51.5	
Public	100	12.2	87.8		100	41	59	
Religious Public	100	43.4	56.6		100	80.2	19.8	
Private	100	44	56		100	33.3	66.7	

Source: CBS, SAI 1996

The number of men teaching in religious educational institutions is greater than that in secular institutions. In institutions that are more gender-segregated or that are independent (Arab or religious) men hold more teaching positions. Furthermore, men hold a large number of administrative positions within these schools.

Table 12- Teaching and Administrative Positions in Arab Schools

	Primary Education				Secondary Education			
	Total	Men	Women	Unknown	Total	Men	Women	Unknown
Total Numbers								
Teachers (all)	7,345	3,255	3,782	308	5,463	3,765	1,689	109
Positions								
Principals (all)	329	286	29	14	129	119	9	1
Vice-Principals (all)	116	97	12	7	81	75	5	1
Percentages								
Teachers (all)	100	46.3	53.7		100	70.3	29.7	
Positions								
Principals (all)	100	90.8	9.2		100	93	7	
Vice-Principals (all)	100	89	11		100	93.8	6.3	

Source: CBS, SAI 1996

The number of women currently studying to be teachers illustrates the fact that this trend is unlikely to change in the near future.

Table 13- Teacher Training Colleges

	1969/70	1979/80	1984/85	1989/90	1994/95	1995/96
	Hebrew Education					
Total Students	4,994	11,285	12,482	12,333	18,380	20,003
% Men	13.9	10.3	15.7	16.6	16.3	15.9
% Women	86.1	89.7	84.3	83.4	83.7	84.1
	Arab Education					
Total Students	370	485	423	576	1,193	1,598
% Men	46.9	45.2	49.9	22.9	16.2	12.9
% Women	53.1	54.8	50.1	77.1	83.8	87.1

Source: CBS, SAI 1996

10. Physical Education and Sports

The Sports Law-1988 provides for equality within sports and physical education. Section 10B of this law requires that the regulations of a sports union or association include statements concerning the equal opportunity of women to sports and physical education.

In Israel, girls make up 21% of all those involved in competitive sports. In countries throughout Western Europe 35%-40% of competitive athletes are women. Within athletic institutions and organizations in Israel, there are almost no women in senior positions, despite the fact that many female students graduate from physical education colleges. Only 5% of the administrators of sports unions are women, and between 10%-15% of coaches are women. In regard to competitive sports, women's teams receive a coverage of 5% relative to men's competitions.

In 1993, the Dekel Committee which was established by the Ministry of Education, Culture and Sport as the committee for the advancement and development of physical education and sport in both formal and informal education within Israel, presented its recommendations. The committee requested the establishment of a sub-committee for the special purpose of examining and improving the situation of women's sports. The sub-committee suggested that a special unit for the advancement of physical education and sport for girls and women should be established.

The special unit for the advancement of women in sport, recommended by the sub-committee, was established in 1994 in accordance with the new policies of Deputy Minister of Education Culture and Sport. The purpose of the unit includes increasing the number of women involved in different branches of competitive sports, the number of women coaches, and the amount of women as decision making administrators. Furthermore this unit intends to initiate a program to widen the knowledge and research on girls and women in sport. The unit decided that there was no need for formal legislation and that the legislative situation for equality in sports was sufficient as a result of the **Sports Law-1988** and the Convention on the Elimination of all Forms of Discrimination Against Women.

In addition, the sub-committee decided to adopt policies of affirmative action in order to increase the amount of female participation in competitive sports. This sub-committee has also created a list of instructions which it plans to enforce within the education system. For example, a school will only be allowed to participate in sports competitions on the condition that 40% of the students involved are girls. Furthermore, if a school does not have a minimum participation of 30% girls on their selected sports team, they will not receive financial aid or be allowed to participate in competitions. It is also recommended that school administrators develop programs that make teachers, parents and students, aware of the importance of the involvement of girls in sports and the importance of equal opportunities in physical education and sport. Administrators can accomplish this goal by creating programs encouraging girls' involvement in sports such as training seminars, special sports days and events, and meetings with outstanding female athletes. Recommendations to elementary schools and middle schools include requiring sport classes to consist of at least 40% girls. Recommendations for high schools include the equal distribution of resources such as convenient times for competitions, uniforms and equipment. There should also be a program parallel to that of the boys which prepare girls to be physically fit for the army.

The sub-committee stresses: 1) the importance of programs in teachers' training colleges that create awareness of the need for equality in sports and physical education; 2) the inclusion of programs for the advancement of female graduates of such teaching training colleges to administrative positions in the physical education system; 3) the encouragement of these graduates to belong to Israeli and international unions that promote the advancement of physical education and sports for women; 4) the involvement in supervising post-high school programs,

such as rewarding exceptional female athletes with scholarships; and 5) the belief that they must involve the media to help change popular attitudes towards women in sport..

Until 1996 the following activities had been executed in order to improve the situation of women in sports. The Ministry of Education and Sport established a union of sports among the schools. The union includes a budget that is favorable towards the women's teams. Within the budgeting of the sports authority, there is an equal distribution of the total amount of money spent on sports for men and women, while for competitive sports, 50% more money is spent on women's teams. These extra funds are part of an affirmative action policy to improve the current discrimination

Furthermore, in 1995 Israel adopted the 1994 Brighton Declaration, which states that every effort should be made by State and government machineries to ensure that institutions and organizations responsible for sport comply with the equality provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the UN Convention on the Elimination of All Forms of Discrimination against Women.

In Israel, in addition to the funding from local municipalities and the Ministry, much of the funding used to encourage and support sports is acquired through the lottery. The Committee involved in the division of this money recommends that there should be no discrimination in the division of funds, and that women's sports should be equally supported. As a result, changes took place in the monetary division of the lottery funding within basketball. Where in 1994 the men's national budget was double that of women's, according to the new directives the budget would be equal.

Supplementing these developments, there has been some litigation in this area. In **The Basketball Union of Israel v. L.C.N. For the Advancement of Basketball for Women,** there was a discussion on the discriminatory regulations of the union of basketball in Israel. These regulations state that while the men's national league is allowed to sign foreign players, the women's league is not. Furthermore, the men's team is allowed to spend more money than the woman's team. The District Court invalidated the discriminatory sections of the regulations because they were against public policy and in contradiction to section 10 of **The Sports Law-1988** (see introduction to physical education). The Israeli Basketball union appealed to the

Supreme court, which accepted their appeal on formal grounds without dealing directly with the issue. The internal court within the sports union later accepted the claim of discrimination.

Recently, one of the leading women's national basketball team, turned to the High Court of Justice because they were receiving half the amount of funding as the men's team. The court decided to establish a nation-wide committee which would create tests and criteria on the issue of a local municipality's monetary support to sports groups so that there will be equality between male and female sports teams.

11. Higher Education

11. 1. Women as Students

11. 1. 1. Opportunities

Everyone, regardless of gender, has the same opportunity to study any subject, or major in whatever they wish, at the level of higher education. Opportunities are limited to the extent that certain departments have prerequisites which require students to have taken high level math or science matriculation exams. As discussed earlier, many girls do not sign up for these high level classes and as a result are limited in their choice of subjects in higher education.

11. 1. 2. Percentages of University Students and Graduates

In 1995, statistics showed that 55% of undergraduate students in Israel are women. This favorable majority of women within higher education is only matched by France, in which the female percentage in higher education slightly exceeds that of Israel. In addition, over 50% of all graduate students in Israel are women. This percentage exceeds that of all countries except the United States where the percentages are basically equal to those in Israel. The percentage of women among university degree recipients is similar to their share in the total number of students, and women participate equally in the higher education system overall. In addition, it must be noted that among the students receiving third degrees, women number less than half. In 1992/93, women accounted for 56.2% of all undergraduate students, 53.6% of master's degree students, and 43.8% of doctoral students.

Table 14 - Students in Universities, by Degree and Subject

	Total 1974/75	Total 1984/85	Total 1989/90	Total 1992/93	Humanities	Social Sciences	Law	Medicine	Sciences and Mathematics	Agriculture	Engineering and Architecture
First Degree	100	100	100	100	100	100	100	100	100	100	100
% Thereof Women	44.8	48.3	51.3	54	74	55.9	46.6	71.4	44.3	41.2	18.2
Second Degree	100	100	100	100	100	100	100	100	100	100	100
% Threreof Women	35.2	46.8	50.3	53.5	73.7	52.9	38.4	49.8	48.7	46.8	21.7
Third Degree	100	100	100	100	100	100		100	100	100	100
% Threreof Women	25.9	39.7	41.3	43.8	54.4	46.1		65.4	41.3	42.9	21

* The total percentage of women receivng degrees reached 54.7 in 1995

Source: CBS, SAI 1996

Table 15- Students in Universities

	1969/70	1979/80	1989/90	1993/94	1994/95	Annual Percent Change 1969/70-1979/80	1979/80-1989/90	1989/90-1994/95
All Students								
Total								
Absolute Numbers	33,383	54,480	67,770	91,480	97,250	5	2.2	7.5
% of Women	43.3	46.2	50.8	54.5	55.3	5.7	3.1	9.4
%'First Year for First Degree								
Total	100	100	100	100	100	3.2	0.9	8.3
Thereof: Women	47.5	50.1	53.7	56.4	56.5	3.8	1.2	9.9

Source: CBS, SAI 1996

The following two tables provide data on the recipients of degrees: The first provides the numerical progression of women students throughout the years in absolute numbers.

Table 16- Recipients of Degrees From Universities

	1974/75	1979/80	1984/85	1985/86	1986/87	1989/90	1990/91	1991/92	1992/93	1993/94	1994/95
	Total										
Grand Total	8,799	9,371	11,218	12,050	12,089	13,915	13,633	14,658	15,573	16,139	18,339
thereof: Women	3,780	4,223	5,443	5,883	5,986	7,033	7,020	7,535	8,240	8,811	10,031
	Bachelor's Degree										
Grand Total	6,638	6,740	8,113	8,919	8,845	10,192	9,995	10,506	11,144		
thereof: Women	2,823	3,035	3,977	4,377	4,423	5,269	5,206	5,475	5,931		
	Master's Degree										
Grand Total	1,233	1,652	2,140	2,200	2,274	2,790	2,726	3,068	3,153		
thereof: Women	413	625	874	910	972	1,236	1,264	1,418	1,526		

Source: Council For Higher Education, Planning and Budgeting Committee

The second table shows the breakdown of degrees earned by subject and level. Here too it is apparent that women concentrate in certain topics, such as humanities, and are less likely to enter fields such as Business and Mathematics / Computers.

Table 17- Women Recipients of University Degrees, by Fields of Study 1992/93

Field of Study	Grand Total		Bachelor's Degree		Master's Degree		Doctorate	
	Total	Women	Total	Women	Total	Women	Total	Women
Grand Total	15,173	8,240	11,144	5,961	3,153	1,526	556	211
Humanities- Total	3,915	2,826	2,605	1,925	531	375	90	41
General Humanities	1,223	640	1,013	547	161	78	49	15
Languages, Literature, and Regional Studies	937	790	824	703	84	68	20	11
Education and Teacher Training	1,336	1,075	455	405	246	199	16	13
Arts, Crafts, and Applied Arts	302	247	251	208	31	23	5	2
Special Courses and Miscellaneous	117	110	62	62	9	7		
Social Sciences- Total	4,946	2,597	3,801	2,014	1,082	548	47	22
Social Sciences	4,187	2,324	3,446	1,877	685	416	40	18
Business and Management	759	273	355	137	397	132	7	4
Law	506	214	483	201	22	12	1	1
Medicine- Total	1,510	918	1,043	696	437	205	22	10
Medicine	851	365	481	214	351	143	19	8
Para-Medical Studies	659	553	562	482	86	62	3	2
Mathematics and Natural Sciences- Total	2,350	1,167	1,456	767	608	288	285	112
Mathematics, Statistics and Computer Sciences	685	241	517	194	121	37	46	10
Physical Sciences	786	316	481	226	219	75	86	15
Biological Sciences	879	610	458	347	268	176	153	87
Agriculture	308	142	214	105	70	27	24	10
Engineering and Architecture	2,038	340	1,542	253	403	71	87	15

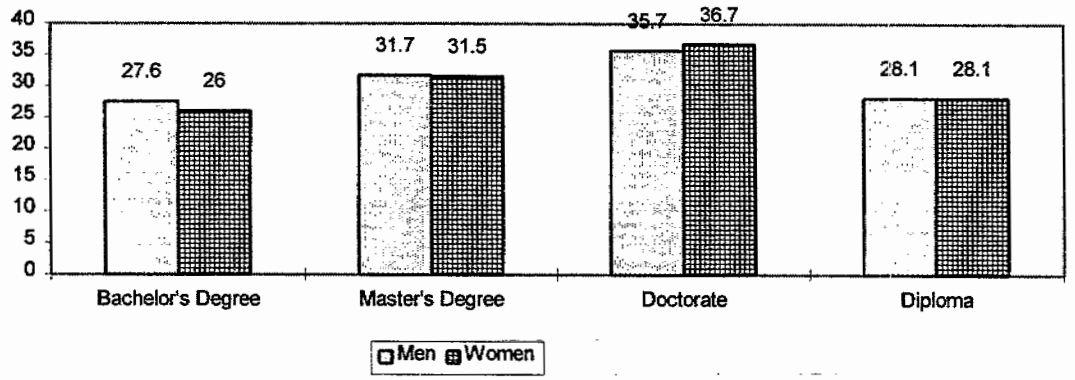
Source: Council For Higher Education, Planning and Budgeting Committee

Other statistics show that women make up a large majority of those studying health care (93%) and studying to be teachers (84%), but are underrepresented in the technological fields (20%). Their presence in the humanities is high (71.4%), while only 13.3% of those studying to become engineers and archaeologists are women. Statistics further demonstrate that there is approximately equal numbers of men and woman studying medicine (46% women), law (46% women), and the social sciences (59% women).

11. 2. Average Age at Which Students Receive Each Degree

The next two tables show the number of students in university by median age, and the percentage of students aged 20-29 enrolled in universities. Women prove to be generally younger than men when receiving their bachelor's degrees, 26.0 versus 27.6, mainly due to the fact that their mandatory army service is one year shorter than that of their male counterparts. For master's degrees, however, the median age for women is virtually identical to that for men, and for doctoral degrees, the median age for men (35.7) is a year lower than that for women (36.7).

Table 18- Median Age of Recipients of Degrees, 1989/90



Although in the past, the percentage of men aged 20-29 enrolled in university was higher than the percentage of women, by the mid-1980's the numbers were approximately even, and by 1993, the percentage of women surpassed that of the men, with more than 10% of that population group enrolled in university.

Table 19- Enrollment in Universities

percents of ages 20-29 in the Jewish population

	1964/65	1969/70	1974/75	1984/85	1989/90	1992/93
Total	3.8	6.3	7.2	7.6	8	8.9
Men	5.4	7	8	7.5	7.3	7.8
Women	2.8	5.6	6.3	7.6	8.7	10.1

Source: CBS, SAI 1996

11. 3. Non-University Higher Education

Aside from Government Universities, a number of alternative institutions of higher education, and institutions which grant diplomas other than bachelor's, master's and doctorate degrees exist in Israel. The following table shows the number of men and women students earning their first degrees in such institutions in 1996, and their breakdown by various fields. Once again, while women make up more than half of the total students, it is apparent that there are certain professions preferred by each sex.

Table 20- First Degree Students in Non-University Institutions for Higher Learning

Year/Subject	Total	Men	Women	% Women
1995/96- Total	23,747	8,582	15,165	64%
Teacher Training	10,781	1,364	9,417	87%
Technology Sciences	2,497	1,894	603	24%
Economics and Business Administration	4,923	3,299	1,624	33%
Arts Design and Architecture	2,201	790	1,411	64%
Law	973	409	564	58%
Communication	1,032	341	691	67%
Social Sciences	1,340	485	855	64%

Source: CBS, SAI 1996

11. 4. Minorities in Higher Education

Among non-Jewish communities in Israel, the amount of female students decreases as the educational level increases. The gap between men and women who pursue post-secondary degrees, which is relatively small among Jews, is rather large among other communities. More than three times the number of men receive higher education.

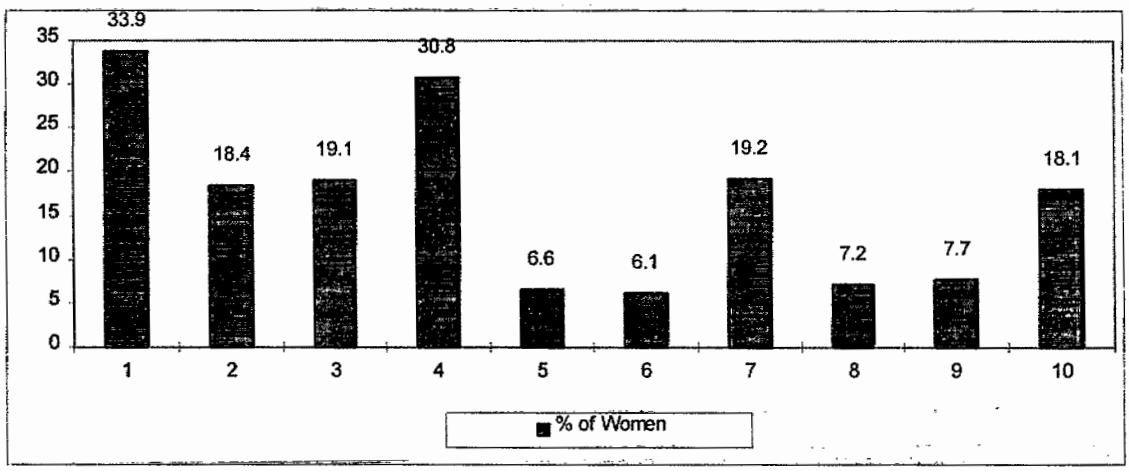
11. 5. Women in the Academic Staff

11. 5. 1. Percentage of Women Among the Academic Staff

As of 1992/93, women represented approximately 20% of senior academic staff financed by the Council for Higher Education budget, while in 1978/79 women represented only 16%. There is clearly an increase in the number of women across the ranks, but as the rank increases, the percentage of women at a given rank decreases.

The following table shows the number of women at each academic staff level, and the percentage they comprise of the total. The graph illustrates that the highest percentage women have attained is 33.9 in the humanities. And among those positions attained, the majority are of the lowest rank, that of Lecturer; while the percentages of women who are "full professor" are the lowest of all.

Chart 4 - Women on Senior Academic Staff, by Subject



1 Humanities
2 Social Sciences
3 Law
4 Medicine
5 Mathematics, Stst. & Computers
6 Physical Sciences
7 Biological Sciences
8 Agriculture
9 Engineering and Architecture
10 Other

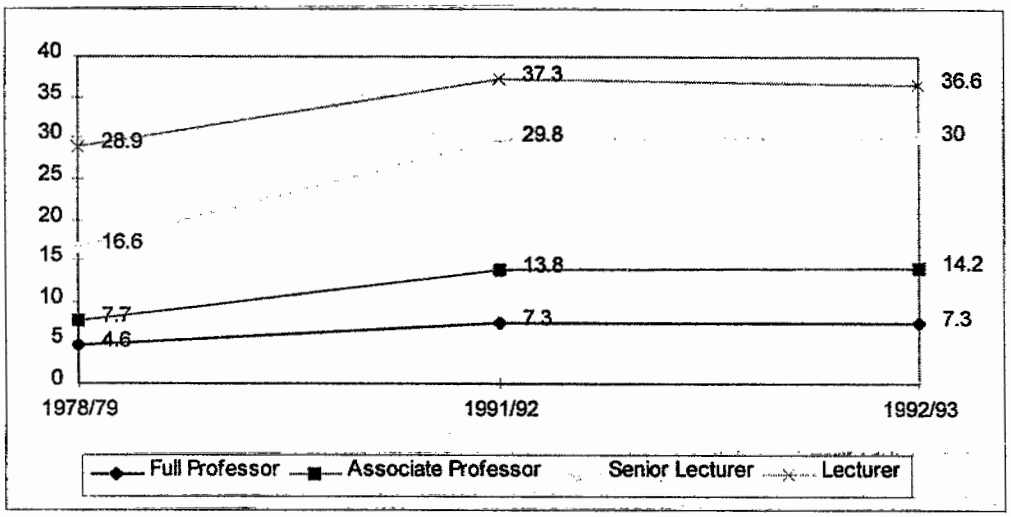
Table 21- Women on Senior Academic Staff, by Subject and Rank

Field	Total	Rank			
		Lecturer	Senior Lecturer	Associate Professor	Full Professor
Absolute Numbers					
Total	842	236	352	161	92
Humanities	412	127	199	63	23
Social Sciences	121	46	52	15	8
Law	16	4	1	6	4
Medicine	105	26	39	25	15
Mathematics, Stst. & Computers	23	4	10	5	4
Physical Sciences	32	3	6	15	8
Biological Sciences	70	7	23	18	21
Agriculture	7	3	3	1	1
Engineering and Architecture	37	7	12	12	6
Other	21	9	8	2	2
Percentage of Total Staff					
Total	20	36.6	30	14.2	7.3
Humanities	33.9	50.4	40.5	23.1	11.4
Social Sciences	18.4	30.4	27.1	8.1	5.9
Law	19.1	29.6	7	24.5	15.2
Medicine	30.8	56.6	45.1	22.1	15.7
Mathematics, Stst. & Computers	6.6	10.4	13.5	6.1	2.6
Physical Sciences	6.1	10.5	7.2	10.9	2.9
Biological Sciences	19.2	27.3	31.3	14.5	15.3
Agriculture	7.2	15.5	15.6	2.9	2.5
Engineering and Architecture	7.7	14.6	11	7.9	3.4
Other	18.1	35.9	21.6	6.7	8.5

Source: Council For Higher Education, Planning and Budgeting Council

This next graph shows the progression of women attaining the ranks of lecturer, senior lecturer, associate professor, and full professor. The numbers have been increasing, but only slightly. Between 1991/92 and 1992/93, the percentage of women granted full professorship did not increase, and the total number of women in this category is still extremely low.

Chart 5 -- Percentage of Women Among Senior Staff



Source: Council for Higher Planning

11. 6. Percentages of Women in Various Departments

A study of the influences on the division by gender between academic departments in Israel demonstrates that as the age of the department increases so do the chances of finding women professors in that department. This study also shows that the growth of the number of women in a department will increase their power, which influences their chances to reach the level of Professor.

11. 7. Activities to Improve the Situation

Women's under-representation in higher education, especially in senior ranks, has begun to draw attention in the past few years. The Knesset Committee on the Status of Women dedicated several sessions to discuss the problem, and has urged the various institutes of higher education to appoint special internal Advisors on the status of women.

12. Adult Education

The activities that the Ministry of Education began through the department of adult education include: 1) the absorption of immigrants through assistance in language; 2) cultural absorption; 3) assisting immigrants in their roles as parents and workers in society; 4) enabling the elderly

the opportunity to receive elementary and high-school education; 5) providing education as a means of personal development and professional advancement; and 6) opening a center for educational enrichment and continuous learning throughout ones lifetime. In addition, there are activities geared towards parents which help provide them with tools to deal with life changes. In 1996 alone, approximately 162,621 adults will have participated in the different activities provided for by this branch of the Ministry of Education.

In certain areas of adult education, the percentage of women is particularly high. These include the schools for Hebrew language. In the field of general education, a program called "Tehila" serves all citizens who are illiterate, or have not completed their elementary education. The program strives to provide basic tools such as reading, writing, and comprehension. Approximately 90% of those studying in "Tehila" are women. There is also a program which provides a high school education for adults. The average age of those studying are 35, and 70% of the students are women. The department of adult education also provides enrichment programs where scientific, professional and artistic subjects are studied on high levels. These activities are intended to enrich ones education and provides one with the opportunity to develop hobbies and artistic skills. Out of the 35,000 students involved in these activities, approximately 70% are women.

ARTICLE 11 Employment

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to insure, on a basis of equality of men and women, the same rights, in particular:

a) The right to work as an inalienable right of all human beings;

b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

c) The right to free choice of profession and employment, the right to promotion, job security, and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

d) The right to equal remuneration, including benefits and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old-age, and other incapacity to work, as well as the right to paid leave;

f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to insure their effective right to work, States Parties shall take appropriate measures:

a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities;

d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

1. Legislative Measures

1. 1. Protections Against Discrimination

Until the end of the 1980's, there were few laws which specifically dealt with matters of gender equality in the workplace. The **Equal Pay (Male and Female Employees) Law-1964** (since replaced in 1996) was perhaps the most important piece of legislation which addressed discrimination in the workplace. Its provisions were far from exhaustive, the law simply demanded that male and female workers receive comparable pay for comparable work. A more general condemnation of discrimination against women could be found in the **Women's Equal Rights Law-1951**, which, while not dealing explicitly with labor-related issues, demanded that "one law apply to men and women regarding every legal action." Although lacking the constitutional status of a "Basic Law," the Supreme Court has construed it as containing norms of a constitutional nature, and has held that, where possible, other laws should be interpreted so as to conform to its provisions.

This lack of legislative activity, combined with the fact that the few laws which were enacted failed to provide serious remedies or enforcement tools, resulted in a parallel lack of litigation.

In 1987, the **Equal Retirement Age (Male and Female Employees) Law-1987** was enacted, prohibiting employers from forcing early retirement on women workers.

The **Equal Employment Opportunities Law-1988** prohibits discrimination in the workplace, based on gender, sexual orientation, marital status, parenthood, race, age, religion, nationality, country of birth, political or other orientation. Neither governmental nor private employers may take the above classifications into account in determining hiring, promotion, termination of employment, training, or work and retirement conditions of employees, except in special cases where the unique nature of the position makes these classifications relevant. Protections offered to women employees which take into account their special needs as women or mothers are not to

be considered discriminatory, although the law specifies that any such rights offered to working mothers must equally be given to men who either have sole custody of their children, or whose wives work and have chosen not to make use of these provisions.

The law recognizes sexual harassment as a form of discrimination in the workplace subject to civil and criminal sanctions, and, although it provides a narrow definition of harassment and fails to address the issue of hostile working environments, it forbids employers from penalizing employees or job candidates in any manner for refusal to accept proposals or advances of a sexual nature. A 1995 amendment to the law has placed the burden of proof upon the employer in civil sexual harassment suits; where an employee has proven refusal of a sexual advance, the employer must then prove that there has been no violation of the law (i.e. that the employee has not been penalized in any manner). While, as noted, the other provisions of the law are limited to those employers who employ more than 5 workers, the provision forbidding sexual harassment applies to all employers.

Violation of the primary provisions of the law constitutes a criminal offense, punishable by fine. Unlike its 1981 predecessor, however, which merely criminalized discrimination, the law offers the worker whose rights have been violated access to civil remedies as well. Exclusive jurisdiction over civil disputes which arise under the law is given to the Labor Courts, and despite the fact that Israeli contract law generally prefers the remedy of compensation over interfering in employee-employer relationships, the Court is specifically authorized by the law to grant enforcement injunctions in cases where mere compensation would not serve the cause of justice. The statute of limitations on civil suits under this law is 12 months. Workers may also file a complaint against their employer in the Woman's Employment and Status Branch of the Ministry of Labor and Welfare.

In civil suits according to the law, the burden of proof is generally placed on the employer. In cases relating to advancement or work conditions, the employer must demonstrate that where specific requirements for the above matters exist, and where the employee has fulfilled these requirements, the employer has not violated the law in denying the relevant benefit. Where termination of employment is concerned, once the worker shows that there has been nothing in his/her action or behavior to justify termination, the employer must prove that he/she has not violated the law in firing the worker. The court may order that proceedings relating to sexual

harassment or to discrimination on the basis of sexual orientation be held in closed chambers. An explicit provision of the law seeks to ensure that workers who file complaints or who assist others in doing so may not be penalized by the employer.

The issue of sexual harassment in the civil service is also dealt with in the Civil Service Code. Sexual harassment had been proscribed as a disciplinary offense in a 1990 supplement to the Civil Service Code. Its definition then was already broader than the definition in the **Equal Employment Opportunities Law-1988**. The Code's definition related to any act with the characteristics of a sexual act, including speech or insinuation. Furthermore, it did not limit its application to circumstances involving supervisors and their workers, and covered a range of acts between co-workers as well. With respect to sexual harassment between supervisors and workers, the Code specified that the worker's consent was irrelevant, and that it did not matter whether it was the worker or the supervisor who initiated communication of a sexual nature. A 1995 amendment to the Civil Service Code added the creation of a hostile working environment to the definition sexual-harassment and provided for legal and professional aid to the plaintiff. The amendment directs the employee to turn to either the disciplinary superintendent or to the Supervisors on the Status of Women in each ministry, and designates the General-Supervisor on the Advancement of Women in the Civil Service, together with the Superintendent over Discipline in the Civil Service, to handle all complaints regarding sexual-harassment in the service. The amendment further obligates all employees who suspect sexual-harassment to report their suspicion. It is interesting to note that in a clarifying comment to this amendment, the general-supervisor mentions the Convention as a supplementary source of the government's obligation to eliminate discrimination against women.

The Equal Pay (Male and Female Employees) Law-1996 aims to further equality and prevent gender-based discrimination in the area of work compensation. Replacing a similar law from 1964, this new legislation expands protection against discrimination by widening its definition, providing greater access to remedies, and implementing the progressive notion of pay-equity. While the 1964 version of the law dealt merely with "salaries," the law now extends to "all other forms of compensation," including benefits, additions, grants, coverage of expenditures, car/telephone expenses, and overtime--all of which previously served as "loopholes" for employers wishing to evade the spirit of the law. While the law previously required employers to pay workers in "essentially equal" positions at the same workplace equal salaries, today's law

extends its protection to positions at the same workplace that are "equal in value." The law specifies that two jobs are considered of equal value, even if they differ from one another, to the extent that they demand equal qualifications, effort, expertise, and responsibility. Any deviation from this standard of equality requires the employer to prove that non-gender-related circumstances justify this deviation.

Exclusive jurisdiction over disputes arising under this law is given to the Labor Courts, which are authorized to appoint court experts to evaluate whether positions under dispute are in fact of equal value. The costs of the evaluation are generally covered by the litigants; in recognition, however, of the fact that such costs often deter potential complainants, the law authorizes the court to decide--under special circumstances--that the State cover the cost of the evaluation. Employees who are found to have been underpaid according to this law may sue for up to twenty-four months' back wages.

Suits may be filed either by the employee, the representative organization of employees, or--with the worker's consent--an organization dealing with women's rights. Class-action suits may also be filed by one worker whose rights have been violated on behalf of a number of such workers, an option that is rare in the Israeli legal system. The court is given broad powers to allow statements to be made by various non-parties to the dispute, including women's rights groups, other employees who may be harmed by the suit, etc. Employee's rights according to this law may not be forfeited, nor may conditions be attached to them. Additionally, benefits granted to workers for pregnancy or parenthood are not taken into account for the purposes of this law.

2.Women's Health and Employment

The **Employment of Women Law-1954** authorizes the Minister of Labor and Welfare to regulate the employment of women in positions or fields that are uniquely dangerous to a woman's health or that are hazardous to her reproductive capabilities. The **Employment of Women Regulations (Exposure to Ionized Radiation)-1979** differentiate between relatively low levels of exposure, which require supervision for all women employees, and relatively high levels to which women in their child-bearing years (defined as under 45) may not be exposed at all. Women who work in supervised areas must immediately notify employers of pregnancy, and once they have done so they may be exposed to far lower levels of radiation. Employers are

similarly required to take "all reasonable measures necessary to maximally reduce the amount of exposure" in workplaces where women are employed. The **Employment of Women Regulations (Forbidden and Restricted Jobs)** apply solely to women under age 45 and forbid their employment in situations where they may be exposed to certain amounts of lead filings or vapors. They similarly regulate the exposure of pregnant and nursing women to various substances, including benzene, benzol, arsenic and compounds, and methyl mercury and its derivatives.

The **Employment of Women Law-1954** additionally authorizes the Minister to regulate the conditions deemed necessary to protect the safety and health of women working at night. The regulations currently in force provide that women must be given transportation to and from night employment where suitable public transportation does not exist, and that women must be given hot drinks and time to rest. Likewise, subject to a number of exceptions, employers may not refuse to hire women workers who state that for family reasons, they are unwilling to work nights.

3. Pregnancy and Maternity Leave

Pregnant workers, as well as those who have just given birth, are provided with various legislated rights and protections, most of which are dealt with in the **Employment of Women Law-1954**. A pregnant employee must notify her employer of her condition by the fifth month of her pregnancy. From then on, she may not be employed for overtime or more than six days a week, and may not be required to work nights. A recently-proposed amendment to the law seeks to allow pregnant women to decide for themselves whether or not to work overtime. By the same token, pregnancy may not serve as grounds for termination of employment.

3. 1. Fertility Treatment and Medical Absences During Pregnancy

Both men and women are allowed to take leaves of absence, characterized as sick leave, while undergoing fertility treatments. Likewise, pregnant women are entitled to paid absences from work for routine medical examinations.

3. 2. Maternity Leave

A mandatory twelve-week leave of absence may be taken by the pregnant woman at any point after the middle of the seventh month of pregnancy. Under special circumstances, including sickness, the birth of more than one child, or the need for the baby's hospitalization, the leave may be extended. Until November 1994, employees on maternity leave received merely 75% of their missed pay from Social Security. Realizing that this constituted discrimination against women, especially in light of the full compensation given to men who miss work in order to fulfill their yearly military reserve duty obligation, the Knesset amended the **National Insurance Law** in 1994 so as to provide women with the full equivalent of their salaries. However, while the 75% previously granted was not viewed as taxable income, the full compensation now given is taxed as regular salary. The main practical beneficiaries of the amendment are those women who need it most--poorer women whose earnings are taxed according to lower tax brackets. Women insured by National Insurance, and in certain instances home-makers whose husbands are insured, are eligible to receive various other grants, as detailed under Article 13 below. This provision, as well as the provision for unpaid leave of absence, applies with the necessary changes to adoptive mothers. A 1996 proposed amendment to the **Employment of Women Law-1954**, seeks to offer fathers the right to paid paternity leave so that couples may divide the twelve week period among themselves.

3. 2. 1. High Risk Pregnancy Leave

A pregnant woman who receives medical confirmation of her inability to work for a specified period may absent herself from work, without such absence affecting her seniority rights. A recent amendment to the **National Insurance Law** entitles women on high-risk pregnancy leave to receive the equivalent of their salary from Social Security (as long it does not exceed 70% of the average work force wage). Women's rights organizations, making the above comparison to men's reserve duty obligations, are lobbying to further amend this provision so as to provide for full compensation. According to the **National Insurance Law**, it is preferable that the employee arrange with her employer to work at home while on leave and thereby continue to receive her regular salary directly from her employer.

3. 2. 2. Unpaid Leave of Absence

Mothers or fathers who have been employed by the same employer or at the same workplace for at least two years may take an unpaid leave of absence of up to twelve months following their maternity leave. The amount of leave they are entitled to is dependent on how long they have been employed.

3. 2. 3. Permitted Absences Upon Return to Work

For four months following her maternity leave, a woman who works full-time may absent herself from work for one hour each day, without such absence affecting her salary.

3. 2. 4. Dismissal

Terminating the employment of a pregnant woman who has been working for the same employer or at the same workplace for at least six months is illegal without permission from the Minister of Labor and Welfare. Women on maternity leave or on high-risk pregnancy sick leave may not be fired under any circumstances, nor may they be given previous notice that their employment is to be terminated during that time. Women who have chosen to take the unpaid leave of absence discussed below may not be fired during their leave without permission from the Minister.

4. Parenthood

In keeping with the requirements of the **Equal Employment Opportunities Law-1988** discussed above, the **Employment of Women Law-1954** allows fathers whose wives have been working for at least six months to take the unpaid leave of absence instead of their spouse. This applies in like manner to fathers who either have sole custody of the infant or whose wives are incapacitated. This applies, with the necessary changes, to adoptive fathers. A 1995 proposed amendment to the **Employment of Women Law** seeks to entitle adoptive fathers to a paid paternity leave in addition to the unpaid leave of absence.

Similarly, other laws which seek to protect the needs of parents allow parents the freedom to choose which one of them will take advantage of the various protections offered. For example, the **Severance Pay Law** provides that an employee who quits his or her job during the first 9

months after childbirth, in order to care for a child, is entitled to severance pay, as long as the other parent has not done the same. According to the **Sick Pay (Absence from Work due to Child's Illness) Law-1993**, parents may decide which one of them will absent him/herself from work for a combined total of six days a year in order to care for a child under the age of 16. According to the above **Equal Employment Opportunities Law-1988**, any daycare services offered to mothers, or daycare expenditures covered by employers, as well as any shortened work-days or absences offered to mothers must also be offered to fathers.

5. Affirmative Action

See discussion under Article 4, below.

6. Social Security Benefits

6. 1. The National Insurance Law (New Version)-1995

The definition of the term "housewife" in the **National Insurance Law** varies according to the context in which it is used. Generally, however, a housewife is defined as a married woman who is not employed outside of the home and is therefore not obligated to pay Social Security. While married men are obligated to pay Social Security whether or not they are employed, married women must pay only if they are employed outside the home. Until 1995, a wife who chose to stay home was not eligible for an old-age pension, unless she chose to insure herself with voluntary insurance. In 1995, **the National Insurance Law** was amended so as to include home-makers in their husband's mandatory coverage, allowing them to receive the minimum old-age pension, while still exempting them from contributions. Thus, the law now gives a certain degree of recognition to the economic contribution of home-makers. However, since "housewives" are still not considered as workers, they are not eligible for income-replacement benefits, such as employment injuries insurance, maternity allowance, unemployment benefits, and the like.

7. Taxes

As in other areas of Israeli law, significant progress towards achieving legal recognition of women's equality has been made in recent years in the area of tax law. The **Tax Code** as it was in effect upon the establishment of the State viewed the married couple as a single unit for tax purposes, with regard to the manner in which income was calculated and to the procedural obligation to report. The Tax Code obligated the man--automatically designated "household head"-- to report the joint income of his wife and himself in all instances, and denied any option for separate calculation of income. As a result, it both refused to relate to married women as taxpayers and created a situation in which it was often not economically beneficial for women to seek employment outside the home.

In 1992, the Tax Code was amended to widen the instances where separate calculation would be allowed for husbands and wives, and to grant equal recognition to married women as taxpayers. Instead of referring to "husbands" and "wives," the Tax Code now differentiates between the "registered spouse" and the "other spouse." The registered spouse may be designated according to income level, the decision of the assessing officer, or the couple's personal preference. Whereas previously only husbands were obligated to submit income reports, today this obligation rests on the "registered spouse," with both spouses criminally and civilly liable for the information contained therein. Both spouses may appeal decisions of the tax authorities, and both may receive credit points for dependents. And while the 1992 amendment continues to view the married couple as a single tax unit, it has expanded the instances in which separate calculations are permitted. Separate calculation is now allowed not only for income earned by the "other spouse" in "personal toil," but also for income earned on property either obtained by the "other spouse" at least one year prior to marriage or inherited by that spouse during marriage.

8. Employment of Women - Data and Analysis

Participation in the workforce, distribution within the labor market, work patterns, and salary levels, are all significant indicators of women's situation in society. Generally, the Israeli experience has been ambiguous: while the level of women's participation in the labor market has risen dramatically over the years, reaching almost 50%, the occupational segregation and the

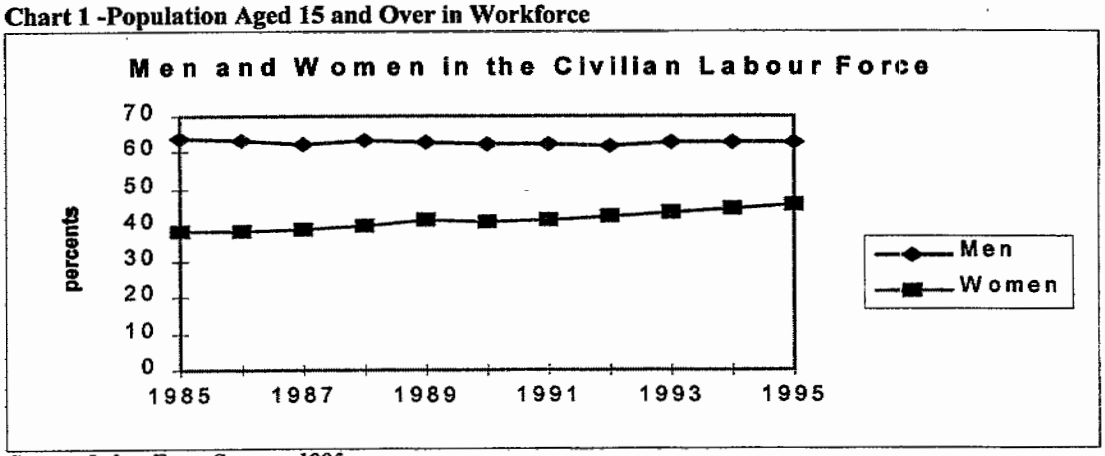
glass-ceiling phenomenon remains entrenched, indeed the salary gap between men and women has even increased slightly in the past few years.

8. 1.Women in the Labor Market

8. 1. 1.Women's Participation in the Workforce

Participation in the workforce includes all people of 15 years of age and over who were either employed (i.e. worked for pay for at least one hour during the week of the survey) or unemployed. Women's participation in the workforce (i.e. the percentage of women aged 15 and over who belong to the civil workforce, from among all women aged 15 and over) has been steadily rising throughout the years, with a yearly increase of about 1%, whereas the men's participation has remained the same. Women's participation in the workforce reached 45.5% in 1995 (after reaching 44.7% in 1994 and 43.4% in 1993), compared with men's participation, which reached 62.6% in 1995 (after reaching 62.8% in 1993 and in 1994). Women composed 43.2% of the total workforce in 1995 (compared to 42% in 1992 and 33% in 1975). The increase in women's participation is evident in almost all age-groups, except for the youngest and the eldest. Jewish women's level of participation is higher than the overall women's participation, and passed the 50% in 1995 (50.5%). Nevertheless, increase in women's participation is taking place among Arab women as well, although the level of participation within that group was low to begin with (16.8% in 1994, compared to 16% in 1993 and 13.9% in 1992). The following graph demonstrates the steady increase in the overall women's participation in the work force:

Chart 1 -Population Aged 15 and Over in Workforce



Source: Labor Force Surveys, 1995

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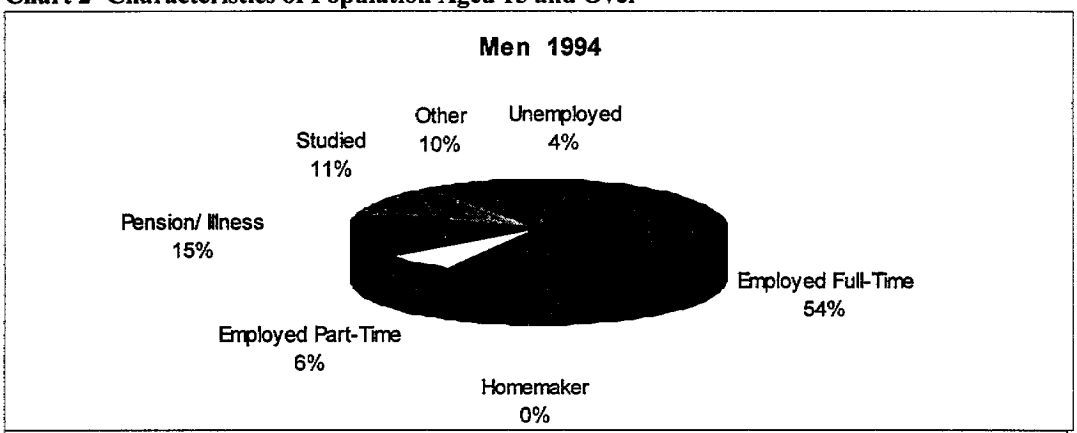
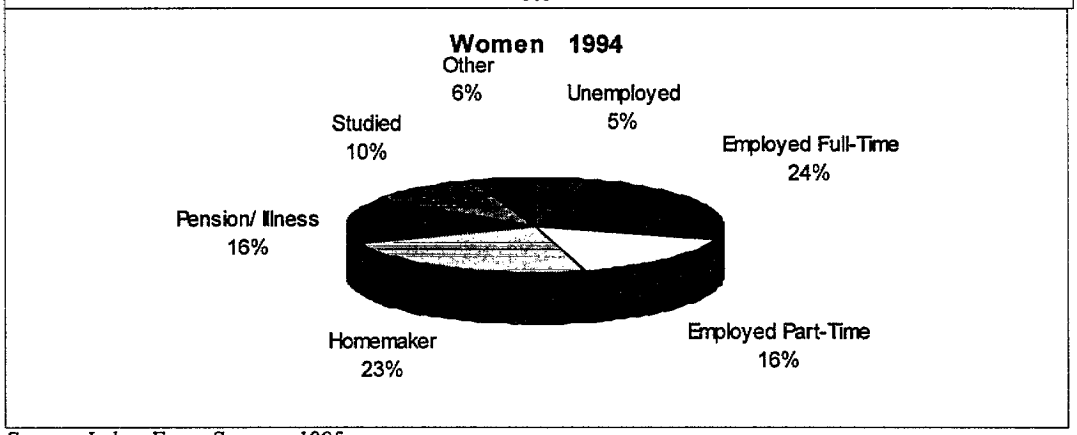
Source: Labor Force Surveys, 1995

The following two charts demonstrate the characteristics of population groups of men and women over 15, in terms of work or of other status. The striking differences are in the work-patterns of men and women in full-time versus part-time work, and in the category of homemaker which is exclusively female by statutory definition. Note that by definition, a homemaker is not part of the labor force, since a person who is a homemaker does not work for pay, yet does not actively seek work for pay. Consequently, the work done by homemakers is not taken into account when analyzing labor force data.

Chart 2 -Characteristics of Population Aged 15 and Over





Source: Labor Force Surveys, 1995

Table 1 - Population Aged 15-34, by Work and Studies

	Jews				Arabs and Others			
Age Group	15-17	18-24	25-29	30-34	15-17	18-24	25-29	30-34
Grand Total -thousands	229.3	532.1	307.8	302.6	69.8	150.5	86.1	81.7
-percents	100	100	100	100	100	100	100	100
Men								
-thousands	118	271.2	155	152.9	35.7	76.4	43.4	40.4
-percents	100	100	100	100	100	100	100	100
Work	13	31.5	75.3	81.1	15.5	62.6	81.1	86.1
Study	9.7	6.1	11.9	5.3	1.8	1.6	1.2	1.5
Do Not Study	3.3	25.4	63.4	75.8	13.7	61	79.9	84.6
Do Not Work	87	68.5	24.7	18.9	84.5	37.4	18.9	13.9
Study	79.4	16.6	10.4	5.9	68.5	14.7	3.2	0.2
Do Not Study	7.6	51.9	14.2	13.1	16	22.7	15.7	13.7
Women								
-thousands	111.4	260.8	152.8	149.7	34.1	74.1	42.7	41.2
-percents	100	100	100	100	100	100	100	100
Work	10.8	42.3	65.8	68.6	2.1	21.5	24	24
Study	8.8	10.9	9.5	5.1	0.2	1.4	0.6	0.8
Do Not Study	2	31.4	56.2	63.5	1.9	20.1	23.4	23.2
Do Not Work	89.2	57.7	34.2	31.4	97.9	78.5	76	76
Study	83.4	17.3	4.3	1.8	75.3	15.1	2.2	0.4
Do Not Study	5.7	40.4	29.9	29.6	22.5	63.4	73.7	75.6

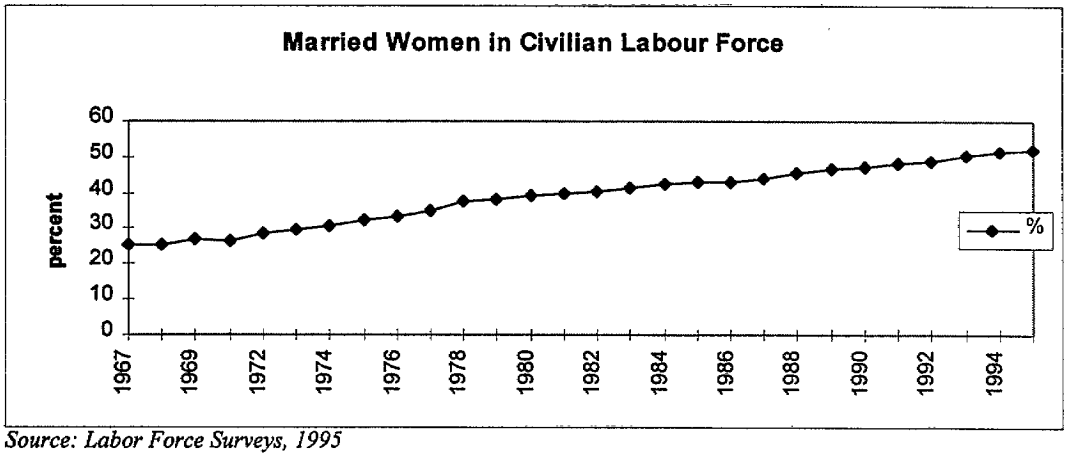
*Work and Do Not Work: including not known

Source: CBS, SAI 1996

We see from the above table that women's participation in the labor-force increases as their educational level increases. In 1995, among Jewish women with 16 years of schooling and over, 77.5% belonged to the work-force, as compared to 74.9% of the Jewish men with similar level of education. Among those Jewish women with 0-4 years of schooling, only 10.1% participate in the work force. The differences in the participation rates of women according to their years of schooling are much larger than the differences in participation of men by years of schooling. This has implications on the relative educational level of men and women in the workforce, and explains the higher educational rate of women, as discussed below.

Women's marital status, the number of children they have and their age, are all variables that greatly effect women's participation in the work-force. Consistent with the steady increase in women's overall participation in the work-force, there is a constant increase in the level of participation among married women, as shown by the following graph:

Chart 3 - Married Women in the Civilian Labor Force



Source: Labor Force Surveys, 1995

Women's participation in the work-force decreases as their number of children increases, and rises with the maturation in age of their youngest child. Thus, in 1994 74% of Jewish women with one child were in the work-force, compared with 43% of those with four children or more. 54% of Jewish women whose youngest child was less than one year old were in the work-force, compared with 71% of those whose youngest child was between 10-14 years old.

The Central Bureau of Statistics data also examine the variable of employing domestic-help and its influence on women's level of participation in the work-force. Not surprisingly, the data reveals that the level of participation increases along with the increase of weekly hours of domestic-help, from 63% among those who employ domestic-help for 7 hours a week to 76% of those who employ over 16 hours of domestic-help per week. This data supports the demand for the tax-deduction of payments for domestic-help.

8. 2. Work Patterns

One of the major differences between working women and working men in Israel is in the area of part-time work. Significantly many more women (almost three times as many) work part-time, which is defined as any work between 1-34 hours per week, regardless of how the work is officially defined. Thus, for example, in 1994, 72% of those who regularly worked part-time were women. Of all working women, 38.4% regularly worked part-time, while only 10.6% of all working men regularly worked part-time. The most common reason given for women's part-time work is child-care and housework (21%). For 18.2% of women part-time workers, the work

was considered full-time (as among school-teachers). Of the men part-time workers, 24.8% were self-employed, and 18.4% studied in addition to their part-time work. For 17% the part-time work was considered full-time.

Table 2 - Employed Part-Time
1995

	Total	Men	Women
Grand Total (Thousands- Absolute No.s)	520.7	177.6	343.2
Usually Worked Full-Time (Thousands)	133	74	59
Percent	25.6	41.8	17.2
Usually Worked Part-Time (Thousands)	386.7	103	283.7
Percent	74.4	58.2	82.8
Reasons for Part-Time Work (Percents)			
Total	100	100	100
The Work is Considered Full Time	18	16.4	18.5
Sought Additional or Full-Time Work and Did Not Find	14	10	15.4
Illness and Disability	5.1	8.7	3.8
Retirement	5.7	13.1	3.2
Housewives	15.7	0.3	21.1
Studies	14.6	22	12.1
Not Interested in Full-Time Work	12.3	5.3	14.7
Other Reason	1.3	0.9	1.4
Self Employed, Employers, Kibbutz Members, and Unpaid Family Members	13.3	23.4	9.7

Source: Labour Force Surveys, 1995

An important feature in the Israeli labor-market is the fact that part-time workers accumulate social-benefits just like full-time workers, relative, of course, to the amount of hours they actually work. Similarly, a part-time worker gains tenure just like a full-time worker. In addition, the prospect of promotion is not negated by part-time work, although it may be much slower than in full-time work.

The following graph depicts the distribution of working patterns among the total working population of men and women:

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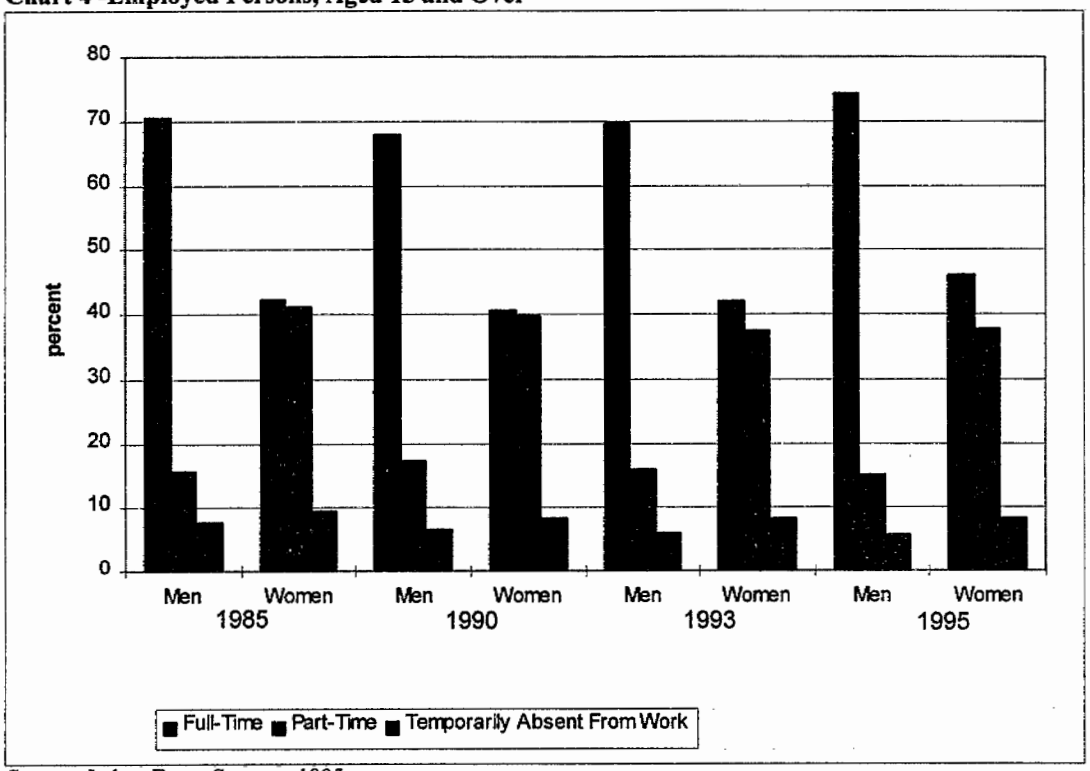
The following graph depicts the distribution of working patterns among the total working population of men and women:

Chart 4 -Employed Persons, Aged 15 and Over



Source: Labor Force Surveys, 1995

The relatively high increase in the rate of women working full-time in the last few years is clear, and it remains to be seen whether this is a constant trend which will have implications for women's status in the labor-market.

According to data from the National Insurance Institute, there are further major differences in earnings between men and women who a self-employed, as demonstrated by the following table:

Table 3 - Self employed, by monthly income

		As Percent of Average National Income							Average Income	
Sex	Total	to 25%	25%-50%	50%-75%	75%-100%	100%-150%	150%-200%	200%+	In NIS	As % of ANI
	Absolute Numbers									
Total	210,000	71,908	25,674	23,757	18,864	25,606	14,097	30,094	5,083	118.2
Men	167,175	52,414	17,497	18,267	15,884	22,412	12,791	27,910	5,720	133
Women	42,825	19,494	8,177	5,490	2,980	3,194	1,306	2,184	2,592	60.3
	Percents									
Total	100	34.2	12.2	11.3	9	12.2	6.7	14.3		
Men	100	31.4	10.5	10.9	9.5	13.4	737	16.7		
Women	100	45.5	19.1	12.8	7	7.5	3	5.1		

Source: Social Security

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8. 3. Unemployment

Unemployed persons are defined as persons who did not work for pay for one hour during the week of the survey, and who were actively seeking work. As part of the general economic slowdown that occurred in Israel during the 1980's, the rate of unemployment among women rose sharply from about 6% in 1980 to 11% in 1990. The older and more educated women were those who suffered the most. The unemployment rate among women peaked at 12.1% in 1993, went down to 10% in 1994 and to 8% in 1995. The following graph demonstrates the differences in unemployment rates of men and women in the workforce throughout the last decade:

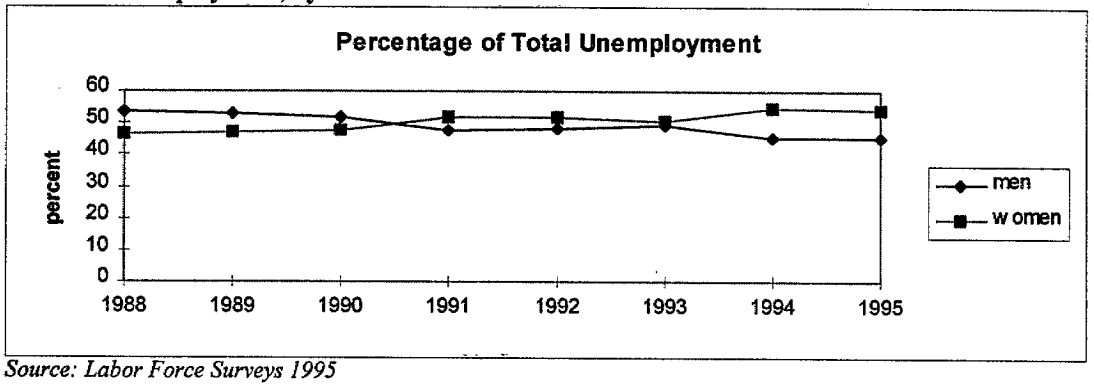
Chart 5 -Unemployment of Population Aged 15 and Over



Source: Labor Force Surveys 1995

The following graph depicts the gender makeup of the total population of the unemployed, and clearly shows the gradual process leading to over-representation of women among the unemployed, which is not proportional to their representation in the workforce in general. Thus, while women made up 43.2% of the total workforce in 1995, they made up 54.4% of the unemployed that year:

Chart 6 -Unemployment, by Years



Source: Labor Force Surveys 1995

According to the Employment Service, which is the governmental agency in charge of referring unemployed persons to available jobs, 55% of all those seeking work in the last few years were women. This rate is particularly high among unemployed women who lack job-qualifications; in some areas 70%-80% of those who are unemployed are unqualified women. Furthermore, unemployment is not evenly distributed throughout the country, and there are specific areas, particularly in development localities in the south, where the unemployment rate of women reached 15.4% in 1995 (the men's unemployment rate was high as well, 11.1%, but not as high as women's.)

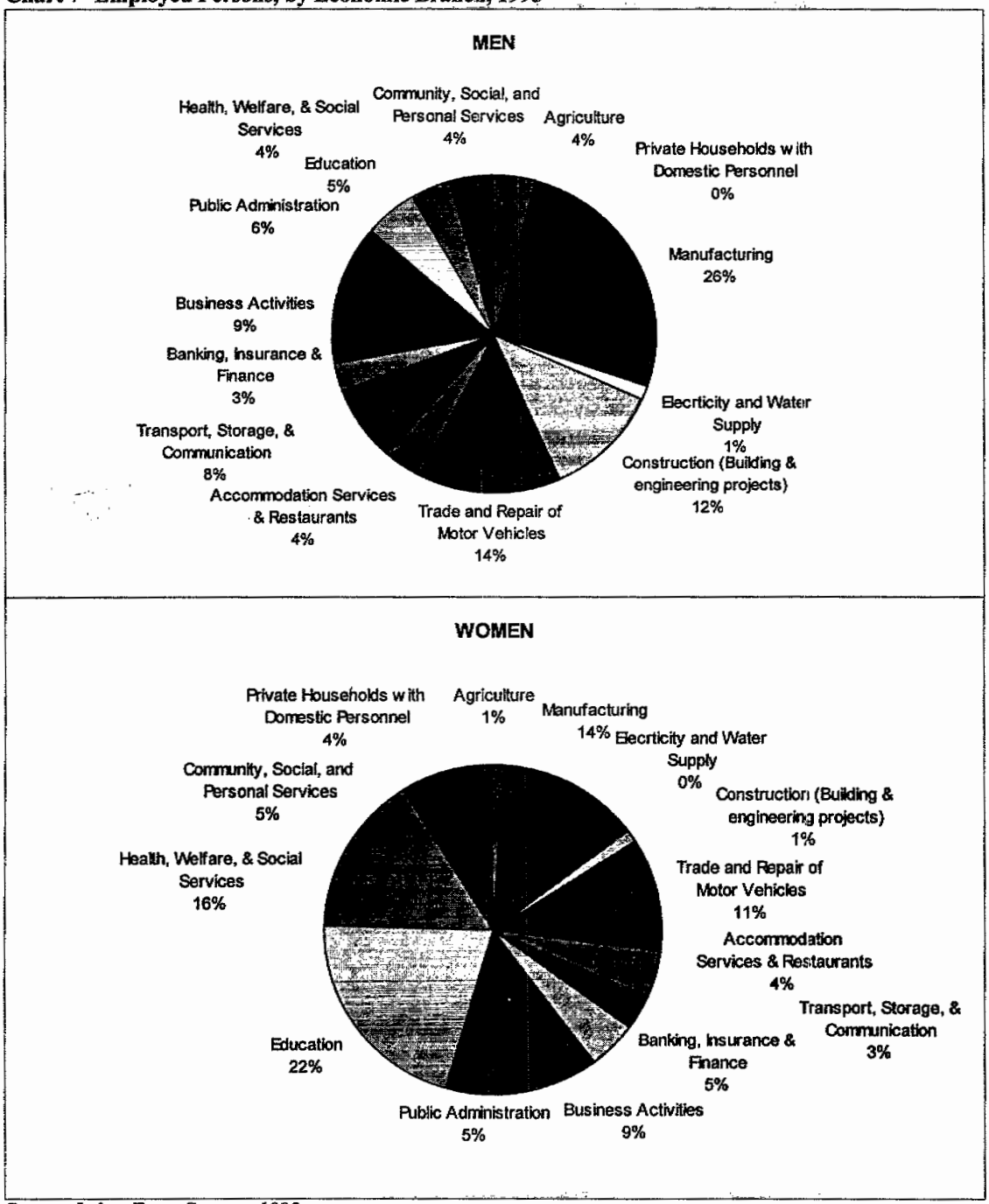
8. 4. The Careers of Women: Levels and Salaries

8. 4. 1. Women's Occupational Distribution and Gender Segregation

Since the Central Bureau of Statistics switched to using the new classifications of economic branches and occupations in 1995, based upon the UN and the International Labor Organization recommendations, most of the data presented here will relate to the recent 1995 survey alone. The following section will analyze these data to show the gender segregation in the Israeli labor market, both in economic branches and in occupational categories.

The following charts depict the distribution of men and women in 14 primary branches of the economy.

Chart 7 -Employed Persons, by Economic Branch, 1995



Source: Labor Force Surveys, 1995

The following table presents the average amount of weekly work hours of men and women in each economic branch; considerable differences in earning gaps are evident.

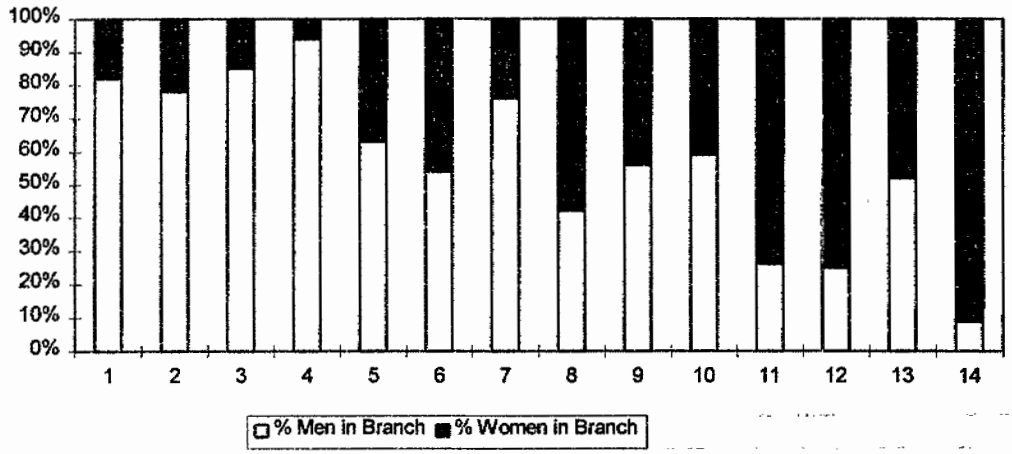
Table 4 - Average Weekly Work Hours, and Percent in each Branch

	Men		Women	
Economic Branch	% in Branch, Out of Total Employed Men	Average Weekly Work Hours	% in Branch, Out of Total Employed Women	Average Weekly Work Hours
Total	100	45.5	100	33.7
Agriculture	4.2	45.9	1.2	37.4
Manufacturing	26	46.4	13.6	38.8
Elecrticity and Water Supply	1.5	46.4	0.3	36.8
Construction (Building & engineering projects)	11.8	46.5	1	36.4
Trade and Repair of Motor Vehicles	14	47.7	11.1	35.7
Accommodation Services & Restaurants	4	45.6	4.4	35.6
Transport, Storage & Communication	7.8	47.5	3.3	36
Banking, Insurance & Finance	2.6	44.2	4.7	37.8
Business Activities	8.9	45.5	9.3	35.2
Public Administration	5.6	45.2	5.3	36.9
Education	5.4	36.9	21	29.5
Health, Welfare, & Social Services	3.8	43.3	15.6	32
Community, Social, and Personal Services	4.3	41.7	5.4	30.7
Private Households with Domestic Personnel	0.2	28.2	3.6	21.8
Not Known		37.8		33.7

Source: Labour Force Surveys, 1995

The following graph depicts the relative percentage of men and women in each branch of the economy. Several branches are predominantly male: agriculture, manufacturing, electricity and water supply, construction (building and civil engineering projects), transport, storage and communication. The predominantly female branches include: education, health, welfare and social services, and private households with domestic personnel.

Chart 8 -Percent of Men and Women in Each Branch



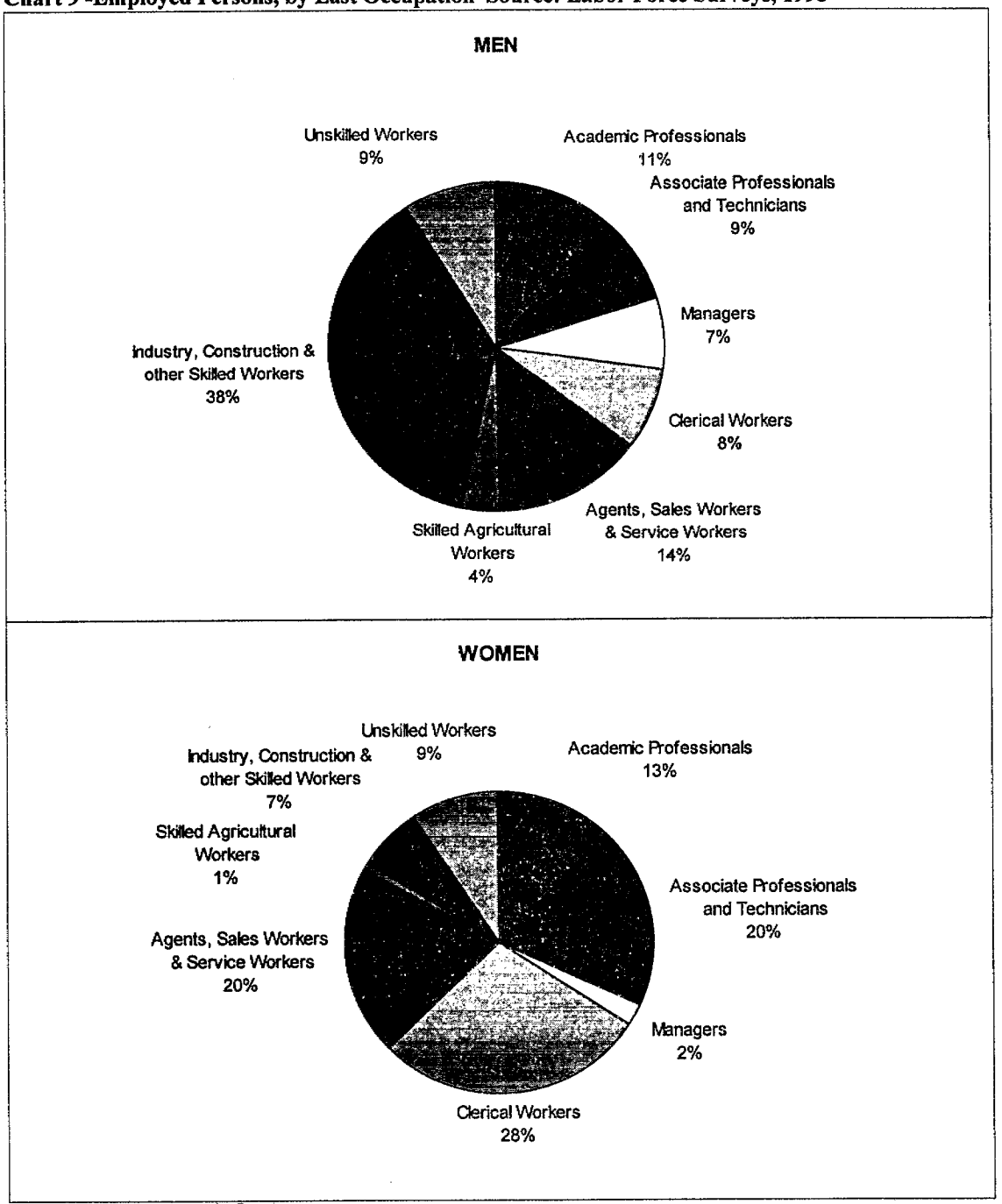
Branches (left to right):

1 Agriculture
2 Manufacturing
3 Elecrticity and Water Supply
4 Construction (Building & engineering projects)
5 Trade and Repair of Motor Vehicles
6 Accommodation Services & Restaurants
7 Transport, Storage & Communication
8 Banking, Insurance & Finance
9 Business Activities
10 Public Administration
11 Education
12 Health, Welfare, & Social Services
13 Community, Social, and Personal Services
14 Private Households with Domestic Personnel

Source: Labor Force Survey 1995

Work-segregation is further evident when examining data regarding women's and men's occupation. In 1995, close to 30% (28.3%) of the employed women were clerical workers (a figure that has remained unchanged since 1980) compared to 8% of men, and more than 20% (20.4%) of employed women were agents, sales workers and service workers (compared to 14.4% of men). More encouraging figures concern women academic professionals (12.5%) and associate professionals and technicians (19.5%), rates that are higher than the rates of the employed men in these occupational categories (11% and 9.4% respectively). However, it should be noted that most women in these occupational categories are teachers, nurses, social workers and the like, mostly in the public services. 38% of the employed men are concentrated in industry, construction and other skilled work, (compared to only 7% of the employed women).

Chart 9 -Employed Persons, by Last Occupation Source: Labor Force Surveys, 1995



Source: Labor Force Surveys, 1995

8. 5. The Glass Ceiling

Comprehensive data which documents the existence of a glass-ceiling at all levels of the labor market is difficult to gather, since it necessitates a complete breakdown and analysis of the job-structures within all economic branches, both in the public and private sector.

One piece of data that is examined by the Central Bureau of Statistics (CBS) and is relevant to a discussion of workplace hierarchies, concerns men and women workers in managerial positions. As management is not just an occupation, but represents authority and command (Izraeli, 1994), this data is indicative of women's overall position in the workforce. According to the CBS data from 1995, 6.9% of all working men were managers, while only 2.2% of all working women were managers. Of the total managers, 19.5% were women (18,700 out of 96,000). This represents a certain increase when compared to 1990 data, when the rate of women in management positions was 18% of all managers (12,000 out of 66,000). The CBS data further ...icates that women made more than 25% of the increase in total managers during the decade between 1980-1990. Notwithstanding the gradual increase of women's representation in managerial roles, their rate is still very low when examined in light of the increase in the general rate of women in the workforce.

For example, the Union of Industrialists recently conducted a survey of 152 hi-tech corporations to examine the situation relating to women in managerial positions. The survey revealed that 14% of the total managers in these companies are women (totaling 900 women), while in 51% of these corporations there were no women managers at all. On the other hand, among the larger corporations (those with 100 employees and more,) 44% have more than one woman in managerial positions. The average age of the women managers is 39, and 77% of them are married.

The structure of women's positions in the Civil Service has been dealt with extensively under Article 7. Since information on this issue is available, and since the Civil Service is a public institution which is subject to on-going scrutiny and inspection, both formal and informal, it is illuminating to examine gender stratification in the Civil Service as an example of gender stratification in the labor-market. However, it should be noted that less than 4% (3.8%) of all working women directly belong to the civil service (32,131 out of 835,700 in 1995). The

significant fact regarding gender stratification in the Civil Service is that while women made up close to 60% of all workers in the Civil Service in 1995, only 10.5% of the senior staff were women.

8. 6. Salary and Earning Gaps

In all branches of the labor market, a male employee's average monthly income was 1.7 times higher than that of a female employee (1992-1993). In other words, women's average monthly income was less than 58% than that of men. This is partly explained by the differences in the average weekly work hours, which were 46.3 for men and 34.1 for women. However, the data shows that a large gap exists in the average income per hour as well, which was 1.25 times higher for men. In other words, women's hourly income is 80% of that of the men.

This gap remains constant when other variables are taken into consideration. For example, men with 5-8 years of schooling earned 38% more per hour than women with a similar educational level. Among those with 13 years of schooling and over, men's average income per hour was 30% more than women's. The gap in income per hour increases with age, from 12% among 25-24 years olds, up to 37% among the 45-54 year olds. Even within those occupations which are dominated by women, such as clerical work, the men's hourly income is 34% more than the women's (1992).

The following four tables present a more complete picture which illustrates the break-down of earnings by age, educational level, economic branch and occupation. The tables show that when the relevant variables of women and men employees are the same, the monthly and hourly salary gaps remain constant:

Table 5 - Gross Income, by Age

	Age						
	Total	15-24	25-34	35-44	45-54	55-64	65+
All Employees							
Individuals in the Population (Thousands)	1296.9	190.2	370.4	352.2	236.1	123	25
Average Gross Income (NIS) -per month	3000.7	1502.8	269734	3426.4	3755.9	3687	2384.8
-per working hour	18.2	10.7	15.9	19.9	22.1	22.1	20.6
Average Working Hours per Week	40.9	39.6	42.1	41.4	40.8	39.9	28.4
Men							
Individuals in the Population (Thousands)	708.4	99.6	203.2	181.1	127.9	77.6	19
Average Gross Income (NIS) -per month	3704.5	1741.4	3167.8	4349.8	4846.6	4476.4	2741.7
-per working hour	19.7	11.2	16.4	21.6	24.7	23.5	21.8
Average Working Hours per Week	46.3	43.6	47.5	48.1	47.1	44.8	30.3
Women							
Individuals in the Population (Thousands)	588.6	90.6	167.2	171.1	108.2	45.5	6
Average Gross Income (NIS) -per month	2153.7	1240.5	2125.5	2448.6	2467.1	2339.7	1259.7
-per working hour	15.8	10	15.1	17.3	17.8	18.5	14.8
Average Working Hours per Week	34.1	35.1	35.3	34.3	33.3	31.1	21.9

Source: CBS, Income of Employees 1992-93

Table 6 - Gross Income, by Years of Schooling

	Years of Schooling						
	Total	0 to 4	5 to 8	9 to 10	11 to 12	13 to 15	16+
All Employees							
Individuals in the Population (Thousands)	1296.9	23.3	111.8	145.9	476.6	292.8	244.3
Average Gross Income (NIS) -per month	300.7	1908.9	2299.1	2337.4	2662.8	3160.8	4295.6
-per working hour	18.2	12.4	13.7	14.1	16	19.8	25.8
Average Working Hours per Week	40.9	37	40.7	42	42.1	39.3	40.3
Men							
Individuals in the Population (Thousands)	708.4	13.3	73.9	96.3	252.8	137.4	133.5
Average Gross Income (NIS) -per month	3704.5	2405.4	2743.4	2772.3	3290.4	4117.1	5408.5
-per working hour	19.7	13	14.8	15.1	17.4	21.9	27.9
Average Working Hours per Week	46.3	43.8	44.8	46.3	47.1	46.1	46.3
Women							
Individuals in the Population (Thousands)	588.6	10	37.9	49.6	223.9	155.5	110.8
Average Gross Income (NIS) -per month	2153.7	1252.6	1432.6	1493.3	1954	2316	2954.1
-per working hour	15.8	11.2	10.7	11.5	13.8	17.2	22.1
Average Working Hours per Week	34.1	27.8	62.7	33.5	36.3	33.2	32.8

Source: CBS, Income of Employees 1992-93

Table 7 - Gross Income, by Economic Branch

	Economic Branch									
	Total	Agriculture, Forestry & Fishing	Industry (Mnin & Manufacturin)	Electricity & Water	Construction (Building & Public Works	Commerce, Restaurants Hotels	Transport, Storage & Communic tion	Financing & Business	Public & Community Services	Personal & Other Services
All Employees										
Individuals in the Population (Thousands)	1299.9	13.2	298.4	13.6	83.7	163.8	71.1	145.3	413.7	93.9
Average Gross Income (NS) -per month	3000.7	2160.9	3254	4988.2	2980.1	2507	3769.4	3518.4	2973.1	1673.6
-per working hour	18.2	13.4	17.5	26.9	16.1	15.3	20.4	21.1	19.9	13.1
Average Working Hours per Week	40.9	42.5	45.7	46.2	47.6	42.3	45	40.7	36.5	32.4
Men										
Individuals in the Population (Thousands)	708.4	8.7	217.9	10.9	77	87.6	47.8	66.5	153.4	35
Average Gross Income (NS) -per month	3704.5	2579.3	3711	5443.2	3010.2	3315.5	4301.8	4482.1	4011.2	2427
-per working hour	19.7	14.9	19	27.8	16	17.8	21.8	24.4	21.8	14.1
Average Working Hours per Week	46.3	43.5	47.5	47.9	48.5	46.9	48	44.6	44.3	44
Women										
Individuals in the Population (Thousands)	588.6	4.5	78.5	2.7	6.7	76.3	23.3	78.8	260.3	55.9
Average Gross Income (NS) -per month	2153.7	1408.9	1998.3	3150.6	2632.3	1578.8	2579	2704.8	2361.2	1202.3
-per working hour	15.8	9.9	12.4	21.7	16.5	11.4	16.9	17.9	18.3	12.1
Average Working Hours per Week	34.1	40.3	40.8	38.7	37.9	35.8	38.7	37.4	31.7	25.2

Source: CBS, Income of Employees 1992-93

Table 8 - Gross Income by Occupation, 1993

	Occupation									
	Total	Scientific and Academic	Professional and Related	Administrators and Managers	Clerical and Related	Sales	Service	Agricultural	Industry, Mining, Building, and Transport	
									Skilled	Other
All Employees										
Individuals in the Population (Thousands)	1,299.90	116.1	216.9	67.4	246.1	85.8	199.7	13.5	295.4	47.8
Average Gross Income (NS) -per month	3000.7	4468.1	3236.5	6809.6	2784.9	2912.3	1590	1676.8	2781.2	1911.6
-per working hour	18.2	27.3	22	31.8	17.5	16.8	11.7	10.5	14.8	11.2
Average Working Hours per Week	40.9	39.5	36	50.1	39.1	43.1	34.7	42.5	46.9	45.1
Men										
Individuals in the Population (Thousands)	708.4	67.7	81.3	53.4	72.4	45.3	73.8	10.3	261.1	36.6
Average Gross Income (NS) -per month	3704.5	5462.6	4397.3	7320.8	3801	3933.5	2293.3	1918.3	2936.1	2055.1
-per working hour	19.7	26.6	24.2	32.9	21	19.6	13.3	11.6	15.4	12
Average Working Hours per Week	46.3	45.3	44	52	43.3	48.6	44	42.1	47.5	45.9
Women										
Individuals in the Population (Thousands)	588.6	48.5	135.6	14	173.7	40.5	126	3.2	34.2	11.2
Average Gross Income (NS) -per month	2153.7	3080.1	2540.5	4852.4	2361.5	1769.1	1178.3	868.2	1600.1	1442.3
-per working hour	15.8	24.4	20.1	26.8	15.7	12.4	10.3	6.2	9.7	8.7
Average Working Hours per Week	34.1	31	31.2	42.8	37.2	36.7	29.3	44	42	42.4

Source: CBS, Income of Employees 1992-93

Data published by the National Insurance Institute (NII) revealed that the monthly average salary of women was 55% of the monthly average salary of men during the years of 1992-94. The yearly average income of women was even lower, comprising 51% of men's salaries in 1992,

54% in 1993, and 52% in 1994. Examination of the estimations based upon the NII 1995 income survey regarding the overall rate of employees who earn less than the minimum wage (described below) reveals that 26% of all women employees do not reach the minimum wage, while only 11.7% of all men employees earn less than the minimum wage. In other words, 69% of all employees who earn less than the minimum wage are women.

Dr. Linda Efroni's specific investigation of the civil-service revealed a salary gap of 29% between men and women's average monthly salary for full-time work in 1988, slightly diminishing to 28% in 1990 (Efroni 1990). Recent data supplied by the Treasury Department indicates that the overall salary gaps between men and women have decreased somewhat, so that in 1996 the gap stood at 24%.

There is some evidence that women are unaware of these salary gaps. For example, a recent survey of employed women revealed that half of the women believed that their earning level was similar to their men co-workers' earning level (Natanzon 1997). Only 24% of the women indicated that they were aware of salary discrimination.

9. Vocational and Professional Training for Women

The primary governmental organization that provides vocational training is the Division for Training and Development at the Ministry of Labor and Welfare. Within this Division, a Unit for the Advancement of Women and Girls was established in 1996, signaling awareness of the special needs of women who seek vocational training. Among this Unit's goals is to increase professional options for women in order to improve their integration into the workforce. During 1996, the Unit created special workshops for women in the areas of self-empowerment, orientation in job-search, entrepreneurship and more. Specific workshops for Bedouin and Arab women, immigrant women, women in the army and single-parent women were also offered. Special initiatives were taken together with the IDF, local councils and municipalities and the Ministry of Education, to encourage young women to continue their education in technological fields after completing their military service.

Vocational training is also supplied by the Ministry of Labor and Welfare to unemployed persons, during which the trainees receive unemployment benefits. The conditions for eligibility

are that the person has worked in the previous two years for a certain period of time. These conditions limit the options of women who have not been part of the workforce in the past, as they are ineligible for receiving unemployment benefits during the period of vocational-training. The 102 vocational courses can be roughly divided into three categories: courses that are attended mainly by men which comprise 51% of the total courses; 24% of the total courses that are attended mainly by women and offer training in traditional women's professions; and mixed courses that make up the remaining 25%. Those that are attended primarily by men offer training in higher paying professions and they tend to be longer (6 months in average), thus enabling participants to receive unemployment benefits longer. The "women's" courses are shorter (up to 3.5 months in average) and qualify in professions with fewer and lower paying job opportunities. In sum, although women comprised 44% of all trainees in these courses in 1996, which is an impressive increase compared to previous years, close to two-thirds of the training hours are allocated to men.

The time budget survey conducted by the Central Bureau of Statistics in 1991-92 reveals interesting differences between men and women's participation in vocational courses and professional training.

The following two tables, taken from two different surveys of the CBS, indicate the distribution of men and women trainees within the various types of courses offered. Women are clearly concentrated in book-keeping, dressmaking and nursing, while men are more often given training in "men's jobs" such as electronics, engineering and metalwork.

Table 9 - Participation of Men and Women in Vocational Training by Subjects, 1995

	1995			
	Thereof: Training			
	Women	Men	Total	Total
Total	45,096	59,108	104,204	117,950
Type of Course				
Vocational Training	45,096	59,108	104,204	104,204
Supplementary Training				13,746
Vocation				
Building	68	4,994	5,062	5,205
Woodwork	94	576	670	670
Metal Work	136	2,722	2,858	2,889
Mechanics	58	3,842	3,900	4,290
Electricity and Electronics	957	6,759	7,716	8,226
Practical Engineering	4,425	11,263	15,688	15,688
Programming	2,169	1,570	3,739	3,739
Bookkeeping	14,368	4,696	19,064	19,115
Clerical Work	1,892	523	2,415	2,430
Hotel Keeping	2,015	1,987	4,002	13,324
Nursemaids	3,388	346	3,734	3,892
Paramedical Occupations	1,070	176	1,246	1,246
Hairdressing, Beauticians	2,589	711	3,300	3,329
Dressmaking	2,998	547	3,545	3,545
Driving	174	8,902	9,076	10,095
Miscellaneous	8,695	9,494	18,189	20,267

Table 10 - Participation Rates of Men and Women in Vocational Training by Fields, 1991-2

		Women	Men	Total
POPULATION - TOTAL	Thousands	1,316.10	1,247.40	2,563.50
	Percents	100	100	100
Thereof: Studied in vocational or supplementary training courses during 5 years		31.5	33.5	32.5
Thereof: studied in vocational courses during a year		7.2	5.9	6.6
Thereof: studied in supplementary traing courses during a year		14.7	15.3	15
Vocational Courses				
Total Students during a year	Thousands	95.2	73.5	168.7
	Percents	100	100	100
Field of Training				
Clerical, Accounting, Insurance		30.2	6	19.7
Programming and Computers		21.2	16.4	19.1
Management, Human Relations, Communications		7.3	16.1	11.1
Teaching, Guidance		14.3	1.9	8.9
Other		27	59.6	41.2
Supplementary Training				
Total Students during a year	Thousands	193.4	191.2	384.5
	Percents	100	100	100
Field of Training				
Clerical, Accounting, Insurance		8.9	6.1	7.5
Programming and Computers		12	16.8	14.4
Management, Human Relations, Communications		8.5	12.1	10.3
Teaching, Guidance		38.8	2.3	20.7
Other		31.8	62.8	47.2

Source: CBS Time Budget Survey, 1991-92

10. Childcare

The childcare system in Israel is composed of both public and private programs. The public system for children up to three years of age consists of day-care centers (which operate from 7:00 am-4:00 pm) that are run by various women's organizations under the supervision and support of the Ministry of Labor and Welfare and smaller "family-centers" for up to five children, which are run by individuals in their own homes, under the license and supervision of the Ministry of Labor and Welfare. The public system for children between 3-5 years of age is

made up of pre-school programs (kindergartens) (which operate from 7:30 am-1:20 pm, with possible extension programs to 4:20 pm) run by the local municipalities under the supervision and support of the Ministry of Education. In addition to the public system, there are many private day-care institutions for children up to 5 years of age. As the public system for the 3-5 years old expands, private kindergartens have increased their services for younger children. The private kindergartens and day-care centers are under no governmental supervision and do not receive governmental support. There is, however, a union of private kindergartens and many of them are members.

There are no accurate statistics on the attendance rates in each age group and their distribution among the public and the private systems. The CBS publishes overall attendance rates, based on its labor-force surveys. The following table presents its estimations regarding the Jewish population alone:

Table 11 - Children in Kindergartens, by children's age (Hebrew Education)

percents of respective population group

	1976/77	1988/89	1993/94
Age 2- Total	49	47.5	68.6
Thereof: in day nurseries	13.5	31.2	25.7
In Public Kindergartens	18.3	44.1	43.1
In Private Kindergartens	30.7	30.4	25.6
Age 3- Total	85.6	96.1	95
Thereof: in day nurseries	11.8	18.9	19.4
In Public Kindergartens	43.6	74.6	79.1
In Private Kindergartens	42	21.5	15.9
Age 4- Total	96	98.5	99
In Public Kindergartens	83.5	94.9	96.5
In Private Kindergartens	12.5	3.5	2.5

Source: CBS, SAI 1996

In 1996, the Ministry of Labor and Welfare operated 1532 day-care centers and 1643 family-centers all over the country. 12,000 of the 70,000 children attending day-care centers were referred to the welfare system because of dysfunctional families. These children have first priority in admission to publicly funded daycare, followed by children whose mothers work in specific areas that represent national needs (such as security forces, hospitals, and the like); priority is then given to children of single-parent families; children of distinctly large families;

children whose mothers work over 40 hours a week; and children whose mothers work full-time in occupations that demand fewer hours per week, such as teachers. In 1994, the Ministry added children whose mothers are full-time students to those who get priorities in admission. According to the head of the Division on Employment and Women's Status, the quota for "welfare" children is too low, and more resources are needed to allow disadvantaged children to be cared for by the day-care system.

The tuition fees in the public day-care system are calculated on a sliding scale, according to the families' income and the number of family-members. In March 1997, the cost of tuition for a baby (from 6 to 18 months) was NIS 1171 (about $350) per month, and for a child (from 1.5 - 3 years) it was NIS 891 (about $270) per month. Parents of "welfare" children paid only NIS 312 per month for a baby, and NIS 237 per month for a child, the rest being subsidized by the Ministry of Labor and Welfare. The Ministry's subsidy composes 20% of the total cost of the system's operation, which in 1996 was to close to 1 million US dollars. The t. ion paid by the parents accounts for 75% of the total cost, and the remaining 5% is supplied by the various women's organizations which operate the centers. Governmental support is also expressed in allocating budgets for building the centers, and for purchasing the equipment they need. These budgets come from the Ministry of Labor and Welfare, the Ministry of Housing, and revenues from the Lottery Institute and the Estates' Foundation.

About half of the day-care centers are currently run by three women's organizations: Na'amat, WIZO, and Emunah. Other women's organizations have joined these three in operating day-care centers. The remaining half of the day care centers are run by two other organizations - the Local Councils Organization, and the Kibbutz Movement. The Arab population suffers from a serious shortage of day care centers, and most of the centers that do operate in Arab sectors are only open until 2:00 pm.

11. Enforcement of Employment Legislation

11. 1. The Department of Supervision of Labor Laws of the Ministry of Labor and Welfare

This Department supervises the enforcement of a number of labor laws, including the **Women's Labor Law - 1954,** discussed in the beginning of this Article. The applications to the Department can be classified in two categories: 1) Complaints from women who have been discharged from their employment during pregnancy. 2) Employers' applications for termination permits.

In 1995 there were 840 applications submitted to the department regarding the termination of women's employment during pregnancy (as compared to 774 applications in 1994), of those 336 reached a compromise (as compared to 303 in 1994). Investigations which resulted in conclusive findings were conducted in 504 of the applications (as compared to 471 in 1994), and termination of employment permits were granted in 53% of the cases (as compared to 43% in 1994). In 1996 there was a clear rise in the number of applications which peaked at 970. Of those, 400 reached a compromise and 570 investigations were conducted, the final result of which will only be available in mid-1997.

11. 2. The Department of Labor Law Enforcement

11. 2. 1. The Equal Employment Opportunities Law

The Department of Labor Law Enforcement employs 59 supervisors. Two supervisors deal with the enforcement of the Equal Employment Opportunity Act. The supervisors investigate complaints of sexual harassment and discrimination on the basis of age, sex, religion or military profile. In addition, the act requires all employers to advertise job offers in both male and female grammatical forms. In order to enforce this section of the act, the Department issues a warning to publishers. These complaints are generally initiated by the Department itself after reviewing radio and newspaper advertisements.

The **Equal Employment Opportunities Law-1988** does not impose administrative penalties on employers who do not correct faulty or discriminatory advertisements, rather such employers are

to be prosecuted in the labor law courts. The Department of Labor Law Enforcement has not brought any criminal charges to date. The Department conducts investigations and requires corrections of the practice, when the investigation results in findings of discrimination.

The majority of the cases dealt with by the department pertain to want ads (162 of the total 188 in 1996). In 1996, only 23 of the cases involved discrimination (including discrimination on the basis of age and race), 19 of which resulted in no findings. Only two cases were sexual harassment cases, one of which resulted in no findings. All 162 of the cases which pertained to discriminatory advertisements resulted in conclusive findings. All employers who were investigated regarding their advertisements have corrected them following the Department's requests through phone or written correspondence, with no need for prosecution.

In comparison, over the course of 1996, the Israel Women's Network's "Struggle Against Discrimination" hot line received 302 complaints, of those 42% were based on discrimination at work, and sexual harassment - in other words, 157 complaints of discrimination prohibited by the **Equal Employment Opportunities Law -1988** .

According to section 19 of the **Equal Employment Opportunities Law-1988,** a public council must be established to consult the Minister of Labor and Welfare on issues concerning the application of this law and the increase of public awareness of equal opportunity rights. In addition, this council establishes conditions and facilities to enable women to enter the work force. A council of this kind was appointed and functioned until 1993, at which point it disbanded. A new council has not been appointed since.

11. 2. 2. Minimum Wage Law

The **Minimum Wage Law -1987** sets a minimum wage for the employment of workers in proportion to their scope of employment. Hence, the **Minimum Wage Law** entitles workers earning below the minimum wage level (which is currently set at 45% of the average wage) to a wage supplement up to the minimum level, to be paid by their employers.

The **Minimum Wage Law** is enforced through self-initiated employee complaints, and through processes that are initiated by the Department of Labor Law Enforcement. For the purpose of

enforcement of this law, the Department employs 11 supervisors who are divided into five teams which investigate worker's wages (both youth and adult) around the country. These teams work in conjunction with the Labor Union, the Worker's Council and the worker's hot line.

An employer who is found in violation of the law is sent a warning which insures payment of back salary. An employer who refuses to pay back salary is prosecuted or fined 2500 NIS (approximately $760) per employee per month. This figure is specified in the law and does not represent the difference between wages according to the law and wages actually paid by the employer.

Most research of the Israeli market indicate that adherence to the **Minimum Wage Law** is low, as is the level of enforcement.

12. Women's Employment among the Arab Population in Israel

12. 1. Trends in Occupations in Arab Villages

When discussing Arab women, a distinction must be made between women living in cities and women living in villages: Arab city women consistently enjoy a more prominent status in most realms of life than do those women who reside in villages. However, over 90% of Israeli Arab women live in villages.

Most Arab villages are located in Israel's periphery, far from Israel's centers of economic activity. In the past, agriculture was an integral source of income for Arab villages. The nature of the agricultural activity allowed women to play a leading role, while maintaining their traditional role as housewives. Down-sizing in the agricultural industry, which occurred as a result of the expropriation of farm lands, shifted the main economic focus of the villages to city work and left a vacuum in the job market for Arab women. Although many village men moved into the modern work sector, their female counterparts could not and did not leave their traditional roles. Thus, while men left their villages to work in the Israeli cities, women remained at home to run the households, look after the children, and work the fields, without tangible compensation.

The first wave of Arab women seeking work outside of their villages began in the 1960s; most

of these women found work in nearby Jewish villages and cooperatives. The work did not require any formal education or literacy. In the 1970s, Arab women began to take on blue collar positions in factories set up near their villages. Many Arab village women worked in the textile industry, and have remained employed there. In 1987, 17% of the employees in the textile industry were Arab women, and by 1989, the percentage of Arab women who worked in the textile industry reached 29%. Many sewing shops were also established inside the villages, the owners of which were sub-contractors for the large, centrally located Israeli textile factories in Israel. The investors increased their profits by employing Arab village women with little education for low wages. The difficult conditions of employment for these women, which often include long workdays, are particularly straining for married Arab village women, who are expected to play dual roles, both as housewives and wage-earners.

During the 1990s, more Arab women have entered the Israeli job market, particularly the unskilled labor market, in order to help their families carry increasing financial burdens. Like their male counterparts, the majority of Arab village women still hold menial jobs and are compensated accordingly. In many instances, their compensation does not meet the minimum wage standards nor are they properly compensated for working overtime. However, it should be noted that in recent years more Arab women have been filling positions which require a high-school education. A significant percentage of these women teach in Arab schools, mostly elementary schools.

12. 2. Workforce Size and Unemployment Rate

Of the 350,000 Arab women who are of working age (over 15), about 83% (253,500) do not belong to the work force. The rate of unemployment among Arab women who belong to the workforce as determined by the numbers that are registered at the Employment Bureau, exceeds the unemployment rate in Israel (11.7% are unemployed, as opposed to 9.9% of their Jewish counterparts), and is especially high amongst Arab village women. However, many Arab women of working age, and specifically Arab village women, do not register themselves at the Employment Bureau, and consequently they do not enjoy unemployment benefits. Usually there are two reasons for why these women fail to register:

1. The women's parents or husbands do not allow them to leave their village for this purpose.

2. The high rate of unemployment creates pessimism in terms of their chances of finding work, even through the Employment Bureau.
3. In many cases ,the expense of the trip to the Bureau is a deterrent, since it is usually far from the village.

Currently, many jobs traditionally occupied by Arab women may be eliminated due to economic difficulties in the textile industry and decreased need for hand-sewn materials. There exists a very real possibility that about 11,000 women, which account for over 20% of the Arab women's workforce, will lose their jobs without finding alternative employment opportunities in the industry. The employment Bureau has been involved in an effort to rehabilitate some of these factories and sewing shops, in order to protect the livelihood of the Arab women employees.

Researchers conclude that the percentage of Arab village women who actually participate in the work force is much lower than their potential participation in the Arab work force. Despite the growth of this proportion since the 1960s, when a mere 9% of Arab women participated in the work force, both the proportion and its rate of growth remain significantly lower than that of Jewish women.

12. 3. Causes for Unemployment

The reluctance of the traditional Arab communities to allow women to work outside their homes stems from religious, social, and economic concerns. Several elements of the local social and economic infra-structure within villages have had an adverse effect on the scope of employment opportunities amongst the Arab village women:

1. The Arab villages are usually satellites of nearby Jewish cities and villages, from which the Arab villages receive their goods and services. Consequently , the Arab villages have not developed their own commercial centers or institutions which provide jobs, particularly for the female Arab work force. Branches of industry in which a relatively high proportion of Arab women are employed, such as the manufacturing industry, were also not developed in the Arab villages. Instead, most of the industrial ventures in the Arab villages were products of small, private ventures which could not absorb large numbers of workers, especially not women. The

villages did not receive any work from outside sources other than sewing shops. In contrast to the opportunities offered by outside employers to women in nearby Jewish villages, no employers in advanced industries have been offering work opportunities for the women within villages.

2. Lack of fluency in Hebrew among Arab village women limits the scope of employment opportunities in Israel and decreases their chances of obtaining jobs, particularly in the Jewish cities and villages. Since the same opportunities to learn Hebrew exist for Arab women in both cities and villages, the difference in their levels of proficiency in Hebrew has been attributed to the effect of learning Hebrew in informal settings, namely through direct contact with the Hebrew-speaking Jewish population. Studies indicate that 61% of Arab women speak Hebrew and only 22% of employed Arab women do not speak Hebrew.

Table 12 - Knowledge of Hebrew and Its Effect on Work Participation

	Degree of Participation	Of Those Who Participate	Of Those Who Don't
Knowledge of Hebrew		100%	100%
Fluent	60.9	82.1	46.9
Speaking Only	17.4	3.8	6.5
Reading and Writing	16.9	10.4	19.7
None	4.8	3.4	26.9

Source:Natanzon 1996

3. That Arab village women do not take full advantage of the work opportunities available to them can be understood as a result of the traditional Arab lifestyle in which women are largely confined to the home.

12. 4. Differences in Employment Patterns Amongst Single & Married Arab Women

The ability to work outside the home can serve as a litmus test for examining the various different in statuses among women in Arab society at different stages of their lives. In the lower socio-economic sectors of Arab society, and especially in large families, single women are considered to be an integral source of income to the family, though often, these single women express dissatisfaction with the fact that their salaries must often be donated entirely to their

families. In upper-class sectors of Arab society, the degree of independence which a single Arab woman enjoys is directly related to her parents' status and their attitude towards their daughters as autonomous beings. Thus, the percentage of both single upper-class and lower-class women working is relatively high: upper-class women work because of positive attitudes towards their abilities and role as workers, while the lower-class women work for strictly financial reasons. However, both groups of single Arab women enjoy a greater degree of freedom than married Arab women.

Arab society confers a special social and economic status to married women. For example, women may pursue their education until their wedding, at which point they may only obtain jobs which do not conflict with their ability to raise children. The labor force participation of Arab and Druze women has been found to peak at ages 18-24, and decline with marriage or the birth of a first child. Thus, after marriage, most Arab women lose much of the independence they enjoyed as single women.

Despite the social advancement of Arab women and the increasing openness to women's issues in Arab society, social norms still confine the married women to the role of caretakers of their husbands and children. According to the traditional gender-roles in the Arab family, a married woman is not obliged to take a part in providing the family income as long as there is no economic need for her to work, and as long as the expected compensation for her work outside the home is not significantly higher than the expenses which arise from leaving the house. Currently, most Arab women elect to stay at home and care for their children.

Many Arab women who work elect to take part-time positions. Thus, the percentage of employed Arab women who hold part-time positions is twice as large as the percentage of men employed part time (a corresponding percentage is found in Israeli society at large, as seen above). Moreover, twice as many Arab village women work in part-time jobs as do Arab city women.

Table 13 - Work Patterns of City and Village Arab Women

	Full Time	Part Time	Hourly
Type of Locality			
Cities	73	16.2	10.8
Villiages	49.3	38	12.7

Source:Natanzon 1996

This is due to the fact that many of the village women hold temporary seasonal jobs in agriculture and light industry in the nearby Jewish villages, while Arab women in the cities tend to hold jobs that require more advanced skills, such as jobs in the government, municipalities, education, the health industry, and the business sector (as office support).

The average age of Arab working women was found to be lower than that of women who did not work, and the maximum age of working women in Bedouin villages was found to be 37. These findings may be due to the fact that women in the 35-44 age groups were found to have a higher average number of children than those in the 25-34 age groups, and as the size of their families increases, it becomes increasingly difficult for women to find childcare arrangements for their children. Thus, the lack of proper childcare is another reason that relatively few Arab women with children work outside the homes.

ARTICLE 12

Equality in Access to Health Care

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health services, including those relating to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement, and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

1. Introduction

This chapter will examine various curative, preventative, physical, and mental health care services available to Israeli women. In addition, it will examine the relative states of health of men and women in Israel and will focus specifically on reproductive health. There is absolutely no formal discrimination against women regarding health care, nor are there treatments for Israeli women which are contingent upon the approval or permission of their partners or parents, including birth control. It should also be noted that the subject of women's health has recently been the focus of attention, particularly following the Beijing Conference. This is evidenced both by the establishment of a steering committee on women's health needs by the Ministry of Health, as well as by the special appointment of a researcher at the National Center for Disease Control to collect data on women's health.

2. The Legal Framework

2. 1. Introduction

While foundations for public health care were laid down in the **National Health Ordinance-1940,** two recent laws relating to public health totally change the framework of health care in Israel. The **National Health Insurance Law-1994**, which went into effect on January 1, 1995, establishes a universal right to health services in Israel, and the **Patient's Rights Law-1996,** grants statutory recognition to patients' rights and physicians' duties. These two laws are a

source of pride for Israeli society; both are based on the principle of equality and on the dignity and privacy of the individual.

2. 2. The National Health Insurance Law

The law guarantees the right of every Israeli resident to health care services. The principles of "justice, equality, and mutual aid" provide the basis for its enactment. It obligates sick funds to accept all applicants as members, and to provide them with a "basic basket of services." The government is required to finance this basic basket of services by utilizing the budget allocated to it under the law. The law's main source of funding is revenues generated by health tax payments. The sick funds then receive their funding directly from the government, which distributes it amongst the different sick funds in a socially just manner.

2. 2. 1. Universal Coverage Under the National Health Insurance Law

Previously, membership in a sick fund was voluntary, leaving 200,000 Israeli residents, including many children, without health insurance. The new law makes membership in a sick fund mandatory and allows residents to join the sick fund of their choice. This policy has a dual purpose: it encourages competition amongst sick funds, and ensures that even citizens who are not in good health, or would not otherwise be able to afford the membership in the sick funds, will not be denied membership. An additional feature of the new law is the right to choose the caregiver: patients have the right to be treated by any of the doctors, hospitals, laboratories, or infirmaries with which their sick funds are associated.

The new law specifies the services that must be provided in the basic basket of health care. In addition, the law places certain services, such as Mother-Child Clinics, under the direct responsibility of the Ministry of Health. This service, previously provided directly from the Ministry of Health, was to be transferred to the responsibility of the various sick funds, like all other health services. However, when realizing that this could jeopardize the goal of ensuring universal mother and child care irrespective of economic considerations, the law was changed in 1996 in order to maintain the government's direct responsibility for the provision of Mother-Child Clinics.

2. 3. The Health Tax

Under the new law, every adult regardless of gender is obligated to pay health tax in order to cover the cost of the provision of the basic services.

The health tax is a progressive tax and is based on a member's income. However, the law exempts homemakers, or "housewives," from paying the health tax. As explained under Article 13 below, a "housewife" under the **National Insurance Law** is defined as a "married woman whose partner is insured and only provides domestic provisions for their own household, so that she is neither an 'employee' nor is she 'independent.' "Housewife" exclusion stems from the fact that health taxes are collected and handled as part of the Social Security system. Since "housewives" are not insured according to the **National Insurance Law**, they are not included in the data base of the Social Security office (See Article 13).

While the new law ensures equality between men and women by charging married working women and men equal membership dues, some married women who work outside their homes now pay more for the coverage under the new law than they paid under the old law. This is due to the fact that under the old law, families were charged as single units, with married women receiving a 30% discount on their dues.

2. 4. Equality in Health Care

2. 4. 1. Eligibility

The criterion for eligibility is residency in Israel.

2. 4. 2. Differences in Needs as a Barrier to Equality in Israel

Under the new law, most common health care services are included in the basic basket of services.

However, it denies coverage for contraceptives, abortions performed on the grounds of extra-marital pregnancy (constituting the major cause for legal abortions), and other various gynecological services. Moreover, the current basket of services does not fully cover pre-and post-natal services. Consequently, women must pay a fee in order to receive services at the mother-child clinics.

Another source of inequality in the health-care system is the lack of awareness of gender differences in the symptoms and development of specific diseases, such as heart disease. For example, the director of heart and chest surgery in one of Israel's leading hospitals was reported to have expressed a concern in December 1996 as to the discrimination of women in the provision of health care services relating to heart disease. The tools used to diagnose heart disease amongst men are not effective in the diagnosis of women. In addition, heart disease among women develops at a significantly slower rate than heart disease among men. Consequently, doctors are more reluctant to send women who complain about chest pains to be tested, and fewer women are diagnosed in time. This causes women to be diagnosed at later stages of the disease, when the rate of successful surgery decreases. Currently, the death rate and number of complications from bypass surgery among women is 2-3 times higher than among men (2-7%, as opposed to 1-4% among men).

3. Special Health Services for Women

3. 1. Pre/Post Natal Services: Mother-Child Clinics

The Health Ministry reported in 1996 that according to a recent survey, 98% of pregnant Israeli women receive pre-natal monitoring. Of those, 20% are monitored by private doctors, and 80% are monitored through Mother-Child clinics. These clinics offer high-quality and relatively inexpensive pre and post-natal care to women on a neighborhood basis. In 1994, 435 such clinics were in full operation. Despite recent attempts to change the focus of Mother-Child clinics from pregnant women to family health, the main focus continues to revolve around childbearing. Most Mother-Child clinics offer pregnancy tests, check-ups, blood tests, nutrition advice, childbirth preparation classes, child's inoculations and developmental monitoring, all at an annual co-payment equivalent to about 35$. The co-payment is per family, and services are never denied for lack of payment. However, as mentioned above, these services are among the few that are not completely covered by the basic-basket of health services.

3. 2. Delivery Rooms and Maternity Wards

The current number of maternity wards and delivery rooms in Israel does not meet present needs in Israel, due to a sharp rise in the number of births. In 1996 the National Council of Midwives and Gynecology presented the General Manager of the Ministry of Health with a report which

exposed serious malfunctions in delivery rooms, particularly overcrowding and shortage of staff (including midwives, doctors, and anesthesiologists).

3. 3. Women's Health Clinics

In recent years, a number of well-equipped women's health centers have been established to provide special services for high-risk pregnancies, osteoporosis, and various health issues regarding mid-life.

3. 4. Geriatric Services

Presently, women comprise 57% of all Israelis over 65 years of age, and 70% of all patients hospitalized in geriatric hospitals are women. Thus, geriatric services may be treated as an area of specific concern for women. Currently, hospitalization expenses for senior citizens are covered by the basic basket, but extended hospitalizations of senior citizens are not covered by the basic basket and must be covered by the patients and their families. The **National Insurance Law** provides a monthly allowance for the elderly (defined as men who are over 65 and women who are over 60) who are in need of a personal caretaker. By September 1996, 67,000 senior citizens, 70% of whom were women, had received this monthly allowance. In 1996 alone, the government paid a total of over 1 billion NIS in such allowances.

4. Family Planning Among Israeli Women

4. 1. Legal Abortions

The **Penal Code - 1977**, sections 312-321, permits abortions upon the permission of a designated committee in the following cases:

1. The women is under the legal age for marriage or above 40.
2. The pregnancy is a result of sexual relations forbidden according to the Israeli criminal code, or is a result of incestuous or extra-marital relations.
3. The unborn child will suffer from a physical or mental deformity.
4. The continuation of pregnancy will endanger the life of the mother, or may cause her physical or mental damage.

There are no criminal sanctions against women who undergo illegal abortions. The code penalizes doctors who perform the illegal procedures.

The Committee for Approval of Termination of Pregnancies is composed of two doctors and a social worker. One of the Committee members must be a woman. No approval for the abortion is needed other than that of the committee, even if the woman seeking the abortion is a minor. Upon applying to the committee, the woman seeking an abortion must meet with a social worker, who is instructed by law to explain the physical and mental dangers of abortion, and is also instructed by the Ministry of Health to attempt to convince her to choose an alternative solution to the unwanted pregnancy. The woman seeking the abortion must also meet with a doctor instructed to explain the medical risks involved. The reports of both the doctor and the social worker must be reviewed by the committee before it makes its decision.

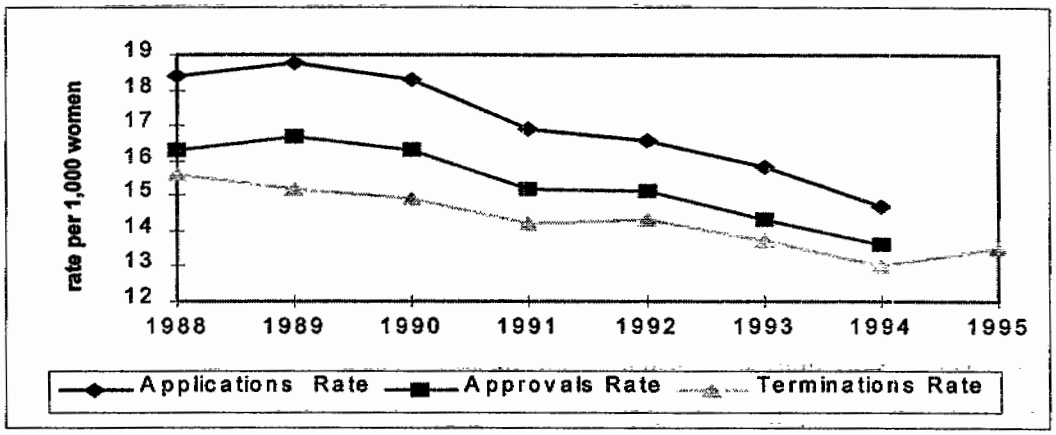
The statutory committee may not examine applications for abortions of pregnancies that have developed beyond the 23rd week, rather, such requests must be reviewed by a special committee. The special committee is composed of the director of the medical center (to which the application has been sent), the director of the Maternity ward, the director of the Naonatology ward, the director of a genetics center, and a chief social worker. So far, 6 such special committees have been formed.

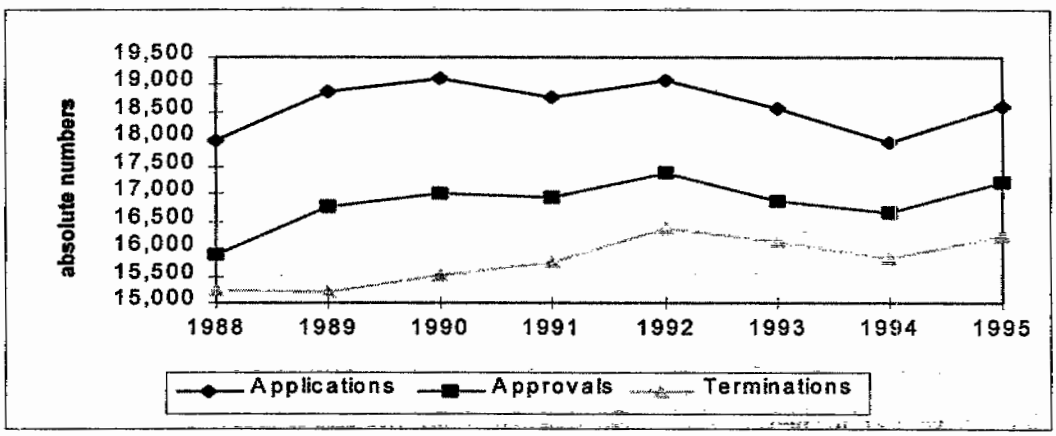
Abortions performed for medical reasons or where the woman is a minor are covered by the medical insurance as part of the basic basket of health services.

4. 2. Abortion rates

Since 1980, the number of legal abortions performed in Israel has fluctuated between an estimated 14,000 to 19,000 a year.

Chart 1 -Application, Approvals, and Actual Terminations





Based on regression analysis, researchers have concluded that the level of education has no influence on the tendency to seek an abortion. The number of children before the pregnancy in question has proved to be an influential factor in the decision to apply for an abortion: the probability of application for abortion rose with the number of children a women had prior to the pregnancy in question. A recent study revealed that only 8.4% of married women in Israel sought abortions for health reasons, while the overwhelming majority sought abortions as a form of family planning.

Table 1 - Applications to Commissions for Termination of Pregnancy (1995)

Marital Status and Religion	Total	To Age 19
Absolute Numbers		
Total	16,903	2,318
Married Women	8,760	105
Unmarried Women	6,053	2,193
Religion:		
Jewish	14,593	2,136
Moslem	744	51
Christian	428	13
Rates per 1,000 Women		
Total	14	9.7
Married Women	13	9
Unmarried Women	13.2	9.8
Religion:		
Jewish	15.8	12.1
Moslem	4.4	1.2
Christian	11.1	2.1

Source: CBS, SAI 1996

Table 2 - Terminations of Pregnancy in Hospitals, by Cause

Year	1980-1983	1987-1988	1990	1993	1994	1995
Applications			19,121	18,568	17,958	18,586
Approvals			17,020	16,855	16,650	17,211
Actual Terminations	61,444	30,545**	15,509	16,149	15,836	16,244
Article:						
Woman's Age	6,827	3,405	1,717	1,778	1,538	1,629
Out of Wedlock Pregnancy	23,301	13,370	6,417	7,063	7,239	7,747
Malformed Fetus	9,326	6,203	3,116	2,837	2,779	2,704
Danger to Woman's Life	21,543	7,498	4,259	4,471	4,280	4,164
Rates per 100 Live Births	16.1	15.3	15	14.4	13.8	14.2
Percentage of Known Pregnancies*	13.8	13.3	13.1	12.6	12.1	12.4

*Live Births and Terminations of Pregnancies

**The report of one of the commissions in 1987 was incomplete. 72 procedures are estimated to be missing.

So

urce: CBS, SAI 1996

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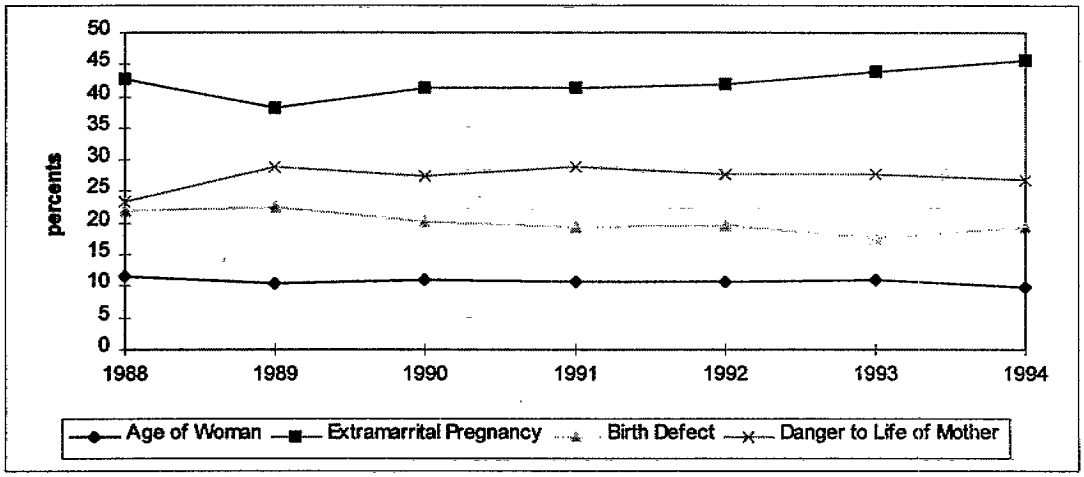
Chart 2 -Terminations by Section of the Law (percents)



4.3.Illegal Abortions

It is difficult to account precisely for the number of illegal abortions in Israel, yet the current estimation of the Israel Family Planning Association stands at 4000-6000 abortions per year. Researchers have noted that the numbers have risen significantly following the recent wave of immigration from the former Soviet Union. Many immigrant women are relatively uninformed about birth control and they are accustomed to receiving abortion on demand.

4.4. Pronatalism and Family Planning in Israel

Over the last 20 years Israel has witnessed a gradual expansion of family planning services in both the public and private health care sectors. However, despite fairly universal health care coverage and the broad range of medical assistance provided in the basic basket of services, contraceptives continue to fall outside of the basic basket of services offered to women. Israeli sick funds offer contraceptive devices at a fee which varies from 170 NIS for an IUD fitting at clinics operated by the General Sick Fund (which insures approximately 75% of the population) to 400 NIS in the other major funds. Although oral contraceptive pills are offered at a subsidized price (approximately 75% of the actual cost), this fact is not widely publicized and most clinics prefer to dispense the IUD to women after childbirth. Diaphragms are neither encouraged nor subsidized. Other non-prescriptive methods, such as foam, rhythm, and withdrawal are perceived as outside of medical jurisdiction, and are therefore rarely discussed by doctors as alternatives.

The Israel Family Planning Association has been actively engaged in performing services not provided by the sick funds or governmental institutions. Since 1981, the association has operated walk-in counseling centers for adolescents facing social, psychological, and gynecological problems. Trained counselors give professional advice concerning contraceptive use, sexual relationships, and pregnancy. Gynecologists give periodic on-site examinations. Currently the association has offices in several pre-dominantly Jewish cities, however, the association plans to open centers in Arab cities like Jaffa and Nazareth, to be staffed by Arab personnel trained by the organization.

4.5. Hysterectomies

Sterilization in Israel is performed on a voluntary basis, and the rate of hysterectomies is relatively low. While in the US in the late 1980s some 271 operations of this kind were performed per 1,000,000 women in the populations, in Israel, the rate was only 73 per 1,000,000.

5. Fertility Rates, Treatments, and Services

5.1. Birth Rates and Fertility Rates

The absolute number of live births per year has increased from 80,843 in 1970 to 117,182 in 1995.

Chart 3 -- Live Births, by Religion (absolute numbers)

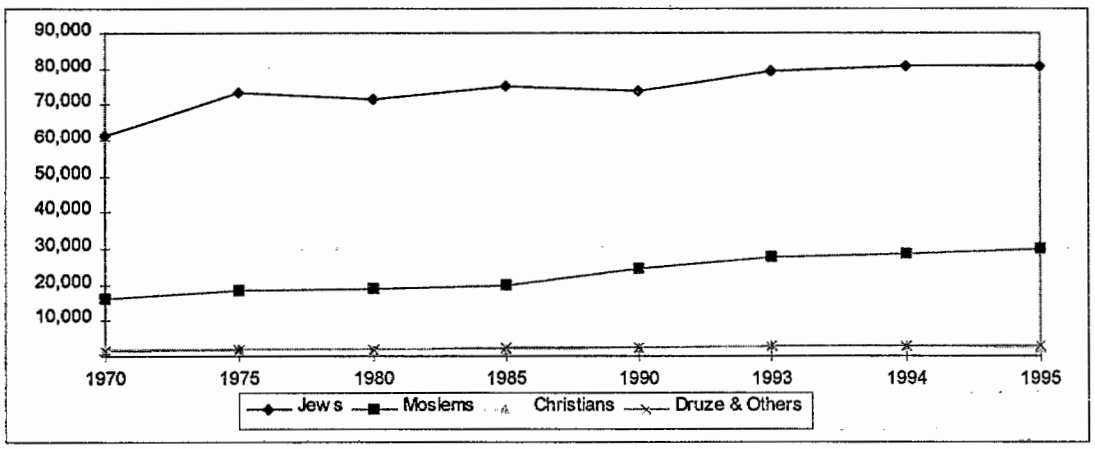


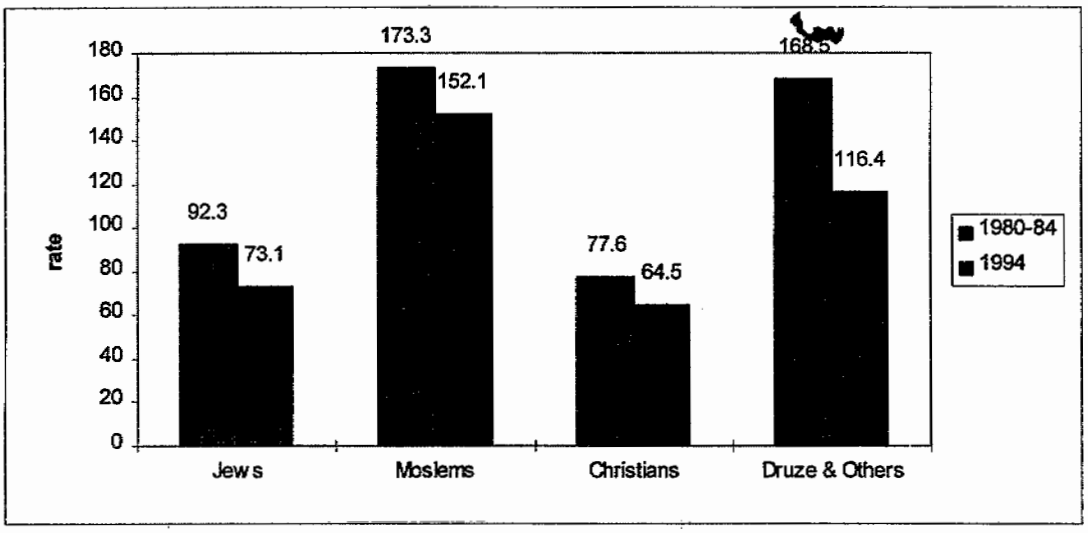
Table 3 - Live births, by Mother's Age

1993

Mother's Age	Total	Jews	Moslems	Christians	Druze & Others
Total- Absolute Numbers	112,330	79,224	27,705	2,710	2,676
Total	100	100	100	100	100
Up to 19	4	2.4	8.6	3.2	5.5
20-24	24.7	21.4	32.5	30.4	33.9
25-29	32	32.9	29.4	34.8	30.8
30-34	23.6	25.8	18.2	21.5	19.4
35-39	12.3	14	8.3	8	8.7
40+	3	3.4	2.1	1.5	1.8

Source: Health in Israel, 1996

Chart 4 -Fertility Rate by Population Group: Live Births per 1,000 Women



Source: Health In Israel, 1996

The largest drop in fertility occurred among Druze, while the smallest drop in fertility occurred among Jewish women. However, the average fertility rate among Moslem women still remains much higher than the average fertility rate of Jewish women: while Jewish women were found to have an average of 2.5 children in 1995, Moslem women were found to have 4.7 children on average. Within the Jewish population, the largest drop in fertility occurred among women born in Europe and America (a 21.5% decrease, from 2.8 to 2.2 children on average), and the smallest drop in fertility occurred among women born in Israel (a 10% decrease, from 3.3 children on

average to 2.5). From among the different age groups, the largest drop in fertility over the last 15 years has occurred among women in the 15-19 age group, while the biggest rise in fertility rate occurred among women in the 40-44 age-group.

The absolute number of live births to unwed Israeli women has not increased significantly in the last 20 years, measured as 1479 births in 1978, and 1490 live births in 1994. However, the number of live births per 1000 unwed Israeli women under the age of 19 has almost halved since 1978, from 1.5 births to 0.8, while the overall number of live births among unwed Jewish women has risen from 732 births in 1982 to 1251 births in 1992.

Table 4 - Live Births to Never Married Women

		Age Of Woman					
	Total	Up to 19	20-24	25-29	30-34	35-39	40+
Absolute Numbers							
1971-1973	1,479	519	639	186		135	
1978-1981	2,875	720	1,005	589	345	166	41
1985	807	116	194	172	165	133	21
1990	1,038	102	220	207	227	201	80
1994	1,490	152	299	324	323	276	115
Births to Never Married Women per 100 Live Births							
1971-1973	0.8	4.5	0.9	0.3		0.3	
1978-1981	1	5.3	1.2	0.6	0.6	0.9	1.2
1985	1.1	4.7	1.1	0.7	0.9	1.6	2.1
1990	1.6	737	1.5	0.9	1.3	2.1	4.6
1994	1.8	8.2	1.7	1.2	1.5	2.5	4.5
Rates per 1000 Never-Married Women in the Population aged 15-44							
1971-1973	2.3	1.4	3.4	4.1		5.2	
1978-1981	3.2	1.5	4	5.5	7.3	9.8	4.6
1985	3.2	0.9	2.8	7	12.2	16.5	5.7
1990	3.8	0.8	2.8	8.3	18.3	22.4	12.2
1994	4	0.8	2.5	8.5	21.5	26.2	13.2

Source: CBS, SAI 1996

5.2. Fertility Treatments and Services

Fertility treatments in Israel are highly developed and well subsidized. Currently, Israel boasts a world record of 20 *in-vitro fertilization* (IVF) clinics, or approximately one such center for every 285,000 inhabitants. Insurance subsidies cover, on average, 6500 NIS for one cycle of IVF treatment, not including hospital expenses and other costs which are generally covered by the basic basket of services. Currently there is no limit as to how many treatments a woman may receive prior to conception, however, only 7 cycles of treatment, up to the birth of two live

children, are covered as part of the basic basket of health services. Although there is no clear definition of infertility in the regulations defining the basic basket, couples are generally eligible for treatment if one year of sexual relations without contraception fails to result in pregnancy. In 1993, 7000 cycles of IVF treatment were performed (some women received more than one cycle of treatment). Moreover, unmarried women are now eligible for fertility treatments with donor sperm in accordance with the same provisions applying to married women.

6. Life Expectancy

Table 5 - Life Expectancy

Year	Jews		Arabs and Others	
	Men	Women	Men	Women
1950-1954	67.2	70.1		
1960-1964	70.6	73.1		
1970-1974	70.6	73.8	68.5	71.9
1975-1979	71.7	75.3	69.2	72
1980-1984	73.1	76.5	70.8	74
1985-1989	74.1	77.8	72.7	75.5
1990-1994	75.5	79.2	73.5	76.3

Excludes war casualties

Source: CBS, SAI 1996

While life expectancy for Israeli men was ranked in 1989 as the 2nd highest among 34 developed countries (after Greece), the life expectancy for Israeli women was ranked 18th. According to the WHO Regional Office for Europe, the difference in life expectancy between men and women is the smallest of 20 European reference countries. This pattern remains generally consistent for all the main causes of death. The WHO Europe Regional Office noted Israeli women's high mortality rates as a matter of particular concern in its 1996 Report on Health in Israel.

7. Mortality Rates and Causes of Death

7. 1. Infant Mortality Rates

The infant mortality rate has almost halved since 1983 and currently stands at 6.8 deaths per every 1000 live births (5.5 deaths among Jewish newborns, and 9.9 deaths among non-Jewish newborns.)

Table 6 - Infant Deaths, by Population Group and Cause

Rates per 1,000 live births

Cause of Death	1970-1974	1980-1984	1985-1989	1990-1994
Jews				
Total	18.6	11.8	8.8	6.8
Intestinal Infectious Diseases	0.6	0	0	
All Other Infectious and Parasitic Diseases	0.4	0.2	0.1	0.1
Pneumonia	1.2	0.3	0.2	0.1
Congenital Anomalies	4.4	2.8	2.3	1.7
Other Causes of Perinatal Mortality	9.9	5.8	4.4	3.6
External Causes	0.3	0.2	0.4	0.2
All Other and Unspecified Causes	1.8	2.4	1.6	1.2
Arabs and Others				
Total	32.1	22.6	16.8	13.5
Intestinal Infectious Diseases	4.8	0.2	0.3	0.1
All Other Infectious and Parasitic Diseases	1	0.9	0.5	0.3
Pneumonia	4.4	1.8	0.6	0.2
Congenital Anomalies	6.5	4.9	5.4	4.2
Other Causes of Perinatal Mortality	10	7.3	5.3	4.3
External Causes	0.7	0.6	0.8	0.5
All Other and Unspecified Causes	4.7	6.8	4	3.8

Source: CBS, SAI 1996

The mortality rate of Jewish female Israeli newborns has been consistently lower than the mortality rate of Jewish male Israeli newborns and has remained consistently lower than that of their male counterparts during the first year for life, although the gap has been closing. However, while the average mortality rate of non-Jewish female infants was lower than the average mortality rate of non-Jewish male infants between the years 1980-1984, the average mortality of non-Jewish female infants rose above that of their male counterparts between the years 1989-1993, and has remained consistently higher than the mortality rate of non-Jewish male infants between their first month and first year of life.

7. 2. Maternal Mortality Rates

The maternal rate of mortality has remained generally low since 1985 , and in 1992 stood at 5.45 deaths per every 100,000 live births. According to the WHO Regional Office for Europe, the Israeli rate for 1990-1992 was the 9th lowest among 20 European reference countries.

7. 3. Standardized Mortality Rates

Table 7 - Mortality Rates of Jews Aged 45 and Over

Average 1992-1994

Age	Males	Females
Rates per 1,000 residents		
Total	25	22.2
45-49	2.8	2.2
50-54	4.5	3.5
55-59	8	6
60-64	14.1	10.7
65-69	22.9	17.5
70-74	36.8	29.3
75-79	60.1	50.4
80-84	97.2	84.6
85+	189.3	170.2

Source: CBS: SAI 1996

7. 4. Causes of Death

Table 8 - Deaths, by Cause, Religion, and Sex

Cause of Death	Total Population		Jews		Moslems	
	Men	Women	Men	Women	Men	Women
	Absolute Numbers					
Total	17,374	16,161	15,596	14,678	1,254	1,049
Cancer						
Stomach	284	199	263	180	14	13
Colon	440	456	426	442	6	7
Rectum	134	120	128	117	2	2
Trachea, Bronchi, and Lung	781	316	694	297	65	13
Female Breast		806		770		19
Cervix Uteri		46		40		
Leukemia	152	143	134	133	12	7
Other	2,156	1,652	2,025	15	77	56
Hypertensive Disease	452	500	420	433	22	49
Acute Myocardial Infarction	1,609	1,470	1,471	1,369	87	76
Other Ischaemic Heart Disease	2,253	1.885	2,111	1,777	84	74
Other Heart Disease	1,576	1,779	1,385	1,599	131	122
Abortion		0		0		
Direct Obstetric Death		6		6		
Motor Vehicle Accidents	420	148	310	110	87	27
Suicide	304	112	288	110	7	
Homicide	94	25	63	19	30	4

Source: CBS, SAI 1996

Heart disease is the cause of death for 211.7 out of every 100,000 Israeli women, and 23% of deaths among Israeli women aged 65 and up. While the mortality rate of Israeli women from heart diseases was found to be approximately 30% lower than that of Israeli men, it is placed 27th lowest among the 34 Western countries to which Israel was compared by the International Mortality Chartbook, whereas the mortality rate of Israeli men from heart disease placed 17th lowest as compared to other countries.

7. 5. Breast Cancer Among Israeli Women

While the incidence of many types of cancers in Israel has generally gone down since the 1960s, Israel has witnessed a constant rise in the incidence of breast cancer over the last 30 years. It appears that Jewish Israeli women, like women in other developed countries, are at a particularly high risk of developing the disease at some point during their lives. A study conducted in 1985

revealed that one of the highest rates of breast cancer in the world is found among Jewish Israeli women, while one of the lowest rates in the world was found among non-Jewish Israeli women.

Specifically, Arab-Israeli women constitute the group with the lowest rate of breast cancer in Israel, and the rate of cancer in general among Arab-Israeli women is lower than the rate of cancer among Arab-Israeli men. However, breast cancer still constitutes 1/3 of all cases of cancer among Arab-Israeli women (Avgar, 1996).

Breast cancer has become the leading cause of death for Israeli women in the 25-55 age group, and has taken the lives of more Israeli women than all heart diseases combined. The rate of cancer among all Jewish Israeli women has risen since the 1960s from 45 cases per 100,000 women to 81 cases per 100,00 women in the early 1990s. The most dramatic rise in the number of new breast cancer cases occurred among Jewish women born in Israel (from 36/100,000 in the 60s to 92/100,000 in the 90s), as opposed to American, European, African or Asian born Jewish women, or Non-Jewish Israeli women (Avgar, 96). Between the 1987-1989 to 1990-1992 periods, there was a 37% rise in the number of new breast cancer cases. According to the figures compiled in 1995, in 1992 almost 2000 new cases of breast cancer were found among Israeli Jewish women, accounting for a third of the malignant tumors found in Israeli Jewish women during that year. Breast cancer is detected earliest amongst Israeli-born Jewish women (47.7 on average) in comparison with other groups of Jewish Israeli women. As with most malignant diseases, the rate of breast cancer among Israeli women rises with their age, reaching its peak in the 65-70 age groups, which experience outbreaks at a rate of 450/100,000 women (with the exception of American and European born Israeli women, amongst whom breast cancer peaks at later ages) and falling back to a rate of 300/100,000 women in the 70+ age group.

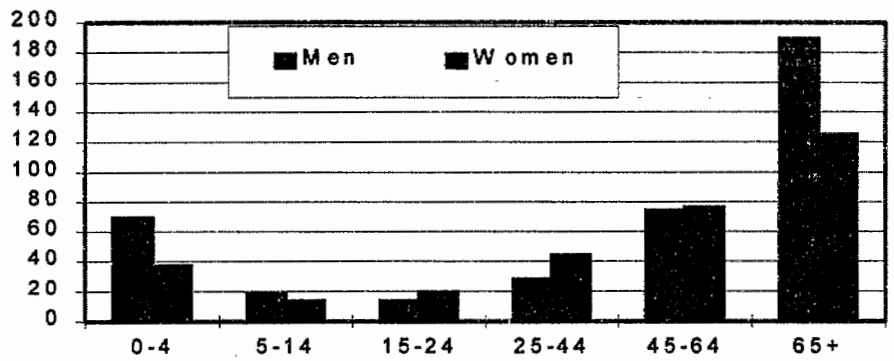
7. 6. Mammograms

The new **Health Insurance Law** expressly forbids the discrimination in services on the basis of sex. This has induced the general manager and the director of health services at the Health Ministry to announce in 1996 that by the end of 1997, the sick funds plan to cover all women in the 50-74 age group for a mammography examination once every two years.

8. Hospitalization

The hospitalization of Jewish females under the age of 15 is lower then that of their male counterparts. After the age of 15 the hospitalization rate amongst Israeli women exceeds the rate of men, and continues to rise sharply in every age group. By the age of 45, the hospitalization rate of males and females is approximately equal, and beyond the age of 65 the hospitalization rate of men rises above that of women. The above statistics include women hospitalized in maternity wards.

Chart 5 -Hospitalized Persons, 1993: Rate per 100 Persons



Source: Health in Israel, 1996

In 1995, 44% of all psychiatric hospitalizations were of women and 56% were of men. The rate of hospitalized men exceeded the rate of hospitalized women until the ages of 45+.

Table 9 - Admissions to Psychiatric In-Patient Care

1995

	Total- Absolute Numbers
Total	16,532
Men	9,293
Women	7,239
Thereof: First Admissions	
Total	4,111
Men	2,330
Women	1,781

Source: Health in Israel, 1996

9. Violence as a health factor

Violence against women is thoroughly discussed under Article 5 above. The **National Health Law** covers any and all medical expenses incurred as a result of physical or sexual violence against women.

The 1996 parliamentary committee whose work is discussed under Article 5 above, has recommended to the Health Ministry that medical teams be trained to identify damage stemming from domestic violence and to ask questions pertaining to family violence (including mental violence) as part of the standard line of questioning during an examination. In addition, the committee has recommended that questions pertaining to violence against women be included in the Israeli Medical Board examinations for doctors, nurses, and paramedics.

10. AIDS

The total number of AIDS patients in Israeli during 1995 was 358, 312 of whom were male and 46 of whom were female. 278 of the 358 patients died that year. The number of AIDS carriers in Israel in 1995 was 1386 of whom 367 were women; most were exposed to the virus outside of Israel. Since the first statistical documentation of AIDS in Israel in the early 1980's, the proportion of Israelis infected each year by the HIV virus who are women has significantly increased, especially since 1992.

The Israel Family Planning Association has been tackling the issue of AIDS in Israel by printing and distributing educational pamphlets in Hebrew, Russian, Arabic, and Amharic (the language spoken by Ethiopian newcomers to Israel). In addition, the Association offers courses and seminars which emphasize AIDS awareness and education.

Table 10 - AIDS in Israel

Exposure Category	Women		Men	
	AIDS Patients	HIV+ Carriers	AIDS Patients	HIV+ Carriers
Total	46	367	312	915
Homosexual/ Bisexual Males			132	193
Intravenous Drug Users	9	19	54	108
Persons with Hemophilia		1	33	44
Other Blood/ Component Recipients	2	7	11	9
Heterosexual Contacts				
Partners of One of the Above 4 Categories	7	17		4
Persons Presumed: Exposure Abroad	17	198	42	267
Child of At-Risk/ Infected Parent	6	23	5	42
Not Known	5	102	35	248

Source: CBS, SAI 1996

11. Women in Health care

11.1. Women in Medical School

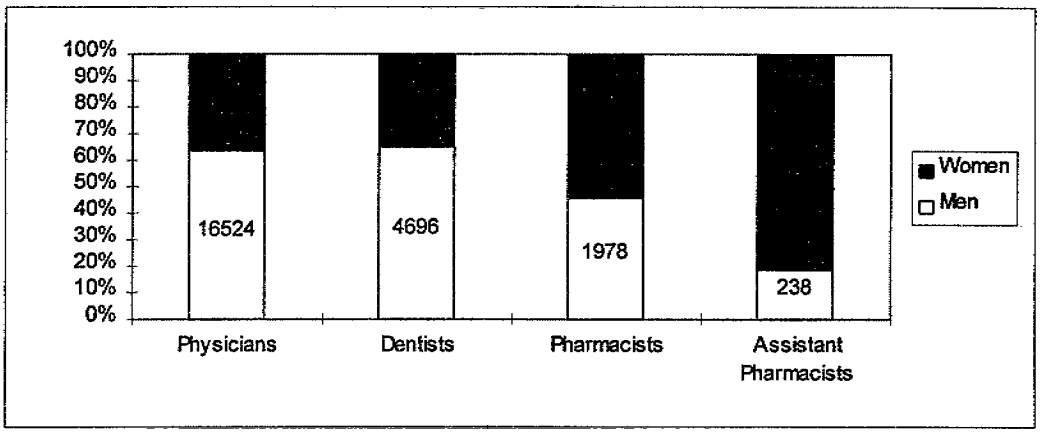
The number of women accepted to medical schools in Israel has risen significantly over the last 26 years, from 24% in 1969, to 48% in 1995. Israeli women were found to score comparably to Israeli men in the National Medical Board examinations.

11.2. Women as Medical Personnel

By the end of 1993, two thirds of all doctors and dentists were men. Among the specialists, 74% were men. The highest rate of women specialists was in pediatrics (40%) and psychiatry (40%), followed by family-medicine (35%). The lowest rate of women specialists was in general-surgery (5%), followed by obstetrics and gynecology (15%). While 43% of all men-doctors were specialists, only 29% of all women doctors were specialists.

The mass emigration to Israel from the former USSR has significantly changed the proportion of practicing doctors who are women in Israel, from 30% to 36% by 1995 (and 35% of all practicing dentists). Twenty percent of all doctors in 1993 were new immigrants who arrived to Israel in 1990-1993.

Chart 6 --Medical Personnel



Currently, 56% of all new immigrants who are doctors are women. Figures from 1992-3 indicate that 49% of medical licenses were given to women, 90% of the whom did not study medicine in Israel.

Israeli women doctors tend to work in clinics as opposed to hospitals and are less likely than men to specialize in surgery related fields. While the proportions of Israeli women and US women who specialize in psychiatry and family medicine are similar, the proportion of women in the US who specialize in internal medicine, children's medicine, surgery, and particularly gynecology, is significantly higher than the proportion of their Israeli counterparts. Although gynecology is a specialty predominantly occupied by women in Eastern Europe, the current wave of immigrants from the former USSR did not significantly alter the number of women gynecologists in Israel.

12. Arab Women and Health Services

Prior to the enactment of the new health insurance law, health clinics in almost all Jewish cities and villages, while nearly a third of the Arab villages lacked clinics. For example, in the Arab city of Um El Phachem, which housed 27,000 residents, the General Sick Fund provided only one gynecologist for its 18,000 members. In the new law the government adopted the policy of indirectly encouraging the Sick Funds to accept members who live in Israel's peripheries, such as Um El Phachem, by allotting funds in proportion to the number of members in each sick fund, an by specifying that more funds will be allotted for those living in the peripheral areas.

Maccabi, the sick fund considered to provide the most qualitative health care services, began establishing branches in Arab villages while the new law was still being discussed in the *Knesset*. Thus, the new law has in fact brought an immediate improvement in the quantity and proximity of health care services to Israeli Arabs.

A recent study conducted to gauge the level of satisfaction with the changes in the health care system brought on by the new law (Berg, 1996) found that the level of satisfaction from the new law was highest in the Arab community: 31% of the Arab residents included in the study felt that health care services had improved as a result of the new law, as opposed to a mere 17% of the veteran Israeli society.

Since 1994, the Ministry of Health has joined the active effort to close the gaps in health care between Israel's minority groups and the majority by allotting a proportion of its yearly budget for this express purpose since. In 1995, 5.1 million NIS (roughly 1.5 million dollars) were allotted, which amounted to 2% of the Health Ministry's budget, and by 1996, 9.7 million NIS were allotted this purpose. Most of the funds have been used to employ more care-givers and purchase equipment for the clinics serving minority populations.

12. 1. Health Care Services offered to Arab Women

As mentioned above, the Minister of Health, through its local public health departments, operates an extensive network of 435 Mother-Child clinics throughout the country that offer high-quality and relatively inexpensive pre- and post-natal care to women on a neighborhood basis. While Mother-Child stations had been set up in all Jewish cities, in 1991 20 Arab villages still lacked Mother-Child clinics. In response, during 1993-1994, the Health Ministry approved the construction of 20 new Mother-Child clinics in Arab towns and villages. In 1995, the Health Ministry approved the construction of an additional 30 mother-Child clinics in Arab towns and villages, and 1996 the Health Ministry approved the construction of an additional 27 new Mother-Child Clinics for Arab towns and villages and spent 6.5 million NIS (roughly 2 million Dollars,) on their construction. A study conducted in 1992 among 320 Arab mothers in seven hospitals in Northern Israel found that Christian Arab women, who tend to be more educated than their Druze and Moslem counterparts, preferred private doctors to the Mother-Child care centers and visited the centers less frequently.

Geriatric services for Arab women were virtually non-existent until 1993. No Arab town had institutions with beds for geriatric purposes and geriatric care was provided for the Arab elderly mainly by family members even after the enactment of the **Nursing Care Insurance law - 1988**. However, caretakers who are not members of the patient's immediate family and do not live in the same household have begun to take collect the allowance provided by the **Nursing Care Insurance law** as compensation for their services. Presently 12% of all Arab senior citizens receive both a senior citizen's allowance and nursing care allowance, while only 6% of all Jewish senior citizens receive both allowances. In addition, the first old-age home specifically geared for the Arab community opened in 1993 in the Arab town of Deboriah.

12. 2. Life Expectancy and Causes of Death Among Arab Women

Arab women have a life expectancy of 77.1 years as compared to Jewish women whose life expectancy is 79.5 years. The leading cause of death (47%) among both Arab and Jewish women is heart disease. Cancer is the second leading cause of death among Jewish women, and only the third leading cause of death among Arab women. However, the death rate from cancer among Arab women has been rising, and the difference between the two groups has been decreasing. Strokes have been found to be the third largest cause of death among Israeli women in general, leading to the death of 165 out of every 100,000 Arab women, as compared to 119 out of every 100,000 Jewish women. High blood pressure, which is generally more common among men than women, is particularly common and dangerous to the health of Arab women.

12. 3. Infant Mortality Rates among Arab Newborns

Despite the general improvement in health services since the establishment of State of Israel, a significant gap remains between the infant mortality rates in the Arab sector as opposed to the Jewish sector.

Table 11 - Health Determinants

	Jews	Arabs
Stillborns per 1,000 Live Births (1991)	3.7	6.5 (Moslems)
Infant Mortality (1994)	5.9	11.5
Life Expectancy (1993)	Women- 79.5 Men- 75.7	Women-77.1 Men- 73.6

Source: CBS, SAI 1996

Statistical analysis completed in 1992 found that in the cities included in the study, the 9 cities with the highest infant mortality rates (spanning from 16.8% -24.6%) were cities in which the majority of the population were Arabs.

Chart 7 - Jewish and Arab Stillborns and Infant Mortality Rates & Life Expectancy

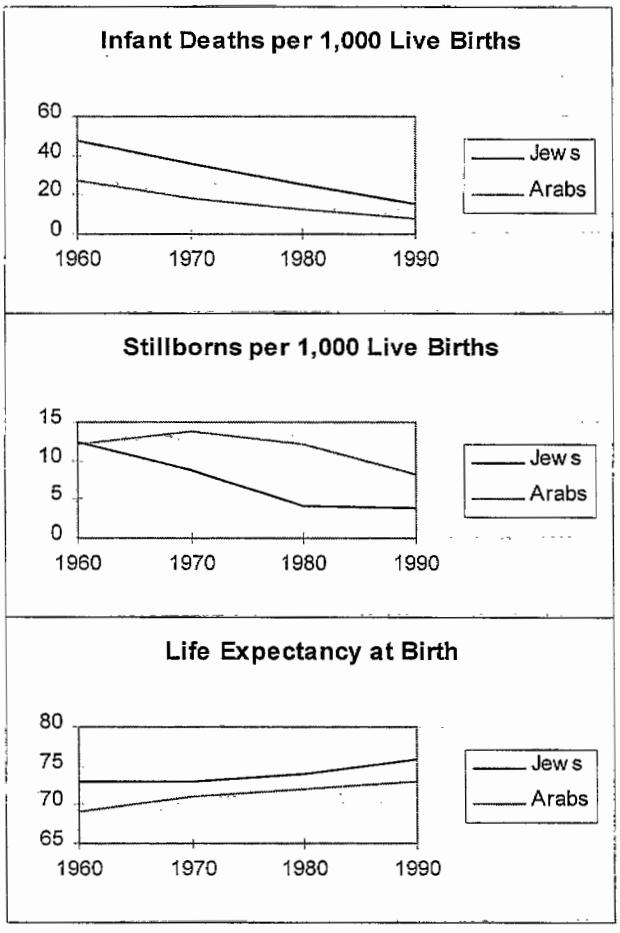
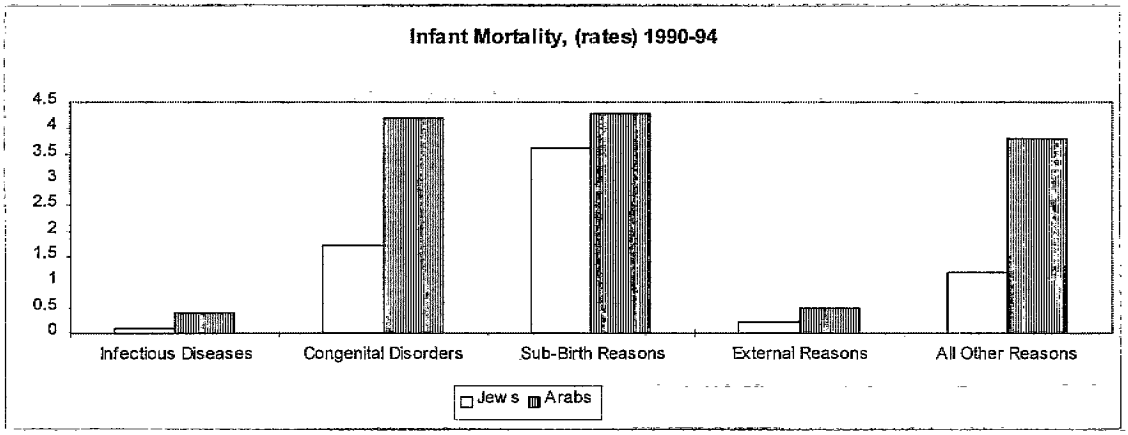


Chart 8 - Causes for Infant Mortality, Jewish and Arab Population



12. 4. Fertility and Family Planning

The birth rate among Israel's Arab Moslems dropped from an average of 9.22 children per family in the 1960s to 8.5 in 1975, and continued to drop dramatically until 1986, when it stabilized at 4.6. Recently there has been a small rise in fertility rates among Moslems (the rate rose to 4.7 in 1995), but a decline continued among Christian and Druze women. A study conducted in 1996, reveals a negative correlation between the fertility rate and years of education among Arab women, and a positive correlation between the number of years between each birth and the level of education. In addition, the study reveales that the fertility rate among village women is higher than that of city women. Arab women of Jerusalem were found to be exceptional in terms of this correlation, and their fertility rates were significantly higher than the fertility rates in other Arab cities.

ARTICLE 13 Social and Economic Benefits

States Parties shall take all appropriate measures to eliminate discrimination against women in other aresas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

a) The right to family benefits;

b) The right to bank loans, mortgages, and other forms of financial credit;

c) The right to participate in recreational activities, sports, and in all aspects of cultural life.

The discussion under this Article will touch upon several areas relevant to the participation of women in economic, social and cultural life in Israel. As such, it will be divided into a number of parts: aspects of women in the economy; social benefits and the welfare state in Israel in relation to women's social and economic situation; and several aspects of eve . day life of women in Israel (time-use and recreation).

1.Women in the Economy

1. 1. Women as Members on Boards of Israeli Companies

Women's participation in national economic life is a significant feature of full citizenship, which reflects society's willingness to accept women as leaders and decision-makers. In research conducted in 1994, the following data was collected concerning the number of women on the boards of directors in public companies traded on the stock exchange. In 61% of the public companies, there were no women appointed to the board of directors, and in 27% there was only one woman. In addition, research showed that more women serve on the boards of private or family-owned companies than on a public companies traded on the stock exchange.

According to the aforementioned research, men have a higher tendency to serve as directors of multiple companies, whereas women have a higher tendency to hold multiple jobs in the same company, in addition to serving as members of the board.

Recent data submitted to the Knesset Committee on the Status of Women by the Women Managers in Industry Forum show that the situation did not improve significantly from 1994 to

1996: in both years women constituted less than 9% of the directors in public companies traded on the stock exchange, and in 702 such companies researched, only 322 had women on their boards.

1. 2. Attitude of Women Directors

The research revealed additional differences between the attitude of women and men directors: women emphasize the shareholders' interest, the ability to influence the management and social prestige associated with the job. Men, however, attach strong importance to public interest, the ability to make connections, and their own management experience. These differences reflect important aspects of how directors get appointed: men are usually appointed through friends, network connections, or business associates, while women are appointed mostly due to family connections and public activity.

1. 3. Women in Small Businesses

Another significant aspect of economic participation is expressed through entrepreneurship, particularly in small businesses. The influence of small businesses in generating employment opportunities has risen greatly in the recent years. Therefore, the participation of women in small businesses should be undestood as a major channel through which women enter the Israeli economy.

In a recent national survey conducted under the auspices of the Small Business Authority in Israel, it was found that:

1) 8% of all women aged 22-55 were operating their own business.
2) The life-span of small businesses of women is relatively short: (45% operate 1-4 years, 51% operate 5-7 years.)
3) The major obstacle that women must overcome to be entrepeneurs is lack of experience in financial and marketing strategies.
4) Since women generally own less property than men, it is more difficult for them to provide sureties in order to receive necessary loans.

In 1996, the Committee for Promoting Women Entrepreneurship published a report which calls for increasing the number of women in bank managerial positions in order to influence the

banks' attitude in favour of women's requests for loans and credit ratings. There is a National Fund for Promoting Small Business from which women can get loans with State guarantees.

The Small Business Authority of Israel (hereinafter: "**SBAI**") is a government agency designed to help, promote and assist small businesses in Israel. The SBAI established a committee aimed at helping women set up small businesses and aiding women entrepreneurs. The SBAI provides courses in business management to women all over Israel. In addition, the SBAI has set up Women Managers Clubs in cooperation with *Na'amat* (see Article 7).

Research done by the SBAI committee on the likelihood of women to open a small business revealed that 1) the average age of women entrepeneurs was 52, 2) their average education consisted of 13.5 years, 3) 70% of women entrepeneurs were married and 85% were mothers. The reasons and methods used for setting up a small business are summarized in the following table:

Table 1 - Women's Reasons for Establishing a Small Business

Reasons	%
Alternative to Working as an Employee	24
Desire for Financial Success	26
Reaching a Goal	15.5
Independance	15
Need for Change	13.4

Source: SBAI Committee

The following table depicts the various means through which women entrepeneurs obtained the money needed to start their business:

Table 2 - Sources of Funding for Intiation of Businesses

Source	% of Women
Almost Didn't Need	30
Private Sources Only	41.1
Family	5.3
Bank Loans	15.5
Non- Private Sources	8.2

Source: SBAI Committee

According to this data, in order to get capital most women preferred to borrow from relatives and friends rather than from banks. A small percentage of women reported difficulties in acquiring bank loans due to eligibility problems.

2. Social Benefits and the Welfare State in Israel

2. 1. The National Insurance Institute

The welfare state in Israel emerged gradually during the 49 years since the state's establishment. Israel succeeded in building a comprehensive system of social protection which encompasses social insurance and social assistance programs. The cornerstone of social insurance was laid soon after the establishment of the state, through the passage of the **National Insurance Law-1953.** The social insurance system is extended to include all major contingencies of income loss in modern industrial societies: **old age, dependents, disability, child rearing, maternity, unemployment, and work injury.**

The body responsible for administration of the social insurance programs is the **National Insurance Institute** (hereinafter: "**NII**") which operates under the supervision of the Ministry of Labor and Social Affairs. The NII provides welfare services to residents in need. The NII is also responsible for the payment of benefits under the social assistance program, as directed in the **Income Support Law- 1980**. Employment-related social benefits are described under Article 11. The following sections will describe other relevant social benefits, and will include data on recipients of such benefits.

2. 2. Social Benefits

2. 2. 1. Maternity Grant

Women are insured under maternity insurance, which provides a hospitalization grant, a maternity grant (both of which are only for the mother and not for the father) and a maternity leave allowance. Any woman who gives birth at a hospital is eligible for a maternity grant, set as 20% of the average wage, upon the birth of one child, and 100% upon the birth of twins. The conditions for eligibility for maternity leave allowance are detailed under Article 11.

During 1996, 56,000 women received maternity leave allowances, constituting 49.1% of all births that year. This means that less than half of the women who gave birth in 1996 were eligible for the allowance, in terms of working the required amount of months prior to the birth, as explained under Article 11 above.

2. 2. 2. Old Age Pension and Survivor's Benefit

96% of all women over age 65 in Israel receive an old age pension or a widow's pension for dependents. Of those receiving an old age pension, 61% receive the pension after having accrued insurance coverage, while 21% receive pensions in the form of a supplement to the spouse's pension. An additional 18% of elderly women, primarily new immigrants who were unable to accrue pension rigthts in Israel, receive pensions under special arrangements funded by the Treasury (general revenues.)

2. 2. 3. Longterm Care Insurance

All women, including housewives, are insured under long-term care insurance (see Article 12 above), and the conditions of entitlement are identical to that of men with one distinction: the age of entitlement for women is 60 and for men 65. Moreover, the conditions for entitlement to the benefit require at least 50% medical disability for housewives compared to 40% medical disability for other insured persons.

2. 2. 4. Unemployment Benefits

A person who is registered at the Employment Service, who is ready and able to work, and to whom the Service has not offered such work, is entitled to unemployment benefits. The daily unemployment benefit is calculated at rates determined in the law, on the basis of the daily average wage of the unemployed person during the last 75 work days of the qualifying period. In 1996, 45.4% of all women aged 15 or older were part of the work force. The number of women receiving unemployment benefits was only 3.9% of the women's work force. The comparable figure for men was 2.8%. Women's unemployment rate in 1995 was 8%, and men's unemployment rate was 5.1%.

2. 2. 5. Children's Allowances

The NII provides children's allowances to an insured parent under the law, paid to one of the parents for each child (under the age of 18) and to an insured person who supported a child who is not his or her child for at least 12 months.

2. 2. 6. Alimony Payments

The **Alimony (Guarantee of Payment) Law -1972** states that any person, regardless of gender, who has received a court decision in his or her favor for alimony and who is an Israeli resident, may receive this grant from the NII according to the court decision. Currently, the sums are 25% of the average wage for the alimony of a woman alone; 39.7% of the average wage for a woman with one child; 49.6% for a woman with two children. This law is a revolutionary law, enabling entitled people who cannot succeed in implementing the court decisions on their own, to receive the sums laid down by the courts.

In 1996, 18,283 women received alimony payments. The overwhelming majority (99.3%) were women with children. About one third had one child, one third had two children, close to 20% had three children and about 10% had four children or more. The amount paid increases according to the number of children. Significantly, only 5% of the women received the sum determined in the regulations, since the sum that is decided in the courts is usually lower, and the beneficiary is entitled to the lower sum of the two. Thus, the average sum of alimony payment in 1996 was only 19.9% of the average wage.

Other information indicative of the economic situation of women receiving alimony payments through the NII is that of all women who received unemployment payment in 1996 (36,750 women), 52.5% had also received alimony payment.

2. 3. Poverty of Women

According to the definition of poverty adopted by the NII, a family is considered poor when its standard of living falls considerably below the defined poverty line. The poverty line in Israel is defined as 50% of the median disposable income (i.e. after the various social-security transfer payments and income tax), adjusted to family size.

According to the statistics offered by the NII, there are almost no gender-related differences regarding the incidence of poverty among the population, and poverty is documented in equal proportions among both men and women. In 1995, out of 1,447,900 adult women, there were 224,600 earning an income below the poverty line. Out of 1,324,300 adult men, there were 189,300 living below the poverty line. According to these statistics, women constituted 54.3% of the persons having an income below the poverty line, while men constitute 45.7% of the persons having an income below the poverty line. Since women constitute 52.2% of the adult population these figures show that the proportion of women in poverty is only slightly larger than their proportion in general in the population (54.3% vs. 52.2%).

Nevertheless, there are specific population groups which are especially vulnerable to poverty, particularly those families that are headed by women. The statistics concerning poverty in families headed by women are as follows: 21.9% of all families headed by women live below the poverty line, 25% of all families headed by elderly women live below the poverty line, and the incidence of poverty in single-parent families headed by women are estimated to be higher, but unfortunately the NII data regarding this group is not sufficient to enable a precise assessment. Regarding two-parent families, the poverty rates are smaller: 13% among families with no children; 7% among families with one child; 11% among families with two children; 15% among families with three children; and the striking figure of 40% among families with four children or more (related to the socio-demographic characteristics of such families). The impression of a higher poverty rate among women-headed families is strengthened by the data concerning income support benefit, discussed below.

Much of this information regarding the economic status of women-headed households is the direct result of the earning gaps that exist between women and men, as discussed extensively under Article 11 above. This contention is supported by the breakdown of the incidence of poverty among working men and women, when the analysis is done according to the disposable family income, adjusted by the number of family members. The NII data reveals that 14% of working Jewish women are below the poverty line, while the poverty rate for working Jewish men is only 7%. Interestingly, the opposite is true among working non-Jewish men and women. The poverty rate among non-Jewish working women is 20%, and among non-Jewish working men is 23%.

2. 3. 1. Single Parent Families

In 1995, around 10% of all Israeli households constituted single-parent families (data varies between the Central Bureau of Statistics and the National Insurance Institute). Over 80% of these households are headed by women. According to the NII, poverty among single-parent families is more frequent than among two-parent families. Researchers further contend that almost one third of families with children that are headed by women are poor, compared with 15% of families with children that are headed by men. Unfortunately, neither of these estimations can be presently verified, since the sample used by the NII income-survey is too small to enable statistical analysis regarding single-parent families. One indication of the limitations of these estimates is the disproportionately high rate of single-parent women who received income support benefits in 1995; in this year 41% of all women receiving income support benefits were single-mothers. Overall, the high percentage of single-parent families hea. ! by wom n living in poverty has been recognized as a serious problem, which is being dealt with in several different ways.

The **Single-Parent Family Law 1992** entitles single-parent families to income support, and has strengthened the social protection for single-parent families with low income, by increasing the level of their means-tested benefit as well as by awarding them child-education grants and priority in vocational training. The **Single-Parent Family Law** brought about an equalization of rights among the various types of single-parent families, whether headed by men or by women, under the principle of "equal treatment for families with equal needs."

The Law was amended in 1994 and the definition of "single-parent" was broadened to include women or men who are separated from their spouses for at least two years and who have started divorce proceedings, immigrants whose spouses did not immigrate with them, and *agunot* (women whose husbands refuse to grant them a bill of divorce). According to the **Single-Parent Family Law**, every single parent is entitled to children's benefits, while those that do not have any income aside from alimony payments are entitled to income support. In 1995 the benefit to deserted wives and mothers whose spouses were in jail was increased by 50% in order to combat the high rate of poverty among these families.

In addition, single-parent families are entitled to benefits in income tax, special *credit points* which reduce the amount of taxes they have to pay, and financial help in paying rent. Moreover, the NII provides a single parent family with a children between the ages of 6-14 with a yearly study grant.

2. 3. 2. Poverty among the Elderly

Women's organizations have pointed out that, as part of the more vulnerable population, elderly women constitute a higher percentage of persons living below the poverty line. One of the means for dealing with this problem is the **Law for the Reduction of Poverty and Income Disparities 1994**. Under this law, the benefits paid to the elderly and single-parent families have risen significantly. This law is likely to help more women than men since women generally live longer than men.

According to statistics submitted by the NII, however, the situation today is that poverty among the elderly is found in almost equal proportion among men and women. The percentage of elderly women living below the poverty line is 19.2%, and among elderly men is 18.9%.

2. 4. Combating Poverty

2. 4. 1. Income Support

Transfer payments play a crucial role in reducing poverty and income disparities. According to the **Income Support Law - 1980**, Israeli residents over 18 years old, subject to a means test that takes into account the economic situation of the family unit as a whole, are entitled to an income support benefit under certain conditions, including, for example: unemployment; employment at low wages; single-parenthood with a child up to the age of 7; and more. The benefit rates, presented as percentages of the average wage, vary according to the conditions of eligibility. Single parents with children get the highest rate of income support: with one child - 43%, with two or more children - 53%.

Income support is given on the basis of a family unit. In 1995, among all recipients of income support benefits 65% were women, of whom 34% were married with or without children, 25% were unmarried, and 41% were single-parents.

ARTICLE 14 Rural Women

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on the basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

a) To participate in the elaboration and implementation of development planning at all levels;
b) To have access to adequate health care facilities, including information, counselling and services in family planning;
c) To benefit directly from social security programmes;
d) To obtain all types of training and education, formal and non formal, including that relating to functional literacy, as well as inter alia, *the benefit of all community and extension services, in order to increase their technical proficiency;*
e) To organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
f) To participate in all community activities;
g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
g) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

The issue of rural women is not particularly relevant to the State of Israel, since only 10.4% of the Israeli population lives in rural localities. Two main groups which this Article will concentrate upon are Bedouin women and women in *kibbutz*.

1. Bedouin Women

1. 1. Introduction

This chapter focuses on the 100,000 Bedouins who live in the southern Israeli desert regions. Half of the Bedouins who reside in southern Israel live in one of 7 Bedouin towns that were officially founded and recognized by the State (Tel-Sheva, Rahat, Chora, Lakye, Sgav- Shalem, Aroer, and Csype,) while the remaining half are scattered across the desert and live in semi-nomadic clans.

The Bedouin community has undergone many changes since its first exposure to Israeli society. The process has had various social, political, and economic effects on the Bedouin community, and has weakened many age-old customs of Bedouin society: particularly those of Bedouin women.

1. 2. Family

Bedouin society is patriarchal and traditional. Bedouin women traditionally hold all domestic responsibilities, including upkeep of the family tent, and education of children. In addition, women were held responsible for caring for members of the tribe who were in need of communal assistance, like the elderly or the infirm.

1. 3. Israel's Influence on the Bedouin Social Structure

1. 3. 1. The Rise in Polygamous Marriages

Historically, Bedouins practiced polygamy, and in recent decades the popularity of polygamy has risen. Exposure to Israeli society has either lead Bedouin men away from their villages, or brought them back to their villages with new expectations as to their future lifestyles there, which include the expectation to marry partners who share their more western outlook and possess a similar educational background. Bedouin women, who are usually not allowed to leave their village for educational or employment purposes, have not been able to meet the expectations of their westernized male counterparts. Consequently, many remain unmarried at relatively advanced ages (late 20s early 30.) . Unmarried Bedouin women remain dependent on their families and are perceived as economic burdens by their fathers, who are traditionally in

charge of family finances. In order to remedy the situation, many of these older unmarried Bedouin women are married off as second or third wives.

In the Bedouin town Rahat (the largest of the officially recognized Bedouin towns in the south) the average age of legal wives in monogamous marriages is 18.3, and the average age of the first wives in polygamous marriages is 20.5, while the average age of the other wives in a polygamous marriage is 24.24 (Alatona, 93.) In addition, the research indicates that the number of forced marriages was significantly higher among additional wives in polygamous marriages than among the first wives in polygamous marriages or wives in monogamous marriages. Polygamous marriages occur among educated Bedouins men and women as well. Often, an educated woman will be married off as a second or third wife, yet her level of education seems to be a positive variable in her status in the polygamous marriage. In Rahat, while wives in monogamous marriages received an average of 4.4 years of education and additional wives in polygamous marriages received an average of 3.5 years of education, the first wives in polygamous marriages were found to have received only .7 years of education on average. The status of the first wife in a polygamous marriage varies: some of the first wives are all but abandoned by their husbands in favor of the new wives although they are not officially divorced, while others become more prominent in their position as compared to the other wives.

Education was found to increase self-esteem among women in monogamous marriages, though educated women in polygamous marriages were found to more frustrated by their marriage arrangements because they were more aware of their educational and professional potential.

Israeli law forbids polygamy, though Bedouin men manage to circumvent the law by marrying one wife legally and the rest traditionally, later claiming to the Civil courts that the other wives are strictly maintained as "concubines." However, the *Shaaria* (Moslem) courts recognize the concubines as legal wives and grant them divorces as well (Alatona, 93).

1. 3. 2. Modernization as a Bane to the Status of Bedouin women

As a result of the government-sponsored transition of the Bedouin community from a semi-nomadic lifestyle to permanent residences, many of the traditional activities of the Bedouin women have been replaced by modern technology and by the Israeli educational system. The

abandonment of traditional life has left a vacuum in the lives of Bedouin women that has yet to be filled by new forms of activity; these women are unequipped and unable at this stage in their lives to enter to go into the labor market or pursue a formal education. Thus, they have been left unemployed, although they are not formally recognized as such by the Israeli government. The Bedouin men see the change in their wives role in the nuclear family as a transition from a productive to a consumptive role which leads to a gradual loss of respect for their wives and the roles which they play in the family unit.

1. 4. Employment

Bedouin men still object to sending their wives and daughters to work outside of their town and villages. At present, Bedouin women are more interested in vocational training which will provide them with skills that can be utilized within their homes or villages. Since Bedouin social code dictates that women must be accompanied at all times and places outside the home, Bedouin men only allow their wives to work outside of the home provided that they are supervised at all times.

Bedouins in the Galilee have overcome these societal constraints through the supervision of *Raisim,* i.e. labor contractors or work supervisors, who assume the responsibility of protecting Bedouin women when they are working outside the home. The *Raisim* usually organize groups of women to work in factories, agriculture, and as household help, and these women are often paid through the *Raisim*. While in the past Bedouins were decidedly opposed to women working at night, the *Raisim* system has created the opportunity for village women to work night-shifts in factories and in hotels. The competition amongst *Raisim* to manage as many workers as possible ensures that women will not be taken advantage of. Presently, the phenomena of Bedouin women working through the *Raisim* arrangement is only significant in the Northern Bedouin villages located in the Galilee.

1. 5. Education

Bedouin children enjoy a public school education comparable to the public school education provided all over Israel. However, only 30% of Bedouin students complete the 12th grade, and barely 3% of the students successfully complete graduation requirements.

Currently, Bedouin girls constitute at least 50% of the student body of the recognized Bedouin schools. Many parents expect their daughters to return to their traditional roles in the Bedouin households upon graduation from 12th grade, which often results in irreconcilable differences between the traditional parents and their educated daughters who refuse to return to domestic work which does not allow them to use their education. Furthermore, many girls who are allowed to work must hand their wages over to their parents and often resent their inability to enjoy the fruits of their labor. These irreconcilable differences lead a significant number of Bedouin girls to run away from their homes to shelters and half-way houses.

Recently higher education has begun to gain acceptance among some Bedouin parents who realize that in order for their daughters to lead comfortable lifestyles and find suitable husbands (given the rise in demand for educated wives among young Bedouin men) they must have advanced education. Nevertheless, most parents still associate the university setting with decadence, and fear that sending their daughters to university will result in the desecration of their family's honor.

1. 6. Ritual Female Genital Operations (Female Circumcision)

Ritual female genital surgery (RFGS) has been found to be a normative practice in several Bedouin tribes in southern Israel. Those Bedouin women among whom the custom is prevalent do not refer to female circumcision in anatomic terms, but rather refer to it as "purification." In 1992, Bedouin women from six different tribes were interviewed regarding their circumcisions. The women interviewed were between the ages of 16 and 45. They reported that not only they, but all their sisters and the women in their close and extended family underwent RFGS. The older women who had daughters reported that their daughters had already undergone RFGS or will undergo RFGS when they reach the suitable age. The ages between 12 and 17 are considered suitable for RFGS, since they are after menarche but before the girls reach a marriageable age.

Most of the women stated that they will continue practicing RFGS on their daughters, however, two young women aged 16 and 18, who were among the younger and better educated women in the group, said they will not perform RFGS on their daughters.

A physical examination of women from the same tribes revealed that the RFGS performed on them did not involve clitoridectomy. However, all of the women recorded bleeding and pain at the time of the RFGS. Three of the women reported that they had required medical attention. All of the women reported pain on intercourse in the months after marriage. None of them felt this to be related to RFGS and many approved of the practice and intended to continue the tradition.

1. 7. Organizations for the Advancement of Bedouin Women

Currently, there are no organizations specifically run by Bedouin women. The Bedouin community itself does not provide a social framework for women outside of infrequent social gatherings under religious auspices. Some Bedouin women have shown a great deal of interest in the formation of such organizations. The social workers in the town Csyfe were the first to open a women's recreational center in a Bedouin town. Some of the activities provided by the center are workshops for learning Hebrew, classes to complete the basic requirements for a high-school diploma, and social gatherings.

1. 8. Health

The new Health Insurance law has been changing the face of health care for Israel's Bedouin residents. For example, before the enactment of the new law, 20,000 residents of the Bedouin town of *Rahat* (about half of the city's population) were uninsured. The remainder of the residents who were insured belonged to the General Sick Fund, which only maintained one infirmary in the entire city. The new law, which has guaranteed coverage for all of Israel's residents, has led two additional sick funds to open branches in *Rahat*. In addition, the Health Ministry has approved the construction of 6 new infirmaries in officially recognized southern Bedouin towns. However, the Ministry's southern district currently lacks the necessary funding and labor-force to provide the full basic basket of services for the Bedouin community. The shortage of doctors to fill the needs of the Bedouin community has been estimated at 50% and the shortage of nurses has been estimated at 30% (Belmeker, 1996). The Health Ministry has attempted to respond to the problem by appropriating approximately 200,000 NIS each year since 1995 specifically for the Bedouin sector, which have been expended on training seminars for nurses to serve the Bedouin community.

An additional problem in applying the new law concerns the 40,000 Bedouins of the south who live in areas where there are no permanent health services. They are currently forced to walk at least 5 kilometers, or wait for traveling doctors provided by the sick funds, in order to enjoy the services now included in the basic basket of services. Presently, the government maintains two traveling medical teams, and uses the services of an additional private traveling medical team. Under the new law, infirmaries providing basic services must be within a "reasonable distance" from the residence of the insured. Therefore, in order to maintain the law's instructions, more infirmaries must be erected closer to Bedouin villages. More attention should also be given to those health services where the Bedouins' need is greater, such as obstetrics and pediatrics; while 20%-25% of the population which makes use of the Soroka hospital in Be'er-Sheva are Bedouins, over 45% of the births in that hospital (11,000 in 1995) are those of Bedouin women.

1. 9. Violence Against Bedouin Women

Social workers who work in Bedouin communities maintain that they manage to prevent 20-30 girls each year from being murdered on account of having "desecrated their family's honor," and have minimized the occurrence of such murders altogether. The social workers use relatively unconventional methods to prevent the murders, such as secret abortions. Although the notion of "family honor" is deeply ingrained in the Bedouin ethos, the social workers explain that parents are reluctant to react to their daughters' promiscuous behavior unless it becomes publicly known and they are pressured to react by their community.

2.Women on the Kibbutz

2. 1. The Myth of Equality

Kibbutz movement ideology strives to create and maintain equality between the sexes. This ideological emphasis on equality however, has failed to compensate for the reality of female kibbutz member's inferior status, a problem which has existed throughout kibbutz history.

The **Associated Partnership Statute (categories of associations) - 1995**, defines a kibbutz as an organization which is its own settlement based on joint ownership of property, independent work, equality and joint production, consumption and education. According to this definition,

women are entitled to the same rights and responsibilities as any kibbutz member. In other words, from a legal standpoint there is equality between men and women on the kibbutz.

2. 2. A Woman's Role in the Kibbutz

2. 2. 1. Education

During the past 25 years the right to higher education has been provided to both male and female kibbutz members. Statistical studies show that 69% of kibbutz men and 74% of kibbutz women, age 31- 40 have at least 13 years of education. This gap narrows in poles taken of younger people, though more men have advanced degrees.

Fields of study are often divided by gender, with most women studying social sciences, psychology and art; and most men economics, earth science and technical vocations

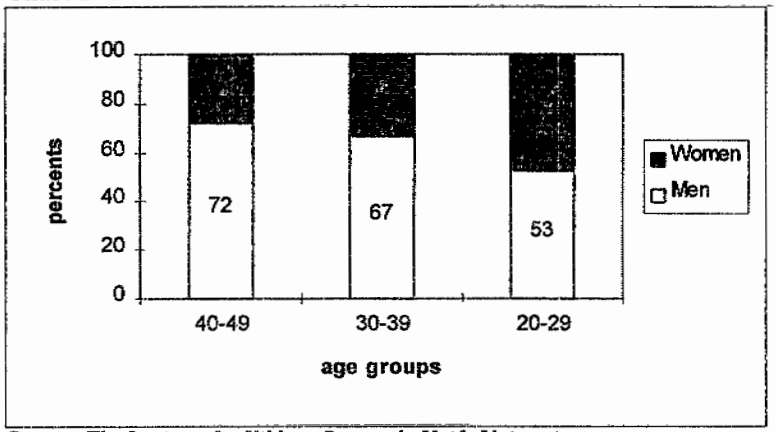
Table 1 - Fields of Study

Subject	Men		Women		Total	
	Absolute Numbers	Percents	Absolute Numbers	Percents	Absolute Numbers	Percents
Economics, Engineering, Sciences	4252	75	1389	25	5641	100
Art, Education, Humanities	1457	23.5	4736	76.5	6193	100

Source: TKM Statistical Division, 1994

In other fields of study this gender division is less extreme, for example in economics and engineering.

Chart 1 -Students of Economics



Source: The Institute for Kibbutz Research, Haifa University

2.3. Employment

Most female kibbutz members are employed in education, domestic work or public service, whereas most men are employed in agriculture, industry or production management. In kibbutz industries, few women are employed as "blue collar" workers, most are in secretarial positions. This division can be found in executive positions as well, where most senior positions are filled by men.

Table 2 - Areas of Employment on Kibbutzim, by Gender

Branch	1978		1986-87		1994	
	Women	Men	Women	Men	Women	Men
Agriculture	1	31	3	22	5	23
Industry, Crafts, and Tourism	8	30	6	38	21	34
Public Services	37	10	30	6	26	16
Education	30	5	38	40	26	5
Secretarial	8	8	12	14	12	15.5
Other	7	16	11	16	10	6.5
Total	100	100	100	100	100	100

Source: The Institute for Kibbutz Research, Haifa University, 1996

Table 3 - Level of Skill Required for Job
percents

Level of Training	Women	Men
Low	40	31
Medium	27	35
High	33	34
Total	100	100

Source: The Institute for Kibbutz Research, Haifa University, 1995

In sum, it can be concluded that there is a clear division of labor based on gender in kibbutz society. This division dictates which positions are to be allocated to women and which to men.

2.4. Appointment of Men and Women to Public and Political Positions on the Kibbutz

In the past twenty years, only 16 women have been appointed to management positions on kibbutzim; today 5.7% of those in office are women, which does not show a substantial increase from 1973. Over this same period, 34.5% of those holding the position of kibbutz secretary were women, though the number of women in other significant kibbutz management positions, such as treasurer, has remained low. The following table shows that the number of female chairpersons of committees in male dominated fields is statistically insignificant.

Table 4 - Women Supervisors of Committees

Committee	% Women
Education	80
Health	77
Budgeting	36
Workforce/ Manpower	21.3
Money	8.5
Planning, Building	7.8
Sport	6.4
Kibbutz Economics	2.8
Auto Pool	1.1
Security	0

Source: The Institute for Kibbutz Research, Haifa University

In sum, contemporary statistics about the division of labor on kibbutzim tend to reflect that which was reported by researchers more than twenty years ago. Men and women are active in fields which are an extension of their traditional roles; men in fields of economy and economics related to sources of livelihood and resources, and women in roles of care-givers.

ARTICLE 15

Equality Before the Law and in Civil Matters

1. State Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

1. Legal Capacity of Women

As explained under Article 1, complete formal equality between men and women before the law is entrenched in Israeli law, except in matters governed by religious law. Women hold complete legal capacity to conclude contracts and administer property. Women have the same rights as men to make contracts in their own name, including those relating to credit, real estate and other property, as well as to make other commercial transactions, notwithstanding their personal status.

The **Women's Equal Rights Law-1951** specifically relates to the issue of marriage, providing complete legal capacity for a married woman with regards to property "as if she were not married." This provision abrogated the power of religious law which designates husbands as administrators and proprietors of their wives' property.

2. Gender-Specific Legal Concepts

Two particular Israeli legal concepts apply to women and not to men: one is in the area of social benefits, namely the concept of the home-maker, or rather its gender-specific label of "housewife," which only applies to women and not to men. The other is in the area of defenses

under criminal law, namely the defense of *post-partum-syndrome* which applies to rare cases where a woman who suffers from severe depression after giving birth, consequently kills her newborn baby. Section 303(a) to the **Penal Law-1977** states that in such cases, where the baby was under 12 months of age, the maximum punishment of the mother is 5 years imprisonment. Section 303(b) makes clear that this special defense does not preclude the possibility of an absolute immunity for reason of insanity.

3. Equal Participation of Women in the Courts-System

Women are treated equally and participate equally in the civil-courts, both as litigants, witnesses, lawyers and judges (qualifications to this formal equality are discussed in the following section). The situation, however, is different with respect to the religious courts system, which is part of the national judicial system, and has exclusive jurisdiction in matters of marriage and divorce, and concurrent jurisdiction in other matters of family law.

Under Jewish law, women are not qualified to be witnesses. However, *halachic* (Jewish law) authorities throughout the ages have found various solutions and means to accept women's testimony, and in practice, rabbinical courts accept their testimony and accord it the same evidential weight that is accorded to men's testimony.

An interesting development had taken place with respect to the representation of clients in rabbinical courts. Certified attorneys, whether men or women, can represent clients in rabbinical courts (or in other religious courts) in any and all matters. However, both rabbinical and Moslem courts recognize the competence of rabbinical or *sharia* advocates to represent clients only in the relevant religious courts, without being certified attornies. The **Rabbinical Advocates Law - 1955** originally applied to men alone, since it required graduation from a *yeshiva* (an institute of higher learning of religion and religious law, traditionally for men alone) as a primary condition for qualification as a candidate to the profession. The law was amended in 1991 to include graduates of other educational institutes of higher learning that are recognized by the Chief Rabbinical Court as eligible candidates for the profession. However, no regulations or other directives were passed to establish the criteria for such recognition. Only in 1994, after an institute for higher *Torah* learning for women petitioned the High Court of Justice, did the Chief Rabbinical Court decide upon the criteria for its recognition. The High Court of Justice reviewed

those criteria, and found that some of them, such as the requirement of full-time everyday studies for full two years, were intended to make it impossible for women students to qualify for candidacy, and were therefore discriminatory. Several dozen women have since passed the examinations and are now functioning as rabbinical advocates; they primarly represent women clients.

3. 1. Gender Bias in the Courts

3. 1. 1. Special Study of Gender Bias in Israeli Courts

In the early 1990s the Israeli Women's Network initiated a study on gender-bias in Israeli courts. With the support of the Ford Foundation and the academic backing of the Jerusalem Institute of Israel Research, the study was designed to determine if and how gender bias was manifested in Israeli courts. The study began in 1992, and concluded toward th nd of 1996.

3. 1. 2. Main Findings of the Study

Some of the main findings of the research are as follows:

1. Judges seem to accord greater credibility to men than to women, both as defendants and as lawyers. Women lawyers were significantly less successful in persuading judges than were men lawyers, regarding both sentence length and the ratio between prison term and maximum sentence. Lower sentences were imposed when women were the prosecutors and higher sentences were imposed when women were the defense attorneys. Furthermore, men prosecutors were most persuasive when the defense attorney was a woman.

2. When the accused was a stranger to the woman victim, the prison term he was sentenced to was almost double the sentence as when the accused was a family member of the woman victim.

3. Women acting as sole judges (i.e. when not ruling as part of a panel of judges) declare lighter sentences than their male counterparts. For example, the average jail sentence in sex crimes, passed by a sole woman judge, stands at 9.5 months, as compared to 23 months passed by sole male judges, for the same crimes. Women judges tend to cite the negative characteristics of the victim. On the other hand, in cases where judgment is passed by a panel of three judges, when the panel includes a woman judge, the punishment is heavier than when it is an all male panel.

4. It was further found that the rate of convictions in "crimes against life" is lower when the victim is a woman, and that the period of imprisonment for crimes against the lives of women is

significantly lower than imprisonment for crimes against the lives of men. The length of a jail sentence is approximately 2 years shorter when the victim is a woman.

A summary of the study was submitted to Justice Barak, the Chief Justice of the Supreme Court, who decided on the establishment of a committee to investigate the results of the report and its implications.

3. 1. 3. Workshops on Gender Bias for Judges

The researchers recommend, among other things, that continuing educational programs for judges be instituted that will raise the issue of gender bias (as well as other forms of bias in the courts). Experimental programs in that direction were already initiated prior to the study by Judge Rotlevi of the Tel-Aviv District Court. However, according to her report, those seminars were not very successful, and attendance was low.

ARTICLE 16

Equality in Marriage and Family Law

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

a) The same right to enter into marriage;

b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

c) The same rights and responsibilities during marriage and at tits dissolution;

d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education, and means to exercise these rights;

f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children or similar institutions where these concepts exist in the national legislation; in all cases the interests of the children shall be paramount;

g) The same personal rights as husband and wife, including the right to choose a family name, a profession, and an occupation;

h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment, and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

1. Introduction

This article is one of two that the State of Israel has ratified with reservations, due to the fact that religious law governs family law in Israel, insofar as the legal issues in question are classified as "matters of personal status," and are not qualified by territorial legislation (*i.e.* civil laws that specifically apply in both religious and civil courts). The scope of the legislation termed "matters of personal status," which covers all personal laws (except for Islamic laws), has narrowed over time, and currently includes only marriage, divorce, alimony and child support. The scope of this legislation regarding Moslems in Israel is broader, and includes child-custody and paternity matters as well.

Until 1995, jurisdiction over family matters was divided between the religious and the civil courts, and within the civil judicial system itself. This was changed by the **Family Court Law - 1995**, which established a new family-law division within the magistrate courts which was responsible for all family matters under the jurisdiction of the civil system. The establishment of the family-courts system, however, has not affected the jurisdictional split between the religious and the civil judiciaries.

2. Reservations to Article 16

The maintenance of religious law in matters of family and divorce is perceived to be one of the most vital components of Israeli law, since it ensures that the State of Israel is the state of the Jewish people. It is thus considered a foundational aspect of the sensitive relationship between religion and state in Israel. Due to the reservation that the State of Israel entered with regard to this article, insofar as the laws of personal status affect the laws of various religious communities in Israel which do not conform with the provisions of this Article, the following sections will not discuss the legal situation in matters of marriages and divorce, nor in matters of spousal support.

3. Some Demographic Data

Israel is a very family-oriented society. The desire to raise a family has always been ranked highly in studies of Israeli Jewish high-school students, although girls tend to rank it higher than boys. The family-oriented nature of Israeli society is illustrated by the following data, which

details rates of marriage and percentages of non-married and never-married men and women in different age-groups:

Table 1 - Population Aged 15 and Over, by Religion, Marital Status and Age

Age Group	Males					Females				
	Total	Never Married	Ever Married	% Never Married	% Non-Married	Total	Never Married	Ever Married	% Never Married	% Non-Married
	Thousands					Thousands				
Jews										
Total	1,548.60	498.3	1,050.40	32.2	45	1636.2	395.9	1,240.40	24.2	39.7
15-19	198.4	197.8	0.6	99.7	99.7	188.3	184	4.4	97.7	97.7
20-24	181.8	160.9	21	88.5	88.7	175.7	119.7	56	68.1	69.3
25-29	155.4	75.7	79.7	48.7	50.7	151.3	38	113.3	25.1	29.6
30-34	146.1	29.7	116.4	20.3	24.9	144.7	15	129.7	10.4	18.1
35-39	148.3	14.1	134.1	9.5	15.2	152.9	10.6	142.3	6.9	16.3
40-44	151.1	6.9	144.2	4.6	10.8	155.4	8.7	146.7	5.6	16.9
45-49	127.2	3.8	123.5	2.9	10	133.9	6.4	127.6	4.8	18.9
50-54	78.9	1.8	77	2.3	10	84.4	3.1	81.4	3.6	20.9
55-59	81.5	2	79.5	2.4		90.4	2.5	87.9	2.8	
60-65	72.5	1.6	70.9	2.2		85.7	1.9	83.8	2.2	
60+	207.5	4	203.4	1.9		273.5	6	267.5	2.2	
Moslems										
Total	222.2	86.9	135.3	39.1	44.8	219	65.7	152.7	30	36.9
15-19	45.9	45.4	0.5	98.9	98.9	43.7	37	6.6	84.4	85
20-24	39.5	29.2	10.2	74.1	74.7	38.4	14.2	24.3	36.9	38.8
25-29	32.7	9.1	23.7	27.7	29.8	32	4.8	27.2	14.9	18.5
30-34	27.1	1.9	25.2	7	9.9	27	4.5	22.5	16.6	20.4
35-44	34.6	0.9	33.7	2.7	5.7	34.4	3.3	31.1	9.7	15.1
45-54	21.4	0.3	21.2	1.3	5	20.6	1.2	19.4	5.7	18
55-64	12.3	0	12.2	0.3	4.5	12.7	0.5	12.3	3.9	
65+	8.8	0.1	8.7	1	3.5	10.3	0.3	9.3	2.8	

Source: CBS, SAI 1996

Table 2 - Median and Average Marriage Age

Men

Year	Jews		Moslems		Christians		Druze	
	Average	Median	Average	Median	Average	Median	Average	Median
1960	29.1	25.7						
1970	27.1	24.4	25.4	24.3	28.6	27.5	23.9	22.7
1980	27.3	25.3	24.9	23.7	28.5	27.4	22.6	21.6
1985	28	26.2	25.2	23.9	28.9	27.5	23.6	22.3
1990	28.3	26.5	25.6	24.6	29	27.6	25.7	24.4
1994	28.1	26.5	25.8	24.7	29.5	28.2	26.5	24.4

Women

Year	Jews		Moslems		Christians		Druze	
	Average	Median	Average	Median	Average	Median	Average	Median
1960	24.6	21.7						
1970	23.6	21.6	20.4	19.4	22.4	21.5	19.7	19
1980	24.1	22.3	20.5	19.5	22.3	21.5	18.9	18.2
1985	24.6	23	20.9	19.8	23.7	22.4	19.8	18.6
1990	25	23.5	21.2	20.1	23.6	22.6	20.3	19.1
1994	25.1	23.8	21.3	20.1	23.9	22.5	20.8	19.7

Source: CBS, SAI 1996

Marriage ages for both women and men have risen over the years, while the gaps in the average and median ages of women as compared to those of men remain more or less unchanged. The low marriage age of Moslem and Druze women is particularly striking.

Divorce rates are considerably higher in the Jewish population than in the Moslem population:

Table 3 - Persons Divorcing by Religion, Age and Year

Age	1994		Husbands				Wives			
	Husbands	Wives	1972	1983	1993	1994	1972	1983	1993	1994
	Absolute Numbers		**Rates (per 1,000 married men and women in all age groups)**							
Jews										
15+ Total	7,417	7,417								
15-49	*6,511*	*6,004*	5.6	*8.5*	*9.7*	*10.5*	*5.1*	*8*	*9.4*	*10.2*
Up to 19	72	8	5.3		18	14.3	10.4	15.9	20.9	17.1
20-24	868	316	8.9	14.9	13.8	15.7	8.7	13.5	14	16.4
25-29	1,378	1,016	7.7	10.7	12.4	13.5	6.8	10.2	12	13.2
30-34	1,225	1,339	6.6	9.2	11.6	12.4	4.6	7.7	10	10.5
35-39	1,198	1,256	5.3	7.6	9	10.2	3.8	7	8.3	9.5
40-44	1,067	1,200	3.8	7.2	8.2	9.1	3.3	5.1	7.3	8.4
45-49	703	869	2.6	5.3	7.8	7.7	2.5	4	7	6.6
50-54	367	493	2.4	3.5	5.9	7.1	2.2	2.2	*	5.6
55+	396	795								
Moslems										
15+ Total	721	721								
15-49	*675*	*647*	*3.4*	*6.9*	*5.9*	*6.5*	*3*	*6.4*	*5.3*	*5.9*
Up to 19	99	10	2.8	25	15.8	15.8	5.5	22.1	12.5	15.3
20-24	244	173	6.3	20.6	16.1	17.6	4.2	10.6	9.8	10.5
25-29	141	199	4	7.5	7.6	8.8	2.7	5.9	4.9	5.5
30-34	91	116	3.2	5.8	4.3	4.8	2.1	4	4.2	4.3
35-39	51	65	2.1	3.6	3.9	3.5	2.3	2.3	2.8	3.1
40-44	27	57	2.5	3.8	3.4	4.1	2.4	3	2.1	2.2
45-49	22	27	3.3	1.4	2.3	2.5	2.6	2.4	1.2	2.3
50-54	13	24	2.3	2.2	1.4	2.5	3	2.4	1.6	1.8
55+	23	38								

Source: CBS, SAI 1996

*Published data is 38.8, however our impression is that this is a mistake.

It is important to note that the Central Bureau of Statistics (CBS) presents the number of marriages as they appear in the official marriage and divorce registrar records, which means those marriages and divorces that are conducted in Israel in accordance with Israeli law.

4. Non-Marital Cohabitation

The Israeli legal system recognizes the state of non-marital cohabitation or partnership, and extends rights and obligations to such unions. Thus, for example, economic rights of non-marital partners have been equated to those of married couples for purposes of pensions, social security entitlements, resident's protection against eviction, damage awards under torts law, and more. In the context of inheritance, an additional specification requires that "no prior marriage exists" (i.e. a marriage that has not been terminated) for either of the partners.

In addition to bestowing many economic rights to non-marital partnerships there is a more substantive level of recognition given to such unions. The **Names Law-1956,** and its 1996 amendment is an example. The amendment confirmed a 1993 case, *Efrat v. The Registrar*, which directed the Ministry of Interior to register the change of name of a woman who wanted to change her family name to that of the man who was her non-marital partner. Justice Barak, who deliberated on the case, went into a lengthy discussion about the legal and social attitudes toward non-marital partnerships, and concluded that it is in the public interest to encourage them as forms of family life which are as equally important to society as "formal" families.

Another illustration of the more substantive level of recognition given to non-marital unions can be found in legislation that imposes the same obligations and duties upon both non-marital and marital partners. These include obligations and duties regarding family-violence and duty of care toward minors. The legislature has not gone as far as imposing mutual positive obligations upon the unmarried partners toward each other, thus there is no statutory obligation of support, but case law has held that such an obligation could be construed as an implied commitment under the circumstances. Similarly, case law has held the rule of community property which was developed by the Supreme Court to regulate the area of matrimonial property before the enactment of the **Spouses (Property Relations) Law - 1973**, applies equally to non-marital partners.

Notwithstanding the broad scope of recognition, there still are some areas in which such relationships are not equated to those of formal marriage. Such areas include the provision of immunity from spousal testimony in criminal proceedings, the right of spousal entry to Israel according to the **Entry into Israel Law-1952 ,** and the right to adopt a child together.

On the level of relationships between non-marital partners and their mutual children, as far as they are determined according to civil law, the lack of formal marriage between the parents has no significance whatsoever upon their duties and rights toward their children. The situation is different with respect to Moslems, who are governed by religious law in this area.

5. Minimum Marital Age

The **Marriage Age Law-1950**, states that the minimum marital age for all women in Israel is 17. No minimal age for men is set. Since the substantive law that applies in matters of marriage is derived from the individual's religious law, the minimal age for men would be drawn from religious law.

The minimal age requirement is accompanied by provisions that make the arrangement of under-age marriages a criminal offense punishable by up to two years imprisonment. The possible offenders include the person who arranges the marriage, the person who conducts the marriage, and the marrying man himself. The under-age woman is excluded. The law also provides that the mere fact that a marriage was conducted in violation of this law is a ground for divorce.

Article 5 of the **Marriage Age Law-1950** provides for two alternative grounds for judicial permission of under-age marriage. The first one relates to circumstances in which the under-age woman is pregnant from or has given birth to the child of the man whom she asks permission to marry. No age limit at all is attached to this ground for exception. The second relates to unspecified "special circumstances" that would justify immediate marriage, provided the woman is over 16 years old. Since the legislature has left those "special circumstances" unspecified, the Supreme Court has taken it upon itself to provide instructions as to the substance of those circumstances. In one of the leading cases, then Justice Barak firmly stated that a community's custom and tradition do not justify marital exception, since it is those traditions and customs that the **Marriage Age Law-1950** was set to abolish.

Criminal sanctions contribute to the reduction of the phenomenon of marriages involving minors. However, it has not been eliminated altogether, as can be seen from the following tables, which contain data of marital ages in Israel.

Table 4 - Marriage of Minors Up to Age 17

Year	Jews			Moslems		
	Brides		Grooms	Brides		Grooms
	Up to 16	17	17	Up to 16	17	17
Average 1975-1979	12.3	48.4	1.2	19.6	133.1	2.2
Average 1985-1989	2.4	17.4	0.3	15.4	140.2	1.7
1991	0.9	13.9	0.1	10.1	179.1	0.7
1992	0.7	11.4		0.5	179.7	
1993*	0.6	10.6	0.2			

*Statistics are not available for this year for Moslems.

Source: CBS, SAI 1996

Table 5 - Marriage of Young People Up to Age 19

Age	Jews	Moslems	Christians	Druze
Grooms				
Total	26,680	7,857	795	703
Total to age 19	652	540	5	53
Up to 17	18	16		
18	166	186	5	16
19	468	338		37
Brides				
Total	26,680	7,857	795	703
Total to age 19	3,258	3,845	149	386
Up to 16	27	15	4	2
17	397	1,558	28	157
18	1,147	1,207	45	117
19	1,687	1,045	72	110

Source: CBS, SAI 1996

6. Bigamy

Since questions of marriage and divorce are determined by religious law alone, the secular legislature cannot decree bigamous marriages invalid, when such marriages are recognized by the relevant religious laws, but can only operate against them through criminal law. Section 176 of the **Penal Law-1977**, makes bigamy a criminal offense punishable by 5 years imprisonment. Sections 181-182 prohibit forcing divorce upon one's wife with no judicial decree of divorce, and makes the arrangement of such prohibited marriages or divorces a criminal offense as well.

Sections 179-180 provide exceptions for the rule against bigamy. Section 180 applies to all individuals whose religious affiliation is other than Jewish, and indicates that incapacitation of one's spouse or 7 years absence theerof may justify marriage to another person. Section 179 applies only to Jewish people, providing immunity to a person whose second marriage was permitted by a rabbinical court's judgment that underwent the specific *Halachic* procedure to make it religiously valid.

Since religious law accommodates bigamous marriage, further legislative intervention must be made in particular areas of law where the interests of the two wives may conflict. Such accommodations were developed in response to certain population groups who immigrated to Israel. For example, the **Successions Law - 1965**, specifically states (in section 146), that when the man who dies was married to two women, both of them share in the estate, where ordinarily the estate is given to the sole wife of the deceased.

7. Parents and Children

7. 1. Child Custody

The **Capacity and Guardianship Law - 1962**, which regulates the issue of child custody, is a territorial act. Thus, it applies to all individuals notwithstanding their religious affiliation. The act provides for equal responsibility of both parents toward their children, and directs them to act "in the best interest of the child." Recognition of both parents as equal, natural guardians of their children was also codified in the **Women's Equal Rights Law-1951**.

Confirming the equality of both parents' guardianship over their children, the **Capacity and Guardianship Law-1962** sets a "tender years presumption," which imposes a rule of maternal preference whenever children under six years old are involved. Loss of maternal preference can occur under very rare and extreme circumstances when the mother is considered unfit. In general, most courts tend to favor maternal custody, even when older children are involved. It is important to emphasize, however, that the rule of the "best interests of the child" is the governing norm in all cases, and the maternal preference is simply an implementation of this rule, since it is

usually perceived to be in the best interests of the child - especially during infancy - to remain within the custody of the mother.

7. 2. Paternity and Unwed Mothers

Marital ties between the parents or their lack thereof do not affect the relationship between the parents and the children, as far as civil law is concerned. Due to the differences in the jurisdiction and scope of Moslem law in Israel, matters of paternity are under exclusive jurisdiction of *sharia* courts and are governed by Moslem law. A major change recently occurred in this area, when a Supreme Court precedent removed paternity suits and child support claims concerning children born out of marriage from the exclusive jurisdiction of the *sharia* courts to the jurisdiction of civil law.

7. 3. Child Support

Family Law Amendment (Maintenance) - 1959 refers to the individual's personal (religious) law as the law governing questions of child and spousal support. A 1981 amendment to the law provides that the child support obligation of both parents shall be determined relative to each parents' income.

In order to deal with the problem of non-payment, the **Alimony Law (Security Payment) - 1972,** provides assurance of payment by the National Insurance Institute (NII) upon request by the custodian parent, once the indebted parent defaults on his or her payments. This revolutionary mechanism thus releases the creditor from tedious legal proceedings through the Executor's Office, and transfers them to the NII who will take the necessary legal actions against the recalcitrant spouse. The NII in the meantime pays the creditor the amount that was set in the regulations. This is an important expression of Israel's commitment to provide a security net to prevent dependents from falling below the poverty line. Through this mechanism, Israeli law manages to avert some of the unfortunate economic consequences of marital-breakdowns for women and children, which are often enhanced by paternal evasion of economic responsibilities.

8. Married Women's Legal Status with Respect to Property Acquisition and Division of Marital Property upon Marital Breakdown

Following the **Women's Equal Rights Law-1951**, the Supreme-Court's case-law removed the issue of property distribution from the rule of religious law, and ruled that this subject is to be governed by civil-secular law alone.

The governing principle regarding distribution of marital property under Israeli law is the principle of community property. This principle has developed in the Supreme Court's rulings since the early 1960's, and was incorporated into a specific law in the **Spouses (Property Relations) Law - 1973**. The law applies to all couples who were married after 1973, and designates their community property unless the couple contracted otherwise. The judicial "community property rule" applies to all couples who were married before that, and to non-marital cohabitants as well, and works as a presumption that the partners have an equal share in the property, provided there was a "joint effort" by both partners in the accumulation of the family assets.

In principle, the rule of community property, whether embedded in the case law or in the 1973 act, dictates equal sharing not only of property assets and rights, but also of debts and obligations, when these have accrued in relation to the communal property and are not personal in nature. So far the trend in the case law has been to make it rather difficult for creditors to prove the communal nature of the debts. .

9. Law of Inheritance

The **Successions Law - 1965** treats men and women with complete equality. Husbands and wives are equally entitled to each other's estates, and sons and daughters are equally entitled to the same share in their parents' estate, and so on. There is, however, one exception in favor of women, and that is the widow's right to alimony payments from her deceased husband's estate and the right to remain in the home in which they lived together, while no such rights exist in relation to male widowers.

10. Names law

The law relating to the selection of family names has undergone a major change in the past year. Until then, section 6 of the **Names Law - 1956** stated that as a rule, a married woman takes her husband's family name upon marriage, although she may keep her own name or add it to her husband's name. Practically, however, women who wanted to retain their own names discovered that their names were automatically changed upon registration of their marriages, without asking for their preferences. In February 1996 the law was amended, and section 6 now refers to both men and women, stating that upon marriage, a person may retain his or her former name, choose the spouse's family name, add the spouse's family name to the person's former name, select a new family name identical to a new one chosen by his or her spouse, or add it to the former name. In any case, the person shall notify the marriage registrar of his or her choice, making it clear that marriage does not automatically lead to a change of names. In addition to this reform, a provision that mandated that any change in the family name of married couples must be made by the husband and wife together was removed.

As to family names of children, section 3 states that a child acquires his or her parents' family name. If parents have different family names, then, as a rule, the child acquires the father's family name, unless both parents agree that the child would acquire both names. This provision was not changed in the 1996 reform.

11. Single Mothers

The Israeli legal system recognizes the growing phenomenon of single-parent families headed by women and accords them a variety of social benefits and aid. The **Single Parent Family Law-1992** guarantees these social benefits to single mothers.

For example, in recent decision of the Haifa district court, the court voided a decision taken by *kibbutz* members not to include a single-mother with her minor child among the eligible member-families for a new family housing unit, notwithstanding her seniority, since she and her child were not considered a "family." In rejecting the *kibbutz*'s internal decision, the district court asserted that the single-parent family is equal to that of the two-parent, normative family.

Moreover, in February 1997 a decision of the Supreme Court voided regulations that compelled unmarried women to undergo psychological and social worker evaluations before they could receive fertility treatments, such as artificial insemination and ovum donation. The regulations are to expire in 6 months, and the Ministry of Health pledged that within a month an internal directive that guarantees equal access to reproductive health services, regardless of marital status, will be issued.

12. New Reproductive Technologies and Surrogacy

There are more fertility clinics per capita in Israel than in any other country in the world. Moreover, all Israeli residents are entitled to up to seven rounds of in-vitro fertilization treatment, up to the birth of two children, as part of their basic basket of health services.

Israel has become the first state to positively sanction and regulate surrogacy, as evidenced in the March 1996 legislation: **Surrogate Motherhood Agreements (Approval of Agreement and Status of Newborn) Law - 1996.** This law was the result of a long process that included both the recommendations of a public-professional committee (the Aloni Committee, appointed by the Ministers of Justice and of Health in 1991), and several appeals to the High Court of Justice. The law sanctions full surrogacy (where the carrying mother is not genetically related to the resulting child), under very specific conditions. The whole procedure is legal only if done through the prior approval of the surrogacy agreement by a statutory committee composed of seven members of relevant professions (physicians, social-workers, psychologists, attorneys, with mandatory representation of three members of each gender) and a religious official of the contracting couple's religion.

The conditions for approval of surrogacy contracts are:

1) That all parties be adult residents of Israel;
2) That the carrying mother be unmarried (with possible exception under extenuating circumstances);
3) That there is no family-relation between the surrogate and the designated parents;
4) That the surrogate's religion is the same as the designated mother's religion, and;
5) That the sperm used is the designated father's sperm.

The petition for approval must be accompanied by a psychological evaluation of the parties and a medical evaluation as to the inability of the designated mother to become pregnant or carry a pregnancy. The Committee may approve monthly payments to the carrying mother to cover actual costs in addition to compensation for suffering, loss of time, income or earning capacity, or any other reasonable compensation. Any payment the carrying mother receives beyond the amount approved by the Committee is illegal, and subjects all the parties of the agreement, including the carrying mother, to criminal sanctions. If there is a brokerage involved, the Committee needs to see the brokerage agreement as well, but there is no provision for its approval or any restrictions on the brokerage fees.

The third chapter of the law deals with the status of children born as the result of such agreements. In principle, the law designates the contracting couple as the child's legal parents. In order to formalize this principle, within a week of the child's birth the designated parents must apply for a "parenthood order," which the court shall grant, unless convinced it is contrary to the best interests of the child. Prior to the issuance of a parenthood order, the carrying mother may ask to withdraw from the agreement, and the court may grant her petition if convinced that a change in the circumstances justifies her retraction, and the child's best interests will not be jeopardized. In such a case, the court will issue an order which decrees that the carrying mother is the child's legal mother, and may order restitution of expenses. No retraction is possible after the issuance of a parenthood order. The law contains further provisions dealing with other possible complications.

As of January 1997, the Committee has examined 10 applications and has approved 3 agreements. According to the Committee's administrative assistant, there are presently 50 couples seeking surrogacy agreements. Some couples apply through brokerage agencies, but most apply to the Committee independently.

Significantly, throughout the public debate that surrounded all stages of enactment of this law, the only public voice that was heard against legal sanction of surrogacy was that of the Israel Women's Network.

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United Nations

Report of the Committee on the Elimination of Discrimination against Women

(Sixteenth and seventeenth sessions)

General Assembly
Official Records · Fifty-second Session
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122. The Committee recommended that the Government introduce measures and programmes, including affirmative action, to increase women's participation at all levels of the judiciary.

123. The Committee suggested that the Government should endeavour to bring about legal change with regard to land ownership by women, especially in rural areas.

124. Recalling its recommendations contained in general recommendation 21 in this regard, the Committee urged the Government to address the issue of polygamous marriages. The Department of Women Affairs should introduce an intensive programme to discourage polygamy.

125. The Committee recommended that the Government ensure, as soon as feasible, the registration of all customary marriages, so as to ensure that women could enjoy all rights that accrued as a result of marriage.

126. While the Committee recognized the need to sustain traditional courts, it urged the Government to ensure that those courts comply with the principles of the Convention in all respects.

127. The Committee recommended that the Government of Namibia adopt the necessary measures to review the laws containing punitive measures against women who had undergone illegal abortions.

128. The Committee recommended that the Government continue its collaboration with non-governmental organizations in implementing the Convention and reporting under it.

129. The Committee strongly urged the State party to encourage political parties in Namibia to encourage the participation of women and to take all appropriate measures in that regard.

130. The Committee requested the Government to address in its next report the concerns included in the present comments and to provide information on the implementation of the Committee's general recommendations.

131. The Committee requested the wide dissemination in Namibia of these concluding comments so as to make Namibians aware of the steps that have been taken to ensure de facto equality for women and the further steps required in this regard.

2. Initial and second periodic reports

Israel

132. The Committee considered the combined initial and second reports of Israel (CEDAW/C/ISR/1-2) at its 350th, 351st and 353rd meetings, on 17 and 21 July 1997 (see CEDAW/C/SR.350, 351 and 353).

133. The representative of Israel indicated that her country saw the signing and ratification of the Convention as natural and important steps in the general process of ensuring the achievement of equality between women and men. She noted that Israel attached great importance to the process of reporting to the Committee and considered the latter to be a vehicle to achieve the advancement of women.

134. The representative observed that the compilation of the report had afforded an opportunity to take a comprehensive view of the achievements in and the obstacles to the advancement of women in Israel. It had created an institutional awareness of women's social concerns and needs. Non-governmental organizations had had the opportunity to offer feedback on the report and this had led to a new forum of ongoing dialogue between government and civil society.

135. She stated that Israel placed great importance on the situation and status of women in society, and noted that the issue of women's status in society had constantly been on the national agenda. A constitutional and normative infrastructure had been established and a continuous process of review and passage of legislation was taking place with regard to the status of women. Implementation mechanisms had been established and developed according to need. She noted that the process applied equally to all women in Israel - Jewish and Arab alike.

136. The representative elaborated the two parameters informing women's status. The first reflected the basic quality of women's lives, and the second involved the evaluation of participation of women in public life, the workplace, wage equity and educational opportunities.

137. She noted that discrimination against women was defined by Israel's legal system in conformity with the definition contained in article 1 of the Convention. The principle of equality was understood as being substantive and not merely formal and took into account de facto discrimination and the importance of affirmative action.

138. Legislative developments had done much to advance the status of all women in Israel and played an important role in educating the younger generation and the public in general concerning the special norms adopted for the advancement of women. The process of instilling norms and values of gender equality was an ongoing one, and several important bills in this area were at different stages of the legislative process.

139. The representative described various governmental initiatives to promote the advancement of women. Among them were the appointment of the Prime Minister's Adviser on the Status of Women, and the Knesset Committee for the Advancement of the Status of Women.

140. She indicated that education was a key factor in any real and stable change of perceptions and of gender roles. The reduction of illiteracy among women was encouraging and women's enrolment in universities was greater than that of men. Women's health was steadily improving among all population groups. Women's participation in the workforce was related to educational level and family situation but women had a greater tendency to work part time.

141. She explained that the scope of social and work-related benefits was one of the most influential factors affecting women's economic status in Israel. Maternity insurance and the system of alimony payments benefited women positively. She noted that despite the lack of sufficient data on the economic situation of single-parent families headed by women, legislation had been enacted to ensure generous support.

142. The representative described the situation in Israel with regard to marriage, age of marriage, cohabitation, child custody, property distribution, selection of family names and new reproductive technologies. She stated that much progress had been made with regard to gender-based violence in Israel.

There had been legislative developments, to which the work of several investigative and reform committees had contributed extensively, as well as practical developments.

143. There was a lack of concrete data and information on the issues of prostitution and exploitation of women and the Israeli legal framework took an abolitionist approach to prostitution. The representative drew the Committee's attention to the position of certain groups of women in Israeli society, including Bedouin women and women immigrants from the former Soviet Union and Ethiopia.

144. She stated that social patterns, gender roles and stereotyping affected the advancement of women in any society. Women's involvement in the media was an example of this; the position of women vis-à-vis the Israeli media was inconsistent. Although employment of women in the media and coverage of certain women's issues were increasing, stereotyping of women as sex objects and victims continued to some extent.

145. While there had been little progress in the advancement of women at the national political level, women's participation in local politics was more positive. Women's participation at the senior levels of government and the civil service had shown gradual improvement as well. Following enactment of the relevant legislation, the introduction of affirmative action into the boards of directors of government companies and into the civil service had contributed significantly to the advancement of women.

146. The representative concluded by drawing the Committee's attention to the employment of women in the security and defence forces. That participation had received extensive attention and been the subject of debate because of the important social role played by army service in Israeli society. The "glass ceiling" phenomenon could be seen in the defence forces, with women's promotion taking, on average, nine months longer than that of men.

Concluding comments of the Committee

Introduction

147. The Committee thanked the State party for its very comprehensive and frank report, which dealt with all the articles of the Convention from both the juridical and the sociological perspectives. It also appreciated the high level of the delegation and complimented the representative of the State party for her lucid presentation.

148. The Committee appreciated the fact that the report was submitted on time and followed the Committee's guidelines.

149. The Committee was pleased that non-governmental organizations had been given an opportunity to consider the report and that they were able to submit supplementary reports.

150. The Committee was disturbed that all the questions put forward by members to the representatives of Israel were not responded to in the Government's written answers. The Committee is of the view that response to all the questions would have clarified issues and problems.

Positive aspects

151. The Committee commended the fact that Israel had developed progressive legislation as well as comprehensive programmes on violence against women and on equal employment opportunities.

152. Although equality was not part of the basic law of Israel, the Committee commended the fact that the Supreme Court could give effect to the principle of equality in its judgements.

153. The Committee noted with satisfaction that most Israeli women had a high level of education, especially at the tertiary level.

154. The Committee commended the very extensive analysis of women in the media and the programmes to reorient society against stereotypical images of women.

155. The Committee commended the existence of the compulsory National Health Insurance Law of 1995, which guarantees universal access to health care for all communities.

Factors and difficulties affecting the implementation of the Convention

156. The Committee considered that the fact that no basic law embodied the principle of equality or prohibited discrimination hindered the implementation of the Convention.

157. The Committee regretted the fact that Israel had maintained its reservations to articles 7 (b) and 16 of the Convention. It also regretted the fact that women could not become religious judges and that the religious laws that to a considerable degree govern family relations discriminated against women.

158. The Committee considered that the persistence of conflict and violence hindered the implementation of the Convention. Moreover, as a consequence of the ongoing conflict, much power was concentrated in the armed forces. Women, who were not represented in senior leadership in the armed forces, were discriminated against and their perspective on peacekeeping and their negotiating skills were not utilized.

Principal areas of concern

159. The Committee noted with concern that the Government had not formulated an overall plan or measures to implement the Convention and the Beijing Platform for Action.

160. The Committee was very concerned about the fact that there was no specific governmental machinery responsible for promoting and coordinating policies for women.

161. The Committee was concerned about the fact that non-Jewish women had worse living conditions than Jewish women. They received a lower level of education, participated less in the government service and occupied limited decision-making posts.

162. The Committee was also concerned because non-Jewish women enjoyed poorer health, resulting in very high maternal and infant mortality rates. There were also fewer employment opportunities available to them.

163. The Committee was concerned about remaining instances of polygamy, forced marriage and genital mutilation, as well as "honour killings".

164. The Committee noted with concern that a very low percentage of women occupied political decision-making posts and that the situation had barely changed over the years.

165. The Committee noted with concern that a marked disparity existed between the average earnings of women and men in many sectors and that women were also disproportionately represented in part-time employment.

166. The Committee was concerned about the fact that many more women than men worked in the informal sector and performed unpaid work, thereby prospectively limiting their access to benefits associated with the formal sector.

167. The Committee noted with concern that the public health system allocated considerable resources to in vitro fertilization, yet contraceptives were not free of charge.

168. The Committee was concerned about the fact that a large number of women were arrested for prostitution. The Committee was likewise concerned about the large number of advertisements for sex services in daily newspapers, which contributed significantly to the spread of prostitution.

169. The Committee was concerned because despite the existing legislation, cases of violence against women still occurred frequently, owing in large measure to traditional ideas of the roles of women and negative societal attitudes towards the problem of violence against women.

Suggestions and recommendations

170. The Committee recommended that the Government of Israel should ensure that the Convention was implemented throughout the territory under its jurisdiction.

171. The Government or the parliament should adopt an overall plan for the implementation of the Convention and the Beijing Platform for Action through specific measures and within a definite time-frame.

172. The Committee recommended that the right to equality and the prohibition of both direct and indirect discrimination against women should be reflected in a basic law.

173. The Committee suggested that in order to guarantee the same rights in marriage and family relations in Israel and to comply fully with the Convention, the Government should complete the secularization of the relevant legislation, place it under the jurisdiction of the civil courts and withdraw its reservations to the Convention.

174. The preamble to the Convention states that full development and the cause of peace require the maximum participation of women on equal terms with men in all fields. The Committee thus recommended that all necessary measures be taken to ensure peace with the full participation of all women, Jewish and Christian, Muslim and Druze alike. This was necessary to create an environment where women could enjoy their rights fully and so that equality of opportunities in economic and social development, especially of rural women, could be assured.

175. The Committee looked forward to the adoption of the bill creating the governmental machinery to be known as the "Authority on the Status of Women" and

hoped that the machinery would be given sufficient resources to carry out its work.

176. The Committee recommended that measures to guarantee the exercise of human rights of non-Jewish women, including those living in the rural areas, particularly in relation to health, education and employment, should be intensified. Special measures should be taken to close the gap between Arab and Jewish schools and address the higher drop-out rates of Arab and Bedouin girls. Adequate resources should be allocated for school facilities and education opportunities, including scholarships. Further, the participation of Arab women in the civil service and in decision-making posts should be increased.

177. The Committee recommended that the Government strengthen its efforts and expand its actions to eliminate violence against women, especially violence within the family, in all communities.

178. The Committee strongly suggested that the Government of Israel take necessary steps to eliminate practices which could not be justified on any grounds, such as forced marriages, female genital mutilation, honour killings and polygamy.

179. The Committee recommended that satellite accounts should be used to evaluate the value of unpaid work and that they should be incorporated into the national accounts.

180. The Committee recommended that some of the resources allocated to the treatment of infertility should be used to study its causes and its prevention.

181. The Committee recommended that public health services supply free and accessible contraceptives.

182. The Committee requested the Government of Israel to address the following issues in its next report: the status of disabled women; how indirect discrimination in the workplace is dealt with; the leave entitlement of mothers and fathers for the birth of a child or when they have young children, and the actual use made of such entitlement; the impact on the social roles of women and men of programmes aimed at changing stereotypes; programmes for gender sensitization of the judiciary, police and health professionals; and financial support provided by the Government for all non-governmental organizations in the territory of Israel.

183. The Committee requested the wide dissemination in Israel of these concluding comments so as to make individuals aware of the steps that have been taken to ensure de facto equality for women and the further steps required in this regard.

Luxembourg

184. The Committee considered the initial and second periodic reports of Luxembourg (CEDAW/C/LUX/1 and 2) at its 338th, 339th and 344th meetings, on 9 and 11 July 1997 (see CEDAW/C/SR.338, 339 and 344).

185. The reports were introduced by the Director of the Ministry for the Advancement of Women, who thanked the Committee for considering the reports so soon after their submission. She informed the Committee that Luxembourg had recently assumed the Presidency of the Council of Ministers of the European Union and would put emphasis on the equality of women and men during its term, in particular in the context of the follow-up to the Fourth World Conference on Women and in the negotiations on the expansion of the European Union to include

United Nations CEDAW/C/ISR/3

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Committee on the Elimination of Discrimination against Women

Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

Third periodic reports of States parties

Israel*

* The present document is being issued without formal editing.
For the initial and second periodic reports submitted by the Government of Israel, see CEDAW/C/ISR/1-2, which was considered by the Committee at its seventeenth session.

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INTRODUCTION

The Government of Israel is pleased to submit its Third Periodic Report Concerning the Implementation of the United Nations Convention on the Elimination of all Forms of Discrimination against Women. This Report describes the developments that took place since the submission of the Combined Initial and Second Report in 1997, taking into account the CEDAW Committee's Concluding Observations as well as the General Recommendations adopted by the CEDAW Committee. In line with the reporting guidelines, this Report builds upon and continues the previous one. Accordingly, it refrains from repeating previous information and explanations, and only refers to them whenever necessary (For further reading, we recommend Israel's periodic Reports to the ICESCR, ICCPR, CRC, CAT, and CERD). As was done with the previous Report, non-governmental organizations were consulted prior to the writing of this Report, and their contributions were given substantial consideration.

The general constitution of the Report is one of continuing gradual progress, although it may sometimes appear to be a slow one. The legislative sphere continues to advance in impressive measures, while its implementation sometimes takes longer to catch up. An important machinery introduced in 1998 in line with the Committee's recommendations, the Authority for the Advancement of the Status of Women, will hopefully strengthen this sphere as well.
In keeping with the reporting guidelines calling for the specific address of issues raised in the Beijing Platform for Action, a separate section was added on the Girl-Child, as it was felt that while most of the other areas that the Platform for Action dealt with were already covered in the Report, this specific gender perspective deserved a more thorough treatment. Furthermore, two additional themes are introduced in the Report: Women with disabilities, and Jewish women immigrant from Ethiopia.

Also, as done in the previous Report, a legislative supplement is included, containing the most significant new legislation in this field, all of which is discussed throughout the Report.

The Report was commissioned by the Ministry of Justice and the Ministry of Foreign Affairs, and prepared by Dr. ruth Halperin- Kaddari, under the auspices of the Ruth and Emanuel Rackman International Center for the Advancement of Women at Bar Ilan University Faculty of Law. The project was coordinated by Ms. Atara Kenigsberg, Adv. Special thanks are also due to Mr. Eric Lifschitz, Adv., Ms. Irit Hermell for their invaluable input, and for Mr. Jean-Marc Liling, and Ms. Rachel Shakerdge.

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Article 1
Definition of Discrimination Against Women

1. The Constitutional Level

As explained in the previous Report, while the right to equality is not explicitly included in the two Basic Laws enacted in 1992 (**Basic Law: Human Dignity and Liberty; Basic Law: Freedom of Occupation**), the common opinion, led by Chief Justice Barak, is that the scope of the basic right to human dignity is very broad and encompasses various unenumerated human rights, such as the right to equality. This interpretation was approved in a number of Supreme Court cases. Moreover, many jurists in Israel, Chief Justice Barak central among them, regard these basic laws as establishing a constitution, and as empowering the courts to exercise judicial review. This analysis was approved and was recently implemented by the Supreme Court on two separate occasions, in the cases of *Chambers of Investment Managers in Israel* v. *The Minister of Treasure* and *Sagi Tzemach et al.* v. *Minister of Defense*. In other words, courts now indeed have the power to strike down legislation that violates the basic rights guaranteed by the two Basic Laws, and which does not fulfill the requirements of the limitations clause in those laws. In any case, however, legislation that existed prior to 1992 is immune from any kind of review, and is subject only to interpretation, which accommodates the Basic Laws.

These two developments, namely the labeling of the right to equality as a basic right guaranteed by **Basic Law: Human Dignity and Liberty** and the implementation of judicial review, could have a profound implication on the issue of gender based discrimination, as future legislation that violates the right to equality could be struck down (see previous Report).

2. Equal Rights Legislation

Several significant developments took place on the legislative level since the previous Report. First and foremost, in terms of norms-setting legislation, the **Women's Equal Rights Law – 1951** has undergone a substantial reform in its jubilee year. The 2000 amendment was

introduced after two years of deliberations, and while it did not repeal the exclusionary rule regarding license and prohibitions in marriage and divorce, it does represent an almost complete revision of the 1951 law. The full text of the amended law is attached in the Legislative Supplement. In a nutshell, the amendment starts with a declaration of the law's intention to ensure total gender equality and women's advancement in all areas of the state, the society, the economy and the family and goes on to prohibit all forms of discrimination against women, whether intentional or *de facto*. It then proceeds with the guarantee of substantive equality, including through affirmative action, and explicitly relates to equality in human dignity, including the delineation of social rights. It expressly ensures a woman's right over her body and provides for protection from violence, sexual harassment, sexual abuse and trafficking. The amendment also includes a broad provision of adequate representation in public bodies, and concludes with a provision of equal service in security forces. Many of the provisions, such as the protection from violence and sexual harassment, are reiterations of already existing legal norms (as explained below regarding the **Prevention of Sexual Harassment Law – 1998**). Some, such as the mandate for adequate representation or for affirmative action, are an expansion of existing norms, and some present completely novel rights. Such is for example, the guarantee of a woman's right over her body, which clearly implicates the issue of reproductive freedom.

While the amended **Women's Equal Rights Law** may represent the most significant legislative development on the level of the principle of gender equality, several other legislative developments may prove to supercede its significance for women's every-day reality on the practical level. Such is the **Authority for the Advancement of Women Law – 1998** which has established the anticipated national authority whose significance cannot be underestimated, as indeed mentioned in the previous Report and in the Committee's Concluding Comments, urging the passage of the **Authority for the Advancement of Women Bill – 1996**. The text of the law is found in the Legislative Supplement, and its main provisions are detailed under Article 2 below.

Beyond the authority for advancement of women law which expresses concrete national commitment to secure women's rights and eliminate any gender discrimination in a systematic manner, through a national institution, the following pieces of legislation, which are all detailed throughout this Report and are found in the legislative supplement, requires mentioning, should be noted here as well, since they, taken all together, reflect a picture of comprehensive efforts to advance women in all aspects of their lives. These include, among others, the **Prevention of Sexual Harassment Law – 1998**; the 1998 and 2000 amendments to the **Penal Law – 1977** relating to sexual offences, pornography, and trafficking; the **Local**

Councils Law (Advisor on the Status of Women) - 2000; the 1998 amendment to the **Corporate Ordinance** (recently replaced by a similar section in the 1999 Corporate Law) and several others.

3. Judicial Development of the Right to Equality

The judiciary has continued its contribution to the development of the right to equality in general, and of gender equality in particular. The principle of gender equality has been reiterated in many cases and has served for further implementation of the progressive equal rights legislation. In terms of norms-setting, the most significant case has been the case of *The Israel Women's Network* v. *The Minister of Labor and Welfare et al.*, detailed under article 4 below, which has set a new norm by holding that expansive affirmative action is required in public bodies' employment policies even where there is no statutory provision to that effect. This constitutes further expansion of the concept of substantive equality required by the Convention.

4. The Elimination of Discrimination in the Private Sphere

The legislative provisions of discrimination against women all apply to the private as well as the public sphere.

Furthermore the requirement of fair representation for women in public institutions has been to the private sector by section 239(d) of the **Corporate Law - 1999**, which mandates that one of the directors appointed as public representatives in every public corporation should be a woman, if there are no other women on the board of directors.

Article 2

Obligations to Eliminate Discrimination

1. Legal Provisions

Since the submission of the Combined Initial and Second Report (herein - the previous report), Israel has enacted several pieces of legislation aimed at eliminating discrimination against women. Indeed, the fourteenth Knesset (1996-9) saw the legislation of 16 laws pertaining to the advancement of women. Among the most important laws recently adopted is the **Authority for the Advancement of the Status of Women Law - 1998**, which the CEDAW committee in its concluding comments has urged Israel to adopt. Other significant laws are the **Prevention of Sexual Harassment Law - 1998**, the **Local Councils Law (Advisor on the Status of Women) - 2000** and the 2000 amendment to the **Equal Rights for Women Law - 1951**. These laws and others will be detailed in the appropriate chapters below.

2. Legal Recourse Available for the Pursuit of Women's Rights

The **Authority for the Advancement of the Status of Women Law - 1998** has established a statutory Authority for the Advancement of Women which replaced the narrower mechanism of the Prime Minister's Advisor on the Status of Women. The Authority is vested with advisory powers and may suggest policies to the government designed to advance the status of women, promote gender equality, eliminate discrimination against women and prevent domestic violence targeted against women. In addition, the Authority supervises the gender policies of the different governmental bodies. The functions of the Authority are detailed below.

Despite its central role, the new Authority has not undermined the importance of other establishments and institutions working for the promotion of women's rights and status, rather, it concentrates on coordinating and managing cooperation between all existing organizations. It must be noted that the Authority lacks the power to handle direct complaints

emanating from the public. Nevertheless, the Authority does receive dozens of complaints directly from the public, which it refers to the appropriate establishments for further handling.

The prime office for handling complaints and grievances from the public, including women's complaints remains the Public Complaints Commissioner. Recent data indicates that of the approximately 6,400 complaints to the Public Complaints Commissioner between September 1999 and September 2000, 1,249 were submitted by women (not necessarily relating to women's issues). 16 of these complaints dealt with various social benefits, such as alimony payments, maternity grant, birth allowance and high-risk pregnancy grant; 2 other complaints dealt with the unlawful dismissal of pregnant employees.

In addition, other governmental bodies - such as the Ministry of Labor's Division for Employment and Status of Women, the Labor Courts system, the Superintendent over Discipline in the Civil Service and the General Supervisor on the Advancement of Women in the Civil Service - as well as various Women's NGO's are still available for women who seek legal recourse.

3. Governmental Machineries, Mechanisms and Measures Established to Promote the Status of Women

3.1. Investigative and Study Initiatives by the Government

The past few years have seen several governmental investigative initiatives, focusing on specific issues such as domestic violence and women in the civil service. Indeed, as detailed under Article 5, both the Parliamentary Investigative Committee on the Murder of Women by their Spouses and an Inter-Ministerial Committee on domestic violence operated in 1998-9. Within the civil service, as detailed under article 11, a special research was carried out to examine gender salary gaps in 1999, in addition to its regular annual report on the status of women within the civil service.

3.2 Mechanisms Implemented for the Improvement of the Status of Women

3.2.1 The Authority for the Advancement of Women in Israel

As mentioned in the previous report, the establishment of the Authority for the Advancement of Women was a long-awaited development. The functions of the Authority, as put forward in section 5 of the **Authority for the Advancement of the Status of Women Law - 1998**, are as follows:

1) Coordinating and promoting cooperation between state government, municipalities and others in the area of women's status;

2) To monitor and follow-up the activities of the various government offices which relate to the topics which have been assigned to the Authority;

3) Advising the ministries on the implementation of laws relating to the Authority's jurisdiction;

4) Ensuring that the recommendations of the State Comptroller on these issues will be implemented;

5) To deepen the public awareness, which includes the educational system and the media, of the topics it oversees;

6) The formulation of policy regarding gender equality and the elimination of discrimination against women;

7) To act as an information center as well as initiate researches on topics which it oversees;

8) The establishment of special programs and services for women which promote gender equality;

9) To promote the implementation of Convention on the Elimination of All Forms of Racial Discrimination against Women;

10) To prepare the official periodic reports due according to Convention on the Elimination of All Forms of Racial Discrimination against Women;

11) To initiate and maintain ties with international organizations and organizations in other countries which deal with the same topics.

Note that all these functions are in conformity with the committee's concluding comments to the previous Report.

The Head of the Authority is to be appointed by the government, based upon the Prime-Minister's recommendation, and will be aided by a staff and an advisory committee, to be comprised of 35 members from various government offices and organizations, including representatives from women's organizations and academia. A nine-member board will be selected from among the advisory committee to work in close cooperation with the Head of the Authority.

Currently, some of the activities and programs initiated by the Authority include:

1) The enforcement of laws relating to women's rights in the workplace, including equal pay, equal opportunities, prevention of discrimination, as well as shattering of the "glass ceiling". In this area, the Authority plans the future establishment of a mechanism for the supervision of the implementation of affirmative action provisions in various laws and institutions.

2) The establishment of a Program for Gender Equality in the schools, currently being implemented throughout the educational system, from pre-school through teacher-training colleges throughout the country. This program is scheduled to run for four years.

3) The consolidation and monitoring of funds allocated to the advancement of the status of women in the various ministries and statutory authorities, in order to maximize efficiency.

4) The initiation of an outreach program for the early detection of breast cancer among the more inaccessible women population groups, such as women in Jewish Arab villages in the periphery and especially Bedouin women, Druz women, new immigrants and Ultra-Orthodox women.

5) The establishment of an informative web-site for women.

6) The initiation of a project of informative and educational lectures and programs for civil servants, municipal councils employees and members of the Israel Defense Forces, with an emphasis on the prevention of domestic violence against women.

7) The sponsorship of a series of literacy projects for women in Arab villages in the periphery and especially Bedouin women, Druz women.

8) The sponsorship of a project of empowerment among single-parent families headed by women, focusing on skills needed for finding and maintaining employment.

9) The instruction of Cabinet Ministers to establish a complete list of names of women qualified to serve on the boards of directors of government companies and other senior positions.

10) The establishment of a National Authority for the Advancement of Girls and Women in Science and Technology. The Authority is involved with putting forward concrete policies to insure the advancement of women within academia, as well as within the education and industry sectors.

3.2.2 The Knesset Committee for the Advancement of the Status of Women

The Committee, established in 1992 and granted the status of permanent Knesset Committee four years later, has continued to operate as a vital force enhancing the advancement of the status of women. Currently, the Committee consists of 15 members, Jews and Arab, females and males, from various political parties. The committee operates three sub-committees with different areas of activity:

1) The advancement of women in the workplace and in the economy.

2) The advancement of Arab women.
3) Women's health (The latter is a joint sub-committee of the Committee for the Advancement of Women and the Labor and Welfare Committee).

Recent legislation promoted by the Committee's work include the **Prevention of Sexual Harassment Law - 1998**, the **Authority for the Advancement of the Status of Women Law - 1998**, the 2000 Amendment to the **Equal Rights for Women Law - 1951**, and the **Local Councils Law (Advisor on the Status of Women) - 2000**.

The Committee has initiated discussions and visits related to themes within its purview. The Committee also raised numerous motions for order transferred to it by the Knesset in areas such as violence against women, trafficking in women and women's health. After returning its conclusions to the Knesset, it has called on the relevant ministers to report on their implementation.

3.3 Governmental Performance in the Civil Service

Since its establishment in 1996, the Department for the Advancement of Women within the Civil Service has been active in various areas including the implementation within the Civil Service of legislation oriented towards the improvement of women's status, the promotion of information and counseling for women within the Civil Service, as well as the formation and professional orientation of professionals working to promote the advancement of women in the Civil Service. The Department has also served as an address for the complaints of female workers and has worked at maintaining on-going contact with organizations dealing with women's status in furtherance of common objectives, as well as with the Knesset's various committees to advance women's rights legislation.

In the context of action aimed at implementing the 1995 amendment to the **Civil Service Law (Appointments) - 1959**, a steering committee was formed to make recommendations to the Civil Service Commissioner. As a result of the committee's suggestions and the relevant department's efforts, section 15A of this Law has been revised once again in December 2000 (as discussed under Article 4 below). A current project being undertaken by the Department is the safeguarding of senior positions for women, by creating a resource of information, statistics, and guidelines for cooperation with the ministries' administrators.

With regards to the implementation of the **Prevention of Sexual Harassment Law – 1998** and the reinforcement of awareness on the subject, the Department has been involved on

several levels: dissemination of information and explanation of the Law to more than 10,000 workers in 1999 alone, and provision of tools to the supervisors on the status of women so that they may receive the workers' complaints. Indeed, since the passage of the Law in 1998, the number of complaints of sexual harassment received by the Department has increased dramatically (with 20 complaints received in 1997, 30 in 1998, 61 in 1999 and 75 complaints received in 2000). These Complaints are handled in cooperation with the Unit for Discipline and the Investigations Department within the Civil Service Administration. Women who submit complaints of sexual harassment to the Department are provided with legal advice, and are accompanied and supported throughout the investigative process and the trial.

During the course of 1999 - upon the initiative and financial support of the National Authority for the Advancement of the Status of Women - the Department held a wide range of activities on the subject of domestic violence and violence against women, including information and counseling sessions which drew as many as 13,500 male and female workers and employees.

As part of the training and professional orientation of Supervisors on the Status of Women in government offices, the Department held 3 training courses as well as approximately 30 sessions and conferences while providing on-going updates of relevant information and material to deal with issues relating to the status of women (in 2000, for example, 60 circulars were distributed to the Supervisors by the Department), in addition to biannual meetings that take place for the purpose of regulating and supervising the Supervisors' work. Apart from guiding and supervising the Supervisors, the Department is also in direct contact with female Civil Service employees through information dissemination and personal meetings.

In addition to all the above, the Department has served as an address to which women workers can turn to complain of discrimination, injustice and injury in their status and work conditions. Dozens of such complaints are received each year, concerning a wide variety of subjects. For example, in 2000, the Department processed and dealt with a total of 149 complaints relating to recruitment procedures for administrative positions which discriminated against women, as well as with the non-application of labor laws concerning maternity leaves, sexual harassment, and lack of proper representation of women in state tenders.

3.4 Mechanisms for the Advancement of Women in Specific Government Ministries

As stated above, the Department for the Advancement of Women in the Civil Service is responsible for the training and orientation of 80 Supervisors on Women's Status in all the governmental ministries and auxiliary units. The role of these Supervisors consists of distributing relevant information as well as organizing counseling and guidance activities in a variety of subjects relating to the status of women. The Department overlooks the implementation of labor laws regarding the status of women.

3.5 Measures Taken on the Municipal Level

The number of Women's Councils within the local councils has increased, particularly in the Arab sector. According to 1999 data, more than 70 such councils have functioned, among them 20 in Arab local councils. In addition, 16 more Women's Councils were being established at the time.

The major development in this area has been the **Local Councils Law (Advisor on the Status of Women) - 2000,** passed in August 2000, which mandates every local council to appoint an advisor on women's status issues. A direct subordinate of the head of the local council, the advisor will insure ongoing communication between it and the local Women's Council (when it exists) as well as the outlining of policy for the advancement of the status of women within the purview of the local authority, while insuring that necessary resources are provided to this end. In order to further her role, the advisor shall be invited to all the meetings of the local council and any of its committees, and will be given the opportunity to express her opinions in every subject that relates to the status of women. Furthermore, the advisor is expected to give an annual report to the Knesset Committee for the Advancement of the Status of Women as well as to the Authority for the Advancement of the Status of Women and to the Local Council to which she is attached.

It must be mentioned furthermore that the law grants the Minister of the Interior the authority to order local councils to follow the law's directions, and where the local councils fail to do so, to appoint the advisor himself. The law states that the advisor - who must be ranked within one of the four top ranks of the administration's hierarchy – can be removed from position only by a decision of the local council.

Article 3

The Development and Advancement of Women

Women's organizations continue to play a very active and important role in the promotion of gender equality in Israel. The previous Report contained a detailed description of the major women's NGOs, categorized into types and areas of operation. These organizations and increasingly many more continue to operate in full force, thus representing a very strong and active civil society. On the political front, the women's peace movement had a major role in influencing public opinion that supported Israel's withdrawal from Lebanon. On the legislative front, women's organizations continue to work in close cooperation with the Knesset Committee on the Advancement of the Status of Women. One of the most recent successful initiatives was the enactment of the **Victims' of Offences Rights Law – 2001**, on which many Egos had collaborated, as explained under Article 5 below.

Article 4

Acceleration of Equality Between Men and Women

1. Affirmative Action

1.1. Expanding Affirmative Action to Public Institutions

The last few years have witnessed some major developments in the area of affirmative action. While the use of this doctrine was limited in the past to governmental corporations and the civil service (through section 18A of the **Government Corporations Law - 1975**, and section 15A of the **Civil Service Law (Appointments) - 1995** respectively), there is a trend towards wider implementation of affirmative action in other segments of the labor market, and the public life at large.

In the 1998 case of *The Israel Women's Network* v. *The Minister of Labor and Welfare* (herein - the IWN case), the Supreme Court was asked to scrutinize the appointment of a male deputy director general of the National Insurance Institute. The Supreme Court examined the legal framework of the matter, asserting that no provision in the existing legislation explicitly sets the principle of adequate representation of women to that specific office. The court then turned to the "emerging doctrine" of appropriate representation derived from the general principal of equality to state that anyone responsible for the appointment of public officials must do everything possible to induce the appropriate representation of women in all public institutions.

On an operative level, the Court ordered the Minister of Labor and Welfare to actively seek suitable women candidates for the office, and recommended not to proceed with a conclusive appointment of the man who had already been temporarily appointed for a trial period. The Court, however, declined to actually void that appointment.

The 2000 Amendment to the **Women's Equal Rights Law - 1951** offers an express statutory confirmation of the broader approach expressed in the IWN case, by expanding the span of institutions in which the principal of affirmative action is required by statute. The added section 6c of the Law, "Adequate Representation", mandates adequate representation in all

governmental ministries, local authorities, municipal corporations, statutory corporations and governmental corporations (See attached Legislative Supplement).

1.2. Affirmative Action in the Civil Service

A December 2000 amendment to section 15A of the **Civil Service Law (Appointments) - 1959** expands the use of the affirmative action mechanism within the Civil Service. According to the amendment it is obligatory to apply affirmative action in all sorts of hiring for the Civil Service. This includes actual appointments and non-tendered appointments. This amendment also authorizes the safeguarding of certain positions for women. While the amendment carries tremendous significance with regards to the implementation of the Law, its application might prove to be problematic given that these principles have been simultaneously employed for the advancement of other populations - minorities and people with disabilities. It is still not clear how the Civil Service will adapt to the application of this important amendment.

As noted under Article 2, the Department for the Advancement of Women in the Civil Service supervises the affirmative action policy asserted in section 15A of the **Civil Service Law (Appointments) - 1959**. Preliminary data that has been received from the Department, which will be detailed under article 11, portray an unchanging situation, in which the representation of women within the higher ranks of the Civil Service is far from being adequate, and the rate of their success in Civil Service tenders remains low. Regarding this issue, some scholars suggest that the important role assigned to the Department requires the strengthening of its status by promoting its Head, giving her position an integral part in the decision-making body.

1.3. Affirmative Action in Governmental Corporations

The special 1998 State Comptroller Report on Governmental Corporations addressed, among other issues, the implementation of section 18A of the **Governmental Corporations Law - 1975**, directing the use of affirmative action. After citing the Governmental Corporations Authority's data referring to a 30% rate of women on boards of directors in March 1998, it nevertheless concluded that the implementation of the law has not been fully satisfactory.

According to 2000 data the rate of women on boards of directors has since then increased, currently constituting 39% of the directors. It must be noted, however, that according to this

data only one woman (2%) serves as a head of a board of directors, only 8 (10%) serve as CEO's of governmental corporations, and in 14% of all governmental corporations no women are present on the board of directors. In addition, the rates of women within new appointees seem to have dropped recently (from 44% in 1998 and 43% in 1999 to only 32% in the first 8 months of 2000).

1.4. Affirmative Action in Public Corporations

A research conducted in 1994, concerning women on the boards of directors in public corporations traded on the stock-exchange, revealed that more than 61% of the corporations had no women at all on their boards of directors, and in 27% of the remaining companies, there was only a single woman on their boards (Izraeli and Talmud 1996).

This grim reality did not escape the eyes of the legislator. Indeed, the most current legislative intervention in the form of affirmative action has been a 1998 amendment to the **Corporate Ordinance** (recently replaced by a similar section in the 1999 **Corporate Law**). Unlike the affirmative actions dispositions regarding the civil service and governmental corporations, the aforementioned amendment orders a much weaker form of affirmative action. It only refers to the two directors who are appointed as public representatives in every public corporation (defined as a company whose stocks are listed in the Tel-Aviv Stock Exchange or are offered to the public), mandating that one of them should be a woman, but only where there are no women at all on the board of directors. Nevertheless, even this move is far from trivial, as it expresses willingness on the part of the legislator to actually intervene in the private market in order to eliminate existing discrimination against women.

1.5. Affirmative Action in Other Areas

As mentioned above, both the high court decision in the IWN case and the 2000 amendment to the **Equal Rights for Women Law - 1951** established an all-encompassing basic principle in the Israeli legal system, of the legitimacy of affirmative action as an integral part of the principle of equality. They also established a requirement of adequate representation of women in public bodies, as part of the principle of equality. This basic principle is not limited to the area of employment, but rather may well encompass other areas of activities as well.

2. Special Measures Aimed at Protecting Maternity

The move from protective-paternalistic legislation which confines the participation in the workforce of pregnant women and women who gave birth to legislation which considers the family-unit as a whole and promotes greater involvement of fathers in child-rearing - having started in the mid 1990's – continued in the past few years, resulting in some very important legal provisions. Among these provisions (reviewed in detail under Article 11) are the 1997 and 1998 amendment to the **Employment of Women Law - 1954**, which provide women with the option to decide whether to work over-time during their pregnancy and allow couples to decide for themselves who will take the second half of the maternity-leave. As for the actual use of this option made by couples, in response to the committee's inquiry in its concluding comments, see under Article 11 below.

Article 5

Sex Roles and Stereotyping

1. Introduction

The discussion under this Article will be divided into several parts. The first part will describe women and the media in Israel, including stereotypes of women and pornography. Next, the impact of religion on the status of women will be reviewed. Finally, the major part of this article, as in the previous Report, will discuss the phenomenon of gender based violence against women.

2. Women and Media in Israel: Ranks and Positions

Much of Israel's electronic media is under the authority of The Israel Broadcast Authority (IBA), responsible for public broadcasting. While women head the IBA Council, the majority of central positions in editing and management remain in the hands of men. A 1997 internal examination in the IBA revealed that while women made up 41.5% of all workers, their rate in journalist and management positions was 10% lower than men's. Most significantly, within the senior ranks in the IBA, men constituted 80% of the department managers, and 90% of the unit managers (the highest position). In 80 internal tenders issued between 1995-97 for senior positions in the IBA, there were twice as many men candidates, and only 13 women were selected. Current data from December 2000 indeed indicates regression: the overall rate of women within the IBA went down to 41%, the 12 unit managers in the Hebrew and Arab television and the Hebrew radio were all men, and only within the Arab radio 2 out of the 3 unit managers were women; the rate of women among the journalists and reporters in the Hebrew televisions and radio was 27.6%, and in the Arab television and radio it was only 15.6%.

In 1994, a Second Authority for Television and Radio was established, controlling private broadcasting. Interestingly, the position of women within it is better than that of the IBA. Within the Second Authority Council, responsible for policy issues, a third of the members (5 of 15) are women. Within the Second Authority itself, women make up 60% of all workers,

50% of the senior managers are women (3 of 6), and 37.5% of the rest of the managers are women.

3. Pornography

A 1998 reform to the **Penal Law - 1977** is primarily concerned with the regulation of the emerging problems of child pornography, computer pornographic materials and the advertising of sex services.

This reform was prompted by the convening of a World Congress Against Commercial Sexual Exploitation of Children in Stockholm, in August 1996, and the international concerns and initiatives that followed it. The preparations for this Congress had stimulated a process of inquiry and examination of this issue in Israel. One concrete result of this process was a 1997 bill to considerably reform the **Penal Law** in relation to prostitution and pornography. In 1998, the bill was partially passed. Significantly, of the substantive provisions relating to prostitution and the contents of pornography, mostly those that dealt with minors had passed. Thus, until this reform, only the actual *use of a minor* (under 18) in a pornographic publication or presentation was punishable by up to five years imprisonment. Realizing the growing phenomenon of pedophilic networks, its advanced technological operation, and the extent of the harm it causes, the law now also prohibits the *mere possession* of such pornographic materials (including computer materials) that contain minors or images of minors, even if it is for personal use only. This new offense is punishable by up to three years imprisonment, while the former offense of the use of a minor for pornographic publication or presentation was separated into two different offenses: that of publication, punishable by up to five years imprisonment; and that of preparation of such publication, or the use of a minor in a live show, punishable by up to seven years imprisonment. When these are done by the minor's guardian, or with the guardian's consent, the maximum sentence of the guardian is ten years imprisonment. (See previous report: definition of pornography)

The 1998 reform also broadened the definition of the terms 'publication' and 'publish' to include computer materials and the dispensation of materials through the use of computers, including the Internet, and other modes of computer-communications.

Another form of publication, which brings pornography and prostitution together, is the advertising of sex services. The 1998 reform explicitly prohibited, for the first time, any advertising of prostitution services by minors, including such services that are rendered out of Israel, an offense, which is punishable by up to five years imprisonment. The advertising of

adults' prostitution services is also prohibited now and is punishable by up to six months imprisonment, except in special publications that are separate from other publications, marked as such, and given only upon specific request. Three police investigations are currently being conducted against two national newspapers and one local newspaper editors on these grounds.

4. Women and Religion in Israel

4.1. "Women of the Wall"

An interesting illustration of the effect of religion on Jewish women is the case of the "Women of the Wall". This group of women, representing all religious streams of Judaism, petitioned the High Court of Justice with the request to protect their right to freedom of religion by guaranteeing their right to pray in the manner they wished in a group with prayer shawls and Tora scroll, at the Western Wall. As reviewed in the previous Report, their petition was denied by the court, while the recommendations of the governmental committee established to investigate the case, that the women be allowed to pray in the manner they wish but in a secluded section of the Wall, was dismissed by the women, in principle and for practical reasons. In May 2000 a unanimous three justices' Court had finally accepted the women's position, and directed the government to make within six months, the appropriate arrangements for enabling the women's group to pray at the Wall in their manner, with minimum offense to other worshippers, and with the provision of the necessary security measures. However, the State's request for a rehearing of the case with an expanded panel of justices was granted, and the case is still pending before court.

5. Violence Against Women

5.1. Sexual Violence - Legal Aspects

5.1.1. Prevention of Sexual Harassment

The area of sexual harassment has undergone major normative change with the 1998 enactment of the **Prevention of Sexual Harassment Law - 1998**, and several recent high-profile cases of sexual harassment, some of which have reached the Supreme Court.

The new **Prevention of Sexual Harassment Law - 1998** which is one of the most comprehensive laws of its kind, marks a dramatic normative development by making sexual harassment both a criminal and a civil offense, not limited to the context of workplace at all. The law states that it is aimed at preserving the dignity and the privacy of the person harassed, and at the promotion of gender equality. Sexual harassment is broadly defined to include unwanted sexual advances, requests for sexual favors, and any sexual verbal or physical conduct that demands such behavior or that conditions promotion or benefit upon such behavior. In order to be considered as harassment, the advances and the references must have been specifically rejected by the harassed person, unless it is done in the context of hierarchical working relationships, medical treatment or psychological therapy, or the harassed is a minor or a "helpless" person as defined in the penal law. In these latter cases, even consensual sexual advancements or relations may be considered as harassment. No harm needs to be proved in order to bring a criminal complaint or file a civil suit. The court may order up to 50,000 NIS in damage (approximately $12,000) even without proof of harm. Any sexual harassment that leads to actual harm is defined as aggravation, punishable by three years imprisonment (compared to two years for harassment). The law applies to the army, as well as to educational institutions. Its innovation includes obligating employers to take steps to prevent sexual harassment in the workplace, including the setting-up of a mechanism for processing complaints, and the publication of regulations for this purpose.

Recently, the Supreme Court made important judicial contributions to the developing area of sexual harassment in two cases. Both cases dealt with events that preceded the enactment of the new sexual harassment law, but it is fair to assume that they will both serve as leading sources for future cases, as the justices clearly had the new law in mind when they formed their opinions, and indicated their reliance on the principles of the new law.

The first one, *The State of Israel* v. *Ben Asher*, dealt with college student's allegations against her professor for nonconsensually embracing and caressing her, and asking her out against her

will. A complaint that was issued to the Civil Service Disciplinary Tribunal based upon these allegations was dismissed, stating that although the professor's behavior was despicable, it did not amount to sexual harassment. The Supreme Court accepted the State's appeal, and the professor was convicted of improper behavior according to the **Civil Service Code** (The Civil Service Code provisions regarding sexual harassment were detailed in the previous Report). The second one, *Anonymous* v. *The Chief of Staff and Others*, known as the *Galili* case, was a very high-profiled case that generated tremendous public debate. The High Court of Justice revoked the decision of the head of General Command and the Defense Minister to promote Brig. Gen. Galili to major-general, in spite of his former conviction in a court-marshall of "indecent sexual behavior", that was accompanied by suspension of promotion for two years . Galili's former clerk, with whom he had sexual relations, who had also accused him of raping her, but later dropped those allegations, brought the appeal against the promotion. The High Court of Justice accepted the woman's contention of the unreasonableness of the decision of the head of the General Command and the Defense Minister, and blocked the promotion.

In both cases, the Court's attitude was very firm in condemning both men's behavior, and it used particularly strong rhetoric in denunciation of sexual harassment, clearly acknowledging its role in setting the standards for acceptable social behavior in light of the changing social and legal norms. The court's emphasis put on sexual harassment as an offense against the woman's dignity and liberty is in line with the new constitutional jurisprudence, following the enactment of the two basic laws in 1992. This concept was also strongly advocated by the promoters of the new **Prevention of Sexual Harassment Law**, and was indeed embedded into its first section, as mentioned above.

The most recent case in a series of high-profile sexual harassment cases, which attracted a lot of public attention, involved former Defense Minister Yitzhak Mordechai, who was convicted in two out of three charges of sexual assault and sexual harassment. Mordechai was serving as Minister of Transportation at the time of the allegations, and was considered to be a leading politician, having retired from the army after serving as Commander of the Northern Region and being a candidate to the post of Chief of Staff. The two cases in which Mordechai was found guilty concerned incidents that occurred when he was still a high-ranking army official, while the one put by the woman who has stepped forward first related to the more recent period of Mordechai's political career. In March 2001 he was found guilty in two out of the three charges, and faced a maximum sentence of seven years in prison. In April 2001 a split panel of three judges gave him an 18-month suspended sentence. The two male judges wrote that they weighed Mordechai's public achievements and military past in determining the sentence, whereas the dissenting judge, a woman, gave him 4 months in prison (with no

possibility of service work) and a year of suspended sentence. Both the State and Mr. Mordechai have appealed the decision.

5.1.2. Rape Law

The most recent legislative amendment in the area of sexual violence against women took place in June 2001. It amended the actual definition of rape in section 345(a) of the **Penal Law - 1977**, removing its major part, leaving in only the requirement that the penetration of a woman's sexual organ be done without her free consent. Apparently, the rest of the definition that detailed possible causes for the lack of the woman's free will (such as "the use of force", as explained in the previous Report) was seemed redundant, especially in light of recent case law that had already interpreted the penetration itself as constituting "the use of force".

5.1.3. Victims of Offences' Rights Law – 2001

Another recent legislation, representing significant achievement for women's NGOs, and reflecting change of attitude and policy of law enforcement agencies towards victims, is the **Victims of Offences' Rights Law – 2001**, passed in March 2001. Following a struggle of several years, as described in the previous Report, a coalition of NGOs, including the Israel Women's Network, the Help Centers Union, the National Council for Children and the Association for the Advancement of Rights of People with Disabilities, has succeeded in convincing the legislature that a balance must be struck between the rights of the accused, the charged and the convicted on the one hand, and the rights of the victim on the other. The law grants a long list of rights, with special emphasis on victims of violence and sexual offences, including the right to protection in every stage of the criminal proceedings; the right to be notified on the proceedings' developments; the right to be notified on the perpetrator's arrest or release from arrest; the right to be accompanied by a companion during investigations; the right to express an opinion prior to proceedings' hold-up, plea-bargain, parole or clemency; and more, as can be seen in the Legislative Supplement.

5.1.4. Stalking

Another legislative initiative which has yet to bear fruit is the **Stalking Bill – 2001**, drafted by Na'amat women's organization. The Bill was tabled by four women Members of Knesset and is currently being by the Ministry of Justice. In its current version the Bill provides for the issuing of a prohibitive injunction against a person who engages in stalking, but does not make stalking a criminal offence.

5.1.5. Minimum Punishments and Protection of Witnesses

Other legislative developments, include the 1998 amendment to the **Penal Law - 1977**, which instituted a minimum punishment for those convicted of rape, of indecent acts and of sex crimes against family members, constituting 1/4 of the maximum that may be imposed. The amendment still permits deviation from this minimum, but only under special mitigating circumstances which should be detailed in the judgement. However, case law has proved the amendment to be faulty, since the legislature failed to mandate that the prison term be actually served and not merely suspended. Another initiative to set minimum punishment relates to domestic violence and will be described below.

In addition, regulations for implementing the provisions of The **Procedural Amendment Law (Amendment No. 2) (Questioning of Witnesses), 1995**, authorizing courts to order that the testimony of a complainant in a sexual offense be given in the accused's absence, whenever the court believes that the complainant or the complainant's testimony may otherwise be harmed, were promulgated in 1997, providing for the use of close-circuit television systems in such cases. Such systems were set up in the five District Courts, and in the Magistrate's Court in the city of Eilat.

5.2. Family Gender-Based Violence - Legal Aspects

5.2.1. Recent Amendments to the Prevention of Violence in the Family Law-1991

Throughout the last few years, the normative framework of the area of the prevention of domestic violence has continued to develop, resulting in two substantial legislative amendments to the **Prevention of Violence in the Family Law-1991**.

A 1997 amendment to the law has added two grounds for issuing a protective injunction aiming at protecting those experiencing domestic violence. According to the amendment, the court may grant a protective injunction where the subject of the injunction has either "unlawfully confined a family member", or where there is severe and prolonged emotional abuse, such as where there is the behavior that does not allow the victimized family member reasonable and sound management of life. In the latter case, though, the injunction will be issued only in the presence of both parties, unless the perpetrator does not show up in court. The 1997 amendment also extended the maximal periods of protective injunctions and probations, setting them at one year each (compared to 6 months each before the amendment).

In recognition of the injunction's importance as an immediate protective remedy designed for emergency situations, the 1997 amendment allows appeals of decisions pursuant to

Prevention of Violence in the Family Law, to be heard by a single judge of the District Court instead of the previously required panel of three, so as to ensure that such appeals be made within a reasonable period following the granting – or the rejection - of the injunction.

A 1998 amendment to the law further broadened the already extensive choice of jurisdictions available to the requesting party, by further giving religious courts the jurisdiction to grant protective injunctions. It is believed that this amendment may ease the plight to women in ultra-orthodox communities who often hesitate to turn to civil courts.

5.2.2. Other Legislative Developments

According to Israeli laws of evidence, spouses, children and parents may testify to the detriment of their family member only in cases of violent crime. This limitation had created an odd situation, whereby a wife; for example, who requested a protective injunction was not able to testify to the detriment of her husband regarding non-violent violations of the injunction. As she is often the only witness of such violations, this limitation placed a serious obstacle on the implementation of the law. A 1997 amendment to the **Evidence Ordinance [New Version] - 1971** has included such violations of protective injunctions among the instances where a spouse (or other close family member) may testify.

A 1997 amendment to the **Weapon Law - 1949** followed the existing legislation aiming at restricting the possession of a gun by a person against whom a protective injunction was issued, or who was arrested under the suspicion of committing an act of violence against a family member. According to the amendment, a court which convicts an individual of any violent crime is not to refuse the prosecution's request to suspend whatever weapon license that individual might have, or to deposit that weapon with the police. Any refusal of such a request must be accounted for with special reasons. The amendment, however, does not address the issues of individuals who are members of the security forces or who perform reserve duty in the army, nor the proposal to require welfare officials to notify the official in charge of weapon license registrations whenever they have reason to believe that an individual may endanger a family member if he is allowed to carry a weapon, even though various bills that prompted this amendment did address these issues.

Two recent legislative developments attempt to aid battered women on the economic level. The first is the **Employment of Women Law (Amendment 19)(Limitations of Dismissals of Worker who stays in a shelter for battered women)- 2000**, aimed at protecting from being fired, women who miss work due to their hiding in shelters from being fired. The employer is restrained from dismissing the woman during her stay at the shelter for a

maximum period of six months, and during the 30 days following her return to work, provided her stay was approved by the welfare authorities and the employer was notified accordingly. During that time period she is to receive a social security benefit instead of a salary from the employer. Furthermore, if the woman quits her job as a result of her stay in the shelter, her resignation is to be regarded as dismissal, for purposes of eligibility to receive worker's dismissal compensations. The second legislative initiative is the 2001 amendment to the **Single Parent Families Law - 1992**, which added women who stay more than 90 days in battered women's shelters and started divorce proceedings to the definition of "single parent" eligible to several welfare benefits, as explained under Article 13 of the previous Report. This is an important step in freeing battered women from being economically dependent on their spouses. The economic dependency has often precluded them from initiating divorce proceedings. Another legislative development is a 2000 amendment to the **Penal Law - 1977**, which sets a minimum punishment for grave acts of assault and violence against family members, constituting a fifth of the maximum that may be imposed.

5.2.3. The Inter-Ministerial Committee for Treatment of Domestic Violence

In 1998, an Inter-Ministerial Committee was set to examine the problem of violence against women within the family, continuing the work of the 1996 committee mentioned in the previous Report. The committee's working premise and final goal was to set-up the mechanism for a comprehensive coordination between all the organs that operate in this area. Accordingly, the committee examined the situation on almost all-governmental and operational fronts, and many of its recommendations are indeed geared at a broad spectrum that cuts across various governmental ministries and organs.

The Committee's report proposes a line of thorough reforms needed throughout the system, starting with some further legislative amendments, through professional training, information gathering and monitoring, development of risk-evaluation tools, educational programs, special needs population groups, civil and military possession of weapons, and cooperation on the local level. Much of the committee's plans for professional training are in line with the CEDAW Committee's inquiry about gender sensitization programs for the police. The overall budget requested for implementing these recommendations was approximately $50 million.

In April 1999 the government adopted the Report's recommendations, deciding on a gradual implementation over several years, and ordering the inclusion of the necessary budget for a list of projects approved for immediate implementation. In 2000, 12,000,000 NIS (approximately $3,000,000) were directly allocated by the Ministry of Finance for the implementation of these projects, with additional 12,000,000 NIS granted by various

government ministries. These sums were allocated with the commitment of continuing similar annual allocations.

5.3. Extent of the Phenomenon of Sexual Violence Against Women

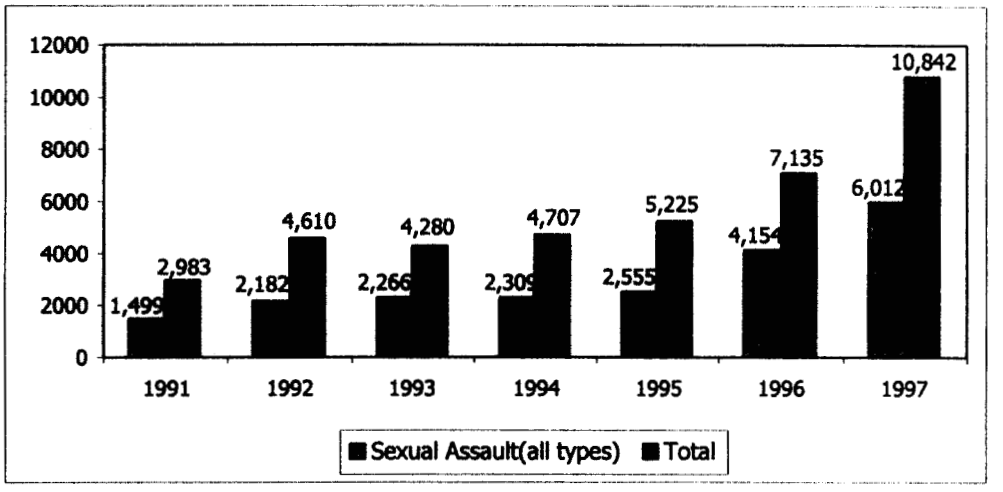
5.3.1. The JDC-Brookdale Institute Survey

Precise statistics regarding the extent of the phenomenon of sexual violence against women are difficult to obtain, as most instances go unreported, and victims generally hesitate before turning to the police or even to other treatment services for assistance. However, a recent JDC-Brookdale Institute 2000 survey (based on data collected in 1998) enables, for the first time, to have a relatively accurate impression as to the real situation. Unlike previous statistics, derived from police and Help Centers records, the data here reflects self reporting of a nationally representative sample of adult women (i.e. over 22 years old) regardless of whether they turned to official authorities or to any help services. The researchers, however, qualify their findings, warning that this too is a minimal estimation. According to the survey, 2% of adult women in Israel (34,000 women) had at some time been victims of rape, 4% (68,000) were victims of sexual violence, and 8% (136,000) were victims of physical violence. No data was obtained as to the number who suffered violence during the year prior to the survey. Significantly, only one third of the rape victims, one third of the sexual violence victims, and 42% of the physical violence victims had sought some kind of medical aid (Gross & Brammli- Greenberg 2000, 49- 52)

5.3.2. The Sexual Assault Help Centers Data

Not a formal authoritative institute, but still involving some degree of exposure on the part of the victims, the Help Centers Union also supplies important data. The **Israeli Sexual Assault Victim's Help Centers Union**, established in 1990, currently operates thirteen centers, spread throughout the country, including one in Jerusalem that specifically serves ultra-Orthodox Jewish women and takes calls from around the country, and two (in Haifa and in Nazareth) that are specially geared towards serving Arab women. The Help Centers Union's annual reports show consistent increase in women's appeals for help, which is conventionally explained as a combination of an increasing level of violence against women, and a growing awareness on the part of women. As the Help Centers serve as a junction not only for sexual assault victims but also for other situations of distress, in addition to serving as an information center, the following chart depicts the increase in requests in general and for assistance following sexual assaults in particular. Data presented below is from 1997, the most recent year where data is available.

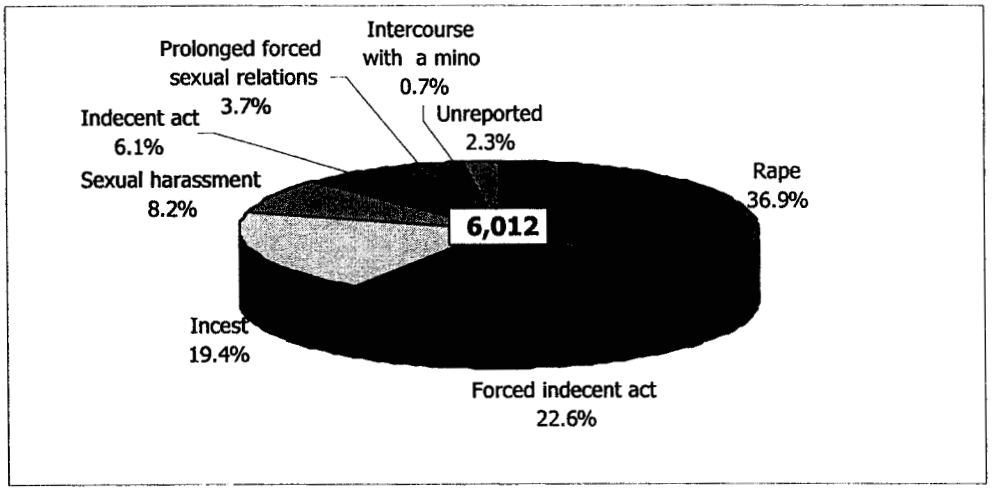
Chart 1 - Appeals to the Help Centers, 1990-1997



Source: Help Centers Union, *Sexual Violence in Israel 1997*

In 1997, rape, followed by sexual assault and incest were the most common complaints received by the Help Centers. Despite the growing number of appeals for help each year, the relative number of requests relating to all types of sexual assault has remained relatively consistent from year to year. Significantly, what has changed in recent years was the relative number of sexual harassment complaints (8.2% of all complaints in 1997, compared to 4.4% in 1994). This may be explained by increasing public awareness of sexual violence in general, following public campaigns, and of growing legitimization to report and seek help for any kind of sexual violence, even if previously perceived as negligible. Undoubtedly, the **Prevention of Sexual Harassment Law** in addition to the high profile cases has had their impact in this respect.

Chart 2 - Applications to Help Centers by the Type of Sexual Assault, 1997



Source: Help Centers Union, *Sexual Violence in Israel 1997*

The Help Centers statistics further reveal that in 1997, similar to previous years, the majority of women who turned for assistance following a sexual attack were acquainted with the assailant. In 62.7% of the cases there was some form of previous acquaintance. In 25% the assailant was a family member, and in 7.5% of the cases the assailant was the victim's spouse. In only 11.4% of the cases was the assailant a stranger, contradicting the accepted misconception of rape as a crime generally perpetrated by strangers.

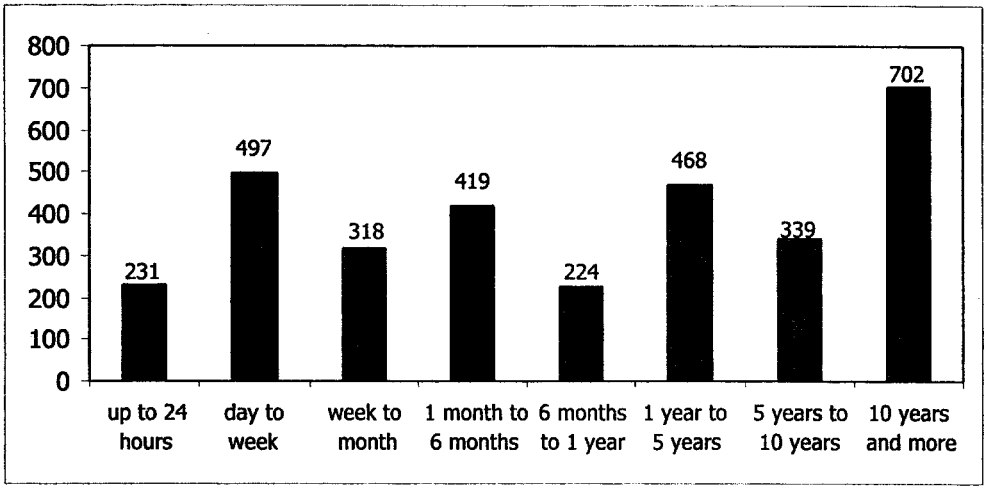
Similarly, approximately 1/2 of the attacks took place in areas deemed "safe," such as the victim's or assailant's home, school, or workplace, where the victim had come of her own free will. In 28.1% of the cases, the attack took place in the home of the victim or of the perpetrator. In 1/4 of the instances they took place in the victim's home. In contrast, only 13% reported incidents outside or while hitch hiking.

As in previous years, the majority of victims in 1997 -- about 72%-- were under the age of 25 at the time of the attack. The largest group was of adolescents (between 13-18), comprising 21.4% of the total, followed by girls (up to 12), comprising 18.1% of the total. On the other hand, the stratification of the age of the victims at the time of reporting is different. Forty percent of the women were between 13-25 years old, 12% were over 26, and 11.4% were under 12. To a great extent the discrepancy is the result of the time that usually passes between the attack and the turn to help.

The next two charts show that only a minority of victims of sexual violence (about 12%) seeks immediate professional help within a week of the attack, and that an overwhelming

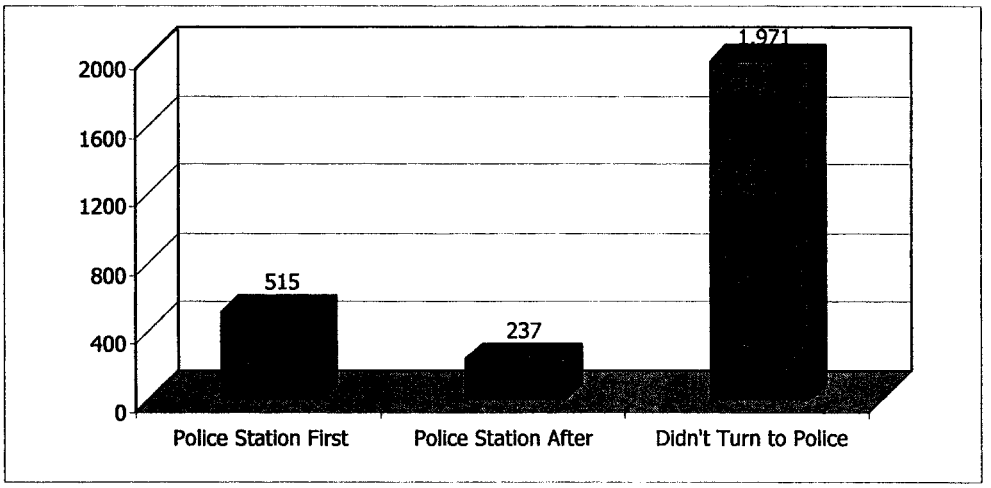
72.4% of those who did turn to a Help Center chose to refrain from reporting the incident to the police (compared to 73.1% in 1994).

Chart 3 - Time Period between Incident and Reporting to Help Centers, 1997



Source: Help Centers Union, *Sexual Violence in Israel 1997*

Chart 4 - Relationship Between Referral to Help Centers and Reporting to Police, 1997



Source: Help Centers Union, *Sexual Violence in Israel 1997*

5.3.3. Police Handling of Sex Crimes Against Women

In attempting to assess the extent of sexual violence against women, police data can only serve as an indication of the trend that takes place, and not of the actual scope. In this respect, the overall direction is of an increase in the number of sexual violence cases in general, and of grave sexual offenses (defined as rape or forced indecent acts) cases in particular.

Table 1 - Police Handling of Sexual Violence Complaints, by Offense, 1996-1999

Offense	Status	1996	1997	1998	1999
Forceful Rape	A.T	25	44	53	31
	P.A	455	472	545	618
Forced Indecent Act	A.T	345	396	399	404
	P.A	1,332	1,361	1,566	1,766
Sexual Harassment*	A.T	0	0	9	47
	P.A	0	0	10	65
Other Sexual Offences	A.T	125	140	216	119
	P.A	566	580	681	909
Total	A.T	495	580	677	601
	P.A	2,353	2,413	2,802	3,358

*Sexual Harassment was defined as a separate crime in 1998.

C.R.= A criminal file has been opened.

N.P.= No criminal proceeding has been pursued.

Source: Israel police

In 1999, criminal investigation files were opened by the police in approximately 85% of reported sexual violence involving women as victims (an increase from the 80% rate in 1997 and 1998).

5.3.4. Prosecutorial Policy Regarding Sexual Violence Against Women

In 1996, the Sexual Assault Help Centers Union collaborated with the Israel Women's Network in promoting the establishment of a Victim's Witness Assistance Program, described in the previous Report. During the first two and a half years of its operation, 150 victims received assistance and support throughout the criminal proceedings. In addition to the invaluable backing for the victims, prosecutors have attributed successful prosecutions to the project, finding that the emotional support that the victims received have made them better witnesses, and have enabled the prosecutors to exclusively concentrate on their professional role.

5.3.5. Sentencing for Sex Crimes

As has been previously mentioned, the 1998 amendment to the **Penal Law - 1977** established a minimum punishment ceiling for sexual violence. There is no available data regarding the effect this reform has had since its adoption.

5.3.6. Funding of the Help Centers

The lion share of the Help Center's operational budget comes from the private sector, mostly from independent fund-raising. The governmental subsidy for the Help Centers Union comes from the budget of the Ministry of Labor and Welfare. Between 1995 and 1998 the Ministry

of Labor and Welfare had substantially increased its support to the help centers. The most significant raise came during 2000, when the ministries' subsidy to the Union of the Help Centers has undergone a five-time increase, to $600,000, making it 35% of the Help Centers Union's operational budget. This move is even more significant, since the budget now comes from a specially designated item in the ministry's budget, so that it is no longer up to the ministry's officials whether to allocate it and how much.

Another governmental source of support are annual grants from the Estates' Fund, which started supporting the Centers in 1997 (see also Table 3, presented below).

5.4. Extent of the Phenomenon of Domestic Violence

5.4.1. The JDC-Brookdale Institute Survey

The JDC-Brookdale Institution 2000 survey, mentioned above, confirms earlier estimates of the phenomenon of domestic violence, estimates which were presented in the previous Report. From interviewing a nationally representative sample of 850 women aged 22 and over, the researchers conclude that approximately 200,000 women in Israel (11% of the adult population of women) have been victims of violence at least once by their spouse, and approximately 67,000 (4% of the adult population of women) have been victims of domestic violence during the year prior to the survey. Among those who had been victims in the past year, 19% reported that violent incidents occurred every day or several times a week, 42% reported occurrences several times a month, 14% reported several times a year, and 25% reported less frequent occurrences. As the survey was part of an international study, it also enables a comparative perspective.

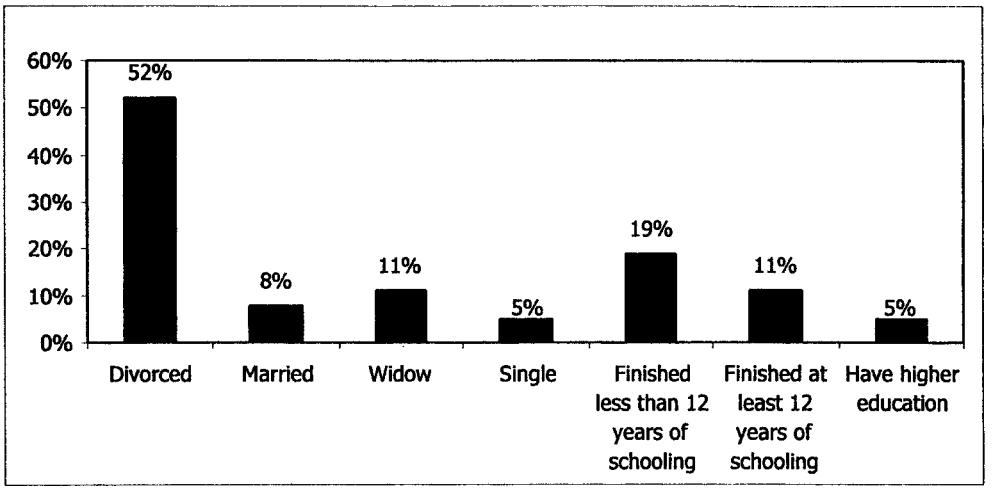
Table 2 - Domestic Violence Against Women, in the U.S.A. and in Israel, 1998

	U.S.A.	ISRAEL
Precentage of Women Reporting of Domestic Violence	31%	11%
Thereof: Talking to a doctor	29%	22%
Incidents in which the Doctor Initiated the Conversation	20%	9%
Incidents in which the Doctor Sent the Woman to the Police	23%	16%
Incidents in which the Doctor Sent The Woman to Support Services	48%	32%

Source: JDC-Brookdale Institute 1998, as Reported in Ha'aretz, October 2000

In addition to a general assessment of the phenomenon, the survey also provided analysis of its scope among various population groups. While a significant rate of violence was found among all strata of society, it was higher among those with low education. Of those women who had not graduated high-school, 19% reported having at some time been the victim of spousal abuse, while 11% of the high school graduates and 5% of the women with higher education reported the same. Also, the rate of victims of spousal abuse was particularly high among divorcees (52%), compared with 11% among widows, 8% among married women, and 5% among single women. The researchers suggest that the figure relating to married women might reflect under-reporting, since the survey was conducted through telephone interviews, which might have taken place while other family members, including spouses, were at home. While this survey did not examine other demographic variables, such as ethnicity or origin, and other scientific sources are not available on this subject, welfare authorities and others involved in treatment services have previously indicated the higher level of domestic violence among immigrants, both from Ethiopia and from the former USSR, sadly reflected in a disproportionately high presence of these social groups in cases of women murdered by their spouses.

Chart 5 - Reports of Spousal Violence Among Women, 1998



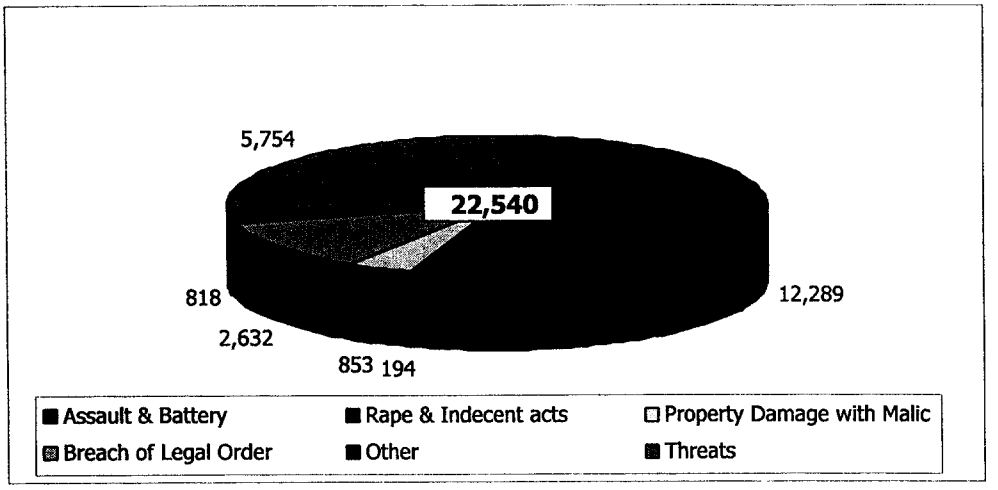
Source: JDC-Brookdale Institute 1998, as Reported in Ha'aretz, October 2000

According to recent data from the National Service for Social Work within the Ministry of Health, hospitals reported to the Ministry's national database of a mere 1,472 battered women admitted for medical care in 1999. This figure reflects a very low detection rate of domestic violence incidents, and calls for the initiation of appropriate educational and training programs, as the CEDAW committee has also indicated in its concluding comments. Indeed, several such programs were already adopted in the last few years, including regular visits to shelters of battered women as an integral part of a course at the Haifa University Medical School and the of the field of sexual assaults, which was added to the curriculum of the Tel Aviv University Medical School gynecology course. In addition, a new training program, which includes seminars, workshops and lectures, is currently being operated, targeted at practicing medical personnel.

5.4.2. Police Handling of Domestic Violence

Police records show constant rise in complaints of domestic violence. Thus, in 1998, the police received a total of 21,912 complaints of domestic violence submitted by women, which constituted 76% of all domestic violence reports (compared to 14,706 complaints in 1995, which constituted the same ratio - 76% - of all domestic violence reports). These alarming numbers continue to grow, as 22,540 files of domestic violence were opened in 1999, 194 of which dealt with severe spousal sexual violence against women, which falls into the categories of forced rape or forced indecent acts (an increase from 113 such incidents reported in 1995).

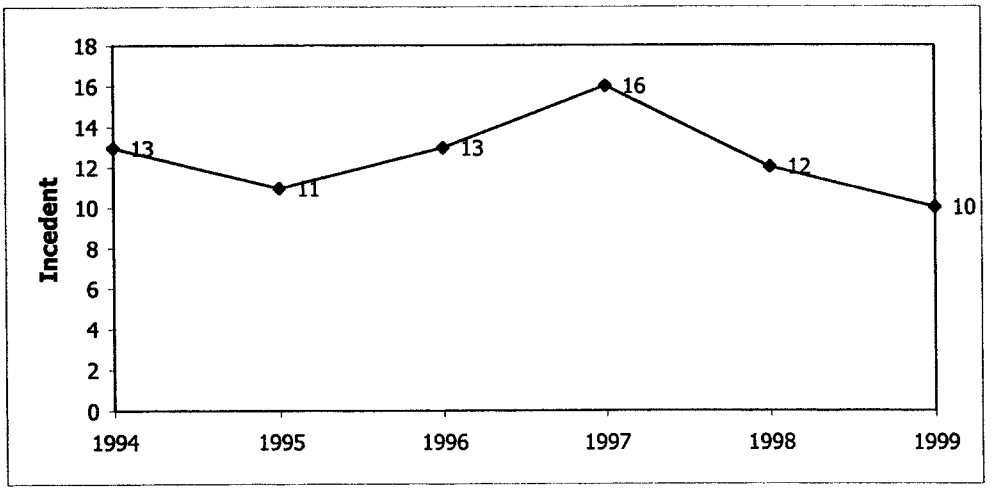
Chart 6 - Opened Police Files by Type of Offense in Spousal Violence, 1999



Source: Israel Police, *Crime in Israel 1999*

Domestic violence in its extreme form can be a threat to a woman's very existence. Between 1990 and November 1998 a total of 113 women were killed by their spouses in Israel. These murders constitute 13% of all murders during that period.

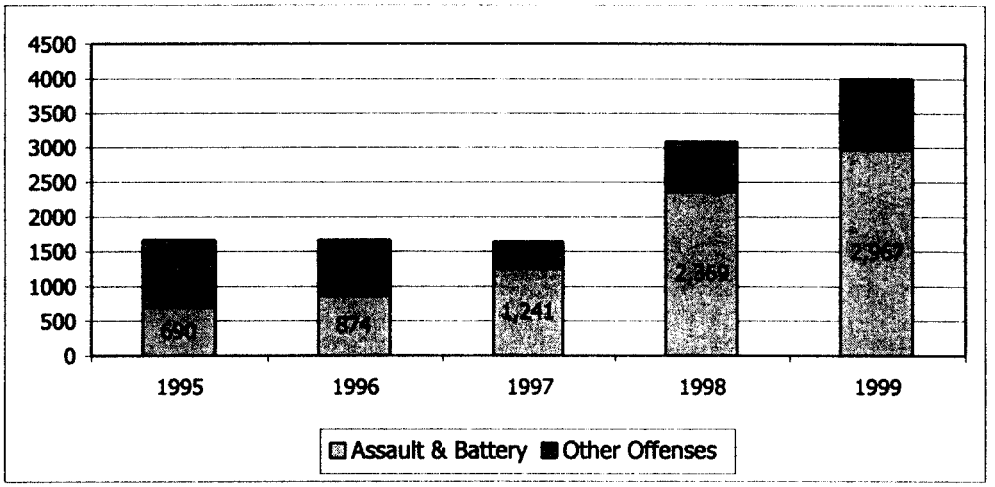
Chart 7 - Murder of Women by Their Spouse, 1994-1999



Source: Israel Police, *Crime in Israel 1999*

One result of the increasing extent of the phenomenon of domestic violence is the growing number of arrests of involved suspects, especially in cases of assault and battery offenses. However, as will be detailed below, a recent survey reveals that only in a small minority of the cases arrests were actually made during all levels of handling (Eisikovitz & Griffel 1998).

Chart 8 - Total Arrests in Spousal Violence, Including Assault & Battery, 1995-1999



Source: Israel Police, *Crime in Israel 1999*

In 1998, an evaluation study on Police Intervention in Intimate Violence was commissioned by the Ministry of Internal Security. The study supplies some concrete statistics regarding the area of domestic violence. In addition, a thorough analysis of the policemen's own attitudes and perceptions of violence against women within the family revealed that the professed goals of the police in the area of domestic violence are not fully achieved. The study's findings, as well as the section that follows on police practices, also serve as a response to the committee's inquiry about gender sensitization programs to the police and their impact.

The research first point out that there was a 61% increase in the rate of initiation of criminal proceedings between 1995-98, from 50% of all complaints in 1995, to over 78% of all complaints in 1998. This growth, however, is hardly matched by the subsequent handling of the cases, and could in fact be related to the rise in the severity of the cases: in 1997 66% of the cases involved battery, while in 1995 only 40% were cases of battery. As for the rest of the proceedings, in only 9% of the cases arrests were made during all levels of handling, and in only 6% of them the police arrested the suspect on the scene. This finding is further contrasted by the views expressed by the police personnel themselves, 75% of whom believe it is the police's duty to arrest a man who beats his wife, and 87% of whom actually state that they routinely arrest the man when arriving to the place where violent against the woman took place. Similarly, while 71% of them agree that a battering man has to be forced to receive some treatment, their findings reveal that referrals to treatment, in any stage of the proceedings, were made in only 8% of the cases (Eisikovits & Griffel 1998).

Perhaps most striking is the finding that out of 1000 cases analyzed, only 14.5% of the suspects were actually put to trial, only 6% were convicted, and only 1.2% of the total (i.e. 12 out of 995) were sent to jail. In addition, in only 8% of the cases were there referrals to treatment. The study further reveals that only 57% of the police workers surveyed for the research stated that they were well-versed with the laws in this area, and 84% were interested in obtaining more information in this respect. The research put the lack of knowledge of relevant laws and regulations among the leading causes for the non-satisfactory handling by the police of spousal violence.

Major parts of the study provide a close focus on the actual attitude of police personnel towards the subject-matter, as reflected from the routine handling of the files themselves, through quantitative evaluation of the questionnaires, and careful analysis of the in-depth interviews conducted with them. A survey of the files revealed overall neglect regarding their handling, so that, for example, no testimony of the victim was found in 6% of the cases, and in 61% there was no certification of the complaint filed. More alarming, of course, is the finding of partial legitimization towards wife battery: 7.7% of the police personnel agree that "sometimes the woman deserves to be beaten", 9.3% believe that "a man is allowed to beat his wife only if she cheats on him", 17% believe that "a woman who keeps quiet, will forestall beatings from herself", and 26% believe that "sometimes, the woman causes the man to beat her".

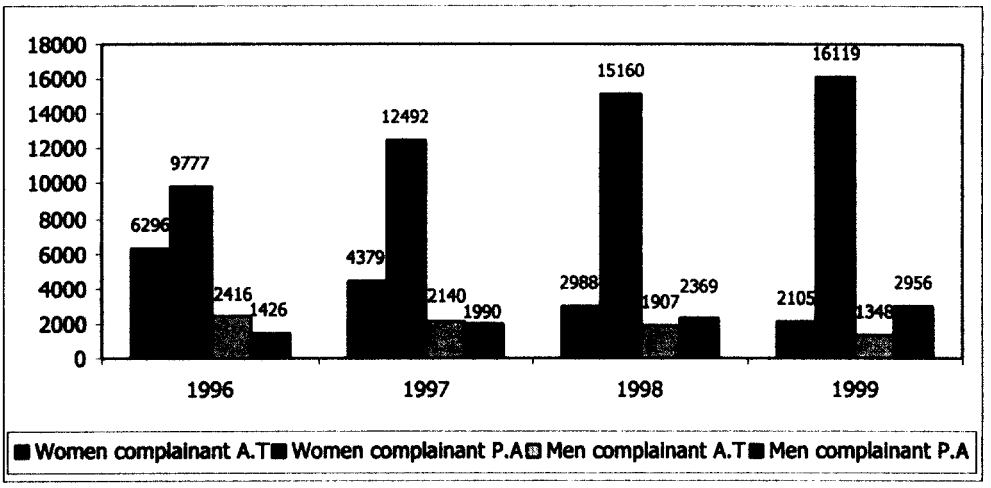
On a more positive note, it must be emphasized that gradual progress has been made in police's handling of domestic violence in recent years. Continuing the steps taken in 1990, reported in the previous Report, a national investigative-system focusing solely on domestic violence was established in 1998 in all police stations throughout the country, consisting of 120 specially trained investigators who only handle domestic violence cases. Fifty other investigators handle these cases in smaller police stations in addition to doing other work. According to Israel police, there are currently at least two investigators specializing in domestic violence in each police station, and most of these units are headed by an officer, often a woman officer. Nine of the 120 positions were reserved for Arab women investigators in stations that serve the Arab community. The five-day preparatory course for these investigators includes theoretical and practical knowledge in the sociological and legal aspects of the field of domestic violence as well as the various police regulations in this field. The course consists of lectures, discussions, workshops, analysis of investigation files as well as a visit to a shelter for battered women.

The cooperation between the police and welfare officials is also worth noting. The formal procedure requires the referral of complainants (upon their consent) and suspects to the welfare officials. These officials will, in turn, send reports to the police, concerning suspects they examined.

5.4.3. Statistical Data on Current Police Practices Regarding the Handling of Domestic Violence Cases

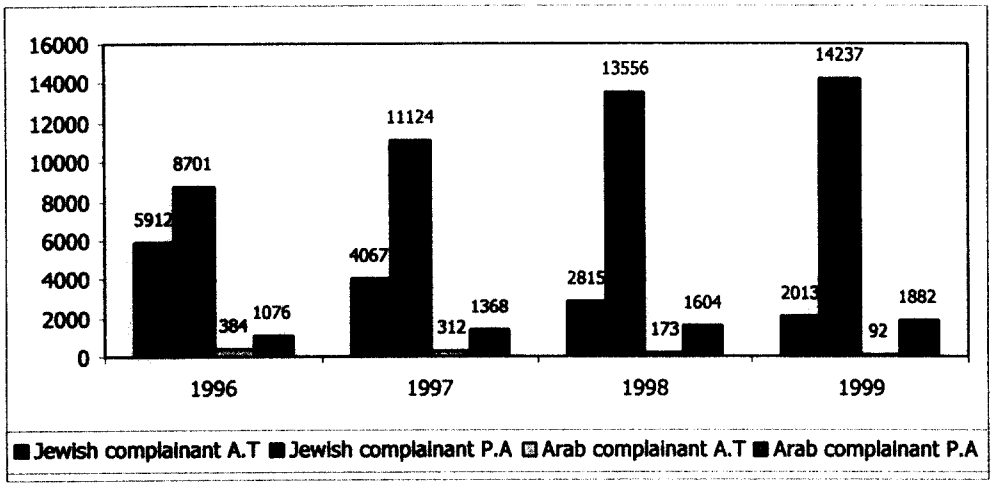
As noted earlier, there was a sharp increase in the rate of initiation of criminal proceedings in domestic violence cases in recent years, from 50% of all complaints in 1995, to over 84% of all complaints in 1999. The following charts further exhibit this data by complainant gender and religion.

Chart 9 - Police Handling of Domestic Violence, by Complainant Gender, 1996-1999



Source: Israel Police

Chart 10 - Police Handling of Domestic Violence against Women, by Complainant Religion, 1996-1999



Source: Israel Police

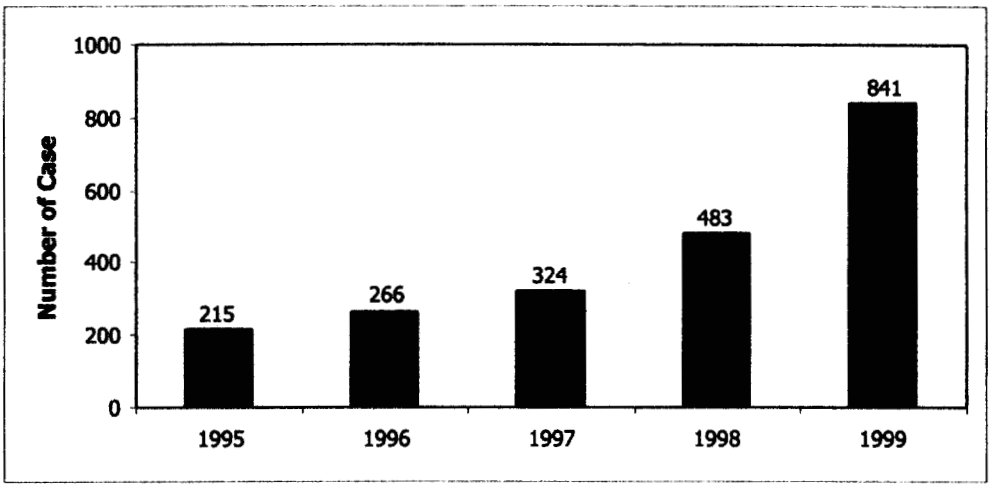
["C.R." refers to instances where a criminal file has been opened (Case Record), while "N.P." refers to instances where no criminal proceeding has been pursued (No Proceedings)].

5.4.4. Sentencing for Domestic Violence

As already mentioned, the 1998 study on Police Intervention in Intimate Violence revealed that out of 1000 cases analyzed, only 14.5% of the suspects were actually put to trial, only 6% were convicted, and only 1.2% of the total were sent to jail. The study further revealed that the most common sentence for those convicted was a suspended prison term (in 65% of the convictions, compared to 22% of the convicted who were sentenced to actual prison terms).

Between 1997 - 2000, a total of 16,336 suits, based on the **Prevention of Violence within the Family Law** provisions, were filed. At the same time, 8,606 requests for various injunctions offered as part of the law were granted. The following chart exhibits a substantial increase in restraining orders granted by the courts in recent years:

Chart 11 - Restraining Orders Issued Against Husbands



Source: Ministry of Justice, Legal Aid Services, as reported in Ha'aretz, August 2000

One additional piece of information regarding sentencing for domestic violence offenses relates to appeals made by the State. According to data supplied by the State Attorney's office, appeals of acquittals and of sentences in the area of domestic violence comprise the majority (60%) of all the appeals that the State makes.

5.4.5. Centers for the Treatment and Prevention of Domestic Violence

The number of Centers for the Treatment and Prevention of Domestic Violence keeps rising steadily, currently standing at 31 such centers throughout the country (compared to 19 at the time of writing of the previous Report). In 1997, 3000 families were treated in these centers, compared to 1770 in 1994. In 1998, 4700 families were treated in the centers, while each center's budget is intended to cover only 120 families a year. The centers' budget comes mostly from the Ministry of Labor and Welfare (75%) and from the local authorities (25%), and it has been 6 times larger in 1999 then the first budget in 1993. In 2000 their budget stood at about $1.75 million. However, due to their overload, most of the centers (70%) routinely report a budgetary deficit. The tremendous growth in the number of families treated by the centers can be attributed to the increase in the number of centers available, and to greater awareness of the problem by the public. The results of the treatment have been very positive, and according to reports from the centers, in most families who were treated, the violence either stopped altogether or decreased significantly.

5.4.6. "Noam Home"

One particular treatment program, which is unique worldwide, is a hostel for battering men. Called the "Noam Home", this hostel, established in 1997, houses 12 men at a time, each for a period of four months. Geared towards the most difficult group of violent men who were

issued injunctions prohibiting their entering their homes, the hostel conducts group and individual treatments, aiming at their "withdrawal" from violence, as the term used by the project's promoters in the media. The project was started as a special "experiment project" under the National Insurance Institute, and showed remarkable success according to its evaluators. Up to date 130 men were treated in the hostel.

A similar project, targeted at sexual violence criminals is currently being promoted by a group of professionals and professors. The project will consist of hostels, in which convicted sexual violence criminals will stay upon their release from prison for 6-24 months.

5.4.7. Shelters for Battered Women

In 1998, 737 women and 1026 children were housed by 13 shelters for battered women, a significant increase from the 1995 figures reported in the previous Report (when the shelters housed 472 women and 695 children). Still, these numbers obviously do not meet the needs of the thousands of victims of domestic abuse who request acceptance each year. Consequently, the immediate budgetary request of the 1998 Inter-Ministerial Committee for Treatment of Domestic Violence was to establish two more shelters, one for Arab women (in addition to the existing shelter serving the Arab sector) and one for ultra-Orthodox women. The latter shelter was in fact established in mid 2000. Other initiatives in this field include the adaptation of the shelters to house women with disabilities (so far one of the shelters is qualified for this mission, and two others are undergoing required arrangements), and the organization of all shelters enabling them to receive women on a 24 hours basis (compared to one such emergency shelter operating currently).

In addition to the operating 13 shelters, there are currently 43 "transitional apartments", designed to assist women in their transition back into life outside of the shelter. In 1998, 61 women and 116 children passed through these apartments; the average length of their stay is one year.

As reviewed in Israelis previous Report, the establishment of the shelters for battered women was financed solely by various non-profit organizations. The ongoing upkeep expenses of the shelters, on the other hand, were partially funded by the Ministry of Labor and Welfare and by the local authorities. Until 1995, the Ministry covered approximately 50% of the expenses. Since 1997, the Ministry formed a new scale of subsidizing the shelters, and their operational expenses are now divided between three sources: the Ministry of Labor and Welfare – 56.25%; the local authority – 18.75%; the operating NGO – 25%. The Ministry's budgetary allocation for the shelters has dramatically increased over the last few years, and is 23.5 times

greater in realistic terms in 2000 (about $2.3 million) then it was in 1993. Nonetheless, in 2000 it decreased 11% compared with 1999. The local authorities' budget for the shelters has similarly increased 16 times since 1993, and in 2000 it stood at approximately $0.75 million.

Table 3 - Total Financing of Services for the Prevention of Violence against Women, 1990-2000

In Thousands NIS

Year	Total Governmental Financing	Centers for Prevention of D.V		Help Centers		Shelters for Battered Women		
		Ministry of Labor & Welfare	Local Authorities	Ministry of Labor & Welfare	Estates Fund	Ministry of Labor & Welfare	Local Authorities	Estates Fund
1990	643			69		362	212	
1991	609			66		353	190	
1992	681			66		421	194	
1993	1,773	857		62		391	180	283
1994	2,798	852		61		1,216	410	259
1995	3,727	1,098		143		1,718	573	195
1996	7,789	1,807	602	276		3,824	1,280	
1997	12,751	4,375	1,463	348	554	4,273	1,426	312
1998	20,503	4,972	1,661	352	631	9,416	3,066	405
1999	22,329	5,298	2,405	340	500	10,304	2,952	530
2000	21,631	6,636	2,454	343	N.A.	9,188	3,010	N.A.

Source: Adva Center 2000

5.4.8. Hotlines

There are currently ten hotlines for battered women throughout the country, one of which operates in Arabic, and one national hotline which operates through a toll free 1-800 number. The most recent data regarding the number of calls received by the hotlines appeared in the 1998 Inter-Ministerial Committee for Treatment of Domestic Violence Report, and estimated that the national line takes around 5000 calls a year, and the ten municipal lines served 7000 callers in 1997.

5.4.9. Violence Against Women within the Arab Community

According to the 2000 JDC-Brookdale Institute Survey, the rates of domestic violence incidents are highest within the Arab sector (17%, compared to 14% within the Jewish sector). However, according this survey, Arab women are less likely to discuss domestic violence incidents with their doctor or any other medical professional. In addition, it should be noted that very few Arab women turn to Help Centers and report domestic violence incidents. For instance, in 1997, only 254 Arab women turned to the Help Centers, constituting a mere 4.2% of all applicants that year. In addition, as already exhibited in chart

10 above, very few complaints regarding domestic violence are being reported within the Arab sector (Gross & Brammli- Greenberg 2000).

According to HRA (Arab Association for Human Rights), in 1998, 6 Arab women were murdered in the name of what is known as "family honor". In relation to the CEDAW Committee's call on the State of Israel to eliminate all forms of unjustifiable practices, including "honor killings", it should be mentioned that the police treats these cases as it treats all grave murder cases. The serious concern and handling of such incidents is also reflected in the case law where courts consistently denounce the attempt to claim "family honor" as a mitigating ground and entirely condemn these practices. On the procedural level, courts consistently refuse to free suspects in these cases on bail, even in such circumstances where the suspect, the victim's grandfather, was eighty years old.

Article 6

Suppression of the Exploitation of Women

1. General

The State of Israel regards the phenomenon of trafficking with severity, and the topic is high on the agenda of law enforcement authorities, with the aim of increasing strict enforcement over the major causes of the phenomenon, namely the procurers and the traders. The early results of this policy are reflected in the tables below. There are no official estimations of the extent of prostitution and trafficking in Israel. However, in a 1997 research conducted by the Israel Women's Network, the total number of prostitutes in Israel was estimated at between 8,000 and 10,000. NGOs estimate that close to 3,000 women are trafficked to Israel each year (Israel Woman's Network 1997, 2- 3).

2. The Legal Framework

Recent events, such as the publication of a report by Amnesty International concerning the trafficking of women from the former USSR into Israel's sex industry, have triggered some change in public and governmental attitude with regards to the treatment of women who engage in prostitution in Israel. This has been reflected - among other things - by various legislative initiatives which have been pushed forward in the Knesset: The **Women's Equal Rights Law – 1951** was reformed in early 2000, with an explicit inclusion of the right of a woman "to be protected from violence, sexual harassment, sexual exploitation and trafficking". More specifically, an amendment to the **Penal Law – 1977** was passed in July 2000 concerning prostitution and trafficking, explicitly prohibiting trafficking in people and allowing imprisonment for up to 16 years. The amendment further stipulates that the punishment for procurement and other related offenses is to be increased where aggravating circumstances exist, or in cases where minors are involved (a dividing line being drawn between minors under 14 or over, the former leading to double the original length of imprisonment, the latter to an additional 2-5 years to the original imprisonment duration). Moreover, the amendment provides for an extension of the offense previously under section 202 - making the causing of a person to leave his or her state of residence (regardless of what

state that is) in order to engage him or her in prostitution a criminal offence and increasing the maximal punishment for that offense to 10 years.

Increased awareness and alarm from State authorities is also reflected in the establishment of a Parliamentary Investigative Committee on trafficking of women, in June 2000, as well as in the establishment of an intra-ministerial committee for outlining recommendations to face the phenomenon of trafficking, both on the criminal level and of the level of treating the women victims of the phenomenon. During its deliberations, the committee examined the possibility of establishing a central hostel where women who had been trafficked could stay during the period of giving evidence and testifying in court. The committee has also raised the possibility of having the governmental Legal Aid represent trafficked women (who are all illegal aliens) in court proceedings, after it was revealed that procurers often hire lawyers to release the women and prevent their deportation in order to continue using them for prostitution. The committee's report and recommendations were due shortly after the conclusion of this Report.

On the side of law enforcement agencies, the State Attorney has directed the various districts to take the testimony of trafficked women in a pre-hearing, so as not to prolong their stay in the country. In early July 2001 the State Attorney's office has distributed guidelines explaining the handling of the issue by the various State authorities. Later that month the Minister of Internal Security has convened a one-day seminar on trafficking, with the presence of the Attorney General, the State Attorney, Members of the Knesset, police officials and NGOs representatives.

On the international level, Israel plans to sign the Protocol to Prevent, Suppress and Punish the Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (2000), and is considering joining other new international conventions against trafficking, such as the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000).

3. Evaluation of the Actual Situation

As an expression of a stronger commitment to combat trafficking in women, new Police internal directives were issued in June 2000 aimed at insuring the stronger enforcement of the

law. Among these directives are instructions for every regional and special police investigation unit in Israel to conduct at least one thorough investigation per year in the realm of trafficking of women. Another directive encourages cooperation with international police forces through the naming of 8 police representatives across the world, cooperation with Interpol and national police forces, as well as with foreign police representatives working in Israel. One of the immediate results of these directives can be traced in the significant increase in the number of investigations relating to the issue of prostitution, which have been opened in the last few months. Furthermore, the police points to a more conciliatory and victim-oriented approach towards foreign women working illegally as prostitutes who come forward to testify against procurement or related crimes. Instead of being arrested and immediately deported from Israel, the women are currently released from prison and given support until court proceedings can take place. During July 2001, the police financed the stay of 30 women in hotels and in hostels, in anticipation of their testimony in court.

Data regarding the enforcement of the law in this area confirms the need for firmer commitment, while showing increased enforcement over the years. Between 1997-2000, the trial was over in only 17% (273 out of 1,606) of police files that were opened for prostitution-related crimes (including procurement, solicitation to prostitute and to engage in prostitution, keeping a place of prostitution, kidnapping for the purpose of prostitution, and trafficking since mid 2000). Of the more specifically male dominated crime of procurement only 180 files were opened in the first place, and 25 were over by July 2001, as can be seen in the following table. No data exists as to the rate of convictions and sentences. On the other hand, the following table does show increased enforcement, reflected in the numbers of files opened throughout the years. This is particularly evident when comparing the 1997 data with 1999-2000 in the categories of procurement and keeping a house of prostitution. Probably most significant in terms of increased awareness and severe attitude is the data concerning the new offence of trafficking, showing that 25 files were opened in a period of only 7 months. It is also reflected in the data concerning arrests, particularly detention pending trial, as seen in Table 3 below.

Table 1 - Breakdown of Criminal Files in Prostitution Related Crimes

	1997			1998			1999			2000			By August 5,2001		
	Files	At the Prose-cution	Trial Over	Files	At the Prose-cution	Trial Over	Files	At the Prose-cution	Trial Over	Files	At the Prose-cution	Trial Over	Files	At the Prose-cution	Trial Over
Offence															
Procurement	23	3	9	45	5	12	42	14	6	61	35	3	32	10	0
Solicitation to Engage in Prostitution	14	3	4	18	2	4	24	6	0	19	8	3	9	2	0
Solicitation to Prostitute	11	0	4	14	2	2	17	4	5	15	8	0	7	1	0
Keeping a House of Prostitution	227	24	98	284	83	58	423	201	39	292	150	10	195	57	0
Kidnapping for the Purpose of Prostitution	14	2	5	16	3	5	16	3	2	22	4	3	12	3	0
Trafficking*										1	0	1	25	9	0
Total	289	32	120	377	95	81	522	228	52	410	205	20	280	82	0

*The new offence of Trafficking came into effect in July 2000.
Source: Israel police

The following table shows the gender distribution of suspects in prostitution related offences:

Table 2 - Files opened in Prostitution Related Crimes, 1996-1998

	1996			1997			1998		
	Men	Women	Total	Men	Women	Total	Men	Women	Total
Offence									
Procurement									
number	30	6	36	21	3	24	36	14	50
percent	83.3	16.7	100	87.5	12.5	100	72	28	100
Solicitation to Engage in Prostitution									
number	9	2	11	4	3	7	8	7	15
percent	81.8	18.2	100	57.1	42.9	100	53.3	46.6	100
Solicitation to Prostitute									
number	15	4	19	9	3	12	9	3	12
percent	78.9	21	100	75	25	100	75	25	100
Keeping a House of Prostitution									
number	90	127	217	106	118	224	100	169	269
percent	41.4	58.5	100	47.3	52.7	100	37.1	62.8	100
Solicitation of Minors									
number	22	0	22				0	1	1
percent	100		100					100	100
Publication of Obscene Materials									
number	4	2	6	3	1	4	3	2	5
percent	66.6	33.4	100	75	25	100	60	40	100

Source: Israel Police

The following table shows the number of arrests made in each category of prostitution related crimes, as well as the number of cases in which suspects were put into detention pending trial. It should be explained that a new law, passed in 1996 and came into effect in May 1997, had severely limited the option of criminal arrests in general and of detention pending trial in particular. Of special interest is the relatively high rate of detention pending trial in the new category of trafficking. This policy was approved by a Supreme Court ruling from October 2000, which stressed the severity of the offence, and affirmed its basis for detention pending trial.

Table 3- Distribution of Arrests in Prostitution Related Crimes

	1998		1999		2000		By July 11, 2001	
	Total Arrests	Detention Pending Trial	Total Arrests	Detention Pending Trial	Total Arrests	Detention Pending Trial	Total Arrests	Detention Pending Trial
Offence								
Procurement	30	1	23	1	19	2	0	0
Solicitation to Engage in Prostitution	14	4	18	0	15	1	13	5
Solicitation to Prostitute	9	1	11	0	17	2	6	6
Keeping a House of Prostitution	115	1	81	3	106	2	63	0
Kidnapping for the Purpose of Prostitution	8	5	6	1	22	18	2	1
trafficking	0	0	0	0	2	2	33	20
Total	176	12	139	5	181	27	117	32

Source: Israel police

4. Involvement of Minors in Prostitution

The issue of minors' involvement in prostitution is dealt with in the amendment to the general provisions of the **Penal Law – 1977.** As mentioned above, the involvement of a minor is considered an aggravating circumstance of the crime committed, in effect imposing a heavier sentence on the perpetrator. Most significant is the amendment's handling of the clients, in

innovating a prohibition to engage in prostitution with a minor, punishable by a relatively severe three years imprisonment. Another notable addition is a special prohibition in section 208, punishable by three years in prison, against permitting a minor (defined as a person between 2-17 years old) who is under one's supervision to live in or to frequent a place of prostitution. Regarding the involvement of minors who are forced into prostitution, and more generally the commercial sexual exploitation of children, a fundamental change has been effected with the passing of a 1998 amendment to section 15(b) of the **Penal Law – 1997**, designed to combat outgoing "sex tourism" with minors. The amendment establishes an extraterritorial jurisdiction for prostitution-related crimes against minors, and makes it possible to put the perpetrators on trial in Israel for crimes committed outside of it, regardless of whether or not such acts would be considered crimes in the places where the acts were committed. On a more procedural level, the amendment also shifts the burden of proof on the accused to prove his claim of unawareness as to the prostitute's age.

All these provisions seem to be in line with a stricter attitude towards involvement of minors in the sexual industry and a stronger commitment to protect minors from abuse and exploitation. One should note the gender-neutral language introduced in the law's provisions that deal with prostitution.

5. Rehabilitation Programs for Women and Girls in Distress

There are no rehabilitation programs specifically geared for girls who are sexually exploited. The major general rehabilitation program for girls is the Service for Girls in Distress under the Ministry of Labor and Welfare. This service treats childless, mentally sane adolescent girls aged 13-21 in the Jewish sector, and up to age 25 in the Arab sector. Overall, the Service has treated 11,800 girls in 1997, more than double the number in 1993.

The service suffers from chronic lack of sufficient budget. In his 1998 Annual Report, the State Comptroller severely criticized the Ministry of Labor and Welfare, who finances 75% of the social workers' operational costs, and the government in general, for not allocating sufficient budgets to enable a reasonable level of operation. The report found that the average load of girls for every full time social worker was more than one hundred girls, and in some cases the load was nearly doubles that. Even more alarming was the fact that the total number of girls in distress was estimated by the Service at 21,000, almost half of who could not be treated at all for lack of resources. The situation is particularly difficult with respect to Arab girls; it was estimated by the superintendent on treating Arab girls that 10,000 need treatment, while only 2,100 are receiving it.

Article 7

Political and Public Life

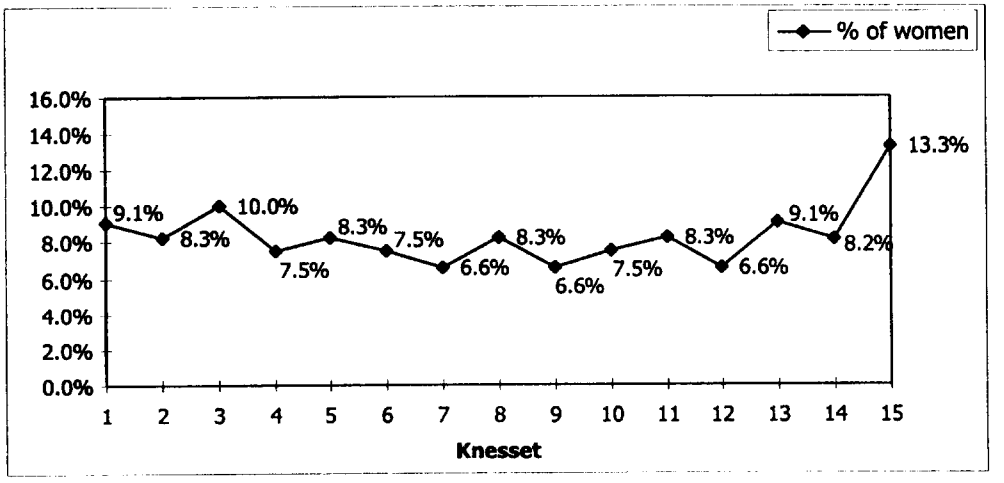
1. Women in Political life in Israel

In contrast to the conventional assumption that a woman's entry into politics conflicts with her domestic role, statistics show that women who succeed in Israeli politics are those with families and children. Thus for example, 94% of the women elected in the 1998 local elections have children, and 82% of them are married. It must be mentioned, however, that the average age of the women elected is 48.

2. Women's Representation in the Knesset

The recent 1999 elections for the 15th Knesset marked an improvement in the overall representation of women in the Knesset, with 14 women elected – that is 11.6% of Knesset members (this number of women MKs has increased to 16, with the resignations of two male MK and the appointment of women in their places). In addition, for the first time an Arab woman was elected to the Knesset, Hussniya Jabara of Meretz.

Chart 1 - Women MKs throughout the Years, 1948-2001



Source: Yishai, Yael. 1997. *Between the Flag and the Banner*; http://knesset.gov.il

Notwithstanding this improvement, When compared to other countries, Israel still has room to improve in respect to women's representation in the legislature. One possible explanation may be found in the fact that since the early 80s, there has been no woman MKs representatives within religious parties. With 28 seats occupied by religious parties out of a total of 120 (one more than during the 14th Knesset), close to 25% of the places in the Israeli parliament are almost by definition closed to women. At the same time, the 3 biggest non-religious parties have exhibited a significant increase in the rate of women MKs elected, as can be seen in the following table:

Table 1 - Women elected to Knesset, by Party, 1992, 1996 and 1999

	Number of Men	Number of Women	% of Women in Party
1999			
Labor	23	3	12%
Likud	16	3	16%
Meretz	6	4	40%
1996			
Labor	31	3	9%
Likud	30	2	6%
Meretz	7	2	22%
1992			
Labor	40	4	9%
Likud	30	2	6%
Ratz	4	2	33%

Source: Israel's Women Network

2.1. Women as Knesset members

Despite the fact that there still has never been a woman Knesset Speaker, the current Knesset does have two women serving as Deputy Speakers. The present Knesset has assigned two women to the Foreign Affairs and Defence Committee. Beyond this, three women head other Knesset Committees, and three women head three sub-committees.

Significantly, according to the Knesset Statistical Report, which quantifies the legislative and parliamentary activity of different Knesset members, it is evident that women's legislative production is disproportionately superior to their representation in the Knesset. Generally, while women constituted only 7.5% of the legislators in the 14th Knesset, they were responsible for 15% of the laws passed. Women MKs were present on 90% Knesset deliberations days, while the average MK participation stands at 77%.

The significance of women's presence in the legislature is clearly seen in the following data: Between 30-50% of the bills put forward by women MKs during the 13th and 14th Knessets involved issues concerning the status of women.

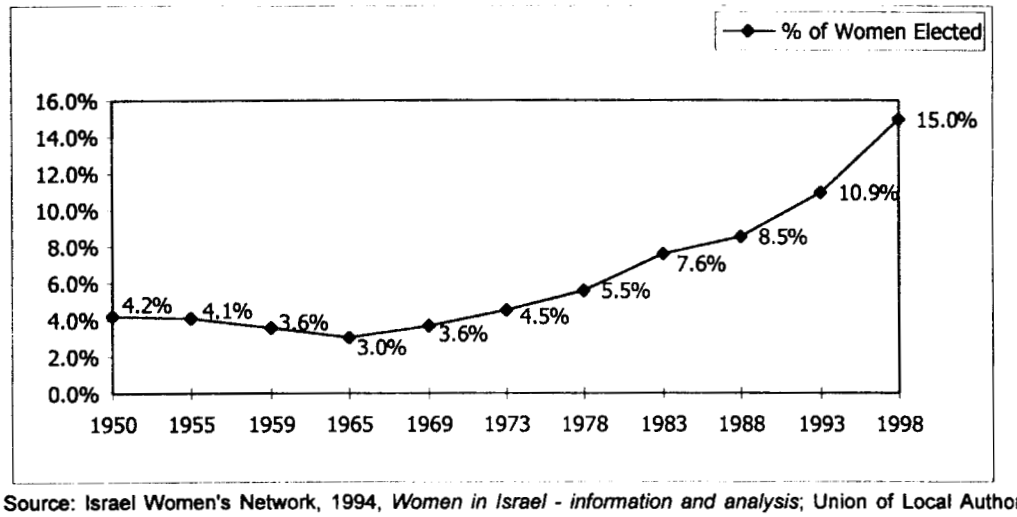
3. Women in Government

In the 1996-99 cabinet, only one of 18 ministers was a woman and three women held the position of general-director of a government ministry. The recent cabinet of PM Ehud Barak had two women ministers and one deputy-minister out of a total of 23 ministers within the cabinet. Following the special election for Prime Minister in early 2001 the present cabinet has three women ministers (out of a total of 26 ministers within the cabinet), with another precedent of a woman Deputy Minister of Defense.

4. Women in Local Authorities

The recent 1998 local elections saw the election of 240 women, making up 15% of the total, a jump of 40% in comparison with the 10.9% elected as a result of the 1993 elections. Overall, women are currently present in 70% of the local authorities. This quantitative evolution can be attributed at least partly to a qualitative change in the way women have entered the local authorities - through the use of independent parties, many of them set up and headed by women.

Chart 2 - Women Elected to Local Councils, 1950-1998



Source: Israel Women's Network, 1994, *Women in Israel - information and analysis*; Union of Local Authorities in Israel.

While up until the last elections, few women had served as heads of local councils, and only one had been a mayor of a city, the recent 1998 local elections witnessed an important evolution with the election of two women as mayors of fairly large and central cities (Herzlia and Netanya). Twenty-nine women serve as deputy mayors, and two women were elected to head regional authorities. It must be mentioned however, that these achievements relate to the Jewish population of Israel. Only one Arab woman to date has served as a head of a local council since the establishment of the State (Violet Khoury, elected in 1972 to be the head of the Kfar Yassif Local Council), and in the 1998 elections two Arab women were elected to municipal councils.

Another point worth mentioning with respect to local authorities is the **Local Councils Law (Advisor on the Status of Women) - 2000**, as detailed under article 2 above.

5. Women in the Civil Service

5.1. Ranks of Women in the Civil Service

The rate of women among the top three ranks of the senior staff of the Civil Service's four main classifications – which compose the main source for administration managers - remains relatively low. In 1997, when women made up 61% of all civil servants, that rate was still less than 15%, and in October 1999, when women made up 61% of all civil servants, the rate stood at 16.4%. Women's low level of representation in the top echelons of the administration

stands out yet more when contrasted with their representation in the lowest ranks (i.e. 8th rank and below), where their overrepresentation only seems to be growing: from 66% of all workers in 1997, to 71% in 1999. Between 1993-1999, not one woman occupied the highest rank of the administrative or the technical classification, two of the most prestigious classifications in the service.

5.2. Tenders in the Civil Service

The method of appointments to the Civil Service through internal and external tenders is explained in the previous Report. While the increase of women's participation in internal job-tenders in the Civil Service, both as candidates and appointees, is quite constant, the situation in public tenders is far less positive. Beyond the overall decline in the number of female candidates and appointees through the tenders system, the trend which consistently tended to appoint women at a slightly higher rate relative to the rate of women who presented their candidacy was reversed in recent years. For example, while 38% of the candidates for public tenders in 1998 were women, they constituted only 36% of the appointees. All this is in spite of the affirmative action provisions in the 1996.

6. Women in Key Positions within Israel's Economy and Public Life

Women's general advancement in the past few years is also reflected in other key positions within the economy and public life occupied by women. Thus, for example, in the Ministry of Finance, the Supervisor on State's Income and the Supervisor on the Financial Market, Savings and Insurance are both women. In addition, women serve in positions of Chief Scientist in the Ministry of Education, the Ministry of Health, the Ministry of Science and the Ministry of Environment. Another precedent appointment has been the appointment of Ms. Orit Adato, former *Chen* (IDF Women's Corps) Commander to the position of Chief Commander of Israel's Prisons Service in May 2000.

7. The Judiciary

The number of women judges continues to increase, this in conjunction with the rising number of judges in general. In January 2001, there were 200 female judges (including three Christians and one Muslim female judges) out of a total of 459 judges, meaning that women

constitute 43.6% of the judiciary in Israel. A comparison with 1999 data indicates that 14 of the 16 new appointments since 1999 were of women judges. Furthermore, the number of women Justices in the Supreme Court has impressively reached a proportion of 28.5% (4 out of 14 Supreme Court Justices) in 2000. In contrast, in more peripheral areas of the judicial field, such as labor courts, where lay people operate as public-representatives (representing employees and employers' unions) side by side with professional judges, only 12% of the public-representatives in 1999 were women. Significantly, women compose the majority of professional labor judges (60% of the judges, and 71% of the registrars).

Women's relatively large representation in the judiciary is also evidenced in the public sector of the legal profession and is clearly related to it. The present State Attorney is a woman, and her predecessor was the first woman to serve in this role and was later appointed to the Supreme Court. In August 2000, in the State Attorney and the Attorney General offices, there were 325 women lawyers compared with 148 men, and 318 women public service attorneys compared with 163 men. In addition, six of the eight District Attorneys were women, as well as the heads of the Criminal Department, the Criminal Department for Special Issues, the Civil Department, the Labor Conflicts Department, the Fiscal Department, and many other senior positions ranking high in the Civil Service, in much higher proportions that any other ministry or Civil Service unit. All in all, 16 of the top 20 positions within the public sector of the legal profession are women.

8. Government Corporations

Data submitted by the Government Corporations Authority indicates a clear improvement over the years in women's general presence among board of directors, but far less encouraging data regarding women's participation as Board Chairs: in September 1999, 40% of the directors were women (235 compared to 364), a significant rise even from 1996, when 25.6% of the directors were women. However, there is still only one woman who serves as Chair of the Board of Directors, compared to 50 men, and only 8 women serve as director-generals of government corporations, compared to 73 men – data that shows no improvement in this realm over the years.

9. Women in the Military

9.1. The Legal Framework

In January 1999, a bill to amend the **Defense Service Law [Consolidated Version] – 1986**, providing for equal military service for men and women passed its first reading, and a year late it became law. This legislative change - which leaves no excuse for the continued differentiation between men's and women's military positions – is aimed to ensuring substantial equality in opportunities for placement and positions within the military, as well as in duties that accompany such positions which are designated by the Minister of Defense, according to the law. By enabling the army to demand a longer period of service from women who volunteer to the newly opened jobs, the army has *de facto* admitted its willingness to place women in such positions. This opening of new positions to women includes those previously refered to as "combat positions", and the Chief of Staff has already issued instructions for inclusion of female soldiers in all combat areas, based solely on their qualifications. The only type of military volition which remains closed to women's recruitment is infantry combat, as it involves specific physical qualifications which, according to military officials, are beyond women's capabilities. This inclusion is within the law's legitimate criteria for exemption.

This legislative "revolution" is clearly an answer to and a reflection of the opinion among the young women recruits themselves. According to IDF surveys of current women recruits, 78% of them believe that combat positions should be opened for women, and 70% believe that women should be allowed to serve in combat areas (such as Lebanon, before the Israeli withdrawal in May 2000).

9.1.1. Implementation of the Miller Case within the Air Force and beyond

The army has continued to take steps to implement the conclusions reached in the decision regarding the landmark *Miller* case, discussed in the previous Report. Female candidates have joined all pilot training courses opened since the decision was rendered, and the first female navigator graduated in December 1998.

The guidelines and instructions to adapt army policy regarding women's service to the reality of women combat pilots – including, amongst others, provisions for women pilot candidates to serve additional time and perform reserve duty, instructions regarding pregnancy, the potential performance of combat duty or duties in hostile territory according to the decision of

the Commanding Officer of the Air Force, under the advisement of the Chief of Staff – have in fact served as a prelude to the present process whereby the whole organizational framework of women's military service is undergoing fundamental change. Indeed, changes are noticeable at all levels and in every realm, from the actual recruitment of women to the placement process, including the nature and length of service and there is a genuine willingness in the IDF to adopt gender- related changes. As of the draft of summer 2000, women recruits are to undergo a process of pre-selection just like men recruits, enabling them to make an advance decision on their preferences and allowing the army to fully assess the recruits' qualifications for their most efficient placement. Thus, women receive booklets delineating all the new occupations that are open to them, including both combat and non-combat options. According to IDF surveys, 37% of the women new recruits already express interest in serving as pilots, a similar rate as that of the men recruits.

During 1999, women already began training in combat related occupations, such as in border surveillance, as combat task officers, and in armor divisions – this following the Chief of Staff's instructions on the inclusion of female soldiers in all combat areas, as mentioned above. The training for these positions is the same for men and women, and women who volunteer for these positions will have to sign up for a 30 months service (compared to the mandatory 21 months service for women, and 36 months service for men).

In addition, a recent decision, approved by the Chief of Staff, concludes that women will serve in the reserve forces until they reach the age of 38 (30 for women in combat positions). Pregnant women and mothers will be exempted from this reserve duty.

Within the military's special preparation and arrangement for women's entrance into all military jobs, particularly notable are the adjustment what is known of as "strain ruler" to women's physiological capabilities as well as the adaptation of specific military equipment (such as shoes) to women's needs.

9.2. Women and Men in the Military - Some Data

9.2.1. Women and Men Officers

Table 2 - Proportion of Women among Officers, 1985, 1995 and 2000

Rank	1985 % Women	1995 % Women	2000 % Women
Major General	0	0	0
Brigadier	0	0	0
Brigadier General	0	0.8	1
Colonel	1.5	2.2	3
Lieutenant Colonel	4.6	10.3	8
Major	13.6	21.2	19
Captain	12.1	22.5	19
First Lieutenant	15.3	37.3	29
Second Lieutenant		66.6	41

Source: IDF Spokesperson

The following tables compare data from 1995 and 2000, regarding the amount of time men and women serve in a certain rank before being promoted, and at what average age they receive these promotions. The comparison shows continuing differences between men and women, as the latter must invest significantly more time before being promoted to higher ranks.

Table 3 - Average Seniority (months) before Promotion - Women Compared to Men, 1995, 2000

Advancement	1995				2000	
	General Army + Personnel		Rest of IDF*		All IDF*	
	Women Officers	Men Officers	Women Officers	Men Officers	Women Officers	Men Officers
Lt. Colonel- Colonel	135.2	79.9		78.1	96	76.8
Major- Lt. Colonel	90.1	75.4	101.4	69.7	98.4	69.6
Captain- Major	49.6	48.5	50.4	48.6	48	45.6
First Lt.- Captain	40	31.9	37.9	31.4	39.6	28.8

* Including Male Combat Positions

Source: IDF Spokesperson

Table 4 - Average Age of Women when Receiving Promotions Compared to Men, 1995, 2000

Advancement	1995				2000	
	General Army + Personnel		Rest of IDF*		All IDF*	
	Women Officers	Men Officers	Women Officers	Men Officers	Women Officers	Men Officers
Lt. Colonel- Colonel	48**	40.1		39.4		
Major- Lt. Colonel	35.4	35.9	37.3	35.3	35.7	34
Captain- Major	28.5	30.4	29.1	30.1	27.8	28.5
First Lt.- Captain	23.7	24.2	24.6	24.9	24	24.3

* Including Male Combat Positions

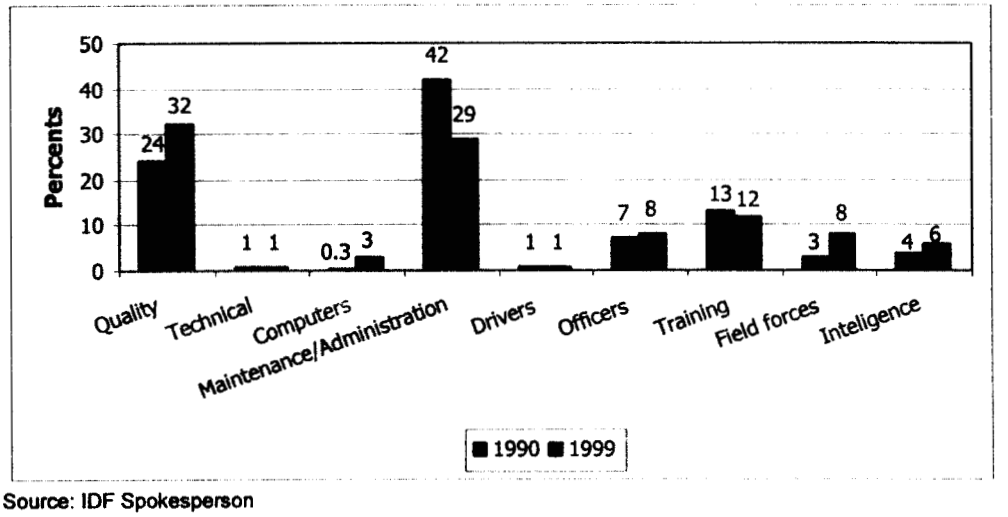
** One of them received her title at an advanced age.

Source: IDF Spokesperson

9.2.2. Distribution of Men and Women among Jobs in the Military

On the level of job stratification along gender lines – the fuller integration of women within the army has made clear headway. While 70% of the jobs open to women in the late seventies were in clerical positions, in 1999 – prior to the complete opening up of most military jobs to women, less than a quarter of the women soldiers served in clerical positions. The following chart depicts some other data regarding the profound changes in the distribution of women among jobs in the military, throughout the last decade. Note that the "quality" job category includes jobs that require higher personal qualifications and longer training courses.

Chart 3 - Women in the I.D.F, by Job Category, 1990, 1999



Source: IDF Spokesperson

9.2.3. Women Scientists and Engineers in the I.D.F.

An in depth examination of women as scientists and engineers in the I.D.F., appears in a recent report by the National Council for the Promotion of Women in Science and Technology. The report reveals that female officers in engineering roles are mostly in the lower ranks, both professionally and formally (30% of academic professional officers, but

only 0.4% senior academic officers; 29% of lieutenants, 0% of colonels), as can be seen in the following table:

Table 5 - Engineers in Career Service, by Rank (percents)

	Academic Professional		Lieutenant	Captain	Major	Lt. Colonel	Colonel	Brigadier
	Officer	Senior Officer						
Men	70	99.6	71	94	88	97	100	100
Women	30	0.4	29	6	12	3	0	0

Source: Women in Science and Technology in ISRAEL, 2000 National Report

The Women's Corps in the I.D.F. has initiated several programs intended to promote female soldiers and officers and to support them in their careers. These programs include workshops on empowerment, women's status and career planning. The Women's Corps is also responsible for special programs, designed to encourage prospective female candidates to go into technological careers. However, the number of women receiving deferments in order to undertake technological studies before their military service is low and has actually declined over the past two years, as depicted in the following table:

Table 6 - Women as Percent of Total Deferments Granted to Make Possible Pre-Service Engineering Studies, Various Years

	1995	1996	1997	1998	1999
Total Deferments	500	460	530	480	560
Women as Percent of Total Deferments	10%	10%	13%	9%	6%

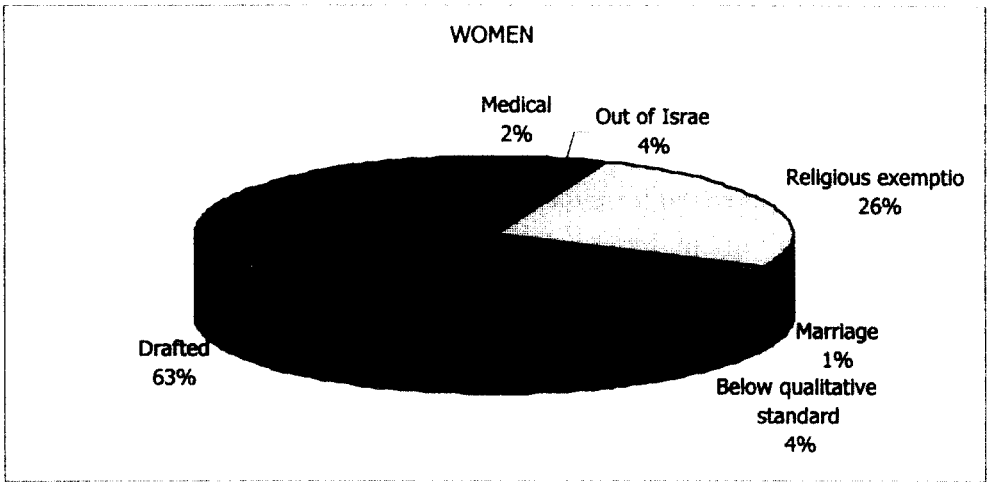
Source: Women in Science and Technology in ISRAEL, 2000 National Report

9.2.4. Exemptions from the Military

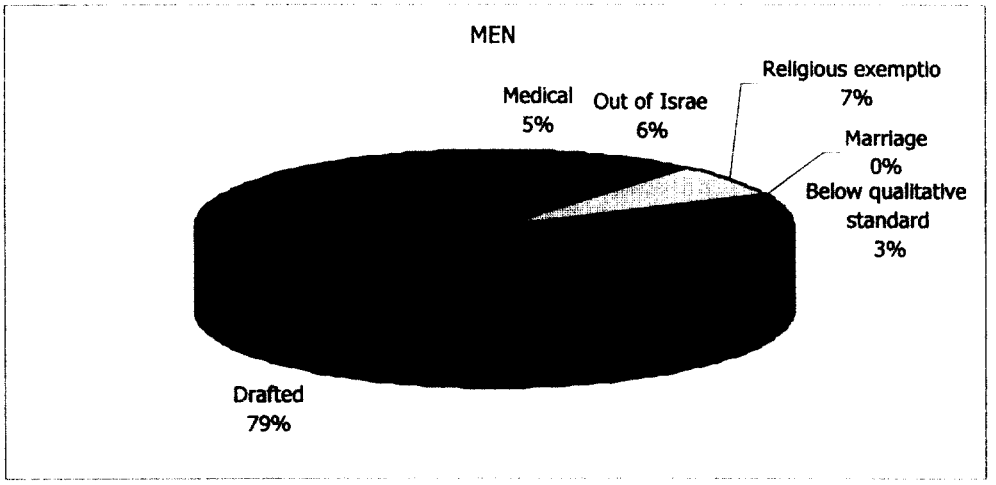
The next chart portrays the distribution of reasons for exemptions from the Military for men and women. Overall, the rate of exempted persons is higher for women than for men (37% compared to 21%), mainly because many more women are discharged from the army on religious grounds (26% compared to 7% of the men).

Chart 4 - Exemptions from I.D.F, by Gender and Reasons, 1998

A. Women



B. Men



Source: IDF Spokesperson

9.3. The *Chen* – Women's Corps

Since 1997, as part of the overall Gender reform process within the army, the posts of *Chen* (the Women's Corps, see previous Report) officers within each unit were virtually abolished. Similar to male recruits, women soldiers are now subject to the commandment of units' officers for all purposes, including disciplinary and judicial matters. Regional *Chen* officers remain, serving as a resort to female soldiers who face problems such as sexual harassment, gender-based discrimination, or gynecological problems. In subjecting female soldiers to the direct supervision of the unit officers, in a similar manner to that of the male soldiers, another barrier to women's full integration in the army has been crossed.

9.4. Sexual Harassment in the Army

Sexual harassment of women within the army remains a problem. Yet, parallel to the ongoing revolution in women's entry into all military jobs mentioned above, the army is undergoing a process of change in its treatment of sexual harassment. Among the events which have prompted this change have been the enactment of the **Prevention of Sexual Harassment Law – 1998**, the *Galili* and *Mordechai* affairs discussed under Article 5, and the intensive pressure exerted by the Knesset Committee on the Advancement of Women as well as other women's organizations.

Expression of this change has been found, amongst other things, in the publication of a semi-annual report on sexual harassment in the army, which includes the number of complaints and their outcomes, thus precluding any possibility of cover-up. Furthermore, various services, such as a 24 hours hotline for sexual harassment complaints and a program in which victims of sexual harassment are provided with the counseling of a *Chen* officer, have been operating since 1996.

A comprehensive program aimed at dealing with the phenomenon of sexual harassment in the army which has also been implemented since 1996 has undergone adjustments to conform to the **Prevention of Sexual Harassment Law - 1998**, with most instructions emanating from the Chief of Staff's office coming into effect in April 2000. These instructions provide a broad definition of sexual harassment, emphasizing that it may be verbal or physical, and that it may involve explicit as well as implicit exploitation of an authoritative position. They also obligate commanders to report all instances of grave physical harassment (such as rape or forced indecent act) to the military police, even if the victim refuses to complain. In 1999, the army began screening a movie on sexual harassment to all new female recruits, which explains the differences between legitimate courtship and sexual harassment. The movie was to be screened to all new male recruits as well.

The policy has borne fruits. The past few years have witnessed an increase with respect to complaints of sexual harassment in the army. More complaints – 54.7% in 1999 – were transferred to the military police instead of being dealt with through disciplinary proceedings within the units. The new instructions further mandate a maximum length of time (45 days) that the investigative procedures in harassment cases should not exceed. Most significant has been the change in policy regarding the punishments imposed on career soldiers convicted of sexual harassment, who are now expected to be discharged from the army. Indeed, in the first

half of 1999, out of 35 convictions in sexual harassment of career soldiers, 30 were discharged from service. In general, it can be said that sexual harassment is no longer trivialized by the military, and is viewed not just as a "women's problem", but rather as part of a larger social problem.

10. Women in the Police

10.1 The Legal Framework

As in the army, significant changes were also made regarding women in the Israeli Police since the Initial Report.

Police regulations prescribe that no difference should be made in the recruitment of men and women within the police force. In addition, they insure - in principle – that all positions within the police force will be open to women and that they be paid salaries on par with those paid to men with equivalent positions.

Current Police recruitment practices are largely a result of a 1996 petition presented to the High Court of Justice by women who contended that they had suffered from discrimination in the context of their recruitment and promotion within the Israel Police Force. The High Court of Justice ordered the Police Force to explain the discrimination against women recruits and come-up with a plan to promote the equality of women within the force. As a direct result of this Court injunction, a committee was set up to recommend measures intended to promote effective equality for women within the Israel Police. Among the recommended measures:

- A declaration of principles guiding the police force, underlining a clear intent on its part to promote equal opportunities for women
- Raising the numbers of women serving in the force to at least 25% within a decade
- Finding appropriate women candidates for designated positions, encouraging specifically the recruitment and promotion of women in ranks and positions where women are under-represented
- Locating female officers in order to fill territorial-command positions
- Setting up a committee overseeing the application of the above measures

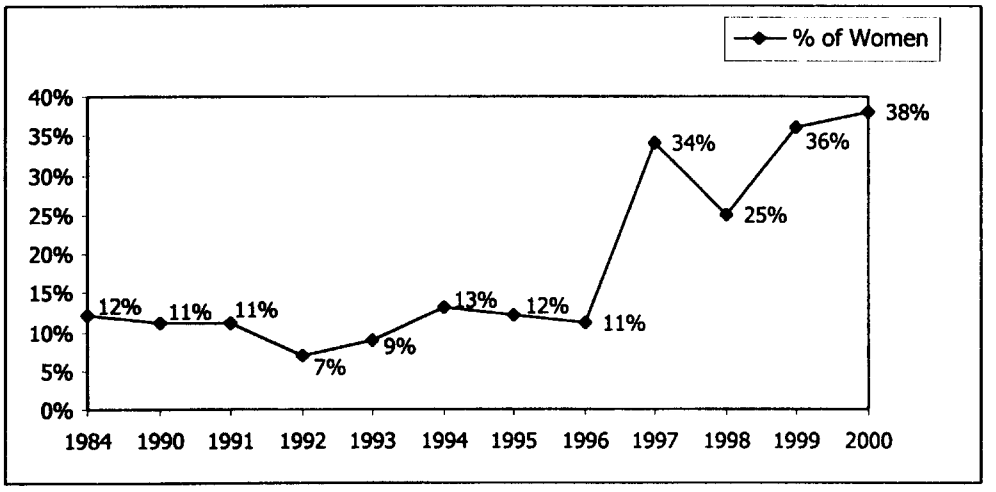
In addition, internal instruction giving priority in recruitment and in promotions to veterans of IDF combat units were abolished. In April 1999, the High Court of Justice gave its final

decision in the case, accepting in essence the police position showing the significant advances made in promoting women within the Israeli Police.

10.2. Women in the Police – Field Data

Altogether, women make up 23% of the police force, and 21% of the permanent police force. Since 1996, largely as a result of the aforementioned reforms, the proportion of women serving in the police force has continually increased, in accordance with the substantial increase in the rate of women among new recruits, as can be seen in the following chart:

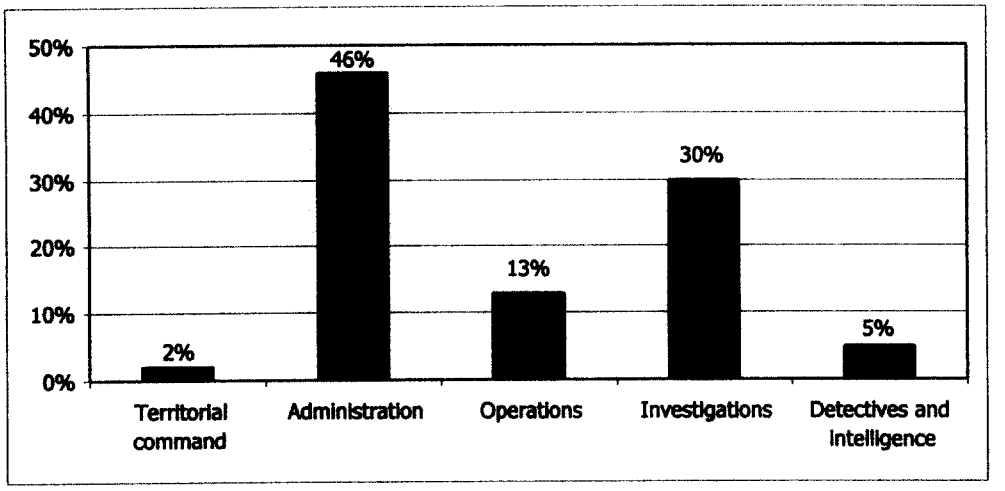
Chart 5 - Recruitment of Women, Various Years



Source: Israel Police Unpublished Data, 2000.

However, the increase in the proportion of women in the police has not affected all positions equally. Of 178 different positions available within the force, 70 have few or no women within their ranks. Women are strongly represented in administrative positions (where they make up 46% of the force) and are well represented in the investigations department (where they make up 30% of the force), but are noticeably under-represented in positions of territorial command as well as in intelligence and detective units (where they make up only 2% and 5% respectively).

Chart 6 - Percentage of Women in Police Career Service, 2000

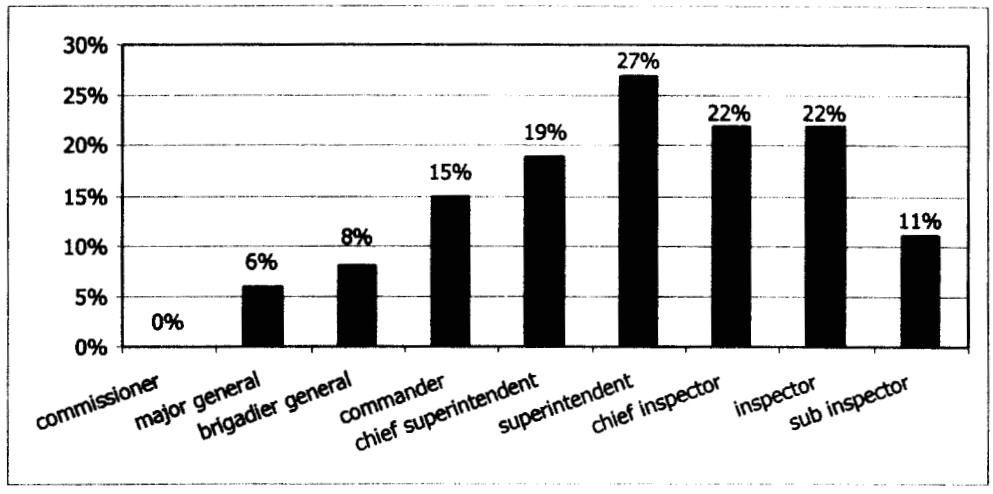


Source: Israel Police Unpublished Data, 2000.

The above numbers indicate that women systematically serve in positions which are characterized by psychological or behavioral sensitivity, in addition to traditional clerical work. In contrast to this, they are seldom present in patrol positions requiring the application of physical force – for example, scattering protests, capturing criminals, etc. Although the police have tried to justify this policy, the Kremnitzer Committee (an investigative committee on police violence, operated in 1995/96) has recommended the inclusion of women within the active police force as a means to soften the contact between police and citizens.

Furthermore, women seem to be under-represented in the higher ranks of the police force while being over-represented in the lower echelons of the force. Indeed, only one woman today serves in a position of police-station commander, and none serves as district or sub-district commander to date.

Chart 7 - Percentage of Women Officers in the Police, 2000



Source: Israel Police Unpublished Data, 2000.

10.3. Women in the Border Police

The number of women in the Border Police is continually increasing. Of the women serving in the Border Police at present, 23% serve in combat-related positions where they perform combat missions like their male counterparts, 38% of the women serve at different border-passages as border controllers, 18% serve as guards in public places, performing standard security duties and 21% serve in administrative positions.

10.4. Sexual Harassment within the Police Force

Even before the passing of the **Prevention of Sexual Harassment Law** in 1998, the Police sought to act against the phenomenon of sexual harassment within its ranks. Among the different measures adopted were the enactment of directives expressing the responsibilities and duties of the police in dealing with sexual harassment cases within its ranks, activities of information and explanation in the midst of the police force (including the publication of reports on sexual harassment within the police and reports of inappropriate treatment of harassment cases), and an improvement in the treatment and punishment of harassment cases, including both judicial and administrative measures.

Beyond these measures, during 2000 a survey was conducted to evaluate the extent of the sexual harassment phenomenon in the police. Questionnaires were distributed to all policewomen, with a return rate of 28%. The survey's results were published and disseminated at all levels of the police force – as well as in the national press - thus

reinforcing consciousness of the widespread nature of the phenomenon of sexual harassment. Among the survey's findings:

- 12.5% of the women serving in the police have been exposed to some form of sexual harassment, with 3.3% exposed to actual sexual assault
- sexual harassment by superiors was less wide-spread, though more damaging than sexual harassment by colleagues
- women-victims of sexual harassment rarely deal with their plight by turning to outside help

The extent of sexual harassment within the police did not exceed that of other professions, or of other police forces worldwide.

Article 8

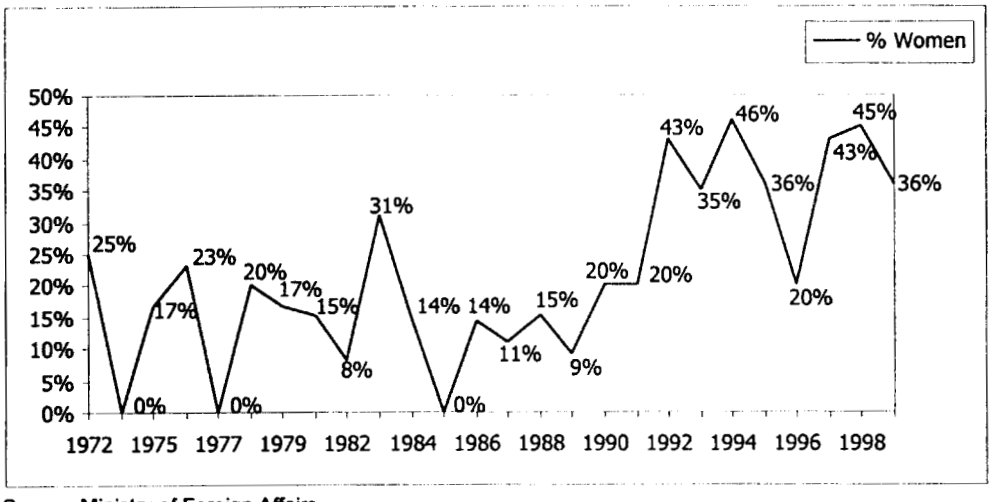
International Representation and Participation

1. Women's Representation in the Foreign Service

The issue of international representation is an integral part of the discussion regarding the status of women in the State of Israel.

First, it should be noted that in recent years more women enter the Foreign Service as cadets, as exhibited in Chart 1.

Chart 1 - Percentage of Women New Recruits, 1972-1999



Source: Ministry of Foreign Affairs

The Foreign Ministry has noted that the percentage of women, taking the test for the Cadet Course, remained the same percentage of women admitted for the course.

The Foreign Ministry and the diplomatic missions are composed of an Administrative Wing and a Diplomatic Wing (which, in it, consists of an Administrative-External Section and a Political Section). The rate of women within the Political Section of the Diplomatic Wing is considerably lower than their rate in other parts of the Foreign Service (20% compared to 55%, in 2000).

The following table further details the rate of women within the Diplomatic Wing of the Foreign Service, by ranks:

Table 1 - Representation of Women in the Foreign Service - Diplomatic Wing, 2001

Diplomatic Wing			
Political Section			
	Men	Women	% Women
Senior Ranks			
Ambassador	29	0	0%
Minister	87	9	9%
Minister Counsellor	86	25	23%
Junior Ranks			
Adviser	67	16	19%
First Secretary	70	26	27%
Second Secretary	10	6	38%
Administrative (External) Section			
	Men	Women	% Women
Senior Ranks			
Ambassador	4	1	20%
Minister	17	6	26%
Minister Counsellor	15	13	46%
Junior Ranks			
Adviser	33	50	60%
First Secretary	34	31	48%
Second Secretary	6	26	81%

Source: Ministry of Foreign Affairs

Table 2 - Representation of Women in the Foreign Service, Various positions, 2001

Civil Service - Total			
	Men	Women	% Women
Deputy Director General	17	0	0%
Department Heads	2	1	33%
Sub-Department Heads	19	2	10%
Division Heads	73	23	24%
Heads of Missions	87	11	11%

Source: Ministry of Foreign Affairs

2. Women Representatives and Independent Experts in International Organizations

Currently, Israel's delegation to the UN consists of men in diplomat positions only; in summer 2001; a woman is expected to join this delegation. In addition, Israel has two women independent experts for UN human rights Treaty bodies: The Convention on the Elimination of all Forms of Discrimination Against Women (Prof. Frances Raday) and the Convention on the Rights of the Child (Deputy Attorney General Yehudit Karp). Furthermore, 18 Israeli women, headed by the then Minister of Environment, Dalia Itzik, participated in the "Beijing+5" women's convention, held in New York in 2000.

Article 9

Nationality

As explained in the previous Report, Israeli citizenship and residency laws do not differentiate between men and women. Both genders have equal rights with regard to acquiring, changing or retaining their nationality or residency. Neither the change of nationality by one member of a couple nor marriage to a non-citizen has any effect on one's citizenship. According to the laws relating to citizenship acquired by birth, both the father's and mother's citizenship carries equal weight.

An interesting development took place since the previous Report with respect to same-sex couples, as explained under Article 16 below: In recent years, the Ministry of Interior had adopted a policy (that is equivalent to its policy towards heterosexual non-marital cohabitants), awarding homosexual foreign partners of Israeli citizens residents status.

Article 10
Education

1. Legal Developments

Two recent legislative measures seek to expand the concept of free education for all in Israel. According to the **Long School Day Law-1997**, which was passed shortly before the submission of the previous Report, the duration of the school day shall be extended to eight hours. Although this Law formally applies throughout the country, due to budgetary restraints, it has only been implemented in peripheral areas thus far. In 1999 the Knesset voted on a ten-year gradual implementation plan of the 1984 amendment to the **Compulsory Education Law – 1949**, providing free nursery school education for ages 3-4. Here too, the implementation of this amendment has been postponed until recently, due to budgetary constraints.

In addition, a mention should be made of the 2000 amendment to the **Women's Equal Rights Law - 1951**, according to which, "*Any woman and man have the equal right to an existence in human dignity, including equality... in education*".

2. Illiteracy Rates and Educational Levels

The total rate of illiterate persons, defined as persons who have had less than four years of education, is on a continuing fall, as exhibited in the following table:

Table 1 - Population with 0-4 Years of Education, 1999

Jews				Arabs and Others			
Sex and Age	Thousands	Years of Schooling (percents)		Sex and Age	Thousands	Years of Schooling (percents)	
		0	1 to 4			0	1 to 4
Women				**Women**			
Total	1871.9	3.4	1.6	Total	370.2	10.7	5.5
15-17	121.2		0	15-17	36.2	1.9	0.6
18-24	283	0.3	0.2	18-24	79.6	2.3	0.6
25-34	338.9	0.6	0.1	25-34	97.6	4.1	1.6
35-44	314	0.7	0.2	35-44	67.8	5.6	6.2
45-54	305.6	1.2	0.5	45-54	40.4	16.6	16.1
55-64	187.9	7.1	3.9	55-64	24.9	38.6	17.7
65+	320.9	13.1	5.8	65+	23.3	57.6	12.6
Men				**Men**			
Total	1744.3	1.5	1.2	Total	371.9	3.2	4.8
15-17	130.2		0.2	15-17	36.3	0.3	1.9
18-24	294.4	0.2	0.1	18-24	82.6	1.1	1.5
25-34	338.7	0.4	0.2	25-34	99.8	1	2
35-44	292.4	0.7	0.3	35-44	71.1	2.3	3.4
45-54	285.7	0.8	0.5	45-54	39.7	4	4.8
55-64	164.5	2.7	1.8	55-64	24.7	6.9	16.2
65+	238.1	6.4	5.9	65+	17.4	26.6	31.2

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

A comparison between the data presented here and the data submitted in the previous Report reveals an overall improvement in the level of illiteracy within all population groups. Thus, while in 1995, 6.4% of all Jewish women and 3.5% of all Jewish men were considered illiterate; the 1999 figures have decreased, respectively, to 5% and 2.7%. At the same time, the rate of illiterate Arab women fell from 20.2% to 16.2%, and the rate of illiterate Arab men fell from 9.1% to 8%.

3. High Schools in Israel

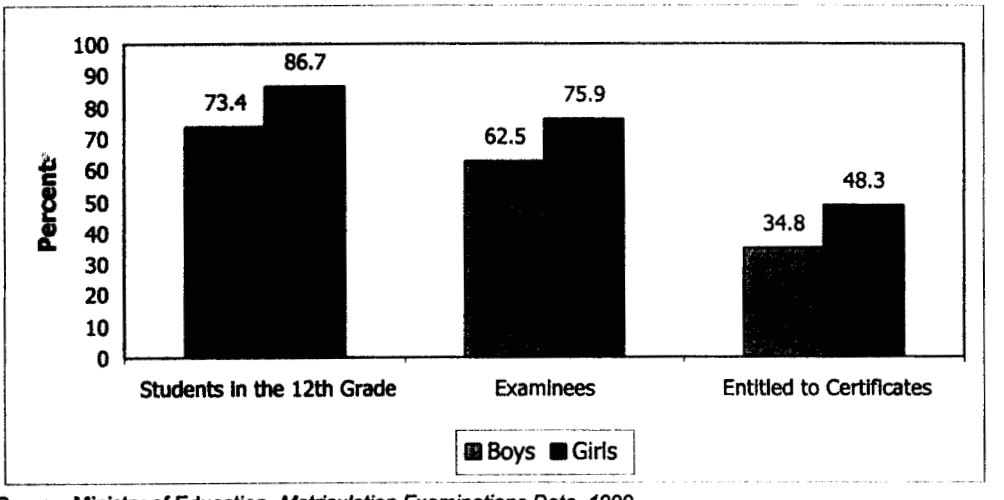
3.1 General and Technological / Vocational Tracking

The Israeli secondary-education system is composed of both technological/vocational and general high schools. Most of the students that take their matriculation exams study in the general schools. In 1996, 71% of the girls in 12th grade studied in the general track, while only 58% of the boys in 12th grade studied in the general track.

3.2. Matriculation Levels

In terms of matriculation examinations and success, girls consistently fare better than boys. More girls than boys take the exams, and their success rate is higher than their counterparts. In 1999, 86.5% of all girls within the 12th grade age group studied in school, compared with only 73.5% of the boys. Girls' entitlement to matriculation degree was also much higher, and stood at 48.5% of all the age group, compared with less than 35% of the boys.

Chart 1 - Percent of Students in the 12th Grade, Examinees in Matriculation Exams and Entitled to Certificates, 1999



Source: Ministry of Education, *Matriculation Examinations Data, 1999*

Among the Arab Population, boys' eligibility rates were higher than girls' until the mid-1990s, but since then the situation there has resembled that in the Jewish population: a majority of girls among those taking the exams and among those eligible for certificates.

Other gender differences are evidenced when inspecting the levels of the exams taken by both boys and girls. The 2:1 ratio of boys to girls in the five points math matriculation level, measured in 1985, remained almost the same in 1999, when 21.7% of the boys who took the math matriculation exam, but only 13.5% of the girls, took the enhanced five points level. The success rates, however, were generally higher for girls than for boys, as shown in the following table:

Table 2 - Rates of Examinees, Entitled to Certificates and best Achievers, in Mathematics Matriculation Examinations, 1999

Percent of Students:	Girls	Boys
Examinees in Mathematics Matriculation Exams		
Total	80.4	77.5
Thereof:		
3 points	59.7	51.8
4 points	26.8	26.6
5 points	13.5	21.7
Entitled to Certificates		
Total	91.7	89.6
Thereof:		
3 points	88.6	84.9
4 points	96.2	94.2
5 points	96.5	95.5
Best Achievers		
Total	45.8	38.6
Thereof:		
3 points	41.2	31.0
4 points	51.7	41.9
5 points	54.7	52.4

Source: Ministry of Education, *Matriculation Examinations Data, 1999*

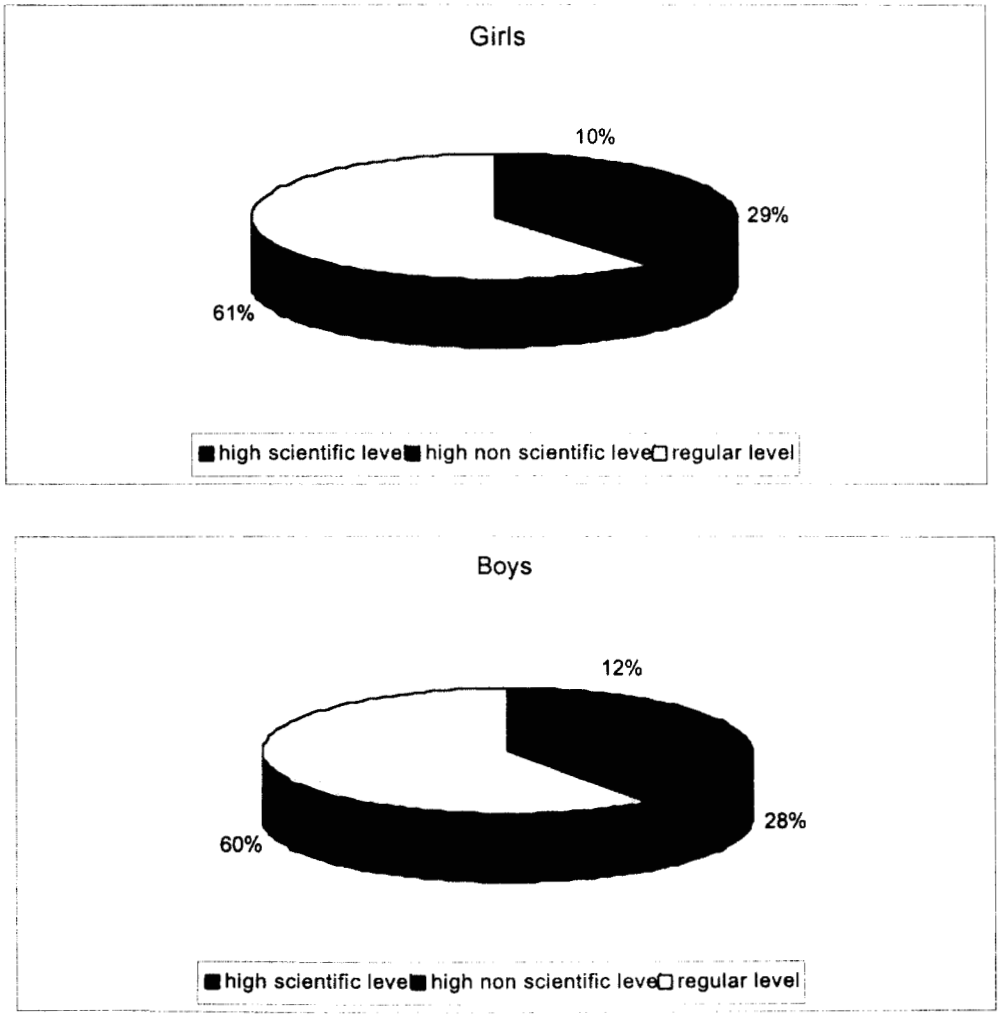
However, while girls do better than boys in the matriculation exams, more boys than girls take enhanced scientific exams, which are critical for acceptance to universities. Thus, while more girls than boys pass the exams, fewer girls meet the minimum requirements for acceptance to university. In 1999, for example, while 88.2% of boys who passed their exams met these requirements, only 85.6% of girls did so. This marks an improvement since 1996, when only 82.1% of girls met the requirements, as opposed to 84.3% of boys.

Table 3 - Matriculation Exams, General Data, 1999

	Girls	Boys
Number of Entitled to Certificates	24,498	18,631
Percent Meeting University Entry Level Requirements	85.60%	88.20%
Average Number of Points in Certificates	27.0	28.1
Average Number of Subjects in Certificates	8.7	8.9

Source: Ministry of Education, *Matriculation Examinations Data, 1999*

Chart 2 - Matriculation Examinees, by Level and Subject, 1999



Source: Ministry of Education, *Matriculation Examinations Data, 1999*

3.3. Education Rates, Attendance Rates and Drop-Out Rates

Parallel to the decrease in illiteracy rates, educational levels in Israel have been steadily increasing throughout all population groups. Within the Jewish population, the median educational level (namely the number of school-years which half the population is below and the other half is above) for men and women have always been close. The small gap that did exist has finally vanished in 1998, when the median education level for both Jewish men and women reached 12.4. Within the non-Jewish population the gender educational gaps had been much larger, but they too are decreasing. Thus, Arab men's level rose from 10.6 in 1995 to 11 in 1998, whereas Arab women's level rose from 9.7 in 1995 to 10.4 in 1998. Moreover, among non-Jewish youth the gender gap is altogether diminishing. In 1998 the median

educational level of non-Jewish boys and girls aged 15-17 was the same (10.6), and the level of 18-24 years old women was even higher than that of men (11.9 and 11.8 respectively).

Another important indicator of school performance is the rate of attendance. Among the non-Jewish population, there has been a dramatic increase in the overall attendance rate. The increase in this sector is much greater for girls than for boys, resulting in a growing attendance gap, in favor of girls, within the non-Jewish population. For instance, in 1998/99, the attendance rate of non-Jewish girls stood at 83.5%, while the rate for non-Jewish boys was 75.3%, an attendance gap of 8.2%. The 1994/5 gap was a mere 3.5% (deriving from attendance rates of 69.2% and 65.7% for non-Jewish girls and boys, respectively).
Higher attendance rates for girls is also characteristic of the Jewish education: 98.2% and 92.9% respectively. More detailed data can be found in the following table.

Table 4 - Attendance Rates of 14-17 Year Olds, by Type of School and Religion, 1998/99 and Various Years

Rates per 1000 in respective group of population

	Age 14-17		
	Girls	Boys	Total
Hebrew Education			
1979/80	865	729	795
1989/90	957	855	905
1996/97	978	919	948
1997/98	973	919	945
1998/99 Total	982	929	955
Primary Education	15	17	16
Post-Primary Education			
Intermediate Schools	222	223	223
Secondary Schools- Total	745	689	716
General	516	355	433
Technological/Vocational	229	333	283
Arab Education			
1996/97	808	754	780
1997/98	825	755	789
1998/99 Total	835	753	793
Primary Education	23	25	24
Post-Primary Education			
Intermediate Schools	210	221	216
Secondary Schools- Total	603	506	553
General	458	356	406
Technological/Vocational	144	150	147

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Supplementing this information dropout rates should also be indicated. Nearly 15,000 boys and 7,000 girls in grades 9-11 dropped out of school in 1997/8. The dropout rates in the Jewish system are 8% of boys and 4% of girls. Dropout rates are substantially higher in the

Arab system, and here, too, the dropout rate among boys exceeds that among girls (18% and 10%, respectively).

4. Activities and Educational Programs Adopted by the Ministry of Education in order to Prevent Discrimination

4.1. Gender Stereotypes within School Books

Following similar activities in the Jewish education, described in the previous Report, attempts have been made to remove stereotypical messages from textbooks used within the Arab sector in recent years. Inasmuch as sincere efforts were made to follow this policy, the 1999 State Comptroller Report revealed that the Ministry of Education lacks the means to implement it, and very few of the school books actually undergo review. Consequently, the Minister of Education has decided to "lift the advanced censorship" over the school books, while maintaining the policy of prohibiting the use of books that still contain racist or sexist messages.

4.2. Other Instructions and Intervention Programs of the Ministry of Education which Aim to Prevent Discrimination

The highlight of the Ministry of Education initiatives aiming at preventing discrimination has been the Equality 2000 project, which was implemented in 1996 as an experimental project, initiated by the Israel Women's Network. In its experimental phase, the project was a three year long intervention program intended to be carried out within several different middle schools, involving 10-15 teachers within each school who were specifically trained to deal with issues of gender-equality. Following the experimental phase which included 1 elementary school, 4 middle schools and 1 nursery teachers advanced school, the program is currently being implemented in more schools, and is rapidly becoming a permanent part of the Ministry's curriculum. Its methodology, though, was slightly changed to reach more educators capable of acting as agents of change. It contains elements of both a research project and an active intervention program; it is meant to bring about change in the attitudes and behavior of teachers, advisors, administrators, students and parents regarding gender equality.

Additional activities overseen by the Education Ministry in the last few years with an aim at encouraging gender equality have included the preparation of an anthology in the Arabic language – "Women within the Ranks", the opening of courses on gender equality in teachers' training colleges as well as the organization of study seminars on gender equality for various kinds of educators. The last two years have seen the opening of gender-equality departments in 13 pedagogic centers (9 in the Jewish sector, 4 in the Arab sector), as well as various intervention programs in some 30 schools, in addition to short-term seminars on gender equality in 10 municipalities (6 in the Jewish sector, 3 in the Arab sector, 1 mixed).

In addition to all of these, there are plans to make gender equality the Education Ministry's main overall theme for the 2001-2002 academic year.

The Supervisor estimates that to date some 5,000 school and kindergarten teachers have been exposed to the program. This was achieved through a sharp increase in the budgeting of the program, from 300,000 NIS in 1999 to more than 2,000,000 NIS in 2000 (approximately $500,000). The budget for 2001 is expected to stay the same.

5. Sex Education and Education on Family Life

In addition to its advancement within the Jewish sector in the last few years, as discussed in detail in the previous Report, sex and family life education have been growingly promoted in the Arab sector as well in recent years. Professional advisors have been trained to work with teachers of adolescents, and nationwide conventions and group-training sessions have been held. Arabic language curricula, adapted to Arab society, have been created and taught by advisors, counselors and teachers belonging to the Arab community. It should be noted, however, that sex education has not been promoted in the Druze or Bedouin communities thus far, due to particular sensitivities to such issues.

In 1994 and 1997 the Education Ministry issued guidelines emphasizing the importance of teaching students about classroom violence and child abuse, and as noted in the previous Report, programs on gender violence constitute an integral part of the sex education curriculum. The past few years, however, have witnessed a rise in sexual violence within the school system. Concerns have been expressed about the educational system's ability to deal with this alarming phenomenon, and some of the criticism has been directed towards alleged deficiencies within the sex education curriculum. Thus for example, critics have noted that

teachers, who are not required to study sexuality as part of their training, are in many ways unequipped to deal with questions students may have on the issue.

6. The State Religious Education

The Israeli school system is made up of various types of schools, including State, State-religious, and ultra-orthodox independent "recognized" schools. The ultra-orthodox schools which, in 1999 comprised close to 14% of Jewish primary schools and about 10% of Jewish secondary schools have always maintained separation between boys and girls. State religious secondary education has also traditionally been separate, and in the past few years, such separation has been increasing in elementary state religious schools as well. In both streams, sex-segregate education entails various curricula differences, although these do not necessarily imply lesser quality or lower resources for girls' education.

In State religious schools (which comprised in 1999 21% of all primary schools and about 18.5% of the post primary schools), especially within elementary schools, the main difference between the girls and boys is in the religious subjects. Currently, however, a slow change is taking place in State religious schools in this respect, as more and more girls' schools have added, as an independent initiative, the study of *Gemara* (the oral Jewish law), previously exclusively designated for boys, to the curriculum.

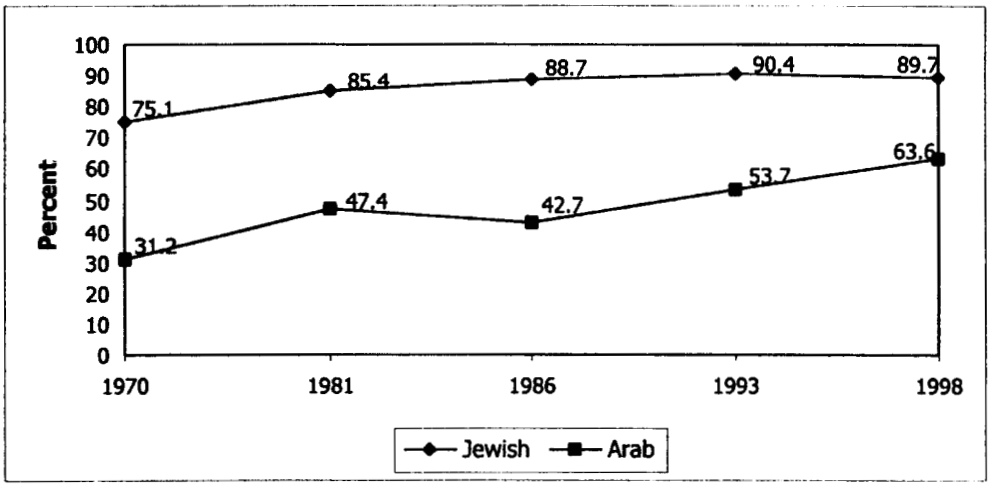
Another positive and gradual change that is taking place within the State Religious Education is in relation to the educational programs dealing, as a whole, with the issues of sex-education, gender-equality, and the advancement of women. All these are dealt with under the topic of Family-Life Education, since officially, there is no explicit topic of sex-education under the State Religious Education. The State Religious Education has recently initiated a program to adapt the main anthology used by the general education system for gender-equality education to the framework of the religious educational system.

7. Teachers

7.1. Teaching as a Feminine Profession

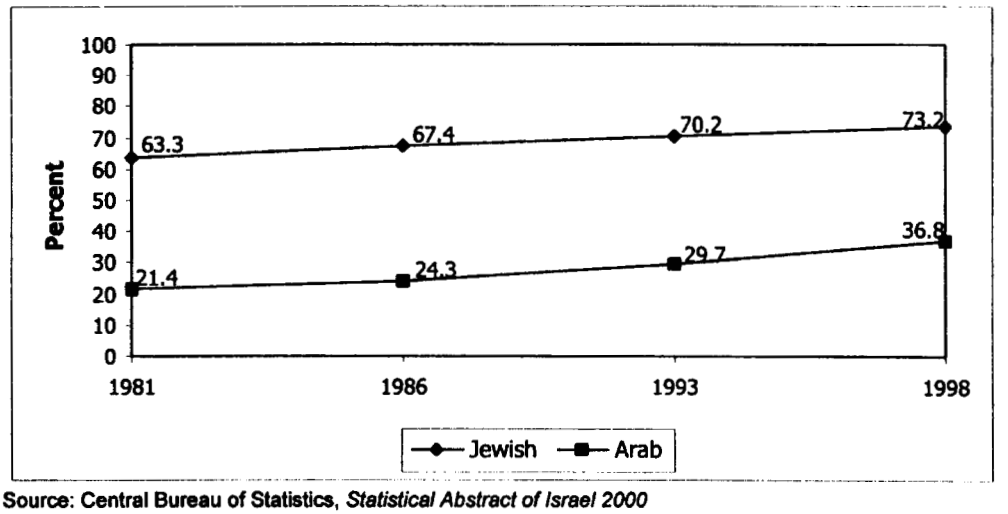
As noted in the previous Report, the teaching profession in Israel is composed primarily of women. Moreover, the percentage of women teachers has been steadily increasing throughout the past number of years, as depicted in the following charts. The charts portray two other interesting findings: First, the gap between the sexes within the teaching profession among Arabs is considerably smaller and second, as the level of the educational institution increases, the female majority of teachers decreases.

Chart 3 - Increase of Women Teachers in Elementary Schools, 1970-1998



Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Chart 4 - Increase in Women Teachers in Secondary Schools, 1981-1998



Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

7.2. Teachers' Salaries

Notwithstanding the predominance of women in the teaching profession, their position within this profession is inferior to that of men. This is evidenced by their comparative salary levels

and by their representation among high ranking administrative positions within the profession. Inequality exists in the salary levels of men and women working within the educational system. Statistics reflect this relative inequality among the teaching staff. Data supplied by the Treasury Ministry in 2000 regarding teachers' salaries who are employed by the Ministry of Education for full-time work reveals that overall, women earn on average 91% of men's salaries. Although this figure portrays a significant improvement from the 87% ratio measured in 1996, it still suggests that future steps should to be taken in order to eliminate any trace of inequality.

The tables below, which detail the rate of teachers in each salary level, further illustrate the differences in salaries of men and women within the education system.

The clear trend in all teachers' groups is the increase in their academic level, expressed in the growing rate of the third, second and first degrees' salary levels. While the trend is slower to reach the Arab educational system, it is nonetheless evidenced there as well, at the first-degree level. However, the gender gaps remain stable, particularly in the Jewish system, where over 60% of the men teachers are at the top two levels, while 80% of the women teachers are at the second and third levels.

Table 5 - Distribution of Teachers In Jewish and Arab Primary Education by Salary Level, 1993, 1998

	1993		1998	
	Men	Women	Men	Women
Jewish	100.0%	100.0%	100.0%	100.0%
Dr. and M.A.	15.2%	4.5%	28.3%	7.1%
B.A.	27.9%	17.4%	32.5%	35.4%
Graduate	35.5%	57.6%	21.0%	44.9%
Certified	14.0%	15.8%	5.5%	6.6%
Not- Certified	7.4%	4.6%	12.7%	6.0%
Arab	100.0%	100.0%	100.0%	100.0%
Dr. and M.A.	2.1%	0.6%	3.1%	0.8%
B.A.	15.3%	10.0%	24.6%	21.5%
Graduate	59.1%	50.1%	52.6%	52.7%
Certified	17.1%	32.9%	9.8%	13.8%
Not- Certified	6.4%	7.1%	10.2%	11.2%

Source: Central Bureau of Statistics, *Unpublished Data*

Table 6 - Distribution of Teachers In Jewish and Arab Secondary Education by Salary Level, 1993, 1998

	1993		1998	
	Men	Women	Men	Women
Jewish	100.0%	100.0%	100.0%	100.0%
Dr. and M.A.	24.0%	13.5%	28.7%	16.8%
B.A.	36.7%	51.1%	41.0%	56.4%
Graduate	14.4%	20.9%	12.0%	17.0%
Certified	22.7%	12.2%	15.7%	8.3%
Not- Certified	2.2%	2.3%	1.8%	1.5%
Arab	100.0%	100.0%	100.0%	100.0%
Dr. and M.A.	7.8%	3.7%	10.8%	4.7%
B.A.	48.6%	49.3%	51.7%	56.2%
Graduate	26.8%	23.4%	23.3%	21.4%
Certified	12.7%	14.3%	11.0%	12.5%
Not- Certified	4.1%	8.9%	3.2%	5.3%

Source: Central Bureau of Statistics, *Unpublished Data*

7.3. Administrative Positions

As with the case of salary levels, an examination of authoritative-administrative positions reveals that the number of men working in educational institutions increases with the level of the position and the institution. In 1997/98, men made up 37.6% of all principals in elementary schools, and 67.3% of all high school principals. Further examination reveals that the extent of inequality is far greater for the Arab sector, as shown in the table below.

Table 7 - Teaching and Administrative Positions in Jewish and Arab Schools, 1997/98

	Primary Education					
	Total	Teachers (all)	Class Tutors	Counsellors	Principals (all)	Vice principals
Total	100.0	100.0	100.0	100.0	100.0	100.0
Men	16.4	15.5	11.3	4.7	37.6	26.6
Women	83.6	84.5	88.7	95.3	62.4	73.4
Jewish	100.0	100.0	100.0	100.0	100.0	100.0
Men	36.1	11.6	4.2	4.4	25.1	13.2
Women	88.0	88.4	95.8	95.6	74.9	86.8
Arab	100.0	100.0	100.0	100.0	100.0	100.0
Men	36.1	33.5	35.2	18.2	85.1	88.1
Women	63.9	66.5	64.8	81.8	14.9	11.9
	Secondary Education					
	Total	Teachers (all)	Class Tutors	Counsellors	Principals (all)	Vice principals
Total	100.0	100.0	100.0	100.0	100.0	100.0
Men	31.7	30.9	31.5	10.2	67.3	45.4
Women	68.3	69.1	68.5	89.8	32.7	54.6
Jewish	100.0	100.0	100.0	100.0	100.0	100.0
Men	26.8	26.0	20.8	7.3	63.1	40.6
Women	73.2	74.0	79.2	92.7	36.9	59.4
Arab	100.0	100.0	100.0	100.0	100.0	100
Men	62.9	62.1	75.7	44.3	90.1	85.1
Women	37.1	37.9	24.3	55.7	9.9	14.9

Source: Central Bureau of Statistics, *Survey of Teaching Staff, 1997/8*

Data from a different survey of the CBS reveals much more notable differences in men's and women's managerial positions in the state religious education system and in the private system.

Table 8 - Principals Positions in Jewish Schools, 1998

	Primary Education			Secondary Education		
	Percent	Men	Women	Percent	Men	Women
Positions						
Principals	100.0	27.2	72.8	100.0	63.3	36.7
Public	100.0	10.9	89.1	100.0	46.7	53.3
Religious Public	100.0	53.5	46.5	100.0	80.0	20.0
Private	100.0	55.1	44.9	100.0	86.0	14.0

Source: Central Bureau of Statistics, *Unpublished Data*

7.4. Teachers Training Colleges

Data concerning teachers training colleges illustrates that the rate of women teachers is unlikely to drop in the near future. Throughout the last decade the rate of men training to be teachers has remained around the 15%-17% interval, a small increase from previous decades' figures. In contrast, the amount of Arab men training to become teachers has dropped dramatically. Although during 1969/70 they made up almost half of those in teacher training programs, Arab men made up less than 8% of the Arab students in teachers training colleges by 1999/00.

Table 9 - Teachers Training Colleges, Various Years

	1969/70	1979/80	1989/90	1994/95	1998/99	1999/00
Hebrew Education						
Total Students	4,994	11,285	12,333	18,380	26,371	28,442
% Men	13.9	10.3	16.6	16.3	15	16.6
Arab Education						
Total Students	370	485	576	1,193	2,110	2,621
% Men	46.9	45.2	22.9	16.2	8.8	7.8

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

8. Physical Education and Sports

Sport funding in Israel comes from the sports authority under the Ministry of Science, Culture and Sport, as well as from local municipalities and the lottery. A number of recent court decisions have further regulated the issue of women's sport funding in Israel.

For instance, the regulations of the Union of Basketball in Israel stipulated that the men's national league was allowed to sign foreign players, while the women's league was not.

Furthermore, the men's league was allowed to spend more money than the women's league. While the District Court had invalidated these regulations as being contrary to public policy and to the express provisions of the **Sports Law**, the Supreme Court had accepted the Union's appeal on formal grounds. Nevertheless, the internal tribunal of the Sports Union had later accepted the claim of discrimination, and women's league is now equal to the men's with respect to those regulations.

However, funding was still only half of that of men's teams. Once again, the intervention of the courts had to be sought. This time it was the team of "Elitzur Holon", one of the leading women's basketball teams in the country and in Europe, which had appealed to the High Court of Justice to force the city of Holon to employ equal criteria in funding men's and women's teams. Following a compromise that was reached at the High Court of Justice, a committee, headed by Chief Justice Dov Levin was formed. The committee established rules for equal distribution and allocation of funding for sport teams by local municipalities. The head of the Unit for the Advancement of Women in Sports estimates that some municipalities abide by these rules.

The ***Elitzur*** case had also prompted the establishment of the Israeli Foundation for the Advancement of Women in Sports in 1997, which aims at increasing girls' education on physical fitness, promoting sports among girls, and encouraging and nurturing girls and women with athletic promise through scholarships. The foundation has already engaged in countrywide self-defense classes for girls, and established special programs to advance girls' sports in Arab, Druze and Bedouin villages in the Galilee. Some other encouraging developments took place in 1997: A national women's soccer league was established, including a national women's team and a junior team; an annual women's walk under the title "Women Go Far" was established, drawing many thousands of women from all around the country to celebrate women's physical activities.

As all these developments were taking place, Israeli women athletics have had some very impressive achievements in competitions, better than their male counterparts. In 1999, Ramat Hasharon women's basketball team reached the finals of the prestigious European Roncati tournament before being narrowly defeated; the girls' team of Kiryat-Sharett School in Holon had won the World Schools basketball championship; Israel's women's fencing champion won the bronze medal in the World Youth Fencing Championship; and two Israeli women sailors placed fourth in the finals of the World Sailing Competition.

There has also been a mild rise in the participation of women in the Olympic Games, over the years, as the chart below indicates:

Table 10 - Athletes in the Olympic Games, 1992, 1996, 2000

	Barcelona (1992)		Atlanta (1996)		Sydney (2000)	
		Percent		Percent		Percent
Total Athletes	30	100%	33	100%	40	100%
Male	26	87%	25	76%	30	75%
Female	4	13%	8	24%	10	25%

This, quite obviously, is not an extreme change. All in all, it indicates a general trend within society, towards recognition of women as an integral part of Israeli sports.

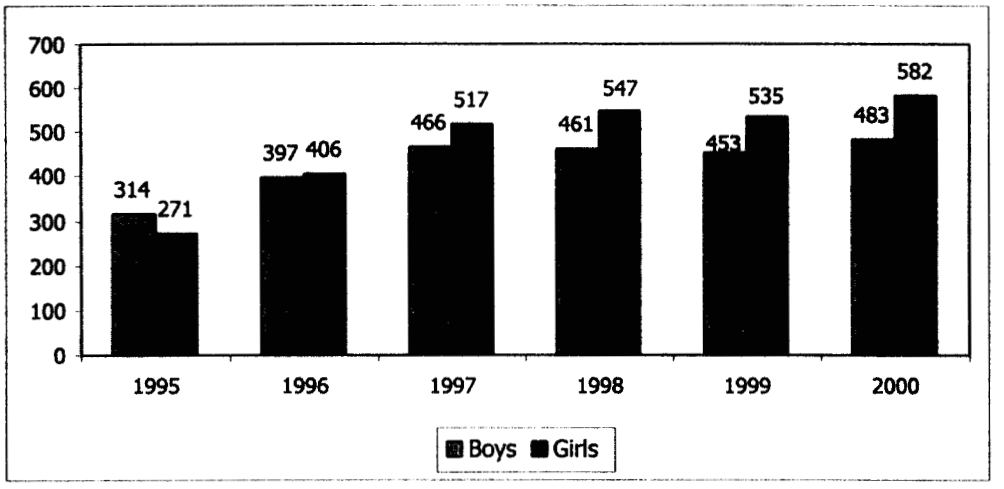
One of the most important tasks is to allow women to play a bigger role, not only in the sporting activities themselves, but also in the various decisions making bodies and managerial roles.

The Sports Association for Schools has set itself the goals of enhancing the number of female students, involved in competitive sport and the training of women for managerial roles within the Association itself and beyond. Another aim is to change the views of female school principals with regards to sporting activities on the school premises and create a more sympathetic and positive environment for such activities.

On the practical level, the Association decided that every sport club, at the school, should include at least one competitive group for girls as well as for boys. This is to be a pre-condition for recognition and support by the Association and is to be implemented by all parts of the population.

It is important to take notice of the fact that the female group was given 50% more than its male counterpart, budget-wise. At a later stage, that affirmative action was abandoned, after it had been decided that the transition period for affirmative action was over and it was time to allow an uninterrupted development.

Chart 5 - Number of Sport Groups in Schools, by Gender, 1995-2000



Source: Ministry of Education, Unit for the Advancement of Women in Sports

As exhibited in the chart above, the number of girls' sport groups exceeds that of boys groups. This is a result of the special emphasis given to girls' sports group by the Sports Association for Schools. This is an indication that when formal support frameworks are put in place, female participants are easily drawn.

The issue of increasing female managerial involvement has also been dealt with in recent years. Nowadays, women hold 3 out of the 10 management positions within the Association.

On the other hand, the Israeli Olympic Committee includes only 2 women out of 31 members of the board (6%) and only 6 women are members of the Olympic Plenum (6%). The overall percentage of women active in the field of competitive sports was 12% in 1994 and has increased to 14% in the year 2000.

9. Higher Education

9.1. Women as Students

The proportion of women among all students has been rising steadily - from 43.3% in the 1987/88 academic year to 56.8% in 1998/99.

Table 11 - Students in Universities, by Year, Various Years

	1969/70	1979/80	1989/90	1997/98	1998/99	Annual Percent Change 1969/70-1979/80	1979/80-1989/90	1989/90-1998/99
All Students								
Absolute Numbers	33,383	54,480	67,770	109,130	111,330	5.0	2.2	5.7
%Women	43.3	46.2	50.8	56.5	56.8	5.7	3.1	7.0
% First Year for First Degr								
Total	100.0	100.0	100.0	100.0	100.0	3.2	0.9	4.9
Thereof: %Women	47.5	50.1	53.7	57	57.4	3.8	1.2	5.7

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

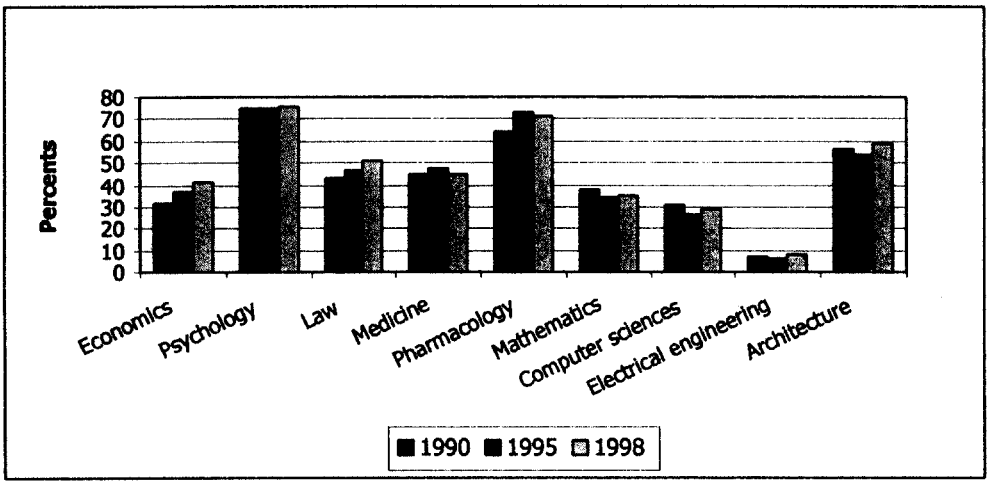
In addition, women today constitute a majority among first, second, and, for the first time, third degree students. However, as the following table and chart depict women continue to concentrate in the humanities and are less likely to enter fields such as Mathematics, Sciences and Engineering.

Table 12 - Students in Universities, by Degree, Various Years

	Total 1984/85	Total 1995/96	Total 1999	Humanities	Social Sciences	Law	Medicine	Sciences and Mathematics	Agriculture	Engineering and Architecture
First Degree	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
% Thereof Women	48.3	56.5	56.6	70.8	63.8	52.3	46.9	43.0	56.0	23.0
Second Degree	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
% Thereof Women	46.8	56.4	57.7	75.8	56.8	49.9	47.3	44.3	50.5	22.2
Third Degree	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
% Thereof Women	39.7	47.8	50.3	60.8	54.8	46.0	69.7	45.0	45.7	26.4

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Chart 6 - Percentage of Female Students in Sought After Fields, Various Years



Source: Council for Higher Education 2000

The following tables provide data on the recipients of degrees:

Table 13 - Recipients of Degrees From Universities, Various Years

	1974/75	1979/80	1984/85	1989/90	1994/95	1997/98	1998/99
	Total						
Grand Total	8,799	9,371	11,218	13,915	18,339	23,807	24,955
thereof: Women	3,780	4,223	5,443	7,033	10,031*	13,641*	14,524*
	Bachelor's Degree						
Grand Total	6,638	6,740	8,113	10,192			
thereof: Women	2,823	3,035	3,977	5,269			
	Master's Degree						
Grand Total	1,233	1,652	2,140	2,790			
thereof: Women	413	625	874	1,236			

* Estimated numbers.
Source: Council For Higher Education, Planning and Budgeting Committee, 1995, *The Higher Education System in Israel*, Table 5.3 and Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Table 14 - Recipients of Degrees from Universities, by Degree and Field of study, 1998/99

	Total Students	% Women
FIRST DEGREE	16,235	57.8
Humanities	4,510	74.0
Social Sciences	5,637	61.5
Law	1,120	43.6
Medicine	1,022	78.9
Sciences and Mathematics	2,000	44.1
Agriculture	161	51.6
Engineering and Architecture	1,785	18.8
SECOND DEGREE	5,957	54.6
Humanities	669	77.6
Social Sciences	1,480	50.2
Law	116	44.8
Medicine	537	54.2
Sciences and Mathematics	639	48.5
Agriculture	87	55.2
Engineering and Architecture	439	22.8
THIRD DEGREE	745	41.3
Humanities	125	38.4
Social Sciences	80	47.5
Law	5	N.A.
Medicine	36	N.A.
Sciences and Mathematics	358	40.2
Agriculture	38	N.A.
Engineering and Architecture	103	19.4

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Ever since the mid-1980's women's enrollment rates in universities have been significantly higher than the rates of men. Moreover, the gap between the sexes in enrollment rates is steadily increasing, as can be seen from the following table:

Table 15 - Enrollment in Universities, Various Years

Percents of ages 20-29 in the Jewish population

	1964/65	1969/70	1974/75	1984/85	1989/90	1995/96	1998/99
Total	3.8	6.3	7.2	7.6	8.0	9.8	10.0
Men	5.4	7.0	8.0	7.5	7.3	8.1	8.2
Women	2.8	5.6	6.3	7.6	8.7	11.5	11.7

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Aside from State universities, a number of alternative institutions of higher education, and institutions which grant diplomas other than bachelor's, master's and doctorate degrees exist in Israel. The following table shows that while women make up more than half of the total students, it is apparent that their representation in technology, economics and business administration is particularly low. While women comprised 84% of the teachers training colleges' students and 69% of the communication students, they made up only 24% of the students of technology sciences.

Table 16 - First Degree Students in Non-University Institutions for Higher Learning, 1995/96

Year/Subject	Total	Men	Women	% Women
1999/00 Total	53,257	21,967	31,290	
Teacher Training	20,004	3,276	16,728	84%
Technology Sciences	11,343	8,664	2,679	24%
Economics and Business Administration	6,405	3,866	2,539	40%
Arts Design and Architecture	3,209	1,101	2,108	66%
Law	6,571	3,504	3,067	47%
Communication	1,585	489	1,096	69%
Social Sciences	4,140	1,067	3,073	74%

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

9.2. Minorities in Higher Education

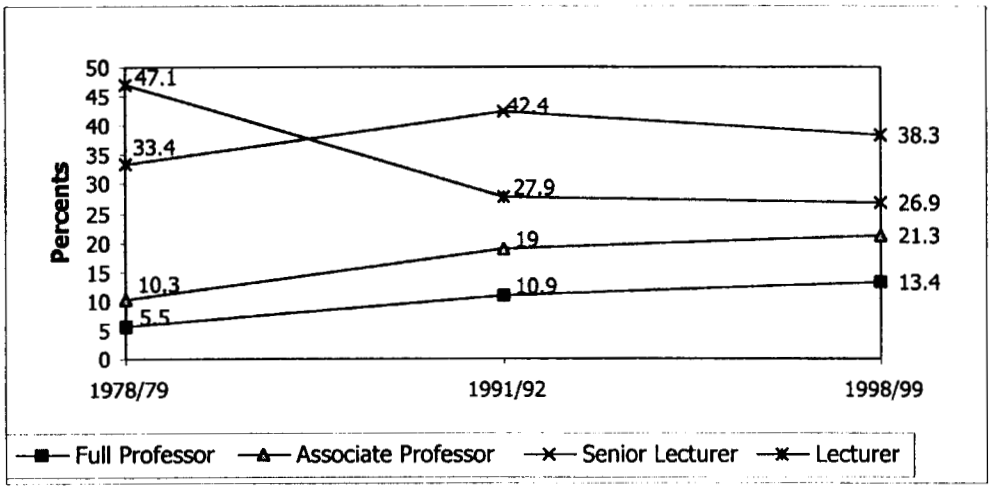
Among non-Jewish communities in Israel, the number of female students decreases as the educational level increases. Within the Moslem population in Israel, still more Moslem men receive higher education than do Moslem women. Nevertheless, a significant increase in non-Jewish women's entry into higher education has been taking place, and their participation among non-Jewish students in general has grown more than four-fold in twenty years, from 8.9% in 1971/72 to 41% in 1992/93.

9.3. Women on the Academic Staff

9.3.1. General Data

In 1998/99, women represented 22.4% of senior academic staff financed by the Council for Higher Education budget, compared to their 20% rate in 1992/93. Although there is clearly an increase in the number of women across the ranks, it seems that as the rank increases, the percentage of women at given rank decreases, as exhibited in the following chart.

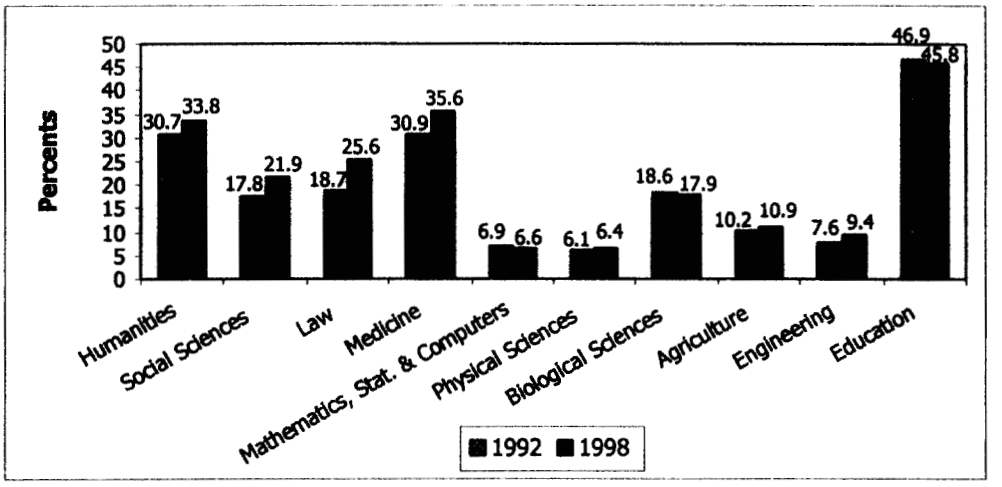
Chart 7 - Percentage of Women among Senior Staff, Various Years



Source: Council for Higher Education, Planning and Budgeting Committee

The following chart shows the rate of women in each academic field. The chart illustrates that while women represent a relatively large proportion of the senior academic staff in fields such as the humanities and medicine, they constitute a relatively small proportion of senior academic staff in the physical sciences, mathematics, computer science, engineering and agriculture. The chart also portrays an impressive increase in the rate of women within fields such as law, the social sciences, humanities and medicine.

Chart 8 - Women as Senior Academic Staff, by Subject, 1992, 1998



Source: Council for Higher Education 2000

The next table shows the stratification of women in the senior academic staff, compared to the general stratification of all senior academic staff. Some gradual progress is noticeable by comparing this data with the data contained in the previous Report. For example, the rate of women among all full professors stood at 8.6% in 1997/98 (compared to 7.3% in 1992/93). At the same time, the rate of women as associate professors increased from 14.2% to 18.7%, and their rate as senior lecturers rose from 30% to 33.1%. Other significant increases are evident in the rate of women among almost all ranks in the field of law, in which, for instance, 25.3% of senior lecturers (compared to merely 7% in 1992/93) were women.

Table 17 - Women on the Senior Academic Staff, by Subject and Rank, 1997/98

Field	Total	Rank			
		Lecturer	Senior Lecturer	Associate Professor	Full Professor
Total Senior Academic Staff					
Total	100	15.1	26.8	24.6	33.5
Humanities	100	20.6	34.8	23.5	21
Social Sciences	100	22.9	27.2	24.4	25
Law	100	27.2	16.9	27.3	28.6
Medicine	100	14.2	28.1	23.5	34.2
Mathematics, Stat. & Computers	100	6.7	21.4	24.8	47.2
Physical Sciences	100	2	15.9	27.2	54.9
Biological Sciences	100	8.3	23	28.5	40.1
Agriculture	100	16.7	26	12.9	44.4
Engineering and Architecture	100	11.4	23.1	25	40.6
Other	100	16.9	32.9	20.9	29.2
Percentage of Women on the Senior Academic Staff					
Total	21.9	36.7	33.1	18.7	8.6
Humanities	35.9	45.8	45.6	30.3	16.3
Social Sciences	21.9	34.7	30.5	14.4	7.9
Law	25.6	37.8	25.3	20	19.5
Medicine	35.6	59.8	54.7	28.8	14.5
Mathematics, Stat. & Computers	6.6	19.4	11.4	7.5	2
Physical Sciences	6.4	12.5	10.3	9.7	3.5
Biological Sciences	17.9	12.6	25.6	21.3	12.2
Agriculture	10.9	22.6	23.2	8.4	
Engineering and Architecture	9.4	15.5	12.7	9.1	6
Other	18.8	23.2	28.5	14.1	8.7

Source: Council for Higher Education 2000

Interestingly, Prof. Nina Toren of the Hebrew University, who conducted a thorough study of women on the academic staff in Israel, notes that despite the fact that women are better represented overall in the humanities, they actually fare better in the exact sciences with regard to advancement in the academic ranks. In the humanities, women faculty tend to be far more concentrated at the lower levels, while in the sciences they are more evenly distributed among the academic ranks. Toren attributes this phenomenon to the greater objectivity of evaluation criteria in the sciences. Toren's study further demonstrates that as the age of the department increases so do the chances of finding women professors in that department. This study also shows that the growth of the number of women in a department will increase their power, which influences their chances to reach the level of full professor. As women's power grows within the department, through the number of professors, the number of women in that field of study increases. In addition, larger departments advance more women to the position of professor. It was also found that female professors with more children (3-4), were found to publish more articles, while single female professors were the least professionally productive. These findings stood in stark contrast to the widespread

belief that being both a mother and a wife has a negative effect on one's professional productivity.

Women's under-representation in higher education, especially in senior ranks, has begun to draw attention in the past few years. The Knesset Committee on the Status of Women dedicated several sessions to discuss the problem, and has urged the various institutes of higher education to appoint special internal advisors on the status of women. The most recent attempt of the Knesset Committee to generate change in this area is the establishment in early 2000 of a Forum for the Promotion of Women in Science and Academia, headed by Prof. Toren, with the cooperation of the Council on Higher Education.

Another initiative to improve the situation is the establishment of the Israel Association for Feminist Studies in early 1998. Among its aims is the advancement of gender and feminist research and studies in Israel, and the creation of a network of support for those engaging in these fields within Israeli academia. It is also hoped that the Association will serve as a vehicle to advance women within the academic world in general.

9.3.2. Arab-Israeli Women in the Academic Staff

According to a 1999 "Sikkuy" Association report, the rate of Arabs amongst academic staff, which numbers approximately 5000 people, is extremely low, as only 50 (1%) Arabs are members of the Academic staff. In light of this reality, the Maof Program has been set up to encourage the promotion of young outstanding scientists within the Arab-Israeli sector, with the explicit intention of integrating them within academia at the rank of lecturer, including 3 years' financing and a commitment of permanent integration within the standard framework. The founding of this program can be attributed to a study conducted within the academic staff in Israel pointing to a very low proportion of Arab academic lecturers within Israeli academia. During the six cycles of the program which has taken place since 1996, there have been 36 candidates and 26 recipients admitted – 4 amongst them having been women.

10. Science and Technology Education for Women

The last few years have witnessed several initiatives aiming at encouraging girls to enter the fields of science and technology. One such program, entitled "The Future Generation of Hi-Tech", encourages students in general, and female students in particular, to aim for a career in science and technology, through the creation of partnerships (currently 23) between industries and junior high schools throughout the country. Another program, the "GES" project (Girls to Engineering Studies), aims to increase the number of high school girls who study

industries and junior high schools throughout the country. Another program, the "GES" project (Girls to Engineering Studies), aims to increase the number of high school girls who study mathematics and physics at the level required to make possible enrollment in university degree-level engineering studies.

In addition, the Ministry of Science, Culture and Sport has recently initiated a special scholarship program in which undergraduate students in engineering and exact sciences can receive a yearly stipends of NIS 10,000 (about EUR 2,500), in return for 100 hours of service in the National Council for the Promotion of Women in Science and Technology programs aimed at promoting women in science. Examples of such activities are: (1) Meetings with high school students and other groups where they can serve as role models; (2) Tutoring schoolgirls in mathematics and sciences; (3) Helping in the organization of conferences and other events.

Despite all these efforts, a recent study conducted by Dr. Dina Doron illustrates that there is a need for even more initiatives intended to increase the number of women entering the fields of science and technology. The study revealed that although high school girls are successful in university-run science enrichment activities ("Science Oriented Youth"), girls constitute only 35% of total enrollment overall, and their relative weight in the exact sciences and technological fields is even lower.

11. The Girl-Child

In accordance with the new reporting guidelines following the 1995 UN Fourth World Conference on Women in Beijing, requesting the expansion of particular issues raised in the Beijing Platform for Action beyond the general information in the CEDAW Reports, a separate section on the girl-child was added to this Report, relating to aspects other than education, which has been dealt with in the preceding parts of this chapter.

11.1. The Adolescents and the Different Societal Systems

The following information is mainly based upon a World Health Organization cross-national study, published in 1997 and based on data collected in 1994 (Hereinafter - the HBSC study). The study involved the distribution of questionnaires to more than 7,600 students attending grades 6-11. Due to its transnational scope, the data enables a comparative perspective.

11.1.1. The Family

The family is an important agent for the physical and psychological health advancement of the child. Family relationships are known to influence the adolescent's self-esteem, mental health, social adaptation and physical health.

The HBSC study mentioned above, revealed some interesting findings regarding perceptions of family support among Israeli adolescents. Regarding their ability to talk with their parents, it was found that the situation of the adolescents in Israel is relatively good. As for the readiness of parents to help their children in their studies, Israel was actually ranked first and second in the majority of the age and sex categories. Significantly, family ties are weaker among new immigrant families, as well as families that come from a low social-demographic background. It is also clear that parents in new immigrant families are less involved at school.

Girls fare better than boys by most measures, including those that deal with communication within the family and parents' support at school. The only exception is the rate of children who find it easy to talk to their father about disturbing issues, which is higher for boys than for girls (69.4% of the 15 year-old boys, compared to 53.5% of the girls belonging to the same age group).

11.1.2. The School Environment

With regards to school, the HBSC study revealed that the situation of girls seem to improve between the ages of 11 to 15. The Israeli girls are ranked particularly high in answers to questions measuring feelings of acceptance by their peers (80.4% of Israeli girls at the age of 15 felt they are being accepted as they are by their friends - 3rd in the world - compared to 76.4% of the boys). Israeli girls do not feel that their parents or teachers expect too much of them, contrary to Israeli boys who do experience these feelings. For instance, 23.9% of the 15 year-old boys feel their parents expect too much of them, as opposed to only 14.6% of the girls.

By the age of 15, the rate of girls who feel stressed or very stressed by the studies at school is far greater than that of boys (36.9% compared to 22.1%). It is interesting to note, however, that at the ages of 11 and 13 the rate of girls and boys who feel stressed (or very stressed) is almost the same.

11.1.3. The Peer Group

According to the aforementioned HBSC study, the Israeli adolescent has a positive concept of hobbies. Most of the Israeli adolescents go out some evenings every week. Also, most of them feel they can converse with their friends about disturbing subjects and can receive social support form them. Nevertheless, the rate of Israeli youth that feel lonely is one of the world's highest, and it is higher for girls than for boys. In addition, this phenomenon is more common among new immigrant families, as well as families that come from a low social-demographic background.

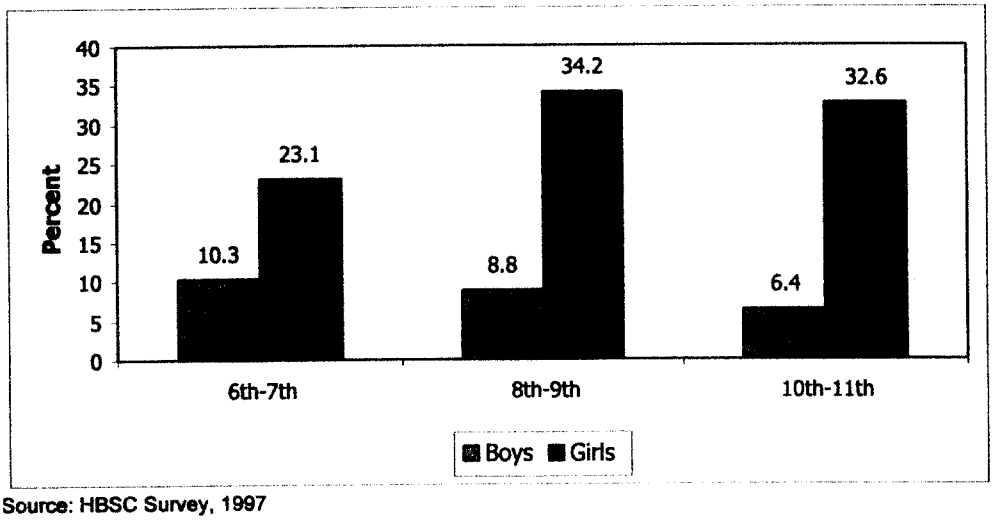
The phenomenon of daring (talking each other into dangerous and prohibited activity) is very frequent with a rate of about 46%, and is much more predominant for boys in all age groups (60.4% of the boys compared to 36.8% of the girls, in the 8-9 grades, for instance).

11.2. Health Risk Behaviors and Leisure Activities

11.2.1. Nutrition, Eating Habits and Physical Activity

A gender gap in the domain of nutrition and eating habits exists within Israeli youth, as 30% of Israeli girls go on a diet to lose weight, compared to 8.6% of the boys. Israel is in fact ranked 1st in the rate of girls who are dieting.

Chart 9 - Percentage of Students on a Weight-loss Diet, 1994



Source: HBSC Survey, 1997

A quarter of Israeli girls report that they do not do sport, compared to 10% of the boys. The combination of these findings indeed reflects themes in Israeli culture, in which not much importance is attached to the advancement of physical education as a contribution to health, whereas a lot of attention is put on young women's body image. It is clear that health advancement programs should be developed to transform this reality, by increasing the girls'

physical activities' level, while reducing their excessive interest in dieting and hours devoted for watching television (which are highest for Israeli girls, according to the HBSC cross-national study).

11.2.2. Smoking

The HBSC study refereed to previously revealed that 26.9% of all 6-11 graders have smoked at least once in their life and 8.7% of Israel's youth reported smoking at least once a week. These rates are increasing with age, and in each age group they are higher for boys than for girls. However, the gender gap is decreasing with age.

11.2.3. Alcohol Use

As with smoking, Israeli boys drink alcohol more than girls do, although the gender gap decreases with age. According to the HBSC study, 37.9% of the 6-7 grade boys reported drinking at least one alcoholic beverage in the month prior to the survey, compared to 15.3% of the girls. As for the 10-11 graders, 43% of the boys, compared to 27.6% of the girls, reported drinking at least once in the preceding month. In addition, the number of "drinking days" (number of days in which alcohol was consumed within the last month) is increasing with age for girls while decreasing for boys. In fact, girls in the 10-11 grades reported slightly more drinking days than did boys in the same age group (4.6 days compared to 4.5).

11.2.4. Drug Use

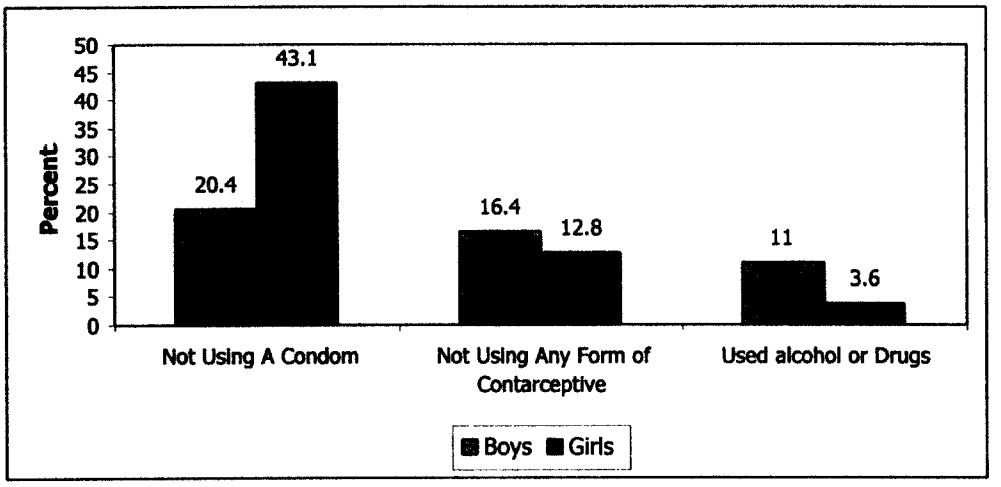
With the exception of dieting pills (that were consumed almost equally by boys and girls), the use of drugs is far greater for boys than for girls. Thus, for example, 7.0% of the boys, compared with 2.7% of the girls, reported using Hash or Marijuana in the preceding year; 8.0% of the boys used sleeping pills, as opposed to 5.9% of the girls; 5.0% of the boys used Opium or Heroin, compared to 0.7% of the girls; and 4.4% of the boys used Crack or Cocaine, compared to 0.9% of the girls.

11.2.5. Sexual Behavior Among High School Students

According to the HBSC study, 2.6% of the girls reported being pregnant at least once in their life, and 10.6% of the boys reported causing pregnancy.

While 20.4% of the boys reported they did not use a condom the last time they had sex, the rate of girls who did not practice safe sex was more than double (43.1%). It is important to note that while the rate of American boys who do not use condoms is much higher (38.4%) compared to their Israeli counterparts, the rate for American girls is only slightly higher (46.5%) than the rate among Israeli girls.

Chart 10 - Percentage of Students who Did not Practice Safe Sex the Last Time They Had Sexual Intercourse, 1994



Source: HBSC Survey, 1997

11.3. Physical and Mental Health

11.3.1. General Feeling and Body Image

The HBSC study sheds light also on data regarding happiness, helplessness, self-confidence and body image.

As for feelings of happiness, the rate of girls who experience a good mood decreases substantially with age. Only 19.6% of the 10-11 grade girls described themselves as "very happy", compared to 40.5 of the 6-7 grade girls. The decrease for boys, although significant, is not as sharp (22% and 38.4%, respectively). In addition, the rate of helplessness and lack of self confidence among girls is increasing with age: While 20% of the 6-7 grade girls felt helpless and 31.4% felt insecure, these figures inflate to 32% and 39.2% for girls in the 10-11 grades. The respective figures for boys are much more stable and range in the 20%-25% interval for all age groups in these two measures. It must be noted, however, that Israel is ranked last for feeling of helplessness among 15 year-old girls and 6th from last for lack of self-confidence among 15 year-old girls.

Physical appearance is of extreme importance to Israeli girls. 36.8% of 6-7 grade girls think they are "too fat", compared to 46.5% of 10-11 grade girls who think so. On the other hand, many of the boys think they are too thin (19.4% of 6-7 graders and 24.5% of 10-11 graders). On the whole, 57.7% of the girls in the 10-11 grades report negative body image, compared to 46.8% of the boys.

11.3.2. Physical and Psychological Symptoms

Israel is ranked 1st in the world regarding students who feel angry or nervous almost every day. Israel also came top with regards to students who suffer from head, stomach or back aches or dizziness more than once a week. Girls suffer more severely from these symptoms, as 49.1% of the 15 year-old girls felt angry on a daily basis, and 26.0% of them experienced one of the aforementioned physical symptoms more than once a week (compared to 32.2% and 23.7% of the boys, respectively). The HBSC survey also reveals that girls experienced more difficulties in falling asleep (25.9% compared to 21.2% of the boys), but that the rate of students who felt tired upon going to school is almost identical (26.2% compared to 26.6%) (Harel, Kanny and Rahav 1997, 134).

11.3.3. Consumption of Medications

A significant gender gap in the consumption of medications was tracked in the HBSC survey, as 59.7% of all girls reported taking a medication in the month that preceded the survey, as opposed to only 40.1% of the boys. It should be noted, however, that both these figures are considered relatively low, compared to other countries. An interaction between gender and age is also apparent: while among girls the use of medications increases with age, among boys an opposite pattern is witnessed.

11.4. Injuries, Violence and Suicide

11.4.1. Injuries

There is no national authority responsible for the advancement of health and security of adolescents in Israel. International comparisons show that the rate of general injuries within Israeli youth is relatively high. However, obtainment of such data is difficult, as many cases of injuries go unreported by the schools. Data gathered in the HBSC survey reveals, that most boys' injuries at school are a result of quarrels and sports activities, while for girls the main reasons for school injuries are falls and faintings.

A huge majority of adolescents report never wearing a helmet when riding a bike (91%), and 40% of all teenagers do not wear a seatbelt. No substantial differences between boys and girls have been traced.

The Ministry of Health has established a database in 27 of 33 general hospitals, of children who were admitted to emergency wards with injuries following domestic violence and neglect, and who were subsequently referred to the social services. In 1998, 1,860 minors

were recorded as having visited the emergency room as a result of injury due to violence. Just over half (52%) of these were girls. Among younger children (0-5), slightly larger proportions of children reaching the emergency room (55%) were boys, predominantly as a result of neglect and withholding of care. In the 6-14 age group, 55% of those injured were girls, and among this age group, the category with the largest gender gap was that of sexual abuse, in which twice as many girls were victims as compared to boys. Among adolescents (15-18) girls predominated in all categories of abuse, with the exception of the "neglect" category.

11.4.2. Violence

The Israeli youth is confronted, on a day to day basis, with a high rate of interpersonal violence, both verbal and physical. More than half of all students were subject to bullyism, when boys were more involved in at least one such incident in the year preceding the survey both as victims (48.3% of boys in the 10-11 grades, compared to 28.6% of the girls) and as aggressors (50.3% of boys, compared to 22.7% of girls).

11.4.3. Suicide

According to the HBSC survey, suicidal tendencies are more common for girls (20.6%) than for boys (13.5%). However, the rate of actual suicides is higher for young men than for young women; Between 1991 and 1993, the mortality rate as a result of suicide was 11.7 for 100,000 men aged 15-24 and only 2.5 for 100,000 women of the same age group.

Article 11
Employment

1. Protection from Discrimination within the Workplace

The most important recent additions to the already progressive Israeli legislation aimed at protecting women against discrimination in the workplace are the enactment of the **Prevention of Sexual Harassment Law** in 1998 (detailed under Article 5) and the 2000 Amendment to the **Equal Rights for Women Law - 1951**. As noted earlier, this amendment expands the use of affirmative action to public institutions and states the right of women to be appointed to every position within the security forces. In addition, the amended section 6 of the Law, entitled "Equality in social rights", declares the right of every woman and man for equality in the area of employment. Also, the **Equal Employment Opportunities Regulations - 1999**, established a public council holding advisory powers with regards to the implementation of the **Equal Employment Opportunities Law - 1988**.

Other recent amendments in employment legislation wish to improve the status of two of the weakest groups of employees in Israel, namely the foreign employees and those employed through temporary manpower contractors. As will be detailed below, the rate of women within these weak groups is relatively high.

In January 2000, an amendment to the **Foreign Employees (Unlawful Employment) Law - 1991**, seeked to regulate this neglected field and, in particular, to prevent situations of exploitation and oppression which were common in the past. For instance, sections 1A - 1E were added to the Law, stating that every employer must provide his or her foreign workers with a detailed employment contract written in a language they understand. In addition, employers should provide their foreign workers with medical insurance as well as with appropriate lodgings. Any deduction from the worker's salary for the purpose of covering the above expenses must be limited to a proportion determined by the Minister of Labor and Welfare. According to another added section, which is due to take affect in January 2001, the Minister of Labor and Welfare may establish a fund and determine a monthly payment to be paid by employers. Up to a third of this payment may be deducted from the foreign worker's

salary. The accumulated sums and any profits added to them will be paid to the worker upon leaving Israel.

Another field in the workforce arena in which major changes are about to take place is that of employment through manpower contractors. A major problem that seemed to dominant this field in the past was that many employers took advantage of this method of employment to hire workers for very long periods of time, without having to pay them various benefits which directly employed workers enjoy. As a result, two categories of workers have emerged within the workplace. A 2000 amendment to the **Law on the Employment of Workers by Manpower Contractors - 1996** tries to deal with this phenomenon by requiring that every worker employed through a manpower contractor for more than 9 months will in effect be considered an employee of the actual employer where the worker was placed. In addition, the employment conditions that exist in the workplace will be applied to those employed through a manpower contractor. This amendment is due to take effect only in June 2001. It constitutes a major reform, affecting about 6% of the salaried workers in Israel, particularly for the public sector, thus a period of adjustment is necessary. The amendment necessitates a reconsideration of the employment forms of thousands of contract labor workers in the public sector.

The role of the courts in interpreting and enforcing the various legislative measures aimed at protecting women from gender-related discrimination in the workplace was exhibited in several recent court decisions.

In the 1997 case of *Plotkin* v. *Izenberg Brothers Ltd*, the National Labor Court accepted an appeal filed by a woman, who claimed to have been discriminated against, and not hired for a job because of being a woman. Ms. Plotkin answered a job advertisement in a newspaper. She was invited to an interview and her handwriting was sent to a graphologist. During the interview, she was told that women were not suitable for the job, as it entailed being a salesperson outside the office. After Ms. Plotkin did not get the job, she filed suit together with the Israel Women's Network in the Regional Labor Court. The Court found that Ms. Plotkin was discriminate against, but awarded her damages in the amount of one-month salary of a junior employee only. Her appeal to the National Labor Court was accepted, setting a precedent in terms of appropriate compensation in cases of discrimination. The Court stated that the employer's conduct, namely his comment to Ms. Plotkin and his blind acceptance of the graphologist report, was found to be tainted with a stereotypical approach and thus was sufficient, by itself, to render the employer's conduct wrong. The Court ruled that questions of stereotypical nature, be it in an interview or tender invitation forms, are sufficient to make

a potential employer responsible. In addition, the Court also held that such a graphological test was problematic and excessively intrusive upon the privacy of a person. As for compensation, the Court held that its purpose in this case is two fold - one, to compensate Ms. Plotkin for her actual damages, and two, to educate the employer in this case, and all other employers, in order to achieve non-discriminatory, non-stereotypical conduct. Aiming at deterrence, the Court held that the compensation must be effective, and ordered the employer to pay Ms. Plotkin 50,000 NIS ($14,200) in punitive damages.

In 1999, the Be'er Sheva District Labor Court, applying the pay equity provisions of the **Equal Pay (Male and Female Employees) Law - 1996**, decided that an employer must release details regarding the salaries of male employees in the work place to the claimant. Preferring to address the principle of equality and the claimant's right to sue her employer and choosing to ignore potential damage to the secret nature of other workers' salaries, the Court accorded the claimant the right of discovery (*Simi Nidam* v. *Rali Electrics and Electronics*).

One last observation concerns the number of complaints regarding gender-based discrimination submitted by employees in the Civil Service. While the overall number of complaints dealt with by the Unit for the Advancement of Women in the Civil Service has remained stable, the rate of sexual harassment complaints has increased from 25% in 1998 to 45% in 1999 and to 53% in the first 8 months of 2000 (57 out of a total of 107 complaints).

2. Women's Health and Employment

A recent survey concerned with the relationship between women's physical and mental health and their work sheds some light on the outcome of the perpetual work-family conflict. The 2000 Brookdale Institute Women's Health Survey (mentioned under Article 5 above) examined women's attitudes towards accommodating family and work obligations. Not surprisingly, only 23% of the women who were satisfied with their accommodations reported a high level of depression, compared with 50% of those who were not satisfied with the accommodations that they were making. Likewise, of those who were satisfied, 86% graded their general health as being good, compared with only 56% who were not satisfied. On the more general issue of working conditions and health, the survey revealed that the less control the woman feels that she has over her work, the more likely she is to report a high level of depression, and the less likely she is to report good health condition. In terms of the type of

work, a high rate of women who work in menial jobs report a high level of depression (54%), compared with only 24% of the women who work in "white collar" jobs (Gross & Brammli-Greenberg 2000, 49- 52).

3. Pregnancy and Maternity Leave

As mentioned under Article 4, there is an ongoing move from protective-paternalistic legislation which confines the participation in the workforce of pregnant women and women who gave birth, to legislation which sees the family-unit as a whole and advances greater involvement of fathers in child-rearing.

For example, the 1998 amendment to the **Employment of Women Law -1954** has given the pregnant woman the option to decide whether or not to work over-time, provided she supplies her employer with a medical certificate. The law thus trusts the woman as capable of assessing her exact physical and emotional condition, and economic needs.

The similarly criticized prohibition against employing a woman during her maternity pay-leave, was also amended in 1997, to allow the couple to decide for themselves who would take the second half of the maternity-leave, namely the period of the six-twelve weeks following the birth of a child. Indeed, data from the National Insurance Institute indicates that this time the law has surpasses the public by far. In 1999, two years since its enactment, only 218 of the fathers have taken advantage of this option to take the six weeks leave instead of their wives. When compared to the total requests presented that year, this constitutes a mere one-third percent (0.33%) of the requests. This amendment was originally limited to three years, which ended in May 2001. Following public criticism, the option was newly enacted, with slight variations, in July 2001.

Correspondingly, the right to the 12 weeks of maternity pay-leave in the case of an adoption of a child, given until 1998 only to women, is now being awarded to either of the adoptive parents according to their own choice.

In addition, the **Sick Pay (Absence from Work due to Pregnancy and Childbirth of Spouse) Law - 2000** states that an employee is entitled up to 7 days of leave per year due to treatments or medical examinations related to his spouse's pregnancy, or due to the birth of his newborn, taken from the total amount of his attributed "sick days".

The 1998 amendment to the **Employment of Women Law -1954**, discussed above, has also expanded the protection against dismissal, given to pregnant women, women on maternity leave or on high risk pregnancy leave under the old law, for an additional 45 days upon return to work. Thus making it far less tempting for employers to hire replacements during the employee's absence that simply stay on once the employee can be legally fired. An additional amendment from 2000 prohibits the inclusion of the 45 days period within the necessary period of advanced notice prior to dismissal. The 1998 amendment further prohibits any cutback in a pregnant employee's position without permission from the Minister on Labor and Welfare. However, it must be noted that the number of permissions for dismissals or for cutback of pregnant employees positions, on grounds that such dismissal or cutback is unconnected to the pregnancy, has increased: from approving 50% of the requests in 1997, to 54% in 2000.

Another new protection against dismissal relates to fertility treatments. While the law directed employers to allow workers to be absent from work in order to receive fertility treatments, it did not prohibit the employers from dismissing those workers. A 2001 amendment to the **Employment of Women Law -1954** now prohibits such dismissals.

4. Parenthood

On the legislative level, a 2001 amendment to the **Sick Pay (Absence from Work due to A child's Sickness) Law - 1993** extends the time period that a worker (man or woman) can take as a leave to tend to a sick child from six to eight days a year.

Some development took place in the courts. A 1999 Tel Aviv District Labor Court decision has adopted a broad interpretation to the privilege of a working mother to pass her right for a shorter working day to her spouse. The Court stated that this privilege is reserved for all working mothers, regardless of whether they are hired employees or self-employed. The Court has held that this interpretation, which expands the circle of male workers willing to tend to their children while their spouse is out working, is in accordance with the principles of basic equality as well as with the object of the **Equal Employment Opportunities Law**, and should be seen as encouraging the incorportation of women into high-ranking positions. It must be pointed out that the Na'amat Women's Organization joined in the case alongside the husband-claimant (*Menahem Yahav and Na'amat* v. *The State of Israel*).

Another Labor Court case, which suggests a broad interpretation to a parental right, is the 2000 National Labor Court case of *Jacky Gross* v. *Tal Traveling and Tourism Inc.*. The Court examined section 7 of the **Severance Pay Law - 1963**, concerned with the eligibility to severance pay of an employee who quits his or her job during the first 9 months after childbirth, in order to care for a child. According to the traditional interpretation of this section, severance pay will be attributed to a female worker that started working in another, new place of work, as long as the number of hours spent working at this new place of work are significantly inferior to those spent at the first workplace. This interpretation was recently extended in a decision given by the National Labor Court which determined that even in cases where the number of hours spent working at the more recent job was not significantly inferior to that worked at the first place of work, but the new place of work is closer in distance to the worker's home and baby, the female worker will be entitled to severance pay. The Court decided that in such cases, "it isn't the number of hours worked which is relevant, but the fact that the claimant-mother is physically closer - and thus more available – to her baby, should he/she need her."

Another subject which pertains indirectly to the relationship between parenthood and employment is illustrated by cases where an unemployed woman reporting to the state employment agency has refused to accept a job that has been offered to her by that agency, and in so doing has forfeited her right to receive unemployment benefits from the National Insurance Institute. In the *Employment Service* v. *Gila Gaon* case, the Court took in consideration the special circumstances relating to the woman-worker's situation (the fact that the plaintiff was a mother to small children, that she lived at a distance from the place of work, etc.) to ignore the unemployed woman's refusal to accept the job offered her and thus not cancel her entitlement to the NII compensation. It must be mentioned though that the jurisprudence of the Labor Court regarding this matter is by no means harmonious, and that since the handing down of the aforementioned decision, numerous contradicting decisions have been handed down in regional courts.

5. Affirmative Action

See discussion under Article 4, above.

6. Social Security Benefits

See discussion under Article 13, below, as well as Israel's Periodic Report to ICESCR.

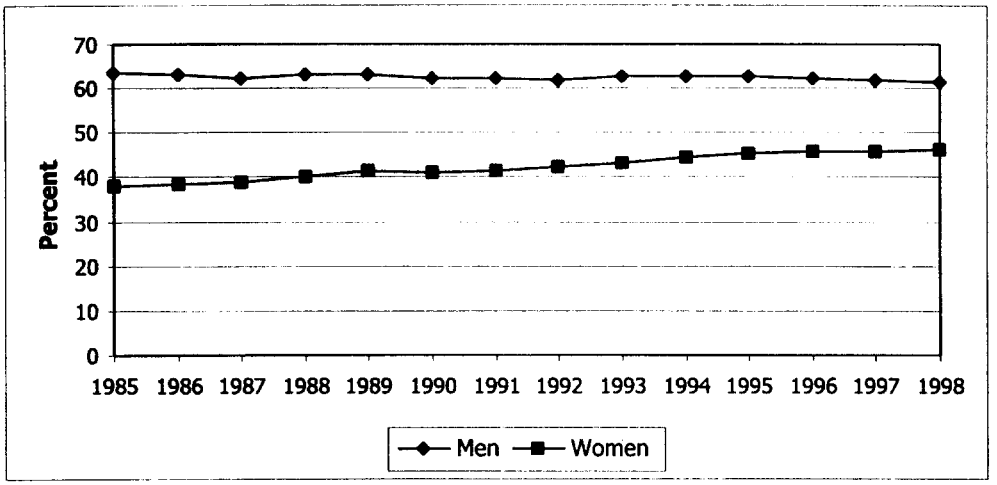
7. Employment of Women - Data and Analysis

7.1. Women in the Labor Market

7.1.1. Women's Participation in the Workforce

In recent years, women's participation in the workforce (measured as the percentage of women aged 15 and over who belong to the civil workforce, from among all women aged 15 and over) has continued to rise slowly, whereas the men's participation has decreased.

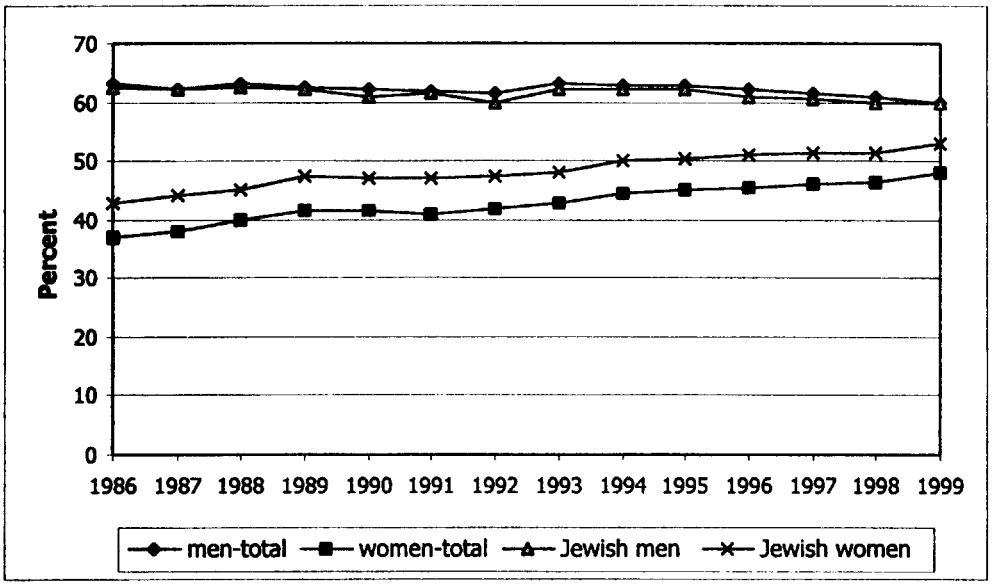
Chart 1 - Population Aged 15 and over in Workforce, 1985-1998



Source: Central Bureau of Statistics, *Statistical Abstract of Israel 1999*.

Women's participation in the workforce steadily increased to 46.3% in 1998 (after reaching 45.7% in 1995), compared with men's participation, which went down to 61.2% in 1998 after peaking at 62.9% in 1995. Women composed 44.2% of the total workforce in 1998 (compared to 43.2% in 1995 and 33% in 1975). Jewish women's level of participation is higher than overall women's participation, reaching 51% in 1998. It is also interesting to note that the level of participation among Jewish women is the highest in the age group of 35-44 (67.9% in 1998). Increase in women's participation is taking place among Arab women as well, though the level of participation within the latter was low to begin with (22.3% in 1998, compared to 18.3% in 1995 and 16.8% in 1994).

Chart 2 - Percent in Workforce of Total Population Aged 15 and over, by Religion and Sex, 1986-1999

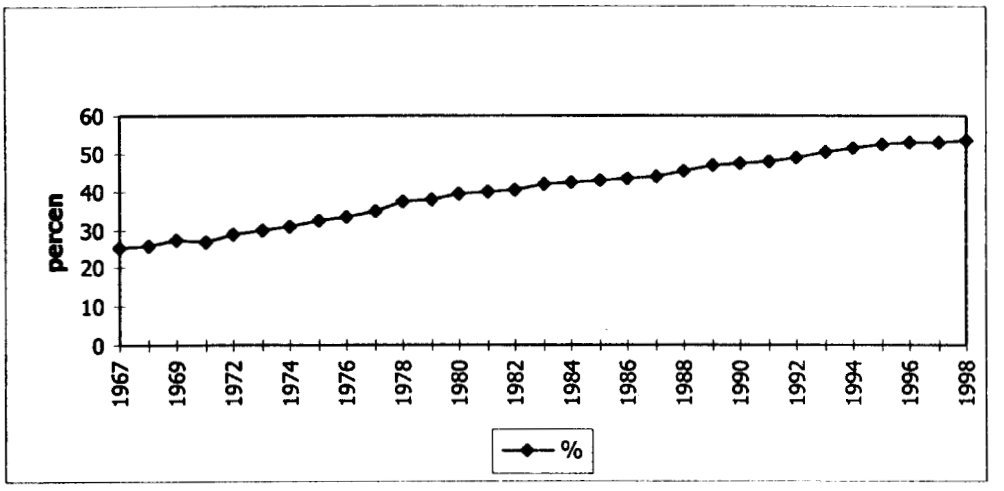


Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000.*

The correlation between women's participation in the labor-force and their educational level, discussed in the previous report, gets further support from recent data. In 1998, among Jewish women with 16 years of schooling and over, 78.1% belonged to the work force, as compared to 75.8% of Jewish men with a similar level of education. Among those Jewish women with 0-4 years of schooling, only 5.6% participate in the work force. The differences in the participation rates of women according to their years of schooling are much larger than the differences in participation rates of men by years of schooling. For example, the increase in two years of high-school for women (from 9-10 years of schooling to 11-12 years, which may also indicate the difference between having a matriculation report and not having one), carries a 20% increase in their rate of participation (from 32.2% to 51.9%), compared with only 7% increase among men in the parallel groups. Thus, the correlation between educational level of women and their rate of participation in the work force is clearly much stronger than the parallel connection among men.

By 1998, married women's participation in the labor-market has reached 53.4%. In 1998, 41% of non-married women were in the work force, compared with 51% of the married women and 63.7% of the divorcees. This is explained by the fact that the group of non-married includes younger women who are still in their course of studies. The data that concerns the higher participation of divorced women undoubtedly expresses the more pressing economic need of that group of women.

Chart 3 - Married Women in the Civilian Labor Force, 1967-1998



Source: Central Bureau of Statistics, *Statistical Abstract of Israel 1999*.

As noted in the previous Report, women's participation in the work force decreases as their number of children increases, and rises with the maturation in age of their youngest child. In 1998, 76% of Jewish women with one child were in the work force, compared with 49% of those with four children or more (in 1994 the respective rates were 74% and 43%). 58% of Jewish women whose youngest child was less than one year old were in the work-force, compared with 80% of those whose youngest child was between 10-14 years old (the 1994 figures were 54% and 71%, respectively).

7.2. Work Patterns

Women continue to dominate the group of part-time workers (defined as employees who work between 1-34 hours a week), though to a lesser extent than before. Thus, in 1998, 65% of those who regularly worked part-time were women (compared to 72% in 1994). Indeed, an examination of labor-force data throughout the 90's reveals a steady increase in the rate of women working full-time, from 40.6% of all women in the work force in 1990, to 46.6% in 1998.

Of all working women, 36.4% regularly worked part-time, while only 15.5% of all working men regularly worked part-time. The most common reason given for women's part-time work is child-care and housework (22%). For 20.3% of women part-time workers and for 20% of the men, the work was considered full-time (as is in the case of schoolteachers). Of the men part-time workers, 24.3% were self-employed, while only 10.3% of the women were similarly self-employed.

Table 1 - Employed Part-Time, 1999

	Total	Men	Women
Grand Total (Thousands- Absolute No's)	566.4	186.3	380.1
Usually Worked Full-Time (Thousands)	125.3	65.1	60.2
Percent	22.3	35.3	15.9
Usually Worked Part-Time (Thousands)	436.9	119.4	317.5
Percent	77.7	64.7	84.1
Reasons for Part-Time Work (Percents)			
Total	100	100	100
The Work is Considered Full Time	21.6	19.2	22.3
Sought Additional or Full-Time Work and Did Not Find	19.5	17.9	20.1
Illness and Disability	5.1	9.8	3.5
Retirement	6.3	12.5	4.3
Housewives	15.7		20.6
Studies	18.9	33.6	14.3
Not Interested in Full-Time Work	11.0	4.3	14.7
Other Reason	2.1	2.8	1.8
Self Employed, Employers, Kibbutz Members, and Unpaid Family Members	14.8	23.9	14.8

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000.*

The Central Bureau of Statistics data also depicts the rate of those who were temporarily absent from work during the week in which the survey was taken. These data enable an interesting comparison between the rate of maternity leave (still used by women mostly) and army reserve service leave (used almost exclusively by men) as causes for absence among the total temporary absents. While in 1995, military reserve service caused 7.8% of the absents, slightly more than the 7.2% which were caused by maternity leave, in 1998 reserve service absents went down to 4.3%, while maternity leave absents increased to 9.3%. A partial explanation is the cuts that have been made in the past few years regarding the army reserve duty, leading to fewer call-ups and for shorter periods of time. From the other direction, fertility rates have slightly increased in the late 90's, as observed under Article 12, and women's general work-force participation has also gone up.

Another difference between women and men is in the worker's status. In 1998, while 87.3% of all the working women were employees, only 77.5% of the working men were salaried workers (i.e. employees). The difference is clearer when the data concerning employers and self-employed is examined: while 18.5% of the men participating in the labor-force in 1998 were employers, self-employed and cooperative members, only 5.5% of the women participating in the labor-force were in similar status. This difference has far-reaching consequences in terms of earnings. According to the National Insurance Institute, there are significant earning differences by work status: while in 1996, 4.5% of all self-employed

earned up to 4 times the average earning rate, only 1.6% of all employees reached that earning rate.

The global phenomena of the overrepresentation of women in the informal sector (which includes unsupervised and unreported hired house-work and childcare help, as well as unsupervised and unreported workers) and the contingent labor force (consists of workers who lack explicit or implicit contracts for long-term employment, or who work minimum hours that vary unsystematically), seem not to have escaped Israel. Naturally, since the informal sector is unaccounted for by definition, its scope cannot be gathered by formal workforce statistics. To date, no governmental research was done in Israel to discern the extent of the informal workforce.

As for the latter phenomenon, estimates given by NGO's who research in this area suggest that over 7% of the Israeli workforce consists of temporary manpower companies, almost 30% of the public sector workers are employed through such companies, and over 80% of them are women. These workers are usually much more vulnerable to workforce instabilities and cutbacks, and lack many of the standard workers social conditions and benefits. This reality called for a legislative intervention in the shape of the 2000 amendment to the **Law on the Employment of Workers by Manpower Contractors - 1996 discussed** above.

Another class of even more vulnerable workers which has recently been emerging in the Israeli labor market, is the class of foreign workers. Hopefully, here too the recent 2000 amendment to the **Foreign Employees (Unlawful Employment) Law - 1991**, will help improve the existing situation.

One other development taking place in Israel's economy, that has special implications for women, is the "high-tech revolution". Recent research revealed that during the first two years after graduation, 15% of the men and 13% of the women reach senior positions, but four years into their careers, 54% of the men and only 33% of the women are being promoted to senior positions. It is believed that the structural impediments that are built into the high-tech industry, which include very long work hours and very little flexibility in work patterns, added to the lower rate of women graduates of computers, technology, sciences and management, lead to disproportionally lower numbers of women in the industry, especially in managerial positions.

A recent report by the National Council for the Promotion of Women in Science and Technology compared the results of a 1999 survey on the status of women in the hi-tech

industry, covering nearly 220 companies, to those of a previous survey carried out in 1996. Among the findings:

1) The number of female managers in hi-tech industry is growing rapidly. In 1999, women constitute about 20% of managers in this field, up from 14% three years before. However, most female managers in hi-tech industry are in human resources or finance departments, i.e. non-technical ones.

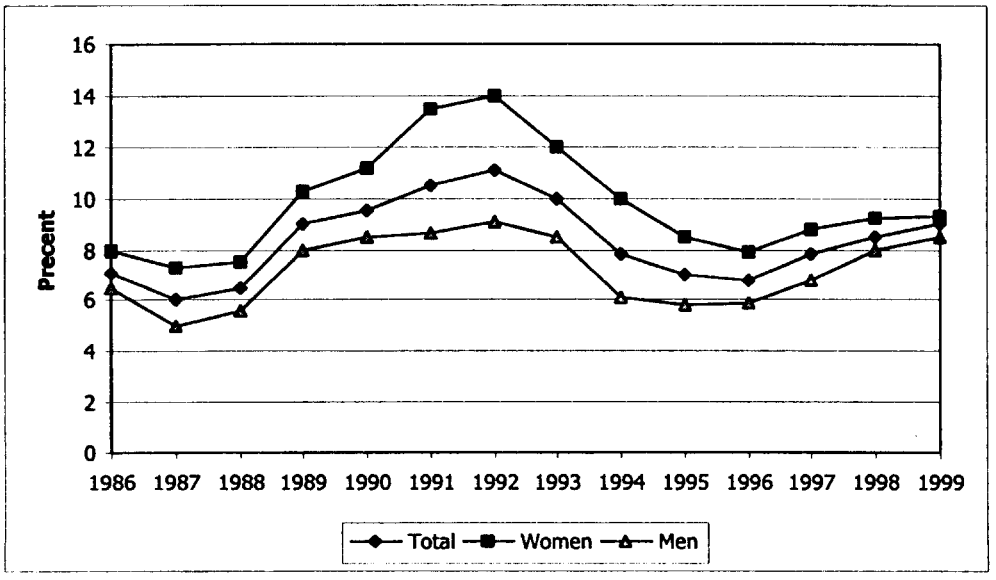
2) Currently, 68% of electronics and software companies employ at least one women manager, in comparison to 48% three years ago. The number of firms employing at least one female manager is higher in electronics (76%) than in software (60%).

3) The average monthly salary of female managers has increased by 11% since 1996. However, the average salary of a male manager is generally higher.

7.3. Unemployment

The rate of unemployed persons (defined as persons who did not work for pay for one hour during the week of the survey, and who were actively seeking work) has increased in the second half of the 1990's, due to a recession in the Israeli market. Interestingly, while the rate of unemployed men has increased by almost 50% (from 5.8% in 1995 to 8.5% in 1999), the rate of women rose by a mere 10% during this time (from 8.5% in 1995 to 9.3% in 1999). As a result, the historical gap between unemployment rates among women and men dramatically decreased, as portrayed in the following chart:

Chart 4 - Percent Unemployed Persons of Civilian Workforce, by Sex



Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000.*

The diminishing gap between women and men is depicted by other data as well. For instance, while the rate of women within the entire workforce slightly increased in the last years (as was discussed above), their rate among the unemployed decreased quite substantially, from 54.4% in 1995 to 47.3% in 1998. Furthermore, according to the Employment Service, women comprised 50.5% of the total population seeking employment in the last few years, compared to 55% in the first half of the 1990's.

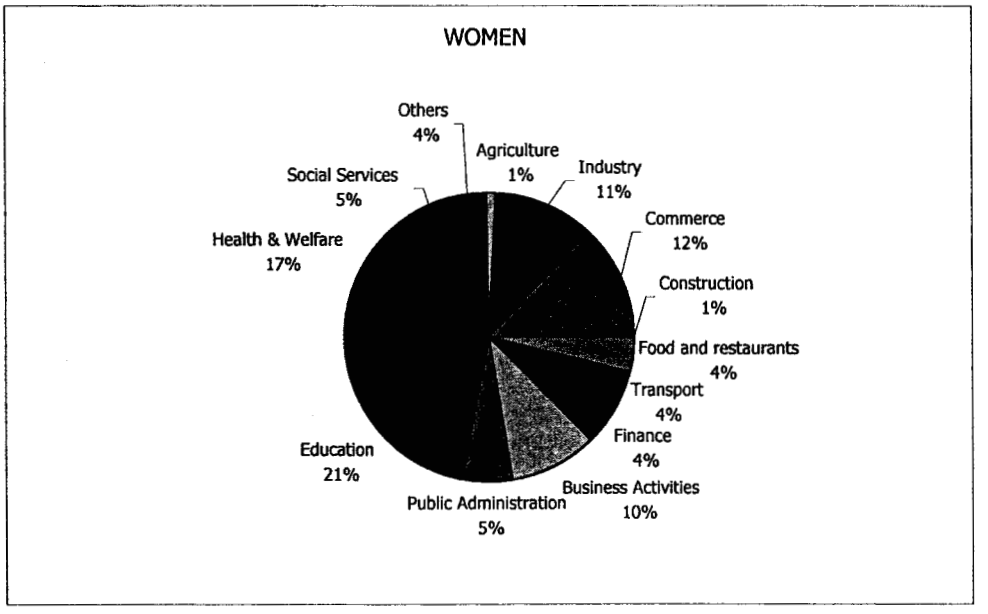
7.4. The Careers of Women: Levels and Salaries

7.4.1. Women's Occupational Distribution and Gender Segregation

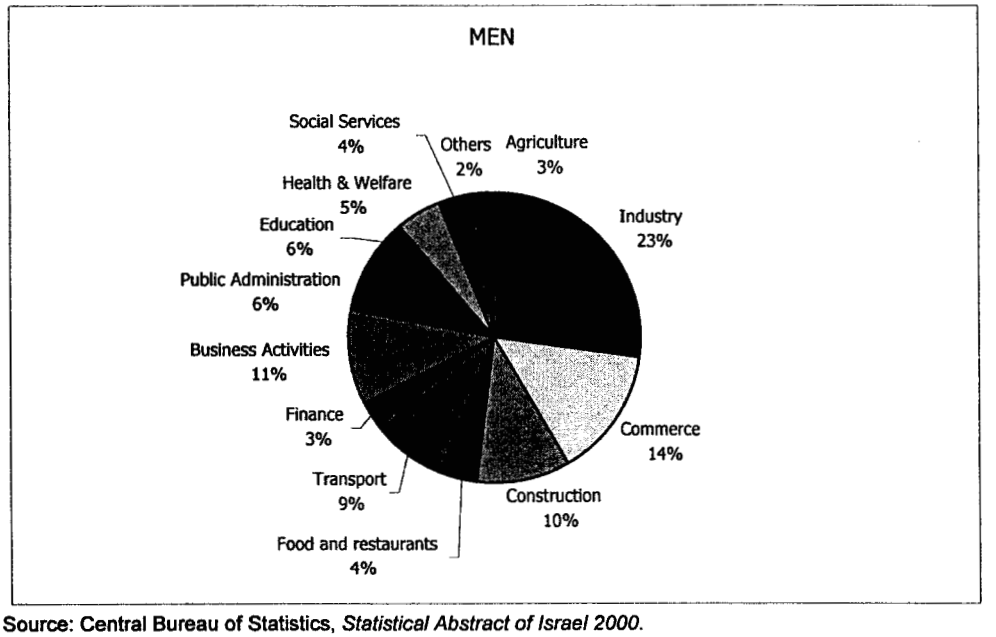
Women's Occupational Distribution did not change much since the submission of the previous report and patterns of work segregation still seem to exist. Thus, when adding together the percentages of women in education, health, welfare and social-work services, with other branches of services (both public and private), the aggregate comes close to 60% of all working women who work in services activities. The picture is totally different among employed men, who dominate most other activities, such as agriculture, manufacturing, electricity and water, construction, trade and repairs, transport and communications, business activities and public administration.

Chart 5 - Employed Persons, by Economic Branch, 1999

A. Women



B. Men



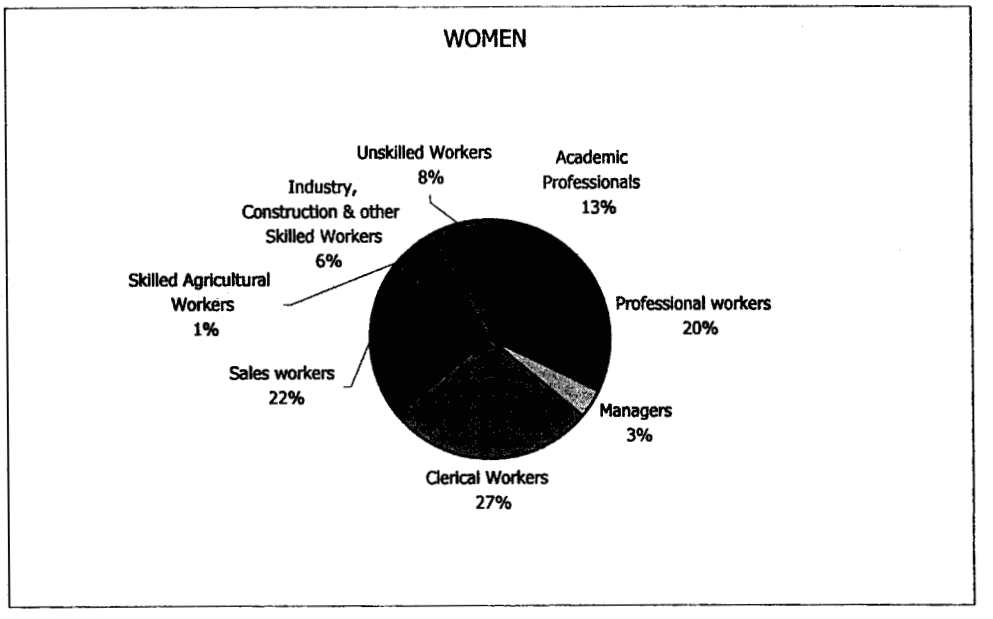
Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000.*

Work-segregation is further evident upon examination of the data regarding women's and men's occupations. Women predominate occupations such as clerical workers (where they constitute 73% of employees) and sales and services workers (54% of these are women). More encouraging figures concern the rates of female academic professionals (13%) and associate professionals and technicians (19.7%), as they are higher than those of the employed

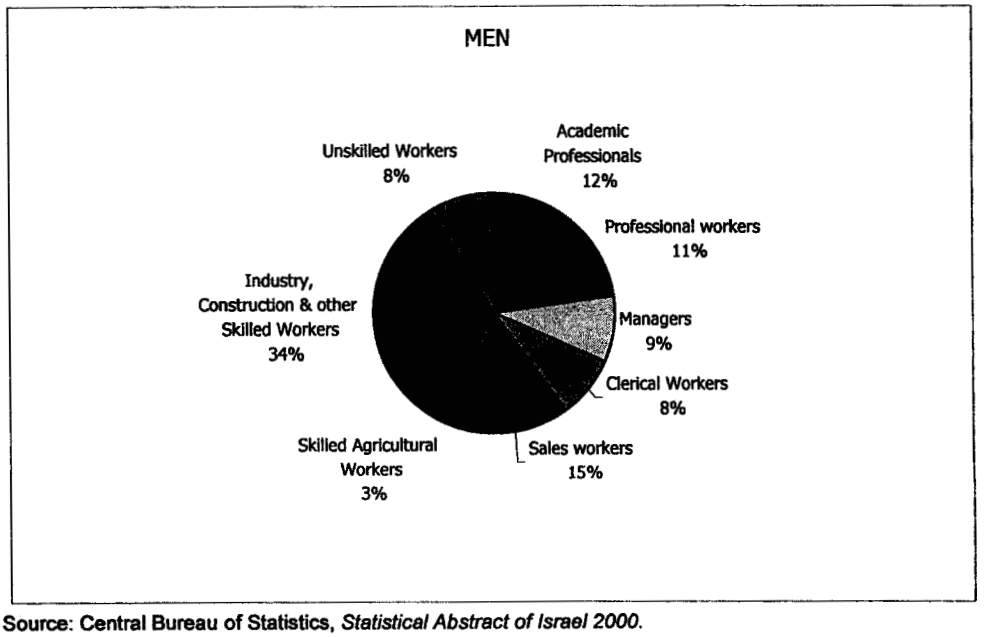
men in these occupational categories (12.2% and 10.5% respectively). It is, however, important to note that most women in these occupational categories are teachers, nurses, social workers and the like, mostly in the public services.

Chart 6 - Employed Persons, by Last Occupation, 1999

A. Women



B. Men



Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000.*

7.4.2. The Glass Ceiling Phenomenon

According to the Central Bureau of Statistics data from 1998, 7.9% of all working men were managers, whereas only 2.9% of all working women were managers. Of the total managers, 26,100 out of 116,600 were women, a total of 22.4%, an increase in comparison to the 1995 data, when the rate of women in management positions was 19.5% of all managers (12,000 out of 66,000). Of all women managers, 8% are CEOs (Chief Executive Officers) or director-generals, 65% are senior managers, and 27% are other managers, whereas of all men managers a total of one third are CEOs/director-generals, which is four times the number of women managers in this category. Forty-five percent of the men managers are senior managers, and 21% are other managers.

Another source of information on women in managerial positions is the Forum of Women Managers in Industry. The Forum has conducted a research among industrial companies in 1997, revealing that 45% of them do not employ women in managerial positions at all, 34% employ only one, 16% employ between two to four, and only 5% employ more than four women in managerial roles.

A 1998 research, conducted by the Forum, reveals that the proportion of female executives in industry has increased from 16% in 1994 to 20% in 1997. However, according to the research, the growth in the rate of female executives has not been matched by equalization of their terms of employment with those of their male counterparts. Women's wages are relatively low, and only one third of the women executives receive special benefits (a car, car maintenance, etc.) compared with more than half of male executives. According to the research, 46% of female executives have a BA degree, while 12% hold a MA or Ph.D. 66% of the female executives with academic degrees have a degree in social or management sciences, 24% in natural sciences or exact sciences and 7% in humanities. The research does not indicate any substantial difference in the evaluation of the performance of male and female executives. However, women executives were found to have a certain advantage in human relations and level of motivation. Men, on the other hand, were considered to have a certain advantage in professionalism, assumption of responsibility and decision-making. According to the interviewees, the main reason for the low rate of women in management positions is women's lack of time, due to the need to take care of the family.

Gender stratification in the civil service can also be viewed as a case study of the glass-ceiling phenomenon in the labor-market. It should be noted though, that less than 4% of all working women directly belong to the civil service. As already mentioned (under Article 7 above), while women made up 62% of all workers in the civil service in 1999, less then 12% of the

top three ranks in the four main classifications of the service (which serve as the main resource for managerial positions) were women. An additional fact that is more related to salary gaps that are discussed below, is that in 1999, women made up only 19% of civil servants employed through senior contracts. Although this marks a 7% increase from their 12% in 1997, it is still only a third of their overall rate in the service.

7.4.3. Salary and Earning Gaps

Salary gaps between men and women continue to characterize the Israeli labor market, though to a somewhat lesser extent. According to the Central Bureau of Statistics' data of the year 1998, in all branches of the labor market, a female employee's average monthly income was about 61% of their male counterparts (compared to 58% in 1992-3). This is partly explained by the differences in the average weekly work hours, which were 46.4 for men and 35.9 for women (compared to 46.3 hours and 34.1 hours, respectively, in 1992-3). However, close inspection of the data reveals a large gap in the average income per hour as well, which was 1.21 times higher for men, a slight decrease from the 1.25 index in 1992-3.

This gap remains constant when other variables are taken into consideration. For example, men with 5-8 years of schooling earned 36.5% more per hour than women with a similar educational level. Among those with 16 years of schooling and over, men's average income per hour was 23.5% more than women's. The gap in income per hour increases with age, from only 5% among 15-24 years olds up to 31% among the 45-54 year olds. Even within those occupations which are dominated by women, such as clerical work, a man's hourly income remains 30% more than that of a women's. The following tables present the full data discussed here.

Table 2 - Gross income, by Age, 1997

	Age						
	Total	15-24	25-34	35-44	45-54	55-64	65+
Men							
Average Gross Income (NIS) -per month	6,304.9	2,693.5	5,395.7	7,232.1	8,596.0	7,964.6	5,215.8
-per working hour	32.8	17.3	27.3	35.1	42.1	42.8	39
Average Working Hours per Week	46.4	41.5	47.5	48.4	48.1	43.8	32.2
Women							
Average Gross Income (NIS) -per month	3,974.7	2,133.1	3,725.7	4,501.9	4,994.8	4,543.5	2,590.6
-per working hour	27.1	16.5	24.7	29.9	32.1	33.6	24.2
Average Working Hours per Week	35.9	34.5	37	36.1	37.2	32.2	25.2

Source: Central Bureau of Statistics, *Income of Employees - Individuals, 1997.*

Table 3 - Gross income, by years of Schooling, 1997

	Years of Schooling						
	Total	0 to 4	5 to 8	9 to 10	11 to 12	13 to 15	16+
Men							
Average Gross Income (NIS) -per month	6,304.9	2,915.9	4,075.8	4,365.3	5,414.0	6,752.6	9,918.5
-per working hour	32.8	17.6	21.7	23.2	27.9	36.2	49.5
Average Working Hours per Week	46.4	41	44.7	46	47.6	44.8	47.5
Women							
Average Gross Income (NIS) -per month	3,974.7	1,911.7	2,270.2	2,518.8	3,272.5	3,906.5	6,004.4
-per working hour	27.1	14.3	15.9	17.4	22.1	27.1	40.1
Average Working Hours per Week	35.9	32	33.6	35.6	36.9	35.4	35.8

Source: Central Bureau of Statistics, *Income of Employees - Individuals, 1997.*

Table 4 - Gross income, by Occupation, 1997

	Occupation								
	Total*	Scientific and Academic	Professional and Related	Administrators and Managers	Clerical and Related	Sales	Agricultural	Industry, Mining, Building, and Transport	
								Skilled	Other
Men									
Average Gross Income (NIS)									
-per month	6,304.9	10,440.6	7,285.3	12,041.3	6,422.0	4,795.7	2,842.2	4,794.9	3,188.8
-per working hour	32.8	52.9	40.4	55.3	34.6	26.2	16.8	24.1	18.9
Average Working Hours per Week	46.4	46.7	43.4	51.4	44.3	45	42	47.8	43.2
Women									
Average Gross Income (NIS)									
-per month	3,974.7	6,484.9	4,374.6	9,039.0	4,173.0	2,424.8	2,189.4	2,675.0	1,964.3
-per working hour	27.1	44.1	33.3	52	26.6	18.1	15.4	15	14.6
Average Working Hours per Week	35.9	35	32.1	41.6	38	34	36.4	43	33.7

* Including Employees whose branch is not known.

Source: Central Bureau of Statistics, *Income of Employees - Individuals, 1997*.

According to the National Insurance Institute, women's general average monthly income in 1996 was only 56% of that of men's. Furthermore, of all married male employees in 1996, 37.3% earned less than half the average monthly salary, while 58.7% of all female married employees earned less than that. Of all married male employees, 3.4% earned four times the average monthly salary, while only 0.4% of all married female employees earned that amount. Examination of the adult population income survey reveals that in 1996 women made up 57% of all employees earning less than the minimum wage. Of all women who worked full-time in 1997, 13.6% earn less than the minimum wage, compared with only 5% of all men who worked full-time. While NII data reveals that the general earning gap has somewhat decreased, so that in 1997 women's average monthly salary reached 61.2% of men's, a thorough analysis of earnings' stratification according to place of residence indicates that the gender earning gaps are far from diminishing: one of the main findings of this analysis is that the earning gap increases as the men's salary rises. The highest gap was observed in the localities where men's earnings were the highest, so that in the locality with the highest average men's income, women's income was only 43% of the men's. The analysis further shows that every 10% increase in men's income leads only to 8.2% in women's.

The Civil Service 1998 Report concerning salary gaps between men and women within the civil service (relating to salary data of 1996) showed consistent gaps in all classifications, reaching a 25% gap at the administrative classification, with the exception of the professional attorneys classification where women's earnings surpassed that of men's by 8%.

Current data supplied by the Ministry of Finance indicates that the overall salary gaps between men and women within the government ministries stands at 28.2%. Once again, the professional attorneys classification is an exception (along with physiotherapists), while significant salary gaps exist in the Foreign Service, in Ministries Chambers, among Doctors and Journalists (government) classifications, in which men's earnings exceed those of women by 38.9% for the first two classifications and 28.2% for the latter two. The following table exhibits salary gaps in selected professions:

Table 5 - Women's salary compared to Men's, Civil Service, 2000

Classification	Women's Salary as a ratio of Men's Salary
Registrars	0.98
Senior Contracts	1.00
Foreign Service	0.72
Engineers	0.79
Economists	0.92
Legal Advisers	1.02
Psychologists	0.85
Physiotherapists	1.23
Lawyers	0.82
Advocates	1.07
Public Defence Attorneys	0.94
Journalists (government)	0.78
Journalists (IBA)	0.87
Journalists (Production)	0.82
Doctors	0.78
Nurses	0.89
Social Workers	0.84
Research Workers	0.84
Occupational Therapists	0.77
Senior Contracts - New	1.00
Director Generals - New	1.00
Ministers Chambers	0.72
Total	0.78

Source Ministry of Finance

8. Time Use

As mentioned above, there is still a substantial difference in the average amount of time men work compared to women. It is believed that this variance in time spent on work affect men's and women's careers in terms of promotions, jobs that carry greater economic rewards, and so on, and thus they bear at least an indirect effect on men's and women's salaries.

An original time budget survey that was conducted by the Central Bureau of Statistics in 1991-92 and examined the time use in Israel reveals some very interesting findings that are relevant to this subject. According to the survey, men devote most of their working-time to paid work, more than twice (2.5) as much as women. Women devote most of their working-time to unpaid work, almost three times (2.75) as much as men. Women devote 11% of their time to care of home, in contrast to 2% of men. Women devote 4.3% of their time to care of children, in contrast to 1.4% of men.

Among the age group of 30-44, most of the time is spent on work (36% in general). However, men spend most of it on paid work (28%), while women spend most of it on unpaid work (25%). Overall, of the total time men and women of all age groups spend on work, 74.4% of men's working time is spent on paid work, while 71% of women's working time is spent on unpaid work.

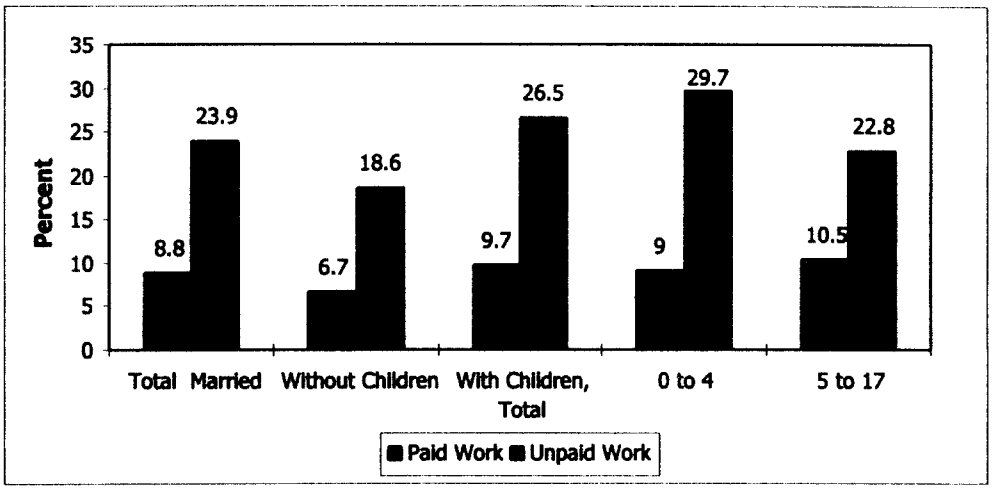
Perhaps the significant observation that comes out of this survey is that even among those employed in full-time jobs, women spend more than twice as much time on unpaid work than men (14.8% compared to 6.1% respectively), making the total time spent on all work equal for men and women who are employed in full-time jobs (38%). Interestingly, of those who are employed in part-time jobs, women spend much more time than men on work in general (33.5% and 25.1% respectively), since men who work part-time hardly increase their share of unpaid work in the home.

There is a high correlation between the number of children aged 0-17 in a household and the amount of time that married women spend on unpaid work: as expected, this amount increases in direct proportion to the number of children. Whereas without children a married woman devotes 19% of her time to unpaid work, this amount grows to 31% when she has 3 children or more. Men's work, on the other hand, is not correlated to children at all: the amount of unpaid work of married men is small compared to married women (8%), and it remains small, with no relation to the number of children in the household. Married women with 3 or more children in the household spend a daily average of 7 hours and 20 minutes on unpaid work, compared to 2 hours per day spent on this by married men with 3 or more children.

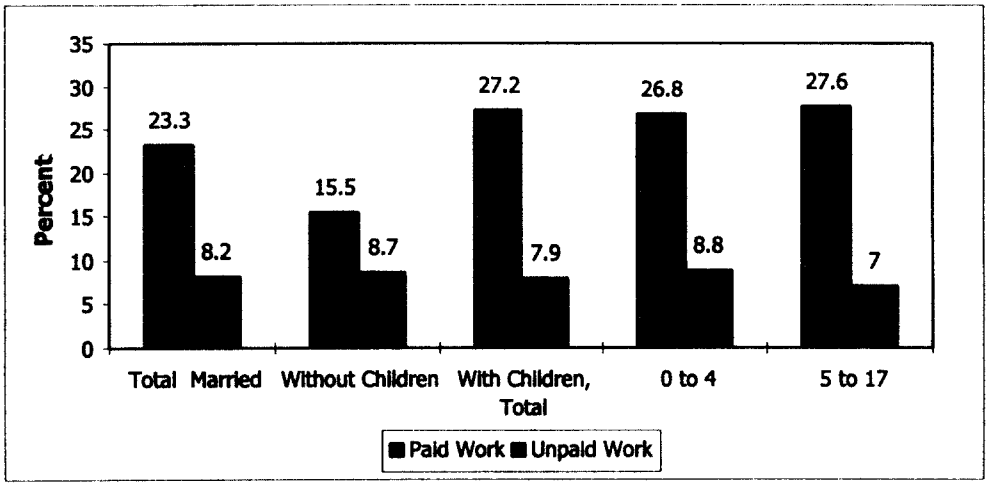
The following two charts demonstrate the differences between the average rate of time that men and women spend on paid and unpaid work, according to their family status and the ages of their youngest children:

Chart 7 - Time Spent, by Family Status and Age of the Youngest Child, 1991-92

A. Women



B. Men



Source: Central Bureau of Statistics, *Time Use in Israel - Additional findings from the time budget survey 1991/92.*

9. Vocational and Professional Training for Women

In 1999, women comprised 44% of all trainees in vocational courses provided by the Division for Training and Development in the Ministry of Labor and Welfare. Within retraining courses for people who hold an academic degree, women comprised 53% of all trainees. Recently, the Division for Training and Development (joined by the Women NGO's Council) initiated a unique project, aiming at increasing women's participation in its courses.

Regarding the Arab sector, 1997 saw a fall in the number of courses offered to Arab women as well as in the choice of fields open to them. Indeed, the number of trainees in the Tel Aviv,

Beer Sheva and Jerusalem districts fell from 250 in 1996 to 120 in 1997, and the number of courses offered fell from ten in 1996 to only four in 1997. Nevertheless, since the total budget of the Department for Adult Training has increased by 10% between 1996-2000, it is hoped that more resources will be allocated to women in general, and to Arab women in particular.

The following table depicts the distribution of men and women trainees within the various types of courses offered. Women are clearly concentrated in book-keeping, clerical work and nursing, whereas most men are trained in engineering, electronics, driving and building.

Table 6 - Participation of Women and Men in Vocational Training, by Subjects, 1998

	1998			
	Thereof: Training			
	Women	Men	Total	Total
Total	39,587	43,826	83,413	100,399
Type of Course				
Vocational Training	39,587	43,826	83,413	83,413
Supplementary Training				16,986
Vocation				
Building	248	4,409	4,657	4,690
Woodwork	109	640	749	749
Metal Work	265	2,937	3,202	3,202
Mechanics	51	2,800	2,851	3,144
Electricity and Electronics	672	7,340	8,012	8,327
Practical Engineering	4,999	12,295	17,294	17,294
Programming	2,336	2,984	5,320	5,320
Bookkeeping	12,374	3,409	15,783	15,783
Clerical Work	5,345	1,096	6,441	6,441
Hotel Keeping	1,662	1,690	3,352	15,675
Nursemaids	3,306	138	3,444	3,444
Paramedical Occupations	797	114	911	911
Hairdressing, Beauticians	2,006	690	2,696	2,696
Dressmaking	804	145	949	962
Driving	151	5,700	5,851	9,775
Drafting	579	286	865	931
Printing and Photography	797	464	1,261	1,261
Miscellaneous	8,085	8,984	17,069	17,088

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

10. Child-care

The social services departments in the Ministry of Labor and Welfare refer children to day-care centers due to dysfunctional family situations. Throughout the second half of the 1990's an average of 14,000 "welfare children" stayed within the governmentally subsidized day-care centers. Since 1994, the governmental support of the program has increased by 120%. compensating for the decrease in Women's organization contributions to the program.

11. Enforcement of Employment Legislation

11.1. The Department of Supervision of Labor Laws of the Ministry of Labor and Welfare

The Department of Supervision of Labor Laws of the Ministry of Labor and Welfare supervises the enforcement of a number of labor laws, including the **Employment of Women Law - 1954**. In recent years, the number of applications to the Department, regarding complaints from women who have been discharged from their employment during pregnancy, and employers' applications for termination permits, has risen steadily, and now reaches around 850 cases per year. As was noted above, the number of permissions for dismissals or for diminishing pregnant employees positions has increased: from approving 50% of the requests in 1997, to 54% in 2000.

Thus, in the first 9 months of 2000, 339 permissions for dismissals were given (77 of the permissions were justified by the financial difficulties facing the workplace at the time of dismissal, and another 43 permissions followed the employee's consent). In 82 of the 213 cases in which permissions were denied, the employee returned to work before the decision was known.

Table 7 - Applications and Permissions for dismissals of pregnant employees, 1997-2000

Year	Number Of Applications	Number of Permissions
1997	760	385
1998	844	468
1999	828	419
2000 (First 9 months)	627	339

Source: Ministry of Labor and Welfare

As to the procedural aspects of handling these cases, it should be noted that internal instructions delineating the parameters for approving dismissals do not exist. This is attributed to an ideology not to restrict the department supervisor's discretion.

In the course of 2000 the supervisor was instructed to provide the dismissed worker with the right to examine the employer's request for her dismissal.

11.2. The Department of Labor Law Enforcement

This department is responsible, among other things, for the enforcement of **The Minimum Wage Law - 1987**, which was amended in 1997, increasing the rate of the minimum wage from 45% to 47.5% of the average wage.

According to Israel's Report on the Convention on Economic and Social Rights, in 1997, more than 2,500 work places employing 45,000 workers were inspected by the department in compliance with the **Minimum Wage Law**. Violations were found with regard to approximately 2,650 workers, who received compensation totaling NIS 3.3million. The comparison with data from 1996 point to a fall in the number of violations, as well as to a clear improvement in the amounts paid in compensation for these violations. Previous research conducted by the Research Department of the Bank of Israel found the obedience to the law to be only partial (30%), with four times more women than men earning below the minimum wage. Critical research points to presently on-going violations and low levels of obedience.

In the last few years, the Enforcement Division of the Ministry raised its activities under the **Equal Employment Opportunities Law - 1988**: it conducted 290 investigations during the year 1999 and 597 during 2000 (until August). The legal department pressed charges during year 2000, until August, in 6 cases, and had at that time 51 more indictments in preparation. Many cases involve unlawful advertisement. A few cases involve alleged substantial discrimination. It must be noted, however, that no data concerning the number of cases involving discrimination against women is available.

12. Women's Employment among the Arab Population in Israel

Among the Israeli Arab working population, in 1999, as in 1995, the large majority is men, 51 percent of whom were employed as skilled industrial workers. Labor force participation of Arab women remains low, though rising slowly. In 1999, the proportion of employed Israeli Arab women among all Israeli Arab workers increased from 21% in 1995 to 24% in 1999. Among the main reasons for this specific situation are the traditional attitude taken, within the Arab community, towards the role of the woman, and the reluctance and lack of support from husbands and families to women that do leave their homes to work. Furthermore, 90% of the small workplaces are located far from the Arab settlements and there remains a lack of

services for working women, such as transportation, daycare services, and kindergartens. Only 44% of three year-old Arab children attend kindergartens in comparison with 95% of Jewish children of the same age.

Of the women who were employed in 1999, 28% work in academic and professional fields, 36% were clerical and sales workers and 34% were employed in industry as skilled and unskilled labor. The conditions of those Arab women who work for wages outside their homes are far from being satisfactory. A 1998 survey on the conditions of women working in the private sector in Nazareth, the largest employer for Arab women, revealed that 61% of the women were paid less than the minimal wage; 72% had no legal contract; and only 35% received overtime payment. Furthermore, when asked what and how much the minimum wage was, only 30% of the women could answer correctly(Farrif, 1998). Research on the connection between place of inhabitancy and salary levels, based on Central Bureau of Statistics data from 1997, revealed that among the 72% of the municipalities and townships in which women earned less than the general average wage earned by women (which was 75% of the average wage earned by men as explained above), all 71 Arab municipalities and townships were included (Adva center, 1999).

With regard to employment opportunities for Arab women in Israel, the Authority for the Status of Women and the Knesset Committee on the Status of Women focused in 1999 and 2000 on encouraging Arab women to join the police force and to train as social workers in the Arab sector which lacks social workers. Furthermore, as part of the Multi-Year Plan for Development of Arab-Sector Communities adopted by the government in a resolution taken in October 2000 which adresses all aspects of social development of Arab-Sector Communities, the governmented committed to allocate a total amount of 268 million NIS (Approximately $65 million) for setting up engineering-technician and vocational training courses, NIS67 million for each of the years 2001-2004. This includes an amount of 24 million NIS for opening supplementary education classes for women, 6 million NIS for each of the years 2001-2004.

Article 12
Equality in Access to Health Care

1. Introduction

Since the publication of the previous Report, some significant steps have been taken to improve women's health care in Israel. After the 1995 UN/NGO Fourth World Conference on Women held in Beijing, women's health was placed on Israel's national agenda, with forthcoming results. Among the results obtained were the appointment of a counselor to the Minister of Health on women's issues as well as the establishment – under the Minister of Health's authority - of a National Council on Women's Health which has been active since February 2000. Since then the Council has met in May, July and October of 2000 (the Council convenes four times a year).

The functions of the Council are: Advancement of the area of women's health; Clarification of areas of medicine requiring special attention within the female population; Recommendations for policy making in the areas relevant to women's health; Raising public awareness on the topic; Organization of activities on the topic of women's health. The Council has five committees on the following topics: Heart disease, health education, mental health, research and education for medical and paramedical teams. In addition, the National Center for Disease Control appointed a special researcher to collect data on women's health. Even more fundamental was the establishment of women's health care centers in every major hospital in Israel.

However, while these advances are positive in and of themselves, a number of women's particular health needs and concerns currently remain unanswered and consistent gaps between the relative situation of men and women in terms of health indicators – to the detriment of women – are still found in many realms.

In terms of research and information availability, two important developments have taken place recently: the Israel Women's Network (IWN) together with the Hadassa Institute published a resource book on Women's Health in Israel, gathering all available information and data on the

subject; and the JDC-Brookdale Institute conducted a national survey, collecting for the first time data on women's health and welfare state and on women's experiences with the Israeli health care system (see also under Article 5 above). The survey included telephone interviews with a sample of 850 adult women and the scope ranged from physician-patient relationships, health education, availability to health services, physical and mental health state, violence against women, and care for ill and disabled relatives. The survey was conducted in cooperation with the US Commonwealth Fund, and this joint enterprise provides for comparative perspective, enabling a broader understanding of the findings. Both of these research initiatives support previous assessments of women's lower health status, and stress the importance of continuous research and dissemination of information among health professionals, policy makers, and recipients themselves.

2. Equality in Health Care

Under the law, most health care services available for men and women residing in Israel are included in the basic basket of services. However, up until recently, a range of medications for treating the gender-related illnesses of breast cancer and osteoporosis were beyond the basket's realm. Breast cancer is the most prevalent cause of death among young women in Israel, and osteoporosis affects women over 65 four times more than it affects men over 65 (24% and 6% respectively).

Recent protests and reports in the mass media by women's organizations have helped spark a public outcry over the lack of treatment. In a move perhaps influenced by this uproar, the Gertner Institute for Epidemiology and Health Policy Research, a research institute supported by the Ministry of Health, convened a Consensus Conference in December 1999 to publicly discuss the inclusion of specific medications for osteoporosis (Alendronate and Raloxifan). Following the conference, recommendations were made to the public committee in charge of determining the medication and treatment available in the basic basket of services, and in January 2000, it was decided to include the aforementioned medications, as well as the expensive Herceptin drug, - a novel anti-cancer therapy approved by the FDA (USA Food &Drug Association) in 1998 – within the basic basket of services.

3. Special Health Services for Women

3.1. Pre/Post-Natal Services: Delivery Rooms and Maternity Wards

The Health Ministry has recently begun to focus on the improvement of hospitalization conditions in maternity wards. The need for a revamping of hospital facilities and a rethinking of hospitalization conditions appear all the more urgent presently due to a sharp rise in overall births: 15% from 1993 to 1998. Beyond the important rise in the number of births, the Health Ministry has reported a dramatic 46% increase during that 5 year period in the number of infants with birth weights of 1,500 grams and less. This sharp rise in births, with its high percentage of infants requiring intensive care, has stretched Israel's maternity wards, delivery rooms, and pediatric intensive care units well beyond capacity.

Yet despite the heavy criticism, a study of 1,760 women giving birth in hospitals found 70% of the women reporting high levels of satisfaction with the overall treatment they were given. Significant to the changing norms of health providers in Israel, who still hold unto the paternalistic doctor-patient relationships, satisfaction was highest among women who reported a high degree of control in decision-making and intervention, and receiving precise information from the medical staff. Also, in choosing a hospital to give birth, women gave high priority to the presence of an intensive care unit and advanced neonatal care – elements which seem to have been found in a majority of cases.

3.2. Geriatric Services

In 1998, the average life span for Israeli women was 80.3 years, and for men 76.1 years. In Israel as in most other industrialized nations, women live longer lives than men, yet Israeli women maintain a smaller life span advantage than do their counterparts in other countries. Moreover, researchers note that the quality of life of elderly women is in general worse than that of elderly men. They point to differences in health factors such as chronic disease (including high blood pressure, presented by 53% of women and 42% of men; and osteoporosis, presented by 24% of women and only 6% of men), in addition to subjective perceptions of health status: 44% of men over 65 but only 30% of women over 65 described their health as being "good" or "very good".

Seventy percent of elderly women and 56% of the men estimated their health as being "not good" or "not very good". Elderly women in general are less independent in daily activities: 42% of the women and only 27% of the men need help in at least one of the domestic daily activities. Gender difference are also reflected in mental health among the elderly: more women than men report depression (15% and 9%, respectively). This finding is in line with gender difference in parameters of mental health in the younger age groups. Experts note that more efforts should be put into enhancing functional independence during aging, in order to increase the quality of life.

Meanwhile, elderly women are still the main recipients of both institutionalized and "community" cares. As was already mentioned in the previous Report, in 1996, women – who comprised 57% of all Israelis over 65 years - made up 70% of all hospitalized patients in geriatric hospitals. Furthermore, in 1998, women comprised close to 73% of all 81,000 recipients of long-term care benefits, with an increasing proportion being treated through the community rather than through geriatric institutions. Usually, this "communal care" is in fact the care given by just one person, either a relative (most often a woman relative) or a professional caregiver.

Table 1 - Population over 65, 1995

	Women		Men	
	%		%	
Total	100	310,893	100	236,408
Married	40.2	124,996	78.6	185,794
Divorce	4	12,358	3	7,129
Widowed	53.1	165,063	15.7	37,086
Never Married	2.7	8,476	2.7	6,399

Source: Central Bureau of Statistics, *1995 Census*, 1999.

4. Family Planning among Israeli Women

4.1. Legal Abortions

As mentioned in the previous Report, the only approval required for an abortion is that of the Committee for Approval of Termination of Pregnancies. In 2000, 42 such committees were operating and reviewing the cases of women requesting an abortion. Beyond these 42 committees, as a result of a 1994 Ministry of Health directive which stated that statutory committees were not permitted to examine applications for abortions of pregnancies that have developed beyond the 23rd week, special regional committee were set up to review these less routine cases. In the year 2000, six such special committees existed. Between 1995 and 1998, they reviewed the application of 594 women and approved 498 of them (84%) – overwhelmingly based on clause 3 of the penal law's dispositions on abortions (namely the possibility of mental or physical disability of the future child).

4.2. Abortion rates

Since 1980, the number of legal abortions performed in Israel has fluctuated between an estimated 14,000 to 19,000 a year. The number of abortions performed in 1999 remained within this bracket: 18,785, accounting for 12.2% of all known pregnancies that year.

Table 2 - Applications, Approvals and Actual Terminations, 1988-1999

Year	Applications	Approvals	Terminations
1988	17,963	15,903	15,255
1989	18,866	16,780	15,216
1990	19,121	17,020	15,509
1991	18,772	16,934	15,767
1992	19,099	17,377	16,389
1993	18,568	16,855	16,149
1994	17,958	16,650	15,836
1995	18,586	17,211	16,244
1996	20,408	19,225	17,987
1997	20,472	19,348	18,480
1998	19,844	18,873	18,149
1999	20,581	19,674	18,785

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

The second half of the 1990s seems to have witnessed a slight change in the proportions of abortion approvals per applications, as well as the actual number of abortions performed. While in the early 1990s, 91% of the applications were approved and 94% of those approved were actually performed, by 1999 the rate of approval reached 95.6%, and the rate of performance was 95.5%. Central Bureau of Statistics in-depth research into the demographic and social characteristics of applicants to the committees suggest not to conclude that the committees' policy has changed, but rather to attribute this to the prior selection conducted by the social worker before the application actually reaches the committee. The ratio of the various clauses for approval has remained unchanged: out-of-wedlock pregnancy remains the major reason for approving termination of pregnancy, constantly comprising over 40% of the approvals since the late 1980s, reaching over 50% in 1998.

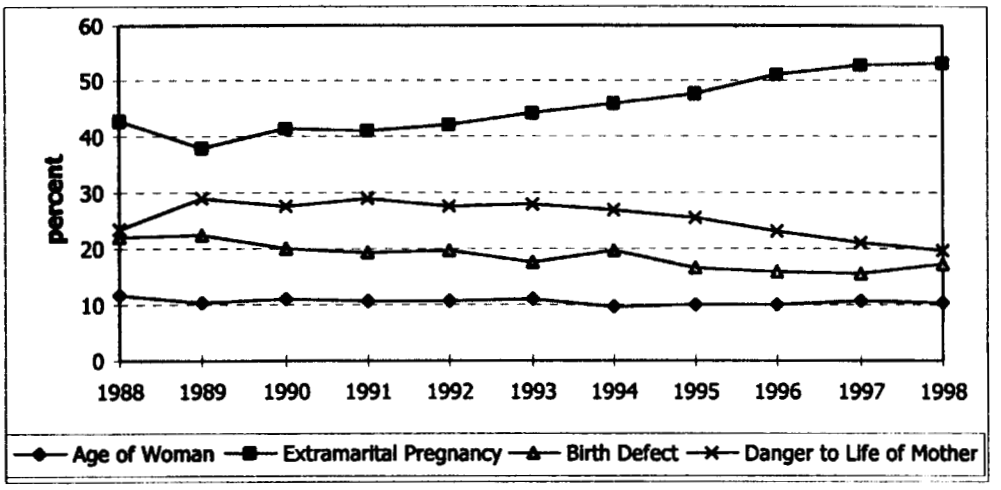
Table 3 - Terminations of Pregnancy in Hospitals, by Cause, Various Years

Year	1990	1993	1996	1999
Applications	19,121	18,568	20,468	20,581
Approvals	17,020	16,855	19,225	19,674
Actual Terminations	15,509	16,149	17,987	18,785
Article:				
Woman's Age	1,717	1,778	1,794	1,828
Out of Wedlock Pregnancy	6,417	7,063	9,185	10,143
Malformed Fetus	3,116	2,837	2,858	3,039
Danger to Woman's Life	4,259	4,471	4,150	3,775
Rates per 100 Live Births	15.0	14.4	14.8	
Percentage of Known Pregnancies*	13.1	12.6	12.9	

* Live Births and Terminations of Pregnancies

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Chart 1 - Terminations by Section of the Law (percents), 1988-1998



Source: Calculated from Central Bureau of Statistics, *Statistical Abstract of Israel 1999.*

Table 4 - Applications to Commissions for Termination of Pregnancy, 1994, 1998

Marital Status and Religion	Total	To Age 19	Total	To Age 19
	1994		1998	
Absolute Numbers				
Total	16,903	2,318	18,500	2,524
Married Women	8,760	105	8,436	82
Unmarried Women	6,053	2,193	7,508	2,418
Religion:				
Jewish	14,593	2,136	15,123	2,255
Moslem	744	51	936	42
Christian	428	13	838	49
Rates per 1,000 Women				
Total	14.0	9.7	12.4	12.4
Married Women	13.0	9.0		
Unmarried Women	13.2	9.8		
Religion:				
Jewish	15.8	12.1	13.2	11.9
Moslem	4.4	1.2	4.6	1.0
Christian	11.1	2.1	25.5	9.8

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

5. Fertility Rates, Treatments, and Services

5.1. Birth Rates and Fertility Rates

The absolute number of live births per year has increased from 80,843 in 1970 to 130,080 in 1998. The following two tables present further data regarding the number of live births, by religion and by the mother's age.

Table 5 - Live Births, by Religion, 1992-1998

Year	Total	Jews	Moslems	Others
1992	110,062	78,205	26,419	31,853
1993	112,330	78,893	27,692	33,430
1994	114,543	80,102	28,400	34,440
1995	116,886	80,401	30,226	36,485
1996	121,333	83,710	30,802	37,623
1997	124,478	86,140	31,374	38,338
1998	130,080	88,744	33,857	41,336

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 1999*

Table 6 - Live Births, by Mother's Age, 1998

Mother's Age	Total	Jews	Moslems	Other Religion
Total- Absolute Numbers	130,080	88,744	33,857	41,33
Total - Percent	100.0	100.0	100.0	100.0
Up to 19	3.5	1.7	8.0	6.9
20-24	23.6	19.5	33.2	32.5
25-29	33.2	34.6	29.3	30.2
30-34	23.9	26.3	18.4	18.8
35-39	12.2	13.9	8.3	8.4
40-44	2.9	3.0	2.0	1.9
45+	0.2	0.3	0.1	0.1

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Table 7 - Fertility Rates, by Religion, Various Years

Year	Jews	Moslems	Christians	Druze & Others
1980-84	2.8	5.54	2.41	5.4
1995	2.53	4.69	2.44	3.5
1998	2.67	4.76	2.62	3.1

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 1999.*

Within the Jewish population, the largest drop in fertility occurred among women born in Europe and America (from 2.8 in the early 1980'-s to 2.3 children on average in 1998), and the smallest drop occurred among women born in Israel of African origins (from around 3 children on average in the early 1980'-s to 2.84 in 1998). Significantly, the group of women who are Israeli born, whose origins are also Israeli, has actually experienced an increase in birth rates (from 2.7 in the early 1980'-s to 3 in 1998). It should be noted that while all population groups have experienced consistent decrease in fertility rates since the early 1980'-s, this trend has changed in the mid 1990'-s, and since then there is a slow but steady increase back to the rates of the 1980'-s in all population groups except the Druze. It is still too early to tell whether the present trend represents a turning point or only a temporary change.

Table 8 - Live Births to Never Married Women, Various Years

		Age Of Woman					
	Total	Up to 19	20-24	25-29	30-34	35-39	40+
Absolute Numbers							
1971-1973	1,479	519	639	186		135	
1978-1981	2,875	720	1,005	589	345	166	41
1990-1994	6,139	673	1,211	1,235	1,310	1,195	509
1996	1,765	184	341	420	393	293	134
1997	2,005	200	438	450	420	345	151
1998	2,179	221	476	456	472	372	181
Births to Never Married Women per 100 Live Births							
1971-1973	0.8	4.5	0.9	0.3		0.3	
1978-1981	1.0	5.3	1.2	0.6	0.6	0.9	1.2
1990-1994	1.6	7.1	1.4	1.0	1.3	2.2	4.4
1996	2.1	11.4	2.0	1.5	1.8	2.5	4.5
1997	2.3	13.3	2.6	1.5	1.8	2.8	4.6
1998	2.5	14.4	2.7	1.5	2.0	3.0	5.0
Rates per 1000 Never-Married Women in the Population aged 15-44							
1971-1973	2.3	1.4	3.4	4.1		5.2	
1978-1981	3.2	1.5	4.0	5.5	7.3	9.8	4.6
1990-1994	3.6	0.8	2.3	7.7	18.7	23.6	12.7
1996	4.3	1.0	2.5	9.1	22.8	25.7	13.7
1997	4.7	1.1	3.1	8.8	23.1	29.2	13.7

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

5.2. Fertility Treatments and Services

Fertility treatments in Israel continue to be both highly developed and well subsidized. Israel continues to hold a world record of 22 in-vitro fertilization (IVF) clinics, one such center for every 270,000 inhabitants. In May 1999, four more clinics were in the process of being approved, which would bring the rate to one center for every 230,000 inhabitants. In 1994, 8,000 cycles of IVF treatment were performed, with some women receiving more than one cycle of treatment. The cost covered by the medical insurance per one cycle of treatment stood at 12,000 NIS in 1999 (about $2,800).

Table 9 - In Vitro Fertilization in Israel, 1990-1996

	1990	1991	1992	1993	1994	1995	1996
Treatment cycles	5,169	5,492	6,386	6,581	7,908		
Embryo transfers	3,811	4,000	4,708	4,922	5,735	10,888	12,345
Pregnancies	766	799	1,022	934	1,148		
Deliveries resulting in live births	542	614	749	690	790	1,539	1,950

Source: *Health in Israel 1998*

6. Life Expectancy

Table 10 - Life Expectancy, Various Years

Excludes war casualties

Year	Jews		Arabs and Others	
	Men	Women	Men	Women
1950-1954	67.2	70.1		
1960-1964	70.6	73.1		
1970-1974	70.6	73.8	68.5	71.9
1975-1979	71.7	75.3	69.2	72
1980-1984	73.1	76.5	70.8	74
1985-1989	74.1	77.8	72.7	75.5
1990-1994	75.5	79.2	73.5	76.3
1996	76.6	80.3	74.9	77.7
1997	76.4	80.5	73.9	77.3
1998	76.5	80.7	74.3	77.7

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Relating specifically to women's life expectancy, it should be noted that the life expectancy of Arab women is lower than that of Jewish women: in 1998 the life expectancy of Jewish and Arab women was 80.7 and 77.7, respectively.

7. Mortality Rates and Causes of Death

In 1997, an equal number of men and women died of illnesses – 17,000 of each sex. One third of the deaths among both men and women were from cardiovascular diseases and almost one fourth were from cancer. Deaths caused by external factors accounted for 3% of all deaths of women and for 7% of all deaths of men.

7.1. Infant Mortality Rates

From 1983 to 1999, infant mortality rate has more than halved, standing in 1999 at 5.8 deaths per every 1000 live births (4.5 deaths among Jewish newborns, and 9 deaths among non-Jewish newborns).

Table 11 - Infant Deaths, by Population Group and Cause, Various Years

Rates per 1,000 live births

Cause of Death	1970-1974	1980-1984	1985-1989	1990-1994	1993-1997
Jews					
Total	18.6	11.8	8.8	6.8	5.5
Intestinal Infectious Diseases	0.6	0.0	0.0		
All Other Infectious and Parasitic Diseases	0.4	0.2	0.1	0.1	0.0
Pneumonia	1.2	0.3	0.2	0.1	0.0
Congenital Anomalies	4.4	2.8	2.3	1.7	1.5
Other Causes of Perinatal Mortality	9.9	5.8	4.4	3.6	2.9
External Causes	0.3	0.2	0.4	0.2	0.1
All Other and Unspecified Causes	1.8	2.4	1.6	1.2	0.9
Arabs and Others					
Total	32.1	22.6	16.8	13.5	10.3
Intestinal Infectious Diseases	4.8	0.2	0.3	0.1	0.1
All Other Infectious and Parasitic Diseases	1.0	0.9	0.5	0.3	0.2
Pneumonia	4.4	1.8	0.6	0.2	0.1
Congenital Anomalies	6.5	4.9	5.4	4.2	3.6
Other Causes of Perinatal Mortality	10.0	7.3	5.3	4.3	3.3
External Causes	0.7	0.6	0.8	0.5	0.2
All Other and Unspecified Causes	4.7	6.8	4.0	3.8	2.8

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

7.2. Maternal Mortality Rates

The maternal mortality rate has remained generally low since 1985. In 1995 maternal mortality stood at six deaths per every 100,000 live births, fewer than in the European Community, the United States and the United Kingdom.

Table 12 - Mortality Rates of Jews Aged 45 and over, Average 1996-1998

Rates per 1,000 residents

Age	Males	Females
Total	23.2	20.0
45-49	2.6	1.7
50-54	4.3	2.6
55-59	7.7	4.4
60-64	12.8	7.8
65-69	21.8	13.5
70-74	33.8	22.8
75-79	55.1	41.4
80-84	93.9	75.7
85+	175.1	154.0

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

7.3. Causes of Death

Table 13 - Deaths, By Cause, Religion and Sex, 1997

Cause of Death	Total Population		Jews		Moslems	
	Men	Women	Men	Women	Men	Women
Absolute Numbers						
Total	18,510	17,596	16,377	15,965	1,484	1,135
Cancer						
Stomach	262	192	242	173	15	13
Colon	517	515	498	501	10	5
Rectum	137	101	131	95	4	5
Trachea, Bronchi, and Lung	815	348	707	318	74	13
Female Breast		869		818		29
Cervix Uteri		46		41		1
Leukemia	169	177	143	160	19	9
Other	2,279	1,879	2,113	1,763	96	62
Hypertensive Disease	255	403	235	375	11	22
Acute Myocardial Infarction	1,108	1,024	1,001	947	71	50
Other Ischaemic Heart Disease	2,125	1,937	1,905	1,819	112	72
Other Heart Disease	1,054	1,147	933	1,033	79	81
Abortion		1		1		0
Motor Vehicle Accidents	389	136	274	108	86	20

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

7.4. Breast Cancer and Mammograms

A 1998 national survey of women's health found that 52% of Jewish women and 24% of Arab women had a mammography screening in the two years prior to the survey. More information on Arab women and mammograms is supplied below.

8. Hospitalization

8.1. General

Overall, women visit doctors 30% more frequently than men (7.7 visits a year per woman and 5.9 per man), but the frequency of women's hospitalization in comparison to the rate of men's hospitalization in fact vary greatly according to age groups. Hospitalization rates for male infants, up to one year of age, are 30% higher than those for baby girls. Hospitalization of females under the age of 15 remains lower than that of their male counterparts. After the age of 15, hospitalization rate among Israeli women exceeds the rate of men, and continues to rise

sharply in every age group. Between 15-44, hospitalization rates among women (not including admissions to maternity wards) are almost 60% higher than those of men. By the age of 45, the hospitalization rate of males and females is approximately equal, and beyond the age of 65, the hospitalization rate of males rises by almost 40% above that of females. Not surprisingly, higher hospitalization rates for women correspond with their fertility years.

8.2. Mental Health and Psychiatric Hospitalization

In 1995, women comprised 44% of all psychiatric hospitalizations. Although the rate of hospitalized men exceeded the rate of hospitalized women until the ages of 45, hospitalization rates for attempted suicide and self-inflicted injury were higher for women than for men in all of the age groups (except for the over-75s, in which rates are identical for men and women). Indeed, women comprise 60-65% of all reported attempted suicides. In the younger age group, over 80% of attempted suicides between 1990-1996 were female.

In the 2000 Brookdale survey 39% of the women were found to be suffering a high level of depression – a rate similar to that of their US counterparts. However, only 9% of the Israeli women, compared to 17% of the American, were diagnosed by their doctors as suffering from depression. The researchers view this as further support to the theory of under-diagnosis of depression in women, and the gravity of this problem in Israel. They also reveal the difficulties women have in access to mental health services, and call for developing more frameworks for these services.

9. Risk Behaviors as Health factors

9.1. Smoking

Smoking is twice as prevalent among men as among women: 34% and 16% respectively among those aged over 20. In the 25-44 age group, the rates are 42% for men and 21% for women. One explanation for the high numbers of smokers in this age group is the high prevalence of smoking during army service.

Table 13A — Trends in the Prevalence of Smoking among Army Inductees (Aged 18)

Year	Women	Men
1986	25%	33%
1987	21%	30%
1988	20%	26%
1989	17%	27.5%
1990	17.5%	27%
1991	16%	26%
1992	16%	27%
1993	23%	28%
1994	21%	27%
1995	23%	32%
1996	27%	27%
1997	27%	28%

Source: *Health in Israel 1998*

9.2. Eating Disorders

As in all industrialized countries, Israeli women and girls are at high risk for eating disorders, with intense pressure to meet an elusive and unhealthy ideal of thinness. For teenagers, Israel seems to be the dieting capital of the world: in 1994, about one in three teenage girls reported dieting to lose weight. This finding put Israel ahead of 23 other developed countries for dieting among teenage girls. Interestingly, though boys in Israel diet less than do girls, they too lead in international ranking of dieting. In a study conducted in the late 1980s, 2.5% of women aged 21-45 reported vomiting as a form of weight control; 1.3% of women in this age group said they had been diagnosed as anorexic (Woman's Health in Israel, p.147). More on eating disorders is found under the new section on the Girl-Child.

9.3. Violence as a Health Factor

Violence against women is increasingly being recognized as an important factor in women's state of physical and mental health. Most domestic violence takes the form of rape and physical abuse. According to the WHO Regional Office for Europe, Israeli women were ranked in 1992 close to the European Union's average with respect to mortality from homicide and purposeful injury. The 2000 Brookdale research - which for the first time provided formal findings on the extent of physical and sexual violence against women as well as findings concerning domestic violence against women in Israel – found that 2% of all adult women in Israel (34,000) were victims of rape, 4% (68,000) were victims of sexual violence, and 8% (136,000) were victims of

physical violence. More than one in every ten women (11.5%) have experienced some form of domestic violence, ranging from threats to physical or sexual attacks – about 200,000 women which according to some researchers should be considered a minimum estimate.

Indeed, the distressing reality of domestic violence as a major health hazard is confirmed by the numbers obtained by the recently established Ministry of Health database which quantifies the number of women and children admitted to emergency wards with injuries following domestic violence and neglect - and who were subsequently referred to social services - in 27 of the 33 general hospitals in Israel. The data show that in 1998, 1512 women aged 18-64, 131 women over the age of 65, and 1,860 children were admitted to emergency room as a result of violence. Among women under age 65, the overwhelming majority of the cases (89%) were of physical abuse. Among older women (65+), just over half were cases of physical abuse, and 35% were cases of neglect or withholding of care. Of the children, just over half (52%) were girls. Among younger children (0-5), a slightly larger proportion of children reaching the emergency room (55%) were boys, predominantly as a result of neglect and withholding of care. In the 6-14 age group 55% were girls. The category with the largest sex difference was that of sexual abuse, where twice as many girls as boys were victims. Among adolescents (15-18) girls predominated in all categories of abuse, with the exception of the neglect category.

Table 14 - Distribution of Adolescents (Aged 15-18) Admitted to Emergency Rooms with Injuries Following Violence, 1998

	Males	Females
Sexual Abuse	9	61
Physical Abuse	34	83
Neglect	23	18
Other	38	64

Source: *Health in Israel 1998*

Despite the aforementioned alarming statistics and contrary to recommendations made by the 1996 Parliamentary-Investigative Committee, medical professionals in Israel still lack appropriate training to handle domestic violence and violence against women. On the academic training level, an inquiry with the Ministry of Health in 1997 revealed that none of the medical schools had included the subjects of domestic violence and violence against women as specific courses in the regular curriculum. On the concrete-practical level, statistics from the 2000 Brookdale survey found that a very low rate (22%) of the women victims of domestic violence

discussed it with medical professionals (doctors, nurses, etc.), where most of the conversations (77%) having been initiated by women and only 9% by the health professionals. Even when conversations took place, only 16% of the women were referred to the police, and 32% were referred to domestic violence support services. Likewise, while 73% of the women who had been subjected to sexual and physical violence and turned to medical care were asked about the cause of their injuries, only 18% being referred to support services such as the sexual violence help centers

10. AIDS

The total number of AIDS patients in Israel during 1999 was 622 (494 male and 128 female). That year, 440 of these patients died. There were 2,078 known cases of HIV-positive individuals in Israel in 1999. Of these, 34% (707) were women, a definite increase from 1995, when women comprised 26% of HIV-positive individuals. Most of these women had contracted the virus outside of Israel. Since the first statistical documentation of AIDS in Israel in the early 1980s, the proportion of female HIV carriers has increased, significantly, especially since 1992.

Table 15 - AIDS In Israel, Cumulative Totals up to the End of 1999

Exposure Category	Women		Men	
	AIDS Patients	HIV+ Carriers	AIDS Patients	HIV+ Carriers
Total	128	707	494	1,281
Homosexual/ Bisexual Males			185	276
Intravenous Drug Users	14	40	79	171
Persons with Hemophilia		1	33	44
Other Blood/ Component Recipients	7	2	10	5
Heterosexual Contacts				
Partners of One of the Above 4 Categories	19	28	1	2
Persons Presumed: Exposure Abroad	67	476	125	524
Child of At-Risk/ Infected Parent	9	27	8	27
Not Known	2	71	27	172

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

11. Women in Health Care

11.1. Women in Medical Schools

By 2000, women made up almost 50% of all medical students in Israel; a 10% rise in one decade, and comprised 68% of third degree medical students.

11.2. Women as Medical Personnel

Table 16 - Medical Personnel by Age, Gender and Profession, 1998

	Physicians	Thereof: Specialists	Dentists	Pharmacist
Total Males - **Absolute Numbers**	17,898	8,137	5,247	2,234
Percent				
Total	61.8	71.2	63.4	41.6
To 30	1.8	0	5.2	4.8
30-44	20.5	19.3	27.8	12.1
45-54	18	25.9	13.8	6.5
55-64	8.7	10.3	7.1	5.2
65-74	6.3	8.4	4.8	3.8
75+	6.6	7.2	4.6	9.2
Total Females - **Absolute Numbers**	10,749	3,284	2,894	2,749
Percent				
Total	37.1	28.7	34.4	52.9
To 30	2	0	4.2	7.9
30-44	14.1	11.1	14	17.6
45-54	8.5	7.5	7.1	11.4
55-64	5.5	3.5	4.2	5.8
65-74	4.2	3.9	2.6	3.7
75+	2.9	2.7	2.3	6.4

Source: Ministry of Health, Department of Medical Professions

While by 2000, more than 37% of all practicing doctors in Israel were women (10,749 out of about 28,600), no woman heads a major hospital, one woman heads a peripheral mental hospital, one serves as a deputy head of an intermediate size hospital, and four women are administrative directors of hospitals.

11.3. Senior Positions for Women in the Health System

The **National Insurance Law - 1994** established a Health Council whose functions are described in the Law. Section 49 of the Law stipulates the makeup of the Council, stating that "in the makeup of members that are appointed amongst government workers there will be representation of both sexes in at a least a quarter of the total makeup."

In four out of the five districts of the Health Ministry, the district's doctor is a woman. The

of each district has extensive authorities that are given validation by the ordinance for the nation's health and the regulations of the Health Ministry on different topics such as public health, preventative medicine, family care (mother and child/nursing), supervision and licensing of medical institutions, burial, etc.

In addition, the Ombudsperson in relation to the National Health Insurance Law is a woman, filling an important statutory role on the topic of insured persons' rights for state health insurance.

12. Arab Women's Health

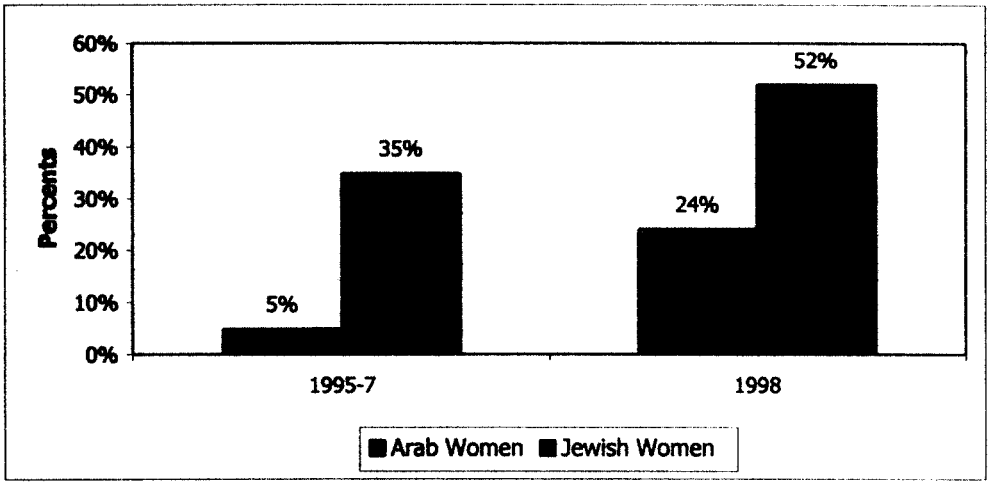
12.1 The Relationship with the Doctor Providing Treatment, Access to Services and Health Awareness

According to the 2000 JDC-Brookdale Institute Survey (discussed earlier under Article 5), an astoundingly low percentage of Arab women are treated by female doctors (8%), compared to 49% of Jewish women. Amongst Arab women, 22% (in comparison with 8% of Jewish women) do not feel comfortable talking to their family doctor about issues relating to their health. In general, Arab women express a relatively low level of appreciation for their doctors and visit them less often than Jewish women. Eighty-three percent of Jewish women saw a gynecologist regularly, compared to 64% of the Arabs. Most of the Arab women (60%) preferred a female gynecologist, compared to 33% of the Jewish women. Higher rates of Arab women said that at least once during the previous year they had not received medical care when they believed they required it (41%, compared to about 10% among Jewish women); had not seen a specialist when they believed they needed it (57%, compared to about 20% among Jewish women); and had not bought medication due to cost (29%, compared to about 15% among Jewish women). Higher rates of Arab women also reported encountering difficulties when seeking medical or mental health care. Regarding health promotion activities, lower rates of Arab women reported discussing health promotion issues such as smoking, diet, physical activity, Hormone Replacing Treatment and calcium intake with their physician than did Jewish women. More than twice as many Jewish women said they knew about osteoporosis or took calcium supplements that did Arab women.

12.2 Mammograms in the Arab Sector

As mentioned in the previous Report, according to the **National Health Insurance Law - 1994**, the sick funds cover all women in the 50-74 age group for a mammography examinations once every two years. During 1998, a project for early detection of cancer was initiated in the Arab sector. The project yielded an almost five-fold growth in the rate of Arab women undergoing mammography screenings, while still falling behind Jewish women. The full rates are presented in the chart below.

Chart 2 - Mammography Examinations by Sector, 1995-7, 1998



Source: Sikkuy's Report on Equality & Integration of the Arab Citizens in Israel 1999-2000

12.3 Other Health Data

Statistics from a survey conducted by the Center for Disease Control Amongst Females, published in 1999, indicate that 17% of Jewish women and 5% of Arab women receive hormone replacement therapy. An additional 13% of Jewish women and 6% of Arab women have received this treatment in the past.

Of the 520 maternity centers that currently exist in Israel there are 175 (35%) in Arab settlements.

One of the Brookdale 2000 survey's findings is that a higher proportion of women with a high level of depression exists within the Arab sector (45% of Arab speaking women interviewed, compared to 34% of the survey's Hebrew speaking subjects). Moreover, 39% of Arab speaking women suffering from a high level of depression were not diagnosed as such by a physician (compared to 28% of Hebrew speaking women).

Article 13
Social and Economic Benefits

1. Social Benefits and the Welfare State in Israel

1.1. Social Benefits

The social insurance system in Israel covers all major contingencies of income loss in modern industrial societies, including short-term payments aimed to replace the wages of those temporarily out of the work force (due to dismissal, work injury, giving birth or military reserve service) and long-term payments, aiming to guarantee subsistence to those permanently out of the work force due to old age or disability, to dependants and to families facing the economic burden of raising children. All long-term benefits (except for child allowances, which are nominated in monetary values) are calculated as a given percentage of the average monthly wage, which as of January 2001 stands at 6,964 NIS (approximately $1,700). The National Insurance Institute (NII) is responsible for the administration of the social insurance programs.

The issue of social Benefits has a special significance to women due to their high presence within social benefits recipients in Israel. Thus, for instance, in 2000, women comprised close to 73% of all recipients of long-term care benefit, a figure obviously related to women's higher longevity. Furthermore, while only 12.2% of the male recipients of old-age pensions also received income supplement, 20% of the female recipients received both benefits.

The following will present developments and changes in this area since the submission of the previous Report.

1.1.1. Maternity Insurance

One of the main social benefits women may receive is the *maternity insurance*, which covers a *hospitalization grant*, a *maternity grant*, a *birth allowance* and a *maternity leave allowance*. A 1998 amendment to the **National Insurance Law - 1995** provides for the granting of a maternity grant, with adequate adjustments, to those who have adopted a child under the age of 10 years (when a couple adopts a child, a grant is given only to one of the parents). A

recent 2000 amendment to the law has doubled the amount of maternity grant payable from the fifth child onward, and set it as 40% of the average wage.

In 2000, 132,000 women received a maternity grant, a 2% increase from the 1999 figures. In addition, close to 70,600 women received maternity leave allowances (equal to the woman's net income), constituting 53% of all births that year. While this rate suggests that only slightly more than half of the women who gave birth in 2000 were eligible for the allowance in terms of working the required amount of months prior to the birth, it still reflects a consistent increase in the rate of women who are eligible for the allowance. In fact, it is more than a 60% increase from 1990, which is explained by the increase in women's general participation in the workforce, as discussed under Article 11 above. Significantly, according to 1997 data, 94.5% of the women who received maternity leave allowance in 1997 were Jewish, a rate which is totally disproportionate to their rate among women who gave birth that year, which was only 70.5%. This disproportion reflects the huge difference in the rate of Jewish and non-Jewish women's participation in the workforce: 93% of the women who participated in the workforce in 1997 were Jewish, and only 7% were non-Jewish.

Another benefit under maternity insurance is the *high-risk pregnancy grant*, which entitles a woman on high-risk pregnant leave to receive the equivalent of her salary from social security. Recent amendments to the **National Insurance Law - 1995** have refined and expanded this benefit in several ways. Thus, a 1998 amendment to the **National Insurance Law - 1995** provides for the inclusion of high-risk pregnancy as part of the work period.
In addition, a 2000 amendment to the Law raised the limit of this benefit setting it at 100% of the average wage (compared to 70% in previous years).

1.1.2. Old Age and Survivors' (Widows') Benefits

Old age and survivors' benefits comprise the largest insurance branch at the NII (34.7% of the total benefits paid in 2000). The number of old age and widows' benefits recipients rose to more than 657,000 in 2000, a 3.4% rise from the previous year. This rise reflects mainly the growing number of the elderly population in Israel, and is not due to immigration, since the flow of immigration has slowed down in recent years.

The basic old-age benefit amounts to 16% and 24% of the average wage for a single person or for a couple, respectively. Recipients of old age and widows' benefits who have no other income, or whose income from another source is low, are eligible to receive income guarantee according to the **Income Support Law - 1980**. In 2000, this amounted to 30.8% of all recipients of old age and widows' benefits.

Various attempts have been made in recent years to legislate an obligatory pension law for all workers in Israel, thus far without success. It must be noted, in this context, that more women than men suffer from the lack of employment pension, since more women retire without ever having participated in the formal labor-force, or without ever having a pension plan, or without accumulating enough pension rights due to their irregular work patterns.

1.1.3. Disability Insurance

Every Israeli citizen aged 18 or over and not yet 60 (women) or 65 (men), and whose degree of disability is at least 75% is entitled to a means-tested monthly *disability pension* at the rate of 25% the average wage for a single person, with additional dependent's increment paid for the dependent spouse and children. A housewife, however, is entitled to a dependent's increment for her children only. Other benefits under General Disability Insurance include *attendance allowance*, a *grant following decease*, a *disabled child benefit* and a *special benefit for a new immigrant*.

In December 2000, more than 138,000 people received disability Insurance benefits, a 12% increase from the previous year. The rate of working women among recipients was 32.3%, while 10.3% of recipients were housewives.

1.1.4. Unemployment Benefits

A 1999 amendment to the **National Insurance Law - 1995** reduced the limit for unemployment benefit, setting it at the average wage for the first 5 months of unemployment, and 2/3 of the average wage from the sixth month onwards. Two other amendments from 2000 reduced the total period of unemployment benefits eligibility in all categories.

1.1.5. Children's Allowances

Children's allowances are progressive allowances, that is the amount of the allowance in a given family increases from the third child onward. A 2000 amendment to the **National Insurance Law - 1995** further emphasized this characteristic by substantially raising the amount of children's allowances paid from the fifth child onward (by 47%, 33% and 43% for the fifth, sixth and every additional child, respectively), whereas no change in the amount paid for the first four children was made.

1.1.6. Alimony Payments

In 2000, 22,884 women received alimony payments, an increase of 25.2% from their number 4 years earlier in 1996, as appeared in the previous Report. The overwhelming majorities (99.4%) were women with children: 36.8% had one child, 32.9% had two children, 17.2%

had three children and 12.5% had four children or more. In 2001, the allowances stood at 25% of the average wage for the alimony of a woman alone (i.e.1,741 NIS, approx. $425 per month), 39.8% of the average wage for a woman with one child (i.e. 2,789 NIS, approx. $680 per month) and 49.8% for a woman with two children (i.e. 3,485 NIS, approx. $850 per month).

1.2. Poverty of Women

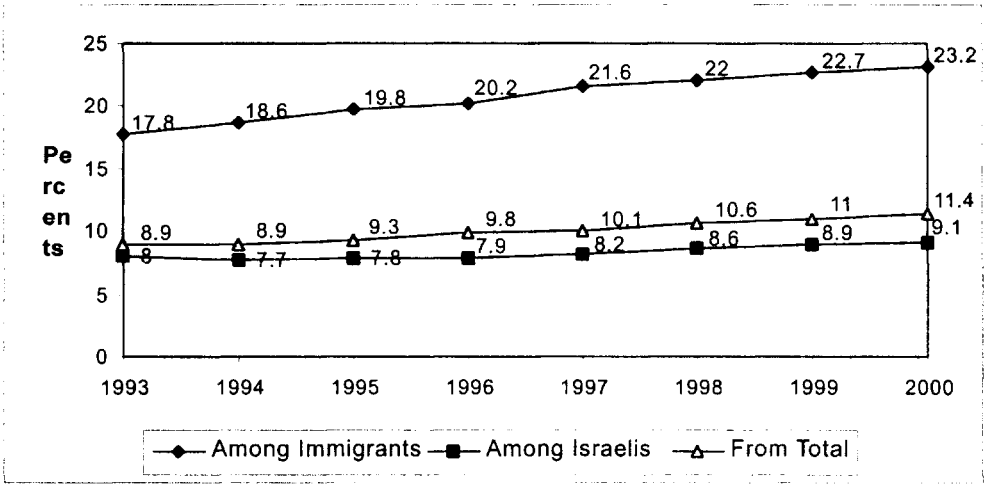
Statistics supplied by the NII (National Insurance Institute) show almost no gender-related differences regarding the incidence of poverty among the population at large, and poverty is documented in more or less equal proportions among men and women. Thus, in 1999, out of 2,003,000 adult women, there were 341,500 living in families below the poverty line (defined as 50% of the median disposable income). Out of 1,855,000 adult men, there were 282,700 living below the poverty line. These statistics show that women constitute 54.7% of the persons with income below the poverty line (having constituted 54.3% in 1995). Since women constituted 52% of the adult population in 1999, the conclusion that emerges is that the proportion of women in poverty is only slightly larger than their proportion in general in the population.

While this shows that in contrast to other western countries, an overall phenomenon of feminization of poverty has not taken place in Israel, analysis of further statistics reveals that among specific population groups with higher poverty rates, women's presence is higher. The sections that follow will discuss these groups.

1.2.1. Single-Parent Families

In 2000, single-parent families comprised 11.4% of all families in Israel, an increase from 9.3% in 1995. Moreover, while the yearly growth of the general number of families with children in Israel is 2%, the yearly growth of single-parent families has been 6-8% throughout the second half of the 1990's. A partial explanation for this growth is the immigration from the former USSR: in 2000 the rate of single-parent families among immigrants was 23.2%. Among immigrants the number of divorced and widowed women (about 6,000) is three times greater than the number of divorced and widowed men. Of the almost 105,000 single-parent households, in close to a third (31,826) of them the parent was an immigrant who came to Israel after 1990.

Chart 1 - The Rate of Single Parent Families, by Year, 1993-2000

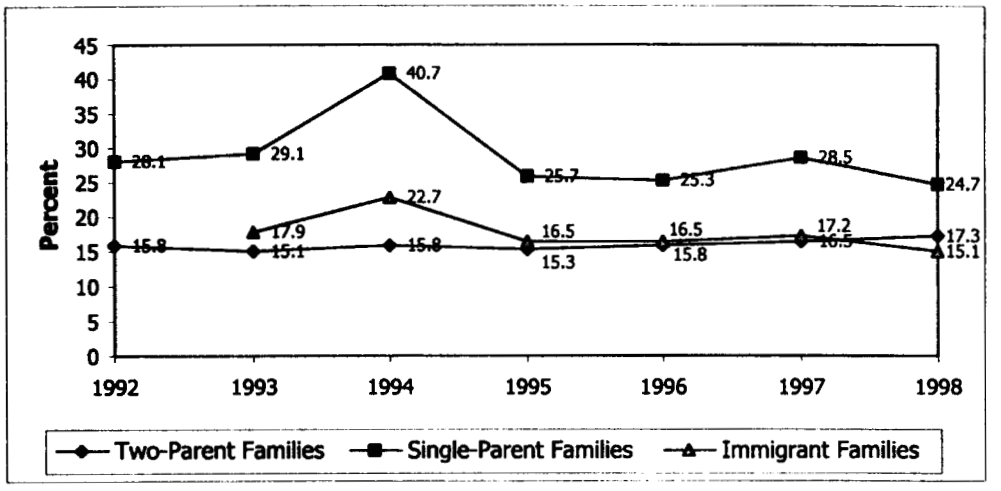


Source: The National Insurance Institute, *Unpublished data*, 2000.

The overwhelming majority of the single-parent families (96%) are headed by women. The incidence of poverty among single-parent families is much higher than within the general society: in 1997, 28.5% of the single-parent families were below the poverty line, compared with 16.5% of two-parent families with children in general. This marks an increase from a rate of 25.3% in 1996, following a sharp decline in 1995 and 1996 as a result of the **Law to Reduce the Scope of Poverty and Income Gaps**. The incidence of poverty among children of single-parent families is even higher, and stood at 36.5% in 1997, also an increase from 28.4% in 1996. This means that every third child of a single-parent (overwhelmingly single mothers) was below the poverty line. The general incidence of poverty among children in 1997 stood at 21.8%, meaning that every fifth child in Israel was below the poverty line. NII researchers explain that the main reasons for the regression in the economic state of single-parent families are gradual erosion in income-support benefits relative to the average wage, and the increase in the rate of single-parent families where the parent is unemployed.

Nevertheless, data from 1998 is more encouraging, as poverty among single-parent families and immigrant families decreased substantially (from 28.5% in 1997 to 24.7% in 1998 for single-parent families, and from 17.2% to 15.1% for immigrant families). It should be noted that 1998 data relates to a larger population survey group, that includes residents of East Jerusalem as well as self-employed persons.

Chart 2 - Poverty in Families with Children, by Year, 1992-1998



Source: The National Insurance Institute, *Unpublished data*, 2000.

1.2.2. Poverty among the Elderly

Current statistics from the NII mark a substantial decrease in the level of poverty among the elderly, especially among elderly women. Thus, in 1998, 15.9% of elderly women were considered poor, compared to 16.3% of elderly men (the figures for 1995 were 19.2% and 18.9%, respectively).

Article 14
Rural Women

Since rural population in Israel is more or less limited to the Bedouin society and to some parts of the Arab population, it was decided to include further discussion of other vulnerable groups of women under this Article. Thus, this Article first discusses Bedouin women, and then proceeds to discuss women immigrants from Ethiopia, and women with disabilities. Both these subjects were not discussed in the previous Report, and the latter was specifically requested by the CEDAW Committee's in its Concluding Observations.

1. Bedouin Women

Only 8.6% of the Israeli population live in rural localities. The following paragraphs focus on one of the major population groups within this sector, the Bedouin community in the southern Israeli Negev desert. The Negev Bedouin numbers approximately 100,000 men and women. Half of them live in one of 7 Bedouin localities that were officially founded and recognized by the State, while the remaining half are scattered across the desert, living in villages and semi-nomadic encampments. A basic description of Bedouin women's situation appeared in the previous Report. For some more information regarding Bedouin women's personal status see Article 16 below.

1.1. Education

The Bedouin population in Israel suffers from low educational rates. In general, six out of ten Bedouin pupils in the Negev drop out of school, and only two per one thousand Negev Bedouin have university degrees.

The higher dropout rates for Bedouin girls remain a problem. Recent data shows that throughout grades 1-9 the boys make up more than half (51.4%) of the total number of pupils, except in grades 4 and 8. In the ninth grade boys already make up 53.7% of the pupils. In the unrecognized localities the situation is even worse: girls make up only 43.7% of the ninth graders.

However, there is some development regarding the Bedouin's attitude to education, particularly to girls' education, so that experts now contend that most of the Bedouins believe in the importance of education and are not against educating their daughters. The problem is not attitude but economics, since parents are unable to finance academic studies. Consequently, special programs to encourage Bedouin women to continue into academic studies, such as developed by Ben Gurion University of the Negev, the academic institution closest to the areas in which the Bedouin reside, are of particular significance.

Some progress in terms of women's participation in academic studies is indeed indicated in the following data. Between 1977 and 1998, 143 Bedouin students completed their studies at Ben Gurion University of the Negev. The number of graduates is increasing annually, from one graduate in 1977 to 18 graduates in 1998. While the number of the Bedouin graduates is increasing we can still note a large majority of males, with some improvement in recent years, as depicted in the following table:

Table 1 - Bedouin Graduates of Ben-Gurion University of the Negev, by Year and Gender

Year	Gender of Graduates	
	Males	Females
1977	1	0
1978	1	0
1980	1	0
1981	2	0
1985	1	0
1986	9	0
1987	5	0
1988	6	1
1989	6	0
1990	6	0
1991	5	0
1992	12	2
1993	10	0
1994	11	3
1995	18	0
1996	8	1
1997	15	1
1998	14	4

Source: Statistical Yearbook of the Negev Bedouin, no.1 1999

In 1999, there were some 250 Bedouin graduate and undergraduate students at Ben Gurion University; 95 were women, 13 of who are graduate students. In addition, 29 of the first year students were Bedouin women.

Most of the female Bedouin students are enrolled in the faculties of Humanities, Social Sciences, and Health Sciences and come from very large families living close to or below the poverty line. Before they could enroll in the university their grades had to be improved through private preparatory programs so they could close the gap separating them from other Israeli students.

1.2. Employment and Welfare

The Bedouins experience low participation in the labor force, and a high level of welfare services recipients, higher than that of the national rate.

With regards to women's salaries, the average monthly wage of a female Bedouin employee is only 50% of an Israeli female employee (while a male Bedouin employee's monthly wage is 55.8% of Israeli employee), as indicated by the following table, comparing the average monthly income of employees in Rahat (Israel's largest Bedouin locality) with the southern district and with Israel as a whole:

Table 2 - Average Monthly Wage of Employees, by Gender, 1994, 1995

In NIS

	Men			Women		
	No. of Employees	Average Monthly Wage		No. of Employees	Average Monthly Wage	
	(30.11.1996)	1994	1995	(30.11.1996)	1994	1995
Total Israel	1,105,964	5,315	6,015	985,025	2,934	3,411
Southern District	151,366	4,799	5,296	126,287	2,597	2,951
Rahat	3,201	2,941	3,360	692	1,313	1,726

Source: Statistical Yearbook of the Negev Bedouin, no.1 1999

Some progress regarding women's participation in the labor force is ironically indicated by the fact that women in the recognized localities have started turning to the Employment Service to receive unemployment benefits.

The low income per person in Bedouin families is reflected in the large number of recipients of income support benefits, which is almost six times higher than the national rate, as indicated in the following table:

Table 3 - Rates of Recipients of National Insurance Institute Benefits, 1996

	Old Age and/or Survivors' Benefits per 1000 Elderly	Benefit to Disabled Child per 1000 children	Income Support per 1000 Households	Percent of Children Receiving Child Support Allowence
Total Israel	896.0	6.3	53.6	99.0
Rahat	658.5	9.8	303.9	95.0

Source: Statistical Yearbook of the Negev Bedouin, no.1 1999

1.3. Health

1.3.1. Infant Mortality

Infant mortality is still high in the Bedouin community compared to the total rate in Israel. For example, in 1996 there were 12.1 deaths per thousand live births in Rahat, compared to 4.5 among the Negev's Jewish population, or to the national figure which stood at 6.3 that year. Major causes of death of Bedouin infants were congenital anomalies, premature births, respiratory distress syndrome and infections diseases.

1.3.2. Other Health Indicators

A glance at the demographic data and the figures on immunization of infants and children reveals significant improvement within the Bedouin community. The rate of Bedouin infants immunized up to the age of one year is increasing from year to year, from 43.8% in 1985 to 80.5 % in 1995. The percent of toddlers immunized up to age two has increased at the same rate. Likewise, the number of infants registered at a Mother and Child clinic is on the rise too. In 1995 82.8% of all Bedouin infants were registered, compared to only 58.4% in 1985.

However, the data on immunization of infants and children reveal a gap between the recognized and unrecognized localities, with a higher percentage in the former. In both types of localities, most of the children receive the first inoculation of the triplex vaccine but less get the second and third inoculations in the unrecognized localities. In the unrecognized localities, in particular, there is lack of awareness of the importance of the vaccine and of completing the course of three inoculations.

As for Bedouin women's physical and mental health in general, a survey conducted by Ben-Gurion University researchers in 1999 among a representative sample of 202 Bedouin

women (and a control group of 526 Jewish women) revealed higher rates of repetitive unitary infections, anemia, respiratory disorders reported by Bedouin women, as well as higher rates of exposure to family violence. Likewise, more Bedouin women reported depression and low self-esteem; the former in connection to family violence and the latter in connection to spouse's unemployment (36% of the Bedouin women reported unemployment of their spouses). The average number of children per Bedouin women who participated in the survey was 5.8, 14.4% were pregnant at the time and 55% reported being pregnant the year before the survey. The average marital age was 18.6, 60% reported being married to a family relative, and 35% reported being married in bigamous marriages.

1.3.3. Ritual Female Genital Operations (Female Circumcision)

No significant change took place in this area since the previous Report.

2. Immigrant Women From Ethiopia

2.1. Preface

During the 1980's, the State of Israel absorbed immigrants from two main countries: Ethiopia and the former Soviet Union. The Ethiopian immigration differs from the Soviet one in several aspects. First of all, in its size: In 1990, the Soviet immigration reached an outstanding number of approximately 30,000 immigrants per month, whereas the total number of Ethiopian immigrants reached 50,000. Secondly, Ethiopian Jewry evoked a special interest in Israeli and Jewish consciousness emanating from both its uniqueness and heroic operations taken prior the immigration. Finally, but most significantly, comes the immense cultural difference stemming from the distinct background of the Ethiopian immigration to Israel. These cultural differences have had major implications for the women immigrants.

Several factors have joined to effect the condition of the Ethiopian women immigrants: the general condition of women in Israeli society; the immigration process and the difficulties in the transition into Israeli society; and above all the culture gap between the Ethiopian and Israeli societies. The family structure in Ethiopia was traditional and patriarchal with a set hierarchy and strict rules. The division of labor between man and woman was clear. The father had a dominant rule in the household, which was expressed by his control of the financial resources. He was also in charge of decision-making, and privileged in acquiring an education. The man worked outside the home, being the sole provider of the family, and was

the family representative. Handicraft, such as weaving and pottery, were mainly done by men. Consequently, the Ethiopian woman was totally dependent on the man. The woman was responsible for the household, raising the children and assisting the men in working the land. As a result, Ethiopian women immigrated to Israel lacking a profession.

On the other hand, there were certain social arrangements in Ethiopia intended for the protection of women's rights, some of which have been lost during the absorption into Israeli society. These included preserving the woman's maiden name after marriage; equal right in acquiring aid from the community during a marital dispute; equal right to divorce; right to have a resting period during menstruation and after birth. Furthermore, every woman in Ethiopia had one or two "protectors" who were usually her husband's friends that were in charge of protecting her from being hurt by her husband.

2.2. Education

The majority of the Ethiopian Jews did not take part in the educational system in Ethiopia. Among the few who did, women were a minority. Therefore, most Ethiopian women immigrants over the age of 18 do not have any formal education. On the other hand, their spoken Hebrew is better than that of the male immigrants due to having more contacts with the Israeli social institutions and agencies.

The condition of the younger women differs from that of the elder women, in that they participate in various educational institutions. The dropout rate is higher among men than women in all the various educational institutions. In High Schools, the dropout rate among the Ethiopian community as a whole is higher than among the Israeli population, 6.2% compared to 3.5%, respectively. Among the Ethiopian community itself, there is an especially high rate of dropouts among the boys compared with that of the girls (9% and 3.5% respectively). On the other hand, more than twice the number of men than women completed their studies in Higher Education Institutes.

2.3. Health Awareness

Ethiopian female immigrants are less aware of the use of contraceptives and of pregnancy tests. In addition, they are not aware of preventive testing such as breast cancer detection. Furthermore, as a result of keeping secrecy in issues concerning sexual transmitted diseases, they are more vulnerable to contracting Aids.

2.3.1 Ritual Female Genital Operations (Female Circumcision)

An academic study published in 1997 revealed that Ethiopian Jewish women immigrants to Israel report that ritual female genital operation was normative in their culture in Ethiopia, but expressed no desire to continue the custom in Israel (Grisaru, Lazer & Belmaker, 1997). The study found a variety of lesions in a third among 113 women who had undergone gynecological examination, with 27% showing total or partial clitoral amputation. The study reports the total cessation of the custom among this community after immigration to Israel.

2.4. The Family Unit

The role changes within the family that took place upon immigration to Israel are a source of tension in the home. Generally, the men are threatened by these changes which signify their loss of their previous uncontested control, and aim in preserving the previous family structure, whereas the women are interested in adopting the new changes. When conflicts arise, women tend to find aid in the social institutions within Israeli society, more so than men do. These institutions represent equal rights for both sexes and are run mostly by women. The men prefer to seek aid in the traditional manner by turning to mediation by relatives and elderly who represent the traditional Ethiopian social order and are run by men.

There is a relatively large number of Ethiopian single mothers, a phenomenon new to the Ethiopian community in Israel, that didn't exist in Ethiopia. Divorced or widowed women in Ethiopia would go back to their original families. In Israel, the original families are incapable of absorbing the single women due to poor housing conditions and financial difficulties. In addition to financial and parental difficulties, such women are exposed to harassment by men from the community, including their former husbands. The following table gives some idea as to the scope of the phenomenon of single women as a result of divorce or widowhood among Ethiopian women. Particularly noticeable is the high rate of divorcees among the immigrants.

Table 4 - 1990-1995 Immigrants and the Jewish Population in Israel, by Gender and Family Status

	Total (number)	% Married	% Divorced	% Widoed	% Never married
All immigrants					
Women	264,065	56.6	11.7	14.6	17.3
Men	218,195	66.6	4.6	3.4	25.4
U.S.S.R Immigrants					
Women	229,845	56.4	12.4	15.2	16
Men	186,910	67.9	4.8	3.6	23.7
Ethiopia Immigrants					
Women	9,305	51.2	13.1	9.1	26.7
Men	8,600	52.8	3.6	1.2	42.4
Other Immigrants					
Women	24,915	58.6	5	10.5	25.9
Men	22,685	61.1	3.1	2.4	33.4
Rest of Jewish population					
Women	1,460,330	58	4.9	11.3	25.8
Men	1,379,055	61.3	2.7	2.6	33.4

Source: Central Bureau of Statistics, *1995 Census*, 1999.

2.5. Employment

One of the most important parameters measuring the success of an immigrant community is its integration into the workforce. Several studies were conducted by the Brookdale Institute during the 90's to evaluate this, and some of their findings are presented below. These study were conducted among men and women of various ages who had participated in various studies and job-training programs offered to Ethiopian immigrants by the Brookdale Institute. The studies were conducted as a tool to measure and evaluate the effectiveness of the different programs.

2.5.1. Professional Job Training

Much concern and efforts are invested in vocational training for the Ethiopian immigrants in order to equip them with knowledge and skills needed in Israeli industry. Special programs are geared for adults with emphasis on job training, and for the youth, with emphasis both on job training and on social integration.

Allocation of vocational training resources is problematic in terms of women's participation, since state funded professional job training is given to the family member who is regarded by the authorities as the family provider. In most cases, the family representative and provider is the male, thereby leaving the female under his patronage. Furthermore, vocational training is characterized by a sex biased occupational division. Study programs in absorption centers offer different workshops for men and women. Women are offered workshops training them for domestic occupations such as childcare and house chores, whereas men are trained for

occupations outside the home. Nevertheless, where there are no male family members, female immigrants receive equal job training.

2.5.2. Finding Employment

Among the adult graduates of vocational training courses, the Brookdale studies found gender differences in employment rates. Most of the women graduates did not work in the field that they were trained, and a large number worked in non-professional jobs. In comparison, about 75% of the male graduates worked in the areas in which they were trained. Some of the men already worked at the time that they joined the course. Among the youth, on the other hand, there was no difference in the rate of employment among the sexes. About 50% of the Youth Project graduates and 80% of the Higher Education Institutes worked, both males and females. One common trait was found throughout the study, namely the visibly higher average salary of the men than that of the women.

2.5.3. The Effect of the Marital Status on Employment

Fewer married women join the workforce than single women. For example, among the graduates of the Youth Project 28% of the married women compared to 54% of the non-married join the workforce. The results of the study also indicate a higher rate of employment of women who are not mothers than that of women who are. The opposite is true with respect to the men: a higher rate of workforce participation was found with married men or men who have children.

2.5.4. Professional Ambitions among Ethiopian Youth

An interesting part of the study was ascertaining professional and personal aspirations among Ethiopian youth, including family roles. Almost all the girls (95%) want to work after they are married. Very few said that they would not work or that it depends on their spouses' approval. However, a much lower percentage (65%) said that they would work once they had children. It is important to note that a much lower number of men said that they would want their wives to work, but 20% said that it was dependent on their spouses' opinion. It would seem that the stand on the women working is independent of their economic status. Neither the men nor the women saw economic distress ("only if we need money") as an important reason for women to work, whether after marriage or after childbirth. No noticeable difference was found between the girls that have been in Israel a short time and those that have been here longer.

Among high school students gender difference was found with regard to the vocation that they expect to acquire for the future. These expectations reflect the students' ambitions and how they view themselves as adults. These expectations can direct the abilities of the students to reach certain goals. Generally, it was found that Girls prefer to work in more academic fields- medicine, law and psychology, while, more boys prefer occupations in liberal and technical professions- engineers, teaching, journalism or acting.

3. Women With Disabilities

3.1. General and Legal Framework

About 10% of the Israeli population are people with disabilities. It is estimated that about half of them are women, although there has never been a thorough research to appraise the scope of this population nor to assess its particular needs.

In recent years, Israel has stepped forward in terms of its treatment of disabled people. On February 23, 1998, the **Equal Rights for People with Disabilities Law - 1998** was adopted by the Knesset, anchoring for the first time the right to equality and human dignity of people with disabilities and creating a new system of obligations for the State of Israel vis-a-vis its disabled citizens. The principal impetus for enactment of the **Equal Rights for People with Disabilities Law - 1998** was "The Report of the Public Committee to Review Comprehensive Legislation in the Matter of the Rights of People with Disabilities" (hereinafter the "Public Committee") which was submitted to the Minister of Justice and the Minister of Labor and Welfare in July 1997.

The **Equal Rights for People with Disabilities Law - 1998** came into effect on January 1, 1999. The Law eventually adopted was only part of the complete Bill. It includes basic principles, general principles, equality of employment, accessibility of public transportation and establishment of a commission on equal rights for people with disabilities. The remaining chapters of the Bill were re-tabled before the Knesset within the **Equal Rights for People with Disabilities** (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) **Bill - 1999**, which has passed first reading in March 2000.

On August 1, 2000 the establishment of the Commission for Equal Rights for People with Disabilities was formally declared and is presently in its formative stages. Nevertheless,

although two years have elapsed since the entry of the **Equal Rights for People with Disabilities Law - 1998** into effect, the majority of its provisions have not yet been implemented. One of the tasks put to the Commission is the particular promotion of women with disabilities, as it became clear in recent years that they suffer distinct problems and impediments in all areas of life. Thus, for example, according to the Commission, women with disabilities are subject to severe discrimination in the area of access to health services in general and in particular in the area of gynecological care. Apparently however, not only their particular needs remain unanswered, these needs and concerns are in general not even known to the relevant authorities.

In terms of non-governmental activities, within an NGO established in the early 90s called "B'Zchut" (with right, or entitlement) to protect and promote the status and rights of people with disabilities, a women's forum has been convened several times in recent years. Its aim was to focus attention to the status of women with disabilities, and it tried to advance the establishment of special health clinics to cater for women with disabilities, in cooperation with the Minister of Health Advisor on Women's Health. Unfortunately, the initiative did not come through and the forum was dismantled.

3.2. General Economic and Personal Situation

As a welfare state, Israel provides for subsistence means to all its residents, particularly to weak population groups who cannot earn a living, including the elderly, the unemployed, and the disabled. Accordingly, a chapter was added to the **National Insurance Law** in 1970, providing for minimal subsistence to anyone who due to physical, mental or emotional disability cannot earn a living, or whose earning capacity was cut down by 50% or more, and is not covered by any other law that provides for disability pensions. Since 1977, women who are home-makers were added to those eligible to disability pensions according to this law, even though they are exempt from social security payments (as explained in the previous Report). Israel is one of the few countries worldwide which grants this pension to home-makers.

In terms of subsistence support, there are three main categories of disabled people, in line with the source and type of their support: IDF (Israel Defense Force) disability pension, employment disability pension, and general social security disability pension. There are more men than women in all categories. The men's rate is particularly much higher among the IDF disability pension recipients and the employment disability pension recipients: women make up between 5%-7% and less than 10% of these two groups respectively. In late 2000 a

Women's Forum Within the Army (IDF) Disabled Veterans Organization was established, aiming to re-examine the rights and benefits awarded to women disabled veterans and to act as their support group.

While women's rate could be expected to exceed the men's rate within the category of the general social security disability pension recipients, they still make up less than half of those getting the general disability pension, due to a higher standard of disability which is required from women who are home-makers to be eligible for the pension. Women who are home-makers (as explained in the previous Report, only women can be classified as home-makers according to the National Insurance Law) have to prove a 50% medical disability, while others have to prove only 40% in order to be eligible for the pension.

With respect to general disability pension recipients, in 1997 they made up 3% of the adult female population (between 18-60) and 3.9% of the adult male population (between 18-65). Among this group of pension recipients, the rate of married women was lower than that of married men: 49% and 54% respectively. Moreover, 14% of the women were divorced or separated, compared to only 9% of the men. Within the general population of disabled people it is estimated that over half of the women with disabilities do not get married, and 17% are divorced or separated.

3.3. Special Health Concerns of Women with Disabilities

The family plays a very important role in the life of disabled women, as in the life of any other woman. However, what is taken as obvious for any woman may present immense difficulties for a woman with a disability. Gynecological services, delivery rooms, preventive medicine procedures such as mammography examinations are generally not equipped to fit the special requirements of women with disabilities. There is no separate discussion of examination and treatment of women with disabilities within the general education and training syllabus of gynecologists. There are very few special gynecological examination beds nation-wide, and disabled women report difficulties in receiving appropriate treatment. Special impediments are encountered by disabled women in relation to fertility treatments. Efforts by activists and NGOs have been going on for several years to promote the establishment of a special health clinic for women with disabilities. It is hoped that the establishment of the Commission will promote this initiative.

3.4. Employment

The majority of people with disabilities are not being employed and most of them have never held steady jobs. In a survey conducted by the Service for the Blind of the Ministry of Labor and Welfare it was found that the rate of unemployment of blind persons was 72% (March 1997). The estimate of the Rehabilitation Department of the Ministry of Labor and Welfare with respect to the rate of unemployment among people with severe disabilities, physical illness, mental illnesses and retardation is 70%-75%. In a needs survey (1992), unemployment levels among deaf people aged 30-64 were found to be at 18%-22%. It is estimated that the situation of women is even worse.

The **Equal Rights for People with Disabilities Law - 1998** regulates the right of people with disabilities to employment equality in a central chapter: section 8 of the Law prescribes a prohibition on discrimination in employment on the grounds of disability, including an obligation to make reasonable accommodations. These accommodations include: ramps, elevators and flexibility in arrival and departure of the disabled to and from work, translation into Braille writing, and more. Pursuant to the Law, the Minister of Labor and Welfare and the Minister of Finance are charged with the enactment of regulations to determine State participation in financing the accommodations; regulations have not yet been enacted. Section 9 of the Law prescribes, as a transitional provision for seven years, the duty of a person who employs more than 25 employees to ensure adequate representation of people with disabilities, and in addition section 28 of the Law contains an indirect amendment of the **State**

Service (Appointments) Law - 1959 with respect to the duty of adequate representation of people with disabilities in the State Service.

Article 15

Equality before the Law and in Civil Matters

The Committee has requested the Government of Israel to address the issue of gender sensitization of the judiciary. The research on gender bias within the Israeli court system that was conducted in the mid 90s was described in the previous Report. Following the publication of the research as a book in 2000, several conferences took place, and its results are currently being studied within the judicial system. According to Justice Orr, the Head of the Institute for Judges' Seminars, the subject of gender bias is on the Institute's agenda, and is to be included within the coming year's (2001-02) program, either as a subject in itself or as part of a broader seminar.

Article 16
Equality in Marriage and Family Life

1. Introduction

In view of Israel's constitutional system and its respect for religious pluralism as well as its recognition of the autonomy of recognized religious communities in matters of personal status, Upon ratifying the convention, Israel entered a reservation to article 16 insofar as the laws of personal status binding on the several religious communities in Israel do not conform with the provisions of this Article. In addition, Israel entered a reservation with regards to Article 7(b) of the convention, concerning the appointment of women as judges of religious courts, where such appointment is prohibited by the laws of any of the religious communities in Israel.

Having reviewed these reservations, in light of General recommendation no. 4 of the CEDAW Committee adopted in 1987, and its reporting guidelines on this matter, Israel maintains that it is unlikely that the circumstances in the foreseeable future will permit any change.

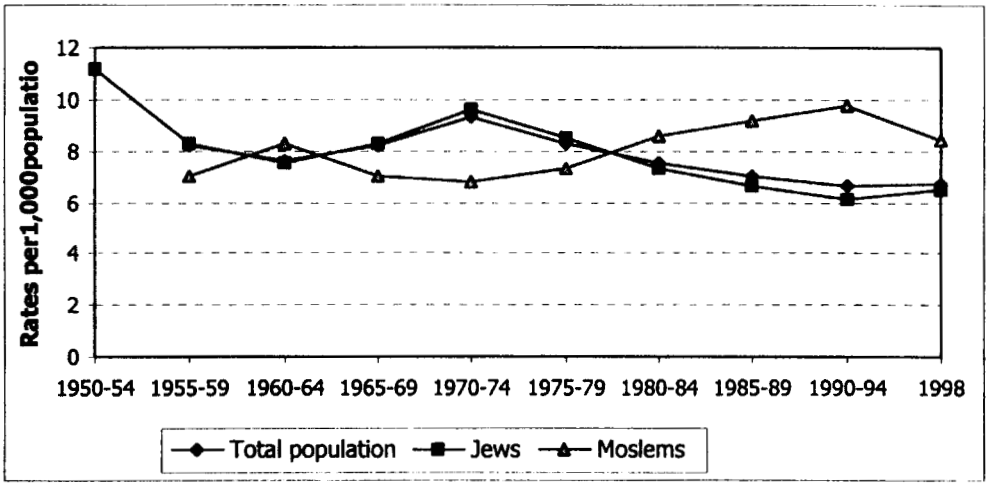
2. The Family in Israel: Some Demographic Data

As already mentioned in the previous Report, Israel is very much a family-oriented society. A 1999 study of familism and family-perceptions in Israeli society ranks Israel first among 21 post-industrial states in which, like Israel, women's educational level and workforce participation have significantly increased in the last 20 years. Relative to the other states in the study, marriage rates in Israel remain high, divorce rates are low, and birth rates are significantly higher (Fogiel- Bijaoui 1999, 130- 134).

2.1. Marriages

The familial characteristic of Israeli society is reflected in the following chart and table, detailing marriage rates, marital status and percentages of non-married and never-married men and women in different age groups.

Chart 1 - Marriage Rates, by Religion, Various Years



Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Table 1 - Population Aged 15 and over, by Religion, Marital Status and Age, Average 1997

Age Group	Males					Females				
	Total	Never Married	Ever Married	% Never Married	% Non-Married	Total	Never Married	Ever Married	% Never Married	% Non-Married
	Thousands					Thousands				
Jews										
Total	1650.9	543.7	1003.2	32.9	39.2	1771.9	448.3	1323.6	25.3	43.8
15-19	203.9	203.2	0.7	99.7	99.7	193.5	189.7	3.8	98.0	98.1
20-24	199.8	179.7	19.5	89.9	90.2	191.5	140.2	51.3	73.2	74.5
25-29	166.9	86.1	77.8	51.6	53.4	166.1	50.9	115.2	30.6	35.3
30-34	142.4	29.8	107.0	20.9	24.8	146.9	18.2	128.7	12.4	20.3
35-39	144.1	15.1	121.6	10.5	15.6	153.0	11.8	141.2	7.7	18.2
40-44	149.2	9.8	130.4	6.6	12.6	159.1	9.9	149.2	6.2	19.0
45-49	148.5	6.2	132.1	4.2	11.0	157.4	8.5	149.0	5.4	20.4
50-54	105.4	3.5	93.9	3.3	10.9	111.7	5.3	106.4	4.7	22.6
55-64	160.8	4.4	141.5	2.8	12.0	185.0	5.9	179.0	3.2	29.4
65+	230.0	5.8	178.7	2.5	22.3	307.7	7.9	229.7	2.6	60.1
Moslems										
Total	248.7	97.8	150.8	39.3	40.7	241.5	75.3	166.2	31.2	38.6
15-19	45.8	45.3	0.5	99.0	99.0	43.8	37.3	6.5	85.2	85.4
20-24	43.7	33.8	9.9	77.3	77.7	41.9	17.8	24.1	42.5	44.0
25-29	36.8	12.8	24	34.8	35.7	35.4	7.9	27.4	22.5	24.3
30-34	31.9	3.4	28.4	10.8	11.9	30.4	4.9	25.4	16.3	19.0
35-39	24.7	1.1	23.5	4.6	5.8	23.5	3	20.5	12.6	16.8
40-44	17.8	0.4	17.4	2.5	3.6	17.5	1.6	15.9	9.2	15.7
45-49	12.3	0.2	12.1	1.9	3.3	12.6	0.9	11.7	7.4	17.3
50-54	11.3	0.2	11.1	1.8	3.5	11	0.7	10.3	6.2	20.6
55+	24.4	0.5	23.9	1.9	8.1	25.7	1.2	24.5	4.6	46.7

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

When the rates of never-married people are examined separately, it is evident that throughout the different population groups, as Israelis grow older, those who never get married find themselves in increasing minority.

Another indication of the centrality of family-life in Israeli society is the relatively low marriage age, especially that of women, compared to other Western societies. The overall trend in all population groups is the rising of marriage ages for both women and men, while the gaps in the average and median ages of women as compared to those of men, in all population groups, remain more or less unchanging.

Table 2 - Median and Average Marriage Age, Various Years

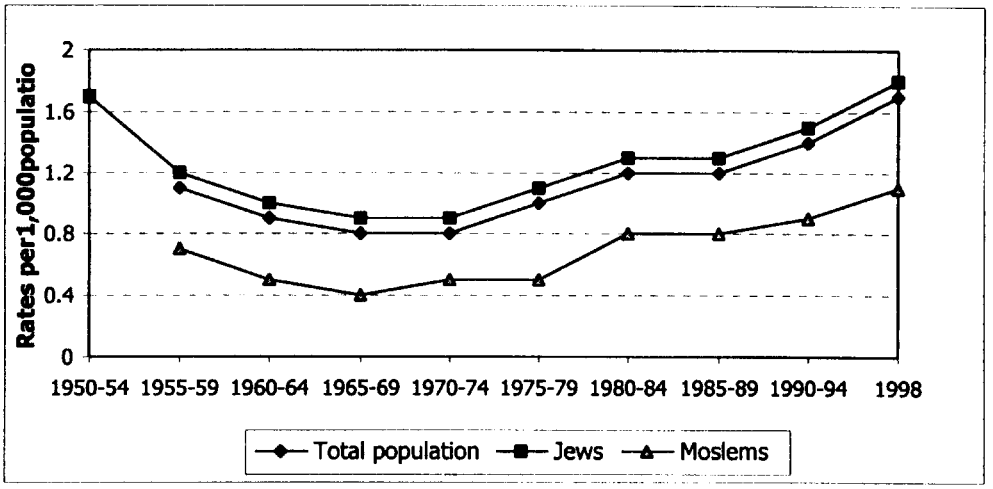
	Men							
	Jews		Moslems		Christians		Druze	
Year	Average	Median	Average	Median	Average	Median	Average	Median
1960	29.1	25.7						
1970	27.1	24.4	25.4	24.3	28.6	27.5	23.9	22.7
1980	27.3	25.3	24.9	23.7	28.5	27.4	22.6	21.6
1985	28	26.2	25.2	23.9	28.9	27.5	23.6	22.3
1990	28.3	26.5	25.6	24.6	29	27.6	25.7	24.4
1994	28.1	26.5	25.8	24.7	29.5	28.2	26.5	24.4
1997	28.8	26.9	26.3	25	29.1	28	26	24.9
1998	28.5	27	26.3	25.1	29.3	28.1	25.9	25.1
	Women							
	Jews		Moslems		Christians		Druze	
Year	Average	Median	Average	Median	Average	Median	Average	Median
1960	24.6	21.7						
1970	23.6	21.6	20.4	19.4	22.4	21.5	19.7	19
1980	24.1	22.3	20.5	19.5	22.3	21.5	18.9	18.2
1985	24.6	23	20.9	19.8	23.7	22.4	19.8	18.6
1990	25	23.5	21.2	20.1	23.6	22.6	20.3	19.1
1994	25.1	23.8	21.3	20.1	23.9	22.5	20.8	19.7
1997	25.8	24.2	21.6	20.3	23.5	22.7	21.3	20.2
1998	25.5	24.4	21.6	20.3	23.7	23	21.2	20.3

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

2.2. Divorces

Divorce rates have been increasing both among Jewish and Arabs in recent years. Still, they remain low relative to other post-industrial countries.

Chart 2 - Divorce Rates, by Religion, Various Years



Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

Table 3 - Persons Divorcing, by Religion and Age, Various Years

Age	1998		Husbands				Wives			
	Husbands	Wives	1983	1993	1994	1997	1983	1993	1994	1997
	Absolute Numbers		**Rates (per 1,000 married men and women in all age groups)**							
Jews										
15+ Total	8,714	8,714								
15-49	7,065	7,690	8.5	9.7	10.5	10.4	8	9.4	10.2	10.7
Up to 19	12	97		18	14.3	21.9	15.9	20.9	17.1	22.6
20-24	375	983	14.9	13.8	15.7	18.2	13.5	14	16.4	17.6
25-29	1,270	1,710	10.7	12.4	13.5	13.7	10.2	12	13.2	13.8
30-34	1,511	1,425	9.2	11.6	12.4	11.3	7.7	10	10.5	11.3
35-39	1,397	1,326	7.6	9	10.2	9.9	7	8.3	9.5	10.1
40-44	1,367	1,166	7.2	8.2	9.1	8.6	5.1	7.3	8.4	8.7
45-49	1,133	983	5.3	7.8	7.7	7.9	4	7	6.6	6.9
50-54	769	507	3.5	5.9	7.1	6.4	2.2	*	5.6	5.6
55+ **	784	425								
Moslems										
15+ Total	1,070	1,070								
15-49	973	1,020	6.9	5.9	6.5	7.6	6.4	5.3	5.9	7.4
Up to 19	17	147	25	15.8	15.8	39.9	22.1	12.5	15.3	20.2
20-24	241	389	20.6	16.1	17.6	20.6	10.6	9.8	10.5	14
25-29	315	205	7.5	7.6	8.8	11.5	5.9	4.9	5.5	6.8
30-34	184	117	5.8	4.3	4.8	6	4	4.2	4.3	4.9
35-39	134	91	3.6	3.9	3.5	4.8	2.3	2.8	3.1	4.2
40-44	55	45	3.8	3.4	4.1	3.7	3	2.1	2.2	3.7
45-49	27	26	1.4	2.3	2.5	2.9	2.4	1.2	2.3	2.9
50-54	40	14	2.2	1.4	2.5	3.3	2.4	1.6	1.8	2.4
55+ **	40	18								

* Published data is 38.8, however our impression is that this is a mistake.

** Due to problems in updating figures on marital status of population aged 55 and above, rates for persons divorcing at these ages are not available.

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

It should be noted that the data above depicts only marriages that are listed by the official marriage and divorce registrars, namely only those that are conducted by the formally recognized religious organs, since there are no civil marriages and divorces in Israel.

3. Minimum Marital Age

Until 1998 no minimal marital age for men appeared in the Israeli legislation, as oppose to women, whose minimal marital age was set at 17. A 1998 amendment to **the Marriage Age Law-1950** has set a minimum marriage age for men at 17 too, and adapts the grounds for approval of under-age marriages (according to section 5 of the Law, as explained in the previous Report) accordingly.

The minimal age requirement is accompanied by provisions that make the arrangement of under-aged marriages a criminal offence. Despite the criminal sanctions, the phenomenon of minors' marriages has not been eliminated altogether, especially within the Moslem population, as the next table clearly shows:

Table 4 — Marriage of Young People up to Age 19, 1998

Absolute Numbers

Age	Jews	Moslems	Christians	Druze
Grooms				
Total	30,765	7,803	722	847
Total to age 19	816	374		51
Up to 17	32	12		
18	190	112		10
19	594	250		41
Brides				
Total	30,765	7,803	722	847
Total to age 19	3,336	3,607	127	393
Up to 16	60	64	4	
17	352	1,259	16	131
18	1,032	1,277	46	137
19	1,892	1,007	65	124

Source: Central Bureau of Statistics, *Statistical Abstract of Israel 2000*

The rate of approval of petitions to under-age marriages, according to section 5 of the Law (detailed in the previous Report), is extremely high, and stands at 75%. It must be noted, though, that the number of petitions brought to the court is a mere fraction of the actual number of minor marriages. Thus, between 1.1.97- 26.11.00, only 122 petitions for judicial permits to under-age married were brought to courts throughout the country. Of these, 89 were approved.

4. Same-Sex Couples

The broad approval of non-marital cohabitation in Israel, as discussed in the previous Report, has had an undeniable effect on the possibility of legal recognition of same-sex couples. This could be clearly seen in the most significant step thus far in that direction, namely the precedent setting *Danilovitch* case from the mid-90s, in which the El-Al Airline was ordered to award an air steward the same benefit in the form of a free ticket for his homosexual partner, as he would be awarded for a heterosexual partner, whether married or not. The *Danilovitch* holding can be understood in light of two developments within the Israeli legal system: first, a 1992 amendment to the **Equal Employment Opportunity Law- 1988**, which added sexual orientation as a prohibited ground for employment discrimination; and second, the widespread recognition of non-marital partnerships.

The most pertinent cases on this question are cases involving children of same-sex couples, which are mainly relevant to lesbian couples. This subject has risen in the late 90's, and several developments took place since then. The first one relates to equal access of lesbian women to the new reproductive technologies for purposes of raising a family. The procedures of Artificial Insemination and In Vitro Fertilization in Israel are regulated in the **Public Health (*In Vitro* Fertilization) Regulation- 1987** and in an administrative directive issue by the Director-General of the Ministry of Health. Both arrangements had limited single women's (including lesbians) access to the reproductive technologies, and demanded they undergo psychological or social-worker evaluation before being accepted to treatment. These regulations were challenged in 1997 by several women and a declared lesbian couple, claiming they were discriminated. The High Court of Justice accepted the appeal, declared the regulations to be void, and ordered the Ministry of Justice to publish an administrative directive mandating equal access to reproductive treatments. The CLAF lesbian organization (described in the previous Report) reports a growing use of these methods by lesbian couples.

The most recent legal victory in that direction has been the High Court of Justice's decision to register a lesbian partner of a biological mother as the child's second mother, based upon a prior adoption order issued in California. While the majority holding, which was comprised of two women justices, was careful to emphasize the narrow and almost technical basis of the decision, namely the lack of the registrar's discretion to refuse the registration according to a foreign adoption order, the social policy implications of the decision cannot be ignored. Still, the registration is only administrative and has no substantive validity, and legally the Court's decision does not entail the granting of substantive recognition of lesbian non-biological

motherhood, nonetheless in granting the second mother registration the Court does declare that at least officially, if not legally, "this child does have two mothers".

A genuine substantive confrontation of the recognition of lesbian motherhood has taken place in one of the most prolonged legal battles in that direction, in which a lesbian couple who have been raising together three children born to each one of them through artificial insemination, have been pursuing legal recognition of their mutual parenthood over the children through a second-mother adoption order. During the course of their legal battle, Judge Yehudit Shtofmann, then Deputy President of Tel-Aviv and Center Family Court, has issued a guardian order for each woman over the biological children of her partner. On the other hand, their petition for joint second-parent adoptions was rejected by the Family Court, and at the time of writing, their appeal to the District Court was still pending.

Legal developments regarding same-sex couples have been taken place in the administrative area as well. Thus, for example, the ACRI (Association for Civil Rights in Israel) reported in 1998 that in response to a ACRI's petition, the Civil Service Commission had adopted a new policy regarding beneficiaries' rights, providing cohabitants of deceased civil servants with beneficiaries' rights regardless of their sex. Likewise, the Ministry of Interior had adopted a policy, that is equivalent to its policy towards heterosexual non-marital cohabitants, awarding homosexual foreign partners of Israeli citizens with residents status.

5. Parents and Children

5.1. Child Support

Several Supreme Court cases in recent years have raised the age of obligatory child support until the child finishes military service. The scope of the obligation, though, is to be about a third of the scope of the obligation toward children under 18.

6. New Reproductive Technology and Surrogacy

As discussed in the previous Report, Israel has become the first state to positively sanction and regulate surrogacy, as legislated in the **Surrogate Motherhood Agreements (Approval of Agreement and Status of Newborn) -1996**.

As of October 2000, 78 surrogacy agreements were approved, resulting with the birth of 26 children in 19 childbirths (due to the prevalence of twins). Two other surrogate mothers are currently pregnant. 25 couples whose agreements had been approved terminated the process midway, or completed the surrogacy process which did not result in a pregnancy. Two of the prospective parents gave births to children unaided by a surrogate after the approval of their surrogacy agreements.

7. Personal Status of Arab Women

As mentioned above, the **Marriage Age Law-1950** prohibits marriages under the age of 17. According to the National Council of the Child, 33% of Arab women aged 17-18 are married. This rate compliments data shown in Table 5 above, according to which the number of Arab women who are known to be married under the age of 17 and even 16 is quite large. However, during the years 1990-96, only 16 complaints of underage marriages were registered in all the police departments in Israel. 13 of these cases were closed.

As discussed in the previous Report, bigamy is considered a felony, punishable by up to 5 years in prison, under the **Penal Code - 1977**. Despite this, according to a 1999 HRA (Arab Association for Human Rights (NGO)) survey in the Negev, 40% of Arab Bedouin women surveyed answered that they live in polygamous marriages.

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Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

Fourth periodic report of States parties

Israel*

* The present report is being issued without formal editing. For the combined initial and second periodic report submitted by the Government of Israel, see CEDAW/C/ISR/1-2, which was considered by the Committee at its seventeenth session. For the third periodic report submitted by the Government of Israel, see CEDAW/C/ISR/3.

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INTRODUCTION

1. The Government of Israel is pleased to submit its Fourth Periodic Report Concerning the Implementation of the United Nations Convention on the Elimination of all Forms of Discrimination against Women. This Report describes the developments that took place since the submission of the Third Report in 2001, taking into account the General Recommendations adopted by the CEDAW Committee. In accordance with the reporting guidelines, this Report builds upon our previous reports. Accordingly, it refrains from repeating previous information and explanations, except when necessary.

2. All relevant governmental ministries and institutes were requested to supply data and information concerning their areas of operation. Non-governmental organizations were also asked to provide information prior to the compiling of this Report.

3. The Report was compiled by the Department for International Agreements and International Litigation in the Ministry of Justice.

4. The State of Israel has been conscious and aware of the issue of women equality from its very beginning, the *Equal Rights for Women Law*, 5711- 1951 ("*Equal Rights for Women Law")* was enacted only three years after the State was founded, and is a testimony to the emphasis given to women-related issues.

5. As will be demonstrated throughout our report, there is an overall positive progression in the implementation of CEDAW in Israel. The legislative sphere continues to advance with impressive measures, albeit its implementation is somewhat more moderate. Nonetheless, there are many legislative developments and court decisions, which demonstrate an across-the-board willingness and desire upon to uphold its CEDAW responsibilities in a good faith manner.

6. Similar to previous reports, a legislative supplement is included containing significant new legislation, which is described in details throughout the Report.

Legislative Measures

7. The main legislation enacted since our previous report, concerning the elimination of all forms of discrimination against women is:

8. The *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*, 5761-2000 ("*The Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*"), this law prohibits discrimination by an individual operating a public place. Violation of the law is both a civil wrong and a criminal offence punishable by fine. The law applies to the State as well and has been interpreted broadly as applying to a host of public places, including schools, libraries, pools, stores, and other places serving the public. Court decisions have upheld this broad interpretation of the law.

9. Another major legal development was the amendment of the *Employment of Women Law*, 5714-1954 *("Employment of Women Law") (Temporary Provision)* from 2004, granting men the privilege to share maternity leave with their wives and the eligibility for maternity leave allowance, provided their wives waive the privilege for the remainder of the maternity leave and return to work. This amendment was recently extended and is in force until the end of April 2007, thus enabling free choice as for the identity of the family provider during the maternity leave.

10. An additional significant law enacted, is the *Limitations on the return of a sex Offender to the Surroundings of the Victim of the Offence Law*, 5765-2004, ("*The Limitations on the Return of a Sex Offender to the Surroundings of the Victim of the Offence Law"), g*ranting a court (including a military tribunal) the authority to prohibit an offender from residing or working near the location of the victim's residence or employment. This, provided the Court finds that a possibility exists that the victim will suffer concrete mental damage due to the offender's proximity. The court is also instructed to take into consideration any damage caused to the sex offender due to these limitations.

11. Also, Section 2B of the *Public Tender Law*, 5752-1992 ("*Public Tender Law*") stipulates that in a governmental tender, a woman-controlled business (a business controlled by a woman, holding 50% or more of the means of control, alone or with other women, enabling her to direct its activity) shall be preferred in a tender, when receiving an equal score to a non woman-controlled business.

12. Another important amendment is Amendment no. 5 (2000) to the *Prevention of Violence in the Family Law*, 5751-1991 ("*Prevention of Violence in the Family Law*") which encompasses a significant change in attitude regarding firearms to those given a protective injunction. Previously, when a Court convicted an individual of a violent crime, it was not to refuse the prosecution's request to suspend whatever firearm license that individual might have had, or to deposit that firearm with the police, without special reasons. Pursuant to Amendment no. 5, of the abovementioned law a person given a protective injunction shall be prohibited from carrying or bearing a firearm, including one issued to him by the security forces or another state authority. This means a person is <u>usually</u> denied his right to carry and bear firearm following an injunction – unless certain conditions specified in the law are met. A permit to carry and bear a firearm requires specific conditions and circumstances - a court hearing in the presence of both parties, followed by a permit listing the conditions to safeguard the family members' safety.

13. Another important revision is Amendment no. 36 (2002) of the *Criminal Procedure Ordinance*, adding sections 59A and 62A. According to these sections, a police officer and/or a public prosecutor may not rely solely on a spouse's request not to conduct an investigation or prosecute in a sexual or violent offence among spouses, due to lack of public interest.

Judicial Measures

14. The main judicial measures taken since our previous report, concerning the elimination of all forms of discrimination against women are:

15. An innovative decision, anchoring affirmative action, by the High Court of Justice is H.C.J. 5325/01 *The Association for the Advancement of Women's Basketball v. Ramat HaSharon Local Council et al* (02.06.04). The Court examined the issue of fund allocation to sports institutions. The Court based its ruling on section 3A of the *Budgetary Principles Law*, 5745-1985 ("*Budgetary Principles Law*"), which establishes the criteria of equality for budget allocations to public institutions. The Court here applied the allocation criteria, adopted by the Ministry of Culture, Science and Sport, which sanctions affirmative action and grants women sports activities with 1.5 times the budget allocated to male sports activities. The Court ruled that the need for equality also concerns local councils and their allocation of funds. The Court held that the Ramat HaSharon Council, the Head of the Council, and the Ramat HaSharon Center for Education and Sport are to allocate funds according to the above criteria.

16. Another important ruling is *H.C.J 6845/00 Eitana Niv et al. v. the Klalit Sick Fund* (9.10.02). The ruling dealt with early-retirement arrangements for the Fund's employees, which provided preferable benefits to male employees up to the age of 65, whilst granting female employees these provisions benefits only up to the age of 60. The Court defined discrimination as "an unequal and unjust treatment given to equal persons". The Court thus stipulated that the Fund must provide women with the same rights as men within the retirement arrangements and that the Fund discriminated against the petitioners. The Court also stated that equality is a fundamental value in the Israeli legal system and that gender-based discrimination is one of the gravest forms of discrimination. The State of Israel, throughout the years, anchored equality between the genders and only exceptional considerations would justify overpowering it. Discriminating against women is clearly contrary to public order and essentially null. Subsequently, the Court ordered the removal of the discriminating provisions of the early-retirement arrangements.

17. Also, in September 2004, the Supreme Court ruled against publicizing complainants' identities in sex offences, following the conclusive acquittal of the accused *(C.A.A 5877/99 Haim Yanos v. The State of Israel (28.09.04))*. The Court stated that when it rejects the complainant's claims, it no longer has to continue and protect the complainant and her interests (privacy, dignity and reputation). However, above all, stands the significance of the public interest to encourage women to come forward and complain. The society's wish to expose criminals will be badly hurt if the names of complainants, even false-complainants, will be published.

18. Additionally, the Family Court in Jerusalem, in a landmark decision, ordered a husband to pay his battered wife 90,000 NIS (20,000 $) compensation, mostly as “punitive

damages") *F.C.C 018551/00 K.S v. K.M (07.06.04))*. These damages were awarded to the wife for "five years of on-going grievance by way of abuse, scorn, humiliation and enslavement". The court here implemented the option stipulated by law for increased damages, due to harsh circumstances which she faced.

19. In another landmark decision from January 2005, the Supreme Court accepted the appeal of two women, a same-sex couple, to adopt each other's children. The Court ruled that under the *Adoption of Children Law* 5741-1981 (*"Adoption of Children Law*"), each case should be examined on its own merits and all the relevant circumstances need to be taken into consideration. The Court emphasized that the decision solely concerns this couple and is not a principled one, thus setting aside the question of same-sex relationships for future deliberation. The Court recommended that the Knesset amend the law to provide a solution to a real problem, and attempt to bypass controversial ideological problems that the issue presents. (C.A. 10280/01 *Yaros-Hakak v. The Attorney General* (10.01.05)).

20. In an innovative judgment, the Nazareth District Court determined, that the term "man and woman" in the *Inheritance Law, 5725-1965*, ("*Inheritance Law*") includes spouses of the same gender. The judgment was based upon the general inclination to broaden the interpretation of the term "spouse", in the *Inheritance Law*. *(C.A. 3245/03 A.M. v. the Attorney General (11.11.04))*.

Administrative Measures

21. Several major additional measures taken by the Government, concerning the elimination of all forms of discrimination against women were:

22. The Civil Service Commission added a segment in tender announcements regarding affirmative action for women. The Commission also established educational programs on the issue of affirmative action for women for members of tender committees.

23. The Ministry of Industry, Trade and Labor initiated a special program to integrate single parents into the labor market, specifically those receiving income guarantees and alimony payments, with the intention of increasing single parents' earning capabilities, while raising their employment qualifications. The program grants its participants with the following benefits: a 9,600 NIS grant to those who increase their income by at least 1,200 NIS compared to their income in May-July 2003; single parents' full time employers are entitled to a financial grant of up to 12,000 NIS; travel expenses refund; vocational and professional training; and participation in fees for children in kindergarten and day-care centers. The program began in August 2003, and by March 2004, 30,000 single parents approached the Bureaus, 13,000 of them were referred to positions and 5,100 were placed accordingly. The dropout rate is about 30%. Also, 630 single parents are currently attending vocational courses, and 372 of them placed their children in day-care centers.

Current Situation

24. The following data reflects the current situation of women in Israel and the advancement achieved in the elimination of all forms of discrimination against women:

25. The legal field is one of the professions in which women have closed the gap as will be illustrated in the following figures.

26. The number of female judges continues to climb in conjunction with the rising number of judges in general. In October 2004, there were 262 women judges out of a total of 542 judges, (48.3% of the judiciary in Israel). The number of female Justices on the Supreme Court has risen to 40% (six out of fifteen Supreme Court Judges). Women continue to compose the majority of professional labor judges (67.3% of the judges, and 57.1% of the registrars), nearly half of the District Courts judges (41.3%), almost half of the Magistrate Courts Judges (48.7%) and more than half of the registrars (56.9%). Women have also increased their role as public-representatives in the labor courts (constituting 14.8%) representing employees and employers' unions side by side with professional judges.

27. Women remain a majority in the public sector of the legal profession. The retiring State Attorney was a woman, and as of July 2004, 113 (66.9%) of the 169 legal advisors in the Ministry of Justice were women, and a parallel percent of women were working in the State Attorney's and the Attorney General's offices (432 women and only 210 men) and the Public Defenders office (33 women compared to only 15 men). There were also 201 female legal-interns to 120 male legal-interns, and 22 women in the senior judge-equivalent ranks and only 8 men.

28. Women's representation on the Boards of Government Corporations is rising. At January 2005, women constituted 37% of the directors. There were 5 women (11.36%) serving as head of a board of directors (4 new nominations since our previous report), and 9 women (11.84%) served as CEO's of governmental corporations.

29. Higher Education - Women still constitute a majority among the first (55.9%), second (57.1%) and third (52.7%) degree students. There are no dramatic changes in the percentages when compared to previous figures. Women comprise a majority in fields such as humanities (71%), social studies (63%) medicine (50%), and life sciences.

30. Medical Administration - Women still compose a majority (5 out of 7) of the Ministry of Health's District Doctors. Women also head five major departments in the Ministry, and there are two women deputy director generals. There are 12 women (26%) in the National Health Insurance Council.

Article 1 - Definition of Discrimination against Women

The Constitutional Level

31. As elaborated in our previous report, although the right to equality is not explicitly included in the two Basic Laws enacted in 1992 and 1994 (*Basic Law: Human Dignity and Liberty*, 5752-1992 *("Basic Law: Human Dignity and Liberty"*)**;** *Basic Law: Freedom of Occupation*, 5754-1994 *("Basic Law: Freedom of Occupation"*), it is encompassed within the basic right to human dignity. This interpretation was repeatedly approved by the Supreme Court (*H.C.J 6845/00 Eitana Niv v. the Klalit Sick Fund (09.10.02)* - detailed above and below) as well as by many jurists in Israel, led by Chief Justice Barak.

32. Israel's legal system is multilayered, as detailed in our previous reports. The process of legislating basic laws is complicated and necessitates balancing between the various sectors among the Israeli society. Following the completion of this process, the state will report to the Committee accordingly.

33. Furthermore, the Israeli Constitution, Law and Justice Knesset Committee is in the process of preparing a consensual-based constitution, and has held over 60 sessions on drafting its text. Among the topics discussed are: due process guarantees, freedom of speech and assembly, the right to form and join trade unions, and the right to adequate standard of living.

Equal Rights Legislation

34. Since our previous report, several significant developments took place on the legislative level, with regard to women's representation in public bodies.

35. In June 2004, Amendment no. 9 to the *Equal Employment Opportunities Law*, 5748-1988 ("*Equal Employment Opportunities Law*") added pregnancy as one of the grounds of prohibited discrimination in the workplace, both as a job applicant and as an employee.

36. Section 2B of the *Public Tender Law*, added in a 2003 amendment, stipulates that in a government tender, a woman-controlled business, shall be preferred, when receiving an equal score to a non woman-controlled business.

37. In 2002 a new amendment to the *Planning and Building Law*, 5725-1965 ("*Planning and Building Law*, added a mandatory representative of women's organizations to the National Council for Planning and Building.

38. In 2004, Section 9B, 9A was added to the *Sports Law*, 5748-1988 ("*Sports Law*") and concluded that all sports organizations, including sports associations, unions and federations, supported by the state, shall provide appropriate representation to women.

39. Further elaboration concerning these laws and others will be provided throughout this report.

Judicial Development of the Right to Equality

40. Over the years, the judiciary has contributed significantly to the development of the right to equality in general, and to gender equality in particular. The most recent judicial statement against gender discrimination was made by the High Court of Justice in *H.C.J 6845/00 Eitana Niv v. the Klalit Sick Fund* (9.10.02). This petition concerned early-retirement arrangements for the Fund's employees, providing preferable benefits to male employees up to the age of 65, whilst granting female employees these benefits only up to the age of 60. The Court defined discrimination as an unequal and unjust treatment given to equal persons. The Court thus stipulated that the Fund must provide women with the same rights as men within the retirement arrangements and that the Fund discriminated against the petitioner. The Court also stated that equality is a fundamental value in the Israeli legal system and that gender-based discrimination is one of the gravest forms of discrimination. The State of Israel, throughout the years, anchored equality between the genders and only exceptional considerations would justify overpowering it. Discriminating against women is clearly contrary to public order and essentially null. Subsequently, the Court ordered the removal of the discriminating provisions of the early-retirement arrangements.

41. Another innovative decision, applying affirmative action to the funding of female sport activities, was given by the High Court of Justice in a petition (*H.C.J. 5325/01 The Association for the Advancement of Women's Basketball v. Ramat HaSharon Local Council et al (02.06.04)*) filed by the Association for the Advancement of Women's Basketball against the Ramat HaSharon Local Council and others. The Court examined the issue of fund allocation to sports institutions and held that the need for equality also concerns local councils and their allocation of funds. The Court based its ruling on section 3A of the *Budgetary Principles Law*, which established the criteria of equality in budget allocations to public institutions. These criteria, adopted by the Ministry of Culture, Science and Sport, sanction affirmative action and require women sports activities to receive 1.5 times the budget allocated to male sports activities. *The* Court ruled that the Ramat HaSharon Council, the Head of the Council, and the Ramat HaSharon Center for Education and Sport are to allocate funds to female sports activities in accordance with the updated version as mandated by the Sports Associations' criteria.

The Elimination of Discrimination in the Private Sphere

42. An important law enacted in 2000 in the private sphere was the *Prohibition of Discrimination in Products, Services and Entry to Places of Entertainment and Public Places Law*. The law prohibits discrimination in the provision of products or public services, granting entry to public places, or providing services in a public place due to certain grounds, including gender, sexual preference, personal status and parenthood. The

law also prohibits discriminatory advertisements, and addresses the issue of civil wrongs and punishments.

43. Another relevant amendment (from 2002) was section 2B of the *Public Tender Law,* setting preference to private businesses owned by women in public tenders, as detailed above and in Article 4 below.

Article 2 - Obligations to Eliminate Discrimination

Legal Provisions

Basic Laws

44. The Israeli legal system is multilayered and consists of several legislative instruments in hierarchal order. One of the fundamental legislative avenues for entrenching the rule of law and human rights are the basic laws. Basic laws comprise a "constitution-in-the-making" in a piece-meal fashion. The basic laws deal with topics such as the structure of government or focus on human rights issues.

45. Basic laws enjoy a unique status and are usually superior to other laws. Thus, while the basic laws are adopted by the Knesset in the same manner as other legislation, some basic laws have “entrenched clauses” whereby a special majority is required to amend them. Furthermore, derogation from a right enshrined in a basic law may only be made if it is pursuant to the "values of the State" and for a "worthy purpose".

46. The process of legislating basic laws is complicated and necessitates balancing between the various sectors among the Israeli society. This process in ongoing and once it is completed, the Government will report to the Committee accordingly.

47. Furthermore, the Israeli Constitution, Law and Justice Knesset Committee is in the process of preparing a consensual-based constitution, and has held over 60 sessions on drafting its text. Among the topics discussed are due process guarantees, freedom of speech and assembly, the right to form and join trade unions, and the right to adequate standard of living.

Ordinary Laws

48. Since the submission of our previous report, Israel has enacted several pieces of legislation aimed at eliminating discrimination against women. Among the most important laws recently enacted, is the 2004 Amendment No. 9 to the *Equal Employment Opportunities Law*, adding pregnancy as one of the grounds upon which a person cannot be discriminated in the workplace; section 9A of the *Sports Law* (Amendment No. 5) (*Proper Representation*), from 2003, which requires all sports organizations, including sport associations, unions and federations supported by the state, to ensure appropriate representation to women; section 2B of the *Public Tender Law* from 2002, that mandates

the government to approve a woman-controlled business (as defined below), when receiving an equal score to a non woman-controlled business in a government tender, and the amended *Planning and Building Law*, requiring a mandatory representative from women's organizations to the National Council for Planning and Building.

Legal Recourse Available for the Pursuit of Women's Rights

The Public Complaints Commissioner and State Comptroller

49. As stated in our previous report, the Public Complaints Commissioner remains responsible for handling complaints and grievances from the public, including complaints from women. According to the Commissioner's records, the Commissioner received a total of 19,691 complaints in the period between 30.9.2000 – 31.12.2003. 160 of these complaints concerned women's issues, in matters such as social benefits (including alimony payments, maternity grant, and birth allowances) as well as marriage registration and sexual harassments complaints. Of these complaints, the inspection ceased in 138 instances for various grounds, 87 complaints were settled and 17 of the complaints were deemed admissible and were examined through the relevant channels.

50. Since our previous report, the State Comptroller published three reports on women-related issues. One report is The Classification and Assignment to Positions of those Designated to IDF Service: (2002). In the *Defence Service Law [Consolidated Version]*, 5746-1986 ("*Defence Service Law [Consolidated Version]*") there are provisions concerning equivalent summons for initial duty, as well as medical and qualification examinations. The State Comptroller found that female-minors undergo a partial examination prior to their assignment to combat duties. The Comptroller recommended a reevaluation of these examinations, especially concerning female-candidates for military service, designated for combat duties, to ensure that the examinations are performed in an equal manner. In the government's response to this report, it was mentioned that only about a third of all future enlistments complete the medical background forms, and that the IDF is currently exploring internet based options for completing these forms. Furthermore, the IDF is performing an overall evaluation of the medical committees' procedures. Also, additional interviews for female-minors intended for combat positions were added.

51. Another report is titled Women Service in the I.D.F. (2002) The State Comptroller found that the opening of new positions for women and their integration were not accompanied by any analysis of the characteristics of each position and no standards were set to evaluate the success of integration. The Comptroller also noted the lack of research concerning the medical-physiological aspects associated with female combat duties. In the government's response to this report, it was stated that an extensive evaluation of the medical-physiological aspects of female positions in the IDF will be performed. Also, 2,500 additional posts will be available for women, throughout the IDF.

52. In The Phenomenon of Spousal Violence: (2002) report, the State Comptroller opined that spousal violence requires a systematic and effective solution. The obligation to respond effectively to spousal violence is imposed on the governmental ministries, especially the Ministry of Social Affairs, which must examine the organizational structure of the different operating services in that regard. Moreover, the distribution of responsibilities must be clear and effective, and the relevant bodies must work in full cooperation and coordination. In the government's response to this report it was stated that the Ministry of Social Affairs is now the focal point for the treatment of domestic violence, and its director general heads an inter-ministerial Committee coordinating the treatment of domestic violence. Also, control and supervision procedures were established for the regulation of the Centers for the Prevention of Domestic Violence.

Other Governmental Bodies

53. Legal recourse for women to advance their cause and to fight discrimination is available through the judicial system. In addition, governmental bodies such as the Ministry of Industry, Trade and Labor's Division for Employment and Status of Women, the legal aid in the Ministry of Justice, the Discipline Superintendent in the Civil Service and the Department for the Advancement and Integration of Women in the Civil Service can also provide adequate remedies, within their spheres of competence and responsibility, such as disciplinary measures, etc.

Governmental Mechanisms and Measures Established to Promote the Status of Women

Investigative and Study Initiatives by the Government

54. Since our previous report, the Authority for the Advancement of Women in Israel conducted two major surveys regarding women in Israel, as will be further elaborated, the first regarding the needs of women and their expectations for institutional solutions for these needs second regarding “Identifying Early Signs of Violence during Courtship”. These surveys will be detailed below.

Mechanisms Implemented for the Improvement of the Status of Women

The Authority for the Advancement of Women in Israel

55. Since our previous report, the Authority has taken several steps to achieve advancement of these goals, including:
    1) Training 1,000 community leaders to assist in implementing the diverse aspects of advancing the status of women in the community. This is performed through identifying “conversion agents” in the community and qualifying women’s forums for leadership, working towards the advancement of the status of women.
    2) A range of activities aimed at the financial empowerment of women in all aspects of life. This includes promotion of women’s entrepreneurship, under the guidance of a special women’s entrepreneurship think-tank.

3) Publishing a 36-pages booklet, titled: “Women’s Rights at the Workplace – you deserve to know”, containing assorted information relevant to working women, including relevant laws, entitlements, sick leave, dismissal, sexual harassment, pregnancy and maternity leave, and labour court complaints. 150,000 copies of this booklet were circulated in Hebrew, Arabic and Russian.
4) Issuing an extensive pamphlet providing information on women’s rights, services and projects targeted at women and teenage girls. 200,000 copies of this pamphlet were distributed.
5) Circulating another leaflet providing assistance in early detection of domestic violence, containing the contact numbers of all bodies relevant to the phenomenon of domestic violence. 90,000 copies of this leaflet were circulated in Hebrew, Arabic and Russian.
6) Approaching the heads of all Municipalities, urging them to nominate advisors on the status of women.
7) Holding courses aimed at training and professional guidance of the advisors on women status, holding annual meetings for graduates of these courses, conducting professional tours among the advisors and holding regular conferences and seminars for residing advisors.
8) Collaboration and nurturing of women-leaders in different organizations, including professional organizations, political parties, youth movements and women-oriented NGO’s. Organizing regular consultation and strategy meetings with the heads of major women's NGO’s.
9) Organizing professional seminars and conferences for the purpose of implementing the policy of widening and advancing leadership in women’s status issues and combating violence against women, attended by relevant participants and policy-makers.
10) Promoting issues relating to women’s health and well being through periodic conferences and seminar, and providing tools to assist local advisors on the status of women in activating local projects on women’s health.
11) Devoting special efforts and resources towards the advancement of women in the Arab sector – assigning a special project manager for the Arab sector, addressing the state’s inheritance fund to support projects within the Arab sector, mapping women associations in this sector, establishing a steering committee of all relevant factors and conducting surveys and conferences for women and policymakers regarding this sector on issues pertaining to employment, education, entrepreneurship and violence against women.

56. The Authority also receives regular appeals following their publications, in various matters, triggering women to approach them with complaints. The annual number of applications is estimated at 1,000, mostly regarding women’s rights at work, the dismissal of pregnant women and post-natal women, employment related matters, entrepreneurship, and women in key positions. Additionally, there are several applications regarding marriage and divorce related issues, as well as welfare and financial issues.

57. As the Authority has no individual legal counseling, it refers the complainants to the appropriate venues, such as the Ministry of Social Affairs, the Ministry of Industry, Trade and Labor, Legal Aid, shelters, etc.

The Knesset Committee for the Advancement of the Status of Women

58. The Knesset Committee for the Advancement of the Status of Women has continued its activities towards the advancement of the status of women. The current committee consists of 15 members, 9 women and 6 men, from a wide range of political parties.

59. Recent legislation enacted with the support of the Committee include the *Sports Law (Amendment No. 5) (Proper Representation)*, from 2003; the *Prevention of Sexual Harassment Law***,** 5758-1998 ("*Prevention of Sexual Harassment Law*") *(Amendment – National Service* from 2004; the *Prevention of Sexual Harassment Law (Amendment – Authority Use in Studies*), from 2004 and the advancement of a bill for *Employment of Women Law (Amendment No. 28) (Permits for Dismissal or Reduction in Number of Working Hours*), from 2003.

60. Since our previous report, the Committee also advanced and improved the status of women through the following measures:

1) Initiation of special parliamentary discussions on International Woman's Day, as well as on National Fight the Violence against Women's Day.
2) Holding regular sessions with members of the Civil Service Commissioner regarding sexual harassment claims and women's representation in the Civil Service.
3) Receipt of regular reports from the government ministries regarding women's representation and an approach to the Ministry of Finance on the subject of equal payment for men and women.
4) Monitoring the advancement of equal representation for women, and the implementation of the relevant legislation, including in governmental tenders;
5) Discussions, and an on-site visit, relating to Bedouin women issues, in cooperation with the local Bedouin population;

Performance of the Civil Service

61. The Department for the Advancement and Integration of Women within the Civil Service has been active on a wide range of topics, all aimed at promoting women in the civil service.

62. The Department heads the training and professional guidance of supervisors on the status of women in government offices and the auxiliary units (currently 78 such supervisors), interviews all new supervisors, conducts regular training courses (a 300-hours mandatory course), sessions and conferences and provides on-going updates of relevant information and material to deal with issues relating to the status of women (in 2003, for example, 35 circulars were distributed to the supervisors by the Department). In addition, all

supervisors must report to the Department biannually and these reports are further discussed in biannual meetings that take place with each supervisor.

63. The Department continues to serve as an address for women civil servants to submit complaints regarding discrimination, injustice and grievance in their status and working conditions. Over a hundred such complaints are received annually, concerning a wide variety of subjects. In 2003, the Department received 119 complaints; approximately half of them involved sexual harassment allegations.

64. The Department gives special attention to the implementation of the *Prevention of Sexual Harassment Law* in the Civil Service, through training of the supervisors on the status of women in the governmental ministries, conducting seminars and conferences, regular follow up and supervision as to the law's implementation in the ministries and auxiliary units, establishing clear procedures for the treatment of sexual harassment complaints, and filing regular reports to the Knesset regarding sexual harassment cases in the civil service.

Measures Taken on the Municipal Level

65. In accordance with the *Local Authorities Law (Advisor on the Status of Women*), 5760-2000 *("Local Authorities Law (Advisor on the Status of Women)")*, as of January 2005, there were 68 advisors in city councils and 43 in local municipalities. 38 of whom, in Arab local municipalities. These advisors are closely guided by the Authority for the Advancement of Women, keeping them informed as to the latest updates, distributing relevant material and statistics, conducting conferences and guidance sessions, as well as training courses.

Article 3 - The Development and Advancement of Women

66. Israel has taken a wide range of actions, in the political, social, economic and cultural fields, to enable the comprehensive development and advancement of women. The actions by Israel have taken place via legal developments, public and private awareness campaigns and social changes. These measures, detailed throughout the report, enhance the protection of women's rights and further develop their roles in Israeli society.

Effective national machinery and publicity

67. The Convention was translated into Hebrew and published in the "Kitvey Amana" - a public document. Additionally, the previous report submitted to the Committee is available on the Ministry of Justice's web site.

68. Various governmental ministries held Seminars and conferences regarding the status of women, discussions on the implementation of the Convention in Israel, in their relevant fields of operations. For example – "Gender, Society and Law" and "Trafficking in

Women" Conferences held by the Ministry of Justice and "Women in The Labor Force – Challenges and Opportunities", held by the Ministry of Industry, Trade and Labor.

Women with Disabilities

General and Legal Framework

69. According to estimates by the Commission for Equal Rights for People with Disabilities within the Ministry of Justice, people with disabilities make up about 10% of the Israeli population; about half of them are women. According to the Commission, women with disabilities suffer from “twofold” discrimination.

70. On March 22, 2005 the Knesset approved Amendment no. 2 to the *Law on Equal Rights for People with Disabilities* 5758-1998, ("*Equal Rights for People with Disabilities Law*"). The amendment to the law obligates the state to make new buildings and infrastructures accessible. The law also requires that the service granted to the public, be made accessible to people with disabilities. Public buildings, areas of commerce, public institutions, schools, clinics, institutes of higher education, employment centers must all be made accessible to people with disabilities. The provisions of the law set up a period of 6 years for the implementation of the law in the privately-owned public areas and a period of 12 years for its implementation in public authorities.

71. Since our previous report was submitted, several other regulations that further advance the right to equality and human dignity for people with disabilities were promulgated.

72. Among these regulations are: *Equal Rights for People with Disabilities Regulations (Priority* Parking *Spaces at the Work Place), 5762-2001* ("*Equal Rights for People with Disabilities Regulations (Priority Parking Spaces at the Work Place*)"); *Minimum Wages Regulations (Wages Adapted to Employee with Disability with a Diminished Working Ability),5762-2002* ("*Minimum Wages Regulations (Wages Adapted to Employee with Disability with a Diminished Working Ability*)"); *Equal Rights for People with Disabilities Regulations (Regularization of Accessibility to Public Transportation Services), 5763-2003* ("*Equal Rights for People with Disabilities Regulations (Regularization of Accessibility to Public Transportation Services)*").

General Economic and Personal Situation

73. Information regarding people with disabilities originates from details on various disability benefits given to the six main categories of disabled people. These categories determine the source and type of support provided and they are based on: general social security disability pension, employment disability pension, IDF (Israel Defence Force) disability pension, hostile operations disability pensions, Holocaust and anti-Nazi operations disability pensions, and children receiving disabled child pensions. Men are the major recipients of disability pensions in most categories, except for a slightly higher number of

women among those receiving hostile operations and Holocaust and anti-Nazi operations disability pensions. The men's rate is particularly higher among the IDF disability pension recipients and the employment disability pension recipients. Women make up 5% and less than 9.8% of these last two groups respectively.

74. Women make up less than half (42%) of the general social security disability pension recipients, mostly due to the higher standard of disability required for women homemakers. Homemakers are still required to prove 50% medical disability (as opposed to the usual 40%) in order to be eligible for a pension. Their ability to function in the house is examined to assess their eligibility and they are not entitled to a dependent supplement for their unemployed partner, but only for their children.

Special Health Concerns of Women with Disabilities

75. A nation wide accessibility survey found that most health clinics are not fully accessible to people with disabilities (95.4%). Also, in a sample survey of gynecological clinics, not one of the 24 clinics sampled addressed all basic requirements of women with disabilities, and only 6 clinics corresponded with most of these requirements.

Employment

76. The majority of people with severe disabilities are unemployed and most of them have never held steady jobs. Over 70% of the people with severe disabilities, physical illnesses and mental deficiencies, as well as approximately 72% of the blind and 20% of the deaf are unemployed. Of those employed, there is a higher number of men than women (20% to 12%) and 42% of the men work full time, whilst that figure is only 33% for women.

Article 4 - Acceleration of Equality between Men and Women

Affirmative Action

Expanding Affirmative Action to Public Institutions

77. As noted before, a major recent development is the 2002 amendment of the *Public Tender Law*, adding section 2B, aimed at encouraging women in business. This section stipulates that in a governmental tender, a woman-controlled business (a business controlled by a woman, holding 50% or more of the means of control, alone or with other women, enabling her to direct its activity), shall be preferred, when receiving an equal score to a non woman-controlled business, provided certain preconditions are met.

78. The Civil Service Commissioner added a segment in tender announcements regarding affirmative action for women.

Affirmative Action in the Civil Service

79. The 2001 enactment of section 15A of the *Civil Service Law (Appointments),* detailed in our previous report, added to women's representation within the higher ranks of the civil service, as will be detailed below, although there is still room for improvement.

Affirmative Action in Governmental Corporations

80. According to current data from the Governmental Corporations Authority, as of January 2005, women constitute 37% of the governmental corporations directors. Since our previous report, more than a third of the directors nominated in governmental corporations were women (203 women of 558 nominations). To this date, there are 5 women (11.36%) serving as head of a board of directors (4 new nominations since our previous report), and 9 women (11.84%) serve as director general's of governmental corporations.

Affirmative Action in Public Corporations

81. Despite these achievements, women still lack representation in the managerial levels in boards of directors of public corporations when compared to men. In 2002, the percentage of women directors of all directors was approximately 26%.

Affirmative Action in Other Areas

82. As mentioned in our previous report, both the High Court's decisions (*H.C.J 6845/00 Eitana Niv* and *H.C.J 5325/01 the Association for the Advancement of Women in Basketball* – as detailed in article 1 above and Article 10 below) and the current legislation establish an all-encompassing basic legal principle concerning the legitimacy of affirmative action as an integral part of the principle of equality. They also established a requirement of adequate representation of women in public bodies, as part of the principle of equality.

83. Two further examples for such legislation are the amended *Planning and Building Law,* adding a mandatory representative of women's organizations to the National Council for Planning and Building and section 2B of the *Public Tender Law*, as detailed in article 1 above.

Special Measures Aimed at Protecting Maternity

84. An extensive review of this subject matter will be discussed within Articles 11 and 13, below.

Article 5 - Sex Roles and Stereotyping

85. In this Article, various issues reflecting women sex roles and stereotypes will be addressed. Firstly, we shall address the rate of women in Israeli media, including pornography and the recent innovations in this sphere. Secondly, we shall provide an update on women and religion, and finally a detailed review of the phenomenon of violence against women and the measures taken to address it.

Women and the Media

86. In the Israel Broadcast Authority (IBA), which is in charge of public broadcasting, one woman, who also serves as the deputy chairperson, is a member of the eight-member Management Committee. In the IBA Council, women compose 40% of the 20-member Council and a persistent 41% of the total number of employees of the IBA is maintained. Current 2004 data indicates progress in employing women in high-ranking positions within the IBA: there are now 14 women in high-ranking positions in the Hebrew television and 7 in the Hebrew and Arabic radio; there are also 11 women in high-ranking positions in the IBA headquarters.

87. Within the Second Authority Council, which has the highest TV ratings in Israel, and is responsible for the Authority's policy issues, 30% of the members (3 of 10) are women. Within the Second Authority itself, women make up 66.6% (4 of 6) of the high-ranking positions. In the Second Authority's radio stations and television bodies, there also are a noticeably higher number of women in managerial positions as well as women journalists compared to the IBA – Channel 2 News: 47.5% women employees, holding 50% of the journalist positions. Reshet TV: 80% women employees, holding 50% of the managerial positions and 73% of the journalist positions. Radio 102FM: 65.5% women employees, holding 80% of the managerial positions and 48.5% of the journalist positions.

Pornography

88. Following the enactment of the child pornography amendments to the *Penal Law, 5737-1977 ("Penal Law")*, in the 18 months between the beginning of 2003 and mid-2004, 42 investigation cases were opened by the police regarding obscene materials, 13 of which involved minors. Of these cases, 4 were transferred to the police prosecution and two more to the Attorney General's offices. Five additional cases were initiated in the parallel period regarding the publication of prostitution services by a non-minor, and two other cases involving a minor.

89. An important legislative innovation is Amendment no. 27 (from 2002) of the *Communication Law (Bezeq and Transmissions), 5742-1982 ("Communication Law (Bezeq and Transmissions)"),* which expanded the definition of prohibited broadcasts through the supplementary expansion of the definition of obscene material. The amendment applies to licensed broadcasters of Cable and Satellite transmissions. The

amendment adds to the definition transmissions containing the presentation of sexual relations including violence, abuse, abasement, humiliation and exploitation, portraying sexual intercourse with a minor or a person pretending to be a minor, and the presentation of a person or any of his organs as an object ready to be sexually used. All of the above is considered profane so long as the programs are not distinctly of an artistic, scientific, newsworthy, educational or informative value such as to justify their broadcast under the circumstances.

90. The High Court of Justice has recently made a landmark ruling in this area, (*H.C.J 5432/03, 5477/03, S.Y.N. – Women Equal Representation et al v. The Council for the Broadcast of Cable and Satellite Transmissions et al* (03.03.04)). This petition was filed against the Council's decision to broadcast adult channels, whose contents are pornographic and erotic, based on Amendment no. 27 of the *Communication Law (Bezeq and Transmissions).* The Council initially prohibited the broadcasting of the "Playboy" Channel yet later changed its decision. The Court here agreed with the Council's interpretation of the law, both linguistically and on constitutional grounds.

91. The Court stated that according to the amendment, not all contents presenting sexual intercourse or acts, fall under the prohibition of objectification. Furthermore, pornographic broadcasts are sanctioned by at least two basic freedoms: freedom of expression and freedom of occupation. Freedom of expression, as a constitutional right, stretches over every expression, including pornographic and erotic ones, although the social value of these expressions is low. However, the offence caused by the expression of pornography, does not deny its pertinence to freedom of expression.

92. The Court examined whether the extent of the offense to the public's feelings surpasses the level of endurance, as only then it is justified to restrict the right of freedom of expression and creation. It should be noted that the broadcasts are limited to subscribers only, are broadcasted late in the day and require a secret code for each entry to the Channel. Here, feelings are offended, but since there is no obligation to watch the broadcasts, the damage is not severe and thus not sufficient to justify an affront to the freedom of expression and occupation, which are two of the basic freedoms in a democratic state. Although pornographic broadcasts are harmful to the dignity of women, under the existing social reality pornography is legal and available through the totality of mediums.

Prostitution

93. As discussed in our previous report, another form of publication, which is pertinent both to pornography and prostitution, is the advertising of sex services. On March 17, 2005, the Magistrate Court of Tel Aviv, in Cr.C. 3635/02, *The State of Israel v. Shoken Network Ltd. et al.,* sentenced 3 persons, the head of a newspaper network, director of a newspaper and the director of the newspaper's advertisements section, to 150 hours of service for the public for violating article 205 (C) (a) of the *Penal Law*, prohibiting any advertisement

for prostitution. Although the three were previously convicted of the above offence, the Court, based on the recommendation of the Probation Authority, decided to revoke their conviction and to require them to carry out their sentence. The Court also ordered all three relevant newspapers to pay a 125,000 NIS fine.

Women and Religion

94. Since our last report we have witnessed an important High Court of Justice decision in the matter of the "Women of the Western Wall". A group of women, representing all religious streams of Judaism petitioned the High Court of Justice (*A.H.H.J.C 4128/00 The General Director of the Prime Minister's Office et al v. Anat Hoffman et al* (06.04.03)) to uphold their right to freedom of religion and allow them to pray in the manner they wished – i.e., in a group wearing prayer shawls (usually only used by men) and using the Torah scroll at the Western Wall. The underlying issue is that for the prevailing Jewish denominations in Israel, and for most worshippers in the Western Wall, women prayer using male accouterments presents an affront to their practice methods and poses a problem for their own prayer methods. After further deliberation, in April 2003, the Court directed the state to make the appropriate arrangements to enable the group to pray at Robinsons Arch which is part of the Western Wall, but separate from the main prayer area, within 12 months. Modifying Robinsons Arch for the women's group required further construction work, and after a delay, on August 17, 2004, a special -prayer plaza was completed near the Robinsons Arch.

Violence against Women, Sexual Violence and Legal Aspects

Prevention of Sexual Harassment

95. Since our previous report was submitted, there were two major amendments of the *Prevention of Sexual Harassment Law*, both broadening the law's spectrum. The first amendment further applied the law to those in National Service, and the second to pupils in the twelfth, thirteenth and fourteenth grades, as well as pupils or students attending adult education institutions.

96. Current data indicates that since our previous report, 188 investigation cases were opened by the police due to sexual harassment complaints. 141 cases were closed due to lack of evidence, *Budgetary Principles Law* lack of public interest, lack of any wrongdoing or unknown offender. 36 cases are being processed by the Police Prosecution/Attorney General offices, and eleven cases are currently pending.

97. In 2002, the *Victims of Offences' Rights Regulations*, 5762-2002 ("*Victims of Offences' Rights Regulations*"), further implementing the Law, were promulgated. These Regulations list the locations where information pamphlets should be placed, in Hebrew, Arabic, Russian, Amharic, English and Braille. The pamphlets are to be placed in the following locations: social services departments, centers for the prevention of domestic

violence, police stations, courts, hospitals' emergency rooms, offices of the Department for Investigation of Police Officers, criminal secretariat of the state attorney, the district attorney's general offices, Magen David Adom (an Israeli first aid organization, parallel to the Red Cross), the Ministry of Social Affairs counseling bureaus and the legal aid bureaus.

98. The *Victims of Offences' Rights Law*, 5761-2001 ("*Victims of Offences' Rights Law*") and regulations are gradually assimilated into the various relevant bodies. The Police designated 6 regional offence victims' officers in charge of contact with victims of crimes (VOC) in each region, supervising the implementation of the Law and regulations in their respective regions as well as conducting training programs.

99. The Prison Service is also working towards implementing the law and its regulations, and a VOC officer was already nominated and is providing the relevant information to interested parties. The Prison Service is in the final stages of developing a nation-wide computerized call center to provide victims of crimes with the relevant information concerning their assailant's status within the Prison Service system.

100. The Department for Pardons in the Ministry of Justice, as a matter of policy, has integrated the basic principles of this Law in every aspect of its activities. This includes meeting with victims and their families and being attentive to the needs and perspectives of the victims throughout the pardon process.

Limitation on Sex Offenders Place of Residence and Employment

101. The Knesset added another layer of protection to victims of sexual violence. Under a new Law, *Limitations on the Return of a Sex Offender to the Victim of the Offence Surrounding Law,* a court can prohibit an offender from residing or working near his victim's place of residence or employment. This provided the court finds that the victim may suffer concrete mental damage due to the offender's proximity. The court is instructed to give proper consideration to the harm caused to the sex offender due to these aforementioned limitations.

Stalking

102. The *Prevention of Stalking Law*, 5762-2001 ("*Prevention of Stalking Law*"), mentioned in our previous report, was enacted in October 2001. The Law is intended to protect a person from harm to his peace, privacy, freedom or body, by another person, acting in a manner constituting stalking (e.g. intimidating harassment) or bodily harm. The court may issue a protective injunction against a person who engages in stalking, or impose further restrictions. The injunction shall be issued for a maximum period of 6 months, can be extended for additional six months, and even further extended given special circumstances to a total of two years. Current statistics indicate that since 2002, 2,946 requests for restraining orders were submitted to the Courts based on this Law, with a

distinct rise through the years – 472 cases in 2002, 1,167 in 2003 and 1,307 in 2004 up until October 1st.

Extent of the Phenomenon of Sexual Violence against Women

Minimum Punishments

103. As detailed in our previous report, the 1998 amendment to the *Penal Law*, instituted a minimum punishment for serious sexual offences, constituting 25% of the maximum that may be imposed. A further 2002 amendment prohibits imposition of suspended sentences except in special circumstances, which must be specified in the court's decision.

104. The Family Court in Jerusalem, in an important decision, ordered a husband to pay his battered wife 90,000 NIS (approximately 20,000 $) compensation, mostly as "punitive damages") F.C.C 018551/00 K.S v. K.M (07.06.04)). These damages were awarded to the wife for "five years of on-going grievance by way of abuse, scorn, humiliation and enslavement". The court here applied the option stipulated in the law for increased damages, due to the harsh circumstances.

Raising Awareness

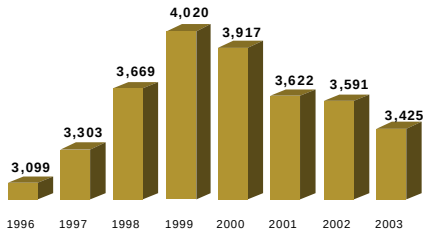
105. The Authority for Advancement of the Status of Women has initiated a nation-wide campaign on the issue of "Identifying Early Signs of Violence during Courtship", holding nearly 200 seminars (with 40,000 participants) throughout Israel. The Authority also conducted a large scale campaign in the media providing women with appropriate tools to identify and avoid violence in relationships.

106. The Courts Administration holds annual 5-days seminars for the Women-Status Trustees. The Trustees serve as the focal point for women-issues throughout the Administration. In the seminars, the Trustees learn about feminism, stereotypes, affirmative action and relevant legislation. In the years 2002-2004, the Administration also held workshops on violence against women, women status, and self-defence for women.

Police Handling of Sex Crimes against Women

107. Comparing to our previous report, over the last four years there has been a decrease in the number of sexual violence cases investigated by the police.

Chart 1 - Sexual Violence Offences, 1996-2003



Source: Israel Police, Crime in Israel 2003

108. In 2003, the police opened 3,294 criminal investigation cases of sexual violence involving women as victims, 655 of these cases pertaining to sexual violence against women in the family (not necessarily incest), and 294 of them were for rape and indecent acts by a spouse (compared to 281 in 2002).

Sex Criminals in the Penitentiary System

109. The Prison Service activates sexual offenders' therapeutical groups through the Mental Health Center in Ramle, targeted at lowering the risks of sexual violence. There are further programs run by social workers in the different prisons.

110. Early release and vacations of prisoners sentenced for domestic violence are discussed in joint committees held in four districts. The Committees' members are from the Prison Service and the Ministry of Social Affairs. The Committees receive the social services reports as to the status of the family (e.g. the victims) and the prisoner treatment in prison. There are also regional committees with Psychiatrists from the Ministry of Health to discuss and diagnose extreme cases of domestic violence.

The Sexual Assault Help Centers Data

111. The Israeli Sexual Assault Victim's Help Centers Union is a parent organization to all help centers operating in Israel, working as a social change agent on a national level, lobbying legislation amendments, and issuing annual reports on sexual assaults.

112. The union has initiated two major legislation amendments, one regarding the need to broaden the definition of "family member" in the *Penal Law*, to include family members such as foster family members and cousins. The other amendment observes the need to extend the period defined in the *Limitation Law*, 5718 - 1958, ("*The Limitation Law*") for offences committed against minors by a non-family member.

113. The union also addresses the issue of the courts' attitude towards sexual offences, with a 5.9 years average-sentence in 2003 in the District Court (which has jurisdiction over

offences with a maximum penalty of over 7 years). Another issue currently promoted by the union is its campaign against the forthcoming amendment to the *Limitation Law*, due to the state's refusal to add a special long limitation period, specifically to victims of sexual assault.

Domestic Violence - Legal Aspects

Recent Amendments to the Prevention of Violence in the Family Law

114. Amendment no. 5 (2000) to the *Prevention of Violence in the Family Law* encompasses a change in attitude regarding firearms to those given a protective injunction. Previously, a court that convicted an individual of any violent crime was not to refuse without special reasons the prosecution's request to suspend whatever firearm license that individual might have, or to deposit that firearm with the police. Pursuant to Amendment no. 5, a person given a protective injunction shall be routinely prohibited from carrying or bearing a firearm, including one issued to him by the security forces or another state authority – this prohibition shall apply – unless certain condition specified in the law are met.

115. The 2001 Amendment no. 7 to the same law established a duty upon certain professionals detailed below, to inform a person treated or advised professionally, reasonably thought to be the victim of a violent or sexual offence committed by her current or previous spouse, of her options – turning to the police, social service department or centers for the treatment and prevention of domestic violence. The duty applies to the following: doctors, nurses, pedagogies, social workers, police officers, psychologists, clinical criminologists, para-medical personnel, lawyers, religious scholars and rabbinical pleaders.

Other Legislative Developments

116. Another important revision is Amendment No. 36 of the 1982 *Criminal Procedure Ordinance* (from 2002), which added Sections 59A and 62A. According to these sections, a police officer and/or a public prosecutor may not rely solely on a spouse's request as an indicator for the determination whether the matter is one that lacks public interest, thus justifying not conducting an investigation or prosecution in a sexual or violent offence among spouses. This stems from the known fact that in many of these cases the victim wishes to rebut her claim, although it has great substance, due to fear from the assailant.

117. In order to encourage victims of sexual offences to come forward and make complaints, on September 2004, the Supreme Court ruled against the publication of the complainants' identities when relating to sex offences, following the conclusive acquittal of the accused *(C.A.A 5877/99 Haim Yanos v. The State of Israel (28.09.04))*. The Court stated that when it rejects the specific complainant's claims, it no longer has to continue and protect her and her interests (privacy, dignity and reputation). However, above all, stands the significance of the public interest to encourage women to come

forward and complain. The society's wish to expose criminals will be badly hurt if the names of complainants, even false-complainants, will be published.

Extent of the Phenomenon of Domestic Violence

Domestic Violence – General Data

118. Recent data from the National Service for Social Work within the Ministry of Health indicates that on average, each year, 2,500 women are reported as victims of violence. These figures are based on reports from hospitals, Sick Funds and Mother and Child Care Units. Most of these women (80%) are detected due to physical injuries, 10% due to sexual assault reports and the rest – neglect and other forms of grievance.

119. The Ministry of Health initiated seminars, workshops and lectures to better prepare medical aid personnel to recognize victims of domestic violence. Over 7,000 doctors, nurses, social workers and others participated in these programs between 2000 and 2003. Furthermore, the Ministry of Health initiated a program encouraging hospital personnel to enquire women of possible violence, regardless of the cause of their admittance. The Ministry of Health' Director General recently issued a circular, obligating doctors, as part of the routine admittance procedure, to enquire about past instances of violence.

120. Among the additional steps taken to institute sensitization concerning domestic violence are: the circulation of informative and guidance materials for care-takers and female victims of violence; the reinforcement of district health bureaus and hospitals with social workers who have domestic violence treatment expertise; establishment of three district centers for the treatment of sexually assaulted women (in Tel Aviv, Haifa and Tiberias); issuing professional procedures for all agents of the health system regarding violence and sexual assault; the establishment of information pools concerning victims of domestic violence, sexual abuse and neglect of minors and the helpless.

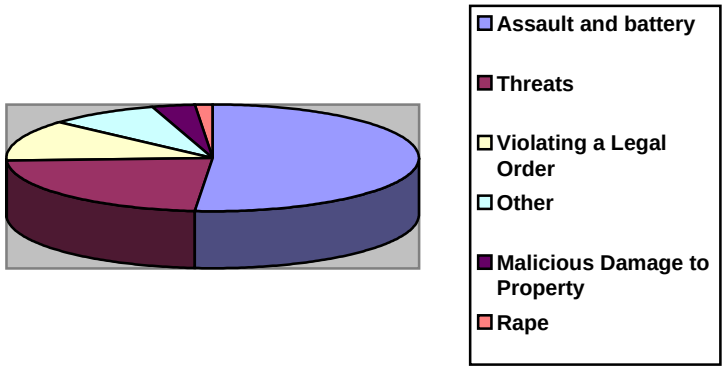
121. The Authority for Advancement of the Status of Women conducted an extensive survey aimed at exploring the public’s awareness of identifying early signs of violence during courtship. The survey showed a very low level of public awareness of these signs. Nonetheless, 90% of the women stated that they would discontinue their relationships upon identifying such indicators. About a third of the public pointed out that it had encountered spousal violence amongst their friends and about 17% of the women had themselves suffered violence during courtship.

Police Handling of Domestic Violence

122. Police records show a decrease in the number of complaints of domestic violence. Thus, in 2003, 20,267 cases of domestic violence were recorded, a 2.9% decrease to the 20,857 cases recorded in 2002. Of the cases recorded, 15,468 were for physical violence,

compared to the 16,058 physical violence cases in 2002. The following chart illustrates offences upon which spousal cases were recorded.

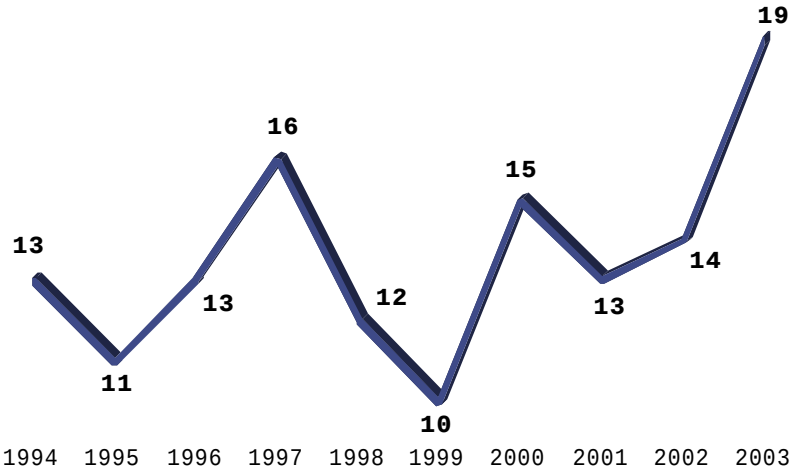
Chart 2 – Spousal Violence Cases, 2003



Source: Israel Police, Crime in Israel 2003

123. Domestic violence remains a threat to women and their very existence. In the first 9 months of 2004, 10 women were murdered by their spouses. The following chart demonstrates the rise in spousal murder.

Chart 3 - Murder of Women by Their Spouse, 1994-2003



Source: Israel Police, Crime in Israel 2003

124. As detailed in our previous report, a national investigative system focusing solely on domestic violence has been operating since 1998 in all police stations throughout the country, consisting of 120 specially trained investigators specializing in domestic violence cases. Fifty other investigators handle these cases in smaller police stations in

addition to their usual workload. There are 2-7 domestic violence investigators in each police station, depending on its size. Nine of the 120 positions were reserved for Arab women investigators in stations that serve the Arab community and there are currently 18 Arabic-speaking investigators, 14 Russian-speaking and 3Amharic-speaking officers. In addition to a weeklong preparatory course detailed in our previous periodic report, which includes theoretical and practical knowledge in the sociological and legal aspects of domestic violence as well as the various police guidelines in this field, there are also yearly seminars for new investigators joining the system. Furthermore, domestic violence (as well as sex offences) workshops are held for the heads of investigation units as well as station officers, investigators, rotation officers, patrol officers, etc.

125. Following a request made by the Victims of Crimes (VOC) section in the police, the police behavioral sciences department conducted an extensive survey concerning the domestic violence investigators and patrol officers attitudes with respect to various topics regarding violence against women. By and large, the survey indicated that the domestic violence investigators have a more positive stance towards battered women than the patrol officers. Both had the same degree of faith in the women's motives for filing the complaints. Also, the investigators deem the police treatment in domestic violence as effective. The survey also compared the current survey to a survey held in 1993, measuring up police officers stance towards battered women to that of social workers. The comparison clearly demonstrates a considerable improvement in the police officers' position in general and a larger improvement in that of the domestic violence investigators.

Additional Data on Police Practices Regarding Domestic Violence Cases

126. It should be noted, that under the police internal regulations, members of the police force are to provide quick and efficient solutions in situations where restraining orders issued are violated, according to the level of severity of the violation and the potential hazards involved.

Centers for the Treatment and Prevention of Domestic Violence

127. The number of Centers for the Treatment and Prevention of Domestic Violence is at a constant rise - 49 to this date (18 additional centers since our previous report was submitted). In 2004, the centers treated 6,947 families (8,556 persons) – a 13% rise to 2003, of those treated – 26% were men, 65% were women and 9% were children who witnessed domestic violence. The Centers in total held 266 therapeutical groups (compared to 210 in 2003, a 27% increase). Furthermore, 15 of the Centers have programs combating violence against the elderly. Some Centers are operated by women associations and organizations, but are fully funded by the Ministry of Social Affairs (75%) and the local authorities (25%).

128. In 12 local municipalities, designated social workers were placed in police stations, for the purpose of conducting conversations with victims of domestic violence and aggressors, referring them to the Centers.

Shelters for Battered Women

129. The Ministry of Social Affairs provides battered women with three phases of shelter-care. All shelters are operated by women associations and organizations, but are fully funded by the Ministry of Social Affairs and the local authorities.

130. The first phase is aimed at women in the preliminary phase of moving out of their homes to shelters, these are “reception apartments”, located in 5 municipalities: Afula, Ashdod, Ashkelon, Be'er Sheva and Dimona. These apartments are designated for women of all sectors, and are also adapted for women with disabilities. The duration of stay in these apartments is limited to six weeks and in the year 2004 - 63 women and about 100 children were housed in these apartments (a 43% increase compared to 2003).

131. In the second phase, 14 shelters are available for battered women and their children. These shelters housed 692 women and 1,064 children in 2004. There are currently two shelters serving the Arab sector and one for Orthodox and ultra-Orthodox women. One of the Arab shelters and another shelter can house women with disabilities. Another shelter is undergoing the required arrangements to accommodate women with disabilities. The shelters are located all over Israel; all receive women on a 24 hours basis.

132. Lastly, there are currently 16 “transitional apartments”, intended to assist women in their transition back to life outside the shelter. In 2004, these apartments housed 54 women and 93 children for a length of stay ranging between 6 to 12 months.

Hotlines

133. There is currently a national hotline for battered women and children, operated by the Ministry of Social Affairs through the “Emergency Line” Association. In 2004, the hotline received 4,700 calls from women, men and children. The service is available in Hebrew, Arabic, Russian and Amharic. There are several additional hotlines run by NGO’s, receiving roughly the same number of calls. The Israeli Sexual Assault Victim’s Help Centers Union reported that during the first 9 months of 2004, it received 5,600 reports from women who were raped or sexually assaulted.

Treatment of Battering Men

134. There are several programs developed for the treatment of battering men. The Prison Service established various treatment frameworks for domestic violators. One such program is the “Beit Hatikvah” or "the house of hope", aimed at lowering the inmates’ level of violence, operating at the Hermon prison. Two similar programs are conducted in

the Tzalmon and the Carmel Prisons. Additionally, domestic violators' treatment groups are active in all prisons, offering help in acknowledging and managing the problem.

Violence against Women within the Arab Sector

135. In 2003, 3 Arab women were murdered in the name of what is known as “family honor”. Murder is a severe crime, punishable by life imprisonment. The Israeli police, as well as Israeli legal system, regard any murder as such, and investigate it vigorously, regardless of the motives of the murderer. Israeli law recognizes no mitigating circumstances in such cases and prosecutes, indicts and punishes the perpetrators in all severity.

Article 6 - Suppression of the Exploitation of Women

General

136. Israel is a country of destination for victims of trafficking in persons for the purpose of prostitution. In 2003, the Police estimated that approximately 2,000 to 3,000 women were engaged in prostitution in Israel and that most women engaged in prostitution were in fact victims of trafficking. According to Police estimates, during 2004, there has been a significant decrease in the number of women engaged in prostitution, especially in the Tel Aviv area, the central location for such activities.

137. The victims of trafficking come predominantly from former Soviet Union Republics and the major trafficking route is illegal smuggling via the border with Egypt. Due to strict supervision, entry via the official sea and air ports is insignificant.

138. The State of Israel does not tolerate the phenomenon of trafficking in persons, has combated this phenomenon in the past, and has continued to do so, with increased vigor, during the reporting period. This issue is a matter of priority for the government. In the past four years, in particular, Israel has undertaken increased efforts to prevent trafficking, to protect its victims and to prosecute the perpetrators.

Prevention

Information Campaigns

139. On the prevention front, there has been great emphasis placed on performing information campaigns, for potential victims and for the public in general.

140. During the latter part of 2004, the Ministry of Foreign Affairs initiated an information campaign in countries of origin for potential victims of trafficking in order to warn them of the dangers and risks involved in entering Israel illegally, and to alert them of the gaps between what is promised by the traffickers and the harsh reality. This is a precedent-setting campaign that has already received positive feedback from organizations in the countries of origin.

141. Also in the realm of prevention, the Ministry of Justice published information on the phenomenon of trafficking and the steps taken by the government to combat it on the internet site of the ministry, accessible to the public. The public was apprised of this information by means of advertisements in two daily newspapers. In addition the Minister of Justice issued on "opinion" on the issue of trafficking which can be accessed by the public.

142. There were a number of documentary films screened on public television geared to raising the public awareness regarding the issue of trafficking. In addition, the Ministry of Education, Culture and Sport is incorporating relevant programs into the school curriculum.

Border control

143. Due to strict supervision, entry via the official sea and air ports is insignificant. The major trafficking route is illegal smuggling via the border with Egypt. In March 2003, a new police unit called the Ramon Border Police Unit was established to monitor the border with Egypt in order to prevent smuggling of persons, drugs and weapons. It has received special instructions with regard to the treatment of suspected victims of trafficking. Strengthened enforcement resulted in a 20% decrease in the number of persons trafficked through the border.

144. Serious efforts have been exerted in this regard. As a result of the intense activity, in 2004, 36 women were caught being smuggled across the Egyptian border into Israel for the purpose of prostitution.

The Legal Framework

Legislation

145. Trafficking in persons is specifically prohibited by law in Israel. In fact, there is a specific provision in the Israeli *Penal Law* that prohibits trafficking in persons. This is section 203A of the *Penal Law* which states that:

a) Selling or purchasing a person in order to engage him in prostitution or serving as a middleman in the selling or purchasing of a person for this purpose is punishable by a term of imprisonment of 16 years; for the purposes of this section, “selling” or “purchasing” includes consideration in the form of money, value, services or any other interests.

b) Causing a person to leave the state in which he lives in order to engage in prostitution is punishable by a term of imprisonment of 10 years.”

146. If the victim is a minor, the penalty is 20 years imprisonment. Trafficking offences are also included as predicate offences in the *Prohibition on Money Laundering Law*, 5760-2000 ("*Prohibition on Money Laundering Law*").

147. A number of recently enacted laws have assisted in the battle against trafficking. For example, a landmark law against organized crime entitled the *Combating Organized Crime Law*, 5763-2003 ("*Combating Organized Crime Law*"), classifies trafficking in women as a felony. In addition, if an offence is committed in the framework of a criminal organization, even if the activity is not enumerated within the new law, the perpetrator is liable to a sentence of double the period prescribed by the relevant penal law, (up to a 25 year imprisonment limit). There are severe sentences for trafficking offences committed in the framework of organized crime- up to 25 years imprisonment.

148. In addition, further amendments have been passed limiting the minimal sentences for traffickers to a quarter of the maximum sentence, authorizing the indictment of citizens or residents who commit trafficking offences overseas even if such activity is legal in the foreign jurisdiction, expediting early testimony of victims, and allowing victims to testify in the absence of the accused.

149. There are a number of bills that have been proposed to combat trafficking in persons, amongst them is a broad bill on trafficking, with substantive and procedural provisions. This bill passed a preliminary reading and the Constitution and Law Committee has commenced deliberations in preparation for the first reading.

Investigation and Prosecution

Police Activities

150. Cooperation between Israeli police and police in countries of origin is maintained, thus laying the groundwork for the extradition of a central trafficker during 2004. The Chief of Police announced that a top priority for the year of 2004 would be combating organized crime including trafficking in persons. As a result, the police devoted increasing efforts to closing houses of prostitution and apprehending criminals involved in prostitution and trafficking.

151. Police policy in this regard dictates strengthening coordination with economic enforcement units such as the tax authorities and the Money-Laundering Agency in organized crime offences in general and trafficking offences in particular.

152. Positive cooperation has been developing between the Israeli Police forces and the Police forces of Germany, Russia and the Ukraine. Recently Germany has initiated an investigation regarding the involvement in organized crime groups and the trafficking of women, of Israeli citizens originally from Russia. Numerous arrests were executed with regard to this episode. Israel has assisted the German Police forces through supplying intelligence material and sending investigators.

Table 1 - Police activity against traffickers

	2002	2003	2004
Number of investigations	67	51	50
Number of suspects arrested	92	92	109
Accused arrested for the duration of the trial	55	65	72
Witnesses hosted in the police funded hostels	130	114	166 In shelter

Source: Israel Police, January 2005

153. In the wake of this concentrated activity, the number of trafficked victims has decreased substantially during 2004, according to Police estimates.

The Prosecution

154. Throughout 2003, over 50 indictments were filed by the State's Attorney's Office. During the period of March 2003-February 2004, the Prosecution filed approximately 53 indictments for trafficking in persons for prostitution and related offences, involving more than 90 accused.

155. According to records provided by the Courts Administration, during 2004, the Prosecution filed 89 indictments for trafficking in persons for prostitution and related offences.

156. Several indictments filed during 2004 included organized crime offences as well as trafficking offences. In several indictments a request for confiscation of the monies gained from the commission of the offences was included. In one of the cases, a request for confiscation of property and vehicles was included as well. This is an important development, as trafficking cannot be uprooted without striking at its economic roots.

157. The Prosecution advocates a broad interpretation of section 203A of the *Penal Law* (the trafficking offence) in court and lobbied for stringent sanctions against traffickers, including compensation for victims. Accordingly, several cases have ended with severe economic sanctions for traffickers.

Courts

158. Since its enactment in 2000, the Courts have interpreted the relevant legislation in a broad manner, thus enabling the conviction of traffickers despite the efforts of defence counsel to stress the letter of the law at the expense of its spirit. Courts have also shown enhanced understanding and awareness of the gravity of this offence and of the need for more severe sanctions. The Courts have explicitly and repeatedly stressed the severity of

trafficking offences and expressed the view that it is their obligation to impose strict sentences in order to reflect the severe maximal penalty imposed by law (16 years imprisonment).

159. In addition to imposing strict punishment, according to section 77 of the *Penal Law*, courts are authorized to rule upon compensation to victims of offences of up to the sum of 228,000 NIS per crime. There is a growing tendency for Courts to rule upon compensation for the victims of trafficking. It is noteworthy that the strict attitude of the courts is explicitly stated in cases of related offences as well.

The Parliamentary Investigative Committee on Trafficking of Women

160. One of the main factors contributing to the combat of trafficking in persons, both in the area of legislation and in raising public awareness, is the activity of the Parliamentary Inquiry Committee on Trafficking of Women. The Parliamentary Inquiry Committee which was a temporary committee appointed for a limited amount of time, has recently become a permanent subcommittee of the government Ombudsman Committee of the Knesset. This betokens recognition in highest echelons of the Knesset of its continuing importance.

161. The Committee is active in the realm of legislation and has proposed several bills and is essentially a forum where various ministries discuss the issues and possible ways of combating the phenomenon of trafficking amongst themselves and with the NGOs.

The Actual Situation

Sentencing

Severe Sentences

162. Since the enactment of section 203A, there has been a steady increase in the sentencing of trafficking offences and in the last 2 years, there has been a series of very serious sentences meted out to traffickers. The Courts have explicitly and repeatedly stressed the severity of trafficking offences and express the view that it is their obligation to impose strict sentences in order to reflect the severe maximal penalty imposed by law (16 years imprisonment). In C.C. 904/03 *the State of Israel v. Sragi Ben Victor Zlutzky et al*. (1.2.05) the Court imposed harsh punishments in spirit of the law: the first defendant received a sentence of 13 year imprisonment and a sum of 25,000 NIS as compensation to be paid to each victim, the second defendant received a sentence of 6 years and 15,000 NIS to be paid as compensation to each victim. Similarly, in C.C. 212/01 *the State of Israel v. Mordechai* (8.2.05) the Court imposed 12 year imprisonment on the defendant for trafficking charges. In a recent case C.C. 774/04 (14.3.05) *The State of Israel v. Genadi Boslovitz et al.*, the sentences imposed on the defendants were strict. The first defendant received a sentence of 14 years imprisonment, 2 years of suspended imprisonment, a sum of 15,000 NIS as

compensation to be paid to each of the ten victims, a fine of 50,000 NIS or alternatively 6 months imprisonment, and confiscation of 200,000 NIS. The second defendant was sentenced to 10.5 years imprisonment, 1.5 years of suspended imprisonment, a fine of 20,000 NIS or alternatively 3 months imprisonment.

163. In a landmark decision this year, the Supreme Court set a sentencing policy in cases where trafficking is not attended by overt violence. In C.C. 1075/03 *The State of Israel v. Alexander Shalom Melokondov* (23.9.04) in which the Court meted out 12 years imprisonment, the Court ruled that the consent of the woman is irrelevant to the offence of trafficking and that this crime is so heinous that its perpetrators deserve severe sentences even if they did not use overt violence.

Compensation for the Victim of the Crime

164. According to Section 77 of the *Penal Law*, Courts are authorized to rule upon compensation to victims of crime up to the sum of 228,000 NIS per crime. There is a growing tendency of courts to rule upon compensation for the victims of trafficking. The majority of the cases decided by the courts included compensation for the victims. In addition, recent sums ruled upon have been relatively substantial. For example: in C.A. 3719/03 *Anonymous* v. *the State of Israel* (10.6.04) the Court ruled that 25,000 NIS should be paid to the victim. In C.C. 1237/02 *the State of Israel v. Vladimir Vaba Ben Nison Chaimov et al*. (15.6.04) - the Court ruled that 15,000 NIS should be paid to 2 victims by one defendant, and 7,500 NIS to the other 4 victims by each defendant. In C.C. 904/03 *the State of Israel v. Sragi Ben Victor Zlutzky et al*. (1.2.05) each of the victims were ordered to receive a total of 40,000 NIS, from the two defendants. In C.C. 774/04 (14.3.05) *The State of Israel v. Genadi Boslovitz et al*., the first defendant was ordered to pay a sum of 15,000 NIS to each of the ten victims.

Protection and the Human Dimension

Shelter

165. A shelter for victims of trafficking has been established and has been operating since February 15, 2004. The shelter has the capacity to house up to 50 individuals and creates a supportive climate, providing access to psychological, social, medical and legal assistance. The shelter has recently been in almost full capacity. While the shelter is under the responsibility and supervision of the Ministry of Social Affairs, it is operated by an NGO.

Assistance to Victims outside the Shelter's Framework

166. *Housing* - Victims who do not reside in the shelter are housed in a number of places. As a rule, they are not housed in prisons. Those who do not choose to testify and are not in the shelter are housed in one of the following locations: in the "Michal" facility for

illegal entrants in Hadera, in Zohar in the south and in Maasiyahu prison in a special section for illegal migrants. In all these places of detention, conditions are relatively pleasant, victims are apprised of their rights, representatives of NGOs are given access in order to render assistance and attempts are made to listen to the needs of the victims**.**

167. *Medical Services* - Victims who do not reside in the shelter are given basic necessities and medical care in the framework of the facilities of the Immigration Administration. Ichilov Hospital in Tel Aviv and Shaarei Tzedek Hospital in Jerusalem provide the women basic medical services. The women can receive unconditional emergency medical aid at any of the emergency rooms in the country. In addition, they continue to be eligible for free medical services for sexually transmitted diseases in the two clinics in the framework of the Levinsky Medical Center in Tel Aviv and Haifa.

168. *Risk Assessment* - If there is some evidence of danger to a trafficking victim, Police intelligence with the assistance of Interpol and Israeli Police delegates abroad prepare a risk assessment which relates to her risk status in Israel and in her country of origin. If it is found that she is in danger in the country of origin, attempts are made to find a solution and for example by maintaining contacts with the IOM (International Organization for Migration(or NGOs in the countries of origin in order to coordinate a safe house and rehabilitation program.

169. In two cases during 2004, the Police reached the conclusion that these claims were well founded, and the women were consequently not returned to their countries of origin.

Coordination

170. In December 28, 2003, the Government decided on the establishment of a Directors-General Committee to develop policy and programs with regard to trafficking in the areas of prevention and protection of victims' rights. In this decision, the Government obligated the Minister of Justice to appoint a coordinator to be involved in prevention efforts, as well as victims' protection. For the past two years, a de facto coordinator operating under the auspices of the Ministry of Justice coordinated the efforts of other government offices and NGO's promoting the rights of the victims to the greatest extent possible. This helped forge solutions to the host of urgent, personal, problems as well as general issues that arose via the assistance of the relevant government bodies. Currently, a new coordinator is to be appointed.

Visas

171. In the past few years, the Ministry of the Interior has been granting temporary visas to the victims of trafficking for an initial period of 6 months (that may be extended). During 2004, the former Minister of the Interior has approved every application for a temporary visa submitted by victims who have concluded their testimony. All victims residing in the shelter automatically receive temporary visas. Moreover, the former

Minister of the Interior issued a policy statement by which, as a rule, victims who have concluded their testimony will be issued temporary visas which include work permits. In addition, in one case, in the wake of a recommendation of the Court, the Minister granted a 2 year visa to a victim of trafficking who had been diagnosed HIV positive.

Courts

172. The Supreme Court has been in the vanguard of change and expressly stated on several occasions that trafficking is a violation of human rights and that the trafficking offence must be interpreted in a broad manner in accordance with the international conventions on trafficking and constitutional human rights law. In addition, courts have begun to develop a practice of awarding compensation to victims of trafficking. In C.C. 455/02 *State of Israel v. Burstein* (7.6.04), the Court further developed the interpretation of "the middleman" in the trafficking offence. This offence was broadly interpreted as not requiring direct proof of money changing hands. Another important development is a wider application of the laws of rape on trafficking situations. In such situations, a trafficker's sexual relations with a woman in his control may be viewed as rape even if she does not expressly say no or physically oppose it. (C.C. 904/03 *The State of Israel v. Sragi Ben Victor Zlutzky et al*).

Legal Aid

173. Legislation has entered into force in August 2003 entitling victims to representation by lawyers from the Legal Aid Division of the Ministry of Justice in civil suits initiated against traffickers and for certain administrative hearings. The legislation does not require a financial eligibility prerequisite and will be applied in a gradual manner.

Police

174. The Police have shown a growing awareness of the rights of victims and have issued guidelines to protect these rights. For example, in general, it is forbidden to arrest or investigate victims of trafficking on suspicion of crimes integral to their status in the country, such as illegal entry. In addition, police are enjoined from eliciting complaints about trafficking and are reminded that testifying victims are not to be held in detention.

175. The police also aid in the protection of victims by performing risk assessments in cases where the victim claims she or her family will be endangered if she is returned to her country of origin. In addition, investigators by and large treat victims with empathy.

Education, Awareness and Cooperation

Study and training

176. Police investigators receive special training for handling trafficking cases on an annual basis. The School of Continuing Education for Police has recently carried out two

programs with relevance to trafficking. One was a week devoted to organized crime, which included trafficking rings (December 2004). The other is a week devoted to trafficking in persons in February 2005. The Institute of Legal Training for Attorneys and Legal Advisers in the Ministry of Justice held a seminar on the influence of international law on criminal law on February 3, 2005, which included a lecture on trafficking in persons. Both institutions have provided training on trafficking in the past 4 years, for investigators and prosecutors.

Cooperation with NGOs

177. The Government attaches great importance in maintaining an ongoing channel of communication with NGOs and civil society at large on the trafficking issue. To this end, the government cooperates with many NGOs in various fields such as prevention and protection of victims of trafficking. There is a constant dialogue between branches of government and NGOs on the trafficking issue. This exchange has borne fruit in both legislative initiatives and common action.

178. Israeli NGOs organize events for raising awareness to the issue of trafficking in persons, various grassroots meetings are held between the representatives of the government and representatives from NGOs.

International Conferences and Cooperation

179. The Government of Israel attaches great importance to its participation in relevant initiatives in the international arena. The government coordinates and participates in several international working groups and efforts to prevent, monitor and control trafficking.

180. The Israeli Police works closely with Interpol in the area of trafficking. The Israeli Police maintain direct cooperation with several countries of origin and other countries, through its representatives abroad. Over the course of 2004, there was outstanding cooperation with foreign police forces in several cases amongst them: Russia, the Ukraine and Germany.

Involvement of Minors in Prostitution

181. Current figures indicate that 10%-12% of the female-minors in the care of the Service for Women and female-minors of the Ministry of Social Affairs engage in prostitution, (approximately 45 female-minors). Another unknown number of female-minors, estimated at hundreds by the inter-ministerial and inter-organizational committee examining this issue, have been exposed to various types of commercial sexual exploitation.

Rehabilitation Programs for Women and female-minors in Distress

182. As mentioned in our previous report, there are no rehabilitation programs specifically geared for sexually exploited female-minors and women. The major rehabilitation program for female-minors is the Service for female-minors in Distress of the Ministry of Social Affairs. The service treats female-minors aged 13-21 in the Jewish sector, and up to age 25 in the Arab sector. Overall, the Service has treated 17,000 female-minors in 2004.

Article 7 - Political and Public Life

Women in Political life in Israel

183. Women in Israel are eligible to vote in all elections and to be elected to every public office, as well as to serve in publicly elected positions, they take part in the formulation of all aspects of government policies and their implementation, as detailed throughout this Article.

184. Women's representation in Israeli political life has progressed in all fields, although there is still a gap between men and women's representation in certain areas of the political life.

Women's Representation in the Knesset

185. There are 18 female Knesset members in the current 16th Knesset, comprising 15% of the Knesset members - the highest ever. The current Knesset has a woman MK serving as a Deputy Knesset Speaker, four women as head of Knesset Committees and 2 women head sub-committees.

Women in the Government

186. The current 29th Government, headed by PM Ariel Sharon, has three women ministers (Justice, Education, and Communications). In addition, there are five women director generals in various governmental ministries. There are currently four women serving as deputy-Ministers.

Women in Local Authorities

187. Although women make up about 60% of the employees in the local authorities, only 4% of them serve in high-ranking positions.

188. 207 women were elected to the local authorities' councils in the last elections - a total of 10.3% of the electives. Overall, women were chosen to councils in 87 out of the 158 local authorities. Thus, while women's percentage in Jewish local authorities' councils

reaches 14.2%, Arab women comprise only 0.5%. Similarly, women were elected at 82% of the Jewish local authorities and only at 4% of the Arab local authorities. This gap is usually explained as the result of various socio-cultural factors such as religion and local tradition, given that in certain minority communities, the role of the women is still somewhat restricted when considering public service positions.

189. It should be noted that the Authority for the Advancement of the Status of Women is working towards increasing the involvement of women in municipalities. This is done through the strengthening of knowledge and awareness to women's involvement in local politics and the preparation of a "Women Reserve" for the next local elections, especially among the Arab sector. Appeals also have been made by the Authority and the Union of Local Authorities to appoint women to high-raking positions in municipal corporations.

Women in the Civil Service

Ranks of Women in the Civil Service

190. Women maintain an absolute majority in the following professions in the Civil Service: nursing (85%), biochemists - engineers (84%), social workers (84%) advocates (66%) jurists (66%) and administration (63%).

191. Although women constitute 64% of the Civil Service, their representation in high-ranking posts remains relatively low. The rate of women among the three top ranks of the senior staff of the Civil Service, the main source for administration managers, has remained the same since our previous report was submitted. In 2003, women totaled 40% of the top three ranks, and 72% of the manpower in the lowest ranks.

Tenders in the Civil Service

192. A significant amendment in this field was the enactment of the *Public Tender Law* (Amendment no. 12 from 2002), relating to State tenders for purchasing goods, real-estate, and services which prohibits discrimination amid the candidates in a government tender for certain grounds, including gender, sexual inclination, personal status and parenthood.

193. The gaps between men and women in Civil Service's internal job-tenders participation, both as candidates and appointees, have diminished in the past four years. There were more women-candidates than men in every year since 2000, with 62.36% in 2003. This trend is also apparent in the appointment of women for positions in the Civil Service, with 61.52% women-appointees in 2003. The situation in public tenders has also improved, women being 49.11% of the candidates in 2003, and comprising 53.50% of new appointments. Yet there remains a slight disparity in favor of men (in relation to their high percentage in the Civil Service in general.

194. The Civil Service Commission, added a segment in tender announcements regarding affirmative action for women, providing special measures for women and establishing educational programs on the issue of affirmative action for women and for members of tender committees.

Women in Key Positions within Israel's Economic and Public Life

195. At the end of 2002, the Knesset amended the *Planning and Building law*, adding a mandatory representative of women's organizations in the National Council for Planning and Building in order to integrate women's issues into the general planning and building agenda.

196. The New Histadrut (the largest employees' organization in Israel) Employees Committees Election Code stipulates that a female candidate who received 50% of the votes shall be preferred over a male counterpart in companies that employ over 300 employees, where at least 25% of whom are female. The code further specifies that a 30% minimum of the members of employees committees shall be of each gender.

The Judiciary

197. The number of female judges continues to climb. In October 2004, there were 262 women judges out of a total of 542 judges, (48.3% of the judiciary in Israel). The number of female Justices on the Supreme Court has risen to 41% (5 out of 12 permanent Supreme Court Justices). Women continue to compose the majority of professional labor judges (67.3% of the judges, and 57.1% of the registrars), nearly half of the District Courts judges (41.3%), almost half of the Magistrate Courts Judges (48.7%) and more than half of the registrars in both instances (56.9%). Women have also increased their role as public-representatives in the labor courts (constituting 14.8%) representing employees and employers' unions side by side with professional judges.

198. The legal Profession - As detailed in our previous report, in the public sector, women remain a majority of the legal profession. The retiring State Attorney was a woman, and as of July 2004, 113 (66.9%) of the 169 legal advisors in the Ministry of Justice were women, and similar percentage of women were working in the State Attorney and the Attorney General's offices (432 women to 210 men) and the Public Defenders office (33 women to 15 men). There were also 201 female legal-interns to 120 male legal-interns, and 22 women in the senior judge-equivalent rank, to only 8 men.

Government Corporations

199. As stated in our previous report, women's representation on the Boards of Government Corporations is rising. At the beginning of 2005, women constituted 37% of the directors. There were 5 women (11.36%) serving as heads of a board of directors (4 new

nominations since our last periodic report), and 10 women served as Director General's of governmental corporations.

200. The Authority for Government Corporations, in cooperation with the Authority for the Advancement of the Status of Women, have requested all governmental corporations to address the issue of women's appropriate representation in their annual reports.

Women in the Military

The Legal Framework

201. In December 2000, the Minister of Defence issued the *Defence Service Regulations (Determining Positions for Women Volunteer Service*), *5761-2001* ("*Defence Service Regulations (Determining Positions for Women Volunteer Service*)"), in accordance with section 16A of the *Defence Service Law [Consolidated Version],* listing all positions requiring active volunteering, thus granting equality between men and women veterans who served in those positions. In addition section 16A is aimed at ensuring substantial equality in opportunities for placement and positions within the military, as well as in duties that accompany such positions which are designated by the Minister of Defence, according to the law.

202. Following the abolition of the women corps (Chen), the Chief of Staff nominated on August 1, 2001, a special body, headed by the Advisor on Women Issues (a brigadier general). This body is assigned to create an atmosphere where women can better utilize their abilities in the IDF and advance equal opportunities, for the objective of empowering women in the IDF and the Israeli society. *Per example: Implementation of the Miller Case within the Israel Defense Forces.*

203. In 1995, the Supreme Court decided in the landmark *Alice Miller* case that the IDF could not claim that it is bound by logistic and budgetary constraints, as a justification for excluding women from serving as pilots in the Air Force. In three separate majority opinions, the Court rejected the army's reasoning and determined that the principle of equality required the army to overcome such constraints and accommodate the natural biological needs of women. The IDF continues to take steps to implement the conclusions reached in the *Miller* case, integrating women in the IDF in a wide range of positions previously fulfilled exclusively by men.

204. One of the measures taken to implement Section 16A of the *Defence Service Law [Consolidated Version]* involves a comprehensive review of all issued military orders, exploring the differentiation between men and women. In the years 2002-03, 360 such orders were examined and the Office of the Advisor on Women Issues found that 160 of them needed further examination, eventually recommending the cancellation or reduction of the gender distinction in 74% of these orders. Another measure taken was applying the rule of equality between men and women serving in combat related

positions, regarding the duration of the volunteering period. Further steps are examined regarding the adding of positions open to women service in the IDF.

205. Another amendment involves women's service in the reserve forces, where women in combat-related positions now serve until the age of 45, with no exemptions for pregnant women and mothers, whilst women in non-combat- related positions serve up to the age of 38, and are exempted from service due to pregnancy and motherhood.

Women and Men in the Military

Women and Men Officers

206. Female officers make up 26% of the officers in the regular forces and 18% of the career service. In recent years there has been a dramatic increase in the number of female officers in field positions, with a 17 times rise from 1997 to this date.

207. The number of female colonel and brigadier general are at an ascent, as shown in the following table.

Table 2 - Proportion of Women among high-ranking Officers, 2000, 2003 and 2004

Rank	% of Women – 2000	% of Women – 2003	% of Women – 2004
Colonel	3%	4%	4.5%
Brigadier General	1%	3%	4%

Source: IDF Chief of Staff Advisor on Women Issues

Distribution of Men and Women

208. Over the last decade, the tendency towards opening further positions to women in the IDF has continued, leading to a growing number of female soldiers assigned to "quality" jobs and a smaller number to clerical positions.

209. As of 2004, 81% of all positions in the military are open to women, compared to 56% two decades ago. Women are placed in 62% of the positions (compared to 40% in 1990) and efforts are made towards enlarging these percentages. It is important to emphasize that this process requires exploring all physical aspects of the additional positions, including the adaptation of the relevant equipment, preparation of the staff and additional activities.

Women Scientists and Engineers in the IDF

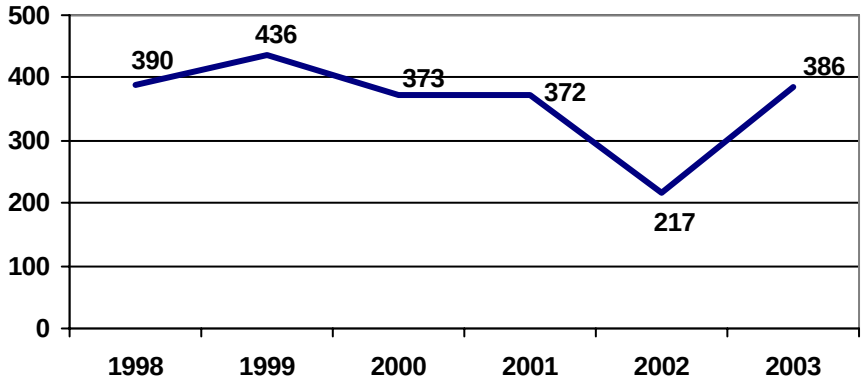
210. As detailed in our previous report, the IDF initiated several programs intended to promote female scientists and engineers among its ranks and support them in their careers. These programs include the "Rakia" program, targeting 12th graders, interested in studying for a practical engineer degree, with the IDF funding – the number of participants has tripled from 80 in 2001 to 240 in 2003; "Tzabar" – a pre-academic one-year preparatory course aimed at assisting young women interested in studying engineering and exact sciences in the course of the academic reserve; "Technological Horizons" – a unique course for 12th graders majoring in mathematics and physics, intended to assist them in continuing to study for a practical engineering degree.

211. Women also participate in the "Atidim" Project for integrating youth from the periphery in the academic reserve (25% women in 2003); "Talpiyot" Project targeting soldiers to become part of the IDF research and development program through a comprehensive training program (11% women in 2003).

Sexual Harassment in the Military

212. The next chart details the number of annual complaints of sexual harassment in the military, showing a significant increase in 2003, attributed mainly to growing awareness and to a number of high-profile cases.

Chart 4 - Number of Sexual Harassment Complaints, Various Years



Source: IDF Chief of Stuff Advisor on Women Issues

213. The IDF has taken several measures aimed at dealing with the phenomenon of sexual harassment in the military, including the establishment of a General Staff Steering Team headed by the Advisor on Women Issues, forming the IDF policies on prevention, enforcement and treatment of sexual harassment.

214. In 2002, the Chief of Staff Advisor on Women Issues initiated a wide range survey on sexual harassment in the military, as well as an extensive study of the phenomenon itself. The study has led the IDF authorities to the conclusion that they are informed of a fragment of all sexual harassment incidents, and that combating the problem requires a deep normative and educational change in all levels.

215. As a result of this survey, the IDF has expanded and improved its treatment of sexual harassment issues, including the following measures: On July 2003, the Chief of Staff issued a special notice to all members of the IDF emphasizing the importance of fighting against sexual harassment, with the commanders in charge having responsibility to do so; the IDF added trained personnel on all levels equipped to handle these complaints; an extensive publicity campaign was initiated throughout the IDF along with an obligatory annual lecture; special training courses were held for those taking care of the complainants and the Military Police Investigators; and pamphlets on sexual harassment were distributed to all new recruits and throughout the military units.

Women in the Police

The Legal Framework

216. The Police strive towards raising the number of women in the police force, via affirmative action measures like more flexible working conditions for mothers and lenient policies for pregnant women.

Women in the Police – Field Data

217. Currently, women constitute 21% of the general police force, a moderate decrease since our previous report (23%). Women officers comprise a higher percentage than their representation in the police force, with 23.4% of the police officers being female.

218. As of March 2005, there were 53 Arab women in the police force – 1 Samaritan, 19 Christians, 12 Muslims, 14 others and 7 of unknown religion.

Table 3 - Percentage of Women in the Police Force, 2004

	Women		Men		Total	
	Number	% of the Women	Number	% of the Men	Number	%
Non-Officers	3,362	74.88%	13,361	78.39%	16,723	77.66%
Officers	1,128	25.12%	3,684	21.16%	4,812	22.34%
Total	4,490	100%	17,045	100%	21,535	100%

Source: Israel Police, 2004

219. Women are slightly under-represented in the higher ranks of the police force, with 17.6% of the higher ranks, to their 21% in the overall police force.

Sexual Harassment within the Police

220. The police have taken several measures to combat sexual harassment. Sexual harassment directives were prepared and distributed throughout the police force, a special sexual harassment overseer was appointed and reports on sexual harassment within the police and cases of inappropriate treatment due to harassment are published. A further informative pamphlet was prepared and will be circulated to every police officer, as well as to new recruits.

221. In the 18 months between January 2003 and June 2004, 38 sexual harassment cases were handled through criminal charges by the Department of Police Officer's Investigation in the Ministry of Justice. In the same period, 22 cases regarding sexual harassment were referred to the police disciplinary department, from the Department of Police Investigation, following the conclusion of the criminal proceedings.

Women's Organizations

222. Women's organizations continue to play an active and valuable role in the promotion of gender equality in Israel. These organizations remain dynamic and representative of women of all sectors, enabling a lively civil society.

223. Women's Organizations have a substantial impact on many areas of life in Israel, some of their major fields of operation are: promoting legislation, as detailed regarding the Sexual Assault Help Centers, in Article 5 above; assisting women in legal representation and counseling; leading information campaigns on women's rights; organizing conferences and seminars; managing sexual assault help centers and hotlines; and more.

Article 8 - International Representation and Participation

Women's Representation in the Foreign Service

224. Israel's Foreign Service is routinely working at increasing the number of women amongst its ranks.

225. The percentage of women taking the exams for the cadet course (30%-45%) is similar to the percentage of women admitted to the course (30%-48%). Note that for the most part, all cadets who attend the course – complete it.

226. The Ministry of Foreign Affairs and the diplomatic missions are composed of an administrative wing, a non-administrative wing and a diplomatic wing. The rate of

women within the administrative and the non-administrative wings is higher than the rate of men (50.5% and 63%, compared to 49.5% and 37%, in 2003).

227. The following table further details the percentage of women within the diplomatic wing of the Foreign Service, by ranks:

Table 4 - Representation of Women in the Foreign Service - Diplomatic Wing, 2002-2003

	2002		2003	
	Women	**Men**	**Women**	**Men**
Ambassador	0 (0%)	27 (100%)	1 (0.5%)	21 (95.5%)
Delegate	13 (14%)	81 (86%)	13 (15%)	74 (85%)
Delegate – Advisor	23 (22%)	80 (78%)	22 (21%)	83 (79%)
Advisor	14 (15%)	79 (85%)	20 (20.5%)	78 (79.5%)
First Secretary	26 (33%)	54 (67%)	16 (30%)	37 (70%)
Second Secretary	7 (70%)	3 (30%)	13 (48%)	14 (52%)

Source: Ministry of Foreign Affairs, 2004

228. Of the promotions in rank and level in the Foreign Service since our previous report (2002-2003), 38% (69) were women.

229. It should be noted that Israel's Women's Network petitioned the High Court of Justice for the revocation of six recent nominations in the Ministry of Foreign Affairs (*H.C.J. 5523/04 Israel's women's Network V. the State of Israel and the Minister of Foreign Affairs et al* (29.07.04)). The network claimed that the nominations discriminated against female candidates and that the Ministry failed to elect women candidates despite their equal and sometimes better qualifications. The Network claimed that the nominations were not in accordance with the *Equal Rights for Women Law* and the *Civil Service Law*. The petition was withdrawn by the petitioner, after the ministry entered an affidavit, committing to take minutes of the nominations committee's hearings and instruct the committee members to act according to the rules of affirmative action, and an internal procedure in that fashion was issued in the ministry.

Women Representatives and independent experts in International Organizations

230. Israel includes women in most of its delegations to multilateral forums, as well as a 5-6 women delegation to the Commission on the Status of Women.

231. Currently, Israel's delegation to the UN headquarters in New York consists of 4 men and one woman, and a woman has joined Israel's delegation to Geneva as of August 2004, consisting now of 2 women and four men. Ms. Ziva Patir, general manager of the

Standards Institute of the Israel, serves as vice president of the international Standardization Organization, located in Geneva, as of September 2003

232. Several additional examples include Dr. Ruth Halperin, chairperson of the counseling committee to the Authority for the Advancement of the Status of Women, that served on the panel of the UNECE in Geneva, towards "Beijing 10+"; Ms. Valerie Brechia heading the Israeli delegation to the UNEP annual conference in March 2004; Dr. Michal Haran, the Ministry of the Environment Director General and a female attorney from the Knesset representing Israel in the CSD Conference in April 2004; Dr. Ilana Zieler, representing the Ministry of Health in the state task force on sustainable development in the European Economical Council (ECE) on February 2004.

233. The Authority for the Advancement of the Status of Women sends a yearly delegation to the Women's U.N. Conference. The last delegation was composed of 13 women and two men and the Authority also funded the Israel's Women Network NGO delegates.

234. The Ministry of Foreign Affairs encourages and assists women Israeli NGOs to apply for status in the United Nations and in fundraising both in Israel and abroad.

Article 9 - Nationality

235. Israeli citizenship and residency laws do not differentiate between men and women. Both have equal rights regarding acquisition, changing or retaining their nationality or residency. Neither the change of nationality by one spouse nor marriage to a non-citizen has any effect on one's citizenship. Either parent's citizenship carries equal weight relating to children's citizenship acquired at birth.

Article 10 - Education

Legal Developments

236. The major legal development in this area was the enactment of the *Sexual Harassment Law* (Amendment no. 2 from 2004*)*. This amendment applied the law to 13th and 14th grade pupils, who are not minors, where the educator abuses his or her authoritative position. The law also applies to pupils and students in institutions granting general or vocational schooling to adults where the educator abuses his authoritative position.

High Schools in Israel

General and Technological/Vocational Tracks

237. The Israeli secondary education system is composed of both technological/vocational and general public high schools. Most of the female pupils study in the general public

schools. In 2002, 68.5% of the female pupils aged 15 and over studied in the general track, while only 56% of the male-pupils aged 15 and over studied in this track**.** In 2003-2004, both in the Hebrew and the Arab education, most of the pupils studied in general public high schools.

Matriculation Levels

238. In 2002, 84.3% of the female-minors within the 12th grade age group (in the Hebrew education) took matriculation exams, compared with only 75.1% of the male-minors. Female-minors' entitlement to a matriculation degree was also higher and stood at 63%, compared with 49.5% of the male-minors.

239. Among the Arab education system, 91.7% of the female-minors within the 12th grade age group took the matriculation exams, compared to 84% of the male-minors. Female-minors' entitlement to a matriculation degree also was higher in this sector than male-minors (56.3% and 44.7%, respectively).

Table 5 – Examinees and entitlement to matriculation certificates – 2002

	Examinees		Entitled to a Certificate	
	Total	**% of pupils in grade XII**	**Total**	**% of pupils in grade XII**
Hebrew Education				
Male-minors	30,869	75.1	20,326	49.5
Female-minors	35,176	84.3	26,305	63
Arab Education				
Male-minors	5,373	84	2,858	44.7
Female-minors	7,270	91.7	4,464	56.3

Source: Central Bureau of Statistics, 2004

240. The percentage of female-minors taking matriculation exams in science is 45%: electronics 12%, biology 66%, chemistry 62%, computers 43% and physics 30%. The percentage of those successfully completing the exams is equally high with the ratio higher among female-minors than male-minors (57% to 33%).

Education Rates, Attendance Rates and Drop-Out Rates

241. As stated in our previous report, education levels in Israel maintained a moderate increase in all population groups. In 1961, 69% of the women minority group never attended school, compared to 30% of the male minority group. In 2003, the numbers were 9.9% and 2.4%, respectively.

242. Another important indicator of school performance is the rate of attendance. In 2003-2004, the dropout rates of female-minors in the 9th to 11th grades stood around 3.1%-

3.6% and in the 12th grade the rate of dropout was just 0.7%. The dropout rates of male-minors were higher, especially in the 11th grade. Among the Arab education system, the gap between the genders was also in favor of the male-minors, although the dropout rates of Arab female-minors exceeded those of Jewish female-minors.

243. The Department for Regular Attendance and the Prevention of Dropouts in the Ministry of Education, Culture and Sport has been active on all levels to raise the percentage of attendance and prevent dropouts in all sectors. They have operated on three major levels – raising awareness to the issue, managerial/organizational measures throughout the system and pedagogical actions. Between the years 2002 and 2003, the dropout rate was reduced to 6% in the Jewish sector and 10% in the Arab sector.

Activities and Educational Programs to Prevent Discrimination against Women

Gender Stereotypes within School Books

244. As detailed in our previous report, The Department for Planning and Development of Curriculums in the Ministry of Education, Culture and Sport has been active in establishing criteria for schoolbooks, specifically within the realm of gender stereotypes. These criteria were integrated into the curriculum by a special committee appointed in 2001 by the current Minister of Education, Culture and Sport.

245. The Committee examined gender stereotypes in schoolbooks used by the Israeli education system, and endeavored to end all stereotyping in the curriculum. The Committee adjusted the previous criteria, on a qualitative and quantitative level, addressing the following issues regarding equal representation for both genders: expanding the material with illustrations to include women's contributions in all areas of life; drawing attention to pre-existing stereotypes; refraining from gender stereotypes of all kinds (both direct or implied); assigning tasks on a gender-neutral basis; selecting works, essays and papers equally representative of both genders; assigning children to courses and classes regardless of their gender; omitting gender-stereotypical drawing and illustration from schoolbooks.

Other Instructions and Intervention Programs that Aim to Prevent Discrimination against Women

246. The Ministry's Director General issued a circular in 2003 (9.4-4(d) 4/2003) regarding equal opportunities in the Education system for both genders, specifically targeting educational/social/tutorial intervention in gender issues. This circular emphasizes the institute's educational policy, and the teaching process.

247. The Ministry aims at implementing this circular via conferences and seminars for principals and supervisors, as well as targeted training to instructors on all levels. School seminars and assimilation of gender equality in the Ministry's various departments shall be another avenue of implementation.

248. The Ministry also maintains its support for the *"Girls Leading a Change"* program, along with the Israel Women's Network. The goal is to work towards empowerment and leadership building, as well as advance knowledge regarding inequality issues between the genders, develop self awareness, and change positions on gender equality.

249. Another program relates to advancing female-minors in exact sciences and mathematics, encouraging female-minors to choose these topics for their matriculation, and later in higher education. *"Femininity and Masculinity – the Next Generation"* program is aimed at changing management and leadership patterns from purely masculine attitudes. to a combination of masculine and feminine ones.

Sex and Family Life Education

250. The current curriculum for pupils in their high school years includes sex and family life education. The program's main topics are: individual development at the person's own paste, uniqueness, acceptance of the other even when different, male-minors and female-minors being equal yet different, developmentally adapted sexual urges, consensual contact with others, and mutual decisions in a relationship. The curriculum focuses on exposing gender stereotypes, changing positions, developing unique abilities, and providing knowledge. The curriculum includes a program titled "Non-Violent Friendship and Couplehood", targeting the differences between respectful and equal relations as opposed to abusive or one-sided ones, the difference between courtship and offence, and the do's and don'ts in relationships.

251. The curriculum has been adapted to the state-religious and the Arab education systems. The curriculum is identical for female-minors and male-minors, yet some schools conduct the lessons separately.

Teachers

252. In 2003-2004, the rate of Jewish men in teachers training colleges, stood at 18.3%, compared to 18.8% in 2002-2003. The rate of Arab men in teachers training colleges was 8.2%, compared to 7.6% in 2002-2003.

Table 6 - Teachers Training Colleges, Various Years

	1969/70	1979/80	1989/90	1994/95	1999/00	2001/02	2002/03	2003/04
Hebrew Education								
% of Men	13.9	10.3	16.6	16.3	16.6	17.8	18.8	18.3
Arab Education								
% of Men	46.9	45.2	22.9	16.2	7.8	8.8	7.6	8.2

Source: Central Bureau of Statistics, 2004

Higher Education

Female Students

253. The rate of women with a matriculation certificate or a higher diploma (62%) is higher than that of men (55%) among the general population. 55% of the women and 50% of the men who concluded their high school studies in the year 1994, enrolled in academic education program within 8 years.

254. In 2003, women still constituted a majority among the first (55.9%), second (57.1%) and third (52.7%) degree students. There are no dramatic changes in the percentages when compared to previous figures. However, women continue to cluster in the humanities and are less likely to enter fields such as mathematics, sciences, and engineering, where they comprise only 25% of the students. Women comprise a majority in other fields such as humanities (66.4%), social studies (61.3%) medicine (52.3%), law (49.9%) and life sciences.

Table 7 - Students in the Higher Education System, by Gender and Degree, 2002-2003

Degree	Total Students	Women	% of Women
Humanities	27,679	18,397	66.4%
Education and Teacher Training	27,862	23,156	83.1%
Social Sciences	45,719	28,026	61.3%
Business and Management	8,268	4,058	49.0%
Law	12,897	6,446	49.9%
Medicine	3,568	1,867	52.3%
Para – Medicine	7,316	5,800	79.2%
Mathematics, Statistic and Computers	12,323	3,864	31.3%
Physical Sciences	4,559	1,690	37.0%
Biological Sciences	7,703	4,750	61.6%
Agriculture	1,499	876	58.4%
Engineering and Architecture	30,129	7,626	25.3%
Total	189,522	106,555	56.2%

Source: Council for Higher Education, 2004

255. Aside from the state universities, a number of alternative higher education institutions exist which grant non-degree diplomas. In the academic year 2002-2003, 6.4% of Jewish women, aged 20-29, attended non-university higher education institutions, compared to 5.6% in 1999-2000. The rate of Arab women attending these institutions was 4.4% (compared to 4.6% in 1999-2000).

Minorities in Higher Education

256. The gaps between men and women in higher education have been eradicated, and in the 2002-03 school year, Muslim, Christian and the Druze female students were a majority among first-degree students in the universities, in comparison to their male counterparts. The same can be said for the general student population, with the exception of the Druze sector where the gap is rapidly closing. Indeed, certain gaps still remain in higher degrees, but there too, the figures show a significant rise in the percentage of female students among these sectors.

257. The Ministry of Education, Culture and Sport has recently granted 18 Bedouin students full scholarships in order to pursue higher studies at the Ben-Gurion University in Beer-Sheva during the academic year 2004/5. The scholarships were granted on the basis of academic excellence and financial situation. Among the 18 students' recipients of the scholarship, 12 were women. Additional scholarships are granted by various NGOs.

Table 8 - Women by Population Group and Religion and Degree, 2002-2003

Percent of Women of Total Students in Each Cell (Universities only)

	Total	First Degree	Second Degree	Third Degree	Diploma
Total	56.5	56.2	57.2	52.7	82.2
Jews	56.8	55.9	58.1	54.3	84.9
Muslim	51.9	54.6	42.3	23.9	64.5
Christian	62.7	63.9	58.4	34.5	-
Druze	49.8	53.3	33.7	-	-

Source: Council for Higher Education, 2004

Women on the Academic Staff

258. In 2001, 24% of the senior academic staff financed by the Council for Higher Education were women, a rise from 20% in 1992/93. Between the years 1993-2003, 360 staff members were promoted to full professor, a position granting not only higher income, but also influential status within academia. Only 78 (about 20%) of those nominated were women. Thus far, no woman has served as president of a university and only two have served as rectors.

259. In 1988, a NGO, The Women's Lobby, approached the heads of Universities Board with an initiative to appoint Women Issue Advisors to the presidents of the all universities. Such advisors are now residing in all state universities. In April 2003, a similar initiative was brought before the heads of the academic colleges.

Table 9 - Women in the Academic Staff of Higher Education Institutions in Israel, 2001- 2002

	Institutions and courses	Women	Men	Total	Women % out of Total
Total Institutions	50	1,762.9	4,442.3	6,205.3	28.4
Universities	7	1,139.7	3,498.2	4,637.8	24.6
The Open University	1	20.5	33.1	53.6	38.3
Non Universities (funded by the Council for higher Education Planning and budgeting Committee)	21	229.5	663.4	893.0	25.7
Teachers training colleges	21	373.2	247.7	620.9	60.1

Source: Ministry of Science and Technology, December 2003

260. Although there are more women than men in all levels of higher education, they comprise only 24% of the academic staff, with lower numbers in engineering, exact sciences and technological studies. For example, in Engineering, women are 25% of the students and 12% of the staff, and in Physics, they comprise 36% of the students and 8% of the staff. The situation is similar in alternative institutions, where women make up only 25% of the senior academic staff.

261. Women's under-representation in academic staff, especially in senior ranks, has continued to draw attention since the submission of our previous report. The Knesset Committee on the Status of Women is dedicated to improving women's representation in the academic staff of institutes of higher education, and held a number of sessions on this matter.

Women and Gender Studies

262. Over the last few years, most of the universities and several other higher education institutes opened women and gender studies departments, aimed at exploring a range of topics regarding women and femininity. Women and gender studies are crucial for learning about women's position in society, discrimination against them and measures to be taken against discrimination.

Science and Technology Education for Women

Initiatives aimed at encouraging Female-Minors to enter the fields of Science and Technology

263. Initiatives aimed at encouraging female-minors to enter the fields of science and technology have continued. Some of the programs are:

264. The *"Female Scientists Club"*, targeting 6th grade female-minors with interest and knowledge in science and technology, encouraging them to carry on in these fields; The Tel Aviv University *"Science Cadet Unit"* is taking affirmative action measures to raise the percentage of female attendance in their activities; *"The Future Generation of Hi-Tech"* program, detailed in our previous report, continues to create partnerships (currently 100 schools participate in the program, compared to 23 as of 2001) between industries and junior high schools throughout the country, exposing 35,000 students to this program in the 2002-3 school year alone; *"ORT to 21"*, a program that encourages female students to choose and succeed at advanced technological and exact studies in high schools and higher education, with 7,400 female students participants in 23 junior high schools over the 2002-3 school year attaining excellent results; a Technion – Israel Institute of Technology program that includes community social work, promoting female pupils in science and engineering and tutoring female students in the 10th and 11th grades.

Initiatives to encourage women to study Science and Technology

265. The Ministry of Science and Technology continues its special scholarship program in which undergraduate students in engineering and exact sciences can receive a yearly stipend of 8 to 10 thousands NIS (about $2,000), in return for 100 hours of service in the National Council for the Promotion of Women in Science and Technology programs, aimed at promoting women in science. In the years 2000-3, the Ministry which granted 122 scholarships to female students in faculties where there is a low percentage of female students.

266. Further programs include the *"Rakia"* program, targeting 12th grade female-minors interested in studying for an engineer degree through the Israel Defence Forces; "*Tal*" Religious Institute offers special programs intended for religious women seeking higher education in engineering, combined with special preparation for religious women in a male-dominated work environment; The Academic College for Technology Teachers – "Ort Tel Aviv", qualifying teachers in the fields of electricity/electronics, computer sciences, science and technology, charges female students with half of the regular tuition fees.

267. A survey initiated by the Ministry of Science and Technology in February 2003, examining basic approaches towards women in science, indicated that most of the public

(85%) has positive views towards women in science and their ability to integrate in scientific and technological studies and research. It is notable that 60% believe that women have made scientific and technological achievements that brought pride to Israel, while nearly 60% believe that women are more suitable then men to specific scientific fields such as medicine, computers, and agriculture.

Physical Education and Sports

Legal Developments

268. Section 9A to the *Sports Law* was adopted at the end of 2003, concluding that all state supported sports organizations, including sports associations, bodies, unions and federations, shall provide appropriate representation to women. This appropriate representation concerns both staff and management, and shall include all categories of positions. Under section 9B, sports organizations shall submit annual reports to the Knesset Committee on implementation of this section. This amendment stems from the realization that as in many other areas of life, promoting women's role in sports requires their full involvement, not only in sporting activities themselves, but also as decision makers and in managerial roles.

269. In an innovative High Court decision (*H.C.J. 5325/01*) filed by the Association for the Advancement of Women in Basketball against the Ramat HaSharon Local Council and others, the Court examined the issue of allocation of funds to sports institutions. The Court examined the issue of fund allocation to sports institutions. The Court based its ruling on section 3A of the *Budgetary Principles Law*, which establishes the criteria of equality for budget allocations to public institutions. The Court here applied the allocation criteria, adopted by the Ministry of Culture, Science and Sport, which sanctions affirmative action and grants women sports activities with 1.5 times the budget allocated to male sports activities. The Court ruled that the need for equality also concerns local authorities and their allocation of funds. The Court held that the Ramat HaSharon Council, the Head of the Council, and the Ramat HaSharon Center for Education and Sports are to allocate funds according to the above criteria.

270. In another case, in September 2004, several women football teams from the Super League petitioned the High Court of Justice (*H.C.J. 8472/04 Women Football Team-Ha'poel Be'er Sheva et al v. Council for Sports' Gambling Arrangement et al*). The petitioners asked the Court to order the Council for Sports' Gambling Arrangement to apply affirmative action to women football teams and grant them a higher percentage of funding than the one granted to men's teams. The petitioners demanded that the Council provide them with a better financial support than men's team, implementing special measures concerning women' teams. The petition is still pending before the Court.

Governmental Machineries for the Promotion of Women in Sports

271. As of 2000, the Sports Authority in the Ministry of Education, Culture and Sport amended the criteria for funding sports associations, allotting 1.5 times more budget to women's sports associations.

272. A public committee, the "Katz Committee", was mandated to examine the criteria of the Council for Arranging Gambling in Sports and recommended affirmative action plans aimed at women and female-minors sports teams.

273. The authority has recently completed a pamphlet, to be distributed among coaches, athletes, schools, colleges and parents. This pamphlet establishes a Code of Ethics aimed at preventing harassment and sexual violence in sports. This important campaign is supplemented by seminars conveyed by the Association for the Advancement of Sports.

274. The Authority also plans to run a national program for the advancement of women in sports in the year 2005. This program will include an 80 Million NIS budget for the next 8 years; raising women's awareness to sports through national campaigns in the written and broadcasted media; preferential treatment to women in ten competitive sports, allocating the relevant unions with special allocation, provided they withstand basic conditions concerning women's participation in these fields.

Female-Minors Sports in the School System

275. Pupils' participation in physical education classes is mandatory in the Israeli school system. The education system's core program stipulates that every pupil in all state-supervised schools must attend two weekly hours of physical education. The non-directly supervised schools must provide pupils with one weekly hour of physical education.

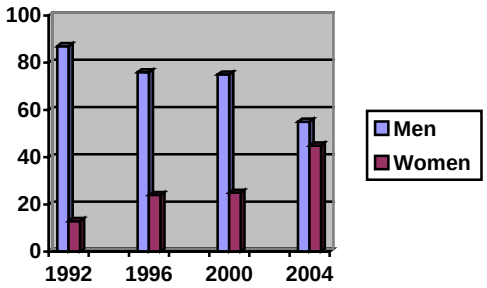
276. As detailed in our previous report, the Sports Association for Schools desires to set a goal of increasing the number of female pupils involved in competitive sports. Current data shows that the number of female-minors and male-minors defined as active athletes (meaning participation in 18 games in group sports and participation in 3-4 recognized competitions in personal sports) is almost equal (9,641 female-minors to 9,710 male-minors) in all areas of sports.

277. Under the Ministry of Education, Culture and Sport directives, the physical education supervisors (one third of whom are women, 5 out of 15) authorizes pupil's delegation to the International School Sport Federation (ISF) competitions provided there is an equal number of female-minors and male-minors.

Current Data – Women in Sports

278. Women's participation in the Olympic Games has dramatically increased over the past few years, as indicated by the chart below:

Chart 5 - Athletes in the Olympic Games, 1992, 1996, 2000, 2004



Source: Ministry of Education, Culture and Sport, 2004

279. The overall percentage of women active in the field of competitive sports has been at a moderate ascent over the last decade, from 12% in 1994 to 15% in 2004.

280. Female representation in the management of sports associations remains at a low level of around 10%, similar to the rate of women coaches.

Article 11 - Employment

Legal Protection from Discrimination within the Workplace

281. In June 2004, Amendment no. 9 to the *Equal Employment Opportunities Law*, added pregnancy as one of the grounds upon which a person cannot be discriminated against in the workforce, both as a job applicant and as an employee.

282. In 2001, the Minister of Labor and Welfare issued the *Employment of Women* Regulations *(Prohibited Work, Restricted Work and Hazardous Work), 5761-2001* ("*Employment of Women Regulations (Prohibited Work, Restricted Work and Hazardous Work*)"), expanding the *Employment of Women Regulations (Prohibited Work and Restricted Work*), 1979 designed to further protect fertile and pregnant women from exposure to chemical and biological materials which may harm a fetus or a baby.

283. Israel has been a party to the following International Labor Organization conventions regarding equality and prohibition of gender discrimination: C100 Equal Remuneration Convention, 1951 (since 1965) and the *C111 Discrimination (Employment and Occupation) Convention, 1958* (since 1959).

284. Several recent rulings of Labor Courts have further reinforced the protection granted by law to women in the workforce. In November 2003, the Labor Court in Be'er Sheva ruled in favor of a female employee who received a lower salary than her male counterparts (La. 1576/99 *Simmy Niddam V. Rally Electricity and Electronics Ltd*. (03.11.03)). The court granted the plaintiff all social benefits along with compensation for grief caused to her in the sum of 30,000 NIS (appx. 6,500 $). The Tel-Aviv Jaffa Labor Court convicted a company that fired a temporary employee who was pregnant, two days before she completed a 6- month employment trial period. The Ministry of Industry, Trade and Labor indicted the company on grounds of discrimination (pregnancy, parenthood and gender) based on the *Equal Employment Opportunities Law*. The Court convicted the company and imposed a fine of 80,000 NIS, as part of a plea bargain. (Cr.C. 100/04 *the State of Israel / the Ministry of Industry, Trade and Labor v. S.I.R.N Ltd. et al* (, 15.12.04).

285. In a January 2004 decision, the Tel Aviv Labor Court ruled in favor of a female plaintiff who received a lower salary than her male colleagues, granting her the difference between the salaries along with additional compensation based on the infringement of the *Equal Employment Opportunities Law* (L.A. 300880/98 *Orit Goren V. Home Centers Int*. (04.01.04)).

Pregnancy and Maternity Leave

286. See discussion under Article 13, below.

Parenthood

287. In a 2002 amendment, the legislator extended the single parent privilege under the *Sick Pay Law (Absence from Work due to a Child's Sickness), 5753-1993* ("*Sick Pay Law (Absence from Work due to a Child's Sickness*)"), granting a 12-day leave to tend to a sick child (compared to the standard 8 days).

Affirmative Action in Employment

288. See discussion under Article 4, above.

Social Security Benefits

289. See discussion under Article 13, below.

Employment of Women - Data and Analysis

Women Participation in the Workforce

290. In 2003, the Israeli civil workforce totaled 1.4 million men and 1.2 million women. Compared to 2002, the workforce grew by 24,000 men and 39,300 women, ergo women accounted for roughly 60% of the increase.

291. In 2003, women's proportion of the labor force increased to 49.1%, compared to 48.2% in 2001 and 46.3% in 1998. Men's proportion decreased to 60.1%, from 60.7% in 2001 and 61.2% in 1998.

292. In 2003, 27% of the women in the labor force had 16 years or more of schooling, compared to 23% of the men. The level of education is a conclusive factor in female participation rates in the labor force and the rates escalate as the level of education rises. The general education level of women in the labor force is higher than that of men.

Work Patterns

293. In 2003, 87.4% of men and 62.6% of women worked full-time. Most of the usually part-time employed persons in the labor market were women (401,400 women compared to 159,500 men). 14.1% of the women stated that the motivation for part-time employment was care for their children and/or household.

294. As detailed in our previous report, temporary absence from work is higher for women when compared to men. In 2003, 15,900 women were absent due to maternity leave. In the same period, the number of absent men due to army reserve duty was 4,800.

295. In 2003, 1,072,600 women were employed (compared to 1,257,600 men), 978,000 were salaried employees. 984,600 of the employed persons were Jewish women, 895,800 of them were salaried employees. At the same time, most of the employed men (81.9%) were salaried employees and 8.8% were self-employed. 91.2% of the employed women were salaried employees and only 4.6% were self-employed. In 2002, 17,000 men and 20,000 women received their wages from manpower contractors, compared to 22,000 and 26,000 respectively, in 2001.

Unemployment

296. There are two main trends concerning the local “Unemployment Market". The first is the increase in unemployment, and the second is the derogation in the rights of unemployed persons (defined as persons who did not work for pay for one hour during the week of the survey, and who were actively seeking work). In addition, men’s decreasing participation in the Israeli labor force has aggravated in 2002-2003 and reflects the despair of those searching for employment. In contrast, women’s

participation in the labor force has increased, apparently due to the decrease in household incomes and the need to add a second income to the household.

297. In 2003, 219,805 employment seekers applied to the Employment Service Labor Bureaus (monthly average). 114,321 were women (compared to 91,920 women in 2001) and the remaining 105,484 were men.

298. The percentage of unemployed women was 10.6%. In 2003, the percentage of unemployed males of the labor force was 10.2 % (compared to 8.4% in 2000). In 2003, the percentage of unemployed women was 11.3%, compared to 9.2% in 2000. In 2003, most of the women (83.9%) were seeking employment through newspaper advertisements, while most of the men (82.5%) were assisted by friends. It is worth noting that 5.5% of the men were trying to establish a private business at the time, compared to only 2.8% of the women. 72.5% of the women sought full-time employment while the remaining 27.5% sought part-time employment (compared to 88.2% and 11.8% of men, respectively).

Careers of Women: Levels and Salaries

Women's Occupational Distribution and Gender Segregation

299. As detailed in our previous report, women maintain their cluster in “feminine professions”, with the highest percentages of women employees in the education (20.8%) health services, welfare and social work (17.4%). However, women's soaring representation in the legal profession continued, as detailed in Article 7, above.

Table 10 - Employed persons by economic branch, 2003

	%Men of total employed	% Women of total employed
Agriculture	2.7	0.8
Manufacturing	22.1	9.8
Electricity and water supply	1.2	0.3
Construction	9.5	1
Wholesale and retail trade and repairs	14.8	12.1
Accommodation services and restaurants	4.3	3.7
Transport, storage and communications	8.8	4
Banking, insurance and finance	2.6	4.3
Business activities	13.7	11.9
Public administration	5.5	5.4
Education	5.6	20.8
Health, welfare and social work services	4.6	17.4
Community, social and personal services	4.3	5.7
Services for households by domestic personnel	0.3	2.9

Source: Central Bureau of Statistics, 2004

Salary and Earning Gaps

300. There are still gaps between male and female salaries. According to recent data, in average, men earn a 63% higher income than women.

301. One explanation for this gap is shorter working hours (or lower availability for work) for women - (In 2002, employed men worked an average of 42 hours a week, compared to employed women, who worked 31 hours a week - a 35% difference). Yet, in 2002, women's average income per hour was 36.7 NIS and men's – 45.3 NIS, a 23% gap, indicating that the difference cannot be solely attributed to the number of working hours.

302. In the Arab sector women employees earned 7% more than men. This can be explained by the fact that 47% of the Arab women are employed in academic and technical professions, while 64% of the Arab men were skilled and unskilled workers in the construction and industry branches. The differences deepen as the age rises, although both genders' income climbs with age.

Table 11 - Employee monthly income and gross income per hour, by occupation – 2002

Occupation	Per month (NIS)		Per hour (NIS)		
	Men	Women	Men	Women	Difference (%)
Academic professionals	13,603	8,574	71	59	20
Associate professionals and technicians	9,134	5,717	52	44	18
Managers	18,054	11,213	81	63	30
Clerical workers	8,587	5,233	46	33	39
Sales persons and service providers	6,054	3,167	33	23	41
Skilled workers	6,148	3,757	31	22	46
Unskilled workers	4,236	2,694	25	21	20

Source: Central Bureau of Statistics, "Women and Men", February 2004

Women's Entrepreneurship

303. The number of men applying to the Center for Fostering Entrepreneurship in the Ministry of Industry, Trade and Labor is double the number of women applicants. Most of the applicants, men and women, are in the 25-34 and 35-44 age groups. 45% of the women-applicants have an academic degree while only 35% of the men-applicants have one. A majority of the applicants, both men and women, require assistance in launching a business – approximately 60%.

304. A 2001 survey indicates that 30.7% of the self-employed are women, compared to 69.3% men. Women entrepreneurs face inherent obstacles such as insufficient

administrative skills, difficulties in financing and low self-esteem. Consequently, several programs were developed by the Ministry of Industry, Trade and Labor through the Israel Small and Medium Size Enterprises Authority and in the Centers for Fostering Entrepreneurship for women of all sectors, including the Arab sector, new immigrants, and orthodox women. These programs include assistance in funding for small businesses, feminine empowerment courses, establishment of "women only" business clubs and other activities and special assistance for single mothers.

Vocational and Professional Training for Women

305. As mentioned in our previous report, the Division for Training and Development in the Ministry of Industry, Trade and Labor organizes vocational courses for all sections of the Israeli population. The Division takes specific measures to raise the number of women participants in these courses via the establishment of separate courses for women in the ultra orthodox and Arab sector, directing the Acceptance Committees to perform their role with the utmost equality, and support for female participants in all courses, especially those previously considered "masculine".

306. The following table depicts the distribution of men and women trainees within the various types of courses offered in the year 2003.

Table 12 - Participation in Vocational Training, by Subjects, 2003

Route	Participants Total	Women Participants	Women Percentage
Adult Training-Employment seekers	12,697	6,693	52.7%
Academic Retraining - Employment seekers	1,253	697	55.6%
Business Schools /Vocational Training	18,386	11,711	63.7%
Business Schools – Transportation	11,919	416	3.5%
Technicians – Practical Engineers	24,389	7,836	32.1%
Youth Training	12,895	2,524	19.6%
Total	81,539	29,877	36.6%

Source: Ministry of Industry, Trade and Labor, 2004

Child-care

307. Researches have found that the most important factor to women participation in the labor market is the availability of day-care centers that provide an educational framework to children. Alongside those centers, which are supervised by the Ministry of Industry, Trade and Labor, there are also private child-care centers as well as home care through nursemaids.

308. The Social Services Department in the Ministry of Social Affairs refers children to day-care centers due to dysfunctional family situations; these day care centers also care for working mothers' children. There are currently 1,600 day care centers and 2,300 family care centers, attended by 68,000 working mother's children and 14,000 "welfare referred" children.

309. In the Jewish sector, 63.2% of the mothers take advantage of day care centers. 9.4% of the women are supported by family members, friends or require no assistance and 27.4% remain at home. In the Arab sector, which in general is considered more traditional, 70.4% remain at home, 16.3% of the women turn to day care centers and 13.3% use other free of charge arrangements.

Enforcement of Employment Legislation

The Department of Supervision of Labor Laws in the Ministry of Industry, Trade and Labor

310. The Department of Supervision of Labor Laws of the Ministry of Industry, Trade and Labor supervises the enforcement of a number of labor laws, including the *Employment of Women Law*. Under this Law, in 2003 – 2004 (up to June 1st), 32 cases were forwarded to the legal department for the preparation indictments and 7 employers were indicted for breaching these laws. Two were convicted and fined and two other cases are still pending. Another two indictments concern discrimination of women in acceptance to work due to parenthood; in one case the employer was convicted and administered a 40,000 NIS fine, and the other case is still pending.

311. As stated in our previous report, applications concerning dismissals of pregnant women are rising steadily. According to the Department's figures, in 2003, it received 1,647 applications from employers and women regarding discharges from employment during pregnancy.

312. In the last few years, the Enforcement Division of the Ministry of Industry, Trade and Labor boosted its activities under the *Equal Employment Opportunities Law* and the *Prevention of Sexual Harassment Law*. In the years 2003-04 (until the end of June 2004), it investigated 55 complaints concerning alleged discrimination of women in their place of employment due to pregnancy, parenthood and gender. The Division conducted 477 investigations involving unlawful advertisement and levied 228 administrative fines. The Division also held 1,326 inspections of workplaces regarding the publication of the code of practice in accordance with the *Sexual Harassment Law*.

313. According to recent figures, 5.3% of the women who were employed during their last pregnancy, resigned from their jobs following the delivery. 2% of the women who were employed in the course of their recent pregnancy were dismissed subsequent to the delivery. This indicates a high percentage of adherence to the law. The majority of

women returned to the same or a comparable position of employment following maternity leave. 4.5% of the women were promoted and 6% were demoted.

The Department of Labor Law Enforcement

314. In 2003, 1,657 applications were received concerning dismissal of pregnant employees. In 44% of the cases, the Department granted permits for dismissal while 56% of the requests were either refused or the cases were closed, a significant reduction to the 54% approval rate in 2000. The main reasons for consenting to permissions were the closing of businesses, consensual dismissal, or termination of contract.

315. The decision to approve dismissal is an administrative one, subject to judicial supervision. Both parties can petition this decision to a Labor Court. However, generally, the courts do not intercede in the authority's considerations and do not reverse those decisions, provided the authority performed its function in good faith, and in a manner relevant to its capacity.

Women's Employment among the Arab Population

316. During the last two decades, there was an increase in Arab women's participation in the labor force, from 11% in 1980 to 14.8% in 2002. Arab women today constitute about 4% of all women in the civil labor force in Israel. In 2003, there were 263,500 Arabs employed in the labor force, 204,900 (77.7%) were men and 58,600 (22.3%) were women. 34,100 of the Arab population were listed as unemployed, 6,400 (18.7%) of them were women.

317. The highest level of labor force participation for both genders is in the 25-34 age group. In the Arab sector, the majority of men (81,200) in the labor force graduated after 11-12 years of schooling, compared to the majority of women (32,100), who graduated with 13 years or more of schooling.

Article 12 - Equality in Access to Health Care

General

318. Under the *State Health Insurance Law, 5754-1994* ("*State Health Insurance Law*"), every resident is entitled to comprehensive health care services. The services are to be provided in reasonable quality and within a reasonable time, and at a fair distance from one's place of residence. Among these services are personal preventive medicine, health education, medical diagnosis, ambulatory medical care, mental care, hospitalization, medical rehabilitation, medicine supply, medical devices and accessories, and first aid medicine.

319. Two major surveys were held since the submission of our previous report: The 2003-2004 National Health Report, performed by the I.C.D.C. – Israeli Center for Disease Control, a project initiated by the European Health Interview Surveys (EUROHIS). The survey was held among 8,000 persons over the age of 21, and the relevant chapter titled "Women Health" polled 2,711 women – 2,160 Jewish women and 551 Arab women. The topics explored include: 1. The use of gynecology services. 2. The use of sex hormones. 3. Fertility and reproduction. 4. Health behavioral patterns. 5. Body mass. 6. Health and sickness situations. Also, a 2002 survey regarding subjective health conditions indicates that 39% of Israeli women defined their health as "very good", a lower percent than that of men (45%). An equal third of men and women replied positively to an enquiry regarding the existence of a health or physical problem lasting for over 6 months. Of those with a health problem, 72% of the women and 64% of the men claimed that it disturbed their every-day functions.

Special Health Services for Women

Pre/Post Natal Services: Delivery Rooms and Maternity Wards

320. In 2002-2003, there were 0.100 beds in gynecology wards per 1,000 residents, compared to 0.103 in 2001. Bed occupancy increased from 93.1% in 2001 to 94.8% in 2003. In 2003, the number of beds in maternity wards decreased to 0.198 per 1,000 residents (from 0.203 in 2001-2002) and bed occupancy increased from 109.2% in 2001 to 113.5% in 2003.

Table 13 - Beds in Hospitals and Bed Occupancy, By Type of Bed, 2001-2003

Type of Bed	Bed (Rates per 1,000 Residents)			Bed Occupany (Percentages)		
	2001	2002	2003	2001	2002	2003
Gynecology	0.103	0.100	0.100	93.1	93	94.8
Obstetrics	0.203	0.203	0.198	109.2	112.7	113.5

Source: Central Bureau of Statistics, 2004

321. Israel has preventative health service treatment for pregnant women through mother and child care stations ("Tipat Halav") for a certain minimum fee. Women, whose financial state is weak, may be exempt from this fee, under certain conditions.

322. Most Israeli hospitals conduct routine opinion polls as to the levels of satisfaction among all wards, including maternity wards. These polls indicate high levels of satisfaction with the overall treatment given.

Women Health Centers

323. Women health centers have been established in several hospitals, offering the following wards and services: labor rooms, women and obstetrician wards, fertility treatments (including IVF), specializing genecology wards (colposcopy, oncology, adolescent medicine, premenopause, high-risk pregnancy, etc.). Most of the specific wards exist in all hospitals.

324. Women health centers are also active in the community towards empowerment of women to enable them to better utilize their health potential through a healthier schedule, routine examinations, etc.

Osteoporosis

325. According to professional estimates of the Ministry of Health, 40% of the women over 55 shall undergo at least one osteoporosis fracture. The Israeli Center for Disease Control, through a project initiated by the European Health Interview Surveys (EUROHIS) collected data which indicates that 15.8% of women aged 45-74 were diagnosed with osteoporosis, and 76.5% thereof were treated with drugs (a significant improvement to 50% in 1998). A DEXA bone density check up is provided to women over 50 every 2-5 years. The basic service basket includes about a dozen different drugs for the treatment of osteoporosis.

Family Planning

326. In 2003, 21,220 applications terminate pregnancies were submitted to the Commission for Pregnancy Terminations, 20,835 (98.1%) approvals were given and 20,069 (94.5%) actually occurred. As of 2002, the majority of applicants to the Commission are single women (previously – it was mostly married women). 15,030 were Jewish, 1,275 Muslim, and 679 were Christian women. In recent years, the main reason for pregnancy terminations was out of wedlock pregnancy .The following data refers to pregnancy terminations in hospitals.

Table 14 – Terminations of Pregnancy in Hospitals (Applications, Approvals and Actual Terminations)

	2000	2001	2002	2003
Applications	20,278	21,505	21,025	21,220
Approvals	19,880	21,198	20,684	20,835
Actual Terminations - Total	19,405	20,332	19,796	20,069
Reason for Approval:				
Women's age	2,010	2,211	2,168	2,119
Out of wedlock pregnancy	10,452	10,924	10,661	10,773
Malformed fetus	3,249	3,210	3,396	3,470
Danger to woman's life	3,694	3,987	3,571	3,707

Source: Central Bureau of Statistics, 2004

Fertility Rates, Treatments and Services

Birth Rates and Fertility Rates

327. Since the beginning of the 1990's, the level of fertility in Israel remained constant with an average of 2.9 births per woman, a sharp decline from the 3.9 average in the 1960's.

328. In 2003, the rate of fertility among the total population was 2.95 births per woman. For Jewish women the rate was 2.73, for Muslims 4.50, for Christians 2.31 and for Druze 2.85.

Table 15 - Fertility Rates by Religion, 2001-2003

	2001	2002	2003
Total Fertility			
Total Population	2.89	2.89	2.95
Jews	2.59	2.64	2.73
Moslems	4.71	4.58	4.50
Christians	2.46	2.29	2.31
Druze	3.02	2.77	2.85

Source: Central Bureau of Statistics, 2004

329. Another noticeable trend is the ascent in the age of women bearing children, mostly due to the rise in the age of marriage. In the 1980's the average age of women giving birth was 27.4, in 2003 that age had risen to 28.8. Furthermore, the segment of women over 35 bearing a child went up from 9% in the 1980's to 16% in 2002-03, with a parallel decrease in the ratio of women under 20 giving birth, from 6% to 3% at 2002-03. Due to the relatively low number of cohabitation and traditional nature of the society, there is a limited number of out of wedlock childbearing, being approximately 3% of Jewish births.

Fertility Treatments and Services

330. As detailed in our previous report, fertility treatments in Israel remain highly developed and well subsidized. Each woman is entitled to IVF treatment until she gives birth to two children from her current relationship, regardless of children from previous marriages. This applies to unmarried women, as well as spouseless women. There are currently 24 In-Vitro fertilization (IVF) clinics in Israel. In 2002, 20,886 cycles of IVF treatment were performed, with some women receiving more than one cycle of treatment, resulting in 5,272 pregnancies and 3,734 live births (4,792 children).

Table 16 - In Vitro Fertilization in Israel, 2000-2002

	2000	2001	2002
Treatment cycles	18,011	20,512	20,886
Embryo transfer pregnancies	16,230	18,428	18,377
Deliveries resulting in live births	2,794	3,267	3,734

Source: Ministry of Health, 2004

Fertility Research

331. The following table details on-going research concerning fertility held throughout Israel during 2002-2003:

Table 17 - Fertility Research Projects, 2002-2003

Year	Total research proposals	Fertility research proposals		Fertility research proposals approved for funding		
		No. of proposals	% of proposals submitted	No. of proposals	% of proposals submitted	% of fertility proposals submitted
2002	**350**	**14**	**4.0**	**4**	**1.2**	**28.6**
2003	**230**	**8**	**3.5**	**2**	**0.9**	**25.0**

Source: Ministry of Health, 2004

Life Expectancy

332. In 2002, the average life span for Israeli women was 81.5 years and 77.5 for men. Elderly people (65+) comprise 10% of the population as of 2004 (only 3% among the Arab sector) and are expected to rise to 12% in the year 2020. In 2003, persons over 65 made up 11.2% of the female population, compared to 8.53% of the male population.

333. In the last two decades (1981-2001), life expectancy for Israeli women has increased by 5.3 years, compared to 4.6 among men. Over half the elderly women are widows,

compared to only 16% of the men, mostly due to women's longer life span and their tendency to marry older men.

Table 18 - Population, by population Group over 65, Religion, Sex and Age, 2003 (by thousands)

Religion									
Age	Christians - total			Moslems			Jews		
	Females	Males	Total	Females	Males	Total	Females	Males	Total
65-69	2.4	1.8	4.3	6.1	5.5	11.6	95.3	79.3	174.6
70-74	1.9	1.3	3.2	4.2	3.3	7.5	85.0	65.7	150.7
75-79	1.4	0.8	2.2	2.6	1.9	4.5	78.8	53.6	132.5
80-84	0.7	0.4	1.2	1.3	1.1	2.4	50.7	36.3	87.0
85-89	0.3	0.2	0.4	0.6	0.7	1.2	24.3	14.7	39.0
90+	0.2	0.1	0.3	0.3	0.4	0.8	13.8	8.0	21.8

Age	Religion unclassified			Druze		
	Females	Males	Total	Females	Males	Total
65-69	3.5	2.4	5.9	0.9	0.7	1.6
70-74	1.8	1.2	3.0	0.7	0.6	1.2
75-79	1.6	0.7	2.3	0.4	0.4	0.8
80+	1.3	0.4	1.6	0.4	0.5	0.9

Source: Central Bureau of Statistics, 2004

Mortality Rates and Causes of Death

334. In 2003, women also had a lower mortality rate than men in all age groups: 20-24 men – 1.2 to a thousand, women – 0.4 to a thousand; 50-54 – 4.3, 2.4 respectively; 80-84 – 77.1, 65.4 respectively.

335. The maternal mortality rate has remained generally low. In 2002, the maternal mortality stood at 6 deaths per every 100,000 live births.

Cancer among Women and Mammograms

336. Cancer is the second major cause of death for women, after heart illness. Breast cancer is the most common malignant illness, constituting 18% of all annual cancer instances, and 30% of the cases of cancer among women.

337. The Ministry of Health figures indicate that 3,400 new cases of breast cancer are discovered annually, 70% of the patients are over 50 and 400 annual cases can be found among the 22-40 age group. In the 45-64 age group, the average rate of breast cancer per 100,000 women is 281.1 in the Jewish sector and 118 in the Arab sector. The basic services entitlement includes over 70 different drugs for the treatment of breast cancer.

Colon and rectum cancer are the second most common cancers among women (as well as the general population), with 68 of 100,000 in the Jewish Sector and 37.6 of 100,000 in the Arab sector.

338. A 2003 national survey of women's health performed by JDC - Brookdale Institute, indicates that 13% of the women under 50 and 62% of the women over 50 had a mammography screening in the two years prior to the survey. The survey further specifies that the rates of women conducting mammograms are almost the same in all sectors, with 62% among the Jewish sector and 61% among the Arab sector (a dramatic rise from 18% in 1995).

Mental Health

339. As of the end of 2002, there were 47,660 patients in mental health clinics, 25,380 men (53.3%) and 22,280 (46.7%) women. The number of women is higher in the 45-64 and 65+ age groups.

340. In 2002, 13,295 people were admitted to inpatient care and day hospitalization, 5,565 (42.1%) of them were women. This data reflects an increase compared to 2001, when 13,014 persons were admitted to inpatient care and day hospitalization, 5,490 (42.1%) of them were women.

341. The EUROHIS data indicates that women suffer from higher levels of depression and anxiety than men. In the 45-74 age group, 4.7% of the women reported that they were diagnosed as depressed/anxious, to only 3.8% of the men. In the younger age group of 21-44, the numbers are almost identical, with 1.7% of the women and 1.5% of the men.

AIDS

342. The total number of AIDS patients up to 2004 was 924 (688 male and 236 female). There were 2,959 known cases of HIV-positive individuals in 2004 (1,798 male and 1,161 female). The percentage of women diagnosed with HIV-positive increased, from 26% in 1995 to 39.2% to this date. The Public Health Services in the Ministry of Health estimate that as of December 2003, the correct number of people living with HIV/AIDS is 4,127.

343. HIV examinations are available to each person, anonymously and free of charge. Every Israeli citizen who is HIV-positive is entitled to virtually free of charge treatment in any one of the seven regional AIDS centers. Non-Israeli pregnant women and their children are entitled to free of charge antiretroviral treatment.

344. The Ministry of Health has initiated various projects to increase awareness to HIV, especially among more traditional populations, such as the new immigrants from Sub-Saharan countries. The ministry developed a program adapted to these populations, incorporating both HIV health education and an individual support and follow-up by

health educators originating from the same communities. Further programs target youth, as well as soldiers, educating them on HIV and AIDS, through direct counseling, Radio and TV broadcasts.

Women in Health Care

Women in Medical Schools

345. Women make more than half of the medicine students. In the 2002-2003 academic year, there were 3,568 students of medicine (first, second and third degrees), of which 1,867 (52.3%) were women.

Women as Medical Personnel

346. The majority of medical personal are women. In 2003, there were 156,900 persons employed in health services, 44,800 (28.6%) were men and 112,000 (71.4%) were women. 58,500 of the women worked in hospitals and 35,800 in clinics and medical institutions. In the same year, there were 104,000 salaried women employees, compared to 36,800 men.

Table 19 – Employed Persons and Employees in Health Services, By Sex, 2003

	Total	Hospitals	Clinics and Medical Institutions
Employed Persons			
2003 – Total (Thousands)	156.9	82.7	48.1
Males	44.8	24.1	12.4
Females	112.0	58.5	35.8
Employees			
2003 – Total (Thousands)	140.8	82.2	43.7
Males	36.8	23.9	10.0
Females	104.0	58.2	33.7

Source: Central Bureau of Statistics, 2004

347. In 2003, 734 licenses to practice medicine were issued, 49% to women, also, 169 new pharmaceutical licenses were issued, 63% to women.

Senior Positions for Women in the Health System

348. Women compose a majority (5 out of 7) of the Ministry of Health's district doctors. Women also head five major departments in the ministry, and there are two women

deputy director generals. There are 12 women (26%) in the National Health Insurance Council.

Attitudes towards women in the Health System

349. Recent data indicates that none of the complaints submitted regarding medical treatment and medical/para medical personnel is related to discrimination against women.

Promotion of the Status of Women in the Health System

350. The Ministry of Health holds a yearly seminar for women on women-related issues, and specifically on sexual harassment issues.

351. The women status supervisor in the Ministry encourages women to apply for managerial positions and is extensively involved in matters such as sexual harassment, domestic violence, etc.

352. Every year, dozens of women represent the Ministry of Health in delegations to international conferences and seminars abroad.

Article 13 - Social and Economic Benefits

Legal Developments

353. A major legal development was the expansion, *in 2004* of the *Employment of Women Law (Temporary Provision) of 1998*, granting men the privilege to share maternity leave with their wives and the eligibility for maternity leave allowance, provided their wife waives the privilege for the remainder of the maternity leave and returns to work. This amendment was recently extended and is in force until the end of April 2007.

354. The *Employment of Women Law* underwent substantial modifications since our previous report, as detailed henceforth:

355. *Amendment no. 20* excluded an employee's maternity leave and the 45 consecutive days from the dismissal notice days, therefore, an employer can only dismiss an employee following those 45 days. *Amendment no. 21* added protection to an employee (men and women) undergoing IVF and fertility treatments for their first and second child, during their absence and the following 150 days. *Amendment no. 22* stipulated that an employee's absence due to maternity leave should not affect social benefits dependent upon seniority. *Amendment no. 24* anchors the employer's duty to continue allotment of employees' pension, pension fund or directors insurance and savings plan during a pregnancy observation period, provided the employee maintains allotment of her share. Also, the employer is obligated to maintain allotment of his ratio in the pension fund or directors insurance during maternity leave. *Amendment no. 25* adds that a woman can

extend her maternity leave when the newborn is hospitalized for a period of over 12 weeks. This extension does not coincide with the remaining periods of extension, to a maximum period of 4 weeks.

356. Amendment no. 26 restricts the Ministry of Industry, Trade and Labor's ability to grant an employer with a retroactive permit to dismiss a pregnant employee. Among the exceptions enabling such retroactive dismissal are: lack of knowledge of the pregnancy at the time of the dismissal, proven severe circumstances, bankruptcy or liquidation, or ceasing of operation due to unexpected circumstances.

Social Benefits and the Welfare State

Social Benefits

357. Israel has an advanced social insurance system, protecting against major contingencies of income loss prevalent in a modern society. This includes long-term payments, guaranteeing resilience to those permanently unemployed due to old age or disability, to dependents and to families struggling with the economic burden of raising children, and short-term payments substituting the wages of those temporarily unemployed (on account of dismissal, work injury, child bearing or military reserve service). The National Insurance Institute (NII) is the governmental body responsible for the administration of the social insurance programs.

358. Women in Israel have a high presence among social benefits recipients; a figure mostly derived from women's longer life span and their employment patterns.

359. The following will present developments and changes in social benefits affecting women that occurred since the submission of our previous report.

Maternity Insurance

360. Women are entitled to maternity insurance, which includes a hospitalization grant, a maternity grant, a birth allowance and a maternity leave allowance. Until July 2002, the rate of a maternity grant was 20% of the average wage, independent of prior births. In August 2003, there was a change in maternity grants payable for the second child and onwards and it was set as 6% of the average wage. In January 2004, the grant payable for the second child only was increased to 9% of the average wage.

361. In 2003, 142,000 women received maternity grants, a 6% increase from the 2002 figures. In recent years, the rate of women receiving this payment has decreased moderately, mostly due to changes in the rate of women's participation in the labor market whilst in their fertility phase. It is notable that the average age of women who received the maternity leave allowance, in 2002-2003, is 30. Also, 95.5% of those women were salaried employees, a figure resulting from the nature of women's

participation in the labour market. In 2003, maternity insurance's portion of all national insurance payments was 6.1% - compared to 5.9% in the years 2001-2002.

Old Age and Survivors' Benefits

362. In 2003, approximately 604,000 received old age and survivors' benefits, with 104,000 monthly recipients. Old age and survivors' benefits comprise the largest insurance branch at the NII and the numbers are rising, with a 3.8% increase in the number of old age benefit recipients. There was a slight decrease in the number of survivor benefits recipients (-0.1%). These changes mainly reflect the growing number of elderly population, as the population gentrifies.

363. As of December 2003, the majority of those eligible to both old age and survivors benefits were women – 95% of the 76,597 eligible to these two benefits. The high rate of women is mainly because more men than women were insured so their wives had survivors' benefits, and women usually marry older men and have a longer life expectancy. There is a difference between the genders in the rank of the two benefits: the average level of benefits that men are eligible to receive is higher due to seniority increments and postponed retirement increments. At the end of 2002, 166,000 widows received survivors' benefit: 95,000 received this benefit alone and another 71,000 were given the combined benefit. There were only 7,000 widowers receiving survivors' benefit - half of them receiving the regular benefit and the other half, the combined benefit.

364. In 2004, the Government adopted the recommendations of a public committee, which examined the issue of retirement age. In its final report, the committee recommended setting the same retirement age for women and men, which grants the right to old age benefit, at the age of 67. The retirement age for women and men will be raised gradually from 60 and 65, respectively, to 67. Another recommendation is the establishment of a committee to monitor the process and examine whether there are any improvements in women's position in the labor market, from the aspects of employment rate and wages. Throughout this process, in different phases, the committee will examine the effects of these changes on women. Consequently, the Knesset enacted the *Retirement Age Law*, 5763-2004 ("*Retirement Age Law*").

Alimony Payments

365. In 2003, 26,000 women received monthly alimony payments from the NII - an 8% decrease from the previous year. Between 1998-2002, there was a 7.5% increase in the rate of women receiving alimonies from the NII. The increase derived, usually, from the greater numbers of divorces and the higher rate of unemployment. The recent decrease stems from amendments to the *Income Assurance Law*, 5741-1980 ("*Income Assurance Law*") and the *Alimony Law (Assurance of Payment),* 5732-1972 ("*Alimony Law*

(Assurance of Payment)"), conditioning the entitlement to alimony to instances whereby the debtor does not reside with the recipient.

Single-Parent Families

366. The number of single-parent families in Israel is at a constant ascent in recent years - mostly due to the changes in family patterns and the rise in the rate of divorce. In 2003, single-parent families comprised approximately 12% of all the families with children – compared to 9.3% in 1995. Women head 97% of these families and in close to a third of them, the parent is a new immigrant. It should be noted that single-parent families also constitute 36% of all income guarantee recipients.

367. Although the Government has recently reduced some of the privileges given to single parent families, the Ministry of Industry, Trade and Labor initiated a special program to integrate them into the labor market, specifically those receiving income guarantees and alimony payments. The program intends to increase single parents' earning capabilities, while raising their employment qualifications. The program grants its participants with the following benefits: a 9,600 NIS grant to those who increase their income by at least 1,200 NIS compared to their income in May-July 2003; single parents' full time employers are entitled to a financial grant of up to 12,000 NIS, travel expenses refund, vocational and professional training, and participation in fees for children in kindergarten and day-care centers. The program began in August 2003, and by March 2004, 30,000 single parents approached the Bureaus, 13,000 of them were referred to positions and 5,100 were placed accordingly. The dropout rate is about 30%. Also, 630 single parents are currently attending vocational courses, and 372 of them placed their children in day-care centers.

Financial Credit

368. Women in Israel make use of bank loans, mortgages and other forms of financial credit in a manner equal to men.

Recreational Activities

369. Women participate in all aspects of recreational activities, including sports and cultural life, as detailed in Article 10 above.

Article 14 - Rural Women

General

370. A very high percentage of the Israeli population lives in urban localities – 91.5%. Rural population makes up 8.5% of the general population. The majority of this population lives in "Moshavim" (cooperative settlements) (39.2%), Kibbutzim (communal

settlements) (20.9%), and institutional settlements (15.5%), totaling 75.7% of the rural localities. In these aforementioned settlements, 99.6% of the population is Jewish. The rest of the rural population is Muslim, Christian, Bedouin, Druze and Circassian living in various forms of rural localities. This Article will focus on Bedouin women.

Bedouin Women

371. The following data refers mostly to the Bedouin community in the southern Israeli Negev desert. There are approximately 145,000 Bedouins living in the Negev, approximately 83,000 of them in seven Bedouin towns and the rest in illegal villages throughout the Negev.

Education

372. Bedouins enjoy all the rights and opportunities of Israeli citizens, including the privilege to receive formal education at all levels, in accordance with the laws of Israel.

373. In recent years, there has been a substantial rise in the percentage of pupils in the Bedouin sector taking matriculations exams (up from 19.7% in the year 1998 to 53.8% in the year 2002), as well as a huge leap in the percentage of pupils entitled to a matriculation certificate (from 15.5% in the year 1998 to 42.8% in the year 2002).

374. The high school dropout rate in the Bedouin sector is 11.58% (compared to a 4.53% in the Jewish sector). The highest dropout numbers are of female-minors in the illegal villages, mostly due to early marital age and the desire to protect family honor. It should be noted that the situation is quite different in the Bedouin towns where female-minors graduate after 12 years of schooling, usually continuing with higher education as detailed below.

375. A recent survey held by the Van Leer Jerusalem Institute examined the issue of Bedouin female-minors dropout rates and concluded that the educational system has to consider the special needs of the traditional Bedouin society. The major requisite adjustments are separate schools/classes for male-minors and female-minors, as in the Jewish-religious school system, and adaptation of the curriculum to the cultural background of the Bedouin pupil.

Higher Education

376. With regards to higher education, there are currently more Bedouin women studying for their first degree than men. Statistics indicate that most of the Bedouin women who turn to higher/academic education are unmarried. Once married, they may abandon their studies.

377. There are three colleges in Be'er Sheva where the majority of students are Bedouins. Most of the women students are single. Married women study, for example, in the Negev

College, where classes are separate, and in Ben – Gurion University where there is a Student Body Association that accompanies the Bedouin women students. Also, the faculty of medicine accepts, on a trial basis, a number of qualified Bedouin women who failed the formal entry exams.

378. The Ministry of Education, Culture and Sport has recently granted 18 Bedouin students full scholarships in order to pursue higher studies at the Ben-Gurion University in Beer-Sheva during the academic year 2004/5. The scholarships were granted on the basis of academic excellence and financial situation. Among the 18 students' recipients of the scholarship, 12 were women. Additional scholarships are granted by various NGOs.

Employment and Welfare

379. The Bedouin population has a high rate of unemployment and low socio-economic state. Several measures are being implemented to change these statistics. One example is a business entrepreneurship course for Bedouin women in cooperation with the Center for Fostering Entrepreneurship and the Authority for the Advancement of the Status of Women.

380. A Center for the Welfare of the Bedouin Family was recently established in Be'er Sheva, manned by a specialized social worker. The Center serves as a place for discrete conflict resolution and a place of transit for Bedouin women seeking refuge due to domestic violence.

Health

Infant Mortality

381. In 2003, the overall infant mortality rate was 5.1 (compared to 5.5 in 2001). Pursuant to specific data for 2002, the rate was 4.0 in the Jewish population, 9.1 among Muslims, 2.8 among Christians and 7.0 in the Druze Population.

382. There has been a remarkable 81% decrease in the infant mortality rate in the Bedouin population over the last three decades, from 33.9 per thousand to the current 15.3 per thousand. Nonetheless, the mortality rates remain high. This is due to rough living conditions in the illegal villages and the high rate of consanguineous marriage (60% overall, with 40% being of the first degree). Another element impacting upon mortality rate is the religious prohibition against abortion among Muslims even in medically recommended cases, as well as the high rate of births among elderly women.

383. The Ministry of Health’s Public Health Services initiated a project to reduce infant mortality in the Bedouin sector. The project operates through Arabic-speaking female instructors who educate prospective mothers on the importance of regular visits to the doctor during pregnancy. These instructors address the importance of medical

examinations to detect birth defects during pregnancy, and awareness of the consequences of consanguineous marriage.

Other Health Indicators

384. Bedouins, like all Israeli citizens and residents, are entitled to health insurance under the *National Health Insurance Law*. All Bedouins are fully covered, whether they reside in Bedouin towns or in illegal villages. Various health funds (i.e., privately owned health care providers subsidized by the government) build and run community clinics in permanent towns, as well in the illegal villages (the result of the High Court of Justice ruling in H.C.J. 4540/00 *Abu Apash v. The Minister of Health*, petitioning for clinics in the illegal villages).

385. The improvement of the relevant health indicators among the Bedouin community continues, yet gaps remain, especially among those living in the illegal villages. This is so mainly due to the physical conditions in those villages.

386. In addition, the illegal villages are provided with Mother and Child Health Clinics (Tipat Halav), Health Fund medical clinics, family care mobile units, mobile immunization teams, and a special mobile eye medicine unit. Recent data indicates that the rate of vaccinations (for children up to the age of two), in the Bedouin sector is 90%, almost identical to the rate in the Jewish sector (93%).

Ritual Female Genital Operation (Female Circumcision)

387. Recent data indicates over the last few years there were no reports of women who underwent female genital mutilation in Israel.

Marital Status

388. There is a high percentage of married women in Bedouin society, indicating the importance of this institution. The status of cohabitation has also been prevalent due to the prohibition of polygamy in the Israeli law.

Article 15 - Equality before the Law and in Civil Matters

General

389. The Israeli Judiciary provides equality to men and women in all areas of law, including all aspects of civil matters, as detailed throughout this report.

390. In civil matters, women enjoy an identical capacity to that of men, including the right to conclude contracts, administer property and equal treatment in all stages of procedure in courts and tribunals. Women also have the same benefits regarding the movement of

persons and the freedom to choose their residence and domicile, as detailed in Article 9 above.

Religious Courts

391. Overall, religious Courts have an exclusive jurisdiction over all matters of marriage and divorce, except when the couple is not affiliated to any religion or of different religions. Regarding these exceptions, in matters relating to divorce, the jurisdiction is granted to the Family Courts or to the Religious Courts, upon the decision of the President of the Supreme Court. In Matters concerning women's and children's alimony, property issues, child maintenance, guardianship, violence and in the case of Muslims, also parental matters, Family Courts and the Religious Courts have a parallel jurisdiction, with certain differences between the various religious communities.

392. Inheritance and adoption – the Family Courts have the main jurisdiction, the Religious Courts jurisdiction is subject to the consent of all relevant parties and certain limitations stipulated in the Law. Child abduction, marriage approvals under the *Marital Age Law*, name changing, determination of age, surrogacy, parenthood (except for Muslims) and other disputes among family members, in matters not mentioned above – are all subject to the exclusive jurisdiction of the Family Courts.

393. In reference to certain aspects of personal status laws, Israel has entered a reservation due to commitments to various religious communities in Israel. Further details regarding this reservation are provided in Article 16, below.

Article 16 - Equality in Marriage and Family Life

General

394. Israel upholds its reservation to article 16 regarding personal status laws due to commitments to religious communities in Israel. This reservation stems from Israel's constitutional system and respect for religious pluralism, as well as its granting autonomy to religious communities in matters of personal status.

395. The personal religious law limits the marriage option for a number of groups in Israel. Moreover, certain couples prefer to forego the imposed religious marriage because it contradicts their perceptions of marriage and marry abroad.

Legal Developments

396. The legislator has recently extended the powers granted to the Rabbinical Court when dealing with a husband reluctant to give his wife a “Get” (divorce decree), thus preventing her from re-marrying. The *Rabbinical Courts Law (Upholding a Divorce Decree), 5755-1995* ("*Rabbinical Courts Law (Upholding a Divorce Decree*)")

(Amendment no. 5 from 2004) enables the Court to order the reluctant husband to remain in isolation for an initial period of 14 days (previously 5 days) and for continuous periods thereafter, pursuant to certain limitations.

The Family in Israel: Some Demographic Data

397. As discussed in our previous reports, Israel is a family-oriented society. The Central Bureau of Statistics' data indicates that in 2002, only 3% of Israeli couples (35,000) cohabitated without marriage. Approximately 60% of those cohabitating are single, 25% are divorced, 12% widowed and 3% married (to others).

Marriages

398. There is a high rate of marriages, and nearly every Israeli adult marries at least once - 97% of the men and 95% of the women among the population over 45. The status of married persons is illustrated by the following table:

Table 20 - Persons Marrying, By Age, Previous Marital Status and Religion, 2002

	Druze		**Christians**		**Muslims**		**Jews**	
	Never-married	Total	Never-married	Total	Never-married	Total	Never-married	Total
Men - Total								
	738	833	713	745	7,979	8,445	27,511	29,695
Average Age								
	27.4	27.4	29.1	29.5	26.4	27.0	27.3	28.8
Women – Total								
	787	833	737	745	8,235	8,445	27,113	29,695
Average Age								
	21.8	22.3	24.2	24.3	21.7	21.9	25.0	26.0

Source: Central Bureau of Statistics, Statistical Abstract of Israel 2004

399. In 2002, the average age of first marriages in Israel was 27.3 for Jewish men, 26.4 for Muslim men, 25.0 for Jewish women and 21.7 for Muslim women. It should be noted that since 1970, the average marital age has risen by three years, mostly due to the increase in cohabitation and women's participation in the labor market and in higher education.

400. Recent data provided by the Israeli Police reveals very low numbers of polygamy cases – 10 in 2003 and 15 in 2004.

Divorces

401. Israel's divorce rate has been increasing in recent years, as demonstrated by the following table:

Table 21 – Persons Divorcing, 15+, By Sex and Religion, 2002

Total Population		Rates (of 2001)	
Women	*Men*	*Women*	*Men*
10,939	10,939	8.8	8.7
Thereof: Jews			
9,686	9,686	9.5	9.3
Thereof: Muslims			
1,136	1,136	6.5	6.5

Source: Central Bureau of Statistics, Statistical Abstract of Israel 2004

Minimum Marital Age

402. Young brides are significantly more common than young grooms, especially in certain sectors of the population such as the Ultra orthodox Jews, Georgians Jews, Muslims, Druze and Bedouins.

403. The Knesset Research and Information Center, in a survey held at the end of June 2004, estimated that hundreds of female - minors annually marry in Israel. The survey claims that the *Marital Age Law* is seldom enforced and when a petition is filed for an under-age marriage, it is almost always granted, usually explained by the fact that these marriages usually occur in populations that are experiencing changes and are only recently coming to grips with a new social context that has a different approach to public policy norms. In the year 2001, 15 Jewish and 20 Muslim grooms under the age of 17 were registered for marriage, and 24 Jewish and 113 Muslim brides under the age of 16.

Table 22 - Marriage of Young People up to Age 19, 2002

Druze		Christians		Moslems		Jews			Age and year
Thereof: Never-Married	Total	Thereof: Never-married	Total	Thereof: Never-married	Total	Divorced	Never-married	Total(1)	
Men									
738	833	713	745	7,979	8,445	2,916	27,511	29,695	Total
40	41	2	2	316	316	1	987	988	19 Up to
-	-	-	-	17	17	-	30	30	Up to 17
9	9	1	1	104	104	-	261	261	18
31	32	1	1	195	195	1	696	697	19
Women									
787	833	737	745	8,235	8,445	2,387	27,113	29,695	Total
343	345	89	89	3,700	3,715	5	3,114	3,122	Up to 19
-	-	1	1	165	165	1	28	29	Up to 16
97	97	15	15	1,152	1,156	-	340	340	17
129	129	34	34	1,314	1,320	-	960	961	18
117	119	39	39	1,069	1,074	4	1,786	1,792	19

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2004

404. Usually under-age marriages take place in closed communities, and do not become public knowledge, therefore the likelihood of acquiring evidence of the marriage or proving their very existence, is quite low. Furthermore, violations of this law do not come to the knowledge of the Police or other relevant bodies.

405. There are some specific State programs in towns in the northern part of Israel, aimed at educating the population with regard to the implications of under aged marriages.

Same-Sex Couples

406. Since 2000, the Ministry of the Interior adopted an equivalent policy towards same-sex couples and heterosexual non-marital cohabitants, awarding same-sex foreign partners of Israeli citizens with resident status. As mentioned in Article 9, the Ministry of the Interior is currently in the process of examining and completing a more flexible policy to both same-sex couples and heterosexual non-marital cohabitants to be implemented over a seven-year period. Under the new policy, foreign partners will be entitled to temporary resident status after 12 months of cohabitation and permanent residency after 7 years of cohabitation.

407. Our previous report mentioned the case of legally recognized mutual parenthood for a lesbian couple. Since then, each woman maintains guardian status over the biological children of her partner. However, their petition for joint second-parent adoptions was *rejected* by the Family Court and the District Court (*FAA. 10/99 Jane Doe v. The Attorney General (10.05.01))*. The District Court determined that in light of the purpose and language of the *Children Adoption Law*, same sex couples do not fulfill the

provisions or the purpose of the law. The Court ruled that the issue was controversial and, thus, there is need for legislative involvement.

408. In a landmark decision from January 2005, the Supreme Court accepted the appeal of two women, a same-sex couple, to adopt each other's children. The Court ruled that under the *Adoption Law*, each case should be examined on its own merits and all the relevant circumstances need to be taken into consideration. The Court emphasized that the decision solely concerns this couple and is not a principled one, thus leaving the question of same-sex relationships for another time. The Court recommended that the Knesset amend the law to provide a solution to a real problem, and attempt to bypass ideological controversial problems that the issue presents. (C.A. 10280/01 *Yaros-Hakak v. The Attorney General* (10.01.05)).

409. The state has recently (June, 2004) informed the Supreme Court that it is willing to provide same-sex couples with equal privileges to heterosexual couples regarding taxation over *shared* registered accommodation.

410. In November 2004, the Nazareth District Court determined in a precedent setting judgment that the term "man and woman" in the *Inheritance Law*, 5725-1965, ("*Inheritance Law*") applies to same-sex spouse. The judgment was based upon the general inclination to broaden the interpretation of the term "spouse", as evidenced in decisions on other legal spheres, and applying it to the *Inheritance Law*. Here, the applicant and his late partner, both Jewish, lived together as a couple, they jointly managed a household and shared a romantic relationship. (C.A. 3245/03 *A.M. v. the Attorney General in the Office of the General Custodian* (11.11.04)).

New Reproductive Technology and Surrogacy

411. As discussed in our previous report, the *Surrogacy Agreements Law (Approval of Agreement and Status of Newborn Child), 5756-1996* ("Surrogacy *Agreements Law (Approval of Agreement and Status of Newborn Child)*"), regulates the approval of surrogacy agreements and the status of the unborn children.

412. Recent data (March, 2004) indicates that since the enactment of the law, 210 application for approval of surrogacy agreements were received. 169 were approved, resulting in the birth of 80 children from 62 childbirths (due to the prevalence of multi-fetus pregnancies). Seven other surrogate mothers were pregnant at that date. 15 couples whose agreements had been approved decided not to continue the process and turned to adoption.

United Nations CEDAW/C/ISR/CO/3

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5-22 July 2005

Concluding comments: Israel

1. The Committee considered the third periodic report of Israel (CEDAW/C/ISR/3) at its 685th and 686th meetings, on 6 July 2005.

Introduction by the State party

2. In introducing the report and up-to-date information, the representative indicated that these were the result of a collaborative effort by various government bodies, together with inputs from non-governmental organizations. Equality and the promotion of women's rights were of the utmost importance to the Government and society. The representative emphasized that Israeli women were a vibrant, vocal, integral part of every aspect of society, which they shape and take part in as members of every profession. Drawing attention to progress in many areas, the representative noted remaining gaps still to be addressed. Since the submission of the previous report, concerted efforts had been made, in accordance with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, to promote equality between men and women, Jews and non-Jews of all ethnic and religious backgrounds alike. The representative emphasized that Israeli women awaited the day when they and Palestinian women, especially under the new Palestinian leadership, will no longer know the grief of loss but only the joy of equality, building and progress.

3. Efforts to eliminate discrimination against women in the legislative arena had been wide-ranging. Recent laws complemented one another, representing a new approach of "women's legislation". These laws covered a variety of issues including women's equal rights, sexual harassment, stalking, governmental responsibility for gender equality, the rights of women victims and prevention of discrimination in the private sector. They provided a broad vision of social change and complete transformation of gender power and relations. Measures had also been taken to guarantee implementation.

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4. The Government had taken steps, including affirmative action, to eliminate discrimination against women, for example in supporting the integration of single mothers into the labour market. The courts continued to play a crucial role in promoting women's rights. Recent decisions approved governmental affirmative action measures in funding women's sports activities; secured women's equal retirement rights and granted a battered wife punitive damages for abuse suffered.

5. The representative stressed that combined efforts were necessary to eliminate discrimination against women as demonstrated through action taken by the legislative, judicial and executive branches, in cooperation with civil society, to combat trafficking in women for sexual exploitation. These included the amendment of the Penal Code to include a prohibition against trafficking in persons for purposes of prostitution, followed by the establishment of a Parliamentary Investigative Committee on Trafficking in Persons. That Committee interacted with victims and exercised oversight function over government agencies. Its work had resulted in further legislative progress, including mandatory minimum imprisonment for violations of the law and expansion of victims' rights. Additionally, an Intra-ministerial Committee had been established to recommend measures, which have been adopted and implemented, to combat trafficking more effectively. Law enforcement and prosecution of traffickers had been enhanced, and courts had been issuing more severe sentences and interpreted the law in accordance with the spirit of relevant international treaties. Operational guidelines issued by the Attorney General on combating trafficking had been implemented. Shelters provided medical and psychosocial treatment and free legal aid to trafficking victims. Cooperative arrangements were in place, including with the International Organization for Migration and non-governmental organizations, to arrange for victims' safe return to countries of origin and to initiate rehabilitation processes.

6. Turning to measures taken in response to some of the Committee's concerns expressed in its previous concluding comments, the representative noted the growing number of women in prestigious positions within the Israel Defense Forces and the establishment, in 1998, of the statutory Authority for the Advancement of Women. The Knesset Committee on the Status of Women had also played a pivotal role in women's issues. Women's representation in political life had progressed with 18 members, or 15 per cent, in the Knesset — the highest rate ever, 3 ministers, 4 deputy ministers, and 5 director-generals of Ministries.

7. Addressing another of the Committee's concerns, the representative drew attention to the substantial rise in Bedouin students taking matriculation exams and receiving baccalaureates. More Bedouin women were studying for Bachelor's degrees than men. Steps were being taken to increase the number of Bedouin women admitted to the faculty of medicine, while the Ministry of Education, Culture and Sports granted scholarships to Bedouin students and had taken steps to increase attendance and prevent dropouts.

8. In conclusion, the representative stressed that the delegation, consisting of high-ranking officials from the relevant ministries, was prepared to engage in a constructive and fruitful dialogue with the Committee on the implementation of the Convention.

Concluding comments of the Committee

Introduction

9. The Committee expresses its appreciation to the State party for its third periodic report, which is in compliance with the Committee's guidelines for the preparation of the periodic reports. It commends the State party for the written replies to the list of issues and questions raised by the pre-session working group and for the oral presentation.

10. The Committee commends the State party for its delegation, made up of representatives of different ministries with responsibility for several areas of the Convention.

11. The Committee notes that Israel continues to retain its reservations to articles 7 (b) and 16 of the Convention.

Positive aspects

12. The Committee notes with appreciation the significant law reform undertaken since the consideration of its combined initial and second reports (CEDAW/C/ISR/1-2) in 1997, aimed at the promotion of gender equality and elimination of discrimination against women and at achieving compliance with the obligations under the Convention, including amendments to the Women's Equal Rights Law, the Employment of Women Law (Amendment 19), the Prevention of Violence in the Family Law and the Civil Service Law (Appointments) and enactment of the Prevention of Sexual Harassment Law (1998), the Victims of Offences Rights Law (2001), the Prevention of Stalking Law (2001) and the Local Councils Law (Adviser on the Status of Women) (2000).

13. The Committee welcomes the establishment of the Authority for the Advancement of Women in 1998.

Principal areas of concern and recommendations

14. **The Committee notes the State party's obligation for the systematic and continuing implementation of all the provisions of the Convention. At the same time, it is the Committee's view that the concerns and recommendations identified in the present concluding comments require the State party's priority attention between now and the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It calls on the State party to submit the present concluding comments to all relevant ministries and to the Knesset so as to ensure their full implementation.**

15. The Committee is concerned that the State party has not taken adequate steps to implement the recommendations in regard to some concerns raised in its previous concluding comments adopted in 1997 (A/52/38/Rev.1). In particular, the Committee finds that its concerns reflected in paragraphs 170, 171 and 173 have been insufficiently addressed.

16. **The Committee reiterates these concerns and recommendations and urges the State party to proceed without delay with their implementation.**

17. The Committee is concerned that the right to equality between women and men and the prohibition of both direct and indirect discrimination against women has not been reflected in the Constitution or in a basic law.

18. **The Committee recommends that a definition of discrimination in line with article 1 of the Convention, as well as provisions on the equal rights of women in line with article 2 (a) of the Convention, be included in the new Constitution that is in the process of being drafted, or in a basic law.**

19. The Committee is concerned that only some provisions of the Convention have been incorporated into the domestic legal order. The Committee is also concerned about the lack of mechanisms to monitor and ensure the compatibility of domestic laws with the State party's obligations under the Convention.

20. **The Committee urges the State party to fully incorporate the provisions of the Convention into its legal order and regularly assess the compatibility of its domestic laws with its obligations under the Convention. The Committee recommends that the State party implement training and awareness-raising programmes to familiarize judges, prosecutors and other members of the legal profession with the provisions of the Convention.**

21. The Committee is aware that the persistence of conflict and violence hinders the full implementation of the Convention and notes that recently, steps have been taken towards its resolution. In this regard, the Committee welcomes the draft law on women in peacemaking, which will require 25 per cent participation of women in the peacemaking process.

22. **The Committee encourages the State party to continue its efforts towards conflict resolution and to fully involve all women concerned in all stages of the peace process.**

23. The Committee regrets the State party's position that the Convention does not apply beyond its own territory and, for that reason, the State party refuses to report on the status of implementation of the Convention in the Occupied Territories, although the delegation acknowledged that the State party had certain responsibilities. The Committee further regrets that the delegation did not respond to questions by the Committee concerning the situation of women in the Occupied Territories. The Committee notes that the State party's view that the Convention is not applicable in the Occupied Territories is contrary to the views of the Committee and of other treaty bodies, including the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee against Torture and also of the International Court of Justice, which have all noted that obligations under international human rights conventions as well as humanitarian law apply to all persons brought under the jurisdiction or effective control of a State party and have stressed the applicability of the State party's obligations under international human rights conventions to the Occupied Territories.

24. **The Committee urges the State party to reconsider its position and to give full effect to the implementation of its obligations under the Convention in regard to all persons under its jurisdiction, including women in the Occupied Territories, and to provide in its next periodic report detailed information on the enjoyment by all women, including if still relevant, women living in the Occupied Territories, of their rights under the Convention.**

25. The Committee remains concerned that the State party continues to retain its reservations to articles 7 (b) and 16 of the Convention. The Committee is particularly concerned at the State party's statement that such reservations are "unavoidable at this point in time" and its position that laws based on religious values cannot be reformed.

26. **The Committee urges the State party to consider withdrawing its reservations to articles 7 (b) and 16, which are contrary to the object and purpose of the Convention.**

27. While welcoming the establishment of the Authority for the Advancement of Women as an important measure towards strengthening the national mechanism for the advancement of women, the Committee is concerned that the Authority may not have sufficient power, visibility, and human and financial resources for the effective promotion of the advancement of women and gender equality.

28. **The Committee calls on the State party to strengthen the Authority for the Advancement of Women. In particular, it calls on the State party to ensure that the Authority is provided with the power, location within the executive branch of Government and necessary human and financial resources so as to enable it to carry out effectively the promotion of the advancement of women and gender equality throughout all sectors of Government.**

29. While appreciating the State party's efforts to address the issue of trafficking in women and girls, including ratification of the United Nations Convention against Transnational Organized Crime in 2000 and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, in 2001, the establishment of a Parliamentary Investigative Committee on trafficking of women and an amendment to the Penal Law prohibiting trafficking, the Committee is concerned that domestic legislation has not been brought into conformity with international obligations. While noting that a bill to broaden the definition of trafficking is under preparation, the Committee is concerned that the current definition of trafficking in the Penal Law addresses trafficking only for prostitution and bondage and does not cover trafficking for other forms of exploitation. The Committee also expresses concern about the lack of a comprehensive plan to prevent and eliminate trafficking in women and to protect victims, as well as the lack of systematic data collection on this phenomenon.

30. **The Committee urges the State party to intensify its efforts to combat all forms of trafficking in women and girls, including by expanding the provisions in the Penal Code to bring it into line with the definition contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The Committee also urges the State party to increase its efforts at international, regional and bilateral cooperation with countries of origin and transit so as to address more effectively the causes of trafficking, and improve prevention of trafficking through information exchange. The Committee urges the State party to continue to collect and analyse data from the police and international sources, prosecute and punish traffickers, and ensure the protection of the human rights of trafficked women and girls. The Committee further calls on the State party to take all appropriate measures to suppress exploitation of prostitution of women, including discouraging the male demand for prostitution. The Committee calls on the State party to ensure that**

trafficked women and girls have adequate support to be in a position to provide testimony against their traffickers.

31. While noting the increase in the number of women in the Knesset, the Committee remains concerned about the low level of representation of women in decision-making positions in local authorities. It is also concerned that the number of women in high-level positions in the civil service and foreign service remains low. The Committee is further concerned about the low level of representation of Israeli Arab women in these areas.

32. **The Committee encourages the State party to take sustained measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, and to establish concrete goals and timetables so as to accelerate the increase in the representation of women, including Israeli Arab women, in elected and appointed bodies in all areas of public life.**

33. The Committee is concerned about the State party's temporary suspension order of May 2002, enacted into law as the Nationality and Entry into Israel Law (Temporary Order) of 31 July 2003, which suspends the possibility, subject to limited and subjective exceptions, of family reunification, especially in cases of marriages between an Israeli citizen and a person residing in the Occupied Territories. The Committee notes with concern that the suspension order, which has currently been extended through August 2005, has already adversely affected the marriages and family life of Israeli Arab women citizens and Palestinian women from the Occupied Territories.

34. **The Committee calls on the State party to balance its security interests with the human rights of persons affected by such policies, and to reconsider them with a view to facilitating family reunification of all citizens and permanent residents. It calls on the State party to bring the Nationality and Entry into Israel law (Temporary Order) of 31 July 2003 into line with articles 9 and 16 of the Convention. It requests the State party to provide, in its next periodic report, detailed statistical information and analysis of the short- and long-term impact of this Order on affected women.**

35. While appreciating the progress made in the fields of women's education and health, the Committee is concerned that Israeli Arab women remain in a vulnerable and marginalized situation, especially in regard to education and health. While efforts have been made to eliminate gender stereotypes from textbooks, the Committee is concerned that these persist in the Arab education system.

36. **The Committee recommends that the State party take urgent measures to reduce the drop-out rates of Israeli Arab girls and increase the number of Israeli Arab women at institutions of higher education, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25. The Committee also urges the State party to review and revise textbooks in the Arab education system in order to eradicate gender stereotypes. The Committee recommends that the State party allocate adequate resources to improve the status of Israeli Arab women's health, in particular with regard to infant mortality, and to provide in its next periodic report a comprehensive picture of the situation of Israeli Arab women.**

37. The Committee is concerned about the number of incidents at Israeli checkpoints which have a negative impact on the rights of Palestinian women, including the right of access to health-care services for pregnant women.

38. **The Committee calls upon the State party to ensure that the Israeli authorities at the checkpoints are instructed to ensure the access to health-care services for pregnant women, while protecting the security of Israel.**

39. The Committee is concerned that Bedouin women living in the Negev desert remain in a vulnerable and marginalized situation, especially in regard to education, employment and health. The Committee is especially concerned with the situation of Bedouin women who live in unrecognized villages with poor housing conditions and limited or no access to water, electricity and sanitation.

40. **The Committee requests the State party to take effective measures to eliminate discrimination against Bedouin women and to enhance respect for their human rights through effective and proactive measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25 in the fields of education, employment and health. The Committee calls upon the State party to provide, in its next periodic report, a comprehensive picture of the situation of Bedouin women and girls in regard to their educational opportunities and achievements, and access to employment and health-care services, and to provide an assessment of the impact of policies in those areas that directly affect them.**

41. The Committee is concerned by the State party's assertion that it is not in a position to implement the law prohibiting polygamy and enforce the minimum age of marriage due to respect for the privacy rights of persons engaging in such practices. The Committee is further concerned that petitions for under-age marriage of girls are regularly granted.

42. **The Committee urges the State party to take active measures to enforce the prohibition of polygamy and adherence to the minimum age of marriage. The Committee recommends that the State party take comprehensive and effective measures, including public awareness-raising campaigns, aimed at eliminating the practices of polygamy and early-age marriage.**

43. **The Committee encourages the State party to ratify the Optional Protocol to the Convention and to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.**

44. **The Committee urges the State party to utilize fully in its implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

45. **The Committee also emphasizes that a full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals (MDGs). It calls for the integration of a gender perspective and the explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the MDGs and requests the State party to include information thereon in its next periodic report.**

46. **The Committee notes that States' adherence to the seven major international human rights instruments[1] enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Israel to consider ratifying the treaty to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

47. **The Committee requests the wide dissemination of the present concluding comments in order to make all people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality for women and the future steps required in that regard. It also requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention and its Optional Protocol, the Committee's general recommendations and the Beijing Declaration and Platform for Action, as well as the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".**

48. **The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report submitted under article 18 of the Convention, which is due in November 2008.**

Notes

[1] The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

United Nations CEDAW/C/ISR/5

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Fifth periodic report of States parties

Israel*

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STATE OF ISRAEL

Ministry of Justice - Ministry of Foreign Affairs

5TH Periodic Report Concerning

THE IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

2009

STATE OF ISRAEL

Ministry of Justice - Ministry of Foreign Affairs

5TH Periodic Report Concerning

THE IMPLEMENTATION OF
THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

2009

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Introduction

1. The Government of Israel is pleased to submit its Fifth Periodic Report Concerning the Implementation of the United Nations Convention on the Elimination of all Forms of Discrimination against Women (hereinafter: "the Convention" or "CEDAW"). This report describes the developments that took place since the submission of the Fourth Report on June 2, 2005 (UN Document - CEDAW C/ISR/4), taking into account the Concluding Comments adopted by the CEDAW Committee on July 22, 2005 (UN Document - CEDAW/C/ISR/3/CO). In accordance with the reporting guidelines, this report builds upon Israel's previous reports. Accordingly, information and explanations that are included in previous reports from the Government of Israel are not repeated in this report, except when necessary.

2. All Israeli Government Ministries and institutions relevant to this report were requested to supply data and information concerning their areas of operation. Israeli Non-Governmental Organizations ("NGOs") were also invited to submit comments prior to the compilation of this report, both through direct application and a general invitation to submit remarks posted on the Ministry of Justice web site. Their contributions were given substantial consideration.

3. This report was compiled by the Human Rights and Foreign Relations Department at the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other governmental bodies.

4. The Government of Israel has been conscious and aware of the issue of gender equality from its infancy. The *Equal Rights for Women Law* 5711- 1951 (the "*Equal Rights for Women Law*") was enacted only three years after the State was founded, and is a testimony to the emphasis given to gender-related issues.

5. As will be demonstrated throughout this report, the level of implementation of CEDAW in Israel continues to improve. The Knesset continues to advance legislation regarding women's rights, and in accordance with such legislation, society as a whole is progressing at an impressive rate. There are many legislative developments and court decisions that further illustrate Israel's willingness and aspiration to fully implement the provisions set in CEDAW in good faith.

Legislative Measures

6. The main legislation enacted since the submission of Israel's previous report concerning the elimination of all forms of discrimination against women is:

7. On April 10, 2008, the *Encouragement of the Advancement and Integration of Women in the Work force and the Adjustment of Workplaces to Women's Needs Law* 5768 -2008 (the "*Encouragement of the Advancement and Integration of Women in the Work force and the Adjustment of Workplaces to Women's Needs Law*") was enacted by the Israeli Knesset. The purpose of this law is to generate a change in the business culture in Israel and promote public awareness of women rights in order to encourage employers to advance and integrate women in the workplace. Under this law, substantial monetary incentives and grants will be provided annually by the Minister of Industry Trade and Labor (ITL hereinafter) to employers in the

private sector who endeavor to integrate and promote women in their business, and who initiate programs to that end. Such grants will also be given to employers who modify their workplace and work conditions to the needs of women and parents. The employers are required to show that they actually integrated women into their businesses, promoted women and instituted programs to adapt the work environment to women.

8. On November 20, 2007, the Knesset enacted the *Gender Implications of Legislation Law (Legislative Amendments)* 5676–2007 (the "*Gender Implications of Legislation Law (Legislative Amendments)"),* which imposes a duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset. The Law's aim is to expose any hidden inequalities between men and women that might be present in different bills, in order to advance the status of equality between men and women. According to this law, the Authority for the Advancement of the Status of Women will submit an opinion to the relevant Knesset committee concerning the gender implications of any bill or secondary legislation when it is brought for consideration or approval. These opinions will allow Knesset members participating in committee hearings to become acquainted with any possible gender implications inherent in legislation. In addition, the submission of these opinions will be anchored in the *Authority for the Advancement of the Status of Women Law* 5758-1998, (the *"Authority for the Advancement of the Status of Women Law*") as one of the official functions of the Authority.

9. The *Statistics Ordinance [New Version] 5372-1972* was amended in 2008. Section 4(d) of the Ordinance requires that in appointing the Public Council for Statistics, appropriate expression shall be given to the representation of both genders, to the extent that circumstances permit. Furthermore, Section 7A requires that the collection and processing of statistics relating to individuals, and the publication of the results by the Bureau in accordance with Section 7, shall include statistics by gender unless the National Statistician determines that there are circumstances regarding a specific matter that justify deviation from the general rule.

10. The National Statistician may determine that the collection and processing of statistics and the publication of the results shall include statistics by gender, even if they do not pertain to matters that have gender related implications. The Bureau shall publish, at least once a year, results deriving from the collection and processing of statistics that include statistics by gender. The National Statistician shall appoint, following consultation with the Authority for the Advancement of the Status of Women, as defined in the *Authority for the Advancement of the Status of Women Law,* an employee who shall be responsible for the implementation of this section, including preparation of programs for the collection and processing of statistics, the development of statistical classifications and cooperation with state agencies in matters relating to the collection and processing of statistics by gender. The amendment entered into force on January 1st, 2009.

11. An additional significant law enacted is the *Public Protection from Sex Offenders Law* 5766-2006, (the "*Public Protection from Sex Offenders Law*"), which entered into force on October 1, 2006. The objectives of this law are to protect the general public from sex offenders and prevent sex offenders from repeating their crimes. According to this law, certain restrictions may be imposed upon sex offenders following the completion of their sentence, upon their return to life in the community. This law, through several mechanisms, seeks to strike a balance between the

restrictions that may limit sex offenders' freedom, and the level of threat they pose toward the general public.

Judicial Measures

12. The main judicial measures taken since Israel's previous report concerning the elimination of all forms of discrimination against women are:

13. On March 26, 2008, the National Labor Court ruled in the sexual harassment case in which an executive in a High Tech company had sexual intercourse with an employee that worked under his authority. The relationship between the two lasted nearly one year and was not reported to the company's director, contrary to internal directives. During the period of relationship, both of them were undergoing marital crises, and the executive was even aware that the employee took anti-depression pills. The relationship ended on the initiative of the executive, and only later, did the employee find courage to complain to the person in charge of sexual harassment complaints in the company.

    The Court found that the relationship in fact constituted exploitation of authority relations, and therefore constituted sexual harassment. The Court further declared that in this kind of relationship, expressing a lack of consent is not a requisite to determine the relationship as sexual harassment. Furthermore, in order for the superior to prove that he did not exploit the authority relations, he needs to take affirmative steps, including a notification to his superiors about the relationship and requesting to transfer to a different position where he will no longer be in direct charge of the employee with whom he was involved. Since these steps were not taken in this case, the Court concluded that the relationship constituted sexual harassment via exploitation of authority relations, and ordered the compensation of the employee in the amount of 35,000 NIS ($8,750) (*La.A. 274/06 Anonymous v. Anonymous* (*26.3.2008*)).

14. On April 3, 2008, the Tel Aviv District Court determined that expenses paid for childcare services such as nursery and after-school programs are expenses made for the purpose of creating an income, and therefore can be deducted from the taxable income of a mother each tax year (*I.T.A. (Tel-Aviv) 1213/04 Vered Peri v. The Income Tax Assessor of the Dan Agglomeration (03.04.2008)*). The Court determined that such costs are essential in allowing the integration of mothers of young children into the labor market.

15. On July 21, 2008, the Jerusalem Family Matters Court compensated a woman in the amount of 550,000 NIS ($137,500) due to her husband's lack of compliance to the order of the Rabbinical Court, stipulating the need for a divorce between the couple (*F.M.C. (Jerusalem) 6743/02 K. v. K.* (*21.6.08*)). The woman filed for divorce at the Rabbinical Court in 1998, and in 2006 that court ordered the husband to grant a divorce to his wife. The Family Matters Court determined that due to the lingering of the divorce process, the husband inflicted extensive emotional suffering upon his wife, even more so after his refusal to comply with the order of the Rabbinical Court.

16. On November 21, 2006, the Supreme Court handed down a landmark decision concerning the rights of same-sex couples. The Court held that a wedding certificate from a foreign country in which same-sex marriages are recognized could allow the couple to be registered as married by the Ministry of the Interior in Israel. The case came about because five gay couples that held

wedding ceremonies abroad petitioned to the Supreme Court following the Ministry of the Interior's refusal to register them as married (*H.C.J. 3045/05 Ben-Ari v. The Ministry of the Interior, H.C.J. 3046/05 Bar-Lev v. The Ministry of the Interior, H.C.J. 10218/05 Herland v. The Ministry of the Interior, H.C.J. 10468/05 Lord v. The Ministry of the Interior* and *H.C.J. 10597/05 Remez v. The Ministry of the Interior*).

Administrative Measures

17. Several major additional measures taken by the Government concerning the elimination of all forms of discrimination against women are:

18. In 2008, the Department for Advancement and Integration of Women within the Civil Service continued its activities regarding affirmative action for women. *Inter alia*, on November 23, 2008, towards the International Day for the Fight against Violence towards Women, the Department issued a circular (pamphlet) in which the supervisors were required to hold activities providing education on various forms of violence against women. The circular further required to notify Civil Service employees on the establishment of an exceptional committee that provides financial assistance for women in shelters for battered women. Also during 2008, the Department published several academic training programs and other courses aimed at raising awareness for the advancement of the status of women in Israel. The Department emphasized that women and gender studies were recognized as favored courses of study in all Government Ministries and auxiliary units.

19. As detailed in Israel's previous report, between the years 2003 and 2005, the Ministry of ITL operated a program intended for single parents receiving allowances or alimony payments from the National Insurance Institute (NII) in order to integrate them into the work force. The program was launched as a pilot and was then incorporated into the regular long term program of the Ministry. The program, which continues to be operated, is aimed to ease the implications of three main obstacles single parents face: the care of children at the ages of 0-11, their lack of advanced education, experience and employment, and the limitations on physical mobility due to child care concerns. In order to deal with care for young children, the program subsidizes the payment for afternoon programs and day-care centers. Financial assistance is also given for care of children during non-conventional hours and during the summer vacation.

    In order to assist in professional training, the program operates a voucher system for courses recognized by the Manpower Training and Development Unit in the Ministry of ITL. In August 2008, the Manpower Training and Development Unit began to make professional consultants available to help identify appropriate training courses and job placement services according to the individual needs and qualifications of the participants in the program. During 2008-09, a program will be launched to encourage single parents participating in the program who have entrepreneurship skills to establish small businesses. An additional pilot program established by the Ministry of ITL was launched on September 1, 2008, in which centers were set up to teach single parents receiving allowances or alimony, skills that will enable them to enter or re-enter the job market. Following the two month course, the participants will be directed to specific training courses or jobs to suit their individual qualifications.

The Current Situation

20. The following data reflects the current situation of women in Israel and the advancements achieved in the elimination of all forms of discrimination against women.

21. The Judiciary is one of the professional arenas in which women have closed the gap as will be illustrated in the following figures.

22. The number of female judges continues to climb in conjunction with the rising number of judges in general. In August 2008, there were 291 female judges out of a total of 584 judges, (49.8% of the judiciary in Israel). The number of female justices on the Supreme Court has slightly decreased to five out of 13 (38.5%), however, it should be mentioned that the current President of the Supreme Court is a woman, Justice Dorit Beinisch. Women continue to compose the majority of professional labor judges (67.3% of the judges), nearly half of the District Courts judges (44%), more than half of the Magistrate Courts Judges (50.5%) and more than half of the registrars (58.5%). Women have also increased their role as public representatives in the Labor Courts (constituting 18.9%) representing employees and employers' unions side by side with professional judges.

23. The Legal Profession - As detailed in Israel's previous report, in the public sector, women remain a majority of the legal professionals. As of June 2008, 1,898 women were employed by the Ministry of Justice (69.4%). 149 of the 225 legal advisors in the Ministry of Justice were women (66.2%), and a similar percentage of women were working in the Offices of the State Attorney and the Attorney General (68%, 501 women compared to 235 men), and the Public Defender's Office (69.2%, 54 women compared to 24 men). There were also 305 female legal interns (64.6%), as compared to 167 male legal interns, and 22 women in the senior judge equivalent rank (64.7%), as compared to only 12 men.

24. On March 11, 2007, the Government resolved to obligate Ministers to appoint women to directorates of Government Corporations until they achieve a 50% representation of women within two years from the date of the Government Resolution (Government Resolution No. 1362). Consequently, female representation on boards of government corporations has increased, and on February 2008, 38.5% of all directors in Governmental Corporations were women (compared to 37% in the previous report and to 33.5% in February 2007).

25. Higher Education - In 2007, women constituted a majority among all students in higher education institutions in Israel, comprising 55.1% of the student population. Although there was a minor decline in first and second degrees earned by women in 2007, women still represented the lion's share of students. Women comprised 54.6%, 57.1% and 53% in attaining first, second and third degrees, respectively. Women represented the majority in many disciplines such as Humanities and Education Studies (70.3%), Social Studies (65.2%), Medicine (53.3%) and Biological Sciences (61.6%).

26. Ministry of Health - As of 2007, women still composed a majority among all ranks in the Ministry of Health. Among the top three ranks, women hold a significant majority. Women represent 10 out of 15 positions in the top rank, 33 out of 51 in the second rank and 56 out of 111 in the third rank.

Article 1 - Definition of Discrimination against Women

The Constitutional Level

27. As explained in Israel's previous report, although the right to equality is not explicitly included in the two Basic Laws enacted in 1992 and 1994 (*Basic Law: Human Dignity and Liberty* (the "*Basic Law*: *Human Dignity and Liberty*") and *Basic Law: Freedom of Occupation* (the "*Basic Law: Freedom of Occupation*")), it is encompassed within the basic right to human dignity. This interpretation was repeatedly upheld by the Supreme Court (*H.C.J. 6845/00 Eitana Niv v. the Klalit Sick Fund (09.10.02)*), as well as by many jurists in Israel, led by the former President of the Supreme Court, Justice Aharon Barak.

28. The Constitution, Law and Justice Committee of the Knesset is in the process of preparing a consensual-based constitution, and since the submission of Israel's previous report, has held more than 60 sessions on drafting its text. Among the topics discussed are: freedom of occupation, freedom of movement, freedom of association, freedom of assembly and demonstration, welfare rights, and the right of thought, opinion and expression.

Equal Rights Legislation

29. Since the submission of Israel's previous report, several significant developments took place on the legislative level with regard to women's representation in public bodies.

30. The *Equal Rights for Women Law* was amended in 2005. The fourth Amendment to the Law (July 20, 2005), determined that any task force appointed by the Government for the creation of foreign and/or interior national policies, including negotiation teams working toward a peace agreement, must include an appropriate number of women. In order to effectively implement and enforce the provision, the appointing body must report the composition of the appointed body to the Authority for the Advancement of the Status of Women, which will in turn examine the details. Ultimately, such information will be compiled in an annual report concerning the adequate representation of women in national policy task forces, to be submitted to the Knesset Committee on the Status of Women. Current data indicate that 37% of all representatives in Governmental Committees and work-teams are women.

31. The *Equal Rights for Women Law* was amended again in 2008, adding two important sections relating to the collection and processing of information: Section 3A says that any a person or entity that requires a person to note, in a form or other document, the names of his or her parents, should require the names of both parents, as long as the person has that knowledge. Section 6C3 requires a public body that regularly collects and processes information regarding individuals, and that publishes that information for statistical purposes, shall include statistics relating to gender in its report. The relevant Minister or person in charge may determine that certain circumstances justify said public body not to publish statistical information on gender. The person in charge may determine that the collection and processing of statistics and the publication of the results shall include statistics by gender, even if the information does not pertain to individuals on matters relating to gender. The Amendment entered into force on January 1st, 2009.

32. In 2005, the *Local Municipalities' Ordinance* was amended, so that proper representation would be granted for both genders in corporations, associations and cooperative associations of local municipalities.

33. In July 2007, Amendment No. 11 to the *Equal Employment Opportunities Law* 5748-1988 (the "*Equal Employment Opportunities Law*") added fertility treatments and In Vitro Fertilization treatments as additional two grounds of prohibited discrimination in the workplace, both as a job applicant and as an employee.

34. Further elaboration concerning these laws and others will be provided throughout this report.

Judicial Development of the Right to Equality

35. Over the years, the judiciary has contributed significantly to the development of the right to equality in general, and to gender equality in particular. Israeli courts continue to prohibit discrimination of any sort, which includes gender discrimination. In the wording of the Tel Aviv Labor Court in *La.A. 8704/06 Nadav Fitusi v. N&B Bogin Sports Center Ltd*, "Any discrimination based on gender is a negative social phenomenon that is to be uprooted completely. The prohibition on discrimination derives not only from the provisions of the *Equal Employment Opportunities Law*, but also from the general principle of equality which is part of our legal system and anchored in *Basic Law: Human Liberty and Dignity*."

In *Nadav Fitusi v. N&B Bogin Sports Center Ltd*, the plaintiff was employed by the respondent as a gym instructor and was dismissed from work following the respondent's desire to replace him with a female instructor. There was no disagreement among the parties that the dismissal was due solely to the plaintiff's gender. The Court held that in order to prove discrimination, the worker needs only to convince the court that such prohibited consideration was actually a factor for the employer's decision, even if it was not the main reason. Based on Section 10 of the *Equal Employment Opportunities Law*, the Court ordered the respondent to pay 30,000 NIS ($7,500) compensation to the plaintiff, considering the specific circumstances of the case.

The Elimination of Discrimination in the Private Sphere

36. As mentioned earlier, on April 10, 2008, the Knesset enacted the *Encouragement of the Advancement and Integration of Women in the Work force and the Adjustment of Workplaces to Women's Needs Law*. The purpose of the Law is to generate change in the business culture in Israel and promote public awareness in order to encourage employers to advance and integrate women into the workplace and, *inter alia*, adjust the workplace to the needs of women and parents. According to the Law, monetary incentives will be granted by the Minister of Industry, Trade and Labor to employers in the private sector who endeavor to integrate and promote women in their business, as well as employers who modify the workplace and work conditions to the needs of women and parents.

37. The Law requires the Minister of ITL to establish a Public Council for the Integration and Advancement of Women in the Workplace, which will have an advisory function to the Minister on the issue of women in the workplace, including measures to implement the provisions of the

Law. The Public Council is made up of 11 members including representatives of Government Ministries, experts in gender studies, representatives of women's NGOs, representatives of the Authority for the Advancement of the Status Women, representatives of the Equal Employment Opportunities Commission and representatives of trade unions and employers' associations. A retired female judge will head the Public Council.

38. The Minister of ITL is required to submit an annual report on the implementation of the Law to the Knesset Committee on the Status of Women and to the Knesset Committee on Labor, Welfare and Health.

39. This Law has the potential of serving as an incentive to employ more women, promote women to senior positions and to modify the work conditions to the unique needs of women, thus increasing women's economic independence.

Article 2 - Obligations to Eliminate Discrimination

Legal Provisions

Basic Laws

40. The Israeli legal system is multilayered and consists of several legislative instruments in hierarchal order. One of the fundamental legislative avenues for entrenching the rule of law and human rights are the Basic Laws. The Israeli Basic Laws, read together, comprise a "constitution-in-the-making." The Basic Laws deal with topics such as the structure of government and focus on human rights issues. Basic Laws enjoy a unique status and are usually superior to other laws.

41. As detailed above, the Israeli Constitution, Law and Justice Committee in the Knesset is in the process of preparing a consensual-based constitution.

Ordinary Laws

42. Since the submission of Israel's previous report, Israel has enacted several pieces of legislation aimed at eliminating discrimination against women. Among the most important laws recently enacted is the 2007 Amendment No. 11 to the *Equal Employment Opportunities Law*. This law prohibits discrimination against an employee during acceptance for employment, in working conditions and on dismissal for various reasons, including pregnancy or parenthood. Amendment No. 11 added provisions to the Law that prohibit discrimination due to parenthood to include situations such as fertility treatment and In Vitro Fertilization treatments.

Legal Recourse Available for the Pursuit of Women's Rights

The Public Complaints Commissioner and State Comptroller

43. As stated in Israel's previous report, the Public Complaints Commissioner remains responsible for handling complaints and grievances from the public, including complaints from women. According to the Commissioner's records, between the years 2005 and 2007 the Commissioner

received a total of 28,731 complaints. Of the 28,731 complaints, 211 of them concerned women's issues in matters such as social benefits, including maternity grant and birth allowances, as well as marriage registration and sexual harassment complaints. Of these 211 complaints concerning women's issues, 135 were deemed admissible and were examined through the relevant channels, and 25 of them were found to be justified complaints.

44. Since the submission of Israel's previous report, the State Comptroller, in his yearly report for 2006, has addressed several related issues. One such issue is Female service in the Israeli Defense Force (IDF), allowing women to make the best of their military service, in which the Comptroller found that the IDF took significant steps to amend faults he found in his 2001 inspection. The State Comptroller found that proper procedures were implemented for opening military professions for women. Also, physiological research was carried out in order to examine women's capabilities to serve in technological and combat positions, and women were integrated according to these researches.

45. Also in his 2006 report, the State Comptroller addressed the issue of Handling of sexual harassment complaints by the IDF. The State Comptroller opined that in a large number of cases, the handling of sexual harassment complaints by the Investigative Military Police, IDF Advocate General's office and Military Courts was taking longer than the 45 days set by the Military Police as the proper amount of time to handle these cases. The State Comptroller indicated additional flaws including cases that were heard by officers who were unauthorized to reside in sexual harassment cases, some flaws regarding judicial procedure etc.

Other Governmental Bodies

46. Additional legal resources are available throughout the Israeli judicial system to help women advance their case for equality and fight discrimination. In addition, governmental bodies such as the Ministry of Industry, Trade and Labor's Division for Equal Employment Opportunities, the Legal Aid Department in the Ministry of Justice, the Discipline Superintendent in the Civil Service, and the Department for the Advancement and Integration of Women in the Civil Service can also provide adequate remedies, within their spheres of competence and responsibility, such as disciplinary measures, etc.

Governmental Mechanisms and Measures Established to Promote the Status of Women

Investigative and Study Initiatives by the Government

47. Since the submission of Israel's previous report, the Authority for the Advancement of the Status of Women in Israel conducted several surveys regarding women in Israel. These surveys examined issues regarding prostitution in Israel, public views on violence toward women, and specifically violence toward Arab women and related stereotypes. The surveys are conducted, *inter alia*, to examine public views so that the Authority can be better prepared to handle such issues, and aim its efforts toward prevention and raising public awareness in the most needed parts of society.

Mechanisms Implemented for the Improvement of the Status of Women

The Authority for the Advancement of the Status of Women in Israel

48. Since Israel's previous report, the Authority has taken several steps to achieve advancement of women's rights, including:

48.1. In 2008, the Authority began production and distribution of a training kit designed for employers and workplaces, which include explanations regarding sexual harassment, statistical data and relevant legislation. The kit was designed to raise awareness for this important issue and fight sexual harassment.

48.2. In October 2007, the Authority, in conjunction with the Enforcement and Regulatory Administration within the Ministry of ITL launched an enforcement and awareness promotion campaign. During the campaign, model codes of practice were distributed in work places throughout the country, data on the implementation of the provisions of the relevant laws were collected and inspections were performed in 163 workplaces, in which 15,000 workers are employed altogether.

48.3. The Authority attaches great importance to making data related to women's rights more accessible. To that end, in March 2008, in honor of International Women's Day, the Authority launched its new web site, which includes information on the varied activities taking place in Israel relating to the promotion of the status of women by both private and public institutions. The web site also allows the Authority to present data and information and implement the principle of data transparency.

48.4. In March 2008, the Authority published the booklet, "Women – Institutions and Organizations in Israel", which provides detailed information on hundreds of organizations operating in Israel in the various fields relating to women's status in society. The booklet is distributed nationally free of charge.

48.5. The Authority is offering courses aimed at training and providing professional guidance to advisors on women's status, holding annual meetings for graduates of these courses, conducting professional tours among the advisors, distribution of updated professional information and holding regular conferences and seminars for residing advisors.

48.6. Promoting issues relating to women's health and well-being in all sectors of society through periodic conferences and seminars, and providing tools to assist local advisors on the status of women in activating local projects on women's health.

48.7. The Authority devotes special efforts and resources to the advancement of Arab women such as mapping women's associations, working together with steering committees on all relevant factors and conducting surveys and conferences for women and policymakers regarding employment, education, health and violence, as related to Arab women.

48.8. The Authority, together with the Authority's relevant steering committee, established a work plan for promoting the status of Bedouin women in southern Israel on issues pertaining to entrepreneurship, raising awareness to the issue of women's health, empowerment courses and prevention of family violence.

48.9. The Authority conducts a range of activities aimed at the financial empowerment of women in all aspects of life. This includes promotion of women's entrepreneurship under the guidance of a special women's entrepreneurship think tank.

49. The Authority also receives regular complaints from the public following their various publications, triggering women to approach them with complaints. As the Authority has no individual legal counseling, it refers the complainants to appropriate venues, such as the Ministry of Social Affairs and Social Services, the Ministry of Industry, Trade and Labor, the Ministry of Justice, shelters, etc.

The Knesset Committee for the Advancement of the Status of Women

50. The Knesset Committee for the Advancement of the Status of Women continued its activities toward the advancement of the status of women. The current committee is headed by a woman, MK Lia Shem-tov, and consists of 15 members, eight women and seven men, from a wide range of political parties.

51. Recent legislation enacted with the support of the Committee include, *inter alia*, Amendments No. 33-41 of 2007 and amendments 42-44 of 2008 to the *Women's Employment Law* 5714-1954 (the "*Women's Employment Law*"); Amendment No. 11 of 2007 to the *Equal Employment Opportunities law*, regarding prohibition of discrimination due to parenthood including fertility treatment or IVF; Amendment No. 4 of 2007 to the *Prevention of Sexual Harassment Law* 5758-1998 (the "*Prevention of Sexual Harassment Law*"), which expands the exemption to apply to minors; Amendment No. 9 of 2007 to the *Prevention of Violence in the Family Law* 5751-1991 (the "*Prevention of Violence in the Family Law*") regarding protection order against a minor and Amendment No. 11 of 2008 to the Law regarding the requirement for a hearing before dismissal of a request for a protection order and Amendment No. 6 of 2007 to the *Rabbinical Courts Law (Upholding a Divorce Decree)* 5755-1995 (the "*Rabbinical Courts Law (Upholding a Divorce Decree)*").

52. Since Israel's previous report, the Committee also advanced and improved the status of women through the following measures:

52.1. Initiation of special parliamentary discussions on International Woman's Day, as well as on the National Day for the Fight against Violence toward Women, in which issues such as the levels of punishment in violence against women offences, victims of sexual assault and the legal system, equal opportunities in the workplace and advancement of the status of women were discussed; Holding regular sessions with members of the Civil Service Commission regarding sexual harassment claims and women's representation in the Civil Service.

52.2. The Committee invited the Prime Minister to learn about issues such as shortage of treatment centers for victims of sexual assault and prostitution. As a result, in 2007, the Prime Minister approved two inter-ministerial plans, the first for the treatment of sexual assault victims and the second for the rehabilitation and treatment of women and girls engaged in prostitution in order to assist them in breaking the vicious cycle of prostitution.

The implementation of the plans, each allocated with 10 million NIS ($2,500,000), began in 2008.

The Plan for the Rehabilitation and Treatment of Women and Girls Engaged in Prostitution in order to Assist Them in Breaking the Vicious Cycle of Prostitution is aimed toward reducing and preventing prostitution throughout Israeli society as well as rehabilitating and assisting women who survived prostitution. The plan further aims to break the cycle of exploitation and social exclusion of these women, to assist them in regaining self esteem, trust and control over their lives. In addition, the plan provides emergency and continuous treatment to women who engage in prostitution.

The plan integrates several elements: measures to provide immediate assistance including a national hotline to provide initial relief for these women's distress, mobile health clinics and emergency apartments to provide women engaged in prostitution with temporary shelter; treatment and rehabilitation centers; reinforcing existing programs; initiating preventative and educational campaigns for youth as well as the general public; training professionals and volunteers; initiating required legislation; conducting relevant surveys and research.

During 2008, the Ministry of Social Affairs and Social Services developed the organizational framework required for the operation of the plan. National and local steering committees were established and the cities in which the plan will be implemented were determined - Haifa, Tel Aviv and Be'er Sheva.

Moreover, the National Insurance Institute recognized the plan as a rehabilitation framework that entitles the participants to income support. In addition, the National Insurance Institute's Fund for the Development of Services for Children and Youth, and the Elem association cooperated to form programs regarding the treatment of girls engaged in prostitution.

The implementation of these programs has commenced in Tel Aviv and Haifa. In the city of Haifa, an emergency apartment and a treatment center opened. In addition, the Ministry of Social Affairs and Social Services operates patrols to approach the women engaged in prostitution in the areas they frequent. Currently, 40 women receive treatment through the program.

Advancement and Integration of Women in the Civil Service

53. The Department for the Advancement and Integration of Women within the Civil Service has been active on a wide range of topics, all aimed at promoting women in the civil service.

54. The Department heads the training and professional guidance of supervisors on the status of women in Government Ministries and the auxiliary units (currently there are 70 such supervisors – 100%), interviews all new supervisors, conducts regular training courses, sessions and conferences, and provides ongoing updates of relevant information and material to deal with issues relating to the status of women. An example of such an update is the distribution of 21 circulars (pamphlets) to the supervisors by the Department in 2007. In addition, all supervisors

must report to the Department biannually, and these reports are further discussed in biannual meetings that take place with each supervisor.

55. In 2008, the Department continued its activities regarding affirmative action for women. *Inter alia*, on November 23, 2008, just before the International Day for the Fight against Violence towards Women, the Department issued a circular (pamphlet) in which the supervisors were required to hold explanatory activities on various forms of violence against women. The circular further required the various units to notify Civil Service employees on the Exceptions Committee, which provides financial assistance to female civil servants in shelters for battered women. In addition, during 2008, the Department published several academic training programs and other courses aimed at raising awareness for the advancement of the status of women. The Department emphasized that women and gender studies were recognized as favored courses of study in all Government Ministries and auxiliary units.

56. The Department continues to serve as a place for women civil servants to submit complaints regarding discrimination, injustice and grievance in their status and working conditions. More than one hundred such complaints are received annually, concerning a wide variety of subjects. In 2008, the Department received 80 complaints regarding sexual harassment allegations, in which 49 discipline procedures were opened. Eleven of the 49 cases were transferred to the disciplinary instance of the civil service.

57. The Department grants special attention to the implementation of the *Prevention of Sexual Harassment Law* in the Civil Service through training of the supervisors on the status of women in the Governmental Ministries, conducting seminars and conferences, along with regular follow up and supervision as to the Law's implementation in the ministries and auxiliary units, establishing clear procedures for the treatment of sexual harassment complaints, and filing regular reports to the Knesset regarding sexual harassment cases in the civil service.

Measures Taken on the Municipal Level

58. In accordance with the *Local Authorities Law (Advisor on the Status of Women*) 5760-2000 *(*the "*Local Authorities Law (Advisor on the Status of Women)*"*)*, as of 2008, 221 of the 253 local authorities had appointed such an advisor, 40 of whom, in Arab local municipalities. These advisors are closely guided by the Authority for the Advancement of the Status of Women, keeping them informed as to the latest updates, distributing relevant material and statistics, conducting conferences and guidance sessions, as well as training courses. These advisors ensure the advancement of policy for enhancing the status of women within the purview of the local authority, in addition to ensuring that the necessary resources are provided to this end.

59. In December 2004, the *Municipalities Ordinance [New version]* and the *Local Municipalities Ordinance [New version]* were amended so that appropriate representation shall be given to both genders when a municipality or local authority is establishing a public corporation or an association. The Amendment applies only to representatives that are not members of the local council, due to the general determination in the *Equal Rights for Women Law*, according to which that obligation will not apply where the representatives of the public body are chosen by the public.

60. The Union of Local Authorities in Israel is currently in the process of composing a booklet to serve as an advisory on the status of women's, their duties and responsibilities. When completed, the booklet will be an important tool for protecting women's rights.

Article 3 - The Development and Advancement of Women

61. Israel has taken a wide range of actions, in the political, social, economic and cultural fields, to enable the comprehensive development and advancement of women. These actions have taken place via legal developments, public and private awareness campaigns and social changes. These measures, detailed throughout the report, enhance the protection of women's rights and further develop their roles in Israeli society.

Effective national machinery and publicity

62. As mentioned in Israel's previous report, the Convention was translated into Hebrew and published in the "Kitvey Amana," a series containing all treaties signed and ratified by the State, which can be obtained from the Ministry of Foreign Affairs or at various public libraries. Additionally, the previous report submitted to the Committee, along with other reports, are available on the Ministry of Justice's web site.

63. Following a 2006 amendment to the *Equal Employment Opportunities Law,* an Equal Employment Opportunities Commission has been established within the Ministry of Industry, Trade and Labor. A National Commissioner was appointed in January 2008, and three regional commissioners are currently in the process of being appointed. The Commission's role is to promote the recognition and the exercise of rights pursuant to the equality legislation and the promotion thereof. For this purpose, the Commission acts to increase public awareness through education and training to the extent that this function is not delegated to another public authority operating by law. The Commission carries out the following functions: encouraging programs and activities; cooperating with persons or other bodies including employers and employees; conducting research and collecting information; intervening by permission of the court in legal proceedings; handling complaints and filing petitions for injunctions. At the end of each year the Commissioner is required to submit an annual report to the Minister of ITL who in turn, is required to forward the report, with comments, to the Knesset Committee for the Advancement of the Status of Women and to the Knesset Committee for Labor, Welfare and Health.

64. Various Government Ministries held seminars and conferences regarding the status of women, as well as discussions on the implementation of the Convention on the Elimination of all forms of Discrimination against Women in Israel, in their relevant fields of operations. For example, "Sexual Harassment in the Academic Sphere," "Gender and Nationality", "Gender - the Future" and other related conferences were held by the Ministry of Justice. Some of those discussions were held in joint cooperation with other organizations such as universities. The supervisor of the Ministry of Justice for advancement of the status of women also distributes various materials on a regular basis aimed at raising awareness. These materials include, *inter alia*, information on a preparation course for women who want to serve as directors, conferences aimed at the

empowerment of women who participated in the election for local authorities in November 2008, and more.

Women with Disabilities

General and Legal Framework

65. In 2007, Israel signed the International Convention on the Rights of Persons with Disabilities, and began the process of ratifying the convention.

66. In general, the *Prevention of Sexual Harassment Law* requires that the victim express his or her lack of interest in order for the situation to constitute as an act of sexual harassment. Nevertheless, a number of important exceptions were made to this rule. Under the circumstances of those exceptions, even though the victim did not show a lack of interest, a "sexual harassment presumption" is applied. These exceptions can be divided in to two main categories, the first are acts that constitute serious criminal offenses regardless of the sexual harassment offense, such as indecent actions or blackmail; the second category consists of cases in which an individual exploits a position of authority, which can occur in educational, medical, employment and other contexts. In 2007, the Law was amended in order to broaden the "sexual harassment presumption" to include a rehabilitated person, as specified under the *Rights of Persons with Disabilities Employed During Rehabilitation Law (Temporary Order),* 5767- 2007 (the "*Rights of Persons with Disabilities Employed During Rehabilitation Law (Temporary Order)*" while employed, and by exploiting a position of authority as a victim.

67. In 2005, the *Investigation and Testimony Procedures Law (Suitability to Persons with Mental or Physical Disability)* 5766-2005 (the "*Investigation and Testimony Procedures Law (Suitability to Persons with Mental or Physical Disability)*"), was enacted. This is an unprecedented law that regulates methods adjusted to investigate people with mental or intellectual disabilities and also adjusted methods for their testimonies. The Law applies to every disabled suspect, victim and witness, and to specific offences enumerated in the Law which are violence offences, sexual assaults and prostitution. The application of the Law to victims and witnesses will move forward gradually until the year 2010.

68. In December 2007, the *Prohibition of Slander Law* 5726-1965 (the "*Prohibition of Slander Law*") was amended by the Israeli Knesset. According to the revised law, making a mockery of, or humiliating, persons with disabilities because of their disability shall be considered unlawful and prohibited slander, regardless of whether the disability is psychological, mental (including cognitive) or physical, and whether it is permanent or temporary,.

69. Since the submission of Israel's previous report, several regulations that further advance the right to equality and human dignity for people with disabilities were amended and promulgated. Among these regulations are:

70. *Regulation on Equal Rights for People with Disabilities* (*State Participation in Financing Adjustments) 5766-2006.* According to the regulation, employers are entitled to a refund from the Government on expenses made in order to adjust the workplace to the disability, work and daily needs of disabled employees, subject to a maximal sum per employee. *The Equal Rights for People with Disability* (*Licensed Building, Infrastructure and Environment Accessibility*

Experts) Regulations, 5767-2007 and the *Equal Rights for People with Disabilities (Licensed Service Accessibility Experts) Regulations, 5767-2007,* promulgate the prerequisites for the registration of licensed building, infrastructure and environment accessibility experts and licensed service accessibility experts respectively.

71. In 2005, the Ministry of ITL established the Department for Integration of Persons with Disabilities in the Work Force. The Department is charged with promoting the integration of persons with disabilities in the open labor market as opposed to sheltered employment, through, *inter alia*, the implementation of the *Equal Rights for People with Disabilities (State Participation in Financing Adjustments) Regulations* and the *Minimum Wage (Adjusted Wage for Employees with Disabilities Having Reduced Ability to Work) Regulations*.

General Economic and Personal Situation

72. Information regarding people with disabilities originates from details on various disability benefits given to the six main categories of disabled people. These categories determine the source and type of support provided and they are based on: general disability pension, employment disability pension, IDF (Israel Defense Force) disability pension, hostile operations disability pensions, Holocaust and anti-Nazi operations disability pensions, and children receiving disabled child pensions. Men are the major recipients of disability pensions in most categories, except for a slightly higher number of women among those receiving hostile operations and Holocaust and anti-Nazi operations disability pensions. The men's rate of pensions received is particularly higher among the IDF disability pension recipients and the employment disability pension recipients. It is worth mentioning two additional pensions for persons with disabilities: the Nursing Pension and the Mobility Pension. The Nursing Pension is given mainly to elderly people. In 2008, 38,800 men and 94,100 women received the Nursing Pension. Mobility Pension is given to persons with mobility disabilities. The total number of disabled persons receiving this pension in 2008, and not receiving the general disability pension, was 17,000.

73. According to the data of the Commission for Equal Rights of Persons with Disabilities, based on a social survey that was conducted by the Central Bureau of Statistics in 2007, the majority of all persons with disabilities in Israel are women, particularly among persons with severe disabilities. In 2007, 238,000 women reported having severe disabilities (55% of all persons with severe disabilities) and 387,000 women reported having moderate disabilities (55%). Women make up the majority of persons with disabilities in all age groups, as detailed by the following table:

Table 1 - Persons Reporting on Disabilities, by Severity, Age and Gender, 2007

Severity	Age	Total	Men	Women	% of Women
Severe disability	Total	417,222	179,668	237,554	57%
	20-64	253,290	118,840	134,450	53%
	65+	163,932	60,828	103,104	63%
Moderate disability	Total	700,512	313,275	387,237	55%
	20-64	477,575	218,195	259,380	54%
	65+	222,937	95,080	127,857	57%

Source: State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities, 2009

74. For further details and updated figures regarding recipients of general disability pension, please see discussion below under Article 13 (General Disability Pension).

Special Health Concerns of Women with Disabilities

75. Amendment No. 2 to the *Equal Rights for People with Disabilities Law*, 5758-1998 (the "*Equal Rights for People with Disabilities Law*") added a chapter regarding accessibility of health services which makes comprehensive provisions regarding accessibility to health and medical services for persons with disabilities, both in relation to the infrastructure and health services. The Ministry of Health together with the Israel Center for Technology and Accessibility have begun to map out, and to promote the accessibility of, women's health clinics. Currently there are 10 accessible women health clinics: most of them are adapted for women with physical disabilities. Unique in nature is the 'Maayaney Ha'yeshua' Hospital in which the personnel is trained to give health services for persons with mental, emotional and cognitive disabilities.

Accessibility

76. Several regulations were enacted in accordance with the *Equal Rights for People with Disability Law* since Israel's previous report:

77. As mentioned above, the *Equal* Rights *for People with Disability* (*Licensed Building, Infrastructure and Environment Accessibility Experts) Regulations*, 5767-2007 and the *Equal Rights for People with Disabilities (Licensed Service Accessibility Experts) Regulations,* 5767-2007. These regulations promulgate the prerequisites for the registration of licensed building, infrastructure and environment accessibility experts and licensed service accessibility experts respectively.

78. The *Welfare (Treatment of Persons with Mental Disabilities) Law,* 5729-1969, provides that when determining the type of housing framework, priority should be given to community housing. The Department for the Treatment of Persons with Intellectual Disability within the Ministry of Social Affairs and Social Services acts to implement this priority. Furthermore, there

is a tendency to remove people from the residential facilities and place them in community housing in the form of hostels.

79. In September 2008, new regulations were promulgated, obligating the adjustment of various public sites to the needs of persons with disabilities. The *Equal Rights for People with Disabilities (Site Accessibility Adjustments) Regulations,* 5768-2008, determine accessibility requirements for archeological sites, national parks and nature reserves, as well as other areas, mainly forests, managed by the Jewish National Fund or on its behalf. According to the regulations, new sites will not open for public use unless the accessibility requirements are met. Existing sites are compelled to gradually fulfill the requirements within 10 years.

Accessibility to Media

80. On July 2005, the Knesset enacted the *Broadcasting Television Law (Subtitles and Signing),* 5765-2005 (the "*Subtitles and Signing Law*"). The new Law institutes a comprehensive statutory scheme in this field, thereby replacing its predecessor, the far narrower *Deaf Persons Relief Law* of 1992. The new Law applies broader responsibilities and restrictions on broadcasters in order to enhance, to the fullest extent, disabled persons' accessibility to television broadcastings.

81. In 2008, the Council for Cable TV and Satellite Broadcasting, a public body established under the *Telecommunications Law,* 5742- 1982, decided on a separate definition of "prime time" for children's channels, so that the requirement for subtitles will coincide with the relevant viewing hours for children with hearing impairments. The council also decided on a list of children's programs of major interest that will be subtitled.

Employment

82. With respect to employment opportunities for persons with disabilities, a law enacted in 2007 is dedicated to the promotion of the integration of persons with disabilities into the workforce and to the improvement of their rehabilitation process. The *Rights of Persons with Disabilities Employed During Rehabilitation Law (Temporary Order)* defines a rehabilitating person, for the purposes of the Law, as a person whose employment capability, due to his or her disability, is at least 81% less than regular employment capability of a similar employee without disabilities. The Law stipulates that employer-employee relations cannot be established with regard to a rehabilitating employee, and grants the rehabilitating employee similar rights to those granted under Israel's labor laws.

83. According to the Commission for Equal Rights of Persons with Disabilities, most adults with disabilities are of employment age, yet make up roughly one fifth of the total population of working age in the state of Israel. The rate of employment among persons with disabilities is lower than that of the rest of the population, especially among those with severe disabilities, thus contributing to increased levels of poverty and social exclusion. Furthermore, the rate of unemployment among the disabled population is very high, especially for persons with severe disabilities. Nevertheless, recent data indicates a moderate improvement in the rate of persons with disabilities participating in the workforce, especially among those with severe disabilities (42% in 2005, compared to 36% in 2002).

Table 2 - Employed Persons, Unemployed Persons and Persons not in the Work Force by Severity of the Disability, Ages 20-64 (percents), 2007

	Employed persons	Unemployed persons	Persons not in the work force
Without disability	70.3	5.2	24.4
With a problem, but without disability	74.6	3.8	21.7
Moderate disability	53.1	7.2	39.8
Severe disability	30.9	6.7	62.4

Source: The State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities, Persons with Disabilities in Israel, 2008 (yet to be published)

Table 3 - Unemployed Persons Out of the Work Force, Ages 20 – 64 (percents), 2007

Disability level	Unemployed persons
Severe disability	17.8
Moderate disability	12.0
With a problem, but without disability	4.9
Without disability	6.9

Source: The State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities, Persons with Disabilities in Israel, 2008 (yet to be published)

84. **Employment of Persons with Disabilities by Gender.** Examination of the relative employment status of men and women with disabilities shows no significant difference between the two genders. The rate of employment of women between the ages of 20 and 64 stands at about 80% of the rate of men, for persons with and without disabilities.

85. The National Insurance Institute is in charge of payment of pensions to certain populations, as defined by law and regulations. The General Disability Pension is designed to act as minimum income to provide for the daily life of persons with disabilities.

86. In two precedents given in 2006, the Tel Aviv and the Haifa Labor District Courts ruled that people with intellectual and/or mental disabilities who work for private employers are not to be regarded as "volunteers," but as "workers" entitled to an employer-employee relationship and the applicability of all relevant labor laws. In both court rulings, the employers were obligated to retroactively compensate the disabled employees and provide them with their inherent rights as employees (*La.C. (Tel-Aviv) 10973/04 Goldstein v. Na'amat; La.C. (Haifa) 3327/01 Roth v. Ram Buildings Ltd*).

87. On July 10, 2005, the Nazareth District Labor Court ruled that the phrase "accommodation" as intended by Section 8 to the *Equal Rights for People with Disabilities Law* is not limited to the physical adjustment of structures, equipment or accessories, but extends to making accommodations of an economic nature. Thus, an employer is obligated to continue employing an employee who became disabled, and pay him or her the same salary, even if there is a

decrease in his/her productivity due to the disability, unless the employer can prove that this imposes an unreasonable burden on his/her business. In this case, the Court held that an employee with cancer constitutes a person with a disability for the purposes of the *Equal Rights for People with Disabilities Law* (*La.C. (Nazareth) 1732/04 De Castro Dekel v. M.B.A Hazore'a* (10.07.05)).

88. As a result of these decisions, and with a view of encouraging the employment of persons with intellectual and/or mental disabilities in supported employment in the open labor market, a law was enacted in 2007 called the *Equal Rights of Persons with Disabilities Employed as Rehabilitated Persons (Temporary Provision) Law* 5767-2007 (the "*Equal Rights of Persons with Disabilities Employed as Rehabilitated Persons (Temporary Provision) Law*"). According to this law, a person whose work capacity is less than 19% shall not be considered an employee, but rather a rehabilitated person. As such the entire body of labor laws does not apply, but at the same time the new law gives a rehabilitated person the right to remuneration for work and decent work conditions concerning matters such as leave, sick pay, hours of work and travel expenses. This law supplements the *Minimum Wage (Adjusted Wage for Employees with Disabilities Having Reduced Ability to Work) Regulations* 5762-2002, promulgated on February 21, 2002, concerning adjustments to the minimum wage for persons who are at various levels of diminished work capacity as the result of a disability. The objective of the Regulations is to encourage employers to hire employees whose work capacity is diminished due to disability by enabling them to pay such employees less than the minimum wage.

89. The Regulations set a reduced minimum wage scale which corresponds with work capacity. Thus an employee whose work capacity is reduced by between 25-50% is entitled to 75% of the minimum wage; an employee whose work capacity is reduced by between 50-70% is entitled to 50% of the minimum wage; and an employee whose work capacity is reduced by over 70% is entitled to a third of the minimum wage. According to the Regulations, the person with disability is required to apply to the Ministry of ITL requesting a determination of his/her reduced work capacity, resulting in the entitlement to a reduced minimum wage. The Regulations apply to employment in the open labor market, as opposed to sheltered employment. In the first 20 months of the implementation of the Regulations, 1,600 persons with disabilities have applied to have their minimum wage adjusted, and in 1,255 of these cases the wage was, in fact, adjusted.

90. On July 27, 2008, the *National Insurance (Consolidated Version) Law* 5755–1995, (the "*National Insurance Law*") was amended (Amendment No. 109) in order to further facilitate the integration of persons with disabilities into the labor force. The Amendment is the result of a process designed to sever the linkage between disability, social security and unemployment. Prior to the Amendment, a person with disability entitled to the National Insurance Disability Benefit had little if no incentive to take himself/herself off social security and enter the labor market, since a salary exceeding the level of Disability Benefit would disqualify him/her from receiving the benefit, even where he/she lost his/her job thereafter. Eliminating the Disability Benefit "trap" was a centerpiece of the Report issued by the Public Commission for the Consideration of Disabled Persons' Issues and The Promotion of their Integration into the Community. The commission, appointed by the Government following a major strike of persons

with disabilities in 2002, and headed by retired Justice Laron, presented its report on April 21, 2005. The recent Amendment to the *National Insurance Law*, which is the outcome of the Government's adoption of the Laron Commission's Report, enables a person with disability to earn a relatively high monthly salary (7,000 NIS – $1,750) without having to forgo his/her National Insurance Disability Benefit entitlement.

Advancement of Arab women

91. In August 2006, the Government resolved to commence two additional multi-year plans for the advancement of Arab women. Resolution No. 412 for the development of the Druze and Circassian population in the amount of 447 million NIS ($111,750,000) for the years 2006-2009, and Resolution 413 for the development of the Bedouin population in the North in the amount of 318 million NIS ($79,500,000) for the years 2006-2009. The preparations of the plans took several months to develop and involved participation from the relevant Government Ministries, representatives from the Arab population, including the heads of the Druze, Circassian and Bedouin municipalities.

92. In addition to empowerment of women, the new development plans focuses on two other main issues: investment in human resources, including a special focus on the economic development; and employment, including tourism development as a source of income. The budget sources of the plan primarily come from the relevant Government Ministries and a special budget of the Prime Minister's Office designated to the Arab, Druze and Circassian populations.

93. The activities set in Government Resolutions No. 412 and 413 include encouraging women to acquire education and professional training by providing special scholarships and one-day seminars on various issues related to the advancement of women, such as raising awareness. Additional activities include training courses on women empowerment and business entrepreneurship. In 2007, 75 scholarships were granted to Arab female students populations, and in July 2008, the process of awarding scholarships began for the second year.

94. The massive investment in education will result, according to the shared vision of the Prime Minister's Office and the heads of the municipalities, in a growing number of educated persons who will attend universities and acquire academic education, and will eventually become "the engine that will carry others."

95. Government Resolution No. 881 of September 2003, resolved to commence a multi-year plan for the years 2004-2008, which includes a special program for the advancement of the status of women in the Bedouin localities in the Negev (Southern Israel). The program, which provides training in fields such as parental authority, first aid and prevention of household accidents, is already implemented in cooperation with the Ministry of Social Affairs and Social Services. Furthermore, an additional program was prepared that includes training regarding employment of Bedouin women, women's health, empowerment courses and activities for prevention of domestic violence.

Article 4 - Acceleration of Equality between Men and Women

Affirmative Action

Expanding Affirmative Action to Public Institutions and in the Civil Service

96. No notable changes have occurred on this issue since the submission of Israel's previous report.

Affirmative Action in Governmental Corporations

97. According to current data from the Governmental Corporations Authority, as of August 2008, women constitute 38.5% of the governmental corporations' directorates. Currently there is one woman serving as head of a board of directors, and four women are serving as CEO's of Governmental Corporations.

Affirmative Action in Public Corporations

98. Women still lack sufficient representation in the managerial levels in boards of directors of public corporations when compared to men. Section 239(d) of the *Corporations Law* 5759-1999 (the "*Corporations Law*") requires that in a company in which, on the date of appointment of an outside director, all members of the board of directors of the company are of the same gender, the outside director appointed shall be of the other gender. According to data gathered in 2007, out of 754 public corporations, 165 did not uphold this law and did not have any women on their board of directors. The rate of female directors in public corporations stood at 15.7% in 2007, and of the directors representing the public, the rate of women that year was 23%.

Affirmative Action in Other Areas

99. The Authority for the Advancement of the Status of Women, together with the Ministry of Science, Culture and Sport, have designed a unique training course for women, educating them on ways to become active and committed members of local and national Councils for the Advancement and Administration of Sports in Israel.

Special Measures Aimed at Protecting Maternity

100. For an extensive review of this matter please see Articles 11 and 13 below.

Article 5 - Sex Role Stereotyping and Prejudice

101. In this Article, various issues reflecting women's gender roles and stereotypes will be addressed. Firstly, we shall address women's representation in Israeli media, including pornography and the recent innovations in this sphere. Secondly, this Article will provide a detailed review of the phenomenon of violence against women, and note the measures taken to further address it.

Women and the Media

102. The Council for Cable TV and Satellite Broadcasting is a public council established under the *Telecommunications Law* 5742-1982 (the "*Telecommunications Law*"). Its fundamental task is to regulate the Israeli Cable and Satellite multi-channel subscriber television by representing, protecting and promoting the public interests in this field. During the year 2007, the council was headed by a chairwoman. During the years 2004-2008, 3-5 out of 8-10 members of the council were women (37.5%-50%). In the council's professional body, currently eight out of 11 employees are women, and two of them are in managerial positions.

103. In the Israeli Cable Broadcasting Company (HOT) 55% of approximately 5,000 employees are women, 182 out of 255 managers are women (71.3%) and four out of ten senior management officials are women (40%). In the Satellite Broadcasting Company (YES) 1,346 out of 2,402 employees are women (56%), 18 out of 36 department managers are women (50%) and 3 out of 8 senior management officials are women (37.5%). In the production companies that produce and provide programs for the various local channels (family, sports etc.), numerous women are involved in the creative process as well as in the business management and on-screen performances.

104. Through an elaborate and lengthy process of deliberations over the issue of allowing pornographic content in the Israeli multi-channel television, the Council for Cable TV and Satellite Broadcasting has given great consideration to the issue of preventing broadcasting that may be degrading and derogatory toward women, and that creates social perceptions of women as sexual objects. After many efforts, including several petitions to the Israeli Supreme Court residing as the High Court of Justice by a coalition of women and feminist organizations, the private broadcasters and Knesset members, the outcome was a balance of various civil rights including protection of children and women's rights. The Council's final decision, which the High Court of Justice found no reason to dispute, was that the broadcasters may only offer channels presenting "soft" erotic content that does not present sexual relations with violence, abuse, coercion, exploitation or humiliation, and does not breach the *Telecommunications Law* that prohibits exhibiting a human being or his/her body part as an object available for sexual use. The Council also limited pornographic broadcasting with measures such as making it solely available on demand, for a fee, to adults over the age of 18, only during late-night hours, or coded by a personal code, in order to prevent children from viewing the content.

105. Three of the seven members (43%) on the Management Committee of the Israel Broadcast Authority (IBA), which is in charge of public broadcasting, are women. In the IBA Council, women compose 37.5% of the 24-member Council, and out of the 1,784 total employees of the IBA, 42% are women. Data from 2008 indicates progress in employing women in high-ranking positions within the IBA. There are currently 19 women (22%) in high-ranking positions in Israeli television, compared to 14 in 2004, and ten women in high-ranking positions in Israeli and Arabic radio, compared to 7 in 2004. Of the 25 department managers 9 are women (36%) and out of 111 news correspondents and journalists, 31 are women (27%).

Pornography

106. In recent months, the Israeli Police Investigation Department has led a number of national enforcement activities in conjunction with the "Lahav 433" unit, and with the help of Interpol, which provided useful information. All police districts in Israel participated in these activities, which were carried out in order to collect evidence regarding possession and/or distribution of obscene materials with pedophilic content. During the procedures, about 100 cases were opened for investigation, and to date, 17 indictments have been filed. All photographs of minors seized from suspects' computers have originated from Internet web sites based abroad. A phenomenon of sexual exploitation of minors is not familiar in Israel.

107. According to data from the Ministry of Public Security, between 2005 and 2007, 208 investigations were opened by the Police regarding obscene materials, 92 of which involved minors. In 2007 alone, 100 cases were opened, 41 of them relating to minors. According to information from the Police Prosecution Department, no indictments were served regarding these offences.

Prostitution

108. In 2005, four cases regarding offences of publication of prostitution services were opened. In 2006, 13 such cases were opened, and in 2007, 30 cases were handled by the Police regarding this offence. The Police also strengthened its fight against prostitution services of minors; between the years 2005 and 2007, five cases were handled regarding this offence. No indictments were served.

109. Between January and November 2008, the Police opened 244 cases for managing a place for the purpose of prostitution, and arrested 46 suspects. In the same time frame, 56 cases of mediation for prostitution were opened by the Police, and nine cases were opened for trafficking in women. In addition, 50 brothels were closed, and 78 suspects were arrested on account of trafficking or related offences, 11 of which are awaiting the completion of proceedings.

Women and Religion

110. No notable changes have occurred on this issue since the submission of Israel's previous report.

Violence against Women

Sexual Violence - Legal Aspects

Prevention of Sexual Harassment

111. Recently, several provisions of the *Penal Law* 5737-1977 (the "*Penal Law*") were amended to add specific provisions regarding sexual abuse by a psychotherapist and consensual unlawful sexual relations with a minor.

112. Section 346 of the *Penal Law,* concerning consensual, unlawful sexual relations, stipulates that an adult individual who engages in sexual intercourse with a minor who is between the ages of

14 and 18, and who is not married to said adult, or an individual who engages in sexual intercourse with a minor who has reached the age of 16 but has not yet reached the age of 18 by exploiting relations of dependence, authority, education or supervision, or by making a false promise of marriage, acting as being unmarried while in actuality being married, is subject to five years imprisonment.

113. Amendment No. 77 to the *Penal Law*, issued in November 2003, supplements Section 346 to include sexual intercourse between a psychotherapist and a female minor between the ages of 16 and 18 as exploitation of dependency, unless the sexual intercourse occurred before the commencing of the psychotherapy, and in the course of an intimate relationship (Section 346(2)). The same applies to sodomy committed by a psychotherapist against a minor who is between the ages of 16 and 18, unless the sodomy occurred before the commencing of the psychotherapy in the course of an intimate relationship (Section 347(a)(2)).

114. The above Amendment supplements Section 347 to the *Penal Law* with the definition of sexual intercourse with a psychotherapist. Section 347A(a) defines psychotherapy as any diagnosis, evaluation, consultation, treatment, rehabilitation, or conversations performed over a continuous period of time through in-person meetings, in order to aid a person suffering from distress, disturbance, illness, or a different problem, stemming from a mental or emotional basis. A psychotherapist is defined as a person who engages professionally in providing psychotherapy as an occupation or a position, and is a psychologist, psychiatrist or social worker, or a person acting as one of these professions. Section 347A(b) stipulates that a psychotherapist who has sexual intercourse with a woman or sodomizes a person who has reached the age of 18, during treatment or in the period of three years of after the treatment, while obtaining consent through exploiting actual mental dependency resulting from the treatment given, is subject to four years' imprisonment. This will not apply if the acts were committed prior to the commencement of the psychotherapy.

115. According to section 348(d)(1) of the Law, a person committing an indecent act with a minor who is between the ages of 14 and 18, exploiting relations of dependence, authority, education or supervision is subject to four years' imprisonment. Amendment No. 77 supplements Section 348(d)(2) stipulating that a psychotherapist committing an indecent act with a minor between the ages of 14 and 18 during the psychotherapy will be regarded as committing the act while exploiting relations of dependence. This will not apply if the minor has reached the age of 16, and the acts were committed prior to commencing psychotherapy, and while engaged in an intimate relationship.

116. The Amendment also supplements Section 350 to the Law, stipulating that with regard to acts committed under the sub-section on sexual offences, the same penalty shall be imposed upon a person committing these offences in person, and to a person who caused these acts to be performed upon him/herself or upon another person.

117. Since the submission of Israel's previous report, the *Prevention of Sexual Harassment Law* was amended (Amendment No. 4 of 2007) in order to broaden the scope of the Law. According to the Amendment, a minor under the age of 15 is not required to indicate that sexual proposals or sexual attention is unwelcome in order for these actions to be considered sexual harassment, even without exploitation of a special relationship between the minor and the harasser,

i.e. - without relating to the conditions previously set down by the Law, of dependence or authority. The Amendment will apply only if the harasser is an adult (over the age of 18).

118. Current data indicates that between 2005 and 2007, 509 investigations were opened by the Police due to sexual harassment complaints as indicated by the following table:

Table 4 - sexual harassment cases, 2005-2007

Year	Total cases	Cases processed by the Police Prosecution/ Attorney General offices	Cases closed (by reason of closure)				
			Unknown offender	Lack of guilt	Lack of evidence	Lack of public interest	Other
2005	141	8	21	10	64	25	2
2006	158	13	33	7	48	30	1
2007	210	47	30	15	36	52	3

Source: Ministry of Public Security, the Investigation Department, 2008

119. In addition, between January and October 2008, 2,762 cases were opened due to complaints filed by women regarding sexual offences. Of these cases, 614 were filed for rape or threats, 157 for rape or sexual intercourse, 1,365 for forced obscene assaults, 425 for indecent acts and 199 for sexual harassment.

120. Also between January and October 2008, the Israeli Police made 937 arrests for sexual offences, compared to 915 arrests in 2007 and 846 arrests in 2006. The following table indicates the amount and status of cases filed between 2006 and 2008 due to complaints by women:

Table 5 - Cases Opened for Women Complaints regarding Sexual Offences, 2006 - 2008 (by status)

Year	No. of cases opened	Open cases	Cases processed by the Police Prosecution/ Attorney General offices	Cases sentenced	Cases closed	Reason of closure				
						Lack of guilt	Lack of evidence	Lack of public interest	Unknown offender	Other
2006	3,112	189	854	221	1,848	191	769	247	616	25
2007	3,424	297	955	168	2,004	170	821	274	528	211
2008	2,762	892	794	40	1,036	63	301	153	379	140

Source: The Knesset Research and Information Center, Violence against Women – data for 2008, November 2008

Stalking

121. Amendment No. 11 (2008) to the *Prevention of Violence in the Family Law* (*Requirement for a Hearing before Dismissal of a Request*) determines that a court may not dismiss a request for a protective injunction, or a request for an injunction against threatening harassment, according to the *Prevention of Stalking Law* 5762-2001 (the "*Prevention of Stalking Law*"), unless the

petitioner or his/her representative has been given the opportunity to bring his/her claims before the court, unless there are exceptional circumstances and reasons, which must be recorded.

Extent of the Phenomenon of Sexual Violence against Women

Minimum Punishments

122. As stated in Israel's previous report, the 1998 Amendment to the *Penal Law* instituted a minimum punishment for severe sexual offences, constituting 25% of the maximum that may be imposed. Another Amendment, added in 2002, prohibits imposition of suspended sentences, except in special circumstances, that must be specified by a Court decision.

123. Recently, the Haifa District Court sentenced a defendant to **nine years' imprisonment** and two years' suspended imprisonment on the condition that he does not commit sexual offenses for a period of three years after his release. The defendant was convicted upon his confession of committing an indecent act under aggravated circumstances, attempted rape and sodomy, in three different cases against three different women.

The Court determined that the defendant abused the trust of the women to whom he offered to drive somewhere, and that the public was entitled to protection from the defendant and others like him. However, the Court looked favorably upon the defendant's confession, which saved judicial time and prevented additional emotional difficulties for the victim, the defendant wished to receive medical treatment intended for sexual offenders. Therefore, in addition to the imprisonment term imposed, the Court ordered the defendant to compensate two of the victims with 20,000 NIS ($5,000) and the third with 15,000 NIS ($3,750), and recommended that the defendant be medically treated during his imprisonment (*S.Cr.C. 5020/08 The State of Israel v. Shay Alkayem* (07.09.2008)).

Raising Awareness

124. As mentioned above, in March 2008, in honor of the International Women's Day, the Authority for the Advancement of the Status of Women launched its new Internet web site, which includes information on varied activities taking place in Israel relating to the promotion of the status of women and information regarding violence and sexual violence toward women.

125. Also in March 2008, the Authority published the booklet "Women – Institutions and Organizations in Israel," which provides detailed information on hundreds of organizations operating in Israel in the various fields relating to women's status, including aid organizations. The guide is distributed nationally free of charge.

126. Various Governmental Ministries held seminars and conferences regarding violence against women. The Ministry of Justice, for example, held several conferences regarding "Sexual Harassment in the Academic Sphere," and other related lectures. Some of the lectures were held in cooperation with other organizations, such as universities.

127. The Courts Administration holds annual seminars and workshops on women's status issues such as violence against women, women's status, and the *Prevention of Sexual Harassment Law*. In

addition, the Administration held a special training course geared toward training women to be group facilitators for matters regarding women's status.

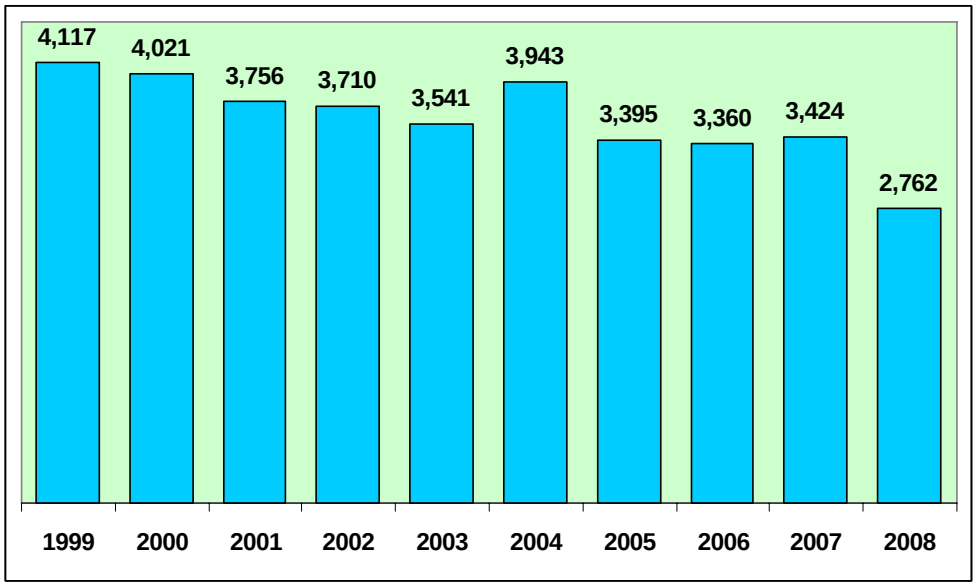
Administrative measures

128. In the last two years, special assistance units were established in all District Attorneys' Offices and special attorneys were appointed to be in charge of the implementation of the *Crime Victims' Rights Law* 5761-2001 (the "*Crime Victims' Rights Law*"). The attorneys are in direct contact with the victims and ensure the implementation of their rights according to the Law.

Police Handling of Sex Crimes against Women

129. In comparison to Israel's previous report, in the years 2004-2008, there has been a decrease in the number of sexual violence cases filed and investigated by the Police. The figures for 2008, which indicate the number of investigations until October 29, 2008, shows a comparative decrease of 13% in the Arab localities, and a 3% decrease in the total number of investigations.

Chart 1 - Sexual Violence Offences, 1999-2008



Source: 1999-2004 - Israel Police, Crime in Israel – 2006 and *Ministry of Public Security, Investigation Division, November 2008*

130. In 2007, 3,424 criminal investigations were opened following complaints by women of sexual violence involving women as victims. 19.5% of the complaints were filed by new immigrants, 14.3% by women from the former Soviet Union, 7% by Arab women and 2% by Ethiopian women. Of the total number of investigations opened, 740 pertained to sexual violence against women in the family, though not necessarily incest. Of those 740 cases, 316 were committed by a spouse, and of those 316 cases, 267 cases were for rape, compared to 294 in 2003.

Limitation and restriction on Sex Offenders

131. In 2006, the Knesset added another layer of protection against sex offenders by enacting the *Public Protection of Sex Offenders Law,* which entered into force on October 1, 2006. The objectives of this law are to protect the general public from sex offenders and prevent sex offenders from repeating their crimes. According to the Law, certain restriction may be imposed upon sex offenders after they conclude their sentence, and are returning to live in the community. The Law also established a registry of sex offenders who are under supervision. The registry assists supervision officers, police and military police personnel in performing threat assessments. The Law, through several mechanisms, establishes a balance between the restrictions that may limit sex offenders' freedom and the level of threat they pose toward the general public. The main two mechanisms are:

131.1. The duty to receive the updated and accurate assessment of the level of threat posed by the offender before reaching certain decisions relevant to his/her matter (such as sentencing, considering a parole or a pardon etc.).

131.2. Supervision of an offender following his/her release by a special supervision unit. If the court does not sentence a period of incarceration, the supervision begins immediately after the verdict is given. The supervision is carried out according to a Court Order that may include restrictions such as limiting permissible workplaces, places of residence, Internet use and more.

132. The Division for the Supervision of Sex Offenders is an integral part of the Israeli Prisons Service (IPS) and was established pursuant to the *Public Protection of Sex Offenders Law*. The division operates on a national level, and consists of eight officers and staff employees. In the application of the Law, the Division is working together with the District and the State Attorneys' Offices in the Ministry of Justice and other relevant bodies in the Ministries of Health and Social Affairs and Social Services. At present, after nearly two years of operation since its establishment, the division handles 220 supervision orders issued by the different District and Magistrate Courts.

Immediately after receiving a Court Supervision Order, an officer meets with the sex offender in order to receive relevant details and a clear and updated picture of the person in question. According to the circumstances of each case, and as a deterrent, the officer carries out stealth and open surveillance activities. The Division staff underwent specific training for this line of work, which includes legal aspects as well as practical field aspects.

133. In 2005, the *Prevention of Employment of Sex Offenders in Certain Institutions Law* 5761-2001 (the "*Prevention of Employment of Sex Offenders in Certain Institutions Law*") was amended and it now applies also to institutions servicing persons with mental disabilities. The Law formerly only applied to institutions servicing minors, such as schools. An additional Amendment, issued in 2007, stated that the Law will apply to every person convicted of sex offence as an adult, whereas previously the Law only applied to persons sentenced to at least one year imprisonment for a sex offence.

Police Treatment of Victims of Sexual Violence

134. The Police Special Task Force for Treatment of Domestic Violence Offences is specifically trained to provide improved treatment of sex offences. The Task Force training educates those involved with an overview of legal and judicial aspects, rape trauma, theoretical aspects of the rape offence, sexual harassment, events analysis, collaboration techniques with treatment bodies within the community; the training also includes special seminars discussing techniques for encouraging victims to come forward, and for making preliminary inquiries of suspects.

135. In addition, to make sure that an appropriate number of investigators will be available to provide a suitable response to sex offences from all Police units, an annual special training course is conducted for investigators, which includes the following subjects: legislation, legal aspects of domestic violence, the various Police guidelines in this field, rape trauma, theoretical and practical knowledge regarding sexual offenses and sexual harassment, cooperation with treatment organizations in the community and training courses on questioning victims and suspects of sex offences. As of 2004, training and enrichment programs consisting of twelve meetings each are given to investigators of sexual offences in all the Police districts. These programs cover issues such as: legislation, post-trauma, incest, male victims of crime, information regarding certain sectors in the community etc. The seminars are designed to train investigators specializing in the treatment of sex offences, and also to develop their ability to provide emotional support and different ways of coping with this sensitive issue.

136. The following are the main guiding principles of Police Procedure No. 03.300.310, "Police treatment regarding a person filing a complaint on sexual offences":

- Only a trained investigator is authorized to investigate sex offences.
- Every complaint concerning a sexual offence is investigated to the full extent possible, by an investigator of the same gender of the victim. Furthermore, to the extent that it is possible, the victim will be in contact with only one investigator during the entire course of the investigation.
- Only relevant and essential questions are to be introduced in consideration of the victim and his/her privacy.
- Excluding persons not directly related to the investigation. The collection of proclamation is done, as far as possible, in a separate room without the presence of other investigators or investigatees.
- As the collection of the proclamation ends, the investigator shall give his/her name to the victim, along with details of the registration of the complaint and the ways in which the victim can receive information concerning the progress of the case and ways in which he/she may deliver any further information.
- Notifying the complainant of the possibility of receiving support from a volunteer working with one of the rape crisis centers, and providing assistance in contacting such a center.
- If the victim specifically requests to be accompanied by a relative or friend, it shall be permitted, keeping in mind the needs of the investigation.

- Also, a representative from one of the rape crisis centers is to be made available at the explicit request of the victim.
- At the victim's request, and where reasonable to do so having considered the needs of the specific investigation, the investigation is to be delayed until the arrival of the abovementioned persons.
- Minors under the age of 14 will be questioned by a children investigator authorized to handle and investigate sex offences. Similarly, minors over the age of 14 are to be questioned by a youth investigator authorized to handle and investigate sexual offences.
- The Procedure provides advice on conducting victim/suspect confrontations, where they are deemed necessary and the victim's explicit consent is attained.
- The Procedure also provides information and details as to the referral of victims to medical care, including the collection of related evidence.

Crisis Centers

137. There are eleven rape crisis centers throughout the country working to provide emotional support, practical advice, and other support for victims including the maintenance of hotlines, and the provision of educational services. All centers are staffed by volunteers and are contacted by an average of 9,000 individuals annually.

138. Israel has also developed a unique model of multidisciplinary centers that provide interrelated services to women who have suffered abuse and violence. These centers combine psycho-social and psychological treatment with medical and legal services. Until 2007, there were such three centers in Israel, and in 2008 three additional centers were opened, designed to treat 600 persons simultaneously. As of October 2008, 428 victims were treated in these centers, compared to 280 in 2007 and 171 in 2005.

The Social Affairs and Social Services Ministry's Treatment of Victims of Sexual Violence

139. On January 1, 2007, the Israeli Prime Minister informed the Knesset Committee on the Status of Women that a program submitted by the Ministry of Social Affairs and Social Services for the appropriate treatment of young women and teen victims of sexual assault had been approved. The special program included designating 25 social workers to identify and treat young women, teenagers, and victims of sexual assault, six regional multidisciplinary centers for treatment of sexual assault victims, six places of residence for sexual assault victims, a special hostel for treatment of sexual assault victims as an alternative to hospitalization, and seminars and training sessions for the identification and treatment of sexual assault victims.

140. An inter-ministerial committee, headed by the director of the Authority for the Advancement of the Status of Women, was established to examine the implementation of the program. The committee appointed a special task force which prepared a list of high priority initiatives to be implemented during 2008, in accordance with the approved budget. Implementation of additional initiatives of less urgency has begun gradually in 2008 and will continue in 2009.

141. The Government's program for treatment of sexual assault victims includes the following features:

141.1. Training and Seminars for Identification and Treatment of Sexual Assault Victims: As public servants work in many different environments, such as clinics, hospitals, social services departments and the education system, they are often in a position to encounter sexual assault victims. Nevertheless, many have difficulty in identifying such victims. In order to better enable them to do so, special training for social workers and psychologists within the health and welfare systems, physicians, nurses, educational advisors and psychologists within the education system began in 2008. The trainings will vary, highlighting relevant issues in accordance with the profession of the participants, in order to achieve maximum expertise.

141.2. Regional Multidisciplinary Centers for Treatment of Sexual Assault Victims: Following up on the focused treatment provided in crises centers in hospitals, regional multidisciplinary treatment centers provide the physical necessities of life, in conjunction with psychological treatment for sexual assault victims. In addition, the centers identify and rehabilitate women and girls who were sexually abused at different stages of their lives, and have not yet received any treatment. The centers conduct professional schooling on the treatment of sexual assault victims, and serve as teaching and training centers for different professions in the community who deal directly with sexual assault victims.

Currently, there are two regional multidisciplinary treatment centers operated by the Ministry of Social Affairs and Social Services, based in Rishon-Lezion and Haifa. Another center, operated by the Ministry of Health in the Tel-Aviv Soraski Medical Center, provides psycho-therapeutic and psychiatric treatments for victims of incest. Government programs for treatment of sexual assault victims include upgrading the capacity of these centers for simultaneous treatment of up to 100 victims. In addition the establishment of another three centers in Nazareth, Jerusalem, and Beer-Sheva that will also be equipped to effectively treat the Arab, Bedouin and Jewish Ultra-Orthodox populations. The three new centers are in advanced stages of development. Communities of a unique culture will receive treatment by members of the same community, who speak the same language.

141.3. Hostel for Treatment of Sexual Assault Victims, alternative to hospitalization: Currently, no 24-hour service for sexual assault victims is in operation, and the routine treatment of victims in existing hospitals might worsen their situation or even revive their trauma. The Government program includes the establishment of a hostel geared toward meeting the special needs of sexual assault victims. The hostel is designed for 12 women, for a stay period of 3 months per person. The victims are to be referred to the hostel by therapists in the community, and are to return to these therapists at the end of their stay in the hostel. The hostel's staff will include a psychiatrist and a nurse, in addition to therapists specializing in the treatment of sexual assault victims. A tender for this hostel was issued, but in June 2008, after examination of all the offers submitted, it was declared that there was no winner, and a new tender will be issued in the near future.

141.4. Treatment of Children and Victims of Sexual Assault, in the Education System: Since 2005, the Ministry of Education has allocated 1,000,000 NIS ($250,000) a year for a program in 22 local education systems, designated for the treatment of child victims of sexual assault. In 2007, an additional sum of 180,000 NIS ($45,000) was allocated to this program. In 2008, an additional budget was also allocated for this program.

141.5. Establishment of Places of Residence for Sexual Assault Victims: A vast amount of the sexual assault victims treated in the regional multidisciplinary treatment centers suffer from severe economic distress. Many are attempting to find places of residence, and suitable employment, whilst lacking basic life skills. Some victims return to their homes following treatment in the centers, and continue to suffer from physical and mental abuse. Since all victims need a secure home, the Government program includes the establishment of six residence apartments for sexual assault victims to be constructed next to each of the present and future regional multidisciplinary treatment centers. The residence apartments will serve as a secure home for the victims for a period of six months to one year, and will assist them in acquiring the life skills needed before returning to independent life.

141.6. Additional Social Workers Specializing in Treatment of Sexual Assault Victims: The Government program includes the addition of further 25 social workers into welfare services provided by local municipalities. These social workers will specialize in the identification and treatment of sexual assault victims.

Sex Offenders in the Penitentiary System

142. The Israeli Prisons Service activates psychological-educational groups for sexual offenders in a number of prisons aimed to enrich the offenders' knowledge and provide them with tools and skills for daily living. The Prisons Service also activates therapeutical groups for sexual offenders through the Mental Health Center in Ramla, targeted at reducing the risks of sexual violence nationwide.

143. Early release and vacations for prisoners sentenced for domestic violence are discussed in joint committees held in four districts. The Committees' members are from the Prisons Service and the Ministry of Social Affairs and Social Services. The Committees receive the social services reports of the status of the family (e.g. the victims) and the prisoner treatment in prison.

The Sexual Assault Help Centers Data

144. The Israeli Sexual Assault Victim's Help Centers Union is a parent organization to all help centers operating in Israel, working as an agent of social change on a national level, lobbying legislation amendments, and issuing annual reports on sexual assaults.

145. Currently there are two major legislative amendments initiated by the Union awaiting the approval of the relevant ministerial committee. One pending amendment addresses the need to freeze the limitation period in civil proceedings while a criminal procedure is being held

regarding sexual offences. The second pending amendment prohibits the deduction of a third of an incarceration period for prisoners serving sentences for sexual offences.

146. On November 16, 2008, there entered into force the *Witness Protection Law* 5769 – 2008, which allows for enhanced protection of witnesses who conform to certain criteria. It includes the establishment of a Witness Protection Authority which will be responsible for developing programs to protect witnesses who are deemed appropriate. Among the criteria for accepting witnesses to this program, are the nature of his/her or the cooperation with law enforcement authorities, and the nature of the risk he faces. A witness who is accepted into the program may subject to change of identity, changing his/her place of residence, whether in Israel or outside its borders, and other security measures. The program may also encompass family members of the witness.

Domestic Violence - Legal Aspects

Recent Amendments to the *Prevention of Violence in the Family Law*

147. As mentioned above, Amendment No. 11 (2008) to the *Prevention of Violence in the Family Law,* (*Requirement for a Hearing before Dismissal of a Request*), determines that a Court may not dismiss a request for a protection order, or a request for an injunction against threatening harassment, according to the *Prevention of Stalking Law*, unless the petitioner or his/her representative has been given the opportunity to bring his/her claims before the Court, unless there are exceptional circumstances for reasons that must be recorded. The Amendment implements the recommendation of the Inter-governmental Committee for Prevention of Domestic Violence that was set up by a Government Resolution in February 1998, to amend the Law and to determine procedures to avoid the dismissal of requests for protection orders without the petitioner being given the opportunity to voice his/her claims before the Court. Given that in most cases, the victim is a woman, the instruction prescribed by law facilitates women in receiving their personal liberty and by doing so, assists them in better integrating into society.

148. Amendment No. 9 (2007) to the *Prevention of Violence in the Family Law* is titled *Protection Order against a Minor*. Before the Amendment, according to Section 3, the Court was authorized to issue a protection order, in specific circumstances, against a person for protection of a member of his/her family. However, there was no special provision for a situation where the protection order has been requested against a member of the family who is a minor and not for his/her protection. Amendment No. 9 added Section 3A to the *Prevention of Violence in the Family Law*, which determines the procedure for issuing a protection order against a minor. Accordingly, a request for a protection order against a minor can only be presented to the Family Matters Court. The Family Matters Court Auxiliary Unit will be asked to report to the Court with regard to the conflict and the possibilities of reaching a solution outside the Court, and to give its recommendation. The Unit is also responsible to inform the minor of his/her rights regarding representation by a lawyer. Before issuing the protection order, the Court must consider the circumstances and the welfare of the minor and must also give the minor the opportunity to voice his/her position before the Court. A protection order that includes removing the minor from his/her home may not be issued unless the Court has received a written report

from the welfare officer appointed under the provisions of the *Youth Law (Care and Supervision)* 5720-1960 (the "*Youth Law (Care and Supervision)*" approving of the order, and a suitable out-of-home arrangement was located for the minor.

Other Legislative Developments

149. On July 12, 2007, the *Limitation Law* 5718-1958 (the "*Limitation Law*"), was amended (Amendment No. 4) in order to extend the limitation period for civil suits concerning sexual assault or abuse of minors. The Amendment relates to a civil suit concerning sexual assault of a minor, or child abuse by a family member or a person responsible for the child, as well as the sexual assault of a person between the ages of 18 and 21, while exploiting relations of dependence, authority, trust or treatment, or if the sexual assault was committed by a family member. In these cases, the limitation period will not commence before the victim reaches the age of 28. The Law further stipulates that if an indictment was filed, the civil limitation period will not end until one year after a conclusive verdict has passed.

Extent of the Phenomenon of Domestic Violence

Domestic Violence – General Data

150. Recent data from the Ministry of Public Security that was prepared for the Knesset Committee for Advancement of the Status of Women for the International Day for the Elimination of Violence against Women in 2008, indicates that between January and October 2008, 12,777 investigations were opened following reports of domestic violence. In this period, 24.3% of the complaints filed were made by new immigrants. 19.2% were filed by new immigrants from the former Soviet Union, 2.2% by new immigrants from Ethiopia and the rest by new immigrants from other countries. 11.8% of the complaints filed were made by Arab women. The following table indicates the number and status of cases opened regarding women complaints filed for domestic violence:

Table 6 - Cases Opened for Complaints filed by Women for Domestic Violence, 2006-2008 (by Status)

Year	Number of cases opened	Open cases	Cases processed by the Police Prosecution/ Attorney General offices	Cases in deliberation	Cases sentenced	Reason of closure			
						Lack of guilt	Lack of evidence	Lack of public interest	Other
2006	14,665	344	3,880	2,194	8,247	448	5,018	2,481	300
2007	14,748	663	3,681	1,860	8,507	559	4,685	3,012	251
2008	12,777	2,775	4,949	460	4,593	245	2,412	1,773	163

Source: The Knesset Research and Information Center, Violence against Women – Data for 2008, November 2008.

151. Between January and October 2008, the Israeli Police made 3,679 arrests in cases of family violence, compared to 3,467 arrests between January and October 2007.

152. The Ministry of Health operates a special staff unit assigned with identifying women who are victims of violence when they are seeking medical treatment, and to improve and advance the medical treatment they are given. The unit is responsible for the distribution of circulars from the Director General and also for the guidance of medical personnel regarding domestic violence. The Ministry of Health also trains social workers who specialize in treating infants in various hospitals and Health Funds (HMOs), in order for them to be able to identify female victims of violence and give the needed assistance as quickly as possible.

153. The Authority for the Advancement of the Status of Women conducted a survey aimed at exploring the public's awareness and views of domestic violence and violence against women in the population in general, and in the Arab population. The survey showed that the public accepts that a women suffering violence from their spouse should turn to seek help in the form of counseling and support (97% of the women and 87% of the men agreed with that phrase) and 80% of the general public believes that it is possible to break the cycle of violence. According to the survey, 70% of the people interviewed were aware of the issue of violence against women.

Severe sentences

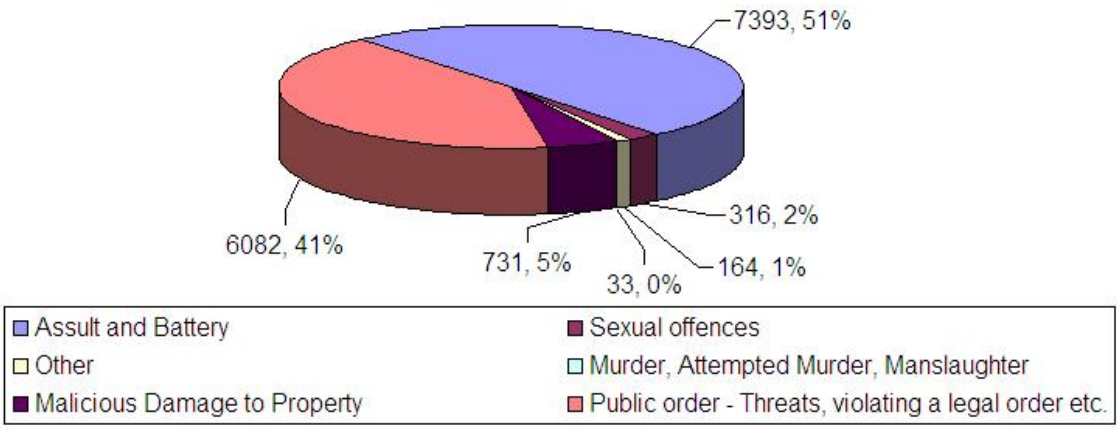
154. Recently, the Tel Aviv District Court sentenced a defendant to **16 years imprisonment**, and 2 years' suspended imprisonment. The court further ordered that the defendant pay compensation to his wife and children. The defendant was convicted of committing multiple offenses including two rape offenses, two offenses of assault under aggravated circumstances, as well as assault that causes actual bodily harm and abuse of minors.

The defendant married the complainant when she was 15 years old in Georgia and at some point the family moved to Israel. The complainant and her children were subjected to severe violence, threats, insults and humiliations. The domestic atmosphere was described to be fearful and terrorized, and the defendant acted toward his family members as he deemed fit. The complainant and the children were terrorized by the defendant so much that at one point, the complainant tried to commit suicide. The complainant and her children are still fearful of the defendant, and suffer from post-traumatic stress disorder. The Court determined that the defendant should be subjected to a prison sentence that would convey the loathing and the disgust the Court has towards his behavior, as well as serve the retaliation principle and deter the defendant and the public in general from committing similar offenses (*S.Cr.C. 1148/06 The State of Israel v. Anonymous* (09.08.2008)).

Police Handling of Domestic Violence

155. Police records show a decrease in the number of complaints of domestic violence compared to the previous reporting period. In 2007, 18,910 cases of domestic violence were recorded, a 6.7% decrease compared to the number of cases recorded in 2005 (20,185) and a 4.6% decrease compared to 2006 (19,793). Of the total number of complaints, 14,719 were filed by women. The following diagram illustrates offences upon which spousal cases were recorded.

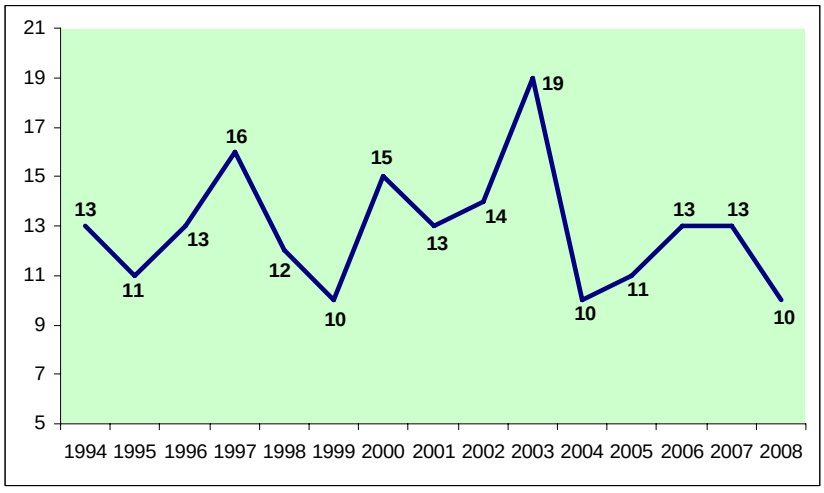
Chart 2 – Spousal Violence Cases, 2007



Source: The Ministry of Public Security, August 2008

156. Domestic violence remains a threat to women's safety and well being. In 2008, ten women were murdered by their spouses. The following chart demonstrates further information regarding spousal murder.

Chart 3 - Murder of Women by Their Spouse, 1994-2008



Data for 2008 is up to November 10, 2008

Source: Israel Police, Crime in Israel, 2006; The Ministry of Public security, August 2008

157. Domestic violence is an alarming social phenomenon that requires special treatment by the Police' Victims of Crime unit, from both a societal and criminal point of view. Police recognition of the need to attach special attention to the status of victims of crime in police procedures, especially with regards to victims of domestic violence, led to a new Victims of Crime Section being established in 1996 within the Investigations Department of the Police. New procedures were subsequently issued for the treatment of domestic violence offences,

violations of protection and prevention orders, and stalking and sex offences. These procedures are occasionally updated. In addition, special training has been introduced focusing specifically on the issue of domestic violence. Collaboration between Police, welfare and community bodies is also being developed in accordance with legislative amendments and other developments. The Victims of Crime unit is intimately involved in manifesting societal change in this area, and takes part in all the relevant social processes, including that of creating legislation, steering committees and inter-ministerial committees.

158. Owing to their special characteristics, domestic violence offences require special treatment. For example, an effective response to offences of this kind may require an immediate reaction to prevent possible abuse, risk assessments throughout the treatment, full utilization of Police procedures including prohibition to carry weapons, collaboration between all treatment bodies, and awareness of the difficulty in collecting evidence.

159. Due to these unique characteristics, a special task force of 200 investigators specializing in the treatment of domestic violence and sex offences was formed, and has been operating since the beginning of 1998. As detailed in Israel's previous report, the task force consists of specially trained investigators specializing in domestic violence cases. Fifty other investigators handle these cases in smaller police stations in addition to their usual workload. Nine of the investigators are female Arabic speaking investigators who were appointed for treatment of Arab women in stations that serve the Arab community. There are currently 18 Arabic-speaking investigators, 14 Russian-speaking and 3 Amharic-speaking officers. In every police station there are at least two investigators who are specially trained for dealing with domestic violence cases as well as sex offences and in police stations where the extent of such complaints is insignificant, investigators are trained for this function in addition to their ordinary functions.

160. Furthermore, in 2003, the Police designated six district offence victims' officers in charge of contact with victims of crimes (VOC) in each district. These officers conduct professional supervision regarding the implementation of the law and regulations in their respective districts, provide assistance and conduct training programs to field units such as patrol units, and create models for cooperation with non-police units such as treatment elements. In addition, the Israeli police districts also appointed district officers in charged on domestic violence issues. This appointment was made in order to provide professional, efficient and immediate treatment in the field of domestic violence and sex offences and also due to demands and needs rising from police field units.

161. As mentioned above, as of 2004, 12 training and enrichment program sessions are given to investigators of sexual offences in all the police districts.

162. Police investigators must be specially trained in order to treat cases of domestic violence. The training introduces Police guidelines on the issue and includes focused studies on the specific aspects of domestic violence, providing theoretical and practical information as to the social, legislative and judicial aspects of the phenomenon. For example, the participants are to take part in lectures and discussions regarding risk assessment, prevention of access to weapons, certain aspects of legislation, treatment of battering men, special characteristics of child - witness of domestic violence, models for collaboration with different welfare bodies, protection orders and their violations. In addition, the participants take part in a workshop aimed at encouraging

victims of violence to come forward, during which they visit a shelter for battered women and watch a special film/theatre play on this issue. All persons who currently work as domestic violence investigators took part in this training, and were subsequently approved to treat cases of domestic violence.

163. The *Crime Victims' Rights Law,* which entered into force in 2005, requires providing relevant information to a victim of crime on every stage of the criminal procedure. As required, the Police established a new computerized system designated for this purpose. The system gathers the necessary information from other systems including Police systems, the Israeli Prisons Service and the State Attorney's Office. Victims of crime may receive the information by calling a designated phone number or by text or voice messages initiated by the computerized system. The information is also accessible through the internet. The system became operational in May 2005.

164. In 2007, a manned phone service center was established in order to assist persons who find it hard to receive information via voice messages or through the internet. The following table describes the number of applications for information received by the system:

Table 7 - Requests for Information according to the *Crime Victims' Rights Law*, 2005-2007

Year	Requests for information via internet	Requests for information through the designated phone number
2005	1,014	7,110
2006	3,773	9,575
2007	4,544	37,217

Source: Ministry of Public security, August 2008

165. Prior to 2005, 250 delegates from all Police units received special training regarding the *Crime Victims' Rights Law*. Special training kits were distributed to all Police investigators and additional training material was distributed through the Police intranet. This important issue was also included in the training program of the Investigations and Intelligence Department, and accordingly, from 2005 to 2006, 90 educational programs were carried out. In addition, the Police issued procedure No. 03.300.219 titled "Police Treatment of Crime Victims", as well as signs and informative materials in all relevant languages related to the criminal procedure and to crime victims' rights, were distributed to all police units.

166. In recent years, the Police has been operating a computerized threat assessment system that assists in evaluating and assessing the threat posed by suspects in domestic violence cases. The system receives information from various sources, and by combining these sources and evaluating certain parameters, the system performs a risk assessment and assembles a profile of each suspect. The Police has also created specialized risk assessment squads in several police stations. These teams include a social worker, a clinical criminologist, and a police officer. The squads help to assess the threat posed by suspects, and initiate enforcement and treatment procedures. Additionally, in several police stations, social workers are employed to provide instant assistance when a domestic violence complaint is being filed. The social workers make

an initial assessment of the problem at hand, and also ascertain the willingness of the victim and/or the suspect, to receive treatment in help centers. The project operates at 11 police stations around the country.

167. Distress buttons are issued to women at high risk, once they have received a court order for their protection.

Additional Data on Police Practices Regarding Domestic Violence Cases

168. The use of the computerized assessment system and the risk assessment of a suspect in cases of domestic violence is conducted immediately at the beginning of any domestic violence investigation, and afterwards at the beginning of each step of the investigation. This way, police investigators can better manage their actions regarding the suspect and can also better protect the victim.

Centers for the Treatment and Prevention of Domestic violence

169. The number of centers for the treatment and prevention of domestic violence is consistently rising. In 2008, 66 centers and units for the prevention of domestic violence and treatment of domestic violence victims were operating in Israel, compared to 64 in 2007. Seventeen of those centers were designated for the Arab population, one for the Bedouin population and two for the Jewish ultra-orthodox population. The centers treat victims of domestic violence through group therapy and personal empowerment within the community.

170. The centers operate within the framework of the local authorities' social services departments. In 2007, a total of 10,000 people received treatment in these centers, of which 6,649 were women. Also in 2007, the centers treated 8,600 families, of which 1,619 were families of new immigrants and 578 were families of elderly persons. Of those treated, 27% were men, 66% were women and 7% were child witnesses of domestic violence. In total the centers held 377 therapeutic groups, compared to 266 in 2004, a 41% increase.

Shelters for Battered Women

171. The Ministry of Social Affairs and Social Services provides battered women with three phases of shelter care. All shelters are operated by women associations and organizations, but are fully funded by the Ministry of Social Affairs and Social Services and the local authorities.

172. Protection from violence is provided by 13 shelters for battered women and their children, established in different locations throughout the country. Due to their distinct cultural and religious needs, two shelters have been specially designated for Arab women, and one for ultra-Orthodox Jewish women. One of the shelters is designated for both Jewish and Arab women and, two shelters are accessible to the physically disabled, one of those also serving the Arab population. In 2007, these shelters provided emergency intervention for nearly 1,700 women and children.

The shelters provide professional counseling and legal advice and assistance, as well as childcare and rehabilitation. Several shelters also have multi-lingual staff and volunteers in

order to better assist immigrant women. Children continue in community-based day-care or elementary school frameworks, whilst residing in the shelter.

173. In addition, there are 3 "reception apartments," which are designated for women of all sectors of society, and are also adapted for women with disabilities. In 2007, these apartments housed 31 women and 75 children. There are also ten "transitional apartments," which provide women with additional support and options when they are deemed ready to leave the shelters. In 2007, these apartments housed 46 women and 77 children for a length of stay ranging from six to 12 months.

Hotlines

174. Currently there is one national hotline for battered women and children. The line is operated by the Ministry of Social Affairs and Social Services in association with Women's International Zionist Organization (WIZO). The service is available in Hebrew, Arabic, Russian and Amharic. In 2007, the national hotline received 3,483 calls, 70% of them regarding violence against women. Details on local hotlines are also available on the Ministry of Social Affairs and Social Services website and so are two additional hotlines, one is designated for ultra orthodox women and is operated by the Ministry, and the other is for victims of sexual assault operated by the Association of Rape Crisis Centers in Israel. There are several additional hotlines operated by NGOs, receiving roughly the same number of calls. The Association of Rape Crisis Centers in Israel reported that during 2007, it received 7,419 calls from women, 2,796 of these calls were reports of rape, attempted rape and sexual abuse of a minor, 1,630 were reports of incest and 386 were report of gang rape and sexual attacks.

175. In 2006, the Authority for the Advancement of the Status of Women focused its efforts on fighting violence that leaves no visible signs. During various activities, and after conducting a survey regarding public views on this matter, the Authority held a campaign under the slogan, "Don't Let the Violence Kill You from the Inside – Even Words Can Be Violent". Following the campaign, there was a 300% increase in the number of calls compared to the same period in 2005.

176. There is growing cooperation between Government Agencies and between them and non governmental organizations. This cooperation is particularly notable between NGOs and representatives of the Ministry of ITL, the Immigration Administration, the Police and the National Coordinator on the Battle against Trafficking in Persons.

Treatment of Battering Men

177. As of November 2008, there were 1,826 prisoners jailed for domestic violence offences in the IPS facilities. There are several programs developed for the treatment of battering men. The Beit Noam Association, together with the Ministry of Social Affairs and Social Services, operates Beit Noam, an educational hostel designed for the treatment of battered men. The association also operates a hotline for battering men and their families. As mentioned in Israel's previous report, the IPS established various treatment frameworks for domestic violators. One such program is Beit Hatikvah, which means house of hope, aimed at lowering the inmates' level of

violence, operating at the Hermon prison. Two similar programs are conducted in the Tzalmon and the Carmel Prisons. Additionally, domestic violators' treatment groups are active in all prisons, offering help in acknowledging and managing the problem.

178. In addition, the Family Matters Court Auxiliary Units employ social workers and offer immediate assistance to families mitigating in the Family Matters Courts. In 2007, 14 units were operating in which 993 families were treated for domestic violence.

Violence against Women within the Arab Population

179. In 2008, out of 66 Regional Centers for the Treatment and Prevention of Violence against Women, 17 were designated for the Arab population and one was designated for the Bedouin population. The centers treat victims of domestic violence through group therapy and personal empowerment within the community.

180. Recent Police figures show that murder in the name of so-called "family honor" has decreased dramatically in recent years among the Arab population. According to the data, in 2005, seven Arab women were murdered in the name of "family honor," in 2006, six Arab women were murdered for that reason, in 2007 one Arab woman was murdered for "family honor," and that was also the figure for 2008. Murder is a severe crime in Israel, punishable by life imprisonment. The Police, as well as the Israeli legal system, regard any murder as such, and investigate it vigorously, regardless of the murderer's motives. Israeli law does not recognize any mitigating circumstances in such cases, and prosecutes, indicts and punishes the perpetrators in all severity.

181. **Social Services**. In May 2004, the Center for the Welfare of the Bedouin Family was established in Beer Sheva by the Ministry of Social Affairs and Social Services. The Center has two main goals:

181.1. To provide assistance to the Bedouin community in matters related to conflict and tension resolution in the family, as well as to provide therapeutic interventions.

181.2. To be a center for the prevention of, and education on, domestic violence.

The center is financed and supervised by the Ministry of Social Affairs and Social Services and is operated by the Bedouin association Elwaha, which is staffed by specialized social workers.

The center provides many uniquely adapted services. For example, assistance is given in locating Bedouin families willing to take in female Bedouin victims of violence, allowing those women to remain within the Bedouin community whilst protecting them from further violence. These women's stay in the foster family is financed by the Ministry of Social Affairs and Social Services. Following its establishment, the Center has become an integral part of the community, and an essential tool at the disposal of the Courts, which may refer battering men to be treated in the Center.

182. Social Services operate in the Bedouin towns, as well as in illegal Bedouin villages. There are approximately 30 monthly appeals to Social Services from Bedouin women. Each woman

receives individual care. There are also several Bedouin couples undergoing couple therapy. Note that the operation of the abovementioned Center has improved the treatment of domestic violence in the Bedouin population, enabling focused and efficient care to be provided, free from community and family pressures.

183. In 2008, the Service for Girls and Young Women handles about 380 young Bedouin women annually, about 300 in the South and about 80 in the North, providing both individual and group treatment.

Article 6 - Suppression of the Exploitation of Women

General

184. In recent years, there has been a sharp decline in the number of women trafficked to Israel for prostitution. This decline is evident in the number of trafficking victims located by law enforcement agencies, as well as reports issued by the Knesset Subcommittee on Trafficking in Women and NGOs. Only 12 trafficking victims for prostitution were transferred by the Police to the "Maagan" shelter for Victims of Trafficking in Persons in 2008, most of them were trafficked several years ago.

185. Note that in 2008, there were very few cases of trafficking for prostitution handled by the State Attorney's Office, indicating the success of the massive enforcement efforts by the law enforcement agencies, as well as the severe punishments imposed by the courts. Note that "classic" trafficking, as was found in the earlier years, including purchase and sale of a person, violence, incarceration, withholding of passports, threats, objectification, coercion and blunt and cruel enslavement, was rarely found, and mostly relates to cases that took place in 2005.

186. According to Police estimates, between 2007 and 2008, there has been a dramatic decrease in the number of cases and indictments served regarding trafficking in persons for prostitution. Since 2005 more than 40 people were convicted for trafficking in persons, and received punishments of eight to 18 years imprisonment.

187. The main countries of origin from which past victims of trafficking in persons have arrived are Ukraine, Russia, Moldova, Belarus and Uzbekistan. The major trafficking route was mainly through Russia, and illegal smuggling via the Israeli border with Egypt. Due to strict supervision, entry via the official sea and air ports is insignificant.

188. The Government of Israel does not tolerate the phenomenon of trafficking in persons. Israel has combated this phenomenon in the past, and continues to do so with increased vigor during the reporting period. This issue is a priority for the Government. In the past five years in particular, Israel has undertaken increased efforts to prevent trafficking, to protect its victims and to prosecute the perpetrators.

The Parliamentary Subcommittee of the Trafficking in Women

189. The Parliamentary Subcommittee on Trafficking in Women, whose chairperson is MK Zehava Gallon, is a Subcommittee of the Committee on the Status of Women, designed to focus on the battle against trafficking in women. This Subcommittee continues to be active in the control,

monitoring and overall supervision of trafficking for prostitution, through legislation, regular meetings, advocacy of relevant causes and inviting high-ranking government officials to its meetings to be questioned regarding the activity of their governmental bodies. In addition, this Subcommittee holds an annual session following the publication of the U.S. State Department's Report on Trafficking in Persons (hereinafter: TIP) during which the issues raised in the report are discussed.

190. During its meetings in the reporting period, the Subcommittee dealt with the following issues: the delay in establishing a special forfeiture fund; the institutionalization of prostitution and its impact on combating trafficking in women for prostitution; methods of fighting brothels operating through the internet; the U.S. State Department TIP Report; follow up on the implementation of a trafficking awareness-raising campaign in the education system concerning trafficking; discussion whether labor relations apply to the relations between trafficking victims and panderers, following the National Labor Court decision determining that a victim of trafficking for prostitution is entitled to the minimum wage on account of her "work"; changes in trafficking patterns such as the increase in the number of Israeli women trafficked for prostitution in servitude conditions.

191. The Subcommittee continues promoting the following bills: the *Penal Law (Amendment – Prohibition of the Publication of Ads Publishing Prostitution Services)*; the *Prohibition of the Use of Paid Sexual Services Law*.

192. The Subcommittee attaches great importance to the cooperation with NGOs, and therefore maintains close professional ties with these organizations, which serve as a firsthand source for studying problems related to the treatment of victims of trafficking and promoting protection of the victims. The activities of these organizations have led to public awareness of the problems faced by female trafficking victims, and the need to view them as victims.

Prevention

Information Campaigns

193. The Authority for the Advancement of the Status of Women in the Prime Minister's Office has been increasingly active in the area of promoting awareness of the issue of combating trafficking in women. The Authority's target audiences are the Civil Service, the Local Authorities, the Education System, the Kibbutzim Movement and the IDF. Annual activities conducted toward achievement of those goals include the following:

193.1. The Authority conducted a survey designed to examine the public's positions regarding trafficking in women and prostitution. According to the survey, 50% of the public is of the opinion that legislation criminalizing the purchase of sexual services is required. 66% of the population believes that the panderer is the sole offender in the prostitution cycle. 68% of the public believes that prostitution derives from the hardships of life, whereas 18% believes that it derives from a personal choice. 41% of the population perceives prostitution as a profession, while only 57% is aware of the fact that most women in prostitution enter the cycle of prostitution as children.

193.2. On December 16, 2008, the Authority held a one day seminar titled, "Trafficking in Women" in cooperation with the Be'er Sheva Municipality. The seminar was attended by the Mayor, the Director General of the city, the municipality's Advisor on the Advancement of the Status of Women, and other leading women. The seminar included lectures from Police and NGO representatives and a lecture by the National Coordinator.

193.3. On December 15, 2008, a one-day seminar on trafficking in women was held in the Prime Minister's Office. During the seminar, the Director of the Authority presented up to date data regarding the scope of trafficking in women in Israel and measures taken to combat the phenomenon. An NGO representative also gave a lecture on the issue, and the film "Lilia 4ever" was screened.

193.4. In December 2008, the Authority, in cooperation with the Tel Aviv Municipality and the Ministry of Social Affairs and Social Services, held a one day seminar under the title, "My Body Is Here, but I Am Somewhere Else - Women and Girls in the Prostitution Cycle." The seminar was attended by the Minister of Social Affairs and Social Services and by MK Zehava Gallon, chair of the Parliamentary Subcommittee on Trafficking in Women, who also discussed the use of legislation to promote changes in perceptions regarding the prostitution phenomenon.

The seminar also served as a platform to launch and present the inter-ministerial Plan for the Rehabilitation and Treatment of Women and Girls Engaged in Prostitution in order to Assist Them in Breaking the Vicious Cycle of Prostitution.

The seminar was advertised to the general public and was attended by various Government Ministries' representatives, including the National Coordinator and local authorities' officials, as well as professionals in related fields and other interested persons. The seminar received wide media coverage and gave rise to discussions in various public media outlets such as radio and newspapers. All of this contributed greatly to raising awareness of the prostitution phenomenon.

193.5. This year, the educational activities and awareness campaigns regarding trafficking in women in the various frameworks of the IDF, Civil Service and of the Kibbutzim Movement were conducted separately from the activities of the Authority. Nonetheless, as the International Day for the Abolishment of Slavery neared, the Authority sent letters to the IDF, the Civil Service and the Kibbutzim Movement, recommending that they hold informational activities concerning trafficking in women. In addition, the Authority invited the officials of these bodies to participate in the activities and seminars held by the Authority.

193.6. In addition, the Authority conducted promotional activities within the education system in cooperation with the Department for Gender Equality in the Ministry of Education. Such activities included conferences with senior education workers, inspectors and school headmasters, and also special lectures and presentations for teachers.

193.7. The Authority also holds conferences and publishes information concerning the International Day for the Abolishment of Slavery.

194. **National Award**. In the wake of Government Resolution No. 2670, dated December 2, 2007, the Government approved an annual National Award for individuals and bodies that have made outstanding contributions to the battle against trafficking in persons. This award is aimed at providing support to those who do this trying work, and encourages others to increase efforts towage in the battle. The 2008 award recipients have been chosen and announced, and the awards was given in an annual ceremony that was held in March 2009, at the President's Residence, and presented by the President.

195. **The National Coordinator**. During the reporting period the Coordinator participated in training and educational initiatives geared toward the general public.

196. The Coordinator also distributes information on trafficking, both on the web site of the Office of the Coordinator and by means of a weekly digest of information from the Internet, sent to actors inside and outside the Government. Each year, she prepares a general document on trafficking and the Government's battle against it, which appears on the web site.

197. **The Ministry of Foreign Affairs.** The Ministry is at the finalization stage of an anti-trafficking campaign to be carried out in countries from which many trafficked women originate. To that end, an inter-governmental team was established with a representative of the Ministry of Foreign Affairs sitting as a chairperson. The team is working on broadening the scope of the information campaign to other countries of origin. The campaign will be conducted, as in the past, in cooperation with Israeli and non-Israeli NGOs.

198. **The Ministry of Education**. The Ministry acts vigorously to promote information campaigns intended to raise awareness both among the ministry's staff and among pupils.

199. Raising awareness among members of the education system - A booklet on trafficking in women and prostitution was prepared by the Ministry of Education and is scheduled for distribution to the personnel of the secondary education system. The booklet includes comprehensive information on prostitution and trafficking in women in general and in Israel in particular, the "clients" and victims of the "sex industry", legislation, enforcement and other measures of combating trafficking and prostitution, educational activities and lesson plans regarding these issues, methods to raise parents' and the community's awareness and involvement, as well as information on the various bodies and organizations dealing with these issues within the education system.

200. During 2008, the Ministry continued to increase its efforts in raising awareness of the general issue of trafficking in persons, and more specifically of trafficking for the purpose of prostitution. The Ministry held four conferences for members of the education system under the title, "Human Dignity – Man and Woman, Conference on Trafficking in Persons, Particularly in Women". Five hundred seventeen members of the education system participated in these conferences.

201. Raising awareness among pupils - The issue of trafficking was integrated into the education program concerning gender equality. As part of the 14-session gender equality program, two sessions were dedicated to issues relating to trafficking in women. 4,072 pupils and 258 teachers participated in this program during 2008. This program was complemented by training for the relevant members of the education system, as well as activities involving the pupils' parents.

202. Also during 2008, the Ministry held three educational conferences on trafficking in women for pupils in the 11th and 12th grades in Nahariya, Ashdod and Kiryat-Gat, in which a total of 1,500 pupils and 104 members of the education system took part. These conferences were the highlight of a comprehensive educational program in the framework of the International Women's Day. As part of this program and prior to the pupils' conferences, the teachers and other education personnel in the participating high schools underwent training on the issues, received lesson plans dealing with human dignity and trafficking in persons in general, and in women in particular. The conferences were also followed by complementing educational activities dealing with human dignity, equality and gender issues.

203. Furthermore, approximately 200 lectures were given in schools throughout the country on the prevention of violence toward women and the prevention of prostitution and trafficking in women. These lectures were funded by the Authority for the Advancement of the Status of Women.

204. On December 2, 2008, the International Day Commemorating the Abolition of Slavery, the Ministry circulated a lesson plan titled, "Prostitution and Trafficking in Women as a Form of Slavery in the 21st Century". The lesson focused on the proximity of these phenomena to our doorstep, and the possibility that a girl engaging in prostitution could also be a girl in class or from a nearby neighborhood.

205. **The Israel Broadcasting Authority** extensively covers the issue of trafficking in women for prostitution, encompassing topics such as sessions held by the Knesset Trafficking in Women Subcommittee, the extent of trafficking in women for prostitution in Israel, and investigative reports on pandering practices.

206. The Israel Broadcasting Authority's radio channels also address the issue of trafficking in women, including ongoing reports on Police raids on brothels and the Police treatment of the women on the premises, as well as an interview with a former prostitute who has recently been engaging in assistance and rehabilitation of women and girls in order to break the vicious cycle of prostitution. Furthermore, the Israel Broadcasting Authority radio channel Kol Israel (the voice of Israel) dedicated a broadcast to the issue as part of a one-day seminar initiated by the Authority for the Advancement of the Status of Women and the Ministry of Social Affairs and Social Services, under the title, "My Body is Here, But I Am Somewhere Else."

The Legal Framework

Ratification of Key Conventions

207. In June and July 2008, respectively, Israel ratified the two major international treaties on trafficking: the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

Legislation

208. The *Anti Trafficking Law* 5767–2006 (the "*Anti Trafficking Law*") that came into force on October 29, 2006, applies a broad trafficking crime to a number of illegal practices such as prostitution, sexual crimes, slavery or forced labor, removal of organs, pornography, and using a person's body to give birth to a baby who is then taken from her (section 377A(a) of the *Penal Law*). The crime is addressed with a punishment of 16 years of imprisonment, and 20 years of imprisonment if the offence is committed against a minor. The Law includes a full spectrum of crimes in order to address gradations of exploitation: Slavery (section 375A of the *Penal Law*) - 16 years of incarceration; trafficking for the purpose of slavery or forced labor (section 377A(a) of the *Penal Law*) - 16 years of incarceration; forced labor (section 376 of the *Penal Law*) - 7 years of incarceration; exploitation of vulnerable populations (section 431 of the *Penal Law*) - 3 years of incarceration. For the first time, Israel has a slavery offense, a broad forced labor offence with heightened sentencing and heightened punishment for exploitation of vulnerable populations.

209. In addition, the abduction offence has been broadened to include two new offences: (1) abduction for the purpose of slavery or forced labor and conveying a person beyond the boundaries of a state (sections 374A and 370 of the *Penal Law*) and (2) causing a person to leave a state for the purposes of prostitution or slavery (section 376B of the *Penal Law*).

210. The *Limiting Use of Premises in order to Prevent the Commission of Crime Law* 5765-2005 (the "*Limiting Use of Premises in order to Prevent the Commission of Crime Law*"), authorizes the Police and the courts to limit the use of an area, or to close it completely, if those premises have served in the commission of prostitution offences or trafficking for the purpose of prostitution offences, in circumstances where the authorities involved are convinced that the premises will continue to be so used. Courts have the authority to issue such orders for a period of 90 days, with the possibility of extension. Police may issue such orders for a period of 30 days, during which time they may request a further pronouncement from the Courts.

Minimum Punishments

211. The 2006 Amendment No. 91 to the *Penal Law* instituted a minimum punishment for slavery and trafficking in human beings offences, constituting 25% of the maximum that may be imposed. The Amendment also prohibits imposition of suspended sentences except in special circumstances, which must be specified in the Court's decision.

Criminal and Administrative Proceedings

212. Law enforcement agencies such as the Police, the Immigration Administration and the Enforcement Department in the Ministry of ITL have greatly intensified their efforts to combat trafficking. Prosecution initiatives are undertaken on three planes. Firstly, police prosecutions are initiated against traffickers and their accomplices in trafficking and trafficking related offences. Secondly, prosecutions and revocation of licenses may be initiated according to the provisions of various regulations and supplementary laws. Thirdly, prosecutions according to criminal laws other than trafficking such as pandering, causing a person to engage in

prostitution, soliciting prostitution, kidnapping etc., may be initiated, as well as prosecutions for fraudulent activity, forgery, or exploitation of vulnerable populations.

Investigation and Prosecution

Police Activities

213. Cooperation between Israeli Police and Police forces in countries of origin is maintained, thus laying the groundwork for the extradition of traffickers. Between 2007 and 2008, joint investigations were held by the Israeli Police in cooperation with the Police forces of Russia, Belarus, Ukraine and Germany, in which several cases of trafficking in persons were solved and several offenders were extradited to Israel.

214. The Minister of Public Security and the Police Commissioner have guided the investigation units to strengthen and enhance Police enforcement regarding offences of publication of prostitution services. The Police has shown a growing awareness of the rights of victims and have issued guidelines to protect these rights. The *Anti Trafficking Law* was distributed to all the Police units and a Police procedure regarding treatment of trafficking offences, slavery and forced labor was created (Police procedure No. 03.300.120). The abovementioned procedure elaborates on the new legislative amendments and their significance, the procedure for treatment of trafficking victims and foreign witnesses, and also allocates responsibility to various Police units.

215. In June 2007, the head of the Investigations and Intelligence Department of the Israeli Police issued a guideline, according to which enforcement of the trafficking offence must be included in the various units' work plans. Following the implementation of this guideline, a significant increase in handling of pimping, management of brothels and publication of prostitution services offences was noticeable.

The Prosecution

216. During 2008, five persons were convicted of trafficking for the purpose of prostitution, and/or related offences.

217. Six indictments were filed in 2008 for the abovementioned offences, in addition to 12 ongoing cases that are pending before the courts. Another seven appeals were submitted to the Supreme Court by defendants convicted of trafficking in persons for the purpose of prostitution, and/or related offences, several of which appealed against their conviction. These appeals are pending before the Supreme Court. The sentences appealed vary from six months to 13 years of imprisonment, in addition to compensation to victims, depending on the severity of the offences. An appeal submitted by the State against a lenient sentence is also pending before the Supreme Court.

218. Furthermore, during 2008, the Supreme Court dismissed 11 appeals submitted by defendants against the severity of their sentence. Several defendants appealed the conviction itself. The sentences appealed have varied from one and a half to 18 years of imprisonment, as well as additional compensation to victims, depending on the severity of the offences. In one case the

Supreme Court reduced a sentence to 15 years of imprisonment and in another case the sentence was reduced from 13 to 12 years of imprisonment.

Courts

219. The Courts have interpreted the relevant legislation in a broad manner, thus enabling the conviction of traffickers despite the efforts of defense counsel to stress the letter of the law at the expense of its spirit. Courts have also shown enhanced understanding and awareness of the gravity of this offence and of the need for more severe sanctions. The Courts have explicitly and repeatedly stressed the severity of trafficking offences and expressed the view that it is their obligation to impose strict sentences in order to reflect the severe maximal penalty imposed by law. For further elaboration on severe sentencing please see below.

The Actual Situation

Sentencing

Severe Sentences

220. On January 14, 2008, the Jerusalem District Court convicted three defendants for Trafficking in persons for the purpose of prostitution, inducement to engage in prostitution under aggravated circumstances and other related charges. The first defendant was sentenced to **12 years of imprisonment**, suspended imprisonment, a 20,000 NIS ($5,000) fine, and 10,000 NIS ($2,500) compensation to each of the victims. The second defendant was sentenced to **nine years of imprisonment**, suspended imprisonment, a 20,000 NIS ($5,000) fine, and 10,000 NIS ($2,500) compensation to each of the victims. The third defendant was sentenced to **six years of imprisonment**, suspended imprisonment, and a 20,000 NIS ($5,000) fine. Both the State and the defendant filed an appeal. The Supreme Court denied both the appeals (*S.Cr.C 708/04 The State of Israel v. Braditzevski et. al.* and *Cr.A. 10592/05, The State of Israel v. Braditzevski* (14.1.2008)).

221. In the case of *Cr.A. 1652/07 Yan Normatov et. al. v. The State of Israel* (08.10.2007), seven defendants were convicted in multiple offenses of trafficking in persons for the purpose of prostitution, pandering, inducement to engage in prostitution under aggravated circumstances, rape under aggravated circumstances, threats, violations of the *Entry into Israel Law* 5712 -1952 (the "*Entry into Israel Law*"), false imprisonment, obstruction of justice, and indecent acts.

The first defendant was sentenced to **ten years' imprisonment** and was ordered to pay compensation of 5,000 NIS ($1,250) to each of the four victims. The second defendant was sentenced to **five years' imprisonment**, to pay compensation of 5,000 NIS ($1,250) to one victim. The third defendant was sentenced to **ten years' imprisonment** and to pay compensation of 5,000 NIS ($1,250) to three victims. The fourth defendant was sentenced to **six years' imprisonment** and to pay compensation of 5,000 NIS ($1,250) to three victims. The fifth defendant was sentenced to **four years' imprisonment** and to pay compensation of 5,000 NIS ($1,250) to two victims. The sixth defendant was sentenced to **five years' imprisonment** and to pay compensation of 5,000 NIS ($1,250) to one victim. The seventh defendant was not

sentenced to imprisonment other than the detention already served, however he was ordered to pay compensation of 5,000 NIS ($1,250) one victim.

Both the defendants and the State filed appeals. The Supreme Court denied the appeals of defendants 3-7 on the sentence and punishment. The Court accepted the State's appeal in the cases of defendants three and four and added another year to their imprisonment sentence. The state's appeals regarding defendants 5-7 were denied. With regard to defendant 1, his appeal was accepted with regard to two counts of rape, but was rejected with regard to the sentence and punishment. The Court accepted the State's appeal and raised the sentence of defendant 1 from ten to 11 years' imprisonment. The appeal of defendant 2 was accepted and his conviction in rape was altered to forbidden sexual intercourse and his sentence was mitigated from five years' imprisonment to four.

222. In the case of *Cr.A. 3078, 2842/06, The State of Israel v. Smalashvily* (7.7.07), the defendant was charged with conspiracy to commit a crime, attempt to induce a person to engage in prostitution under aggravated circumstances, inducement to engage in prostitution under aggravated circumstances and inducing a minor to engage in prostitution under aggravated circumstances. The defendant was initially sentenced to seven years of imprisonment, suspended imprisonment and 2,500 NIS ($625) compensation for each of the victims. Both the defendant and the State appealed the sentence to the Supreme Court, which rejected the defendant's appeal and accepted the State's appeal, and the punishment was raised from seven to **nine years of imprisonment**.

223. In yet another case the defendant was charged with trafficking in persons for the purpose of prostitution, inducement to engage in prostitution under aggravated circumstances, pandering and violation of lawful order. The defendant was sentenced to **nine years' imprisonment**, suspended imprisonment and 30,000 NIS ($7,500) compensations for the victims (*Cr.A. 8235/05, Tyomkin v. The State of Israel* (25.9.07).

224. In another case, two defendants were charged with trafficking in persons for the purpose of prostitution, pandering and violations of the *Entry into Israel Law*. The first defendant was sentenced to **12 years of imprisonment**, suspended imprisonment and 30,000 NIS ($7,500) compensation. The second defendant was sentenced to **nine years of imprisonment** (following an appeal), suspended imprisonment and 50,000 NIS ($12,500) compensation. Following an appeal filed by the defendants, the Supreme Court acquitted both defendants of pandering, but approved all other convictions. The Court accepted the State's appeal and raised the punishment of the second defendant from eight to nine years of imprisonment (*Cr.A. 4183, 5940, 5983/04, The State of Israel v. Salomon and Bass* (9.10.07).

Compensation for the Victim of the Crime

225. As mentioned in Israel's previous report, in addition to imposing strict punishment, according to section 77 of the *Penal Law*, courts are authorized to rule upon compensation to victims of up to the sum of 228,000 NIS ($57,000) per crime. There is a growing tendency by the Courts to award compensation for victims of trafficking. It is noteworthy that the strict attitude of the courts is explicitly stated in cases of related offences as well. The majority of the cases decided

by the courts included compensation for the victims. In addition, recent sums ruled upon have been relatively substantial. For example:

226. Two defendants were charged with trafficking in persons (TIP) for the purpose of prostitution, conspiracy, inducement to engage in prostitution under aggravated circumstances, pandering under aggravated circumstances and subornation in connection with investigation. On December 11, 2007, both defendants were convicted for conspiracy to commit a felony, TIP, inducement to engage in prostitution managing a place for the purpose of prostitution, publication of prostitution services, indecent act, subornation in connection with investigation and violations of the *Entry into Israel Law*. The first defendant was sentenced to **seven years of imprisonment**, suspended imprisonment, 10,000 NIS ($2,500) fine and **25,000 NIS ($6,250) compensation** for the victim. The second defendant was sentenced to **five years of imprisonment**, suspended imprisonment, 7,500 NIS ($1,875) fine and **15,000 NIS ($3,750) compensation** for the victim (*S.Cr.C. 1137/06 The State of Israel v. Leonid Braun and Yevgeny Radoslasky* (Be'er-Sheva District Court, 19.2.08).

227. In a more recent case, the defendant was convicted in trafficking in persons for the purpose of engaging in prostitution, rape, sodomy and conspiracy to commit a crime. The defendant was sentenced to **13 years imprisonment** and compensation of **25,000 NIS ($6,250)** to each of the victims. The defendant, along with two other persons, mediated the "sale" of two young sisters from Russia, who were coerced to come to Israel under the promise that they would work as hostesses in bars. Instead, the sisters were sold to brothels or escort services for the purpose of engaging in prostitution, all for a mediation fee. The defendant appealed his sentence, and the Supreme Court accepted the appeal and mitigated his sentence from 13 to 12 years. The rest of the sentence remained the same (*Cr.A. 2589/05 Mekyevsky v. the State of Israel* (2.4.2008).

Protection of Victims and the Humane Dimension

Shelter

228. The Maagan shelter for victims of trafficking for prostitution began operating on February 15, 2004. The shelter's capacity is up to 50 victims. It has succeeded in creating a supportive climate for victims and provides access to psychological, social, medical and legal assistance. In addition, the shelter has developed procedures to allow for the safe return of victims of trafficking to their countries of origin. It should be noted that the shelter also finds jobs for women who are deemed ready to work.

229. Since its establishment, the shelter has housed 263 women. During 2008, 12 victims of trafficking for prostitution were directed to the shelter, in comparison to 34 women during 2007, and 46 women during 2006. Also in 2008, 44 women and seven children resided in the shelter with the average time of residence being 12.3 months (ranging from 11 days to three years). Twenty-four women left the shelter during 2008, of which ten women received a one-year visa and left for residence outside the shelter, eight women left the shelter on their own accord and six returned to their country of origin. As of January 2009, there are 25 women and five children residing in the shelter.

230. Most of the women currently residing in the shelter come from the Ukraine (28%), China (20%), Moldova (8%), Uzbekistan (8%) and India (8%). The remaining women arrived from Russia, Sri Lanka, Belarus, Nepal and Brazil. More than half of the women referred during 2008 were between ages of 20 and 26. The youngest woman referred to the shelter was 20 years old and the oldest was 34.

231. Of the women who resided in the shelter during 2008, six were victims of trafficking for forced labor and/or servitude; 15 were victims of trafficking for prostitution and the remaining women were accepted on humanitarian grounds.

Assistance to Victims outside the Shelter's Framework

232. Medical care - victims who do not reside in the shelter, but rather in detention facilities (if they are not identified as victims or do not wish to go to the shelter) are provided with their basic necessities and medical care in the framework of the facilities of the Immigration Administration and the Israel Prisons Service (IPS). Physicians employed by the IPS examine the women when necessary. In addition, Ichilov Hospital in Tel Aviv and Shaarei Tzedek Hospital in Jerusalem provide the women with basic medical services, and the women receive unconditional emergency medical care at any of the emergency rooms in the country. These women are also eligible for free medical services related to the treatment of sexually transmitted diseases in two clinics of the Lewinsky Medical Center in Tel Aviv and Haifa.

233. In the cases of women who have received visas from the Minister of the Interior, no longer reside in the shelter, and are employed, medical insurance is provided by the employer according to the *Foreign Workers Law* 5751-1991 (the "*Foreign Workers Law*"), which requires employers to arrange broad medical insurance for employees who are foreign workers, including victims of trafficking who are employed. Employers who violate this obligation may be criminally prosecuted.

234. Legal Aid - As detailed below, legal aid is provided to every trafficking victim by the Legal Aid Branch of the Ministry of Justice, regardless of her place of residence.

Coordination

235. **Directors Generals Committee**. A Government Resolution of May 21, 2006, established a Directors Generals Committee that convened on July 10, 2006, and decided on the creation of two Subcommittees, to recommend operative steps to combat trafficking for the purpose of prostitution and labor.

236. **National Plans** for **combating trafficking**. National Plans have been approved to combat slavery and trafficking for slavery, forced labor and trafficking for the purpose of prostitution. These National Plans were approved by the Directors Generals' Committee on January 10, 2007, and July 11, 2007, and by Government Resolution No. 2670 dated December 2, 2007.

237. The appointment of a **National Coordinator** who assists policy making in this area, particularly with regard to protection of victims, she works to identify trouble spots and bring about solutions before they burgeon, maintains communication with international actors and learns from comparative materials, promotes education and training, encourages research and develops

established channels of communications between governmental and NGO actors in an effort to strengthen cooperation.

Visas

238. All victims in the Maagan shelter for victims of trafficking for prostitution receive temporary visas plus work visas if requested, whether they choose to testify or not. Women who choose to testify receive a visa for the duration of the court procedures, which on average, takes one year. After they finish the procedures they are entitled to request a temporary visa for another year like all the other victims who chose not to testify. These visas are valid for one year, though in some cases, the duration may vary. In addition, victims who do not stay in the shelter receive temporary visas. In 2008, five women received a B1 visa allowing them to stay and work in Israel for six months; one woman received a B2 visa allowing her to stay for three months, but not work; five women received an extension of their visa following their testimony; three women received an inter-visa allowing its holder to leave the country during their testimonies and return within a designated time period without needing to reapply; eleven women received a one-year visa for humanitarian reasons; two women received a visa for an additional year.

Legal Aid

239. All victims of trafficking are entitled by law to receive free legal aid in order to institute civil suits arising from the trafficking offences committed against them or administrative procedures relating to the *Entry into Israel Law*. According to the *Courts (Fees) Regulations* 5767-2007 (the "*Courts (Fees) Regulations*"), victims of trafficking and slavery given legal aid are exempt from paying court fees, thus expediting the process of submitting claims and making it more efficient.

240. In addition, on November 16, 2008, Amendment No. 9 to the *Legal Aid Law* 5769-2008 (the "*Legal Aid Law*") entered into forced. The Amendment established a permanent arrangement of free legal aid for all victims of trafficking and slavery. Previously, according to the *Anti Trafficking Law*, free legal aid for victims of trafficking other than trafficking for prostitution and slavery was given on a temporary basis.

241. In 2008, Legal Aid lawyers assisted 30 victims. Additionally, seven women were assisted with requests for a one year working visa (four women received positive responses, and an additional three for shorter periods), and eight women were aided in applications for additional one-year visas (six women received positive responses for shorter periods). Four women received assistance in requests for a visa based on humanitarian grounds, and four for additional visas. Furthermore, four women were aided in initiating tort claims against their traffickers, two suits were filed, one is in preparation and another case is under review. Nineteen additional tort claims are currently pending before the courts.

Police

242. In 2005, four cases were opened regarding offences of publication of prostitution services. In 2006, 13 cases were opened and in 2007, 30 cases were handled by the Police regarding this

offence. The police also strengthened its fight against prostitution services of minors. Between the years 2005 and 2007, five cases were handled regarding this offence. No indictments have been served regarding this offence. In 2008, the Police conducted **nine criminal investigations** on trafficking in persons for the purpose of engaging them in prostitution. In the course of these cases, nine persons were arrested. Most of those arrested remained in custody until the conclusion of proceedings in their case. In addition, the Police opened **240 cases** of managing a property for the purpose of engaging in prostitution and **56 pandering cases**, some of which were originally trafficking cases, but lack of evidence led to the filing of pandering cases instead. The Police also **closed 50 brothels** according to an administrative court order.

243. **Risk Assessments** - The Police aids in the protection of victims by performing risk assessments in cases where the victim claims he/she or his/her family will be endangered if he/she is returned to his/her country of origin. Police Intelligence, with the assistance of Interpol and the Israeli Police delegate abroad, prepare a risk assessment that relates to the victim's risk status in Israel and in his/her country of origin

Education, Awareness and Cooperation

Study and training

244. **Police** - In 2008, the issue of trafficking in persons remained an integral part of most of the training courses taking place in the Investigations and Intelligence Training School, including lectures by members of the relevant NGOs, State Attorney's representatives and the National Coordinator. In addition, two weekly training courses on trafficking in persons were held during 2008. Trafficking training also takes place in combating organized crime training, courses for heads of Investigations and Intelligence offices, coordinators courses and similar courses.

245. In addition, as a part of the regular training of the School of Continuing Education for the Police, lectures and training regarding the *Anti Trafficking Law* and handling of trafficking offences were given to all of the Police personnel.

246. The Police works closely with Interpol in the area of trafficking and maintain direct cooperation with several countries of origin and other countries, through its representatives abroad, *inter alia*, as mentioned above with foreign Police forces regarding issues of threat assessments.

247. Israeli Police representatives have also participated in an international conference of the European Union in Budapest, where they presented methods and ways of operation used by the Israeli Police for handling trafficking offences.

248. **The Ministry of Justice** - Since the submission of Israel's previous report, the Institute of Legal Training for Attorneys and Legal Advisers in the Ministry of Justice continued to hold lectures, seminars and courses intended to raise the awareness of attorneys and legal advisors of issues such as trafficking in persons, treatment of victims of sexual offences, family violence etc. The various seminars and courses focus, *inter alia*, on issues such as: creating a humane and efficient contact with a victim of sexual offence, and Police work in regard of trafficking in persons etc.

249. At the beginning of 2007, a special seminar was held for all the lawyers in the Legal Aid Department concerning innovations in the *Anti Trafficking Law*. In November 2007, another training course took place for all the Department's lawyers concerning the salient aspects of the new *Anti Trafficking Law* and the recommendations of the inter-ministerial team for developing an action plan for identification of victims of trafficking and slavery.

250. In 2009, the institute is planning additional lectures and seminars that will include, *inter alia*, lectures on gender, society and justice, human rights in international law, social rights and a special course on the treatment of female victims of sexual assault.

251. **The Institute of Advanced Judicial Studies** - The Institute holds lectures, seminars and courses on the various forms of discrimination. For example, in 2005, the Institute held a course titled, "Equality and Discrimination", chaired by Professor Daphna Barak-Erez. In addition, various forms of discrimination are also discussed in lectures presented by the Institute regarding trafficking in women.

252. **The Ministry of the Interior** - On January 25, 2007, the Ministry of the Interior held a one-day seminar on trafficking geared toward employees who potentially encounter victims of trafficking for prostitution, including passport control officers at borders, employees in the visa departments, and high ranking officials from the Population Administration Office. The purpose was to familiarize the participants with the principles of relevant laws, and train relevant officials to identify victims and perpetrators, giving them tools to operate according to the specific procedures pertaining to them.

Cooperation with NGOs

253. The Government attaches great importance to maintaining an ongoing channel of communication with NGOs and civil society at large on the issue of trafficking. To this end, the Government cooperates with many NGOs in various fields such as prevention and protection of victims of trafficking. There is a constant dialogue between branches of Government and NGOs on the trafficking issue. This exchange has borne fruit in both legislative initiatives and common action.

254. Israeli NGOs organize events for raising awareness to the issue of trafficking in persons and various meetings are held between Government and NGOs representatives.

International Conferences and Cooperation

255. The Government of Israel gives great importance to its participation in relevant initiatives in the international arena. The Government coordinates and participates in several international working groups and efforts to prevent, monitor and control trafficking.

256. Mutual cooperation between Israel and other countries was fostered during recent years by two visits of delegations from Moldova and the Ukraine. These delegations met with their Israeli counterparts, both in government bodies and NGOs and exchanged perspectives while discussing common problems. In addition, representatives of the International Organization of

Migration (IOM) visited Israel and conducted conferences and round table meetings with government representatives and NGOs.

257. In recognition of the need to promote international cooperation with countries of origin in order to prevent and combat human trafficking, Israel's Center for International Cooperation (Mashav) launched, in partnership with the Golda Meir Mount Carmel International Training Center and the Center for International Migration and Integration (CIMI), a comprehensive counter-trafficking program. The program includes study visits, trainings, workshops and internships that will address prevention, protection and prosecution aspects of the fight against human trafficking. An overlapping theme of all of the activities will be international collaboration between professionals in Israel and their respective counterparts from other countries, specifically Belarus, Moldova, the Ukraine and Uzbekistan. Indeed the program's activities are all based on the proposition that effective action against trafficking requires measures at the national level to be supplemented with bilateral and multi-lateral measures.

258. The Ministry of Foreign Affairs - On January 31, 2007, the Ministry of Foreign Affairs held a one-day seminar for the heads of the consular departments of eight countries of origin. The idea for the seminar originated with the NGO Isha L'Isha (Woman to Woman), and it was organized in cooperation with the National Coordinator and Isha L'Isha, as part of an Israeli effort to enhance the cooperation between countries of origin, transit, and destination. The speakers – a member of the Knesset, representatives of the Government, the Police and NGOs – shared the Israeli experience regarding the battle against trafficking with the participants.

Involvement of Minors in Prostitution

259. Section 214 of the *Penal Law* was amended in 2007 (Amendment No. 93) and the short two-year limitation period for submission of indictments concerning pornographic advertisements of minors was annulled. It was additionally made illegal to use minors in pornographic advertisements (Sections 214b-214 b(3)). The *Penal Law* was amended in 2006, so that Section 15 now applies the principal of extraterritoriality to pornography and prostitution offences committed against minors. It is currently possible to try offenders in Israel for such offences, even though the act might not constitute a criminal offence in the country in which it was allegedly committed (no double criminality is required).

260. Trafficking in minors is not a major problem in Israel. However, in some cases of trafficking, victims were under the age of 18. In these cases, adolescents rather than children were involved. Victims of trafficking under 18 years old are automatically transferred to the Maagan shelter, which is well equipped to treat minor victims.

Rehabilitation Programs for Women and female minors in Distress

261. Rehabilitation and treatment of women engaged in prostitution - In January 2007, substantial government funds were earmarked, for the first time, for the rehabilitation and treatment of women engaged in prostitution. An inter-ministerial committee was established, headed by the Director of the Authority for the Advancement of the Status of Women. The inter-ministerial committee, charged with consolidating a work plan for rehabilitation and treatment of women

who engage in prostitution, outlined a number of actions designed to address rehabilitation and treatment needs, including: providing emergency living accommodations, upgrading a mobile health clinic for treating young women engaged in prostitution and providing an additional mobile health clinic, operating a national hotline, establishment of a rehabilitative shelter providing long-term physical and mental health care, setting up centers for mental and occupational rehabilitation and implementation of a program for increasing awareness and prevention among the public in general and in schools in particular. Necessary preparations and infrastructure development for the execution of the work plan has began in Tel Aviv and Haifa.

262. **Special Fund – Law and Regulations.** The**.** The *Anti Trafficking Law* establishes a special fund for fines and forfeited property of criminals convicted of trafficking and slavery crimes. This Fund will allocate money for the purposes of protection, prosecution and prevention of trafficking crimes. At least 50% of the money in the Fund each year will be allotted to the rehabilitation and protection of trafficking victims each year. In addition, the Fund will reimburse trafficking victims, by means of a full or partial sum, who have received a court judgment for compensation by traffickers in criminal or civil proceedings, and can establish that they have used all reasonable means to collect the compensation but have failed.

On February 9, 2009, the Minister of Justice signed Regulations regarding the operation of this Fund, which will allow it to begin operating once the Regulations are officially published. The Regulations were previously approved by the Constitution, Law and Justice Committee of the Knesset on January 26, 2009. They are titled *Penal Regulations (Means of Managing the Special Fund Dealing with Forfeited Property and Fines Imposed in Cases of Trafficking in Persons and Holding under Conditions of Slavery)*, 5769-2009. With the publishing of these regulations, it will be possible to appoint a committee to distribute forfeited property and fines to victims, NGOs and government agencies in order to further rehabilitation programs for victims, enforcement and prevention activities. It will also be possible for victims who were unable to collect compensation awarded by courts by reasonable means, to receive these sums, whether partially or in full, from the Fund.

Among the salient features of the regulations: A Committee chaired by a former District Court Judge, deals with requests from victims and bodies, both governmental and non governmental to receive financing from the Fund, and submits recommendations to the Administrator General. The Committee includes representatives from Government Ministries, including the National Coordinator and in addition, three public representatives, two of whom have experience or knowledge in the field of trafficking and one of whom has experience or knowledge in the field of human rights. Public representatives who have experience in the field of trafficking are to be appointed from lists submitted by NGOs. The Public representative with experience in human rights is to be appointed after consultation with the National Coordinator. NGOs have the right to appear before the Committee in order to contribute to the deliberations. Victims, including those who have returned to their countries of origin have the right to submit requests and have the right to appear before the Committee themselves or by means of a representative. The Regulations include ways of publicizing the existence of the Fund so that victims know they have the right to apply. The Protocol of the Committee deliberations will be publicized. Payment

of Compensation to victims and rehabilitation programs for victims have priority over other requests to the Committee.

Article 7 - Political and Public Life

Women in Political life in Israel

263. Women in Israel are eligible to vote in all elections and to be elected to every public office, as well as to serve in publicly elected positions, partake in the formulation of all aspects of Government policies and their implementation, as detailed throughout this Article.

264. Women's representation in Israeli political life has progressed in all fields, although gaps remain between men and women's representation in certain areas of the political life.

Women's Representation in the Knesset

265. As of January, 2009, there were 18 female Knesset members in the previous 17th Knesset, comprising 15% of the Knesset members. The previous Knesset had a woman serving as the Knesset Speaker and three women as head of Knesset Committees.

266. According to the results of the National Election held on February 10, 2009, the number of women in the 18th Knesset is 21, comprising 17.5% of the Knesset members.

Women in the Government

267. The former 31st Government was headed by Prime Minister Ehud Olmert with MK Tzipi Livni as Acting Prime Minister. Three female ministers served in the Government: MK Tzipi Livni served as the Foreign Affairs Minister, MK Yuli Tamir, the Education Minister, and MK Ruhama Avraham-Balila served as the Minister of Tourism. In addition, there were five women serving as Director Generals in various Governmental Ministries.

Women in Local Authorities

268. Although women make up about 60% of the employees in the local authorities, only 4% of them serve in high ranking positions.

269. As of January 2007, out of 253 possible appointments, there were only six women actively employed as mayors or heads of local councils/authorities. Local Authorities employ 2,934 publicly elected persons in total, of which only 13.2% are women.

270. In order to further enhance the status of women, the Authority for the Advancement of the Status of Women has engaged in activities aimed at deepening the knowledge and commitment of council women with regards to the status of women in their localities. These plans have long-term benefits in addition to the short-term ones. These activities were meant to assist in preparing a cadre of women to run for office in the local elections held in November 2008, and in providing them with knowledge and skills, personal and institutional empowerment, and the opportunity for widespread networking that they needed to run effective campaigns.

271. The Authority also sponsors ongoing courses and workshops for persons advising mayors and heads of local councils. In these courses, the Authority emphasizes personal skills, inculcates values relating to gender equality and provides the participants with further academic and practical skills. As part of this course, for example, the participants are required to analyze the municipal budgets from a gender perspective and are provided with expert guidance and mentoring to enable them to do so. In cooperation with the Advisor on the Status of Women in the Civil Service, the Authority has actively promoted the interests of supervisors for the status of women in Governmental Ministries. This support has included workshops, conferences, preparation and distribution of informational materials and more.

272. The *Local Authorities (Advisor on the Status of Women) Law* mandates that every local council must actively promote the status of women. To that end, each council must appoint an Advisor on the Status of Women who is to report directly to the mayor and/or head of the local council on pertinent matters. As a direct subordinate to the head of the local council, the Advisor is dedicated to ensuring ongoing communication between the head of the council and the local women's council, where such a women's council exists) and to initiating policies for the advancement of the status of women within the local authority. As an additional safeguard, the Law further empowers the Minister of the Interior to order that local councils follow the law's directives, and in the event that local councils should fail to comply, to personally appoint an Advisor on the Status of Women on the councils' behalf.

273. The Law was amended in May 2008, stipulating the employment requirements for the position of advisors on the status of women, the advisors' authorities, the duty to undergo special training, the duty to award an advisor a rank parallel to department manager and ways of action in cases where the local authority have failed to appoint an advisor. In order to ensure that the advisors will be free of pressure, without fear of being transferred to a different position or dismissal, the Amendment also determines that in any case of dismissal of an advisor, prior notice must be given to the Authority, thus the Authority is able to investigate and act where the dismissal is unlawful. Furthermore, in order to ensure transparency, according to the Amendment, the budget for the activities of the advisors must be clearly noted in every municipality budget and be separate from other budget clauses. As of 2008, 221 of the 253 local authorities had appointed such an advisor.

274. The Authority disseminated personal communications to all 253 mayors and heads of municipalities in Israel, concerning appropriate representation of women in municipal corporations and companies. The Authority supervises appointments made to counsels, commissions, and state committees, and decisively warns the appointing bodies of the consequences, if provisions of the Law on appropriate representation of women are not implemented. In addition to this activity, and at the initiative of the Authority, the Attorney General and the Secretary of Government informed all government bodies of the unequivocal duty to include women within their ranks.

275. **Arab Women in Local Authorities**. Whilst the representation of elected women in Jewish local councils' constitutes 14.2%, Arab women comprise only 0.5% of those elected. This gap is usually explained as being the result of various socio-cultural factors, such as the impact of

religion and local tradition on certain communities of persons belonging to minorities, which can restrict women from considering running into or being elected to these positions.

276. To assist in remedying this situation, 221 female Advisors on the Status of Women in local municipalities are currently employed, 40 of whom work in Arab localities. These advisors ensure the advancement of policy for enhancing the status of women within the purview of the local authority, in addition to ensuring that the necessary resources are provided to this end.

Women in the Civil Service

Ranks of Women in the Civil Service

277. The Civil Service has four main classifications that comprise the main sources in which administration managers may be ranked. The number of women featured among the top three ranking senior staff positions is slowly improving. In 1997, women comprised 61% of all civil servants, yet women held only 15% of high ranking civil servant positions. As of December 31, 2007, 46% of the top four ranking positions, and 41% of the top three ranking positions were held by women. It should be noted that these figures do not include women in the security forces, but does include all other ranks such as nurses and advocates, in which the representation of women is very high.

278. In 2007, women maintained an absolute majority in the following professions in the Civil Service: nursing (84% - 9,575 women), biochemists (85% - 677 women), social workers (85% - 1,109), advocates (68% - 485 women), jurists (70% - 908 women) and administration (64% - 15,543 women). The following tables further illustrates the rates of women and men in the civil service, in all ranks:

Table 8 - Women and Men in the Civil Service, by Ranks, 2005-2007

Ranks	2005			2006			2007		
	Total	% of Women	% of Men	Total	% of Women	% of Men	Total	% of Women	% of Men
Top	307	57%	43%	311	60%	40%	331	60%	40%
Second	606	49%	51%	558	48%	52%	600	49%	51%
Third	1,239	33%	67%	1,160	35%	65%	1,163	35%	65%
Fourth	3,015	45%	55%	2,907	47%	53%	2,950	47%	53%
Fifth	4,444	48%	52%	4,373	48%	52%	4,461	48%	52%
Sixth	4,661	55%	45%	4,969	56%	44%	5,641	59%	41%
Seventh	6,267	66%	34%	6,546	65%	35%	6,577	66%	34%
All the rest	30,835	73%	27%	31,147	72%	28%	30,252	72%	28%
Total %	100%	65%	35%	100%	65%	35%	100%	65%	35%
Total	51,374	33,466	17,908	51,971	33,797	18,174	51,975	33,980	17,995

Source: The Department for Advancement and Integration of Women within the Civil Service, Activity Report for 2007, November 2008

Table 9 - Women in Government Ministries, (Total Percent and Percent in the Four Highest Ranks). 2005-2007

Ministry	% of women in the Ministry			% of women in four highest ranks		
	2005	2006	2007	2005	2006	2007
Prime Minister's Office	52	55	54	23	32	26
Finance	52	53	53	32	33	35
Public Security	56	53	53	27	12	12
Education	77	78	78	46	48	49
Science, Culture and Sport	64	72	69	40	50	35
Agriculture	46	46	46	27	31	33
Industry, Trade and Labor	59	58	59	34	33	35
Justice	70	70	70	65	64	66
Social Affairs and Social Services	76	76	76	63	65	64
The Interior	55	54	55	25	29	30
Transportation	55	49	51	18	19	22
Health	81	82	83	61	63	64
Environmental Protection	59	58	57	28	29	34
National Infrastructures	54	50	50	24	22	24
Construction and Housing	63	63	63	39	36	36
Tourism	62	62	61	18	17	11
Immigrant Absorption	81	80	80	57	48	49
Communications	56	53	52	36	33	33

Source: The Department for Advancement and Integration of Women within the Civil Service, Activity Report for 2007, November 2008

Tenders in the Civil Service

279. The method of appointment to the Civil Service is through both internal and external tenders. While the rise of female participation in internal job tenders within the Civil Service, both as candidates and as appointees, is quite constant, the situation in public tenders is less positive. In 2004, 45% of the candidates for public tenders were women. Of these tenders, women constituted 58% of the appointees.

280. On September 23, 2007, the Tel Aviv District Labor Court annulled a tender for employment with the Investigations Department of the Tel Aviv Customs Division, as the Examiners Committee had not paid sufficient attention to the requirement for proper representation by women, and had not taken affirmative action, as required by law, in giving preference to women possessing the same qualifications as men (*La.C. 3888/03 Ruth Zuaretz v. The State of Israel – The Civil Service Commissioner et. al.*). In this case there were 26 candidates vying for only a few positions, and the claimant was the only woman.

The Court held that the duty to take action for proper representation of women in public entities is anchored in legislation; such as the *Equal Rights for Women Law*: (Section 6(c)), the *Civil Service Law* (Appointments): (Section 15(a)); and also in case law, especially that handed down in the case of *H.C.J. 2671/98 Israel Women's Network v. The Minister of Labor and Welfare (11.8.98)* and in *H.C.J. 453/454/94 Israel Women's Network v. The Government of Israel et. al.* (01.11.94). In the latter case, the Court indicated that in 2003, the Attorney General had issued special guidelines obligating the implementation of the proper representation principle when making appointments in the Civil Service.

The Court held that the Examiners Committee failed to consider, or did not give proper weight to, the issue of affirmative action when choosing between the claimant - the only female candidate - and the successful male candidate whose qualifications were evidentially inferior to those of the claimant. The Court held that the extreme lack of reasonableness displayed in making the decision, justified the Court's intervention in the Examiners Committee's decision, which had been approved by the Civil Service Commissioner. As the fact that the claimant was the only woman of the 27 applicants had not been properly considered by the Committee, the Court decided to annul the decision to appoint a different candidate.

281. On November 26, 2008, the Jerusalem District Labor Court issued an interim injunction order regarding a tender for legal assistant positions in the Rabbinical Courts. The District Court determined that a note in the qualifications section, regarding the preference of people with the qualification of "Dayan," a religious judge, is discriminatory by nature. This is due to the fact that according to religious laws, only men can serve as a "Dayan". Thus, the tender violates the *Equal Employment Opportunities Law*, as it discriminates between men and women, and gives an unjust preference to male applicants. The District Court therefore ordered the Administration of the Rabbinical Courts and the Civil Service Commission to reissue the tender without the note, to allow an equal opportunity to those who do not have the "Dayan" qualifications, and may have been deterred from presenting their application (*La.C. 003252/08 The Center for Justice for Women Association v. The Administration of the Rabbinical Courts et. al.* (*26.11.2008*)).

The Prevention of Sexual Harassment within the Civil Service

282. The Department for the Advancement and Integration of Women within the Civil Service has been involved on several levels with regard to the implementation of the *Prevention of Sexual Harassment Law*, and reinforcement of awareness to this important subject. Among the steps taken were the dissemination of information and explanations of the Law that were made

available to more than 50,000 workers in 2005 and providing tools to Supervisors on the Status of Women so that they might better receive the workers' complaints.

283. There were 82 complaints regarding sexual harassment in 2005 and 64 complaints in 2006. In 2007, there were 65 complaints, 40 of which had disciplinary proceedings opened, and 10 in which legal actions were initiated against the offenders. These complaints are handled in cooperation with the Discipline and the Investigations Department within the Civil Service Commission. Generally, women who submit complaints of sexual harassment to the department are provided with legal advice, and are accompanied and supported throughout the investigative process up until completion of any ensuing trial. In certain cases administrative measures are also taken to separate the alleged assailant from the victim. In 2006, 11 disciplinary administrative measures resulted in court proceedings. Of those instances, five workers were fired, and five others retired from the Civil Service following the initiation of procedures against them.

The Judiciary

284. The number of female judges continues to climb in conjunction with the rising number of judges in general. In August 2008, there were 291 female judges out of a total of 584 judges, making up 49.8% of the judiciary in Israel. The number of female Justices on the Supreme Court has slightly decreased to 38.5% (five out of 13 Supreme Court Judges). Note that the current President of the Supreme Court is a woman, Justice Dorit Beinisch. Women continue to compose the majority of professional labor judges (67.3% of the judges), nearly half of the District Courts judges (44%), more than half of the Magistrate Courts Judges (50.5%) and more than half of the registrars (58.5%). Women have also increased their representation as public representatives in the Labor Courts (constituting 18.9%) representing employee and employer unions side by side with professional judges.

285. The legal Profession - As detailed in Israel's previous report, in the public sector, women remain a majority of the legal profession. As of June 2008, 1,898 women were employed by the Ministry of Justice (69.4%). 149 of the 225 legal advisors in the Ministry were women (66.2%), and a similar percentage of women were working in the State Attorney and the Attorney General's Offices (68%, 501 women to 235 men) and the Public Defenders office (69.2%, 54 women to 24 men). In the Ministry of Justice, there were also 305 (64.6%) female legal interns to 167 male legal interns, and 22 (64.7%) women in the senior judge equivalent rank, to only 12 men. Of the total number of women, 1,820 were Jewish, 48 were Muslim Arabs, 14 were Christian Arabs, six were Christians (Non-Arabs) and five were Druze.

Government Corporations

286. On March 11, 2007, the Government resolved to obligate Ministers to appoint women to directorates of Government Corporations until they achieve a 50% representation of women within two years from the date of Resolution (Government Resolution No. 1362). Subsequently, women representation on the Boards of Government Corporations had increased. In February 2008, 38.5% of all directors in Governmental Corporations were women, compared to 37% in

the previous report and to 33.5% in February 2007. Currently there is one woman serving as head of a board of directors, and four women serving as CEOs of Governmental Corporations.

287. The Governmental Corporations Authority supervises closely and effectively any appointments made to directorates of Government Corporations. If the appointments do not adhere to the obligating standards, the Authority suspends them until the appointing Minister proposes an alternative female nominee or can justify why he/she can not propose any alternative nominee under these circumstances.

288. According to recent data, 71 Governmental Corporations meet the requirements for appropriate representation, nine corporations will meet these requirements if the candidates currently being reviewed or found as right for the position will be appointed. Thirteen corporations are one woman short of meeting the requirements for appropriate representation, nine corporations lack two women, and in two corporations three women are needed in order to meet the requirements. Six of the 11 special designated corporations who deal with security issues also meet the requirements for appropriate representation.

289. The Governmental Corporations Authority, in cooperation with the Authority for the Advancement of the Status of Women, has requested that all Governmental Corporations address the issue of appropriate female representation in their annual reports.

Women in the Military

The Legal Framework

290. According to Section 16A(c) of the *Defense Service Law* (*Consolidated* Version) 5746-1986 (the "*Defense Service Law*"), the same law shall apply to men and women who completed their compulsory service and volunteer to serve in one of the Israeli Defense Force (IDF) positions determined by the Minister of Defense, despite the difference in the duration of women compulsory service compared to men's. The *Defense Service* (*Determination of Positions for Voluntary Service of Women*) *Regulations 5761-2001*, following Amendments in 2002, 2005 and 2007, lists 29 military professions in which women are entitled to the same rights as men. The IDF from time to time examines the possibility of adding additional military professions to the list and makes recommendations to the Minister of Defense accordingly.

Policy

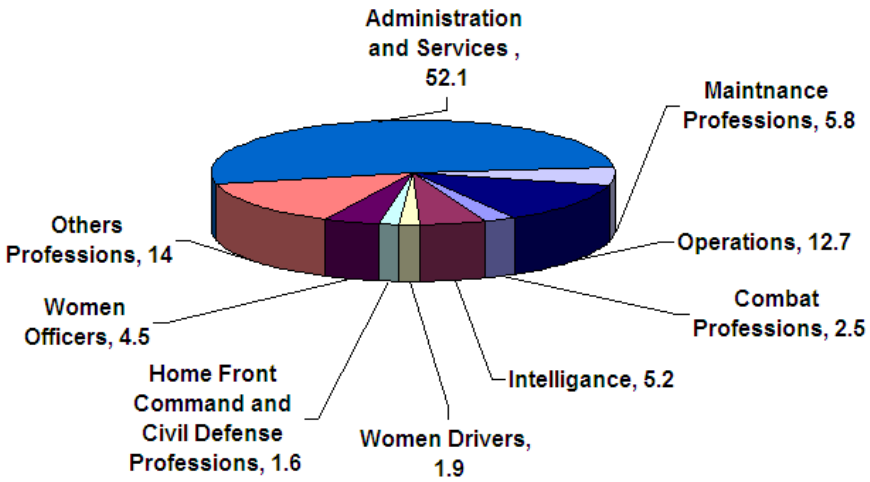
291. In 2007, the head of the Human Resources Division of the IDF appointed the Women's Military Service Committee, aimed at outlining the vision and making recommendations concerning structural aspects of the military service of women. The Committee is headed by a former General and consists of several senior officers, public officials and academic specialists. The committee handed its recommendations to the Head of Human Resources Division in September 2007, and the last discussion regarding its work before the Chief of Staff forum, was held in September 2008.

292. Following the abolition of the women's corps, the Chief of Staff nominated, on August 1, 2001, a special body, headed by the Advisor on Women's Issues, a Brigadier General. This body is

assigned to create an atmosphere where women can better utilize their abilities in the IDF, advance equal opportunities, and empower women in the IDF and in Israeli society. According to the advisor's vision, as approved by the IDF's Chief of Staff in September 2008, the IDF as a leading organization in the Israeli society will shape the service of its personnel, men and women alike, for the advancement of the goals of the IDF and the State of Israel while providing equal opportunities according to qualifications and abilities for a significant and honorable service.

293. The number of women serving in clerical positions out of the total number of soldiers in compulsory service has decreased in recent years from 26% in 1998 to 14% in 2007, leading to a growing number of female soldiers assigned to "quality" jobs. In addition, the number of women in combat professions out of the total number of women in the IDF has increased from 0.6% in 2000 to 2.5% in 2007.

Chart 4 - Women serving in the Israel Defense Force, 2008 (by General Professions, Percents)



Source: Ministry of Defense, January 2009

Women and Men in the Military

294. The Chief of Staff's Advisor on Women's Issues has recently promoted three major projects:

294.1. Promotion of the establishment of the abovementioned Women Military Service Committee aimed to outline the vision and make recommendations concerning structural aspects of military service of women.

294.2. Consolidation of a military behavioral code on gender issues that will constitute obligating norms and standards for soldiers and officers and influence the cultural environment and army daily life concerning gender issues.

294.3. Setting goals for a progressive improvement of women representation in the army and promoting a plan for increasing the representation of women in senior leadership

positions, which includes specific targets for each of the corps and is based on the percent of women qualified for promotion within each rank.

Distribution of Men and Women in the Military

295. Eighty-eight percent of the military professions in Israel, including combat positions, are open to both men and women. The military leadership is committed to placing women in higher ranks and positions. The following details indicate the integration of women in compulsory service in combat positions: 2.5 % of all the women serving in the military are in combat units (updated May 2008); women account for 4% of all combat soldiers (updated May 2008); women comprise 20% of the soldiers in joint units. In 2008, women comprised 34% of all soldiers in compulsory service. Most female combat soldiers serve in field units: the percent of women in the light infantry is 68%; Border Police 10%; artillery 16%; atomic, biological and chemical units of the engineering corps 21%; anti-aircraft 20% and search and rescue 30%. In addition, there are more than 16 women serving today as air crew personnel.

296. It is important to emphasize that the process of opening additional military positions to women requires a comprehensive assessment and consideration of all physical aspects of the additional positions, including the adaptation of the relevant equipment, preparation of the staff and additional activities.

Women and Men Officers

297. Female officers make up 40% of compulsory service officers, 24% of the officers in the regular forces, 21% of the career service officers and 10% of the officers in senior ranks.

298. The IDF is obligated to advance women who serve in the army beyond their compulsory military service. In 2008, the figures for women officers were as follows: up to First Lieutenant – 21%; Captain- 25%; Major – 23%; Lieutenant Colonel- 12%; Colonel and above- 4%.

Reserve service

299. Women comprise 10.2% of the reserve personnel according to the following segmentation: of that 10.2%, 24.2% serve as officers, 1.2% in combat positions and 74.6% serve in combat support professions.

300. In 2007, 100% of the women officers who completed their compulsory service continued to serve in the IDF reserves, and 30% of women in non-officers ranks also continued to serve in the IDF reserves. In 2008, 46% of non-officers women are expected to join the army reserves.

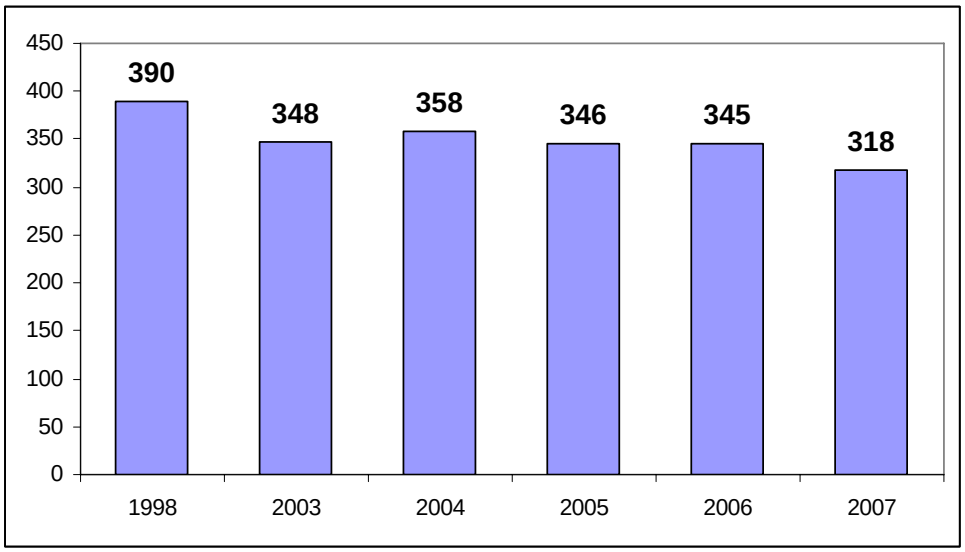
Women Scientists and Engineers in the IDF

301. In recent years, the IDF has been operating a number of projects aimed at encouraging women to draft to technical and technological professions. With these projects, the IDF offers designated special training for women in order to be better able to serve in these technological professions.

Sexual Harassment in the Military

302. The number of sexual harassment complaints in the IDF has been relatively stable in recent years, with around 350 complaints a year. The next chart details the number of annual complaints of sexual harassment, showing a significant decrease since 1998 of 19% and a decrease of 12% in 2007 compared to 2004.

Chart 5 - Number of Sexual Harassment Complaints, Various Years



Source: Ministry of Defense, January 2008

303. The IDF's standard order regarding prevention of sexual harassment obligates all units to conduct biannual training sessions and lectures regarding prevention of sexual harassment. These lectures are supervised by a representative of the office of the Chief of Staff's Advisor on Women's Issues.

304. The Military Police, the Military General Advocate's Office and the Office of the Chief of Staff's Advisor of Women's Issues gather data regarding sexual harassment complaints in the IDF. The Office of the Chief of Staff's Advisor of Women's Issues also keeps records of sexual harassment cases in which the soldier decided not to file a complaint.

305. Since 2002, the Office of the Chief of Staff's Advisor on Women Issues has conducted a wide-range survey on sexual harassment in the military, as well as an extensive study of sexual harassment itself. The survey is conducted every two years; the last survey, which has yet to be published, was conducted in 2008. The results of previous surveys show a slight improvement regarding sexual harassment in the IDF, as indicated by the following table:

Table 10 - Number of Sexual Harassments Reports by Women Soldiers, 2002-2006 (Percents)

Year	Number of sexual harassments reports by women soldiers			
	At least once	once	3-4 times	4 times and more
2002	21%	11%	7%	3%
2004	18%	9%	6%	3%
2006	14%	8%	4%	2%

Source: Ministry of Defense, January 2008

Female representation in IDF delegations abroad

306. The Committee on Women in the NATO Forces holds an annual conference, which Israel is regularly invited to attend, even though it is not a NATO member. The Office of the Chief of Staff's Advisor on Women's Issues has been taking part in this gathering for several years.

307. In 2008, the Chief of Staff's Advisor on Women's Issues visited the Chilean army in order to study the matter of female service among its ranks.

308. In September 2008, an international conference on gender and military service was organized by the Office of the Chief of Staff's Advisor on Women's Issues, and was attended by representatives of foreign countries.

Women in the Police and in the Prisons Service

The Legal Framework

309. The Police strive to raise the number of women in the Police force via affirmative action measures like more flexible working conditions for mothers, and lenient policies for pregnant women.

Women in the Police – Field Data

310. Currently, women constitute 21.34% of the general Police force, as compared to 21% in Israel's previous report. Female officers comprise 23.13% of the total officers, a higher percentage than their representation in the general Police force.

311. As of March 2005, there were 73 Arab women in the police force - 24 Christians, 13 Muslims, one Druze, one Samaritan, 32 others and two of unknown faith, an increase of 37%.

Table 11 - Percentage of Women in the Police Force, August 2008

	Women			Men			Total	
Group	Number	% of the Women	% of total group	Number	% of the Men	% of total group	Number	%
Non-Officers	3346	74.6%	20.8%	12,743	73.44%	79.2%	16,089	77.66%
Officers	1134	25.4%	23.13%	3,769	22.8%	76.87%	4,903	22.34%
Total	4480	100%	21.34%	16,512	100%	78.66%	20,992	100%

Source: Ministry of Public Security, 2008

Sexual Harassment within the Police

312. The Police have taken several measures to combat sexual harassment among its ranks. Between 2005 and 2007, lectures and courses regarding many aspects of sexual harassment were given to the Police personnel. Currently, the Discipline Department of the Police is preparing a comprehensive pamphlet on sexual harassment, which will be distributed throughout Police Force training courses.

313. Between 2005 and 2007, 33 cases of sexual harassment were handled by the Police Disciplinary Department after being referred by the Department for Investigation of Police Officers in the Ministry of Justice. Seven cases were presented in 2005, 14 in 2006 and 12 in 2007. In the same time period, 42 cases were handled by the Division for Administrative Measures: 12 in 2005, 11 in 2006 and 19 in 2007.

Women in the Israeli Prisons Service – Field Data

314. Currently, there are 1,417 women serving in the Israeli Prisons Service (IPS). Women constitute 18.28% of the general force, an increase of 23.3% compared to 2006. Women comprise a higher percentage amongst officers than their representation in the prisons service as a whole, with 35.9% of IPS officers being female. Sixty-two of those female officers have senior ranks.

Table 12 - The Number of Women in the Prisons Service, 2006-2008

Year	Total personnel	Total no. of women	Women officers	Senior women officers	Soldiers
2006	-	1,149	507	55	180
2007	-	1,312	519	58	244
2008	7,752	1,417	536	62	284

Source: Ministry of Public Security, 2008

Sexual Harassment within the IPS

315. The IPS treats sexual harassment cases very seriously. In cases where criminal procedures have been opened against prison personnel, their employment in the service is terminated.

316. Each division in the IPS goes through biannual training regarding sexual harassment in the workplace, additional instruction and training on the matter is given as an integral part of female wardens' training courses. Social affairs and welfare officers are accessible to all female wardens, and if required, they are directed to female social workers in the Israeli Defense Force. As of August 2008, eight complaints have been filed regarding sexual harassment in the IPS.

Women's Organizations

317. Women's non governmental organizations continue to play an active and valuable role in the promotion of gender equality in Israel. These organizations remain dynamic and representative of women of all sectors, enabling a lively civil society.

318. Women's organizations have a substantial impact on many areas of life in Israel. Some of their major fields of operation are: promoting legislation; assisting women with legal representation and counseling; leading information campaigns on women's rights; organizing conferences and seminars; managing sexual assault help centers and hotlines; leading the battle against trafficking in persons and more.

319. Prior to the recent election for the 18th Knesset, a group of prominent women's organizations - among them, the Association of Rape Crisis Centers in Israel, the Women Parliament, the Israeli Women's Lobby, and others - submitted a list of legislative amendments to the leading candidates for the Prime Minister Office. The list was presented as a lever to promote women's status in Israel, and was given to the candidates in order to receive a public pledge by them to enact these amendments upon taking office. Among the suggested amendments is the proposal that a person convicted of performing sexual offences in the framework of a public position, or convicted of offences relating to the breach of the public trust, breach of faith, bribery in public administration or to the purity of the elections, is prevented from becoming a member of the Knesset, and that limitation or clemency shall not apply in such situations. Other suggestions include extending maternity leave to six months to be equally distributed between the parents and many more.

Article 8 - International Representation and Participation

Women's Representation in the Foreign Service

320. From 2005 to 2009, the Ministry of Foreign Affairs was headed by a woman, Minister Tzipi Livni. As mentioned in Israel's previous report, Israel's Foreign Service is routinely working at increasing the number of women amongst its ranks.

321. In July 2008, Professor Gabriela Shalev was appointed as Israel's Ambassador to the United Nations. Professor Shalev is Israel's first woman to serve in this senior position.

322. Out of 998 employees in the Ministry of Foreign Affairs, 433 are women (43%), and of the 401 employees on the diplomatic staff, 97 are women (24%). In the administrative staff, 128 employees are women (52%).

323. In 2008, three women were appointed as ambassador or head of missions (the same figure as in 2007), bringing the general number of women serving in these ranks to 12. During the same period, 24 men were appointed; however, an effort is made to appoint women as heads of central missions. The new ambassador to Canada and the new Consul General to Chicago are both women, after three years of no female representation as head of missions in the area.

324. The following table further details the percentage of women within the diplomatic wing of the Foreign Service, by ranks:

Table 13 - Representation of Women in the Foreign Service - Diplomatic Wing, 2008

	Diplomatic		Administrative	
	Women	**Men**	**Women**	**Men**
Ambassador	3	34	2	8
Delegate	20	75	10	20
Delegate – Advisor	20	95	25	27
Advisor	30	58	58	36
First Secretary	12	20	28	19
Second Secretary	4	16	1	1

Source: Ministry of Foreign Affairs, December 2008

325. The representation of women in senior managerial positions is still relatively limited. On the diplomatic staff there are 95 directors of departments, 28 of which are women (29%). On the administrative staff, there are 18 female directors of departments, out of a total of 41 (44%). Out of 185 employees in managerial positions (head of department and above), 51 are women. The number of women in managerial positions has increased since 2006, mainly at the level of department directors. In 2006 there were 41 women in managerial positions, there were 49 in 2007 and 51 in 2008. The number of female Deputy Director Generals (DDG) decreased in 2008 from four to three, due to the appointment of one of the DDG's as the ambassador to Canada.

326. The number of women posted at Israeli diplomatic missions abroad continues to increase. There were 51 women posted at Israeli diplomatic missions abroad in 2008, compared to 49 in 2007. Still, out of 314 employees posted abroad, 87 are women (28%). Thirty-three women currently serve as consuls and administration officers, compared to 42 men.

327. One third of the candidates for the diplomatic training course were women, and the same percentage of women was accepted to the course. Note that, for the most part, all cadets who attend the course complete it.

328. It should be emphasized in this regard that the participation of women in this diplomatic training course is highly encouraged by the Supervisor on the Advancement and Integration of Women in the Civil Service, and the Supervisors in all Government Ministries. In January 2009, the supervisors issued a circular to all civil service personnel in which they emphasized the importance of proper representation of women in the course, and the importance of this course for advancement of the status of women in general.

329. There is currently one woman representing the minorities (a Christian-Arab) at the Ministry.

330. The former Minister of Foreign Affairs, Mrs. Livni, had a leading role in the negotiations that led to the adoption of resolution 1701, which terminated the second Lebanese war. The Minister expressed in 2007, a full endorsement of Security Council Resolution 1325 that specifically addresses the impact of war on women, and women's contributions to conflict resolution and sustainable peace.

331. The Head of Carmel Training Center, which holds numerous courses for women, is a permanent member of the Executive Committee of the International Women's Mediterranean Forum. She is also member of the Executive Committee of the International Research and Training Institute for Advancement of Women (INSTRAW).

Women Representatives and independent experts in International Organizations

332. Israel includes women in most of its delegations to multilateral forums, as well as a five-to-six-woman delegation to the Commission on the Status of Women. At the Israeli mission to the UN headquarters in New York there are two women, one being the Ambassador.

333. Several additional examples include Professor Ruth Halperin-Kaddari, the director of the Rackman Center for the Advancement of the Status of Women at Bar Ilan University, who is currently applying for a second term as an expert to the United Nations Commission of the Status of Women (CSW) after completing a successful first term. In February 2007, an Israeli expert, Dr. Michal Komem, participated in the professional panel of the 51st session of the CSW that focused on the issue of the fight against discrimination and violence of women.

334. The Ministry of Foreign Affairs encourages and assists Israeli women's issues NGOs to apply for accreditation at the United Nations and in fundraising both in Israel and abroad.

Article 9 - Nationality

335. No notable changes have occurred regarding this issue since the submission of Israel's previous report.

Article 10 – Education

Legal Developments

336. In July 2007, The *Compulsory Education Law* 5709-1949 (the "*Compulsory Education Law*") was amended in order to broaden its scope and apply compulsory education to youth between the ages of 15 and 17 (inclusive) attending 11th and 12th grades. Prior to the Amendment,

education for 11th and 12th grades was free, but not compulsory. The Amendment strives to protect youth in this vulnerable stage from negative influences, and to prepare them and provide them with better tools for successful integration as productive adults in society. Thus, the Government found it necessary to provide an obligatory educational framework rather than an optional one. Another desired effect of the Law is a decrease in dropout and removal of pupils rates, by compelling the provision of solutions within the education system to all pupils in this age group. The Law is to be fully implemented for those attending 11th grade until 2009, and until 2010 for those attending the 12th grade.

337. On January 6, 2005, the Knesset enacted the *Daily Meal for the Pupil Law* 5765-2005 (the "*Daily Meal for the Pupil Law*"), with the goal of creating a nutrition service to provide warm meals to pupils in primary schools where the long school day is applied, according to the *Long School Day and Enrichment Studies Law* 5757-1997 (the "*Long School Day and Enrichment Studies Law*"). On April 28, 2008, the Law was amended to include children attending pre-school, where the long school day is applied. According to the Amendment, the Law also applies to other pre-school frameworks where 41 hours of education per week are provided. In these frameworks, a warm meal will be provided to pupils on days they attend pre-school for at least 8 hours.

Section 3 to the Law stipulates that each pupil will receive one warm meal per day, according to a well balanced and varied menu that will be determined by the Ministry of Health, and will take into consideration the age and needs of the pupils.

The Law is to be gradually implemented. The Minister of Education, in conjunction with the Minister of Finance, will determine the population of pupils to which the Law will be applied each year.

The nutrition service is co-funded by the Ministry of Education and the local municipalities. The Law permits the local municipality to collect participation payments from parents, yet the Law requires the Minister of Education's consent to do so. The parental participation payment will be determined by the Minister, according to socioeconomic standards and in the framework of payments stipulated in the *Compulsory Education Law*.

Administrative Developments

338. The former Minister of Education and her Director General were both women, and feminists themselves. The Minister of Education has repeatedly and explicitly declared that gender equality is not merely a "program" or a "project", but a lifestyle. To that end, all schools are instructed to create and maintain an educational climate conducive to gender equality and mutual respect.

339. The Ministry of Education offers numerous In-Service Training Programs for teachers, pupils and parents in order to increase their awareness of, and skills in promotion of, gender equality. Nationwide programs such as "Women circles" and "Girls and boys leading a change" empower high school pupils, while the school curriculum formally addresses issues such as gender, government, and politics.

340. Recently, the Ministry of Education instituted a full matriculation program in gender studies. The program includes 180 teaching hours of gender studies, 180 teaching hours of psychology and a requirement to prepare a theoretical report regarding gender equality. The program introduces gender studies, which so far has only been studied in universities and colleges, to high school pupils and exposes them to this important field of study.

341. **The Department for Gender Equality.** The Ministry of Education has established a special department dedicated to the promotion of gender equality within the School System. The Department for Gender Equality is in charge of the promoting and assimilation of both values of equality and dignity and their practical application in everyday life. The Department for Gender Equality promotes different programs for gender equality: empowerment of girls and women, integrating gender values with in the education curriculum, advancing girls in science and technology, prevention of violence against women and prevention of trafficking in women. The Department works within a holistic approach where its clients are pupils, teachers, parents and the general public. The values above are translated into a wide range of activities such as: short and long term programs for pupils during the school year, in-service training for teachers and conferences and short seminars for parents.

342. The Ministry of Education maintains an active, useful, and user-friendly web site that not only provides information about the Ministry's programs and projects, but also provides visitors with perspectives on the meaning of gender equality and women's empowerment. The language of the web site, and of directives issued by the Ministry of Education, reveals a clear commitment to gender equality and provides definitive guidelines for teachers and all school officials. Among the information published on the Department for Gender Equality's web site, there is an explanation of, and data regarding, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

343. The Department for Gender Equality has held several seminars and conferences for teachers regarding empowerment of female pupils in mathematics and science, blocking elements and the ways of removing them.

344. The Department for Gender Equality has also prepared a booklet for young women joining the Israeli Defense Force (IDF) that provides information specifically relevant to women in the Army, emphasizing women's needs and opportunities in the army service.

345. **Equality within Minority Populations: the Arab-Israeli population** - The programs mentioned above are aimed at the whole range of communities in Israel, especially groups belonging to minorities such as the Arab population. This issue is applied by generating a variety of differential programs that are given by professionals from the specific group belonging to minorities. As for the Arab-Israeli community in Israel, the Ministry of Education assigned four different organizations that come from the Arab-Israeli community. This type of strategy ensures that on one hand, the universal values of equality and dignity are strengthened, while on the other hand, the programs are carried out with respect to the special needs and cultural heritage of the Arab-Israeli community.

346. Another course of action of the Ministry of Education is raising awareness for the prevention of prostitution and trafficking in women by:

346.1. Preparing a guidance booklet for the Ministry's teaching staff, which includes information and ways to deal with the issue of prostitution and trafficking in women; information on victims of the sex industry; legislation and data regarding law enforcement; implementation of educational programs in the fields of trafficking in persons, trafficking in women and prostitution; involvement of parents and the community regarding education in these fields and other important information.

346.2. Holding a special conference for the Ministry's teaching staff and for pupils regarding human dignity. The conference deals with aspects of trafficking in persons, and specifically in women

346.3. Around the International Women's Day on March 8, 2008, the Ministry held focused local activities for pupils on 11th and 12th grades. The activities took place in the cities of Ashdod, Kiryat Gat and Nahariya, and encompassed about 1,500 pupils and more than 110 members of the teaching staff.

346.4. The Ministry has integrated the issue of prevention of prostitution and trafficking in women into existing gender and quality education programs as a special module in these programs. This module consists of one or two sessions (two hours each, out of ten or 14 sessions of the entire program), and includes subjects such as: empowerment of girls, data regarding trafficking in women, respect and equality between genders, and more. In 2008, more than 4,070 pupils and more than 250 teachers participated in gender and equality programs using this module.

347. The following table indicates the participation of pupils and teaching staff in conferences and conventions in the field of gender equality:

Table 14 - Participation of Pupils and Teaching Staff in Training Regarding Gender Equality, 2007-2008

District	2007			2008		
	groups	pupils	teaching staff	groups	pupils	teaching staff
Haifa and Northern district	85	1,685	115	286	5,876	313
Arab localities	53	1,060	32	64	1,306	111
Tel-Aviv and Central district	173	4,238	370	298	6,029	407
Jerusalem district	83	2,556	99	74	2,326	308
Southern district	133	2,475	955	238	4,863	936
Kindergartens			0			276
National conferences			101			117
Total	**527**	**12,014**	**1,672**	**960**	**20,400**	**2,468**

Source: Ministry of Education, Gender and Equality Department Website, January, 2009

High Schools in Israel

General and Technological / Vocational Tracks

348. No notable changes have occurred on this issue since the submission of Israel's previous report.

Matriculation Levels

349. The percentage of entitlement to matriculation certificate continues to be higher among female pupils. In 2006, in the Hebrew education system, 85.7% of the female minors within the 12th grade age group took matriculation exams (84.3% in 2002), compared with only 80.4% of the male minors (75.1% in 2002). Female minors' entitlement to a matriculation degree was also higher and stood at 61%, compared with 49.5% of the male minors.

350. Among the Arab education system, 91.2% of the female minors within the 12th grade age group took the matriculation exams (91.7% in 2002), compared to 86.1% of the male minors (84% in 2002). Female minors' entitlement to a matriculation degree also was higher than male minors (56.3% and 36.5%, respectively).

Table 15 - Examinees and Entitlement to Matriculation Certificates – 2006

	Examinees		**Entitled to a Certificate**	
	Total	**% of pupils in grade XII**	**Total**	**% of pupils in grade XII**
Hebrew Education	67,210	82.4	44,778	54.9
Male-minors	31,954	80.4	19,682	49.5
Female-minors	35,256	85.7	25,096	61.0
Arab Education	15,303	90.1	7,872	46.3
Male-minors	6,786	86.1	2,873	36.5
Female-minors	8,517	91.2	4,999	55.3

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Education Rates, Attendance Rates and Drop-Out Rates

351. In 2007, the percentage of Jewish females that never attended school was 2.5% compared to 1.2% of the men. The percentage of Arab females that never attended school was 9.7%, compared to 2.8% of the men.

352. In 2007, 91.4% of adolescents aged 15 to 17 attended school, 1.4% worked and did not study and 7.2% neither worked nor studied (a decline in comparison to 7.8% in 2006). Ninety-two percent of the girls aged 15 to 17 attended schools in comparison to 91% of the boys. Among the Jewish population, 5.4% of the youth aged 15 to 17 neither worked nor studied (5.5% male and 5.4% female), in comparison to 12.5% among the Arab population (12.7% male and 12.1% female).

353. Another important indicator of school performance is the rate of attendance. In 2007-2008, in the Hebrew Education system, the dropout rates of female minors in the 9th to 11th grades stood around 1.7%-2.9% (3.1%-3.6% in 2003-2004), and in the 12th grade the rate of dropout was just 0.7% (equal to the dropout rate in 2003-2004). The dropout rates of male minors were higher, especially in the 11th grade (4.8% in the in the 9th grade and 9.5% in the 11th grade). Among the Arab education system, the gap between the genders was also in favor of the male minors, although the dropout rates of Arab female minors exceeded those of Jewish female minors. The following table presents data on dropout rates, according to grade, gender and population group.

Table 16 - Pupils in Grades 7-12 Dropout Rates by Population Group, and Gender

		Hebrew education				Arab education			
		2003/4-2004/5	2004/5-2005/6	2005/6-2006/7	2006/7-2007/8	2003/4-2004/5	2004/5-2005/6	2005/6-2006/7	2006/7-2007/8
Grand total		523,029	521,032	520,189	519,615	140,145	147,912	154,967	160,729
Grade 7	Total	86,145	88,670	86,331	86,924	28,156	30,460	30,298	30,729
	Thereof: % dropped out of educational system	1.6	1.1	0.5	0.8	1.9	1.9	1.3	1.1
	% of Boys	2.1	1.4	0.8	1.3	1.9	1.9	1.4	1.2
	% of Girls	1.1	0.7	0.3	0.4	1.9	1.9	1.3	1.0
Grade 8	Total	84,888	84,562	87,745	85,591	27,477	28,314	30,518	30,487
	Thereof: % dropped out of educational system	3.3	2.6	2.2	2.7	4.2	3.5	3.9	4.1
	% of Boys	4.2	3.4	2.8	3.8	5.4	4.3	4.9	5.1
	% of Girls	2.3	1.7	1.5	1.6	2.9	2.6	2.8	3.0
Grade 9	Total	90,282	87,775	87,573	89,257	26,697	26,813	27,767	29,508
	Thereof: % dropped out of educational system	4.3	3.9	3.0	3.2	11.8	10.9	11.7	12.3
	% of Boys	6.0	5.5	4.4	4.8	15.9	14.2	15.8	17.0
	% of Girls	2.5	2.2	1.4	1.7	7.6	7.5	7.3	7.4
Grade 10	Total	88,565	89,494	87,359	87,425	21,393	24,237	24,381	25,273
	Thereof: % dropped out of educational system	4.7	4.0	3.4	3.7	8.0	6.9	6.6	6.6
	% of Boys	6.3	5.5	4.7	5.3	11.1	10.6	9.7	10.3
	% of Girls	2.9	2.3	1.9	1.9	5.0	3.4	3.5	3.0

Grade 11	Total	87,180	87,692	88,160	86,636	18,816	20,148	22,729	22,866
	Thereof: % dropped out of educational system	5.2	5.8	5.3	6.3	6.5	6.7	5.3	6.3
	% of Boys	8.5	8.3	7.9	9.5	8.4	9.6	7.5	9.3
	% of Girls	3.5	3.2	2.7	2.9	4.7	4.0	3.3	3.5
Grade 12	Total	85,969	82,839	83,021	83,782	17,606	17,940	19,274	21,866
	Thereof: % dropped out of educational system	1.7	1.8	1.7	1.7	1.2	1.9	1.9	1.7
	% of Boys	2.6	2.6	2.5	2.6	2.3	2.2	2.4	2.2
	% of Girls	0.9	0.9	0.8	0.7	0.9	1.6	1.4	1.3

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Activities and Educational Programs to Prevent Discrimination against Women

Educational Programs

354. In 2005, the Ministry of Education instituted several educational programs designed to further enhance equal opportunity between the genders within the education system. The abovementioned program, "Girls Leading a Change", was initiated by the Women's Association in Israel to encourage empowerment and leadership amongst young women in high schools. The program was later broadened to include young men, and is now called "Girls and Boys Leading a Change". In 2007, the program was operating in more than 60 high schools in Israel, including Arab schools, and involved more than 2,500 young women and men. Also in 2005, the Ministry of Education together with the Authority for the Advancement of the Status of Women held ten one-day seminars, in which more than 1,500 school principals participated, on the subject of encouraging girls in the fields of mathematics and exact sciences (for more details please see below subsection: Science and Technology Education for Women, initiatives aimed at encouraging Female-Minors to enter the fields of Science and Technology).

355. Additional activities targeting gender issues include:

355.1. Promotion of a pluralistic view, enabling pupils to learn to deal with and criticize gender based dilemmas, emerging in society as a whole and in school life in particular.

355.2. Facilitating the equal acknowledgement of the role of both genders in all the cultural aspects, including literature, science, history and arts, whilst emphasizing the equal role of female figures.

355.3. Presenting educational material and texts which includes gender stereotypes, implied or apparent, in order to raise awareness to the stereotypes and challenge them.

356. "Bnot Mitzvah," the Jewish ritual when a girl reaches 12 years of age, is used as a school event for the 6th graders, and as a tool to highlight female strength and different educational materials regarding women leaders, influential women that changed society, women combatants, pioneers and others. This includes extracurricular activities as well as in-school activities. The pupils

examine the status of women in Israel and in other countries, and search for disciplines promoting women and allowing them to progress.

357. Empowering female pupils in the general school system is done with the aim of promoting leadership and empowerment of pupils in the 7th through 9th grades, which includes themes promoting awareness of gender equality and its influence on all aspects of life. The program includes raising awareness to the possibilities available to the pupils to help them fulfill their personal potential, skill advancement and social and personal awareness of changes needed in the social and personal aspects of the family, the society, and the education system. The program also includes raising appreciation and recognition of the ability and potential of women to integrate in the economy, politics, technology and military, and the importance of such integration. The program also includes activities with the male pupils aimed at changing their gender perceptions.

358. Empowering female Arab pupils is aimed at promoting and changing personal and social perspectives while emphasizing the positive role of women in the family, the society and in the workplace. The program targets 7th through 9th graders, and includes themes promoting awareness of stereotypes regarding both genders in the Arab society, and their perception of their abilities and dreams. The program includes corresponding activities with the male pupils aimed at changing their gender-based perceptions.

359. Empowering female pupils in religious schools while considering the changes in society in general and the religious society in particular. Coping with these developments requires religious women to re-evaluate their definition of the fulfillment of the roles in their homes, families and societies. This program includes ten meetings and is targeted at pupils in the 7th through 9th grades.

360. **Promotion of equality as part of the value of human dignity**. The basis of the program is that gender equality also means equality between the genders as part of the concept of human dignity. Among the goals of the program is raising the personal capability of teenagers to deal with changing social circumstances with the peer group (peer pressure, social struggles, friendship relations etc.), and with the relationship with the adult world (authority, requesting help etc.). Through the program, the pupils study social perceptions and equality on the basis of human dignity of men and women. The program is introduced to pupils in the 7th - 10th grades.

Gender Stereotypes within School Books

361. The Minister of Education appointed a special committee to examine the extent to which gender stereotypes may still remain in educational textbooks. After receiving the findings, the Minister decided not to incorporate books imbued with gender stereotypes into the education system, and those books already in use in the school system which promoted gender stereotypes would be gradually replaced.

Gender and Family Life Education

362. The Department of Sexuality and Family Life in the Ministry of Education is in charge of developing educational materials and programs regarding, *inter alia*, sexuality, gender, non-violent couplehood, self image, couples relations, sexual identity and sexual tendency, sexuality and media (pornography), pregnancy prevention, AIDS prevention, acceptance of others even when different, and more. The Department trains guidance counselors, psychologists and the Ministry's general personnel. Currently the Department is working on conducting a survey regarding sexual behavior of adolescents in cooperation with the Ministry of Health. In addition, the Department is currently working on the development of several educational programs regarding responsible sexual behavior and AIDS prevention, sex and family life education program for pupils with special needs, sexual education for the intermediate schools etc.

363. The curriculum is to be given in the state-religious and the Arab education systems. The curriculum is identical for female-minors and male-minors, though some schools conduct the lessons separately.

Teachers

364. In 2007-2008, the rate of Jewish men in teachers' training colleges, stood at 17.5%, compared to 18.6% in 2006-2007. The rate of Arab men in teachers' training colleges was 7.0%, compared to 7.8% in 2006-2007.

Table 17 - Teachers Training Colleges, Various Years

	1979/80	1989/90	1994/95	1999/00	2005/06	2006/07	2007/08
Hebrew Education							
% of Women	89.7	83.4	83.7	83.4	81.7	81.4	82.5
% of Men	10.3	16.6	16.3	16.6	18.3	18.6	17.5
Arab Education							
% of Women	54.8	77.1	83.8	92.2	92.8	92.2	93.0
% of Men	45.2	22.9	16.2	7.8	7.2	7.8	7.0

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Higher Education

Female Students

365. In 2006, the rate of women with a matriculation certificate or a higher diploma (58.7%) was higher than that of men (51.2%), among the general population aged 15 and over. Fifty-nine percent of recipients of degrees of higher education were women. In 2006, 59.1% of the first degree graduates were women, and 57.7% of the second degree graduates were women. Furthermore, the proportion of women among Ph.D. graduates in Israel has risen in recent years, and in 2004, women reached 50% of Ph.D graduates for the first time. In 2006, 51% of the Ph.D. graduates were women.

366. In 2007, the rate of women with a matriculation certificate both in Jewish (70.5%) and Arab (54.1%) education systems was higher than that of the men (61.1% in the Hebrew education system and 39.5% in the Arab education system). 58.6% of the women and 47.4% of the men who concluded their high school studies in 1999 enrolled in academic education programs within eight years of graduating high school.

367. In 2007, women still constituted a majority among the first (54.6%), second (57.1%) and the third (53%) degree students. There are no dramatic changes in the general figure when compared to previous years. However, women continue to cluster in the humanities and are less likely to enter fields such as Mathematics, Sciences, and Engineering. In Engineering, Mathematics, Statistics and Computers, a little more than one quarter of the students were women. Women comprised a majority in other fields such as Humanities (60.4%), Social Studies (65.2%), Medicine (53.3%), and Biological Sciences (61.6%).

Table 18 - Female Students in the Higher Education System, by Degree and Field of Study, 2007

Field	Total Students	Number of Women	Total rate of Women	First degree	Second degree	Third degree	Diploma
Humanities	28,065	16,940	60.4%	59.8	64.0	53.5	88.4
Education and Teacher Training	28,684	22,938	80.0%	79.5	84.7	83.4	71.8
Social Sciences	44,623	29,097	65.2%	64.7	67.8	64.4	66.7
Business and Management	22,692	10,277	45.3%	45.1	45.4	52.1	0.0
Law	17,881	8,569	47.9%	47.3	52.2	40.2	0.0
Medicine	4,217	2,247	53.3%	50.4	53.3	61.9	0.0
Para-Medicine	9,512	7,620	80.1%	80.1	81.7	68.5	0.0
Mathematics, Statistics and Computers	9,939	2,872	28.9%	29.1	29.1	26.0	0.0
Physical Sciences	5,028	1,993	39.6%	40.8	36.2	39.9	0.0
Biological Sciences	9,016	5,552	61.6%	63.3	61.6	57.1	0.0
Agriculture	1,639	908	55.4%	52.9	60.1	52.9	0.0
Engineering and Architecture	32,193	8,599	26.7%	26.7	25.8	28.7	75.0
Total	**213,489**	**117,612**	**55.1%**	**54.6**	**57.1**	**53.0**	**73.3**

Source: Council for Higher Education, 2008

368. In 2006-2007 a total of 20,942 people received first degrees from non-university higher education institutions and teachers' training colleges: 2,095 from the Open University, 12,206 from various academic colleges and 5,433 teachers' training colleges.

Education and Higher Education of Minorities

369. In its latest campaign, the Department for Gender Equality in the Ministry of Education, has been working to reach all of the Arab-Israeli population in Israel, including the people of Rajar, an Arab village divided between Israel and Lebanon. In addition, the Department is providing all the programs mentioned above free of charge. In 2008, more than 150 schools took part in such activities, in 2009, it is estimated that more than 200 Arab-Israeli schools will be part of the different programs.

370. In the last decade there was a significant increase in the number of Arab women entering higher education frameworks, thus, the total participation of Arab students in higher education has increased. A main factor that brought about this advancement was the quick and substantial increase in the number of female Arab students, especially in the regional colleges located near their places of residence. In the 1990's, about 40% of the Arab students in the universities in the first degree were women, and in 2006 this rate reached about 60%. For comparison, the number of women among the total students in the universities was previously 55%. Last year, 56.1% of the Druze students studying for their first degree were women. Moreover, the gender gaps have increased within various age groups. For example, 9.2% of Arab women ages 20-21 were students in 2007, compared with 4.5% of Arab men of the same age.

371. These achievements indicate further progress after the significant increase in high school graduates among Arab female pupils. In 1985, 45% of the matriculation examinees and those entitled to a certificate among Arab pupils were women, and in recent years, this number rose to 62%. Comparatively, this proportion among the Jewish population has been fixed at about 56%.

372. The Regional Council of Abu-Basma is responsible for the education of the Bedouin population in southern Israel. In the Council's school system there are 25 elementary schools with an average of 700 pupils per school and three high schools with 100 pupils each. Recent data indicates that immediately after the establishment of regional schools in the Council's towns and villages, the dropout rate due to the transfer from elementary schools to high schools had been eliminated completely. The dropout rate due to the transfer from elementary schools to high schools previously stood at 50% with a majority of the dropouts being female.

373. Furthermore, about 50% of all Bedouin students graduating with a degree in chemical engineering in the technological college in Be'er Sheva were women. It should be noted that the Regional Council of Abu-Basma encourages and supports courses designated specially for women, such as: goldsmith course in Darijat, sewing course in Kaser-Alsar etc.

374. On November 23, 2008, the Appointments Committee of the Higher Education Council bestowed the title of professor on Haula Abu-Bakar, a teacher and lecturer at Izrael Valley College, making her the first ever female Israeli-Arab professor in Israel. Dr. Abu Bakar, is seen as a trailblazing figure in the study of mental health in the Arab population, focusing on how the issues of gender, mental health and sexual violence affect the community. Abu Bakar also authored the book "On an unpaved path", dealing with the female Arab political leaders.

375. In 2008, the Ministry of Education announced its intention to grant Bedouin students studying engineering, technology and science in universities with tuition grants and scholarships of 5,000

NIS ($1,250) each for the 2008-2009 academic year. The scholarships are intended to encourage Bedouin students to achieve higher education

Table 19 - The Rate of Women Students by Population Group, Religion and Degree, 2006 (Rate of Women of Total Students in Each Cell, Universities only)

	Total	First Degree	Second Degree	Third Degree	Diploma
Jews and Others	55.1	54.0	56.8	54.2	77.1
Arabs	58.6	60.6	53.6	34.0	61.2
There of: Muslim	58.2	61.0	51.6	31.4	55.3
Christian	62.3	62.6	62.8	45.1	87.1
Druze	54.1	56.1	43.5	16.7	81.5

Source: Council for Higher Education, 2008

Women on the Academic Personnel

376. In 2006, 26% of the senior academic personnel in universities were women, an increase of 30% in comparison to the early 1990's. Accordingly, there were 184 women compared to 1,267 men, in positions of full professors among the academic personnel, a position granting not only higher income, but also influential status within the Academia, a share of 12.7%. Today there are 5 female presidents in all Higher Education Institutions, and at least one woman has served as a rector.

377. Although there are more women than men in all levels of higher education, they comprised only 26% of the total academic staff in 2006. For example, in Humanities, women were 66.1% of the students and only 39.4% of the staff, and in Social Sciences, they comprised 60.2% of the students and 29% of the staff.

Table 20 - The Rate of Women in the Academic Personnel of Higher Education Institutions in Israel, by Field and Rank, 2006 (Universities Only)

Field of Study	Total	Full staff professor	Member professor	Senior lecturer	Lecturer
Humanities	36.8	21.8	27.9	46.8	51.2
Education	52.1	48.9	41.2	56.2	59.9
Social Sciences	31.1	12.5	25.0	38.3	49.7
Business and Management	17.0	6.0	15.6	10.4	41.9
Law	22.5	26.5	11.5	28.1	20.2
Medicine	32.7	16.2	34.0	42.1	62.6
Para-Medicine	57.8	44.8	44.3	68.5	60.4
Mathematics, Statistics and Computers	9.5	5.4	8.7	11.2	36.4
Physical Sciences	9.9	3.6	16.2	16.1	47.2

Biological Sciences	25.1	20.3	19.1	36.4	42.9
Agriculture	15.3	6.5	15.8	18.3	35.9
Engineering and Architecture	13.9	5.9	13.2	21.7	23.4
other	17.3	10.3	9.2	17.3	28.9
Total	**25.9**	**12.7**	**21.8**	**35.7**	**45.7**

Source: Council for Higher Education, 2008

Science and Technology Education for Women

Initiatives aimed at encouraging Female Minors to enter the fields of Science and Technology

378. In 2005, the Ministry of Education, together with the Authority for the Advancement of the Status of Women held ten one-day seminars in which more than 1,500 school principals participated on the subject of encouraging girls in the fields of mathematics and exact sciences. The seminars dealt with the following issues: raising awareness of professional and management teams for this matter, illustrating the perceived barriers to female participation in this field, illustrating the actual ability of female pupils and methods of deconstructing these barriers, development of an intervention program encouraging female participation in these fields from an early age, and other relevant issues.

Initiatives to encourage women to study Science and Technology

379. In 2007, the Ministry of Science, Culture and Sport initiated a program for advancement of women in the fields of science for the years 2007 and 2008. According to the program, scholarships of 30,000 NIS ($7,500) will be distributed to female students in order to increase the number of women in science and technology fields and in exact sciences and engineering in which women have low representation rates.

380. In 2008, the Ministry of Science, Culture and Sport offered 11 scholarships to women who will complete their third degree in 2009 in fields of science and technology, exact sciences and engineering. The scholarships of 30,000 NIS ($7,500) each will be distributed to female students earning their third degree who perform research with faculty of exact sciences (chemistry, physics, math, and computer science) or the engineering faculty. The scholarships' purpose is to increase the number of women in the fields of science and technology.

381. The Ministry of Science, Culture and Sport gives great importance to the inclusion of women scientists in every delegation for international conferences held both abroad and in Israel. In November 2007, a joint British-Israeli convention titled "Biomolecular Self-Assembly", was held in Britain and was attended by five Israeli scientists, two of which were women. In October 2007, a joint French-Israeli convention titled, "Trends in Soft Matter and Micro Fluidics", was held in France, and was attended by a delegation of four Israeli scientists, two of which were women. In addition, the Ministry is very meticulous of the inclusion of women in various international committees and international programs.

Physical Education and Sports

Legal Developments

382. No notable changes have occurred on this issue since the submission of Israel's previous report.

Governmental Machineries for the Promotion of Women in Sports

383. On March 21, 2005, the Government decided on the establishment of the Public Council for Women's Sports (Resolution No. 3416). Also that year, a national program for women's sports was presented by the Sport Administration and was approved by the Ministry of Education. A budget of 80 million NIS ($20,000,000) was allocated for the program's operation by the Council for Sports' Gambling Arrangement for a period of eight years, and additional 1.8 million NIS ($450,000) per year was allocated by the Ministry of Science, Culture and Sport, also for a period of eight years.

384. In 2007 the Department for Women Sports was established at the 'Wingate' Sports institute, the Department is responsible for the operation and execution of the national program, including all its goals and targets, such as: increasing the number of the female athletes in Israel, development of excellence and leadership among women in the various sports, and in the fields of management, coaching and refereeing.

385. The Authority for the Advancement of the Status of Women, together with the Ministry of Science, Culture and Sport, have designed a unique training course for women, educating them on ways to become active and committed members of local and national Councils for the advancement and administration of sports in Israel.

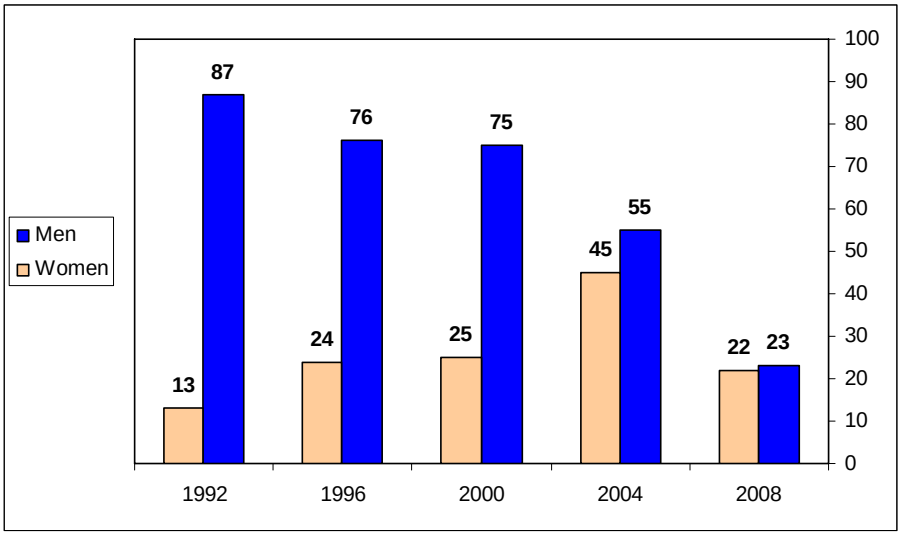
Female –Minors Sport in the School System

386. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the Fourth periodic report.

Current Data – Women in Sports

387. Since the 1992 Olympic Games, women's participation in the Olympic Games has dramatically increased. In the 2008 Olympic Games in Beijing, there was a decrease in the number of Israeli athletes, both male and female, compared to the previous Olympic Games, however the tendency for equalizing between the numbers of male and female athletes is clearly visible as indicated by the chart below.

Chart 6 - Athletes in the Olympic Games, 1992, 1996, 2000, 2004 and 2008



Source: The Olympic Committee of Israel, 2008

Article 11 - Employment

Legal Protection from Discrimination within the Workplace

388. In accordance with an Amendment to the *Equal Employment Opportunities Law,* dated January 3, 2006, the Equal Employment Opportunities Commission was established, within the Ministry of Industry, Trade and Labor (ITL). The Commission is charged with the promotion, implementation and civil enforcement of the following laws and statutory provisions: *Equal Employment Opportunities Law,* 5748-1988; *Male and Female Workers (Equal Pay) Law* 5756-1996 (the "*Male and Female Workers (Equal Pay) Law*"); *Women's Employment Law*; *Prevention of Sexual Harassment Law* (in relation to employment) and other statutory provisions relating to: discrimination on religious grounds and army reserve duty service, discrimination on the part of public and private employment agencies, affirmative action for women, people with disabilities, Israeli Arabs and persons of Ethiopian origin in the public sector and legislation protecting workers who "blow the whistle" on violations of the above laws and statutory provisions.

389. The Commission is also charged, *inter alia*, with a wide range of duties, including fostering public awareness through education, training and information; encouraging programs and activities; cooperation with relevant persons and bodies; conducting research and gathering information; intervention, with the courts approval, in ongoing legal proceedings; handling complaints regarding the violation of equal employment legislation; submission of requests for general orders; and instructing employers to take general measures regarding all or part of their workforce or employment applicants, designed to ensure compliance with duties imposed by employment equality legislation or to prevent violations of such duties.

390. Structure of the Commission - The Commission is headed by a National Commissioner, who is appointed by the Government, upon the recommendation of the Minister of ITL, following consultation with the Minister of Justice. The National Commissioner is appointed for a term of four years which may be renewed only once; the National Commissioner has to have a law degree and at least seven years of proven experience in the areas within which the Commission operates.

391. The Equal Employment Opportunities Commission commenced operation at the beginning of 2008, following the Government's Resolution in November 2007, to appoint Adv. Tziona Koenig-Yair, as the first National Commissioner (Government Resolution No. 2578). This position is the first of its kind to be established in Israel. The Commissioner is responsible for collecting information and hearing complaints from workers concerning instances of sexual harassment, and/or discrimination based on gender, sexual orientation, parenthood, religion and race. Where necessary, the Commissioner is also responsible for initiating legal action on behalf of any adversely affected workers. The commissioner also has the authority to request that Courts issue special orders prohibiting sexual harassment in the workplace. Violation of these orders is considered a criminal offence. In addition, the commissioner is responsible for encouraging special programs relating to equality in employment as well as other educational and promotional activities in the workplace.

392. At the end of each year the Commissioner is required to submit an annual report to the Minister of Industry, Trade and Labor, who shall forward the report with his/her comments to the Knesset Committee for the Advancement of the Status of Women, and to the Knesset Committee for Labor, Welfare and Health.

393. Since her appointment, the National Commissioner manned three additional positions, published a pamphlet dealing with employment rights that was distributed to 300,000 employers and employees, and is now being translated into Arabic.

394. In late 2008, the advisory committee to the Commission has been appointed. Under the Amendment to the Law, the 21-member committee is comprised of representatives of the Authority for the Advancement of the Status of Women, the Commission for Equal Rights of Persons with Disabilities, Government Ministries, NGOs, trade unions and employers' associations. Appropriate representation is given, insofar as is possible, to women, Israeli Arabs and persons with disabilities.

395. Since September 2008, the services provided by the Commission include the handling of 150 specific applications, 3 law suits currently being prepared and many preliminary measures taken regarding discrimination by employers.

396. Recently the Equal Employment Opportunities Commission filed its first law-suit against "Rami-Lee", a company which manufactures pregnancy clothes, on account of their refusal to accept a pregnant woman to work in one of its stores. The Commission requested that the court reward the complainant with 87,425 NIS ($21,856) compensation for the loss of income, lack of advance notice, as well as for non pecuniary damages.

In addition, the Commission requested the Court to order the company to implement a policy of affirmative preference for pregnant women, as the company discriminated against them in job

acceptance, while making its profit from targeting pregnant women as its designated clientele. The case is still pending before the court.

Legal Developments

397. As mentioned above, on April 10, 2008, The *Encouragement of the Advancement and Integration of Women in the Work force and the Adjustment of Workplaces to Women's Needs Law* was enacted by the Israeli Knesset. The purpose of the new Law is to generate a change in the business culture in Israel and promote public awareness in order to encourage employers to advance and integrate women in the workplace. Under the Law, substantial monetary incentives and grants will be granted annually by the Minister of ITL to employers in the private sector who endeavor to integrate and promote women in their business, and who initiate programs to that end, as well as employers who modify the workplace and work conditions to the needs of women and parents. The employers must show that they actually integrated women in their businesses, promoted women and instituted programs to adapt the work environment to women. The Ministry of ITL is presently determining the specific criteria upon which the businesses will be chosen.

According to the Law, the Minister of ITL shall establish a Public Council for Integration and Advancement of Women in The Workplace, which will function as an advisor to the Minister on the issue of women in the workplace, including measures to implement the provisions of the Law. The Public Council will consist of 11 members – from relevant Government Ministries, as well as experts in gender studies, women's NGO representatives, representatives of the Authority for the Advancement of the Status of Women, the Equal Employment Opportunities Commission and representatives of employers and employees unions. A retired female Judge will head the Public Council.

The Minister of ITL is required to submit an annual report on the implementation of the Law to the Knesset Committee on the Status of Women and the Committee of Labor Welfare and Health.

This Law has the potential of serving as an incentive to employ more women and to advance women to senior positions within the workplace and to modify working condition to the unique needs of women, which will result in the broadening of women's economic independence.

398. Several recent rulings of Labor Courts have further reinforced the protection granted by law to women in the workforce. On July 26, 2007, the National Labor Court rejected an appeal from a former female employee of the Knesset, who claimed that she was discriminated against in salary and retirement benefits in comparison to her male counterparts (*La.A. 222/06 Shoshana* Kerem *v. The State of Israel*). The Court found that the appellant failed to prove that she experienced discrimination in comparison to her male colleagues, neither on the basis of the *Male and Female Workers (Equal Pay) Law* nor on the basis of *Equal Employment Opportunities Law*.

In its decision, the Court held that "the principle of equality is one of the basic principles of every democratic state. The principle of equality is a cornerstone in our legal regime. The principle of equality derives from the basic rights of every person and the natural desire of

human beings to live side by side in harmony, fraternity and peace". The Court concluded that the prohibition of discrimination derives from the principle of equality and is anchored in the *Male and Female Workers (Equal Pay) Law* and the *Equal Employment Opportunities Law*. Here, however, the Court held that the former employee of the Knesset did not prove any connection between the claimed discrimination and her being a woman.

399. On July 22, 2008, the Tel Aviv Labor District Court awarded a woman 85,690 NIS ($21,422) in compensation for the pecuniary damage caused by her illegal dismissal and the violation of several constitutional rights (*La.C. (Tel-Aviv) 5043/04 Ronit Shmuel v. Bravo Engineering Inc.* (*22.6.2008*)). The Court determined that the dismissal of a woman undergoing fertility treatment constitutes a violation of the *Women's Employment Law*, which grants protection to the employee undergoing such treatment if she is absent from her workplace due to the treatment, on the condition that she presents her employer with a written affirmation from the physician in charge that the treatment requires absence from work and provided that she informs her employer in advance of her future absence. In this case, the Court determined that since the woman failed to present the written affirmation prior to her dismissal, she could not benefit from the protection of the *Women's Employment Law*.

However, the Court found the dismissal as violating the *Equal Employment Opportunities Law,* as it constitutes prohibited discrimination according to the Law. The dismissal was prior to the enactment of Amendment No. 11 to the Law adding the prohibition of dismissal of an employee due to fertility treatment and in vitro fertilization. Nevertheless, the Court found that in the explanatory notes to the original draft law on Equal Employment Opportunities the legislator wished to extend the protection to employee's fertility related rights, therefore found the dismissal to constitute prohibited discrimination as defined by the Law and awarded the plaintiff with compensation in accordance with the Law.

400. On November 5, 2008, the Tel-Aviv District Labor Court ordered the compensation of a woman who was forced to resign from her employment due to obstacles imposed by the employer after she notified him of her pregnancy. The Court determined that the woman is entitled to 50,000 NIS ($12,500) non pecuniary damages due to the breach of the *Equal Employment Opportunities Law*, as well as to 32,000 NIS ($8,000) pecuniary damage due to loss of employment, unlawful deductions, loss of accumulated rights etc. The deterioration and obstacles placed included the obligation to report her whereabouts, cancellation of her computer password needed to perform her duties, cancellation of the possibility to make outgoing calls on the cellular phone, etc. These obstacles subsequently forced the women to resign. As these obstacles were imposed by the manager and primary shareholder, the Court ordered the piercing of the corporate veil and ordered that the compensation be paid by the company and manager jointly (*La.C. 5524/03 Annette Kirsch v. Zehohit Bidodit Inc. et. al. (5.11.2008)*).

401. On March 16, 2008, the National Labor Court determined that failing to accept a woman back to work after her maternity leave violates the *Women's Employment Law*, as well as the *Equal Employment Opportunities Law* (*La.A. (National) 627/06 Orly Morey v. M.D.P Yellow Inc. et. al. (16.3.2008)*). The *Women's Employment Law* prohibits the dismissal of an employee during her maternity leave, as well as 45 (currently 60) days after the leave, in order to allow an employee to return to the workplace, prove her ability and continue her employment. The Law

stipulates that such terminations of employment are prohibited unless it receives the preliminary approval of the Minister of ITL who must be convinced that the dismissal is not related to the pregnancy or if the employer is announced as bankrupt and the workplace ceases to function.

Here, the employee was summoned to a meeting during her maternity leave, in which she was informed of her dismissal at the end of her maternity leave, which did not receive the approvals required according to the Law. She was told not to return to work after her leave and instead to receive payment for the 45 days during which her dismissal is prohibited. It should be noted that the redemption of the period of time in which the dismissal is prohibited and when the employee is interested in returning back to work, also constitutes a violation of the Law which is subject to compensation, and that the dismissal also violates the *Equal Employment Opportunities Law* as it prohibits discrimination on the ground of pregnancy or parenting. Due to the violation of both laws, the Court awarded compensation in the amount of 50,000 NIS ($12,500) to the employee. The National Labor Court President, Judge Steve Adler, recommended that in the future, any case where principle issues in the field of equality arises, the Labor Courts will bring these issues to the attention of the Equal Opportunities Commission in the Ministry of Industry, Trade and Labor.

402. In *La.C. (Jerusalem) 2260/06 Biazy Mali v. Partner Communications Ltd.* (18.9.2008), a dedicated employee, who worked for 6 years for Partner Communications and was very highly regarded, was forced to take nearly 5 months of unpaid leave following her maternity leave, although it included the period the employer is compelled to receive the employee back after the maternity leave. The conditions of the positions offered to her on her return after the maternity leave were inferior to those she enjoyed in her previous position, and were only temporary by nature. Efforts made on her behalf to find proper positions in the company failed, and therefore she was left with no alternative but to resign. The employee claimed she was discriminated against due to her pregnancy and transferred from her position, as well as unlawful dismissal after her maternity leave due to parenting.

The Court determined that subjecting an employee to deterioration in the working conditions and dismissal due to pregnancy and parenting violates the *Equal Employment Opportunities Law*. The Court ordered Partner Communications to pay non-pecuniary damage in the amount of 40,000 NIS ($10,000) according to the *Equal Employment Opportunities Law*. In addition, the Court ordered the company to compensate the employee for violation of the *Women's Employment Law*, since she was not employed during the mandatory period after her maternity leave, as well as to compensate her for the period the company forced her to take an unpaid leave and compensation for dismissal without due notice according to the *Women's Employment Law*. Additionally, the Court ordered compensation for the dismissal itself. In total the employee received a total compensation of 110,800 NIS ($27,700).

Sexual Harassment in the workplace

403. According to the *Prevention of Sexual Harassment Law,* an employer who employs more than 25 employees is obligated to prescribe a code of practice detailing the principle provisions of the Law concerning sexual harassment and adverse treatment in the labor relations sphere, and the procedures for filing complaints in respect of sexual harassment or adverse treatment and for

dealing with such complaints by the employer. The employer must publish the code of practice among his/her employees. The Law further obligates the employer to appoint a supervisor of sexual harassment issues, which is responsible, *inter alia*, for handling sexual harassment and adverse treatment complaints, and to take measures aimed at raising his/her employees' awareness of the issue. Furthermore, the Law applies to employers both from the public and private sectors.

404. During 2007, the Authority for the Advancement of the Status of Women also sent out letters, to which a model code of practice was attached, to 500 employers in the private sector. The Authority receives responses to hundreds of requests for the model code of practice in different languages and responds to all by distribution of the model code. These model codes of practice are available in various languages (Hebrew, Arabic, Russian, Amharic and English) and are easily accessible on the Authority's website.

405. An enforcement and awareness promotion campaign of the Authority in conjunction with the Enforcement and Regulatory Administration within the Ministry of ITL, was launched in October 2007. During the joint campaign, model codes of practice were distributed in work-places throughout the country and data on the implementation of the provisions of the Law were collected. Inspections were performed in 163 workplaces, in which 15,000 workers are employed altogether. The inspections revealed that the majority of employers comply with the obligation to publish a code of practice, yet 34% of the employers did not do so in violation of the Law.

406. During 2007, the Authority for the Advancement of the Status of Women began collecting data on the implementation of the obligation to appoint a supervisor, in local municipalities and in governmental corporations. By the end of 2008, 900 out of 2,600 employers examined in the private sector, 172 out of 250 local municipalities and 48 out of 65 governmental corporations, have appointed a supervisor. In the Kibbutzim movement there were 140 supervisors and in the Civil Service, 70 supervisors (100%) were appointed in Governmental Ministries and auxiliary units. At the end of 2007, the first training course for supervisors was launched in cooperation with the Union for Local Authorities in Israel.

407. In 2008, the Authority for the Advancement of the Status of Women began the production and distribution of a training kit designed for employers and workplaces, which include explanations regarding sexual harassment, statistical data and relevant legislation. The kit was designed to raise awareness for this important issue and fight sexual harassment.

408. Israel is a party to the following International Labor Organization (ILO) conventions regarding equality and prohibition of gender discrimination: *Equal Remuneration Convention*, 1951 (No. 100, since 1965) and the *Discrimination (Employment and Occupation) Convention, 1958* (No. 111, since 1959). Since its previous report, Israel submitted the following reports regarding the abovementioned ILO conventions:

- *The Equal Remuneration Convention*, 1951 (No. 100) - relating to the years 2005-2006.
- *The Discrimination (Employment and Occupation) Convention*, 1958 (No. 111) - relating to the years 2005-2006.

409. On November 13, 2008, the Tel-Aviv District Labor Court ordered the compensation of an employee in the amount of 50,000 NIS ($12,500) due to its employer's failure to address her complaint regarding sexual harassment in the workplace. Although the employer appointed a person responsible to receive complaints according to the *Prevention of Sexual Harassment Law,* the employee's complaint was not handled properly, as she was shifted to a different location in the office, in a way that appeared to be as if she was being punished for complaining. In addition, a workers' gathering was held, with the absence of the employee, in which the details of the complaint were publicly exposed. The harassment which included sexual comments and jokes, including the correction of the employee's pronunciation of words to words with sexual connotations, and questions regarding her sexual relationship with her husband, continued for nearly a year, despite the change in seating arrangements, in the end of which the employee was fired.

The Court determined that the termination of employment did not result from cutbacks or even preformed on a seniority basis. The Court held that the employee was fired solely on account of her complaint, thus the company violated the *Equal Employment Opportunities Law,* as well. The Court ordered the compensation based on the age of the employee, the emotional damage inflicted upon her, and her chances of finding alternative employment (*La.C. 2271/04 Bella Krezner v. Ort Israel* (*13.11.2008*)).

410. On July 16, 2008, The Nazareth Labor District Court ruled that constant request for friendship in the framework of work relations and authority which imposes an increased duty of care upon the employer, amounts to sexual harassment, and ordered on compensation of the plaintiff in the amount of 15,000 NIS ($3,750). In this case a female employee of the Israel Antiquities Authority was fired, and claimed it was done due to her lack of compliance with her supervisor's constant request to 'be friends'. Since both the supervisor and the employee were from traditional Arab background, the employee found the request improper, which led her not to feel at ease around him, even though it did not amount to explicit sexual requests. After rejecting his requests several times, the supervisor changed his attitude towards her and even avoided directing her and answering her calls regarding work related issues. Eventually, the employee was fired due to lack of satisfaction regarding her work. The employee claimed the termination of employment was a result of her filing a complaint regarding the sexual harassment.

The Court found that the constant request from the employer could in itself be subject to several interpretations. However, due to the fact they were in the framework of relations of authority which imposes an increased duty of care upon the employer, they amounted to sexual harassment. The Court did not find any misconduct in the proceedings taken by the Israel Antiquities Authority, who received the employee complaint and agreed to allow her to work in a different region, where she will not be in direct contact with the supervisor until conclusions will be reached regarding her complaint (*La.C. 1452/04 Janet Abas v. The Israel Antiquities Authority et. al.* (*16.6.2008*)).

411. In another decision concerning sexual harassment in the workplace, the Supreme Court rejected an appeal from the nursing deputy director in the Mental Health Center in Beer-Sheva, who had been convicted of harassing nurses during a training course (*C.S.A. 11976/05 Ruchi Halil v. The*

Civil Service Commission (11.04.07)). The Court found that the appellant had repeatedly spoken to his subordinates in a manner that contained sexual content, which is considered to constitute sexual harassment according to the Law. The Disciplinary Court sentenced the appellant to severe reprimand, a rank reduction of one level for a period of two years, removal to a different governmental hospital and disqualification from service in the training of nurses for a period of three years.

412. In the case of Civil Service Appeal *2192/06 Moshe Rahmani v. Civil Service Commission (5.4.07)*, the Supreme Court rejected an appeal from an employee of the Ministry of Finance. He was found to have sexually harassed (verbally) an 18.5 year old worker, was convicted and sentenced to dismissal and disqualification from working in the Civil Service for a period of 5 years. The Court held that the appellant's repeated offers to the complainant, which were of a sexual nature, and which she repeatedly and clearly rejected, could be considered sexual harassment under the terms of the Law.

Child-care services expenditures

413. On April 3, 2008 the Tel-Aviv District Court determined that expenses paid for childcare services, such as nursery and after-school programs, are expenses made for the purpose of generating an income, therefore can be deducted from the taxable income of a mother each tax year. The Court determined that these costs are essential in allowing the integration of mothers to young children in the labor market.

Here, the Court determined that a mother of two children, a lawyer with a private practice, needs to work long hours in order to succeed in her profession, and therefore must find a solution for the care and supervision of her children during her working hours. However, the Tax Authorities did not agree to deduct the expenses paid for childcare from the taxable income. The Court held that distinction shall be made between the component of care and supervision (including the amount of money necessary to operate a childcare institution) to the component of education and enrichment the children receive while in those childcare institutions.

The Court emphasized the fact that the premise is the right of the two spouses to fulfill their career aspirations, their right to realize their will to practice their occupation and create a livelihood for themselves and their family-members. The placement of children who need adult supervision in childcare institutions is done for the purpose of allowing both parents to work. Therefore, the Court ordered that the Tax Authorities deduct 2/3 of the expenses paid in the years in dispute (*I.T.A. (Tel-Aviv) 1213/04 Vered Peri v. The Income Tax Assessor of the Dan Metropolitan Area* (03.04.2008)).

414. On May 12, 2008, the State of Israel appealed to the Supreme Court, and the proceedings are still pending (*C.A. 4248/08 The Income Tax Assessor of the Dan Metropolitan Area v. Vered Peri*).

Pregnancy and Maternity Protection

415. Between the years 2006 and 2008, a number of significant amendments were made to the *Women's Employment Law,* which further elaborate and enhance the importance of maternity protection for women:

415.1. Amendment No. 33, February 2007 - Extended the period in which a woman returning to work after a maternity leave may not be dismissed from her place of employment from 45 days to 60 days.

415.2. Amendment No. 34, March 2007 - Prior to the Amendment, a woman (or her child) who were hospitalized during the mother's maternity leave for at least two consecutive weeks, was entitled to extend the maternity leave for the period of her hospitalization, up to four weeks. The Amendment allows the extension of the maternity leave even if the period of hospitalization was not consecutive.

415.3. Amendment No. 35, March 2007 - Prior to the Amendment, the punishment for unauthorized dismissal of a pregnant woman, a woman on maternity leave, a woman staying in a shelter for battered women or an employee undergoing fertility treatment, was one month's imprisonment or a fine of 67,300 NIS ($16,825) or both, while the period of limitation for the offence was one year. The short period of limitation significantly reduced the ability to enforce the Law. The Amendment sets the maximum punishment for the offence at six months imprisonment and doubles the current fine. As a result of the increased severity of the sentencing, the period of limitation is automatically extended to a period of five years from the time the offence is committed.

415.4. Amendment No. 36, March 2007 - Extended the period in which a woman absent from work due to her stay in a shelter for battered women may not be dismissed upon her return to work, from 60 to 90 days. The purpose of these provisions is to allow the employee to return and reintegrate in her workplace after the period of absence while at the shelter, thus giving her a real chance to prove herself again in her place of work. This protection also encourages the independence of the battered woman and serves as a negative incentive, discouraging her from returning to continued dependency on the person who injured her.

415.5. Amendment No. 37, May 2007 – The maternity leave was extended from 12 to 14 weeks, thus bringing Israel inline with the minimum requirement from member states of the European Union.

415.6. Amendment No. 38, June 2007 - The temporary provision allowing for paternity leave in the case of a mother conceding her rights to a leave to her spouse, has become final.

415.7. Amendment No. 39, August 2007 - addresses several issues:

415.7.1. It allows for a woman to shorten her maternity leave in the case of her giving the infant up for adoption or in the case of a surrogate mother.

415.7.2. It also allows for a man whose spouse has given birth and can not care for the infant due to a handicap or illness to take a paternity leave for the full period in

which she is unable to care for the infant for further elaboration on this issue please see section regarding parenthood below.

415.7.3. A woman may be absent from work due to her pregnancy upon approval of a doctor. If she is not entitled to payment from the Health Insurance Institute nor from her employer, her absence will be considered as sick leave.

415.7.4. When a pregnant woman, due to the nature or conditions of her work or workplace, is unable to continue her work, she may be absent upon doctor approval. Her absence without pay will be permitted only if her employer can not find an alternative suitable position for her. Her seniority will not be affected by her absence.

415.7.5. A nursing mother who is not allowed by law to work in certain jobs due to her nursing condition and is not entitled to vacation days after her maternity leave, may be absent from work. Her absence will be considered vacation without pay and her seniority will be maintained.

415.7.6. Upon fulfillment of certain conditions specified in the law, the termination of a limited term contract, will be considered a dismissal when concerning circumstances such as pregnancy, maternity leave, fertility leave etc.

415.7.7. A direct right of appeal has been granted to an employee regarding decisions made by the Government official in charge of allowing dismissals or cutting back of a post during pregnancy.

415.8. Amendment No. 40, August 2007 - Imposition of responsibility on employers who have caused the dismissal of a pregnant woman employed as a contract worker in violation of the Law.

415.9. Amendment No. 41, October 2007 - The Amendment determines that the provision prohibiting dismissal during fertility treatment for a first or second child will also apply to an employee who has a child or children from a previous relationship, and who is undergoing fertility treatment for a first or second child with the current partner or spouse.

415.10. Amendment No. 42, February 2008 - An employer is prohibited, for a period of four months following maternity leave, to require a female employee to work night hours (of which two hours, at least, are between the hours of 22:00 and 06:00), or to require her to work on the weekly rest days even if this is permitted according to the *Work and Rest Hours Law*, 5711-1951, unless the employee has agreed to do so in writing (Certain jobs are not included such as hospital work etc.).

415.11. Amendment No. 43, February 2008 – Legislation prior to the Amendment prohibited dismissal of a female employee who is on maternity leave and for a period of 60 days following the maternity leave, and also did not allow an overlap between the period of notice for dismissal and the period when dismissal is prohibited. Although the Law did prohibit dismissal of a female employee for a period of 60 days following a period of unpaid leave after maternity leave, it did not explicitly prohibit an overlap between the

period of notice for dismissal and the period of the unpaid leave and the following sixty days. The Amendment prevents the possibility of overlap between the period of notice for dismissal and the periods during which it is prohibited to dismiss an employee on unpaid leave following maternity leave, or a female employee who is on such leave from her employment with dangerous substances because she is nursing, such overlap effectively cancels the intension of the provision against dismissal during this period.

415.12. Amendment No. 44, March 2008 - Prior to the Amendment, the Law allowed for an unpaid vacation after the maternity leave, up to a year from the day of the birth, on the condition that the employee worked for at least 24 months prior to the birth. The Amendment allows this right after only 12 months of employment prior to the birth.

416. In 2007, the *Equal Employment Opportunities Law* was also amended. The Law prohibits discrimination against an employee during acceptance for employment, in working conditions and on dismissal for various reasons, including being pregnant or parenthood. Amendment No. 11 adds provisions to the Law that prohibit discrimination due to parenthood to include pre-parenthood situations, such as fertility treatment or IVF.

Parenthood

417. Amendment No. 39, dated August 2007 allows for a man whose spouse has given birth and can not care for the infant due to a handicap or illness to take a paternity leave for the full period in which she is unable to care for the infant. Prior to the Amendment, in such case the father was not able to take the full period of leave. According to the Amendments, his paternity leave does not cancel the mother's right to her leave. A parallel Amendment was made to the *National Insurance Law* to allow the father on leave to collect a birth allowance in addition to the allowance paid to the mother.

418. As of September 2007, a man can replace his wife on maternity leave if she is not capable of caring for the newborn due to her health condition, even if 6 weeks have not yet elapsed since the birth as usually required – if the infant is in the father's custody and in his sole care. This Maternity Leave for the father includes extension of the leave due to a multiple birth or hospitalization of the infant.

419. Amendment No. 8 of 2008, to the *Sick Pay Law (Absence from Work due to a Child's Sickness)* 5753-1993 (the "*Sick Pay Law (Absence from Work due to a Child's Sickness)*"), extended the number of days available for a single parent or to a parent who has sole care of his/her child, granting a 16-day leave to tend to a sick child (compared to the standard 12 days).

420. On September 1, 2008, the *Women Employment Regulations (Times and Rules for Payment to Pension Fund)* 5768-2008, entered into force and annulled the previous Regulations. These Regulations stipulate that during an employee's (male or female) maternity leave, the employer must transfer payments to his/her pension funds on his/her own, in the same amount as previous to his/her maternity leave. The employee is required to pay his/her part of the payment by deduction from the last salary or the first salary after he/she returns from the Maternity leave. If the employer and the employee transfer payments to the pension fund separately, during the time the employee is entitled to pregnancy protection benefit, then the employer shall transfer

the payments applying on him/her, no later than 7 days after the employee transfers his/her share of the payment to the employer. The employer is required to inform the employee regarding these regulations, in reasonable time after learning of her pregnancy or after learning that a male employee intends to take maternity leave. Moreover, these regulations come to add rights to the employees and shall not subtract from any law, collective agreement, work contract, or practice.

Affirmative Action in Employment

421. Please see discussion under Article 4, above.

Social Security Benefits

422. Please see discussion under Article 13, below.

Employment of Women - Data and Analysis

Women Participation in the Workforce

423. In 2007, the Israeli civil workforce totaled 1.546 million men and 1.347 million women. Compared to 2003, the workforce grew by 146,400 men and 137,400 women, hence women accounted for roughly 49% of the increase.

424. In 2007, women's proportion of the civilian labor force of the total population aged 15+ increased to 51.1%, compared to 49.1% in 2003 and 48.2% in 2001. Men's proportion increased to 61.8%, from 60.1% in 2003 and 60.7% in 2001.

425. In 2007, 31.0% of the women in the labor force had 16 years of schooling or more, compared to 24.5% of the men. The level of education is a conclusive factor in female participation rates in the labor force and the rates go up as the level of education rises. The general education level of women in the labor force is higher than that of men.

Work Patterns

426. In 2007, 88.2% of men and 66.3% of women worked full-time. Most of the usually part-time employed persons in the labor market were women (453,400 women compared to 181,300 men). 15.9% of the women stated that the motivation for part-time employment was care for their children and/or household.

427. Temporary absence from work is higher for women when compared to men. In 2007, 115,900 women were temporary absent from work compared to 70,100 men. 20,900 women were absent due to maternity leave while in the same period, the number of absent men due to army reserve duty was 4,600.

428. In 2007, 1,240,100 women were employed (compared to 1,441,900 men), of that, 1,138,400 women were salaried employees (91.8%), while only 5.1% of the women were self-employed. At the same time, most of the employed men (83.5%) were salaried employees and 9% were self-employed. Of the total employed persons 1,129,200 were Jewish women and 74,100 were Arab women. Of the Jewish women 1,033,900 were salaried employees.

Unemployment

429. From 2003 until 2006, there has been a decrease in the number of unemployed women (defined as women who have not worked at all and have actively sought work in the month prior to the survey, and could have begun work during the week of the survey had they been offered a job). The unemployment rate decreased from 132.5 thousands in 2003 to 112.9 thousands in 2006. The unemployment rate for women which was 11.2% in 2003 decreased to 8.8% in 2006 (compared to 10.1% among men in 2003 and 7.8% in 2006). These statistics refer to the 18-67 age group which is the relevant group for participation in the labor force. The rate of participation of women in the labor force ages 18-67 was 59.7% in 2003 and increased to 61.4% in 2006. The rate of participation of men in the labor force increased only slightly from 70.2% in 2003 to 71.3% in 2006.

430. In 2007, 199,236 employment seekers applied to the Employment Service Labor Bureaus. 116,882 were women (compared to 127,979 women in 2004) and the remaining 82,353 were men (compared to 102,391 men in 2004).

431. The means for seeking employment amongst unemployed women is divided as follows: Employment Bureau of the Employment Service - 48.6%, manpower agencies - 48%, newspaper advertisements - 71.8%, personal applications to potential employers - 57.8%, friends and relatives - 71%, attempts to establish ones' own private business - 3.6%. A similar breakdown may be found amongst men (Note: The percentages do not add up to 100% since the same person may use various means for seeking employment).

Careers of Women: Levels and Salaries

Women's Occupational Distribution and Gender Segregation

432. As detailed in Israel's previous report, women maintain their considerable representation in "feminine professions", with the highest percentages of women employees in the education, health services, welfare and social work. However, women's soaring representation in the legal profession continued, as detailed in Article 7, above.

Table 21 - Employed Persons by Industry and Gender, 2007

Economic Branch	Men		Women	
	% of Employed persons	% of Employees	% of Employed persons	% of Employees
Agriculture	2.5	1.9	0.6	1.9
Manufacturing	21.1	23.4	9.7	23.4
Electricity and water supply	0.9	1.1	0.3	1.1
Construction (building and civil engineering projects)	9.9	9.6	0.7	9.6
Wholesale and retail trade and repair	14.8	13.6	12.0	13.6
Accommodation services and restaurants	5.1	5.2	4.0	5.2
Transport, storage and communication	8.4	7.9	4.1	7.9

Banking, insurance and finance	2.6	2.6	4.7	2.6
Business activities	15.1	14.3	12.9	14.3
Public administration	4.7	5.6	4.3	5.6
Education	5.6	6.3	21.4	6.3
Health, welfare and social services	4.4	4.5	16.6	4.5
Community, social and personal services	4.4	3.7	4.9	3.7
Services for households by domestic personnel	0.3	0.3	3.6	0.3
Total	100	100	100	100

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Salary and Earning Gaps

433. Gaps remain between male and female salaries. According to recent data (2006) in average, men earned 57% higher income than women. One explanation for this gap is shorter working hours (or lower availability for work) for women - In 2006, employed men worked an average of 45.5 hours a week, compared to employed women, who worked 34.8 hours a week - a 30.7% difference. Yet, in 2006, women's average income per hour was 38.3 NIS ($9.575) and men's – 45.8 NIS ($11.45), a 19.5% gap, indicating that the difference cannot be solely attributed to the number of working hours.

434. In 2006, women's average hourly wages were 80.5% of the men's. By occupation, their hourly wages are highest, relative to men, in the category "other professional and technicians" (86.5 %). Women earn the least, relative to men, among skilled industrial and construction workers, but this ratio has improved from 63% in 1998 to 92.3% in 2006.

Table 22 - Urban Wage and Salary Workers: Women's Hourly Wages as a Percent of Men's Hourly Wages, 1995, 1998 and 2006

Occupation	Percentage		
	1995	1998	2006
Total	80.7	82.9	80.5
Academic professionals	79.4	85.7	74.9
Other professional and technicians	89.5	89.1	86.5
Managers	75.3	75.4	89.9
Clerical workers	75.8	70.3	79.9
Sales and services workers	64.2	71.0	73.7
Skilled workers in industry and construction	56.9	63.0	92.3
Unskilled workers	78.3	77.9	73.2

Source: Israel, Central Bureau of Statistics, Income Surveys, 1995, 1998, 2006

435. Arab women employees earned 8% more per hour, than Arab men. In terms of gross monthly salary, Arab men's salaries were 35% higher than the Arab women's salaries. The difference in

the monthly salary is due to the gap in men's working hours compared to the women's - a difference of an average of 15 monthly hours.

436. 35% of Arab employed women are employed in academic, independent and technical professions, 27% in clerical work and up to 25% in sales and agencies as compared to Arab men - 27% employed in academic, independent and technical professions and 35% as professionals and non professionals.

Table 23 - Employed Persons, by Occupation, Gender and Population Group, 2007

Occupation	Thousands			Percentage		
All employed persons	**Total**	**Men**	**Women**	**Total**	**Men**	**Women**
Total	2682.0	1441.9	1240.1	100	100	100
Academic professions	378.1	196.0	182.2	14.1	13.6	14.7
Other professions and technicians	426.4	174.4	251.7	15.9	12.1	20.3
Managers	177.0	124.0	49.6	6.6	8.6	4.0
Clerical workers	431.8	111.0	314.9	16.1	7.7	25.4
Agents, sales and service workers	547.1	248.0	297.6	20.4	17.2	24.0
Skilled agricultural workers	32.1	28.8	3.7	1.2	2.0	0.3
Manufacturing, construction and other skilled workers	488.1	439.7	50.8	18.2	30.5	4.1
Unskilled workers	201.1	113.9	88.0	7.5	7.9	7.1
Jews						
Total	2291.6	1162.4	1129.2	100	100	100
Academic professions	350.6	179.0	171.6	15.3	15.4	15.2
Other professions and technicians	380.4	156.9	230.1	16.6	13.5	19.8
Managers	167.2	119.7	49.9	7.3	10.1	4.3
Clerical workers	401.0	101.1	308.0	17.5	8.6	26.3
Agents, sales and service workers	478.9	210.3	276.6	20.9	18.1	23.8
Skilled agricultural workers	25.2	23.2	3.4	1.1	2.0	0.3
Manufacturing, construction and other skilled workers	336.8	295.2	44.1	14.7	25.4	3.8
Unskilled workers	146.6	75.5	73.2	6.3	6.5	6.3
Arabs						
Total	317.9	243.8	74.1	100	100	100
Academic professions	23.8	14.8	8.8	7.5	6.1	11.9
Other professions and technicians	37.1	14.1	22.8	11.7	5.8	30.9

Managers	7.3	6.0	0.9	2.3	2.5	1.3
Clerical workers	23.2	9.7	13.1	7.3	4.0	17.8
Agents, sales and service workers	52.1	35.3	16.5	16.4	14.5	22.3
Skilled agricultural workers	6.0	5.8	0.3	1.9	2.4	0.5
Manufacturing, construction and other skilled workers	127.1	124.3	3.0	40.0	51.0	4.1
Unskilled workers	41.3	32.9	8.2	13.0	13.5	11.2

Source: Israel Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Table 24 - Employee Gross Monthly Income and Income per Hour, by Occupation and Gender – 2006

Occupation	Per month (NIS)		Per hour (NIS)		
	Men	Women	Men	Women	Difference (%)
Academic professionals	14,766	8,245	76.1	57.5	32.3
Associate professionals and technicians	9,453	6,135	54.0	45.7	18.1
Managers	18,120	12,355	81.7	66.6	22.6
Clerical workers	8,088	5,691	44.7	36.6	22.1
Agents, sales persons and service providers	6,502	3,494	35.3	26.2	34.7
Skilled workers	6,276	4,213	31.7	24.2	30.9
Unskilled workers	4,299	2,773	25.9	22.2	16.6

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Women's Entrepreneurship

437. A 2006 survey indicates that 33.7% of the self-employed are women, compared to 66.3% men. Women entrepreneurs face inherent obstacles such as insufficient administrative skills, difficulties in financing and low self-esteem. Consequently, several programs were developed by the Ministry of Industry, Trade and Labor through the Israel Small and Medium Size Enterprises Authority (SME Authority) and in the Centers for Fostering Entrepreneurship for every woman, including Arabs, Druze and Bedouin, new immigrants, and ultra-orthodox women. These programs include assistance in funding for small businesses, women empowerment courses, establishment of "women only" business clubs and other activities and special assistance for single mothers. In 2007, Israel's SME Authority, through its Centers for the Promotion of Entrepreneurship handled 6,909 new applications from women and 10,276 from men (compared to 6,689 applications from women and 11,119 from men in 2006). In 2007, 96.5% of the women applicants participated in guidance courses run by the Centers. 25% of the women received coaching and trainers to assist them. As part of the Ministry of ITL's policy to

foster entrepreneurship among challenged segments of the population, the SME Authority runs several programs, described below, with an emphasis on the women population:

437.1. Initiating business - a program in cooperation with Israel's Employment Bureau, Joint Distribution Committee and the Ministry of immigrant Absorption to locate unemployed in all parts of the country with entrepreneurship potential for women who are given coaching for the start-up period of the business. This project which started this year has 79 women participants - 85% of all participants.

437.2. Project for single parent women in Ramla-Lod - a long term project for single parent women giving them the necessary tools for the starting up of a business through a coaching and determining the proper financing tools for the business. Currently there are 20 women participants in the program.

437.3. Economic Initiative for Women in Kseife - a three year program developed with "Joint-Israel", for creating and marketing authentic products made by women through a central body owned by them. The women become business owners exempt from V.A.T. In 2007, 20 women participated in the program. At the end of the three year project, 100 Bedouin women will have participated in the program.

437.4. Female Horizon Project - in cooperation with the Forum for Civil Agreement and "Joint-Israel" for the Arab population. The project's aim is to develop and empower 60 business owners and includes, *inter alia*, the writing by women of their own independent business development plans.

437.5. Innovators Association - courses are given to qualified women for running a business event (birthdays and other parties). Every year 70 women participate in the program.

437.6. Project in the Western Galilee for training of Arab women in the field of alternative medicine in cooperation with the Albaum Institute. The 25 women who participate in the program receive training in alternative medicine and in business management.

437.7. Another project is the creation of a joint marketing body for women businesses in the Bedouin village Hussniya in the Galilee. Currently there are 20 women participating in the project.

Vocational and Professional Training for Women

438. As detailed in Israel's previous report, with regard to female participation in the labor force, two groups – Ultra-Orthodox Jewish women and Arab women – require special programs and measures, due to the religious-cultural factors affecting their potential entry into the labor market.

439. In the field of vocational training, the policy of devoting special budgets to training women continues. Some of the special programs target women in general, while others specifically target vulnerable groups of women.

440. The Department for the Advancement of Women within the Ministry of ITL endeavors to increase the employability of women and, consequently, their economic independence. Several of the Department's initiatives are as follows:

440.1. Self-empowerment workshops and entrepreneurship workshops, including new immigrants, Arab women and ultra-orthodox women. These workshops also focus on work skills and additional retraining courses.

Between the years 2002 and 2007, 370 workshops were provided to some 6,500 participants. The participants report improved self-image, personal and professional empowerment and better assessment of the job market. Participants in the Entrepreneurship Workshops report a better understanding and knowledge of the various aspects of small business establishment. Participants in the workshops usually enjoy continued professional assistance. These women undertake various activities at the end of the workshops such as acquiring education, Hebrew classes, vocational training, employment or some form of voluntary activity.

440.2. Programs for integrating single parents into the work force: between the years 2003 and 2005, the Ministry of ITL operated a program intended for single parents receiving allowances or alimony from the National Insurance Institute, in order to integrate them into the work force. The program was launched as a pilot and then incorporated into the regular long term program of the Ministry. The program provides assistance in financing child care by subsidizing payments for afternoon programs and day-care centers. Financial assistance is also provided for babysitting during non-conventional hours and during summer vacation. The program also addresses professional training aspects, through a voucher system to courses recognized by the Manpower Training and Development Unit.

In August 2008, the Unit began to offer professional consultants to help identify appropriate training courses and job placement services according to the individual needs and qualifications of the participants in the program. During 2008, an additional program will be launched to encourage single parents to participate in the program to encourage the development of entrepreneurship skills, and thus, the ability to establish small businesses.

An additional pilot program established by the Ministry of ITL was launched on September 1, 2008. As part of the new program, training centers for single parents, receiving allowances or alimony, will be established. Through courses operated in these centers, the participants will acquire skills to enable them to enter or re-enter the labor force. Following a two months course, the participants will be directed to specific training courses or jobs to suit their individual qualifications.

440.3. Courses for entrepreneurship and small business: courses for women with entrepreneurial spirit and/or plans, but without access to training because of economic, geographical or cultural obstacles. The training enhances their prospects of establishing a viable business and improving their economic status. The courses are provided by the Ministry of Industry, Trade and Labor and the Israel Small and Medium Enterprises Authority, through Centers for the Promotion of Entrepreneurship (CPEs). Currently, 24 CPEs are located throughout the country. In addition to training, these centers also provide assistance and counseling in the process towards the establishment of a small business.

441. The Division for Training and Development in the Ministry of ITL takes specific measures to raise the number of women participants in the courses via the establishment of separate courses for women in the ultra orthodox and Arab populations. This, through directing the Acceptance Committees to perform their role with the utmost equality, and supporting female participants in all courses, especially those previously considered "masculine".

442. The following table depicts the distribution of men and women trainees within the various types of courses offered in the year 2007.

Table 25 - Participation in Vocational Training, by Subjects, 2007

Route	Total participants	Women participants	Percentage of women
Daily training	5,352	2,663	49%
Academic Retraining	335	180	53%
Night school – Transportation	6,385	166	3%
Night school – Business	31,761	20,777	65%
Technicians – Practical Engineers	21,655	7,394	34%
Youth Training	11,718	2,086	18%
Total	77,206	33,266	43%

Source: The Ministry of Industry, Trade and Labor, 2007

Occupational safety

443. The issue of occupational safety and hygiene in workplaces relating to women employment was inspected 58 times by the Ministry of ITL during 2007-2008. No deficiencies were found during the inspections. The following table describes some of the issues inspected as well as other occupational safety data.

Table 26 - Women Employment – Inspections of the Ministry of Industry, Trade and Labor, 2007-2008

Issue inspected		Number of inspections
Management of documents	Display of regulation and duty of informing	3
	Display of regulation and duty of informing at a conspicuous place	2
Prohibited occupations for women at fertility age	Physical factors	7
	Exposure to chemical substances	12
	Exposure to anti-cancerous cytotoxins	7
	Exposure to cancerous cytotoxins (liquid)	4
	Handling chemical substances	7

Prohibited occupations for nursing women	Exposure to chemical substances	9
Dangerous occupations for women at fertility age	Increased risk of adhering Rubella	7

Source: The Ministry of Industry, Trade and Labor, 2008

Table 27 - Ten Most Frequent Industrial Accidents in which Women Were Injured (by Type), 2007-2008

Type of accident	Number of cases	Percent of the total incidents in which women were injured
Falling down on a plateau	1,855	22.81
Other/ unknown	786	9.66
Falling down a staircase	645	7.93
A cut	609	7.49
Getting hit by a disconnected object	535	6.58
Falling to a low level	458	5.63
Strain caused by lifting an object	326	4.01
Touching an immobile object	318	3.19
Strain caused by handling an object	176	2.16
Burn from a hot object	160	1.97

Source: The Ministry of Industry, Trade and Labor, 2008

Child-care

444. The availability of day-care centers that provide an educational framework to children is one of the most important factors to women participation in the labor market. Alongside those centers, which are supervised by the Ministry of ITL (ages 0-3) and the Ministry of Education (ages 3 and older), there are also private child-care centers as well as home care through nursemaids.

445. According to recent data there are approximately 542,000 children ages 0-3 in Israel. 246,400 children (45.8%) are integrated in paid group frameworks and 294,000 children (54.2%) are integrated in group frameworks free of charge. Of the children who are integrated in paid group frameworks 28.3% are taken care of in day-care centers, 26.2% are in kindergartens, 24.6% are in nursery schools, 17.4% are taken care of by nannies or caretakers and 1.9% are in religious Torah schools. Of the children who are integrated in group frameworks free of charge, 83.8% are taken care of by one of the parents and 16.2% are taken care of by a nanny, a caretaker or a family relative.

446. According to the Day-Care Department in the Ministry of ITL there are currently 1,600 day-care centers and 2,600 nursery schools, attended by 76,000 working mother's children (ages 0-4) and 15,000 children to mothers in distress referred by the welfare authorities.

447. Following a Government Resolution of June 2005, 150 million NIS ($37,500,000) were allocated to the Day-Care Department in the Ministry of ITL, and the Ministry began operating a plan intended to encourage mothers to integrate and enter the employment market. The plan's main goals are:

447.1. Providing further subsidization of monthly payments to day-care centers and nurseries for working mothers with low income and giving further discounts for children attending subsidized day-care centers and nurseries.

447.2. New child care frameworks - for the first time, afternoon child care facilities will be recognized by the Ministry of ITL, and the children attending them will be subsidized by the State (according to parents' income). In addition, 1,000 new positions will be created, by opening new frameworks for 5,000 children.

447.3. Improvement of service – *inter alia* by prolonging the activity hours of the child care facilities according to the demand and working parents' needs.

448. According to Government Resolution No. 1134, (February 4, 2007), titled "Steps for Reducing Social Gaps and Increasing the Participation in the Labor Force", the Government resolved, *inter alia*, on integration of mothers back to the work force. It was decided to enlarge the budget of the day-care division in the ministry of ITL by 67 Million NIS ($16,750,000) in each of the next school years (67 Million NIS ($16,750,000) in 2008, 134 Million NIS ($33,500,000) in 2009 and 200 Million NIS ($50,000,000) in 2010) in order to fund the following services: meals for children of working mother with children up to the age of 6 and day-care centers for children of working mothers with children up to the age of 3. The coupon system according to which the funds will be allocated, will be implemented in day-care centers and nursery schools which will receive special permits, and after a pilot in which the efficiency of the program will be tested.

449. In the Jewish population, 59.2% of the mothers take advantage of day-care centers. 8.3% of the women are supported by family members, friends or require no assistance and in 32.5% of the cases the child is taken care of by one of the parents. In the Arab population, which in general is considered more traditional, 76.3% of the women remain at home, 14% of the women turn to day-care centers and 9.7% use other free of charge arrangements.

Enforcement of Employment Legislation

The Department of Labor Law Enforcement in the Ministry of Industry, Trade and Labor

450. The responsibility for the enforcement of the *Women's Employment Law* is of the Ministry of Industry, Trade and Labor. In 2004 a new Department was established in the Ministry – the Enforcement and Licensing Administration. The authorities of the Department are divided the into two sections: issuing permits required by the Law to employers upon request (e.g. in case of dismissal of pregnant employee or employee undergoing fertility treatment or for a woman in a shelter for battered women) and the other for enforcement issues including carrying out of criminal investigations in accordance with the Law.

451. The Administration is responsible for enforcing and regulating 17 labor laws protecting workers in Israel, including the *Equal Employment Opportunities Law*. The data below therefore relates to the period from 2004-2007.

452. The criminal investigation begins with the lodging of a complaint as further detailed below, while the licensing procedure begins with the filing of a request to dismiss a female employee or a request to cut down her work hours or her salary, when such steps are prohibited by the Law without a permit to do so.

453. A criminal offense in accordance with the *Women's Employment Law*, only applies to a pregnant woman employed for over six months. Upon receipt of a complaint by a woman, concerning a dismissal while pregnant, a supervisor must first verify whether a permit has been requested or issued under the Law. If a permit has been issued allowing for the dismissal of the employee, no criminal investigation may be initiated. If the employer notified the employee of being dismissed and only subsequently the employee informed the employer of her pregnancy, no criminal investigation will be opened. The investigation is handled in accordance with the provisions of the *Criminal Procedure Law* 5742-1982 (the "*Criminal Procedure Law*").

454. The statistics of the Enforcement and Licensing Administration show that in 2006, 200 complaints were made by women who were fired from their jobs due to pregnancy and/or fertility treatments, without the employer having a permit to do so. 100 of the complaints resulted in the initiation of investigations. One indictment was filed. In 2007- 300 complaints were made. 120 investigations were initiated which resulted in 3 indictments filed.

455. The following table indicates figures concerning applications for the dismissals of pregnant women for the years 2004 - 2008 (June).

Table 28 - Applications for Dismissal of Pregnant Women, 2004 - 2008 (June)

Year	Applications Received	Of those:		
		Approved	Rejected	Closed*
2004	1,482	654	271	517
2005	1,280	571	246	463
2006	1,048	591	269	188
2007	1,248	731	400	117
2008	507	175	122	75

** For reasons of withdrawal of the application or for unlawful dismissal.*

Source: The Ministry of Industry, Trade and Labor, 2007

456. Since the submission of Israel's previous report, applications concerning dismissals of pregnant women have decreased. In 2007, 1,248 applications were received concerning dismissal of pregnant employees, a significant reduction of 24.7% compared to 1,657 applications in 2003 and to 1,407 applications in 2002. In 58.6% of the cases, the Enforcement and Licensing Administration granted permits for dismissal while 41.4% of the requests were either refused or the cases were closed. The main reasons for consent were, *inter alia*, the closing of businesses,

cut-down of manpower, termination of contract and reasons regarding work interactions such as inappropriate behavior at work, etc.

457. The decision to approve dismissal is an administrative one, subject to judicial review. Both parties can petition this decision to a Labor Court. However, generally, the courts do not intercede in the competent authority's considerations and do not reverse those decisions, provided the competent authority performed its function in good faith, and in a manner relevant to its capacity.

Table 29 - Investigations Performed by the Enforcement and Licensing Administration and Number of Administrative Fines Imposed.

Year	Number of investigations	Number of administrative fines imposed
2004	460	120
2005	146	44
2006	187	59
2007	84	1

Source: The Ministry of Industry, Trade and Labor, 2008

Women's Employment among the Arab Population

General

458. During the last two decades, there has been an increase in Arab women's participation in the labor force, from 11% in 1980 to 14.8% in 2002 to 22.2% in 2006. In 2006, Arab women constitute about 4% of all women in the civil labor force in Israel. In 2006, there were 328,900 Arabs employed in the labor force, 250,350 (76.1%) were men and 78,600 (23.9%) were women. 37,500 of the Arab population were listed as unemployed, 13,200 (35.2%) of them were women.

459. Out of the Arab women in the civil labor force in 2006, 53,900 (68.0%) were Muslim women, 17,100 (21.6%) were Christian women and 7,000 (8.8%) were Druze women.

460. The Ministry of Industry, Trade and Labor is aware of the inherent difficulties faced by entrepreneurs from the Bedouin population, such as limited financial capability, and is therefore taking affirmative action to bridge the gaps. In addition to the current centers, the Small and Medium Size Enterprises Authority is currently working to establish a designated Center for Nurturing Entrepreneurship in the Arab and Bedouin localities, which will be better equipped to serve these populations' needs.

461. Furthermore, the *Encouragement of Capital Investments Order (Development Areas), 5763-2002,* was amended in order to strengthen the Bedouins position by including several Bedouin towns in the updated list of industrial areas. There are currently seventeen planned industrial areas in the Southern district, three (17%), of which are in the Bedouin towns – Rahat, Segev Shalom and Hura. Additionally, two new industrial areas currently in advanced stages of planning also service the Bedouin population – Shoket, (for Hura, Lakia, Meitar and Bney

Shimon), and Lehavim, (for Rahat, Lehavim and Bney Shimon). Development of all these areas is uniform and subject to the same general criteria.

Day-care centers – Arab and Bedouin Localities

462. The participation rate of married Arab women in the civil labor force stands at 14%, while the participation rate of single Arab women is 46.8%. As demonstrated by the following table, there is an opposite ratio between the number of children and the participation rate in the work force.

Table 30 - Participation Rate of Arab Women in the Work Force by Number of Children, 2008

Number of children	0	1	2	3	4	5	6	7
Rate of participation in the work fore	39.2	31.1	35.2	16.5	10.5	8.6	12.8	2.4

Source: the Knesset Research and Information Center, Employment of Women in the Arab population, January 27, 2008

463. In the traditional Arab population, women are considered the primary caretakers for children; this is one of the factors that explain the low percentage of women participating in the work force. The Israeli Government, through the Authority for the Advancement of the Status of Women, has invested great efforts in enhancing the awareness among women for their own careers and self-fulfillment. Recent years' growing participation of Arab, including Bedouin, women in the work force created a need for day-care centers and nurseries. The Government has moved to meet these growing needs.

464. As a matter of Policy, the Ministry of Construction and Housing works on the construction of day-care centers throughout the country on the basis of one day-care center for every 1,600 house units. Two centers have been recently built, in the Bedouin town of Rahat. Fourteen additional centers are under construction: nine in the northern area, four in the Central area and one in Jerusalem.

465. There are 900 nurseries in Arab localities, providing a solution for 1,500 children of working mothers and 3,000 children to mothers on social welfare. In addition, day-care centers operating in these localities provide a solution for another 1,000 children. Such nurseries and day-care centers allow mothers to work, as well as provide a source of income for the women operating them.

466. Recently the Government allocated funding for the establishment of 150 buildings designated for day-care centers, 17 of which in Arab localities.

Arab, Druze and Circassians employees in the state's Civil Service

467. On March 12, 2006, the Government decided, based on Section 15A of the *Civil Service (Appointments) Law*, to designate 337 employment positions promoting the integration of the Arab population, including Druze and Circassian minorities, in the Civil Service between the years 2006-2008. In addition, the Government decided to establish an Inter-Ministerial Team for

"The Examination of other Ways for Advancing Appropriate Representation of Arabs in the Civil Service". On July 16, 2006, the Inter-Ministerial Team submitted its recommendations.

468. On August 31, 2006, the Government adopted Resolution No. 414 adopting most of the Inter-Ministerial Team's recommendations, including: determination of new objectives for advancing appropriate representation of Arab-Israelis in the Civil Service: Arabs shall constitute 8% of all Civil Service employees by the end of 2008, and 10% by the end of 2010. In addition, 20% of all new positions shall be allocated for members of the Arab population until the end of 2008; consolidation of annual work plans on this issue shall take place in each Ministry; more positions for the Arab population shall be designated; the duty to give priority to Arab-Israelis in appointments and promotions shall be extended by another 4 years; a supervisor on the advancement of Arab representation shall be appointed in each Government Ministry and an Inter-Ministerial Team to follow-up on the implementation of the Resolution shall be established.

469. On November 11, 2007, the Government adopted Resolution No. 2579 amending the previous Resolution No. 414. According to the new Resolution, Arabs, including Druze and Circassians, are to consist of 12% of all Civil Service employees by the end of the year 2012. In addition, all Government Ministries must consolidate a five-year working plan for advancement of the objectives of the resolution, for example; by the end of 2012, 30% of all new positions shall be allocated for Arab-Israelis; there shall be a duty to prioritize to members of the Arab population for appointments and promotions until the end of 2012; more positions in Government Ministries shall be designated for members of the Arab population subject to the implementation of the five-year work plans and an Inter-Ministerial Team headed by the Director General of the Ministry of Justice shall be established to follow-up on the implementation of the provisions detailed above by every Government Ministry.

470. In addition, on March 12, 2006, the Government of Israel adopted a resolution, at the request of the Ministry of Justice, in the matter of suitable representation among interns in the Ministry of Justice. The Government decided, *inter alia*, as follows:

"A. In accordance with the provisions of section 15A(b)(2) of the *Civil Service (Appointments) Law,* 5719-1959, to designate, insofar as possible, some ten percent of the annual class of interns in the Ministry of Justice solely for the employment of candidates who qualify for an internship in the Ministry of Justice and fulfill one of these:

1) the candidate is a member of the Arab population, including Druze and Circassians;

2) the candidate or one of his/her parents was born in Ethiopia;

3) the candidate is a "person with a severe disability" within its meaning in section 35.252 of the Civil Service Regulations…"

471. In accordance with the aforesaid resolution, it was decided to compile a directory of candidates that will effectuate the aforesaid Government Resolution with respect to "suitable representation" and will include candidates who meet the criteria set forth in the Government's Resolution and whose particulars and qualifications make them extremely suitable for internship. Accordingly, in 2008, the Ministry of Justice announced, for the second year, the

creation of such a directory of candidates for internship positions for September 2008 and March 2009.

472. As of November 2008, the rate of Arabs, Druze and Circassians employees in the Civil Service stood at 6.5% (in comparison to 6.17% in 2007), an increase of more than 27.8% compared to 2003. In 2007, 392 Arab and Druze citizens were hired by the Civil Service, of which 156 were women. The total rate of Arab and Druze women has increased by more than 44% between the years 2003-2007 as detailed in the following tables.

Table 31 - Arab and Druze Employees in the Civil Service, 2003-2007

Year	Druze		Arabs		Total Arabs and Druze		Total Civil Service employees	% of Arab and Druze of the total Civil Service employees
	Men	Women	Men	Women	Men	Women		
2003	291		2507		2798		55409	5.05%
	256	35	1666	841	1922	876		
2004	326		2828		3154		56914	5.54%
	286	40	1820	1008	2106	1048		
2005	338		2913		3251		57085	%5.70
	292	46	1831	1082	2123	1128		
2006	355		3034		3389		57267	%5.92
	306	49	1909	1125	2215	1174		
2007	393		3184		3577		57946	%6.17
	333	60	1979	1205	2312	1256		

Source: The Civil Service Commission, Due representation to the Arab, Druze and Circassians Populations in the Civil Service, 2007

Table 32 - Distribution of Arab and Druze Citizens accepted to the Civil Service by Gender, 2003-2007

Year	Men	Women	Total	% of Women
2003	127	66	193	34.2
2004	165	84	249	33.7
2005	195	118	313	37.7
2006	128	80	208	38.5
2007	236	156	392	39.8

Source: The Civil Service Commission, Due representation to the Arab, Druze and Circassians Populations in the Civil Service, 2007

Table 33 - Number of Arab and Druze Women Hired in the Civil Service (of the Total Arab and Druze Hired), 2007

Year	Druze		Arabs		Total Arabs and Druze		Total employees accepted		% of Arab and Druze of the total Civil Service Employees hired	
	Women	Total	Women	Total	Women	Total	Women	Total	Women	Total
2007	15	53	141	339	156	392	2804	4514	5.5	8.7

Source: The Civil Service Commission, Due representation to the Arab, Druze and Circassians Populations in the Civil Service, 2007

Table 34 - Number of Persons Hired through Tenders Published in 2007

Year	Minorities accepted by designated tenders		Applicants accepted by regular tenders (without minorities)		Minorities accepted by regular tenders		Total persons accepted by regular tenders		% of minorities chosen in regular tenders
	Men	Women	Men	Women	Men	Women	Men	Women	
2007	55	26	435	553	16	12	451	565	10.7%

Source: The Civil Service Commission, Due representation to the Arab, Druze and Circassians Populations in the Civil Service, 2007

473. In 2007 a small but significant increase was observed in the number of Arabs and Druze employees within high ranks in the Civil Service, especially in the Society and Humanities and Engineers rankings.

Table 35 - Distribution of Arab and Druze Employees with High Ranks in the Civil Service, 2006 - 2007

Ranking	High Ranks	Druze		Arabs		Number of workers - 2007	Number of workers - 2006
		Men	Women	Men	Women		
Administrative	20-22	38	0	106	10	154	157
Society and Humanities	41-44	24	0	30	4	58	44
Engineers	41-45	6	0	28	5	39	29
Lawyers	A2, A5-6	0	0	6	6	12	15
Attorneys	A3, A5	2	1	8	6	17	18
Public Defenders	A3	1	0	4	8	13	9
Medical Doctors	9-11	1	0	17	1	19	19

Nurses	B16-18	4	0	29	11	44	42
Roentgen Technicians	15	0	0	3	0	3	3
Technicians	45	0	0	1	1	2	0
Biochemists	A4	0	0	2	0	2	1
Para-Medical	A4-5	0	0	4	7	11	9
Occupational therapists	A4, A8	0	0	0	2	2	1
Total		**76**	**1**	**238**	**61**	**376**	**347**

Source: The Civil Service Commission, Due representation to the Arab, Druze and Circassian Populations in the Civil Service, 2007

474. As mentioned above, according to the current Civil Service work plan for the years 2008-2012 it was decided to increase the percentage of Arab and Druze employees in Ministries and divisions with high absorption potential. Among these Ministries and units are the Ministry of Health and others.

Article 12 - Equality in Access to Health Care

General

475. Under the *National Health Insurance Law* 5754-1994 (the "*National Health Insurance Law*"), every resident is entitled to comprehensive health care services. The services are to be provided in reasonable quality and within a reasonable time, and at a fair distance from one's place of residence. Among these services are personal preventive medicine, health education, medical diagnosis, ambulatory medical care, mental care, hospitalization, medical rehabilitation, medicine supply, medical devices and accessories, and first aid medicine.

476. The annual National Quality Indicators for Community Health Care Report was first published in 2004. The current report (2008) presents data for 2005-2007. The data presented in the 2008 report relates to six fields of community health care – flu vaccination, screening for detection of colorectal cancer and mammography for detection of breast cancer, asthma treatment, treatment of diabetes, treatment of children and cardiology treatment. According to the Report, continued improvement has been recorded in most of the indicators examined. National performance was rated as high for most indicators, also when compared to international standards. The annual reports are available on the NIHP website: http://www.israelhpr.org.il.

Special Health Services for Women

Pre/Post natal services: delivery rooms and maternity wards

477. In 2006, there were 0.097 beds in gynecology wards per 1,000 residents, compared to 0.099 in 2001. Bed occupancy increased from 94.6% in 2004 to 100.6% in 2006. In 2006, the number of beds in maternity wards decreased to 0.195 per 1,000 residents (from 0.200 in 2005) and bed occupancy decreased from 101.0% in 2004 to 99.8% in 2006.

Table 36 - Beds in Hospitals and Bed Occupancy, By Type of Bed, 2004-2006

Type of Bed	Bed (rates Per 1,000 residents)				Bed occupancy (percentages)				Number of beds			
Year	2004	2005	2006	2007	2004	2005	2006	2007	2004	2005	2006	2007
Gynecology	0.099	0.098	0.097	0.095	94.6	99.1	100.6	105.1	680	687	687	687
Obstetrics	0.199	0.200	0.195	0.191	101.0	98.5	99.8	103.7	1369	1398	1386	1386

Source: The Ministry of Health, October 2008; Central Bureau of Statistics, Statistical Abstract of Israel, 2008

478. Israel has preventative health service treatment for pregnant women through Mother and Child Health Clinics ("Tipat Halav") for a certain minimum fee. Women, whose financial state is weak, may be exempt from this fee, under certain conditions.

Osteoporosis

479. In March 2008, two new medications for the treatment of osteoporosis were included the basic health service basket: Forteo Teriparatide which stimulates the formation of new bone by increasing the number and action of bone-forming cells, and Zoledronic acid which has the ability to prevent the bone damage caused by Osteoporosis.

Family Planning

480. Directive 4/08 of the General Director of the Ministry of Health deals with the expansion of services provided in the basket of services for the year 2008. Prior to this expansion, entitlement to free abortion was given to female minors under the age of 18. However, due to the expansion beginning on March 3, 2008 the entitlement to free abortion is now given to all females until the age of 19.

481. In 2007, 20,803 applications for termination of pregnancies were submitted to the Commission for Pregnancy Terminations, 20,392 (98.0%) approvals were given and 19,478 (93.6%) actually occurred. As of 2005, the majority of applicants to the Commission are single women (previously – it was mostly married women) 14,384 were Jewish, 1,514 Muslim, and 194 were Druze women. In recent years, the main reason for pregnancy terminations was out of wedlock pregnancy (51.7% in 2006). The following data refers to pregnancy terminations in hospitals.

Table 37 - Termination of Pregnancies in Hospitals by Law

Year	Applications	Approvals	Actual terminations - total	By section of the law:				Ratio per 100 live births
				Woman's age	Out of wedlock pregnancy	Malformed fetus	Danger to woman's life	
2000	20,278	19,880	19,405	2,010	10,452	3,249	3,694	14.2
2001	21,505	21,198	20,332	2,211	10,942	3,210	3,987	14.9
2002	21,025	20,684	19,796	2,168	10,661	3,396	3,571	14.5
2003	21,226	20,841	20,075	2,119	10,773	3,476	3,707	13.9
2004	21,685	21,286	20,378	2,102	11,076	3,444	3,756	14.0
2005	20,987	20,533	19,982	2,001	10,914	3,340	3,673	13.8
2006	21,256	20,889	19,830	1,829	11,007	3,508	3,486	13.4
2007	20,803	20,392	19,478	1,814	10,676	3,448	3,540	12.8

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Fertility Rates, Treatments and Services

Legal Developments

482. In a recent decision by the National Labor Court it was determined that a Health Fund (HMO) is obligated to cover the medical fertility treatments performed on the wife of an infertile man, despite the fact that she is not an Israeli resident and therefore is not covered by the *National Health Insurance Law*. The Court determined that since the fertility problem was a physical problem of the man, an Israeli resident who was covered by the abovementioned law, his Health Fund should cover the treatments performed on his wife. This, until the treatments result in pregnancy, as the right to parenting is a fundamental human right that is part of the *Basic Law: Human Dignity and Liberty*. Moreover, due to the infertility problem, the couple was considered as one for the purpose of treatment, as their consent and participation are needed for the success of the treatment. The Court determined however, that the Health Fund is not obligated to cover the expenses of medical treatments and examinations of the women after the beginning of her pregnancy, as she was not covered by the Law (*La.A.141/07 Anonymous v. The Klalit Health Fund et. al.* (04.11.2008)).

483. The Jerusalem District Court decided to allow a single woman to receive fertility treatments involving sperm donation from a married man, although not in accordance with the current regulations. The Court considered the rights of all parties involved, including those of the wife and children of the married man. The Court determined that becoming a parent is a fundamental right, and the couple made an agreement regarding the child as required by the Regulations of the Ministry of Health.

Moreover, the Court held that the rights of the child, including the unborn, to know both his parents, take priority over the property rights of the wife and children in this case. The rights of the child include the right to dignity, the right to know both parents, to receive emotional and financial support from both, and the right not to be considered a "Sh'tooki" - a Jewish term meaning the illegitimate child of an unknown father, that according to Jewish "Halacha" in some rabbinical circles, cannot marry a Jewish person and may only marry a converted person. Therefore, the Court issued a declaration allowing the woman to receive fertility treatments with sperm donated by a married man (*O.M. 5222/06 Anonymous v. The Minister of Health et. al. (*26.07.2006*)*).

Birth Rates and Fertility Rates

484. In 2007, the rate of fertility among the total population was 2.9 births per woman (compared to 2.88 in 2006 and 2.84 in 2005). For Jewish women the rate was 2.75, for Muslims 3.97, for Christians 2.14 and for Druze 2.64. The increase in 2007 is attributed to the increase in the fertility rate among the Jewish population – from 2.75 children per women in 2006 to 2.8 in 2007, and despite decrease in the fertility rates of women of other religions.

485. In the last decade the biggest decrease in fertility rates was observed among Druze women (from 3.18 in 1997 to 2.49 in 2007). In addition, among the Muslim population the decrease in fertility rates is continuing (from 4.74 children per woman in 2000 to 3.9 in 2007). A similar decrease is also found among the Christian population (from 2.68 in 1997 to 2.18 in 2007).

486. During the last decade, the amount of births by single women continued to increase. In 2005, 3.3 births from 100 were by never-married women, in comparison to an average of 2.3 between the years 1995-1999. It is also notable that the increase was mainly among women above the age of 30.

Table 38 - Fertility Rates by Religion, 2000-2006

Total Fertility	2000-2004	2005	2006	2007
Total Population	2.92	2.84	2.88	2.9
Jews	2.67	2.69	2.75	2.8
Muslims	4.57	4.03	3.97	3.9
Christians	2.35	2.15	2.14	2.18
Druze	2.87	2.59	2.64	2.49
Not classified by religion	1.55	1.49	1.55	1.49

Source: The Ministry of Health, October 2008; Central Bureau of Statistics, Statistical Abstract of Israel, 2008

487. Another noticeable trend is the ascent in the age of women bearing children, mostly due to the rise in the age of marriage. In the 1980's the average age of women giving birth was 27.4, in

2007 that age had risen to 29.7. Also in 2007, the age of mothers giving birth for the first time was 27.0, a year and a half older compared to 1997.

488. Furthermore, the segment of women over 35 bearing a child went up from 9% in the 1980's to 19.7% in 2006, with a parallel decrease in the ratio of women under 20 giving birth, from 6% to 1.3% in 2006.

489. In 2007, 6,084 babies (5.6%) were born to unwed Jewish mothers. The fertility rate of unmarried women is significantly low compared to married women. In 2006, the fertility rate of unmarried women stood at 10 children per 1,000 births compared to 150 children per 1,000 births among married women.

490. In 2006, 4.6% of the total number of children born in Israel was born in multiple births (compared to 4.3% in 1997). 96% of all the babies born in multiple births were born as twins and 3.8% were born as triplets.

Fertility Treatments and Services

491. As detailed in Israel's previous report, fertility treatments in Israel remain highly developed and well subsidized. Each woman is entitled to IVF treatment until she gives birth to two children from her current relationship, regardless of children from previous marriages. This applies to unmarried women, as well as to spouseless women. There are 24 fertility departments In Israel, 9 in governmental hospitals, 11 in public hospitals and 4 in private hospitals. In 2006, 25,552 cycles of IVF treatment were performed, with some women receiving more than one cycle of treatment, resulting in 6,473 pregnancies and 4,298 live births (5,229 children).

Table 39 - In Vitro Fertilization in Israel, 2002-2006 (absolute numbers)

	2002	2003	2004	2005	2006
Treatment cycles	20,886	22,449	23,828	24,995	25,552
Embryo transfer pregnancies	18,377	19,805	21,079	22,295	22,589
Pregnancies	5,272	4,496	5,318	5,871	6,473
Deliveries resulting in live births	3,734	3,584	3,576	3,910	4,298
Live births	4,792	4,465	4,414	4,772	5,229

Source: The Ministry of Health, July 2008

Table 40 - In Vitro Fertilization in Israel, 2002-2006 (Per 100,000 Women Ages 15-49)

	2002	2003	2004	2005	2006
Treatment cycles	1,289	1,359	1,435	1,486	1,500
Embryo transfer pregnancies	1,135	1,207	1,269	1,326	1,326
Deliveries resulting in live births	231	219	215	232	252
Live births	296	272	266	284	307

Source: The Ministry of Health, July 2008

Table 41 - In Vitro Fertilization Treatments (Percentages), 2000-2006

	2002	2003	2004	2005	2006
% transfer cycle per treatment cycle	88.0	88.2	88.5	89.2	88.4
% pregnancy per treatment cycle	25.2	20.0	22.3	23.5	25.3
% pregnancy per transfer cycle	28.7	22.7	25.2	26.3	28.7
% deliveries with live births per treatment cycle	17.9	16.0	15.0	15.6	16.8
% deliveries with live births per transfer cycle	20.3	18.1	17.0	17.5	19.0
% deliveries with live births per pregnancies	70.8	79.7	67.2	66.6	66.4
Mean live births per delivery	1.3	1.2	1.2	1.2	1.2
% IVF live births of total live births	3.4	3.1	3.0	3.3	3.5

Source: The Ministry of Health, October 2008

Life Expectancy

492. In 2007, life expectancy for Israeli women was 82.5 years and 78.8 for Israeli men. That year elderly people (65+) comprised 9.8% of the population (11.6% among the Jewish population, 8.9% in the Christian population, 4.3% among the Druze population and 3.4% among the population). In 2007, 11.1% of the female population was over the age of 65 compared to 8.5% of the male population.

Table 42 - Life Expectancy by Gender and Population Group (2001- 2007)

Year	Males			Females		
	Jews	Arabs	Total	Jews	Arabs	Total
2001	77.9	74.5	77.3	81.6	77.8	81.2
2002	78.1	74.7	77.5	81.9	77.9	81.5
2003	78.3	74.9	77.6	82.2	78.2	81.8
2004	78.7	75.4	78.0	82.7	79.6	82.4
2005	79.0	74.9	78.2	82.6	78.6	82.2
2006	79.3	74.6	78.5	82.6	78.1	82.2
2007	79.5	75.3	78.8	82.9	78.8	82.5

Source: The Ministry of Health, 2008

493. In the last two decades (1985-2006), life expectancy for Israeli women has increased by 5.5 years, compared to 5.3 among men. As of 2006, almost half of the elderly women over the age of 65 are widows (49.2%), compared to only 14.3% of the men, mostly due to women's longer life span and their tendency to marry older men.

Table 43 - Population, by Population Group over 65, Religion, Gender and Age, 2007 (thousands)

Age	Religion								
	Jews			Muslims			Christians -Total		
	Females	Males	Total	Females	Males	Total	Females	Males	Total
65-69	92.6	78.0	170.6	6.8	7.1	13.9	2.5	2.1	4.6
70-74	87.6	69.7	157.3	5.2	4.3	9.5	2.2	1.5	3.7
75-79	75.5	54.8	130.4	3.2	2.3	5.6	1.6	1.0	2.6
80-84	63.0	39.8	102.8	1.7	1.2	2.9	1.0	0.5	1.5
85-89	30.0	20.7	50.7	0.6	0.6	1.3	0.4	0.2	0.7
90+	14.5	8.0	22.6	0.2	0.5	0.7	0.2	0.1	0.3

Age	Religion (cont.)								
	Christians - Thereof: Arab Christians			Druze			Not classified by religion		
	Females	Males	Total	Females	Males	Total	Females	Males	Total
65-69	1.8	1.6	3.5	1.0	0.9	1.9	4.9	3.4	8.3
70-74	1.6	1.2	2.9	0.7	0.6	1.4	2.9	1.8	4.7
75-79	1.1	0.8	1.8	0.5	0.5	1.0	1.7	0.9	2.6
80+	1.0	0.8	1.8	0.5	0.5	1.0	2.7	0.6	2.1

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Mortality Rates and Causes of Death

494. Between 2003 and 2007, women had a lower mortality rate than men in all age groups: 20-24 men – 0.8 per thousand, women – 0.3 per thousand; 50-54 – 4.1, 2.3 respectively; 80-84 – 77.1, 62.4 respectively.

495. Maternal mortality in Israel is relatively rare and in recent years the rate of maternal mortality remained generally low. The following table displays the number of maternal deaths in Israel in the recent years.

Table 44 - Maternal mortality, 1999-2006

Year	Number of Maternal deaths
1999	10
2000	3
2001	8
2002	6
2003	7
2004	9
2005	7
2006	9

Source: The Ministry of Health, 2008

Cancer among Women and Mammograms

496. Cancer is the major cause of death among women (136 per 100,000 residents in 2005), followed by ischemic heart illness and cerebrovascular disease. As of 2006, breast cancer is the most common malignant illness, constituting 15.3% of all annual cancer instances, and 32.5% of the cases of cancer among women.

497. In 2006, 3,075 new cases of breast cancer were discovered among Jewish women and 241 new cases were discovered among Arab women (52 new cases were discovered among men), 87.2% of the patients were over 45 and 385 cases were found among the 35-44 age group. In the 45-54 age group, the average rate of breast cancer per 100,000 women is 223, and in the 55-64 age group the rate was 387. The rate of breast cancer among the Jewish population was 84 per 100,000 persons and 58 per 100,000 among the Arab population. Colon and rectum cancer are the second most common cancers among women, with 31 per 100,000 persons in the Jewish population and 21 per 100,000 in the Arab population.

498. According to data of the Israeli Cancer Association, 80% of the women in Israel had a mammography screening at least once, but only 65% perform the test every two years as required. In order to raise further awareness to this important matter and to allow early detection of breast cancer, the Association initiated the national screening plan for breast cancer which is operated at the present together with the Ministry of Health and the Health Funds (HMO's). The Association purchased in recent years a mobile mammography unit in order to increase the numbers and rates of the mammography screening test in rural areas, among women in low socio-economic level, among women residing in Arab localities, among new immigrants etc.

499. According to a report of the Israel National Cancer Registrar of October 2008, the number of people diagnosed with cancer in Israel has decreased in recent years. The decrease can be attributed specifically to declining numbers of women contracting breast cancer and a reduction in the number of intestinal cancer cases in both Genders as well as a decrease in throat and lung

cancer-related deaths. There has been a rise in the early detection of breast cancer due to increased public awareness resulting in early diagnosis and treatment of the disease.

500. Although the rates of breast cancer among Arab women are lower than those among Jewish women, there is an increase in rate of the illness among Arab women. Possible explanations for this tendency include an improvement in the socio-economic status of the Arab population, nutrition changes, the number of births and others.

Smoking

501. According to a report of the Minister of Health regarding smoking in Israel (published in May 2008), the total rate of smokers in Israel in 2006 was 23.2%; 28.9% among men and 17.8% among women.

502. The report further indicates that between 1996 and 2006 the rates of smokers among Jewish men had dropped from 32% to 26.7% (a decrease of 16.6%). The rates of smokers among Jewish women dropped from 24.5% to 19.7% (a decrease of 19.6%) and from 12% to 6.8% among Arab women (a decrease of 43.3%).

503. The Ministry of Health has taken in the recent years several important steps aimed at reducing smoking rates in Israel which include, *inter alia*, the issue of a computerized educational software for the prevention of smoking (2007); the preparation of a unique educational program intended for prevention of smoking among teenagers and providing assistance to local municipalities in the implementation of the "city free of smoking" policy.

Mental Health

504. As of the end of 2005, there were 50,891 people treated as outpatients in state owned mental health clinics, 27,576 were men and 23,315 were women. The number of women is higher in the 45-64 and 65+ age groups.

505. In 2005, 14,649 people were admitted to inpatient care and day hospitalization, 5,969 (40.7%) of them were women. This data reflects an increase compared to 2002, when 13,295 persons were admitted to inpatient care and day hospitalization, 5,490 (42.1%) of them were women. Hereinafter are additional data regarding mental health in Israel.

Table 45 - Mental Health Patients by Gender and Age (2006)

Age group	Percentages			Rates per 1,000 persons			
	Total	Males	Females	Total	Males	females	Male-Female Ratio
Total	**100.0**	**100.0**	**100.0**	**0.522**	**0.686**	**0.362**	**1.893**
5-17	5.2	4.8	5.9	0.117	0.137	0.096	1.419
18-24	11.4	12.4	9.5	0.531	0.738	0.317	2.330
25-44	37.4	40.4	31.8	0.727	1.020	0.434	2.352

45-64	36.2	35.7	37.2	1.006	1.342	0.696	1.927
65+	9.8	6.7	15.6	0.518	0.536	0.505	1.061

Source: The Ministry of Health, 2008

Table 46 - Standard Number of Beds for Mental Health by Wards (2000- 2006)

Type of institution and ward	2000	2002	2003	2004	2005	2006
Active Psychiatry	1,691	1,681	1,733	1,733	1,705	1,884
Psychiatry - rehabilitation	593	561	561	561	561	25
Extended Active Psychiatry	1,592	1,582	1,582	1,582	1,582	1,602
Active Psychiatry - children	335	345	345	345	354	350
Psychogeriatrics	1,017	919	919	860	801	179
Psychiatry - triage and intensive care	110	100	100	100	100	-
Internal Psychiatry	76	76	76	76	76	-
Legal Psychiatry	172	172	140	140	140	200
Hostel	18	18	18	18	18	-
Children with Autism	15	15	15	15	15	-
Total Psychiatry	5,619	5,469	5,489	5,430	5,334	4,240
Drug rehabilitation	638	719	747	741	688	673

Source: The Ministry of Health, 2008

Table 47 - Number of Beds Intended for Mental Health Patients by Districts (Per 1,000 Persons, 2000- 2006)

District	2000	2001	2002	2003	2004	2005	2006
Total	**0.882**	**0.845**	**0.825**	**0.813**	**0.79**	**0.763**	**0.596**
Jerusalem	0.819	0.76	0.744	0.728	0.71	0.661	0.488
Northern district	0.395	0.384	0.371	0.364	0.358	0.36	0.312
Haifa	2.116	2.022	2.001	1.984	1.902	1.818	1.4
Central District	1.194	1.159	1.113	1.088	1.063	1.039	0.876
Tel-Aviv	0.583	0.58	0.58	0.595	0.589	0.567	0.36
Southern district	0.471	0.424	0.413	0.405	0.398	0.391	0.308

Source: The Ministry of Health, 2008

506. According to data of the Mental Health Communal Center in the city of Sderot, in 2007 alone, more than 652 new cases of stress and trauma victims due to the rockets launched by terrorists, were reported in Sderot and the western Negev (a 200% increase compared to 2006), and more than 4,860 persons received Psychiatric, psychological or mental treatment for symptoms of stress, anxiety and trauma following rockets explosions (a 400% increase compared to 2006)[1]. A large percentage of those effected are women.

[1] Mental Health Communal Center in the city of Sderot, January 23, 2008.

507. According to the Mental Health Communal Center in the city of Sderot, about 30% of the trauma victims were diagnosed as suffering from severe anxiety and trauma. The severe cases include uncontrolled crying, fainting, temporary lose of the ability to speak, and other symptoms. In many cases the situation is so severe that medications are necessary as treatment. The number of anxiety, stress and trauma injuries is very difficult to assess and is considered to be even higher, since not all those suffering from it, turn to seek immediate medical help. Furthermore, the affects of anxiety, trauma and stress may appear in later stages (post-trauma) and not necessarily at the moment of the traumatic event[2]. Therefore, the number of anxiety, stress and trauma victims is estimated at thousands of people.

508. A recent study that was conducted in 2007 found that 28.4% of the adult population in the city of Sderot reported symptoms of post-traumatic syndrome. That is 3 times higher then that of the control group - a city outside the range of the rockets. Moreover, the frequency and severity of the psychiatric symptoms among Sderot residents are much higher then those who live in cities outside the range of the rockets.

AIDS

509. The cumulative number of AIDS patients up to 2006 was 1,092 (808 male and 284 female). The cumulative number of HIV-positive cases up to 2006 was 3,907 (2,337 male, 1,465 female and 105 of unknown gender). The percentage of women diagnosed as HIV-positive have slightly decreased, from 39.2% in 2004 to 37.4% in 2006.

Table 48 - Newly Reported Cases of HIV and of AIDS by Gender (Absolute Numbers)

Year	Grand total	AIDS			HIV			
		Females	Males	Total	Females	Males	Gender unknown	Total
Up to 2000	2,992	152	535	687	803	1,400	102	2,305
2001	359	8	10	18	149	186	6	341
2002	335	12	20	32	131	167	5	303
2003	303	7	20	27	124	151	1	276
2004	315	2	4	6	97	212	-	309
2005	350	9	15	24	118	207	1	326
2006	336	4	15	19	117	200	-	317
2007	360	3	11	14	110	234	2	346

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

510. HIV examinations are available to each person, anonymously and free of charge. Every Israeli citizen who is HIV-positive is entitled to virtually free of charge treatment in any one of the nine regional AIDS centers.

[2] The threat of rocket from Gaza strip 2000 – 2007 Information center for intelligence and terror, 2007.

511. The Ministry of Health has initiated various projects to increase awareness to HIV, especially among more traditional populations, such as the new immigrants from Sub-Saharan countries. The ministry developed a program adapted to these populations, incorporating both HIV health education and an individual support and follow-up by health educators originating from the same communities. Further programs target youth, as well as soldiers, educating them on HIV and AIDS, through direct counseling, radio and TV broadcasts. Relevant information is also accessible through the Ministry's website.

Women in Health Care

Women in Medical Schools

512. Women make more than half of the Medicine students in all degrees (53.3%). In 2007, there were 2,247 women students among total of 4,217 students, which studied Medicine. In the Para-Medicine field the share of women was especially high and reached to 80.1%.

Women as Medical Personnel

513. The majority of medical personal are women. In 2007, there were 169,000 persons employed in health services, of which 123,100 (72.9%) were women. 65,400 of the women worked in hospitals and 36,400 in clinics and medical institutions. Also that year, there were 113,900 salaried women employees, compared to 37,600 men.

Table 49 - Employed Persons and Employees in Health Services, by Gender, 2007 (Thousands)

	Total	Thereof:	
		Hospitals	Clinics and medical institutions
Employed Persons			
Total	169.0	90.0	47.5
Males	45.9	24.6	11.1
Females	123.1	65.4	36.4
Employees			
Total	151.5	89.6	44.9
Males	37.6	24.4	9.5
Females	113.9	65.2	35.3

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

514. In 2007, 546 licenses to practice medicine were issued, 48.5% to women. That year, 614 licenses for specialists physicians were issued, 51% of which were issued to women. Also, 331 new pharmaceutical licenses were issued, 55.2% to women.

Infant Mortality

515. In 2007, the overall infant mortality rate was 4.1 per 1,000 births (compared to 5.5 in 2001). Among the Jewish population the rate was 3.0, and among the Arab population the rate was 7.2. The trend in infant mortality rate per 1,000 live births has been as follows:

Table 50 - Infant Mortality 2004-2007

Year	Total population		Jews		Arabs		Christians		Druze	
	Absolute numbers	Rates	Absolute numbers	Rates	Absolute numbers	Rates	Absolute numbers	Rates	Absolute numbers	Rates
2004	670	4.6	315	3.1	319	8.8	8	3.3	11	4.3
2005	628	4.4	313	3.1	277	8.1	8	3.2	15	5.9
2006	594	4.0	312	3.0	252	7.3	4	-	13	5.0
2007	586	4.1	309	3.0	250	7.2	7	2.8	15	6.0

Source: The Ministry of Health and the Israel Central Bureau of Statistics, Abstract of Israel, 2008

516. A large part of the decrease in infant mortality rates is attributed to the decrease in mortality caused by infectious diseases, decrease in prenatal mortality and pneumonia. Death from congenital disorders is also showing a downward trend.

517. Among the Arab population, despite the continuing decrease, the child mortality rate is still relatively high and stands at a rate of 7.2 deaths per every 1,000 live births. The gap between the populations stems from a number of factors, among them the high rate of consanguineous marriage - approx. 35% among the Arab population and approx. 60% among the Bedouin population, religious prohibition against abortion even in medically recommended cases, as well as socio economic differences.

Health Care for Women in the Arab Population

518. In 2005, a report regarding the Health condition of the Arab population in Israel was published by the Israeli Center for Disease Control (ICDC). The report shows positive changes in the health conditions of the Arab population. According to the report, infant death rate decreased, and so did the death rate of heart and vascular diseases. The rate of population vaccination coverage had increased and so did the use of mammography for early detection of breast cancer.

519. According to the report, there is a noticeable improvement of the level of healthcare services and accessibility to these services among the Arab population. As of 2005, there is at least one primary medical clinic and at least one family healthcare station in every Arab locality. On the other hand, the report shows an increase of illnesses such as diabetes, and obesity, especially among older Arab women. An additional increase is found in the numbers of malignant neoplasms (note that except lung cancer, the rates of malignant neoplasms among the Arab population is lower then that of the Jewish population).

Article 13 - Social and Economic Benefits

Legal Developments

520. In January 2004, The Knesset approved the *Retirement Age Law,* 5763-2004 (the "*Retirement Age Law"*), implementing more equable norms regarding retirement age. The enactment of the new Law, which replaced the *Equal Age of Retirement for Men and Women Law* 5747- 1987 (the "*Equal Age of Retirement for Men and Women Law*"), following a thorough examination of the social and economical implications of retirement age determination, and of the equalization of men's and women's retirement age. The examination was carried out by a public committee appointed in September 1997 by the Minister of Finance and the Minister of Labor and Welfare at the time.

521. The new Law equalizes the mandatory retirement age (67) and the early retirement age (60) for both men and women. As for the retirement age which grants the right to Old Age Benefit - commencing on April 1, 2004, the retirement age is gradually raised until it will eventually reach 67 for men and 62 for women. Regarding women who were born in 1950 and onwards, the Law orders the Minister of Finance to appoint a public committee, comprised of Government, employees' and employers' representatives, for the examination of the retirement age for women. The Law stipulates that the public committee must submit its recommendations until 30 June, 2011.

522. A mentioned above, in 2006 and 2007, a number of significant amendments were made to the *Women's Employment Law*. *Inter alia*, these changes prohibit the employment of women during their maternity leave; prolong the period of leave permitted after hospitalization; prolong the period during which an employer is prohibited from dismissing an employee returning from maternity leave to 60 days; prolong the period during which dismissal of a female employee staying in a battered women's shelter is not permitted, to 90 days (also requiring the consent of the Minister of Social Affairs and Social Services); extends maternity leave from 12 to 14 weeks; and notably alters the pre-existing conditions so that after 6 weeks maternity leave should a new mother decide to return to work, or otherwise waive her remaining leave, the father will be permitted permanent (previously temporary) leave in her stead, for the duration of the maternity leave.

523. On August 24, 2006, the Jerusalem District Labor Court ordered compensation to be paid by the ISS Ashmoret Company Ltd. to their employee, who was illegally dismissed from her job when 7 months pregnant, without the approval of the Women Labor Supervisor in the Ministry of ITL (*La.C. 001452/04 Ayenalem Ababito v. ISS Ashmoret Company Ltd*). The Court accepted all of the plaintiff's claims, and determined that the respondents had illegally dismissed her from her job when they discovered she was pregnant. In accordance with the *Equal Employment Opportunities Law*, the Court imposed personal responsibility on both the branch director, and the regional director of the employee.

The Court also ordered that the ISS Company pay the employee approximately 300,000 NIS ($75,000), in compensation for dismissal, mental anguish, loss of earnings and loss of maternity allowance.

524. On November 20, 2007, the State Labor Court ruled that "freedom of contract" does not justify discrimination such as that evidenced by paying different salaries to men and women performing the same tasks. The court stated that in these circumstances, the principle of equality prevails over freedom of contract: (*La.A. 1156/04 Orit Goren v. Home Center (Do It Yourself) Ltd*.). The plaintiff resigned after 4 months of work, after her employer denied her claim that she was being discriminated against in salary. She had compared her salary to that of another male worker who received 1,500 NIS ($375) more than she did, even though they both performed the same duties. In response, the respondent claimed that the difference in salary was the end result of negotiations held with all workers before they were hired to work, and during which the plaintiff had demanded less money than the other worker. The Lower Court ruled that there was no justification for the distinction in salaries paid to the plaintiff and her colleague, and stated that the plaintiff was being discriminated against based solely on her gender.

The State Labor Court rejected the position that "freedom of contract" justified discrimination between salaries, and unanimously approved the Lower Court's decision, granting 7,000 NIS ($1,750) compensation to the plaintiff for her 4 months of work, based on the *Male and Female Workers (Equal Pay) Law*. However, the majority opinion ruled that as the difference in salary was the result of negotiations made prior to employment, the plaintiff had not been discriminated against based on the *Equal Employment Opportunities Law*, and therefore had no right to compensation for non-pecuniary damage in contrast to the Lower Court's ruling. Nevertheless, the dissenting opinion of the State Labor Court's President, argued that there was no difference in the level of proof required for granting compensation for violations of both laws, and accepted the Lower Court's ruling, granting additional compensation to the plaintiff based on the *Equal Employment Opportunities Law*.

525. In *La.C. 8704/06 Nadav Fitusi v. N&B Bogin Sports Center Ltd*., (27.12.07) the plaintiff was employed by the respondent as a gym instructor and was dismissed from work following the respondent's desire to replace him with a female instructor. There was no disagreement among parties that the dismissal was due solely to the plaintiff's gender.

In its decision, the Tel-Aviv Labor Court held that "any discrimination based on gender is a negative social phenomenon that is to be uprooted completely. The prohibition on discrimination derives not only from the provisions of the *Equal Employment Opportunities Law*, but also from the general principle of equality which is part of our legal system and anchored in *Basic Law: Human Liberty and Dignity*".

The Court held that in order to prove discrimination, the worker needs only to convince the Court that such prohibited consideration was actually a factor for the employer's decision, even if it was not the main reason. Based on Section 10 of the *Equal Employment Opportunities Law*,

the Court ordered the respondent to pay compensation in the amount of 30,000 NIS ($7,500) to the plaintiff, considering the specific circumstances of the case.

526. Section 135 to the *National Insurance Law* stipulates that once a widow remarries, she is entitled to receive two benefit payments, but forfeits her claim to the monthly dependence allowance. The Law defines a wife to include what is referred to as a cohabitating one who cohabitates with a man and is jointly responsible for the household.

527. In *Na.In.A. 1407/04, The National Insurance Institute v. Nehama Freeman (8.11.06)*, the National Labor Court debated whether a widow who became a cohabitator, did not remarry, and attained a higher economic status than other widows, shall continue to enjoy the dependence allowance granted to widows. The Court held that although the economic status of a cohabitator is better than that of a widow, it is still not a relationship as stable as marriage - since the parties may separate at any given moment, the woman may be suddenly returned to the economic status of a widow. According to the decision, the equalization tendency found in the legislation and in the rulings of courts is aimed at equalizing the rights and benefits received by a cohabitator to those received by married women. However, the issue raised was the negation of a benefit; the Court found that such negation needs to be interpreted narrowly and that therefore, if the legislator wishes to negate a right or a benefit it must be explicitly written in the Law.

Social Benefits and the Welfare State

Social Benefits

528. As stated in Israel's previous report, Israel has an advanced social insurance system, protecting against major contingencies of income loss prevalent in a modern society. This includes long-term payments, guaranteeing resilience to those permanently unemployed due to old age or disability, to dependents and to families struggling with the economic burden of raising children, and short-term payments substituting the wages of those temporarily unemployed (on account of dismissal, work injury, child bearing or military reserve service). The National Insurance Institute (NII) is the governmental body responsible for the administration of the social insurance programs.

529. A large percentage of Israeli women are among the social benefits recipients; a figure mostly derived from women's longer life span and their employment patterns.

530. The following will present developments and changes in social benefits affecting women that occurred since the submission of Israel's previous report.

Social security branches in Israel

531. Commencing on 2006, all social security benefits are indexed to the Consumer Prices Index, and not the average wage.

Maternity Allowance

532. The ceiling of payment of maternity allowance to mothers and fathers has been raised to five times the average wage, from twice the average wage previously.

533. Both employed and self-employed women are entitled, upon giving birth, to a Maternity Allowance from the NII for the period of their Maternity Leave from work. As of January 1, 2006, thanks to the linking of the maternity file of the NII with that of the insured population, self-employed women receive the allowance automatically, without having to submit a claim.

534. As mentioned above, under Amendment No. 37 to the *Women's Employment Law*, the Maternity Leave was lengthened from 12 to 14 weeks, out of which 7 weeks or less may be taken before the birth. The change is relevant to women who began their Maternity Leave on May 8, 2007 or thereafter.

535. A woman who gives birth to more than one child in the same birth is entitled to extend her maternity leave for an additional period for every child born in the same birth, beginning with the second child. Under Amendment No. 37 to the *Women's Employment Law*, this additional period was extended from two weeks to three weeks. The *National Insurance Law* was amended accordingly, and an additional Maternity Allowance is paid to a woman who extends her maternity leave due to her giving birth to more than one child in the same birth – for an additional three weeks, if she is entitled to the full maternity allowance, and for an additional two weeks, if she is entitled to the partial maternity allowance. This change too is in effect regarding women who began their maternity leave on May 8, 2007 or thereafter.

Extended maternity leave due to hospitalization of mother or child

536. Under a change in effect as of April 1, 2004, aimed at compensating women for a particularly long hospitalization of their newborn child, a woman whose infant must be hospitalized for at least 12 consecutive weeks in the course of her maternity leave may extend her maternity leave for 4 additional weeks, and is entitled to additional Maternity Allowance accordingly.

537. A mother who gives birth, and she or her newborn baby is hospitalized during the period of her maternity leave for a period of more than two weeks, may extend her maternity leave and in such a case, is entitled to Maternity Allowance for a longer period (up to four weeks, but not longer than the period of her hospitalization). Under Amendment No. 34 to the *Women's Employment Law*, the above also applies to mothers whose period of hospitalization (for themselves or their babies) is not consecutive. The change applies to women whose Maternity Allowance began on June 5, 2007 or thereafter. Previous to the change, a hospitalization period of at least 15 consecutive days had been considered necessary for permitting an extension of the maternity leave.

Special payment of Maternity Allowance for fathers

538. Under Amendment No. 39 to the *Women's Employment Law*, a man can replace his wife on maternity leave if his wife is not capable of caring for their infant due to her health condition (in accordance with a physician's written authorization), even if six weeks have not yet elapsed since the birth – if the infant is in the father's custody and in his sole care. This maternity leave for the father includes extension of the leave due to a multiple birth or hospitalization of the infant, but does not include extension of the leave due to hospitalization of the mother.

539. Section 49 of the *National Insurance Law* was amended accordingly, and Maternity Allowance will be paid for this leave, in accordance with the qualifying period of the father, to the mother's bank account. The change applies to parents whose infants were born on September 6, 2007, or thereafter.

540. Previous to the change, a father could replace his wife on maternity leave only if six weeks had elapsed since the birth – even if she was not capable of caring for their infant due to her health condition. It should be noted that the other conditions of entitlement to Maternity Allowance for fathers – completion of a qualifying period for both parents and the father's actual maternity leave of at least 21 consecutive days – remain unchanged.

541. Data indicate a steady moderate rise in the number of men receiving maternity allowance. In 2005, the number of men receiving maternity allowance was 157, in 2006 the number of male recipients was 199 and in 2007 the number was 246.

Changes in risk pregnancy benefit - Sick pay for women with risk pregnancy

542. A woman who must cease work due to the need for precautionary rest – for at least 30 days – as a result of a high-risk pregnancy is eligible for a Risk Pregnancy Benefit from the National Insurance Institute (NII). One of the conditions of entitlement to this benefit is non-receipt of payment for the period of absence from work (due to the risk pregnancy) from any other source, such as sick pay from the employer.

543. Under an Amendment to the *Women's Employment Law*, employers are now obligated to pay sick pay for periods of absence from work of less than 30 days due to high-risk pregnancy, since the woman in such cases is not entitled to the Risk Pregnancy Benefit from the NII.

544. Also commencing on January 1, 2006, women who are unable to work owing to their high-risk pregnancy are to receive a Maternity Allowance for a period of at least 30 days. The amount per day is the lower of the following: the basic amount divided by 30 - 232 NIS, ($58); or the woman's salary divided by 90. Following the Emergency Economic Plan and the Recovery Plan for the years 2002-2006, the sum of Maternity Allowance was reduced by 4%.

Work that endangers a pregnant woman or her fetus

545. Section 58 of the *National Insurance Law* pertaining to the Risk Pregnancy Benefit was amended so as to expand the definition of risk pregnancy. Under the Amendment, the former definition – "a medical situation stemming from the pregnancy and endangering the woman or her fetus" – has been expanded to include also "a type, place or method of work endangering the pregnant woman or her fetus […] if no alternative suitable work has been found for her". A written authorization of a physician remains a basic condition of entitlement to the Risk Pregnancy Benefit.

546. Both of the above changes are in effect regarding women who submit a claim for benefit after September 6, 2007.

547. In 2007, 147,767 women received Maternity Grants, a 4% increase compared to 2003 figures. The average age of women who received the Maternity Leave Allowance, in 2007, was 31. Also, 96% of these women were salaried employees, a figure resulting from the nature of women's participation in the labor market. In 2007, maternity insurance's portion of all National Insurance payments was 6.8% - compared to 6.1% in 2003. The increase in Maternity Allowance payments is attributed to the increase in number of women receiving these allowances, the increase in Hospitalization Allowance and the longer Maternity Leave.

Table 51- Women Receiving Maternity Grants, Maternity Allowances, and Risk Pregnancy Benefits, 2007

Year	Women receiving maternity grants		Women receiving Maternity Allowance		Women receiving Risk Pregnancy Benefit		Men receiving Maternity Allowance		% of Maternity grants of total NII payments
	Number	% of change	Number	% of change	Number	% of change	Number	% of change	
2004	143,287	-	77,505	-	4,420	-	150	-	5.4
2005	142,560	-0.5	77,025	-0.6	4,670	5.7	157	4.7	5.7
2006	143,688	0.8	83,285	8.1	5,588	19.7	199	26.8	5.9
2007	147,767	2.8	88,147	5.8	6,744	20.7	246	23.6	6.8

Source: National Insurance Institute, 2008

Maternity Grants

548. As of January 1, 2005, the NII pays a Maternity Grant, which is provided to post-natal new mothers in order to help cover the cost of a layette for the newborn child, directly into the mother's bank account and granted approximately one month after the date on which she gave birth. The Maternity Grant was previously paid by means of a check given to the mothers in the hospital where the birth took place.

549. As of January 1, 2008, a Maternity Grant given to a new mother upon the birth of her first baby, or to the adoptive parents upon adoption, will equal 1,489 NIS, ($372). The Maternity Grant for a second child will be equivalent to 670 NIS, ($167), and for every third and additional child to the family it will be the equivalent of 447 NIS, ($112).

550. The NII pays a benefit to a mother who has given birth to three or more children in one birth, and again at the end of a 30-day period after the date of birth, if at least three of these children have survived. The Childbirth Allowance is paid, in addition to the Maternity Grant, for the period from the first day of the month following the birth, up until 20 months from this date.

Old Age and Survivors' Benefits

551. As of August 2006, the Survivor's Pension is paid automatically to the following groups: widows to whom a dependant's increment had been paid to their husbands' Old-Age Pension; and widows who receive an Old-Age Pension by virtue of their having accumulated a qualifying period, at the same bank account as their husbands.

552. Applications for Old-Age Pensions are initiated by the NII. Every man and woman, approximately two months before reaching pension age, receives a claims form for Old-Age pension from the NII, together with an accompanying explanatory letter.

553. In 2007, approximately 623,700 persons received Old-Age Pension (compared to 617,800 in 2004), of which 58.2% were women. That year 105,200 persons received Survivors' (remaining relatives) Benefits (compared to 104,400 in 2004), of which 93.1% were women. These changes mainly reflect the growing number of elderly population, as the population gentrifies.

554. As of December 2007, the majority of those eligible to both Old-Age and Survivors Benefits were women – 94.5% of the 83,200 persons eligible to these two benefits. The high rate of women is mainly because more men than women were insured so their wives had Survivors' Benefits, and women usually marry older men and have a longer life expectancy. There is a difference between the genders in the rank of the two benefits: the average level of benefits that men are eligible to receive is higher due to seniority increments and postponed retirement increments. Also in 2007, of the 125,000 people who received Nursing Pension, 71% were women.

Table 52 - Recipients of both Old Age Pensions and Survivors Benefits from the NII, 2004 - 2007

Year	Old Age Pension		Survivors Benefits	
	Total	% of Women	Total	% of Women
2004	617,800	57.0	104,400	93.5
2005	614,900	57.3	105,000	93.3
2006	622,300	57.6	105,200	93.2
2007	623,700	58.2	105,200	93.1

Source: The National Insurance Institute, 2008

Table 53 - Elderly Population Receiving Both Old Age Pensions and Half of the Survivors Benefits, December 2007

	Total	Men	Women
Total number	83,200	4,500	87,700
% of persons receiving income support	7.1	13.9	6.7
Average allowance	2,277 NIS ($570)	2,353 NIS ($588)	2,273 NIS ($568)
Of which: Half of Survivors Benefit	778 NIS ($195)	671 NIS ($168)	784 NIS ($196)

Source: The National Insurance Institute, 2008

Table 54 - Persons Receiving Nursing Pension of the NII, 2004 – 2007 (thousands)

Year	Total	Men	Women	% of Women
2004	113.4	31.9	81.5	71.9
2005	115.0	32.8	82.2	71.5
2006	120.4	34.5	85.9	71.3
2007	125.4	36.4	89.0	71.0

Source: The National Insurance Institute, 2008

555. On March 19, 2007, the *Electricity Economy Law* 5756-1996 (the "*Electricity Economy Law*"), was amended and Section 31A was added. According to the new section, women and men who reach the retirement age and are entitled to Income Support are entitled to a 50% discount on the first 400 KWH for domestic monthly use. The new section further invests the Minister of National Infrastructure with the authority to determine, in consultation with the Minister of Social Affairs and Social Services, other populations who may also be entitled to the reduced payment benefit.

Alimony Payments

556. In 2007, 21,771 women received monthly Alimony Payments from the NII - a 4.2% decrease compared to the previous year. In 2008 (3rd quarter) the number further decrease to 21,129. Since 2003, there was a sharp decrease of 17.9% in the rate of women receiving alimonies from the NII. As of the 3rd quarter of 2008, the average amount of the Alimony Payment paid by the NII was 1,464 NIS ($366). Divorced women with no children received 919 NIS ($230), divorced, separated or single women with one children received 1,076 NIS ($269), and with two children - 1,824 NIS ($456). Divorced women with one child who remarried received 1,002 NIS ($250) and 1,719 NIS ($430) if they have two children.

Single-Parent Families

557. The number of single-parent families in Israel has slightly increased in the recent years. In 2007, there were 128,322 single-parent families In Israel, approximately 13.0% of all the families (compared to 12.3% in 2004 and to 9.3% in 1995). In 2006, the rate of single-parent families with children up to the age of 17 was 6.0% - about 99,600 families with a total of 170,000 children. Women head 90.5% of single-parent families with children aged up to 17 and in 30.9% of them the parent is a new immigrant.

General Disability Pension

558. Disability insurance provides entitlement to a Disability Pension, meant to guarantee a minimum income for subsistence to persons with disabilities. The Disability Pension is paid to residents of Israel between the ages of 18 and retirement age who meet all the conditions of entitlement. There are two main groups of entitled persons, according to the entitlement test: disabled persons whose earning capacity has been lost or reduced as a result of their impairment (henceforth: "earners") and disabled housewives whose capacity to function in their household has been lost or reduced (henceforth: "housewives").

558.1. **Earner**: an insured person who, as a result of a physical, mental or emotional impairment stemming from an illness, accident or birth defect, meets one of the following conditions: a) he/she is unable to support him/herself from work or occupation, and does not earn a sum equivalent to 25% of the average wage; b) his/her capacity to earn a living from work or occupation, as well as his/her actual earnings, were reduced as a result of his/her impairment by 50% or more.

558.2. **Housewife**: a married woman who has not worked outside her household for a period determined by law and who, due to a physical, mental or emotional impairment stemming from an illness, accident or birth defect, does not have the capacity to function and carry our regular household chores, or her such capacity has been reduced by at least 50%.

559. There are two stages in the process of determining entitlement to a Disability Pension for an earner or housewife. In the first stage, a physician on behalf of the NII determines the medical disability percentage. Entitlement to pension is examined only for earners for whom a medical disability percentage of at least 60% has been determined (or 40%, if at least 25% is determined for him/her from a single impairment) and for housewives for whom a medical disability percentage of at least 50% is determined.

560. After the medical disability percentage is determined, the claims officer determines the degree of incapacity to earn/function after consultation with an authorized physician and a rehabilitation clerk. The determination of the incapacity degree is based mainly on the earner's personal characteristics, such as his/her ability to return to his/her previous job (on a full-time or a part-time basis), or to work at a different job, or to learn a new profession (taking into account

his/her education level, physical capacity and health condition). Under certain conditions the opinion of the rehabilitation clerk regarding the incapacity degree may be influenced by other variables such as the labor market situation in the disabled person's area of residence. Regarding housewives, the examination of capacity loss is based on functioning in the home.

561. The rate of the pension paid to a disabled person stems from the degree of incapacity that was determined for him/her. A disabled person is entitled to a pension and to a dependent's increment for his/her spouse and for up to two children. A "housewife" is not entitled to an increment for his/her spouse.

562. As of December 2007, 189,000 disabled persons received General Disability Pension, of which 17,000 were housewives and 64,000 were women "earners" – a total of 43% of all those who receive the pension. This rate has remained stable since 2004 as demonstrated by the following table:

Table 55 - Persons Receiving General Disability Pension, By Gender (2004 – 2007)

Year	December 2004		December 2005		December 2006		December 2007	
	number	percent	number	percent	number	percent	number	percent
Total	164,909	100.00	171,156	100.00	181,747	100.00	189,146	100.00
Housewives	15,497	9.5	15,747	9.1	16,630	9.2	16,817	8.9
Earning women	55,301	33.4	57,666	33.8	61,283	33.7	64,132	33.9
Men	94,111	57.1	97,743	57.1	103,834	57.1	108,197	57.2

Source: The National Insurance Institute, 2008

Financial Credit

563. As stated in Israel's previous report, women in Israel make use of bank loans, mortgages and other forms of financial credit in a manner equal to men.

Recreational Activities

564. As stated in Israel's previous report, women participate in all aspects of recreational activities, including sports and cultural life, as detailed in Article 10 above.

Article 14 - Rural Women

General

565. A very high percentage of the Israeli population lives in urban localities – 91.7%. Rural population makes up 8.2% of the general population. The majority of this population lives in "Moshavim" (cooperative localities) (41.7%), Kibbutzim (20.5%), and communal localities (12.6%). In these aforementioned localities, 99.6% of the population is Jewish. The rest of the

rural population is Muslim, Christian, Bedouin, Druze and Circassian living in various forms of rural localities.

Bedouin Women

566. There are more than 170,000 Bedouins living in the Negev desert area. Most of them live in urban and suburban centers which have been legally planned and constructed. All existing towns have approved plans and include infrastructure such as schools, clinics, running water, electricity, etc.

567. There are 6 existing Bedouin towns in the Negev: Laqiya, Hura, Kseife, Arara, Tel-Sheva and Segev Shalom, in addition to the city of Rahat. Although the seven existing towns can effectively provide a proper solution to the Bedouin population's needs, subject to their expansion, the Government decided that another 9 new towns for Bedouins should be established. The Government did so in order to accommodate the needs of the Bedouin population and in consideration of their special needs, including their desire to settle according to a tribal format.

568. Of those nine new planned towns, Tarabin is now being populated and 100 new houses have been built, Abu Krinat and Bir Hadaj are under construction, and Kasar A-Sir, Marit (Makhol), Darjat, Um Batin, Mulada and El Seid are all undergoing planning procedures. Further three towns are undergoing statutory approval procedures: Ovdat, Abu Tlul, and El-Foraa. A regional council called "Abu Basma" was founded for the new towns. It was officially declared on February 3, 2004.

Education

569. Bedouins enjoy all the rights and opportunities of Israeli citizens, including the privilege to receive formal education at all levels, in accordance with the laws of Israel.

570. As mentioned above, in July 2007, The *Compulsory Education Law* was amended in order to broaden its scope and apply compulsory education to youth between the ages of 15 - 17 (inclusive) attending the 11th -12th grades. Prior to the Amendment, education for the 11th-12th grades was free, yet not compulsory. The Amendment's aim is to protect the youth in this vulnerable stage from negative influences, and to prepare them and provide better tools for their successful integration as productive adults in the future by providing an obligating educational framework rather than an optional one. Another desired effect to the Law, is a decrease in dropout and removal of pupils rates, by compelling the provision of solutions within the education system to all pupils in this age group. The Law is to be fully implemented until 2009 to pupils attending the 11th grade and until 2010 to those attending the 12th grade.

571. The Amendment to the *Compulsory Education Law* is gradually implemented, and a high priority was given to the Bedouin towns, which are characterized by a high dropout rates compared to the Jewish population. This priority was given to the towns of Rahat, Arara, Abu-Basma and

others. One of the most important goals of this Amendment is to drastically reduce the dropout rates among female pupils.

572. In July 2005, the Government resolved to establish the Regional Council of Abu-Basma, which was assigned with attending to the Bedouin population's needs in areas such as education, infrastructures, employment, transportation, agriculture etc. Abu-Basma Regional Council is responsible for 10 Arab villages, of which 6 are Bedouin villages. The resolution further states that the Ministry of Education will build 300 classrooms and kindergartens which will be operated by the Abu-Basma Regional Council.

573. Since 2004, three high schools were established for the first time in the illegal villages of Abu-Krinat, Al-Huashlla and Bir-Hadge. These schools were connected to the main electricity network, and access roads were paved towards them, a major improvement compared to the other illegal villages. The schools established contributed greatly to the prevention of dropout rates, especially among Bedouin girls, who previously were not sent to school by their parents, due to the distance of the school from the village and on account of religion and Bedouin tradition. In addition, since 2004, 14 inspectors position were added including general and vocational inspectors for schools in Bedouin localities, in order to improve the quality of education in them.

574. Following the Ministry of Education multi-year plan to reinforce the education system in Bedouin localities and several Government Resolutions on the matter, funding was allocated to fund new education facilities in Bedouin localities (including kindergarten, schools and special education institutions). Funding was also allocated towards establishing and upgrading of science and computer laboratories. Furthermore, pedagogic counsels provided assistance to school principals in preparing the school's work plan and funding were allocated for reinforcement hours for pupils in need in all levels of education, in order to diminish pedagogic gaps, including improving entitlement to matriculation certificate rates.

575. As of 2006, every first and second grade classes in Bedouin localities which consisted of more than 28 pupils, were divided in to two classes and received additional 10 reinforcement hours per week.

576. The 'New Horizon' (Ofek-Hadash) reform - in 2007/8 school year, 9 schools in the north and 31 in the south were included in the reform, followed by 6 schools in the north and 17 in the south in the 2008/9 school year. This reform is intended to give pupils with poor performance an opportunity to improve their accomplishments and to fulfill their potential.

New Special Education Frameworks

577. Currently there are four special education schools (in Kseife, Arara, Rahat and Segev-Shalom), three regional support centers (in Rahat, Abu-Basma and Hura), as well as 25 treatment kindergartens for special education serving the Bedouin population in the southern part of Israel. In 2008, two additional regional support centers were opened, as well as 10 classes in primary

schools. In addition, all primary and intermediate schools received additional reinforcement teaching hours.

578. In the northern part of Israel - a new school for pupils with severe mental deficiencies was opened, as well as 6 special education kindergartens. In addition, 4 advancement classes in secondary schools were added, as well as 3,000 hours of integration.

New Educational Programs

579. A new program to provide Arabic language skills in primary schools began in 2008 and will continue until 2011. In addition, new educational programs of culture and heritage were added as well as a program to teach the Hebrew language and literature in primary and secondary institutions. Furthermore, the education program in history was adjusted in order to be suitable for primary, intermediate and secondary schools.

580. The 'Daroma' (South) program – in 2004, the Ministry of Education commenced a program to improve educational achievements among exceptional pupils in the 10-12 grades. The program now operates in 5 High-Schools (approximately 300 pupils). The purpose of the program is to advance theses pupils in Mathematics and English, and to develop their learning skills. The pupils participate in courses in academic institutions such as the Ben-Gurion University.

581. The Ministry of Education will fund a similar program, "Atidim", in the two local authorities beginning in 2008. In the north, a similar program entitled "Atidim Launch" operates in two local authorities. During 2009, another program for achievement of excellence will be opened in Kaabia High school, also funded by the Ministry of Education.

582. In addition, two classes of diagnostic learning skills were opened, one in the college of Sakhnin (north), and the second in Be'er-Sheva (south) in the framework of the Open University funded by the Ministry of Education.

583. Psychologists - additional positions for psychologists in both regions were added but there is still a shortage of position per pupils and a shortage of educational psychologists.

584. Guidance Council - since 2004, 3 frameworks for training guidance councils were opened - 2 in the north and one in the south. There has also been an addition of visitation officers in some of the authorities; however, there is still a shortage.

Table 56 - Number of Schools (North/ South) 2007

Level of school	North	South	Total
Elementary	25	64	89
Junior high school	2	1	3
Junior and high school	6	13	19

High school	2	8	10
Special education (day-care centers)	1	4	5
Total	36	90	126

Source: The Ministry of Education, Supervisor of Bedouin Education, 2008

Table 57 - Number of Pupils in the Bedouin Population (by Gender) 2007

Level of school	North			South		
	Males	Females	Total	Males	Females	Total
Elementary (1st-6th grades)	4,334	4,157	8,491	16,444	15,681	32,125
Junior high school	1,585	1,513	3,098	3,693	3,463	7,156
High school	1,145	1,351	2,496	3,833	3,616	7,449
Total	7,064	7,021	14,085	23,970	22,760	46,730

Source: The Ministry of Education, Supervisor of Bedouin Education, 2008

Higher Education

585. In 2008, the Ministry of Education announced its intention to grant Bedouin students studying engineering, technology and science with tuition grants and scholarships in the amount of 5,000 NIS ($1,250) each for 2008/9 academic year. The scholarships are intended to continue encourage Bedouin students to achieve higher education.

586. The Authority for the Advancement of the Status of Women issued an announcement regarding the distribution of scholarships for female Bedouin students from north, as well as for female students from the Druze and Circassian populations. These scholarships are granted in accordance with Government Resolution No. 412 and 413 issued on August 15, 2006. These scholarships are intended for the 2008-2009 academic school year in recognized academic institutions, in the fields of medicine, pharmaceutics, nursing, law, engineering, and other medical related professions. The total budget allocation for this purpose for 2009 is 500,000 NIS ($125,000), with each scholarship amounting up to 6,000 NIS ($1,500).

Employment and Welfare

587. The Bedouin population has a high rate of unemployment and low socio-economic state. Several measures are being implemented to change these statistics. One example, mentioned above is a business entrepreneurship course for Bedouin women in cooperation with the Center for Fostering Entrepreneurship.

588. Employment for persons belonging to minorities in the Negev - According to Government Resolution No. 1591 (April 22, 2007) regarding encouragement to rural areas, it was determined that enterprises in the fields of services or tourism that will admit 4 new local employees from the Bedouin or Ultra-orthodox populations in the Negev, will receive a 20% benefit for men and women from the cost of the monthly wage of these employees for a period of 5 years.

589. On November 20, 2005 the Government adopted Resolution No. 4415 according to which a national strategically program was created for the development of the Negev. In order to promote the realization of the program's goals in the economic and employment aspects, the Headquarters for Development and Employment in the Negev developed chosen projects in cooperation with Governmental Ministries, local authorities and Israel's Small and Medium Enterprises Authority. Below are the projects descriptions and the benefits which Bedouin women may enjoy as part of the Negev program.

590. Vocational Training – Over the course of the past few years, there has been an increase in the rates of employment among Arab women, yet these rates remain relatively low. Academic education and vocational training are the key components for the integration of Arab women into the work force, yet various barriers are inhibiting their integration into these educational and training systems: Education - traditional professions are substituted with professions that require specific know-how; the study of many technological professions requires knowledge in mathematics and English. Social/Cultural Barriers - The traditional stands and cultural stigmas among the Arab population define the acceptable limits to traveling alone to school and work. Arab women are often reluctant to attend courses that require traveling to other towns. Not all vocational courses are available in the women's residential towns, often because of lack of proper framework, candidates, and future job opportunities.

591. Due to the above, many Arab women attend "traditional" courses that are local, and are likely to enable them to meet the requirements of local job opportunities, whether full or part time. This is not the case with regard to education, computers, graphics or technical assistants/engineering. Additionally, the employment opportunities in these fields, in some of the residential towns, are very limited.

592. Special vocational training and unique programs for the Bedouin population were developed, in order to enhance the numbers of employed Bedouin - men and women, develop the human capital and enlarge the number of students, both male and female, enrolled in higher education courses. The unique training for women include: accredited assistants, care givers for young children, designing and manufacturing of furniture, hair design and fitness trainers. In addition, classes for practical engineering were opened in the technological center in Be'er Sheva, in the fields of chemistry and air condition and about 30% of the candidates that were accepted were women.

593. Employment Centers for the Bedouin population - In the framework of cooperation between the Ministry of Industry, Trade, and Labor and the American Jewish Joint Distribution Committee it was decided to create unique employment centers in the Bedouin towns. These centers will handle the variety of issues relating to solving the employment problems that exist solely in the Bedouin localities: to enhance the numbers of employed persons, to aid in the creation of small businesses and enterprises, to enlarge the income of individuals and families in the Bedouin localities, to change the employment related perceptions and norms in the Bedouin population and encourage the employment of women while supplying them with unique training for that purpose.

594. Small Businesses - In order to enhance the exposure of businesses in the Negev to the services of the Center for the Nurturing Entrepreneurship (a body of Israel's Small and Medium Enterprises Authority), in order to overcome the large distances between the localities and the operating centers, and to allow larger accessibility of business owners to the services of the center, it was decided to establish 3 extensions which will be subordinate to the Center in Be'er-Sheva. One of these extensions operates solely in Bedouin localities and as such it serves as a central address accessible to the entrepreneur to receive the verity of services of the Center, including reply to the unique needs of the Bedouin population. The uniqueness of these extensions is the fact that they can assist women that tend to remain in the localities (due to cultural and social norms).

Creation of employment places for those who report to the Israeli Employment Service and are about to terminate their right to unemployment benefits. The focus of this project is the Bedouin population.

Creation of an economic model for independent employment of women from Bedouin localities in weaving, needlework and cooking, where the women market their products in special fairs and abroad. The women will be prepared for the process that includes building a business organization model, creation of a unique product line and the proper means of marketing. The project will last three years, during which the women will open independent businesses. Currently, the project runs in the village of Kseife and 20 women operate in it.

595. In order to complement the revised *Encouragement of Capital Investments Law* 5719-1959 (the "*Encouragement of Capital Investments Law*"), the Government decided to establish an additional program to increase employment in the remote areas of Israel and other areas of high unemployment. Eligibility requires that the participating companies employ a minimum number of workers earning at least minimum wage. Among the areas affected are the "Furthest Periphery", and designated towns of minority populations (such as Arab, Druze, Circassians), as well as the Ultra-Orthodox Jewish population.

596. As mentioned in Israel's previous report, in May 2004, the Center for the Welfare of the Bedouin Family was established in Be'er-Sheva by the Ministry of Social Affairs and Social Services. The Center has two main goals: to provide assistance to the Bedouin community in matters related to conflict and tension resolution in the family, as well as to provide therapeutic interventions; to serve as a center for the prevention of, and education on, domestic violence. The center is financed and supervised by the Ministry of Social Affairs and Social Services and is operated by the Bedouin association of "Elwaha" which is manned by specialized social workers.

597. Social Services operate in the Bedouin towns, as well as in illegally constructed Bedouin villages. There are around 30 monthly appeals to social services from Bedouin women. Each receives individual care. There are also several Bedouin couples undergoing couple therapy. Note that the operation of the abovementioned center has improved the treatment of domestic violence in the Bedouin population, enabling matter-of-fact, focused and efficient care to be provided, free from community and family pressures.

598. The Service for Girls and Young Women handles about 250 Bedouin young women annually, providing both individual and group treatment.

Health

Infant Mortality

599. According to a report of the Ministry of Health, that was published in February 2009, the infant mortality rate of Bedouin infants in 2008 was 11.5:1000, representing a decline from the rate in 2005 (15:1000). The high rate is mostly attributed to high rates of congenital anomalies and hereditary illnesses due to the high rate of consanguineous marriages. Another element impacting upon mortality rate is the religious prohibition against abortion among Muslims even in medically recommended cases, as well as the high rate of births among elderly women. It should be noted that the infant mortality rate among Bedouin infants living in illegal villages was actually lower than that among Bedouin infants living in established towns. The Government is continuing to open Mather and Child Health Clinics in illegally constructed villages and new Clinics are being built to serve the population.

600. Furthermore, the Government has been funding several special projects to improve the health and expand the health-care services provided to Bedouin living in illegally constructed villages. One of these programs is a special long-term intervention program to decrease infant mortality among the Bedouin. The program is community-based and boasts a wide-consortium of participants, including representatives from the Bedouin community leadership and the educational system, along with providers of curative and preventative health care services, the Department of Health in the Community and the Epidemiology Department in the Faculty of Health Sciences of Ben-Gurion University of the Negev.

601. Free genetic testing is also funded by the Government, along with genetic counseling, for any member of a Bedouin tribe in which the prevalence of a serious inherited disease for which an available genetic test is above 1:1000.

602. On December 2005, the *Population Registry Law* 5725-1965 (the "*Population Registry Law*") was amended for the regulation of births occurring outside a medical institution. The purpose of the Amendment was to ensure that illegal adoptions, exploitation of women and trafficking in babies would not be possible. All requirements set by the Law for the registration of newborns are meant for the prevention of deception with regard to the mother's identity. Nothing in the Law is designed to create delay or deprive women of rights to which they are entitled after the registration of their child in the population registry; in this regard, although it is true that some Bedouin women give birth at home, these women constitute about 2% of all Arab women in the Negev. No Bedouin woman resident of the Negev had given birth at home due to lack of access to modern maternity services.

Other Health Indicators

603. Clinics in illegal Bedouin villages located throughout the Negev are all computerized, air conditioned, and are all equipped according to the standards upheld by all the Health Funds (HMOs) in the country. In addition to the thirty-two Health Fund medical clinics already existing in the Bedouin towns, 9 Health Fund medical clinics have been built to provide for the medical needs of Bedouins living in illegal villages. These clinics are also fully equipped according to the standards that exist in all other Health Funds in the country.

604. The General Health Services Department operates a special health service for the Bedouin population that includes an ambulance service for Bedouins, run by a Bedouin employee. This ambulance ensures constant access between the hospital and the community. This enables a talented professional staff to evaluate the living conditions of patients prior to their release from hospitalization. Additionally, the ambulance transports patients to the hospital and back when they are in need of emergency care. The cost of a visit to the clinic is identical throughout the country. That is, a visit will generally be cost-free.

605. In addition to the existing stations, the eighteen Mother and Child Health Clinics ("Tipat Halav") located in Bedouin towns, and a mobile family care unit, six new Mother and Child Health Clinics, fully equipped, have recently been constructed in the illegal villages. These Clinics are equipped in the same manner as any other Mother and Child Health Clinics in the country.

606. The Government, as well as the main Health Fund serving the Bedouin population, undertake major efforts to train and recruit Bedouin physicians and nurses. The Government provided all the funding required for three classes of Bedouin students to complete their training as registered nurses, including funding their transportation to the nursing school, a meal allowance during their studies, and special remedial lessons to assist those who needed it. The Government has similarly provided special funding to hire Arab physicians and nurses.

607. A course for qualified Bedouin nurses was opened in 1994. Currently there are 32 students that are undertaking nursing studies. It should be noted that students participating in the third course are committed to serving their first three years of practice after graduation wherever the Ministry of Health decides their services are needed. This will guarantee that the trained nurses serve the target population, the Bedouins. In addition, the first female Bedouin physician in Israel, Rania al-Oqbi, has recently completed her degree. She was part of the special "Cultivating Medicine in the Desert" program aimed at incorporating more Bedouin into the health sector. Currently, six Bedouin women are studying medicine; 35 Bedouin women have completed degrees in various health professions; and 45 additional women are studying health sciences.

608. Other major improvements in the past decade include, for example, improved immunization coverage of Bedouin infants in the Negev which resulted in a significant decrease in vaccine-preventable infectious diseases. Recent 2006 figures indicate that 90-95% of the Bedouin children have completed all necessary vaccinations by age three – a sizeable improvement

compared to a rate of 27% in 1981. Two mobile immunization teams managed by the Ministry of Health also provide home immunizations to infants in Bedouin families living outside of permanent towns, whose families do not bring them to one of the Mother and Child Health Clinics for treatment. A computerized tracking system allows the Ministry of Health to identify infants who are behind on their immunization schedule and to send one of the mobile immunization teams to immunize them.

609. There has also been an important improvement in the growth of Bedouin infants and toddlers over the past two decades, indicating improved nutrition. Moreover, there has been increased compliance with recommendations for supplemental folic acid among Bedouin women in their fertile years, and a decrease in the incidence of open neural tube defects (NTD's) among Bedouin fetuses and infants. Unfortunately there are still high rates of congenital malformations and inherited diseases among Bedouin infants, due to multiple factors including the tradition of first-cousin marriages, as well as cultural-religious-social barriers to pre-marital and pre-natal screening for inherited diseases.

610. There has been a decline in the incidence of infectious disease among Bedouin infants over the past decades. There is, however, generally a higher rate of infectious disease among Bedouin infants than among Jewish infants of the same age. Bedouin infants and children have lower rates of pertussis, tuberculosis and HIV infection. Furthermore, due to high immunization coverage among Bedouin infants, indicating good access and utilization of preventive health care services, there have been no cases of measles since 1994 and no cases of polimyelitis, diphtheria, congenital rubella, neonatal tetanus or tetanus in Bedouin children of the Negev since 1990.

611. Specialty physician services are being provided to the Bedouin community in the Negev, including: Gynecology and Obstetrics, Pediatrics, General Internal Medicine, Neurology, Family Medicine, Dermatology, Ear, Nose and Throat, Ophthalmology, Orthopedics, Gastroenterology, Cardiology, Surgery and Trauma, Pediatric Surgery and Pediatric Pulmonary Medicine. In addition, every resident has equal access to all the specialty clinics at the Soroka University Medical Center, with no discrimination between Bedouin or Jewish patients.

612. On July 2008, Physicians for Human Rights-Israel, an Israeli NGO - published a report titled: "Ana Huna (I am here) – Gender and Health in the Unrecognized Villages of the Negev". The report is critical of the healthcare services granted to Bedouin women in the Negev, as well as the problems on providing of infrastructure and public transportation, making it difficult for Bedouin women to reach distant healthcare centers in cases where the villages has no clinic or has one that lacks full services. The report also stipulates that the communication between the medical staff and some of the women is problematic due to language barriers. An issue that is being promoted, as detailed throughout this Article.

Ritual Female Genital Operation (Female Circumcision)

613. In 2007, a new study examined whether the practice of female genital mutilation still exists in Israel. Approved by Helsinki Ethics Committee of Ben Gurion University and after receiving consent of each patient, young Bedouin women who underwent prenatal genital physical examinations, were asked about having experienced female genital mutilation. In addition, the gynecologists looked for any signs indicating that such operation took place. Over 150 women from different Bedouin tribes, that were previously reported to perform ritual female genital mutilation, were examined, and no woman under the age of 30 was found to have any evidence of female genital mutilation, not even minor scars.

614. Although the existence of rare sporadic cases can not be ruled out, it seems that the practice of female genital mutilation have been eradicated in Israel. The causes for this change include increased education of the Bedouin population, increased medical care, increased standard of living and other positive developments.

615. Recent data indicates that over the last few years, except for one case of ritual female circumcision that occurred in 2008, in one of the southern Bedouin villages, there were no other reports of women who underwent female genital mutilation in Israel.

Article 15 - Equality before the Law and in Civil Matters

General

616. The Israeli Judiciary provides equality to men and women in all areas of law, including all aspects of civil matters, as detailed throughout this report.

617. In civil matters, women enjoy an identical capacity to that of men, including the right to conclude contracts, administer property and equal treatment in all stages of procedure in courts and tribunals. Women also enjoy the same benefits regarding the movement of persons and the freedom to choose their residence and domicile, as detailed throughout this report.

Religious Courts

618. Overall, Religious Courts have an exclusive jurisdiction over all matters of marriage and divorce, except when the couple is not affiliated to any religion or of different religions. Regarding these exceptions, in matters relating to divorce, the jurisdiction is granted to the Family Matters Courts or to the Religious Courts. In Matters concerning women's and children's alimony, property issues, child maintenance, guardianship, violence and in the case of Muslims, also parental matters, Family Matters Courts and the Religious Courts have a parallel jurisdiction, with certain differences between the various religious communities.

619. Inheritance, guardianship and adoption – the Family Matters Courts have the main jurisdiction, the Religious Courts jurisdiction is subject to the consent of all relevant parties and certain limitations stipulated in the Law. Child abduction, marriage approvals under the *Marital Age*

Law 5710-1950 (the "*Marital Age Law*") name changing, determination of age, surrogacy, parenthood (except for Muslims) and other disputes among family members, in matters not mentioned above – are all subject to the exclusive jurisdiction of the Family Matters Courts.

620. In reference to certain aspects of personal status laws, Israel has entered a reservation due to commitments to various religious communities in Israel. Further details regarding this reservation are provided in Article 16, below.

Article 16 - Equality in Marriage and Family Life

General

621. Israel's reservation to Article 16 regarding personal status is reviewed periodically. At present, Israel has not changed its position in this matter. This reservation stems from Israel's constitutional system and respect for religious pluralism, as well as its granting autonomy to religious communities in matters of personal status.

622. The religious law limits the marriage option for a number of groups in Israel. This issue remains in the heart of the Israeli discourse and remains a major challenge before the Israeli society. Consequently, certain couples prefer to forego the imposed religious marriage because it contradicts their perceptions of marriage and marry abroad, as detailed below.

Legal Developments

623. The Knesset recently amended the *Division of Property between Spouses Law* 5733-1973 (the "*Division of Property between Spouses Law*") (Amendment No. 4 of 2008) in order to allow the division of property prior to the divorce or end of marriage. According to Jewish "Halacha", both spouses must consent to the divorce. The purpose of the Amendment is to prevent the possibility of one spouse to require the other spouse to relinquish his/her property rights, as a condition for his/her consent to divorce.

Section 2(d) to the Law was amended to further broaden the incidence of the Law, to include marriage annulment, declaration that the marriage was void and separation according to religious law that does not allow divorce, in addition to divorce.

Section 5(a), dealing with the right of each spouse to half of the couple's entire property, was amended to allow the Court to grant the right not only after divorce or after the death of a spouse as previously, but also immediately after the annulment of the marriage. The total property includes future pension rights, retirement benefits, savings, providence funds etc.

The Amendment added Section 5A(a), according to which, the Court may allow, under certain circumstances, the realization of the right to division of property, namely the right of each spouse to half of the couple's total property, prior to the divorce or the marriage annulment in each of the aforementioned forms.

According to Section 5A(b), the Court may shorten the periods stipulated in Section 5A(a), if it deems it appropriate. Furthermore, in certain circumstances, namely the involvement of violent elements, the court may order the division of property even if the situation does not comply with the terms stipulated in Section 5A(a).

According to Section 5A(c) the Court may condition the execution of a division of property request, in the deposition of a written letter of consent to receive or give a 'Get' from the applicant.

624. In a recent decision by the Tel-Aviv Family Matters Court, the Court awarded the plaintiff the amount of 700,000 NIS ($175,000) as non-pecuniary damage for over 10 years she was held in marriage against her will, since her husband refused to give her the divorce (also known as, 'Get'). The plaintiff and the defendant were married by an arranged marriage, however, they lived together for only three months after the marriage, after which the plaintiff fled from the house due to the severe violence inflicted upon her. Since then, the plaintiff filed for a divorce, and tried to receive her 'Get', but due to her husband reluctance, the imposition of different conditions by him, including the waiver of alimony support, and his lack of appearance in court hearings, the divorce was not granted. The plaintiff immense suffering is based on the fact that she is a religious woman, therefore, until receiving her 'Get', cannot rehabilitate her life and find a new partner for the creation of a family. The Court stressed the importance of the ability of each individual to enter or terminate a relationship, including the creation of a family, and emphasized this ability as part of the human dignity and liberty for all. This is especially important for religious women, as their social status is affected of their marital status, therefore refusal to give a 'Get' to such women, humiliates them and injures their sense of value. The Court refused however, to issue pecuniary damage since in its opinion they are to be determined in the divorce proceedings before the Rabbinical Court (*F.M.C. 24782/98 Anonymous v. Anonymous* (14.12.2008)).

625. On July 25, 2007, the legislator extended the powers granted to the Rabbinical Court when dealing with a husband reluctant to give his wife a 'Get', thus preventing her from re-marrying. Amendment No. 6 to the *Rabbinical Courts (Upholding a Divorce Decree) Law,* enables the Rabbinical Courts, in certain circumstances, to foreclose or withhold pensions and other allowances in a progressive manner as stipulated in the Law, as well as possessions including personal effects and real estate.

626. On July 21, 2008, the Jerusalem Family Matters Court, compensated a woman in the amount of 550,000 NIS ($137,500) due to her husband lack of compliance to the order of the Rabbinical Court, stipulating the need for a divorce between the couple. The woman filed for divorce at the Rabbinical Court in 1998, and in 2006 that Court ordered the husband to grant a divorce to his wife. The Family Matters Court determined that due to the lingering of the divorce process the husband inflicted extensive emotional suffering upon his wife, even more so after his refusal to comply with the order of the Rabbinical Court. The Family Matters Court determined that in his refusal to grant a divorce the husband violated Section 287(a) to the *Penal Law* which stipulates that a person failing to comply with a Court Order is subject to two years imprisonment, as well

as Section 63 to the *Torts Ordinance* (*New Version*) stipulating that breach of an obligation inscribed in a law establish a right of compensation. The Court also found that the husband acted in negligence after the Rabbinical Court ordered the divorce, as he must have been aware at that point of the suffering his refusal inflicts on his wife. Therefore, the Family Matters Court decided to compensate the woman for the emotional pain she suffered. However, this decision does not cancel the need to receive the husband's consent to the divorce in order for it to become valid (*F.M.C. (Jerusalem) 6743/02 K. v. K.* (*21.6.08*))

The Family in Israel: Some Demographic Data

627. As discussed in Israel's previous reports, Israel is a family-oriented society. The Central Bureau of Statistics' data indicates that in 2006, only 3.2% of Israeli couples (47,000) cohabitated without marriage (44,800 of those are Jewish couples). The age composition of couples cohabitated without marriage is relatively younger than in married couples, in more than half (55%) of the cases the woman's age is up to 34 years old, compared to only 27% among married women.

Marriages

628. The status of married persons in Israel is illustrated by the following table:

Table 58 - Persons Marrying, By Age, Previous Marital Status and Religion, 2006

	Jews		**Christians**		**Muslims**		**Druze**	
	Never married	**Total**	**Never married**	**Total**	**Never Married**	**Total**	**Never married**	**Total**
Men (Total)	29,728	33,880	652	707	5,575	9,273	695	772
Average Age	27.7	29.3	29.4	29.8	27.2	27.7	27.0	28.5
Women (Total)	30,630	33,880	658	707	8,835	9,273	723	772
Average Age	25.5	26.6	24.4	24.7	22.1	22.3	22.6	22.9

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

629. In 2006, the average age of first marriages in Israel was 27.7 for Jewish men, 27.2 for Muslim men, 27 for Druze men and 29.4 for Christian men. Among women the average age of first marriages was 25.5 for Jewish women, 22.1 for Muslim women, 22.6 among Druze women and 24.4 among Christian women. It should be noted that since 1970, the average marital age has risen by three years, mostly due to the increase in cohabitation and women's participation in the labor market and in higher education.

Polygamy

630. Section 176 of the *Penal Law* prohibits Polygamy in Israel. According to this section, polygamy is punishable by 5 years imprisonment. According to Section 179, a Jewish person shall not be convicted of polygamy if the second marriage is conducted after receiving a marriage permit according to a final verdict of a Rabbinical Court and after the final verdict receives the approval of the High Rabbinical Court. According to Section 180 of the Law, Polygamy among people of other religions is "permitted" only in two situations: the spouse from the first marriage is unable, for reasons of mental illness, to agree to a divorce or to the cancellation of the marriage or to participate in such procedure; the spouse from the first marriage is missing in circumstances which give rise to fear for his life and he can not be traced for 7 years. The *Penal law* also stipulates that a woman can not be forced to annul the marriage without the consent of the relevant court.

Polygamy among the Arab and Bedouin population in Israel

631. On November 11, 2006, the Knesset Committee on the Status of women held a discussion with regard to polygamy among the Bedouin population. A report, which had been prepared for the Committee by the Research and Information Center of the Knesset reveals, that estimating the scope of the phenomenon is rather impossible due to the fact that most polygamous marriages are not registered. Nevertheless, during the discussion, MK Jamal Zchalka had explained that the polygamy phenomenon is being gradually reduced, and already been decreased from 17% of the Bedouin marriages several years ago, to 12% today.

632. According to the Israeli Knesset Research and Information Center the number of polygamy cases decreased significantly in the past few years. In 2005, the total number of registered Muslim polygamy marriages was 24 (18 in Israel and 6 conducted abroad) in comparison to 40 cases in 2004 (of which 34 were conducted in Israel) and to 54 cases in 2003 (of which 47 were conducted in Israel). In 2006, 15 police investigations were opened regarding polygamy marriages, 11 of them in the Arab population and two of those cases in the Bedouin population.

Divorces

633. Israel's divorce rate in the years 2004-2005 has been relatively steady, as indicated by the following table:

Table 59 - Persons Divorcing, By Age, Gender and Religion, 2004 - 2006

		2004		2005				2006			
		Rates (per 1,000 married persons)		Absolute numbers		Rates (per 1,000 married persons)		Absolute numbers		Rates (per 1,000 married persons)	
	Age	Wives	Husbands	Wives	Husbands	Wives	Husbands	Wives	Husbands	Wives	Husbands
Total Population	15+ Total	8.0	8.0	11,030	11,030	7.9	7.9	13,439	13,439	9.4	9.4
	Up to 19	18.1	-	153	29	21.4	-	158	23	16.3	-
	20-24	12.5	12.3	973	379	13.5	14.7	1,068	417	13.5	13.5

	25-29	12.1	12.1	1,832	1,281	11.6	11.9	2,274	1,483	13.9	13.2
	30-34	10.8	11.6	2,108	2,053	11.2	11.6	2,602	2,519	13.4	13.6
	35-39	10.3	10.8	1,664	1,826	10.1	10.7	2,129	2,323	12.5	13.1
	40-44	9.6	10.2	1,408	1,549	9.2	9.7	1,738	1,975	11.4	12.4
	45-49	8.2	9.1	1,209	1,371	8.1	8.9	1,387	1,614	9.4	10.5
	50-54	6.1	7.6	866	1,124	6.0	7.3	942	1,225	6.6	8.1
	55+	2.1	3.0	799	1,407	2.2	3.1	1,005	1,660	2.7	3.6
Thereof: Jews	15+ Total	9.2	9.1	9,767	9,767	9.0	8.9	11,392	11,392	10.3	10.2
	Up to 19	21.9	-	58	18	27.6	38.8	76	13	24.7	-
	20-24	15.9	12.0	671	254	17.0	14.6	742	291	16.5	13.5
	25-29	15.2	14.4	1,589	1,009	14.7	14.1	1,859	1,118	16.6	14.8
	30-34	13.5	14.4	1,907	1,800	13.8	14.3	2,202	2,085	15.3	15.8
	35-39	12.8	13.6	1,511	1,639	12.4	13.4	1,874	1,971	14.9	15.5
	40-44	11.8	12.7	1,294	1,403	11.3	12.1	1,520	1,731	13.5	15.1
	45-49	9.5	10.8	1,137	1,269	9.5	10.5	1,253	1,429	10.7	12.0
	50-54	6.9	8.5	824	1,053	6.8	8.3	867	1,130	7.3	9.1
	55+	2.3	3.2	760	1,312	2.4	3.3	927	1,531	2.9	3.8
Thereof: Muslims	15+ Total	5.8	5.8	1,136	1,136	5.8	5.8	1,134	1,134	5.5	5.5
	Up to 19	16.7	-	85	11	-	-	73	9	12.5	-
	20-24	9.3	14.4	272	105	10.5	15.7	251	99	9.1	13.0
	25-29	6.6	9.4	217	251	6.3	9.4	230	227	6.4	8.2
	30-34	5.3	6.0	172	218	5.5	6.2	160	210	4.9	5.7
	35-39	4.8	5.1	142	170	5.3	5.4	109	156	4.0	4.8
	40-44	4.2	4.6	105	131	4.6	4.7	108	122	4.5	4.2
	45-49	4.3	4.2	68	93	4.1	4.6	66	95	3.8	4.4
	50-54	3.5	4.3	37	66	3.0	4.4	41	59	3.2	3.8
	55+	2.0	2.7	36	90	1.8	2.8	39	77	1.8	2.3

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Minimum Marital and Parenthood Age

634. The phenomenon of underage marriage still takes place in certain segments of Israeli society, including those of the ultra-orthodox Jews, Jews originating from Georgia and Arabs. According to the Central Bureau of Statistics, in 2006, more than 1,500 girls, younger than 17, were married (3.4% of the total women married that year), of which 78% were Muslim girls. Additionally, 40.8% of single Arab women were married before the age of 19. In 2005, the rate of marriage for Muslim girls was more than 2.5 times higher than that of Jewish girls. Also in 2005, 30 requests to allow the marriage of minors were submitted to Family Matters Courts – 17 were approved. During the years 1997-2005, more than a half of the 251 requests for marriage of minors were approved. During the years 2000-2006, 41 complaints were submitted to the Police due to violations of the *Marital Age Law*. In half of these cases criminal files were opened and in all other cases it was decided not to prosecute.

635. In 2007, 549 young women up to the age of 17 gave birth, of which 444 were Muslim and 71 were Jewish. To about 8% of them it was not the first birth. Also in 2007, 1,226 young women

(up to 17), applied to the Commission for Pregnancy Terminations, 81% of them were Jewish, 13% were without religious classification and only 3% were Muslim. 98% of them were single and almost all the applications were approved.

Table 60 - Marriage of Young People up to Age 19, 2006

Gender	Age	Jews			Muslims		Christians		Druze	
		Divorced	Never-married	Total*	Thereof: never-married	Total	Thereof: never-married	Total	Thereof: never-married	Total
Men	Up to 17	-	23	23	35	35	-	-	-	-
	18	-	258	258	81	85	-	-	13	13
	19	1	809	810	222	222	2	2	23	23
	Up to 19	1	1,088	1,091	338	342	2	2	36	36
Women	Up to 16	-	4	6	138	150	-	-	-	-
	17	1	245	248	1,036	1,050	11	11	73	73
	18	4	919	923	1,283	1,290	24	24	87	87
	19	5	1,814	1,819	1,176	1,185	47	47	77	80
	Up to 19	10	2,982	2,996	3,633	3,675	82	82	237	240

** Including marital status widower/widow and unknown*

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008

636. Usually under-age marriages take place in closed communities, and are not published, therefore the likelihood of acquiring evidence of the marriage or proving their very existence, is quite low. Furthermore, for the reason mentioned above, violations of this Law do not come to the knowledge of the Police or other relevant bodies.

637. In a recent case, the Krayot Family Matters Court denied a request to grant a marriage permit for a 16 years old girl to marry a 28 years old man, determining that the reason presented does not relate to the girl's best interest according to the *Marital Age Law* and therefore is not a sufficient reason for granting a marriage permit. Here, the request was based on the fact that the expected groom's mother was diagnosed with a terminal illness, and the parties involved wished her to be present at the wedding. The petitioners informed the Court that prior to the diagnosis, their intention was to wed the couple when the girl will turn 18. The Court held that the reason presented in this case, however unfortunate, does not give rise to the issuing of such permit, as it is not a reason relating to the young girl in question and her best interest (*F.M.C. 6980/08 Anonymous et. al. v. The Haifa District Attorney* (*17.07.08*)).

Dissolving of Marriage

638. The *Dissolving of Marriage Jurisdiction (Special Cases and International Jurisdiction) Law* 5729-1969 (the "*Dissolving of Marriage Jurisdiction Law*"), concerning the dissolution of marriage of persons with no religious affiliations or different religions was amended in July 2005 to allow for either spouse to apply directly to a Family Matters Court in matters of marriage dissolution, instead of applying first to the president of the Supreme Court. In suitable cases, the Family Matters Court may seek consultation from the relevant religious court to determine whether it is necessary to dissolve the marriage according to the religious law of either spouse in order to allow him or her to remarry. The amended law also includes international jurisdiction provisions of Family Matters Courts.

Civil Marriages

639. On November 21, 2006, the Supreme Court took a significant step of recognizing civil marriages which had taken place between Jewish Israeli residents and citizens outside of Israel. A Jewish man, who wanted to divorce his wife after having been civilly married outside of the State, turned to the Rabbinical Court which stated that the marriage should not be recognized and are therefore dissolved. The wife, who did not want to divorce her husband, petitioned the decision to the High Court of Justice based on her fear of loosing her right to alimony. The Court determined that the Rabbinical Court could not dissolve the marriage based on the fact that the marriage was not performed according to Jewish religious law. It further noted that civil marriages are indeed valid in Israel and created a status which could not only be considered as for the purpose of registration. (*H.C.J. 2232/03 Anonymous v. The Rabbinical Court of Appeals*)

The Supreme Court decided that the Rabbinical Court may dissolve such a marriage and grant a divorce verdict, if it is convinced that it is unfeasible to accomplish domestic peace between the spouses, but it can not do so based on the religious causes for divorce. This sort of divorce can be defined as "divorce with no blame" (not owing to religious causes of blame), and is considered to be rather like a civil divorce. The Supreme Court raised the concern that "divorce with no blame" may damage the right of women to receive alimony, but emphasized that the solution can not be found through retaining the institution of formal marriage. Instead the economic aspects of the relationship should be resolved in a Family Matters Court, rather than as part of a divorce procedure in the Rabbinical Court.

Spouses

640. On April 15, 2007, the Nazareth Family Matters Court rejected a lawsuit brought by the two children of a deceased man against his second wife. In the claim, the children requested the rights to a property of their father's that the second widow had inherited. The plaintiffs claimed that their father's widow had a new spouse and that according to a condition in their father's testament, she lost the right to the property under those circumstances and the children were subsequently to inherit it (*Nazareth F.M.C. 1180/04 A.Z and P.Z v. V.Z and the Land Registry*).

The Court held that the meaning of the word "spouse" as it appeared in the aforementioned testament should be interpreted as a relationship characterized by economic management of a family unit, stemming from a joint family life. This meaning complied with the testimony's objective that the children would inherit the property only if the wife developed a serious and permanent relationship with her new partner, similar to the one she had with the deceased. The Court decided that in this case, the relationship between the respondent and her partner was based on friendship and intimacy, but could not be characterized as incorporating the economic management of a joint family unit. Therefore, the new couple could not be considered as 'spouses' according to the terms of the testament, and the lawsuit was rejected.

Same-Sex Couples

641. In recent years, there were many judgments and decisions promoting the rights of same-sex couples in Israel, some of them are detailed below.

642. On November 21, 2006, the Supreme Court handed down a landmark decision concerning the rights of same-sex couples. It held that a wedding certificate from a foreign country in which same-sex marriages are recognized, could allow the couple to be registered as married by the Ministry of the Interior. Five gay couples who held wedding ceremonies abroad petitioned to the Supreme Court following the Ministry of the Interior's refusal to register them as married (*H.C.J. 3045/05 Ben-Ari v. The Ministry of the Interior, H.C.J. 3046/05 Bar-Lev v. The Ministry of the Interior, H.C.J. 10218/05 Herland v. The Ministry of the Interior, H.C.J. 10468/05 Lord v. The Ministry of the Interior and H.C.J. 10597/05 Remez v. The Ministry of the Interior*).

The Supreme Court based its decision on a previous Supreme Court ruling (*H.C.J. 143/62 Fonk Shlezinger v. The Minister of the Interior*) in which a distinction was made between the duty to register marriages, and the question of recognition of their status. The Supreme Court determined that the Ministry of the Interior must not discriminate against same-sex couples who hold a wedding certificate from a foreign country that permits same-sex marriages. Nevertheless, the Supreme Court notes that by doing so, it does not grant a new status to same-sex marriages, and reiterated that it is the role of the Knesset to endow as much.

643. On April 19, 2007, The Haifa Labor District Court accepted a claim against the "Mivtachim" pension fund, and determined that a surviving partner of a lesbian relationship was eligible to the legal rights of an "insured widow", and not of an "insured widower". Following this decision, the plaintiff is to be paid a survivors' pension of 40% as opposed to only 20% (*La.C. (Haifa) 1758/06 Moyal-Lefler v. Mivtachim*).

The Court concluded that in this instance, the plaintiff was the deceased's spouse, and was publicly recognized as her cohabitator. Therefore, she was eligible to a survivors' pension, according to the rules of the pension fund. The Court stated that "the distinction between men and women in the rules of the respondent and the *National Insurance Law* derives from a similar rationale - a reflection of the economic situation in which we live, where women's incomes are lower than men's, and their promotion in the labor market is more difficult.

Therefore there is a justification for the preference of female widows as it narrows the existing gap between men and women". The Court held that the plaintiff should be classified as a female widow, and not as a male widower. She was therefore eligible for the rights of an "insured widow", and the pension as stated in the rules of the pension fund.

644. On March 3, 2008 the Court of Family Matters in Tel-Aviv issued an adoption order regarding a minor to the petitioner. The petitioner is the same-sex spouse of the minor's parent. The Court determined that according to the examination conducted by the welfare officer, the minor is a happy child and sees both males as his parents, therefore there is no prevention from granting the adoption order, and it is in the child's best interest to do so. The Court further stipulated that granting the adoption order does not negate any rights of the father and his extended family (*Ad.C. (Tel-Aviv) 58/07 Giora Shavit Shadiv et. al. v. The Attorney General (20.03.2008)*).

645. On December 20, 2006, the Tel-Aviv Family Matters Court determined that a prenuptial financial agreement between a same-sex female-couple is valid regarding its property distribution between the couple; however its signature does not affect the personal status of the couple, and may not be seen as changing their status to married. The Court emphasized that significant changes in public opinions regarding women issues occurred in the last century, including same-sex relations, and therefore the public morality changed and now recognizes the right of same-sex couples to enjoy the same rights as married couples, i.e. recognizes their right to equality and equal treatment. However, the definition of marriage depends on the legislator and it is not in a hurry to change the current definition (*F.M.C. 47720/06 Anonymous et. al. v. Anonymous (20.12.2006)*).

646. In a decision dated January 23, 2005, the Attorney General established a new precedent in which the State is willing to grant legal status to same-sex adoptions of the birth-child or adopted child of the other spouse. Furthermore, it states that the State is willing to allow the adoption of a non-biological child by same-sex couples, while considering the best interest of the child. This position regards the legal aspects of same-sex adoptions; however the decision regarding a specific case shall remain in the hands of the relevant social service.

New Reproductive Technology and Surrogacy

647. The accumulative number of applications for surrogate motherhood, as of December 2007, is 450, resulting with 194 children in 160 successful child births (due to 32 labors of twins and one triplet). Out of the 450 applications some were made by couples for the second time after a success or a failure to conceive on the first application. Some of the applications never reached the stage of signing an agreement. At least two of the prospective parents gave birth to children unaided by a surrogate after approval of their surrogacy agreement.

United Nations CEDAW/C/ISR/CO/5

Convention on the Elimination of All Forms of Discrimination against Women

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Concluding observations of the Committee on the Elimination of Discrimination against Women

Israel

1. The Committee considered the fourth and fifth reports of Israel (CEDAW/C/ISR/4 and CEDAW/C/ISR/5) at its 961st and 962nd meetings, on 18 January 2011 (see CEDAW/C/SR.961 and 962). The Committee's list of issues and questions is contained in CEDAW/C/ISR/Q/5, and the responses of Israel are contained in CEDAW/C/ISR/Q/5/Add.1.

A. Introduction

2. The Committee expresses its appreciation to the State party for its fourth and fifth periodic reports, which were well structured and in general followed the Committee's guidelines for the preparation of reports, with references to the previous concluding observations, although they lacked references to the Committee's general recommendations. The Committee regrets that the reports did not provide information on the enjoyment by all women, including women living in the Occupied Palestinian Territories, of their rights under the Convention. The Committee expresses its appreciation to the State party for its oral presentation, the written replies to the list of issues and questions raised by the Committee's pre-session working group, as well as the supplementary written information.

3. The Committee commends the State party for its multi-sectoral delegation which included a high number of women and men representing ministries and other governmental bodies with responsibilities for the implementation of measures in the areas covered by the Convention. The Committee appreciates the constructive dialogue that took place between the delegation and the members of the Committee, but it regrets that a significant number of its oral questions were left unanswered.

B. Positive aspects

4. The Committee notes with appreciation the significant law reform undertaken since the consideration of its third periodic report (CEDAW/C/ISR/3) in 2005, aimed at the

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promotion of gender equality and elimination of discrimination against women and at achieving compliance with the obligations under the Convention. Specific reference is made to:

(a) Anti-Trafficking Law (Legislative Amendments), in 2006;

(b) Public Protection from Sex Offenders Law, in 2006;

(c) Gender Implications of Legislation Law (Legislative Amendments), in 2007, which imposes the duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset;

(d) Encouragement of the Advancement and Integration of Women in the Workforce and the Adjustment of Workplaces to Women's Needs Law, in 2008; and

(e) Amendment of the Statistics Ordinance, in 2008, including the requirement in Section 7A that the collection, processing and publication of statistical data relating to individuals shall include statistics segregated by gender, unless certain circumstances justify a deviation from the general rule.

5. The Committee also notes with satisfaction that, in the period since the consideration of the previous report, the State party has ratified or acceded to the following international instruments:

(a) The Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2005, and on the sale of children, child prostitution and child pornography, in 2008; and

(b) The United Nations Convention against Transnational Organized Crime, in 2006, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention, in 2008.

C. Principal areas of concern and recommendations

6. The Committee recalls the obligation of the State party to systematically and continuously implement all the provisions of the Convention and views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on actions taken and results achieved in its next periodic report. The Committee calls upon the State party to submit the present concluding observations to all relevant ministries, to the Knesset, and to the judiciary, so as to ensure their full implementation.

Parliament

7. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of Government, and it invites the State party to encourage the Knesset, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the Government's next reporting process under the Convention.

Reservations

8. The Committee remains concerned that the State party continues to retain its reservations to articles 7 (b) and 16 of the Convention. The Committee is of the view that

the reservation to article 16 is impermissible as it is contrary to the object and purpose of the Convention. It also impinges on other fundamental articles of the Convention, including article 2, and implementation of the principle of substantive equality between women and men in all matters relating to marriage and family relations.

9. Recalling its previous recommendation (CEDAW/C/ISR/CO/3, para. 26), the Committee urges the State party to consider withdrawing its reservations to article 7 (b) and especially to article 16 of the Convention in order to eliminate discrimination against women in all matters relating to marriage and family relations in line with articles 2 and 16 of the Convention.

Definition of equality and non-discrimination

10. While noting that the principle of non-discrimination is incorporated in several pieces of legislation, the Committee remains concerned that the State party's Basic Law: Human Dignity and Liberty (1992), which serves as Israel's bill of rights, does not contain a general provision on equality between women and men and the prohibition of both direct and indirect discrimination against women. The Committee notes, however, that the State party continues the process of preparing a consensus-based constitution.

11. The Committee recalls its previous recommendation (CEDAW/C/ISR/CO/3, para. 18) and urges the State party to:

(a) Include in the new Constitution, or in a basic law or other appropriate legislation, a specific right of non-discrimination on the grounds of sex, and a definition of discrimination that encompasses both direct and indirect discrimination and discrimination in the public and private spheres, in conformity with article 1 of the Convention; and

(b) Develop, in accordance with article 2 of the Convention, a principle of gender equality in the appropriate national law in order to fulfil the necessary internal procedures for the incorporation and implementation of the provisions of the Convention.

Applicability of the Convention

12. Recalling its previous concluding observations (CEDAW/C/ISR/CO/3, para. 23), the Committee regrets the State party's position that the Convention does not apply beyond its own territory and, for that reason, the fourth and fifth periodic reports did not provide any information on the status of implementation of the Convention in the Occupied Palestinian Territories. The Committee notes, however, that the delegation acknowledged that the State party had certain responsibilities, including in the context of humanitarian law, and that the delegation, while maintaining its position, provided responses to some of the questions raised by the Committee concerning the situation of women in the Occupied Territories. The Committee reiterates that the State party's view that the Convention is not applicable in the Occupied Territories is contrary to the views of the Committee and of other treaty bodies, including the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee against Torture and also of the International Court of Justice in its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, which have all noted that obligations under international human rights conventions as well as humanitarian law apply to all persons brought under the jurisdiction or effective control of a State party and have stressed the applicability of the State party's obligations under international human rights conventions to the Occupied Territories.

13. With reference to paragraph 12 of its general recommendation No. 28 on the core obligations of States parties under article 2 of the Convention, the Committee

urges the State party to reconsider its position and to give full effect to the implementation of its obligations under the Convention as well as its obligations under humanitarian law with regard to all persons under its jurisdiction or effective control, and to provide in its next periodic report detailed information on the enjoyment by all women, including, if still relevant, women living in the Occupied Palestinian Territories, of their rights under the Convention. The Committee encourages the State party to strengthen its dialogue with the Palestinian authorities in respect of the implementation of the provisions of the Convention.

Participation of women in the peace process

14. The Committee is aware that the persistence of conflict and violence hinders the full implementation of the Convention. In this regard, it welcomes the fact that the State party has recognized the importance of United Nations Security Council resolution 1325 (2000) on women and peace and security in various domestic and international forums, and that the 1951 Equal Rights for Women Law was amended in 2005 following this resolution to include section 6C1, mandating that there must be equal representation for women in bodies that shape national policy, including peacebuilding negotiations.

15. With reference to its previous recommendation (CEDAW/C/ISR/CO/3, para. 22), the Committee calls on the State party to strengthen its efforts towards conflict resolution, in line with relevant United Nations resolutions, and to fully involve all women concerned in all stages of the peace process, including through their equal opportunity and participation in the decision-making processes.

Visibility of the Convention

16. The Committee notes with concern that there is inadequate knowledge in society in general, including among all branches of Government, of the rights of women under the Convention, the Convention's concept of substantive equality of women and men and the Committee's general recommendations. The Committee is also concerned that the State party did not provide information on cases in which the provisions of the Convention had been directly invoked in court. It is further concerned that women themselves, including those in the Occupied Territories and women belonging to minority groups, are not aware of their rights under the Convention and thus lack the necessary information to claim them.

17. The Committee recommends that the State party take all appropriate measures to:

(a) Ensure that the Convention is sufficiently known and applied by all branches of Government, including the judiciary, as a framework for all laws, court decisions and policies on gender equality and the advancement of women;

(b) Ensure that the Convention and related domestic legislation be made an integral part of the legal education and training of judges, magistrates, lawyers and prosecutors so that a legal culture supportive of the equality of women with men and non-discrimination on the basis of sex is firmly established in the country;

(c) Enhance the awareness of all women, including Israeli Arab women and women belonging to other minority groups, of their rights through, inter alia, legal literacy programmes and legal assistance; and

(d) Ensure that information on the Convention is provided to women, especially Palestinian women in the Occupied Territories and those from minority communities, through the use of all appropriate measures, including the translation of the Convention and the present concluding observations into Arabic.

National machinery for the advancement of women

18. The Committee welcomes the continued activities of the Authority for the Advancement of the Status of Women, including training activities, surveys and awareness-raising campaigns, the recent strengthening of the Authority as well as the doubling of its budget for 2011. However, the Committee remains concerned that the Authority, which has multiple functions, may not have sufficient power, visibility, and human and financial resources for the effective promotion of the advancement of women and gender equality. It also notes with concern that the State has not adopted a national plan of action for the advancement of women.

19. The Committee calls on the State party to:

(a) Continue to strengthen the Authority and ensure that it is provided with the power, location within the executive branch of Government and necessary human and financial resources to enable it to carry out effectively the promotion of the advancement of women and gender equality throughout all sectors of Government; and

(b) Develop and adopt a comprehensive national plan of action for the advancement of women in line with the Convention and take due consideration of the Committee's recommendations in the formulation of this action plan, ensure its effective implementation, including monitoring and regular evaluation of strategies and measures used in its implementation, and establish a regular reporting system to the Government and the Knesset.

Violence against women

20. The Committee acknowledges the efforts by the State party to combat violence against women, including the adoption of new legislation on sexual offences and the ongoing activities of the special task force of 220 investigators specializing in gender-based violence. However, the Committee expresses its concern at the prevalence of domestic and sexual violence against women and girls, particularly against women belonging to the minority communities.

21. The Committee urges the State party to continue to give priority attention to combating violence against women and girls and to adopt comprehensive measures to address such violence, in accordance with its general recommendation No. 19. To this end, the Committee recommends that the State party:

(a) Ensure the effective implementation of existing legislation as well as prosecution and punishment of perpetrators of such violence; and

(b) Provide the police, public prosecutors, the judiciary and other relevant Government bodies with the necessary training on domestic and sexual violence.

Violence against and harassment of women in the Occupied Palestinian Territories

22. While noting the complexity of the local administration, the Committee notes with deep concern that Palestinian women and girls continue to suffer from violent attacks from both State (Israeli soldiers) and non-State (inter alia settlers) actors, as well as all other forms of violence within their communities, including violations of the right to life, physical, psychological and verbal abuse, and sexual harassment. The Committee also notes with serious concern that such cases are rarely documented, prosecuted and punished. The Committee welcomes the establishment of an exceptional committee within the State party that provides financial assistance for battered women who wish to leave the shelters and start independent lives, but it regrets that Palestinian women do not have access to financial assistance from this committee. Furthermore, the Committee notes with concern that the

restrictions on movement in the Occupied Territories as well as regular harassment by settlers of both children and teachers on their way to and from school have had a negative impact on Palestinian women and girls' access to education and to their health.

23. The Committee urges the State party to:

(a) Take immediate action to prevent human rights abuses and violations against women and girls in the Occupied Palestinian Territories and to protect them against such acts, including at checkpoints;

(b) Provide these women with effective access to legal remedies and ensure that such cases are fully and promptly investigated and that perpetrators are brought to justice, regardless of whether they are State or non-State actors;

(c) Ensure the provision of adequate compensation and, where appropriate, reparation to the surviving victims;

(d) Ensure that Palestinian women who are victims of violence have access to a sufficient number of shelters as well as financial and legal assistance, where necessary;

(e) Take the necessary measures to ensure that Palestinian women and girls can enjoy their right to education and their right to health, including safe and unhindered access to schools and to health facilities and resources; and

(f) Establish a constructive dialogue with the Palestinian authorities on the issues relating to violence against women under their responsibility.

Family reunification

24. The Committee notes with concern that the 2003 Citizenship and Entry into Israel Law (Temporary Order), as amended in 2005 and 2007, remains in force and has been declared constitutional by the Supreme Court. The Committee reiterates its concern that this Law, which suspends the possibility, subject to limited and subjective exceptions, of family reunification, especially in cases of marriages between an Israeli citizen and a person residing in the Occupied Palestinian Territories, has recently been extended for another six months and thus continues to adversely affect the marriages and right to family life of Israeli Arab women citizens and Palestinian women from the Occupied Territories.

25. Recalling its previous recommendation (CEDAW/C/ISR/CO/3, para. 34), the Committee calls on the State party to balance its security interests with the human rights of persons affected by such policies, and to reconsider them with a view to facilitating family reunification of all citizens and permanent residents. To this end, it calls on the State party to bring the 2003 Citizenship and Entry into Israel Law (Temporary Order) of 31 July 2003 into line with articles 9 and 16 of the Convention.

Freedom of movement

26. The Committee is deeply concerned that the severe restrictions on the freedom of movement in the Occupied Palestinian Territories, especially through the wall, checkpoints, restricted roads and permit system, create hardship and have a detrimental impact on the enjoyment of human rights by Palestinian women, in particular their rights to freedom of movement, family life, work, education and health.

27. The Committee urges the State party to:

(a) Review these measures to ensure that restrictions on freedom of movement are not systematic, are not applied in a discriminatory manner, and do not lead to segregation of communities; and

(b) Ensure that Palestinian women enjoy their human rights, in particular their rights to freedom of movement, family life, work, education and health.

House demolitions

28. While noting that the State party delegation referred in the dialogue to national security concerns, the Committee is seriously concerned that continued demolitions of property, homes and schools as well as forced evictions in the Occupied Palestinian Territories and in East Jerusalem have a serious impact on the development and advancement of Palestinian women, including refugee women, as well as Israeli Arab women, and on their enjoyment of human rights and fundamental freedoms.

29. The Committee urges the State Party to:

(a) Revoke its policies allowing for and refrain from the practice of forced eviction and house demolitions, which negatively impact on the physical and psychological well-being as well as the development and advancement of Palestinian and Israeli Arab women; and

(b) Review its housing policy and issuance of construction permits to Palestinians to ensure that Palestinian and Israeli Arab women can enjoy all their fundamental rights and freedoms, particularly their right to adequate housing and to family and private life.

Trafficking and exploitation of prostitution

30. The Committee underlines the State party's continuous efforts to address the issue of trafficking in women and girls, including the enactment of the Anti-Trafficking Law, which has broadened the definition of trafficking, as well as the adoption of the two National Plans to combat trafficking in persons for purposes of prostitution, and trafficking in persons for purposes of slavery and forced labour. While noting the extensive information provided in the fifth report and the State party's replies to the list of issues, including that there has been a sharp decline in the number of women trafficked to Israel for purposes of prostitution, the Committee remains concerned at the prevalence of trafficking in the State party as a destination country, as well as reports of internal trafficking. In addition, it is concerned at the limited information provided on the existence and implementation of regional and bilateral memorandums of understanding and/or agreements with other countries on trafficking. Furthermore, the Committee is concerned that female asylum seekers and migrants entering Israel through the Sinai desert are at high risk of becoming victims of trafficking.

31. The Committee urges the State party to fully implement article 6 of the Convention, including through:

(a) Effective implementation of its anti-trafficking legislation as well as its two national plans on trafficking, in order to ensure that perpetrators are punished and victims adequately protected and assisted;

(b) Strengthening of its efforts at international, regional and bilateral cooperation with countries of origin and transit so as to address more effectively the causes of trafficking, and improve prevention of trafficking through information exchange; and

(c) Provision of information and training on the anti-trafficking legislation to the judiciary, law enforcement officials, border guards and social workers in all parts of the country; and

(d) Provision of immediate and effective treatment, including medical, psycho-social and legal assistance for women in need of international protection, who are victims of trafficking and sexual slavery, in transit to Israel.

Participation in political and public life

32. The Committee notes the measures taken by the State party to enhance women's participation in political and public life, including Government Resolution No. 1362 (2007) determining that equal gender representation shall be achieved in the boards of Government corporations, within two years of the Resolution, as well as the creation of a list of women qualified to serve as directors in Government corporations and other public bodies, including Israeli Arab women. While welcoming the increase in the number of women in the Knesset and the fact that women now constitute the majority of judges in the judiciary, the Committee is concerned that gaps remain between women's and men's representation in certain areas of political and public life, including in local councils/authorities, academia and the foreign service. Furthermore, the Committee is concerned at the continued low level of representation of Israeli Arab women in these areas. In this respect, the Committee notes with interest the two bills on the funding of political parties and on local authorities (elections).

33. The Committee recommends that the State party pursue sustained policies aimed at the promotion of the full and equal participation of women in decision-making in all areas of public, political and professional life. It recommends that the State party fully utilize the Committee's general recommendation No. 23 and calls upon the State party to adopt temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, in order to accelerate the full and equal participation of women in public and political life. To this end, the Committee recommends that the State party:

(a) Establish concrete goals and timetables so as to accelerate the increase in the representation of women, including Israeli Arab women, in elected and appointed bodies in all areas of public life, where parity has not yet been reached;

(b) Implement awareness-raising activities on the importance of the participation of women in decision-making for society as a whole and develop targeted training and mentoring programmes for women candidates and women elected to public office, as well as programmes on leadership and negotiation skills for current and future women leaders;

(c) Carefully monitor the effectiveness of measures taken and results achieved and that it inform the Committee thereof; and

(d) Provide information, in its next report, on the status and content of the two Bills on the funding of political parties and on local authorities (elections).

Education

34. The Committee acknowledges the progress made in the field of education for women and girls. However, the Committee is concerned that Israeli Arab and Bedouin women and girls remain in a disadvantaged and marginalized situation, including with regard to drop-out rates and access to institutions of higher education. It is also concerned about women's disproportionately low presence in engineering and technical fields in higher education. While noting some efforts made, the Committee is further concerned that elimination of gender stereotypes from textbooks has not been prioritized, including in the Arab education system.

35. The Committee calls on the State party to enhance its compliance with article 10 of the Convention and to raise awareness of the importance of education as a

human right and as the basis for the empowerment of women. The Committee recommends that the State party:

(a) Take the necessary measures, including the use of temporary special measures, in accordance with article 4 and the Committee's general recommendation No. 25, to reduce the drop-out rates of Israeli Arab and Bedouin girls and increase the number of Israeli Arab and Bedouin women at institutions of higher education, inter alia through the provision of scholarships;

(b) Take effective measures to actively overcome the de facto segregation in the fields of education, to encourage the diversification of educational and professional choices for women and men and to offer incentives for women to enter traditionally male dominated fields of study; and

(c) Review and revise textbooks, including in the Arab education system, through the special committee appointed for this purpose, in a speedy manner, in order to eradicate gender stereotypes.

Employment

36. The Committee welcomes the establishment, in 2008, of the Equal Employment Opportunities Commission with a mandate to receive and handle complaints regarding employment discrimination as well as the amendment to the Women's Employment Law on the extension of maternity leave to 26 weeks. However, the Committee notes with concern the segregation of the labour market as well as the wide gender pay gap, with the average income of women being 63 per cent of the average income of men across the country. While noting efforts by the State party to combat sexual harassment, including the activities of the Authority in this respect, the Committee is concerned at the persistence of sexual harassment, including in the military.

37. The Committee requests the State party to ensure equal opportunities for women in the labour market, in accordance with article 11 of the Convention. To this end, the Committee recommends that the State party:

(a) Ensure the effective implementation of its labour legislation to combat the segregation of the labour market and the gender pay gap; and

(b) Continue its efforts to combat sexual harassment, including in the military, through the enforcement of the Prevention of Sexual Harassment Law and other concrete measures.

Health

38. The Committee appreciates the efforts made by the State party in the area of health care as well as the continuing decline in the child mortality rate. However, it is concerned that discrepancies remain in the infant and maternal mortality rates of Jewish, Israeli Arab and Bedouin women and children. The Committee also notes with concern that the restrictions on movement in the Occupied Territories have had a negative impact on the health of women, including older women and disabled women, and in particular their access to adequate health services, such as hospitals, clinics, urgent care and specialized treatment not available in the Occupied Territories. In addition, the Committee remains concerned about the number of incidents at Israeli checkpoints which have a negative impact on the rights of Palestinian women, including the right of access to health-care services for all women, including pregnant women.

39. The Committee calls upon the State party to take all necessary measures to ensure women's access to health care and health-related services, within the

framework of the Committee's general recommendation No. 24. To this end, the Committee calls upon the State party to:

(a) Refrain from any action that would prevent Palestinian women from accessing adequate health services and treatment;

(b) Strengthen its efforts to close the gaps in the infant and maternal mortality rates of Jewish, Israeli Arab, and Bedouin women and children; and

(c) Ensure that the Israeli authorities at the checkpoints are instructed to ensure safe and unhindered access to health-care services for all women, including pregnant women.

Palestinian female prisoners

40. The Committee is seriously concerned at the situation of Palestinian women in detention. In this respect, the Committee expresses its concern with respect to the harsh detention conditions of Palestinian female prisoners as well as their treatment during detention. It also expresses its concern at reports that approximately 25 per cent of Palestinian female prisoners suffer from treatable diseases, but that many have little or no access to medical attention, and it notes with concern the lack of adequate services provided to pregnant Palestinian prisoners. Furthermore, the Committee notes with concern that the detention of Palestinian female prisoners outside the Occupied Territories obstructs regular family visits.

41. The Committee urges the State Party to:

(a) Ensure humane detention conditions and treatment of Palestinian women during their arrest, interrogation and detention;

(b) Ensure that Palestinian female prisoners, including pregnant prisoners, have access to adequate health services and treatment and that the gender-specific medical needs of these prisoners are met; and

(c) Ensure that Palestinian female prisoners are allowed to receive family visits as often as other female prisoners.

Female migrant workers

42. The Committee expresses its particular concern at the disadvantaged situation of female migrant workers in the country. In this respect, the Committee is concerned at the difficult working conditions of female migrant workers, who are employed primarily as in-home caregivers, and that they work on a round-the-clock basis with mandatory live-in arrangements. The Committee also notes with concern the 2009 Supreme Court decision in the matter of *Yolanda Gloten vs. the National Labour Court*, which held that migrant home caregivers are excluded from the Hours of Work and Rest Law, which provides basic labour law protections to workers in the State party generally. Furthermore, the Committee is seriously concerned at the State party's existing policy that migrant workers who give birth must leave the State party with their babies within three months of giving birth or send their babies out of the State party's borders so as to safeguard their work permits. The Committee is equally concerned that marriage and intimate relationships between migrant workers under an existing State party policy constitute grounds to revoke the couple's work permits.

43. The Committee urges the State party to:

(a) Extend and enforce all labour law protections, including health and safety standards, for all female migrant workers, including migrant home-care

workers, ensure their access to legal remedies, and allow them to negotiate freely with their employer whether to reside in the employer's household or not; and

(b) Revoke its policies with regard to cancellation of work permits for migrant workers in cases of childbirth, marriage and intimate relationships, in accordance with the State party's obligations under the Convention and the Committee's general recommendation No. 26 on women migrant workers.

Bedouin women

44. The Committee notes the establishment, in 2007, of the Advisory Committee on the Policy regarding Bedouin Towns as well as the detailed information provided in the State party's reports on the situation of Bedouin women and girls in the Negev desert, including the increase in school enrolment rates and decline in infant mortality. Nevertheless, the Committee reiterates its concern that Bedouin women remain in a disadvantaged and marginalized situation, especially with regard to education, employment and health, and their access to land. The Committee also reiterates its concern at the situation of Bedouin women who live in unrecognized villages with poor housing conditions and limited or no access to water, electricity and sanitation.

45. The Committee urges the State party to:

(a) Continue to take effective measures to eliminate discrimination against Bedouin women and to enhance respect for their human rights through effective and proactive measures, including in the fields of education, employment and health;

(b) In its planning efforts in the Negev area, respect the Bedouin population's right to their ancestral land and their traditional livelihood; and

(c) Include, in its next report, detailed information on any national policy, strategy or programme carried out by the State party to improve the situation of Bedouin women and girls, including their access to health care, education and employment, as well as the impact and achievements of such government initiatives.

Other disadvantaged groups of women

46. While noting the information provided in the fifth report in respect of women with disabilities and women belonging to ethnic minorities, especially Israeli Arab women, the Committee is concerned at the very limited information provided regarding certain other disadvantaged groups of women and girls, including asylum-seeking women, refugee women, internally displaced women, stateless women and older women. The Committee is also concerned that those women and girls often suffer from multiple forms of discrimination, especially with regard to access to education, employment and health care, protection from violence and access to justice. The Committee is further concerned that gender-based persecution is not recognized by the State party as a ground for refugee status.

47. The Committee recommends that the State party:

(a) Provide, in its next report, comprehensive information, including sex-disaggregated data and trends over time, on the de facto situation of these disadvantaged groups of women and girls in all areas covered by the Convention, as well as on the impact of measures taken and results achieved in the implementation of policies and programmes for these women and girls; and

(b) Consider including gender-based persecution as a ground for refugee status, in accordance with the Office of the United Nations High Commissioner for Refugees (UNHCR) Guidelines on International Protection relating to gender-related persecution.

Discrimination in marriage and family relations

48. Noting that all Jews in Israel can be married and divorced only in the rabbinical courts, which are male dominated and completely governed by religious law, the Committee is concerned about discrimination against women in the context of divorce in such courts, in that only the husband has the right to grant his wife divorce (the "get") of his own free will. The Committee also expresses its concern at recent cases of retroactive invalidation of divorce, to the detriment of Jewish women. The Committee is further concerned about the continuing practices of polygamy and under-age marriage of girls that are legitimized under different religious laws governing personal status.

49. The Committee calls upon the State party to:

(a) Introduce an optional system of civil marriage and divorce available to all;

(b) Harmonize religious laws currently governing marriage and divorce with the Convention and eliminate provisions that are discriminatory against women, including by prohibiting the man's unilateral power to grant the "get", prohibiting the possibility of extorting concessions from women in return for the "get" as well as the practice of retroactive invalidation of divorces, and by further limiting the scope of rabbinical courts' jurisdiction to matters of marriage and divorce alone;

(c) Ensure that rabbinical court judges are provided with training on the Convention, with special emphasis on article 16 as well as domestic violence;

(d) Take active measures to enforce the prohibition of bigamy and current exceptions under which it is allowed and polygamous marriages, as called for in the Committee's general recommendation No. 21; and

(e) Take effective measures to enforce adherence to the minimum age of marriage, and, in this respect, take measures to raise the minimum age of marriage to 18 years for both women and men.

Cooperation with civil society

50. While acknowledging the State party's emphasis on working in cooperation with civil society organizations, including women's non-governmental organizations, and the fact that some of these organizations have participated in the preparation of the State party's reports, the Committee notes with concern the recent decision of the Knesset to form a parliamentary inquiry committee with respect to the work and funding of civil society organizations, some of which are providing essential services, and are working to promote equality, for women and girls.

51. The Committee calls upon the State party to:

(a) Ensure that civil society organizations and women's non-governmental organizations are not restricted with respect to their establishment and operations and that they are able to function independently of the Government; and

(b) Provide an enabling environment for the establishment and active functioning and involvement of women's and human rights organizations in promoting the implementation of the Convention.

National Human Rights Institution

52. The Committee recommends that the State party consider establishing a national human rights institution in accordance with the principles relating to the

status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex).

Optional Protocol and amendment to article 20, paragraph 1, of the Convention

53. The Committee encourages the State party to ratify the Optional Protocol to the Convention and to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.

D. Final paragraphs

Dissemination

54. The Committee requests the wide dissemination in Israel of the present concluding observations in order to make the people, including Government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure the de jure and de facto equality of women, as well as the further steps that are required in that regard. The Committee recommends that the dissemination include the local community level. The State party is encouraged to organize a series of meetings to discuss progress achieved in the implementation of the present observations. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme "Women 2000: gender equality, development and peace for the twenty-first century".

Ratification of other treaties

55. The Committee notes that the adherence of the State party to the nine major international human rights instruments[1] would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the Government of Israel to consider ratifying the treaties to which it is not yet a party: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of Persons with Disabilities; and the International Convention for the Protection of All Persons from Enforced Disappearance.

Follow-up to concluding observations

56. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 23 and 49 above.

[1] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

Preparation and date of next report

57. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next report, as well as to consult a variety of women's and human rights organizations during that phase.

58. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its sixth periodic report in February 2015.

59. The Committee invites the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, approved at the fifth inter-committee meeting of the human rights treaty bodies, in June 2006 (HRI/MC/2006/3 and Corr.1). The treaty-specific reporting guidelines adopted by the Committee at its fortieth session, in January 2008, must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together, they constitute the harmonized guidelines on reporting under the Convention on the Elimination of All Forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages, while the updated common core document should not exceed 80 pages.

United Nations CEDAW/C/PSE/1

Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Consideration of reports submitted by States parties under article 18 of the Convention pursuant to the simplified reporting procedure

Initial reports of States parties due in 2015

State of Palestine*

[Date received: 10 March 2017]

Note: The present document is being circulated in Arabic, English, French and Spanish only.

* The present document is being issued without formal editing.

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I. Introduction

1. The State of Palestine acceded to the Convention on the Elimination of All Forms of Discrimination against Women on 1 April 2014, without submitting reservations to any of its articles. This is the official report of the State of Palestine, submitted under article 18 of the Convention. It surveys and details national legislative provisions and regulatory measures relating to implementation of the Convention and the ways those provisions affect the rights of Palestinian women and girls. The report contains data and information on the ongoing national effort to implement the Convention and bring about both de jure and de facto equality between men and women. It lays out the challenges facing the State of Palestine in implementing the Convention. It also describes the situation of Palestinian women under colonial Israeli occupation and the effects of illegal Israeli policies that are part of an institutionalized regime founded on settlement, systematic oppression and discrimination. All levels of the Israeli political and military apparatus, including the Israeli occupation army and the terrorist settler militias, are implicated in the systematic and wide-ranging crimes and violations being perpetrated at against Palestinian women and the entire Palestinian people wherever they are suffering.

2. The present report has been prepared by a joint committee composed of the relevant government agencies and civil society institutions, with a view to providing relevant information and data. The report has been presented to relevant government agencies and civil society institutions at intensive workshops and consultations that covered all its aspects and provided opportunities to discuss it prior to adoption of the final version and submission to the Committee on the Elimination of Discrimination against Women.

3. The report addresses the Convention's provisions one by one, and deals with articles in the order in which they appear in parts I, II, III and IV of the Convention. In preparing its report, the State of Palestine has been mindful of the reporting guidelines and general recommendations annexed to the Convention; the Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties published on 3 June 2009; the Beijing Declaration and Platform for Action; and the Sustainable Development Goals, in particular Goal 5 on achieving gender equality and empowering all women and girls. The State of Palestine stresses that this report in no way relieves Israel, the occupying Power, of its obligation under international law — in particular under international humanitarian law, international human rights law, and the 2004 advisory opinion of the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory — to honour and implement the provisions of the Convention with respect to Palestinian women and girls. Neither does the report in any way affect the right of Palestinians, wherever they may be, to exercise their historical and inalienable rights, including the right to self-determination and the right of return. Lastly, it must be stressed that the present report should be read within the overall context of the common core document.

II. Information relating to the substantive articles of the Convention

Part 1

Article 1
The definition of discrimination against women

4. Legislation currently in force in occupied Palestine does not provide for an explicit definition of the term “discrimination against women”. However, the 1988 Palestinian Declaration of Independence, our most important national historical document, guarantees full equality without discrimination to all Palestinians, men and women, in the exercise of their rights and freedoms. It states explicitly that “the State of Palestine shall be for Palestinians, wherever they may be therein to develop their national and cultural identity and therein to enjoy full equality of rights. Their religious and political beliefs and human dignity shall therein be safeguarded under a democratic parliamentary system based on freedom of opinion and the freedom to form parties, on the respect of the majority for minority rights and the respect of minorities for majority decisions, on social justice and equality, and on non-discrimination in civil rights on grounds of race, religion or colour, or between men and women, under a constitution ensuring the rule of law and an independent judiciary and on the basis of true fidelity to the age-old spiritual and cultural heritage of Palestine with respect to mutual tolerance and coexistence among religions”. That document also declares the commitment of the State of Palestine to “the purposes and principles of the United Nations and the Universal Declaration of Human Rights”.

5. Both the legal framework and the preamble of the 2003 Amended Basic Law prohibit discrimination against women. The provisions of that Basic Law enshrine the equality of all Palestinians before the law and the judiciary without discrimination. Article 9 states explicitly that “Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, colour, religion, political views or disability”. That makes gender equality and non-discrimination against women legal principles of the highest order. Any legislation that does not comply with those principles is subject to nullification by the Constitutional Court on the basis of general principles. Article 10 of the Basic Law provides that “basic human rights and liberties shall be protected and respected” and that Palestine “shall work without delay to become a party to regional and international declarations and covenants that protect human rights”.

6. The accession of the State of Palestine without reservations to the Convention on the Elimination of All Forms of Discrimination against Women, and to other international human rights instruments that provide for equality and non-discrimination on the basis of gender, means that Palestine has declared its recognition at the highest political level of the definition of gender discrimination contained in those instruments and its commitment to taking all measures necessary to prohibit such discrimination in all its forms.

7. On 7 May 2014, immediately following Palestine’s accession to the Convention, as part of the overall national effort to integrate human rights standards into its national legislation, the Palestinian President issued a decision forming a Standing National Ministerial Committee for Follow-up on the Accession of the State of Palestine to International Treaties and Instruments. That Committee’s membership includes the Ministry of Foreign Affairs (as chair), a number of other ministries and national agencies, and the Independent Commission for Human Rights (as an observer). That Committee has a subcommittee called the Committee

of Experts, which is charged with the following tasks: ensuring that the State of Palestine complies with and honours the agreements to which it is a party; preparing and submitting the initial and periodic reports of the State of Palestine to convention bodies; and reviewing legislation with a view to proposing amendments to bring it into line with international standards. That has given a fresh impetus to the incorporation into legislation of the definition of discrimination against women and other provisions of the Convention. The Committee of Experts is also responsible for submitting official reports to human rights treaty bodies and following up on concluding observations issued by those bodies.

8. With a view to combating discrimination, including de facto discrimination, the 2011 proposed draft Palestinian penal code prohibits acts of discrimination, including discrimination on the basis of gender. Article 546 defines discrimination as follows: “any differentiation among natural persons on the basis of national origin, social origin, colour, sex, family status, health condition, disability ...” It penalizes anyone who commits the crime of discrimination with imprisonment for a period of no more than two years and/or a fine of no more than $1500. That draft code has figured prominently in ongoing reviews of legislation in force. Government agencies, in conjunction with civil society organizations, have begun to review its provisions with a view to harmonizing them with international standards and amending those that do not conform to those standards.

Article 2
Embodying the principle of equality and prohibiting discrimination against women

9. The Amended Basic Law incorporates the right of women to equality, non-discrimination and equality of opportunity by virtue of its guarantee, in article 9, that they should enjoy all human rights and freedoms. The Basic Law also establishes numerous general legal safeguards that contribute to ensuring the right of women to equality. They include the principles of the rule of law and separation of powers, which are stated to be the basis of governance in Palestine, and which are among the most important guarantees of all rights — including those of women — against violations by any individuals or parties. In particular, those two principles serve as a safeguard against arbitrary abuses of power by the authorities, and guarantee recourse to independent judicial bodies in cases of violation.

10. Palestine first adopted the Convention on the Elimination of All Forms of Discrimination against Women with a 2005 Cabinet decision. In 2009, Palestine ratified the Convention with a unilateral declaration contained in Presidential Decree No. 19 of 2009. On 1 April 2014, less than a year and a half after Palestine was granted observer State status by the United Nations, Palestine acceded to the Convention without reservations. That was a concrete expression of political will and a qualitative step forward in national efforts to protect the rights of Palestinian women, rid national laws and policies of provisions that discriminate against women, and combat de facto discrimination in all areas.

11. During the 2014-2016 period, Palestine substantially expanded the number of international agreements to which it is a party. It has acceded to 55 international agreements and treaties, which has solidified the status of the State and its institutions regionally and internationally, contributed to international protection for the Palestinian people under Israeli occupation, and affirmed Palestine’s commitment to international human rights standards, democracy, personal and public freedoms, pluralism, transparency and accountability. Palestine is currently considering accession to the Optional Protocol to the Convention, but no decision has yet been issued.

12. On the regional level, Palestine joined the Arab Women's Organization of the League of Arab States on 18 March 2003. In 2013, Palestine acceded to the Basic Statute of the Women's Development Organization of the Organization of Islamic Cooperation.

13. The Palestinian Government has adopted a number of national policies that commit it to transparency, accountability and respect for human rights, including first and foremost women's rights. The most important of those are contained in the Palestinian National Development Plan 2014-2016: State-building to Sovereignty, which makes greater protection for Palestinian women a national priority. It guarantees greater participation in the labour market, facilitated access to all essential services and the right to equality and equal opportunity without discrimination. The Plan calls for finalizing reviews of legislation in force to ensure the integration of women's rights; integrating gender into national, sectoral and budget policies; enhancing accountability and oversight mechanisms; providing employment opportunities on an equal footing with men; protecting women from all forms of violence and facilitating access to justice, especially for the most vulnerable women in rural areas, refugee camps, areas adjacent to the illegal annexationist and expansionist wall, East Jerusalem and the Gaza Strip; creating a social environment conducive to increased women's participation in political, community and cultural life and a greater role in decision-making; and working to protect women from the crimes of the Israeli occupation.

National women's rights mechanisms

14. Efforts to realize women's rights and gender equality are being made across various sectors and by a number of national mechanisms established for that purpose. We mention the following by way of example; unfortunately, space constraints prevent us from including all of them.

I. Palestine Liberation Organization mechanisms

The General Union of Palestinian Women

15. The Union was founded in 1965 as a democratic mass organization and a pillar of the Palestine Liberation Organization. It works to organize Palestinian women, include them into national liberation movement against the Israeli occupation, raise their awareness about the importance of participation in decision-making positions within political frameworks, and integrate them into the labour force.

II. Government mechanisms

The Ministry of Women's Affairs

16. The Ministry of Women's Affairs was established in 2003 to improve the overall situation of women and expand the Government's commitment to formulating and implementing policies, strategies and measures to eliminate discrimination. The Ministry adopted the relevant international agreements and the Beijing Platform for Action at its inception. The Ministry's effort towards the adoption of measures to enhance gender equality include the following: proposing and drafting laws and amendments; setting forth economic, cultural, social and media strategies to promote women's equality and raise awareness of women's rights across sectors; institutionalizing gender diversity within ministries and within the relevant institutions in the principal sectors; promoting national consolidation and coordination of efforts among major institutions; and promoting dialogue towards a consensus on priorities for action on women's issues.

The Ministry of Social Development

17. In its capacity as the lead official agency in the social protection sector, the Ministry works to provide social protection and eliminate all forms of marginalization, violence and social exclusion; to strengthen social cohesion through a set of policies, measures, and relief, protection and development interventions that, taken as a whole, help to combat poverty and unemployment, and promote social justice.

Gender units

18. Gender units within Government agencies have been reorganized to ensure that gender issues are integrated institutionally across sectors and that drafting and follow-up of Government programmes and policies is informed by a gender perspective. There are 22 such units to date. They face certain challenges posed by gender disparities in functions, hierarchies and staff, and the absence of consolidated budgeting, despite a ministerial decision mandating consolidation of hierarchies and functions.

Women's development offices

19. Starting in 2007, such offices were established in all the governorates with a view to improving the situation of women, empowering them and mainstreaming gender into the provision of services.

III. Civil society mechanisms

Non-governmental women's institutions

20. These institutions work to support and empower women in all areas and raise awareness within the community about the rights and status of women. They play an important role in putting an end to customs and practices that discriminate against women. They provide a range of services, in particular for women victims of violence, including hotlines and safe houses. They also take part in discussions about amending legislation to promote women's rights and ensure their exercise in practice.

Non-governmental development institutions

21. Many non-governmental institutions working to combat poverty and promote development and empowerment help to respond to the needs of women, in particular in rural and marginalized areas. That includes non-governmental organizations that offer lending services to micro-enterprises with a view to promoting sustainable development.

The national judicial system

22. The national judicial system, which has jurisdiction over issues relating to the Convention, is an additional safeguard that strengthens the protection of women and gender equality. Article 30, paragraph 1, of the Basic Law provides that the right to litigation is sacrosanct and guaranteed to all people, that every Palestinian has the right of recourse to his natural judge, and that litigation procedures shall be regulated by law to ensure prompt settlement of cases. Article 32 of the Basic Law provides that any violation of personal freedoms, the sanctity of human life, or any other public rights and freedoms guaranteed by the Basic Law or laws in force is a crime not subject to any statute of limitations with respect to civil or criminal proceedings, and that the National Authority shall provide just compensation to anyone who suffers damages thereby.

23. The judiciary is regulated by peremptory norms and general principles that provide women with legal protection against discriminatory acts. Any judicial ruling or decision that departs from such norms and principles is considered null and void. The most important of those principles include the following: the independence of the judiciary; non-intervention in the judiciary or in matters of justice, with no authority over a judge other than the law; the rule of law; equality before the law and the courts; the right to a fair trial; the right to a speedy judgment; and the principles of good governance.

24. Under the Amended Basic Law, court judgments are binding. Refraining from or obstructing their enforcement in any way is a crime punishable by imprisonment and dismissal from post if the accused is a public official or anyone charged with public service. The prevailing party has the right to appeal directly to the competent court, and the Government is responsible for guaranteeing compensation.

25. The Supreme Constitutional Court has jurisdiction for constitutional oversight of legislation. Any woman affected by any legislative provision that contravenes the Basic Law may file an appeal before that court. Where the Court hands down a ruling of unconstitutionality, all parties are prohibited from implementing the overturned provision until it is amended to conform to the Basic Law. The woman victim receives her due, and is compensated for any damages.

26. The Supreme Constitutional Court has the authority to establish legal protection for any individual — man or woman — who is the victim of an act of discrimination committed by a Government agency, and to reverse that act and restore the status quo ante. It does so on the basis of its authority to review and adjudicate disputes stemming from administrative decisions, including disputes relating to public posts, and even issues that are not per se court cases or legal proceedings, but merely petitions or claims, if they are outside the purview of any other court and must be ruled on in the interests of justice.

27. The sharia courts and ecclesiastical courts have the authority to rule on cases involving personal status and marital disputes that relate to marriage contracts, including divorce, separation, alimony, child support and custody. Unfortunately, rulings are often made on the basis of personal status codes that are still discriminatory against women. Each sharia court has a family counselling unit that tries to strengthen family bonds and resolve disputes between spouses. Such units help to minimize marital disputes and divorce. Periodic workshops are held to discuss and develop standard operating procedures for those units, with sharia judges in attendance.

28. During the 2014-2016 period, several training sessions were held for Government and sharia judges, prosecutors and family protection units in the Civil Police. Those sessions dealt with human rights principles in general and women's rights in particular. They covered the Convention and mechanisms for intervening in cases of gender-based violence, including the role of forensic medicine in detecting such violence.

Responsibility for the actions of public authorities

29. Women benefit from the general guarantees established by legislation in force that protect the rights of both men and women equally against potential violations by the State or its agencies. Existing legislation allows any individual to sue judges and prosecutors for fraud, avoidable gross negligence and other types of misconduct, and to be awarded compensation.

30. Further protection is provided for both women and men against any violations stemming from abuse of authority by public officials — including health

professionals — and any attempts to conceal such crimes. A public official is any civil servant in administrative or judicial service, any member of the civilian or military authority, and any State employee or person hired by the State.

31. Under the Amended Basic Law, homes are inviolable. No one, not even a public official, may put under surveillance, enter or search a home without a valid court order. Any effects stemming from a violation of that provision are null and void, and anyone suffering damage as a result of such violation has the right to fair compensation guaranteed by the public authorities. That provides a safeguard against women being forcibly uncovered and having their privacy violated.

32. The codes of criminal, civil and commercial procedure provide for confidentiality of hearings that involve family matters. That protects women against exploitation, distortion or public exposure of their private lives and personal affairs. Those codes also make a point of protecting women against sexual exploitation during criminal procedures, including by allowing women to be searched only by duly deputized female officers.

33. The Personal Status Code and the Penal Code require marriage contracts to be registered in accordance with legal procedures. Failure by a sharia officiant to register a marriage contract or follow the above rules is punishable by a fine and dismissal. That is in order to protect all a woman's rights under her marriage contract and to verify the provenance of offspring.

34. Lastly, in 2013, the Cabinet approved the National Referral System for Women Victims of Violence ("Takamul"). That document sets forth principles that, taken as a whole, form the basis for a kind of national contract that clarifies the rights and obligations governing the relationship between providers of medical, social and police services on the one hand, and women victims of violence on the other. Service providers are prohibited from exploiting women victims in any way. They are forbidden from encouraging those women to become psychologically or emotionally attached to them, entering into any relationship with them outside of their professional relationship, or withholding service in order to pressure them for illicit purposes. Those service providers are also obligated to respect and value women victims of violence. They must honour those women's right to make their own decisions, must provide services without discrimination, and must keep all information confidential.

Responsibility for the acts of third parties

35. The Government is intent on adopting measures to protect women from attacks and discriminatory acts by individuals or private parties, and to ensure that they are compensated in such cases. For example, the Palestinian Government disburses monthly payments from its budget through the relevant agencies to the families of martyrs, injured persons and prisoners. That is in order to alleviate the impact of crimes perpetrated by the Israeli occupation. It is usually women who are the most affected by those crimes, notably when income is cut off because a family member or the breadwinner is killed, imprisoned or injured.

36. An Alimony Fund was set up by Law No. 6 (2005) in order to help marginalized families maintain their human dignity in cases where the husband or relatives fail to carry out their financial support obligations. That Fund pays regular monthly court-ordered alimony and any arrears to wives, women observing the prescribed post-divorce waiting period, children, parents and dependent relatives in cases where there is a problem collecting alimony from the legally responsible party because he is absent, his place of residence is unknown, he does not have sufficient funds to comply with the judgment, or for any other reason. Both residents and non-residents of the State of Palestine are eligible to benefit from the Fund. All

Palestinian women are entitled to benefit from the Fund regardless of their husband's nationality or religion, or their own place of residence. That includes Palestinian women who live in the State of Palestine, who stayed inside the Green Line after the 1948 Nakba, or who live abroad. Foreign women residing in Palestine who married Palestinians are also eligible. Alimony is disbursed within 15 days from the date of the completion of the application and required legal procedures. There is an allocation for the Fund in the annual State budget.

37. The Labour Inspection Board, which was established by the Labour Law and is subsidiary to the Ministry of Labour, protects men and women workers in both the private and public sectors That Board is responsible for monitoring workplaces, terms of employment and working conditions. It receives, follows up and investigates complaints from men and women workers. Any woman worker may inform the Board of any violation, act of discrimination or punitive measure taken against her by an employer. It is prohibited to discontinue or terminate a woman's — or man's — employment for submitting such a complaint. The Board has judicial police status. It has the right to conduct workplace inspections without advance notice and to ask employers or workers to turn over documents relating to working conditions. Penalties are imposed on an employer in accordance with the law where that employer is proven to have committed a violation, including an act of discrimination against women.

Punitive legislation

38. Laws previously in force granted exonerating or mitigating factors to a man murdering a woman in what is known as an "honour killing". That was applied in cases where a man catches his wife or one of his close female relatives in an adulterous situation with another person and kills, injures or harms both or one of them. It also applies where a man catches his wife or one of his ascendants, descendants or sisters in an illicit sexual situation with another man. (Article 340 of the Jordanian Penal Code (No. 16 of 1960), which is applicable in the West Bank, and article 18 of the Mandate-era Penal Code (No. 74 of 1936), which is applicable in the Gaza Strip).

39. Murders of women have been on the rise in recent years. Every time, the perpetrators use the pretext that they were driven to murder by an "offence against honour". In most cases, the legal system is lax about imposing penalties, a thorough investigation is not conducted, and the elements and conditions for exonerating factors are granted. In May 2011, Decree Law No. 7 repealed the exonerating and mitigating factors provisions for so-called honour killings. Unfortunately, that repeal has not stopped murderers of women from using other provisions, including the following: general provisions on exonerating and mitigating circumstances contained in penal codes; the provision for mitigating circumstances when a person commits a crime in a fit of rage (1960 Penal Code, article 98); waiver by relatives (the family of the woman victim) of their personal rights against the perpetrator; and other provisions on mitigating factors (articles 99 and 100). Any of those factors can ultimately result in a reduced sentence, either by law or at the judge's discretion, which tends to favour the perpetrator.

40. In the light of all these factors, and pursuant to Palestine's accession to the Convention, our President issued a decree law on 11 May 2014 that expressly excludes perpetrators of honour killings from the benefit of the mitigating factors provided for in article 98 concerning the commission of a crime in a fit of rage. While that decree law was a positive step towards eliminating discrimination against women in penal legislation, it did not abolish the other articles that are habitually invoked before a judge to reduce sentences — such as the one on waiver of personal

rights against the perpetrator — and the other legal grounds that grant judges the discretion to hand down reduced sentences.

41. The proposed draft penal code would do away completely with exonerating factors in cases of honour killings of women, and would grant same right to the wife as the husband to claim mitigating factors if she kills or injures him or his partner after catching them in an adulterous or illicit sexual situation. However, widening the scope of mitigating factors to include the woman — as opposed to abolishing them altogether — violates the rights of the man or woman in question to life, personal and physical safety, and a fair trial, as well as the principle of proportionality between crime and punishment.

42. Legislation in force discriminates between men and women by providing for different penalties for the same crime, which is a breach of legal principles. For example, women are punished for an adulterous act by a prison term of between six months and two years, regardless of marital status. However, her adulterous male partner is punished by the same penalty if he is married, but only half as long if he is not married. The proposed draft Palestinian penal code does not discriminate between men and women with regard to the crime of adultery. It includes identical provisions for both with respect to both the elements of the crime and the sentence.

43. Penal legislation in force criminalizes rape and other coercive sexual acts committed against women, such as indecent assault, seduction, indecent fondling, abduction, proposing indecent acts or using indecent language. However, it does not impose deterrent penalties commensurate with the severity of the offences. The penalty for rape is a sentence of only five to seven years if the victim is under 15. If the victim is between the ages of 15 and 18, and the rapist is one of her legitimate or illegitimate ancestors, he is punished by a sentence of 3 to 15 years. In the event that a valid marriage is contracted between the rapist and the victim, the prosecution or the sentence, as the case may be, is suspended. That ends up being a double punishment for the victim, not to mention the psychological effect on the woman and the fact that it leaves the door to impunity wide open for the perpetrator. The Public Prosecutor has the right to resume prosecution or reimpose the sentence if the marriage ends in the victim being divorced for no legitimate reason within three years of a misdemeanour assault or five years of a felony assault. In addition, that legislation places coercion of a wife outside the scope of criminalization. In other words, it permits marital rape, which is among the worst types of domestic violence against women and yet another dimension of the violation of women's rights, the inviolability of their persons, and their dignity.

44. By contrast, the proposed draft penal code raises the penalty for rapists to 20 years, and life imprisonment if the victim was under 18 or unable to resist due to impairment or disability. The draft code also does not exempt a perpetrator from prosecution if he marries the victim. However, the draft's provisions still exclude marital rape from the scope of criminalization, except in cases of intercourse that goes against nature without the wife's consent. In such cases, the husband is penalized by imprisonment or a fine.

45. In general, the draft code expands the scope of criminalization of gender-based violence. It also strengthens the characterization of crimes against women and the penalties for perpetrators, including incest, indecent assault, indecent fondling, proposing acts contrary to public decency, seduction and corruption of marital bonds. For example, penal codes in force punish both parties involved in the crime of incest with imprisonment for 2 to 3 years, and treat it as a misdemeanour in all cases, with no consideration to whether one party had de jure or de facto control over the other. By contrast, the proposed draft code distinguishes between two varieties of that crime. The first is incest where one of the parties has sharia, legal

or de facto control over the victim, in which case the former is punished by imprisonment for at least 7 years (with the act treated as a felony) and the latter by imprisonment for at least 3 years (with the act treated as a misdemeanour). The second case is where incest occurs without any relationship of control between the two parties, in which case both are imprisoned for at least 5 years (with the act of both treated as a felony).

46. The proposed draft penal code goes even further. It treats the commission of any crime against a woman as an aggravating factor in and of itself regardless of the sentence.

Challenges

47. Palestinian women suffer from a system that is discriminatory at every turn. The worst aspect is the colonial Israeli occupation and its major violations of international law in general and of international human rights law in particular. Those violations are committed by both the armed forces and the settlers who have infiltrated the West Bank, including Jerusalem, and surround the Gaza Strip. The consequences of those violations are felt directly by Palestinian women. There is scarcely a single Palestinian woman who has not been touched — directly or indirectly — by the crimes of the Israeli occupation. Those crimes include, inter alia: extrajudicial murder and execution; attacks on civilians, including prominent citizens; arbitrary arrest, including administrative detention; torture and inhumane abuse; settlement expansion; continued construction of the annexationist expansionist wall, and perpetuation of the racist regime that it exemplifies through military roadblocks, checkpoints, permits, identity papers, land appropriation and destruction of property; destruction and theft of crops; closures; ongoing crimes committed with impunity by terrorist settler militias; the illegal blockade of the Gaza Strip; continued military incursions into the Gaza Strip that destroy infrastructure and civilian homes and result in mass displacement; casualties suffered by women, families and children; and suspension of the right to health, education, work and numerous other necessities of life. The occupation forces also use excessive force. They invade and search homes and businesses. They destroy houses as part of collective punishment. They use various means to make life — or at least a decent life — difficult. They block the delivery of public services such as education and health, which has resulted in women being forced to give birth at checkpoints. They forcibly displace Palestinian Bedouin. They implement discriminatory policies and laws in East Jerusalem. They separate family members and prevent them from being reunited, using every means possible to break Palestinian families apart. We stress that the information and statistics in this report cannot do justice to the severity of the human suffering being undergone by Palestinian women and men a result of the Israeli occupation. Space constraints do not allow the report give a full picture of the effects of crimes committed by the Israeli occupation against Palestinian women. The relevant parties will continue to keep the Committee on the Elimination of All Forms of Discrimination against Women informed of those crimes.

48. On 15 January 2015, Rashida Manjoo, the United Nations Special Rapporteur on violence against women, was forced to cancel a scheduled visit to Palestine at the invitation of the State of Palestine because of obstruction by Israel, the occupying Power. The decision by the occupying forces to block her entry into Palestine was just one instance of Israel's systematic policy of preventing the State of Palestine from exercising rights and fulfilling obligations pursuant to its accession to international agreements, and depriving the Palestinian people of its rights in general, especially its right to self-determination. Prior to the most recent obstruction, other investigative commissions had been blocked from entering

Palestine to investigate violations of international law committed since June 2014. Such obstruction violates the obligations of Israel as the occupying Power, and goes against the recommendations of the Human Rights Council that occupying powers should cooperate with special rapporteurs to improve the human rights situation on the ground.

49. Palestinian women also suffer from inherited customs and traditions that assign them subordinate status and focus on their reproductive role. Palestine has also inherited legislation that is prejudicial to certain women's rights, particularly as regards penal provisions and personal status.

50. Palestinian women are also paying the price of political divisions. The Hamas movement continues to put forward a series of illegitimate laws that are not in conformity with obligations under the Convention, but are enforced in the Gaza Strip.

51. Moreover, there are two different sets of inherited legislation in in the West Bank and the Gaza Strip, and the two have not been consolidated. The lack of consistency has a negative impact on the legal status of women. That is not to mention the fact that Palestinian women in Jerusalem are subject to racist Israeli law, which deprives them, of many of their political, civil, economic, social and cultural rights for no reason other than that they are Palestinian.

52. There is also the fact that the legal status of international agreements acceded to by Palestine, including the Convention on the Elimination of All Forms of Discrimination against Women, is not defined. Nor are there any constitutional procedures specifying the hierarchy of different types of legislation or regulating the incorporation of the provisions of international agreements into national legislation.

Progress achieved

Legislative amendments

53. Not much time has elapsed between Palestine's accession to the Convention and the writing of this first report. There have been only a few amendments to existing legislation. The most important was the decree law of May 2014 abolishing mitigating factors in crimes committed against women in a fit of rage in the name of "honour". Legislative development in Palestine, and in particular the work being done on draft laws to incorporate international human rights standards, including women's rights, demonstrates our national political will to eliminate legal and de facto discrimination against women and achieve gender equality.

54. A decree law on the protection of juveniles was issued in February 2016. It was informed by a new conception of juvenile justice in Palestine that takes into account an offender's age group, motivations and privacy. It provides for procedures that are in the best interests of juveniles, as well as for rehabilitation and speedy reintegration into society. That decree law is another example of efforts by Palestine to carry out its international obligations, in this case those arising from accession to the 1989 Convention on the Rights of the Child. The decree law's provisions are consistent with international standards for juvenile justice. It is mindful of the juvenile's best interests from the preliminary investigation stage through all the other stages of investigation and trial, and continuing through enforcement of the sentence. A completely separate criminal justice system has been introduced to handle juveniles and children at risk of delinquency. It includes special police units, a prosecutor's office, a court of first instance, an appeals department, a child protection office with child protection counsellors from the Ministry of Development, and child welfare units. Priority is given to prevention, education and rehabilitation. Penalties involving deprivation of liberty are used only as a last

resort and for the shortest possible duration. Gender equality is ensured in the exercise of rights and guarantees to a fair trial.

55. The Ministry of Foreign Affairs, in partnership with the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the Independent Commission for Human Rights, distributes to both official agencies and non-governmental bodies pamphlets containing the Palestinian Declaration of Independence, the Universal Declaration of Human Rights, and the international human rights conventions to which the State of Palestine acceded in 2014, including the Convention on the Elimination of All Forms of Discrimination against Women. That helps to raise awareness of those agreements among government officials and members of society.

56. Also in partnership with OHCHR, the Ministry of Foreign Affairs has implemented a training plan for employees of government agencies, the Independent Commission and civil society, to raise awareness of the major human rights conventions, the mechanism for preparing reports, and the roles of agencies responsible for international agreements.

57. Civil society organizations are playing a major role in raising awareness of women's rights and organizing assistance campaigns on gender equality issues. Women's organizations in particular function as an oversight mechanism for official agencies. Women are able to use those organizations as a means of approaching such agencies directly to defend their rights or to as a means of contacting the relevant authorities.

Article 3
General measures and policies

58. Since the 1990s, the Government has embarked on a process of legislative reform, out of its commitment to human rights principles and its firm will to continue to promote women's rights. Those reforms have aimed not only to eliminate discriminatory legislative provisions, but also to ensure the enjoyment by women of their rights in practice in private and public life, despite the limited nature of natural and material resources at the local level and the continuing Israeli occupation, which seriously hinders any opportunities for sustainable development in occupied Palestine.

59. In terms of national planning, the Palestinian Government adopted the National Policy Agenda 2017-2022: Putting Citizens First. That agenda defines national strategic orientations; sets out the overarching vision, priorities and policies; and places the citizen at the centre of its activities. It contains sectoral and cross-sectoral strategies, and a medium-term budget for the 2017-2022 period that complement the national policy agenda as laid out in the fourth Palestinian National Development Plan. The various components of that National Development Plan are based upon international standards, including those contained in the international instruments to which the State of Palestine has committed itself, such as the United Nations 2030 Agenda for Sustainable Development, which the State of Palestine will be striving to implement during that period.

60. The national policy agenda is based upon three pillars, namely, the path to independence, reforming and improving the quality of services, and sustainable development. Specific national priorities and policies will be implemented to that end. Priority areas include strengthening gender equality, empowering women and girls, eliminating all forms of discrimination and violence against them, and eliminating all obstacles to their full participation in social and economic development and public life. In that connection, the 2017-2022 Cross-Sectoral National Gender Strategy: Promote Gender Equality and Equity, which has been

ratified by the Council of Ministers, is organized around five strategic objectives, namely, halving the incidence of all forms of violence against Palestinian women; increasing women's participation in governmental and non-governmental decision-making positions that have the greatest impact on the lives of men and women so that no fewer than 10 per cent of those positions are filled by women; integrating gender equality and equity and the empowerment of women into official institutions; promoting women's participation in the economic sector; and improving the quality of life of poor and marginalized families.

61. In 1996, the Palestinian Central Bureau of Statistics starting taking gender into account and disaggregating data by sex in its published surveys. A gender-sensitive general census on population and establishments was formulated and conducted in 2007. The Central Bureau of Statistics also began work on a national plan to monitor the 2030 Sustainable Development Goal indicators.

62. In 2009, the Council of Ministers approved the formulation of gender-responsive plans and budgets, thereby requiring all government departments to draw up gender-sensitive annual budgets. The National Committee on Gender-Responsive Budgets was established in 2012 to direct the integration of gender into public budgets and train officials to adopt a gender perspective when preparing budgets.

63. International Women's Day, celebrated on 8 March, is a Palestinian national holiday. On that day, Palestinian women organize a number of events, including peaceful marches in protest of occupation crimes against Palestinian women and the Palestinian people. No sooner had these marches been inaugurated than occupation forces began to suppress them and attack women taking part with percussion bombs, tear gas and rubber bullets.

64. The Rights of Persons with Disabilities Act (1999) and its implementing regulations provide a legislative framework that governs the fundamental rights of men and women with disabilities on an equal footing in all areas of life. That Act charges the Ministry of Social Development, as the lead regulatory body in social protection sector, with primary responsibility for integrating persons with disabilities and attending to their needs. That Ministry, in coordination with the competent agencies, is committed to providing care and rehabilitation services to persons with disabilities, particularly in the social, educational, health, professional and recreational aspects of life. It also raises public awareness, provides suitable facilities and environments, and promotes the use of sign language.

65. The Supreme Council for Persons with Disabilities was reconfigured pursuant to a presidential decree adopted in 2012. That decree provided for following up the implementation by the State of Palestine of its obligations under the treaties on persons with disabilities to which it has acceded; improving government efforts to enable persons with disabilities to lead their lives with dignity; formulating the necessary strategies and policies; and proposing relevant legislative amendments.

66. Israeli occupation crimes against Palestinians have brought about a rapid rise in the number of persons with physical, mental, psychological and sensory disabilities. Those crimes include shooting and beating civilians; mistreating and denying medical care to the injured; torture and harsh treatment in the course of arbitrary arrests; and negligent medical treatment. Successive wars in the Gaza Strip have left thousands of Palestinians — men and women alike — with a variety of disabilities and lost limbs. Their suffering has been compounded by the blockade on the Gaza Strip, the prohibition on needed medical supplies, deteriorating humanitarian conditions and restrictions on travel to receive medical treatment.

67. With regard to the elderly, the Ministry of Social Development provides protection, care and rehabilitation services to elderly women and men under its

National Strategy for the Care of the Elderly in Palestine 2010-2015, which informs the Ministry's structure, programmes and activities. It also offers social protection services (regular and emergency cash assistance, health insurance, welfare services, and rehabilitative and residential services) to some 45,000 elderly men and women. Established under the supervision of the Ministry of Social Affairs, the Grandparents' Home specializes in caring for and rehabilitating elderly persons aged 60 and older who are unable to care for themselves, lack family care and live in difficult economic conditions.

Article 4
Temporary special measures

68. In order to facilitate women's access to decision-making positions and promote their right to political participation, Decree Law No. 1 (2007) concerning a general election quota system for women, and Law No. 10 (2005) concerning local council elections and its amendments were adopted as temporary special measures. The election of Palestinian Legislative Council members is based on a party-list proportional representation system.

69. Decree Law No. 1 (2007) stipulates that every electoral list shall include at least one woman candidate in the first three names on the list, the following four names, and every five names thereafter.

70. The law concerning local councils stipulates the following:

1. For local bodies with up to 13 seats, at least two of those seats must be held by women as follows:

(a) One woman candidate must be among the top five names;

(b) One woman candidate must be among the following five names.

2. On local bodies with more than 13 seats, one seat shall be set aside for a woman candidate from the five names following the group mentioned in article 1 (b) above.

3. Local bodies with fewer than 1,000 voters according to the final table of voters are exempt from the provisions of paragraph 1 above. In such cases, there shall be freedom on electoral lists to choose the positions to be set aside for women candidates.

4. If a woman vacates a seat on a local council, that seat shall be filled by the woman directly following her in the sequence of seats set aside for other women on her list.

71. In 2010, most of the political parties signed a charter pledging to promote Palestinian women's participation in political decision-making by ensuring that women held a minimum of 30 per cent of overall positions; increasing the number of decision-making positions held by women in political parties and organizations as well as the number of women on the electoral lists of local and legislative bodies; and nominating women for inclusion on electoral lists in order to increase their chances of success. However, some parties did not commit to enforcing that minimum level of participation.

72. Official efforts to create a legal environment conducive to women's participation in political life include the drafting in 2014 of a law on local council elections. The law raises the minimum proportion of representation of women in elections from 20 to 30 per cent, in line with international resolutions and Millennium Development Goal indicators. The Central Elections Commission was requested to take the appropriate steps to that end. Article 3 of the law stipulates

that "women shall account for no fewer than 30 per cent of candidates and elected officials, and the Commission shall take measures to that end."

73. The Government is working to integrate the concept of gender into legislative and development plans and to allocate the necessary national resources, as outlined below:

- In the Palestinian Development Plan for the years 2014 to 2016, the Government allocated $9 million to finalize the legislative review process and to ensure that women's rights were taken into consideration and that discriminatory provisions were abrogated in order to ensure compliance with international agreements. Funds were also allocated to carry out capacity-building programmes on gender and studies on gender gaps; provide women with services, protect them from violence and guarantee their recourse to justice; and raise societal awareness of the need to oppose violence against women. A portion of the resources will be spent in support of the process of formulating gender-responsive policies and budgets.
- The allocation for the Ministry of Women's Affairs from the regular annual budget is being increased annually are part of a broader effort to empower women and achieve gender equality, particularly after the accession by the State of Palestine to the Convention on the Elimination of All Forms of Discrimination against Women. The Ministry's budget in 2007 totalled $1,079,254; that amount rose to $2,253,576 and $1,861,672 in 2015 and 2016, respectively.
- Budget allocations have been made for the work of gender units and ministries whose work relates to women and women's empowerment at various levels.

Protection of motherhood

74. Article 29 of the Basic Law provides for the highest level of legal protection of maternity as a national duty. The recognition of motherhood as a social function is a principle that underpins civil service laws and the work of women civil servants and workers, affording them specific social protection and rights, such as paid maternity leave and paid breastfeeding breaks.

75. In addition, integrating reproductive health services, prenatal care and family planning into primary healthcare centres throughout Palestine and operating under the auspices of the Ministry of Health amounts to a form of positive discrimination in favour of women.

76. Law No. 6 (1998) on correction and rehabilitation centres provides for measures to protect mothers who are inmates in those facilities. Article 27 stipulates that pregnant inmates are to receive special treatment from the onset of the first signs of pregnancy until sixty days after childbirth in terms of meal and sleep times and work. Medical care and attention shall be provided as recommended by a doctor, and the necessary measures shall be taken to ensure that the pregnant inmate is able to give birth in hospital. The law also protects the privacy of the woman inmate and her child. Article 28 stipulates that if the inmate gives birth to her child in the facility, that fact shall not be noted in official records or on the birth certificate. Rather, the hospital shall be considered the place of birth, the child shall remain in the mother's care until the age of two, and the director shall offer the nursing mother a place separate from the other inmates.

Article 5
Stereotypical roles of women

77. The prevailing social and cultural patterns in Palestine are among the main obstacles preventing women from exercising their rights on an equal basis with

men. As in all patriarchal cultures, those patterns play a crucial role in the consolidation of prejudices and practices that promote women's inferior, secondary standing and restrict their role to the private, family sphere. More often than not, mothers are responsible for caring for the family and raising children, and their role remains intangible and unremunerated.

Stereotypical roles of women in the public and private spheres

78.

- *In the home*: Palestinian descriptive studies show that the roles that women are traditionally expected to perform usually involve obedience, care, running the household and getting things done, whereas men are typically associated with headship of the household and decision-making. These values tend to carry over into the areas of parenting and family education, where they are transmitted and taught to children from an early age within the family, with girls taking on roles resembling those of their mothers, especially with regard to educating and caring for their siblings and taking on household chores. In contrast, boys are prepared from an early age to bear the burden of securing the family livelihood and taking financial and life decisions.
- *At school*: Despite the recent development of Palestinian educational curricula and the relative evolution of perspectives on women, women rarely emerge as leaders or decision-makers and are seldom entrusted with managerial or business matters.
- *At work*: Duties that require leadership skills or physical effort are typically assigned to men, while those that are considered women's work first and foremost, such as caretaking, social communication, childrearing, education, health, media, tourism and management are typically assigned to women.
- *In the media*: Local media devote space to discussion of women's affairs, but most discussion focuses on such aspects of the traditional role of women as cooking, health, the family, children and fashion. Most media attention is granted to specific categories of women, namely, women who work in elite and professional positions, instead of on the most vulnerable women, such as rural women, women in refugee camps and women in Bedouin villages. Although there has been a significant increase in women's involvement in the media sector, particularly in visual media, that quantitative increase has more to do with media-related variables and requirements than with a fundamental change in the status of women. In terms of content, women essentially continue to be used as advertising material or seen as consumers.

Challenges

79. Most discriminatory practices that target women as women are so entrenched in social traditions and customs that they are invisible. The fact that such practices appear instinctive and natural complicates the process of exposing and identifying them as discriminatory and working to alter and eliminate them. Counter-efforts to reinforce stereotypical, traditional roles and entrench a culture of women's subordination take various forms. They include calls to hold on to certain interpretations of religious teachings and reject demands to eliminate discrimination against women as Western cultural imports that violate customs and traditions. Moreover, attempts are made to downplay the importance of and postpone achieving justice for women, dismissing it as not an immediate priority given the need to join forces to end the Israeli occupation and gain independence of the State of Palestine.

Violence against women

80. Palestinian women are doubly vulnerable to violence amidst the ongoing Israeli occupation, which threatens their security from a humanitarian standpoint and adds an additional layer of restrictions on the exercise of their fundamental rights. The results of a 2011 survey on violence in Palestinian society showed that roughly half of Palestinian families were directly exposed to violence perpetrated by occupation forces and terrorist settler militias during the period leading up to July 2011. The highest incidence of such violence was found in the Gaza Strip, where 49.1 per cent of families were victims of violence, compared to 47.8 per cent of West Bank families.

81. The occupation contributes to the rise in violence against women and helps to consolidate the concept of patriarchal control over women. It also has an impact on the frequency of domestic violence, in particular, family violence. The forms of family violence perpetrated against women in Palestinian society include physical abuse committed by their husbands, their husbands' families or their families; death threats; rape committed by a member of a woman's family or that of her husband; forced flight from the family as a result of physical, sexual or verbal violence or neglect; and distribution of social roles within the family in a preferential manner that favours men.

82. The statistical survey cited above indicates that 37 per cent of women who had been married previously had had some form of violence inflicted on them by their husbands; 29.9 per cent in the West Bank and 51 per cent in the Gaza Strip. Of those women, the percentage subjected to psychological violence "on at least one occasion" was 57.6 per cent, while 55.1 per cent had been targets of economic violence, 54.8 per cent had been subjected to social violence, 23.5 per cent had been targets of physical violence, and 11.8 per cent had been subjected to sexual violence. Meanwhile, the percentage of women committing violent acts against their husbands rose to 17.3 per cent in the West Bank and the Gaza Strip; 35.1 per cent of those husbands were exposed to psychological violence, 20.3 per cent to physical violence, 4.5 per cent to social violence and 4.9 per cent to economic violence at the hands of their wives.

83. The survey indicated that 16.1 per cent of unmarried women between the ages of 18 and 64 had been exposed to violence perpetrated by family members: 12.4 per cent in the West Bank and 21.8 in the Gaza Strip.

84. According to 2014 statistics, 25 Palestinian women were murdered. In some cases, the perpetrators used the pretext that they were driven to murder by an offence against honour, while the reasons surrounding other murders were unclear and recorded as unknown. Of those women, 14 were from the West Bank and 11 were from the Gaza Strip. Without a doubt, the so-called honour killings of women continue as a result of the almost total immunity granted to offenders by the law, the judiciary and the fact that offenders receive the lightest punishments. The penalty imposed on perpetrators of honour killings rarely exceeds a three-year prison term and has sometimes been reduced to a term of a year or six months. Studies have shown that in most cases, the real reason for these crimes is not the woman's behaviour, which the offender cites as a pretext, but rather family disputes, the husband's violence, theft or suicide motivated by molestation by one of her relatives. It is possible that the main women are murdered has to do with their shares of an inheritance.

85. In April 2014, the Council of Ministers adopted a decision on temporarily placing children, girls and boys, in two-spouse foster families, if those children were found to be in danger of falling prey to violence or exploitation in their

families of origin. The Ministry of Social Development investigates the family that requests to care for the child in order to confirm that it complies with the requirements in place to meet the child's needs. The Ministry may place the child in a woman's care if she meets those requirements. The Ministry is supposed to visit on a regular basis to monitor how the child is faring in the foster family, and to move him or her to a different foster family if need be.

86. In 2008, family protection units were established within the Civil Police to address cases of family violence and sex crimes committed within or outside the family. In 2014, the Family Protection Unit in the West Bank dealt with 3,480 cases and took the necessary legal measures to provide protection to victims of violence and refer them to the competent courts.

87. In the Gaza Strip, in the continued absence of family protection units, the police field complaints submitted by women victims of violence and help to resolve some minor conflicts, with the assistance of reconciliation committees. In 2014, police in the Gaza Strip received some 50 complaints from women monthly. The number of complaints rose after the most recent hostilities in the Gaza Strip. Some 80 per cent of them were attributed to family and spousal disputes. The police resolved approximately 60 per cent of those cases. In 2014 only about 5 per cent of complaints were forwarded to the prosecutor's office. As has been explained above, cases of violence against women tend to be dealt with in a manner informed by customary and societal perceptions of violence against women as an intra-familial dispute, rather than a crime for which perpetrators must be held accountable and punished. Furthermore, there is no referral system for women victims of violence to various sectors as is the case in the West Bank.

88. The Public Prosecutor's Office is responsible for initiating and investigating cases, instituting criminal proceedings, prosecuting them before the courts and monitoring enforcement of sentences. The work of the Public Prosecutor's Office to strengthen protection for women victims of violence has been in evidence since 2012, when the gender unit in the Attorney General's office. That unit's strategies include the following:

89. Specialized services for women victims of violence are being developed, with a view to strengthening their protection and ensuring that offenders are held accountable. In 2014, 15 deputy prosecutors were appointed. Their areas of competence are investigating and bringing to court cases of family violence and violence against women and children. Gender was integrated into the work of the Public Prosecutor, including the adoption of annual plans of action to that end. In addition, steps were taken to ensure that the facilities in the Public Prosecutor's office complied with specific standards in order to meet the needs of women visiting the office, especially when they have their children with them, thereby preserving their dignity and promoting the principle of confidential handling of their cases. Efforts are underway to develop a database on cases of violence against women and children brought before the Public Prosecutor, with care taken to preserve confidentiality.

90. The Ministry of Women's Affairs adopted a Strategic Plan for Combating Violence against Women: 2011-2019. That plan aims to strengthen mechanisms in place to protect and empower women victims of occupation-related violations; to bolster the legal and institutional framework for the protection of women from violence; to develop administrative procedures and codes of conduct that define roles and how various actors are to deal with women victims of violence; to improve social protection and medical services provided to women victims of violence; to rehabilitate survivors of violence and reintegrate them into society; and to improve the protection, defence, judicial and legal system in that regard. The

National Committee to Combat Violence against Women was established to carry out and follow up on the plan, and a technical committee was set up to review serious cases of femicide and protect women from violence. The Committee on Legislation for Gender Equity is competent to review existing legislation relating to violence against women and submit recommendations for amending it and adopting new legislation. The Ministry of Social Development has also mandated that women victims of violence should be admitted to its relief and development programmes as exceptional, urgent cases.

91. The Ministry of Social Development also meets with women victims of violence, provides them with social, legal and psychological counselling services free of charge and refers them to centres that provide protection and shelter to women victims of violence, either under Ministry supervision or not, if need be. These centres, in turn, provide the women with the necessary overnight accommodation, shelter, protection, rehabilitation and counselling.

92. In the West Bank, there are four protection centres providing such services, spread out geographically so that they are accessible to women from all governorates. The centres are as follows: the Mehwar Centre, the Girls' Welfare Home, the Safe House and the Women's Emergency Protection Home. There are two such centres in the Gaza Strip, the Safe House for women's care and the Hayat Centre for the protection of women. Only one of them provides shelter, which makes it impossible to handle every case in which a woman might request protection.

93. The Ministry of Social Development is incorporating the issues facing women victims of violence into relief and development programmes as exceptional, urgent matters. The Ministry runs programmes in conjunction with non-governmental organizations to foster a culture of opposition to violence against women and works to integrate programmes, activities and services for women victims of violence.

94. Non-governmental organizations are also making every effort to spread cultural awareness of and provide training on the need to oppose violence against women. They have published and distributed a host of pamphlets, publications and reports on the subject and organized campaigns in favour of women's rights and against violence. Those organizations also provide women victims of violence with psychological support, legal and social guidance and rehabilitation, in addition to placing a media spotlight on the issue and its impact on Palestinian society.

Progress achieved

95. In February 2016, a special prosecutor's office was established to protect families from violence and to strengthen the role of the Public Prosecutor's Office in protecting women victims of violence and acting as a deterrent. That office is headed by a woman chief prosecutor, and 15 deputy prosecutors have been appointed to prosecute family violence in the country's northern governorates. The office is competent to investigate, prosecute, plead, appeal and follow up on the execution of sentences for offences committed within the family by any of its members, including offences committed against women, children, the elderly and persons with disabilities; offences committed against women and children outside the family; sexual offences committed by women; and threats made against women using telecommunications technologies and electronic means of communication. Representatives of this prosecutor's office conduct regular visits to rehabilitation centres to monitor the conditions in which women detainees are kept.

In early 2015, work resumed on a 2015 draft decree law concerning protection of the family from violence. Its provisions are being reviewed with reference to international women's rights principles, particularly those relating to the protection

of women from violence. The draft defines violence against the family as any act that inflicts material or psychological harm, including sexual or economic abuse or exploitation; forced labour; preventing a person from or forcing a person to work; exerting control over a person's earnings, possessions or inheritance rights; or threatening to commit such acts, whether the act or threat to commit the act occurred within or outside the family. The family is understood to include individual family members with blood or marriage ties to the fourth degree of consanguinity, or the equivalent thereto, and every person related by ties arising from marriage. The draft identifies a number mechanisms to guarantee victims of violence, particularly women, access to effective means of recourse to justice, prevention, protection, rehabilitation, punishment of offenders and prevention of impunity. Those mechanisms include the following:

- Special police units, prosecutor's offices and a court have been set up to address family violence cases.
- All forms of family violence set out in the definition have been criminalized and the penalties prescribed are specified and tightened.
- Victims of family violence are exempted from all legal fees and the costs of medical examinations.
- Any person has standing to file a complaint concerning such offences against any person whatsoever, regardless of his or her relationship with the victim or the family.
- Waiver of personal right is discounted in many cases.
- The protection counsellors from the Ministry of Social Development, the police family protection unit, the family violence prosecutor and the competent court have all been granted the authority to issue protection and restraining orders, either on their own initiative or at the request of the victim.

96. The National Referral System for Women Victims of Violence ("Takamul") is an effective integrated multisectoral support network for women and girl victims of gender-based violence. It can refer them to other relevant institutions and provide them with protection, care and rehabilitation. The system operates on the basis of three protocols. The first protocol relates to addressing the needs of women victims of violence in the health sector, and defines the obligations of medical service providers. The second protocol relates to addressing the needs of women victims of violence in the social sector. It outlines the obligations of social service providers to women victims of violence who request assistance in to regain control of their lives. Those obligations include the provision of protection, care and social, psychological and legal rehabilitation, as well as services aimed at promoting personal and economic empowerment. The third protocol relates to addressing the needs of women victims of violence in the police sector. It sets out the responsibilities of family protection unit staff within the Palestinian police in providing protection services to women victims of violence. It also outlines intervention and referral procedures and mechanisms for making women victims aware of the legal measures available to them to protect themselves and safeguard their right to take the appropriate decision for themselves. The system also includes a form for documenting cases of violence and a guide to institutions that provide services to women victims of violence. The Ministry of Women's Affairs is developing a system of procedures for all entities involved in the referral system.

97. A number of training sessions for service providers were organized, with the aim of situating the National Referral System for Women Victims of Violence within the framework of the various services provided by health, police and social institutions. Service providers were also instructed on how to make use of the

system's mechanisms when performing their duties. Several training sessions were also held to familiarize judges, legislators, staff of the Public Prosecutor's office and Palestinian civilian police officers with the Referral System's procedures and improve follow-up mechanisms to promote women's rights and combat violence against women.

98. As of January 2017, women victims of violence have been exempted from fees in all Government-run hospitals pursuant to a decision adopted by the Ministry of Health and in line with the Palestinian Government's overall policy of supporting and empowering women. In addition, the Ministry of Health has adopted a number of measures to expedite all procedures involving women and follow up on health, psychological and legal issues related to women's health and safety.

Article 6
Combating trafficking and exploitation of women

99. Under penal legislation in force, prostitution is an illegal act. Inciting, coercing, practicing or abetting prostitution, or living off the proceeds thereof, is penalized in legal codes under the heading of incitement to debauchery and putting public morals and decency at risk. Those provisions penalize anyone who induces or attempts to induce a woman under the age of 20 to engage in prostitution in Palestine or abroad, or any person under the age of 15 to engage in sodomy, with imprisonment for 1 month to 3 years. The penalty of imprisonment for 2 years is imposed on any person, male or female, who knowingly lives off the earnings of any woman engaging in prostitution.

100. That legislation prohibits the opening of brothels. Preparing, renting or acquiring any location to be used for prostitution, or contributing to the use of such location for the purposes of prostitution on a regular basis, is punishable by imprisonment of up to six months. Those laws also penalize trafficking in women. Forcing a women to stay against her will in any location in order to engage in prostitution, or in a brothel, is punishable by up to two years in prison. Using threats, terror, deception or drugs to induce or attempt to induce a female to engage in illicit sexual intercourse in Palestine or abroad is punishable by up to 3 years in prison.

101. Palestine has no laws on child prostitution. However, sexually assaulting a child is severely punished. Legislation in force penalizes anyone who marries or conducts a marriage ceremony for a girl under 15 years of age, or abets the conduct of such a marriage ceremony, with imprisonment of up to 2 years.

102. Palestine's commitment to strengthening and protecting human rights in general, and the rights of women in particular, is reflected by the increased penalties for the above-mentioned crimes against women proposed in the draft penal code. The draft devotes a full chapter to crimes against human dignity, which include the crime of human trafficking, especially the trafficking of women, which is punishable by a sentence of up to life imprisonment depending on the circumstances and a fine of up to $60,000 or the equivalent of the proceeds, whichever is higher. The penalty is even more severe in the following cases: if the perpetrator established an organized criminal group; if threats or physical harm were used to commit the act; if the perpetrator was related to or in a power relationship with the victim; if the perpetrator was a public official; if the crime resulted in the victim's death, disability or disease; or if the victim was impaired or disabled.

103. Decree Law No. 9 (2007) on combating money-laundering provides that funds obtained from the sexual exploitation of women and children are illicit and covered under the offence of money-laundering. The perpetrator is punished by up to 15 years imprisonment and must pay large fines.

Difficulties

104. Detailed studies or statistics on trafficking in women in Palestine are lacking. The topic is a sensitive one in the Palestinian social context. However, research suggests that human trafficking is rare and not organized. In addition, the illegitimate hegemony of Israel, the occupying power, over the territory and borders of Palestine, and the various ways that Israel undermines Palestinian geographical integrity, make national efforts to combat trafficking in women weak to the point of ineffectiveness. The occupying forces prevent the relevant Palestinian parties from moving between the West Bank, including East Jerusalem, and the Gaza Strip in order to carry out their functions and reach women victims. There is also insufficient oversight by the occupation authorities of working conditions at facilities and workplaces that hire Palestinian workers — men and women — inside the Green Line and in the illegal settlements.

Progress achieved

105. In 2014, Palestine acceded to a number of relevant international conventions, including the Convention on the Rights of the Child and the United Nations Convention against Transnational Organized Crime. Palestine is also a State party to the 1904 International Agreement for the Suppression of the White Slave Traffic and the 1921 International Convention for the Suppression of the Traffic in Women and Children.

106. The Minister of Labour issued a decision on domestic workers which regulates the nature, hours, tasks and employer obligations for domestic work. In particular, it requires that domestic workers should be treated with respect and granted decent working conditions and the right to privacy. Employers of domestic workers are obligated to pay cash salaries equivalent to the applicable minimum wage. The Ministry of Labour is responsible for overseeing domestic labour contracts, and has the authority to take the necessary measures and impose penalties on employers in violation.

107. The Palestinian Government's National Referral System for Women Victims of Violence ("Takamul"), which has been described above, provides protection for victims of human trafficking. The Ministry of Social Development, while not directly involved in assisting victims of trafficking and prostitution per se, provides services, counselling and cost-free shelters for women victims of violence and others. The proposed draft penal code does assign the Ministry of Social Development a specific role in caring for victims of human trafficking, with the necessary allocations to be earmarked in that Ministry's budget.

108. The sharia justice system has taken a number of measures to prevent women from being exploited for prostitution. Those measures include Circular No. 40/2004 which was issued to protect women from falling victim to sexual exploitation after marrying men residing abroad. In such cases, judges and marriage officiants must verify that the bride has given her consent without coercion and is over the age of 18. The groom must obtain a certificate of good conduct from the region where he resides, and the location where the couple will live after the wedding must be verified. The man must also certify that he has undergone the necessary medical exams prior to marriage and is free of communicable diseases, especially HIV/AIDS. Conclusion of a wedding contract without complying with these rules is subject to large fines.

Part 2

Articles 7 and 8
Equal participation in public life

109. In 2014, Palestine acceded without reservations to the 1954 Convention on the Political Rights of Women. The preamble and articles 9 and 26 of the Amended Basic Law provide for full equality among all Palestinians in rights and obligations, including full political rights and the right to hold public office. Article 26 states that Palestinians have the right to participate in political life both as individuals and in groups; to form and join political parties; to form unions, associations, federations and popular organizations; to vote and run in elections for representatives elected through universal suffrage; to hold public office on the basis of equal opportunity; to hold private meeting without the police present; and to hold public meetings and gatherings within the confines of the law. The Rights of Persons with Disabilities Act provides for the right of such persons to form associations, organizations and federations to advocate for their needs.

110. Decree Law No. 1 (2007) on public elections provides for the right of women to stand for election on an equal footing with men without discrimination. The same provisions appear in Law No. 10 (2005) on local council elections. Those laws also guarantee the right of women to run for president, for the Palestinian Legislative Council and for local councils under the same conditions that apply to men. The laws have adopted a female quota as a temporary proactive measure — as called for in article 4 of the Convention — to ensure women's access to national and local decision-making positions.

111. The decree law on general elections also grants foreigners married to Palestinian women or men (with the exception of those bearing Israeli nationality) the right to vote in elections even if they do not have Palestinian identity papers at the time that they register to vote or cast their ballot.

112. Some 8 per cent of the members of the Palestinian National Council, that is, 56 out of 744 members, are women. That Council is the supreme body of the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people, and functions as the Parliament of the State of Palestine. Some 10 out of 124 members of the Palestinian Central Council are women. The Central Council is the link between the Palestinian National Council and the Executive Committee of the Palestine Liberation Organization. There is 1 woman out of 18 members of the Executive Committee, which is the highest executive authority of the Palestine Liberation Organization. She is the first woman to be elected to the Executive Committee since the founding of the Palestine Liberation Organization.

113. Palestinian women took part in the first Palestinian legislative and presidential elections in 1996. Although 49 per cent of registered voters were women, they were only 32 percent of actual voters, while 58 per cent were men. Those elections were conducted on the basis of a majority system, which naturally hindered the chances for women to be nominated and win seats in the Legislative Council. Only 28 women were nominated for the Legislative Council, as opposed to 676 men. Only 5 women won, as opposed to 83 men. There was one woman presidential nominee in those elections.

114. As the second legislative election approached in 2006, the Palestinian legislature was mindful of the gender gap in the first election. The 2005 election law established a mixed electoral system that combined the majority system with proportional representation. A female quota was also adopted. That law was subsequently replaced by Decree Law No. 1 (2007) concerning elections, which

retained the female quota. The effects of the legislative changes were felt in most recent Legislative Council elections, in which women won 17 out of 132 seats. While women were still underrepresented, those numbers are cause for optimism about a change for the better in women's electoral prospects in general.

115. Data on local councils indicate that there were more female candidates in the 2012 elections than the elections conducted in 2004 and 2005. That is attributable to the proportional representation and quota system adopted by the 2005 local council elections law. Some 738 women won seats on local councils out of a total of 3505. Moreover, the proportion of women who voted was greater than in the previous election, as can be seen from the following table:

Table 1
Women's participation in local council elections for the years 2004 -2005 and 2012-2013[1]

	2004-2005	*2012-2013*
Percentage of women candidates	19.2	24.8
Percentage of women on voting rolls	48.7	47.8
Percentage of women council members	13.7	21
Percentage of ballots	47.8	42

116. For political parties, the number of women declines the higher we go in the party hierarchy. We rarely find women in the highest leadership circles, especially of the biggest parties on the Palestinian political scene. Their role within parties is generally limited to stereotypical community and humanitarian activities. The parties have no policies or mechanisms to promote women's participation. Law No. 15 (1955) concerning the right of citizens to form political parties, which is in force in the West Bank, has no provisions excluding or restricting women, or differentiating between them and men with respect to exercising such rights or taking part in party activities.

117. According to the latest statistics published in 2011, the levels of women's participation in Palestinian political parties were as follows:

- *The Palestine Liberation Movement*: Women accounted for 5 per cent of the membership of the Central Committee (a single member) and 9.2 per cent of the membership of Revolutionary Council.
- *The Popular Front for the Liberation of Palestine*: Women accounted for 20 per cent of the membership of leadership bodies and 15 per cent of overall party membership.
- *The Democratic Front for the Liberation of Palestine*: Women accounted for 20 per cent of the membership of leadership bodies and 25 per cent of overall party membership.
- *The Democratic Palestinian Union*: The Secretariat had one woman member, and women accounted for about 39 per cent of the membership of leadership bodies.
- *The Palestinian People's Party*: Women accounted for about 25-30 per cent of the membership of leadership bodies, and the same percentage of overall party membership.

[1] 2012-2013 election results are only for local council elections in the West Bank; no local elections were conducted in the Gaza Strip owing to the political schism.

- *The Popular Struggle Front*: Women accounted for 20 per cent of the membership of both leadership bodies and the party base.
- *The Palestinian Arab Front*: Women accounted for 20-25 per cent of the membership leadership bodies and about 50 per cent of the base.

Information on the female membership of Hamas and Islamic Jihad or the representation of women in the highest leadership levels of those two parties was not available.

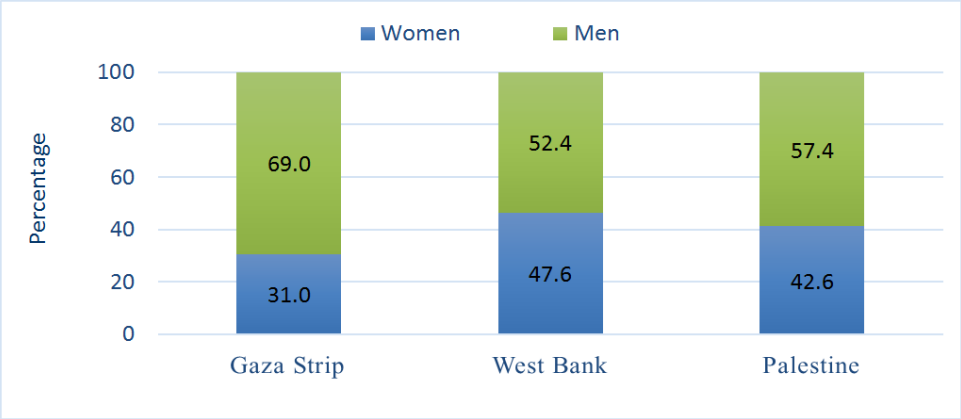
118. In March 2015, the Palestine Liberation Organization Central Council issued a decision mandating full equality for women and an increase in their representation in that Organization and all other institutions of the State of Palestine to at least 30 per cent.

119. Women's participation in trade unions, trade councils, subcommittees and specialized committees remains low, with the exception of organizations — such as doctors' and lawyers' associations — that require membership and payment of annual dues as a condition for practicing the profession. Statistics from the Palestinian General Federation of Trade Unions for 2013 indicate that the percentage of women in labour unions was no more than 8.5 per cent. The Palestinian General Federation of Trade Unions has set up a women's division within its organizational structure to promote and expand women's participation in the union movement.

120. One of the most important reasons for the low percentage of women in unions, especially in leadership posts, is that the unions are politicized, with parties controlling their operation and structure. The political rivalries within unions are a microcosm of the legislative elections, with the same dynamics that prevent women from enjoying the same opportunities as men.

121. Recent years have seen an increase in the number of women in public posts at government ministries and agencies. In 2010, 37 per cent of public sector employees were women while 63 per cent were men, whereas in 2015, 42.6 per cent were women while 57.4 per cent were men. As of 2014, women occupied 46 per cent of public posts designated for persons with disabilities, while men occupied 54 per cent.

Women and men working in the public sector by region, 2015



122. There are four women ministers — at the Ministry of the National Economy, the Ministry of Women's Affairs, the Ministry of Tourism and Antiquities and the Environment Quality Authority. That is out of the 24 ministers make up the 2014

Government of National Accord after recent adjustments. The head of the Palestinian Central Bureau of Statistics, who has the rank of minister, is also a woman.

123. Even though legislation does not discriminate between men and women with respect to public posts, the proportion of women holding such posts tends to down as one goes higher in the administrative hierarchy. That is especially the case for the highest posts. In 2015, only 11.7 per cent of public sector employees at the director-general (A4) grade and up were women, while 88.3 per cent were men.

124. The judiciary has seen relative progress in the number of women judges in both sharia and government courts, and of women notaries. The percentage of women judges was 11.7 per cent in 2008, but that had risen to 16.7 per cent as of 2014. There are more women judges in the magistrate courts and the courts of first instance than in the higher courts. There is one woman judge on the Supreme Court in the West Bank, and two on the Supreme Court in the Gaza Strip. Despite an increase in the percentage of women in the judiciary, the system overall has been remiss about encouraging women and giving them opportunities to occupy decision-making posts.

125. Legislation in force contains no discriminatory provisions with respect to a woman's right to serve as a sharia judge, and there are three women judges in the Palestinian sharia courts. The year 2015 also saw the appointment of the first two women marriage officiants in Palestine. They have all the same authorities to conclude marriages contracts as male marriage officiants.

126. The Office of the Public Prosecutor has seen an increase in the proportion of women employees relative to other sectors. That is especially the case in the West bank, where, in 2013, about 16.4 per cent of prosecutors were women, while 83.6 per cent were men. In 2008, those percentages were 5 per cent women and 95 per cent men.

127. In 2014, there were 306 female Palestinian police officers and 7660 male police officers, or about 4 per cent. Although that was an increase from 2011, when there were only 256 female police officers, the number still falls short of hoped-for levels.

128. Some 20.9 per cent of practicing lawyers are women. However, the gap with respect to female lawyers between the West Bank and the Gaza Strip has increased. As of 2014, some 24.5 percent of lawyers in the West Bank were women, but only 18.2 per cent of lawyers in the Gaza Strip were women.

129. Palestinian women have the right to represent the Palestinian Government at the international level and to be involved in the work of international organizations on an equal footing with men, on the basis of the equality granted to women in the Palestinian Basic Law. There were 66 Palestinian women among the 366 members of the negotiating team at the 1996 Madrid Conference.

130. There has recently been a notable increase in the number of women entering the diplomatic and consular corps, and international work in general. As of 2013, some 28 per cent of the staff of the Ministry of Foreign Affairs were women. Some 4 per cent of diplomats were women. There were 44 women working in embassies and missions of the State of Palestine. There were two female ambassadors at the headquarters of the Ministry of Foreign Affairs in Palestine, and four female ambassadors stationed abroad. The Ministry of Foreign Affairs organizes training programmes on diplomatic work that target women as well as men. It encourages women to join the diplomatic corps and become involved in international organizations.

131. Women account for 42 per cent of employees in the civil sector, which is close to double their share of the labour market overall. That is probably owing to the nature of work in that sector, which is largely involved in addressing the needs of society. Statistics for the year 2011 show that women accounted for 26.8 per cent of student council members at Palestinian universities.

132. In the wake of the adoption of Security Council resolution 1325 (2000) on women, peace and security, Presidential Decree No. 24 (2005) committed the Government to supporting full and equal participation by Palestinian women in all efforts to maintain and enhance peace and security, and to increase their participation in United Nations good offices efforts and negotiations towards a genuine, just and lasting peace that resolves the issues stemming from the Israeli occupation. In 2012, the Cabinet approved the formation of a Higher National Committee for the Implementation of Security Council Resolution 1325 (2000). That Committee is trying to draw up mechanisms for implementing that resolution, which contributes to the protection of women in armed conflict and areas under occupation and directly affects Palestinian women and girls under Israeli occupation. That Committee's membership includes the Ministry of Women's Affairs (as chair), the other relevant ministries and government agencies, and civil society organizations.

133. In 2014, the Committee approved a strategic national framework for resolution 1325 (2000) that aims to provide security and protection for Palestinian women and girls against the crimes of the Israeli occupation. In August 2016, the Committee approved the National Action Plan for the Implementation of Security Council Resolution 1325 (2000), which set forth a strategic national framework for achieving three strategic objectives during the initial 2017-2019 period. The objectives were as follows: increase protection for Palestinian women and girls in the face of violations by the Israeli occupation; hold the Israeli occupation accountable, end the impunity it enjoys, and force it to make reparations through international and national mechanisms for the harm it has inflicted on Palestinian women and girls; and increase the representation of Palestinian women in decision-making processes at the local and international levels.

Challenges

134. Despite legislation adopting a number of proactive temporary measures to accelerate de facto gender equality and guarantee that women are represented in public life, women's participation falls short of minimum international standards. That is especially the case for trade unions and federations. The primary obstacle to women enjoying their rights, and in particular their political rights, is a heritage of customs and traditions based on a patriarchal mindset. Other obstacles include the following:

- Inconsistencies in electoral politics in Palestine at the local, union, party and federal levels;
- Low levels of community awareness about women's roles, especially in political life;
- Failure to use competence and professionalism as criteria in accepting and choosing candidates in political campaigns, especially in elections;
- The inability of most women to bear the expense of running for election, and lack of interest in women candidates on the part of financiers;
- Failure to give women confidence and their right to advancement, and lack of solidarity among women themselves.

135. Various government agencies and non-governmental organizations, especially women's organizations, have taken measures to address these obstacles. Those measures include training courses and workshops targeting women of all classes, and the distribution of pamphlets to increase the awareness of the community and in particular of women about their rights, status and potential to play an important role in political life.

Palestinian women prisoners held in Israeli occupation prisons, and the families of detainees

136. Palestinian women prisoners are an important part of the liberation movement and the national struggle for an end to the Israeli occupation and Palestinian independence, and the right of the Palestinian people to self-determination. Since 1967, Israel, the occupying Power, has arrested about a million Palestinians, or around 22 per cent of the population. The occupation makes use of legislation, military orders and arbitrary measures that openly violate international principles, especially those prohibiting arbitrary detention. About 10,000 of those prisoners have been women, and 68 of them remain imprisoned to date, that is to say, as of May 2016. Those women are being held illegally in occupation prisons that, with one exception, are located outside of the Occupied Palestinian Territory, and which do not meet the minimum standards for gender equality, not to mention basic humanity.

137. The Israeli occupation forces are intent on infringing on Palestinian political life in every way possible, and illegally suppressing citizens and their political leaders. Those forces have arrested 16 members of the Palestinian Legislative Council, including one woman, Khalidah Jarrar, who was sentenced by an Israeli court in December 2015 to 15 months, suspended for a five year period, and the equivalent of a $2800 fine.

138. Palestinian women can be arrested at any time and place. Usually, they are bound with plastic handcuffs and blindfolds. That applies during interrogations, at police stations and prisons, and when being transported in buses. Throughout the process, they are subjected to all manner of torture and inhuman and degrading treatment by the occupying forces. That includes both physical and psychological violence. They are beaten, kicked, slapped in the face, verbally threatened and mentally abused. There are also flagrant sexual assaults against women, in the form of threats or rape directed against them or a female family member. Women are also subjected throughout their incarceration to illegal strip searches conducted by soldiers or members of the occupation prison authority, often as a form of punishment. Such searches involve women being stripped of most of their clothes, and in some cases of their underclothes as well, which is severely traumatic for the female prisoners.

139. During imprisonment, and especially during the interrogation stage, various means are used to weaken Palestinian female prisoners and apply psychological pressure. They are threatened with death or the arrest of their families, husbands and parents. They are deprived of sleep and not allowed to see a lawyer for up to a month. They are deprived of their right to communicate with their families, even just to inform them that they have been arrested or are being moved from one interrogation centre or prison to another.

140. Female Palestinian prisoners are not allowed to visit with their families in occupation prisons, or even call them to comfort them or be comforted by them. That direct violation of the rights of female prisoners and their families amounts to collective punishment. The Israeli authorities arbitrarily control family visits through a racist system that requires special permits and security procedures to enter

Israel, which is where the prisons are located. That allows them to prevent hundreds of families from visiting, either on security pretexts or no pretext at all. The occupation authorities often cancel family visits or arbitrarily cut them short. Many female prisoners are barred from visiting with their families at all.

141. The Israeli prison authorities also deny the right of female Palestinian prisoners to education, reading, and recreational or mental activities. Although Palestinian prisoners gained the right to sit for high school exams in 2014 — after having been denied it for five years — Israeli forces are still not allowing university correspondence courses for the fifth straight year. They have also increased limitations on bringing in books and newspapers.

142. Like any other Palestinians, Palestinian women are subject to arbitrary administrative detention by the Israeli occupation forces. Some Palestinian women prisoners are currently being held in occupation prisons under arbitrary administrative detention orders. That is to say, they were arrested without any charges or trial, on the basis of secret files and secret evidence that neither the prisoner nor her attorney is allowed to see. Illegal Israeli military orders allow administrative arrests to be extended and renewed an unlimited number of times.

143. Even where the arbitrary arrest policies and other practices are not inflicted on Palestinian women directly, women are affected. Around one fifth of Palestinians living in occupied Palestine have been arrested at some point in their lives. That means around 40 per cent of all males. In most cases, that leaves Palestinian women to bear the burden of supporting and raising children after their fathers or brothers have been arrested. That is not to mention the psychological suffering that comes with the arrest of a family member. As the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 stated in his 2013 report: “Israel’s detention regime, in particular, seems designed to disrupt Palestinian society, producing an atmosphere of arbitrariness, instability and powerlessness”.

144. According to a 2011 study prepared by the Treatment and Rehabilitation Center for Victims of Torture, some 70 per cent of the families of Palestinian detainees and prisoners lost their source of income because the person detained was the family’s sole breadwinner. Some 50 per cent of those families of prisoners suffer from extremely difficult economic conditions. Some 88.8 per cent became dependent on the monthly stipends allocated by the Palestinian Government to the families of prisoners, which are paid from the moment of incarceration.

145. In an attempt to alleviate the impact of the crimes of the occupation and restore dignity to the prisoners, the State of Palestine enacted the Prisoners and Ex-prisoners Act (No. 19, 2004), as amended. That law provides for all the legal needs of male and female prisoners during their incarceration. It provides for a full or partial waiver of fees for primary school, university education, health insurance and rehabilitation programmes for male and female prisoners, their spouses and their children. The State also tries to secure jobs for released prisoners — male and female — and give them priority in annual hiring in State institutions. The disbursal system for stipends, bonuses and compensation for prisoners in occupation prisons treats male and female prisoners equally.

Article 9
Equal citizenship

146. The ability to exercise rights deriving from Palestinian citizenship is contingent on ending the occupation. Article 7 of the Amended Basic Law stipulates that Palestinian nationality is to be regulated by law. As long as that Basic Law remains provisional — as explained in the common core document — Palestinian

citizenship continues to be governed by a patchwork of legislation that includes the following: the Personal Status Act (1999); military orders issued by the occupation authorities; certain provisions of Palestinian citizenship decrees issued in 1925 under the British Mandate; the Jordanian Citizenship Act (1954), as amended; certain circulars recently issued by the Palestinian Ministry of the Interior (which concern Palestinian women living in the occupied West Bank and Gaza Strip or who have the right to reside there); and racist Israeli laws on women residing in East Jerusalem.

Palestinian women living in the occupied State of Palestine, excluding East Jerusalem

147. Under the aforementioned laws, such women enjoy the same rights as men to acquire, retain or change right of residence regardless of their marital status. Ministry of the Interior Circular No. 42 (2010), which takes precedence over any legislation to the contrary, affirms those rights. Females born in occupied Palestine have the right of residence if one or both of her parents are Palestinians, as do males born there. Any person born abroad to Palestinian parents who have the right to reside in occupied Palestine also has the right of residence if that individual returns to Palestine before the legal age of majority. A female Palestinian retains that right even if she marries a non-Palestinian. Her children also have the right to a Palestinian passport, the right of residence and the right to a Palestinian identity card before they reach 16 years of age, as is also the case with a Palestinian man married to a non-Palestinian woman.

148. Article 12 of the third revised draft of the constitution of the State of Palestine stipulates that Palestinian nationality and the attendant rights, including the right of return for those who left Palestine before 15 May 1948, is transferred from both mothers and fathers to their children.

149. Although Palestinian women in some parts of occupied Palestine enjoy that right on an equal footing with men, Israel, the occupying Power, continues to deprive all other Palestinian women of that right and its consequent benefits and effects, because some of them are subject to racist and discriminatory Israeli laws, preventing millions of women from returning to their home country. Those women include the following:

Palestinian women living in occupied East Jerusalem

150. Palestinian men and women in East Jerusalem hold permanent residence cards issued by the Israeli Ministry of the Interior that entitle them to some piecemeal rights but impose countless obstacles on them with respect to acquiring, retaining or changing their status or passing it on to spouses and children. In 1967, immediately after the illegal occupation of Jerusalem, the occupation authorities decided to annex that city illegally to Israel and impose Israeli law. The annexation and application of Israeli law to the occupied city was a tool to reinforce discrimination against the Palestinians of Jerusalem and to break apart even more Palestinian families. The laws applied by the occupation authorities are characterized by a racist double standard with respect to Palestinians. Jews are treated in accordance with laws that expanded the definition of “Jew” in the 1970s to include children, grandchildren and relatives. It grants Jews the right to immigrate to Israel and automatically acquire citizenship upon arrival. That allows any Jew to acquire Israeli citizenship and residence, while the racist provisions of the Nationality Act (1952) and its 1974 regulations apply to all non-Jews, namely the Palestinian residents of East Jerusalem, who are considered permanent residents.

151. Unlike citizens, permanent residents must show proof — again and again over the course of their lives — of their "centre of life", that is, proof that they reside in Jerusalem, before they may receive State services such as identity cards (the practical embodiment of permanent residence), travel documents or registrations of marriages, births and deaths of spouses. They must produce documents such as tax receipts, water and electricity bills and leases. Birth certificates must be shown to prove that their children were born in Jerusalem, and certificates must be shown to prove that their children are attending Jerusalem schools. That applies to Palestinian women and men. Anyone who fails to establish residence in Jerusalem forfeits his right and the right of his family to stay or work in Jerusalem, and is denied all social rights. That is pursuant to the Nationality Act and its illegal regulations, which give the Israeli Minister of the Interior the power to revoke permanent residence. Under article 11 (a) of that Act, permanent residence may be revoked if an individual has left the country for over seven years, has acquired permanent residence outside the country or has become a naturalized citizen of another State. That provision has been invoked in Jerusalem by successive Governments of the occupation State with the aim of emptying Jerusalem of its Palestinian residents, especially those who live on the outskirts of Jerusalem or in the West Bank, have studied or worked abroad or have obtained foreign citizenship.

152. According to the United Nations Office for the Coordination of Humanitarian Affairs office in the Palestinian Territory, East Jerusalem Palestinians lack safe legal residence. The Israeli authorities revoked the residence of at least 14,000 Palestinians in East Jerusalem between 1967 and the middle of 2010. Only a few hundred of those people succeeded in regaining their residence status.

153. In another example of discrimination, under illegal Israeli laws, both female and male Jerusalem residents with spouses who are not Israeli citizens or permanent residents of Jerusalem must request "reunification" so that they can live in the city as a family. In the very common case where a Palestinian woman resident of Jerusalem has married a Palestinian man with a Palestinian identity card, she must petition to be reunified with her husband and embark on a long series of degrading procedures that take many years. When the petition is submitted, the wife must provide documents, as described above, to the Israeli Ministry of the Interior to prove she is a permanent resident of Jerusalem. She must also provide a certified marriage contract and photographs of the wedding celebration. These photographs must show her wearing a white wedding dress and gold jewellery, and must also show the groom and the guests in order to confirm that a marriage has in fact taken place. However, even under this procedure before it was abolished, applications for family reunification were ignored. This was also the case when a Palestinian male resident of Jerusalem married a Palestinian woman with a Palestinian identity card.

154. After the outbreak of the second intifada in October 2000, the occupation authorities froze reunification petitions. In May 2002, they officially halted all procedures related to reunification applications in accordance with Decision 1813. In July 2003, the Israeli Parliament approved the Citizenship and Entry into Israel Act as a one-year provisional law. That Act prohibits Palestinians — women and men — married to Israeli citizens from obtaining Israeli citizenship or permanent residence. It thus prevents them from living in Israel or Jerusalem with their families. The Act has been applied retroactively to spouses who married before the law was adopted and to their children, who have been forcibly expelled from Israel as a result. To date, the racist Act has been renewed every year, making it permanent for all practical purposes.

155. In 2005, amendments were made to that Act that allowed women over the age of 25 who are married to residents of Jerusalem or Palestinian holders of Israeli citizenship to obtain a permit to stay with their husbands. The amendments also

allowed men over the age of 35 who are married to residents of Jerusalem or Palestinian citizens of Israel to stay with their spouses. Children over the age of 14 may have a residence permit, which may only be renewed if they are able to demonstrate that they live in Jerusalem on a regular basis. All those who do not fall within these age groups are automatically rejected. Even those who do fall within this category usually see their applications rejected. Long delays in processing ultimately give way to rejection under various pretexts, such as ostensible security reasons.

156. In sum, most women married to residents of Jerusalem are prohibited by law from obtaining permanent residence in Jerusalem, as are children who cannot be registered on their Jerusalemite father's identity card or in the population registry if the mother is a holder of a Palestinian identity card.

157. Conversely, women residents of Jerusalem have for all practical purposes lost their right to retain their residence in Jerusalem or have been stripped of it because they were forced to live outside Jerusalem in order to keep their families together. Even in the latter case, a woman resident of Jerusalem loses the right to renew her identity card if she has lived outside the city for several years, if she has lost the identity card or if her appearance has changed with time or because she has either begun wearing or stopped wearing the hijab. Similarly, if she decides to return to Jerusalem after divorce or the death of her spouse, she cannot reside legally in Jerusalem until she submits a petition for personal reunification, which takes several years.

Palestinian women married to Palestinians who stayed inside the Green Line, and vice versa

158. The prohibition on reunification, as described in the previous paragraph, also applies to Palestinians, both men and women, who hold Palestinian identity cards and who marry Palestinians who remained inside the Green Line after the Nakba in 1948 and acquired Israeli citizenship under the Israeli Nationality Act (1952).

159. In 2007, the Israeli Parliament expanded the scope of the racist Act, denying reunification to citizens of Syria, Lebanon, Iraq, Iran and Libya who were married to Palestinian citizens of Israel or Palestinian residents of East Jerusalem. In 2008, another amendment to the Nationality Act was made whereby citizenship could be revoked in the case of a "breach of trust" or "disloyalty to the State", even in the absence of a criminal conviction. That compounded the threat of discriminatory expulsion against Palestinian men and women, who are in fact the primary targets of these amendments.

160. There is no doubt that this racist policy is designed to prevent the reunification of Palestinian families and violates fundamental human rights to equality, freedom, privacy, citizenship and family life. It blatantly discriminates against Palestinians wherever they live. Women are the primary victims of these racist policies, as they find themselves forced to choose between two unjust options: either to live in their homeland and abandon their families and husbands, or to build a family life with their husbands and give up life in their homeland.

Palestinian women refugees in the diaspora

161. As of mid-2015, there were some 6,134,003 Palestinian refugees in the diaspora, comprising 49.7 per cent of the entire Palestinian population, according to the Palestinian Central Bureau of Statistics. These figures include citizens of other countries and the stateless. Those who have acquired citizenship of another country are subject to the laws of that country, including citizenship laws that are not necessarily consistent with the principles of human rights, particularly the rights of

women. Stateless persons are subject to a special system governing residence in the host country. In some cases, such persons are granted status equal to that of citizens of that country but do not have political rights, or are deprived of fundamental rights. Palestinian refugee women in particular are affected by prolonged refugee status, which deprives them of, among other things, their fundamental right to reside in their country and to pass this right on to their children.

162. Israel, the occupying Power, is the party primarily responsible for the creation of the Palestinian refugee problem, through its crimes against the Palestinians, such as killings and forced expulsion and displacement. It continues to bear primary responsibility for the continued exile and suffering of Palestinian refugees and their inability to return to their homeland. It has done everything in its power to make it impossible for them to return even from a practical point of view, by building Israeli cities and settlements on the ruins of abandoned Palestinian villages and Palestinian land, by accepting tens of thousands of Jews every year, by controlling Palestinian borders, border crossings and ports, by controlling Palestinian civil affairs, and by depriving refugees and their children of their right to live in their countries.

Part 3

Article 10
Equality in education

163. Existing legislation guarantees the right to education for all, without discrimination, at all levels: kindergarten, primary and secondary school (academic and vocational) and university. Educational policies and programmes do not discriminate against women. The Amended Basic Law guarantees the right of every citizen to an education. Education is compulsory through primary school, and schools, educational institutes and public institutions are free of charge. The Education Act (1964) explicitly stipulates gender equality with respect to school enrolment, curricula, examinations and grade levels. This is also the case with regard to the Higher Education Act (1998), which explicitly states that every citizen has the right to higher education. It also states that fulfilment of objective educational requirements shall be the exclusive criterion for determining admissions and for awarding diplomas.

164. The Palestinian Child Act (2004) guarantees the right to a free, State school education for every child through secondary school. It provides for all appropriate and effective measures to eliminate various forms of discrimination in the right to education and guarantees equal opportunities for all children. It prohibits children from dropping out of school. Along with the Palestinian Rights of Persons with Disabilities Act, the Act affirms the right of children with disabilities to education and training at the same schools and at special centres, without discrimination.

165. The Palestinian Prisoners and Ex-prisoners Act (2004) also guarantees the educational rights of Palestinian prisoners and freedom fighters in occupation prisons, regardless of sex. It exempts them wholly or in part from university tuition fees.

166. The Reform and Rehabilitation Centres Act (No. 6, 1998) guarantees the right of every male and female inmate to an education, and states that inmates must be provided with the necessary resources to continue his or her education, whether at school or university. It allows them to be excused from daily work duties, and to sit for examinations.

167. The Palestinian Ministry of Education and Higher Education supervises Government and private schools as well as schools operated by the United Nations

Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Education in Palestine is divided into the following stages: preschool (kindergarten); primary education, which is compulsory and free for ten years, until the end of the tenth grade; secondary education, which is free in Government schools and includes sciences and humanities (literature) as well as vocational education, which is divided into industry, commerce, agriculture, nursing and hospitality; higher education; and parallel education and literacy.

168. In Jerusalem, all Palestinian schools are subject to discriminatory Israeli terms and conditions, which prompts many students, male and female, to drop out of school, or which deprives students of access to decent or appropriate education, as will be explained below.

169. The Ministry's Sectoral and Cross-sectoral Gender Strategy (2011-2013) has incorporated Palestinian educational mechanisms and conditions aimed at combating gender discrimination and ensuring justice and gender equality with respect to universal access to education, prevention of attrition and reducing illiteracy rates. It has turned education into a tool for raising awareness of human rights and gender equality. The Ministry conducted a comprehensive review of school curricula during the period from 2003 to 2006 and subsequently adopted new curricula at all educational levels. Despite improvements in those curricula, they still contain stereotypical portrayals of women's roles.

170. Laws in force in the West Bank do not prohibit co-educational schools, of which there are some 686. By contrast, in the Gaza Strip, the illegal Education Act (No. 1, 2013) enacted by Hamas prohibits co-educational institutions after nine years of age, and the Ministry of Education there is working to "feminize" girls' schools.

171. Sport is a compulsory subject in Palestinian school curricula throughout primary and secondary education, and female students are entitled to physical education and sport on an equal basis with male students at all schools.

172. Statistics from the Ministry of Education and Higher Education for 2014 and 2015 show a marked improvement in enrolment for both girls and boys. There are 2,856 schools of various types in Palestine, attended by 1,171,596 students (590,501 female and 581,095 male). Total enrolment of girls in primary education stood at 96.5 per cent as compared with 94.2 per cent for boys, while enrolment in secondary education stood at 80.1 per cent for girls as compared with 61.2 per cent for boys.

173. The Rights of Persons with Disabilities Act guarantees the right to education for persons with disabilities. That Act charges the Ministry of Education and Higher Education with creating a positive environment and addressing the needs of such students at schools, colleges and universities. Since 1997, the Ministry has worked to integrate both male and female students with disabilities, and for the 2014-2015 academic year, 7,552 students with disabilities were enrolled (3,998 male students and 3,554 female). Ministry data shows that approximately 63.6 per cent of Government schools accommodate special needs, providing toilets and ramps for persons with disabilities. The Ministry is working on providing more facilities for these students, and is modifying school buildings to fit their needs.

174. The following table shows the distribution of male and female students across various secondary school subjects for the 2014-2015 academic year, according to the Palestinian Central Bureau of Statistics:

Table 2
Distribution of males and females across various secondary school fields for the 2014-2015 academic year

Field of study	*Both Sexes*	*Males*	*Females*
Humanities	65.0	60.6	68.5
Science	24.4	25.9	23.2
Commerce	4.5	5.4	3.9
Agriculture	0.2	0.4	0.0
Industry	1.7	3.6	0.3
Sharia	4.0	4.0	4.0
Hospitality	0.1	0.1	0.0
Home economics	0.1	0.0	0.1
Total	**100**	**100**	**100**

175. Both male and female secondary school students still largely enrol in sciences and the humanities as opposed to vocational disciplines, and girls in general incline to the humanities more than boys.

176. The Ministry of Education has adopted several professional guidance projects and programmes, including an awareness-raising programme and vocational guidance, as well as the “From School to Work” project, which is designed to guide students in identifying disciplines and professions and the necessary skills, and help them choose fields that match their interests and abilities. To that end, the Ministry has adopted a vocational and technical guide aimed at male and female students in the eighth, ninth and tenth grades, and their families. It provides them with guidance in the areas of organizational skills, how to select the right field of study, interpersonal relations and lifelong learning.

177. Legislation and policies guarantee the right of students to freely choose their field of study at all educational levels according to their interests and abilities and in line with the principle of equality of opportunity, without gender discrimination. There is no educational discrimination between men and women at any level. Curricula and official secondary school examinations are standardized at all schools in occupied Palestine. That is also the case at Palestinian universities, where curricula are standardized by specialization at each university and students within each specialization at each university sit for standardized examinations, without discrimination.

178. With regard to dropouts and failures, Ministry statistics for the 2013-2014 period show that the failure rate at all levels of education was lower among girls. The failure rate was 1.1 per cent among girls, compared to 1.7 per cent among boys. That was also the case with dropout rates. The overall dropout rate among girls at all levels was 0.9 per cent, compared with 1.6 per cent among boys during the same years.

179. In order to combat attrition and the concomitant increase in child labour, the flowing ministries have developed the following measures:

The Ministry of Labour

180. The Ministry of Labour monitors the implementation of labour and child protection laws, which prohibit the employment of children under 15 years of age. Those laws impose penalties on employers who are in violation. The Ministry also

regulates and supervises labour by children over the age of 15 years. In all cases, it is prohibited to hire children to do any work which would conflict with their schooling.

The Ministry of Education and Higher Education

181. The Ministry has developed various plans to fight student dropout.

182. It buses male and female students to school from Bedouin settlements. Since 2012, the Ministry has provided 21 buses and five automobiles to ensure that students from Bedouin settlements have transportation to Government schools in Area C of the West Bank, and to ensure protection from recurring terrorist settler militia attacks that are a threat to their physical safety, not to mention an obstacle to education. Those buses currently serve approximately 1400 male and female students from 53 Bedouin settlements.

Other activities

183. These include the following: helping dropouts return to school, particularly female students who dropped out to get married; assisting men and women who are beyond school age to enrol in adult education; building new schools to reduce overcrowding and accommodate more students; providing teacher training and qualification; developing guidance programmes to help students overcome psychological and social problems and encourage them to continue their studies; and developing extracurricular activities to promote school spirit and enthusiasm for study and learning.

Ministry of Social Development and other institutions

184. The Ministry plays a pivotal role in mitigating attrition and developing programmes to address the causes of school dropout and early entry into the labour force, such as programmes to combat poverty and to offer cash and in-kind assistance, health insurance and employment opportunities for fathers and mothers.

185. Other social protection institutions, and certain non-governmental organizations, charities and UNRWA (where Palestinian refugees are concerned) play a complementary role to that of the Ministry of Social Development, providing cash assistance to poor families and job opportunities. These initiatives have mitigated — albeit partially — the phenomenon of students dropping out of school to work so they can help their families.

Illiteracy

186. There has been a clear decline in the prevalence of illiteracy in occupied Palestine, particularly among women. In 1997, the overall illiteracy rate among individuals 15 years of age and older was 13.9 per cent (7.8 per cent of men and 20.3 percent of women). Figures issued by the Central Bureau for 2014 indicate that the illiteracy rate in Palestine was among lowest in the world. The overall illiteracy rate in Palestine declined among individuals 15 years of age and older to 3.6 per cent (or 97,921 individuals). However, these figures show that there is still a significant discrepancy between males and females, as the illiteracy rate among males was 1.6 per cent (or 22,161 individuals), while the rate among females was 5.6 per cent (or 75,760 individuals) for the same year. The female illiteracy rate in rural areas increased to 8.4 per cent, as compared to 1.7 per cent for males. In urban areas the rate was 5 per cent among females as compared to 1.6 per cent for males. In the camps, the rate among females was 4.9 per cent as opposed to 1.6 per cent among males.

Adult education

187. The Education Act (No. 16, 1964) stipulates that the State is responsible for providing adult education to those who are interested by establishing centres with organized classes, for the purpose of self-improvement. Women are afforded the same opportunities as men to enrol in such centres. The Ministry of Education and Higher Education is implementing programmes to eradicate adult illiteracy and provide adult education and parallel education.

Post-secondary education

188. For the 2014-2015 academic year, female registrations and actual enrolments at 52 institutions of higher education (universities, colleges, community colleges or distance learning) stood at 133,362 students, or approximately 60.3 per cent of the total student enrolment of 221,395. Female graduates of higher education institutions for the 2013-2014 academic year numbered 24,111, or approximately 60 per cent of the 40,043 total graduates for that year.

189. The following shows the number of students enrolled in universities and community colleges for the specified academic year by sex (in thousands):

Table 3
Data on universities, including intermediate diploma, bachelor degree and graduate students at universities and colleges

(Thousands)

	*Universities**				*Community Colleges*			
Academic year	*(Both sexes)*	*Males*	*Females*	*Gender Parity Index***	*Both sexes*	*Males*	*Females*	*Gender Parity Index***
07/08	168.1	75.3	92.8	1.23	13.1	8.2	4.9	0.60
09/10	185.0	79.1	106.0	1.34	11.6	6.9	4.7	0.68
10/11	201.4	84.5	116.9	1.38	12.6	7.5	5.1	0.68
11/12	205.1	85.2	119.9	1.41	12.1	6.9	5.2	0.75
12/13	201.4	81.1	120.3	1.48	12.3	6.4	5.9	0.92
13/14	203.4	80.4	123.0	1.53	11.1	5.7	5.4	0.95
14/15	209.1	81.6	127.5	1.56	12.3	6.4	5.9	0.92

190. Figures from the Ministry of Education and Higher Education indicate that female enrolment increased significantly in the fields of education, humanities, social sciences, commerce, law and fine arts. Enrolment rates declined slightly in medicine-related disciplines such as pharmacy and nursing, and also declined in the sciences, medicine and engineering.

191. With respect to education loans and grants, Decree Law No. 5 (2013) concerning a loan fund for students at institutions of higher education in Palestine affirms the right of female Palestinian university students to obtain loans to cover a bachelor's degree or diploma, in accordance with certain criteria, on the same terms that apply to male students. According to Ministry regulations, the conditions that must be met by candidates for scholarships at Palestinian universities or abroad are the same for all, without gender discrimination.

192. Women working in the pre-university education sector are approximately 59.8 per cent of the total number of education staff (excluding support staff) at government and private schools and UNRWA schools in Palestine. However, that

percentage declines as education level increases, especially at the university level. Women were only 25 per cent of the total number of employees of institutions of higher education.

Challenges

193. The Israeli occupation's continued control over Palestinian territory and the behaviour of its soldiers and settlers, particularly in East Jerusalem and Area C of the West Bank, play a major role in the deterioration of Palestinian education. That behaviour includes attacks on school buildings and facilities and the consequent infliction of physical and mental harm on students and teachers, murder, injury, detention, frisking, harassment, denial of safe access by students and teachers to schools, the threat of confiscation of school land, denial of licenses for electricity and water at schools, intermittent closures and raids of schools, repeated closure of military checkpoints, and many other violations that lead to lost hours of education and disruptions of the school day. Students are prevented from receiving a decent education in safe conditions, which has prompted many students, especially female students, to leave school and enter the labour force, or to marry at young ages and start families.

194. In 2013 alone, some 12,071 students, 547 teachers, and six staff of Palestinian schools were targeted by occupation soldiers with results ranging from death, injury, detention, arrest, house arrest, fines, delays at military checkpoints and denial of access to schools. Some 89 schools were subject to 344 attacks, most notably demolitions and raids, as well as vandalism of property and facilities, the firing of gas canisters, rubber bullets and live ammunition by occupation soldiers in schoolyards and classrooms, partial or total disruption of the school day, or closure of school operations entirely.

195. The situation is worse in East Jerusalem, where schools are under the full control of the occupation and its racist policies. Those schools are overseen by five different bodies, namely the Ministry of Information and the municipality of Jerusalem (which report to the Israeli occupation authorities), as well as the Islamic waqf (through the Palestinian Ministry of Education), UNRWA schools and the private and civil society sectors. Students at these schools are subject to numerous violations of their right to education, notably:

- They are denied easy and safe access to their schools because of the annexationist expansionist wall and the military roadblocks around Jerusalem that prevent thousands of students and teachers coming in and out of the city and accessing its schools;
- They are denied access to education in decent school buildings due to the moratorium on new school buildings, orders to demolish existing schools, refusal to improve deteriorating infrastructure and lack of any budget oversight mechanisms for such improvements, the imposition of complicated procedures for procurement of furniture and textbooks and the inadequate response to the huge current numbers of students and lack of planning to accommodate new students, which shuts thousands of Palestinian children out of the free governmental education system;
- According to the United Nations Office for the Coordination of Humanitarian Affairs, there is a chronic shortage of classrooms in East Jerusalem which would require the construction of 2,200 additional classrooms to accommodate Palestinian children. Many existing facilities are inadequate and do not meet standards;

- East Jerusalem schools do not have schoolyards and playgrounds. Many do not have libraries or science or computer laboratories. Classrooms are unsanitary, and half of the buildings are rented, at a cost of more than $750,000 a year, because it is too difficult to obtain permits to build schools due to the racist policy of the municipality of Jerusalem;
- Substantial monetary fines are imposed on schools arbitrarily. Citations are issued for acts such as placing canopies on school roofs to protect students from rain and sun. They might also be issued because a school building was not authorized pursuant to racist Israeli laws and the permit was denied, or because a classroom was expanded. Often the occupation authorities will impose these violations and fines on the school's principal and will prosecute him personally.
- Palestinian textbooks and curricula are bowdlerized with the intent of obliterating Palestinian identity among students. Anything that refers to the Palestinian cause, the right of return or other national issues is removed, which violates the right of parents and students to receive an education that is in line with their particular beliefs.

196. All these issues, in addition to the racist policies and the economic challenges imposed by the occupation authorities on Palestinian residents of Jerusalem, have led to extremely high dropout rates, especially among girls in secondary school.

197. In the Gaza Strip, the illegal blockade constitutes a grave threat to both primary and university education. The occupying forces continue to deny the import of materials to build new schools or to repair schools that have been impacted by the continuing wars against the Gaza Strip. The Ministry needs to build 139 new schools to accommodate students and provide them with a decent education. UNRWA needs to build 104 new schools in order to avoid a double- or triple-shift system.

198. The occupation authorities also impose severe restrictions on the import of many educational necessities, creating shortages of stationery, books and laboratory materials and other materials necessary for educational services. Recurring and lengthy electricity cuts negatively impact the entire education sector in the Gaza Strip. Occupation forces destroyed the only power plant in Gaza in late June 2006, and since then have not allowed it to be rebuilt and equipped so that it can return to its former power-generating capacity. The plant has been prevented from bringing in the amounts of industrial diesel fuel that it needs. The high cost of diesel generator fuel places a heavy burden on educational institutions in the context of the severe financial crisis they face. Electricity cuts have caused numerous problems, including computer crashes during lectures; disruptive lighting outages that cause problems particularly in the evening, and blocked access to electronic references and study materials on the Internet, all of which prevents students from access to adequate education and disrupts study.

199. The illegal blockade is accompanied by persistent Israeli attacks against the Gaza Strip and its civilian population and its cultural and educational institutions, which disrupts education and prevents hundreds of thousands of students from attending school or university. We cite the following examples of the impact on education of the 2014 aggression against the Gaza Strip:

- Of 235 damaged schools, 24 were not operational at the beginning of the subsequent academic year.
- Some 115 schools were used as shelters for displaced civilians, which led to the postponement of the start of the academic year.

- Six schools that had been used as shelters for internally displaced persons were targeted, even though UNRWA had informed the occupation authorities of the coordinates of those schools. Forty-four persons were killed inside these schools or in their vicinity, and 222 were injured.
- Higher education institutions suffered various types of damage, including six cases of major damage.
- Nineteen Ministry staff were killed and several others injured.
- Thousands of children of various ages were killed or injured.
- Those injuries left many students with disabilities, which makes it harder for educational institutions to accommodate them.
- Students suffered significant psychological problems, which inevitably affected their capacity to learn.
- Overcrowding in classrooms increased, and the number of schools employing the double-shift system rose, especially after the destruction that accompanied the aggression. Families were displaced from areas that saw massive destruction and gathered in city centres, which will increase student numbers at those cities' schools.

Article 11
Labour equality

200. The labour sector in Palestine is regulated by two key laws: the Civil Service Act (No. 4, 1998), which covers public officials and employees of State institutions; and the Labour Act (No. 7, 2000), which covers all workers in the private and civil sectors, with the exception the employer's immediate family members, and also of domestic workers, who are covered by a special regulation issued by the Minister of Labour. Like the Amended Basic Law, those laws do not discriminate between women and men with respect to the right to work, employment opportunities, wages, or any other rights related public, private or civil-sector employment. On the contrary, every citizen able to work has the right to employment, which the State of Palestine enforces on the basis of equal opportunity and without discrimination. Appointment to public posts is on the basis of equality of opportunity.

201. The Civil Service Act does not differentiate between male and female employees with regard to wages and benefits for public posts. That is true for base salaries, bonuses and any other compensation. Female employees have the right to equal pay for equal work. The same applies to the Labour Law, which explicitly prohibits discrimination between men and women as regards working conditions and terms of employment, including all financial benefits including wages, allowances, bonuses and reimbursements.

202. Women working in the private and civil sectors have the right to the minimum wage set by the Cabinet in 2012, which is about $365, without discrimination between them and men. It should be noted that in 2011, the poverty line was $600 and the extreme poverty line was $490. Remuneration above minimum wage can be set by contract between the employee and employer. Such a contract may under no circumstances contain provisions that discriminate against women. Any such contract would be deemed null and void because it would violate the Labour Act. Such contracts are in all cases subject to oversight by the Ministry of Labour, the Ministry of the Interior or the Ministry of the National Economy.

203. The Labour Act does differentiate between women and men with respect to the nature of work and working hours. That has an impact on the right of women choose their work. Women may not be employed in dangerous or strenuous work involving

machines, chemicals or manual labour. They may also not be employed on night shifts, with the exception of work in the fields of medicine, social work, tourism or media, or in case of necessity, on condition that their safety and safe travel is guaranteed.

204. Women private and public employees are subject to the same evaluation guidelines and procedures as men. They are evaluated on the basis of performance and the degree to which they carry out the duties that would be expected of anyone occupying their particular job in terms of quantity and quality. Their job performance is assessed based on the work ethic, behaviour and personal qualities they exhibit in the course of carrying out their responsibilities and taking decisions.

205. The Civil Service Act and the Labour Act also guarantee the right of women to career advancement and job security. Promotions are to be based on evaluation of job performance. All things being equal, it is seniority that determines which of two deserving candidates is given priority. Working women are guaranteed job security. They may not be discriminated against because they are married or have children. They may not be singled out or penalized for either of those two reasons.

206. There are no legal provisions that discriminate against women with respect to professional training. For example, the Labour Act requires the Ministry of Labour to set forth and implement policies to continuously develop the skills, aptitudes and capacities of both male and female workers on the basis of equality of opportunity and freedom of choice.

207. With regard to maternity protection and childcare during work, legislation respects the reproductive role of women and guarantees them the right not to be discriminated against at work because of that role. The above-mentioned acts provide for the right of public and private employees to fully paid maternity leave both before and after childbirth. They prohibit discontinuing a woman's employment during maternity leave, provided she does not engage in other work during that time. A woman may not lose seniority or any raises or promotions she has coming to her because she takes maternity leave. Public and private employees who are nursing have the right to paid nursing breaks during the workday.

208. The Labour Act requires workplaces and employers to provide reasonable accommodations for women workers. The rules for the employment of women must be displayed in the workplace to make sure that women workers are aware of their rights, obligations, and available remedies, and that they are in a position to demand their rights.

209. Legislation prohibits pregnant or nursing women from working extra hours in any job whatsoever during pregnancy and for six months after giving birth. They may not be employed in dangerous work that might affect their health or the health of their foetus or infants. Employers are obligated to take measures to protect workers against workplace risks and illnesses. They must provide suitable health conditions, means of medical evacuation and periodic medical exams for both male and female workers. The cost of providing such workplace health and safety protection may not be passed on to the worker.

210. Legislation in force allocates 5 per cent of posts in all governmental and non-governmental institutions to persons with disabilities, depending on the nature of the work of such institutions. The Ministry of Labour is committed to develop occupational training programmes designed to adapt work to the needs of persons with disabilities.

The right to social security

211. Legislation regulating social security varies, depending on whether the worker in questions is working in the government, private or civil sector. Overall, the legal framework provides a range of insurance schemes, guarantees and compensation for working women, on an equal footing with men, in situations where they are unable to work and lose their income. Legislation on the right to social security for employees in the government sector covers the following risks, emergencies and social circumstances:

- *Ageing*: Retirement legislation in force in the government civilian and security sectors has the same qualifications for retirement benefits for men and women. That applies to compulsory retirement age, years of service needed for retirement benefits, and contributions required. Retirement pensions are calculated the same way for women as for men. The same applies to conditions for early retirement.
- *Death*: Male and female children of a deceased female retiree from the government sector are eligible to receive the deceased's retirement pension under the same conditions that would apply to a father who was a government retiree.
- *Illness*: Legislation grants women paid sick leave on an equal footing with men. Women working in the government sector receive government health insurance just as men do.
- *Full medical disability/workplace accidents/occupational illnesses*: Legislation has increased the various types of compensation and medical expenses that a male or female worker incapacitated for any of the above reasons is entitled to, and requires employers to insure all workers against workplace accidents.
- *Family benefits*: The Civil Service Act regulates the family allowances to which a male or female employee in the government sector is entitled. They are considered part of the salary, and can come in the form of allowances for housing, the nature of work, hazards, or any other incentive payments for performance, services rendered or research to increase efficiency and sound fiscal management. Such allowances also include social allowances for male or female spouses who are not employees, and male or female children under the age of 18. In certain cases, those allowances continue to be disbursed even after the age of 18. If both spouses are staff members of the civil service, the social allowance is paid to only one of them.
- *Maternity leave and nursing breaks*: Female employees receive leave with full pay for a period of 10 consecutive weeks before and after giving birth. An employee who is nursing has the right to leave work one hour before closing for a year following the birth of the child.
- *Paid leave*: Women civil servants, like men, have the right to various other kinds of paid leave. That includes weekend leave, religious and government holidays, regular annual vacation, emergency leave, educational leave and leave to perform the hajj pilgrimage.
- *Unpaid leave*: Female civil servants have the right to leave without pay to take care of a child for up to a year, accompany a husband going abroad for work or study for the entire time he remains abroad, or for other reasons that she may communicate to management.

212. The State of Palestine has made significant progress on the right to social security. In March of the year 2016, a decree law was issued on social security. It was the first social security legislation ever enacted in Palestine. However, the Palestinian President suspended enforcement of the legislation in response to demands from civil society for the amendment of some of its provisions to ensure maximum protection and social justice, particularly for the poor and marginalized. In October 2016, the Palestinian President reissued the amended decree law. The amended text was agreed to by all the relevant government and civil society parties.

213. In keeping with relevant international standards to which the State of Palestine has committed itself, the decree law covers several types of basic social insurance. They include the following: old age, congenital disability and death, workplace injuries, maternity, illness, health insurance, unemployment, family allowances, and compulsory or optional retirement. The decree law's provisions are applicable to the following classes of workers: all workers covered under the Labour Act in force; workers not covered by retirement provisions for government civilian and security personnel; Palestinian employees of international and regional organizations or foreign diplomatic or political missions operating in Palestine; workers and employees at local agencies previously not covered by retirement regulations; and domestic workers and persons in comparable positions. The Social Security Agency will monitor and collect payments on behalf of Palestinian workers abroad, including back payments and deductions. However, workers who have informal arrangements with their employers will not be covered under the decree law. That leaves a substantial segment of women workers outside the scope of the law, since a majority of informal workers are women.

214. The decree law guarantees the right to social security and access to benefits to men and women on an equal footing without discrimination between. That includes the same retirement age, which is 60, for both men and women. Some classes of worker do not make adequate contributions. That includes women, because they are often in the labour force only intermittently owing to family responsibilities and also because their wages are often inadequate. The decree law addresses that problem by granting early retirement to beneficiaries who stop working at the age of 55, provided that they have made at least 240 payments, for women, and 300 payments, for men. In contrast to the government retirement legislation currently in force, the decree law on social security does not require a husband to be incapacitated and unable to earn and income in order to be eligible to be one of the beneficiaries of a deceased wife's retirement pension.

215. The decree law on social security of women grants women 12 weeks of paid maternity leave, not to exceed five consecutive weeks before and seven weeks after giving birth.

Oversight and accountability mechanisms

216. Under the Labour Act, female workers, like males, can appeal to the Labour Inspectorate if an employer violates any provisions of that Act. If the violation is proven, the Inspectorate imposes financial penalties on the employer, which double with each recurring violation. The Inspectorate may also require the employer to pay back wages to the female worker, and may completely or partially shutter the workplace. Working women may also appeal to the courts to claim their employee rights and worker compensation. Court fees are waived for all workers in cases involving disputes over wages, vacations, severance pay, workplace injury compensation or arbitrary termination. In the government sector, female civil servants may file a complaint about administrative decisions that violate their rights. They also have the right to appeal to the Supreme Court to challenge such decision have them overturned.

Sexual harassment

217. The Civil Service Act and the Labour Act do not address sexual harassment in the workplace. Nor is it criminalized under the Penal Code. Consequently, it is handled with reference to the underlying principles and penalties for crimes against honour. Those crimes include rape, sexual assault, indecent fondling, proposing acts contrary to public decency, and the use of indecent language. The punishment for such crimes is imprisonment for a period of no less than 10 years if the perpetrator is a personnel manager who committed the act by using his authority or facilities deriving therefrom. The draft penal code criminalizes sexual harassment and defines it as follows: "any deliberate harassment of another person through repeated acts, words or gestures offensive to that person's dignity or modesty for the purpose of inducing that person to respond to sexual advances; or the application of pressure to undermine that person's will to resist such advances". A perpetrator is punished by no less than 6 months in prison, which is increased to 2 years if the perpetrator has formal or de facto power over the victim.

218. The percentage of women 15 years and older in the labour force in Palestine had seen a marked improvement as of 2015. According to statistics from the Palestinian Central Bureau of Statistics, that percentage was 19.1 per cent, as against 71.9 for men. That is an improvement and signals a decline in the gender gap in women's participation in the labour force compared to 2000, when those percentages were 10.3 per cent for women compared to 66.8 per cent for men. Nevertheless, there were still more than four times as many men as women in the labour force as of 2015.

219. The following table shows the breakdown of the labour force by age group and sex in 2015:

Table 4
Labour force broken down by age group and sex in 2015

Age group	*Total*	*Male*	*Female*
15-24	32.7	52.9	11.6
25-34	61.4	90.5	31.1
35-44	59.0	92.5	24.4
45-54	54.5	86.9	20.0
55-64	35.6	58.3	12.3
65+	9.0	17.6	2.5
All age groups	45.8	71.9	19.1

220. Statistics from 2015 indicate that 66.8 per cent of working women were wage workers, compared to 69.1 per cent of men. The proportion of self-employed women was 14.0 per cent compared to 19.1 per cent for men. The proportion of women business owners was 2.1 per cent versus 7.1 per cent for men.

221. The following tables show the breakdown of the labour force by occupation, economic activity and gender:

Table 5
The relative distribution of male and female workers aged 15 and over by occupation in Palestine, 2015 (percentage)

Occupation	*Males*	*Females*
Legislators, senior managers	3.3	3.0
Technicians, specialists, assistants, clerical workers	21.5	52.9
Services and sales staff in markets	20.1	16.3
Skilled agricultural and fishery workers	3.9	10.4
Craftspeople and related occupations	20.7	7.7
Machine operators and assemblers	10.7	4.0
Elementary occupations	19.8	5.7

Table 6
The relative distribution of male and female workers aged 15 and over by economic activity in Palestine, 2015 (percentage)

Economic activity	*Males*	*Females*
Agriculture, hunting and forestry	8.3	14.9
Mining, quarrying and manufacturing	16.4	13.9
Building and construction	24.2	0.7
Commerce, restaurants and hospitality	22.4	13.0
Transportation and communications	6.1	1.2
Other services and sectors	22.6	56.3

222. It is clear from the preceding tables the distribution of working women still skews largely towards traditional occupations and the services and agricultural sectors. More than half of women work in the services sector. About one fifth work in agricultural occupations. There is a notable scarcity of women in upper management.

223. According to data from the Palestinian Central Bureau of Statistics for the year 2014, it is clear that there are few women engineers and doctors. One the other hand, the proportion of women in medicine-related professions such as pharmacy and nursing saw an increase. The figures are as follows:

- Some 22.2 per cent of registered members of the Union of Palestinian Engineers were women, while 77.8 per cent were men.
- Some 15.2 per cent of registered members of the Palestinian Medical Association were women, while 84.8 per cent are men.
- Almost one third of registered members of the Palestinian Dental Association were women, while about 70.5 per cent are men.
- Some 50.5 per cent of registered members of the Palestinian Nursing Association were women, while 49.5 per cent are men.
- Some 55.8 of the members of the Palestinian Pharmacists Association were women, while 44.2 per cent are men.

224. A survey of the labour force in Palestine conducted by the Central Bureau of Statistics showed that the overall unemployment rate for 2015 was about 25.9 per cent. That broke down to 39.2 per cent for women versus 22.5 per cent for men. The

unemployment rate for women breadwinners was 17.8 per cent, as opposed to 14.3 per cent for male breadwinners. Even though these figures show a wide gap in unemployment rates between women and men, they do not reflect the true proportion of women who are unemployed. They do not include women who refrain from seeking work outside the home because of the difficulty of juggling family responsibilities and work.

225. The Labour Act does not cover informal work such as domestic service, or employees who are the employer's immediate family members. Cabinet Decision No. 42 (2004) contains special provisions that cover working hours and vacations for workers in the seasonal agriculture sector. However, data and statistics are not available for Palestine for informal workers, because they do not fit into any of the official job classifications, even though they are of qualitative productive value to both their families and to national development. A significant proportion of that sector's numerous activities are engaged in by women, the most notable being light manufacturing such as sewing and weaving, seasonal agriculture, and running informal family enterprises. Those working women are not covered by legal guarantees protecting workers' rights, such as access to social insurance. In addition, the overall contribution of women to work and to the economy is miscalculated and undervalued, since domestic activities carried out by women without pay is not accounted for in GNP. Excluding agriculture, the proportions of workers in the informal sector in 2015 were about 14.2 per cent for females, 29.3 per cent for males.

Challenges

226.

- Despite efforts that have produced draft laws on social affairs, health insurance, domestic violence and other social issues, it remains difficult to speak of social development or social protection. The financial crisis is worsening owing to recession, a decline in economic growth rates and the lack of sustainable programmes. Things are only made more difficult by the continued Israeli occupation and Israel's illegal de facto hegemony over Palestinian life, resources and capacities.
- Mechanisms for follow-up and oversight of workplaces in the private sector are inadequate. The actual conditions of female and male workers do not match up with the rights provided for by legislation.
- The Ministry of Labour has an acute shortage of labour inspection teams to inspect registered and unregistered workplaces. It lacks the necessary financial and technical capacities.

Working conditions in Israeli workplaces

227. Without a doubt, Israeli policies and practices contrary to the rules of international law have affected the Palestinian economy in general and the labour sector in particular, bringing about a decline in living standards for Palestinian families and a dangerous rise in unemployment in occupied Palestine. That has forced some Palestinians to accept work in illegal Israeli settlements under harsh conditions and at low wages. In 2015, there were about 26,300 male and female Palestinians working in illegal Israeli settlements, spread over the construction, building, manufacturing, agricultural, services, mining and hospitality sectors. That is according to statistics from the workforce survey conducted by the Palestinian Central Bureau of Statistics for 2015.

228. Studies have demonstrated the oppressive working conditions faced by Palestinians in the settlements. Palestinian child labourers are exploited in dangerous environments for long hours. In general, Palestinian labourers are discriminated against. They are not paid the same wages as Israeli workers doing the same jobs, and do not receive the bare minimum of wages, basic social rights and promotions. Palestinian workers who go to work in Israeli settlements face all manner of abuse at Israeli checkpoints. They are forced to wait long hours. They are barred from using public transportation and Israel drivers refuse to drive them to their workplaces. Their work permits are arbitrarily cancelled by the civilian administration. Male and female workers are forced to work extra hours in the hope of receiving extra pay, but many of them never receive it. A large number of them are not registered, so they are barred from receiving benefits. Many male and female workers are subject to being fired because they are unable to get to their workplaces on a regular basis as a result of Israeli practices and security measures, or because they try to demand their rights.

229. Israeli employers do not comply with the provisions of the Labour Law when dealing with Palestinian workers. They exploit those workers' desperation for work and use all sorts of methods to swindle Palestinian workers out of their rights. There is virtually no supervision or oversight by the Israeli Government of such workplaces and working conditions. Palestinian workers in the settlements are also subjected to physical and psychological violence, racial discrimination, and threats to confiscate their work permits, whether from the occupation army or the employers.

230. Female Palestinian workers in the settlements suffer from an additional layer of discrimination based on gender. They get paid only half the daily wages that men get, which are well below the minimum wage in Israel to begin with. The work longer hours than the male workers in the services and agricultural sectors, without the additional hours being taken into account.

231. Palestinian workers in the illegal Israeli settlements do not to not have the benefit of health and occupational safety requirements. Most of them work in workplaces that do not provide protective uniforms and equipment. They are exposed to the sun, smoke, chemical fumes, insecticides and flammable materials.

232. Palestine is making a national effort to boycott illegal Israeli settlements on Palestinian territory occupied in 1967. The President issue Decree Law No. 4 (2010) banning products produced in the settlements, in order to give compulsory effect that national effort. Under that Decree Law, it is unlawful for any person to deal in products from the Israeli settlements in the Palestinian market in any way whatsoever. It is also unlawful for any person to provide any services to those settlements or to work in them. Since that time, the Government has put forward a number of plans and programmes to enforce the provisions of that Decree Law, to find replacements for those products and support the national economy.

Article 12
Equal right to health

233. The law does not discriminate between women and men when it comes to the right to health. The law regulating the health sector in Palestine, the Public Health Act (No. 20) of 2004, prioritizes women's health as an integral part of the Palestine development strategy. The Ministry of Health is mandated to provide preventive, diagnostic, treatment and rehabilitative health services for women and children. Women do not have to ask for permission from a legal guardian or spouse in order to have access to health care, including family planning services. On the contrary, the law grants all persons, including women, right of access to essential care,

primary care and emergency care and the right to have proposed treatment plans clearly explained to them. Patients also have the right to consent to care or refuse it. In all these matters, the specific circumstances, dignity and religious and cultural beliefs of the patients must be respected.

234. The law prohibits termination of pregnancy except on medical grounds and under a specific set of conditions. It is an offence to deliberately terminate a pregnancy, whether with or without the mother's consent. The penalty in cases where a woman dies as the result of having a termination or a termination procedure will vary depending on the circumstances. A woman who terminates her own pregnancy or has a termination performed by a third party faces a penalty of from 6 months to 3 years in prison. Mitigating factors will be taken into account if the woman was motivated by the desire to protect her honour. The same applies to descendants or relatives up to the third degree of kinship who perform the procedure. The penalty is higher if the termination is performed by a doctor, surgeon, pharmacist or midwife.

235. A therapeutic termination may only be performed legally when given conditions obtain, namely, the procedure is necessary in order to save the woman's life and an attestation to this effect is provided by two doctors, at least one of whom must be a gynaecologist. A woman must also give prior written consent. If she is unable to do so, the husband or legal guardian must give consent and the procedure must be carried out in a health facility.

236. The Ministry of Health of Palestine is responsible for overseeing and organizing the work of the health sector. It is also responsible for: delivering the vast majority of medical services at different levels; making proposals on legislation; and formulating and implementing policies to ensure equal and equitable access to high-quality services for women, persons with disabilities and the poor. It does this in partnership with health service providers, including the private and voluntary sectors, military health services, the UNRWA and the Palestinian Red Crescent.

237. In 1995, the General Department for Women's Health and Development and the Community Health Division were established within the Ministry to improve access to a full package of high-quality reproductive health services in mother and child centres at primary health care facilities, with a focus on persons in deprived areas and in localities where mobility is restricted owing to the unlawful construction of the annexationist and expansionist separation wall and settlements. Those departments also ensure the delivery of quality services in hospitals, particularly in delivery wards and postnatal wards.

238. There are six different kinds of government health insurance in Palestine: compulsory health insurance (government and municipal employees and contractors); voluntary insurance; insurance for workers at the Green Line; contractual insurance; social security insurance; and insurance for Palestinian prisoners and their families. In 2015, 175,248 families in the West Bank were included in all these insurance schemes and 13,817 families were receiving free health insurance. Since 2000, moreover, the Government has been providing free insurance for the unemployed, indigent families and those earning less than the minimum wage. Some 215,000 families benefit from this form of insurance. Pursuant to a presidential decree of 26 June 2007, all those who live in the Gaza Strip are exempted from paying fees for health services provided at government health facilities. This includes one-off services, meaning that health coverage for the population is completely free of charge. Wives and husbands have an equal right to benefit from a package of health services that was established under a government

health insurance scheme in 2014, as do their dependents, including children, parents and siblings.

239. The Ministry of Health is mindful of the health care needs of women and has taken steps to meet them. It has made sure that reproductive health services, prenatal care and family planning services are an integral part of the work of primary health care centres and has set up mother and child units in these centres.

240. The Ministry, together with the Ministry of Education, organizes regular talks in schools on reproductive health and has devised protocols (guidelines) such as a consolidated national guide to reproductive health services, a consolidated national guide on safe births in hospital and a system for referrals between primary health care facilities, hospitals and ancillary services departments. It has also designed and developed staff training programmes on women's health and individual and group consultations as well as other health education services.

241. Non-governmental organizations contribute to the delivery of health services, particularly women's health services, such as screening, family planning, health education, prenatal and perinatal care, diagnosis and treatment of reproductive and sexually transmitted diseases, and other services that cover the needs of women at all stages of life.

242. In the context of primary health care delivery, the Ministry of Health provides a full range of free health services for mothers, expectant mothers and children up to the age of 6.

Safe motherhood

243. The Ministry of Health offers prenatal care, care for women whose pregnancies are at risk, and postnatal care. It provides education and information about breastfeeding, child nutrition, hygiene and vaccinations. Its centres deliver free services to expectant mothers, even if they have no health insurance, for general tests, laboratory tests and sonograms. However, admission to hospital for the birth of a child or any other procedure is free of charge only for those with government health insurance. The Ministry of Health has set up safe birth facilities in the governorates, notably in deprived areas.

244. The Ministry's statistics for 2014-2015 point to a marked improvement in reproductive health, an increase in the number of women receiving prenatal care and a drop in the number of home births. In fact, 95.5 per cent of women between the ages of 15 and 49 received health treatment from a caregiver at least four times during the course of their pregnancies: 95.7 per cent in the West Bank and 95.3 per cent in Gaza.

245. The Ministry also provides prenatal care, including vitamin supplements (iron and folic acid) for expectant mothers. For example, an average of 2.9 units of iron and folic acid were administered to each pregnant woman registered at health-care centres in 2015. Prenatal and perinatal care is also delivered in the home. Midwives visit families and each time they monitor the state of hygiene and the level of awareness of good nutrition practices and the needs of mother and child.

Fertility

246. The total fertility ratio in the State fell to 4.1 children per woman in 2014 (3.7 in the West Bank and 4.5 in the Gaza Strip) from 6.0 in 1997.

Family planning

247. The Ministry of Health introduced family planning in primary health centres in 1996-1997. Contraceptives and other family planning methods are offered to women at a nominal charge. Family planning services are provided at 306 centres in Palestine, and a total of 82,115 visits were paid to family planning centres in the West Bank in 2015. Contraceptive pills are the first method of choice, followed by condoms and intrauterine devices.

Life expectancy and mortality rate

248. Life expectancy for women in 2015 was 75 years, compared with 72 years for men. In 2009, a national committee on maternal mortality was set up, with members representing all those who provide health services to women, to establish a mechanism specifically designed to contain and reduce the maternal mortality rate. In 2015, the maternal mortality rate was 15.7 per 100,000 births, representing 20 cases of death that year.

Breast cancer and reproductive diseases

249. Primary health care centres run by the Ministry of Health offer free mammograms as part of their early detection services. The reproductive health protocol calls for women in the 40-49 age group to be screened every two years and women aged 50 and above to be screened every year. Where there is a family history of breast cancer, screening is to take place every 6 to 12 months. The Ministry offers free cervical smears, and the necessary equipment to allow for continuity of this service has been purchased. Hundreds of nurses have been trained to carry out cervical smears.

AIDS and sexually transmitted diseases

250. The Ministry of Health offers free health services at government hospitals to all those who are suffering from these diseases. The services include diagnosis and treatment. If need be, the Ministry will pay for private hospital treatment. Through the National Anti-AIDS Committee, the Ministry runs programmes designed to curb the spread of these diseases by disseminating health information and providing support to sufferers and their families. Between 1998 and 2016 there were a total of 94 AIDS cases, 16 of them women, in Palestine.

Female genital mutilation

251. Female genital mutilation and other traditional practices that are harmful to women’s health are not carried out in Palestine.

Disabilities

252. Around 113,000 persons in Palestine, or 2.7 per cent of the population, have a disability, according to a survey on disabilities conducted in 2011. The incidence of disability in the male population was 2.9 per cent, as against 2.5 per cent in the female population. Impaired mobility is the most common form of disability among women and men alike. The Rights of Persons with Disabilities Act was enacted to ensure the delivery of care and rehabilitation services, particularly in the areas of health, determination of the degree of disability and the delivery of comprehensive services under the government’s free health insurance scheme to persons with disabilities and their families. Medication and medical equipment are provided, together with treatment and surgery. The Ministry of Health will pay for services

delivered in the private sector in Palestine or abroad when they cannot be provided in the government sector.

253. One of the main obstacles that persons with disabilities face in getting access to health and rehabilitation services is the budget and the funding constraints of the Ministry. Those constraints usually mean that those persons have to wait a long time to receive these services.

Challenges

Violations of the right to freedom of movement and travel to access health services

254. The Israeli occupation Government has imposed a comprehensive security cordon on Occupied Palestine, which has had a profound impact on the ability to deliver comprehensive care to women and access to health centres and hospitals. In 2013, 68 Palestinian women were obliged to give birth at Israeli military checkpoints. Five of them died and 35 miscarried. Women take hours, sometimes more than four hours, to get to health centres in the West Bank.

Health status of Palestinian women prisoners who are arbitrarily detained on the basis of discriminatory factors that have to do with nationality and gender

255. Palestinian women prisoners in occupation jails are living in extraordinary conditions as far as health is concerned. They are subjected not just to systematic physical and mental torture, but also to a policy of deliberate medical neglect on grounds of their nationality and gender. They are denied the most basic medical and health services, including the right to decent food and to treatment. They are given medicines that have passed their sell-by dates and those with chronic diseases are denied medication. They are also denied necessary surgery. Volunteer doctors are not allowed into the prisons, women prisoners with infectious diseases are not separated from other inmates and they have no access to specialists. Some of the prisoners are pregnant and need medical monitoring. These women give birth with their hands still in restraints, no heed being paid to their labour pains. They do not even receive postnatal care, which means that both they and their babies are placed at risk. In addition to all of this, Palestinian women prisoners are denied the right to receive health services respectful of their background and cultural beliefs, or even of their gender, leaving them exposed and weakened over and above any diseases they may suffer.

256. Israeli prisons and intelligence services exploit the injuries and poor health of women prisoners — and male prisoners — to put them under pressure and extract confessions and information from them in exchange for treatment or other advantage.

257. Palestinian women live in harsh and inhumane conditions. Most prisons are not in conformity with international standards relating to space and building codes. There are insects and vermin everywhere, accompanied by poor ventilation, severe damp, overcrowding, very high ambient temperatures and a lack of cooling devices. Women prisoners are not allowed to bring in winter clothing, other forms of covering or sanitary products. They are denied the human right to hygiene and the right to change their clothes. There is a severe shortage of cleaning materials and insecticides in the prisons.

Violations of the rights of medical teams

258. In 2014, the Palestinian Red Crescent recorded 1,246 violations of the rights of medical teams in the West Bank who were carrying out humanitarian assistance work such as surgical procedures and the transportation and delivery of emergency

care to the wounded and sick. Ambulances with patients on board were prevented from passing and emergency personnel were assaulted and subjected to gas canister attacks.

Aggression against the Gaza Strip in 2014

259. The most recent assault on the Gaza Strip did untold damage to the fundamental rights of Palestinian women, notably their right to life, survival, physical integrity, health, protection as civilians during an armed conflict and the right not to be used as targets. The unlawful and protracted Israeli aggression made no distinction between military and civilian targets and constituted a grave breach of the principles of proportionality, necessity and humanity. It led to the killing of around 489 women, 22 per cent of the total number of victims, including 16 pregnant women. A total of 3,532 women were injured, accounting for 31 per cent of all those injured. The assault left an indelible mark on women's reproductive health. Because they were not able to get to hospital and delivery of care was delayed, 4 pregnant women died and 18 had to have their babies at home. The number of premature births increased because of anxiety and stress felt by expectant mothers. The neonatal mortality rate doubled during the assault, rising to 14 per cent from 7 per cent in the preceding months. This was due to the use of gas, the shortage of medicines and medical equipment and the direct injuries inflicted on women.

260. Work in the six hospital birth wards was interrupted and some 117 hospitals, clinics, primary health centres and pharmacies were damaged. Prenatal services became more scarce, as the wards were used to treat the wounded, and women who had had Caesarean sections were discharged early from hospital. Prenatal services were cut by more than 70 per cent during the assault and family planning services were reduced by between 60 and 90 per cent during the same period.

The illegal blockade

261. The illegal blockade imposed by Israel, the occupying power, is undermining the functioning of the health-care system, thereby affecting the health and endangering the lives of 1.8 million Palestinian women and men in Gaza. The capacity of the health system in Gaza had been severely curtailed due to the impossibility of modernizing, reconstructing or renovating infrastructure damaged by ongoing Israeli military aggression.

262. Medical services, including life-saving procedures, are at risk of collapse as the fuel used to run backup generators is in short supply due to the illegal blockade and the racist policies applied in allowing the importation of fuel. Continual power cuts very often result in damage to delicate medical equipment. Moreover, the occupying power applies unlawful restrictions to the importation of medicines, treatment devices, medical equipment and spare parts, while the fact that thousands of Palestinian women and men who suffer from serious illness are being prevented from travelling to the West Bank or abroad to receive treatment is resulting in the deaths of hundreds of them.

Article 13
Equality of economic, social and cultural rights

263. In 2004, Palestine acceded to the International Covenant on Economic, Social and Cultural Rights. The preamble to the Amended Basic Law has affirms Palestine's commitment to guarantee and respect all basic human rights and fundamental freedoms. Palestine does all it can to enforce these rights and to focus on issues affecting women as essential and active partners in building the economy and society.

The right to adequate housing

264. The Amended Basic Law affirms that adequate housing is the right of every citizen, and stipulates that the State shall secure housing for those who are without shelter. The relevant laws, such as Law No. 1 (1996) on ownership of flats, apartments and shops, do not discriminate between men and women.

265. As part of its strategic plans in recent years, the Palestinian Ministry of Public Works and Housing has developed and implemented a number of housing projects to provide decent, sanitary and affordable housing for all citizens, particularly families earning less than the average income, which include poor households headed by women and widows. Under the plan, the Ministry prioritizes the building of such housing projects within cities and on their immediate outskirts in order to keep transportation costs low and ensure easy access.

266. In 1991, the Palestinian Housing Council was established to alleviate housing problems faced by families on limited incomes, to provide long-term housing loans for those families and to improve housing for poor and marginalized groups, particularly women, divorcées, widows, the elderly and persons with special needs. Over 7,000 Palestinian families, or more than 40,000 individuals, have benefited from Council programmes. Some 1,976 marginalized and poor families and families with members with special needs are able to exercise their right to decent housing through grants and the ability to adapt their homes to their needs.

Challenges

The home demolition policy of the occupation authorities

267. In various parts of occupied Palestine, women bear the brunt of Israeli occupation violations and the policy of home demolition. These women face multiple challenges, particularly as it often is their responsibility to carry out the roles expected of them and to provide shelter, and, by extension, safety and security, for the family, in physically and psychologically demanding circumstances.

268. In addition to the psychological suffering experienced by women when their homes are destroyed, economic conditions have worsened for Palestinian households due to the demolition of homes, the loss of their possessions, lost opportunities to work, boys and girls being forced to drop out of school, the increase in the rate of early marriage and the increase in economic burdens on the family and women in particular. Statistics provided below shed some light on the magnitude of the suffering of Palestinian women as a result of the Israeli occupation authorities' policy of demolishing homes that do not in fact pose any significant security threat.

269. Various pretexts are used by the Israeli occupation authorities for home demolitions in occupied Palestine. The reasons given in the Gaza Strip differ from those in the West Bank, including Jerusalem. Since 1967, the occupation authorities, pursuant to the British mandate Defence (Emergency) Regulations of 1945, have always demolished Palestinian homes on illegal pretexts, such as ostensible security reasons; failure to obtain permits based on racist laws; violation of racist Israel housing policies; or the proximity of those homes to illegal settlements, borders or bypass roads. The Israeli occupation forces have also employed various methods to demolish homes, using bulldozers, heavy artillery, air-to-ground missiles, ground-to-ground missiles and explosives.

270. In the Gaza Strip, houses and other civilian buildings have been destroyed by missiles and artillery shells, without prior warning to the occupants. When warnings are issued, they are pro forma and serve only to sow fear. They do not meet

international legal standards, as these “early warnings” do not allow sufficient time for people to evacuate their homes safely — in most cases, only one to three minutes. In any case, even if residents are able to evacuate safely, there is no other safe place for them to go, as all civilian buildings, even schools and shelters, are targeted by artillery or Israeli aircraft.

271. Statistics show that Israeli attacks on the Gaza Strip in 2014 led to the destruction of some 13,217 homes, 1,742 of which were totally destroyed. Approximately 100,000 Palestinians were displaced as a result. In earlier Israeli military attacks and operations in the Gaza Strip during the period from 1 January 2008 to 1 August 2013, Israeli occupying forces demolished some 14,086 homes, 2,836 of which were totally destroyed. The housing crisis in the Gaza Strip is exacerbated by the Israeli blockade that has been in place since 2006, the denial of import of necessary materials for housing and infrastructure reconstruction and the policy of preventing Palestinians from using large areas of land close to the border.

272. In Jerusalem, Israel pursues a policy of Judaizing the city and divorcing it from its Palestinian reality. It employs all manner of illegal methods available to remove the city’s Palestinian population by force. One of the most important methods is the confiscation of land and the destruction of property and houses. According to the United Nations Office for the Coordination of Humanitarian Affairs in occupied Palestinian territory, 35 per cent of land in East Jerusalem has been confiscated for the development of illegal Israeli settlements. Only 13 per cent of East Jerusalem land has been allocated for Palestinian construction, most of which is already in use. At least one third of Palestinian homes in East Jerusalem do not have building permits, as they are difficult to obtain due to racist laws imposed by the Israeli authorities. Therefore, more than 90,000 citizens live under the constant threat of home demolition and expulsion, with the accompanying psychological repercussions.

273. As noted by the Office for the Coordination of Humanitarian Affairs, the Israeli occupying forces in East Jerusalem destroyed 2,000 houses between 1967 and 2014, resulting in the displacement of approximately 5,419 people, including 2,832 children and 1,423 women. Houses are often demolished using bulldozers. The occupation authorities attack the occupants when they try to protect their homes and prevent them from being destroyed. In recent years, the Israeli occupation authorities have begun to force the Palestinian population to demolish their homes themselves and at their own expense. Criminal occupation demolitions of Palestinian homes have increased of late, with approximately 550 houses destroyed by the occupying forces in the West Bank in 2015, 1,094 houses destroyed in 2016, and 177 houses destroyed in January and February of 2017.

274. The full control exercised by Israel over Area C, an area which represents approximately 60 per cent of the West Bank, has led to severe restrictions on the right of Palestinians to housing and natural expansion. Most of that land is allocated to Israeli settlements, which are privileged over Palestinian communities in terms of access to land, resources, planning and infrastructure development. Seventy per cent of the land is located within the boundaries of the regional councils of the settlements. Palestinians are prohibited from using or developing it and the Israeli civil administration, according to the Office for the Coordination of Humanitarian Affairs, allows Palestinians to build in less than 1 per cent of Area C, which no longer has any space available for construction.

275. Five thousand Palestinians live in 38 compounds that are partly located in parts of Area C that have been declared as military training “firing zones”, which has increased the population’s exposure to danger and risk of expulsion. Approximately 540 Palestinian buildings were demolished in 2012, including

165 homes that were claimed to lack Israeli building permits. This led to the displacement of 815 people, more than half of them children. Those Palestinian compounds already suffered from a total lack of decent services or infrastructure.

276. Thousands of Palestinians from Bedouin settlements and herder communities in the West Bank and East Jerusalem are at risk of forcible displacement under illegal and racist plans. Israel, the occupying Power, wants to give these plans a veneer of legality by describing them as resettlement programmes aimed at serving the Bedouin communities and improving their living conditions. However, these are merely settler schemes designed to empty the territory of its Palestinian inhabitants and set up outposts that would undermine the geographical continuity of the occupied State of Palestine. These plans aim to normalize the confiscation and destruction of private Bedouin property such as homes, shelters and livestock pens, as well as the destruction of basic services and infrastructure.

277. Israel currently intends to forcibly move some 46 Bedouin communities of 5,000 to 11,000 individuals, over two thirds of them women and children, to areas that do not meet minimum living standards. The dire living conditions and limited areas for grazing or other sustenance will lead to the loss of tribal continuity and will undermine their traditional lifestyle. One of these settlements is located near a municipal landfill that would pose a health risk to this population. Even though it claims to recognize “Bedouin law”, Israel has since the 1990s forcibly displaced over 200 Palestinian Bedouin families from these communities, and continually demolishes hundreds of tents, agricultural and livestock facilities, and water and sanitation installations on the pretext that they are unauthorized and have been illegally set up in Area C.

278. In addition to this particular racist plan, Israel, the occupying Power, pursues a variety of other illegal policies and practices to shore up its plans to displace Palestinian Bedouin by creating a climate of coercion and unacceptable living conditions. It denies repeated requests for building permits, destroys houses, tents and schools. It restricts access to pasture and markets. It confiscates and destroys, or restricts delivery of, humanitarian assistance and restricts its delivery. All these practices have the ultimate effect of forcing these communities to leave the areas where they live.

279. Undoubtedly, depriving Bedouin families of their fundamental rights, especially the right to adequate housing, primarily impacts Bedouin women, as the home is their basic shelter and source of security. It also affects their right to basic services and a decent standard of living.

Family benefits

280. The Civil Service Act grants female civil servants the right to receive family allowances for non-State employee husbands and children up to the age of 18. In certain cases, this allowance might be continued even after the children reach the age of 18. With respect to other benefits, the Act makes no distinction between entitlements for female and male civil service employees.

281. With respect to other family benefits such as retirement pensions, either spouse may leave entitlements such as pensions and compensation to their heirs in accordance with the provisions of the Public Pension Act, without any discrimination on the basis of sex. A widow may also inherit such benefits and compensation from her deceased pensioner husband. A husband may inherit them if at the time of his wife’s death he is unable to earn an income for health or other reasons. This regulation entails unequal pension rights for women, as she is obliged to pay into her pension fund on the same basis as men. It is also assumed that women are always dependent and that men are always the breadwinners and never

dependent on their spouses. However, a female employee who has reached retirement age and earns a pension for her service will not lose her pension because she is married.

282. There are disparities in poverty rates between male-headed households and female-headed households (the latter accounted for 9.3 per cent of all Palestinian households in the West Bank and the Gaza Strip in 2011). However, those disparities are not great, with a poverty rate of 29.8 per cent for male-headed households and 25.5 per cent for female-headed households. A study shows that female-headed households are not necessarily the poorest, as the factors contributing to poverty, such as marital status, level of education and type of employment, impact all families and are the same whether a man or a woman is the breadwinner.

283. As part of the efforts by the State of Palestine to provide a decent standard of living and promote equality and justice for all individuals without discrimination, the Government has strived over recent years to improve and reform the social safety net in order to ensure that it helps those in need. For example, the State has streamlined cash assistance programmes into a single programme, namely the Cash Transfers Programme (CTP), which in 2013 assisted some 104,203 families, or 586,024 individuals, at a cost of $128 million. Households headed by women accounted for 43.6 per cent of all beneficiary families.

284. The Ministry of Social Development is charged with supporting vulnerable populations, such as poor families, persons with disabilities, orphans, children and the elderly. That entails positive discrimination in favour women, especially with respect to access to assistance and streamlining of procedures. The Ministry offers these groups assistance and social insurance such as cash, in-kind assistance, food, clothing, health insurance, auxiliary aids for persons with disabilities, customs exemptions, school fees, economic empowerment services and shelter and health care services.

Bank loans and mortgages

285. The law does not discriminate between women and men with respect to bank loans and mortgages. Under such laws, men and women have equal legal capacity to perform bank transactions, open bank accounts, make deposits, borrow, and obtain mortgages, credit facilities and various other types of credit. Women are subject to the same restrictions, conditions and interest rates that are set for men, and do not have to meet any special requirements.

286. Legislation governing the financial sector outside of the banks in Palestine treats women and men equally. That is the case with regard to the activities of securities markets and companies as well as the underwriting, trading, deposit, transfer and settlement of securities. Statistics issued by the Palestinian Central Bureau of Statistics for 2014 indicate that 41.1 per cent of account holders in the Palestinian securities exchange (the Palestine Exchange) were women, while 58.9 per cent were men.

Women's sports

287. Policies in the area of recreational and sporting games do not discriminate against women and girls. In the education system, physical education is compulsory in all schools. Female students participate in sporting activities on an equal basis with their male counterparts.

288. In 2004, the first Palestinian women's football team was formed and participated in several Arab and Asian championships. In 2008, a Palestinian

women's football league, composed of several women's football clubs, was established.

289. With regard to sport for women with disabilities, it should be noted that the law on sport attaches particular importance to developing the potential of persons with disabilities and providing them with opportunities to engage in sporting activities at high levels. The Supreme Council on Youth and Sport is carrying out a project to empower children with disabilities and strengthen their leadership skills through sporting activities.

Article 14
Rural women

290. The proportion of the Palestinian population living in rural areas amounts to 16.8 per cent of the total population in Palestine, or approximately 4.6 million people, compared with the 73.8 per cent who live in urban areas and the 9.4 per cent of them in refugee camps. The second Palestinian Population, Housing and Establishment Census, conducted in in 2007, defines rural areas as population centres with fewer than 4,000 inhabitants. Population centres with 4,000 to 9,999 inhabitants are counted as rural if they lack the following four facilities: a public electricity grid, a post office, a healthcare centre with a full-time practitioner on staff five days a week, and a secondary school that grants a general secondary school diploma.

291. The economic activity of rural women remains low overall. Economically active women account for 18.9 per cent of the total labour force, of which 47.2 per cent are located in the Palestinian countryside. Women accounted for 25.6 per cent of agricultural workers, which is relatively significant given that agriculture is the primary economic activity and major source of income for families, providing jobs for approximately 9.5 per cent of the labour force in the West Bank and 6.6 per cent in the Gaza Strip. The agricultural sector accounts for 5.6 per cent of GDP and 21 per cent of total exports, and enables local populations to achieve food security and self-sufficiency through local agricultural products. Agriculture is also a key factor in protecting Palestinian land from confiscation by occupation authorities and settlement expansion.

292. Agricultural sector workers are not exempt from the scope of application of the Labour Law, even if the agricultural work they do is temporary or seasonal. The provisions of the Labour Law stipulate that workers engaging in short-term, temporary or seasonal work have the same rights and responsibilities as permanent workers. Working hours and leave for seasonal agricultural workers provided for in Council of Ministers decision No. 42 (2004).

293. The Disaster Risk Reduction and Insurance Fund is a non-profit fund established pursuant to Decree Law No. 12 (2013). It works to put in place precautionary measures to minimize the impacts of natural disasters, and other risks to the agricultural sector, chief among them violations perpetrated by the Israeli occupation. The Fund compensates farmers and insured persons for agricultural damages and losses.

294. The strategic objectives of the Palestinian National Development Plan 2014 to 2016 pay special attention to rural women, as well as to women in Area C, marginalized areas, refugee camps and areas affected by the annexationist expansionist wall and the Israeli settlements, Areas of particular concern include enhancing guarantees of fair access to public services, improving the effectiveness of those services and working to bridge the development gaps between different geographical regions.

Challenges

The fragmentation of Palestinian land

295. Israel, the occupying Power, is responsible for widespread illegal practices intended to create facts on the ground and make its illegitimate presence on occupied Palestinian land permanent, thereby fragmenting its geographic unity and violating Palestinians' right to self-determination, in flagrant contravention of international norms. Those measures include the destruction of property and the seizure and de facto annexation of Palestinian lands by force, the construction of settlements on contiguous blocks of land that Palestinians cannot enter, the annexationist expansionist wall that separates the Israeli and Palestinian populations, while also separating Palestinian towns and villages and maintaining the corridors that link Palestinian areas under Israeli control.

296. Israeli settlements are one of the most important elements of the illegitimate colonialist occupation regime installed by Israel, the occupying Power, immediately following its occupation of Palestine. Israel exercises security and administrative control over the entire illegal settlement area, which it is working to fortify and support through the construction of infrastructure, naturally leading to the creeping annexation of land, preventing the establishment of a contiguous Palestinian state and undermining the right of the Palestinian people to self-determination. Israel also effectively dominates the remainder of occupied Palestine through security measures of which the least that can be said is that they are racist against Palestinians. Those measures entail consistent and daily violations of the rights of Palestinians that most certainly do not discriminate between women and men. They violate the rights to personal safety, freedom of movement, work, education, health, fair trial, freedom of access to places of worship and effective remedies.

297. Since 2002, Israel has continued to build and maintain the annexationist expansionist wall that is a gross violation of the provisions of international law and of the 2004 advisory opinion of the International Court of Justice. Some 351,000 Palestinian citizens live in isolated and besieged areas in the "seam zone" between the wall and the Green Line, largely isolated from the main Palestinian cities and towns. Those citizens are required to obtain special permits to enter and exit, sometimes only at specific times, and to continue to reside in their homes which they have to cross numerous gates and military checkpoints to reach. That undermines their right to freedom of movement, denying them regular, easy access to their homes and hindering their access to institutions and facilities that provide basic public services, such as education and health. Anyone who owns land within that area must obtain a special permit, which is often subject to repeated refusal, in order to access their agricultural lands and water resources through agricultural gates that are not opened at regular hours for Palestinian farmers, as is described in the concluding observations of the United Nations Human Rights Committee regarding Israel in 2010, in which the Committee expressed its concern at the non-compliance by Israel with its obligations under the International Covenant on Civil and Political Rights. This situation reduces the time available to gain access to land and perform agricultural work, adversely affecting life in the Palestinian countryside and the sources of income of its population.

298. This situation has a major impact on women in those areas. The wall, illegal settlements and accompanying system of barriers and permits violate women's fundamental rights. In terms of the right to adequate housing, Israeli practices include the destruction, confiscation and removal of Palestinian private property from homes, land, orchards and fields. That undermines the right of Palestinian families, including women, to secure ownership, and deny them the right to inhabit and enjoy their homes without fear of losing them, also preventing them from

improving their housing and living conditions. Palestinian women in those areas live in poverty in inadequate, overcrowded and dangerous housing with zinc and asbestos roofing. Palestinians in the seam zone cannot obtain licences to build, expand or renovate houses. Since most Palestinian women in those areas do not work outside the home, their lives are the most affected by the poor, overcrowded housing conditions. They stay inside longer and shoulder the responsibility for caring for children and the elderly, in addition to performing household tasks and some minor income-earning activities at home.

299. The wall also violates the right of women to sustainable access to natural and public resources. For example, women, as well as their families, are prohibited from bringing heating and cooking gas home through checkpoints along the wall. They have also been barred from bringing home some food products, such as meat and eggs. They cannot dispose of waste because sanitation trucks are not allowed to reach their homes.

300. The wall and settlements impede women's freedom of movement, transportation and access to their homes and lands. That situation is aggravated by a lack of transportation that impacts Palestinians in those areas disproportionately. Palestinian buses and other forms of public transport do not have access to areas under Israeli control. Alternative means of transport are cost-prohibitive. The poorest families cannot afford and private cars.

301. Women in the safe zone are also barred from access to basic services. In particular, most health services are provided in the West Bank on the eastern side of the wall. Those women are therefore forced to pass through the barriers and undergo searches, harassment and confrontations with armed Israeli soldiers. That can be on an almost daily basis for women in need of regular access to medical services for routine examinations during and after pregnancy, as well as other medical services.

302. Women are also being denied their right to education. The wall and settlements separate students and teachers from their schools. The daily journey can take two hours each way because of bypass roads, military checkpoints and gates. Enrolment numbers, especially for girl students, have plummeted at many schools. Palestinian families living in those areas have been forced to urge their daughters to give up their spots in school and remain at home, or to marry them off at an early age in order to spare them the daily checkpoint crossings and hostile encounters with Israeli soldiers that they would have to face if attending school. Those same obstacles created by the wall have also led to a decline in enrolment rates at Palestinian universities.

303. The wall and settlements also have an impact on the rights of women, particularly rural women, to work and earn a livelihood. They prohibit the passage of equipment needed to harvest crops in the fields. Transporting products, crops and fodder through checkpoints and gates is also prohibited. Palestinian women and men are not permitted to transfer more than two kilogrammes of anything to their villages without coordination, especially in most villages located in the seam zone. The lives of women are especially affected by that situation. It deprives them of the ability to be economically self-sufficient, which in many cases forces them into dependency on male relatives, costing them not only their economic autonomy but also their social status.

304. Without a doubt, the wall and the regime associated with it are intended to drive male and female Palestinian farmers to despair and get them to give up cultivating their lands west of the wall. In particular, the widespread threats to not renew permits could result in fields being shut down and lying fallow, as a result of which they could be declared State land and their owners should be stripped of ownership.

305. The reality of life in the areas adjacent to the wall is frustrating for women in terms of their family life, as only those who live in those areas are allowed to enter. This means that women, who have moved to the area to live with their husbands, are cut off from their families and surroundings. The construction of the wall and the imposition of numerous policies barring Palestinian women - whether Muslim or Christian - and Palestinian men from entering Jerusalem from the West Bank and the Gaza Strip violate their freedom to access holy sites in East Jerusalem.

Attacks on women farmers and destruction and theft of agricultural crops

306. The racist measures imposed by occupation authorities against male and female Palestinian farmers prevent farmers from getting to their fields to cultivate them, especially fields adjacent to the wall. They also open the door to attacks by terrorist settler militias that invade, destroy and burn agricultural land, uproot fruit trees, and destroy, poison, burn and steal crops, mainly olive trees. It is not only the terrorist settlers who perpetrate such attacks; they are also carried out by the Israeli occupation forces.

307. Statistics show that some 850,000 olive trees were destroyed by the occupying forces and terrorist settlers in the West Bank between 1967 and 2014, with 11,000 trees uprooted in 2014 alone. That is according to the department of the Palestinian Ministry of Agriculture responsible for documenting such damages. As a result, olive oil production has decreased by an average of 2,200 tons per year. Some 9 million olive trees in the West Bank have fallen prey to such crimes. In addition to the symbolism of the olive tree as the emblem of Palestinian national steadfastness and resistance, it is a strategic crop in terms of its economic, nutritional and medicinal value. Some 80,000 families rely on olive tree cultivation as their main or secondary source of income, and the crop accounts for 15 to 20 per cent of gross agricultural income in Palestine.

308. Terrorist settler militias and Israeli occupation forces have razed large areas of agricultural land and destroyed infrastructure, attacked and stolen livestock, demolished livestock sheds and agricultural installations, hindered the movement of citizens and products and exerted control over crossings, borders and waste burial. All this has visited ever greater devastation upon the already besieged agricultural sector and upon men and women farmers, even without taking into account the rise in poverty and unemployment. The persons and the dignity of Palestinian farmers, especially women, are not spared by terrorist settler militias and Israeli occupation forces, which beat, humiliate, threaten and fire tear gas on them daily in order to force farmers to evacuate their land.

309. The Ministry of Agriculture has identified some 4,690 Israeli violations against Palestinian farmers and agricultural land over the past five years, with losses estimated at $48.32 million. The Ministry of Agriculture documents these violations and the resulting damages in order to prosecute the perpetrators and demand compensation. However, most of these complaints, like others, are often closed without any indictment being brought by the Israeli law enforcement agencies or the judiciary, which function basically as tools for maintaining the occupation, protecting its interests, and rendering the political and military echelons the terrorist settler militias immune to any accountability, thereby ensuring their total impunity for the violations they commit against Palestinians, both women and men.

Part 4

Article 15
Equality before the law and the judiciary

310. The Amended Basic Law treats Palestinian men and women equally before the law and the courts. The same is true for most legislation in force, including the commercial and civil codes, the law on landlords and tenants, the law on the rights of persons with disabilities, the law on prisons, the laws governing professions and the law on the environment. There are still provisions prejudicial to gender equality in certain laws inherited from previous eras. That applies particularly to the Penal Code and the Personal Status Code.

Equality of legal capacity

311. As a rule, there nothing in the laws in force to prevent women from possessing legal capacity to carry out legal procedures on an equal footing with men. However, there are some exceptions. Like men, women in Palestine are considered to have full legal capacity at the age of 18, regardless of social status, with respect both to eligibility to act and eligibility to take on obligations. Women have the same legal capacity as men to carry out civil and commercial transactions on behalf of themselves and others. That includes signing contracts or managing property, businesses or companies. Women have full capacity to impose and take on obligations, and to conclude credit and real estate contracts under the same terms as men.

312. The matrimonial property system used in Palestine is a separate property regime. Each spouse retains ownership of property previously owned or accumulated during married life. The wife's property is separate from that of the husband. She has the right to dispose of it independently of without her husband's authorization. There are two cases in which legislation places restrictions on a wife's assets because of a husband's actions. The first is if he declares bankruptcy. In such cases, the wife considered subsidiary to the husband under the Commercial Code. It is assumed that property acquired during the marriage was purchased with the husband's money and is included among assets to be liquidated unless the wife proves otherwise. The second case is if her husband is a fugitive accused of an offence related to public funds under the Code of Criminal Procedures. In such a case, the wife's assets and property may be considered, on the basis of evidence, to be the proceeds of the crime under investigation and may be confiscated.

313. The Amended Basic Law and the codes of civil, criminal and administrative procedure contain provisions guaranteeing the equality of citizens before the courts. Women have the same standing as men to litigate. They have the right to file suit, defend themselves, present evidence, make accusations, claim compensation or seek enforcement in any other court proceeding in any court at any level. A woman also has the right without discrimination to seek to have an attorney appointed at State expense if she is accused of a crime and her financial circumstances make her unable to pay legal fees. The proposed 2014 draft law on a Palestinian legal aid fund grants indigent persons the right to seek legal assistance at any stage of a legal proceeding. Under such conditions, women, children and persons with disabilities are given special priority. That constitutes an effective strategic tool to ensure that women in particular have recourse to justice.

314. The codes of civil, criminal and administrative procedure treat the court testimony of a woman no differently from that of a man and give both the same weight. The circumstances in which testimony is accepted or taken under advisement or rejected by a court are the same for men and women without

discrimination. That is not the case in the sharia courts, where the testimony of a woman is treated differently from that of a man. The same applies to testimony relating to marriage contracts. The testimony of a man is equivalent to that of two women. One woman by herself cannot act as a witness. There must be either two male witnesses or one man and two women. The same applies to land sale transactions conducted at land registration bureaus.

315. The Amended Basic Law guarantees freedom of residence and movement to both men and women. No Palestinian may be forced to leave the homeland or prevented from returning to it or leaving it. Other laws in force do not contain any provisions restricting the right of a woman to travel or choose her place of residence. An exception to that is to be found in personal status legislation that requires a married woman to move with her husband and reside in her husband's home, provided that the woman has been paid her advance dowry and the home in question is legal, secure and furnished with all the necessities of life. However, that legislation gives a woman the right to stipulate in the marriage contract that her husband will not force her to change residence. She may also stipulate that he may not take her out of the country or force her to live in a particular country. Such stipulations are binding. If the husband fails to fulfil them, the marriage contract may be dissolved at the wife's request, without prejudice to the rest of her marital rights.

316. Women have the same freedom of movement and travel as a man. A wife or daughter has the right to obtain a passport without the approval of the husband or father. As long as a woman is over 18 years of age, there is no legal basis for a man to prevent his wife or daughter from travelling, even if she is travelling without his permission and without a close relative accompanying her. A widowed mother may have passports issued in her children's name provided she has a certificate of guardianship from a sharia court.

Challenges

317. Israel, the occupying Power, practices a policy of apartheid characterized by racist policies and procedures that violate the rights of Palestinian women — and men — to move freely and choose their pace of residence. It has set up physical and administrative obstacles that prevent Palestinians from using many roads in the territory of the State of Palestine. At the same time, Israelis have the right to move about with complete freedom in all areas with no obstacles whatsoever. In the very heart of the West Bank, Israeli settlements located inside the Green Line are linked by a network of roads that Palestinians are prohibited from using. There are hundreds of military checkpoints and other physical obstacles set up between cities and towns that make movement difficult, particularly for sick persons, the elderly, pregnant women and children. In addition, Israeli enforces a policy of roadblocks, street closures and curfews, and has built bypass roads that not only violate Palestinians' right to movement but also have the effect of isolating Palestinian communities and fragmenting the State of Palestine by cutting of natural geographic contiguity.

318. Four million Palestinian men and women from the rest of the territory of the State of Palestine are prohibited from residing in East Jerusalem, the capital of the State of Palestine and an integral part thereof. They may not even enter East Jerusalem without temporary permits that are difficult to obtain. The right of Palestinians to move around and gain access to Jerusalem has been violated even more severely in the wake of the construction of the illegal annexationist and expansionist wall around the city, which, combined with the system of checkpoints and permits, constitutes the greatest violation of all of Palestinians' right to freedom of movement.

319. For the ten years now, Israel, the occupying Power, has imposed an illegal blockade on the inhabitants of the Gaza Strip. Some 2 million Palestinian men and women who live in the Strip continue to be deprived of their right to freedom of movement in and out of the Strip. They cannot travel even just to the West Bank because of the closure of the Bayt Hanun crossing, which is the only way to get from the Gaza Strip to the West Bank. The same is true for people who live in the West Bank, including Jerusalem, who are barred from entering the Gaza Strip.

320. Israeli restrictions on freedom of movement are not just confined to the movement Palestinians inside Occupied Palestine. They extend to the international border crossings, which have been controlled by Israel since it occupied the West Bank and the Gaza Strip, allowing it to exert complete control of the entry and exit of Palestinians.

321. These racist Israeli policies have serious implications for the economic, commercial and agricultural sectors, as well as education and health. They also have the effect of undermining family relations, which affect all Palestinians, but most especially women.

The Israeli court system

322. The Israeli judiciary is the cornerstone of the racist colonial occupation regime. In particular, the composition and procedures of the military courts violate international law and the rights of Palestinian victims — women and men — by depriving them of their right to a just remedy for the violations and crimes committed against them by the occupation army and the terrorist settler militias. Cases to which an Israeli is a party can only be brought before Israeli courts, even if all the other parties are Palestinian and the incidents under dispute occurred on Palestinian territory. Palestinians who file suit before Israeli courts, even in civil and criminal cases, face racist procedural hurdles and exorbitant court bonds and fees that make it impossible for them to exercise their right to just redress. Palestinians are also denied compensation by the Israeli authorities for actions perpetrated by Israeli officials, which is their right under the law on civil liability (liability of the State) (2005), amended in 2012. For their part, the Israeli occupation forces prevent Palestinian victims from physically going to Israeli courts with their racist policies and measures that obstruct the movement of Palestinians and make it impossible for them to get to courts in Jerusalem or inside Israel. Taken as a whole, all this deprives Palestinian victims — women and men alike — of their right to justice and compensation, insulates the crimes and violations of the occupation from accountability, provides impunity to the Israeli perpetrators (whether they are members of the terrorist settler militias or the occupation army forces), and gives them licence to continue committing all manner of acts of violence and terrorism against the property and persons of Palestinian men and women, wherever they may be.

Article 16
Women’s rights under personal status laws

323. Muslims in Palestine do not have a uniform, modern and fair legislative framework for personal status matters. In the West Bank, the applicable codes are the Jordanian Personal Status Code (No. 61, 1976) and the Code of Sharia Legal Procedure (No. 31, 1959), as amended. In the Gaza Strip the applicable codes are the Ottoman-era Palestinian Code from 1917 and the Family Rights Code (Order 202, 1954), followed by the Code of Sharia Legal Procedure (No. 12, 1965) issued by the governor of the Gaza Strip, with supplementary provisions from the Majalla al-Ahkam al-Adaliyah. Meanwhile, the Sharia Court of East Jerusalem operates under the personal status laws applicable in the Hashemite Kingdom of Jordan,

because that Court is still administratively part of that Kingdom's sharia justice system. Any amendments to the that Kingdom's personal status codes are instantly put into force by that Court, which is currently enforcing the 2010 Jordanian Personal Status Code (No. 36, 2010).

324. In general, these various codes regulate matters pertaining to marriage and family relations, including betrothal, children, divorce, guardianship and inheritance. Their provisions are based on the Islamic sharia, that is to say, the Holy Quran, the Sunnah of the Prophet, and certain schools of Islamic jurisprudence, primarily the Hanafi school. Certain of those codes defer to what is predominant practice in the Hanafi school where there is no explicit text. The Office of the Chief Qadi has jurisdiction over personal status matters pertaining to Muslims. The sharia courts hear and rule on personal status cases among Muslims. The Christian communities have their own personal status codes which are enforced by their ecclesiastical courts.

325. The personal status codes in force among both Muslims and Christians share several general principles that are applicable when it comes marriage issues. The most important are as follows:

- Marriage may be contracted only between a man and a woman.
- Relations between men and women outside of the institution of marriage are illegitimate.
- The full and free consent of both the man and the woman is an essential condition for a valid marriage.
- Personal status documents — and most particularly marriage and divorce certificates — must be registered with the sharia or ecclesiastical courts. That protects the rights of both spouses and their children with respect to inheritance, parentage, dowries and alimony.

The right to contract marriage

326. The law guarantees a woman's freedom to become engaged and break off an engagement, and to conclude a marriage contract of her own free will, without anything detracting from that free will. A coerced marriage is considered invalid, and the spouses are not permitted to stay together. If they do not separate of their own accord, a judge will separate them. If the marriage was not consummated, it has no effect. If the marriage was consummated, then the rules for dowry, post-marital waiting period and parentage apply, but the rules for inheritance and upkeep before and after the separation do not apply. A woman has the right to insert into the marriage contract any condition in her interest that is not prohibited under sharia law and does not prejudice the right of a third party. If the husband fails to comply with such a condition, the marriage contract may be annulled at the request of the wife, without prejudice to her marital rights.

327. However, there do exist provisions that restrict and limit a women's freedom to contract marriage. A marriage contract for a virgin daughter requires the approval of a guardian, who is always a male. Males do not need the approval of a guardian. Where there is no guardian, or if the guardian withholds approval (that is, if he refuses to allow the daughter to get married for no legal reason), a judge becomes the guardian of the daughter and has the right to approve the marriage. A widow or divorcee over the age of 18 does not need the approval of a guardian to get married.

328. Personal status laws in force discriminate between women and men with respect to marriage age. The minimum marriage age in the West Bank is 16 Islamic calendar years for males and 15 Islamic calendar years for females. In the Gaza Strip, the marriage age is 18 for males and 17 for females. However, a judge may allow a girl

over 9 years of age to get married if she is ruled to be sufficiently mature and her physical constitution is equal to it. The same applies to a boy over 12 years of age if he is ruled to be sufficiently mature and his physical constitution is equal to it, even if his guardian does not give permission for him to get married. The bride and groom must both have reached the aforementioned marriage ages in order to conclude a valid marriage contract. Otherwise, the marriage is considered invalid.

329. The marriage age for the Eastern Christian churches is 16 for a boy and 14 for a girl. The same applies to the Roman Church. The Syriac Orthodox Church requires a boy to be 18 years old and a girl to be 16. In general, the Christian communities regard marriage as a sacrament. Marriage may be contracted if the conditions for free will, capacity and legal guardianship are fulfilled, and there is no other obstacle or impediment.

330. There are several respects in which the Muslim personal status codes in force restrict women's freedom to choose a husband. The guardian of a legally adult woman has the right to protest and sue before a judge for annulment if she marries a man without enough money for her — that is, who is unable to pay her advance dowry and afford her upkeep. However, the right of a guardian to lodge such a protest is revoked if the wife has become pregnant by her husband, or if her husband has acquired sufficient money by the time the suit is heard. Additionally, a Muslim man has the right to marry an adherent of one of the other recognized religions even if she continues to adhere to that religion, whereas a marriage between a Muslim woman with a non-Muslim man — even if he is an adherent of one of the recognized religions — is considered null and void. The rules for parentage, alimony, the post-marital waiting period, forbidden relationships and inheritance do not apply in such a case.

Rights and responsibilities when concluding or dissolving a marriage contract

331. Personal status laws in force enshrine traditional roles for the various members of a family. While the man is the head of the family and has guardianship and decision-making authority, the women is supposed to be obedient and take care of the home. The marital relationship is based on reciprocity of rights and obligations rather than equality. The woman has rights that correspond to the man's duties and the man has rights that correspond to the woman's duties. Personal status laws require a man to maintain a good relationship with his wife and treat her with kindness, while a woman is required to obey her husband in all legally permitted matters. If the wife disobeys her husband by abandoning the marital home without just cause — which under the sharia would be if the husband harms his wife by beating or mistreating her — or by refusing to allow her husband to enter her home without having requested to be moved to another home, she loses her right to marital upkeep for as long as her disobedience persists. It she ends up being divorced for reason of that disobedience, she also loses her right to alimony.

332. A man can have up to four wives, on condition that he provides them with fair and equal treatment, upkeep and living conditions. He may not house them all under the same roof unless they agree. A wife does have the right to stipulate in the marriage contract that her husband may not marry anyone else and that if he does, the marriage contract may be annulled at her request without prejudice to any of her marital rights. The first wife must be informed that the husband intends to marry a second wife prior to concluding that second marriage contract, and the second wife must be informed that he is already married. Polygamy is prohibited by all of the Christian denominations.

333. Under Muslim personal status laws, a husband must provide his wife with upkeep regardless of how burdensome that is for him. She is not required to support even just herself with her own money. Required marital upkeep includes food,

clothing and shelter, as well as adequate medical care, servants (if he provides his other wives with servants), and burial arrangements upon her death. A woman observing the waiting period after a separation, annulment or divorce, whether revocable or irrevocable, has the right to upkeep throughout the waiting period. Upkeep during the waiting period must be the same as marital upkeep. A woman whose husband dies does not received upkeep during the waiting period whether she is pregnant or not. The same is the case for the Christian communities. Maintaining the wife is a husband's duty, regardless of how burdensome it is. She loses that right if she displays disobedience.

334. A father must also support his children if they do not have enough money of their own. A male child must be supported until he is old enough to work, unless they he is a student. A female child must be supported until she is able to work or gets married. A father is also obligated to provide for his male and female children's medical care and for their education through the undergraduate university level. The obligation to provide for education and health care passes to the mother, if she is able, in the event that the father is unable or absent. She is entitled to be paid back by the father when he becomes able or returns. The amount is treated as a debt for which he is liable.

335. If the husband refused to pay marital expenses or maintain his children, his wife or the children he is supposed to be supporting may sue for those expenses in sharia courts. Any judgment is executed by the sharia court enforcement agencies. A wife may have her husband imprisoned if he refuses to pay the expenses he has been judged liable for. There is no need to demonstrate that he has the capacity when seeking his imprisonment. She may also have his wages or the equivalent garnished by 25 per cent. Where there are several debts, the debt for family upkeep takes priority. She may also have her husband's property impounded and sold at public auction. In addition, debt owed for the upkeep of wives and children is considered to be preferred debt. It must be paid before other debts out of the movable and immovable assets of the debtor. In the event that the judgment rendered on family upkeep is impossible to enforce, the Alimony Fund pays the wife and children as described earlier.

336. The rights and responsibilities of parents include the obligations to educate children and manage their assets under they reach the age of majority. That is to say, they have guardianship of the children and their assets. Both responsibilities fall primarily on the father, even where the mother or other relatives have custody of the children in question. Trusteeship of assets belongs only to the father, then to a trustee chosen by the father, then the trustee of that trustee, and then to the grandfather. If the father dies intestate, trusteeship of the children's assets reverts to the grandfather, then to a trustee chosen by him and then the trustee of that trustee. If there is no grandfather or trustee, then trusteeship goes to the court or a court-appointed trustee. A father may choose his wife as trustee for his children's assets after his death. The court may also appoint the mother as trustee for her children under rules and conditions specified by law. Guardianship over a person operates in the same was as guardianship for marriage. It reverts to the closest male relatives of the boy or girl, in accordance with the predominant practice in the Hanafi school.

337. The Islamic sharia favours a foster care system over adoption. There is no legal bar to a woman being a foster parent. In most cases, foster children are related to their foster parent, whether a man or a woman, but they keep their original names. The foster care system approved by the Cabinet in 2013 treats men and women the same. It stipulates that the foster family seeking the right to care for and raise the child should be stable and contain two spouses living together. The foster care situation only ends if both parents die. That is to say that the mother retains the right to care for the child even if her fellow foster parent husband dies.

Divorce and separation

338. A man has the right to divorce his wife of his own free will for any reason, even without her consent. He also has the right to delegate another person to divorce his wife for him and register the divorce with the sharia court. The court then notifies the wife of the in-absentia divorce within a week of the registration.

339. There are two types of divorce. One is revocable divorce, which does not dissolve the marriage immediately. During the waiting period, the husband has the right to reinstate his wife by word or deed, even without her permission, and no new dowry is required. The second is irrevocable divorce. That dissolves the marriage on the spot. There are two types of irrevocable divorce. One is irrevocable divorce with minor separation, which occurs without three declarations of divorce, where the husband is allowed to remarry the divorced wife with a new marriage contract and dowry, with her consent. The second type is irrevocable divorce with major separation. In that case, the man may only remarry the divorced wife after she has married someone else in the meantime and then become divorced or widowed and completed the post-marital waiting period.

340. In principle, women may not divorce themselves on their own. However, there are a number of ways to seek an end to the marital relationship. They include the following:

- A woman may insert a clause in the marriage contract stating that she retains the right to divorce herself.
- A woman may seek annulment of the marriage contract on the grounds that the husband is not fulfilling his matrimonial duties under the law and under the marriage contract. She may sue for separation before a sharia court, but only through a long process with difficult requirements and in very specific cases. Those cases include the following: harm stemming from ongoing fighting between the spouses; harm stemming from the husband emigrating or abandoning her; insanity; illness or defect; failure to pay upkeep or the advance dowry; incarceration of the husband; failure by the husband to fulfil one of the conditions of the marriage contract.
- A woman may seek divorce by mutual consent, in which she requests a divorce in exchange for total or partial waiver of her financial rights.
- A wife may seek a court-ordered dissolution of the marriage if she has not yet consummated the marriage or been alone in complete seclusion with her husband. She may do so even without his consent by suing for dissolution of the marriage before a sharia court, on condition that she feels a revulsion against her husband that prevents her from consummating the marriage and embarking on married life, and that she pay a sum of money that she herself guarantees. That is in accordance with Circular No. 59 (2012) issued by the Office of the Chief Qadi.

341. A woman may go before a judge to seek compensation for being divorced by her husband arbitrarily for no acceptable reason. Such compensation is calculated in accordance with what the judge deems suitable, up to the equivalent of one year of upkeep. An award of compensation does not prejudice the other marital rights of the divorcee, including the right to alimony.

Custody

342. Personal status laws in force among Muslims grant a woman the right to custody of her children, provided she is capable and regardless whether the woman is married or divorced and or whether the children are male or female. The father’s

guardianship over his children continues throughout the custody period. He is also obligated to support them and to pay the cost of their dwelling and other costs associated with custody to the custodial parent (except to the mother during the marriage or during the waiting period after a revocable divorce).

343. After the mother, custody reverts to the next woman in the line of succession provided for in the Hanafi school, that is to say, the maternal grandmother, then the paternal grandmother, then the child's adult sister, and so on. If there are several people with custody rights at equal degrees of kinship, a judge may choose between them in the best interests of the child.

344. The period of custody is different in the West Bank than in the Gaza Strip. It also differs for male and female children. In the West Bank, the custody of a mother over her children lasts until natural or legal adulthood, which by law is 15 Islamic calendar years old. Custody for women other than the mother lasts until the age of 9 for a male child and the age of 11 for a female child. In the Gaza Strip, the custody of both a mother and other relatives lasts until the age of 7 for a boy and until the age of 9 for a girl, but a judge may extend custody to the age of 9 for a boy and the age of 11 for a girl if it is clearly in the child's best interest.

345. The right to custody is invalidated (for the mother or anyone else) if she marries a man who is not a close relative of the child. She can regain her right to custody if she gets divorced or the new husband dies, after the mandatory waiting period. Under the personal status code of the Syriac Orthodox Church, the custody period lasts until the age of 9 for a boy and the age of 11 for a girl. Custody belongs to the mother, but she loses custody if she marries someone else, whereupon custody reverts to the father.

346. When the period of custody ends, the female with custody hands the children over to the father. If the father is dead or does not have the capacity to assume custody, they are handed over to the grandfather, uncle or brother, and so on. If the father (or one of his close relatives) requests a female child to live with him after the custodial period is over and she rejects the request without justification, he may cut off support for her on the ground that she is rebellious. If a male child chooses between the mother and father when deciding where to live, his upkeep is not cut off if he chooses to stay with the mother.

347. The mother, like the father, has the right to see and host her children when they are living with the other custodial parent. She has the right to see and host her children once a week for a period of at least 24 hours, but she must return them to the male custodial parent when the period is over. A mother who is ruled in favour of may request speedy implementation without bail of judgments to hand over a male child or see him and to request imprisonment of the male custodial parent, even if it happens to be the father, until he complies.

348. A wife may keep her original family name and use it for all official transactions. Children are considered descendants of the father, and are required to bear his family name, because of the implications for inheritance and consanguineal relationships. The exception is in the case that the child is of unknown paternity, in which case he is regarded as the mother's descendant and bears her name.

349. With regard to work and the freedom to choose a profession, work is considered a right rather than a duty for women under the personal status codes. The wife has the right to work provided that her husband approves. She retains her right to marital upkeep and may compel her husband to provide for it even if she has a successful career. She loses her right to upkeep if she works without her husband's consent. Legislation in force does not restrict a woman's right to decide how many

children to have and determine the spacing between births. A woman does not need her husband's approval to use family planning means.

350. A woman has the right to own assets and property, and to manage and oversee them independently without interference by her husband. In case of divorce, both spouses retain their assets, even what was accumulated during the marriage. The sharia and ecclesiastical courts do not have jurisdiction to hear and rule on marital disputes over movable or immovable assets, whether they occur during a marriage or after it is dissolved. That jurisdiction belongs only to the civil courts.

Inheritance

351. The rules for distributing inheritance are detailed in the Holy Quran. They depend on marriage and kinship. Contrary to widespread belief, it is not the case that under Islamic inheritance rules the principle of a man inheriting twice what a female inherits is applied in all cases where inheritance shares are distributed between men and women. There are actually more than 30 situations in which the woman gets a share equal to or greater than that of a man, or where she inherits but the male counterpart does not. On the other hand, there are four cases where a woman inherits half the share of a man. In addition, a wife has a fixed share of her deceased husband's inheritance, which is one eighth if she there are children or grandchildren by the son. (Children are considered to include sons, daughters and children of a son.) If there are no children, the wife gets one fourth of the inheritance. The wife is entitled to take her dowry and all debts out of the inheritance prior to it being distributed to any of the other heirs, even if that debt absorbs the entire inheritance.

352. In 2011, with a view to preventing women from being exploited in times of hardship and grief, the Office of the Chief Qadi issued a circular intended to eliminate certain social attitudes, customs and traditions that pressure women to sign over their inheritances to their brothers. That circular prohibits the registration of any such arrangement with sharia courts until four months after the date of death, after a thorough accounting has been made of all the heritable assets, signed by all the heirs and certified by the relevant local agency. It also requires a signed declaration from three experts determining what is truly one eighth of the inheritance shares being divided up. Prior to being registered, the division agreement must also be published in the form of an advertisement or annex to a local newspaper for the period of at least a week.

353. The law requires marriages and divorces to be registered with a sharia court in the case of Muslims and a church in the case of Christians. A marriage contract must be drawn up by an authorized marriage officiant in an official document. If a marriage is concluded without an official document, the officiant, the spouses and the witnesses are liable to imprisonment and a fine. Anyone who fails to register a divorce with a sharia court within 15 days is also liable to imprisonment or a fine. Unfortunately, the penalties imposed are somewhat light and do not constitute a strong deterrent. They are not proportionate to the potential impact of failure to register a divorce on the rights of the woman. The parties involved in processing marriage contracts and divorce certificates must send copies to the Personal Status Directorate. Likewise, the competent courts are required to notify the Civil Status Directorate of any rulings concerning marriage, divorce or inheritance. The Directorate must enter certificates and rulings in the relevant files and keep copies of them.

United Nations CEDAW/C/ISR/6

Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Consideration of reports submitted by States parties under article 18 of the Convention pursuant to the simplified reporting procedure

Sixth periodic report of States parties due in 2017

Israel*

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Note: The present document is being circulated in English, French and Spanish only.

* The present document is being issued without formal editing.

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Question 1 – Information and Statistics

1. See Annex II.

Question 2 – Case Law

2. Many of the provisions of the CEDAW are enshrined in Israeli national legislation; in addition, the CEDAW as well as the Committee's General Comments are referenced by different courts in a variety of cases such as those relating to eliminating polygamy, protection on foreign workers (see for example Question 20), women in the public sphere and more.

3. For recent case law see Annex III.

4. With regard to efforts taken to give sufficient visibility to the Convention, the CEDAW is published in English, Hebrew and Arabic on the websites of both the Ministry of Justice (MOJ) and the Authority for the Advancement of the Status of Women (AAW).

5. Furthermore, in July 2014, a summary of the provisions of the CEDAW was circulated by the Director of the Institute of Advanced Judicial Studies, among the Institute's members, including rabbinical court judges. The text that was circulated noted how important it is to increase awareness of varying forms of discrimination against women and disseminate the Convention's principles and values to the judges in Israel, whose work is crucial both in regard to human rights in general and women's rights in particular.

Question 3 – Reservations

6. Israel's reservation to Article 16 regarding personal status is reviewed periodically. At present, Israel maintains its position on this matter. This reservation stems from Israel's constitutional system and respect for religious pluralism, and the autonomy of Israel's religious communities in matters of personal status. This issue remains at the heart of the Israeli discourse and constitutes a major challenge to the Israeli society.

Question 4 - Developments in Legislation

7. For recent developments in legislation, policy and institutional frameworks, see the information provided in the relevant sub-paragraphs.

Question 5 – Extraterritorial Obligations

Non-application of the Covenant in the "Occupied Palestinian Territory" (OPT)

8. It is Israel's position that the CEDAW is not applicable beyond a State's national territory. For an elaboration of this position, see Follow up to the oral presentation by the State of Israel before the committee (CEDAW/C/ISR/CO/5/ADD.1), May 2013, p. 2-3.

Demolition of Illegal Structures in the Eastern neighbourhoods of Jerusalem

9. Illegal construction harms the local population, as it does not take into consideration planning policies and parameters that are needed to ensure quality of life, the welfare of the population and public needs. Enforcement measures against illegal structures are adopted in accordance with legal guarantees and following due process, subject to judicial review and the right to appeal.

10. The authorities exercise discretion in the execution of demolition orders and give priority to the demolition of illegal structures that pose an obstacle to city development, for

example, an illegal structure that blocks a sewer pipe system, a planned school, access to roads, etc.

Recent Statistics

11. In 2016, 119 illegal structures were demolished by the municipality. Eighteen (18) of them were residential structures. Out of these, nine (9) were residence structures in the eastern neighbourhoods of Jerusalem, and nine (9) of them were in the western neighbourhoods of Jerusalem.

12. In 2015, 94 illegal structures were demolished. Twenty (20) of them were residential structures. Out of these, six (6) were residential structures in the eastern neighbourhoods of Jerusalem, and fourteen (14) of them were in the western neighbourhoods of Jerusalem.

13. Construction permits: In 2016, 217 construction permits were granted in the eastern neighbourhoods of Jerusalem.

Question 6 - Access to Justice

14. Under Israel's domestic legal system, every person has full access to effective redress and judicial review in Israeli courts, as well as in many other venues, as detailed in Israel's Core Document, (HRI/CORE/ISR/2015). Free legal aid is offered in Israel, under certain circumstances, in both civil and criminal proceedings, as follows:

Legal Assistance to Women

Criminal Sphere - The Public Defender's Office (PDO)

15. The PDO is part of the MOJ. It provides legal representation throughout criminal proceedings**,** from consultation for suspects during police investigation to representation during sentencing, hearings before parole committees, etc. The PDO plays a crucial role in the representation of individuals who cannot afford to retain a lawyer and in maintaining justice in criminal legal proceedings. Recently, the PDO launched a website in Hebrew, English, Arabic and Russian.

16. Only a small proportion of accused persons or suspects in the criminal justice system in Israel are women. Accordingly, out of 135,415 people whom the PDO represented between 2014 and 2016, only 3,274 were women. In 2016, the PDO represented nineteen (19) Palestinian women, and ten (10) foreign residents.

Civil Sphere - The Legal Aid Administration (LAA)

17. The LAA is part of the MOJ. It provides legal assistance to persons who cannot afford legal representation to help them exercise their constitutional right to access judicial forums. The LAA provides legal representation according to the Legal Aid Law 5732–1972 (hereinafter: LAA Law) and the Legal Aid Regulations 5733–1973 (hereinafter: Legal Aid Regulations). While it is a governmental organ, the LAA enjoys independence and has the ability to file suits against the Government on behalf of its clients, when necessary. The right and extent of legal assistance provided by the LAA is subject to an eligibility test according to the subject-matter of the case, the financial ability of the applicant, and the likelihood of success of the legal proceeding.

Challenges and Accomplishments

18. In recent years, the Southern District of the LAA identified some challenges, primarily cultural and economic ones, regarding the ability of women, including women from the Bedouin population, to access the courts.

19. The LAA took several steps to address these issues, including: establishing a **Legal Aid Branch in Rahat** (the largest Bedouin city in the Negev) in June 2016; strengthening **cooperation between the LAA and NGOs** as well as with the Authority for Development and Housing of the Bedouins in the Negev (hereinafter: the ADBN) in order to make legal aid more accessible to Bedouin women; enhancing the accessibility of legal aid for women who are **victims of prostitution** – a joint project of the Southern District of the LAA with "Bishvilech" (For You) NGO; providing legal assistance to women who are **victims of domestic violence**; arranging for legal assistance for **victims of trafficking**; presenting **"Access to Justice Stand"**- an LAA counter which is located inside the court and aims to provide ad hoc legal aid (at the first stage). This counter provides access to preliminary legal counsel to unrepresented people from different populations; legal assistance to **victims of sexual offences** - according to a recent amendment, free legal representation is to be provided by the LAA to victims of sex offenses according to the Limitations on the Return of a Sex Offender to the Surroundings of the Victim of the Offence Law 5765-2004 (hereinafter: The Limitations on the Return of a Sex Offender to the Surroundings of the Victim Law), which stipulates that these victims are exempted from the economic eligibility test laid out in the Legal Aid Law; **guidance and representation for victims of fatal offences.**

20. For more information on this issue, see Annex I.

Access of women to judicial courts regarding child support and custody

21. The eligibility tests under the LAA Law and LAA Regulations distinguish between civil legal proceedings and family matters proceedings, so that in matters of personal status, the financial eligibility test depends only on the financial state of the person applying for legal aid, and not according to the income of the family unit as a whole as is the case in civil proceedings. As a result, many single parent women are eligible for legal assistance by the LAA in such proceedings.

Community Courts

22. The Community Courts, which are a type of "Problem Solving Courts", began to operate in Israel within the framework of a pilot programme in November 2014. The first Community Court was established in Be'er-Sheva and the second Community Court was established in Ramle in September 2015. The Community Court serves various populations, and according to recent statistics, many are women.

23. These courts use a judicial and rehabilitative approach. This framework provides the perpetrators of crimes with an incentive for change and rehabilitation through personal assistance during the process, with the assistance of the community in appropriate cases, and aims to reduce incarceration and prevent recidivism.

24. For more information on this issue, see Annex I.

With regard to the Committee's question about persons who entered Israel illegally through the Egyptian Border

25. Note that every person may be eligible for full representation by the PDO in criminal proceedings, if she/he meets the criterion stipulated in the Public Defender Law 5766-1995 (hereinafter: Public Defender Law), which are mainly based on the probable punishment for the offence and the economic situation of the defendant. The Law does not distinguish between Israelis and non-Israelis, in relation to this criterion. Accordingly, the PDO does not handle matters of asylum applications, unless it is necessary for the adequate representation of the defendant, and as part of the criminal procedure. In practice, a very small number of women asylum seekers were indicted.

26. With regard to legal assistance in civil matters to persons who entered Israel illegally through the Egyptian border, which is provided by the LAA, a petition on this issue is currently pending before the Supreme Court (H.C.J. 5262/16).

Question 7 – Women, Peace and Security

Implementation of United Nations Security Council Resolution 1325

27. The AAW continues to enhance the implementation the UNSC Resolution, inter alia, through Government Resolution No. 2331 which includes a full policy plan for the promotion of gender equality; the issuance of the Gender Mainstreaming Guide; an Inter-ministerial Team for National Action Plan and more.

28. For more information see Annex I.

Women Representation in Security Forces

The Israel Defense Forces (IDF)

29. Military service in the IDF has been obligatory for women since the IDF was founded. Over the years, and especially in recent times, there has been major progress in the status of women in the IDF. The most prominent example of this is the infantry, where the number of women is steadily rising, and accordingly, new goals and frameworks are becoming available for women. This is true also with respect to technologically-oriented professions. In addition, new gender-equal professions are being added, in which there is full equality between men and women. Additionally, the IDF maintains a multiannual programme for the expansion of women's integration.

30. As part of the process of integrating ultra-Orthodox men to serve in the IDF, and due to the negative implications this process might have on the exclusion of women in the IDF environment, an Amendment to the Defense Service Law [Consolidated Version] 5746-1986 (hereinafter: the Defense Service Law) was legislated in 2014. The Amendment (No. 19), stipulates that "The status and integration of a veteran woman in the defense service will not be prejudiced on account of the service of graduates of yeshivas and ultra-Orthodox religious institutions in the defense service under this chapter". Furthermore, the Amendment obliges the Minister of Defense to annually report on the effect of the implementation of this Amendment to the Knesset Committee of Foreign Affairs and Defense and the Committee for Advancement of the Status of Women and Gender Equality.

The Police

31. In 2013 the Police established a Gender Equality Unit with the objective of creating appropriate conditions and policies for the full utilization of the capabilities of women serving in the Police and enhancing a new gender mainstreaming reality. The AAW was involved in the process of establishing the Unit. Currently, women account for 26 per cent of the Police force.

The Israeli Prison Service (IPS)

32. Women constitute about 20 per cent of the IPS personnel, serving in various roles of command, security, treatment and administration. The IPS encourages the integration of women in all of the organization's roles. The organization is headed by a female Commissioner and has, in senior positions in the unit level and in General Brigadier rank, four (4) female officers commanding the fields of logistics, manpower, legal counselling and prisoner treatment.

Zero Tolerance Policy to Sexual Exploitation by Security Officials

The IDF

33. In accordance with General Staff Order 33.0145, entitled "Prohibition of Sexual Violence," commanders must act to maintain a respectful atmosphere within their unit, and follow the order and the norms enshrined therein amongst their subordinates. In addition, the Chief of the General Staff issued a circular emphasizing the harmful effects of behaviour amounting to sexual violence.

34. In recent years, the IDF adopted a strategy plan for eliminating sexual harassment. This plan includes four (4) pillars: Information; Enforcement and Monitoring; Command reaction; Adjudication, and Sanctions; Victim Support ("Mahut").

For more information, see Annex I.

35. Recent data shows that there has been an increase in the rate of sexual violence cases reported in the IDF. This is an indication that the legitimacy of reporting and filing complaints has increased, which is given due to various factors, including public discourse, media exposure and efforts within the IDF and outside, to eliminate this phenomenon, and the establishment of the Mahut Centre.

36. For recent statistics regarding sexual harassment cases in the IDF, see Table No. 1, Annex II.

The Police

37. Generally, every criminal offence committed by a police officer which is punishable by a year of imprisonment and above, including a sexual offence, is handled by the Department for Investigation of Police Officers (hereinafter: DIPO), which is under the auspices of the MOJ, thereby maintaining its professional independence. The DIPO makes efforts to ensure that incidents of sexual exploitation by police officers towards civilians or co-workers are handled without compromise. These include:

- Training of police units and lecturing on sexual abuse and sexual harassment; greater sensitivity towards victims of sexual offences: The DIPO is working in cooperation with the NGO Association of Rape Crisis Centres in Israel (ARCCI). As part of this cooperation, the DIPO receives instructions on the necessary sensitivity required for handling victims of sexual assaults. In addition, the DIPO and the ARCCI work closely in accompanying victims of crime during the investigation and court proceedings.
- Designated guidelines which stipulate that prior to closing a sexual assault case, an attorney representing DIPO will meet the victim personally, and will explain to her/him the decision, and the reasons behind it, in a personal and sensitive manner. The guidelines focus significantly on the victim's ability to understand the reasons behind the decision to close the case, and underscore the importance of the victim feeling that she/he is seen and taken into consideration.
- An information leaflet is provided to victims of crimes (both civilian and police officers' victims) at the investigation. The leaflet includes information on the assistance that is available for victims of sexual offences at ARCCI.

38. Events over the past few years have shown that the DIPO does not spare high-ranking police officers or those who have strong "ties" and connections who allegedly committed sexual offences against their subordinates.

39. The DIPO submits many indictments on charges of sexual exploitation of women and demands the courts to issue severe sanctions. The DIPO's aim through all these situations is to deliver a message that sexual offences, especially when committed through an abuse of

authority, and police authority in particular, is taken seriously and that it is crucial to eliminate wrongful norms and perceptions. In cases where senior police officers, committed sexual offences towards their subordinates' or had sexual relationships with them, while exploiting a relationship of authority, the DIPO believes that beyond the significance of handling each individual case, lays the importance of abolishing wrongful norms, and changing the way that women are perceived within the working environment.

40. For Police prevention efforts and recent statistics see Annex I and Table No. 2 in Annex II.

The IPS

41. The IPS maintains a strict policy of enforcing the legislative provisions dealing with the prohibition of all forms of sexual offences to women within the IPS system, in both disciplinary and criminal level.

42. For statistic information concerning sexual harassment in the IPS between 2012-2016 see Table 3 in Annex II.

Question 8 – National Machinery for the Advancement of Women

The Authority for the Advancement of the Status of Women (AAW)

43. In 2016, the AAW has become an important unit in the Ministry of Social Equality. In recent years, the AAW's budget has been dramatically amplified: In the year 2011, the annual budget was 3,903,000 NIS (1,054,864 USD), 2012 – 4,153,000 NIS (1,122,432 USD), 2013 – 1,134,000 NIS (306,486 USD), 2014 – 2,134,000 NIS (576,756 USD), 2015 - 1,750,000 NIS (317,567 USD), 2016 - 1,864,000 NIS (503,783 USD), and in **2017 – 17,000,000 NIS (4,594,594 USD). i.e., the AAW annual budget was multiplied by 4.35 since 2011.**

44. For more information see Annex I.

Establishing a Ministerial Committee on Gender Equality

45. Under Government Resolution No. 36 (May 26, 2015), the GOI established a designated Ministerial Committee on Social Equality. The Chair of Committee is the Minister of Social Equality, and its members are: the Ministers of Justice, Labour, Social Affairs and Social Services (MOLSASS), Industry and Economy, Religious Services, Culture and Sport and Science, Technology and Space. The Committee is charged with promoting gender equality in various aspects of life.

46. For recent examples see Annex I.

National Action Plan

47. See Government Resolution No. 2331 in Question 7.

48. In 2016 the AAW established a plan to promote gender equality and assimilation of gender mainstreaming through local municipalities. See in Question 15.

Gender Budgeting

49. In July 2014, the Committee for Evaluating Gender Aspects of the State Budget, appointed by the Minister of Finance, published its concluding report. The Committee's panel examined developments in developed countries around the world in the area of gender analysis of the budget, heard the positions of different relevant bodies and NGOs, and examined the current situation of this issue in the different Government Ministries. Following its conclusions, the Committee recommended that the GOI would perform a gradual gender analysis of the State budget. This process will be performed through several years and would

be complemented by a process of gender mainstreaming in the Government Ministries. In the Committee's view, this analysis would draw a "gender glasses" image that would enable the policy makers to improve the budget allocation and create a gender responsive budget.

50. Government Resolution No. 2084 (October 7, 2014) adopted the conclusions of the Committee. It was decided on a gradual duty of gender evaluation of the State budget, by each Government Ministry and auxiliary unit - 10 per cent in 2015, 40 per cent in 2016, 70 per cent in 2017 and 100 per cent in 2018. The gender analysis is to be published alongside the State budget proposal and the explanatory note submitted to the Knesset. This evaluation process will be supervised by a Governmental steering committee and a governmental guide for gender evaluation that will be published. The AAW will offer scholarships for researchers exploring gender analysis and the best means to promote this process.

51. The first publication of gender analysis was made available on the Ministry of Finance website at the end of 2014. The implementation of gender budgeting analysis has exceeded expectations and already in 2016, gender analysis was performed for 70 per cent of Government Ministries.

Cooperation with Civil Society Organizations

52. The AAW conducts its activities in cooperation with the Civil Society in general, and women's organizations, in particular, including organizations promoting the rights of women from minority populations.

53. For recent examples, including on the UNSC 1325 Resolution, see Annex I. For other examples of cooperation with NGOs in a variety of fields, see Questions 10, 12, 19 and 22.

Question 9 – Stereotypes and Harmful Practices

Amendment to the Marital Age Law 5710-1950 (hereinafter: the Marital Age Law)

54. In December 2013, the Knesset amended the Marital Age Law (Amendment No. 6), raising the minimum marital age from 17 to 18. The Law prescribes that a Family Matters Court is authorized to permit the marriage of a minor if they are above the age of 16 and if there are unique reasons linked to the minors' best interest to do so. The Court must hear the minor before deciding on this matter. With regard to the marriage of a minor over the age of 16 but below the age of 17, the Court must request a social worker assessment in accordance with the Law. Accordingly, Section 2 of the Law provides that a person that officiates, assists in the marriage ceremony, or marries a minor who is her/his child or under her/his guardianship, is committing a criminal offence, punishable by two (2) years imprisonment or a fine, according to the Penal Law 5737-1977 (hereinafter: the Penal Law).

55. For updated data regarding the marital age in Israel, see Table No. 4 in Annex II.

Eliminating Polygamy

56. In recent years the GOI has been enhancing its efforts to eliminate polygamy. The issue has been highly prioritized and accordingly, many efforts are invested in this field. These efforts include a comprehensive Government Resolution, followed by the establishment of an inter-ministerial committee, and a notable Attorney General Guideline**,** in addition to continued enforcement efforts by the Police.

Government Resolution - "Coping with the polygamy Offence"

57. On January 29, 2017, the GOI accepted Resolution No. 2345, which established an Inter-Ministerial Committee designated for the issue of polygamy. The Committee includes the following Ministries: Education, Justice, Labour, Social Affairs and Social Services, Interior, Health, Agriculture and Rural development, and Public Security. The Resolution

further calls for the establishment of a wide-ranging inter-ministerial team tasked with forming a strategic plan to encounter this phenomenon, and accordingly the Government will allocate the appropriate budget in the annual state budget of 2019-2020. The inter-ministerial committee included representatives of several NGOs, men and women.

State Attorney's Guideline on the Prosecution policy in the marriage of a minor's offence

58. On 9 May 2016, the State Attorney's Office published State Attorney's Guideline No. 2.20 titled "The Prosecution Policy regarding the marriage of a minor's offence", which regulates the Prosecution policy in respect to this offence. For more information, see Annex I.

Attorney General Guideline - Eliminating Polygamy

59. The Attorney General Guideline No. 41112 titled "The polygamy offence" was published on January 23, 2017. The purpose of this Guideline is to enhance effective enforcement of the polygamy offence, according to Section 176 of the Penal Law and to augment its appropriate punishment. The rational, as described in the Guideline, refers to the destructive implications polygamy has on women and children, inter alia, due to the impact on the child's well-being and her/his development, the economic and emotional implications on women and the negative impact that it has on the status of women in society in general. Furthermore, the Guideline includes a reference to the CEDAW Committee's previous concluding observations on this issue, and clarifies that it was formed according to the commitments that Israel has taken upon itself according to international law.

60. For more information, see Annex I.

61. According to recent findings of the National Insurance Institute (NII), in 2016, there were 1,762 polygamy families in Israel, most of them within the Bedouin population in the South of Israel.

Implementation and control over means to eliminate early marriage, underage marriage, coerced marriage and polygamy by the Police

62. See Annex I**.**

63. For recent case law see Annex III.

Question 10 – Gender Based Violence against Women

Gender based violence - recent legislation amendments

- Amendment No. 122 of 2016 to the Penal Law, added Section 347B to the Law, which prohibits consented sexual relations between a clergyman and a person, above the age of eighteen (18), who received consultation from her/him, when the consent was achieved through exploiting substantial mental dependence of the person upon the clergyman. Consultation or guidance is defined as continuous consultation or guidance through face-to-face meetings. According to the Amendment, a clergyman who engages in intercourse with a woman or performs an act of sodomy on a person in these circumstances will be liable to imprisonment for four (4) years. The amendment also added Section 348(D2), stating that a clergyman who commits indecent acts with or on a person above the age of eighteen (18) under the circumstances detailed in Section 347B (b), is liable to three (3) years of imprisonment.
- Amendment No. 14 of 2015 to the Legal Aid Law provides that legal aid, including representation in court proceedings will be provided **without a financial eligibility test** to a victim of sexual offence, in civil proceedings

according to the Limitations on the Return of a Sex Offender to the Victim's Vicinity Law.

- Amendment No. 5 of 2015 the Statute of Limitations Law 5718-1958 allows for the possibility of extending the statute of limitations if the defendant, or her/his representative, knowingly misled the plaintiff, abused her/his power, threatened or exploited the plaintiff. This amendment allows more women to file claims due to an infringement of their rights in such circumstances, for example, women who were subject to sexual abuse.
- Amendment no. 11 of 2014 to the Crime Victims' Rights Law 5761-2001, provides that a victim of a sexual offence is entitled to choose the gender of her/his investigator (under certain restrictions). The investigator must inform the victim on this option at the beginning of the investigation (entry into force: 1.1.2018).

Countering Sexual Harassment – Recent Amendments

64. Several recent amendments were made to the Prevention of Sexual Harassment Law 5758-1998 (hereinafter: Prevention of Sexual Harassment Law):

- **Amendment No. 8:** The Amendment raises the damages for sexual harassment from 50,000 NIS (13,513 USD) to 120,000 NIS (32,432 USD), without the need to prove damage.
- **Amendment No. 10:** this 2014 amendment provides that publishing a photograph, film or recording of a person that focuses on a person's sexuality, in circumstances in which the publication is likely to humiliate or degrade a person, and against that person's consent, constitutes a sexual harassment offence, punished by five (5) years of imprisonment.
- **Amendment No. 12:** according to this amendment, when an employee's complaint regarding adverse treatment is submitted, the burden of proof is shifted on the employer to prove that the said treatment was not committed due to a sexual harassment complaint which was submitted by the employee, provided that no more than three (3) years has elapsed from the day the sexual harassment complaint was submitted.
- **Amendment No. 13:** Sheltered employment enterprises (which employ persons with disabilities) have been included in the definition of work relations for the purpose of sexual harassment, thus ensuring better protection of employees with disabilities.
- In July 2014 the Prevention of Sexual Harassment Regulations (hereinafter: the Sexual Harassment Regulations) were amended. according to the amendment, higher education institutions, including academic institutes, are obligated to conduct several steps in order to prevent sexual harassment, such as: annual informational activities; informing students and employees about the regulations and ways of filing a complaint; institutions with 2,000 students or more are also obligated to appoint two (2) sexual harassment prevention officers and to provide them with the relevant training. Note that the persons that are elected to serve as a sexual harassment officer, must be from different sectors in the higher education institution (for example, student sector, professor sector, administrative staff), in order to enhance their accessibility. These institutions are also obligated to file an annual report to the AAW, to the Knesset Committee for the Advancement of the Status of Women and Gender Equality (2014), and to the relevant regulator (for example, the MOE, MOEI or the Council for Higher Education). Note that these steps are complementary to the relevant obligations that apply to these institutes as a general employer (see below).

- In addition, in November 2013, following deliberations held with the Ministerial Committee on the Status of Women and Gender Equality, the Ministry of Finance, issued a binding procedure whereby insurance companies shall not cover sexual harassment liability and shall not indemnify the insured person for sexual harassment costs, even in cases where she/he has reached a settlement with the complainant. In a letter to all insurance companies CEOs, the Ministry of Finance required them to examine the insurance policies they offer and amend them accordingly.

Enforcement Efforts

65. Under the Prevention of Sexual Harassment Regulations, every employer must appoint a sexual harassment prevention officer, to serve as an address for complaints on sexual harassment. Other duties of the officer include providing recommendations to the employer on how to handle a case of sexual harassment in the workplace, and providing the employees with consultation, information and guidance. Employers must issue a code of conduct for the prevention of sexual harassment; allow instruction and explanatory sessions on the subject for the employees; demand that all employees refrain from sexual harassment; establish an efficient way for lodging a complaint in respect of sexual harassment; deal effectively with all cases of sexual harassment; etc. The regulations determine that if possible, the appointed officer should be a woman.

66. **New-Year Campaign against Date Rape Drug (Predator Drug)** - in the 2016 New Years' celebrations, the Police conducted a broad operation for increasing public awareness regarding the date rape drug. The operation included a wide-ranging public campaign, with videos broadcasted, leaflets distributed, posters and television interviews on this subject. In addition, approximately 20,000 date rape drug detection kits were distributed to the public for free.

Sexual Harassment- Enforcement Statistics

67. For statistical information by the Office of the State Attorney, see Table No. 5 and Table No. 6, Annex II.

68. For information regarding prevention of sexual harassment in security forces see Question 7.

69. For information regarding prevention of sexual harassment in the Civil Service see Question 19.

Countering Domestic Violence

70. According to recent data by the MOLSASS, during 2016, 11 women were murdered by their spouses; between the years 2004-2016, 147 women were murdered by their spouses. This issue continues to present a challenge and in recent years, the GOI has been enhancing its efforts to combat this phenomenon. Hereinafter are several prominent examples:

71. Israel is currently examining the ratification of the **Council of Europe Convention on** preventing **and combating violence against women and domestic violence (the Istanbul Convention**), a process that entails an in-depth examination of all aspects relating to combatting gender-based violence.

72. **The Joint Review Team** (established in 2003) continues to conduct periodic meetings to examine cases of femicide in order to prevent their recurrence. The team includes participants from the Police, the MOLSASS, and the State Attorney's Office.

73. **"Police Social Worker Model"** - this is a joint project operated by the MOLSASS and the Police with the object of placing a social worker in police stations. in order to strengthen the cooperation with the Police, making sure that the Police referrals to the welfare

authorities were addressed and vice versa, meet with victims who came to file a complaint (if they are interested) in order to provide initial assistance, and to prepare an appropriate intervention and assistance programme in advance, including a possible risk assessment following identification of the alleged perpetrator. In 2016 this programme was operated in 25 towns. 58 per cent of the men and women who had an "intake" conversation with a social worker were referred to the Centres for Prevention and Assistance (for information on the Centres, see below).

74. **A Joint Inter-ministerial Committee on Preventing Domestic Violence** was established in 2014. The Committee included representatives from all Ministries. In February 2016, the Committee published its final recommendations. Subsequently on May 2016 a designated sub-committee for implementing the recommendations was established, headed by the Minister of MOLSASS. The Implementation Committee included ten (10) teams; each one focused on different issues: research, protection, information, vulnerable populations, legislation etc. The Implementation Committee recommendations were presented to the Minister of Public Security in October 2016. The recommendations include both aspects of strengthening the current protection and prevention systems, and developing new ones.

Enhanced efforts within the Police

75. The Police fully recognize the importance of this issue and are prepared to provide unique and adjusted responses to these offences. The Police have a unique apparatus of investigators and investigating officers to handle domestic violence and sexual offences. In addition, designated training courses on domestic violence and sexual offences are regularly conducted on this issue for all investigators and patrol officers, including gender-sensitive courses.

76. In order to enhance reporting, the Police emphasize the need for better cooperation with a variety of actors relevant to the fight against domestic and sexual offences. For example, recently a protocol for "efficient data sharing" was created by the Police and the welfare authorities. It regulates the manner of cooperation and reporting in each of the stages of treatment of domestic violence cases. In addition, in order to raise awareness and enhance reporting, an ongoing discourse and collaboration was formed between the Police and leaders of minority groups; mainly concerning improving accessibility and encouraging women to approach the Police and file complaints.

Control and supervision

77. The Police conduct several periodic reviews of the treatment of domestic violence offences each year, in every police district and in several stations, through both initiated and surprise inspections.

Public Information

78. Each police station contains informational signs and leaflets for victims of offences and information sheets detailing the possibilities for assistance and treatment of victims in the station's vicinity.

Raising Awareness, Education and Training

79. See Annex I.

Protection and Assistance for Victims of Domestic Violence

80. See Annex I

Enforcement Statistics – Gender-Based Violence Including Domestic Violence

81. See Tables No. 7-12, Annex II.

Question 11 - Gender-Based violence in the "Occupied Palestinian Territory"

Non-application of the Covenant in the "Occupied Palestinian Territory"

82. As has been previously clarified, it is Israel's position that the CEDAW is not applicable beyond its national territory. For an elaboration of this position, see sections 44-48 of Israel's 4th Periodic Report (CEDAW/C/ISR/4).

Question 12 - Measures to Protect Disadvantaged Groups of Women against Violence

Gender Sensitivity in Request for Asylum

83. In February 26, 2017, the GOI Regulation processing Asylum Requests (PIBA Regulation No.5.2.0012) was updated (hereinafter: the "Regulation") as follows. A designated section entitled "Gender Sensitivity in the process of refugee status determination (RSD)" (hereinafter: the Gender Sensitivity Section) was added, with the aim of highlighting gender sensitivities. The underlying idea of the Gender Sensitivity Section is the acknowledgement that gender is an important attribute in asylum requests and their processing, and thus, the PIBA's policy must be adjusted accordingly. Still, note that the Gender Sensitivity Section does not create an additional form of persecution under the 1951 Convention.

84. The Gender Sensitivity Section provides that RSD interviews will be conducted with sensitivity to gender issues that might affect the interviewee's feelings or behaviour, or impact on her/his testimony. Furthermore, the Section stipulates that victims of gender-based violence, including sexual violence, must be treated with the utmost respect and sensitivity.

85. The Section further requires the following: (1) The training programme of RSD Unit employees must include training regarding gender issues such as: the psychological effect of traumatic experiences (unwillingness to provide all details, difficulties in remembering past events and in providing testimony, etc.); cultural perceptions of women in countries of origin and their influence on asylum seekers. Note that a full day seminar was held on February 16, 2017, entailing these issues. (2) Guidelines for the interview process: (a) The interviewer must inform the interviewee at the beginning of the interview of her/his right to request an interviewer of the same gender, subject to personnel availability at the RSD Unit. (b) Family members, including spouses should not be present at the interview, and each interview should be held individually. (c) The interviewee shall be given a proper opportunity to share her/his experience of any gender-based persecution or gender-based violence that she/he has suffered. Respectively, this testimony shall be taken into consideration in the deliberation of her/his asylum application. (d) Additional caution should be taken in order to prevent repeated trauma to the interviewee; the interviewer must abstain from any request for extensive description of the traumatic event which is unnecessary for the final decision. (e) An interviewee that has difficulty in completing her/his testimony shall be given an opportunity to complete the interview at another time.

Identifying Victims of trafficking -The Inter-Governmental Protocol

86. Israel dedicates great resources towards identifying victims of trafficking among its immigrant population in order to provide them with the appropriate assistance and protection. The Inter-Governmental Protocol is a procedure that includes a comprehensive list of indicators for recognizing a victim of trafficking. Once a victim is identified (or a suspicion rose), every government official is obliged to inform the Police Anti-trafficking Coordinating Officer (hereinafter: the "PTC"). Once a victim was identified, she/he is properly referred to a shelter for victims of trafficking. Numerous trainings are conducted to all relevant

governmental staff and officials on this issue, and information leaflets are distributed by the National Anti-Trafficking Unit (NATU) to the relevant authorities.

87. For more information, see Annex I.

Immigration 'Gradual Procedure' with regard to victims of domestic violence

88. In October 2013, the PIBA published procedure No. 5.2.0019 regarding the gradual process of acquiring civil status in cases of immigrants who are victims of violence inflicted by their Israeli spouse, thus ending the relationship.

89. The procedure allows the victim to part from her/his violent partner and still acquire civil status in Israel. Its terms strive to strike a balance between, on the one hand, preventing the foreign partner from remaining in a harmful relationship just in order to acquire a civil status in Israel, and, on the other hand, the minute justification for granting civil status to foreigners who are no longer in a relationship with an Israeli spouse, and who have not yet assimilated in Israel.

Handling domestic violence among foreign nationals

90. As mentioned above, every woman, including foreign nationals, exposed to violence can be referred to a shelter. About 80 women with no legal status in Israel enter the shelters for victims of domestic violence every year. Naturally, the Police handle complaints regarding gender-based violence from all population groups, including foreign women. Relevant police stations where there are a greater number of foreign residents have regular interpretation services, and every police station may have an interpreter brought in when needed, so that every investigation is conducted in the language of the woman who is being interviewed. The Police meet with representatives of the welfare authorities on this issue on a regular basis and with "Mesila" (the social services department in the Tel Aviv-Jaffa Municipality), and are fully aware of the relevant needs and sensitivities when addressing the issue of domestic violence among foreign national women.

Protection of Women with Disabilities

91. See Annex I.

92. For activities to raise awareness see Question 10.

Question 13 – Trafficking and Exploitation of Prostitution

93. Recent years have shown that Israel has made remarkable progress in its continuing efforts to eliminate trafficking in persons. In its Trafficking in Persons Report for 2016, the United States' State Department ranked Israel as Tier 1 for a fifth consecutive year - a demonstration of the U.S. Government's recognition of Israeli practical efforts and an important external evaluation that Israel is fully meeting the minimal standards required for the eradication of TIP.

94. For more information, see Annex I.

Question 14 – Participation in Political and Public Life

The Knesset

95. In the current 20th Knesset, the proportion of women MKs has increased to 27.5 per cent (33 women MKs), compared to 22.5 per cent in the 19th Knesset. Two (2) of these women are Arab MKs. Of these 33 women, two (2) serve as deputies to the Knesset speaker; and five (5) women serve as chairpersons of Knesset Committees.

96. The issue of women's participation in political parties is regarded very seriously. For example, in the elections to the 20th Knesset, publications appeared arguing that unlawful coercion had been exerted on ultra-Orthodox women to keep them from running in the elections. According to the allegation, a rabbi had published statements in relation to women approaching any party not under the leadership of the "Great Torah Sages". According to the publication, a woman acting contrary to the rabbi's instructions would have to leave her marriage without her ketubah (the money due to her upon divorce), her livelihood would be destroyed (it would be forbidden to study in her educational institutions or to purchase any product from her) and her children will be removed from their institutions of study. In light of the severity of these comments, the Deputy Attorney General (Counselling), approached the Chairman of the Central Elections Committee that communicated this matter, together with a strong condemnation of acts of this kind to all the chairpersons of the parties running for the 20th Knesset.

The Government

97. In the current 34rd Government, the percentage of women ministers has increased from 9.7 per cent to 16 per cent. Currently there are four (4) women Government Ministers: the Ministers of Justice, Culture and Sport, Aliyah and immigrant Absorption and Social Equality. The Deputy Foreign Minister is also a woman.

98. For further information on women in political life see Question 15.

Women representation in the Court System

99. **The majority of judges in Israel today are women**: Out of 725 Judges in total, 369 (51 per cent) are females, and 354 (49 per cent) are males. In 2017, two (2) women of Ethiopian decent were appointed as Magistrate Court judges for the first time in the judicial system.

100. In January 2015, a woman was appointed to serve as the President of the Israeli Supreme Court, the second female president of the Supreme Court.

101. In the Supreme Court of Israel currently, there are four (4) female justices and eleven (11) male justices.

102. In the District Courts, there are 94 (45 per cent) female judges, and 114 (55 per cent) male judges. All of the female judges are Jewish, while among the men there are six (6) Muslim Judges, four (4) Christian Judges and three (3) Druze Judges.

103. In the Magistrates courts, women constitute the majority of judges; 219 judges are female (53 per cent), and 195 are male (47 per cent). Out of the female judges, 206 are Jewish, nine (9) are Muslim and five (5) are Christian. Out of the male judges 172 are Jewish, twelve (12) are Muslim, seven (7) are Christian and three (3) are Druze.

104. In the Labour Courts, women also constitute the majority of judges, amounting to 62.5 per cent of the judges in the National Labour Court and 63 per cent in the Regional Labour Courts.

105. Similar findings are also evident in the Court of Traffic Offences, with a majority of 13 (59 per cent) female judges out of 22 judges in total.

The Rabbinical Courts Administration

106. The Rabbinical Courts Administration acts in accordance with the directives of the CSC and has been making efforts to increase the number of female employees in its ranks. For example, a woman was recently appointed to the position of Director of Human Resources at the Rabbinical Courts Administration, with significant consideration being given to the gender aspect of the hiring, in addition to her high professional qualifications.

The Sharia Courts

107. On April 25, 2017 the Judicial Appointments Committee appointed the first woman to serve as a judge - Qadi, in a Muslim Religious Court. The appointed Qadi received the support of all nine (9) members of the committee. This is a positive development for Muslim women and for the religious courts in Israel in general.

Senior positions in the public sphere

108. Since 2011, women have been appointed to serve in the following positions: the Chief Commander of the Ayalon Region of the Police - the first woman to be appointed to command a region; in addition, a woman was appointed for the position of Director of the thoracic surgery unit in the Soroka Medical Centre in Be'er-Sheva. Since 2014, two (2) women have been appointed for the position of Director General in Government Ministries – Director General of the Ministry of Justice and the Ministry of Transportation and Road Safety, and a woman is a Director General at the Israel National Road Safety Authority. In addition, in November 2013, the first woman was appointed to serve as the Governor of the Central Bank of Israel. Also, in November 2015, the Minister of Public Security appointed a woman to serve as the Israeli Prisons Service Commissioner. In April 2017, a woman was appointed as the director of Yitzhak Shamir Hospital. Women have also served as directors of the Carmel Medical Centre and Ha'Emek Medical Centre, the psychiatric hospital in Mizra and the geriatric hospital "Shoham".

The Foreign Service

109. To date, there are 23 women serving as heads of diplomatic missions in one of the 100 Israeli missions worldwide. In recent years, an equal number of men and women enrolled in the diplomatic cadets' course**.** Three (3) Arab women are currently serving in the Israeli Foreign Service, two (2) as Deputy Ambassador in embassies abroad and a third recently joined the diplomats' cadets' course.

Government Companies (State boards)

110. There has been an increase in the rate of women in government companies – of the 437 total serving directors: 189 (43 per cent) are women. This is a 10 per cent increase since 2007 (33 per cent in 2007 and 40 per cent in 2011). Nine (9) (2 per cent) of these women are Arab, and one (1) woman is of Ethiopian decent (0.2 per cent). 67 per cent of government companies (61 out of 91) reach adequate representation (50 per cent) of women in their directorates.

111. For more information see Diagram No. 4, Annex II.

"Team of Directors"

112. Since 2013, in the framework of reforms led by the Government Companies Authority (the "**GCA**"), the GCA has conducted a public procedure called the "Team of Directors". In this procedure, candidates for the position of directors in government companies are identified out of the general population. The purpose of the procedure is to identify the most skilled and appropriate candidates for the role, while providing an equal opportunity to the general population. The list of recommended candidates formulated by the GCA is provided to the Ministers, who, by law, are authorized to appoint directors to government companies. The "Team of Directors" procedure sets quotas for women and members of the Arab population, enabling them to compete in the procedure, thus increasing their likelihoods of being appointed as directors.

113. A significant increase in the representation of women on boards of government companies was indicated following the establishment of "Team of Directors": 44 per cent of the directors appointed from the Team were women. However, challenges still remain

regarding the representation of Arab women. For example, out of 7,100 candidates to the Team in 2015, 270 were of Arabs, and out of those, only 37 women (0.5 per cent of all candidates).

114. A public committee appointed by the head of the GCA, published its conclusions in 2016, and recommended to form an annual programme to include varied populations in the Team. Subsequently, the GCA has been formulating an action plan to increase awareness of the "Team of Directors" and encourage varied populations, including Arab women, to participate in the procedure. In order to achieve this goal, the GCA is negotiating with relevant organizations, the Chairperson of the Committee on the Status of Women and Gender Equality, etc. The GCA continues to present the importance of including varied populations in boards at different conventions and seminars, including the annual GCA convention and in the directors' course that the GCA currently leads. In 2013 the AAW conducted a training programme for supervisors on the status of women in government corporations.

Recent legislation

Development in the Companies Law and Regulation

115. Section 239(d) of the Companies Law 5759-1999 (hereinafter: the "Companies Law") requires that in a company in which, on the date of appointment of an external director, all members of the board of directors of the company (not taking into account the controller or her/his relative if they serve as directors) are of the same gender, the external director appointed shall be of the other gender. An amendment from 2016, of the Companies Regulations (Companies Which Securities are Traded Abroad) 5776-2000, stipulates that in cases where the obligation to nominate an external director will not apply regarding companies that are listed abroad, the obligation for a non-same-gender board member would still apply. Amendment No. 16 of 2011 to the Law set out, in Section 363A (b) (11), the authority of the Israel Securities Authority to impose monetary sanctions on a company that violates this provision. Amendment No. 23 of 2013 to the Companies Law, provides that a Public Benefit Foundation in which all of its Board of Directors members are of a specific gender, is obliged to appoint an Independent Director of the other gender.

Equal representation

116. In 2011, the Equal Rights for Women Law 5711- 1951 was amended. The Amendment added the duty to maintain appropriate representation of women in government examination committees. In addition, a mechanism had been set, deigned to assist in exercising the duty of appropriate representation of women in government examination committees, by establishing a database, to be operated by the AAW, that shall include names of women suited to be candidates for membership in the committees; in addition the law obligates an entity that has appointed a committee and had failed to locate appropriate women candidates, the duty to request to be given names out of the database and make contact with one of them.

Women in the Public Sphere

An Inter-ministerial team to prevent the exclusion of women from the public sphere

117. On January 5, 2012 the Attorney General appointed an inter-ministerial team aimed to examine ways to tackle incidents involving exclusion of women from the public sphere. The team was established after increasing reports on various incidents of discrimination against women and their exclusion from the public sphere, sometimes with the exercise of verbal and physical violence. The team filed its recommendations with the Attorney General on March 7, 2013, which were adopted by the Attorney General in May 2013 and a team headed by the Deputy Attorney General (Consulting) was appointed to implement the recommendations.

118. Concrete steps taken to implement the Report – See Annex I.

Recent Case Law

119. In December 2015, the Supreme Court rendered a precedential decision according to which it is possible to recognize a class action as an enforcement mechanism in cases of discrimination against women and the exclusion and discrimination of women as compensable damage. This decision regarded an ultra-Orthodox radio station which refrained from broadcasting women in different capacities.

120. For further information see Rq.C.A 6897/14 Radio Kol Berama v. "Kolech" - Religious Women's Forum (9.12.2015), as well as other relevant case law on this issue, see Annex III.

Question 15 – Women in Local Authorities

Amendment No. 12 to the Municipal Council Law (Funding of Elections), 5774-2014

121. The two (2) private bills mentioned did not advance into a formal law. Nevertheless, two other private bills regarding women's representation in local authorities were legislated since Amendment No. 12 to the Municipal Council Law (Funding of Elections) 5774-2014 (hereinafter: Amendment 12). Amendment 12 provides for 15 per cent additional funding to bodies that run in the elections (e.g. political parties, independent lists etc.) thereof at least one-third (1/3) of their elected and serving members are female. The additional funding begins after the State Comptroller provides a positive audit, and it maintained during their period of service (until the next elections). The Amendment applies to elections of city and local councils, but does not apply to regional councils.

122. As for Amendment 12's impact on the acceleration of women's participation in local government, note that the last local election were held in 2013, prior to the Law's date of entry into force, and the next local elections will take place in 2018.

Gender Mainstreaming in Local Authorities

- In 2016 the AAW formulated a plan for the promotion of gender equality in general population through the municipal authorities. More than 170 local authorities have enrolled to the plan, which incorporates a wide range of activities in various fields such as work and employment; financial empowerment; advancement of women to key positions; equality in parenting; eradication of gender stereotypes; gender-related health issues; raising awareness for the prevention of violence against women; incorporating gender mainstreaming in all areas of life; The project was initiated in 2017.
- In February 2015, the Director General of the Ministry of Interior circulated a notice to the heads of local authorities emphasizing the importance of implementing Amendment 12. Also reiterating that the AAW maintains a database of women who are qualified prima facie for senior positions in the public service.
- Following Government Resolution No. 4382, titled "Increasing Women's Municipal Representation," the AAW conducted state-wide courses on municipal leadership, with the aim of creating a cadre of women with potential for integrating in key positions. The courses were held during 2013-2014 and were attended by approximately 700 women from twenty (20) communities around Israel. The AAW dedicated 2 Million NIS (540,540 USD) towards this goal through the initiation, planning and execution of plans, leadership courses and more, to promote women into positions of power, through granting them tools and abilities to compete in local elections and encourage more women to take part in local elections.

- In 2014, the AAW initiated a special programme aimed at raising the number of Arab women representatives in the local authorities, through specially tailored plans to promote women to position of leadership, enabling them the requisite tools and abilities to run for office, and encouraging women to take part in leading the local authorities. The programme took place in Nazareth and was attended by female activists on the status of women and the local authorities' advisors on the status of woman. The contents included background in gender mainstreaming, gender politics, rules and procedures in local governance, gender budgeting, election management, public relations, communication relations, daily political practicalities, social media and internet and campaign management.
- In the 2013 local elections, the AAW issues a general call to all political parties and local parties to include women on an equal basis on their list of candidates, thus giving due regard to the principle of equality. Note that although the level of women representation in local municipalities remained the same (2.3 per cent), the level of elected officials rose from 11 per cent in 2009, to 14.7 per cent in 2013 – a 30 per cent increase. The AAW further approached the elected heads of local officials, urging them to appoint women as their deputies. The AAW maintains a routine database on women's representation in local authorities, councils, board members of municipal corporations. etc.
- In 2016, a joint committee initiated by the Minister of Interior was established in order to encourage the promotion of women to senior positions in the local authorities and increase their representation. The Committee includes representatives of the Local Administration, the Ministry of Finance, MOI, MOE, and EOC.

Question 16 – Nationality

The Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003

123. Following the horrendous wave of terrorist attacks which had begun in March of 2002, when 135 Israelis were killed and another 721 were injured, and since many of the terrorists involved in those attacks had acquired Israeli civil status based on family unification, which they took advantage of to engage in those attacks, the Government decided to temporarily suspend granting family unification to individuals who reside in an enemy state or in an area from which terrorist activity was emanated against Israel. Subsequently, the Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003 was enacted, limiting the possibility of granting residents of the West Bank and the Gaza Strip Israeli citizenship pursuant to the Citizenship Law 5708-1952, or permanent residency pursuant to the Entry into Israel Law 5712-1952 including by means of family unification.

124. The Law enables entry into Israel of spouses and children of Israeli residents according to the specific provisions detailed in the Law, as well as entry of non-residents for the purposes of medical treatment, employment, or other temporary grounds, for an overall period of up to six (6) months. In addition, the Law allows the granting of a temporary residence permit for humanitarian reasons or a permanent residence permit under special circumstances.

125. The Law's constitutionality was scrutinized and upheld by the majority of the Supreme Court sitting in an extended panel of eleven (11) judges for the second time in January 2012. (H.C.J. 466/07, 544/07, 830/07, 5030/07 MK Zehava Galon et. al. v. The Minister of Interior et. al.). The Law was extended several times and it is currently valid until June 30, 2017.

126. The wave of terrorist attacks that began in October 2015 has shown that Israeli civil status given for the purpose of family unification is still widely taken advantage of in order to

engage in terrorist activities. Nevertheless, the Supreme Court has stated in a number of recent cases that there is room to consider some changes in policy, given the length of time that has passed since the enactment of the Law and the difficulties that it has caused. In light of the above, the Minister of Interior decided on a number of changes aimed at providing humanitarian relief for those that the Law applies to. Thus, the Government notified the Court that holders of temporary residency (A5) visas would be able to extend the visa for a period of two (2) years instead of one (1) year at a time. The Government also notified the Court that holders of temporary stay permits, whose family reunification applications were made before the end of 2003 (the year the Temporary Provision was enacted) would be upgraded and acquire temporary residency which includes registration in the Population Registry and social security and national health insurance benefits, alongside receiving an Israeli identity document. This decision should affect some 2,000 families. Furthermore, it was determined that the Advisory Committee to the Minister will be instructed that in relevant humanitarian circumstances, recommendations for two (2)- years-long permit may be given, as opposed to the current state of affairs whereby the recommendation is limited to one (1) year. These decisions strive to strike a balance between security concerns and humanitarian needs.

Question 17 – Education

Recent legislative amendments

127. On March 24, 2014, Amendment No. 4 to the Pupil Rights Law (hereinafter: the Pupils Rights Law) was approved by the Knesset. This amendment added sexual orientation and gender identity to the list of grounds upon which discrimination of pupils is prohibited.

128. On July 11, 2011, Amendment No. 3 to the Pupil Rights Law was approved by the Knesset. This amendment added national origin to the list of grounds upon which discrimination of pupils is prohibited.

Arab and Bedouin women and girls

129. In the last five (5) years, over 30 new schools were established for the Bedouin population in Israel, in addition to new kindergartens. Most of these schools are equipped with science and technology laboratories, computer classes, and other advanced educational tools. In 2015 approximately 91,000 Bedouin pupils attended various frameworks in the education system.

130. As part of Government Resolution No. 3708, several plans for the years 2012-2016 were approved to improve the scholastic achievements amongst pupils in the Bedouin population, entailing a total budget of 124 Million NIS (33.5 Million USD).

131. The Science and Technology Training Institute, under the auspice of the Ministry of Education (MOE), operates a special course that includes a full scholarship, a monthly income scholarship, and paid transportation fees for Bedouin pupils who meet the relevant requirements. In 2014, 48 pupils, including 13 female pupils, began their studies and an additional 100 pupils were integrated into this learning course in 2015.

132. On September 23, 2014, the Government approved Resolution No. 2025 in which it resolved, inter alia, to conduct a pilot programme of day-care centres in three (3) industrial areas in the Negev area and to expand the number of subsidized nurseries and afternoon frameworks.

133. For more information see Annex I and Tables No.14-16 in Annex II.

Equal Budgeting

134. See Annex I.

Gender Programmes

135. The MOE holds gender programmes in groups for girls from the Arab, Bedouin and Druze communities on prevention of early marriage. The purpose of those programmes is mainly: developing awareness and self-empowerment, increasing awareness to equal opportunities and freedom of choice, and providing academic and professional guidance.

136. One of the programmes for example is entitled: "preparing for family life". In 2016, 160 groups of pupils participated in the programmes, out of which 46 groups in different schools participated in the "preparing for family life" programme. In total, 1,276 Arab pupils participated in a gender programme, out of which 1,112 girls.

137. In 2015, the Department for Psychological Services for Child (SHEFI) developed a programme for Arab high schools called "friendship and intimate relations without violence", which deals with mutual, respectful intimate relations, and mutual respect. Approximately 2,500 pupils from 80 different towns participated in this programme in 2016. The programme is also intended for teachers and school counsellors.

Education on sexual and reproductive health

138. Schools all over the country operate the programme "life skills" which entails lessons on relationships, intimate relationships and reproductive health. There are also education programmes on this issue that are held together with Joint-Ashalim Organization, in the municipal level.

Seminar for teachers on preventing child marriage and polygamy

139. An annual seminar is conducted for teachers from the Bedouin community by the MOE on issues of: preventing child or early marriage, forced marriage and polygamy.

140. The "preparation for family life" programme which is mentioned above, operates in all high schools in the Bedouin population, specifically in the higher classes, since 2006 and the contents match the pupils' ages. In the higher classes, 10th-12th, the programme highlights the values of respect between genders, reducing the polygamy phenomenon, solving conflicts and preventing domestic violence. The programme is updated according to feedback from the field, for example recently the programme was updated so it now includes preparation for 'employment life' among Bedouin boys and girls, assuming that selecting an occupation and a career direction is highly effected by perception of genders.

Gender Education

141. Girls and boys in Israeli high schools today enjoy the possibility to study gender extensively, including: social science studies - sociology studies include a chapter on gender; There is an option to study two (2) units in gender and a matriculation exam on the issue and a research project may be submitted in this subject; history studies (obligatory for all pupils) - when studying of the 19th century revolutions, the pupils learn of the feminist revolution and can submit a research project about history and gender; civics studies (obligatory for all pupils) - the pupils may submit a research project about civics and gender. Expanded literature studies - there is an option of one (1) study unit in the subject of gender in literature.

142. In addition, a variety of education programmes on gender and women empowerment are performed in schools, for example: "Equal talk" programme; "Chain" programme; "Light from the east" programme and "Aliyah, identity and gender" programme – for elaborated information see Annex I.

Gender Mainstreaming in the Education System

143. On December 16, 2015, the AAW held a one-day seminar for school counsellors with the purpose of implementing gender mainstreaming in the education system, the keynote lecture was on "Gender and Sexuality".

Dropout Rate in the Jewish and Arab Populations

144. In 2014-2015, the total dropout rate in the Jewish population (grades 7 to 12) was 2.1 per cent (compared to 2.8 per cent in 2013) and in the Arab population it stood at 3.5 per cent (compared to 4.7 per cent in 2013).

145. In the Jewish education system, the dropout rate of female minors in the 9th, 10th and 11th grades was 1.1 per cent, 1.2 per cent and 1.5 per cent respectively in 2014-2015, compared to 1.9 per cent, 1.7 per cent and 2.3 per cent in 2012-2013. In the 12th grade the dropout rate of female pupils was 0.5 per cent.

146. In the Arab education system, although the dropout rates of Arab female minors exceeded those of Jewish female minors, they were still relatively low – 2.3 per cent in the 10th grade, 2.2 per cent in the 11th grade and 0.7 per cent in the 12th grade (compared to 3.1 per cent, 2.7 per cent and 1.1 per cent respectively in 2012-2013). The dropout rate of Arab male minors is higher than of female pupils.

147. The MOE operates a special department of attendance officers who regularly visit schools in order to maintain school attendance and prevent pupils from dropping-out. This department works in accordance with the Section 4 of the Compulsory Education Law 5709-1949. As of April 2016, there are 623.7 standard positions of attendance officers and in practice there are 679 attendance officers (an increase of 36 per cent compared to 2010), of which 435 operate in Jewish localities, 75 operate in the ultra-Orthodox population, 138 in Arab localities, and 25 in Bedouin localities. In addition, there are six (6) attendance officers who are designated to pupils of Ethiopian decent. Action taken in recent years has significantly reduced, in almost every grade, the dropout rate among all the populations in Israel.

Eligibility for Matriculation Certificate in Arab, Jewish and Druze Population

148. According to data from 2015, the rate of pupils taking matriculation exams, out of 12th graders within Jewish girls is 89.11, and 95.52 among Arab girls. In addition, recent information shows that 50 per cent of the girls in Arab communities are eligible to enter universities, compared to only 32 per cent of the boys.

149. For more information see Table No. 15 in Annex II.

Encouraging pupils to study science and math– see Annex I

Measures Taken to Review Textbooks

150. The Ministry of Education's Director General Guideline No. 6 titled "Teaching Methods" (May 3, 2015), provides the obligation to ensure that "teaching material will include adequate and un-stereotyped representation of both genders, and of all populations in the Israeli society, suitable to the requirements of the relevant educational programme." All textbooks undergo gender-focused editing before being approved by the MOE and it is a pre-condition for approving textbooks. In addition, all study units are developed along with the Department for Gender Equality.

Foreign Workers' Children

151. According to MOE data, 100 per cent of children of foreign workers in Israel between the ages of 3 and 18 are integrated into kindergartens and schools.

Teenage pregnancies

152. According to information by the MOLSASS, in 2016, 279 teenage girls (under age 18) had an abortion or gave a child up for adoption. 181 young women (age 18-25) had an abortion or gave a child up for adoption.

Question 18 – Higher Education

Students

153. Statistics show that since the 1990s there is a rise in the number of women in academic studies, and currently, above 50 per cent of all bachelor to doctorate degree's students are women. A remarkable increase was indicated in the percentage of female doctorate students, which observed an increase from 41 per cent in 1990 to 53 per cent in 2015.

154. Nevertheless, challenges still remain. The gender representation in higher education institutions is characterized over time by a "scissors trend": while women constitute more than 50 per cent of bachelor, master and doctorate degree students, their representation rate drops in higher academic ladder, when at the top of the pyramid, at the rank of full professor, the representation of women totals about 15 per cent at universities and about 10 per cent in colleges. In addition, in areas of study there is still gender segregation.

155. See Diagram No. 5 and 6 in Annex II.

Legislation

156. In 2014, the Sexual Harassment Regulations (Employer Obligations) 5758-2014 were amended. This regulations provide that hierarchy relations and dependency that exist between an employer an employee, exist in higher education institutions; therefore, the same obligation that applies to an employer according to the Law, would apply to such institutions as well; the institution shall be perceived as the employer; the teacher or lecturer – as an employee or supervisor by the employer; and the student as an employee. That means, inter alia, that the academic institute will have to adapt its disciplinary law so it will provide that sexual harassment is a severe offence; publish the prevention of sexual harassment regulation; appoint a designated person charged with receiving complaints on sexual harassment and addressing them, and more.

Academic Staff

157. Though women are still under-represented in higher education staff, it is evident that between 2003 and 2015 there was an increase in the number of women in various ranks at universities, leading to an overall percentage of 30 per cent of women in the senior academic staff at universities and 42 per cent in colleges. (13 per cent and 17 per cent as full professor respectively).

158. See Table No.17 in Annex II.

The Committee for Promoting and representation of women in higher education (Arnon Committee)

159. In 2013 the Planning and Budgeting Committee (PBC) and the Council for higher Education (CHE), in conjunction with the National Council for the Promotion of Women in Science and Technology, appointed the Committee for the Promotion and Representation of Women in Institutions of Higher Education. The Committee examined the main issues and barriers regarding representation of women in the Academia. In July 2015 it published its recommendations focusing on three (3) prominent issues – encouraging women towards academic research, recruiting women into the academic staff and promoting women in the senior academic staff.

160. In July 2015, PBC and CHE approved several resolutions on the basis of these recommendations, including: gradually doubling the number of scholarships in the programme for excellent post-doctoral female students; funding allocation for the purpose of expending women in higher staff; updating the calls for proposals and statutes of the adjudicatory committees of excellence scholarships so they would assimilate gender reference in them – and indeed, in late 2016 they were updated accordingly; instructing the education institutions that with regard to "Alon" and "Maof" scholarship programmes for science and engineering, among the candidates taking the examination, at least one half (1/2) shall be women. In the event that the rate drops to below 50 per cent, the institution shall be obliged to provide a detailed explanation and specify its efforts on the matter.

161. In total, the budget allocated for the implementation of this Committee's recommendations is roughly six (6) Million NIS (1.666 Million USD) in 2017 and six (6) Million 2018 (including matching funding by the institutions).

Gender Equity Advisors

162. The PBC allocated a budget for advisors for gender equity programme in higher education institutions for 2017-2019 at a maximum annual cost of 1.1 Million NIS (305,500 USD), and to further allocate funding for an extensive activity to promote this issue for a period of three (3) years with up to 600,000 NIS (166,600 USD).

Scholarships for women

163. On June 19, 2013 the PBC launched the 2014 Scholarship Programme for excellent post-doctoral female students in order to assist excellent doctoral female students from research universities in Israel to attend post-doctoral courses in leading universities abroad. During 2014 and 2015, ten (10) scholarships were awarded each year at the sum of 20,000 USD a year for a maximum period of two (2) years. On July 1, 2015 the PBC decided to double the number of scholarships in this programme in a gradual manner. In the PBC "Perach" and "Assistance fund" scholarships the majority of scholars were women (74 per cent and 65 per cent) respectively.

164. In 2015-2016, at least 50 per cent of the applicants for the majority of scholarships were women, except in the Alon scholarships programme where the percentage of women who were considered stood between 25 per cent-35.

165. See Diagram No. 7, Annex II.

Ultra-Orthodox population

166. Within the ultra-Orthodox Society the representation of women among students is significantly greater than the representation of male students and constitutes about 80 per cent of the total number of students during the years 2015-2016. The PBC invests many efforts and resources in order to allow the ultra-Orthodox population to better integrate into higher education system and subsequently into the labour market. In addition to the 'Maharim' (see below) framework, the PBC established a programme for scholarships and loans for ultra-Orthodox students. During 2016 about 2,500 ultra-Orthodox students participated in this programme, 50 per cent of them were women.

Five (5)-Year Programme ("Maharim")

167. 2016-2017 was the concluding year for the "Five year programme" which was established by the CHE and PBC in 2012. This is a unique programme, aimed at integrating the ultra-Orthodox population in the academy.

168. For more information see Annex I.

The Arab Population

169. The Arab population in Israel constitutes approximately 20 per cent of Israel's population, and an estimated 26 per cent of the relevant age group. In recent years, the rate of Arab students among the total students studying for their first degree has been steadily increasing. According to figures from the CHE, in 2014-2015, the rate of Arab students studying for a bachelor's degree in universities stood at 14.6 per cent, compared to 9.9 per cent in 2006-2007. A further increase is also evident in master's and doctorate degrees. In 2014-2015, Arab students constituted 8.8 per cent of all students learning master's degrees (compared to 6.7 per cent in 2009-2010 and 5.9 per cent in the 2006-2007) and 5.7 per cent of the students studying for doctorate degrees (compared to 3.9 per cent in 2009-2010 and 3.5 per cent in 2006-2007). The rate of participation of Arab students has also increased considerably at academic colleges - from 5.5 per cent in 2009-2010 to 9.8 per cent in 2014-2015 with bachelor's degrees, and from 3.8 per cent in 2009-2010 to 8.1 per cent in 2014-2015 with master's degrees. These increases are attributed, among other things, to the opening of higher education institutions in peripheral areas which increased the accessibility of higher education to the Arab population.

170. Within the Arab population, there are more female students than male students, so that **women constitute more than 60 per cent of the Arab students**. The rate of the women who meet the university threshold is 51.2 per cent, compared to 32.6 per cent among men.

171. Accordingly, the majority of the Arab scholarship candidates since 2014 were women, 67 per cent in 2014-2015 - See Diagram No. 8, Annex II.

172. For more information see Tables No. 18-19, Annex II.

Question 19 - Employment

Women and Parents in the Labour Market

Recent Legislation

173. The following amendments indicate on an ongoing change towards a more suitable dynamic for the family unit, as a further way to promote gender equality in the labour market.

Birth and Parental Period

Extension of maternity leave

174. On March 21, 2017 the maternity leave period of which parental allowance is paid was extended from 14 to 15 weeks, according to the criterions under the Law (Amendment No. 57 of the Women's Employment Law 5714-1954 (hereinafter: Women's Employment Law).

175. In addition, the Amendment extends the flexibility in the entitlement of a father to parental leave; inter alia, the father may go on paid parental leave for a period of one (1) or more weeks (instead of a minimum of three (3) weeks). The purpose of this amendment is to encourage the exercise of this right by fathers, thus promoting greater fathers' involvement in raising their children. Furthermore, a father can take seven (7) days of parental leave simultaneously with his wife, and will be able to utilize them at any stage of the parental leave, according to the provisions under the Law.

Absence of spouse after birth

176. Amendment No. 54 of the Women's Employment Law (Section 7(C3)), provides that an employee may be absent from work up to five (5) days after the birth by his spouse. The first three (3) days of absence counts as an annual leave (and if he has utilized all his annual leave at the time of birth, he will be entitled to an unpaid leave). The two (2) remaining days

of absence are paid as sick leave, and they are regarded as the second and third sick days, meaning days in which 50 per cent of the salary is paid. Note that this is additional to the extension of maternity leave to fifteen weeks mentioned above.

Parental leave for a father whose wife is self-employed

177. Amendment No. 193 of the National Insurance Law 5755-1955 (hereinafter: "National Insurance Law") from April 20, 2016, provides that an employee whose wife is self-employed is entitled to parental leave in lieu of his wife; this Amendment compares the conditions of a spouse whose wife is an employee.

Renaming the maternity leave, representing a new perception

178. According to Amendment No. 55 of the Women's Employment Law (2016) the name of the maternity leave was amended to “birth and parental period”. The former name of maternity leave in Israel was (in literal translation) "birth vacation". The aim of this amendment is to change the social perception that this is not a vacation but a period requiring adjustment and personal preparation, and to strengthen the understanding that this right is also available to the father, aimed to encourage gender equality.

Hospitalized infant

179. Amendments 49, 50 and 55 (2016) to the Women’s Employment Law has broadened Section 6D(1) of the Law with respect to a female employee who has given birth and her child needs to stay in hospital or return to hospital for over two (2) weeks, and she will be entitled to extend the period of leave for up to 20 weeks, where necessary, even if the hospitalization period was not sequential.

Parental Hour

180. Amendment 56 of the Women's Employment Law of March 30, 2017 extends the number of women who are eligible to a shorter working day (an hour of absence). The law now grants this right during the first four (4) months after returning from a period of Birth and Parental Period not only to women who work full-time but also to women who work less than that, according to the criterions under the Law. Thus, the Amendment can benefit women who work less than a full time job (though many hours nonetheless), and want to pursue their parental commitments simultaneously. Amendment No. 55 to the same Law provides that the parenthood hour can be used alternately by the father and the mother, and applies on designated parent within surrogacy process or an adoptive parent. This Amendment enhances the use of parental rights by both mothers and fathers as well as encourages fathers to take an active part in child-raising. Note that in July 2015, the Civil Service Commissioner approved a shorter working day for a parent of a child up to one (1) year-old for men whose spouse is in maternity leave, in order to encourage fathers to actively participate in parenthood and equally share their family responsibilities.

Protection of pregnant women against dismissal

181. The Israeli law includes an extensive protection against the dismissal of pregnant women; the law defines relatively long periods of protection, and in most cases it will require a permit of the MOLSASS before a dismissal of a pregnant woman; other cases are not eligible for a permit request to begin with (see, for example paragraphs 415-416 in the State's previous report, CEDAW/C/ISR/4). Since the previous report, this protection has been expanded: the provisions on protection against dismissal apply now also on an adoptive parent, a designated parent (a male or female employee receiving a child into their custody) and in a foster family (Amendment No. 48 (July 11, 2011)).

Absence due to fertility treatment

182. Since 1990 the Women's Employment Law (Absence Due to Fertilization and Fertility Treatments) Regulations 5751-1990 allows for an absence of up to 12 days a year with a physician's certificate due to fertilization or fertility treatments. This regulation is in accordance to Section 7(c)(4) of the Women's Employment Law.

183. An employee enjoys protection against dismissal under the Women's Employment Law. An employer is prohibited from dismissing employees who were absent due to fertility treatments for the period of their absence and for a period of 150 days after the end of the days of absence without a permit from the MOLSASS.

184. Under Amendment No. 51 (February 24, 2014), the prohibition on dismissal of a female/male employee due to fertility treatments can apply up to two (2) births from each spouse, at the same employer, according to the provisions under the Law.

Stillbirth

185. Amendment No. 172 (2016) of the National Insurance Law, expanded the definition of stillbirth so that it will be deemed a birth which took place from the 22nd week of pregnancy. This means that a woman giving birth after the 22nd week of pregnancy to a dead fetus or the child dies after the birth, will be entitled to a hospitalization allowance, a birth allowance and maternity allowance according to the provisions of the Law.

Equal Salary

186. Amendment No. 3 (March 2014) to the Male and Female Workers (Equal Pay) Law 5756-1996 (hereinafter: the Male and Female Workers (Equal Pay) Law) provides that public bodies that are obligated by law to submit reports regarding employees' salaries shall include a gender account in such reports.

187. Amendment No. 5 of 2014, to the Male and Female Workers (Equal Pay) Law, enables the compensation for violating the Law without monetary loss, at a rate set by the Court's discretion. The Amendment enables to increase the amount of compensation and thus encourages filing claims due to salary gaps.

188. In November 2013, the Regulations for Encouraging the Incorporation and Promotion of Women in Employment and Adapting Employment Positions for Women 5774-2013 were legislated, detailing the selection process that determines which employer shall be given a financial grant or achievement award and the standards for examining the measure of the gender equality within the organization.

Recent Developments

Women in the Civil Service

189. Women constitute 62 per cent of the employers in the Civil Service. 40 per cent of the high-rank positions in the Civil Service are staffed by women. As previously reported, in order to accommodate the appropriate treatment in gender equality and gender issues in general, in the early 90's, it was decided to appoint a Gender Equality Supervisor in every Government Ministry. . In October 2014, following an in-depth examination, the supervisors' authority and duties were officially defined and the term of this duty as well as its benefits were approved. In addition, the official title of this position was changed to "Gender Equality Supervisor and Director Advisor for promotion of Women" (hereinafter: Supervisor). According to recent information from the Civil Service Commission (CSC), until 2015, 80 Supervisors were appointed in various Ministries.

The Department of Gender Equality at the Civil Service Commission (CSC)

190. The Gender Equality Department in the CSC which was established in 1995 ("the Department"), continues to coordinate and enhance this issue in the Civil Service, including participating in Knesset Committees, integrating gender perspectives in decisions adopted in the CSC, holding training sessions and promoting female leadership as well as conducting courses on prevention of sexual harassment for cadets, senior staff members etc. The Department for Gender Equality in the CSC publishes an annual report, "Leading for Change", which included all the activities taken to advance gender equality in the Civil Service.

The Stauber Report and implementation progress

191. In June 2014, the Government approved Resolution No. 1697, in which it resolved that within five (5) years women shall reach a representation level of 50 per cent in all the top management ranks in the Civil Service. Currently, the representation level stands at 44 per cent with regard to top management ranks.

192. This Resolution followed the report of The Committee for the Advancement of Women in the Civil Service ("The Stauber Committee"), which was appointed in 2014 by the Civil Service Commissioner and the Supervisor on Wage and Labour Agreements in the Ministry of Finance. The Committee issued a comprehensive report, which included a full data analysis and statistics of women employment in the Civil Service, presented the main obstacles and reasons for the current status of women in the Civil Service, ways to tackle them, and more.

Certificate of an Advanced Employer

193. Following the publication of the Report, the Government requested that the CSC take action to implement the recommendations of the Committee, including, inter alia, proposing legislative amendments and awarding a "Certificate of the Advanced Employer" to a Ministry that meets the targets for appropriate representation set by the Commissioner. In January 2017 all Ministries and support units completed the questionnaire for the Advanced Employer Certificate for 2016. A judicial committee convened to choose the winning Ministries in the different categories.

194. In addition, the Government ordered the Commissioner to report every six (6) months to the Ministerial Committee for the Advancement of the status of Women, until a complete implementation of the recommendations is achieved. Government Resolution No. 2043, (October 7, 2014), approved an additional funding of 2.75 Million NIS (690,000 USD), to further implement the above recommendations.

195. The 2017 Strategic Plan for Human Resources in the CSC and the Gender Equality Department of the CSC' annual plan, include various ways to promote women in the Civil Service, and meet the objectives which were defined in the Stauber Report. For example, one of the targets that was set at rate of 50 per cent women in each year of the Civil Service's talent management programme at the Civil Service's National College of Governance, Leadership and Management. Recently the first year of this programme began, and there are more than 50 per cent women.

The Gender Equality Index

196. In recent months, an assessment report of the CSC was issued on the "Gender Equality Index" addressing a variety of parameters on the issue of gender equality in every Ministry. The report was sent to all Government Ministries and support units. As part of the process of publishing this report, each Ministry received comprehensive information on the salary gaps in their Ministry.

Work from home pilot

197. The Department of Gender Equality in the CSC is part of an inter-ministerial team which determined rules for the implementation of the "work from home" pilot programme. This pilot programme began in 2016, and enables work from home in the afternoon hours for female and male employees who are parents, serve in an intermediate level position and above, and satisfying the criteria determined in Commissioner's Guideline 1/2016. The pilot programme currently includes over 1,000 employees.

The Commissioner Guideline on variable wage components

198. The Stauber Committee found that salary gaps between women and men in the Civil Service derives inter alia due to variable salary components. For example, gaps in standards for vehicle allowance, overtime hours, and on-call hours. In light of the foregoing, in 2014 the Commissioner issued a Guideline which includes criterions for setting salary components, under the assumption that higher transparency would narrow the possibility for discrimination in salaries of the same position. In addition, the Guideline also requires to report on varied salary components to the CSC, which would not only improve transparency but would also benefit the CSC in monitoring and narrow gender salary gaps due to these components.

The Commissioner Guideline on Short working Day in August

199. In 2016, the Commissioner published a guideline according to which in August, a time in which the majority of children are on summer vacation from the education system, every employee is entitled to work one (1) hour less than usual, or to take a day off.

Parents' Rights in the Civil Service Brochure

200. The Department of Gender Equality in the CSC issued and distributed a brochure on parental and family rights in the Civil Service, consisting of all rights on this matter, including in cases of complications of pregnancy, surrogacy, adoption, etc.

Strategic Plan

201. Guidelines for strategic planning of the CSC include, inter alia, guidelines for Government Ministries on equal parenting, including the holding of conferences, lectures and workshops on this matter. Furthermore, courses were commenced on balancing home and work and creating a workplace which supports the family. For example, on March 29, 2017, the Gender Equality Department of the CSC held a conference titled "Equal Parenting – Family and Career – Possible?". The conference hosted all the Director Generals in the Government Ministries and the HR Managers.

Gender Commissions

202. Under the Commissioner's Guideline 1/2016 (which established the work-from-home-pilot), Gender Commissions are being established in every Government Ministry. They are instructed to examine the barriers regarding equal parenthood and create ways to tackle them.

Cooperation with NGOs

203. The Department of Gender Equality routinely collaborates with various NGOs and members of the Academia on the issue of the advancement of the status of women. Recently, the CSC published an open-call for women organizations and developed an extensive circulation list to which all senior positions in the Civil Service open for recruitment, are sent for the purpose of active recruitment and encouragement of women to submit their candidacy. This is to create awareness and to operate for the advancement of women and to increase the representation of women at the senior echelons of the Civil Service.

Enhancing the Recruitment of Women in Civil Service Tenders

204. In 2017, several ventures were initiated in this area, such as: five (5) Courses for preparing women for tenders, limiting high ranks positions tenure so to allow more women to occupy positions in the Civil Service, a conference is to be held by the Department of Gender Equality in cooperation with the Senior Department for Examinations in the Civil Service, on the issue of gender and cultural biases in human resource tenders in the Civil Service. In recent months the Department has been creating a training pack for coordinators of the examinations committees on this matter, in order to incorporate effective and practicable tools. The Department of Gender Equality is an active participant in various teams of the CSC on this issue, for example, the "Tree of Knowledge" team on active recruitment of women, The Determination of Threshold Conditions for Management in order to verify the removal of barriers to the advancement of women in high ranked positions. In addition, the Department of Gender Equality in the CSC was included in June 2016 as one of the authorizing entities for job descriptions for positions filled via the headhunting committees of the Civil Service.

Pioneering Government Ministries

The Ministry for the Development of the Negev and Galilee - Women Leadership in the Negev

205. In 2014-15 the Ministry for the Development of the Negev and Galilee began implementing a programme titled "Women's leadership in the public sector" designed for branch managers and women employed in local authorities and public institutions in the Negev, with the aim of developing and strengthening women's leadership in the development of the Negev. The Ministry also leads a project to encourage entrepreneurship in the field of tourism by Bedouin women in the Negev. Another project ("promoting excellence"), in which 85 per cent of participants are Bedouin women, aims to assist the participants to complete academic studies and find employment.

The Ministry of Justice – Promoting women leadership in the Civil service

206. In recent years, the MOJ is investing many efforts to create a diverse and equal working environment. This is the second year that the MOJ, as a leading headquarter Ministry, has decided to commence a comprehensive report regarding the level of diverse employment in the MOJ, including in gender aspects. According to the 2016 report, the majority of employees in the MOJ are women, 68 per cent, which is higher than the average amount of women in the Civil Service. Within the high ranks positions women constitute the majority - 66 per cent. Within the Arab employees, women constitute 50 per cent. Moreover, the gender wage gaps in the Ministry are lower than in the rest of the labour market, standing at 12 per cent. In higher ranks the gaps decrease and stand at 2 per cent. This is an improvement compared to the 4 per cent salary gap in 2015.

The Ministries of Transportation and Road Safety, National Infrastructure, Energy and Water Resources and Health – Changing Work-Parenthood Dynamic

207. Recently, the directors of the three above mentioned Ministries, notified their employees that on Tuesdays and Thursdays, meetings will not be convened after 15:00 in order to allow parents and grandparents a family afternoon. This is as part of an agenda to promote family-work balance.

The Ministry of Economy and Industry (MOEI) – Adjusting the annual vacation to school vacation

208. For the last two (2) years, the MOEI has been leading a pilot according to which in the last 10 (10) days of August (days in which in the education system is in its summer vacation), the Ministry is closed.

Ministry of Foreign Affairs – work from home Pilot

209. A two-year pilot programme was initiated in March 2016 permits employees to work from home up to two (2) hours a day on days that they have worked at their office.

Salary Gaps

210. See Annex I.

Business Diversity Index

211. See Annex I.

Women in Hi-Tec Companies

212. See Annex I.

The Equal Employment Opportunities Commission (EOC) at the MOEI

213. See Annex I.

Measures Taken to Combat Sexual Harassment in the Workplace

214. See Annex I.

Recent Case Law

215. See Annex III.

Question 20 – Migrant Domestic Workers

General

216. The total number of foreign workers in skilled employment who arrived in Israel in the course of 2016 was 15,737. This includes 6,420 workers who arrived within the framework of bilateral agreements: Construction: 2,236; Agriculture: 4,125; Caregiving: 59.

Mechanisms to ensure the safe work environment of foreign workers

217. Foreign workers in Israel are not "bound" to a particular employer after their arrival in Israel. They may freely change employers without the need for any special permission, subject to fulfilment of the general registration requirements. The right for liberty of the worker is specified in the Entry into Israel Regulations (Determination of Geographical Areas for the Employment of Foreign Caregivers) 5774-2014 and the Entry into Israel Regulations (Supervisory Measures Concerning the Movement of Foreign Workers in the Caregiving Field) 5774-2014. The freedom to change employers, contributes towards limiting abuse or exploitation of the workers, and is widely used by foreign workers in Israel.

218. Furthermore, a foreign worker in Israel is entitled to the same work conditions as an Israeli worker. In addition employers must provide foreign workers with a written employment agreement, health insurance, and suitable lodging. These conditions are enforced by the MOEI and PIBA.

219. Note that in H.C.J. (Second Appeal) Glutten v. The National Labour court (18.3.2013) the Court interpreted an exception clause in the law in a way that the Hours of Work and Rest Law 5711-1951 does not apply on certain employees as well as to foreign workers in the caregiving field. However, it is important to emphasize that this is exceptional, while all other legal protections of Israeli labour law apply on foreign workers, including the Minimum Wage Law 5747-1987. Moreover, the possibility to change employers allows for the foreign

workers to earn more than the minimum wage. Furthermore, on July 7, 2016, the National Labour Court rendered its decision on the Zeltman Case. According to this decision, foreign workers in the caregiving field are entitled to one (1) rest day in a week, 25 hours long.

220. More protection measures are, for example, a rights leaflet (translated to the relevant language), given to the foreign worker at the consulate in the country of origin, as well as by the private agency through which she/he is employed before arriving to Israel.

221. Complaints regarding employment and residence conditions of foreign workers are brought before the Police or the relevant enforcement authority; every complaint that raises suspicion for the occurrence of an offence is referred to the relevant regional or local investigating units, legal aid is provided without charge in the appropriate cases, and the State Attorney's office, together with the prosecutors, who are the referent for trafficking in the District Attorney's Offices, accompany and consult the Police from the first stages of investigation, coordinated by NATU.

Foreign workers in the nursing care field

222. Since 2011, the employment in the caregiving field regulates their employment through private agencies, who act as the sole representative in all issues concerning processing, brokering and arrival of foreign workers in this field. This employment system is designed, inter alia, to ensure proper conditions for foreign workers, including the payment of wages and fair work terms. This system is also intended to better enforce the law on those who charge foreign workers illegal fees in exchange for their arrival to Israel, and to prevent the previously existing phenomena of binding workers to particular employers. Where foreign workers' rights violations are committed by the private agencies themselves, a process of inquiry is initiated with respect to these violations, and, if required, sanctions are imposed.

223. For more information see Annex I.

Health Care for Foreign Workers

224. The Foreign Workers Order (Employee Health Benefits Package) 5761-2001, which regulates the health services legal foreign workers are entitled to, was amended in 2016. This amendment stipulates that a foreign worker in the nursing care field, will receive a compensation in the amount of 80,000 NIS (20,800 USD), if ten (10) years have passed since she/he has received its permanent working permit in Israel, she/he was found incompetent to fulfil her/his work due to a medical condition and the foreign worker had made the necessary arrangements to fly back to her/his country of origin. The compensation is given due to the fact that once the foreign worker leaves Israel, her/his medical insurance no longer applies and she/he still has medical expenses due. This amendment has been published in the official records in May 2016 and shall enter into force in November 2017.

225. For more information see Annex I.

Foreign workers in cases of childbirth

226. In April 2011 the Supreme Court rendered a decision on "The Procedure for Foreign Pregnant Workers"; this procedure required foreign workers who were at least six (6) months pregnant while living in Israel, to leave the country within three (3) months after giving birth, with the possibility to extend their stay by another three (3) months in humanitarian cases only. The High Court of Justice stated that the Procedure was unconstitutional, on the grounds that it violates women's rights under the Basic Law: Human Dignity and Liberty. The Court cited International human rights Conventions, in support of its ruling. (H.C.J. 11437/05 Kav La'Oved v. The Ministry of Interior et. al. 2009(3), 1688 (13/4/2011)

227. On December 12, 2011, the Supreme Court rejected the State's request for an additional hearing to review the aforesaid ruling. The Court stated that the HCJ ruling is well founded on the internal and international law and thus, although the HCJ ruling holds

significance regarding the formation and implementation of local and foreign workers' rights, it does not constitute a new rule that requires further hearing on the matter. The Court further noted that the constitutional rights for parenthood and non-discrimination on the ground of childbirth are based in the Basic Law: Human Dignity and Liberty and in the labour laws. Moreover, the Court's conclusion that these rights apply equally on foreign workers is not to be reviewed by an additional instance, as the jurisdiction to form a new arrangement, balancing the interests and rights of both parties, is given to the authority responsible for the matter (Ad.h. 3860/11 The Ministry of Interior v. Kav La'oved et. al. (8.12.2011)).

228. The decision of the Court quoted a CEDAW concluding observation that recommended that Israel should "revoke its policies with regard to cancellation of work permits for migrant workers in cases of child birth, marriage and intimate relationships." In addition, the HCJ relies in its decision on the Committee's General Recommendations 21 and 26.

229. Subsequently, in 2013, the PIBA published a procedure concerning foreign workers who are pregnant or who have given birth whilst staying in Israel (Procedure 5.3.0023). Pursuant to this procedure, a foreign worker who came into Israel for work purposes and is legally employed, and who gave birth during the time of her stay in Israel, shall be entitled to remain in Israel in accordance with the provisions of the procedure. In addition, a female worker who had a child during her first 63 months of employment while in Israel, may choose either to leave Israel with the child and then to return and continue working in Israel, or to prolong her stay in Israel, with the child, up to 63 months from having first received a B1 visiting visa.

230. With regard to intimate relations, a foreign worker is of course allowed to marry an Israeli citizen; the citizenship procedure is in accordance with PIBA Procedure 5.2.0008 and 5.2.0009 and during the procedure the foreign worker will receive a temporary staying permit (B1 visa).

Question 21 – Health

Reducing Health-care Inequality

231. In recent years, the Ministry of Health (hereinafter: MOH) has been enhancing the efforts to minimize health-care gaps and addresses inequality in health.

232. As of 2013, a **designated unit** for reducing health disparities was established within the Ministry's headquarters. This unit promotes policies, standards, supervision, training and awareness-raising activities on this important issue, including by hosting conferences for various professionals, the publication of an annual report that monitors such gaps, and explores activities needed for its eradication.

233. Reducing health disparities was defined as a top-priority aim in the unit's strategic plan, and between the years 2011-2015, over 6 Billion NIS (16,216,216 USD) were dedicated to this issue.

234. In the course of 2016, the MOH held a **broad public consultation** procedure with the purpose of co-planning with the public the formulation of the Ministry's plan for decreasing health inequality for 2017-2020. This project included an online call to the public and holding "round tables", two (2) of which were designated for women – the first was held with women who are residents of the unauthorized villages in the Negev and the second was held with Arab women from Acre.

235. In addition, the MOH began to develop an **intervention programme** which is designated to eliminate all forms of discrimination; The Intervention Programme includes consultation with relevant NGOs who were also involved in the work of inter-ministerial team in charge of forming an action plan to deal with racism against persons of Ethiopian decent

and aims to study and implement ways to deal with racism and discrimination and to eliminate this phenomenon from the health system.

236. In 2013 the MOH established a translation **call centre** manned by representatives who were trained to operate as medical translators. This call centre provides translation services 24-hours a day for medical treatment provided by physicians to their patients, in Russian, Arabic, Amharic and French. On average, 1,500 calls are handled by this call centre per month. The MOH also provides financial support for activities made by health funds aimed at reducing gaps.

237. Between 2012 and 2014, a total of 55 Million NIS (14.5 Million USD) were allocated by various health funds for such steps, mainly on Israel's peripheral areas and aimed at reducing gaps among minority populations. The criteria for such support in 2015-2016 were amended in order to put special emphasis on steps conducted in Arabic in regards to social periphery and prevention of diabetes and obesity.

238. Further examples of steps taken by the MOH in recent years to reduce inequalities in health care include: improving infrastructures in peripheral areas, including an additional 1,000 hospital beds and manpower to peripheral hospitals; establishment of a medical school in the Northern Galilee and new emergency rooms in peripheral localities, both in the north and the south of Israel; allocation of additional medical equipment to peripheral areas, including new MRIs, linear accelerators, and PET scan devices; developing financial incentives, including grants and state-sponsored salary raises for specialized doctors to move to peripheral areas; reduction of the maximum co-payments of chronic elderly patients who receive income supplements; discounts on co-payments for the purchase of generic medications, etc.

Health care for Women in the Arab and Bedouin Population

239. The MOH operates many programmes within different communities, both for minorities and for disadvantage populations. For example, based on the value of reducing differences, the District Health-care Bureau in Haifa decided to lead and participate in health promotion programmes (those financed by the public health-care services and others) which focus on certain populations - Arabs, specifically women, persons with disabilities and seniors citizens.

240. Programmes designated for Arab women include also:

Women Leadership in Health Programme within Arab Communities

241. Studies show high obesity rates among Arab women; this project aims to promote healthier lifestyle. Two (2) programmes are currently running in Um Al-Fahem and Mayser. The programme includes series of workshops for a group of women who want to be leaders in their community on health and nutrition. The trainings for the women include 100 hours sessions. These groups of women, separately within every town, underwent a process of empowerment which included increasing their self-efficacy, providing information and skills to lead community health programmes. The end goal of the leading women is to hold house meetings for women concerning healthy lifestyle. So far, the programme has succeeded in recruiting and building a regular core of volunteer leaders group for the health field, which includes 20 women from the community. The leaders led 11 house meetings, each had 3-4 sessions, and included 15-20 women. Over 60 per cent of the women who participated in the house meetings made at least one change in the health habits for themselves or/also their family. In Myser, all 15 women from the group reported on at least one change in their nutrition habits. The leaders created information leaflets adjusted to the local culture; a volume of training content was created, used as basis for the leaders for training in the house meetings. This programme was funded by the MOH and supported by the local authority. The programme was able to recruit and build a regular core of volunteer leaders group which includes 15 women. In Myser, the group of leaders decided to initiate negotiating with the

local council in town to create a jogging path in the locality and take an active part in the local health events.

Gaps between the Jewish and Arab Population

242. Life expectancy - A further increase may be observed in regards to life expectancy both in the Jewish and Arab populations. In 2015, the life expectancy of Jewish men and women stood at 81.1 and 84.5 respectively, while the life expectancy of Arab men and women stood at 76.9 and 81.2 respectively (compared to 78.6 and 74.9 respectively in 2005). The gaps continue to decrease.

243. Diabetes – the rates of diabetes among Jewish and Arab men are similar, however among women a slightly higher rate was found among Arab women compared to Jewish women (9.8 and 7.4 respectively).

244. Cancer – the rate of cancer cases among the Jewish population is higher than that of the Arab population in Israel, except with regard to lung cancer.

Health Services within minority groups and disadvantaged populations

245. **Health care to victims of trafficking**: The shelters for victims of trafficking continue to provide medical care, psycho-social care and rehabilitation services. In addition the MOH also funds an annual budget of approximately 3 Million NIS (810.810 USD) for health-care services that are given to victims of trafficking in hospitals (visits to ICU, external clinics and hospitalization, pregnancy monitoring etc.). For further details on services for victims of trafficking, see Question 13.

Regulation and Policies

- MOH Deputy Director General Circular for supervision over HMOs and additional health-care services 3/13 titled "preventing exclusion of women": This guideline strictly prohibits HMOs to provide services separately for men and women, gradual cancellation of existing segregation within a period that would not exceed two (2) years, prohibits separate reception hours for women and men in the same clinic or any other feature or sign of segregation between men and women.
- Medicine Administration Circular 22/2016 titled "National screening plan for breast cancer detection - update": The national screening programme for breast cancer detection has been conducted in Israel for many years, with the initiative of the Israel Cancer Association and the national centre for cancer control of Clalit HMO, with the support of the MOH. This guideline obliges all HMOs and Breast imaging clinics to report annually to the MOH on the implementation of a biannual Mammogram screening for women aged 50-74, and an annual Mammogram for women aged 40+ with a family history or with a higher risk for breast cancer for other reasons.
- MOH Deputy Director General Circular for supervision over HMOs and additional health-care services 07/2014 titled "treatment of myomas with MRI-guided focused ultrasound": This guideline broadens the National Health Insurance Law, so that invasive and non-invasive alternative treatments may also be considered for the patient, including MRI-guided focused ultrasound (FUS) therapy. Accordingly, significant weight should be given to the recommendation of the treating physician and to the woman's preference to refrain from hysterectomy, considering the availability of a less-radical medical alternative.
- The National Health Insurance Regulations (HMO Registration, Rights and Obligations of Stay Permit Holders by the Citizenship and Entry to Israel Law (Temporary Order) 5763-2003) entered into force on August 1, 2016. According

to the regulations, stay permit holder under conditions listed in the Temporary Order Law, or for special humanitarian reasons are entitled to and must register with an HMO and will receive health services to a similar extent as a resident. Note that permit holders include Palestinians who received a permit for family unification or for special humanitarian reasons. Since the Law has entered into force, approximately 2,716 permit holders joined an HMO health insurance plan.

Infant mortality and maternal mortality

246. See Annex I.

Cancer prevalence and prevention Efforts

247. See Annex I.

Question 22 – Rural Women

248. In general, Israel is highly urbanized, as roughly 92 per cent of all Israelis live in urban communities, and only 8 per cent in rural ones.

249. According to the data collected from the research of the Central Bureau of Statistics, between 2003 and 2014 a slight improvement was evident in the condition of women living in rural villages. The improvement is mainly evident in the rate of working households that increased by approximately 10 per cent and in the increase of the number of wage-earners in the family. As a result of that, there was a decrease in the poverty rate of adult women in these households by approximately 4 per cent, and there was an increase of approximately 60 per cent-70 per cent in the rate of family income and in the rate of income per capita. However, the disposable income per capita remained at a low rate compared to women in non-rural areas.

250. For more information, see Table No.26, Annex II.

Government Resolutions Regarding the Bedouin Community in the Negev

251. On February 12, 2017 the GOI approved Resolution No. 2397 titled "Government plan for the empowerment and socio-economic strengthening of the Bedouin localities in the Negev for the years 2017-2021." This is a comprehensive five (5)-year plan which regards different aspect for development within the Bedouin localities, education, infrastructures, employment, medical services and empowering local municipalities. The Resolution aims to include as much possible the representatives of local population in the implementation procedure of the programme. The Government has allocated 3 Billion NIS (11.1 Million USD) to this plan.

Access to Justice and Equality before the Law

252. See Question 6.

Housing in the Bedouin population

253. There are more than 240,000 Bedouins living in the Negev desert area. About 76 per cent of them live in urban and suburban centres which have been legally planned and constructed (25 per cent live in the city of Rahat, an additional 40 per cent live in six (6) local authorities (Hura, Kuseife, Tel-Sheva, Ar'ara, Lakiya and Segev shalom) and an additional 11 per cent reside in 11 authorized localities within the Al-Kasum and Neve Midbar Regional Councils. The remaining 24 per cent of the Bedouin population reside in hundreds of unauthorized and unregulated clusters, mainly within the Al-Kasum and Neve Midbar Regional Councils which are spread over an area of almost 500,000 dunams. This obstructs

urban expansion in the greater Negev area and is not beneficial to the common good of the Bedouin population.

254. Today there are 18 Bedouin localities with approved outline plans, including the city of Rahat, Lakiya, Hura, Kuseife, Tel-Sheva, Segev Shalom and Ar'ara. All of these plans include infrastructure such as schools, health clinics, running water, electricity, roads, pavements, etc. An additional 11 localities that are under the jurisdiction of the Neve Midbar and A-Kasum Regional Councils also have approved outline plans.

Employment

255. In the past few years, significant steps were taken to promote and integrate the Bedouin population into the labour market pursuant to Government Resolution No. 3708 (see above), in which 338 Million NIS (92 Million USD) has been allocated to the MOEI.

256. In 2014, the Bedouin population employment rate was 65 per cent among men and 26 per cent among women, and the unemployment rate was 13 per cent among men and 6 per cent among women.

257. For information regarding employment programmes and special programmes, for example, Ryan employment centres, women entrepreneurship, professional training, day-care centres, industrial parks, integration in to high-tech industries, and more, see Annex I.

Centres for Teenage Bedouin Girls

258. The MOLSASS operates "Safe Space" for teenage Bedouin girls in distress. The object of these spaces is to prevent school drop-out, strengthening self-image, and empowerment.

Access to Health

259. For information on some of the main projects, including health clinics and medical services, data on immunization coverage, nurses serving the Bedouin population, Mother and Child Health-care Stations, school nurse and recent developments, see Annex I**.**

Question 23 – Disadvantaged Groups of Women

Female prisoners

260. Neve Tirtza is the only women's prison in Israel. Thus, the prisoner population in the complex is varied and includes detainees on remand, detainees on remand until further decision, or until the end of the proceedings, as well as minor and adult prisoners. Furthermore, the facility is equipped to include pregnant women and young mothers with their children (up to two (2) years of age). In November 2016, an official review visit by the PDO took place at Neve Tirtza. The review was significantly positive. For prominent findings see Annex I.

Palestinian women prisoners held in IPS facilities

261. As of December 1, 2016, in Neve Tirtza there were 19 prisoners who are residents of the West Bank and 18 detainees - A total of 37 women. None of these prisoners/detainees is pregnant. Palestinian prisoners in the IPS receive the same full health-care services as Israeli prisoners, including expert physician services, hospitalization and mental health services.

262. The prisoners receive regular family visits, for 45 minutes. Visitors who are Israeli citizens independently arrive to the IPS facility and visitors who are residents of the West Bank or the Gaza Strip visit through busses organized by the ICRC.

Housing for disadvantaged women

263. The Ministry of Construction and Housing has diverse assistance programmes that provide assistance in housing for disadvantaged population groups; no changes occurred in this field since the last report.

264. Currently, the total number of women who are granted a public housing apartment is 25,885 women, out of which 14,300 women who are independent/single mothers and 11,585 single women (without children or with children over the age of 21).

265. In addition, young women at risk, aged 18 to 25, who are considered to have no family support, are also provided assistance by the Ministry in rent fees in the sum of 1,000 NIS (270 USD) per month for 24 months. During 2016, 145 young women have received this type of assistance.

266. The apartment purchase procedure of August 2006, sets forth an assistance track within which the Ministry purchases an apartment for eligible persons with disabilities who are assisted by a wheelchair, selected by the eligible person, where the purchased apartment is rented out to the eligible person at public rental terms. In addition, the apartment may be adapted according to person's disability. Similar assistance is also provided in rental apartments.

267. On February 28, 2017 the Ministerial Committee on Gender Equality held a meeting addressing the topic of labour laws enforcement regarding women from disadvantage populations.

Income support for women in shelters for victims of domestic violence

268. Amendment No. 49 of the Income Support Law 5741-1980 (entry into force: June 1, 2017), provides a change in the prerequisite of receiving income support for women who reside in a shelter for victims of domestic violence. The Amendment annuls the condition that was previously required by the law, and grants income support to every woman who is eligible to it according to the law, even if she was not eligible in the month prior to their joining to the shelter. The amendment improves the conditions of women entering the shelters, whose financial situation significantly changes subsequently.

269. On November 5, 2012, the Knesset enacted the Welfare Service Law (Adaptation Grant for Women who stayed at a Shelter for Battered Women) 5773-2012 (hereinafter: the "Welfare Service Law (Adaptation Grant for Women who stayed at a Shelter for Battered Women)"). According the Law, a woman who stayed at a shelter for victims of domestic violence at least 60 days, will be entitled to an adaptation grant, provided according to a rehabilitation programme within 60 days upon her departure. This is conditional on not returning to her former permanent place of residence. The grant will be in the sum of 8,000 NIS (2,162 USD) for each woman, and for women with children, an additional 1,000 NIS (270 USD) for each child.

270. On December 2, 2013 the Knesset amended the Welfare Service Law (Adaptation Grant for Women who stayed at a Shelter for Battered Women) to ensure that the grant shall be paid no later than 60 days after the application for such a grant is submitted.

271. Programmes for disadvantaged populations by the MOLSASS - see Annex I.

Question 24 - Marriage and Family relations

General

272. Notwithstanding the status quo, recent years indicate a change in the Family Matters Courts tendency to adjudicate tort claims against spouses that refuse to grant or receive a Jewish writ of divorce ("Gett"), and the value of the compensations against the

reluctant spouse are becoming higher. In the past, the Family Matters Courts allowed submission of such damages claim only when the Rabbinical Court ordered to issue a divorce, thereby limiting the relief only to these cases, at a later stage, with the development of the trend to recognize this claim cause, the Family Matters Court rulings acknowledged damages also in cases where the Rabbinical Court did not mandate a divorce. However, note that this trend is often not welcomed by the Rabbinical Court, and a rabbinical ruling determines that a divorce that is granted due to tort claim is disqualified in accordance with the Jewish law (Halacha).

273. For precedential rulings on this subject see Annex III.

Measures to prevent the phenomena of women whose husband is reluctant to give a divorce ("Agunot")

Legislation

274. In March 2012, the Rabbinical Courts Law (Implementation of Divorce Judgments) 5755-1955 was emended, and the Amendment requires the Rabbinical Courts to monitor progress in the enforcement of divorce judgments, whether by setting a deadline for the arrangement of a divorce or by examining the effectiveness of restrictions that were imposed according to the law and considering the need to increase them if necessary. The Amendment also established the duty to report to the Knesset's Constitution, Law and Justice Committee regarding the implementation of judgments. Thus, in addition to the continuous monitoring of progress in judicial proceedings by the Rabbinical Courts system, the imposition of this statutory duty makes the Knesset an active monitor, able to evaluate the effectiveness of judicial intervention to protect the liberty of women.

275. In 2017, this Law was further amended, and the possibility to impose different sanctions on prisoners who are spouses that refuse to give a divorce was added; for example preventing the option to participate in religious class, limitations on visitors, limitations on kosher food of a more stringent standard (Mehadrin), and more (Amendment No. 8).

State Attorney Guideline – "Prosecution Policy in Cases of Failing to Comply a Judicial Order for Granting a Gett"

276. On 10 November 2016, the State Attorney's Office issued State Attorney's Guideline No. 2.24 which regulates the prosecution and punishment policy in respect of failure to comply with a judicial order of the Rabbinical Court regarding granting or receiving a divorce. This is a meaningful step in the efforts to reduce the number of women who are "Agunot" (women whose husbands refuse to grant them a divorce).

277. For more information see Annex I.

The Rabbinical Court Administration

278. The Rabbinical Courts conduct trainings to the rabbinical judges on the issue of Compelling Gett Order and the available sanctions that can be applied by them according to the Rabbinical Court Law (Execution of a Divorce Verdict) 5755-1955, concerning spouses that refuses to give divorce, which can even be imprisonment.

279. In 2015, the movie "Gett", which protest the difficulties of women whose husband is refusing to grant a divorce, through a dramatic plot, was screened in the national convention of the rabbinical judges.

280. Furthermore, the Rabbinical Court Administration has a designated department that is tasked with handling the complex issue of refusal for granting divorce. The staff in this Department includes qualified personnel that have been specially trained in this area. The Department employs a variety of tools to reach the reluctant husband and persuade or force him to comply with the divorce judgment. Thus, for example, the Department uses various

technological means to locate the husband, to gain information about his businesses, etc. The Department maintains regular contact with other government agencies, inter alia, for the purpose of obtaining court orders against husbands reluctant to give their wives a 'Gett', such as stay-of-exit orders.

Retroactive invalidation of divorce on Jewish women

281. In general, the Rabbinical Courts Administration is not aware of cases of retroactive annulment of divorce. Moreover, as is well known, the Rabbinical Courts rule in matters of personal status according to the Jewish Law (Halacha); In terms of Jewish Law, the retroactive annulment of a divorce is a radical procedure that is rarely implemented and only in extremely exceptional cases. According to the Jewish Law, the meaning of retroactive annulment of divorce is the invalidation of the woman's marriage to a man who is not her former husband and the continued validity of her previous marriage. As an outcome, the lineage of the offspring of the second marriage would be forever tainted. It is thus obvious that the Rabbinical Courts, which operate in accordance with Jewish Law, almost invariably avoid using this measure. Currently, there is only one (1) case in which the validity of a divorce is being considered, due to the exceptional and groundbreaking nature of the ruling by the Regional Rabbinical Court that approved the divorce. Even in this case, there has thus far been no retroactive annulment of the divorce but only preliminary proceedings before the High Court of Justice. Consequently, in this single case as well, the divorce remains in effect.

282. In a recent case law **(H.C.J 9261/16),** the Supreme Court approved a regional rabbinical court (in Safed) ruling which approved a divorce for a woman whose husband is in a vegetative state, and reversed a Great Rabbinical Court ruling who allowed a third party to appeal this decision. Here, the Supreme Court emphasized that an effort to try and make the woman Aguna again (after the Rabbinical Court granted her with a divorce) violates her basic right for human dignity, as enshrined in the Basic Law: Human Dignity and Liberty, and takes her liberty. Such a violation, the Court concluded, is unconstitutional.

283. For further details, see Anonymous and "Dead End" (Mavoy Satum NGO) v. The Great Rabbinical Court et. al., Annex III.

Civil marriage abroad

284. No material changes were made since 2011. Note that in 2012, the precedential ruling was rendered by the Family Matters Court, that annulled the marriage of two Jews, a for same-sex couple, as the Rabbinical Court refrained from its annulment due to its refusal to acknowledge it. See 11264-09-12 Anonymous et. al. v. The Ministry of Interior (21.11.2012), Annex III.

Parental custody in divorce

285. In recent years, the recommendations of two (2) public committees were submitted to the Ministers of Justice - one regarding parental responsibility in divorce and the other regarding child support. Though the recommendations have not yet evolve to a law, in recent years there is a growing number of judicial decisions that determine joint custody for both parents, or parental arrangements with equal or shared custody at both parents.

Recent legislation to expedite the settlement of family disputes

The Family Dispute Settlement Law

286. In 2014, the Family Dispute Settlement (Temporary Order) 5775-2014 was enacted. This law determines that spouses who wish to separate are referred at the first step to a dispute resolution in one of the Family Assistance Units (FAU) of the relevant Court. The parties will not be able to turn to judicial instances before they have done so. After submitting the application, the FAU will hold up to four (4) initial meetings with the parties which will allow

them to examine the possibility to turn to an alternative dispute resolution, other than litigation in court. The Law aims to reduce the complex implications of divorce litigation in court, to all family members. It also helps prevent discrimination against women in a judicial proceeding, in cases when women are in a weaker position (economically, personally) than men and need to cope with the intense conflict and feelings accompanying the separation process. This law required preparation and training of professionals and entered into effect in July 2016. The Law was enacted as a temporary order valid for three (3) years in order to inspect its advantages to resolve family disputes over their judicial resolution.

Division of Pension Savings between Separated Spouses

287. In August 2014, the Pension Savings Distribution between Separate Couples Law 5774-2014 was legislated. The Law determines arrangements regarding the distribution of pension savings between the saver and her or his former partner and inter alia enables the distribution of the pension savings among the ex-partners through a paying body (such as pension funds, employers that use seniority pension etc.) instead of direct distribution between the parties. Though this law does not deal with separated couple's children directly, the law intends to prevent further encounter between the ex-partners after the divorce, thus reduces some of the difficulties and relieve to some extent their children during the process of divorce disputes.

288. For information regarding polygamy, see Question 9.

Question 25 – Additional Information

289. There is no additional information.

United Nations CEDAW/C/ISR/CO/6

Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the sixth periodic report of Israel*

1. The Committee considered the sixth periodic report of Israel (CEDAW/C/ISR/6), submitted pursuant to the simplified reporting procedure, at its 1542nd and 1543rd meetings (see CEDAW/C/SR.1542 and CEDAW/C/SR.1543), held on 31 October 2017.

A. Introduction

2. The Committee appreciates the submission by the State party of its sixth periodic report, which was prepared in response to the list of issues and questions prior to reporting (CEDAW/C/ISR/QPR/6), and its follow-up report (CEDAW/C/ISR/CO/5/Add.1). The Committee welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its delegation, which was headed by the Ambassador and Permanent Representative of Israel to the United Nations Office at Geneva, Aviva Raz Shechter, and included representatives of the Ministry of Justice, the Ministry of Labour, Social Affairs and Social Services, the Ministry of Health, the Ministry of Education, the Israel Defence Forces, the police, the Israel Prison Service and the Permanent Mission of Israel to the United Nations Office and other international organizations in Geneva.

B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2011 of the State party's fifth periodic report (CEDAW/C/ISR/5) in undertaking legislative reforms, in particular the adoption of the following:

(a) Amendment No. 6 to the Marriage Age Law, raising the minimum age of marriage from 17 to 18 years, in 2013;

* Adopted by the Committee at its sixty-eighth session (23 October–17 November 2017).

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(b) Amendment No. 57 to the Employment of Women Law, extending the period of maternity leave from 14 to 15 weeks, in 2017;

(c) Amendment to the Prevention of Sexual Harassment Regulations, providing for measures to combat sexual harassment in higher education institutions, in 2014;

(d) Amendment No. 26 to the Religious Judges Law, requiring that at least one of the two representatives of each body (the Government, the parliament and the Israel Bar Association) appointed to the committee responsible for the appointment of judges of the religious Jewish courts be a woman, in 2013;

(e) Amendment to the Rabbinical Courts (Enforcement of Divorce Judgments) Law, in 2012;

(f) Amendment to the National Health Insurance Law, providing for fertility preservation treatments for women and girls who are to undergo chemotherapy or radiation treatments, in 2011.

5. The Committee welcomes the State party's efforts to improve its policy and institutional framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption or establishment of the following:

(a) Action plan for the implementation of Security Council resolution 1325 (2000), in 2015;

(b) Community courts, which became operational in 2014;

(c) Joint interministerial committee on preventing domestic violence, in 2014;

(d) Gender equality unit within the police, in 2013;

(e) Joint interministerial team, headed by the Deputy Attorney General, to review and implement the concluding observations of human rights treaty bodies, in 2011.

6. The Committee welcomes the fact that, in 2012, in the period since the consideration of the previous report, the State party ratified the following international instruments:

(a) Convention on the Rights of Persons with Disabilities;

(b) Private Employment Agencies Convention, 1997 (No. 181), of the International Labour Organization.

C. Parliament

7. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.**

D. Principal areas of concern and recommendations

Reservations

8. Notwithstanding the positive developments, including the amendment to the Rabbinical Courts (Enforcement of Divorce Judgments) Law in 2012, the Committee notes with concern that the State party maintains its reservations to articles 7 (b) and 16 of the Convention, even though it has committed itself to reviewing them. The Committee notes the State party's explanation in its follow-up report (CEDAW/C/ISR/CO/5/Add.1) that the reservations relate to the very fabric of Israeli society, which comprises many religions, each having varying degrees of autonomy with regard to certain religious practices. It notes, however, that the national courts have invoked article 16 of the Convention in several cases, as indicated in annex III to the State party's report, and that various issues relating to family, marriage and divorce law are dealt with by family courts, which indicates that the reservations can be withdrawn. It welcomes the indication by the delegation that internal discussions regarding the partial withdrawal of the reservation to article 16 will soon begin.

9. **Considering that the age of marriage and other areas of law relating to matrimonial property within the legal framework are in line with the Convention, the Committee reiterates its previous recommendation (CEDAW/C/ISR/CO/5, para. 9) that the State party review its reservations to articles 7 (b) and 16 of the Convention in order to withdraw them within an established time frame. It reiterates that the reservation to article 16 is contrary to the object and purpose of the Convention because it undermines the principle of substantive equality between women and men in all matters relating to marriage and family relations.**

Definition of discrimination and non-discrimination

10. While noting that the Supreme Court has applied a progressive approach to the principle of equality, derived from the Basic Law: Human Dignity and Liberty, the Committee expresses its regret that the State party's legislation still contains no comprehensive definition of discrimination against women that covers direct and indirect discrimination. It expresses its concern about the systemic discrimination experienced by national minorities, specifically women and girls belonging to the Arab and Bedouin communities.

11. **The Committee, recalling its previous recommendation (ibid., para. 11), recommends that the State party take legislative measures to adopt a comprehensive definition of discrimination against women that covers direct and indirect discrimination in the public and private spheres, in addition to intersecting forms of discrimination, in line with article 1 of the Convention. It also recommends that the State party adopt a comprehensive strategy to eliminate the systemic discrimination experienced by national minorities, specifically women and girls belonging to the Arab and Bedouin communities.**

Limitation of freedom of movement, segregation and exclusion of women in relation to public spaces and commercial and educational settings

12. The Committee notes with concern that, the response by the delegation and the measures taken by the State party notwithstanding, limitations on freedom of movement continue to have an impact on women in public spaces, including transportation, and at times have led to their exclusion from educational, commercial

and religious environments by some ultra-Orthodox movements, which are imposing their observance of religion in a way that contravenes the fundamental rights of women and girls. It is concerned about the recent decision by the Council for Higher Education to expand segregated campuses and introduce fully segregated classrooms within universities.

13. **The Committee recommends that the State party:**

(a) **Intensify its efforts to address the phenomenon of limitation of freedom of movement of women and sex-based segregation by some religious movements, so as to guarantee the access of women and girls to public spaces, including transportation and educational, commercial and religious settings, on equal terms with men, and impose sanctions on persons and institutions involved in discriminatory acts;**

(b) **Denounce the segregation of women and girls as an unacceptable practice, an affront to the dignity of women and girls that is incompatible with the Basic Law: Human Dignity and Liberty and a violation of the Convention;**

(c) **Eliminate segregation in all spheres, including public spaces and higher education.**

Extraterritorial application of the Convention

14. The Committee regrets that the State party maintains its position that the Convention is not applicable beyond its own territory, such that it provided no information on the implementation of the Convention in the Occupied Palestinian Territory over which the State party exercises jurisdiction or effective control. It reiterates that the State party's position is contrary to the position of the Committee and other treaty bodies, including the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture and the Committee on the Elimination of Racial Discrimination, and the International Court of Justice (ibid., para. 12).

15. **The Committee recalls its previous recommendation (ibid., para. 13) that the State party give full effect to the provisions of the Convention and implement its obligations under international humanitarian law with regard to all persons under its jurisdiction or effective control. The Committee recommends that the State party provide comprehensive information in its seventh periodic report on the implementation of the Convention in the Occupied Palestinian Territory over which it exercises jurisdiction or effective control.**

Access to justice

16. The Committee notes the State party's efforts to provide legal aid services to women and girls, including the establishment of a legal aid branch in Rahat in June 2016, and to strengthen cooperation between the Legal Aid Department and non-governmental organizations. It welcomes the recent amendment to extend free legal aid to victims of sexual offences by providing an exemption from the economic eligibility test required under the Legal Aid Law. The Committee also welcomes the implementation of the amendments to the Rabbinical Courts (Enforcement of Divorce Judgments) Law and the strengthening of the family court system to expedite the disposition of cases relating to marriage and divorce. The Committee is concerned, however, that:

(a) Women, including those belonging to minority groups, are unaware of their rights under the Convention and lack the information necessary to claim them;

(b) Women and girls, in particular those belonging to Arab and Bedouin communities, asylum seekers and migrants, experience differential access to justice owing to the physical and economic barriers that they face in bringing complaints of discrimination;

(c) Following the adoption of guidelines by the Legal Aid Department in April 2016, the number of appeals in family law matters, including child support and maintenance, funded from legal aid has fallen.

17. **Recalling its general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party address all physical and economic barriers that impede access to justice for women, in particular those belonging to Arab and Bedouin communities, asylum seekers and migrants. It also recommends that the State party:**

(a) **Increase awareness among all women, including those belonging to minority groups, of their rights under the Convention and eliminate the obstacles preventing them from gaining access to justice;**

(b) **Ensure that the Convention and related national legislation are made an integral part of the continuing legal education of the judiciary and all actors in the justice system, so as to cultivate a culture supportive of women's rights;**

(c) **Assess the impact of the guidelines adopted in 2016 by the Legal Aid Department on women's access to legal aid, in particular with regard to family law matters, including child support and custody cases.**

Women and peace and security

18. The Committee welcomes government resolution No. 2331, which is aimed at implementing Security Council resolution 1325 (2000) on women and peace and security. It notes the adoption of an associated action plan and a comprehensive policy plan for the promotion of gender equality. It also notes the representation of women in the Israel Defense Forces. Nevertheless, the Committee is concerned that:

(a) The implementation of the policy plan does not address the situation of women and girls in the Occupied Palestinian Territory as part of the extraterritorial obligations of the State party;

(b) The State party's efforts to increase the participation of women in the peace process notwithstanding, women, in particular Israeli-Arab women and representatives of civil society organizations, remain underrepresented;

(c) Sexual violence in the Israel Defense Forces has increased, notwithstanding the adoption of a strategic plan to eliminate sexual harassment, which includes the establishment of a victim support section;

(d) Israeli security forces continue to use disproportionate force in response to acts of violence and protest demonstrations and in law enforcement operations in the context of counter-terrorism measures, with a disproportionate impact on women and girls.

19. **The Committee recommends that the State party give due consideration to its general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations by ensuring that the policy plan on the**

implementation of Security Council resolution 1325 (2000) is fully implemented, including through the allocation of adequate human, technical and financial resources and enhanced cooperation with women from civil society organizations representing all perspectives. The Committee also recommends that the State party:

(a) **Extend the application of the policy plan to the Occupied Palestinian Territory over which the State party exercises jurisdiction or effective control;**

(b) **Establish a mechanism, with set objectives, to recognize and take advantage of the strategic role of women in finding a lasting solution for peace and to promote conflict prevention and post-conflict reconstruction efforts, including through their direct role in decision-making, in line with Security Council resolution 1325 (2000), and take into consideration the full spectrum of the Council's women and peace and security agenda, as reflected in resolutions 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013) and 2242 (2015);**

(c) **Continue to investigate, prosecute and punish perpetrators of sexual violence in the Israel Defense Forces and ensure that a policy of zero tolerance of sexual abuse and exploitation by security officials is strictly applied;**

(d) **Ensure that the use of force against women and girls in response to acts of violence and protest demonstrations and in law enforcement operations in the context of counter-terrorism measures is proportionate and in compliance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.**

National human rights institution

20. While the Committee welcomes the fact that the State party accepted the recommendation made under the universal periodic review procedure to establish a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (A/HRC/25/15, para. 136.25, and A/HRC/25/15/Add.1, para. 9), it is concerned that no such institution has yet been established.

21. **The Committee recommends that the State party establish an independent national human rights institution for the promotion and protection of human rights, with a mandate to protect and promote women's rights, and ensure parity in the representation of women and men in its composition, including leadership positions, in full compliance with the Paris Principles.**

National machinery for the advancement of women and gender mainstreaming

22. The Committee commends the State party on the substantial increase in financial resources for the Authority for the Advancement of the Status of Women and the development of an overarching gender mainstreaming policy and plan of action that incorporates action on meeting the Sustainable Development Goals and involves governance structures at the national and local levels. The Committee also welcomes the adoption of government resolution No. 36, in May 2015, to establish a ministerial committee on social equality mandated to promote gender equality in areas covered by the Convention. The Committee notes the "gradual gender analysis" of the State budget and efforts to define the responsibilities of the gender equality supervisors assigned to each ministry, as well as the development of policies to promote the equality of women from Arab and Bedouin communities. Nevertheless, the

Committee notes that the coordination of gender-mainstreaming activities undertaken by the supervisors is insufficient, as is the involvement of all actors, including judges and law enforcement personnel, necessary to reinforce the plans and strategies.

23. **The Committee recommends that the State party:**

(a) **Continue to strengthen coordination and the provision of adequate resources to the Authority for the Advancement of the Status of Women so as to enable it to carry out its activities effectively, including monitoring progress in efforts to attain the Sustainable Development Goals;**

(b) **Provide an evaluation in its seventh periodic report of the implementation and coordination of the gender-mainstreaming activities undertaken by the ministries following the official defining of the duties of the gender equality supervisors, which should include tracking the progress made by each ministry to ensure that activities financed from the State budget comply with set gender-budgeting evaluation criteria and ensuring that ministries not in compliance are sanctioned;**

(c) **Reinforce projects to increase cooperation with civil society organizations representing women's interests, in particular those representing the interests of women from minority communities and groups in disadvantaged situations, including Arab and Bedouin women.**

Temporary special measures

24. The Committee commends the State party on its efforts to accelerate the achievement of substantive equality of women and men, such as the use of the "team of directors" public procedure, which sets quotas for the representation of Israeli-Arab women as directors in government companies. The Committee also commends the State party on Amendment No. 12 to the Municipal Council (Funding of Elections) Law, which provides for 15 per cent additional funding for those political parties where at least one third of their elected and serving members are women. The Committee is concerned, however, that the amendment applies only to elections for city and local councils, not regional councils. The Committee is also concerned that no temporary special measures have been adopted in some areas covered by the Convention, including higher education.

25. **The Committee recommends that the State party increase the use of temporary special measures, including statutory quotas, in all areas covered by the Convention in which women are underrepresented or disadvantaged, including representation on regional councils and in decision-making positions in higher education. Such measures should include specific targets and time frames, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures, in order to ensure the achievement of substantive equality of women and men in all areas of the Convention in which women, especially Israeli-Arab women, are underrepresented or disadvantaged.**

Stereotypes and harmful practices

26. The Committee welcomes the State party's efforts to combat discriminatory gender stereotypes and harmful practices, including the adoption of Amendment No. 6 to the Marriage Age Law, by which the minimum age of marriage was raised from 17 to 18 years. The Committee also welcomes the adoption of government

resolution No. 2345 to establish an interministerial committee mandated to develop a strategic plan to eliminate polygamy. The Committee is concerned, however, that:

(a) Discriminatory stereotypes based on restrictive religious interpretations concerning the roles and responsibilities of women and men in the family and in society persist, in particular among ultra-Orthodox Israelis;

(b) Married women who are unable to divorce because they have not received the *get* continue to suffer stigma and discrimination when they bear children by men other than their husbands;

(c) Polygamous and forced marriages persist, in particular among the Arab and Bedouin communities, the State party's efforts to eliminate those harmful practices notwithstanding.

27. **Recalling joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices and in line with target 5.3 of the Sustainable Development Goals, to eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation, the Committee recommends that the State party:**

(a) **Adopt a comprehensive strategy to eliminate discriminatory stereotypes with regard to the roles and responsibilities of women and men in the family and in society, which should include a monitoring mechanism to assess the impact of the measures taken and design remedial action;**

(b) **Expand public education and other programmes to eliminate stereotypes and stigma with regard to women who have children out of wedlock;**

(c) **Take further legislative and educational measures to eliminate polygamous and forced marriages, in particular among the Arab and Bedouin communities.**

Gender-based violence against women

28. The Committee commends the State party on its efforts to tackle gender-based violence against women, such as Amendment No. 11 to the Rights of Victims of Crime Law, which will enter into force in January 2018 and provides that victims of sexual violence are entitled to choose the gender of their investigator. It notes that the State party is taking steps to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The Committee remains concerned, however, at:

(a) Reports of intimate partner violence, including femicide and crimes committed in the name of so-called honour;

(b) The prevalence of sexual and domestic violence, as also noted by the Special Rapporteur on violence against women, its causes and consequences (A/HRC/35/30/Add.1, paras. 29–32);

(c) Psychological violence and abuse by husbands against their wives during divorce proceedings through the withholding of consent to divorce (also known as *get* abuse);

(d) The high rate of sexual harassment experienced by women and girls in all settings.

29. **Recalling its general recommendations No. 19 (1992) on violence against women and No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, and in line with target 5.2 of the Sustainable Development Goals, to eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation, the Committee recommends that the State party:**

(a) **Intensify efforts to combat gender-based violence against women, including femicide and domestic violence, by ensuring that such acts of violence are effectively investigated and prosecuted and adequate sentences imposed on the perpetrators;**

(b) **Ensure that women are protected from psychological violence and abuse exerted by their husbands during divorce proceedings, including through the imposition of appropriate sanctions by courts;**

(c) **Implement a policy of zero tolerance of sexual harassment, ensuring the full prosecution and punishment of all such acts perpetrated against women and girls;**

(d) **Expedite the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.**

Violence against and harassment of women in the Occupied Palestinian Territory

30. While noting the complexity of the situation, in particular regarding the local administration, the Committee expresses concern that Palestinian women and girls continue to be subjected to excessive use of force and abuse by the State party's security forces and Israeli settlers, including physical, psychological and verbal abuse and sexual harassment and violations of their right to life. The Committee is also concerned that:

(a) Owing to restrictions on freedom of movement in the Occupied Palestinian Territory, Palestinian women and girls continue to be subjected to harassment at checkpoints and by settlers on their way to and from school and work;

(b) The practice of night raids employed by the Israeli security forces disproportionately affects women and girls.

31. **The Committee reiterates its previous concluding observations (CEDAW/C/ISR/CO/5, para. 23) and recommends that the State party:**

(a) **Immediately put an end to all human rights abuses and violations perpetrated against women and girls in the Occupied Palestinian Territory and remove any restrictions on freedom of movement;**

(b) **Combat impunity for human rights violations and ensure remedies for victims;**

(c) **Ensure that the practice of night raids complies with due process guarantees and rights under the Convention.**

Evictions and house demolitions

32. The Committee, recalling its previous concluding observations (ibid., para. 28), notes with concern that the State party continues to demolish property, homes and schools and undertake forced evictions, especially in the Occupied Palestinian Territory, including East Jerusalem, that is under its jurisdiction or effective control.

The Committee notes that the practice of punitive demolitions affecting entire families without distinction constitutes collective punishment and is a violation of international humanitarian law. The Committee is concerned that:

(a) The State party's authorities have resumed, following its suspension in 2005, the practice of punitive house demolitions, which punishes families and disproportionately affects women and girls, in particular female-headed households;

(b) The use of discriminatory planning and zoning policies in Area C of the West Bank, including East Jerusalem, results in a lack of housing permits for Palestinians and the issuance of eviction and demolition orders.

33. **The Committee reiterates its previous recommendation (ibid., para. 29) that the State party:**

(a) **Revoke all policies on the practice of punitive demolitions and forced evictions, which have a harmful impact on the physical and psychological well-being of Israeli-Arab women and girls, and Palestinian women and girls in the Occupied Palestinian Territory;**

(b) **Immediately cease the implementation of eviction and demolition orders that are based on discriminatory planning and zoning policies;**

(c) **Revise the discriminatory policy concerning housing permits for Palestinians.**

Trafficking and exploitation of prostitution

34. The Committee notes the State party's efforts to penalize the purchase of sexual services and to combat trafficking in persons, including through the conduct of regular training sessions for government officials and the provision of free legal aid to victims of trafficking. Nevertheless, the Committee is concerned that the State party remains a destination country for trafficking in women and girls for purposes of sexual and labour exploitation. It is particularly concerned at:

(a) The lack of early identification of women and girls who are victims of trafficking for sexual exploitation, who often arrive in the State party as labourers, and the inefficiencies in the identification of victims;

(b) The lack of information on mechanisms in place to inspect the agricultural sector to identify victims of trafficking;

(c) The low rate of prosecution of traffickers owing to the lack of coordination between the police and the migration services;

(d) The lack of information on sexual exploitation of women engaged in prostitution and on exit programmes for women wishing to leave prostitution.

35. **The Committee recommends that the State party:**

(a) **Ensure that the Office of the National Anti-Trafficking Coordinator strengthens the mechanisms for the early identification of women and girls who are victims of trafficking;**

(b) **Strengthen the coordination between the entities responsible for monitoring the implementation of the laws combating trafficking and exploitation of prostitution;**

(c) **Provide information in its seventh periodic report on the extent of exploitation of prostitution in the State party and on the mechanisms in place to**

identify victims of trafficking for sexual exploitation or for the exploitation of labour in the agricultural sector;

(d) **Enhance bilateral, regional and international cooperation to prevent trafficking, including by exchanging information and harmonizing legal procedures to prosecute traffickers;**

(e) **Introduce exit programmes for women wishing to leave prostitution.**

Participation in political and public life

36. The Committee notes that the State party has made commendable progress in promoting the participation of women in the judiciary and the civil service and on State boards. It welcomes the appointment of a woman as Director of Human Resources at the Rabbinical Courts Administration and of a woman judge in a Muslim religious court. Nevertheless, the Committee remains concerned at:

(a) The low number of women in the parliament and ministerial, senior academic and diplomatic positions and the fact that women cannot serve as judges in rabbinical courts;

(b) The low participation of Israeli-Arab and Bedouin women in political and public life;

(c) The lack of measures to tackle discrimination by ultra-Orthodox political parties, namely Yahadut Hatorah and Shas, whose regulations bar women from being appointed as members or from being candidates and therefore elected to the parliament or municipal and regional councils, and at the State Attorney's opinion that there is no legal basis for invalidating those regulations or for excluding those parties from participating in elections, even though party statutes should not be allowed to derogate from the Basic Law: Human Dignity and Liberty and the Basic Law: the Knesset.

37. **The Committee recommends that the State party:**

(a) **Continue to take targeted measures to further increase the representation of women in political and public life, especially in the parliament and ministerial, senior academic and foreign service positions, and initiate consultations with relevant stakeholders on introducing reforms regarding the participation of women as rabbinical judges;**

(b) **Introduce temporary special measures, such as quotas, to increase the participation of Israeli-Arab and Bedouin women in political and public life;**

(c) **Adopt legislation that prohibits from participating in any election any political party that has discriminatory regulations precluding women from being appointed as members of parties or from being candidates and therefore elected to the parliament or regional and municipal councils, in violation of article 7 of the Convention and of the relevant basic laws, especially the Basic Law: Human Dignity and Liberty.**

Human rights defenders and non-governmental organizations

38. The Committee is concerned that, following the adoption of the so-called boycott and Nakbah laws in 2011, human rights defenders, including Israeli and Palestinian women, have been subjected to severe restrictions on their activities, including through limitations on their financing.

39. **The Committee recommends that the State party take specific steps, including through legal amendments, to create an enabling environment in which Israeli and Palestinian women human rights defenders and non-governmental organizations working on gender equality and women's empowerment may freely conduct their activities without undue restrictions, including on funding by foreign sources.**

Nationality and family reunification

40. The Committee notes with concern that the Citizenship and Entry into Israel Law (Temporary Order), which was enacted in 2003 and intended to be temporary, yet continues to be extended, prohibits the granting of status to the spouses of Palestinian Israelis or Palestinian permanent residents in Israel. The Committee notes that the ban is absolute for inhabitants from the Gaza Strip, whereas Palestinians from the West Bank have been able to obtain limited temporary resident permits since 2005. The Committee is particularly concerned that:

(a) The legislation prohibits the granting of any status (residency or citizenship) to Palestinians from the Occupied Palestinian Territory who are married to Israeli citizens or residents of East Jerusalem solely based on their nationality, whereas foreign spouses of other nationalities can obtain such permits;

(b) Owing to the legislation, couples must choose to live separately, with one spouse deprived of seeing the children grow up; live together with the spouse from the Occupied Palestinian Territory being considered illegal, deprived of basic rights and subject to deportation if found living in East Jerusalem; or live in the West Bank, in which case the Israeli spouse risks losing Israeli citizenship and the permanent residents risk losing residency status;

(c) Although the legislation now allows the granting of temporary residence permits for humanitarian reasons or a residence permit under special circumstances, the granting of temporary residence permits requires the fulfilment of strict security and age conditions, and the withdrawal of such permits can be arbitrary;

(d) Under government resolution No. 3598 of June 2008, family reunification of Palestinians who have Israeli residency or citizenship with individuals from the Gaza Strip is prohibited outright.

41. **The Committee recalls its previous recommendation (CEDAW/C/ISR/CO/5, para. 25) that the State party objectively balance its security concerns with the human rights of persons affected by its laws and policies and review them in order to facilitate family reunification of all citizens and permanent residents of the State party. In that regard, the State party should review the Citizenship and Entry into Israel Law (Temporary Order) and government resolution No. 3598 of June 2008 to ensure that they comply with articles 9 and 16 of the Convention, for example by providing for targeted measures, applied on a case-by-case basis, while respecting the principles of equality and proportionality.**

Education

42. The Committee welcomes the high level of literacy and education in the State party and the measures taken to further improve access by women and girls to good-quality education, in particular with regard to women and girls from ultra-Orthodox communities, including the five-year programme aimed at integrating them into the education system. The Committee also welcomes the amendment in 2014 to the

Rights of Pupils Law to include sexual orientation and gender identity as prohibited grounds of discrimination against pupils. Nevertheless, the Committee is concerned at:

(a) Gaps in equal access to education experienced by Israeli-Arab, Bedouin and ultra-Orthodox women and girls, who, as result, continue to register higher dropout rates and poor outcomes with regard to higher education;

(b) The fact that women remain underrepresented in high-level academic positions and in scientific fields;

(c) Information that textbooks used in the Arab education system contain negative stereotypes concerning the roles and responsibilities of women and men, notwithstanding the adoption in 2015 of a guideline on teaching methods, which requires that all textbooks undergo "gender-focused editing" before approval by the Ministry of Education.

43. **The Committee recommends that the State party:**

(a) **Strengthen its strategies, including through the use of temporary special measures such as targeted scholarships, to improve education outcomes among Israeli-Arab, Bedouin and ultra-Orthodox women and girls, and use attendance officers from the Ministry of Education to prevent them from dropping out of school;**

(b) **Intensify the use of measures, including temporary special measures, to address the underrepresentation of women in high-level academic positions;**

(c) **Review textbooks in the Arab education system to identify and remove discriminatory stereotypes.**

Employment

44. The Committee welcomes the adoption, in 2014, of Amendment No. 5 to the Male and Female Workers (Equal Pay) Law, which provides that public bodies that have an obligation to submit reports regarding employees' salaries should include a "gender account". The Committee also welcomes the adoption, in 2013, of regulations for encouraging the incorporation and promotion of women in employment and adapting employment positions for women, providing for a selection process for employers who are entitled to a financial grant or achievement award for promoting gender equality. Nevertheless, the Committee is concerned at:

(a) Labour market segregation, the concentration of women in traditional career paths and the persistent gender wage gap, which, in the civil service, is partly due to variable salary components such as a vehicle allowance and overtime hours;

(b) The limited participation of Bedouin and ultra-Orthodox women in the labour market;

(c) Information that Israeli-Arab women continue to face barriers to gaining access to employment;

(d) Increased reports of sexual harassment cases and insufficient sanctions within the Israel Defense Forces, which the State party attributes to increased reporting, and the lack of information on the impact on women's career progress in the Israel Defense Forces following the integration of ultra-Orthodox men into the military.

45. **The Committee, recalling its previous recommendation (CEDAW/C/ISR/CO/5, para. 37), reiterates that the State party:**

(a) **Intensify its efforts to guarantee equal opportunities for women in the labour market by combating segregation and take specific measures to reduce the gender pay gap by enforcing the principle of equal pay for work of equal value and intensifying the use of wage surveys;**

(b) **Establish training and vocational courses to ensure the equal participation of women in the development of digital technology;**

(c) **Adopt specific measures, including temporary special measures, to improve the participation of Bedouin and ultra-Orthodox women in the labour market and remove barriers faced by Israeli-Arab women to gaining access to employment;**

(d) **Intensify efforts to combat sexual harassment, in particular in the Israel Defense Forces, through the enforcement of the Prevention of Sexual Harassment Law and assess the impact on women's career progress in the Israel Defense Forces following the integration of ultra-Orthodox men into the military.**

Health

46. The Committee appreciates the efforts made by the State party to ensure that a high standard of health care is available and that advances are made in medical research, while noting that there remains discrimination in terms of access to care. It welcomes the steps taken to improve health care for women and girls and notes the development of an intervention programme and an action plan to eliminate discrimination in the health sector, in particular to address racism against persons of Ethiopian descent and to reinforce health-care infrastructure and personnel in rural areas. Nevertheless, the Committee is concerned that:

(a) Women and girls of Ethiopian descent continue to face discrimination when seeking health-care services;

(b) Owing to restrictions on freedom of movement at checkpoints, Palestinian women and girls in the Occupied Palestinian Territory experience hardships in reaching health-care facilities such as hospitals and clinics and emergency care and specialized treatment;

(c) Israeli-Arab and Bedouin women and girls continue to register poor health outcomes, in particular in terms of infant and maternal mortality, and have the highest incidence within the Israeli population of obesity and lung cancer;

(d) While abortion is permitted in certain circumstances, including rape, incest, threat to the physical or mental health of the pregnant woman and when fetuses have a serious mental or physical defect, as set out in the Penal Code of 1977, women must still follow complex and onerous administrative procedures to obtain approval for abortion from the Termination of Pregnancy Committee.

47. **The Committee recommends that the State party:**

(a) **Adopt appropriate intervention programmes and action plans, including the strict application of relevant criminal law provisions, to address discrimination in the health sector, in particular against women and girls of Ethiopian descent;**

(b) **Continue to strengthen efforts, such as the implementation of the national screening plan for breast cancer and the treatment of ovarian and lung cancer, in order to improve health outcomes among Israeli-Arab and Bedouin women, in particular with regard to obesity, lung cancer and infant and maternal mortality;**

(c) **Conduct an impact assessment study and ensure that the administrative procedures for obtaining approval for an abortion from the Termination of Pregnancy Committee do not hinder the access of women and girls to safe abortion services.**

Economic empowerment of women

48. The Committee notes the State party's efforts to promote the economic empowerment and social welfare of women and welcomes the adoption, in 2015, of a transition strategy from the Millennium Development Goals to the Sustainable Development Goals. Nevertheless, the Committee is concerned at:

(a) The lack of information on access to loans and credit facilities by women and girls and on efforts to enhance their capacity in entrepreneurship and the use of digital technology;

(b) The lack of information on measures taken by the State party to implement the Sustainable Development Goals and ensure the participation of women in those processes.

49. **The Committee recommends that the State party:**

(a) **Provide detailed information in its seventh periodic report on women's access to loans and other forms of financial credit and on efforts to enhance the capacity of women and girls in entrepreneurship and their use of digital technology;**

(b) **Ensure the participation of women in efforts to meet the Sustainable Development Goals.**

Disadvantaged groups of women

Refugee and asylum-seeking women and girls

50. The Committee welcomes the fact that in January 2013 the Ministry of Health opened a clinic in southern Tel Aviv-Jaffa for foreign residents who were not covered by the State health insurance. Nevertheless, it remains concerned that asylum-seeking women continue to experience uncertainty owing to the low number of refugee claims that are accepted by the State party, thereby greatly hindering their full access to the education, employment, health-care and justice systems.

51. **The Committee, recalling its previous recommendation (CEDAW/C/ISR/CO/5, para. 47), recommends that the State party repeal the relevant provisions of the Prevention of Infiltration (Offences and Jurisdiction) Law, so as to facilitate the processing of claims by asylum-seeking women and ensure their access to essential services.**

Women in detention

52. The Committee reiterates its concern about the increased number of Palestinian women and girls who are subjected to prolonged administrative detention and forcible

transfers from the Occupied Palestinian Territory to places of detention in Israel and about reports of their limited access to justice and health-care services.

53. **In line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the Committee recommends that the State party address prolonged administrative detention by ensuring that Palestinian women and girls who are detained are promptly brought before a judge. It also recommends that the State party improve conditions of detention and ensure access to justice and health-care services.**

Rural women

Bedouin women

54. The Committee notes that the State party operates a "safe space" project for adolescent Bedouin girls in distress with a view to preventing them from dropping out of school and enhancing their economic empowerment. The Committee also notes that, in February 2017, the State party approved a five-year plan to develop Bedouin localities in the Negev, including by improving education and health infrastructure. Nevertheless, the Committee notes with concern that:

(a) The five-year plan is accompanied by forced urbanization, evictions and displacements and the State party continues to demolish homes and schools in Bedouin communities such that Bedouins are forced to relocate;

(b) The lack of information on access by Bedouin women to social services and credit facilities and their use of modern technology.

55. **The Committee, recalling its previous recommendation (ibid., para. 45), recommends that the State party:**

(a) **Take specific measures to improve education, employment, health-care and housing outcomes for Bedouin women and girls, including by ensuring that action plans for their empowerment have clear indicators and benchmarks and their implementation is monitored and regularly evaluated;**

(b) **Provide information in its seventh periodic report on access by Bedouin women to social services and credit facilities and their use of modern technology.**

Marriage and family relations

56. The Committee welcomes the legislative developments in the area of marriage and family relations, including the adoption, in 2012, of an amendment to the Rabbinical Courts (Enforcement of Divorce Judgments) Law, which requires rabbinical courts to monitor progress in the enforcement of divorce judgments. The Committee also notes that the legislation was further amended in 2017 to allow for sanctions to be imposed on male spouses who refuse to consent to a divorce (*get*). It further notes that, in 2016, the State Attorney issued a guideline to regulate the prosecution and punishment policy in respect of failure to comply with a judicial order of a rabbinical court regarding the granting or receiving of a *get*, in order to reduce the number of women whose husbands cannot or refuse to grant the *get*. The Committee notes the establishment of procedures relating to the jurisdiction of family rules in civil and religious courts and the need to take measures to combat what is known as the "race for jurisdiction". The Committee is concerned that:

(a) Women suffer from discrimination in divorce matters because they are under the influence of discriminatory religious laws. Given that, under Jewish law, only men can grant consent for a divorce (*get*), women are susceptible to extortion by their husbands and concede to certain marital terms in return for a *get*, while Muslim women fear losing custody of their children should they embark on a new relationship;

(b) The law does not provide for civil marriages, and even spouses who contract civil marriage outside the State party are still subject to the jurisdiction of religious courts in divorce cases;

(c) Following the recommendation of the Schnitt Committee to remove the "tender years" clause under the Legal Capacity and Guardianship Law of 1962, which provides that children up to 6 years of age are to be under the custody of their mother, there has been an increase in applications for joint custody by men in order to reduce their child support payments, with this change in the interpretation of the legislation also being used as a tool to extort concessions from women and leading to an increase in family disputes before the courts;

(d) Polygamy and bigamy persist and are legitimized under religious laws governing personal status, including the possibility of retroactive annulation of a divorce even when the former spouses have remarried, which has negative consequences for women.

57. **Recalling its previous recommendations (ibid., para. 49) and in line with its general recommendations No. 21 (1998) on equality in marriage and family relations and No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, the Committee recommends that the State party:**

(a) **Repeal discriminatory provisions governing divorce that give men the unilateral power to grant consent to divorce (*get*) and, in the interim, intensify the use of criminal sanctions for husbands who deliberately withhold consent, and expand the supervisory powers of rabbinical courts in ensuring compliance with their orders in that respect;**

(b) **Introduce an option for individuals to contract a civil marriage and to divorce in civil courts, at least when civil marriages are contracted outside the State party;**

(c) **Harmonize religious laws governing marriage and divorce with the Convention;**

(d) **Undertake a study to assess the impact of the "tender years" clause and the introduction of joint child custody on the increase in the number of custody disputes, the increased level of poverty experienced by female-headed households and the use of joint custody or the threat of such use as a tool applied by men to extort concessions from women;**

(e) **Intensify efforts to enforce the prohibition of bigamy and polygamous marriages, as well as the retroactive cancellation of a divorce, through the strict imposition of sanctions, as already introduced in the civil service, and through educational and awareness-raising programmes.**

Optional Protocol to the Convention and amendment to article 20 (1) of the Convention

58. **The Committee encourages the State party to ratify the Optional Protocol to the Convention and to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.**

Beijing Declaration and Platform for Action

59. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

2030 Agenda for Sustainable Development

60. **The Committee calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development.**

Dissemination

61. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the parliament and the judiciary, to enable their full implementation.**

Ratification of other treaties

62. **The Committee notes that the adherence of the State party to the nine major international human rights instruments** [1] **would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of all Persons from Enforced Disappearance, to which it is not yet a party.**

Follow-up to the concluding observations

63. **The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 13 (a), 53 and 57 (a) and 57 (b) above.**

Preparation of the next report

64. **The Committee invites the State party to submit its seventh periodic report in November 2021. The report should be submitted on time and, in case of delay, should cover the entire period up to the time of its submission.**

65. **The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I).**

[1] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

United Nations CEDAW/C/PSE/CO/1

Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the initial report of the State of Palestine*

1. The Committee considered the initial report of the State of Palestine (CEDAW/C/PSE/1) at its 1614th and 1615th meetings (see CEDAW/C/SR.1614 and CEDAW/C/SR.1615), held on 11 July 2018. The Committee's list of issues and questions is contained in CEDAW/C/PSE/Q/1 and the responses of the State of Palestine are contained in CEDAW/C/PSE/Q/1/Add.1.

A. Introduction

2. The Committee appreciates the submission by the State party of its initial report. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group and welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue. It further appreciates the information provided in writing following the dialogue.

3. The Committee commends the State party on its high-level delegation, which was jointly headed by the Minister of Women's Affairs, Hayfaa F. H. Alaga, and the Head of the United Nations Department of the Multilateral Affairs Sector at the Ministry of Foreign Affairs and Expatriates, Omar A. H. Awad Ala, and included representatives of the Ministry of Foreign Affairs and Expatriates, the Ministry of Justice, the Ministry of Women's Affairs, the Ministry of Labour, the Ministry of Education and Higher Education, the Ministry of Health, the Ministry of the Interior, the Ministry of Social Development, the Office of the Higher Presidential Committee of Church Affairs, the Central Bureau of Statistics, the Office of Public Prosecution, the Sharia High Judicial Council, the Department of Family and Minors' Protection and the Permanent Observer Mission of the State of Palestine to the United Nations Office and other international organizations in Geneva.

B. Positive aspects

4. The Committee welcomes the progress achieved since the entry into force of the Convention for the State party in 2014 in undertaking legislative reforms, in particular the adoption of the decree law on the protection of juveniles, which takes into account

* Adopted by the Committee at its seventieth session (2–20 July 2018).

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the best interests of the child and promotes the rehabilitation and speedy reintegration of children in conflict with the law, in 2016.

5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, including the following:

(a) Adoption of the cross-sectoral national strategy to promote gender equality and equity, 2017–2022;

(b) Adoption of the strategic plan for combating violence against women, 2011–2019;

(c) Establishment of the Special Prosecutor's Office to combat gender-based violence against women and girls.

6. The Committee welcomes the fact that, since the entry into force of the Convention for the State party in 2014, the State party has acceded to the following international instruments:

(a) International Covenant on Economic, Social and Cultural Rights, in 2014;

(b) International Covenant on Civil and Political Rights, in 2014;

(c) Convention on the Rights of the Child, in 2014;

(d) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2014;

(e) International Convention on the Elimination of All Forms of Racial Discrimination, in 2014;

(f) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2014;

(g) Convention on the Rights of Persons with Disabilities, in 2014;

(h) United Nations Convention against Transnational Organized Crime, in 2015;

(i) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2017;

(j) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2017;

(k) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2017.

Sustainable Development Goals

7. The Committee welcomes the international support for the Sustainable Development Goals and calls for the realization of de jure and de facto (substantive) gender equality, in accordance with the provisions of the Convention, throughout the process of implementing the 2030 Agenda for Sustainable Development. The Committee recalls the importance of Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals. It urges the State party to recognize women as the driving force of the sustainable development of the State party and to adopt relevant policies and strategies to that effect.

C. Parliament

8. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the State party to take all appropriate measures to urgently convene the Palestinian Legislative Council and ensure that the Council, in line with its mandate, takes the necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report.**

D. Principal areas of concern and recommendations

General context: occupation of Palestinian territory and implementation of obligations under the Convention

9. The Committee notes that the territory of the State party has been under occupation by Israel since 1967, which poses severe challenges for the State party in fully implementing its obligations under the Convention, given that women and girls have been subjected to, among other things, restrictions on their freedom of movement, displacement, house demolitions and illegal settlements, excessive use of force and abuse by Israeli security forces, settler violence and restrictions on gaining access to health-care services, in particular for women and girls living in the Gaza Strip and East Jerusalem. The Committee recalls that Israel, as the occupying Power, is not absolved of its obligations under international humanitarian law and international human rights law. It notes that the Convention is applicable in the entire territory of the State party and that the State party should implement it in all parts of its territory. In that regard, the Committee regrets that, notwithstanding the agreement between the Fatah and Hamas movements to end Palestinian division, signed on 12 October 2017, there has been limited progress in resolving internal political issues that negatively affect the full enjoyment by women and girls in the West Bank and the Gaza Strip of their rights under the Convention. The Committee notes that, owing to the political and geographical fragmentation of the State party's territory, women and girls continue to be subjected to multiple legal systems that greatly impede the full realization of their rights under the Convention, including their political and economic empowerment.

Definition of discrimination and legislative framework

10. The Committee notes that, following the ratification of various human rights treaties, the State party is undertaking a comprehensive review of its legislation in order to ensure compliance with international human rights norms. It also notes that discrimination is prohibited under article 9 of the Amended Basic Law and that an attempt was made to define discrimination in article 546 of the proposed draft penal code of 2011. However, the Committee remains concerned about the absence of a comprehensive definition of discrimination against women in line with article 1 of the Convention.

11. **The Committee recommends that, in line with articles 1 and 2 of the Convention, the State party:**

(a) **Adopt, without delay, national legislation that includes a comprehensive definition of discrimination against women covering all prohibited grounds of discrimination and encompassing direct and indirect discrimination in both the public and private spheres;**

(b) **Ensure that the proposed draft penal code of 2011, which is aimed at prohibiting and punishing discrimination, is revised to bring it into conformity with the Convention, and to include provisions for appropriate enforcement mechanisms and sanctions.**

Legal status of the Convention

12. The Committee commends the State party for ratifying the Convention without reservations. It notes that, in accordance with the interpretation of the Supreme Constitutional Court, in its decision No. 4 (2017) of 19 November 2017, that international treaties acceded to by the State party take precedence over national legislation, the provisions of the Convention must be incorporated into national law. The Committee is concerned, however, that the Convention has not been published in the Official Gazette in order to make it applicable in the State party. It is also concerned about the interpretation of the Supreme Constitutional Court, in its above-mentioned decision, that international conventions take precedence over national law only insofar as they are consistent with the national, religious and cultural identity of the Palestinian people. The Committee is further concerned about the absence of a time frame for acceding to the Optional Protocol, notwithstanding the State party's declared commitment to do so.

13. **The Committee recommends that the State party:**

(a) **Fully incorporate the provisions of the Convention into its national law and ensure its implementation in the Gaza Strip and the West Bank, including in East Jerusalem;**

(b) **Ensure that the interpretation of the Supreme Constitutional Court holding that treaties acceded to by the State party take precedence over national law only insofar as they are consistent with the national, religious and cultural identity of the Palestinian people, does not absolve the State party of its obligations under the Convention;**

(c) **Take concrete steps to accede to the Optional Protocol and publish the Convention in the Official Gazette;**

(d) **Train members of the judiciary, including judges of sharia courts, legal professionals and law enforcement officers, on the Convention, the Committee's jurisprudence under the Optional Protocol and its general recommendations.**

Harmonization of legislation and repeal of discriminatory laws

14. The Committee commends the State party on the establishment of a legislative harmonization committee to review all laws to, among other things, ensure that they are consistent with the human rights treaties to which the State party has acceded, including the Convention. However, the Committee is concerned about the lack of a time frame for completing the review. The Committee is particularly concerned that:

(a) The fragmentation of the legal system is such that women and girls in the Gaza Strip and the West Bank are subjected to multiple sets of laws, which afford varying levels of protection, given that some laws perpetuate customary practices and traditions that discriminate against women;

(b) Various archaic laws, including those enacted during the Ottoman period, and personal status laws, including the Egyptian Family Rights Law of 1954 and the Jordanian Personal Status Law of 1976, are applicable in the Gaza Strip and West Bank, respectively, and allow for the continued violation of women's rights in matters of marriage, divorce, child custody and inheritance;

(c) No time frame has been adopted for the review and adoption of draft laws such as the draft penal code, the draft personal status code and the draft family protection law.

15. **The Committee recommends that the State party:**

(a) **Reunify the legal systems in the Gaza Strip and the West Bank to ensure that all women and girls in the State party are afforded equal protection under the law, in line with the Convention;**

(b) **Adopt a clear time frame for the review of archaic laws by the legislative harmonization committee, in collaboration with relevant partners, including civil society organizations, to ensure their compliance with the Convention, and ensure that the review includes a thorough gender impact analysis to identify all customary and religious laws that are in conflict with the Convention;**

(c) **Expedite the review of draft laws to ensure their compliance with the Convention, including the draft penal code, the draft personal status code and the draft family protection law, and their adoption.**

Access to justice

16. The Committee notes that, under article 30 of the Amended Basic Law, the right to litigation is guaranteed to all persons. The Committee also notes the State party's efforts to revitalize the National Legal Aid Commission and that the State party is currently preparing a strategic plan on legal aid. The Committee notes with concern, however, the lack of information on progress made towards adopting the draft law to establish a legal aid fund, proposed in 2014. The Committee also notes that, although free legal aid is recognized as a right in the State party, the provision of legal aid services for women has been largely delegated to civil society organizations in the State party.

17. **Recalling its general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party:**

(a) **Expedite efforts aimed at revitalizing the National Legal Aid Commission and the preparation of a strategic plan on legal aid so that women, including disadvantaged groups of women, have access to affordable or, if necessary, free legal aid services;**

(b) **Address the economic barriers that impede women's access to justice, by establishing a legal aid fund and supporting the efforts of civil society organizations providing legal aid services in the State party, and allocate adequate financial resources to the legal aid fund in order to benefit more economically disadvantaged women, in particular those in rural areas.**

Women and peace and security

18. The Committee commends the State party on the adoption, in 2016, of its national action plan for the implementation of Security Council resolution 1325 (2000) on women and peace and security. The Committee notes that the State party has incorporated the provisions of the resolution into a cross-sectoral national gender strategy and the national policy agenda, for the period from 2017 to 2022. It also notes the State party's efforts to ensure the participation of women at the reconciliation discussions between Fatah and Hamas held in Cairo in October 2017. The Committee is concerned, however, that:

(a) Notwithstanding the State party's efforts to increase the participation of women in national and international peace processes, women remain

underrepresented in conflict prevention and peacebuilding processes and are not fully involved in the implementation of the national action plan on Security Council resolution 1325 (2000);

(b) The mechanism for the implementation of the national action plan is not adequately funded, and the national observatory to collect data in this area has not been established owing to lack of funding;

(c) Women and girls, in particular in the Gaza Strip and the West Bank, continue to suffer from the effects of conflict and occupation, including the blockade of the Gaza Strip, such that a large number of them are in need of humanitarian assistance, while the provision of humanitarian aid by the international community has decreased considerably.

19. **The Committee recommends that the State party give due consideration to its general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations by ensuring that the national action plan is fully implemented, including through the allocation of adequate human, technical and financial resources and through enhanced cooperation with civil society organizations, the international community and relevant United Nations agencies. The Committee also recommends that the State party:**

(a) **Ensure the full participation of women and representatives of women's organizations in conflict prevention, peacebuilding and post-conflict reconstruction efforts, including in decision-making, in line with Security Council resolution 1325 (2000), and take into consideration the full spectrum of the women and peace and security agenda of the Security Council, as reflected in Council resolutions 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), 2106 (2013) and 2331 (2016);**

(b) **Ensure the participation of women in international peace processes and national reconciliation processes, in particular with regard to the implementation of the national action plan;**

(c) **Expedite efforts to establish a national observatory to collect data on women and peace and security, and ensure that the national observatory and the mechanism for the implementation of the national action plan are adequately funded;**

(d) **Continue to engage with the international community and United Nations agencies, in particular the United Nations Relief and Works Agency for Palestine Refugees in the Near East, to provide the assistance needed to women and girls in the Gaza Strip and the West Bank;**

(e) **Continue to protect and provide humanitarian assistance to women and girls living in the Gaza Strip and the West Bank who are disproportionately affected by conflict and the excessive use of force by the occupying Power.**

National machinery for the advancement of women

20. The Committee commends the State party on the adoption of the cross-sectoral national gender strategy, covering the period from 2017 to 2022, which was prepared on the basis of the 2030 Agenda. It also commends the State party for establishing a committee to follow up on the implementation of the Sustainable Development Goals, foster cooperation with partners, and for the preparation of a voluntary progress report. It also notes that, in 2009, the Council of Ministers approved the formulation of gender-responsive plans and budgets, which led to the establishment in 2012 of a national committee on gender-responsive budgets. However, the Committee on the Elimination of Discrimination against Women is concerned that, notwithstanding

efforts to increase resources for the Ministry of Women's Affairs, which constitutes the national machinery for the advancement of women in the State party, the Ministry's continued lack of human and financial resources impedes the effective implementation and coordination of policies and strategies, including those relating to the implementation of the Goals and the empowerment of disadvantaged groups of women, in particular older women, women with disabilities and women and girls affected by conflict.

21. **The Committee recommends that the State party:**

(a) **Allocate adequate human, technical and financial resources to the Ministry of Women's Affairs in order to ensure effective coordination and collaboration with various partners, including civil society organizations, in the implementation of the Convention;**

(b) **Ensure the allocation of necessary resources, in particular humanitarian assistance, to development activities and programmes for the benefit of women and girls in the State party;**

(c) **Ensure that the implementation and coordination of strategies and policies by the Ministry of Women's Affairs promote the empowerment of disadvantaged groups of women, in particular older women, women with disabilities and women and girls affected by conflict.**

Temporary special measures

22. The Committee notes the decision of the Palestinian Central Council whereby it seeks to put into place mechanisms to increase the political representation of women. The Committee is concerned, however, about the lack of a comprehensive strategy to incorporate temporary special measures to achieve the substantive equality of women and men in other areas in which women are underrepresented or disadvantaged.

23. **In line with article 4 (1) of the Convention and recalling its general recommendation No. 25 (2004) on temporary special measures, the Committee recommends that the State party:**

(a) **Urgently adopt a strategy for the implementation of temporary special measures to achieve the substantive equality of women and men, in particular in political and public life;**

(b) **Undertake capacity-building programmes, targeting all relevant State officials and hiring managers, on the non-discriminatory nature and importance of temporary special measures for achieving substantive equality between women and men in all areas in which women are underrepresented or disadvantaged.**

Stereotypes and harmful practices

24. The Committee notes the State party's efforts, through the gender unit of the Palestine Broadcasting Corporation, to support the production of programmes aimed at promoting positive roles for women in society. It remains concerned, however, about the persistence of discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and in society, which perpetuate the subordination of women. The Committee recalls that such discriminatory stereotypes are a root cause of gender-based violence against women and harmful practices, such as child marriage, which are pervasive in the State party. The Committee is also concerned about the lack of a comprehensive strategy to eliminate discriminatory stereotypes.

25. **The Committee recommends that the State party:**

(a) **Adopt, without delay, a comprehensive strategy to eliminate discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and in society;**

(b) **Regularly monitor and review the measures taken to eliminate gender stereotypes and harmful practices, such as child marriage, in order to assess their impact;**

(c) **Expand public education programmes on the negative impact of discriminatory stereotypes on the enjoyment by women of their rights, targeting religious and tribal leaders, who are the custodians of religious and customary values in the State party;**

(d) **Continue to review textbooks in order to eliminate the negative image of women and girls with regard to their roles in the family and in society, and ensure a positive reflection of that image;**

(e) **Intensify collaborative efforts with the media to raise public awareness of gender stereotypes that persist at all levels of society, with a view to their elimination.**

Gender-based violence against women

26. The Committee welcomes the State party's measures to combat violence against women, such as the adoption of a strategic plan for combating violence against women, covering the period from 2011 to 2019, and the establishment of a national observatory to study violence against women, in 2016. It also commends the State party on its legislative efforts, including the adoption of Decree Law No. 5 in March 2018 repealing article 308 of the Penal Code of 1960, which is applicable in the West Bank and which exonerated perpetrators of the crime of rape if they married the victim, and the repeal of article 340 of the Penal Code, and the revisions to articles 98 and 99 thereof, which provided for mitigating factors in cases of homicide of women or so-called "honour killings". However, the Committee notes the following with concern:

(a) The delay in the adoption of the draft family protection law, although it has already been reviewed by the legislative harmonization committee;

(b) The high prevalence of gender-based violence against women, in particular so-called "honour killings" and domestic and sexual violence, which remain socially accepted and underreported due to the stigma suffered by victims;

(c) The fact that the definition of rape under the Penal Code of 1960 applicable in the West Bank does not include marital rape, cases of which are often settled through reconciliation by tribal committees;

(d) The lack of family protection units in the Gaza Strip, despite the high incidence of gender-based violence against women, including domestic violence;

(e) The absence of legislation and lack of data on protection orders.

27. **Recalling its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee recommends that the State party:**

(a) **Give high priority to the adoption of the draft family protection law to ensure that women and girls are protected from gender-based violence, including domestic violence, and ensure that the law provides for the issuance of protection orders and for systematic data collection on the number of protection orders issued and violated;**

(b) **Intensify efforts to ensure that perpetrators of gender-based violence, in particular so-called "honour killings", are prosecuted and adequately punished and, in that context, ensure that the legislative harmonization committee takes appropriate measures to include marital rape in the definition of rape under the draft penal code and ensure that penalties for crimes involving gender-based violence against women and girls are commensurate with the gravity of the offences;**

(c) **Take concrete steps to establish adequately resourced family protection units in the Gaza Strip to provide services to women and girls who are victims of gender-based violence, including domestic violence;**

(d) **Intensify efforts to raise awareness among both men and women, including through educational and media campaigns, of the criminal nature of gender-based violence against women in order to challenge its social acceptance, and address the stigma discouraging victims from reporting;**

(e) **Continue to provide capacity-building for judges, prosecutors, lawyers, police officers and other law enforcement officials on the strict application of legislation criminalizing gender-based violence against women and on employing gender-sensitivity in investigation procedures and in the judicial process concerning victims of such violence.**

Trafficking and exploitation of prostitution

28. The Committee commends the State party on its efforts to combat trafficking in persons, such as the establishment of the national referral mechanism for women victims of violence, which provides protection for victims of trafficking in persons. The Committee notes that the State party has joined the Arab Initiative for Building National Capacities to Combat Human Trafficking and that it intends to modernize its laws to combat trafficking in persons. The Committee notes the challenges that the State party faces with regard to combating trafficking in persons, in particular because the State party does not have control of its borders. It welcomes the commitment by the State party's delegation to send an invitation to the Special Rapporteur on trafficking in persons, especially women and children, to visit the State party. However, it notes the following with concern:

(a) That trafficking in persons for purposes of sexual exploitation and clandestine prostitution occurs in the State party;

(b) The absence of legislation criminalizing sexual exploitation of women and girls or child pornography;

(c) The lack of data on the number of women and girls who are victims of trafficking in persons and exploitation of prostitution.

29. **The Committee recommends that the State party:**

(a) **Ensure that the process of modernizing legislation to combat trafficking in persons incorporates a gender perspective;**

(b) **Adopt legislation to criminalize sexual exploitation of women and girls and pornography;**

(c) **Establish a mechanism for the collection and dissemination of data on trafficking in persons, disaggregated by sex and age;**

(d) **Intensify efforts aimed at bilateral, regional and international cooperation to prevent trafficking, including through the exchange of information and the harmonization of procedures to prosecute traffickers.**

Participation in political and public life

30. The Committee notes the progress made in the State party with regard to increasing the representation of women in decision-making positions in political life, such as the adoption of Decree Law No. 1 of 2007, which provides for a quota stipulating that a minimum of 30 per cent of candidates standing for election must be women, and the Law No. 10 of 2005 on local elections, which provides for a minimum quota stipulating that 20 per cent of the candidates in local-level elections must be women. However, the Committee remains concerned that women are still underrepresented at decision-making levels, including in local government, trade unions, the foreign service and the judiciary.

31. **The Committee recommends that the State party:**

(a) **Ensure the implementation of temporary special measures, in line with article 4 (1) of the Convention and the Committee's general recommendation No. 25 and general recommendation No. 23 (1997) on women in political and public life, in particular the establishment of a mechanism to monitor compliance with the quota of a minimum of 30 per cent representation of women in all institutions in the State party, including in appointed and elected positions, in particular in local government, trade unions, senior leadership positions, the foreign service and the judiciary;**

(b) **Conduct awareness-raising campaigns for politicians, community and religious leaders, the media and the general public on the importance of the participation of women in political life and decision-making positions;**

(c) **Build the capacity of women candidates, including by seeking technical assistance from the international community, to enable them to compete effectively in elections, and provide incentives for political parties to nominate equal numbers of women and men to stand for election.**

Nationality

32. The Committee notes that, under Palestinian law, women and men have equal rights to acquire, change or retain their nationality. It is concerned, however, that legislation concerning nationality is governed by a complex set of laws, including the Personal Status Act of 1999, the Palestinian citizenship decrees issued in 1925 under the British Mandate, the amended Jordanian Citizenship Act of 1954 and certain circulars issued by the Ministry of the Interior concerning Palestinian women in the occupied West Bank and the Gaza Strip. The Committee is concerned about the following:

(a) The lack of information on measures to adopt a comprehensive law to unify the above-mentioned provisions in order to provide clarity on nationality and reduce the risk of statelessness for women and girls;

(b) The high number of Palestinians in diaspora, including women and girls who are affected by prolonged refugee status, which deprives them of the right to reside in the State party and to pass their nationality on to their children;

(c) The high number of Palestinian women and girls living in occupied Palestinian territory, including in East Jerusalem, who cannot exercise their right to Palestinian citizenship due to the occupation.

33. **The Committee recommends that the State party adopt a comprehensive law that unifies the various provisions on nationality to reduce the risk of statelessness for women and girls. The State party should also engage with the international community to address the issue of nationality for Palestinian**

women and girls who are deprived of citizenship owing to prolonged refugee status and to discriminatory citizenship laws affecting women and girls, in particular those living in East Jerusalem.

Education

34. The Committee notes the State party's efforts to improve access to and the quality of education for women and girls through the adoption of Act No. 6 of 2018, which explicitly provides that every citizen has the right to higher education, and through the use of tuition waivers as an incentive to increase enrolment in scientific disciplines among women and girls. It notes with appreciation the high levels of literacy among women and girls in the State party. However, the Committee notes the following with concern:

(a) The cases of girls dropping out of school, largely due to child marriage;

(b) The concentration of women and girls in traditionally female-dominated fields of study and their underrepresentation in science, technology, engineering and mathematics;

(c) The fact that, notwithstanding the comprehensive review of curricula in 2006, textbooks still contain discriminatory stereotypes about the roles of women and girls in society;

(d) The fact that the high number of women completing post-secondary education does not translate into their participation in the labour market and that vocational training courses continue to perpetuate occupational gender segregation;

(e) The lack of comprehensive, age-appropriate education on sexuality and reproductive health and rights.

35. **In line with the Convention and its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee recommends that the State party:**

(a) **Adopt a strategy to reduce the school dropout rate among girls due to child marriage and ensure that women and girls who have dropped out are reintegrated into the education system;**

(b) **Eliminate discriminatory stereotypes and intensify the use of tuition waivers to encourage the enrolment of women and girl in non-traditional fields of education, such as science, technology, engineering and mathematics, as well as in the digital field, through career counselling for young women and girls on non-traditional career paths and awareness-raising among parents and legal guardians;**

(c) **Undertake a comprehensive review of school curricula, including textbooks, to remove discriminatory stereotypes about the roles of women and girls in society and train teachers to ensure that they do not perpetuate such stereotypes in the learning environment, including in the delivery of vocational training;**

(d) **Introduce comprehensive, age-appropriate education on sexual and reproductive health and rights into school curricula, including education on modern forms of contraception and the prevention of sexually transmitted infections, for adolescent girls and boys.**

Employment

36. The Committee notes the efforts of the State party to improve the participation of women in the labour market, such as the adoption of Labour Act No. 7 of 2000,

which governs persons employed in the private sector. The Committee also notes that the Decree Law on Social Security provides for 12 weeks of paid maternity leave. However, it notes the following with concern:

(a) The high unemployment rate among women and the lack of concrete measures to enforce the principle of equal pay for work of equal value in order to narrow the gender wage gap in the State party;

(b) The concentration of women in the informal sector, including in the agricultural sector, where women working in family enterprises are excluded from social security protection, and the fact that the Labour Act does not extend to domestic workers or to the informal sector, in which women are concentrated;

(c) The absence of legislation that prohibits, and sets out the punishment for perpetrators of, sexual harassment in the workplace;

(d) The lack of data disaggregated by sex and disability on the participation of women with disabilities in the labour force, since the implementation of the quota pursuant to which 5 per cent of posts in government and non-governmental organizations be reserved for persons with disabilities.

37. **The Committee recommends that the State party:**

(a) **Intensify efforts to fully implement the existing laws and regulations on gender equality in employment and reduce unemployment among women by promoting their entry into the formal economy through, among other things, vocational and technical training;**

(b) **Effectively enforce the principle of equal pay for work of equal value in order to narrow and close the gender pay gap by regularly reviewing wages in sectors in which women are concentrated, conducting regular labour inspections, applying gender-neutral analytical job classification and evaluation methods and conducting regular pay surveys;**

(c) **Extend social protection to women working in family enterprises in the agricultural sector and extend the application of the Labour Act to domestic workers and to the informal sector, in which women are concentrated;**

(d) **Adopt legislation to prohibit sexual harassment in the workplace and to set out the punishment for perpetrators, collect statistical data on the extent of the problem of discrimination on the basis of sex in the workplace, including cases of sexual harassment, and conduct regular labour inspections aimed at enforcing those laws;**

(e) **Provide, in the next periodic report, data disaggregated by sex and disability on the number of women with disabilities who have been employed since the implementation of the quota pursuant to which 5 per cent of posts in government and non-governmental organizations are reserved for persons with disabilities.**

Health

38. The Committee commends the State party on its efforts to reduce maternal and infant mortality by introducing mobile clinics, which provide prenatal and postnatal services at the community level, despite the challenges to adequately funding the health sector. It also commends the State party on its efforts to ensure the physical and economic accessibility of health services by women and girls, notwithstanding the restrictions on their freedom of movement and the occupation of some parts of the State party's territory. However, the Committee is concerned that:

(a) The procurement of termination of pregnancy continues to be criminalized under the Penal Code of 1936 and the Penal Code of 1960, applicable in the Gaza Strip and the West Bank, respectively;

(b) Abortion is permissible only in cases of risk to the life of the pregnant woman;

(c) There are no data on the number of women and girls who have been detained and prosecuted for illegally procuring an abortion;

(d) Women with disabilities are not included in the national strategic plan on health, and women who are considered to have a disability, which is defined as less than 60 per cent of bodily impairment, are excluded from health insurance.

39. **In line with its general recommendation No. 24 (1999) on women and health, the Committee recommends that the State party:**

(a) **Legalize abortion in cases of rape, incest, risk to the physical or mental health of the pregnant woman and severe fetal impairment, ensure that abortion is decriminalized in all other cases and ensure that medically safe modern methods of abortion are available and accessible;**

(b) **Provide, in the next periodic report, data on the number of women and girls who have been detained and prosecuted for procuring an abortion;**

(c) **Increase and improve the provision of sexual and reproductive health information and services to women and girls, including modern methods of contraception, in particular with regard to rural women and girls;**

(d) **Ensure that all women with disabilities have access to health services, in particular health insurance, and take measures to include persons with disabilities in the national health strategy.**

Economic empowerment of women

40. The Committee appreciates that there are no legal barriers to access for women to financial credit and that women and girls are encouraged to participate in sports and recreational activities. The Committee notes that house demolitions and forcible evictions by the occupying Power continue to impede the economic empowerment of women in the State party. It notes with concern that:

(a) The economic empowerment of women has not received appropriate attention and the economic policies pursued by the State party have had a negative impact on women, in particular women entrepreneurs whose products cannot compete with those produced by the occupying Power;

(b) Women and girls, in particular those with disabilities, do not fully participate in sports, owing to discriminatory stereotypes and prejudices;

(c) Women are required to make pension contributions equal to those made by men, when in fact women are often engaged in part-time work and experience compensation discrimination.

41. **The Committee recommends that the State party:**

(a) **Increase access for women to loans and other forms of finance, including by providing soft loans and improving financial literacy among women, and promote access for women to income-generating activities, such as setting up small enterprises and marketing locally produced merchandise;**

(b) **Adopt concrete measures to encourage women and girls, in particular those with disabilities, to engage in sports, including by eliminating**

discriminatory stereotypes and prejudices by raising public awareness about the benefits of participation in sports;

(c) **Revise the pension contribution system to ensure that it takes into account the situation of women, including how their remuneration is affected by their concentration in part-time employment and by the gender pay gap.**

Rural women

42. The Committee notes that rural women have access to agricultural services and skills development through rural development and agricultural services programmes. It also notes the disadvantaged status of rural women due to the occupation, which has resulted in the dispossession of agricultural land and has limited access for women to water, sanitation and electricity and exposed them to violent acts by settlers. The Committee notes the following with concern:

(a) The lack of information regarding land ownership by rural women in the State party;

(b) That the programmes and activities implemented by the State party for rural women are more humanitarian than developmental in nature and that there is a lack of information on the participation of women in the implementation and development of agricultural policies;

(c) The lack of information on the number of women who have benefited from the disaster risk reduction and insurance fund, which is intended to compensate farmers for agricultural damages and losses.

43. **In line with general recommendation No. 34 (2016) on the rights of rural women, the Committee recommends that the State party:**

(a) **Provide information, in the next periodic report, on land ownership by rural women;**

(b) **Ensure that programmes and activities for rural women are focused on their economic empowerment and that rural women are involved in the implementation and development of agricultural policies, in particular with regard to decisions on land use;**

(c) **Provide information, in the next periodic report, on the extent to which women have benefited from the disaster risk reduction and insurance fund;**

(d) **Continue to seek international assistance and cooperation in order to improve access for rural women to water, sanitation and electricity.**

Disadvantaged groups of women

44. The Committee notes the efforts of the State party to improve the situation of disadvantaged groups of women, such as women with disabilities. However, it notes with concern the lack of data on the situation of women in detention, women with disabilities, older women and women heads of households, and in particular Bedouin women, who face forcible evictions and demolition of their houses by the occupying Power.

45. **The Committee recommends that the State party provide information, in its next periodic report, on the measures taken to ensure access to, among other things, employment, health care, water, sanitation and electricity for disadvantaged groups of women, such as women with disabilities, Bedouin women, older women and women heads of households, and on the situation of**

women in detention. The Committee also recommends that the State party continue to provide humanitarian assistance to Bedouin women and girls.

Marriage and family relations

46. The Committee welcomes the establishment of an alimony fund under Law No. 6 of 2005, which allows women to gain access to funds in cases in which husbands or relatives fail to meet their financial support obligations. It notes the State party's commitment to reviewing all discriminatory personal status laws regarding marriage and family relations. However, the Committee is concerned that personal status laws containing provisions that discriminate against women and girls continue to be applicable. The Committee is particularly concerned that:

(a) Child marriage is perpetuated by the existence in the State party of multiple laws establishing varying minimum legal ages of marriage, such as article 5 of the Personal Status Law applicable in the West Bank, which sets the legal age of marriage at 16 years for boys and 15 years for girls, and article 5 of the Family Rights Law applicable in the Gaza Strip, which sets the legal age at 17 years for girls and 18 years for men;

(b) Under rules of evidence in family matters, the testimony of a man is considered to be equivalent to that of two women;

(c) A woman's right to child custody is invalidated if she remarries a man who is not a close relative of the child;

(d) Male guardians have the legal capacity to contract marriages on behalf of their female relatives and have the power to invalidate a marriage irrespective of the consent of the married woman;

(e) Men have the right to unilaterally divorce their spouses, which leaves many women in precarious situations;

(f) The law does not provide for an alternative legal regime that would allow women to contract civil marriages.

47. **In the context of the ongoing legislative review by the legislative harmonization committee aimed at ensuring that the legislation of the State party is in conformity with the Convention, the Committee recommends that the State party:**

(a) **Review all personal status laws with a view to repealing or amending all provisions that discriminate against women and girls, in particular those relating to marriage, divorce, inheritance and the legal capacity of women, and in that regard, address family status matters by taking into account the best practices of countries with similar cultural backgrounds;**

(b) **Adopt a law that provides for an alternative legal regime to govern civil marriage in the State party.**

Amendment to article 20 (1) of the Convention

48. **The Committee encourages the State party to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.**

Beijing Declaration and Platform for Action

49. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

Dissemination

50. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the Palestinian Legislative Council, once convened, and the judiciary, to enable their full implementation.**

Technical assistance

51. **The Committee recommends that the State party consider seeking international cooperation and technical assistance in the development and implementation of a comprehensive programme aimed at implementing the above recommendations and the Convention as a whole. The Committee also calls upon the State party to continue its cooperation with specialized agencies and programmes of the United Nations system.**

Ratification of other treaties

52. **The Committee notes that the adherence of the State party to the nine major international human rights instruments [1] would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.**

Follow-up to the concluding observations

53. **The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 11 (a), 13 (c) and 15 (a) and (c) above.**

Preparation of the next report

54. **The Committee requests the State party to submit its second periodic report, which is due in July 2022. The report should be submitted on time and cover the entire period up to the time of its submission.**

55. **The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I).**

[1] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

United Nations CEDAW/C/ISR/FCO/6

Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Information received from Israel on follow-up to the concluding observations on its sixth periodic report*

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I. Introduction

1. As requested by the Committee on the Convention on the Elimination of all forms of Discrimination against Women in its concluding observations dated 17 November 2017, the State of Israel respectfully presents the following information, according to the Committee's requests in paragraph 63 of the Concluding Observations on the Sixth Periodic Report of Israel (hereinafter: **the Report**).

II. Follow up information

A. Follow-up information relating to paragraph 13 (a) of the concluding observations (CEDAW/C/ISR/CO/6)

2. As mentioned in the GOI Report, In Government Resolutions No. 4052 (12.12.11), No. 1526 (30.3.14) and No. 2913 (3.8.17), the Government of Israel established that the exclusion of women from the public sphere is an offensive phenomenon and the State of Israel is committed to eliminate it. This issue is highly sensitive and thus requires a complex balance between the right to equality and the right to freedom of religion and culture in Israel.

3. The Deputy Attorney General (Public and Administrative Law) continues to address the legal aspects that arise in this regard as well as follow the implementation of the Intra-Ministerial Report which was directed by the Attorney General. The Authority for the Advancement of the Status of Women (hereinafter: AASW) continues its efforts to eradicate incidents of exclusion of women from the public sphere by monitoring and addressing different entities and developing new mechanisms to eliminate this phenomenon in general. For example, during 2019, in cooperation with the Ministry of Health, it has addressed discriminative posters which appeared in ultra-Orthodox neighbourhoods in Jerusalem.

4. In addition, the Authority has been working with different governmental bodies concerning their representation of women speakers in the events they organize. For example, it approached the Deputy Minister of Foreign Affairs, the mayor of Ramat-Hasharon local Authority and the Israel Intelligence Heritage and Commemoration Center (IICC) regarding the lack of women speakers in the first intelligence conference which was held in Israel.

Cultural Events in Local Authorities

5. Recently, several local authorities conducted public events in separation between men and women due to the religious beliefs of a part of the public, as well as events for men only. The Attorney General addressed this issue in the course of several petitions which were filed to the Administrative and High Court in this regard. (Ad. P. 17029-08-19 The Women's Network v. Afula Local Authority; HCJ 23791-08-19 Arbel v. Afula Local Authority; Ad.p 46461-08-19 The Women's Network v. Haifa Municipality; Ad.p.Ap 5435/19 The Women's Network v. Afula Municipality).

6. According to Section 3(d)(3) to the Law, providing a public product, a public service or entry to a public place, which entail gender separation, when non-separation shall prevent some of the public from attending the event, can be justified, considering, inter alia, the following: the characterization of the product, the public service or the public place; the essentiality of the event; whether there is a plausible alternative; the needs of the public that may be offended by the separation; and more.

7. In the course of this case, the Attorney General issued an opinion, referring to Section 3(d)(3) of the Law, stating that the general rule is that the principal of equality should be upheld, as it stands at the heart of our democracy. The municipality must take into account whether the separation is voluntary, and to what extent; whether the event includes only an adult audience and not children or families; and elements of material equality.

8. Note that the Attorney General has clarified that these parameters are temporary, and the issue would be further examined in the near future, following public consultation on the matter

9. During May, 2019 a cultural event for families was planned to be held in separation in the city of Hadera. Following the application of the Deputy Attorney General (Administrative and Public Law), the event was cancelled. Additionally, in August 2019 the Administrative Court in Haifa ordered (4646-1-08-19 The Women's Network v. Haifa Municipality) to cancel a cultural event, exclusively for men, in accordance with the Attorney General's opinion, since the local municipality did not account for the necessary considerations as described above.

Preventive Driving Course

10. Following a lawsuit filed in the Tel Aviv-Jaffa Magistrate Court under the Prohibition *of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law* 5761-2000 (hereinafter: the *Prohibition of Discrimination in Products Law*) (Ci.C.i 53057-08-18 *Fridmann v. The Ministry of Transportation and Road Safety*), the Attorney General concluded that holding separate preventive driving courses can be done only according to Section 3(d)(3) of the Law. The first of these three (3) conditions holds that separate frameworks will not be considered discriminatory provided that lack of separation would effectively prevent a portion of the public from acquiring the particular product or public service. The Court found that this condition was not fulfilled, as no evidence has been put forth to establish that the absence of separate frameworks will preclude the participation of the ultra-Orthodox community in the courses. In light of this finding, the Attorney General concluded that the Ministry of Transportation and Road Safety was unauthorized to initiate and enact separate preventative driving courses. The Attorney General clarified that the Ministry of Transportation can allow for groups of voluntarily unionized individuals to request a separate course, that may be composed of a certain gender, depending on its original composition.

Public Transportation

11. A well-established precedent in Israel is the High Court's ruling in the Ragen Case (H.C.J. 746/07) which determined that separate seating arrangements for men and women, that women would sit in the rear end of the buses and men would sit in the front, is discriminatory and humiliating to women and thus prohibited. Since the ruling, bus companies have also put a public notice in buses clarifying that every person can sit wherever she or he wishes.

12. In 2019, there has been an increase in the number of applications with regards to the exclusion of women in public transportation (which were required to sit in the back). In light of these severe events, a discussion was held with the Deputy Attorney General (Public and Administrative Law) and representatives from the Ministry of Transportation. Following this discussion it was decided to increase the criminal enforcement in accordance with the Prohibition of Discrimination in Products Law as well as to enhance enforcement operations and further clarify the guidelines on this matter before the transportation companies. These efforts include, for example: the dissemination of specific directives to be followed by public transportation operators

on lines that primarily service the ultra-Orthodox community, with emphasis on the right of every person to enter the bus from any door and sit where they please. Operators were instructed to display a public notice on their buses, stating the aforementioned directive and warning that gender based harassment may constitute a criminal offense. Special inspections have taken place to ensure compliance with these protocols. Any complaint of discrimination is immediately referred to the Department of Transportation's legal team in cooperation with the relevant public transportation operators for investigation. The Department reserves the option to press criminal charges against the bus driver or workers of the relevant public transportation company, or, alternatively, to initiate administrative proceedings.

B. Follow-up information relating to paragraph 53 of the concluding observations

13. Generally, all female prisoners are held separately in a designated prison or a special wing. There is no separation between criminal prisoners, regardless of their place of residence. However, in all prisons there is a strict separation between prisoners with a drug addiction and prisoners without any narcotic background. The treatment of prisoners is individually tailored to their needs, including professional assistance from physicians, social workers, and other officials.

14. Medical Care – Every IPS detention facility employs a general physician, and the majority of the facilities employ a dentist, a narcology specialist, a psychiatrist and a professional medic providing regular services. Examinations by expert doctors are conducted in the IPS medical centre, prison infirmary and hospital clinics. Inmates are allowed to have private doctors at their own expense. Gynaecological examinations are held when necessary and upon request. A medical examination may be conducted daily and one can be examined by a physician upon request. Where a need arises for a specialist or hospitalization, the proper coordination is conducted with the relevant hospital and the Ministry of Health.

15. Training for IPS officials on domestic and sexual violence – IPS employees go through several training courses led by professionals regarding the issue of prevention of domestic and sexual violence, including: External training by specialized professionals in the field of prevention of domestic and sexual violence; A special course on the issue of prevention of domestic violence (October 2018, June 2019), in addition to routinely conducted additional training days and trainings in the various IPS districts for new employees.

C. Follow-up information relating to paragraph 57 (a) and (b) of the concluding observations

Israel's Reservation to Article 16

16. In light of the Committee Concluding Observations, issued to the GOI in November 2017, a designated team was convened to examine the possibility of withdrawing part of the conclusive reservation to Article 16. The team included representatives from both International Law Department and the Department for Constitutional Law in the Ministry of Justice. The team held consultations with the legal advisors of the religious communities in Israel, as well as asked for the legal opinion of the Department for Jewish Law in the Ministry of Justice. This issue is currently an ongoing effort, and is being considered by the relevant personal.

Positive Developments concerning appointment of women to influential positions in Rabbinical Courts

17. Over the last two years, several women have been appointed to influential positions in the Rabbinical Courts system, including legal assistants, an internal auditor, and a deputy director of the Courts' Administration.

Implementation of Divorce Decisions by the Rabbinical Courts

18. In Cr.C. 11271-09-18 The State of Israel v. Meir Gorodetzeki (30.4.19), the Court discussed Mr. Gorodetzeki's twenty (20) years refusal to grant a divorce to his spouse, in spite of spending the past eighteen (18) years in jail. The petitioner was convicted of violating a lawful order and sentenced to fifteen (15) months in jail. In its ruling the Court emphasized the long time Gorodetzeki's spouse has been trapped in her marriage, and his repeated refusal even during the criminal proceedings to grant her a divorce. The case is being appealed by the State, asking the Court to impose a harsher sentence. The case was published in the news in order to deter additional men from refusing to grant divorce to their spouse.

19. The Rabbinical Courts adhere to the timetable provided in the Rabbinical Courts Law (Implementation of Divorce Judgments) 5755-1955. In most cases in which a divorce was not granted by that the time set by the Court, the Court discussed ordering restriction orders or granted such orders based on previous proceedings in the case. In each of the years 2018 and 2019, 137 such restriction orders were granted.

Distribution of Child Support Obligations between Divorced Parents

20. On July 19, 2017 the Supreme Court delivered a precedential ruling regarding distribution of child support obligations between divorced parents.

21. Generally, the law in Israel concerning child support is religious law. According to Jewish Law only the father owes child support (in the least, with regards to the basic needs of the child). In this recent Supreme Court Decision, the Court interpreted the "classical" Jewish Law obligation differently, in so that the mother owes child support as well, depending on her financial capabilities.

22. The conclusion that stems from the judgment is that when the parents have joint (equalitarian) physical custody, both parents are equally obligated to pay child support for their children between the ages of 6–15 years, while considering each of the parent's economic capabilities. As a result, if indeed the parents have equal economic capabilities, each of the parents will bear the costs of child support independently.

23. Family Matters Courts throughout Israel interpreted the Decision as also applicable to situations where the parents do not share joint (equalitarian) physical custody. Meaning, the burden of child support will be distributed in accordance with the parents financial capabilities as well as according to the number of days a week the child stays with each parent, among others.

24. The Court relied in its decision, inter alia, on Article 27 to the CRC and stated that the principle set in this Article imposes on both parents of a child the responsibility for the child's support. In spirit of Article 27, the Court ruled that after the divorce a minor's parents continue to be obligated to care for his/her needs, to ensure an adequate standard of living, and the physical and mental development of the child.

Stay of Exit Orders

25. Regrettably, Israel is faced with parents who are reluctant to fulfil their legal obligation to pay child support to their children, leaving their previous partner to bear the heavy burden alone. In order to address this unfortunate phenomenon, the court issues Stay of Exit Orders which are used when there is fear the parent will escape the country to avail the debt enforcement agencies. In 2018, 1,159 stay of exit orders were issued in 556 cases concerning family matters.

Court Jurisdiction with regard to Child Support

26. On September 22, 2019 the High Court of Justice rendered its decision in the case of Anonymous v. Anonymous (Ap.Rq. 7628/17). The case regarded the question – which court has jurisdiction to determine child support payments: the Religious Court or Family Matters Court.

27. Generally, there are two (2) judicial systems authorized in issues relating to personal status and family matters of Jews in Israel: the Family Matters Courts, and the Religious Courts – Rabbinical Courts for Jews, sharia Courts for Muslims, Druze Courts for Druze and Christians Courts of the different Christian communities, all have a unique authority regarding matters of marriage and divorce and a parallel authority to the Family Matters Courts in matters of spousal maintenance, child support, contact and residence of children, and matrimonial property. In certain cases the jurisdiction is parallel, and in others, it requires the consent of all relevant parties.

28. The case before the Court regarded the interpretation of Section 3 of the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law 5713-1953. The Court accepted the opinion presented by the Attorney General according to which, the guiding precedent in this matter – Ap.Rq.120/69 Shragay v. Shragay is still valid. According to this precedent, child support payments are not an issue that should be subjected to forum shopping and the principle of the child best interest would be best served if the jurisdiction regarding child support cannot be attached with a divorce lawsuit before the Rabbinical Court. This means that – in the event that only one of the parties' files for divorce in the Rabbinical Court, and the other party reject's the Court's jurisdiction on child support, the Court will not have jurisdiction to discuss the matter, but only the Family Matters Court.

D. Additional Information and Recent Updates

Intensive efforts in the fight the scourge of persons in prostitution

29. A historic milestone was marked on December 31, 2018, when the Knesset legislated the Prohibition of Consumption of Prostitution Services Law (Temporary Provision) 5779-2018, which prohibits the consumption of sexual services.

30. According to the Law, the offense of consumption of prostitution services, which includes even merely the presence in a location which is used for prostitution, is an administrative offense for which one is fined for 2,000 NIS (540 USD) for first time offenders and double the sum for repeat offenders.

31. According to the Law, he/she who is present in a location which is principally used for prostitution will be seen as being there for the purpose of consumption of such services, unless proven otherwise. Nevertheless, the Law authorizes the State Attorney's Office to indict an offender, in which case the court could impose a fine of up to 75,300 NIS (20,350 USD). The Law further enables the Minister of Justice to set alternative penalties to fines within the Law's Regulations, by means of indictment. The Law will come into force in July 2020 for a period of five (5) years.

Its extension will be determined in accordance with research on its effects. In addition, the Ministers of Public Security and of Labour, Social Affairs and Social Services will conduct periodic reviews of its implementation and the overall progress of the efforts to reduce consumption of prostitution.

32. In addition, in June 2018, the Knesset legislated Amendment No. 132 to the Penal Law 5737-1977, which criminalizes a proposal to engage in prostitution to both adults and minors (Section 205D).

33. Furthermore, in March 2018, the Knesset enacted the Blocking of Telephone Numbers for the Prevention of Crimes Law 5768-2018, which authorizes police officers to block a publicized telephone number if he/she has reasonable grounds to believe that said phone number is being utilized for the commission of a crime, including via internet or by other technological applications. This further enables the blocking of telephone numbers publishing prostitution services, including that of a minor and drugs and dangerous substances offences.

34. Finally, in June 2018, Amendment No. 132 of the Penal Law entered into force, which added a new offense prohibiting the publication of proposals to engage in prostitution (e.g. direct proposals, wanted ads etc.) (Section 205D). According to this offence, the publication of such a proposal is liable to a maximum sentence of three (3) years imprisonment or a fine up to 226,000 NIS (62,700 USD), and if the proposal is aimed at a minor – a maximum sentence of five (5) years imprisonment of the abovementioned fine. If a corporation committed the offense, it shall be liable to double the said fine. This offence in also included in both Blocking of Telephone Numbers for the Prevention of Crimes Law and Authorities *for Prevention of Internet Use for the Commission of Offenses Law*, and it complements the offence of publication of prostitution services of 2011.

35. In July 2017, the Knesset legislated the Authorities for Prevention of Internet Use for the Commission of Offenses Law, which authorizes courts to issue an order for blocking access to a website or for its removal from the internet. Starting in 2018, the District Attorney's cyber unit has filed requests with the courts to shut down websites which advertise prostitution in accordance with Article 205 of the *Penal Law*. In 2018, 45 websites advertising prostitution and 83 websites advertising paedophilia were shut down.

Combating Polygamy

36. On September 19, 2019 the Be'er-Sheva District Court ruled in an appeal in the 25462-04-18 Iman Abu Sakik v. The State of Israel case, and accepted the GOI's appeal on the conviction in the first case to be prosecuted, according to the new guidelines.[1] The Magistrate Court convicted the accused of marrying a second wife and sentenced him to community service and a fine due to the defendants claim that he was unaware this was a crime, as the Sharia Religious Court issued him a permit to marry a second wife under the Sharia Law. The State appealed on both counts, claiming that the sentence, that did not include imprisonment, was too lenient and did not reflect the severity of the offence as intended, and also claiming that the confirmation of the religious court is not an authorization of the marriage, rather a technical confirmation that indeed a valid marriage has taken place. The appellate court accepted all the State's claims, and sentenced the defendant to seven (7) months in prison and a 25,000 NIS (7,098 USD) fine. The rejection of the defendant's request to appeal to the Supreme Court (6413/19 *Iman Abu Sakik v. The State of* Israel), along

[1] The Attorney General Guideline No. 41112 entitled "The polygamy offence" (23.1.17). The purpose of this Guideline is to enhance effective enforcement of the polygamy offence, according to Section 176 of the Penal Law and to augment its punishment appropriately.

with his motion for a re-trial (7563/19 *Iman Abu Sakik v. The State of Israel*), demonstrates the Court's firm position on this matter. This case is the first case in Israel in which a prison sentence was set for the crime of polygamy.

The Committee for the Enacting of a National Action Plan to Combat the Phenomenon of Sexual Harassment

37. A decision of the Ministerial Committee on Gender Equality, approved by Government Resolution No. 3229 of December 7, 2017, resulted in the Authority initiating the establishment of a committee to formulate a national plan to combat sexual harassment in Israeli society. In the context of this resolution and for the implementation of the plan, 10 Million NIS (2.7 Million USD) were allocated for a period of three (3) years. The Committee consisted of the Directors-Generals of the Ministries of Social Equality, Justice, Finance, Education, and senior representatives of the Police, the IDF and NGOs. The Committee's work lasted several months and included a broad process to create a deep understanding of the core issues and the critical challenges that require a response in the field. The Committee submitted its recommendations to the Minister for Social Equality on January 28, 2019, in which it recommended that the national plan focus on the following issues: (1) raising public awareness to education to change social norms and to provide information and knowledge about the law; (2) strengthening the commitment and ability of employers and supervisors to prevent and deal with sexual harassment effectively; (3) strengthening the supervision and law enforcement for the prevention of sexual harassment at the workplace, (4) prevention of sexual harassment in the Civil Service; and (5) developing and deepening the knowledge and research infrastructure in the area of promoting policies which are based on such infrastructures.

Encouraging women to run for high-ranking-positions

38. An important initiative taken by the AASW is their "Run" Campaign, aimed at encouraging women to run for positions in municipal elections. The percentage of women running for positions in municipalities has risen significantly since the start of the campaign. A particular achievement is the 36% rise in new women candidates belonging to the Arab population.

39. Additionally, the Authority has published guidelines regarding gender equality in local authorities. Four (4) roundtable discussions were held throughout 2018 with the aim of teaching local authorities how to implement the guidelines in practice, with the hopes of advancing gender equality in this field. The program has seen much success, with a rise from 15 participating municipalities in 2017 to 98 participating municipalities in 2018.

40. The Gender Equality Department in the Civil Service Commission conducted an important research examining how to tackle the relatively small quantity of women in high-ranked or managing positions in the Civil Service; the research indicates that the reasons include mainly law self-esteem of women, who commonly do not believe they have the proper qualifications to the opening positions, and not, as commonly and mistakenly thought, because of work and family balance. The Department continues to work and develop designated seminars and courses targeting this issue.

Measures taken towards rendering victim's services more accessible

41. In May 2019, the Office of the State Attorney created a form that allows victims to access the Office's Department for Victims of Criminal Offenses' services, including police assistance or legal aid. The form was designed in order to ameliorate the accessibility and quality of assistance provided to victims of crime, and may therefore be accessed via the victim's cellular device.

Israel's Ratification of Section 20(1) of the Convention on the Elimination of Discrimination Against Women

42. In a Government Resolution adopted on 30 August 2019, the State of Israel ratified the amendment to Section 20(1) of the CEDAW.

United Nations CEDAW/C/PSE/FCO/1

Convention on the Elimination of All Forms of Discrimination against Women

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Item 5 of the provisional agenda
Consideration of reports submitted by States parties under article 18 of the Convention

Information received from the State of Palestine on follow-up to the concluding observations on its initial report*,**

[Date received: 27 July 2020]

* The present document is being issued without formal editing.
** The annexes to the present report may be accessed from the web page of the Committee.

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Introduction

1. The present report was submitted as part of the follow-up of the State of Palestine to its international obligations under the human rights instruments to which it has acceded, including the Convention on the Elimination of All Forms of Discrimination against Women. A series of procedures, policies and measures have been put in place reflecting the fundamental principles and values on which the State of Palestine was founded. These include peace, freedom, equality, democracy, pluralism and respect for human rights. The State of Palestine has worked intensively to publish the relevant human rights instruments, including the Convention, in the *Official Gazette*. The necessary laws have been put in place for the elimination of all forms of violence and discrimination against women, including the Protection of the Family from Violence Act. For that purpose, appropriate national committees have been established, such as the committee on harmonizing national laws with international instruments and standards, and other technical committees. The ongoing Israeli colonial occupation and the attendant crimes and violations have affected the capacity of the State of Palestine to implement those obligations. Of particular note are the current plans to annex Palestinian land, a step that would plainly violate international law, the Charter of the United Nations and human rights principles and would have implications for the rights of the Palestinian people, particularly women, girls and children everywhere, including refugees and members of the diaspora. Foremost among those rights are the right of return, the right to self-determination and the right of the State of Palestine to independence with Jerusalem as its capital.

I. Actions taken further to the concluding observations

2. On 11 July 2018, the State of Palestine discussed its initial report concerning the Convention with the Committee on the Elimination of Discrimination against Women at its seventieth session. The Committee issued its concluding observations concerning the initial report on 25 July 2018.

3. A national team for following up implementation of the Convention was established by a presidential decree of 2018. It is chaired by the Ministry of Women's Affairs and the Ministry of Foreign Affairs and Expatriates, and its members consist of representatives of other relevant ministries.[1] On receiving the concluding observations, the team met several times to discuss the steps that would be taken to implement the Committee's recommendations. The first step would be translating the recommendations into Arabic and having the Cabinet distribute them to all relevant national institutions, which should implement them in their respective areas of competence.

4. As a first step in addressing the recommendations, the members of the team prepared a matrix of all the recommendations, the actions needed for their implementation, the party responsible for each one, and the necessary time frame for implementation. The matrix was then developed into a comprehensive national plan to implement all the recommendations during the period 2019–2022. The plan sets out the interventions and procedures that are needed in order to implement each

[1] The national team for following up implementation of the Convention consists of the following bodies: the Ministry of Women's Affairs, the Ministry of Foreign Affairs and Expatriates, the Ministry of Social Development, the Ministry of Justice, the Ministry of the Interior, the Public Prosecutor's Office (prosecutor responsible for family affairs), the sharia judiciary, the Higher Presidential Committee for Church Affairs, the Ministry of Health, the Ministry of Labour, the Ministry of Education and the Palestinian Central Bureau of Statistics. Following receipt of the concluding observations, the following bodies were added to the team: the Cabinet, the civil judiciary, the Ministry of the National Economy, the Ministry of Finance, the Ministry of Information, the Ministry of Agriculture and the security sector.

recommendation; the party responsible for each intervention; and the necessary time frame for implementation, ranging from 2019 to 2022. Some activities are being implemented immediately, and others on a continuous basis over the next two years. Performance benchmarks are also specified.

5. The implementation plan consists of a national plan aimed at strengthening the rights of Palestinian women by involving all relevant national bodies, including civil society organizations. The State of Palestine has therefore endeavoured to hold national consultations regarding the plan in order to gather comments and recommendations from the relevant national bodies; the plan is intended to be comprehensive and nation-wide, not merely governmental. National consultations were held on 16 September 2019. Civil society organizations in the West Bank and the Gaza Strip participated by videoconference, and the comments most consistent with the Committee's recommendations were incorporated into the national plan.

6. The plan (see annex 1) was then adopted by the national mechanism to monitor implementation of human rights instruments. For that purpose, the comments that emerged from national consultations were submitted to a committee of experts representing all Government bodies, and then to the senior ministerial committee for following up the accession of the State of Palestine to international conventions, protocols and treaties, chaired by the Minister for Foreign Affairs and Expatriates. The latter adopted it definitively in July 2020. In coordination with the Cabinet, the plan was then disseminated to all relevant national bodies for follow-up in their respective areas of competence.

7. In cooperation with relevant national bodies, the Palestinian Central Bureau of Statistics has developed a matrix of national and regional indicators related to the Convention with a view to monitoring and following up the situation of Palestinian women and providing the maximum available date to track the situation related to the instruments to which the State of Palestine is a party, including the Convention. The matrix is the first of its kind in the Arab world and the region.

8. The State of Palestine invited the Committee to visit Palestine and follow up implementation of its recommendations. The Committee accepted the invitation and decided to send three of its members to take part in a visit from 11 to 14 November 2019. The Ministry of Foreign Affairs and Expatriates, the Ministry of Women's Affairs, the Office of the United Nations High Coordinator for Human Rights and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) coordinated to prepare for the visit, design an appropriate programme to discuss the most important procedures, measures, policies and laws introduced by the State of Palestine to follow up implementation of the consulting observations, and draw on the expertise of the members of the Committee.

II. Information to be provided within two years of receipt of the concluding observations

A. Paragraph 11 (a): Adopt, without delay, national legislation that includes a comprehensive definition of discrimination against women covering all prohibited grounds of discrimination and encompassing direct and indirect discrimination in both the public and private spheres

9. A definition consistent with the Convention and other human rights instruments has been incorporated into the draft decree-law concerning protection of the family from violence. A definition of discrimination has also been adopted as part of the work on the recommendations of the committee on harmonizing national legislation with international instruments and standards, with reference to the review of the Palestinian Labour Code (Act No. 7 of 2000). The Code is being amended in accordance with international standards and the recommendations of treaty bodies,

including the Committee on the Elimination of Discrimination against Women. A policy paper has been prepared regarding issues entailing amendments to labour laws. Such issues include incorporating a definition of discrimination and mechanisms to establish its occurrence and procedures for litigation; removing all exceptions; providing equal employment opportunities and guaranteeing equal wages for work of equal value; and criminalizing sexual violence. Work is underway on amending the Civil Service Act to include a legal provision prohibiting and criminalizing discrimination in the workplace.

10. Action is being taken to prepare a draft decree-law regulating trade unions in order to ensure that women can participate effectively in unions without gender discrimination. A draft decree-law has been prepared raising the quota of women in general and local elections to no less than 30 per cent, in accordance with the decisions of the Palestinian National Council and the Central Council of the Palestine Liberation Organization.

11. Cabinet decision No. 06/37/18/*mim -waw/mim-alif*), which was adopted in 2019,[2] provides for the formation of a national team to review the 2011 draft Palestinian penal code. The members of the team have put in place a plan and a working mechanism to review the draft code in accordance with the international standards and instruments to which the State of Palestine is a party and with the recommendations of human rights treaty bodies including the Committee, in particular as regards criminalizing discrimination in all areas of life and adopting a comprehensive definition of discrimination.

12. The laws recently adopted with a view to eliminating discriminatory practices against women include Act No. 22 (2019), pursuant to which, in accordance with the decisions taken by the Cabinet in March 2018, mothers have the same right as fathers to open bank accounts for their minor sons.

B. Paragraph 13 (c): Take concrete steps to accede to the Optional Protocol and publish the Convention in the *Official Gazette*

13. The State of Palestine acceded to the Optional Protocol on 10 April 2019, the third Arab State to do so after Libya and Tunisia. It has also acceded to the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The State of Palestine has endeavoured to activate mechanisms for individual complaints under those protocols in order to ensure that all effective remedies are available.

14. The Cabinet has established a committee for the purpose of ensuring publication in the *Official Gazette*. The members consist of the Ministry of Women's Affairs, the Ministry of Foreign Affairs and Emigrants, the Supreme Constitutional Court and the secretariat of the Cabinet. The committee has met numerous times and produced a draft decree-law on publication of the Convention in the *Official Gazette* and on the publication of an explanatory memorandum in that regard. The draft was submitted to the Cabinet in order for the latter to consider it and take the necessary action to have it published and incorporated into the Palestinian legal system. However, efforts to ensure swift publication have been hampered by campaigns against the Convention and its provisions and its rejection by certain segments of society.

[2] The team is chaired by the Ministry of Justice and comprises the Office of the President, the secretariat of the Cabinet, the Supreme Judicial Council, the Ministry of the Interior, the Ministry of Women's Affairs, the Ministry of Foreign Affairs and Expatriates, the Public Prosecutor's Office and the Independent Commission for Human Rights. The team is entitled to consult experts and specialists.

(c) Paragraph 15 (a): Reunify the legal systems in the Gaza Strip and the West Bank to ensure that all women and girls in the State party are afforded equal protection under the law, in line with the Convention

15. Implementation of that recommendation depends fundamentally on the completion of national reconciliation and the election of a legislative body for the State of Palestine. There have been a great many national endeavours to achieve reconciliation, end the division and restore national unity. That priority has been underscored by the National Council and the Central Council in numerous sessions, and by the President on many national occasions, in international forums and before United Nations entities. Those endeavours culminated in a national consensus on the holding of fresh presidential and legislative elections in accordance with the announcement made by the President in 2019. However, Israel, the occupying Power, has made every effort to hamper national reconciliation and the holding of elections. It has refused to allow voting in Jerusalem and to lift the blockade on the Gaza Strip. Such conduct is intended to entrench geographic division between the West Bank and the Gaza Strip in order to advance the colonialist interests of Israel.

16. It should be noted, however, that decisions issued by the President as having force of law apply without distinction across the nation, including the West Bank, Jerusalem and the Gaza Strip.

(d) Paragraph 15 (c): Expedite the review of draft laws to ensure their compliance with the Convention, including the draft penal code, the draft personal status code and the draft family protection law, and their adoption

17. As was mentioned above, the Cabinet decided to form a national team to review the 2011 draft penal code. The team has met several times to determine a plan and working mechanism. The members of the team decided, in a timely manner, to submit the amended draft to relevant civil society organizations and national bodies and engage in the necessary consultations. That process will coincide with the opening of an online portal to receive legal comments on the draft code. The team began reviewing the draft code in early 2020. However, its work has been temporarily impeded by the Coronavirus pandemic and the declaration of a state of emergency. The Government is taking the necessary measures to ensure that the national committees and teams can continue to work effectively, with due regard for the necessary preventive measures.

18. As regards the draft decree-law concerning protection of the family from violence, after the formation of the eighteenth government, all the laws which the previous government had sent to the President for consideration were sent back to the new Government for reconsideration and resubmission to the President. Accordingly, on 29 May 2019, the Cabinet sent the draft decree law to the Ministry of Social Development, the Ministry of Women's Affairs and the Ministry of Justice for reconsideration, consultation and awareness-raising. A technical committee[3] was then established to prepare a second version of the draft law. The committee is currently completing consultations and taking the necessary legal measures with a view to having the law adopted and published in the *Official Gazette* in accordance with the applicable procedure. The state of emergency owing to the Coronavirus pandemic has prevented the swift completion of measures to adopt the draft law.

[3] The technical committee consists of the Ministry of Justice, the Ministry of Women's Affairs, the Ministry of Social Development, the Public Prosecutor's Office, the Supreme Council of the Judiciary, the sharia judiciary, the Advice and Legislation Bureau, the secretariat of the Cabinet, the Office of the President, the General Union of Palestinian Women and the Forum of Civil Society Organizations opposed to Violence against Women (Al-Muntada).

19. Nevertheless, numerous measures have been taken to ensure prevention, protection and accountability and to reintegrate victims in the family and society. For that purpose, the competent national bodies are implementing harmonized methods for evidence and work. In practical terms, a free direct phone line has been opened in order for family protection units in the police force across the country to receive complaints from women victims of violence. A risk assessment template consistent with the Coronavirus state of emergency has been developed.[4] Mechanisms have been elaborated to respond to violence against women, particularly deaths in unclear circumstances. When conducting investigations and broadening their scope, social and psychological reports are used as a key indicator.

20. In order to develop the services provided for victims of violence, action is being taken to review the 2013 national referral system for women victims of violence and Act No. 9 (2011) regulating centres for the protection of women victims of violence with a view to developing national referral mechanisms and providing services to women who are excluded from those systems, particularly women with severe disabilities, women who have been exploited in prostitution cases and women living with alcohol or drug addictions.

21. A guide to harmonized work procedures regarding cybercrime has been compiled. The online register maintained by the prosecutors responsible for protecting families from violence has been activated with a view to documenting all the actions taken to address cases of violence.

22. In cooperation with the Palestinian Central Bureau of Statistics, the Ministry of Women's Affairs has carried out a survey of violence in 2019. The survey will be used to identify gaps and develop policies and mechanisms to reduce the rate of violence. In cooperation with the competent bodies, the Ministry of Women's Affairs is completing the necessary procedures to launch the National Monitoring Centre on Violence against Women with a view to adopting harmonized national statistics on violence against women and girls. For that purpose, a fully confidential online system is in place.

23. As regards the Personal Status Code: On 5 March 2018, the Cabinet established a technical committee to review the body of laws regulating personal and civil status, and to modernize those laws in accordance with international standards and best practices. The committee consists of relevant Government bodies and the General Union of Palestinian Women. It may consult any expert or specialist whom it deems appropriate in order to fulfil its functions. The committee began work in July 2019 and adopted a plan of action. However, it has not met often since then owing to a campaign launched by opponents of the Convention and because certain sectors of society reject any amendment to personal status laws in accordance with the Convention, because they are broadly based on religious precepts. Nevertheless, the national team responsible for following implementation of the Convention and the senior ministerial committee for following up the accession of Palestine to international instruments have been in continuous contact with the Cabinet with a view to reactivating the committee.

24. Decree-Law No. 21 (2019) determining the age of marriage in the State of Palestine was adopted on 3 March 2019 and amends the personal status laws governing Muslims, Christians and all citizens of the State of Palestine. The Decree-Law establishes a minimum age of marriage in the State of Palestine of 18 solar years

[4] Annex 2 to the report explains the most significant measures taken by the Palestinian Government to protect and support women and girls during the Coronavirus pandemic.

for men and women alike, without distinction, with certain exceptions.[5] On 11 December 2019, the Chief Qadi issued circular 2019/49 to qadis and celebrants of marriages (*ma'dhun*) stating that the aforementioned Decree-Law should be acted upon as of 29 December 2019. With regard to the particular exceptional circumstances, the circular provides as follows: "If a marriage is necessary for the benefit of both parties, you should verify the sharia, legal and social justifications, establish the facts and submit the matter for our consideration along with your recommendation so that it can be examined and the necessary sharia and legal actions can be taken in accordance with legal principles".

25. It follows that marriage cannot be allowed for anyone under the age of 18 without written authorization from the Chief Qadi, who must provide clear reasons for allowing or not allowing the marriage. Before doing so, the Chief Qadi must examine the benefit at hand. The qadi to whom the marriage application is submitted shall examine the application, consider the benefit of the parties and make a recommendation to the Chief Qadi. A stringent approach is taken to marriage applications for individuals under the age of 16: they may marry only if there is a social risk. In the case of marriage applications for individuals aged between 16 and 17, the benefit considered less stringently. The benefit in marriages of individuals aged between 17 and 18 is given more flexible consideration. It should, however, be noted that standards for the benefits in question have not been defined owing to the social scandal that may befall the parties. According to the statistics of the sharia judiciary for 2020, assent was granted for less than 20 per cent of marriage applications for individuals under the age of 18; in most of those cases, the individual was over 17.

26. If the sharia judiciary ascertains, based on a psychological, social and security assessment, that there is no benefit in the marriage of an individual under the age of 18, the case file shall be transmitted to the public prosecutor with a view to prosecuting the husband, father or celebrant under the provisions of the penal code concerning marriage contrary to the law.

27. Consultations have taken place with Christian denominations in the State of Palestine with a view to amending their personal status laws in accordance with the Convention and the recommendations of the Committee on the Elimination of Discrimination against Women. The representatives of the denominations said they were prepared to discuss many of the issues raised. The Lutheran denomination amended its personal status code in accordance with the Convention one year after the accession of the State of Palestine to the Convention.

III. Challenges

28. Since acceding to the Convention without reservations in 2014, the State of Palestine has faced numerous difficulties and challenges when implementing the provisions of the Convention and the recommendations made by the Committee on the Elimination of Discrimination against Women in 2018. There have been campaigns against the Convention and the legal, policy and procedural measures taken to apply it at the national level. Those campaigns run counter to the position of the Palestinian leadership and the decisions taken by the National Council and the Central Council of the Palestine Liberation Organization concerning the need to

[5] In article 2 of the Decree-Law, it is stated as follows:

> 1. In order to be eligible for marriage, the parties should be of sound mind and should each have reached the age of 18 solar years. 2. By way of exception to the provisions of paragraph 1 of the present article, the competent court may, in particular circumstances, and the marriage is necessary for the benefit of both parties, allow the marriage of someone who has not reached the age of 18 solar years, upon certification by the Chief Qadi of Palestine or the religious authorities of other confessions. The spouse shall thereby be fully eligible in all matters relating to marriage, separation and the effects thereof.

implement the provisions of the Convention and harmonize national laws with it. Moreover, society at large rejects some of the provisions of the Convention.

29. The legislative power of the State of Palestine has found it difficult to achieve unity because Israel, the occupying Power, has hampered the reconciliation process and the holding of presidential and legislative elections for the State of Palestine. That situation hampers the issuance of many laws called for by the Committee, particularly the draft Palestinian penal code and the draft personal status code.

30. As it endeavours to implement the Committee's recommendations, the State of Palestine faces several threats and challenges. These include the ongoing illegal colonialist Israeli occupation and its violations of all the rights of the Palestinian people, including the rights of women and girls. In taking those actions, the occupation has received direct encouragement from the current United States administration. The Trump plan – the so-called deal of the century – entrenches the colonialist occupation and gives the green light to the annexation of Palestinian land, something that would flagrantly violate international law, the internationally recognized resolutions and the inalienable rights of the Palestinian people, particularly the rights of return, self-determination and independence. Moreover, financial resources are limited owing to the economic downturn caused by the restrictions imposed on the Palestinian people by Israel, the occupying Power; piracy and the theft of resources; and the confiscation of Palestinian income. There has also been a considerable decline in foreign aid.

31. The violations committed by the Israeli occupation authorities against the population of the Gaza Strip have been particularly severe. The most salient example is the blockade that has been imposed since 2006, which is one of the most significant challenges faced by the State of Palestine in implementing the provisions of human rights instruments, including the Convention, in the Gaza Strip. The Palestinian Government has been unable to implement numerous programmes and activities in the Gaza Strip. The current division hinders numerous measures to implement the provisions of the Convention in the Gaza Strip.

32. Palestinians in the city of Jerusalem are subjected to clear racial discrimination by the Israeli occupation authorities. Israel, the occupying Power, imposes racial laws and policies on that population. The most significant of these are the policies of Judaizing Jerusalem; the policy of removing identity documents; the so-called reunification policies that disperse Jerusalemite families; the denial of permits to build or renew homes or facilities; the imposition of arbitrary fines; the high sums of money levied in return for permission to live in Jerusalem; and the denial of permits for Palestinian organizations to implement their programmes in Jerusalem, including programmes and activities to protect and promote the rights of Palestinian women and girls in Jerusalem.

33. The most significant obstacles facing the State of Palestine when implementing the Committee's recommendations include the state of emergency owing to the Coronavirus pandemic and the focus on health care and measures to stop the virus from spreading.

REPORT OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

GENERAL ASSEMBLY

OFFICIAL RECORDS: FORTY-SIXTH SESSION

SUPPLEMENT No. 18 (A/46/18)

UNITED NATIONS

New York, 1992

directly racist character. The Mexican Government had set about that task, for it had undertaken several reforms in favour of the indigenous inhabitants, the peasants and the least privileged social categories. In addition, the Committee expressed the hope that the Mexican Government would take the guidelines issued by the Committee more closely into account in preparing its next report. It regretted, however, that Mexico had not modified its position with regard to the interpretation of article 4 of the Convention.

Israel

364. The fifth and sixth periodic reports of Israel, submitted in one document (CERD/C/192/Add.2), were considered by the Committee at its 929th to 932nd, 935th and 936th meetings, held on 15, 16, 20 and 22 August 1991 (see CERD/C/SR.929-932, 935 and 936).

365. The reports were introduced by the representative of the State party, who said that pluralism was one of the strengths of Israeli society, as was demonstrated in the events surrounding the Gulf War. Arab Israelis, who comprise 16 per cent of the population, did not respond to Iraqi calls for Israel's destruction. The recent arrival of an additional 14,500 Ethiopian Jews and the influx of 90,000 Jews from the Soviet Union in the first six months of 1991 were further evidence of the absence of xenophobia or racism in Israel.

366. A wide range of affirmative action measures had been undertaken by the Government to reduce the social and economic differences between Jews and non-Jews in the State of Israel. Over the last two years, $US 75 million had been allocated specifically for programmes benefiting Israeli Arabs. Another programme foresaw the investment of $US 100 million over five years to improve educational facilities for the Arab population. Significant progress for the non-Jewish population of Israel had been made in the area of health care, as indicated by the fact that 85 to 90 per cent of all pregnant Israeli-Arab women were giving birth in clinics operating in 107 Arab towns and villages.

367. The representative of Israel pointed out that there were six members of the Israeli parliament who were Arabs and that their questions raised in parliament were more likely to be answered than those of their Jewish colleagues. Of 14 staff working in the Prime Minister's Office dealing with Arab affairs, four were members of the Arab community. David Ben-Gurion, the former Prime Minister of Israel, had declared that "in the long run, nations will be judged by the way in which they treat their minorities". Using this criterion, the record of Israel was a favourable one.

368. Members of the Committee thanked the delegation of Israel for the supplementary information furnished in its oral introduction and welcomed the occasion to renew its dialogue with Israel. The self-congratulatory tone of parts of the report was, however, unsatisfactory. The Committee underlined that, in accordance with article 3 of the Convention, Israel's report needed to encompass the entire population under the jurisdiction of the Government of Israel. The report under consideration, which described the situation only within the State of Israel itself, was, in that respect, incomplete. Members also wished to have specific information on the economic, social and educational conditions prevailing in the occupied territories, as well as to

know whether the Geneva Convention relative to the Protection of Civilian Persons in Times of War was in force in the occupied territories.

369. With reference to article 2, members of the Committee drew attention to paragraph 22 of the report, in which it was stated that government-sponsored educational benefits are linked to completion of military service. Members inquired as to the equity of such an arrangement, since Israeli Arabs, for reasons of security, were disadvantaged in this respect. Further information was also requested concerning the requirements for immigration and for access to immigration benefits, especially for non-Jews. In this connection, concern was expressed over Israeli policy that, on the one hand, accorded citizenship automatically to Jewish immigrants arriving in Israel and, on the other hand, barred the return to their former homes of Arabs displaced by war.

370. In regard to article 3, members of the Committee expressed concern that Israel maintained relations with South Africa. Further information was requested on cooperation, particularly on military matters, between the two countries.

371. Concerning article 4, members observed that it was unclear how the law, referred to in paragraph 11 of the report, criminalizing incitement to racism was applied in practice and wished to know how many complaints had been made under that statute. Further information was also requested on the change in the Basic Law, referred to in paragraph 44 of the report, designed to block a person espousing racist ideas from running for elective office. Members also wished to know if Israeli legislation permitted political parties that were ethnically or racially based.

372. In regard to article 5, members of the Committee wished to have further information on multiracial, multi-ethnic or multilinguistic schools, in particular their number, location and how they operated. More detailed demographic information was requested concerning the ethnic composition of Israeli society and that of the occupied territories, including the Golan Heights and East Jerusalem. Precise comparative figures were requested to substantiate the claim in paragraph 21 of the report that the education system in the Arab sector in Israel had expanded dramatically. Further information was also requested on the percentage of Jewish and non-Jewish students and teachers in the educational system, including the university level, and on the average life expectancy for persons living in the occupied territories as compared to that of the population of Israel.

373. Members of the Committee inquired about the employment situation for Arabs working in Israel, and particularly if the number of work permits issued by the Israeli authorities had dropped in the wake of the Gulf War. Further information was requested concerning workers from the occupied territories, including their average wage level compared to Israelis and their right to join a union.

374. The representative of the reporting State had informed the Committee that there were six Arab members of parliament. Members of the Committee wished to know if that number was proportionate to the Arab population and how, in general, the members of parliament of the various ethnic groups compared with their percentage of the total population.

not aware of any organization based on national or racial membership, except for those established on a purely religious basis. All organizations were multiracial.

383. Regarding Israel's relations with South Africa, the representative stated that Israel had often made its abhorrence of apartheid quite clear and that it had joined in international action against apartheid. The contacts it maintained with South Africa had been for the sake of keeping up cultural ties with organizations combating racial discrimination.

384. On matters concerning immigration policy, prospective nationals had to demonstrate a knowledge of Hebrew and decide to reside permanently in Israel, having given up a foreign nationality. Additionally, all Jews had the right

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Ninth periodic report of States parties due in 1996

Addendum

Israel*

[5 August 1997]

* This document contains the seventh, eighth and ninth periodic reports, submitted in one document, due on 2 February 1992, 1994 and 1996, respectively. For the fifth and sixth periodic reports of Israel, submitted in one document, and the summary records of the meetings at which the Committee considered that report, see CERD/C/192/Add.2 and CERD/C/SR.929-932, 935, 936.

The annex and reference documentation provided by Israel may be consulted in the files of the Office of the High Commissioner for Human Rights.

GE.97-18633 (E)

Introduction

1. This report is submitted pursuant to article 9, paragraph 1 (b), of the International Convention on the Elimination of all Forms of Racial Discrimination which entered into force with regard to Israel on 2 February 1979.

2. The present report supplements the initial report submitted by Israel in 1980 and the reports submitted in 1982, 1984 and 1991.

I. GENERAL

3. The Government of Israel is committed to the elimination of all forms of racism and intolerance. The Declaration of the Establishment of the State of Israel provides that "the State of Israel will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex". Racism is anathema to the raison d'être and guiding principles of the State and it is combated by a combination of legislation, administrative action and education.

4. As of June 1996, the total population of Israel numbered approximately 5,685,000. There are no statistics as to the colour or racial origin of the population. However, the statistical information available shows that of the total population 4,598,000 were Jews and 1,087,000 were non-Jews.

5. Of the Jewish population, 61.2 per cent were born in Israel, 12.8 per cent were born in Asian-African countries and 26 per cent were born in European-American countries. Of the non-Jewish population approximately 781,000 are Muslims, Bedouin Arab comprising nearly 10 per cent of the Muslim population. A further 157,000 are Christians of whom 150,000 are Christian Arabs. Some 91,000 are Druze.

Year	Total population	Arab population	Arab as % of total population
1990	4 821 700	795 800	16.5
1991	5 058 800	812 700	16
1992	5 159 900	841 500	16.1
1993	5 327 600	868 800	16.3
1994	5 471 500	899 400	16.4
1995	5 610 000	932 600	16.6
1996	5 685 000	1 022 000	17.9

6. Israel is a parliamentary democracy based on universal suffrage. The executive branch, the Government, is subject to the confidence of the parliament (the Knesset). The judiciary in Israel is independent and judges are appointed for life with mandatory retirement at age 70. The Supreme Court

is the highest court of appeal on rulings of lower tribunals. The Supreme Court also functions as a High Court of Justice. In this function, the Court hears petitions against government and public bodies. The Supreme Court also has authority to determine whether a law passed by the Knesset contradicts a Basic Law of the State.

7. Israel is a multicultural, multi-religious and multilingual society. Matters of personal status of Christians, Druze, Jews, and Muslims are determined by denominational courts of the respective communities. Arabic is one of Israel's two official languages. The State has schools where Arabic is the language of instruction. Arab parents may also choose to send their children to schools where Hebrew is the language of instruction. There are well established and successful mass media, literature and theatre in the Arabic language.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Articles 2 and 4

8. Traditionally, protection of human rights has been assured in Israel by the intervention of the Supreme Court acting as a High Court of Justice. In recent years this has been supplemented by the enactment of Basic Laws. A landmark effort to combat racism was the amendment to Basic Law: The Knesset that banned any Knesset party list which through its aims or by its actions, specifically or implicitly incites to racism. The enactment of this law was successful in preventing the racist Kahana (Kach) movement from running in elections.

9. Article 5 (2) of the recently enacted Political Parties Law, 1992, stipulates that a political party shall not be registered by the Registrar of Political Parties if its objectives contain explicit or implicit incitement to racism or if its behaviour reflects such incitement.

10. Since the last report, submitted in 1991, Israel has ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

11. A major legislative development in the efforts to ensure non-discrimination since the submission of the last report by Israel, was the passing of two Basic Laws: Basic Law: Freedom of Occupation and Basic Law: Human Dignity and Freedom, a copy of which is attached as Annex I. A further legislative act was the adoption of the 1995 Amendment to the Equal Opportunity in Employment Law, 1988. The amendment introduces a prohibition of discrimination on grounds of race, religion, nationality, country of origin, beliefs, political views, political party affiliation or age, in addition to the already existing prohibition on discrimination on grounds of sex and other factors. The impact of the new legislation is set out below in the discussion of the prohibition of racial discrimination by individuals.

Criminal prosecution of racism

12. Section 144A of the Penal Law, 1977, as amended in 1986 and 1992, provides for a penalty of up to five years' imprisonment for a person who incites to racism. Racism is defined in the Law as “persecution, humiliation,

vilification, the display of enmity or violence, or the causing of animosity towards a community or parts of the population, by reason of colour, racial origin or national-ethnic origin".

13. A person who commits, out of racial motives, an offence, inter alia, against a person, a person's liberty or property, an offence involving threats or extortion: offences of hooliganism and public disorder or offences by public officials, is liable to the lesser of either double the punishment prescribed for such offence or 10 years' imprisonment.

14. The possessor of racist material, with the intention of distributing it, is liable to one year's imprisonment and the material is to be confiscated. In the case of Rabbi Ido Alba v. The State of Israel (Criminal Appeal 2831/95) the Supreme Court considered an appeal against a conviction for incitement to racism. The Appellant had written an article justifying the killing of non-Jews who did not follow accepted codes of moral behaviour. He was convicted by the District Court of incitement to racism and sentenced to four years' imprisonment (two of the years being a suspended sentence). The Supreme Court upheld the conviction and the sentence, and after quoting from the International Convention on the Elimination of All Forms of Racial Discrimination, the Court stated, inter alia:

> "The appearance on the scene (in the seventies) of the Kach movement which called for the creation of a Jewish State based on Jewish law and excluding non-Jews brought to a public platform a political party based on a racist ideology ...
>
> This led to legislation intended to combat racism ...
>
> Racism is no longer only a belief in racist theories, it is also a hatred of strangers as such on the basis of different racial or national-ethnical background. Such hatred is an ancient social malaise. The Israeli legislation is intended to eradicate such racism (Justice Matsa, paras. 11, 12, 15).
>
> "Racism is destructive of the democratic social fabric. It violates Israel's international obligations and the need to combat racism is one of the lessons the Jewish people have learned from their history. Every democracy is therefore entitled to abrogate the principle of freedom of speech insofar as incitement to racism is involved (Justice Barak, para. 4)."

15. Persons advocating racial discrimination can be charged with incitement, in violation of articles 133, 136 (1), (2) and (4) of the Penal Law. In a recent case the Court convicted a person so charged. The Judgement states that "the values of the State of Israel include, concurrent with the freedom of expression, abhorrence at any expression of racism. Calling [by the accused] for a campaign against "Satanic Islam" violates the principles of both Judaism and democracy. It is sufficient that there existed a near possibility that the statement would reach the hearing of persons in Israel [for a conviction of incitement]". (The Attorney-General v. David Balhasan, Criminal case 3795/95).

16. In 1994, subsequent to the massacre in the city of Hebron of Muslim worshippers by a Jewish fanatic, the Attorney-General was charged with exploring options for outlawing the Kahana racist movement, which had expressed support for the massacre (although it had not been involved in it). Following the Attorney-General's report, the Cabinet, on 13 March 1994, declared that the two branches of the Kahana movement, Kach and Kahana Chai as well as any other group acting to achieve similar aims by similar means, even if they bore different names or designations, were terrorist organizations and were to be outlawed.

17. In accordance with article 46 (a) (2) of the Second Authority for Television and Radio Law, 1990, the holders of concessions for cable TV services must not transmit any broadcast which contains racial incitement. They are further bound to take any measure necessary to ensure that no broadcast is liable to incite to discrimination on grounds of religion, race, nationality, community, lifestyle or origin.

Prohibition on racial discrimination

18. The Israel Supreme Court has frequently ruled on the impermissibility of racial discrimination. The Court has stated that the prohibition of discrimination emanates "directly from the character of the State as pursuing democracy and freedom" (High Court of Justice case 243/62, Film Studios in Israel Ltd. v. N. Gery, P.D. 17, 2407, 2415)

19. The Court has ruled that "the rule prohibiting discrimination between persons on grounds of race, sex, national group, community, country of origin, religion, beliefs or social standing, is a basic constitutional principle, intertwined and interwoven into our basic legal concepts and forming an integral part of it" (High Court of Justice case 114/79 Burkan v. Minister of Finance P.D. 32 (2) 800, 806).

20. In the Ben Shalom case, the Supreme Court declared that "the principle of equality of rights and obligations of all citizens of Israel is part and parcel of the existence and character of the State of Israel" (Election Appeal case 2/88, Ben Shalom v. Central Election Committee for the Twelfth Knesset, P.D. 43 (4) 221).

21. Chief Justice Barak, in the Poraz case, stated that:

> "Equality is a basic norm of democratic society ... The need to establish equality is vital to society and to the social contract on which society is built. Equality prevents arbitrary government. There is no element more destructive to a society than when its sons and daughters sense discrimination. A sense of inequality is a bitter experience, it harms those elements that unify society and hurts the self-realization of many. (High Court case 953/87, Poraz v. The Mayor of Tel-Aviv-Jaffa, P.D. 42 (2) 309, 332.)"

22. The various rulings and judgements of the High Court of Justice are now encoded in legislation. Basic Law: Human Dignity and Freedom of 1992, as amended in 1994, proscribes:

Article 1. Basic rights of persons in Israel are anchored in the respect of the value of persons, the sanctity of life and in the freedom of man, they are to be respected in the spirit of the principles enunciated in the Declaration of the Establishment of the State of Israel.

Article 4. Every person is entitled to protection of his life, body and dignity.

Article 11. All governmental authorities are obligated to respect the rights under this basic law."

23. Chief Justice Barak, commenting on this Law, has stated that it is based on the premise of "equality of all persons". (Barak, Legal Interpretation, p. 319.)

24. Basic Law: Human Dignity and Freedom has served as the authority for subsequent decisions of the Supreme Court, sitting as a High Court of Justice, regarding protection of individual rights and dignity. A number of Supreme Court decisions have explicitly stated that the principles of equality and non-discrimination now find their legal basis in Basic Law: Human Dignity and Freedom (High Court of Justice case 5394/92 Huppert v. "Yad Vashem" Holocaust Memorial Authority, P.D. 48 (3) 353; High Court of Justice case 453/94, Israel Women's Network v. Government of Israel; High Court of Justice case 721/94; El Al Israel Airlines Ltd. v. Danilevitch P.D. 48 (5) 749).

25. In the recent Re'em case concerning the use of the Arabic language the Supreme Court ruled that:

"Freedom of expression can today be derived from the protection given to the dignity and freedom in Basic Law: Human Dignity and Freedom. Indeed, freedom of expression 'has a wide ideological basis, at the centre of which is a recognition of the value of man, his dignity, the freedom given to him to develop his personality and the desire to have a form of democratic rule'. The need to bring about the self-fulfilment of man is at the foundation of freedom of expression. Justice Agranat considered this in the Kol Ha'am case at page 878, in holding with regard to freedom of expression that:

"... the importance of the principle also rests in the protection which it provides to a clear private interest, that is to say the interest of every person as such to give full expression to his personal qualities and virtues; to nurture and develop his individualism as far as possible; to express his opinion on any matter which he considers vital to him; in short - to say what's in his heart so that life will appear worthwhile in his eyes ... the internal need felt by every man to give open expression to his thoughts is one of the fundamental characteristics of man".

and

"The words 'public interest' are comprehensive, and include a wide range of interests which the general public - and hence also an organized society in the form of the State or the local authority - are concerned

with. Public security and public safety are therefore included within the scope of the public interest. Also included is the public's confidence in public authorities, such as the legislature (and its members), the executive (and its ministers and officials) and the judiciary (its judges and employees). Also included is the public interest in individual rights being realized and tolerance being established and maintained between members of the society, among themselves, and between them and government. The rule of law, the independence of the Judiciary and the separation of authorities are all clear public interests. (Emphasis added) (Re'em Contracting Engineers Ltd. v. The Municipality of Upper Nazareth, and Others Civil Appeal 105/92, P.D. 47 (5) 189.)"

26. The Attorney-General has issued directives to Government Ministries concerning racial discrimination. These directives stipulate that "according to the law in force in Israel, any authority exercising any public function by virtue of law, is prohibited from discriminating on the basis of race, sex, religion, creed, political opinion or any other basis". The prohibition also applies to municipal authorities.

27. In the Re'em case, the Supreme Court ruled that a municipal by-law requiring notices on municipal billboards to be in Hebrew as well as in Arabic, was not valid. Chief Justice Barak stated that:

"My conclusion is supported by the following considerations: Firstly, an Arab minority, whose language is Arabic, lives in the State of Israel. It is its spoken language. It is the language of its religion and culture. The State of Israel respects the use of the Arabic language. As we shall see, it is an official language of the State, but more than that, it is the language of many of the State's citizens. When we are concerned with 'personal' expression, and when the State's role is limited to 'policing', the Arabic speaker should be allowed to express himself in his language, as he wishes. Secondly, tolerance is a central value of our legal system. This is the 'mutual tolerance required in a pluralistic society'. The Deputy President, Justice Elon, considered this in stating:

"... This is the doctrine of leadership and rule in the cultural heritage of Israel - that the opinions and philosophy of each and every person and each and every group should be tolerated. And this is the great secret of tolerance and paying attention to others, that is the great strength of each and every person and each and every public body expressing their opinion ...

And I also considered it in stating:

"... The democratic regime is based on tolerance ... tolerance of the acts and opinions of others and also tolerance of the intolerant. In a pluralistic society such as ours, tolerance is the force which unites us and enables us to live together ...

"Indeed, tolerance is a central value in public order. If every individual in a democratic society wished to realize all his desires,

the end result would be that society would not be able to realize a minority of desires. It is in the nature of things that orderly social life is based on mutual waiver and mutual tolerance. Tolerance is the aim and the means together. It is a social aim which should be aspired to. It is a means of balancing different social aims. President Shamgar considered these two aspects, in stating:

"In my opinion, the dominant foundation is the public one, that which shapes, inter alia, rules regarding the relationship of a well-run society to the individual's personal, emotional feelings and human dignity, provided that their realization does not materially infringe the rights of others. Human beings which are part of a given society are called upon to respect the individual's personal, emotional feelings and his human dignity, through tolerance and understanding, because personal, emotional emphasis differ from person to person and because a free society does not aspire to a collective of beliefs, views or feelings. A free society minimizes the limitations it places on the individual's voluntary choices, and is patient, tolerant and even tries to understand the other, even with regard to ways which the majority do not view as acceptable or desired. Just as one must accept and respect society's right to nurture its culture, national language, historical traditions and values etc., a willingness must also prevail to live with other individuals in a society, who choose [a way of life] which is not identical to the trends and aspirations of the majority of the society. Just as one should not obstruct the progress of someone who wishes to legally advance the exclusive imposition of the Hebrew language in our lives, and even the purity of its pronunciation, and just as one should not fetter the majority or part of the public which wishes to properly foster an approach promoting a national language, tradition and culture, so one can also not prohibit an individual who has a different opinion from expressing an opposite personal or even public attitude. In a free society, there is room for many different views, and the existence of freedom in the society is, in practice, proven by the creation of the correct balance, with the assistance of which we aspire to allow everyone to personally express himself in the manner he chooses. This is the essence of tolerance: it permits a variety of views, freedom of argument and freedom of conscience, provided that they do not create a danger to the community or another individual.

"Tolerance towards the publisher of a notice requires that great weight be given to his aspiration to express himself in the language of his choice. If somebody wants to approach a limited target audience speaking his language, a democratic society which is founded on tolerance should not prevent him from so doing.

"The issue is the individual, his conscience and his freedom. Indeed, against the background of the strength of the Hebrew language on the one hand, and the need for tolerance towards the speaker of a foreign language on the other, it is clear that in balancing the individual's freedom of expression and language in his relationships with other individuals, through the medium of notice boards, and the interest of the Hebrew language, the former interest prevails.

> "Before I finish, I wish to make three concluding remarks. Firstly this judgement is based on freedom of expression and language. It is based on the freedom of the publisher to choose any language he wishes as a means of expression and thought. There is therefore no need to examine the special status of Arabic as an official language. This status is recognized in Israel ... It is based on the social reality in which a significant minority of the State's citizens are Arabic speakers. However, as stated, this judgement is not based on the official nature of the language but on the right of the individual to publish in the language of his choice. Accordingly, every Arabic speaker has the right to publish a notice in Arabic or in any other language he wishes, on a municipal notice board."

Prohibition on racial discrimination by individuals

28. As regards legislative prevention of discrimination, the initial emphasis in Israel was placed on preventing discrimination by governmental or public bodies of any kind. It is believed that this has been achieved, and any discrimination by such bodies is clearly illegal. The Government, by administrative action, strictly enforces the rules against such discrimination. The Supreme Court, acting as a High Court of Justice, supervises the implementation of the prohibition against discrimination by government or public bodies. Racism is, as detailed above, an offence against the Criminal Law and racist behaviour is prosecuted.

29. The outlawing of discrimination by individuals against each other has, however, developed more slowly.

30. There is legal opinion in Israel that, following the adoption of Basic Law: Human Liberty and Honour, the norms prohibiting discrimination by public bodies now apply to all private transactions. There is however, as yet, no clear Supreme Court decision supporting this view. In his book Legal Interpretation, Israel's Chief Justice Barak has intimated that the degree to which the State should intervene to prevent discrimination by one individual against another should depend on the degree to which a service is being offered to the public at large. Chief Justice Barak brings the example that the State should intervene to prevent discrimination by a restaurant owner against different customers but should not intervene where a person is letting a room in his or her private apartment.

31. A major development in applying the rule against discrimination to individuals, as well as to public bodies, was the adoption of the 1995 Amendment to the Equal Opportunity in Employment Law, 1988. The law prohibits discrimination by any employer, who employs six persons or more. Originally, discrimination was described as "discrimination by reason of sex, family status, parentage or sexual preference". In 1995 this law was amended to include a prohibition of discrimination on grounds of "national ethnic origin, country of origin, beliefs, political views, political party affiliation or age". The law also prohibits the defining of conditions for recruitment that would have the effect of discrimination.

32. This law, as amended, has thus extended to private persons and private transactions the previously existing prohibitions against discrimination in employment by public bodies.

Affirmative action

33. In recent years there has been a change of emphasis in Israel on the issue of discrimination. In the past, the formal-technical aspect was seen as paramount, namely that the legislative framework should provide equal opportunity for all. In Israel, as in other countries, the emphasis has moved to the need for affirmative action.

34. This change is reflected in the judgement of Supreme Court Justice Theodore Orr in the Avitan case where he states:

> "The principle of equality serves to achieve equitable results. It is not the 'technical' or 'formal' equality that requires protection but the substantive equality, namely equality between equals. Persons or groups of people differ in their conditions, attributes and requirements and at times there is a need to discriminate between those who are not equal in order to protect, encourage and advance the weak or needy. Equality between those who are unequal can be a travesty. (High Court of Justice case 528/88 Avitan v. Israel Lands Administration and Others P.D. 43 (4) 297, 299.)"

35. In the Israel Women's Network case, Supreme Court Justice Eliahu Matsa states:

> "[Affirmative action] is an element of equality that integrally derives from the very principle of equality and is one of the major guarantees of the implementation of equality (as is the Canadian view) and it is not just a tolerated exception to the principle of equality (following the restrictive view adopted in the US) (High Court of Justice case 453/94 Israel Women's Network v. Government of Israel P.D. 44 (5) 529)."

36. Israel, being an immigrant society, inevitably suffers at times from the inherent friction that can exist between different immigrant groups. The Israel experience is that each new group of mass immigration tends to find itself, at first, at the bottom of the social-economic ladder. It can sometimes take a generation for an immigrant group to establish itself socially and economically. The growing rate of intermarriage between the different immigrant groups has however contributed to the relatively coherent homogeneity of the Israel-born population.

37. An example of a recently-immigrated society is the Ethiopian community, which today numbers some 57,000 persons.

38. The Ethiopian Jews have large families; some 60 per cent of the community are under the age of 18. In addition, there is a very high percentage (about 25 per cent) of one-parent families, about three times the rate for other Israelis.

39. The integration of Ethiopian Jews into Israeli society has raised some major challenges. Therefore the Ministry of Immigrant Absorption and the Israeli Government have adopted a number of principles, among them:

(a) The adoption of a clear policy of preferential treatment (affirmative action) for the Ethiopian community with regard to housing, education and integration into employment, a policy which has expanded and become much more comprehensive in the past three years;

(b) The allocation of special resources for the absorption of this community in Israel. The State of Israel invests an average of 3-4 times as much in the absorption of each Ethiopian immigrant as in immigrants from other countries.

40. The Ministry of Absorption initiated an unprecedented special mortgage programme for Ethiopian immigrants. The mortgages are equivalent in value to 85-90 per cent of the price of the apartment, with a ceiling of $120,000. The mortgage includes a grant of 85-90 per cent of the amount of the mortgage and the monthly payments are up to $56. An immigrant family from the former Soviet Union, in comparison, is eligible for a $32,000 governmental mortgage, of which 25 per cent is given as a grant.

41. The efforts to integrate the Ethiopian Jews into employment focused on providing basic skills, assisting them in making the transition from their traditional professions to the professions available in an industrial society.

42. A survey published by the Brookdale Institute showed that the overall rates of employment for Ethiopian men were similar to that of other Israelis. However, middle-aged and older immigrants had much lower participation rates than veteran Israelis, with the gap widening with age. The employment rate for women was significantly below that of other Israelis, but increased over time. One of the main factors that created this high rate of unemployment is the relatively high percentage of single-parent families on the one hand, and families with a large number of children on the other hand. The women are beginning to enter the labour force, their participation gradually increasing over time. The younger men (up to age 35) have achieved employment rates comparable to other Israelis.

43. According to the survey, over 50 per cent of those employed were in skilled jobs, as defined by the Central Bureau of Statistics, such as metalworkers, carpenters, electricians, bookkeepers and community workers.

44. Ethiopian children were first placed in separate classes within the school in order to provide them with basic language instruction and with the basic background they would need to integrate into regular classes. They participated in these classes for about a year and in a special survey conducted in 1993 by Brookdale, 70 per cent were found to have been integrated into regular classes.

45. In order to assist the schools in addressing the challenge, a variety of special assistance programmes were instituted. These include an allotment of extra teaching hours per child (1.7 hours per week with no time limitation for those who came after 1 January 1991). This is in comparison with the limited assistance for one to three years provided to immigrants from other countries. They also included supplementary after-school programmes.

46. There remain significant gaps in performance between Ethiopian children in elementary schools or completing high school, and other Israeli children. There are reports that there may be problems of irregular attendance among sub-groups, although these have not been documented. Reported drop-out rates are lower among the Ethiopian community than in the general Israeli population.

47. Approximately 380 Ethiopian children who have been identified as gifted studied in 1996 in the top schools throughout the country, within the framework of a special project to identify and encourage gifted children among the Ethiopians.

48. A special emphasis has been put on affirmative action policy towards Ethiopian immigrants in order to integrate them into higher education, to promote social mobility and create leadership and role models. The assistance has included:

(a) Special supplementary high school years of study to enable them to complete their high school matriculation exams, which are a prerequisite for higher education;

(b) Special scholarships to attend institutes of higher education;

(c) Special optional preparatory classes (for one or two years) in Israel's universities and post-secondary institutions to prepare the Ethiopian immigrants for the entrance exams;

(d) Auxiliary tutoring during their studies;

(e) Student housing provided at the government's expense to most students; and

(f) Living stipends provided (only to Ethiopian students) to help them devote themselves more fully to their studies.

These efforts have borne fruit. The consistent increase in the number of students is shown in the table:

Number of Ethiopians studying in post-secondary institutions and attending preparatory courses in Israel, 1992-1995

Year	Preparatory students	Degree students	Total
1991/92			145
1992/93	55	185	240
1993/94	131	219	350
1994/95	172	306	478
1995/96	411	480	891*

* Approximately 100 students who began their preparatory studies during 1996 should be added to this number.

49. The Arab community has maintained its separateness in terms of language, religion and customs. The Arab community in Israel enjoys full equality in civil and political rights. They have the right to elect and be elected in municipal and national elections. This right is exercised and all Arab cities have Arab mayors. There are Arab political parties and Arab members of the Knesset (parliament). Arabic is an official language and is used in Courts and in official documents. Arab members of the Knesset sit on parliamentary committees and have served as deputy speakers of the Knesset. There have also been Arab deputy ministers. Arabs serve as judges and there are at present Arab judges at both the Magistrate and District Court level. Arabs serve in the civil service, reaching high rank, including, for the first time, the appointment in 1996 of a head of a diplomatic mission with the rank of Ambassador. Arabs are not conscripted to military service but may volunteer to do so. Of those who have volunteered some have reached high rank in the Israel Army. Among the Druze community, the most senior rank reached was that of Brigadier-General.

50. Nevertheless there exists an undeniable gap between the Jewish majority and the Arab minority as regards the standard of living and involvement in national affairs. Part of this is a reflection of the external security situation and the fact that Arabs are not conscripted into the Army and few volunteer, the majority of the Arabs is thus denied involvement in what is still a vital element of Israeli society. Another factor is that a large proportion of Israeli Arabs live in villages where they engage only in small-scale farming.

51. The gap between the Jewish majority and the Arab minority has been considerably diminished over recent years but nevertheless, regrettably, still exists and is reflected in statistics.

Life expectancy at birth, male	Life expectancy at birth, female	Infant mortality per 1 000 live births
Jews		
75.9	79.7	5.6
Arabs		
73.8	77.1	9.7

Pupils in schools by age groups, rates per thousand, figures for 1993/1994

Age 6-13	Age 14	Age 15	Age 16	Age 17
Jews				
955	998	978	930	866
Arabs				
958	742	705	603	525

Persons aged 15 and over by type of school last attended, percentage figures for 1995

Did not attend school	Primary and intermediate	Vocational	General	Post-secondary	Academic
Jews					
3.0	12.9	23.1	24.6	12.4	21.8
Arabs					
8.9	37.6	5.7	33.5	5.9	8.4

52. In the ninth to twelfth grades, during 1995, 5.2 per cent of the students in Hebrew schools dropped out of the educational system while in the Arab educational system, the figure was 8.3 per cent.

53. Out of the total student population in Israel, the percentage of Arab students studying at universities for first degrees, in 1992/93, was:

Engineering and Architecture - 4.9 per cent;

Agriculture - 1.7 per cent;

Science and Mathematics - 8.2 per cent;

Medicine - 7.5 per cent;

Law - 6.0 per cent.

54. Detailed statistics for the year 1995 (the latest date for which data are available) appear in Annex II to this report, as follows:

(1) Marriages, divorces, live births, deaths, natural increase, infant deaths and stillbirths, by religion.

(2) Live births, deaths and infant deaths, by type of locality of residence, population group and religion.

(3) Life expectancy by sex and population group.

(4) Life expectancy at selected ages by sex and population group.

(5) Households by housing density, religion, continent of birth, period of immigration, and type of locality of residence of household head.

(6) Unemployed, by sex, population group, age, years of schooling and work during last 12 months in Israel.

(7) Convictions of grievous offences in criminal cases, by various characteristics.

(8) Per cent convictions in which penalties were imposed by type of penalty and characteristics of the convicted.

(9) Schools in the educational system.

(10) Classes in the educational system.

(11) Pupils in educational institutions.

(12) Pupils in grades 9 to 12, by grade and school leaving.

(13) Examinees in matriculation exams by qualification for certificate and various characteristics.

(14) Children placed away from home by the Department of Child and Youth Care and financed by the Ministry of Labour and Social Welfare.

(15) Students in universities, by degree, field of study, sex, age, population group and origin.

55. The Arab school system uses Arabic as the language of instruction and the curriculum reflects Arab culture and Islamic or Christian religion or traditions, in addition to teaching Hebrew language and literature. There are teacher training colleges affiliated with the Arab school system where the language of instruction is Arabic. However, universities, post-secondary level colleges and specialized technical schools are fully integrated.

56. The Israeli Government is making a determined effort to eradicate the gap between the Jewish majority and the Arab minority. Some five years ago the Government initiated a programme of eradicating this gap by means of legislation, affirmative action and special budgetary allocations to the Arab community. The annual budget earmarked for the Arab community increased since 1992 by approximately 160 per cent. Some of the affirmative measures taken are set out in summary form below.

Government employees

57. By decisions of the Government of 21 March 1994 and 14 March 1995, the Government decided that some 189 academic civil service positions would be filled without being subject to the regular rules of public competition. The Government decisions set out explicitly that as regards these positions, preference would be given to Arab academic applicants. All notices of vacant civil service posts are published in Arabic as well as in Hebrew. As a result of the various efforts, some 300 Arab academics were recruited into the civil service in the years 1994-1995.

Public housing

58. The Ministry of Housing devotes a special budget to public housing in the Arab sector of the population. In 1995 the Ministry allocated 26,103,000 NIS in the District, the largest single allocation being to the city of Nazareth; 20,457,000 NIS in the Haifa District, the largest single allocation being to the township of Um El Faham; 8,400,000 NIS in the Central District, the largest single allocation being to the township of Taibeh, and 3,350,000 NIS in the Jerusalem District, the largest single allocation being to the village of Abu Ghosh.

Health

59. In 1995 the National Health Insurance Law came into effect thus granting compulsory health insurance to the whole population including the 4 per cent of the population who were previously uninsured. Most of the previously uninsured came from the minority communities.

60. During 1995, in addition to health services such as hospitals, that serve the whole of the population, special attention was devoted to services intended specifically for the Arab population.

61. The professional personnel of the drug rehabilitation centre in the Arab city of Nazareth are funded by the Ministry of Health. A drug rehabilitation hospitalization centre serving the Arab population of Western Galilee is partially funded by the Ministry. The professional personnel of the Mental Health Centres in the cities of Ramla and Taibeh are funded by the Ministry.

62. In 1995 a one time allocation of 1,500,000 NIS was made to the Scottish Hospital in Nazareth and a smaller grant was made for professional courses at the English Hospital in Nazareth.

63. Emphasis was placed on setting up Family Health Centres in Arab villages and townships. The Ministry of Health provided partial funding for the building of 20 new Family Health Centres in Arab settlements during 1994 and 30 during 1995. The total budget for the project is 33,600,000 NIS to be spent over a period of four years.

64. Four projects for the prevention of infant mortality in the Arab population were initiated in 1994. An emphasis was placed on the prevention of genetic defects. Such defects are more common in the Arab community than in the Jewish community because of the prevalence, in Arab communities, of marriage between relatives. The projects therefore deal with the social aspects as well as medical ones.

65. A course for qualified Bedouin nurses has been opened, with a hope that they will serve as role models for the Bedouin community in the field of primary preventive service.

66. Further programmes aimed specifically at the Arab community include health education classes in 64 Arab elementary schools; community programmes which concentrate on high risk populations; a project for prevention of child accidents; promotion of sanitary conditions.

Religious services

67. The Ministry of Religious Affairs maintains a Muslim Affairs Authority whose function is to assist in the provision of Muslim religious activities.

68. During 1992, the Ministry provided 260,000 NIS for the maintenance of Muslim religious sites. During 1993, the sum was 170,000 NIS and in 1995 it was 3,400,000 NIS.

69. The Ministry coordinates the facilitation of the pilgrimage of Israeli Muslims to Mecca.

70. In 1995, in order to provide more suitable accommodation for the Islamic Courts, three new premises were rented by the Ministry for Religious Affairs. The Ministry is in the process of computerizing the work of these Courts.

Foreign service

71. In 1996 an Israeli Muslim Arab has for the first time been appointed as an Ambassador of Israel (Ambassador to Finland). Israeli Druze have served in senior diplomatic positions, including that of Consul-General, but this is the first time an appointment as ambassador has been made.

72. Special efforts have been made by the Foreign Ministry to recruit Arab and Druze cadets to the Foreign Service. In order to increase such recruitment, recruitment notices were published in the Arabic press.

Education, culture and sport

73. In 1991 the Ministry of Education, Culture and Sport initiated a five-year plan to increase the number of new classes in the Arab school system. As a result of this programme, 1,077 new classrooms were built. Of the total budget for new classrooms during the five-year period, 59 per cent was spent on the Hebrew school system, 33 per cent on the Arab school system and 8 per cent on the Druze schools.

74. In 1995/96 the total number of schoolchildren was 1,277,000. Of them 228,000 were Arab (17.9 per cent).

75. Special effort is made to encourage Arab schoolchildren to continue their studies to age 18. In 1996 a budget of 4,130,000 NIS was allocated to advisors and facilities for this purpose. Emphasis is being put on scientific-technical schooling. At present 19 per cent of Arab students participate in such schooling, the aim is to raise this to 35 per cent. During 1995, 1,260 computers were placed in Arab schoolrooms at a cost of 6.8 million NIS. In 1995, a special allocation of 27,000 funded teaching hours was made to the Arab school system, beyond the stipulated norm of teaching hours per pupil. In 1995-1996 the Ministry of Education funded 679 educational TV programmes in Arabic.

76. There are at present 1,738 Arab students at teacher training colleges. Some attend Hebrew speaking colleges while most prefer to attend Arabic speaking colleges. This number is in addition to those students attending Israeli universities and studying to be teachers.

77. In addition to Arab school teachers, the Ministry of Education employs approximately 80 Arabs in senior managerial and supervisory posts.

78. A special programme for gifted Arab children was initiated in 1993. In 1996, 1,655 Arab schoolchildren were participating in such programmes.

79. The Ministry of Science allocated, during 1995-1996, 1,800,000 NIS for Arab researchers in the field of science. This sum included scholarships for seven Arab doctoral and post doctoral students.

80. The Arab cultural scene receives government encouragement and in 1996, 12,300,000 NIS were allocated to supporting Arab cultural events.

81. In the five-six age group, 90 per cent of Arab children attend pre-school programmes. This is lower than the percentage for Jewish children (98 per cent) and efforts are being made to increase attendance of Arab children. Part of the reason for the discrepancy is explained by the fact that fewer Arab women work outside their homes and therefore there is less demand for pre-school facilities.

82. The Foreign Ministry has given financial support to various activities in the Arab sector including: the Salaam Dance Group; a municipal delegation from Nazareth to a conference in Nice; a delegation from the community centre in Kfar Yassif to a festival in Hungary; the Daburiya dance group tour to Turkey.

Agriculture

83. In 1994-1995 the Ministry of Agriculture allocated 23 million NIS for development of agriculture among the Arab population. Particular emphasis was placed on fishing, olive oil and sheep breeding. Another 11 million NIS was allocated for development of water resources in Arab settlements.

84. Due to nationwide water shortage, the allocation of water for agriculture among the Jewish population was cut during 1995 by between 10-20 per cent. There was no cut in the water allocation to Arab agriculture.

Employment

85. In 1995 the total Arab population over the age of 15 was 636,600. Of this number the potential number of workers was 264,700. The number of employed persons was 249,200 and the number of unemployed was 15,500, that is 5.8 per cent of the work force. The percentage of unemployed among the Jewish population at the same time was 6.6 per cent.

86. The Government Employment Service conducts vocational retraining programmes for unemployed workers and helps them obtain employment. National Insurance provides a minimum wage for unemployed persons. Needless to say, no distinction is made between Jews and Arabs.

Arab local government

87. In 1991 the Ministry of Interior began implementing a programme of special grants to Arab Local Councils. In 1991 the grant was 135 million NIS. Over the last five years the grant was increased annually by 20-30 per cent so that the 1995 grant was 489 million NIS.

88. The Ministry of Interior has initiated an accelerated programme for authorizing town planning programmes in Arab towns and villages. Since 1991, 36 per cent of the Arab towns and villages had their plans approved as compared to 28 per cent of Jewish towns and villages. A sum of 9.5 million NIS has been allocated for town planning of an additional 41 Arab towns and villages. During 1996 an additional grant was made of 200,000 NIS for town planning of eight Bedouin camps in the north of the country and an additional 550,000 NIS has been allocated for this purpose in 1997.

89. In June 1997, the Government designated 31 Arab towns and villages in the northern region of the country as part of a budgeted programme of town-planning whereby 13,500,000 NIS will be invested. Plans for towns and villages will be completed by the year 2020, in order to alleviate problems such as illegal construction of housing.

Encouraging manufacturing in Arab towns and villages

90. The Ministry of Industry and Trade began, in 1992, a programme to encourage the establishment of manufacturing industries in the Arab sector. The budget for the year 1992 was 2,300,000 NIS. This allocation has been increased annually and the budget for 1995 was 15,000,000 NIS.

Public works and electricity

91. In 1995-1996, a sum of 24,600,000 NIS was allocated for road works in Arab towns and villages.

92. All but 9,000 households in the Arab sector are connected to the national electricity grid. These 9,000 houses do not meet building safety standards. An effort is being made to solve this issue.

93. In 1995 the Ministry of Energy had a total budget of 5,400,000 NIS (on 28 July, the exchange rate was 3.55 NIS to $1) for connecting towns and villages to the national electricity grid; of this sum 40 per cent was earmarked exclusively for Arab settlements.

Telephone service

94. There are some 100,000 telephone lines serving customers in Arab villages and towns. This number does not include Arabs living in the mixed Arab and Jewish towns of Jerusalem, Haifa, Lod and Acre. Demand for new telephone lines can be met with no substantial delay. In 14 Bedouin villages, cellular public telephones were installed in 1995 as it was not physically feasible to install telephone lines.

Tourism

95. A concerted effort has been made to encourage the development of the tourist industry in Arab villages. In the period 1991-1996 the Ministry of Tourism gave over 32,000,000 NIS in grants for development of the necessary tourist infrastructure. The Ministry conducts professional training courses and provides expert counselling for tourist developers.

Labour and welfare

96. The Ministry of Labour and Welfare allocated, in 1995, 97 million NIS for social welfare among the Arab population. The Ministry employs 346 Arab social workers in welfare work among the Arab population (in 1992 the number was 78). A further 9,600,000 NIS were allocated in 1995 for welfare development projects in the Arab sector such as geriatric and family centres. The Ministry cares for 1,890 mentally handicapped Arab children. Government rehabilitation centres care for 612 Arab handicapped persons. There are other facilities organized by the Ministry of Welfare for the Arab population including hostels for battered women, youth centres and probation services.

Environment

97. As part of a policy of affirmative action in the Arab sector, the Ministry of Environment identified four major objectives: expansion of infrastructure; improvement of urban planning; regulation of commercial licensing - with special emphasis on prevention of land and air contamination and noise abatement; and utilizing the school system and youth movements for educating youth on environmental issues.

98. In the last three years, seven new environmental units have been established in the Arab sector, all the personnel being Arabs.

99. Since 1993 the budget for waste recovery in the Arab sector has been increased fourfold and now stands at 28 per cent of the total Israel budget for waste recovery.

Housing loans

100. In 1992, following an appeal to the High Court of Justice, the Ministry of Building and Housing changed its policy as regards granting housing loans to young couples. Previously, military service had been a condition for granting certain housing loans in development areas. This condition had the effect of discriminating against Arabs as most of them do not serve in the armed forces. This condition has been revoked.

Article 3

101. Apartheid has always been regarded as abhorrent by the Israeli Government and society and continues to be so regarded. Apartheid has never been practised in Israel. There exist in Israel no restrictions of any kind as to place of residence nor is there any segregation of any kind.

Article 5

102. Equality before the law is guaranteed under the basic tenets of Israeli law and society. The existence of an open democratic society with universal suffrage, vocal opposition parties, an independent judiciary and a free press, serve to ensure the maintenance of such equality.

103. There are no restrictions as to place of residence of members of different religious, ethnic, national or racial groups. Nevertheless Arabs and Jews tend to live in separate settlements. There is one village with a balanced Arab-Jewish population and one such mixed Arab-Jewish local council. Most cities tend however to be overwhelmingly either Arab or Jewish. Some cities, notably Jerusalem, Haifa, Acre, Ramla, and Lod have Jewish majorities with Arab minorities. In these cities lower income groups tend to live in separate suburbs, while in higher income groups, mixed suburbs are more common.

104. Government policy in the past has been to pay supplemental National Insurance payments to families of persons who had been called up at any time for military service. This policy was criticized as discriminating against the Arab population as they are not conscripted and the vast majority of them do not volunteer for military service. The Government has decided to abolish this differentiation and to equalize payments of all the population with that of families of persons who have been called up for military service. A special budget allocation was made to cover the increased cost of payments to the Arab community, thus incurred.

105. Until 1994, teachers at Arab speaking schools required security clearance. This measure was taken to ensure that persons who might exploit their position as educators to incite or promote threats to the security of the population, were not admitted into the system. Since 1994 this requirement has been abolished.

Article 6

106. The main bulwark of the individual “against any acts of racial discrimination which violate his human rights and fundamental freedoms” is the court system. The court system is open to all without discrimination, including to non-citizens of Israel. The individual can sue both other individuals and the Government for any wrong or harm done to himself or his property and can claim compensation or an injunction. In addition to the normal court procedure, the Supreme Court, sitting as High Court of Justice, can and does issue writs against the Government and public bodies.

107. In addition to the court system, there exist other avenues of redress in cases of discrimination. There are members of Knesset, who frequently avail themselves of the parliamentary right to compel government ministers to answer parliamentary questions. There is a vocal press, including an Arabic press. There is an independent State Comptroller who also acts as a Public Complaints Commissioner; and in employment matters, the Ministry of Labour; the Labour Courts system; and, when the civil service is involved, the recourse available is through the Supervisor of Discipline in the civil service.

108. The Public Complaints Commissioner is a function of the State Comptroller under Basic Law: State Comptroller (enacted in 1988) and the

State Comptroller Law (Consolidated Version), 1958. The Commissioner's function is to handle direct complaints from the public, investigate them, and recommend means of redress when such complaints are found justified. The Commissioner has investigatory powers, however, it has no powers of enforcement of its recommendations, and they do not carry any evidentiary weight in further legal proceedings. Nevertheless, the custom and practice that have developed over the years point to considerable deference that is accorded to the Commissioner's recommendations, similar to that accorded to the State Comptroller's recommendations. Thus, for example, past recommendations to pay damages when violations of rights were found, have always been complied with. When recommendations are not being complied with, the Commissioner is authorized to bring the matter to the relevant Minister or to the Knesset State Audit Affairs Committee. Furthermore, in cases where the complaint is the consequence of reprisal against the complaining person's former disclosure of corruption, the Commissioner is authorized to issue orders, including orders of reinstitution to office. Any person may complain against any organ that is under the supervision of the State Comptroller, namely governmental, municipal and other public institutions.

Article 7

109. Israel is a very open society with a vocal parliamentary opposition, a free press including multiple TV and radio stations and a politically active electorate. Activities in Israel have traditionally been very newsworthy and the foreign press corps stationed in Israel is larger than that in most major European countries. These elements combined with the existence of an independent judiciary and an active Ombudsman's office ensure a very full public airing of any complaint as to abuse of human rights, real or imagined.

110. There are a number of voluntary organizations in Israel monitoring human rights. Among the organizations are the Association for Civil Rights in Israel, which is affiliated with the International League for Human Rights, New York and the Fédération internationale des droits de l'homme, Paris, the Arab Association for Civil Rights and Al-Tallah (Association for litigation to promote equality).

Specific activities encouraging Arab-Jewish understanding

111. In 1994 the Ministry of Education adopted a new civics studies curriculum that emphasizes human rights and universal democratic principles, including the International Declaration of Human Rights. This curriculum is identical for Arab and Hebrew schools.

112. Beit Hagefen was founded in 1963 in the city of Haifa as a meeting place for social and cultural encounters between Jews and Arabs and to encourage and promote Jewish-Arab understanding and coexistence. The centre operates as a non-partisan association and is supported and funded by the Haifa Municipality, the Ministry of Education and Culture and Sport, the Ministry for Foreign Affairs and private donors.

113. Beit Hagefen sponsors cross-cultural encounters for all age groups, courses, women's clubs, a library, an art gallery, an Arab theatre, and a training centre for education for democracy and coexistence. Special emphasis is placed on special events and activities such as the Arab Book and Culture Month and the Hanukah-Christmas-Ramadan Festival.

114. The Beit Hagefen Arab Theatre puts on theatre performances in Arab towns and villages all over Israel. It has participated in the New Generation Festival in New York and the Peace Festival in Brussels and won first award at the Acre Festival. In 1995 it received a grant of 322,000 NIS from the Ministry of Foreign Affairs.

115. Beit Hagefen has a visitors' centre which sets itself the goals of:

1. Enabling the visitor to reach a deeper understanding of Arab-Jewish relations in Israel;

2. Creating an awareness of the importance of neighbourly relations and coexistence;

3. Transmitting and disseminating the values of tolerance, coexistence and peace; and

4. Presenting the city of Haifa and its population as a model for how Jews and Arabs can live together as good neighbours in friendship and in peace.

116. Neve Shalom/Wahat al-Salaam is a cooperative village of Jews and Arabs situated equidistant from Jerusalem and Tel-Aviv-Jaffa. It advocates coexistence between Jews and Arabs.

117. Neve Shalom/Wahat al-Salaam has created a bilingual educational framework consisting of a kindergarten and school with an enrolment of 90 children. The Jewish and Arab teachers each speak exclusively in their own language to all of the children. The school and kindergarten are officially recognized by the Ministry of Education. The aim is to provide a model that will be directly imitated elsewhere in places of mixed population such as Ramla, Jaffa, Acre, Haifa etc.

118. A School for Peace has also been established at the village directed and facilitated by a joint Jewish-Arab professional staff. By 1994 some 15,000 young people had attended School for Peace encounters.

119. The Ministry for Religious Affairs arranges meetings between the heads of the Christian, Jewish and Islamic religions in Israel in order to increase interfaith cooperation.

120. The Ministry of Education supports Arab-Jewish summer youth courses at universities and scientific research centres. A special effort is made to encourage Arab youths to participate in these courses and they are advertised in the Arabic press.

121. The Ministry of Education encourages meetings between Jewish and Arab teachers. A course is held on Arab-Jewish cooperation. In 1993, 100 teachers attended such courses. In 1995 the number of teachers attending such courses was 400. In 1995, 15 seminars were held in Jerusalem for Arab high-school students. In these seminars the students visited the President's residence, the Supreme Court and the Knesset and met with officials and parliamentarians.

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-second session

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

Concluding observations of the Committee on the Elimination of Racial Discrimination

Israel

1. The Committee considered the combined seventh, eighth and ninth periodic reports of Israel (CERD/C/294/Add.1) at its 1250th and 1251st meetings, held on 4 and 5 March 1998, and adopted, at its 1272nd meeting, held on 19 March 1998, the following concluding observations:

A. Introduction

2. The Committee welcomes the submission of the report but regrets that it does not follow the Committee's reporting guidelines.

3. The Committee regrets that the dialogue between its members and representatives of the State party was not always of a constructive nature. It nevertheless welcomes the replies of the delegation to some of the Committee's questions and their expression of willingness to contribute to a dialogue.

4. The Committee concludes that the Convention is far from fully implemented in Israel and the Occupied Palestinian Territory, and that the shortfall contributes very significantly to the dangerous escalation of tension in the region.

5. The Committee notes with regret the stalemate in the peace process in the region.

6. It takes note of the establishment of the Palestinian Authority which has certain responsibilities in parts of the Occupied Palestinian Territory.

B. Positive aspects

7. The measures taken by the State party to prohibit the activities of racist political parties such as Kahana (Kach) are welcomed.

8. The amendment of the Equal Opportunity in Employment Law, prohibiting discrimination in the labour sphere on the grounds of national ethnic origin, country of origin, beliefs, political views, political party, affiliation or age, is welcomed, as is the revision of the National Insurance Law.

9. The Government's efforts to reduce and eventually eradicate the economic and educational gap between the Jewish majority and the Arab minority are commended.

C. The Occupied Palestinian Territory

10. The Committee reiterates its view that the Israeli settlements in the Occupied Palestinian Territory are not only illegal under contemporary international law but are an obstacle to peace and to the enjoyment of human rights by the whole population in the region, without distinction as to national or ethnic origin. Actions that change the demographic composition of the Occupied Palestinian Territory evoke concern as violations of contemporary international humanitarian law.

11. Accordingly, the Committee calls for a halt to the demolition of Arab properties in East Jerusalem and for respect for property rights irrespective of the ethnic origin of the owner.

12. The Committee reiterates its opinion of 1991 that the report of Israel should “encompass the entire population under the jurisdiction of the Government of Israel” (A/46/18, para. 368). Israel is accountable for implementation of the Convention, including the reporting obligation, in all areas over which it exercises effective control.

D. Concerns and recommendations

13. With respect to articles 1 and 6 of the Convention, the Committee requests the State party to supply it with details of court decisions or other authoritative sources which make a distinction between inequality of treatment on the grounds of race, colour, descent or national or ethnic origin and inequality of treatment on other grounds such as those related to public security

14. The Committee recommends that the State party extend its legislation against the promotion of racial hatred by completing its implementation of the requirements of article 4 of the Convention. The Committee has earlier held that when anyone makes threats in public against the security of persons of

another ethnic origin, criminal proceedings must be initiated with due diligence and expedition. The State party should give this priority attention.

15. The Committee concludes that comprehensive legislation and accompanying measures of implementation will need to be introduced for the State party to meet all the requirements of article 5 of the Convention.

16. The Committee expresses its profound concern that detained persons of Arab ethnic origin are disproportionately subjected to inhuman and degrading interrogation under the Landau Commission rules and that the Supreme Court has failed to declare this illegal.

17. The Committee recommends that the State party reinforce its efforts to reduce the persisting gap between the living standards and the involvement in national affairs of the Jewish majority and the Arab minority, and that it does this in a manner consistent with the measures adopted for assisting the integration of Ethiopian Jews. The Committee encourages the State party to adopt new labour legislation in order to secure the protection against ethnic discrimination of the rights of Palestinians working in Israel on a daily basis; the rights of migrant workers, including undocumented workers, is also a matter of concern.

18. The right of many Palestinians to return and possess their homes in Israel is currently denied. The State party should give high priority to remedying this situation. Those who cannot repossess their homes should be entitled to compensation.

19. While noting the special budget for public housing in the Arab sector, the Committee remains concerned about ethnic inequalities, particularly those centring upon what are known as “unrecognized” Arab villages.

20. While recognizing the great diversity of opinion within the Israeli public, and the Government’s actions to implement article 7 of the Convention, the Committee expresses concern about the findings of social surveys which report that very many Jewish young people believe that Arab citizens should not be accorded equal rights.

21. The Committee hopes to find in the next periodic report a comprehensive statement of the Government’s vision of the future of its Arab, Bedouin and Druse citizens, together with an indication of how its objectives are to be attained and a review of the effectiveness of its measures to combat discrimination. Any statistics should show whether governmental expenditure and service provision are proportionate to the size of the different ethnic groups.

22. In order to be able to evaluate the implementation of article 6 of the Convention, the Committee requests the State party to present information on the number of complaints, judgements and compensation awards arising from racist acts, regardless of their nature. At the same time, the Committee would like to be informed about any other information, from whatever reliable source, about any inequalities suggestive of discrimination in the administration of criminal justice.

23. Since time did not permit a full exchange of views on many of the issues raised by members at the fifty-second session, the Committee requests the State party to reflect further on the remaining issues and to furnish additional information on these matters in the next report.

24. The tenth periodic report of Israel was due on 2 February 1998. In accordance with article 9 of the Convention the Committee will expect the submission of a combined tenth and eleventh periodic report by 2 February 2000. The document should constitute a comprehensive report, follow the reporting guidelines, and take account of the Committee's general recommendations.

25. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted at the Fourteenth Meeting of States Parties.

26. It is also noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of making the declaration be considered.

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic reports of States parties due in 2004

Addendum

ISRAEL* **

[23 June 2005]

* This document contains the tenth, eleventh, twelfth and thirteenth periodic reports of Israel, due on 2 February 1998, 2000, 2002 and 2004 respectively, submitted in one document. For the seventh, eighth and ninth periodic reports submitted in one document, and the summary records of the meetings at which the Committee considered those reports, see document CERD/C/294/Add.1 and CERD/C/SR.1250, 1251 and 1272.

** This report has not been edited before being submitted for translation.

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Introduction

1. The Government of Israel welcomes the opportunity to present its 10th, 11th, 12th, and 13th periodic reports to the Committee for the Elimination of Racial Discrimination in accordance with the requirements of article 9, paragraph 1 (b) of the International Convention on the Elimination of all forms of Racial Discrimination (hereinafter, the "Convention" or "CERD"). The present combined report supplements Israel's initial report and subsequent reports relating to the years 1982, 1984 and 1991 (CERD/C/192/Add.2), and 1993, 1995 and 1997 (CERD/C/294/Add.1).[1]

2. This report has been prepared by the Department for International Agreements and International Litigation at the Ministry of Justice with the assistance of other ministries, departments, agencies and entities of the Government of Israel. Israeli nongovernmental organizations ("NGOs") were also invited to submit comments prior to the compilation of this report.

3. Racial discrimination is prohibited in Israel. The State of Israel condemns all forms of racial discrimination, and its government has maintained a consistent policy prohibiting such discrimination. The Israeli Government has taken constant measures to uphold the provisions of CERD since its ratification of this important instrument.

4. Since the submission of Israel's last reports to the Committee in 1997, many new significant legislative, judicial and administrative developments relevant to the Convention have occurred. This combined report provides a comprehensive account of these developments.

5. A short summary of some of the most significant policy and legislative developments that have occurred in Israel since its last report to the Committee is provided below. We would note that while it will naturally take time for some of the more recent developments to translate into concrete results, in many areas substantial new measures that give effect to the provisions of the Convention have already come into effect.

I. Legislative measures

6. Since 1998 significant new steps have been taken by the Israeli Parliament (the "Knesset") to promote tolerance and the elimination of racial discrimination in all its forms. Some noteworthy examples are included below.

7. The Knesset enacted legislation prohibiting discrimination against minority groups in the provision of pubic services, the *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law, 5761-2000* ("*The Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*"). The Law prohibits discrimination by an individual operating a public place. Violation of this prohibition is both a civil wrong and a criminal offence punishable by fine. The law applies to the State as well and has been interpreted broadly as applying to a host of public places, including schools, libraries, pools, stores, and all other places serving the public. Court decisions have upheld this broad interpretation of the law.

8. The Knesset amended the *Civil Service Law (Appointments), 5719-1959 ("The Civil Service Law (Appointments)"),* in 1998 to institute affirmative action programs in the Civil Service hiring practices in order to ensure the adequate representation of minority groups.

9. Several amendments to the *Penal Law 5739-1977 ("The Penal Law")* created important tools to enable prosecution of racist incitement and "hate crimes". A 1994 amendment doubled the punishment for offences committed for a racist motive; a 2002 amendment added offences of incitement to violence and terror; and a November 2004 amendment added a section titled "Hate Offences".

10. The *Pupils Rights Law*, 5761-2000 ("*The Pupils Rights Law*") enacted in 2000, bans any form of discrimination concerning the registration of students by the governmental and local authorities or any educational institution (at Article 5 (A) (1)).

11. The 1998 enactment of the *Freedom of Information Law, 5758-1998 ("The Freedom of Information Law")* has given a solid legislative basis to the public's right of access to information. The main innovation of the law is in recognizing the right of an Israeli citizen or resident to receive information from public authorities, regardless of whether he or she has any personal interest in the information requested, and without having to state a reason for the request. Moreover, Article 12 applies the provisions of the Freedom of Information Law to persons who are not citizens or residents of the State of Israel, enabling them to obtain information concerning their rights in Israel.

12. Additionally, several other laws protecting specific groups in society were passed, such as the *Prevention of Sexual Harassment Law, 5758-1998 ("The Prevention of Sexual Harassment Law")* and the amendment to the *Equal Rights for Women Law, 5711-1951* ("*The Equal Rights for Women Law*") adopted by the Knesset in 2000. These laws entrench basic principles of equality and provide the means for further developing and applying the rights enshrined by CERD.

II. Judicial measures

13. The Supreme Court of Israel has played a pivotal role in the promotion of the principles enshrined in CERD through the development of jurisprudence dealing with contentious and highly charged political and security-related issues. Often, these issues also involve allegations of discrimination. As a result, the Supreme Court, led by its president, Chief Justice Aharon Barak, has issued a number of precedent setting decisions that have resulted in the modification of past practices.

14. Most notably, in its precedent-setting decision of 2000, the Supreme Court, sitting as a High Court of Justice, ruled in *H.C.J* 6698*/95 Ka'adan v. The Israel Lands Administration* (08.03.2000) that in principle, the allocation of State land on the basis of any discriminatory criteria was unacceptable.

15. The principle of equality between foreign spouses of Israeli nationals, whether Jewish or Non-Jewish, was affirmed by the High Court of Justice in *H.C.J 3648/97 Stamka v. The Minister of the Interior* (04.05.1999), which dealt with attaining Israeli nationality by foreign spouses.

16. In the criminal context, a number of other criminal cases concerning incitement to racism and the commission of racist acts were decided by the lower courts, generally leading to a conviction. Furthermore, several indictments relating to offences committed against minorities were filed against police personnel, following independent investigations by the Department for investigation of Police Officers within the Ministry of Justice.

III. Administrative measures

17. The key program reflecting the State of Israel's commitment to comply with the basic principles enshrined in CERD in both a procedural and substantive manner is **the Multiyear Development Plan for the Arab Israeli Sector.** This plan reflects the government's commitment to eliminating gaps between Jews and Arabs and to promote equality and fair conditions regarding economic and social welfare throughout the Arab minority sector.

18. The goal of this Development Plan is to provide proper financial support and direction to the Arab minority sector that would promote short term growth as well as encourage long term development in education, housing, employment and economic growth. The aim of the plan is to reach out to the Arab minority in a unique manner by positively affecting all aspects of the minority sectors' relationship with the State and society. The Government attaches great importance to the granting of equal and fair conditions to Israeli Arabs in the socio-economic sphere, and views the development of the Arab-sector communities of Israel as contributing toward the growth and development of Israel's overall society and economy.

3.9 billion NIS were allocated for this program, and the Government has so far executed 88% of the plan.

19. In addition, over the past few years, the Government has made important inroads into improving the minority population's representation within the civil service and government companies. The Government instituted affirmative action programs and mandated specific target goals that would nearly double the number of minority employees within public service bodies.

20. The Government has also been active in addressing the rights of migrant workers. Changes have been implemented that more fully protect their rights, particularly vis-à-vis their employers. This has largely been instituted via the establishment of specific enforcement divisions within the relevant governmental authorities, provided with special training.

21. The following report addresses the main issues raised by the Convention since the submission of Israel's previous report, as well as the concerns raised by the Committee during the sessions. Finally, this report complies with the Committee's guidelines regarding the form and contents of reports to be submitted by States parties to the Convention (CERD/C/70/Rev.5). We trust that this report will facilitate the Committee's work and provide a more complete picture of the situation in Israel concerning the implementation of the Convention's provisions. We look forward to maintaining a constructive dialogue with the distinguished Committee.

Article 2

A. Measures to eliminate racial discrimination

1. Measures preventing discrimination by all public authorities and institutions

Overview

22. Racial discrimination is prohibited in Israel as required under Article 2 (1) (a) of the Convention. Several Basic Laws, laws, and court rulings operate together to guarantee that no public authority or public institution engage in any act or practice of racial discrimination against persons, groups of persons or institutions. These prohibitions apply with equal force at the national and local levels, and all public authorities and institutions are required to comply with their directives.

I. Judicial measures

23. As the Israeli legislature crafts and adopts both new laws and administrative measures to ensure that government agencies do not engage in any discriminatory act or practice, the country's independent judiciary serves to interpret, guide, and enforce these measures. This judicial effort is guided by the Supreme Court, which has issued a number of landmark decisions against certain discriminatory practices of both government entities and private individuals.

24. The Supreme Court has affirmed the principles of equality and non-discrimination of any kind as assured under the law such as depicted in *the H.C.J 453/94 Israel Women's Network v. Government of Israel* (01.11.1994), where the Supreme Court required the Port Authority Commission to include women in its list of candidates for directors positions and H.C.J 721/94 *El A Israel Airlines Ltd. v. Danilovitch* (30.11.1994), where the Court held that homosexual couples are to be provided with the same employee benefits given to heterosexual couples.

25. In H.C.J. 3939/99 *Kibbutz Sde-Nahum et al v. Israel Land Administration et al* (29.08.02) the Court held that the Israel Land Administration must administer State lands while protecting the public interest, including the protection of the land for the benefit of the larger public, and refraining from granting unjustified benefits relating to the land to others. As expected from any other administrative body, the Administration must act fairly to promote the general principle of distributive justice in allocation of public resources. The Court also noted the difference between discrimination and legitimate distinction. Consequently, the Court held that a decision to allocate lands only to a specific sector was unreasonable.

II. Administrative measures

Attorney-General guidelines regarding racial discrimination

26. As mentioned in Israel's previous periodic report to the Committee, all Government ministries are required to operate in accordance with the guidelines issued by the Attorney-General prohibiting racial discrimination. Accordingly, any authority exercising any public function by virtue of law is prohibited from discriminating on the basis of race, sex, religion, creed, political opinion or any other basis. All ministries are prohibited from engaging

in any form of racial discrimination in all aspects of their activities (employment, services etc.). Furthermore, the Government is to take an active role in hiring women and minorities, especially via the imposition of affirmative action programs. All governmental bodies and government corporations are to actively pursue the hiring of women and minorities and achieve a fair representation of such groups.

2. Not sponsoring or defending discrimination by persons or organizations

27. As noted in Israel's previous report to the Committee, Amendment No. 9 to Article 7 (a) of *Basic Law: The Knesset* effectively bars the participation in elections of any political party advancing aims or actions that specifically or implicitly incite racism. In a recent case, A.E. 11280/02 *Central Elections Committee et al v. Ahmad Tibi et al* (15.05.2003), the Supreme Court held that because this Basic Law relates to a fundamental right of free expression, a narrower meaning of racial incitement would be applied. Thus, the Court upheld the participation in the elections of an individual who had previous connections to a racist party as well as that of an Arab candidate who did not fully support the existence of a Jewish State.

28. According to the *Law of Associations, 5750-1980 ("The Law of Associations")* (last amended on 11 June 2000) any group of two or more persons may form an association for non-profit purposes. The Registrar of Associations is bound by law to register all associations unless it fulfills one of the following:

28.1. The association denies the State of Israel's right of existence.

28.2. The association denies the democratic nature of the State.

28.3. There is a reasonable belief that the association will act as a guise for illegal activity.

29. Israel's *Penal Law* 5737-1977 ("*The Penal Law*") too counters discrimination by prohibiting racial incitement and other related offences and was recently amended to include additional offence related to racial hatred (See Article 4 below).

3. Measures to review, amend, rescind or nullify governmental, national and local policies that create or perpetuate racial discrimination

I. Legislative measures

Removing the nationality clause from Israel's identity cards

30. The Government has decided to delete the nationality clause from Israeli identity cards. The Minister of the Interior announced this decision in March 2002, and the Constitution and Law Committee of the Knesset subsequently approved this decision. Accordingly, Regulation 2A (5) of the Registration of the Population (Details in Identity Cards) Regulation 5750 - 1990, which stipulated that the nationality would appear in the identity card, was repealed.

Enhancing infrastructure within Israel's Arab sector

Planning in the Arab sector

31. During the last few years, the Israeli Government has placed an emphasis on improving the infrastructure and increasing the development rate in Arab villages and towns. To this end, the Government has promoted local outline plans (for the development of Arab villages and towns) and allocated funds to support their development.

32. The Government adopted a series of decisions giving priority to the preparation of outline and zone plans in the Arab sector (January 1998, March 2000, June 2004). The budget for the preparation of the outline and zone plans is approximately 56 million NIS. Furthermore, a national project to promote outline and zone plans in the Arab sector is currently executed in approximately 60% of the Arab sector localities and may be expanded in the future.

33. These plans are meant to respond to the expected population growth in the Arab sector until the year 2020 and to allocate sufficient land to this end. Where there is need for public lands, the Israel Land Administration (ILA) allocates land for the purpose of establishing public institutions and housing for residents who are not landowners. A comprehensive national outline plan, dealing with construction, development and preservation (National Outline Plan #35) is near completion and will be presented for governmental approval during 2005.

34. Naturally, the plan includes Arab towns and villages. The explanatory notes attached to this plan outline, *inter alia*, several guiding principles for the development of Arab communities. The rationale behind these guidelines is to tailor a response to the special needs of the Arab sector in order to close the gaps and achieve equality between the Jewish and the Arab sectors. This plan is based on the principles of affirmative action and includes preferential budget allocation, loans, and designation of certain Arab towns and villages as preferred development zones.

Recent developments

35. In March 2000, the Government promoted planning initiatives in 21 towns and villages in the Arab sector in five districts. To date, planning has commenced in two districts. The budget allocated for this project amounts to 17.7 million NIS for 2001-2003.

36. Additionally, the Planning Administration and ILA are working on outline plans for 36 Bedouin and Arab towns and villages in northern Israel. Planning has already been completed for 34 of these communities, as will be discussed in Article 5. An inter-ministerial committee headed by the Ministry of the Interior in cooperation with the Ministry of Construction and Housing is currently preparing outline plans for an additional seven Druze, Bedouin and Arab towns. Five more communities await approval of completed outline plans.

37. In addition, in order to bridge the gaps between the Arab and Jewish populations, the Government has adopted a Multi-Year Plan to Ensure Equality of the Arab population in the Social, Cultural and Economic Arena (described in detail below).

II. Judicial measures

Amending discriminatory land allocation policies

38. In *H.C.J 6698/95 Ka'adan v. The Israel Lands Administration* (ILA) (08.03.2000), The High Court of Justice held that the State of Israel was prohibited from allocating State land to the Jewish Agency for Israel for the purpose of establishing a community which would discriminate between Jews and non-Jews. The petitioners, an Arab couple, wished to build a home in Katzir, a communal village in the Eron River region at the north of Israel. Katzir was established in 1982 by the Jewish Agency in collaboration with the Katzir Cooperative Society, on State land that was allocated to the Jewish Agency (via the Israel Lands Administration) for such a purpose.

39. The Katzir Cooperative Society only accepted Jewish members. As such, it refused to accept the petitioners and allow them to build their home in the communal village of Katzir. The petitioners claimed that the policy constituted discrimination on the basis of religion or nationality and that such discrimination with regard to State land is prohibited by law.

40. The court held in the *Ka'adan* case that the State may not allocate land directly to its citizens on the basis of religion or nationality. This conclusion is derived both from the values of Israel as a democratic State and from the values of Israel as a Jewish State. The Jewish character of the State does not permit Israel to discriminate between its citizens. In Israel, Jews and non-Jews are citizens with equal rights and responsibilities. The court emphasized that the State will be viewed as engaging in impermissible discrimination even if it is also willing to allocate State land for the purpose of establishing an exclusively Arab town, as long as it permits a group of Jews, without distinguishing characteristics, to establish an exclusively Jewish town on State land.

41. Moreover, the Supreme Court held that the State may not allocate land to the Jewish Agency knowing that the Agency will only permit Jews to use the land, saying that where one may not discriminate directly, one may not discriminate indirectly. If the State, through its own actions, may not discriminate on the basis of religion or nationality, it may not facilitate such discrimination by a third party. It does not change matters that the third party is the Jewish Agency. Even if the Jewish Agency may distinguish between Jews and non-Jews, it may not do so in the allocation of State land.

42. It should be noted that the Court limited its decision in the *Ka'adan* case to the specific facts of this case. The general issue of the use of State lands for the purposes of land development raises a wide-range of questions, which are yet to be resolved. First, *Ka'adan* is not directed at past allocations of State land. Second, it focuses on the particular circumstances of the communal village of Katzir. In discussing this issue, the Court did not take a position with regard to other types of settlements (such as the commune-based *Kibbutz* or *Moshav*) or to the possibility that special circumstances, beyond the type of establishment, may be relevant, stating that:

> "[I]t is important to understand and remember that today we are taking the first step in a sensitive and difficult journey. It is wise to proceed slowly, so that we do not stumble and fall, and instead we will proceed cautiously at every stage, according to the circumstances of each case."

43. The Court rendered the decision that the State of Israel must consider the petitioners' request to acquire land for themselves in the town of Katzir for the purpose of building their home. The State must make this consideration based on the principle of equality, and considering various relevant factors - including those factors affecting the Jewish Agency and the current residents of Katzir. The State of Israel must also consider the numerous legal issues. Based on these considerations, the State must determine with deliberate speed whether to allow the petitioners to make a home within the communal town of Katzir.

44. As a response to the Ka'adan ruling, the Israel Land Administration, in cooperation with the Jewish Agency for Israel, issued new admission criteria to be applied uniformly to all applicants seeking to move into small, communal settlements established on State-owned lands. These criteria stipulate that applicants must be over the age of 20, apply as an individual or a couple (including families), maintain sufficient economic resources, and maintain suitability to a small communal regime.

45. If the Committee rejects an application for admission, the reasons for rejection are to be based upon an objective, professional and independent opinion. Any criterion for admission to particular settlements is to be assessed in advance by the Administration and publicized. A decision by the Israel Land Administration also requires additional criteria to be included in the settlement's Articles of Association. The inclusion of additional criteria in the Articles of Association requires approval by the Cooperative Associations Registrar.

46. The decisions of the aforementioned committees are subject to review by a Public Appeals Committee, to be chaired by a retired judge. Application forms and rules of procedure of the Appeals Committee are to be made available to the public.

47. A similar case still pending before the High Court of Justice is H.C.J 5601/00 *Ibrahim Dwiri v. Israel Land Administration et al*. The issue raised in this petition is the request of the Dwiri family to acquire a piece of land in the neighborhood of Kibbutz Hasollelim's expansion area, which was dismissed by the Kibbutz. Following the filing of the petition, the parties, the Dwiri family, the Kibbutz and the State, reached an agreement that the family would undergo the same selection/screening and acceptance procedures as any other entity interested in purchasing land in this neighborhood. In the framework of these procedures, the Kibbutz acceptance committee, on the basis of the opinion of the Institute of Evaluation which examined the family, concluded that the Dwiri family does not harmonize with the Kibbutz way of life. The family issued a counter opinion.

Other

48. In 1997, The Legal Center for the Rights of Arabs in Israel petitioned the High Court of Justice, demanding that the Ministry of Education, Culture and Sport apply the Education and Welfare Services reinforcement programs in the Arab municipalities, as well as the Jewish ones (*H.C.J 2814/97 The High Follow-up Committee on Matters of Arab Education in Israel et al. v. The Ministry of Education, Culture and Sport* (20.07.2000)).

49. On July 20, 2000, the High Court of Justice rejected the petition, finding that recent action by the Government to bolster the Arab sector via affirmative action and an injection of public funds specifically designated to amend admitted previous discriminatory practices, merits dismissal of the petition.

50. Similarly, Adalah, The Legal Center for Arab Minority Rights in Israel petitioned the High Court of Justice in November, 2004, to compel the government to adopt regulations regarding the holy places of the non-Jewish population offering the same protections that have been established via regulations promulgated regarding the Jewish population's holy sites. The case is pending before the Court.

51. The Courts' support for affirmative action policies is demonstrated in previous Supreme Court rulings (*H.C.J 528/88 Avitan v. Israel Lands Administration and Others*, 25.10.1989; *H.C.J 453/94 Israel Women's Network v. Government of Israel*, 01.11.1994).

4. Measures to end discrimination by individuals and organizations

52. Racism, in its various manifestations is considered a criminal offence in Israel, as discussed in Article 4 below.

I. Legislative measures

(A) Increasing proportional representation in Israel's Civil Service and within governmental corporations

53. The *Civil Service Law* requires that the Israeli civil service maintain fair representation in terms of appointments. According to the Law, the government is entitled to apply an affirmative action policy to allocate certain positions to under-represented groups for the purpose of attaining fair representation.

54. In 2001, the Government stated in its Statement of Basic Principles that it will strive to create positions in the civil service, at the highest levels, for persons from the Arab sector. As discussed below in Article 5, there have been major improvements in the Arab representation in the civil service, with a growing increase of minority employees every year. Indeed, the Government established fixed target figures for the number of employees from the minority population, as discussed in Article 5 below.

55. The Government of Israel has also moved to boost minority representation within government-owned corporations. Under a June 2000 amendment to the *Government Corporations Law*, 5735-1975 ("*The Government Corporations Law*") (Amendment 11), the minority population must be appropriately represented on the board of directors of every governmental corporation.

56. In addition, the law prescribes that until appropriate representation is achieved, ministers must appoint as many Arab directors as possible. Article 60 (a) of the *Government Corporations Law* extends the application of Amendment 11 to appointments to the board of directors of statutory corporations and other statutory organizations.

57. Article 18 (a) (1) mandates the directorate of government corporations to reflect the governmental policy of fair representation. Moreover, the new amendment empowers the government to do its utmost to appoint directors from the Arab population until the goals of the amendment are met. The Attorney-General provided government ministers with guidance regarding implementation of the new standards.

58. In addition, a government sub-committee was established to monitor efforts to enforce the new affirmative action measures. Between January 2000 and 2005, Arab representation in government corporations had nearly tripled to 46 representatives (7.97%, compared to 1.7% in 2000).

59. A group of Israeli NGOs has created a database of Arab candidates who might qualify for senior government corporation positions. The information is available to the Authority for Government Corporations. There are also efforts to create an official database of qualified minority candidates for senior government corporation positions.

60. In addition to increasing representation of minority groups, the civil service sector has also taken steps to better accommodate the different lifestyles of minority employees at work. Holiday and vacation time is provided according to the minority groups' relevant religious holidays; such that Muslim employees are entitled to a day-off during the Ramadan, and Christians can choose Sunday as their day off from work. Furthermore, the civil service recognizes different mourning periods for different religious and ethnic groups. As a result, a Druze employee may observe a longer mourning period than a Jewish colleague.

(B) The Law for the Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places

61. The recent enactment of *the Law for the Prohibition of Discrimination in Products, Services and in Entry to Public Places* has substantially limited the possibility of discrimination occurring in the private sector. Under Article 3 (a) of this law, a provider of products or services to the public, or anyone engaged in the operation of a public place, is prohibited from discriminating on the basis of race, religion or religious affiliation, nationality, country of origin, sex, sexual orientation, views, political affiliation, personal status, or physical disability. Articles 5 and 9 of the law make such discrimination both a civil wrong, enforceable under the provisions of the *Tort Ordinance, 5728-1968*, ("*The Tort Ordinance*"), and a criminal offence, punishable by a fine. Article 11 applies the provisions of this law to the State as well and sets out the legal standards for assessing discriminatory acts.

(C) The Rights of the Patient Law, 5756-1996 ("The Rights of the Patient Law")

62. Article 4 to the *Rights of the Patient Law* provides that a health care provider may not discriminate against patients on the basis of religion, race, sex, nationality, country of origin, sexual orientation or for any other reason.

(D) 1995 Amendment to the Equal Opportunities in Employment Law, 5748-1988 ("The Equal Opportunities in Employment Law")

63. The 1995 Amendment to the *Equal Opportunities in Employment Law* expanded the application of anti-discrimination legislation to the private sector. The law prohibits discrimination by an employer who employs six or more employees. Originally, discrimination was defined as "discrimination by reason of sex, family status, parentage or sexual preference". In 1995, this law was amended to prohibit discrimination based on "national ethnic origin, country of origin, beliefs, political views, political party affiliation or age". The law also prohibits recruiting practices that have a discriminatory effect.

II. Judicial measures

64. Some legal commentators are of the opinion that the *Basic Law: Human Dignity and Liberty*, 5752-1992 *("The Basic Law: Human Dignity and Liberty")*, which serves as a cornerstone for prohibiting discrimination, also applies to private entities. While the Supreme Court has yet to rule decisively on this matter, several lower courts have applied this Basic Law to private individuals as well.

Prohibiting discrimination by private enterprises

65. An example of a lower court barring discrimination in the private sphere prior to the enactment of the *Law for the Prohibition of Discrimination in Products, Services and in Entry to Public Places* is the Kalia case (C.C 11258/93 *Ibrahim Na'amna et al v. Kibbutz Kalia et al* (01.09.1996)}. There, the Magistrate Court of Jerusalem invoked the Basic Law: Human Dignity and Liberty, as well as international norms, to support its finding that a private amusement park may not discriminate with regard to its entrance policies.

5. Measures to encourage integrationist multiracial organizations

66. There are a number of multiracial organizations in Israel, principally operating with the goal of enhancing cross-cultural understanding and mutual existence. As discussed further in Article 7 below, the activities range from youth orchestras to educational centers such as Givat Haviva.

B. Social, economic, and cultural measures to ensure development and protection of racial groups

67. In line with the judicial and legislative measures and policies outlined above, the Government of Israel has turned its attention to developing proactive policies aimed at encouraging the development of racial groups, enhancing diversity, and preserving ethnic traditions and cultures.

Multi-year plan to extend equality to various social, cultural and economic arenas

68. In a sweeping effort that entrenches the principles of CERD, within the domestic context, the Government of Israel has embarked on a comprehensive initiative to promote development within the Arab sector, Israel's largest minority community. This multi-year plan goes beyond legislation in addressing gaps in the social, economic and cultural fields. In essence, this initiative seeks to promote equality in Israel by developing increased social services, economic opportunities, and cultural facilities.

69. In October 2000, the Government submitted a comprehensive scheme, designed by nearly all government agencies, addressing all aspects of development in the Arab sector. Israel Government Decision No. 2467 established a multiyear development plan for the Arab-Israeli sector (hereinafter: "the plan"). This plan emphasizes the government's duty to eliminate gaps between Jews and Arabs and to promote equality and fair conditions concerning economic and social welfare.

70. The preparatory work for this plan involved nearly all governmental agencies. The plan operated from 2001 until December 31, 2004, with an overall budget **of 3.9 billion NIS**. The Government successfully implemented 88% of the plan; furthermore, the Government has decided to finalize all uncompleted projects by December 31, 2006.

71. Some important aspects of the plan are translated below, including the sums (in NIS) of actual funds that were disbursed during the years 2001-2003.

A. General

72. *The government of Israel regards itself as obligated to act to grant equal and fair conditions to Israeli Arabs in the socio-economic sphere, in particular in the areas of education, housing and employment.*

73. *The government regards the socio-economic development of the Arab-sector communities of Israel as contributing toward the growth and development of all of Israel's society and economy.*

74. *The government shall act for the socio-economic development and advancement of the Arab-sector communities and reduce the gaps between the Arab and Jewish sectors pursuant to the following plan, as set forth by the Prime Minister's Office and the Ministerial Committee on Arab-Sector Affairs, in cooperation with the Director-General of the Prime Minister's Office and the representatives of the Arab authorities.*

75. *The development plan shall be based on collaborative efforts with the respective Arab authorities. The Ministry of the Interior shall oversee these cooperative efforts and manage the initiative by applying municipal bylaws, collecting municipal taxes, supervising compliance with construction laws, etc.*

76. *The cost of the development plan for the Arab-sector communities shall total four billion NIS for the years 2001-2004. This sum includes an additional sum of two billion NIS in excess of the already existing government development budgets in the government ministries for the*

Arab-sector communities, including one billion NIS as an additional payment from the Ministry of Finance for the budget of the ministries .These budgets include the share granted to the Arab-sector communities in the development budgets of the government ministries.

77. *The development plan shall apply to Arab local authorities and Arab communities located within regional councils.*

78. *An inter-ministerial team, headed by the Prime Minister's Office, with the participation of the Ministry of Finance and other ministerial representatives, as required, shall coordinate staff activities, including status of implementation, planning of operations, identification of priorities, allotments of budgetary amounts and setting performance timetables. The inter-ministerial team shall oversee and control the status of implementation of the development plan by the government ministries and, in cooperation with the representatives of the Arab sector, shall perform an annual survey of plan performance.*

79. *Recognizing the importance of addressing the economic and social gaps in the Arab minority sector, the Prime Minister in 2003 further pushed for the integration of the Arab sector into the civil service and governmental corporations. He initiated the establishment of a Public Complaint service for the Arab minority, economic development plans that integrated the Arab municipalities with the regional sectors, a Permanent Council for addressing problems of relations and pressing issues between Arabs and Jews, and demanded the governmental ministries (noted below) to submit proper plans that address the problems of the minority Arab sector.*

B. The Ministry of the Interior

General

80. *The Ministry of the Interior shall allocate 412 million NIS for development of Arab communities, an annual average of 103 million NIS for the years 2001-2004.*

Advancement of outline schemes and detailed schemes

81. *The Ministry of the Interior shall oversee the adoption, implementation, and updating of already agreed-upon plans as well as plan-proposals, for the Arab-sector communities. The plans shall be financed by means of a government-approved special budget in the amount of 28 million NIS, as outlined below:*

81.1.1.	*Ministry of the Interior*	*9.40 million;*
81.1.2.	*Israel Lands Administration*	*4.75 million;*
81.1.3.	*Local Authorities*	*1.25 million;*
81.1.4.	*Ministry of Finance*	*12.70 million.*

82. *A team composed of members from the Ministries of the Interior and Finance, the Israel Lands Administration and the Prime Minister's Office shall consider expanding the scope of planning in other communities by means of an additional budget of 12 million NIS, taking into account the requirements and the pace of performance of the plans.*

83. *The Ministry of the Interior shall set aside 22 million NIS for the restoration, establishment and development of religious institutions in the Arab sector, with annual allocations of 5.5 million NIS, between 2001-2004. This funding will be divided by the Ministry of the Interior and the Ministry of Finance as follows:*

83.1.1. Ministry of the Interior - 4.5 million NIS;

83.1.2. Ministry of Finance - 1 million NIS;

83.2. The Prime Minister requested the Ministry in 2003 to address issues relating to planning and development, and to remove obstacles to the development of their municipalities.

C. The Ministry of Construction and Housing

Development of older neighborhoods

84. *The Ministry of Construction and Housing shall coordinate the infrastructure development project in the Arab-sector, by establishing new infrastructure and improving existing infrastructure. The budget for this initiative will be 220 NIS million, with annual allocations of 55 million NIS for the years 2001-2004. The sources of annual funding shall be as follows:*

84.1.1. The Ministry of Construction and Housing - 23 million NIS;

84.1.2. The Ministry of Finance - 32 million NIS.

85. *The plan includes 1.025 NIS million per year to restore and renovate dwellings owned by old people living alone in the following communities: Kfar Manda, Kfar Kana, Mishad, Tamra, and Majd el-Kroom.*

86. *The scheme includes budgets for the development of roads and local routes to be provided by the Ministries of Transport, the Interior and Construction and Housing. This development initiative shall be implemented jointly by three government ministries: the Ministry of Construction and Housing, the Ministry of Transport and the Ministry of the Interior, and coordinated and administered by the Ministry of Construction and Housing and the Prime Minister's Office.*

Development of new neighborhoods by means of high-density construction

87. *The Ministry of Construction and Housing shall allocate 120 million NIS for the development of new Arab neighborhoods by means of high-density public construction, mainly on state lands, to create 5,000 housing units. This averages around 30 million NIS per year, for*

the years 2001-2004, pursuant to existing arrangements between the ministries and the arrangements to be agreed upon between the ministries following the examination referred to in article 3 below.

88. *Identification of the lands designated for high-density construction shall be performed in coordination with the Israel Lands Administration, the Ministry of the Interior and the local authorities. The Israel Lands Administration shall transfer the authority for planning and development to the Ministry of Construction and Housing, as per its request, in order to implement the plan most effectively.*

89. *The standard of development in the new neighborhoods shall meet legal standards, while, at the same time, the cost thereof shall not exceed 70,000 NIS per residential unit. The amount of provided subsidies for high-density construction shall not exceed 35,000 NIS per residential unit. Communities designated as national priority areas shall benefit from the subsidy. Furthermore, the feasibility of encouraging such neighborhoods in communities located outside the priority areas also shall be examined.*

90. *The Ministry of Construction and Housing shall allocate an additional 40 million NIS to develop new neighborhoods on private lands located within already-existing Arab-sector communities using high-density public construction in a total of not fewer than 50 housing units per neighborhood. An average 10 million NIS will be spent annually in the years 2001-04 in order to complete this project.*

91. *By developing new neighborhoods on private lands, the aid will include funding for planning (at the detailed plan stage), in addition to contributions toward development in an amount not exceeding 50% of the approved infrastructure tariffs up to a ceiling of 20,000 NIS per residential unit. The budget shall be given to those neighborhoods and buildings where building permits have been granted since January 1, 2001.*

92. *Construction density on the sites chosen pursuant to this chapter shall not fall below six residential units per dunam (net).*

93. *The Prime Minister in 2003 also requested the Ministry to delineate the problems and obstacles relating to economic development and growth and allow for the implementation of plans that address these problems.*

Development of public institutions

94. *The Ministry of Construction and Housing shall allocate 320 million NIS towards the construction of public institutions to host cultural, social and sports activities in Arab-communities, an average of 80 million NIS for the years 2001-2004. The sources of funding shall be as follows:*

94.1.1. The Ministry of Construction and Housing - 10 million NIS;

94.1.2. The Ministry of Finance - 70 million NIS.

95. *This budget does not incorporate the provisions of the Report of the Committee of the Directors-General on Construction of Public Institutions concerning the construction of public institutions, but it does include budgets to be allocated to public institutions pursuant to other schemes in the years 2000-2004.*

96. *The construction of community centers and sports halls in large communities with over 5,000 inhabitants, if feasible, will take precedence over other types of construction.*

97. *In the course of plan execution, supplementary sources of financing shall be taken into account, such as the National Lottery (Mifal HaPayis) budgets, public institutions standard budgets and the development budgets of the Ministry of the Interior.*

98. *The Ministry of Construction and Housing shall establish a timetable for this public-works project, approve work plans of the respective communities; and implement construction. The maximum cost for a single public institution shall not exceed the budgetary ceiling set by the Report of the Committee of the Directors-General on Construction of Public Institutions.*

D. The Ministry of National Infrastructures

Administration for Sewage Infrastructures

99. *The Administration for Sewage Infrastructures will make loans and grants available to the Arab-sector authorities to regulate the internal sewage system, conduit lines and end installations, in line with the budgetary restrictions set out in article 2 below.*

100. *The Ministry of National Infrastructures will allocate for the years 2001-04 a total of 400 million NIS. 50% of this amount will be set aside to fund initiatives that will serve to deal with waste in the Arab-sector communities. Moreover, these monies will be distributed on a need-oriented basis. The Ministry of National Infrastructures and the Ministry of Finance will make all budgetary decisions.*

101. *A joint team of the Ministry of National Infrastructures (the Water Commission and the Sewage Administration), the Ministry of Finance and the Prime Minister's Office shall determine the parameters for the plans based on the principle of a grant of up to 50% of the amount of invested capital. As a general rule, the solutions for dealing with waste shall include, as required, completion of internal systems, conduit lines and end installations. Solutions for utilizing purified wastewater shall be funded from a budget designated for this purpose by the Ministry of National Infrastructures.*

102. *The Administration for Sewage Infrastructures shall direct the Arab-sector authorities in regulating those matters that are a prerequisite for receiving loans and grants, including the approval of bylaws.*

Israel Lands Administration

103. *The Israel Lands Administration shall allocate 4.75 million NIS towards promoting outline plans, outlines and detailed plans for the Arab-sector communities, as set forth in section C, in the section on the Ministry of the Interior, above.*

E. The Ministry of Transport

Internal roads

104. *The Ministry of Transport shall allocate 180 million NIS for implementing internal road systems and safety projects in the Arab-sector communities; 45 million NIS annually for the years 2001-2004.*

Regional roads

105. *The Public Works Administration (Ma'atz) shall allocate approximately 325 million NIS for the development of road networks in the Arab-sector communities; 81.25 million NIS annually for the years 2001-2004.*

F. The Ministry of Industry, Trade and Labor (ITL)

Development of industrial zones

106. *The Ministry of ITL shall allocate 120 NIS million in the years 2001-2004 towards identifying suitable industrial zone areas and developing infrastructure in six industrial zones in densely-populated Arab areas, subject to availability and economic considerations. Contributions shall be as follows:*

106.1.1. The Ministry of ITL - 15 million NIS;

106.1.2. The Ministry of Finance - 15 million NIS;

106.2. The budgetary expenditures shall not be dependant upon expected income from the development of the areas.

Benefits to industrial zones

107. *All the benefits awarded to enterprises located in industrial zones in national priority areas (aid, grants, discounts, etc.), within the ambit of the Encouragement of Capital Investments Law, 5719-1959 ("The Encouragement of Capital Investments Law") and based on geographic location, shall be granted to the industrial zones described in section A above as well. The Ministry of ITL, the Ministry of Finance and the Prime Minister's Office shall examine additional modes of encouraging the above industrial zones.*

Development of trade and services areas

108. *The Ministry of ITL shall allocate 80 million NIS towards developing services and trade areas in the Arab-sector communities, subject to availability and economic considerations, with 20 million NIS annually for the years 2001-2004. Funding shall be as follows:*

108.1.1. Ministry of ITL - 10 million NIS;

108.1.2. Ministry of Finance - 10 million NIS.

G. The Ministry of Tourism

Tourism infrastructure

109. *The Ministry of Tourism shall allocate 20 million NIS for development of tourism infrastructure in Arab communities, 5 million NIS for each of the years 2001-2004.*

Guest rooms

110. *The Ministry of Tourism shall allocate 4 million NIS to set up guest houses (Tzimmerim) in Arab communities.*

H. The Ministry of Agricultural and Rural Development

Agricultural investments

111. *The Ministry of Agriculture shall allocate 20 million NIS to promote investments for the development of agriculture in the Arab sector, with an annual budget of 5 million NIS for the years 2001-2004.*

I. The Ministry of Education

Construction of classrooms

112. The Ministry of Education shall allocate 700 million NIS for construction of classrooms in nursery, kindergarten, elementary and high schools, in the Arab sector, with an average annual budget of 175 million NIS for the years 2001-2004. Sources of funding each year shall come from the Ministry of Education and from the National Lottery. Note however that the project was cancelled after the government had provided 78 million NIS for purposes of building.

Pedagogical plans

113. *The Ministry of Education shall allocate a sum of 280 million NIS over the year 2001-2004 to develop pedagogical programs that improve and enhance the educational system in the Arab sector, with an annual budget of 70 million NIS for the years 2001-2004. Funding sources for each year shall be as follows:*

113.1.1. The Ministry of Education - 50 million NIS;

113.1.2. The Ministry of Finance - 20 million NIS.

Technological education

114. *The Ministry of Education shall allocate 66 million NIS towards developing and offering new courses of study in high schools and in post high-school institutions in technological fields, 16.5 million NIS for each of the years 2001-2004. Funding sources, on average, shall be as follows:*

114.1.1. The Ministry of Education - 8.25 million NIS;

114.1.2. The Ministry of Finance - 8.25 million NIS;

114.2. The Prime Minister in 2003 requested the Ministry to address the issue of educational development and various social gaps, with a view towards remedying the problems via integration and development.

J. The Ministry of Labor and Social Affairs

Vocational training

115. *The Ministry of Labor and Social Affairs shall allocate a total amount of 268 million NIS to establish engineering and vocational training courses; 67 million NIS for each of the years 2001-2004.*

116. *This clause includes a set-aside of 24 million NIS for the establishment of supplemental education classes for women, 6 million NIS annually for the years 2001-2004. Funding sources for each year shall be on average as follows:*

116.1.1. The Ministry of Labor and Social Affairs - 47 million NIS;

116.1.2. The Ministry of Finance - 20 million NIS.

K. The Ministry of Health

Health stations

117. *The Ministry of Health shall allocate 10 million NIS for construction of family medical and dental clinics in the Arab sector, 2.5 million NIS to be spent annually in the years 2001-2004. Funding sources, on average, for each year shall be as follows:*

117.1.1. The Ministry of Health - 1.25 million NIS;

117.1.2. The Ministry of Finance - 1.25 million NIS.

L. The Ministry of Public Security

Police stations

118. *The Ministry of Public Security shall allocate 120 million NIS for construction of police points and stations in the Arab-sector communities, 30 million NIS for each of the years 2001-2004. Funding sources shall be as follows:*

118.1.1. The Ministry of Public Security - 10 million NIS;

118.1.2. The Ministry of Finance - 20 million NIS.

M. The Ministry of Science, Culture and Sport

Construction of cultural institutions and sports facilities

119. *The Ministry of Science, Culture and Sport shall allocate 28 million NIS for construction of cultural institutions and sports facilities, 7 million NIS for each of the years 2001-2004. Funding sources for each year shall average as follows:*

119.1.1. The Ministry of Science, Culture and Sport - 3.5 million NIS;

119.1.2. The Ministry of Finance - 3.5 million NIS.

Infrastructure for regional research and development "R&D" centers

120. *The Ministry of Science, Culture and Sport shall allocate 16 million NIS for improvement of the physical infrastructure of regional R&D centers in Arab communities; 4 million NIS to be spent annually for the years 2001-2004, from a budgetary supplement from the Ministry of Finance.*

Support of cultural, artistic and sport activities

121. *The Ministry of Science, Culture and Sport shall allocate 91 million NIS towards funding cultural, artistic and sports activities, an average of 22.75 NIS million annually for the years 2001-2004.*

N. The Prime Minister's Office

Operation

122. *The Prime Minister's Office shall allocate 8 million NIS towards operating, overseeing and controlling implementation of the plan.*

In the years 2001-2003, the actual dispersed funds totaled 1.9 billion NIS

123. Although the economic situation has led the Government to decide on an overall cutback of 8% of the State's total budget, the plan's budget was reduced only by 30 million NIS and **most ministries did not implement this cutback**. Figures show that during 2001 and 2002, out of 1.74 billion NIS that had been allocated for the plan, 1.57 billion NIS had been expended (a 90% implementation rate).

124. All of the development plans in the areas of sewage infrastructure, road infrastructure, communal bodies and the construction of classrooms (save for the construction of classrooms using PFI tender methods) were executed at a pace faster than planned.

125. Incomplete implementation of the plan in some cases is due to the aforementioned cutbacks, as well as bureaucratic barriers and budget deficits in some of the municipalities where cooperation is required for the successful implementation of the plan.

126. The actual use of the allocated resources is not uniform. In some instances, tenders have been published, and funds transferred to municipalities, though not necessarily spent. In other instances, budgets have been limited for particular projects. At present, the budgets for 73 Arab towns and villages have been set directly by the Prime Minister's Office. Furthermore, the Government has successfully implemented effective solutions to sewage problems in those towns and villages.

127. The Prime Minister's Office decided in mid-2002 to hire a private accountant, to better and more closely monitor implementation of the plan. The accountant provided an interim report in November 2002, detailing budget allocation in light of actual expenditures in the plan's first two years.

128. **Thus far, the following funds have been spent for the years 2001-2003**:

128.1. Ministry of the Interior **- 259 million NIS**;

128.2. Ministry of Construction and Housing **- 267 million NIS**;

128.3. Ministry of National Infrastructures **- 253 million NIS**;

128.4. Ministry of Transport **- 420 million NIS**;

128.5. Ministry of Industry Trade and Labor **-** The budgetary expenditures shall not be subject to income from development of the areas **-156 million NIS**;

128.6. Ministry of Tourism **- 16 million NIS**;

128.7. Ministry of Agricultural and Rural Development **- 12 million NIS**;

128.8. Ministry of Education **- 648 million NIS**;

128.9. Ministry of Health **- 6.8 million NIS**;

128.10. Ministry of Public Security **- 90 million NIS**;

128.11. Ministry of Science, Culture and Sport **- 9.7 million NIS**.

Bedouins in the Negev

129. The Bedouin population resides in both the North and the South of the country. The government has initiated a number of plans that address the concerns and needs of the Bedouin population, as fully described in Article 5 below. The key goals of the plans are to allow for sustainable integration of the Bedouin population into the State, while maintaining their traditional practices and lifestyle. All of the plans involve active societal participation of the relevant tribes and communities and strive to properly compensate and integrate the Bedouin population into Israeli society.

I. Pedagogic programs to foster democracy and tolerance

130. Under the guidance of its pedagogical department, the Ministry of Education has made a concerted effort to advance the principles of democracy and coexistence in its curriculum, and through this framework, works to combat all forms of discrimination. In the academic year 2001, the Ministry of Education funded a number of programs with costs totalling 8 million NIS. For more detailed information, see below Article 7.

II. Affirmative action in higher education

131. A special sub-Committee of the Council for Higher Education in Israel examined the state of Arab students in Israel and prepared a comprehensive report on the subject. The Council for Higher Education subsequently adopted the report's key recommendations in January 2002. One significant recommendation worth highlighting here is the **adoption of an affirmative action policy in higher education**.

III. Appointment of minority judges

132. In the Judicial system there are currently 526 judges and 77 registrars functioning. In the Supreme Court, out of the 14 justices, one is of Arab origin. In the District Courts 3 Christian judges and 4 Muslim judges are active. In the Magistrate Courts 11 Christian judges, 6 Muslim judges and 5 Druze judges are active. One Christian judge serves on the District Labor Court. In total 30 judges from minority groups function in the judiciary system. Nine persons from minority groups are active as registrars: one Druze registrar, 6 Muslim registrars and 2 Christian registrars.

IV. Development of industrial zones

133. A new District Outline Plan for the northern district of Israel was deposited on 7.9.1999 for public comments. Hundreds of comments were submitted. The comments were considered and the Plan was adjusted accordingly, such that the Plan is expected to be approved soon. The majority of the suggested development is in the central sector of the Galilee, in which most of the population is Arab. The scheme gives special consideration to the special demographic needs of the Arab population, addressing, among other things, establishing industrial zones (described below). The Ministry of Industry Trade and Labor has devoted 16% of its 2002 budget for this purpose, and in the prior 4 years has devoted on average 15% of its budget for the purpose of encouraging the creation and development of industrial zones in Arab locales.

134. In 2002, the Ministry of ITL's budget for development of industrial zones in minority areas grew from 15 million NIS (in 2001) to 25 million.

Table 1

Development budget for industrial areas, 1995-2000 (in millions of NIS)

Year	Budget allocated to minority sector industrial areas	Budget allocated to all industrial areas	Percentage allocation to minority sector (%)
1995	6	163	3.6
1996	30	269	11.1
1997	24	242	9.9
1998	21	222	9.5
1999	23	216	10.6
2000	31	236	13.1

V. Encouraging local entrepreneurs

135. In 2002, four companies established by Arab-Israeli entrepreneurs participated in a biotechnology exhibition sponsored by the Ministry of ITL. This was the first time that Arab-Israelis were able to present their technological contributions to the country on such a level. Moreover, this development underscores the ability of Arab-Israelis to increasingly branch out into fields in which they were traditionally not represented. Already, over 10 companies founded by Arab-Israelis cooperate with technological greenhouses throughout the country. Several of these companies are valued at multi-million dollar levels (2002).

Article 3

136. Apartheid has always been regarded as abhorrent by the Israeli Government and society and continues to be so regarded. Apartheid has never been practiced in Israel. There exist in Israel no restrictions of any kind as to place of residence nor is there any segregation of any kind.

Article 4

A. Criminal prosecution of racism

I. The Law

137. As previously reported, Article 144A of the *Penal Law* provides for a penalty of up to five years' imprisonment for a person who publishes with the intent to incite to racism, or holds such a publication with the intent to publish it.. Racism is defined in the Law as "persecution, humiliation, vilification, the display of enmity or violence, or the causing of animosity towards a community or parts of the population, by reason of color, racial origin or national-ethnic origin".

138. Articles 144 A-E of the Law further prohibit publication or dissemination of materials with the intent to incite to racism, even if ineffectual in result. The punishment is up to five years imprisonment.

139. A major 1994 amendment of Article 144D1 of the *Penal Law* establishes that a person who commits, out of racist motives, an offence, *inter alia*, against a person, a person's liberty or

property; an offence involving threats or extortion; offences of hooliganism and public disorder or offences by public officials, is liable to the lesser of either double the punishment prescribed for such offence or 10 years' imprisonment.

140. In May 2002, the Knesset further amended Articles 144D2 and 144D3 of the *Penal Law* criminalizing the publication of a call for acts of violence or terror or even praise, support or encouragement for such an act, support or identification with it, where the call is likely to lead to violence.

141. A more recent amendment, dated November 2004, inserted a section titled "Hate Offences" – consisting of Article 144F - "Offences motivated by racism or hostility towards the public – under "aggravated circumstances" which set the punishment to be emitted by the Court to be either double the penalty set to certain offences or ten years imprisonment, the lesser of the two. This applies if the offence was performed out of racist motives against a population due to religion, religious group, ethnic origin, sexual orientation or due to them being migrant workers.

142. The number of cases under this statute varies every year; most of the indictments involve incitement against the Arab minority. During the years 2000-2002, an increasing number of indictments have been filed against Jews and Arabs based on incitement to racial hatred.

143. Another source of law is Article 133 of the *Penal Law* that prohibits the encouraging of hatred between different sections of the population. It carries a punishment of up to 5 years imprisonment.

144. In accordance with Article 46 (a) (2) of the *Second Authority for Television and Radio Law*, 5750-1990 ("*The Second Authority for Television and Radio Law*"), the holders of licenses for cable TV services must not transmit any broadcast which contains racial incitement. They are further bound to take any measure necessary to ensure that no broadcast is liable to incite to discrimination on grounds of religion, race, nationality, community, lifestyle or origin.

145. In accordance with Article 6(25) of the *Telecommunications Law (Bezeq and Broadcasts* 5742-1982 ("*The Telecommunications Law (Bezeq and Broadcasts*") and article 46 (a) (2) of the *Second Authority for Television and Radio Law*, the cable TV concession holders shall not transmit any broadcast which contains racial incitement. Concession holders are further bound to take all measures necessary to ensure that no broadcast is liable to incite to discrimination on grounds of religion, race, nationality, community, lifestyle or origin. The Communications Act further stipulates under Article 6(57) that this obligation also applies to satellite broadcasts.

146. The defamation of any group as such, including national, racial or religious groups, is prohibited by law (Article 4 of the *Prohibition of Defamation Law*, 5725-1965 ("*The Prohibition of Defamation Law*").

147. The *Prevention of Terrorism Ordinance*, 5708-1948, addresses individuals supporting a terrorist organization. Article 4(b), for example, stipulates that a person, either verbally or in written form, who publicly praises, favors, or calls for support or assistance to a terrorist organization will be charged with committing an offence. Accordingly, several racist

organizations were declared terror organizations. The law enforcement authorities and the judiciary are striving to strike the balance between enforcing these laws and respecting the right to freedom of expression.

148. Given the rise of incidents of racist taunts and physical violence in sports events, the Vilan Committee was established as per a Knesset directive in 2001 to investigate the phenomena and propose needed solutions. The Committee's initial findings from 2001 called for rules that would enhance punishment and increase deterrence against the use of racist and offensive expressions. The Committee indicated that fans and the teams should be directly penalized and educational programs should be adopted promoting fair play and sportsmanship.

149. In November, 2004, the Vilan Committee proposed an amendment to the *Security in Public Places Law*, 5723-1962 ("*The Security in Public Places Law*"), adding on sections preventing individuals from entering sports arenas with weapons or pyrotechnic instruments, and disallowing any types of racist exclamations during a sporting event. The proposed punishment is up to one year imprisonment and the draft law has been presented to the Constitution and Law Committee in the Knesset.

II. Judicial perspectives

150. The possessor of racist material, with the intention of distributing it, is liable to one year's imprisonment and the material is to be confiscated. As previously reported, in the case of C.A. 2831/95, *Ido Alba v. The State of Israel* (24.9.96) the Supreme Court considered an appeal against a conviction for incitement to racism and set an important precedent. The Supreme Court quoted specifically Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination that mandates a State to punish all forms of racism. The Court also stated, *inter alia*:

> **"The appearance on the scene (in the seventies) of the Kach movement which called for the creation of a Jewish State based on Jewish law and excluding non-Jews brought to a public platform a political party based on a racist ideology ...**
>
> This led to legislation intended to combat racism…
>
> Racism is no longer only a belief in racist theories; it is also a hatred of strangers as such on the basis of different racial or national-ethnical background. Such hatred is an ancient social malaise. The Israeli legislation is intended to eradicate such racism (Justice Matza paras. 11, 12, 15).
>
> Racism is destructive of the democratic social fabric. It violates Israel's international obligations and the need to combat racism is one of the lessons the Jewish people have learned from their history. Every democracy is therefore entitled to abrogate the principle of freedom of speech insofar as incitement to racism is involved (Justice Barak, para. 4)."

151. Another noteworthy case is *A.C.C.1789/98 The State of Israel v. Benjamin Kahane* (27.11.2000): Following the publication and distribution of a Kahane Chai leaflet which called for the destruction of Arab villages in Israel, the State charged Benjamin Kahane with

incitement, a criminal offense under Articles 133 and 134(3) of the *Penal Law*. In finding Kahane guilty of these offenses, the Court ruled that the offense of incitement was designed not only to protect the stability of the State, but only to preserve community bonds among the State's citizens. This ruling is significant insofar as it has extended the scope of the criminal offense and may facilitate future prosecution of parties calling for acts of violence against minority groups.

152. The State indicted Tatyana Suskin for posting leaflets in Hebron which depicted the Prophet Mohamed as a pig, standing on the Quran. She was charged, among other things, with committing an act of racism and offending religious sensitivity, violations of Article 144(d)(1)(a) and 173 of Israel's Criminal Code. The District Court found Suskin guilty on all charges and sentenced her to two years imprisonment and one year suspended imprisonment (Cr.C 436/97 *The State of Israel v. Tatiana Suskin* (30/12/1997)). The Supreme Court declined the defendant's appeal.

153. The Supreme Court has even upheld a prolonged detention for an individual accused of committing a hate crime against a religious institution. In *Hazut v. State of Israel*, the accused physically removed foundation stones from a mosque in Tiberius. Given the strong evidence provided to the Court and the gravity of the offence, the Court upheld the lower court's extension of his pre-trial detention (C.R. 8971/00 *Avshalom Hazut v. The State of Israel* (14.12.2000). Similar detentions were upheld by the Supreme Court in C.R. 2714/01 *Gadi Levanon v. The State of Israel* (15.04.2001) and in C.R. 8169/00 *David Ben-Ami v. The State of Israel* (19.11.2000), where the defendants committed assault out of racist motives.

154. In a Magistrate Court decision (Cr.C 3709/02, *The State of Israel v. Cohen Yossef* (16.06.2004)); the Court upheld an indictment against the accused who shouted "Death to Arabs" at a soccer game with intent to incite racism. Despite the protestations of the accused that he was merely shouting slogans along with other spectators who were caught up in the heat of the match, the Court held that the gravity of the remarks dictated the indictment under Article 144 B of the *Penal Law*.

155. In the Tel-Aviv Magistrate Court, a police officer was convicted of assault and battery committed out of racist motives and of abuse of authority. Specifically, the officer assaulted the victim in a demeaning manner. He was sentenced to 6 months of imprisonment and 8 months suspended sentence and ordered to pay 10,000 NIS compensation to the victim. The Court rejected the appeal against the verdict but suspended the sentence because the officer's wife was dying (Cr.C 71188/00 *Ron Forbet v. The State of Israel* (28.12.2000)).

156. The Kfar-Saba Magistrate Court recently convicted two individuals who were indicted in offences of vandalism, the destruction of real estate and publication of racial incitement (the accused drew graffiti on walls stating – "Kahana was right" and "deport the Arabs"). The Court examined Article 144B of the Penal Law and concluded that the graffiti's text constituted racial incitement, and that the relevant text is the external-verbal expression of the political racial idea. In addition, the circumstances of the cases show the defendants' awareness to the criminality of their acts and therefore the criminal intention to incite against Arabs is clear *(Cr.C 2110/03 The State of Israel v. Pniri and Shriki* (05/01/05)).

157. There are several indictments filed for offences related to racism, that are currently pending in the Courts:

File number and parties	Relevant offences included in the indictment	Current status	Date of filing the indictment
CC 2225/03 (Jerusalem Magistrate Court) *The State of Israel v. Itamar Ben-Gvir*	Publicizing information inciting to racism, supporting a terrorist organization.	Pending.	March 31, 2003
CC 3769/03 (Jerusalem Magistrate Court) *The State of Israel v. Shmuel Tachan*	The defendant screamed "Death to Arabs"	Scheduled for Judgment, March 30, 2005.	August 5, 2003
CC 2714/04 (Jerusalem Magistrate Court) *The State of Israel v. Mimoni Priel & Falus Eyal*	The defendants screamed "Death to Arabs" in the midst of a soccer game.	Scheduled for arraignment, February 7, 2005.	June 7, 2004
CC 2712/04 (Jerusalem Magistrate Court) *The State of Israel v. Yehuda Nissim*	The defendant screamed "Death to Arabs" in the midst of a soccer game.	Scheduled for arraignment, March 29, 2005.	June 7, 2004
CC 2715/04 (Jerusalem Magistrate Court) *The State of Israel v. Shachar Simchon*	The defendant screamed "Arabs die" in the midst of a soccer game.	Scheduled for arraignment, May 4, 2005.	June 7, 2004
CC 2713/04 (Jerusalem Magistrate Court) *The State of Israel v. Golan Eliyahu*	The defendant screamed "Death to Arabs" in the midst of a soccer game.	Scheduled for arraignment, February 8, 2005.	June 7, 2004
CC 2716/04 (Jerusalem Magistrate Court) *The State of Israel v. Yakir Amar*	The defendant screamed "Death to Arabs" in the midst of a soccer game.	Scheduled for arraignment, February 15, 2005.	June 7, 2004
CC 550/04 (Jerusalem District Court) *The State of Israel v. Eli Mizrachi*	Incitement to racism. A fan of a soccer team threatened a Nigerian player and called him "Arab".	Scheduled for arraignment, February 20, 2005.	October 31, 2004
CC 1125/05 (Jerusalem Magistrate Court) *The State of Israel v. Zeev Elchanan Bloomberg et al.*	Sprayed graffiti that constituted an incitement to racism, incitement to violence.	Pending.	January 19, 2005
CC 3709/02 (Jerusalem Magistrate Court) *The State of Israel v. Eli Mizrachi* ACC 8727/04 (Jerusalem District Court)	The defendant screamed "Death to Arabs" in the midst of a soccer game.	The defendant was sentenced on June 16, 2004 to 60 days of suspended imprisonment and 2,500 NIS conditioned fine, on the condition that he does not re-commit the same offence. An appeal was filed to the District Court.	June 11, 2002

File number and parties	Relevant offences included in the indictment	Current status	Date of filing the indictment
CC 1015/01 (Jerusalem Magistrate Court) *The State of Israel v. Haim Perlman* ACC 886/04 (Jerusalem District Court)	The defendant participated in an illegal demonstration and screamed "Death to Arabs".	The defendant was acquitted. An appeal to the district court was filed on January 27, 2005, the defendant was found guilty and the file was returned to the Magistrate Court to impose the sentence. The Court imposed 6 months imprisonment and 6 months suspended imprisonment (March 3, 2005).	January 3, 2001
CC 1695/04 (Jerusalem Magistrate Court) *The State of Israel v. Israel Lederman*	Assault committed for racist motives.	Scheduled for arraignment, February 9, 2005.	February 4, 2004
CC 821/04 (Jerusalem Juvenile Court) *The State of Israel v. Zvi Leibowitz*	The defendant screamed "kill the Arabs" in Arabic, in a religious site. Charged with incitement to racism and violence.	Scheduled for arraignment, February 16, 2005.	June 8, 2004
CC 4393/03 (Jerusalem Magistrate Court) *The State of Israel v. Richi Ziv*	The defendant participated in an illegal gathering wearing a shirt that had writing "no Arabs-no bombings".	An arraignment has yet to take place. The Judge issued an arrest warrant against the defendant in December 2004.	July 21, 2003
CC 3878/04 (Haifa Magistrate Court) *The State of Israel v. Ilya ben Vitli Zatlov*	Publication of racism and incitement to violence.	The defendant was found guilty. Sentence to be imposed on May 19, 2005.	
CC 3908/01 (Tiberius Magistrate Court) *The State of Israel v. Haim Perlman et al.*	Possessing racist publications.	Evidence stage.	November 6, 2001
CC 113/03 (Nazareth District Court) *The State of Israel v. Idan ben Eric Edery et al.*	Racist callings against Arabs during demonstrations. Charged with incitement to racism and violence.	Scheduled for March 7, 2005 for evidence.	September 13, 2003

Incitement to racism on the Internet

158. A special department in the State Attorney's Office (the Department for Special Functions) deals with prosecution of incitement in general, and recently also handles cases of incitement on the internet. The department files indictments on the basis of investigations conducted by the police. For example, in CC 3878/04, the accused established a Neo-Nazi web site with racial expressions, incitement to violence, racial insults, denial of the Holocaust and insults to the Israeli flag. The accused was convicted, among other offences, of incitement to violence and publication of incitement to racism (Articles 144D2 and 144B of the Penal Law) in January 2005. His sentence is expected to be handed down in May 2005.

159. In some cases, it was decided not to initiate an investigation, but to warn those responsible or draw their attention to the limits imposed upon certain publications. For example, a director of a web site removed racial jokes against Arabs along with a statement that there was no intention to incite to racism, following a warning from the Deputy attorney General.

Article 5

A. The right to equal treatment before the national tribunals

160. The right to equal treatment for all persons regardless of their race or ethnic origin is a basic and fundamental principle in Israel. All governmental bodies and judicial apparatus recognize this right, maintain and uphold equal treatment for all individuals.

Training for law enforcement officers

Israeli Police

161. Human rights' education for public officials responsible for law enforcement is of vital importance to forestall violations of human rights in criminal justice. Israeli Police works together with the Association for Civil Rights in Israel (ACRI) in devising Police training programs in the field of civil rights for several reasons.

162. The Israel Police attach the greatest importance to educating those serving in its ranks regarding the need to defend the rights of the ordinary citizen in a democratic society. Police officers are constantly required to find the balance between the need to fulfill their functions to maintain law and order (implicit within this is the need to arrest and detain individuals, acts which deny them of their freedoms) while protecting and preserving basic human rights, a seemingly contradictory situation. Police personnel should be able to balance these two sometimes-opposing interests so that they exercise their authority while reducing to a minimum any violation of civil rights.

163. The Israel Police operate various educational programs within its formal training course and during the course of service in the police department. In large part, these programs are designed to provide knowledge and awareness regarding human rights to police officers and to ensure equal enforcement of the law and a better understanding of the diverse communities living in Israel whom the Police are protecting.

164. The Israel Police have initiated a wide variety of educational activities in this sphere in the form of workshops, weekly lessons and refresher courses of various durations in which all levels of Police officers participate.

165. For example, in preparation for the International Human Rights Day on December 2002, a visual presentation was given to all Police Units and was placed on the Police Internet Website, where it was available to all ranks.

166. In 2002 the Police decided to focus on the issue of Human Rights from the perspective of the inherent civil right to demonstrate. This issue was chosen because general elections were to be held in 2003. Throughout 2003, the Police's Educational Program focused on conflicts in Israeli society, prejudice and tolerance. The Israel Police is doing all in its power to ensure that the messages inherent in these Programs are adapted and implemented.

167. Additional educational activities include for example:

167.1. **Inter-cultural encounters** - These workshops, led by numerous experts during training and service, seek to eliminate stereotypes related to new immigrants and minority populations.

167.2. **Holocaust awareness** - This subject is covered by visits to museums including Yad Vashem, and by seminars designed to strengthen humanitarian and democratic understanding among police officers.

167.3. **Human rights seminars** - The Israel Police works in collaboration with the education department of the Association for Civil Rights in Israel (ACRI) to design activities and workshops for its basic training courses. During these seminars, officers are exposed to Israel's Basic Laws regarding human rights and their real-world implications by conducting simulations designed to convey the difficulties that may arise when rights are threatened or violated.

167.4. **Dialogue on Rights in the Galilee** - The subject of working with Israel's Arab community has been a central issue for many years at Israel's Police Academy. However, since the riots of October 2000, the Israel Police has sought to expand its training in this area through the creation of additional opportunities for dialogue. With the cooperation of "Adam Nof", an Israeli NGO, officers are taking part in interesting and unique meetings with Arab residents of the Galilee that facilitate different attitudes and new sensibilities.

167.5. **Ethic workshops** - The Education Department of the Israel Police conducts approximately 90 ethics seminars annually. Most of the topics relate to human rights and prevention of discrimination and serve to clarify the Police's role and the expectations placed on officers.

167.6. **Trafficking in persons training** - ACRI, in association with the "Hotline for Migrant Workers" have built a training program on the topic of trafficking in persons. The purpose of the program is to familiarize police personnel with the phenomenon, both in the human context, to understand the experience through the victims' eyes, and in the social context, to understand the social causes of the phenomenon. The actual training of police personnel is in the form of workshops and seminars.

168. Furthermore, every police officer joining the Immigration Administration must go through a specific training program focusing, among other things, on the perception of migrant

workers as victims of economic distress rather than offenders, and providing the officers with tools to handle delicate situations. They are also provided with training on the phenomenon of trafficking in persons and identifying its victims.

Measures for the investigation of complaints

169. The authorities in Israel investigate any complaint against law enforcement officers. In 1992, an independent department within the Ministry of Justice, the Department for Investigation of Police Officers, was established. This Department is charged with investigating any complaints of involvement of police personnel in the commission of offences.

170. The Department for Investigation of Police Officers is headed by an attorney who is entrusted with authority equivalent to a District Attorney, and aided by police investigators. The Department handles any complaint regarding offences punishable by one year of imprisonment or more. These offences cover cases of unlawful or excessive use of force and related offences. The Department may recommend the initiation of administrative and/or criminal proceedings against a suspected policeman, and in some cases the Department itself handles the criminal proceedings.

171. Any person, whether a national of Israel or otherwise, may file a complaint with the department, directly or via mail, fax or e-mail. Complaints filed with the Police are immediately transferred to the Department.

172. Data on cases handled by the Department does not include specific information on the age or nationality of the complainants, as part of its policy of equally addressing all complaints. During 2001, the Department received 5,896 complaints. 2,362 complaints were found to be within the authority of the Department and were investigated. In 29% of the investigations, the initiation of criminal or administrative proceedings was recommended (Please see table below).

173. Distribution of the complaints investigated by the Department for Investigation of Police Officers in 2001:

Table 1

Complaints investigated by the Department for Investigation of Police Officers

Recommendation of the Department	Number of cases
Criminal proceedings	199
Administrative proceedings	225
No evidence of guilt	327
Non-sufficient evidence	559
Lack of public interest	134
Offender unknown	74
On-going investigation	884
Total	2 362

174. A total of 6,355 complaints were filed against police personnel during 2002, and 442 of the complaints received and investigated resulted in the initiation of administrative and/or criminal proceedings against the suspected officer (close to 28% of the complaints received and

investigated). This level of proceedings is an indication of the extent of law enforcement and the equality in which the law enforcement agencies treat any violation of the law, especially by those entrusted to uphold it.

175. There have been claims of excessive police violence by a variety of individuals (from both the majority and minority population alike). As a result, the Knesset Committee on Internal Affairs and the Environment, along with the Constitution and Law Committee recently discussed the matter to determine if further action or legal oversight is required. In the most recent session in November 2004, the panel heard testimony from Russian immigrants and Arabs about alleged excessive use of force by the police. At the session, the Department for Investigation of Police Officers reported that they usually conclude their investigation within a three-month period. It was further noted that 20% of submitted complaints usually warrant further action. 40% of these cases warranting further action are then either transferred onward to the Prosecutors Office, with the remaining being addressed via internal disciplinary procedures. Of the cases eventually heard by a Court, 90% of the time the officer is found to have committed a violation. The Police further noted that many of the submitted complaints are usually of a trivial nature that are suited for the Police's Internal Public Complaints Unit, given the lack of any potential criminal violation by the Police.

General - the Ombudsman

176. The Ombudsman investigates complaints against bodies that are by law subject to auditing by the State Comptroller, such as government ministries, local authorities, state enterprises and institutions and government corporations. The Ombudsman also investigates complaints against the employees of these bodies.

177. Complaints relating to the activities of public bodies which the law does not authorize the Ombudsman to investigate, such as banks, insurance companies and other non-governmental entities that serve the public, are often forwarded to the bodies statutorily charged with their supervision, examples being the Supervisor of Banks, Supervisor of Insurance and Director of Capital, Insurance and Savings. Thus, the Ombudsman is an effective address for dealing with problems of discrimination within a broad array of governmental and public institutions.

178. A complaint is subject to investigation by the Ombudsman if it involves an act that is injurious to or withholds a benefit from the complainant. In addition, the act must have been committed contrary to law, or without lawful authority, or contrary to good administration, or involves a too inflexible attitude or flagrant injustice.

179. When a complaint is submitted, the Ombudsman opens an investigation. The Ombudsman may discontinue an investigation if grounds do not exist, the matter has been rectified, or the complainant withdrew the complaint.

180. The Ombudsman may investigate a complaint in any manner he sees fit and is not bound by rules of procedure or rules of evidence. He may hear any person if he deems it beneficial and he may require any person or body to give him any documents or information that are likely, in his opinion, to assist in the investigation of the complaint.

181. Any person may submit a complaint to the Ombudsman free of charge. The complainant is only required to sign the complaint and state his name and address.

B. Security of the person

182. Israel's official database for the criminal system only classifies indictments or sentences on the basis of the underlying charge(s). Hence although the database might be divided by offenses, such as physical offenses, sexual offenses, or fraud, there is no way of identifying whether a complainant is from the minority population.

183. However, complaints against police officers regarding racial discrimination or racially motivated abuse are vigorously investigated by the Department for Investigation of Police Officers in the Ministry of Justice. As a result, during the reporting period the State has filed several indictments against officers who have mistreated individuals via undue physical violence, mistreating individuals in custody etc. In all these instances, the officers were indicted under the Penal Law and the State intends to fully prosecute and punish them.

184. Note as well the criminal cases mentioned in Article 4, above, including cases involving police officers. Those cases involved racist acts against individuals from the minority population. In these cases, the Courts have not hesitated to impose severe sentences and to ensure public safety by not releasing the defendants for the duration of the trial.

The "Orr Commission"

185. During mass violent demonstrations and riots in Northern Arab towns in October, 2000, 14 Israeli citizens were killed. The Government decided to establish the Orr Commission, headed by Supreme Court Justice Theodore Orr, in order to examine the above-mentioned events and recommend the proper course of action, regarding participating individuals as well as overlying apparatus and institutions.

186. The Government responded to the Orr Commission Report by adopting, on September 14, 2003, Resolution No. 772 upon which the Government adopted as a whole all aspects of the report relating to the functioning, status, and personal future of all persons mentioned in the report. In addition, as to the overall recommendations and conclusions that require further inquiry and deliberations, the Government established a Ministerial Committee, the "Lapid Committee", headed by the (then) Minister of Justice. The Lapid Committee held more than 25 meetings, visited relevant areas, and further examined reports, submissions and other documents.

187. In the interim, the Israel Police took action to improve relationship with the Arab minority. They recruited more police officers from the minority sector, and have become more involved within the Arab community via meetings with leaders of the Arab community.

188. In May, 2004, the Lapid Committee issued its final findings. The Committee recognized that it is one of the most important, charged and complicated matters confronting the State of Israel and its society.

189. The report and recommendations are divided into two volumes. Volume One deals with the Committee's recommendations regarding the Arab sector and Volume Two deals with the Committee's recommendations regarding the Ministry of Public Security and the Israel Police. **The recommendations of the Lapid Committee were instituted as government decisions**.

190. It should be noted that many of these recommendations were implemented by the Israel Police and other governmental authorities *even prior* the publication of the Lapid report.

The recommendations of the "Lapid committee" regarding the Arab sector

191. The report specifies, in great detail, those recommendations of the "Orr Commission" which have already been accepted by the government and the ministerial committee for the non-Jewish sector (headed by the prime minister), and are already being carried out. As for those recommendations of the "Orr Commission" which have not been met by government decisions, the "Lapid committee" found it necessary to recommend the following:

191.1. *Establishing a governmental authority to promote minority sectors*. Establishing a governmental authority to promote and handle the unique problems of the non-Jewish sectors, including matters such as planning and building, budgets, prevention of discrimination and proper representation in State services, promoting education, and integration into the Israeli society and economy. The authority will verify the execution of governmental decisions, follow it, maintain constant contact with the various governmental ministries relating to the handling of minority sectors, and report to the Prime Minister and the ministers' committee.

191.2. *Incorporating the men and women of the Arab sector into a civilian national service*. The Lapid Committee suggested that the government promote the idea of founding a civilian state national service, which will be served by Israeli citizens who are not recruited for military service. As a preliminary stage, this service could be voluntary and within their community. The government will encourage the possibilities of broadening the circle of volunteers from amongst the Arab sector to include the army, the Israeli Police and other functions, and shall examine ways of promoting such voluntary activities.

191.3. *Outline planning for the Arab towns.* The Lapid Committee suggested ordering the minister of the Interior and the Israel Lands Administration, together with the local Arab municipalities, to draw, as soon as possible, outline plans for Arab towns for which plans have not yet been drawn, and to complete the drawing of plans for towns for which the process has already begun, while maintaining constant use of the principle of saturated building. The marketing of lands will be carried out according to needs, and according to proper building principles. The designation of some of the land additions for development will be for the establishing of local and regional employment areas, including the creation of joint industry areas (industrial parks) for Jews and Arabs.

At the same time, the Lapid Committee denunciated the phenomenon of illegal building in the Arab sector, as well as in any sector, and recommended taking action against this phenomenon, with all available legal means.

191.4. *A week of mutual study*. Holding a week dedicated to studying about different sectors in society, learning about the components of the Israeli society, and the characteristics of the different sectors and congregations in the Israeli society, while putting an emphasis on the difference in customs, culture, language, etc. and at the same time, emphasizing their equality and citizenship as Israelis. This shall be done with the assistance of the Ministry of Education, Culture and Sport.

191.5. The offered week has four levels: theoretical study; meetings; advertising efforts in Hebrew and Arabic; outdoor events demonstrating the culture and customs of the different congregations. The purpose is to show a congregational, religious, national and cultural mosaic, to reflect the uniqueness of each sector under the roof of pluralist Israel, while emphasizing mutual tolerance.

191.6. *Tolerance Day*. Instituting a national "tolerance day" which will express the signs of civic partnership, express the multi-cultured Israeli society, and encourage tolerance and solidarity between all sectors in the State of Israel. Therefore it is suggested to establish a public committee charged with providing actual content to a special day, of a national, joint and uniting manner, that will emphasize the solidarity and tolerance between the sectors, which despite the difference between them are committed to living their lives in harmony, brotherhood and peace.

The recommendations of the "Lapid Committee" regarding the Arab sector's leadership

192. The committee recommended that the government call upon the leaders of the Arab sector to reach out to the governmental efforts to promote equality between the sectors; while the Israeli government does its best to ensure the rights of Arabs in Israel, on the personal and public levels. It has been specified that the Arabs and Jews should take part together in rehabilitating the relations between the sectors after the October 2000 trauma.

193. It is also suggested that the government call upon the leaders within the Arab public: to avoid words of incitement against the State and its establishments; to denounce any incitement which might result in violence; to condemn any act of violence; to stop any attempt to promote issues, even the most painful and legitimate, in illegal ways; to refrain from blurring the line between a link to the Palestinian residents of the West Bank and Gaza Strip and messages which do not coincide with the loyalty every citizen should hold to his own country; to develop a civic consciousness within the Arab sector, while being strict about enforcing local laws, especially to do with building and the collecting of local tax; being strict about displaying the state's flags and emblems on public buildings and establishments; to encourage the participation of members of the Arab sector in serving the State, including volunteering to functions such as the civil guard; and to contribute to the improvement of the atmosphere between Arabs and Jews through social, educational and cultural co-operation, especially among the youth.

194. *The recommendations of the "Lapid Committee" regarding the Ministry of Public Security and the Israel Police.*

194.1. A major part of the Committee's work concerned the recommendations of the "Orr Commission" regarding the Israeli Police and the Ministry of Public Security. The Committee was under the impression that the Ministry of Public Security and the Israel Police have taken the recommendations of the "Orr Commission" under consideration and have carried out the necessary conclusions. The aforementioned has been expressed by a number of actions specified in great detail in the "Lapid Committee" report. The Committee has had the efficient co-operation of police members, especially the Police Chief and his deputy.

194.2. Today, the Ministry of Public Security and the Israeli Police are better prepared than ever for events of mass violent demonstrations and riots in the manner of October 2000, following the "Orr Commission" Report and the "Lapid Committee" sessions.

194.3. The Israeli Police have executed a long list of operational and organizational moves since October 2000, to greatly improve its ability to handle similar challenges.

194.4. However, according to the recommendations of the "Orr Commission," there is a need to provide the Ministry of Public Security and its divisions with the appropriate tools to handle such challenges, and these needs will be presented to the Israeli Government by the Minister of Public Security.

194.5. The Committee believes that implementing its recommendations is vital to strengthening the rule of the law and enforcement of law within the Arab sector, while maintaining their civil rights and duties, in the communal, public and criminal arenas. The aforementioned is vital to the building of mutual trust between the Arab citizens of the State of Israel and the law and order enforcement authorities of the State of Israel.

195. **Conclusion**

195.1. The Committee concluded that Israel is committed to a normative change in the mutual relationship between Jews and Arabs, while recognizing the right of each sector to be different from the other. The aforementioned means one should not prevent Arab citizens from expressing their culture and identity. The Government policy is to reach true equality of rights and duties between the citizens, Jews and Arabs alike, as soon as possible.

195.2. The great majority of the Arab public is law-abiding. The decisive majority of the Arab Israeli citizens accepts the rules of democratic society and aspires to join in Israeli society. Arab Israeli citizens have the right, as do all other Israeli citizens, to demonstrate and to protest, within the confines of the law, while abiding it.

195.3. However, the grievances of the Arab Israeli citizens, as mentioned in the "Orr Commission" report, do not justify by any means the violent events initiated by groups of Arab Israeli citizens in October 2000.

195.4. The direct or indirect support of Palestinian terror organizations responsible for murdering Israeli citizens, among whom are Arab victims, is unacceptable.

195.5. Furthermore, the State of Israel will not tolerate incitement; and organizing or carrying out of riots and violent uprisings against the State and its institutions.

195.6. The Committee stated that the implementation of its recommendations will make an important contribution to disposing of the grievances and tensions which led to the tragic events of October 2000, while maintaining the character of the State of Israel as a democratic Jewish State.

195.7. The Committee reported it is honored to bring forth its conclusion and recommendations to the Government and to the Israeli public, Jewish and Arab as one, with hope to bring the hearts closer together, promote equality and incorporation, keep the abiding of the law, brotherhood, co-existence and the promise of life together in peace.

Protection of migrant workers

196. In recent years, the number of migrant workers arriving to Israel in search of work has significantly increased. According to the Central Bureau of statistics, at the end of 2003, there were approximately 189,000 migrant workers, who make up 7.4% of the work force in Israel. Most of these workers have entered Israel illegally or stayed in Israel after the expiry of their visa, with illegal migrant workers reaching a number of around 100,000. According to information provided by the Police Immigration Administration, during 2004, approximately 45,000 illegal migrant workers have left the country, with the authorities responsible for the removal of approximately 19,000 migrant workers, and the rest leaving on their own accord.

197. This situation required some legislation and policy adaptation, and indeed, over the last ten years there have been several key legal initiatives undertaken to amend existing legislation for the purpose of ensuring and protecting migrant workers' rights.

198. Over the last few years, the authorities have turned their attention towards the employers, issuing fines and even revoking business licenses for instances of illegal employment or treatment towards migrant workers (such as withholding wages or breaching contracts).

199. In some cases, workers take substantial loans in order to pay for the right to work in Israel. Israeli law explicitly prohibits collecting fees from such workers, and employment agencies found to be collecting illegal fees, have their licenses revoked.

200. In August 2002 the Government decided on the establishment of an interim Immigration Administration in the Police, to operate until the establishment of a national Immigration Authority.[2] The national authority would coordinate all aspects of entry into Israel of foreign nationals, including migrant workers. The interim Immigration Administration serves as a focal point for many of the issues relating to migrant workers, including investigations into any

allegations of abuse. The interim Administration has been quite active in cooperating with NGOs, addressing complaints, and meeting with foreign representatives. A special unit within that body – the Crime Unit – is charged with investigating offences committed against migrant workers, by employers and others.

201. Furthermore, the Immigration Administration takes pro-active steps, and may investigate behavior of employers even without complaints being filed. The Immigration Administration also focuses on enforcing the law against employers and any other offenders committing offences against migrant workers, in cooperation with the Ministry of Industry, Trade and Labor. Additionally, since its creation, the administration has been working closely with NGO's, and investigating all allegations made by these organizations**.**

202. The central piece of legislation relating to migrant workers was enacted in 1991. *The Foreign Workers (Prohibition of Unlawful Employment and Assurance of Fair Conditions) Law, 5751-1991* ("*The Foreign Workers (Prohibition of Unlawful Employment and Assurance of Fair Conditions) law*") was enacted to ensure that violations of the provisions of the law with regard to employment of foreign workers are met with criminal sanctions. The Law was amended in 2000 to ensure that proper working conditions and social rights are provided to workers, and again in 2003 to meet new administrative needs that arose. *The Entry into Israel Law, 5712-1952 ("The Entry intro Israel Law")* was amended in 2001 to establish a special Tribunal, which provides judicial review of the detention of persons subject to a removal order. The *Penal Law* was also amended to include a provision defining withholding of passports as a criminal offence. The key goals of these laws are to encourage voluntary departure and strengthen enforcement activity and information campaigns directed at employers. The police will not prosecute illegal workers as criminals in connection with their illegal entry or stay in Israel. Minors are treated by the State in accordance with their special needs, as detailed below.

203. The Knesset's Special Committee for Migrant Workers recently (November 2004) chided the police for using at times unnecessary force against migrant workers. Noting the importance of preserving the human dignity, the Committee requested the police to act properly and with restraint, as well as limit arrests in improper venues, such as in front of churches.

204. The Immigration Administration (within the Police), via its Crime Unit, exposed several criminal networks involved in smuggling, document forgery and trafficking in persons for the purpose of prostitution. It retrieved thousands of passports and prosecuted several employment agencies, which abused their employees or employed them illegally. During 2003, the Crime Unit in the Immigration Administration recommended the filing of indictments in relation to 439 of its investigations (involving offences committed against migrant workers).[3] The indictments, involve, *inter alia*, offences such as Fraud, Forgery, Trafficking in persons for prostitution and/or pandering, Withholding Passports, Aiding and Abetting infiltration and Aggravated Assault.

205. During January-February 2004 the Crime Unit investigated, *inter alia*, 142 cases of fraud and forgery, 8 cases of withholding passports and 98 cases of illegal employment. It also initiated investigations of 7,059 employers, resulting in 1,762 follow up investigations by the Enforcement Unit of the Ministry of Industry, Trade and Labor (hereinafter ITL).

206. In 2003, the Enforcement Unit of the ITL opened 6,256 files against employers suspected of violating the laws concerning employment of foreign workers, and imposed 3,305 administrative fines on employers, totaling 47,145,000 NIS. In 2004, the Enforcement Unit of the ITL opened 9,834 files against employers suspected of violating the laws concerning employment of foreign workers,[4] and imposed 11,019 administrative fines on employers, totaling 161 million NIS.

207. During 2003, the Prosecution Division of the ITL filed 753 criminal indictments against employers - including manpower companies - for violations of these laws, and received 42 judgments with fines totaling 5 million NIS, up from the combined sum of a half of a million NIS imposed by Courts on employers of migrant workers in 2002, in 32 decisions. In 2004, the Prosecution Division of the ITL filed 309 criminal indictments against employers - including manpower companies - for violations of these laws, and received 88 judgments with criminal fines totaling 14.8 million NIS.

208. Following are a few examples of verdicts received in criminal cases against employers and manpower companies found guilty of violations of the labor laws relating to employment of foreign workers: *C.C. (District Labor Court) 1062/02 The Ministry of ITL v. Eliezer Bonfil (17.12.03)* - 100% of the maximum fine imposed on a manpower company (783,000 NIS); *C.C. 1183/00 (District Labor Court)- The Ministry of ITL v. A. Hovala Inc., Ephrat Avraham* (28.12.03) - Fine of 360,000 NIS imposed on the company and an additional fine of 50,000 NIS imposed on its Director. In its decision, the Labor Court emphasized that strict fines must be imposed on company functionaries in cases of offences concerning foreign workers; *C.C. (District Labor Court) 88/03- The Ministry of ITL v Zoharim Inc*. (11.1.04) – a fine of 1,158,850 NIS was imposed in a plea bargain; *C.C. (District Labor Court) 1251/01 The Ministry of ITL v Shriebman Building Services inc*. (07.01.04) – a fine of 1,530,760 NIS was imposed in a plea bargain; *C.C. (District Labor Court) 304/03- The Ministry of ITL v A.S.L. Personnel Inc.* (3.11.03) - Fine of 563,760 NIS was imposed on the Manpower Company in a case of illegal employment, and non-provision of detailed employment contract and medical insurance.

Refugees

209. Israel is a party to the UN 1951 Convention on the Status of Refugees. Any person who meets the Convention's definitions may apply for a refugee status in Israel, regardless of his or her religion.

210. Since January 2002, a special Committee dealing with persons seeking recognition as refugees has been operating in Israel, and the Committee advises the Minister of the Interior on refugee applications. The Committee is comprised of officials from the Ministries of Justice, the Interior and Foreign Affairs and is presided over by a jurist, with the competencies of a District Court Judge. The Committee works in cooperation with the UN High Commissioner for Refugees' representatives in Israel and usually operates based on their recommendations. During 2004, the Committee recommended that refugee status be granted in 12 cases out of the overall 142 applications. It shall be noted that the number of persons affected exceeds 12, as any application may include several family members. Once recognized as refugees, the individuals or families generally integrate into society, although some are occasionally resettled to a

third country. Asylum seekers generally have not been detained, except for individuals arriving from countries that Israel sees as “enemy” countries. They are allowed to remain in Israel until an alternative solution is found for them, in cooperation with the office of the High Commissioner for Refugees.

C. Political rights

1. Access to the political system

211. The right to vote is the principal mechanism in which to actively participate in the Israeli political system. All citizens 18 years of age or older are entitled to vote, without distinction as to gender, race, color, ethnicity, wealth, property, or any other status ((*Basic Law: The Knesset*, 5718-1958 ("*Basic Law*: the Knesset")), Article 5). A person may be denied the right to vote only by judgment of a competent court pursuant to valid legislation (Basic Law: The Knesset, Article 5), however, no statutory provisions have been enacted to permit the denial of the right to vote.

The right to run for national public office

212. Any citizen 21 years of age or over may run for a seat in the Knesset, subject to three sets of exceptions.

212.1. If a person has been sentenced, in a final verdict, to imprisonment for at least three months, and seven years have not yet passed since the end of that term of imprisonment, then the person is ineligible to run in national elections. This is the case, unless the Head of the Central Election Committee concludes that the offence committed, under the circumstances, is without disgrace.

212.2. A court may deny an individual the right to run for office pursuant to legislation (*Basic Law: The Knesset*, Article 6(a)). No such legislation exists.

212.3. Several public officials are precluded from running for election to the Knesset by virtue of their position: the President of the State, the two Chief Rabbis and other members of clergy who earn wages from their religious function, any active judge of a general or religious court, the State Comptroller, the I.D.F. Chief of Staff, Police and Prisons Service personnel, and senior public servants and army officers of a certain rank (Article 7 of the Basic Law). Such senior public servants may run for national election if they leave office at least 100 days prior to the elections *(Elections Law, 5729-1969 ("The Elections Law")*, Article 56(A1)). Army officers, at the rank of Colonel or higher, may run for national elections if they leave office at least six months prior to the elections. Other, less senior public servants and military personnel may run for elected office so long as they vacate their positions by the date of submission of the candidates list; if elected, they are deemed to have ceased their service so long as they remain members of the Knesset (*Elections Law*, Article 56(b)).

212.4. Dual nationals may run for election to the Knesset, but if elected they may not take the oath of office until they have taken all steps necessary to relieve themselves of the other nationality, nor will they hold the rights of Knesset members until they do so (*Elections Law*, article 16A).

Members of ethnic and religious minorities

213. Minorities vote for Knesset lists (political parties) along with the entire political spectrum. In addition, Arab political parties have been represented consistently in the Knesset, as is the case in the current 16th Knesset. There are 7 Muslim Arab Knesset Members, 2 Druze, 1 Christian and 1 Bedouin Knesset Members.

The right to participate in election - Political expression

214. In *Election Appeal 2600/99* (29.04.1999) the appellant requested that the Arab political party Ballad be disqualified from participation in the election in light of the views expressed by its chairman, Azmi Bshara, speaking against the right of the Jewish people to the State of Israel. Justice Tirkel, while examining Article 7A(1) of *Basic Law: the Knesset*, repeated the rule that only extreme and severe expressions justify disqualifying a party from participating in the election. Justice Kedmi added:

> "freedom of opinion and the right to present it, are basic values of a democratic state; and that it would be justified to limit these rights only when there are clear unequivocal evidence that they were misused."

215. In *H.C.J. 212/03 Herut National Party v. Central Elections Committee* (16.1.03), the Central Elections Committee refused to allow the broadcast of a political advert of the petitioner because it was demeaning to the State's flag and national anthem. The High Court of Justice dismissed the petition and upheld the Central Committee's decision, noting the Central Committee's broad discretion concerning the balance between the freedom of speech and contradictory values.

Political expression of Knesset Members

216. On August 2001, the Attorney General announced his decision to indict MK Bshara on 2 counts. One indictment relates to the organization of illegal trips to Syria by Arab-Israelis. The Court later canceled this indictment. The other indictment relates to statements made by MK Bshara supporting Hizbollah, praising acts of terrorism carried out by that organization and calling for the Palestinians to adopt Hizbollah's methods in their struggle against Israel.

217. Unlike other constitutions that only grant immunity to statements made within Parliament, the Israeli law grants immunity to Knesset Members also for statements made outside the Knesset. However, the Attorney General found that this was not plainly a political statement but rather an encouragement for acts of terrorism. He therefore decided to indict Mr. Bshara.

218. The immunity of Mr. Bshara was removed after both the Knesset House Committee and the Knesset plenary debated the issue, heard Mr. Bshara's stand, and reached the conclusion that there are substantive justifications for the request.

219. Mr. Bshara was indicted in the Nazareth Magistrate Court *(C.C. 1087/02)* for these political statements. On November 2003, the Court ruled that it would address Mr. Bshara's arguments regarding the parliamentary immunity only during the final stages of the legal proceedings.

220. On December 2003, Mr. Bshara petitioned the Supreme Court regarding this decision. This case is currently pending and concerns whether the proper venue for the issue of parliamentary immunity is the Magistrate Court or the Supreme Court. *(H.C.J. 11225/03 Azmi Bshara v. The Nazareth Magistrate Court).*

221. **Local and municipal elections**. The fundamental right to vote and be elected applies as well to participation in local government. A series of statutes regulating elections of mayors, municipal and local councils generally mirror the arrangements for national elections, including the requirement that elections be "equal", "general", "secret", "direct" and "proportional"; the right of all persons 17 years of age and older who reside in the municipal area in question to vote in such elections; the right to run for election, subject to exceptions for judges, convicts, those lacking legal capacity, and certain classes of civil servants; and the right to propose candidate lists. *See Local Authorities (Elections) Law, 5725-1965* ("*The Local Authorities (Elections) Law*"). The principal differences between local and national elections are that non-citizen residents may vote in local elections, but not in national elections.

222. In the case of *C.A.P. 6709/98 The Attorney General v. The Central Elections Committee (01.02.1999),* an appeal was filed by the Attorney General against the Head of the Central Elections Committee regarding a list of candidates from Moledet, Gesher, and Zomet parties during the 1999 Upper Nazareth municipal elections.

223. The Supreme Court prohibited the list sponsored by the aforementioned right wing Jewish political parties from participating in the elections on the grounds that the candidate running for mayor, who headed this list, put forward a racist campaign. The Court emphasized the importance of the elimination of all forms of racial discrimination and declared that it is one of the basic values that every civil society must protect.

2. Access to public service

224. Since the submission of Israel's previous periodic report, there have been significant changes, both in law and policy, concerning the minority population within the Civil Service. These important changes are discussed below.

The civil service - general

225. The State of Israel employs more than 56,000 civilian employees. These civil servants are selected pursuant to legislation and the Civil Service Code, known as the *"Takshir"*, which establishes a merit-based civil service system. *The Civil Service (Appointments) Law*, generally requires that civil servants be appointed through a competitive tender process which clearly defines minimum qualifications for the position in question.

226. Several layers of legislation aim to protect against discrimination in access to the civil service. Both the *Employment Service Law, 5719-1959* ("*The Employment Service Law*"), and the *Equal Opportunity in Employment Law*, which apply to private and public employers generally, forbid discrimination among job applicants on the basis of religion, race, nationality or national origin, sex, sexual orientation, age, personal or marital status, personal worldview or political affiliation. These provisions apply, *mutatis mutandis*, to civil service hiring without a tender, to terms of employment, promotion, on-the-job professional training, and termination of employment. The *Civil Service (Appointments) (Tenders and Examinations) Rules, 5721-1961*, obligates members of tender committees to avoid questions relating to controversies between political parties as much as possible. *See also Takshir*, Paras. 11.61 and 12.367, and Civil Service Commissioner Notice 56/12.

Affirmative action in the civil service

227. There has been an important and significant amendment in the *Civil Service (Appointments) Law* that reflects the principles of CERD and highlights the importance of equality to the State. Specifically, the law has been amended in 2000 to require; in the employment and civil services employees, giving:

> "… appropriate expression, in the circumstances of the case, to representation of members of both sexes, people with disabilities, **and members of the Arab, including Druze and Circassian, population** (in this Law – "appropriate representation")."

228. The Government is thus required to facilitate and encourage appropriate representation, set aside positions (when possible) for minority groups in units that do not have appropriate representation, and institute preference-oriented affirmative action programs. Each ministry and agency shall present an annual report to the Civil Service Commissioner as to implementation of the provisions of the law, and the Civil Service Commissioner shall present the Government and the Law and Constitution Committee of the Knesset with an annual report detailing the steps taken thus far along with recommendations for further implementation.

229. On a more substantive level, the Ministerial Committee for the Non-Jewish Sector issued a decision in February 2004 requiring that within 3 years, 8% of the governmental workforce is to come from the minority population (defined as Arab, Bedouin, Druze, and Circassian), with the figure rising to 10% within 5 years. As a means of guaranteeing the desired goals, the Government is required to hire new personnel from the minority population at a rate of at least 8% during the coming year, with the figure rising to 15% of all new staff during the following year. Any governmental body that does not meet these goals is required to submit a detailed explanation to the Ministerial Committee. The Ministry of Justice, together with relevant applicable Ministries, is also to examine the expansion of hiring from the minority population within other bodies such as regional authorities and governmental corporations.

230. Despite affirmative action instituted by the legislator and the Government, there remain gaps in the actual representation of women and minorities in the civil service.

231. Arabs and Druze are underrepresented in the civil service as a whole. In 1994, the government decided to take affirmative action measures to enhance the integration of Arabs and Druze into the civil service, among other things by issuing tenders for mid-level positions solely

to members of those minorities. Between January 1, 1994, and April 1996, 661 Arabs and Druze were appointed to government service posts. The numbers have been increasing steadily. Thus, in 2001, there were 2,806 Arab and Druze workers in the civil service, representing 4.86% of such workers, while the figures recently rose to 2,818 workers representing 4.95% of civil service workers. The rate of hiring minorities increased from 8.4% of the hired workers representing a minority group in 2001, to 10.3% minority workers hired in 2002.

232. The figures continued to rise in 2003, reaching a level of 2,798 workers or 5.05% of civil service staff. This increase demonstrates a desire of government agencies to implement the Government's plans of raising the level of minority workers within the civil service workforce.

233. **Additionally, it is important to note that many of these employees within the civil service maintain senior level positions, some with decision making capacity. Thus, there are civil service employees from the minority population fulfilling roles such as investigative engineers, clinical psychologists, senior tax investigators, senior economists, senior electricians, geologists, department controllers, and education supervisors, to name but a few.**

234. **Moreover, these employees serve the good of the Israeli community as a whole and are a driving force in the integration of the Arab minority into the Israeli society.**

235. In 2002, in the Arab education system, the number of teachers in primary education was 11,748 (compared to 43,168 in the Hebrew education). In junior high schools and high schools the numbers were 4,046 and 4,843, respectively (compared to 18,966 and 34,796 respectively, in the Hebrew education system).

236. Employees in local and regional government bodies largely reflect the demographic composition of the locality or region. In the 88 local councils or municipalities which serve towns and villages in which the population is primarily composed of Arabs, Druze, Bedouin or Circassians, the employees of the local government bodies are almost exclusively composed of members of those minorities. In larger municipalities with mixed populations, such as Jerusalem, Haifa and Lod, members of minorities are employed at a level which approaches their representation in the population, although less so at the most senior levels.

237. According to Article 4(1) of *the Israel Lands Administration Law, 5720-1960* ("*The Israel Lands Administration Law*"), the Israel Lands Committee shall have a maximum of 24 representatives consisting of an equal number of representatives from the Government and from the Jewish National Fund. The law further requires that the Government delegation be composed equally of senior employees from relevant ministries and academics and public representatives.

238. In *H.C.J 6924/98, the Association for Civil Rights in Israel v. Israeli Government, Minister of National Infrastructures and the Finance Minister* (09.07.2001), the Association for Civil Rights in Israel claimed that the Israel Lands Committee did not reflect the proper representation mandated by law. The Court elucidated a distinction between the principles of equality and fair representation whereby equality is achieved through the passive application of non-discrimination, and fair representation requires the application of affirmative action. In this way, fair representation is a necessary prerequisite for fulfilling the principle of equality. The

Court noted two sources for fair representation: the first stems from the doctrine of equality and the second from specific laws. Although two laws regulate fair representation in Israel's Government and civil service, the Court found that the Israel Lands Committee was neither a governmental body nor characterized as a civil service body. Therefore, any determination of fair representation required the application of the doctrine rather than a specific law. The Court referred to Article 15A of the *Civil Service (Appointments) Law* that creates a duty of fair representation of the Arab minority in the civil service. The Court ruled that as there was only one Arab member out of 12 state representatives sitting in the Council, the Government should consider the appointment of a second Arab member.

239. According to the application of this doctrine, the Government has a responsibility to promote fair representation of the Arab community. To that end, it should also verify whether there are suitable Arab candidates to fill positions that lack fair representation.

240. Following this ruling, there are currently 2 Arab members in the Israeli Land Administration, out of 12 Government representatives.

Representation in governmental corporations

241. Similar to the changes made in the Civil Service concerning the minority population, progress has also been made within governmental corporations. Thus, minorities are better represented within these corporations, pursuant to formalized laws and governmental directives, described below.

242. The 1993 amendment to the *Government Corporations Law*, (Article 18a) established a requirement for appropriate representation of both genders on the Board of Directors of every government corporation.

243. A key change to the law further reflects the State's desire to implement and uphold the Convention and provide for fair representation of all population groups. An important amendment was made to the *Government Corporations Law* in May 2000 (Article 18(a) (1)) requiring appropriate representation of the minority population on the Board of Directors of every government corporation. Until such appropriate representation is achieved, the Ministers shall, as far as possible, appoint minority directors.

244. The decision was further entrenched following a September 2003 decision from the Ministerial Committee for the Non-Jewish Sector requiring appropriate representation and appointment of the minority population onto the Board of Directors.

245. In October 2000, the Attorney General issued guidelines, circulated among all government ministries, on the implementation of the said provision, providing that:

> "The idea of an 'appropriate way of representation' mentioned above does not mean creating quotas upon the Arab representation but it is rather to be construed in light of each particular circumstance. The appropriate rate must be decided according to the character, the purposes and the special needs of a corporation and according to the selection of available candidates who suit the specific mandate. (…) However (…), as far as possible, the obligation of priority to the Arab population prevails.

The refusal to nominate an Arab applicant to fulfill a mandate has to be justified by the Appointing Commission. Such decision prerequisites the examination of the possibility to select a minority applicant following reasonable attempts to identify such a candidate."

246. The amendment of the *Government Corporations Law*, brought about significant change in a short period of time. In June 2001, the rate of Arab representation in governmental bodies reached only 1 percent and by January 2003 (within a period of 18 months), the rate of the Arab population representation had increased to 5.7 %.

247. In statutory corporations and another seventeen bodies mentioned in the annex to the *Government Corporations Law* (e.g. the Museums Council, the Education Board, the Water Council) the rate of Arab population representation has increased to 3.3 %.

D. Civil rights

1. The right to freedom of movement and residence within the border of the State

The legal landscape

248. Until 1992, the right to enter and exit Israel, as well the right to freedom of movement within the State, were articulated and developed mainly through judicial decisions which interpreted legislation dealing with these matters. The Supreme Court has held that "freedom of movement ... is a natural right, recognized ... in every state with a democratic form of government -- of which our country is one -- and the citizen does not need any special qualifications to be entitled this 'grant'." *H.C.J. 111/53, Kaufman v. Minister of the Interior et al* (9.6.53).

249. Any governmental action affecting travel is subject to review by the Supreme Court, which must be convinced by clear, unequivocal evidence that there exists a "genuine, serious concern" that national security or other equally crucial interests will be "substantially damaged" if the person's right to travel is not restricted (*H.C.J. 448/85, Dahar et al. v. Minister of the Interior* (28.05.1986)).

Freedom of movement within the State

250. For all persons who are lawfully within the territory of the State of Israel, there is no requirement of registration in particular districts, and movement within the State is generally unrestricted. All residents of Israel (i.e., citizens, permanent residents who are not citizens, and temporary residents) are required to register their address, or any change thereof, at the Population Registry. Non-resident Aliens need not register their whereabouts while in the country.

2. The right to leave any country, including one's own, and to return to one's country

251. With the enactment of Article 6 of *Basic Law: Human Dignity and Liberty*, the rights to leave and to enter Israel were given a firmer constitutional basis:

251.1. All persons are free to leave Israel.

251.2. Every citizen of Israel has the right of entry into Israel from abroad."

252. These rights are subject to the limitation clause (Article 8) of the Basic Law, which prohibits any impairment of the right except by a statute which befits the values of the State and is intended for a proper purpose - and then only to the extent required; or pursuant to such a statute which explicitly authorizes deviation from the right. In addition, Article 12 of the Basic Law stipulates that emergency regulations properly in force may deny or restrict these rights only for a proper purpose, and for a period and to an extent that does not exceed what is necessary. The Basic Law is binding on all official authorities.

253. Legislation predating 1992 which deals with entry into or exit from Israel remains in force, but is now interpreted according to the principles in the Basic Law.

Exit from Israel

254. All persons leaving the State of Israel must present a valid passport, *laissez passer* or other travel document.

255. **Restrictions on the right to leave Israel**. No person may leave Israel directly to any of the countries specified in the *Prevention of Infiltration (Offenses and Punishment) Law, 5714-1954 ("The Prevention of Infiltration (Offenses and Punishment) Law")* (the current list includes Lebanon, Syria, Yemen, Saudi Arabia and Iraq) nor may Israelis travel to these countries without a permit from the Minister of the Interior.

256. An example of the Law's operation was the recent decision concerning a Druze resident in the Golan who desired to make a pilgrimage to the grave of a holy person in Syria. The applicant was granted permission to make the journey, via Jordan.

257. **Travel documents**. Passports and travel documents are generally issued as a matter of course. Arab residents of Jerusalem, many of whom are Jordanian citizens, receive *laissez passer* documents routinely.

Entry into Israel

258. Israel is the designated homeland of the Jewish people. Jews have been in the Diaspora for close to 2000 years prior to the creation of the State and thus realized a dream of having a homeland and place of refuge in the post-Holocaust era, and for Jews in Arab States and elsewhere. Thus, the *Law of Return*, 5710-1950 ("*The Law of Return*") was enacted as a tool to realizing this dream and as a means of enhancing Israel as a home for all Jews dispersed throughout the world. It is a linchpin of the State and serves as a foundational principle towards the effectuation of a viable and thriving Jewish State.

259. Any person who is neither an Israeli national nor the holder of an oleh's (lit. "A person who ascends") certificate under the *Law of Return* must enter Israel by visa and permit of sojourn. For such persons, there are four general categories of visas and permits of residence

under Israeli law: a permit of transitory sojourn (up to five days); a visitor's permit (up to three months); a permit of temporary residence (up to three years); and a permit of permanent residence (*Entry into Israel Law*, Article 2). Each of these permits may be renewed for periods prescribed by law.

260. Permanent resident status is granted at the discretion of the Minister of the Interior, most typically in cases of family reunification and on other humanitarian grounds. The criteria applied by the Ministry of the Interior in applications for permanent residency focus on the capacity to show that one's life, or that of one's immediate family, is centered, as a practical matter, in Israel. If a permanent resident leaves Israel for a period of at least seven years, and has become a permanent resident or citizen of another country, then his permanent residency status in Israel is deemed to have expired.

261. In September 1999, the Minister of the Interior decided upon a policy under which those who had been permanent residents of Israel, whose residency permit had expired due to having been resided abroad for over seven years, would be able to receive a new permanent residence permit, after a passage of two years from their return to Israel, provided that they had not received foreign citizenship or a permit for permanent residency in a foreign state in the meantime, and provided that there is no security or criminal impediment with regard to that person.

262. In the wake of the new policy, new permits for permanent residency were granted to many ex-residents who had returned to live in Israel. Consequently, a petition on the matter, filed by the Centre for Protection of the Individual to the High Court of Justice, was summarily dismissed *(H.C.J 2227/98 Centre for Protection of the Individual v. Minister of the Interior (07.04.1998))*. This change of policy mostly affects the Arab residents of the Eastern neighborhoods of Jerusalem as described below.

3. The right to nationality

Obtaining Israeli citizenship

263. In general, citizenship may be obtained through birth, residence, or naturalization. In any case, the manner in which persons become Israeli citizens does not affect in any way the scope of their rights and privileges arising from citizenship, such as the right to vote and be elected, or the right to hold public office.

The Law of Return

264. The State of Israel was expressly established to serve as a Jewish, democratic state - a homeland for the Jewish people, while, at the same time, according all of its citizens the full enjoyment of economical, cultural, and social rights. In 1950, the Knesset enacted the *Law of Return*, under which a Jew who immigrates to Israel is accorded the status of “oleh” and automatically granted citizenship, unless the person is deemed likely to endanger public health, security of the State, or public welfare, or if the person is "engaged in an activity directed against the Jewish people" (*Law of Return*, article 2(b)).

265. In this respect, Israel is no different from other states that upon attaining their statehood, in accordance with the principle of self-determination, grant preference to individuals with certain social, cultural, or ethnic links to that State for the purpose of developing the national identity of that State.

266. Notwithstanding Paragraph 279 below ("family unification"), non-Jews are not prevented from immigrating to Israel, nor are there any restrictions on any particular group. Non-Jews who wish to acquire Israeli citizenship may duly apply for such citizenship in accordance with Israel's *Citizenship Law*, 5712-1952 ("*The Citizenship Law*").

267. Under the *Citizenship Law*, Israeli citizenship may be acquired under certain circumstances, by birth; by residence; by a combination of birth and residence; by return, under the *Law of Return*; by naturalization; and by grant, with no regard to religious or ethnic distinction.

268. According to the current policy of the Ministry of the Interior, the *Law of Return* does not apply to a non-Jewish spouse of a person who already is an Israeli national. Accordingly, he or she does not receive the benefits of a Jewish new immigrant, including the right to automatically acquire Israeli citizenship. However, he or she may, nevertheless, attain Israeli nationality by way of naturalization, as described above, with no religious or ethnic distinction.

Nationality by birth

269. A person born in Israel whose mother or father was an Israeli national is granted Israeli citizenship. If a person is born outside Israel, he or she will be granted citizenship unless his or her parent had acquired their Israeli citizenship by birth abroad. Acquisition of Israeli citizenship by birth does not involve any distinction in law or in fact between Jews and non-Jews.

Naturalization

270. Under Article 5 of the *Citizenship Law*, a person over 18 years of age may attain Israeli nationality if he or she:

270.1. Is in Israel; and has been in Israel for three out of the five years preceding the application for citizenship; and

270.2. Is entitled to reside in Israel permanently; and

270.3. Has settled, or intends to settle in Israel; and

270.4 Has some knowledge of the Hebrew language; and

270.5. Has renounced his or her prior nationality or has proven that he or she will cease to be a foreign national upon becoming an Israeli national.

271. Upon being naturalized, a person's minor children automatically become Israeli citizens as well, unless such naturalization is prevented by exceptional circumstances (Article 8). As a rule, Israeli legislation accords a full range of social, economic and cultural rights to residents who hold a valid residency permit, apart from rights deriving only from citizenship (such as the right to vote in national elections, the right to hold an Israeli passport). Non-residents enjoy rights in legal proceedings before Israeli courts and in their dealing with the law enforcement system. In addition, all protective labor laws apply irrespective of citizenship or residency, as well as most of the provisions of the *National Insurance Law*, 5755-1995 ("*The National Insurance Law*"). Additionally, although the *National Health Insurance Law, 5754-1994 ("The National Health Insurance Law")* does not grant health insurance coverage to non residents, the *Foreign Workers (Prohibition of Unlawful Employment and Assurance of Fair Conditions) Law* requires employers of foreign nationals to insure their employees, regardless of their legal status.

Eastern Jerusalem

272. The status of most of the Arab population in the eastern neighborhoods of Jerusalem is that of “permanent residents” of Israel. According to Israeli law, a permanent resident is entitled to the same civil rights as an Israeli citizen, such as the right to vote for local municipalities, the right to social security, and the right to medical insurance. Naturally, Arab residents in the eastern neighborhoods of Jerusalem enjoy these rights as do any other permanent residents.

273. The option to request Israeli citizenship by Arab residents in the eastern neighborhoods of Jerusalem existed since 1967. The policy of the Government of Israel since 1999 is that permanent residents of the eastern neighborhoods of Jerusalem, whose permits have expired since 1995, could nevertheless be acknowledged as permanent residents if they kept special links to Israel during the years that they lived elsewhere, and if they lived in Israel at least two years.

Revocation of citizenship

274. *The Citizenship Law* authorizes the Minister of the Interior to revoke the citizenship of an Israeli citizen whose actions were in breach of allegiance to the State of Israel. This is an extreme measure, to be used only in rare and exceptional occasions. Any person whose citizenship is revoked may file a petition to the Israeli Supreme Court.

275. The Minister of the Interior has used his authority under the abovementioned law and revoked the Israeli citizenship of two Arab Israelis who took an active role in hostilities against the State of Israel and its citizens. The decision was made after the Minister provided them with an opportunity to argue against the revocation.

276. Mr. Nihad Abu Kishak, a resident of Judea and Samaria, was a member of a Palestinian terrorist group responsible for the murder and injury of dozens of Israelis. After the revocation of his citizenship, Abu Kishak announced that he considers himself to be a Palestinian rather than an Israeli, and that he would be willing to give up his citizenship voluntarily.

277. Mr. Kase Ubade, resides in Lebanon and chose not to file a petition to the Supreme Court sitting as High Court of Justice.

4. Free choice of spouse

Free choice of spouse and non-discrimination

278. In 1995, the Ministry of the Interior altered its previous policy, and started to apply a different interpretation to the *Law of Return*. Under the new interpretation, the *Law of Return* will not, henceforth, apply to the Non-Jewish spouse of a Jewish person who already is an Israeli national, so that he or she will no longer receive the benefits of a Jewish new immigrant, including the right to automatically acquire Israeli citizenship. Thus, the Ministry of the Interior no longer favors Jewish Israeli nationals by automatically granting citizenship to their foreign national spouses. At present, the foreign spouses of persons who are already Israeli nationals, whether Jewish or Non-Jewish, may attain Israeli nationality by way of naturalization. A petition challenging the new policy was dismissed by the High Court of Justice which affirmed the new policy (*H.C.J. 3648/97 Stamka v. The Minister of the Interior* (04.05.1999)). A later request for a further hearing in this case was also dismissed by the High Court of Justice.

Family unification

279. Since the outbreak of the armed conflict between Israel and the Palestinians towards the end of the year 2000, which led, *inter alia*, to the commission of dozens of suicide bombings inside Israel, a growing involvement in assisting terrorist organizations had been noted on the part of Palestinians originally from the West Bank and Gaza, who carry Israeli identity cards pursuant to procedures of family unification with Israeli citizens or residents; and who abuse their legal status in Israel, which allows them free movement between the West Bank and/or Gaza and Israel.

280. In order to prevent such potential danger posed by *former* residents of the West Bank and the Gaza Strip during the current armed conflict, the Government decided in May 2002 to temporarily stop granting them legal status in Israel, including through family unification. The decision was adopted following a horrendous terror attack in Haifa in March 2002 killing 15 people, committed by a suicide bomber who received Israeli ID following family unification.

281. The decision does not apply to persons already granted legal status in Israel prior to the decision, and leaves them with the same legal status they had prior to the adoption of the decision.

282. It is important to note that this decision does not discriminate between Israeli citizens and residents as it applies to all. It also does not prevent any Israeli citizen, from uniting in Israel with spouses from Arab or Palestinian origin, who do not reside in the West Bank or Gaza Strip. The criterion is only whether the spouse is a resident of the West Bank or Gaza Strip. It should also be noted that a State has the right to control entry into its territory, and more so, during times of armed conflict, when persons requesting to enter may potentially be involved in acts of violence against its citizens.

283. On July 31, 2003 the Knesset enacted the *Citizenship and Entry into Israel Law (Temporary Provision), 5763-2003* ("*The Citizenship and Entry into Israel Law (Temporary Provision)"*) which limits the possibility of granting residents of Palestinian territories Israeli

citizenship pursuant to the *Citizenship Law*, including by means of family unification, and the possibility of granting such residents residence permits in Israel pursuant to the *Entry into Israel Law*. The Law was invoked for one year. At the end of that period in August, 2004, the Law was extended for another six months. It was re-extended in February 2005 for a period of four months.

284. The Israeli *Citizenship and Entry into Israel Law (Temporary Order),* is a security oriented law, the result of the wave of atrocious and indiscriminate Palestinian terrorism which broke out in 2000 and claimed the lives of over 1,000 innocent Israelis as described above. The Law is the direct result of 23 murderous terrorist attacks, made possible by the involvement of persons who were granted legal status in Israel based on their marriage to an Israeli citizen, and took advantage of their Israeli ID to pass checkpoints and carry into Israel either suicide bombers or explosives.

285. Moreover, the Law does not change the status of people who already received their status prior to the day the law came into effect. However, those people's status shall not be advanced, yet left static. It should be emphasized that this is a temporary law, which presently expires on May 31, 2005.

286. Furthermore, the Law's constitutionality was scrutinized by the Supreme Court in *H.C.J. cases 7052/03 7102/03 Adalah and others v. The Minister of the Interior* (14.12.04, 01.03.05), which are still pending. The Court noted that the Government has decided to prepare an amendment to the Law adding exceptions to the general rule that would allow withholding application of the law to groups of individuals who pose a lower security risk to the lives and security of Israeli citizens. It also pointed out the limited time frame of the Law and that the Government did not extend the Law for the full year. The Court thus did not issue any order concerning the Law, leaving open the possibility to request further information from the Government, if necessary, following the envisioned changes to the law.

287. This decision addresses the concerns expressed by the Committee in its *Decisions 63 and 65.*

5. The right to freedom of thought, conscience and religion

Freedom of religion

Promoting equality in funding of religious services

288. **Cemeteries**. In an April 2000 case before the Supreme Court concerning the unequal allocation of funds to Jewish and Arab Cemeteries, the Court stressed the importance of the principle of equality in the allocation of state funds, and ordered the Ministry of Religious Affairs to revise its cemetery budget so that the Arab sector receives a more equitable share (*H.C.J. 1113/99 Adalah, et al. v. The Minister of Religious Affairs* (26.09.2000)).

289. Indeed, over the last few years, the State has succeeded in maintaining equal levels of allocations to all religious cemeteries. In 2003, for example, the Ministry of Religious Affairs allocated 6,490,000 NIS towards the maintenance of religious cemeteries in the

non-Jewish sector of which 1,278,000 NIS were utilized, with the remaining funds (totaling over 5,000,000 NIS) to be used the following year. Additionally, the Ministry distributed 15,813,000 NIS worth of funding towards similar purposes in the Jewish sector.

290. In other words, 1/3 of such funding went to the non-Jewish sector, which comprises about 20% of the Israeli population

291. **Religious courts**. In terms of allocations made to religious courts, vast strides have been made to increase funding to non-Jewish courts, particularly Muslim Sha'aria courts. In 2001, the Ministry of Justice took over the supervision of the Sha'aria Courts from the Ministry of Religious Affairs. Over the past 2 years both the physical structures as well as the internal computer systems have been improved in these courts as part of a wider effort to bring these courts up to the standards of the civil courts.

292. **Educational institutions**. As for allocations to educational institutions belonging to the various religious sectors of Israeli society, it appears that a change is about to occur in terms of the allocations, following the publication of the Shoshani Committee Report, which investigated budgeting methods in the Israeli primary educational system. The Report was presented to the Minister of Education in 2002 and adopted by her. The basic recommendation of the Report is to abandon past guidelines for the allocation of resources and to adopt a new method that bases allocation on the following principals: 1. Standard per pupil –The number of budgeted hours allocated to the school is to be determined only on the basis of the number of pupils attending and their socio-economic background. 2. Equal Standard: All Israeli pupils are assessed on the basis of a uniform socio-economic index. 3. Differential standard: Each pupil is classified according to the decile to which he belongs and the budget allocated to the school for that pupil is determined accordingly. 4. Pedagogic conditions: A necessary condition for any budgeting is compliance with the basic (core) curriculum including secular studies such as Mathematics, Foreign Languages etc., and the participation in the GEMS - growth and effectiveness measures for schools procedures.

Non-discrimination on the basis of religious affiliation

293. As to the effect of religious affiliation on the enjoyment of civil rights, Israeli law does not distinguish between religious statuses except for matters of marital status, where the King's Order in Council[5] (British-Mandate legislation) applies, and provides exclusive jurisdiction to officially recognized religious tribunals in Israel over matters of marital status within their respective religious communities.

294. The couple's religious law applies to matters regarding alimony for wives and children, as interpreted by the civil courts. When partners are not members of the same religious group, the civil law applies. In matters of legal competency, children's custody, spousal property and other family issues (family violence, adoption, etc.) – the civil law applies.

Free access and protection of holy places

295. Israeli Law grants freedom of worship and ensures the safekeeping of and access to holy places to members of all faiths. Articles 170-173 of the *Penal Law*, provide as follows:

> "A person who destroys, damages or desecrates a place of worship or any object which is held sacred by a group of persons with the intention of thereby reviling their religion or with the knowledge that they are likely to consider such destruction, damage or desecration as an insult to their religion is liable to imprisonment for three years."
>
> "A person who willfully and without proving lawful justification or excuse disturbs any meeting of persons lawfully assembled for religious worship or willfully assaults a person officiating at any such meeting or any of the persons there assembled is liable to imprisonment for one year."

296. The *Protection of Holy Places Law*, 5727-1967 ("*The Protection of Holy Places Law*"), expands on the guarantees contained in the *Penal Law* by mandating that holy places of all religions be protected from any "desecration or other violations," and prohibiting any act that might impair the free access of members of all religions to their holy places or "anything likely to violate the sensitivities of the members of the different religions with regard to those places."

297. Desecration or other violations of holy places are punishable by seven years' imprisonment; impairment of free access and violation of religious sensitivities, as outlined above, are punishable by up to five years imprisonment.

298. As detailed above, the State indicted Tatyana Suskin for posting leaflets in Hebron which depicted the Prophet Mohamed as a pig, standing on the Quran. She was charged, among other things, with committing an act of racism and offending religious sensitivity. (*Cr.C 436/97 The State of Israel v. Tatiana Suskin* (30/12/1997)).

299. Violation of this law, unlike the parallel provisions in the *Penal Law*, does not require criminal intent or knowledge, as it is sufficient simply if the offender had constructive knowledge that such a violation was likely to be caused as a result of the conduct.

300. Recently, Adalah, The Legal Center for Arab Minority Rights in Israel, filed a petition to the Supreme Court calling for regulations that would directly address Muslim holy places in a manner similar to some Jewish holy sites. The petitioners claim that the Government should be compelled to promulgate regulations in the interest of eliminating discrimination, upholding equality, and pursuant to the requirements of the *Basic Law: Human Dignity and Liberty*. The petition was filed in November 2004 *(H.C.J 10532/04 Adalah et al v. The Prime Minister et al*).

301. Several statutes aim to protect holy sites against physical harm by requiring the consent and guidance from the relevant Minister as a precondition to performing certain actions in or around a holy place, such as excavating (*Mines Ordinance*, Article 8(1)(a)), draining *(Drainage and Protection Against Flooding Law*, 5718-1958, Article 22(a)), the addition of water and sewage systems (*Water Law*, 5719-1959, Articles 70-71; *Local Authorities (Sewage) Law*, 5722-1962, Article 14), declaring the site a national garden (*National Parks and Nature Reserves Law*, 5723-1963, Articles 4-5), vacating and demolishing houses (*Building and Evacuation of Rehabilitation Areas Law*, 5725-1965, Article 51), and so on.

302. Furthermore, most of the holy places are also considered as antiquities sites, and are thus protected by similar provisions in the *Antiquities Law*, 5738-1978.

303. In *H.C.J. 7128/96 The Temple Mount Faithful Movement v. The Government of Israel et al*. (12.3.97): The Court held the following:

> "The Government has decided, following the Six Day War, that the Muslims are permitted to continue and perform prayers in mosques that are located on the Temple Mount as they did in previous years, whereas the Jews, even though their right to the Temple Mount exists and stands historically, are not permitted to currently actualize their right to perform public prayers on the Temple Mount.
>
> Access to the Mount has, up to the present day, exists yet is limited. Jews and other visitors that are not Muslim, are permitted to the Mount and to enter the area that is reserved most days of the year, only during morning and noon hours, when prayers are not being performed in the mosques."

304. **In practice, the access to holy places and freedom of worship for members of all faiths is strictly guarded, with few exceptions relating to the maintenance of public order and morals.**

305. 350 workers are employed to maintain and operate Islamic holy places sites. A sum of 7.5 million NIS has been allocated for the developments of religious buildings and Muslim cemeteries.

6. Freedom of opinion and expression

306. In *A.C.C. 8613/96 Jabarin v. The State of Israel* (27.11.00), the Supreme Court accepted Mr. Jabarin's appeal and acquitted him from his conviction according to Article 4 of the Prevention of Terror Ordinance. Mr. Jabarin was convicted by the District Court in supporting a terrorist organization, due to the publication of three articles encouraging the tossing of stones and explosive bottles. The Supreme Court interpreted the above-mentioned offence and held that the words of praise should refer to acts performed by a terrorist organization. Yet in the case of the appellant, his words referred to acts of non-organized people. In addition, the Court held that the offence does not require that the publication itself create a risk of future damage.

307. In *ACC 1789/98, State of Israel v. Kahane* (27.11.00), following the publication and distribution of a Kahane Chai leaflet which called for the destruction of Arab villages in Israel, the State charged Benjamin Kahane with incitement, a criminal offense under Articles 133 and 134(3) of the Israeli *Penal Law*. In finding Kahane guilty of these offenses, the Court ruled that the offense of incitement was designed not only to protect the stability of the State, but also to preserve community bonds among the State’s citizens. This ruling is significant insofar as it has extended the scope of the criminal offense of incitement and may facilitate future prosecution of parties calling for acts of violence against minority groups. The decision indicated to the public that the Court follows strict legal standards and applies them equally to Arabs and Jews. Judge Orr, who wrote the majority opinion, favored a limited interpretation of the offence, so that it only applies to supporting terrorist organizations. The majority believed that this interpretation of the offence is consistent with respect for the freedom of speech.

7. Other civil rights

Due process rights - the right to assigned legal assistance in criminal cases

308. **Court-appointed counsel**. Prior to an indictment, Israeli law requires court appointment of legal counsel for a person in detention in cases where he or she is without means to finance legal counsel or mentally-ill within the purview of the *Criminal Procedure [Consolidated Version] Law, 5742-1982 ("The Criminal Procedure [Consolidated Version] Law")*, Article 15 or the *Mentally Ill Treatment Law, 5751-1991* ("*The Mentally Ill Treatment Law*"), Article 18, or where he or she is under sixteen years of age, or when it is necessary to take testimony prior to filing the charge sheet and the detainee is either blind, deaf, dumb or mentally disabled, or when the detainee is suspected of murder or another offense bearing a penalty of ten years or more (*Criminal Procedure Law*, Article 15(a)).

309. In cases where there is no obligation to appoint legal counsel for a detainee, a court may decide at its discretion to appoint counsel if the detainee has insufficient financial means to do so, if the offense involved bears a penalty of at least ten years' imprisonment, if the detainee is blind, deaf, dumb or mentally incapacitated, or if for any other reason the court deems that the detainee is unable to manage his own defense adequately. A detainee without means is entitled to representation by the Public Defender's Office, even without counsel being appointed by the court.

310. An indication of the desire and capacity to serve the minority sector is reflected by the pool of attorneys operating within the Public Defenders Office. That is, 7.5% of the full-time staff attorneys are from the minority population, while 21% of external attorneys hired by the Office are members of minority groups. Even more telling is that the external attorney's pool for the Northern Public Defenders Office reaches 55% of minorities. This is important for the Northern District, as it is an area where the minority population exceeds the majority. The Office thus is meeting the needs of the minority population by ensuring that attorneys are available who can converse and understand minority clients.[6]

The right not to be arbitrarily expelled

311. During the 1990's the number of alien residents, mostly migrant workers, entering Israeli illegally, or staying in Israel illegally once their visas have expired, have dramatically increased, and was estimated to be around 120,000 by the end of 2002, 100,000 by the end of 2003, 60,000 by the end of 2004. At the peak of this trend, during 2001-2002, migrant workers (both legal and illegal) were 9.6% of the working population in Israel. These figures dropped to 7.4% by the end of 2003 due to strengthened enforcement against those entering and staying in Israel illegally and quota reduction.

312. The *Entry into Israel Law* (as amended in 2001) criminalizes the illegal entry or stay in Israel, which is punishable by one-year imprisonment. A person staying in Israel without a valid permit is to be removed or may leave the country voluntarily. The Law entitles foreigners, including migrant workers, to a range of substantive and procedural rights. It also uses a new terminology - removal rather than deportation, to emphasize that this is not a punitive measure, and to adjust the language to the new attitude of the law, giving greater weight to the rights of persons subject to its provisions.

313. The Law provides that persons illegally staying in Israel, held in custody until their removal, must be detained separately from criminal detainees. In addition, a list of their basic rights must be posted in a prominent place in the detention facility in both Hebrew and English. Such detention facilities are now operating in Hadera (for women), Nazareth and Zohar (for men).

314. The Law establishes in Article 13(D) a minimum period of three days between the issuance of the Removal Order and the execution of the order, to give the foreign national sufficient time to appeal the order and arrange for departure upon request. This period may be extended up to 14 days, or longer for humanitarian considerations. Such considerations may include, *inter alia*, the fact that the alien had been in Israel for a long period of time (*Administrative Petition 998/02 Trinidad Aguila v. the Tribunal*, the District Court of Jerusalem (23.01.2003).

315. Any person arrested for illegal stay must be brought before the Border Inspector (from the Ministry of the Interior) within 24 hours, and provisional release should be considered. Failure to fulfill this time requirement should result in that person's release.

316. A special tribunal has been appointed with jurisdiction to judicially review the detention decisions of the Border Inspector, including proceedings that deal with bail and the extension of detention (Custody Tribunal). The Tribunal has been operating since November 2001, and as a rule, a foreign national staying in Israel illegally must be brought before the Tribunal no later than 14 days from his arrest. If this is not done, he must be released from detention. As the hearings are conducted in the detention facilities, this time limit is enforced, such that in practice, most detainees are brought before the Tribunal within 3-4 days. Additionally, the Attorney General instructed the police that detainees should be brought before the Tribunal within 4 days.

317. The Custody Tribunal has jurisdiction to confirm a detention order, to order a review within a specified time, to cancel the detention order and rule upon bail, or to change the conditions of bail.

318. In addition, a person illegally staying in Israel who was released on bail may approach the Tribunal at any time with a request to change his conditions of bail. Such a person also has the right to be present in any proceeding dealing with his case unless it is not possible to locate him by reasonable efforts. In addition, he is entitled to be represented free of charge by a representative who is not a lawyer.

319. A person who has been detained, but for reasons not caused by him, had not been removed from Israel within 60 days, must be released from detention. Such a person shall not be released if the Tribunal is convinced that he poses a danger to the public, public health or state’s security.

Freedom of information

320. The 1998 enactment of the *Freedom of Information Law* has given a solid legislative basis to the public’s right of access to information. The main innovation of the law is in recognizing the right of an Israeli citizen or resident to receive information from public

authorities, regardless of whether he or she has any personal interest in it, and without having to state a reason for the request. Moreover, Article 12 applies the provisions of the *Freedom of Information Law* to persons who are not citizens or residents of the State of Israel, regarding access to information concerning their rights in Israel.

E. Economic, social, and cultural rights

1. The right to employment

321. Overall, unemployment within Israel has been on the rise since 1996, with the figures reaching over 9% in 2001 and approximately 10.5% in 2002 and 2003. Similarly, unemployment has been increasing since 1996 for the minority sector, as in the rest of the country. Among the Arab population, unemployment rose from 6.2% in 1996 to 10.6% in 2001. The number continued to rise in the ensuing years, reaching 13.4% in 2002 and then falling to 11.5% in 2003.

322. Similarly, among new immigrants, the rate of unemployment for 2003 was 11.2%. These latter two figures are slightly higher than the overall population and essentially reflect the overall high rate of unemployment in Israel. Programs to improve job opportunities for new immigrants, as well as for other unemployed groups in the labor force, have included: streamlining public Employment Service activities to encourage employers to seek workers through the Employment Service; improving the matching of job vacancies with job seekers; temporary employment programs in the public sector; and vocational training, retraining and on-the-job training.

323. Concerning unemployment among the *Israeli Arab population*, the Government's resolution adopted in October 2000, as set out in full in Article 2 above, and attempts to address this gap by allocating additional resources for vocational training for this sector of the population.

324. Note as well that labor force participation of Arab women remains low, though rising slowly. During the last two decades, there was a moderate increase in Arab women's participation in the labor force, from 11% in 1980 to 14.8% in 2002. Arab women today constitute about 4% of all women in the civil labor force in Israel. In 2002, there were 252,500 employed Arabs in the labor force, 196,200 (77.7%) were men and 56,300 (22.3%) were women. 38,900 of the Arab population were listed as unemployed, 6,800 (17.4%) of them women.

325. In the Arab sector women employees earned 7% more than men. This can be explained by the fact that 47% of Arab women are employed in academic and technical professions, while 64% of Arab men were skilled and unskilled workers in construction and industry branches.

326. In the Arab sector, the majority of men (81,200) in the labor force completed 11-12 years of schooling, compared to the majority of women (32,100), who completed 13 years or more of schooling.

327. Of the women who were employed in 2003, 14.1% work as academic and professionals, 19.8% work as professionals and technicians, 26.4% as Clerical workers and 23.3% as agents, sales or service workers. Furthermore, 7.5% work as unskilled workers, 4.1% as manufacturing, construction or other skilled workers and 0.4% as skilled agricultural workers. 4.4% work as managers.

328. Regarding unemployment among the **Bedouin** population, their rate of unemployment today is more than 20%. In recent years, the government has undertaken projects to reduce unemployment among the Bedouin, including vocational training for adults and subsidized employment, particularly in areas related to tourism, such as in national parks and at archeological sites.

329. With respect to unemployment among **women**, three authorities in Israel are currently actively engaged in promoting employment opportunities for *women*: the Authority for the Advancement of the Status of Women in the Prime Minister's Office; the Knesset Committee for the Advancement of the Status of Women; the Unit for Integration and Advancement of Women in the Civil Service Commission.

330. Women entrepreneurs face inherent obstacles, such as insufficient administration skills, difficulties in financing and low self-esteem. Consequently, several programs were developed by the Ministry of ITL through the Israel Small and Medium Size Enterprises Authority and in the Centers for Fostering Entrepreneurship for women of all sectors, including the Arab sector, new immigrants, orthodox women and single-parents. These programs include assistance funding for small businesses, feminine empowerment courses, establishment of "women only" business clubs and other activities.

331. With respect to women's advancement in the civil service, in 1999 the Unit for Integration and Advancement of Women brought before the Civil Service Commissioner the following recommendations: to require each government office to carry out a detailed investigation of women's advancement, to set specific goals on women's appointments for each government office, to include the subject of women's status in all educational activities undertaken by the Civil Service Commission and to promote changes in the *Civil Service Law (Appointments)* to make the director-general of each government office directly responsible for implementing the law in his or her office.

332. A significant amendment in this field was the Obligatory *Public Tenders Law* (*Amendment No. 12) of 2002, to the Obligatory Public Tenders Law, 5752-1992 ("the Obligatory Public Tenders Law*"), which in Article 2 prohibits discrimination amid the candidates in a government tender for certain grounds, including sex, sexual orientation, personal status and parenthood.

333. The gaps between men and women in women's participation in internal job-tenders in the Civil Service, both as candidates and appointees, have diminished. There were more women-candidates than men every year since 2000, with 62.36% in 2003. There were also more women appointees than men with 61.52% women-appointees in 2003. There has also been moderate progress in public tenders, yet there remains a slight disparity in favor of men (in relation to their high percentage in the civil service in general), with 49.11% of the candidates being women yet a higher rate of women-appointees (53.50%) in 2003.

334. The Civil Service Commission, following an appeal filed on behalf of the Authority for the Advancement of the Status of Women, added a segment in tender announcements regarding affirmative action for women, providing special measures for women and establishing educational programs on the issue of affirmative action for women for members of tender committees.

335. The Authority for the Status of Women and the Knesset Committee on the Status of Women are particularly active in the following two areas: encouraging Arab women to join the police force and encouraging Arab women to train as social workers in the Arab sector which currently lacks sufficient social workers.

336. Another statutory protection of employment of women was introduced via a 2000 amendment to *The Women Labor Law, 5714-1954* ("*The Women Labor Law*"), prohibiting the dismissal of a woman due to an absence from work where it is necessary for her to hide from her battering husband.

337. ***Training for women*** - In 1999, women comprised 44% of all trainees in vocational courses provided by the Division for Training and Development in the Ministry of Labor and Social Affairs (currently in the Ministry of ITL), Within retraining courses for people who hold an academic degree, women comprised 53% of all trainees. Recently, the Division for Training and Development (joined by the Women NGOs Council) initiated a unique project, aiming at increasing women's participation in its courses.

338. There are two groups – ultra-orthodox Jewish women and Arab women – who require special programs and measures, due to the cultural factors affecting their potential entry into the labor market. In the field of vocational training, the intention is to continue the policy of devoting special budgets to training for women. Some special programs are targeted to women in general, while others target especially vulnerable groups of women.

339. The Unit for the Integration and Advancement of Women has at its main goal to increase employability of women and their economic independence, through policies of professional and personal growth. The Unit’s initiatives are workshops for empowerment and entrepreneurship skills, especially for **new immigrants, non-Jewish and ultra-orthodox women**. Participants report improved self image, personal and professional empowerment and better assessment of the job market. Participants in the Entrepreneurship Workshops report a better understanding and knowledge of the various aspects of small business establishment, and participants in the workshops in the community enjoy continued professional assistance. They also run workshops and counseling for professional working women within the community.

340. The Ministry, in collaboration with Women’s Rights NGOs, initiated a program aimed at reducing poverty among women. This includes workshops on empowerment and work skills, and completion of education. The programs are running in several locations in Jewish and Arab municipalities, chosen because unemployment there exceeded 10%.

341. **Migrant workers**. Over the course of the last ten years there have been several key legal initiatives undertaken to amend existing legislation for the purpose of ensuring and protecting migrant workers' rights.

342. In 1991, the *Foreign Workers (Prohibition of Unlawful Employment and Assurance of Fair Conditions) Law* was enacted to ensure that violations of the provisions of the law with regard to employment of migrant workers are met with criminal sanctions. The Law was amended in 2000 to ensure that proper working conditions and social rights are provided to workers, and again in 2003 to meet new administrative needs which arose.

343. The *Entry into Israel Law* was amended in 2001 to establish a special Tribunal which provides judicial review of the detained persons who are subject to a removal order.

344. The *Penal Law* was also amended to include a provision defining withholding of passports as a criminal offence, and a new government bill to specifically deem trafficking in persons for labor a specific offence, was drafted by the Ministry of Justice.

345. Migrant workers in Israel enjoy additional guarantees, provided in a variety of laws:

345.1. Protection from discrimination - The *Equal Opportunity in Employment Law* prohibits discrimination on the basis of "nationality" or "State of origin" as regards to granting work opportunities and determining conditions of work;

345.2. Labor Standards - Israel's Labor Laws which determine the basic rights of the worker (minimum wage, hours of work and rest, prohibition on delaying salary payment, severance pay, safety in the workplace, etc.) apply to every worker, irrespective of his or her citizenship or legal status. This is also the case with regard to other rights stemming from collective agreements and extension orders.

346. The system for recruiting and employing migrant workers has been reviewed and amended to allow migrant workers to change employers, even if they were brought into Israel for a specific employer and purpose. As in most countries, a migrant worker arriving in Israel is designated for work with a specific employer, whose name is stamped in the employee's visa. A migrant worker may change employers throughout the legal duration of his stay in Israel, by following a specified procedure.

347. Israeli law explicitly prohibits employment agencies from taking any commission or fee from migrant workers or from any person working on their behalf.[7] Violation of this section is a criminal offence.

348. The courts in Israel have served as the guardians of migrant workers' rights, providing free access to all workers, regardless of their legal status. The High Court of Justice has always opened its doors to migrant workers, and its determinations have resulted in changes in governmental policies and practices.

349. In three cases, the Supreme Court, acting as the High Court of Justice, brought about a change in the practice of administrative and enforcement authorities towards migrant workers. In *H.C.J 155/97 Alonim INC v. The Minister of the Interior et al* (12.02.2001) the Court abolished the requirement that employers pay bonds to ensure the departure of their assigned migrant workers. Such bonds imposed a heavy burden on the employers, and in some cases, led to violence and coercion towards the workers to prevent them from leaving their employers.

The requirement was therefore abolished effective January 2001. In *H.C.J 01/8088 Valentin Fridinand et al v. The Minister of the Interior et al*. (21.11.2001), the Court expressed harsh criticism of the practice of legally "binding" a worker to a specific employer. Accordingly the Ministry of the Interior reviewed its procedures and now permits workers to leave their employers and to find new employers, without immediately forfeiting their legal status. In response to *H.C.J 2117/97 Paltia v. Israeli Police* regarding non-enforcement of article 376A of the *Penal Law* prohibiting the withholding of passports, a new Police Guideline regarding enhanced enforcement of this offence has been drafted and implemented.

350. Labor Courts and District Courts have proven to be as vigilant in protecting migrant workers' rights as the High Court of Justice.

351. As mentioned above, in 2002 the Government decided on the establishment of an interim Immigration Administration in the Police, to operate until the establishment of a national Immigration Authority. The national authority would coordinate all aspects of entry into Israel of foreign nationals, including migrant workers. The interim Administration has been quite active in operating with NGOs, addressing complaints, and meeting with foreign representatives. A special unit within that body – the Crime Unit – is charged with investigating offences committed against migrant workers, by employers and others.

352. Furthermore, the enforcement unit in the Ministry of Industry, Trade and labor has been enhanced. The inspectors in the enforcement unit investigate suspected violations of criminal provisions of the *Foreign Workers Law*, as well violations of the *Minimum Wage Law, 5747-1987* ("*The Minimum Wage Law*"), as they relate to migrant workers. There also has been a focus on punishing employers of migrant workers and ensuring that salaries and monies owed are paid in full.

353. For further data regarding the overall status and characteristics of the Israeli labor force, see attached Annex 1.

Remuneration

354. ***Minimum wages***. The *Minimum Wage Law* was amended and strengthened in 1997. The law is enforced by the Enforcement Division of the Ministry of ITL. The Ministry's inspectors regularly conduct on-site inspections at work places throughout the country. Employers who violate this law are fined or, in rare cases, prosecuted, and are required to pay workers the differences between the actual wages paid and the statutory wages, in accordance with the Law.

355. Enforcement covers all workers: Israeli adults, teenage workers, foreign workers, and workers hired by manpower contractors, etc.

356. In 2000, the policy concerning the enforcement of the minimum wage was revised. It was decided that an expanded effort will be made to take legal action against employers violating the Law, seeking compensation from the employer for the workers - especially in serious cases.

2. The right to form and join trade unions

357. The legal protection for the right to organize in trade unions is recognized in Israel and equally applies to all individuals. This right was expanded, by several important judicial decisions.

358. In the case of *Mifaley Tahanot v. Israel Yaniv* (46/3-209 National Labor Court, 05.11.96), the Court cancelled the dismissal of two workers after finding that the real ground for dismissal was their initiative to organize a workers committee. The company had no previous workers organization. This landmark case was important in two respects. First, it laid down two alternative legal grounds for the recognition of the right to organize as a basic right: a) the right derives from the concept of human dignity entrenched in Basic Law: Human Dignity and Liberty; b) the right derives from the general right to equality, namely the prohibition to discriminate against workers on irrelevant grounds, like involvement in organizational activities.

359. This ruling was reinforced in the *Horn & Leibivitz Transport Co. v. The Histadrut* case (99/323 National Labor Court, 26.07.99). This company had dismissed a group of drivers who tried to organize themselves into a union, just after the "Histadrut" Workers Union had expressed its willingness to recognize it under its federation. The Court recognized the right to organize in labor unions as a basic human right. The remedy of reinstatement was declared the most effective one in order to protect this right, since an employer might not be deterred by the threat of compensation alone, while deciding how to respond to his employees' organizational activities. Interestingly, the company then reacted by firing about a hundred more drivers, arguing that it had to close the whole department. The Histadrut threatened the company that it intended to appeal to the Court in a contempt of court proceeding. The conflict ended by the signing of a collective agreement with the company.

360. In the 1998 case of *Delek, the Israeli Petrol Company v. The Histadrut* (98/4-10 National Labour Court, 29.10.98), the National Labour Court extended the concept of the legal basis for the recognition of the right to organize, already introduced in the Mifaley Tahanot case mentioned above. The Court ruled in favour of the protection of such workers' right to organize. The Court developed the interpretation of the legal right to organize on the basis of the non-discrimination principle. Since the dismissed employees who submitted the complaint were mostly members of the representative labour organization at the place of work, the court ruled that consideration by the employer of union membership, when deciding upon economic dismissals, amounted to unjustified discrimination between workers.

361. The right to organize a trade union applies to all groups and workers. The right was further qualified in the landmark decision of *Tadiran Kesher Inc. et. al. v. The Histadrut* (97/41-96 National Labor Court, February, 1998). The National Labor Court sought a balance between the basic right of employees to organize and to choose their representative organization, and the employer's basic right to property entrenched in *Basic Law: Human Dignity and Liberty*. The employer's prerogative to manage his business was here countered by the workers' basic rights. The Court held:

> "When balancing between the workers' right to organize and the employer's right to manage his business, a special weight should be given to the workers' right, because their fate is embedded in the rights that are to be entrenched in the collective agreements

applying to them. The employer's right to be part of a change in the bargaining unit is a relative one and is subordinate to the condition that it is not intended to impair organizational rights of workers… The employer and the labor union have therefore to agree on the structure of bargaining appropriate for them. In a democratic society there is great importance in granting dignity and liberty to each worker. An expression of this is the worker's power to participate in the determination of the bargaining unit in which he belongs. This includes the power to influence changes in the bargaining unit, by way of negotiations between the labor organization which represents the workers and the employer who provides them with work."

3. The right to housing

The housing situation in Israel

362. There is a disparity between the percentage of individuals who own their homes in the minority sector (approaching 93% in the 2000 survey) as opposed to the 50-70% figures for the Jewish population residing in principal urban locales such as Tel Aviv or Haifa. This disparity indicates a different approach towards property and land ownership, especially among the family-oriented clusters favored by the minority populations, as discussed below.

Non-discrimination in housing

363. Special attention was accorded to the Bedouins living in houses illegally constructed. In addition, the relative situation of Arab Israelis continues to be a source of concern, even though important improvements can be reported whereby the Government instituted significant plans to improve their situation and overall status.

Israeli Arabs

364. As mentioned in detail above (Paragraph 36 onward), in *H.C.J 6698/95 Ka'adan v. The Israel Lands Administration* (ILA), The High Court of Justice has held that the State of Israel was not permitted, by law, to allocate State land to the Jewish Agency for Israel for the purpose of establishing a community which would discriminate between Jews and non-Jews.

365. As a response to the Ka'adan ruling, the Israel Land administration, in cooperation with the Jewish Agency for Israel, has issued new admission criteria to be applied uniformly to all applicants seeking to move into small, communal settlements established on state-owned lands. Admission decision would be made by admission committees, subject to review by a Public Appeals Committee.

366. In *H.C.J 2101/99, Shibli and ACRI v. Minister of Construction and Housing (21.04.2002)*, the Israel Supreme Court was faced with a challenge to the allocation of rental benefits, the claim being that the method of allocation unfairly discriminated against minorities. During the submission of materials to the Court, the Government noted a recent change to its allocation policy that would remove any distinctions with regard to benefit allocations. Basically, the determining factor is linked to the number of residents and the percentage of housing used for rental properties. The complainant nevertheless claimed that the Government's policy was discriminatory in result because most Arab towns were small and thus not entitled to

such benefits. The Court held in April 2002 that the Government should be given the opportunity to implement the new program to adequately determine whether it is discriminatory in result. No further action has been taken in the case since then.

367. Another notable case concerning rental benefits was before the Be'er Sheva Administrative Court, *A.C.A. 335/04 Vered Pinhasi v. State of Israel*, (22.11.04). The claimant was married to a non-citizen Palestinian with 5 children and in dire need of rental assistance. The State denied such benefits because she was married to a non-citizen. The Court however held that such a basis was incorrect and against the interests of justice and fairness, such that the claimant and her family should not be denied such assistance.

Outline plans for Arab towns and villages

368. Over the course of the last few years, the Israeli Government has placed an emphasis on improving Arab villages and towns. To this end, it has promoted local outline plans (for the development of Arab villages and towns) and allocated funds to support their development. The Government adopted a series of decisions on giving priority to the preparation of outline and zone plans in the Arab sector (January 1998, March 2000, June 2004). The planning budget for the preparation of the outline and zone plans is approximately 56 million NIS. A national project to promote outline and zone plans in the Arab sector currently takes place in around 60% of the settlements of the Arab sector and may be expanded. In addition, The Ministry of the Interior currently employs 309 employees at the department for the non-Jewish communities.

369. As previously mentioned (See Article 2), the abovementioned plans are meant to respond to expected population growth until the year 2020 and to allocate sufficient land to this end. Where there is need for public lands, the Israel Land Administration (ILA) allocates land for the purpose of establishing public institutions and housing for residents who are not landowners. A comprehensive national outline plan, dealing with construction, development and preservation (National Outline Plan #35) is near completion and will be presented for governmental approval in 2005.

Table 1

Local authorities in Israel

	Jewish sector (including mixed cities)	Non-Jewish sector	Total
Municipalities	57	11	68
Local councils	47	66	113
District councils	45	3	48
Local industrial councils	2		2
Total	151	80	231

Source: Ministry of the Interior. Information updated for September 7, 2004.

Recent developments

370. In March 2000, the Government promoted planning initiatives in 21 towns and villages in the Arab sector in five districts. To date, planning has commenced in two districts. The budget allocated for this project amounts to 17.7 million NIS for 2001-2003.

371. Additionally, the Planning Administration and ILA are working on outline plans for 36 Bedouin and Arab towns and villages in northern Israel. Planning has already been completed for 34 of these communities, as will be discussed in Article 5. An inter-ministerial committee headed by the Ministry of the Interior and in cooperation with the Ministry of Construction and Housing is currently preparing outline plans for an additional seven Druze, Bedouin and Arab towns. Five more communities await approval of completed outline plans.

372. As mentioned above, a new District Outline Plan for the northern district of Israel is expected to be approved shortly. The majority of the suggested development is in the central sector of the Galilee, in which most of the population is Arab. The accelerated development of this sector will increase the standard of living for both population groups, especially the Arab population due to its greater size. Furthermore, the scheme gives special consideration to the special demographic needs of the Arab population, which are higher than the Jewish population group, addressing in particular overcrowding, capacity for enlargement, and establishing industrial zones.

373. It should be noted that in a recent survey, it was found that of 79 villages with a mostly Arab population, 45 had approved outline Plans, and 6 had approved Comprehensive Plans, with the rest in various approval or planning stages, as detailed in Table 2 below.

Table 2

Advancement of outline plans in the Arab sector

Status of planning	Currently	Expectation for the end of 2005
Drafting of outline plans	13	-
Completion of outline plans	20	-
Drafting of district outline plans	16	2
Completion of district outline plan	24	31
Statutory authorization	6	24
Total	79	57

Source: Ministry of the Interior, February 2005.

Eastern Jerusalem

374. All building plans are subject to approval by the District Planning and Building Committee. The rate of application for building permits corresponds approximately with the percentages of the population. For example, in the first half of 1999, approximately 20% of the total number of applications was received from residents of the eastern neighborhoods of

Jerusalem. Of the total applications for building permits which were received, approximately 60% of those submitted by residents of the eastern neighborhoods were approved and approximately 67% of those submitted by residents of western Jerusalem were approved.

375. In western Jerusalem, building violations almost invariably consist of illegal additions built onto a legal building, such as a room in a courtyard or an attic annexed in a roof space. In the eastern neighborhoods of Jerusalem, they typically take the form of entire buildings illegally constructed without a permit. An additional problem exists concerning the use of public lands for private housing, a matter the Knesset has begun to address via the establishment of a Committee on the matter. Thus, demolitions in the eastern part of Jerusalem are far more extensive than in the western part of the city.

376. With respect to demolitions of illegal buildings, the policy of the Municipality of Jerusalem is to issue a demolition order in cases where the construction of such illegal buildings interfere with plans for public facilities, such as schools or roads, or with the city's historical heritage. The Ministry of the Interior also has the authority to demolish illegal buildings.

377. It should be stressed that all demolitions are conducted in accordance with due process guarantees after a fair hearing subject to judicial review with the right to appeal and without distinction on the basis of race or ethnic origin. Those affected by a demolition order are entitled by law to appeal to the Supreme Court. In general, demolition orders regarding illegally constructed buildings are issued in cases where buildings interfere with plans for the construction of public facilities such as schools or roads; pose a safety threat to their inhabitants; or interfere with historic landmarks.

378. Throughout the past years, there has been a growing trend of illegal construction of buildings without a permit in the eastern neighborhoods of Jerusalem. In 1997 the total number of new illegal buildings was 202; in 1998 it was 485: and in 1999 it was 554. Only a small number of demolition orders are actually carried out each year, as presented in the following table.

Table 3

Demolition orders carried out by the Municipality of Jerusalem

	Eastern part	Western part
1997	18	13
1998	43	12
1999	18	3
2000	9	9
2001	32	6
2002	36	13
2003	61	10

Source: The Municipality of Jerusalem, 2004.

The Bedouin illegal villages

379. As of October 2004, approximately 94,000 Bedouin (61% of the total Bedouin population) live in planned, urban towns. All towns were planned for "low-rise construction'" in order to address the Bedouin community's basic needs. The members of the abovementioned Bedouin community were allocated larger portions of land per person than any other sector of the Israeli population. The remaining 58,000 Bedouins (39%) reside in hundreds of illegal clusters over an area of more than half a million dunams obstructing the urban expansion in the greater Negev area and the common good of the Bedouin population.

Table 4

Projects in Bedouin towns

Settlement	Project	Cost in thousands of shekels	Status of project
Hura	Sport center	4 776	Under construction
Keseifa	Sport center	6 812	Contract ready for signature
Segev Shalom	Community center Stages A + B	5 900	Contract ready for signature
Rahat	Community center and library	11 000	Contract ready for signature
Tel Sheva	Community center, Stage B	2 000	Awaiting approval of the Authority
Lakiya	Development of 2 clubhouses	400	Awaiting approval of the Authority
Total		30 888	

Source: The Bedouin Administration, 2004.

380. The existing towns can accommodate most of the needs of the Bedouin population. In all of these towns vacant lots await additional occupants. It is important to clarify that in Israel every interested party can initiate a plan, and build a town with the approval of the relevant authorities (subject to certain conditions). For example, an agrarian farm is being promoted by Bedouins on their lands in the Negev (Kuchle Farm).

381. Notwithstanding, a decision was made to build seven additional Bedouin towns and to expand the existing towns on land owned by the Government and at the government's expense. It is important to mention that between the years of 1995 and 2002 the yearly growth rate of these towns was approximately 8%, while the growth rate of the population in the "diaspora" was less than 2%.

382. The Government is in the process of establishing the abovementioned seven new Bedouin towns. The names of the towns were chosen by the Bedouin population. In addition, the government is in the process of expanding the existing towns of Rahat, Segev Shalom, Hura, Lakia and Tel Sheva.

383. In accordance with provisions offering compensation to Bedouins moving to these towns, the Government provides the land free of charge, while the affected Bedouins receive significant compensation for any abandoned properties. Compensation is awarded both in monetary terms and in terms of land, as quantified by construction and crop value. In addition, grants are provided for the families who choose to move to existing or new towns. Since 2002, these compensation rates have risen dramatically.

384. In order to ensure the special character of Bedouin communal life and prevent exploitation of those state benefits by non-Bedouins, the State has refused offers by non-Bedouin to buy land in the areas designated for exclusive Bedouin towns.

385. The relevant planning authorities continue in their efforts to settle the Bedouin population. Following lessons learned from past planning committees, they perform this task in constant consultation with Bedouin representatives, who provide input as to their vision of every town's desired character: whether the town is being built for an agrarian population with a special need for designated flock areas; or whether the town is being planned for a group requiring that a strict separation is maintained between the various tribes; or whether the town is being designed for a population that has a more urban character.

386. A special steering committee with representatives from all Bedouin local Authorities was assembled and conducts regular meetings at which, among other issues, the planning of the future Bedouin towns is discussed.

387. In April 2003, the Government decided to allocate sizable budgets for the creation of these seven new towns as well as the expansion and improvement of existing on. In addition, a budget of 325 million NIS has been allocated to compensate Bedouins moving into towns.

388. The following table shows the data concerning lots in the Bedouin towns:

Table 5

Lots in Bedouin towns

Town	Total No. of lots	Lots not yet developed	Lots allotted	Lots available for allotment
Hura	2 899	543	1 351	1 004
Keseifa	2 776	1 671	897	208
Lakia	2 401	1 192	728	480
Arara Negev	2 040	266	1 067	707
Rahat	4 119	43	3 900	175
Segev Shalom	1 746	264	886	596
Tel Sheva	2 170	159	1 477	535
Total	18 151	4 138	10 306	3 705

Source: The Bedouin Administration, 2004.

389. As shown above, there are approximately 3,700 vacant lots for occupancy by the Bedouins living in the Diaspora throughout the existing permanent towns and in addition some 4,000 lots which can be developed upon demand.

Leasing land for use as pasture grounds

390. For those interested in working in traditional occupations – agriculture and herding flocks – the Government leases approximately 135,000 dunams of land for these purposes in exchange for a symbolic payment.

391. In the spring pasture season, some 280,000 dunams of Government land are leased and pasturing is permitted in approximately 35,000 additional dunams in Army firing areas.

Planning - the Bedouin sector in the north

392. In 1998, the Government decided to embark upon a five-year program to develop the Bedouin towns in the north. The budget for this program should be 615 million NIS (approximately $154 Million), from 1999 to 2003. This program encompasses many subjects, including developing new neighborhoods, building public institutions, building roads, sewage, industrial areas, improving the education system, building social services institutions and more.

Table 6

Implementation versus budget 2001-2002 (in million NIS)

Ministry	Implementation percentage 2001-2002	Total implementation 2001-2002	Budget 2001-2002
Construction and Housing	136	81.74	60.00
Interior	114	38.88	34.00
Transportation	181	36.25	20.00
Transportation	220	30.82	14.00
Transportation - inter-city	90.5	5.43	6.00
National Infrastructure - sewage	103.6	37.31	36.00
Industry and Commerce	135	10.83	8.00
Israel Lands Administration	35	8.45	24.00
Agriculture	9.4	0.94	10.00
Education	145.7	45.03	30.90
Employment and Welfare	52	2.40	4.60
Security	95	0.95	1.00
Health	336	5.04	1.50
Religious Affairs	156	1.87	1.20
Tourism		2.40	
Total	117.7	272.09	231.20

Source: Prime Minister's Office, 2003.

4. The right to public health, medical care, social security and social services

The right to health

393. The right to health is provided for all individuals without discrimination or distinction. Throughout the State, nation-wide health promotion programs have gained momentum during the last few years, especially those emphasizing physical activity. Thus, for example, in 1990, the percentage of smokers among people 20 years of age or older was 35 percent. In 2000, the percentage of smokers of the respective age group was 24.3 percent (among Jews, 29% of males and 22% of females; among non-Jews, 43% of males and 7.4% of females).

National health policy

The National Health Insurance Law

394. The *National Health Insurance Law* has greatly improved the universality and equality of health care services provided to the Israeli population as a whole, and for the Bedouin population in particular. Every Bedouin resident now enjoys comprehensive health insurance (before the passage of the law, 40% had no health insurance).

395. The *National Health Insurance Law* has encouraged health providers to build additional clinics in the Bedouin population centers, both in established towns and throughout the Diaspora.

396. The health tax which funds the National Health Insurance is a progressive tax, linked to income-level and not to the range of required health service. There is a requirement for a minimal co-payment for certain services. In order to avoid harming the least capable socio-economic groups and to minimize the impact on others, the following are exempt from the co-payment requirement: residents receiving supplemental income payments pursuant to the *National Insurance Law*, residents receiving support payments pursuant to the *Maintenance (Assurance of Payment) Law,1972-5732*, ("The *Maintenance (Assurance of Payment) Law*") residents receiving invalidity or disability payments pursuant to the *National Insurance Law*, and residents who have AIDS, cancer, dialysis or other specified illnesses (partial exemption).

Vulnerable groups

397. The effects of the *Health Insurance Law* on vulnerable groups are clearly apparent. Since the enactment of this law, the health funds have rapidly improved their services, especially within Arab communities, in order to increase their membership and accordingly their funding (which the law sets pursuant to a per capita formula). Citizens of Israel, Arab and Jews alike, enjoy good quality healthcare that corresponds to international standards.

Gaps between the Jewish and Arab population

398. The gaps between the Jewish and the Arab population have been considerably reduced and Israel's Arab population's initial low level of health has risen at an extremely high rate in the past fifty years, faster than the Jewish population's health level. Today, Arab citizens of Israel enjoy a level of health that corresponds to the level among Israel's Jewish population.

399. Current figures indicate that the non-Jewish population has a higher percentage of vaccination (95%) than the Jewish population, since some ultra orthodox Jews do not vaccinate their children. Life expectancy is as follows:

Table 7

Life expectancy by sex and religion

	Other religions		Jews		Total population	
	Females	Males	Females	Males	Females	Males
1975	71.5	68.2	74.5	70.9	73.9	70.3
1980	73.4	70.0	76.2	72.5	75.7	72.1
1985	75.8	72.0	77.3	73.9	77.0	73.5
1990	75.9	73.3	78.9	75.3	78.4	74.9
1995	77.3	73.8	79.8	75.9	79.5	75.5
1996	77.7	74.9	80.3	76.6	79.9	76.3
1997	77.3	73.9	80.5	76.4	80.1	75.9
1998	77.7	74.3	80.7	76.5	80.3	76.1
1999	78.1	74.9	80.7	77.1	80.4	76.6
2000	77.9	74.6	81.2	77.3	80.9	76.7
2001	77.8	74.5	81.6	77.9	81.2	77.3
2002	77.9	74.7	81.9	78.1	81.5	77.5

Source: Central Bureau of Statistics, 2004.

400. Since the late 1940's, the average life span of the Arabs in Israel has increased by 27 years and the gap between Arabs' and Jews' life spans diminished from 15 to 2.1 years: In 2002, Men: Jews – 78.1, non-Jews – 74.7; Women: Jews – 81.9, non-Jews – 77.9, and the gap continues to decrease.

Infant mortality rate in Israel

401. The Infant mortality rate for the overall Israeli population per 1000 births for the year 2003, was 4.96:

401.1. 3.5 per 1,000 births among the Jewish population;

401.2. 8.77 per 1,000 births among the Muslims;

401.3. 3.24 per 1,000 births among Christians; and

401.4. 7.09 per 1,000 births among Druze.

402. In 2003, there was a 10% decline in infant mortality in the Jewish sector and 8% decline in the Arab sector. This decline (compared to 2002) is linked to the decrease in number of low-weight births and a decrease in the number of deaths of multiple-fetuses pregnancies. The most prevalent cause of death in all sectors was still premature birth.

403. In the Arab sector there is a large gap between the infant mortality rates per 1000 births of Muslims (8.77) Druze (7.09) and Christians (3.24). It should be noted that there exists a particularly high rate of infant mortality in the South (mostly Bedouins -13.3 in 2003 and 17.1 in 2002).

404. The relatively high infant mortality rate among Muslims and Bedouins stems from a number of factors, among them the high rate of consanguineous marriage - approx. 40% in the Arab sector and approx. 60% in the Bedouin sector, (these kinds of marriages lead to a high rate of birth defects), religious prohibition against abortion, even in medically recommended cases, as well as socio economic differences.

405. 34% of the infant mortality rate in the Arab sector was due to birth defects - the most common reason for infant mortality in this sector; whereas the rate was 27.59% in the rest of the population.

406. The Ministry of Health monitors annually the rates of infant mortality and its causes and makes recommendations accordingly (for example: following the finding that there is a high rate of infant mortality in multiple-fetuses pregnancies, it recommended that in the course of fertility treatment only two fetuses shall be returned to the womb).

407. The Ministry is currently working intensively to reduce the Israeli Muslims Arab infant mortality rate through a Health's education/information project. The central aims are to discourage marriage among close relatives, attempt to encourage pregnant women to make more use of diagnostic procedures during pregnancies, and encourage mothers to make more use of the Mother and Child Care Services dispersed throughout the country.

408. A new project of pre-conception intervention aimed at reducing congenital malformations has been launched and 60% of the targeted population is in the Muslim Arab population. Note that infant mortality in the Muslim Arab sector has declined each year.

409. Since 1996, the Ministry of Health has been funding a program aiming at reducing infant mortality, through a multiphase, multidisciplinary program. This program has been designed in concert with the Bedouin population to be culturally sensitive and appropriate. The Public Health Services initiated the program. The program was executed at first in Rahat in 1996 and was expanded in 1998 to the entire Bedouin sector. The project operates through Arab-speaking female instructors, who educate prospective mothers on the importance of regular visits to the doctor during pregnancy. Amongst the topics the instructors address are the importance of medical examinations to detect birth defects during pregnancy and awareness of the consequences of consanguineous marriage.

410. Infant-Care Clinics - Following a Government decision to establish new infant-care clinics in the Arab sector, nine new clinics will be established in the following towns: Mousmous, Baka El-Garabia, Ein Ashala, Arara, Paradis, Bartaa, Zilpa, Um el-Kutuf and Ein Ibrahim.

411. Family Health Stations - During the period between 1993 and 2000, the Ministry of Health established 84 family health stations in the Arab and Bedouin sectors and 16 in the Druze sector.

412. Health Clinics - Brookdale Institute research indicates an increase in the rate of establishment of new clinics, bridging the gap between the Jewish and the Arab population and an improvement in the level of health services provided by HMOs in Arab towns.

413. Nurses – According to figures dated December 2000, there are 28,200 licensed nurses in Israel, 2,802 of them are non-Jews (9.9%).Out of the 17,316 practical nurses in Israel, 2,813 are non-Jews (16.24%).

414. The Mentally Ill - In the year 2000, the *Law on the Rehabilitation and Integration into Society of the Mentally Ill, 5760-2000 ("The Law on the Rehabilitation and Integration into Society of the Mentally Ill")* was enacted. The Law requires the State to support the mentally ill financially and in other regards, based on a list of criteria, which determine the extent of such support. One of the criteria which make a person eligible for additional assistance is speaking Arabic as a native tongue. Another criterion is living in the periphery. Many Arab towns are located in the periphery (30% of the Galilee, 50% of the Negev), which creates another benefit for eligible citizens in these towns.

415. Health Stations - The Ministry of Health allocated 10 million NIS for construction of family health stations and oral health stations in the Arab-sector communities, a sum of 2.5 million NIS was disbursed each year during the period of 2001-2004.

The Bedouins

416. The Bedouins living in existing Bedouin towns enjoy the same services provided to all Israeli citizens, some of which are adapted especially to their needs. Unfortunately, many Bedouins choose to live outside permanent towns, in living conditions considered inadequate by the Ministry of Health. Thus, additional funds shall be allotted towards the development of their health services and the Government is doing all it can to provide sufficient health care to Bedouins in illegal villages.

417. All of the Bedouin towns have connections to running water. Recently, five of the seven future public service centers, which will provide the future needs of the local population, were connected to the water grid, through the national water company (MEKOROT).

418. These public service centers consist of most of the public and communal structures, such as schools, kindergartens, health clinics, municipal facilities, welfare, community and commercial areas.

419. The community living in these clusters can connect itself to the water supply through the Water Connections Allocation Committee, which has been operating under the Administration for the Promotion of Bedouins since 1997. Within the last six years, the total number of connections to the main water lines has increased from 60 connections to 260.

420. The establishment of a sewage system is under the authority of the local government and the minority localities receive loans for this purpose. It should be mentioned, that these loans are more generous than those allocated to Jewish localities.

421. The relatively high rates of intestinal infections and pneumonia among children in the Bedouin population, is a direct result of their living conditions – their harsh ways of life, close proximity to animals, crowded quarters, the use of water from immovable water sources and improper nutrition.

422. Sixty percent of Bedouin live in established towns, with municipal infrastructure, including running water in every home (meeting the Israeli standards for drinking water quality), electricity and sanitation services, as well as all the usual municipal services, such as local health clinics for curative as well as preventive maternal and child health care and educational services.

423. Six new Mother and Child Health Clinics (Tipat Halav) have recently been constructed in the illegal villages in addition to the existing station, the eighteen Mother and Child Health Clinics located in Bedouin towns and a mobile family care unit.

424. Nine Health Fund medical clinics (Kupat Holim) have been built to provide for the medical needs of Bedouin living in illegal villages, in addition to the 32 Health Fund medical clinics already existing in the Bedouin towns.

425. Two mobile immunization teams managed by the Ministry of Health provide home immunizations to infants of Bedouin families living outside of permanent towns, whose families do not bring them to one of the Mother and Child Health Clinics for treatment. A computerized tracking system allows the Ministry of Health to identify, at any point in time, infants who are behind on their immunization schedule, and send one of the mobile immunization teams to immunize them. The 1999 figures indicate that 90-95% of the Bedouin children have completed all necessary vaccinations by age three – a sizeable increase compared to the equivalent rate in 1981 of 27%.

426. A mobile team, run by Soroka Hospital in Beer Sheva, in cooperation with the Ben-Gurion University of the Negev, provides follow-up home care to Bedouins who live outside permanent towns after they have been discharged from the hospital, in case they need additional medical care in their homes. The Soroka Hospital also runs a special mobile eye care (ophthalmology) unit.

427. A course for qualified Bedouin nurses opened in 1994. Since then, 34 students have graduated from the nursing course and 32 are currently participating in the course. It should be noted that the students participating in the third course committed to serve their first 3 years in practice after graduation wherever the Ministry of Health decides their services are needed. This will guarantee that the trained nurses serve the target population, the Bedouins.

Migrant workers

428. In July 2000, The *Foreign Workers Law* came into force. Under this Law, the Minister of Health is to promulgate regulations defining an assortment of services that insurance companies are required to supply to migrant workers. The regulations were enacted in 2001. As for the migrant workers' children, the Ministry of Health published a tender to supply them with health care services. One of the health funds was chosen as a supplier, and the arrangement, which took effect on February 1, 2001, applies the following rules:

428.1. Children born in Israel can be enrolled in the health fund chosen in the tender within six months from the child's birth, if at least six months have passed since the mother's arrival in Israel. Then, the child will be immediately insured. Failing to enroll the child within a period of six months shall result in a delay of six months in the child's entitlement to the health fund's services. However, every child is immediately entitled to emergency services without any waiting period.

428.2. Children not born in Israel can be enrolled in the health fund chosen in the tender no earlier than six months from the child's arrival in Israel. The child's entitlement to the health fund's services shall begin 6 months from the date of enrollment. Again, emergency services will be provided without any waiting period. The arrangement is to apply to all children of foreign workers, regardless of the legality of their parents' stay in Israel.

The right to social security and social services

429. *Special Assistance of the Ministry of Labor and Social Affairs* Programs to Combat Poverty: During the years 1995-1999, there was a five-year program of development in the Druze and Circassian sectors. This program included a budget of 1,070 Million NIS (approximately $250 Million), which targeted different objectives, such as sewage, water, roads, electricity, health, housing and others.

430. The Ministry of Social Affairs provides social services to all sectors of society, with no discrimination.

5. The right to education and training

431. One of the enumerated purposes of the education system in Israel is to ensure equal opportunities for all children, as noted in Article 2(8) of the *Education Law, 5713-1953* ("*The Education Law*"). Similarly the *Pupils Rights Law, 5761-2000* ("*The Pupils Rights Law*") in Article 5(A) (1) disallows any form of discrimination concerning the registration of students by the governmental and local authorities or any educational institution.

432. A key goal of the Israeli education system is to ensure that policy makers, administrators, educators, education providers, and the communities themselves will be involved in the effort of providing full opportunity for all young people to participate in the education options best suited to them, and to achieve a high standard of education whatever their race or socio-economic status. This is evident even in the pre-school years, whereas the Government committed itself in August 2003 to establishing a special needs nursery for deaf children in various Arab towns in the same manner as was done for Israeli children. The commitment to establish the nursery arose as a response to a petition filed to the Supreme Court by a number of Arab municipalities.

433. The Ministry of Education regards the need to deal with the gaps in the educational system in Israel as its main obligation. The main priorities for the Ministry beginning in 1999 were the following: bridging gaps by elevating peripheral municipalities and weak population groups; affirmative action for the Arab educational system; elevating special education; and increasing the number of students with matriculation entitlement.

434. The leading programs implemented to fulfill these goals are as follows:

434.1. Implementing the *Free Compulsory Education Law* starting with ages 3-4 in places of need in all population groups.

434.2. Several programs focused towards raising the level of matriculation entitlement.

434.3. Several support programs such as special education assistance of which 23% of such students were from the Arab sector in 2002 (compared with only 1.6% in previous years), support counseling (which has reached 287 counselors in 2002).

434.4. A five-year program for affirmative action in the Arab sector.

434.5. An affirmative action program in the area of schools construction such that of the 2002 construction budget for schools, the Arab sector received over 17% of the funds. In 2003, the number of classrooms and nurseries built for the Arab, Druze and Bedouin sector totaled 1,583, as compared to the majority Jewish population that had a total of 2,683 such structures.

435. The Ministry of Education has, among other subjects, placed the following on a high priority level: reducing violence and use of drugs in schools, furthering science and technology education, and taking action for the purpose of strengthening democratic sentiments among students.

436. These subjects are closely related to bridging majority-minority gaps and assisting weak population groups.

Pupils rights

437. The *Pupils Rights Law* is intended to establish principles for the rights of pupils in the spirit of human dignity and the principles of the United Nations Convention on the Rights of the Child, while preserving the uniqueness of the various educational institutions as defined in the *Compulsory Education Law, 5709-1949*, the *State Education Law*, the *Special Education Law* 5748-1988, ("*The Special Education Law*"), and any other law.

438. Under Article 3 of the *Pupils Rights Law*, every child and adolescent in the State of Israel has a right to education in accordance with the provisions of the Law.

439. **Under the Law, it is forbidden to discriminate against a pupil** based on his/her ethnicity; socio-economic standing, or political orientation of the child or of the child's parents. Under Article 5(b) of the Law, any person who infringes the provisions of this article shall be liable to imprisonment for one year, or a fine, as provided under Article 61(a)(3) of the *Penal Law*. The Law forbids discriminatory behavior in all of the following:

439.1. The registration of a pupil;

439.2. Admission to or expulsion from an educational institution;

439.3. The establishment of separate tracks or the development of separate educational curricula in the same educational institution;

439.4. The establishment of separate classes in the same educational institution;

439.5. The Rights and obligations of pupils, including discipline of students and the application of disciplinary practices.

440. The Ministry of Education has completed a guide to students' rights that was distributed amongst all students and published in Hebrew and Arabic.

Statistical data

441. ***Literacy*** **-** Israel has a very low rate of illiteracy – 4.8% (men – 3.1%, women – 6.4%). There is a 3.6% illiteracy rate in the Jewish population and a 10.3% illiteracy rate in the non-Jewish population. The older population is mostly accountable for this gap, such that among the younger population, the differences considerably decrease, as indicated by Annex 2 attached at the end of this report.

Attendance rates in the education system

442. There are approximately 1,270,000 pupils in schools: about 79% of them are in the Jewish sector and 21% in the non-Jewish sector. The table in Annex 3 indicates a decrease in all sectors of the number of pupils who do not attend school.

Education

443. The number of persons with only four years or less of formal education has continued to decline, and there has been an improvement in the situation in all sectors. Among the non-Jewish population, the number of such persons decreased from 15.9% in 1994 to 10.4% in 2003.

Higher education

444. The number of persons with higher education among the Jewish population grew between 1980 and 1999 by about 88% (from 20.8% to 39.0%); among the non-Jewish population, the number of persons with higher education grew by about 156% (from 7.7% to 19.7%). All these figures are higher than those observed in 1995, as indicated by Annex 4.

Drop-out rates

445. In the Jewish sector there has been a slight reduction of this phenomenon, but in the non-Jewish sector there has been a slight increase, although it may be characterized as stable, as demonstrated by Annex 5. The reason for that is that these figures relate only to attendance in institutions under the supervision of the Ministry of Education and many of the non-Jews students are enrolled in institutions under the supervision of the Ministry of Social Affairs. Moreover, combining the figures of attendance in institutions under the Ministry of Education, the Ministry of Social Affairs and the former Ministry of Religious Affairs, the drop-out rates

show a trend of stability or even a slight reduction. Since the 1990's, in both Jewish and Arab education sectors, the percentage of attendance among female pupils has been higher than that of male pupils every year.

446. Recent studies indicate the existence of a gap in the dropout rate between the Jewish and Arab sectors. The rate in the Jewish sector is 4.9%, while the rate in the Arab sector is 10%. The majority of dropouts are of the age of 15 to17. There are 60 regular truancy officers who work in the Arab sector and promote programs discouraging students from dropping out of school.

447. The Table below shows an increase in the percentage of pupils entitled to matriculation certificates upon their graduation from high school. The increase is especially notable in the Bedouin, Druze and Arab education sectors.

Table 9

Pupils in 12th grade, matriculation examinees and entitled to a certificate - 2002 (absolute numbers)

	Pupils in 12th grade	Examinees		Entitled to certificate	
		Total	% of pupils in 12th grade	Total	% of pupils in 12th grade
Total	97 136	78 691	81.0	53 954	55.5
Hebrew education	82 805	66 045	79.8	46 631	56.3
Arab education	14 331	12 646	88.2	7 323	51.1
Thereof:					
Muslims	11 039	9 568	86.7	5 456	49.4
Christians	1 500	1 393	92.9	1 011	67.4
Druze	1 762	1 669	94.7	851	48.3

Source: Central Bureau of Statistics, 2004.

448. The numbers continued to increase, rising in 2002 to over 33% for the Arab sector (up from 28% in 2000) over 25% for the Bedouins living in the Negev (up from 16% in 2000) and 35% for the Druze (up from 28% in 2000). Furthermore, in higher education there is a trend towards an increasing number of graduating students, with more women graduates than men.

Education in the Arab sector

449. The issue of eliminating disparities in the educational system in Israel is a priority of the State of Israel. According to the Central Bureau of Statistics from 2003**,** the total number of schools in the Arab educational system was 629 out of a total of 3,700 schools nationwide. The number also included 72 schools for the Druze population. The curriculum requirements are essentially the same for all population groups, save for the Arab schools maintaining a stronger focus on the Arab language as opposed to Hebrew when studying literature and grammar.

450. The Education and Welfare Services Department in the Ministry of Education, Culture and Sport (EWS) is responsible, since its establishment in the 1970s, for the advancement of weaker populations by applying special programs and projects in the educational system. For the first ten years of its existence, the EWS did not handle the Arab and Druze sectors, which were dealt with by a special unit in the Ministry of Education.

451. In 1997, following a petition to the Supreme Court of Justice of the Legal Center for the Rights of Arabs in Israel, demanding that the Ministry of Education apply the EWS special reinforcement programs in the Arab municipalities, as well as the Jewish ones (*H.C.J. 2814/97 The High Follow-up Committee on Matters of Arab Education in Israel et al. v. The Ministry of Education, Culture and Sport* (13.01.1998)), the Ministry of Education set up a special committee, headed by Professor Miriam Ben-Peretz, (The Ben-Peretz Committee**)** for the development of a five year educational plan for the Arab sector for the years 1999-2003. In 1998, the Ben-Peretz Committee presented a comprehensive report, offering a variety of recommendations, including comments that the following developments shall take place:

451.1. 1,600 new classrooms be built (including those to be used as kindergartens and for special education purposes) within five years;

451.2. Programs offered by the Education and Welfare Services Department (EWS) be expanded;

451.3. The Tutorial Project (*Perach*), in which university students give tutorials to school children in need of additional help be expanded;

451.4. An experimental program geared towards lowering drop-out rates be set up in the five municipalities (and be used as a model for future, similar programs);

451.5. The scope of teachers' training, and the establishment of regional centers for teachers' training be expanded;

451.6. 50 teachers be granted scholarships in the field of science and technology;

451.7. An accelerated program be introduced in the Arab sector in order to attract gifted students. The Committee also recommended that vocational programs be established to cater to the needs of weaker students;

451.8. The budget for school construction and science lab equipment be increased;

451.9. Methods for identifying special needs children be improved and that the work hours of educational psychologists be expanded – adding approximately 13,000 academic hours and 120 positions;

451.10. The number of children in every class be reduced;

451.11. Regional educational centers be introduced into the system.

452. The implementation of the Ben Peretz Committee Report was conducted through a five-year plan. This plan was supported by a budget of 250 million NIS (approximately US $62.5 million), which was to support affirmative action programs; the allocation of 37% of the pre-school education budget to the Arab municipalities, the allocation of 29.5% of the Ministry's construction budget towards the construction of classrooms in the Arab schools; double funding of special education in the Arab sector by making it 18% of the total budget. In addition it should be noted that the number of teaching positions in the Arab sector increased by 25% as well.

453. The steering committee for the program has determined a basic program for its application, based on the recommendations of three different committees (including the Ben Peretz Committee). Accordingly, the program's main goals in the Arab sector include:

453.1. Increasing the number of Arab pupils eligible for matriculation;

453.2. Increasing the amount of teachers training programs;

453.3. Improving and expanding the services of psychologists and councilors;

453.4. Improving special education;

453.5. Improving technological education;

453.6. Training the teaching, psychological and counseling staffs;

453.7. Reducing dropout rates.

454. Throughout the year 2000, the program addressed the following issues:

454.1. Reducing dropout rates;

454.2. Upgrading 1,526 computer stations;

454.3. Supplying scientific equipment to kindergartens and primary education schools;

454.4. Increasing the number of pupils eligible for matriculation;

454.5. Developing curricula;

454.6. Training teaching staff.

455. Israel's Arab population's initial low level of education has risen at an extremely high rate in the past fifty years, faster than the Jewish population's education level. Today, Arab citizens of Israel enjoy a good level of education according to any international standard.

456. From a ratio of 1:3 Arab to Jewish boys enrolled in elementary school and 1:15 Arab to Jewish girls in 1943/44, in 2001/02 the gap between Arab and Jewish children's enrollment in elementary school was less than 1%.

457. The percentage of students completing 12 years of schooling has risen in the Arab sector from 56.7% in 1995 to 71.2% in 2000 while the percentage of Jewish students finishing 12 years has remained the same.

458. Over the last three years there has been a sizeable increase in the percentage of pupils in the Arab sector that have qualified for *a matriculation certificate* (from 28.95% in the year 2000 to 33.69% in the year 2003).

459. Schools in the Arab sector have on-average 31.2 *pupils per class*. Over the last ten years, the average number of students per class has decreased in all sectors, and is currently as follows:

459.1. Elementary schools - 26 students per classroom in the Jewish population and 29 students per class in the Arab population.

459.2. Junior high schools – 30 students per class in the Jewish population and 33 students per class in the Arab population.

459.3. High school – 30 students per class in the Jewish population and 33 students per class in the Arab population.

Construction of new schools

460. In recent years the Ministry of Education, Culture and Sport has allocated special budgets for building new schools, and expanding and renovating existing ones. This trend continues to date.

461. In 2000, 779 million NIS (approximately $192.7 million) were allocated to the development budget. In addition, 693 million NIS (approximately $171.4 million) were allocated in 2000 for the continued construction of 1,880 new classrooms, 25 million NIS (approximately $6.2 million) for the renovation of school buildings, 18 million NIS (approximately $4.5 million) for equipping new classrooms, and 20 million NIS (approximately $4.9 million) for schools' peripheral expenditures.

462. In 2001, a total of 456 classrooms were built within the Bedouin Sector (approximately 3% of the Israeli population), while 2,683 classrooms were built in the Jewish Sector (app. 80% of the Israeli population) in the same period. The Ministry of Education allotted 700 million NIS (approximately $174 million) for construction of classrooms in elementary and high schools in the Arab sector, in addition to pre-compulsory kindergarten classrooms.

463. By contrast, in 2004, where the overall budget was reduced by around 2% despite an increase in students, the development budget was 455 million NIS, with 85% of that total (389 million NIS) going towards construction of classrooms. In the past few years, there has been a steady increase of students without a corresponding increase in the budget.

464. *Technological Education* has become increasing popular in the Arab sector. It should be noted that in 2002, 5.5 million NIS was allocated towards installing additional equipment in technical schools and introducing additional 30 new technology classrooms in the Arab sector, in which information technology, biotechnology, designing arts and architecture are taught.

465. Despite the lack of resources, there are 115 *psychologists* in the Arab sector, who enjoy a larger budget than their Jewish counterparts. There is also a special training program for psychologists who are interested in working in the Arab sector, offered at Beer Sheva and Haifa Universities. In addition, 3,000,000 NIS were allocated to improve the results of the Wexler test in the Arab sector and to increase awareness and change perceptions of psychologists in the Arab sector.

466. There are 27 Educational Counselors in the Arab sector, with a special emphasis on affirmative action measures needed in this sector. All four Israeli universities offer a special training program for Educational Counselors who work or wish to work in the Arab sector.

467. Further resources were allocated towards purchasing *computers* for schools in the Arab sector (currently – 79.5% of the schools possess computers) in order to facilitate increased access to computers among Arab children. This purchase added 2,000 computers to the school system, as well as science labs completed in 80 of Arab sector high schools and junior high schools.

468. *Special Education* programs in the Arab sector are identical to those in the Jewish sector, and pupils are given the same amount of time and resources. Certain affirmative action measures have been undertaken to overcome previous misallocation. In the last year, there was a 38.3% increase in the number of children attending special education programs in the Arab sector. Moreover, 40 of the 233 special education schools address the needs of the Arab sector exclusively, and the average number of children in a special education class in the Arab sector is lower than that of a class in the Jewish sector.

The Extended School Day and Supplementary Education Law, 5757-1997 ("The Extended School Day and Supplementary Education Law")

469. In 1990, the Knesset enacted the *Long School Day Law*, which was replaced by the *Long School Day and Enrichment Studies Law*. The purpose of this Law is to add study and education hours to the existing hours in educational institutions. This Law is aimed to further advance equal opportunity in education, and contribute to helping the children make the most of their natural abilities. It provides that four school days per week shall be at least eight academic hours long. The Law is being gradually implemented, with a preference to municipalities and neighborhoods in need of additional assistance in education. **Thus in 2002, of the 100 municipalities that had received budgets to implement an extended school day, 37 were from minority communities.**

Promoting the Arab sector's access to higher education

470. An analysis of the trends in higher education among Arabs in Israel shows that there has been quantitative and qualitative progress over time. This fact is manifested by the impressive growth in the number of Arab graduates, by the spread of Arab students over various areas of study and by the progressive rise in the representation of women, who today make up about half of the entire Arab student body in Israeli institutions of higher education. Despite these achievements, however, representation of the Arab population in institutions of higher education is still low, both at the student level and at the level of academic staff and administrative employees. At a time when Arabs constitute about 17% of the total population of Israel,

in the 1998/99 academic year Arab students constituted only 7.1% of the students in universities and 5.6% in academic colleges. Representation of Arab students in the pre-academic programs of the institutes of higher education was also relatively low at 3%. On the other hand, the percentage of Arab students in the same year in teacher training colleges was 17.3%.

471. The Council for Higher Education, the State institution responsible for higher education, including teaching and research (hereinafter: the Council), operating under the *Council for Higher Education Law*, 5718-1958, ("*the Council for Higher Education La*w") has taken several decisions in recent years aimed at promoting access of Arab students to higher education.

472. On July 27, 1999, the Council issued a decision that allows Arab students to spread their academic studies over four years (instead of the standard three years), while paying tuition fees for only three years.

473. On June 27, 2000 the Council made a declaration (approved at the Council meeting of November 7, 2000) that it regards favorably the establishment of an academic college in an Arab locality.

474. The Council held a special session regarding the situation of Arab students in higher education institutions. The Council was presented a position paper incorporating data on higher education among Israeli Arabs. The paper was presented by Professor Majid Alhaj, a Council member.

475. The issue was brought for deliberation in the Planning and Budgeting Committee (hereinafter: the PBC), as part of its resolution on higher education among the Arab population from July 1999.

476. The Council resolved to take note of the PBC resolution and to appoint a committee to handle the special problems of Arab students in institutions of higher education given the importance of the matter and desire by the Government to properly address the problem. This step accords with the general policy of the Council and PBC, emphasizing the social aspect of higher education and the important function which the institutions of higher education fulfill in the context of community development and bridging gaps. Indeed, the Committee's recommendations were unanimously adopted by the Council in a resolution taken on 8 January 2002 and the PBC was charged with exploring the financial requirements of implementing these recommendations.

477. Within its letter of appointment dated December 12, 2000, the Committee was requested to formulate a general overview on the advancement of higher education among the Arab population in Israel. At the same time, the Committee was requested to examine programs to be submitted by the institutions of higher education for advancement of Arab students and to advise PBC on the modes of remunerating the institutions for initiatives and achievements leading to the broadening of access for Arab students to academic studies and support programs, to reduction of the dropout rate of such students and to increase in the number of Arab students studying for master's degrees in general, and in research tracks, in particular.

478. The Committee discussed five main topics during the course of its deliberations:

478.1. Access of the Arab population to higher education;

478.2. Pre-academic programs;

478.3. Information and support centers;

478.4. Assistance and support mechanisms and modes of integrating Arab students studying at institutions of higher education;

478.5. Integrating Arab faculty members and administrative employees in institutions of higher education.

479. The Committee, headed by Professor Majid Alhaj, met several times and following deliberations proceeded to formulate principles and recommendations, as set forth below in Annex 8.

The Dovrat Committee

480. In September 2003, a national task force for the advancement of education in Israel ("Dovrat Committee") was established by the Israeli government. The Committee was to carry out a comprehensive examination and review of the education system in Israel, to recommend on a structural, organizational and pedagogical transformation program; and to outline its implementation. The members of the Committee include education oriented persons, from the academy and the practice, law and economy experts, businessmen and public figures. The Committee's Report was issued on January 2005. Its conclusions were adopted except for two budgetary issues, in Government Decision No. 3060, dated January 16, 2005. The following are the Committees' recommendations regarding the Arab education system:

Organization of the public Arab education system

481. The organization of the public Arab education system, in its various levels, will express the autonomous content of the public Arab education, as defined below.

482. "*We recommend the following:*

482.1. *The advisory council for the Arab education issues, established in 1995, will function in a continuous manner as an advisory body to the Minister of Education, on Arab education issues. We recommend that the advisory council will be headed by a person of Arab origin, who has a high pedagogical and academic position and that the members of the council will be education and academy persons, from the Arab sector. The function of the council will be, inter alia, to lead the Arab education system and to influence it towards the fulfillment of the standards and improvement of its achievements. All of these recommendations stem from partnership and increasing efforts by the State, the Arab education system and the Arab society, as a whole.*

482.2. *A representative from the Arab education system will be a member of the Unit for Educational Development, as part of the unit management. This representative will be responsible for the Arab heritage curriculum and recommend unique curriculums within the framework of the school autonomy, concerning the Arab schools*.

482.3. *Arab scholars and education personnel will be integrated in all levels and branches of the Ministry of Education.*

482.4. *A Regional Education Administration, in which there are Hebrew and Arab schools, will appoint a representative for Arab education issues, who will advise on matters related to those schools, in general, and on the appointment of principals, in particular. In a Regional Education Administration, in which over 50% of the pupils are Arab, an Arab person will be appointed as the director or deputy director of the Regional Education Administration.*

482.5. *Arab schools will conduct studies 5 days a week. The rest day of the Arab-Muslim schools will be Friday and of the Christian education system will be Sunday. Instructions concerning the activity during the additional day of the week, which apply to Jewish schools, will apply also to the Arab schools.*

482.6. *We took note of the Ministry of Education's intention to cancel, as soon as possible, the position of the deputy in charge of the Arab Education Department. We recommend that in the future, a similar position will not exist in the Arab Education Department or in its branch. The District Education Administration and the Ministry of Education will be responsible for the prevention of appointments of or the dismissal of teachers, principals and other functionaries, who do not fulfill the purposes of the State education, Jews and Arab alike.*

483. *Curriculums which will give expression to the educational and cultural needs of the Arab sector*.

483.1. *We recommend that concerning that part of the core program, which does not consist of heritage studies and in which there is no cultural element par excel lance – as math studies, nature studies, geographical studies, sciences and all the practical professions, the curriculum for the Jewish and Arab sector should be identical, that the study books should be identical except for the language, that the changes inserted in the books should be minimal and no cultural adjustment should be made in them. Names of towns and geographical places should appear according to their official names.*

483.2. *Topics pertaining to the history of the State of Israel and the shared history of Jews and Arabs in the country may be the subject of controversy. We recommend that these topics should be discussed in a public joint Jewish-Arab committee, which will act according to the format of the committee, which was*

established concerning civic studies. The introduction of new programs in the Arab sector will be performed after consultation with Arab educational and academic persons.

483.3. *We recommend that in the framework of the curriculum – in both the core program, as well as in the independent curriculum of the Arab schools, emphasis in its* implementation *should be on the Jewish history and tradition as well, especially underlining the Jewish-Arab tradition, the heritage of Spanish Jewry and Arab Jewry. We are of the opinion that it is proper that a recommendation in this spirit, should also apply to the Jewish schools in all its streams, which will educate about the history and heritage of the Arabs. We recommend that the curriculum on Hebrew literature in the Arab schools shall include written Arab works of Hebrew authors. Likewise we recommend that parts of the Bible should be studied, which have parallels in the Quran.*

483.4. *We recommend that in the framework of the studies of the heritage, which are part of the core studies in the Arab education, should safeguard the rights of the various communities, including the specific history and the heritage of the community to which the school belongs. Pupils choosing a school teaching a specific heritage* to *which they themselves do not belong, will not be entitled to demand studies of their heritage in the framework of that school, unless the school offers this, within the framework of its autonomy.*

484. *Teachers' training for Arab education will be constructed in different models.*

484.1. *We recommend that the colleges for training education workers, Hebrew and Arabic, will be* open *for students, Jews and Arabic, by their qualifications, without derogating from the Arabic courses in Jewish colleges.*

484.2. *The training of* teachers *for the Arab education system will be conducted in three possible alternative courses:*

484.2.1. *A course in which Arabic teachers will be trained in an Arab college.*

484.2.2. *A unique course for training Arabic teachers that is delivered by a Hebrew college for teachers.*

484.2.3. *A non-Arab teachers training course (in a university or in Hebrew colleges for teachers training).*

484.3. *Special* courses *will be offered in the Arab colleges for Jewish teachers that will teach Arabic in Hebrew schools, simultaneously, special courses will be offered in Jewish colleges for Jewish Teachers that will teach Hebrew in the Arab schools.*

Reciprocal measures and "lowering the walls" between Jews and Arabs

485. *We see great importance in strengthening the ties between the Jewish and the Arabic People. Therefore we suggest the following:*

485.1. *We recommend that the parents will have the right to "cross the lines" and choose a Jewish school or an* Arab *school as they see fit. And at the same time, we see fit to authorize the regional education administration to determine rules for that matter, including the maximum number of Arab pupils in a Jewish school and the maximum number of Jewish pupils in an Arab school, thus preventing the turning of a Jewish school to an Arabic school and vise versa.*

485.2. *We see in a positive light the establishing of bi-lingual schools in which Jewish and Arab pupils study together. We see this kind of schools as a possible exception - a super-regional school. We see in those kinds of schools a recommendable effort for bringing people closer together, and also as a testing ground for joint learning programs in all schools in Israel. It should be considered, under the current budget limitations, to allocate special funds towards promoting the integration of Arab and Jewish pupils in the same school.*

486. *We recommend that in the framework of lowering the walls that separate the two societies, the Hebrew language lessons in the Arab educational system be strengthened in all educational stages, in order to achieve success in higher educational institutions and reach full integration in the public daily life and economy of the country.*

487. *In this frame, it is recommended to recruit Arabic speaking Jewish teachers, to teach Hebrew mainly in high schools, and Arabic speaking teachers to teach Arabic in the Jewish schools, all of the above following suitable professional training."*

The Bedouin sector

488. The Bedouins living in existing towns enjoy the same rights and opportunities as other Israeli citizens, including the right to receive formal education at all levels, in accordance with the laws of Israel. Indeed, their situation concerning education has considerably improved over the past years, as indicated by the information provided in Annex 6.

489. All the Bedouin pupils study in 53 primary schools and 10 secondary schools. To date, there are 16 schools for the Bedouin population and eighty kindergartens for children from the age of three. Since 1998, three new schools have been built. Several kindergartens have also been established on the premises of existing elementary schools. As noted, a total of 456 classrooms were built within the Bedouin Sector (approximately 3% of the Israeli population), while 2,683 classrooms were built in the Jewish Sector (approximately 80% of the Israeli population) in 2001.

490. The education system in the Bedouin sector faces many difficulties that are partially the result of the unique Bedouin life-style in a plethora of illegal villages as well as their culture. All the schools in the Bedouin sector have electricity, provided by generators, and are directly connected to water pipes. Bedouin pupils enjoy the same standards of transportation to and from school as their Jewish peers.

491. Bedouin schools have on average 31.2 pupils per class, an average similar to the national average; all teachers teaching in the Bedouin sector have the same certification requirements as all other Israeli teachers. A high percentage of the teachers attended a full academic program as part of their training.

492. The Ministry of Education held special training programs for kindergarten teachers, teachers, principals and counselors from the Bedouin sector. Such training was funded by the State at a cost of 570,000 NIS.

493. There exists a shortage of psychologists in the Bedouin sector, but since 2002, efforts have been made to add psychologists in the Bedouin community. Be'er Sheva University has initiated a special training program for psychologists in the Arab and Bedouin sectors. Currently, there are nineteen active psychologists working in the Bedouin sector, seven in the illegal villages.

494. There are twenty-four educational counselors in the Bedouin sector. Unfortunately many principals fail to recognize the importance of their work. Accordingly, a special consultant was appointed to assist these counselors and promote their work amongst principals.

495. Bedouin children aged 3 and 4 from illegal villages have a higher attendance rate in state nursery classes (35.9%) than the remaining general population of Israeli children (29.7%).

496. Recent studies indicate that there is an 11.58% high-school dropout rate in the Bedouin sector, compared to a 4.53% dropout rate in the Jewish sector. There are 8 regular visitations supervisors in the Bedouin sector that promote programs discouraging dropping out of school.

497. The Ministry of Education operates adult education programs which include 20 classes in six different towns, including the illegal villages, teaching reading and writing as well as specific topics and lectures for women on current events.

498. Over the last five years there has been an substantial rise in the percentage of pupils in the Bedouin sector taking matriculations exams (up from 19.7% in the year 1998 to 53.8% in the year 2002), as well as a huge leap in the percentage of pupils entitled to a matriculation certificate (from 15.5% in the year 1998 to 42.8% in the year 2002).

499. Special Education programs in the Bedouin sector are identical to those in the Jewish sector, and pupils are given the same amount of time and resources. Certain affirmative action measures have been undertaken to overcome previous misallocation.

500. Three special classes for hearing-impaired children have opened in the Bedouin sector, with special funding for equipment provided by the Department of Social Security. Special training programs are held for teachers in this sector, as well as a unique two-year program for teachers specializing in the field of educating the hearing impaired. Nationally, all hearing-impaired children, regardless of their ethnicity, suffer from the dearth of funds.

Illegal Bedouin villages

501. With regard to education, it should be emphasized that pupils in illegal villages are entitled to the same level of education as all other pupils in Israel. However, for obvious reasons, it is not possible to build elementary and high schools in every village, whether legal or not. Hence, 11% of the pupils of Israel (Jews and non-Jews) study in regional schools that serve rural localities. Thus, it is not uncommon for Israeli localities not to have their own local schools.

502. Furthermore, the special situation of pupils from illegal villages is given consideration by the education authorities. The education system allocates extra resources (primarily study hours) to schools whose pupils suffer from environmentally caused academic deficiencies. A special index is used to determine the eligibility of schools to receive such additional resources and one of the criteria of this index in the non-Jewish sector is the inclusion of pupils from illegal villages. In other words, the higher the percentage of pupils who come from families that reside in illegal villages, the more resources are allocated to the school. Thus, schools with pupils from illegal villages receive additional teaching hours which enable them to deal with the specific problems of this population (most notably, poor domestic complementary studying conditions).

Migrant workers' children

503. During the last decade, many migrant workers arrived in Israel from all over the world. At present, there are approximately 2,500-3,000 children of migrant workers living in Israel. Some of their parents have visas and work permits, and some have remained in Israel illegally. Children of migrant workers are entitled to free education within the public school system, regardless of the legality of their stay in Israel. This entitlement begins 3 months after their arrival (during the initial three months period they are considered tourists).

6. The right to equal participation in cultural activities

Funding of cultural events

504. **The Ministry of Education.** The object of The Department for Arabic Culture of the Ministry of Education is to promote and develop Arabic Culture while preserving the cultural and ethnic uniqueness. The Department does so by encouraging and financing many institutes, events and projects that help to reach this object. The Department supports Arab writers, theaters, publications, colleges, research centers for the Arabic language etc. During the year 2000, the budget for the Department was, 6,032,000 NIS; in 2001 it was, 7,500,000 NIS, and 7,175,000 NIS in 2002.

505. **The Ministry of Science, Culture and Sport.** The Department of Arab culture, a division of the Ministry of Science, Culture and Sport, initiated, encouraged and developed a wide variety of cultural and scientific activities for the Arab sector. The Department made special efforts to preserve Arab culture by funding Arab theaters and literature. It also undertook research projects in the areas of the Arabic language, Arab literature and Arab and Islamic heritage. The Department supported festivals and libraries in Arab villages and certified art tutors and teachers. Additionally, the Department awarded scholarship for Arab students who study art at the university level and beyond.

506. Between the years of 1999 and 2000 the Department allocated a total of 25 million NIS for cultural and scientific projects and events. In addition, a sum of 6.7 million NIS was also allocated between 2000 and 2002 for the purpose of renovating cultural buildings. 752,000 NIS were also granted to support Arab music, while Arab theaters received more than 6.2 million NIS in 2000.

507. After the reorganization of the Ministry of Science, Culture and Sport, the Ministry of Education, Culture and Sport continues to carry out these tasks.

The role of mass media and communication in promoting participation in cultural life

508. The importance of ensuring participation in the media is reflected in the legislation regulating the activities of the two main T.V. authorities in Israel:

508.1. *The Broadcasting Authority Law, 5725*-1965 ("*The Broadcasting Authority Law*") – The Law regulates the activities of the Israel Broadcasting Authority (IBA), currently responsible for two TV channels and ten radio channels. The IBA now also broadcasts over a satellite channel (Channel 33), which until recently, mainly aired the sessions of the Israeli parliament (the Knesset) and its committees. One of the Authority's roles as defined in the Law is to provide TV programs in Arabic to meet the needs of the Arabic-speaking population and to promote understanding and peace with Israel's neighboring states.

508.2. *The Second Authority for Television and Radio Law* - In March 2000, the law was amended, establishing a requirement for broadcasting programs in the Arabic and Russian languages, through speech or translation. The required figure is not less than 50% of the total broadcasts for each language (Article 4 of the amendment). The amendment has also changed the Second Authority's functions and duties. They now include catering to the needs of the Arabic speaking sector, promoting peace and understanding with neighbouring states and to give a proper venue to the cultural diversity of the Israeli society (Article 5 of the *Second Authority Law*).

509. The electronic media (i.e., television and radio) broadcasts Arabic-speaking programs throughout the day; and one licensed local radio station broadcasts solely in Arabic. The Ministry of Communications decided to promote the establishment of six new TV channels in Israel, including an exclusive Arabic-speaking channel.

510. In addition, the Ministry of Communication has taken measures to open the media market to a multiplicity of broadcast-providers and diversity in the contents of broadcasts. Such measures include the opening for competition of the paid cable services market, the establishment of an additional commercial channel and the establishment of specialty channels.

The status of the Arabic language

511. According to Article 82 of the *King's Order in Council on Palestine – 1922*, Hebrew and Arabic are the official languages of the State of Israel. This is also reflected in several provisions of the Israeli law, which mandates the use of the two languages, cumulatively or

alternatively in public life. The right of Arabic-speaking minorities to use their language is generally recognized and observed. Furthermore, the presence and use of the Arabic language is prevalent within the Government and Arabic is used in every aspect of public life in Israel.

512. Justice Cheshin of the Supreme Court in *P.C.A 12/99 Jamal v. Saback (25.04.1999)* stated:

> "… The Arabic language is the language of approximately one-fifth of the population – the language of conversation, of culture and of religion – and this share of the population is a substantial minority, whom we ought to respect – the minority and their language. The State of Israel is a Jewish and democratic state, and being what it is, it has a duty to respect the minority within it: the person, the person's culture and the person's language."

513. **Official documents.** Under a specific directive issued by the Attorney General, it is prohibited to oblige a citizen to translate an official document originally in Arabic to Hebrew, such as a marriage certificate, divorce certificates etc., as long as the certificate was issued by an authority which is recognized by the State of Israel. In addition, the Attorney General's directive prescribes that the Government must make legal forms available in both Hebrew and Arabic.

514. **Vehicle license plates.** Under a specific directive issued by the Attorney General and directed at the Ministry of Transportation (26.03.1998), new car license plates are to bear the name of the State of Israel in Arabic as well as in Hebrew. The objectives of the new directive are to emphasize the official status of the Arabic language in Israel, as well as to increase consciousness of the needs of minorities in Israel.

515. **Public tenders.** The Attorney General has directed all legal advisors in the civil service that public tenders are to published in both an Arabic language newspaper and a Hebrew one, as well as to be made available on the internet (17.06.1999). The directive stresses that it is prohibited to distinguish between public tenders according to their relevance to the Arab sector. Furthermore, the duty to translate the public tenders into Arabic is the Government's duty.

516. **Municipal public notices.** Pursuant to *H.C.J. 1114/01 Adalah v. Municipality of Haifa* (31.12.03) the applicant desired to obligate the Municipality to advertise notices in Arabic at the municipality's expense in Arab language newspapers. The Municipality agreed to advertise for the Arabic speaking public, pursuant to their customary practice and in the exact same manner as advertised for the Hebrew speaking public. Particularly, the Municipality agreed to publish the following in such a manner:

516.1. All official municipal notices, such as public tenders, planning and building notices, and all statutory notices;

516.2. All related municipal services (such as school registration or traffic notices);

516.3. All advertisements that relate to cultural activities open to the general public such as concerts and performances.

517. **Road signs.** Following *H.C.J. 4438/97 Adalah V. Public Works Department* (25.2.98), the State took upon itself to complete a plan to add Arabic to all existing intercity and highway roads. During the past 5 years, 15,000 signs on major roads and highways have been altered to include both Arabic and Hebrew, along with all new road signs.

518. *H.C.J. 4112/99 Adalah v. Municipality of Tel Aviv PD 46(5*) (25.5.2002) dealt with the duty of municipalities in which there exist an Arab minority to use the Arab language along with Hebrew in all municipal signs. Chief Justice Barak on behalf of the majority required Arabic to immediately be used in all new signs or instances where old signs are replaced. In major thoroughfares or public institutions, and side streets in districts with a significant Arabic speaking population, signs must be altered within 2 years. Finally, regarding remaining signs, the Chief Justice required a change within 4 years from the date of the judgment.

519. A 2000 amendment to the *Second Authority for Television and Radio Law* established a requirement for broadcasting programs in the Arabic and Russian languages, through speech or translation. The required figure is a 50% minimum of the total broadcasts for each language (Article 4 of the amendment), as reported above in this Article in the section on the *Second Authority for Television and Radio Law*.

520. A few other examples: *The Planning and Building Law, 5725-1965* ("*The Planning and Building Law*") requires the publication of official planning and building plans in Arabic-speaking newspapers, if the plans cover an area where 10% or more of the population's native language is Arabic; the *Public Tender Regulations, 5753 -1993* requires publication of all public tender ads in Hebrew and Arabic newspapers; the *Work Safety Ordinance (New Version) 5730-1970* requires posting of the summary of safety regulations in Hebrew and/or Arabic so that all workers will be able to read them.

Arabic education

521. Of particular importance is the use of Arabic in the education system. In Arab and Druze schools, Arabic is the teaching language; and is taught in most Jewish schools. Arabic Language and literature are also taught at all Universities in Israel.

522. The approach to studying Arabic language and Islamic civilization is historical, cultural, linguistic and textual, and students read a broad range of writings: Islamic religious texts, classical (medieval) Belles Lettres, and modern and contemporary literature. Linguistics is studied through classical grammatical texts as well as modern style. Changes in terms and concepts in the language are examined as reflections of developments in Islamic traditions, sacred texts including the Quran, Vitae Prophetarum (stories on the prophets), Arabic poetry, and Judeo-Arabic writings. Modern Arabic is part of the curriculum and students take courses in developing skills like writing letters and essays and learning spoken Arabic.

523. Arabic is also taught at several independent Colleges and Institutes among them "Ulpan Akiva", "Givat Haviva" (both of which were awarded UNESCO prizes for peace education), and "Beit Berl" College. Preparatory courses in which students can study Arabic are given in all the Universities, Colleges and Institutes mentioned above, and each year hundreds of students enroll in one of the programs that these institutes provide. The Universities award B.A.,

M.A., and Ph.D. degrees in different tracks of study such as, classical Islamic texts, classical Arabic poetry, history of Islamic religious thought, Islamic Philosophy, modern Arabic poetry and prose and Arabic linguistics. All universities and institutes have research libraries for Arabic that consists of thousands of books.

524. Several scholarly journals on Arabic language and literature are published annually.

Hostility in sport events

525. In recent years, an increase in the phenomenon of violence and racism linked to football has been taking place. This violence is exhibited by fans inside and outside of football stadiums. Verbal and physical violence and racist songs and expressions are part of this phenomenon.

526. In order to eliminate this phenomenon, the Knesset endorsed MK Avshalom Vilan's proposal to establish a parliamentary committee to examine violence in sports. The committee began its investigation on January 1, 2001 and during eight months and fifteen sessions of hearings sought operational conclusions to help reduce or eliminate altogether the phenomenon of violence in sports.

527. The Committee heard the testimony of athletes on racist and violent incidents in sport events, discussed the role of education in prevention of violence, and the need for enhanced enforcement against offenders (higher fines, etc.). The Committee is promoting several bills on the general subject of violence in sports destined to increase the safety of audience in sports events.

528. On July 18, 2001, the Committee released its interim report that included the following relevant recommendations:

528.1. An amendment to the law and consolidation of rules aimed at enhancing punishment and deterrence measures.

528.2. Consolidation of rules includes: Forbidding racist or offensive expressions - A team whose fans violate this rule would be punished by sanctions such as reducing points or barring fans from attendance at matches.

528.3. Holding managers, coaches and players responsible - Central figures will carry added responsibility for their behaviour and disciplinary measures will be taken against them in case of any action resulting in violence or racism.

528.4. To effectively eliminate the phenomenon of racism in sports, FIFA and UEFA rules should be enforced immediately and in accordance with Israeli law.

528.5. Educational programs including an awareness programs focusing on violence and racism and promotion of sportsmanship and fair-play in sports.

529. According to Police data there was a reduction of 20% in average in violence at the stadiums and football fields in 2001. As discussed in Article 4 above, the Commission has continued with ongoing meetings concerning relevant issues and in November 2004 submitted a proposed amendment to the existing law that also would punish racist expressions at sporting venues with a year imprisonment.

7. The right of access to places of service

Elimination of discrimination in the private sphere

530. The legal position in the area of discrimination in the private sector has changed dramatically due to the enactment of the *Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law*. Under Article 3(a) of this Law, a provider of products or services to the public, or anyone engaged in the operation of a public place, is prohibited from discriminating on the grounds of race, religion or religious group, nationality, country of origin, sex, sexual orientation, views, political affiliation, personal status, parenthood or disability.

531. Such discrimination constitutes, under Article 5, a civil wrong, enforceable under the provisions of the Tort Ordinance. In addition, such discrimination constitutes, under Article 9, a criminal offence, punishable by fine. Under Article 11, this Law applies to the State as well. It also establishes a series of legal presumptions, shifting the burden of proof to the defendant in cases of *prima facie* discrimination.

532. Given the importance of the Law and recognizing the key change that it has instituted within the private sphere, a translated version of the Law's substantive provisions follows:

> *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*
>
> *Object*
>
> The object of this Law is to promote equality and prevent discrimination in entry into public places and in the provision of products and services.
>
> *Definitions*
>
> 2. (a) In this Law
>
> "disability" means a physical, mental or intellectual handicap within its meaning in the *Equal Rights for Persons with Disabilities Law, 5758-1998*;
>
> "personal status" means the state of a person being single, married, divorced or widowed;

"public place" means any place designated for use by the public, including a tourist attraction, hotel, hostel, guest house, public garden, restaurant, coffee house, auditorium used for entertainment and cultural shows, museum, library, discotheque, sports hall or installation, swimming pool, shopping mall, shop, garage and any place offering public transport services;

"public service" means services of transport, communications, energy, education, culture, entertainment, tourism and financial services designated for use by the public;

"financial services" means banking services, credit supply and insurance;

"transport services" means buses, trains, air transport, ships, travel services and car rental.

(b) For the purposes of this article, "public" means an unspecified public; however, a place or service shall not be deemed to be a place or service unavailable for public use by reason of denial of use or entry based on the grounds of discrimination mentioned in the Article.

Prohibition of discrimination

3. (a) A person whose business is the provision of a product or public service or the operation of a public place shall not discriminate - in the provision of the product or public service, in the grant of entry to the public place or in the provision of the service in the public place - on grounds of race, religion or religious group, nation, country of origin, gender, sexual orientation, ideology, party affiliation, personal status, parentage or disability.

(b) For the purposes of this Law, it is immaterial whether the business is made for the purpose of profit or not-for-profit and whether or not payment has been collected in consideration for provision of the product or the public service, operating the public place, grant of entry to the public place or provision of the service at the public place.

(c) In this Law, "a person whose business" includes the owner, occupant or manager of a business, as well as the person actually responsible for provision of the product or public service or for the operation of or entry into the public place.

(d) It shall not be deemed discrimination under this article:

(1) where the matter is necessitated by the nature or substance of the product, public service or public place;

(2) where the act is done by an organization or club not for profit and is done with the object of promoting the special needs of the group to which the members of the club or organization belong, provided however that these special needs are not contrary to the object of the Law;

(3) where separate frameworks are maintained for men and women and non-separation would deny to a segment of the public the provision of the product or public service, entry to the public place or the provision of the

service at the public place; provided however that the separation is justified, taking into consideration, *inter alia*, the nature of the product, public service or public place, the measure of its essentiality, the existence of a reasonable alternative and the needs of the public likely to be affected by the separation.

Discriminatory advertising

4. A person whose business is the supply of a product or public service or the operation of a public place shall not publish an advertisement including any discrimination prohibited under Article 3.

533. The Law has been broadly interpreted as applying to a host of public places, including schools, libraries, pools, stores, and any other places that serve the public. Thus, in a recent June 2004 case before the District Court of Jerusalem, (*A.C. 1320/03 Aleklesli and others v. Beitar Illit Municipality and the Ministry of Education* (21.06.2004)), the Court applied the law to a private school. The Court held that no criteria existed by which to gauge the acceptance of pupils and even though it was a private institution, the school was still required to create non-discriminatory guidelines for admission, under the aegis of the Ministry of Education, Culture and Sport.

534. Note as well a decision of the Jerusalem Magistrate Court issued prior to the passage of the Law, where Justice Mizrachi found that "according to international treaties which Israel is a signatory of, including the Convention on the Elimination of All Forms of Racial Discrimination of 1966, discrimination on racial grounds is forbidden." Justice Mizrachi noted that according to this Convention, "State parties must prohibit and abolish racial discrimination of all forms and guarantee every person's right, regardless of the color of his skin or his national origin, to equality before the law, especially with regard to privileges concerning access to places or services open to the general public." After referring to the International Covenant on Civil and Political Rights, Justice Mizrachi concluded that:

"In certain areas equality cannot be disregarded, and this comes to be expressed in the legislation of different states, and also in international affairs which seek to uphold equality. This approach stems from the fundamental nature of the value of equality and from an understanding that the absence of equality degrades an individual's human dignity. … As mentioned before, I agree with those who reason that Basic Law: Human Liberty and Dignity enshrines the right of equality as being constitutionally protected. Yet, even those who believe otherwise would agree that this case falls within the same category of incidents in which the harm to one's dignity - given the denial of entrance to Arabs and the permission of entrance to Jews - is obvious. There can be no doubt that the plaintiffs, forced to turn back after having been denied entrance to the site, experienced humiliation at the hands of the management." (*C.C 11258/93 Ibrahim Na'amna et al v. Kibbutz Kalia et al* (01.09.1996) regarding a claim by an Arab family prevented from entering a water amusement park).

535. **Tourism.** The main law in the field of tourism, the *Tourism Services Law*, 5736-1976, forbids providers of tourism services (hotels etc.) to refuse to provide their services when the refusal is unreasonable. Any refusal to provide tourism services based on racial or ethnic origin will be regarded as such "unreasonable refusal" and may involve criminal proceedings against the provider.

Article 6

536. The main guardian of the individual "against any acts of racial discrimination which violate his human rights and fundamental freedoms" is the court system. The Court system is open to all without discrimination, including to non-citizens of Israel. The individual can sue both other individuals and the Government for any wrong or harm done to himself or his property and can claim compensation or an injunction. In addition to the normal court procedure, the Supreme Court, sitting as High Court of Justice, can and does issue writs against the Government and public bodies.

537. Similarly, District Courts also have served as effective tool for preventing discrimination and awarding compensation. For example in *1576/99 Simi Nidam v. Rally Electric* (05.11.2003) in the Beer-Sheva District Labor Court, the complainant was awarded the difference in compensation between the wages she received as opposed to the wages of her male counterparts in the same position. The complainant was awarded a sum of 30,000 NIS.

538. Other recent examples of cases that have been filed include the following:

538.1. District Court case, *7611/04 Al Kuds Restaurant v. Israel Police* involving Arab residents who challenged the closing of their restaurants due to marches that were to take place on Jerusalem Day and the Ninth of Av (a day of Jewish religious fast);

538.2. Labor Court case, *1012/04 Chalichal v. State of Israel*, claiming that his work contract was not renewed due to possible relations with a Jewish co-worker.

Other avenues

539. In addition to the Court system, there exist other avenues of redress in cases of discrimination. There are Members of Knesset, who frequently avail themselves of the parliamentary right to compel government ministers to answer parliamentary questions, a vocal press including an Arabic press, an independent State Comptroller who also acts as an **Ombudsman.** In employment matters, there is the Ministry of ITL, the Labor Courts system, and, when the civil service is involved, the Disciplinary Supervisor in the civil service.

Note further that the *Prohibition on Discrimination in Services, Products and Access to Public Places Law*, discussed above, provides for a private cause of action as well.

540. The Courts in Israel have served as the guardians of migrant workers' rights, providing free access to all workers, regardless of their legal status. The High Court of Justice has always opened its doors to foreign workers, and its determinations have resulted in changes in governmental policies and practices.

541. In *H.C.J. 2442/02 Suzanna Kises and Migrant Workers Hotline v. The Ministry of the Interior* (4.6.02), the Supreme Court held that the Police should not arrest a migrant worker who is in the midst of switching her work permit to another employer. The Ministry of the Interior must afford such workers reasonable time to make proper requests prior to arresting them and the Ministry was requested to draft guidelines that would make the process easier and more fluid for migrant workers. Such guidelines were in fact promulgated and are implemented by the Immigration Administration in cooperation with the Ministry of the Interior.

541.1. Labor Courts and District Court have proven to be vigilant in protecting migrant workers' rights as the High Court of Justice as apparent from decisions discussed above.

Article 7

Measures to combat prejudices and to promote understanding and tolerance

542. Israel is an open society with vocal parliamentary debates, a free press including multiple TV and radio stations and a politically active electorate. Activities in Israel have traditionally been very newsworthy and the foreign press corps stationed in Israel is larger than that in most countries. These elements combined with the existence of an independent judiciary ensure a very full public airing of any complaint as an alleged abuse of human rights.

543. There are a number of NGOs in Israel monitoring human rights. The leading organization is the Association for Civil Rights in Israel, which is affiliated with the International League for Human Rights, New York and the Fédération Internationale des droits de l'homme, Paris.

A. Education and teaching

544. **Human rights education**. In 1994 the Ministry of Education adopted a new civics studies curriculum that emphasizes human rights and universal democratic principles, including the International Declaration of Human Rights. Civics is a mandatory subject for the matriculation exam. The Civics textbook, published by the Ministry of Education, includes a chapter titled "Human Rights and Civil Rights and the Rights of Minorities in Israel." The Convention is mentioned as one of the sources for the State's obligation to protect human rights in Israel. The rights enshrined in the different human rights instruments are discussed through the prism of the specific legislation guaranteeing these rights. This curriculum is identical for Arab and Hebrew schools.

545. **Democracy education**. The pedagogical secretariats at the Ministry of Education designed a program to promote democracy, coexistence and to fight discrimination of any kind in the educational system. During the year 2002, the Ministry of Education budgeted for the following:

545.1. School hours on democracy and values - 3,890,000 NIS.

545.2. Contracts between The Ministry of Education and external bodies that provide training in democracy and civil rights - 2,053,000 NIS.

545.3. Supporting education for democracy and coexistence - 1,029,000 NIS.

545.4. Student's scholarships in civic classes for university students - 360,000 NIS.

545.5. Teachers advance studies in civic, Haifa University - 200,000 NIS.

545.6. Teachers advance studies centers - 400,000 NIS.

Total: **7,932,000 NIS.**

546. **Arab-Jewish schools.** Another interesting project is that of the Associated School Project (ASP), that has been operating for the last 13 years. It is one of cooperation between a school in the Arab village of Tira and a Jewish school in Kfar-Saba. This project has been maintained despite all of the hardships and changes over the last several years. Teachers, students, parents and the communities meet to discuss and to become familiar with its partner community. Every school year the students become a part of this process. This project is a basis for teaching coexistence and mutual respect among cultures and communities. Similar schools exist in Neveh Shalom, Jerusalem, and Kfar Kara.

547. **Environmental education.** The Ministry of the Environment has initiated an educational project of environmental conservation as a starting point for improvement of environmental Arab–Jewish relations and understanding. The project was set into motion during 2000. The project is aimed at students in both the Arab and Jewish sectors of northern Israel who study in an environmentally or scientifically oriented educational framework.

548. The environmental issue has great potential to form a basis for development of joint responsibility, cooperation, trust and tolerance between the Arab and Jewish communities. Twenty schools have participated in the program so far, 10 of which are Arab schools. A total of 1,500 students attended the program during 2001. The project entails day-long meetings that consist of working groups with emphasis on group discussions and exposure to nature (plants, wildlife and various natural phenomena). The issues being discussed combine education material concerning science and environment, and joint discussions in an effort to come up with solutions to the environmental problems which both communities' face.

549. During the academic year of 2003, the Ministry of the Environment has been conducting 7 programs within the framework of the project; some of which are annual and include several 1-2 days-long meetings throughout the year. Additionally, youth movements from the northern region of Israel have also joined the project this year. Student meetings are conducted bilingually, when the need arises. It is important to note that teachers from both sectors maintain constant working relations during the preparation and throughout the entire project.

Preventing violence and racism in sports

550. In recent years, an increase in the phenomenon of violence and racism linked to football has been taking place. This violence is exhibited by fans inside and outside of football stadiums, and in a few instances has received the tacit encouragement of football players themselves. Verbal and physical violence and racist songs and expressions are part of this phenomenon.

551. As noted in Article 4 above, to eliminate this phenomenon, the Knesset endorsed a proposal to establish a parliamentary committee, the Vilan Committee, to examine violence in sports. As discussed above, the Committee has continued with ongoing meetings concerning relevant issues and has recently submitted a proposed amendment to the existing law that also would punish racist expressions at sporting venues with a year imprisonment.

Projects to promote understanding, tolerance and friendship among nations

552. Israel was the recipient of the UNESCO Prize for Peace Education, given to the Jewish-Arab Center in Givat Haviva in 2001. This award is indicative of the fact that Israel invests a great deal of effort in education among the various communities within its society. We believe that such an approach legitimizes the social, cultural and human aspects of Israeli society's kaleidoscope. This includes the right and opportunity, both of the majority and of the minorities, to live, work and contribute in a democratic society.

553. **Givat Haviva** is an education, research and documentation center, founded in 1949 by Ha'kibbutz Ha'arzi Federation, in memory of Haviva Reich. The campus is located in the northern Sharon Valley (east of Hadera), Israel. The mission of Givat Haviva today is to cope with the major issues that are on the agenda of Israeli society, and to foster educational initiatives, research and community work in the fields of peace, democracy, coexistence, tolerance and social solidarity. Over 50,000 children, youth and adults from Israel and abroad participate annually in the seminars, workshops, courses, conferences and other projects offered by Givat Haviva in a range of educational, academic and professional fields. Some of its recent projects include:

553.1. Givat Haviva and Peace Works Foundation agreed recently to cooperate on the one voice campaign, aiming at strengthening moderate voices in the Middle East. Givat Haviva accepted one voice's invitation to support the initiative, which is in line with its objectives and aligned with its ultimate pursuits.

553.2. Jewish-Arab young leadership workshop with the participation of the Jewish community of San Diego, a group of high school students from Bedouin communities in the South and from the Kibbutzim of the Sha'ar Hanegev Regional Council. Following a series of meetings in the Negev and at Givat Haviva. The participants learned about Jewish and Moslem joint history in the Middle Ages and participated in study workshops on the Jewish-Arab conflict.

553.3. Courses in Arabic - The Institute has 40 years' experience in teaching the Arabic language.

B. Culture

554. There are many examples of cultural projects in Israel intended to promote understanding, tolerance and friendship among nations. Civil society is the leading actor in such initiatives. Several government-supported examples are worth mentioning here.

554.1. The Ministry of Education, Culture and Sport has a Department for Arabic Culture in charge of promoting and developing Arabic Culture while preserving the cultural and ethnical uniqueness. The Department does so by encouraging and financing countless institutes, events and projects that helps to reach this object. The Department supports Arab writers, theaters, publications, colleges, research centers for the Arabic language etc.

554.2. A new youth orchestra consists of Jewish and Arab musicians, was established in 2002. The orchestra consists of 16 young musicians, and its creation was preceded by 3 years of meetings between young musicians, both Jewish and Arab. The orchestra's purpose is to carry its musical results out to Arab and Jewish audience, in order to foster mutual knowledge of these two cultures and enhance their interaction and cross- fertilization. The creation of the orchestra was made possible through the support of the former Ministry of Science, Culture and Sport, The Beracha Foundation, UNESCO and the Association for the Promotion and Nurturing of Arab Music in Israel.

554.3. For the last ten years, a theater group called "local theater", serves as an example for cooperation between Arab and Jewish actors and play-writers. The group, along with the Arab El-Sarayah-jaffah, cooperated in the establishment of an "Arab-Hebrew theater". The theatre cultivates tolerance, understanding and mutual respect to the different cultural heritages in Israel and presents an ideal of Jewish-Arab co-existence, based on equality and mutual respect. Jewish, Arab, emigrants from Russia and Italian actors participated in the recent premiere called "yearning" which tells the story of their fathers cultural and physical uprooting. The theater offers various activities to the students and young people of Jaffa, including creativity workshops, theater workshops and assisting in the promotion of young creators. The theater is supported by the Tel-Aviv Municipality and the Ministry of Education, Culture and Sport. Multicultural is not only an idiom but a fact and ideology of the theater, the theater of Jaffa operates to promote and nurture the cultural heritage of the different groups who reside in Jaffa and aspires to build a frame of Jewish- Arab co- existence through the knowledge and understanding of the two cultures.

554.4. The Holon Children's Museum, have recently begun using Arabic speaking guides and instituted Arab language text in their exhibits to make it more accessible to the Arab-speaking population.

C. Information

The role of State media in the dissemination of information to combat racial prejudices

555. It is recognized that broadcasting services offer a powerful means for developing a degree of harmony and understanding. As a result, Israeli legislation has provided for an expansion in the range and diversity of services, appealing to a variety of tastes and interests. The Israel Broadcasting Authority is a public broadcasting body. Thus, the directorial aspect is

important, such that all regulations concerning administrative bodies are mandatory, including discrimination prohibition and adequate representation of minorities in jobs appointments. Another aspect is broadcasting contents and the way it helps to eliminate racial discrimination. The IBA as a public authority acts in accordance with the law and does not discriminate between employees on the basis of racism, color, origin, ethnicity or nationality.

556. Under Article 46(a) (2) of the *Second Television and Radio Authority Law*, the holders of concessions for cable television services may not broadcast any material containing racial incitement, and they bear a duty to ensure that none of their broadcasts will be liable to incite discrimination on grounds of religion, race, nationality, ethnicity, lifestyle or origin.

557. As for the broadcasting contents, the IBA recognizes the importance of eliminating racism; however it maintains deference to the freedom of expression. There are several TV and Radio Programs promoting dialogue between the different social sectors that are focused on stereotype breaking:

557.1.1. A children program called “Sach-Ten” is broadcast once a week. In this T.V. game show there are two mixed teams of young Arabs and Jews. Short video films enable us to get to know their way of life. The teams are challenged with trivia questions and they express their opinions on related issues. This program is broadcast simultaneously in Hebrew and in Arabic by two hosts – Arab and Jewish.

557.1.2. "Ahalan Vesahalan” is a weekly program where Moslem, Druze, and Circassian children meet and discuss various subjects.

557.1.3. “Shabat Salam” a weekly program that focuses on co-existence of Muslims and Jews.

557.1.4. “Promises”, a documentary movie, follows for several years, Jewish and Palestinian children and presents the conflict in the Middle East in a different light.

557.1.5. “The country’s heart” documentary movie dealing with three women, religious orthodox, Moslem and a new immigrant who live in Ramle with different kinds of education and way of living.

The role of mass media in the publicizing of human rights

558. Human rights awareness within the Israeli public is quite high. The language of rights has permeated the daily life in Israel. For example, a major newspaper in Israel (MAARIV) published in the beginning of 2003, a booklet called “RIGHTS – the rights we are all entitled to” – which includes a detailed description of rights in school, rights at work, civil liberties, rights of persons with disabilities and more. The booklet contains contact information of the relevant governmental offices, NGO’s and voluntary associations. The booklet can be accessed through the Internet on www.myrights.co.il.

Notes

[1] Ninth periodic report of States parties due in 1996: Israel. 17/10/97. CERD/C/294/Add.1. (State Party Report) [Seventh, eighth and ninth periodic reports, submitted in one document, due on 2 February 1992, 1994 and 1996, respectively] CERD/C/192/Add.2 [contains fifth and sixth periodic reports of Israel, submitted in one document]. Report on measures taken to guarantee the safety and protection of the Palestinian civilians in the occupied Palestinian territory: Israel. 03/05/95. CERD/C/282. (Additional Info from State party).

[2] Government resolution no. 2303 of July 27, 2004 supplements previous resolutions and postpones the establishment of a national authority to January 2006.

[3] According to data received from the Crime Unit in the Immigration Administration, during 2003, 5019 investigation files were opened. In many cases, the Unit further to investigation decided not to prosecute. Additionally, in many cases files regarding illegal entry were opened, but only for the specific purpose of identifying the perpetrator involved in the smuggling. Migrant workers were not prosecuted for these offences, unless they were major figures in a smuggling ring.

[4] This data includes illegal employment.

[5] King's Order in Council, 1922-1947 (Legislation enacted during the British mandate over Palestine, parts of which are still valid, including Section 51).

[6] See Letter from Noa Harduf, First Assistant to the National Public Defender, to Boaz Oren, dated December 14, 2004.

[7] Section 66 of the Employment Service Law.

ANNEXES

Annex 1

EMPLOYED PERSONS, BY OCCUPATION, SEX AND POPULATION GROUP, 2001

All workers	Thousands			Per cent distribution		
	Total	Men	Women	Total	Men	Women
Occupation						
Total	2 270.5	1 236.2	1 034.3	100.0	100.0	100.0
Academic professions				13.0	12.7	13.5
Other professions and technicians				16.2	11.6	20.4
Managers				6.8	9.5	4.1
Clerical workers				18.7	8.1	27.3
Agents, sales and service workers				16.9	15.1	22.1
Skilled agricultural workers				0.8	2.5	0.3
Manufacturing, construction and other skilled workers				18.5	31.9	4.6
Unskilled workers				9.1	8.7	7.8
Jews						
Total	1 949.2	1 004.0	945.3	100.0	100.0	100.0
Academic professions	13.9	13.9	13.9			
Other professions and technicians	16.5	12.9	20.3			
Managers	7.8	11.1	4.4			
Clerical workers	18.4	9.0	28.4			
Agents, sales and service workers	18.6	15.3	22.0			
Skilled agricultural workers	1.4	2.5	0.3			
Manufacturing, construction and other skilled workers	16.2	28.0	3.9			
Unskilled workers	7.1	7.3	6.9			
Unknown						
Arabs and others						
Total	321.2			100.0	100.0	100.0
Academic professions	8.1					
Other professions and technicians	10.0					
Managers	2.2					
Clerical workers	7.5					
Agents, sales and service workers	16.3					
Skilled agricultural workers	2.0					
Manufacturing, construction and other skilled workers	38.4					
Unskilled workers	15.5					

Source: Israel Central Bureau of Statistics, Labor Force Survey, 2001.

Annex 2

PERSONS AGED 15 AND OVER,[1] BY RELIGION, POPULATION GROUP, YEARS OF SCHOOLING, AGE AND SEX

	Years of schooling								Total (2)	
	Median	16+	13-15	11-12	9-10	5-8	1-4	0	%	Thousands
Total population										
1995	12.0	13.7	18.7	35.6	13.1	12.3	6.6		100.0	3 903.2
2000	12.3	16.5	20.9	35.1	12.2	10.1	1.9	3.3	100.0	4 486.5
2002	12.4	17.2	21.3	35.6	11.6	9.4	1.6	3.2	100.0	4 706.2
2003 - Total										
- Thousands		843.6	1 024.4	1 709.2	536.9	430.3	77.9	141.5		4 791.8
- Percentages	12.4	17.7	21.5	35.9	11.3	9.0	1.6	3.0	100.0	
Age										
15-17	11.1	. .	0.3	52.1	44.2	2.8	0.3	0.3	100.0	339.8
18-24	12.4	4.1	26.5	60.2	5.7	2.7	0.3	0.5	100.0	770.7
25-34	13.4	26.3	27.0	33.7	7.3	4.4	0.5	0.8	100.0	1 013.3
35-44	12.8	23.9	22.5	35.0	10.0	6.8	0.7	1.1	100.0	783.4
45-54	12.8	23.6	22.8	29.4	10.0	10.9	1.5	1.8	100.0	735.3
55-64	12.4	21.7	20.7	24.0	9.9	16.0	2.8	5.0	100.0	487.5
65+	10.6	12.6	15.9	19.4	11.0	22.4	6.1	12.6	100.0	661.8
Males - total	*12.4*	*18.2*	*20.5*	*36.9*	*12.3*	*8.9*	*1.5*	*1.7*	*100.0*	2 328.6
15-17	11.0	. .	. .	49.9	45.6	3.6	. .	. .	100.0	174.0
18-24	12.2	3.3	22.5	62.6	7.6	3.5	0.3	0.3	100.0	392.3
25-34	13.2	24.8	27.0	33.9	8.5	4.8	0.5	0.6	100.0	509.5
35-44	12.8	24.7	21.6	34.6	11.3	6.4	0.6	0.8	100.0	384.9
45-54	12.8	24.5	22.3	29.1	10.7	10.7	1.4	1.2	100.0	354.6
55-64	12.5	24.3	19.0	25.4	10.2	16.4	1.8	2.9	100.0	231.7
65+	11.3	16.4	15.8	20.7	10.4	22.7	6.8	7.1	100.0	281.6
Females - total	*12.4*	*17.2*	*22.5*	*34.9*	*10.3*	*9.1*	*1.8*	*4.2*	*100.0*	2 463.2
15-17	11.2	. .	. .	54.3	42.7	1.9	. .	. .	100.0	165.8
18-24	12.5	4.9	30.7	57.8	3.8	1.9	0.3	0.7	100.0	378.4
25-34	13.5	27.7	27.1	33.6	6.0	4.1	0.4	1.1	100.0	503.8
35-44	12.8	23.2	23.4	35.3	8.7	7.1	0.8	1.4	100.0	398.5
45-54	12.7	22.7	23.3	29.6	9.3	11.1	1.6	2.4	100.0	380.8
55-64	12.3	19.3	22.2	22.8	9.6	15.5	3.6	7.0	100.0	255.8
65+	10.0	9.8	16.0	18.4	11.5	22.1	5.5	16.6	100.0	380.2
Jews and others										
2003 - Total										
- Thousands		780.1	944.9	1 464.4	397.4	280.1	45.0	95.3		4 031.0
- Percentages	12.6	19.5	23.6	36.5	9.9	7.0	1.1	2.4	100.0	
Jews										
1995	12.2	15.5	20.5	37.0	12.0	10.1	5.0		100.0	3 269.3
2000	12.5	18.3	22.7	36.2	10.8	8.2	1.2	2.6	100.0	3 685.2
2002	12.6	19.0	23.0	36.8	10.0	7.4	1.2	2.5	100.0	3 848.8
2003 - Total										
- Thousands		761.7	910.7	1 436.9	381.2	277.0	44.7	94.6		3 930.2
- Percentages	12.6	19.5	23.3	36.8	9.8	7.1	1.1	2.4	100.0	
Age										
15-17	11.2	. .	. .	53.5	43.7	2.2	. .	. .	100.0	258.6
18-24	12.4	3.6	27.6	63.9	3.4	1.1	0.2	0.2	100.0	597.3
25-34	14.0	29.6	30.7	33.2	3.9	1.8	0.3	0.5	100.0	781.8
35-44	13.3	27.1	25.2	36.9	7.4	2.5	0.2	0.8	100.0	616.0
45-54	13.0	25.5	24.5	31.7	9.6	7.0	0.5	1.1	100.0	636.6
55-64	12.7	24.0	22.5	25.7	10.1	13.0	1.4	3.3	100.0	426.7
65+	11.0	13.2	16.7	20.5	11.4	22.5	5.0	10.6	100.0	613.2

	Years of schooling								Total (2)	
	Median	16+	13-15	11-12	9-10	5-8	1-4	0	%	Thousands
Males - total	*12.6*	*20.0*	*22.5*	*37.6*	*10.5*	*6.9*	*1.0*	*1.5*	*100.0*	*1 894.9*
15-17	11.1	. .	. .	50.6	45.5	3.1	. .	. .	100.0	132.2
18-24	12.3	3.1	23.6	66.4	4.9	1.7	. .	. .	100.0	304.8
25-34	13.8	27.5	31.0	33.5	4.9	2.5	. .	0.4	100.0	391.8
35-44	13.3	27.6	24.5	35.2	8.7	2.9	0.3	0.8	100.0	299.7
45-54	13.0	26.2	23.9	31.1	9.8	7.2	0.8	1.0	100.0	304.3
55-64	12.8	26.7	20.7	27.0	10.0	12.2	0.9	2.4	100.0	202.2
65+	11.5	17.3	16.6	22.0	10.8	21.9	5.0	6.5	100.0	260.0
Females - total	*12.6*	*19.0*	*24.1*	*36.0*	*9.1*	*7.3*	*1.2*	*3.3*	*100.0*	*2 035.2*
15-17	11.2	. .	. .	56.4	42.0	1.3	. .	. .	100.0	126.4
18-24	12.6	4.2	31.8	61.3	1.9	0.6	. .	. .	100.0	292.5
25-34	14.2	31.7	30.4	33.0	3.0	1.1	0.3	0.6	100.0	390.1
35-44	13.3	26.6	25.7	38.4	6.1	2.1	. .	0.8	100.0	316.2
45-54	13.0	24.9	25.1	32.2	9.4	6.9	0.3	1.1	100.0	332.3
55-64	12.6	21.5	24.0	24.5	10.2	13.7	1.9	4.1	100.0	224.5
65+	10.4	10.2	16.8	19.5	11.8	22.9	5.1	13.7	100.0	353.3
Other religions										
1995	10.2	4.6	9.6	28.1	19.0	24.0	14.7		100.0	633.9
2000	11.1	8.6	12.5	30.1	18.6	18.8	4.9	6.5	100.0	801.3
2002	11.2	9.0	13.5	30.5	18.9	18.4	3.6	6.1	100.0	857.3
Arabs										
2003 - Total										
- Thousands		63.5	79.5	244.8	139.5	150.2	32.8	46.2		760.8
- Percentages	11.1	8.4	10.5	32.4	18.4	19.9	4.3	6.1	100.0	
Age										
15-17	11.0	. .	. .	48.2	45.1	4.5	. .	. .	100.0	74.7
18-24	12.1	6.1	22.1	47.4	13.7	8.5	0.6	1.6	100.0	159.7
25-34	11.7	14.0	11.6	36.3	19.4	15.1	1.4	2.2	100.0	200.9
35-44	10.9	11.2	8.5	29.0	20.2	25.6	2.8	2.7	100.0	146.3
45-54	8.2	7.8	7.4	13.9	12.6	41.5	9.2	7.7	100.0	84.8
55-64	6.6	3.3	3.4	11.3	7.7	40.7	14.0	19.5	100.0	52.6
65+	2.4	2.9	. .	4.1	3.8	22.9	22.3	42.5	100.0	41.9
Males - total	*11.2*	*9.7*	*9.4*	*34.5*	*20.5*	*19.8*	*3.8*	*2.4*	*100.0*	*386.0*
15-17	11.0	. .	. .	48.0	45.8	5.0	. .	. .	100.0	38.5
18-24	11.9	4.5	17.3	49.6	16.9	10.2	. .	. .	100.0	81.0
25-34	11.7	15.2	11.1	36.2	21.1	13.7	1.6	1.1	100.0	103.6
35-44	11.4	13.9	7.3	33.9	20.8	21.1	1.8	. .	100.0	74.5
45-54	9.5	12.0	9.3	16.7	15.6	37.3	6.2	2.9	100.0	42.9
55-64	7.7	5.7	3.8	14.4	10.3	49.6	9.2	6.9	100.0	25.9
65+	5.2	4.7	. .	. .	5.1	36.3	31.8	16.1	100.0	19.4
Females - total	*10.9*	*7.1*	*11.6*	*30.2*	*16.4*	*20.0*	*4.8*	*9.9*	*100.0*	*374.8*
15-17	11.1	. .	. .	48.4	44.3	3.9	. .	. .	100.0	36.2
18-24	12.4	7.8	27.0	45.0	10.4	6.7	. .	2.4	100.0	78.7
25-34	11.6	12.7	12.1	36.5	17.7	16.6	1.1	3.4	100.0	97.2
35-44	10.2	8.4	9.9	24.0	19.5	30.2	3.8	4.2	100.0	71.7
45-54	7.2	3.4	5.4	11.0	9.5	45.9	12.2	12.6	100.0	41.9
55-64	4.9	. .	. .	8.3	5.1	32.0	18.7	31.9	100.0	26.6
65+	0.8	. .	. .	. .	. .	11.4	14.0	65.3	100.0	22.5

Source: Labor Force Survey.

[1] Till 1985 - persons aged 14 and over.

Incl. not known.

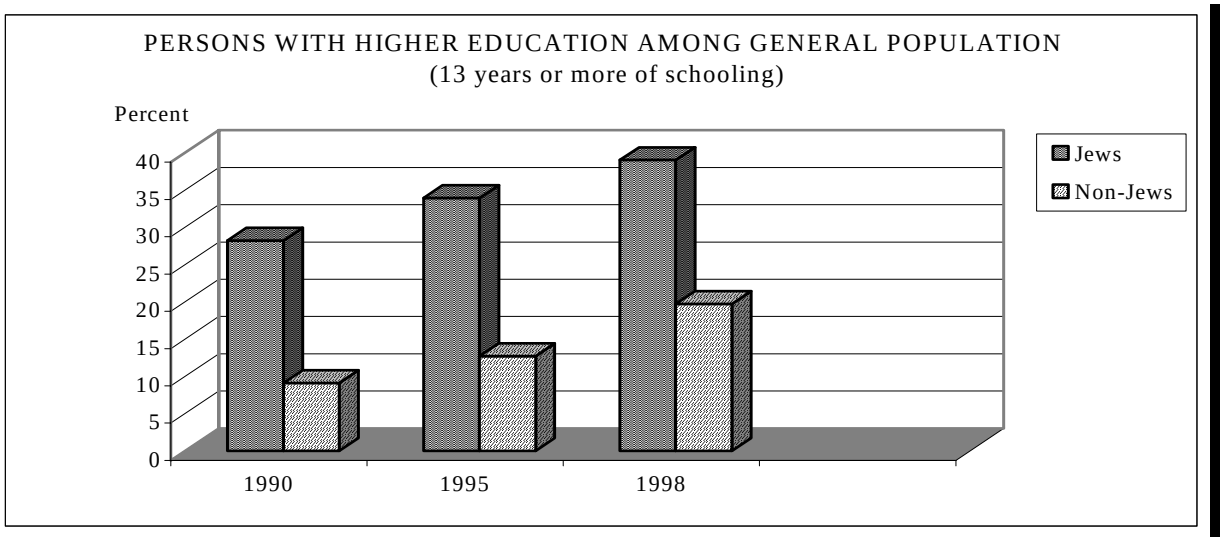
Annex 3

PERSONS AGED 15 AND OVER, BY RELIGION AND YEARS OF SCHOOLING - 2000-2003 (BY PERCENTAGES)

Years of schooling	0	1-4
Total population		
2000	3.3	1.9
2002	3.2	1.6
2003	3.0	1.6
Jews		
2000	2.6	1.2
2002	2.5	1.2
2003	2.4	1.1
Other religions		
2000	6.5	4.9
2002	6.1	3.6
Arabs		
2003	6.1	4.3

Annex 4

PERSONS WITH HIGHER EDUCATION AMONG THE GENERAL POPULATION (13 YEARS OR MORE OF SCHOOLING)



Source: Central Bureau of Statistics.

Annex 5

PUPILS IN GRADES IX-XII: BY GRADE AND SCHOOL LEAVING

	2000/01-2001/02				1999/2000-2000/01		1991/92-1992/93	
	IX-XII		IX-XI		IX-XI		IX-XI	
	%	Absolute numbers	%	Absolute numbers	%	Absolute numbers	%	Absolute numbers
Grand total	100.0	420 920	100.0	326 360	100.0	314 993	100.0	207 429
Did not leave school	81.9	347 093	77.8	254 038	77.4	243 937	86.6	179 634
Left school - total	18.1	73 827	22.2	72 322	22.6	71 056	13.4	27 795
Left the educational system	5.9	24 516	7.1	23 011	6.9	21 680	7.6	15 743
(Dropped-out) - total								
Dropped out at end of school year	4.4	17 816	5.5	17 816	5.2	16 462	5.8	12 048
Dropped out during the school year	1.6	6 700	1.6	5 195	1.7	5 218	1.8	3 695
Left for another school	12.2	49 311	15.1	49 311	15.7	49 376	5.8	12 052
Total	100.0	348 068	100.0	268 242	100.0	260 654	100.0	178 122
Did not leave school	84.1	292 854	79.9	214 229	79.0	205 942	87.2	155 264
Left school - total	15.9	55 214	20.1	54 013	21.0	54 712	12.8	22 858
Left the educational system	4.9	17 215	6.0	16 014	5.8	15 217	6.7	11 926
(Dropped out) - total								
Dropped out at end of school year	3.5	12 267	4.6	12 267	4.4	11 537	5.0	8 938
Dropped out during the school year	1.4	4 948	1.4	3 747	1.4	3 680	1.7	2 988
Left for another school	10.9	37 999	14.2	37 999	15.2	39 495	6.1	10 932
Arab education								
Total	100.0	72 852	100.0	58 118	100.0	54 339	100.0	29 307
Did not leave school	74.5	54 239	68.5	39 809	69.9	37 995	83.2	24 370
Left school - total	25.5	18 613	31.5	18 309	30.1	16 344	16.8	4 937

	2000/01-2001/02				1999/2000-2000/01		1991/92-1992/93	
	IX-XII		IX-XI		IX-XI		IX-XI	
	%	Absolute numbers	%	Absolute numbers	%	Absolute numbers	%	Absolute numbers
Left the educational system	10.0	7 301	12.0	6 997	11.9	6 463	13.0	3 817
(Dropped out) - total								
Dropped out at end of school year	7.6	5 549	9.5	5 549	9.1	4 925	10.6	3 110
Dropped out during the school year	2.4	1 752	2.5	1 448	2.8	1 538	2.4	707
Left for another school	15.5	11 312	19.5	11 312	18.2	9 881	3.8	1 120

Source: Central Bureau of Statistics.

Annex 6

COMPARATIVE STATISTICS, ACCORDING TO YEARS, IN THE BEDOUIN EDUCATIONAL SECTOR

Number of pupils

Year	Pupils
1998	40 006
1999	43 741
2000	47 253

Matriculation certificates

Year	Percentage of pupils receiving matriculation certificates
1998	15%
1999	29%
2000	30%

Annex 7

THE ISRAELI POPULATION AT THE END OF YEAR, BY RELIGION (THOUSANDS)

	Arab and others					Jews	Grand total
	Druze	Christians	Moslems	Unclassified	Total		
1998	99.0	128.7	899.8	128.7	1 256.2	4 785.1	6 041.4
1999	101.2	131.8	934.1	169.2	1 336.3	4 872.8	6 209.1
2000 (8)	103.8	135.1	970.0	201.5	1 410.4	4 955.4	6 369.3
2001 (8)	106.3	138.5	1 004.6	230.9	1 480.3	5 025.0	6 508.8
2002	108.5	140.4	1 038.3	246.9	1 516.9	5 094.2	6 631.1
2003	110.8	142.4	1 072.5	254.6	1 583	5 165.4	6 748.4

Source: Central Bureau of Statistic.

Annex 8

RECOMMENDATIONS OF THE COMMITTEE ON THE ADVANCEMENT OF HIGHER EDUCATION AMONG THE ARAB POPULATION IN ISRAEL

1.1. Pre-academic programs

1.1.1. The representation of Arab students in the pre-academic programs is extremely low, despite the fact that these programs are intended first and foremost for marginal groups, including the Arab population.

1.1.2. Believing in the importance of the pre-academic programs for promoting access to higher education for groups having a low starting point and the opening up of new horizons for educational and professional advancement, the Committee recommended that:

1.1.3. All feasible measures should be taken to raise the representation of Arab students in the pre-academic programs, including measures taken among the Arab population to raise awareness of the existence of the pre-academic programs.

1.1.4. Admission requirements to the pre-academic program should be adapted to the specific needs of the Arab student (completion of twelfth grade or having reached 19 years of age).

1.1.5. The entrance exam should be adjusted to the cultural background of Arab students or offered in Arabic.

1.1.6. Students participating in the program should be allowed to prepare for the psychometric examination and take it during their studies.

1.1.7. Pupils from the Arab sector should be encouraged to integrate within programs taking place in the institutions of higher education spread out throughout the country.

1.1.8. A pilot plan should be developed for a number of pre-academic programs in Arab localities that meet the academic criteria, under the responsibility of several selected institutions of higher education.

1.1.9. Action should be taken to find sources of financing for subsistence grants for Arab students in institutions of higher education.

1.1.10. Integrating Arab student counselors within existing programs.

1.2. **Increasing access - information and support centers**

1.2.1. During the deliberations of the Committee it became apparent that part of the problem of access to higher education or the dropout rates of Arab students was due to lack of knowledge and lack of professional guidance at the stage of pre-registration for academic studies. The Committee therefore adopted a proposal on the establishment of information and support centers for the Arab population.

1.2.2. These centers will collect information from various sources, so that current and accurate information will be made available to young men and women, in order that the option of academic studies be presented to them in the most clear and explicit manner. The centers shall be operated and information gathered in coordination with local authorities, education departments, the monitoring committee of the heads of Arab local authorities, and other entities.

1.2.3. Institutions of higher education should formulate a special program to strengthen ties with high schools with the object of facilitating the transition from high school to university studies.

1.2.4. In some fields, such as psychology, social work, and school counseling, great importance attaches to verbal and cultural communication with the client. Accordingly, the higher education system needs to train Arab students to hold positions in these areas, on condition that this is done in coordination with the Government ministries responsible in these fields and in accordance with the needs of the Arab population.

1.2.5. Institutions of higher education should take into account the fact that Arab students approach academic studies immediately after high school, when considering acceptance to departments and courses in which there is an age restriction on acceptance and for which there is a demand among the Arab population, such as social work. The needs of the Arab population and a lower starting point of many Arab students should be taken into account in admission considerations.

1.2.6. Regarding the establishment of an academic college in an Arab locality, the Committee emphasizes that determining content and structure of such a college should be based on the particular national and cultural characteristics of the Arab population in Israel and take into account the nation-wide set-up of the higher education system.

1.3. **Psychometric examination**

1.3.1. The deliberations of the Committee stressed that the psychometric examination was a main barrier restricting acceptance of Arab students to institutions of higher education, and in particular, to universities.

1.3.2. The Committee took the view that the psychometric examination mirrors a situation in which there are gaps in the starting point of Jewish and Arab pupils. Therefore, using the psychometric examination as a condition for admission to institutions of higher education merely entrenches the existing situation and the gaps.

1.3.3. Furthermore, there are a number of problems in connection with the examination itself. The psychometric examination is designed and intended mainly for students coming from a western cultural background and is thus not adapted to Arab students or even Jewish students from an Oriental background. In view of the problems specified above, the Committee recommended as follows:

1.3.3.1. The psychometric examination requires revision, particularly the section on verbal thinking. Steps should be taken to ensure that this section is based on material taken from the cultural and cognitive world of the Arab student and not material that has been translated from Hebrew to Arabic. Furthermore, one problem Arab pupils encounter derives from the dual nature of the language which is a direct consequence of the vast disparity between the spoken mother tongue and literary Arabic. In actual fact, even when an Arab pupil is tested in Arabic he is coping with a second language. The problem, however, is not the level of Arabic but the character of the literary texts chosen. Thus, in the verbal part, extracts need to be chosen from more widespread literary Arabic language and not from classical language, which is far removed from the cognitive world of the pupil. Furthermore, English is a second foreign language for the Arab student (presently a first foreign language for the Jewish student). Moreover, like other weak strata of society, some Arab students have a time-management problem.

1.3.3.2. For the purpose of re-examining examination content and adapting it to Arab society and culture, the Committee proposes that the National Center for Examinations and Evaluation, in coordination with the Council for Higher Education, establish a professional committee whose members shall be Arab academics. This committee shall undertake a comprehensive review of the psychometric examination so as to locate content which is problematic for the Arab population, limit the translated sections and formulate a method in which more appropriate content may be used for pupils from Arab cultural backgrounds.

1.3.3.3. The Committee requests the institutions of higher education to make the grade weight of the psychometric examination for acceptance to institutions no more than 50%. Concurrently, the Committee takes the view that action should be taken to find a compensatory mechanism for weaker populations whose access to prestigious and sought-after courses is harmed because of the psychometric examination.

1.4. **Assistance and support programs for integration of Arab students studying at institutions of higher education** - Regarding financial assistance, the Committee recommended:

1.4.1. Including the Arab student population within the definition of "deprived groups" entitled to such assistance.

1.4.2. Formulating a plan for acceptance and advancement of Arab students at every institution of higher education.

1.4.3. The Committee concurs with the decision of the Council of July 27, 1999, allowing Arab students to spread their studies over four years, paying tuition fees for only three years.

1.4.4. Institutions of higher education should examine the feasibility of a review program designed for students accepted to academic studies, focusing on subjects such as computer orientation, Hebrew, English, scientific writing and logical thinking.

1.4.5. The services provided to Arab students shall be taken into account in the calculation of the index of "quality of services" which determines the budgets to institutions of higher education.

1.4.6. Issues of alienation and difficulties in social and cultural integration which Arab students encounter shall be dealt with by counseling within the Office of the Dean of Student Affairs and by counseling at the class level, preferably through a special unit in the office of the students' dean.

1.4.7. The Office of the Dean of Student Affairs in each of the institutions of higher education shall examine the cultural and religious needs of Arab students and shall act to meet these needs.

1.4.8. An examination shall be made of problematic courses in which the failure rate of Arab students is particularly high and support courses shall be developed for such courses.

1.4.9. Arab students studying in their freshman year be given extra time for examinations, as is customary for other students whose mother tongue is not Hebrew.

1.4.10. Where military service is included as one of the criteria for receipt of various university services, a compensatory mechanism should be found for Arab students.

1.4.11. A special plan should be developed for outstanding Arab students studying for their doctorate or in a direct doctoral program. This plan should be based on a nationwide competition in a research track within which between ten and fifteen grants would be allocated each year to outstanding students.

1.4.12. A national grants fund designated for outstanding Arab bachelor degree students should be set up. The capital for the fund would be raised jointly by the institute for higher education and external donors, including donors from the Arab population, with the institution matching every donation raised from external donors.

1.4.13. Special weight should be accorded to socio-economic background, when determining criteria for awarding grants and for accommodation in student dorms.

1.5. **Social and multi-cultural integration on campus** - The Committee concluded that socio-cultural absorption is a highly important factor in integrating students into campus life, reducing alienation, creating success in studies and turning the encounter between groups with national, ethnic and cultural differences from a "problem" into an "experience". The Committee thus recommended as follows:

1.5.1. Special plan for the intensification of multi-cultural education on campus by cooperation between the deans of student affairs, student unions and Arab student committees should be developed.

1.5.2. As part of promoting a multi-cultural atmosphere on campus and among the students a number of steps having both symbolic and practical significance should be taken:

1.5.2.1. Names of the institution, the faculties and various departments should appear in both Hebrew and Arabic, they being the official languages of the State.

1.5.2.2. The list of holidays and festivals of Moslems, Christians and Druze should be included within the yearbook of each institution of higher education.

1.5.2.3. These holidays and festivals should be respected when determining the examination timetable or any other mandatory student study activity.

1.6. **Integration of faculty members and administrative personnel**

1.6.1. Available information shows that no more than 1% of the faculty members at universities are Arab. Furthermore, there are almost no Arab administrative employees at the universities, and there are no Arabic speakers among those employees providing services to students.

1.6.2. One of the major goals that the Ministry of Science, Culture and Sport promotes is to increase the number of researchers and scientists in the Arab, Druze and Circassian sectors. Every year since 1995, the Ministry grants 50,000 NIS scholarships to those who qualify.

1.6.3. It should be noted that in recent years there has been an important change, although still limited, as regards the acceptance of Arabs into senior academic positions. In this context it should be noted that more than half the Arab

lecturers currently at universities were appointed thanks to grants from the Maof Fund set up in 1995 jointly by the Council for Higher Education – PBC and the Kahanoff Fund. A Maof grant is designated for outstanding Arab scientists whom the universities are interested in absorbing. Every year, four to six grants of three year duration are awarded, with the universities undertaking to budget for permanent positions at the end of the grant period.

1.6.4. It has been decided to raise the number of grants to 6-10 annually, and to open the competition for them to the academic colleges as well. To date, 32 Arab lecturers teaching at various universities and at the Technion have been absorbed by means of Maof Fund grants, making up about 50% of all Arab lecturers in these institutions. The Committee thus recommended as follows:

1.6.4.1. The absorption of Arab faculty members within the various departments is of prime importance, as it also helps enrich the study system at the institutions, as well as integrate the Arab population within this system.

1.6.4.2. In view of the success of the Maof Fund in promoting the absorption of Arab members of faculty, the Committee recommends empowering the Fund and formalizing its activities.

1.6.4.3. The absorption of Arab administrative employees in institutions of higher education in Israel is of great importance. The Committee therefore recommends that this issue be suitably placed when absorbing new employees in the various departments.

1.6.4.4. Institutions of higher education should be encouraged to take into account the needs of the Arab localities and employment opportunities when accepting students to certain courses which are in high demand in Arab localities, such as psychologists, social workers, school advisers, physical therapists etc.

To demonstrate, the Ben Gurion University in Beer Sheva recently appointed two Bedouin professors as Department Heads. One is in Sociology and the other is Middle Eastern Studies. There also are 4 Bedouin lecturers and 6 PhD students in the University.

2. Furthermore, there currently exist a number of institutions geared towards the interests and needs of the Arab sector. One is a College of the Shariah, an educational institution for the study of Islam, another two are for the purpose of training educators and are the Arabic College for Education and the Alkasmi College, and a third is a branch of the University of Indianapolis that recently opened in an Arab town in the Galilee.

3. Additionally, a number of scholarship programs have been established for the benefit of the minority Arab population, specifically to encourage minority students to attend institutions of higher education. There also are more specific awards for Druze students and for minority students desiring to study technology.

UNITED
NATIONS

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OF RACIAL DISCRIMINATION
Seventieth session
19 February - 9 March 2007

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

Concluding observations of the Committee on the Elimination of Racial Discrimination

ISRAEL

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

A. Introduction

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

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

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

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

B. Positive aspects

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

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

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

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

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

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

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

C. Factors and difficulties impeding the implementation of the Convention

13. In the present context of violence, the Committee recognizes the difficulties of the State party in fully implementing the Convention. Guided by the principles of the Convention, the State party should ensure, however, that security measures taken in response to legitimate security concerns are guided by proportionality, and do not discriminate in purpose or in effect against Arab Israeli citizens, or Palestinians in the Occupied Palestinian Territories, and that

they are implemented with full respect for human rights as well as relevant principles of international humanitarian law.

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

D. Concerns and recommendations

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

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

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

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

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

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

receiving more information on how the State party envisages the development of the national identity of all its citizens.

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

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

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

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

20. The Committee notes with concern that the Citizenship and Entry into Israel Law (Temporary Order) of 31 May 2003 suspends the possibility of granting Israeli citizenship and residence permits in Israel, including through family reunification, to residents of the Occupied Palestinian Territories, except in limited and discretionary exceptions. Such measures have a disproportionate impact on Arab Israeli citizens wishing to be reunited with their families in Israel. While noting the State party's legitimate objective of guaranteeing the safety of its citizens, the Committee is concerned that these "temporary" measures have systematically been renewed, and have been expanded to citizens of "enemy States". Such restriction targeting a particular national or ethnic group in general is not compatible with the Convention, in particular the obligation of the State party to guarantee to everyone equality before the law. (Articles 1, 2 and 5 of the Convention)

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

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

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

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

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

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

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

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

The Committee recommends that the State party increase its efforts to ensure the equal enjoyment of economic, social and cultural rights by Arab Israeli citizens, in particular their right to work, health and education. The State party should assess the extent to which the alleged discriminatory attitudes of employers against Arabs, scarcity of jobs near Arab communities, and lack of daycare centers in Arab

villages are a cause of high unemployment rates among Arabs. Bearing in mind its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee also recommends that the State party pay particular attention to the situation of Arab women in this regard.

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

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

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

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

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

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

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

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

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

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

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

Bearing in mind general recommendation No. 31 (2005) of the Committee, the State party should guarantee the right of every person within its jurisdiction to an effective remedy against the perpetrators of acts of racial discrimination, or acts committed with racist motives, without discrimination of any kind, whether such acts are committed by private individuals or State officials, as well as the right to

seek just and adequate reparation for the damage suffered. The State party should ensure that complaints are recorded immediately, and that investigations are pursued without delay and in an effective, independent and impartial manner.

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

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

The Occupied Palestinian Territories

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

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

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

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

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

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

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

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

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

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

While stressing that the Al-Aqsa Mosque is an important cultural and religious site for people living in the Occupied Palestinian Territories, the Committee urges the

State party to ensure that the excavations in no way endanger the mosque and impede access to it.

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

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

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

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

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

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

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

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

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

United Nations CERD/C/ISR/14-16

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Reports submitted by States parties under article 9 of the Convention

Fourteenth to sixteenth periodic reports of States parties due in 2010*

Israel**

* This document contains the fourteenth, fifteenth and sixteenth periodic reports of Israel, due on 2 February 2006, 2008 and 2010 respectively, submitted in one document. For the tenth to thirteenth periodic reports and the summary records of the meetings at which the Committee considered the report, see document CERD/C/471/Add.2, CERD/C/SR.1794, 1795, 1810 and 1813.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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Introduction

1. The Government of Israel welcomes the opportunity to present its fourteenth periodic report to the Committee for the Elimination of Racial Discrimination in accordance with the requirements of article 9, paragraph 1(b), of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter, the "Convention" or "CERD"). This report describes the developments that have taken place since the submission of Israel's thirteenth report on 1 September 2005 (CERD/C/471/Add.2), taking into account the concluding comments adopted by the CERD Committee on June 14, 2007 (CERD/C/ISR/CO/13). In accordance with the reporting guidelines, this report builds upon Israel's previous reports. Accordingly, information and explanations that have been included in previous reports from the Government of Israel are not repeated in this Report, except where necessary.

2. In accordance with recommendation No. 41 to the concluding observations of the Committee on the Elimination of Racial Discrimination of June 14, 2007, (CERD/C/ISR/CO/1), all Israeli Government Ministries and institutions relevant to this Report were requested to supply data and information concerning their areas of operation. Israeli non-governmental organizations ("NGOs") were also invited to submit comments prior to the compilation of this Report, both through direct application and a general invitation to submit remarks posted on the Ministry of Justice's web site. Their contributions were given substantial consideration.

3. This Report was compiled by the Human Rights and Foreign Relations Department at the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other governmental agencies.

4. Racial discrimination is prohibited in Israel. The State of Israel condemns all forms of racial discrimination, and its Government has maintained a consistent policy prohibiting such discrimination. The Israeli Government has taken comprehensive measures to uphold the provisions of CERD since its ratification of this important instrument.

5. Since the submission of Israel's thirteenth periodic report to the Committee in 2005, many significant legislative, judicial and administrative developments relevant to the Convention have occurred. This Report provides a comprehensive account of these developments.

6. A short summary of several of the most significant policy and legislative developments that have occurred in Israel since Israel's last Report to the Committee is provided below. Please note that while it will naturally take time for some of the more recent developments to translate into concrete results, in many areas substantial new measures that give effect to the provisions of the Convention have already come into effect.

7. In accordance with recommendation No. 39 to the concluding observations of the Committee on the Elimination of Racial Discrimination of June 14, 2007, (CERD/C/ISR/CO/1), we would like to note that Israel routinely considers its position with regard to Article 14 of the Convention, but that based on the experience of other states and on the current work of the Committee, it does not consider it appropriate to accept this optional procedure at this time. Under Israel's domestic legal system, any alleged victim of violations has full access to seek effective redress and judicial review in Israeli courts, as well as in many other venues, as detailed in Israel's Core Document.

Legislative measures

8. Since the submission of Israel's thirteenth Periodic Report, significant new steps have been taken by the Israeli Parliament (the "Knesset") to promote tolerance and the elimination of racial discrimination in all its forms. Some noteworthy examples are cited below.

9. The *Prohibition of Violence in Sport Law* 5768-2008 (the "*Prohibition of Violence in Sport Law*"), came into effect on August 12, 2008. The new Law was enacted in order to facilitate safe and peaceful participation in sporting events, by broadening the definition of a racist display and facilitating training for security personnel, as well as by expanding their responsibilities and authorities. The Law further establishes a Committee for the Prevention of Violence in Sport geared towards the elimination of this phenomenon. Section 15 of the new law expands the offence, which was previously incorporated in Section 11A2, of the *Safety in Public Places Law* 5723-1962 (the "*Safety in Public Places Law*"), which prohibited racial expressions during sport events, by effecting several important amendments (please see further discussion in the section addressing Article 7 below).

10. In accordance with recommendation No. 29 to the concluding observations of the Committee on the Elimination of Racial Discrimination of June 14, 2007, (CERD/C/ISR/CO/1), which calls, *inter alia*, for increasing increase efforts to prevent racially motivated offences and hate speech, and to ensure that relevant criminal law provisions are effectively implemented, on February 25, 2008, Section 145 of the *Penal Law* 5737-1977 (the "*Penal Law*"), which refers to illicit association, was amended (Amendment No. 96) to include subsection 2A, which prohibits the gathering of people, associated or not, who preach, incite or encourage racism, including preaching, inciting or encouraging the principles of Nazism or the National Socialist Party. According to Sections 146 and 147 of the *Penal Law*, a person who preaches or encourages the activities forbidden in Section 145 will be sentenced to a maximum of three years' imprisonment, and a person of the age of 16 or over, who is a member, an employee or an agent of an illicit association will be sentenced to a maximum of one year's imprisonment.

11. In accordance with the Committee's recommendation No. 24 of June 14, 2007, (CERD/C/ISR/CO/1), amendment No. 1 to the *Pupil's Rights Law* 5761-2000 (the "*Pupil's Rights Law*") issued on December 22, 2004, amends Section 1. The *Pupil's Rights Law* stipulates that the purpose of the Law is to establish principles for the rights of pupils in the spirit of human dignity and the principles of the Convention on the Rights of the Child (CRC), while preserving the dignity of all: the pupil, the educational employee and the education institution staff. This, in addition to preserving the uniqueness of different kinds of educational institutions, and to encouraging the creation of an atmosphere of mutual respect in the educational institution community. The amendment also serves to amend Section 4 of the *Pupil's Rights Law*, stipulating that the Director General's Directive, as well as the school-principals guidelines, must include rules for the protection of dignity, discipline and the prevention of violence.

Judicial measures

12. The Supreme Court of Israel has played a pivotal role in the promotion of the principles enshrined in CERD through the development of jurisprudence dealing with contentious and highly charged political and security-related issues. Often, these issues also involve allegations of discrimination. As a result, the Supreme Court has issued a number of precedent setting decisions that have resulted in the modification of past practices.

13. In the criminal context, a number of criminal cases concerning incitement to racism and the commission of racist acts were decided by the Supreme Court as well as the lower courts, generally resulting in convictions.

14. On December 7, 2006, the Supreme Court rejected an appeal filed against a judgment given by the Jerusalem District Court, which convicted the two appellants with various charges of violence and assault of an Israeli Arab, and sentenced each of them to three years' imprisonment, six months' suspended imprisonment, and required each of them to make compensation to the victim, in the sum of 7,500 NIS (US$ 2,027). When imposing the sentence, the District Court attributed special gravity to the fact that the offences were racially motivated – the Court asserted that the racial element involved in the offences, must be reflected in the punishment as well. The Supreme Court reaffirmed this approach and emphasized that in a society which espouses the values of equality and protection of human rights, there is no room for such racially motivated crimes, and any such behavior is to be condemned and denunciated. In light of the above, the appeal was rejected (Cr.A. 9040/05, *Yitzhak Orion and Yehuda Ovadia v. The State of Israel*). Note that this decision is in accordance with the Committee's recommendation No. 30 of June 14, 2007, (CERD/C/ISR/CO/1), which, *inter alia*, calls on the State to guarantee an effective remedy against perpetrators of acts of racial discrimination or acts which are racially motivated.

15. In accordance with the Committee's recommendation No. 30, in November 2008, the Jerusalem District Court convicted eight defendants who were members of a Neo-Nazi group for crimes of incitement, including hate crimes. The defendants were convicted in the frame of a plea bargain, and sentences were handed down on November 23, 2008. The first defendant was sentenced to seven years' imprisonment; the second defendant was sentenced to three years' imprisonment; the third defendant was sentenced to 26 months' imprisonment; the fourth defendant was sentenced to five years' imprisonment; the fifth defendant was sentenced to four years' imprisonment; the sixth defendant was sentenced to three years' imprisonment; the seventh defendant was sentenced to 12 months' imprisonment and the eighth defendant was sentenced to three years' imprisonment. All of the defendants were also sentenced to 18 months' suspended imprisonment (*C.C. 40270/07 The State of Israel v. Boanitov Arik et al.* (23.11.08)).

16. In accordance with the Committee's recommendation No. 30, in the civilian context, a number of cases concerning discrimination were decided by the lower courts. Recently the Tel-Aviv Magistrate Court granted compensation in the amount of 60,000 NIS (US$ 16,216) for two individuals who were prevented from entering a public place on racial grounds. The Court found that entrance to the club was selective, since the selector conditioned entrance upon advance booking, while focusing on men with dark skin and eastern appearance. The court noted that the *Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law* 5761-2000 (the "*Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law*") is intended, *inter alia*, to implement the Convention. Therefore, preventing a person from entering a public place based on a suspicion that he/she will act violently, which suspicion is based on racial grounds, constitutes illegitimate discrimination. The Court emphasized that such discrimination exists even when it is not carried out sweepingly, and even when the owners of the place do not themselves harbor racial opinions but only fear potential economic losses. The Law prohibits racial discrimination regardless of the motivation behind it. The Court decided to mete out increased compensation, the maximum set by the Law, due to the difficulties of preventing discrimination based on economic motives, and in order to overcome the phenomenon of racial discrimination in public places, which has become a country-wide problem (*C.C. 43168/05 Zadok Eran et al. v. Shevah Shalosh Company Ltd. et al.* (26.9.09)).

17. On September 6, 2009, the Tel-Aviv Labor Court ruled that the requirement of serving military service set by Israel Railways Company as part of its requirements for employment of new supervisors constituted discrimination against citizens who do not serve in the IDF. The Court emphasized the importance of the right to equality and the

prohibition of discrimination, which form the basis of all other basic rights, as well as the values of democracy, and noted that the Law also prohibits indirect discrimination. (*C.M. 3863/09 Abdul-Karim Kadi et al. v. Israel Railways et al.* (6.9.2009)).

18. With respect to *H.C.J. 5601/00 Ibrahim Dwiri v. Israel Land Administration et. al.*, which was presented in Israel's thirteenth Periodic Report, it should be noted that the Israel Land Administration considered the counter opinion of the Dwiri family and decided on March 1, 2006, that they were entitled to purchase land on the Kibbutz. The Kibbutz filed a petition with the High Court of Justice against this decision, which petition was rejected by the Court on January 22, 2007 (please see further details in the section addressing Article 1 below). (*H.C.J. 7574/06 Hasolelim "Young Maccabi" Group for Cooperative Agricultural Settlement Ltd. et al. v. Israel Land Administration et al.* (22.1.07)).

Administrative measures

19. In accordance with the Committee's recommendation No. 31 of June 14, 2007, which, inter alia, calls upon the State party to consider the establishment of a national mechanism for redress of racial discrimination either as a specialized agency on racial discrimination or a national human rights institution, one of the key factors reflecting the State of Israel's commitment to comply with the basic principles enshrined in CERD in both a procedural and substantive manner is the establishment of the position of Minister of Minority Affairs in the current 32nd Israeli Government. The Minister is intended to be in a position in which he/she can better address and promote the situation of Israel's minority populations. The Minister in the Prime Minister's Office was also nominated as the Head of the Ministerial Committee of Minority Affairs (previously named the Committee for the Non-Jewish Population). The Minister's vision is of Inclusion and Equality, based on a strong conviction that inclusion in Israeli society shall result in equality amongst Israeli society (please see further details below).

20. In addition, over the past several years, the Government has made important inroads into improving the representation of the minority population within the civil service and government corporations. The Government instituted affirmative action programs and mandated specific target goals that would significantly increase the number of minority employees within public service bodies.

21. On March 21, 2010, the Government approved Government Resolution No. 1539, titled "Five Year Plan for the Economic Development of Minority Localities" (including Arab, Bedouin, Druze and Circassian local authorities). According to this Resolution, the plan will focus on the development of the economy, increasing employment, enhancing housing and real estate, providing transportation and ensuring personal safety and enforcement, in twelve chosen localities, encompassing a population of 370,000 people. The budget for the execution of the plan is 778.5 Million NIS (USD $210,405,405). The plan will be managed by the Authority for the Economic Development of the Arab, Druze and Circassian Populations within the Prime Minister's Office, and will include, among other activities: development of industrial zones, retraining of personnel and career change, funding for the building of new housing units and operation of public transportation.

22. The Government has also been active in addressing the rights of migrant workers. Changes have been implemented that more fully protect their rights, particularly *vis à vis* their employers. This has largely been instituted by a reform in the methods of employment, increasing the foreign workers' awareness of their rights, and the establishment of specific enforcement divisions within the relevant governmental authorities, which are provided with special training.

The Attorney General

23. On April 13, 2008, the Attorney General issued an opinion in which he ruled that Ramla Mayor Yoel Lavie cannot serve as Director General of the Israel Lands Administration (ILA) because of several racist statements he made to the media in 2006 which were directed against the Arab population. The Attorney General instructed the Minister of Construction and Housing to find another candidate to head the organization, which controls all the country's publicly-owned land.

Other measures

24. Several projects to promote understanding, tolerance and friendship among nations and populations are implemented in Israel, two examples of such projects are:

(a) Education Seminars by the "Peres Center for Peace", aimed to offer instruction to Palestinian and Israeli educators and teachers, in order to provide them with the educational tools to guide their pupils in dealing with issues related to the conflict, and allow them to implement peace building activities. Thus far, two seminars have been held, in which nearly 100 Israeli and Palestinian educators have taken part;

(b) Another project which is in accordance with the Committee's recommendation No. 22 of June 14, 2007, is the "*Mirkam Encounters in the Galilee*" – A joint initiative of the Abraham Fund Organization, the Ministry of Education and The Haifa, Acre and Ma'alot-Tarshihah Municipalities. The initiative intends to encourage a shared society in the mixed cities of the Galilee, by holding joint educational activities bringing together elementary school pupils, teachers and principals from ten pairs of Jewish and Arab schools. During the meetings, pupils learn about each other's culture, tradition and heritage, thus learning to appreciate and respect each other's perspectives and views.

25. The following Report addresses the main issues raised by the Convention since the submission of Israel's thirteenth Periodic Report, as well as the concerns raised by the Committee during the last session. Finally, this Report complies with the Committee's guidelines regarding the form and contents of reports to be submitted by states parties to the Convention. We trust that this report will facilitate the Committee's work and provide a more complete picture of the situation in Israel concerning the implementation of the Convention's provisions. We look forward to maintaining a constructive dialogue with the distinguished members of the Committee.

I. Article 2

A. Measures to eliminate racial discrimination

1. Measures taken to prevent discrimination by all public authorities and institutions

Overview

26. Racial discrimination is prohibited in Israel as required under Article 2(1)(a) of the Convention. Several Basic Laws, laws, and court rulings operate together to guarantee that no public authority or public institution engage in any act or practice of racial discrimination against persons, groups of persons or institutions. These prohibitions apply with equal force at the national and local levels, and all public authorities and institutions are required to comply with their directives.

(a) Judicial measures

27. Just as the Israeli legislature crafts and adopts both new laws and administrative measures to ensure that government agencies do not engage in any discriminatory act or practice, the country's independent judiciary serves to interpret, guide, and enforce these measures.

28. This judicial effort is guided by the Supreme Court, which has issued a number of landmark decisions against certain discriminatory practices of both government entities and private individuals.

29. As stated above, on December 7, 2006, the Supreme Court rejected an appeal filed against a judgment handed down by the Jerusalem District Court, which convicted the two appellants of various charges of violence and assault of Arab-Israelis, and sentenced each of them to three years' imprisonment, six months' suspended imprisonment, and required each of them to pay compensation to the victim in the sum of 7,500 NIS (US$ 2,027). When imposing the sentence, the District Court attributed special gravity to the fact that the offences were racially motivated by the Court asserted that the racial element involved in the offences, must be reflected in the punishment as well. The Supreme Court reaffirmed this approach and emphasized that in a society which espouses the value of equality and the protection of human rights, there is no room for such racially motivated crimes, and any such behavior is to be condemned and denunciated. In light of the above, the appeal was rejected (Cr.A. 9040/05, *Yitzhak Orion and Yehuda Ovadia v. The State of Israel*).

(b) Administrative measures

The Minister of Minority Affairs

30. The current Israeli Government (the 32nd Government) has appointed a Minister of Minority Affairs, whose position is intended to better address and promote the situation of Israel's minority populations. The Minister in the Prime Minister's Office was also nominated as the Head of the Ministerial Committee of Minority Affairs (previously named the Committee for the Non-Jewish Population).

31. The Minister's annual budget is 12 Million NIS (US$ 3,243,243) for the year 2009, and 20 Million NIS (US$ 5,405,405) for the year 2010. The Minister's vision is of *Inclusion and Equality*, based on a strong conviction that inclusion in Israeli society shall lead to equality amongst members of Israeli society.

32. The Minister commands a staff of eight persons, dedicated to promoting this vision of inclusion and equality throughout the Israeli society. In addition, the Minister is responsible for the Authority for the Economic Development of the Arab, Druze and Circassian Populations, which was established by Government Resolution No. 1204, (February 15, 2007), and the Minister is currently in the advance stages of forming a new division in the Authority, following the addition of six employees, three of whom have already been approved and three of whom are still to be assigned.

33. The Minister and his staff, who have been operating since April 2009, are in the process of better acquainting themselves with the facts on the ground — within the minority population, and in the sphere of the various Government Ministries and bodies — regarding specific aspects of issues relevant to minorities. Existing projects for improving the lives, socio-economic, and overall conditions of the minority population are being analyzed so as to best identify any existing obstacles, obstructions and failures and formulate and implement measures to best address them.

34. The Minister and his personnel work closely with the various Ministries and enjoy a close and productive interface with them, and endeavor to improve this level of co-

operation for the benefit of the minority populations. Moreover, the Minister is in the process of establishing working relations with the local authorities in minority localities, and is attempting (along with his team) to develop these relations, including by way of channeling specific applications from these authorities and from members of the minority population.

35. Another channel that is considered of the highest importance is NGOs from the minority population. In this regard, the Minister is investing significant efforts in empowering these NGOs through close and mutual cooperation.

36. Among the topics that the Minister is focusing upon:

(a) Higher Education – in accordance with the Committee's recommendation No. 27 of June 14, 2007, which, *inter alia*, calls upon the State to ensure that access to higher education is guaranteed to all without discrimination, the Minister, in his previous position as the President of Ben Gurion University located in the Negev, has contributed extensively to the immersion of the minority population of the Negev in the field of higher education, and continues to do so in his new role. This is pursued beginning with those at high school level, utilizing means such as vocational training, increasing the number of individuals entitled to matriculate, and reducing dropout rates; and at a later stage through specific programs, for instance scholarships – all conducted in full cooperation with the Ministry of Education;

(b) The Minister is striving to increase the rate of participation of members of the minority population in national-civil service, working side by side with the Public Commission for National-Civil Service in the Prime Minister's Office. Further, by increasing the extent of schooling allowed during the period of completion of such service, the Minister and Israeli Government are enabling the development of additional skills during the period of national-civil service;

(c) The Minister and his team are working in conjunction with the Ministry of Interior to promote the completion of outline plans in localities where minority populations reside, so as to bridge the gaps that currently exist between these localities, and the planning situation with respect to the overall population;

(d) In accordance with the Committee's recommendation No. 24 of June 14, 2007, the Minister is working with the Ministry of Construction and Housing towards promoting specific minority-oriented programs to better address the unique needs of the minority population in this area;

(e) The Minister and his team are also working in conjunction with the Ministry of National Infrastructure to alleviate infrastructure issues which exist in minority communities.

The Knesset Code

37. According to Section 134(c) of the Knesset Code, the Government chairperson and his/her deputies may refuse to authorize a bill they think is essentially racist or which denies the State of Israel's right to exist as the State of the Jewish people.

Attorney General guidelines regarding racial discrimination

38. As mentioned in Israel's thirteenth Periodic Report, all Government Ministries are required to operate in accordance with the guidelines prohibiting racial discrimination, which were issued by the Attorney General. Accordingly, any authority exercising any public function by virtue of the law is prohibited from discriminating on the basis of race, gender, religion, creed, political opinion or any other ground. All Ministries are prohibited from engaging in any form of racial discrimination in all aspects of their activities

(employment, services etc.). Furthermore, the Government is to take an active role in hiring women and minorities, especially via the imposition of affirmative action programs. All governmental bodies and government corporations are to actively pursue the hiring of women and minorities and achieve a fair representation of such groups.

39. As mentioned above, on April 13, 2008, the Attorney General issued an opinion in which he ruled that Ramla Mayor Yoel Lavie cannot serve as Director General of the Israel Lands Administration (ILA) because of several racist statements he made in 2006 to the media, which were directed against the Arab population. In his written opinion, the Attorney General has instructed the Minister of Construction and Housing to find another candidate to head the organization, which controls all the country's publicly-owned land.

The Attorney General refused to prosecute the Ramla Mayor prior to Lavie's candidacy for the position of Director-General of ILA for fear of infringing the right to freedom of speech. However, his decision demonstrates to public figures that racist remarks are not only abhorrent but also do not go unpunished.

Arab cooperative societies

40. All Israeli NGOs are treated equally. In 2007, The Registrar of Cooperative Societies published on its Internet web site a document in Arabic entitled "The Proper Administration of Cooperative Societies," which is a translation of a Hebrew document first issued in October 2002. Additionally, the Registrar employs an Arab lawyer who handles applications submitted in Arabic, a contract lawyer who is fluent in Arabic and is particularly involved in registration, and two Arab accountants who examine NGOs' files. The Registrar and its representatives took part in a number of conferences organized by Arab representatives and attended lectures concerning the different requirements of the Registrar in order to better facilitate the operation of Arab cooperative societies.

2. Not sponsoring or defending discrimination by persons or organizations

41. On July 9, 2008, The *Basic Law: The Knesset* was amended (amendment No. 39) in which Subsection (a1) was added to Section 7a. According to Subsection (a1), a candidate who resided in an enemy state illegally during the seven years prior to the submission of the list of candidates will be regarded as supporting the armed struggle against the State of Israel unless he/she has proven otherwise. It should be noted however that the exercise of the authority in Section 7a(a) to the Basic Law — disqualification of a candidates list — is to be carried out only in acute cases and the reasons for disqualification are to be interpreted narrowly.

42. Amendment No. 142 of March 23, 2007, to Section 1 of the *Cooling-Off Period for Persons Serving in the Security Forces Law* 5767-2007 (the "*Cooling-Off Period for Persons Serving in the Security Forces Law*"), also amended Section 56 to the *Knesset Elections Law* 5729-1969 (the "*Knesset Elections Law*"). According to Section 56, senior public servants, such as the head of Israel's Security Agency (ISA), Israel's Defense Force (IDF), Police officers with a rank of Major General and above, and the Israel Prisons Service (IPS) Commissioner may run for national election provided they leave office at least three years prior to the Election Day. However, for the purpose of an election which follows the abovementioned election, these persons may run for public office even if the three year period has not fully expired. Other senior public servants, IDF officers, Police or Prisons Service personnel may run for national election if they leave office at least 100 days prior to the elections (Section 56(a1)(3). Other less senior public servants and military personnel may run for elected office so long as they vacate their positions by the date of submission of the candidates list; if elected, they are deemed to have ceased their service so long as they remain members of the Knesset (Section 56(b)).

43. Israel's *Penal Law* also counters discrimination by prohibiting racial incitement and other related offences, and was recently amended so as to include an additional offence related to racial hatred.

44. On February 25, 2008, Section 145 of the *Penal Law*, which refers to illicit association, was amended (Amendment No. 96) so as to include subsection 2A, which prohibits the gathering of people, associated or not, that preach, incite or encourage to racism, including preaching, inciting or encouraging to the principles of Nazism or the National Socialist Party. According to Sections 146 and 147 of the *Penal Law*, a person who preaches or encourages the activities forbidden in Section 145 will be sentenced to a maximum of three years' imprisonment, and a person of the age of 16 or over, who is a member, an employee or an agent of an illicit association will be sentenced to a maximum of one year imprisonment.

3. Measures to review, amend, rescind or nullify governmental, national and local policies that create or perpetuate racial discrimination

(a) Legislative measures

Compensation for victims of hostilities

45. In accordance with the Committee's recommendation No. 30 of June 14, 2007, a recent amendment to *The Compensation for Victims of Hostilities Law* 5730-1970, (the "*Compensation for Victims of Hostilities Law*") passed on July 19, 2006, extends compensation under the Law to victims of terrorist attacks motivated by the Arab-Israeli conflict. Prior to the July amendment, the Law covered hostilities perpetrated by "enemy forces", but did not cover other hostilities.

46. The amendment to the Law adds the following grounds for compensation:

(a) Harm resulting from an act of violence, the main purpose of which is to harm a person due to his/her national-ethnic origin, provided that the act stems from the Arab-Israeli dispute;

(b) Harm resulting from an act of violence, the main purpose of which is to harm a person due to his/her national-ethnic origin, where the act of violence has been carried out by a terrorist organization, recognized as such under Section 8 of the *Terror Prevention Ordinance* – 1948, except for an organization that is a part of enemy forces, or where the said act of violence has been carried out in the service of or on behalf of such an organization.

47. The amendment also provides for the payment of compensation for damage to property resulting from an act of violence as described above, in accordance with regulations issued by the Minister of Finance, with the approval of the Knesset Finance Committee.

48. Eden Nathan-Zadah, allegedly a member of the Kach movement, who opened fired on a bus in Shfara'm in August 2005, killing four Israeli Arabs and wounding a dozen others – could not be considered as an "enemy", and thus the families of his victims could not be recognized as victims of terrorism under the *Compensation for Victims of Hostilities Law* and were not entitled to compensation under that law. However, the families of the victims were able to apply to a special committee authorized to grant compensation on an ad hoc basis, in situations not covered by the Law.

49. With regard to the Shfara'm terrorist attack, the victims' families together received a special payment of 100,000 NIS (US$ 27,027) from the Jewish Agency. Moreover, in its August and November 2005 sessions, the Knesset Finance Committee decided to make an

exception and recognize those who were directly harmed by the Shfara'm attack as victims of terrorism. Accordingly, compensation was granted in January 2006, for those whose property was damaged. With respect to the victims' families – the National Insurance Institute (NII) informed them of their right to receive compensation either from the Knesset Finance Committee or as a result of the amendment to the *Compensation for Victims of Hostilities Law*. All three families requested to be compensated by the Knesset Finance Committee.

Israeli identity cards

50. Until 2007, in all Israeli identification cards, the date of birth was registered according to the Gregorian calendar; but in identification cards belonging to Jews the date of birth was also stipulated according to the Jewish calendar. However, in November 2007, the *Population Registry Law* 5725-1965 (the "*Population Registry Law*"), was amended (Amendment No. 12) such that in all identification cards both dates appear, unless an individual specifically requests that his/her date of birth be presented only in accordance with the Gregorian calendar. This is geared towards removing an element that might have created an improper distinction and ensuring that all Israeli identity cards are similar.

Enhancing infrastructure within Israel's Arab localities

Planning scheme for the Arab population

51. In recent years, the Department of Planning in the Ministry of Interior, has initiated an extensive project towards the preparation of updated planning schemes for the majority of Arab localities. Note that according to the law, the responsibility for initiating and promoting local planning is that of the local authorities, however, the Government decision to take this responsibility upon itself (including funding) is a form of affirmative action for those Arab localities which are unable to take such steps independently.

52. The objectives of the project are:

- The improvement of the quality of life in the localities, including a significant increase in residential areas, areas of employment, open spaces, and public facilities as well as suitable infrastructure – in order to address the long-term needs of the localities
- The regulation of the planning situation, in order to meet the needs of the localities and their integration in the surrounding area
- The provision of a planning basis towards the integration of the minorities' localities in the socio-economic development of the Israeli society in general

53. Seventy (70.3) per cent of the Arab localities in Israel are included in the project (90 out of 128 localities). Most of the remaining localities (30 out of the remaining 38) have approved planning schemes, which adhere to their developmental needs; or are in the process of approving such a plan. In some of these localities, the planning schemes are promoted by the local authorities themselves.

54. Thus far, the planning stage has been completed in 62 localities and by the end of 2010, the planning stage shall be finalized in a total of 102 localities (out of 128).

55. To date, 60 Million NIS (US$ 16,216,216) has been allocated for the promotion of the planning project. It is notable, that in spite of wide-ranging cutbacks in the Ministries' budgets in the past few years, the budget allocated for this project has increased.

56. The project is supported by several Government Resolutions, and is based on the national planning policy as developed and adopted in the **NOP 35** – the National Outline

Plan for Construction, Development and Conservation. The national planning policy indicated new developmental trends in various localities, as well as diverse density rules based on the size of the locality, its social and economic status and its demography.

57. The planning schemes implement several fundamental principles:

- Solutions for anticipated population growth
- Designation of public areas for use as public institutions, green areas and infrastructure layout
- Designation of State land for construction which will benefit people who seek housing and the fulfillment of public needs
- Development of regional or joint employment areas in order to enhance the income of the various local authorities
- Creation of a framework of regional solutions in a variety of fields such as environmental protection, public transportation, burial etc.
- Adaptability to the special needs of the different populations and the uniqueness of each locality (for example: land ownership, preservation of the rural or urban character, preservation of traditions and religious values, commerce and occupation according to the needs of the locality, etc.)
- Creation of joint employment areas for Jewish and Arab local authorities in order to promote the economic integration of the Arab localities, and in order to increase the income of both Jewish and Arab local authorities

58. Note that the expansions of the Arab localities are much greater in comparison to the Jewish localities and reach an average of 60 per cent of the size of the locality and in certain cases even up to 100 per cent. In addition, the current total size of the Arab population in Israel is 1,450,000, out of which 1,280,000 (88 per cent) are included in the program (in comparison only 61 per cent of the Jewish population is included in the program).

59. Each plan is promoted by a professional planning panel, hired by the Department of Planning and accompanied by a broad steering committee, headed by representatives from the Department. Each committee includes representatives from the local authority, the relevant Ministries and the neighboring local authorities, the Jewish National Fund (JNF) (Keren Kayemeth Le'Israel), the Society for the Protection of Nature in Israel, and the Israel Nature and National Parks Protection Authority.

60. Stemming from the appreciation of the importance of the community’s involvement in the decision-making processes affecting its daily life and the nature of its place of residence, a special emphasis is placed on the participation of the local community in the planning process.

61. In addition to the full participation of the local leadership, the effort to include the local community in the planning process is carried out through diverse methods which are varied according to the character of the locality and its social structure. These include focus groups, distribution of questionnaires, the holding of open assemblies to present the plan and receive comments, etc.

62. The success of the planning project depends, first and foremost, on the assumption of responsibility by the local leadership, and its support of the project, promotion of detailed planning compatible with the planning scheme, execution of expropriation orders issued for public purposes, collection of fees and development of taxes and law enforcement against illegal construction. The Department of Planning in the Ministry of

Interior is doing its utmost in order to realize the improvement needed for all fractions of the Arab population in Israel.

63. Notice should be paid to the fact that most of the Arab localities have a planning scheme, even if not an updated one, which was initiated by the Government during the 1980's.

Recent developments

64. Given the importance of the promotion of planning in the Arab population, the State allocated a budget of 56 Million NIS (US$ 15,135,135) for the promotion of planning schemes for Arab localities for the years 2000 to 2005. In recent years, the Government had allocated an additional 25 Million NIS (US$ 6,756,756) for the promotion of planning schemes in the Druze, Circassian and Bedouin localities in the north and additional Arab localities in the south.

(b) Judicial measures

65. In the case of Association of Kfar Neve-Atid – Dahamsh, the Tel-Aviv District Court, residing as an Administrative Tribunal, discussed a petition regarding the planned regularization of the Dahamsh village. The village is located near the city of Ramla, and most of its houses were built unplanned and unlawfully. The village's infrastructure is not regulated and municipal services are not provided to its residents. Thus, over the years, the planning authorities worked to prevent illegal construction in the village, by issuing demolition orders and filing indictments. The petitioners, residents of the village, prepared a detailed plan for construction in the village and submitted it in July 2006 to the relevant planning and building committee. Yet, the plan was never discussed by the committee. The Court noted that the fact that the plan was not discussed, served to perpetuate the situation in which the petitioners were considered to be lawbreakers, and contradicted the *Planning and Building Law* 5725-1965 (the "*Planning and Building Law*"). The Court ordered the committee to discuss the plan, and noted that specific claims regarding demolition orders would continue to be heard in local courts (*Ad.P. 1037/07 The Association of Kfar Neve-Atid – Dahamsh et al. v. The "Lodim" Local Planning and Building Committee* (30.1.08)).

Amending discriminatory land allocation policies

66. In accordance with the Committee's recommendation No. 19 and 23 of June 14, 2007, and as mentioned in detail in Israel's thirteenth Periodic Report, in a landmark decision in *H.C.J. 6698/95 Ka'adan v. The Israel Lands Administration (ILA)*, the Supreme Court reaffirmed the Jewish agency's role in promoting the development and fulfillment of Israel's values and goals. In particular, Chief Justice Barak asserted that the Agency played a major role in Israel's establishment, and that its many efforts to develop the State should not go unrecognized. The unique status that the Jewish Agency holds in Israeli life is reflected in Israeli legislation, where Section 3 of the *Status of World Zionist Organization and the Jewish Agency for The State of Israel Law* 5713-1952, provides that the two bodies shall strive, as they did before the enactment of the Law, to promote Jewish immigration to Israel and to co-ordinate absorption and accommodation projects.

67. The Court held in the *Ka'adan* case that the State may not allocate land directly to its citizens on the basis of religion or nationality. Following the Court's decision, the ILA adopted a decision setting out new admission criteria to be applied uniformly to all applicants seeking to move into small, communal localities established on state-owned lands.

68. On June 24, 2006, the World Zionist Organization (WZO) decided that the Jewish Agency is obligated to include Arab-Israelis in its development plans for the State,

including Muslims, Christians, Druze and Circassians. The annual budget allocated for these plans is currently 60 Million NIS (US$ 16,216,216) and it is expected to grow.

69. Following the above mentioned petition and a number of other petitions submitted in 2004 to the Supreme Court with respect to the issue of transferring rights in real estate property, which is owned by the Jewish National Fund, to non-Jewish persons, and given the opinion released by the Attorney General according to which the ILA is bound by the principle of equality even when managing the lands of the JNF, the ILA and the JNF signed an agreement of principles according to which the JNF would receive lands in the Negev and the Galilee, in return for the conveyance of lands in Israel's central area. The agreement was signed on June 7, 2009, and was approved by the general assembly of the JNF on June 23, 2009. The new land rotation agreement allows the conveyance of lands managed by the Israel Land Administration for every lease, with no regard to the lessee's nationality, in a manner which respects both the principle of equality and achieves the aims of the JNF. In addition, it was agreed to reduce the number of JNF representatives in the future ILA which will replace the current Israel Land Council.

70. The reform in the Israel Land Administration was further promoted by Amendment No. 7 of August 3, 2009 to the *Israel Land Administration Law* 5720-1960 (the "*Israel Land Administration Law*"). The Amendment allows for the conveyance of lands managed by the ILA, to its lessees, who will be able to take any action with respect to the property, even in the absence of the ILA's approval.

71. The Israel Land Administration continues to operate in accordance with the Supreme Court's ruling of 1995 in the Ka'adan Case, according to which the principle of equality also applies to the allocation of real-estate property by the State. Thus, on July 27, 2005, the Israel Land Council approved Directive No. 1064 which updates Directive No. 1015 of August 1, 2004, and refers to the criteria for the acceptance of candidates for the purchase of rights to lease real-estate in agricultural and communal localities. The Directive contains a closed list of legitimate criteria on which to assess eligibility, including criteria regarding special characteristics of these localities, if such exists, on condition that these criteria are approved in advance by the Administration and after the approval of the Registrar of Associations, as well as a review procedure of the decision by way of appeal to the Israel Land Administration (ILA). The Ministry of Justice and the ILA continue to work together in order to examine potential improvements to Directive No. 1064.

72. In March 2010, Directive No, 1195 was approved, which further limits the grounds for refusing to accept new candidates in agricultural and communal localities with up to 500 families. According to this Directive, among other criterions, in localities with more than 120 families, a refusal may be based on avoiding harm to the daily life of the community. Refusal to accept a new candidate in smaller localities according to this criterion may be done only if the new candidate is not suitable to the social life of the community (after professional examinations). In addition, according to Directive No. 1195, an additional criterion was added for rejection of candidates – a candidate may be rejected if his/her acceptance will result in the creation of a sub-community within the locality in a way that will substantially harm the character of the community.

73. With regard to *H.C.J. 5601/00 Ibrahim Dwiri v. Israel Land Administration et. al.*, presented in Israel's thirteenth Periodic Report, it should be noted that the Israel Land Administration considered the counter opinion of the Dwiri family and decided on March 1, 2006, that they are entitled to purchase land in the Kibbutz that was in question. The Kibbutz filed a petition with the High Court of Justice against the decision, which was dismissed by the Court on January 22, 2007. The Court accepted the ILA's position as reflected by Directive No. 1064, and ruled that the ILA is not bound by the criteria of acceptance established by an examination committee of a communal locality, and is authorized to intervene when required, in accordance with the *Israel Land Administration*

Law and the Court's previous rulings. A request for a further hearing was also denied by the Court on March 14, 2007 (*H.C.J. 7574/06 Hasolelim "Young Maccabi" Group for Cooperative Agricultural Settlement Ltd. et al. v. Israel Land Administration et al.* (22.1.07)).

74. Several petitions were filed with the High Court of Justice concerning Directive No. 1064, requesting the elimination of the involvement of committees, following the denial of the petitioners' requests to be accepted to a communal locality on the ground of incompatibly with the communal way of life. In the State's response to the petitions it was argued that the criterion included in Directive No. 1064, which allows committees to consider the applicant's suitability to the social life of the community, is an appropriate criterion that promotes the unique fabric of communal life while preventing discrimination based on illegitimate grounds when acquiring proprietary rights in State land. The petitions are still pending (*H.C.J. 3552/08 David Kempler et al. v. Israel Land Administration et. al.; H.C.J. 8036/07 Fatna Abric-Zbidat et al. v. Israel Land Administration et. al.*).

Other

75. Recently, the "Heshvan 12th – the Movement for Reinforcement of Tolerance in Religious Education" Association, petitioned the High Court of Justice for an injunction against the Attorney General ordering him to justify why no indictments were filed against the Rabbis Itzhak Shapira and Yossef Elitzur for incitement to racism, violence and for calls for rebellion. The petition concerned the book entitled "The King's Torah," which was written by the two Rabbis and contains incitement for racism and calls for violence against non-Jews. On December 20, 2009, the Court ordered the State to submit its response and the case is still pending (*H.C.J. 10143/09 "Cheshvan 12th – the Movement for Reinforcement of Tolerance in Religious Education" et al. v. The Attorney General et. al.*).

4. Measures to end discrimination by individuals and organizations

76. Racism, in its various manifestations is considered a criminal offence in Israel, as discussed in the section dealing with Article 4 below.

(a) Legislative measures

(i) Increasing proportional representation in Israel's Civil Service and within governmental corporations

Civil Service

77. The *Civil Service (Appointments) Law* 5719-1959 (the "*Civil Service (Appointments) Law*") requires that the Israeli civil service maintain fair representation in terms of appointments. According to the Law, the Government is entitled to apply an affirmative action policy so as to allocate certain positions to under-represented groups for the purpose of attaining fair representation.

78. In 2000, the *Civil Service (Appointments) Law* was amended (Amendment No. 11) in order to ensure that minorities and under-represented populations such as women, persons with disabilities, and the Arab, Druze and Circassian populations are represented in the Civil Service according to their proportion in the eligible work force population. The Law requires appropriate representation of the various groups throughout the Civil Service, at all levels and in all professions.

79. The *Civil Service (Appointments) Law* was amended in 2005, in order to include persons of Ethiopian origin among the various groups entitled to appropriate representation in the Civil Service. Following this amendment, the Government accepted Resolution No.

1665 concerning the allocation of positions in the Civil Service for persons of Ethiopian origin and affording them priority in appointments and promotions.

Government corporations

80. As stated in Israel's thirteenth Periodic Report, under Amendment No. 11 of May 30, 2000, to the *Government Corporations Law* 5735-1975 (the "*Government Corporations Law*"), the Arab population (defined as including people of Druze and Circassian origin) must be appropriately represented on the board of directors of every government corporation and statutory corporation. In January 2001, the rate of Arab representation in governmental corporations reached only 3.2 per cent (22 out of 695 directors). In January 2007 that rate reached 12.61 per cent (57 out of 452 directors, 10 of whom (1.91 per cent of the total) were women). The rate of directors in governmental corporations who are of Arab origin (including Druze and Circassian) decreased in 2008 to 8.02 per cent (47 out of 586).

81. In addition, the Law prescribes that until appropriate representation is achieved, Ministers will appoint Arab directors to the extent possible according to the relevant circumstances. Section 60A of the *Government Corporations Law* extends the application of Amendment 11 to encompass the appointments of directors to the board of statutory corporations and other statutory organizations.

82. Section 18(a)(1) of the Law mandates the directorate of government corporations to reflect the governmental policy of fair representation. Moreover, the amendment empowers the Government to do its utmost to appoint directors from the Arab population until the goals of the amendment are achieved. The Attorney General has provided Government Ministers with guidelines regarding the implementation of the new standards. In addition.

83. The Committee for Examination of Appointments According to the *Government Corporations Law* (operating since 1993) and the Prime Minister's Office established a database of potential Arab candidates who qualify for senior government corporation positions. The information was brought to the attention of every Minister. Additionally, efforts exist to create an official database of qualified minority candidates for senior government corporation positions.

(ii) The Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law 5761-2000

84. In accordance with the Committee's recommendation No. 21 of June 14, 2007, which addresses the need to adopt measures to ensure that access to public services is guaranteed to all without discrimination, whether direct or indirect, based on race, color, descent, or national or ethnic origin, the enactment of the Law has substantially limited the possibility of discrimination occurring in the private sector. Section 3 of the *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*, prohibits discrimination on the basis of race, religion or religious affiliation, nationality, country of origin, gender, sexual orientation, views, political affiliation, personal status, or physical disability in the provision of public products or services, and in the admittance to a public place, by an individual who provides such products or services, or operates a public place. Violation of this prohibition is both a civil tort and a criminal offence, and according to Section 5(a) of the Law, the *Tort Ordinance* 5728-1968 (the "*Tort Ordinance*"), applies to such civil tort. Moreover, Section 5(b) allows the court to grant compensation of no more than 50,000 NIS (US$ 13,513), without proof of damage, due to a violation of this Law. Section 11 applies the provisions of this law to the State as well and has been interpreted broadly as applying to a host of public places, including schools, libraries, swimming pools, stores, and all other places serving the public. Court decisions have routinely upheld this broad interpretation of the law.

(iii) The Patient's Rights Law 5756-1996 ("The Patient's Rights Law")

85. In accordance with the Committee's recommendation No. 21 of June 14, 2007, and as mentioned in Israel's thirteenth Periodic Report, Section 4 of the *Patient's Rights Law* stipulates that a health care provider may not discriminate against patients on the basis of religion, race, gender, nationality, country of origin, sexual orientation or for any other reason.

(iv) The 2006 Amendment to the Equal Employment Opportunities Law 5748-1988 ("The Equal Employment Opportunities Law")

86. In accordance with the Committee's recommendation No. 31 of June 14, 2007, according to a 2006 Amendment to the *Equal Employment Opportunities Law*, the Equal Employment Opportunities Commission was established, within the Ministry of Industry, Trade and Labor (hereinafter: "the Ministry of ITL"). The Commission is charged with the promotion, implementation and civil enforcement of the following laws and statutory provisions: *Equal Employment Opportunities Law*; *Male and Female Workers (Equal Pay) Law* 5756-1996 (the "*Male and Female Workers (Equal Pay) Law*"); *Women's Employment Law* 5714-1954 (the "*Women's Employment Law*"); *Prevention of Sexual Harassment Law* 5758-1998 (the "*Prevention of Sexual Harassment Law*") (in relation to employment) and other statutory provisions relating to: discrimination on religious grounds and army reserve duty, discrimination by public and private employment agencies, affirmative action for women, people with disabilities, Israeli-Arabs and persons of Ethiopian origin in the public sector and legislation protecting workers who "blow the whistle" regarding violations of the above laws and statutory provisions.

87. On August 1, 2007, the Employment Service issued a Directive regarding the prohibition against discrimination, in accordance with Section 42(a) of the *Employment Service Law* 5719-1959 (the "*Employment Service Law*"), and Section 2 of the *Equal Employment Opportunities Law*. The Directive was distributed to the Employment Service's workers, who also received relevant training on this issue.

(b) Judicial measures

Prohibiting discrimination by private enterprises

88. In a case of prohibited discrimination, on September 6, 2009, the Tel-Aviv Labor Court ruled that the requirement of the Israel Railways Company that a prospective supervisor have served military service constituted discrimination toward citizens who do not serve in the IDF. Moreover, the Court noted that the amendments made to these demands of the Israel Railways Company following the onset of the trial (professional experience of 18 months shift work; and employment experience in an hierarchic organization), were not sufficient, as the criteria still afforded army veterans a significant advantage, while the job itself did not demand these requirements. The Court emphasized the importance of the right to equality and the prohibition of discrimination, which constitute the basis of all other basic rights and values inherent in a democracy, and noted that the law also prohibits indirect discrimination. Thus, the Court accepted the request for an injunction against the dismissal of several Arab employees, who were dismissed on the basis that they had not served in the IDF. In doing so the Court accepted the opinion submitted by the Equal Employment Opportunities Commission, according to which Israel Railways Company had failed to show that the new employment criteria were demanded by the character and essence of the employment positions, and that they are did not constitute discrimination against persons who did not serve in the IDF (*C.M. 3863/09 Abdul-Karim Kadi et al. v. Israel Railways et al.* (6.9.2009)).

89. In another case, the Tel-Aviv Magistrate Court ruled in favor of an award of compensation in the amount of 60,000 NIS (US$ 16,216) for two individuals who were prevented from entering a public place on racial grounds. The Court found that the entrance to the club was selective, since the selector conditioned entrance upon advance booking, while focusing on men with dark skin and eastern appearance. The Court noted that the *Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law* is intended, *inter alia*, to implement the International Convention on the Elimination of All Forms of Racial Discrimination. Therefore, preventing a person from entering a public place on the basis of a suspicion that he/she will act violently, which suspicion is based on racial grounds, constitutes illegitimate discrimination. The Court emphasized that such discrimination exists even when it is not carried out sweepingly, and even when the owners of the place do not hold racist opinions but only fear potential economic losses. The Law prohibits racial discrimination regardless of the motivation for it. The Court finally decided to order an increased amount of compensation, above the maximum set by the Law, due to the difficulties of preventing discrimination based on economic motives, and in order to overcome the phenomenon of racial discrimination in public places, which has become a country-wide problem (*C.C. 43168/05 Zadok Eran et al. v. Shevah Shalosh Company Ltd. et al.* (26.9.09)).

90. In another case, on August 17, 2006, the Haifa District Court ruled that the requirement of the University of Haifa that prospective students have served military service as part of its application for dormitories discriminated against Israeli citizens who do not serve in the IDF. The university explained, *inter alia*, that this requirement was not a morally based requirement, but an economic criterion, since those who serve in the IDF were unable to work during their service and accumulate the necessary resources to fund other housing solutions. The Court held that such a requirement discriminates between students in the Jewish population and students in the Arab population and noted that according to the law, every Israeli citizen is obligated to serve military service, however in practice Non-Jewish persons are not called for service and their options to volunteer are limited. The Court stated that the actual result of such a criterion in the allocation of dormitories is discrimination against Israeli Arabs. The Court therefore ordered the university to remove this as a criterion for the allocation of housing in dormitories. The university submitted an appeal which is still pending. (*O.M. 217/05 Hanin Naamne v. The Haifa University* (17.8.06)).

5. Measures to encourage integrationist multiracial organizations

91. There are a number of multiracial organizations in Israel, principally operating with the goal of enhancing cross-cultural understanding and co-existence. As discussed further in the section dealing with Article 7 of the CERD below, the activities range from youth orchestras to educational centers such as Givat Haviva etc.

B. Social, economic, and cultural measures to ensure development and protection of racial groups

92. In line with the judicial and legislative measures and policies outlined above, the Government of Israel has turned its attention to developing proactive policies aimed at encouraging the development of racial groups, enhancing diversity, and preserving ethnic traditions and cultures.

Plans to extend equality to various social, cultural and economic arenas

93. As detailed in Israel's thirteenth Periodic Report, in October 2000, the Government consolidated a comprehensive multi-year plan addressing all aspects of development for the

Arab population (hereinafter: "the 2000 multi-year plan"). The 2000 multi-year plan operated from 2001 until December 31, 2004, during which time the Government successfully implemented 87 per cent of the plan.

94. Although the recent economic situation has led the Government to make overall cutbacks, figures show that during 2001 and 2002, the plan's implementation rate was 90 per cent, in 2003 – 81 per cent, and in 2004 – 85 per cent.

95. Incomplete implementation of the plan in some cases is due to the aforementioned cutbacks, as well as bureaucratic barriers and budget deficits in some of the municipalities where cooperation was required for the successful implementation of the plan.

96. In accordance with the Committee's recommendation No. 24 of June 14, 2007, which *inter alia*, recommends that the State party increase its efforts to ensure the equal enjoyment of social, economic and cultural rights. that the State party increase its efforts to ensure the equal enjoyment of economic, social and cultural rights by Arab Israeli citizens, in August 2006, the Government resolved to implement two additional multi-year plans (2006–2009) for the socio-economic development of Arab localities in the North, particularly concerning education, housing and employment. These plans were approved in the form of Resolution No. 412 on the development of the Druze and Circassian populations, in the amount of 447 Million NIS (US$ 120,810,811), and Resolution No. 413 for the development of the Bedouin population, in the amount of 318 Million NIS (US$ 85,945,946).

97. The process of consolidation of the multi-year plans by the Government lasted for several months, as the preparations of the plans involved the heads of the Druze, Circassian and Bedouin municipalities respectively, as well as representatives of the relevant Government Ministries. Additional input was sought from a wide range of sources.

98. The new development plans focus on three main issues: investment in human resources, with a special emphasis placed on the empowerment of women, economic development, and employment – including the development of tourism as a source of income.

99. The budget required for the implementation of the plans was allocated by the relevant Government Ministries, in addition to a special budget from the Prime Minister's Office designated for the minority population. The current implementation rate of both Resolutions is 88 per cent.

100. Note that these plans build on previous multi-year plans implemented and completed since the submission of Israel's thirteenth Periodic Report.

101. Furthermore, Government Resolutions No. 412 and No. 413 are supplemental to the development budgets that the Ministry of Interior allocates to local municipalities, the subsidies given to retired soldiers in purchasing land plots and housing construction, and segments of the budget set aside for the rehabilitation of Northern Israel, adopted following the Second Lebanon War.

102. Concerning the Bedouin population in the Negev in the South, reference should be made to the aforementioned National Strategic Plan for the Development of the Negev. The Plan was devised, in part, to assist the Bedouins living in the Negev. For example, one of the plan's goals is the creation of approximately 20,000 jobs for the Negev population within 10 years. In pursuit of this end, the plan seeks to encourage the founding of businesses and the creation of employment within the Bedouin population through the provision of financial assistance to entrepreneurs, vocational training and developing commercial areas and joint industry zones.

103. In addition, Government Resolution No. Arab/40 3956 of July 18, 2005, provided a total budget of 387.7 Million NIS (US$ 104,783,784) for the development of infrastructure and building public structures in Abu-Basma and Al Sid between 2005 and 2008. The budget includes 285 new school and kindergarten classrooms, targeted and specialized education programs (3 Million NIS (US$ 810,811), the paving of new roads (50 Million NIS (US$ 13,513,514)), sewage, water and electrical infrastructures (44 Million NIS (US$ 11,891,892)), general planning (90 Million NIS (US$ 24,324,324)), industrial area planning and development, employment and business entrepreneurship (20 Million NIS (US$ 5,405,405)), building public institutions (16 Million NIS (US$ 4,324,324)), as well as investment in health, welfare, religion, agriculture and more.

104. Government Resolution No. 4088 of September 14, 2008 extended the duration of resolution No. 3956 until the end of 2009, in order to use the remaining budget allocated for the abovementioned plans.

105. In accordance with the Committee's recommendation No. 24 of June 14, 2007, on March 21, 2010, the Government approved Government Resolution No. 1539, titled "Five Year Plan for the Economic Development of Minority Localities" (including Arab, Bedouin, Druze and Circassian local authorities). According to this Resolution, the plan will focus on four main issues: the development of economy and employment, housing and real estate, transportation, and personal safety and enforcement in twelve chosen localities encompassing a population of 370,000 people. The budget for the execution of the plan is 778.5 Million NIS (USD $210,405,405). The plan will be managed by the Authority for the Economic Development of the Arab, Druze and Circassian populations within the Prime Minister's Office, and will include, *inter alia*: the development of industrial zones, retraining of personnel and career change, funding for the building of new housing units and operation of public transportation.

The Prime Minister's Office

106. **Investment Fund for Businesses in the Arab Population.** In December 2006, the Director General of the Prime Minister's Office (PMO) announced the decision to establish a private equity fund, in cooperation with the private sector geared towards the Arab population. The fund will invest an overall sum of 160 Million NIS (US$ 43,243,243) over a period of seven to ten years in businesses located in Arab localities. Any factory, company or business will be able to apply for an amount of between two to four Million NIS (US$ 540,541–$1,081,081) in financing, thus enabling 40–80 companies to receive financial assistance in exchange for stocks.

The fund's purposes are, *inter alia*, to encourage investment in the Arab population while reducing the risks for investors, to develop and improve businesses while providing administrative and business acumen, to assist in creating new businesses, to create a meeting place to bring together sources of capital and know-how in the private market and the Arab population, to fully exhaust the unrealized entrepreneurial potential in the Arab population, to fully utilize human resources, and to increase the Arab population's involvement in business.

The Ministry of Defense

107. Currently there are approximately 900 soldiers of the Arab population serving in the Israel's Defense Force (IDF), of which, 73 per cent are the Bedouins, 17 per cent are Muslim Arabs and 10 per cent are Christian-Arabs. In addition, 39 per cent of these soldiers are ranked as corporals, 18 per cent are ranked as sergeants, 7 per cent are ranked as first sergeants, 1 per cent are ranked as first lieutenants, and 15 per cent as Academic Professional Officers. Of these soldiers – 61 per cent have combat duties, 14 per cent have driving duties, 11 per cent serve in the courses alignment, 8 per cent serve in administrative

positions, 5 per cent in technical alignment and 1 per cent serve as officers in regular service.

108. There is no obligatory draft requirement for members of the Arab population – drafting is voluntary and currently stands at only 6 per cent of the draft potential.

109. However, the *Defense Service Law* 5746-1986 does apply to members of the Druze and Circassian populations. The rate of recruitment among the Druze population is high and in 2008 stood at 83 per cent. 58 per cent of the Druze soldiers serve in combat positions. 4 per cent of the total number of officers and Non-Commissioned-Officers are of the Druze population (3 per cent officers and 5 per cent Non-Commissioned-Officers). The top ranks of officers of the Druze populations are Major General (1), Brigadier General (2) and Colonel (5).

The Ministry of Interior

110. In accordance with the Committee's recommendation No. 24 of June 14, 2007, the National Outline Plan (NOP) no. 35 that was approved in 2005, gives clear preference to the Negev and Galilee areas, in which the majority of the Minority population resides, and enables new forms of expansion for all localities and establishes new density rules according to the size of the locality, its socio-economic situation and its demographic structure. The leading principle of NOP 35 concerns the communal-religious specification of each locality and reinforcing their integration within the State of Israel. In addition, other NOPs which deal with various national infrastructure systems such as roads, railways, gas lines, water pipes, sanitation etc., make such infrastructures more accessible to peripheral areas in general, and specifically to Arab localities.

111. Local planning schemes include references to infrastructure systems in the various localities and their surrounding areas. In addition to planning infrastructure systems within each locality, the plans explore the possibility of integrating each locality into the national infrastructure layout, and sometimes even expanding the national infrastructure layout to that end. Thus, for example, planning procedures in Arab localities in central Israel (Tira, Klansawa and Taibe) led to the establishment of additional railway stations on a national line, which serves Arab localities nearby. A similar examination is currently being conducted regarding other localities in Wadi-Ara in the north.

The Ministry of National Infrastructures

Administration for sewage infrastructures – Arab population

112. In accordance with the Committee's recommendation No. 24 of June 14, 2007, as part of the abovementioned 2000 multi-year plan, extensive sewage infrastructure projects were completed in 73 Arab localities (affecting a total of 700,000 residents).

113. In July 2005, the Government approved Resolution No. 3958, in which it was resolved, in continuation of Resolution No. 1328 of January 14, 2004, to update the assistance program for minority localities and allocate an additional 400 Million NIS (US$ 108,108,108) (of which 50 per cent is in the form of a Government loan) for treating sewage in the years 2005–2007.

114. On February 4, 2007, the Government consolidated an additional multi-year plan to promote and assist in the construction and development of sewage infrastructure in Arab, Druze and Circassian localities, as well as Bedouin localities in the North (Government Resolution No. 1140). The multi-year plan is to be implemented in the years 2007–2011, and a total budget of 400 Million NIS (US$ 108,108,108) (of which 50 per cent is in the form of a Government loan) was allocated to that end. According to the Government Resolution, as a prerequisite for the implementation of the plan, the localities are required

to establish Water and Sewage Corporations, as stipulated in the *Water and Sewage Corporations Law* 5761-2001 (the "*Water and Sewage Corporations Law*"). Progress has been made towards the establishment of Water and Sewage Corporations by the localities, however they have yet to be completed.

115. Both of the Government Resolutions mentioned above are in addition to an additional budget of 400 Million NIS (US$ 108,108,108) that was allocated in 2000, for treating sewage, thus making the total budget for treating sewage from the year 2000 and up to 2011 – 1.2 Billion NIS (US$ 324,324,324).

Administration for sewage infrastructures – Bedouin population

116. Government Resolution No. 3956 (Arab/40) of July 18, 2005, established a total budget of 387.7 Million NIS (US$ 104,783,784) for the development of infrastructures and building public structures in Abu-Basma and Al Sid localities between 2005 and 2008. The budget included 44 Million NIS (US$ 11,891,892) (of which 50 per cent is in the form of a Government loan) for development of water and sewage systems. The implementation of this resolution was delayed due to the slow population of these localities and for difficulties the localities encountered in returning the loan.

117. On October 11, 2007, the Government consolidated an additional multi-year plan to promote and assist in the construction and development of sewage infrastructure in the Bedouin localities in the Negev area (Government Resolution No. 2428). According to the Government Resolution, as a prerequisite condition for the implementation of the plan, the localities were required to establish Water and Sewage Corporations, as stipulated in the *Water and Sewage Corporations Law*. However such corporations have yet to be established.

118. In March 2010, the Be'er Sheva District Court approved an agreement between Kssaife local authority and "Adam, Teva V'din – The Israel Union for Environmental Defense" regarding arrangements of the Kssaife sewage system. The finalization of the sewage system was delayed due to the objection of one of Kssaife's residents to the laying of the sewage pipe near his property. According to the agreement, the head of Kssaife locality and the local authority shall take all necessary steps to complete the building of the sewage line by June 2010. The agreement was reached after concluding that the area in question does not belong to the objecting resident.

Development of road infrastructure

119. In accordance with the aforementioned multi-year plan of October 2000, between the years 2001 and 2004, the Ministry of Transport and Road Safety allocated a budget of 180 Million NIS (US$ 48,648,649) for the development of intra-municipal road infrastructure and safety projects (45 Million NIS per year), and a budget of 325 Million NIS (US$ 87,837,838) for the development of inter-municipal road infrastructure (81.25 Million NIS – US$ 21,959,459 per year) in various Arab localities.

120. During the years 2005–2007, the Ministry of Transport and Road Safety continued to advance the development of intra-municipal infrastructure in Arab localities. Furthermore, the Ministry continues to develop inter-municipal infrastructure through the allocation of budgets to the local municipalities towards their development of infrastructure in their jurisdiction, or through management companies. During these years, 94,386,900 NIS (US$ 25,509,973) was allocated for development projects for the Druze and Circassian population, 69,652,880 NIS (US$ 18,825,102) for projects in the Bedouin towns in the North, 34,790,000 NIS (US$ 9,402,703) for the Bedouin towns in the Negev and 230,448,321 NIS (US$ 62,283,330) towards Arab localities.

121. During the first half of 2008, the Ministry of Transport and Road Safety allocated a budget of 52.2 Million NIS (US$ 14,108,108) towards the development of intra-municipal infrastructure, from which 7.8 Million NIS (US$ 2,108,108) was allocated to Bedouin localities in the Negev, 11.8 Million NIS (US$ 3,189,189) to Bedouin localities in the North, 6.1 Million NIS (US$ 1,648,649) to Druze and Circassian localities and 26.4 Million NIS (US$ 7,135,135) to Arab localities. Furthermore, during this period of time, the Ministry allocated an additional 29.3 Million NIS (US$ 7,918,919) for the development of infrastructure and safety projects in these localities.

122. According to the Ministry's estimates, as of December 2008, the Ministry has allocated a further 20 Million NIS (US$ 5,405,405) for additional funding of uncompleted projects.

123. The inter-municipal infrastructure development is performed by 'Ma'atz' – Israel National Road Company Inc., in accordance with a five-year plan which sets out the projects to be completed. The current plan is for the years 2005–2009. According to the five-year plan, 2.333 Billion NIS (US$ 630,540,541) was allocated for the development, maintenance and reconstruction of inter-municipal infrastructure in the Arab localities.

124. According to information provided by 'Ma'atz', by the beginning of 2008, a total of 315.26 Million NIS (US$ 85,205,405) was invested in the development of inter-municipal infrastructure in the minorities' localities. An additional amount of 1.0111 Billion NIS (US$ 273,270,270) will be allocated for the completion of remaining projects. Furthermore, during 2008–2009, another 1.0065 Billion NIS (US$ 272,027,027) will be allocated according to the five-year plan, for the development, maintenance and reconstruction of inter-municipal infrastructure in minorities' localities.

The Ministry of Industry, Trade and Labor (ITL)

Development of industrial zones

125. The Ministry of ITL has recently announced that Grants to companies and firms made by the chief scientist in the Ministry of Science and Technology will be conditioned upon the firms' undertaking to protect their employees' rights. The budget of the chief scientist for purposes of research and development is approximately 1.4 Billion NIS (US$ 378,378,378) annually. In addition, the companies shall have to show that they have not been convicted or fined for violations of their employees' rights, for example for the dismissal of a pregnant employee, for paying wages under the minimum wage etc. The firms have to guarantee to protect employees' rights according to the relevant laws and agreements. Firms that were convicted within the last three years, or more than twice in the year prior to the submission of a request for a grant, will not qualify to receive the grant.

126. In accordance with the Committee's recommendation No. 24 of June 14, 2007, one of the Government's central goals is to increase the participation rate of the Arab population in the workforce, thus increasing the number of employed and wage-earners. The employment potential of the Arab population is further increased by a greater participation rate of Arab women in the workforce. Within this framework, the Ministry of ITL is utilizing a number of tools to increase the number of Arab women participants in the workforce including professional training programs, employment tracks, entrepreneurship etc. In addition, the Authority for Advancement of the Status of Women has taken several steps to increase the percentage of Arabs employed, especially among women. This includes cooperation with business development centers to develop entrepreneurship programs for women, professional training programs, and loans or small businesses related to home industry. In order to improve accessibility for Arab women, a municipal project has been formed in order to establish new industrial areas and expand existing ones etc.

The Ministry of Tourism

127. In the last decade the Government has invested extensive efforts towards developing tourism as a source of employment and income among the Arab population, as part of the general effort to promote and advance economic prosperity in the Arab population, thus bridging the gaps with the Jewish population. Accordingly, in the 2000 multi-year plan and the two additional multi-year plans for the development of the Arab population in the North, emphasis was placed on this issue and the required budget was allocated.

128. Between the years 2000 and 2008, the Ministry of Tourism invested 21,173,000 NIS (US$ 5,722,432) towards the development of tourism infrastructure in Arab localities. The Ministry of Tourism further provides financial assistance and professional guidance to entrepreneurs in establishing rural-accommodation units (Zimmers), as well as in other tourism-related initiatives.

The Ministry of Agricultural and Rural Development

129. In accordance with the Committee's recommendation No. 24 of June 14, 2007, the Ministry of Agriculture and Rural Development invests significant efforts and resources towards the development and advancement of agricultural activity in the minority populations, thus maintaining and creating new employment opportunities. In 2007 and 2008, the Ministry allocated a budget of 20 Million NIS (US$ 5,405,405) towards agricultural development in Arab localities, in two main spheres – general infrastructure and the individual farmstead.

130. With regard to general infrastructure, the Ministry provides financial assistance (grants for 60 per cent – 100 per cent of the cost) for reconstruction of agricultural roads in all of the Arab localities throughout the country. In addition, the Ministry provides financial assistance for the removal of pens and cowsheds located in the center of Arab villages, and their relocation on State lands outside these villages, as well as on private lands.

131. The Ministry participates (grants for 60 per cent of the cost) in the reconstruction and replacement of main water pipes for agricultural use in the Arab villages throughout Israel. The Ministry also assists in the preparation of programs for agricultural tourism in the Arab villages, including in the Negev.

132. The development activity concerning the individual farmstead can be divided into three major branches – livestock, vegetables crops and plantation. With regard to the livestock branch, financial assistance (60 per cent of the cost) is provided for establishing milking facilities. Activities to promote the vegetable crops branch include financial assistance (30 per cent of the cost) in order to facilitate building greenhouses for growing vegetable for the local market, in the framework of the program for strengthening northern Israel. Financial assistance is further provided for the creation of vegetable growing habitats in the Jewish fallow year, for local marketing. The activity concerning the plantation branch includes assistance in the establishment of packinghouses and ice houses (in the framework of the program for strengthening northern Israel), and financial support for planting olive and almond trees – which varies according to geographic location (20 per cent in central Israel, 25 per cent – 40 per cent in the north).

133. The aforementioned development activities are additional to the utilization of funding offered to the general public.

134. In addition, the Ministry decided to allocate two million cubic meters of water for Bedouin farmers who will receive the water under a specially designated procedure.

135. In order to minimize the damage inflicted on Arab farmers due to general cutbacks in water for agriculture use in Israel, in was decided to formulate a special water allocation policy for the Arab population. Accordingly, since 2006, the water quotas for Arab farmers

are determined according to their actual use in the previous three years. Consequently, these farmers have not suffered from the cutbacks implemented in recent years due to the water shortage.

The Authority for Economic Development of the Arab Population, including Druze and Circassian

136. On February 15, 2007 the Government decided to establish, within the Prime Minister's Office, the Authority for Economic Development of the Arab Population, including the Druze and Circassian (hereinafter: the "Authority"). The aim of the Authority is to realize, to its maximum ability, the economic potential of the minority population, through the encouragement of productive economic activity within this population, and its integration into the national economy. Among its functions, the Authority operates as coordinator for the purposes of integration and supervision with regard to government activities concerning the economic advancement of the Arab population.

137. Mr. Aiman Dar Saif, a former executive in the Prime Minister's Office, was appointed as the Authority's director. Alongside the Authority, an Advisory Committee will operate, with half of its members being composed of Arab experts and the other half being composed of business men and women. The Authority operates within the organizational framework of the Prime Minister's Office and the Minister of Minority Affairs.

138. The Authority's main roles in the realm of economic advancement are as follows:

(a) Developing financial tools to encourage entrepreneurship and investment in the minority populations, through, *inter alia*, encouraging the creation of private investment funds for minorities in the business sector, including through direct investments;

(b) Advancing the integration of minorities' businesses into the overall economic activity;

(c) Advancing the integration of local authorities in regional industrial zones;

(d) Encouraging factories located in minorities' localities to become suppliers of services and goods for the Government;

(e) Encouraging and promoting investments in minority populations and localities;

(f) Facilitating accessibility to Government aid;

(g) Encouraging joint Arab-Jewish business activities;

(h) Encouraging entrepreneurship by local authorities, through, *inter alia*, the preparation of detailed plans in the fields of economic development, increased investment, etc.

139. The Authority's main roles in the field of Government activity for the economic advancement of the minority population will be as follows:

(a) The Authority, in conjunction with the National Economic Council and the relevant Government Ministries, is in charge of preparing a report, regarding the proposed State budget, prior to its submission to the Government, and presenting alternatives, if needed, on socio-economic issues relating to the minority population;

(b) The Authority also prepares professional opinions, in conjunction with the relevant ministries, regarding the possible effects of proposed socio-economic resolutions currently on the Government agenda and its committees, which affect the minority populations;

(c) The Authority is responsible of Coordinating an inter-ministerial team aimed at formulating and advancing economic development initiatives. The team will act as a professional sub-committee which will advise the Authority on issues relating to the promotion of economic initiatives;

(d) Submitting an annual report to the Government regarding the socio-economic gaps between the various fractions of the Israeli population, and the Government activities to minimize these gaps.

140. The Authority's Advisory Council comprises 23 members appointed by the Prime Minister. The Advisory Council includes one representative from among the senior employees of each of the following Government Ministries, selected on the basis of a recommendation by the relevant minister: the Prime Minister's Office, the Ministries of Finance, ITL, Tourism, and Agriculture and Rural Development. In addition, the Advisory Council boasts two public representatives with experience and background in the Authority's fields of activity, two representatives of national economic organizations, twelve prominent businesspeople and economic specialists, two from each of the following fields: industry, tourism, commerce and services, banking, real estate, hi-tech industries, and two heads of local authorities primarily responsible for minority populations. The roles of the Advisory Council are as follows:

(a) The Council advises the Director on the formulation of policies, goals, and targets with respect to issues which fall under the Authority's jurisdiction;

(b) The Council advises the Government, the Prime Minister and the Director, at their request, on any other issue relating to the Authority's fields of activity;

(c) The Council also discusses the Authority's annual report.

141. Below are some of the projects currently in the process of implementation:

(a) Establishment of a private investment fund for the Arab population;

(b) Promotion of relevant legislation;

(c) Plan for the advancement of employment of Arab women;

(d) Promotion of employment of persons with academic education, in cooperation with "Kav Mashveh" (an Israeli NGO that works for the promotion of equal employment opportunities for Arab university graduates in the Israeli labor market);

(e) Conducting opinion polls among Jewish and Arab businessmen and women;

(f) Establishment of a database and research on issues relating to the economic development of the Arab population;

(g) Providing assistance in facilitating accessibility to Government services – promoting cooperation with the Investment Center and the Chief Scientist of the Ministry of ITL;

(h) Establishment of a special Internet site which will constitute a business meeting place for all who seek business opportunities (similar to the initiative of the Authority for Small Businesses).

Pedagogic programs to foster democracy and tolerance

142. The Ministry of Education has made a concerted effort to advance principles of democracy and co-existence in its curriculum, and through this framework, works to combat all forms of discrimination.

143. The Administration for Society and Youth in the Ministry of Education has in recent years formulated several educational programs regarding democracy, tolerance and co-existence, which are intended, *inter alia*, to combat all forms of discrimination. The following are descriptions of some of the programs:

(a) **Democracy at critical times** – A social educational program intended for pupils in the 7th to 12th grades, which presents substantial issues regarding the culture of democracy and challenging dilemmas for Israeli democracy. The program was developed by the Administration for Society and Youth and the national training center for employees in the field of education;

(b) **Reelecting democracy** – this program presents the advantages of democracy over other forms of governance and governing regimes. The participants are presented with the complexity of the democratic regime, which is subject to several conflicting considerations: the obligation to protect the common good and the desire to protect individual's rights, and protecting the State's security and freedom of speech;

(c) **Living in a multicultural society** – the purpose of this program is to reinforce the awareness that disagreements on certain matters may cause divisions in Israeli society which may endanger the existence of the State. The program encourages pupils to develop tolerance towards others and to deal peacefully with conflict situations;

(d) **Communication** – An education program which deals with the way in which one should conduct political debates in public and in accordance with the principles of a democratic regime. The program emphasizes the threats posed to the existence of the State of Israel through the use of illegitimate avenues of protest. The program presents areas of common ground in Israeli society as foundations for partnership and provides practical tools for learning the skills of communication.

144. The Administration for Society and Youth in the Ministry of Education also publishes a monthly brochure which addresses a different issue each month. The brochure also offers educational programs relevant to the monthly issue. Among the issues published in the brochure and the programs offered are:

(a) "Operation Moses", in which approximately 8,000 immigrants from Ethiopia were brought to Israel between November 1984 and January 1985. The brochure contained information regarding the immigrants' travel while in Ethiopia, their hardships after coming to Israel, challenges while trying to integrate into Israeli society and educational programs regarding the Ethiopian culture, and teaching tolerance and respect for other cultures (published in November 2009);

(b) In September 2009, in light of the Jewish New Year, the brochure addressed the issue of social and public self-examination. The brochure analyzed events of the past year which reflected the hardships experienced by the weaker segments of Israeli society, and ways of dealing with these difficulties and of assisting these individuals to overcome these hardships.

Affirmative action in higher education

145. Since 1995, the Planning and Budgeting Committee (henceforth: the Committee) in the Council for Higher Education has conducted a special program for the promotion and absorption of excellent Arab lecturers, in which four to six three-year long scholarships are granted annually. These scholarships are intended for young excellent Arab scientists who study in universities and other financed institutions. The scholars are appointed as lecturers, senior lecturers or associate professors, and the scholarship is provided for a period of three years, in addition to a special grant which is provided for the purchase of the required equipment.

146. In 2003, a permanent steering committee was established under the stewardship of the Council for Higher Education, with a budget of 5 Million NIS (US$ 1,351,351) per year. This Committee uses its budget for promoting higher education in the Arab population by way of three central activities:

(a) Scholarships for achieving excellence among Arab doctorates – each year up to 10 such scholarships are granted for a period of three years, in the sum of 52,000 NIS (US$ 14,054);

(b) Information Center – the Center's purpose is to render higher education accessible for the Arab population, by bringing the candidates together and preparing them for academic studies and advising them with respect to choosing a field of study. In 2009–10, a national information center will be operated with a budget of 1 Million NIS (US$ 270,270);

(c) Programs for expanding the accessibility of higher education institutions – the Committee has allocated approximately 2.5 Million NIS (US$ 675,676) towards supporting Arab students and promoting plans submitted by higher education institutions for that purpose, such as student tutors, counseling, preparation days, academic preparatory classes, study assistance etc. Currently, 20 institutions submit such programs annually to the Committee at a cost of approximately 20 Million NIS (US$ 5,405,405).

The judicial branch

147. In the Judicial system there are currently 569 judges. Of the twelve justices currently serving in the Supreme Court one is a Christian Arab. Of the 128 judges currently serving in the District Courts, 5 are Muslim Judges, 2 are Christian and one judge is of Druze origin. Of the 381 judges currently serving in the Magistrate Courts, 14 are Christian judges, 10 are Muslim and 5 are Druze judges. One Christian judge and one Druze Judge serve in the Labor Courts. In addition, there are 3 Druze judges in the state-funded Druze Religious Courts (Qadi Madhab) and additional 3 judges are in the final stages of approval. In total 43 judges from minority groups' function in the judiciary system.

Development of industrial zones

148. Development of Industrial Zones. In accordance with the Committee's recommendation No. 24 of June 14, 2007, in 2006, following Government Resolution No. 249, the *Encouragement of Capital Investments Order (Determination of Development Areas)* 5763-2002 (the "*Encouragement of Capital Investments Order*"), was amended in order to include all minority localities within the definition of "Development Area A", thus enabling plants in industrial areas located in these localities to receive various tax benefits and grants as stipulated in the Order and the *Encouragement of Capital Investments Law* 5719-1959 (the "*Encouragement of Capital Investments Law*"). Furthermore, on January 7, 2007, the Government resolved to expedite the marketing of lands for industrial purposes in "Development Area A", thus facilitating the expedition of land marketing in these localities, as well as subsidizing the land development expenses, as stipulated in the Resolution.

149. Between the years 2005 and 2008, development activities in industrial zones in Arab and Druze localities were subsidized by the Ministry of ITL, in to the amount of 28,665,967 NIS (US$ 7,747,559). As part of these activities, 1,008 square kilometers of state-owned land in these areas was marketed.

150. In 2005 and 2006, the Government approved two additional resolutions (Resolution No. 3957 dated July 22, 2005, and Resolution No. 632 dated November 5, 2006), establishing a plan for the development and expansion of new and existing industrial zones, as well as assistance to small businesses in Arab, Druze and Bedouin localities. The

Government allocated a total of 119 Million NIS (US$ 32,162,162) during the years 2005–2006 towards this purpose.

151. The Administration for Industrial Zones within the Ministry of ITL is working on the development of 32 industrial zones for Minority populations throughout Israel. The total budget allocated for this purpose in the years 2006–2009 was 122.5 Million NIS (US$ 33,108,108) (not including a special budget of 5 Million NIS (US$ 1,351,351) allocated for the establishment of joint industrial administrations).

Table 1
Development budget for industrial areas, 2006–2009 (millions of NIS)*

Year	*Budget allocated to minority populations' industrial areas*	*Allocation to minority population (per cent)*	*Budget allocated to all industrial areas*	*The ratio between the minorities part in the population and their part in the budget*
2006	38.9	19.9	102.0	1.92
2007	27.0	20.0	79.4	1.7
2008	24.6	20.3	98.2	1.24
2009	32.0	20.5	101.0	1.54
Total	**122.5**	**20.2**	**380.6**	**1.6**

Source: The Ministry of Industry, Trade and Labor, October 2009.

* The figures do not include a special budget of 51 Million NIS (US$ 13.78 Million) allocated for the establishment and development of a science park in Beer-Sheva.

Encouraging local entrepreneurs

152. The Ministry of ITL is aware of the inherent difficulties faced by entrepreneurs from the Bedouin population, such as limited financial capability, and is therefore taking action to bridge the gaps. The Ministry of ITL has established a designated Center for Nurturing Entrepreneurship among the Arab and Bedouin populations located in Rahat that is better equipped to serve these populations' needs. Furthermore, in order to support entrepreneurs among the Bedouin population in the Negev, the Ministry of ITL has established a unique loan fund for small enterprises.

153. **Employment centers for the Bedouin population**. In accordance with the Committee's recommendation No. 24 of June 14, 2007, in the framework of cooperation between the Government and the American Jewish Joint Distribution Committee, it was decided to create unique employment centers in the Bedouin localities. These centers will assist in enhancing the number of employed persons, aid in the creation of small businesses and enterprises, provide professional training and guidance for entrepreneurs and financial solutions and will lead to change in employment-related perceptions and norms in the Bedouin population, including encouraging the employment of women while providing them with unique training for that purpose. The First employment center was inaugurated in Hura in April 2010 and two additional Centers are to be established in 2010–2011.

154. Furthermore, as mentioned under Article 2 above, the *Encouragement of Capital Investments Order*, was amended in order to strengthen the Arab localities, including the Bedouins communities. There are currently seventeen planned industrial areas in the Southern district, three (17 per cent) of which are located in Bedouin towns – Rahat, Segev Shalom and Hura. Additionally, a new industrial area, currently in the advanced stages of planning, will also service the Bedouin population – Shoket, (for Hura, Lakia, Meitar and Bney Shimon). Development of all these areas is uniform and subject to the same general criteria.

155. In accordance with the Committee's recommendation No. 24 of June 14, 2007, a new Industrial Park in the Negev which is a result of Jewish-Bedouin cooperation was inaugurated by the Minister for the Development of the Negev and the Galilee and the Minister of ITL in April 2010. The Park — "Idan Ha-Negev" (The Negev Era) spreads over 1,700 dunams and is managed and operated by the three local authorities which established it — Bnei-Shimon local authority, Rahat municipality and Lehavim local council. The Park was established with an investment of 20 Million NIS (U.S $5,405,405) and recently the Ministry of ITL has allocated additional 25 Million NIS (U.S $6,756,756) for the second stage of development. 130 entrepreneurs applied to join the Park, of which 18 entrepreneurs have already purchased lots in the new park and are expected to employ approximately 700 employees. Some of the entrepreneurs are Bedouin from the Negev who wish to establish factories which will employ young Bedouins from the area in order to lower the relatively high unemployment rates among the Bedouin population.

Vocational training for Arab women

156. Over the past few years, there has been an increase in the rate of employment among Arab women, yet this rate remains relatively low. Academic education and vocational training are the key components for the integration of Arab women into the work force, yet various barriers inhibit their integration into these educational and training systems, such as the level of education and social/cultural barriers. The traditional stances and cultural stigmas among the Arab population define the acceptable limits with respect to women traveling alone to school and work, and Arab women are therefore often reluctant to attend courses that require travel to other towns. Not all vocational courses are available in the women's residential towns, because of a lack of a proper framework, candidates, and future job opportunities.

157. Due to the above, many Arab women attend "traditional" courses that are local, and are likely to enable them to meet the requirements of local job opportunities, whether full-time or part time. This is not the case with regard to education, computers, graphics or technical assistants/engineers. Additionally, the employment opportunities in these fields, in some of the residential towns, are very limited.

158. In this regard, during 2006, an educational program was implemented for the coordinators of the Project for the Advancement of the Bedouin population in the North, dealing with the issue of social/cultural barriers, motivation, recruitment of candidates and persistency through vocational training. Also, in order to rectify the current situation, joint efforts are being made by the Ministry of ITL, local authorities, social services, vocational training institutes and employers in order to provide vocational training, and to create more feasible job offers for Arab women.

159. In addition to the general training system provided by the Ministry of ITL, there are special programs for Arab women, aimed at bridging the gaps that exist and increasing women's participation in training courses.

160. **Day care centers – Arab and Bedouin localities**. Arab women are considered the primary caretakers for children; this is one of the factors that explain the low percentage of Arab women who participate in the work force. The Government, through the Authority for the Advancement of the Status of Women, has invested significant efforts in enhancing awareness among women of their own career options and self-fulfillment. In recent years, the growth in the rate of Arab women's participation in the workforce, including Bedouin women, has led to a need for the establishment of day-care centers and nurseries. The Government has taken steps to meet this need.

161. In 2007, the Government allocated funding for the establishment of 150 buildings designated for use as day care centers, 17 of which are located in Arab municipalities.

162. Special vocational training and unique programs for the Bedouin population were developed in order to increase employment rates and increase the number of students, both male and female, enrolled in higher education courses.

163. An economic model for Bedouin women in the weaving, needlework and food fields was formulated, where the women market their products in special fairs and abroad. The women are also prepared for the process that includes building a business organization model, creation of a unique product line and the proper means of marketing. The project is to last three years, during which the women will open independent businesses. Currently, the project runs in Kssaife and 20 women participate in it.

Bedouins in the Negev

164. The Bedouin population resides in both the North and the South of the country. The Government has initiated a number of plans that address the concerns and needs of the Bedouin population, as fully described in the section addressing Article 5 of the CERD below. The key goals of the plans are to allow for sustainable integration of the Bedouin population into the State, while maintaining their traditional practices and lifestyle. All of the plans involve active societal participation of the relevant tribes and communities and strive to properly compensate and integrate the Bedouin population into Israeli society.

II. Article 3

165. Apartheid has always been regarded as abhorrent by the Israeli Government and society, and continues to be so regarded. Apartheid has never been practiced in Israel. There exist in Israel no restrictions of any kind as to place of residence nor is there any segregation of any kind.

III. Article 4

A. Criminal prosecution of racism

1. The Law

166. As previously reported, Section 144B of the *Penal Law* provides for a penalty of up to five years' imprisonment for a person who publishes material with the intent to incite to racism, even if ineffectual in result, and Section 144D provide for a penalty of up to a year imprisonment for a person who is in possession of such a publication with the intent to publish it. Racism is defined in Section 144A of the Law as "persecution, humiliation, vilification, the display of hostility, enmity or violence, or the causing of animosity towards a community or parts of the population, by reason of color, racial origin or national-ethnic origin".

167. In May 2002, the Knesset amended Sections 144D2 and 144D3 of the *Penal Law*, criminalizing the publication of a call for acts of violence or terrorism or even praise, support or encouragement for such an act, as well as support or identification with it, where the call is likely to lead to violence or terrorism. The punishment for this offence is up to 5 years imprisonment. According to Section 144D3, a person holding publications according to Section 144D2, will be sentenced to one year imprisonment.

168. A more recent amendment, dated November 2004, added a section titled "Hate Offences", which consists of Section 144F, which stipulates that offences motivated by racism or hostility towards the public, which are committed under "aggravated circumstances", will result in punishment by the courts of either double the penalty which

exists for the specific offence committed or ten years' imprisonment, whichever is the lesser of the two. This applies if the offence was racially motivated and performed against a population or hostility towards a public on the basis of religion, religious group, ethnic origin, sexual orientation or on the basis of their being migrant workers.

169. Another source of law is Section 133 of the *Penal Law* that prohibits, among others things, the encouragement of hatred between different sections of the population. This offence carries a punishment of up to 5 years' imprisonment.

170. In accordance with Section 6(25) of the *Telecommunications Law (Bezeq and Broadcasts)* 5742-1982 (the "*Telecommunications Law (Bezeq and Broadcasts)*") and Section 46 (a) (2) of the *Second Authority for Television and Radio Law* 5750-1990 (the "*Second Authority for Television and Radio Law*"), TV concession holders shall not transmit any broadcast which contains racial incitement. Concession holders are further bound to take all measures necessary to ensure that no broadcast is liable to incite to discrimination on grounds of religion, race, nationality, community, lifestyle or origin. Section 6(57) of the *Telecommunications Law (Bezeq and Broadcasts)* further stipulates that this obligation also applies to satellite broadcasts. In addition, according to the *Telecommunications Rules (Bezeq and Broadcasts) (TV Concession Holders)* 5748-1987 (the "*Telecommunications Rules*"), Section 2(4) determines that TV concession holder shall not transmit any broadcast which contains racial and national incitement. Furthermore, Section 3(3) to the *Telecommunications Rules* determines that during broadcasts the concession holder shall take all required steps to ensure that no broadcast contents are liable to incite to discrimination on ground of race, origin, religion, nationality and gender.

2. Judicial perspectives

171. On December 7, 2006, the Supreme Court rejected an appeal filed against a judgment given by the Jerusalem District Court, which convicted the two appellants of various charges of violence and assault committed against Israeli-Arabs, and sentenced each of the appellants to three years' imprisonment, six months' suspended imprisonment and ordered each of them to pay compensation to the victims in the sum of 7,500 NIS (US$ 2,027). When imposing the sentence, the District Court attributed particular gravity to the fact that the offences were racially motivated – the Court asserted that the racial element involved in the offences must be reflected in the punishment as well. The Supreme Court reaffirmed this approach and emphasized that in a society which espouses the values of equality and the protection of human rights, there is no room for such racially motivated crimes, and any such behavior is to be condemned and denunciated. In light of the above, the appeal was dismissed *(Cr.A. 9040/05, Yitzhak Orion and Yehuda Ovadia v. The State of Israel)*. Note that this decision co-insides with the with the Committee's recommendation No. 30 of June 14, 2007.

172. In another case, the Jerusalem District Court convicted eight defendants on the basis of their membership in a Neo-Nazi group, for incitement offences which included, inter alia, hate crimes. The defendants were convicted in the framework of a plea bargain and were sentenced to terms of imprisonment ranging from 7 years to 12 months, including 18 months' suspended imprisonment (please see further details below, in Table No. 2) (C.C. 40270/07, *The State of Israel v. Boanitov Arik et al.* (23.11.08)). Note that this decision also co-insides with the with the Committee's recommendation No. 30 of June 14, 2007.

173. The following table includes a detailed list of cases relating to racism, incitement and other serious offences. Some of the cases are still pending in the Courts:

Table 2
Indictment and verdict relating to offences of incitement to racism, incitement to violence and offences motivated by hate, November 2004–August 2009

Case details	*Relevant offences included in the indictment*	*Current status*	*Date of filing the indictment*
C.C. 1015/01 (Jerusalem Magistrate Court) and Cr.A. 8861/04 (Jerusalem District Court) The State of Israel v. Haim Perlman	The defendant allegedly participated in an illegal demonstration and screamed "Death to Arabs".	The defendant was acquitted. An appeal was filed with the District Court on January 27, 2005, which found the defendant guilty and the file was returned to the Magistrate Court for sentencing. The Court imposed a sentence of 6 months' imprisonment and 6 months' suspended imprisonment (March 3, 2005).	January 3, 2001
C.C. 3908/01 (Tiberius Magistrate Court) The State of Israel v. Haim Perlman et. al.	Possessing racist publications.	The defendant was convicted.	November 6, 2001
C.C. 3709/02 (Jerusalem Magistrate Court) The State of Israel v. Yossef Cohen. Cr.A. 8727/04 (Jerusalem District Court) Yossef Cohen v. The State of Israel	Publication of material that constituted racist incitement. The defendant allegedly shouted "Death to Arabs" in the midst of a soccer game.	The defendant was convicted of incitement to racism and on June 16, 2004, he was sentenced to 60 days of suspended imprisonment and 2,500 NIS (US$ 676) conditioned fine, on the condition that he did not re-commit the offence. The defendant filed an appeal with the District Court, which decided to annul the Magistrates Court's verdict and return the case to the Magistrates Court in order to enable the hearing of evidence of another witness (May 15, 2005). After hearing the additional witness, the Magistrates Court again decided to convict the defendant (March 13, 2006).	June 11, 2002
C.C. 2225/03 (Jerusalem Magistrate Court) The State of Israel v. Itamar Ben-Gvir	Publicizing information inciting to racism, and supporting a terrorist organization.	The defendant was convicted on June 25, 2007 and was sentenced to extensive community service and 60 days' suspended imprisonment. Both the State and the defendant appealed the decision. On September 17, 2008, the District Court dismissed the State's appeal and partially accepted the defendant's appeal and reduced his sentence to 200 hours of community service. An additional appeal submitted by the defendant to the Supreme Court was dismissed on December 7, 2008.	March 31, 2003

Case details	*Relevant offences included in the indictment*	*Current status*	*Date of filing the indictment*
C.C. 4393/03 (Jerusalem Magistrate Court) The State of Israel v. Richi Ziv	The defendant allegedly participated in an illegal gathering wearing a shirt on which was written "no Arabs – no bombings".	The defendant was sentenced to community service, without a conviction being imposed.	July 21, 2003
C.C. 3769/03 (Jerusalem Magistrate Court) The State of Israel v. Shmuel Tachan	The defendant screamed "Death to Arabs".	The defendant was convicted on March 31, 2005 by the Magistrates Court for incitement to racism. The defendant was sentences to 250 hours of community service and a fine of 1,000 NIS (US$ 270). On December 25, 2005 the Supreme Court dismissed the defendant's criminal appeal (Cr.A 9909/05), and on April 23, 2006, the Supreme Court rejected his criminal motion to appeal (C.M.A 1252/06).	August 5, 2003
C.C. 1695/04 (Jerusalem Magistrate Court) The State of Israel v. Israel Lederman	Assault for racist motives.	The defendant was convicted of assault for racist motives.	February 4, 2004
C.C. 2714/04 (Jerusalem Magistrate Court) The State of Israel v. Mimoni Priel and Falus Eyal	The defendants were indicted for allegedly shouting "Death to Arabs" in the midst of a soccer game.	The defendants were sentenced to community service, without a conviction being given, based on a plea bargain.	June 7, 2004
C.C. 2712/04 (Jerusalem Magistrate Court) The State of Israel v. Yehuda Nissim	The defendant was indicted for allegedly shouting "Death to Arabs" in the midst of a soccer game.	The defendant was sentenced to community service, without conviction, based on a plea bargain.	June 7, 2004
C.C. 2713/04 (Jerusalem Magistrate Court) The State of Israel v. Golan Eliyahu	The defendant was indicted for allegedly shouting "Death to Arabs" in the midst of a soccer game.	The defendant was convicted of inciting to racism.	June 7, 2004
C.C. 2716/04 (Jerusalem Magistrate Court) The State of Israel v. Yakir Amar	The defendant was indicted for allegedly shouting "Death to Arabs" in the midst of a soccer game.	The defendant was acquitted by the court on December 1, 2005.	June 7, 2004
C.C. 550/04 (Jerusalem District Court) The State of Israel v. Eli Mizrachi	Incitement to racism. A fan of a soccer team threatened a Nigerian player and called him an "Arab".	The defendant was acquitted by the Jerusalem Magistrate Court. The State's appeal was accepted by the District Court which convicted the defendant and the case was returned to the Magistrate Court for sentencing.	October 31, 2004

Case details	*Relevant offences included in the indictment*	*Current status*	*Date of filing the indictment*
C.C. 4299/04 (Jerusalem Magistrate Court) The State of Israel v. Efraim Ben Yehuda Hershkovich	The defendant wore a shirt with the symbol of the illegal "Kach" movement and the slogan "Kahana Lives", and carried a flag bearing the picture of Rabbi Meir Kahana and the slogan "We are all Kahana".	On December 21, 2005, The defendant was convicted of supporting a terrorist organization. He was sentenced on June 27, 2006, to 4 months' imprisonment to be served as community service. The defendant's appeal was rejected by the District Court (Cr.A. 30533/06).	November 11, 2004
C.C. 10326/04 (Tel-Aviv Magistrate Court) The State of Israel v. Nadav Baruh	The defendant was indicted for incitement to racism after he allegedly shouted "Death to Arabs" in the midst of a soccer game.	On March 21, 2006, the defendant was convicted of inciting to racism. He was sentenced to 6 months' suspended imprisonment and a fine of 750 NIS (US$ 203).	December 20, 2004
C.C. 1122/05 (Jerusalem Magistrate Court) The State of Israel v. Zeev Elchanan Bloomberg et. al.	Vandalism of property, incitement to racism and supporting a terrorist organization.	On April 24, 2006, the first defendant was convicted of vandalism of property, injury to religious sentiments and supporting a terrorist organization. In addition, both defendants were convicted of six counts of vandalism of property, supporting a terrorist organization, and incitement to racism. On November 8, 2006, the first defendant was sentenced to 6 months' imprisonment, 9 months' suspended imprisonment and a fine of 1,000 NIS (US$ 270), and the second defendant was sentenced to 4 months' imprisonment, 9 months' suspended imprisonment and a fine of 750 NIS (US$ 203). An appeal was filed and on July 10, 2007, the District Court annulled the sentence as a result of the fact that evidence was not transferred to the Public Defense Office. However, both defendants were convicted again by the Magistrate Court.	January 19, 2005
C.C. 1136/05 The State of Israel v. Saleh Sheikh Ganem C.C. 1137/05 The State of Israel v. Iham Fatfut (Nazareth Juvenile Magistrate Court)	The defendants published an announcement directed against the Christians in the Maghar (Mrar) village, and were charged with the offences of inciting to violence and issuing threats.	The defendants were convicted and ordered to pay an amount of 5,000 NIS (US$ 1,351) to the association of "Maghar village Friendship Fund", in addition to 3,000 NIS (US$ 811), which was paid as part of an undertaking not to commit similar offences for a period of two years.	March 3, 2005

Case details	*Relevant offences included in the indictment*	*Current status*	*Date of filing the indictment*
C.C. 3154/05 (Kfar-Saba Magistrate Court) The State of Israel v. Hanoh Albert	Interference with policeman in the performance of his duty and incitement to racism.	The defendant was acquitted by the Court on September 4, 2006.	August 22, 2005
C.C. 4530/05 and C.C. 4066/07 (Jerusalem Magistrate Court) The State of Israel v. Neria Ofen	The defendant placed stickers on his car with racial content. He was indicted for incitement to racism.	On July 3, 2006, the indictment was annulled by the Court, since no hearing was conducted in the presence of the defendant. The indictment was re-filed and on February 18, 2009, the defendant was convicted. On February 2010, the Court sentenced the defendant to 3 months' suspended imprisonment and to 120 hours of community service.	October 17, 2005
C.C. 5120/05 (Jerusalem Magistrate Court) The State of Israel v. Abadi Ya'akov et. al.	The defendants wore shirts with the symbol of the illegal "Kach" movement and some distributed manifests with racial content. They were indicted for supporting a terrorist organization and incitement to racism.	The third defendant was convicted on September 24, 2007, and was sentenced to 6 months' suspended imprisonment and 200 hours of community service. His appeal was accepted and he was acquitted by the District court (Cr.A 2364/08). The proceedings against the second defendant were suspended on September 10, 2006 at the request of the State.	November 6, 2005
C.C. 560/06 (Kfar-Sava Juvenile Magistrate Court) The State of Israel v. Binyamin Rihter	The defendant, who was a minor, wore a shirt with the symbol of the illegal "Kach" movement and attempted to injure a Palestinian woman. He was indicted, inter alia, for supporting a terrorist organization.	The case ended without a conviction. However, the defendant was fined in the sum of 1,500 NIS (US$ 405) and an obligation was imposed not to be involved in misconduct in a public place.	November 29, 2005
C.C. 1232/06 (Haifa Magistrate Court) The State of Israel v. Ya'akov Pauchi et. al.	The defendants distributed pamphlets which praised Eden Nathan-Zadah who killed 4 Arabs in Shfara'm in 2005. They were accused of seditious publications.	All three defendants were acquitted by the Court because of the existence of reasonable doubt (October 6, 2008).	January 1, 2006
C.C. 1395/06 (Jerusalem Magistrate Court) The State of Israel v. Itamar Ben Gvir	The defendant held in his offices propaganda materials published by the "Kach" and K"H illegal movements. The defendant was indicted for supporting	The case is still pending.	January 24, 2006

Case details	*Relevant offences included in the indictment*	*Current status*	*Date of filing the indictment*
	a terrorist organization, incitement to racism and incitement to violence.		
C.C. 1470/06 (Jerusalem Magistrate Court) and Cr.A. 30636/06 (Jerusalem District Court) The State of Israel v. Nadia Matar	The Defendant sent and published an insulting letter to the head of the Administration for Assisting the residents of Gaze and north Samaria, and was indicted for insulting a public servant.	After the Magistrate Court acquitted the defendant (September 10, 2006), on July 19, 2007, the District Court accepted the State's appeal and the case was returned to the Magistrate Court. The proceedings against the defendant were discontinued in accordance with the Discontinuation of Proceedings and Deletion of Records in regard to the Disengagement Plan Law 5770-2010.	February 9, 2006
C.C. 1831/06 (Jerusalem Magistrate Court) The State of Israel v. Noam Federman	Incitement to racism, incitement to violence, attempt to publish seditious publications, publication of incitement to violence or terrorism, attempt to publish incitement to racism.	The defendant was convicted of the publication of racial incitement, attempting to publish racial incitement and publication of incitement to violence or terrorism (April 23, 2009). The defendant was acquitted of the other charges against him. The defendant was sentenced to 4 months' imprisonment to be served as community service, and 6 months' suspended imprisonment.	March 12, 2006
C.C. 2123/06 (Jerusalem Magistrate Court) The State of Israel v. Yirat Ashush et. al.	The defendants wrote insulting graffiti slogans on the walls of a store in Hebron. The defendants were indicted for incitement to racism, defacing real-estate and interference with a policeman in the performance of his duties.	The defendants were sentenced to community service.	April 5, 2006
C.C. 2365/06 (Jerusalem Magistrate Court) The State of Israel v. Muhammad Halaf	The defendant held audio cassettes praising the acts of suicide bombers in his store. He was indicted for incitement to violence.	The defendant was convicted on July 30, 2007.	April 26, 2006
C.C. 3525/06 (Jerusalem Magistrate Court) The State of Israel v. Shmuel Ben Yishai	Incitement to violence, interference with a policeman in the performance of his duties and assaulting a policeman.	On March 12, 2009, the defendant was convicted and on June 9, 2009, he was sentenced to 6 months' suspended imprisonment and a 5,000 NIS (US$ 1,351) fine.	July 23, 2006

Case details	*Relevant offences included in the indictment*	*Current status*	*Date of filing the indictment*
C.C. 6153/07 (Haifa District Court) The State of Israel v. Tomer Ben Simon	Arson, insult to religion malicious damage to property, malicious damage to a vehicle, assault that causes actual bodily harm.	On November 26, 2008, the defendant was convicted and sentenced to 42 months' imprisonment and 12 months' suspended imprisonment. His appeal was dismissed by the Supreme Court on July 12, 2009 (Cr.A. 206/09).	October 29, 2007
C.C. 5535/07 (Jerusalem Magistrate Court) The State of Israel v. Naser al-Hadmi	The defendant harangued on the Temple Mount while inciting against the State of Israel. He was indicted for incitement to racism.	The defendant was convicted in the framework of a plea bargain and was sentenced to 200 hours of community service and 45 days' suspended imprisonment.	December 3, 2007
C.C. 5182/08 (Tel-Aviv Magistrate Court) The State of Israel v. Gershon Trastman et. al.	The defendants were indicted for publication of an article allegedly containing racist content in a newspaper edited by the second defendant.	Both defendants were acquitted by the Court on September 22, 2009.	April 7, 2008
C.C. 183/09 (Jerusalem Juvenile District Court) The State of Israel v. Ya'acov Ben Haim et. al.	Assault which causes actual injury under aggravated circumstances, and injury caused under aggravated circumstances as a result of racist motivations or hostility towards the public due to ethnic origin.	The defendants were sentenced as follows: the first defendant – 12 months' imprisonment; the second defendant (minor) – 12 months' imprisonment; the third defendant (minor) – community service; the fourth defendant (minor) – 6 months to be served as community service; the fifth defendant– 50 hours of community service without conviction; the sixth defendant (minor) – 100 hours of community service without conviction; the seventh defendant (minor) – 150 hours of community service; the eighth defendant (minor) – 400 hours of community service, suspended imprisonment and compensation; the ninth defendant (minor) – substantial community service, suspended imprisonment and compensation; the tenth defendant – 150 hours of community service; the eleventh defendant – 6 months of community service and the twelfth defendant – 100 hours of community service without conviction. The first defendant appealed his sentence to the Supreme Court but the appeal was rejected by the Court (C.A. 5258/09, Ya'acov Ben Haim v. The State of Israel, October 1, 2009).	May 11, 2008

Case details	*Relevant offences included in the indictment*	*Current status*	*Date of filing the indictment*
C.C. 40270/07 (Jerusalem District Court) The State of Israel v. Boanitov Arik et. al.	The defendants were members of a Neo-Nazi group and were charged for incitement crimes including hate crimes.	The defendants were convicted in the framework of a plea bargain, and the sentence was handed down on November 23, 2008. The first defendant was sentenced to 7 years' imprisonment. The second defendant was sentenced to 3 years' imprisonment. The third defendant was sentenced to 26 months' imprisonment. The fourth defendant was sentenced to 5 years' imprisonment. The fifth defendant was sentenced to 4 years' imprisonment. The sixth defendant was sentenced to 3 years' imprisonment. The seventh defendant was sentenced to 12 months' imprisonment. The eighth defendant was sentenced to 3 years' imprisonment. They were all also sentenced to 18 months' suspended imprisonment.	November 23, 2008
C.C. 9121/08 (Jerusalem Magistrate Court) The State of Israel v. Shalom Sa'adin	Assault that causes actual bodily harm under aggravated circumstances, as a result of a racist motive.	The case is still pending.	January 7, 2009

Source: Deputy State Attorney's Office (Special Functions), September 2009.

Incitement to racism on the Internet

174. A special department in the State Attorney's Office (the Department for Special Functions) deals with the prosecution of incitement in general and also deals with cases of incitement on the Internet. The department files indictments on the basis of investigations conducted by the police.

175. In some cases, it was decided not to initiate an investigation, but to warn those responsible or draw their attention to the limits imposed upon certain publications.

IV. Article 5

A. The right to equal treatment before national tribunals

176. The right to equal treatment for all persons regardless of their race or ethnic origin is a basic and fundamental principle in Israel. All governmental bodies and judicial apparatus recognize this right, and maintain and uphold equal treatment for all individuals.

177. With respect to General Recommendation XXXI (II. A. 7, 8 – Steps to be taken to prevent racial discrimination with regard to victims of racism, Access to the law and to justice and III. C. 2 – Steps to be taken to prevent racial discrimination against accused

persons who are subject to judicial proceedings, the trial and the court judgment, the right to the assistance of counsel and the right to an interpreter) on the prevention of racial discrimination in the administration and functioning of the criminal justice system (2005), we wish to indicate the following.

The Legal Aid Department in the Ministry of Justice

178. The Legal Aid Department is responsible for providing legal assistance to persons who are unable to afford it, in accordance with the *Legal Aid Law* 5732-1972 (the "*Legal Aid Law*") and the *Legal Aid Regulations* 5733-1973 (the "*Legal Aid Regulations*"). The Law and its Regulations determine the extent of the assistance which can be provided by the Department, as well as the conditions under which an individual is entitled to receive such assistance. Legal aid is provided in various fields, including representation of victims of trafficking in persons, representation of minors, providing legal aid in matters of finance, national insurance, labor law, family law, and persons who were forcibly hospitalized.

179. In order to be provided with legal aid, the Law and its Regulations establish three conditions: one with respect to the legal field concerned, the second regarding the economic status of the applicant, and the third relating to the likelihood of success. These conditions apply equally with respect to every applicant.

180. The right of equal access to courts for all population groups in Israel is a first and foremost goal, and the Department has invested extensively in order to provide legal aid for those who are unable to afford legal representation or for those who have limited access to such legal aid, and for persons who are members of minority populations and who are unaware of their entitlement to legal aid. Out of the total applications for legal aid, approximately 10 per cent are drawn from the Arab population, including Druze, Bedouins and Circassians.

181. The Department's bureaus are located in all five districts of jurisdiction (Tel-Aviv, Haifa, Jerusalem, Nazareth and Be'er-Sheva) and are prepared to receive and deal with requests for legal aid from all population groups in Israel. Many of the Department's employees, including attorneys and administrative workers, are of the Arab population; this is particularly so among the bureau in Nazareth, which serves a major segment of that population. The Department also provides legal representation in the Muslim and Christian Religious Court Systems which enjoy jurisdiction over personal status issues, and external attorneys are hired when required.

182. The percentage of minorities who serve in different positions in the Department is 15 per cent (30 employees of the Arab, Druze, Bedouin and Circassian populations), which is higher than the Government's general target for 2010 (10 per cent) as established by Government Resolutions No. 4729, 2579, 4436 and 4437. Some of these employees serve in positions which were not originally designated for affirmative action.

183. The Department also invests significant efforts in increasing the awareness of the entitlement to legal aid among minorities. Thus, the Department has recently conducted meetings in this regard with welfare representatives of Bedouin localities in the south, managers of welfare bureaus of Arab localities in the north, and welfare representatives of Druze localities in the Golan Heights. The Department is continuing to arrange such meeting throughout the country.

184. In order to make legal aid more accessible for the minority populations, the Department's attorneys are conducting interviews for applicants in different welfare bureaus across the country; interviews are also conducted in prisons for prisoners who have requested legal aid. For example, the Department recently provided legal aid in a petition submitted to the High Court of Justice by an Arab-Israeli prisoner who claimed to have been discriminated against by the Israel's Prisoner Rehabilitation Authority, since he was

unable to participate in a rehabilitation program (*H.C.J. 4874/09 Masarwa Hiri v. The Minister of Social Affairs and Social Services*).

185. The Department also provides legal aid for minors who came to Israel illegally; and encourages the release of such minors from detention and their placement in alternative custody, such as foster families and boarding schools.

186. Victims of trafficking in persons are entitled to legal aid from the Department, regardless of their financial standing. This entitlement applies to proceedings conducted under the *Entry into Israel Law* 5712-1952 (the "*Entry into Israel Law*") or other civil proceedings stemming from offences of trafficking in persons. Legal aid is provided to victims who stay in the shelters designated for victims of trafficking, as well as to victims who are held in detention; all of whom are informed of their right to legal aid. Since 2004, the Department has provided legal aid to 170 victims of trafficking in persons for prostitution and 25 victims of trafficking in persons for slavery and forced labor. According to the 2007 report of the "Ma'agan" Shelter for Women Victims of Trafficking, established by Government Resolution No. 2806 dated December 1, 2002, 94 per cent of the women who were referred to the shelter received legal aid, which significantly advanced their rehabilitation. The Department's activity with respect to victims of trafficking was also commended by the annual Trafficking in Persons Report of the US Department of State.

The Institute of Legal Training for Attorneys and Legal Advisers in the Ministry of Justice

187. Since the submission of Israel's thirteenth Periodic Report, the Institute of Legal Training for Attorneys and Legal Advisers in the Ministry of Justice has conducted many seminars, courses, and vocational training attended by hundreds of practitioners, to raise the awareness of attorneys and legal advisors of human rights issues and in particular to eliminate racial discrimination. The training focused on the following issues: the impact of international law on criminal law (February 2005), international confrontation with terrorism (March 2006), the individual in international law (February 2007), terrorism and human rights (May 2007), the battle against trafficking in persons (November 2008, October 2009, March 2010), enforcement of international law (February 2009), infiltrators, asylum seekers and refugees in Israel (June 2009), human rights in international law (September 2009) in addition to seminars on freedom of speech versus incitement, social rights etc.

188. In addition, at the beginning of 2007, a special seminar was held for all the lawyers working in the Legal Aid Department of the Ministry of Justice concerning innovations in the *Anti Trafficking Law* 5767-2006 (the "*Anti Trafficking Law*"). In November 2007, another training course took place for all the Department's lawyers concerning the salient aspects of the new *Anti Trafficking Law* and the recommendations of the inter-ministerial team for developing an action plan for the identification of victims of trafficking and slavery.

The Institute of Advanced Judicial Studies

189. The Institute holds lectures, seminars and courses on the various forms of discrimination for judges of all instances. In 2005 for example, the Institute held a course titled, "Equality and Discrimination", chaired by Professor Daphna Barak-Erez. The course is scheduled to be held again in December 2010. In May 2009, the institute held a four-day seminar titled: "Israeli Arabs – Culture and Customs". In addition, various forms of discrimination and the need to eliminate it are also discussed in lectures presented by the Institute regarding other issues such as trafficking in persons etc.

Training for law enforcement officers

Israeli Police

190. **Police combat against hate propaganda.** The Israeli Police attaches great importance to educating those serving in its ranks regarding the need to defend the rights of the ordinary citizen in a democratic society. The Police regularly conduct educational activities for police officers in order to raise their awareness of the social complexity in Israel and its impact on police work. The activities advance knowledge and understanding of the characteristics of minority populations in Israel, including Arabs, immigrants, the homosexual community and persons with disabilities, and provide tools for the provision of professional, sensitive police work among these populations. The concept of "equal and suitable service in a multi-cultural society" was formulated as the annual education target for 2007.

191. For example, police activities include special training days and educational seminars in each police station, an academic course on the Arabic language and the Arab culture, which is held in collaboration with Haifa University, a special seminar on the homosexual community delivered together with gay representatives, and distribution of information cards concerning police services offered to persons with disabilities. In addition, the Police conduct educational activities on the legacy of the holocaust and the importance of combating racism and securing democratic values. As a result of these activities, the commitment of police officers to protect minority groups from discrimination and hate propaganda and crime has increased significantly.

192. In 2008, the police southern district commander decided to open a special preparatory course for the Bedouin population in the Negev. The decision was taken after realizing that 95 per cent of the Bedouin applicants which applied for recruitment for the southern district failed the entry exams. The preparatory course prepares young Bedouins, men and women, for the psychometric test and allows them to overcome cultural and linguistic obstacles. The first class in which 15 Bedouins participated, graduated in May 2009, after three weeks of intensive studies, and 50 per cent of the participants passed the entry exams for the Police training course and began the drafting process. The Bedouin policemen and police officers serve as a bridge between the Police and the Bedouin population and assist the population in times of need.

193. In May 2010, the Minister of Public Security presented a program that is intended to increase law enforcement in the Arab population. According to the program 400 policemen from the Arab population will be recruited during 2010 and will primarily operate in Arab communities. The program includes opening special preparatory and placement classes in order to assist candidates to prepare for the Police entry exams. The first class candidates are scheduled to take their police entry exams in a few weeks time.

194. In addition, the Ministry of Public Security is preparing two additional programs. The first program is intended to strengthen law enforcement and to fight violence and crime among the Arab population, and the second program is intended to strengthen the Police presence among the Ultra-Orthodox population. The implementation of both of these programs will include the strengthening of police services in the Arab and in the Ultra-Orthodox populations and activities to strengthen civilian prevention bodies operating in these populations, such as the Israel Anti-Drug and Alcohol Authority and the national program of City Without Violence.

195. **Trafficking in persons training.** In 2008, the issue of trafficking in persons remained an integral part of most of the training courses taking place in the Investigations and Intelligence Training School, and was covered in lectures by members of the relevant NGOs, State Attorney's representatives and the National Coordinator on the Battle against

Trafficking in Persons. In addition, two week-long training courses on trafficking in persons are held annually. Trafficking training also takes place in combating organized crime training, courses for heads of Investigations and Intelligence offices, coordinators' courses and similar courses. In addition, as a part of the regular training of the School of Continuing Education for the Police, lectures and training regarding the *Anti Trafficking Law* and handling of trafficking offences were given to all of the Police personnel.

Measures for the investigation of complaints

196. The Israeli authorities vigorously investigate any complaint against law enforcement officers. The Department for Investigation of Police Officers (DIPO) was established in 1992 as an independent department within the Ministry of Justice. The Department is a civilian body which operates within the Ministry of Justice, and it is charged with investigating any complaints of involvement of police personnel in the commission of offences.

197. In 2004, Section 49I1 of the *Police Ordinance* was amended (Amendment No. 18) in order to expand the Department for Investigation of Police Officers' scope of authority over ISA interrogators. Their expanded authority of review now applies to every criminal offence committed in the course of fulfilling the ISA interrogators' duties, or in relation to their duties. The scope of review was previously limited to criminal offences committed in the course of an interrogation, or with regard to a detainee held in custody awaiting interrogation, and was recently expanded, such that every suspicion of a criminal offence committed by ISA personnel, while on duty, is investigated by the Department.

198. In 2006, in response to a State Comptroller report, the DIPO announced a six-year plan for the purpose of hiring qualified civilian investigators to replace the policemen and police officers temporarily employed in the Department. The recruitment procedure began in 2008, and after meticulous examinations and classifications, an investigators' course was opened. During the course new civilian investigators were trained, who have as of the date of this Report been working in the DIPO for over a year in place of police investigators. In 2009, a course for civil investigators was not opened, however, one civil investigator joined to the DIPO in 2009. The gradual process of replacing the former police investigators with qualitative civilian investigators is continuing, and to date, the DIPO has 25 police investigators and 19 civilian investigators.

199. As stated in Israel's thirteenth Periodic Report, any person, whether a national of Israel or otherwise, may file a complaint with the Department, directly or via mail, fax or e-mail. Complaints filed with the Police are immediately transferred to the DIPO.

Table 3

Distribution of the complaints investigated by the Department for Investigation of Police Officers in 2008 (in comparison to 2004–2007)

No.	*Reason for terminating investigation of case*	*2004*	*2005*	*2006*	*2007*	*2008*
1	Criminal proceedings	144 (11 per cent)	137 (8 per cent)	148 (9 per cent)	195 (10 per cent)	172 (10 per cent)
2	Administrative proceedings	215 (16 per cent)	154 (9 per cent)	233* (13 per cent)	362* (18 per cent)	162 (10 per cent)
3	Lack of guilt	293 (22 per cent)	481 (29 per cent)	425 (25 per cent)	443 (22 per cent)	526 (31 per cent)
4	Lack of sufficient evidence	512 (38 per cent)	660 (39 per cent)	712 (41 per cent)	758 (38 per cent)	635 (38 per cent)

No.	*Reason for terminating investigation of case*	*2004*	*2005*	*2006*	*2007*	*2008*
5	Lack of public interest	124 (9 per cent)	170 (10 per cent)	160 (9 per cent)	129 (7 per cent)	114 (7 per cent)
6	Offender unknown	68 (5 per cent)	76 (5 per cent)	51 (3 per cent)	103 (5 per cent)	71 (4 per cent)
	Total	**1 356**	**1 678**	**1 729**	**1 990**	**1 680**
Cases ended for reasons 1,2,3 and 5		57.2 per cent	56.1 per cent	55.9 per cent	56.7 per cent	58 per cent

Source: Department for Investigation of Police Officers, October 2009.

* Figures received from the Police Disciplinary Department.

200. In 2008, the DIPO transferred 150 cases that were closed for lack of guilt, lack of sufficient evidence and lack of public interest to the Police Disciplinary Department for additional review and study, and to ensure that lessons are drawn from the case for the future.

201. In 2009, of the 93 cases in which the criminal proceedings had ended, 68 cases ended in conviction or a decision that an offence was committed. The punishment varies according to the case circumstances and in some cases includes imprisonment.

202. In order to fulfill their duties, police personnel have the authority to use reasonable force where necessary. The difficulty in investigating complaints regarding the improper use of force lies in the examination of the circumstances which justified the use of force, and the justification for the amount of force used.

203. In addition, since the use of force can be considered a tool available to police personnel when exercising their duties, in certain cases the complaints are handled by disciplinary procedures. Disciplinary procedures are used in cases where the Police personnel had the authority to use force, but the force used slightly deviated from the degree of reasonable force needed. The advantage of the disciplinary procedure is the fact that the event is examined from an organizational, and educational point of view.

204. Hereinafter are several examples of investigations conducted by the DIPO:

(a) On March 9, 2004, three border policemen robbed illegal aliens in the city of Lod, while beating and abusing them. As a result, the three were indicted and were convicted by the Tel Aviv District Court for the use of threats to acquire an asset, aggravated assault, theft and abuse of power. The three were sentenced to actual periods of imprisonment;

(b) On April 26, 2004, two border policemen arrested two illegal aliens, one of them a minor, and took them to an isolated grove, where they beat them with a club and abused them. The two were indicted for abuse of a minor or a person under care, and for inflicting grievous harm under aggravated circumstances. The Jerusalem District Court convicted the defendants and sentenced them to actual periods of imprisonment;

(c) On September 11, 2004, five border policemen abused two illegal aliens while threatening them with firearms. The five were indicted for abuse of a minor or a person under care and assault that causes actual bodily harm. The five defendants were convicted and were sentenced by the Jerusalem District Court to actual periods of imprisonment;

(d) During an operation conducted by the Hadera Police station detectives, the policemen noticed a person breaking into a vehicle. In the pursuit, one of the policemen

shot at the suspect, who was hit in the head. The investigation determined that the gunfire was not justified since the policeman was not under any immediate threat to his life. The case was transferred to the prosecution and evidence is currently being gathered.

The Ombudsman

205. In Israel, the State Comptroller also serves as Ombudsman (Public Complaints Commissioner). He/she performs this function by way of a special unit within the State Comptroller's office – the Public Complaints Commission. The Ombudsman investigates complaints against statutory bodies that are subject to audit by the State Comptroller, including Government Ministries, local authorities, state enterprises and institutions, government corporations, as well as their employees.

206. Complaints relating to the activities of public bodies which the law does not authorize the Ombudsman to investigate, such as banks, insurance companies and other non-governmental entities that serve the public, are often forwarded to the bodies statutorily charged with their supervision, examples being the Supervisor of Banks, Supervisor of Insurance etc. Thus, the Ombudsman is an effective address for dealing with problems of discrimination within a broad array of governmental and public institutions.

207. Any person may submit a complaint to the Ombudsman, be he/she a citizen, a resident, a tourist or any other person who feels that an act of a public body, which is subject to audit, directly wronged him/her or withheld from him/her a right or a benefit. The submission of the complaint is free of charge. The complainant is only required to sign the complaint and state his/her name and address. It is possible to submit a complaint about an act that resulted in a wrong being caused to another person provided that that person agrees that another person will submit the complaint in his/her name. Members of the Knesset may also complain about an act that results in a wrong being committed against another person. The Ombudsman does not investigate anonymous complaints; however he/she forwards such complaints, as well as complaints of a general nature, to the State Comptroller's office.

208. The combination of the two functions of State Comptroller and Ombudsman enables the Office of the State Comptroller and Ombudsman to oversee the activities of the governmental administration from both a general public perspective and from the more particular perspective of specific citizens who come in contact with the administration. The Ombudsman provides assistance to every person who has been wronged by an unjust or unlawful act on the part of the authorities, whereas the State Comptroller deals directly with improving the administration and revealing defects in the activities of the executive authority. Moreover, the melding of the functions in one body allows for the combination of information and activities in a way that optimizes the oversight of governmental bodies.

The Public Complaints Commission

209. The Public Complaints Commission invests substantial efforts in order to raise the awareness of this institution among population groups which are exposed to discrimination, and to communicate with the periphery population, including minorities and immigrants. Thus, reception offices were opened in Nazareth (north) in recent years, in close vicinity to where minority localities are located, in Be'er Sheva (south) in close vicinity to many Bedouin localities and an additional office will be opened in 2010 in the central area — Ramla or Lod — where there is a high percentage of Arab residents.

210. The employees in the Commission's reception offices are fluent in Arabic, Russian or Amharic, and they carry out explanatory activities within the welfare offices of local authorities in the periphery and among different social organizations, in order to encourage people to approach the Commission for assistance.

211. The Commission receives many complaints every year (11,000 in 2008), but only few are directly related to racial discrimination. The few complaints which relate to issues of discrimination, are primarily concerned with discrimination in admission to places of work and discrimination in receiving health, education, welfare and municipal services. For example, the Commission received complaints concerning discrimination against the Druze community in the conduct of land evaluations performed for the purpose of the payment of taxes; a failure by the Ministry of Health to inquire into the circumstances in which an Arab patient died; humiliating security checks of Arabs in airports; and discrimination by an Arab female officer in a local planning and building committee against Bedouin citizens who served in the IDF. These complaints were all examined by the Commission with the relevant authorities, and eventually, after no corroborating data was found, they were dismissed.

B. Security of the person

212. The *Crime Victims' Rights Law* 5761-2001 (the "*Crime Victims' Rights Law*") which entered into force in 2005, requires the provision of relevant information to a victim of crime at every stage of the criminal procedure. Accordingly, the Police established a new computerized system designated for this purpose. The system gathers the necessary information from other systems including police systems, the Israeli Prisons Service (IPS) and the State Attorney's Office. Victims of crimes may receive the information by calling a designated phone number or by text or voice messages initiated by the computerized system. The information is also accessible through the Internet. The system became operational in May 2005. The information is given to all crime victims without any distinction.

213. In 2007, a manned phone service center was established in order to assist persons who find it difficult to receive information via voice messages or through the Internet. The following table describes the number of applications for information received by the system:

Table 4
Requests for information according to the Crime Victims' Rights Law, 2005–2007

Year	*Requests for information through the Internet*	*Requests for information through the designated phone number*
2005	1 014	7 110
2006	3 773	9 575
2007	4 544	37 217

Source: The Ministry of Public Security, August 2008.

Legal assistance with foreign countries

214. The Legal Assistance Unit in the Israeli Police receives requests from foreign countries for legal assistance in the framework of investigations conducted in these countries with respect to incitement, racism and genocide offences, and crimes committed on ethnic, religious or national grounds. Such requests may relate to recently committed offences, as well as offences committed during the Second World War. Between the years 2005 and 2009, the Legal Assistance Unit received at least 27 requests of this kind, and efforts are made to give high priority to such requests.

The Status of the Ministry of Justice investigation into the activities of police officers during the October 2000 demonstrations in which police killed 12 Israeli Arabs and one Palestinian (Note that this section relates to the committee's recommendation No. 30 of June 14, 2007)

215. On September 18, 2005 the decision of the Head of the Department for Investigation of Police Officers concerning the October 2000 incidents was released. Despite investigation, there was a lack of evidence and unknown offenders (and in regard to one injury, the finding of "no offence").

216. Following several requests for re-examination of the decisions, and due to the highly sensitive nature of the issue, the Attorney General, the State Attorney and the Director of the Department for Investigation of Police Officers (DIPO) reached the conclusion that it would be advisable to initiate an appeal process, which would be carried out by the Deputy State Attorney (Special Functions) with the assistance of a staff of attorneys who were appointed for this matter specifically. The findings of the additional examination were to be presented to the Attorney General for his review and approval.

217. In the framework of the team work, the evidentiary material, containing thousands of testimonies, exhibits, and documents was examined; the Commission of Inquiry's report and the protocols prepared by the Commission were studied, as was the DIPO's report. After studying and examining the material and following many team discussions, first drafts of detailed opinions regarding each of the events were prepared.

218. In September 2006, as the re-examination process had reached a highly progressive stage, the Deputy State Attorney Office had been asked by Adalah — The Legal Center for Arab Minority Rights in Israel — to postpone the publication of the State's conclusions until the publication of Adalah's report on the issue in October 2006.

219. Naturally, following the publication of Adalah's 100 pages long report, the State found it appropriate to address the relevant issues mentioned in the report, consequently extending the duration of the examination process.

220. Adalah's detailed report was conveyed to the team and it studied the report thoroughly. In light of this report, the draft opinions prepared by the team were re-examined and in all the relevant opinions, concrete references were made to the contentions and comments of Adalah.

221. Upon completion of the formulation of the team's recommendations, the team provided the Attorney General with drafts of opinions with respect to each of the events that were examined, including its findings and recommendations regarding each event. These opinions extend over a total of some 500 pages.

222. Each opinion included a detailed analysis of the facts and the findings regarding the events referred to in the Orr Commission's report and in the Department for Investigation of Police Officers investigation, an analysis of the evidentiary material, and conclusions and recommendations of the staff regarding the event.

223. Upon receipt of the draft opinions, the Attorney General held a series of lengthy discussions with the team members regarding each of the examined events. Others from the State Attorney's Office and the Ministry of Justice also participated in the discussions, and the DIPO also gave reference in the discussions. During these discussions, the opinions were examined thoroughly, one by one.

224. On January 28, 2008 the Attorney General issued a statement presenting the decision of the appeal process, carried out by the Deputy State Attorney (Special Functions) and the team members.

225. The decision stated that it would be improper to interfere with the decisions made by the DIPO, which concluded that the investigative material did not provide a sufficient evidentiary foundation that would enable the filing of indictments against any of the suspects, based on the relevant law and Supreme Court judgments ("a reasonable possibility of conviction" requirement).

226. This decision was based on several grounds. The crucial aspect was the investigative difficulty, including difficulties in the gathering of evidence and in obtaining consent to conduct autopsies on the victims, as well as a lack of ballistic, forensic and on-site investigations due to the gravity of the events, etc. The Attorney General's decision was issued in Hebrew, English and in Arabic and may be found on the Ministry of Justice website.[1]

227. Furthermore, it should be mentioned that the evidence presented before the Orr Committee, could not be used in criminal procedures, due to the difference in the rules of evidence applicable in administrative procedures as opposed to those applicable in criminal procedures. Thus, the evidentiary foundation that would be sufficient to establish findings and recommendations in a commission of inquiry are not necessarily sufficient to form the basis of a criminal indictment. This too was a major consideration in reaching the decision.

228. The Attorney General, in the above mentioned statement, decided to adopt the recommendations made by the appeal process team and therefore criminal charges were not filed against the officers involved.

Protection of migrant workers

229. Israel is a destination country for migrant workers from Asia, Eastern Europe and Africa. The main countries of origin of foreign workers in Israel are: China, the Philippines and Thailand.

230. The Government allows for the employment of legal foreign workers in specific fields: care giving for elderly and disabled, construction, agriculture, certain restaurants and industry. Employment of a legal foreign worker in one of the permitted fields requires the submission of an application for employment permit, after which a working visa is granted to the desired foreign worker. The Government encourages the rehiring of foreign workers who are in Israel and have not completed the maximum 63 months period of employment, in order to allow workers who have arrived legally to maximize their earning potential, and to limit the abuse of foreign workers, which is more prevalent with new workers from abroad. Employment of foreign workers by employers who do not hold such permits constitutes a criminal offence punishable by a substantial administrative or criminal fine.

231. Migrant workers coming to Israel in search of employment are motivated mostly by harsh economic conditions and low wages in their countries of origin. By coming to Israel they hope to earn high wages and guarantee a solid financial future for themselves upon return to their home countries. Some enter Israel by illegally crossing the southern border of Israel or illegally enter through Israel's airports, using either a forged tourist visa or a false Jewish identity. The vulnerability of these persons exposes them to the risk of being exploited for easy financial gain. This vulnerability may be heightened by requirements to pay high middleman fees in their countries of origin.

[1] English: http://www.justice.gov.il/NR/rdonlyres/5B88648A-D537-47E1-9CE8-EE9D586CFCFE/9728/english2.doc; Arabic: http://www.justice.gov.il/NR/rdonlyres/21CA68C9-5D65-4EF1-A531-AF3682DA9BCF/18158/TheAttorneyGeneralDecisionontheAppealregardingEven.pdf.

232. Employers may be prosecuted for violations of the labor laws in Israel, including the *Foreign Workers Law* 5751-1991 (the "*Foreign Workers Law*"), which was revised in 2000 to ensure the protection of foreign workers' rights.

233. The *Foreign Workers Law* and its Regulations impose additional obligations on employers of foreign workers, including the obligation to provide the worker with a detailed employment contract in his/her language (Section 1C), the obligation to provide the employee with decent lodging (Section 1E), and the obligation to provide the employee with private medical insurance for his/her employment period (Section 1D). A violation of the above provisions, including illegal deductions from a worker's salary, is a criminal offence punishable by substantial administrative or criminal fines. The Law was amended in July 2009 (Amendment No. 11) to include Section 1N1 according to which, not-paying a peremptory fine imposed as a result of violating the *Foreign Workers Law* or the second addendum of the *Labor Court Law* 5729-1969 (the "*Labor Court Law*"), is a ground for cancellation of or refusal to issue a permit to employ foreign workers by the fined employer.

234. Amendment No. 14 of 2004, to the *Employment Service Law* criminalizes the collection of illegal excessive recruitment fees from foreign workers, and renders this crime punishable by up to six months' imprisonment and/or attended by a fine of up to 200,000 NIS (US$ 54,054). The Amendment also applies a temporary order (in force until July 1, 2011) amending the *Prohibition on Money Laundering Law* 5760-2000, making the collection of exorbitant fees an origin offence.

235. The *Employment Service (Recruitment Fees) Regulations* 5766-2006 (the "*Employment Service (Recruitment Fees) Regulations*") cap the permitted recruitment fees of Israeli recruitment agencies at 3,135 NIS, (US$ 847.3) or 88 per cent of the monthly minimum wage, minus any sum already paid by the worker to a foreign recruitment agency. The agency may, however, be legitimately reimbursed by the foreign worker for the cost of airfare from the source country to Israel. The Regulations also detail the terms under which it is permitted to collect the fee, for example, a detailed contract must be in effect between the agency and the worker. Additionally, the Regulations outline the circumstances under which a recruitment agency shall reimburse payments collected from a foreign worker.

236. The *Employment Service (Provision of Information) Regulations* 5766-2006, (the "*Employment Service (Provision of Information) Regulations*") require a recruitment agency to provide foreign workers with all relevant information relating to their rights and obligations as foreign workers in Israel, for example, the identity of his/her employer, the term of employment permit of the employer, a description of the job, information as to the permitted recruitment fees etc.

237. In recent years, the number of migrant workers arriving in Israel in search of work has significantly increased. According to the Central Bureau of Statistics, at the end of 2008, there were approximately 223,000 migrant workers. Most of these workers (approximately 115,000) entered Israel illegally or stayed in Israel after the expiry of their visas, with illegal migrant workers reaching approximately 107,000.

238. The annual quotas for foreign workers are determined by the Government, after considering the rates of unemployment and the needs of the various economic sectors. Government Resolutions concerning quotas are usually determined after informal negotiations are conducted between the relevant Government Ministries. In 2009, the Government decided on the following annual quotas of foreign workers: 28,500 in the agricultural field, 8,000 in the field of construction, 700 in restaurants, and 1,200 in the industrial field. As for the field of nursing care, the quota is determined in accordance with the demands, and to date 50,000 permits were issued in this field. Thus, the total number of permits issued for foreign workers is approximately 88,500.

239. In May 2006, the National Labor Court upheld a decision of the head of the Foreign Workers Department in the Ministry of ITL, to reduce the permitted quota of foreign workers given to a manpower agency which misreported data regarding its foreign construction workers. The Court noted that corporations which received permits to employ foreign workers are responsible for protecting the labor rights of the workers during their stay in Israel, and are required to provide reliable and specific reports regarding every foreign worker they employ (*La.C. 2/06 Milgam Manpower Management Agency Ltd. et al. v. The Ministry of Industry, Trade and Labor* (17.5.06)).

240. Foreign workers arrive in Israel at the request of a specific employer, who has received a permit to employ a foreign worker after examination of his/her eligibility to receive such a permit under the relevant procedures. Previously, a worker who wanted to change employers was allowed to do so subject to the agreement of the original employer or in exceptional cases. This procedure was cancelled by the Government, and today all foreign workers, including care givers who arrived in the country to care for a specific individual, may leave their registered employer to look for alternative legal employment after registering this change of status in accordance with the relevant procedures. The worker is not required to specify the reason for the requested change.

241. The ruling by the High Court of Justice November 2008 (*H.C.J. 4542/02 "Kav Laoved" Association v. The Government of Israel*), declaring that binding a foreign worker to a specific employer is illegal, required the Government to formulate new systems of employment for foreign workers which would allow for the supervision of such employment, while allowing even greater freedom for workers who wish to change employers. Thus, an intergovernmental committee was appointed and created new systems in which a worker who decides to leave his/her employer does not have to register with the Ministry of Interior, but rather with a manpower agency (in the construction field) or with recruitment agencies (in the nursing care and agriculture fields). These systems greatly ease the process of change for the worker.

242. In anticipation of the implementation of these complex new systems in the nursing care and agriculture fields (in the construction field the new system has functioned since 2005), new guidelines were issued by the Population, Immigration and Border Authority (PIBA) to allow any foreign worker who was fired or who resigned from his/her employment to search for a new employer for a period of 60 to 90 days in which he/she will not be arrested and removed from Israel, subject to the receipt of notification by PIBA of the worker's resignation (in the field of construction the period is 60 days, while in all other fields the period is 90 days).

243. As a result of this decision, visas issued to foreign workers no longer include the name of the current licensed employer, and instead, only the economic field in which the foreign worker may be employed appears in the worker' passport – agriculture, construction, nursing care, etc.

244. In addition, lists of employers authorized to employ foreign workers in the fields of agriculture, restaurants and industry are routinely published on Government web sites to allow easier placements for foreign workers who decide to change employers, and the number of employment permits of foreign workers issued in these fields has increased by 10 per cent to 30 per cent over the yearly quota of foreign workers. This, for the express purpose of allowing the workers to change employers more easily, in addition to allowing the development of competition regarding the worker's services which will result in improved employment conditions.

The agricultural field

245. According to a series of Government Resolutions, the Government is required to enter into bilateral agreements with countries of origin regarding, *inter alia*, supervision of recruitment, which is also supervised by the IOM, in order to combat overcharging and other recruitment abuses in the field of agriculture.

246. Pursuant to Government Resolution No. 147 of May 12, 2009, it was decided to increase the number of permits issued in the agricultural field by 10 per cent. In addition, in the near future PIBA will examine the gap between the number of workers in this field in comparison to the number of permits issued to employers, in order to establish what the actual demand for workers is. However, in Government Resolution No. 752 of September 14, 2009, the Government decided to decrease and limit the percentage of foreign workers recruited for the agricultural field from countries that do not have an arrangement according to which, the recruitment will be carried out with the assistance of the International Organization for Migration (IOM) or a similar body, pending the signing of bilateral agreements between these countries and the Government of Israel. Moreover, it was decided to appoint an inter-ministerial team which will operate to promote the conclusion of bilateral agreements with relevant source countries. Nonetheless, the changeover from the system of recruitment by private agencies to recruitment in accordance with bilateral agreements is still in its early stages, and no such agreements have yet been signed. Progress was made in this regard with the Government of Thailand, with which there is an intention to enter such an agreement during 2010.

247. In addition, an agreement between the Government and the Farmer's Association of May 2009 established a gradual reduction of the quotas for foreign agricultural workers in the framework of additional budgets for research into agricultural technology and grants to farmers for purchasing agricultural machinery to replace manual labor. In addition, the Government committed to providing annual sums to encourage Israelis to work in the agricultural field by way of bonuses and additional payments for long-term work in this field. According to this agreement, the number of foreign agricultural workers is to be gradually reduced, such that by 2015 the number of such workers will be 18,900, down from 28,500 in 2008.

The construction field

248. In 2005, the Government initiated a new system for employment of foreign workers in the field of construction, which has proven successful in protecting workers' rights and related labor conditions, as well as in providing employment for foreign workers in short-term projects carried out by registered contractors in the construction industry. According to this new system, foreign workers are employed by 40 bonded and licensed manpower agencies which are responsible for their salaries and work conditions. Each agency is required to report directly to the relevant authorities each month, regarding the salary and deductions from salary of each foreign worker it employs. The limited number of licensed agencies allows authorities a closer degree of supervision over the agencies and the working conditions of the foreign workers.

249. In addition, complaints submitted by foreign workers against the manpower agency which employs them can be submitted to the Ombudsman for Foreign Worker Rights in the Ministry of ITL. The Ombudsman's phone number is printed on the monthly pay slips of the workers and posted in the worker's lodgings which are provided by the agency. In 2009, the Ombudsman received 138 new complaints, of which 105 were addressed. Of the total complaints received in 2009, the Ombudsman received 42 applications for the transfer of foreign workers between corporations in the construction field (prior to the lapsing of the requisite three months), of which 14 were approved.

250. The Manpower agencies must provide each worker with a document in his/her language, prepared by the Ministry of ITL, setting out the workers' rights and obligations. At the beginning of each year, the agency's director must issue a formal declaration to the authorities affirming that each worker has received this document. The document, translated into different languages, can also be found on government Internet sites.

251. In order to counteract the problem of underreporting of the working hours of foreign workers, manpower agencies in the construction field are required to pay their foreign workers for a minimum of 211 working hours per month, which include over twenty hours of overtime.

252. In addition, the new system allows workers to change manpower agencies on a quarterly basis. However, a worker whose complaint against a manpower agency is found to be justified by the Ombudsman, may change his/her manpower agency at any time.

253. A special deposit system has been established for each foreign construction worker, in which the manpower agencies must deposit 700 NIS (US$ 189) every month in a bank account in the name of the worker. The accrued sum, which is, *inter alia*, in lieu of severance pay, is given to the foreign worker in cash when he leaves the country permanently. The payment is made to the worker at a special bank branch which was established at the Ben-Gurion Airport for this purpose. The workers may also opt to have the payment transferred to their bank account abroad, after they leave the country. In cases in which the workers do not leave the country by the end of the period stamped in their visa, a portion of the deposit is deducted for each month that they overstay their visa, while a worker who overstays his/her visa by six months forfeits the sum. In cases in which the worker claims that his/her overstay was justified or was caused by events which were not under his/her control, he/she may appeal to receive the payment despite the overstay. Between July 2005 and Mid-October 2009, a sum of 112,667,768 NIS (US$ 33,156,154) had been transferred to 8,706 foreign construction workers as part of this system.

The nursing care field

254. The largest number of foreign workers in Israel is employed as care givers for elderly and disabled persons, as the need for live-in nursing care givers has grown in recent years.

255. The National Insurance Institute provides up to sixteen weekly hours of nursing care assistance for this population, in addition to allowances for the severely disabled population. However, for those who need full-time care, live-in help provided by foreign workers is very important.

256. In 2009, approximately 55,000 persons held permits to employ a foreign care giver, and approximately 45,000 care givers were employed in the country. There is no quota for foreign care givers, as the need for such assistance is important in order to help elderly and disabled Israeli citizens confined to their homes and communities, especially elderly and isolated holocaust survivors.

257. The primary countries of origin of care giving workers are the Philippines, Nepal, Sri Lanka, and India, but workers also arrive from a variety of other countries.

258. Permits to employ foreign nursing care givers are currently issued by the PIBA in the Ministry of Interior, mostly to elderly persons who have been examined and found to have extremely limited ability to perform basic daily activities. Once the eligibility of the applicant has been established, and after he/she or a responsible family member has signed a statement to the effect that he/she is aware that Israeli laws apply to foreign workers in the same manner as they apply to Israeli workers, and that he/she is aware of his/her obligation to provide the worker with rights as set out by law, the applicant may contact a licensed

recruitment agency which will find a foreign worker with legal status currently in the country for him/her to employ, or will recruit a suitable worker abroad.

259. Foreign workers may remain in Israel for up to 63 months after their original date of entry. An exception is made in cases in which the worker requests to stay in Israel for an additional period after having cared for an elderly or disabled employer for at least one year. In this case, if a social worker certifies that due to the close relationship between the employer and the care giver, the absence of the worker will harm the disabled employer, the worker may remain in Israel for additional periods.

260. Foreign nursing care givers may change employers throughout their 63 months of maximum stay in Israel without limitation, by notifying the recruitment agency with which they are registered of the change. Government policy is to encourage the rehiring of workers already in the country who have not completed the maximum period, instead of the recruitment of new workers from abroad, so as to provide experienced workers with continued employment and to limit opportunities for fraudulent recruitment practices.

261. In 2008, the Ministry of Interior carried out a legalization campaign for foreign nursing care givers who entered the country legally, have not completed four years in the country, and have lost their regular status in the country. Care givers who re-registered with the Ministry of Interior received a 90 day tourist visa allowing them an additional period to find legal employment in this field.

262. An additional campaign, detailed in Government Resolutions but not yet implemented, will limit the number of new nursing care givers which licensed recruitment agencies may bring from abroad, relative to the number of foreign workers with legal status currently unemployed.

263. As an additional step to limit abuses in the recruitment process, Israeli embassy officials have been directed to conduct personal interviews with foreign workers applying for entry as caregivers, in order to ensure that these workers receive the “Rights Handbook” in their language prepared by Ministry of ITL, are aware of the nature of the work they will perform as well as the remuneration set by law, and to ensure that they have the basic skills, including language skills, necessary for the work. In addition, according to Government Resolution No. 147 of May 12, 2009, the current Ministry of Interior’s policy is to limit recruitment in the nursing care field of foreign workers who cannot communicate in English, except in special cases in which there is a need for a worker who speaks another language.

264. In 2009, stricter licensing requirements reduced the number of recruitment agencies for foreign care givers from over 300 to approximately 140. Every agency is required to hire qualified, experienced social workers who must examine all placements and conduct quarterly visits. Agency workers are required to sign an affidavit before recruiting foreign workers from abroad, stating that the worker has the necessary qualifications needed by the disabled employer, including knowledge of the English language, and that the agency assumes responsibility for finding the worker alternative employment in cases where the original place of employment comes to an end. The name of the recruitment agency which brought a worker into the country is registered with the Ministry of Interior, so that in cases of abuse it is possible to trace the agency.

265. The new method of employment in the nursing care field, which was implemented in 2008, continued to operate during 2009; and currently most of the employers and workers in this field are registered as belonging to a specific private bureau. Thus, foreign workers are now able to shift easily between different employers, without the need to approach the district bureau of the Ministry of Interior for registration. The new private bureaus are obliged to conduct quarterly reviews of the employers and the workers in order to assist with any problems that might arise and report unusual findings.

The Population, Immigration and Border Crossings Authority (PIBA)

266. On April 13, 2008, the Government approved Resolution No. 3434, which established the new Population, Immigration and Border Crossings Authority (henceforth: "PIBA"). The PIBA replaced certain functions previously falling under the authority of the Immigration Administration, and all issues related to foreign and Palestinian workers were transferred to the PIBA in January 2009. Thus, the PIBA operates as an independent body within the Ministry of Interior, which has joint authorities regarding population, immigration and border issues, which authorities previously belonged to the Immigration Administration and other Ministries.

Membership in the Histadrut (the General Federation of Laborers in Israel)

267. On November 24, 2009, the management of the Histadrut decided to submit a motion to the organization's board of representatives, according to which, the Histadrut's constitution would be amended in order to allow for foreign workers to become members with equal rights in the Histadrut. Previously, such membership was limited to workers who were Israeli citizens or residents. The amendment of the organization's constitution will allow any foreign worker with full and equal membership, and every foreign worker who chooses to join the Histadrut, entitlement to full rights, including the right of association, the right to vote and be elected, and to other benefits provided by the organization. The amendment will not only impact the individual foreign worker's rights, but also the ability of the Histadrut to officially represent foreign workers and to promote their protection and improve their rights.

Enforcement of foreign workers rights

268. In accordance with the Committee's recommendation No. 26 of June 14, 2007, as of November 2009, the Labor Laws Enforcement Division in the Ministry of ITL investigated more than 850 employers for allegedly violating the *Minimum Wage Law* 5747-1987 (the "*Minimum Wage Law*") and investigations against 500 of these employers were opened in 2009. In addition, 44 indictments were filed against employers, and 413 administrative fines were imposed in a total sum of approximately 3 Million NIS (US$ 810,811). The number of investigations has decreased in recent years due to better and enhanced enforcement, which has resulted in a lower number of complaints. For purposes of comparison, the numbers of investigations opened against employers of foreign workers in previous years were: 2004 – 9,834; 2005 – 4,170; 2006 – 3,743; 2007 – 3,111.

269. During 2009, the Enforcement Division of the Foreign Workers Department in the Ministry of ITL imposed approximately 2,052 administrative fines on employers of foreign workers for violating the *Foreign Workers Law*, with a total sum of approximately 29,182,500 NIS (US$ 7,887,162) being imposed according to the following distribution: 272 administrative fines were paid in the total sum of 2,395,000 NIS (US$ 647,297); 1,063 administrative fines are currently outstanding in the total sum of 14,422,500 NIS (US$ 3,897,973); 286 administrative fines are currently the subject of legal proceedings in a total sum of 6,310,000 NIS (US$ 1,705,405); 328 administrative fines are currently in the process of collection in the total sum of 4,605,000 NIS (US$ 1,244,595); and 94 administrative fines were annulled, in the total value of 1,340,000 NIS (US$ 362,162).

270. During 2009, 934 criminal indictments were filed against employers and manpower agencies for violations of labor laws relating to employment of foreign workers (up until October 2009, the Department imposed approximately 196 fines on employers of foreign workers for violating the *Minimum Wage Law*, with a total sum of approximately 1,923,000 NIS (US$ 506,053)) having been received and 171 judgments having been handed down. The total sum of the criminal fines imposed by the labor courts was 7,788,280 NIS (US$ 2,104,941) in all cases.

271. In addition, in 2009, 15 disabled employers had their permits to employ nursing foreign workers revoked, and in four cases, relevant conditions or limitations were imposed on existing permits.

272. For example, on September 6, 2009, the appeal of an agricultural cooperative society which was convicted of abusing foreign workers and required to pay the maximum fine set by law, was dismissed. In this case, two foreign workers employed by the appellants were found to be residing in inhuman conditions. The Be'er-Sheva Labor Court imposed the maximum fine of 939,600 NIS (US$ 253,946) on the employing company, as well as an additional fine of 261,000 NIS (US$ 70,541) on each of the directors of the company, which would be substituted with one year imprisonment if not paid on time. The National Labor Court affirmed the Be'er-Sheva Labor Court's decision, and emphasized that the fines imposed in such cases of abuse and objectification of foreign workers must be high, as part of the public interest and the necessity to deter such violations of the laws regarding the employment of foreign workers (*Cr.A. 13/07 Nir-Am Cohen Vegetables Agricultural Cooperative Society et al. v. The Ministry of Industry, Trade and Labor* (6.9.09)).

273. On August 6, 2007, the Jerusalem District Court ruled that a violation of an employment permit by an employer, who employed a foreign worker in giving massages instead of in the agricultural field, is in itself administrative proof which can constitute a basis for the cancellation of the employment permit. Here the employer was also indicted for having sexual relations with a foreign worker whose consent was given as a result of exploitation of the relationship of authority by the employer (*Ad.P. 350/07 Shlomo Mutsafi et al. v. The Ministry of Industry, Trade and Labor* (6.8.07)). The decision to cancel the employer's permits to employ foreign workers as a result of the abovementioned charges was upheld by the Supreme Court (*Ad.P.A. 7216/07 Shlomo Mutsafi et al. v. The Ministry of Industry, Trade and Labor* (24.12.07)).

274. The Israeli labor laws, including extension orders and collective agreements, apply to foreign workers as they do to regular Israeli workers. For example, in November 2005, the Be'er-Sheva Labor Court found that the provisions of a collective agreement granting certain benefits only to hotel employees whose identity cards registered them as Eilat residents, constituted discrimination against foreign employees in those hotels, and required that the benefits be paid to the foreign employees as well (*La.C. 6042/04 Ahmad Montilo v. Isrotel Ltd. et al.* (29.6.05)).

275. In addition, in February 2006, the Tel-Aviv Regional Labor Court stated that foreign workers who were employed in Israel illegally, are also entitled to enjoy labor rights prescribed by law, including severance pay, in cases in which they are deported from Israel as a result of their illegal status (*La.C. 4814/05 Arnel Marco et al. v. Pnina Rozenblum* (21.2.06)).

276. Accordingly, the claims of illegal foreign workers who are detained, with respect to salary and benefits owing, are routinely referred by the Tribunals for Detention Review to labor inspectors who contact the employers for the purpose of receiving the payments on behalf of the worker prior to his/her deportation. In 2008, 1,723,777 NIS (US$ 465,886) was collected on behalf of detained foreign workers in this manner. In addition, foreign workers who have left the country are allowed to enter temporarily, as necessary, in order to testify in civil suits which they filed against their former employers.

277. The Police handle all populations and sectors, with special attention paid to areas and fields of employment in which foreign workers are employed, while focusing on several main offences, including: exploitation, fraud, withholding of passports, sexual abuse, abduction for purposes of trafficking and excessive and illegal commission fees. According to the relevant sources, it is impossible to define a specific population from a certain country of origin as a population at the greatest risk for abuse. Yet, the risk for

abuse will be higher the greater the worker's debt, the lower his/her level of education and the more limited his/her abilities to communicate.

Table 5
Number of administrative hearings and decisions by sectors, 2009

Field	*Hearings*	*Decisions taken*	*Permits cancelled*	*Number of hearings in which restrictions were imposed*	*Number of hearings in which no restrictions/ cancellation were imposed*	*Ongoing hearings*
Nursing	100	53	27	16	10	46
Agriculture	11	4	2	-	2	7
Industry & restaurants	12	8	5	-	3	4
Construction	1	1	1	-	-	-
Total	**124**	**66**	**35**	**16**	**15**	**57**

Source: The Ministry of Industry, Trade and Labor, November 2009.

278. **An Ombudswoman for the Complaints of Foreign Workers** was appointed in the Ministry of ITL. Her mandate is to safeguard the rights of foreign workers employed in Israel, and to handle complaints received from foreign workers, employers, citizens, NGOs, associations and the media. The Ombudswoman has the authority to recommend that a criminal investigation be carried out by the Enforcement Division, as well as to initiate administrative proceedings. The Ombudswoman serves a central coordinating function in reviewing complaints and deciding if they contain violations of regulatory laws or crimes of slavery, forced labor or trafficking. She then refers them to the proper authority (the Ministry of ITL if a regulatory violation is involved and the Police if a crime of trafficking, slavery or forced labor is involved).

279. **Actions against Recruitment Agencies**. The Ministry of ITL investigates complaints of abuse in the process of recruitment of foreign workers and the cancellation of permits given to Private Recruitment Agencies found to have violated the relevant laws and procedures, particularly regarding recruitment of foreign workers in the nursing care field.

280. During 2009, licenses and special permits to recruit foreign workers were revoked from 18 agencies; three agencies which applied for special permits to recruit foreign workers were refused; two permits were revoked for a fixed period of time, and the permits of four other agencies were rendered conditional.

281. During 2008 and up until October 15, 2009, 47 permits to recruit foreign workers in the nursing field were revoked. In eight cases the permits were temporarily revoked, and in six cases the permits were granted on probation. In 27 cases, applications for licenses and permits were denied. In addition, investigations and administrative hearings led to the closure of recruitment agencies in cases in which managers of abusive agencies which received closure orders, continued to recruit illegally under the auspices of another licensed recruitment agency. The above decisions required intensive investigatory preparations carried out with the cooperation of NGOs, the Ministry of Interior and the Police. Numerous appeals which were lodged against the cancellation of these permits and closure orders were denied by the National Labor Court in a series of 2008–9 rulings that emphasized the importance of close supervision of foreign worker recruitment agencies.

282. During 2007, approximately 50 licensed recruitment agencies holding special permits to recruit foreign workers were inspected and investigated by the Ministry of ITL. In 42 cases, both the licenses and permits of the agencies were revoked. In four cases, the permits given to the agencies to recruit foreign workers were revoked for a set period. In four cases the permits given to the agencies to recruit foreign workers were revoked

indefinitely and one permit was granted on probation. The revocations were based on the following grounds: unlawful collection of fees from foreign workers, recruitment of workers in collaboration with a non-licensed agency, false social worker reports, unlawful transfer of foreign workers and bringing a foreign worker to Israel contrary to the terms of the permit. Seven agencies appealed the revocation of their licenses/permits to the Labor Court; their appeals were denied.

283. The following is an example of one decision handed down in 2008 illustrating the severity with which the courts and the authorities regard breaches of the *Foreign Workers Law*. On July 17, 2008, the National Labor Court accepted the State's appeal, regarding the leniency of the punishment imposed on the defendants. The defendants were convicted of employing a foreign worker without a lawful license, without arranging medical insurance for him, without providing him with a contract in a language he understood, and without stipulating the details of his salary and the deductions to be made there from. The worker, after working for only a month, was injured in a work related accident (which was later defined as a traffic accident since it involved a fork-lift). The worker was taken by ambulance to a hospital, but was admitted anonymously since the company employing him denied having any knowledge of his details and denied the existence of a relationship between him and the company. The District Labor Court imposed a lenient fine of 50,000 NIS (US$ 13,514) on the company and 15,000 NIS (US$ 4,054) on its manager, since it determined that the employment was only for a short period of time, and did not involve personal gain for the defendants; and because the defendants had no prior convictions.

284. The State appealed against the leniency of the fine, which constituted only 15 per cent of the maximum penalty stipulated in the *Foreign Workers Law*, claiming that the fine imposed did not reflect the severity of the offences, as the defendants evaded their responsibilities as employers, and deserted the worker without financial support in a time of distress and uncertainty, which amounted to a risk to his health. The National Labor Court accepted the appeal and imposed a 150,000 NIS (US$ 40,541) fine on the company as well as a 45,000 NIS (US$ 12,162) fine on its director (*Cr.A. 27/07 The State of Israel v. Thesa Import and Export of Wood Inc. et al.* (21.5.08)).

Dissemination of information regarding rights among foreign workers

285. A special workers' handbook regarding the rights of foreign workers in the construction field was issued by the Ministry of ITL in English, Russian, Romanian, Turkish, Thai and Chinese. The handbook instructs the workers to contact the Ombudswoman in any case in which the rights discussed therein have been breached.

286. Private recruitment agencies who have recruited foreign workers in the field of construction are required to distribute the handbook to each foreign worker they have recruited, and the directors of the agencies must provide the Foreign Workers Department in the Ministry of ITL with an affidavit stating that they accept personal responsibility for the distribution of this handbook to each worker.

287. Furthermore, as discussed above, the *Employment Service (Provisions of Information) Regulations* require recruitment agencies to provide foreign workers with all information relating to their rights and obligations as foreign workers in Israel (e.g. permitted fees' rates, etc.).

288. In addition, a brochure discussing the general labor rights of foreign workers in Israel has been published on the website of the Ministry of ITL in English, Hebrew, Chinese, Thai, Russian, Romanian and Turkish. This brochure is also distributed by the Ministry of Interior to each foreign worker who arrives at Ben Gurion Airport.

289. An additional method of disseminating information has been implemented by the Israeli Embassy in Thailand. In cooperation with the Ministry of ITL and the Thai Labor

Ministry, a brochure has been released discussing the rights of foreign workers in Israel. The booklet, which is in Thai, contains information regarding the labor and social security rights of workers and includes other information, such as relevant phone numbers, medical treatment facilities and basic Hebrew. The booklet is attached to the passport of each worker who receives a visa to Israel.

290. **The Knesset's Special Committee on Foreign Workers**. The Knesset's Special Committee on Foreign Workers regularly holds sessions regarding issues and complaints relating to the situation of foreign workers in Israel. The committee has dealt intensively with many issues concerning foreign workers in Israel between the years 2008–2009 and has requested updates upon the work of the new PIBA in these matters. The following is a partial list of the subjects the committee has dealt with: enforcement of foreign workers' rights, complaints regarding enforcement in the agricultural field, examination of reforms enacted in the nursing care field, safety and hygiene in factories, deportation of illegal foreign workers etc.

291. **Bilateral agreements with Countries of Origin**. During 2009–2010, the Government continued to take steps towards the finalization of bilateral agreements with countries of origin, under the supervision of the International Organization of Migration (IOM), with respect to the recruitment of foreign workers to Israel. The implementation of the agreement between the IOM and the Government of Thailand regarding the recruitment of Thai agricultural workers for work in Israel has been delayed due to the fact that the Government of Thailand has yet to ratify the bilateral agreement with Israel, in accordance with the IOM's requirement.

292. The Ministry of ITL is making every effort in order to sign additional bilateral agreement with countries regarding the recruitment of foreign workers for work in Israel. For example, a video conference was conducted with the Government of Sri Lanka on December 17, 2009, with the intention of promoting the signing of such an agreement.

293. In this regard please also see the section on the Protection of Migrant Workers in Article 5 above.

Children of foreign workers

294. In 2007, approximately 1,000 children of foreign workers lived in Israel. Since the submission of Israel's thirteenth Periodic Report, there has been progress in the legal status afforded to children of foreign workers. Government Resolution No. 3807, dated June 26, 2005, was amended by Government Resolution No. 156, dated June 18, 2006, and states the following:

(a) Upon request, the Minister of the Interior is entitled to grant permanent residency status to children of illegal immigrants who have been part of the Israeli society and culture, if they fulfill the following conditions:

(i) The child has lived in Israel for at least 6 years (as of the date of the Resolution), and entered Israel prior to the age of 14. A short visit abroad will not be viewed as an interruption of this time period;

(ii) Prior to the child's entry or birth, the parents must have entered Israel legally, and with an entry permit issued in accordance with the *Entry into Israel Law*;

(iii) The child speaks Hebrew;

(iv) The child is in first grade or above, or has completed his/her studies;

(v) Those filing the request will be required to submit documentation or participate in hearings, in order to prove that they satisfy the abovementioned criteria;

(b) The Minister can grant temporary residency status in Israel to the parents and the siblings of the child, as long as they have lived in the same household from the child's entry date into Israel or birth in Israel, and are in Israel as of the date of this Resolution. If there is no reason for objection, the temporary residency status will be renewed until the child reaches the age of 21. At that point, the parents and the siblings will be entitled to file a request for permanent residency status.

295. As of June 1, 2009, approximately 862 requests have been filed of which 436 were accepted, 424 were denied and 2 are still pending. Of the requests that have been denied, 354 appeals were filed with the committee of appeals. On review, 131 applications were accepted by the Ministry of Interior, and 219 were denied. Of the appeals which were denied, 31 were referred to the committee that reviews humanitarian issues and four are currently under review. In total, 567 applications were accepted and 291 were denied.

Unaccompanied foreign minors

296. Among the foreign population unlawfully residing in Israel, some are children. These children require special treatment. The Ministry of Interior's Procedure No. 10.1.0016 (currently undergoing an amendment process): "Unaccompanied Foreign Minors Treatment Procedure", determines avenues of treatment, as follows: Placement in custody must be in a residence which is principally for minors; prior to the removal of minors under 18 years of age consideration must be given to the child's best interest as a primary concern. An illegal minor who has been placed under a temporary custody order shall be brought as soon as possible — no later than 24 hours — to a Border Control Officer. The Border Control Officer, after having considered the minor's opinion regarding the custody order and removal order, shall decide which of the orders shall be given effect (the decision is an ad hoc decision, and depends on the specific circumstances of the case).

297. A minor under the age of 14 shall not be held in custody, but rather in an appropriate facility or foster care pending removal. A minor must be informed of his/her right to counsel. Within 24 hours (48 hours in special circumstances and 72 hours if it is a holiday or a weekend) the minor will meet with a social worker. The social worker shall submit his/her professional opinion to the Border Control Officer within 48 hours, followed by a decision to keep the minor in custody or release him/her from custody. Notification regarding any delay in removal shall be transmitted to the minor's state of origin, unless it endangers the minor's life, freedom or the lives or freedom of members of his/her family.

298. An unaccompanied minor placed within an educational framework, is dependent on the assistance of the Ministry of Education, as the responsible authority, which shall take care of it, is eligible to receive medical insurance. A minor can be held for a period of up to 60 days in custody and than moved to an appropriate alternative facility, pending age confirmation and availability of a facility. Notification of the relocation is provided at least seven days prior to the final date set for relocation, and is coordinated to the extent possible with the recipient State. A minor will not be removed if his/her life or liberty is in danger in his/her state of origin.

299. **The Legal Aid Department of the Ministry of Justice**. As mentioned above, the Department provides legal aid for minors who have arrived illegally in Israel, and promotes the release of such minors from detention while transferring them to alternative custody, such as foster families and boarding schools.

Refugees

300. Israel is a party to the 1951 UN Convention on the Status of Refugees. Any person who meets the Convention's definition of a refugee may apply for refugee status in Israel, regardless of his/her religion.

301. Every asylum seeker has full and free access to the UNHCR, and may approach the Police and the Courts regarding any claim he/she may have, and in many cases this right has been exercised, either directly or indirectly through NGOs.

302. In 2002, a procedure for the processing of requests by asylum seekers in Israel was formulated in coordination with the delegation of the UNHCR in Israel, the Ministry of Interior and the Ministry of Justice, and was in force until April 2009.

303. In 2009, a special unit for the Treatment of Asylum Seekers was established within the Ministry of Interior and received extensive training from the Israeli branch of the UNHCR.

304. The Refugee Status Determination (RSD) Unit in the Population, Immigration and Border Authority (PIBA) within the Ministry of Interior, was established in order to conduct thorough interviews for asylum seekers and provide written recommendations for the Advisory Committee's consideration. The Unit began operating in April 2009.

305. The RSD Unit began conducting initial and in depth interviews in July 2009, until which time every asylum seeker was referred to UNHCR. All asylum-seekers however still enjoy full access to UNHCR, as well as to various NGOs.

306. Naturally, as the authority and responsibility for the determination of refugee status is a sovereign Israeli decision, Israel reserves the right not to grant a permit to stay in Israel for citizens of hostile or enemy states.

307. A person determined to be a genuine asylum seeker, and who has received a certificate from the UNHCR, and following an evaluation it was determined that his/her matter should be brought before the Advisory Committee, shall be awarded a six-month permit to stay in Israel.

308. As of December 2009, there were over 20,000 infiltrators/asylum seekers residing in Israel, most of whom had been awarded temporary protection based on their country of origin. In 2009, 2,525 infiltrators applied for asylum and were interviewed by the RSD Unit of the Ministry of Interior, the Immigration Authority, and received temporary protection status. 948 infiltrators completed the questioning process but have not yet been referred to the inter-ministerial National Status Granting Body (NSGB). 520 infiltrators were considered by the inter-ministerial NSGB, and five infiltrators are appealing the decision of the committee. 284 infiltrators approached the courts after their appeals were dismissed by the inter-ministerial NSGB.

Training for Refugee Status Determination (RSD) Unit's employees

309. *Establishment and Recruitment* – The Unit employs approximately 30 employees who speak a variety of languages, including: English, Arabic, Russian, Spanish, Tigrinya, Amharic, French and other languages. The Unit includes a general manager, two deputies, coordinators and interviewers. The recruitment of these employees was made based on a meeting which was held between the Authority and the UNHCR. The conditions for employment include, *inter alia*, holding a bachelor's degree, high level English, previous experience working with individuals and groups, and participation in group evaluations conducted by an organizational psychologist.

310. The training received by the unit personnel included a six-week long seminar which began on March 1, 2009 and was held in cooperation with the delegation of the UNHCR in Israel, during which time the employees received information on the work of the UNHCR, the importance of registration, and information regarding "countries in crisis;" with emphasis placed on Eritrea and Sudan. The course was coordinated by representatives of the UNHCR in Israel and a representative of the Hebrew Immigrant Aid Society (HIAS), and was supervised and approved by the UNHCR Headquarters in Geneva.

311. The course involved a review of a variety of issues, including the 1951 Convention Related to the Status of Refugees, the rules for conducting interviews, techniques, research methods, treatment of populations with special needs, and formulating recommendations and reports. In order to qualify for employment, each employee was required to pass weekly and final examinations with high scores.

312. After completing the course, the employees began interviewing asylum seekers for a period of three months, during which time the employees were accompanied and inspected by representatives of the UNHCR. Moreover, during the six months following the completion of the course, the Authority and the UNHCR conducted periodic meetings in order to identify difficulties, receive updates and assist in solving problems the employees encountered. The Unit's employees received additional professional training held by the UNHCR.

313. All judges serving in the Ktziot, Givon and Matan facilities holding infiltrators and asylum seekers, were directed to call upon professional interpreters when conducting a hearing in a language which they do not speak. The Ministry of Justice allocated all of the necessary resources for this purpose. As for releasing persons prior to a judicial determination of their status, every detainee must be brought before a judicial authority within 96 hours, which authority is to determine their status and therefore there is no reason to release them prior to such a hearing.

C. Political rights

1. Access to the political system

314. All citizens who are of 18 years of age or older are entitled to vote, without distinction on the grounds of gender, race, color, ethnicity, wealth, property, or any other ground (*Basic Law: The Knesset*, Section 5). A person may be denied the right to vote only by the judgment of a competent court, which judgment is handed down pursuant to a valid piece of legislation (*Basic Law: The Knesset*, Section 5).

The right to run for National Public Office

315. Any citizen who is 21 years of age or over may run for a seat in the Knesset, subject to certain exceptions. Hereinafter are some of the more recent amendments regarding this issue:

(a) Amendment No. 142 of March 23, 2007, to Section 1 of the *Cooling-Off Period for Persons Serving in the Security Forces Law*, also amended Section 56 of the *Knesset Elections Law*. According to Section 56, senior public servants such as the head of the ISA, IDF and Police officers with a rank of Major General and above, and the Prisons Service Commissioner may run for national election if they leave office at least three years prior to Election Day. However, for the purpose of an election which follows the abovementioned election, these persons may run for public office even if the three year period has not expired. Other senior public servants, IDF officers, Police or Prisons Service personnel may run for national election if they leave office at least 100 days prior to the elections (Section 56(a1)(3)). Other less senior public servants and military personnel may run for elected office provided that they vacate their positions by the date of submission of the candidates list; if elected, they are deemed to have ceased their service for such time as they remain members of the Knesset (*Elections Law*, Section 56(b));

(b) According to Section 7A of *Basic Law: The Knesset*, as amended by Amendment No. 35 of May 22, 2002, those listed on a candidates' list shall not participate in elections, nor shall a person stand as a candidate for the Knesset if the list's objectives, or the person's actions, expressly or by implication, include one of the following: (1) negation

of the existence of the State of Israel as a Jewish and democratic state; (2) incitement to racism; (3) supporting an armed conflict of an enemy state or a terrorist organization against the state of Israel;

(c) On July 9, 2008, The *Basic Law: The Knesset* was again amended (amendment No. 39) and Subsection (a1) was added to Section 7a. According to Subsection (a1) a candidate who resided in an enemy state illegally during the seven years prior to the submission of the list of candidates is considered as having supported armed combat against the State of Israel unless he/she has proven otherwise. The exercise of authority under Section 7a(a) to the *Basic law* — disqualification of a candidates list — is to be carried out only in extreme cases and the reasons for disqualification are to be interpreted narrowly.

Members of ethnic and religious minorities

316. Minorities vote for Knesset lists (political parties) along with the entire political spectrum. In addition, Arab political parties have been consistently represented in the Knesset, as is the case in the current 18th Knesset. There are currently ten Arab Knesset Members, three Druze, and one Bedouin Knesset Member. The following table presents figures regarding Arab Knesset Members sitting in the current 18th Knesset:

Table 6
Arab representation in the 18th Knesset

	18th Knesset	
Party	*Knesset member*	***Total***
Ra'am-Ta'al (United Arabic List and the Arab Movement for Renewal	Talab El-Sana Masud Ganaim Ibrahim Sarsur Ahmad Tibi	**4**
Hadash (Democratic Front for Peace and Equality)	Afou Agbaria Mohammad Barakeh Hanna Swied	**3**
Balad (National Democratic Assembly)	Said Naffaa Jamal Zahalka Hanin Zoabi	**3**
Kadima	Majalli Whbee (Druze)	**1**
Likud	Ayoob Kara (Druze)	**1**
Israel Beiteinu	Hamad Amar (Druze)	**1**
Total	10 Arab KM and 3 Druze KM	**13**

Source: Israeli Knesset, 2010.

317. On January 29, 2007, during the term of the 17th Knesset, MK Raleb Magadele of the Labor party was appointed to serve as a Minister in the Israeli Government. At first MK Magadele served as a Minister without portfolio, but later, on March 21, 2007, he was appointed as the Minister of Science, Culture and Sport, thus making him the first Arab MK who was appointed to serve as a Minister in an Israeli Government. Currently there is one Arab Deputy Minister (Deputy Minister of the Development of the Negev and Galilee).

The right to participate in elections – Political expression

318. On January 12, 2009, the Central Election Committee of the 18th Knesset decided to disqualify the "Balad" (National Democratic Assembly) and the "Ra'am-Ta'al" (United Arab List and the Arab Movement for Renewal) Israeli-Arab political parties from participating in the elections. The Committee argued that the Balad party platform opposed the existence of Israel as a Jewish and democratic state, and that members of the party expressed their support for a terrorist organization. Similarly, "Ra'am-Ta'al" was disqualified based on statements made by its members. Both parties submitted appeals to the Supreme Court, which accepted the appeals on January 21, 2009. Thus, the Court nullified the Committee's decision to disqualify the parties (*E.A. 561/09 Balad et al. v. The Central Election Committee of the 18th Knesset et al.* (21.1.09)).

Political expression of Knesset members

319. According to Section 1 of the *Immunity, Rights and Duties of Knesset Members Law* 5711-1951 (the "*Immunity, Rights and Duties of Knesset Members Law*"), a member of the Knesset shall bear no criminal or civil liability, and shall be immune from any legal proceeding, in respect of a vote, an oral or written statement or any other act, inside or outside the Knesset, if such vote, expression of opinion or act pertains to or is directed towards the carrying out of his/her mandate as a member of the Knesset. However, an act, including a statement, of a Knesset member, which is not random, will not be considered as pertaining to or directed towards the carrying out of his/her mandate, if such an act or expression include one of the following: (1) negation of the existence of Israel as a the state of the Jewish people; (2) negation of the democratic nature of the state; (3) inciting to racism for reason of color, racial affiliation or national-ethnic origin; (4) supporting an armed conflict of an enemy state or terrorist acts against the state of Israel, or against Jewish or Arab people because of their being Jewish or Arab, in Israel and abroad.

Case law

320. In August 2001, the Attorney General announced his decision to indict MK Bishara on two counts – the first related to the organization of illegal trips to Syria by Arab-Israelis, which count the Court later deleted, and a second count related to statements made by MK Bishara supporting Hezbollah, praising acts of terrorism carried out by Hezbollah and calling for the Palestinians to adopt Hezbollah's methods in their struggle against Israel. Unlike other constitutions that only grant immunity to statements made within Parliament, the Israeli law also grants immunity to Knesset Members for statements made outside the Knesset. However, the Attorney General found that this was plainly not a political statement but rather constituted support for acts of terrorism. He therefore decided to indict Mr. Bishara. Mr. Bishara's immunity was revoked after both the Knesset House Committee and the Knesset plenary debated the issue and heard Mr. Bishara's position. Mr. Bishara was indicted in the Nazareth Magistrate Court (*C.C. 1087/02*) for these political statements. In November 2003, the Court ruled that it would address Mr. Bishara's arguments regarding the parliamentary immunity only during the final stages of the legal proceedings.

321. In December 2003, Mr. Bishara petitioned the Supreme Court regarding this decision. Justice Hayut who presented the minority opinion, stated that the petitioner's two speeches were not protected by substantive immunity, since they expressed support for an armed struggle of a terrorist organization against the State of Israel. Such expressions cross the "red-line" marking the boundary of the Israeli democracy's tolerance towards persons elected by the public and there is no room to grant the petitioner immunity in this regard. The majority opinion of former Supreme Court President Barak and Justice Rivlin, held that under the *Immunity, Rights and Duties of Knesset Members Law*, expressions of support for an armed struggle of a terrorist organization against the State of Israel are not

protected by parliamentary immunity. According to the Court, this limitation of immunity should be interpreted strictly; it does not exclude all expressions of support and praise for a terrorist organization, only those that contain support for an armed struggle of a terrorist organization against the State of Israel. The Court stated that as the Court held in *El.A. 11280/02 Central Elections Committee for the Sixteenth Knesset v. Ahmed Tibi* (15.5.03), the petitioner's speeches did not contain clear support for an armed struggle of a terrorist organization against the State of Israel, although they did contain support for a terrorist organization. Consequently the statutory exclusion of immunity was held not to apply. The Court therefore cancelled the criminal proceedings against the petitioner (*H.C.J. 11225/03 MK Dr. Azmi Bishara v. The Attorney General et al.* (1.2.06)).

322. On April 8, 2007, it was publicized that Bishara fled Israel and on April 22, he submitted his resignation from the Knesset to the Israeli Ambassador in Cairo. The resignation followed an investigation into his foreign contacts, and accusations of allegedly aiding the enemy during wartime, passing information on to the enemy and contacts with a foreign agent, as well as laundering money received from foreign sources. On May 2, 2007, following a petition to lift the prohibition that had been placed on publications regarding the investigation against Bishara, the Petah-Tikva Magistrate Court cancelled the order with respect to most of the charges against him. According to the information made available to the public, Bishara was suspected of contacting a Hezbollah terrorist organization foreign agent, transmitting information to the enemy, assisting the enemy in wartime, and laundering large sums of money he received from Hezbollah and other foreign bodies through money changers in the eastern neighborhoods of Jerusalem.

323. **Local and Municipal Elections**. The fundamental right to vote and be elected applies to local government elections as well. A series of statutes regulating the election of mayors, municipal and local councils generally mirror the arrangements for national elections, including: the requirement that elections be "equal", "general", "confidential", "direct", and "proportional;" the right of all persons 17 years of age and over who reside in the municipal area in question to vote in such elections; the right to run for election, subject to exceptions for judges, prisoners, those lacking legal capacity, and certain classes of civil servants; and the right to propose a list of candidates . See *Local Authorities (Elections) Law* 5725-1965 (the "*Local Authorities (Elections) Law*"). The principle difference between local and national elections is that non-citizen residents may vote in local elections, but not in national elections.

324. In 2008, Amendment No. 39 (of November 4, 2008) to the *Local Authorities (Elections) Law* was enacted. The Amendment added subsection (A1) to Section 7(2) of the Law, according to which, a person who served as a chairperson of a committee or as a member of a committee which replaced the head of a local authority and the authority's council, is not entitled to be included in a candidate's list or to be elected as a member of the local council in the first local elections held following his appointment. According to Section 7(2)(A1)(2), these provisions also apply to a person who the Minister appointed to perform the duties of the head of a local authority or members of the local council until after the first local elections held since they were appointed.

2. Access to public service

325. Since the submission of Israel's thirteenth Periodic Report, there have been significant changes, both in law and policy, concerning the minority population within the Civil Service. These important changes are discussed below.

The Civil Service – General

326. The State of Israel employs more than 60,800 civilian employees. These civil servants are selected pursuant to legislation and the Civil Service Code, known as the

"*Takshir*", which establishes a merit-based civil service system. The *Civil Service (Appointments) Law* generally requires that civil servants be appointed through a competitive tender process which clearly defines minimum qualifications for the position in question.

327. Several layers of legislation aim to prevent discrimination in access to the civil service. Both the *Employment Service Law* and the *Equal Employment Opportunities Law*, which apply both to private and public employers, generally forbid discrimination among job applicants on the basis of religion, race, nationality or national origin, gender, sexual orientation, age, personal or marital status, personal worldview or political affiliation. These provisions apply, *mutatis mutandis*, to civil service hiring without a tender, to terms of employment, promotion, on-the-job professional training, and termination of employment. The *Civil Service (Appointments) (Tenders and Examinations) Rules* 5721-1961, obligates members of tender committees to avoid questions relating to controversies between political parties as much as possible. *See also Takshir*, Paras. 11.61 and 12.367, and Civil Service Commissioner Notice 56/12.

Affirmative action in the Civil Service

328. In recent years there have been several important and significant amendments in the legislation regarding appointments in the civil service, which reflect the principles of CERD and highlight the importance of equality to the State.

329. In 2000, the *Civil Service (Appointments) Law* was amended (Amendment No. 11) in order to ensure that minorities and under-represented populations such as women, persons with disabilities, and the Arab, Druze and Circassian populations are represented in the Civil Service according to their proportion in the eligible work force population. The Law requires appropriate representation of the various groups throughout the Civil Service, at all levels and in all professions.

330. On November 30, 2003, the Government consolidated Resolution No. 1073 concerning the appropriate representation for persons with disabilities in the Civil Service. Among the measures set out in the Resolution is the appointment of Equality for Persons with Disabilities Supervisors in each Ministry, whose task it is both to promote the employment of persons with disabilities in the Civil Service and to make the Ministries more accessible to persons with disabilities in general. The Government further decided to give priority to persons with severe disabilities in appointments and promotions in the Civil Service.

331. The *Civil Service (Appointments) Law* was amended in 2005, in order to include persons of Ethiopian origin among the various groups entitled to appropriate representation in the Civil Service. Following this amendment, the Government accepted Resolution No. 1665 concerning allocation of positions in the Civil Service for persons of Ethiopian origin and giving them priority in appointments and promotions.

332. On March 12, 2006, the Government approved Government Resolution No. 4729, based on Section 15A of the *Civil Service (Appointments) Law*, which designates 337 employment positions towards the integration of the Arab population, including Druze and Circassians, into the Civil Service between the years 2006 and 2008.

333. Hereinafter is Resolution 4729 titled: "*Promoting Equality and Integrating Minority Israeli Citizens in the Civil Service*" main principles:

(a) In accordance with the Civil Service (Appointments) Law:

(i) Between the years 2006–2008, the Civil Service Commission shall allocate 37.5 additional government and support units positions annually, which shall be occupied, to the extent possible, only with eligible candidates from among the Arab

population, including the Druze and Circassian population. The Budgetary Department at the Ministry of Finance shall allocate the sum necessary for the additional designated positions, in accordance with this section;

(ii) Moreover, between the years 2006–2008, 37.5 of the existing positions in the civil service shall be designated to members of the Arab population, including the Druze and Circassian population, on the basis of availability;

(iii) In accordance with the above cited sections a. and b., between the years 2006–2008, it shall be possible for a further 337 citizens from among the Arab population, including the Druze and Circassian population, to be integrated into the civil service. The positions designated according to this section, shall be allocated to the Arab and the Circassian population, and to the Druze population separately;

(iv) The distribution of the designated positions of Government Ministries and support units as determined by this section shall be performed in accordance with the needs of the various Government's Ministries and following an examination of the manning of the designated positions allocated in previous years;

(b) The Civil Service Commission shall establish a panel, along with the Ministry of Justice and the Budgetary Department of the Ministry of Finance, to examine additional methods needed to promote the adequate representation of the Arab population, including the Druze and Circassian population, in the civil service. This panel shall submit its recommendations in this regard within a period of two months.

334. In addition, the Government decided to establish an inter-ministerial team charged with examining further ways in which to promote the appropriate representation of Arabs in the Civil Service. On July 16, 2006, the inter-ministerial team submitted its recommendations.

335. On August 31, 2006, the Government adopted Resolution No. 414/arab3, in which the Government adopted most of the inter-ministerial team's recommendations, including: determination of new objectives for advancing appropriate representation of Israeli Arabs in the Civil Service, such that Arabs would constitute 8 per cent of all Civil Service employees by the end of 2008, and 10 per cent by the end of 2010. In addition, it was decided that until the end of 2008, 20 per cent of all new positions would be allocated to Arabs. Previous decisions to give priority to Arab-Israelis in appointments and promotions were extended by a further four years. Each Ministry was required to appoint a supervisor charged with the advancement of Arab representation and an inter-ministerial team to ensure the implementation of the Resolution.

336. On November 11, 2007, the Government adopted Resolution No. 2579 entitled: "Proper Representation of the Arab, Druze and Circassians Populations in the Civil Service". This Resolution amended the previous Resolution No. 414. According to the new Resolution, Arabs, including Druze and Circassians, are to make up 10 per cent of all Civil Service employees by the end of the year 2012. In addition, until 2012, 30 per cent of all new positions advertised are to be allocated to this segment of the population. In order to achieve these goals, the Resolution requires all Government Ministries to consolidate a five-year working plan. The Resolution further requires that until the end of 2012 priority be given to Israeli-Arabs appointments and promotions. The Resolution established an Inter-ministerial team headed by the Director General of the Ministry of Justice to follow-up on the implementation of the provisions detailed above by every Government Ministry and examine ways in which obstacles to the integration of Israeli Arabs into the Civil Service can be overcome. Pursuant to this Resolution, the Civil Service Commission has been in constant contact with each Ministry, monitoring its progress in achieving the goals set by the Government (at least once every six months).

337. Subsequently, an Inter-ministerial team headed by the Director General of the Ministry of Justice has been operating and assisting Government Ministries in removing barriers hindering the employment of members of the Arab population. The team consisted of representatives of the Civil Service Commission, the Ministry of Transportation and Road Safety, Prime Minister's Office etc.

338. The Civil Service Commission is very active in the promotion and advancement of proper representation of the Arab, Druze and Circassians populations in the Civil Service and as in previous years, in 2009 it took several important steps to this end, including, *inter alia*, the following:

(a) Publication of a report regarding the integration of Arab employees in the Civil Service;

(b) Hosting explanatory conferences intended for persons of the Arab community regarding integration into the Civil Service;

(c) Holding explanatory meetings and seminars for Civil Service employees on the importance of integrating Arab employees into the Civil Service;

(d) Allocation of designated jobs and positions for persons of the Arab community;

(e) Recruitment of manpower companies to find suitable Arab candidates and applicants.

339. **Adjustment of Entry Examinations**. The Civil Service Commission held an extensive examination in which it found that members of the Arab population encounter difficulties in passing the civil service entry examinations. In light of these findings, the commission modified the tests intended for Arab nominees and applicants. In the last year, the commission also examined the possibility of making cultural changes to the entry tests. The commission also prepares a cadre of Arab examiners in order to integrate them into the civil service examination committees.

340. Data indicates a steady increase in the rates of Arab, Druze and Circassian employees in the Civil Service. In 2009, 6.97 per cent of employees in the Civil Service were Arabs, Druze and Circassians (in comparison to 6.17 per cent in 2007 and 6.67 per cent in 2008).

341. Furthermore, 11.66 per cent of all new employees integrated into the Civil Service in 2008 were Arabs, Druze and Circassians, in comparison to 6.9 per cent in 2005, and 4.26 per cent in 2003. The rates of Arab, Druze and Circassian newly integrated female employees are also on the rise. In 2009, 39.8 per cent of all recently accepted Arab, Druze and Circassian employees were women, in comparison to 34.2 per cent in 2003, 35.3 per cent in 2007, and 36.8 per cent in 2008.

342. The number of Arab women employed in the Civil Service has also increased in recent years. Since 2004, there has been an increase of 9 per cent in the rate of Arab and Druze women employed in the Civil Service in comparison to 2007.

343. An increase is also evident in the employment of Arab, Druze and Circassian academics in the Civil Service. In 2009, 50.37 per cent of Arab, Druze and Circassian Civil Service employees had an academic degree, in comparison to 43.7 per cent in 2006 and 48.6 per cent in 2008. This trend correlates with the general trend of allocating positions intended for the integration of Arab, Druze and Circassian academics.

344. Many of the Arab-Israeli employees within the civil service maintain senior level positions, some with decision-making capacity. Thus, there are civil service employees from the minority population fulfilling important roles such as investigative engineers,

clinical psychologists, senior tax investigators, senior economists, senior electricians, geologists, department controllers, lawyers and educational supervisors, to name but a few. Data indicates an increase in the number of Arab employees holding senior positions – 451 employees in 2009, in comparison to 347 in 2006 and 376 in 2007. These employees serve the good of the Israeli community as a whole and are a driving force in the integration of the Arab minority into the Israeli society.

345. On March 12, 2006, the Government of Israel passed a resolution, at the request of the Ministry of Justice, with respect to the appropriate level of representation among interns in the Ministry of Justice (Resolution No. 4730). The Government decided, *inter alia*, as follows:

"A. In accordance with the provisions of Section 15A(b)(2) of the *Civil Service (Appointments) Law* to designate, insofar as possible, some ten percent of the annual class of interns in the Ministry of Justice solely for the employment of candidates who qualify for an internship in the Ministry of Justice and fulfill one of the following:

(a) The candidate is a member of the Arab population, including Druze and Circassian;

(b) The candidate or one of his/her parents was born in Ethiopia;

(c) The candidate is a "person with a severe disability" within its meaning in Section 35.252 of the Civil Service Regulations …".

346. In accordance with the aforesaid resolution, it was decided to compile a directory of candidates who satisfy the aforesaid and will include candidates who meet the criteria set forth in the Government's Resolution and whose particulars and qualifications make them suitable for an internship position. Accordingly, in 2008, the Ministry of Justice announced, for the second year, the compilation of a directory of candidates for internship positions for September 2008 and March 2009.

347. Government Resolution No. 4436 of January 2009, adopted the abovementioned Government Resolution No 2579, and established a list of steps that are intended to aid Government Ministries to reach the desired representation targets.

348. In 2005, a petition was filed with the High Court of Justice, requesting the Court to order the Prime Minister and the Civil Service Commissioner to implement Section 15A of *Civil Service (Appointments) Law* with respect to Arab population representation in the Civil Service. On February 18, 2009, after receiving a detailed report by the State regarding the steps taken in this regard (as detailed above), the Court decided to reject the petition (*H.C.J. 10418/05 Dr. Yossi Beilin v. The Prime Minister et al.* (18.2.09, not published)).

349. **Local municipalities**. Local municipalities in Israel provide services to all of Israel's citizens and residents, without any form of discrimination based on religion, race, gender or ethnic background. The employees in all local municipalities in Israel represent the entire State's population, as well as its various religious and ethnic groups, without any discrimination.

350. In the 88 local councils or municipalities which serve towns and villages where the population is primarily composed of Arabs, Druze, Bedouins or Circassians, the employees of the local government bodies are almost exclusively composed of members of these minorities. In larger municipalities with mixed populations, such as Jerusalem, Haifa and Lod, members of minorities are employed proportionate to their overall representation in the population, although less so at the most senior positions.

351. **The Judiciary.** In the past ten years there has been a significant increase in the number of Arab citizens working in the Israeli judicial system. This is greatly the result of the increase of appointments of members of minority populations within the Ministry of

Justice. As mentioned above, in the judicial system there are currently 569 judges. Out of the 12 justices serving in the Supreme Court, one is Christian Arab. Out of the 128 judges serving in the District Courts five are Muslim, two are Christian and one judge is of Druze origin. Out of the 381 judges serving in the Magistrate Courts, 14 are Christian, ten are Muslim and five are Druze judges. One Christian judge and one Druze Judge serve in the Labor Courts. In addition, there are 3 Druze judges in the state-funded Druze Religious Courts (Qadi Madhab) and additional 3 judges are in the final stages of approval. In total 43 judges from minority groups function in the judicial system.

352. **Minorities' Terms of Employment in the Civil Service**. In addition to increasing the level of representation of minority groups, the Civil Service Commission has also taken steps to better accommodate the various needs and lifestyles of minority employees. Holiday and vacation time is provided according to the relevant religious holidays, such that Muslim employees are entitled to a day off during Ramadan, and Christians can choose Sunday as their day off work.

353. Furthermore, members of the Arab population employed in the Civil Service enjoy a unique benefit in the form of State participation in the rent paid by them for apartments in the vicinity of their workplace and funding of weekly commuting expenses.

354. In a Civil Service circular of November 15, 2007 it was determined that in the name of equality and uniformity, Muslim and Christian employees should be entitled to mourning leave of seven days in the event of a death of a first degree relative. No change has been made with respect to the three-day mourning period of Muslim and Christian employees in the event of a death of a relative of the second degree.

Representation in Governmental Corporations

355. **Government Corporations**. Similar to the above mentioned positive changes which have taken place in the Civil Service with respect to the representation of the Arab population, progress has also been made within governmental corporations. Minorities are better represented in these corporations, pursuant to formalized laws and governmental resolutions, described below.

356. As mentioned in Israel's thirteenth Periodic Report, the 1993 amendment to the *Government Corporations Law*, (Section 18A) established a requirement for appropriate representation of both genders on the Board of Directors of every government corporation.

357. A key change which further reflects Israel's desire to implement and uphold the Convention and provide for fair representation of all population groups is Amendment No. 11 of May 2000, to the *Government Corporations Law*, which added Section 18A1 which requires appropriate representation of the Arab population, including Druze and Circassians, on the Board of Directors of every government corporation and statutory corporation.

358. The Law prescribes that until appropriate representation is achieved, the Ministers must appoint as many Arab directors as possible. Section 60(a) of the *Government Corporations Law* extends the application of Amendment No. 11 to apply with regard to the appointment of directors on the board of statutory corporations and other statutory organizations.

359. Section 18A1 of the Law mandates that the directorate of government corporations reflect the governmental policy of fair representation. Moreover, the Amendment empowers the Government to do its utmost to appoint directors from the Arab population until the goals of the amendment are achieved. The Attorney General has provided Government Ministers with guidelines regarding the implementation of the new standards.

In addition, a governmental sub-committee was established to monitor efforts geared to enforce the new affirmative action measures.

360. In addition, the Committee for Examining Appointments (established under Section 18b of the Law, and which has been operating since 1993), is responsible for examining the qualification of directors and the appropriate representation of the Arab population; and for the monitoring of efforts geared to enforcing the new affirmative action measures. This Committee may delay, if required, an appointment of other qualified directors, until an appropriate representation of the Arab population is achieved. The Committee is appointed by the Minister of Finance.

361. The Committee and the Prime Minister's Office established a database of potential Arab candidates who might qualify for senior government corporation positions. The information was brought to the attention of every Minister. Additionally, efforts exist to create an official database of qualified minority candidates for senior government corporation positions.

362. Appropriate representation is required in each government corporation, and in accordance with the corporation's unique characters. Thus, the Committee for the Examination of Appointments does not insist upon appropriate representation in very small corporations (1–3 directors), or in a corporation which is newly established or which is under liquidation, or in a corporation which in essence is not related to the Arab population (such as the Company for the Restitution of Holocaust Victims' Assets).

363. The Amendment of the *Government Corporations Law* brought about significant changes in a short period of time. In January 2001, the rate of Arab representation in governmental corporations reached only 3.2 per cent (22 out of 695 directors) and by December 2004 it rose to 7.9 per cent (46 out of 583 directors), by January 2006 to 9.71 per cent (53 out of 546 directors), and by January 2007 to 12.61 per cent (57 out of 452 directors, 10 of whom (1.91 per cent per cent of the total) are women.). However, the rate of Arab origin directors in governmental corporations (including Druze and Circassians) decreased in 2008 to 8.02 per cent (47 out of 586).

364. According to data received from the Committee for the Examination of Appointments, as of June 2010, out of a total of 98 government corporations, only 70 are relevant for the purposes of appropriate representation, and of these, 39 satisfy this requirement with respect to the Arab population. In addition, several Arab nominees for positions of directorates in government corporations currently await the committee's in regard to six additional government corporations. The Committee aims to achieve complete appropriate representation in all government corporations.

365. In addition, as of September 2008, out of a total of 60 statutory corporations, only 47 which are relevant for the purposes of appropriate representation, and of these, 32 satisfy this requirement with respect to the Arab population.

366. On June 27, 2007, the Jerusalem District Court held that an Arab citizen could not be disqualified from appointment to the Board of Directors of the Jewish National Fund (JNF), which is a dual entity committed to the principal of equality. The petitioners requested that the Court annul the election of new directors to the JNF which had taken place on July 13, 2006, due to fundamental deficiencies in the process, and the election of an Israeli Arab, elected as a representative of the Meretz Party.

The Court discussed whether the procedure of appointing new directors to the JNF accorded with the *Companies Law* 5759-1999 (the "*Companies Law*"), and whether an Israeli Arab could be appointed as director of a corporation defined as being a "trustee of the Jewish people in the land of Israel". The Court stated that the appointment procedure was not deficient, and refused to annul the elections. It held that former court decisions

acknowledged the duty of every authority in Israel to treat all individuals in the State equally. Although the JNF is a private company – it was held to be subject to the principle of equality as it is a dual entity (*O.P. 5299/06 Uri Bank v. The Jewish National Fund* (27.6.07)).

D. Civil rights

1. The right to freedom of movement and residence within the border of the State

The legal landscape

367. This issue has been extensively discussed in Israel's previous Reports. No change has occurred in this area since the submission of the thirteenth Periodic Report.

Freedom of movement within the State

368. There is no requirement that persons who are lawfully present within the territory of the State of Israel register in particular districts, and movement within the State is generally unrestricted. All residents of Israel (i.e., citizens, permanent residents who are not citizens, and temporary residents) are required to register their address, or any change thereof, with the Population Registry. Non-resident aliens need not register their whereabouts while in the country.

Public transportation services in Bedouin localities

369. The Bedouin Population in the North consists of 70,000 people, of which approximately 60,000 live in urban localities and 10,000 live in villages. The Bedouin population in the South is estimated at approximately 180,000 people, 66 per cent of whom live in areas with no municipal status, sometimes unlawfully.

370. Public transportation services are provided for the Bedouin population in the north at lower cost, and are operated regularly on Saturdays (Sabbath).

371. The Ministry of Transportation and Road Safety has made preparations for the examination of the public transportation services in the northern Bedouin villages and localities during 2011–2012, which examination falls within the framework of an extensive development plan for the Arab population.

372. As for the Bedouin localities in the south, bus services began to operate on a large scale in Rahat in May 2009, at a particularly subsidized cost, thus significantly improving the residents' quality of life. Public transportation is also continuously operated in the localities of Kssaife and Hura, and in Lakia on Saturdays only. Other localities are assisted by service lines that reach the cross-roads located at the entrance to the localities.

373. The Ministry of Transportation and Road Safety is currently promoting the operation of public transportation in additional Bedouin localities in the Negev, and has begun to examine the current situation in Tel-Sheva, Kssaife, Lakia, Hura, Arara, Segev-Shalom and the area of the local council of Abu-Basma. The project providing public transportation to these localities is expected to be completed during 2010. In the short term, the Ministry of Transportation and Road Safety is promoting a solution for the transportation of Bedouin students to institutes of higher education.

374. As for the Bedouin localities in the North, public transportation is provided for the localities of Abtin, Shibli and Zarzir. Other localities are assisted by service lines, which are operated in a similar manner to those that operate in localities in the South.

Table 7
The Ministry of Transportation and Road Safety investment in general transportation infrastructures in Bedouin localities, 2006–2009

	Bedouin localities in the South		*Bedouin localities in the North*	
Year	*NIS*	*US$*	*NIS*	*US$*
2006	7 706 000	2 082 703	15 207 000	4 110 000
2007	14 016 000	3 788 108	20 778 000	5 615 676
2008	27 744 000	7 498 378	19 235 000	5 198 649
2009 (up to September)	16 759 000	4 529 459	5 409 000	1 461 892

Source: Ministry of Transport and Road Safety, September 2009.

Accessibility to public transportation

375. Accessibility to railways, planes and ships designated for passengers, public transportation and pickup stations for all transport measures is mandated by law. As of April 2010, 42 of the 47 train stations in Israel (89.3 per cent) are accessible to persons with mobile disabilities and other disabilities and accessible train cars are available on every line. Although the placement of signs for persons with disabilities is currently still insufficient, the railway company has requested and received all the necessary information regarding this issue from the Commission for Equal Rights of Persons with Disabilities, and in the upcoming months accessible signs will be installed in all stations. In addition, all the service personnel in every train station are trained to assist persons with disabilities, and in every station there are workers who are in charge of providing assistance to persons with disabilities. The *Equality for People with Disabilities (Arrangement of Accessibility to Public Transportation) Regulations* 5763-2003, determine that since 2002 every new city bus that is registered for the first time in the vehicle registration authority will be accessible according to the requirements set in the Regulations. According to the Regulations, the accessibility requirement is not applicable to inter-urban buses. Up to date all the urban buses are accessible. The process of rendering all buses accessible for persons with disabilities will continue until full completion, which is expected in the coming years. All the major bus companies also train their drivers to assist persons with various disabilities. These workers undergo special training regarding assisting persons with mobile disabilities to board buses as well as assisting persons with other disabilities. The Ministry of Transportation and Road Safety issued a program obliging bus companies and local authorities to complete the accessibility process within 5 years, while completing relative parts of the program each year.

2. The right to leave any country, including one's own, and to return to one's country

376. As mentioned in Israel's thirteenth Periodic Report, with the enactment of Section 6 of the *Basic Law: Human Dignity and Liberty*, the rights to leave and to enter Israel were provided a firmer constitutional basis:

(a) All persons are free to leave Israel;

(b) Every citizen of Israel has the right of entry into Israel from abroad.

377. These rights are subject to the limitation clause (Section 8) of the *Basic Law*, which prohibits any impairment of the right except by way of a statute which befits the values of the State and is intended for a proper purpose – and then only to the extent required; or pursuant to a statute (as described above) which explicitly authorizes deviation from the right. In addition, Section 12 of the *Basic Law* stipulates that emergency regulations

properly in force may deny or restrict these rights only for a proper purpose, and for a period and to an extent that does not exceed that which is necessary. The *Basic Law* is binding on all official authorities.

378. Legislation predating 1992 which deals with entry into or exit from Israel remains in force, but is now interpreted in accordance with the principles of the *Basic Law*.

Exit from Israel

379. All persons leaving the State of Israel must present a valid passport, *laissez passer* or other travel document.

380. **Restrictions on the Right to Leave Israel**. No person may leave Israel, knowingly and without legal authorization, so as to any of the countries specified in the *Prevention of Infiltration (Offences and Punishment) Law* 5714-1954 (the list includes Lebanon, Syria, Egypt, Yemen, Iran, Saudi Arabia and Iraq) nor may Israelis enter these countries without a permit from the Minister of Interior or from the Prime Minister.

381. However, there are certain exceptions regarding Druze residing in the Golan Heights who desire to travel directly to Syria. Druze women who desire to marry and settle in Syria, and Druze Students wishing to acquire higher education in Syria, may do so according to procedure No. 5.1.0010 of the Ministry of Interior. The individual may travel to Syria through the Quneitra-Golan border crossing after receiving the proper permit and under certain conditions which are specified in the permit. In addition, there is another procedure which regulates pilgrimages. The procedure is accessible and published on the Ministry of Interior Website.

382. **Travel Documents**. Passports and travel documents are generally issued as a matter of course. Arab residents of Jerusalem, many of whom are Jordanian citizens, receive *laissez passer* documents routinely.

Entry into Israel

383. Israel is the designated homeland of the Jewish people. Jews have been in the Diaspora for close to 2000 years prior to the creation of the State and thus realized a dream of having a homeland and a place of refuge in the post-Holocaust era for Jews in Arab States and elsewhere. Thus, the *Law of Return* 5710-1950 (the "*Law of Return*") was enacted as a tool to realize this dream and as a means of rendering Israel a home for all Jews dispersed throughout the world. The *Law of Return* is a linchpin of the State and serves as a foundational principle towards the effectuation of a viable and thriving Jewish State.

384. Any person who is neither an Israeli national nor the holder of an oleh's (lit. "A person who ascends") certificate under the *Law of Return* must enter Israel by visa and permit of sojourn. For such persons, there are four general categories of visas and permits of residence under Israeli law: a permit of transitory sojourn (up to five days); a visitor's permit (up to three months); a permit of temporary residence (up to three years); and a permit of permanent residence (*Entry into Israel Law*, Section 2). Each of these permits may be renewed for periods prescribed by law.

385. Permanent resident status is granted at the discretion of the Minister of Interior, most typically in cases of family reunification and on the basis of other humanitarian grounds. The criteria applied by the Ministry of Interior when considering applications for permanent residency focus on the applicant's ability to demonstrate that one's life, or that of one's immediate family, is centered, as a practical matter, in Israel. If a permanent resident leaves Israel for a period of at least seven years or has become a permanent

resident or citizen of another country, then his/her permanent residency status in Israel expires.

386. In March 2000, the Minister of Interior decided upon a policy under which those who had been permanent residents of Israel, whose residency permit had expired after 1995 due to having resided abroad for over seven years and in this time having visited Israel, would be able to receive a new permanent residence permit, after the passage of two years following their return to Israel. This permit would be granted provided that they had not received foreign citizenship or a permit for permanent residency in a foreign state in the interim, and provided that there is no security or criminal impediment with regard to that person.

387. In the wake of the new policy, new permits for permanent residency were granted to many ex-residents who had returned to live in Israel. This change of policy mostly affects the Arab residents of the eastern neighborhoods of Jerusalem as described above.

3. The right to nationality

Obtaining Israeli citizenship

388. In general, citizenship may be obtained through birth, residence, or naturalization, or through the *Law of Return* as described above. In any case, the manner in which persons become Israeli citizens does not affect in any way the scope of their rights and privileges arising from citizenship, such as the right to vote and be elected, or the right to hold public office.

The Law of Return

389. This issue has been extensively discussed in Israel's previous Reports. No change has occurred in this area since the submission of the thirteenth Periodic Report.

Nationality by birth

390. This issue has been extensively discussed in Israel's Previous Reports. No change has occurred in this area since the submission of the Previous Periodic Report.

Naturalization

391. This issue has been extensively discussed in Israel's previous Reports. No change has occurred in this area since the submission of the thirteenth Periodic Report.

Eastern neighborhoods of Jerusalem

392. On October 28, 2007, the Government approved Resolution No. 2492, in which it resolved to issue temporary permits to residents of the West Bank who had for an extended period of time illegally resided in the eastern neighborhoods of Jerusalem.

393. Under the Resolution, the Minister of Interior may issue a temporary permit to a resident of the West Bank who is registered in the Population Registry and has illegally resided in the eastern neighborhoods of Jerusalem on a continual basis since 1987 and until the submission of the request for a permit, depending upon several conditions, including a consideration of his/her personal circumstances. Such permits will also be given to minor children of the resident.

Revocation of citizenship

394. On July 28, 2008 the Knesset approved Amendment No. 9 to the *Citizenship Law* 5712-1952 (the "*Citizenship Law*"), which amended Section 11 to the Law. This

amendment extended Section 11, the reasons to revoke a person's citizenship were narrowed and additional safety measures to protect human rights were added. According to Section 11(a), the Minister of Interior may revoke the citizenship of an Israeli citizen if he/she is convinced that citizenship was obtained based on false information and less than three years has passed since the citizenship was granted. According to Section 11(b), the Minister may request the administrative court to revoke the Israeli citizenship of a person under the following conditions: Section 11(b)(1) – the citizenship was obtained based on the provision of false information and more than three years has passed since the citizenship was granted, Section 11(b)(2) – the person committed an act of breach of allegiance to the State of Israel, provided that by revoking the individual's citizenship the person will not be left without any citizenship, and if so, he/she will be granted a permit to stay in Israel. Section 11 further states that a request according to Section 11(b)(2) shall not be submitted without the consent of the Attorney General.

4. Free choice of spouse

Free choice of spouse and non-discrimination

Same-sex marriages

395. Under Israeli law there are no civil marriages. Marriage is conducted according to the religious law of the couple; therefore marriages between two persons of the same-sex are impossible. Nevertheless, in recent years two alternatives to the traditional institution of marriage have been developed. The first is the recognition of the concept of Reputed Couples (common-law partners). The relationship is legally binding, and the individuals hold similar legal rights and duties as couples who were legally married. Gradually, the legal status of same-sex couples has been integrated into the concept of reputed couples. The second alternative for same-sex couples is the registration of couples who were married abroad with the Israeli Population Registry as shall be detailed below. (The above data relates to all religious communities in Israel).

396. In recent years, there have been many judgments and decisions issued which have promoted the rights of same-sex couples in Israel, some of which are detailed below.

397. On November 21, 2006, the Supreme Court handed down a landmark decision concerning the rights of same-sex couples. It held that a wedding certificate issued in a foreign country in which same-sex marriages are recognized, could enable the couple to register as married with the Ministry of Interior. Five gay couples who held wedding ceremonies abroad petitioned the Supreme Court following the Ministry of Interior's refusal to register them as married. This registration equalizes the civil (legal) status of reputed and/or same-sex couples to those of legally married couples including for the purposes of National Insurance and tax benefits (*H.C.J. 3045/05 Ben-Ari v. The Ministry of Interior, H.C.J. 3046/05 Bar-Lev v. The Ministry of Interior, H.C.J. 10218/05 Herland v. The Ministry of Interior, H.C.J. 10468/05 Lord v. The Ministry of Interior and H.C.J. 10597/05 Remez v. The Ministry of Interior*). The Supreme Court based its decision on a previous Supreme Court ruling (*H.C.J. 143/62 Fonk-Shlezinger v. The Minister of Interior*) in which a distinction was made between the duty to register marriages, and the question of recognition of their status. The Supreme Court determined that the Ministry of Interior must not discriminate against same-sex couples who hold a wedding certificate from a foreign country that permits same-sex marriages. Nevertheless, the Supreme Court noted that registration of the couple as married does not grant a new status to same-sex marriages, and reiterated that it is the role of the Knesset to endow such a status.

398. On April 19, 2007, the Haifa Labor District Court accepted a claim against the "Mivtachim" pension fund, and determined that a surviving partner of a lesbian relationship

was eligible to the legal rights of an "insured widow", and not of an "insured widower". As a result of this decision, the plaintiff was to be paid a survivors' pension of 40 per cent as opposed to only 20 per cent (*La.C. (Haifa) 1758/06 Moyal-Lefler v. Mivtachim* (19.4.07)). The Court concluded that in this instance, the plaintiff was the deceased's spouse, and was publicly recognized as her co-habitator. Therefore, she was eligible to a survivors' pension, according to the rules of the pension fund. The Court stated that "the distinction between men and women in the rules of the respondent and the *National Insurance Law (Consolidated Version)* 5755–1995 derives from a similar rationale – a reflection of the economic situation in which we live, where women's incomes are lower than men's, and their promotion in the labor market is more difficult. Therefore there is a justification for the preference of female widows as it narrows the existing gap between men and women". The Court held that the plaintiff should be classified as a female widow, and not as a male widower. She was therefore eligible for the rights of an "insured widow", and the corresponding pension as stated in the rules of the pension fund.

399. On March 3, 2008 the Tel-Aviv Family Matters Court issued an adoption order regarding a minor. The petitioner was the same-sex spouse of the minor's parent. The Court determined that according to the examination conducted by the welfare officer, the minor was a happy child who considered both males as his parents. Therefore the Court held that there was no impediment to granting the adoption order, and it was in the child's best interest to do so. The Court further stipulated that granting the adoption order does not negate any rights of the father and his extended family (*Ad.C. (Tel-Aviv) 58/07 Giora Shavit Shadiv et al. v. The Attorney General* (20.03.2008)).

400. On December 20, 2006, the Tel-Aviv Family Matters Court determined that a pre-nuptial financial agreement between a same-sex female couple was valid with respect to the manner in which it distributed property between the couple; however, the Court further held that its conclusion did not in and of itself affect the personal status of the couple, and could not be seen as changing the couple's status to married. The Court emphasized that significant changes in public opinion regarding women's issues had occurred in the past century, including with respect to same-sex relations, and therefore public morality had changed and now recognized the right of same-sex couples to enjoy the same rights as married couples, i.e. recognizes their right to equality and equal treatment. However, the definition of marriage is determined by the legislator which is not expediting a change to the current definition (*F.M.C. 47720/06 Anonymous et al. v. Anonymous* (20.12.2006)).

401. In a decision dated January 23, 2005, the Attorney General established a new precedent in which the State is willing to grant legal status to same-sex adoptions of the birth-child or adopted child of one of the spouses. Furthermore, it states that the State is willing to allow the adoption of a non-biological child by same-sex couples, having considered the best interest of the child. This decision relates to the legal aspects of same-sex adoptions; however the decision regarding a specific case remains in the hands of the relevant social service.

Family unification

402. In its concluding observations to Israel's thirteenth Periodic Report the Committee expressed concern with the process of family reunification for foreign spouses.

403. Since the outbreak of the armed conflict and hostilities between Israel and the Palestinians towards the end of the year 2000, which led, *inter alia*, to the commission of dozens of suicide bombings inside Israel, there has been growing involvement in assistance provided to terrorist organizations by Palestinians, who are residents of Israel, but are originally from the West Bank and the Gaza Strip. Such individuals carry Israeli identity cards as a result of the principle of family unification with Israeli citizens or residents, allowing their free movement between the West Bank and the Gaza Strip, and into Israel.

404. In order to prevent this potential danger posed by former residents of the West Bank and Gaza Strip, the Government decided in May 2002 to temporarily suspend granting such individuals legal status in Israel, through the process of family unification. The decision was adopted following the horrendous wave of terrorist attacks in March of 2002, when 135 Israelis were killed and a further 721 were injured.

405. The current situation is the result of the genuine difficulties involved in obtaining information concerning residents of the West Bank, following Israel's transfer of powers and responsibilities and the termination of Israeli forces' daily presence in this area pursuant to the Israeli – Palestinian Interim Agreement, dated September 28, 1995.

406. Israel, as any other State, is entitled to control entry into its territory, and more so, during times of armed conflict, when persons requesting to enter may potentially be involved in acts of violence and terrorism against Israeli citizens.

407. On July 31, 2003, the Knesset enacted the *Citizenship and Entry into Israel (Temporary Provision) Law* 5763-2003 (the "*Citizenship and Entry into Israel (Temporary Provision) Law*"), which limits the possibility of granting residents of the West Bank with Israeli citizenship pursuant to the *Citizenship Law*, including by means of family unification; and the possibility of granting such residents, residence permits into Israel pursuant to the *Entry into Israel Law*. The Law was amended in 2005 and 2007, in order to expand the humanitarian relief it initially provided. The amendments also expanded the applicability of the Law to citizens of enemy states (namely: Iran; Syria; Lebanon; and Iraq).

408. The Law enables entry into Israel for the purposes of medical treatment, employment, or on the basis of other temporary grounds, for an overall period of up to six months.

409. In addition, the Minister of Interior may authorize a request for family unification for those who are married to an Israeli spouse, and are residents of the West Bank for men over the age of 35 and women over the age of 25. The Law further authorizes the Minister of Interior to grant residency permits to children of such couples who are minors under the age of 14. With respect to children of such couples who are minors over the age of 14, the Law stipulates that the Minister of Interior has the authority to grant temporary permits under certain conditions.

410. The Law further allows the Minister of Interior, as a result of special humanitarian reasons and in accordance with a recommendation of a professional committee appointed for this purpose, to grant temporary residence permits to a resident of the West Bank or a citizen of Iran, Iraq, Syria or Lebanon, who has a family member legally residing in Israel, and to approve a request of a resident of the West Bank who has a family member legally residing in Israel for a permit to stay.

411. Any such decision by the Minister of Interior is to be reasoned and provided in writing, within 6 months from the day that the professional committee received all the necessary documents.

412. The Law stipulates that a request can be denied in cases where the Minister of Interior or certain security functionaries assert that the person, or a family member of first relation, poses a security threat.

413. In cases where a person or a family member has been known to act for the benefit of the State of Israel, the Law enables the Minister of Interior and certain security functionaries to grant permits to a resident of the West Bank.

414. The Law does not change the status of persons who already received their status prior to the day on which the Law came into effect. Such persons' status shall remain static.

415. The Law was initially enacted for a period of one year. At the end of that period, in August, 2004, the Law was extended for a further six months. It was re-extended in February 2005 for a period of four more months, and was again extended at the end of that period until August 31, 2005. The revised Law was published on August 1, 2005 and was invoked until March 31, 2006. At the end of that period it was extended until April 2007, and later an amended version was extended until July 31, 2008, and re-extended until July 31, 2009 and then again until July 31, 2010. On July 21, 2010 the Law was extended again and it is currently valid until January 31, 2011.

416. The Law's constitutionality was scrutinized and upheld by the Supreme Court in *H.C.J. 7052/03, 7102/03 Adalah – The Legal Center for Arab Minority Rights in Israel et al. v. The Minister of Interior* (14.5.06). The High Court of Justice, residing with an extended panel of eleven judges, rejected the petitions against the legality of the Law, by a vote of six to five.

417. On December 17, 2007, the Minister of Interior announced the formation of the professional committee required by the Law, and decided upon its members.

418. Additional petitions against the constitutionality of the Law are pending before the High Court of Justice (*H.C.J. 466/07, 544/07, 830/07, 5030/07 MK Zehava Galon et al. v. The Minister of Interior et. al.*). On July 31, 2008, the State submitted its arguments in these cases and on April 13, 2010, the State submitted a supplementary notification to the Court. In its supplementary notification, the State clarified that since August 2005, the Ministry of Interior authorized the provision of staying permits in Israel to 4,118 Palestinians (more than 1,000 individuals per year) based on requests for family unification and under the exceptions recognized by the Law. The State noted that in addition to these figures, the professional humanitarian committee received over 600 requests, 282 of which were dealt with and 33 of which were transferred to the Minister of Interior with positive recommendations which were adopted by the Minister, thus resulting in the provision of staying permits in Israel for the applicants. The State further noted that since September 2005, 632 requests for status in Israel on the basis of family unification were rejected. An analysis of the requests that were rejected reveals that the rejections were based on the following grounds: the applicant was a terrorist (4 cases), the applicant was an operative of a terrorist organization (149 cases), the applicant was linked to operatives of terrorist organizations (63 cases), the applicant aided a terrorist organization (22 cases) and the applicant had contact with family members who are operatives of terrorist organizations (394 cases).

5. The right to freedom of thought, conscience and religion

Freedom of religion

Promoting equality in funding of religious services

419. Until very recently, all cemeteries in Israel, except those of the kibbutzim, have been managed by religious institutions of the various religious communities. If a person who dies was not a member of a religious community which administers graveyards, or has expressed the wish not to be buried according to religious tradition, there was a need to find a solution, often at kibbutzim. Jewish burial grounds are managed by officially appointed Orthodox burial societies ("Hevrot Kadisha"), which bury only those who are Jewish according to Jewish religious law, and following an Orthodox ceremony. In 1992, the Supreme Court ordered the Minister of Religious Affairs to recognize a non-Orthodox Jewish burial society, and also ordered the Israel Land Administration to allot land for such a non-Orthodox cemeteries. In April 1996, the first "alternative" cemetery for Jews was inaugurated in Be'er Sheva. Additional licenses for alternative burial services have been

granted in Jerusalem and Haifa. During that year a new law was enacted guaranteeing the right of citizens to be buried according to their chosen manner of observance in alternative cemeteries (Right to Alternative Civil Burial Law 5756-1996). The Law requires that such alternative graveyards be established in various areas around the country, sufficiently distant from one another so that all those who wish to take advantage of the new arrangement may reasonably be able to do so.

420. **Cemeteries.** Currently there are eight cemeteries for alternative civilian burial which are contracted with the Israeli National Insurance Institution, in accordance with the National Insurance (Burial Fees) Regulations 5736-1968 (the "National Insurance (Burial Fees) Regulations"). These cemeteries are located in Kiryat Tiv'on, Kfar Haro'eh, Kefar Sava, Petah Tiqwa, Hazor, Revadim, Giv'at Brenner and Be'er Sheva.

421. **Alternative Civil Burial.** On January 29, 2008, the Jerusalem Planning and Building Committee delivered for deposition the Jerusalem Mayor's plan to establish a cemetery for civil burial in the area of the new planned cemetery in Givat Shaul in Jerusalem. The new cemetery is to cover an area of 350 dunams, in which a special section will be allocated for civil burial of persons that Jewish Law (Halacha) does not allow to be buried in religious cemeteries, or who do not desire religious burial. According to the Municipality of Jerusalem, the plan is designated to allow every person to choose his/her way of life and the form of his/her burial without any kind of coercion.

Non-discrimination on the basis of religious affiliation

422. As to the effect of religious affiliation on the enjoyment of civil rights, Israeli law does not distinguish between religious statuses except for matters of marital status, where the King's Order in Council (King's Order in Council 1922–1947, British-Mandate legislation, parts of which are still valid, including Section 51) applies, and provides exclusive jurisdiction to officially recognized religious tribunals in Israel over matters of marital status within their respective religious communities.

423. Overall, Religious Courts have an exclusive jurisdiction over all matters of marriage and divorce, except when the couple is not affiliated to any religion or of different religions. Regarding these exceptions, in matters relating to divorce, the jurisdiction is granted to the Family Matters Courts or to the Religious Courts. In Matters concerning women's and children's alimony, property issues, child maintenance, guardianship, violence and in the case of Muslims, also parental matters, Family Matters Courts and the Religious Courts have a parallel jurisdiction, with certain differences between the various religious communities.

424. Inheritance, guardianship and adoption – the Family Matters Courts have the main jurisdiction, the Religious Courts jurisdiction is subject to the consent of all relevant parties and certain limitations stipulated in the Law. Child abduction, marriage approvals under the Marital Age Law 5710-1950 (the "Marital Age Law") name changing, determination of age, surrogacy, parenthood (except for Muslims) and other disputes among family members, in matters not mentioned above – are all subject to the exclusive jurisdiction of the Family Matters Courts.

Non-discrimination regarding building of religious institutions

425. The Planning and Building Law stipulates that every plan promoted by planning institutions must be published, and an opportunity for submitting objections together with the right to a hearing must be provided. This includes the opportunity to contest real estate initiatives concerning religious structures and sites. The planning institutions are obliged to hear the parties who claim that they might be harmed by the implementation of a specific plan. According to Section 100 of the Law, a contention can be also submitted by a public

or professional body which was authorized by the Minister of Interior, and since January 2004, the Arab Center for Alternative Planning is also authorized as aforesaid. Other institutions that may submit such contentions include, inter alia, a local committee or an engineer of such committee and local authority, including a local board, the area of jurisdiction of which is incorporated in such plan or borders it and every Government Ministry.

426. The Protection of Holy Places Law 5727-1967 (the "Protection of Holy Places Law") does not include any distinction between Jewish holy places and holy places of other religions. Moreover, the Planning and Building Law also does not distinguish between structures which are used for Jewish religious needs and structures which are used by other religions. Thus, no advantage is afforded to structures belonging to or serving the Jewish religion in planning initiated by the planning institutions. Note that in cases of a plan which is to be carried out in an area where over 10 per cent of the population is Arab, the plan must be published and approved in Arabic.

427. Planning is implemented while considering the allocation of land for public needs, including religious institutions. The allocation is made according to the quotas set in the "Planning Guidebook for Allocating Land for Public Needs", which was adopted in Government Resolution No. 2873 of January 28, 2001, and which determines land allocation quotas, including for religious institutions of the Arab population.

Budgeting of religious services and religious institutions

428. According to a coalition agreement signed in April 2006, it was decided that authorization of a budget of 85 Million NIS (US$ 22,972,973) would be given for Jewish religious services in the years 2006–2007. However, in order to avoid inequity in allocating budgets for the development of religious structures and institutions of other religions, the Ministry of Interior respectively allocated the required amount for religious services for the minority populations.

429. According to data received from the Ministry of Interior, the 2009 budget for religious services for the Jewish population was 329.2 Million NIS (US$ 88,972,973), and the budget for Jewish religious institutions was 113 Million NIS (US$ 30,540,541), of which 107.8 Million NIS (US$ 29,135,135) was in the form of cash and 5.2 Million NIS (US$ 1,405,405) was in the form of an authorization for budgetary obligations.

430. The 2009 budget for religious services and religious institutions for the Arab population was 55 Million NIS (US$ 14,864,865), of which 48 Million NIS (US$ 12,972,973) took the form of cash and 7 Million NIS (US$ 1,891,892) was in the form of an authorization for budgetary obligations. The cash budget was divided between religious services (which received 35 Million NIS (US$ 9,459,459)) and the development of religious institutions including holy places and cemeteries. Note that the abovementioned 7 Million NIS (US$ 1,891,892) was intended for the development of religious structures and institutions, including holy places and cemeteries.

431. The 2010 budget for religious services and religious institutions for the minority population is 47 million NIS ($12.7 million), of which 41 million NIS ($11,081,081) in cash and 6 million NIS ($1.621 million) as an authorization for budgetary obligations. The cash budget is divided to religious services (39 million NIS) and development of religious institutions including holy places and cemeteries (2 million NIS). Note that the abovementioned 7 million NIS is intended for obligations concerning the development of religious structures and institutions including holy places and cemeteries.

432. The budget for Yeshivot (Jewish Rabbinical colleges) is currently 720 Million NIS (US$ 194,594,595) and according to the estimations given by the Ministry of Finance, at

the end of the year it will increase to approximately 975 Million NIS (US$ 263,513,514). The budget for Jewish studies is currently 124 Million NIS (US$ 33,513,514).

433. The budget for the Yeshivot (Jewish Rabbinical colleges) is currently 720 million NIS ($192.5 million) and according to the estimations of the Ministry of Finance, at the end of the year it will set at about 975 million NIS ($260.7 million). The budget for Jewish studies is currently 114 million NIS ($30.8 million).

434. As noted above, the State also allocates part of its budget to non-Jewish religions, however there are religious congregations that refuse to accept funds from the State on the basis of principle and ideological grounds.

Free access and protection of holy places

435. Israeli Law grants freedom of worship and ensures the safekeeping of and access to holy places to members of all faiths. Moreover, these sites are guarded by the Police in order to protect public order in these sensitive places.

436. In February 2000, pursuant to a Government Resolution, a special committee was established in order to investigate the conditions of Arab holy sites. The Committee included representatives from the Ministries of Religious Affairs and of National Infrastructure, the Israel Lands Administration, as well as a representative of the Regional Committee for Arab Local Councils. Responsibility was conferred on the Committee to prepare a program to deal with the issue of non-Jewish holy sites and to prepare a list of these places, and a schedule of priorities for implementing the program.

437. On November 21, 2004, 'Adalah' – the Legal Center for Arab Minority Rights in Israel, petitioned the Supreme Court and asked that the Court issue an order to compel the Minister of Religious Affairs to issue regulations for the protection of Muslim holy sites in Israel in accordance with the Law. The petition asserted that a failure to issue regulations for the protection of Muslim holy sites, when such regulations have been issued for the protection of Jewish holy sites, constituted a breach of the Law, violated the principle of the rule of law and the principle of equality. Furthermore, it was claimed that the failure to promulgate such regulations for the protection of Muslim holy sites resulted in discrimination in the designation of the budget for holy sites. The Supreme Court determined that such regulations are not a necessary condition in order to ensure respect for and the guarding of holy places. The State's representative announced that in order to guard Muslim holy places, it was decided to allocate, in the framework of the state budget, a sum of 2 Million NIS (US$ 540,541) per year for the treatment and reconstruction of such places. Moreover, a list of priorities was to be prepared by an inter-ministerial team, which will consider the position of Muslim representatives. Therefore, the Supreme Court decided to dismiss the petition, subject to the State's commitment to act for the establishment of procedures for the caretaking of Muslim holy places (H.C.J. 10532/04 Adalah – *The Legal Center for Arab Minority Rights in Israel et al. v. The Prime Minister et al.*).

438. Nevertheless, on the basis of the work of the abovementioned committee and of the work of another inter-ministerial Committee, which was established following the petition, a program was prepared for the appropriate treatment, in terms of budget and planning, of the relevant holy sites. Furthermore, following the work of the Committee, a special budget was to be allocated for the restoration of Arab holy sites, the list of which is currently being drafted.

Excavations in Jerusalem

439. With respect to the Committee on the Elimination of Racial Discrimination's Observation No. 36 of the Concluding Observations of 14 June 2007 (CERD/C/ISR/CO/1), the concerns of the Committee are groundless. There are no excavations presently

conducted beneath the al-Aqsa Mosque, nor has Israel ever conducted any such works in the past.

440. The excavation conducted by the Hebrew University of Jerusalem to the south of the al-Aqsa mosque and the Temple Mount was concluded in 1980, over 29 years ago. These excavations were conducted outside the area of the Temple Mount. Since then no excavations have been conducted beside the al-Aqsa Mosque, beyond that conducted illicitly by the Islamic Waqf itself, without proper engineering supervision in Solomon's Stables on the eastern edge of the al-Aqsa Mosque. This work, by the Islamic Waqf, beyond being a breach of the Israeli Antiquities Law 5738-1978 (the "Israeli Antiquities Law"), contravened international charters, conventions and professional ethics governing the management of antiquities sites of supreme universal cultural value. These include contravention of the 'UNESCO Recommendation on International Principles Applicable to Archaeological Excavation (1956)', the 'Venice Charter (1964)' and the 'Convention for the Protection of the World Cultural and Natural Heritage (1972)'. Violation of the latter is especially poignant as it concerns the cultural management of Jerusalem as a site registered in UNESCO's World Heritage List in 1981 and its subsequent inscription in 1982 on the World Heritage List in Danger. The works caused the loss of a singular opportunity to investigate in a professional manner the ancient layers of the Temple Mount/al-Haram el-Sharif and can be considered no less than a cultural offence.

441. Excavations by Israeli archaeologist have been carried out in other areas that surround the Temple Mount, in the vicinity of Robinson's Arch between 1996–2000, in the Western Wall Tunnels between 1969–1980 and the Mughrabi Ascent in 2007. Presently there are no excavations adjacent to the walls of the Temple Mount. None of the past works penetrated beneath the walls of the Temple Mount and all were conducted according to the highest professional standards, and under engineering supervision to ensure that no danger was posed to the Temple Mount, which is a monument of supreme importance to Jews, Muslims and to the rest of the world's community.

442. Unimpeded access to the Temple Mount/al-Haram al-Sharif is possible through eight gates that open daily into the complex. Seven of these gates are for the use of the Muslim public, while one (the Mughrabi or Moroccan Gate) is used exclusively by local and foreign tourists and security forces.

443. Israel is not aware of any damage, actual or potential, caused by the excavation south of the al-Aqsa Mosque that was terminated in 1980. The al-Aqsa Mosque, both as a holy site and as a designated antiquities site according to the Antiquities Law, is a structure of major importance and is protected by Israeli law. The State of Israel sees the protection of this important monument as a central tenet of its responsibility towards the protection of all cultural heritage under its sovereign control.

444. In practice, access to holy places and freedom of worship for members of all faiths is strictly protected, with few exceptions relating to the maintenance of public order, security and morals.

6. Freedom of opinion and expression

445. Between 2006 and 2009, approximately 10 indictments were filed annually in regard to offences related to freedom of expression. In 2009 (up until August), 155 cases of such offences were opened, in comparison with 158 in 2008, 139 in 2007 and 170 in 2006. Approximately 70 per cent of these cases were opened with respect to offences of inciting to racism or inciting to violence.

446. In June 2008, the Jerusalem Magistrate Court convicted Elisheva Federman for offences of violence or terrorism, and publication for the purpose of inciting to racism. The defendant was indicted and convicted for statements she made during a recorded television

interview for channel 10 (TV) and in the course of a documentary series which was broadcast on channel 2 (TV). The Jerusalem Magistrate Court emphasized that the right to freedom of expression is not absolute, and in certain circumstances it is required to protect other fundamental social values. Thus, racial expressions cannot find shelter under the right for freedom of expression, and limiting this right so as to prevent racism is a worthy cause. Moreover, the Court noted that the offence of publishing incitement to racism is a behavioral offence, and there is no need to show the probability of actual incitement to racism as a result of the publication (*C.C. 4437/06 The State of Israel v. Federman Elisheva* (15.6.08)).

7. Other civil rights

Due process rights – The right to assigned legal assistance in criminal cases

447. **Court-Appointed Counsel.** Amendment No. 49 of July 19, 2006, to the *Criminal Procedure [Consolidated Version] Law* 5742-1982 (the "*Criminal Procedure [Consolidated Version] Law*"), amended Section 15 of the Law by adding subsections 15(a)(4)–(6). According to the Amendment, the court shall appoint an attorney for an unrepresented defendant, or for an unrepresented suspect in an offence for which immediate testimony is required, if the following conditions are met: the person is charged with an offence punishable by actual imprisonment or imprisonment, which in the absence of special circumstances, cannot be entirely suspended (Section 15(a)(4)); when the prosecutor gives notice to the court that he/she intends to request the incarceration of a defendant if the defendant is convicted (Section 15(a)(5)); when the prosecutor did not give such notice (as referred to in Section 15(a)(5)), and the court considers, following the conviction of the defendant, that there is a possibility that the defendant will be sentenced to a period of incarceration.

448. Amendment No. 49 added Section 15A to the Law which stipulates that a prosecutor who is of the opinion that there is a possibility that he/she will request a sentence of incarceration, shall notify the court of his/her intention, together with the serving of the indictment or at another time prior to the beginning of the trial (Section 15A(a)(1)). The court must forward this notice to the defendant and the Public Defender's Office (Section 15A(a)(2)). According to Section 15A(b), if the prosecutor did not provide such notification to the court, and following the beginning of the trial he/she is of the opinion that new circumstances or reasons justify requesting that the court sentence the defendant to a period of incarceration, he/she shall then notify the court and the defendant at the first available opportunity. According to Section 15A(c), if the prosecutor provides notice under Section 15A, then legal counsel shall be appointed for an unrepresented defendant.

449. In addition, Amendment No. 49 added Section 15B to the Law, which stipulates that a court may not sentence an unrepresented defendant to a period of incarceration. However, this section shall not apply to a defendant who was represented, but whose representation was terminated with the consent of the court under Section 17.

The Public Defender's Office

450. An indication of the desire and capacity to serve the minority population is reflected by the pool of attorneys operating within the Public Defender's Office. That is, 16.3 per cent of the full-time staff attorneys belong to the minority population (14 attorneys out of 88), while 19 per cent of external attorneys hired by the Office are members of minority populations (131 out of 689). Even more telling is that 45 per cent of the external pool of attorneys for the Northern Public Defender's Office belong to minority populations. This is important for the Northern District, as it is an area where the minority population is in the majority. Therefore, the Office is able to better meet the needs of the minority populations

by ensuring the availability of attorneys who can converse with and understand their clients.

The right not to be arbitrarily expelled

451. During the 1990's the annual increase in the number of alien residents, mostly migrant workers, entering Israel illegally, or staying in Israel illegally once their visas had expired, dramatically increased, and was estimated to have increased by 120,000 by the end of 2002, 100,000 by the end of 2003, 60,000 by the end of 2004 and by 107,000 by the end of 2008. At the peak of this trend, during 2001–2002, migrant workers (both legal and illegal) constituted 9.6 per cent of the work force in Israel.

452. The *Entry into Israel Law* criminalizes the illegal entry into or stay in Israel, which is punishable by one year's imprisonment. A person staying in Israel without a valid permit is to be removed or may leave the country voluntarily. The Law entitles foreigners, including migrant workers, to a range of substantive and procedural rights.

453. The Law provides that persons staying in Israel illegally, who are held in custody until their removal, must be detained separately from criminal detainees. In addition, a list of their basic rights must be posted in a prominent place in the detention facility in both Hebrew and English (in practice the list of rights are also posted in Chinese, Arabic, Thai, Spanish, Portuguese, Amharic, Russian, Romanian etc.) and pamphlets containing information regarding their rights are provided to them in Hebrew, English and additional languages (Philippine, Ukrainian, French, Czech, Turkish, Polish, Bulgarian, Hungarian etc.). Such detention facilities currently operate in "Ktziot" (in the Negev) "Givon" detention facility (near Ramla) and "Matan" (near the city of Hadera).

454. A special tribunal has been appointed with jurisdiction to judicially review the detention decisions of the Border Inspector, including proceedings that deal with bail and the extension of detention (Detention Review Tribunal). The Tribunal has operated since November 2001, and as of 2008, the Law requires that a foreign national staying in Israel illegally must be brought before the Tribunal no later than 96 hours (4 days) (previously 14 days) from his/her arrest. If this is not done, he/she may be released from detention. As the hearings are conducted in the detention facilities, this time limit is enforced, such that in practice, most detainees are brought before the Tribunal within 3–4 days.

455. The Tribunal has jurisdiction to confirm a detention order, to order a review of a detention order within a specified time, to cancel the detention order and grant bail, or to change the conditions of bail.

456. In addition, a person illegally staying in Israel who was released on bail may approach the Tribunal at any time with a request to change his/her conditions of bail. Such a person also has the right to be present in any proceeding dealing with his/her case unless it is impossible to locate him following reasonable efforts to do so. In addition, he/she is entitled to be represented free of charge by a representative who is not a lawyer.

457. A person who has been detained, but for reasons not caused by him/her, has not been removed from Israel within 60 days of his detention, may be released from detention. Such a person shall not be released if the Tribunal is convinced that he poses a danger to the public, public health or state security.

Freedom of information

458. As mentioned in Israel's thirteenth Periodic Report, the 1998 enactment of the *Freedom of Information Law* has given a solid legislative basis to the public's right of access to information. The main innovation of the Law is the recognition of the right of an Israeli citizen or resident to receive information from public authorities, regardless of

whether he/she has any personal interest in it, and without having to state a reason for the request. Moreover, Article 12 applies the provisions of the *Freedom of Information Law* to persons who are not citizens or residents of the State of Israel, regarding access to information concerning their rights in Israel.

459. The *Freedom of Information Law* has been amended several times since its enactment. Amendment No. 3 of August 8, 2005, added Section 6A to the Law, which stipulates that a public authority must publicize information on its website regarding environmental issues in its territory, including: information regarding materials that were spilled, cleaned or dumped and results of measures taken regarding noise, odors and smells, and radiation in public property. According to the amendment, the Minister of Environmental Protection, together with the Minister of Finance and in consultations with the Minister of Justice and additional relevant Ministers will determine the various kinds of information that is to be published. On March 4, 2009, the Minister of Environmental Protection enacted the *Freedom of Information Regulations (Providing Information regarding Environmental Protection for Public Review)* 5769-2009).

Case law

460. In 2005, the Association for Civil Rights in Israel (ACRI) petitioned the Supreme Court requesting it to order the Director of Israel's Defense Force's archives to allow a journalist to browse through its materials and to provide any person with information that does not contain confidential material and may not harm state security. On January 13, 2010, the High Court of Justice rejected the petition after reaching the conclusion that "significant changes have been made regarding the different aspects of the petition, including the award of several of the requested remedies for the petitioners". Due to the fact that this was only done following the submission of the petition, the Court awarded the petitioners expenses in the amount of 20,000 NIS (US$ 5,405). The Court further stated that "in light of the fact that a process for changing the version of the regulations had already began […] we find no reason for the Court's interference in the arrangement anchored in regulations, and we are of the opinion that the authorities should be permitted to complete the new regulation before we are to address them". However, the Court criticized the respondents regarding the amount of time it took for them to address the petitioner's request and the time it took them to release various archive materials which are not related to specific requests. The Court stated that one should hope that in the framework of the changes brought by this petition, and the examination of the issue, the respondents would consider the reasonable amount of time for processing requests by individuals in a way that will constitute a proper response to the needs of academic research, and to important public interests, particularly the importance of realizing the public's right to be exposed to information found in the hands of government authorities. (*H.C.J. 2467/05 Gershom Gorenberg v. The Director of the IDF's and the Ministry of Defense's Archive* (13.1.10)).

E. Economic, social, and cultural rights

1. The right to employment

461. **Equal Employment Opportunities Commission.** In 2005, the Knesset enacted Amendment No. 10 to the *Equal Employment Opportunities Law*, which established the Equal Employment Opportunities Commission within the Ministry of ITL.

462. The Commission is charged with the promotion, implementation and civil enforcement of the following laws and statutory provisions: *Equal Employment Opportunities Law; Male and Female Workers (Equal Pay) Law; Women's Employment Law; Prevention of Sexual Harassment Law* (in relation to employment) and other statutory provisions relating to: discrimination on religious grounds and army reserve duty service,

discrimination on the part of public and private employment agencies, affirmative action for women, people with disabilities, Israeli Arabs and persons of Ethiopian origin in the public sector, and legislation protecting workers who "blow the whistle" on violations of the above laws and statutory provisions. The Commission is also charged, *inter alia*, with a wide range of duties, including fostering public awareness through education, training and information; encouraging programs and activities; cooperation with relevant persons and bodies; conducting research and gathering information; intervention, with the courts approval, in ongoing legal proceedings; handling complaints regarding violations of equal employment legislation; submission of requests for general orders; and instructing employers to take general measures regarding all or part of their workforce or employment applicants, designed to ensure compliance with duties imposed by equal employment legislation or to prevent violations of such duties.

463. *Structure of the Commission* – The Commission is headed by a National Commissioner, who is appointed by the Government, upon the recommendation of the Minister of ITL, following consultation with the Minister of Justice. The National Commissioner is appointed for a term of four years, which may be renewed only once; the National Commissioner has to have a law degree and at least seven years of proven experience in the areas within which the Commission operates.

464. The Equal Employment Opportunities Commission commenced operation at the beginning of 2008, following Government Resolution No. 2578 of November 2007. This position is the first of its kind to be established in Israel. The Commissioner is responsible for collecting information and hearing complaints from workers concerning instances of sexual harassment, and/or discrimination based on gender, sexual orientation, parenthood, religion and race. Where necessary, the Commissioner is also responsible for initiating legal action on behalf of any adversely affected workers. The commissioner also has the authority to request that courts issue special orders prohibiting sexual harassment in the workplace. Violation of these orders is considered a criminal offence. In addition, the commissioner is responsible for encouraging special programs related to equality in employment as well as other educational and promotional activities in the workplace. At the end of each year the Commissioner is required to submit an annual report to the Minister of Industry, Trade and Labor, who shall forward the report with his/her comments to the Knesset Committee for the Advancement of the Status of Women, and to the Knesset Committee for Labor, Welfare and Health.

465. In late 2008, the advisory committee to the Commission was appointed. Under the Amendment to the Law, the 21-member committee is comprised of representatives of the Authority for the Advancement of the Status of Women, the Commission for Equal Rights of Persons with Disabilities, Government Ministries, NGOs, trade unions and employers' associations. Appropriate representation is given, insofar as is possible, to women, the Arab population, including the Druze and the Circassian, and persons with disabilities.

466. Since her appointment in January 2008, the National Commissioner has manned regional commissioners and three additional positions, published a pamphlet dealing with employment rights that was distributed to 300,000 employers and employees, and conducted other activities of the Commission.

467. In addition, since September 2008, the services provided by the Commission have included the handling of 150 specific applications, three law suits which are currently being prepared, and many preliminary measures taken regarding discrimination by employers.

468. On January 21, 2009, the Commission launched its Arabic website.[2] In marking the event, the National Commissioner emphasized the importance of the website as a tool for disseminating information regarding equal opportunities in the labor market for the Arab population. The Commissioner further stated that as of January 2009, only 5 per cent of the complaints received by the Commission were for reasons of discrimination on the basis of national background and called for the Arab public to file a complaint in any case of discrimination. The website contains information for employers, employees and employment-seekers on issues such as: discrimination at work, discrimination in applying for work, discrimination upon dismissal, verdicts and court decisions regarding issues of discrimination etc.

469. In March 2009, the Commission published a pamphlet in Arabic which is intended for employers, employees and employment-seekers in the Arab population.[3] The pamphlet contains information regarding discrimination at various stages of the employment process and details regarding the Commission, ways of contacting it, ways of addressing a complaint etc.

470. On May 4, 2009, the Commission announced that in the first quarter of 2009, it received a total of 180 complaints, of which only 3 per cent were for discrimination on the grounds of national background. The Deputy Minister of Industry, Trade and Labor stated that she would attribute special emphasis to fighting discrimination among the Arab population and that there is an important need to raise awareness of the Commission throughout this population.

471. The Equal Employment Opportunities Commission has made the Arab population a priority in its work and is targeting cases dealing with discrimination, thus raising public awareness and enforcing the law in specific cases.

The Israeli Employment Service

472. The Israeli Employment Service is responsible for the placement of employees without any prejudice or discrimination. As of September 2009, approximately 220,000 unemployed persons were registered with the Employment Service. These unemployed persons are of different populations, ages, professions and levels of education, and include job-seekers, as well as people who are entitled to receive unemployment or income support allocations.

473. On August 1, 2007, the Employment Service issued a Directive regarding the prohibition on discrimination, in accordance with Section 42(a) of the *Employment Service Law*, and Section 2 of the *Equal Employment Opportunities Law*. The Directive was distributed to the Employment Service's workers, who also received relevant training on this issue.

474. In order to promote the placement of unemployed persons, the Employment Service refers job-seekers to vocational training held by the Vocational Training and Manpower Development Department in the Ministry of ITL. Thus, many job-seekers of the Bedouin and the Ultra-Orthodox populations have been referred to such training sessions over the years.

475. Special programs are designated for members of weaker populations in order to facilitate the better integration of such populations in the labor market. The Employment Service operates various instruments for identifying population groups which require

[2] http://www.moital.gov.il/CmsTamat/Rsrc/ShivyonArbic/ShivyonArabic.html.

[3] The pamphlet is accessible through the following link: http://www.moital.gov.il/NR/rdonlyres/4721B754-9DAF-4030-ACBF-1F7C1004D681/0/shivyonhizdamnuyot_Arabic.pdf.

special assistance, such as employment, psychological counseling, and computerized diagnostic tests. During 2007 and 2008, a unique project was conducted together with the Microsoft Corporation and WIZO (Women's International Zionist's Organization) to diminish imparities of digital knowledge and providing intensive assistance to women, single mothers, and women of minority populations. In addition, single parents were informed of the unique programs and benefits of the Single Parents Department in the Ministry of ITL. Moreover, the Employment Service has cooperated with the American Jewish Joint Distribution Committee's (JDC) program for integrating people of the Ultra-Orthodox population into the labor market through special centers for employment development among that population.

476. The development of several pilot programs for assisting weaker populations is currently being concluded, such as providing financial incentives for employers who employ people of minorities for long periods, providing financial incentives for employers and employees in the agricultural field, recovery of high travel expenses for job-seekers of weaker populations who are placed in work which is far from their permanent residence, and a program designated for the Ultra-Orthodox population.

477. Overall, the unemployment rate in Israel has decreased since 2003 and 2004 (10.7 per cent and 10.4 per cent unemployment respectively), with the figures reaching as low as 7.3 per cent in 2007, approximately 6.1 per cent in 2008, and with a slight increase in 2009 to 7.6 per cent. Among the Arab population, the unemployment rate that stood at 13.4 per cent in 2002 and 11.5 per cent in 2003, also began to decrease and reached a low rate of 8.5 per cent in 2008.

478. Similarly, among new immigrants, the rate of unemployment in 2003 was 11.2 per cent. As of 2006, this figure dramatically improved, reaching a low rate of just 5.3 per cent in the year 2008. Programs to improve job opportunities for new immigrants, as well as for other unemployed groups in the labor force, were implemented. These included streamlining public Employment Service activities to encourage employers to seek workers through the Employment Service; improving the matching of job vacancies with job-seekers; temporary employment programs in the public sector; and vocational training, retraining and on-the-job training.

The "Welfare to Work" program

479. In August 2005, Israel launched a major pilot program named "Welfare to Work" in four areas of the country. The primary goal of the program was to integrate recipients of income support, who are required to undergo an employment test, into sustainable employment. Recipients of income support are the poorest and weakest group among Israel's unemployed populations. The pilot concluded in August 2007. In order to further examine the implementation of the program, the Government decided to extend the pilot program for a further two year period in the same areas. Following the extension, some major differences in the program were introduced. The target population was redefined; special tracks were created for subgroups; the financial model was modified; and a financial incentive ("diligence" grant) was paid to participants who remained in their jobs.

480. Hereinafter are the main findings of the abovementioned program:

(a) **Employment**. The program had a positive impact on participants' employment status, as reflected by the integration into employment of individuals who had not been working prior to the program, and in the increased number of the working hours of those who were already employed at the outset of the program. A considerable impact was found to exist in the employment rate among those referred to the program, which rose by 25 per cent – from 41.8 per cent at the time of referral to 52.2 per cent some eight months later (an increase of 10.4 per cent). In contrast, the employment rate in the control group

increased by only 6 per cent – from 41.8 per cent to 44.1 per cent (an increase of 2.3 per cent). Thus, the program's impact on the employment rate was found to be 8.2 per cent. The program was also found to have a positive impact on increasing the number of working hours of individuals who were already employed at the time of referral. Altogether, the impact of the program on the employment rate and the number of working hours was 9.6 per cent. 37 per cent of the individuals who were integrated into employment in the experimental area were hired in full-time positions with an average monthly wage of 3,600 NIS (US$ 973). The remaining 63 per cent were hired in part-time positions with an average monthly wage of 1,900 NIS (US$ 514). Some of them continued to receive benefits. The program had a positive impact on individuals who had been in the income support system for a short time as well as on those who had been in the income support system for a long period of time;

(b) **Eligibility for income support benefits**. The program considerably reduced the number of income support recipients and a significant percentage of those who continue to receive support are employed and receive only a partial benefit. After eight months, 58 per cent of the families in the experimental group reported that they were receiving income support, while 77 per cent continued to receive support in the control group. In other words, a decline of 19 percentage points in the rate of families receiving benefits can be attributed to the program. After eight months, the employment rate among referred individuals who continued to receive income support was high (60 per cent). These individuals receive a partial benefit. This compares to 43 per cent in the control group.

481. The legal basis for the program was the *Economic Policy Law* for the fiscal year 2004; Integration of income support recipients in the workplace. The Law was in force from 2005 to 2008 and has been extended since then several times, up until December 2009 and again until May 2010.

482. In April 2010, the Knesset's Employment, Welfare and Health Committee did not extend the program, although an extension was requested by the Ministry of Finance. This came after months of criticism regarding the implementation of the program by private companies and after a report of the Legal Aid Department in the Ministry of Justice, according to which, the bureaucratic structure of the program is insufficient and does not allow flexibility and sensitivity needed in handling the target population.

Employment in the Arab population

483. Following Government Resolution No. 1832, (April 29, 2004), where it was determined that mechanisms would be put in place in order to encourage employment; another Government Resolution (No. 3716) that established criteria to partially subsidize employers was adopted on June 9, 2005. This Resolution established major centers of employment aimed at granting new opportunities for employment in peripheral areas. According to this Resolution, and over a span of five years, Government support would be granted in order to create new job opportunities by establishing, expanding, or relocating existing companies. The support was to be granted in accordance with a competitive procedure. The minority population would compete only amongst itself.

The Bedouin population in the Negev (South)

484. In addition, in order to encourage employment among the minority populations in the southern Negev area, it was decided that a factory/entrepreneur in the industrial field, services or tourism, which employs at least 4 new employees from the Bedouin or the Jewish Ultra-Orthodox population in the Negev, would be entitled to reimbursement of 15 per cent – 20 per cent of these workers' monthly wages for a period of 5 years. The employer would also receive reimbursement for the costs of organized transportation to and from the workplace, up to a total of 3,000 NIS (US$ 811) per worker, annually.

485. Note as well that labor force participation of Arab women remains relatively low, though the rate is steadily rising. Between the years 1980–2002, there was a moderate increase in Arab women's participation in the labor force, from 11 per cent in 1980 to 14.8 per cent in 2002. However, by the year 2008, the rate rose to 21.1 per cent, and in September 2009, Arab women constituted approximately 7 per cent of all women in the civil labor force in Israel. In 2008, there were 372,642 employed Arabs-Israelis in the labor force, 280,154 (75.2 per cent) were men and 92,488 (24.8 per cent) were women. 31,565 of the Arab population were listed as unemployed, 10,578 (33.5 per cent) of them were women.

486. In the Arab population, women employees earn 10 per cent *more* than men. This can be explained by the fact that 43 per cent of employed Arab women work in academic and technical professions, while 64 per cent of Arab men work as skilled and unskilled labour in construction and industry branches.

487. In terms of gross monthly salary, Arab men's salaries were 35 per cent higher than the Arab women's salaries. The difference in the monthly salary is due to the gap in men's working hours compared to the women's – a monthly average difference of 15 hours.

488. In the Arab population, the majority of men (108,975) in the labor force completed 11–12 years of schooling, compared to the majority of women (46,683), who completed 13 years or more of schooling.

489. Of the women who were employed in 2008, 14.6 per cent worked as academic professionals, 19.4 per cent worked as professionals and technicians, 25.9 per cent as clerical workers and 24.4 per cent as agents, sales or service workers. Furthermore, 6.6 per cent worked as unskilled workers, 4.1 per cent as manufacturing, construction or other skilled workers, while 4.6 per cent worked as managers. Of the Arab-Israeli women who were employed in 2008, 12.5 per cent worked as academic professionals, 30.4 per cent worked as professionals and technicians, 16.8 per cent as clerical workers and 24.2 per cent as agents, sales or service workers. Furthermore, 11.1 per cent worked as unskilled workers, 3.5 per cent as manufacturing, construction or other skilled workers, 0.5 per cent worked as skilled agricultural workers and 1.0 per cent worked as managers.

490. Regarding unemployment rate among the Arab population in the south of the country (mainly Bedouin): their rate of unemployment is currently estimated at 10 per cent. In recent years, the Government successfully undertook projects to reduce unemployment among the Bedouins, including vocational training and subsidized employment, particularly in areas related to tourism, such as in national parks and at archeological sites.

491. With respect to unemployment among women, three authorities in Israel are currently actively engaged in promoting employment opportunities for women: the Authority for the Advancement of the Status of Women in the Prime Minister's Office; the Knesset Committee for the Advancement of the Status of Women; and the Unit for Integration and Advancement of Women in the Civil Service Commission.

Women's entrepreneurship

492. A survey conducted in 2006 indicated that 33.7 per cent of self-employed individuals are women, compared with 66.3 per cent who are men. Women entrepreneurs face inherent obstacles such as insufficient administrative skills, difficulties in obtaining financing and low self-esteem. Consequently, several programs were developed by the Ministry of ITL through the Israel Small and Medium Size Enterprises Authority (SME Authority) and in the Centers for Fostering Entrepreneurship for every woman, including Arabs, Druze and Bedouin, new immigrants, and Ultra-Orthodox. These programs include assistance in obtaining funding for small businesses, female empowerment courses, establishment of "women only" business clubs and other activities and special assistance

for single mothers. In 2007, Israel's SME Authority, through its Centers for the Promotion of Entrepreneurship, handled 6,909 new applications from women and 10,276 from men (compared to 6,689 applications from women and 11,119 from men in 2006). In 2007, 96.5 per cent of female applicants participated in guidance courses run by the Centers. 25 per cent of the women received coaching and trainers to assist them. As part of the Ministry of ITL's policy to foster entrepreneurship among weak segments of the population, the SME Authority runs several programs, described below, with an emphasis on the female population:

(a) Initiating business – a program in cooperation with the Israeli Employment Service, Joint Distribution Committee and the Ministry of Immigrant Absorption to locate unemployed individuals throughout the country with entrepreneurship potential, and provide them with coaching for the start-up period of their business. This project, which began in 2008, had 79 women participants that year – 85 per cent of all participants;

(b) Project for single parent women in Ramla-Lod – a long term project for single parent women providing them with the necessary tools for starting up a business, through coaching and assessing the proper financial tools they require for the business. Currently there are 20 women participants in the program;

(c) Economic Initiative for Women in Kssaife – a three year program developed with "Joint-Israel", for creating and marketing authentic products made by women through a central body owned by them. The women become business owners exempt from value added tax (V.A.T.). In 2007, 20 women participated in the program. At the end of the three year project, 100 Bedouin women will have participated in the program;

(d) Female Horizon Project – this project is operated in cooperation with the Forum for Civil Agreement and "Joint-Israel" for the Arab population. The project's aim is to develop and empower 60 business owners and includes, *inter alia*, women who have written their own independent business development plans;

(e) Innovators Association – courses are provided for qualified women which focus on running a business for events (such as birthdays and other parties). Every year 70 women participate in the program;

(f) Project in the Western Galilee for training of Arab women in the field of alternative medicine, which is run in cooperation with the Albaum Institute. The 25 women who participate in the program receive training in alternative medicine and in business management.

Another project is the creation of a joint marketing body for women-run businesses in the Bedouin village Hussniya in the Galilee. Currently there are 20 women participating in the project.

493. Additional courses include education completion, entrepreneurship courses held for women and their integration into the labor market, which is currently in its second year, and a program for business entrepreneurship for Arab women of the triangle area in the north etc.

Vocational and professional training for women

494. **Training for Women.** In 2008 women comprised 46 per cent of all trainees in vocational courses provided by the Division for Training and Development in the Ministry of Industry, Trade and Labor (ITL).

495. As detailed in Israel's thirteenth Periodic Report, with regard to female participation in the labor force, two groups — Ultra-Orthodox Jewish women and Arab women —

require the implementation of special programs and measures, due to the religious-cultural factors affecting their potential entry into the labor market.

496. In the field of vocational training, the policy of allocating special budgets aimed at the training of women continues. Some of the special programs target women in general, while others specifically target vulnerable groups of women.

497. Approximately 1,480 Ultra-Orthodox women have participated in vocational training courses and practical engineering diploma studies. In addition, Arab women comprised 56 per cent (1,107 women) of all Arab trainees and 36 per cent of all female trainees participating in vocational training for the unemployed, which training is provided by the Employment Service.

498. The Department for the Advancement of Women within the Ministry of ITL endeavors to increase the employability of women and, consequently, their economic independence by way of projects and policies of professional and personal empowerment and growth. Several of the Department's initiatives are as follows:

(a) Self-empowerment workshops and entrepreneurship skills workshops, especially for new immigrants, Arab and Ultra-Orthodox women. These workshops also focus on work skills and additional retraining courses;

Between the years 2002 and 2007, 370 workshops were provided to some 6,500 participants. The participants reported improved self-image, personal and professional empowerment and better assessment of the job market. Participants in the Entrepreneurship Workshops reported a better understanding and knowledge of the various aspects of small business establishment. Participants in the workshops usually enjoyed continued professional assistance from the Ministry of ITL. The women undertake various activities at the end of the workshops such as acquiring education, Hebrew classes, vocational training, employment or some form of voluntary activity.

(b) Programs for integrating single parents into the work force. Between the years 2003 and 2005, the Ministry of ITL operated a program intended for single parents receiving allowances or alimony from the National Insurance Institute (NII), in order to integrate them into the work force. The program was launched as a pilot and then incorporated into the regular long term programs of the Ministry. The program provides assistance in financing child care by subsidizing payments for afternoon programs and day-care centers. Financial assistance is also provided for babysitting during non-conventional hours and during summer vacation. The program also addresses professional training aspects, through a voucher system in which vouchers are provided for courses recognized by the Manpower Training and Development Unit. In August 2008, the Unit began to offer professional consultants to help identify appropriate training courses and job placement services according to the individual needs and qualifications of the participants in the program. During 2008, an additional program was launched to encourage single parents to participate in the program, and to encourage the development of entrepreneurial skills, and thus, the ability to establish small businesses. An additional pilot program established by the Ministry of ITL was launched on September 1, 2008. As part of the new program, training centers for single parents, receiving allowances or alimony, were to be established. Through courses operated in these centers, the participants are to acquire skills to enable them to enter or re-enter the labor force. Following a two month course, the participants are directed to specific training courses or jobs that suit their individual qualifications;

(c) Courses for entrepreneurship and small business. Courses for women with entrepreneurial spirit and/or plans, but without access to training because of economic, geographical or cultural obstacles. The training that is provided enhances their prospects of establishing a viable business and improving their economic standing. The courses are provided by the Ministry of ITL and the Israel Small and Medium Enterprises Authority,

through Centers for the Promotion of Entrepreneurship (CPEs). Currently, 24 CPEs are located throughout the country. In addition to training, these centers also provide assistance and counseling in the process of establishing a small business;

(d) The Division for Training and Development in the Ministry of ITL takes specific measures to increase the number of women participants in the courses via the establishment of separate courses for women in the Ultra-Orthodox and Arab populations. This is achieved by directing the Acceptance Committees to perform their role equitably, and support female participants in all courses, especially those previously considered "masculine".

499. The following table depicts the distribution of men and women trainees within the various types of courses offered during the year 2007.

Table 8
Participation in vocational training, by subjects, 2007

Route	***Total participants***	*Women participants*	*Percentage of women*
Daily training	**5 352**	2 663	49 per cent
Academic retraining	**335**	180	53 per cent
Night school – Transportation	**6 385**	166	3 per cent
Night school – Business	**31 761**	20 777	65 per cent
Technicians – Practical engineers	**21 655**	7 394	34 per cent
Youth training	**11 718**	2 086	18 per cent
Total	**77 206**	**33 266**	**43 per cent**

Source: The Ministry of Industry, Trade and Labor, 2007.

The Authority for the Advancement of the Status of Women

500. *Affirmative Action in Employment* – In accordance with Government policy, the Authority recruits Arab and Bedouin women. In August 2009, there were ten women employees in the Authority, two of whom are Arab. Three additional positions, all intended for Arab women, are in the process of being approved.

501. The Authority publishes information in Arabic, and employs an authority employee to promote Arab women's status, disseminate information and provide interviews in the Arab media in Arabic.

502. *The Bedouin Woman's Day* – In the framework of Bedouin Women's Day and as part of the "60th celebrations" of the State of Israel, 30 leading Bedouin women received awards of respect in a special ceremony. These women were chosen for their leadership and success in various fields, such as education, business, public health, academic achievements and more.

Women in the Civil Service

Ranks of women in the Civil Service

503. The Civil Service has four main classifications that comprise the main sources in which administrative managers may be ranked. The number of women featured among the top three ranking senior staff positions is gradually improving. In 1997, women comprised 61 per cent of all civil servants, yet women held only 15 per cent of high ranking civil servant positions. As of December 31, 2007, 46 per cent of the top four ranking positions, and 41 per cent of the top three ranking positions were held by women. Note that these

figures do not include women in the security forces, but do include all other fields such as nurses and advocates, in which the representation of women is very high.

504. In 2007, women maintained an absolute majority in the following professions in the Civil Service: nursing (84 per cent – 9,575 women), biochemists (85 per cent – 677 women), social workers (85 per cent – 1,109), advocates (68 per cent – 485 women), jurists (70 per cent – 908 women) and administrative staff (64 per cent – 15,543 women). The following tables further illustrate the rates of women and men in the civil service, in all ranks:

Table 9
Women and men in the Civil Service, by ranks, 2005–2007

	2005			*2006*			*2007*		
Ranks	***Total***	*Per cent of women*	*Per cent of men*	***Total***	*Per cent of women*	*Per cent of men*	***Total***	*Per cent of women*	*Per cent of men*
Top	**307**	57 per cent	43 per cent	**311**	60 per cent	40 per cent	**331**	60 per cent	40 per cent
Second	**606**	49 per cent	51 per cent	**558**	48 per cent	52 per cent	**600**	49 per cent	51 per cent
Third	**1 239**	33 per cent	67 per cent	**1 160**	35 per cent	65 per cent	**1 163**	35 per cent	65 per cent
Fourth	**3 015**	45 per cent	55 per cent	**2 907**	47 per cent	53 per cent	**2 950**	47 per cent	53 per cent
Fifth	**4 444**	48 per cent	52 per cent	**4 373**	48 per cent	52 per cent	**4 461**	48 per cent	52 per cent
Sixth	**4 661**	55 per cent	45 per cent	**4 969**	56 per cent	44 per cent	**5 641**	59 per cent	41 per cent
Seventh	**6 267**	66 per cent	34 per cent	**6 546**	65 per cent	35 per cent	**6 577**	66 per cent	34 per cent
All the rest	**30 835**	73 per cent	27 per cent	**31 147**	72 per cent	28 per cent	**30 252**	72 per cent	28 per cent
Total	**100 percent**	**65 per cent**	**35 per cent**	**100 per cent**	**65 per cent**	**35 per cent**	**100 per cent**	**65 per cent**	**35 per cent**
	51 374	**33 466**	**17 908**	**51 971**	**33 797**	**18 174**	**51 975**	**33 980**	**17 995**

Source: The Department for Advancement and Integration of Women within the Civil Service, Activity Report for 2007, November 2008.

Table 10
Women in Government ministries (total percentage and percentage in the four highest ranks) 2005–2007

	Per cent of women in the Ministry			*Per cent of women in four highest ranks*		
Ministry	*2005*	*2006*	*2007*	*2005*	*2006*	*2007*
Prime Minister's Office	52	55	54	23	32	26
Finance	52	53	53	32	33	35
Public Security	56	53	53	27	12	12
Education	77	78	78	46	48	49
Science, Culture and Sport	64	72	69	40	50	35
Agriculture	46	46	46	27	31	33
Industry, Trade and Labor	59	58	59	34	33	35
Justice	70	70	70	65	64	66
Social Affairs and Social Services	76	76	76	63	65	64
Interior	55	54	55	25	29	30

	Per cent of women in the Ministry			*Per cent of women in four highest ranks*		
Ministry	*2005*	*2006*	*2007*	*2005*	*2006*	*2007*
Transportation	55	49	51	18	19	22
Health	81	82	83	61	63	64
Environmental protection	59	58	57	28	29	34
National infrastructures	54	50	50	24	22	24
Construction and housing	63	63	63	39	36	36
Tourism	62	62	61	18	17	11
Immigrant absorption	81	80	80	57	48	49
Communications	56	53	52	36	33	33

Source: The Department for Advancement and Integration of Women within the Civil Service, Activity Report for 2007, November 2008.

Tenders in the Civil Service

505. The method in which appointments are made in the Civil Service is through both internal and external tenders. While the increase in the number of female participants in internal job tenders within the Civil Service, both as candidates and as appointees, is quite consistent, the situation in public tenders is less positive.

Case law

506. On September 23, 2007, the Tel Aviv District Labor Court annulled a tender for employment with the Investigations Department of the Tel Aviv Customs Division, as the Examiners Committee had not paid sufficient attention to the requirement for proper representation by women, and had not applied affirmative action, as required by law, in giving preference to women possessing the same qualifications as men (*La.C. 3888/03 Ruth Zuaretz v. The State of Israel – The Civil Service Commissioner et. al.*). In this case there were 26 candidates vying for only several available positions, and the claimant was the only woman. The Court held that the duty to take action to achieve the proper representation of women in public entities is anchored in legislation; such as the *Equal Rights for Women* Law: (Section 6(c)), the *Civil Service (Appointments) Law*: (Section 15(a)); and also in case law, especially that handed down in the case of *H.C.J. 2671/98 Israel Women's Network v. The Minister of Labor and Welfare* (11.8.98) and in *H.C.J. 453/94, 454/94 Israel Women's Network v. The Government of Israel et al.* (01.11.94). In the latter case, the Court indicated that in 2003, the Attorney General had issued special guidelines obligating the implementation of the proper representation principle when making appointments in the Civil Service. The Court held that the Examiners Committee failed to consider, or did not afford proper weight to, the issue of affirmative action when choosing between the claimant — the only female candidate — and the successful male candidate whose qualifications were evidentially inferior to those of the claimant. The Court held that the extreme lack of reasonableness displayed in reaching the decision, justified the Court's intervention in the Examiners Committee's decision, which had been approved by the Civil Service Commissioner. As the fact that the claimant was the only woman of the 27 applicants had not been properly considered by the Committee, the Court decided to annul the decision which appointed a different candidate.

507. On November 26, 2008, the Jerusalem District Labor Court issued an interim injunction order regarding a tender for legal assistant positions in the Rabbinical Courts. The District Court determined that a note in the section regarding the qualifications needed

to the effect that preference would be afforded to people with the qualification of "Dayan", a Jewish religious judge, was discriminatory by nature. This is due to the fact that according to religious laws, only men can serve as a "Dayan". Thus, the tender violated the *Equal Employment Opportunities Law*, as it discriminated between men and women, and gave an unjust preference to male applicants. The District Court therefore ordered the Administration of the Rabbinical Courts and the Civil Service Commission to reissue the tender without the note, to ensure equal opportunity for those who are not qualified as "Dayans", and may have therefore been deterred from submitting their application (*La.C. 003252/08 The Center for Justice for Women Association v. The Administration of the Rabbinical Courts et al.* (26.11.2008)).

Table 11
Employed persons and employees, by occupation, population group and gender, 2008

Occupation	***Total***		*Men*		*Women*	
			Thousands		*Per cent distribution*	
	Employed persons	***Employees***	*Employed persons*	*Employees*	*Employed persons*	*Employees*
All workers - Thousands	**2 776.7**	**2 424.8**	1 489.1	1 240.2	1 287.6	1 184.6
Total	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
Academic professions	**14.4**	**14.0**	14.3	13.9	14.6	14.2
Associate professionals and technicians	**15.4**	**15.4**	11.8	11.8	19.4	19.1
Managers	**6.8**	**6.8**	8.8	8.8	4.6	4.7
Clerical workers	**16.1**	**18.0**	7.6	9.0	25.9	27.5
Agents, sales and service workers	**20.6**	**19.5**	17.2	15.7	244	23.5
Skilled agricultural workers	**1.3**	**0.8**	2.2	1.4	0.3	0.1
Manufacturing, construction and other skilled workers	**18.1**	**17.4**	30.3	30.3	4.1	4.0
Unskilled workers	**7.3**	**8.1**	7.9	9.2	6.6	6.9
Jewish population - Thousands	**2 363.0**	**2 060.1**	1 193.3	986.3	1 169.7	1 073.7
Total	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
Academic professions	**15.5**	**15.1**	16.0	15.7	15.1	14.5
Associate professionals and technicians	**16.1**	**16.0**	13.4	13.4	18.9	18.3
Managers	**7.7**	**7.6**	10.4	10.5	5.0	5.0
Clerical workers	**17.7**	**19.8**	8.6	10.1	27.0	28.7
Agents, sales and service workers	**20.9**	**20.1**	17.6	16.3	24.3	23.5
Skilled agricultural workers	**1.2**	**0.6**	2.1	1.2	0.3	0.1
Manufacturing, construction and other skilled workers	**14.5**	**13.8**	25.2	24.9	3.8	3.7
Unskilled workers	**6.3**	**7.0**	6.8	7.9	5.3	6.1
Arab population - Thousands	**341.1**	**295.8**	259.2	219.5	81.9	76.3
Total	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
Academic professions	**8.5**	**8.4**	7.2	6.7	12.5	13.2
Associate professionals and technicians	**11.4**	**12.4**	5.4	5.6	30.4	31.9
Managers	**2.1**	**2.0**	2.5	2.4	1.0	0.9
Clerical workers	**6.9**	**7.8**	3.8	4.4	16.8	17.5

Occupation	***Total***		*Men*		*Women*	
			Thousands		*Per cent distribution*	
	Employed persons	***Employees***	*Employed persons*	*Employees*	*Employed persons*	*Employees*
Agents, sales and service workers	**18.0**	**15.5**	16.1	13.7	24.2	20.6
Skilled agricultural workers	**2.2**	**1.9**	2.7	2.4	0.5	0.5
Manufacturing, construction and other skilled workers	**39.1**	**38.7**	50.4	51.0	3.5	3.7
Unskilled workers	**11.8**	**13.3**	12.0	13.8	11.1	11.8

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2009.

508. **Migrant Workers** – Please see details regarding the Protection of Migrant Workers in the section above which addresses Article 5B.

Remuneration

509. According to the *Minimum Wage Law*, the minimum wage for employees who are over the age of 18 is currently set at 3,850.18 NIS (US$ 1,040.6). The minimum wage is assessed and updated on April 1 of every year, and is determined according to the average monthly wage. If on the abovementioned date, 47.5 per cent of the average monthly wage is higher than the minimum wage, then the minimum wage will be set as 47.5 per cent of the average monthly wage.

510. The minimum wage in Israel in relation to the average monthly wage is high in comparison to other developed countries, although the poverty rate among populations whose income is close to the minimum wage is approximately 20 per cent on average. The law provides possibilities, under certain conditions, for income completion for families who support themselves on the basis of the minimum wage. Nevertheless, the poverty rate is not necessarily related to the amount at which the minimum wage is set, but to other factors such as the number of breadwinners in a family.

511. In the guarding and security sector, the minimum wage is 2.5 per cent higher, in accordance with a general collective agreement.

512. As for working youth, the minimum wage is regulated as follows: the minimum wage for youth under the age of 16 is 70 per cent of the regular minimum wage, 75 per cent for youth between the ages 16 and 17, and 83 per cent for youth above the age of 17. Youth who work as apprentices, will receive 60 per cent of the regular minimum wage.

513. As for persons with disabilities whose working capacity is reduced due to disability and who are employed in the regular labor market, the minimum wage is set by the Regulations of the Minister of Industry, Trade and Labor (ITL), pursuant to specific provisions of the *Minimum Wage Law* 5747-1987. The Regulations, which have recently been amended now prescribe six tiers as follows: an employee with a 19 per cent–30 per cent reduced working capacity will be entitled to an adjusted minimum wage which is 30 per cent of the regular minimum wage; an employee with a 30 per cent–40 per cent reduced working capacity will be entitled to an adjusted minimum wage which is 40 per cent of the regular minimum wage; an employee with a 40 per cent–50 per cent reduced working capability will be entitled to an adjusted minimum wage which is 50 per cent of the regular minimum wage; and so on. An employee with a reduced working capability which is above 80 per cent will be entitled to the full minimum wage.

514. The adjustment of the minimum wage for persons with disabilities, who have reduced working capacity and are employed in the regular labor market, is also conducted

in accordance with Regulations set by the Minister of ITL. These are aimed, on the one hand, at promoting decent remuneration for employees with disabilities who have reduced working capacity, and on the other hand, ensuring that their employment is economically worthwhile, given that not all employers can be expected to employ persons with disabilities with reduced working capacity for altruistic reasons.

515. As of November 2009, the Labor Laws Enforcement Division in the Ministry of ITL investigated the cases of more than 850 employers for allegedly violating the *Minimum Wage Law* and investigations against 500 of them were opened in 2009. In addition, 44 indictments were filed against employers, and 413 administrative fines were imposed, in a total sum of approximately 3 Million NIS (US$ 810,811). In comparison, the numbers of investigations opened against employers of foreign workers in previous years were: 2004 – 9,834; 2005 – 4,170; 2006 – 3,743; 2007 – 3,111.

516. Enforcement covers all workers: Israeli adults, youth workers, foreign workers, workers hired by manpower contractors, etc.

2. The right to form and join trade unions

517. The legal protection for the right to organize in trade unions is recognized in Israel and applies equally to all individuals. This right was expanded by several important judicial decisions.

518. During 2007, one of the workers of the chain "Coffee" (a chain of coffee stores) was fired for trying to establish a workers union. The worker was unlawfully fired, and the remaining employees of the chain store embarked on a legal struggle against their employers. The struggle made headlines in the local media and received the support of the "Histadrut" (the General Federation of Labor). After a month and a half of public and judicial conflict, the Tel Aviv Labor Court determined that the employee was unlawfully fired due to his attempt to form a workers union. The management of Coffee was reprimanded for its unlawful dismissal. The worker was reinstated to his former position (*O.D.R 6726/07 Alon-lee Green v. Excellence Coffee* (19.7.07)). The Court in this case sited the Court in the case of *N.L.C 43/3-209 Mifaley Tahanot v. Israel Yaniv*, 05.11.96, in which the Court repealed the dismissal of two workers after finding that the real ground for dismissal was their initiative to organize a workers union, who stated that giving an employer the option to prevent his employees from organizing in a trade union, by dismissing those employees who are operating to set up an organization, even if a large sum of compensation shall be rewarded to them due to their illegal dismissal, shall fail any attempt to organize in a workplace in which the employer shall object to such an attempt. The Court further stated that as the right to freedom of association is one of the basic freedoms guaranteed by Israel's legal system, the courts must foil any attempt to harm the will of employees to form a trade union which shall protect their rights.

519. The fight ended in 2008 with the signing of a collective agreement between the owners of Coffee and the "Histadrut". The agreement provided the workers with benefits and rights that they had not previously enjoyed, and also enabled other waiting professionals to come together and establish trade unions.

520. In another case, the National Labor Court concluded that a decision of the Minister of Transport to allow transport operatives, other than those on strike, to provide transportation in the midst of a cessation of services in the city of Be'er-Sheva, caused severe, direct, and intentional damage to the workers' right of association and their right to strike. The Court stated that the right of association was recognized by the Israeli legal system as a basic constitutional right and as a universal human right. A strike is the main instrument by which a trade union seeks to convince an employer to negotiate with it and sign a collective agreement. Damaging the right of association in practice deprives the

employees of that right. (*N.L.C. 57/05 The New Histadrut v. The Minister of Transport* (3.3.05)).

3. The right to housing

The housing situation in Israel

521. There is a disparity between the percentage of individuals who own their homes in the Arab population (approximately 92.1 per cent in 2007) as opposed to the 50–75 per cent figures for the Jewish population residing in principal urban localities such as Tel Aviv or Haifa. This disparity indicates a different approach towards property and land ownership, especially among the family-oriented clusters favored by the minority populations, as discussed below.

Non-discrimination in housing

The Arab population

Representation in the National Council for Planning and Building

522. The National Council for Planning and Building (hereinafter: the "Council") has 32 members; a third of which are representatives of Ministers (appointed by the Ministers), another third are representatives of municipal authorities (appointed by the Minister of Interior), and the final third are public representatives (partially appointed by the Minister of Interior).

523. The Ministry of Interior ensures a balanced representation of all communities, regions and populations, including the Arab population, in the Council; in this regard, as of August 2009, 3 of the 32 members of the Council are Arabs (the Mayors of the Local Municipalities of Segev-Shalom, Bueina-Nugeidat (a stand-in for the representative of the Local municipality of Gedera) and a stand-in for the representative of the Prime Minister's Office).

Israeli-Arabs

524. As mentioned above, in *H.C.J. 6698/95 Ka'adan v. The Israel Lands Administration* (ILA), the High Court of Justice held that the State may not allocate land directly to its citizens on the basis of religion or nationality. Following the court decision, the ILA adopted a decision determining new admission criteria to be uniformly applied to all applicants seeking to move into small, communal settlements established on state-owned lands.

525. In response to the Ka'adan ruling, on June 24, 2006, the WZO decided that the Jewish Agency is obligated to include Arab-Israelis including Muslims, Christians, Druze and Circassians, in its sessions regarding development plans for the State. The annual budget allocated to these plans is currently 60 Million NIS (US$ 16,216,216) and it is expected to grow.

526. As stated above, following the abovementioned petition and a number of other petitions submitted in 2004 to the Supreme Court concerning the transfer of rights in real estate property, which is owned by the Jewish National Fund (JNF), to minority populations, and given the opinion of the Attorney General that the Israel Land Administration is bound by principle of equality even when managing the lands of the JNF, the Israel Land Administration (ILA) and the JNF signed an agreement of principles according to which the JNF shall receive lands in the Negev and the Galilee, in return for the conveyance of lands in the central area of the country. The agreement was signed on

June 7, 2009, and was approved by the general assembly of the JNF on June 23, 2009. The new land rotation agreement allows for the conveyance of lands managed by the ILA for every lessee, in a manner which protects both the principle of equality and the aims of the JNF.

527. The Israel Land Administration continues to operate in accordance with the Supreme Court's ruling of 1995 in the Ka'adan Case, which principles' of equality also apply to the allocation of landed property by the State. Thus, on July 27, 2005, the Israel Land Council approved Directive No. 1064, which refers to the acceptance of candidates for the purchase of leasing rights to real estate located in agricultural and communal localities. The Directive defines a closed list of legitimate criteria for determining acceptance, including the requirement for pre-affirmation of special criterions, as well as the review of the decision of the examination committees by way of appeal to the ILA. On January 22, 2007, the Supreme Court accepted the ILA's position as reflected in Directive No. 1064, and ruled that the Israel Land Administration is not subjected to criteria of acceptance determined by an examination committee of a communal settlement, and is authorized to intervene when required, in accordance with the *Israel Land Administration Law* and the court's previous rulings (*H.C.J. 7574/06 Hasolelim "Young Maccabi" Group for Cooperative Agricultural Settlement Ltd. et al. v. Israel Land Administration et al.* (22.1.07)). A request for an additional hearing on the matter by the High Court of Justice was rejected by the Court on March 14, 2007. The Court stated that the verdict in this case was based on the concrete circumstances of the case and it holds no determination regarding the types of localities the aforementioned Ka'adan case shall not apply to or the right of a small locality to preserve its homorganic character and to establish discriminatory conditions regarding the acceptance of members/individuals in the locality. (*H.C.J. Ad. H. 1107/07 Hasolelim "Young Maccabi" Group for Cooperative Agricultural locality Ltd. et al. v. Israel Land Administration et al.* (14.3.07)).

Outline plans for Arab towns and villages

Planning scheme for the Arab population

528. Regarding details concerning this issue please see the section of this Report dealing with Article 2II above.

Electricity

529. The *Electricity Supply Law (Temporary Order)*, 5756–1996, was enacted to solve the problem of providing electricity to Arab and Druze citizens whose houses had been built without building permits, and were consequently not connected to the central electricity grid. This Law was amended in 2001, extending the temporary supply for a period of 7 years. In 2004 the Law was amended again, so that the extension would cease as of May 31, 2007. Since the enactment of the Law and up until May 31, 2007, the Electricity Administration approved the connection of 8,941 buildings to the electricity grid. Recently there were attempts to promote the further extension of the Law.

Recent developments

530. As mentioned above, in light of the importance of the promotion of planning in the Arab population, the State has allocated a budget of 56 Million NIS (US$ 15,135,135) for the promotion of planning schemes for Arab localities between 2000 and 2005. In recent years the Government has allocated an additional 25 Million NIS (US$ 6,756,757) for the promotion of planning schemes in the Druze, Circassian and Bedouin localities in the north and additional Arab localities in the south.

531. In recent years outline plans have been approved for 8 additional Bedouin localities in the Negev, the planning and establishment of which is handled by the Authority for Regulation of the Bedouin localities in the Negev (please see additional details below).

Table 12
Planning status of Arab localities (headed by the Ministry of Interior)

Status of planning	*Currently*	*Expectation for the end of 2010*
Master plans in preparation	1	1
Master plans that were completed	52	-
Local outline plans in preparation	7	-
Local outline plans in final stages	34	15
Local outline plans that were approved	27	-
District Outline Plans in preparation	6	3
District Outline Plans that were concluded	26	-
Total	**153**	**19**

Source: Ministry of Interior, January 2010.

Jerusalem – General

532. Since 1967 the rate of the Jewish population in Jerusalem has decreased and the rate of the Arab population has increased from 26.6 per cent in 1967 to 31.7 per cent in 2000.

533. The planning authorities in Jerusalem are on the verge of authorizing over 15,000 housing units in the eastern neighborhoods of Jerusalem and are currently promoting detailed building plans in the neighborhoods of Tel-adesa, Arab A-Sawhara, Siluwan, Ali-muntar, A-tur and Issawya. In 2010, a sum of 40 Million NIS (US$ 10,810,810.8) was allocated towards the improvement of infrastructure in the eastern neighborhoods of Jerusalem.

Jerusalem Development Plan – 2000

534. The demand for housing in Jerusalem is high due to the natural increase of both the Jewish and Arab populations, and residents' inclination to continue living in Jerusalem. In the eastern neighborhoods of Jerusalem there is a large inventory of lands which is not properly used and does not offer a high-quality solution for the Arab population's needs. The demand for residence in these areas is growing and will continue to do so in the future.

535. Under the Plan for the Development of Jerusalem of 2000, the issue of development of the eastern neighborhoods of Jerusalem is addressed. Among the main principles proposed, which relate to the eastern neighborhoods of Jerusalem, are the following: the establishment of a municipal department tasked with the planning and development of these neighborhoods within Jerusalem's Planning Administration, with the intent of providing Arab residents better services, including service in Arabic, professional translation of plans and other relevant materials; the preparation of detailed plans in an effort to examine the problem of buildings constructed illegally and their suitability to the land designation policy; the rehabilitation of the Shuafat and Kalandia neighborhoods by allocating national or international funds, and the rehabilitation and development of the engineering infrastructure in the eastern neighborhoods (since 1997 approximately 300 Million NIS (US$ 81,081,081) has been allocated towards this end).

536. The housing supply in the eastern neighborhoods of Jerusalem does not meet the demands of the Arab population, and according to the plan there is a need to establish

neighborhoods consisting of apartment buildings. According to the proposed plan, the building density in several areas in these neighborhoods will be increased and buildings of 3 to 6 floors will be constructed.

537. According to several sources of information, there are approximately 38,000 housing units allocated for the Arab population in Jerusalem. But according to estimations of the Jerusalem municipality, there are an additional 15,000 houses that were built without legal permits, which means that there are a total of 53,000 houses available to the Arab population resident in Jerusalem.

538. According to the Plan for the Development of Jerusalem of 2000, an additional 29,000 housing units will be built in the eastern neighborhoods of Jerusalem by the year 2020, which will render the total number of housing units available in these neighborhoods by 2020 (including illegal buildings) – 82,000 houses.

Dwellings in Jerusalem

539. In recent years, several measures have been taken in order to adjust the outline plans regarding the eastern neighborhoods of Jerusalem and properly address the needs of the local population. Thus, currently, there is a new outline plan, pending approval, which includes the expansion of some of the eastern neighborhoods of Jerusalem and grants additional construction rights to the local population. In the course of this expansion, emphasis will be granted on the provision of construction rights for public establishments and open public areas.

540. In addition, there are currently additional outline plans, in various stages of preparation and authorization, which were initiated by the local population groups. Among them are plans initiated by the population in Dir Al-Amud, Ali-Muntar and Ara-Al-Sahra. These plans address the needs of the residents in question.

541. The Jerusalem City Council initiated approximately 60 plans that will afford additional construction rights, while taking into consideration the needs of the population for providing public establishments and open public areas, in the neighborhoods of Beit-Hanina and Shuafat. The plans are currently at various stages of preparation and authorization.

542. The District Planning Committee established a simple procedure for individuals to show an interest in property in non-registered lands. This procedure alleviates the preparation of outline plans in areas in the eastern neighborhoods of Jerusalem where the land is not registered. Additionally, the Committee discussed numerous plans that were presented by land owners in the eastern neighborhoods of Jerusalem. These plans were examined in addition to the policy of the Committee, and in many cases were authorized. Approximately 50 per cent of the plans that have been presented to the Committee relate to lands in the eastern neighborhoods of Jerusalem, and scores of resources have been dedicated to examining and facilitating the plans in accordance with the planning policy.

543. The District Planning Committee operates, alongside the Jerusalem City Council, in order to address the planning needs in the eastern neighborhoods of Jerusalem. In doing so, consideration is always given to planning policies that will ensure a reasonable quality of life, preserve open public areas and sites with cultural and historical value.

544. In 2007, 283 building applications, which constitute 12 per cent of the total number of applications received, were received from residents of the eastern neighborhoods of Jerusalem. Of the 283 applications, 135 (47 per cent) were granted. Residents in the western parts of Jerusalem submitted 2,095 applications, of which 1,505 (71 per cent) were granted.

545. **Illegal construction**. In the western parts of Jerusalem, building violations almost invariably consist of additions to a legal building, such as the addition of a room in a courtyard or an attic within a roof space. In the eastern neighborhoods of Jerusalem, violations typically take the form of entire buildings which are constructed without a permit. Thus, demolitions in the eastern neighborhoods of Jerusalem are far more dramatic than in the western part of the city. All demolitions are conducted in accordance with due process guarantees, following a fair hearing which is subject to judicial review, and where the individuals concerned have the right to appeal without distinction on the basis of race or ethnic origin. Those affected by a demolition order are entitled by law to appeal to the Supreme Court.

Table 13
Requests submitted for building permits, 2002–2007

Neighbourhood	*Year of request*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	***Total***
Western neighbourhoods of Jerusalem	New building	139	135	179	199	207	171	**1 030**
	Additional building	1 656	1 650	2 002	2 085	1 964	1 955	**11 312**
	Total building	**1 795**	**1 785**	**2 181**	**2 284**	**2 171**	**2 126**	**12 342**
Eastern neighbourhoods of Jerusalem	New building	94	57	112	147	150	155	**715**
	Additional building	61	78	112	11	116	128	**606**
	Total building	**155**	**135**	**224**	**258**	**266**	**283**	**1 321**

Source: Jerusalem Municipality, 2008.

Table 14
Building permits granted, 2002–2007

Neighbourhood	*Year of request*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	***Total***
Western neighbourhoods of Jerusalem	New building	124	140	112	141	175	151	**843**
	Additional building	1 217	1 167	1 357	1 552	1 552	1 508	**8 353**
	Total building	**1 341**	**1 307**	**1 469**	**1 693**	**1 727**	**1 659**	**9 196**
Eastern neighbourhoods of Jerusalem	New building	98	62	51	78	88	82	**459**
	Additional building	64	56	65	61	56	68	**370**
	Total building	**162**	**118**	**116**	**139**	**144**	**150**	**829**

Source: Jerusalem Municipality, 2008.

Table 15
Demolition orders carried out, by year and neighborhood, 2004–2007

Year	*Western neighborhoods of Jerusalem*	*Eastern neighborhoods of Jerusalem*
2004	13	115
2005	26	76
2006	37	71
2007	35	69
Total	**109**	**331**

Source: Jerusalem Municipality, 2008.

Table 16
Building offences – cases opened by year and neighborhood, 2004–2007

Year	*Western neighborhoods of Jerusalem*	*Eastern neighborhoods of Jerusalem*
2004	980	710
2005	1 272	857
2006	1 241	901
2007	992	1 081
Total	**4 485**	**3 549**

Source: Jerusalem Municipality, 2008.

Benefits for military veterans

546. The Nazareth District Court recently ruled that the decision of the Israel Land Administration to provide advantages for persons who serve or served full service in the IDF, in the framework of a public tender in which land for construction was distributed, by way of a draw, in the Circassian village of Kfar-Kama, did not comprise an illegitimate form of discrimination. The Court noted that according to Section 25 (24a) of the *Tender Duty Regulations* 5753–1993, the ILA is allowed to allocate state land for construction of houses without any tender, when the land is allocated within minority localities and for persons who serve or served in the IDF for at least two years. The Court clarified that the priority given to such persons of the Circassian population in the drawing of land plots, fulfills the principle of distributive justice. The State's purpose is to encourage the recruitment of minority populations to the IDF, which is a public goal which should be protected. Thus, the Court determined that the distinction drawn was lawful, and emphasized that there is an inherent difference between a person who dedicated several years of his/her life to military service while devoting serious physical and mental efforts, as well as while being unable to work and earn money, and those persons who did not do so (*Ad.P. 201/09 Orhan Shamsi et al. v. Israel Land Administration et al.* (20.12.09)).

547. On December 13, 2006, the Supreme Court rejected a petition filed by Adalah – The Legal Center for Arab Minority Rights in Israel – against the Ministry of Construction and Housing, challenging the governmental policy of providing financial support — in the form of low-interest governmental loans — for home mortgages to Israeli citizens who have completed their military or national-civil service. The petitioners argued that the extended support for mortgage loans for housing discriminated against Arab citizens of Israel, who are not required to perform military or national-civil service. The petitioners contended that the performance of military service was irrelevant to the purpose of supplemental governmental housing support, which is to assist the socio-economically disadvantaged to find housing solutions. Here, the Court held that there is no impediment in principle to granting benefits to those who have completed full military and national-service above that which is afforded in the Absorption of *Discharged Soldiers Law* 5754-1994 (the "*Discharged Soldiers Law*"), provided that the use of the military service criterion is justified by the circumstances. Former Supreme Court president, Justice Barak, rejected Adalah's argument that in this case the use of this criterion results in discrimination against Arab citizens. Justice Barak reasoned in this regard that "a distinction made on the basis of the national or military service criterion is not necessarily a permissible distinction or illegal discrimination: this depends on the circumstances. Those who have completed military or national-civil service differ in many respects, as a group, from those who have not. Thus, for example, those who have completed military or national service dedicate much of their time and energy to the benefit of the general public. They cannot work or make a living during their service period. As long as this distinction is based on these

factors, and as long as it is relevant in a given situation, it should not be considered illegal discrimination." (*H.C.J. 11956/05, Suhad Bishara, et al. v. The Ministry of Construction and Housing* (13.12.06)).

548. Adalah's motion for an additional hearing before an expanded panel of Supreme Court Justices in order to re-consider the decision was dismissed on October 14, 2007. The Court noted that there was no justification for an additional hearing, since the decision reached was compatible with the Court's consistent rulings according to which a relevant difference between individuals or groups may justify different treatment by the State, and such treatment will not be considered as discriminatory, but as a form of lawful distinction. (*H.C.J. 1241/07, Suhad Bishara, et al. v. The Ministry of Construction and Housing*).

549. With respect to the Committee on the Elimination of Racial Discrimination's observation No. 21 of the Concluding Observations of 14 June 2007 (CERD/C/ISR/CO/1), it should be pointed out that all of the benefits provided to military veterans, including the rights set out in the *Absorption of Discharged Soldiers Law*, as well as other benefits provided by the Discharged Soldiers Department in the Ministry of Defense (henceforth: the Department), are granted to *every* IDF veteran, regardless of his/her religion. Most of these benefits are calculated according to the length and type of regular service performed, and some are given on the basis of socio-economic criteria. Moreover, persons from among minority populations who serve in the IDF enjoy affirmative action and are entitled to receive enhanced benefits compared with those received by Jewish veterans. Hereinafter are some examples of such affirmative action:

(a) The Department's Fund for additional assistance assists students in academic preparatory classes according to a socio-economic index. The maximum benefit that can be received is a full tuition grant together with approximately 1,000 NIS (US$ 270) in the form of living expenses. Military veterans of minority populations are entitled to receive full tuition fees, in addition to living expenses in the amount of 300 per cent of the regular grant (approximately 3,000 NIS (US$ 811) per month) without any examination of socio-economic criteria being conducted. Special and intensified academic preparatory classes are continuously open for such veterans;

(b) In addition, military veterans who live in minority localities are entitled to exemption from tender duty with respect to land property rights provided by the ILA in accordance with Regulation 25 (24a) of the *Tender Duty Regulations*, as well as to significant discounts off the land's purchase price. This benefit is unique to military veterans of minority populations, and is not granted to Jewish veterans;

(c) The Department regularly operates special projects for promoting the employment of veterans from minority populations, and currently there is a project for the incorporation of such veterans into the Police. The Department also employs coordinators from the Bedouin and Druze communities, who work across the country to assist and direct military veterans of minority communities, regarding studying, vocational training and employment.

Housing in the Bedouin population

550. As of June 2010, approximately 120,000 Bedouins (66 per cent) of the total Bedouin population living the Negev area) live in planned urban towns. All towns were planned for "low-rise construction", in order to address the Bedouin community's needs. The State adopted the policy of encouraging Bedouin relocation from scattered, unauthorized villages to permanent towns. This policy was adopted because of the difficulties the State faced in providing infrastructural and social services to so many small, scattered clusters, mostly numbering several dozens houses or huts. To encourage this process, the State provides special benefits to those who wish to relocate.

551. In accordance with the provisions offering compensation to Bedouins moving to these towns, the Government provides the land free of charge, while the Bedouins receive significant compensation for any structures they leave behind destroyed (even on land unlawfully held by them). Compensation is awarded both in monetary terms and in terms of land. In addition, grants are provided for families who choose to move to an existing or new town regardless of their economic status. Since 2002, the rates of compensation have risen dramatically. (800 sqm. per family and 7,500 NIS (US$ 2,027) per family and an additional 1,500 NIS (US$ 405.4) per child). A family that destroys its unlawful construction and relocates to the planned towns can receive up to 400,000 NIS (US$ 108,108) per family. The average sum received is estimated at 200,000 NIS (US$ 54,054), which is exceedingly higher than the actual loss.

552. Furthermore, the Bedouin population is eligible to receive tens of thousands of dunams for agricultural use and shepherding, at very low rates.

553. The remaining 60,000 Bedouins (34 per cent) reside in hundreds of unlawful clusters over an area of more than 500,000 dunams, obstructing urban expansion in the greater Negev area and the common good of the Bedouin population. This, while the existing towns can accommodate most of the needs of the Bedouin population, and while vacant lots await additional occupants in all of these towns.

554. Notwithstanding the abovementioned, a decision was made to build eleven additional Bedouin towns and to expand existing towns on land owned by the Government with government funding. The new towns are being constructed and will include the best infrastructure and services the State offers its citizens.

555. The authorities perform this task in consultation with Bedouin representatives who provide input as to their vision of every town's desired character.

556. There are 7 existing Bedouin towns in the Negev: Lakia, Hura, Kssaife, Arara, Tel-Sheva, Tarabin and Segev Shalom, in addition to the city of Rahat. Although these existing towns can effectively provide a proper solution to the Bedouin population's needs, subject to their expansion, the Government decided that another eleven new towns for Bedouins should be established. The Government did so in order to accommodate the Bedouin population and in consideration of their special needs, including their desire to settle according to a tribal format.

557. As mentioned above, the first additional town that was constructed is "Tarabin", which is situated in the Bney-Shimon District Council, and designated for the members of the Tarabin El-Sana tribe. The first stage of the town's development has been finalized, most of the lots have been distributed, and hundreds of residents have already populated the town. Each of the families received developed land for construction and an agricultural property. The new town was planned jointly with its inhabitants, as a modern town offering educational services, underground infrastructure, and health services. The town spreads over a territory of 1,132 dunams, and is designated to be home to approximately 3,500 people by 2020.

558. The following eight new towns that are in the process of planning and development are the following: Abu Krinat – located on 7,320 dunams, consisting in its first stage of 1,300 lots and an industrial center. Abu Krinat is designated to accommodate around 15,000 people by 2020; Bir Hadaj – an agricultural town located on an area of 6,550 dunams, and designated to accommodate approximately 12,500 people by 2020; Kaser A-Sir – located on an area of 5,000 dunams, and designated to accommodate around 8,000 people by 2020. The other towns to be established are Makchul-Marit – for which a detailed plan for two neighborhoods was approved in September 2005, and a detailed plan for a third neighborhood is underway, spread over 6,300 dunams, and designated to accommodate approximately 12,000 people by 2020; Um Betin – for which a master plan

was approved in March 2005, and which is located on 6,700 dunams, and designated to accommodate around 8,000 people by 2020; Moleda – for which a master plan was approved in March 2005, and which is located on 11,000 dunams; and Darijat. The names of these towns were chosen by the Bedouin population. One additional plan that is currently in the advance stages of planning is of the town El-Seid. An additional three towns are undergoing statutory approval procedures are Ovda, Abu-Talul, and El-Foraa.

559. In addition, the Government is in the process of expanding thousands of units in the existing towns. Rahat for example, will be approximately tripled in its size (from 8,797 dunams to 22,767 dunams) through a project that is set to take place and estimated to cost approximately 500,000,000 NIS (US$ 135,135,135). The plan includes the construction of 7,500 additional housing units (intended to house 90,000 people by 2020), public and trade facilities, employment centers for women, and public areas. The above plan, developed according to the highest standards, is a speedy solution to the current situation existing in the town of Rahat. As of May 2010, thousands of lots were sold to Bedouin families and the plan is progressing well.

560. The following table contains the updated data concerning the vacancy of lots in Bedouin towns in the Negev.

Table 17
Vacant lots in Bedouin towns in the Negev area

Town	***Total lots***	*Lots awaiting development*	*Lots sold*	*Lots available for sale*
Hura	**3 727**	1 316	1 749	662
Kssaife	**2 973**	1 857	974	142
Lakia	**2 981**	1 578	935	468
Arara	**2 050**	290	1 270	490
Rahat	**4 313**	172	4 004	137
Segev Shalom	**2 184**	695	1 079	410
Tel-Sheva	**2 914**	994	1 555	365
Tarabin	**379**	0	210	169
Total	**21 521**	**6 902**	**11 776**	**2 843**

Source: Israel Land Administration, 2010.

561. As demonstrated above, there are more than 2,800 vacant lots available for occupancy by Bedouins living in the Diaspora throughout the existing permanent towns and in addition more then 6,900 lots which can be developed upon demand.

562. In order to maintain the special character of Bedouin communal life and prevent the exploitation of the abovementioned state benefits, the State has refused offers by non-Bedouins to buy land in the areas designated for exclusive Bedouin localities. Furthermore, representatives of the Bedouin population take part in all planning processes; in the sub-committee of the Local Committee for Planning and Building, there are representatives of each of the existing Bedouin towns, and in the District Committee for Planning and Building, the Mayor of Rahat and the Head of Council of Segev-Shalom are members.

563. In addition, in 2007, the authorities began the planning procedures for the Be'er-Sheva Metropolis District Plan (No. 23/14/4). The Plan seeks to regulate the planning situation of the greater Negev area, with consideration being given to the population's needs, restrictions, environmental affects etc. To date there are several objections which

have been raised with respect to the abovementioned plan, which are yet to be decided upon by the courts.

564. An additional sum of 1.1 Billion NIS (US$ 297,297,297) was invested over a period of six years (2004–2010) for the development of infrastructure and the establishment of public facilities and the reorganization of ownership in southern Israel.

565. Another relevant issue was the establishment of the Regional Council Abu-Basma, which confederates all the Bedouin towns and villages in the area between Dimona and Arad. Already in July 2005, the former Government's Ministerial Committee on the Non-Jewish population had initiated a plan for the development of Abu-Basma – a plan to which 470 Million NIS (US$ 127,027,027) was allocated. The plan included investments in education, transportation, infrastructure, employment, construction and housing, health, social affairs and agriculture.

The Authority for the Regularization of the Bedouin Housing Situation in the Negev

566. In 2007, the Government resolved to establish the Authority for the Regulation of the Bedouin Housing Situation in the Negev (Government Resolution No. 1999 of July 15, 2007). The Authority, which operates within the Ministry of Construction and Housing, is in charge, *inter alia*, of: regulating land ownership claims, regulating permanent places of residence, including infrastructures and public services both for existing towns and for new towns, providing assistance in finding places of employment and coordination of education, welfare and community services. In addition, according to the Government Resolution, the authority's duties are to gather information regarding the situation of the Bedouin population including land ownership claims, to initiate and to execute land arrangements and evacuation of real-estate, initiate statutory planning in co-operation with the Ministry of Interior regarding suitable housing solutions, advancement of planning and development of local and regional infrastructures for permanent solutions, assisting and accompanying the population in all stages of habitation, prioritizing enforcement stages and coordinating and synchronizing between the relevant authorities while conducting follow-up examinations and supervising the execution of decisions.

567. The Authority currently oversees the following tasks and projects:

(a) Initiating land arrangements with respect to seven tribes who have approximately 80 land ownership claims concerning a total of 9,000 dunams;

(b) Promoting negotiations with organized groups – after detailed work and additional examinations, it was decided to promote negotiations with seven tribes which include approximately 1,340 families;

(c) Development of three new residential neighborhoods in the localities of Kaser A-Sir, Darijat and Abu-Karinat, and to continue the expansion of the southern area of Rahat;

(d) The authority began planning several new neighborhoods in Segev-Shalom, Kssaife, Arara (Negev), Hura, Lakia and Tel-Sheva. Planning the expansion of Rahat north to the al-Zaidna tribe. In addition the authority began planning a locality for the Al-Azazme clan in the Negev, and planning of industrial and employment zones in Bir-Hadj and Abu-Karinat.

The Advisory Committee on the Policy regarding Bedouin towns

568. The Advisory Committee on the Policy regarding Bedouin towns was established, in its present form, on October 24, 2007, based on Government Resolution No. 2491. The Advisory Committee's task was to present recommendations regarding a comprehensive, feasible and broad-spectrum plan which was to establish the norms for regulating Bedouin

housing in the Negev, including rules for compensation, mechanisms for allotment of land, civil enforcement, a timetable for the plan's execution, and proposed legislative amendments, where needed.

569. The Advisory Committee comprises seven members and one chairperson, former Supreme Court Justice Mr. E. Goldberg, as well as two Bedouin representatives.

570. The Advisory Committee began holding its sessions in January 2008, after having received over a hundred letters from the public, together with numerous other written material and documentation. The Advisory Committee's hearings were public and took place in Be'er Sheva.

571. The Advisory Committee has held tens of sessions and has heard many depositions from various sources, including Bedouin representatives, various stakeholders, experts in the relevant fields (*inter alia*, town planners, geographers, anthropologists, historians, sociologists and lawyers), and the general public. The Advisory Committee has also heard representatives of public bodies and institutions, including Municipal Authorities, public figures, Knesset members, and NGOs. The Advisory Committee has held four field study trips in the Negev region in order to further deepen its knowledge on the subjects within its mandate.

572. The Advisory Committee concluded its public discussions in May 2008, and on December 11, 2008, submitted its final recommendations to the Government. The Committee's final report dealt with three main areas: land, housing and enforcement. These areas were focused upon after the Committee recognized that only an integrated policy that included these issues could help in organizing the housing of the Bedouin in the Negev. The Committee recommended the formation of an arrangement which balances the needs of the Bedouin and the State, can be implemented quickly and established by legislation in a way that assures a defined, consistent and egalitarian policy. The Committee asserted that such a policy would be a fair and implementable solution for the land disputes, which would serve to renew the Bedouin's confidence in the State and its intentions.

573. On January 18, 2009, the Government confirmed Resolution No. 4411 after a full examination of the Committee's Report. The Government accepted the Committee's recommendations as a basis for arranging the Bedouin's housing in the Negev, and appointed a professional cadre which comprises representatives of Government Ministries, the Israel Land Administration, and the Attorney General. The cadre is intended to submit a detailed and implementable outline aimed at fulfilling the Government Resolution.

574. Currently, the implementation team is in the final stages of completing the detailed Governmental Plan for regulation of the Bedouin housing situation in the Negev. The Plan is based on the recommendation of the Goldberg Committee and on intensive staff work that was conducted in the past year and included consultations with representatives of various segments of the Bedouin community, as well as comments on the Committee's Report by civilian organizations.

575. Note, that in its current work, the team attempted to create a wide move in order to settle law suits regarding land ownership and development of the physical and social infrastructures. To that end, the necessary mechanisms (both legal and implementing) for the establishment of new localities, for the development of existing localities and for the settlement of law suits, are now under design.

Leasing land for use as pasture grounds

576. As mentioned above, the Bedouin population is eligible to receive tens of thousands of dunams for agricultural use and shepherding, at very low rates.

577. For those interested in working in traditional occupations — agriculture and herding flocks — the Government leases approximately 135,000 dunams of land for these purposes in exchange for a symbolic payment.

578. In the spring pasture season, some 280,000 dunams of Government land are leased and pasturing is permitted in approximately 35,000 additional dunams which are located in army firing areas.

4. The right to public health, medical care, social security and social services

The right to health

579. The right to health is guaranteed to all individuals without discrimination or distinction. Nation-wide health promotion programs have gained momentum during the last few years, especially those encouraging physical activity.

580. The Ministry of Health regularly conducts surveys for the purpose of identifying regions and populations in which health conditions need to be improved, whether due to the level of health services, or as a result of socio-economic differences, and cultural and educational background.

581. Based on the results of these surveys, the Ministry of Health has prepared treatment programs for special population groups, including the Bedouin, the Arab population and the Ultra-Orthodox population. In addition, special attention is paid to peripheral regions which require intervention to improve the health conditions. Such intervention is achieved by way of specific programs.

Legislation

582. **The Right to a Dignified Death**. On December 6, 2005, the Knesset enacted the *Terminally Ill Patient Law* 5766-2005, which provides a solution to the medical-ethical dilemma presented by the treatment of terminally-ill patients. The Law is based on the recommendations of a public committee appointed by the Minister of Health in 2000. The Committee consisted of 59 members representing different fields relevant to the issue, including: medicine, nursing, social work, religion, philosophy, law and ethics. The Law is based on the values of the State of Israel as a Jewish and democratic state, and attempts to create a balance between the values of the sanctity of life, quality of life and respect for a person's autonomous will.

583. In December 2005, the *Population Registry Law* was amended to allow for the regulation of births which took place outside a medical institution. The purpose of the Amendment was to ensure that illegal adoptions, exploitation of women and trafficking in babies would not be made possible. All the requirements which are established by the Law for the registration of newborns are intended to prevent falsification with regard to the mother's identity. Nothing in the Law is designed to create a delay or to deprive women of rights to which they are entitled after their child has been registered in the population registry; in this regard, although it is true that some Bedouin women give birth at home, these women constitute about 2 per cent of all Arab women in the Negev. No Bedouin woman who is a resident of the Negev has however given birth at home as a result of a lack of access to modern maternity services.

584. According to Section 21 of the *National Health Insurance Law* 5754-1994 (the "*National Health Insurance Law*"), a health fund is obligated to provide any person it is responsible for (according to Section 3(c)), with all of the services he/she is entitled to receive under this Law, either itself or by way of other service providers, without discrimination, and without conditioning the provision of services on joining or membership in additional service programs. The Law also determines that non-payment or

late payment of the health insurance payments shall not exempt a health fund of its duty to provide the health services included in the health basket.

585. On January 4, 2010, the Government approved Amendment No. 47 to the *National Health Insurance Law* which added Section 14(g1) to the Law. According to the Amendment, no health insurance fees should be required of an insured person for a period determined by the Minister of Health with the consent of the Minister of Finance, where the insured person in question is a donor, as defined in the *Organ Transplant Law* 5768-2008 (the "*Organ Transplant Law*"), who during his/her life donated an organ in Israel to an Israeli resident.

National health policy

The National Health Insurance Law

586. The *National Health Insurance Law* provides for the creation of research and evaluation organizations (the Health Council, the Israel Institute for Health Policy and Health Services Research), in order to oversee and assess the impact of the Law on the quality, efficacy and cost of health services in Israel. Within this context, it became necessary to create a system of indicators for community health care in Israel, which would enable ongoing evaluation of the level of treatment relative to national and international indicators.

587. The Quality Indicators of Community Health Care Program was initiated by researchers at Ben Gurion University of the Negev, in conjunction with the four Israeli health funds (HMOs), and with the support of the Israel Medical Association and the sponsorship of the Israel Institute for Health Policy and Health Services Research. In March 2004, the Ministry of Health declared this activity to be a National Program, and it is led by a steering committee made up of representatives of all the participating organizations.

588. The main objectives of the National Program are to improve the quality of community health care in Israel by improving the manner in which performance is measured, and to provide information to the public and to policymakers regarding the quality of health services in Israel. The program allows routine and dynamic quality assessments of the preventive, diagnostic, therapeutic and rehabilitative services supplied by the health funds.

589. To date, 69 indicators have been developed in six primary medical fields and are regularly measured throughout the Israeli population. This ongoing scientific infrastructure assists in deciding national priorities when deciding national policies and encourages quality improvement. The information is also available and open to the general public, inviting them to assess the quality of services in Israel and involve them in an informed and responsible way.

590. The annual National Quality Indicators for Community Health Care Report was first published in 2004. The current report (2008) presents data for 2005–2007. The data presented in the 2008 report relates to six fields of community health care – flu vaccinations; screening for detection of colorectal cancer and mammographys for the detection of breast cancer; asthma treatment; treatment of diabetes; treatment of children; and cardiology treatment. According to the Report, continual improvement has been recorded in these fields in most of the indicators examined. National performance was rated high for most indicators, even when compared to international standards. The annual reports are available on the National Institute for Health Policy and Health Services Research (NIHP) (website: http://www.israelhpr.org.il).

Vulnerable groups

591. As detailed in Israel's thirteenth Periodic Report, the *National Health Insurance Law* has had a positive effect on the provision of health care to vulnerable groups in Israel.

Health care for women in the Arab population

592. In 2005, a report concerning the health of the Arab population in Israel was published by the Israeli Center for Disease Control (ICDC). The report indicated positive developments in the health of the Arab population. According to the report, infant mortality rates had decreased, as did the death rate due to heart and vascular diseases. The rate of vaccinations received by the population had increased, as did the use of mammographys for early detection of breast cancer.

593. According to the report, there is a noticeable improvement in the level of healthcare services and access to these services among the Arab population. As of 2005, there is at least one primary medical clinic and at least one family healthcare station located in every Arab locality. Despite these improvements, the report does show an increase in illnesses such as diabetes, and obesity, especially among older Arab women. The report also indicated an increase in the numbers of malignant neoplasms (note that except for lung cancer, the rates of malignant neoplasms among the Arab population is lower than that for the Jewish population).

Gaps between the Jewish and Arab population

594. The gaps between the Jewish and the Arab population have been considerably reduced and the Arab population's initial low level of health has risen at an extremely high rate over the past fifty years, faster than the improvements noted in the Jewish population's health level. Today, Arab citizens of Israel enjoy a level of health that corresponds to the level characteristic of Israel's Jewish population.

595. Current figures indicate that the minority population receives a higher percentage of vaccinations (95 per cent) than the Jewish population, since some Ultra-Orthodox Jews tend not to vaccinate their children. *Life expectancy* is as follows:

Table 18
Life expectancy by gender and religion, 1996–2008

	Jews		*Arabs*		***Total population***	
Year	*Females*	*Males*	*Females*	*Males*	***Females***	***Males***
1996	80.3	76.6	77.2	75.1	**80.0**	**76.3**
1997	80.6	76.4	76.8	74.3	**80.1**	**76.0**
1998	80.7	76.5	76.8	74.4	**80.3**	**76.1**
1999	80.7	77.1	78.1	74.9	**80.4**	**76.6**
2000	81.2	77.3	77.9	74.6	**80.9**	**76.7**
2001	81.6	77.9	77.8	74.5	**81.2**	**77.3**
2002	81.9	78.1	77.9	74.7	**81.5**	**77.5**
2003	82.2	78.3	78.2	74.9	**81.1**	**77.6**
2004	82.7	78.7	79.6	75.4	**82.4**	**78.0**
2005	82.6	78.0	78.6	74.9	**82.0**	**78.2**
2006	83.0	79.5	78.5	75.0	**82.5**	**78.7**
2007	82.9	79.5	78.8	75.3	**82.5**	**78.7**

	Jews		*Arabs*		***Total population***	
Year	*Females*	*Males*	*Females*	*Males*	***Females***	***Males***
2008	83.3	79.9	79.7	75.9	**83.0**	**79.1**

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2009.

596. Since the late 1940's, the average life span of Arabs in Israel has increased by approximately 28 years and the gap between Arabs' and Jews' life spans has decreased from 15 to 3.5 years: In 2008, Men: Jews – 79.9, Arabs – 75.9; Women: Jews – 83.3, Arabs – 79.7. The gaps continue to decrease.

Bone marrow donations

597. In 2009, the non-profit organization "Ezer Mizion" (Aid from Zion), an organization that is committed to helping all citizens of Israel, for the first time held a special bone marrow drive among Israel's Arab population in an effort to establish a bone marrow bank matching this population and thereby increase the possibility of saving the lives of Arab Israelis in need of a bone marrow transplant. Collection points were opened on July 22, 2009, in the north of the country and the Arab public was invited to provide blood samples in order to join the national bank of bone marrow donors.

598. A dedicated bone marrow donation day was necessary as the percentage of Arab bone marrow donations within the national bone marrow bank was miniscule, and stood at a mere 0.3 per cent of total donations, which currently stand at approximately 516,500 registered donors.

599. The bone marrow drive was be held at five collection points: a point in Nazareth, a point in Haifa, two points in Kfar Manda, and a point in Sakhnin; and healthy adults between the ages of 18 to 50 who do not take any regular medications were asked to come and be checked.

600. Needless to say, regular donation days that are periodically held in Israel, are aimed at collecting donations from the entire population and are open for all.

Infant mortality rate in Israel

601. In 2007, the overall infant mortality rate was 4.1 per 1,000 births (compared to 5.5 in 2001). Among the Jewish population the rate was 3.0, and among the Arab population the rate was 7.2. The trends in infant mortality rates per 1,000 live births has been as follows.

Table 19
Infant mortality, 2004–2007

	Total population		*Jews*		*Muslims*		*Christians*		*Druze*	
Year	***Absolute numbers***	***Rates***	*Absolute numbers*	*Rates*	*Absolute numbers*	*Rates*	*Absolute numbers*	*Rates*	*Absolute numbers*	*Rates*
2004	**670**	**4.6**	315	3.1	319	8.8	8	3.3	11	4.3
2005	**628**	**4.4**	313	3.1	277	8.1	8	3.2	15	5.9
2006	**594**	**4.0**	312	3.0	252	7.3	4	-	13	5.0
2007	**586**	**4.1**	309	3.0	250	7.2	7	2.8	15	6.0

Source: The Ministry of Health and the Israel Central Bureau of Statistics, Abstract of Israel, 2008.

602. In 2007, there was a 2 per cent decline in infant mortality among the Jewish population and a 22.7 per cent decline in infant mortality among the Arab population, as compared to 2003. The decrease in infant mortality rates is in large part attributed to the decrease in mortality caused by infectious diseases, decrease in prenatal mortality and pneumonia. Death from congenital disorders also shows a downward trend.

603. In 2008, infant mortality rates decreased further to 2.9 infant mortality cases per 1,000 live births among the Jewish population and 6.5 cases among the Arab population (compared to 7.2 cases in 2007). Despite the continuing decrease, the infant mortality rate among the Arab population is still relatively high. The gap between the populations stems from a number of factors, among them the high rate of consanguineous marriage – approximately 35 per cent among the Arab population and approximately 60 per cent among the Bedouin population, Arab religious prohibitions against abortion even in medically recommended cases, as well as socio-economic differences.

604. According to the Central Bureau of Statistics, in the last decade, the overall infant mortality rate has decreased by nearly 40 per cent, from 6.0 per cent to 3.9 per cent per 1,000 live births. The largest decrease was recorded among the Jewish population – a decrease of 38 per cent (from 4.7 per cent to 2.9 per cent per 1,000 live births), while a decrease of 26 per cent was recorded among the Arab population (from 8.8 per cent to 6.5 per cent per 1,000 live births).

605. According to a report prepared the Ministry of Health, which was published in February 2009, the infant mortality rate among Bedouins in 2008 was 11.5:1000, representing a decline from the rate recorded in 2005 (15:1000). The high rate is mostly attributed to high rates of congenital anomalies and hereditary illnesses resulting from the high rate of consanguineous marriages. Another element impacting the mortality rate is the religious prohibition against abortion among Muslims even in medically recommended cases, as well as the high rate of births among elderly women. The infant mortality rate among Bedouin infants whose family's live in unauthorized villages was actually lower than that among Bedouin infants whose families live in established towns. The Government continues to open Mother and Child Health Clinics in unauthorized villages and new Clinics are being built to serve the population.

606. Furthermore, the Government has funded several special projects to improve the health of, and expand the health-care services provided to, Bedouin living in unauthorized villages. One of these programs is a special long-term intervention program intended to decrease the infant mortality among the Bedouins. The program is community-based and boasts a wide-spectrum of participants, including representatives from the Bedouin community leadership and the educational system, along with providers of curative and preventative health care services, the Department of Health in the Community and the Epidemiology Department in the Faculty of Health Sciences of the Ben Gurion University of the Negev.

607. Free genetic testing is also funded by the Government, along with genetic counseling, for any member of a Bedouin tribe in which the prevalence of a serious inherited disease is above 1:1000 and for which there is an available genetic test.

608. The Ministry continues to work intensively on health education/information projects so as to reduce the infant mortality rate among Israeli Muslim Arabs. The central aim of these projects is to discourage marriage among close relatives, encourage pregnant women to make more use of diagnostic procedures during pregnancies, and encourage mothers to make more use of the Mother and Infant Health Care Services dispersed throughout the country.

609. There is a long-term program aimed at training members of the Bedouin population to work in nurseries and maternity wards in order to further reduce infant mortality among the Bedouin population.

610. The Ministry of Health is currently financing a project aimed at further reducing infant mortality among the Bedouin population that is being conducted in cooperation with Ben Gurion University. In 2009, the Ministry began working on an additional project regarding the improvement of the Bedouin population's nutrition.

611. There has also been an important improvement in the growth of Bedouin infants and toddlers over the past two decades, indicating improved nutrition. Moreover, there has been increased compliance with recommendations for the intake of supplemental folic acid among Bedouin women in their fertile years, and a decrease in the incidence of open neural tube defects (NTD's) among Bedouin fetuses and infants. Unfortunately there are still high rates of congenital malformations and inherited diseases among Bedouin infants, due to multiple factors including the tradition of consanguineous marriage (approximately 60 per cent), as well as cultural-religious-social barriers to pre-marital and pre-natal screening for inherited diseases.

Smoking

612. According to a report prepared by the Minister of Health regarding smoking in Israel (which was published in May 2008), the total percentage of smokers in Israel in 2006 was 23.2 per cent; 28.9 per cent among men and 17.8 per cent among women.

613. The report further indicated that between 1996 and 2006, the rate of smokers among Jewish men had dropped from 32 per cent to 26.7 per cent (a decrease of 16.6 per cent) and from 50 per cent to 39.8 per cent among Arab men (a decrease of 20.4 per cent). The rates of smokers among Jewish women dropped from 24.5 per cent to 19.7 per cent (a decrease of 19.6 per cent) and from 12 per cent to 6.8 per cent among Arab women (a decrease of 43.3 per cent).

614. The Ministry of Health has, in recent years, taken several important steps aimed at reducing the rate of smoking in Israel which include, inter alia, the issuance of computerized educational software for the prevention of smoking (2007); the preparation of a unique educational program intended to prevent smoking among teenagers and providing assistance to local municipalities in the implementation of the "city free of smoking" policy.

Water distribution

The policy of water supply to the Bedouin unauthorized villages

615. The Bedouins living in existing Bedouin towns enjoy the same services provided to all Israeli citizens, some of which are specially adapted to their needs. Unfortunately, many Bedouins choose to live outside permanent towns, in living conditions which are considered as inadequate by the Ministry of Health. Thus, additional funds were allotted towards the development of their health services and the Government is doing all it can to provide sufficient health care to Bedouins who live in unauthorized villages.

616. As mentioned above, on October 11, 2007, the Government consolidated an additional multi-year plan to promote and assist in the construction and development of sewage infrastructure in the Bedouin localities in the Negev area (Government Resolution No. 2428). According to the Resolution, a condition for the implementation of the plan was the establishment by the localities of Water and Sewage Corporations, as stipulated in the *Water and Sewage Corporations Law*. However such corporations have yet to be established.

617. Approximately 60,000 Bedouin live in unauthorized villages in the Negev. These unauthorized villages pose difficulties in supplying the residents with necessary services, especially water. While the Government does not question its duty to supply its inhabitants with services such as water, it is practically impossible to supply such services to sporadic places which disregard the national construction and planning programs.

618. Nevertheless, pending the completion of the establishment of the 11 additional permanent Bedouin towns and the regulation of water supply systems, the Ministerial Committee for the Arab, Druze and Circassian Populations' Affairs has decided to build "Water Centers". Pursuant to this decision, instructions have been given concerning the planning of water supply systems to several centers in the Negev called "Water Centers". The Water Centers result from the Government's understanding of the needs and current realities faced by the Bedouin population, and governmental efforts to improve their living conditions. The planning of the centers takes into account the amount of water necessary for the size of population expected in 2020, and the establishment of the centers involves great costs.

619. These systems will enable the supply of water to a significantly larger portion of the Bedouin population than that which is currently receiving a water supply through individual connections.

620. As of June 2010, there are Water Centers in the following Bedouin localities: Um Betin, El-Seid, Abu-Krinat, Bir Hadaj, Darijat and Kaser A-Sir. In addition, there is an agreement to establish additional Water Centers in Moleda, Abu-Talul, Foraa and Lakia. These Water Centers are located in the most populated areas of the Bedouin Diaspora, compatible with Government's plans for the establishment of permanent towns.

621. In May 2010, the NGO Physicians for Human Rights-Israel published an opinion calling for opening 10 additional Water Centers in the unauthorized Bedouin villages. According to the NGO, the Abu-Basma *Regional Council* has recently begun operating several Water Centers in the villages under its responsibility, and although this is a temporary measure, the Water Centers dramatically improved the lives of the villages' residents.

622. An additional method relied upon to provide water is through direct water connections being made to the main water pipeline, which are granted to a minimum of ten families. Due to the problematic nature of these connections, which require the transfer of water to unauthorized villages, this method is less frequently employed than was done previously. The connection to the main pipeline is approved by the Water Committee, which evaluates requests for connections to pipelines, and conducts negotiations in cases where disputes arise between residents of the Diaspora concerning the ownership of such connections.

623. According to 'Mekorot' — the Israel National Water Corporation — there are numerous pirated connections to pipelines, which are made absent the authorization of the Water Committee.

Case law

624. On September 13, 2006, the Haifa District Court (residing as a Water Tribunal) rejected an appeal filed by Adalah on behalf of 767 Israeli-Bedouin living in the Negev's Diaspora, demanding access to sources of water (*D.C.H. Appeal 609/05, Abdallah Abu Msaed, et al. v. The Water Commissioner*).

625. In its decision, the Haifa District Court President emphasized that while the case directly deals with connections to the main water pipelines, it indirectly addresses the complex issue of the organization of "Bedouin housing". The Court added that it is not

disregarding the fact that all citizens enjoy the basic human right to water and health, which must be granted by the State in order to guarantee the right to dignity, but explained that, in its opinion, providing connections to the main water pipeline is not the way to resolve the problem of unauthorized villages. According to the Court's decision, the right to water is not absolute, but can be made conditional upon a "lear" public interest "not to encourage cases of additional illegal housing".

626. On November 18, 2006, Adalah submitted an appeal to the Supreme Court against the ruling delivered by the Haifa District Court. The appeal is still pending (*C.A. 9535/06, Abdullah Abu Musa'ed, et al. v. The Water Commissioner and the Israel Lands Administration*).

The current situation

627. As of February 2009, 'Mekerot' has begun laying new pipelines, two inches in diameter, in order to improve and enlarge the amounts of water supplied to the Bedouins and to prevent technical difficulties (pipelines that were previously approved for direct connections by the Water Committee are of one inch diameter, which is insufficient for a supply of water to a large number of persons and which causes technical problems, such as low water pressure, freezing of pipes etc.).

628. Owners of direct water connections to the pipeline of one inch diameter may apply to 'Mekorot' and request that the corporation expand the pipeline. Note that even in cases where such an application has not been made, 'Mekorot' can identify pipes with respect to which there is a large amount of water consumed, and can widen the pipeline at its own initiative. All of 'Mekorot's' pipelines are located underground, and claims regarding pipelines that are laid on the ground probably refer to pipelines that were illegally laid down by Bedouins.

Water distribution for the Druze population in the Golan Heights

629. Israeli water resources are currently running very low as a result of a grave regional water shortage. In 2008, in an attempt to overcome the water crisis, the water allocation for farmers throughout the country was significantly reduced. However, despite the general cutbacks, the water allocation for Druze farmers in the Golan Heights was not reduced, except in a few isolated cases where the water shortage made it technically impossible to provide the full amount of water requested.

630. Druze farmers in the Golan Heights, as throughout the State of Israel, receive water from the National Water Company ('Mekorot'), as well as from additional independent water resources. The price rates for water supplied by 'Mekorot' are stipulated in the relevant regulations, and apply to all farmers. The rates gradually escalate as the water consumption increases. Due to the aforementioned water allocation cutback, most farmers in Israel were not liable to pay the more expensive water rates since the corresponding consumption level was simply not available to them. The Druze farmers were however allocated a greater amount of water, and therefore consumed water at higher price brackets.

631. Moreover, independent water production by Druze farmers is mainly based on flood waters, and is therefore exempt from tax.

632. Future development plans for the Golan Heights take into consideration the needs of the Druze population, and are geared, *inter alia*, towards increasing water allocation for all farmers in the region.

Health infrastructures

633. *Health clinics* – The following table indicates the number and location of health clinics and independent physicians in the Bedouin localities. It is important to note, that medical services are also available in the various health funds' clinics, which are located outside the Bedouin localities, such as in Be'er Sheva, Arad, Dimona, Omer Mitzpe-Ramon etc. The clinics located in the Bedouin localities are equipped according to the standards of every Health Fund in the country.

Table 20
Health clinics and independent physicians in the Bedouin population (number and location), as of March 2008

		Health fund clinics						
		Clalit (General) Health Fund		*Maccabi Health Fund*				
Type of locality	*Locality*	*Clinics*	*Independent physicians*	*Clinics*	*Independent physicians*	*Leumit (National) Health Fund*	*Meuhedet (United) Health Fund*	*Total*
Permanent localities	Rahat	5	4	1	1	3	-	**14**
	Hura	3	1	-	-	2	-	**6**
	Kssaife	1	2	1	-	1	-	**5**
	Lakia	1	-	1	-	1	-	**3**
	Arara	2	1	1	-	1	-	**5**
	Segev Shalom	1	-	-	-	-	-	**1**
	Tel-Sheva	1	2	-	-	-	-	**3**
	Tarabin El-Sana	1	-	-	-	-	-	**1**
Total permanent localities		**15**	**10**	**4**	**1**	**8**	**0**	**38**
Localities in the process of planning and development	Abu Krinat	1	-	-	-	-	-	**1**
	Um Betin	1	-	-	-	-	-	**1**
	El-Seid	1	-	-	-	1	-	**2**
	Bir Hadaj	1	-	-	-	-	-	**1**
	Darijat	1	-	-	-	-	-	**1**
	Moleda	1	-	-	-	-	-	**1**
	Kaser A-Sir	1	-	-	-	-	-	**1**
	Ovda	1	-	-	-	-	-	**1**
Total new localities		**8**	**0**	**0**	**0**	**1**	**0**	**9**
Unauthorized villages	Abu-Quidar	1	-	-	-	-	-	**1**
	El-Amal	1	-	-	-	-	-	**1**
	El-Assam	1	-	-	-	-	-	**1**
	Wadi El-Naam	1	-	-	-	-	-	**1**
Total unauthorized villages		**4**	**0**	**0**	**0**	**0**	**0**	**4**
Grand total		**27**	**10**	**4**	**1**	**9**	**0**	**51**

Source: The Ministry of Health, April 2010.

634. As noted in the table above, clinics in unauthorized Bedouin villages located throughout the Negev are all computerized, air conditioned, and equipped according to the standards followed by all the Health Funds (HMOs) in the country.

635. *Special Services* – The General Health Services Department operates a special health service for the Bedouin population that includes an ambulance service for Bedouins, run by a Bedouin employee. This ambulance ensures constant access between the Soroka hospital and the Bedouin community. This enables a talented professional staff to evaluate the living conditions of patients prior to their release from hospitalization. Additionally, the ambulance transports patients to the hospital and back when they are in need of emergency care.

636. *Allocation of medical instruments* – In May 2005, the Deputy Health Minister announced that following the approval of the Knesset Labor, Health and Welfare Committee for the purchase of five new MRI machines, the Ministry of Health would hold a tender for the allocation of these machines, with a clear priority upon placing them in peripheral areas. The Minister added that there is a particular need to equip hospitals located in peripheral areas, so as to reduce the lack of advanced equipment and to benefit the general population living in these areas.

Health care

637. *Immunization coverage* – There have been significant improvements in the past decade. Improved immunization coverage of Bedouin infants in the Negev, for example, resulted in a significant decrease in vaccine-preventable infectious diseases. 2006 figures indicate that 90–95 per cent of Bedouin children have completed all necessary vaccinations by age three – a sizeable improvement compared to the 1981 rate of 27 per cent. Note that the vaccination figures of the Arab population are higher than those of the Jewish population, both nationally and in the southern district. 2010 figures show that the rate of immunization coverage regarding hemophilus influenza B, infantile paralysis, diphtheria, tetanus and pertussis is 88 per cent among Bedouin children and 90 per cent among Jewish children. With respect to measles, mumps and rubella, the rate of immunization coverage among Bedouin children is 93 per cent in comparison to 91 per cent among Jewish children.

638. Two mobile immunization teams managed by the Ministry of Health also provide home immunizations to infants of Bedouin families living outside of permanent towns. A computerized tracking system allows the Ministry to identify infants who are overdue for their immunizations and to send one of the mobile immunization teams to immunize them.

639. Training of Nurses – On November 4, 2009, the Deputy Health Minister stated that due to a shortage of nurses, the Ministry would be forced to close several Health Care stations serving every segment of the population. Thus, the following clinics were closed: one station in Omer, two stations in Dimona and three stations in Be'er-Sheva, and the patients were directed to larger stations located in their areas. The Deputy Health Minister also stated that in order to overcome the lack of trained nurses in the Arab population, and in particular in the Bedouin population, the Ministry of Health was planning to open a nurses' training course at Ben Gurion University in the Negev, which would be fully financed by the State for nurses of the Bedouin population. The Deputy Health Minister added that the intention was for this to be a long-term program which would result in an increased number of well-trained Bedouin nurses, serving the target population, the Bedouins.

640. Ben-Gurion University opened a new course of studies – a bachelors' degree for male/female qualified nurses of the Bedouin population. As of 2010, 37 students have enrolled in this new course. In addition, as of January 2010, five nurses were hired to work

in mother and infant health care stations and their training for these positions will take six months. There is also a two year program training nurses, who will work in the Bedouin population, in providing parental guidance. In 2010, 16 nurses graduated from this program and a new group of nurses is currently being assembled. Note however that there is still a substantial shortage of qualified nurses in the Bedouin population.

641. Physician specialty services – Physician specialty services are currently being provided to the Bedouin community in the Negev, including: Pediatrics, General Internal Medicine, Neurology, Family Medicine, Dermatology, Gynecology and Obstetrics, etc. In addition, every resident has equal access to all the specialty clinics at the Soroka Hospital, with no discrimination between Bedouin or Jewish patients.

642. In addition, the first female Bedouin physician in Israel, Rania al-Oqbi, has completed her degree. She was part of the special "Cultivating Medicine in the Desert" program, which was aimed at incorporating more Bedouin into the health sector. As of 2009, six Bedouin women are studying medicine; 35 Bedouin women have completed degrees in various health professions; and 45 additional women are studying health sciences.

643. *Mother and infant health care stations* – There are 46 mother and infant health care stations located in the southern district, 27 of which (more than 50 per cent) serve the Bedouin population:

- 13 stations are located in the permanent localities (also serving the Bedouin population living in nearby unauthorized villages)
- Eight mobile stations serving unauthorized villages
- Five stations located in Jewish localities, and which also serve the Bedouin population in localities nearby (Abu-rabiah Station in Be'er Sheva which mainly serves Bedouins living in unauthorized villages, Dimona A, Arab A, Yeruham and Mitzpe Ramon stations)
- One mobile station serving the Bedouin population located in the unauthorized villages in the Marit Area, near the city of Arad

Case law

644. In the case of H.C.J 6602/07 Al-Howna – the regional council for the unauthorized Arab Bedouin villages in the Negev, appealed against the Minister of Health and petitioned the Court to order the respondents to connect the health clinics and mother and infant health care stations ("milk drops") to the national electricity grid. The central claim in the petition was that the clinics' lack of a regulated connection to electricity grids constituted a breach of the right to health and the right to equality, since certain medicines must be kept refrigerated 24 hours a day, failing which their efficacy might be diminished or lost, and they may even cause harm to the patient. In its response the State detailed the various alternatives available for solving the problem, one of which was that the Health Fund responsible for the clinics located in the villages, would assist the clinics by making medicines which require refrigeration available to each clinic. In light of the above, and in light of the State's response, the appeal was dismissed (*H.C.J. 6602/07 Al-Howna – The Regional Council for the Unauthorized Arab Bedouin Villages in the Negev et al. v. The Minister of Health et al.* (25.6.09)).

645. In March 2009, the Israeli NGO, Physicians for Human Rights (PHR), published a report regarding the absence of pediatric services in the Bedouin unauthorized villages. According to the report, since most of the Bedouin villages are unauthorized by the State, health services are not available to the inhabitants. Although 11 villages were recognized by the State in 1999, it was claimed that they were as yet to receive the services to which

they were legally entitled. The report further claimed that 12 clinics and eight mother and infant health care stations were located in the unauthorized villages, yet their working hours were limited. However, no pediatricians, gynecologists or pharmacies were located in a reasonable radius of the area. According to the PHR report, based on data released by Soroka Hospital, compared to Jewish children, more Bedouin children approached the emergency rooms, were admitted to the hospital and the intensive care units, and died from diseases. Consequently, many inhabitants applied to private health services or the health care clinics available in the large cities.

Foreign workers

646. As mentioned in Israel's thirteenth Periodic Report, the *Foreign Workers Law* requires employers to arrange broad medical insurance for employees who are foreign workers. Employers who violate this obligation may face criminal prosecution. Children of migrant workers unlawfully residing in Israel are also entitled to receive medical insurance provided by Israeli Health Funds.

647. As mentioned above, according to Section 3(b) of the *Patient's Rights Law*, minors, as adults, are entitled to urgent medical care in emergency situations, regardless of their status in Israel.

648. Since 2001, and in accordance with Directive No. 2001/5 of the directives issued by the Director General of the Ministry of Health, an arrangement was finalized for the provision of health services to minors who reside in Israel but are not insured by the *National Health Insurance Law*. The arrangement provides health services from the "Meuhedet" Health Fund, with a services basket which is equal to the one available for children who are Israeli residents. This arrangement applies only to children who continuously reside in Israel for a period of six months, for the monthly fee of 185 NIS (US$ 50), and does not cover previous health conditions of children who were born out of Israel or of children whose parents are residents of the Palestinian Authority. Following a number of petitions submitted to the High Court of Justice on the issue of providing social rights to foreigners residing in Israel, including minors, the Ministry of Health and the Ministry of Social Affairs and Social Services established an inter-ministerial team which is currently examining this issue, and is in the process of holding extensive meetings.

The right to social security and social services

649. The Ministry of Social Affairs provides social services to all segments of society, without any form of discrimination.

650. 95 per cent of the Ministry of Social Affairs and Social Services' budgets are allocated to local authorities in an egalitarian and uniform manner (5 per cent of the funds provided are intended for the financing of specific local projects in the Authorities), sometimes pursuant to statutory provisions and sometimes in accordance with criteria published in the *Social Work Code*, which is available for public scrutiny on the Ministry's Internet website. The determining criteria are based mainly on the size of the locality, extent of the population in need, and the socio-economic level of the local authority (as defined by the Central Bureau of Statistics).

651. Thus, there is no discrimination on any basis in the allocation of resources. However, Israel is characterized by a multiplicity of small Authorities, in particular in the Arab population, and in approximately 50 per cent of the social services departments, there are less than ten employees. This means that in some cases, allocation in accordance with a uniform set of criteria translates itself into the allocation of miniscule amounts to small authorities. The Ministry of Social Affairs and Social Services therefore operates a number of preference setting mechanisms, including the promotion of the allocation of funds to

small, and/or weak authorities, establishing a minimum allocation of funds to an authority and adopting a differential budget for infrastructure, which favors the weaker authorities. In addition, a special committee, appointed to formulate a proposal for reform of the local authorities, has devoted a special chapter to small authorities and its recommendations are currently being considered.

652. Local authorities are also compensated following the annual allocation of the budget, at the stage of implementation of the budget and just prior to the end of the budgetary year, when the Ministry accords priority to the adjustment of budgets between the various authorities and in particular the allocation of a budget to small and weak authorities.

653. Note that the Arab population differs in the manner in which it uses social services. Primarily, the Arab population, which for the most part is a traditional society, prefers to avail themselves of communal services as opposed to external national services, both with respect to children at risk and also with respect to the elderly and disabled. The cost of such communal services is lower and therefore those authorities having greater need of them are likely to be left with budgetary surpluses under the budget regulations of the external domestic arrangement. In order to rectify the situation, the Ministry has recently introduced a change in its policy that allows for the exchange of budgets of external domestic services in relation to children and youth, for a high amount of communally-based services in the Arab localities.

654. Apart from making budgetary allocations, the Ministry also participates in financing the salaries of the social workers. The ability of the Ministry to change the allocations to financing all of them is limited. However, the Ministry tries to allocate additional budgets towards this end, especially when there are budgetary supplements. This has occurred in the last two years when a supplement of 221 positions for social workers was allocated to authorities, with a clear preference allocated to the Arab authorities.

655. For further details and detailed analysis regarding the right to social security and social services, please see Israel's 2009 Third Periodic Report Concerning the Implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

5. The right to education and training

Legislation

656. One of the enumerated purposes of the education system in Israel is to ensure equal opportunities for all children, as noted in Section 2(8) of the *National Education Law* 5713-1953 ("*The National Education Law*"). Similarly, Section 5(A)(1) of the *Pupil's Rights Law* disallows any form of discrimination concerning the registration of pupils by governmental and local authorities or any educational institution.

657. An Amendment issued on December 19, 2005, stipulates that a principal of an educational institution shall report to the appointed person in the Ministry of Education regarding any incident of physical violence either between a teacher and a pupil, or between pupils, which caused physical damage. The principal shall report the incident immediately after it has occurred, together with the consequences of the incident, including disciplinary measures taken.

658. In 2007, *the Compulsory Education Law* was amended in order to broaden its scope and extend compulsory education to youth between the ages of fifteen and seventeen (inclusive) – the 11th–12th grades. Prior to the Amendment, education in the 11th–12th grades was free, but not compulsory. With the aim of protecting youth during this vulnerable stage of life from negative influences, and in order to prepare them and provide them with better

tools for their successful integration as productive adults in society in the future; the Government decided to make the 11th and 12th grades compulsory. Another desired effect of the Law, is a decrease in dropout rates and removal of pupils, by requiring the provision of solutions within the education system for all pupils falling within this age group. The Law is being implemented gradually – and in 2009 was implemented for pupils attending the 11th grade and in 2010 will be implemented for those attending the 12th grade. This Amendment shall enter into force in a gradual manner, and is expected to be fully implemented by the year 2011.

659. Amendment No. 28 to the *Compulsory Education Law*, issued on June 5, 2007 supplemented Section 12d of the Law. This Section stipulates that in a recognized educational institution, the teaching of basic skills to first and second grade classes should take up at least ten hours of weekly teaching time, and should be conducted in a framework where the number of pupils per teacher does not exceed twenty. These basic skills include basic reading, writing and mathematics. This provision is to be gradually implemented over a period of four years.

660. Due to budgetary constraints, the gradual implementation of the *Long School Day and Enrichment Studies Law* 5757-1997 (the: "*Long School Day and Enrichment Studies Law*"), detailed in Israel's Initial Report, is to be completed only in 2014.

661. On January 6, 2005, the Knesset enacted the *Daily Meal for the Pupil Law* 5765-2005 (the "*Daily Meal for the Pupil Law*") with the goal of creating a nutritional service to provide warm meals to pupils in primary schools where the long school day is applied, according to the *Long School Day and Enrichment Studies Law*. On April 28, 2008, the Law was amended to include children attending pre-schools where the long school day is applied. According to the amendment, the Law also applies to other pre-school frameworks where 41 hours of education are provided per week. In these frameworks a warm meal will be provided to pupils on days they attend pre-school for at least eight hours.

662. Section 3 of this law stipulates that each pupil will receive one warm meal per day, according to a well–balanced and varied menu which will be determined by the Ministry of Health, and will take into consideration the age and needs of the pupils. The Law is to be gradually implemented. The Minister of Education, in conjunction with the Minister of Finance, will determine the population of pupils regarding which the Law will be implemented each year.

663. The Ministry of Education has, among other subjects, placed the following on a high priority level: reducing violence and use of drugs in schools, furthering science and technological education, and taking action for the purpose of strengthening democratic sentiments among students. These subjects are closely related to bridging majority-minority gaps and assisting weak population groups.

Unique Cultural Education Institutions Law 5768–2008 (the "Unique Cultural Education Institutions Law")

664. In 2008, the Knesset enacted the Unique Cultural Education Institutions Law, in order to allocate state budget to unique cultural groups even if they did not teach curricula endorsed by the State. The Law defines unique cultural educational institutes as education institutes which include classes in grades 9 to 12, and which provide methodical education that stems from the life style of the unique cultural group accords with its specific characteristics. According to the Law, the Minister of Education shall acknowledge an educational institute according to the above definition and on condition that the curriculum and activities conducted at that institute do not contradict the values of the State of Israel as a Jewish and democratic state. In addition, the institute must have a minimum number of

pupils and teaching hours as shall be set by the Minister and in accordance with the characteristics and special needs of each unique culture group.

Pupils' Rights

665. Amendment No. 1 of December 22, 2004, to the *Pupil's Rights Law* amends Section 1 of the Law so as to stipulate that the purpose of the Law is to ascertain principles for the rights of pupils in the spirit of human dignity and the principles of the Convention on the Rights of the Child (CRC), while preserving the dignity of all who operate in the education system: the pupil, the educational employee and the education institution staff, as well as to preserve the uniqueness of different kinds of education institutions, and to encourage the creation of an atmosphere of mutual respect in the educational institution community. The Amendment also amends Section 4 to the Law, so as to stipulate that the Director General's guidelines as well as a school-principal's guidelines, regarding the pupil's rights, including the rules for the protection of mutual dignity in the educational institution community, and the rules of discipline, including the prevention of violence and the treatment of violence, shall be brought to the attention of the pupils and their parents, in a way determined by the Minister of Education and approved by the Knesset's Education Committee.

666. Also in 2004, the Minister of Education published Regulations regarding the removal of pupils from the educational system – the *Compulsory Education Regulations (Rules for the Permanent Removal of a Pupil Due to School Achievement)* 5765-2004. These Regulations include a prohibition against removing a pupil in the 1st–6th grades from school due to a lack of achievement in his/her studies. Regarding pupils in the 7th–12th grades, removal from school shall not be made based on a lack of achievement unless the pupil fails at least 70 per cent of the mandatory subjects for that school year. Moreover, the pupil will not be removed if the failure occurs as a result of illness, death of a family member, separation or divorce of the pupil's parents or other exceptional event which, according to the educational personnel, caused the failure.

667. *The Pupils' Rights Regulations (Publishing Orders and Pupil Removal)* 5762-2002, establish rules regarding the removal of pupils from school. Among them is the necessity to hold a hearing before finalizing the removal decision (Section 4). The pupil or his/her parents can file an appeal with the Head of the Ministry of Education's District, according to Section 6(a), and a hearing should be held before a hearings panel within 14 days according to the provisions of Section 6(b). According to Section 6(d), the pupil and his/her parents may state their claims in person or by way of an appointed person.

668. The *Pupil Rights Law* was amended on July 27, 2009. The amendment allows the removal of *pupils* from school following severe disciplinary or violence-related problems. Prior to the amendment, the actual removal of a pupil was impossible until a final decision had been reached in the case. Section 6(d) to the *Pupil Rights Law* determines that a school principal is permitted to permanently dismiss a pupil who has presented repeated disciplinary and/or violence-related problems without delay, provided the principal has received the approval of the District Supervisor. Section 7(b) to this law was also amended with respect to a decision taken on appeal. A decision in an appeal shall be decided upon by the District Manager after hearing the pupil's parents and the pupil, if they so desire, and after hearing the District Supervisor, the General Supervisor, the persons in charge of the educational institution or the institution manager and other representatives.

Case law

669. Recently, the District Court of Jerusalem residing as an Administrative Court, dealt with a case regarding the right of a minor to be heard during an administrative appeal. Specifically, the issue before the Court concerned the possible violation of the integrity of matriculation exams. The Court stated that in general, it is sufficient for an administrative

authority (such as the Ministry of Education in this case) to guarantee the right of appeal in written format and that the appellants' status as minors is not in itself sufficient cause to alter the appeals procedure to an oral appearance in front of an appeal committee. The Court noted that in several cases, though not routinely, the fact that the administrative authority was dealing with a minor was used as a justification of the right to appeal orally. For example, minors who cannot express themselves properly in writing, may be granted an oral appeal. The Court in this case held that disqualifications decided by the supervisor or inspector, on the basis of a breach of the integrity of a matriculation exam, violated the rights of pupils as defined in the *Pupil Rights Law*. Being disqualified in this way allows for appeals to be lodged only after the administrative act was completed, which violates the requirement that the right to a hearing shall be granted prior to the relevant decision being finalized. Since the Court held that this case does not fall into any one of the exceptions, the Ministry of Education shall revise the Director General's Directive to grant the right to a hearing prior to disqualification based on the suspicion of the supervisor or inspector (*Ad.P. 362/07 Anonymous v. The Ministry of Education, Ad.P. 377/07 The National Council for the Child v. The Ministry of Education* (1.7.2007)).

Prohibiting discrimination in schools and education institutions

Case law

670. On August 20, 2007, the Be'er-Sheva District Court residing as an Administrative Court, determined that the holding of tests in order to determine the placement of first-graders in schools with special characteristics (such as art schools, etc.) for the school year of 2007–2008, contravened the directives of the Ministry of Education. The Ministry Director General's specific directives prohibit the granting of unequal opportunities to children of the same age group. Since the petition to disqualify these tests was received in close proximity to the beginning of the school year, accepting the petition would have resulted in the infliction of harm upon the children that took these tests and succeeded. Therefore, the Court stressed that there is a prohibition against performing these tests, but that until such time as the Ministry of Education creates guidelines on the criteria regarding first-graders, the results of the sorting tests, namely those who succeeded and on account of which were accepted, would remain. It was believed that annulling the results would cause greater harm to the children that were already accepted to these schools for the 2007–2008 school-years, and the petitioner's son would have to study in a regular school near his place of residence (*Ad.P. 327/07 Gordon Michal et al. v. The Municipality of Ashkelon et al.* (20.08.2007)).

671. In 2008, a petition was submitted to the High Court of Justice with respect to communal segregation in an unofficial but acknowledged educational institution. The "Beit Yaacov" elementary school for girls, located in Emanuel, is an institution for religious education which is directed by the Independent Educational Center, which is supervised by the Ministry of Education. During the 2007 school year, the "Beit Yaacov" school decided to implement several changes in the school's structure and studying arrangements, according to which the school was divided into two sections with separate entrances, and there was a separation in the schoolyard and the teachers' room. One section of the school contained a high rate of schoolgirls of Ashkenazi origin (Jews from Europe) and the other section contained a high rate of schoolgirls of Sephardic origin. The school uniform was also changed in order to distinguish between the two groups. These changes were made without permission and contrary to the direction of the Independent Educational Center, and continued to exist during the 2008–09 school year:

(a) The petitioners claimed that these changes led to communal segregation, which comprised a deep rooted discrimination in the school. The State recognized the needs of different populations to educate their children according to their community's special

culture and characteristics. A community is allowed, as part of the general right to education, to educate its children according to its world-view and to establish an independent school, and the State can recognize such an institution. Still, the right to education as with any other right, is not absolute, and must be balanced against other rights in such a way as to protect the public interest and individual's freedom. The Court found that in this case, the right to education conflicted with the right to equality. The Court stated that giving priority to a certain community in being accepted to Ultra-Orthodox streams of studies, while placing bureaucratic difficulties before persons who belong to other communities desiring to be accepted to such studies, severely violates the right to equality. The Court noted that the Ministry of Education should have deprived the "Beit Yaacov" school of its license, and ordered the Independent Educational Center to remove any lineament of discrimination in the school (*H.C.J. 1067/08 Youth According to the Halacha Association et al. v. The Ministry of Education et al.* (6.8.2009));

(b) On April 7, 2010, the High Court of Justice ruled that the Independent Educational Center violated the abovementioned Court's decision, as it allowed for girls of Ashkenazi origin to study separately. The decision was given in the course of a motion for contempt of court, and the Court ordered a fine in the sum of 5,000 NIS (USD $1,351) for each day during which the school continued to violate the Court's verdict. The Court also ordered that the parents of the Ashkenazi origin girls be summoned for the next hearing in order to examine whether they assisted in the violation of the Court's verdict (*H.C.J. 1067/08 Youth According to the Halacha Association et al. v. The Ministry of Education et al.* (7.4.10));

(c) On May 6, 2010, the Ministry of Education notified the High Court of Justice that the negotiations regarding the compromise solution that was suggested a week earlier by Supreme Court Justice Levi had failed. Following the receipt of this notification, the Youth According to the Halacha Association requested that the Court enforce its verdict and forbid any discrimination in the school (*H.C.J. 1067/08 Youth According to the Halacha Association et al. v. The Ministry of Education et al.* (6.5.10));

(d) On May 17, 2010, the High Court of Justice ruled that its final verdict was not implemented by the respondents. The Court held that the Independent Educational Center together with the parents of the pupils in the "Hasidic" course of study, appear to have been operating in every possible way to assure that the Court's final verdict will not be implemented. The Court held that the Independent Educational Center consistently violates the verdict, and that the attempt of the pupils' parents to perpetuate the illegitimate situation constitutes a breach of the verdict on their behalf. The Court stated however, that the rest of the respondents worked towards implementation of the verdict, and at this stage there is no justification to activate punishment of contempt of court against them. The Court held that if the parties will not reach an agreement based on the Courts final verdict, which will allow its implementation until May 24, 2010, the Independent Educational Center will pay 10,000 NIS (US$ 2,703) per day (starting on may 25, 2010) until the implementation of the verdict. In addition, each one of the pupils' parents will pay 200 NIS (400 NIS for two parents, US$ 54 and $108 respectively) until they stop violating the Court's verdict. The Court added that if the violating of the verdict will continue after May 31, 2010, the Court will consider issuing arrest orders;

(e) On June 15, 2010, the High Court of Justice ruled that the refusal of the parents of the pupils in the "Hasidic" course of study to send their daughters to the joint course of study constitutes an ongoing breach of the Court's verdict on their behalf. Since the parents have been previously cautioned, the Court ordered that a parent that will not provide a written obligation, within 24 hours, to send his/her daughter to the joint course of study in the above mentioned school will be imprisoned for a period of two weeks or until he/she will provide the Court with the abovementioned written obligation (*H.C.J. 1067/08*

Youth According to the Halacha Association et al. v. The Ministry of Education et al. (15.6.10)). Accordingly, on June 18, 2010, the fathers of the abovementioned pupils were imprisoned for a period of two weeks. The mothers however, did not report for their imprisonment. After hearing a motion to annul their imprisonment, the Court annulled the imprisonment of 13 of the 22 mothers and held that the remaining 9 mothers shall be imprisoned after the release of their husbands (*H.C.J. 1067/08 Youth According to the Halacha Association et al. v. The Ministry of Education et al.* (22.6.10));

(f) On June 27, 2010, the parents' lawyer notified the Court that, with respect for the Court and its verdict and after great efforts, a settlement agreement was reached. According to the agreement, the "Beit Yaacov" elementary school for girls will hold in the three remaining study days until the end of the school year lessons for all the girls in the school, on friendship and about love for the Jewish people with the participation of rabbis and lecturers from of the different communities. The school's teachers gave the Court their commitment to uphold the Court's verdict. After the State notified the Court that the parents' notification is to be considered as an implementation of the verdict, the Court ordered the immediate release of the imprisoned fathers and that the petitioners are to notify the Court if the reconciliation efforts were fruitful (*H.C.J. 1067/08 Youth According to the Halacha Association et al. v. The Ministry of Education et al.* (27.6.10)).

Statistical data

672. In 2009, there were 804,127 elementary school pupils, 28.1 per cent of which were of the Arab population (including Druze, Bedouins and Circassians), 364,464 junior high school pupils of which 27.4 per cent were of the Arab population and 327,728 high school pupils of which 22.6 per cent belong to the Arab population. In addition, 25.5 per cent of the classrooms in elementary schools, 24.9 per cent of the classrooms in junior high schools and 20.7 per cent of the classrooms in high schools serve the Arab population.

Table 21
Distribution of pupils by classrooms and populations, 2009

Population	*High schools (classrooms)*	*High schools (pupils)*	*Junior high schools (classrooms)*	*Junior high school (pupils)*	*Elementary schools (classrooms)*	*Elementary school (pupils)*
Jewish	10 077	253 661	10 205	264 597	23 032	577 747
Arab	1 956	55 272	2 459	72 597	5 541	160 306
Druze	265	7 203	297	8 450	688	18 132
Bedouin	417	11 592	624	18 678	1 694	47 942
Circassians	-	-	8	142	-	-
Total	**12 715**	**327 728**	**13 593**	**364 464**	**30 995**	**804 127**

Source: Ministry of Education, November 2009.

674. The following table indicates the figures pertaining to the extent of formal education possessed by the adult population of Israel during the years 2002–2006. It divides the population by population group, gender and age. According to this data, in 2007, 1.2 per cent of the total Israeli population had only 1–4 years of formal primary education, while 2.5 per cent had no formal education.

Table 22
Persons aged 15 and over, by population group, years of schooling, age and gender, 2007

	Years of schooling								***Total***	
Year/Age	*Median*	*16+*	*13–15*	*11–12*	*9–10*	*5–8*	*1–4*	*0*	***Per cent***	***Thousands***
Total population										
2002	12.4	17.2	21.3	35.6	11.6	9.4	1.6	3.2	**100**	**4 706.2**
2004	12.5	18.4	21.9	35.3	11.2	8.6	1.6	2.9	**100**	**4 876**
2006	12.5	19.8	22	34.9	10.9	8.2	1.5	2.8	**100**	**5 053.1**
2007 – total										
Thousands	**-**	**1 035**	**1 143.4**	**1 792.7**	**535.4**	**403.5**	**62.1**	**129.8**	**-**	**5 142.4**
Percentages	**12.6**	**20.3**	**22.4**	**35.1**	**10.5**	**7.9**	**1.2**	**2.5**	**100**	**-**
15–17	11.1	-	0.3	52.4	44.1	2.8	-	0.3	**100**	**350.6**
18–24	12.4	4.3	26.9	60.9	4.7	2.4	0.3	0.5	**100**	**801.2**
25–34	13.6	28.6	28.3	31.2	6.7	3.9	0.3	0.9	**100**	**1 077.1**
35–44	13.2	28.9	22.7	33.3	7.8	5.5	0.5	1.3	**100**	**852.5**
45–54	12.9	25.6	23.1	29.7	9.8	8.6	1.1	2	**100**	**753.8**
55–64	12.8	25.5	21.9	24.6	9.8	13.1	1.8	3.3	**100**	**601.4**
65+	11.4	15.2	18.6	20	10.7	20.7	4.7	10.1	**100**	**705.8**
Men – total	**12.5**	**20.3**	**21.4**	**36.5**	**11.4**	**7.9**	**1.1**	**1.4**	**100**	**2 504.3**
15–17	11.1	-	-	51.5	44.2	3.6	-	-	**100**	**179.4**
18–24	12.3	3.8	22.2	64	6.4	3.1	0.3	-	**100**	**408.4**
25–34	13.5	25.7	29.6	31.6	7.9	4.3	0.3	0.6	**100**	**541.8**
35–44	13.1	28.3	22.1	33.9	8.8	5.5	0.5	0.9	**100**	**422.3**
45–54	12.9	26.1	21.8	30.8	10.7	8.5	0.9	1.1	**100**	**363.8**
55–64	12.9	27.3	20.9	24.6	10.4	13.5	1.3	1.9	**100**	**287.2**
65+	11.8	19.9	17.1	20.9	10	21.4	4.7	6.1	**100**	**301.5**
Women – total	**12.6**	**20.3**	**23.3**	**33.8**	**9.7**	**7.9**	**1.4**	**3.6**	**100**	**2 638.1**
15–17	11.1	-	-	53.2	43.9	2	-	-	**100**	**171.2**
18–24	12.5	4.8	31.7	57.7	3	1.8	-	0.8	**100**	**392.8**
25–34	13.9	31.6	26.9	30.9	5.5	3.6	0.3	1.1	**100**	**535.3**
35–44	13.4	29.5	23.4	32.7	6.7	5.4	0.5	1.7	**100**	**430.2**
45–54	13	25.1	24.2	28.7	9	8.7	1.4	2.9	**100**	**390**
55–64	12.7	23.8	22.9	24.5	9.3	12.7	2.2	4.6	**100**	**314.3**
65+	11.1	11.7	19.7	19.3	11.2	20.2	4.8	13.1	**100**	**404.3**
Jews										
2002	12.6	19	23	36.8	10	7.4	1.2	2.5	**100**	**3 848.8**
2004	12.7	20.4	23.8	36	9.6	6.7	1.1	2.3	**100**	**3 975.8**
2006	12.8	22	24.2	35.5	9.2	6	1	2.1	**100**	**4 104**

	Years of schooling								***Total***	
Year/Age	*Median*	*16+*	*13–15*	*11–12*	*9–10*	*5–8*	*1–4*	*0*	***Per cent***	***Thousands***
2007 – total										
Thousands		**936.8**	**1 015.4**	**1 459.6**	**366.9**	**244.2**	**34.3**	**75.7**	**-**	**4 168.2**
Percentages	**12.8**	**22.7**	**24.6**	**35.3**	**8.9**	**5.9**	**0.8**	**1.8**	**100**	**-**
15–17	11.1	-	-	53.5	43.8	2.2	-	-	**100**	**255.8**
18–24	12.4	3.9	28.2	63.7	2.9	0.9	0.2	0.2	**100**	**614**
25–34	14.4	32.5	32.4	29.4	3.7	1.4	0.2	0.4	**100**	**833.6**
35–44	14.1	33.5	25.9	33.6	4.5	1.4	0.3	0.8	**100**	**660.8**
45–54	13.4	28.3	25.3	31.5	8.8	4.8	0.2	1.2	**100**	**631.2**
55–64	13.2	27.8	23.5	26.7	9.9	9.9	0.7	1.5	**100**	**528.2**
65+	11.6	15.9	19.4	21	11.2	20.7	3.9	7.9	**100**	**644.6**
Men – total	**12.8**	**22.7**	**23.8**	**36.5**	**9.4**	**5.7**	**0.7**	**1.2**	**100**	**2 016.9**
15–17	11.1	-	-	52.6	43.6	3.3	-	-	**100**	**130.9**
18–24	12.3	3.9	23.5	66.7	4.2	1.4	-	-	**100**	**314**
25–34	14.2	29.1	34.3	29.5	4.8	1.8	-	0.4	**100**	**418.7**
35–44	14	33	25.4	33.6	5.2	1.8	0.3	0.7	**100**	**325.6**
45–54	13.3	28.3	24	32.3	9.3	5	-	0.9	**100**	**302.9**
55–64	13.3	29.5	22.3	26.7	10.3	9.4	0.6	1.1	**100**	**251.9**
65+	12	20.8	17.9	22	10.5	20.1	3.6	5	**100**	**273**
Women – total	**12.9**	**22.6**	**25.3**	**34.2**	**8.4**	**6.1**	**0.9**	**2.5**	**100**	**2 151.3**
15–17	11.2	-	-	54.5	44.1	1.1	-	-	**100**	**124.8**
18–24	12.6	3.9	33	60.5	1.6	0.5	-	0.4	**100**	**300**
25–34	14.6	36	30.5	29.3	2.5	0.9	0.2	0.4	**100**	**414.9**
35–44	14.2	34.1	26.3	33.6	3.8	1.1	-	1	**100**	**335.3**
45–54	13.5	28.2	26.4	30.9	8.3	4.6	-	1.4	**100**	**328.3**
55–64	13.1	26.2	24.5	26.7	9.5	10.4	0.8	1.9	**100**	**276.3**
65+	11.3	12.3	20.5	20.2	11.8	21.1	4.1	10	**100**	**371.7**
Arabs										
2002	10.9	7.7	10.7	30.9	19.2	20.6	4	7	**100**	**747.2**
2004	11.1	8	10.4	32.9	18.7	19	4.4	6.5	**100**	**783.1**
2006	11.1	8.9	10.3	32.7	18.8	19.3	3.9	6.1	**100**	**841.2**
2007 – total										
Thousands		**78**	**87.9**	**303.8**	**153.3**	**155**	**27.4**	**53.1**		**863**
Percentages	**11.3**	**9.1**	**10.2**	**35.4**	**17.9**	**18.1**	**3.2**	**6.2**	**100**	
15–17	11	-	-	50.2	44	4.2	-	-	**100**	**89.7**
18–24	12.1	6.1	22.1	50.9	11	8	-	1.5	**100**	**172.6**
25–34	11.8	15.1	11.2	39.1	17.6	13.7	0.8	2.5	**100**	**217.1**
35–44	11.2	12	8.3	33.1	20.4	21.6	1.6	3.1	**100**	**168**
45–54	9.4	10.1	6.7	20.8	15.6	32.7	6.9	7.3	**100**	**105.1**

	Years of schooling								***Total***	
Year/Age	*Median*	*16+*	*13–15*	*11–12*	*9–10*	*5–8*	*1–4*	*0*	***Per cent***	***Thousands***
55–64	6.9	4.9	5.2	9	8.5	42	11.3	19.1	**100**	**61.1**
65+	3.5	2.7	3.2	10	3.9	24	16.2	40.4	**100**	**49.4**
Men – total	**11.3**	**9.3**	**9.4**	**37.4**	**19.8**	**18.7**	**2.7**	**2.8**	**100**	**437.1**
15–17	11	-	-	49.4	45.2	4.4	-	-	**100**	**45.8**
18–24	11.9	3.9	17.1	54.7	13.8	9.3	-	-	**100**	**88.4**
25–34	11.8	14.3	10.9	40	18.8	13.5	0.9	1.6	**100**	**110.2**
35–44	11.3	12.1	7.9	35.3	22.2	19.6	1.4	1.3	**100**	**85.8**
45–54	10.5	13.8	7.4	24.1	18.3	29.6	4.5	2.3	**100**	**53.3**
55–64	7.8	7.9	7.5	9.8	10	48.5	7.5	8.8	**100**	**30.3**
65+	6.3	4.9	3.9	10.8	4.9	38.3	17.7	19.5	**100**	**23.5**
Women – total	**11.2**	**8.9**	**11**	**33.3**	**15.9**	**17.4**	**3.7**	**9.7**	**100**	**425.9**
15–17	11.1	-	-	51.1	42.8	4	-	-	**100**	**43.9**
18–24	12.4	8.4	27.4	47	8	6.7	-	2.6	**100**	**84.3**
25–34	11.8	16	11.4	38.2	16.3	13.9	-	3.4	**100**	**106.9**
35–44	11.1	11.9	8.6	30.7	18.4	23.6	1.8	5	**100**	**82.2**
45–54	8.2	6.3	6	17.4	12.8	35.8	9.4	12.4	**100**	**51.8**
55–64	5.6	-	2.9	8.2	7	35.6	15	29.2	**100**	**30.9**
65+	0.9	-	-	9.3	-	11.2	14.9	58.5	**100**	**26**

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2007, 2008.

674. **Literacy:** Israel has a very low rate of illiteracy – in 2008, of the population aged 15 and over, the percentage of Jewish females that never attended school was 2.4 per cent compared to 1.2 per cent of the males. That same year, the percentage of Arab females that never attended school was 8.5 per cent (compared to 9.7 per cent in 2007), compared to 2.5 per cent of Arab males (2.8 per cent in 2007). In addition, the number of persons with only four years or less of formal education has continued to decline, and there has been an improvement in the situation across the board. Among the Arab population, the number of persons without any formal education decreased from 7.0 per cent in 2002 to 5.5 per cent in 2008, while among the Jewish population, the numbers fell from 2.5 per cent to 1.8 per cent respectively. The number of persons with 1–4 years of formal education also decreased from 4 per cent among the Arab population in 2005, to 3.1 per cent in 2008, and among the Jewish population, from 1.0 per cent in 2005 to 0.8 per cent in 2008.

Attendance rates in the education system

675. In the 2008–09 school year, there were approximately 1,470,000 pupils in primary schools, junior high schools and high schools: approximately 73.4 per cent of them are of the Jewish population and 26.5 per cent of the Arab population. In the Hebrew education system there were 617,380 pupils in primary schools, 182,516 pupils in junior high schools and 278,393 in high schools. In the Arab education system there were 240,665 pupils in primary schools, 71,537 in junior high schools and 77,773 in high schools.

676. In 2008, of the population aged 15 and over, the percentage of Jewish females who never attended school was 2.4 per cent compared to 1.2 per cent of the males. That same year, the percentage of Arab females who never attended school was 8.5 per cent

(compared to 9.7 per cent in 2007), compared to 2.5 per cent of the males (2.8 per cent in 2007).

677. In 2007, 91.4 per cent of adolescents aged 15 to 17 attended school, 1.4 per cent worked and did not study, and 7.2 per cent neither worked nor studied (a decline in comparison to 7.8 per cent in 2006). 92 per cent of girls aged 15 to 17 attended schools in comparison to 91 per cent of the boys. Among the Jewish population, 5.4 per cent of the youth aged 15 to 17 neither worked nor studied (5.5 per cent male and 5.4 per cent female), in comparison to 12.5 per cent among the Arab population (12.7 per cent male and 12.1 per cent female).

678. The following table indicates the continuing gradual increase in the number of pupils in the Israeli education system.

Table 23
Pupils in educational institutions, 2004–2008

Year		*2004–2005*	*2005–2006*	*2006–2007*	*2007–2008*
Grand Total		**2 084 525**	**2 093 329**	**2 160 427**	**2 187 494**
Hebrew education system	**Grand total**	**1 648 289**	**1 641 538**	**1 691 087**	**1 708 277**
	Kindergartens	313 801	315 000	340 114	350 000
	Primary education	574 468	584 441	598 029	604 725
	Post primary education	472 139	469 387	467 721	462 360
	Post secondary institutions	51 195	52 601	51 332	51 000
	Non-universities for higher education**	77 738	82 023	97 923	104 689
	Universities	124 430	123 010	121 234	121 003
	Other institutions	34 518	15 076	14 734	14 500
Arab education system	**Grand total**	**436 236**	**451 791**	**469 340**	**479 217**
	Kindergartens	89 400	92 000	94 383	95 000
	Primary education	212 638	221 133	231 268	236 885
	Post primary education	132 225	136 804	141 279	144 932
	Post secondary institutions	1 973	1 854	2 410	2 400

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006, 2007, 2008.

** Incl. students for first degree in academic colleges and in education colleges. As of 2006/07, includes 5,668 students enrolled in continuing studies towards a first degree in education (B.Ed.)

Dropout rates and prevention of dropping out of school

679. Another important indicator of school performance is the rate of attendance. The Ministry of Education operates an internal unit of attendance officers who regularly visit schools in order to prevent pupils from dropping-out of school. The Ministry of Education has a special department aimed at maintaining school attendance that works to prevent pupils from dropping out. This department works in accordance with the *Compulsory Education Law* (Section 4) and as a part of the Ministry of Education's policy. Currently, there are 498 attendance officers, of which 369 operate in Jewish localities (including 37 in the Ultra-Orthodox population), 96 in Arab localities, 17 in Bedouin localities and 16 in Druze localities.

680. In 2007–2008, in the Hebrew education system, the dropout rate of female minors in the 9th to 11th grades stood around 1.7 per cent–2.9 per cent (3.1 per cent–3.6 per cent in 2003–2004), and in the 12th grade the rate of pupils who dropped out was just 0.7 per cent (equal to the dropout rate in 2003–2004). The dropout rates of male minors were higher, especially in the 11th grade (4.8 per cent in the 9th grade and 9.5 per cent in the 11th grade). In the Arab education system, although the dropout rates of Arab female minors exceeded those of Jewish female minors, Arab male minors dropped out at a greater rate than did their female counterparts. The following table presents data on dropout rates, according to grade, gender and population group.

Table 24
Pupils in grades 7–12 dropout rates by population group, and gender, 2004–2008

		Hebrew education			*Arab education*		
		2004/5–2005/6	*2005/6–2006/7*	*2006/7–2007/8*	*2004/5–2005/6*	*2005/6–2006/7*	*2006/7–2007/8*
Grand total		**521 032**	**520 189**	**519 615**	**147 912**	**154 967**	**160 729**
Grade 7	**Total**	**88 670**	**86 331**	**86 924**	**30 460**	**30 298**	**30 729**
	Thereof: per cent dropped out of educational system	1.1	0.5	0.8	1.9	1.3	1.1
	Per cent of boys	1.4	0.8	1.3	1.9	1.4	1.2
	Per cent of girls	0.7	0.3	0.4	1.9	1.3	1.0
Grade 8	**Total**	**84 562**	**87 745**	**85 591**	**28 314**	**30 518**	**30 487**
	Thereof: per cent dropped out of educational system	2.6	2.2	2.7	3.5	3.9	4.1
	Per cent of boys	3.4	2.8	3.8	4.3	4.9	5.1
	Per cent of girls	1.7	1.5	1.6	2.6	2.8	3.0
Grade 9	**Total**	**87 775**	**87 573**	**89 257**	**26 813**	**27 767**	**29 508**
	Thereof: per cent dropped out of educational system	3.9	3.0	3.2	10.9	11.7	12.3
	Per cent of boys	5.5	4.4	4.8	14.2	15.8	17.0
	Per cent of girls	2.2	1.4	1.7	7.5	7.3	7.4
Grade 10	**Total**	**89 494**	**87 359**	**87 425**	**24 237**	**24 381**	**25 273**
	Thereof: per cent dropped out of educational system	4.0	3.4	3.7	6.9	6.6	6.6
	Per cent of boys	5.5	4.7	5.3	10.6	9.7	10.3
	Per cent of girls	2.3	1.9	1.9	3.4	3.5	3.0
Grade 11	**Total**	**87 692**	**88 160**	**86 636**	**20 148**	**22 729**	**22 866**
	Thereof: per cent dropped out of educational system	5.8	5.3	6.3	6.7	5.3	6.3
	Per cent of boys	8.3	7.9	9.5	9.6	7.5	9.3
	Per cent of girls	3.2	2.7	2.9	4.0	3.3	3.5
Grade 12	**Total**	**82 839**	**83 021**	**83 782**	**17 940**	**19 274**	**21 866**
	Thereof: per cent dropped out of educational system	1.8	1.7	1.7	1.9	1.9	1.7
	Per cent of boys	2.6	2.5	2.6	2.2	2.4	2.2

	Hebrew education			*Arab education*		
	2004/5–2005/6	*2005/6–2006/7*	*2006/7–2007/8*	*2004/5–2005/6*	*2005/6–2006/7*	*2006/7–2007/8*
Per cent of girls	0.9	0.8	0.7	1.6	1.4	1.3

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

681. In the 2008–09 school year, the dropout rate of high school pupils (9th–12th grades) was 4.3 per cent (19,333 out of total 444,843 pupils). The total dropout rate of pupils between the first and twelfth grades was 2 per cent (28,947 out of total 1,454,777 pupils).

Table 25
Dropout rates between 7th and 12th grades by population, 2008–2009

Population	*Total pupils*	*Number of pupils dropping out*	*Percents*
Jewish	515 414	16 039	3.1
Arab	122 201	5 738	4.7
Bedouin	28 209	2 110	7.5
Druze	15 238	434	2.8
Circassians	134	2	1.5
Total	**681 196**	**24 323**	**3.6**

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

Eligibility for matriculation certificate

682. The percentage of Jewish pupils aged 17 who were eligible to receive a matriculation certificate decreased from 55.6 per cent in 2001 to 54.9 per cent in 2006. The percentage of Arab pupils aged 17 who were eligible to receive a matriculation certificate also decreased from 52.2 per cent in 2001 to 46.3 per cent in 2006.

683. In 2007, the matriculation success rate of girls was significantly higher than that of boys: 61 per cent of girls in the Jewish population and 55.3 per cent of girls in the Arab population received a matriculation certificate, compared to only 49.5 per cent and 36.5 per cent of the boys, respectively. Note, that in 2007, the total number of pupils in the 12th grade entitled to a matriculation certificate was 52.5 per cent.

Table 26
Percentage of pupils aged 17 eligible for a matriculation certificate, by population and selected demographic characteristics, 2001–2006

Population	*2001*	*2003*	*2005*	*2006*
Total population	**55.1**	**56.4**	**53.8**	**53.4**
Jewish population				
Total	**55.6**	**57.4**	**55.1**	**54.9**
Gender: Boys	49.3	51.2	49.9	49.5
Girls	61.9	63.3	61	61.0
Ethnic origin (parents' birthplace)				
Israel	57.2	58.2	56.1	56.2

Population	*2001*	*2003*	*2005*	*2006*
Asia-Africa	51.0	54.3	51.4	50.9
Europe-America	57.1	61.8	59.7	59.3
Arab population				
Total	**52.2**	**50.7**	**47.2**	**46.3**
Gender: Boys	44.3	41.8	39.2	36.5
Girls	58.8	58.3	54.2	55.3
Religion:				
Muslims	50.3	49.2	44.9	43.7
Christians	68.5	63.9	63.9	60.9
Druze	50.2	48.8	50.3	54.6

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2003–2008.

Table 27
Pupils in 12th grade, matriculation examinees and entitled to a certificate – 2007 (absolute numbers)

		Examinees		*Entitled to a certificate*	
	Pupils in 12th grade	***Total***	*Per cent of pupils in 12th grade*	***Total***	*Per cent of pupils in 12th grade*
Total	**101 472**	**84 779**	**83.6**	**53 250**	**52.5**
Hebrew education	82 316	**67 362**	81.8	**44 816**	54.4
Arab education	19 156	**17 417**	90.9	**8 434**	44.0
Thereof: Muslims	15 176	**13 736**	90.5	**6 311**	41.6
Christians	1 818	**1 763**	97.0	**1 043**	57.4
Druze	2 001	**1 883**	94.1	**1 064**	53.2

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2009.

684. According to data collected in 2007, and based on a division of localities in Israel into ten socio-economic clusters, 9.2 per cent of the 12th grade pupils in clusters 1–2 (towns with the lowest socio-economic status) were eligible for a matriculation certificate. This figure is to be compared with 74.6 per cent of those in clusters 9–10 (towns with the highest socio-economic status) in Jewish localities, compared to 43.8 per cent of 12th grade pupils in clusters 1–2, were eligible for a matriculation certificate compared to 52.5 per cent in clusters 7–8 (the highest status) in Arab localities.

685. In June 2010, the Ministry of Education presented the 2009 school year matriculation eligibility rates. According to these figures, in 2009, was an increase of 1.7 per cent in the eligibility to receive a matriculation certificate in all of the populations in Israel – 46.1 per cent, compared to 44.4 per cent in 2008. Among the Jewish population the rate of pupils eligible to receive a matriculation certificate crossed for the first time the 60 per cent mark and stood at 61.8 per cent (not including the Ultra-Orthodox population) compared to 59.7 per cent in 2008 (the total rate of matriculation eligibility among the Jewish population, including the Ultra-Orthodox population, was 52.2 per cent in 2009, compared to 50.5 per cent in 2008). Among the Non-Jewish population there was a total increase of 2.8 per cent in 2009 and the rate of matriculation eligibility stood at 35 per cent

compared to 32.2 per cent in 2008. The total increase in the matriculation eligibility rate among the Arab population was 2 per cent and the rate stood at 34.4 per cent in 2009. In the Druze population there was an increase of 8.5 per cent in the matriculation eligibility rate to 48 per cent. In the Bedouin population there was an increase of 2.8 per cent and the matriculation eligibility rate stood at 29.4 per cent.

Programs that help pupils matriculate fully

686. The Ministry of Education implements many programs to strengthen weaker pupils and improve their chances of completing all matriculation examinations. To increase the proportion of pupils eligible to receive a matriculation certificate, the Ministry of Education acts in four ways: it encourages pupils to take matriculation examinations; provides intensive assistance to pupils who need it; creates post-secondary continuing education frameworks; and finances studies for pupils who lack only one or two examinations. The Ministry has earmarked resources for allocations to schools that wish to adopt discretionary initiatives in this regard.

Education for infancy

687. The *Compulsory Education Law* applies to children from the age of 3 years. The Law is implemented in accordance with the State's budget. In 2009, the rate of children aged three to four who studied in state-financed kindergartens was 49 per cent (39 per cent in the Jewish population, 80 per cent in the Arab and Bedouin population, and 62 per cent in the Druze population).

Table 28
Rate of participation in Ministry of Education's pre-primary institutions for children aged 3 to 6, by population, 2009

Age	*Jewish*	*Arab-Bedouin*	*Druze*	***Total***
3	66 per cent	56 per cent	95 per cent	**64 per cent**
4	87 per cent	64 per cent	97 per cent	**81 per cent**
5	94 per cent	86 per cent	97 per cent	**92 per cent**
6	13 per cent	2 per cent	3 per cent	**10 per cent**

Source: Ministry of Education, 2009.

The Psychological-Counseling Service department

688. The Counseling and Psychological Services ("Shefi") is a department within the Ministry of Education, which is responsible for providing counseling, psychological services, and educational counseling for pupils, parents and educators.

689. "Shefi" currently has 1,302 educational psychologists allocated to kindergartens and schools in every local authority in Israel. 1,023 psychologists work within the Jewish population and 159 work within the Arab population (in 71 centers). Among these, 71 are specialized in Educational Counseling and Psychological Services, 14 are intended to work with the Bedouin population and five are assigned to work with the Druze population.

690. As for kindergartens, "Shefi" operates an educational advisory service for kindergartners aged three to six. The guidance is given by M.A. graduate educational advisors who are trained to cope with infancy related issues.

691. As for schools, "Shefi" currently allocates approximately 4,300 educational advisors to all official educational institutions (440 of which are working with the Arab population, 70 with the Druze population and 37 with the Bedouin population).

Special education

692. As of 2009, 57,943 children with disabilities were placed in various educational facilities. This number represents 3.2 per cent of the total number of pupils (approximately 1.8 million) in Israel. 9,677 attend special education kindergartens, 27,592 study in special education classrooms within regular schools and 20,674 attend special education schools.

693. There are approximately 75,000 children with disabilities included in the regular educational system. Approximately 56,000 (75 per cent) are Jewish and the remaining 19,000 (25 per cent) are members of Israel's Arab population. The *Special Education Law* applies to approximately 133,000 children, 103,000 of whom study in regular education institutions (in regular classrooms or in special education classrooms) and 30,000 of whom study in institutions designated for children with disabilities.

Table 29
Number of pupils and classrooms in special education institutions by populations, 2009

Population	*Classrooms*	*Pupils*
Jewish	5 077	45 145
Arab	1 000	9 416
Druze	161	1 343
Bedouin	215	2 039
Total	**6 453**	**57 943**

Source: Ministry of Education, 2009.

Budget

694. The total education budget for children with disabilities in 2008 was 3,075,049,000 NIS (US$ 831,094,324). Most of the children received funding for approximately five to thirty hours of assistance per week.

Special education frameworks serving the Bedouin population

695. There are four special education schools (in Kssaife, Arara, Rahat and Segev-Shalom), three regional support centers (in Rahat, Abu-Basma and Hura), as well as 25 treatment kindergartens for special education serving the Bedouin population in the southern part of Israel. In 2008, two additional regional support centers were opened, as well as ten classes in primary schools. In addition, all primary and intermediate schools received additional reinforcement teaching hours.

696. In the northern part of Israel – a new school for pupils with severe mental deficiencies was opened, as well as six special education kindergartens. In addition, four advance classes in secondary schools were added, as well as 3,000 hours of integration.

Adjustments in matriculation exams for children with learning disabilities

697. In 2007, 62,912 of 281,511 pupils (22.3 per cent) requested adjustments in matriculation exams due to learning disabilities. The majority of the applications were approved. Among the Arab population, 3,207 pupils out of a total of 46,579 (6.9 per cent) requested adjustments and their requests were approved. Among the Druze population, 246 pupils out of a total of 5,689 (4.3 per cent) requested adjustments and their requested were approved.

Regional support centers

698. The Special Education Law is implemented equally with respect to all populations of children between the ages of three and 21. There are 68 regional support centers in the educational system, 53 of which are located in Jewish localities, eight of which are located in Arab localities, four of which are located in Bedouin localities and three of which are located in Druze localities. However, every center provides services to all populations within its region. The centers are responsible for supporting children with disabilities who have been placed in any official or unofficial institute, and are also used as a source of information.

Health services for pupils

699. The Ministry of Health and the State Association for Public Health, with the cooperation of the Ministry of Education, provide health services for pupils. These services are compliant with Section 21A of the National Health Insurance Law and Directive 5768/1 (September 2007) of the Director General of the Ministry of Education. The health services include routine check-ups, vaccinations, preventive treatments, guidance and supervision by physicians and nurses.

Table 30
The distribution of health services for pupils by population

Population group	*Allotted days/manpower*	*Per cent of pupils of the population*
Jewish	57 per cent	56.8 per cent
Arab	22.07 per cent	19.7 per cent
Ultra-Orthodox	13.4 per cent	15.66 per cent
Bedouin	4.88 per cent	5.49 per cent
Druze	2.58 per cent	2.31 per cent

Source: Ministry of Education, 2009.

Training of educators

700. There are 61 colleges in Israel for training educators, not including Universities. There are 12 State colleges, 13 Religious State colleges, eight Arab designated colleges and 28 Ultra-Orthodox designated colleges. The eligibility requirements for educator's training in the field of special education are the same for all populations. The minimum requirements for entry into special education courses are possession of matriculation certificates and a psychometric score.

Table 31
Level of education among teachers, by education systems, 2007 (per cents)

Education framework	*Hebrew education system*	*Arab education system*
Elementary schools		
University degree	56.7	52.9
Senior	19.4	19.9
Certified	4.2	4.7
Uncertified	4.0	3.9
Secondary schools		
University degree	46.7	62.6

Education framework	*Hebrew education system*	*Arab education system*
Senior	8.7	4.7
Certified	3.7	3.6
Uncertified	2.5	3.0

Source: Central Bureau of Statistics, statistical Abstract of Israel 2008.

701. During the 2008–09 academic years, 73 per cent of elementary school teachers and 84.4 per cent of secondary school teachers in the Hebrew education system were university graduates, compared with 77.4 per cent and 86.4 per cent, of their colleagues in the Arab education system, respectively.

Conditions of teaching staff

702. The following table relates to the number of teachers in the educational system, as well as the average working hours of teachers. The table reveals a continuing increase in the number of teachers throughout the education system and at all levels of education. As indicated in the following table, between the years 2000 and 2009, 9,220 teachers were added to the Hebrew education system, and 11,423 were added to the Arab education system.

Table 32
Teaching jobs and teaching staff, by level of education and average work hours per week, 1999–2008

	1999/00	*2004/05*	*2007/8*	*2008/9*
Hebrew education				
Teaching jobs				
Grand total – Absolute numbers	**106 512**	**119 426**	**121 460**	**124 516**
Pre-primary education – total	7 280	13 029	13 705	14 174
Primary education – total	47 069	49 230	50 669	51 479
Secondary education (including Intermediate education) – total	52 163	57 167	57 086	58 863
Teaching staff				
Grand total – Absolute numbers	**95 883**	**100 424**	**102 674**	**105 103**
Pre-primary education – total	9 200	9 342	9 942	10 269
Average work hours per week	25.6	24.7	24.8	24.9
Primary education – total	43 426	45 600	47 474	48 529
Average work hours per week	22.6	22.5	22.6	24.7
Secondary education (including Intermediate education) – total	43 257	45 482	45 258	46 305
Average work hours per week	21.2	22.6	22.6	22.9
Arab education				
Teaching jobs				
Grand total – Absolute numbers	**20 928**	**29 239**	**32 575**	**33 529**
Pre-primary education – total	1 161	2 528	2 797	2 985
Primary education – total	11 489	15 305	17 689	17 836

	1999/00	*2004/05*	*2007/8*	*2008/9*
Secondary education (including Intermediate education) – total	8 278	11 406	12 089	12 708
Teaching staff				
Grand total – Absolute numbers	**19 428**	**26 376**	**29 972**	**30 851**
Pre-primary education – total	1 150	2 104	2 367	2 537
Average work hours per week	28.6	25.6	25.3	25.6
Primary education – total	11 001	14 671	17 120	17 360
Average work hours per week	24.9	24.4	24.1	27.3
Secondary education (including Intermediate education) – total	7 277	9 601	10 485	10 954
Average work hours per week	23.4	24.1	23.8	24.7

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2009.

703. There are now approximately 120,894 full-time equivalent teaching posts at all levels of the Israeli pre-primary, primary and secondary education systems.

Table 33
Full-time equivalent teaching posts, 2008–09

	Total	*Hebrew education*	*Arab education*
Pre-primary education	**10 672**	8 509	2 163
Primary education	**55 013**	39 352	15 661
Secondary (including intermediate) schools	**55 209**	43 969	11 240
Total	**120 894**	**91 830**	**29 064**

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2009.

Resources in education – National expenditure on education

704. The total national expenditure on education in 2007 amounted to 56.2 Billion NIS (US$ 15,189,189,189), comprising 8.3 per cent of the Gross Domestic Product. The total national expenditure on education (in constant prices) in 2007 increased by 5 per cent following a 2 per cent increase in 2006 and in 2005 respectively.

Table 34
Distribution of pupils by classrooms and population, 2009

Population	*Elementary school (pupils)*	*Elementary school (classrooms)*	*Junior high school (pupils)*	*Junior high school (classrooms)*	*High school (pupils)*	*High school (classrooms)*
Jewish	577 747	23 032	264 597	10 205	253 661	10 077
Arab	160 306	5 541	72 597	2 459	55 272	1 956
Druze	18 132	688	8 450	297	7 203	265
Bedouin	47 942	1 694	18 678	624	11 592	417
Circassian	-	-	142	8	-	-
Total	**804 127**	**30 995**	**364 464**	**13 593**	**327 728**	**12 715**

Source: Ministry of Education, 2009.

Table 35
Average number of pupils per class, by population, 2001–2008

		Average No. of pupils per class	
Year	***Total***	*Jewish population*	*Arab population*
2001/2	**26**	26	29
2002/3	**26**	26	29
2003/4	**27**	26	30
2004/5	**27**	26	30
2005/6	**27**	26	30
2006/7	**27**	26	30
2007/8	**27**	26	30

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2002–2008.

705. The accelerated development in the number of classes has not matched the increase in the number of pupils; consequently, the average number of pupils per class has slightly risen, from 26 in 2001–2003, to 27 since 2003. Although the average number of pupils is higher in Arab localities, the average number of pupils (29–30) per class in Arab localities has remained stable during the past decade.

706. In accordance with Government Resolutions No. 1410 (March 18, 2007) and 1536 (April 1, 2007), during the years 2007–2011, 8,000 new classrooms (each measured approximately 125 Square meters) will be built and subsidized with a total budget of 4.64 Billion NIS (US$ 1,254,054,054) (including kindergartens, elementary schools, special education, and middle/high schools). Based on the expected forecast for the needs of different populations, 3,120 (39 per cent) of the classrooms will be established for the minority populations with an investment of 1.75 Billion NIS (US$ 472,972,973). Out of these 3,120 classrooms, between the years 2007–2009 a budget was allocated for the building of 1,942 classrooms for the Arab population. Note that during these years the Arab population grew by only 1,552 classrooms and therefore the establishment of 390 classrooms was budgeted beyond the natural population growth in order to minimize and close gaps in the education field.

Construction of new schools

707. In recent years there has been a steady increase in the number of schools and teachers in the Hebrew education system, as well as a significant increase in the Arab education system. The total number of schools in the Jewish population rose by 6.4 per cent (from 2,957 in 2000, to 3,145 in 2007). During these years, the total number of schools in the Arab population rose by 28.7 per cent (from 582 to 749 schools).

Construction of schools and new classrooms in the eastern neighborhoods of Jerusalem

708. In the 2009–2010 school year, 41,364 pupils attended schools in the eastern neighborhoods of Jerusalem, which constitutes an increase of 40 per cent during the last 10 years.

709. The Municipality of Jerusalem has no restrictions on development of schools in the eastern neighborhoods of Jerusalem. The Municipality is aware of the classrooms shortage in the eastern neighborhoods of Jerusalem and is working to improve the situation:

- In 2008, the municipality expropriated 5 lots in Shuafat, Wadi Joz and A-Tur, which will hold 80 new classrooms, including 8 kindergarten classrooms, 48 elementary

school classrooms and 24 junior and high school classrooms. These kindergarten and schools are in various stages of planning.

- The Municipality commenced the necessary procedures to expropriate additional 6 lots in Beit Safafa, Um-Tuba, Sheikh Jarrah, Al Tzalaa and A-Tur. These lots will accommodate 90–96 new kindergarten and elementary school classrooms.
- A new junior high school of 18 classrooms was opened in 2009 in Ras al-Amud neighborhood and another school which will include 39 new classrooms is in advanced building stages and is due to be opened in September 2010. A third school in Ras al-Amud neighborhood which will accommodate 39 new classrooms is waiting for additional budget supplements.
- The Jerusalem Municipality placed 6 mobile classrooms in Beit Safafa neighborhood.
- *Expansion of existing schools* – During 2009, the Municipality preformed an inspection of all the municipal schools in the eastern neighborhoods of Jerusalem and found that there is a further potential to expand the existing schools and add several dozens new classrooms. After receiving all the necessary permits the Municipality will be able to start the expansion.
- *Rent* – The Municipality rents numerous buildings that function as classrooms for pupils in the eastern neighborhoods of Jerusalem. Unlike construction of new schools and classrooms, which is mostly budgeted by the Ministry of Education, the rent of these buildings is budgeted almost entirely (90 per cent) by the Municipality.

  In the 2008–2009 school year, the Municipality, at the request of the neighborhood residents, rented and renovated a large lot in Shuafat. The Municipality allocated approximately 2 Million NIS (US$ 540,540) for this project and the lot is currently housing an elementary school of 20 classrooms (approximately 700 pupils). Some of the parents, who requested this particular location, later filed an administrative petition to the court against locating the school in proximity to a metal factory. The petition was rejected by the Administrative Court. However, in an appeal to the Supreme Court, the Court reversed this decision. As a result, the Municipality rented the grounds of the factory, and plans to operate an additional school there subsequent to the necessary renovations.

  In addition, recently the Municipality rented a building previously used as a retirement home in Beit Hanina. This building is currently under renovations and will be opened as a school with approximately 20 classrooms in September 2010.

  To sum up, the Municipality rented 3 new buildings to function as schools, in addition to the buildings it rented for long periods that function as schools for more than 1,500 pupils.
- 12 new schools are in advanced stages of planning. After the projects are done there will be additional 205 classrooms in the eastern neighborhoods of Jerusalem.

Higher education

710. In recent years, the rate of participation of the Arab population in higher education institutions has significantly increased, although there are still differences when compared to the Jewish population. The positive integration of the Arab population is a result, *inter alia*, of the rise in the participation of the Arab population in post high school education and the entitlement to matriculation certificates:

(a) In 2005, the rate of persons over the age of 19 with a high school certificate and an academic degree among the Arab population was 17.4 per cent, in comparison to 40 per cent in the Jewish population;

(b) In 2008, the rate of 17 year old pupils who studied in high schools was 83 per cent in the Arab population and 91 per cent in the Jewish population, in comparison to 41 per cent and 82 per cent, respectively, in 1991;

(c) In 2007, the rate of entitlement to receive matriculation certificates in the 12th grade, of 18 year old pupils was 32 per cent in the Arab population and 51 per cent in the Jewish population, in comparison to 13 per cent and 38 per cent, respectively, in 1991;

(d) In 2007, the rate of persons who were entitled to receive matriculation certificates, which is the minimum requirement for applications to universities, was 76 per cent in the Arab population and 88 per cent in the Jewish population, in comparison to 53 per cent and 82 per cent, respectively, in 1995;

(e) In 2008, the rate of Arab students in universities was 9.5 per cent, 5.3 per cent in academic colleges, 5.5 per cent in academic preparatory classes and 31 per cent in teacher training colleges;

(f) The rate of female Arab students out of the total Arab student population studying towards a bachelor's degree in higher education institutions was 40 per cent in 1990, and rose to 61 per cent in 2007. Note that the total rate of female students that year was 55 per cent. This increase is a reflection of the increase in the entitlement to receive matriculation certification among females in the Arab population, which was 45 per cent in 1985 and rose to 64 per cent in 2007, in comparison to 56 per cent in the Jewish population;

(g) Of the total student population studying towards a bachelor's degree, the rate of Arab students rose from 7 per cent in the mid-nineties to 12 per cent in 2008, and of the total student population studying towards a master's degree, the rate of Arab students rose from 3.6 per cent during the nineties to 6.3 per cent in 2008.

711. As mentioned above, since 1995, the Planning and Budgetary Committee (henceforth: the Committee) in the Council for Higher Education was operating a special program for the promotion and absorption of excellent Arab teachers, in which four to six three-year scholarships are granted annually. These scholarships are intended for young excellent Arab scientists who study in universities and other state-financed institutions. The scholars are appointed as lecturers, senior lecturers or associate professors, and the scholarship is given for the period of three years, in addition to a special grant for purchasing equipment.

712. In 2003, a permanent steering committee was established under the Council for Higher Education, with a budget of 5 Million NIS (US$ 1,351,351) per year. This Committee uses its budget to promote higher education in the Arab population, via three main activities:

(a) Scholarships for achieving excellence for Arab doctorates – each year up to 10 such scholarships are granted for a period of three years, in the sum of 52,000 NIS (US$ 14,054);

(b) Information Center – the Center's purpose is to make higher education accessible to the Arab population, by bringing candidates together, preparing them for academic studies, and advising them in regard to fields of study. In 2009–10, a national information center will be operated with a budget of 1 Million NIS (US$ 270,270);

(c) Programs for expanding the accessibility of higher education institutions – the Committee has allocated approximately 2.5 Million NIS (US$ 675,676) for supporting Arab students and promoting plans submitted by higher education institutions for that

purpose, including plans for student tutors, counseling, preparation days, academic preparatory classes, studying assistance etc. To date 20 institutions have submitted such programs each year to the Committee at a cost of approximately 20 Million NIS (US$ 5,405,405).

713. In 2006/7, 261,788 students attended higher education institutions (universities, colleges and the Open University). The following table shows the number of students in universities and their aggregation into degree, field of study, gender, age and population group.

Table 36
Students in universities, by degree, gender and population group (percentage, unless otherwise stated), 2004–2007

	2004/5	*2005/6*	*2006/7*
First degree – total			
Absolute numbers	78 247	76 707	76 155
Percentages	100	100	100
Thereof: Women	55.3	55	54.8
Population group			
Jews and others	89.9	89.4	88.8
Thereof: Jews	86.6	86.1	85.5
Arabs	10.1	10.6	11.2
Second degree – total			
Absolute numbers	35 165	34 935	33 817
Percentages	100	100	100
Thereof: Women	57.3	56.6	56.3
Population group			
Jews and others	94.5	94.2	93.9
Thereof: Jews	92.6	92.2	91.9
Arabs	5.5	5.8	6.1
Third degree – total			
Absolute numbers	9 315	9 715	9 972
Percentages	100	100	100
Thereof: Women	52.1	52.5	53
Population group			
Jews and others	96.6	96.7	96.5
Thereof: Jews	94.3	94.5	94.3
Arabs	3.4	3.3	3.5

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

714. On November 23, 2008, the Appointments Committee of the Higher Education Council bestowed the title of Professor on Haula Abu-Bakar, a teacher and lecturer at Izrael Valley College, making her the first ever female Israeli-Arab professor in Israel. Dr. Abu Bakar is seen as a trailblazing figure in the study of mental health in the Arab population, focusing on how the issues of gender, mental health and sexual violence affect the

community. Abu Bakar also authored the book "On an Unpaved Path", dealing with female Arab political leaders.

715. In August 2009, Amal Abu-Saad became the second Bedouin Israeli woman to be awarded a Ph.D. – in genetics. Since her undergraduate studies, Abu-Saad has been developing curriculum and study materials on genetic diseases and the importance of pre-natal testing. Her doctorate focused on genetic problems stemming from intermarriage in Bedouin society. Abu-Saad's master's thesis focused on teaching biology to Bedouin schoolchildren using camels. Abu-Saad is one of 17 Bedouin women who in recent years received their first degree from an institution of higher education.

Promoting the Arab population's access to higher education

716. Regarding this issue, please see Affirmative Action in Higher Education, discussed in Article 2 above.

Education in the Arab population

Administrative measures

717. The Ministry of Education constantly invests extensive efforts in the promotion of education in the Arab localities. It is the Ministry's intention to bridge the gaps between the Jewish and the Arab populations. Thus, during the 2009–10 academic year, the Ministry has adopted additional measures to achieve this purpose:

(a) Operating new programs for Arab kindergartens and elementary schools populations in order to strengthen the children's knowledge of their native tongue;

(b) In order to promote pupils' achievements in international and national subjects, the Ministry of Education added three school hours to every elementary school in the Arab localities and eight hours to every seventh grade classrooms (a sum of 37 Million school hours). Moreover, the Ministry of Education allocated an additional 195 days and 5,236 school hours dedicated to the study of Arabic, mathematics and science;

(c) The program "New Horizon" ("Ofek Hadash") that has been gradually implemented in all Israeli school since 2008, is currently implemented fully in 216 of 390 (55 per cent) Arab elementary schools and junior high schools. In addition 210,000 school hours are allocated to the Arab educational system in the course of this program. During the 2007/8 school year, nine schools in the north and 31 in the south were included in the "New Horizon" reform, followed by six schools in the north and seventeen in the south in the 2008/9 school year. This reform is intended to provide pupils with poor performance levels an opportunity to improve their performance and to fulfill their potential;

(d) Approximately 140,000 Arab and Bedouin pupils benefit from the "Karev" Program for Educational Involvement, a joint initiative of the Ministry of Education and the Karev Foundation. This foundations aims to achieve an educational-social change within Israeli society by means of enrichment activities and reinforcement of the education system;

(e) The State financed warm meals for approximately 122,000 pupils who study for extended hours (according to Government Resolution No. 2342 of August 1, 2004);

(f) 400 new teachers were added to the Arab Educational System;

(g) Five-year plans for the promotion of Arab education added hundreds of thousands of school hours for many schools, including kindergartens, amongst which are 25,000 hours dedicated to matriculation exams' studies only. Professionals were trained and placed at 200 schools, and 150 educational advisors and learning centers for the

psychometric test (the equivalent of the scholastic aptitude test (SAT)) were established for 500 pupils.

718. According to the Ministry of Education, the budget allocated to each program is equal and the allocation of resources is equal according to the size of the populations. The budget allocation for the Arab population is at least 30 per cent of the Ministry's total budgetary plan. The budget of the additional five-year plan for the Arab population is 40 Million NIS (US$ 10,810,810). Furthermore, the budget of the program for additional tutoring hours for the matriculation exams for the Arab population is 30 per cent of the total budget allocated for that purpose. An additional educational program focusing on change operated in 82 schools at all levels of education, of which 38 schools serve the Arab population – which is more than 46 per cent.

719. According to the Minister of Education and the Director General's program for the 2010 school year, additional teaching hours for grades 3, 7 and 10 were granted with due consideration being paid to equality.

Science and technology education

720. The Ministry of Science and Technology operates Regional Research and Development Centers in Arab localities. Between the years 2003 and 2008, 4,307,984 NIS (US$ 1,164,320) was allocated to the Galilee Regional Center and another 5,086,680 NIS (US$ 1,374,778) was transferred to a Center in the "Meshulash" (Triangle) region in the north. In addition, since 2005, 948,200 NIS (US$ 256,270) has been transmitted to the regional center of the Bedouins in the Negev.

721. The Ministry of Science and Technology also supports projects that promote Arab student's academic achievements. During the 2006/7 academic year, 500 financial grants were provided to Arab students. In 2007/8, an additional 300 scholarships were granted, 50 per cent of which were given to Arab students. In the 2008/9 academic year, 700 scholarships were granted, of which 480 were granted to Arab students.

722. The Ministry of Science and Technology also allocated an exceptional budget in 2008/9 in order to establish two new centers for Science Teaching in the "Meshulash" (Triangle) region in the north. In the Galilee, the budget for the 2008 fiscal year was 1.5 Million NIS (US$ 405,405) per center, in addition to a new National Research Center opened for the Druze population that was funded with 400,000 NIS (US$ 108,108).

Table 37

Financial aid granted by the Ministry of Science and Technology, 2001–2008 (by million NIS)

Project	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*
Studies in regional Research and Development centers	0.699	0.317	0.093	0.441	2.548	0.495	1.95	1.258
Operating Arab-population Research and Development centers	-	0.67	0.536	0.536	0.536	-	-	-
Support for regional Research and Development centers	0.536	0.707	0.552	0.505	0.591	0.827	0.548	0.654
Support for Bedouin regional Research and Development centers	-	-	-	-	0.3	0.3	0.3	0.15
Supplying for regional Research and Development centers	-	-	-	-	-	-	-	0 94
Minorities scholarships	1.415	1.637	0.48	0.4	0.48	0.09	0.33	0.15

Project	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*
Inauguration scholarships	-	-	-	-	-	-	2.52	2.8
Psychometric test scholarships	-	-	-	-	-	-	-	0.5

Source: Ministry of Science and Technology, 2008.

Scholastic achievements in the Arab and Druze populations

723. A certain gap remains between the Arab and Jewish populations in the rates of eligibility for matriculation certificates: In 2006, approximately 46.3 per cent of all Arab (including Bedouin and Druze) youth aged 17 were eligible for a matriculation certificate, compared with 54.9 per cent of their Jewish peers (see Tables 26 and 27 above). Differences can also be found among segments of the Arab population. For example, in 2006, 54.6 per cent of the Druze, 43.7 per cent of the Muslims and 60.9 per cent of the Christians were eligible for a certificate. As in the Jewish population, the rate of eligibility for a certificate is higher among girls in the Arab population.

724. According to data published by the Ministry of Education, a third (5 out of 15) of the most excellent high schools in Israel, during the 2008-2009 academic year, were schools belonging to the Arab population. The ranking was determined according to the rate of pupils who achieved an average of 90 and above in their matriculation exams in every school. The Arab "Al-Bayan" school in Dir al-Asad, for example, was ranked second with a rate of 40.58 per cent outstanding 12th grade pupils, and the Arab Baptist school in Nazareth was ranked fourth with a rate of 31.17 per cent outstanding 12th grade pupils.

725. According to data published by the Ministry of Education, one of the highest rates of entitlement to receive matriculation certificates in the school year 2008–2009, was in Fureidis (75.86 per cent), which is an Arab village in the Haifa District. That figure far surpasses the average rate of entitlement for matriculation certification that year, which stood at 44.4 per cent (pupils aged 17). The lowest rate in the Jewish population was in the town of Bnei-Brak (15 per cent).

The Bedouin population

726. The Bedouins living in existing towns enjoy the same rights and opportunities as other Israeli citizens, including the right to receive formal education at all levels, in accordance with the Israeli law. Indeed, their education has improved considerably over the past several years, as indicated by the information provided below.

727. Bedouins enjoy all the rights and opportunities of Israeli citizens, including the privilege to receive formal education at all levels, in accordance with the laws of Israel.

728. The above mentioned 2007 Amendment to the *Compulsory Education Law* is being gradually implemented, and high priority was afforded to the Bedouin towns, which are characterized by high dropout rates when compared with the dropout rates in the Jewish population. Priority was given to the towns of Rahat, Arara, Abu-Basma and others. One of the most important goals of this Amendment is to drastically reduce the dropout rates among female pupils.

729. Following the Ministry of Education's multi-year plan to reinforce the education system in Bedouin localities and several Government Resolutions on the matter, funding was allocated to fund new educational facilities in Bedouin localities (including kindergartens, schools and special education institutions) both in the North and the South. As part of the Ministry of Education's scheme to advance the educational framework in Bedouin localities, funding was allocated towards establishing and upgrading science and computer laboratories. Furthermore, pedagogic counsels provided assistance to school

principals in preparing the school's work plan and funding was allocated for reinforcement hours for pupils in need at all levels of education, in order to diminish pedagogic gaps and improve the rate of entitlement to matriculation certificate.

730. In addition, a program to train Bedouin teachers and assist them in the first stages of their employment was initiated in order to reinforce the teachers' status and to improve their pupils' achievements. Currently, 165 teachers have participated in the program. An additional training program for the amelioration of the teaching staff in secondary education was also initiated in co-operation with Ben-Gurion University.

731. Positive results of these efforts are apparent – the rate of 12th grade Bedouin pupils entitled to matriculation certificates increased by 6 per cent between 2004 and 2007. In addition, according to figures presented in June 2010 by the Ministry of Education, in 2009, there was an additional increase of 2.8 per cent in the matriculation eligibility rate in the Bedouin population and that rate stood at 29.4 per cent.

732. Regarding the 'New Horizon' (Ofek-Hadash) reform – Please see "Education in the Arab Population" above in Article 5E.

New educational programs

733. A new program to teach Arabic language skills in primary schools began in 2008 and will continue functioning until 2011. In addition, new educational cultural and heritage programs were added, as well as a program to teach the Hebrew language and literature in primary and secondary institutions. Furthermore, the education program in history was adjusted in order to better suit primary, intermediate and secondary schools.

734. The 'Daroma' (South) program – in 2004, the Ministry of Education commenced a program to improve educational achievements among exceptional pupils in the 10th–12th grades. In the 2008–09 school year, the program operated in five High-Schools (attended by approximately 300 pupils). The purpose of the program is to advance these pupils in Mathematics and English, and to develop their learning skills. The pupils participate in courses in academic institutions such as the Ben-Gurion University. The program also focuses on self-empowerment and activities within the community and for the community's benefit.

735. As of 2008, the Ministry of Education has financed a similar program, "Atidim", in two local authorities. In the north, a similar program entitled "Atidim Launch" operates in two local authorities. During 2009, another program for the achievement of excellence commenced operation in Kaabia High school – this program is also funded by the Ministry of Education.

736. An extra-curricular activities program is also operated in the Bedouin localities in the Negev, in conjunction with the Ministry for the Development of the Negev and the Galilee, and the Israel Association of Community Centers. The program provides scholarships for extra-curricular activities, for children in the 4th to 6th grades in the Negev.

737. In addition, two classes of diagnostic learning skills were opened, one in the college of Sakhnin (North), and the second in Be'er-Sheva (South) in the framework of the Open University funded by the Ministry of Education.

738. Psychologists – additional positions for psychologists in both regions were added but there is still a shortage of psychologists per pupils and a shortage of educational psychologists.

739. Guidance Council — since 2004, three frameworks for training guidance councils were opened — two in the North and one in the South. There has also been an addition to

the number of visitation officers in some of the authorities; however, there is still a shortage.

Table 38
Number of schools (North/South), 2007

Level of school	*North*	*South*	***Total***
Elementary	25	64	**89**
Junior high school	2	1	**3**
Junior and high school	6	13	**19**
High school	2	8	**10**
Special education (day-care centers)	1	4	**5**
Total	**36**	**90**	**126**

Source: The Ministry of Education, Supervisor of Bedouin Education, 2008.

Table 39
Number of pupils in the Bedouin population (by gender), 2007

	North			*South*		
Level of school	*Males*	*Females*	***Total***	*Males*	*Females*	***Total***
Elementary (1st-6th grades)	4 334	4 157	**8 491**	16 444	15 681	**32 125**
Junior high school	1 585	1 513	**3 098**	3 693	3 463	**7 156**
High school	1 145	1 351	**2 496**	3 833	3 616	**7 449**
Total	**7 064**	**7 021**	**14 085**	**23 970**	**22 760**	**46 730**

Source: The Ministry of Education, Supervisor of Bedouin Education, 2008.

Academic achievements

740. According to academic research conducted by the Economic Department of Ben-Gurion University in July 2009, there has been a significant improvement in the level of education over the last three decades. However, according to research, 50 per cent of Bedouin women residing in unauthorized villages in the Negev were unsuccessful in graduating high school, mainly as a result of the lack of basic infrastructures, such as roads, public transportation, high schools, electricity and health services. This situation also results in an absence of places of work in the Bedouin population. According to the research findings, the rate of Bedouin women who work is low, even in the permanent Bedouin towns (7 per cent), and most Bedouin women who work are employed in teaching, while few are employed in social services. The rate of Bedouin working men is similar to that of the total population, although most of the Bedouin men are employed in non-vocational professions, such as construction and transportation, as well as part-time jobs with a low income potential. Thus, according to the research, the poverty rate in the Bedouin population in the Negev remains high.

Tuition grants and scholarships

741. In 2008, the Ministry of Education announced its intention to grant Bedouin students studying engineering, technology and science with tuition grants and scholarships in the amount of 5,000 NIS (US$ 1,351) each for the 2008/09 academic year. The scholarships are intended to further encourage Bedouin students to pursue higher education.

742. The Authority for the Advancement of the Status of Women issued an announcement regarding the distribution of scholarships for female Bedouin students from the north, as well as for female students from the Druze and Circassian populations. These scholarships are granted in accordance with Government Resolutions No. 412 and 413 issued on August 15, 2006 and are intended for tuition in recognized academic institutions, in the fields of medicine, pharmaceutics, nursing, law, engineering, and other medical related professions. Between the years 2007 and 2008, the Authority received 800 applications for such scholarships from Druze and Circassian women, of which, following an examination process, 100 scholarships were approved and granted, and 400 applications from women of the Bedouin population in the north, of which 45 were approved and granted. The total budgetary allocation for this purpose for 2009 is 500,000 NIS (US$ 135,135), with each scholarship awarded in the amount of 6,000 NIS (US$ 1,622).

743. The Authority for the Advancement of the Status of Women in the Prime Minister's Office conducted a special survey regarding the needs of women in minority populations, and based on the results it was decided to conduct training and to empower women in these populations in varied fields, such as completion of their education, leadership, employment, business entrepreneurship and operating communal projects. Each locality, out of the 40 detailed in Government Resolutions 412 and 413, received at least two professional training courses. Approximately 30 professional courses were conducted in 2008, and 50 were conducted in 2009 (of which 15 focused on business entrepreneurship, 11 focused on empowerment issues and four focused on completing education).

744. Moreover, in accordance with the abovementioned survey, the Authority conducts workshops focusing on various issues in these localities, including: parental authority, first aid, prevention of domestic accidents and couples communication. There are also workshops conducted in high schools on issues of respect, etc.

Education for the Bedouin population in the South

745. The Bedouin population in the Negev is composed of eight local authorities: Abu-Basma, Hura, Lakia, Kssaife, Arara, Rahat, Segev-Shalom and Tel-Sheva. In 2009, there were 72,460 pupils in the educational institutions of the Bedouin population in the Negev, in comparison with 45,117 pupils in 2001. Since 2001 there has been an increase of approximately 70 per cent in the number of educational institutions established in Bedouin localities in the Negev. During the same time there was a decrease of 4 per cent in the establishment of Jewish educational institutions.

Table 40
Number of pupils and educational institutions in the southern Bedouin population, 2009

Local authority	*Kinder-gardens*	*Pupils*	*Elementary schools*	*Pupils*	*High schools*	*Pupils*	*Special education schools*	*Pupils*	***Total institutions per authority***	***Total pupils per authority***
Abu-Basma	132	3 854	26	14 432	4	837	-	-	**162**	**19 114**
Hura	45	1 337	5	2 557	3	1 977	1	92	**54**	**5 963**
Lakia	33	910	4	2 339	2	1 642			**39**	**4 891**
Kssaife	35	1 004	5	3 230	2	2 464	1	65	**43**	**6 763**
Arara	39	1 131	6	2 798	2	1 865	1	58	**48**	**5 852**
Rahat	102	2 898	16	10 920	4	4 455	1	126	**123**	**18 399**
Segev Shalom	29	715	4	2 488	2	2 083	-	-	**35**	**5 286**

Local authority	*Kinder-gardens*	*Pupils*	*Elementary schools*	*Pupils*	*High schools*	*Pupils*	*Special education schools*	*Pupils*	***Total institutions per authority***	***Total pupils per authority***
Tel-Sheva	49	1 343	4	3 075	3	1 775	-	-	**56**	**6 193**
Total	**464**	**13 192**	**70**	**41 830**	**22**	**17 097**	**4**	**341**	**560**	**72 460**

Source: Ministry of Education, the Southern Educational locality, 2009.

Table 41
Number of educational institutions in the southern district, 2000–2009

Population group	*Education phase*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*
Jewish	Kindergarten	1 130	1 148 (+18)	1 128 (-20)	1 132 (+4)	1 114 (-18)	1 094 (-20)	1 084 (-10)	1 093 (+9)	1 129 (+36)	1 130 (+1)
	Elementary school	274	277 (+3)	271 (-6)	271 (0)	269 (-2)	267 (-2)	261 (-6)	260 (-1)	260 (0)	263 (+3)
	High school	113	122 (+9)	122 (0)	95 (-27)	100 (+5)	94 (-6)	93 (-1)	97 (+4)	95 (-2)	99 (+4)
Total		**1 517**	**1 547 (+30)**	**1 521 (-26)**	**1 498 (-23)**	**1 483 (-15)**	**1 455 (-28)**	**1 438 (-17)**	**1 450 (+12)**	**1 484 (+34)**	**1 492 (+8)**
Arab	Kindergarten	198	263 (+65)	317 (+54)	365 (+48)	398 (+33)	413 (+15)	445 (+32)	461 (+16)	452 (-9)	459 (+7)
	Elementary school	51	53 (+2)	55 (+2)	55 (0)	56 (+1)	66 (+10)	70 (+4)	73 (+3)	76 (+3)	79 (+3)
	High school	13	15 (+2)	18 (+3)	20 (+2)	21 (+1)	20 (-1)	20 (0)	22 (+2)	22 (0)	23 (+1)
Total		**262**	**331 (+69)**	**390 (+59)**	**440 (50+)**	**475 (+35)**	**499 (+24)**	**535 (+36)**	**556 (+21)**	**550 (-6)**	**561 (+11)**

Source: Ministry of Education, the Southern Educational locality, 2009.

746. In 2000, the Southern Department in the Ministry of Education began to implement a five-year plan for promoting the education system in the Bedouin population. The plan includes bridging gaps between the Bedouin population and the Jewish population. The purpose of the plan is the achievement of better results in schools, the improvement of school environments and the prevention of violence. The plan also trains educators; extends and improves teaching hours and learning techniques, raises the quality of education, and provides additional technological equipment.

Table 42
The plan for promotion of education in the southern Bedouin population – activities and budget, 2007–2009 (NIS and US$)

Subject	*Activity*	*2007 budget*	*2008 budget*	*2009 budget*	***Total budget***
Promoting pupils' achievements	Supervising pupils' achievements	1 038 000 NIS $280 541	151 204 NIS $40 867	-	**1 189 204 NIS** **$321 406**
	Reinforcing core studying subjects	4 300 300 NIS $1 162 243	3 086 500 NIS $834 189	3 770 000 NIS $1 018 919	**11 156 500 NIS** **$312 568**
	Developing teleprocessing skills	840 000 NIS $227 027	-	-	**840 000 NIS** **$227 027**

Subject	*Activity*	*2007 budget*	*2008 budget*	*2009 budget*	***Total budget***
Training educators	Educators' professional development	540 000 NIS $145 946	400 000 NIS $108 108	570 000 NIS $154 054	**1 510 000 NIS** **$408 108**
	Localities accompanists	-	-	90 720 NIS $24 519	**90 720 NIS** **$24 519**
	Trainings	450 000 NIS $121 622	189 000 NIS $51 081	254 700 NIS $68 838	**893 700 NIS** **$241 541**
	Training and qualifying educational advisors	1 400 000 NIS $378 378	-	-	**1 400 000 NIS** **$378 378**
Supplying	Reading books for 1st–2nd grades	821 100 NIS $221 919	-	-	**821 100 NIS** **$221 919**
	Upgrading science labs and technology	856 000 NIS $231 351	759 500 NIS $205 270	-	**1 615 500 NIS** **$436 622**
Total		**10 245 100 NIS** **$2 768 946**	**4 586 204 NIS** **$1 239 515**	**4 685 420 NIS** **$1 266 330**	**19 516 724 NIS** **$5 274 790**

Source: Ministry of Education, the Southern Educational locality, 2009.

747. In recent years, the Ministry of Education conducted various activities for children of all ages. These activities included developing and improving learning skills in Arabic, Hebrew, English, mathematics and sciences, and also computerizing the school learning environment.

748. In addition to the expanded five-year plan, the Ministry of Education is investing significant efforts in the prevention of Bedouin children from dropping out of school. The Ministry of Education operates several educational treatment centers for youth at risk or minors outside the education framework. These services locate potential dropouts, conduct workshops for parents and insist on teaching methods that accord with pupils' needs. The dropout rate in the Bedouin population in the Negev has decreased from 9.4 per cent in 2004 to 6.7 per cent in 2008.

Table 43
Dropout rates in the southern Bedouin population, 2003–2008 (per cents)

School year	*National*	*Southern district*	*The Bedouin population in the South*	*Bedouin boys*	*Bedouin girls*
2003–2004	4.3	4.5	9.4	9.4	9.4
2004–2005	3.6	3.8	8.3	9.3	7.2
2005–2006	4.4	4.8	8.4	9.6	7.0
2006–2007	3.6	3.6	6.7	7.5	5.9
2007–2008	3.1	2.8	6.7	8.3	5.1

Source: Ministry of Education, the Southern Educational locality, 2009.

Table 44
The budget for establishing classrooms, 2002–2007

Year	***Total classrooms***	*Classrooms for the Bedouin population in the South*	*Rate of Bedouin pupils out of the total pupils*
2002	**3 265**	182 (5.6 per cent)	2.79 per cent

Year	***Total classrooms***	*Classrooms for the Bedouin population in the South*	*Rate of Bedouin pupils out of the total pupils*
2003	**455**	6 (1.3 per cent)	2.98 per cent
2004	**778**	110 (14.1 per cent)	3.1 per cent
2005	**1 283**	35 (2.7 per cent)	3.27 per cent
2006	**1 312**	119 (9.1 per cent)	3.41 per cent
2007	**1 573**	183 (11.6 per cent)	3.57 per cent
Total	**8 666**	**635 (7.3 per cent)**	**-**

Source: Ministry of Education, the Southern Educational locality, 2009.

Abu-Basma regional council

749. Abu-Basma regional council was officially declared on February 3, 2004. It was founded for five of the new Bedouin towns mentioned above, and it is also responsible for ten Arab villages, six of which are Bedouin villages.

750. Government Resolution No. Arab/40 3956 of July 18, 2005, assigned Abu-Basma regional council with attending to the Bedouin population's needs in areas such as education, infrastructure, employment, transportation, agriculture etc., established a total budget of 387.7 Million NIS (US$ 104,783,784) for the development of infrastructures and the building of public structures in Abu-Basma and Al Sid localities between 2005 and 2008. The budget included 285 new school and kindergarten classrooms which will be operated by the Abu-Basma Regional Council, targeted and specialized educational programs with a budget of 3 Million NIS (US$ 810,811). Between April 2004 and July 2008, the establishment of two kindergarten classes in three different localities (a total of six classes) was completed; four additional classes are currently under construction. 66 new primary school classes were established in different localities, 42 additional classes are currently under construction, ten of which are nearing completion, and 16 additional classes are still being planned. Government Resolution No. 4088 of September 14, 2008 extended the duration of Resolution No. 3956 until the end of 2009, in order to use the entire budget allocated for the abovementioned plans.

751. Government Resolution No. 724 of August 9, 2009 approves a five-year-plan to improve accessibility to public services and educational centers in the regional council of Abu-Basma, and the public service centers scattered throughout the Bedouin villages in the south. The total budget for these plans amounts to 68.5 Million NIS (US$ 18,513,514) over the course of the years 2009–2013, with 13.7 Million NIS (US$ 3,702,703) distributed per year.

752. The Abu-Basma Regional Council is responsible for the education of the Bedouin population in southern Israel. In the Council's school system there are 25 elementary schools with an average of 700 pupils per school and three high schools with 100 pupils each. Recent data indicates that immediately after the establishment of regional schools in the Council's towns and villages, the dropout rate due to the transfer from elementary schools to high schools had been eliminated completely. The dropout rate due to the transfer from elementary schools to high schools previously stood at 50 per cent, with a majority of the dropouts being female.

The situation in the unauthorized Bedouin villages

753. Since 2004, three high schools were established for the first time in the unauthorized villages of Abu-Krinat, Al-Huashlla and Bir-Hadge. These schools were connected to the main electricity network, and access roads were paved towards them. The schools'

establishment contributed greatly to the prevention of dropout rates, especially among Bedouin girls, who previously were not sent to school by their parents, due to the distance of the school from the village and Bedouin religion and tradition. In addition, since 2004, 14 inspectors' positions were added, including general and vocational inspectors for schools in Bedouin localities, in order to improve the quality of education in these localities.

754. Recently, Israel Electric Corporation began connecting el-Mustakabal and el-Aasam b' schools which operate in the unauthorized village of Abu-Talul to the national electricity grid. The corporation is also working to connect el-Amal school in the village Hirbat el-Watan and additional schools in other unauthorized villages in the Negev. These steps were taken following a petition to the High Court of Justice by Adalah in July 2009. Following the State's notification to the Court in February 2010 that the necessary works for connecting the schools to the national grid were completed, and that the schools would be connected within several days, the Court stated that the remedy requested in the appeal had been provided, and therefore rejected the appeal (*H.C.J. 5475/09 Aiub Abu-Sabila et al. v. The Ministry of Education et al.* (10.3.10)).

Foreign workers' children

755. In 2007, approximately 1,000 children of foreign workers lived in Israel. According to Directive No. 5760/10(a), issued by the Director General of the Ministry of Education and dated June 2000, the *Compulsory Education Law* applies to all children living in Israel, regardless of their status in the Population Registry. Children of asylum seekers and other infiltrators are also integrated into Israel's educational system.

756. As of June 2009 there are 1,431 children of foreign workers who study in schools and kindergartens. Among them are 956 schoolchildren and 475 kindergarten children.

Table 45
Distribution of children of foreign workers by grades, 2009

Grade	*Elementary school*	*Junior high school*	*High school*	*Total*
Kindergarten		-	-	475
1	150	-	-	150
2	104	-	-	104
3	85	-	-	85
4	78	-	-	78
5	70	-	-	70
6	60	-	-	60
7	19	34	-	53
8	17	30	-	47
9	2	28	23	53
10	-	-	92	92
11	-	-	115	115
12	-	-	47	47
13	-	-	2	2
Total	**585**	**92**	**279**	**1 431**

Source: Ministry of Education, 2009.

6. The right to equal participation in cultural activities

A National Library

757. On November 26, 2007, the Knesset enacted the *National Library Law* 5767-2007 (the "*National Library Law*") declaring the library under this name which was operated by the Hebrew University to be the National Library. Prior to the Law, the library at the Hebrew University served as a de-facto national library but was not legally recognized as such. According to the Law, the National Library is intended to accumulate, preserve, nurture and bequeath knowledge, heritage and culture resources, in general, and those linked to the State of Israel, the land of Israel and the Jewish people, in particular.

Jewish heritage

758. In January 2007, the Knesset approved the creation of two national heritage authorities, for the heritage of the Jewish community of Bukhara and for the heritage of the Jewish community of Libya. Each of these authorities are mandated to preserve the cultural heritage of each community concerned, and to research and document it (The *National Authority for the Cultural Heritage of the Bukhara Jewish Community Law* 5767-2007, and the *National Authority for the Cultural Heritage of the Libyan Jewish Community Law* 5767-2007).

759. On December 6, 2005, the Knesset enacted the *Diaspora Museum Law* 5765-2005, recognizing the Diaspora Museum in Tel-Aviv as the national center for Israeli communities in Israel and abroad. The Law serves to guarantee the continued functioning of the museum. According to the Law the Diaspora Museum's functions and responsibilities are to present items relating to Israeli communities and to the history of the Jewish people, to conduct research and to accumulate knowledge on issues relating to the Jewish people. In addition, its roles include the creation of a reservoir of genealogical trees and family names of Jewish families in the world, and the creation of a database of Jewish communities in the world and their history. The Minister of Education, Culture and Sport is in charge of executing this law, and under the Law the State shall participate in funding the Diaspora Museum.

760. The *Council for Commemoration of the Jewish Sephardic and Eastern Heritage Law* 5762-2002, was enacted on November 13, 2002. According to the Law, the Prime Minister and the Minister of Religious Affairs will appoint the Council for Commemoration of the Sephardic and Eastern Heritage, the role of which will be to advise the Ministers regarding the promotion, assistance, and encouragement of activities relating to the heritage of Sephardic Jewry.

761. On July 9, 2008, the Knesset enacted the *Sigd National Holiday Law* 5768-2008, which will be celebrated every year on the 29th of the Hebrew month of Cheshvan. The Sigd is a traditional Ethiopian fast day, dedicated to prayers for the rebuilding of the Temple and to the giving of thanks for the right to return to the Holy Land. The fasting ends mid-day with a festive meal. The Ethiopian community in Israel celebrates the holiday by holding a mass ceremony on Mount Zion in Jerusalem, followed by a procession to the Western Wall. In recent years, the ceremony has been held at Jerusalem's Armon Hanatziv Promenade.

Arab heritage and culture

762. On March 21, 2007, the Knesset approved the *High Institute for the Arabic Language Law* 5767-2007 (the "*High Institute for the Arabic Language Law*"), under which, the Arabic Language Academy was established (in December 2007). Among its functions, the Arabic Language Academy is charged with researching the Arabic language

and its cultural and historic sources, and promoting the study of terminology, grammar, vocabulary, pronunciation and transcription. The Academy also addresses the reality of computerized linguistics. According to the Law, the Institution's activities are financed by a State budget.

763. **The Ministry of Culture and Sport.** The Ministry accords high priority to the promotion of cultural activities among the Arab population, both as creators and as consumers of culture; and to the promotion of qualitative art by Arab artists. The aims of the Cultural Administration within the Ministry include, among others:

- To encourage the consumption of art and culture while ensuring the exposure and accessibility of the entire population of Israel to these elements
- To nurture pluralism and multicultural dialogue
- To nurture and express the culture of Israeli communities and the different sectors of Israel's population

764. The budget for cultural activities is allocated according to a policy which emphasizes the promotion of qualitative and professional cultural activities, and includes all Israeli citizens in the process of the formation of culture making. The budget is divided between all eligible cultural bodies in accordance with relevant eligibility tests.

765. The eligibility tests are open to all cultural institutions in Israel, without discrimination based on language, geographic location, the identity of the artists or the identity of the organs receiving the support. This fact is specifically mentioned in the eligibility tests conducted by the Ministry.

766. All of Israel's cultural institutions are open to all Israeli citizens regardless of their ethnicity or religion. All Israeli citizens are welcome to enjoy the activities conducted by these institutions and to take an active part in the activities. The list of cultural institutions and persons that receive governmental support includes numerous figures that operate within the Arab population, authors who write in Arabic and institutions that are identified with the Arab population. For example:

(a) The theaters "Al-Midan" and "Beit Hagefen";

(b) "The Museum for Islamic Art" and the "Daroma" association which operate the "Museum for Bedouin Culture" in the Negev;

(c) Many festivals for the Arab population receive support under the Festival Regulation, including the "Abu-Ghosh" festival and the "Masrahid" festival in Acre;

(d) The "Al-Zitoon" association receives support for the conservation of the "Sisters of Nazareth Convent";

(e) The "Association for Promotion and Cultivation of Arab Music";

(f) The Nazareth Cinemateque "Alsana";

(g) The Israeli Center for Libraries operates special enterprises for Arabic literature and children's literature in Arabic in the Arab community. Dozens of public libraries for the Arab population receive a large portion of their funding from the Administration;

(h) In addition, these institutions, among many others, have received funds for renovations. Additionally, institutions that were damaged during operation "Cast Lead" received special funding for renovations.

767. Furthermore, the aforementioned eligibility tests establish affirmative action mechanisms, including: preference which is afforded to works written in Arabic (under the

theater and literature eligibility tests), and a preference which is afforded to artworks that address issues concerning the Arab population and which contribute to the multicultural dialogue (under the music and cinema eligibility tests) among others. Nearly all the eligibility tests (excluding two) are intended to promote cultural institutions belonging to the Arab population.

768. Note that the relevant advisory committees to the Minister of Culture and Sport, who advise on issues concerning the application of the eligibility tests for financial support, all include Arab representatives. In addition, the Administration includes a division which is in charge of the promotion of Arab culture and a division which is in charge of the promotion of Druze and Circassian culture.

769. There are two eligibility tests for the receipt of financial support, which incorporate affirmative action mechanisms for the benefit of the Arab, Druze and Circassian populations: the eligibility test for the distribution of funds by the Ministry of Culture and Sport to public institutions that promote Arab culture, and the eligibility test for the allocation of funds to public institutions.

770. The eligibility tests for the receipt of financial support for the promotion of Arab culture were updated and published in 2008, after intensive consultations with the relevant personnel within the Administration and the Attorney General. The aims of these eligibility tests are: (1) to increase the awareness of the Arab population of all forms of artistic and cultural creations and to encourage their participation in the creative process; (2) to encourage the foundation, development and activities of cultural and artistic institutions among the Arab population, which strive to achieve quality, excellence and uniqueness; (3) to preserve, spread, develop and promote cultural and artistic traditions of the Arab population (Section 3 of the eligibility tests for the receipt of financial support of Arab culture).

771. The Arab and Druze institutions that qualify for financial support according to the two specific eligibility tests allow the Ministry to allocate specific budgets for professional cultural institutions, which are only eligible to receive limited funding; new or small institutions that are otherwise ineligible for any financial support and communal cultural activities and institutions of popular culture. The latter is very similar to communal culture regulation but is intended only for the Arab population. By comparison, in 2009, the budget for cultural projects within the community for the general population stood at 7 Million NIS (USD $1,891,892), while the budget for cultural projects within the Arab and Druze populations stood at 11.9 Million NIS (USD $3,216,216).

772. The Ministry is currently updating the eligibility tests used to determine whether to grant financial support to cultural institutions; and the updated tests are scheduled to be published by the end of 2010.

773. Furthermore, every year, the Ministry of Culture and Sport grants awards in the total amount of 600,000 NIS (USD $162,162) to artists from the Arab population. These awards are granted independent of the artists' ability to nominate themselves for the receipt of other awards granted in various cultural fields.

774. *The Department for Arabic Culture in the Ministry of Culture and Sport* – The object of the Department is to promote and develop Arab culture while preserving its cultural and ethnic uniqueness. The Department achieves its aims by encouraging and financing many activities, events and projects. The Department supports Arab writers, theaters, publications, colleges, research centers for the Arabic language etc.

775. The following table provides data regarding activities that were financed by the Ministry of Culture and Sport.

Table 46
Activities financed by the Ministry of Culture and Sport, as of July 2009

Activity	*Description*	*Cost (NIS)*	*Cost (US$)*	*Notes*
Providing financial resources to leading sporting groups in the Arab population	Renovation of sporting facilities and adapting them so as to meet the requirements of the groups and providing proper equipment	1 000 000	270 270	-
Establishment of sport facilities	Building sport yards and playing courts in Arab neighborhoods	4 200 000	1 135 135	-
Sport classes for youth and women	Providing financial resources for sport classes for youth and women in the Arab population	1 000 000	270 270	Assists local authorities to cope with financial difficulties in financing special sporting activities
Professional training	Training professional manpower in several areas of sport among the Arab population	1 750 000	472 973	-
Providing sports scholarships	Allocation of scholarships for students attending teachers training institutions, who in return provide tutoring in schools in Arab localities	500 000	135 135	Providing assistance for students and encouraging them to contribute to their communities
Providing financial resources for sports tournaments and sports festivals in the Arab population	-	400 000	108 108	-
Providing financial resources for building sports facilities	Providing financial resources for the renovation of sports facilities in the Arab localities	15 000 000	4 054 054	In addition to the project to renovate sports facilities in the Negev and the Galilee

Source: The Ministry of Culture and Sport, January 2009.

Table 47
Additional sporting activities financed by the Ministry of Culture and Sport within the Arab population

Activity	*Description*	*Years*	*Total allocation*	*Remarks*
Building sport yards and combined courts	According to the relevant Government Resolution regarding the building of sport yards in Arab and Bedouin localities in the Negev and the Galilee, an Inter-Ministerial team was established and 18 Million NIS (US$ 4 864 865) was allocated to realize this end. During 2008–9, 22 combined sport yards were built and some are still under construction)	2008–9	15.6 Million NIS (US$ 4 216 216)	-
Promotion of sports classes	Subsidizing sports classes for women and children in the Arab population	2008	1 000 000 NIS (US$ 270 270)	Additional sums are allocated through the “sport basket” each year
Subsidizing courses for training coaches	The physical education college in Wingate institute was chosen following a tender process to train coaches and guides in the Arab population	2009	314 000 NIS (US$ 84 865)	So far, 208 coaches and guides were trained in three major sporting fields: swimming, boxing and basketball
Supporting major sport events	Holding big sport events both for the Arab population and joint Arab and Jewish populations, such as women’s walks, chess tournaments, horseback riding etc.	2008	1 000 000 NIS (US$ 270 270)	Additional sums are allocated through the “sport basket” each year
Holding the Ramadan league	In light of the month of Ramadan, annual tournaments in several areas of sport are held including soccer, women’s basketball, volleyball and more. Several tournaments are also held for amateur groups	Every year since 2004	70 000 NIS (US$ 18 919)	Over 300 players took part in the last event.
Fitness facilities for the elderly population	Building fitness facilities for the elderly population in public gardens throughout Israel	2008–9	12 Million NIS (US$ 3 243 243) of which 1.92 Million NIS (US$ 518 919) for the Arab population	So far, 16 out of 100 facilities have been built in Arab localities.

Source: The Ministry of Culture and Sport, January 2009.

Druze and Circassian heritage and culture

776. On June 4, 2007, the Knesset enacted the *Druze Cultural Heritage Center Law* 5767-2007, aimed at facilitating the establishment of a Druze Cultural Heritage Center in Israel. According to the Law, the Government is to designate the necessary budget for the establishment, operation and maintenance of the Center. The Center shall include a research institute, a museum and an archive of Druze heritage, culture and history. The Center will develop and promote research activities as well as educational programs, including tours, lectures, conferences and exhibitions geared towards developing, enriching and promoting knowledge relating to the different aspects of the Druze culture, history and heritage.

777. **The Ministry of Culture and Sport**. The object of the Department for Druze and Circassian Culture in the Ministry of Culture and Sport is to promote, encourage and develop the Druze and Circassian culture and folklore while preserving their cultural and ethnic uniqueness. The Department encourages the attainment of excellence by granting two awards for Druze and Circassian artists in the fields of literature, art and research. The Department fosters art and cultural creation in peripheral areas by encouraging cultural activities among the weaker segments of the population. In addition, the Department encourages pluralism and multiculturalism through the promotion of festivals, workshops, etc., in various areas of art, including through holding youth meetings and activities. The Department promotes the exposure of the works of artists and creators of the Druze and Circassian population, promotes the establishment of and subscription to Druze and Circassian theatre and music clubs, and promotes exhibitions by Druze and Circassian artists. The Department also grants financials support to cultural institutions.

The role of mass media and communication in promoting participation in cultural life

778. The Council for Cable TV and Satellite Broadcasting is a public council established under the *Telecommunications Law (Bezeq and Broadcasts)*. Its fundamental task is to regulate the Israeli Cable and Satellite multi-channel subscriber television by representing, protecting and promoting the public interest in this field. The public interest includes ensuring the maximization of diversity and pluralism in broadcasting channels and the content they offer; the improvement of technologies and services; increasing the supply of content and freedom of choice for subscribers; developing and producing original Israeli content; minimizing prices, etc.

779. The realization of these targets in turn ensures that Israeli citizens who subscribe to multi-channel television participate in local cultural life and are exposed to foreign cultural life. Between the years 2001–2007, subscribers included (on average) approximately 80 per cent – 85 per cent of Israeli households.

Initiating and granting licenses for designated channel broadcasting

780. The Council for Cable TV and Satellite Broadcasting has granted designated channel licenses to a Russian-Speaking channel and an Israeli music channel. These channels are financed by way of broadcast commercials (as opposed to all multi-channel TV channels that are financed by way of receipt of subscribers' fees). Each channel is unique, and has its own specific characterization, designed to enable the expression of an array of specific cultural niches of Israeli society. Hence, the production and broadcast of these channels holds important national and democratic significance. In 2008, the Council decided to re-issue previous tenders for licenses for an Israeli Arab-speaking channel and a Jewish Tradition channel, which tenders had not yet been finalized.

The development and production of original Israeli content

781. The Council for Cable TV and Satellite Broadcasting is responsible for ensuring that Cable and Satellite TV licensees invest between 8 per cent–12 per cent of their annual income towards the production of original Israeli content of various genres, and decides and declares the specific requirements to be satisfied in the fulfillment of this obligation.

782. The development of the local production industry has, and continues, to broaden the array of modes and means of expression of the multitude of cultures, tastes and opinions within the Israeli public, enriches Israeli culture, enables varied representations of current issues, and strengthens the grasp of modern Hebrew as well as offering broadcasting in other languages which are widely used in Israel such as Arabic, Russian and Amharic.

Community TV broadcasting

783. The Council for Cable TV and Satellite Broadcasting promotes, regulates and supports the broadcasting of community programming, produced mainly by volunteers of various local communities, including community centers, elderly people, new immigrants, students, various religious groups, independent groups etc.

784. The broadcasts allow the participants and the communities to express themselves on screen and present their interests, activities and talents, and thus participate in cultural life. It also allows the general public to familiarize itself with these communities, including the obstacles they face and their achievements, which otherwise may not receive public exposure.

The Second Authority for Television and Radio

785. In accordance with Section 46 (a) (2) of the *Second Authority for Television and Radio Law*, the holders of licenses for cable TV services must not transmit any broadcast which contains racial incitement. They are further bound to take any measure necessary to ensure that no broadcast is liable to incite to discrimination on grounds of religion, race, nationality, community, lifestyle or origin.

786. According to Section 3 (a) of the *Second Authority for Television and Radio (Ethics in Radio Broadcast Commercial) Rules* 5759-1999 (the "*Second Authority for Television and Radio (Ethics in Radio Broadcast Commercial) Rules*") and Section 5 of the *Second Authority for Television and Radio (Ethics in Telecast Commercial) Rules* 5754-1994 (the "*Second Authority for Television and Radio (Ethics in Telecast Commercial) Rules*"), the holders of licenses for radio and television broadcasts must not transmit any commercial which contains racial incitement, or incitement to discrimination or to offensiveness towards a person or a group of persons.

787. In addition, Section 15 of the *Second Authority for Television and Radio (Ethics in Radio and Television Broadcast) Rules* stipulates that the holders of a license for radio and television services must not indicate during a broadcast the ethnic origin or group, religion, race, nationality, gender, social status, physical or mental disabilities, political views, organizational membership, family relations, or sexual inclination of a person, when such indication may harm that person, unless the details are relevant to the subject of the broadcast. and subject to any law.

788. The Second Authority for Television and Radio consistently conducts comprehensive surveys to examine the level of representation of minorities in the media. These surveys help to improve the representation patterns of commercial channels by requiring the franchisers to appropriately represent minorities in broadcasts, as well as encourage them to employ members of minority groups.

789. In 2004, the Second Authority for Television and Radio held a study titled "The absent and the present in prime time viewing time – cultural diversity in broadcasts of the commercial channels in Israel", which examined the representation of minority groups on commercial channels during prime time hours in various genres aired. The study showed an unsatisfactory level of representation of the minority populations in all genres, particularly Arabs, Ultra-Orthodox Jews and new immigrants.

790. As a result of the study, the Second Authority began to operate in order to increase the level of representation of minority populations on commercial channels, and held several public debates on the matter. The Second Authority decided to continue to monitor the situation, and to encourage employment of persons belonging to minority populations in the media field.

791. The franchisers of the Second Authority for Television and Radio consistently address human rights issues and issues regarding prohibitions against discrimination. Such content is continuously included in news magazines and current events programs, and opportunities for expression are afforded to persons of all regions, populations and socio-economic status in Israel.

792. Below are some of the programs and broadcasts dealing with issues relevant to minority populations:

(a) "Arabic Labor" – a prestigious drama series which was broadcast at prime time and dealt with the difficulties faced by an Israeli-Arab in Israel. The program dealt with issues of discrimination, racism, human rights and other important issues. A second season is being produced;

(b) "Sibling Rivalries" – a series that deals with internal social debates, in order to change stereotypical attitudes held towards minority populations;

(c) "National Guard" – a documentary/action program that presents important social issues such as: equal rights for persons with disabilities, and discrimination against Arab-Israelis;

(d) During the radio broadcast "The Chosen Ones", which is hosted by the Director General of "100FM Radio Station", elected public officials who represent different Israeli population groups are interviewed weekly, regarding issues related to the human rights of minority populations and steps taken to advance these populations;

(e) The "90 FM Middle of the Way" radio station also broadcasts numerous programs concerning the prohibition against racism and discrimination, such as: interviews and broadcasts regarding discrimination which is employed against individuals' entering public places such as clubs; the coverage of court cases which relate to human rights issues, broadcasting stories and articles regarding new immigrants from Ethiopia and the needs of the Ethiopian population in Israel, and articles regarding the rights of persons with disabilities. Note that "90 FM" received an award from the Israeli President for adopting and assisting the "Akim" association – a national association for the advancement of persons with mental disabilities in Israel.

Israel Broadcasting Authority (IBA)

793. "Kol Israel" radio station is a part of the Israeli Israel Broadcasting Authority and is required by law to air artists of different styles, and broadcast programs in Amharic, Russian and other languages on a regular basis. The station is committed to objectivity and to raising public awareness of human rights issues by hosting discussions of controversial matters For instance, recent debates held concerning a dispute that arose between certain private schools in the central region of Israel and the Ethiopian community were broadcasted broadly by the majority of networks.

Approvals for broadcasting by foreign television channels

794. The number of foreign TV channels offered to Israeli viewers was approximately 50 in the year 2002. Between the years 2002 and 2007, the airing of 40 additional foreign channels was approved.

795. The importance of ensuring participation in the media is reflected in the legislation regulating the activities of the two main T.V. authorities in Israel:

(a) *The Broadcasting Authority Law* 5725-1965 directs that TV programs in Arabic are required to meet the needs of the Arabic-speaking population and to promote understanding and peace with Israel's neighboring states;

(b) As mentioned in Israel's thirteenth Periodic Report, the *Second Authority for Television and Radio Law* was amended in March 2000, and a requirement was inserted to broadcast programs in Arabic and Russian, either by way of speech or translation. The amendment stipulates that a minimum of 5 per cent of the total amount of broadcasts must be in each language (Section 4 of the first addendum), as reported above in this Article on the *Second Authority for Television and Radio Law*. The amendment has also changed the Second Authority's functions and duties. They now include catering to the needs of the Arabic-speaking population, promoting peace and understanding with neighbouring states, and providing a proper venue for showcasing the cultural diversity of Israeli society (Section 5 of the Law).

Developments concerning accessibility of persons with disabilities to television broadcasts

796. The *Television Broadcasts (Subtitles and Sign Language) Law* 5765-2005, instituted a comprehensive statutory scheme in this field, thereby replacing its predecessor, the far narrower *Deaf Persons Relief Law* 5752-1992. The new Law applies broader responsibilities and restrictions on broadcasters in order to enhance, to the fullest extent, disabled persons' accessibility to television broadcastings.

797. In 2008, the Council for Cable TV and Satellite Broadcasting, a public body established under the *Telecommunications Law (Bezeq and Broadcasts)*, decided to adopt a separate definition of "prime-time" for children's channels, so that the requirement for subtitles would coincide with the relevant viewing hours for children with hearing impairments. The Council also agreed upon a list of children's programs of major interest that would be subtitled.

The status of the Arabic language

798. As mentioned above, on March 21, 2007, the Knesset approved the *High Institute for the Arabic Language Law*, according to which, the Arabic Language Academy was established (in December 2007). Among its functions, the Arabic Language Academy is charged with researching the Arabic language and its cultural and historic sources, and promoting the study of terminology, grammar, vocabulary, pronunciation and transcription. The Academy also addresses linguistic innovation and the adaptation of the Arabic language to the modern, computerized reality. According to the Law, the Institution's activities are to be financed by the state budget.

799. Arabic is one of the core subjects in the Israeli education system and it is obligatory between the 7th and the 10th grades. In recent years there has been a significant increase in the number of pupils who are taking the matriculation exam in Arabic (5 study units). In 2009–10 school year 2,187 pupils took this exam compared to 1,516 pupils who took the exam in 2008–09 school year. In recent years there has also been an increase in the number

of elementary schools which chose to teach Arabic. Currently there are 140 elementary schools in which Arabic is being taught as an elective course.

800. In light of the growing demand for the teaching of Arabic from high schools pupils, elementary schools principals and heads of local authorities, on august 2010, the Ministry of Education decided to expand the number of Arabic (including the Arab world and Islam) teaching hours in high schools by 2,300 hours. In addition, it was decided that Arabic will be an obligatory subject in the 5th grade in Haifa and the northern district – in which the rate of the mixed population is high in comparison to other districts. The Ministry of education intends to gradually expand this decision to additional districts.

801. For this purpose Arabic teachers are hired by the Ministry and are trained to teach Arabic as a second language (and not as a native tongue).

Case law

802. **Official documents.** On March 13, 2008, the Haifa District Court, residing as a Water Tribunal, rejected an appeal which was filed in regard to financial water producing charges imposed by the Governmental Authority for Water and Sewage. The appellants claimed that since the notification regarding the changes in the calculation method and the manner in which one could oppose these changes, was only published by the Authority in Hebrew, they were unable to contest the charges. The appellants therefore claimed that since there was no similar publication released in Arabic, the Arab population was discriminated against in this regard.

The Court noted that the *Water Law* 5719-1959 and its Regulations establish the right to a hearing for water producers and consumers, but there is no operative duty of publication or requirement regarding the language of publication. Thus, since the legislator chose not to specify such obligations, it cannot be ruled that the Law includes a duty to publish the abovementioned notification in Arabic. Moreover, the Court stated that it cannot be held that the Authority's actions were unreasonable, and there is therefore no justification to cancel the financial charges imposed on the appellants. However, the Court held that since the Arabic language enjoys official status in Israel, the publication of such notifications in Arabic would render it easier for Arab water producers to contest the notification. The Court therefore advised that henceforth, publication should also be released in Arabic, although the Law does not oblige the regulators to do so, and the regulators should consider distributing notifications in Arabic among the regional bureaus of the Ministry of Agriculture and Rural Development (*A.C. 111/01 Hajj Ali Brothers et al. v. The Governmental Authority for Water and Sewage* (13.3.08)).

803. On January 7, 2009 the Supreme Court handed down its decision in a petition submitted by the Association of Defense for Children International (DCI) (Israel) against the National Insurance Institute (NII). The DCI requested the translation of the NII forms to Arabic, so as to enable the population of the eastern neighborhoods of Jerusalem to submit forms to the NII in Arabic, and to order the NII to send letters and notices to the population of the eastern neighborhoods of Jerusalem in Arabic. The purpose of this petition was to allow the residents of the eastern neighborhoods of Jerusalem access to the social rights granted by the NII, as most of the residents of the eastern neighborhoods of Jerusalem are not fluent in Hebrew. The petition was submitted in 2001, and the NII undertook upon itself to translate all of its forms. However, this commitment was not fulfilled, and in May, 2007, the Court issued a temporary injunction order. In July 2008, the Court criticized the NII and ruled that the NII must present, within 90 days, a concrete plan of action to translate the forms, together with a detailed schedule. On December 1, 2008, a schedule to translate the forms was presented to the Court. Furthermore, the NII confirmed that they accept forms submitted in Arabic. Thus, the Court issued an absolute order according to which the NII should complete the translation of the forms to Arabic, and accept forms in Arabic

submitted to it. However, the Court held that the petition to send letters and notices in Arabic would not be granted, due to the fact that translators are available in the offices of the NII for clarifications. (*H.C.J. 2203/01 The Association of Defense for Children International (DCI) v. The National Insurance Institute* (07.01.2009)).

804. On September 19, 2007, the Jerusalem Magistrate Court, residing as the Transportation Tribunal, decided to acquit a defendant whose hearing, at which he had been deprived of his driving license for 20 days, was flawed. The defendant, who was born in the West Bank and is a permanent resident of Israel, speaks Arabic and cannot speak or read well in Hebrew. Yet, his hearing was conducted in Hebrew alone, and he was unable to understand the content of the hearing or to contest the decision. The Court noted that a hearing should be conducted in the driver's language, by an officer who speaks that language or by way of an interpreter. Thus, the hearing of matters involving drivers of the Arab population, who do not understand Hebrew, should be conducted in Arabic, in order to prevent the miscarriage of justice. The Court reasoned that the recognition of Arabic as an official language in Israel was primarily intended to guarantee equality to the Arab population *(S.T.C. 759/05 The State of Israel v. Abu Zaida Ahmad* (19.9.07)).

805. **Road signs.** The Ministry of Transportation and Road Safety performed a comprehensive survey in order to establish clear and uniform rules regarding the text which is to appear on road signposts. For the drivers' convenience, locals and foreigners alike, the text on the signposts appears in Hebrew, Arabic and English. In addition, according to the professional approach, and in order to improve drivers' orientation and to assure road safety, the text appears in clear language and using standard spelling. In July 2009, the Ministry of Transportation and Road Safety issued an updated draft list, which includes the names of all of the destinations which are indicated on Israel's roads. The draft contains approximately 2,500 names of cities, localities, crossroads, intersections, and geographic and historical locations in Israel, and was edited by the Governmental Names Committee in the Prime Minister's Office, in accordance with the transcription rules of the Academy of the Hebrew Language. The draft is currently being examined thoroughly by the Ministry of Transportation and Road Safety, as well as other Governmental Ministries, and in this framework, claims regarding the Arabic transcriptions are also being inspected.

806. **Public tenders.** The Attorney General has directed all legal advisors in the civil service that public tenders are to be published in both an Arabic language newspaper and a Hebrew one, as well as to be made available on the Internet (17.06.1999). The Directive stresses that it is prohibited to distinguish between public tenders according to their relevance to the Arab population. Furthermore, the duty to translate the public tenders into Arabic is the Government's duty.

807. As reported above, a 2000 amendment to the *Second Authority for Television and Radio Law*, established a requirement to broadcast programs in Arabic and Russian, through speech or translation. The required figure is a 5 per cent minimum of the total broadcasts for each language (Section 4 of the first addendum).

Arabic language education

808. In Director General Circular No. 5769-8(a) dated April 1, 2009, the Director General of the Ministry of Education noted that the core education program is the educational common denominator for all pupils in the Israeli education system. This core program which was detailed in the circular included the Arabic language.

Bilingual Education

809. Please see Bilingual Education and Arab-Jewish Schools, in the section discussing Article 7 below.

Hostility in sport events

810. Please see further details in the section discussing Article 7 below.

7. The right of access to places of service

Elimination of discrimination in the private sphere

811. As mentioned in Israel's thirteenth Periodic Report, the legal position with respect to discrimination in the private sector has changed dramatically due to the enactment of the *Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law*. The enactment of the Law has substantially limited the possibility of discrimination occurring in the private sector. Section 3 of the Law prohibits discrimination on the basis of race, religion or religious affiliation, nationality, country of origin, gender, sexual orientation, views, political affiliation, personal status, or physical disability in the provision of public products or services, and in the permission of entrance to a public place, by an individual who provides such products or services, or operates a public place. Violation of this prohibition is both a civil tort and a criminal offence, and according to Section 5 (a) of the Law, the *Tort Ordinance* applies to such civil torts. Moreover, Section 5 (b) allows the court to grant compensation of no more than 50,000 NIS (US$ 13,514), without requiring proof of damage, as a result of a violation of this Law. Section 11 applies the provisions of this law to the State, and has been interpreted broadly as applying to a host of public places, including schools, libraries, pools, stores, and all other places serving the public. Several Court decisions have upheld this broad interpretation of the law.

812. In July 2006, the Haifa Magistrate Court ruled that the plaintiff had been discriminated against and condemned the severe violation of the right to equality. In the case, the plaintiff, who is dark-skinned, went with his friends to a night club, and was prevented from entering the club together with one of his friends, who is also dark-skinned. The two waited in line for a long time, while other people passed them and were permitted to enter. After some time, the selector of the club approached the two and told them that the manager of the club refused to let them enter because they were not suitable patrons in his eyes. The Court ordered that the plaintiff be compensated in the amount of 50,000 NIS (US$ 13,514) – the maximum set by law (*C.C. 12482/04 Mizrachi Itzhak v. Kibbutz Ramot Menashe* (4.7.06)). The Kibbutz's appeal was rejected by the District Court on January 7, 2008 (*C.A. 3724/08 Kibbutz Ramot Menashe v. Itzhak Mizrachi*).

813. In another case, the plaintiff requested entry into a night club together with his friends, but the hostess refused to let him enter because his name was not listed in the guest list. At another time, the plaintiff called to reserve a place beforehand, but when he arrived he was again prevented from entering the club because he did not satisfy the conditions of selection. The Tel-Aviv Magistrate Court ruled that he was discriminated against and was to be compensated in the amount of 15,000 NIS (US$ 4,054) (*C.C. 47045/05 Tokov Ariel v. Oltim Businesses Ltd. et al.* (11.7.06)).

814. In *C.C. 5244/02 Bugle Natan et al. v. The Ministry of Education et al.* (21.8.06) it was found that on the relevant submission date of the petition, the education system applied an integration policy for pupils of Ethiopian origin, establishing a maximal quota of 25 per cent per school. The petitioners, a married couple whose son was born in Israel, wanted to register him at a specific school, but were denied and had to register him with a different school, as a consequence of the integration policy then applicable. The petitioners claimed that the integration policy that applied to pupils of Ethiopian origin only, regardless of the date of their arrival in Israel, lacked any relevant criteria and was based entirely on the Ethiopian origin of the pupil. Therefore, the policy infringed their right to equality and dignity, and contradicted the provisions of *Basic Law: Human Dignity and Liberty*, Section

5 of the *Pupil's Rights Law*, and Section 3 of the *Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law*. In its decision, the Court held that the refusal to register the petitioners' son because of his ethnic origin when registration was open to other ethnic groups living in the school's area did in fact constitute discrimination in the provision of a public service. The respondents violated the provisions of the *Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law*, and the petitioners were entitled to be remedied according to the Law. However, the Court held that in this case the petitioners' son had not suffered any personal damage, since his parents preferred not to share their pain with him or their feelings concerning the discrimination against him. Therefore, no compensation was awarded.

815. In November 2006, the Herzliya Magistrate's Court accepted the claim of a plaintiff according to which he arrived at a night club and was refused entry by the hostess, allegedly, because of his dark-skinned appearance. The plaintiff used a video camera to record the selection process at the entrance to the club. Two months later he tried to enter the same club and was again prevented from doing so. The Court held that the plaintiff was discriminated against on the basis of his skin color, and ordered that he be compensated in the amount of 7,000 NIS (US$ 1,892) (*C.C. 1004/05 Guy Levi v. Esco-Bar Restaurant Ltd.* (6.11.06)).

816. In yet another case, it was noted that between the years 2000–2005, the respondent allowed the Jehovah's Witness's community in Israel to use the conference hall of the Haifa International Convention Centre for its conferences. As a result of opposition from certain religious Jewish groups in Haifa, and following an application to the City's Mayor, the respondent decided not to continue to allow the applicant to hold its conferences in the convention centre. The applicant requested the Court grant an order prohibiting the respondent from discriminating against it based solely on religious considerations. In response, the respondent claimed that it was allowed to refuse the applicant's requests for use of its facilities since it was a "private body" and enjoyed the right to freedom of contract, based on business considerations. In its decision, the Court held that the respondent was not a private body but a public one, and that its discrimination against the applicant was completely invalid and in contradiction with the principles of equality and equity. In addition, it contradicted the provisions of the *Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law*. Therefore, the Court accepted the motion and granted an order prohibiting discrimination against the applicant (*O.M. 110/06 the Israel Watchtower Association Ltd. v. the International Convention Center-Haifa et al.* (5.2.07)).

817. In another case, the plaintiff went with his friends to a night club, but was prevented from entering while his friends and other people with dark skin were allowed to enter. The Tel-Aviv Magistrate Court accepted the claim that he was discriminated against because of his appearance, and ordered compensation in the amount of 30,000 NIS (US$ 8,108). (*C.C. 22225/07 Yarimi Avishai v. B.T.A Maintenances Ltd*. (27.2.08)).

818. On January 11, 2007, the Jerusalem Magistrate Court ruled that an "Egged" bus driver who publicly insulted an Ethiopian security guard was required to pay 15,000 NIS (US$ 4,054) as compensation. The driver refused to allow the security guard to board the bus in order to conduct a routine security check, and insulted him by calling him a "nigger" and other abusive descriptions, all in the presence of the passengers and others. Both parties appealed the verdict, and on March 2, 2008, the District Court decided to increase the amount of compensation ordered to 30,000 NIS (US$ 8,108). The Court explained that the slander was committed by a public transportation driver, who is expected, as a person who serves the public, to respect the people that he comes into contact with. The Court noted that the insults and humiliation were significant, and held that the compensation must

reflect the damage caused to the appellant (*C.A. 9082/07 Avi Tzagai v. Igna Avi Avshalom* (2.3.08)).

819. In another case, the plaintiff and his wife were prevented from entering a night club in Jerusalem, to which they came to celebrate a birthday with other friends, who had already entered the club and told the plaintiff that there was plenty of room inside. However, the plaintiff was refused entry by the hostess who told him that only people who were invited in advance may enter. The Jerusalem Magistrate Court, residing as a Small Claims Court, ruled that the plaintiff was clearly discriminated against, and should be compensated with 17,800 NIS (US$ 4,811), which is the maximum possible compensation available in a Small Claims Court (*S.C. 5059/07 Mor Erez v. Bar Izen Private Company* (7.5.08)).

820. In January 2009, the Haifa Magistrate's Court accepted the claim of two plaintiffs, Israeli-Arab residents, who were prevented from entering a night club, while their Jewish friend was allowed to enter. The Court accepted the claim that their entry was denied because of their appearance and their nationality, and ordered that they be compensated in the amount of 28,000 NIS each (US$ 7,568) (*C.C. 23990-06 Hisham Abed al-Gani et al. v. City Hall Ltd. et al.* (14.1.09)).

821. In July 2009, The Be'er-Sheva Magistrate's Court ordered compensation in the sum of 10,000 NIS (US$ 2,703) to be made to a Bedouin family, which was prevented from entering the municipal swimming pool in Ofakim. The swimming pool's manager asked the mother to remove her head covering, claiming that it caused other clients to leave the pool. After the mother refused to remove her head covering, the family was not allowed to enter the swimming pool. The manager claimed that since there were no people at the pool that day, he had accepted, for financial reasons, a request from a local rabbi to enter the pool with his six children, and assured the Rabbi that he would not allow women to enter the pool while he was there. The manager further claimed that he offered the family to return after the pool's regular operating hours had ended. The Court noted that the manager's behavior was offending and insulting, and in breach of the *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*. The Court further stated that closing a pool for one family without giving due notice, and without offering any reasonable alternative, in a locality with no other swimming pool, during summer and in particular during the school vacation period is considered unjustified segregation, not to mention that the Bedouin family arrived during the regular opening hours of the swimming pool (*C.C. 2386/08 Malahi Ofra v. The Municipality of Ofakim* (19.7.2009)).

822. In July 2009 the Tel-Aviv Magistrate's Court, residing as a Small Claims Court, accepted the claim of a plaintiff who arrived at a night club in order to celebrate her birthday, and reserved tables for friends and family members beforehand. However, some of the friends and family members were prevented from entering the club, after allegedly being humiliated by workers of the club. The Court found that the plaintiff was discriminated against due to the color of his skin, and ordered that the plaintiff be compensated in the amount of 15,000 NIS (US$ 4,054) (*S.C. 9430-03/09 Yifat Gazit v. Loft Ltd.* (23.7.09)).

823. On April 6, 2010, the Haifa Magistrate's Court Ordered El-Al Israeli Airways Company to compensate two Arab brothers, one in the amount of 20,000 NIS (USD $5,405) and the other in the amount of 10,000 NIS (USD $2,703) as a result of having imposed a personal escort on them after conducting security checks, limiting their movement, and implementing strict security measures as a condition for their boarding the flight, unlike the rest of the passengers, measures that humiliated them and presented them as a security risk or as criminals. The Court clarified that El-Al Security personnel are authorized to conduct body searches, a search in a person's clothes or luggage and request a

person to present his/her identification. However, they are not authorized to escort a passenger or follow him/her after he/she has passed the security check stage. In addition, the Court held that the requirement that one of the brothers apologize in front of the security guard who was deployed for him after he told her that she had no right to treat him as she was, in fact constituted maltreatment and abuse of power and authority. The Court held that the company discriminated against the two brothers and was negligent towards them and even in the course of the trial did not apologize, thus emphasizing the contempt it showed towards them (*Tel-Aviv 16528-07 Shelbi et.al. v. El-Al Israeli Airways Ltd.* (6.4.10)).

Tourism

824. The main law in the field of tourism, the *Tourism Services Law* 5736-1976, forbids providers of tourism services (hotels etc.) to refuse to provide their services when the refusal is unreasonable. Any refusal to provide tourism services based on racial or ethnic origin will be regarded as an "unreasonable refusal", and may result in criminal proceedings being brought against the provider.

825. In recent years, the Israeli Government has invested extensive efforts in developing tourism as a source of employment and income among the Arab population, as part of the general effort to promote and advance the economic prosperity of the Arab population, thus reducing gaps in comparison to the Jewish population. Accordingly, in the 2000 multi-year plan and the two additional multi-year plans for the development of the Arab population in the North (mentioned in the section dealing with Article 2 above), emphasis was given to this issue and the required budget was allocated.

826. The Ministry of Tourism works to promote incoming tourism to Israel, and views quality and equal opportunities as an important value. The Ministry works to promote the civil rights of the Arab population, including Bedouins, Druze, Circassians and others in a number of fields:

(a) *Promoting entrepreneurs and tourist industry members* – During 2008–2009, the Ministry held eight courses and conducted four workshops for the promotion of tourism in the Arab population as follows: four workshops were held for bus drivers from Nazareth, four entrepreneurship courses were held, focusing on rural tourism – one in the Daburia locality, one in the Wadi-Ara region, one for the Druze population in the Golan Heights and one for the Druze population in the area of Beit Jann. Two tourist guiding courses were held – one for the Druze population in the north and one for the Bedouin population in the south. Two courses especially dedicated to women were also held by the Ministry – one for women in the Bedouin population in the Bueina-Nugedat region, which focused on the management of a small tourism business; and one for Druze women in Beit Jann, concerning the involvement of women in the tourism industry;

(b) Additional courses for the upcoming year are already being planned for the areas of: Nazareth, Shfara'm, Eilabun, Baqa-el-Garbia and Beit Jann with a focus being placed on issues such as: marketing and sales, rural tourism, proper service etc.;

(c) The Ministry of Tourism maintains close contact with tourism operators in the eastern neighborhoods of Jerusalem, through meetings and conferences, in order to find solutions for tourism in that area;

(d) Between the years 2000 and 2008, the Ministry of Tourism invested 21,173,000 NIS (US$ 5,722,432) towards the development of tourism infrastructures in Arab localities. The Ministry of Tourism further provides financial assistance and professional guidance to entrepreneurs in establishing rural-accommodation units (Zimmers), as well as in other tourism-related initiatives;

(e) *Tourism Projects* – During the years 2007–2009 the Ministry of Tourism allocated 9 Million NIS (US$ 2,432,432) for building more than 400 authentic rural-accommodation units (Zimmers), which will double the number of units in the Arab population (note that 60 per cent of the requests were submitted by Druze and Circassian women);

(f) Currently the Ministry is publishing Director General's circulars for the building of additional authentic rural-accommodation units in the Druze, Bedouin and Circassian Populations for the years 2010 and 2011;

(g) The Ministry also organizes professional conferences and provides professional advice including business and marketing programs and planning feasibility tests, 75 per cent of the cost of which are financed by the Ministry;

(h) *Advancement of women in the minority population in the field of tourism* – the Ministry has prepared a master plan for rural-agricultural tourism, according to which, it located and identified localities and tourism attractions within Arab and rural localities which are suitable for development. In this framework, approximately 100 entrepreneurs who requested to establish tourism businesses were assisted by representatives of the Ministry. In addition, in 2007 and 2008 the Ministry led special projects for female empowerment and female entrepreneurship, and also established the Bedouin factories "Embroidery of the Desert" and "Weaving of the Desert", which employ more than 250 women.

Public transportation

827. Regarding public transportation services in Bedouin localities please see the section discussing Article 5 above.

828. *Eastern neighborhoods of Jerusalem* – Over the past few years, the Ministry of Transportation and Road Safety has re-organized the public transportation system of the eastern neighborhoods of Jerusalem. This project resulted in the operation of eighteen different lines, operated by 18 different operators, using more than 280 buses, serving over 100,000 passengers a day. These services are offered to the public at a significant discount – 3.5 NIS (US$ 0.945), 2 NIS (US$ 0.54) less than in most local buses.

V. Article 6

829. As mentioned in Israel's Previous Report, the main guardian of the individual "against any acts of racial discrimination which violate his/her human rights and fundamental freedoms" is the Courts System. The Courts System is open to all without discrimination, including to non-citizens of Israel. An individual can sue both other individuals and the Government for any wrong or harm done to him/her or his/her property and can claim compensation or an injunction. In addition to the regular court procedure, the Supreme Court, residing as High Court of Justice, can and does issue writs against the Government and public bodies.

830. **"Abuse of Process"** – On May 15, 2007, the Knesset enacted Amendment No. 51 to the *Criminal Procedure [Consolidated Version] Law*, accepting the legal doctrine regarding "Abuse of Process" as part of the Israeli criminal law. According to the doctrine, which had been previously recognized by the Supreme Court in a number of cases, the court is permitted to strike off an indictment, or halt criminal proceedings against a defendant where there exists a deficiency in those procedures caused by some fault of the executive authority, and the use of the deficient procedure would damage the defendant's right to a fair trial. According to the Supreme Court in *C.A. 4855/02 The State of Israel v. Itamar*

Borovich et. al., the Court is to examine the severity of the deficiency, to determine whether the deficiency can be corrected, and to balance the damage caused to the defendant by the deficiency against the damage caused to the public by the defendant's crime. The Amendment to the *Criminal Procedure [Consolidated Version] Law* anchored the doctrine of "Abuse of Process" in the context of preliminary claims. Section 149 of the amended law states that "10. Following the beginning of the trial, the defendant is allowed to claim abuse of process in preliminary claims, including the possibility to argue that […] the submission of an indictment, or [conduction] of a criminal procedure, fundamentally contradicts the principles of justice and legal equity".

831. **Video conference.** On January 15, 2007, the Knesset enacted the *Criminal Procedure Law (Enforcement Powers – Arrests) (Video Conference – Temporary Order)* 5767-2007, which allows the Courts to hold hearings concerning a suspect's arrest, subject to his/her consent, using video conference. Previously, this procedure required the physical presence of the suspect in the courts' hall, which caused excessive inconvenience, due to the need to transfer him/her from one detention facility to another, and from the court and back when compared to the short duration of the procedure. According to the Temporary Order, the suspect will take part in the hearing from a special room connected to the court's hall using video conference technology, which will allow communication and viewing by all parties involved in the procedure, including the public (Currently the Temporary Order is valid until July 22, 2010).

Case law

832. The Jerusalem District Court ordered the revocation of an indictment because the notification regarding the possibility that an indictment would be filed according to Section 60A of the *Criminal Procedure [Consolidated Version] Law*, was not sent to the defendant in Arabic. The Court noted that such notification is considered an "official form", as determined by Article 82 of the *King's Order in Council on Palestine* – 1922, and should therefore be translated into Arabic, which is an official language in Israel. Thus, since the defendant received the notification in Hebrew only, he was unable to fulfill his right to request the holding of a hearing before the filing of the indictment. The Court annulled the indictment in accordance with its authority under Section 150 of the *Criminal Procedure [Consolidated Version] Law (C.C. 333/09 The State of Israel v. Siad Husain Ebn Zaki* (5.1.2010)).

833. However, in a more recent case, the Jerusalem Magistrate's Court was requested by a group of defendants to annul the indictment filed against them, due to the fact that the notification regarding the possibility of filing an indictment against them as required by Section 60A of the *Criminal Procedure [Consolidated Version] Law*, was sent to them in Hebrew only, while all of them speak Arabic. The application was based on the ruling of the Jerusalem District Court (*C.C. 333/09 The State of Israel v. Siad Husain Ebn Zaki*), (January 5, 2010). Here, the Court decided that the indictment would not be cancelled, since the State satisfied its obligation regarding the notification required by Section 60A, even where the notification is sent in Hebrew only. The Court reasoned that the duty to translate official governmental forms to Hebrew and Arabic, as required by Section 82 of the *King's Order in Council on Palestine* – 1922, does not apply in this regard, since the notification required by Section 60A is not defined as a "form" by the *Criminal Procedure [Consolidated Version] Law*, its Regulations or its Annexes, and can therefore be provided in any version, provided that the content of the document indicates that the investigation materials have been transferred to the State Attorney's Office. The Court noted that even if the fact that notification was sent in Hebrew only does not satisfy the requirement of Section 60A, it still cannot automatically result in the cancellation of the indictment, and a balance must be achieved between the harm caused to the right to a hearing and the relative annulment theory. Thus, one should examine whether the flaw can be corrected by reliance

upon other adequate remedies. In addition, the defendants in this case did not argue that they did not understand the notification or that they tried to find someone to translate its content and failed. The Court emphasized that a decision according to which an indictment must be cancelled in such circumstances, would cause significant damage to the public interest, because it would result in the cancellation of a sizable number of indictments, and impose an unreasonable workload on the prosecuting authorities and the courts (*C.C. 6822/08 The State of Israel v. Ahmad Golani et al.* (13.1.2010)).

834. In H.C.J 11163/03, the High Court of Justice affirmed the principles of equality and non-discrimination, and asserted that the allocation of resources on the basis of any discriminatory criteria is unacceptable. A unanimous ruling was issued to cancel the Government's Resolution establishing national priority areas in Israel, on the basis that the Resolution discriminated on the basis of national origin. The Supreme Court held that the Government must respect the principle of equality and is prohibited from discriminating against the minority citizens of Israel. The Court stated that all governmental acts must be performed in conformity with the Basic Laws and in conformity with the values of Israel as a Jewish and democratic State. The Court emphasized that the basic values of Israel are human dignity, liberty, equality, the right to property etc. The Court noted that the prohibition against the violation of these values was strengthened following the legislation, in 1992, of the *Basic Laws: Human Dignity and Liberty and Freedom of Occupation*, which granted these values a higher and more significant status in the Israeli legal system. The issue of implementation of this decision is currently pending before the High Court of Justice. (*H.C.J. 11163/03, The High Follow-up Committee for the Arab Citizens in Israel et al. v. The Prime Minister of Israel* (27.02.06)).

835. Following the State's requests for an extension in the implementation of the decision, the Court granted the State two such extensions. In its second decision, on November 23, 2008, the Court prolonged the implementation date of its decision until September 1, 2009. In doing so, the Court rejected the State's request to postpone the implementation date until the 2012 school year. The Court also rejected the petitioners request to hold the State in contempt of court. A petition submitted to the Court on December 2, 2008, to charge the State with exemplary costs of the proceedings was rejected. The Court noted that indeed the implementation rate of its decision is not satisfactory, however, considering the complexity of the verdict's implementation and the requests for extension that were granted to the State, the Court is of the opinion that the case' circumstances do not justify imposing such exemplary costs in favor of the petitioners (*H.C.J. 11163/03, The High Follow-up Committee for the Arab Citizens in Israel et al. v. The Prime Minister of Israel* (15.2.09)).

VI. Article 7

Measures taken to combat prejudices and to promote understanding and tolerance

836. Israel is an open society with vocal parliamentary debates, a free press (including multiple TV and radio stations) and a politically active electorate. Activities in Israel have traditionally been very newsworthy and the foreign press corps stationed in Israel is larger than that stationed in most countries. These elements, combined with the existence of an independent, robust judiciary, ensure a very full public airing of any complaint of an alleged abuse of human rights.

837. There is a large number of NGOs in Israel monitoring human rights. These organizations are active in many spheres, including the promotion of new legislation, assisting victims of discrimination with legal procedures, producing shadow reports, and examining enforcement of legislation in the field of human rights etc. The leading

organization is the Association for Civil Rights in Israel, which regularly deals with issues of racial discrimination.

A. Education and teaching

Education against hate propaganda and human rights education

838. **Education against Hate Propaganda**. The education system approaches the concept of preventing hate crimes and propaganda from a broad perspective, which emphasizes the concepts of tolerance, pluralism, prevention of racism, and one's attitude toward foreigners and "others". These concepts are part of special educational programs designed for school pupils of all ages and aimed at exposing them to different groups within Israeli society. In addition, the pupils learn about the principles of democracy, the rule of law, human rights, rights of minorities and pluralism in the framework of civic lessons.

839. The education system has also taken action implementing the 1996 Shenhar-Kremnitzer Report, and has initiated other varied activities aimed at advancing the concepts of tolerance, acceptance of the "other" and prevention of racism and prejudice within the education system. The activities include: training teachers on democratic values and principles, a special program on anti-Semitism and racism for the 2004 International Day against Fascism and anti-Semitism, and different activities on tolerance and democracy held on the Memorial Day for the late Prime Minister, Yitzhak Rabin.

840. In 2008, the Ministry of Education had begun the implementation and assimilation of a fundamental change in the teaching of civic studies, including the teaching of human rights issues. The goal is to increase the teaching hours allocated to the subject. In the extended program, there is an even greater emphasis on economic, social and cultural rights.

841. Educational programs concerning human rights issues are routinely conducted throughout the country. Israel has developed special programs such as an annual "Human Rights Day". Each year, "Human Rights Day" is dedicated to a different aspect of human rights, and a relevant curriculum and teaching material is developed in both Arabic and Hebrew. In 2003, for example, "Human Rights Day" addressed the issue of tolerance towards "others" and the issue of social rights. In 2004, the Ministry of Education developed a learning kit dealing with social rights, which included references to both Jewish and Islamic cultures and traditions. In 2005, emphasis was given to rights of persons with disabilities. In 2006, the topic chosen was the right to an adequate standard of living, and in 2007 – emphasis was placed on the right to enjoy the highest attainable standard of health. In 2009, the chosen topic was "From Vision to Reality", which focused on the Universal Declaration of Human Rights and the challenges in implementing human rights in Israel and in other countries around the world. In 2010, the chosen topic was freedom of speech, which focused on achieving self-realization through freedom of speech, the various kinds of expression, freedom of speech as an essential part of a democratic regime, limitations imposed on freedom of speech, and the challenges in its implementation in Israel and in other countries around the world.

842. Since 2005, the Ministry of Foreign Affairs, in cooperation with several NGOs and the office of the United Nations Special Coordinator for the Middle East Peace Process, has sponsored the simulation program "Israel Model United Nations" (IMUN), with the participation of numerous Jerusalem based high-schools from all parts of the city and all segments of society. The project strives to expose participants to the United Nations' activities, instilling awareness of the major challenges confronting the global arena, whilst inculcating a spirit of tolerance and inter-cultural dialogue. Forming part of the well-established Model United Nations program that operates extensively throughout the world,

the program goes some way towards improving the image of the United Nations in Israel. With several new initiatives to expand Model United Nations activities to Israeli institutes of higher learning in 2009/10, the IMUN program holds the promise of becoming an important facet of educational dialogue in Israel.

Dissemination of human right conventions

843. As mentioned in Israel's thirteenth Periodic Report, the Convention was translated into Hebrew and published in the "Kitvey Amana", a series containing all treaties signed and ratified by the State, which can be obtained from various public libraries.

844. The Ministry of Justice accords great importance to the issue of dissemination of knowledge in the field of human rights. To this end, the Ministry published on its website the main United Nations human rights treaties together with other important human rights documents such as: The Universal Declaration of Human Rights and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. These documents are available in Hebrew, English and Arabic (some of the conventions are also available in French). In addition, the Ministry also published all of Israel's Initial Reports together with Periodic Reports which Israel submitted to the United Nation Human Rights Committees, the Committees' General Observations, Recommendations and Concluding Comments and also Lists of Issues presented to Israel by the committee and Israel's responses thereto. Furthermore, the website is accessible in Hebrew and English and is now in the process of being translated into Arabic as well.

845. **Human rights education.** The Ministry of Education attaches great importance to human rights education and to raising awareness to human rights in general. The Ministry has on its website the Convention on the Rights of the Child (CRC) and the Optional Protocol regarding Involvement of Children in Armed Conflict (CRC-OP-AC). The Convention is published on the Ministry's website in over 55 languages, in addition to child-friendly versions published in 11 languages.

846. The Administration for Society and Youth in the Ministry of Education in 2006 published the booklet "In the Path of Rights", which focuses on teaching human rights to pupils of all ages. The booklet contains important information regarding the Convention on the Rights of the Child, and activities and educational programs regarding the various rights, tolerance, accepting the other etc. During some of the educational programs described in the booklet, the pupil learns about the convention itself, and relevant articles of the Convention are read followed by an explanation and discussion to be held in the classroom.

847. The Administration for Society and Youth has in recent years created several educational programs regarding democracy, tolerance and co-existence, and human rights education, which are intended, *inter alia*, to provide knowledge and tools in these fields and combat all forms of discrimination. The following are descriptions of some of the main programs:

(a) **International Humanitarian Law**. This program, intended for pupils in the 7th to 12th grades, exposes the pupils to the importance of International Humanitarian Law, the ways in which this law is formulated and the methods of enforcement. The program provides the pupils with a wide perspective and tools to understand current events in the international arena, emphasizes the importance of humanitarian acts, and encourages the individual to be involved and show support for others. The program was developed in cooperation with the International Committee of the Red Cross (ICRC) and is currently being run in a number of schools;

(b) **The right to respect and the obligation to respect others** – This program is intended for various educational frameworks and consists of three parts. The first part raises issues of personal respect and dignity, and in particular addresses the right of an individual to respect and the duty to respect others. Part two deals with issues of social and group behavior aimed at ensuring the right to respect and preserving the dignity of members of the group. Part three deals with rights in the public sphere and as part of a group – a person's right to respect and dignity, to privacy, to enjoy a good reputation, and to avoid being humiliated.

Arab population

848. Since 2000, a unique program has been implemented exclusively within the Arab population. This program is geared towards training teachers; training educational advisors for an M.A.; advancing the teachers professionally; creating programs aimed at encouraging students to achieve better results in their native language, mathematics and sciences; implementing programs geared towards increasing the number of pupils eligible for a matriculation certificate; programs to prevent dropouts, investment in computers, equipment and physical infrastructure, including technological and science classes for the higher division classes, etc. This program has resulted in great successes: a steady rise in students' achievements in national exams, the reduction of gaps in the achievements of middle-school pupils in mathematics and sciences, an increase in the number of pupils and decrease in the number of dropouts, an increase in the number of pupils eligible to receive matriculation certificates, a change of attitudes towards education and school among female pupils, and a significant increase in the number of pupils that participate in science and technology competitions.

849. **Democracy Education.** Please see the section above which discusses Article 2.

Bilingual education and Arab-Jewish schools

850. In its concluding observations concerning Israel's thirteenth Periodic Report, the Committee encouraged the development of a system of mixed schools for Jewish and Arab pupils, in order to promote understanding, tolerance and friendship among Israeli citizens. A prominent example of bilingual education can be found in the village "Neve Shalom – Wahat al-Salam", situated equidistant from Jerusalem and Tel-Aviv-Jaffa, founded in the early 1970's. By 2007 more than 50 families had come to live in the village, with an equal number of Jewish and Arab families. Eventually, the village will comprise 140 homes.

851. The Bilingual educational system developed and implemented in "Neve Shalom – Wahat al-Salam" is one of the many expressions of co-existence in the community, as well as other communities in the area. The bilingual educational system, extending from nursery to junior high-school level, involves some 200 children, 90 per cent of whom come from surrounding Arab and Jewish communities. Similar bilingual and intercultural educational frameworks operate in Jerusalem, Misgav and Kfar Kara.

852. Note that parents are entitled to enroll their children in an educational institution (kindergarten or school) of their choice within their local municipality, whether the spoken language is Hebrew, Arabic or a bilingual institution. The only limitation is that preference in enrolment is given to children who reside within close proximity of the educational institution.

853. There is a great variety of programs in Israel dedicated to the promotion of co-existence and co-operation among Israel's Jewish and Arab populations, either through educational, cultural initiatives or Inter-Municipal Collaboration for the welfare of different communities, as elaborated throughout this Report.

854. Hereinafter are additional examples of Jewish-Arab Schools in Israel in which Jewish and Arab children study together and help their families and communities to co-exist in peace:

(a) "Hand in Hand – Center for Jewish-Arab Education is Israel", is an association which was founded in 1997 with the vision of building peace between Jews and Arabs in Israel through the development of bilingual and multicultural schools. The association operates elementary schools in Jerusalem and the Galilee. In 2004 a third school was opened in Wadi-Ara and in 2007, a fourth school was opened in Be'er-Sheva. The schools were established in conjunction with the relevant local authorities and the Ministry of Education. Each school is co-directed by Arab and Jewish Co-Principals; and each classroom is co-taught by Jewish and Arab teachers. The number of pupils in each grade is balanced between Arab and Jewish children. Pupils at all grade levels are taught in both Hebrew and Arabic, learning to treasure their own culture and language while understanding that of others around them. Approximately 850 pupils study in these schools;

(b) Another example of multicultural education is the Weitzman Jewish-Arab school in Jaffa, in which both Jewish and Arab pupils learn and study together. Approximately 400 pupils attend this school.

Industrial cooperation

855. Regarding this issue please see the section discussing Article 2 above, regarding the support offered to local entrepreneurs.

Environmental education

856. The Ministry of Environmental Protection (henceforth: the Ministry) operates a variety of projects concerning environmental education, which apply to all populations, including the Arab population. The central ongoing project is the transition of schools, kindergartens and institutes of higher education, into more environmentally friendly ("green") institutions. Institutions which comply with the appropriate standards and are therefore authorized as being "green", receive a grant of 10,000 NIS ($2,703) from the Ministry. In 2009, 163 kindergartens and 114 schools were authorized as "green", of which 37 kindergartens and 21 schools serve the Arab population. The 2009 budget for authorizing "green" kindergartens and schools in the Arab population was 580,000 NIS (US$ 156,757).

857. In 2009, the Ministry invested approximately 400,000 NIS (US$ 108,108) in environmental education directed towards the Arab population. This budget was invested in lessons in environmental protection which were offered in 70 classes, with each class receiving 30 teaching hours in order to study and become acquainted with issues of environmental protection.

858. The Ministry has published environmental learning materials, such as placards and lesson plans. These materials are to be translated into Arabic, and will be distributed gratuitously in Arab schools.

859. The Ministry supports the "Green School Network" – a growing web of schools that has embraced sustainability as a central part of their educational vision. Through the Green Network, over 90 schools throughout the country, representing a wide range of the Israeli pupils body — from various economic levels, Jewish and Arab, secular and religious, urban and rural — create environmental leadership and implement community-based projects, thus creating a bridge between schools and communities. The Ministry allocates 400,000 NIS (US$ 108,108) annually in support of the Green Network program in the Arab population. In 2008, the Green Network program was broadened to include Arab towns and

villages in the south, and currently 27 schools and 30 kindergartens in that area participate in the program.

860. In 2009, the Ministry allocated approximately 350,000 NIS (US$ 94,595) to be invested in environmental activities in the Arab population and mutual programs for the Jewish and Arab populations, which were carried out by the Israel Nature and Parks Authority. Hundreds of Arab children and adults participated in these activities and programs.

861. The Ministry trains teachers in schools throughout the country to teach environmental education lessons. In 2010, approximately 200 training sessions are planned, of which 30 per cent will be conducted in Arab schools.

862. Another environmental education project is operated in Jerusalem, with the participation of 15 schools from the western neighborhoods of Jerusalem and 15 schools from the eastern neighborhoods of Jerusalem. This project's budget is 664,000 NIS (US$ 179,459), and is financed by the Ministry, the Jerusalem Municipality and the Israel Nature and Parks Authority.

Sporting activities

Building of new sports fields

863. On December 27, 2007, the Government consolidated a multi-year plan to promote and budget for "combined" sports fields for the Arab and Bedouin population in the Negev and the Galilee in a total amount of 15 Million NIS (US$ 4,054,054) (Government Resolution No. 2850). In addition, on August 13, 2009, the Government approved Resolution No. 693, according to which a budget of 12 Million NIS (US$ 3,243,243) was to be allocated for the establishment of sports fields in small localities in the Negev and the Galilee. 24 localities that satisfied the criteria of the resolutions were located and the project is currently being implemented.

Prevention of violence, hostility and racism in sports events

864. The *Safety in Public Places Law*, was amended (Amendment No. 3) in July 2005, to specifically prohibit racially motivated expressions at sporting events. Consequently, indictments were filed against defendants who shouted racial remarks during soccer matches.

865. Even prior to the abovementioned Amendment, actions were taken by the State Attorney's Office, which considered racial remarks against the Arab population as constitutive of incitement to racism and took criminal measures in this regard. Criminal investigations were opened in a number of cases of incitement to racism against the Arab population at soccer games, and indictments were filed. Several cases were concluded and the defendants were convicted (for further information please see Table No. 2 above, in the section dealing with Article 4).

866. Section 11A2 of the *Safety in Public Places Law*, which prohibited racial expressions during sporting events, was annulled as the new *Prohibition of Violence in Sport Law* came into effect on August 12, 2008. The new Law was enacted in order to facilitate the safe and peaceful hosting of sporting events by broadening the definition of a racist display and facilitating training for security personnel and safety personnel as well as broadening their responsibilities and authorities. The Law further established a Committee for the Prevention of Violence in Sport geared towards the elimination of this phenomenon. Section 15 of the new Law expands the offence which was established by Section 11A2, by making the following changes:

(a) The prohibition against racial expressions was broadened to include visual expressions which include threats, humiliation, contempt, animosity, enmity or quarrel causation, in addition to the expression of words, sounds and growls;

(b) The prohibition was expanded to include racial expressions made by a single person, in comparison with Section 11A2 which prohibited such expressions only when committed with another person or chorally;

(c) The punishment was increased from one year's imprisonment to two years imprisonment.

Projects to promote understanding, tolerance and friendship among nations

867. The Culture, Media and Arts Department of the Peres Center for Peace designs and implements multifaceted programs directed at Palestinian and Israeli children, youth and adults. Thus, the Peres Center has chosen to concentrate its efforts on two levels of activities: The first level is based on direct intervention, and is targeted at specific groups of participants (among them, photojournalists, youth, film and television professionals etc.). The second level is targeted at the greater Israeli and Palestinian public, and focuses on the significant need to learn more about the "other side", and increases the portrayal of positive images in the media, in contrast with the violent and depressing images generally displayed. As such, the programs are designed to reach out to large audiences, in order to expose them to positive messages and images. The Peres Center holds Peace Education Seminars, offering instruction to Palestinian and Israeli educators and teachers, in order to provide them with the educational tools to guide their pupils in dealing with issues related to the conflict, and allow them to implement peace building activities. Thus far, two seminars have been held, in which nearly 100 Israeli and Palestinian educators have taken part. The Peres Center also hosts numerous programs in different fields of the arts, such as photojournalism, theatre, cinema, as well as programs in various sporting fields.

868. In an international activity conducted in December 2007, high school pupils studied children's rights in Israel and overseas, while participating in writing an international journal in English. Two of these pupils were sent to the UN and participated with youth from other states in discussions on the topic of "A World Fit for Children".

869. As mentioned in Israel's thirteenth Periodic Report, Givat Haviva Seminar, which was founded in 1949 by Ha'kibbutz Ha'arzi Federation, in memory of Haviva Reich, is the home of several education and co-existence centers, including: the Jewish-Arab Center for Peace – an education, research and documentation center which was founded in 1963; an Arts Center – which strives to integrate arts with theoretical-social activity, to advance kibbutz, urban and Arab populations in the field of plastic arts, to serve as an advanced seminar for young artists, to provide various projects for Jewish and Arabs on the subjects of education and art, seminars, teacher training courses, and to provide activities for kindergarten and elementary school children; and the Peace Gallery which offers new exhibits every month. The seminar also hosts a Centre for Women and Gender Studies. This centre offers educational courses, programs and cultural events to encourage Israeli women of all cultures and backgrounds to meet, discuss, learn about and celebrate each other.

870. The campus is located in the northern Sharon Valley (east of Hadera). The mission of Givat Haviva Seminar today is to address the major issues that are on the agenda of Israeli society, and to foster educational initiatives, research and community work in the fields of peace, democracy, co-existence, tolerance and social solidarity. Over 50,000 children, youth and adults from Israel and abroad participate annually in the seminars, workshops, courses, conferences and other projects offered by Givat Haviva Seminar in a range of educational, academic and professional fields. Some of its recent projects include:

(a) The "Face to Face" program at Givat Haviva, is an encounter program for Jewish and Arab high-school pupils in Israel. The goals of the encounter are; to create a better understanding of one another, to dispel pre-conceived stereotypes, to reduce the feelings of fear, hatred, and alienation, and to create a preliminary basis for dialogue on a joint future based upon mutual respect between the Jewish and Arab citizens of the State. The program is based on a model developed by the Jewish-Arab Center for Peace at Givat Haviva over many years of experience in the field;

(b) Through Others' Eyes – Encounters between Jewish and Arab teens from the region, through the camera, annual activities, visits and photography in the homes of the participants and a final exhibit;

(c) Children Teaching Children (CTC) – In-depth year-long activity in grades 8 and 9 which is held at Jewish and Arab schools. As part of the program, discussions are held concerning the acceptance of the other, values of equality, familiarity and friendship, ideals of democracy and equality.

871. *Mirkam in the Galilee*: A joint initiative of the Ministry of Education, local municipalities' leaders in the Beit Hekerem Valley and other organizations. The goal is to promote cooperation between Jewish and Arab local municipalities and establish joint economic and infrastructural development in the region. In order to achieve this, a mechanism was established for regional deliberation, cooperation and consensus-building among decision-makers in the form of inter-municipal forums, such as the Mayors Forum, the Health Forum and The Women's Leadership Forum, etc. In addition, eight pairs of Jewish and Arab schools in the region participate in formal and extra-curricular activities on issues such as music, arts, the environment, sports and culture. Furthermore, a Jewish-Arab Theater and Circus group meet weekly and hold performances in the region. The Initiative covers 47 communities.

872. *Mirkam Encounters in the Galilee*: A joint initiative of The Abraham Fund Organization, the Ministry of Education and The Haifa, Acre and Ma'alot-Tarshihah Municipalities. The initiative intends to encourage a shared society in the mixed cities of the Galilee, by promoting joint educational activities which bring together elementary school pupils, teachers and principals from ten pairs of Jewish and Arab schools. During the meetings, pupils learn about each other's culture, tradition and heritage thus learning to appreciate and respect each other's perspective and views.

873. *Developing Sakhnin Valley (Park El-Mal)*: Cooperation between Jewish and Arab local authorities in the Galilee together with several organizations and NGOs based upon a mutual interest to realize the agricultural and tourist potential of the Valley. The program will establish a local park and promenade while maintaining the agricultural fields, open spaces, landscape and traditions of the Valley's residents, thus transforming the Sakhnin Valley into a national ecological and tourist attraction. This will increase the economic potential of the region and provide sources of income to its residents, creating a foundation for future business and personal cooperation between the Jewish and Arab residents.

874. *The Peace Labyrinth On Conflicts: How they Arise, and Ways in which they can be Resolved*: The *Peace Labyrinth* is an interactive exhibition that was initially presented in Holland by the "Peace Education Project". The exhibition enables the audience to confront issues, outlooks, standpoints and dilemmas in interpersonal and inter-group relations of the visitors. The search for the right path in the labyrinth requires thinking and decision-making that results in various consequences, thus demonstrating the notion that the pursuit of peace is complex, but attainable. The exhibition is currently displayed at the Ein-Dor Museum of Archeology.

875. *Co-existence Network*: Due to the outstanding number of co-existence practitioners and organizations across Israel, the "Co-existence Network" was created. This is a multi-

year project intended to unite, support and professionalize co-existence practitioners and organizations across Israel. The Co-existence Network mapped the field of activity and built a membership of 166 organizations, providing them with support, thematic seminars and professional training.

B. Culture

The budget for culture, entertainment and sport

876. The *Public Libraries Law* 5735-1975 (the "*Public Libraries Law*") requires the State to establish public libraries, and creates criteria for the recognition of a library as a public library. There are 950 public libraries in Israel, in addition to school and other libraries. Subsequent to several amendments issued in 2002, 2003 and 2007, Section 5 of the *Public Libraries Law* now obligates the Ministry of Finance to participate in the maintenance and the administration of public libraries, with an inclusive rate of 50 per cent, according to the conditions and criteria established by the Minister of Finance. Such funding is progressive and will be completed by 2013.

Case law

877. The above-mentioned amendments were enacted in response to the Supreme Court's decision regarding the interpretation of the *Public Libraries Law in H.C.J. 2376/01 The Union of Local Authorities in Israel v. The Minister of Science, Culture and Sport* (21.10.2002). The Court held that the public libraries' services must be provided freely by the State to the public at large on the basis of equal opportunities being offered to all citizens of all ages to gain access to knowledge and education regardless of their economic background. The Court emphasized the public library's special role in shaping the younger generation and exposing it to culture. The Court also highlighted the implication of UNESCO's Public Library Manifesto of 1994, which emphasized the importance of public library services, including the encouragement of reading habits among children. Therefore, the Court held that there is a close connection between free library services and the State's obligation to assist the local authorities in funding and establishing library services.

878. The Ministry of Culture and Sport and the Ministry of Education provide financial aid to 850 artistic and cultural institutions, such as children's theaters, dance schools and choirs. Since Museums are recognized by law as guidance institutions for children, the State accepted the Holon Children's Museum as such an establishment. The State encourages the preservation of Arab, Druze and Circassian culture and traditions.

Table 48
The budget for Arab, Druze and Circassian culture, 2001–2008

	2001	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*
Arab culture	7 500	7 175	6 919	6 017	6 703	7 106	10 362	12 453
Druze and Circassian culture	2 026	1 919	1 874	1 653	1 593	1 638	2 075	1 866

Source: Ministry of Culture and Sport, 2008.

879. There are numerous examples of cultural projects in Israel intended to promote understanding, tolerance and friendship among nations. Civil society is the leading actor in such initiatives. Several government-supported projects are highlighted in the following table.

Table 49
Joint Jewish-Arab activities financed by the Ministry of Culture and Sport

Activity	*Description*	*Years*	*Total allocation*	*Remarks*
Football for Peace	An initiative of the Sports Administration within the Ministry of Culture and Sport together with the "Brith Consulate" and Brighton and Keln Universities – using football as a means for promoting understanding and tolerance among all Israeli citizens – Arabs and Jews alike. The program is a football camp which is conducted by English/German coaches for Arab and Jewish children, during which values such as honor, trust, and responsibility r are explained to the participants	Every year since 2001	850,000 NIS (US$ 229,730)	The project encompasses over 34 Jewish and Arab localities, 1,500 boys and girls and 50 English coaches and 120 German coaches in addition to local guides.
Children Marching for Peace	In light of world peace day and tolerance week, the Sports Administration holds the "Children Marching for Peace" march annually. The march is conducted as a sign of peace, equality, fairness and good living, and is intended for both Arab and Jewish children	Every year since 2005	750,000 NIS (US$ 202,703)	Each year over 3,000 children take part in the march.
Back to routine after the Second Lebanon War	After the Second Lebanon War, the Sports Administration held five sporting events and vacations for both Arab and Jewish children in the North. The festivals were organized in close proximity to the population in order to allow as many children and adult participants to take part in the events, which included sports games, shows, creative workshops, games for children etc.	2006	750,000 NIS (US$ 202,703)	Over 15,000 residents took part in these events.

Source: The Ministry of Culture and Sport, January 2009.

C. Information

The role of State media in the dissemination of information to combat racial prejudices

880. The Israel Broadcasting Authority (IBA) invests extensive efforts in encouraging tolerance and equality among children and youth in Israeli Society. The IBA emphasizes the importance of impartiality and equivalence between different races, skin colors, ethnic origins and nationality. The IBA transmits various programs both through television and radio on the subjects of religious pluralism, co-existence between the Arab and the Jewish populations, children and children with disabilities, children of immigrants, children of foreign workers and so on. These programs are intended to educate both children and adults alike and educate individuals about the various populations in society and how to accept diversity.

881. Attention is also paid to the fight against racism and communal segregation among youth. Daily news covers social and legal racial discrimination struggles in order to raise awareness of these issues among adults, youth and children.

882. The "Voice of Israel" — a leading radio station in Israel — is legally obligated to broadcast work by artists of different styles. This station broadcasts programs in Amharic, Russian and other languages on a regular basis. It is also bound by the principle of objectivity and dedicated to raising public awareness by online discussions of controversial matters. For instance, a recent debate focusing on a dispute between certain private schools in the central region of Israel and the Ethiopian community was widely broadcast by the majority of networks.

883. Channel 1 (TV), of the IBA, regularly produces and broadcasts documentary programs on different issues concerning the situation of minorities in Israel, including foreign workers. For example, "Watch Me" is a program for children and youth in which documentary films concerning the different populations in Israel are broadcast, and children are hosted in TV studios to discuss the relevant issues, thus promoting understanding and tolerance toward the different groups making up the Israeli population. Another example is the movie entitled "Danny's Camera", which tells the story of an Ethiopian boy and enables viewers to learn about the Ethiopian immigration to Israel, the Ethiopian population etc. Another example is "The Edition", a daily news show for children and youth, which is jointly hosted by Jewish Orthodox, Arab and secular hosts, in order to present the pluralism of Israeli society and reduce discrimination. The Channel's Documentary Department also prepared several important films and programs, such as: "Rahat from the Inside", a film about the problems faced by the Bedouin Society as researched and filmed by Bedouins, and the documentary series "Second Look", which aired several programs concerning the exploitation of foreign workers, a program on foreign workers' children etc.

884. "Radio Network A" broadcasts a variety of radio programs which regularly refer to the issue of preventing racism. For example, the "Dialog" program recently broadcast discussions concerning the issue of Bedouin housing in the Negev, the allocation of medications for Jewish and Arab patients, the integration of the Druze in Israeli society, and the equal treatment of Jewish and Arab patients suffering from Alzheimer's disease. A further example is "The Civil Hour", in which content regularly focuses upon racial messages in children's video tapes, discrimination and other such issues.

885. "Radio Network B" consistently includes in its news broadcasts and special radio programs issues concerning the fight against discrimination. Thus, such battles are widely covered and the reporters continue to follow the related legal proceedings, even when the issue reviewed is not at the top of the public agenda. For example, Network B has recently

extensively reviewed the battle of foreign workers' children against the Ministry of Interior's decision to remove them from Israel.

886. The IBA Department of Broadcasts for New Immigrants and Abroad airs its broadcasts in a large number of languages, including: Amharic, Russian, English, French, Spanish, Ladino, Yiddish, and others. During its broadcasts, the Department offers extensive coverage of issues relating to the prohibition against racial discrimination, such as: foreign workers, human rights, equality, discussions regarding legal issues which relate to racial discrimination etc.

The role of mass media in the publication of human rights

887. Human rights awareness within the Israeli public is quite high. The language of rights has permeated daily life in Israel. Israel's main national television channels often broadcast interviews, news articles and television programs related to human rights issues. Some articles contain information for the public and others bring to the screen personal human rights stories. All channels deal with all human rights issues, including: people with disabilities, children at risk, women's status, the protection of women, trafficking in persons, foreign workers, minorities and more. These issues are also covered and dealt with regularly by local television channels. In addition, both national and local television channels regularly advertise information regarding help centers relevant to human rights issues.

888. Israel's main radio stations also deal with human rights issues through the presentation of interviews and articles related to the subject. The main radio stations regularly broadcast advertisements against trafficking in persons, and advertisements regarding other aspects of human rights. The radio stations also provide important information regarding help centers for victims of human rights abuses along with other important information. These issues are also covered and dealt with by local radio stations.

889. Israel's main newspapers and main Internet news sites regularly address human rights issues and publicize news stories and articles regarding the matter. Additional information regarding different help centers for victims of breaches of human rights can be found on some of these sites.

United Nations CERD/C/ISR/CO/14-16

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination
Eightieth session
13 February – 9 March 2012

Consideration of reports submitted by States parties under article 9 of the Convention

Concluding observations of the Committee on the Elimination of Racial Discrimination

Israel

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

A. Introduction

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

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

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

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B. Positive aspects

5. The Committee welcomes the efforts made by the State party to address inequality, particularly in the area of employment and education, faced by the most vulnerable groups in Israeli society, and acknowledges that it has made progress in this regard in Israel proper.

6. The Committee welcomes the enactment of the 2008 Prohibition of Violence in Sport Law and the enactment of the Expansion of Adequate Representation for Persons of the Ethiopian Community in the Public Service (Legislative Amendments) Law (5771-2011) on March 28, 2011.

7. The Committee welcomes the establishment in the Prime Minister's Office of the Economic Development Authority for the Arab, Druze and Circassian Sectors and the allocation of a consequential budget for its functioning, and the adoption of a Five-Year Plan for the Economic Development of Minority Localities.

8. The Committee welcomes the announcement made by the delegation on the establishment in 2011 of a joint inter-ministerial team headed by one of the Ministry of Justice's Deputy Attorney Generals, for implementing the treaty bodies' concluding observations on Israel, as well as the establishment by the Ministry of Interior and the Minister of Public Security of a ministerial team, which meets regularly to address matters relating to violence perpetrated by Jewish settlers and its severe consequences.

9. The Committee also welcomes affirmative action measures taken by the State party to enhance the integration of the Arab and Druze population into the civil service.

C. Concerns and recommendations

General situation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. While the Committee notes the existence of State mechanisms for the protection and promotion of human rights such as the State Comptroller, which also seems to fulfil the function of the Ombudsman, as well as a special office within the Prime Minister's Office dedicated to the Economic Development for the Arab, Druze and Circassian Sectors, and a Minister for Minorities, the individual competence of and the division of labour between these bodies are not clear. The Committee regrets the absence of a specialized agency on racial discrimination or a national human rights institution established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) (arts. 2 and 6 of the Convention).

The Committee reiterates its previous recommendation (CERD/C/ISR/CO/13, para. 31) that the State party consider the establishment of a national mechanism for redress of racial discrimination either as a specialized agency on racial discrimination or as a national human rights institution in accordance with the Paris Principles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Recalling its general recommendation 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee also requests the State party to remind public prosecutors and the judiciary as a whole of the general importance of even-handedly prosecuting racist acts, irrespective of the alleged perpetrators' status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee cites General Assembly resolutions 61/148, 63/243 and 65/200, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

35. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

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

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

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

United Nations CERD/C/ISR/CO/14-16/Add.1

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined fourteenth to sixteenth periodic reports of the State of Israel

Addendum

Information received from the State of Israel on follow-up to the concluding observations*

[17 October 2013]

Concluding observation No. 16:

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

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

1. As mentioned in the 14th Periodic Report (2010), benefits provided to military veterans, including the rights set out in the *Absorption of Discharged Soldiers Law* 5754 – 1994, as well as other benefits provided by the Discharged Soldiers Department in the Ministry of Defense, are granted to every IDF veteran, regardless of his/her religion. Most of these benefits are calculated according to the length and type of regular service performed, and some are given on the basis of socio-economic criteria. Moreover, persons from among minority populations who serve in the IDF, enjoy affirmative action and are entitled to receive enhanced benefits compared with those received by Jewish veterans.

* The present document is being issued without formal editing.

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2. The Supreme Court's decision (2006) regarding the petition filed by "Adalah – The Legal Center for Arab Minority Rights in Israel" – that was mentioned in the 14th Periodic report (2010) has been reiterated in many later supreme courts' decisions. Within that decision, former Supreme Court president, Justice Barak, rejected Adalah's argument that in this case the use of this criterion results in discrimination against Arab citizens. Justice Barak reasoned in this regard that "a distinction made on the basis of the national or military service criterion is not necessarily a permissible distinction or illegal discrimination: this depends on the circumstances. Those who have completed military or national-civil service differ in many respects, as a group, from those who have not. Thus, for example, those who have completed military or national service dedicate much of their time and energy to the benefit of the general public. They cannot work or make a living during their service period. As long as this distinction is based on these factors, and as long as it is relevant in a given situation, it should not be considered illegal discrimination." (*H.C.J. 11956/05, Suhad Bishara, et. al. v. The Ministry of Construction and Housing* (13.12.06)).

3. Additionally, in the abovementioned Concluding Observation the Committee noted with concern "the consideration of bills". In that regard, it is important to give some details concerning the Israeli Legislation Process.

4. The State of Israel is a democratic state, which allows every democratically elected Knesset Member the right to present bills that reflect the best interests and will of his/her constituencies, in accordance with the law.

5. Every private bill presented by a Knesset Member goes through a lengthy process, including preliminary approval of the Speaker of the Knesset and his/her deputies who examine, *inter alia*, if the bill includes any forbidden racial content or negation of the State of Israel as the homeland of the Jewish people; a discussion held by the Ministerial Committee for Legislative Affairs regarding the Government's position; a discussion in the Knesset Plenum and only following the Knesset Plenum's approval – hearings before the relevant Knesset Committees, and later, the final approval of the Knesset Plenum, symbolizing the legislator's sanction to the final version of the law.

6. Note that the relevant Knesset Committee is authorized to make significant changes in the wording of the bill, and additional changes may be made by the plenum through reservations filed by Knesset members. This thorough and often prolonged process is aimed at ensuring that the final law reflects due process and the will of the legislator.

7. Israeli courts have the competence of judicial review regarding any act of legislation, in light of the Basic Laws. One recent example in this regard is the decision of 16 September, 2013 given by the High Court of Justice concerning a petition filed by several NGOs, regarding the constitutionality of Amendment No. 3 to the *Prevention of Infiltration Law (Offenses and Jurisdiction)* 5772-2012. An extended panel of nine judges ruled that holding persons in detention for a long period of time (up to a maximum period of three years) constitutes a material violation of their rights, including liberty and dignity, as enshrined in the *Basic Law: Human Dignity and Liberty*. The court determined that this violation does not meet the proportionality criteria contained within the limitation clause of the Basic Law, and was therefore unconstitutional. The court annulled section 30A of the law (*H.C.J. 7146/12 Naget Serg Adam et. al. v. The Knesset et. al.* (16.9.13).

8. The abovementioned Concluding Observation included a recommendation that the "State party abrogate all discriminatory laws and rescind all discriminatory bills". During the consideration session the Committee raised and discussed several laws and bills and addressed them as discriminatory. Hereinafter, some details concerning these laws.

The Prevention of Harming the State of Israel by Boycott Law (5771-2011)

9. This law is intended to protect Israeli citizens from damages caused by organized boycotts and to guarantee that no use of public financial sources will be made in order to support activities that may harm Israeli citizens. The Law does not limit a private person's consideration if and from whom to purchase goods and services and deals only with organized and deliberate boycotts.

10. An act according to this law is not a criminal offence but amounts to a civil tort, which in certain cases may lead to compensation. The Law does not have any criminal sanctions or supervision mechanisms, and is subject to the courts' jurisdiction.

11. Several petitions were filed against this law, and on December 9, 2012, the Supreme Court residing as the High Court of Justice ordered the respondents to provide the reasons why this law or Sections 2-3 of the Law should not be cancelled. The petitions are still pending. (H.C.J. 5329/11, *Uri Avneri et. al. v. The Knesset et. al.*).

12. The wide public debate, the amendments that were made to this law and even the criticism it encountered, all demonstrate the strong democracy and freedom of speech enshrined in the Israeli legal system.

Amendment No. 8 to the Cooperative Society Ordinance 1933

13. In March 2011, the *Cooperative Society Ordinance* was amended *(Amendment No. 8)* in order to regulate in law the function of the Admission Committees for the acceptance of new candidates in agricultural and communal localities in the Negev area and the Galilee. Due to the small size of these communities and the special nature of the partnership between their inhabitants, the Law sets certain criterions to be met by people who wish to join these communities.

14. According to the Law, the Admission Committee may refuse to accept a new candidate to an agricultural or communal locality, based on several criterions. Such criterions include: minimum age limit (if the candidate is a minor), economic ability (the candidate lacks economic ability to build a house within the time period set in the land allocation agreement), suitability to the social life of the community (based on professional examinations), intention to settle and live his/her life in the community, etc. In order to prevent discrimination, the Law further determines that the Admission Committee may not reject a candidate based on illegitimate grounds such as; race, religion, gender, nationality, disability, personal status, age, parenthood, sexual orientation, political view, country of origin and political view.

15. In addition, the Law creates an Appeal Mechanism that enables the rejected candidates or the local community to appeal against the Admission Committee's decision to an Appeals Committee. The Appeals Committee's decision is also open for the review of the Administrative Courts.

16. Note that the abovementioned amendment anchors and regulates the work of the Admission's Committees which existed through former decisions of the Israel Land Administration (ILA).

17. Two petitions which challenge the constitutionality of the 8th amendment to the *Cooperative Society Ordinance* are pending before the Supreme Court. On January 25, 2012, the State submitted a detailed response to these petitions in which it outlined its position whereby the 8th amendment reflects an appropriate balance between the need to ensure the continued development of small communities in the peripheral areas of Israel, by allowing for the acceptance of new members to these communities who will contribute to their existing social life and communal cohesion, and the State's responsibility to ensure that land is allocated on a reasonable and non-discriminatory basis.

18. The State argued that the decision-making framework established by the 8th amendment is an appropriate means for enabling the continued development of peripheral communities, whilst ensuring that applications are not rejected on illegitimate grounds. With regard to the claim of the petitioners that the amendment applies only to Jewish communities, the State clarified that there is no legal obstacle to the application of the amendment to Arab communities, should they so wish, and should they choose to form an appropriate corporation.

19. The State also emphasized the fact that the 8th amendment establishes a framework for decision-making, whilst individual decisions are subject to administrative appeal and may be challenged in the district courts and, upon appeal, in the Supreme Court. The State argued that the regulation of individual decisions made within the framework established by the 8th amendment, and the additional provisions which forbid the rejection of an application on illegitimate grounds such as race or religion, are grounds that render the debate about the constitutionality of the law premature at this time, prior to the examination of individual decisions by the courts over a period of time.

20. The case is pending a Supreme Court decision.

The Regional Councils Law (Date of General Elections) 5764 – 1994 (the "Regional Councils Law")

21. Contrary to the concerns expressed in this Concluding Observation regarding a possible restriction of the political participation of non-Jewish minorities, the *Special Amendment to the Regional Councils Law* does not and was not meant to restrict the political participation of non-Jewish minorities but rather to enable the Minister of Interior the flexibility to conduct elections only after the specific condition of the regional council allows it. As far as this Concluding Observation is directed towards Abu Basma regional council, it is important to give the proper details concerning this matter.

22. The Abu-Basma Regional Council was established on 28 December 2003. It includes ten rural localities with around 30,000 residents and provides municipal services for additional 40,000 residents of unauthorized villages in the Negev. The Minister of Interior appointed a temporary council that will govern the administrative and municipal needs of the residents. According to the *Regional Councils Law (Time of General Elections) 5754-1994,* the first elections to the Regional Council should have taken place, at the latest, six years after the establishment of the Council. The aforementioned law was amended in November 2009 to allow the Minister of Interior to postpone the first elections indefinitely. The amendment does not specify the conditions for such measures. After the amendment of the Law, the Minister of Interior postponed the elections for the Abu-Basma Regional Council.

23. These events led to the filing of a petition to the High Court of Justice (*H.C.J. 3183/10 Alrfiaa et. al. v. The Minister of Interior*). The applicants claim that the amendment is unconstitutional since it harms the basic principles of a democratic regime, which require democratic election to be held in fixed and given times. This causes violations of additional constitutional human rights such as the right to take part in conduct of public affairs and the right to equality. After deliberations between the parties, both sides came to an agreement that the elections would be held on December 4, 2012.

24. On April 2012, the Director General of the Ministry of Interior, appointed a professional Committee in order to examine and make recommendations in regard to the municipal boundaries and the local planning areas of the Bedouin population in the Be'er-Sheva region, in light of the Goldberg Committee Report, with the aim of promoting the Government's goals detailed in Government Resolution No. 3707 regarding acceleration of the efforts to regulate the Bedouin housing in the Negev. The Committee, headed by

Prof. Eran Razin, was given a wide mandate which encompassed the examination of the municipal structure of the Bedouin population in the Be'er-Sheva region, namely in three main elements: Municipal ascription of authorized Bedouin localities, including examination of the future regulatory situation of the Abu-Basma regional council, including the possibility of its partition, the addition of additional areas and localities to this regional council or detraction of part of its territory and changes in areas of jurisdiction of existing Bedouin localities.

25. The Committee met with professionals, representatives of the Bedouin community and with representatives of the Bedouin local authorities and localities, both authorized and unauthorized. The Committee also visited the area in question in order to see firsthand the situation on the ground.

26. In August 2012, the Committee issued its preliminary recommendations, in which it recommended that the Abu-Basma regional Council should be divided into a number of separated local councils, since its current structure is of an operational state organ and not of a regional council and specifically of a Bedouin regional council. The Committee requested an additional time to examine the right manner by which to perform this division. The Committee made no recommendations in regard to the local elections in the Abu Basma regional council.

27. In October 2012, the Minister of Interior adopted the Committee's recommendations and the Abu Basma regional council was divided into two local councils with appointed committees: Al-Kasum and Neve Midbar (according to a geographic north and south partition).

28. An election will be held in these two local councils, following a decision of the Minister of interior.

Concluding observation No. 18:

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

29. As mentioned in the 14th Periodic Report (2010), on July 31, 2003, the Knesset adopted the C*itizenship and Entry into Israel Law (Temporary Provision)* 5763 – 2003 (the "*Citizenship Law*") which restricts family reunification of Israeli citizens with Palestinian spouses living in the West Bank or Gaza strip or with spouses living in several enemy states.

30. The Law was initially enacted for a period of one year. In view of the continued security threat it has been renewed at regular intervals. The Law was amended in 2005 and again in 2007 in to order expand the humanitarian exceptions contained in it. At the moment, the Law is valid until April 30, 2014.

31. The Law's constitutionality has been scrutinized and upheld by the Supreme Court sitting in an extended panel of eleven judges. A number of petitions on the legality of the Law were rejected.

32. On May 14, 2006 the High Court of Justice upheld the *Citizenship Law*. An expanded panel of 11 justices split six to five in rejecting petitions to overturn the Law. The majority ruled that the law does not harm Israelis' constitutional rights, stating that if the law does to some extent cause such harm, it was proportional (H.C.J. 7052/03 *Adalah - the Legal Center for Arab Minority Rights in Israel et. al. v. The Minister of Interior et. al*.).

33. On January 11, 2012, the High Court of Justice published its decision to reject a further petition against the legality of the *Citizenship Law*. Six of the extended panel of eleven judges found the Law to be constitutional. It is important to note that both the majority and the minority decisions determined that the purpose of the law is to mitigate the security threat posed by terrorist organizations seeking to harm Israeli citizens. The majority judgments also held that, given this purpose, the Law is proportional in that it is a rational means to attaining this end and that the security benefits of this law outweigh the negative impact of the restrictions that it places on family unification (H.C.J. 466/07, 544/07, 830/07, 5030/07 *MK Zehava Galon et. al. v. The Minister of Interior et. al*.).

Concluding observation No. 30:

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

34. In September 2012, the Israeli Government ratified the Convention on the Rights of Persons with Disabilities.

35. Israel signed the Convention on the Rights of Persons with Disabilities on March 30, 2007, and since then has been conducting extensive work in order to ratify this important Convention, which included among others, examination of relevant legislation, required legislation amendments and more.

36. The ratification procedure was led by the Commission for Equal Rights of Persons with Disabilities in the Ministry of Justice, with the participation of other relevant Government Ministries, such as the Ministries of Social Affairs and Social Services, Foreign Affairs, Finance and others.

37. This ratification is an important step in enhancing the protection provided to human rights in Israel.

38. The ratification of further international human rights treaties is considered by the State of Israel on a regular basis.

United Nations CERD/C/ISR/17-19

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Consideration of reports submitted by States parties under article 9 of the Convention

Seventeenth to nineteenth periodic reports of States parties due in 2016

Israel*, **

[Date received: 2 March 2017]

* The present document is being issued without formal editing.

** The annexes are file with the Secretariat and are available for consultation.

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Introduction

1. The Government of Israel (GOI) welcomes the opportunity to present its 17-19th Periodic Report to the Committee for the Elimination of Racial Discrimination (Hereinafter the "Committee) in accordance with the requirements of Article 9, paragraph 1(b) of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter, the "Convention" or "CERD").

2. In accordance with the Committee's Concluding Observation No. 38 of March 9, 2012, (CERD/C/ISR/CO/14-16), all GOI Ministries and institutions relevant to this Report were requested to supply data and information concerning their areas of operation. Additionally, in accordance with Concluding Observation No. 32 of March 9, 2012, Israeli Non-Governmental Organizations ("NGOs") were also invited to submit information and comments prior to the compilation of this Report.

3. This Report was compiled by the Counseling and Legislation (International Law) Department at the Ministry of Justice (MOJ), in cooperation with other Governmental Ministries and agencies.

4. Racial discrimination is prohibited in Israel. The State of Israel condemns all forms of racial discrimination, and its Government has maintained a consistent policy prohibiting such discrimination. The GOI has taken comprehensive measures to uphold the CERD provisions since its ratification.

5. In accordance with Concluding Observations No. 33 of March 9, 2012, Israel routinely considers its position with regard to Article 14 of the Convention, but based on the experience of other states and on the current work of the Committee, it does not consider it appropriate to accept this optional procedure at this time. Under Israel's domestic legal system, any alleged victim of violations has full access to effective redress and judicial review in Israeli courts, as well as in many other venues, as detailed in Israel's Core Document.

6. In response to the Committee's letter dated March 7, 2014, Israel notes the following: in regard to Concluding Observation No. 16 of March 9, 2012 — regarding information on military service benefits, such information was provided in detail in Israel's 14-16th Report in 2010 (CERD/C/ISR/14-16) (please see Para. No. 546-549), additional information regarding other legislation is available throughout this report; in regard to Concluding Observation No. 18 on the *Citizenship and Entry into Israel Law (Temporary Provision)* 5763-2003 — please see Para. No. 181-190 below; and in regard to Concluding Observation No. 30 — please see below Para No. 15, 115-121, 334-356 and 422.

I. Legislative Measures

7. Since the submission of Israel's 14-16th Periodic Report, significant new steps have been taken by the Israeli Parliament (the "Knesset") to promote tolerance and the elimination of racial discrimination in all its forms. Some noteworthy examples are cited below.

8. In accordance with Concluding Observation No. 30 of March 9, 2012, Israel is pleased to report that in March 2016, the GOI ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled of the World Intellectual Property Organization.

9. For additional legislation concerning the elimination of racial discrimination in all its forms, please see detailed information throughout this report.

II. Judicial Measures

10. Israeli courts, led by the High Court of Justice (HCJ), continue to play a crucial role in anchoring and promoting human rights throughout Israeli society. In the criminal context,

a number of criminal cases concerning incitement to racism and the commission of racist acts were decided by the Supreme Court and lower courts, generally resulting in convictions. For details on judicial decisions, please see relevant information throughout this report.

III. Administrative Measures

11. On April 6, 2016, the Ministerial Committee on Symbols and Ceremonies approved the list of people honored to light the twelve beacons in the ceremony that opens the national celebrations of Israel's 68th Independence Day. Included in this list were members of the Arab and Christian populations: Dr. Annan Falah, a prominent public activist for women's empowerment in Israel, and Father Gabriel Naddaf, a Greek Orthodox Priest, one of the leaders of the Aramean ethnic population and a central figure in strengthening the relationship between Jews and Christians in Israel and abroad.

The Ethiopian Population

12. On February 9, 2014, the Government approved its Resolution No. 1300, in which it mandated the Ministry of Aliyah and Immigrant Absorption (MOAIA), together with other relevant Ministries, to recommend a new policy for the advancement and promotion, to the greatest extent, of the integration of Israeli citizens of Ethiopian origin into Israeli society. For further detailed information concerning this Governmental policy, see Article 2 below.

The Arab Population

13. Over the past several years, the Government has made important inroads into improving the representation of the minority population within the Civil Service (CS) and Government Companies. The Government instituted affirmative action programs and mandated target goals to significantly increase the number of minority employees within the CS. Please see further information concerning Government Resolutions No. 922, 2365, 1052 below.

14. The Government has also been active in addressing the rights of migrant workers. Changes have been implemented that more fully protect their rights, particularly *vis à vis* their employers. This has largely been instituted by a reform in methods of employment, increasing foreign workers' awareness of their rights, and the establishment of specific enforcement divisions within the relevant governmental authorities.

15. National Conference for the Integration of the Arab Population in the MOJ and in the CS — On September 30, 2014, the MOJ held a national conference in Haifa aimed at encouraging the integration of students, lawyers and persons with academic education of the Arab population, including the Druze and Circassian populations, into the MOJ. The Ministry's representatives presented the pool of vacant positions within the Ministry and explained how to apply for these positions.

16. A similar Conference for the integration of Arab and Ethiopian populations, and persons with disabilities was also held on December 28, 2015, at the Tel Aviv University.

17. The MOJ Campaign and Hotline against Discrimination and Racism — In January 2014, a public campaign initiated by the Minister of Justice was launched with the aim of reminding the general public that discrimination and racism are not only morally wrong but constitute a criminal offence. As part of this campaign, a special hotline was created to provide information and assistance to persons affected by such acts. An internet site, including information on laws and regulations dealing with discrimination and racism, relevant judicial decisions, and ways to contact the relevant authorities, was also created. In July 2014, the issue of incitement was also added to the matters handled by the hotline. As of March 2016, 1,340 e-mails and several thousand calls concerning incitement have been received. Approximately 543 of the e-mails were transferred to the Police.

IV. Other measures and information

Dissemination of Human Rights Conventions

18. As of September 2014, Supreme Court hearings on constitutional issues are publicly broadcasted and made accessible through electronic media (television, radio and internet). The initial pilot came to an end in July 2016 and a tender has been issued for the continued operation of these broadcasts.

19. In May 2013, the Haifa University Senate instituted three additional vacation days honoring the most important holidays in the Christian, Islamic and the Druze religions — Christmas, Eid Al-Fitr, and Eid al-Adha respectively. This decision was taken with the participation of student representatives.

20. Several projects to promote understanding, tolerance and friendship among nations and populations have been implemented in Israel, for two outstanding examples see Part II of Annex No. II to this report (p. 19).

21. With regard to Concluding Observation No. 12 of March 9, 2012, for information on the composition of Israel's Jewish population of, please see Table No. 1 in Annex No. I to this report.

22. The following Report addresses the main issues addressed in the Convention since the submission of Israel's 14-16th Periodic Report, as well as the concerns raised by the Committee during the last session. We look forward to maintaining a constructive dialogue with the distinguished members of the Committee.

Article 2

A. Legal Framework to Eliminate Racial Discrimination

23. Racial discrimination is prohibited in Israel as required under Article 2(1)(a) of the Convention. Several Basic Laws, laws, and court rulings operate together to guarantee that no public authority or public institution engage in any act or practice of racial discrimination against persons, groups of persons, or institutions. These prohibitions apply with equal force at the national and local levels, and all public authorities and institutions are required to comply with their directives.

24. Information concerning new legislation and legal amendments is available throughout this report.

B. Specific Detailed Information on the Elimination of Racial Discrimination

1. Measures Taken to Prevent Discrimination by all Public Authorities and Institutions

I. Legislative Measures Relating to the Reporting Period

25. On July 11, 2011, Amendment No. 3 to the Pupil Rights Law 5761-2000 was approved by the Knesset. This amendment added national origin to the list of grounds upon which discrimination of pupils is prohibited.

II. Judicial Measures

26. For detailed case law including landmark decisions against certain discriminatory practices of both government entities and private individuals, see Part I of Annex No. II to this report (p. 3).

III. Administrative Measures

27. For information on the Ministerial Committee on Symbols and Ceremonies' April 2016 decision, please see the Introduction above.

28. Arab Population's Representation in Israel's CS — Data indicates a steady increase in the rates of Arab, Druze, Bedouin and Circassian employees in the CS. For specific data see Annex No. I to this report (p. 2). For additional information see Article 5 hereinafter.

29. The Judiciary — In recent years there has been a significant increase in the number of women and Arab citizens working in the Israeli judicial system. For specific data please see Annex No. I to this report (p. 3).

30. Governmental Companies — A steady increase is evident in the representation of the Arab population within Governmental companies. For further information see Article 5C(2) hereinafter (p. 19).

2. Not Sponsoring or Defending Discrimination by Persons or Organizations

31. No change has occurred in this area since the submission of Israel's 14-16th periodic report (hereinafter: No change).

3. Measures to Review, Amend, Rescind or Nullify Governmental, National and Local Policies That Create or Perpetuate Racial Discrimination

Enhancing Infrastructure within Israel's Arab Localities

Planning Scheme for the Arab Population

32. In recent years, the Department of Planning in the Ministry of Interior (MOI) has initiated an extensive project of updating planning schemes for the majority of Arab localities. Although the responsibility for initiating and promoting local planning is that of the local authorities, the Government decided to initiate and fund this project for those Arab localities which are unable to take such steps independently. For additional information about the above-mentioned project and on the implementation of the outline plans, see Part II of Annex No. II to this report (p. 19).

Facilitating Housing Issues

33. In July 2015, the Government approved a set of recommendations involving housing issues in Arab localities (Resolution No. 208). For information on this Resolution see Part III of Annex No. II to this report (p. 37).

Translating into Arabic information relating to the planning process

34. Currently, tender notices for the leasing or selling of land lots and houses are not translated into Arabic. However, the Ministry of Construction and Housing has established a special website in Arabic that includes all information presented in the Hebrew website and additional information specifically intended for the Arab population. Such information covers the governmental program for affordable housing ("A Price for Residents"), the procedure for participating and upgrading participation in the program, financial benefits, the technical specifications of the flats on offer, etc.

35. Furthermore, in 2015-2016, the Ministry widely published campaigns aimed at the Arab population through advertising "A Price for Residents" projects in Nazareth and in Sakhnin. The Ministry continues to operate to promote linguistic accessibility for the Arab population.

Planning and construction in the eastern neighborhoods of Jerusalem

36. In partnership with the residents, the Jerusalem municipality started re-planning a number of eastern neighborhoods of Jerusalem (Beit Hanina, Shuafat, Al-Issawiya, Silwan, Arab as-Sawahra, Sur Baher, Ras al-Amud, and Al-Muntar among others). The Municipality has invested millions of NIS in this process and has also established a new

system simplifying the process of proving ownership of land in eastern neighborhoods of Jerusalem. This involves a professional committee which is comprised of representatives from the municipality and local community leaders, and it serves to simplify the process of obtaining building permits.

٣٧. Translating into Arabic planning documents filed under the *Planning and Building Law* 5725-1965 — for relevant case law on this matter see Part I of Annex No. II to this report (p. 4).

4. Measures to End Discrimination by Individuals and Organizations

38. Racism in its various manifestations is considered a criminal offence in Israel, as discussed in Article 4 below.

I. Legislative Measures

A. Increasing Proportional Representation

CS

39. In January 2012, the Government approved the *Expansion of Adequate Representation for* Persons *of the Druze Community in the Public Service (Legislative Amendments) Law* 5772-2012. This law expanded the existing affirmative action plan applicable to persons of the Druze community, by requiring government companies with more than 50 employees, as well as municipalities in which at least one-tenth, but no more than 50% of the residents are Druze, to apply the Law's affirmative action requirements with respect to persons of the Druze community, for all the positions and ranks within these companies.

40. The *Expansion of Adequate Representation for Persons of the Ethiopian Community in the Civil Service (Legislative Amendments) Law* 5771-2011, was enacted in March 28, 2011. This law drastically expanded the existing affirmative action scheme applicable to individuals who were born in Ethiopia or who have at least one parent born in Ethiopia, by requiring Government Ministries, agencies and government companies with more than 50 employees, as well as municipalities, to apply the Law's affirmative action requirements with respect to persons of Ethiopian descent, for all the positions and ranks within these companies. The amendment further mandates companies and municipalities to promote the appropriate representation of employees of Ethiopian descent in their workplace. These requirements apply to all types of job openings, as well as promotions within government companies and municipalities.

II. Judicial Measures

Prohibiting Discrimination by Private Enterprises

41. For relevant case law on this issue see Part I of Annex No. II to this report (p. 5).

III. Administrative Measures

The Authority for Economic Development of the Arab Population, Including Druze, Bedouin and Circassian (hereinafter: the "Authority")

42. The Authority is a multi-purpose entity that leads policy changes, is charged with drafting and implementing government programs, handles the coordination and monitoring, all for the benefit of the Arab population.

43. The Authority leads economic and social projects in collaboration with governmental and municipal agencies, as well as civil society organizations — among them an investment fund with the total sum of 177 Million NIS (46.5 Million USD) and a scholarship fund for Arab students totaling 15 Million NIS (3.95 Million USD). The budgetary scope of the government programs headed by the Authority is approximately 3 Billion NIS (789.5 Million USD). Hereinafter are several examples of Government Resolutions supervised by the Authority.

44. On June 2, 2016, the GOI approved Resolution No. 1480 titled "Government plan for the empowerment and socio-economic strengthening of the Bedouin localities in northern Israel for the years 2016-2020." On December, 31, 2015, the Government approved Resolution No. 922 titled "Government activities for the development of minority populations for the years 2016-2020." On December 21, 2014, the Government approved Resolution No. 2365 titled "Government plan for the development of Minority Localities (including Arab, Bedouin, Druze and Circassian local authorities) in 2015." On December 15, 2013, the GOI approved Resolution No. 1052 titled "Multi-year plan for the development and strengthening of the Druze localities in the Golan for the years 2014-2017". For information on these Resolutions please see Part III of Annex No. II to this report (p. 38).

45. The Authority provides additional assistance for Arab local authorities, in areas ranging from adequate application for subsidies published annually by Government Ministries and additional entities, to better usage of those subsidies granted.

Affirmative Action in Higher Education

46. In addition, in December 2015, the Council for Higher Education (CHE) published a call for submission of proposals for the establishment and operation of a state-funded academic college in an Arab locality in northern Israel. This institute will render higher education more accessible to the Arab population living in northern Israel, especially women.

47. In 2014, the Ministry of Education (MOE) and the CHE together with the Iratika Scholarship Fund and other private donors and benefactors, offered 650 scholarships for first degree students of the Arab population (including Druze and Circassian students) for the 2015 academic year. In 2014, 650 scholarships in the total sum of 6.5 Million NIS (1.7 Million USD) were allocated. Preparations are being made for the second allocation to roughly 650 new recipients.

5. Measures to Encourage NGOs to Foster Mutual Understanding

48. There are a number of organizations in Israel that seek to enhance cross-cultural understanding and co-existence. As discussed further in Article 7 below, the activities range from youth orchestras to educational centers such as Givat Haviva, etc.

C. Information on National Human Rights Institutions (NHRI)

49. For information on mechanisms for the protection of human rights please see Israel Core Document of 2008 (HRI/CORE/ISR/2008) and as amended in 2014 (HRI/CORE/ISR/2015) (Article 2(IV)(A)(vi) to (xiii)).

Bedouins in the Negev

50. The Bedouin population resides in both the North and the South of the country. The Government has initiated a number of plans that address their concerns and needs, as described in Article 5 below. The key goals are to allow for sustainable integration of the Bedouin population, while maintaining their traditional practices and lifestyle. All of the plans involve active participation of the relevant communities.

Advancement of the Integration of the Ethiopian Population into Israeli Society

51. On February 9, 2014, the Government approved Resolution No. 1300 in which it mandated the MOAIA, together with other relevant Ministries, to recommend a new policy for the advancement and promotion, to the greatest extent, of the integration of Israeli citizens of Ethiopian origin into Israeli society. On July 31, 2015, the Government approved Resolution No. 324, thus adopting the milestones for Governmental policy for this advancement. For additional information on these Resolutions and on Government Resolution No. 609 and 1107, please see Part III of Annex No. II to this report (p. 40).

52. The total budget for this project is approximately 500 Million NIS (130.2 Million USD). The project administration is currently in the process of recruiting personnel for the implementation of this plan.

Inter-Ministerial Team in Charge of Forming an Action Plan to Deal with Racism against Persons of Ethiopian Origin

53. On January 18, 2016, the Ministerial Committee for the Advancement of the Integration into the Israeli Society of Israeli Citizens of Ethiopian Origin approved a decision assigning the MOJ's Director General to establish and direct an inter-ministerial team charged with forming an action plan to deal with racism against persons of Ethiopian origin. For additional information on this team see Part II of Annex No. II to this report (p. 21).

Article 3

54. Apartheid has always been regarded as abhorrent by the GOI and society, and continues to be so regarded. Apartheid has never been practiced in Israel. There exists in Israel no restrictions of any kind as to place of residence nor is there any segregation of any kind.

Article 4

A. Criminal Prosecution of Racism

I. The Law

55. No change.

II. State Attorney's (SA) Guidelines and the Department for Special Functions (DSF)

56. In 2012, the SA issued a guideline titled "Offences committed with an ideological or nationalistic motive" which emphasized the use of the *Penal Law*'s provision that allows for doubling the maximal punishment set for an offence when it is committed with racist intent or motivated by hostility towards a section of the public, etc. In addition, District SA's were requested to supervise personally the handling of each case of ideological or nationalistic offences. Additional supervision and final responsibility for the decision making process in such cases rests with the Deputy SA (Special Functions).

III. Judicial Perspectives

57. Since 2012, the DSF in the SA's Office (SAO) has authorized the filing of dozens of indictments in cases of offences motivated by racism or hostility. Investigations into the statements of several rabbis have been conducted. Moreover, one religious educational institute was closed after it was established that its educational content was violent and inciting and the funding for another religious educational institute was terminated on the same grounds.

58. Beyond these measures, the staff of the DSFhas been working since 2012 to increase the attribution of hate crimes — an aggravating circumstance that applies to offenses carried out with racial motivation or hostility to a certain public — to criminal incidents in accordance with Section 144F of the *Penal Law*. In the past years the SAO has approved the addition of this circumstance to many files. The circumstance allows the prosecution to request double the punishment set for the offense specified in the indictment.

59. Please see several main examples of judicial decisions concerning criminal prosecution of racism in Part I of Annex No. II to this report (p. 6).

Incitement on the Internet

60. The DSF also deals with prosecution of incitement offences in general, including cases of incitement on the internet.

61. The policy for dealing with incitement on the internet has changed. This change includes a substantial increase in the number of investigations and indictments concerning offenses of incitement to racism or violence; raising public awareness by clarifying the "red lines" of legitimate public discourse; appointing officials in each SA's District Offices (SADO) authorized to handle such cases within in a short timeframe, filing an indictment within one month and providing information to the public through the media regarding these steps. Accordingly, dozens of indictments for incitement on the internet, mainly through social media, have been filed.

62. During 2014, there was an increase in the number of incitement to racism and violence cases and more than 200 such cases were opened and a total of 86 indictments were filed. During 2015, an additional 80 indictments were filed for incitement to racism or to violence and for offences that were committed with a racial motive.

IV. Administrative Measures

63. The use of "Illegal Association" Restrictions as a Legal Tool — On August 13, 2013, the Minister of Defense declared that any association of persons — unionized or not, including any group, cell, social partnership, section, or similar association — that uses the name "price-tag" or any other derivative with a similar meaning is an "illegal association" pursuant to Regulation 84 of the *Defense (Emergency) Regulations* of 1945. Under this classification, a "price-tag" offence can be regarded as a security-related offence that, in certain circumstances, allows for special law enforcement measures to be taken, subject to judicial review. Defining "price-tag" perpetrators as engaging in an "illegal association" also attests to Israel's unequivocal stance against this phenomenon.

B. Racial Motive as an Aggravating Circumstance

64. The issue of racial motive as an aggravated circumstance is regulated by Section 144F to the *Penal Law*. In 2016, (until November 30) 13 cases were authorized to be filed as indictments that include racial motive. In 2015, this figure stood on 24 investigations, and in 2014, 41 such investigations were authorized. In the past year, reaching a plea bargain requires consultation with the Deputy AG. For additional information see Israel's 14th-16th Periodic Report (Para. 168).

D. Judicial Measures

65. For detailed information concerning incitements and cases relating to incitement to violence, racism, or other serious offences with a racial motive, please see Table no. 2 in Annex No. I and Part I of Annex No. II to this report (p. 6).

Article 5

A. The Right to Equal Treatment before National Tribunals

66. The right to equal treatment for all persons regardless of their race or ethnic origin is a fundamental principle in Israel. All governmental bodies and judicial apparatus recognize this right, and maintain and uphold equal treatment for all individuals. In regard to the Appeals Tribunal over decisions of the Detention Review Tribunal-Section 13W to the *Entry into Israel Law* 5712-1952, sets the appointment procedure of judges based upon a public process of examination and selecting by a professional committee. In addition, the principle of independence set forth in Article 3 of the *Administrative Courts Law* 5752-1992, applies to the Appeals Tribunal.

67. In order to guarantee these rights, free legal aid is offered in Israel under certain circumstances in both civil and criminal proceedings.

68. **The Legal Aid Administration** (LAA) — is a unit operating under the auspices of the MOJ. The main responsibility of the LAA is the provision of legal assistance to persons who cannot afford to realize their constitutional right of access to judicial forums, subject to certain conditions and subject to an eligibility test. The LAA provides legal representation by virtue of the provisions of the *Legal Aid Law* 5732-1972 and *the Legal Aid Regulations* 5733-1973. While it is a governmental organ, the LAA enjoys some independence and has the ability to file suits against the Government on behalf of their patrons when necessary.

69. **The Public Defender's Office (PDO)** — is part of the MOJ. Its goals are to promote the best interests and protect the rights of all suspects, defendants, and convicts in Israel. **PDO provides legal representation throughout the entire criminal proceedings**, from consultation for suspects during police investigation to representation during sentencing, hearings before parole committees, etc. PDO plays a crucial role in the representation of persons who cannot afford a lawyer and in maintaining justice in criminal legal proceedings. Recently, PDO launched a website in Hebrew, English, Arabic and Russian.

The Counter-Terrorism Law 5776-2016

70. On June 15, 2016, as part of Israel's ongoing battle against terrorism, the GOI enacted the *Counter Terrorism Law* 5776-2016. This detailed and carefully-designed new law is part of an effort to provide law enforcement authorities with more effective tools to combat modern terrorist threats while incorporating additional checks and balances necessary to safeguard against unreasonable violations of individual human rights. The Law provides, among other things, updated definitions of "terrorist organization", "terrorist act" and "membership in a terrorist organization", detailed regulations for the process of designating terrorist organizations, and enhanced enforcement tools, both criminal and financial. This Law nullifies current legislation in the field of counter-terrorism. It does not create discrimination on the grounds of race, color, decent or national or ethnic origin and does not subject individuals to racial or ethnic profiling or stereotyping.

B. Security of the Person

71. In April 10, 2016, the Government approved its Resolution No. 1402, titled "improvement of personal security in the Arab population and the Security in Jerusalem. For additional information please see Part III of Annex No. II to this report (p. 40).

72. Also in 2014, as part of an effort to increase personal security in minorities' localities and to fight crime, two police stations commenced operating in Kafr Qasim and Iron — each receiving an allocation of 60 personnel.

73. Israel Defense Forces (IDF), the IDF has a military justice system which examines and investigates allegations of misconduct, ensuring compliance with the rule of law, including International Law and the Law of Armed Conflict. The three main components of the military justice system are as follows: the **Military Advocate General's Corps** ("MAG Corps"). The Military Advocate General himself is appointed by the civilian Minister of Defense and is guided only by Israel's Attorney General (AG); the **Military Police Criminal Investigation Division** ("MPCID") which is the IDF's primary entity for investigating allegations of criminal offences. It enjoys complete professional independence and is not subordinate to any commanders outside the military justice system; and **the Military Courts**, which are independent of both the Military Advocate General and the IDF chain of command. These courts adjudicate charges against IDF soldiers for military and criminal offenses.

74. Furthermore, the IDF's military justice system is subject to civilian supervision by the AG. Further review is available through Israel's Supreme Court, which may hear direct appeals on a judgment of the Military Court of Appeals. Complainants or NGOs may also petition the Supreme Court, sitting as the HCJ, against a decision of the MAG or the AG.

75. The IDF, as part of the executive branch, is also subject to the supervision and inspection of the State Comptroller, who carries out external audits and reports and fulfills the function of a Public Complaints Commissioner (Ombudsman). The Comptroller is accountable only to the Israel's Parliament (Knesset) and enjoys unrestricted access to the accounts, files, and staff of all bodies subject to an audit.

76. Furthermore, the Knesset can also appoint a parliamentary committee of inquiry and act to supervise the activities of the IDF.

Communication between the IDF and Minority Population Groups

77. **The Bedouins and Druze population** — the IDF is operating to expand the recruitment and involvement of persons of the Bedouin and Druze populations. For this purpose, the IDF's human resources is responsible for assisting these populations in the pre-drafting stages and during their service.

78. **Every position is open before every person, regardless of his/her race, religion and color, and assignments are determined only in** accordance **with each person's qualifications.**

79. **With regards to the rates of Bedouin Volunteers, a wide plan was formed in order to expand these rates for various positions, including in technological and professional positions.**

80. **The Israel Security Agency (ISA)** operates in according with the *Israel Security Agency Law* 5762-2002 and is subject to review by the Inspector for Complaints, by the State Comptroller, the SAO, the AG, the Knesset and every instance of the courts, including the HCJ.

81. Where a complaint is made concerning an interrogation, the Inspector, who has been an organ in the MOJ since 2014, conducts an inquiry. The Inspector's findings are transferred to a senior advocate in the SAO who examines the evidence and makes a recommendation as to whether the facts justify opening a criminal investigation.

82. The Department for Investigation of Police Officers (DIPO) in the MOJ is specifically designated to investigate complaints of involvement of police personnel in the commission of offences (defined as offences punishable by one year imprisonment or more).

83. The DIPO views with the utmost severity instances of police officers' ill-treatment and disproportionate use of force. Cases of alleged violence are investigated thoroughly and meticulously, using all means to exhaust the investigation and bring to justice those found to have used unnecessary violence or acted in an unreasonable manner.

84. The DIPO is responsible for most criminal investigations against police officers. Disciplinary proceedings are initiated by filing a complaint to the Disciplinary Department at the Police Central Headquarters Personnel Division or to any of its branches.

85. For information concerning cases handled by the DIPO please see Annex No. I to this report (p. 12).

86. The Israel Prisons **Service (IPS)**, every detainee under the care of the IPS has access to the following complaint mechanisms: filing a complaint to the prison Director; petitioning the relevant District Court in a prisoner's petition; filing a complaint to the Wardens Investigation Unit of (WIU) through the IPS or directly to the Unit, which is part of the Police and not the IPS. The findings of the WIU are subject to the SAO scrutiny, who decides whether to institute disciplinary measures or criminal proceedings. Detainees may also file a complaint to the Prisoners Complaint Ombudsman, including via a complaint box placed inside the prison which is conveyed to him directly and without the interference of the prisons' staff; write to Members of Knesset; file a complaint to the State Comptroller and Ombudsman and approach an Official Visitor.

87. In addition, Section 71 of the *Prisons Ordinance* establishes rules for Official Visitors to prisons, appointed by the Minister of Public Security. Official Visitors are allowed to enter the prisons at any given time (unless special temporary circumstances

apply) to inspect prisoners' care, prison management, etc. During these visits, the prisoners may approach the visitors and present their complaints.

Communication between the Police and Minority Population Groups

Relations with the Arab Population

88. The Police carries out a regular annual work plan for strengthening and improving relations with the Arab community. For information concerning a focused organizational effort that was conducted during 2014-2015 on this issue see Part II of Annex No. II to this report (p. 22).

89. Following a claim raised by an NGO in the process of compiling this report, that Arab complainants admitted to hospital are unable to file complaints against their attackers whilst in hospital, but are directed to police stations in order to do so, and following a query that was directed to all police districts in this regard, the Police reiterated that in every case in which a person is hospitalized as a result of a serious violent offense, an investigator is sent to him/her at the hospital to take a complaint.

Relations with the Ethiopian Population

90. In 2015 following the Ethiopian population's protest against the Police, a steering committee was formed headed by the Director of the Police's Human Resources Department, including representatives of the Ethiopian population, with the aim of examining claims of racism and discrimination in the criminal law enforcement system. The team collected factual data and summoned representatives from police units, both in order to clarify the actions taken so far in handling complaints to formulate a program for the future handling of this matter.

91. Although this work evolved in order to respond to claims raised by the Ethiopian population, it was expanded during 2016 in order to apply to additional populations such as the Arab and the Ultra-Orthodox populations.

92. The Police has drawn a detailed plan for reinforcing trust between the Police and the Ethiopian population and reducing sensitive incidents. For Additional information on this plan and on special operations taken at Police stations please see Part II of Annex No. II to this report (p. 23).

93. **Personal Cameras Pilot** — In August 2016, the Police began a pilot program involving personal body cameras attached to police personnel, in order to increase transparency regarding daily police operation, objective recording of incidents and in order to reduce clashes between police personnel and citizens. For information on this program see Part II of Annex No. II to this report (p. 23).

94. **Verbal Accessibility** — Interpreters are summoned to Police stations and units in accordance with the needs and operative requirements of each investigation, with the aim of supplying professional translation services in the shortest time possible. The interpreters travel to all Police stations as required, regardless of geographical distance or other variables.

95. Following an agreement signed with a private company, the Police receives translation services **into all languages** including sign language, including of course Amharic and Tigrinya, all days of the year and at all hours of the day (excluding on the Day of Atonement).

96. The Investigations Department is advancing the linguistic accessibility of the main forms used during a criminal investigation and their translation into English, Russian, French and Amharic. The process of translating and computerizing these documents is ongoing.

97. Amharic speaking policemen have been placed in emergency call centers (100/110) 24/7.

98. Also, a complaint form to the DIPO in the MOJ has been formulated. This form will be given to any suspect or witness who raises a complaint regarding police violence towards him/her. This form will also be translated into Amharic.

Information regarding Police Personnel from among the Arab and Ethiopian Populations

99. The Police invest great efforts in seeking candidates for recruitment among the Arab and Ethiopian populations, and in recruiting additional members of these populations by holding career days, participating in employment conventions for discharged IDF soldiers, in conferences of the MOAIA and more.

100. For further information on this issue please see Table No. 3 and additional data thereafter, in Annex No. I to this report.

101. In addition, emphasis is placed on the recruitment of criminal and traffic prosecutors of Ethiopian decent. Presently, 11 prosecutors are serving in the police prosecution division, seven of whom were recruited during 2015/16.

Asylum Seekers

102. Israel fully respects all its obligations under the 1951 Refugee Convention and the Protocol of 1967, ratified by Israel. For figures regarding undocumented migrants in Israel please see Annex No. I to this report (p. 14).

103. Israel is committed to the principle of non-refoulement and will not return persons to an area where their lives or liberty are at risk.

104. As far as encouraging the return of migrants to foreign countries, Israel has reached arrangements with two safe third countries with regard to the safe relocation of persons from Sudan and Eritrea who entered Israel through the Egyptian border illegally, as a more appropriate way of dealing with this situation, due to the unique circumstances that Israel is facing and the geopolitical context in the Middle East.

105. The AG conditioned his approval of the safe relocation policy on the following criteria:

- There are no wars or general disturbances taking place in the third countries;
- No UNHCR recommendations exist against relocation to the third countries;
- The life and freedom of the individual are not at risk in the third countries based on race, religion, nationality or membership in a particular social or political group;
- Relocated individuals in the third countries will have access to the asylum procedure or enjoy temporary protection, or, at a minimum, these countries are obligated to abide by the *non-refoulement* principle;
- Torture or cruel and degrading treatment are prohibited in the third countries;
- The third countries are obligated to allow the relocated individuals the means to live in a dignified manner, or at least the possibility to stay and to work for a living.

106. Prior to reaching these arrangements, Israeli authorities ensured that these third countries are committed to international legal standards for treatment of asylum seekers. These countries are parties to the 1951 Refugee Convention and other major human rights conventions, and they meet the AG's criteria.

107. Several NGOs petitioned the District Court in Be'er-Sheva against the procedure but their petition was rejected in November 2015. The Court determined that prior to the implementation of these agreements, a thorough and strict examination had been made, regarding the safety of these third countries on the political, social, economic and legal levels. An appeal to the Supreme Court is currently pending.

108. Between 2010 and 2015, 12,300 persons who entered Israel through the Egyptian border illegally, exited Israel to safe third countries or to their country of origin voluntarily. Based on the information available to the State of Israel, there have been no known cases of

violations of the principle of non-refoulement, and those relocated receive all their rights according to the arrangements.

109. For detailed case law on the Amendments to the Prevention of Infiltration Law (Offenses and Jurisdiction) 5714-1954, please see Part I of Annex No. II to this report (p. 8).

C. Political Rights

1. Access to the Political System

110. No change.

The Right to Run for National Public Office

111. No change.

Legislative Developments

112. On December 9, 2014, the Knesset approved *Election Law (Legislative Amendments)* 5775-2014, which, *inter alia*, amended the *Knesset Election Law [Consolidated Version]* 5729-1969. Among other things, the amending law revised Section 76(C) of *the Knesset Election Law*, clarifying that a blank note marked by a handwritten letter representing a list or marked by such a handwritten letter and the list's label, in Hebrew, Arabic or both, is sufficient to be regarded as a legal note. Prior to this amendment, the *Knesset Election Law* was silent in regard to the languages in which such a vote may be cast.

113. In March 2014, the Knesset approved Amendment no. 62 to the *Knesset Elections Law*. In the scope of this amendment, the electoral threshold for political parties to be elected into the Knesset was raised from 2% to 3.25%. In the explanatory notes for this amendment, the Knesset notes that the purpose of this threshold is to reduce the number of political parties represented in the Knesset by preventing the representation of very small parties and encouraging them to unite with other parties in one electoral list. The explanatory notes further state that such a rate for this threshold is common in other countries as well, and that several parties may run in a unified list — but still remain separate parties in the Knesset — provided that an advanced notice is provided to the Knesset Chairperson. For related case law, please see Part I of Annex No. II to this report (p. 10).

The Central Elections Committee

114. The Central Elections Committee, including its current Chairperson sees great importance in raising the rate of voter turnout and integrating the entire Israeli population in the elections process. For information relating to steps implemented by the Committee, including allocation of resources, transportation to the ballot boxes and encouraging voting for the 20th Knesset please see Part II of Annex No. II to this report (p. 24).

Members of Ethnic and Religious Minorities

115. Minorities vote for Knesset lists (political parties) along with the entire population. In addition, Arab political parties have been consistently represented in the Knesset, as is the case in the current 20th Knesset. There are currently thirteen Arab Knesset Members, four Druze, and one Bedouin Knesset Member (two of who are women). For updated figures regarding Arab Knesset Members sitting in the current 20th Knesset and key roles please see Table No. 4 in Annex No. I to this report.

Political Expression of Knesset Members

116. In this regard, please see Israel's 14-16th Periodic Report of 2010.

Case Law

117. For relevant case law, please see Part I of Annex No. II to this report (p. 10).

2. Access to Public Service

The CS-General

118. **The Arab Population's Representation in Israel's CS** — Since 1994, the Government has been taking affirmative action to enhance the integration of the Arab and Druze populations into the CS. These include both legislative and administrative measures. Some of the most recent examples are:

(i) The enactment of the Expansion of Adequate Representation for Persons of the Druze Community in the Civil Service (Legislative Amendments) Law 5772-2012, please see Article 2B(4)(1)(I) above.

(ii) Furthermore, in order to better inform Israeli Arabs of the specialized positions available in the CS, the GOI ran a media campaign in 2012. As part of this campaign, a special website was established in which information and success stories are published — all with the aim of making the CS more accessible to the Arab population.

(iii) In January 2012, the CS Commission (CSC) issued a new procedure for hiring employees in order to conform to Government Resolution No. 2579, according to which at least 10% of the CS employees should be of the Arab population. According to the new procedure, every Ministry or auxiliary requesting to hire new employees shall approach the Planning and Supervision Department who determine the minimum number of positions to be manned by persons of the Arab population. Any Ministry or unit that meets the required 10% will be exempt from this procedure.

(iv) For Further information please see Annex No. I to this report (p. 2).

(v) **Minorities' Terms of Employment in the** CS. The CSC has also taken steps to better accommodate the needs and lifestyles of minority employees. Holiday and vacation time is provided according to the relevant religious holidays, such that Muslim employees are entitled to a day off during Ramadan and Christians can choose Sunday as their day off work. Only recently, in May 2016, the CSC approved, beyond the letter of the law, that Muslim employees of the MOJ will be able to report on-call shifts during the holy month of Ramadan, since this year it almost parallels the month of June in the Gregorian calendar. Normally, on-call shifts may not be reported during holidays.

Persons of the Ethiopian Population in the CS

119. For further information please see Article 2B (4) (1) (I) above.

120. The Ethiopian population constitutes approximately 1.5% of the Israeli population; parallel to the percentage represented in the CS (approximately 1.4%). In order to further increase representation in the CS, particularly for those with higher education, Government Resolution No. 2506 of November 2010 created 30 positions (13 of which were new), specifically to be fulfilled by people of Ethiopian population. The Resolution was implemented in 2013 and has increased the Ethiopian population representation in the CS, and this trend continues.

Ministry of Justice

121. The Ministry is constantly operating to increase the number of employees of Ethiopian origin so it will reach at least 1.5%. Currently there are 30 employees of Ethiopian origin employed in the Ministry (0.75%). Although there is a need for improvement, this figure represents an increase compared to 2014.

122. In addition, the Ministry's LAA and the PDO regularly outsource to 29 lawyers of Ethiopian origin.

The Judiciary

123. Please see Annex No. I to this report (p. 3).

Representation in Governmental Companies

124. Appropriate representation is required in each government company, and in accordance with the company's unique characters. Thus, the Committee for the Examination of Appointments does not insist upon appropriate representation in very small companies (1-3 directors), or in a company which is newly established or which is under liquidation, or in a company which in essence is not related to the Arab population.

125. Increasing Arab Representation within Governmental Companies — According to data received from the Government Companies Authority, there is a steady increase in the representation of the Arab population within Governmental companies. For information on this issue, please see Annex No. I to this report (p. 3).

D. Civil Rights

1. The Right to Freedom of Movement and Residence Within state Borders

The Legal Landscape

126. No change.

Freedom of Movement within the State

127. Freedom of movement within the State is generally unrestricted unless by a lawful decision of the Minister of Interior. All residents of Israel (i.e., citizens, permanent residents who are not citizens, and temporary residents) are required to register their address, or any change thereof, with the Population Registry. Non-resident aliens need not register their whereabouts while in the country.

Public Transportation Services in Bedouin Localities

128. The Ministry of Transportation and Road Safety continued to advance the development of intra-municipal infrastructure in Arab localities and the development of inter-municipal infrastructure through the allocation of budgets to the local municipalities.

129. For information related to Government Resolutions on this issue, including in regard to northern Bedouin localities, please see Part III of Annex No. II to this report (p. 41).

130. Public transportation services are provided for the Bedouin population in the north for lower cost, and are operated regularly on all days of the week, including Saturdays. Public transportation in the Bedouin localities in the north is provided for the localities of Abtin, Shibli and Zarzir. Other localities are assisted by service lines, which are operated in a similar manner to those that operate in localities in the South.

131. More improvements are expected in the next few years with respect to transportation infrastructure in Arab, Druze and Bedouin localities.

2. The Right to Leave any Country, Including One's Own, and to Return to One's Country

132. No change.

Exit from Israel

133. No change.

134. Please see related case law regarding MK Sa'id Naffaa in Part I of Annex No. II to this report (p. 11).

Entry into Israel

135. Please see Israel's 14-16th Periodic Report in this regard.

136. In addition, in August 2014, Population and Immigration Authority (PIA) personnel were instructed to recognize same-sex marriages for the purposes of granting a visa in accordance with the *Law of Return* 5710-1950.

3. The Right to Nationality

137. No change.

The Eastern Neighborhoods of Jerusalem

Expiration of Residency

138. In 1967, the Palestinian residents of the eastern neighborhoods of Jerusalem received the status of permanent residents. A permanent resident who wishes to receive Israeli Citizenship is entitled to do so, subject to security or criminal prevention. Since 1967, more than 15,000 permanent residents of the eastern neighborhoods received Israeli citizenship.

139. Permanent residents receive the same rights as citizens, excluding an Israeli passport and the right to vote in general elections. However, residents can participate in municipal elections. Residency can expire when the person leaves Israel for a period longer than seven years or acquires citizenship or residency in another country. Expiration of residency is relevant only with regard to *residence* abroad for a period longer than seven years, rather than a *temporary stay* abroad (as required, for example, in order to participate in academic studies).

140. A person can regain his/her residency, if he/she maintains an affinity to Israel despite his/her life abroad, if he/she lived in Israel for two consecutive years, and if certain conditions were met.

141. The following statistics relate to residents of eastern neighborhoods of Jerusalem whose residency expired: 2015 — 84 cases; 2014 — 107 cases; 2013 — 93 cases; 2012 — 114 cases. As can be seen, these figures are extremely small.

142. Recently, the Court for Administrative Affairs ruled in a number of petitions on this matter. For related information see Part I of Annex No. II to this report (p. 12).

4. The right to marriage and Free Choice of Spouse

Underage Marriage in Israel

143. In December 2013, the Knesset amended the *Marital Age Law* 5710-1950 (Amendment No. 6), by raising the minimum marital age from 17 to 18. The Law prescribes that a Family Matters Court is authorized to permit the marriage of a minor if they are above the age of 16 and if there are unique reasons linked to the minors' best interest to do so. The Court must hear the minor before deciding on this matter. In addition, concerning the marriage of a minor over the age of 16 but below the age of 17, the Court must request a survey of a social worker in accordance the *Marital Age Law*.

Same-Sex Marriages

144. No change.

145. In recent years, there have been many judicial decisions which have promoted rights of same-sex couples in Israel. For further information, please see Part I of Annex No. II to this report (p. 12).

Family Unification

146. In paragraph 18 of its concluding observations to Israel's 14th-16th Periodic Report, the Committee expressed concern with the process of family reunification for foreign spouses.

147. For background information on the *Citizenship and Entry into Israel Law (Temporary Provision)* 5763-2003, including the Law's constitutionality as upheld by the Supreme Court, please see Israel's 14th-16th Periodic Report.

148. The Law was extended several times and it is currently valid until June 30, 2017.

149. On April 17, 2016, the Minister of Interior requested that the Government extend the Law for a further year, in accordance with the expert opinion of the Israeli Security Agency (ISA). Moreover, the wave of terrorist attacks that began in October 2015 has shown that status given for the purpose of family unification is still misused in order to engage in and facilitate terrorist activity.

150. Nevertheless, following statements of the Supreme Court, the Minister of Interior has decided on a number of changes aimed at providing humanitarian relief for those to whom the Law applies. The Government gave notification that holders of temporary residency (A/5) visas will be able to extend the visa for a period of two years, instead of one year at a time.

151. In addition, the Government notified the Court that holders of temporary permits for stay in Israel granted by the Coordinator of Government Activities in the Territories (COGAT), whose family reunification applications were made before the end of 2003 (the year the Temporary Provision was enacted) and who have therefore been screened by the security services for many years, would be upgraded. These individuals are to be granted temporary resident status which includes registration in the population registry, social security benefits and national health insurance for them and their children. They will also receive an Israeli identity document. This upgrade will be made available to persons born after January 1, 1998, who comply with several standard criteria (namely, that their marriage is an authentic one, that they live in Israel and that there are no security or criminal obstacles to the upgrade). This decision should affect some 2,000 families.

152. Furthermore, it was determined that the Advisory Committee to the Minister will be instructed that in relevant humanitarian circumstances, recommendations for a two year permit may be given, as opposed to recommendations limited to one year at a time.

153. In regard to health care, the *National Health Insurance Regulations (Registration to a Health Fund, Rights and Obligations of Persons Who Receive a Permit Pursuant to the Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003)* 5776-2016, which entered into force on August 1, 2016, established a health insurance arrangement similar to that enshrined in the *Health insurance Law* relating to persons who hold temporary permits for stay in Israel pursuant to sections 3, 3A(2) or 3A1(a)(2) of the *Citizenship and Entry into Israel Law*.

5. The right to inherit

154. No change.

6. The Right to Freedom of Thought, Conscience and Religion

Freedom of Religion

155. Freedom of religion is an important aspect of Israeli society, and also includes the freedom from religion, sometimes also referred to as the freedom of conscience, as well as the freedom to practice one's religion, which are all basic principle of Israeli law.

Promoting Equality in Funding of Religious Services

Budgeting of Religious Services and Religious Institutions

156. Please see Annex No. I to this report (p. 15).

Civil burial

157. The *Right to Alternative Civil Burial Law* 5756-1996 requires that such alternative cemeteries be established in various areas around the country, sufficiently distant from one

another so that all those who wish to take advantage of them may reasonably be able to do so. For information on cemeteries for civilian burial in Israel Please see Annex No. I to this report (p. 15).

Case Law

158. Please see Part I of Annex No. II to this report (p. 13).

Non-discrimination on the Basis of Religious Affiliation and Building of Religious Institutions

159. No change.

Protection of Holy sites

160. Israel sees great importance in protecting holy sites of all religions and acts to prevent damages to such sites. In cases where damage is caused, the State takes measures in order to investigate and prosecute the offenders as detailed hereinafter.

Case Law

161. Please see Part I of Annex No II to this report (p.14).

Free Access and Protection of Holy Places

162. Israeli Law grants freedom of worship and ensures the safekeeping of and access to holy places to members of all faiths. Sites are guarded by the Police in order to protect public order in sensitive places.

7. Freedom of Opinion and Expression

163. For information regarding incitement to racism on the internet please see Article 4(A)(III) above.

Case law

164. For related case law, please see Part I of Annex No. II to this report (p. 14).

8. Freedom of peaceful Assembly and Association

165. Please see Israel's 14th-16th Periodic Report for further information.

166. In addition, concerning the Ministry of Defense's declaration on an "illegal association," please see Article 4(A)(IV) above.

E. Economic, Social, and Cultural Rights

1. The Right to Employment

167. Increasing the employment rate in Israel among all population groups is a primary objective of the Government and of the Ministry of Economy and Industry (MOEAI) in particular.

١٦٨. In recent years, there has been a constant increase in the employment rate of Arab women. In 2014, the employment rate among Arab women between the ages of 25-64 was 33% (compared to 27% in 2011) with a target of 41% percent by 2020. Among Arab men between the ages of 25-64, the employment rate is close to 76% with a target of 78% by 2020. This increase is compatible with the Government's targets under Government Resolution No. 1995 of July 15, 2010. For information about Government actions to increase the employment rate among the Arab population, for both men and women (including in regard to Ryan employment centers, daycare centers, professional training, entrepreneurship encouragement, development and establishment of industrial zones, integration in to high-tech industries, employment of Arab teachers and more), please see Part II of Annex No. II to this report (p. 25).

Employment among the Bedouin Population

169. In the past few years, the MOEAI has taken significant steps to promote and integrate the Bedouin population into the labor market pursuant to Government Resolution No. 3708 (September 11, 2011) which establishes a five year plan to promote the economic growth and development of the Bedouin population in the Negev (2012-2016). The plan's total budget stands at 1.263 Billion NIS (343 Million USD), of which 338 Million NIS (92 Million USD) has been allocated to the MOEAI.

170. In 2014, the Bedouin population employment rate was 65% among men and 26% among women, and the unemployment rate was 13% among men and 6% among women. Thus, special vocational training and programs for this population have been developed in order to increase employment rates and increase the number of students, men and women, enrolled in higher education courses. For further information (including in regard to Ryan employment centers, professional training, daycare centers, industrial parks, integration in to high-tech industries and more) please see Part II of Annex No. II to this report (p. 27).

Promotion of the Ethiopian Population in the Labor Market

171. About 135,000 Israeli citizens are of Ethiopian origin; about 45,000 of them had been born in Israel. The population is young compared to the general population and only about 63,000 persons are of employable age (18 to 65). Over the years, there has been a significant increase in the employment rates of persons of Ethiopian origin. This is partly due to the increases in the level of education. Correspondingly, employment gaps between men and women of Ethiopian decent had been substantially reduced. The rates of participation in the labor market among the Ethiopian population are similar to those of the general population and even exceed it — 65.3% of the Ethiopian population compared to 64.2% of the general population.

172. The average wages among the Ethiopian population are lower compared to the rest of the population, mostly attributed to the high rate of non-professional workers — 27.2% compared to 6.52% of the general population.

173. For information about Government actions to increase the employment rate among the Ethiopian population (for both men and women) (including employment centers, allocation of vouchers for professional training, group professional training and more) please see Part II of Annex No. II to this report (p. 32).

Equal Employment Opportunities Commission (EEOC)

174. Since its establishment in 2008, the EEOC within the MOEAI is leading the process of implementing equality within the labor market, as well as serving as a "normative marker" for adopting norms and values which constitute the foundation for an equal labor market. The role of the Commission is to promote awareness among employees and employers of the rights conferred by virtue of the equality legislation and to act to exercise and implement this legislation.

175. In January 2016, Adv. Miriam Kabaha, an Arab-Israeli, was appointed to serve as the Commissioner for Equal Employment Opportunities.

176. The EEOC has made the Arab population a priority in its work and is targeting cases dealing with discrimination, raising awareness and enforcing the law in specific cases.

١٧٧. During 2015, the EEOC established a Forum for Increasing Enforcement for the Arab Community. The Forum constructed a practical plan that includes increasing the level of awareness and applications concerning discrimination from the Arab population, thus enabling the Commission to take measures against discriminating employers.

١٧٨. The EEOC has created a wide range of training programs for managers and employers on the issues of equal opportunities, diversity, and inclusion in the labor market. Such programs place strong emphasis on the Arab population in Israel, its incorporation within the labor market, and creating true and substantial equal opportunities through managers and employers.

١٧٩. In 2015, the EEOC conducted a survey among employees of the Arab population. The survey reviews various issues that are relevant to the unique employment experiences of Arabs, including under-employment (non-correlation between education and occupation), labor rights, adjustments in the workplace, feelings and experiences of discrimination at work, etc. The survey is currently in the advanced stages of data collection and will be published in the near future.

١٨٠. The EEOC conducted a study of a number of selected firms for the creation of an informational booklet on occupational diversity. The booklet addresses the integration of the Arab and Ultra-Orthodox populations into the labor market, and its aim is to assist employers in implementing occupational diversity by learning from the experiences of companies that do so successfully.

181. Complaints filed to the EEOC — the EEOC provides professional and reliable legal advice to applicants. For information regarding inquiries handled by the Commission, including on inquires on ethnic origin grounds, please see Annex No. I to this report (p. 17).

Case Law

182. For related case law, please see Part I of Annex No. II to this report (p. 15).

The Authority for Advancement of the Status of Women

183. During 2013-2014, the Authority implemented economic empowerment and business entrepreneurship programs for Arab women, together with the Authority for Economic Development of the Arab, Druze and Circassian populations. These programs included the following topics: community, family and work; entrepreneurship and entrepreneurs characteristics; personal and professional empowerment; communication skills; constructing community projects; and establishing an independent business covering licensing, financial management, marketing, collaborations, etc.

١٨٤. In addition, during 2014, a women's empowerment and leadership course was held. It was designed uniquely for consultants on promoting the status of women in Arab localities and municipalities. The topics included: leadership patterns and styles, leading a change, decision-making, training for personal, organizational and public empowerment, emotional intelligence, and effectiveness. Following the shared studies, a women's forum was formed which continues with meetings and collaborations.

١٨٥. Arab women also partake in self-defense workshops that are held country-wide in designated groups in their localities and in mixed groups in mixed cities.

١٨٦. The publications distributed by the Authority on various topics are distributed in various languages, including Arabic and Amharic.

Designated Employment Programs and Projects for Promoting Girls and Women of Ethiopian Origin

١٨٧. The MOE, MOAIA and MOEAI are leading several projects to promote women and girls of Ethiopian origin.

١٨٨. The Herzog Geriatric Hospital has developed a program for training young women of Ethiopian decent to be geriatric nurses. The program promotes the better integration of these nurses of Ethiopian decent into quality positions in the labor market. The course also enables continued higher education.

189. The National Council of Jewish Women (NCJW) Research Institute for Innovation in Education at the Hebrew University conducts the "Neta" project (Girls for Fostering Hebrew), intended to train high school girls of Ethiopian origin to participate in programs for promoting children of Ethiopian origin to develop cognitive, social and linguistic skills, which will better prepare these children for school.

190. **Migrant Workers** — Please see details regarding the Protection of Migrant Workers above in Article 5B.

2. The Right to Form and Join Trade Unions

191. Between the years 2012-2015, dozens of new unions were established as part of various organizations in Israel, some in new fields such as the communications and insurance industries. The main reasons for this increase were judicial decisions in which courts ruled that employees should not be prohibited from unionizing; competition between labor unions that created a proper environment for unionizing and increased awareness among employees of their rights.

١٩٢. Regarding measures taken following complaints concerning employers' disruptions of employee unionization:

- Three indictments were filed under the Collective Agreements Law 5717-1957 — one case was closed and the indictment was altered to a warning, a second case was closed with a plea bargain, and the third case is still pending.
- There have been no convictions during this period.

193. In addition, pursuant to Section 33.14.(a)(1) of the *Collective Agreements Law*, anyone who refrains from hiring a person, worsens an employment term or dismisses an employee due, among other things, to membership in a labor union or workers' committee shall be sentenced to a fine pursuant to Article 61(a)(2) of the *Penal Law* 5737-1977. Between 2012 and 2015, six cases were opened, however no indictments have so far been served.

Foreign Workers

194. Following an amendment to the Histadrut's (General Federation of Laborers in Israel) Code, as of March 2010, foreign workers staying legally in Israel may join the Histadrut and exercise all relevant rights, including the right to vote or be elected. Some make use of these rights.

195. Subsequently, the Histadrut's Tel Aviv-Jaffa District initiated and established a department for foreign workers that serves as a center for assistance and professional protection.

3. The Right to Housing

The Housing Situation in Israel

The Arab Population

Representation in the National Council for Planning and Building

196. The National Council for Planning and Building (hereinafter: the "Council") has 32 members-a third of which are representatives of Ministers (appointed by the Ministers), another third are representatives of municipal authorities (appointed by the Minister of Interior), and the final third are public representatives (partially appointed by the Minister of Interior).

197. The MOI ensures a balanced representation of all communities, regions and populations, including the Arab population, in the Council. As of January 2016, there were two Arab members of the Council and an additional four Arab replacements for council members.

Outline Plans for Arab Towns and Villages

198. Please see Article 2II above.

Jerusalem — General

199. Please see Article 2II above.

Housing in the Bedouin population

200. There are more than 24٠,000 Bedouins living in the Negev desert area. About 76% of them live in urban and suburban centers which have been legally planned and constructed (25% live in the city of Rahat, an additional 40% live in six local authorities (Hura, Kuseife, Tel-Sheva, Ar'ara, Lakiya and Segev shalom) and an additional 11% reside in 11 authorized localities within the Al-Kasum and Neve Midbar Regional Councils. The remaining 24% of the Bedouin population reside in hundreds of unauthorized and unregulated clusters, mainly within the Al-Kasum and Neve Midbar Regional Councils which are spread over an area of almost 500,000 dunams. This obstructs urban expansion in the greater Negev area and is not beneficial to the common good of the Bedouin population.

Planning for the Bedouin Population

201. In regards to planning for the Bedouin population — there are 18 Bedouin localities with approved outline plans, including the city of Rahat, Lakiya, Hura, Kuseife, Tel-Sheva, Segev Shalom and Ar'ara. All of these plans include infrastructure such as schools, health clinics, running water, electricity, roads, pavements, etc.

202. An additional 11 localities that are under the jurisdiction of the Neve Midbar and A-Kasum Regional Councils also have approved outline plans.

203. These two regional councils are the result of the division of the former Abu Basma regional council in November 2012, following a decision of the Minister of Interior based on the recommendations of an Inquiry Committee for the Examination of the Proper Organization of the Municipal Jurisdiction Boundaries and Local Planning Areas in the Bedouin Population in the Be'er-Sheva Region (the Razin Committee). The two regional councils encompass 11 Bedouin localities: the regional council of Al-Kasum includes the localities of Tarabin, Um Batin, El Seid, Darijat, Kahla, Makhol (Merit) and Moleda; and the regional council of Neve Midbar includes the localities of Abu Krinat, Bir Hadaj, Abu Tlul, and Kasar A-Sir.

204. The purpose of this division was to improve the services provided to the authorized Bedouin localities that were located in the former Abu-Basma regional council, and indeed, despite the short time that has passed since the reorganization, positive changes in the standard of services provided to residents in both regional councils are evident.

205. In addition, the planning procedures for six additional localities are ongoing.

206. The strategic work of examining and setting rules for the planning of construction solutions for the Bedouin population in the Negev has been undertaken and completed. The work included the collection and presentation of demographic information and planning data. Recommendations have been formulated to expand existing localities and establish new ones, whilst regularizing some Bedouin localities at their current location. The report of stage one of this strategic work, which includes these recommendations, was submitted to the Ministry of Agriculture and Rural Development in November 2015.

207. In regards to the planning relating to the rest of the clusters in the Bedouin diaspora, ten leading planning companies were recruited to conduct feasibility studies and to examine special planning solutions. This process is being conducted with the participation of the population in each region. Currently, these companies are conducting field surveys and formulating the resulting data into planning recommendations that will be examined by the Authority for the Regularization of the Bedouin Housing Situation in the Negev, currently handling the bulk of issues in this area. This course of planning, with the special emphasis placed on the participation of the Bedouin population, is unprecedented in Israel.

208. Additional development plans are underway in several other Bedouin towns. Rahat, for example, will be approximately tripled in size (from 8,797 dunams today to 22,767 dunams). The project is estimated to cost approximately 500 Million NIS (135.13 Million USD). Other localities are also in the process of expansion with the development of infrastructures and construction of industrial and employment areas.

209. The Government is encouraging movement to regulated localities (regardless of the localities' nature as city, town, village, etc.) by providing unique financial benefits. These

benefits include, *inter alia*, provision of land plots for free or at very low cost, and compensation for the demolition of unauthorized structures.

Case Law

210. Please see Part I of Annex No. II to this report (p. 16).

4. The Right to Public Health, Medical Care, Social Security and Social Services

The Right to Health

211. The right to health is guaranteed to all individuals without discrimination or distinction. Nationwide health promotion programs have gained momentum during the last few years, especially those encouraging physical activity.

212. The Ministry of Health (MOH) regularly conducts surveys for the purpose of identifying regions and populations in which health conditions need to be improved, whether due to the level of health services or as a result of socio-economic, cultural, or educational differences. Based on the results of these surveys, the Ministry prepares treatment programs for special population groups, including the Bedouin, Arab, and Ultra-Orthodox populations. In addition, special attention is paid to peripheral regions which require designated intervention to improve the health conditions.

Legislation

213. On July 7, 2014, the Government amended the *Patient's Rights Law* 5756-1996 to include prohibition of discrimination in providing medical treatment for reasons of age (unless required for medical reasons).

214. Also in 2014, the Government enacted, *inter alia*, the *Supervision on the Quality of Food and Proper Nutrition in Education Institutions Law* 5774-2014 which obligates the State to supervise the nutritional values of all foods served and sold in educational institutions. Of the 500 schools that participate in the MOE's healthy schools program, 30% are schools that serve the Arab population. In addition, of the 250 kindergartens that participate in this program, 62 (25%) are located in Arab localities.

215. According to Section 21 of the *National Health Insurance Law* 5754-1994 (the "*National Health Insurance Law*"), a health fund is obligated to provide any person it is responsible for with all the services he/she is entitled to receive under this Law without discrimination and without conditioning the provision of services on joining or membership in additional service programs. The Law also determines that non-payment or late payment of the health insurance payments shall not exempt a health fund of its duty to provide the health services included in the health basket.

Administrative Measures

216. In May 2016, the Minister of Health participated in the final event of the "Get It Online" initiative, aimed at promoting digital access to information on health using an interactive online game in Arabic. This initiative, which is the result of cooperation between the Ministry, Microsoft Israel, the "Clalit" Health fund and the 'Appleseed' Academy association, was launched in 2013, and currently involves 10,000 participants from 50 municipalities. This initiative is operated in schools and in 130 healthcare stations in the Southern and Northern parts of Israel, and it refers to four main health fields: nutrition, sport, dental health and routine examinations. This project is to be operated nationally in the future.

National Health Policy

217. Following the recommendation of a 2008 professional committee to examine the gaps in health services, several publications and plans have been compiled in order to deal with these gaps. The last was introduced in 2010 and, *inter alia*, refers to the accessibility of the health system (including hospitals, health-funds, etc.) to the entire population. This plan has set the reduction of gaps and inequalities, including in aspects of cultural and

linguistic accessibility in health services as one of its major goals. This action plan includes, *inter alia*, cultural and linguistic accessibility improvements within the health system; setting standards for such adaptation; and the reduction of gaps between various population groups while strengthening vulnerable populations.

218. For information on Government Resolutions on this issue please see Part III of Annex No. II to this report (p. 42).

219. The main principles set by this program include: the creation of supportive social and physical environments such as with the construction and expansion of walking and bicycle riding lanes; increasing public knowledge and awareness regarding the importance of regular physical activity such as by organizing mass sport events; and improving and enhancing communal infrastructures aimed at the promotion of health lifestyle such as by offering subsidized sport classes for all ages and throughout Israel.

Vulnerable Groups

Healthcare for Women in the Arab Population

٢٢٠. The Ministry, in coordination with its various health funds, operates dozens of programs promoting the health of Israel's Arab population. Several of these have received positive notice in professional medical publications in Israel and abroad.

221. Further examples of steps taken by the MOH in recent years to reduce inequalities in healthcare include:

- Improving infrastructures in peripheral areas, including an additional 1,000 hospital beds and manpower to peripheral hospitals.
- Establishment of a medical school in the Northern Galilee and new emergency rooms in peripheral localities, both in the north and the south of Israel.
- Allocation of additional medical equipment to peripheral areas, including new MRIs, linear accelerators, and PET scan devices.
- Developing financial incentives, including grants and state-sponsored salary raises for specialized doctors to move to peripheral areas.
- Reduction of the maximum co-payments of chronic elderly patients who receive income supplements.
- Discounts on co-payments for the purchase of generic medications.

Gaps between the Jewish and Arab Population

222. The MOH operates a designated unit for the reduction of inequalities in the health system. This unit promotes policies, standards, supervision, training and awareness-raising activities on this important issue, including by hosting conferences for professionals, the publication of an annual report that monitors such gaps, and the activities needed for its eradication. As part of its activities, the Ministry established in 2013 a translation call center manned by representatives who were trained to operate as medical translators. This call center provides translation services 24 hours a day for medical treatment provided by physicians to their patients, in Russian, Arabic, Amharic and French. On average, 1,500 calls are handled by this call center per month.

223. The MOH also provides financial support for health-fund activities aimed at reducing gaps. Between 2012 and 2014, a total of 55 Million NIS (14.5 Million USD) were allocated by health funds for such steps, with the emphasis on peripheral areas and reducing gaps among minority populations. The criteria for such support in 2015-2016 were amended in order to put special emphasis on steps conducted in Arabic in regards to prevention of diabetes and obesity.

224. For information on life expectancy, diabetes and cancer-please see Annex No. I to this report (p.18).

Infant Mortality Rate in Israel

٢٢٥. Israel's infant mortality rate continues to decrease from 6.3 between 1996 and 1999, to 3.1 deaths for every 1,000 live births in 2015. For statistical information on infant mortality rate please see Annex No. I to this report (p. 18).

226. For further information regarding additional measures taken by the Government, including a special long-term intervention program intended to decrease infant mortality among the Bedouins and genetic testing, please see Israel's 14-16th Periodic Report.

Designated Health Services and Infrastructures for the Bedouin Population

227. In the framework of Government Resolution No. 3708 (of September 11, 2011) which specifies a plan for the economic development of the Bedouin population in the Negev, 90 Million NIS (24.3 Million USD) was allocated for the issues of society and community which includes the health field.

٢28. For information on some of the main projects, including health clinics and medical services, data on immunization coverage, nurses serving the Bedouin population, mother and child healthcare stations, school nurses, recent developments and eradication of the Brucellosis disease in the Negev, please see Part II of Annex No. II to this report (p. 32).

Ethiopian Population

229. The MOH is operating, together with the National Health Fund, a program titled "wholesome medicine," in which medical mediators of Ethiopian origin are stationed in relevant medical clinics, with the aim of improving the communication between the medical professionals and the patients, and to assist in implementing various educational programs in the health field among this population.

230. In addition, the Ministry prepared a list of substantial steps to better integrate persons of Ethiopian origin that focuses on five areas: cultural accessibility of the health system, adequate representation, accessibility of medical rights, reduction of diabetes, and an increase in trust in the health system-including reducing the duration for addressing racism and discrimination-related complaints to less than 48 hours.

231. The Ministry also promotes the qualification of nurses of the Ethiopian population that will assist in advancing these plans and programs.

232. In addition, please see additional information regarding a translation call center established in 2013, in this Article above.

Foreign Migrants and Workers

233. As mentioned in Israel's previous Reports, the *Foreign Workers Law* requires employers to arrange broad medical insurance for employees who are foreign workers. Employers who violate this obligation may face criminal prosecution. Children of migrant workers unlawfully residing in Israel are also entitled to receive medical insurance provided by a designated Israeli Health Fund according to a subsidized fee, as detailed below.

234. Also, according to Section 3(b) of the Patient's Rights Law, minors and adults are entitled to urgent medical care in emergency situations, regardless of their status in Israel.

235. The MOH operates several services dedicated to providing health services to migrants, persons who entered Israel illegally, and foreign workers — For information on some of the main services, including health clinics, treatment for persons with tuberculosis, hospitalization, health insurance to migrants' children until the age of 18 and unaccompanied minors, intervention program for African families lacking legal status and health services available for persons staying in the "Holot" facility, please see Part II of Annex No. II to this report (p. 34).

The Right to Social Security and Social Services

٢٣٦. As mentioned above, the Ministry of Social Affairs and Social Services is taking part in the program of fighting discrimination against Israeli citizens of the Ethiopian

population. As part of this effort, it has set up a round table with social workers from all ranks and districts and representatives of the Ethiopian population.

237. In addition, this Ministry operates for the treatment of welfare and social issues of all Israeli children and youth, including those of the Ethiopian population. Amongst other activities, the Ministry operates a program for identification and assistance to children and youth in risk situations, including: physical and developmental risks, health and welfare risks, social affiliation risks, dangerous behavior etc. Last year, 115,315 Jewish children at risk were identified, 8% of those children (3,908 children) were of Ethiopian origin. Among the children who were identified, 17,900 were integrated in the program, 10.1% of them (1,818 children) are of the Ethiopian population.

238. For additional information, please see Israel's 14-16th Periodic Report.

5. The Right to Education and Training

Legislation

239. One of the enumerated purposes of the education system in Israel is to ensure equal opportunities for all children, as noted in Section 2(8) of the National Education Law 5713-1953 ("The National Education Law"). Similarly, Section 5(A)(1) of the Pupil's Rights Law disallows any form of discrimination concerning the registration of pupils by governmental and local authorities or any educational institution.

240. Due to budgetary constraints, the gradual implementation of the Long School Day and Enrichment Studies Law 5757-1997 detailed in Israel's Initial Report, is scheduled to be completed in the 2017-18 school year (Economic Efficiency Law-Legislation Amendments for Achieving Budgetary Goals for 2015 and 2016 budget years 5776-2015).

241. Additionally, in 2014 the Government enacted, inter alia, the Supervision of the Quality of Food and Proper Nutrition in *Education Institutions Law* (5774-2014) which obligates the State to supervise the nutritional values of all foods served and sold in educational institutions, as mentioned above on page 66.

Pupils' Rights

242. On March 24, 2014, Amendment No. 4 to the Pupil Rights Law 5761-2000 was approved by the Knesset. This amendment added sexual orientation and gender identity to the list of grounds upon which discrimination of pupils is prohibited.

243. On July 11, 2011, Amendment No. 3 to the Pupil Rights Law 5761-2000 was approved by the Knesset. This amendment added national origin to the list of grounds upon which discrimination of pupils is prohibited.

Statistical Data

244. For statistical data and additional information concerning the Right to Education, including: pupils in schools by level of education, distribution of pupils by classrooms and populations (Table No. 8), literacy rates and the extent of formal education possessed by the adult population during the years 2006-2014, by population group, gender and age (Table No. 9), please see Annex No. I to this report (p. 19).

Dropout Rates and Prevention of Dropping Out of School

245. One important indicator of school performance is the rate of attendance. The MOE operates a special department of attendance officers who regularly visit schools in order to maintain school attendance and prevent pupils from dropping out. This department works in accordance with the *Compulsory Education Law* (Section 4). As of April 2016, there are 623.7 standard positions of attendance officers and in practice there are 679 attendance officers (an increase of 36% compared to 2010), of which 435 operate in Jewish localities, 75 operate in the Ultra-Orthodox population, 138 in Arab localities, and 25 in Bedouin localities. In addition, there are six attendance officers who are designated to the Ethiopian population, although many other attendance officers who handle reduction of dropout rates in the general population also handle this population.

246. For additional information of the total dropout rate in the Jewish and Arab populations, please see Annex No. I to this report (p. 22).

247. Note **that the total reduction of the dropout rate between 2010 and 2013 is 42.8%**. Action taken in recent years has significantly reduced, in almost every grade, the dropout rate among all the populations in Israel.

Eligibility for Matriculation Certificate

248. For details regarding eligibility for matriculation certificates and on pupils in 12th grade, matriculation examinees and entitled to a certificate — 2014, please see page 22 and Table No. 10 thereafter in Annex No. I to this report.

Programs That Help Pupils Matriculate Fully

249. The MOE implements many programs to strengthen weaker pupils and improve their chances of completing all matriculation examinations. To increase the proportion of pupils eligible to receive a matriculation certificate, the MOE acts in four ways: it encourages pupils to take matriculation examinations; provides intensive assistance to pupils who need it; creates post-secondary continuing education frameworks; and finances studies for pupils who lack only one or two examinations. The Ministry has earmarked resources for allocations to schools that wish to adopt discretionary initiatives in this regard.

The Psychological Counseling Service Department ("Shefi")

250. The "Shefi" is a department within the MOE responsible for providing counseling, psychological services, and educational guidance to pupils, parents and educators. Among the main purposes of these services are the promotion of pupils' mental wellbeing, as well as attaining solutions for and information on the location, prevention, and treatment of children at risk, etc.

251. "Shefi" currently has 2,800 educational psychologists who work in kindergartens and schools in every local authority in Israel with children from three years old to pupils in the 12th grade. 1,598 psychologists work within the Jewish population, 246 work within the Arab population, 17 work within the Druze population and 84 work within the Bedouin population — with coverage rates of 70%, 62%, 91% and 78% respectively.

252. "Shefi" employs 4,912 education counselors who work in higher education institutions. 941 (19.2%) of these counselors work within the Arab population.

Special Education

253. Special education services are provided by the MOE nationwide and equally to all populations, for children with special needs between the ages of 3 to 21 who are entitled to such services by law

254. For additional information on this matter, including on the number of pupils and classroom for pupils with disabilities, according to type of disability and population group (2014-2015), please see Annex No. I to this report (p. 23) and Table No. 11 thereafter.

Special Education Frameworks Serving the Bedouin Population

255. In accordance with Government Resolution No. 3148 of April 2011, the establishment of the three-part rehabilitation complex for Bedouin children with special needs in Tel-Sheva still continues. For additional information please see Part III of Annex No. II to this report (p. 42).

Resources in Education — National Expenditure on Education

256. The policy of the MOE is to provide an equal budget to all schools, in accordance with clear and transparent criteria, while providing additional budgets to certain populations, both for educational and socio-economic reasons.

257. Thus, for example, the budget invested in the education of a pupil in the Jewish education is 14,715 NIS (3,870 USD) and in the Arab education is 15,375 NIS (4,046

USD). In the higher secondary education, the investment in a Jewish pupils stands at 24,344 NIS (6,406 USD) and in the Arab pupils 18,667 NIS (4,912 USD).

258. The Ministry is aware of the disparities in the budget per pupil according to type of school; however these gaps do not reflect financial preference of one population over the other, but rather originate from the complexity of the salary model of teachers' wages. For example, if there are two identical schools but one is equipped with a young teaching staff and the other has a more senior teaching staff, the schools will receive different budgets due to the seniority differences and the relevant collective agreements. For information regarding the average level of teachers' seniority by years and population, please see Table No. 12 in Annex No. I to this report.

259. In recent years, the Ministry allocated a major part of its additional resources deferentially, giving preference to peripheral areas, weaker populations, and accordingly to the Arab population.

260. The Ministry launched a five-year plan for gap reduction and for the promotion of equality in primary and intermediate education, which is intended to substantially increase the budget of Arab schools. This program includes additional teaching hours for the Arab population with a budget of 1 Billion NIS (260 Million USD) over five years, and additional substantial resources for enrichment activities (100 Million NIS in 2016 and 188 Million in 2018-26 and 49.5 Million USD respectively).

261. The Ministry is also constantly examining ways to reduce gaps in higher education, such as by making adjustments in the budgeting mechanism, implementing a national program for the promotion of technological-professional education that will provide preference to the Arab population, and other ways. In 2014-15, the Ministry added an entire teaching unit to the Arab population (including Druze and Bedouin population) with a total budget of 38 Million NIS (10 Million USD).

262. Additional financial assistance — the Coordination and Supervision Administration in the MOE oversees a scholarship assistance plan to assist pupils from weak families from all populations, including the Arab, Bedouin, Druze and Circassian populations. These scholarships are intended to assist in funding general parents' payments, learning aids and equipment and assistance in payments for field trips and socio-educational activities. In 2015, an estimated 44% of the scholarship budget was allocated to pupils of the Arab, Bedouin, Druze and Circassian populations.

Construction of New Schools

263. In recent years, there has been a steady increase in the number of schools in both the Hebrew education system and in the Arab education system. The total number of schools in the Jewish population rose by 9.3% (from 3,480 in 2010 to 3,807 in 2015). During these years, the total number of schools in the Arab population rose by 15.1% (from 878 to 1,011 schools).

Construction of Schools and New Classrooms in the Eastern Neighborhoods of Jerusalem

264. A number of new schools have been constructed in the eastern neighborhoods of Jerusalem in recent years. These schools contain approximately 800 classrooms, and an additional 1,000 classes are currently in various planning and construction stages. New sport halls were also established in Beit Safafa, Al-Issawiya, and other neighborhoods.

265. Investments in physical infrastructure — the Jerusalem Municipality is also promoting a technological revolution with the distribution of 1,720 desktop and laptop computers to schools, kindergartens, and teachers in eastern neighborhoods of Jerusalem, and an additional 350 computers for pupils' homes. In addition, 7 state-of-the-art "smart-boards" were introduced by the municipality to six schools in these neighborhoods.

٢٦٦. This past year, the Municipality began implementing an initiative to lengthen the school days in secondary schools in eastern neighborhoods of Jerusalem with extended programming that continues until 17:30 daily. Pupils enjoy an organized educational framework with a variety of interesting classes and enrichment courses. This project is

extremely successful-in the year and a half since it began, the number of pupils participating in this initiative has doubled.

267. Since 2012-13, the Municipality has invested 1,000,000 NIS (263,150 USD) per year in a new program for pupils from the eastern neighborhoods of Jerusalem in the fields of science. This initiative aims to increase the percentage of pupils who choose to major in the sciences for their school matriculation exams (the Tawjiha examination). It seeks to open doors in both academia and future career opportunities, thereby enabling Arab pupils to integrate into the workforce in the future.

Government Resolutions

268. In recent years, the Government has approved several multi-year resolutions in favor of the Arab population including the Bedouin, Druze and Circassian populations with a total budget of 3.7 Billion NIS (One Billion USD). For several examples of these Resolutions please see Part III of Annex No. II to this report (p. 43).

New Educational Programs

269. In recent years, the Education Administration in the MOE launched four education programs aimed at promoting pupils with high scholastic achievements: "Atidim", "Psagot", "Mentoring" and "Alpha" programs. For additional information on these programs and regarding pupils' participation, please see Annex No. I to this report (p. 26) and Table No. 14 thereafter.

Science and Technology Education

270. The **Science** and **Community** Branch in the Ministry of Science, Technology and Space (MOSTAS) is dedicated to promoting science and technology to the general public, and one of its main goals is to encourage pupils to study these fields. Each year the Branch holds a series of extra-curricula activities aimed at making science more accessible to youth.

271. For **science-related** activities held by the Branch in 2015, including information about the number of participants and budgets, please see Table No. 15 in Annex No. I to this report.

272. Additional educational activity with the goal of encouraging pupils to study space-related fields is conducted by the Israel Space Agency. For example, in 2015, the Space Agency, conducted an online academy (virtual classroom lectures) with the participation of 700 classrooms, 400 of them (57%) from the Arab population and a "Hoopoe Project" in which a nano satellite was built with groups of pupils from 5 schools, 1 of which is of the Arab population.

273. During the February 2016 Israeli Space Week, 80 schools, 25 of which are of the Arab population, participated in dedicated science activities in the Eretz Israel Museum in Tel Aviv-Jaffa.

274. Also, among the eight science-related activities that were conducted in community centers around Israel, one was conducted in an Arab population community center. In addition, as part of the Ramon Education and Space Convention, 15 schools presented various science projects and three of these schools were of the Arab population.

275. The Ministry offers annual scholarships for students studying for second and third degrees in a number of fields, in order to promote the Ministry's objectives and allow young people to be positively exposed to these fields. In 2015, the Ministry provided about 150 scholarships, of which more than 33% were awarded to women. Moreover, the Ministry funds student activities as part of a tutorial project in the field of science. In 2015, 241 female students and 261 male students received scholarships for participating in this project.

276. The MOSTAS provides additional support to regional research and development centers, with the aim of establishing scientific research in areas in which the rate of such activities is low. This additional support, in the total sum of 13 Million NIS (3.4 Million

USD), is currently provided to seven regional research and development centers, two of which operate in Arab localities.

Education — The Bedouin Population

277. The Bedouins living in existing towns enjoy the same rights and opportunities as other Israeli citizens, including the right to receive formal education at all levels, in accordance with the Israeli law. Indeed, their education has improved considerably over the past several years, as indicated by the information provided below.

278. According to the MOE, in 2015 an estimated 91,000 Bedouin pupils attended various frameworks in the education system. For information on the number of educational institutions and pupils by level of teaching and district (2014), please see Table No. 16 in Annex No. I to this report.

279. In the last five years, over 30 new schools were established for the Bedouin population in Israel, in addition to new kindergartens. Most of these schools are equipped with science and technology laboratories, computer classes, and other advanced educational tools.

280. As part of Government Resolution No. 3708, several five-year plans (2012-2016) were approved to improve the scholastic achievements amongst pupils in the Bedouin population, entailing a total budget of 124 Million NIS (33.5 Million USD). The following are the main programs that were approved: increasing the number of literacy classes from kindergarten to high school, increasing the attendance of pupils and reducing dropout rates, operating a project titled "Education towards Career", recognizing and diagnosing learning impediments, expanding technological education and other education for detached youth and adults, expanding the activity of youth organizations and summer camps within the Bedouin localities, promoting the construction of classrooms and educational facilities, operating centers and programs intended to promote and encourage excellence, expanding the operation of the Excellence Promotion Program among high school pupils, operating a program to prepare 12th grade pupils for integration into academia and the labor market, empowering and developing personal leadership abilities, upgrading the scientific-technological education in the Bedouin population, and more.

281. In addition, please refer to the above-mentioned information (in this Article) on the establishment of the three-part rehabilitation complex for Bedouin children with special needs in Tel-Sheva.

282. The MOE's Science and Technology Training Institute operates a special course that includes a full scholarship, a monthly income scholarship, and paid transportation fees for Bedouin pupils who meet the relevant requirements. In 2014, 48 pupils, including 13 female pupils, began their studies and an additional 100 pupils were integrated into this learning course in 2015.

283. On September 23, 2014, the Government approved Resolution No. 2025 in which it resolved, *inter alia*, to conduct a pilot program of daycare centers in three industrial areas in the Negev area and to expand the number of subsidized nurseries and afternoon frameworks. In this Resolution, the Government also decided to improve the schools' technological learning environment and approved a grant for the technological colleges in southern localities.

Education in the Ethiopian Population

284. On October 23, 2015, the Government approved Resolution No. 666 in which it decided to strengthen the informal education of children of Ethiopian origin. According to the Resolution, a budget of six Million NIS (1.6 Million USD) will be allocated for extra-curricular activities for children of the Ethiopian population for the years 2017-2019. This Resolution entered into force on November 8, 2015.

285. Financial assistance — The MOE allocates financial assistance to children of Ethiopian origin in the sum of 400 or 800 NIS (105 or 210 USD) based on their date of immigration. In 2015, a total of 10,322 pupils of Ethiopian decent received this assistance.

Foreign Workers' Children

286. According to data of the MOE, 100% of children of foreign employees and migrants in Israel between the ages of 3 and 18 are integrated into kindergartens and schools.

Higher Education

287. Please see Annex No. I to this report (p. 28).

Universities Psychometric Entry Test

٢٨٨. The Psychometric Entrance Test (PET) is a standardized national exam in Israel, generally taken as a higher education admissions exam. The PET covers three areas: mathematics, verbal reasoning, and English. It is administered by the Israeli National Institute for Testing and Evaluation (NITE).

289. The PET may be taken in Hebrew, Arabic, Russian, French, Spanish, or combined Hebrew/English. There are generally five dates during the year, and Arabic is available on four of these dates.

290. The MOE invests extensive efforts in improving the access of Arab pupils to higher education. Thus, during 2010, the Ministry specially trained 150 educational advisors and other professionals and placed them in PET learning centers established for 500 pupils of the Arab community.

291. The MOSTAS provides further assistance and allocates special scholarships to Arab pupils so they can take a preparatory course for the PET.

292. In the process of creating the exam, the National Institute takes into account the differences between population groups and conducts fairness testing to evaluate the exam's sensitivity towards gender, religion, populations, and political correctness.

293. The Arabic version of the test is drafted by a professional academic team comprised of native Arabic speakers. This team is responsible for supervising the wording in Arabic, in order to prevent differences between the Hebrew and Arabic versions and eliminate unequal reference points for the different examinees.

294. Additional measures — In January 2010, the Planning and Budgeting Committee (PBC) of the CHE launched a multi-year plan for the years 2011-2016, with the goal of making higher education more accessible to minority populations, including the Ultra-orthodox population. The PBC and the Ministry of Finance has allocated a budget of about 500 Million NIS (135.1 Million USD) for this purpose.

295. In March 2013, a professional team headed by the PBC's Deputy Director for Planning and Policy published a report titled "Pluralism and Equal Opportunities in Higher Education — Expansion of the Accessibility of Academic Studies to Arabs, Druze and Circassians in Israel". In its report, the team provides details on existing tools for increasing their participation in higher education institutions. Hereinafter are the team's main recommendations:

Preparatory Information, Guidance and Counseling

- Establishment of centers for the Arab population that disseminate professional and educational guidance, provide employment counseling, etc. These centers have been established in 18 Arab localities and 17 more are underway.
- Since 2014, the PBC operates a program in over 100 high schools intended to provide pupils with tools on how to choose the most suitable academic field for them. Education supervisors — cooperate with high schools in order to provide pupils with information on academic institutions, courses, etc. The supervisors assist the pupils with their admissions applications.
- Teaching staff in high schools to actively inform pupils about requirements for acceptance into academic institutions.

Preparatory Training and Courses

- Since 2013, every preparatory college funded by the PBC in which minority students study receives additional funds for Hebrew lessons, dormitories/transportation, preparatory course for the PET, and a counselor.
- In addition, the PBC participates in a campaign i marketing and branding these colleges aimed at the Arab population. Since 2014, the PBC also grants excellence scholarships to 20% of the preparatory colleges' graduates who belong to minority populations.

Academic Preparation Programs towards the First Degree

- A special crash course has been implemented for students of minority populations who are accepted to higher education institutions. Students are provided with important skills and information, including languages (both Hebrew and English), learning skills, academic orientation, time management, computer literacy, library instruction, information on exam anxiety, social activities, etc.

Absorption Programs

- The PBC allocates a budget of approximately 90 Million NIS (23.7 Million USD) for programs aimed at easing the absorption of Arab students in the beginning of their first academic year. These include social guidance, tutoring, academic workshops, mental support, professional academic guidance, etc.

Absorption of Arab Graduates in the Academic Staff

- The team recommended encouraging students who excel in their studies to pursue advanced degrees and to integrate qualified candidates as academic staff members.
- Scholarships and funds — the PBC, together with the Prime Minister's Office and NGOs, are working for the establishment of a scholarship and loan funds. Preference will be given for excellence, extra-curricular activities, etc.

296. In addition to the above, the PBC, via a permanent steering committee, holds additional support programs for the Arab population or general programs which also include Arab students:

- In 2014, the PBC began operating a special scholarship fund designated for the Arab population, which provides support to students according to their socio-economic situation, field of study, etc. Each year 650 students receive such scholarships, of which more than 50% are women.
- "Ma'of" Scholarships — intended for excellent scientists of the Arab population that higher education institutions wish to recruit as academic staff. Each year, seven such scholarships are granted with an annual budget of 3 Million NIS (810,000 USD) per year.
- Tutoring scholarships ("Perah" scholarships) — intended for first degree students who volunteer to tutor high school children in return for 50% of their annual tuition. The rate of Arab students who participate in this project is 27% and the rate of schools designated for the Arab population who benefit from this program is 21%. The project's annual budget is about 130 Million NIS (33 Million USD).
- Students' Assistance Fund — the PBC and the MOE utilize a special fund for providing assistance to students in need. The fund's total budget in ٢٠١٥-٢٠١٦ was approximately 80 Million NIS (٢١ Million USD). In 2012, 22% of the applications were filed by Arab students and 21% of the fund recipients were Arab students. In addition, 40% of those who applied for a loan from this fund were Arab students, of which 80% of them decided to take this loan.

297. Multi-annual program for the promotion of the Ethiopian population — On June 14, 2016, the CHE announced that it will invest 100 Million NIS (26.3 Million USD) to increasing the participation in higher education of students from the Ethiopian population.

A professional working group established by the Council examined difficulties and barriers faced by students of Ethiopian origin and formulated a comprehensive program to deal with these obstacles and establish goals for the next five years. The budget allocated for the program will help fund efforts to make university or college candidates of Ethiopian decent more aware of their rights and options, fund additional classes, or personal tutors for those requiring such assistance, fund preparation courses for entering the labor market, and provide stipends and scholarships to all students of Ethiopian decent, etc. The program will first target students in the country's social and geographic periphery.

6. The Right to Equal Participation in Cultural Activities

298. The Unit for Israeli Communities' Heritage in the MOE holds an annual essay and research competition on issues relating to the heritage of all of Israel's communities. In regards to the Ethiopian population, in 2015 the Unit held a special class in which pupils were taught about the Ethiopian heritage, including the 1994 "Operation Moses" when 6,400 persons were flown into Israel from Ethiopia, discussed religious poems, and more.

299. For additional information, please see Israel's 14-16th Periodic Report.

Arab Heritage and Culture

300. On March 20, 2016, the Minister of Culture and Sport announced that the budget for cultural activities for the Arab population will be doubled to 20 Million NIS (5.26 Million USD) for 2016. The Minister also presented the Ministry's five-year plan for the promotion of the Arab population and added that the Arab population will receive an additional budget for cultural initiatives and events. The Minister also noted her directive that cancels a two-year waiting period for new cultural institutions who wish to receive financial support from the Ministry, including Arab cultural institutions.

Druze and Circassian Heritage and Culture

301. No change.

The Role of Mass Media and Communication in Promoting Participation in Cultural Life

302. No change.

Initiating and Granting Licenses for Designated Channel Broadcasting

303. No change.

The Development and Production of Original Israeli Content and Approvals for Broadcasting by Foreign Television Channels

304. No change.

Israel Broadcasting Authority (IBA), the Second Authority for Television and Radio and Community TV Broadcasting

305. No change.

The Status of the Arabic Language

306. On May 24, 2016, the Knesset marked its first-ever Arabic Language Day in which Arab and several Jewish lawmakers spoke in the plenum in Arabic with simultaneous translation into Hebrew, and committee meetings were dedicated to the use of Arabic in the public sphere. Seven Governmental committees focused their efforts that day specifically on advancing Arabic language and culture in Israeli society. Among the topics discussed in these committees was public transportation in the Arab localities, the teaching of Arabic in schools, providing court services in Arabic, the provision of online government services in Arabic, and the provision of health services in Arabic. The special day was the initiative of Joint List MK Youssef Jabareen.

307. In 2013, the CHE decided to evaluate study programs in Arabic during the academic year of 2014, and appointed an examination committee headed by Prof. David Wasserstein of Vanderbilt University in Nashville, Tennessee (U.S.A.) and composed of additional international experts. In 2014, this committee examined Arabic language education at four Israeli universities (including study programs, human resources and staff, students, research, scholarships etc.). In 2015, the Council for Higher Education adopted and approved the findings of this committee. In its report, the committee expresses satisfaction with the level of Arabic teaching and commended the Hebrew University in this matter.

308. In addition, in 2015, the MOE allocated 2,156 weekly hours in order to encourage the learning of the Arabic language, including lessons on the Arab world, Arab culture, and Islam.

Combating Hostility at Sport Events

309. Please refer to Article 7 below for further details.

7. The Right of Access to Places of Service

Public Transportation

310. Regarding public transportation services in Bedouin localities, please see Article 5D above.

٣١١. Eastern neighborhoods of Jerusalem-Light rail — The light rail in Jerusalem includes 23 stations: five stations mostly serve the Arab population due to their proximity to Arab neighborhoods, six stations are in the center of the city and serve both Arab and Jewish residents, and 12 stations are situated near mostly-Jewish neighborhoods. As the six stations in the center of the city serve everyone, the five stops near Arab neighborhoods should be compared to the twelve stops near Jewish neighborhoods, which is more or less equal to the rates of the Arab and Jewish populations in Jerusalem.

312. There is a practical difficulty in extending the light rail to other eastern neighborhoods of Jerusalem as the slope in these areas is steeper and not appropriate for the light rail. However, as a part of the long-term municipality general transportation plan, there are plans to overcome those topographical problems by building a tunnel and adding more services to all the eastern neighborhoods of Jerusalem.

Article 6

313. As mentioned in Israel's Previous Reports, the main guardian of the individual "against any acts of racial discrimination which violate his/her human rights and fundamental freedoms" is the Israeli Court System. The Court System is open to all without discrimination, including to non-citizens of Israel. An individual can sue both other individuals and the Government for any wrong or harm done to him/her, or to his/her property, and can claim compensation or an injunction. In addition to the regular court procedure, the Supreme Court, residing as the Highest Court of Justice, can and does issue writs against the Government and public bodies.

314. For additional information on mechanisms for the protection of human rights, please see Israel's Core Document of 2008 (HRI/CORE/ISR/2008) and as amended in 2014 (HRI/CORE/ISR/2015) (Section IV(A)(vi) to (xiii).

315. Additional mechanisms include:

(i) The Warden's Investigation Unit (WIU), which is in charge of examination of inmates' complaints against Israeli Prisons Service wardens;

(ii) The Inspector for Complaints against the ISA Interrogators — please see Israel's Core Document of 2008 (HRI/CORE/ISR/2008) and as amended in 2014 (HRI/CORE/ISR/2015) (Article 1(II)(F)).

316. In regards to Legal Aid, please see Article 5A above.

Case Law

317. Please see Part I of Annex No. II to this report (p. 17).

Article 7

Measures Taken to Combat Prejudices and to Promote Understanding and Tolerance

A. Education and Teaching

Education against Hate Propaganda and Human Rights Education

318. Human Rights Education and Education against Hate Propaganda. In recent years, the MOE has created several educational programs on the topics of democracy, tolerance, coexistence, and human rights, which are intended to provide knowledge and tools in these fields and combat all forms of discrimination. These concepts are part of special educational programs designed for school pupils of all ages and aimed at exposing them to different groups within Israeli society. In addition, the pupils learn about these principles of democracy, the rule of law, human rights, rights of minorities and pluralism in the framework of civic lessons.

319. Educational programs concerning human rights issues are routinely conducted throughout the country. Israel has developed special programs such as an annual "Human Rights Day". Each year, this program is dedicated to a different aspect of human rights, and a relevant curriculum is developed in both Arabic and Hebrew. In 2015-2016, for example, this day addressed the right of Freedom of Speech as part of the U.N. Universal Declaration of Human Rights (1948). In 2014-2015, this day addressed the right of Human Dignity. In 2013-2014, this day addressed the issue of "social responsibility towards the 'other' in society" which focused on tolerance, coexistence, equality, accepting others, etc. In 2012-2013, the topic was "the right for political participation in the society" which focused on political rights, equality, etc.

Programs to Foster Democracy and Tolerance

320. The MOE has made a concerted effort to advance principles of democracy and coexistence in its curriculums, and through this educational approach, to combat all forms of discrimination. For information on educational programs regarding democracy, tolerance and co-existence please see Part II of Annex No. II to this report (p. 36).

321. In addition, the Ministry formulated training programs for teachers, aimed at assisting them in effectively introducing human rights, equality, tolerance, coexistence to their pupils. The Ministry also allocated an additional 100 teaching hours to schools that wish to promote coexistence and/or democratic values. For several examples of such programs please see Part II of Annex No. II to this report (p. 36).

322. The Ministry also operates an initiative that encourages Jewish and Arab pupils to study together for subjects such as mathematics, English and civil studies — either in face to face meetings or via video-conference.

323. In addition, the Ministry operates a project to eliminate stereotypes and racism by facilitating meetings between various populations, attended in the recent year by approximately 17,000 pupils.

Measures Taken to Review Textbooks

324. The MOE's Study Books Branch is responsible for the approval of all textbooks and teaching materials for all education institutions. This branch operates to keep textbooks and teaching materials up-to-date, and it is also responsible for reviewing teaching materials for both general content and the educational content specific to the field of study.

325. In accordance with the Ministry's Director General Guideline No. 6 titled "Teaching Methods" of May 3, 2015 the Study Books Branch must ensure that "teaching material will

include adequate and un-stereotyped representation of both genders, and of all populations in the Israeli society, suitable to the requirements of the relevant educational program."

Dissemination of Human Right Conventions

326. The Human Rights Conventions and Protocols to which Israel is party can be found on the website of the MOJ in Hebrew, English, and Arabic. Also, the full body of work with the UN Human Rights Committees, including Israeli initial and Periodic Reports, List of Issues and replies to the List of Issues, Concluding Observations, follow-up to Israel's oral presentations as requested by the various Committees in their Concluding Observations, and other related documents can be found on the MOJ's website.

327. In 2012, the entire collection of Concluding Observations relating to Israel by all the Human Rights Committees were translated into Hebrew and published on the MOJ's website. Where available, links to the UN translation in Arabic of these Concluding Observations are also published.

Training Provided for Law Enforcement Officers

The Institute of Legal Training for Attorneys and Legal Advisers in the MOJ

٣٢٨. The Institute of Legal Training for Attorneys and Legal Advisers in the MOJ regularly conducts many seminars, courses, and vocational training — attended by hundreds of practitioners — to raise awareness of human rights issues and eliminate racial discrimination. In recent years, the training focused on the following issues: The fight against racism and prevention of discrimination (January 2014), The Arab population in Israel (November 2011, June 2015), Equality — the law as a tool for the promotion of equality in the society (October 2013), The battle against trafficking in persons (TIP) (October 2013, March 2015, March 2016), Equal rights for persons with disabilities (September 2011), human rights in international law (December 2014, November 2015) and Equality (October 2014, November 2015 and planned for November 2016). There are additional seminars on topics such as freedom of speech versus incitement, social rights, etc.

The Institute of Advanced Judicial Studies

٣٢٩. The Institute holds lectures, seminars, and courses for judges on various forms of discrimination in the legal context. During 2015-2016, these seminars included: TIP, the rights of children, the struggle against racism and discrimination, and human rights and the criminal process. Similarly, in 2014-2015, the Institute held lectures, seminars and courses for judges on various human rights issues such as TIP, equality and non-discrimination and immigration and refugee law.

The IDF

330. The School of Military Law hosts multiple training exercises for IDF forces on human rights and the law of armed conflict. These exercises include lectures and academic courses which provide both practical and theoretical applications of international law. They analyze real and fictional operational cases designed specifically for the participants and their military specialty. In addition, commanders and the IDF's International Law Department take part in operational exercises in order to provide them with the professional tools that will allow them to face such challenges in accordance with international law.

331. Every year, hundreds of lectures are given to IDF soldiers and commanders who serve their mandatory service, as well as to reserve soldiers. These exercises place a specific emphasis on complicated issues such as arrest and detention practices, the legal duties of a soldier, and commanders' legal responsibilities, as well as the laws and rules of conduct during an armed conflict.

٣٣٢. With regard to human rights content, a special emphasis is placed on the legal obligation towards civilian populations, such as: the prohibition of using civilian population for military purposes, the rights of prisoners and detainees, the prohibition of using threats and physical force during questioning in the field, the principle of equality, etc.

The ISA

333. In recent years, the Legal Department of the ISA and dozens of ISA personnel have undergone specific training on international law, including human rights law, the core human rights conventions, and the work of the Human Rights Treaty Bodies.

334. Moreover, ISA operational personnel are taught, in detail, about the relevant human rights conventions, including their implications in the unique Israeli context. This is done both during preliminary and continued ISA training. These courses instill the importance of fundamental human rights principles, together with upholding of the rule of law and practices stipulated by the courts.

The Israeli Police

335. The Police Education and Information Section operates educational programs aimed at ensuring that various values are incorporated into police officers' work, such as tolerance within a multicultural society, elimination of prejudice, and raising awareness of the relevant human rights conventions.

336. The educational programs are run both within the police training program and in special workshops. In the last few years, special emphasis has been given to training police commanders at all levels, since they are in the best positions to influence their subordinates.

337. The Police School for Investigation and Intelligence incorporates into its training the main provisions of the relevant human rights conventions and law of armed conflict regarding procedures and investigation ethics.

The Israeli Prisons Service (IPS)

338. IPS officers and wardens undergo regular training through the School for IPS Officers and Wardens, as well is within their respective units. This training includes topics such as prevention of the use of force, warden's ethics, and values of human dignity and liberty, and the rights and liberties of the prisoner. These issues are also routinely addressed during training and guidance of other prison staff members.

٣٣٩. Staff members at the "Saharonim" and the "Givon" detention facilities have participated in workshops regarding identifying victims of TIP conducted by the National Anti-Trafficking Unit in the MOJ. Further, all staff members responsible for youth incarceration undergo specialized training focusing on the unique characteristics of youth, guidelines, and the special requirements in Israeli and international law regarding minors.

The Population and Immigration Authority

340. The PIA Authority personnel in the Refugee Status Determination Unit (RSD) undergo a four-week course on topics specifically related to refugees and asylum seekers. This includes the 1951 Refugee Convention, relevant human rights conventions and Israeli laws, and TIP awareness. The course was co-developed and first conducted in 2009 by the MOI, UNHCR, the Hebrew Immigrant Aid Society (HIAS), and the United States Department of Homeland Security.

341. Detention Review Tribunals Judges undergo specialized trainings with respect to issues of detention, TIP, the procedure for filing an asylum request, detention of minors, and more. For examples of such seminars and trainings please see Annex No. I (p. 29).

Mixed Schools, Bilingual Education, and Arab-Jewish Schools

342. In its concluding observation No. 19 concerning Israel's 14-16thth Periodic Report, the Committee encouraged the development of a system of mixed schools for Jewish and Arab pupils, in order to promote understanding, tolerance, and friendship amongst Israeli citizens. According to data provided by the MOE, there are 420 Jewish schools which are also attended by Arab, Bedouin and Druze pupils (in several of these schools the number of Arab pupils exceeds that of the Jewish pupils). Additionally, there are 35 Bedouin schools attended by Jewish pupils, 109 Arab schools attended by Jewish pupils, and four Druze schools attended by Jewish pupils.

Projects to Promote Understanding, Tolerance and Friendship among Nations

343. The Arab-Jewish Orchestra — consists of 20 young musicians, aged 15 to 25, from various parts of Israel. The repertoire is based on a mixture of East and West, as is also the case with the instruments, ranging from the Oud and Kanoon to the Cello and Violin. In addition to performing at concerts across Israel, the orchestra appeared at the Museum of Islam, the Oud festival, the "Sounds of the Desert" festival, the Israeli Music Holiday, at a meeting of the Anti-Defamation League in the U.S. ambassador's house, and more. The orchestra places emphasis on performances in Arab towns and concert tours were held in the Netherlands, Croatia, Slovenia, Cyprus, Spain and Germany thus far.

344. For information about the Peres Center for Peace, Givat Haviva Seminar, and other programs, please see Israel's 14-16th Periodic Report.

B. Culture

Sporting Activities

Prevention of Violence, Hostility and Racism in Sports Events

345. The Prohibition *of Violence in Sport Law* which was enacted in order to facilitate the safe and peaceful hosting of sporting events by broadening the definition of a racist display, facilitating training for security and safety personnel, and broadening their responsibilities and authorities, came into effect on August 12, 2008. This law was amended in December 17, 2014 (Amendment No. 1). According to this Amendment, if a police officer ordered the removal or restriction of a person from a sport event and that person violated the removal order, or within 180 days violated Section 17(1) of the Law, namely acted violently or disturbed public order during a sport event, if there is suspicion that he/she committed an offence related to sport, or if he/she did not obey a policeman/woman's or an usher's order, he/she may be removed from a sport event,. The Amendment further states that if a person violates a restriction or removal order, or one of its conditions, a police officer may order his/her removal or restriction from sport events for an additional period of up to 60 days. If that person acted violently or disturbed public order during a sport event, or if there is suspicion that he/she committed an offence related to sport, a police officer may order his/her removal or restriction from sport events for an additional period of up to 90 days.

346. Also, Amendment No. 1 adds Section 16A to the law, according to which, a person who assaults another person where a sport event is taking place is liable for up to three years imprisonment.

347. Administrative Measures — in 2015, the Ministry of Culture and Sport established a professional team headed by the Ministry's Director General to examine cases of violence in sports. Following the team's recommendations, a police unit to combat violence and hostility at sporting events was established. The Unit's goal is to collect and apply intelligence to prevent violent incidents prior to the arrival of the fans to the fields, as well as during and after the games.

348. For statistical data on investigation cases and their status, including cases with racial motives, please see Tables No. 17 to 20 in Annex No. I to this report.

349. For additional information regarding cultural activities, including administration measures, programs and budget, please see Article 5 above.

Case Law

350. For related case law, please see Part I of Annex No. II to this report (p. 18).

C. Information

The Role of State Media in the Dissemination of Information to Combat Racial Prejudices

The Israel Broadcasting Authority

351. The Israel Broadcasting Authority (IBA) invests extensive efforts to promote tolerance and equality among children and youth. The IBA emphasizes the importance of impartiality and equivalence between different races, skin colors, ethnic origins, and nationalities. The IBA transmits various movies and programs, both through television and radio, on religious pluralism, coexistence between the Arab and Jewish populations, children and children with disabilities, children of immigrants, children of foreign workers, etc.

352. The IBA has broadcasted in recent years several movies which dealt with the Ethiopian population in Israel (for example, "Dancing Shoulders," "When Israel Left" and others). The IBA also purchased a movie and television series that portrays in a positive light the Arab community in Israel (the series "the screenwriter" for example).

353. The IBA also strengthened its cooperation with the Arab channel and supplies it with shows, movies and a series for the Arab population (mainly comedy and drama, including Arabic translations).

354. Attention is also given to the fight against racism and communal segregation amongst youth. Daily news covers social and legal racial discrimination and efforts to raise awareness of these issues.

355. The IBA Department of Broadcasts for New Immigrants and Abroad airs its broadcasts in a large number of languages, including Amharic, Russian, English, French, Spanish, Ladino, Yiddish. The Department offers extensive coverage and discussions of issues relating to the prohibition against racial discrimination, human rights, equality, and the legal issues of racial discrimination.

The Second Authority for Television and Radio

356. The franchisers of the Second Authority for Television and Radio consistently address human rights issues and issues regarding prohibitions against discrimination. Such content is continuously included in news magazines and current events programs, and opportunities for expression are afforded to persons of all regions, populations and socio-economic status in Israel.

357. In addition, since 2012 the Second Authority consistently publishes contact information for the Public Complaints Commissioner who deal with complaints regarding inappropriate content, behavior of employees, etc. These complaints are examined within a reasonable time period and the complainant receives a reply with the outcome of his/her complaint. The Commissioner's annual report includes examples of responses to complaints and steps taken.

The Role of Mass Media in the Publication of Human Rights

358. For additional information on this topic, please see Israel's 14-16th Periodic Report.

United Nations CERD/C/PSE/1-2

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Introduction

1. The State of Palestine acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on 1 April 2014, without entering any reservations to its articles. The present report is submitted in response to the obligations assumed by the State under the Convention, especially article 9, paragraph 1, thereof. In addition to national measures, frameworks and benchmarks, the report covers in particular the legislative, administrative and judicial aspects relating to the provisions of the Convention. It also sheds light on the policies of the Israeli colonial occupation and its grave and massive violations of international law and norms, based on racial discrimination and persecution, which, in contravention of the provisions of this Convention, are targeted at all Palestinians solely on the ground of their identity.

2. The accession of the State of Palestine to the Convention is a sign of respect for the principles and spirit that it embodies. The present report has been prepared in fulfilment of the requirements and obligations incumbent on the State of Palestine concerning the application of this Convention. The report is focused on presenting the legislative texts in force in the State of Palestine that relate to the articles of the Convention and also refers to the administrative and judicial measures, policies and arrangements in place. Taking account of the fact that the State of Palestine is under foreign military occupation, the report addresses the issue of the racial discrimination perpetrated by Israel, the occupying Power, against the Palestinian people.

3. The present report was prepared by a government committee composed of the relevant government agencies, in cooperation with civil society institutions and entities representing the racial and ethnic groups found in the State of Palestine. A draft of the report was transmitted for consideration to representatives of those institutions, specifically human rights and non-governmental organizations (NGOs), and of Palestinian racial and ethnic groups. Those representatives then participated in the national consultations conducted by the State of Palestine concerning the present report. Given that Israel, the occupying Power, bars civil society institutions in the Gaza Strip from accessing the West Bank, two national consultation meetings were held: one at the office of the Ministry of Foreign Affairs and Expatriates, on 9 November 2017, with civil society institutions in Ramallah; and the second by videoconference at the main office of the Independent Commission for Human Rights, on 12 November 2017, with civil society institutions in the Gaza Strip. The consultations were attended by representatives of ministries of the State of Palestine and of civil society institutions in the form of human rights organizations and NGOs working in the Occupied Palestinian Territory. The substance of the report was discussed and civil society offered comments, facilitating the preparation of the final version.

4. During the preparation of this and other treaty body reports due for submission, the Government of the State of Palestine provided a sound constitutional, legislative and procedural environment in line with the Committee’s general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention. In 2014, a standing national (ministerial) committee for following up the accession of the State of Palestine to international treaties and instruments was established under the chairpersonship of the Ministry of the Interior and, in 2017, a committee for harmonizing legislation was established under the chairpersonship of the Ministry of Justice.

5. In the preparation of this report, the State of Palestine used as its basis the provisions of the Convention, in particular articles 1 to 7 thereof; the reporting guidelines produced by the Committee in August 2007; the Committee’s general recommendations; and the Durban Declaration and Programme of Action adopted in September 2001.

6. The submission of the present report does not exempt Israel, the occupying Power, from reporting on its compliance with the provisions of the Convention in the Occupied Palestinian Territory, including East Jerusalem, on the basis of its obligations and responsibilities as an occupying Power, in accordance with international humanitarian law and international human rights law, as well as on the basis of the advisory opinion given by

the International Court of Justice in 2004 on the legal consequences of the construction of a wall in the Occupied Palestinian Territory.

Section I
General information

A. Historical background of racial discrimination in Palestine

I. Demographic and ethnic changes in Palestine following the Nakbah of 1948

7. Over the ages, Palestine was a melting pot of cultural, religious, racial and ethnic diversity where a climate of coexistence, tolerance and religious openness prevailed among the Christian, Jewish and Muslim communities and among the various racial and ethnic groups until the end of the Ottoman era and the start of the occupation in 1917 by the United Kingdom, to which the League of Nations granted a mandate over the country in 1922.

8. The United Kingdom mandate produced radical and far-reaching changes in Palestine with respect to coexistence, tolerance and religious openness owing to the adoption of colonial and racist policies, which consisted in denying the Palestinian national identity and the existence of the Palestinian people. The United Kingdom divided the population of Palestine on a religious basis into two groups, namely the "non-Jewish communities in Palestine" (the Palestinian people, both Muslims and Christians) and the "Jewish people" (European Jewish immigrants). This major shift came about with the fulfilment of the so-called "Balfour promise", the Declaration issued on 2 November 1917 by the United Kingdom Minister for Foreign Affairs, Arthur James Balfour, in the form of a letter addressed to Lord Rothschild, concerning the establishment of what he called "a national home for the Jewish people" in Palestine, in flagrant disregard of the United Kingdom undertakings previously made to the Arabs to grant them independence[1] and in gross violation of the Covenant of the League of Nations that gave the United Kingdom the right to administer Palestine.[2] Instead of enabling the Palestinian people to exercise their right to self-determination and work for the independence of Palestine as a multiracial, multi-faith and multi-confessional nation, the United Kingdom, in cooperation with the Zionist movement, endeavoured to attract Jewish immigrants from European countries and empower them in various spheres at the expense of the rights of the indigenous Palestinian population. Colonial and racist policies such as these led to sweeping demographic changes affecting all races, ethnic groups and communities in Palestine. The Palestinian presence was consequently reduced while the number of European Jewish immigrants increased.

9. The biggest demographic change, however, occurred during the war of 1948, which culminated in the Zionist militias taking control of three quarters of historic Palestine by force of arms, causing the destruction of over 531 population centres, whether cities, towns

[1] As stated by the United Kingdom in correspondence exchanged between Henry McMahon, United Kingdom High Commissioner to Egypt, and Sharif Hussein, Emir of Mecca, in 1915 and 1916 (see: Hussein-McMahon correspondence). Sharif Hussein demanded independence for Arab countries and delineated with precision the borders of the countries concerned, which clearly included the whole of Palestine.

[2] Article 22 of the Covenant of the League of Nations established the mandate system in consideration of the well-being and development of peoples. The main character of the mandate, pursuant to article 22, was that it should form a "sacred trust of civilisation". The Covenant guaranteed that such trust would be inspired by affirming that "the best method of giving practical effect to this principle that the tutelage of such peoples should be entrusted to advanced nations … . [T]his tutelage should be exercised by them as Mandatories on behalf of the League." The degree of tutelage depended on the political maturity of the territory concerned. Hence, the most developed territories were classed as "A" mandates; the less developed territories as "B" mandates; and the least developed territories as "C" mandates. Palestine was never excluded from these provisions; rather, it was treated in the same way as the other Arab countries under Ottoman rule.

or villages,[3] and the displacement of more than 957,000 Palestinians, equivalent to 66 per cent of their number in historic Palestine.[4]

10. Over 70 years on since the Nakbah, statistics show that the percentage of Palestinian refugees now amounts to slightly over one half of the total number of Palestinians worldwide, which is almost equal to the Palestinian presence in the Palestinian territory. According to the Palestinian Central Bureau of Statistics, there are some 5.6 million Palestinian refugees registered in Jordan, the Syrian Arab Republic, Lebanon and the Palestinian territory, broken down as follows: 39.6 per cent in Jordan, 10.6 per cent in the Syrian Arab Republic, 8.8 per cent in Lebanon, and 41 per cent in the State of Palestine. Roughly one third of them are housed among 59 camps,[5] of which 10 are in Jordan, 10 in the Syrian Arab Republic, 12 in Lebanon, 19 in the West Bank and 8 in the Gaza Strip.[6]

11. The Palestinian refugee issue is now a major racial and ethnic matter about which the international community first began to express concern in the years immediately following the establishment of the United Nations and the international human rights regime. At its 3rd session, on 11 December 1948, the United Nations General Assembly adopted resolution 194 (III), which affirmed the right of Palestinians to return to the homes from which they were driven by force of arms by resolving "that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property ... ." At its 4th session in 1949, the General Assembly, pursuant to resolution 302 (IV), established the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

12. The Palestinian refugee issue is an important matter in the context of the implementation of the Convention. Paragraph 2 of the Committee's general recommendation No. 22 (1996) on refugees and displaced persons states that refugees and displaced persons have the right freely to return to their homes of origin under conditions of safety; that States parties are obliged to ensure that the return of such refugees and displaced persons is voluntary and to observe the principle of non-refoulement and non-expulsion of refugees; and that all such refugees and displaced persons have, after their return to their homes of origin, the right to have restored to them property of which they were deprived in the course of the conflict and to be compensated appropriately for any such property that cannot be returned to them. As stated in paragraph 65 of the Durban Declaration, the States parties attending the Durban Conference likewise recognized the right of refugees to return voluntarily to their homes and properties in dignity and safety, and urged all States to facilitate such return. Israel, the occupying Power, nonetheless rejects the return of Palestinian refugees still displaced from their homes.

13. The Committee referred to the right of return of Palestinians in its concluding observations on the Israeli reports submitted in 1987, 1992, 1997 and 2007, which is confirmation that its members at those times recognized the importance of resolving the Palestinian refugee problem and implementing the resolutions of international legitimacy, including General Assembly resolution 194 (III), which provides for the right of return. That being so, it is surprising that the Committee failed to mention Palestinian refugees and their rights in its concluding observations of 2012, contrary not only to the practice of its predecessors but also to the above-mentioned international principles.

[3] Dr. Saqr Jabali, "The Nakbah: Facts and figures" [in Arabic], Palestinian News & Info Agency (WAFA), Parliamentary Research Unit. *Source*: http://www.wafainfo.ps/atemplate.aspx?id=5048.

[4] Palestinian Central Bureau of Statistics: "The Palestinian Central Bureau of Statistics reviews the status of Palestinian refugees on the eve of World Refugee Day" [in Arabic], 2015. *Source*: http://www.pcbs.gov.ps/site/512/default.aspx?tabID=512&lang=ar&ItemID=1420&mid=3915&wversion=Staging.

[5] Dr. Saqr Jabali, "The Nakbah: Facts and figures" [in Arabic], WAFA, Parliamentary Research Unit. *Source*: http://www.wafainfo.ps/atemplate.aspx?id=5048.

[6] Palestinian Central Bureau of Statistics: "The Palestinian Central Bureau of Statistics reviews the status of Palestinian refugees on the eve of World Refugee Day" [in Arabic], 2015. *Source*: http://www.pcbs.gov.ps/site/512/default.aspx?tabID=512&lang=ar&ItemID=1420&mid=3915&wversion=Staging.

II. The fight continuing since 1967 against Israeli occupation and colonization

14. The States parties attending the Durban Conference expressed particular concern about colonialism, recognizing in paragraph 14 of the Durban Declaration that it had led to racism, racial discrimination, xenophobia and related intolerance. The States parties affirmed that, wherever and whenever it occurred, it must be condemned and its reappearance be prevented. They further regretted that the effects and persistence of colonialist structures and practices had been among the factors contributing to lasting social and economic inequalities in many parts of the world. The Committee's general recommendation No. 21 (1996) also recognized that "all peoples have the right to determine freely their political status and their place in the international community based on the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjection, domination and exploitation."

15. In the light of the aforementioned texts, the organic relationship between foreign colonialism and the rise of racism is all too clear in the 50-year ongoing Israeli colonial occupation of Palestine in contravention of Security Council and General Assembly resolutions, including Security Council resolution 242 (1967), which states that Israel must withdraw from the territories it occupied in June 1967.

16. The intrinsic connection between the right to self-determination and the elimination of racial discrimination and apartheid is evident in the context of the Palestinian people's fight against the colonial occupation by Israel. Against that backdrop, the United Nations General Assembly reaffirmed by way of resolution 3236 (XXIX), among others, the right of the Palestinian people to self-determination without external interference and its right to national independence and sovereignty. On 15 November 1988, at its 19th session, the Palestinian National Council of the Palestine Liberation Organization issued the Declaration of Independence of the State of Palestine, in which it proclaimed the natural, historical and legal right of the Palestinian people to its homeland, Palestine, its right to self-determination, political independence and sovereignty over its territory, and the establishment of the State of Palestine in the land of Palestine. The States participating in the Durban Conference acknowledged the rights of the Palestinian people, expressing in paragraph 63 of the Durban Declaration their concern about the plight of the Palestinian people and recognizing its inalienable right to self-determination and to the establishment of an independent State.

17. With regard to foreign occupation and armed conflict, paragraph 168 of the Durban Programme of Action urges States parties to the Convention to take the measures to give full effect to all their obligations under international humanitarian law, specifically the four Geneva Conventions and their Protocols, in particular in relation to the rules prohibiting discrimination. On that score, Israel, the occupying Power, continues to violate the Geneva Conventions and the International Convention on the Elimination of All Forms of Racial Discrimination time and again while simultaneously pursuing its illegal occupation, which is based on colonial ambitions to complete the demographic changes initiated in 1948 by expelling the Palestinian population, removing them from their lands, controlling more territory, and expanding its illegal colonial settlement regime.

18. Israel, the occupying Power, furthermore practises all forms of racial discrimination in the Occupied Palestinian Territory, above all in East Jerusalem, where it subjects Palestinians to all forms of racial discrimination and exclusion with respect to their political, civil, social and economic rights. The blockade imposed on the Gaza Strip is also a fundamental component of the illegal practices of Israel, thanks to which 2 million Palestinians living in the Gaza Strip are racially excluded and under siege.

III. Accession of the State of Palestine to human rights treaties

19. In 2014, after acquiring observer status at the United Nations pursuant to General Assembly resolution 67/19 of November 2012, the State of Palestine acceded to international conventions and treaties as part of a national strategic vision aimed at strengthening the international legal personality and sovereignty of the State of Palestine; protecting the rights of Palestinian citizens in a democratic and pluralist society founded on

respect for human rights; and implementing relevant international mechanisms, in particular accountability and protection mechanisms, so as to promote the protection of the Palestinian people and support the rights of individual Palestinians.

20. The Supreme Constitutional Court of the State of Palestine, in case No. 4 of 2017, indicated the status of international treaties in the Palestinian legal system in affirming that: "International conventions take precedence over domestic legislation whereby the norms of such conventions acquire superior force to domestic legislation, in keeping with the national, religious and cultural identity of the Palestinian Arab people."[7]

21. Accession to international human rights conventions has been a top national priority and has included the International Convention on the Elimination of All Forms of Racial Discrimination in view of its significance in the process of building the national human rights system. Full equality, without discrimination on grounds of race, colour, ethnic or national origin, or descent, is an important pillar of democratic governance, as affirmed in paragraph 21 of the Durban Declaration.

22. The State of Palestine, through its accession, recognizes that the faithful implementation of international human rights obligations, including enactment of laws and political, social and economic policies, is crucial to combating racism and racial discrimination. It also believes that democracy, transparent, responsible, accountable and participatory governance responsive to the needs and aspirations of the people, and respect for human rights, fundamental freedoms and the rule of law are essential for the effective prevention and elimination of racism and racial discrimination, all of which is as stated in paragraphs 80 and 81 of the Durban Programme of Action. The State of Palestine will thus strive to fulfil the requirements for the implementation of the Convention, which essentially consist in establishing the rule of law, building democratic and transparent institutions, and advancing the human rights situation in general. The preparation of the present report furthermore constitutes a declaration of the commitment of the State of Palestine to implementing the articles of the Convention at the national level.

B. Current demographic indicators of groups protected under the Convention within the borders of the State of Palestine

23. There are no accurate or comprehensive statistics on groups protected under the Convention at the national level, a situation attributable to a number of factors:

(a) The recent accession of the State of Palestine to the Convention and other human rights treaties;

(b) The dearth of up-to-date anthropological studies on Palestinian groups in the territory of the State of Palestine on the basis of race, colour, ethnic or national origin, descent or religion;

(c) The lack of attention from official bodies and NGOs to the rights of different groups on the basis of race, colour, descent, or ethnic or national origin as compared with other rights, such as the right to freedom of opinion and expression, the right to political participation, and the rights of women and children, in addition to the fact that there are no civil society institutions engaged in monitoring the affairs of Palestinian groups on the basis of race, colour, ethnic or national origin, or descent or in combating intolerance and discrimination and promoting mutual understanding;

(d) The fact that Palestinian statistical institutions have only recently started to produce indicators on the basis of colour, race, descent and ethnic or national origin, not least because of the racial and ethnic homogeneity of the Palestinian society. They are currently working, however, to absorb such indicators for the purpose of monitoring the implementation of the Convention;

[7] In this decision, domestic legislation means ordinary legislation and not core legislation (the Constitution). Constitutional interpretation No. 5/2017 of 12 March 2018 defines the status of international conventions in domestic legislation as inferior to the Declaration of Independence and the Basic Law and superior to various pieces of ordinary domestic legislation.

(e) The presence of the Israeli foreign occupation, which places obstacles in the way of Palestinian groups on the basis of race, colour, descent and ethnic or national origin, especially obstacles that violate the rights of Palestinians to freedom of movement, including within their own territory and in particular to and from occupied East Jerusalem, where most of the groups protected under the Convention reside.

24. It should also be emphasized that in no way does any mention of Palestinian groups protected under the Convention either compromise their Palestinian identity or implies that they are considered "minorities" in the Palestinian legal system. On the contrary, these groups are part of the Palestinian "whole", which has its own special ethnic, linguistic and cultural characteristics.

25. In order to obtain statistics and data on Palestinian groups in the State of Palestine that are covered by the definition in article 1 of the Convention, several meetings were held with persons representing those groups and information was also gathered from relevant Palestinian institutions. Racial, ethnic and national groups in the State of Palestine were consequently identified, in addition to groups based on descent and colour, as follows:

(a) Samaritans: The Samaritan community is located in the city of Nablus (Mount Gerizim) and comprises some 370 individuals from 5 families. It is one of the smallest communities in the world and one of the oldest in Palestine. The Samaritans arrived in Palestine 3,646 years ago and consider themselves descended from three of the Twelve Tribes of Israel, namely: the Tribe of Levi, son of the prophet Jacob; and the Tribes of Manasseh and Ephraim, sons of the prophet Joseph.[8] The Samaritan language is ancient Hebrew (one of the oldest languages in the world), which has 22 letters and is read from right to left.[9] The Samaritans believe in the prophet Moses, the first five books of the Torah, and the Ten Commandments. Furthermore believing Mount Gerizim to be sacred, they pray towards it and look upon it as their sanctuary.[10] As to their customs and traditions, the Samaritans follow the Samaritan law relating to marriage, divorce, inheritance and food. They also have their own distinctive dress; priests wear a tunic and red turban and everyone wears a red fez on Saturdays;[11]

(b) Armenians: The Armenian community in the State of Palestine is composed of local Armenians whose presence in Palestine dates back in some cases to the fourth century A.D. and in others to 1915, following the Armenian migrations during the First World War. The Armenian community was once the third largest Christian community, with some 5,000 Armenians living in Jerusalem in 1945. In the aftermath of the Israeli occupation of the land of Palestine between 1948 and 1967, which was coupled with continuing violations and difficult political and socioeconomic conditions, only an estimated 500 Armenians remained in the State of Palestine. Living in Bethlehem and East Jerusalem, mostly around the Cathedral of Saint James in the Old City of Jerusalem, the Armenians in the State of Palestine profess Christianity and retain the Armenian language, culture, customs and traditions;

(c) Africans: Palestinians of African origin are found in the Bab al-Majlis area of the Old City of occupied Jerusalem.[12] African groups from the Arabian Peninsula came to the land of Palestine long ago, between the thirteenth and seventeenth centuries. During the United Kingdom mandate and after the Nakbah of 1948, other African groups from Chad, Nigeria and the Sudan arrived in Palestine. Jerusalem's African community also includes Orthodox Abyssinians, who are of Ethiopian origin and officially recognized by the State of

[8] Palestinian Information Centre, WAFA, "Who are the Samaritans?" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4055.

[9] *Ibid*, "The Samaritan language" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4051.

[10] *Ibid*, "The Samaritan religion" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4046.

[11] *Ibid*, "Samaritan customs, traditions and beliefs" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4049.

[12] Palestinian Information Centre, "The African community in Jerusalem" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=5054.

Palestine.[13] In 2007, the community comprised an estimated 239 members, according to the Palestinian Central Bureau of Statistics;

(d) Syriacs: Syriacs are considered an extension of the Arameans, who were primarily spread throughout Greater Syria (the Syrian Arab Republic, Lebanon, Palestine and Jordan), as well as over Iraq, India and a number of other countries. According to Christian sources, Syriacs were the first pagan people to have converted to Christianity within the first few years of its advent. No precise statistics are available on the number of Syriacs, although there are estimated to be around 250,0000 in Arab countries (State of Palestine, Iraq, Lebanon and the Syrian Arab Republic). Of these, 60 per cent are Orthodox and 40 per cent are Catholic. In the State of Palestine, Syriacs constitute the third largest community after Greeks and Latins, representing 10 per cent of Christians in the Holy Land. There are 300 families in Jerusalem and 500 in Bethlehem, amounting to some 4,000 individuals in all.[14] Syriacs speak the Syriac language, also known as Aramaic, which is a Semitic language and was the language of the Arameans who settled from the fifth century B.C. in Aram-Damascus and Aram Naharaim (Mesopotamia). It is the language of Jesus Christ;[15]

(e) Copts: The Coptic nation has ancient Egyptian roots and Coptic Christianity is one of the oldest forms of Christianity in the world. It has furthermore remained intact as a result of its isolation from modern trends.[16] Most of the historical studies about the Coptic presence in Palestine, specifically in the city of Jerusalem, mention that Copts came to visit the holy places and that some of them settled in the vicinity or at way stations. These studies indicate that the Coptic presence in Jerusalem came about owing to the city's religious and hallowed status for Copts.[17] It is estimated that there are some 1,000 Copts in Palestine, most of them living in East Jerusalem, where there are scores of Palestinian families of Coptic origin.[18] Coptic is the most recent form of language developed from ancient Pharaonic Egyptian. Written with Greek characters, it is currently used in religious ceremonies and observances;[19]

(f) Maghrebis: Throughout history, Palestine and the city of Jerusalem in particular have been a destination for Maghrebis, whether religious pilgrims, travellers or scholars. A large number of Palestinians of Maghrebi descent, including the Alami, Masluhi, Rifi and Habush families, still live in East Jerusalem and other Palestinian areas in the West Bank and Gaza Strip. One of the main places associated with the Maghrebi community was the Maghreb quarter, which amounted in area to 5 per cent of the Old City of Jerusalem and was demolished by the Israeli occupation forces after the 1967 occupation.[20] Although no precise statistics are available on the number of persons of Maghrebi descent in Jerusalem and the State of Palestine, members of their community estimate that it stands at about 20,000;[21]

(g) Roma: Also known as Nawar, Dom or Romanies, Roma are one of the Palestinian groups protected under the Convention and were the detailed subject of the Committee's general recommendation No. 27 (2000). The Roma came to Palestine during the fifteenth century and were concentrated in Jerusalem, Ramallah, Nablus and Gaza. There are no statistics on the Roma population in the State of Palestine, but estimates

[13] Presidential Decree of 2008 concerning recognized churches in the State of Palestine.

[14] Palestinian Information Centre, WAFA, "Origin of the Syriacs" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=5063.

[15] *Ibid*, "The Syriac language" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=5064.

[16] *Ibid*, "Copts: An overview" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4006.

[17] Palestinian Information Centre, WAFA, "Copts in Palestine" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4007.

[18] Higher Presidential Committee for Church Affairs in Palestine, "Existing churches" [in Arabic]. *Source*: http://www.hcc-plo.ps/ar/churches-list.

[19] Palestinian Information Centre, WAFA, "The Coptic language" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4008.

[20] *Ibid*, "Jerusalem's Maghreb quarter" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=9592.

[21] *Ibid*, "The Maghrebis in Palestine" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=9590.

indicate that there are some 1,200 Roma in the Jerusalem area and about 5,000 in the Gaza Strip.[22]

26. Other demographic groups in Palestine not categorized by race, colour, ethnic or national origin, or descent are as follows:

(a) Bedouin communities: The majority of Bedouin communities are located in the areas surrounding East Jerusalem and in other areas of the Occupied Palestinian Territory, notably around the Jordan Valley and southern Hebron. These marginalized communities are more vulnerable to violations resulting from the Israeli occupation, in particular those involving the demolition of buildings, denial of the right to education and the right to freedom of movement, and forced displacement of their members;

(b) Persons internally displaced by force: Since the occupation of 1967, 263,500 people have been forcibly displaced within the Palestinian territory. During the Israeli aggression against the Gaza Strip in 2014, some 106,000 persons were displaced. As a result of the racist occupation policies practised in the West Bank since 1967,[23] approximately 134,000 persons have been displaced. Most of those in this category are Bedouin;

(c) Refugees: There are 5.6 million Palestinian refugees registered with UNRWA who are denied the right to return to their homes. In the State of Palestine itself, there are 775,000 refugees in the West Bank and 1.26 million in the Gaza Strip.[24] Refugees therefore account for 42 per cent of the total population in the State of Palestine;

(d) Foreign workers and volunteers: There are no clear statistics on the number of foreign workers in the State of Palestine owing to the fact that Israel, the occupying Power, unlawfully controls the border crossings of the State of Palestine, which makes it difficult to calculate the number of foreign nationals entering Palestine from elsewhere and establish the purpose of their entry. The work of foreign nationals in the non-governmental and humanitarian sectors is confined to international organizations and NGOs. Foreign workers face discrimination practised by the occupation authorities as a matter of policy. Examples of Israeli violations against foreign workers include the killing of United States activist Rachel Corrie in Rafah in 2003.

Section II
Information relating to articles 1 to 7 of the Convention

Article 1

I. Definition of racial discrimination in the domestic law of Palestine

27. Equality is defined in Palestinian legislation in a manner that prohibits various aspects and forms of discrimination, including racial discrimination based on race, colour, descent, or national or ethnic origin, as follows:

(a) The Declaration of Independence proclaimed on 15 November 1988 by the Palestine National Council of the Palestine Liberation Organization, which is the most important document in Palestinian national history and the founding document of the State of Palestine, stipulates that: “The State of Palestine is the State of Palestinians wherever they may be. Therein they shall develop their national and cultural identity, enjoy full equality of rights, and have their religious and political beliefs and human dignity safeguarded under a democratic parliamentary system based on freedom of opinion; freedom to form parties; respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on

[22] *Ibid*, “The Roma or Dom in Palestine” [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=5059.

[23] Internal Displacement Monitoring Centre, “Palestine IDP figures analysis”, 2014. *Source*: http://www.internal-displacement.org/middle-east-and-north-africa/palestine/figures-analysis/.

[24] UNRWA, “Where we work”. *Source*: https://www.unrwa.org/where-we-work.

grounds of race, religion or colour, or between men and women, under a constitution that ensures the rule of law and an independent judiciary, in full consistency with the age-old spiritual and cultural heritage of Palestine embodying tolerance and religious coexistence …";

(b) The Palestinian Amended Basic Law of 2003, which has supreme legislative status among the laws in force in Palestine, guarantees equality among all Palestinians and prohibits discrimination on any ground. Article 9 states that: "Palestinians are equal before the law and the judiciary, without distinction as to race, sex, colour, religion, political opinion or disability";

(c) Article 14 of the draft constitution of the State of Palestine of 2015 states that: "All Palestinians are equal before the law, enjoy the same rights and have the duties prescribed by law, without distinction as to origin, race, sex, religion, social status, opinion or disability";

(d) Article 546 of the draft Palestinian penal code of 2011 criminalizes acts of discrimination, which it punishes by imprisonment and a fine, and defines discrimination as: "Any differentiation among natural persons on the basis of national or social origin, colour, sex, family status, health status, disability, political opinion, trade union affiliation, or actual or presumed affiliation or non-affiliation with a race, nation, lineage or specific religion";

(e) The definition of racial discrimination set out in the International Convention on the Elimination of All Forms of Racial Discrimination became an additional legal point of reference for the State of Palestine after the Supreme Constitutional Court, in case No. 4 of 2017, determined the status of international treaties in the Palestinian legal system by establishing that such treaties take precedence over domestic legislation.

II. Definition of special measures taken to protect Palestinians against acts of racial discrimination

28. The policy pursued in the State of Palestine is aimed at achieving equality for its citizens before the law and the judiciary, providing equal legal protection, and realizing de facto equality in the enjoyment of human rights. In order to bring about concrete and de facto equality in accordance with article 1, paragraph 4, and article 2, paragraph 2, of the Convention, the State of Palestine envisages taking special measures to secure adequate advancement of groups and individuals requiring protection for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms.

29. None of the measures previously implemented or currently being undertaken by the State of Palestine was designed to promote certain groups on the basis of race, colour, national or ethnic origin, or descent in a manner incompatible with the provisions of article 1, paragraph 4, of the Convention. As indicated in paragraph 25 of the Committee's general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, article 1, paragraph 4, is broadly expressed in that it refers to individuals requiring protection "without reference to ethnic group membership".

30. Paragraph 16 of the Committee's general recommendation No. 32 (2009) also states that: "The measures should be designed and implemented on the basis of need, grounded in a realistic appraisal of the current situation of the individuals and communities concerned." The notion "adequate advancement" in article 1, paragraph 4, implies "goal-directed programmes which have the objective of alleviating and remedying disparities in the enjoyment of human rights and fundamental freedoms affecting particular groups and individuals, protecting them from discrimination. Such disparities include but are not confined to persistent or structural disparities and de facto inequalities resulting from the circumstances of history that continue to deny to vulnerable groups and individuals the advantages essential for the full development of the human personality." It should be emphasized that the protection afforded to individuals and groups includes not only protection from violations committed by a State party to the Convention against its citizens. Paragraph 23 of the Committee's general recommendation No. 32 (2009) states that the

term “protection” in article 1, paragraph 4, signifies “protection from violations of human rights emanating from any source”, which includes those resulting from foreign occupation.

31. On the basis of the above considerations, the State of Palestine has taken positive measures to protect its most marginalized citizens, in particular victims of violations resulting from the occupation; citizens living in the seam zones next to the annexation, expansion and apartheid wall, in areas alongside illegal colonial settlements, in border areas, and in East Jerusalem; and victims of the aggression against the Gaza Strip. The measures concerned are legitimate, necessary and in conformity with the principles of the Convention and the general recommendations relating to the subject. The Israeli occupation has created circumstances of history, as well as persistent and structural policies, practices and disparities, all with the aim of denying to Palestinians the enjoyment of their rights and freedoms. Examples of the measures taken include the Community Resilience and Development Programme for East Jerusalem and Area C, which is run through a ministerial committee responsible for administering the Community Infrastructure Development Programme; and the establishment of a higher ministerial committee for the reconstruction of Gaza, which formulated the National Early Recovery and Reconstruction Plan for Gaza following the aggression of 2014.

Article 2

I. Undertaking by the State of Palestine to engage in no act or practice of racial discrimination and to prohibit and refrain from the sponsorship of such acts

32. The State of Palestine opposes racism and racial discrimination in all its forms, rejects engagement in acts of racial discrimination by any of its institutions or officials, and refuses to sponsor any persons, groups or organizations engaged in such acts.

33. The legislative framework in the State of Palestine contains a number of binding legal texts that in turn encompass various undertakings by the State to ensure that no persons, groups or public institutions engage in any act of racial discrimination against persons, groups or institutions. These undertakings are as follows:

(a) The text of the Declaration of Independence includes an undertaking not to engage in discrimination by stipulating that: “The State of Palestine is the State of Palestinians wherever they may be. … under a democratic parliamentary system based on … respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour …”;

(b) Presidential Decree No. 3 of 1998, concerning the strengthening of national unity, prohibits incitement to “acts of racial discrimination”, including racial discrimination practised by the State and its institutions;

(c) Article 32 of the Basic Law of 2003 provides that: “Any infringement of personal liberty or violation of the right to privacy or of other public rights and freedoms guaranteed by the Basic Law or laws in force is an offence not subject to any statute of limitations with respect to civil or criminal proceedings.” This provision is an undertaking by the State not to commit any infringement of public rights and freedoms, including engagement in acts of racial discrimination. The draft Palestinian penal code of 2011 also prohibits discrimination, in particular racial discrimination, and punishes it with imprisonment and/or a fine. Article 546 provides that anyone engaging in discrimination is liable to imprisonment for up to 2 years and/or a fine of up to 1,000 dinars.

34. Israel, the occupying Power, prevents the State of Palestine from ensuring that its citizens are not subjected to racial discrimination practised by the occupation authorities in the Occupied Palestinian Territory, particularly East Jerusalem. It is worth noting that the occupying Power has no constitutional and legislative provisions prohibiting the practice of racial discrimination against Palestinians and has made no undertakings or declarations to that effect. In its concluding observations of 2012, the Committee expressed concern on that score, stating that the Israeli Basic Law included “no general provision for equality and the prohibition of racial discrimination” and that “nor does Israeli legislation contain a

definition of racial discrimination in accordance with article 1 of the Convention. These lacunae seriously undermine the protection afforded to all persons under the jurisdiction of the State party for equal access to human rights."[25]

II. Measures to review governmental policies and legislation with the aim of eliminating racial discrimination

35. In accordance with the Committee's general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, and paragraph 76 of the Durban Programme of Action, concerning the establishment of national monitoring and evaluation mechanisms, the State of Palestine has taken various measures to monitor the compliance of government policies and procedures with human rights conventions. Such measures include the decision of the President of the State of Palestine, upon the country's accession to international treaties on 7 May 2014, to establish a standing national (ministerial) committee for following up the accession of the State of Palestine to international treaties and instruments, chaired by the Ministry of Foreign Affairs and comprising a number of relevant ministries and institutions, as well as the Independent Commission for Human Rights as an observer. At its first meeting, on 29 June 2014, the committee decided to establish its own committee of experts competent to evaluate the human rights situation in the State of Palestine and its conformity with international obligations.[26]

36. Likewise, in accordance with the Committee's general recommendation No. 17 (1993) on the establishment of mechanisms for monitoring legislative compliance with the provisions of the Convention, other human rights conventions, and the requirement to amend, rescind or nullify any laws or regulations that have the effect of creating or perpetuating racial discrimination, the State of Palestine, in March 2017, established a committee for harmonizing legislation, chaired by the Ministry of Justice, in order to begin the process of amending current Palestinian laws and drive forward the enactment of new laws consistent with human rights treaties. This action on its part was affirmed by the decision of the Supreme Constitutional Court in case No. 4 of 2017 concerning the supremacy of those treaties in the Palestinian legal system.

III. Encouragement of institutions that combat all forms of racial discrimination and foster understanding

37. The NGO Affairs Commission was established pursuant to Presidential Decree No. 11 of 2012 with the aim of coordinating activities among all Palestinian and foreign NGOs, as well as among official entities in the State of Palestine, so as to provide an open and conducive environment to enable NGOs to function freely and openly, in accordance with paragraph 213 of the Durban Declaration. This includes institutions engaged in combating discrimination and promoting mutual understanding.

38. There are no civil society institutions specifically involved in matters of racial discrimination or in monitoring the rights of Palestinian groups protected under the Convention. There are, however, institutions working to deepen and enhance dialogue among all groups in society, such as the Palestinian Centre for Research and Cultural Dialogue, which aims to foster dialogue among different political, social and cultural groups as the best means of resolving conflicts and promoting such concepts as citizenship, acceptance of others and respect for others' beliefs.[27]

[25] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel. CERD/C/ISR/CO/14-16 (2012).

[26] Multilateral Relations Department, "Accession of the State of Palestine to international treaties and instruments: Obligations of Palestine under international treaties", [in Arabic], 2015. First progress report, July 2014–August 2015.

[27] Palestinian Centre for Research and Cultural Dialogue. *Source*: http://www.pcrd.ps/index.php/ar/8-2017-06-08-20-02-39.

IV. Mandating of a national human rights institution with combating racial discrimination

39. The Independent Commission for Human Rights was established by Presidential Decree No. 59 of 1995, article 3 of which states that its mission is "to monitor the requirements for safeguarding human rights and ensure that they are met in Palestinians laws, legislation and regulations and in the work of the departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization." On the basis of the general mandate entrusted to the Commission and its structure of programmes, services and units for addressing and accomplishing that mission, a fact-finding and complaints unit follows up complaints about human rights abuses, including discriminatory application of the law for reasons of sex, religion, race, colour or political ideas.[28] As mentioned above, the Commission is an observer member of the standing national (ministerial) committee tasked with following up the accession of the State of Palestine to international treaties. Any complaint submitted to it will therefore have a direct impact on the process of evaluating whether the Convention is being strictly implemented.

Article 3

I. Apartheid policies carried out by the Israeli occupation against the Palestinian people

40. Article 3 of the Convention simply prohibits the practice of apartheid, of which it gives no detailed definition. On that basis, apartheid should be defined not only as a practice that States undertake to prohibit but also as a crime against humanity in accordance with relevant international instruments, such as the International Convention on the Suppression and Punishment of Crime of Apartheid of 1973 and the Rome Statute of the International Criminal Court of 1998, which are precise indicators for determining whether such practices amount to racial discrimination. Article II of the International Convention on the Suppression and Punishment of the Crime of Apartheid states that "the term "the crime of apartheid", which shall include similar policies and practices of racial segregation and discrimination as practised in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them." Article 7, paragraph 2 (h), of the Rome Statute defines the crime of apartheid as "inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime."

41. As to apartheid in the context of the Israeli occupation, it is no longer theoretical, descriptive or political but has once again acquired a purely legal character that takes as its yardstick the definition of apartheid as a crime against humanity. Numerous United Nations institutions and authorities in international law have made clear the existence of conclusive evidence that the crime of apartheid is being committed in that context. Examples include the following:

(a) In its concluding observations of 2012, the Committee stated that it was "extremely concerned at the consequences of policies and practices which amount to de facto segregation, such as the implementation by the State party in the Occupied Palestinian Territory of two entirely separate legal systems and sets of institutions for Jewish communities grouped in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand. The Committee is particularly appalled at the hermetic character of the separation of two groups, who live on the same territory but do not enjoy either equal use of roads and infrastructure or equal access to basic services and water resources. Such separation is concretized by the implementation of a complex combination of movement restrictions consisting of the Wall, roadblocks, the

[28] Independent Human Rights Commission. *Source*: https://www.ichr.ps/ar/1/1/519/%D8%A8%D8%B1%D8%A7%D9%85%D8%AC-%D8%A7%D9%84%D9%87%D9%8A%D8%A6%D8%A9.htm.

obligation to use separate roads and a permit regime that only impacts the Palestinian population (art. 3 of the Convention).”[29]

(b) The report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, presented to the General Assembly in 2012, stated that: “Israel has created a regime of separation and discrimination, with two separate systems of law in Palestinian territory: one system applies to the settlers, and treats the settlements as de facto extensions of Israel and grants settlers the rights of citizens with the protections of a quasi-democratic State. In contrast, the Palestinians are subject to a system of military administration that deprives them of legal protection and the right to participate in shaping policies regarding the land in which they live. These separate systems reinforce a regime in which rights depend on national identity and citizenship. A dual system of roads, one for settlers and one for Palestinians, further entrenches the discriminatory separation between the two communities”;[30]

(c) In 2014, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 reiterated his call for a referral to the International Court of Justice to assess whether the prolonged Israeli occupation possessed elements of “colonialism”,” apartheid” and “ethnic cleansing”.[31] The Special Rapporteur also referred to “measures designed to divide the population along racial lines including by the creation of separate reserves and ghettos for the members of a racial group or groups, and the expropriation of landed property”;[32]

(d) The United Nations Economic and Social Commission for Western Asia (ESCWA) commissioned an expert group to produce a comprehensive report on Israeli practices towards the Palestinian people and the question of apartheid. On the basis of scholarly inquiry and overwhelming evidence, the report established that Israel is guilty of the crime of apartheid.[33]

42. Despite all such studies and efforts and all of the recommendations to end this colonial and apartheid-based system, Israel, the occupying Power, perpetrates acts and practices mentioned in article II of the International Convention on Repression and The Punishment of the Crime of Apartheid, as indicated below:

(a) Article II (a) provides that policies and practices of racial segregation include “denial to a member or members of a racial group or groups of the right to life and liberty of person”. In that connection, the occupying Power carries out extrajudicial killings and assassinations of Palestinians, including civilians, journalists, unarmed activists and politicians from armed groups outside the sphere of hostilities, who are arbitrarily denied their right to life. The occupying Power also systematically deprives Palestinians of their freedom on a wide-scale basis. In 2006, a total of 9,498 Palestinian Arabs were detained for security reasons, compared with only 12 Jewish Israelis.[34] In addition to this is the arbitrary, indiscriminate, wide-scale and systematic practice of “administrative detention”, without charge, on security grounds unsupported by legal evidence. Detainees and suspects are furthermore tried without due process guarantees, as will be explained in the part of this report relating to article 5 of the Convention. Generally speaking, the judicial system of the occupying Power is a tool for preserving the settlement and colonial occupation regime, including through procedures that amount to acts of racial segregation;

(b) Article II (c) provides that policies and practices of apartheid include “any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country”. In that

[29] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session (2012). CERD/C/ISR/CO/14-16, para. 24.

[30] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. General Assembly. A/67/379 (2012).

[31] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. A/HRC/25/67 (2014).

[32] A/HRC/25/67, para. 71.

[33] Richard Falk and Virginia Tilley, “Israeli practices towards the Palestinian people and the question of apartheid”, Palestine and the Israeli occupation, issue No. 1, ESCWA, Beirut, 2017, p. 51.

[34] Letter from the Israeli Prison Service addressed to Adalah, November 2006.

regard, the occupying Power deprives Palestinians of the rights enunciated in article 5 of the Convention. Such abuses will be covered in detail in that part of the report. Issued in 2009, the report of the United Nations Fact Finding Mission on the Gaza conflict furthermore concluded that there is a clear differential treatment between Palestinians and Jewish Israelis in various spheres, including due process guarantees, land use, housing, access to natural resources, civil status, residence, family reunification, right of movement, right to health, right to education, right to social services and right of assembly;[35]

(c) Article II (d) provides that practices and policies of apartheid include "any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups." In this respect, successive Israeli governments have been constructing illegal colonial settlements and confiscating lands by force since the start of the occupation and building the annexation, expansion and apartheid wall since 2002. They also imposed a blockade on Gaza in 2007 and have isolated East Jerusalem from the rest of the territory of the State of Palestine. The racial segregation is at its most conspicuous in East Jerusalem, which is the economic and cultural centre for Palestinians. Israel, the occupying Power, imposes on Jerusalemite Palestinians its administration, laws and taxes while simultaneously ensuring that they are excluded and economically and socially marginalized by denying their basic rights and right of residence and civil status, as well as by depriving their residential neighbourhoods of essential infrastructure services. In its concluding observations of 2012, the Committee called on Israel to "eliminate any policy of "demographic balance" from its Jerusalem Master Plan, as well as from its planning and zoning policy in the rest of the West Bank". The occupying Power nonetheless continues its unlawful practice;

(d) Article II (f) provides that practices and policies of apartheid include "persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid". In this regard, the occupying Power systematically targets Palestinian political leaders, local activists and human rights defenders on a wide-scale basis. It also suppresses peaceful demonstrations against colonial activities and other acts of apartheid; shuts down charitable, cultural and educational organizations; imposes travel bans on Palestinian human rights defenders; deports non-Palestinian human rights defenders; and prevents, hampers and delays the entry of working groups from international and United Nations organizations, including United Nations special rapporteurs on human rights.[36] The occupying Power furthermore prevents human rights defenders from entering Palestinian territories."[37]

43. Such acts cannot be discussed outside the context of the *mens rea* of the offence, which is the intention to perpetuate the dominance of one racial group over any other and systematically to oppress the latter. Bearing in mind that the report commissioned by ESCWA in 2017 provided a general picture of the apartheid regime, including the situation of Palestinians with Israeli nationality and the situation of Palestinian refugees, the present report of the State of Palestine to the Committee focuses only on Israeli practices in the Palestinian territory occupied since 1967. Israel has created an overlap between the practices of prolonged foreign occupation and those of colonialism and apartheid with the intention of increasing the dominance of one racial group over another. In 2013, the report of the International Fact-Finding Mission on Israeli Settlements recognized that the occupation had created "a privileged legal space for settlements and settlers."[38] In 2014, the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 established that the policy of maintaining a demographic

[35] Report of the United Nations Fact Finding Mission on the Gaza conflict (2009). A/HRC/12/48, paras. 113, 206, 208, 938, 1327, 1577, 1579 and 1616, respectively.

[36] Office of the United Nations High Commissioner for Human Rights, "Israel's lack of cooperation leads to cancelled visit by UN rights expert to the occupied Palestinian territory" (2015). *Source:* https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15487&LangID=E.

[37] Amnesty International, "Israel denies entry to Amnesty International staff member" (2017). *Source:* www.amnesty.org/en/latest/news/2017/10/israel-denies-entry-to-amnesty-international-staff-member/.

[38] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Human Rights Council. A/HRC/22/63 (2013), para. 49.

balance of 70 per cent Jewish to 30 per cent Palestinian in Jerusalem was "acknowledged by the Jerusalem Municipality".[39] The intention of the occupation and the colonial settlement system is thus to dominate Palestinians. Indeed, the Committee has pointed out that this segregation "severely and disproportionately affect[s] the Palestinian population".[40]

II. Application of article 3 of the Convention at the national Palestinian level

44. At the national Palestinian level, there are no conditions of complete or partial racial segregation, whether with the initiative or involvement of the State or as an unintended by-product of the actions of private persons. Residential patterns are not influenced by differences of race, descent, colour, or ethnic or national origin.

45. With regard to legislation, article 85 of the Amended Basic Law provides that: "The country shall be organized by law into local administrative units with legal personality. Each unit shall have a directly elected council, as prescribed by law … In making the division, demographic, geographic, economic and political parameters shall be taken into account so as to preserve the territorial integrity of the homeland and the interests of the communities therein."

46. The presence of a colonial occupation regime that systematically uses apartheid as a tool for perpetuating the occupation is the main obstacle to the achievement of balanced development throughout the State of Palestine, particularly in view of the separation of the West Bank from the Gaza Strip, the separation of Jerusalem from the rest of the West Bank, and the fact that the public authorities are prevented from exercising their sovereignty over most of the territory of the State of Palestine.

47. The residential patterns of Palestinian communities continue to be influenced by the waves of forced displacement resulting from the ongoing Israeli colonial occupation. Suffering as a result are the Palestinian refugees who, since 1948, have been living in 8 camps in the Gaza Strip and 19 camps in the West Bank. Although the State of Palestine works in coordination with grass-roots committees to provide such services as electricity, water and tax collection, the camps continue to face complex and difficult problems relating to overcrowding, water scarcity, severe environmental pollution and inadequate infrastructure.[41] The camps and their residential neighbourhoods are furthermore targeted in the repeated aggression against the Palestinian people. In addition, the level of services provided to refugees by UNRWA is jeopardized by the lack of resources resulting from the cutbacks in international support.

48. Concerning Palestinian groups protected under the Convention, their residential patterns are unaffected by any differences based on race, descent, colour, or ethnic or national origin. Palestinian residential districts are mixed and diverse in their entirety. A substantial number of Palestinians who are not part of the Samaritan community live in rented accommodation in the city's Samaritan neighbourhood, for instance, and others own property on Mount Gerizim. Because of its history, however, the Old City of Jerusalem is divided into several neighbourhoods on the basis of religion and race. One example is the Armenian district, where members of the community congregate around the Armenian Cathedral. As to the African community, its members live mostly near Al-Aqsa Mosque on account of their historical connection with the Haram al-Sharif.

[39] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. A/HRC/25/67 (2013), para. 36.

[40] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session (2012). CERD/C/ISR/CO/14-16, para. 24.

[41] Dr. Abdul Rahman al-Mughrabi, "Economic and social conditions in the camps of the West Bank". Al-Quds Open University. Scientific Research and Graduate Studies Programme (2004). p. 3.

Article 4

I. Measures designed to eradicate incitement to racial hatred and violence and organizations that promote racial discrimination

49. In accordance with the Committee's general recommendation No. 35 (2013), the legal system in the State of Palestine balances the State's obligations under article 4 of the Convention with the right to freedom of expression by guaranteeing that right in various legislative texts, as follows:

(a) The Declaration of Independence asserts that the State of Palestine proclaims its commitment to the principles and purposes of the United Nations and to the Universal Declaration of Human Rights, including article 19 thereof concerning the right to freedom of opinion and expression;

(b) The State of Palestine has acceded without reservations to a series of instruments guaranteeing that right, in particular the International Covenant on Civil and Political Rights of 1966;

(c) The Basic Law guarantees the freedom to express an opinion, providing in article 19 that: "There shall be no impairment of freedom of opinion. All persons have the right to express and disseminate their opinions orally, in writing or through any other means of expression or art, as provided by law;"

(d) Article 2 of the Press and Publication Act of 1995 provides that: "The press and printing are free, and freedom of expression is guaranteed to all Palestinians, who may express their opinions orally, in writing, pictorially or graphically through any means of expression and information."

50. The criminal laws in force in the State of Palestine restrict freedom of expression where it involves the dissemination of ideas based on superiority, racial or ethnic hatred, incitement to hatred of individuals or groups, or incitement to violence or threats of violence against individuals or groups, as follows:

(a) Article 130 of the Jordanian Penal Code (Act No. 16 of 1960), which applies in the West Bank, provides that anyone who disseminates propaganda aimed at undermining national sentiment or stirring up racial or confessional tensions is liable to imprisonment from 3 to 15 years. Article 150 also provides that anyone presenting written or spoken material aimed at or leading to the fuelling of confessional or racial tensions or incitement of conflict among communities and members of the nation is liable to imprisonment from 6 months to 3 years;

(b) Articles 59 and 60 of the Penal Code (Act No. 74 of 1936) applicable in the Gaza Strip provide that anyone who raises discontent or disaffection among inhabitants of Palestine or promotes feelings of ill-will and hostility among the different sections of the population of Palestine is liable to imprisonment for 3 years;

(c) Article 47 of the Press and Publication Act No. 9 of 1995 provides that any newspaper or media establishment disseminating articles that undermine national unity, incite the commission of offences, spread animosity, sow hatred, discord and dissension, or stir up confessionalism among members of the community is liable to temporary suspension for a period of up to 3 months and the confiscation of all copies printed on that day;

(d) Article 108 of Decree Law No. 1 of 2007, concerning general elections, provides that anyone who uses election propaganda, speeches, brochures, advertisements or images to provoke or challenge other candidates on the basis of sex, religion, confession, occupation or disability or to stir up tensions undermining the unity of the Palestinian people is liable to imprisonment of not less than 6 months and a fine of not less than US$ 500;

(e) In accordance with article 25 of the Local Council Election Act No. 10 of 2005, no election speeches, brochures, advertisements or images may include anything that

provokes or challenges other candidates on the basis of sex, religion, confession, occupation or disability or stirs up tensions undermining the unity of the Palestinian people;

(f) The Cybercrime Act of 2017[42] takes account of technological and social shifts connected with racially discriminatory speech and hate speech. Article 24 provides that: "Anyone who creates a website, an application, an electronic account or an information technology medium with a view to disseminating and circulating information that fuels racial conflict, is aimed at racial discrimination against a specific group, or threatens, denigrates or attacks persons on the basis of their racial or confessional affiliation, colour, appearance or disability shall be liable to a fixed term of forced labour and a fine of not less than 5,000 and not more than 10,000 Jordanian dinars (JD), or the equivalent thereof in legal currency";

(g) Article 25 of the Cybercrime Act also provides that: "Anyone who creates a website, an application or an electronic account or who disseminates information via the Internet or by means of information technology with a view to misconstruing or justifying acts of genocide or crimes against humanity provided for in international instruments and laws, or intentionally assisting or inciting the commission of crimes against humanity, shall be sentenced to hard labour for life or to forced labour for a fixed term of not less than 10 years";

(h) Article 14 of the draft constitution of the State of Palestine of 2015 provides that the law punishes incitement and propaganda based on discrimination on grounds of origin, race, sex, religion, social status, opinion or disability.

51. The legal system in the State of Palestine takes into consideration the principle of the intersectionality between race, colour, descent and racial and ethnic origin on the one hand and religion on the other, in accordance with the Committee's general recommendation No. 35 (2013). The relationship of some Palestinian ethnic groups, such as Armenians and Syriacs, with their religion is organic and fundamental. Any hate speech against their religion is thus directed at the group and prohibited by the following legislative provisions:

(a) Article 278 of the Criminal Code applicable in the West Bank provides that anyone who disseminates printed or manuscript materials, images, drawings or symbols that may offend the religious feelings of other persons or insult their religious beliefs, or anyone who, in a public place and within the hearing of another person, makes utterances or sounds that may offend or insult the religious feelings or belief of that person, is liable to imprisonment for up to 3 months or a fine of up to 20 dinars;

(b) Article 149 of the Criminal Code applicable in the Gaza Strip provides that anyone who disseminates printed or manuscript materials, images, drawings or symbols that may offend the religious feelings of other persons or insult their religious beliefs, or anyone who, in a public place and within the hearing of other persons, makes utterances or sounds that may offend or insult the religious feelings or belief of those persons, is liable to imprisonment for 1 year;

(c) Article 47 of the Press and Publication Act No. 9 of 1995 provides that any newspaper or media establishment disseminating articles that denigrate religions or confessions is liable to temporary suspension for a period of up to 3 months and the confiscation of all copies printed on that day;

(d) Article 21 of the Cybercrime Act of 2017 provides that: "Anyone who creates a website, an application or an electronic account or who disseminates information via the Internet or by means of information technology with intent to harm or insult a holy site, religious observance or religious belief shall be liable to imprisonment for at least 1 year and/or a fine of not less than JD 2,000 and not more than JD 5,000."

52. In general, neither the public authorities nor civil society institutions have detected any racist discourse within Palestinian society based on the principles articulated in article 1 of the Convention, as the type of vilification and harassment it involves is, by its nature,

[42] This Decree Law is being reviewed to bring it into line with international conventions.

infrequent and all Palestinian groups protected under the Convention are integrated into the Palestinian community.

53. Few complaints, moreover, are lodged by victims of racist discourse owing to fear, lack of awareness concerning their rights, or failure to consider such practices as racially discriminatory. Persons of African descent, for instance, do not treat comments sometimes made about their colour as discrimination or racist hate speech.[43]

54. The current legislation in the State of Palestine includes mechanisms for declaring illegal and prohibiting racist organizations that promote or incite racial discrimination, as follows:

(a) Article 144 of the Penal Code applicable in the West Bank provides that anyone who participates in organized armed groups with intent to provoke civil war or confessional fighting is liable to imprisonment for life;

(b) Article 151 of the Penal Code applicable in the West Bank provides that anyone belonging to an association established to stir up confessional or racist tensions or incite conflict among the communities and members of the nation is liable to imprisonment from 6 months to 3 years and a fine of up to 50 dinars. Associations constituted for such purposes are dissolved and have their assets confiscated;

(c) Article 69 of the Penal Code applicable in Gaza defines as an unlawful association any body of persons, incorporated or unincorporated, that by its constitution or otherwise advocates, incites or encourages any act aimed at raising discontent or disaffection among inhabitants of Palestine or at promoting feelings of ill-will and hostility among the different sections of the population of Palestine. Article 70 further provides that any person over the age of 16 who is a member of an unlawful association, any person who occupies or acts in any office or position in or of an unlawful association, or who acts as a representative of an unlawful association, or who acts as a teacher in any institution or school conducted by or under the authority or apparent authority of an unlawful association, is liable to imprisonment for 1 year.

II. Groups, organizations, representative of public authorities and individuals engaged in promoting and inciting racial discrimination and violence in the context of the Israeli occupation

55. To speak of racism in the Palestinian context is impossible without speaking of the Israeli colonial settlement occupation as a source of incitement to racial discrimination and violence. Indeed, racist manifestations in Israel are inseparable from those resulting from its settlement occupation, as indicated in the Committee's concluding observations of 2012: "The Committee is concerned at the recent increase in racist and xenophobic acts, manifestations and discourse, especially against Palestinian citizens of Israel, Palestinians residing in the Occupied Palestinian Territory, including East Jerusalem, and asylum-seekers of African origin." The Committee has furthermore noted on successive occasions that there is a culture of impunity surrounding Israeli officials who incite racism and violence. In its concluding observations of 2007, it expressed concern that "the Attorney-General has adopted a restrained policy in relation to prosecutions against politicians, government officials and other public figures for hate speech against the Arab minority, an allegation that the State party cannot justify by mere reference to the right to freedom of expression."[44] In its concluding observations of 2012, the Committee also referred to this subject: "While noting the existence of criminal legislation on incitement to racism, racist organizations and participation in and support for such organizations, the Committee is concerned about the limitations therein, such as the restricted definition of racism, the exclusive role of the Attorney General in authorizing the prosecution of offences of incitement to racism, and the overly strict approach of Israeli legislation to proving the intentional element of such crimes. While noting the State party's concerns in regard to

[43] Palestinian Broadcasting Corporation. Interview with members of the African community in Jerusalem.

[44] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel. Seventieth session. 2007. CERD/C/ISR/CO/13.

freedom of speech, the Committee recalls that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression."[45]

56. The occupying Power has not taken the reform measures needed to curb that culture. On the contrary, ideas and theories based on the racial superiority of Jewish Israelis over non-Jews are formally espoused, in contravention of article 4 of the Convention. At the end of 2017, for example, the Ministry of Foreign Affairs of Israel, the occupying Power, published a racist caricature portraying Israel as a country of development and civilization and Arabs as an example of backwardness and inhumanity.[46] This notion is instrumental in creating a hostile racist environment through incitement and encouragement of racism and violence, contrary to the Committee's concluding observations and general recommendation No. 35 (2013).

57. Public authority representatives and decision-makers in the ruling establishment of the occupation authority consequently incite racial discrimination and violence against Palestinians without being held to account for their words and deeds. Examples include the call by Israeli Knesset member Bezalel Smotrich for the separation of Arab and Jewish mothers in hospital;[47] the statement by Israeli Knesset member and Minister of Justice Ayelet Shaked during the aggression against Gaza in 2014 that "the Palestinian people in its entirety is the enemy", including "Palestinian mothers";[48] and the description of the Durban Conference by Israeli Finance Minister Yair Lapid as the "Festival of Hate" because Palestinians were participating in it,[49] thus denying the suffering inflicted on the Palestinian people as a result of the racially discriminatory Israeli policies against them. Israel, the occupying Power, has created a hostile environment providing fertile ground for racism, which has enabled the upsurge in racist manifestations and extremist groups calling for and inciting the killing of Arabs and Palestinians and advocating their expulsion from their homeland, as well as the targeting of their properties and holy places. The occupying Power gives support to such organizations at the same time as preventing the State of Palestine from providing protection for Palestinians in most of the West Bank and in East Jerusalem, from guaranteeing the rule of law, and from holding to account and dissolving those same organizations. There are several shared manifestations linking those racist groups and organizations with the colonial settlement system. Many of those who carried out acts of subversion and terrorism in the 1980s are now in the highest positions of leadership in the West Bank settlements and carry out attacks on Al-Aqsa Mosque, as well as urge its destruction.[50] Israel, the occupying Power, does not categorize these organizations as terrorist organizations, notwithstanding the offences they perpetrate against Palestinians, including attacks and killing, merely describing them as unidentified or illegal organizations and groups. It moreover allocates a "secret budget" for funding the colonial settlement system, as stated in the Molad report.[51]

58. Of these organizations, the most prominent include but are not limited to:

[45] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session. 2012. CERD/C/ISR/CO/14-16.

[46] *Times of Israel*. "Foreign ministry cartoon depicts Arab world as a man on a mule". (2017). *Source*: https://www.timesofisrael.com/foreign-ministry-cartoon-depicts-arab-world-as-a-man-on-a-mule/.

[47] *Times of Israel.* "Lawmaker backs segregated Jewish, Arab maternity wards". (2016). *Source*: https://www.timesofisrael.com/lawmaker-backs-segregated-jewish-arab-maternity-wards/.

[48] *The Washington Post*, "Israel's new justice minister considers all Palestinians to be 'the enemy'". (2015). *Source:* https://www.washingtonpost.com/news/worldviews/wp/2015/05/07/israels-new-justice-minister-considers-all-palestinians-to-be-the-enemy/?utm_term=.49efde1620c0.

[49] Yair Lapid, "Israel's national challenges, at home and abroad". Washington Institute Policy Forum (2013).

[50] Negotiations Affairs Department of the Palestine Liberation Organization. "In focus: Current Israeli escalation at al-Aqsa Mosque compound in Occupied East Jerusalem" (2017). *Source*: https://www.nad.ps/en/media-room/media-brief/focus-current-israeli-escalation-al-aqsa-mosque-compound-occupied-east.

[51] Yonatan Levi, Liat Schlesinger, Avichai Sharon. "The secret budget of the Israeli settler right". (2015). Molad. The Centre for the Renewal of Israeli Democracy.

(a) The Hilltop Youth groups: These are groups of extremist religious youth found in the illegal wildcat settlement outposts in the hills of the Occupied Palestinian Territory and in Israeli colonial settlements in the West Bank, including Jerusalem. They target Palestinians and their property and draw their fanatical ideas from the extremist rabbis living in the colonial settlements;

(b) The "Price Tag" groups: These are groups belonging to the Hilltop Youth whose offences against Palestinians in the West Bank include vandalizing their property and attacking holy sites. One of the most serious of the offences committed by these groups was the arson attack on the home of the Dawabshah family in Duma village, south of Nablus, in which a couple and their 18-month-old baby were burned to death;

(c) The Lehava organization: This extreme racist organization does all it can to prevent what it calls miscegenation and mixed marriages between Jews and non-Jews. Its name is associated with scores of attacks on Islamic and Christian sites in occupied Jerusalem and it organizes paramilitary training for its members in special camps in Israeli settlements in the north and south of the West Bank;

(d) The Jewish Task Force: This organization seeks to "preserve the entire land of Israel for the Jews only, in accordance with the Torah", rejects any relinquishment of the territory it occupied in 1967, and advocates the use of any means to drive Palestinians from their lands and prevent their return thereto;

(e) Other organizations that encourage colonial settlement: Various settler organizations are involved in fighting the Palestinian presence by displacing Palestinians from their home and land, notably the Elad association, the Amana movement and the Regavim movement.

59. Occupied Jerusalem has not been spared the environment of incitement, violence, harassment and racial discrimination against Palestinians and against all religions, races and ethnicities. Indeed, it has by virtue of the colonial occupation become the focus of that hostile environment because of the armed settler groups who terrorize the population and because of the daily harassment by occupation soldiers. In this environment fostered by the occupation, waves of violence have affected not only the right of Palestinians to physical integrity but also their right to life. On 2 July 2014, for example, Israeli settlers kidnapped the child Muhammad Abu Khdeir from the Shu'fat refugee camp in East Jerusalem and burned him alive.[52] This environment has similarly affected the members of the Palestinian racial and ethnic groups in Jerusalem. Settlers persistently harass and spit upon Armenian clerics and intentionally desecrate their property,[53] and one year extremists wrote "death to Arabs and Armenians" on walls in the Armenian quarter.[54]

Article 5

A. The right to life, physical integrity and personal liberty

I. Guarantees of equal treatment before the judicial authorities and the executive organs responsible for the administration of justice and law enforcement in the State of Palestine

60. In the State of Palestine, the law guarantees the right to non-discrimination and impartial treatment from judges, prosecutors and other judicial officials, as follows:

(a) Article 18 of High Judicial Council Decision No. 3 of 2006 provides that: "In the exercise of their judicial functions, judges shall give equal treatment in their words and

[52] Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1 (A/HRC/28/80/Add.1), paras. 7–8.

[53] Higher Presidential Committee for Church Affairs in Palestine. "The Armenians in Jerusalem". *Source*: http://www.hcc-plo.ps/?q=ar/content/%D8%A7%D9%84%D8%A7%D8%B1%D9%85%D9%86-%D9%81%D9%8A-%D8%A7%D9%84%D9%82%D8%AF%D8%B3.

[54] Apo Sahagian, *Times of Israel*, "Armenians under attack in the Old City" (2015). *Source:* http://blogs.timesofisrael.com/armenians-under-attack-in-the-old-city/.

deeds to all persons, whether parties to the dispute or third parties (witnesses, lawyers, court officials or professional colleagues); shall not discriminate among them on grounds of religion, race, colour or other status; and shall require the same of their personnel."

(b) Article 22 of the Code of Judicial Conduct provides that: "Judges shall perform their judicial functions without differentiation, partiality, bias or bigotry and in a manner that promotes confidence in the independence and impartiality of the judiciary;"

(c) Article 55 of the Attorney General's Judicial Directive No. 1 of 2006 provides that: "Prosecutors shall be fair in their treatment of litigants when conducting investigations by making no distinction among them, regardless of differences in their social status or personal aspects, in order to avoid bias and prejudice";

(d) Article 8 of the Code of Conduct for Military Judges and Prosecutors of 2012 provides that: "Military judges and prosecutors must feel full freedom to exercise their authority in applying the law fairly and equitably, without prejudice of any kind towards any of the parties to proceedings";

(e) The Code of Conduct for Judicial Personnel[55] provides that personnel must "treat all users of the judiciary on a fully equal footing and endeavour not to discriminate or show prejudice for non-substantive reasons relating to political, geographical or family factors or on the basis of sex, religion or personal relationships."

61. The Palestinian justice system is in keeping with the Committee's general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system. The current procedural laws in Palestine, such as the Code of Civil Procedure (Act No. 2 of 2001), the Code of Criminal Procedure (Act No. 3 of 2001) and the Ordinary Courts Act No. 5 of 2001, provide due process guarantees for all citizens, without discrimination on any of the grounds set forth in the Convention.

62. The legislative provisions in place grant accused persons, without discrimination, the right to be presumed innocent and prohibit the judicial and other public authorities from publicly expressing their opinions concerning the guilt of an accused person before the court reaches a decision on the matter, especially in cases that would raise suspicions about individuals belonging to certain racial and ethnic groups, as follows:

(a) Article 14 of the Amended Basic Law provides that: "Accused persons are innocent until proved guilty at a legal trial at which they have had the guarantees necessary for their defence";

(b) Article 16 of High Judicial Council Decision No. 3 of 2006, concerning the Code of Judicial Conduct, provides that: "Judges may not give their advance opinions to either litigants or third parties on disputes presented to them";

(c) Article 15 of the Military Tribunal President's Decision No. 1 of 2012, concerning the Code of Conduct for Military Judges and Prosecutors, provides that: "In all cases, judges are prohibited from commenting other than in court hearings on any matter involving cases before them and from giving advance opinions on such cases."

63. The following legislative texts enable all accused persons and litigants, without distinction, to enjoy the right to a defence and the right to counsel, without discrimination:

(a) Article 14 of the Amended Palestinian Basic Law provides that: "All persons accused of a serious offence shall have a lawyer to defend them";

(b) Article 102 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: "All persons are entitled to the assistance of a lawyer during the investigation";

(c) Article 244 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: "The court shall ask accused persons if they have chosen a lawyer to defend them. If they have not done so because they are in a poor financial situation, the president of the court shall appoint for them a lawyer who has been practising for not less than five years or,

[55] Published on the website of the High Judicial Council on 12 December 2011.

in the case of lawyers who served in the Public Prosecutor's Office or the judiciary before obtaining a professional licence, for not less than two years";

64. The following legislative provisions guarantee to accused persons the right to the assistance of a qualified interpreter:

(a) Article 60 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: "The investigation shall be conducted in Arabic and the prosecutor shall hear the statements of litigants or witnesses unacquainted with Arabic through an interpreter who takes an oath to perform his or her work honestly and faithfully";

(b) Article 246 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: "If any of the accused persons or witnesses does not speak Arabic proficiently, the president of the court shall appoint a licensed interpreter, who must take an oath to interpret statements honestly and faithfully."

II. The right to protection from violence or harm inflicted by law enforcement institutions in the State of Palestine

65. The protection of ethnic and racial groups from violence inflicted by State officials and individuals is included as part of the general protection afforded by law to citizens, in accordance with the following legislative framework:

(a) Article 13 of the Palestinian Amended Basic Law provides that: "No one may be subjected to any coercion or torture. Accused persons and all persons deprived of their liberty shall be properly treated";

(b) Article 29 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: "No person may be arrested or imprisoned except by order of the authority competent to do so by law. Such persons must be treated in a manner that preserves their dignity and may not be physically or morally harmed";

(c) Article 208 of the Code of Criminal Procedure (Act No. 3 of 1960) applicable in the West Bank provides that: "Anyone inflicting on a person any form of violence or force not permissible by law with intent to obtain a confession to an offence or information concerning such offence shall be liable to imprisonment from 3 months to 3 years";

(d) Article 108 of the Penal Code (Act No. 74 of 1936) applicable in Gaza provides that: "Any person employed in the public service who uses or orders the use of force or violence against another person in order to extract from that person or from any member of his or her family a confession to an offence, or information concerning an offence, is deemed to have committed a misdemeanour."

66. The following decisions, administrative measures, codes of conduct and strategic plans provide, without discrimination, the right to protection from any violence inflicted by law enforcement institutions:

(a) The country's Strategic Security Sector Plan 2014–2016 includes the objective of promoting human rights principles and concepts within the Palestinian security and law enforcement agencies through the elaboration of codes of conduct for those agencies and the establishment of systems for monitoring and managing their activities;

(b) Article 11 of the Code of Conduct and Professional Ethics for Personnel of the General Intelligence Services provides that: "Torture and other cruel, inhuman or degrading treatment or punishment is strictly prohibited";

(c) Article 8 of Decree Law No. 11 of 2007, concerning preventive security, provides that: "The General Department of Preventive Security shall respect the rights, freedoms and guarantees provided for in Palestinian laws and in international instruments and treaties";

(d) Article 13 of the Code of Conduct and Professional Ethics for Personnel of the General Intelligence Services provides that: "Force shall be used in cases of urgent necessity and within the limits required to perform the duty of protecting the homeland and citizens and preserving public and private assets and property";

67. The codes of conduct for law enforcement personnel affirm the principle of non-discrimination in dealing with citizens. Article 10 of the Code of Conduct and Professional Ethics for Personnel of the General Intelligence Services thus provides that: "Intelligence personnel shall be mindful of the rights and interests of others, without exception, and treat them with respect, courtesy, civility, impartiality, fairness and objectivity, without distinction as to colour, race, gender, religious or political belief, social status, age or disability and without any other form of discrimination."

68. The protection of racial and ethnic groups from interrogation and searches on the basis of physical appearance or through racial profiling is one of the guarantees provided against interrogation and random searches, in accordance with the following legal and procedural framework:

(a) Article 29 of the Penal Code of 2001 provides that: "No one may be arrested or imprisoned except by order of the authority competent to do so by law";

(b) Article 126 of the Code of Criminal Procedure of 2001 provides that: "The Public Prosecutor's Office and presidents of courts of first instance and appeal may inspect correctional and rehabilitation centres (prisons) and places of detention located in their jurisdictions in order to establish that no inmates or detainees are being held unlawfully. They may inspect the centre's records, together with arrest and detention orders, take photographs of the same, have contact with any detainee or inmate and hear any complaints made to them. The directors and governors of the centres shall provide them with every assistance in obtaining the information they request";

(c) Article 346 of the Jordanian Penal Code (Act No. 12 of 1960) provides that: "Anyone who unlawfully arrests a person and deprives him or her of liberty shall be liable to imprisonment for up to 1 year or a fine of up to 50 dinars."

III. Treatment of Palestinians by the occupation authorities responsible for law enforcement, especially the Israeli military judiciary

69. Since 1967, the occupation authorities have arrested and imprisoned over 850,000 Palestinians,[56] including 10,000 women[57] and 25,000 children.[58] The conviction rate for Palestinians who appear in court is 99 per cent,[59] demonstrating an obvious trend towards use of the military justice system as a tool for the implementation of colonial occupation policies.

70. In its concluding observations of 2012, the Committee referred to the matter of administrative detention, stating that: "The Committee expresses great concern at the State party's maintenance of administrative detention for both Palestinian children and adults based on evidence that is kept secret for security reasons." Notwithstanding the Committee's recommendation, the occupying Power continues to discriminate between Israelis and Palestinians in applying the rules on detention. The Emergency Powers Act of 1979 provides that Israelis may be detained only by a decision of the Prime Minister for a period of 6 months, provided that they are brought before a judge within 48 hours of their arrest. Military Order No. 1651 of 2010, however, empowers the military commander of the occupation authorities to place Palestinians in administrative detention for six months, which may be renewed an unlimited number of times; moreover, Palestinians must appear before a judge within eight days, and that judge may issue his or her decisions on the basis of evidence that has not been presented to the accused. Since 1967, the occupation authorities have issued over 50,000 detention orders against Palestinians. The administrative detention policy has also included minors, leading the Committee to state that it was "particularly concerned at worrying reports of an increase in the arrest and

[56] Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, A/69/355.

[57] UN Women, "Suspended lives: Palestinian female prisoners in Israeli prisons", (2011).

[58] Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, A/69/355, para. 10.

[59] *Haaretz*, "Nearly 100% of all military court cases in West Bank end in conviction", 2011. *Source*: https://www.haaretz.com/1.5214377.

detention of children and of the undermining of their judicial guarantees, notably in relation to the competence of military courts to try Palestinian children, which is inconsistent with international law."[60] The occupying Power has not altered this policy; in December 2017, approximately 350 children were arrested.[61]

71. In its concluding observations of 1998, the Committee spoke of abuses perpetrated against persons held in prisons and detention centres, expressing "its profound concern that detained persons of Arab ethnic origin are disproportionately subjected to inhuman and degrading interrogation under the Landau Commission rules and that the Supreme Court has failed to declare this illegal." Despite the Committee's reservation, the occupation authorities systematically subject Palestinian detainees to torture and cruel treatment, including repeated beatings, slapping, shackling of hands and legs, sleep deprivation, being forced to remain in painful positions for lengthy periods, threats and other humiliations.[62]

72. The military apparatus of the occupation authorities uses excessive force and violence against Palestinian civilians who pose no threat. In 2016, occupation forces killed over 94 Palestinians and injured more than 3,023.[63]

73. In its concluding observations on the report of Israel of 2012, the Committee pointed out the distinction made by the occupying Power between Israelis and Palestinians concerning the right to equality before the law and the judiciary and due process guarantees, stating that: "The Committee is extremely concerned at the existence of two sets of laws, for Palestinians on the one hand and Jewish settlers on the other hand who reside in the same territory, namely the West Bank, including East Jerusalem, and are not subject to the same justice system (criminal as well as civil matters)."[64] Despite the Committee's recommendation, the situation has not changed. Palestinians are tried in military tribunals by military judges in proceedings that are inconsistent with international law and international norms and provide no fair trial guarantees for Palestinians. This distinction is manifested in, among others, longer periods of detention; obstacles to the right of Palestinians to be represented by a lawyer and to their right to a defence;[65] the discriminatory use of Hebrew in trials of Palestinians;[66] discrepancy in the definition of serious offences committed by Israelis and Palestinians;[67] discrimination in the duration and severity of punishment for such offences; and discrimination in the opportunities for convicted persons to be released before the end of their sentence.

74. Palestinian racial and ethnic groups have not been spared abuses at the hands of the occupation with regard to their rights to life, physical integrity and personal liberty, as follows:

(a) The right to life: Osamah Jeddah, a member of Jerusalem's African community, was among the first martyrs of the second intifada in 2000, having died from

[60] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, (2012). CERD/C/ISR/CO/14-16.

[61] Statistics of Addameer, 2017. *Source*: http://www.addameer.org/statistics.

[62] Amnesty International. "Israel and Occupied Palestinian Territories 2017/2018". *Source*: https://www.amnesty.org/es/countries/middle-east-and-north-africa/israel-and-occupied-palestinian-territories/report-israel-and-occupied-palestinian-territories/.

[63] Human Rights Watch. "Israel/Palestine. Events of 2016". *Source*: https://www.hrw.org/world-report/2017/country-chapters/israel/palestine.

[64] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session. 2012. CERD/C/ISR/CO/14-16.

[65] Yesh Din, "Volunteers for human rights v. Commander of IDF Forces in the West Bank", HCJ 2690/09 (2011). *Source*: http://opil.ouplaw.com/view/10.1093/law:ildc/1820il11.case.1/law-ildc-1820il11?rskey=XwNerM&result=3&prd=OPIL.

[66] Association for Civil Rights in Israel (ACRI), "One rule, two legal systems: Israel's regime of laws in the West Bank" (2014), p. 16.

[67] Addameer, "Presumed guilty: Failures of the Israeli military court system – An international law perspective". (2009), p. 9.

bullets fired by occupation soldiers during protests at Al-Aqsa Mosque. Young Armenian Harut Kolzian was also martyred in the city of Ramallah during the first intifada in 1991;[68]

(b) The right to freedom: Eighty per cent of Afro-Palestinians have been detained in occupation prisons and served varying sentences therein for their political affiliations and activities;[69]

(c) The right to a fair trial: An example here is the case of Armenian students who were subjected to harassment by a settler in Jerusalem before being dragged into a fight, arrested by the Israeli authorities, held in Maskubiyah prison, prosecuted without judicial guarantees, sentenced to deportation, sent to Ramlah prison and tortured.[70]

B. Human rights in general

I. Political rights relating to participation in public life

75. The Palestinian political system is a pluralist system that encourages the political participation of all Palestinian groups in all walks of public life without discrimination, as follows:

(a) The Declaration of Independence refers to the establishment of a democratic parliamentary system based on respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour or between men and women;

(b) Article 4 of the Constitution of the Palestinian Liberation Organization states that all Palestinians are natural members of the Palestine Liberation Organization and discharge their duty to liberate their country in accordance with their abilities and qualifications. The Palestinian people is the backbone of this Organization;

(c) Article 26 of the Amended Basic Law provides that: "Palestinians have the right to participate in political life, both individually and collectively."

76. **The right to vote:** The State of Palestine gives effect to the right to participate in elections, without discrimination, by way of various legislative provisions and administrative measures:

(a) Article 26 of the Amended Basic Law provides that Palestinians have the right to "vote and stand as candidates for election so as to have representatives chosen from among them who are elected with universal suffrage in accordance with the law";

(b) Article 34 of the Basic Law provides that: "The President of the Palestinian National Authority shall be chosen in a general direct election by the Palestinian people in accordance with Palestinian electoral law";

(c) Article 28 of Decree Law No. 1 of 2007, concerning general elections, provides that all Palestinians in the West Bank, including Jerusalem, and the Gaza Strip, who satisfy the conditions stipulated therein may exercise the right to vote, irrespective of religion, opinion, political affiliation, or social, economic or academic status;

(d) Article 27 of Decree Law No. 1 of 2007 provides that foreign nationals (excluding those with Israeli citizenship) married to Palestinians, whether spouses of Palestinian women or of Palestinian men, are entitled to vote in general elections, even if they hold no Palestinian identity card at the time of registering on the electoral roll or to vote;

(e) Article 7 of the Local Council Election Act No. 10 of 2005 stipulates that any person exercising the right to vote must be Palestinian, have attained 18 years of age on

[68] *Al-Safir*, "The Armenians in Palestine" [in Arabic], 2011. *Source*: http://palestine.assafir.com/Article.aspx?ArticleID=2034.

[69] Website of the African Community Society. *Source*: http://acs-jer.org/index.php?lang=en.

[70] Palestinian Broadcasting Corporation. Interview with the Committee on the Armenian Question in Jerusalem.

polling day, have been resident in the electoral district for a period of not less than six months prior to the date of the elections, and have no loss of legal capacity.

77. In order to promote the participation of all groups of Palestinian society in elections, the Central Electoral Commission, in cooperation with civil society organizations, ran a series of awareness-raising projects on the right to vote. These included electoral awareness projects conducted in and universities, and a project entitled "Our path to a democratic State", which worked through the radio, Internet and social media to promote political awareness and democratic participation and guarantee wider access for all segments of Palestinian society to legal information about the electoral process.

78. **The right to stand as a candidate:** The State of Palestine, without discrimination, gives effect to the right to stand as a candidate for election by way of numerous legislative provisions and administrative measures:

(a) Pursuant to the Electoral Regulations of the Palestinian National Council of 1965, a candidate for membership of the National Council must be "a Palestinian who is literate; is a voter registered on the final electoral roll; has attained 25 years of age at the time of standing for election; has not been convicted of a serious offence or a misdemeanour involving impropriety; is not an official of the Organization; is an active member of the Popular Organization; and is not standing as a candidate in more than one electoral district";

(b) Under article 36 of the Decree Law on general elections, a presidential candidate must "be a Palestinian born to Palestinian parents; have attained at least 40 years of age on the designated polling day; be permanently resident in the Palestinian territories; be registered on the final electoral roll; satisfy the conditions for exercise of the right to vote; and be committed to the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people, to the Declaration of Independence, and to the provisions of the Basic Law";

(c) In accordance with article 45 of the Decree Law on general elections, a candidate for membership of the Legislative Council must "be a Palestinian; have attained at least 28 years of age on the designated polling day; be registered on the final electoral roll; not have been convicted of a serious offence or a misdemeanour involving a breach of honour or trust; be permanently resident in the Palestinian territories; and be committed to the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people, to the Declaration of Independence, and to the provisions of the Basic Law";

(d) Article 18 of Local Council Election Act No. 10 of 2005 provides that: "Candidates on the list must have attained 25 years of age on polling day; be registered on the final electoral roll in the district where they are candidates; fulfil the requirements to be met by voters; not have been convicted of either a misdemeanour involving a breach of honour or of a serious offence; not be an official (or employee) of or a lawyer for the Ministry of Local Government, a public security agency or a local authority, except if they have submitted their resignation and attached proof that they have been accepted as a candidate; have been resident within the local authority pertaining to the council for which they are standing as a candidate for a period of not less than one year prior to the date of the elections; and not be standing as a candidate in another district or on another list."

79. Palestinian ethnic and racial groups thus enjoy the right to stand as candidates and representatives at the national and local levels. In the Bethlehem Municipality, for example, there is a permanent seat for Syriacs. Samaritans may also stand as candidates for the Palestinian Legislative Council, as in the case of the late deputy Salum Imran Ishaq al-Kahin, who was elected as a member of the first Palestinian Legislative Council in 1996. He was also a member of the Jerusalem Committee and the Council's General Budget Committee.[71]

80. Israel, the occupying Power, impedes the right of Jerusalemite Palestinians, including members of Palestinian ethnic and racial groups, to vote and stand as candidates

[71] Palestinian Information Centre, WAFA, "Salum Imran Ishaq al-Kahin". *Source*: http://info.wafa.ps/persons.aspx?id=615.

and political representatives alongside the rest of the Palestinian population, by way of the following practices:

(a) In 2004, the occupation authorities closed the Palestinian voter registration centres in East Jerusalem and arrested the staff working in such centres, thereby undermining the right of Palestinians to participate in legislative and presidential elections;[72]

(b) The participation of Jerusalemite Palestinians in the Palestinian legislative elections was low as a result of the harassment to which they were subjected by racist Israeli organizations, which threatened to expel by force any of them who took part in the elections. The forces of the occupying Power furthermore obstructed the movement of Palestinian citizens and prevented them from reaching the polling stations;[73]

(c) Almost 50 years have gone by without Jerusalemite Palestinians having been granted the right to participate in their own municipal elections and have their interests represented. The Israeli municipality has no concern for those interests and fails to provide adequate services for the population.[74]

81. Israel, the occupying Power, also undermines the right of Palestinians to engage politically in the work of the Palestinian Legislative Council by arresting members of the Council so as to hamper their participation and obstruct their right to vote, stand as candidates and representatives and participate in political life. One third of the members of the Legislative Council were arrested after the legislative elections of 2006 and 12 members are currently being held in detention.[75]

82. **The right to form and join political parties**: The State of Palestine, without discrimination, guarantees the right to form and join political parties by way of various legislative texts and administrative measures:

(a) Article 19 of the Constitution of the Palestine Liberation Organization provides that the Executive Committee "shall coordinate work between the Organization and all Arab and international organizations, federations and institutions that are consistent with the objectives of the Organization or assist the achievement of its purposes." Political factions that recognize the Organization and its objectives and assist the achievement thereof are customarily recognized and enjoy membership of the Palestinian National Council and the Organization's Executive Committee;

(b) Article 26 of the Amended Basic Law gives Palestinians the right to "form and join political parties, in accordance with the law";

(c) Article 3 of the Jordanian Political Parties Act of 1955, which is applicable in the West Bank, provides that citizens have the right to "form political parties, on condition that their purposes are legitimate, their means peaceful and their statutes in keeping with the provisions of the Constitution";

(d) The Declaration of Principles and Standards issued in 2009 by the National Conference on Protection of the Right of Assembly and Organization in Palestine states that membership of a party is voluntary on the basis of freedom of choice and without discrimination on grounds of religion, sex or other status.

83. **The right to hold public office:** The State of Palestine, without discrimination, guarantees the right of citizens to compete for public office in accordance with conditions

[72] Arabic Network for Human Rights Information, "Condemnation of the closure by Israel of voter registration centres in occupied Jerusalem" [in Arabic]. *Source*: http://www.anhri.net/palestine/jcdhr/pr040914.

[73] Jerusalem Centre for Economic and Social Rights, "The racial discrimination policy in Jerusalem" [in Arabic]. *Source*: http://www.jcser.org/ara/images/articles/durbanara.pdf.

[74] Ma'an News Agency, "50 years without local elections in Jerusalem. Is the Jerusalem Municipality a substitute?" [in Arabic] (2016). *Source*: https://www.maannews.net/Content.aspx?id=863971.

[75] Addameer, "Detained Palestinian Legislative Council members" (2017). *Source:* http://www.addameer.org/publications/detained-palestinian-legislative-council-members-0.

and procedures, on the basis of equality, merit and non-discrimination, in accordance with the following provisions:

(a) Article 24 of the Civil Service Code (Act No. 4 of 1998) stipulates that persons appointed to public office must be Palestinian or Arab; have attained 18 years of age; be free of diseases that would prevent them from discharging the duties of the office to which they are to be appointed; enjoy their civil rights; and not have been convicted by a competent Palestinian court of a serious offence or a misdemeanour involving a breach of honour or trust, unless they have been rehabilitated;

(b) Article 43 of the Public Service Act stipulates that the promotion of any public official is conditional upon having completed a certain number of years of seniority and a proportion of the performance assessments prescribed by law.

84. **The right to participate in public meetings and to form associations:** The State of Palestine, without discrimination, guarantees by way of the following administrative and legislative frameworks the right of citizens to participate in public meetings:

(a) Article 26 of the Amended Basic Law provides that Palestinians have the right to "conduct private meetings without the presence of police officers and to hold public meetings, processions and gatherings within the limits of the law";

(b) Article 2 of the Public Meetings Act No. 12 of 1998 provides that: "Citizens shall have the right freely to hold public meetings, symposiums and marches, concerning which there may be no derogation or restriction other than as provided for in this Act";

(c) Article 5 of Public Meetings Act requires "the competent authorities, at the request of the organizer of the meeting, to take the necessary protective measures, provided that such measures do not impinge upon the freedom of the gathering or affect the progress of the meeting."

85. The State of Palestine likewise guarantees, without discrimination, by way of the following legislative and administrative frameworks the right of citizens to form and join associations:

(a) Article 26 of the Amended Basic Law provides that Palestinians have the right to "form trade unions, associations, federations, leagues, clubs and people's institutions in accordance with the law";

(b) Article 1 of the Associations Act No. 1 of 2000 provides that: "Palestinians have the right freely to engage in social, cultural, professional and scientific activities, which includes the right to form and manage associations and non-governmental bodies in accordance with the provisions of this Act";

(c) Article 2 of the Associations Act No. 1 of 2000 defines an association as "an independent legal entity established pursuant to an agreement among a minimum of seven persons for the achievement of lawful public interest objectives that are not for profit to be divided among members or for the realization of personal gain";

(d) Article 2 of Cabinet Decision No. 9 of 2003, concerning the Implementing Regulation for Act No. 1 of 2000, sets out the following guarantees: "All Palestinians have the right to take part in the establishment and management of associations and freely to join and withdraw from their membership with the aim of achieving one or more not-for-profit objectives. Neither the lawful objectives of the association nor its regulations or the personality, affiliations or number of its founders shall be grounds for the imposition of any restrictions or obstacles with regard to its establishment";

(e) Article 11 of Cabinet Decision No. 9 of 2003 provides that applications for the registration of associations "shall be submitted to the Registry Department at the Ministry of the Interior by at least three of the founding members, the majority of whom must be Palestinians".

86. Individuals and Palestinian ethnic and religious groups in the State of Palestine enjoy the right to form and join associations, as follows:

(a) The Afro-Palestinians in Jerusalem established the African Community Association, an important community centre for political and cultural activities in the Old City;

(b) The Syriacs have established various associations, such as the Saint Mark's Association in Jerusalem, the Syriac Club, and the Saint Ephrem Syriac Orthodox Church Association, which deals with the affairs of the Syriac community in Bethlehem;

(c) The Armenians have established several associations, such as the Local Armenians Club, the Armenian Youth Association, the Saint James Armenian Orthodox Church Association, the Catholic Arax Club and the Armenian Charitable Society, which serve the Armenian community in Jerusalem;

(d) The Samaritan community has established several associations, such as the Samaritan Legend Association, the Samaritan Youth Club and the Centre for Samaritan Studies;

(e) Palestinians of Maghrebi descent established the Maghrebi Women's Association in Jerusalem.

87. The occupying Power prevents Palestinians from exercising their right to form and join associations, especially in East Jerusalem, through practices that include carrying out incursions and raids, closing premises for 12 or 24 hours or more, banning grass-roots activities, conducting searches and, in the case of institutions, confiscating their property and documentation, arresting their staff, preventing the return of their confiscated materials, shutting them down, and prohibiting them from pursuing their activities. During the period 2000–2009, the occupation closed down over 35 institutions in East Jerusalem.[76] Key institutions that have been closed include: Orient House, the closure of which is renewed every six months; the Arab Studies Society; the Palestinian Prisoners' Club; the Arab Women's Welfare Society; and the Silwan Charity Association.[77]

88. The occupying Power is leading a campaign against NGOs working in the field of human rights. In July 2016, the Israeli Knesset approved the so-called Funding Transparency Act, which obliges organizations receiving more than half of their funding from foreign entities to provide the Israeli Government with information about the sources of such funding. This Act is fundamentally designed to chip away at the funding of all foreign and Palestinian NGOs working to expose human rights violations committed against the Palestinian population by the Israeli occupation. It will not apply, however, to NGOs funded by dubious private entities that support the Israeli right and encourage illegal colonial settlements on Palestinian territory.[78]

89. The Office of the United Nations High Commissioner for Human Rights (OHCHR) stated that this Act "would disproportionately affect non-governmental organizations working on human rights and contribute to their delegitimization".[79] The European Union also issued an official statement characterizing the Act as one that undermined the principles of democracy. It furthermore criticized the reporting requirements under the Act, describing them as "beyond any legal transparency requirement. It is apparently aimed at restricting NGOs in Israel."[80]

90. The occupying Power continues to suppress not only the right to peaceful assembly but the right of assembly in protest against violations committed by the occupying Power.

[76] Ya'qub Awdah, "Closure of Jerusalem institutions is a racial cleansing of East Jerusalem", [in Arabic], *Journal of Palestine Studies* (2010), Institute of Palestine Studies. Vol. 8.

[77] Palestinian Information Centre, WAFA, "Palestinian institutions closed by the Israeli occupation in Jerusalem since 1967" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=9327.

[78] Diakonia, "Rule of law: A hardening of illegality in Israel and the OPT 2014–2017" (2017).

[79] OHCHR, "UN rights office raises concern about Israel's "NGO Transparency Law" (2016). *Source*: https://news.un.org/en/story/2016/07/534812-un-rights-office-raises-concern-about-israels-ngo-transparency-law.

[80] European Union External Action, "Statement by the spokesperson on the passage of the new NGO law in the Israeli Knesset" (2016). *Source:* https://eeas.europa.eu/headquarters/headquarters homepage/7228/statement-spokesperson-passage-new-ngo-law-israeliknesset_en.

According to the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, "[r]egular demonstrations against the wall and its associated regime staged in affected villages are often violently suppressed."[81]

II. Other civil and political rights

91. **The right to freedom of movement:** The State of Palestine, without discrimination, guarantees by way of the following legislative and administrative frameworks the right to freedom of movement:

(a) Article 20 of the Basic Law provides that: "Freedom of residence and movement is guaranteed within the limits of the law";

(b) Article 11 of the Amended Basic Law provides that no person may be prevented from movement except by judicial order, as provided by law;

(c) Article 87 of the draft constitution of Palestine of 2015 provides as follows: "All citizens have freedom to choose their place of residence and freedom of movement in the State of Palestine. They have the right to obtain a passport and to leave and return to Palestine freely. No one may be prevented from leaving Palestine other than by a judicial order issued in accordance with the law. The expulsion of Palestinians from their homeland is also prohibited";

(d) Article 88 of the draft constitution of Palestine of 2015 goes further still by providing as follows: "Any person residing legally in the territory of the State of Palestine has freedom of movement and may not be expelled, except as provided by law. The extradition of refugees with the legal right to asylum is prohibited and the law shall regulate the extradition of foreign suspects in accordance with bilateral or international treaties."

92. The right of Palestinians to movement is the right most impaired by Israel, the occupying Power, through the following discriminatory and racist measures and policies:

(a) Israel systematically controls movement in the Occupied Palestinian Territory through the procedures established for granting entry and exit permits and the complex network of military checkpoints that fragment Palestinian territory and violate its integrity. Based on the issuance of identity cards to single out Palestinians and Jerusalemite Palestinians from others, the permit regime is reminiscent of the pass laws used in South Africa during the apartheid era.[82] Under this regime, Palestinians are obliged to obtain a permit for carrying out any type of daily activity, such as work, training, studying, moving house, visiting relatives and receiving medical treatment. They are also required to obtain Israeli permits to enter certain areas of the Occupied Palestinian Territory, such as East Jerusalem and the closed zones between the wall and the Green Line, as well as permits to travel between the West Bank and the Gaza Strip. As to the network of checkpoints, it is one of the harshest of the restrictions imposed by the occupying Power. Palestinians crossing the Qalandiya checkpoint, for example, have to endure lengthy and humiliating procedures lasting up to 90 minutes during rush hours.[83] Between November 2014 and November 2016, OHCHR calculated that there were approximately 85 permanent checkpoints in the West Bank,[84] which is in addition to the hundreds of temporary and impromptu checkpoints. There are now also 19 checkpoints in the city of Hebron and 19 in East Jerusalem. The occupying Power furthermore prevents Palestinians from accessing 94

[81] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, (2014). A/HRC/25/67, para. 19.

[82] John Dugard, "Human rights and the South African legal order" (1978), pp. 71–78.

[83] Ir Amim, "Displaced in their own city: The impact of Israeli policy in East Jerusalem on the Palestinian neighbourhoods of the City beyond the separation barrier", (2015), pp. 17–18.

[84] Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem, General Assembly (2016). A/HRC/31/44, p. 7.

per cent of the Jordan Valley area, which they can enter or leave only through checkpoints, whereas settlers are able to move about in complete freedom;[85]

(b) The separation, annexation and racist expansion wall is a key component of the system imposed by the occupying Power to suppress the right of movement. In its concluding observations of 2007, the Committee recommended that Israel should "cease the construction of the wall in the Occupied Palestinian Territories, including in and around East Jerusalem, dismantle the structure therein situated and make reparation for all damage caused."[86] Israel, the occupying Power, ignored not only this recommendation but also in particular the advisory opinion of the International Court of Justice by having completed the construction of the annexation and apartheid wall with the aim of further unlawfully suppressing the right of Palestinians to movement, breaking up Palestinian territory and destroying the Palestinian social fabric. In its advisory opinion on the legal consequences of the construction of the wall, the International Court of Justice declared the wall illegal and contrary to international law.[87] Eighty per cent of the wall extends into the West Bank, fragmenting Palestinian territory further still. The wall has also cut off more than 12 Palestinian villages and 10,000 Palestinians in the seam zone between the borders of 1967 and the wall so that the Palestinians consequently isolated cannot leave or enter their homes without permits.[88] With reference to the Palestinians living in the seam zones, the Special Rapporteur stated that: "For Palestinian residents isolated from the rest of the West Bank by the wall, and living under the permit regime and other restrictions, the issue is not only about status, but also about how life is made untenable, inducing more and more Palestinians to abandon their land and leave." He also stated that racist and not security reasons were behind the construction of the wall, saying that: "If protection of Israeli citizens were indeed the only reason for the wall and the associated regime, it begs the question of why Israel continues to support the expansion of illegal settlements in the West Bank, thus moving an increasing number of Israeli citizens into the very area from which it says the risk emanates";[89]

(c) One of the main consequences of this regime is discrimination between Palestinians and the settlers living in illegal colonial settlements concerning the right to use West Bank roads, along which settlers are permitted to drive freely and without hindrance between settlements in the West Bank, between settlements and East Jerusalem, between West Bank settlements and East Jerusalem, and between Israeli cities inside the Green Line. These settlers, moreover, cross the annexation, expansion and separation wall, the enclaves and the Green Line without restriction, whereas the movement of Palestinians between those areas is severely restricted. To facilitate movement in the West Bank, the occupying Power designates roads for the exclusive use of settlers while prohibiting their access to Palestinians. It is for Palestinians to locate which roads they are barred from entering. Should they happen to pass along such roads, they are liable to be arrested and have their vehicles confiscated or to be threatened with violence and killing.

93. These policies have also had an impact on Palestinian racial and ethnic groups. The Samaritan community, for example, has fallen hostage to a military checkpoint belonging to the Israeli occupation army, which stifles their movements, restricts their freedom to enter and leave the city of Nablus, their only escape to the outside world, and prevents them from carrying out their normal daily activities. The checkpoint opens and closes at specific times in line with strict military orders. In the morning, students scramble to reach their

[85] United Nations Office for the Coordination of Humanitarian Affairs (OCHA), "Humanitarian fact-sheet on the Jordan Valley and Dead Sea area" (2012). *Source:* https://www.ochaopt.org/documents/ocha_opt_jordan_valley_factsheet_february_2012_english.pdf.

[86] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session (2012). CERD/C/ISR/CO/14-16.

[87] International Court of Justice, "Legal consequences of the construction of a wall in the Occupied Palestinian Territory", Advisory opinion, International Court of Justice (2004), p. 136.

[88] HaMoked (Centre for the Defence of the Individual), "The permit regime: Human rights violations in the West Bank area known as the seam zone", (2013). *Source:* http://www.hamoked.org/files/2013/1157660_eng.pdf.

[89] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. (2014). A/HRC/25/67.

schools and universities and traders their shops, which they are forced to close in the early evening in order to return home before the soldiers close the checkpoint gate. It is furthermore impossible for anyone not a member of the Samaritan community to cross the checkpoint without undergoing elaborate security procedures, which has prevented visitors from reaching Mount Gerizim, in particular tourist groups making their way to the Samaritan Museum.[90] As to the Old City of Jerusalem, the occupation installed a new checkpoint in the summer of 2014 at the entrance to the Bab al-Majlis neighbourhood. Since that time, the members of the African community have had heavy restrictions imposed on their freedom of movement, which has affected their routines and livelihoods. Thanks to those restrictions, the activities of the African Community Association have been suspended since December 2015.[91]

94. **The right to leave and return:** Israel, the occupying Power, also discriminates between Palestinians and Israelis concerning the right to leave and return. The exit and entry of Palestinians is consequently governed by a complex system of Israeli laws and procedures, whereas settlers freely leave and return to their homes in the colonial settlements in Palestinian territory without difficulty. These procedures are as follows:

(a) On more than one occasion, the Committee has mentioned violation of the right of return and entry, in particular the right of return for Palestinian refugees. Its concluding observations of 1987, it stated that "members of the Committee wished to know why Israel did not permit the Palestinian Arabs who had been driven from their lands to come back and obtain the same treatment as Jewish people."[92] In its concluding observations of 1998, it noted that the right of Palestinians to return was denied and stated that the State party must remedy the situation.[93] In its concluding observations of 2007, it expressed concern about "the denial of the right of many Palestinians to return and repossess their land in Israel."[94] Contrary to all these recommendations and to United Nations resolutions, foremost among them General Assembly resolution 194 (III), Israel, the occupying Power, violates the right of Palestinians displaced by the aggression of Israel in 1948 and 1967 to return, whereas the Israeli Law of Return allows any Jew to enter and reside in the country and become an Israeli citizen, as already mentioned. This right has been extended to include any person who has a Jewish grandfather, as well as to any non-Jew married to a Jew;

(b) The occupying Power, through its control of the "population register", monopolizes the residence files and the issuance of permits so that no Palestinian passport can be issued unless linked to an identification number in the "population register";[95]

(c) The occupying Power unlawfully controls the entry to and exit from Palestinian territory in the West Bank and the Gaza Strip. Palestinians can therefore travel only through the Karamah crossing, where they are obliged to present their passports to the Israeli authorities, which limit the hours of operation to 11 hours on weekdays. On Saturdays, because it is an official holiday in the occupying State, the crossing closes at 10 a.m. According to statistics from the Palestinian Borders and Crossings Department, the number of Palestinian travellers suddenly denied passage through the Karamah crossing by the Israeli authorities amounted to 824 in 2013, 4,269 in 2014, and 2,007 in 2015. In the

[90] Palestinian Information Centre, WAFA, "Problems facing the Samaritan community" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4059.

[91] B'Tselem, "Restrictions suffocate neighborhood of Bab al-Majles in Jerusalem's Old City" (2016). *Source:* https://www.btselem.org/photoblog/20160228_bab_al_majles.

[92] Report of the Committee on the Elimination of Racial Discrimination (1987). A/42/18, paras. 578–604.

[93] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (1998). Fifty-seventh session. CERD/C/304/Add.45, p. 3.

[94] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2007), seventh session. CERD/C/ISR/CO/13, para. 18.

[95] Interim Agreement, annex III, appendix I, art. 28 (10) (b) and art. 28 (11).

same year, those prevented from travelling by prior decision of the occupying Power amounted to 83,895;[96]

(d) In the Gaza Strip, the occupying Power has been taking strict measures against Palestinians for over 11 years, imposing a suffocating blockade that makes it virtually impossible to leave the area. Before 2000, over half a million Palestinians travelled out of Gaza every month, a figure that fell to 7,000 only in 2017.[97] Any Palestinian wishing to leave the Gaza Strip is required to obtain a permit for the West Bank and another permit to leave the West Bank via the Karamah crossing. The occupying Power, however, systematically refuses to issue permits to Gazan Palestinians other than in exceptional cases. Even in instances where a travel permit is needed for medical treatment or study purposes, the occupying Power is slow to complete the process, disregarding the adverse humanitarian, social and economic consequences of delays for applicants;

(e) In East Jerusalem, Jerusalemites easily lose their right of return and entry to Jerusalem if their residence permit is cancelled. On the instructions of the occupying Power,[98] Jerusalemite Palestinians lose their right of residence if they have lived in a foreign country for seven years, obtained residence in a foreign country, or acquired the citizenship of another country. In any event, Jerusalemites lose their rights if they are unable to prove that East Jerusalem is their "centre of life", even if living in the suburbs outside the jurisdiction of the Municipality of Jerusalem, which is run by the occupation, as anywhere beyond the boundaries of that jurisdiction is considered a foreign country. These policies have affected Palestinian racial and ethnic groups in Jerusalem. Young Armenians, for example, have few opportunities for education or work in the Old City of Jerusalem and therefore go abroad to obtain a university education. On returning to Jerusalem, they suddenly find they have lost their right to residence and had their identity cards revoked.[99]

95. **The right to nationality and residence**: The Palestinian Declaration of Independence establishes the essential features of Palestinian identity in providing that: "The State of Palestine is the State of Palestinians wherever they may be. Therein they shall develop their national and cultural identity, enjoy full equality of rights, and have their religious and political beliefs and human dignity safeguarded under a democratic parliamentary system based on freedom of opinion; the freedom to form parties; respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour or between men and women, under a constitution that ensures the rule of law and an independent judiciary, in full consistency with the age-old spiritual and cultural heritage of Palestine embodying tolerance and religious coexistence."

96. Article 9 of the Amended Basic Law provides for the adoption of a law regulating Palestinian citizenship. Pending the enactment of such a law, the legal framework governing this issue is based on a set of United Kingdom and Jordanian laws hitherto current in Palestine alongside Palestinian laws. In this context, Palestinians are defined, without any discrimination on any of the grounds mentioned in the Convention, as follows:

(a) Article 5 of the Palestinian National Charter states that: "Palestinians are the Arab citizens who habitually resided in Palestine until 1947, whether those who were expelled therefrom or who remained therein. Anyone born to a Palestinian Arab father after that date, in or outside Palestine, is Palestinian";

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[96] Centre for Defence of Liberties and Civil Rights, "Freedom of travel and movement is a basic human right" [in Arabic] (2016), p. 5.

[97] OCHA, "Palestinian access from Gaza Strip declined sharply in 2017" (2018). *Source*: https://www.ochaopt.org/content/palestinian-access-gaza-strip-declined-sharply-2017.

[98] Art. 11 lit. c and 11 A, Entry into Israel law and regulations issued thereunder, 5734-1974; Israeli Collection of Regulations No. 3201 (18 July 1974), p. 1517. See also: *Mubarak Awad v. Prime Minister of Israel*, HCJ 282/88, 1988 42(2) PD 424, judgment of 5 June of 1988; and U. Halabi, The legal status of the population of East Jerusalem since 1967 and the implications of annexation on their civil and social rights (2009), chapter one.

[99] Higher Presidential Committee for Church Affairs, "Armenians in Palestine" [in Arabic]. *Source*: http://www.hcc-plo.ps/?q=ar/content/%D8%A7%D9%84%D8%A7%D8%B1%D9%85%D9%86-%D9%81%D9%8A-%D8%A7%D9%84%D9%82%D8%AF%D8%B3.

(b) Article 27 of the General Elections Act No. 1 of 2007 provides that: “A person is deemed to be Palestinian: (a) If he or she was born within the borders of Palestine as delineated at the time of the United Kingdom Mandate or had the right to acquire Palestinian citizenship under the laws in effect at that time; (b) If he or she was born in the Gaza Strip or West Bank, including Jerusalem; (c) If the provisions of paragraph (a) above apply to any of his or her ascendants, regardless of their place of birth; (d) If such person is the spouse of a Palestinian woman or Palestinian man, as defined above”;

(c) In addition to the current legislation, article 28 of the draft constitution of Palestine of 2015 provides as follows: “Palestinians are the citizens who habitually resided in Palestine until 1947, whether those who were expelled therefrom or remained therein. Anyone born to a Palestinian father or a Palestinian mother after that date, in or outside Palestine, is Palestinian. Minorities brought to Palestine for colonial purposes are excluded from this definition. All those born to a mother or father holding Palestinian citizenship are entitled to Palestinian citizenship”;

(d) Article 30 of the draft constitution of Palestine provides that: “The Palestinian people are a single unit. Palestinians who were forcibly displaced from their homes in Palestine or compelled to leave Palestine before or after the Nakbah of the Palestinian people in 1948 and whose return thereto was prevented shall have the right to return to the homes and properties from which they were driven. This is part of the inherent right of the Palestinian people to self-determination, which is permanent and not subject to any period of limitation. The return of Palestinian refugees to the Palestinian State and their possession of citizenship in accordance with the law does not diminish their right to return to their original homes in accordance with General Assembly resolution 194 (III). The Palestinian State is committed to continue striving for the implementation of this legitimate right of Palestinian refugees to return to their homes, recover their property, and be compensated for their losses, damages and suffering.”

97. In the State of Palestine, the laws currently governing the status of foreign nationals and non-citizens define both categories without any discrimination and on the basis of the principles articulated in the Convention. Article 2 of the Migration Act of 1941 defines a foreign national as “any person not holding Palestinian citizenship” and a migrant as “any foreign national who is not permanently resident in Palestine but who enters Palestine lawfully with intent to reside permanently therein.” A permanent resident is defined as “a person who resides permanently in Palestine, whether a Palestinian or a foreign national.” A temporary worker is defined as “any foreign national who lawfully enters Palestine with intent to work temporarily in specific jobs or enterprises and who is not a permanent resident or traveller”. A traveller is defined as “any foreign national who, unlike a permanent resident, lawfully enters Palestine for any purpose other than to reside permanently in Palestine or to seek or accept employment therein”.

98. The laws in effect in the State of Palestine regulate the right to naturalization, without any discrimination, as follows:

(a) Article 12 of the Jordanian Citizenship Act No. 6 of 1955 states that applicants for naturalization must have been resident for four years in Palestine, be of good conduct and proficient in Arabic;

(b) Article 45 of the Civil Status Code (Act No. 2 of 1999) states that persons having acquired Palestinian citizenship must provide their full details to the Palestinian department or representative office in their place of residence within a period of 90 days from the date on which they acquired citizenship.

99. The laws in force in Palestine guarantee that there is no discrimination contrary to the Convention in the provisions governing the lapse or withdrawal of citizenship, as follows:

(a) Article 18 of the Jordanian Citizenship Act states that the withdrawal of citizenship is limited to the instances in which a person carries out one of the following: enters the military service of a foreign State without the authorization or permission of the Council of Ministers; enters and refuses to leave the civil service of another State; or enters the service of an enemy State”;

(b) Article 28 of the draft constitution of the State of Palestine provides that: "Loss of citizenship is prohibited. No Palestinian may be deprived of citizenship, which may not be withdrawn except by judicial order. The law shall regulate the acquisition, renunciation and withdrawal of citizenship, as well as the rights and obligations of citizens who have numerous citizenships or none."

100. The exercise of rights arising from Palestinian citizenship is closely bound up with an end to the occupation, which unlawfully and arbitrarily controls the files relating to the civil affairs of Palestinians on which basis the criteria for naturalization and the grant of residence permits are determined.[100] Israel, the occupying Power, violates the right of Palestinians to citizenship by way of various procedures and practices, in particular:

(a) Israel discriminates between Israelis and Jerusalemite Palestinians in the city of Jerusalem in matters relating to citizenship, residence and civil transactions in general. Israelis meanwhile have the right to full permanent residence in East Jerusalem, which was annexed by force in flagrant violation of international law and the principles of international legality after the occupation of 1967. Palestinians are thus treated as "foreigners" in their own city and forced to carry permanent residence cards issued by the Israeli Ministry of the Interior. Time and again throughout their entire lives, "permanent residents" of Jerusalem are obliged to prove that Jerusalem is their "centre of life", meaning that their homes are in Jerusalem, before they can receive services delivered by government institutions, such as the issuance of identity cards, which are in practice the sign of permanent residence, and of travel documents, and the registration of a marriage, birth or death of a spouse. The Entry into Israel Law also empowers the Minister of the Interior to issue decisions revoking residence permits. During the period 1967–2013, over 14,000 Jerusalemite Palestinians had their right of residence revoked[101] as part of a clearly discriminatory policy designed to empty Jerusalem of its indigenous Palestinian inhabitants and forcibly expel them from their city;

(b) The occupying Power has full control of the residence files, with the result that many Palestinians and their spouses and families are denied residence in the State of Palestine. Meanwhile, it facilitates the relocation of foreign spouses of Israelis to Israel and their residence therein. The United Nations Special Rapporteur on the situation of human rights in the occupied Palestinian territory since 1967 stated that "Palestinians from the Occupied Palestinian Territory cannot live together with foreign spouses";[102]

(c) In its concluding observations of 1992, the Committee concluded that there was discrimination in matters of citizenship, saying that: "Concern was expressed over Israeli policy that, on the one hand, accorded citizenship automatically to Jewish immigrants arriving in Israel and, on the other hand, barred the return to their former homes of Arabs displaced by war."[103] By contrast, the occupying Power continues to discriminate between Palestinians and Israelis in Israeli immigration and citizenship laws by preventing Palestinians from returning to the homes from which they were displaced in 1948,[104] in gross violation of the resolutions of international legitimacy and of the United Nations, in particular General Assembly resolution 194 (III). Those laws, in particular the Law of Return of 1950, permit any person of the Jewish faith to acquire Israeli citizenship and emigrate immediately to Israel.

101. **The right to marriage and choice of spouse:** The Palestinian legal system regulating matters of personal status is derived from the principles of religious laws, such as the Personal Status Code (Act No. 61 of 1976) applicable in the West Bank and the Family Rights Act of 1954 applicable in Gaza, both of which are derived from the principles of the

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101 Ir Amim, "Displaced in their own city: The impact of Israeli policy in East Jerusalem on the Palestinian neighbourhoods of the City beyond the separation barrier", (2015), pp. 17–18. *Source:* http://www.ir-amim.org.il/sites/default/files/akurim_ENG_for%20web_0.pdf.

102 Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. A/HRC/4/17, para. 48.

103 Report of the Committee on the Elimination of Racial Discrimination (1992). A/46/18, paras. 364–388.

104 Israeli Citizenship Law of 1952, art. 3.

Islamic sharia, and confessional laws derived from the principles of Christianity, such as the Personal Status Code of the Syriac Community of 2000. None of these sharia and ecclesiastical laws includes any impediment to marriage on grounds of race, colour, descent, or ethnic or national origin. Such impediments are instead based mainly on age, kinship and previous marriage.

102. There are several difficulties entailed in guaranteeing the right to marriage in Palestine without discrimination. These are the following:

(a) Pursuant to article 20 of the Personal Status Code of 1976, which applies in the West Bank, financial suitability is a prerequisite for marriage and not for its validity, the aim being to achieve marital stability and permanence. Article 25 of the Family Rights Act applicable in the Gaza Strip, however, lays down the condition of professional suitability, stating that: "The trade or activity of the groom shall be similar in reputation to that of the trade and livelihood of the parents or guardians of the bride." Such a broad-based requirement could lead to discrimination in terms of socioeconomic status and indeed to racial discrimination. In both the West Bank and Gaza, some circles of the Palestinian community step outside the law by setting descent as the criterion for suitability, with some families even forbidding the marriage of girls to anyone whom they regard as being of unsuitable pedigree. These customs are still practised because of the cultural and tribal legacy;

(b) Some provisions of the sharia and ecclesiastical laws prohibit marriage between persons of different faiths. In accordance with the principle of the intersectionality of race, ethnic and national origin, religion and confession, persons of various races and ethnic origins may therefore be denied their right to marriage and choice of spouse;

(c) A marriage-related problem faced by Palestinian racial and ethnic groups is lack of numbers. In the Samaritan community, for example, there are two males to every female. This large shortage of females has created a genuine crisis in view of the difficulty in marrying outside the community.[105] A substantial proportion of the community therefore miss out on marriage, which has led to social problems. In the case of Armenians, many of them marry from Jordan and Armenia.[106]

103. A foreign national married to a Palestinian woman or a Palestinian man is entitled to Palestinian citizenship. Article 27 of the General Elections Act No. 1 of 2007 provides that: "A person is deemed to be Palestinian if the spouse of a Palestinian woman or man."

104. Through its policies and laws relating to citizenship and residence, Israel, the occupying Power, violates the right of Palestinians to marry and form a family, as in the following:

(a) Israel, the occupying Power, discriminates between Israelis and Palestinians in matters of family reunification in that Jewish couples and persons married to Jews have the right to family reunification and residence, without restriction. Israel also facilitates the transfer of Israeli families to the illegal colonial settlements in the West Bank while applying strict procedures for the reunification of Palestinian families in the occupied territory and in other States. The reunification conditions and stringent procedures are also influenced by the prevailing political climate. In 2000, requests for family reunification were completely suspended as an additional punitive measure against Palestinians;[107]

(b) In referring to the so-called "family reunification", which includes return to the West Bank and Gaza Strip, the occupying Power has violated the right of Palestinians displaced in 1967 to reunite with their families (in addition to their right to return to country). Between 1967 and 1972, the occupying Power theoretically permitted the return of first-degree relatives only, with the exception of men aged from 16 to 60 years. Of the 140,000 applications made for "family reunification", only one third were accepted. In 1973, the procedure for the acceptance of such applications became stricter and remained

[105] Palestinian Information Centre, WAFA, "Problems facing the Samaritan community" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4059.

[106] Palestinian Broadcasting Corporation. Interview with Armenians in Jerusalem.

[107]

so until 1983, when it grew even more rigid following a policy review, with the result that the number of successful family reunification applications dwindled to only a few hundred annually. Some families were thus forced to apply for "temporary visiting" permits, which also involve labyrinthine bureaucratic procedures;[108]

(c) Concerning the right to family "reunification" of Palestinians, Jerusalemite Palestinians and Palestinians holding Israeli citizenship, the Israeli Ministry of the Interior, in May 2002, issued Decision No. 1813, which resulted in a freeze on applications for the "reunification" of Jerusalemite Palestinian spouses and relatives and Palestinians holding Israeli citizenship on the one hand with their Palestinian spouses living in the West Bank and Gaza Strip on the other.[109] Many Jerusalemite Palestinians and Israeli citizenship holders were thus forced to leave their homes in Jerusalem and inside the Green Line to go and live in the occupied territory (excluding Jerusalem) with their spouses. Palestinians in the occupied territory (excluding Jerusalem) otherwise risk living "illegally", in the eyes of the Israeli occupation, in East Jerusalem and inside the Green Line. The occupying Power may furthermore withdraw the residence permits of Jerusalemite Palestinians married to Palestinians in the occupied territory (excluding Jerusalem) when they go and live in the other occupied territory outside East Jerusalem, using as a pretext the requirement for Jerusalemite Palestinians continually to demonstrate, as previously mentioned, that Jerusalem is their "centre of life".[110] In 2003, the Knesset took this decision further by turning it into the Citizenship and Entry into Israel Law (Temporary Order), pursuant to which "reunification" applications were permanently frozen in a move targeted at Palestinians living in the West Bank and Gaza. In 2004, it was estimated that 24,000 families were affected by these policies.[111] In 2007, the Israeli Parliament or Knesset approved an amendment so as to include citizens of States considered hostile by Israel, such as Iraq, the Islamic Republic of Iran, the Syrian Arab Republic and Lebanon. In 2008, the occupying Power decided to prohibit the reunification of Palestinians from Gaza under any circumstances.[112] In its concluding observations of 2007, the Committee recommended that "the State party revoke the Citizenship and Entry into Israel Law (Temporary Order), and reconsider its policy with a view to facilitating family reunification on a non-discriminatory basis. The State party should ensure that restrictions on family reunification are strictly necessary and limited in scope, and are not applied on the basis of nationality, residency or membership of a particular community."[113] In its concluding observations of 2012, it furthermore stated that the Nationality and Entry into Israel (Temporary Order) Act was "thus greatly affecting family ties and the right to marriage and choice of spouse" and that it was "particularly concerned at the recent decision of the High Court of Justice, which confirmed its constitutionality;"[114]

(d) Although Israel follows no explicit policies against mixed marriage between Israelis and Palestinians, the aforementioned discriminatory policies and procedures with regard to citizenship, residency and family reunification confirm that such policies exist. The Israeli Family Courts Law of 1995 divides family courts into rabbinical courts, which adjudicate on the personal status matters of Jews, and Islamic, Christian and Druze courts for Palestinians holding Israeli citizenship. Although the parties in a mixed marriage relationship can register their marriage at the Israeli Ministry of the Interior, rabbinical family courts do not recognize marriages in which one of the parties is non-Jewish.[115]

[108] Al-Haq, "Occasional paper No. 8: The right to unite" (1990).

[109] B'Tselem, "Forbidden families: Family unification and child registration in East Jerusalem", (2006), p. 15.

[110] B'Tselem, "Forbidden families: Family unification and child registration in East Jerusalem", (2006), p. 15.

[111] OCHA, "The humanitarian impact of the West Bank barrier on Palestinian communities", (2007), pp. 4 and 23.

[112] Government resolution No. 3598, Citizenship and Entry into Israel Law (Temporary Order) (2003) – Validity Extension (15 June 2008).

[113] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2007), seventh session. CERD/C/ISR/CO/13.

[114] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2012), eightieth session. CERD/C/ISR/CO/14-16.

[115] Family Courts Law of 1995, sect. 3 (B1).

Furthermore, Palestinians in the occupied territory (excluding Jerusalem) who are married to Jewish Israelis enjoy none of the rights of residence and citizenship that generally arise on marriage.

105. **The right to inherit**: The Islamic sharia governs the right to inherit, succession issues, and distribution percentages. It establishes no impediments to inheritance on grounds of race, descent, or ethnic or national origin.

106. **The right to own property:** The State of Palestine guarantees the right to own property, without discrimination, in accordance with the following legal frameworks:

(a) Article 21 of the Amended Basic Law provides that: "Private property is protected and shall not be expropriated, except in the public interest and for fair compensation, in accordance with the law or pursuant to a judicial order";

(b) Article 8 of the Land Acquisition for Public Purposes Act of 1943, which applies in the Gaza Strip, states that the owners of land to be acquired may reject an acquisition notice and refer the case to the competent court for a decision thereon;

(c) Article 4 of the Acquisition Act No. 2 of 1953, which applies in the West Bank, states that no acquisition shall take place except by a decision of the Cabinet and in the public interest;

(d) The Compendium of Ottoman Judgements of 1876, which constitutes the civil law applicable in Palestine, determines the reasons for private property acquisition, such as inheritance, contracts of sale and gifts, none of which are discriminatory in violation of the Convention;

(e) Article 47 of the Enforcement Act No. 23 of 2005 provides that neither family homes nor land owned by debtors may be seized insofar as they are needed for their own sustenance and that of their families, unless the home or land is a cause of the indebtedness;

(f) Article 33 of the Ordinary Courts Act No. 5 of 2001 states that the Supreme Court of Justice is competent to take up decisions of public institutions that affect individuals, their assets and their property.

107. By way of colonial settlement and unlawful control over the Palestinian territories, Israel, the occupying Power, discriminates concerning the right to own property. In its concluding observations of 2012, the Committee expressed concern "at the adverse tendency of preferential treatment for the expansion of Israeli settlements, through the use of "state land" allocated for settlements, the provision of infrastructure such as roads and water systems, high approval rates for planning permits and the establishment of Special Planning Committees consisting of settlers for consultative decision-making processes." Despite the Committee's recommendation, Israel, the occupying Power, continues to discriminate between Israelis and Palestinians concerning the right to own private and public property. It does so through its policy of land confiscation and seizure, which is among the illegal and unlawful occupation principles, practices and policies aimed at colonizing Palestinian land. The Israel Lands Basic Law provides that the property of the State, the Development Authority and the Jewish National Fund is reserved for the benefit of the Jewish people. On that basis, the occupying Power confiscates Palestinian land, including privately-owned land, and declares it to be state land, which is to say land set aside for the benefit of the Jews. These measures encompass over 55 per cent of the Occupied Palestinian Territory, especially in Area C. Here, the occupying Power has assigned over 70 per cent of the land for the construction of illegal settlements and their related infrastructure, whereas it prohibits Palestinians from owning such land and using it for development purposes.[116] A glaring example of this is the fact that the Occupying Power controls 80 per cent of the Jordan Valley area, which has the highest proportion of fertile land and water resources. In addition, 37 Jewish settlements housing some 9,500 settlers exercise full control over 15 per cent of land in the Valley, another 40 per cent of which is

[116] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. A/71/554 (2016), para. 52.

designated as closed military zones. Of the remaining land, 20 per cent is set aside for closed nature reserves. Israel, the occupying Power, employs these classifications to prevent the Palestinian use of those lands and keep them available for the expansion of Israeli colonial settlements.[117] Studies conducted in 2006 showed that over 40 per cent of the lands on which settlements were built is privately owned by Palestinians.[118] The United Nations fact-finding report of 2013 stated that over 30 settlements were built on private Palestinian land.[119]

108. These Israeli policies have also undermined the right of Palestinian racial and ethnic groups, particularly those in Jerusalem, to own property. Examples include the following:

(a) Since 1967, the Israeli Government has expropriated almost 80 dunums belonging to the Syriac community for the construction of a road. The Syriac Church in Jerusalem used to own many properties and endowments, including 10 convents, none of which remain except the Convent of Saint Mark in the Old City, now surrounded on three sides by Israeli colonial settlement;[120]

(b) The Israeli authorities attempted to force the Armenian Church to sell its land in order to expand colonial settlement operations. They deliberately confiscated various properties, including the Fast Hotel building, which was demolished and the land sold to an Israeli company, which built a new hotel in its place. The Patriarchate has filed a claim with the Israeli High Court of Appeals but the Court has yet to rule on the case.[121]

109. **Religious freedom**: The State of Palestine recognizes the importance of the principle of the intersectionality of race and ethnicity on the one hand and religion on the other. It also recognizes that religious discrimination can open the door to racial discrimination, especially in the case of Palestinian groups protected under the Convention that combine religious and ethnic features, such as the Syriacs, Armenians and Samaritans.

110. The State of Palestine guarantees to its citizens, without discrimination, the right to freedom of thought, conscience and religion, as well as the right to perform religious ceremonies and rites, by way of the following legislative and administrative provisions:

(a) Article 4 of the Amended Basic Law states that: “Islam is the official religion of Palestine. Respect for the sanctity of all other divine religions shall be maintained”;

(b) Article 18 of the Amended Basic Law provides that: “Freedom of belief and worship and freedom to perform religious ceremonies shall be guaranteed, provided that there is no breach of public order or public morals”;

(c) Article 147 of the Penal Code of 1936 applicable in Gaza provides that: “Anyone who wilfully, and without lawful justification or excuse (the proof of which lies on him or her), disrupts a meeting of persons lawfully assembled for the performance of religious ceremonies, or assaults any person lawfully performing such ceremonies at that meeting or any other person there present, shall be deemed to have committed a misdemeanour and be liable to imprisonment for 2 months or a fine of 20 pounds”;

(d) Article 276 of the Jordanian Penal Code of 1960, which applies in the West Bank, provides that: “Anyone who wilfully, and without lawful justification or excuse, disrupts a meeting of persons lawfully assembled for the performance of religious ceremonies, ridicules such ceremonies, creates a disturbance during the performance thereof, or assaults any person lawfully performing such ceremonies at that meeting or any

[117] B’Tselem, “Dispossession and exploitation: Israel’s policy in the Jordan Valley and northern Dead Sea” (2011).

[118] Peace Now, “Breaking the law in the West Bank – one violation leads to another: Israeli settlement building on private Palestinian property” (2006).

[119] Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, (2013), A/HRC/22/63, p. 36.

[120] Palestinian Information Centre, WAFA, “The Syriac church” [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=5066.

[121] *Al-Safir*, “The Armenians in Palestine” [in Arabic], 2011. *Source*: http://palestine.assafir.com/Article.aspx?ArticleID=2034.

other person there present, shall be liable to imprisonment for 3 months or a fine of up to 20 dinars".

111. In 2008, the President of the State of Palestine issued Decree No. 227 officially recognizing the accredited churches in the State of Palestine, including those of various racial and ethnic groups, specifically: the Armenian Orthodox Patriarchate, the Armenian Catholic Patriarchal Exarchate, the Syriac Orthodox Patriarchate, the Syriac Catholic Patriarchal Exarchate, the Coptic Orthodox Patriarchate, and the Ethiopian Orthodox Patriarchate.[122]

112. The State of Palestine plans to take the positive measures required to rejuvenate religious confessions and churches, which will have an impact on those of their members with specific racial and ethnic origins for whom their faith is an integral part of their identity. Decree Law No. 9 of 2014 exempts recognized Christian confessional groups from various kinds of taxes and duties. In 2015, the Comprehensive Agreement between the Holy See and the State of Palestine was also signed with the aim of preserving freedom of worship and ecclesiastical rights.[123]

113. Israel, the occupying Power, prevents the followers of all faiths and confessions and the members of all Palestinian racial and ethnic groups in the State of Palestine from exercising their religious rights and discriminates between them and Israelis in matters of religious freedom by way of the following policies and measures:

(a) The State of Palestine in general and its capital Jerusalem in particular are among the most important religious sites for Muslims and Christians worldwide. In a manner incompatible with freedom of belief, however, the occupying Power restricts the right of Muslims and Christians to visit those sites. It also routinely prevents Muslims and Christians from performing their religious ceremonies in the Dome of the Rock, Al-Aqsa Mosque, the Church of the Holy Sepulchre in East Jerusalem, the Sanctuary of Abraham in Hebron, and the Church of the Nativity in Bethlehem. It does so by imposing a strict system of roadblocks and closures and a punitive permit regime to ensure that that the vast majority are denied exercise of their right to worship. Nor does it allow them to perform all of their faith ceremonies on religious holidays. The occupying Power furthermore heavily restricts the movement of Palestinians during Jewish holidays, such as Yom Kippur, when the Israeli authorities impose a full curfew that isolates Jerusalem completely from the rest of the West Bank.[124] Conversely, the occupying Power facilitates and protects the performance of religious ceremonies by Israelis, including settlers, on those occasions. In 2010, the Legal Unit of the Palestinian Centre for Human Rights filed 28 complaints of Christian Palestinians living in the Gaza Strip being denied travel to the West Bank during religious holidays.[125]

(b) Through its expansionist, destructive and illegal policies in East Jerusalem, the occupying Power is endangering the sites holy to Muslims and Christians. In its concluding observations of 2007, the Committee expressed concern about the excavations beneath and around Al-Aqsa Mosque and the possible irreparable damage they may cause to the mosque.[126] Contrary to the Committee's recommendations and as part of its colonial scheme, the occupying Power claimed that there were 136 Jewish holy sites to be "preserved and protected" while at the same time threatening the survival and sanctity of Islamic and Christian holy sites in Jerusalem. These measures have furthermore affected Palestinian racial and ethnic groups. The Israel Antiquities Authority, for example, is

[122] Presidential Decree No. 2008 concerning confessions recognized by the State of Palestine.

[123] Decree No. 17 of 2015 concerning ratification of the Comprehensive Agreement between the State of Palestine and the Holy See.

[124] OCHA, *The Humanitarian Monitor*, No. 17 (2007), p. 11.

[125] Palestinian Centre for Human Rights, "Violations of the right to freedom of worship for Palestinians in the Gaza Strip", Briefing note (2012).

[126] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2007). CERD/C/ISR/CO/13, para. 36.

carrying out works in the vicinity of Samaritan holy sites, stirring resentment in the members of the Samaritan community because of the damage caused to those sites.[127]

(c) Israel violates the right of the Palestinian people to engage in worship through measures aimed at preventing the call to prayer in East Jerusalem mosques, including at Al-Aqsa. Indeed, efforts to enact legislation to that end are under way in the Israeli Parliament or Knesset, which completed its first reading of a bill on the subject in 2017.[128]

114. **Freedom of opinion:** The State of Palestine guarantees the right to freedom of opinion and expression, without discrimination, in accordance with the following legislative and administrative frameworks:

(a) Article 19 of the Amended Basic Law provides that: "There shall be no impairment of freedom of opinion. All persons have the right to express and disseminate their opinions orally, in writing or through any other means of expression or art, as provided by law;"

(b) Article 2 of the Press and Publication Act of 1995 provides that: "The press and printing are free, and freedom of expression is guaranteed to all Palestinians, who may thus express their opinions orally, in writing, pictorially or graphically through any means of expression and information";

(c) Article 3 of the Press and Publication Act provides that: "The press shall freely perform its function of providing news, information and comment and of contributing to the dissemination of ideas, culture and sciences, as prescribed by law and with a view to safeguarding public freedoms, rights and duties and respecting the personal liberty and privacy of others";

(d) Article 4 of the Press and Publication Act provides that: "Citizens, political parties, cultural and social organizations and trade unions shall have the right to communicate in print their opinions, ideas and achievements in their respective spheres of activity;

(e) Article 12 of the Palestinian Child Act No. 7 of 2004 provides that: "Children have the right freely to communicate opinions and express themselves in a manner consistent with public order and public morals."

115. The occupying Power violates the right of Palestinians to freedom of opinion and expression by way of the following practices and policies:

(a) The occupying Power attacks Palestinian and foreign press institutions and also assaults, kills and injures journalists, as occurred in the repeated aggression against the Gaza Strip when Israel bombed 19 media outlets, destroying some of them completely and others partially. More than 15 radio local radio stations have ceased broadcasting because the occupation authorities either interfered with transmission or hacked into them in order to broadcast direct threats to citizens from the Israeli army, which has also hacked into a large number of Palestinian media websites. These attacks on the media have taken the lives of 17 journalists, including Italian national Simone Camilli and most recently a driver for a media outlet and 2 media activists. Twenty journalists have also been injured, some of them seriously;[129]

[127] Palestinian Information Centre, WAFA, "Problems facing the Samaritan community" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4059.

[128] *The Independent*, "Israel bill to limit Muslim call to prayer passes parliamentary first reading" (2017). *Source:* http://www.independent.co.uk/news/world/middle-east/israel-bill-mosque-call-to-prayer-muslim-islam-mosque-pass-first-reading-parliament-a7620336.html.

[129] Palestinian Information Centre, WAFA, "Abuses suffered by journalists during the war of 2014 on Gaza" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=9460.

(b) The occupying Power attacks Palestinian and foreign media outlets through raids and closures, as occurred recently, on 18 October 2017, when it raided and closed down the offices of eight media and production companies in Bethlehem;[130]

(c) The occupying Power arrests journalists and artists for expressing their ideas, as in the case of Palestinian cartoonist Mohammad Saba'aneh;

(d) The occupying Power arrests Palestinians for expressing their opinions on social media. From October 2015 to August 2016, it arrested 200 Palestinians, including women and children, for messages they posted on social media;[131]

(e) As mentioned earlier, the occupying Power suppresses the right to assemble peacefully in protest against its policies and abuses against the Palestinian people.

III. Social, economic and cultural rights

116. The Palestinian State guarantees social, economic and cultural rights to the Palestinian people in accordance with the International Covenant on Economic, Social and Cultural Rights and without any discrimination on grounds of race, colour, ethnic or national origin, or descent.

117. **The right to work:** The State of Palestine guarantees the right to work, without discrimination, on the basis of equal opportunity and merit, in conformity with the following provisions:

(a) Article 25 of the Amended Basic Law provides that: "Work is the right of every citizen and is a duty and an honour. The National Authority shall strive to provide work for all those capable thereof";

(b) Article 2 of the Palestinian Labour Code (Act No. 7 of 2000) provides that: "Work is the right of every citizen capable thereof. The National Authority shall provide work to citizens on the basis of equal opportunities, without any kind of discrimination";

(c) Article 16 of the Palestinian Labour Code provides that: "Discrimination among workers in Palestine with respect to terms and conditions of employment is prohibited";

(d) Article 24 of the Civil Service Code (Act No. 4 of 1998) provides that persons appointed to public office must be "Palestinian or Arab; have attained 18 years of age; be free of diseases that would prevent them from discharging the duties of the office to which they are to be appointed; enjoy their civil rights; and not have been convicted by a competent Palestinian court of a serious offence or a misdemeanour involving a breach of honour or trust."

118. The State of Palestine seeks to take appropriate measures for guaranteeing employment, without discrimination, as follows:

(a) The National Development Plan 2014–2016 states that the Palestinian Government is undertaking efforts in the area of economic development and employment with a view to "guaranteeing the right to decent work and the right to a dignified life for all citizens";[132]

(b) The National Policy Agenda 2017–2022 states that, in the light of the continuing colonization of Palestine, economic policy must strike a balance between the immediate provision of job opportunities as an urgent requirement and laying the foundations of an independent national economy.[133]

[130] *Haaretz*, "Israeli army raids multiple Palestinian media outlets across West Bank" (2017). *Source:* https://www.haaretz.com/israel-news/israeli-army-raids-multiple-palestinian-media-outlets-across-west-bank-1.5458610.

[131] *Addameer*, "Daring to post: Arrests of Palestinians for alleged incitement" (2016). *Source:* http://www.addameer.org/publications/daring-post-arrests-palestinians-alleged-incitement.

[132] State of Palestine, "National Development Plan 2014–2016: State building to sovereignty" [in Arabic] (2014), p. 10.

[133] State of Palestine, "National Policy Agenda 2017–2021: Putting citizens first" [in Arabic], p. 26.

119. In the State of Palestine, there is nothing to limit or prevent members of Palestinian racial or ethnic groups from entering any job or profession. They therefore take up various occupations, including as public servants, traders, skilled workers and teachers, in the same way as their other fellow Palestinians. Because of their cultural specificities and geographical locations, however, some groups tend to pursue certain lines of work. Syriacs work in tourism and sell Eastern artefacts, for example, and Armenians excel in craftsmanship and industry.[134]

120. The State of Palestine guarantees to all Palestinians, including members of racial and ethnic groups, the right to religious leave. In addition to the leave provided for in the Labour and Civil Service Codes, Armenians and Syriacs, pursuant to Cabinet Decision No. 217 of 2004, are entitled to leave on Eastern and Western Christian holidays, while Samaritans are entitled to leave on Samaritan religious holidays, pursuant to Cabinet Decision No. 6 of 2016.

121. The State of Palestine guarantees, without discrimination, the right to establish and join trade unions and the right to organize, as follows:

(a) Article 26 of the Amended Basic Law of 2003 provides that Palestinians have the right to form trade unions, associations, federations and leagues;

(b) Article 5 of the Palestinian Labour Code (Act No. 7 of 2000) provides that: "Workers and employers have the right to establish occupational unions to look after their interests and uphold their rights";

122. The State of Palestine is taking the following positive steps in respect of the right the form trade unions:

(a) Article 1 of Cabinet Decision No. 22 of 2005 provides that: "A special committee shall be formed to resolve the claims of workers belonging to occupational trade unions. Its membership shall include two representatives from each of the Legislative Council, the Ministry of Finance, occupational trade unions and the General Secretariat of the Council of Ministers. Persons delegated from other relevant ministries may also be invited to join the membership";

(b) Article 1 of Cabinet Decision No. 152 of 2005 provides that: "A sum of US$ 20,000 shall be disbursed annually to cover the costs of the three main offices of the General Federation of Trade Unions in Jerusalem."

123. As to foreign workers, their rights are regulated by Cabinet Decision No. 45 of 2004, concerning the conditions for the grant of work permits to non-Palestinian workers. Article 2 thereof provides that: "In granting work permits to non-Palestinian workers, the following conditions shall be observed: non-competition with the national workforce; the actual need for their employment; and the suitability of their qualifications and experience for the occupation pertaining to the requested work permit." It also adds that the Ministry of Labour may require reciprocity from the State of which those with work permits are citizens.

124. The impact of occupation on the right to work cannot be discussed without also discussing the general economic situation. The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 states: "The contradictions of attempting to build a sovereign economy under a prolonged occupation, without the realization of genuine self-determination on the foreseeable horizon, have become quite apparent. A stifled and distorted Palestinian economy provides a non-viable foundation for the sustainable and equitable social development of the Occupied Palestinian Territory."[135] The situation has not changed since the time of that report, as the occupying Power, through a series of measures taken to impede the right of movement, prevents Palestinians from exercising their right to choose their jobs and workplaces and their right to access the workplace with ease. The above report cites, among others, the annexation and apartheid

[134] Palestinian Information Centre, WAFA, "Armenian skills*"* [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=5051.

[135] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. United Nations General Assembly. A/71/554 (2016), para. 43.

wall, the system of checkpoints, the permit regime, the suffocating blockade of the Gaza Strip, and the separation of Jerusalem, the main economic centre of the State of Palestine, from the rest of the West Bank and from its Palestinian Arab environment. According to United Nations estimates, over 95 per cent of Palestinian workers in the West Bank (excluding Jerusalem) and over 77 per cent of Palestinian workers in East Jerusalem face serious difficulties in accessing their places of work.[136] In 2011, it was estimated that more than 51 per cent of Palestinian citizens with family dependents living in occupied East Jerusalem were obliged to change their workplaces owing to the policies of the Israeli occupation authorities, particularly after the construction of the annexation, separation and racist expansionism wall,[137] which also prevents Palestinian farmers from accessing their farms.[138] The occupying Power furthermore bars Palestinian fishers in the Gaza Strip from 85 per cent of the marine areas where fishing is permitted, having prohibited fishing in areas more than six nautical miles off the coast.[139]

125. **The right to housing:** The State of Palestine guarantees the right to adequate housing, without discrimination, by way of the following legislative and administrative frameworks:

(a) Article 23 of the Amended Basic Law provides that: "Adequate housing is the right of every citizen. The National Authority shall strive to secure housing for those without shelter";

(b) Article 6 of the Owners and Tenants Act No. 62 of 1953 provides that: "No court or bailiff may issue a ruling or order to evict a tenant from any property, irrespective of whether the lease has expired";

(c) Article 1 of the Minister of Housing's Decision No. 2 of 1997 provides that: "All persons have the right to own one or more floors, apartments or commercial spaces in a building erected on their property or that of a third party as a separate and detached part, which may be disposed of as such".

126. The State of Palestine has adopted the following strategies to promote the right to housing and strengthen the resilience of the population in the Palestinian territory:

(a) The National Development Plan 2014–2016 stipulated that one of the strategic objectives of the infrastructure sector is to provide adequate and affordable housing, allow access to public services, and meet the needs of all citizens. Measures to that end include promoting the development of an urban environment and a comprehensive infrastructure in the light of socioeconomic shifts; expanding housing and urban construction in areas threatened with confiscation, especially in East Jerusalem and Area C; providing the financial and legal support needed to assist Jerusalemites and strengthen their resilience in the face of the demolition policies systematically pursued by the occupation authorities in East Jerusalem; and endeavouring to provide financial facilities for housing projects for Jerusalemites;[140]

(b) The National Policy Goals 2017–2022 affirm, in national priority 10, the importance of promoting the resilience of communities through expanding their access to clean water and sanitation, reliable energy and affordable housing.

127. Civil society institutions and NGOs contribute to guaranteeing the right of Palestinians to housing. In 1991, the Palestinian Housing Council was established with the aim of providing loans and alleviating the critical housing situation of families with limited incomes. Over 7,000 Palestinian families, amounting to more than 40,000 individuals, have

[136] United Nations Information System on the Question of Palestine (UNISPAL), "The separation wall in Jerusalem: Economic consequences" (2007).

[137] OCHA, "Barrier update" (2011), p. 16.

[138] OCHA, "Three years later: The humanitarian impact of the wall since the International Court of Justice opinion" (2007).

[139] OCHA and the World Food Programme, "Special focus: Between a fence and a hard place" (2010), p. 5.

[140] State of Palestine, "National Development Plan 2014–2016: State building to sovereignty" [in Arabic] (2014), p. 75.

directly benefited from these services. Taawon, a non-profit Palestinian organization, has renovated some 334 homes in the old cities of the State of Palestine, particularly Jerusalem, and implemented a project to renovate the African community's courtyard house (Ribat Ala' al-Din al-Basir). The Centre for Cultural Heritage Preservation, in collaboration with the municipality of Bethlehem, also launched a project to rehabilitate and renovate the Syriac courtyard building.[141]

128. In the State of Palestine, racial and ethnic groups suffer the same problems as the rest of the Palestinian people concerning the right to housing. Armenians, for example, experience financial difficulties when it comes to finding adequate housing. The Armenian Monastery in Bethlehem, however, endeavours to secure housing for members of the community, in cooperation with the International Institution of Armenians. The Samaritan community is also experiencing a reduction in the area of land they own in Nablus, which warns of an acute housing crisis in future. To avoid that situation, some of them are seeking to purchase land close to their neighbourhood.[142]

129. Israel, the occupying Power, systematically implements wide-scale policies reflecting practices that violate the right of Palestinians to housing, which are exemplified in its repeated military aggression against the Palestinian territory, the punitive demolition of Palestinian homes as a reprisal measure, the administrative demolition of houses, and indirect forced displacement, as described below.

130. Israeli attacks on Palestinian homes: During its aggression of 2009, Israel, the occupying Power, destroyed over 3,354 houses fully and another 11,112 partially.[143] Two years after its aggression against Gaza, in 2014, in which over 18,000 homes were fully or partially destroyed, the number of Palestinians forcibly displaced reached over 65,000.[144] The Israeli blockade also prevents entry of the building materials needed to reconstruct the homes destroyed.

131. Punitive demolition of Palestinian homes as a reprisal measure: Israel, the occupying Power, uses collective punishment as a means of retaliation and demolishes the homes of families suspected of participating in anti-occupation activities. The occupying Power, however, does not apply the same measure to the settlers who attack and threaten Palestinians on a daily basis.[145] Between 1967 and 2004, Israel demolished more than 2,464 Palestinian homes in carrying out this punitive reprisal policy.[146]

132. Administrative demolition of Palestinian homes: This policy plays an instrumental part in demographic engineering and the indirect forced displacement of Palestinians. Israel empowers itself exclusively, without any legal basis, to issue building permits for Palestinian homes. Meanwhile, it arbitrarily refrains from issuing permits, which subsequently provides it with a pretext for demolition. In that regard, the Special Rapporteur on adequate housing pointed out that Israel uses various means to restrict Palestinians from building legally and that the number of permits issued by the occupation authorities is grossly inadequate to housing needs, leading many Palestinians to build without obtaining a permit, under penalty of demolition.[147] The occupying Power approved

[141] Bethlehem municipality, "Bethlehem municipality launches a series of projects funded by the Italian Government" [in Arabic] (2015). *Source:* http://www.bethlehem-city.org/italian.

[142] Palestinian Information Centre, WAFA, "Problems facing the Samaritan community" [in Arabic]. *Source*: http://info.wafa.ps/atemplate.aspx?id=4059.

[143] Report of the United Nations Fact Finding Mission on the Gaza conflict (2009). A/HRC/12/48, para. 67.

[144] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. A/71/554 (2016), para. 45.

[145] B'Tselem, "No fault of their own: Punitive house demolitions during the al-Aqsa intifada (2004)". Mentioned are some of those known to be responsible for attacks, such as Baruch Goldstein and Shahar Dvir Zeliger, who have never had their own homes or those of their relatives demolished by the State.

[146] B'Tselem, "No fault of their own: Punitive house demolitions during the al-Aqsa intifada (2004)". For documented examples of the wide-scale punitive house demolitions, see Human Rights Watch, "Razing Rafah: Mass home demolitions in the Gaza Strip" (October 2004).

[147] Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms. Raquel Rolnik, "Preliminary remarks on

some 34 of the 2,000 permit applications submitted by Palestinians between 2009 and 2013, only 1 permit in 2014 and none in 2015.[148] By contrast, and evidencing its racist policies that discriminate between Palestinians and Israelis, it authorized the construction of almost 1,500 illegal settlement units,[149] which led to the uncontrolled expansion of colonial settlement building. In 2016, the occupation authorities demolished in excess of 168 housing units in the West Bank, including East Jerusalem, leaving over 740 Palestinians homeless, among them 384 children.[150] By the end of that year, the number of housing units demolished by the occupation authorities stood at 1,100, which was double that in 2015.[151] In its concluding observations of 2012, the Committee considered that the planning and zoning policy of the occupation authorities breached a range of fundamental rights under the Convention, including the right to housing.[152]

133. Reduction and fragmentation of Palestinian land on account of Israeli colonial expansionism: Israel has infringed the obligations incumbent on it as an occupying Power under international humanitarian law. Without any legal basis, it has taken exclusive charge of zoning and planning in the Occupied Palestinian Territory with the aim of forcibly annexing Palestinian land as an immutable fait accompli. Its major statutory plans have narrowly delineated Palestinian localities, villages and towns based on what was originally built and whereby it must be kept to in future.[153] Conversely, it has imposed no such arbitrary restrictions on colonial settlement localities, which are endowed with extensive areas of undeveloped Palestinian land with no fixed boundaries. It has used 1 per cent of Area C, or 1,800 dunums, for Palestinian construction as opposed to one quarter of Area C, or 400,000 dunums, for settlement construction, confining Palestinians to narrow areas with a high population density while giving settlers vast areas of Palestinian land seized by force.[154] Its construction of the annexation, separation and racist expansion wall has been another factor in promoting colonial expansion. The wall violates the right of Armenians to live in Bethlehem, for example, as its construction thwarted the planned development of a residential neighbourhood there for Armenians.

134. **The right to public health services, medical care, social security and social services:** The State of Palestine guarantees, without discrimination, the right of citizens to access public health services, medical care, social security and social services, in accordance with the following legislative and administrative frameworks:

(a) Article 22 of the Amended Basic Law provides that: “The law shall regulate social security and health services, disability benefits and older person’s allowances”;

(b) Article 25 of the Amended Basic Law provides that: “Labour relations shall be regulated so as to guarantee justice for all and provide care, security and health and social services for workers;

(c) Article 2 of the Public Health Act No. 20 of 2004 provides that the functions of the Ministry of Health include “the delivery of preventive, diagnostic, therapeutic and

the mission to Israel and the Occupied Palestinian Territory – 30 January to 12 February 2012”, (2012).

148 Yotam Berger, “EU slams Israel’s destruction of Palestinian homes in West Bank’s Area C”, *Ha’aretz*, 28 July 2016; Dov Lieber, “UN: Israel `systematically´ emptying Area C of Palestinians”, *The Times of Israel*, 28 July 2016.

149 Yotam Berger, “EU slams Israel’s destruction of Palestinian homes in West Bank’s Area C”, *Ha’aretz*, 28 July 2016; Dov Lieber, “UN: Israel `systematically´ emptying Area C of Palestinians”, *The Times of Israel*, 28 July 2016.

150 B’Tselem, “Israel demolished more Palestinian homes in West Bank in first half of 2016 than in all of 2015” (2016).

151 OCHA, “Humanitarian Bulletin: Occupied Palestinian Territory” (2017), 1–4.

152 Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel. CERD/C/ISR/CO/14-16 (2012), para. 25.

153 “Spatial Planning in Area C of the Israeli occupied West Bank of the Palestinian territory. Report of an International Advisory Board” (2015), p. 25. *Source:* https://unhabitat.org/spatial-planning-in-area-c-of-the-israeli-occupied-west-bank-of-the-palestinian-territory/.

154 Norwegian Refugee Council, “A guide to housing, land and property law in Area C of the West Bank” (2012), p. 66.

rehabilitative health services, establishment of the health institutions required for that purpose" and "provision of the population with health insurance to the extent possible;

(d) Article 46 of the Public Health Act provides that: "The Ministry shall distribute government health institutions and available services on the basis of the health needs and locations of citizens";

(e) Article 15 of the Palestinian Local Authorities Act No. 1 of 1997 provides that: "Ambulance services, clinics, hospitals and other health institutions shall be established and monitored in coordination with the competent government authorities;

(f) Article 25 of the Palestinian Child Act No. 7 of 2004 provides that: "The Ministry of Health shall take all appropriate measures for developing its capacities in the area of preventive and therapeutic health care and guidance relating to child health, nutrition and protection";

(g) Decree Law No. 19 of 2016, concerning social security, covers basic social insurance, without discrimination, with regard to: older age, disability, natural death, work injury, maternity, sickness, health, unemployment, family allowances, and voluntary supplementary retirement pensions;

(h) Article 1 of Cabinet Decision No. 6 of 2006 provides that: "A strategic development plan shall be formulated for development of the health sector through community-based participation, including the government sector and decision-makers, with a re-emphasis on primary health care as fundamental all-embracing concept. This endeavour shall give rise to a national document serving as a viable plan for meeting the health needs of the people in line with the Palestinian economic and financial situation";

(i) One of the objectives of the National Strategic Health Plan 2014–2015 is to guarantee access to comprehensive and integrated health services for all groups, with a focus on those most in need of health care, whether children, women, adolescents, older persons or persons with special needs;[155]

(j) One of the overall objectives of the National Strategic Development Plan 2014–2016 is to continue to provide sustainable, high-quality, rights-based and gender-sensitive social services that contribute to poverty reduction, the achievement of social justice among groups and areas, and the protection and empowerment of children, women, youth, older persons and persons with disabilities in a society governed by a pluralistic, innovative national culture that safeguards its heritage and preserves its social cohesion and solidarity.[156]

135. The occupying Power systematically violates the right of Palestinians to health and social care, imposing restrictions on the right of movement of those seeking medical attention. Transfers of seriously ill patients are frequently delayed because of the military checkpoints. Patients requiring transport abroad for treatment also need to obtain permits from the occupying Power, which is not legally authorized to issue them. This involves convoluted procedures that might end in the permit being arbitrarily denied. According to studies and reports by the United Nations and other institutions, the occupying authority rejects 15 to 30 per cent of medical treatment permit applications.[157]

136. In a flagrant violation of international humanitarian law, which prohibits occupying Powers from imposing their laws on peoples under occupation, Israel, in addition to its forcible annexation of East Jerusalem, subjects Jerusalemite Palestinians to its laws, including those relating to health and social care. This affords them no protection from discrimination concerning their rights to such care. The Special Rapporteur on human rights in the Palestinian territory stated that: "For Palestinians living in East Jerusalem, their

[155] State of Palestine, "National Development Plan 2014–2016: State building to sovereignty" [in Arabic] (2014), p. 14.

[156] State of Palestine, "National Development Plan 2014–2016: State building to sovereignty" [in Arabic] (2014), p. 14.

[157] World Health Organization, "Right to health. Crossing barriers to access health in the Occupied Palestinian Territory 2014–2015" (2016). Available at: http://applications.emro.who.int/dsaf/EMROPUB_2016_EN_ 19231.pdf.

situation would not be as precarious if, despite the illegality of annexation, they were treated equally and afforded access to quality education, health care and housing."[158] Jerusalemites continue to suffer from all kinds of discrimination and socioeconomic marginalization in their own city, even to the point where the occupying authority revokes the residence permits of Palestinians living in East Jerusalem. In such instances, not only do they lose their right of residence but also their right to receive health and social services from the Israeli social security agency.[159]

137. **The right to education:** The State of Palestine guarantees the right to education for all citizens, without discrimination, by way of the following legislative frameworks:

(a) Article 24 of the Amended Basic Law provides that: "Education is the right of all citizens, is compulsory up to the end of the basic level at least and is free of charge in public schools, academies and institutions";

(b) Article 37 of the Palestinian Child Act No. 7 of 2004 provides that: "All children have the right to free education in public schools until completion of the secondary level." It likewise provides that: "Education is compulsory until completion of the higher basic level as a minimum";

(c) Article 38 of the Palestinian Child Act No. 7 of 2004 provides that: "The State shall adopt appropriate and effective measures aimed at the eradication of all forms of discrimination in enjoyment of the right to education and shall work to guarantee equal opportunities for all children";

(d) Article 2 of the Higher Education Act No. 11 of 1998 provides that: "Higher education is the right of all citizens who meet the academic and substantive requirements prescribed in the present Act and in regulations issued pursuant thereto";

(e) Article 1 of the Education Act of 2017 defines inclusive education as "education that excludes no student, irrespective of difficulties, disability, gender or colour, and takes into account individual differences and needs, in accordance with the required fundamental changes in the education system and in keeping with agreed international principles";

(f) Article 4 of the Education Act of 2017 provides that the functions of the Ministry of Education are to "provide education opportunities for all students, irrespective of their individual differences, propensities and performance levels, including those with disabilities, juveniles, abused children and individuals who drop out as a result of their social circumstances";

(g) One of the aims of the National Development Plan 2014–2016 is to develop education, higher education and technical and vocational education and training systems ensuring high-quality education for all, without discrimination, that are linked to labour market and society needs and keep pace with scientific and academic advancements.

138. There are several schools and educational institutions in the State of Palestine that cater specifically to racial, ethnic and linguistic groups protected under the Constitution. Members of those groups therefore have the option of either attending those schools all or some of the time or enrolling in government or private schools. The institutions concerned are as follows:

(a) The Samaritan community: The Samaritan community has a school attached to the Ministry of Education, which, in addition to the children from that community, is attended by others living next to the Samaritan neighbourhood in Nablus. The school follows the curriculum prescribed for other Palestinian schools and is where a member of the community teaches evening classes in Hebrew and theology to other members;

(b) The Armenians: In Jerusalem, there is a school for the Armenian community named Tarkmanchatz, which was founded in 1924 and accommodates 120 students. Its aim

[158] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. A/HRC/25/67 (2014), para. 34.

[159] Jerusalem Centre for Social and Economic Rights, "The racial discrimination policy in Jerusalem" [in Arabic]. *Source*: http://www.jcser.org/ara/images/articles/durbanara.pdf.

is to serve children from the community until they complete their secondary education. There is also another Armenian school for monks where Christianity is taught;

(c) The Syriac community: Founded in September 2003, the Saint Ephrem Syriac school began with only 15 students and 2 teachers but now has 285 students from kindergarten to tenth grade. Its aim is to have classes up to secondary level by adding one grade per year. At the end of 2018, the first cohort will graduate from this school, which is the only one to teach Aramaic to its students.

139. Israel, the occupying Power, impedes the right of the Palestinians to education through its pursuit of racist policies and practices targeted at the Palestinian educational system, as follows:

(a) Restriction of the right of access to educational institutions: Palestinian students and teachers have difficulty accessing schools because of the permanent and mobile military checkpoints, where they are searched, harassed and denied passage on their way to and from school.[160] These restrictions also affect the right of Palestinians to choose their places of residence and study in the State of Palestine, as Palestinian students living in Jerusalem have difficulty accessing universities in the West Bank from the Palestinian territory and Gazan Palestinians are fully prevented from accessing them because of the blockade imposed on the Gaza Strip. Restrictions on the right to travel similarly affect the ability of Palestinians to complete their higher education abroad. Jerusalemite Palestinians in fact avoid travelling outside the country for fear of losing their rights and having their identity cards revoked under the racist Israeli laws. Many Palestinian students are additionally prevented from studying abroad because of Israeli travel bans and the blockade;

(b) Students are vulnerable to assault by the Israeli occupation army and settlers on their way to school and university and while on the premises, especially in the case of schools surrounded by colonial settlements and scattered checkpoints;[161]

(c) Although not legally empowered to carry out planning or issue building permits in the Palestinian territory, the occupying Power nonetheless does so, and in a discriminatory manner, most notably in Area C, where it prevents the construction of schools and school facilities and demolishes anything built without “permission”;

(d) Schools run by Palestinian racial and ethnic groups also suffer from the occupation policies. The occupation authorities, for example, prevent Eastern Armenians from Lebanon, the Syrian Arab Republic and Iraq from coming to Jerusalem to study at the Armenian Theological Seminary, which is consequently threatened with permanent closure owing to lack of students;

(e) Israel, the occupying Power, discriminates between Jerusalemite Palestinians and Israelis with regard to the right to education. A report by the United Nations Conference on Trade and Development stated that Jerusalemites are made to pay high municipal taxes in return for poor services and disproportionately low public expenditure (for which there is no legal basis insofar as occupying Powers have no right to impose their laws on peoples under occupation). This has been particularly evident with respect to education, characterized by a shortage of classrooms, a high overall dropout rate of 13 per cent among Palestinian schools in East Jerusalem, and a general neglect of the Arab schooling system in comparison to their Jewish counterparts literally metres away in West Jerusalem.[162]

140. **The right to equal participation in cultural activities:** The State of Palestine guarantees the cultural rights of citizens, without discrimination, in accordance with the following legislative and administrative frameworks:

(a) Article 24 of the Amended Basic Law provides that the law guarantees “freedom of scientific research and literary, cultural and artistic creativity”;

[160] Ma’an Development Centre, “Attacks on education: A focus on 10 schools in Area C”, 2015, p. 4.

[161] *Ibid.*

[162] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Human Rights Council, A/HRC/25/67 (2014), para. 35.

(b) Article 26 of the Amended Basic Law provides that Palestinians have the right to "form trade unions, associations, federations, leagues, clubs and people's institutions in accordance with the law";

(c) Article 1 of Cabinet Decision No. 227 of 2004 provides that: "The Ministry of Culture shall work to create an environment conducive to the development of Palestinian culture; provide opportunities for its dissemination, promotion and sponsorship; foster its development role for the sake of social and democratic progress; affirm the linkage between the homeland's cultural fabric and the diaspora; strengthen the Palestinian cultural identity; and share local culture through interaction with countries and Arab and international organizations facilitated by the establishment of an infrastructure and the provision of cultural facilities";

(d) Article 2 of Cabinet Decision No. 227 of 2004 provides that one of the objectives of the Ministry of Culture is to "increase cultural awareness among the most culturally disadvantaged social groups" by "encouraging and supporting the establishment of cultural centres and public libraries in remote and marginalized areas, promoting the establishment of artistic and folkloric groups and funding artistic activities in those areas, and fostering and developing the culture of children, women and youth";

(e) Cabinet Decision No. 367 of 2005 provides for the establishment of a cultural development fund for promoting cultural activity, with priority given to children and marginalized areas;

(f) Article 5 of the Palestinian Child Act No. 7 of 2004 provides that: "Children have the right to participate extensively in the identification and implementation of recreational, cultural, artistic and scientific programmes consistent with public order and public morals, thereby affirming their right to knowledge and to means of innovation and creativity";

(g) A key aim of the National Strategic Plan for Culture and Cultural Heritage 2014–2016 is to increase public participation in cultural activities, with a particular focus on creative individuals, women and children in rural and marginalized areas, as well as in Jerusalem";[163]

141. The State of Palestine is taking measures to encourage and facilitate access, without discrimination, to newspapers and to television and radio programmes and to authorize the establishment of media catering to various communities and groups by way of the following legislative frameworks:

(a) Article 27 of the Amended Basic Law provides that: "The establishment of newspapers and all media is a right guaranteed to all citizens by the present Basic Law. Their sources of financing shall be subject to monitoring by law";

(b) Article 4 of the Press and Publication Act No. 9 of 1995 provides that: "Citizens, political parties, cultural and social organizations and trade unions shall have the right to communicate in print their opinions, ideas and achievements in their respective spheres of activity";

(c) Article 5 of the Press and Publication Act No. 9 of 1995 provides that: "Any person, including political parties, has the right to own and issue newspaper publications".

142. Palestinians from all racial and ethnic groups enrich their Palestinian culture through exercising their right to participate in cultural activities, as follows:

(a) Syriacs: The Syriacs have a scout group known as the Syriac-Orthodox Scouts and pursue various cultural and national activities aimed at reviving the Syriac heritage, such as publication of the magazine Al-Hikmah, which includes articles on religious themes and Syriac-related studies and research. The Convent of Saint Mark also houses a valuable old library containing hundreds of ancient manuscripts that are important

[163] State of Palestine, "Strategic Plan for Culture and Cultural Heritage: Life and practice" [in Arabic] (2013).

source material on the history of Palestine. Over history, the Convent has been the diocese of seven Syriac bishops;

(b) Armenians: Armenians have scout movements, such as the Jerusalem Armenian Benevolent Union, sports clubs, such as Homenetmen, and cultural clubs focused on raising the profile of the Armenian culture and language, such as the Catholic Arax Club. The cultural infrastructure of the Armenians also includes the Saint James Cathedral library, which holds the largest collection of ancient Armenian manuscripts in the world, the Saint James Cathedral museum, and the Armenian Printing House founded in the nineteenth century;

(c) Afro-Palestinians: The African Community Association is an important neighbourhood centre that organizes political and cultural events in the Old City, where its headquarters also host art exhibitions and serve as venue for social initiatives. The Association regularly organizes a local boys' football tournament and a girls' basketball tournament, both involving various teams representing all Palestinian neighbourhoods. The cultural participation of Afro-Palestinians additionally includes activities relating to their African identity, such as lighting candles in the Old City of Jerusalem to mourn the death of South African leader Nelson Mandela, who was known for his struggle against the apartheid regime in South Africa. Their view of such acts is that they highlight their composite identity and maintain their connection with Africa;

(d) Samaritans: The Samaritans exercise their cultural rights through a number of institutions, such as the Samaritan Legend Association, which is a cultural, social and artistic association founded by a Samaritan youth group. In short, its aims are to preserve the heritage, culture and history of the Samaritan community and to disseminate Samaritan culture and history worldwide through the organization of conferences, symposiums and lectures. The Association additionally works to dispel mistaken beliefs about the community. Samaritans also have a youth club offering cultural, social and sports activities to its members, both male and female. The club is registered with the Palestinian Ministry of Youth and Sports, has a basketball team and owns a recreation ground where a variety of sports are played. For its part, the Institute of Samaritan Studies records Samaritan history using modern scientific methods, preserves and photographs ancient manuscripts, provides researchers and scholars with information about the Samaritan community, and teaches ancient Hebrew to members of the community. The Samaritan Museum was established in 1997 on the summit of Mount Gerizim, in the middle of the Samaritan neighbourhood, and overlooks the altar where the Samaritan Passover ceremonies are performed. The Museum contains manuscripts chronicling Samaritan history and providing previously unknown historical facts about the Samaritans, as well as ancient Hebrew documents and books on history and science, stones, coins, belts, and ceramic and glass vessels. There is also a Samaritan group that showcases worldwide the community's religious folk music, which is sung a capella in a tradition handed down over 135 generations.

143. Israel, the occupying Power, prevents Palestinians from exercising their right to engage in cultural activities, particularly in East Jerusalem, by closing down cultural institutions and associations, such as Orient House, the Palestinian National Theatre and the Palestinian Prisoners' Club. As part of the plan to Judaize the city, it also systematically eliminates, suppresses and cancels cultural events and activities that express the Palestinian identity in Jerusalem. To cite just a few examples, Israel interrupted and called off a social event at the Hakawati Theatre on Palestinian Prisoners' Day; it cancelled the inaugural ceremony of the Samid Community Education Foundation in the Aqabat al-Khalidi neighbourhood of the Old City; it cancelled a key ceremony organized by the Education Department of the Waqf Foundation; it prevented summer school camps from visiting Al-Aqsa Mosque; and it descended on a summer camp run by the Wadi al-Jawz Foundation at the UNRWA girls' school and closed it down.[164] In East Jerusalem, one of the main events disrupted by the occupation authorities was the celebration of Jerusalem as the capital of Arab culture for 2009 after they stormed into the Ambassador Hotel to interrupt a meeting of the organizers of the event and confiscate materials and computers. Based on prior

[164] Civic Coalition for Palestinian Rights in Jerusalem, Submission to the United Nations Human Rights Council for the Universal Periodic Review of Israel (2011), p. 42.

information, Israeli forces invaded a number of schools and community organizations and obstructed cultural and sports activities by arresting the organizers and confiscating flags and materials to be used for marking the events. They also cracked down on peaceful protests against those actions.[165]

Article 6

I. Remedies for acts of racial discrimination at the Palestinian national level

144. In accordance with paragraph 6 of the Committee's general recommendation No. 31 (2004) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, "States parties are obliged to guarantee the right of every person within their jurisdiction to an effective remedy against the perpetrators of acts of racial discrimination." The Palestinian judicial system thus provides effective remedies for acts that violate human rights, including those perpetrated in the context of racial discrimination or against individuals from racial or ethnic groups, as follows:

(a) Criminal courts have jurisdiction to consider acts perpetrated on the basis of racial discrimination where constituting an offence punishable by law. Under article 1 of the Code of Criminal Procedure (Act No. 3 of 2001), "[t]he Public Prosecutor's Office has exclusive jurisdiction to initiate and pursue criminal proceedings, which may not be brought by third parties except as prescribed by law".

(b) Criminal courts have jurisdiction to hear civil proceedings arising from acts perpetrated on the basis of racial discrimination where constitution an offence punishable by law. In that regard, article 3 of the Code of Criminal Procedure states: "The Public Prosecutor's Office shall launch criminal proceedings if an injured party claims their civil rights in accordance with the rules set forth in law". Article 170 of the Code also provides that: "The criminal courts shall hear civil proceedings for compensation of damage arising from the offence, irrespective of the value thereof, and consider them as ancillary to the criminal proceedings";

(c) Criminal courts have jurisdiction to hear civil proceedings arising from an infringement or negligence or omission perpetrated on the basis of racial discrimination if such acts constitute a civil wrong for which compensation is required by law. In that regard, article 58 of the Civil Wrongs Act No. 66 of 1944 provides that: "All ordinary courts in Palestine, each within its jurisdiction, shall be authorized to give rulings on civil wrongs."

145. The administrative justice system and Palestinian public institutions provide effective remedies for racial discrimination in administrative decisions issued by public law persons, including professional trade unions, by way of the following frameworks:

(a) Article 33 of the Ordinary Courts Act No. 5 of 2001 provides that the Supreme Court of Justice has jurisdiction to hear "applications from concerned parties for the revocation of regulations, ordinances or final administrative decisions affecting persons or property and issued by public law persons, including professional trade unions." It further provides that the Court has jurisdiction over "matters that are neither cases nor trials but simply petitions or summonses outside the jurisdiction of any court that require adjudication for the achievement of justice." Article 34 of the same Act also provides that the Supreme Court of Justice has jurisdiction to hear appeals against decisions flawed by "arbitrariness or abuse of authority";

(b) Article 8 of Cabinet Decision No. 8 of 2016 provides that offices and units are to be set up in government departments and governorates for handling complaints filed by citizens and civil society institutions about those departments.

[165] Al-Haq, "A culture of repression: Israeli authorities ban Palestinian cultural festival in East Jerusalem", (2009). *Source:* http://www.alhaq.org/advocacy/topics/wall-and-jerusalem/224-a-culture-of-repression-israeli-authorities-ban-palestinian-cultural-festival-in-east-jerusalem.

146. Through one of the following methods, the Palestinian constitutional justice system provides remedies for racial discrimination in legislation, laws, regulations, ordinances and decisions that are unconstitutional:

(a) Article 27, paragraph 1, of the Constitutional Court Act No. 3 of 2006 provides that persons injured by an unconstitutional legal provision may bring proceedings directly before the Court, without the intercession of any other judicial body;

(b) Article 27, paragraph 2, of the Constitutional Court Act provides that: "If, during the course of proceedings, the court or body with jurisdiction finds that a provision of law or a decree, regulation, ordinance or decision necessary for the settlement of a dispute is unconstitutional, it shall stay the proceedings and transfer the papers, without fees, to the Supreme Constitutional Court for a decision on the constitutional matter;"

(c) Article 27, paragraph 3, of the Constitutional Court Act provides that: "If, during the course of proceedings before a court or body with jurisdiction, litigants argue that a provision of law or a decree, regulation, ordinance or provision is unconstitutional and the court or body believes that the argument has merit, it shall adjourn the proceedings and set a deadline of not more than 90 days within which the person who raised the argument may take the matter to the Supreme Constitutional Court. If he or she fails to do so by the deadline, the argument shall be deemed never to have been made."

147. In accordance with the following frameworks, the Palestinian justice system provides effective remedies for human rights violations committed by Palestinian law enforcement agencies:

(a) Pursuant to article 47 of the Revolutionary Code of Criminal Procedure of the Palestine Liberation Organization, any person injured as a result of a serious offence or misdemeanour may file a complaint as a civil claimant with the Public Prosecutor. Article 349 of the Code authorizes all detainees and prisoners to submit a written complaint at any time to the official in charge of the correctional centre and request him or her to report it to the Public Prosecutor's Office. The official must accept the complaint and report it immediately;

(b) Article 90 of the Palestinian Security Act No. 8 of 2005 provides that: "All officers who violate the duties provided for in the present Act or in decisions issued by the competent minister, or who breach the requirements of duty in the performance of their functions, or whose conduct or appearance infringes the dignity of the office, shall be liable to disciplinary action, without prejudice to the initiation of civil or criminal proceedings, where necessary";

(c) Article 33 of the Ordinary Court Act No. 5 of 2001 provides that the Supreme Court of Justice has jurisdiction over "applications challenging detention and requesting an order for the release of unlawfully detained persons."

148. The State of Palestine provides remedies for public officials and workers concerning decisions made by public, private and non-governmental institutions, in accordance with the following frameworks:

(a) Article 33 of the Ordinary Courts Act provides that the Supreme Court of Justice has jurisdiction over "disputes relating to public office with respect to appointment, promotion, allowances, salary, transfer, retirement, discipline, provisional retirement, separation and all other job-related matters";

(b) Article 107 of the Labour Code (Act No. 7 of 2000) provides that: "The Minister shall establish a labour inspection authority comprising an appropriate number of inspectors and academically and professionally qualified persons to monitor the application of the present Code and regulations issued pursuant thereto." Article 110 of the Code also provides that the inspection authority is competent to "monitor the application of labour legislation, especially concerning employment terms and conditions, by all lawful means, including the receipt of complaints and reports."

149. The State of Palestine, through its organizations and specialized trade unions, provides the following remedies for any kind of hate speech and incitement to racism:

(a) The Complaints Department at the Ministry of Endowments and Religious Affairs follows up cases of hate speech and incitement to racism in which mosque preachers might be involved and concerning which any citizen may file a complaint. The Documentation and Archives Department registers such complaints and transmits them to the competent entity in the Ministry of Endowments and Religious Affairs for it to establish the credibility of the complaint before attempting to resolve the case amicably and caution the preacher concerned. In the event of failure to settle the case in that manner, the disciplinary punishments set out in the Civil Service Act for officials about whom complaints are made are applied. While all such procedures are ongoing, the imam who is the subject of the complaint may be transferred to another geographical district or be forbidden to work until the case is resolved;

(b) Under article 31 of the Journalists' Syndicate Act No. 17 of 1952, citizens have the right to bring disciplinary proceedings against journalists who violate their professional duties, which includes cases involving hate speech and incitement to racial discrimination.

150. In addition to the above, the State of Palestine intends to incorporate a new remedy by making the optional declaration provided in article 14 of the Convention concerning the competence of the Committee to receive and consider communications from individuals or groups of individuals within the jurisdiction of the State of Palestine claiming to be victims of a violation on its part of any of the rights set forth in this Convention.

II. Judicial safeguards for victims during proceedings

151. In accordance with paragraph 7 of the Committee's general recommendation No. 31 (2005), the State of Palestine, in collaboration with organizations, trade unions and specialized institutions, provides the necessary judicial safeguards and assistance through the following legislative and administrative frameworks and strategic plans:

(a) The bill of 2014 on the Palestinian Legal Aid Fund includes provisions guaranteeing the right of indigent persons, without discrimination, to apply for legal aid at all stages of trial and in accordance with the same conditions;

(b) The National Strategies for Justice and Rule of Law 2011–2013 and 2014–2016 stipulate that the legal aid system must be institutionalized so as to meet the needs of marginalized and vulnerable groups;[166]

(c) The National Development Agenda 2017–2022 stipulates that fair access to judicial services must be improved, together with the integrated delivery of those services, particularly for women and children;

(d) The Palestinian Bar Association Strategic Plan 2015–2017 states with respect to legal aid that one of its goals is to "increase access to legal aid for marginalized persons."

152. In addition to providing remedies for victims of racial discrimination, the State of Palestine offers them procedural status in conformity with paragraph 17 (a) of the Committee's general recommendation No. 31 (2005). Article 194 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: "Any person injured by an offence may apply to the Public Prosecutor's Office or the court hearing proceedings in which he or she expressly assumes the capacity of a civil claimant for reparation for the injury suffered as a result of the offence." Article 196 of the Code also provides that: "Civil claims may be brought before the court of first instance at any stage of the criminal proceedings up until the close of pleadings."

153. In keeping with paragraph 17 (b) of the Committee's general recommendation No. 31 (2005), the State of Palestine guarantees the right of victims of racial discrimination to obtain the services of an interpreter. Article 294 of the Code of Criminal Procedure provides that: "If any of the accused persons or witnesses is not proficient in Arabic, the president of the court shall appoint a licensed interpreter, who must take an oath to interpret statements honestly and faithfully.

[166] State of Palestine, "National Strategy for Justice and Rule of Law 2014–2016" [in Arabic] (2014).

154. The State of Palestine guarantees protection for victims of racial discrimination and their families against intimidation or reprisals, in accordance with paragraph 17 (d) of the Committee's general recommendation No. 31 (2005). Article 237 of the Code of Criminal Procedure provides that: "Trials shall be public, unless the court decides to conduct a trial in camera in the interest of preserving public order or morality. In all cases, juveniles or specific groups of persons may be forbidden to attend a trial."

III. Denial of the right of Palestinians to protection and remedies by Israel, the occupying Power

155. Paragraph 87 of the Durban Programme of Action urges States parties to adopt legislation implementing the obligations they have assumed to prosecute and punish persons who have committed or ordered to be committed grave breaches of the Geneva Conventions of 12 August 1949 and Additional Protocol I thereto and of other serious violations of the laws and customs of war, in particular in relation to the principle of non-discrimination. Paragraph 6 of the Committee's general recommendation No. 31 (2005) mentions that: "States parties are obliged to guarantee the right of every person within their jurisdiction to an effective remedy against the perpetrators of acts of racial discrimination." The Israeli justice system is biased, however, and serves as a tool for promoting and justifying colonial settlement. This is a flaw that alone infringes the right of Palestinians to access effective remedies and obtain reparation for human rights violations in general and for racial discrimination and exclusion measures in particular. Such discrimination is exemplified in various ways, notably:

(a) The law enforcement authorities fail to prosecute racist offences committed by Israeli settlers and are complicit on that score. In its concluding observations of 2012, the Committee stated: "[It] is concerned about the increase in racist violence and acts of vandalism on the part of Jewish settlers in the Occupied Palestinian Territory targeting non-Jews, including Muslims and Christians and their holy places, and about information according to which 90 per cent of Israeli police investigations into settler-related violence carried out between 2005 and 2010 were closed without prosecution. The Committee is particularly alarmed by reports of impunity of terrorist groups such as Price Tag, which reportedly enjoy political and legal support from certain sections of the Israeli political establishment."[167] Contrary to the Committee's recommendation, the security agencies have continued in their bias to create a legal vacuum in which Israeli settlers commit offences involving racist violence without any accountability.[168] Between 2005 and 2014, 1,045 investigations were opened into offences committed by settlers against Palestinians. Charges were brought in no more than 72 cases, ending in full convictions in only 6 cases and partial convictions in only 13 cases. In 14 cases, the charges were proved but no convictions were handed down, while in 13 cases the charges were dropped. Acquittals were handed down in only 5 cases. Of all the cases filed, only 1.9 per cent ended with the suspect being arrested, charged, tried and convicted.[169]

(b) The Israeli military judiciary either fails or is unwilling to prosecute abuses committed by Israeli military personnel, in which it is therefore complicit. In its concluding observations of 2012, the Committee expressed concern at "the monetary and physical obstacles faced by Palestinians seeking compensation before Israeli tribunals for loss suffered, in particular as a consequence of the IDF Operation Cast Lead in the Gaza

[167] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2012), eightieth session. CERD/C/ISR/CO/14-16, para. 28.

[168] See also: http://www.yesh-din.org/infoitem.asp?infocatid=702. Various interested actors have duly recorded the discriminatory attitude of military tribunals in the occupied territories. See, for example: International Federation for Human Rights, "Shielded from accountability – Israel's unwillingness to investigate and prosecute international crimes", (2011).

[169] Yesh Din, "Prosecution of Israeli civilians suspected of harming Palestinians in the West Bank" (2015), datasheet. Monitoring figures. See: http://files.yesh-din.org/userfiles/Prosecution%20of %20Israeli%20Civilians%20Suspected%20of%20Harming%20Palestinians%20in%20the%20West%20Bank_May%202015.pdf.

Strip."[170] The role of that judiciary is extremely limited. It investigates violations committed by soldiers as a result of disobeying orders or instructions but it does not examine the actual orders or instructions to determine whether they in themselves constitute a violation and nor does it investigate the military superiors who issued them. This not only denies victims a remedy for violations of international humanitarian law and for human rights violations based on racism but also creates a climate in which military personnel repeat such violations, especially in the course of military operations. In its analysis of 739 cases filed through it against the Israeli Government since 2000, an Israeli NGO found that no investigations had been opened in 182 of those cases; investigations had been opened and closed without further action in 343 cases; charges had been brought in only 25 cases; and disciplinary action had been taken in no more than 13 cases.[171] Even in the instances where accused soldiers are convicted, the ruling may be lenient and the sentence incommensurate with the racist offence perpetrated;"[172]

(c) The Israeli Supreme Court fails to address violations of international humanitarian law and human rights violations, including those based on racism and relating to the colonial settlement system, such as land confiscation, attacks on public and private property, colonial settlement building, and transfer of the civilian population to the occupied territory. In addition to disregarding violations relating to the settlement system, the Israeli Supreme Court has contributed to creating a protective legal environment in which settlements expand without control, having rendered the question of the legality of the settlements non-justiciable.[173] While on occasion the judicial rulings of the Supreme Court have favoured Palestinians, there is a consistent lack of enforcement of those rulings on the ground.[174] Even with regard to settlement outposts built outside (illegal colonial) settlement areas, the judicial organs of the occupying Power intentionally fail to follow up these cases in the courts and its police deliberately omit to enforce court decisions to dismantle such outposts.[175] The report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 concluded that: "While the Israeli High Court of Justice formally exercises judicial oversight of the Israeli administration in occupied Palestine, according to NGOs, case law illustrates a trend whereby major policy decisions of government, e.g. relating to the wall and settlements, tend to be immune from judicial intervention, and that human rights and protection under international humanitarian law have not been adequately upheld by the High Court in its rulings."[176]

Article 7

I. Education to promote tolerance and combat racism in the State of Palestine

156. Paragraph 95 of the Durban Declaration affirms that education at all levels and all ages is a key to changing attitudes and behaviour based on racism and racial discrimination. It further affirms that such education is a determining factor in the promotion, dissemination and protection of the democratic values of justice and equity, which are

[170] Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2012), eightieth session. CERD/C/ISR/CO/14-16, para. 27.

[171] B'Tselem, "The occupation's fig leaf: Israel's military law enforcement system as a whitewash mechanism" (2016), p. 40.

[172] OHCHR, "Press briefing note on Israel: Elor Azaria case" (2017). *Source:* http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21221&LangID=E.

[173] See, in general: International Federation for Human Rights, "Shielded from accountability: Israel's unwillingness to investigate and prosecute international crimes", (2011); "2.3 The HCJ's role in facilitating Israel's settlement policy", *Mara'abe v. the Prime Minister of Israel*, the Supreme Court sitting as the High Court of Justice, HCJ 7957/04, Judgement of 15 September 2005, para. 19. Available at: http://elyon1.court.gov.il/Files_ENG/04/570/079/A14/04079570.A14.pdf.

[174] Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem. See A/HRC/22/63, para. 45.

[175] Yesh Din, (2017), *Crime without Punishment: Law enforcement in cases of illegal construction and violation of judicial and administrative orders by Israelis in the West Bank. Position Paper.*

[176] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Human Rights Council, A/HRC/25/67 (2014), para. 68.

essential to prevent and combat the spread of racism. In this respect, the State of Palestine is taking appropriate measures in the field of education to promote understanding and tolerance and to combat stereotypes that lead to racial discrimination, in accordance with the following legislative and administrative frameworks:

(a) Article 4 of the Higher Education Act No. 11 of 1998 provides that higher education in Palestine is designed to "develop scientific and spiritual values, foster in individuals a sense of belonging to the homeland and the Arab world, and promote in students a spirit of cooperation and collective action". It is also designed to "contribute to the advancement of science, protection of liberties and integrity of scientific research and to build the State on foundations guaranteeing the rule of law and respect for public rights and freedoms";

(b) Article 3 of the Education Act of 2017 provides that one of the objectives of the Act is to "develop values and conduct associated with respect for human rights and freedoms and the principles enshrined in international instruments and national human rights legislation";

(c) In both vision and mission, the aims of the Ministry of Education and Higher Education include "nurturing Palestinian human beings who are proud of their religion, national belonging, homeland and Arab and Islamic culture; contribute to the advancement of their society; strive for knowledge and innovation; respond positively to the demands of scientific and technological development; are able to compete in the scientific and practical spheres; are open to regional and global cultures and markets; and are capable of building a society based on gender equality, adherence to humanitarian values, and religious tolerance."[177]

157. Through the following measures, the State of Palestine is developing educational curricula in line with the objectives of promoting understanding and tolerance and combating stereotypes conducive to racial discrimination:

(a) Article 45 of the Education Act of 2017 states that the Ministry of Education is to develop educational curricula centred on the principles and precepts set forth in domestic legislation and international human rights instruments, as well as the principles of community-based philosophy and national values bound up with the religious, moral and human values system connecting citizenship with democracy. It also requires the Ministry to keep pace with all scientific, technical, economic and cultural developments;

(b) The academic curriculum plan approved by the State of Palestine in 1998 is aimed at, inter alia: strengthening the moral, religious and spiritual values of society; affirming the principles of justice, equality, dignity, national responsibility and respect for human life; and creating and promoting understanding, cooperation and peace at the Arab, regional and international levels. Those ends are to be achieved by promoting the concepts of national liberation, justice, democracy and human rights, as well as by encouraging respect for the culture and religious beliefs of others;[178]

(c) The National Strategic Plan for Culture 2014–2016 states that one of its aims is to invest in educational curricula and extracurricular activities with a view to reinforcing the values of pluralism, democracy, belonging, citizenship and gender equality. It also states that the aim is to be achieved by integrating the cultural dimension into the curricula and teaching methods in a way that highlights pluralism and cultural diversity.[179]

158. Examples of courses added to the curricula in line with the principles enshrined in the International Bill of Human Rights and the Convention comprise:

[177] State of Palestine: Ministry of Education and Higher Education. *Source*: http://www.moehe.gov.ps/%D8%B9%D9%86-%D8%A7%D9%84%D9%88%D8%B2%D8%A7%D8%B1%D8%A9/%D8%A7%D9%84%D8%B1%D8%A4%D9%8A%D8%A9-%D9%88%D8%A7%D9%84%D8%B1%D8%B3%D8%A7% D9%84%D8%A9.

[178] Palestinian Curriculum Development Centre, "Aims of the curriculum plan". *Source*: http://www.pcdc.edu.ps/ar_new/index.php?p=about1.

[179] State of Palestine, Ministry of Culture, "Strategic Plan for Culture and Cultural Heritage: Life and practice" [in Arabic] (2013), p. 27.

(a) A tenth-grade course on contemporary world history, which includes a lesson on dictatorships and modern ideologies based on racism, such as fascism and Nazism;[180]

(b) A twelfth-grade course on contemporary issues, which includes a unit on human rights covering the Universal Declaration of Human Rights, human rights in Islam, and the importance of human rights;[181]

(c) A twelfth-grade course on twentieth-century Arab and world history, which includes a unit on racial discrimination covering such matters as racist persecution, ethnic cleansing and apartheid South Africa, as well as international measures to combat racism and the reasons preventing their application on the ground;[182]

(d) A ninth-grade civic education course, which includes a unit on political, social, intellectual and religious pluralism in Palestinian society, as manifested, inter alia, in the allocation of seats to ensure political representation for Palestinian religious groups, the establishment of parties, and the licensing of pluralistic and diverse media;[183]

(e) The national education curriculum for the first to tenth grades is designed to introduce students to such topics as the specificity of the Palestinian national identity and the features of Palestinian society, including its composition and its religious and racial pluralism; instil the values of democracy, tolerance, equality and acceptance of others; and build Palestinian civil society.

159. The achievements of the Ministry of Education in combating prejudices that might lead to racial discrimination are exemplified in various programmes and projects promoting integration and coexistence, including:

(a) A citizenship programme encompassing activities and events focused on international human rights instruments and teaching students to work collectively in addressing the key social and cultural challenges facing them;

(b) A programme on human rights and international humanitarian law run in over 50 schools to teach students about the concepts of human rights, international humanitarian law and related international instruments. Public hearings are also organized in local communities and student meetings are held to discuss human rights violations in Palestine.

II. Cultural activities aimed at building a tolerant and anti-racist culture in the State of Palestine

160. The State of Palestine is taking appropriate measures by way of the following legislative and administrative frameworks to promote mutual understanding and tolerance and combat stereotypes that might lead to racial discrimination:

(a) Article 1 of Cabinet Decision No. 227 of 2004 states that the Ministry of Culture works to create an environment conducive to the development, dissemination, promotion and sponsorship of Palestinian culture; foster its development role for the sake of social and democratic progress; affirm the linkage between the homeland's cultural fabric and the diaspora; strengthen the Palestinian cultural identity; and share local culture through interaction with countries and Arab and international organizations facilitated by the establishment of an infrastructure and the provision of cultural facilities. Article 2 of the Decision also provides that the Ministry of Culture is to give priority to the most socially disadvantaged groups by encouraging and supporting the establishment of cultural centres and public libraries in remote and marginalized areas;

(b) One of the aims of the National Strategic Plan for Culture 2014–2016 is to create more accessible cultural spaces for all Palestinians that are characteristically

[180] Ministry of Education, "Modern and contemporary world history" [in Arabic], tenth grade, chap. II, p. 60.

[181] Ministry of Education, "Contemporary issues" [in Arabic], twelfth grade, chap. II, p. 91.

[182] Ministry of Education, "Twentieth-century Arab and world history" [in Arabic], secondary second grade, pp. 94–97.

[183] Ministry of Education, "Civic education" [in Arabic], basic ninth grade, p. 9.

pluralistic, open and innovative, denounce all forms of discrimination, and preserve and renew the cultural heritage;[184]

(c) The Palestine Culture Sector Plan 2014–2016 includes among its strategic objectives the creation of a more enabling environment for Palestinian culture that contributes to the dissemination of a pluralistic national culture; promotes unity and communication among Palestinians in the homeland and the diaspora, as well as exchanges with Arab and foreign peoples; supports and stimulates innovation both materially and morally; increases public participation; refines cultural taste; and focuses attention on Jerusalem and marginalized areas. Those objectives are to be achieved by inspiring and expanding the scope of artistic activities in the geographical regions so as to deepen and promote a cultural awareness based on plurality, openness and equality;[185]

(d) In its tenth national priority, the National Policy Agenda 2017–2022 underscores the importance of political intercession to protect the Palestinian cultural identity by supporting innovation and cultural output and safeguarding the Palestinian cultural heritage and its development;

(e) The Ministry of Culture runs various programmes in this sphere, such as the Culture for All programme, the intention of which is to foster a more enabling environment for the dissemination of a renewed, creative, democratic and humane Arab national culture; the development of citizenship based on pluralism and respect for the values of equality, social justice and human dignity; the establishment of a stimulating environment for cultural innovation; attention to marginalized areas and areas vulnerable to attacks by the occupation and settlers; and the official promotion of cultural communication between Palestinians, wherever they may be, Arab peoples and humanity.

III. Media combating racism and promoting tolerance in the State of Palestine

161. Concerning the media, the State of Palestine is taking appropriate measures to promote understanding and combat stereotypes that might lead to racial discrimination, in accordance with the following legislative and administrative frameworks:

(a) Article 7 of the Press and Publication Act No. 9 of 1995 provides that the press is prohibited to publish "anything incompatible with the principles of freedom, national responsibility, human rights and respect for the truth. Citizens shall have the right to freedom of thought, opinion, expression and information, as shall the press";

(b) Pursuant to article 2 of Cabinet Decision No. 213 of 2004, one of the aims of the Ministry of Information is to ensure that "the Palestinian media champion the values of freedom, progress, justice, brotherhood and peace among peoples, as well as the principles of democracy and respect for the rights of individuals, peoples and minorities";

(c) The Code of Conduct for Palestinian Media Institutions provides that the media must "systematically pursue freedom and democracy, preserve the cultural and national identity of the Palestinian people without it leading to isolation, adopt the values of tolerance and acceptance of others' opinions, and give due coverage to matters of public interest through documented information and attention to marginalized groups and areas";

162. The Palestinian media have taken measures to promote understanding and tolerance and likewise to guarantee the cultural and social participation of Palestinian racial and ethnic groups, as follows:

(a) The Palestinian Broadcasting Corporation has conducted interviews with Palestinian racial and ethnic groups, such as Armenians, Afro-Palestinians and Samaritans, and produced news reports and documentaries on those groups. The information obtained as a result has been an important reference assisting the preparation of this report;

[184] State of Palestine, State of Palestine, "National Development Plan 2014–2016: State building to sovereignty" [in Arabic] (2014), p. 65.

[185] State of Palestine, "Strategic Plan for Culture and Cultural Heritage: Life and practice" [in Arabic] (2013), p. 25.

(b) The Palestinian Information Centre, which is part of the Palestinian News & Info Agency (WAFA), has documented information and established a database on confessional groups, doctrinal groups and communities in Palestine. The database includes information on the history and faiths of peoples and religions in Palestine up until the twentieth century and on the religious, racial and ethnic groups currently in Palestine, such as Armenians, Copts, Baha'is, Turkmen, Africans, persons of Maghrebi descent, Ahmadis, Druze, Roma, Samaritans, Syriacs, Bosnians, Circassians, Maronites and Kurds. This information is published on the WAFA website and has been a key reference assisting the preparation of this report.[186]

[186] Palestinian Information Centre, "Confessional groups, doctrinal groups and communities in Palestine". *Source:* http://info.wafa.ps/atemplate.aspx?id=3950.

United Nations CERD/C/PSE/CO/1-2

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined initial and second periodic reports of the State of Palestine*

1. The Committee considered the combined initial and second periodic reports of the State of Palestine (CERD/C/PSE/1-2), submitted in one document, at its 2749th and 2750th meetings (see CERD/C/SR.2749 and CERD/C/SR.2750), held on 13 and 14 August 2019. At its 2764th meeting, held on 23 August 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined initial and second periodic reports of the State party and expresses its appreciation for the constructive dialogue with the State party's delegation. It thanks the delegation for the information provided during the consideration of the report and for the additional written information submitted after the dialogue. The Committee also welcomes the participation of representatives of the Independent Commission for Human Rights and its contribution to the dialogue with the State party.

B. Factors and difficulties impeding the implementation of the Convention

3. The Committee notes that the Israeli occupation of the territory of the State party, the expansion of settlements and the continued blockade of the Gaza Strip, which are considered unlawful under international law, pose severe challenges for the State party in fully implementing its obligations under the Convention. However, it reminds the State party that the Convention is applicable in its entire territory and that the State party should take all possible measures to implement it in all parts of the territory. In that regard, the Committee regrets that limited progress has been made in resolving internal political issues that negatively affect the full enjoyment by Palestinians, including ethno-religious and national minority groups in the West Bank, including East Jerusalem, and the Gaza Strip, of their rights under the Convention. The Committee notes that, owing to the political and geographical fragmentation of the State party's territory, Palestinians, including ethno-religious and national minority groups, continue to be subjected to multiple legal systems that greatly impede the full realization of their rights under the Convention.

* Adopted by the Committee at its ninety-ninth session (5–29 August 2019).

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C. Positive aspects

4. The Committee welcomes the State party's accession to the following international human rights instruments since the entry into force of the Convention for the State party, in 2014:

(a) The Amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination, in 2019;

(b) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in 2019;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2017;

(d) The Rome Statute of the International Criminal Court, in 2015;

(e) The United Nations Convention against Transnational Organized Crime, in 2015, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, in 2017;

(f) The International Covenant on Economic, Social and Cultural Rights, in 2014;

(g) The International Covenant on Civil and Political Rights, in 2014;

(h) The Convention on the Elimination of All Forms of Discrimination against Women, in 2014, and its Optional Protocol, in 2019;

(i) The Convention on the Rights of the Child, in 2014, and its Optional Protocol on a communications procedure, in 2019;

(j) The Convention on the Rights of Persons with Disabilities, in 2014, and its Optional Protocol, in 2019;

(k) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2014, and its Optional Protocol, in 2017;

(l) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2014;

(m) The International Convention on the Suppression and Punishment of the Crime of Apartheid, in 2014.

5. The Committee notes with appreciation that the State party made the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State party of any of the rights set forth in the Convention.

6. The Committee welcomes the following legislative and policy measures taken by the State party since the entry into force of the Convention for the State party:

(a) The Education Act, in 2017, which is aimed at developing values and conduct associated with respect for human rights and freedoms and the principles enshrined in international instruments, including equality and non-discrimination;

(b) The National Strategic Plan for Culture and Cultural Heritage 2014–2016, which is aimed, inter alia, at reinforcing the values of mutual understanding, tolerance, pluralism, democracy, citizenship and equality;

(c) The National Strategy for Justice and Rule of Law 2014–2016, which stipulates that the legal aid system must be institutionalized so as to meet the needs of marginalized and vulnerable groups.

D. Concerns and recommendations

Statistics

7. While taking note of the population, housing and establishments census undertaken by the Palestinian Central Bureau of Statistics in 2018, the Committee regrets the lack of comprehensive statistics on the demographic composition of the population, disaggregated by ethnic or national origin, including on non-citizens, such as migrants, refugees and stateless persons. The Committee also regrets the absence of socioeconomic indicators to enable it to evaluate the enjoyment of rights under the Convention by all groups residing in the territory of the State party, including ethno-religious and national minority groups (arts. 1 and 5).

8. **Recalling paragraphs 10 to 12 of its guidelines for reporting under the Convention (CERD/C/2007/1) and its general recommendation No. 24 (1999) concerning article 1 of the Convention, the Committee recommends that the State party provide information on the demographic composition of the population in the whole of the State party's territory, disaggregated by ethnic or national origin, including on non-citizens, such as migrants, refugees and stateless persons, as well as on socioeconomic indicators, to enable the Committee to evaluate the enjoyment of rights under the Convention by all groups residing in the territory of the State party, including ethno-religious and national minorities.**

Convention in the domestic legal order

9. The Committee commends the State party for ratifying the Convention without reservations. The Committee is concerned, however, about the interpretation of the Supreme Constitutional Court, in its decisions No. 4 (2017) of 19 November 2017 and No. 5 (2018) of 12 March 2018, according to which international treaties acceded to by the State party take precedence over national legislation only insofar as they are consistent with the national, religious and cultural identity of the Palestinian Arab people, which may impede the enjoyment of the rights set forth in the Convention. The Committee is also concerned that the Convention has not yet been published in the Official Gazette to make it enforceable in the State party (arts. 1 and 2).

10. **The Committee recommends that the State party:**

(a) **Fully and expeditiously incorporate the provisions of the Convention into its national law, including through publication in the Official Gazette, and take all possible measures to ensure its implementation throughout its territory;**

(b) **Ensure that the interpretation of the Supreme Constitutional Court, in its decisions No. 4 of 19 November 2017 (2017) and No. 5 (2018) of 12 March 2018 and their application, do not prevent persons or groups living in the territory of the State party, including Palestinian non-Arab people, from fully enjoying their rights under the Convention;**

(c) **Conduct training sessions and awareness-raising campaigns for judges, prosecutors, lawyers and other law enforcement officials, as well as for the general population, to ensure that the provisions of the Convention are invoked by and before domestic courts.**

Prohibition of racial discrimination

11. The Committee notes that race and colour are mentioned as grounds of discrimination under article 9 of the Amended Basic Law of 2003 and that an attempt was made to define discrimination in article 546 of the proposed draft penal code of 2011. However, the Committee is concerned about the absence of a comprehensive definition of racial discrimination in the legislation of the State party, in line with article 1 of the Convention.

12. **The Committee recommends that the State party:**

(a) **Adopt comprehensive anti-discrimination legislation that includes a definition of racial discrimination, covering all grounds of discrimination mentioned in the Convention, including descent and ethnic or national origin, and encompassing direct and indirect discrimination in both the public and private spheres, in line with article 1 of the Convention;**

(b) **Ensure that relevant legislation, including the Amended Basic Law, as well as the proposed draft penal code of 2011, which is aimed at prohibiting and punishing discrimination, is revised to bring it into conformity with the Convention.**

Harmonization of legislation and compliance with the Convention

13. While welcoming the establishment of a legislative harmonization committee to review all laws to ensure their compliance with the human rights treaties to which the State party has acceded, including the Convention, the Committee is concerned that the State party has not set a time frame for completing such a review. The Committee is also concerned that:

(a) The Palestinian Legislative Council was dissolved by the Supreme Constitutional Court, in its decision No. 10 on 12 December 2018;

(b) The laws enacted by presidential decrees since the suspension of the Palestinian Legislative Council in 2006 are neither recognized nor enforced in the Gaza Strip, which exacerbates the fragmentation of the legal system and subjects Palestinians in the Gaza Strip and the West Bank, including East Jerusalem, to multiple sets of laws affording varying levels of protection;

(c) Various laws, including the Civil Service Code, the Decree Law on General Elections and the Law for the Lease and Sale of Immovable Property to Foreigners, are not in line with the Convention;

(d) No time frame has been set for the review and adoption of draft laws, such as the draft penal code, the draft personal status code and the draft family protection law (arts. 1 and 2).

14. **The Committee urges the State party to:**

(a) **Ensure popular participation in decision-making and address the current rule of law deficit by reinstituting a democratically elected parliamentary legislative body, such as the Palestinian Legislative Council;**

(b) **Harmonize, through a democratic legislative process, the different sets of laws implemented in the Gaza Strip and the West Bank, including East Jerusalem, to ensure that all persons living under the jurisdiction of the State party are protected equally under the law;**

(c) **Adopt a clear time frame for the completion of the review of the existing legislative framework, in collaboration with civil society organizations, to ensure compliance with the Convention;**

(d) **Expedite the review of draft laws, including the draft penal code, the draft personal status code and the draft family protection law, to ensure their compliance with the Convention and their adoption.**

National human rights institution

15. The Committee welcomes the fact that the Global Alliance of National Human Rights Institutions granted the Independent Commission for Human Rights "A" status in 2015. However, the Committee is concerned that the draft law formalizing the establishment of the Commission has not yet been adopted notwithstanding its submission to the Palestinian Legislative Council in 2005. It is also concerned that the Commission does not have adequate human and financial resources to discharge its mandate effectively (art. 2).

16. **The Committee recommends that the State party formalize in law the establishment of the Independent Commission for Human Rights and provide it with**

adequate human and financial resources to carry out its mandate fully, effectively and independently, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

Complaints of racial discrimination

17. The Committee is concerned that no complaints of racial discrimination were brought before the Independent Commission for Human Rights. It also regrets the lack of detailed information on racial discrimination complaints filed with the national courts and other relevant Palestinian institutions, as well as on investigations, prosecutions, convictions and sanctions imposed and on the reparations provided to victims (art. 6).

18. **The Committee draws the State party's attention to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system and recalls that the absence of complaints and legal actions relating to racial discrimination may reveal a lack of suitable legislation, poor awareness of the legal remedies available, a lack of trust in the judicial system, a fear of reprisals or a lack of will on the part of the authorities to prosecute the perpetrators of such acts. It recommends that the State party:**

(a) **Facilitate the filing of complaints for acts of racial discrimination and ensure that such acts are properly investigated and that those responsible are adequately sanctioned;**

(b) **Provide training programmes for law enforcement officials, prosecutors, judges and other public officials on the identification and registration of incidents of racial discrimination;**

(c) **Undertake public education campaigns on how rights under the Convention can be invoked before the courts and on remedies available;**

(d) **Provide information and statistics on complaints of racial discrimination, as well as on investigations, prosecutions, convictions and sanctions imposed, and on the reparations provided to victims, disaggregated by age, sex and ethnic and national origin.**

Racist hate speech and hate crimes

19. The Committee is concerned:

(a) That the State party's legislation criminalizing racist hate speech and hate crimes, as well as organizations that promote and incite racial discrimination, in particular the Penal Code of 1936 and the Jordanian Penal Code of 1960, which are applicable in the Gaza Strip and the West Bank, respectively, as well as the Press and Publication Act, the Cybercrime Act and Presidential Decree No. 3 on the Enhancement of National Unity and Prohibition of Incitement, is not fully in line with article 4 of the Convention;

(b) That the overly broad and vague character of some of the provisions allows for the imposition of severe restrictions on free speech and for the criminalization of journalists, human rights defenders and political opponents for exercising their right to freedom of opinion and expression;

(c) About the existence of hate speech, in particular hate speech directed against Israelis, which at times fuels anti-Semitism towards this group, in certain media outlets, in particular those controlled by Hamas, as well as on social media, in public officials' statements and in school curricula and textbooks, which also fuels hatred and may incite violence (art. 4).

20. **Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 8 (1990) concerning the interpretation and application of article 1 (1) and (4) of the Convention, No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee urges the State party to:**

(a) **Amend its legislation, in particular the Penal Code of 1936 and the Jordanian Penal Code of 1960, which are applicable in the Gaza Strip and the West Bank, respectively, the Press and Publication Act, the Cybercrime Act and Presidential Decree No. 3 on the Enhancement of National Unity and Prohibition of Incitement, to ensure its conformity with the provisions of article 4 of the Convention;**

(b) **Ensure that the above-mentioned laws are not used to intimidate, harass, arrest, detain or prosecute journalists, human rights defenders or political opponents for exercising their right to freedom of opinion and expression;**

(c) **Combat hate speech and incitement to violence, including on the Internet and by public figures, politicians and media officials, and remove any derogatory comments and images that perpetuate prejudices and hatred from school curricula and textbooks.**

Situation of ethno-religious and national minorities

21. The Committee regrets the lack of information on the situation of ethno-religious and national minorities in the State party and on their ability to fully enjoy all the rights covered by the Convention without discrimination. The Committee is particularly concerned about the lack of information on the situation of Bedouins, who face a number of challenges in terms of obtaining access to essential services, as well as forcible evictions and the demolition of their houses (art. 5).

22. **The Committee recommends that the State party:**

(a) **Ensure that all ethno-religious and national minorities have full access to all the rights covered by the Convention without discrimination;**

(b) **Take all possible measures to ensure access to, inter alia, employment, health care, water, sanitation and electricity for Bedouins, who are particularly vulnerable to forcible evictions and the demolition of their houses, and continue to provide them with humanitarian assistance.**

Minorities in public and political life

23. The Committee notes the measures taken to promote the political participation of Syriacs and Samaritans. It is concerned, however, that the measures do not benefit all minorities. It is also concerned about the lack of information regarding the representation of ethno-religious and national minorities in the elective bodies at all levels and in public office (arts. 2 and 5).

24. **The Committee recommends that the State party ensure that ethno-religious and national minorities are adequately represented in all elective bodies and in public office by taking all measures necessary, including amending its electoral laws.**

Migrant domestic workers

25. The Committee is concerned that migrant domestic workers remain excluded from the protection guaranteed by the Labour Act of 2000. It is also concerned about the lack of information on the working conditions of migrant domestic workers and their ability to fully enjoy all the rights covered by the Convention without discrimination (arts. 5–7).

26. **Recalling its general recommendations No. 25 (2000) on gender-related dimensions of racial discrimination and No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party:**

(a) **Ensure that the employment of migrant domestic workers is regulated under the Labour Act;**

(b) **Provide detailed information on the measures taken to protect migrant domestic workers from exploitative labour practices, including data on the number, types and outcomes of complaints filed by migrant domestic workers.**

Situation of minority women

27. The Committee is concerned that minority women may face multiple and intersecting forms of discrimination on the basis of ethnic origin and gender, including barriers to obtaining access to employment, education, health care and justice (arts. 2 and 5).

28. **Recalling its general recommendation No. 25 (2000), the Committee recommends that the State party eliminate all barriers faced by minority women in obtaining access to employment, education, health care and justice. To this end, it recommends that the State party incorporate a minority women perspective into all gender-related policies and strategies.**

Nationality

29. The Committee notes that, under Palestinian law, women and men have equal rights to transmit, acquire, change or retain their nationality. It is concerned, however, that legislation concerning nationality is governed by a complex set of laws, including the Civil Status Code of 1999, the Palestinian nationality decrees issued in 1925 under the British Mandate, and the amended Jordanian Nationality Act of 1954. In particular, the Committee is concerned about:

(a) The lack of information on measures to adopt a comprehensive law to unify and clarify the above-mentioned provisions in order to reduce the risk of statelessness;

(b) The high number of Palestinians who are deprived of citizenship owing to prolonged refugee status abroad, displacement within the territory of the State party and discriminatory citizenship laws in the Occupied Palestinian Territory, in particular East Jerusalem (arts. 2 and 5).

30. **The Committee recommends that the State party:**

(a) **Adopt a comprehensive law on nationality that harmonizes the various provisions on nationality to reduce the risk of statelessness;**

(b) **Engage with the international community to address the issue of nationality for Palestinians who are deprived of citizenship owing to prolonged refugee status, displacement within the State party territory and discriminatory citizenship laws, in particular for those living in East Jerusalem;**

(c) **Ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.**

E. Other recommendations

Ratification of other treaties

31. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Committee also recommends that the State party consider ratifying the Convention relating to the Status of Refugees and its Protocol.**

Follow-up to the Durban Declaration and Programme of Action

32. **In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review**

Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

33. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

34. **The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Common core document

35. **The Committee encourages the State party to submit a common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.**

Follow-up to the present concluding observations

36. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 10 (a) (Convention in the domestic legal order), 14 (a) and (c) (harmonization of legislation and compliance with the Convention) and 20 (b) (racist hate speech and hate crimes) above.**

Paragraphs of particular importance

37. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 8 (statistics), 10 (b) (Convention in the domestic legal order), 14 (b) and (d) (harmonization of legislation and compliance with the Convention), and 30 (nationality) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Dissemination of information

38. **The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, in the official and other commonly used languages, as appropriate.**

Preparation of the next periodic report

39. **The Committee recommends that the State party submit its combined third to fifth periodic reports, as a single document, by 2 April 2023, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**

United Nations CERD/C/ISR/CO/17-19

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined seventeenth to nineteenth reports of Israel*

1. The Committee considered the combined seventeenth to nineteenth periodic reports of Israel (CERD/C/ISR/17-19), submitted in one document, at its 2788th and 2789th meetings (see CERD/C/SR.2788 and 2789), held on 4 and 5 December 2019. At its 2799th meeting, held on 12 December 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined seventeenth to nineteenth periodic reports of the State party and expresses its appreciation for the constructive dialogue with the State party's delegation. It thanks the delegation for the information provided during the consideration of the report and for the additional written information submitted after the dialogue.

3. The Committee recognizes the issues related to security and stability in the region. In conformity with the principles of the Convention, however, the State party should ensure that the measures taken:

(a) Are proportionate;

(b) Do not discriminate in purpose or in effect against Palestinian citizens of Israel, Palestinians in the Occupied Palestinian Territory or any other minorities whether in Israel proper or in territories under the State party's effective control;

(c) Are implemented with full respect for human rights and relevant principles of international humanitarian law.

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

B. Positive aspects

5. The Committee welcomes the State party's ratification of or accession to the following international human rights instruments:

(a) The Convention on the Rights of Persons with Disabilities, in 2012;

* Adopted by the Committee at its 100th session (25 November–13 December 2019).

(b) The Private Employment Agencies Convention, 1997 (No. 181), of the International Labour Organization, in 2012.

6. The Committee also welcomes the following legislative, institutional and policy measures taken by the State party:

(a) The adoption, in 2019, of Amendment No. 137 to the Penal Law 5737-1977, which recognizes racist motives as an aggravating circumstance for the offence of murder;

(b) The adoption, in 2018, of Amendment No. 22 to the Legal Aid Law, which provides for free legal aid to any person who files a civil law suit under the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law 5761-2000;

(c) The adoption, in 2017, under government resolution No. 2397, of the Government Plan for the Economic and Social Development of the Bedouin Population in the Negev (2017–2021);

(d) The establishment, in 2016, under government resolution No. 1958, of the Unit for the Coordination of the Fight against Racism within the Ministry of Justice;

(e) The adoption, in 2016, under government resolution No. 959, of the Programme for the Development and Empowerment of Druze and Circassian Localities (2016–2019);

(f) The adoption, in 2015, under government resolution No. 922, of the Economic Development Plan for the Arab Sector (2016–2020).

C. Concerns and recommendations

Composition of the population

7. While noting the efforts made by the State party to provide information on the national background of the Jewish population of Israel, as well as on the enjoyment of economic, social and cultural rights by various ethno-religious groups residing in the territory of the State party, the Committee regrets the lack of comprehensive updated statistics on the socioeconomic status of the different population groups, including migrants, refugees, asylum seekers and stateless persons, living in Israel and in the territories under the State party's jurisdiction or effective control (arts. 1 and 5).

8. **Bearing in mind paragraphs 10 to 12 of its guidelines for reporting under the Convention (CERD/C/2007/1) and its general recommendation No. 24 (1999) concerning article 1 of the Convention, the Committee recommends that the State party provide updated statistics on the demographic composition of the population and on the socioeconomic status of the different population groups, within its territory and in the territories under its effective control, disaggregated by ethnic or national origin, gender and languages spoken, including migrants, refugees, asylum seekers and stateless persons, taking into account the principle of self-identification.**

Applicability of the Convention

9. While acknowledging the willingness of the State party delegation to discuss questions relating to the Occupied Palestinian Territory, the Committee regrets that the report did not contain any information concerning the population living in this territory. In this regard, the Committee remains concerned at the position of the State party to the effect that the Convention does not apply to all the territories under the State party's effective control, which not only include Israel proper but also the West Bank, including East Jerusalem, the Gaza Strip and the occupied Syrian Golan. The Committee reiterates (CERD/C/ISR/CO/14-16, para. 10) that such a position is not in accordance with the letter and spirit of the Convention and international law, as also affirmed by the International Court of Justice (art. 2).

10. **Reiterating its previous concluding observations (CERD/C/ISR/CO/14-16, para. 10), the Committee strongly urges the State party to review its approach and interpret its obligations under the Convention in good faith and in accordance with international law. The Committee also urges the State party to ensure that all persons**

under its effective control enjoy full rights under the Convention without discrimination based on grounds of race, colour, descent and ethnic or national origin.

Prohibition of racial discrimination

11. The Committee reiterates its concern (CERD/C/ISR/CO/14-16, para. 13) that no general provision for equality and the prohibition of racial discrimination has been included in the Basic Law: Human Dignity and Liberty (1992), which serves as the State party's bill of rights. While the prohibition of discrimination appears in several specific laws in a fragmented way, it is still not contained in a comprehensive law, which would encompass a definition of racial discrimination in line with article 1 of the Convention (arts. 1 and 2).

12. **The Committee recommends that the State party amend its Basic Law: Human Dignity and Liberty (1992) to explicitly incorporate the principle of equality and the prohibition of racial discrimination and adopt a comprehensive anti-discrimination legislation that includes a definition of racial discrimination covering all grounds of discrimination, in line with article 1 of the Convention, and encompasses direct and indirect discrimination in both the public and private spheres.**

Basic Law: Israel – The Nation-State of the Jewish People

13. The Committee is concerned about the discriminatory effect of the Basic Law: Israel – The Nation-State of the Jewish People (2018) on non-Jewish people in the State party, as it stipulates that the right to exercise self-determination in Israel is "unique to the Jewish people" and establishes Hebrew as Israel's official language, downgrading Arabic to a "special status". Furthermore, while Israeli settlements in the Occupied Palestinian Territory are not only illegal under international law but also an obstacle to the enjoyment of human rights by the whole population, the Basic Law constitutionally elevates them to the status of "a national value" (arts. 1, 2 and 5).

14. **The Committee urges the State party to review the Basic Law: Israel – The Nation-State of the Jewish People with a view to bringing it into line with the Convention. According to general recommendation No. 21 (1996) on the right to self-determination, all peoples have the right to determine freely their political status. The Committee recommends that the State party ensure that the change in the status of the Arabic language does not weaken the linguistic rights of the Arabic-speaking population. As regards the expansion of Jewish settlements, the Committee urges the State party to comply with its international legal obligations, including under the Geneva Convention relative to the Protection of Civilian Persons in Time of War.**

Discriminatory laws

15. The Committee remains concerned at the maintenance of several laws that discriminate against Arab citizens of Israel and Palestinians in the Occupied Palestinian Territory, and that create differences among them, as regards their civil status, legal protection, access to social and economic benefits, or right to land and property. The Committee is also concerned about the adoption of Amendment No. 30 of 2018 to the already discriminatory Entry into Israel Law (Law No. 5712-1952), which grants the Israeli Minister of Interior broad discretion to revoke the permanent residency permit of Palestinians living in East Jerusalem (arts. 2 and 5, and para. 22 of the present document).

16. **The Committee recommends that the State party ensure equal treatment for all persons on the territories under its effective control and subject to its jurisdiction, including by guaranteeing equal access to citizenship, legal protection, and social and economic benefits, as well as the right to land and property, and that it amend or revoke any legislation that does not comply with the principle of non-discrimination.**

Institutional framework

17. While the Committee regrets that the Ministry of Minority Affairs was dismantled since the State party's last review, it welcomes the establishment of the Unit for the Coordination of the Fight against Racism within the Ministry of Justice, which is mandated, inter alia, to receive and examine complaints of racial discrimination. While noting that the State party has started the necessary consultations to establish a national human rights institution in line with the principles relating to the status of national institutions for the

promotion and protection of human rights (the Paris Principles), it remains concerned that such an institution has not yet been established. The Committee is also concerned about reports related to the unclear status and activities of certain quasi-government entities, which carry out specific decision-making functions without being part of the executive structure (art. 2).

18. **The Committee recommends that the State party:**

(a) **Prioritize and expedite the establishment of an independent national institution for the promotion and protection of human rights, with a mandate to combat racial discrimination, in full compliance with the Paris Principles, in the light of its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention;**

(b) **Ensure that all institutions carrying out governmental functions fully comply with the State party's international legal obligations and are accountable on equal footing with other executive bodies.**

Complaints of racial discrimination

19. The Committee welcomes the various measures taken to facilitate the reporting of complaints for acts of racial discrimination, including the adoption of Amendment No. 22 to the Legal Aid Law, the launching of several awareness-raising campaigns, and the creation of various complaints mechanisms, including a hotline to provide information and assistance to persons affected by such acts. It is, however, concerned:

(a) About the lack of detailed information on racial discrimination complaints filed with the national courts and other relevant Israeli institutions, as well as on investigations, prosecutions, convictions, sanctions and the reparations provided to victims;

(b) That people belonging to minority groups, in particular Palestinian and Bedouin communities, migrants, refugees, asylum seekers and stateless persons may face obstacles in accessing justice while seeking remedies for cases of discrimination (art. 6).

20. **Bearing in mind its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:**

(a) **Provide information and statistics on complaints of racial discrimination, as well as on investigations, prosecutions, convictions and sanctions imposed, and on the reparations provided to victims, disaggregated by age, sex, ethnic or national origin;**

(b) **Increase awareness among minority groups, in particular Palestinian and Bedouin communities, as well as among migrants, refugees, asylum seekers and stateless persons, of their rights under the Convention and eliminate all barriers preventing them from accessing justice, and continue facilitating the filing of complaints for victims of racial discrimination.**

Segregation between Jewish and non-Jewish communities, including in the Occupied Palestinian Territory

21. The Committee reiterates its concern (CERD/C/ISR/CO/14-16, para. 11) that the Israeli society continues to be segregated as it maintains Jewish and non-Jewish sectors, including two systems of education with unequal conditions, as well as separate municipalities, namely Jewish municipalities and the so-called "municipalities of the minorities", which raises issues under article 3 of the Convention. The Committee is particularly concerned about the continued full discretion of the Admissions Committees to reject applicants deemed "unsuitable to the social life of the community" (arts. 3, 5 and 7).

22. As regards the specific situation in the Occupied Palestinian Territory, the Committee remains concerned (CERD/C/ISR/CO/14-16, para. 24) at the consequences of policies and practices that amount to segregation, such as the existence in the Occupied Palestinian Territory of two entirely separate legal systems and sets of institutions for Jewish communities in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand. The Committee is appalled at the hermetic character of the separation of the two groups, who live on the same territory but

do not enjoy either equal use of roads and infrastructure or equal access to basic services, lands and water resources. Such separation is materialized by the implementation of a complex combination of movement restrictions consisting of the Wall, the settlements, roadblocks, military checkpoints, the obligation to use separate roads and a permit regime that impacts the Palestinian population negatively (art. 3).

23. **Recalling its previous concluding observations (CERD/C/ISR/CO/14-16, para. 11), the Committee draws the State party's attention to its general recommendation 19 (1995) on article 3 of the Convention, concerning the prevention, prohibition and eradication of all policies and practices of racial segregation and apartheid, and urges the State party to give full effect to article 3 of the Convention to eradicate all forms of segregation between Jewish and non-Jewish communities and any such policies or practices that severely and disproportionately affect the Palestinian population in Israel proper and in the Occupied Palestinian Territory.**

Family reunification

24. The Committee remains deeply concerned about the disproportionate and adverse restrictions imposed by the Citizenship and Entry into Israel Law (Temporary Provision), which suspends the possibility, with certain rare exceptions, of family reunification of Israeli citizens or residents of East Jerusalem with Palestinian spouses living in the West Bank or Gaza Strip. The Committee notes that, although the legislation now allows the granting of temporary residence permits for humanitarian reasons or a residence permit under special circumstances, the process requires the fulfilment of strict security and age conditions, and the withdrawal of such permits can be arbitrary (arts. 2, 3 and 5).

25. **The Committee recommends that the State party objectively balance its security concerns with the human rights of persons affected by the various laws and policies regarding citizenship and entry into Israel, review its legislation in order to ensure the respect of the principles of equality, non-discrimination and proportionality, and further facilitate family reunification of all citizens and permanent residents of the State party.**

Racist hate speech and hate crimes

26. The Committee welcomes the recent adoption of Amendment No. 137 to the Penal Law 5737-1977, which recognizes racist motives as an aggravating circumstance for murder. It also notes the existence of criminal legislation on hate speech, incitement to racism and to violence, as well as on racist organizations and participation in and support for such organizations. The Committee is, however, concerned about:

(a) The tide of racist hate speech in public discourse, in particular by public officials, political and religious leaders, in certain media outlets and in school curricula and textbooks;

(b) The proliferation of racist and xenophobic acts that in particular target non-Jewish minorities, especially Palestinian citizens of Israel, Palestinians residing in the Occupied Palestinian Territory and migrants and asylum seekers of African origin;

(c) Reports that the judiciary might handle cases of racial discrimination by applying different standards based on the alleged perpetrator's ethnic or national origin (arts. 2, 4 and 6).

27. **Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention; No. 8 (1990) concerning the interpretation and application of article 1 (1) and (4) of the Convention; No. 15 (1993) on article 4 of the Convention; and No. 35 (2013) on combating racist hate speech, the Committee urges the State party to:**

(a) **Step up its efforts to counter and stem the tide of racism and xenophobia in public discourse, in particular by strongly condemning all racist and xenophobic statements by public figures, political and religious leaders, as well as media personalities, and by implementing appropriate measures to combat the proliferation of acts and manifestations of racism that target non-Jewish minorities in particular; and remove any derogatory comments and images that perpetuate prejudices and hatred from school curricula and textbooks;**

(b) **Ensure that public prosecutors and the judiciary as a whole prosecute racist hate speech and racist hate crimes by applying the same standards, irrespective of the alleged perpetrators' ethnic or national origin.**

Situation of the Bedouin people

28. While welcoming several measures taken to improve the situation of Bedouin people, including the adoption of the Socioeconomic Development Plan for Negev Bedouin (2017–2021), and to enhance their educational opportunities and their access to public and social services, the Committee remains concerned about house demolitions and the ongoing transfer of Bedouin communities to temporary locations, as well as the absence of meaningful participation of and consultation with Bedouin communities in the formulation of such plans affecting their access to land and property. The Committee is also concerned about the substandard living conditions in both the unrecognized villages and the recognized townships, which are characterized by limited access to adequate housing, water and sanitation facilities, electricity and public transportation (arts. 2 and 5).

29. **The Committee recommends that the State party:**

(a) **Ensure meaningful consultation with all concerned Bedouin communities regarding the implementation of the various plans affecting their right to land and property and resolve the pending land ownership claims in a timely, transparent and effective manner;**

(b) **Recognize their villages;**

(c) **Take all necessary measures to improve their living conditions;**

(d) **Stop house demolitions and the eviction of Bedouin people from their homes and ancestral lands.**

Situation of Domari (Gypsy) people

30. While taking note of the existing measures to improve the situation of Domari (Gypsy) people, the Committee remains concerned about their generally low socioeconomic status, including extreme poverty, substandard living conditions, low attendance rates of children in primary schools and their underrepresentation in secondary and post-secondary education, and their high rates of unemployment (arts. 2 and 5).

31. **Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee urges the State party to improve the situation of Domari people, including through coordination at all levels of government and by engaging with Domari communities in the design, implementation and evaluation of inclusion policies and action plans. The Committee recommends that the State party take effective measures to end extreme poverty of Domari people, provide genuine solutions to increase school attendance and employment, and improve their housing conditions and their access to basic services.**

Situation of minority women

32. The Committee is concerned that minority women, in particular those belonging to Palestinian, Druze, Bedouin, Circassian and Ethiopian communities, may face multiple and intersecting forms of discrimination on the basis of ethnic origin and gender, including barriers to obtaining access to employment, education, health care and justice (arts. 2 and 5).

33. **Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party eliminate all barriers faced by minority women, in particular those belonging to Palestinian, Druze, Bedouin, Circassian and Ethiopian communities, in obtaining access to employment, education, health care and justice. To this end, it recommends that the State party incorporate a minority women perspective into all gender-related policies and strategies.**

Minorities within the Jewish population

34. While taking note of the various measures taken to improve the situation of minorities within the Jewish population, the Committee reiterates its concern

(CERD/C/ISR/CO/14-16, para. 21) about allegations of ongoing discrimination against Ethiopian Jews (arts. 2 and 5).

35. **The Committee recommends that the State party intensify its efforts to eliminate all forms of racial discriminations affecting Jewish minorities so as to ensure equal enjoyment of their rights under the Convention, in particular the rights to education, work and political representation.**

Participation in public and political life

36. The Committee welcomes the various initiatives taken to increase the representation of persons belonging to minorities, such as the Palestinian, Druze, Bedouin, Circassian and Ethiopian communities, in the public sector, especially in government offices. It also takes note of the outreach programmes that have taken place in the judicial and law enforcement sectors to attract more professionals with minority backgrounds. However, the Committee is concerned about recent legislative changes regarding the Knesset, such as Amendment No. 62 (2014) to the Knesset Elections Law raising the threshold required for political parties and Amendment No. 44 (2016) to the Basic Law: The Knesset (Dismissal of a Knesset Member in accordance with Section 7A) (2016) regarding the establishment of a procedure to oust a sitting Knesset Member on political and ideological grounds, which could both considerably weaken the right to political participation of non-Jewish minorities (arts. 2 and 5).

37. **The Committee recommends that the State party continue and step up its efforts to achieve adequate representation of minorities in the civil service, law enforcement and judicial bodies, in particular in senior positions. Furthermore, it recommends that the State party eliminate obstacles and create favourable conditions for the participation of minorities in political decision-making processes.**

Rights to education, work and health

38. The Committee is concerned:

(a) About the disproportionately high dropout rates among Bedouin students and the significant gaps in the educational achievements between Arab students and Jewish students, as well as the shortage of classrooms and kindergartens in Bedouin neighbourhoods;

(b) That non-Jewish minority groups, in particular Palestinian and Bedouin communities, continue to face limitations in the enjoyment of their right to work and are concentrated in low-paying sectors;

(c) About the disproportionately poor health status of the Palestinian and Bedouin populations, including shorter life expectancy and higher rates of infant mortality compared with those of the Jewish population (art. 5).

39. **The Committee recommends that the State party:**

(a) **Step up its efforts to address the high dropout rates of Bedouin students and the shortage of classrooms and kindergartens in Bedouin neighbourhoods, and take effective measures to improve the quality of education provided to Arab students with a view to enhancing their academic achievements;**

(b) **Intensify its efforts to increase the labour market participation of non-Jewish minority groups, in particular Palestinians and Bedouins, especially women belonging to these communities, including by providing education and training tailored to their experience and their level of job skills and by considering the establishment of special measures;**

(c) **Take concrete measures to improve the health status of the Palestinian and Bedouin populations.**

Situation of migrants, refugees, asylum seekers and stateless persons

40. The Committee is concerned about:

(a) The very low recognition rate of refugees in the State party;

(b) The Law for the Prevention of Infiltration (1954) and its amendments, which stigmatize persons who entered irregularly as "infiltrators", in particular Eritrean and Sudanese nationals, allow for their detention and enforced residence, and penalize irregular entry into the State party without exempting individuals who are in need of international protection;

(c) The requirement for employers, under a new provision of May 2017, to deduct part of the monthly salaries of employees falling under the Law for the Prevention of Infiltration, which causes further impoverishment of these persons;

(d) Instances of de facto segregation of the children of asylum seekers and about their poor educational conditions, which result in a significantly higher percentage of them requiring special education and development assistance when compared with Israeli children;

(e) The lack of adequate protection for stateless persons, primarily people of African descent, who entered Israel irregularly, and the revocation of the citizenship of Bedouin persons without due process (arts. 2 and 5).

41. **The Committee recommends that the State party:**

(a) **Ensure that the refugee status determination procedure is in full compliance with the Convention relating to the Status of Refugees and that the process of application is fair and effective;**

(b) **Amend the Law for the Prevention of Infiltration and any other relevant legislation in order to ensure that they do not stigmatize asylum seekers and are in line with the State party's international obligations;**

(c) **Consider abolishing the provisions that require employers to deduct a significant percentage of the salaries of employees falling under the Law for the Prevention of Infiltration, which further hampers their socioeconomic status and opportunities;**

(d) **Ensure equal access to and quality education of children of asylum seekers, continue the establishment of educational institutions, including by increasing the number of public kindergartens, and put an end to the de facto segregated schooling system;**

(e) **Ensure adequate protection for all stateless persons and establish an effective mechanism to end statelessness among Bedouins.**

Settlement policies and acts of violence in the West Bank, including East Jerusalem

42. The Committee is concerned at continuing confiscation and expropriation of Palestinian land, continuing restrictions on access of Palestinians in the Occupied Palestinian Territory, including East Jerusalem, to natural resources, inter alia, agricultural land and adequate water supply. The Committee is particularly concerned:

(a) About the discriminatory effect of planning and zoning laws and policies on Palestinians and Bedouin communities in the West Bank, the continued demolitions of buildings and structures, including water wells, and as a consequence, further displacement of Palestinians;

(b) That the process of applying for building permits is prolonged, complicated and expensive and that few such applications are approved, while a preferential treatment continues for the expansion of Israeli settlements, including through the use of "State land" allocated for settlements;

(c) About acts of violence perpetrated by the State party's settlers against Palestinians and their property in the West Bank, including East Jerusalem, and at the lack of effective accountability for and protection from such acts by the State party's authorities (arts. 2 and 4–6).

43. **The Committee recommends that the State party:**

(a) **Review planning laws and policies in the West Bank, including East Jerusalem, in consultation with the affected populations, to ensure that they are**

compliant with its obligations under the Convention and ensure the rights to property, access to land, housing and natural resources of Palestinian and Bedouin communities;

(b) **Review the construction permit system in order to prevent demolitions and forced evictions and put an end to the expansion of illegal Israeli settlements;**

(c) **Take all necessary measures to prevent violence perpetrated by the State party's settlers and that all incidents of violence are promptly and properly investigated, and that victims are provided with effective remedies.**

Ongoing blockade of the Gaza Strip

44. The Committee is concerned about the long-standing blockade of the Gaza Strip imposed by the State party. It notes with concern that the blockade continues to violate the right to freedom of movement and that it impedes the ability to access to basic services, especially health care, and safe drinking water (arts. 2, 3 and 5).

45. **The Committee urges the State party to review its blockade policy and urgently allow and facilitate the rebuilding of homes and civilian infrastructures; ensure access to necessary urgent humanitarian assistance; and also ensure access to the right to freedom of movement, housing, education, health care, water and sanitation, in compliance with the Convention.**

Occupied Syrian Golan

46. The Committee remains concerned at the vulnerable situation of Syrian residents of the occupied Syrian Golan and their unequal access to land, housing and basic services. It is particularly concerned about the expansion of settlements and activities that have reduced Syrian farmers' access to water, and about the fact that, owing to the Law on Citizenship (1952), family ties continue to be disrupted (art. 5).

47. **The Committee urges that the State party ensure equal access for all residents of the occupied Syrian Golan to fundamental rights, such as the right to land, housing, water and basic services. It also recommends that the State party put an end to the expansion of Israeli illegal settlements and find a satisfactory solution to the issue of family separation.**

D. Other recommendations

Ratification of other treaties

48. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; the Domestic Workers Convention, 2011 (No. 189), and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization; and the Convention on the Reduction of Statelessness.**

Amendment to article 8 of the Convention

49. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Declaration under article 14 of the Convention

50. **The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual communications.**

Follow-up to the Durban Declaration and Programme of Action

51. **In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

52. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

53. **The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Follow-up to the present concluding observations

54. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 18 (institutional framework) and 29 (situation of the Bedouin people) above.**

Paragraphs of particular importance

55. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 14 (Basic Law: Israel – The Nation-State of the Jewish People), 16 (discriminatory laws), 23 (segregation between Jewish and non-Jewish communities, including in the Occupied Palestinian Territory) and 27 (a) (racist hate speech and hate crimes) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Dissemination of information

56. **The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, in the official and other commonly used languages, as appropriate.**

Common core document

57. **The Committee encourages the State party to update its common core document, which dates to 19 January 2015, in accordance with the harmonized**

guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Preparation of the next periodic report

58. **The Committee recommends that the State party submit its combined twenty to twenty-third periodic reports, as a single document, by 2 February 2024, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**

United Nations CERD/C/PSE/FCO/1-2

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Information received from the State of Palestine on follow-up to the concluding observations on its combined initial and second periodic reports*

[Date received: 22 September 2020]

* The present document is being issued without formal editing.

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Information provided by the State of Palestine in follow-up to the concluding observations

Introduction

1. Following consideration of the combined initial and second periodic reports of the State of Palestine (CERD/C/PSE/1-2), the Committee adopted its concluding observations at its 2764th meeting, held on 23 August 2019, wherein it requested the State of Palestine to provide, within one year, information on its implementation of the recommendations contained in paragraphs 10 (a), 14 (a) and (c), and 20 (b) of the document (CERD/C/PSE/CO/1-2), dated 20 September 2019. Preliminary information regarding those recommendations is provided herewith below and the State of Palestine hopes to include any further developments in that regard in its combined third and fourth periodic reports.

2. The State of Palestine wishes to thank the Committee for the constructive and effective dialogue into which it entered with the Palestinian delegation and for its concluding observations, which also focused on positive aspects and in which the Committee acknowledged the progress the State of Palestine has made in the fulfilment of its international obligations. The Committee's observations have been given serious consideration and are currently being followed up by a national team formed to monitor the implementation of the Convention at both the national and international levels. That team, referred to hereinafter as the National Team, was established under a presidential decree issued on 7 August 2019. It is headed by the Ministry of Foreign Affairs and Emigrants and its membership includes other relevant ministries. Having received the concluding observations, the National Team began allocating tasks among its members with a view to acting thereon. Via the Council of Ministers, it also caused the concluding observations to be circulated among other governmental agencies that are not members of the Team – including municipalities, the Ministry of Information and the Ministry of Culture – with a view to ensuring the effective implementation of the Convention at the national level. This is consistent with the Committee's recommendation for Palestine to make the concluding observations available to all State bodies entrusted with the implementation of the Convention, including municipalities.

3. The National Team first drew up a table containing all the Committee's concluding observations, the steps to be taken to implement each one, the agency responsible for the implementation, the time frame and the relevant performance indicators. Having done that, a number of meetings were held with a view to translating the table into a comprehensive national plan for the implementation of all the recommendations between 2020 and 2023. A draft of the plan was approved then thrown open for wide-ranging consultations at the national level, which involved government agencies, civil society organizations, the private sector and universities. In fact, the State of Palestine is determined to include all relevant institutions as the plan is a national undertaking that is not limited to government action.

4. The intention had been to hold national consultations on the plan face-to-face in order to hear the views and recommendations of the various different institutions; however, those consultations have had to be postponed due to the coronavirus disease (COVID-19) pandemic. If the state of emergency continues, the consultations will be held remotely using videoconferencing technology at the earliest possible opportunity.

5. The plan will be adopted using the national follow-up mechanism for the implementation of human rights treaties. In this way, following the integration of the comments emerging from the national consultation process, the plan will be put before a committee of experts from government agencies then to a higher ministerial committee responsible for following up on the accession of the State of Palestine to international treaties, protocols and charters, which is headed by the Ministry of Foreign Affairs and Emigrants. Once the plan in its final form has been adopted, in coordination with the Council of Ministers, it will be circulated to all relevant national institutions for them to follow up on its implementation, each in its own area of jurisdiction.

6. It should be noted that, as a result of the COVID-19 pandemic, a state of emergency was declared in Palestine. It began on 5 March 2020 and is still in force. The concomitant closure of State and private institutions and the disruption and irregularity of the work, which continues to this day, has affected the speed with which practical results could be achieved on the ground.

7. The ongoing Israeli colonialist occupation with its illegal and racist policies and actions still constitutes the most significant challenge the State of Palestine has to face as it seeks to fulfil its obligations. This is particularly so given the incessant plans and efforts to annex large parts of Palestinian territory, dismantle the country's geographical unity and change its demographic make-up. All this is underpinned with a racist narrative based on the "right of Jews" to settle in all of historical Palestine and a denial of the right of the Palestinian people – the indigenous inhabitants of the country – to self-determination and independence in their homeland, in accordance with international legitimacy and law. The current administration of the United States of America has fully embraced the Israeli colonialist agenda with its racist elements, based on a racist underpinning that presupposes Israeli ethnic superiority over Palestinian citizens, in accordance with the so-called "nation-state law". This is a racist law that limits the right of self-determination to Jews alone, rejects the Palestinian people's right to their land and to self-determination and denies refugees the right of return. The announcement of a plan known as the "deal of the century" – which adopts an Israeli colonialist and racist project allowing annexation of Palestinian land and denying the rights of the Palestinian people – is, of course, a flagrant violation of international law and international resolutions. It is also contemptuous of the international consensus based on the two-State solution and the inalienable rights of the Palestinian people throughout the diaspora, particularly the right to return, to self-determination and to independence in a State of Palestine with Jerusalem as its capital, and it blatantly undermines the international multilateral and law-based system.

8. In this context it should be pointed out that many international bodies have recognized that the annexation of the land of the State of Palestine by Israel, the occupying power, constitutes a violation of international law; and it is the responsibility of the international community to ensure accountability in that regard. Mention should be made at this point of a statement released by 47 United Nations special rapporteurs on 16 June 2020, which the State of Palestine fully endorses, part of which reads: "The annexation of occupied territory is a serious violation of the Charter of the United Nations and the Geneva Conventions, and contrary to the fundamental rule affirmed many times by the United Nations Security Council and General Assembly that the acquisition of territory by war or force is inadmissible. The international community has prohibited annexation precisely because it incites wars, economic devastation, political instability, systematic human rights abuses and widespread human suffering."

9. The statement goes on to say that the actions of Israel, the occupying power, amount to a "vision of a 21st century apartheid." Moreover, "the agreement by the new coalition Government of Israel to annex significant parts of the occupied Palestinian West Bank after 1 July would violate a cornerstone principle of international law and must be meaningfully opposed by the international community".

10. In addition: "The United Nations has stated on many occasions that the 53-year-old Israeli occupation is the source of profound human rights violations against the Palestinian people. These violations include land confiscation, settler violence, discriminatory planning laws, the confiscation of natural resources, home demolitions, forcible population transfer, excessive use of force and torture, labour exploitation, extensive infringements of privacy rights, restrictions on the media and freedom of expression, the targeting of women activists and journalists, the detention of children, poisoning by exposure to toxic wastes, forced evictions and displacement, economic deprivation and extreme poverty, arbitrary detention, lack of freedom of movement, food insecurity, discriminatory law enforcement and the imposition of a two-tier system of disparate political, legal, social, cultural and economic rights based on ethnicity and nationality."

11. In that context, the statement says: "These human rights violations would only intensify after annexation. What would be left of the West Bank would be a Palestinian Bantustan, islands of disconnected land completely surrounded by Israel and with no

territorial connection to the outside world. Israel has recently promised that it will maintain permanent security control between the Mediterranean and the Jordan River. Thus, the morning after annexation would be the crystallisation of an already unjust reality: two peoples living in the same space, ruled by the same state, but with profoundly unequal rights. This is a vision of a 21st century apartheid."[1]

12. In the same way, on 10 June 2020, 271 experts in international public law sent an open letter to the Israeli Government condemning its attempts at annexation which, they wrote, would violate the right to self-determination and lead to discriminatory acts justified in the name of law, inter alia in relation to citizenship or property rights.[2] This was followed on 23 June 2020 by a joint letter against annexation signed by 1,080 parliamentarians from 25 European countries and addressed to European governments and leaders. In the letter, the signatories state that annexation would challenge the most basic norms guiding international relations, including the Charter of the United Nations.[3] Moreover, on 24 June 2020, 400 professors of Jewish Studies in North and South America, Europe and Israel who have committed decades of professional life to the close study of Jewish history, culture, thought, religion, literature, politics, and society signed a letter opposing annexation, apartheid and the continuing Israeli occupation. Annexation, they write, would formally (de jure) create apartheid conditions in Israel and Palestine.[4]

13. It should be noted, furthermore, that the State of Palestine is facing a serious (and contrived) scarcity of financial resources as a consequence of the economic blockade which Israel, the occupying power, with the support of the United States administration, is imposing as a form of war of starvation against the Palestinian people. This is in addition to the ongoing theft of natural resources, piracy and the confiscation of Palestinian revenues, in violation of international humanitarian and human rights law. At the same time, smear campaigns are being run by pro-Israeli non-governmental organizations (NGOs) such as NGO Monitor, UK Lawyers for Israel and the so-called UN Watch, which continue to pressure parliaments around the world to enact rulings that would deprive the Palestinian people of economic aid. Moreover, there has been a significant decline in foreign assistance, which has led to a deep economic crisis and undermined the Government's ability to provide the best services, especially in the face of challenges posed by the COVID-19 pandemic.

Steps taken to implement the concluding observations

The Convention in the domestic legal order

Paragraph 10 (a): Fully and expeditiously incorporate the provisions of the Convention into national law, including through publication in the Official Gazette, and take all possible measures to ensure its implementation throughout its territory

14. The National Team established by presidential decree to monitor the implementation of the Convention has acknowledged the importance of publishing the text in the Official Gazette. In doing so, the Team was acting in accordance with the State's responsibilities in this regard, with ruling No. 5 of 2017 of the Constitutional Court regarding the implementation of international treaties within the domestic legal order and with the Committee's own recommendation. In that connection, the Ministry of Foreign Affairs and Emigrants sent a memorandum to the Council of Ministers with a view to expediting such publication. The memorandum includes an annex explaining the provisions of the

[1] OHCHR, "*Israeli annexation of parts of the Palestinian West Bank would break international law – UN experts call on the international community to ensure accountability*" (Geneva: 16 June 2020) https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25960&LangID=E.

[2] Opinio Juris, *An Open Letter to the Israeli Government Condemning Annexation*, (10 June 2020) http://opiniojuris.org/2020/06/11/an-open-letter-to-the-israeli-government-condemning-annexation/.

[3] Independent, *More than 1,000 European MPs call on Israel to halt 'destabilising' annexation plans*,(24 June 2020) https://www.independent.co.uk/news/world/middle-east/israel-west-bank-european-mps-annexation-palestine-a9582986.html.

[4] Israel Apartheid-Annexation, *A Letter on Annexation and Apartheid in Israel*, (24 June 2020) https://www.annexation.site/.

Convention and confirming that it does not entail any legal consequences that are at odds with the domestic legal order, in the sense that the legislation in force in the State of Palestine does not, in general, conflict with the Convention.

15. Accordingly, meeting in Ramallah on 17 February 2020, the Council of Ministers, using its legally mandated authority and in order to further the public interest, issued Decree No. 01/43/18/M.W/M.1 of 2020 and delegated the President of the State of Palestine to take the action necessary to publish the International Convention on the Elimination of All Forms of Racial Discrimination in the Official Gazette. To that end, the Treaty Section of the United Nations Office of Legal Affairs in New York has been contacted to request a true copy of the Convention in Arabic so that the Bureau for Legal Advice and Legislation can complete the procedures for publication and prepare the way for a presidential decree. However, we have been informed that no original copy of the Convention in Arabic exists.

Harmonization of legislation and compliance with the Convention

Paragraph 14 (a): Ensure popular participation in decision-making and address the current rule of law deficit by reinstituting a democratically elected parliamentary legislative body, such as the Palestinian Legislative Council

16. The fulfilment of this recommendation rests principally on the achievement of national reconciliation and the election of a legislative body for the State of Palestine. Many efforts have been made at the national level to achieve reconciliation, put an end to division and restore unity. These are considered to be national priorities and have been confirmed as such in decisions taken at sessions of the National Council and of the Central Council, as well as by the President on many national occasions, at international gatherings and before United Nations bodies. This led to a national consensus on fresh presidential and legislative elections as announced by the president in 2019. However Israel, the occupying power, strives to hinder efforts towards national unity and to obstruct the electoral process by not allowing elections to take place in Jerusalem and by refusing to lift the blockade on the Gaza Strip. Its purpose is to perpetuate the geographical division between the West Bank and the Gaza Strip and thereby further its own colonialist interests.

17. Efforts to achieve national reconciliation culminated in the historic meeting of 3 September 2020 under the auspices of the Palestine Liberation Organization (PLO), the sole legitimate representative of the Palestinian people. The meeting brought together secretaries-general of national groupings and the President of the State of Palestine, Mr. Mahmoud Abbas, to initiate a nationwide process aimed at providing a response to a sincere national desire, a response consistent with the goals and principles of that desire and that translates into the end of division, the achievement of reconciliation and the embodiment of Palestinian national partnership.

18. Despite the aforementioned challenges, the State of Palestine is fully determined to incorporate popular participation into the decision-making process and, in fact, municipal and local-council elections are still taking place periodically. Moreover, many laws are submitted for community discussion, in which the relevant civil society institutions are involved. This process takes place through the Committee for the Harmonisation of Domestic Legislation with International Treaties and Standards, which works in partnership with those institutions. Examples of legislation that has been submitted for community discussion include the social security bill and the domestic violence bill, for which discussions were held over several stages and in the presence of civil society groups. In addition, the Committee for the Harmonisation of Domestic Legislation held meetings with the relevant civil society institutions to discuss objections raised in the community against the Cybercrime Act, which was subsequently amended to bring it into line with international standards and the recommendations of civil society. Moreover, the Government of the State of Palestine works in close cooperation with NGOs in Gaza in order to overcome political division and ensure respect for human rights.

Paragraph 14 (c): Adopt a clear time frame for the completion of the review of the existing legislative framework, in collaboration with civil society organizations, to ensure compliance with the Convention

19. The National Team, which was formed to monitor the implementation of the Convention on the Elimination of All Forms of Racial Discrimination, has held a number of meetings with the Committee for the Harmonisation of Domestic Legislation with International Treaties and Standards, which works in partnership with civil society organizations. The meetings served to discuss the concluding observations of the Committee on the Elimination of Racial Discrimination and how to fulfil the obligations arising from the accession to the Convention by the State of Palestine, in the framework of legislative harmonization. A brief presentation was made to the members of the Committee for the Harmonisation of Domestic Legislation regarding the importance of setting a time frame for legislative review.

20. For its part, the Committee for the Harmonisation of Domestic Legislation welcomed the concluding observations, which it considers to be a priority and has included in its updated action plan for 2020. In order to ensure the criminalization of racial discrimination in Palestinian legislation, the Convention is to be integrated into domestic laws as part of the process of harmonizing existing legislation or adopting new legislation consistent with international treaties. This is to prevent any conflict or confusion from arising within the domestic legal order after the Convention has been published in the Official Gazette, to promote human rights in the State of Palestine and to give real effect to the provisions of international treaties. To this end, the Committee has begun to develop an operational plan aimed at identifying elements in the domestic legal order that need to be harmonized with the Convention. This is expected to be completed in the coming period while the harmonization process itself should be finished within a year, taking account of the health and political conditions Palestine is currently experiencing.

21. The Council of Ministers issued Decree No. 06/37/18/M.W/M.A of 2019,[5] which included provision for the formation of a national team to review the 2011 Palestinian Criminal Code. The members of that team have developed an action plan and mechanism for the review of a draft Code that incorporates the international standards and treaties to which the State of Palestine has subscribed and that reflects the recommendations of human rights treaty bodies, including those of the Committee on the Elimination of Racial Discrimination, in particular recommendations relating to the criminalization of discrimination in all areas of life. A comprehensive definition of discrimination will also be included. The members of the national team have decided that the revised draft of the Code should be submitted for consultation to civil society organizations as well as to the competent national institutions. At the same time, an Internet website is being created to collect legal views regarding the draft Code. The national team began its review work at the start of 2020; however, due to the COVID-19 pandemic and the declaration of a state of emergency, its operations have been temporarily disrupted. The Government is currently taking steps to ensure that national teams and committees can continue to operate effectively, while taking the necessary preventive measures.

22. A definition of discrimination consistent with human rights treaties, including the Convention on the Elimination of All Forms of Racial Discrimination, has been adopted in the draft decree-law on protection against domestic violence. A definition of discrimination in the workplace has also been adopted, one that reflects recommendations of the Committee for the Harmonisation of Domestic Legislation with International Treaties regarding the review of the Palestinian Labour Code (Act No. 7 of 2000), which is currently in the process of being amended in line with international standards, as well as recommendations of the treaty bodies including the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women. A policy paper has been

[5] The Ministry of Justice chairs the national team, which includes representatives from the Office of the President, the Secretariat of the Council of Ministers, the Supreme Judicial Council, the Ministry of the Interior, the Ministry of Women's Affairs, the Ministry of Foreign Affairs and Emigrants, the Office of the Public Prosecution and the Independent Commission for Human Rights. The team also has the right to call on the assistance of experts and specialists.

prepared regarding the areas of labour legislation where amendments are required, including a definition of discrimination, evidentiary mechanisms, procedures for legal recourse, the elimination of all exemptions, the provision of equal job opportunities and equal pay for work of equal value, the criminalization of sexual violence, etc. In addition, the Civil Service Act is currently being reviewed with a view to including legal provisions to prohibit and criminalize discrimination in the workplace.

23. As regards the Civil Status Code, on 5 March 2018 the Council of Ministers formed a technical committee to review the system of legislation governing personal and civil status, and to update it in accordance with international standards and best practices. The committee, which includes the competent government institutions and the General Union of Palestinian Women, may call upon the assistance of whatever experts it deems fit in order to carry out its tasks. It began its work in July 2018 and drew up a plan of action. However, it has not held many meetings since then due to campaigns in opposition to the Convention on the Elimination of All Forms of Discrimination against Women and the rejection by certain segments of society – mostly on religious grounds – of any modifications to personal status legislation that would bring it into line with the Convention. Nonetheless, the national team formed to monitor the implementation of the Convention and the higher ministerial committee responsible for following up on the accession of the State of Palestine to international treaties, remain in constant contact with the Council of Ministers with a view to relaunching the committee.

24. Consultations have been held with Christian communities in the State of Palestine with a view to amending legislation governing their personal status matters, in accordance with the Convention on the Elimination of All Forms of Discrimination against Women and the recommendations of the Committee on the Elimination of Discrimination against Women. The Christian communities have manifested their readiness to discuss many of the issues raised. In addition, the Lutheran community amended its own personal status law to bring it into line with the Convention, one year after the accession of the State of Palestine thereto.

25. Discussions have been held with the bureau of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Ramallah with a view to providing training courses for personnel of the Central Bureau of Statistics, the Supreme Judicial Council, the Office of the Public Prosecution, the Committee for the Harmonisation of Domestic Legislation, the Ministry of the Interior and the Ministry of Justice. At this stage, the courses are intended to address the three priorities identified by the Committee on the Elimination of Racial Discrimination, particularly vis-à-vis the experience of other countries in aligning domestic laws with the Convention and respect for the right to freedom of opinion and expression. However, due to the COVID-19 pandemic, the courses have been postponed, although there is continuous follow-up with the OHCHR bureau.

Racist hate speech and hate crimes

Paragraph 20 (b): Ensure that laws are not used to intimidate, harass, arrest, detain or prosecute journalists, human rights defenders or political opponents for exercising their right to freedom of opinion and expression

26. Before considering the efforts that have been made to act upon this recommendation, reference must first be made to the Committee's general recommendation No. 35 on "combating racist hate speech" in which it identifies and names hate speech phenomena and explores the relationship between speech practices and the standards of the Convention. Paragraph 14 of that recommendation reads as follows:

> "Public denials or attempts to justify crimes of genocide and crimes against humanity, as defined by international law, should be declared as offences punishable by law. ... The Committee also underlines that 'the expression of opinions about historical facts' should not be prohibited or punished." In paragraph 15 of its general recommendation, the Committee states that the following contextual factors need to be taken into account when considering whether to classify speech as hate speech: "the economic, social and political climate prevalent at the time the speech was made and ... the objectives of the speech". In particular, it is important to emphasize the Committee's

view that "speech protecting or defending the human rights of individuals and groups should not be subject to criminal or other sanctions". It follows, then, that documenting historical facts regarding the struggle of the Palestinian people as well as demanding protection for their rights and an end to the Israeli colonialist occupation cannot in any way be classified as hate speech. To attempt such a classification is to subvert international law and to violate the Palestinian people's right to self-determination and their legitimate struggle for freedom and independence, and it is inconsistent with the Committee's own recommendation on self-determination.

27. In that context, the State of Palestine can confirm that it condemns hate speech and will continue to combat it. At the same time, it affirms that demonstrating the reality of the colonialist occupation is a right – a duty, even – that it will continue to exercise until such time as the occupation has ended and the State of Palestine has achieved independence, in spite of the systematic campaign of denigration pursued by Israel, the occupying power. That campaign, which is spearheaded by the Israeli Ministry of Strategic Affairs and Israeli internal security forces, aims to divert the attention of the international community away from violations and to accuse the Palestinian people of engaging in hate speech. At the same time, Israel pursues systematic and widespread policies of arresting journalists and human rights defenders in order to undermine their social, cultural and political role and to prevent them from exposing violations and conveying the truth.

28. Moreover, extremist pro-Israeli NGOs such as NGO Monitor, UK Lawyers for Israel and the so-called UN Watch, propagate and incite racism while continuing to deny – in fact, attempting to justify – the international crimes perpetrated against the Palestinian people. Those NGOs may, then, be classified as racist organizations that comprehensively engage in hate speech as per paragraph 21 of the Committee's general recommendation on combating racist hate speech, which requires such organizations to be declared illegal and prohibited.

29. Palestinian journalists face repression and violations in many forms at the hands of Israeli occupying troops, including being pursued and arrested while reporting. Some are even assassinated or otherwise prevented from covering events. The violations they face range from targeted killing to injury (fractures, burns, suffocation) beatings, the destruction of press equipment and arbitrary detention without specific charges. In addition, they are often prevented from gaining access to areas where incidents take place. For example, in November 2019 the journalist Moaz Amarna lost his left eye when covering attacks by the Israeli occupying forces against Palestinian demonstrators during popular protests in the city of Hebron.

30. In that context, the statement released by 47 United Nations special rapporteurs on 16 June 2020 reads: "Palestinian and Israeli human rights defenders, who peacefully bring public attention to these violations, are slandered, criminalized or labelled as terrorists." The statement also says that "restrictions on the media and freedom of expression, the targeting of women activists and journalists" constitute flagrant human rights violations against the Palestinian people.[6]

31. Operations to prevent media coverage include direct targeting against news organizations. This is what happened to Palestine TV, which saw its offices in Jerusalem closed for six months at the end of last year by order of the Israeli Minister of the Interior. On 10 May 2020, the closure order was renewed for a further six months and teams from the channel were forbidden from carrying out any media activities or coverage from Jerusalem. The closure of any media outlet – and especially such a large one as Palestine TV – is a very dangerous step to take as it constitutes an outright ban on the coverage of events and a blackout of current affairs for an extended period, not merely an embargo on covering a single incident.

32. According to a report of the commission on freedom of the Journalists' Syndicate a total of 259 Israeli violations against journalists on the territory of the State of Palestine were recorded in the first half of 2020. The report states that 59 violations were registered in

[6] OHCHR, "Israeli annexation of parts of the Palestinian West Bank would break international law – UN experts call on the international community to ensure accountability" (Geneva: 16 June 2020) https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25960&LangID=E.

Jerusalem, which are the most serious violations as they indicate direct targeting to prevent media coverage in the capital. In addition, 14 journalists suffered gunshot wounds from the Israeli occupying forces, 7 received direct bodily injuries from tear gas, sound bombs and water cannon and there were 41 cases of asphyxia due to tear gas. The occupying forces arrested 17 journalists and detained 96 to prevent them from filming and covering events. In all, 16 journalists were brought before the Israeli courts and 7 were summoned to appear. More than 50 journalists were targeted with tear gas while an increasing number were subject to fines, violations and expulsions from the old city of Jerusalem and the Al-Aqsa Mosque.[7]

33. The forces of the Israeli colonialist occupation also target media outlets by bombing and destroying their headquarters and vehicles, or by closing them down for some aspect of their coverage or by pirating Palestinian satellite channel frequencies. In the same context Israel, the occupying power, continues to hold a number of Palestinian journalists in its prisons. The oldest of these is Mahmoud Issa from Jerusalem who was sentenced to life imprisonment and has been held since 1993.

National efforts made in this regard

34. A mechanism for reporting on the safety of journalists and the issue of impunity in Palestine was established in June 2019. The mechanism, which reports crimes and violations against journalists in the territory of the State of Palestine, brings together a number of government bodies including the Office of the Prime Minister, the Ministry of Information, the Ministry of the Interior and the Ministry of Foreign Affairs and Emigrants, as well as the Palestinian Journalists' Syndicate (which is the national partner in Palestine of the United Nations Educational, Scientific and Cultural Organization (UNESCO)) and civil society institutions.

35. Using the knowledge and expertise of its members, the mechanism documents violations against journalists then submits its reports to UNESCO. The mechanism also offers vocational training on how to document human rights violations against journalists in cooperation with Al-Haq, the Independent Commission for Human Rights and OHCHR.

36. The Journalists' Syndicate has organized a number of training courses – in which more than 200 journalists have taken part – on the safety of journalists and how to interact with security forces in the field. In cooperation with the Ministry of the Interior and the Independent Commission for Human Rights, the Syndicate has also held workshops – for both security agencies and journalists themselves – on best practices to ensure the safety of journalists in the field. The Syndicate issues periodic reports concerning violations against journalists, which are then circulated at the international level thanks to the fact that the Syndicate is a member of the International Federation of Journalists. In that context, the 2020 report of the commission on freedom of the Journalists' Syndicate points to a significant fall in the number of violations against journalists and to a tangible concern on the part of the Government of the State of Palestine to respect press freedoms.[8] In fact, the Government repeatedly underscores its respect for media freedom and freedom of expression and its openness to and engagement with constructive criticism, to which end it enacts policies and legislation that serve to protect citizens and journalists.

37. The State of Palestine is fully committed to raising awareness among the judiciary and law enforcement officials about protecting human rights and public freedoms and suppressing hate speech, while respecting the right to freedom of opinion and expression. It likewise undertakes not to use the law to intimidate journalists, human rights defenders and political opponents. A comprehensive programme has been rolled out to train judges in the

[7] Palestinian News and Information Agency (WAFA): "Two hundred and fifty-nine Israeli violations against journalists in the first half of 2020" (Ramallah 23 July 2020) https://www.wafa.ps/Pages/Details/6574.

[8] Palestinian News and Information Agency (WAFA): "Two hundred and fifty-nine Israeli violations against journalists in the first half of 2020" (Ramallah 23 July 2020) https://www.wafa.ps/Pages/Details/6574.

Convention with a view to ensuring that it is duly applied in court rulings during the coming judicial year 2020/21.

38. In that connection, electronic records of the courts in the State of Palestine show that, in the period between August 2019 (when the report of the State of Palestine was discussed before the Committee) and 20 August 2020 a total of 79 cases were recorded that concerned hate speech and freedom of opinion and expression. The courts handed down a total of 25 acquittals and just 3 convictions. In two of the latter, the accused received prison terms of 3 months and in the third a fine of 200 Jordanian dinars, also payable in other legal tender. The other 51 cases are still under review. The noteworthy development is the proportion of acquittals relative to the total number of cases and to the number of convictions. In fact, 32 per cent of such cases recorded in the year have already ended in acquittal as have 90 per cent of all cases in which a decision has been rendered. This shows that the Convention is being applied.

Cases concerning freedom of opinion and expression

Legal provision	*No. of recorded cases*	*No. of acquittals*	*No. of convictions*	*No. of cases still under review*
Article 58 of the Criminal Code regarding incitement to sectarianism	58	18	0	40
Article 24 of the Cybercrime Act regarding the publication of information over the Internet liable to incite racism	15	4	3	8
Article 161 of the Criminal Code regarding the incitement of others to commit acts of racism and sectarianism	5	3	0	2
Articles 37 and 48 of the Press and Publications Act regarding the publication of information concerning security and the police	1	0	0	1
Total	**79**	**25**	**3**	**51**

39. The Office of the Public Prosecution of the State of Palestine is drawing up a unified guide of operating procedures regarding cybercrime. In addition, the Ministry of the Interior has collaborated with national human rights institutions and international agencies to issue a guide for dealing with journalists in the field. The guide has been used in a number of interactive workshops that have been held in all governorates for members of security agencies and representatives of the Journalists' Syndicate. In all, around 300 persons from the security forces and media institutions, as well as journalists, participated in the initiative. The Ministry of the Interior is also continuing to run workshops for security personnel, that focus on the demarcation line between freedom of opinion and expression and incitement.

40. It should be noted, moreover, that the State of Palestine is working with other member States of the League of Arab States to issue an Arab guiding law to prevent, combat and criminalize hate speech and to promote dialogue and tolerance among all segments of society, in line with the relevant international treaties. The State of Palestine will undertake to abide by all the provisions of that law and to adapt its domestic legislation thereto, in order to promote the principles of equality and non-discrimination.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Periodic reports of States parties due in 1993

ISRAEL

[20 February 2001]

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I. GENERAL INTRODUCTION

1. At the end of 1998, the population of Israel numbered 6,041,400 individuals, 4,785,100 (79%) of whom were Jews and 1,256,300 (21%) of whom were non-Jews, primarily Moslem Arabs. In 1998, 2,061,600 children ages 0-17 (up to their 18th birthday) lived in Israel, representing 34% of the country's population. The composition of Israel's child population reflects the heterogeneity of its society. Twenty-five percent of Israel's children are Arabs, the majority (81%) of them Moslems and the remainder of them Druze and Christians, in varying percentages. Approximately 10% of Israel's children are new immigrants, 2% of whom immigrated from Ethiopia and 8% of whom immigrated from the former Soviet Union.

2. Most (89%) of the children in Israel live in urban centers. The percentage of children living in rural communities is higher among the Arab citizens of Israel, reaching 21. About 12% of Israel's children - 9% of the Arabs and 14% of the Jews - live in mixed communities of Jews and Arabs.

3. Many of the children in Israel live in large families of four or more children; in 1998, this group represented 16% of all of the Israeli households with children up to age 18. A greater percentage of Arab families have four or more children. Relative to other western countries, a small percentage (7.4%) of Israel's children live in single-parent families.

4. A number of factors have played and continue to play a decisive role in determining the character of Israeli society. One is the social and cultural diversity of the Jewish population, resulting primarily from immigration from a wide range of countries of origin but also from differences in religious observance. Another is the nature of relations between the Jewish majority and the significant Arab minority. To this may be added the Arab-Israeli conflict and the ongoing peace process.

A. Immigration and the social and cultural variety of the Jewish population

5. The disastrous results of the Holocaust had an immeasurable influence on the development of Israel's political ethos, which in turn influenced Israel's policy on a multitude of issues, including immigration. Since its establishment in 1948, the population of the State of Israel has increased more than sixfold - primarily as a result of the immigration of Jews from all corners of the world, who brought with them a variety of cultures and customs.

6. Immigration has contributed to the unique cultural diversity of Israel's Jewish population, which comprises people who were born and raised in practically all of the various cultures and geographic areas of the world. Consequently, equality among the ethnically diverse groups within the Jewish population has been of concern throughout the State's history.

7. In addition, the absorption of large numbers of immigrants from differing cultures was a significant economic burden on the fledgling State, particularly given its limited resources at that time. Many of the immigrants spent several years in tent cities and transit camps before being settled in permanent housing, and compulsory elementary education was instituted for the first time only in 1956, and even then without a sufficient number of teachers and schools.

8. The absorption of large numbers of immigrants has also had far-reaching social implications. There were discrepancies in educational background and family size between the two largest groups of immigrants in the 1940s and 1950s. The level of education of immigrants from Asian and African countries was lower, and their families larger, than those of immigrants from European countries. Moreover, immigrants from Asia and Africa were encouraged to replace their cultural, and even religious, heritage with the nascent "Israeli" culture. The social and cultural education of immigrants from Europe and the Americas enabled them to adopt the new culture with greater ease than could immigrants from Asia and Africa, who found it difficult to adjust to the new society and to succeed socially and economically. Moreover, during that period, Israel had to cope with general issues of housing, employment, and social integration.

9. Fortunately, significant changes have taken place in Israel's outlook on integration. Over the years, a more pluralistic approach has developed, which recognizes the importance to immigrants and to the larger society of preserving cultural traditions. This recognition is now reflected in government policy and in the allocation of resources.

10. The latest wave of immigration began in late 1989; by the end of 1996, it had brought 750,000 people to Israel, increasing the State's population by 17% in seven years. Most (87%) of these immigrants - 656,000 - came from the former Soviet Union, although an additional 30,000 came from Ethiopia. Many of the latter had subsisted on farming in the mountains of Ethiopia, and had had a most limited education; the society they came to is radically different. Although the population of Ethiopian immigrants (including 15,000 immigrants who arrived in Israel in the early 1980s) is numerically small, its cultural uniqueness and limited educational and financial resources pose a challenge to Israeli society, which is striving to absorb them socially and economically.

B. The Arab population of Israel

11. In 1998, the Arab population of Israel comprised 1,256,300 individuals, who represented close to one-fifth of Israel's total population (compared to 13% of the total population at the establishment of the State in 1948). The increase in the relative proportion of Arabs in the total population, despite the constant immigration of Jews to Israel, is a result of the high birth rate in the Arab population, as well as the constant increase in life expectancy in the total population.

12. Israel's Arab population is mainly resides in the Galilee in the north; the Negev desert in the south; and a south-north triangle in the center of the country. The Arab population comprises sub-populations that differ in their religious, social and cultural characteristics. These groups may be differentiated by religion (80% are Moslems, 11% are Christians, and 9% are Druze), by residence (urban versus rural), and by culture or lifestyle (Bedouin, Samaritan, Circassian). This diversity is also expressed in differing birth rates, housing conditions, and economic and employment status.

13. Table 1 presents some basic socio-demographic characteristics of the Arab population, compared to the general population of Israel. As the Table reveals, the Arab population is typified by larger families, lower levels of education, and lower income than that of the total

Israeli population. Consequently, the percentage of Arab children who live below the poverty line is very high. It is important to note that there are differences among the different groups in the Arab population. For example, among the Christian Arabs, families are smaller and levels of (women's) employment and income are higher than among the other groups.

Table 1

Basic socio-demographic characteristics of the Arab population, compared to the Jewish population (in %)

	Arab population	Jewish population
Education		
Women		
Fewer than eight years	38.5	14.8
11-12 years	26.5	35.4
Post-secondary	18.6	39.3
Men		
Fewer than eight years	28.7	11.1
11-12 years	30.0	37.9
Post-secondary	20.7	38.8
Average number of children per household	3.04	2.2
Families below the poverty line	37.6	16.6*
Children below the poverty line	42.7	22.9
Employment (in the civilian labor force)		
Women	19.5	51.0
Men	66.4	60.6

Source: Central Bureau of Statistics, 1999.

* Percentage of the total population.

14. Israel was established as a Jewish and democratic State. Its declaration of independence calls for "full equal rights for all citizens, regardless of gender, religion, or race". Members of a minority are full citizens with equal rights who participate in elections, are represented in the Knesset (Israel's parliament), and are entitled to all of the services that the State provides its citizens. Nevertheless, the continuing conflict between Israel and the neighboring Arab States and the social and economic gaps between Arabs and Jews have contributed to tensions between the Arab minority and the Jewish majority. The development of social and municipal services in the Arab sector has lagged behind that in the Jewish sector, in part due to discrepancies in the allocation of government resources. This has delayed the attainment of social and economic equality by the Arab population. Although Israel's governments have recently taken significant steps to accelerate the social and economic advancement of the Arab population, it is clear that achieving equality represents a major ongoing challenge.

C. The Arab-Israeli conflict and the peace process

15. Since the declaration of independence in 1948, Israel has been in a state of military conflict with neighboring Arab countries. Five wars, and several periods of active conflict have passed since the establishment of the State. This has created a need for military security, and has led to the allocation of a significant proportion of the national budget to defense. This in turn has sparked unending argument over the priority of military versus civilian expenditures.

16. Efforts have always been made to end the conflict between Israel and her Arab neighbors. In 1979, a first peace agreement was signed with Egypt. In October 1991, a conference was convened in Madrid to inaugurate direct peace talks. Subsequently, bilateral negotiations have been conducted between Israel and Syria, Lebanon, Jordan and the Palestinians, as well as multilateral talks on key regional issues. To date, these negotiations have resulted in a peace treaty between Israel and Jordan, and a series of interim agreements with the Palestinians.

D. Trends and future directions in Israeli society

17. The processes of immigration in the distant and recent past, the social and cultural diversity within Israeli society, the continuing conflict with Arab countries, and the need to pursue equality and coexistence with the Arab minority pose many challenges for the State of Israel:

- Poverty is widespread among the child population in Israel; in fact, the poverty rate among children has risen dramatically since the 1970s. In addition to being a problem onto itself, poverty hinders scholastic achievement, fosters delinquency, and impedes the attainment of equal opportunity.

- It is thus not surprising that an underclass is developing in Israel, with a third generation of children being born into families in distress. These are, on one hand, families that originally came to Israel during the mass immigration of the 1950s, but failed to successfully integrate into Israeli society, instead becoming trapped in a cycle of decline from one generation to the next. In addition to material and physical deprivation, this group is developing a "culture of poverty", and is involved in crime to an extent disproportionate to its representation in the population. On the other hand, there is the large group of poor among the Arab population, which is an outgrowth of major differences in education and family size.

- Israel is also prey to the social ills that plague other western countries, such as high unemployment rates, increased divorce rates, and increasing rates of addiction to drugs and alcohol. Although these problems are less common in Israel than in many western societies, they are much more prevalent today than they were in the past.

- Naturally, the Arab population is affected by the same factors that affect all of Israeli society. Nevertheless, and at the same time, Arab society is undergoing rapid changes in its internal social norms and values. These changes parallel the transition that was experienced by Jewish families from North Africa and the Middle East in

the 1950s and 1960s. While these changes add to the difficulties faced by Arab children, at the same time they create enhanced opportunities. The broader integration of Arab women into the labor force and of Arab girls in the education system is one of the positive outcomes. Arab children and youth also face the special challenge of preserving their cultural heritage and reconciling their national identity with their Israeli citizenship.

- Recent immigrants to Israel represent another group in transition. Immigrants from Ethiopia, as well as those from the former Soviet Union, find themselves in a very different culture, to which they must adjust. For Ethiopian immigrants, the challenge is multiplied by the very large educational gap that they need to overcome in order to achieve equality of opportunity. For Russian immigrant children, the challenge is to maintain the high levels of education of their parents despite the difficulties they face in their new society.

- Israel's ability to address the social, ethnic and national differences will have a major influence on its ability to fulfill the promise of the Convention on the Rights of the Child in the years ahead.

II. INTRODUCTION: THE RIGHTS OF CHILDREN IN ISRAEL AT THE START OF THE THIRD MILLENNIUM

18. In this chapter, we will sketch a general picture of children's rights in Israeli law. In so doing, we will attempt to show how the United Nations (UN) Convention on the Rights of the Child is interpreted and implemented in the State of Israel, as required by article 44 (2) of the Convention.

19. This report is being presented at the start of an era that is likely to witness significant change in the laws that concern children throughout the world. These laws have already seen social, cultural and historical upheaval. To a certain extent, the laws concerning children have developed much as have the laws concerning other groups, such as women and minorities. The current trend is one of transition from seeing these groups as having no rights or as being the object of another group's rights (e.g., women, children and black men as the chattel of white men), to one of seeing them as having rights of their own. Nevertheless, children still differ from women and ethnic or religious minorities, as paternalistic considerations are applied to them, preventing the absolute equalization of their rights with those granted to all human beings.

20. The lion's share of 20th century law concerning children is based on the principle of "the best interests of the child", which views children as being distinct from the "general" class of human beings who are entitled to a certain type and quantity of rights. Children are perceived as lacking the ability to exercise mature, free will or to make decisions that will affect their lives. Consequently, the authority to settle matters concerning children is placed in the hands of others, usually parents or the government, who are required to act in accordance with the presumed best interests of the child. This principle underlies the UN Convention on the Rights of the Child and, despite rhetoric regarding the human rights of children, has also long guided legislation and adjudication in Israel, as elsewhere.

21. During the past two decades, new developments have occurred: The correlation between children's rights and human rights has begun to exceed the limits of rhetoric per se. The perception that human rights should be applied to children has given rise to a doctrine that requires drawing normative, practicable conclusions - some of which may be at odds with those drawn from the principle of "the best interests of the child". Increasingly, a child has the right to be heard in matters concerning him and to have his wishes respected, even when these do not coincide with what adults perceive to be his "best interest". A 1998 amendment to section 27D (a) of the Youth Employment Law 1953 determined that "in granting a permit to employ a minor, a young person who is capable of expressing his opinion will have the right to state his opinion regarding the granting of a permit for his employment, and his opinion will be given due weight, in accordance with his age and maturity". Thus, in legal terms, children are being increasingly likened to other groups, such as women and minorities, and are being granted the same status as human beings in general. This trend is also clearly reflected in the recent amendment to section 149G (a) of the Municipalities Ordinance, which stipulates that "the [local] authority will appoint a committee to plan activities that promote the status of children and youth, protect them, and secure their rights, including non-discrimination, the best interests of the child, respect for the views of the child, and the right to life, survival and development to the maximum extent possible".

22. This trend may have several explanations, one of which is the rapid pace of maturation, spurred by exposure to the media of an intensity unknown to past generations of children. Education and coming of age are today different in duration, content and essence than in the past. This phenomenon has implications for the rights of children.

23. Another possible explanation for this trend is the acknowledgment of the importance of human rights overall, and the need to defend them rigorously. Increasingly, children are viewed as human beings who have rights independent of and separate from those of their parents. At the same time, it is also customary to view the right to bear and raise children, and to educate them according to one's beliefs, as a fundamental human right. The trend to recognize the rights of children is likely to reinforce the recognition and protection of the rights of parents regarding their children.

24. Although the perception of children as having rights independent of their parents is no longer unusual, and in fact is common rhetoric, in Israel, most of the laws and rulings regarding children are the outgrowth of a more traditional perspective. Specifically, this perspectives stresses the best interests of the child on one hand, and the rights of parents, on the other. Not only do these goals not always coincide, but in fact they often conflict, and lead to opposite conclusions. In this chapter we will demonstrate how this tension is reflected in Israeli law.

A. Legislation

1. Rationale

25. Underlying Israeli legislation concerning children is the assertion that childhood is unique. This is reflected in the fundamental Guardianship and Legal Capacity Law 1962. Primarily, this law defines the period of minority as ending at the age of 18, and obligates

parents to meet all the needs of their minor children and to prepare them for life as adults. The law requires parents to act in accordance with the "best interests of the child" (section 25), "as devoted parents would act under the circumstances" (section 17).

26. However, it is important to note that this law, which was enacted nearly 40 years ago, does not consider the rights of the child, as distinct from the best interests of the child or those of the parents. By lumping together minors and people who are *non compos mentis* (that is, who due to illness or disability (such as mental illness or retardation) are incapable of looking out for their own interests), the law indiscriminately restricts a child's freedom to take legal action.

27. Fortunately, the Guardianship and Legal Capacity Law is not the only law concerning children. There is no one principle underlying the many laws concerning children, though most of them consider the "best interests of the child". Often, what is perceived to constitute "the best interests of the child" is fairly anachronistic, and in itself is the source of debate. However, there are also more innovative laws, which seek, at least in part, to uphold the rights of the child.

28. To illustrate, it is doubtful whether the "best interests of the child" are served in each and every instance by the order obligating a child to apply for a patent through a legal guardian (section 49 of the Patents Law 1967), or the order forbidding a child to join an association (section 15 of the Amutot (Non-Profit Societies) Law 1980). A more controversial example is that of the anonymity granted to sperm and ova donors, which prevents children who were born as a result of such donations from discovering the identity of their biological father or mother. While this legal situation may facilitate the donation of sperm and ova when necessary, and while it may improve the chances of becoming a parent for some adults, it may not serve the "best interests" of their progeny, as the sanction against their knowing their genetic identity is an affront to their dignity, and denies them information that is essential to their formulating a sense of self. On the other hand, given the assumed contribution of the sperm or ova donor's anonymity to the very birth of the child, one may argue that this anonymity indeed serves his interests.

29. Some laws appear to show concern not for the best interests of the child, but rather for the best interests of society. For example, beginning at age ten, the consent of a child is a requisite for his conversion from one religion to another (section 13A(b) of the Guardianship and Legal Capacity Law 1962). However, it seems this stipulation is an outgrowth of the political and social sensitivity to conversion in Israel, rather than of consideration for a child's right, or even "best interest". An amendment made in 2000 to section 185 of the Penal Law 1977 forbids the sale of brass knuckles or a knife (except one for household use) to a minor. While this sanction is somewhat paternalistic, it is also meant to protect minors from exposure to harm. A 1999 amendment to section 8C of the Youth (Care and Supervision) Law 1960 stated that "a court sitting in the matter of a minor is authorized, at any time, to appoint a legal guardian for the legal proceedings or any matter arising therefrom, if this will serve the best interests of the minor or protect his interests". This the court may do without hearing the position of the minor before appointing the guardian. A 1998 amendment to section 2E(a)(2) of the Business Licensing Law 1968 stipulates that the licensing authority is authorized to ban the inclusion in a business of sexual devices for minors under the age of 17. The proposed Restriction on Advertising Tobacco Smoking Products (Amendment No. 4) (Indirect Advertising and Protection of Youth) 1998 would restrict the advertisement and distribution of cigarettes to minors; the

proposed Protection of Genetic Information Law 1998 would make the retrieval of genetic information from minors age 16 and over conditional upon their consent, and would allow the retrieval of genetic information from younger minors and the legally incompetent only on the consent of their legal guardian, in part "to improve the state of the minor or incompetent".

30. Nevertheless, signs are beginning to appear on the Israeli legislative landscape that the traditional, paternalistic perspective is changing into one that emphasizes the child's independent rights, among them the right to dignity. For example, section 3(d) of the Court for Family Matters Law 1995 allows minors to file a legal claim themselves in any instance in which their rights are in danger of infringement. In 1995, section 8 of the Youth (Care and Supervision) Law 1960 was amended to require the courts to allow a minor to appear and express his views before the rendering of a judgment. An amendment from the same year determines the status of minors who have reached age 15 and who oppose psychiatric hospitalization (section 3F of that law). The Adoption of Children Law 1981 stipulates that children who have reached the age of nine must be heard, as must children who are younger but who understand their circumstances, prior to the handing down of an adoption order. According to section 187 (d) of the Criminal Procedures [Consolidated Version] Law 1982, agreement to an inquiry into the state of a victim of sexual assault who is over age 14 can be granted by the victim herself, without the consent of her legal guardian. Further, section 1 of the Detection of the AIDS Virus in Minors Law 1996 determines that "despite the rule of law, a test to determine the presence of the AIDS/HIV virus in a minor will be conducted at the minor's request, even without the consent of his parent or legal guardian (hereafter, his representative) … if the following [conditions] have been fulfilled: (1) the physician has provided the minor with a full explanation…and is satisfied that the minor has understood the explanation; (2) the physician has raised the possibility of obtaining the consent of the minor's representative, but the minor has refused; (3) the physician is convinced that, given the minor's age, emotional maturity and capacity for free will, his best interest requires conducting the test without the consent of his representative". Nevertheless, at present, there is no law in Israel regarding the general obligation to hear children in any matter pertaining to their lives, as is stipulated by article 12 of the UN Convention on the Rights of the Child or by the British Children's Act of 1989. It is worth noting that Israeli law does not give any such order concerning adults, either. Consequently, it may be possible to base the right of a child to a hearing on the laws of natural justice set in case law, which is the source of the general right to a hearing in Israel. In practice, there are many cases in which a child's claims are not heard, even though the right to be heard would be granted to an adult in similar circumstances.

2. Defining childhood

31. As noted, the general rule of law defines a minor as being age 18 or less. However, specific laws define a variety of age limitations and restrictions concerning children. Review of these laws leads to the conclusion that there is no uniform criterion in this matter, and that the variety of arrangements is the fruit of chance. Thus for example, children in Israel have the right to express their opinion regarding their adoption beginning at age nine, and to refuse to undergo religious conversion beginning at age ten. They carry criminal responsibility and liability for damages from the age of 12, may only be legally employed from the age of 15, may change their names only after they have reached age 18, and may be elected to the Knesset only after they have reached age 21.

32. This corpus of legislation is based in large part on an arbitrary and inflexible definition that does not address the personal circumstances or capacity of the child. One may even claim that this automatic definition of legal minority is unjust. The denial of freedom that is a consequence of this definition does not distinguish between those who should have their freedoms denied, and those who should not. One may also claim that any arbitrary approach to human beings is unjust, particularly if freedoms are granted or denied based on that approach. It nevertheless seems that it is impossible to avoid defining "legal minority" arbitrarily (that is, by setting an age ceiling), and on this the UN Convention is based. Flexible, case-by-case definition is practically impossible, both because of the large number of minors and because minors are continuously maturing. Furthermore, case-by-case definition might invoke an invasion of privacy.

33. Nevertheless, some Israeli laws allow the courts to rule in light of a child's personal circumstances. For example, under the Marriage Age Law 1950, the court must review the personal circumstances of every girl who asks to be married before reaching marriageable age as defined by law. Under the Youth Employment Law 1953, the Minister of Labor and Social Affairs must review the personal circumstances of a child who wishes to participate in an artistic performance before granting or denying permission.

B. Adjudication

1. The best interests of the child

34. As noted, until the mid-1990s, and sometimes today, the "best interests of the child" was a cornerstone of judicial rhetoric regarding children in Israeli adjudication. A typical example may be found in the words of Judge Menahem Allon:

> "It appears that there is no longer a need to expand upon the principle of the 'best interests of the child' as a decisive consideration when examining matters of custody and education, if the parents are in dispute or in absentia, or are incapable of caring for their children, and also in the matter of adoption. This principle is ancient, and is rooted in Jewish law… accepted as exalted in the rulings of Civil and Rabbinic Courts since time immemorial, and usually their sole consideration" ((Petition to the) High Court of Justice 7/83 *Briars v. Haifa Region Rabbinic Court*, P.D. 38(1) 673).

35. In the same spirit, it has been said that "there are no judicial matters concerning minors, in which the best interest of the minor is not the first and the primary consideration". In many cases, the courts do not shy away from creative interpretation that is in line with this forceful rhetoric, as evidenced by Supreme Court rulings concerning the verdicts of Rabbinic Courts, which in Israel are authorized to adjudicate aspects of family law, subject to the surveillance of the Supreme Court. For example, the Supreme Court has required the Rabbinic Courts to adhere to section 25 of the Guardianship and Legal Capacity Law 1962, which stipulates that in the absence of an agreement between parents who live apart, the guardianship of their child will be determined on the basis of "the best interests of the child". (See for example, (Petition to the) High Court of Justice 1842/92 *Blaugrund v. Chief Rabbinic Court*, Jerusalem, P.D. 46(3) 423.)

36. Although the Rabbinic Courts do not dispute adherence to the principle of the best interests of the child, it must be remembered that these courts view the best interests of the child in light

of religious values, according to which a child's best interest is served by his receiving a religious education. It is therefore not uncommon for a religious court to rule that a child remain in the custody of a parent who is capable of giving him such an education. This approach is not acceptable to the Supreme Court. To illustrate, one Supreme Court judge has written:

> "In vain I searched the arguments of the Rabbinic Court for factual evidence regarding the cardinal question of the best interests of the child. It is difficult to escape the clear impression that the only consideration guiding the court was that the father would impart Jewish values to his children, an education that is, in his words, 'spiritual and moral', while the mother would provide a secular education, which is not legitimate in the court's eyes. Of course, one must not make light of this consideration; surely, its importance in the eyes of the Rabbinic Court is sufficiently great. Nevertheless, as a sole consideration, and without inquiring which of the two parents is blessed with more traits appropriate to child-raising, or which of them has the material means to meet their children's essential needs, it is not sufficient, nor does it comply with the stipulations of the legislator … Thus, although the rabbinic judges were generally aware that the locus of custody should be determined according to the 'best interests of the child', in effect, they closed their eyes to all considerations but one in this matter, which is that the father would raise them at the feet of the Torah" [emphasis in the original] ((Petition to the) High Court of Justice 181/81 *Mor v. Haifa Region Rabbinic Court*, P.D. 47(3) 94).

37. In fact, the Supreme Court has often overturned Rabbinic Court rulings in which the religious consideration, though weighed alongside other considerations, was the one that tipped the scales. In such cases, when it becomes clear that "through the window of the 'best interests of the child' we view doctrines and laws that do not necessarily obtain from the best interests of the child", the Supreme Court is likely to reject the Rabbinic Court ruling and in its stead rule in favor of the best interests of the child as it perceives this, without giving independent, significant weight to the religiousness of the education the child will receive.

38. Another example of consideration of the best interests of the child is provided by a recent case in which the Family Court in Jerusalem rejected a plea to conduct a tissue-typing test for the purpose of negating paternity of a nine-year-old child. It based its ruling on the belief that the "minor can, at his age, understand a claim of child support on his behalf, but cannot understand, without it devastating the foundation of his existence, that his father disputes his paternity". (Family Court Case (Jerusalem) 12980/97 *Anonymous Plaintiff v. Anonymous Defendant* (10.11.98).)

39. Nevertheless, in some matters the rights of the parents or the interests of society are considered in addition to the "best interests of the child". Thus, for example, the best interest of the child is not, in itself, a cause for adoption. In a series of rulings, the Supreme Court determined that even if adoptive parents are likely to be better parents than a child's biological parents, this does not constitute sufficient cause to remove the child from the custody of his biological parents (see Civil Appeal 623/80 *Anonymous Plaintiff v. Attorney General*,

P.D. 45(2) 72). Rather, it is permissible to place a child up for adoption only when there is cause for adoption, for example, when the biological parents are unable to provide sufficiently for the child. In any case, it is clear that the child's best interests are the decisive consideration when there is cause for adoption.

40. Another example is provided by the policy of social integration into the education system. In accordance with this policy, children are deliberately placed in schools with the aim of raising the level of the schools in each region to a given standard, preventing the flight of students from weaker to more affluent areas, and integrating students from different ethnic and economic backgrounds ((Petition to the) High Court of Justice 595/88 *Schulman v. Director of the Tel Aviv Board of Education*, P.D. 52(3) 594). Sometimes, children are placed in a school in accordance with the policy of integration and in defiance of their wishes and those of their parents; the claim has been made that this is a breach of their interests. In this matter the Supreme Court has ruled that the "best interests of the child" are not an exclusive consideration, but rather represent only one consideration to be weighed alongside "the best interests of the public and its reform", which are reflected in the policy of integration. (See (Petition to the) High Court of Justice 421/77 *Nir v. Beer Yaakov Regional Council*, P.D. 32(2) 253.)

41. The perception of the "best interests of the child" has also not yet achieved a stable position in the judicial debate over current fertility technologies, such as in-vitro fertilization, sperm donation, and surrogate mothers. For example, when the Supreme Court debated the fate of fertilized ova in a case in which a husband refused to continue the embryonic process, the court weighed many considerations, but only one of the 11 judges who sat in the additional and decisive hearing in this case raised the issue of the "best interest" of the child who would be born into a single-parent family. However, even this judge stated that he could not rule in the matter, because of the impossibility of determining whether it was better for a child not to be born at all than to be born into a single-parent family: "The answer to the question of whether non-existence is preferable to existence lies in the realms of philosophy and ethics; the helplessness of the court to resolve it is clear" (Additional Civil Appeal 2401/95 *Nahmani v. Nahmani*, P.D. 50(4) 661). Even in the initial hearing held in the Supreme Court in this matter, only one judge addressed this consideration, stating that "given the reality we live in and the personal circumstances of Ruti Nahmani [the claimant], I would not give weight to the "best interests of the child" and deny what she has requested solely for that reason" [emphasis in the original] (Civil Appeal 5587/93 *Nahmani v. Nahmani*, P.D. 49(1) 458, p. 521).

C. The dignity of children

42. In the mid-1990s, the Supreme Court began debating the issue of a child's right to dignity.

43. The increased use of the term "the right to dignity" in matters concerning children may be ascribed to passage of the Basic Law: Human Dignity and Liberty, which sets constitutional statutes for the protection of human rights, at the core of which is respect for human dignity. This fundamental law has been given crucial symbolic and practical significance by the Israeli justice system. It has also had a great deal of influence on rulings concerning children.

44. For example, a Supreme Court decision to disqualify an agreement between parents which would have relieved the father of responsibility for child support payments was based on the court's belief that the agreement was an affront to the child's dignity (see Civil Appeal 5464 *Anonymous Plaintiff v. Anonymous Defendant (Minor)*, P.D. 48(3) 857). The right to dignity was also the basis of a recent Supreme Court ruling that overturned an old law, which permitted corporal punishment of children for educational purposes (Criminal Appeal 5224/97 *State of Israel v. Sde Or* (20.7.98, not yet published); Criminal Appeal 96/98 45 *Anonymous Plaintiff v. State of Israel* (25.1.00 not yet published)). In the spirit of that ruling, a clause of the Civil Wrongs Ordinance was recently annulled by the Knesset, which had granted immunity to parents, guardians and teachers who practiced corporal punishment on a minor "to the degree reasonably necessary to mend his ways". Another important example of the Supreme Court's belief in a child's right to dignity was proved by its finding a creative interpretation that allowed it to "circumvent" a law that would have prevented a child's right to know the identity of his parents. Thus one Supreme Court judge who sat in that case tied human dignity, as protected by the Basic Law: Human Dignity and Liberty, with natural law:

> "The dignity of a man trumpets free will and choice. … a man who wishes to know who his father is, who his mother is, where he comes from - who shouts, 'who am I?' - does his dignity not live?
>
> It is difficult - very difficult - to accept such a law. Not for naught have we spoken of natural law, which took the form of human dignity in the Basic Law: Human Dignity and Liberty" (Civil Appeal 3077/90 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49(2) 578, p. 593).

45. Similarly, the Family Court in Jerusalem based its ruling on the right to human dignity when it respected the wishes of two girls age 10 and 13 to emigrate from Israel with their mother. The court stated that "we may not, barring exceptional or compelling circumstances, force an older child with mature will and understanding to remain with one parent, when his clear and absolute desire is to be with the other parent" (Family Court Case (Jerusalem) 14622/97 *Anonymous Plaintiff v. Anonymous Defendant* (31.8.98)). In this ruling, the court also based itself on the UN Convention, which addresses both the best interests of the child and the child's will. In 1998, the same court accepted the claim of a 16-year-old minor who wished to go abroad during summer vacation with the youth movement in which she was active, despite the objection of her father, who believed that the trip would harm his daughter's studies. This ruling, too, was based the child's constitutional right to human dignity.

46. Even if we claim that defending the dignity of children is compatible with their best interests, the change in rhetoric and terminology has implications for the future, and signals an important change of emphasis: The essence of the concept "the best interests of the child" is paternalistic. The essence of the concept "the dignity of the child" is the recognition that children are autonomous and thus have the fundamental right to dignity - a right which may conflict with paternalistic concerns.

D. The rights of children

47. The concept of "children's rights" as an independent discipline first appeared in Israeli Supreme Court rulings in the mid-1990s (Civil Appeal 2266/93 *Anonymous Plaintiff (Minor) v. Anonymous Defendant*, P.D. 49(1) 227). The test case was one in which the Supreme Court was asked to rule in the matter of the religious education of children of parents who had separated because the mother had become a Jehovah's Witness. The children remained with their mother, who wished to educate them according to the beliefs of the Jehovah's Witnesses. The father objected, demanding that the children receive a Jewish education. The chief justice of the Supreme Court, Meir Shamgar, suggested ruling in the matter on the basis of the child's rights. He described the relationship between a child's rights and his "best interests" as follows:

> "The 'rights of the child' do not supercede the 'best interests of the child'. On the contrary: The concept of 'rights' is broader than that of one's 'best interests', and subsumes it. What is remarkable in our turning to the rights of the child is that the 'best interests of the child' is a subjective emotional concept, which requires the judgment and factual evaluation of the court in each specific instance, while the 'rights of the child' is a normative-legal concept that relies on a familiar, established system of rights - which is, of course, also guided by the aspiration to realize the best interests of the child. …The test of the rights of the child anchors the autonomy of children's rights in the obligation to recognize and respect them. The best interests of the child is assumed by the recognition and respect of his rights. It is difficult to imagine that acknowledgement and respect of a child's rights would not be in his best interests, or that a child's best interests could be conditional upon ignoring his other constitutional and legal rights. … In cases involving a child's fundamental constitutional rights, the appropriate mechanism for the court is that of the rights of the child; the best interests of the child alone will not suffice to express the interests of the child in a dispute" (op. cit. 254, 260).

48. Chief Justice Shamgar also stressed the autonomy of the rights of the child, as distinct from the rights of the parent:

> "The concept the 'rights of the child' teaches us that children have rights. In essence, this concept erects a protective constitutional shelter over the child. It expresses the recognition that he has rights; the integrity of these rights also guarantees the fulfillment of his best interests. As a measure for resolving custody disputes or disputes between parents, this concept expresses the view that a child is an autonomous being with rights and interests that are independent of those of his parents. While the extent of these rights is liable to be narrower than that of adults, this does not mean that the rug should be pulled out from under the fundamental assumption that children have rights."

49. Given that the children had been raised and educated as Jews and did not express any desire to join the sect of which their mother was a member, Chief Justice Shamgar ruled that it was their right to continue to be educated as Jews until they were capable of deciding otherwise - even though by thus strengthening the children's position, he risked unsettling the autonomy of the family and weakening it.

50. Although the other judges who heard the case concurred with the chief justice, only one of them made an argument based on the same principles. The other three judges expressed the opinion that the test of the "best interests of the child" took precedence, stating that in any case in which the desired outcome based on the child's best interests contradicts the desired outcome based on the child's rights, the child's best interests should hold sway. Nevertheless, even these judges did not dispute the importance of recognizing the principle of children's rights.

51. Since that ruling, and perhaps in its wake, awareness has grown in Israel of the autonomy of children's rights. Legal debate has intensified regarding the significance of recognizing children's rights and the discrepancies between their rights and their best interests (Application for Civil Appeal 2043/98 *Amin v. Amin* (4.10.99 not yet published)). For example, the Supreme Court approved a ruling of the Tel Aviv-Jaffa District Court - apparently the first of its kind in the world - that placed liability for damages on a father who had disowned his children, and thereby caused them emotional pain and suffering. The court ruled thus, although it acknowledged the sensitivity of the issue and the need to avoid inappropriate infringement of a parent's autonomy. In so doing, the court recognized children as having rights of their own. In a similar spirit, in a May 1999 ruling based on the Court for Family Matters Law 1995, the Family Court in Tel Aviv-Jaffa recognized the right of a minor age 11 to separate representation by an attorney who would serve as her guardian in legal matters, in conflicts between her divorced parents. In this case, the court based itself on article 12(1) of the Convention, which requires enabling a child to be heard, directly or indirectly, in any judicial matter concerning him (Family Court Case (Tel Aviv) 23860/96 *Anonymous Plaintiff v. Anonymous Defendant and Others* (not yet published)).

E. Summary

52. The fundamental principles declared in the introduction to the UN Convention on the Rights of the Child (hereinafter: the Convention) - including the recognition of childhood as deserving special attention, support, and legal protection, and of the crucial importance of the family environment to the growth and development of children - are also the fundamental principles on which laws concerning children are based in Israel. Furthermore, the central principles expressed in the articles of the Convention are compatible with the principles underlying Israeli law. As described above, these shared principles include the obligation to act in accordance with the best interests of the child as a primary consideration, and the frequent concern with the rights and obligations of parents.

53. Indeed, Israel's courts - both the Supreme and the Lower Courts, including Family Courts - have cited the Convention and based rulings upon it. For example, the Supreme Court's understanding of the essence of children's rights is based on the Convention, as indicated by its ruling in favor of the plaintiff in the paternity suit of a Moslem girl, which was based on a child's right to know his parents, as stipulated by article 7 of the Convention (Civil Appeal 3077/9 *Anonymous Plaintiff (Hemda) and Others v. Anonymous Defendant (Yunis)*, P.D. 49/2 578). In two other rulings, the court based itself on the Convention's prohibition against the use of corporal punishment in children's education. In this matter, the court wrote:

> "Recognition of a child's right to protection of the integrity of his body and mind is distinctly stated in the UN Convention on the Rights of the Child. …The Convention expressly forbids the use of physical or emotional violence toward children, and requires the States Parties to take steps to prevent violence against children" (Criminal Appeal 4596/98 *Anonymous Plaintiff v. State of Israel*, P.D. 54(1) 145, p. 185).

54. In a number of rulings, the District Court of Tel Aviv-Jaffa also based itself on the Convention, stating that the Convention is "a source of great importance" (see for example Criminal Case (Tel Aviv-Jaffa) 64/96 *State of Israel v. Anonymous Defendant* (not yet published); Criminal Case (Tel Aviv-Jaffa) 511/95 *State of Israel v. Anonymous Defendant* (not yet published)). In another instance, the Family Court in Tel Aviv prohibited the parents of twins, who were born to a surrogate mother in Israel, from relating their experiences in a television movie. The judge ruled that the children's right to privacy - a right anchored in the Convention - takes precedence over the parents' right to publish (Family Court Case (Tel Aviv) 4570/98 *Anonymous Plaintiff and Others v. Attorney General* (not yet published)). In yet another case, the District Court in Tel Aviv-Jaffa used the Convention as a basis for an interpretation of the law, which emphasized the right of children of parents who have separated to maintain contact with both parents and, derivative thereof, the right of children to be heard by the court before the court rules on their custody (Family Court Appeal (Tel Aviv-Jaffa) 33/96 *Anonymous Plaintiff v. Anonymous Defendant* (not yet published)). The Family Court in Jerusalem rejected the petition of a mother to change the name of her minor son; it based its decision on the Convention's stipulation that children have separate rights in this matter. In another case, the Family Court in Jerusalem cautioned that Israeli law regarding a child's right to be heard in legal proceedings does not fully comply with the statutes of the Convention, and should be changed accordingly (Family Court Case (Jerusalem) 19530/97 *Anonymous Plaintiff v. Anonymous Defendant* (not yet published)).

55. There are a few other principles outlined in the Convention that have not yet been fully grounded in Israeli law. We refer primarily to the principles set down in articles 12 and 27 of the Convention. Article 12 of the Convention stipulates that a child who is capable of expressing his opinion must be given the right to freely express that opinion in any matter concerning him, and that his opinion must be given due weight in accordance with his age and maturity. Article 12 also stipulates that children be heard in any administrative or legal proceeding that concerns them directly or indirectly. Current law in Israel arranges the right of a child to be heard and his opinion to be considered in certain matters that concern him. For example, section 149g of the Municipalities Ordinance cited above, which was amended in 2000, stipulates that representatives of student and youth movement councils serve on local and municipal committees for the advancement of children. (See also the Youth Employment Law as it addresses the hearing of children and the Pupils' Rights Law 2000 in this matter.) However, while current legislative initiatives address specific aspects of a child's right to be heard, there is as yet no general order in this matter, and the practice of allowing children to be heard is not consistent.

56. Article 27 of the Convention stipulates the right of a child to a standard of living appropriate to his level of development, the obligation of his parent in this regard, and the obligation of the State to assist his parents in this regard by providing material assistance when necessary. This article (as well as articles 25, 26, ff.) ensures the child's social and economic rights. Indeed, the

UN Convention on the Rights of the Child, perhaps more than any other international convention, is outstanding in its integration of civil and political rights with social and economic rights. Nevertheless, in Israel, such integration is not a fait accompli. Public debate still rages over the role of social rights in the tapestry of human rights. Moreover, rights that have not yet been fully recognized for adults remain incomplete for children, as well.

57. Additional, special problems arise in Israel as a result of its multi-religious and multi-ethnic population. A prime example of this is the variety of types of education offered in Israel. Alongside State education and State religious education systems, there are private, church-affiliated and private, ultra-orthodox Jewish institutions. Such institutions are relatively autonomous; children may attend them on the prerogative of their parents. Some claim that ultra-orthodox Jewish institutions in particular, which focus on religious studies, do not provide the basic secular studies that prepare students to function in the modern world, and consequently put them at a disadvantage socially and economically. Article 29 of the UN Convention addresses the tension between the aspiration toward cultural freedom, for parents, and the need to protect the rights and best interests of children; however, it is doubtful whether the stipulations of this article resolve the tension.

58. Lastly, like other countries with developed economies, Israel attracts foreign workers. These foreign workers (and their children), some of whom remain in Israel illegally, are eligible for the same basic human rights as are citizens and legal permanent residents. While certain rights - such as the right to free education - are provided, at least in part, to the children of foreign workers, many others are denied them, regardless of their parents' legal status.

III. GENERAL MEASURES OF IMPLEMENTATION

59. This chapter addresses the steps that have been taken by the State of Israel to implement the UN Convention on the Rights of the Child. First, we will describe the legal status of the Convention, and describe the parliamentary activity undertaken to promote it. Then we will discuss the means used by national and local government authorities to comply with article 4 of the Convention, including the allocation of resources to protect the economic, social and cultural rights of children. Lastly, we will cite the non-government and government organizations that disseminate the rights of the child among children and adults alike, in compliance with article 42 of the Convention.

Articles 4, 42 and 44 (6) of the Convention

1. The status of the Convention in Israeli law

(a) The Convention's ratification and legal status

60. The United Nations (UN) Convention on the Rights of the Child was signed by the State of Israel on 3 July 1990 and ratified by the Knesset on 4 August 1991; it went into effect on 2 November 1991. Although the Convention does not have the status of law, it is often cited in rulings of both the supreme and the lower courts as a legal source and a basis of interpretation (for further detail, see Chapter II). Table 1 gives examples of rulings that were based on the tenets of the Convention.

61. The interpretive authority granted the Convention by its ratification reflects the State's commitment to making its laws and legal norms congruent to the Convention. A Supreme Court judge has written that the law should be interpreted and enforced in a manner compatible with the Convention, deviating from the Convention in exceptional cases only. It should be noted that her two colleagues left this matter open to further study (Criminal Appeal 3112/94 *Abu Hassan v. State of Israel* (11.2.99. not yet published)). In another ruling, the Supreme Court determined that adherence to an international convention, which assumes mutuality, requires its uniform interpretation by all signatory countries. In December 2000, the Pupils' Rights Law 2000 was passed. The first section of the law stipulates that the law's aim is to determine the "principles for the rights of the student, in the spirit of human dignity and the principles of the UN Convention on the Rights of the Child".

62. The State of Israel is also a signatory to other international conventions concerning children. For example, since 1953, Israel has been a party to conventions of the International Labor Organization (ILO), primarily the Convention Concerning Medical Examination of Children and Young Persons in Non-industrial Occupations (No. 78, 1946); the Convention Concerning Medical Examination for Fitness for Employment in Industry of Children and Young Persons (No. 77, 1946); the Convention Concerning Night Work for Children and Young Persons in Industrial and Non-industrial Occupations (No. 90,1948 and No. 79, 1949). Since 1980, Israel has been a party to the International Labor Convention Concerning Minimum Age for Admission to Employment (No. 138, 1973). In addition, Israel is a party to the Hague Convention on International Private Law. Since 1991, Israel has been a party to the Hague Convention Concerning Civil Aspects of Child Kidnapping (No. 513 XXVIII, 1980), and since 1995, Israel has been a party to the Hague Convention Concerning the Protection of Children and Cooperation in Respect of Inter-country Adoption (1993).

Table 2

Court rulings based on articles of the Convention on the Rights of the Child

Ruling	Article of the Convention
Supreme Court Cases	
Criminal Appeal. 4596/98 *Anonymous Plaintiff v. State of Israel,* P.D. 54(1) 145	9(1)
Civil Appeal 93/2266 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49 (1) 221	3, 14
Criminal Appeal 3112/94 *Abu Hassan v. State of Israel*, P.D. 53(1) 427	37(a)
(Petition to the) High Court of Justice 1554/95 *"SHOHAREY G.I.L.A.T." v. Minister of Education*, P.D. 50(3) 2	28
Additional Civil Appeal 7015/94 *Attorney General v. Anonymous Defendant*, P.D. 50(1) 48	13(1)
Civil Appeal 3077/90 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49(2) 578	7

Table 2 (continued)

Ruling	Article of the Convention
Criminal Appeal 5224/97 *State of Israel v. Sde Or* (not yet published)	19(1)
(Petition to the) High Court of Justice 5227/97 *David v. Rabbinic High Court Jerusalem* (not yet published)	3
District Court Cases	
Criminal Case (Tel Aviv) 40069/00 *State of Israel v. Anonymous Defendant* (not yet published)	12
Family Court Appeal (Tel Aviv) 3/98 *Biton v. Biton*, 500-48 98(3) 2509	12
Family Court Appeal (Tel Aviv) 90/97 *Moran v. Moran* (not yet published)	12
Civil Appeal 3275/98 *Child Protection Officer v. Anonymous Defendant* (not yet published)	6, 12
Family Court Appeal (Tel Aviv) 1009/00 *Anonymous Plaintiff v. Anonymous Defendant* (not yet published)	12
Family Court Appeal (Tel Aviv) 3/99, 4/99 *Anonymous Defendants v. Attorney General* (not yet published)	3
Family Court Appeal (Tel Aviv) 36/96 *Anonymous Defendants v. Attorney General* (not yet published)	16
Family Court Appeal (Tel Aviv) 1010/98 *Keshet v. Keshet* (not yet published)	3
Family Court Appeal (Tel Aviv) 33/96 *Deutsch v. Deutsch* 500-48 97(2) 1567	9, 7(2), 10(2), 18
Family Court Appeal (Tel Aviv) 1125/99 *Anonymous Plaintiff v. Anonymous Defendant* (not yet published)	9, 7(2), 10(2), 18
Criminal Case (Tel Aviv) 40006/00 (not yet published)	37b
Family Court	
Family Court Case 94300/90 (not yet published)	12
Family Court Case (Tel Aviv) 23860/96 *Anonymous Plaintiff v. Anonymous Defendant* 500-48 96(2)	12
Family Court Case (Jerusalem) 2030/97 *Anonymous Plaintiff v. Anonymous Defendant* 500-48 98(2), 81	12
Family Court Case (Tel Aviv) 23200/96 *Anonymous Plaintiff v. Anonymous Defendant* 500-48 96(2)	Preamble
Family Court Case (Beer Sheva) 10101/98 *Judicial Review* 251, p. 15	7(11), 7(2)

(b) The Committee to Examine Fundamental Principles Concerning Children and the Law, and Their Implementation in Legislation

63. In June 1997, the Minister of Justice appointed a "committee to examine fundamental principles concerning children and the law, and their implementation in legislation". The minister appointed this committee to thoroughly examine Israeli law concerning the rights of the child and the child's legal and welfare status, in light of the principles set down in the UN Convention on the Rights of the Child. The committee was asked to examine the need for legislation, including amendments to current laws, so that the State could meet its commitment to the Convention. It was also asked to assess the need to write an integrative law regarding the status of children and youth, in light of the Convention and on the basis of a comprehensive, uniform perspective. The committee was further asked to examine the necessity of establishing agencies and mechanisms to implement, coordinate and regulate fulfillment of the rights of the child, as outlined in the Convention.

64. This committee comprises senior public and other officials from a variety of fields, including the court system, the Ministry of Justice, the Ministry of Labor and Social Affairs, departments of social work, law and psychology of the universities, the system of mental health services for children, the Council for Child Welfare, and the Israel Bar Association. To date, five sub-committees have been established, which address the continuum of child protection, out-of-home placement, the child in the family, education, and the child in criminal proceedings.

65. In 1999, a project was implemented concurrent with the committee's work, whose goal was to hear the views children, according to article 12 of the Convention. This project is being evaluated.

(c) Parliamentary activity

(i) Knesset members' lobby for children

66. The first goal of this lobby is to promote legislation concerning the rights of the child. To this end, it coordinates proposed laws concerning children; monitors the status of tabled laws and the publication of reports; promotes proposed laws by lobbying the heads of relevant committees; reminds Knesset members to promote laws they have proposed; and increases Knesset members' awareness of the lobby's support of proposed laws concerning children. Furthermore, in 1997-1998, the lobby initiated 21 proposals for legislation.

67. In addition to its legislative activity, during the 14th Knesset the lobby organized site visits for Knesset members (e.g., to a juvenile detention hall, a school attended by the children of foreign workers, and a summer camp for disabled children), met on budget issues, observed "Convention on the Rights of the Child Day" in the Knesset, raised nine laws for debate before the plenum in one month alone (November 1997), organized a conference and participated in one-day conferences, and hosted guests from Israel and abroad.

68. The lobby also cooperates with relevant voluntary organizations, for example on one-day conferences like that held on the initiative of the National Council for the Child. This conference, titled, "Children in Israel 1998: Fifty Years of Activity, Another 50 Years of

Commitment", held at the Knesset in July 1998 during the State's jubilee, addressed the current situation and trends for the future regarding children and the law, welfare, health, and education. Lecturers included government ministers, chairpersons of relevant parliamentary committees, professionals from public agencies (including the National Council for the Child), and representatives of youth. The lobby organized a question-and-answer session for youth council representatives with ministers and Knesset members.

(ii) Proposed bills on the rights of the child

69. A number of proposed bills (tabled in 1993, 1996 and 1997) sought to grant Section I (articles 1-41) of the Convention legal standing. Their proposal led to extensive discussion in the Knesset, which revealed the State's commitment to the principles of the Convention, while reiterating that the Convention itself need not be made law. Following the establishment of the committee to examine fundamental principles concerning children and the law and their implementation in legislation (cited above), the Knesset members who had proposed these bills decided to shelve the proposals for the time being. In early 1997, a discussion was held in the committee on early childhood, which is a joint sub-committee of the labor and welfare and the education and culture committees. Representatives of the Ministry of Justice, the National Council for the Child, Defense for Children International (DCI), and the Ministry of Labor and Social Affairs attended this discussion. The committee reported that "although six or more years have passed since [the Convention's] ratification, the Convention's principles and recommendations do not have sufficient influence on the living conditions and rights of children in Israel. … the authorities of the State of Israel are still coping with implementing the Convention on the Rights of the Child, even though some of its articles reflect the spirit in which the State itself acts on behalf of children".

70. The work of this committee led to the establishment in July 1999 of a Knesset committee for the advancement of the status of the child, whose task it would be to comprehensively and holistically address issues concerning children, including their rights as outlined by the Convention. During its first year of activity, this committee (which was open to student council representatives), drafted three bills: one that would establish in every municipality and local authority of a permanent committee to promote the child; one that would establish rehabilitative day care centers for disabled and retarded children; and one that would ensure the placement of a young child at risk in a day care center. The committee discussed the health and welfare of children, problems in education, problems arising from the gaps in service provision to Arab children, emphasizing violence against children and among youth, the importance of early childhood, and the rights of children in the legal system. In addition, the committee organized discussions in the Knesset on children's rights as a human right, literature and children, safety devices, and violence among youth, which were attended by hundreds of students, representatives of government ministries and voluntary organizations.

71. The Knesset is very active on behalf of children, establishing ad hoc committees on pressing issues, such as violence among youth. Recently, Knesset committees and the National Student Council have been working to establish a body of youth representatives ("the young legislator") that will monitor the discussions of most Knesset committees.

(iii) Adaptation of laws

72. Recent years have seen extensive legislative activity on behalf of children (see Tables 2, 3 and 4). Many new bills and amendments to existing laws have been proposed, some of which have been ratified, some of which have been rejected, and some of which are still being debated in the relevant government ministries (for example, an initiative for comprehensive reform of the Youth (Trial, Punishment and Modes of Treatment) Law, and a proposed bill protecting the eligibility of children at risk for services).

Table 3

Laws enacted during the past 10 years

Law	Year	Relevant article of the Convention
Special Education	1988	23: the right of the disabled child to special education
Prevention of Family Violence	1991	19: protection against abuse
Hague Convention	1991	3: the best interests of the child 11: prevention of illegal transfer 12: respect for the child's opinion
Consumer Protection (Advertisements to Minors)	1991	36: protection against undue advantage 17: protection against exposure to harmful information
Single Parent Families	1992	27: the right to a reasonable standard of living
Children's Sick Days	1993	18: both parents have responsibility for raising the child, and the Sate will provide appropriate assistance; children of working parents will have the right to benefit from child care services
Court for Family Matters	1995	3: the best interests of the child 5: guidance and instruction of parents

Table 3 (continued)

Law	Year	Relevant article of the Convention
Detection of the AIDS Virus in Minors	1996	16: protection of privacy 23: recognition of the right to live with dignity of children with impaired health 24: the right to a high level of health and health services
Public Defense	1995	37(d): the right to representation at incarceration and trial/legal proceedings
Treatment of Mentally Ill	1991	12: the right to be heard 23: treatment for mentally ill children
Extended School Day and Educational Enrichment	1997	28: the right to equal opportunities in education
Rehabilitative Day-care Centers	2000	6: the right to development 23: treatment for disabled children 2: non-discrimination
Students' Rights	2000	12: the right to be heard 16: protection of privacy

Table 4

Amendments to laws enacted during the past 10 years

Amendment to the Law	Year	Relevant article of the Convention
Amendment to the Penal Law: Increased Severity of Punishment of Relatives Who Harm Children; Obligatory Reporting	1989	19: protection against abuse and neglect
Amendment to the Law: Evidence Ordinance Revision (Protection of Children) Expansion to Crimes of Assault and Abuse	1991	36: prevention of undue advantage

Table 4 (continued)

Amendment to the Law	Year	Relevant article of the Convention
Amendment to the Youth Law: Obligation to Hear Minors, Parents and Guardians	1995	5: guidance to parents 12: respect for the child's view
Amendment to the Penal Law: Taking Evidence Immediately	1995	40: protection of children in the juvenile court system
Amendment to the Penal Law: Statute of Limitations on Sexual Crimes against Children	1996	19 and 34: protection against sexual assault and abuse
Amendment to the National Insurance Law: Cancellation of the Reduction in Children's Benefits	1997	26: the right to social security 27: the right to a reasonable standard of living
Amendment to the Single Parent Families Law: Children's Benefits up to Age 21	1997	26: the right to social security 27: the right to a reasonable standard of living
Amendment to the Adoption of Children Law: International Adoption Agreement Permit for Adoption of Children by Parents of a Different Religion	1997	11: prevention of illegal transfer 21: adoption for the best interests of the child with permission of the authorities
Amendment to the Youth Employment Law	1998	32: protection of working children 12: participation 36: protection against undue advantage
Amendment to the Youth (Care and Supervision) Law: Sanction against the Publication of Information about Crime Victims	1998	16: the right to privacy
Amendment to the Municipalities Ordinance	2000	2: equal fulfillment of rights stipulated by the Convention 3: the best interests of the child 12: the right to be heard 13: freedom of expression

Table 5

Proposed bills in advanced stages of ratification

Proposed Bill	Year	Relevant article of the Convention
Youth Employment Law (Amendment No. 11) - Head of Public Agency Obligation	2000	32
Penal Law (Amendment No. 55) - Imposition of Minimum Punishment on Relative for Injury with Serious Intent	2000	19
Protection of Genetic Information Law	1998	16

2. Implementation of the Convention by national and local government

73. This section presents the administrative mechanisms that advance the rights of the child in Israel, through concern for his welfare, well-being and needs, and through data collection and research, as stipulated by article 4 of the Convention.

(a) Initiatives of government ministries

74. Although no specific mechanisms for implementing the Convention have been established by the government, since ratification of the Convention, government ministries have initiated many changes that are compatible with the Convention's principles. These initiatives are described in this report, as follows: for initiatives of the Ministry of Labor and Social Affairs, see the chapter on the family environment (Chapter VII); for initiatives of the Ministry of Education, see the chapter on education and recreation (Chapter IX); for initiatives of the Ministry of Health, see the chapter on health and welfare (Chapter VIII); and for initiatives of the Ministry of Justice and the Ministry of Public Security, see the chapter on special protection measures (Chapter X).

(b) Data collection and research as a basis of children's rights

(i) Public agencies

75. A number of public agencies regularly publish information about children and youth, in the framework of the information they provide on the general population of Israel. The following agencies are among them.

76. The Central Bureau of Statistics collects a great deal of data on children as part of the many surveys it conducts. Some of these data are published annually in the *Statistical Abstract of Israel*, which includes data on the living conditions of children. The Abstract also presents data on the percentage of children in the population, household composition, birth rates and infant mortality, secure housing and youth probation services, education, morbidity, and social security. The Central Bureau of Statistics also produces special publications and periodicals - including the quarterly New Statistical Activities and Publications in Israel - which include information on

government and public studies and which contain information about children. In addition, the Central Bureau of Statistics produces a series of publications on social indicators in fields such as education, health, and welfare, which contribute to current knowledge about children. Recently an inter-ministerial forum on statistics about children was established to coordinate government ministries and help in the collection and publication of data on children.

77. The National Insurance Institute publishes an annual report of its activities, which includes an analysis of the effect of its various programs. In the framework of these annual reports, a series is published which presents annual data on poverty, including the poverty rates among children and families with children. Occasionally, special issues are devoted to children. The Institute's sizable research department also produces many studies on children.

78. A number of departments in the government ministries that provide services to children publish reports of their activities, as do some of the local authorities. However, these reports are not published regularly. Similarly, since services do not have comprehensive information systems, often these data are partial or are not up to date. To compensate, government ministries may conduct or commission studies in their areas of activity, or maintain constant reporting through the Central Bureau of Statistics (e.g., the series' on education or on juvenile delinquency).

79. The National Institute of the Ministry of Health finances studies in all areas of health, including children's health.

80. The Israel Center for Disease Control was recently established by the Ministry of Health; it generates and disseminates current data on health issues, including those concerning children.

81. The Henrietta Szold Institute, under the auspices of the Ministry of Education, conducts research on Israeli society, education and behavior.

(ii) Non-government agencies

82. The following non-government agencies also generate information, which may be relevant to the status and rights of children.

83. The Center for Social Policy Studies in Israel publishes an annual report analyzing government expenditure on education, welfare and health services, which sometimes includes articles concerning children.

84. The Adva Center is concerned with issues of equality and disparity in Israeli society, and periodically studies dimensions of equality. The center devotes a great deal of attention to issues pertaining to children and minorities.

85. The Center for Research and Policy Design of the National Council for the Child was established in 1991 as the applied research arm of the Council. Among its many activities, the center publishes the most complete statistical report on children in Israel. This statistical yearbook, The State of the Child in Israel, which is published in cooperation with JDC-Israel, the JDC-Brookdale Institute and government ministries, includes data from a variety of sources on

most aspects of children's lives. The Council also publishes a special report on immigrant children.

86. The NCJW Research Institute for Innovation in Education of the National Council of Jewish Women, under the auspices of the School of Education of The Hebrew University, conducts research on education, especially pertaining to the reduction of gaps.

87. The Center for Children and Youth of the JDC-Brookdale Institute was established to generate and disseminate the applied information necessary for the development of policy and programs that promote the welfare and education of children and youth. At present, the center conducts research on services for children at risk, children with disabilities, immigrant children and youth, health promotion, and youth leadership. The center also develops information systems for children's services as a basis for planning, policymaking and identifying children at risk. Center staff also identify, document and disseminate successful approaches to and services for children. The center conducts separate studies of Arab children and youth, and cooperates with professionals from the Arab sector through a steering committee of Arab and Jewish experts on children. The steering committee is presently setting priorities for the promotion of Arab children and youth, and is preparing a comprehensive book on the subject.

88. The Minerva Center for Youth Studies was established in 1995 by the Minerva Foundation in Germany, and is adjunct to the University of Haifa. The center's goal is to study issues concerning children and youth that are of interest to public policymakers. Accordingly, the center studies the attitudes and values of Jewish and Arab youth regarding democracy, the Israeli-Arab conflict, minorities and immigrants, violence in the family, drug abuse, juvenile delinquency and the like.

89. The Adler Center was established in 1997 by the School of Social Work of Tel Aviv University. The center conducts research into children at risk.

90. Sikkui - The Association for the Advancement of Equal Opportunities is a Jewish-Arab voluntary organization, which publishes an annual report on the equal rights and integration of Arabs. The annual report also contains information on children and children's services.

(iii) Research into the Arab population

91. All of the above agencies study the entire population of children in Israel, both Jews and Arabs. In addition, the following agencies focus on the Arab population.

92. The Galilee Society - The Arab National Society for Health Research and Services conducted a survey of Arab children with special needs. The survey steering committee recommended establishing an initial data base to map the agencies that have data on children, particularly those newborn to age seven, and helping to formulate strategic interventions.

93. In 1999, the Center for Bedouin Studies and Development, under the auspices of Ben-Gurion University of the Negev, published the first statistical yearbook on Bedouin in the Negev, which includes data on education, health and welfare.

(iv) Research into the immigrant population

94. The following agency generates data on immigrant children.

95. The Israel Association for Ethiopian Jews (IAEJ) is a voluntary agency that promotes the integration of Ethiopian immigrant students into the education system and into society. IAEJ collects data on aspects of the integration of Ethiopian students, such as scholastic achievements, drop-out rates, eligibility for matriculation, delinquency, and the interaction between the education system and parents. IAEJ publishes and disseminates its findings as a basis for action on behalf of Ethiopian students.

(c) Mechanisms regulating implementation of the Convention

96. As yet, there is no specific mechanism for regulating the implementation of the UN Convention on the Rights of the Child. Nevertheless, the State Comptroller's Office publishes an annual report citing shortcomings in government activities, including violations of children's rights. For example, the 1995 State Comptroller's report reviewed the functioning of the regular school attendance system, and found that tens of thousands of children do not attend school, in part due to a lack of elementary education frameworks for students with differing needs and levels. The 1993 State Comptroller's report reviewed how welfare agencies handle the adoption of children at risk. The report found that adoption procedures were unduly long, and that there is no appropriate follow-up of children in out-of-home placements (e.g., institutions) who have no contact with their families, and who might have been suitable for adoption. The 1992 State Comptroller's report made a thorough review of the discrepancies in educational inputs between the Jewish and Arab sectors. It found, for example, that fewer hours of educational enrichment are provided in the Arab sector, despite its lower level of achievements.

(d) The efforts of public agencies to implement the Convention

97. Many public bodies, including labor unions, work to implement the Convention. To illustrate, we will describe the work of two such unions - the Israel Teachers' Union and the Israel Psychologists' Union.

(i) The Israel Teachers' Union

98. Through the Association of Teachers for the Advancement of Instruction and Education, the Israel Teachers' Union is implementing a code of ethics for teachers. The code includes 35 articles covering four issues, including that of student-teacher relations. The code requires teachers to treat students with respect; to refrain from discriminating among students on the basis of race, gender, origin, political views, social status or any other reason; to be aware of and sensitive to a student's problems and work to solve them; to assess a student's scholastic achievements on a professional, conscionable basis; and to maintain confidentiality regarding a student's status. Under the code, a teacher who is charged with assaulting a student can expect to have his teachers' license revoked, and a teacher who insults a student because of his ethnic origin will be called to a disciplinary hearing.

99. Several years ago, a steering committee comprising senior educators and academics was established to formulate an ethical code. Initially, the committee conducted a study so as to formulate the basic values to which a teacher should aspire. A draft report of this study cites values such as sound judgment, liberty, responsibility, equality, respect for others, consideration, tolerance and solidarity, as expressed in the UN Convention on the Rights of the Child.

100. In order to involve teachers in formulating the final version of the ethical code, steering committee members visit schools and present the draft of the code in an active workshop that includes the presentation of hypothetical dilemmas and discussion.

(ii) The Israel Psychologists' Union

101. This organization actively participated in sessions of the Knesset committee on early childhood that concerned issues of psychology (e.g., promotion of legislation authorizing free education for very young children, development of a network of well-baby clinics). Union members also attended sessions of the sub-committee of the Knesset labor and welfare committee that addressed amendments to the Youth Law and the Treatment of Mentally Ill Law.

3. Allocation of resources to protect the economic, social and cultural rights of children

102. In this section we will present the mechanisms that protect the economic, social and cultural rights of the child through the allocation of appropriate budgets, as outlined in article 4 of the Convention.

(a) Mechanisms for ensuring government and public allocation of resources to children

103. The methods of ensuring that the services to which children are entitled are indeed provided to them are anchored in law, in the regulations stipulated by law, and in the policy decisions of government ministries, as detailed in the Budget Law. The allocation of resources for families, health and welfare, education and recreation, and special protective measures is described more extensively in Chapters VII-X.

(b) Government expenditures on services for children

104. There is no comprehensive calculation of the expenditures on children from the national budget. However, we may consider the following data: During the first half of the 1990s, the social expenditure of the government - that is, the total government expenditure on education, health, personal welfare services and income maintenance - grew at an average annual rate of 8.7%. This growth reflected the change in the government's priorities announced in 1993. During the latter half of the decade, the government decided to reduce its deficit and hence to reduce its budget; nevertheless, the government's social expenditure continued to increase. In 1999, the social expenditure came to NIS 87 billion - 54% of the available income from debt returns, and 23% of the Gross National Product. (For a description of government expenditures on health and welfare, and education, see Chapters VIII and IX, respectively.)

(c) Reducing discrepancies among groups and geographic areas

105. Since ratification of the Convention, a number of steps have been taken to reduce gaps among population groups. Some of these concern children specifically, while others influence them indirectly. These steps are discussed extensively in the relevant chapters.

4. Voluntary organizations that implement and disseminate the Convention

106. This section describes the role of non-government organizations in the promotion of children's rights, through implementation and dissemination of the Convention, as stipulated by articles 4 and 42 of the Convention.

(a) Children's rights organizations

107. This section describes organizations that deal with aspects of children's rights.

108. DCI - Defense for Children International, Israel Section was established in Israel by Jewish and Arab professionals in 1987 with the aim of promoting the ratification and implementation of the UN Convention on the Rights of the Child. The organization works for children's rights in the Jewish and Arab sectors. Following are its main areas of activity:

- Protecting children's rights: DCI provides minors with legal counsel and representation free of charge. It conducts monthly inspections of the conditions for minors in all of Israel's prisons and detention centers. When a violation of rights is discovered, the organization makes a complaint to the Prison Service Authority or the courts. In addition, DCI works to redress inequities and violations like the lack of special education in the Bedouin sector, or violation of child labor laws.

- Disseminating children's rights and the Convention: DCI operates an information center that explains the Convention and children's rights, particularly through lectures in schools. A special project has been devoted to explaining children's rights to immigrants from Ethiopia. Once a year, DCI holds a conference for professionals. It also publicizes the Convention through the internet, where a translation of the Convention into Hebrew appears. The organization also disseminates the Convention newsletter in Hebrew, Arabic, Russian and Amharic, and publishes a local bulletin on children's rights, which also reports the organization's activities.

109. The Coalition for Children's Rights was recently established by DCI. It comprises 70 organizations that cooperate in promoting the Convention on the Rights of the Child, among them children's organizations, human and civil rights groups, and special-sector rights groups (e.g., representing people with disabilities). The coalition is compiling a report of non-government efforts to implement the Convention. Seven associations were chosen to participate in the steering committee for this report: DCI, ELEM (see below), the Association for Bedouin Rights, the Family Planning Association, the Association of the Forty (which represents unrecognized Arab villages in Israel), Physicians for Human Rights, and TZACHI (special education).

110. The National Council for the Child has been actively promoting children's rights since 1979. It does not directly provide education, welfare or other services to children, but rather ensures that children's rights are realized by promoting legislation, lobbying, conducting research, and engaging in public relations. In order to maintain its independence, the council does not accept assistance from government agencies; all of its income is from contributions and grants from organizations, foundations and private donors. The council has a number of departments and areas of activity:

- The Center for the Child and the Law lobbies to promote legislation on children's rights. The center has been involved in many recent changes in legislation and policy regarding children's rights and welfare, such as the amendment to the Penal Law concerning the statute of limitations on sexual crimes (see Chapter VII). The center works to enforce existing laws, and engages in legal debate when a child's rights have been violated. The center is developing a program of legal representation for children, through which council and volunteer attorneys will provide separate legal representation for children in matters concerning their future, such as the resolution of custody disputes. In addition, the center provides consultancy services, and implements a program to escort minor victims of crime through the criminal proceedings.

- Every year, The Center for Research and Education publishes a yearbook on children in cooperation with JDC-Israel. The yearbook provides current statistical data on all aspects of children's lives (education, law, welfare, distress, health, etc.). The center helps fund studies and surveys, such as one on how the police handle minors. It also publishes position papers and makes policy recommendations, for example regarding the system of services for children at risk. In cooperation with other organizations, the center organizes one-day conferences on child welfare, and cooperates with similar organizations abroad. In 1996, the center established a forum of business people which implements projects with commercial corporations and involves the commercial sector in activities on behalf of children and children's rights.

- Since 1990, The Ombudsman for Children and Youth has received referrals of all types concerning minors, including infringement of their rights or harm to their person, and has provided consultation and information and made referrals to other agencies when necessary. There are special ombudsman for Arab minors and immigrant minors from the former Soviet Union and Ethiopia. The existence of the ombudsman is publicized among children through lectures in schools, the mass media (radio, television and newspapers, including children's newspapers), advertisements in school diaries and on the backs of notebooks, stickers, book marks, postcards and the like. The number of referrals to the ombudsman rose from about 200 in 1990 to about 8,500 in 1998. Table 5 presents the referrals to the ombudsman in 1996. The large proportion of referrals from immigrant children is worthy of note.

Table 6

Referrals to the Ombudsman for Children and Youth, by subject and sector, 1996

Subject	Total	Jewish sector - Native Israelis	Immigrants from the former Soviet Union	Immigrants from Ethiopia	Arab sector
Total	7 271	3 780	1 963	887	641
Children at risk	1 423	1 023	226	101	46
Education	2 084	906	682	310	186
Information and counseling	1 737	1 008	418	179	132
Divorce	411	246	70	77	18
Police	227	135	34	13	45
Health	315	144	110	21	40
Employment	322	165	65	57	35
Other	752	153	359	129	111

Source: Ben-Arie and Zionit, 1999

- By the end of 1996, the National Council for the Child had published more than 50 books, pamphlets, bulletins, leaflets and translations of books on the rights of children. Some of these publications were geared for the adult population, and some for children, such as one addressing the rights of youth employed during summer vacation. In cooperation with commercial corporations that market products to children, the council disseminated pamphlets concerning the rights and obligations of children of different ages (e.g., through a chain of restaurants). The council and a for-profit corporation initiated a "mobile child rights van" that visits schools and recreation spots. In another joint effort, 150,000 postcards bearing the declaration of the rights of the child in Israel were distributed with cartons of ice cream. The National Council for the Child broadcast a corner on children's rights on a television program for children. In addition, the council's actions regarding infringement of children's rights are frequently published in the media.

- In 1997, the National Council for the Child, together with other lobbies, formulated a declaration of children's rights in Israel, which was based on the tradition of Israel, the declaration of independence, and the UN Convention on the Rights of the Child. It included 12 articles, which addressed the right to grow and develop, the right to social security, and the right to the special attention of the courts and law enforcement agencies. The declaration was signed by the Knesset and disseminated through posters, post cards, and pamphlets, particularly in educational institutions.

- Activities that relate to the UN Convention on the Rights of the Child include the establishment of the committee to examine the basic principles in the field of children and the law, and their implementation in legislation (see section (b) of this chapter), to which the National Council for the Child was a party. The council was assigned to coordinate the committee's activities by the Minister of Justice. As noted, this committee is the main mechanism for implementing the Convention in Israeli legislation.

111. The Jerusalem Council for Children and Youth (JCCY) was established in 1984 as a lobby for promoting the well-being of Jerusalem's children and youth, particularly the under-served sectors of the population. It initiates innovative projects designed to produce social change, such as the Children's Ombudsman (1984) and KESHER (1989), engages in joint projects with the municipality and other organizations, involves youth in volunteer activities, such as helping children with disabilities, and supports activities for children from single-parent families. JCCY develops brochures regarding parents of young children on topic such as fostering safety in the home, ensuring quality child day care, taking preventive measures regarding neglected health issues, especially in early childhood (dental health), and regarding risk behaviors among youth (alcohol and tobacco abuse, eating disorders).

112. ELEM - Youth in Distress was established in 1983. Its main activities are initiating services for youth at risk, and influencing policy on youth at risk. ELEM finances or helps finance the projects of government agencies such as the Youth Protection Authority. ELEM establishes shelters for children who don't have housing and operates vans to locate these youth; helps the Youth Protection Authority develop community hostels for youth (in cooperation with ASHALIM and DCI); establishes counseling centers in the form of coffee houses for youth; and provides treatment and vocational training for young women immigrants from the former Soviet Union and Ethiopia. ELEM also trains professionals in the treatment of youth who have committed sex crimes (see Chapter X). Further, ELEM lobbies for children's rights and for the allocation of money to programs for youth who have nowhere to live. ELEM coordinated an operative program and the publication of an inter-ministerial and inter-organizational report on commercial sexual exploitation of minors. ELEM was also the driving force behind the establishment of the Knesset committee to examine violence among youth.

113. Yeladim - Council for the Child in Placement promotes the rights of children living in out-of-home frameworks, and works to improve the quality of their lives (see Chapter VII).

114. ELI - Israel Association for Child Protection provides services to children who have suffered abuse in the family (see Chapter VII). It raises public awareness of child abuse through educational programs, advertisements, and appearances on radio and television, and lobbies on behalf of child victims. ELI helped promote the amendment to the Penal Law that requires reporting child abuse, which was ratified in 1989. ELI is currently lobbying to develop appropriate services for immigrant children.

115. MEITAL - The Israeli Center for the Treatment of Child Sexual Abuse directly provides therapeutic services children and youth who were sexually abused and their families. It also trains professionals, works to increase public awareness of sexual abuse of children, and is establishing an information center.

116. JDC-Israel, the Israeli branch of the international Jewish Joint Distribution Committee (JDC), helps other organizations establish and improve services, and works to strengthen voluntary organizations and lobbies. JDC projects are active among all of Israel's sub-populations, and especially among minorities. Children and youth are a top priority of this organization. During the 1990s, JDC-Israel developed new approaches to the care of immigrant youth from the former Soviet Union and Ethiopia. At present, it coordinates a coalition of organizations that promote the education of Ethiopian immigrant children. JDC-Israel has also developed services for Arab children and youth, including one to prevent their dropping out of school. In 1998, JDC-Israel, in cooperation with the Israeli government, established ASHALIM, which develops and disseminates innovative programs for children at risk and encourages inter-ministerial and inter-organizational cooperation. Together with the National Council for the Child, JDC-Israel publishes a statistical yearbook on children. JDC-Israel publishes pamphlets in Russian about children's rights, and helps finance the activities of the Ombudsman for Immigrant Children and Youth. JDC-Israel helps train professionals concerning children's rights by participating in a course given at the School of Education of Bar Ilan University and by publishing a book on children's rights in the education system. JDC-Israel helps establish pilot programs. It also works to improve existing organizations that take an innovative approach to caring for children at risk in the family and community, and to complete the continuum of services for children in a variety of situations.

117. SHATIL: Employment and Training Center for Social Change Organizations in Israel helps develop voluntary organizations under the auspices of the New Israel Fund, which financially supports organizations that protect human rights, especially the rights of minorities. For example, SHATIL helped publish a report on special education in the Arab sector.

(i) Organizations in the Arab sector

118. All of the organizations that work on behalf of children's rights in Israel work with all segments of the population, and view equality among them as a goal. Within the Arab sector, a number of organizations concentrate on the rights and welfare of Arab children.

119. During the past decade, the number of voluntary organizations and public associations in the Arab sector has grown. Nevertheless, activists in these organizations estimate that their scope is still limited and does not cover all problems: Some of them are active to a limited extent, while others are intensely active in specific areas. This creates confusion among the Arab population regarding the role of each organization, as well as a certain vagueness that makes it difficult to map the organizations. In general, some of these organizations work specifically on behalf of children, particularly in the field of education (The Follow-up Committee on Arab Education; Altufula Center - Nazareth Nursery Institute; The Trust of Programs for Early Childhood, Family and Community Education; Acre Women's Association; Insann - The Society for Applied Research, Cultural and Educational Services), while others work on behalf of the entire population but also address the welfare of children (Adalah - The Legal Center for Arab Minority Rights in Israel; Galilee Society - The Arab National Society for Health Research and Services; The Follow-up Committee on Arab Social Services; Ittijah - Union of Arab Community-based Associations). To illustrate, we will describe five of the organizations cited.

120. The Follow-up Committee on Arab Education was established by and works under the National Committee of the Heads of Arab Local Authorities as a lobby to promote education in the Arab sector. This voluntary organization aims to improve all aspects of Arab education, from facilities and equipment to teaching methods, from the official goals of education to the contents of the curriculum. To this end, the committee cooperates with public agencies (the Ministry of Education, the Knesset committee on education), lobbies the Ministry of Education and members of Knesset, raises public awareness of the problems of Arab education through advertisement, one-day conferences, and publications, raises the awareness of decisionmakers in the field of education, cooperates with other voluntary organizations in the field, enlists the assistance of the Association for Civil Rights on legal matters, and wages a public battle that sometimes erupts in strikes and disruptions of the system. Cultural autonomy in Arab education in Israel is a top priority of this committee (Hazaan, 1998).

121. Altufula Early Childhood Center was established in 1989 to promote early childhood education and advance women in the Arab sector. In addition to providing local services for young children and their parents, the center is establishing an infrastructure for very young children in the Arab sector by training manpower, disseminating professional literature, distributing books to children, publishing an information leaflet, and holding one-day conferences. The center helps establish educational frameworks for very young children through contact with the government, local authorities, and professionals in the field. It cooperates with other voluntary organizations in lobbying for services for very young children.

122. Adalah - The Legal Center for Arab Minority Rights in Israel was the first Arab legal organization in Israel; it was established in November 1996 and formally registered as an association in December 1997. Adalah offers its services to the Arab minority throughout the country. Its main goal is to use Israeli law, comparative law, and international human rights standards to achieve equal rights for Arabs, as individuals and as a group. Adalah focuses on land and housing, employment, education, language, religion, unrecognized villages, women, and allocation of government budgets. Since 1997, Adalah has filed a number of claims with the Supreme Court, among them three concerning children and youth (transportation to school, educational enrichment programs, well-baby clinics). In March 1998, Adalah published a shadow document regarding implementation of the convention to eliminate all forms of racial discrimination in Israel. Although there is no specific reference to children in the above document, there is a chapter that deals with rights in education (Adalah, 1998).

123. Galilee Society - The Arab National Society for Health Research and Services was founded in 1981 by a group of physicians to reinforce health services in the Arab sector, in part by establishing clinics in unrecognized villages. Over the years, activity has expanded to the entire country. While the association initially dealt with health and the environment, since ratification of the National Health Insurance Law its activities have been reduced to operating a mobile clinic in unrecognized villages in the Negev, under contract to the Ministry of Health. The association is trying to establish a library for the blind, and to hold education programs for parents and professionals who work with children with special needs. The association plans to conduct a survey of Arab children with special needs.

124. The Follow-up Committee on Arab Social Services was established by the National Committee of Heads of Arab Local Authorities in 1987, and comprises professionals from the Arab local authorities. The committee lobbies for improved welfare services for the Arab population, and aspires to induce the government to reduce gaps in the extent of services provided. Every year the committee chooses a main area of activity, such as the welfare of Arabs in the Negev. No matter what the area, attention is also paid to the needs of children, who comprise half of the Arab population. The committee places issues on the public agenda through the media and one-day conferences, and through public battles, such as a joint struggle with the Union of Social Workers to establish welfare departments in all of the Arab local authorities, as stipulated by the Social Services Law.

(ii) Organizations for immigrant children

125. Several organizations work specifically for immigrant children. As an example, we will cite the North American Council on Ethiopian Jewry (NACOEJ), which works on behalf of Ethiopian immigrants, particularly children, in Israel. NACOEJ participates in public debate, promoting the integration of Ethiopian immigrant children into education and making sure this issue remains on the public agenda. It also operates intervention programs for Ethiopian immigrants in education frameworks (see also Chapter IX).

(iii) Organizations for children with disabilities

126. At present, a number of organizations specifically help children with disabilities. Usually, each organization works on behalf of a specific disabled population (for example, ALUT - The Israeli Society for Autistic Children, MICHA - Society for Deaf Children). We will present two examples of such organizations (see also Chapter VIII).

127. KESHER, an information, counseling and support center for parents of children with special needs, was established in 1989 by the Jerusalem Council for Children and Youth; in 1993 it became an independent non-profit national association. KESHER's professionals counselors assist parents through the maze of services and multitude of service providers involved in their child's care by helping them to sort out difficulties and reconnecting them to the relevant services. KESHER's Hotline for parents and professionals operates in Hebrew, Arabic, Russian and Amharic. Information is constantly updated via a bi-monthly newsletter, as well as in pamphlets on specific issues. A national network of local branches is being developed.

128. Bizchut - The Israeli Center for Human Rights of People with Disabilities was founded by the Israel Association for Civil Rights and promotes the rights, welfare and well-being of disabled people of all ages. It provides legal consultation and representation in education, housing, and employment, and disseminates information on the rights of the disabled. In addition, it lobbies for appropriate legislation for the disabled, and works to increase public awareness.

(b) Non-government organizations' interaction with the Government

129. Many voluntary organizations have extensive contact with government agencies, and receive some funding from the government. While non-government organizations are not systematically involved in planning policy, their influence has increased in recent years, and they take initiative in developing services and promoting legislation for the best interests of the child.

5. Disseminating the Convention

130. This section will discuss mechanisms for disseminating the Convention to the public, through government and non-government agencies, as stipulated by article 42 of the Convention.

(a) Translating and publishing the Convention

131. The UN Convention on the Rights of the Child was translated into Hebrew by the Ministry of Justice and published in May 1993 in the Official Gazette (K.A. 1038). DCI has been most active in disseminating the text of the Convention, and to date has distributed 10,000 copies of it in Hebrew, Arabic, English, Russian and Amharic, primarily through the Ministry of Education and the Ministry of Justice. The Hebrew text of the Convention appears on the DCI website. The National Council for the Child disseminates an abstract of the Convention in Hebrew.

(b) Including the Convention in curricula

132. In 1994, the Ministry of Education published a document entitled *Involvement, Partnership and Responsibility*. This document concentrates on the rights of the individual at school, and draws a parallel between the rights of the student in school and the rights of the individual in society. The Ministry also disseminated a "School Convention" to implement the principles outlined in the document. The School Convention recognizes the right of students to express their opinion, and to criticize and suggest improvements in school life. It does not obligate schools (as does a Ministry of Education director-general's decree), but rather makes recommendations, which a school may accept or reject. Since publication of the document, tens of secondary schools have introduced experimental "school conventions" (see Chapter IX).

133. In 1995, a book was published on the rights of children, which emphasized what was being done in the education system (Gilat, 1995). The book presents the outcomes of a study of 25 civics textbooks and curricula between 1948 and 1990, which were used with students in grades seven through 12 in academic and vocational schools in the State and State religious systems. The study revealed a significant lack of attention to children's rights in civic studies.

(c) Disseminating the Convention among professionals

134. Unions are aware of the need to disseminate the Convention to professionals who work with children. Following we will present a number of examples of this.

135. Psychologists: According to the head of the Israel Psychologists' Union, the chief psychologist of the Ministry of Education is disseminating the Convention to educational psychologists and SHEFI (Psychological Counseling Services) stations, and encouraging psychologists to help schools take comprehensive responsibility for fulfilling the rights of students.

136. Police officers and youth workers on the police force: According to the head of the youth section at police headquarters, the Israel Police Force provides guidance and in-service training on child victims of crime, with the aim of increasing the efficiency and sensitivity of the police force in handling them. Regarding minors who have perpetrated crimes, new guidelines, regulations and laws in the sprit of the Convention have been distributed to youth workers and field units, and are strictly enforced. Training programs for youth workers include the Convention (see Chapter X).

137. Teachers: As noted, the Israel Teachers' Union is establishing an ethical code. At present, a pilot has been introduced into several hundred schools, giving teachers an opportunity to review and examine a draft of the code. In this way, the Convention on the Rights of the Child is disseminated among teachers. In 1990, the Ministry of Education established a hotline for students' complaints of injustice or discrimination in the education system. One goal of the hotline is to inform and counsel educators on students' rights. The professional ethical guidelines for hotline staff jibe with the Convention (see Chapter IX).

138. Physicians: The medical ethics published by the Israel Medical Association and ratified at the association's 38th convention require preserving the confidentiality of all patients, including children. Specific attention is paid to children in several other clauses. The association also made a declaration to the World Medical Union regarding the rights of the child patient (see Chapter VIII).

139. Lawyers: The Jerusalem Bar Association held a course for lawyers on all of the UN's conventions. A joint program of the State's attorney general, the National Council for the Child, and JDC-Israel trains lawyers on crimes against children.

140. Social workers: At a conference on children at risk, the deputy attorney general spoke on children at risk and the UN Convention on the Rights of the Child.

(d) Disseminating the Convention in the mass media

141. As noted, the National Council for the Child publicizes the activities of the Ombudsmen for Children and Youth, and issues of children's rights in general. For example, for the third consecutive year the council is sponsoring a regular corner on a radio program, which presents actual cases in the care of the Ombudsman for Children and Youth. The council also broadcasts a television program specifically dealing with children's rights. In addition, regular radio programs for immigrants are broadcast in Russian and Amharic. The council also publicizes items in the print media, particularly those for children and youth.

142. An interesting example of the Convention's dissemination is offered by a Hebrew-Arabic magazine for children with a circulation of between 4,000 and 5,000 copies; it is distributed through organizations, schools and libraries. In response to children's letters to the editor, the magazine produced a special issue on children's rights which covered children's rights in the world, defining children's rights, child labor, and whether teachers teach children their rights.

(e) Preparation of this report

143. This report was prepared and financed by the Ministry of Justice and the Ministry of Foreign Affairs. The authors of this report consulted with judges, members of Knesset, and representatives of the Ministries of Education, Labor and Social Affairs, Health, and Public Security, and NGOs. Prior to its submission to the Untied Nations, this report was disseminated in Hebrew to voluntary organizations, and a seminar was held to discuss the issues raised in it.

IV. DEFINITION OF THE CHILD

144. This chapter will review the ages at which children in Israel are granted rights and incur obligations, and examine the degree to which the legal system reflects the prevailing perspective that the transition between childhood and maturity is a gradual one, during which children acquire the skills that enable them to function as adults and make decisions that affect their fate. The chapter focuses on the ages at which rights are granted and obligations incurred, and not on the essence of those rights and obligations, which are discussed elsewhere in this report.

Article 1 of the Convention

1. Defining childhood and legal minority

(a) Definition of childhood versus adulthood

145. Section 3 of the Guardianship and Legal Capacity Law 1962 stipulates that "an individual who has not reached the age of 18 is a minor; an individual who has reached the age of 18 is an adult", subject to specific rulings. In this, Israeli law upholds the UN Convention on the Rights of the Child.

(b) Fetuses

146. Section 1 of the Guardianship and Legal Capacity Law 1962 stipulates that an individual has rights and incurs obligations from birth until death. From this we infer that fetuses do not have rights, nor do they incur obligations. Nevertheless, specific rulings - which, as noted, may overrule the general stipulations of the Guardianship and Legal Capacity Law - grant fetuses the protection or rights granted children.

147. Thus, for example, the definition of a "child" in section 2 of the Civil Wrongs Ordinance [New Version] does "include[ing] ... fetuses". According to section 3(b) of the Succession Law 1965, an individual is eligible to inherit if he or she "was born within 300 days of the death

of the person bequeathing the inheritance…unless it is proven that his parentage was *post facto*". Section 2 of chapter 10 of the Penal Law 1977 stipulates that performing an abortion on a woman is a crime, unless the abortion was approved a priori by a committee appointed for that purpose, which established the existence of one of the extenuating circumstances stipulated by law. According to section 33(a)(6) of the Guardianship and Legal Capacity Law, the court has the authority, at the request of a relative or the attorney general, to appoint a guardian for a fetus to manage specific matters outlined by the court; beyond these, the guardian of a fetus does not have the general obligations of the guardian of a minor. It is not permitted to appoint the father, or another individual, to be the guardian of a fetus at a hearing of the committee to approve abortions (see Civil Appeal 413/80 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 38(3) 57).

2. The right to participate in civil activities

(a) The right to vote and to be elected

148. The right to vote for the Knesset and the prime minister is granted from the age of 18. A recently-ratified law grants the right to vote in local or municipal elections from the age of 17. The right to be elected to the Knesset and to a local or municipal authority is granted from the age of 21. The right to be elected prime minister is granted from the age of 30. The right to be a member of a political party is granted from the age of 17 (see section 20 of the Political Parties Law 1992).

(b) Identity card

149. Residents of the State of Israel are obligated to obtain and carry an identity card from the age of 16. A minor who has not reached the age of 16 may obtain an identity card with the consent of his representative or the approval of the chief records clerk.

3. Taking legal action: the legal capacity of minors

150. As noted, under the Guardianship and Legal Capacity Law 1962, minors have rights and incur obligations. However, as a rule, a minor may only take legal action with the consent of his representative (that is, parent or other guardian; see sections 4 and 80 of that law). Legal action taken by a minor without the consent of his representative may be annulled by the representative within 30 days of his being informed of the action. If the representative is not informed of the action, the minor himself may annul the action within 30 days of his reaching legal majority (see section 5 of the law). Nevertheless, "the legal action taken by a minor that minors of his age would perform, and a legal action between a minor and an individual who did not know or is not expected to know that he is a minor, may not be annulled even if it was made without the consent of his representative, unless it incurred real damage to the minor or his property" (section 6 of the law). This section allows for significant change in the actions that minors are thought capable of undertaking, according to the development of Israeli society over time. This is a dynamic process that reflects the mutable norms of the society or the era, and so accounts for the changing abilities of children as a group. In order for an act to be considered "one that minors his age would perform", time must pass before the act becomes rooted as custom.

151. For example, the Magistrates' (Circuit) Court in Jerusalem ruled that a young person age 17 has the right to own a dog, as receiving a dog as a gift "is an act that minors his age might perform", while the District Court in Beer Sheva ruled that purchasing a gas balloon for household use was an act a minor age 12 might perform. However, some legal actions of minors - for example, actions that have economic weight, such as selling an apartment, or actions that involve a conflict of interest between the minor and his representative, such as a business transaction between them - require the approval of the court, as the consent of the minor's representative is deemed insufficient.

4. Receiving medical care

(a) Consent to medical treatment

152. Consent to medical treatment is a legal action, and therefore requires the approval of a minor's representative. This is specifically stipulated in section 13(c) of the Patients' Rights Law 1996.

153. Nevertheless, some medical treatments may be performed with the consent of the minor, without the consent of his representative. These include abortion (section 316 of the Penal Law 1977); a test to detect the presence of the AIDS virus (if a physician has explained the meaning of the test, found that the minor understood the explanation, and believes that the minor has sufficient emotional maturity; for minors under age 14, the approval of a team of professionals, comprising a physician and a social worker, is required (Detection of the AIDS Virus in Minors Law 1996)); and, for minors over age 15, mental health care, including hospitalization, with the approval of the court (section 3G of the Youth (Care and Supervision) Law 1960, and section 4B of the Treatment of Mentally Ill Law 1991). Medical treatment without parental consent is possible - with the approval of the court - for minors whose parents do not show proper concern for their welfare (sections 2 and 3 of the Youth (Care and Supervision) Law 1960). In such cases, the minor is assisted by a welfare worker. At present the Ministry of Health is preparing guidelines for physicians regarding the routine treatment of minors age 14 and over, without parental consent.

(b) Refusal to receive medical treatment

154. The law gives no specific instruction in the case of a minor who refuses to receive medical treatment - not as a consequence of mental illness - in defiance of his parents' wishes. This issue has been raised in the Supreme Court, but has not been decided. However, under some circumstances it is possible to provide medical treatment to any individual, including a minor, without his consent. (See Chapter VIII.)

155. A boy or girl who has reached the age of 15 can oppose admission to a psychiatric hospital even when his or her guardian has consented to it; in such a case, the court may appoint a lawyer to represent the minor (section 13 of the Youth (Care and Supervision) Law 1960).

5. Completion of compulsory education

156. According to section 1 of the Compulsory Education Law 1949, education is compulsory for children and youth up to age 15 inclusive. As a rule, secondary education over the age of 16, although not compulsory, is provided free until age 18, and education for people with special needs (as defined in the Special Education Law 1977) is provided free until age 21. Under the Apprenticeship Law 1953, being an apprentice is also thought to constitute compulsory education (as defined by section 2A(a) of the Compulsory Education Law 1949). Youth who do not attend an education framework that is under the surveillance of the Ministry of Education thus still have the right to a basket of services under section 6 of the Compulsory Education Law 1949 (see Chapter IX).

6. Permission to employ children

157. The Youth Employment Law 1953 distinguishes between a "child" who has not yet reached the age of 16, and a "youth" who has reached the age of 16 but has not yet reached the age of 18. Under this law, a "youth" is the same as a "minor" - that is, an individual up to age 18. Section 2 of the Youth Employment Law 1953 generally forbids the employment of children who have not yet reached the age of 15 or who are subject to compulsory education under the Compulsory Education Law 1949. This corroborates the stipulation of the UN Convention regarding the uniformity of the age of completion of compulsory education and the age at which an individual may be employed. In effect, it is usually permissible to employ a minor from the age of 16 (see Chapter X).

158. Under section 2 of the Youth Employment Law 1953 it is permissible to employ a child who has reached the age of 15 and who works as an apprentice under the Apprenticeship Law 1953; a child age 15 who has completed his compulsory education; and a child age 14 whose employment has been approved by the Minister of Labor and who has been excused from compulsory education. Employers of youths of compulsory school age are required to release them to attend school, without debiting their salary, during school days and hours. Failure to fulfill this obligation is a criminal offense (under section 4(c) of the Compulsory Education Law 1949). Children who have not yet reached the age of 14 may work during official school vacations in light jobs that do not endanger their health or development (section 2A of the Youth Employment Law 1953). Under section 4 of the Youth Employment Law 1953, the Minister of Labor and Social Affairs may permit the employment of children under the age of 15 in artistic productions or advertising photographs, for a limited time. (For a description of the restrictions on the hours and types of employment permitted to children and youth, see Chapter X.)

7. Marriage

159. The State of Israel is a signatory of the International Convention on Setting a Minimum Marriage Age. Israel forbids putative marriage in order to protect individuals who are not physically or mentally mature from the negative implications of marriage at an early age.

160. The Marriage Age Law 1950 stipulates that the minimum age of marriage, for men and women, is 17. According to section 2 of the law, it is a criminal offense to marry a young man or woman who has not reached the age of 17, or to assist in conducting the marriage of such young men and women. The young man or woman does not commit an offense under the law if he or she marries prior to reaching age 17, unless his or her partner has also not reached the age of 17.

161. According to section 5 of the law, Family Court is authorized to permit the marriage of a young woman if she has conceived or given birth to a child by the man whom she wishes to marry, and may permit the marriage of a young man if the woman whom he wishes to marry has conceived or given birth to his child. Under certain circumstances, the court may permit the marriage if the young man or woman have reached the age of 16. Circumstances that invoke the court's leniency are the desire of the youths and their parents for the marriage, ethnic customs, economic considerations, and extensive preparations for marriage (see Civil Appeal 50/81 *Attorney General v. Anonymous Defendant*, P.D. 35(4) 430; Civil Appeal 690/77 *Hanifam v. State of Israel*, P.D. 42(1) 531).

162. According to Jewish religious law (*halacha*), which in Israel confers validity on the marriage of Jews conducted within its borders, it is possible to marry a girl of any age, but the girl herself may decide to marry only when she has reached the age of 12 and a half. A Jewish boy may be married from the age of 13, and he himself may decide to marry at this age. According to Moslem law (*shari'a*), a father may promise his daughter in marriage from the age of nine, but a girl may decide to marry only when she has reached the age of 17. A Moslem boy may be married from the age of 12, and he himself may decide to marry from the age of 18. According to the Christian law practiced in Israel, a boy may marry from the age of 16 and a girl from the age of 14. Under all of the religious laws reviewed, the age of marriage of girls is younger than that of boys. In any case, as noted, the criminal sanction against the marriage of children is stipulated in a Knesset law, which also sets a uniform marriage age for boys and girls of all religions. In reality, the marriage rate of young men and women in Israel is very low (see Chapters VII and X).

8. Consent to sexual relations

163. Section 346 of the Penal Law 1977 concerning consensual, unlawful sexual relations stipulates that an individual who engages in sexual intercourse with a minor who has reached the age of 14 but has not yet reached the age of 16 and who is not married to him, or an individual who engages in sexual intercourse with a minor who has reached the age of 16 but has not yet reached the age of 18 by exploiting relations of dependence, authority, education or supervision, or by making a false promise of marriage or masquerading as being unmarried while being married, is subject to five years' imprisonment. From this we may infer that engaging in sexual intercourse with a minor who has reached the age of 14 is permitted in the framework of marriage. According to section 353 of the law, someone accused of this offense may defend his actions if the age difference between himself and the minor girl does not exceed three years, and if the sexual intercourse was engaged in as an aspect of regular intimate relations, and not

through exploitation of the defendant's status. In this, the legislator sought to extend his protection to young couples who engage in mutual friendly relations. A 1998 amendment to the Penal Law eradicated the distinction between a minor boy and a minor girl regarding consensual sexual relations, and set a uniform age for pederasty and consensual, unlawful sexual relations. Both of these acts are prohibited for individuals who are between 14 and 16 years of age.

9. The compulsory draft, volunteering for military service, and participation in acts of war

164. The Defense Service Law [Consolidated Version] 1986 stipulates that an individual may be drafted into military service from the age of 18. A young man or woman may be drafted at age 17 if they have so requested in writing, and their guardian has given his consent. A child under the age of 17 may not be involved in acts of war.

10. Criminal and tortious liability

(a) Criminal liability

165. Section 34F of the Penal Law 1977 stipulates that "an individual is not criminally liable for an act he committed before reaching the age of 12 years". Nevertheless, delinquent acts of children under age 12 may be cause for initiating tortious proceedings under the Youth (Care and Supervision) Law 1960. Minors who have not reached the age of 13 will be prosecuted only in consultation with a probation officer (see section 12 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971). (See also Chapter X.)

(b) Tortious liability

166. Section 9 of the Civil Wrongs Ordinance [New Version] relieves children under the age of 12 of liability for civil wrongs. It is not possible to sue a minor (under age 18) for a civil wrong resulting directly or indirectly from a contract he made. However, a minor's tortious immunity does not preclude the possibility of filing a claim against him of possession on the basis of ownership, or of filing a contractual claim in a matter considered one that a minor his age might perform, including for violation of the obligation to bona fides (best interests faith) in negotiating a contract. Minors are not released from liability for contributory guilt, which is determined according to the degree of caution required of minors of tortious age.

(c) Statute of limitations

167. As a rule, the civil statute of limitations in Israel is seven years (see section 5 of the Prescription Law 1958). According to section 10 of that law, in calculating the period of limitations, the time before the plaintiff reached the age of 18 is not to be considered; thus, an individual can bring suit for events that took place when he was a minor up until the age of 25.

168. According to section 14 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971, "a minor may not be tried for an offense if a year has passed since the offense was committed, except with the consent of the attorney general".

169. In offenses of rape, consensual, unlawful sexual intercourse, pederasty and indecent acts committed against a minor, the period of limitations begins the day the victim reaches the age of 18. If ten years have passed since the offense was committed, no indictment may be made, except with the approval of the attorney general (section 345 of the Penal Law 1977).

11. Revocation of liberty

(a) Detention

170. The Youth (Trial, Punishment and Modes of Treatment) Law 1971 and the Criminal Procedure (Enforcement Powers - Arrests) Law 1996 set restrictions on the detention of minors. While adults may be detained without a court order for 24 hours, children up to the age of 14 may be detained without a court order for only 12 hours; in special circumstances, the duty officer at a police station may order continued detention for an additional period, which is not to exceed 12 additional hours. Regarding minors ages 14-18, at present, the arrangement for their detention without a court order is similar to that for an adult. In other words, they may be detained without a court order for to up to 24 hours; in special cases, this period may be extended by an additional 24 hours (see Chapter VII).

171. Under section 10(4) of the Youth (Trial, Punishment and Modes of Treatment) Law 1971, which addresses detention prior to indictment, juvenile court is authorized to order the detention of a minor for a period that is not to exceed ten days (instead of 15 days for an adult) and to extend detention, from time to time, for periods that are not to exceed ten days. A minor suspect may not be detained continuously for the same offense, including without a court order, for a period in excess of 20 days (instead of 30 for an adult), unless a request for continued detention has been filed with the consent of the attorney general. It should be noted that the maximum period of detention prior to indictment is identical for minors and adults: 90 days (section 51 of the Criminal Procedure (Enforcement Powers - Arrest) Law 1996).

172. Section 13 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971 requires the separation of minor and adult detainees (see Chapter X).

(b) Detention for protective purposes

173. In Israel it is also permissible to detain a minor to protect him. Section 10(3) of the Youth (Trial, Punishment and Modes of Treatment) Law 1971 stipulates that "the judge before whom a minor is brought is authorized to order his detention if this is required to ensure the minor's personal safety or to remove him from the company of an undesirable individual". A police officer is authorized to order detention on these grounds for 12 hours, until the minor is brought before a judge, and in special circumstances for 24 hours. (This section of the law is disputed; for further detail see Chapter X.)

(c) Imprisonment

174. According to the Youth (Trial, Punishment and Modes of Treatment) Law 1971, it is possible to impose a punishment of imprisonment on a child who is age 14 at the time of his sentencing. In sentencing a minor, the Juvenile Court must consider, inter alia, the age of the minor when he committed the offense. For minors, the tendency of the court is to prefer methods of treatment that are not imprisonment (see Chapter X).

175. It is forbidden to imprison a minor with adults (section 25 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971).

(d) Closed residences

176. Closed residences, as defined in the Youth (Trial, Punishment and Modes of Treatment) Law 1971, serve as out-of-home residences or the locus of custody for a minor referred to them by the Commissioner of Residences. A minor may be sent to a closed residence as a punishment or as a treatment alternative to punishment. Also, a minor who is under the age of criminal liability, and a minor who is a danger to himself and others and who has been declared a minor in need may be sent to a closed residence (see Chapters VII and X).

12. Capital punishment and life imprisonment

177. An individual who was a minor on the day he committed an offense may not be sentenced to death (in practice, the death penalty is not imposed on adults in Israel, either). Despite what is inscribed in every ruling there is also no obligation to impose a life sentence, a compulsory sentence, or a minimum sentence (section 25(b) of the Youth (Trial, Punishment and Modes of Treatment) Law 1971) on an individual who was a minor in the day he committed an offense. A Supreme Court judge has expressed the opinion that, in light of the UN Convention, courts should exercise judgment and impose life prison sentences on minors in exceptional cases only. However, the other judges in that case found that the matter warrants further consideration (see Chapter X). (Criminal Appeal 3112/94 *Abu Hassan v. State of Israel* (11.2.99. not yet published).)

178. While the death penalty formally exists in Israel in a very limited number of extremely severe cases listed below, Israel applies a moratorium on executions. In fact, the death penalty has never been implemented since the establishment of the State of Israel in 1948, with one exception - in 1962, in the case of the Nazi criminal Eichmann, who was convicted of genocide under the 1950 Nazi Collaborators (Punishment) Law. In addition, since 1954 Israel has removed the death penalty for the crime of murder from its penal code and its military law.

179. The five rare and extreme instances in which the death penalty formally exists in Israeli law are with regard to murder of persecuted persons during the Nazi Regime and during World War II for crimes against the Jewish people and against humanity, genocide or assisting in the act of genocide, treason of soldiers in time of armed conflict, treason during war, and the sabotage and unauthorized use or transfer of firearms and explosive materials.

180. In any event, the death penalty cannot be imposed on any person who was a minor at the time of committing the offense. (Section 25(b) of the Youth (Trial, Punishment and Modes of Treatment) Law 1971).

13. Giving testimony in criminal and civil court

(a) Capacity to testify

181. According to the Evidence Ordinance [New Version] 1971, children of every age may testify in court. However, the court must examine the ability of child witnesses to present a precise testimony of what they have experienced.

(b) Admissible testimony

182. When ruling in matters of civil law, the court must explain its decision to base itself on the sole testimony of a minor younger than age 14 that was not corroborated, regardless of whether the minor bears criminal liability (section 54 of the Evidence Ordinance).

183. When ruling in matters of criminal law, an individual may not be convicted on the basis of the sole testimony of a minor whose age at the time of testimony is less than 12 years (the age of criminal liability), unless additional evidence corroborates the child's testimony (section 55 of the Evidence Ordinance). The reason for this is that a minor below the age of criminal liability may not be punished for perjury.

(c) Limitations on the testimony of minors

184. The Evidence Ordinance Revision (Protection of Children) Law 1955 restricts the testimony of minors to certain areas. The restrictions are not a consequence of the incapacity of minors to testify, but rather are meant to protect minors in general, and children under the age of 14 in particular. Section 2 of this law stipulates that minors who have not reached the age of 14 may not testify concerning an offense against morality (i.e. crimes of prostitution and vice, sex crimes, and crimes committed by an adult against a child for whom he is responsible, including violation of parental responsibilities, and assault or abuse of a minor or helpless person), or concerning some offenses against the body perpetrated upon or in the presence of or by a minor. A minor's testimony in these matters is only accepted on the authority of a youth interrogator, and only if the youth interrogator believes that testifying will not cause the minor mental anguish. According to section 9 of the law, if the youth interrogator has forbidden the testimony of a minor, the minor's admission to the investigator may be presented as evidence in place of his testimony. However, according to section 11 of the law, such evidence cannot be the sole basis of conviction, and must be corroborated (see Chapter X).

185. The court is authorized to order that the testimony of a minor under the age of 18 against his parents in a criminal proceeding for a sex offense must be heard in the absence of his parents and in the presence of his defense attorney, so as to protect the witness from mental anguish (section 2A of the law).

14. Legal representation without parental consent

186. A minor may be legally represented by a legal guardian appointed by the court, or by a lawyer who represents the minor directly, without the intercession of a guardian. However, a minor's right to separate legal representation is not set in law.

187. The choice between these two methods of representation is made based on the minor's emotional maturity, though as a rule, representation is provided by the minor's guardian - usually his parents. Section 13 of the Youth (Care and Supervision) Law 1960 stipulates that a minor who objects to psychiatric hospitalization has the right from the age of 15 to independent representation by a lawyer. The National Council for the Child and DCI help children by providing them with the services of a lawyer or legal guardian.

188. Legal representation of a minor in specific proceedings. Regarding certain proceedings, specific attention is paid by legislation and case law as to the representation of minors. Below we review situations in which the usual rule - that is that the guardian serves as representative - does not apply.

189. Private law proceedings. Section 3(d) of the Family Courts Law 1995 stipulates that a minor is authorized, by himself or through a close friend, to file a legal claim in any family matter in which his rights may have been violated. In addition, a minor can file a request as part of a legal claim filed by someone else, and can appear in court. However, neither the law nor the regulations arising from the law arrange for the appointment of a lawyer to represent the minor. Such representation is important in all of those cases in which there is factual evidence that the best interests of the minor would be neglected in a battle between his parents - his natural guardians. At present, the Supreme Court has ruled that it is possible to obtain independent representation for a minor through the appointment of a legal guardian (see Civil Appeal 878/96 *Pozilov v. Pozilov*, P.D. 50(5) 208). Some believe that it is also possible to appoint a lawyer for a minor, and not only a legal guardian.

190. Public Law Proceedings. In proceedings to determine need under the Youth (Care and Supervision) Law 1960, the initial request to declare a minor as being in need is filed by a welfare worker. However, under section 14 of the law, a minor may himself file a request to change the decision of a juvenile court and may be a respondent in such proceedings. There is no instruction to appoint a lawyer for a minor in such a case, even though the proceedings may infringe on the minor's rights (with his parents' tacit consent or even support). In such proceedings, Family Court and Juvenile Court are authorized to appoint a legal guardian for the minor.

191. In proceedings according to the Adoption of Children Law 1981, section 23 of that law authorizes the court to appoint a legal guardian for an adopted child or candidate for adoption.

192. Section 18(a) of the Youth (Trial, Punishment and Modes of Treatment) Law 1971 authorizes a court sitting in a criminal proceeding against a minor to appoint a defense attorney for the minor without the consent of his parents, if it believes that his best interests so requires. Juvenile courts are not wont to use this authority because of the rehabilitative nature of their

work (see Chapter X). In certain cases the court is obligated to appoint a defense attorney for a minor who is not represented for the same reasons that apply to an adult defendant; the court is also required to appoint a defense attorney for a minor defendant who has not reached the age of 16 and who has been brought before a court that is not a juvenile court (see Chapter X). According to the Public Defender's (Entitlement to Representation of Additional Minors) Regulations 1998, minors are eligible for representation by the public defender in criminal proceedings if they have been detained or indicted (with the exception of an indictment for an offense that is not a crime, which is made before a traffic court judge). Given the increasing practice of legal representation of minors in criminal and civil trials, the contract between a minor and a lawyer may be seen as being "an act a minor might perform", and hence not require the consent of the minor's representative (section 6 of the Guardianship and Legal Capacity Law 1962).

15. Out-of-home placement

193. According to section 8 of the Youth (Care and Supervision) Law 1960, the Juvenile Court is required, prior to ruling in the matter of out-of-home placement, to give the minor himself an opportunity to make claims and proposals. The law does not set a minimum limit for the age at which this right becomes available to minors.

194. There is no systematic data on the extent to which minors are actually heard in court, or on how their proposals are weighed. According to information received from the chief child protection officer pursuant to the Youth Law, a hearing depends on the minor's age, as well as on the opinions of the child protection officer and the judges sitting in the case (see Chapter VII).

16. Placement in the custody of one parent

195. According to section 25 of the Guardianship and Legal Capacity Law 1962, if separated parents have not reached an agreement regarding the custody of their children, the court will rule in the matter; barring extenuating circumstances that would indicate a different ruling, children under the age of six will remain with their mother.

196. It is acceptable in court rulings to consider the wishes of a child beginning at approximately age ten, as the child's preference from this age is thought to be an important indicator, at least prima facie, of his future best interests and happiness. The weight given a child's wishes depends on his age, his discrimination and judgment, and the degree to which he is vulnerable to outside influence. The Supreme Court distinguishes between a preference for one parent, and strenuous opposition to one parent (Civil Appeal 740/ *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 43(1) 661). However, at present, a child's preference does not legally have decisive weight - unlike cases of adoption or conversion (see Chapter VII).

17. Adoption

197. According to the Adoption of Children Law 1981, it is possible to adopt an "individual" who has not yet reached the age of 18. It is not possible to adopt a fetus before it is born. According to section 7 of the law, a court will not give an adoption order unless it has been

convinced that a child who has reached the age of nine - or who has yet to reach the age of nine but who has impressed the court that he is capable of understanding the issue - wants to be adopted by the adopter(s). Rulings indicate that the court must also hear the opinion of a much younger child who is not an infant. Nevertheless, in some cases the law allows the court to issue an adoption order without revealing the fact of the adoption to the adoptee (if three conditions are fulfilled: the adoptee does not know that the adopter is not his parent; all signs indicate that the adoptee desires the continuation of the relationship with the adopter; and the best interests of the adoptee requires not apprising him of the adoption). In lieu of hearing the adoptee in person, the court may be convinced of the adoptee's wishes in some other manner, for example, if a child protection officer voices the adoptee's opinion (see Chapter VII).

Delivery of a minor under the Execution of Judgments Law

198. Section 62 of the Execution of Judgments Law 1967 stipulates that if a court rules that a minor must be delivered, or that contact, visitation or communication must be allowed between a parent and his minor child who is not in his custody, or that any other action be taken in the matter of the minor, and if the court rules that the action is to be carried out through the Execution of Judgments Office, the executor will take all of the steps necessary to comply with the ruling, and will be assisted in this by the welfare worker. Section 62(b) of the law qualifies this instruction, stating that if the Execution of Judgments Office has determined that the ruling cannot be carried out except against the will of the minor, and the Execution of Judgments Office believes that the minor is capable of comprehending this, then the head of the Execution of Judgments Office is authorized to petition the court that made the ruling and request instructions. Section 62 does not make this conditional upon the minor's age, but rather on his legal capacity, which is expressed in his ability to "understand the matter" (for further detail see Chapter VII).

18. Changing one's name

199. As a rule, under the Names Law 1956, the names of minors are chosen and may be changed without their consent. However, in certain cases the court is authorized to intervene in the decision of parents or guardians in this matter, or to change the instruction set down in the law. Petitioning the court with such a request is likely to be the initiative of a minor.

200. For example, one ruling, which was based in part on the UN Convention on the Rights of the Child, determined that a 16-year-old girl who had been raised all her life by a foster family was authorized to change her family name to that of the foster family. However, as this ruling was handed down by a District Court it does not constitute a binding precedent, although it may guide the lower courts.

19. Accessibility to information about one's biological family

201. From the age of 18, adoptees are authorized to review their adoption papers and the details of the identity of their biological parents (section 30(b) of the Adoption of Children Law 1981). This is also true for children born to a "surrogate mother", who may know her identity from the age of 18 (section 16 of the Surrogates (Ratification of Agreement and Status of the Newborn) Law 1996).

20. Legal capacity to inherit and transfer property

Legal capacity to inherit

202. According to the Succession Law 1965, if an individual dies intestate, his children are the beneficiaries of the first order. In any case, even if he has left a will and regardless of what is written therein, his minor children (including, as noted, those who were fetuses at the time of his death, as well as children out of wedlock, adopted children, and grandchildren who were orphaned before his death or whose welfare was his concern and responsibility, in lieu of parents who could not uphold the children's maintenance) are eligible for child support from the estate. Removing a minor from his portion of the estate, or transferring his portion, or putting a lien thereon before the estate has been distributed, requires the consent of the court.

203. According to section 24 of the Succession Law 1965, minors are not capable of being witnesses to the making of a will. According to section 26 of the law, minors are not capable of bequeathing, and the will of a minor is invalid.

21. The right to organize

204. In reality, children often "organize" to participate in social or political activities, such as youth movements or demonstrations. However, there is a question as to whether children are authorized to unite in every form - for example, to register as an association. In any case, it is necessary to examine whether the action in question is "one that minors would perform", as required by the Guardianship and Legal Capacity Law 1962 (see Chapter VI).

22. Choice of religion

205. The freedom of religion and conscience is promised in Israel's Declaration of Independence and has been developed in court rulings; it includes the freedom to convert to a different religion. According to section 13A of the Guardianship and Legal Capacity Law 1962, a minor who has not reached the age of 18 may not be converted unless both of his parents have given their consent in writing a priori, or the court, at the request of one parent or guardian, has approved the conversion a priori. Parents are allowed to convert their children who have not yet reached the age of ten. The conversion of a child who has reached the age of ten requires the child's consent in writing. Non-fulfillment of this condition not only renders the conversion invalid, but is also a criminal offense (section 268 of the Penal Law 1977; see Chapter VI).

23. Consumption of alcohol

206. Section 193a of the Penal Law 1977 forbids the sale of alcohol to minors under the age of 18. The law does not forbid the drinking of alcohol by minors.

24. Driving

207. A minor's receipt of a driver's license depends upon the type of vehicle. From the age of 16, a minor may receive a driver's license for a tractor or a motorcycle with an engine of up to 50 cc. If the intended driver has not yet reached the age of 17, he must receive the consent in writing of his parents or guardian to receive the driver's license.

208. At the age of 17½ a minor may receive a driver's license for most types of private and commercial vehicle, if the vehicle's total weight does not exceed four tons and its maximum number of passengers does not exceed eight. During the first year after receiving the license, the minor must drive while accompanied by an experienced driver. Beginning at age 21, an individual may receive a license to drive a bus, taxi or rescue vehicle.

209. The law allows a minor to begin taking driving lessons before reaching the age at which he is permitted to receive a license. Thus it is possible to begin learning to drive a motorcycle (up to 50 cc) or a tractor at age 15, and most types of private vehicle at age 17.

210. At age 17, a minor may file a request to receive an apprentice pilot's license.

25. Summary

211. The Table below summarizes the rights and obligations of children according to the legislature, as presented in this chapter. The Table is organized by the age at which the rights and obligations are granted, from youngest to oldest. The Table is a basis for the summary discussion that follows it.

Table 7

Definition of the child: summary of the rights and obligations of minors

Issue	Law	Age	Full/partial right; restrictions
Age of legal capacity	Guardianship and Legal Capacity Law, section 4	18	earlier age of legal capacity if act is "in the manner of minors to undertake" (section 6)
Completion of compulsory education	Compulsory Education Law 1949 Special Education Law 1988	16 (21 for those with special needs)	provided free to age 18
Legal age of employment	Youth Employment Law 1953, section 2	15 or completion of compulsory education	

Table 7 (continued)

Issue	Law	Age	Full/Partial Right; Restrictions
Vacation employment	Youth Employment Law 1953, section 2A	14	
Participation in artistic productions	Youth Employment Law 1953, section 4	under age 15 or during compulsory education	with consent
Civil and criminal liability	Penal Law, section 34F Civil Wrongs Ordinance [New Version] section 9(a)	from age 12	
Imprisonment	Youth (Trial, Punishment and Modes of Treatment) Law 1971 section 25	from age 14	to age 18, minors must be held separate from adults
Mandatory life imprisonment/ death penalty	Youth (Trial, Punishment and Modes of Treatment) Law 1971 section 25	from age 18	
Detention without a court order	Youth (Trial, Punishment and Modes of Treatment) Law 1971 section 10	from age 12 12-13: 12 hours 14-18: 24 hours	includes detention as means of protection
Institutional placement instead of imprisonment	Youth (Trial, Punishment and Modes of Treatment) Law 1971 sections 31-33	12-18	
Testimony in court	Evidence Ordinance [New Version] 1971	any age	limited weight ascribed to testimony
Appointment of lawyer	Guardianship and Legal Capacity Law 1962, section 4	from age 18	
Consensual sexual relations	Penal Law, section 345(3)	14-15 in marriage 16-17 under certain conditions	

Table 7 (continued)

Issue	Law	Age	Full/Partial Right; Restrictions
Medical care or consultation		from age 18	except abortion and AIDS testing (Discovery of AIDS in Minors Law 1996, section 1(a))
Psychiatric hospitalization	Treatment of Mentally Ill Law 1991, section 4A	from age 15	consent of parents and child required, or court order
AIDS test without parental consent	Detection of AIDS Virus in Minors Law 1996	from age 14	conditional on restrictions of medical condition and physician's judgment; test may be done under age 14 with approval of committee comprising social worker and physician
Abortion	Penal Law 1977, section 316	any age	conditional on approval of abortion committee
Mandatory identity card	Population Registry Law 1965, section 25	from age 16	may receive identity card earlier with consent of representative or chief registration clerk
Driver's license	by type of vehicle	16: tractor, motorcycle up to 50 cc 17½: most private vehicles 21: heavy and public vehicles	
Marriage	Marriage Age Law 1950	from age 17	or 16 in case of pregnancy, or special circumstances with court approval
Sale of alcohol	Penal Law, section 193a	forbidden to minors under age 18	no restriction on consumption
Right to vote	Basic Law: Knesset	from age 18	for local authorities from age 17
Right to be elected to Knesset	Basic Law: Knesset	from age 21	
Child support from estate	Succession Law 1965	to age 18	

Table 7 (continued)

Issue	Law	Age	Full/Partial Right; Restrictions
Writing a will	Succession Law 1965	from age 18	
Capacity to inherit	Succession Law 1965	any age	including prior to birth
Transfer of property	Guardianship and Legal Capacity Law 1962, section 6A	under age 18 only with consent of representative	
Military draft	Defense Service Law 1986	age 18	from age 17 and up with parents' written consent
Conversion	Guardianship and Legal Capacity Law 1962, section 13A(b)	from age 10, with minor's consent in writing	minor cannot convert himself until age 18
Adoption	Adoption of Children Law 1981, section 30	birth to age 18	
Hearing minor's opinion regarding adoption	Adoption of Children Law 1981, section 7	from age 9	or earlier if child understands meaning of adoption
Adoptee's access to information about biological family	Adoption of Children Law 1981, section 30b	from age 18	

212. As can be seen in the Table, most rights and obligations begin at age 18. The Table also indicates that the Israeli legislator tends to see children age nine or ten, or even younger, as individuals whose opinion regarding their identity and sense of belonging to their family should at least be heard. For example, the legislator requires the court to hear the opinion of an adoptee regarding the adoption beginning at age nine (despite the restrictions that may prevent realizing this right), and requires the court to obtain the minor's consent to conversion beginning at age ten. Further, it is accepted practice, based on case law, to hear the opinion of a minor from the age of ten or 11 regarding the locus of custody, even though there is no binding legislation in this matter. As noted, there are no unequivocal guidelines regarding how a minor's opinion should be weighed and considered in the above matters (with the exception of conversion). Neither are there systematic data on the extent to which the opinion of minors is indeed heard and considered in such matters.

213. Receipt of medical treatment without parental consent and the appointment of a lawyer by the minor himself are considered legal actions. Therefore, under the Guardianship and Legal Capacity Law, a minor cannot himself consent to receive medical treatment, nor can he appoint legal counsel for himself.

214. The legislation allows the provision of medical treatment with the consent of the minor alone in only two extreme instances, which society wishes to prevent or encourage: performing an abortion, and performing a test for the AIDS virus. In these two cases, if the minor consents, the decision of whether to accept his consent rests with the relevant professional (e.g., a physician), who is instructed to determine the degree to which the minor is capable of making the decision and understanding its consequences. Concerning psychiatric care, the consent of a minor from the age of 15, as well as of his guardian, must be obtained, or else the decision must be made by the court. In reality, relatively young children, with the help of professionals, do make very grave decisions about their medical condition, even though the legislator does not perceive them as being capable of making other serious decisions (e.g., a minor may consent to an abortion, even though the legislator assumes she is not capable of making the decision to take birth control pills, which would preclude the need for an abortion). In addition, minors are perceived as being incapable of making routine intimate decisions or decisions related to their medical condition.

215. The Treatment of Mentally Ill Law, the relevant stipulations of the Youth (Care and Supervision) Law, and the Detection of the AIDS Virus in Minors Law, which were passed in the 1990s, express the legislator's increasing tendency to recognize the right of a child to consent to medical treatment without the consent of his parent or guardian, as well as the need to weigh a minor's ability to do so according to his evolving capacity. This trend is also reflected in the Ministry of Justice's initiative to amend the Patients' Rights Law regarding children. It is the Ministry's intention that this law enable minors of a certain age to consent to routine medical care themselves; that the law require obtaining the consent of a minor, as well as of his parent or guardian, to medical treatment that carries risk; and that a relatively young minor be able to consent (with the help of a professional) to medical treatment that is in society's interest or that is an intimate matter (e.g., birth control, psychological care, treatment of a drug problem).

216. To date, the legislators and the courts in Israel have refrained from determining the right of a minor to refuse to receive medical treatment.

217. Another trend is to allow for independent legal representation of minors. Two laws that were passed in recent years - the Family Courts Law and the stipulations of the Youth Law regarding admission to a psychiatric hospital - specifically order the appointment of a lawyer for a minor. This trend is getting stronger in light of current practice.

218. Minors are criminally liable beginning at age 12 - a rather young age, relative to the ages at which other rights and obligations are imposed. In this matter the law reflects the perspective that it is legitimate to place responsibility on minors, alongside the perception that the transition

from childhood to adulthood is a gradual one, as may be seen in steps taken regarding children who bear criminal liability. Some punishments (the death penalty, mandatory life imprisonment) are not imposed upon minors at all, while others, such as detention and imprisonment, are imposed with restrictions concerning age, duration, and conditions. The law allows the use of a variety of punishments and special treatments for juvenile offenders.

219. Israeli legislation also includes laws that protect minors of various ages from harm or exploitation. Aside from defense against abuse and neglect and the obligation to report these, the law protects minors up to age 14 (and in certain cases up to age 18) from exploitation through sexual relations, and minors up to age 17 from putative marriage. These protections, which are paternalistic in nature, restrict the rights of minors to some extent, although the restrictions are not directly imposed on them but rather on those who engage in sexual relations with them or who marry them. Similarly, the law protects minors up to age 14 from testifying in certain criminal proceedings, and restricts the extraction of testimony from them regarding certain offenses.

220. Israeli law allows minors to work from the age of 14 (during school vacation or in special circumstances) or from the age of completion of compulsory education. The Youth Employment Law protects the right of a minor to attend school while working, and protects minors against harsh working conditions (such as night shifts) and long working hours (see Chapter X).

221. Most specific laws do not require examining the individual capabilities of a child, but rather define a certain age at which a right is granted or an obligation imposed. Only a few laws allow the court or professionals to grant a right or impose an obligation based on a child's level of development, ability, or circumstances. Some laws - such as the Adoption of Children Law and the Detection of the AIDS Virus in Minors Law - cite a certain age as a "default", while allowing deviation from it according to the circumstances of a specific case. The Guardianship and Legal Capacity Law recognizes the legal actions of minors as being "actions that a minor might perform".

222. Israeli legislation concerning the capacity of children is not exceptionally consistent. For example, a minor has the right to make decisions regarding medical treatment and consultation only at age 18, while he has the right to be heard in the matter of psychiatric hospitalization heard from the age of 15. Youths age 17 cannot refuse medical treatment or sign a contract, but a child is criminally liable from the age of 12 and can be imprisoned from the age of 14. This inconsistency may be a consequence of the writing and passage of laws at different times, such that each law is influenced by the prevailing attitudes and beliefs about a child's capacity, as well as prevailing social needs (e.g., the need to fight crime probably influenced determination of the age of criminal liability).

223. It is a task of the committee to examine fundamental principles of the child and the law, and their implementation in legislation (see Chapter III) to strive for harmony among the various laws concerning the rights and obligations of minors of different ages.

V. GENERAL PRINCIPLES

224. Articles 2,3,6 and 12 of the UN Convention on the Rights of the Child stipulate four principles according to which States must act, regarding children and their rights:

1. The right to life, survival and physical, cognitive and emotional development (article 6)

2. Non-discrimination (article 2)

3. The "best interests of the child" as primary guiding principle in all actions concerning children (article 3)

4. Respect for the views of the child (article 12)

225. In this chapter we will point to some of the major legislative and policy measures, which are undertaken by Israel in order to support the realization of these principles. We will also indicate the major problems and challenges that face Israeli society in achieving more complete implementation of these rights. (See also Chapters VII, VIII, IX and X.)

A. Article 6 of the Convention - The right to life, survival and development

226. The right to life, survival and development is the most fundamental of the principles set down in the Convention, and is the basis for discussion of the implementation of the other principles. The right to life, survival and development includes the right to health, physical development, development of abilities and skills that enable an individual to live with dignity, and a standard of living that guarantees these rights.

227. Israeli law places responsibility for the life and development of the child on both parents. Parents and other guardians have the obligation (and the right) to meet their child's needs, including the need for education and vocational training. Under the Penal Law, it is possible to punish parents (or legal guardians) who do not meet needs essential to the health and security of their children (see Chapter VI). The term "essential needs" was recently interpreted in a court ruling as including emotional and social needs, in keeping with the UN Convention.

228. Although responsibility for a child's subsistence falls first and foremost on his family, the State is responsible for helping the family ensure a child's existence and development by providing social services. Voluntary organizations also play an important role in ensuring the welfare of children. Social services and the policies that govern them are described in detail in the chapters of this report.

1. The right to life and physical development

229. The National Health Insurance Law 1994 guarantees the right of every child to health services (preventive, primary, hospital and rehabilitative care). Indeed, primary health care and

hospital services are available to the majority of Israel's children, and efforts are being made to expand the accessibility of these services to include groups that to date have had less access to them (see Chapter VIII and section B of this chapter).

230. Israel has a particularly well-developed system of preventive health services for pregnant women and very young children. A national network of family health centers provides women and children with regular examinations and inoculations, as well as consultation, guidance and support, especially for weaker and at-risk populations. In addition, women who give birth in a hospital are given a grant by the National Insurance Institute (Israel's social security administration), which is meant to cover the cost of hospitalization and basic equipment for the baby. Data indicate that the rate of mortality at childbirth, the infant mortality rate, and the rate of underweight births are very low in Israel and continue to decline (see Chapter VIII).

231. Some preventive services are provided in elementary and secondary schools, although not in sufficient quantity to meet all of the needs of children or promote their health. The few positions earmarked for preventive health staff in elementary schools allow for a limited number of routine examinations, but not for the recommended extent of classes or guidance in prevention and health promotion.

232. The services provided in secondary schools focus on preventing risk behaviors and promoting health, and include programs on drug and alcohol addiction, sex education, and prevention of infectious diseases such as AIDS. It has been claimed that the resources allocated for these services are insufficient (see Chapter VIII). Limited prevention and health promotion services are also provided to youth by the Ministry of Health and the sick funds.

233. Until recently, there were no systematic and comprehensive data on the health behaviors of children and youth. For the first time, a survey conducted in 1994 among children and youth in grades six through 11 revealed the status of Israeli youth, compared to youth in 23 other countries (Harel et al., 1997). As was commonly believed, Israeli youth are less apt to engage in some risk behaviors than are their peers in other countries. For example, the percentage of youth in Israel who drink alcohol or smoke cigarettes is lower than that of youth in other countries. Similarly, 90% of Israeli youth eat fruit and vegetables at least once a day - the highest percentage found among the countries that participated in the survey. At the same time, the survey highlighted a number of issues for concern. For example, Israeli youth (especially young women) are less apt to exercise than are their peers in other countries. In addition, a trend was identified of a decrease in the age at which children begin experimenting with cigarette smoking, drugs and alcohol. These findings may indicate an increase in these risk behaviors among youth, and hence a need to increase preventive and health promotion activities among them. The rate of youth violence was also found to be high in comparison with most countries in the study. A follow-up survey conduced in 1998 (as yet unpublished) showed a similar trend.

234. Another area that arouses concern for the welfare of children and youth is that of accidents, including accidents at and around home, on the road, at school or during social activities. About one-quarter of the deaths of children are caused by accidents. In recent years,

efforts have been made to reduce car accidents through campaigns in the media and in schools (including the participation of children in safety patrols). Survey findings indicate a need to continue these efforts and to emphasize programs that promote safe behavior and encourage compliance with safety measures.

235. Environmental factors, such as water quality and pollution, also affect the health status of Israel's children. In recent years, awareness has grown of the need to address these issues much more seriously.

2. The right to fulfillment of basic needs

236. Israel employs various mechanisms to guarantee a basic level of income and standard of living for its citizens in general, and for families with children in particular. Minimum income is guaranteed through a series of benefits for children and income maintenance benefits. The number of children in a family is taken into account when calculating these benefits. Israel also offers programs that help individuals and families find housing. These programs consider the number of children in a family when determining eligibility for loans, rental of public housing, and other forms of assistance. The State also supports hostels for youths who have no place to live. In addition, government policy, implemented (through the National Insurance Institute) in 1994, which aimed to reduce the dimensions of poverty overall, and among children in particular. This involved increasing benefits for children of people who did not serve in the Israel Defense Forces (IDF) - primarily Arabs; increasing child allowances for large families and special groups; and expanding the payment of benefits to groups in which the incidence of poverty among children is particularly high (see Chapter VIII).

237. Nevertheless, poverty among children is high and arousing increasing concern. During the mid-1970s, the percentage of poor children in Israel was about 10%; by 1995, it had reached 23.2%. However, data for 1999 which were just released indicate that poverty among children has reached a new peak (26%). The percentage of poor children is especially high among certain groups, including large families (with four or more children), single-parent families, Arab families and immigrant families from Ethiopia (see section B of this chapter and Chapter VIII).

238. Data on the implications of poverty for the welfare of children and youth are limited. What data do exist indicate that poor children are over-represented among those who suffer from neglect and abuse, those who do not achieve minimal levels of education, and those who become involved in marginal and risk behaviors such as crime and drug abuse.

The right to life, physical development and fulfillment of basic needs: Main achievements

- Legally mandated universal health coverage

- Preventive health services, nearly universal coverage for very young children

- Low and declining rates of
  - mortality of women in childbirth
  - infant mortality
  - underweight births

The right to life, physical development and fulfillment of basic needs: Problems and challenges

- Insufficient preventive health services for children over age five and in elementary schools
- Limited extent of prevention and health promotion programs
- Large percentages of youth do not exercise; increasing trend of alcohol and drug abuse
- High rate of youth violence relative to other countries
- High prevalence of accidents and accident-based injuries
- Poverty among children has grown since 1970 and is a growing and major concern

3. Emotional, cognitive and social development, and the acquisition of skills

239. Israel offers services designed to support all aspects of the development of children, from early childhood to adulthood. As noted, family health centers play an important role in the development of very young children. This and other health services identify children with developmental difficulties and refer them to child development centers for treatment. Naturally, the education system supports the cognitive and social development of children and youth. National expenditure for education, which is almost 10% of the Gross National Product, has increased consistently since the early 1990s.

240. The Compulsory Education Law mandates free education for all children from the age of five and for children with special needs who are eligible for special education from the age of three. However, the education system plays a central role in the development of children from an even earlier age. A large percentage of Jewish children attend preschool beginning at age two, and the majority of Jewish children age three or four attend preschools that are under the surveillance of the Ministry of Education. The rates of preschool attendance are much lower among the Arab population, although they are increasing (see Chapter IX).

241. Pre-compulsory kindergartens utilize a sliding-scale fee, such that families with very low income receive a significant discount. In some towns, pre-compulsory kindergartens are free or available at a minimal cost. There is a plan to expand this program to more towns and villages in the coming school year.

242. Elementary and secondary school attendance are almost universal. The percentage of Jewish students who attend school remains large through 12th grade (age 17), reaching about 96.5% among 14 to 17-year-olds. The percentage is also lower among immigrants. The percentage of Arabs who attend school is much lower, and is a major source of concern (see section B of this chapter). Dropout rates are also higher among some groups of new immigrants. The percentages of both Jewish and Arab students who attend school has increased in the past two decades, due to a policy of reducing the drop-out rate as much as possible.

243. Matriculation examinations are a central indicator of the success of the education system, as well as being a key to acceptance at institutions of higher education. Receipt of a full matriculation certificate by the largest possible number of students is a primary goal of the education system. Since the late 1980s, the percentage of students eligible for a matriculation certificate has been increasing. Nevertheless, nearly 60% of all 17-year-old students are still not eligible for a certificate. The rate of matriculation is much lower among Arab than among Jewish students and, within the Jewish population, it is particularly low among the Ethiopian Immigrants.

244. Beyond the problem of school dropouts, there is also a significant problem of youth who are in school but who are either not attending school regularly or fully participating in the educational process. A recent report (Cohen et al., 2000) has for the first time attempted to estimate the scope of this problem, which well exceeds the extent of youth who have actually dropped out of school. It is very important to address the need to provide meaningful educational and career tracks for those students who are not able to achieve full matriculation.

245. A variety of programs have been developed to address the needs of the youth who have dropped out as well as those of the weaker students within the schools. However, these programs do not reflect a uniform policy: there is little evidence of their effectiveness and their extent and dissemination within the school system do not match the extent of need.

Education, cognitive and social development and acquisition of skills: Main achievements

- Preschool attendance rates are high among Jews and rising among Arabs
- Nearly universal elementary school attendance rates
- High and rising secondary school attendance rates (especially among Jews)
- Increasing percentages of students eligible for a matriculation certificate

- Development of a variety of programs and support services that prevent dropping out and promote weaker students

- Significant role of youth movements and community centers in after-school frameworks

Education, cognitive and social development and acquisition of skills: Problems and challenges

- The Compulsory Education Law has not been fully implemented for children ages 3-5

- Relatively high drop-out rates among Arabs and immigrants

- Evidence of extensive "hidden dropping out"

- More than 60% of all youth are still not eligible for a matriculation certificate

- Unclear to what extent the variety and level of education tracks meet the needs of youth

- No uniform policy covering programs to promote weaker students and address those who have dropped out; their scope is limited and their efficiency has not been examined

- Concern about declining participation in and funding of informal activities

246. The education system's mission is not only the formal education of youth, but also the transmission of positive values and social skills and the fostering of a greater awareness of and concern for the community. These goals are achieved both inside and outside the system through a variety of informal education programs.

247. Informal education within the schools includes a fixed number of weekly hours with the homeroom teacher and student participation in volunteer activities (such as personal commitment and youth leadership programs; see Chapter IX). Despite the variety of programs available, most are not part of the compulsory curriculum, such that their implementation depends upon the priorities of a school's principal. Currently, only a small percentage of students participate in these programs.

248. Outside of the education system, activities are offered by youth movements, community centers, and social clubs. These activities offer children and youth opportunities to develop and exercise the social and civic skills they will need to play a role in the community as adults. Currently, a significant percentage (25%) of youth participate in youth movements, and a similar percentage participate in community center programs. However, there is a decline in participation rates, as well as in funding, which is a major cause of concern for the future of these activities.

249. The emotional development of children and youth also receives attention. The school system has psychological and counseling services designed for children, youth, and parents who have problems adjusting to the education system or meeting its demands. However, there is evidence that these services are not offered on a large enough scale to provide adequate solutions.

250. Counseling and treatment for emotional difficulties are also available to children and youth through mental health clinics, which are operated by the sick funds and the Ministry of Health. Here, too, there is evidence that the scope of these services, their geographic dispersion, and their availability and accessibility to various populations do not meet the needs. The Ministry of Health is aware of the need to expand these services, as well as to intensify cooperation with schools and social services. To this end, a new model of treatment center for children and youth now operates in a small number of towns around the country. The Ministry of Education and the Ministry of Labor and Social Affairs also sponsor treatment and emotional counseling for children and youth through local social services and youth promotion units. These services tend to focus on underprivileged children and youth at risk. However, these services are not universally available and problems of coordination among them create situations in which youth are not provided with the services they need.

4. The right to life, survival and development of children with disabilities

251. Guaranteeing the rights of children with disabilities presents a special challenge. These children represent 8.7% of children age 18 and under in Israel. In recent years, there have been notable developments in legislation: the passage of a law granting rights to disabled children (the Special Education Law 1988); the expansion of disability benefits to newborn infants (previously granted from the age of three); the passage of the Safe Transportation of Invalid Children Law 1994; and the passage of the Equal Rights for People with Disabilities Law 1998; and the Rehabilitative Day-care Centers Law 2000. Much attention has been devoted to the needs of disabled children, and services have been designed to assist them and their families, promote their development, and contribute to their self-actualization. These services include child disability allowances (provided by the National Insurance Institute), rehabilitation services (available through the health and education systems), and a range of educational services provided under the Special Education Law. Volunteer organizations also develop and provide services to disabled children (see Chapter VIII).

252. However, there have been major difficulties in the implementation of these laws. Several recent studies, including the first national study of disabled children, raise a number of issues. First, there is evidence that the extent of coverage of rehabilitation and development services is not sufficient. For example, some groups - children with mild disabilities, learning disabilities, and emotional and behavioral problems - are not entitled to services under any law. In other cases, existing services are not adequate to meet needs or are not accessible, or else there is insufficient awareness of developmental problems. Children in the Arab, ultra-Orthodox Jewish, immigrant, and low-income populations are particularly vulnerable to these inadequacies (Naon et al., 2000).

253. Second, the system of services for disabled children is very complex, and uncoordinated. Disabled children and their parents have trouble using services due to the complexity of the system, as well as to a lack of up-to-date information on eligibility requirements and application procedures. Despite the efforts of various organizations to provide up-to-date information, this problem still plagues parents, service providers, and policymakers.

254. Problems also arise when determining eligibility for special education. Parents have been given special status on placement committees, and legislative efforts have been made to include them as full partners in the process of placement, treatment and rehabilitation. Nevertheless, there is considerable evidence that this process is characterized by a lack of information, by problems transmitting information, and by misunderstandings between parents and professionals. Organizations representing parents and professionals alike are aware that this problem may impede a child's opportunity to receive appropriate education and treatment. In recent years, service providers have debated the creation of uniform definitions and policies, and studies have been conducted into how to better coordinate services.

255. To address the complexity of the service system, it is necessary to define more clearly the responsibility of each of the different legislative frameworks and service systems and to introduce mechanisms to coordinate care at the case level and to assure an adequate flow of information among professionals and to clients.

256. Still another issue is that of the willingness to "mainstream" disabled children in frameworks for the general child population. The Special Education Law 1988 obligates the integration of children with special needs into the "less restrictive frameworks". However, in the implementation of the law, a clear priority has been given to financing services for children within special education frameworks who have a defined individual entitlement as opposed to children who are mainstreamed into regular classrooms. In recent years efforts have been made to integrate children with special needs into regular classrooms. However, these efforts have focused on specific groups (blind or visually impaired students, deaf or hearing-impaired students) rather than on the entire population of disabled children. The way in which resources are allocated under the Special Education Law - that is, primarily to special education frameworks and special education classes in regular frameworks - also makes it difficult to comprehensively integrate disabled children into regular frameworks. Mainstreaming is also hampered by lack of training of teachers and other personnel in the regular school system to address the needs of disabled children within the regular classroom and school. The lack of access for the handicapped to schools, public buildings and recreation centers also creates a burrier to mainstreaming. The committee to examine comprehensive legislation on the rights of the disabled has warned that lack of access is a one of the main reasons the disabled cannot realize their rights or participate actively in social and community life.

Children with disabilities: main achievements

- Extensive legislation preserving the rights of children with disabilities:
  - expansion of disabled child benefits

- legislation and progress implementing the Special Education Law
- Equal Rights for People with Disabilities Law
- Rehabilitative Day-care Centers Law

- Declining trend in the number of students in special education

Children with disabilities: challenges

- Large gaps between needs and services
- Service system is complex and lacks coordination
- Problems involving parents and children, primarily in the process of placement in special education
- Despite commitment to mainstreaming in education, financing gives priority to segregated special education frameworks
- "Mainstreaming" of children with disabilities into activities for all children only just beginning

B. Article 2 of the Convention - Non-discrimination and equal opportunity

257. Non-discrimination is a central principle of Israeli legislation. Equality among population groups is promised in the country's Declaration of Independence and in legislation, and the creation of equal opportunity for all citizens has guided social policy since the establishment of the State.

258. This is a major challenge in a society that is as ethically diverse as is Israel. The challenge is complicated by the correlation between socio-demographic characteristics and ethnic origin which influence the ability to compete for social and economic status. For example, different population groups differ in family size, parents' education, and the participation of women in the work force.

259. In addition to legislation and policy designed to prevent discrimination, steps are constantly being taken to improve the allocation of resources and development of services so as to reduce gaps and promote equality among population sub-groups. At the same time, Israel maintains a policy of helping each group preserve its cultural heritage (for example, by granting the right to choose the type of education one's children will receive, by allocating resources to preserve cultural tradition). Nevertheless, significant gaps persist among groups in Israeli society. These are a result of both the patterns of allocation and use of services, and inherent differences among these groups.

1. Gaps among sub-groups of the Jewish population

260. One pivotal area of difference is that between Jews whose families immigrated to Israel from Europe and the Americas, and those whose families immigrated from Asia and Africa. However, data on gaps among sub-groups of the child population is limited, as the majority of children (and of their parents) were born in Israel. Moreover, many children have parents of differing ethnic backgrounds.

261. In recent years, two groups of immigrants with radically different social and cultural characteristics have arrived in Israel: immigrants from the former Soviet Union, and immigrants from Ethiopia. Immigrant children and youth are facing major difficulties and in general experience higher rates of dropping out of school and of social deviance. The educational gap is particularly great for Ethiopian immigrants and for certain groups of immigrants from the southern parts of the Former Soviet Union.

262. In recent years, concern about the quality of the integration of immigrant children into the school system has led to a range of initiatives to promote their educational and social integration (see Chapter IX). No systematic, reliable data exist on the educational integration of children and youth from the former Soviet Union.

263. The absorption of Ethiopian immigrant children presents a particular challenge, given the dramatic cultural transition they must make and the socio-economic status, demographic composition, and level of education of their parents. Policies have been developed to promote equal opportunity for these children and to support their absorption into the school system. Nevertheless, a large percentage of them have scholastic problems and do not regularly attend school. The rates of school attendance and of eligibility for matriculation certificates among Ethiopian youth are low, compared to the general population.

2. Gaps between Jews and Arabs

264. Serious gaps exist in most of the areas reviewed by this report between the Arab and Jewish populations of Israel: Arab children and youth are at a disadvantage, relative to their Jewish peers. For example, infant mortality rates and accident rates are higher among the Arab than the Jewish population, and more Arab than Jewish children suffer from severe disabilities or live in poverty. Fewer Arab than Jewish children attend preschools and secondary schools, and fewer Arab youth are eligible for a matriculation certificate. There is broad recognition and agreement that a major factor contributing to the gaps is insufficient allocation of resources by both the national government and the local Arab authorities. In order to address these gaps, there is a need to overcome significant differences in the demographic composition of the Arab and Jewish populations, such as differences in family size and parents' level of education.

265. This report identifies a number of areas in which the resources allocated to the Arab population are or were insufficient, and less than those allocated to the Jewish population. These include the range of and accessibility to preventive and primary health services, diagnostic services, rehabilitation and special education for disabled children, child allowances, education (especially for weaker populations), and support services (such as psychological counseling, programs to prevent dropping out), and training of educational manpower.

266. The recognition of this situation has led to a variety of measures to address it. The implementation of the National Health Insurance Law in 1995 provided the sick funds with incentives to serve weaker populations, including the Arab population; this led to accelerated development of primary health care services and expansion of preventive services for this population. Implementation of the Special Education Law has brought about an increase in the number of Arab students participating in special education programs, and to an increase in the scope of services for disabled Arab children. Benefits for Arab children in large families have been equalized and expanded.

267. In the field of education, initiatives have been taken to increase the resources allocated to Arab children and youth. These initiatives followed the adoption of several five-year plans for the Arab education system, including a significant increase in support services and special programs in schools, the development of training programs for kindergarten and school teachers, and the construction of classrooms and facilities. There have also been initiatives to revise the educational goals of the Israeli school system so as to adapt them to the Arab sector.

268. As in the overall population, there has been significant progress in a number of areas, such as a decline in the infant mortality rate, an increase in school attendance rates, and an increase in the percentage of students eligible for a matriculation certificate in the Arab sector. However, in many areas the gaps have not decreased; the most serious gaps remain in poverty rates and educational achievement.

269. Data also indicate gaps among sub-groups of the Arab population. In most cases, the situation of Christian Arabs and Druze is better than that of Moslem Arabs. The health, welfare and education of Bedouin children, particularly those living in unrecognized settlements, fall far below those of the general population of Arab children - a situation that demands special attention (see Chapters VIII and IX).

Gaps between Jews and Arabs: policy directions

Steps have been taken to reduce gaps in many areas:

- changes in the structure of National Insurance Institute benefits for children
- National Health Insurance Law passed in 1994
- changes in the education system, primarily in infrastructure

Gaps between Jews and Arabs: challenges

- Gaps remain in the majority of areas, and have not decreased consistently over time:
  - Differential measures of health status
  - The extent of poverty

  - Attendance rates at preschools and secondary schools
  - Achievements on matriculation examinations
  - Percentages of children at risk
- In many areas, the extent of services provided to the Arab population is less than that provided to the Jewish population:
- Services for the disabled
- Support services and programs in the education system (gaps are not declining)
- Child welfare services

3. Children of foreign workers

270. A large number of foreign workers have come to Israel in recent years. No systematic data are available on their number, the number of children living with them, or their living conditions. Some estimate that between 2,500 and 3,000 children of foreign workers now live in Israel. As the arrival of foreign workers is a recent phenomenon, and as many of the foreign workers remain in Israel illegally, no national or legal system has been established to provide their children with education, health and welfare services. However, the government has begun to make arrangements to provide services in a systematic, comprehensive manner, and there is extensive activity surrounding this issue in the Knesset (see Chapters VIII and IX).

C. Article 3 of the Convention - The best interests of the child

1. The "best interests of the child" as a guiding principle

271. In Israeli law, the "best interests of the child" is recognized as a guiding principle and a primary consideration in decisionmaking regarding the lives of children. Usually, those who decide a child's fate are his parents. However, when there is a need to protect the child, the parents' role may be assumed by the courts, child protection officers, or other social service providers.

272. The concept of "the best interests of the child" is not defined by law (see Chapter II). Rather, it is being defined gradually through court rulings and the decisions of authorities and agencies that serve children, on a case-by-case basis and in light of the situation of each child and his family, and the child's own wishes. This principle may thus have different meanings, depending on the values and cultural norms of the society (or social group) in which the child and his family live, and on the beliefs and expectations of those making decisions in the child's interest.

273. Nevertheless, the principle of the "best interests of the child" serves as a measure of the extent to which a child is being cared for properly by his parents, and is used as the basis for deciding the course of the child's life (e.g., custody and visitation rights). A variety of criteria are applied in determining the best interests of a child. For example, in custody proceedings, a judge may consult with and consider the reports of child protection officers, who are obligated to present a factual assessment of a child's situation and to recommend the course of action they feel best serves the child's best interests (see Chapter VII).

274. The principle of the best interests of the child is also reflected in the structure of the juvenile justice system. A minor who commits a crime is treated differently than is an adult. The agencies that handle minors accused of committing a crime have two major goals: to keep the minor from being labeled as a criminal, and to give him an opportunity for rehabilitation. These goals are clearly reflected in court rulings, most of which are made only after consultation with the specially-trained child welfare professionals who accompany juvenile suspects from indictment through treatment, and are geared toward rehabilitation.

275. Concern for the best interests of the child also requires safeguards against exploitation such as in the workplace, sexual abuse, and exposure to crime. The public is increasingly aware of the need to protect children and youth from exploitation. This has led to legislative and policy initiatives that protect minors.

2. Preserving the best interests of the child in child welfare proceedings

276. A variety of legal procedures and services, designed to protect the best interests of the child, are implemented by government ministries, local authorities and volunteer organizations.

277. The key agent responsible for protecting children from harm due to a lack of proper parental care is the social welfare system. Alongside it are the education and health systems, which potentially play a role in identifying cases in which there is a need to protect children. The Ministry of Labor and Social Affairs has in recent years increased the resources allocated for treating children at risk and preventing domestic violence. As part of this initiative, innovative intervention methods are being introduced into the service system.

278. Services that aim to protect children lie along a continuum, which ranges from support and training for families that have difficulty ensuring the best interests of their children, to frameworks and mechanisms that provide these children with immediate, short-term protection to long-term, alternative care outside the home. Examination of these services raises a number of issues about how the principle of the best interests of the child and his protection are ensured.

279. In order to protect children, it is first necessary to identify those at risk. In Israel, a variety of mechanisms are used to identify children at risk. Legislation requires reporting cases in which there is a reasonable suspicion that a child is suffering from abuse or neglect. An infrastructure of services - family health centers, primary health care centers, preschools, and elementary and secondary schools - provides children with universal coverage. As a result, nearly all of Israel's children come into contact with professionals who can identify risk

situations at an early stage and who know how to make referrals when necessary. In addition, children who need help may contact the ombudsman of the National Council for the Child or other voluntary organization.

280. Data indicate that a relatively large percentage (about 17%) of Israeli children are known to some social service organization as being at risk. However, data also indicate that the extent of services provided does not match the scope or type of need of children at risk. About 10% of the children who are known to social welfare departments receive some community service, while an additional 4% have been placed outside their home by the Service for Children and Youth of the Ministry of Labor and Social Affairs. A survey revealed that even children and families at high risk have serious unmet needs. The limited scope of the services available and their unequal geographic distribution impair the system's ability to successfully help parents care for their children and to adequately protect children.

281. The UN Convention on the Rights of the Child requires that the State signatories implement measures to protect children, taking into consideration the rights and duties of their parents or guardians. In this way, the Convention expresses the importance of helping parents fulfill their responsibilities toward their children.

282. This principle finds expression in some of the principles and operating structures of Israel's child welfare system, which is part of the general social welfare system. It aim to provide a "one-stop" response to a range of needs and problems, which may arise in family life. In addition, some of the innovative models introduced in recent years reflect a family-focused, rather than an exclusively child-focused approach, and aim not only to provide for the child but to support the family as part of the rehabilitative process.

283. Nevertheless, the majority of services that are provided on a broad scale focus on the child, rather than on the family. This is illustrated by the emphasis on out-of-home care and by the small number of programs that return children to their families or maintain the relationship between children in out-of-home placements and their parents. In the community, as well, the most prevalent methods of intervention involve placement in a day-care center, or in family day care, or in after-school programs. These programs often do not address the needs of the parents or of the family as a whole.

284. Preserving the best interests of the child while maintaining the rights and responsibilities of parents is reflected in parental involvement in decisionmaking. Courts are obliged to hear parents in cases involving children. The involvement of both parents and children in choosing the appropriate intervention is stipulated in the guidelines of the decisionmaking committees for children at risk that exist in every local authority (Dolev et al., 2000). A recent study of these committees indicates that the extent to which these guidelines are followed is increasing: In two-thirds of the cases, a member of the family (child, parent or both) is present at the committee meetings. However, the study also indicates that the participation of parents and children is not always effective: They are not present during decisionmaking, and professionals lack the training and skills to meaningfully include them in choosing an appropriate intervention.

3. Preserving the best interests of the child in out-of-home care

285. Between 65,000 and 75,000 (3%) of the children and youth in Israel live apart from their families, in frameworks supervised by the government. Most (some 55,000) of these children are between the ages of 14 and 18, and attend boarding schools (usually as the result of a decision made by them and their families). Far fewer (about 10,000) children and youth have been placed outside their homes by child and family services, most (8,500) of them in boarding schools, and the remainder (1,500) in foster families. Other, small groups of children are also placed out-of-home: Some reside in facilities operated by the Youth Protection Authority (which is responsible for the placement of delinquent and near-delinquent youth); some are disabled children who were removed from their homes by welfare services; and some have been admitted to psychiatric hospitals. Legislation and regulations govern the operation and surveillance of each of these frameworks (see Chapters VIII and IX).

286. Since the late 1980s, efforts have been made to improve the level of care in and the surveillance of out-of-home frameworks, and to monitor the quality of care and its outcomes. For example, new, comprehensive surveillance criteria and methods have been introduced in residential facilities. An important feature of these new system is that they consider the opinions of resident children as part of the process of evaluating quality. At the same time, the Youth Protection Authority is developing a system of monitoring the outcomes of care of children in residences under its auspices.

287. Efforts are being made to improve foster care, as the qualifications of many foster families have also come under criticism. These include the development of a training program for foster families, which will stress the importance of the child's relationship with his biological parents, and legislation defining the role and responsibilities of the foster family. Efforts are being made to provide more guidance and assistance to foster families and to more carefully screen these families in advance. An information system developed to monitor the care of children in foster families has been partially implemented.

288. Examination of the extent to which the best interests of the child is safeguarded in out-of-home frameworks raises several issues. Children in institutions may receive their education within schools located in the institution or may attend schools in the local community. In general, it has been found that these children have poor scholastic achievements and that the cooperation between the residential facility and the schools is inadequate. It seems that more resources need to be allocated to schools that operate within residential settings and to after-school enrichment programs. In addition, the responsibilities and contact between schools and residential settings must be clearly defined. Another challenge is assuring appropriate staff within the boarding school frameworks.

289. The availability of professional and para-professional personnel in out-of-home care is also an issue. A committee of experts has established criteria for hiring personnel for different roles and at different levels. However, these criteria are not always met and there are limited training opportunities, especially for child care staff.

290. The length of stay in an out-of-home framework, whether a boarding school or a foster family, is also at issue. Generally, a child's stay in one of these frameworks is long; even though these are defined as being short-term solutions, rarely does a child return to his biological family.

291. Another issue concerning children in out-of-home frameworks is their relationship with their parents. The welfare system is aware of the importance of maintaining a relationship between parents and the children, and a special program has been designed for this purpose. A committee of experts that set standards for maintaining the relationship between boarding school students and their parents recommended that schools regularly report to parents on their child's status, set times for telephone calls between parent and child, pre-arrange vacation dates, and host at least one event per year to which parents are invited. The Youth Protection Authority has also set guidelines and methods for including parents in the care of their child and reinforcing their relationship with their child.

292. Despite all of these efforts, findings from several studies indicate that policies that foster the relationship between natural parents and their children have not been uniformly or consistently implemented. In many cases, parents are not well informed about their child's life at boarding school, and are not involved in their child's care.

293. Children with serious mental health or behavior problems are often admitted to psychiatric hospitals, due to a lack of more suitable solutions, even though they don't need the services provided by a psychiatric hospital. In order to provide more suitable solutions to the needs of such children, during the 1990s the Ministry of Labor and Social Affairs established post-hospitalization units within existing boarding schools. These frameworks are designed to enable children with a serious emotional disturbance to make the transition back to the community after having been in a psychiatric hospital. They aim to be an alternative to psychiatric hospitals, and to prevent long and unnecessary hospitalization of children. In 1996, six post-hospitalization units were in operation.

4. Preserving the best interests of the child in the criminal justice system

294. As has been noted, the principle of protecting the best interests of the child is expressed in the juvenile justice system by focusing on rehabilitation rather than on punishment. However, there are two sources of concern as to the extent to which the best interests of children and youth are protected in this system.

295. First, there is evidence that despite the system's orientation toward rehabilitation, most youth who have been detained or even convicted of committing an offense do not receive adequate rehabilitation and services. Youths who have been detained but whose cases have been closed are referred to the Youth Probation Service, but are rarely treated as they are not obligated to report to the Service. Youths who are being tried receive some intervention from a parole officer, although only 25% of them receive long-term rehabilitation intervention. Concern has been expressed that the conditions of incarceration for minors who have committed a serious offense do not allow for meaningful rehabilitative intervention. The lack of closed rehabilitation facilities (especially for Arabs and adolescent girls) also presents a serious problem.

296. The system has been criticized for protecting the youth offender at the expense of preserving his other rights, such as his right to legal representation. Legislative initiatives have been proposed to remedy this situation, for example by guaranteeing proper legal representation of minors, and amending current law to redress oversights.

297. Criticism has also been leveled against the actual implementation of the procedures designed to ensure the best interests and the rights of the child. According to officials in the criminal justice system and in children's rights organizations, despite marked improvement in the protection of children's rights in criminal proceedings, infringement of rights still exists. On the other hand, police officers have questioned the consequences of implementing some of the measures designed to protect children. Recent studies indicate that youth workers on the police force differ in the extent to which they implement such measures and in their attitudes toward children's rights.

The best interests of the child: achievements

- There are mechanisms to ensure the receipt of extensive and professional assessments that will facilitate decisionmaking on the basis of the best interests of the child

- The best interests of the child are protected in the sentencing and punishment of minors through emphasis on rehabilitation and avoidance of stigmatization

- Many new procedures and a number of new models for providing protective services to children have been developed in recent years

- Development of new systems to ensure the quality of care in out-of-home frameworks

The best interests of the child: problems and challenges

In child welfare proceedings

- Services that protect children and preserve their best interests are limited:

  - Very significant unmet needs

  - Innovative best practice approaches are not broadly disseminated

  - Services do not meet the needs of the family as a whole

  - Involvement of parents in decisions about and the process of intervention is only just beginning

In out-of-home placement

- Protecting the best interests of children in out-of-home frameworks requires:
  - Improving scholastic achievement and coordination with schools
  - There is a need to improve the quality of staff in residential facilities and support provided to foster families
  - Contact between children in out of home placements with their parents is often not maintained

In the criminal justice system

- The regulations to preserve the best interests of the child in the criminal justice system are not always implemented
- Rehabilitation of minors who have committed an offense is partial; many minors who have committed an offense do not receive rehabilitation

D. Article 12 of the Convention - Respect for the views of the child

1. The right of a minor to be heard, and respect for a minor's views in matters affecting him

298. Laws and policies stipulate that the opinion of a child should be heard and considered in matters concerning him (see Chapters VII-X). However, despite the tendency of both laws and administrative procedures to recommend, and even demand, that a child's opinion be heard, there is no consistent general policy. Although no systematic data are available, anecdotal evidence indicates that hearing a child's opinion often depends upon the attitude and opinion of the professional (e.g., judge, social worker) involved in the relevant decisions and procedures.

299. In only a small number of situations is the consent of a minor (or a minor over a certain age) required before a decision is made or proceedings undertaken. In proceedings involving conversion, adoption, or admission to a psychiatric hospital, the consent of the minor (once he has reached an age established by law) is required before action can be taken. Courts are allowed to rule against the minor's wishes (in the case of admission to a psychiatric hospital) or not to hear the minor's opinion (in the case of adoption) if this is judged to be in the child's best interests (see Chapters IV, VII and VIII).

300. Judges and administrators are required to hear and consider a minor's opinion (though not to obtain his consent) when ruling or making a decision in matters of custody and intervention under the Youth (Care and Supervision) Law and the Youth (Trial, Punishment and Modes of Treatment) Law. However, there are no specific guidelines regarding how minors are to be heard and considered in each situation, nor is there systematic information about the extent to which their opinions are actually heard and taken into account. There is some evidence that it

is indeed becoming more common to hear the opinions of minors in cases of custody and decisions related to the Youth Law. For example, according to the national child protection officer, the degree to which a minor's opinion is heard and considered in cases pertaining to the Youth Law depends largely on the presiding judge. While some judges tend to hear minors, others rarely do. The Youth Protection Authority requires that youth participate in the periodic evaluation committee meetings that are held in boarding schools under its auspices. Specifically, students must be allowed to participate actively in at least part of the meeting, and the committee must hear their opinion about their status, treatment methods, and interventions. This requirement is indeed fulfilled in practice.

301. It is also noteworthy that there are procedures in which it is not even mandatory to hear or consider a minor's opinion. For example, parents are allowed to change their child's name without his agreement, and can consent to medical treatment for him (except in cases in which this right is reserved for the court). Neither children nor parents have a formal position on the municipal or local decision committees that decide on matters of community intervention and removal of a child from his home. Nevertheless, the regulations governing these committees recommend that children and parents participate in at least some of the committee's discussions. Children also have no voice in decisions concerning the school they will attend, although parents do. Children who are candidates for special education do not participate in the placement committees that determine their eligibility, but the participation of their parents is mandatory. Such placement committees are allowed to invite a child to present his opinion, but there are no data on the extent to which they do so.

2. Legal representation of minors

302. Under the Guardianship and Legal Capacity Law 1962, parents or guardians are appointed by the court to represent a minor in legal proceedings; they may appoint someone else to represent their child. The law authorizes the court to appoint a representative for the child (a legal guardian or attorney) if necessary. Legal instructions and case law emphasize the importance of the appointment, especially when it is clear that the interests of the minor may be harmed if he does not have separate representation. They also emphasize the right of the child to be heard when there is a conflict between him and his parents, as stipulated by article 12 of the Convention (see for example Family Court Appeal (Tel Aviv) 1009/00 *Anonymous Plaintiff v. Anonymous Defendant* (not yet published)). The implementation of these legal provisions is still not widespread.

303. However, there is a growing tendency to allow the appointment of a representative for a minor without his parents' consent in an increasing variety of cases. Two recent laws, which concern admission to a psychiatric hospital - the Family Courts Law and the 1995 amendment to the Youth Law - specifically mention appointing a representative for a minor. The increased representation of minors in criminal and civil proceedings, would seem to indicate that this practice is now "one that minors would perform", and thus one that they are competent to perform under the Guardianship and Legal Capacity Law 1962. The establishment of a public defense attorney for minors is enabling many more minors to be represented in criminal proceedings. However, as noted, the general right to separate representation of minors is not set in law - although it may be inferred from case law.

304. Respect for the child's opinion is also reflected in his involvement in his school and community. Increasingly, students are encouraged to get involved in their school. In fact, the Ministry of Education views this as a right of students and parents, and has defined the participation and responsibility of students in making and enforcing decisions concerning schools and education. For example, the Ministry has recommended that students be involved in determining curricula and in the choice of their course of study (i.e. choosing major and minor subjects). It also recommends allowing students to help establish bylaws and express their opinions and needs. It is not clear to what extent these recommendations are being followed. (This issue is addressed by the new Pupils' Rights Law 2000 - see Chapters VI and IX.)

305. Community schools are another way of involving children and youth in their education: They allow - in fact require - student involvement in decisions that influence school policy and programs. Further, they encourage students to get involved in the community, and community residents to get involved in the school. These schools are run by committees comprising representatives of the school administration, teachers, parents, students, the local authority, and other community institutions (see Chapter IX).

306. The extent to which students feel that their opinions are being taken seriously at school and that their involvement is being encouraged is revealed by the results of an international comparative survey of Israel and 23 other countries (Harel et al., 1997). Some 40% of Israel's students feel they are involved in setting school rules and that the rules are not too strict. Sixty percent of them feel that their teachers encourage them to express their opinion in class. Although these percentages are larger than in most of the other countries in the study, they nevertheless indicate that there is much room for improvement.

307. Both in and outside of school, a variety of programs encourage youth to become involved in their community. These programs give youth the opportunity to contribute to their community and peers, as well as to learn skills and gain experience as leaders (see Chapter IX). In recent years, the umbrella organization of community centers has developed a new approach to planning activities for youth, which is based on empowering the youths themselves in planning the programs and even independently managing them. The centers are also striving to involve the youth in programs that benefit the entire community.

308. Traditionally, youth movements were an important part of the experience of Israeli youth. They inculcated in these youth a positive attitude toward involvement in community and country. Today, youth groups still enable youth to plan their own activities, express their opinions, make decisions, and learn leadership skills. Youth movement members serve as counselors for children and as mentors for younger counselors. In recent years, the number of participants in youth movements has declined, and the reduction in financial support has become a cause for concern (see Chapter IX).

309. There is clearly a need for greater efforts to reverse the trend toward less participation in meaningful afterschool programs that can promote positive youth values and active citizenship.

3. Youth involvement in school and communities

310. Another aspect of respect for the opinions of children and youth is the opportunity for them to organize and express their views as a group. Student and youth councils, operated by the Youth and Society Administration of the Ministry of Education, are an example of this. A student and youth council is a channel for dialogue and cooperation between teachers and students, and between the school and the community; it also represents students before school and education authorities. The councils are elected democratically with suitable representation from each age group.

311. The councils operate in schools, in local authorities, and at the regional and national levels. Youth on the regional and national councils represent their peers before the Ministry of Education and other government and public officials. The councils operate according to bylaws written by council members, their advisors and other educators. Regional councils sponsor the committees that write these bylaws, monitor their implementation, distribute information about the council and its activities, initiate social activities for students, and field requests and complaints from students who believe they have been treated unfairly in or outside of the school system.

312. The current trend is to strengthen student councils, increase their involvement in school life, and reinforce their role in determining the atmosphere and direction of a school. Student councils do not exist in every school, and municipal councils operate in less than half of all municipalities. Regional councils operate in every region of the Ministry of Education. Two years ago, regional student councils were particularly active promoting students' rights, in the face of national sanctions applied by teachers in the schools as part of a labor dispute. They have also been increasingly involved in discussions concerning the structure of matriculation examinations (for more information on student and youth councils, see Chapter IX). The Pupils' Rights Law 2000 stipulates that a school must encourage the establishment of a student council, and refrain from any action that would inhibit its establishment.

313. A recent law mandates that children be represented on committees on the status of children, which operate within local authorities. In addition, youth representatives are allowed to participate in Knesset committee debates (see Chapter III).

Respect for the views of the child: achievements

- A notable increase in service providers' awareness of the need to hear and weigh the views of children in matters affecting them:
- Custody
- Matters under the Youth (Trial, Punishment and Modes of Treatment) Law
- Determining interventions for minors in facilities of the Youth Protection Authority
- Increased willingness to appoint a representative for minors

- A trend to develop programs that encourage youth to get involved in their school and community

- Participation in student and youth councils and similar forums

Respect for the views of the child: challenges

- Children's views are only just beginning to be heard and considered

- Professionals are not sufficiently trained in involving and listening to children

- No consistent policy for hearing the views of children in various frameworks

E. Summary

314. This chapter has surveyed the extent to which the four general principles of the United Nations Convention on the Rights of the Child are implemented in Israel. There are many indications that the Convention has had a significant effect on policy, legislature and social services. Moreover, a public committee has been established to review all legislation and policies concerning children and youth, and to promote their compliance with the demands of the Convention. Despite the efforts being made to implement the spirit and stipulations of the Convention, this report identifies many areas that deserve special attention. These include the following:

1. There is a need to invest more in and devote greater attention to promoting health, preventing risk behaviors (particularly among youth), and promoting safety.

2. Poverty rates are very high, and this has significant consequences for children in many areas.

3. The education system has been successful in reducing drop-out rates and raising achievement levels. However, drop-out rates are still high, and there are significant rates of "hidden drop-outs" among Arabs and immigrants. The system needs to find ways to address the needs of these children and youth more comprehensively and systematically. In addition, 60% of Israel's youth do not successfully pass matriculation examinations.

4. Examination of the services for disabled children reveals several shortcomings: large gaps between needs and adequate services, lack of coordination and information, and limited opportunities for mainstreaming.

5. Israeli law prohibits discrimination of any type. However, the allocation of resources to different population groups is not always consistent with this principle. Greater efforts are required in a broad range of areas to narrow the gaps between Jewish and Arab children. Efforts are being made to promote equality between new immigrants and veteran Israelis, and to protect the rights of the children of foreign workers.

6. A variety of means guarantee “the best interests of the child”. In recent years, the public has given greater attention to this issue.

7. In addition, there is a trend to adopt programs and approaches that focus on maintaining children in their families (and hence on assisting the families), and on involving parents in decisions concerning the fate of their children. However, there are many gaps in the services that aim to protect children and support their families: Only a small proportion of children, including children at severe risk, receive services; most services do not involve parents, nor do they attend to their needs. Extensively involving both parents and children in desicionmaking and planning intervention requires that professionals receive more training.

8. Many changes have been made in legislation and policies that protect children and youth suspected of committing a crime, as well as children who are victims of crime and exploitation. However, most children who have committed an offense do not receive comprehensive rehabilitative interaction, and many of them do not receive rehabilitation at all. In addition, it is still unclear to what extent children’s rights are adequately protected within the juvenile justice system.

9. There is no consistent policy requiring that the opinions of children be heard and considered in decisions that concern them. The notion that children have the right to be heard in decisions that affect them is increasingly reflected in policy and law. However, it is necessary to ensure consistent and uniform implementation of such policy by creating structured mechanisms, changing attitudes and training professionals.

Summary of key issues

- Attention to preventive health services, prevention of accidents and risk behaviors
- Reduction of poverty and coping with its effects
- Addressing the needs of youth who do not adjust to the education system (drop-outs as well as hidden drop-outs)
- Continued development of services for children with disabilities, with emphasis on mainstreaming
- Reducing the existing gaps between Jews and Arabs
- Extending coverage and improving services that preserve the best interests of the child, with emphasis on services for families

- Ensuring adequate rehabilitation while protecting the rights of minors who have committed an offense

- Creating structured mechanisms, changing attitudes, and training professionals to hear children's views and involve them in decisions that affect their lives

IV. CIVIL RIGHTS AND FREEDOMS

315. Certain civil and political rights - those also likely to be relevant to children - are prescribed in general international treaties ratified by Israel, or form a part of international customary law, and as such are universally accepted. (See the Universal Declaration on Human Rights, 1948; the International Convention on Civil and Political Rights, 1966; and the United Nations' Convention against Torture, 1984.) The Supreme Court and other courts have used these treaties to support their judgments; however, reference to them in the context of children's rights has not been widespread.

A. Articles 7 and 8 of the Convention

1. Registration of children at birth and establishment of identity

316. Under section 6 of the Population Registry Law 1965, there is a duty to notify a registration officer of the Ministry of the Interior of a birth which occurred in Israel. The notification shall be made within ten days of the birth by the institution at which the birth occurred, or by the parents of the child. The notification is made according to the form determined in the Population Registry (Forms for Notification of Births and Deaths) Regulations 1972. The form requires, inter alia, certain particulars concerning medical data about the newborn, the parents' occupations, the parents' number of years of education, and whether the mother's marriage is her first marriage. It is possible to contend that certain of these requirements constitute an unjustifiable invasion of privacy of parents and newborns, and as such are not binding. After registration, newborns are provided with an identity number. All registrations are kept in the "Register of Births", administered by the Ministry of the Interior.

317. Under section 9 of the Population Registry Law, when an infant is found abandoned, any person first obtaining possession of the infant will within ten days make notification to a registration officer of such particulars of registration of the infant as are known to him or her, and any such other information as he or she may have concerning the birth of the infant.

318. Under section 30 of the Population Registry Law, a person born in Israel and registered in the Population Registry may receive a birth certificate, as may other persons having a prima facie interest in the certificate.

319. Under section 11 of the Population Registry Law, residents of Israel who give birth to a child abroad are under a duty to notify the registration officer within thirty days of the birth and of the particulars of registration of the infant.

320. Section 13 of the Population Registry Law requires that residents of Israel who adopt a child abroad notify the registration officer within thirty days of the particulars of registration of the child. Under section 32 of the Population Registry Law, persons registering a marriage are permitted to ascertain whether the persons wishing to marry are adopted. This provision is necessary to prevent forbidden marriages, such as marriages between relatives.

321. Special arrangements found in the Surrogates (Ratification of Agreement and Status of the Newborn) Law 1996 address the registration of children born as a result of a surrogacy agreement, and guarantee the legal status of such children.

322. Children of foreign workers or tourists born in the State of Israel are granted a "birth notice" and not a "birth certificate". This notice includes particulars of the parents and their passport number. The status of the children is determined according to their parents' status.

323. Under section 19e of the Population Registry Law, when the registration officer is convinced that a certain particular of registration is missing or that a particular of registration about the child provided by the parents is in contradiction with another registration entry found in the Ministry of the Interior, the officer may, after providing the parties with a suitable opportunity to be heard, complete or correct the registration. However, correction or completion of a registration entry relating to nationality, religion or personal status will not be made without the consent of the person involved in the matter, or by a declaratory judgment of the Family Court.

324. Representatives of the Association for Civil Rights in Israel recently presented data to the Knesset Committee for the Advancement of the Status of the Child, according to which hundreds of children, mostly Bedouin, who are not born within the confines of a medical institution, have not been registered in the Register of Residents. Similarly, a child born in East Jerusalem, one of whose parents is not an Israeli national, encounters difficulty obtaining an identity card, which prevents his obtaining medical insurance and realizing his right to an education. At the conclusion of the debate, the Committee advised carrying out a survey on the extent of this phenomenon, which would enable children to be located and cared for.

2. The right to a name

325. The right of a child to a name is regulated in the Names Law 1956, which ensures that a child will not be left without a name and surname.

326. Section 4 of the Names Law provides that a first name agreed upon by the parents will be given to a child shortly after birth. Parents are free to choose whatever name they wish and are not limited by a list of names or any other restriction. Where the parents are unable to reach agreement on a name, each parent will give the child a first name. A father who is not married to the mother of his child may not give a first name to his newborn child. This right is reserved solely for the mother.

327. Parents may change their child's first name without the consent of the child or the approval of the court. This arrangement, which is likely to expose children to arbitrary name changes against their will, which are not in their best interest, is problematic. On the other hand, a guardian who is not a natural parent needs the approval of the court to change a child's first name. Children may not change their first name until they reach the age of 18, unless they obtain the consent of the court.

328. The Names Law provides other arrangements with regard to surnames. According to section 5, children born to parents who are married to each other receive their parents' surname upon birth. If the surnames of the parents differ, the child will receive the father's surname, unless the parents have agreed between themselves that the name to be given will be the mother's name or both the father's and the mother's surnames. If parents change their surname, they need the approval of the court for the respective change of surname of their minor child. A guardian who is not a natural parent also needs court approval for any change of surname of a child under his protection. Children may not change their surname before reaching the age of 18, unless they obtain the consent of the court.

329. Even if only one parent is requesting a change of name of a minor - for example, when the parents are divorced or separated - the court's approval is necessary. In a case involving an application from a mother who changed her surname after divorcing the minor's father, in which she requested changing the surname of the minor accordingly or adding her new surname to the minor's current surname, the Family Court in Jerusalem held that the child's wishes in this matter were of cardinal importance; it criticized the existing law, which fails to make it mandatory to hear the child's view in such a case. After having heard the child, the court decided ex gratia to dismiss the application, as it discovered that the child was indifferent to the name change, and that such a change would harm the child's well-being and his relationship with his father. It should be noted that the court relied on the spirit and the letter of the Convention (Family Court Case (Jerusalem) 19530/97 *Anonymous Plaintiff v. Anonymous Defendant* (12.4.98 not yet published)).

330. Children of parents who are unmarried at the time of birth will receive the mother's surname. However, when both parents are in agreement, the children will receive the father's surname or the surnames of both parents.

331. According to section 5 of the Adoption of Children Law 1981, an adopted minor receives his or her adoptive parents' surname, but will not receive a new first name unless the court determines otherwise in the adoption order. A minor adopted by the spouse of his or her birth parent will also carry the name of his other birth parent, unless the adoptive parent requests otherwise, or at the order of the court.

332. According to sections 8 and 9 of the Names Law, a person who has no surname or no first name, or whose names are not known, and who is a minor, will have names chosen for him or her by his or her parents or guardians. Children who have not had their names chosen for them, as stated, may have their name fixed for them by the Minister of the Interior. The Minister is required to notify the parents and guardians of the name, who may choose another name for the child. These provisions are most probably designed to ensure the well-being of children, since not having a name is likely to harm this well-being.

3. The right to acquire nationality and protection of nationality

(a) Nationality by birth

333. Under section 4 of the Nationality Law 1952, children born anywhere in the world to a father who is an Israeli national or a mother who is an Israeli national are entitled to Israeli nationality.

(b) Nationality by birth and domicile in Israel

334. Under section 4a of the Nationality Law, persons born after the establishment of the State of Israel in a place which was part of the State of Israel on the date of their birth, and who have never possessed any nationality, will become Israeli nationals if they request this between their 18th and their 21st birthdays, and if they were residents of Israel for five consecutive years immediately preceding the date of their application for nationality. The Minister of the Interior is authorized not to approve such an application, if the applicant has been convicted of an offense of State security or has served at least five years in prison for any other offense. In such a case, the applicant is likely to remain without any nationality.

(c) Nationality by naturalization

335. Under the Nationality Law, if parents acquire nationality through naturalization, Israeli nationality is also granted to their minor children who are residents of Israel at that time. However, if only one parent becomes naturalized, and the other parent declares that he or she does not wish the children to become Israeli nationals - the children will not be granted Israeli nationality.

(d) Nationality at the discretion of the Minister of the Interior

336. Under the Nationality Law, the Minister of the Interior may grant Israeli nationality to minors who are residents of Israel following the application of both parents, or following the application of either the mother or the father, if one of them has sole custody of the child.

(e) Nationality by return

337. Immigrants ("*olim*") to Israel under the Law of Return 1950 are entitled to nationality. Children of parents who are entitled to nationality under the Law of Return are also granted nationality. According to a directive of the Ministry of the Interior, if one parent does not agree that his immigrant children be granted Israeli nationality, the children will be granted permanent resident status (under the Entry into Israel Law 1952). This status entitles the children to all of the benefits given to immigrant children who acquire Israeli nationality under the Law of Return.

(f) Nationality by adoption

338. Under section 4b of the Nationality Law, adopted minors are Israeli nationals by virtue of their adoption from the date of their adoption, if they are adopted in Israel and if their adoptive father or mother are Israeli nationals, or if they are adopted abroad by Israeli nationals.

4. Protection of children's nationality

339. Minors holding Israeli nationality may not renounce this nationality. Adults who are not residents of Israel and who have renounced their Israeli nationality may also renounce the nationality of their children who are still under the age of 16, with the approval of the Minister of the Interior. The Minister may decide that the Israeli nationality of the children will remain valid, despite revocation of the parents' nationality, if he believes there are special grounds justifying such a decision. Children whose nationality has been revoked by their parents may again invoke Israeli nationality by applying to the Minister of the Interior between their 18th and their 22nd birthdays. In the case of children over the age of 16, their written consent to revoke their nationality is necessary, and their parents' application to revoke their nationality is insufficient. These arrangements are in accord with the provisions of article 8 of the Convention, whereby States should provide children with adequate means to protect the component parts of their identity and to re-establish this identity in appropriate cases. While these arrangements do not completely prevent children from becoming stateless, it stands to reason that the Minister of the Interior should bear this possibility in mind when exercising his discretion under the law.

5. The right to know parents' identity

340. The right of children to know the identity of their parents is recognized in Israeli case law as a basic right deriving from the rights of children under the provisions of personal law and their rights to property (see Civil Appeal 5942/92 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 48(3) 857); from their right to dignity (prescribed in the Basic Law: Human Dignity and Liberty, which has the status of constitutional legislation); and from the UN Convention on the Rights of the Child. The Supreme Court wrote the following in this regard:

> "The dignity of man trumpets free will and choice. … a man who wishes to know who his father is, who his mother is, where he comes from - who shouts, 'who am I?' - his dignity compels us, all of us, to extend a helping hand … Indeed, the dignity of any man, whoever he may be, entitles him to know who gave birth to him, who fathered him. We must also remember the International Convention of 1989, the Convention on the Rights of the Child, to which Israel became a party in 1991. According to article 7 of the Convention "[a child] will have the right from birth … as far possible … to know … his or her parents" (Civil Appeal 3077/90 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49(2) 578, p. 593).

341. However, Israeli courts have been forced to grapple with the difficulties arising from the application of religious law in several areas of family and personal law, which at times prevents an individual from realizing his right to know his parents' identity (as in the case of Moslem *shari'a*), or infringes on the rights of children whose father is not the husband of their mother (as in the case of Jewish *halacha*). The Supreme Court has struck a balance between the right to know the identity of parents and considerations that conflict with this right, based consistently on the principle of the best interests of the child.

342. Thus, for example, if there is doubt over the identity of a father, the court usually refers the defendant in the paternity suit for a DNA screening, which can confirm or refute paternity with a high degree of certainty. Although the court is not authorized to compel a defendant to be tested, his refusal to do so is persuasive evidence that he is indeed the father (see *Civil Appeal Sharon v. Levi*, P.D. 35(1) 579). In a landmark case, the court came to the aid of a Moslem minor girl, whom *shari'a* denied the right to paternity proceedings, as her mother was not married to the person alleged to be her father. The Supreme Court ruled that in addition to the paternity, that is a matter of personal status, and that is governed by religious law, there is another paternity, which may be termed "civil paternity", and which the court will examine by disregarding religious law. In this case, the court was assisted by article 7 of the Convention, which addresses the right of a child to know his parents (Civil Appeal 3077/90 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49(2) 578).

343. However, there are cases in which the court prohibits testing that would reveal the truth regarding the identity of a child's father. These are cases in which a husband alleges that he is not the father of the child to whom his wife has given birth. According to Jewish *halacha*, the consequences for the child of verifying such an allegation are liable to be severe, as the child could be declared a "bastard", and as such would be prohibited from ever marrying a Jew. In cases in which disclosing the true identity of a child's father is liable to cause the child harm, the Supreme Court has held that a paternity test ought not to be ordered (see Civil Appeal 1354/92 *Attorney General v. Anonymous Defendant*, P.D. 48(1) 748). For example, in one case, the Jerusalem Family Court refused to order a paternity test on the supposition that even casting doubt on the father's paternity would severely harm the child.

344. Another case in which a different interest prevails over the right of a child to know the identity of his biological parents is that of fertilization by means of donated sperm or ova. In Israel, persons donating sperm or ova are guaranteed anonymity, and children born from such donations are not entitled to know the identity of their biological fathers or mothers. The anonymity guaranteed to donors promotes donation, and serves the parents who actually raise the offspring of the donation. However, the best interest of these children, who are prohibited from ever knowing the truth of their origin - including information that may have medical repercussions (for example, concerning genetic makeup) - is not served.

345. Adopted children may receive information about the identity of their parents after they have reached the age of 18. Adopted children must apply to a child protection officer to inspect the register in which information about their biological parents is recorded. If their application is rejected, they may petition the court, which will decide the matter after having obtained a report from the welfare officer.

346. Similarly, children born as a consequence of a surrogacy agreement may also apply to review the register in which the details of their birth are recorded.

6. The right to parental care

347. Under section 14 of the Guardianship and Legal Capacity Law 1962, parents are the natural guardians of their children. This means that children are entitled to be cared for by their parents, and parents are entitled to care for their children. Denial or restriction of guardianship is made only in those cases in which parents are unable to fulfill their obligations, and with the approval of the court.

348. Children whose right to be cared for by parents is not exercised due to a refusal on the part of the parents to care for them are likely to be awarded compensation for damage incurred due to neglect. Such was the ruling of the Supreme Court in a case, which was evidently groundbreaking on a world scale. In the case in question, a mother committed suicide when her children were very young, and their father cut off all ties with them because of an agreement he had made with his new wife. The children were raised in institutions and foster homes, and were emotionally handicapped by their father's cruelty and abandonment. The court ruled that by neglecting his children, the father was in breach, inter alia, of his duty to his children as stipulated by the Guardianship and Legal Capacity Law 1962, and hence had committed the civil wrong of violating a statutory obligation.

B. Article 13 of the Convention - freedom of expression

349. Although freedom of expression is not anchored in a specific statute, it is recognized by Israeli law as a fundamental right. Just as the freedom of expression of adults is recognized, so too is the freedom of expression of children. Nevertheless, freedom of expression is not an absolute right. Limitations on the freedom of expression of adults also apply to children. These limitations are determined, inter alia, in the Defamation Law 1965 and in those provisions of the Penal Law 1977 that prohibit incitement to racism, soliciting an individual to commit an offense, and the like (see also Chapter II).

Freedom of expression in the education system

350. It is the policy of the Ministry of Education, as expressed in the circulars of the director-general of the ministry, to encourage political education, social awareness, involvement in current events, and understanding of and involvement in State affairs. Schools allow the expression of the range of opinions and perspectives abroad in society, as long as these do not contravene the law. The point of this is not to encourage affiliation with any one political party, but to expose pupils to a diversity of ideas.

351. Schools allow those supporting and opposing a political position to express their opinion, regardless of whether the position is supported by the government or accepted by the majority of the public. Students are not required to renounce their beliefs or views, even if these are repugnant. As part of this policy, the ministry encourages meetings between pupils and persons engaged in public and social affairs. Such meetings, which schools take part in organizing, are held both in and outside the bounds of the school.

352. The Ministry of Education encourages students to become involved in publishing student newspapers, although supervises their content. For example, the Ministry of Education initiated an electronic magazine, "*Itonnoar*", which is written and produced by youth and broadcast on Teletext. The Ministry of Education has published bylaws, including a code of professional ethics, for the members of editorial boards of student newspapers.

C. Article 14 of the Convention - Freedom of religion and conscience

353. Freedom of religion and conscience are anchored in the law of the State of Israel. According to section 83 of the King's Order-in-Council for Palestine 1923, a statute enacted during the British Mandate that is still valid:

> "Every person in Israel shall enjoy complete freedom of conscience and may perform their form of worship without hindrance, provided that public order and morals are preserved. Every religious group will enjoy independence in internal affairs, subject to the ordinances and orders issued by the government."

354. The Supreme Court has added that "it is a matter of principle in Israel - originating in the rule of law (in its material sense) and in the case law issued by the courts - that freedom of religion and freedom from religion be preserved for nationals and residents of Israel" ((Petition to the) High Court of Justice 3872/93 *Miteral Ltd. v. Prime Minister and Minister of Religion*, P.D. 47(5) 485).

355. Freedom of religion involves providing parents with the opportunity to educate their children in accordance with the religion to which they adhere, or to refrain from providing a religious education. In order to exercise this freedom, the law allows parents to select from among State schools, State religious schools, and private schools. (See section 10 of the Compulsory Education Law 1949.)

356. If parents are unable to reach agreement on the religious education of their children, the court will decide the issue by balancing the various pertinent interests. The Supreme Court's approach is that the desire to educate children according to their religious identity is only one of many things that must be considered when deciding matters of custody. In one case the Supreme Court dismissed an application by a mother to transfer her children from the custody of her former husband into her custody, so that she could bring them to Sweden where they were born, and where they would receive an education commensurate with their Christian religion. The court ruled that the theoretical possibility of a crisis concerning their religious identity was insufficient grounds for removing them from the custody of their father, who cared for them devotedly (Civil Appeal 90/86 *Martinson v. Buzo*, P.D. 40(3) 503). In another case in which a mother wished to expose her children to the doctrine of a sect that she had joined after her marriage, while the father wished to educate them according to the tenets of the Jewish religion, then-Chief Justice Meir Shamgar determined that this was a conflict between mother's right to freedom of religion, and the children's right to freedom of religion, and that the perception of children's rights as being separate led to the conclusion that the children's right to be educated as

Jews should prevail over the mother's right to educate them according to another religion. In the words of Chief Justice Shamgar, "The mother's right to freedom of religion is firmly established, and includes her right to give her children a religious education. However, her right bows to that of her children". The other justices who heard this case had reservations about the primacy Chief Justice Shamgar gave to the rights of the child as a means of resolving disputes concerning children. Nevertheless, they reached the same conclusion regarding the case - albeit by relying on the more traditional doctrine of the best interests of the child (Civil Appeal 2266/93 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49(1) 231). There is no law or case law determining the rights of a minor who whishes to become more religiously observant, or to leave a religiously observant lifestyle, without parental consent.

1. Freedom to convert

357. The religious conversion of children is regulated in section 13 of the Guardianship and Legal Capacity Law 1962. According to section 13(a) of that law, children who have not yet reached the age of ten may be converted if both of their parents agree to conversion, or if the court approves conversion upon the application of one of the parents. According to section 13(b), the religious conversion of children who have reached ten years of age requires both an application by their parents and the consent of the children. The conversion of children contrary to the provisions of this section is legally invalid. The Supreme Court explained the reasoning behind these provisions in *Anonymous Plaintiff (Minor) v. Anonymous Defendant*, P.D. 49(1) 221, p. 258, as follows:

> "The purpose of these provisions is to protect the interests of the child. Freedom of religion grants parents complete freedom to choose their child's first religion. However, after having done so, the complete choice is no longer in their hands, and any change of religion also incurs some infringement of the legitimate interests of the child. It is possible that the child may still be unaware of this interest and may not yet be able to form, exercise or protect his interest; nevertheless, it still exists. Therefore the State is required to intervene, in the form of the protection of the court.'

2. Freedom of religion in the education system

358. The primary organizing principle of the Israeli education system is a religious one. The system comprises a significant number of fairly autonomous approaches, most of which are supported by State funds. While based on a recognition of religious pluralism, and not lacking in advantages, this arrangement may also foster difficulties - such as unequal or insufficient funding for politically weak groups, religious separatism, and the perpetuation of gaps among population groups - which are liable to hinder the provision of equal educational opportunities.

359. A problem deriving from a difference between the religious beliefs of children and the religious beliefs of their parents may arise when the children find themselves, by virtue of their parents' choice, at an educational institution affiliated with a faith or belief system to which they do not adhere. In one case, the Supreme Court debated the refusal of a private Christian school to allow a female Moslem student to attend school wearing a veil. The court decided not to

intervene in the school's policy, as the school was a private one affiliated with a religious group, whose considerations were based on its particular nature and essence. Chief Justice Aharon Barak commented that were the school affiliated with the State system, it would have been appropriate to recognize the student's right to wear the veil as her religion commands her, within the ambit of the freedom granted every student to express his religious beliefs through his mode of dress, since freedom of religion takes precedence over rules of uniformity. Another justice who heard the case, Eliezer Goldberg, did not rule on the implications of freedom of religion for State schools ((Petition to the) High Court of Justice 4298/93 *Jabarin v. Minister of Education and Culture*, P.D. 48(5) 199).

360. Religious Jewish males customarily cover their heads. According to a directive of the Ministry of Education, a Jewish student may not be prevented from covering his head, even if he attends a non-religious State school. Conversely, the bylaws of some non-religious State schools require students to cover their heads during certain classes (such as bible class). It could be claimed that this obliges students to perform a religious practice, and that as such it violates their right to freedom from religion.

D. Article 15 of the Convention - Freedom of association and peaceful assembly

361. Freedom of assembly is recognized in Israel as a basic human right. In principle, this freedom also applies to children. Similarly, restrictions on the assembly of adults also apply to children. For example, under section 147 of the Penal Law 1977, a person who has reached the age of 16 and who is a member of a proscribed organization may be sentenced to one year in prison.

362. However, in reality, the law makes it difficult for children to exercise this right. The Amutot (Non-profit Societies) Law 1980 restricts the right of children to belong to an association. (Under section 15 of this law, any adult is competent to be a member of an association.) Similarly, the Companies' Law 1999 grants every individual the right to establish a company.

363. In reality, aspects of freedom of assembly, such as establishing a company, are liable to be proscribed for children by the Guardianship and Legal Capacity Law 1962, which limits their capacity to perform certain legal acts - even if the specific law governing an aspect of freedom of assembly itself imposes no restrictions. Under the Guardianship and Legal Capacity Law 1962, a minor performing a legal act generally requires the consent of his representative (parent or guardian). A minor's representative has the authority to consent to any legal act performed by the minor, or to revoke the act within one month of the date on which the representative was notified of it. This does not hold for "legal actions performed by a minor, which minors his age would perform", even when the representative does not agree to them, unless they cause real harm to children. The answer to the question of what acts "would be performed by a minor" of a certain age varies with cultural and social developments. It is doubtful whether assembly for economic gain is at present an activity "that minors would perform". Thus, those few children who would wish to engage in such activity, including those who are sufficiently mature to do so, are liable to be put at a disadvantage by the paternalistic arrangement in the law.

1. Political assembly

364. Under section 2 of the Political Parties Law 1992, only adult Israeli nationals may establish a political party. However, under section 20 of the law, an Israeli national who has reached the age of 17 and is a resident of Israel may join a political party.

2. Assembly in student and youth councils

365. The Ministry of Education encourages the establishment of student councils, which are elected bodies of students that represent the entire student body before the school administration, the local school board and the Ministry of Education. Student council members are elected democratically, with adequate representation for every age group (see the director-general's circular nt/1(a) of September 1, 1998.) A student council member also serves on the committee to promote the status of children established in each local authority under section 149G of the Municipalities Ordinance, as amended in 2000. The Pupils' Rights Law 2000 stipulates that a school must encourage the establishment of a student council, and refrain from any action that would inhibit its establishment.

366. Similarly, youth movements that represent various political movements and sectors are active in Israel (see Chapter IX).

3. Freedom of protest and demonstration

367. The freedom of protest and demonstration enjoyed by adults also applies to children, in principle. The Ministry of Education prohibits students from taking part in political demonstrations during school hours, although it recognizes that students and teachers have a right to participate in demonstrations outside school hours, on their own responsibility.

368. The Ministry also stipulates that parents of children who are absent from school due to participation in any gathering or demonstration will notify the school of the absence in writing. The school will handle this absence in conformity with the regulations applying to any absence from school.

E. Article 16 of the Convention - The right to dignity, privacy and reputation

369. According to sections 2 and 4 of the Basic Law: Human Dignity and Liberty, all persons, including all children, are entitled not to suffer any violation of their life, body and dignity; moreover, they are entitled to protection of their life, body and dignity. Section 7 of the Basic Law: Human Dignity and Liberty includes a number of provisions on the right to privacy, derived from the right to dignity. The right to privacy is set forth in the Protection of Privacy Law 1981. Protection of the right to a reputation, which also derives from the right to dignity, is set forth in the Defamation Law 1965.

370. Ministry of Education directives include numerous provisions to protect students' dignity, including their privacy. For example, the directives prohibit anyone in the school from conducting a bodily search of a student to discover drug use, even if students and parents have

given their consent to such searches. Another directive of the Ministry of Education prohibits an educational institution from punishing a student for any act or omission of his parents. This is directed at parents who fail to make all of the payments requested by the institution. A student may not be removed from a classroom or suspended from school as a result of non-payment, nor can his grades or certificates be withheld for non-payment. In fact, another directive stipulates that matters of payment will be settled directly with parents, without involving students. A student's dignity will not be violated due to a dispute with his parents over payment.

1. The right to privacy in the narrow sense

371. As noted, the right to privacy and confidentiality are anchored in section 7 of the Basic Law: Human Dignity and Liberty and in the Protection of Privacy Law 1981. In principle, this right is also granted to children. Invasion of privacy is a civil wrong for which the law provides relief.

372. In addition, the law includes arrangements concerning children specifically, which are reflected in a diversity of prohibitions against publicizing information or details that will reveal a child's identity. A number of statutes prohibit the publication of information about minors.

373. Juvenile court proceedings are conducted in camera. Publication of a hearing conducted in camera, including a photograph of the courtroom, must be authorized by the court. Sections 70 and 70(c) of the Courts Law [Consolidated Version]1984 prohibit publication of any detail whatsoever that is liable to lead to the identification of minor defendants in a criminal trial. This provision applies to courts of all instances in which minors may be tried - not only juvenile court - and its application is not restricted to cases which are heard in camera.

374. The Youth (Care and Supervision) Law 1960 protects minors from the publication of details that are likely to impute an offense or moral corruption to them or their relatives, or to impute a minor's having been the victim of an offense. Furthermore, section 13 of the Crime Register and Rehabilitation of Offenders Law 1981 restricts the transmission of information about offenses committed by minors who have not yet reached the age of 14, and misdemeanors (offenses punishable by a maximum of three years' imprisonment) committed by minors who have not yet reached the age of 16. The section also restricts the transmission of information about a probation order, an order on recognizance to abstain from an offense, and an order to perform public works without a conviction. The law allows such information to be delivered to certain authorities only, which require it to fulfill their duties - inter alia, the courts, the attorney general, military prosecutors, and the Review Committee into the Criminal Record of Soldiers. Information on a criminal investigation against a minor that does not lead to an indictment will not remain with the police in a computerized form and will not be transferred to any external authority.

375. Prohibited publications generally constitute a criminal offense, as determined in the statute in which the prohibition is included. Section 14 of the Crime Register and Rehabilitation of Offenders Law 1981, which prescribes particularly short limitation periods for convictions of minors, prevents information about the conviction from being transmitted at the termination of the limitation period.

376. Family Court has addressed the conflict between a child's right to privacy and the right of the public to know and freedom of the press. In one case, potential parents and a surrogate mother requested permission to reveal their identity and that of their children and to recount their experiences in a television film. Under section 19 of the Surrogates (Ratification of Agreement and Status of the Newborn) Law 1996, the name and identity of a surrogate mother, potential parents, and children may not be published without the consent of the court. In this case, the court refused to permit the publication, ruling that the right of the children to privacy prevailed over the freedom of expression of the parents and the makers of the film. In so ruling, the court relied on article 16 of the UN Convention on the Rights of the Child, which provides that "no child shall be subjected to arbitrary or unlawful interference with his or her privacy" (Family Court Case (Tel Aviv) 4570/98 *Anonymous Plaintiff v. Attorney General* (not yet published)).

377. According to the Protection of Genetic Information Law 1998, one of whose main objectives is to protect genetic information and the right of persons who have undergone genetic testing to privacy with regard thereto, genetic testing and DNA sampling on a minor age 16 and over requires the written consent of the minor and his representative, provided the minor has received and understood a complete explanation about the test; in the case of a younger minor, the written consent of his representative is required. The law restricts genetic sampling on a minor to cases in which the minor will not suffer any physical or emotional harm. Genetic testing of a minor for another person who is not a relative requires the approval of the court. Results of tests conducted on a minor may not be revealed to his representative unless they detect the existence of a disease or a disease-bearing gene, or unless reasonable medical opinion determines that intervention or treatment could prevent or delay the outbreak of disease in the minor or a relative, or could prevent a decline in the minor's condition, or could provide essential assistance to another person without causing the minor any physical or emotional harm. It has been further proposed that in research that includes genetic testing of minors, a minor who has reached the age of 16 will be instructed not to reveal details of his identity. A person age 18 and over may revoke, restrict or alter the consent he gave to participating in such research when he was a minor.

2. Privacy in the narrow sense in the education system

378. Large amounts of information are collected on children in the education system. This information, including personal details, grades, medical records, and a psychological profile, is compiled on a student card, which follows the student throughout his stay in the education system. According to the directives of the Ministry of Education, no student card or information therein may be brought to the attention of authorities outside the education system, without the consent of the student's parent or the student himself (after he has reached the age of 18).

379. According to Ministry of Education directives, parents must be notified of any request by a student, on his own initiative, to meet with the school psychologist, unless the student expressly states that he or she is not interested in such notification. If more than two meetings take place with the psychologist, the parents must be notified, even in defiance of the student's wishes. (See Director-General's Circular na/1 of September 2, 1990.) Special directives deal with psychological information about students and oblige schools to keep all matters relating to psychological reports confidential. Moreover, a student's parents and the principal must be

informed of any sensitive or serious case that reaches the psychologist or school counselor, such as a minor's contravention of the law, engaging in sexual relations, or pregnancy. It is desirable, but not mandatory, that the information be transmitted with the student's consent. (See Director-General's Circular sn/9 of May 1, 1990.)

380. According to a general directive of the Ministry of Education, the right to receive information about a student is reserved for parents and guardians; anyone else desiring information about a student must obtain the consent of his parent or guardian. However, this general directive is apparently subject to another, specific directive that determines that information about students may be transmitted to the staff of the Ministry of Education, the local authority, or government agencies who require it in order to do their jobs. This directive does not require obtaining the consent of a student or his guardian to transmit the material.

381. The legality of these directives, which violate the constitutional right to privacy prescribed in the Basic Law: Human Dignity and Liberty, and the provisions of the Protection of Privacy Law 1981, has not yet been reviewed by the courts. It seems possible that in certain circumstances these directives do not even conform with the obligation to preserve confidentiality that is imposed on psychologists by section 7 of the Psychologists' Law 1977. In fact, the directives are liable to deter students from seeking counseling or treatment.

382. Nonetheless, Ministry of Education directives are strict about a student's right to privacy in other contexts. For example, the Ministry of Education sponsors a "hotline" for students who wish to discuss a problem, clarify their rights, or receive assistance. Hotline staff are obligated to maintain confidentiality and privacy; they may transmit information about a caller only with the caller's consent. (See Director-General's Circular nz/1 of September, 1996.) According to another directive, teachers, principals or other staff conducting research on students must receive the consent of the students' parents and the Ministry of Education. Publication of such research must not reveal the students' identity. The recently ratified Pupils' Rights Law 2000 stipulates that anyone who has received information about a student pursuant to the job he is legally charged to perform must keep this information secret and may not reveal it except for the express purpose of performing his job.

383. According to section 368d of the Penal Law 1977, the staff of an educational institution attended by minors - who as a consequence of their position have reasonable grounds to believe that an offense has been committed against a minor by a person responsible for him - are bound to report any such incident as soon as possible to a child protection officer or the police. Breach of such an obligation is a criminal offense (see Chapter X).

384. The employment of a private investigation company within school grounds is absolutely prohibited, regardless of whether the investigation concerns theft, drugs or other unusual phenomena involving students. (See Director-General's Circular ng/10 of June 1, 1993.)

385. The Protection of Privacy Law 1981 determines special instructions regarding the information in computer data bases. The law provides, inter alia, that every person has the right to view information about himself and to amend any erroneous information; this information

must be kept confidential. Much information about students is indeed found in data bases. Instructions to protect the privacy of an individual about whom information may be found in a computer data base also applies to students.

3. The right to privacy in the broad sense

386. The right to privacy in the broad sense, derived from the right to dignity, refers to the right of an individual to be "left in peace" and to conduct his intimate affairs and private life without interference. Granting children privacy in this sense is likely to conflict with the role of parents as natural guardians and with their right to nurture and educate their children in the manner they see fit, as well as with the educational function of school. Such conflicts are liable to arise in any matter concerning children's lives. We shall provide examples of their complexity in the contexts of medical treatment provided to children.

387. The law allows medical treatment, testing and other intervention for minors without the consent of their parents in only a limited number of cases, including AIDS/HIV testing (the Detection of the AIDS Virus in Minors Law 1999); performing an abortion on a female minor (section 316 of the Penal Law 1977); and mental health care or hospitalization (section 4B of the Treatment of Mentally Ill Law 1991).

388. The Supreme Court addressed the case of a youth age 17 and seven months who had become ill with cancer who refused medical treatment (chemotherapy) and was admitted to a closed psychiatric ward to forcibly receive treatment. The youth petitioned the Supreme Court with a request not to receive treatment against his will. However, the case was settled without a ruling, which would have set a precedent ((Petition to the) High Court of Justice 2098/91 *Anonymous Plaintiff v. Child Protection Officer*, Jerusalem Social Welfare Department, P.D. 48(3) 217).

389. Many directives have been issued in the education system that infringe upon a student's privacy in the broad sense. For example, students are forbidden to smoke at school, yet teachers are permitted to smoke in a designated smoking corner. Most schools publish internal bylaws through director-general circulars, which include restrictions on students' dress and physical appearance. A typical example is that given by the regulations of a secondary school in Haifa: On Fridays, when students are free to dress as they choose, they are "forbidden to come to school in shorts (shorter than Bermuda length), torn pants, undershirts, bikini tops, torn shirts, clogs or slippers". The constitutionality and legality of some of the provisions in these directives and bylaws have yet to be reviewed by the courts.

F. Article 17 of the Convention - Access to appropriate information: regulating television, radio, and film

390. Under the Broadcast Authority Law 1965, the promotion of the goals of State education as prescribed in the State Education Law 1953 was included among the functions of the Broadcast Authority, which is responsible for public broadcasting in Israel. The rules of the

Broadcast Authority have the status of administrative guidelines and are designed to guarantee ethical broadcasting. Under the Second Television and Radio Authority Law 1990, the Second Television and Radio Authority, which is responsible for commercial broadcasting, is assigned the task of broadcasting educational programs.

391. The law includes a number of arrangements to protect children exposed to the mass media.

392. Educational Television was granted a license, without a tender, for television broadcasting of pedagogic-educational subjects only, at viewing times that are appropriate for its target population. Educational Television is allocated broadcasting time on both Channel One, operated by the Broadcast Authority, and on Channel Two, operated by the Second Television and Radio Authority. Under Second Television and Radio Authority (Television Program Broadcasting by Licensee) Regulations 1992, companies licensed to broadcast on Channel Two must give appropriate expression to the areas of interest of defined population groups, including children, and to devote 15% of their air time to children and youth at appropriate viewing hours. Licensees are required to clearly state in all program listings if viewing is restricted to adults; such programs may not be aired before 22:00. Licensees must ensure that programs designed for children under the age of seven are dubbed in Hebrew.

393. According to the Cinematography Ordinance 1927, the Film Censorship Board is authorized to determine the minimum viewing age for films likely to harm children, such as those with explicit depictions of violence or sex. At present, the Knesset is debating several bills to classify television programs by the age of the target audience and to censor the content of advertisements broadcast during child and family viewing times.

394. Existing legislation aims to protect minors from advertising that is liable to harm their health or welfare. The Consumer Protection (Advertising Aimed at Minors) Regulations 1991 set the following fundamental principles for advertisements directed at minors: An advertisement must be adapted for the level of knowledge, understanding and maturity of its target audience, and must transmit information precisely, truthfully and in clear language; it must accord with those social values generally accepted as being positive, in the knowledge that minors are likely to be influenced by it to do things that may adversely affect their health or welfare; it must not encourage minors to do dangerous things; it must refrain from exploiting the imagination and lack of experience typical of minors; it must not use violence, nudity or sexual innuendo. In addition, advertising is prohibited in schools, save with the permission of the director-general of the Ministry of Education or a person who has been authorized by him to give such permission. The law does not define what constitutes “advertising to minors” or how to protect minors from exposure to advertisements not directed at them; it seems that this law is not widely enforced. Public television channels control the advertisements broadcast during times when minors are likely to watch television.

1. Protection against publications about children in the media

395. Few laws protect children against harmful publicity. The main provision in this matter is section 24 of the Youth (Care and Supervision) Law 1960, which states the following:

> "The following are liable to imprisonment for a term of one year:
>
> > "(1) A person who publishes the name of a minor or anything else likely to lead to a minor's identification or hint at his identity, in a manner or under circumstances that may reveal the following:
> >
> > > "(a) that the minor has been brought before a court;
> > >
> > > "(b) that a child protection officer acted or is acting in respect of the minor under this law;
> > >
> > > "(c) that the minor attempted to commit suicide or committed suicide;
> > >
> > > "(d) anything that is likely to impute a minor in an offense or moral corruption;
> > >
> > > "(e) that the minor is a relative of a person to whom an offense or moral corruption is imputed;
> > >
> > > "(f) that a sexual offense, violent offense, or abuse has been committed against the minor, or that the person responsible for the minor has committed an offense against him…;
> > >
> > > "(g) any matter that might link a minor to an AIDS/HIV test;
> > >
> > > "(h) any matter that might link a minor to a psychiatric test, treatment or hospitalization.
> >
> > "(2) A person who publishes a nude picture of a minor age nine or over which may lead to the identification of the minor …
> >
> > > "(a) under this section, it is immaterial whether the minor or his representative consented to the publication."

396. Under section 25 of this law, the prohibition does not apply to a publication permitted by the court or to publications made by the police as part of a felony investigation.

397. The instructions of the law are inadequate regarding the publication of nude photographs of children, as children of all ages are liable to suffer from the publication of a nude photograph of them, if not at the time of publication, then years afterward. Regarding the prohibition against

publicizing the name of a child who has been involved in an offense, the need to protect the minor - even when he is the offender - from a stigma that may harm him in the future should prevail over the public interest in warning against notorious offenders.

398. Section 34 of the Adoption of Children Law 1981 prohibits disclosure or publication of the name of an adoptive parent or an adopted child, or of his or her parent, or of any other matter likely to lead to their identification, without the court's consent; violation of this prohibition is a criminal offense.

2. The right to information from the education system

399. The Israeli education system has recognized the right of students and parents to receive current information on students' functioning, rights and obligations at school. The Ministry of Education and other agencies disseminate information on students' rights and obligations at educational institutions.

G. Article 37 (a) of the Convention

A. Prohibition against torture and cruel treatment

400. General constitutional protection against torture and cruel, inhumane and degrading treatment and punishment, whether of adults or children, is grounded in the Basic Law: Human Dignity and Liberty, section 2 of which states that "there may be no violation of the life, body or dignity of any person as such", and section 4 of which states that "every person is entitled to protection of his life, body and dignity". On the basis of these sections, the Supreme Court has prohibited, inter alia, the use of methods of interrogation that cause physical discomfort, and so much the more so actual torture against people suspected of a breach of security ((Petition to the) High Court of Justice 5100/94 *Public Committee against Torture in Israel v. Government of Israel* (6.9.99 not yet published)). Israel ratified the 1984 International Convention Against Torture and Cruel, Inhumane and Degrading Treatment in 1991.

401. In addition, Israeli law provides a range of protections for children against cruelty on the part of State authorities and on the part of those persons responsible for them (e.g., parents, teachers, caretakers, etc.).

402. Assault, abuse and neglect of a minor are defined as separate offenses, with maximum penalties that are more severe than those for parallel offenses perpetrated against adults (see section 7(1) of the Penal Law 1977). Israeli case law, particularly that of the Supreme Court, regards cases of abuse and assault of children with the gravest severity (see for example Criminal Appeal 1121/96 *Anonymous Plaintiff v. State of Israel*, P.D. 50(3) 353; Criminal Appeal 1351/92 *State of Israel v. Anonymous Defendant*, P.D. 46(3) 631). (Regarding the prohibition against the sale of brass knuckles and knives to minors with the aim of protecting bodily integrity, see section 185A of the Penal Law 1977, amended in 2000.)

1. Corporal punishment of children

403. Until recently, section 24(7) of the Civil Wrongs Ordinance [New Version] - an section originally enacted in 1944 - provided that in an action for assault, the defendant would have a defense if "the defendant was the parent, guardian or teacher of the plaintiff, or had a relationship with the plaintiff similar to that of a parent, guardian or teacher, and tormented the plaintiff to the extent reasonably necessary to correct his ways". This provision endured much criticism. For instance, the Minister of Justice stated that "it is an archaic defense which no longer reflects modern attitudes concerning children in general and the State of Israel's obligations under the Convention on the Rights of the Child, in particular" (Knesset debate dated March 18, 1998). The Knesset did in fact recently repeal this provision.

404. In the past, the approach reflected in the Civil Wrongs Ordinance was also reflected in the case law concerning criminal offenses, which stated that parents are entitled to employ corporal punishment to educate their children.

405. This approach has changed. The Supreme Court has ruled, regarding teachers, that the old case law "no longer conforms to the social norms that we find acceptable" (Criminal Appeal 5224/97 *State of Israel v. Sde* Or (20.7.99 not yet published)). In another case, the Supreme Court held:

> "Physical violence against a student is prohibited. Flogging, beating and ear pulling have no place in school. A classroom is a place of instruction, not an arena of violence. A student's body and soul are not ownerless. His dignity as a person is violated if his teachers exercise physical violence against him … Ear pulling is not sanctioned as a means of encouraging a student to remember. Striking his hand with a ruler is not a sanctioned means of warning" (Criminal Appeal 4405/94 *State of Israel v. Abd al-Gani*, P.D. 48(5) 191, pp. 192-193).

406. In ruling in the Sde Or case, the Supreme Court - relying in part on the UN Convention on the Rights of the Child - overturned a lower court's acquittal in a charge of assault against a kindergarten teacher who beat the toddlers in her care. In section 7 of its ruling, the court stated:

> "The pedagogic approach that promotes the use of force for educational purposes is not appropriate … to the norms of our society, particularly against such young children … As such, the severity of the physical punishment imposed against the child is totally irrelevant. As a rule, corporal punishment is not a legitimate method to be used by preschool or other teachers or other staff in the education system. An erroneous approach in this context endangers the safety of children and is liable to taint the fundamental values of our society: human dignity and bodily integrity."

407. It was further held in the Sde Or ruling that the use of corporal punishment against preschool children does not meet the requirement of what is "reasonably necessary to correct [the child's] ways", as stipulated in section 24(7) of the Civil Wrongs Ordinance.

408. In another ruling, the Supreme Court determined that the criminal sanction against corporal punishment also applied to parents (Criminal Appeal 4596/98 *Anonymous Plaintiff v. State of Israel*, P.D. 54(1) 145). The ruling stated, inter alia:

> "Not only does painful or degrading punishment as a means of education fail to truly achieve its objectives and cause a child physical and emotional distress, but it also violates the fundamental right of the children of our society to dignity and to integrity of body and mind. A court examining the normative aspect of a parent's behavior toward his child must weigh the prevailing legal approach to the status and rights of the child. Such is the case in many countries and in Israel following the passage of the Basic Law: Human Dignity and Liberty and Israel's accession to the UN Convention on the Rights of the Child. At present it may be stated that in a society such as ours a child is autonomous, with rights and interests of his own; society is obligated to protect him and his rights."

409. The Ministry of Education imposes an absolute ban on the use of any form of corporal punishment as a means of discipline. The same holds for verbal violence - that is, injurious or humiliating remarks. These directives are enforced through the criminal justice system and through disciplinary measures. The prohibition against the use of corporal punishment was recently given legal sanction by the Pupils' Rights Law 2000, which determines that the implementation of disciplinary measures by a school in a manner that respects human dignity is the students' right. In this context, the law specifically prohibits the use of corporal or humiliating punishment.

2. Remedies for parental cruelty

410. In a groundbreaking ruling, the Israeli Supreme Court held that children were entitled to damages from a parent for emotional anguish suffered in consequence of the parent's extreme neglect and cruelty (Civil Appeal 2034/98 *Amin v. Amin* (4.10.99 not yet published)).

3. The obligation to report

411. Chapter 10, section 5(1) of the Penal Law 1977 obliges every individual to report to the authorities a suspicion that a child is suffering from neglect, abandonment, assault or physical, mental or sexual abuse by his guardian. This obligation - the breach of which is a criminal offense - is imposed on everyone, regardless of whether he has any tie to the child in question. Even more severe maximum penalties are imposed for breach of this obligation on physicians, nurses, people who work in the education system, social workers, welfare service employees, police officers, psychologists, criminologists, paramedical professionals, and staff of an institute for children (see Chapter X).

B. Minors in need of protection

412. Under the Youth (Care and Supervision) Law 1960, children whose physical or emotional well-being is impaired or liable to be impaired due to abuse, humiliation or any other reason are considered in need of protection - that is, as needing supervision and care. When the relevant authorities receive information about a child in need of protection, they are authorized to

enter any place in which the child may be found and make inquiries about his condition. In an emergency, child protection officers are authorized to act as they see fit to assist the child. In other cases, the child protection officer must apply to juvenile court before exercising his authority. The court, if it finds that the minor is in need of protection, is authorized to give any instruction it deems necessary to care for and safeguard him. When appropriate, the court may order the removal of the child from the custody of his guardian to another place. The court is also authorized to issue a restraining order.

C. Children suspected of a criminal offense

413. The handling of a child suspected of having been involved in criminal activity is different from that of an adult, and is regulated by the Youth (Trial, Punishment and Modes of Treatment) Law 1971 and by the internal directives of the relevant authorities (see Chapter X).

D. Capital punishment

414. Israeli law allows the courts to impose the death penalty in rare cases only. Since the establishment of the State, the death penalty has only been implemented once (in the case of Adolph Eichmann, who was responsible for the annihilation of Jews in Nazi Germany; see section 12 of Chapter IV).

415. In any case, section 25(b) of the Youth (Trial, Punishment and Modes of Treatment) Law 1971 absolutely prohibits imposing the death penalty on a person who was a minor on the date he perpetrated an offense.

E. Life imprisonment

416. Section 25 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971 provides that, notwithstanding provisions of law, the court is not obligated to impose life imprisonment, mandatory imprisonment or a minimum penalty. However, in a majority opinion, the Supreme Court ruled that if a court finds it appropriate to impose a life prison sentence in certain circumstances, it may do so, even with respect to a minor (Criminal Appeal 530/90 Anonymous *Plaintiff v. State of Israel*, P.D. 46(3) 652). It should be noted that one of the Supreme Court justices in that ruling expressed the view, basing herself in part on the Convention, that life imprisonment should be imposed on minors only in exceptional cases. The remaining justices left the matter as requiring further review (Criminal Appeal 3112/94 *Abu Hassan v. State of Israel* (11.2.99 not yet published)). According to the above law, life imprisonment should never be imposed on a child who, at the time of sentencing, has not yet reached the age of 14.

VII. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Introduction

417. This chapter addresses the implementation of articles of the Convention concerning children and their families, and separation of children from their families: State respect and support of parental responsibilities (article 5), prevention of the separation of children from their parents (article 9), a child's right to be reunified with his family (article 10), prevention of illicit

transfer of children (article 11), measures to ensure that both parents fulfill their financial obligation toward their children (article 18), the prevention of maltreatment of children in the family (article 19), the protection and care of a child not able to live with his family, and out-of-home care (article 20), adoption procedures (article 21), and opportunities for recovery and social reintegration (article 39).

1. Definition of the term "family" in Israeli law

418. The term "family" is not uniformly defined in Israeli law, and different definitions can be found in different acts of legislation. While some laws, such as the Prevention of Family Violence Law 1991 and the Court for Family Matters Law 1995 define "family" very broadly to include all present and former relatives, unmarried parents who jointly run a household, and anyone responsible for a child, other laws, including most of those that deal with social security, adopt a more narrow definition. In this chapter, in the main, we will refer to the family as comprising children, parents and siblings.

2. Family structure

419. Israel's population is relatively young. In 1996, children newborn to age 17 comprised 34.1% of Israel's population. In that year, 49.6% of the households in Israel were families with children under age 17 (Central Bureau of Statistics, 1999).

(a) Family size

420. Family size is an important descriptive indicator of families. As discussed in Chapter VIII, large family size is a significant indicator of poverty and disadvantage in Israel, and large families have been the focus of components of social policy such as child allowances and income tax reductions.

421. As indicated in Table 8, in 1998 the average number of children in families with children was 2.3 - a decline from an average of 2.7 children per family in 1980. Large families with four or more children comprise 16.7% of all families, while approximately one-third of all families have only one child. The number of children in families varies greatly according to sub-population: Jewish families have an average of 2.2 children, while Arab families have an average of 2.9 children. Large families with four children or more comprise of 12.3% of Jewish families and 31.2% of Arab families. Among the Bedouin population of the town of Rahat, 61% of the families have four or more children. The ultra-orthodox Jewish population is also characterized by large families; however, there are no systematic national data on this group. Data on the city of Bnei Brak, most of whose residents are ultra-orthodox Jews, indicate that children comprise almost half (46.7%) of the city's population.

422. New immigrant families that came to Israel in or after 1990 tend to be smaller: 56.5% of them have one child, compared to 34.5% of the general population, while only 4.9% of these families have four or more children, compared to 16.7% of those in the general population. The overall decrease in family size during the past two decades may be partly attributable to the wave of immigration in the early 1990s.

Table 8

Number of children per family, by sub-population (average and percentage)

1980		1998			
Number of children	Total population	Total population	Jews	Arabs	Immigrants
Average	2.7	2.3	2.17	2.87	1.78
Percentage					
1 child	27.3	34.5	35.7	25.6	56.6
2 children	31.3	30.5	33.9	24.7	31.2
3 children	20.5	18.5	18.1	18.5	7.1
4 or more children	21.0	16.5	12.3	31.2	5.3

Source: Ben-Arie and Zionit, 1999.

(b) Family composition

423. In Israel, most (92%) families with children are headed by two parents; the remainder (8%) are single-parent families. There are fewer single-parent families in the Arab population, and significantly more such families among the new immigrant population (19.8%). The proportion of children in single-parent families has increased in recent years, from 6.4% in 1994 to 7.4% in 1998. Most (67%) single parents are divorced, although 22% are widowed and 11% were never married.

Table 9

Percentage of children in single-parent families, by sub-population, 1998 (in %)

Sub-population	Children in Single-parent Families
Total Population	7.4 (14)*
Jews	
Immigrants	-- (22)
Ultra-orthodox	2.9**
Arabs	2***

Source: Ben-Arie and Zionit, 1999.

* The figure in parenthesis is the percentage of households headed by a single parent.

** Estimate based on data from the city of Bnei-Brak.

*** Estimate based on data from several Arab towns and villages.

(c) Marriage and birth among minors

424. The Marriage Age Law 1950 prohibits the marriage of girls and boys under the age of 17. Until recently, boys under age 17 were not prohibited from being married, but the law was amended in 1998. The offense falls both on whoever marries a girl or boy, and on whoever conducts or helps conduct the marriage, including parents who marry off their children. Under the law, the maximum sentence for this offense is two years' imprisonment.

425. Putative marriage is cause for dissolving a marriage, if suit is brought by the girl or boy before they reach the age of 19, or by their parents, guardians or a child protection officer before the girl or boy reaches the age of 18.

426. However, Family Court may permit a young girl to marry if she gave birth to a child or is pregnant by the boy or man she wishes to marry, and may permit a young boy to marry if the girl or woman he wishes to marry is pregnant by him or has given birth to his child. The court may permit a young girl or boy to marry if they have reached the age of 16 and the court believes that circumstances justify the marriage. The parent or guardian of a young boy or girl, or the person wishing to marry them, may petition the court to permit such a marriage. Common reasons for allowing such marriages, apart from pregnancy or birth as specified by law, include the consent of the girl and her parents, the common practice of an ethnic group, preparations for marriage, the age difference between the couple, the couple's financial situation, and family support. The court makes its decision based on the good of the girl; of course, the court also weighs the couple's wishes. Thus far there have been no requests to permit a boy's early marriage, but it may be assumed that the rules would be similar to those applied to girls.

427. As demonstrated in Table 10, marriages of minors under age 17 are rare in Israel. The highest incidence of minor marriages is among Arab girls age 17. In 1996, 14.6% of the Arab girls that age were wed. In comparison, only 1% of the Jewish girls in the same cohort married that year. Minor marriages are far less common among men, both Jews and Arabs (0.05% and 0.15% of the men age 17, respectively). As shown in Table 10, the proportion of marriage among minors has declined steadily among men and among Jewish women during the past two decades. Although the overall decrease in minor marriages among Moslem girls has been less pronounced, there has been a significant decrease in marriages among girls age 16 or less - from 1.96% in the late 1970s to 0.07% in 1996.

Table 10

Percentage of minors (age 16-17 or less) marrying, by gender and religion

	Girls				Boys	
	Jews		Moslems		Jews	Moslems
Age	16	17	16	17	17	17
1975-1979 (average)	0.12	4.84	1.96	13.3	0.12	0.22
1985-1989 (average)	0.24	1.74	1.54	14.0	0.03	0.17
1996	0.06	0.72	0.07	14.6	0.03	0.03

Source: Ben-Arie and Zionit, 1999.

428. It should be remembered that marriage to a girl age 17 or less is illegal (unless special permission is granted) under the Marriage Age Law 1950 (see Chapter IV). This being the case, in 1995, few girls in this age group (58 girls, 25 of them Jewish) were registered as being married. However there is evidence that in some sectors of Israeli society, such as among Moslems, and among Jewish immigrants from the southern republics of the former Soviet Union, some girls under the age of 17 are married privately, and not registered as being married until they reach the age of 17. Public health nurses have indicated that some of these girls become pregnant and register at family health centers as single mothers. However, there are no data on the extent of this phenomenon. The nurses interviewed estimated that it is not widespread.

429. Births to single minors are also rather uncommon in Israel. In 1998, 4,565 children were born to girls age 19 or younger - that is, 1.8 births per hundred girls ages 15-19. Most (80.1%) of the girls were married, and the majority of them (59.4%) were Moslem. These births comprised 1.9% of all births in Israel that year. Among girls in this age group, legal abortions were one and one-half times more common than births. As noted elsewhere in this report, girls may legally consent to an abortion without the consent of their parent or guardian. The low rate of births to minors may be related to this.

B. Articles 5, 9 and 18 (1)-(2) of the Convention

1. Parental guidance and responsibilities

(a) Parents' legal responsibilities

430. The Guardianship and Legal Capacity Law 1962 stipulates that parents are the natural guardians of their minor children. Section 3 of the Women's Equal Rights Law 1951 stresses that subordinate to the best interests of the child, both parents are equally responsible as the child's guardians and that, in case of the death of one parent, the surviving parent remains the child's natural guardian.

431. According to the Guardianship and Legal Capacity Law 1962, parents, as guardians, have the right and obligation to provide for their child's needs, including education, schooling, and vocational training. The Supreme Court has ruled that the needs of the minor for which parents are responsible should not be interpreted narrowly, and that these needs include "not only the minor's material needs but also other needs deriving from his age and position as a ward, such as the need to guard his safety" (Civil Appeal 587/73 *Shauli v. Mizrahi*, P.D. 30(1) 533, p. 539). Parents are required to protect, manage and develop their children's financial assets. They must protect the best interests of their children as devoted parents would under the circumstances. Parental guardianship includes the authority to have custody of them, determine their place of residence, and represent them. The parents' rights and obligations toward their children have been discussed by the Supreme Court in a string of rulings. For example, the Supreme Court has written:

> "It is a law of nature that a child grow up in the home of his father and mother: It is they who will love him, feed him, educate him, and support him until he becomes an adult. This is the right of a father and mother, and this is the right of their child" (Civil Appeal 6106/92 *Anonymous Plaintiff v. Attorney General*, P.D. 48(2) 833, p. 836).

> "The law recognizes the parents' right over their children: both the right itself, and its limitations. In recognizing this right and its limitations, the law embraces a natural phenomenon that is deeply imprinted on man and beast. Thus man: 'As a father has compassion on his children so the Lord has compassion on those who fear him' (Psalms 103, xiii). Or: 'Can a mother forget the baby at her breast and have no compassion on the child she has born? Though she may forget, I will not forget.' (Isaiah 49, xv) (note: the rule and its exception). And beast and fowl: 'Like an eagle that stirs up its nest and hovers over its young, that spreads its wings to catch them and carries them on its pinions' (Deuteronomy 32, xi). This is a creature's survival instinct, and the court is obliged to adopt it" (Civil Appeal 3798/94 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 50(3) 133, p. 165).
>
> "The right of the parents in education, teaching, and all aspects of guardianship is the right to fulfill their obligation as guardians of their children … thus and consequently, realizing this 'right' of parents is subjugated to the principle of the best interests of the child" (Special Court Martial 1/81 *Nagar v. Nagar*, P.D. 38(1) 365, p. 393).

432. However, there is no single method that is forced upon parents in fulfilling their rights and obligations toward their children. Rather, in carrying out their duties, "parents have the right to decide the way that seems the most correct and best way to meet the needs of the minor… this 'way' differs among different parents, based on to their worldview and lifestyle". Children, for their part must, under section 16 of the law, obey their parents in all matters of guardianship.

433. According to section 18 of the Guardianship and Legal Capacity Law 1962, parents are required to make decisions based on mutual consent between them. A parent may only take action regarding his child without the other parent's consent if a matter is urgent and cannot be delayed. The Supreme Court has ruled that in the case of divorced parents, one of whom has custody of the children, that parent "has the discretion to make decisions that are either extraneous or inherent to the right of custody, without consulting the other parent… It is difficult to draw the line between topics that are subsidiary to custody, and those regarding which a decision must still be made by both parents, but it seems we may generalize and say we mean decisions of principle pertaining to the parent's general right-obligation toward his child - that is, concern for the minor's general and religious education, supervision of his property, care of his health. In these matters, parents must decide by mutual cooperation and consent" (see Civil Appeal 2266/93 *Anonymous Plaintiff (Minor) v. Anonymous Defendant*, P.D. 49(1) 221, p. 246). According to section 19 of the law, if parents cannot reach an agreement regarding their children, the court, or someone designated by the court, will rule on the matter, but only if the court is unable to get the parents to agree, and if it has found that such ruling is necessary.

434. As stipulated in section 20 of the law, parents are forbidden to perform several legal actions on behalf of their children without the court's approval. These are financial actions of significance, such as selling a house, or actions that are liable to create a conflict of interests between parents and their minor children, such as legal actions between a minor and his parents or his parents' relatives, with the exception of accepting gifts given to a minor. The Supreme Court ruled that section 20 "should not be interpreted too narrowly, but rather in a way that will

achieve its aim of affording effective supervision of a range of issues that may have considerable implications for the minor's assets" (see Civil Appeal 112/79 *Sharf v. Avar*, P.D. 34(3) 178, p. 194; see also Civil Appeal 1763/88 *Pilovsky v. Balas*, P.D. 45(4) 521, p. 527)

435. A parent's failure to provide for his child's needs may constitute a criminal offense. Section 323 of the Penal Law 1977 states:

> "A parent, or any person responsible for a minor living in his household, is obligated to provide for all of the child's needs, to care for his health, and to prevent his abuse or physical injury; the parent will be held responsible for any harm to the child's health or life caused by failure to fulfill this obligation".

436. The Penal Law defines specific breaches of this obligation, which are subject to penalty. For example, section 6 of section 10 of the Child Abandonment Law defines as a criminal offense the abandonment or neglect of a child or the transfer of a child to another in return for personal gain or in defiance of parental duties and rights. Abandonment and neglect of children are two of the few offenses where a penalty is imposed for inaction rather than action. The Supreme Court has explained that this reflects the special importance with which Israeli society regards a parent's obligation toward his child (Civil Appeal 5587/93 *Nahmani v. Nahmani*, P.D. 49(1) 485, p. 498).

437. According to a ruling by the Supreme Court, a parent's failure to care for his child, including withholding mental and emotional support, may also constitute a tortious wrong, the commission of which may entitle the child to compensation (Civil Appeal 2034/98 *Amin v. Amin* (4.10.99 not yet published)). Most of the criminal offenses involving a violation of parental obligations toward children are committed against children age 14 or less. This differs from civil law, such as the Guardianship and Legal Capacity Law 1962, which applies to minors up to age 18.

438. A parent's obligation to care for his child is also implied by the Adoption of Children Law 1981. Section 13 of this law states that a child may be adopted even without parental consent under certain circumstances, for example:

> "(4) The parent abandoned the child or avoided maintaining personal contact with the child, with no reasonable cause, for six consecutive months.
>
> (5) The parent avoided, with no reasonable cause, maintaining all or most of his obligations toward the child, for six consecutive months.
>
> (6) The child was kept outside the parent's home for six months beginning before the child reached age six, and the parent refused, with no justification, to accept the child in his home.
>
> (7) The parent is unable to care for the child properly because of his behavior or condition, and there is no chance that his behavior or condition will change in the foreseeable future, despite financial and care-oriented assistance offered by the welfare authorities."

439. The Supreme Court has ruled that a child may be put up for adoption without his parents' consent if they have neglected their emotional and psychological duties - that is, if they have failed to show love and concern or provide emotional support (Civil Appeal 549/75 *Anonymous Plaintiff v. Attorney General*, P.D. 30(1) 459).

(b) Income support for families

440. Israeli labor law, along with a comprehensive system of cash entitlements and other benefits, provides support for mothers and families during pregnancy, at birth, and during post-natal care. A pregnant woman must notify her employer of her pregnancy by the fifth month. Thereafter, she may not be employed for more than six days a week, on the weekly day of rest, or at night, and she may not work overtime hours without her consent and a physician's permission. A pregnant woman who has been working for the same employer or at the same workplace for at least six months may not be dismissed by her employer without special permission from the Minister of Labor and Social Affairs. An employer who dismisses a pregnant woman without ministerial permission is subject to criminal liability, and must reinstate the employee. If a pregnant employee is dismissed before she has informed her employer of her pregnancy, she is to be reinstated, but no sanctions are imposed against the employer.

441. Pregnant women are entitled to paid absences from work for routine medical examinations. A pregnant woman who receives medical confirmation of her inability to work for a specified period may take a paid leave from work with no effect on any seniority-related rights. Under a recent amendment to the National Insurance Law, women who are unable to work due to a high-risk pregnancy receive the equivalent of their salary from the National Insurance Institute, up to 70% of the average wage.

442. When a child is born, the cost of the mother's hospitalization and delivery is paid by the National Insurance Institute. Women who give birth or adopt a child receive a grant equivalent to 20% of the average wage (or more in the case of a multiple birth) to help cover some of the initial cost of preparing the home for the baby. This maternity grant is paid to all women residents or wives of residents of Israel, even if they gave birth in a hospital outside of Israel, and to women working in Israel or wives of men working in Israel, provided they gave birth in a hospital in Israel. A similar grant is given to adoptive parents. At present, the maternity grant is equivalent to roughly US $300. In the case of a birth of triplets or more, the family receives an expanded benefit of between 25% and 35% of the average market wage for 20 months following the birth.

443. According to the Employment of Women Law 1954, mothers are entitled to a three-month maternity leave paid by the National Insurance Institute. If the mother agrees, the father may take half of the maternity leave; in such a case, he will receive the maternity benefit in her stead, provided both parents are eligible under the law. At the end of the paid maternity leave, the mother is legally entitled to take an additional, unpaid leave of absence for up to nine months (dependent on how long she was employed prior to giving birth), with full security against termination of employment. Fathers whose wives worked for at least six months prior to giving birth may take the unpaid leave of absence instead of their spouse. This right also applies to fathers who have sole custody of the infant or whose wives are incapacitated, as well as to adoptive fathers. During the first four months following maternity leave, mothers who work in a

full-time position may work one hour less per day with no decrease in salary. Adoptive mothers enjoy the same rights and benefits as biological mothers with respect to maternity leave. Other laws enable parents to devote themselves to caring for their children without suffering undue economic loss. For example, the Severance Pay Law 1963 entitles a woman employee who quits her job to care for a child to receive severance pay during the first nine months following childbirth or the adoption of a child under the age of 13. A male employee who quits his job to care for a child is also entitled to severance pay during the same nine-month period, provided the mother has not done the same (e.g., if she is self-employed and has not stopped working to care for the child), or provided the child is in the father's sole custody because of the mother's disability or illness. In addition, under the Equal Employment Opportunities Law 1988, male employees are entitled to day care services, shortened work days, maternity absences due to a child's illness, child care expenditures covered by employers, and any other benefit offered to female employees, provided the child is in the sole custody of the father or the mother has not taken advantage of these benefits.

444. The Sick Day Payment (Absence from Work due to Child's Illness) Law 1993 grants parents six paid absences a year for a child's illness, or 30 days a year (which may correspond to regular vacation time) in case of a child's terminal illness. Many work places grant additional privileges, such as shorter work days for mothers or employers' participation in day care expenses.

445. All families residing in Israel receive a monthly child allowance from the National Insurance Institute. This allowance is paid regardless of income, based on the number of children up to age 18 in the family. In addition, many of the National Insurance Institute's income maintenance and income support programs take into account the number of children in a family when calculating the level of benefits. Until recently, the National Insurance Institute followed a policy of offsetting children's allowances against parents' income tax debts. This policy had a disproportionate effect on poorer families, and hence on their children. After intensive lobbying by non-government organizations concerned with children's rights, the National Insurance Institute agreed to refrain from offsetting child allowances against tax debts; a private bill to amend National Insurance Regulations has passed the first step toward ratification in the Knesset (for more information on social security benefits, see Chapter VIII).

(c) Guidance in the care and education of children

(i) Family health centers

446. Guidance regarding all aspects of child care is offered to parents at over one thousand family health centers ("well-baby clinics"). The centers provide preventive health care for pregnant women and children from birth to age five, as well as health education and counseling. They are community based, and take an holistic approach to care. It is estimated that 95% of children under two and a half years of age visit them. A national survey conducted on a sample of centers revealed that programs that support and guide parents are offered in one-third of them, primarily in the Jewish sector. Most of these programs promote parenting skills, improve the relationship between mother and child, and foster child development. About half of the programs promote children's health.

(ii) Community centers

447. Another widespread service is the network of 183 community centers, which offer cultural, educational and recreational programs for people of all ages. Community centers offer five types of service which are of help to families:

1. Day care centers for children ages one-three (see Chapter VIII).

2. Enrichment and guidance programs, such as play facilities, for parents and young children. In such programs, professional staff play with the children and their parents, and counsel the parents on child development and interaction with their children.

3. Guidance workshops for parents, at which groups of parents meet regularly with professional facilitators to discuss parenting. The groups are usually organized for parents of children in a given age group (e.g., infants, school children, adolescents).

4. Social clubs for women offer support for women, including on issues of motherhood.

5. Innovative, multi-dimensional enrichment and guidance programs for immigrants and disadvantaged populations. These programs involve work with small groups of mothers and children, and combine several weekly activities: day care for pre-school children, mother-child playtime with a child development instructor, and guidance workshops for mothers (and sometimes fathers, as well). These programs aim to help immigrant families adjust to their new environment, for example by familiarizing them with preparation of the foods available in Israel and helping them understand their role in the school system.

(iii) Enrichment programs for young children

448. Over the years, Israel has developed a variety of enrichment and support programs for young children and their families. However, analysis of these programs indicates that they are not cohesive, and do not meet the full range of needs: Despite the variety and quantity of programs, many of them are limited in size and operate locally, as the result of a private initiative. Many of these programs are brief in duration.

449. Furthermore, most of the programs for young children focus on one or two aspects of child development, rather than adopting a comprehensive approach. For example, programs supported by the Ministry of Education emphasize children's cognitive development, and offer limited intervention with parents. Programs supported by the Ministry of Labor and Social Affairs emphasize parenting skills and the parent-child relationship. Unfortunately, even those programs that are comprehensive are not available to all children and families. For example, a national survey of 250 programs offered in family health centers around the country revealed

that only 10,000 of the 350,000 children newborn to age two benefited from these programs (Dolev and Yoel, unpublished). However, there are no systematic data on the extent of participation in all early childhood enrichment and support programs.

(d) Support for families from social services

(i) Social welfare departments

450. Additional support for parents is provided through social services. The Social Service Law 1959 requires local authorities to provide most social services; these are usually provided through a local social welfare department, which is divided into neighborhood branches that are staffed by professional social workers. Social welfare departments are supervised by the Ministry of Labor and Social Affairs and follow its policies.

451. In 1996, social welfare departments served 280,179 children in 114,260 families - 14% of the children in Israel. Of them, 14% had immigrated to Israel with their families in or after 1990. One of the main tasks of a social welfare department is to assign families in need a "family worker" - that is, a social worker who assesses the family's needs, counsels, helps with bureaucratic procedures, and mediates between the family and other services (e.g., schools). In some cases, a family is also assisted by a para-professional worker who visits it regularly and provides information, guidance and support. Families in need of greater support may be referred to a family counseling service; in 1995, 9,500 families (and 35,000 children) benefited from such services. In 1996, 19 centers for the prevention of family violence were in operation.

452. As income maintenance benefits are paid by the National Insurance Institute, social welfare departments offer only limited financial help directly to families. In 1995, 35,000 families received help purchasing basic appliances, 140,000 families received temporary assistance with rent and mortgage payments, and 4,500 families received help with household expenses.

453. Social welfare departments also help place children in day care centers, which are used predominantly by working mothers; in some cases, particularly if a family is unable to adequately care for a child, the social welfare department they will refer the child to a center and finance his attendance. In 1995, 12,455 children were placed in day care centers or family day care by a social welfare department.

454. After-school frameworks provide older children with supervision, hot meals, recreation, informal education, and some therapeutic services. In 1995, approximately 10,000 children were placed in such frameworks by social welfare departments - a dramatic increase from the 4,000 children who were placed in such frameworks in 1989. This increase was the result of cooperation between the Ministry of Labor and Social Affairs and the Ministry of Education, which together aimed to increase the number of after-school frameworks. (For more information on the after-school frameworks provided by the Ministry of Education, see Chapter IX.)

455. In recent years, community-based programs have been developed for young families with multiple problems. These programs teach basic life skills (such as family budget management), parenting skills, and family interaction skills. Many of them target families in which the children

are subjected to, or are at risk for, abuse and neglect. Some of these programs were developed in Israel, while others were "imported" from the United States and Europe and adapted to Israel's service system and culture. Unlike "traditional" programs, which focused on the child, these community-based programs focus on the child in the context of his family, and enlist community resources in helping parents care for their children.

456. Following are some examples of these programs:

(a) Home Start is a volunteer program designed particularly for isolated families who do not easily request and accept help from social workers. This program was "imported" from the United Kingdom in 1989, and involves establishing a relationship between the family and a non-professional "friend" who visits regularly. In 1995, this program served 400 children.

(b) Mutuality helps parents develop a reciprocal relationship with their infant.

(c) Video Home Training involves visits to homes by a social worker, who films everyday interaction with a video camera. Later, the family watches the video and discusses the behavior patterns that it reveals. An outcome study, which compared families who participated in the program with a control group, found marked improvement in almost all aspects of children's well being and family communication in the participating families. In 1995, 400 families were served by this program.

(d) Together is a three-year program, which comprises group meetings at which mothers of children at risk work to improve their self-esteem and parenting skills. In 1995, the program was implemented at 33 sites, serving 630 mothers of 1,800 children.

(e) Multi-purpose Day Care Facilities are innovative, and combine child care with support for families at risk. In addition to offering day care for infants and afternoon care for pre-school children, the program welcomes parents to participate and offers formal and informal support and help improving parenting skills. In 1995, 700 children benefited from this service.

(f) Big Brother/Sister programs involve weekly or bi-weekly meetings between a child and a supportive adult or youth. Such programs are implemented by local non-government organizations and universities, as well as by the Ministry of Labor and Social Affairs. In 1995, 800 children were assigned a big brother/sister by the Ministry of Labor and Social Affairs; however it is estimated that a much larger number of children are assigned a big brother/sister by another agency. (For example, in 1994, some 7,000 children enjoyed this program in Haifa alone; Leitner, 1996a.)

457. It is important to note that, despite the significant effort invested in establishing these programs, they remain limited in scope. As is evidenced by the small numbers of children and families served by each program, few of the children and families who are known to social services receive such support. Table 11 presents the number of children who participated in each of the services described above (through the Ministry of Labor and Social Affairs) in 1995. If we assume that each child benefits from only one service, the total number of children receiving any of these services was 26,555.

Table 11

Children receiving services through a social welfare department, 1995

Type of service	Number of children
Total (assuming each child receives one service)	**26 555**
Day-care (social service referral)	12 455
After-school framework	10 000
Home start	400
Video home training	400
Together	1 800
Multi-purpose day care	700
Big brother/sister	800

Source: Korazim, 1996, and information from the Ministry of Labour and Social Affairs.

458. A comparison of these figures to the number of children known to social welfare departments (280,179 in 1996) indicates that less than 10% of the children known to social welfare departments benefit from these programs. Obviously, not all of the children known to social welfare departments need these services, while other children and families are served in other ways (e.g., through counseling by a social worker, family counseling, out-of-home care). Conversely, not all families in need of support are known to social services. Thus, further information and analysis are required to determine the extent to which services meet the needs of children and families. Existing data do indicate extensive disparity between the needs of families and the coverage of support services. This conclusion is also supported by detailed analyses conducted in two cities (Haifa and Beer Sheva) as part of comprehensive community planning of services for children and youth at risk (Leitner, 1996a, 1996b). The analyses revealed that only one-third of the children surveyed received day care, afternoon care, or intensive counseling from a social worker. Thus, despite rapid development, the adequacy of coverage is still at issue.

459. Table 11 also reveals that out-of-home services (e.g., day care facilities and after-school frameworks) predominate as means of helping families raise their children. Programs that involve parents actively are still being developed and tested, and programs that support the child within his family are not widespread. Policymakers claim that the relatively slow pace of dissemination of holistic programs is due to both a lack of resources, and to a need to train and educate service providers.

460. There is no comprehensive, national information on the extent of service coverage for specific populations, such as new immigrants or Arabs. However, a recent study conducted by the Ministry of Labor and Social Affairs in three Arab towns in the north of Israel (Korazim, Abu Asbah and Dolev, forthcoming) revealed that, despite the relative large percentage of children who live in poor families, and the relatively large percentage of large families, in the Arab population, relatively small percentages of Arab children are known to the social services, as indicated by limited social service coverage. Thus, even though a similar proportion of those children known to the social services receives support, the extent of support is more limited in

the Arab than in the Jewish sector. In addition, the small size of Arab towns limits the extent to which innovative service models can be developed cost-effectively, and poses a challenge to making services accessible.

(ii) A Ministry of Labor and Social Affairs program for children at risk

461. In 1997, the government made children at risk a national priority. Consequently, the Ministry of Labor and Social Affairs initiated a program that it hoped would have a significant effect on this population. "Children at risk" were defined broadly as being children whose circumstances might impair their ability to adjust to school, society and family life. The children covered by this definition include those subjected to abuse, neglect, and family violence, those living in impoverished or dangerous environments, and those with destructive or problematic behaviors, such as substance abuse and delinquency. The program combines legislative initiatives and service development.

462. Legislation: In 1998, a new law - "Entitlement to Services of Children at Risk" - was proposed. The law would entitle children defined as being "at risk" to services, and would define the State's obligation to supply these services. The extent of entitlement to services would be determined according to the degree of risk. According to the proposed law, decision committees in local authorities would determine the degree of risk (i.e. the level of services to which a child is entitled), and prepare a care plan for the child and his family. The proposed law is innovative in its stressing the right of children at risk to services, rather than the State's obligation to provide services. Furthermore, it would make the provision of services independent of local or national government budgets. At the same time, the proposed law would limit the period of entitlement to one year, thus ensuring frequent monitoring of a child's situation and of the success of the intervention plan prepared for him. In fact, the proposed law would require hearing the child himself during discussion and preparation of the care plan, involving the child and his family in preparing the plan, and giving precedence to services that would enable the child to remain with his family (Proposed Law on the Right of Children at Risk to Receive Services 1998).

463. Service development: The proposed service would be based on family-focused intervention, cultural sensitivity, pooling of resources, and long-term treatment planning, focusing on the family's strengths and considering its priorities. The plan is to establish "family and child centers" within local social welfare departments, which would be adapted to the cultural style of each community. Each center would house sub-units to handle screening, intake and evaluation, family and couples therapy, prevention and treatment of family violence, the child-parent relationship, single-parent families, parent training, children at risk, and emergencies.

464. In 1997, seven locations were chosen for a pilot of this program. In 1998, the program began to be implemented on a national level, using government resources allocated to towns based on a plan submitted to the Ministry of Labor and Social Affairs. The government allocated NIS 75 million (about US $20 million) per year for two years (1998 and 1999) of national implementation. As yet, there are no systematic data on the program's activities, the extent to which it has expanded service provision, or its outcomes.

(iii) Support for families in the education system

465. Support for families is also available from guidance counselors who are employed in middle, secondary and some elementary schools, who counsel students with scholastic, behavioral or emotional problems. Students are usually referred to a guidance counselor by a teacher, although they may also be referred by their parents or may seek out the counselor themselves. Students with severe problems are usually referred to psychological services either in or outside the education system. Educational psychologists assess children referred to them by schools and offer limited personal intervention. School psychologists advise teachers and parents how to address the children's problems in the classroom. The extent of coverage provided by these services is also an issue. School psychologists and guidance counselors often have large caseloads that do not allow for intensive intervention. A 1995 survey of the educational psychology services in two cities indicated that only 25% of the cases referred to them received treatment, as opposed to assessment only, or counseling for the teachers involved.

(iv) Support for single-parent families

466. Several ministries provide additional support to single-parent families. The Single Parent Families Law 1992 entitles these families to specific benefits such as a reduced income taxes, an annual grant of 18% of the average salary for children ages six-11, and priority receiving a place at a public day care facility and/or a government housing loan. In 1995, the 38 centers for single-parent families operated by the government served about 7,500 families. These centers offer social activities, counseling and legal aid. A non-government organization of single-parent families, "Meihad", which is part of the largest women's organization in Israel (NA'AMAT) operates centers for single-parent families that both provide services and engage in lobbying.

2. Separation of children from their parents

(a) Divorced or separated parents

(i) Determining custody of a child

467. Sections 14 and 15 of the Guardianship and Legal Capacity Law 1962 regard both parents as being a child's natural guardians and grant them the right to determine where the child will reside. If the parents live apart, they may come to an agreement regarding who will have exclusive or partial guardianship of the child, who will have custody of the child, and what visitation rights the non-custodial parent will have. This agreement must by approved by a court to be legally binding (section 24). The law determines that if the parents cannot reach an agreement, or if the agreement is not implemented, the court will make custody and visitation arrangements based on what it believes to be the best interest of the child, with the exception that children under age six will be placed with their mother unless there is a reason to rule otherwise (section 25). The Supreme Court has decided that a court must rule in the matter of custody even when the parents, although legally separated and estranged, continue to live together and with their children in the same house, as the children should not be left without a determination of who is responsible for their needs - basically a matter of custody. Prior to making such a decision, the court may ask a child protection officer to review the case, report factual findings

and make recommendations (Welfare Law: Minors, Mentally Impaired Persons, and Persons in Need of Protection 1995). Child protection officers may approach a Family Court on their own initiative, with the approval of the attorney general (section 3[4] of the Family Courts Law 1995). Children may also petition Family Court, either themselves or through a close friend, concerning "any matter in which the child's right may be substantially undermined". Family Courts are assisted by support units composed of social workers, psychologists and psychiatrists who supply diagnostic, counseling and care services (section 5 of the Family Courts Law 1995; Family Court (Establishing Support Units) Decree 1996; Family Court (Support Units - Professional Skills and Supervision) Decree 1996). These units help parents arrive at a custody agreement and avoid confrontations that may be damaging to the children.

468. When parents fail to arrive at a custody agreement, custody may be determined either by a Family Court or a religious court. Determining the legal authority in this matter is complex, and has been the topic of many verdicts and learned sections. It has been determined that in some cases authority is granted to Family Court, although if both parents agree, the case may be heard by a religious court. In yet other cases, authority is granted to the court that was approached first.

469. The importance of the instance that determines custody lies in the effect that religious norms and mores may have on a religious court's perception of the "best interests of the child". The Supreme Court has overruled decisions by religious courts when these clearly do not serve the best interests of the children but rather are based solely on religious value judgments. Thus, for example, the Supreme Court overruled a decision by a rabbinic court to transfer custody from a mother to a father, even though the father could not raise them in his home and hence intended to send them to a religious institution. The rabbinic court had based its decision on its aversion to the mother's cohabitation with a non-Jewish man.

470. As for the meaning of "the best interests of the child" with regard to custody, it is generally believed that living with one parent is preferable to residing at a boarding school. Continuity of custody is also considered compatible with a child's best interests so that, as a rule, custody will not be transferred from one parent to the other. The parents' financial situation and ability to provide stable living conditions are also taken into account. Usually, an effort is made to avoid separating siblings. Joint custody of separated parents is not common, and the courts usually award custody to one parent and visitation rights to the other. Rulings on custody and visitation rights usually take the children's wishes into account, in consideration of their age, maturity, and judgment. However, it should be noted that there is no easy way for a child to petition the court independently, and that, in most cases, a child is not represented separately from his parents.

(ii) Maintaining contact with both parents

471. Section 24 of the Guardianship and Legal Capacity Law 1962 states that when parents do not live together, the custody agreement or court ruling in the matter must determine "the rights of the non-custodial parent to have contact with the child". The courts tend to determine custody arrangements that ensure the child contact with the non-custodial parent.

472. Under certain circumstances, such as suspected abuse on the part of the non-custodial parent, or non-compliance of the custodial parent with the visitation rights of the other parent, the court will order supervised visitation. Social welfare departments operate "visiting centers" where such visits may take place with professional supervision and support.

473. The Supreme Court has ruled that maintaining contact with a child is not merely the right of the non-custodial parent, but may be considered his duty.

(b) Separation by the authorities

(i) Legal procedures for separating a child from his parents

474. As noted, the Guardianship and Legal Capacity Law 1962 grants a child's parents custody and guardianship. However, the same law states that a court may deny or limit parents' guardianship if they do not fulfill their obligations to their children within reason (sections 26-27). Under such circumstances, the court is authorized to appoint a guardian for the child in place of or in addition to his parents.

475. Removal of a child from his parent's custody and restriction of parental custody are regulated in detail by the Youth (Care and Supervision) Law 1960, which supplements the Guardianship and Legal Capacity Law 1962. For example, removal of a child from his parent's custody is possible if "the person responsible for the minor is unable to care for him or is neglectful of same" (section 2(2) of the Youth Law); if the minor "is under evil influence or is living in a place where offenses are regularly committed" (section 2 (5) of the Youth Law); or if the minor "was born addicted to drugs" (section 2 (7) of the Youth Law). In such cases it is possible to "remove the child from the custody of his parents or guardians and transfer him to the custody of the welfare services, which will decide where the child will reside or instruct that he be kept in an institution or secure facility (section 3(4) of the Youth Law). The court order is restricted to a period of three years, after which it may be renewed if necessary.

476. A court order to remove a child from the custody of his parents does not revoke the parents' guardianship or their right to maintain contact with the child. The court may specify when and how often the parents may visit the child, with or without supervision, and whether the child may visit the parents' home. Generally, visitation arrangements are not specified by the court decision.

477. The law provides for emergency situations: If a child protection officer is convinced that a child is in danger, she is authorized by section 11(a) of the Youth (Care and Supervision) Law 1960 to take any steps necessary to prevent harm to the child - including removing the child from his home and placing him in a safe place - as long as she does not hold the child for more than seven days without the consent of the court or of the child's parent or guardian.

478. The court is also authorized to remove the offending parent, rather than removing the child from his home, under section 2 of the Prevention of Family Violence Law 1991, in conjunction with section 3A of the Youth Law.

(ii) Considering the wishes of the child and his parents

479. According to section 30 of the Guardianship and Legal Capacity Law 1962, the court may revoke or limit a parent's role as guardian, or appoint an additional guardian alongside the parent, only after the parent has been given an opportunity to express his or her opinion of the matter. The law does not state the necessity of hearing the child's opinion. On the other hand, the court may remove a child from the custody of his parents only after "giving the minor, and his or her parent or guardian and the child protection officer a chance to express their opinion and suggestions" (section 8). According to section 9 of the law, however, "despite what is stated in section 8, the court may avoid summoning the child if it is convinced that he or she cannot understand the matter, or if appearing before the court will endanger the child".

480. The emergency removal of a child from his parent's custody for up to seven days, as well as the court's authority to extend the removal, apparently do not require that the child be heard.

481. In practice, parents are usually present and heard by the courts, unless they refuse to appear. Children under the age of eight are usually not present in court, but children between the ages of eight and 11 are sometimes present, depending on the child protection officer's assessment of the child's capabilities and on the judge's preference. While some judges insist on hearing the child in court, others do not. Children age 12 or older are usually present in court. A more systematic analysis of this issue is required as a basis for developing guidelines for uniform practice. It should be noted that although the courts are authorized to appoint an attorney or guardian *ad litum* to a child in these proceedings, this is extremely rare.

(iii) Local authority decision committees

482. Most of the children who reside in an out-of-home placement are not separated from their parents by court order under the Youth (Care and Supervision) Law 1960, but rather are removed from their home with the consent of their parents. Residential placements are decided upon by a "decision committee", which sits in each local social welfare department. Decision committees are also involved in preparing the petitions and recommendations of child protection officers for the courts. In an emergency, when a court order is needed immediately and the committee cannot meet beforehand, the child protection officer will request a court order, and the decision committee will convene after the fact to approve it.

483. The government policy that guides decision committees is to avoid separating a child from his parents. The regulations of the decision committees state: "It is preferable for the child's development [that he] grow up in his or her natural family. Therefore, every effort should be made to develop services in the community that will help the family raise the child. If the family situation endangers or might endanger the child's physical or emotional well-being or damage his proper development, placing the child in an appropriate setting outside of the home must be considered as a temporary or, if necessary, a permanent solution".

484. Broadly, decision committees are responsible not only for decisions about out-of-home placements, but for preparing treatment plans for children in need of intensive intervention. The options discussed may or may not involve separating a child from his parents. Decision

committees are inter-service and multi-disciplinary, and comprise both regular participants and the professionals involved in the case being discussed. These committees are headed by a coordinator from the social welfare department, and always include the family's case worker and the chief social worker. Other services in the community (e.g., the school, local psychological services) are represented on the committee by professionals who are familiar with the child and his family.

485. Decision committees are regarded by the Ministry of Labor and Social Affairs as the primary mechanism for allocating services for the protection and welfare of children. Thus, emphasis is placed on their multi-organizational nature and on the participation of representatives of several community services. In addition, the committees are regarded as mechanisms for planning and developing community services. The Ministry also considers decision committees a mechanism for implementing its national plan and proposed legislation (see section (d) of this chapter, above).

486. Further, the Ministry of Labor and Social Affairs regards decision committees as being an important tool in implementing the Children's Rights Law. A comprehensive study conducted between 1998 and 1999, which was initiated by the Ministry of Labor and Social Affairs in an effort to improve the work of the committees, found the following:

- Decision committees discuss some 11,000 cases annually, constituting less than 5% of the children known to social welfare departments. The children and parents who reach the committees are at high risk, and are already receiving more services and interventions than is common in the Israeli service system (the characteristics of these children and their families are similar to those of children in boarding schools and children under the care of child protection officers, and the extent of services they receive is similar to that given to the latter). Thus, in many cases, these children appear before the committees after numerous attempts have been made to leave them in the community (Dolev et al., forthcoming).

- Despite the hope that the committees would be able to plan intervention and follow-up without resorting to out-of-home placement, more than half of the children who appear before the committees face out-of-home placement. The percentage of children who are removed from their homes following discussion of their case by a committee increases with age, reaching 70% among children ages 12-18.

- Large percentages of the committee chairmen are satisfied with the committees' multi-professional composition. However, in about one-third of the cases, professionals from organizations outside the social service system were not present at discussions of specific cases, and in another one-third of the cases, only one such professional was present. Committee chairmen also cited difficulties recruiting professionals from educational, health, and mental health organizations to participate in committee discussions, primarily due to problems of coordination. The proposed Children's Rights Law would mandate the participation of professionals from other organizations in committee discussions.

- Most committee chairmen are experienced social workers who were trained in the area of children and youth, but who lack experience conducting a multi-professional discussion, which requires a variety of skills and talents. Furthermore, many of them hold several positions in their social welfare department, and hence are not able to concentrate solely on their role as chairman.

- Finally, there is insufficient documentation of referrals to the committees, of the committees' work, and of implementation of the committee's recommendations and their outcome.

487. In the wake of these findings, the Ministry intends to appoint a committee that will make and implement operational conclusions.

(iv) The participation of parents and children in decision committees

488. The Ministry of Labor and Social Affairs recommends that a child and his parents participate in meetings of the decision committee. Indeed, findings from the study discussed above indicate a growing trend toward the participation of parents, children and relatives in the committees' discussions. Based on a sample of 230 committee discussions, a parent, child, or relative were reported to have participated in about two-thirds of the discussions. One parent participated in 60% of the discussions, while children participated in 17% of the discussions (the percentage was higher among children ages 12-18 - 25%). However, committee chairmen reported some persistent problems: Children and their parents are not always invited to participate in committee meetings, and when they are invited, they don't always attend. In such cases, it is rare that an additional meeting is scheduled to hear the parents and children. Furthermore, even when parents and children do attend a committee's meetings, they do not participate in the entire meeting. While committee members listen to their views and opinions, they rarely involve them in decisionmaking. Observations of decision committees revealed that when parents participate in a discussion, their participation causes them and the professionals embarrassment and discomfort.

489. National administrators in the Ministry of Labor and Social Affairs are aware of this state of affairs, and attribute it to lack of training and skills that would enable professionals to engage the parents and children in discussion. Several measures have been introduced in order to encourage the participation of parents and children in decision committees. For example, the Ministry of Labor and Social Affairs is beginning to implement a pilot program of "family group conferences", which will replace decision committees. At these conferences, the decision regarding the appropriate intervention for the family - including removal of the child from his home if required - will be placed in the hands of the family, rather than being made solely by professionals. The aim of the pilot program is to examine whether the program can be implemented nationally, while training staff to place more discretion and responsibility in the hands of parents. The program will initially be implemented at three sites.

C. Article 10 of the Convention - Family reunification

1. Entrance to Israel as a visitor

490. According to the Entrance to Israel Law 1952, the Minister of the Interior - usually through ministry staff - has the authority to grant permits to enter and stay in Israel to visitors who are not citizens. Visitors from countries with which Israel has visiting agreements may enter Israel for up to three months, if there is no specific reason to deny them entrance. However, the Ministry of the Interior can, and occasionally does, prevent the entrance of the children of foreign workers who are in Israel without a permit.

2. Permanent residence in Israel

491. The Law of Return 1950 and the Law of Citizenship 1952 entitle Jews, their spouses and children, including adopted children, and grandchildren, to Israeli citizenship. Thus, family reunification is automatic if children and parents are Jewish; the Minister of the Interior is authorized to grant Israeli citizenship even to those who do not meet these requirements. It is the policy of the Ministry of the Interior not to grant permanent residence to non-Jewish foreigners who have no Jewish relatives, except under special circumstances - for example if the person has served in the Israel Defense Forces (IDF). However, once a person has become a citizen, citizenship is also granted to his minor children if they resided in Israel on the day citizenship was granted, and if the parent who has become a citizen has custody of them. If the minor is a foreign citizen, and both his parents have custody of him but only one became a citizen of Israel, the minor will not be granted citizenship if one of the parents declares that he does not wish the child to have Israeli citizenship. Parents of citizens and permanent residents of Israel are not entitled to family reunification, but the Minister of the Interior may grant them citizenship or permanent residency at his discretion.

3. Leaving Israel to emigrate or visit abroad

492. Section 6(a) of the Basic Law: Dignity and Liberty states that "any person is free to leave Israel". According to section 8 of this law, this right may only be violated by "a law that is compatible with the values of the State of Israel, for a worthy purpose, and only if said purpose does not exceed what is required by law". However, persons who wish to visit enemy countries must receive a permit from the Minister of the Interior.

493. The Jerusalem Family Court has ruled that a parent who has custody of his children may move them to another country, and separate them from the other parent if the children so desire and if it is not clearly against their best interest.

D. Article 11 of the Convention - Illicit transfer and non-return

494. According to article 11 of the Convention, States parties shall take measures to combat the illicit transfer and non-return of children abroad through inter-state agreements.

495. Israel is a party to the Hague Convention on the Civil Aspect of International Child Abduction and has passed the Hague Convention Law. Section 4 of this law determines that the attorney general is the authority for implementing the Convention, and he or she may appoint child protection officers, who will work under the supervision of the chief child protection officer and who will have the authority granted them by the Youth (Care and Supervision) Law 1960.

496. The attorney general is permitted by section 5 of the Hague Convention Law to transfer information to any person or organization, in Israel or abroad, if necessary to implementation of the Convention, as long as this information is not used for other purposes and remains confidential. A child protection officer also has permission to pass on needed information, as granted by the attorney general.

497. Family Court is entitled by law to issue an injunction preventing children who have been abducted, or anyone holding them, from leaving the country; an injunction preventing the children from leaving any place designated in the injunction; an order to the police to investigate the abduction, find the children, and help the child protection officer bring the child to court; and any injunction or order that will prevent injury to the children or infringement of the rights of anyone involved in the case, and that will ensure the return of the children or facilitate settling the dispute peacefully. Regarding such instances, regulation 95/9(5) of the Civil Law Procedures 1984 stipulates that "if a child is of an age and level of maturity that warrant taking his opinion into consideration, the court will not decide the case prior to hearing the child, unless the court sees the need to do so for special reasons, which should be recorded".

498. In 1992, the Ministry of Foreign Affairs publicized a list of the states with which Israel has an agreement under articles 37 and 38 of the Hague Convention: Argentina, Australia, Austria, Belize, Canada, Denmark, France, Germany, Great Britain, Hungary, Ireland, Luxembourg, Mexico, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United States, and Yugoslavia.

499. Table 12 indicates the total number of cases of children handled by the central authority under the Hague Convention between 1993 and 1996. Of the 99 children abducted and brought to Israel during those years, 53 were from the United States and 10 from Canada. Of the 78 children abducted from Israel during those years, 32 children were taken to the United States, and 10 to Great Britain.

500. As another means of preventing the illicit transfer of children in cases of disagreement between parents, and in light of the stipulation that both parents are a child's guardian, the Ministry of the Interior will issue a passport to a child only with consent of both of his parents. If one parent fears that the other may attempt to illicitly transfer the child, he or she may request an injunction against the child's leaving the country.

Table 12

Cases* of abduction handled by the Attorney General under the Hague Convention on the civil aspect of international child abduction, 1993-1996 (in absolute numbers)

Case resolution	Children brought to Israel	Children abducted from Israel
Total	**99**	**78**
Returned, following court ruling	21	10
Not returned, following court ruling	9	4
Waiting for appeal	14	22
Petition withdrawn **	20	23
Re-abducted to State of origin	1	2
Refusal by State authorities	1	1
State not party to Convention***	3	5
Case not active	19	10
Child not located	5	1
Visitation arrangement	6	0

Source: Ben-Arie and Zionit, 1999.

* The figures refer to cases, as in some instances more than one child was involved.

** In 18 cases, the child was returned by consent.

*** States that were not parties to the Convention during this period.

E. Article 27 (4) of the Convention - Recovery of maintenance for the child

501. In Israel, issues of alimony and child support are determined by the laws of the religion with which an individual is affiliated. The Amendment to the Family (Child Support) Law 1959 applies when an individual is not obligated to pay child support to his or his spouse's children under the law of his religion, or who has no religion, and so is not obligated by any religious law. Section 3A of the law requires both parents to cover their children's expenses until they are 18, regardless of which parent has custody. Under section 6 of the law, if the parents have not reached an agreement, the court will determine the amount to be paid by each parent based on the child's needs and the parent's ability. The court may define needs for child support even if it is doubtful that the parent can meet them, so as to ensure payment from the National Insurance Institute, which is conditional upon a court order regarding the right to and the amount of child support. Section 17 of the law stipulates that if a parent and child reside in different countries, payments will be determined according to the law of the State in which the child resides. According to section 12 of the law, the court may change a child support arrangement if the child's circumstances have changed. The law also allows the court to employ several measures - the most severe of which is imprisonment - if a parent fails to pay child support as required. In bankruptcy proceedings against a parent who has failed to pay child support, these payments are given precedence over the claims of other creditors, including the tax authorities.

502. The Maintenance (Assurance of Payment) Law 1972 states that the National Insurance Institute will pay a child support allowance to any person whom the court has awarded child support, but who is not receiving these payments from the parent who owes them. The maximum child support allowance, set in State regulations, currently equals 39.7% of the average wage for a woman with one child, and 49.6% for a woman with two children (National Insurance Institute, 1997). In 1997, 19,509 women received child support allowances from the National Insurance Institute; nearly all of them (99.3%) were mothers with children. Seventy percent of the women had one or two children, close to 20% of them had three children, and 12% of them had four or more children.

F. Articles 20 and 25 of the Convention - Children deprived of a family environment

1. The alternative care system in Israel

503. Between 65,000 and 75,000 (or 3% of all) children and youth in Israel live outside of their family home. The exact number of children and youth who live outside their families can not be calculated due to insufficient data on the number of children who live and are educated in out-of-home facilities or yeshivas, particular in the *haredi* sector. Data on the number and nature of these settings are also lacking. These children and youth may be divided to several groups: The majority (61,726) of them are ages 14-18 and reside in boarding schools, mostly out of personal preference. A smaller group (9,599) of children and youth are placed outside their home by social services in residential facilities and foster homes. A yet smaller number of youth are placed in Youth Protection Authority facilities, which are geared for juvenile offenders and youths with severe behavior problems (see Chapter X).

504. Children placed outside their home by social services. In 1998, a total of 8,980 children newborn to age 18 resided in an out-of-home placement arranged by the Ministry of Labor and Social Affairs. About 5,000 of these children were under the age of 14, and the remainder were adolescents ages 15-18. Contrary to the situation in most western countries, the majority of these children, particularly the older ones, lived in residential settings; a considerably smaller number of them lived with foster families.

2. Foster families

(a) Children in foster care

505. Reliance on foster families began in Israel in the 1920s, and was considered a more humane option for children without parents than were institutions. However, over time, the system of residential settings came to be seen as a more attractive option. Approximately one-third of the children under age 14 who are in out-of-home placements are in foster homes, while the remainder are in residential settings. As indicated by Table 13, in 1998, 1,523 children lived with foster families; 22% of them were under age six. The proportion of children in foster care, as opposed to residential settings, is greater only among children this age. Thirty percent of the children in foster care live with relatives from their extended family.

Table 13

Children placed in foster families by the Ministry of Labor and Social Affairs in 1996, by age (in absolute numbers and %)

Age group	Number of children	Percentage
Total	**1 523**	**100**
0-6	346	22.7
7-14	853	56.0
15-17	324	21.3

Source: Data from the Ministry of Labour and Social Affairs.

(b) Foster care regulations

506. Ministry of Labor and Social Affairs regulations state that the goal of foster care is to provide a child with a temporary home, from which he may return to his parents' home or, if that is impossible, be transferred to another, permanent home. Foster care is considered preferable for children under age six and for older children who do not have severe developmental problems. It is not recommended for children with severe emotional problems, or for children whose parents are unable to accept the emotional attachment between their children and a foster family and who may thus interfere with the foster relationship.

507. Placement is made as part of a comprehensive treatment plan for the child and his family of origin. It is recommended that a child be placed with a family that lives in the same geographic area as his family of origin, unless:

(a) There are indications that the child's biological parents may harm him;

(b) The child needs special services not available in the area;

(c) The biological parents are substance abusers or criminal offenders;

(d) The children are being considered for adoption.

508. The social workers of the social welfare department are responsible for preparing the foster family and providing constant guidance; they visit the foster family as needed, and at least once a month.

509. The regulations stress that the child's natural parents remain the central figures in the child's life. Under the Guardianship and Legal Capacity Law 1962, a child's biological parents remain his natural guardians, unless the court has revoked this status. Parents are entitled to be involved in decisions about the child's placement, such as the school system in which the child should be enrolled (religious or non-religious). The social welfare department is responsible for updating the parents about their children's progress, encouraging them to maintain contact with their children by visiting them, and providing professional help that will rehabilitate the family and enable the child to return home.

(c) Issues in foster care

510. In recent years, there has been increasing awareness of the difficulties of enforcing these regulations in the foster care system. For example, although the regulations stress that foster care is meant to be temporary, children placed in foster families typically live with them for several years, and often until they are 18. In addition supervision of foster families proves difficult, and lack of systematic supervision creates barriers to enforcing the Ministry's policy and regulations.

511. Currently, several changes are being proposed or introduced into the foster care system, so as to improve the care provided by foster families and increase the child's possibility of returning to his biological parents. One of these involves employing foster family counselors in local social welfare departments, whose task would be to assist foster families and maintain contact with the professionals working with biological families. In addition, a clinical data base has been developed for children in foster care. This system helps follow the child and his biological family as a basis for planning and decisionmaking. Recently, a program has been developed to select, train, and assist new foster families. This program teaches 12 skills that have been found to help foster families. New models of foster care aimed at improving supervision and upgrading the quality of care are currently being piloted. These include family group homes, which serve a number of foster children in a family setting, and "community foster care clusters", in which several foster families in the same community (which serve children from that community) receive counseling and supervision, and special services for the children in their care. Lastly, legislation is being initiated concerning foster care, as to date there are no laws that specifically define the rights and obligations of foster families, biological families, and children.

3. Residential facilities

(a) The historical and social context of residential care

512. When describing the residential care system in Israel, it is useful to note that in Jewish and Israeli society, raising and educating children in residential institutions has not been seen as a drastic step that should be taken only when a child cannot remain at home. Education away from home at a *yeshiva* (Jewish religious school) was and is acceptable and even prestigious. Until very recently, children raised in the influential kibbutz movement lived and were educated communally; to this day, adolescents on kibbutzim usually live in group homes.

513. Following the Second World War, and with the establishment of the State of Israel in 1948, boarding schools and kibbutzim were homes for young, parentless refugees. During the mass immigration of the 1950s, residential settings continued to enjoy prestige, and were considered ideal for helping newcomers - including children who arrived with their families - become integrated into Israeli society. In later decades the function of residential settings shifted; gradually, they came to serve children at risk and children whose needs could not be met at home.

514. Over time, professional attitudes also changed, and out-of-home placement came to be seen as less desirable than community-based solutions for children. However, this historical and social context explains why educating children and youth in residential settings is still seen by many, including parents and children, as legitimate, and not as an extreme step involving the separation of a child from his parents.

515. During the past decade, much concern has been expressed regarding the quality of care in residential facilities. In the late 1980s and early 1990s, several reports on poor living conditions and insufficient staff were published and received wide attention. At present, measures are being taken to improve this situation. In addition, government and non-government agencies have begun to cooperate on the development of community-based services that support families and enable children to be safe and cared for at home. Nevertheless, the overall number of children placed in out-of-home settings has not changed significantly in recent years.

(b) Residential settings and boarding schools

516. Table 14 presents data about the different types of residential setting and the number of children attending each type. The majority (431) of the settings, considered part of the "regular education" system, are for children with regular educational needs, although some of the children who reside in them attend special education frameworks. The "special education" settings include institutions for children with retardation, physical handicaps, hearing and sight problems, and emotional problems. Some (155) of the facilities are only for youths ages 14-18 and some (53) are only for children under age 14, but most (283) accommodate both children and youth. The average number of residents in an institution for young children is 59, while the average number of residents in an institution for youth or for children and youth is 147. Most residential facilities are operated by non-profit organizations, while a limited number of facilities are private. Most of the private facilities serve children with severe emotional problems. Only a few facilities for extremely troubled or delinquent youth are operated by the Youth Protection Authority (a government agency; see Chapter X).

Table 14

Number of residential settings and residents, by residents' age and type of education 1996-1997*

Age	Total		Regular education**		Special education	
Total	**491**	**(67 633)**	**431**	**(62 609)**	**60**	**(5 024)**
Children under 14	53		53	(3 117)	---	
Youth (15-18)	155	(22 788)	148	(22 417)	7***	(371)
Children and youth (up to 18)	283	(41 728)	230	(37 075)	53	(4 653)

Source: Ben-Arie and Zionit, 1997.

* The numbers in parentheses refer to the total number of residents.

** No data are available on an additional 40 religious institutions.

*** Children under age 14 and youth up to age 18.

517. The residential care system, much like the education system, comprises Jewish and Arab institutions. Within the Jewish sector, the facilities are divided in the same way as in the education system: State, State religious, and independent religious frameworks.

4. Children under age 14 in residential settings

(a) Types of residential setting

518. Residential settings for young children under age 14 are supervised by the Ministry of Labor and Social Affairs. In recent years, the settings have been classified and budgeted according to the needs of their residents.

(a) Therapeutic settings: Approximately-one quarter of the children attend institutions defined as being therapeutic - that is, for children with significant emotional or learning difficulties.

(b) Rehabilitative settings: Two-thirds of the children attend rehabilitative settings - that is, for children with mild difficulties.

(c) Educational settings: Only 8% of the children attend settings defined as being educational - that is, for children with a normal level of functioning.

519. Children who reside in a therapeutic facility usually attend a special education school on the premises, while children who reside in a rehabilitative or educational setting usually attend a public school in the community. In recent years, a fourth model of residential setting has been developed for children who have been hospitalized in a psychiatric institution or who have severe emotional problems.

(b) The purpose of placement, placement procedures, and lengths of stay

520. The majority of children under age 14 who live in a residential setting are placed there by the Ministry of Labor and Social Affairs, through the decision committee of their local social welfare department. These children often have family problems, behavior problems, and serious problems in school. These settings offer an alternative to the family home, which meets the children's everyday needs and protects them from the abuse and neglect to which they were subjected in their home.

521. A 1996 survey of 995 children under age 14 in residential settings showed that most (76%) of them were referred to residential care for more than one reason (Dolev and Barnea, 1996). The reasons for referral were grouped into four categories:

(a) Problems with parental care (64%);

(b) Marital problems or violence between the parents (60%);

(c) Behavioral or emotional problems of the child (40%);

(d) Economic problems or anti-social functioning of the parents, such as crime, drug abuse or mental illness (38%) (Dolev and Barnea, 1996).

522. Most placements are made with parental consent or compliance: A 1993 survey of nine residential settings for children showed that only 15% of the children were placed in them under court order, while the remainder were placed in them at their parents' request or with their consent. Interviews with some of the parents indicated that they saw placement in a residential setting as being to the benefit of their child. However, it is not clear to what extent alternatives were offered or discussed with them.

(c) Characteristics of children in residential settings

523. The study of nine residential settings also provided information about the characteristics of the residents (see Table 15). As may be expected when a child is removed from his home by social services, large proportions of them were neglected, a significant proportion of them were abused, and many of them had emotional, educational and behavioral problems.

Table 15

Major problems of children under age 14 in residential settings (in %)

Problem	Percentage*
Parents' problems	
Physical abuse	25
Emotional abuse	25
Physical neglect	50
Children's problems	
Emotional problems**	33
Two-year gap in school achievement	33
Over three-year gap in school achievement	40

Source: Dolev and Barnea, 1996.

* The percentage of children to whom this applies. The percentage does not total 100%, as children may fit into several categories.

** In the clinical range, as measured by the Child Behavior Check List (Achenbach, 1990).

524. Children referred to a residential facility usually remain away from home for several years, often until they are 18. The children in this study were 12 years old on average, and had been in a residential setting for an average of two and a half years.

(d) Maintaining contact with parents

525. Several studies have examined the steps taken to maintain and improve the relationship between a child in a residential setting and his parents. In 1991, a study was conducted of how children in residential facilities maintain contact with their parents (Laufer, 1991). The study found that in most residential facilities, parental visits are not monitored, and there is usually no place where children can meet with their parents in private. A 1994 survey of 174 settings collected information about the setting as a whole through interviews with directors (Bendel and Katz, 1994). In a 1996 study, data were collected on the individual children in each of nine residential settings (Dolev and Barnea, 1996). The latter two studies revealed that the most common form of contact between parents and children was weekend and holiday visits to the family home - roughly once every three weeks. Although there is no uniform government policy regarding parental visits and activities, most residential settings hold joint activities for parents and children on their premises. The 1994 study revealed that 63%-69% of the settings allowed relatives to visit unannounced, 11%-25% had a regular visiting day, and 80% arranged transportation and accompanied the children home (Bendel and Katz, 1994).

526. At the nine settings studied in 1996, the parents of half of the children participated in joint activities at the facility, and the parents of two-thirds of the children visited them (Dolev and Barnea, 1996). Comparison of the data from the 1994 and 1996 studies reveals that while many of the settings have some sort of contact with the children's parents, it is usually only with the parents of a small proportion of the children. Nearly all of the directors interviewed in the 1994 study reported that most or all of the parents received regular reports on their child's progress from staff members; 42% of the directors reported that some of the parents receive counseling from the facility staff (Bendel and Katz, 1994). Conversely, the 1996 survey of individual children revealed that only 4% of the parents met regularly with a social worker at the setting, while an additional 14% met with a social worker approximately once a month. It also revealed that while the social workers generally supported the children's contact with their families, those who worked directly with the children were ambivalent toward the parents, and often blamed them for the children's misfortune (Dolev and Barnea, 1996). Moreover, the social workers often lacked the skills and training required to effectively relate to parents and other relatives; they felt burdened, and tended to place responsibility for working with the parents on the local social welfare department.

(e) Recent developments in residential care for children

527. During the late 1980s, public concern was expressed over the quality of care in residential facilities and the effect of separating children from their family and community. In recent years, the government has accelerated the development of several new residential care models. For example, community-based residential settings and group homes have been established in collaboration with non-government organizations. These facilities are located in the child's own community and encourage his parents' participation in his daily life and in decisions concerning him. In addition, family units are being developed, in which a married couple lives with and cares for a group of ten-12 children. Some of these units are part of larger residential settings, while others function as separate group homes in the community. Some residential facilities offer afternoon "external programs", which the children attend during the day, returning to their family's home at night.

5. Youth (ages 14-18) in residential settings

528. Approximately 55,000 youngsters ages 15-18 live at a boarding school or residential facility. They comprise 10% of the young people in this age group. Usually they refer themselves to a residential setting, often following the recommendation of social services.

529. Approximately two-thirds of the youth attending boarding schools are orthodox Jews - a far greater proportion than their proportion in the general population. Moreover, the popularity of boarding schools is on the rise in this sub-population. Another group amply represented at boarding schools is that of new immigrants from the former Soviet Union who arrived in Israel without their parents, and immigrants from Ethiopia who arrived in Israel in the late 1980s. It was hoped that boarding schools would enhance their adjustment to Israeli society. However, this viewpoint has come under criticism, particularly within the Ethiopian community, as many of the boarding schools do not offer advanced technological education, have a poor scholastic level, and generally enroll students come from disadvantaged backgrounds. In the wake of this criticism, increasing numbers of Ethiopian youngsters are living at home and attending schools in their community. In a study of Ethiopian immigrant youth, Lifshitz, Noam and Segal (1997) found that the reported level of satisfaction with school and the sense of belonging was similar for students at boarding schools and at schools in the community. They also found that young people living at a residential facility received more scholastic and financial help than did young people living in the community.

530. About one-quarter of the youth who attend boarding schools are neither orthodox Jews nor recent immigrants. For many of them, the residential setting offers a solution to social, family or scholastic problems. However, there is limited systematic data on the characteristics of these youth, or the services offered to them by the residential system, although voluntary organizations and policy makers report that there are not enough placements for youth with serious emotional problems.

6. Protecting the rights of children in out-of-home placements

(a) Laws protecting children in out-of-home placements

531. The Surveillance of Residential Facilities Law 1965 protects children in out-of-home placements. Section 2 of the law stipulates that owning or operating a residential facility requires obtaining a license from the Minister of Labor and Social Affairs. Under section 6 of the law, a facility that operates without a license or in a way not compatible with the law may be closed. According to section 7 of the law, the government must appoint supervisors who are authorized to enter and inspect a facility at any time in order to make sure it is being managed as stipulated by its license.

532. The Penal Law 1977 also protects children from abuse by staff or other minors in residential facilities. Section 386A defines “a person responsible for the child” as being “whoever has the responsibility for the essential needs, health, education or well-being of the child” - a definition that includes the staff and administration of a residential setting.

Section 368D(C) of the law states that if a person responsible for a minor has reasonable cause to suspect that another person responsible for the minor has committed a crime against the minor, he or she must report this as soon as possible to a child protection officer or to the police. The penalty for failure to report is six months' imprisonment. Section 368D(d) obliges the director to report any crime committed against a child in the institution under his care. Failure to comply is punishable by six months' imprisonment.

(b) Protecting children's rights in residential facilities: supervision and regulations

533. Three agencies supervise residential facilities: The Service for Children and Youth of the Ministry of Labor and Social Affairs supervises all residential facilities for children and youth. In practice, the Service emphasizes the supervision of facilities for children under age 14, the majority of whom were placed in them by the Service. The Youth Protection Authority of the Ministry of Labor and Social Affairs is responsible for supervising correctional facilities (see Chapter X). At present, the Ministry of Education supervises residential facilities for youth, and all schools within residential facilities.

534. The Ministry of Labor and Social Affairs is developing standards and practices to improve the quality of care in residential facilities, including an advanced surveillance system, which will enable inspectors to continually monitor each facility according to uniform standards.

(c) The actual quality of care in residential facilities

535. As a basis for developing the new surveillance system, a national survey was conducted in 1995 of all Youth Protection Authority facilities, and of a sample of residential facilities supervised by the Service for Children and Youth (Fleishman et al., 1999). The survey compared the directors' perception of the quality of care in these facilities, with the level of care required by the regulations then applicable and compliant with the recommendations of an expert committee that was established to set standards of care in residential facilities. The survey revealed the following:

- While most facilities met the requirements for the number of staff set by Ministry regulations, many did not meet the higher standards recommended by the expert committee. Most of the directors stated that the majority of their staff met the educational requirements of the regulations. However, they reported difficulty recruiting and keeping staff. These findings are supported by other studies (see Bar, 1995).

- Most facilities met or exceeded the regulation requirements for physical conditions. However, over half of the facilities did not meet the conditions recommended by the expert committee regarding the number of bathrooms per child.

- Approximately two-thirds of the facilities met the regulation requirements for routine medical and dental check-ups.

- The majority of the facilities met the expert committee's recommendations for monitoring the physical well-being and hygiene of the children

- Standards of educational, emotional and recreational intervention were not included in the regulations, and are currently being developed. The survey indicated that most of the facilities provide a range of interventions and activities. However, written intervention plans, as recommended by the expert committee, were available at only a small proportion of the facilities.

- Approximately one-third of the facilities reported that requiring children to perform additional chores was used as a punishment, and 8% of them reported placing a child in seclusion or denying him visits home as a sanction. Such sanctions are prohibited by Ministry regulations. In most cases, the regulations regarding response to theft, leaving the facility without permission, and physical violence were followed.

536. Information from this and other studies reveals that there is difficulty providing an adequate education to children in residential facilities. Dolev and Barnea (1996) found that even though many of the children in therapeutic facilities have extensive gaps in their scholastic achievements, insufficient resources are allocated to education in these facilities. Special education schools in these facilities are classified as "recognized but not formal", and are therefore financed at a lower level than are similar schools in the community. Furthermore, the time devoted to assistance with homework is limited.

537. Children residing in rehabilitative facilities usually attend school in the community in which the facility is located. School and facility staff often report that the children have trouble adjusting to school, and that there is a lack of communication and coordination between the school and the facility.

538. Following this survey, both the Youth Protection Authority and the Service for Children and Youth developed a new surveillance system for residential facilities. Uniform standards were developed for all aspects of out-of-home care, and systematic measures were introduced to monitor the extent to which the residential facilities meet standards. Periodic supervision was instituted to identify and correct deficiencies. This system is based on a model first developed for inspecting and improving old age homes. It assumes that measuring and controlling quality of care must consider the children's condition (outcomes of care) as well as intervention methods and physical resources available to the facility. When a facility is inspected, its staff are required to report on each child and "tracers" that indicate the presence of a problem (e.g., bedwetting, poor scholastic achievements, running away, suicide attempts). At the next inspection, a sample is made of children who showed one or more "tracers", and the facility is checked to see whether the appropriate steps have been taken to help the child, based on the standards. In addition, facilities are inspected for general measures such as cleanliness, crowding, and staff-child ratio. Attention is also paid to the number of extracurricular activities and meetings with parents a facility allows. A sample of children is interviewed about the quality of care (e.g., the food, the attitude of the staff toward them). During subsequent inspections, the staff of the facility are presented with a report of areas that need improvement.

7. Periodic review of placement

539. The Youth (Care and Supervision) Law 1960 sets a three-year limit on a court decision regarding a minor in need, including a decision to remove a child from his parent's custody. At the end of three years, the order may be renewed.

540. The regulations of the Ministry of Labor and Social Affairs require that the decision committee review a child's treatment plan, including out-of-home placement, every six months (Ministry of Labor and Social Affairs, Regulation 8.9, 1995). Though systematic data are not available, it appears that this regulation is not implemented uniformly.

541. Usually, a child's situation and progress is reviewed twice a year at the facility where he resides. In some cases the community family social worker who is responsible for the family attends the review. However, the plan and goals of intervention are not usually recorded, such that it is impossible to evaluate the extent to which they are followed. Furthermore, the length of stay in an out-of-home placement is often protracted; for most children, returning home is not an alternative. A study of decision committees found that when a child already resides in an out-of-home facility, committees usually recommended leaving him there.

542. In recent years, policy makers and service providers have begun to examine ways of shortening out-of-home stays when possible. Alongside efforts to improve the efficiency of decision committees, the Ministry of Labor and Social Affairs and ASHALIM are establishing community residential facilities and foster clusters, with the ultimate aim of reducing the length of stay at residential institutions. Policy makers are also considering a transition to daytime residential frameworks and placing a child in a residential framework for only a few days a week while allowing him to spend the rest of the week at home. Greater attention is also being paid to this issue in the foster care system, through foster care coordinators who have recently begun working in local social welfare departments.

543. As noted, the Youth Protection Authority is responsible for managing correctional facilities for juvenile offenders and youths with severe behavior problems. The Authority's regulations require review of out-of-home placement. The youth's situation and progress is reviewed three months after admission and at least every six months thereafter. Review committees include the child protection officer or probation officer who referred the youth to the facility, the youth himself, and his parents. Intervention plans are generally recorded. The Youth Protection Authority is introducing a more systematic, efficient means of review, which will entail reformulating the regulations that guide the review process.

8. Non-government involvement with children in out-of-home care

544. Yeladim - Council for the Child in Placement is a non-government organization established in 1986 in response to problems with residential care, such as children who drift from one setting to another, insufficient training for staff, poor physical conditions, and children being placed far away from their families.

545. The council lobbies for the rights of children in residential care and raises funds to improve their quality of life. It also offers the children art activities, educational materials and holiday gifts, in partnership with the business sector. The council has lobbied for the establishment of a national authority for residential settings for children, official recognition and funding of the schools that operate in residential settings, and the passage of a law to prevent the psychiatric hospitalization of children who are not mentally ill. The council also acts as legal guardian for children whose parents are incapable of doing so, and operates an "ombudsman" for children in placement. The council has published several reports on the care of children in residential settings.

G. Article 21 of the Convention - Adoption

1. The Adoption of Children Law

546. According to the Adoption of Children Law 1981, adoption establishes the same rights and duties between adoptive parents and their adopted children as between natural parents and their children, and gives the adoptive parents the same authority that natural parents have regarding their children. Adoption terminates the rights, duties, and authority of natural parents toward their children (section 16), although the court may limit the above (section 16(1)).

547. The Adoption of Children Law states that a child can only be adopted through an adoption order granted by a court at the request of the adopting parent. Upon this request, a child protection officer must present a detailed report of the child's condition to the court (section 287 of the Civil Law Proceedings 1984). An adoption order will only be granted by a court if it is in the child's best interest (section 1 of the Adoption of Children Law 1981), and only after the child has lived with the adoptive parent(s) for at least six months (section 6).

(a) Circumstances of adoption

548. It is presumed that "the child's best interest [lies in his being] with his natural parents. This presumption is not only based in reality, but also in values deriving from the natural parents' basic rights" (Additional Civil Appeal 7015/94 *Attorney General v. Anonymous Defendant*, P.D. 50(1) 48, p. 67). However, in certain circumstances, this presumption is invalid, in which case the court may declare the child "available for adoption", even without his parents' consent.

549. According to section 13 of the Adoption of Children Law 1981, a court may declare a child available for adoption in the following circumstances: (1) The birth parents cannot be identified or located or cannot be asked about their wishes; (2) the parent opposing the adoption is the father, who never recognized the child as his own or, if he did recognize him, the child nevertheless does not live with him and he refuses, for no reasonable cause, to take the child into his home; (3) the parent has died, or been declared incompetent, or his or her guardianship of the child has been revoked; (4) the parent has deserted the child and failed to maintain contact with the child or to fulfill his or her parental obligations for at least six months; (5) the parent has avoided, for no good reason, fulfilling his or her basic obligations toward the child for six

consecutive months; (6) the child was kept outside the parent's home for six months prior to the child's reaching six years of age, and the parent refused, with no justification, to take the child into his or her home; (7) the parent is unable to care for the child adequately because of his behavior or condition, and it is unlikely that his condition will change in such a way as to enable him or her to care for the child, despite economic or social assistance; (8) the biological parent's refusal to agree to the adoption is based on an immoral reason or for an illegal purpose.

550. With regard to this section, the Supreme Court has noted:

> "Section 13 … lists the circumstances under which a parent is considered as not fulfilling his or her obligations toward his child. The reasons for adoption reflect the balance, whereby … preference is given to the best interests of the child, as weighed against the rights of the natural parents. A parent is required to fulfill his obligations to his child to the best of his ability, and the law requires that the welfare services assist him. However, a parent's ability is measured objectively, based on the child's mental and corporal needs, which if not fulfilled, will cause him harm … A parent not fulfilling his obligations toward his child, despite the assistance of the welfare authorities, loses his parental right, even if his failure is a result of objective circumstances, as the purpose of adoption is not to "punish" the parent, but to realize the superior right of the child" (op. cit. p. 67).

551. In certain cases, a child may be declared available for adoption even if the circumstances listed in section 13 are not present:

> "In general, when there is no circumstance for adoption, the principle of the best interests of the child is fulfilled in the assumption (which is also anchored … in the parent's right) that the child's best interest is served by his being raised by his parents. However, because the best interests of the child takes precedence, even this assumption may be overturned in exceptional cases, if returning a child to his natural parents would cause him great harm, even if he was taken from them illegally. In such a case, a child will not be returned to his natural parents, even if there was no valid circumstance for adoption" (op. cit. pp. 86-87).

552. According to section 12(3) of the Adoption of Children Law 1981, if a case is urgent, a child protection officer may deliver the child to the intended adoptive parents even without parental consent, and even before the child has been declared available for adoption. Such a step must be ratified by the court within 14 days.

(b) Consideration of the parents' opinion

553. In the case of parental consent to adoption, the court must determine that the parents indeed wish to relinquish the child (section 8). Parental consent is invalid if given before the child was born, or under pressure. In special circumstances, the court may decide to allow the parents to change their decision, as long as an adoption order has not yet been issued (section 10).

554. The official who receives parental consent must explain its meaning to the parents (section 273 of the Civil Law Proceedings 1984). The court reviewing the adoption order may choose to appoint an attorney to represent the parent, at the State's expense (section 24 of the Adoption of Children Law 1981).

(c) Consideration of the child's opinion

555. Section 9 of the Adoption of Children Law states:

> "If a child is nine years old, or if he or she is not yet nine years old but is capable of understanding the issue, the court must establish that the child wishes to be adopted by the adoptive parent(s) before issuing an adoption order. However, the court may give an adoption order without notifying the child and without his consent if it is convinced of the following:
>
> (1) The child does not know that the adoptive parents are not his or her natural parents;
>
> (2) All signs indicate that the child wishes to continue his relationship with the adoptive parents;
>
> (3) The child's best interest requires that he not be told of the adoption."

556. The law does not require that a child's opinion be heard before he is declared available for adoption, but only before a final adoption order is issued.

557. The Supreme Court has ruled, in the case of a four-year-old child who expressed his wishes to psychologists when he was three years old, that "perceiving the child as a separate entity entails granting his right to have his wishes and wants considered to the extent possible" and that "this is not a baby, but a child with a will of his own which he is capable of expressing, indeed … [a child of three or four] does not have the same powers of consideration as an adult. Sometimes the wishes of a small boy do not reflect his best interests. However, a child is not an object to be handed from one person to another without consideration of his wishes. The child has an opinion, which needs to be taken into consideration". In practice, the weight the court ascribes a child's opinion increases with age.

(d) Competence of adoptive parents

558. The law specifies several conditions of competence to adopt: A child may only be adopted by a married couple, or by the spouse of the child's parent, or by an unmarried relative in case of the death of the natural parents (section 3). The adopting parent must be at least 18 years older than the child, except in case of adoption by the parent's spouse (section 4). The parent must be of the same religion as the child (section 5).

(e) Discretion in cases of adoption

559. Section 34 of the Adoption of Children Law 1981 prohibits the disclosure of information about the identity of the children, the birth parent, and the adoptive parents. Section 30(b) states that when the child reaches the age of 18, he may receive information about the adoption, based on the decision of the child protection officer (see also Chapter VI).

560. As a rule, the identity of the adoptive parents is not revealed to the natural parents. In exceptional cases, law and case law allow for an "open adoption", whereby contact between the adopted children and their birth parents is maintained.

2. Adoption in practice

(a) The Service for the Child and the adoption process

561. Adoptions in Israel are handled or supervised by the Service for the Child, which is part of the Ministry of Labor and Social Affairs. This Service serves the following populations:

(1) Children who are relinquished, or deemed by a court to be available for adoption;

(2) Adults who wish to adopt, or who have adopted, children;

(3) Pregnant women who are considering giving up their child for adoption;

(4) Adult adoptees, who wish to learn about their past.

562. Infants who are given up for adoption with their parents' consent are usually transferred to the adoptive family within a short period, and an adoption order is requested six months later. The more complicated cases are those in which children are adopted against their parents' wishes, through the intervention of the court. These children are usually older.

563. As noted above, Ministry of Labor regulations require welfare services to attempt to rehabilitate the family, so as to allow the child to stay with his family of origin. The decision to proceed with an adoption is made by the social welfare department decision committee. Regulations require that a representative of the adoption service attend any discussion concerning a child under age six, or any case in which adoption is being considered. If the committee decides that, despite attempts to help, the parents are incapable of raising their child and that it is in the child's best interest to be adopted, the adoption service will ask the legal department of the Ministry of Labor and Social Affairs to petition the court to declare the child available for adoption.

564. According to officials in the Service for the Child and in the Ministry of Labor's legal department, the courts are strict in their demand that the State prove that the biological parents are incapable of raising the child, even if helped by the authorities. Court decisions are based on

the testimony of the child's parents, witnesses, social workers and other professionals who have worked with the family. The court also relies on expert (psychological or psychiatric) evaluations. Often, other options will be considered before freeing a child for adoption, such as granting guardianship to a member of the extended family, if such an arrangement is in the best interest of the child. Once a court has determined that a child is available for adoption, the birth parents can appeal to a higher court.

565. The 1994 Report of the State Comptroller expressed concern about the duration of legal proceedings, which was an average of between 12 and 18 months in 1989-1991. Sources in the adoption service stated several causes for lengthy legal proceedings: an overburdened court system, long intervals between hearings (despite regulations determining maximum intervals), and the insistence of courts on extensive examination of the evidence presented in favor of parents.

566. During legal proceedings, the child is usually under a court order that has deemed him a "minor in need" and placed him outside his home. The Service for the Child and several non-government organizations operate special group homes for children in transition. Other children stay with a foster family or at a residential setting. This period is used to prepare the child for separation from his family and adoption into a new family.

567. It is possible to place the child with parents who wish to adopt him if circumstances so require, even before the child has been declared available for adoption. Data from a survey of children over two years old who were adopted between 1985 and 1995 reveal that only 9% were placed with adoptive families at this stage (JDC-Brookdale Institute, unpublished data). It appears that this option is often successful when the child is an infant.

568. Once a child has been declared available for adoption, the regulations require that a suitable family be found within 12 months. When older children are involved, several meetings take place between the child and the prospective parents, over the course of one or two weeks, before he begins to live with them. During this time the child's reaction is observed by professionals who know him; if he seems distressed by the interaction, a different family will be sought.

569. As a rule, the adoption order severs the legal ties between adopted children and their biological parents. The children are usually placed in a different geographic area from that of their birth parents, in order to prevent involvement. As noted, "open adoption" is rare, although consideration is being given to expanding this option.

570. Once a child has reached 18 years of age, the Service for the Child will contact his biological parents if he is interested in meeting them, and will and help set up a meeting.

(b) Information about adopted children

571. Information about children adopted within Israel is presented in Table 16.

Table 16

Children adopted within Israel, 1995-1997 (in absolute numbers)

	1995	1996	1997
Total	**215**	**182**	**149**
Infants (0-2)*	96	102	71
Children (2+)	119	80	78

Source: Ben-Arie and Zionit, 1995.

* Including two-five children with Down's Syndrome per year.

572. As is apparent, about half of the children adopted within Israel are children over two years old. This population presents a challenge to the adoption service, as most couples prefer to adopt an infant (the waiting period for adopting an infant is five and a half years). Recently, a study initiated by the Service for the Child examined the outcomes of the adoption of older children and the services needed during different stages of the adoption process. Preliminary data from this study are available on 343 children over two years of age who were adopted between 1985 and 1995, as shown in Table 17.

Table 17

Characteristics of older children adopted between 1985 and 1995

	Number	Percent
Total	**343**	**100**
Age of children		
2 - 3	92	27
4 - 5	92	27
6 and over	156	46
Siblings		
Adopted with siblings	119	35
Adopted alone	224	65
Adoptive parents		
Have other children	183	54
Do not have children	160	46

Source: Rivkin et al., forthcoming.

3. Inter-country adoption

573. In 1997, approximately 190 children were adopted from other countries. In 1996 the Adoption of Children Law 1981 was amended to regulate inter-country adoption. This amendment subjects inter-country adoption to the Hague Convention on the Protection of Children and Cooperation in Respect to Inter-country Adoption, which Israel signed in 1995.

Section 28 of the law determines that the central authority for all inter-country adoptions by the law and in accordance with the Convention is the chief child protection officer, who is appointed by the Ministry of Labor and Social Affairs. Inter-country adoption will be administered, as a rule, by non-government agencies authorized by the Minister of Labor and Social Affairs and the Minister of Justice (section 28c). Each agency is responsible for verifying that the authorities of the country of origin have examined the possibilities for adopting the child within that country and have determined that inter-country adoption is in the child's best interest. The agency must also verify that due process has been carried out regarding the child's availability for adoption. When the child's age and level of understanding render it necessary, the agency is responsible for verifying that the child understands the adoption and has consented to it. The law requires that each agency verify the eligibility of the prospective adoptive parents to adopt a child according to the standards set for inter-country adoption (sections 28H-28J). Under regulations of the Service for the Child, the adoptive parents or parent must have reasonable health and economic stability, and at least one parent must be under 48 years of age. The adoption agencies are responsible for monitoring the child's adjustment to the home, and must submit a report to the country of origin. As in internal adoption, inter-country adoption must be finalized by a court order, once the court has verified that all conditions required by law have been met.

574. According to section 28t(c), which was amended to the Adoption of Children Law in 1997, a court may grant an inter-country adoption order even if the adoptive parents have a different religion than the adopted child, provided this presents no infringement of the child's best interest.

575. Adoption of children born in Israel by people in other countries is extremely rare. In 1996, five children were adopted outside of Israel, and in 1997, six children were adopted outside of Israel. These children were born to Moslem mothers. As Islamic law does not recognize adoption, and inter-religious adoption is prohibited within Israel, these children were placed with adoptive families outside of Israel. It is probable that in the future such children will be placed with Moslem families in Israel for long-term fostering and guardianship, which will be similar to adoption and in accordance with Islamic law.

4. Support services for adoptive families

576. The adoption agency provides counseling services at least until an adoption order has been granted (usually six months after the child begins living with the family) or longer, at the family's request. In special need adoptions (children over two years old, children with disabilities), more intense support is provided. Adoptive parents of children with special needs undergo training before receiving the child; in some cases, post-adoption support groups are offered.

577. A non-government agency, MALI - The Center for Counseling and Treatment for Adoptive Families, also offers professional help to adopted children and families at subsidized rates. In 1997 this service treated 344 individuals, through individual, family and group therapy. The service also offers workshops, training and consultation for professionals who work with adopted children.

H. Articles 19 and 39 of the Convention - Abuse and neglect, recovery and reintegration

1. Legislation regarding child abuse and neglect

578. Several laws deal with the prevention and treatment of child abuse and neglect. (For additional information on legislation regarding sexual exploitation, see Chapter X.)

(a) The Penal Law

579. The Penal Law 1977 prohibits acts of physical, emotional or sexual abuse directed at minors, and sets a maximum sentence of seven years for such offenses, and nine years if the perpetrator is the child's guardian (sections 368B, 368C). As noted, the Penal Law also prohibits neglect of a child, and sets penalties for specific breaches of parental obligation, such as failing to provide a child under age 14 with food or clothing (section 362), or leaving a child under two years of age without supervision (section 361).

580. The Penal Law was amended in 1989, introducing a new chapter, 6.1: Harm to Minors and Dependents. The following principles underlie the stipulations in this chapter: First, crimes committed against a minor are more severe than those committed against an adult. Second, crimes are more severe when committed by a person responsible for a minor, than when they are committed by a person not responsible for the minor. Offenses committed by a relative are especially serious. Third, these prohibitions also apply to emotional abuse.

581. Section 351 of the Penal Law 1977 addresses sex offenses committed within the family, and sets more severe punishments than those set for offenses committed by someone who is not related to the victim. Thus for example, the penalty for rape or sodomy of a minor within one's family is 20 years' imprisonment, as opposed to 16 years' imprisonment for the same crime committed against someone who is not a relative. Section 351b stipulates that having sexual relations with a relative who is between the ages of 14 and 21 is punishable by 16 years' imprisonment.

582. Mandatory reporting of child abuse was added to the Penal Law in the 1989 amendment. Section 368D(a) requires an adult to report any case of child abuse or neglect to the police or to the Child Protection Authority. Failure to report such abuse is a criminal offense, which carries a three-month jail sentence. The law imposes a sentence of six months' imprisonment on professionals who fail to report abuse of a minor, (e.g., physicians, nurses, educators, social workers, policemen, psychologists, criminologists, and school principals and staff; section 368D(b-c)). As noted, schools and other facilities for children are obligated by this law to report the incidence of severe injury, abuse, and sexual offenses against a minor performed by caretakers or non-caretakers, including another minors (368D(d)).

583. The amendment that made reporting mandatory was the result of extensive lobbying by voluntary and advocacy organizations, as well as of the disclosure of several cases of severe abuse and neglect, one of which culminated in the death of a three-year-old girl who had been continuously abused by her uncle, which shocked the public. Teachers, friends and neighbors

had been aware of the continuous abuse, but had failed to report it to the Child Protection Authority. The setting of longer sentences for professionals who fail to report suspected abuse was meant to resolve the dilemma of professionals, such as physicians and therapists, who may hear of abuse and yet hesitate to report it lest they break their vow of maintaining confidentiality. Despite the passage of this law and the increase in the rate of reporting that has resulted, the sanctions set down in the law are not actually enforced, such that practically no professionals have been brought to trial for failure to report a suspicion of abuse or neglect.

584. The Penal Law was again amended in 1996 (Amendment 47), in response to the recognition that it frequently takes incest victims many years to file a complaint. The amendment extends the ten-year statute of limitations in cases of incest, so that the period of limitation begins tolling not from the date of the offense, but from the date on which the victim reaches the age of 18. Although the wording of this amendment leaves something to be desired, the Supreme Court has interpreted it broadly and in keeping with the spirit of the Convention (Criminal Appeal 2213/00 *Anonymous Plaintiff v. State of Israel*, P.D. 54(3) 180).

(b) Implementation of the Penal Law

585. As noted, the use of violence that may cause physical or emotional injury to children is forbidden by law and is considered criminal, whether committed by the child's parents or by others. However, the Supreme Court recently ruled that there is a criminal injunction against the corporal punishment of a child, whether perpetrated by a parent or teacher. This ruling came in the wake of recent rulings in a similar vein made by some lower courts, including Family Courts. Thus, for example, a mother who had beaten her children on their rear end, slapped their faces, beaten one child with a vacuum cleaner and punched another in the face, breaking his tooth, was charged with abuse. The mother claimed that she had punished her children to educate them, and denied the charge of abuse. The judge ruled that although these acts were not considered "intentional cruelty", they did constitute abuse, as they involved repeated and systematic acts of violence for the sake of discipline. The mother was convicted under sections 368(C) and 379 of the Penal Law. The ruling referred to the stipulations of the Convention, to the psychological damage caused by violence toward children, and to the evidence given by behavioral research that beating a child does not improve his behavior (Criminal Case (Tel Aviv-Jaffa) 511/95 *State of Israel v. Anonymous Defendant* (not yet published)).

586. It should be noted that a stipulation of the Civil Wrongs Ordinance [New Version], which offered protection of parents and teachers for corporal punishment perpetrated to the "reasonable degree necessary", was recently abolished. (See also section 13.1 of Chapter VI.)

587. Another development is the recent increase in conviction rates and in the severity of sentences in cases of incest. One Supreme Court decision convicted a father of raping his daughter, overturning an earlier acquittal based on the father's claim that the child "was not in a situation that prevented her from resisting me". The conviction held that a child victim of incest is always presumed to be unable to object to the act. Review of court rulings also reveals that the amendments introduced in 1989, which stress the seriousness of sex crimes committed within

the family, have had an effect. In recent years, courts have imposed heavy punishments of 12, 15 and 16 years for such offenses. However, criticism is still being voiced about cases in which the courts have been more lenient toward incest offenders.

(c) The Youth (Care and Supervision) Law 1960

588. Section 2 of the Youth (Care and Supervision) Law 1960 defines seven situations in which a child or youth may be declared by the court as being a "minor in need":

- No one defined as a parent, including a step-parent, adoptive parent or legal guardian, is responsible for the child;
- The adult responsible for the child is incapable of caring for the child or neglects caring for him;
- The child has committed a criminal offense, but has not been tried;
- The child was found loitering, panhandling, or peddling;
- The child is subject to detrimental influences, or lives in a criminal environment;
- The child was born with a chemical addiction;
- The child's physical or emotional well-being has been or may be impaired.

589. Once the court has declared a child to be a "minor in need", it may intervene, by doing any of the following:

- Issuing an order, to the child or his guardian, that the court deems necessary to the care and supervision of the child and to ensuring his physical and emotional well-being;
- Appointing a "friend" to the child who will advise the child's guardian and determine his authority and responsibility;
- Placing the child under the care of a child protection officer;
- Ordering that the child be examined or treated in a psychiatric facility as stipulated by law.

590. In addition, the Youth Law stipulates that if the court is convinced that the child is a "minor in need" and that there is no other way to ensure that he receives the treatment and supervision he needs, it may decide to remove the child from the custody of his parent or guardian, and place him in the custody of the welfare services, which will determine where the child will reside (section 4). This decision is limited to a period of three years, though it may be renewed (section 3). The law also provides for emergency situations: If a child protection

officer is convinced that a child is in danger, he is authorized to take all steps necessary to prevent the danger - including removing the child from his home to a safe place - provided the child is not held for more than seven days without the consent of the child's parent or guardian, or the approval of the court (section 11A). Section 12 of the law states that the court must approve the emergency steps taken and render an interim decision on the matter before hearing the child or his parents. This decision is valid for 30 days, and may be renewed for up to three months (section 14).

591. As noted, the Youth Law was amended in 1995 as follows: "The court will not make a decision under this law... unless the minor, the person responsible for him and the child protection officer have been allowed to make their claims and offer suggestions" (section 8). Section 9 of the law states, however, that the court may avoid summoning the child if it is convinced that he cannot understand the matter or that appearing before the court will endanger him. In such a case, the court may admit as evidence the testimony of a child heard and recorded by a youth interrogator (section 9A). (See also Chapter X.)

(d) Young Children at Risk (Eligibility for Day Care) Law 2000

592. Under the Young Children at Risk (Eligibility for Day Care) Law 2000, a committee of the Ministry of Labor and Social Affairs is authorized to determine that the healthy development of a young child (infant or toddler) is at real risk, and that therefore he should be placed in a day-care center, so as to preclude his being removed from his home. The law defines a young child as being at risk if he is abused, if his developmental needs are not being met, if one of his parents is not functioning properly, if he is one of triplets, quadruplets, etc., if his family is in crisis following immigration, or if he is developmentally delayed. The law, which is slated to go into effect in May 2001, stipulates that young children at risk will be eligible to attend a day-care center close to their place of residence. However, the law has left it to the Minister of Labor and Social Affairs to determine the amount of parents' co-payments.

(e) The Prevention of Domestic Violence Law 1991

593. The Prevention of Domestic Violence Law 1991 is intended to protect people, including children, from a relative who endangers those living with him through physical, sexual or emotional abuse.

594. "Physical abuse" was defined by the Supreme Court, in connection with the criminal offense of abuse of a minor, as being the "direct or indirect use of force or physical means against the body of the victim in a manner and to an extent that may cause physical or emotional harm or both". According to the court, abuse typically involves "cruelty, instilling in the victim considerable fear and terror, degrading or humiliating the victim, or severe risk of (physical and emotional) harm".

595. In order to prevent such risk, the court may issue a protection/restraining order against the offender, which prohibits him from entering or even approaching the home for a period of up to one year, from harassing children or other relatives, and from carrying a weapon. The

protection order may require the offender to undergo psychological treatment. Any relative who is aware of sexual or physical abuse that has been or may be perpetrated, may petition the court for a protection order. An amendment to the Penal Law (Amendment 56, Minimum Punishment for Violent Offenses against Women and Children), which was ratified by the Knesset in July 2000, sets punishment for an offense of severe violence committed against a relative at no less than one-third of the maximum punishment imposed for the offense. The amendment is in keeping with the legislator's trend to favor minimum sentences, in order to obligate the courts to raise the baseline of punishment for offenses of this type.

(f) The Child Testimony Law 1955

596. The purpose of this law is to protect children under the age of 14 who have been involved in a sex crime (as victims, witnesses, or offenders), or who have been abused by the person responsible for them. The law enables a youth interrogator (usually a social worker) to question the child and then testify in court on his or her behalf, thereby protecting the child from traumatic situations which could arise in court (see Chapter X).

2. The prevalence of abuse and neglect

597. Like other countries, Israel does not have one data base that contains full data on the number of children "at risk". It is therefore difficult to obtain accurate figures on children who suffer from abuse and neglect or who are vulnerable to other risk situations. The data on cases reported to the chief child protection officer pursuant to the Youth (Care and Supervision) Law 1960 or reported to the police concern only those children in the most severe risk situations; it is almost certain that they do not adequately represent the actual extent of the phenomenon.

598. Children known to social welfare departments are a larger group. However, these children come from families that were referred to or sought help from their local social welfare department, and while they are all exposed to some level of risk, it is likely that not all of them should be defined as being "at risk".

599. As indicated in Table 18, 14% of the children in Israel are known to local social welfare departments. Half of them (51%, or 7% of the total child population) are thought to be in a situation of direct risk, and under the care of a social welfare department due to violence directed at them or between their parents, deficient parenting, or behavioral, emotional, or adjustment problems. Another 25% of them (or 3.5% of the total population of children) live in families where there are risk situations, such as a problematic relationship between the parents or problems with the parents' social functioning (i.e. drug addiction, criminal behavior). The remaining 26% of the children known to social welfare departments (an additional 3.4% of the total child population) live in families that are subject to environmental risk factors such as poverty, unemployment and single parenting.

Table 18

Estimated children at risk known to social welfare departments and children at risk identified by universal services (in %)

Estimated children at risk	Percentage
Known to social welfare department	
Total	14
Direct risk	7.1
Family risk	3.5
Environmental risk	3.4
Recipients of universal services (direct and family risk)*	
Total	6.3
Not known to social welfare department	4.4
Overall estimate (direct and family risk)	15

Source: Dolev, Ben-Rabi and Yoel, forthcoming.

* Based on estimates.

600. Another basis for estimating the number of children at risk are surveys in which professionals identify these children from the pool of children who receive some sort of universal social service, such as those provided in a clinic, school, or preschool. For example, surveys conducted nationally at all family health centers, and at schools in two local authorities, revealed that 2.5% of children newborn to age six and 6% of children age seven-17 are "at risk", yet are not known to their local social welfare department. All of these children are in either a direct or a family risk situation. It is therefore estimated that 15% of Israel's children - that is, 320,000 children - are in direct or family risk.

601. Table 19 presents the major characteristics of children and families at risk, gleaned from several studies. The Table reveals the following:

- Some population sub-groups have an over-representation of children at risk: single-parent families, large families, and families where the head of the household is unemployed.

- Children at risk and their families suffer from multiple problems. Large percentages of these children have at lease one dysfunctional parent (e.g., who is mentally ill, a criminal, a prostitute, a drug addict, or an alcoholic). Many of the children suffer from neglect, and many are emotionally disturbed or have significant educational gaps.

– Children at risk are a heterogeneous group. Some sub-groups of children at risk, such as those under the care of the chief welfare officer pursuant to the Youth (Care and Supervision) Law 1960 and children referred to local decision committees, have a great many needs, as reflected in the greater number of them who suffer from multiple problems. Other sub-groups, such as children known to social welfare departments, have fewer needs. Children identified as being at risk from among those who receive universal services have the fewest problems.

Table 19

Characteristics of sub-groups of children at risk (in %)

Characteristic	Sub-groups of children at risk				
	Under the Care of a Child Protection Officer	Known to a Social Welfare Department	Referred to a Decision Committee	Visit a Family Health Center	Live in a Residential Facility
Single-parent family	36	21	38	22	34
Large family (4+ children)	48	42	37	36	62
Dysfunctional parent(s)	52	12	46	39	51
Abuse	16	1	16	5	23
Neglect	50	26	31	45	49
Educational gaps	54	No data	56	Not relevant	71
Behavioral/ emotional problems	75	31	53	34	36

Source: Primak, 1998.

3. Services for children subjected to abuse and neglect

602. As noted, the Social Services Law 1958 obligates the local authorities to develop and provide the majority of the welfare services for needy populations, including services for children who are victims of abuse and neglect. National policy is set by the Ministry of Labor and Social Affairs, which supervises local welfare services.

603. The past decade has seen significant development of services for children at risk, in response to the increased number of children identified as suffering from abuse and neglect since reporting became mandatory in 1989. There are three types of service: Those that provide

immediate protection, those that offer treatment specifically related to abuse and neglect, and those that provide general support. As general support services were described above (see section (d) of this chapter), the following sections will address the first two types of service.

(a) Child protection services

604. In Israel, child protection is conceived of and implemented by the social welfare system, reflecting a belief in social intervention, rather than legal action. This preference is expressed in both the legislation regarding child protection, and the organizational structure of the service system. Child protection officers, employed by social welfare departments, are legally responsible for implementing the stipulations of the Youth (Care and Supervision) Law 1960, which views legal intervention as a last resort, after all other means of helping parents adequately care for their children have failed.

605. Child protection services are provided under the Social Services Law 1958. The involvement with a family of a child protection officer does not entitle that family (children or parents) to specific services. Like other clients of the welfare system, these children and families are dependent on the priorities and allocation policy of the Ministry of Labor and Social Affairs, as well as that of their local authority, to a certain extent. A legislative initiative proposed by the Ministry of Labor and Social Affairs as part of a national program for children at risk would entitle children and families at risk, including those subjected to abuse and neglect, to a basket of services based on their needs.

606. Child protection services are provided by child protection officers, who are supervised by regional child protection officers; both are in turn supervised by the chief child protection officer pursuant to the Youth Law in the Service for Children and Youth. Child protection officers are social workers in social welfare departments who have undergone specific training and have been appointed by the Minister of Labor and Social Affairs.

607. In most local authorities, child protection officers are part of neighborhood teams that also comprise family social workers, geriatric social workers, and the like. The child protection officers act as experts on children, and advise the other professionals on the team. Their role in relation to a child and his family varies according to the policy of the local authority and the specific case. A child protection officer may remain "behind the scene" as a consultant to the family social worker, may intervene during a crisis in the family, or may work in partnership with the family social worker. In some cases, the child protection officer will take responsibility for intervention and become the case manager for a child and his family, instead of the family social worker. Sometimes intervention is carried out under court order, though often it is not.

608. Upon receiving a report of a child in need, a child protection officer will investigate the case and gather information with the help of other social workers in the social welfare department. If there is reason to suspect that a criminal offense has been committed, the child protection officer must report this to the police. (Conversely, the police must also consult with a child protection officer.) However, if it is the child protection officer's professional opinion that reporting the incident to the police would harm the child, he may petition a committee

comprising representatives of the district attorney's office, a senior police officer, and a senior child protection officer to refrain from reporting the incident. This procedure is rarely used: In 1996, 59 such requests were made to these committees, and only 29 of them were granted.

609. Once the investigation is complete, intervention is begun either with or without a court order.

610. Intervention under court order: Under the Youth (Care and Supervision) Law 1960, a court order may be issued for a "minor in need" if the child protection officer is convinced that the minor is in immediate danger, or is in need of urgent medical treatment. The child protection officer may take whatever steps he deems necessary to help the child, without the consent of the child's guardian, for no longer than one week without court approval. The minor must not undergo a psychiatric examination unless so ordered by a regional psychiatrist.

611. Once the court has pronounced the child a "minor in need", the child protection officer may ask that the court take the steps required to protect the child. These usually include one of the following:

(1) Issuing a protection order, which places the child under the protection of the child protection officer; though the child continues to live at home, he and his parents are enjoined to cooperate with the treatment plan authorized by the court.

(2) Issuing a custody order, which removes the child from his parents' home and places him in the care of the child protection officer until an appropriate out-of-home framework can be found. The court may issue an interim order that is valid for 30 days and may be extended for up to three months, or may hand down a final ruling, which is valid for up to three years.

612. Intervention without court order. Child protection officers often use the authority they are granted by law without actually applying legal procedures. They do so with the knowledge that they can apply such procedures at any stage, if the parents fail to cooperate. Those responsible for the child protection officers in the Ministry of Labor and Social Affairs services believe that the use of a child protection officer's authority, even without a court order, can induce change in families that are unwilling to admit they have problems and need help. Initially, parents find it easier to comply with a program that is imposed upon them. Eventually they experience the intervention of the child protection officer as supportive and helpful. Once parents agree to a treatment plan, they are asked to sign a contract with the department of welfare services, which describes the program and mutual expectations. In nearly half of the cases in which children were placed in the care of a child protection officer, the intervention was defined as being "in light of the law" - that is, without a court order.

613. Children and families may exit the child protection system in several ways, including the gradual transfer of responsibility for the case from the child protection officer to a family social worker. Many (about 25%) of the cases reported to child protection officers never formally enter the child protection system, but rather are immediately referred to a family social worker. In other cases, a family social worker resumes care or takes responsibility for the case after the crisis situation has been handled.

614. As a result, identifying and describing the population of children and families in the care of the child protection system is very difficult. At any point in time there are children in the care of child protection officers under court order, or not under court order; cases in which child protection officers act as consultants or partners; and cases being investigated by child protection officers. Despite the relatively flexible definition of "being in the child protection system", it is agreed that these children are those who are subject to the most extreme risks, and who require the most intensive intervention. However, as these children and families are entitled to the same services as those available and accessible to all children and families, the services and support available to children who suffer from abuse and neglect should be seen within the context of general support services (see section (d) above).

(b) Children in the care of child protection officers

615. The Ministry of Labor and Social Affairs collects data regarding children referred and reported to child protection officers through a central information system. However, the Ministry claims that the information being reported to the system is incomplete, and covers only between half and one-third of all children referred or reported to the officers. Data gathered by the Ministry in 1997 show that 11,000 children were referred or reported to child protection officers in that year. Approximately two-thirds of these children were already under the care of a social welfare department at the time of referral. According to the Ministry, about 50% of the reported cases were verified. Often, the child and his family remain in the care of a social welfare department, even if the report is not verified, or is only verified in part.

616. Additional information about children referred to child protection officers is available from a survey of the National Council for the Child. According to this survey, in 1996, 18,605 children were referred to child protection officers. This figure is higher than that reported by the Ministry of Labor and Social Affairs for 1996 (10,592), which is thought to represent about two-thirds of the children who were referred to child protection officers in that year. This discrepancy appears because some of the social welfare departments submitted data to the National Council for the Child, but not to the Ministry of Labor. Information about the types of abuse experienced by the children referred to child protection officers is presented in Table 20; the information is culled from reported cases, which may or may not have been substantiated.

Table 20

Children referred or reported to a child protection officer in 1996, by primary type of maltreatment

Type of maltreatment	Number	Percentage
Total	**21 503**	**100**
Neglect	9 550	44.5
Physical abuse	6 903	32
Emotional abuse	3 513	16
Sexual abuse	1 537	7
Other or unknown	199	0.5

Source: Ben-Arie and Zionit, 1997.

617. Since reporting became mandatory in 1989, the number of reports of child abuse or neglect has risen significantly - from approximately 4,000 in 1989 to over 18,000 in 1997. Even though, as noted, few individuals have been tried for failure to report a case of suspected abuse, the law seems to have had an impact on the public. The data indicate a strong correlation between the social welfare and the child protection systems: 63% of the children reported to child protection officers were already known to the social welfare system at the time of referral, and one-third of them were referred by a social worker. The small proportion of children who reported themselves, or who were reported by friends or neighbors, indicates that the legislation has influenced professionals to a greater extent than it has the general public.

618. It is also noteworthy that the percentage of Arab children (13%) among those reported to child protection officers is much lower than their proportion in the general population of children (25%), despite there being no evidence that abuse and neglect are any less common among the Arab than among the Jewish population. This may reflect reluctance to report cases of abuse and neglect within the Arab population.

619. A 1992-1993 survey of children in the care of child protection officers in four cities (Jerusalem, Tel Aviv, Haifa and Beer Sheva) provides a deeper understanding of who remains in the care of a child protection officer, after the initial investigation. All of the children were living at home at the time of the survey.

Table 21

Characteristics of children in the care of child protection officers in four cities, 1992-1993

Characteristics	Percentage	Number
Total	**167***	**849**
Single-parent families	36	306
Families with four or more children	42	356
Head of household unemployed	37	314
Parent has impaired functioning (due to substance abuse, mental illness)	52	441

Source: Dolev and Rivkin, 1997 (unpublished).

* More than one characteristic may apply.

620. The data reveal that children who remain in the care of a child protection officer come from families in which any of a number of problems may impair social functioning and parenting. Approximately one-third of the children live in single-parent families, compared to 6% in the general population, and almost half of them live in families with four or more children, compared to 17% in the general population. Thirty-seven percent of the children live in families in which the head of the household is unemployed, and almost half of them have at least one parent who suffers from a severe problem that may impair his social functioning (substance abuse and diagnosed mental illness are the most prevalent).

621. In contrast to the popular perception, most of the children in the care of a child protection officer are not subjected to physical or sexual abuse, either suspected or substantiated; emotional abuse is more common (i.e. humiliation, severe punishment, punishment that is unrelated to the child's behavior). The percentage of cases of physical abuse that are substantiated increases with the child's age.

622. Most of the children in the care of a child protection officer are subjected to various forms of neglect. Almost half of them are physically neglected - that is, at least one of their basic daily needs is not being met on a regular basis. An even larger proportion of children lack adequate supervision, are often left alone, and do not have a daily routine. The majority of the children suffer from emotional neglect, and close to half of them suffer from educational neglect - that is, their parents do not make sure they attend school regularly and do their homework.

Table 22

Children in the care of a child protection officer, by type of abuse and neglect* and by age group (in %)

	Age				
	Total	0-3	4-6	7-11	12-14
Total	**849**	**170**	**207**	**330**	**141**
Proven physical abuse	16	8	13	15	34
Suspected physical abuse	16	16	17	18	9
Proven sexual abuse	1	0	2	1	2
Suspected sexual abuse	12	2	9	16	17
Inappropriate discipline	66	48	67	68	79
Physical neglect	50	56	48	51	41
Inadequate supervision	74	67	75	78	74
Educational neglect	44	7	37	61	61
Emotional neglect	79	67	84	83	79

Source: Dolev and Rivkin, 1997 (unpublished).

* A child may be subjected to more than one type of abuse or neglect.

623. Table 23 presents the services provided to these children and their families. The service most commonly provided to children in all age groups is participation in a group framework that to some extent substitutes for care that is usually provided in the home. For example, half of the children in the youngest age group attend a day care framework that operates eight hours a day. Older children are enrolled in after-school care. Considering the large proportion of children who were reported as having problems with school performance, few children receive educational support or enrichment outside of assistance with school work, which is provided in some after-school frameworks. A small but significant proportion of the older children undergo individual or group therapy.

Table 23

Services provided to children in the care of a child protection officer, by age (in %)

Type of service	Age		
	0-3	4-6	7-14
Total in numbers	**170**	**207**	**471**
Day care	52	-	-
After-school care	9	36	21
Enrichment and extracurricular programs	2	7	8
Big brother/sister	-	-	12
Tutor	-	-	5
Individual or group therapy	-	16	19

Source: Dolev and Rivkin, 1997 (unpublished).

624. The proportion of children whose families receive services geared for the entire family is even smaller. The most common of such services, provided to 59% of the families, is counseling with a social worker or child protection officer. However, these counseling sessions tend to be few and far between (fewer than two sessions per month, on average). Only a very small proportion of the children live in families that receive a concrete service that is meant to support the routine operation of the household. For example, about 15% of the families are assisted by a para-professional home-care worker. Specific rehabilitative services for parents, such as drug detoxification or vocational rehabilitation, are even less common.

Table 24

Services provided to the families of children in the care of a child protection officer (in %) (N=849)

Type of service	Percentage
Home-care worker	15
Sessions with a social worker or child protection officer	59
Family counseling	13
Psychotherapy	7
Drug detoxification	4
Group therapy	4
Psychiatric care	9
Legal aid	7
Vocational rehabilitation	2

Source: Dolev and Rivkin, 1997 (unpublished).

625. It is noteworthy that families with children in the child protection system were not generally found to be participating in programs that took a more comprehensive approach to family intervention, such as Video Home Training, even though such programs were available in some local authorities. It is possible that the expansion of some of these programs has made them available to more families in the child protection system.

626. The patterns of service provision to this population are similar to those described in section (d) and indicate a marked preference for services that are provided directly to the child, preferably in a group framework outside the home. Investment in services for the family unit or for parents is limited.

627. However, the data do indicate that more extensive services are provided to children who are in the care of a child protection officer than to other children in the care of a social welfare department. Nevertheless, extensive disparities between the needs of the children and their families and the services provided remain evident.

628. Another issue of concern upon which social workers and other professionals agree is the shortage of services for children who are victims of abuse in the Arab community, including emergency centers, foster families, child protection officers and other trained professionals, residential settings, hotlines and support groups for parents.

(c) Emergency services

629. At times, it is necessary to provide immediate protection for children in an emergency situation. There are various ways to do this, including providing short-term shelter. "Shelter families" serve as an immediate foster placement until a child's situation can be evaluated and a longer-term plan devised. Emergency centers and child protection teams, which function in hospitals, also provide immediate, emergency placement when the need arises.

630. Emergency centers. Since 1993, a network of six emergency centers for children has been operating in Israel. Five of these centers serve the Jewish population, and one serves the Arab population. (Two additional centers are planned for the Jewish orthodox and ultra-orthodox sub-populations.) Emergency centers are designed for short-term residence of up to three months and serve three purposes: to provide shelter for children in need of immediate protection; to provide short-term crisis intervention; to evaluate the child and his family so as to design a comprehensive long-term treatment plan for them. Intervention and planning are carried out in cooperation with professionals in the family's community. A child is referred to a center by a child protection officer, who remains involved in treatment and acts as a case manager to ensure continuity of care when the child leaves the center.

631. Three emergency centers were evaluated during their first three years of operation. Selected data on the 205 children included in the study are presented in Table 25. The data indicate that the most prevalent reasons for referral to an emergency center were abuse or neglect. Although the centers were designed as a short-term intervention, one-third of the

children remained in them for an extended time due to the lack of an appropriate longer-term solution. The majority of the children eventually returned to their parents' home. Follow-up data on children who reached the age of 18 shows a clear decline in physical and sexual abuse and physical neglect. However, the prevalence of more complicated types of maltreatment, such as emotional neglect and abuse, did not decline dramatically, indicating need for sustained intervention.

Table 25

Components of care at three emergency centers, 1993-1996 (N=205)

Component of emergency care	Percentage
Reason for referral*	
Physical, sexual, or emotional abuse (suspected or proven)	46
Severe neglect	41
Parent crisis	35
Length of Stay	
One month or less	26
Two-three months	31
More than three months	32
Destination on departure	
Parents' home	56
Out-of-home placement	38
Adoption	6
Treatment plan**	
Out-of-home placement	47
Services for children	33
Services for family	40

Source: Dolev et al., assessment of emergency centers for children at risk, various reports, 1994-1997.

* There may be more than one reason for referral per child.

** Each treatment plan may contain more than one component.

632. Hospital Child Protection Teams. Hospitals also play an important role in child protection. Special teams have been set up in the emergency rooms of 26 general hospitals. These teams are headed by a social worker, and also include a doctor and a nurse. The child protection teams instruct hospital staff in dealing with cases of suspected abuse and neglect: how to recognize them, how to conduct an initial investigation of the circumstances of the child's injury, and how to report the case to a child protection officer or the police. The members of the team can recommend hospitalizing the child until the case has been clarified and referred to the care of a child protection officer.

633. A survey of 238 children referred to child protection teams in 23 general hospitals showed a very low rate of referral: two children for every thousand children. This proportion is particularly low, given the estimates of maltreatment in Israel. Close to half of the children referred to the teams were newborn to age three. A large percentage of the children lived in families characterized by socio-economic stress factors: 15% were from single-parent families, 37% were from large families, 18% were from families with economic problems, and 29% were from families with housing problems.

634. About half of the children arrived at the emergency room with burns, bruises or wounds, and 35% reported a medical complaint. Seven percent were suicide attempts, and 8% were sexually-related complaints. In one-quarter of the cases, the adult accompanying the child reported that the injury was caused by violence, 29% reported that it was caused by a home accident, and 16% cited a medical cause. The hospital child protection teams decided to report 82% of the children to a child protection officer (Alter, 1995).

(d) Non-government services for children who are victims of abuse and neglect

635. Hotlines for Children. Several organizations operate telephone hotlines for children suffering from abuse or neglect. The following data were supplied by these hotlines:

- In 1996, the hotline of the ombudsman for children of the National Council for the Child received 7,271 calls. This represented a very significant increase from 242 calls in 1990. Of the 7,271 callers, 1,423 children reporting being in a risk situation (e.g., abuse or neglect). (See Chapter III.)

- In 1994, rape crisis centers received 941 calls regarding children under age 18.

- In 1997, the hotline of the voluntary organization ELI - The Israel Association for Child Protection received 4,209 calls. These children reported the following problems:

Emotional abuse	40%
Physical abuse	28%
Neglect	18%
Sexual abuse	14%

636. About one-quarter of the calls were from children in need; the remainder were from relatives, professionals, and friends.

637. Meital - The Israeli Center for the Treatment of Child Sexual Abuse is a public non-profit organization that provides professional treatment to children and adolescents who are victims of sexual abuse and their families. It also treats adults who were sexually abused during their childhood. In 1997, the organization provided treatment to 264 children under the age of 14, and to 94 adolescents (ages 15-18). Most (65%) of the clients were referred by the social services.

The organization is sponsored by various foundations, and receives minimal support from the government. It faces extremely severe financial difficulties, as most treatment is provided without charge, or for a token fee.

638. ELI - The Israel Association for Child Protection, founded in 1979, is a non-profit organization dedicated to preventing and treating child abuse and neglect. It offers the following services:

- A toll-free hotline, staffed by trained volunteers 14 hours a day (see above);
- Therapy services for children who are victims of abuse and their families. In recent years, ELI has made this service available throughout the country, with special attention to Arab children, children from immigrant families and children on kibbutzim;
- An emergency center for children.

4. Awareness and prevention of abuse and neglect of children

639. Many (government and non government) agencies and organizations promote awareness of child abuse and neglect. For some of these organizations, education about maltreatment of children is a primary activity. Other organizations deal with this issue as one of a range of activities. At present, there is no systematic information on the scope of such activities or their effectiveness.

(a) Government activities

640. The Ministry of Labor and Social Affairs. When reporting became mandatory in 1989, child protection services invested a great deal of effort into promoting awareness of and enhancing sensitivity to the signs of child neglect and abuse, through workshops, lectures and media appearances geared for both professionals and laymen. During the past year, the Ministry has made services for abused and neglected children its priority, and has generated public support for this. The Ministry also issued detailed instructions for reporting neglect and abuse.

641. The Ministry of Education. In the wake of mandatory reporting, the Ministry of Education disseminated revised regulations in 1993 and in 1997, which were required reading for principals and teachers. The regulations explained child abuse and children's reactions to it, described how to recognize signs of abuse, clarified the situations of physical, emotional and sexual abuse and neglect that must be reported, and instructed school staff how to act if they suspect a child has been subject to abuse or neglect. First, they must report their suspicion to a child protection officer or the police. Next, they must notify the principal and the school psychologist, guidance counselor or social worker. School staff then meet with the child

protection officer to exchange information and determine an appropriate course of action for the school. School staff are instructed to refrain from questioning the child. If the abuse is suspected to have occurred within the child's family, teachers are instructed not to contact the child so as not to endanger him. The principal is responsible for maintaining contact with the child protection officer and implementing the treatment plan. Additional regulations concerning the detection and reporting of sexual abuse, which were meant to increase the awareness and sensitivity of school staff, were issued in 1999.

642. The Psychological Service of the Ministry of Education operates a Unit for the Prevention of Child Abuse. The unit comprises 18 counselors who work throughout the country; it also runs training workshops of between three and 56 hours for teachers and guidance counselors, which cover recognizing abuse and neglect, approaching injured children, and reporting suspected abuse to the appropriate authorities. The workshops also teach educators to use preventive programs in the classroom. The director of the unit estimated that most of the school guidance counselors in Israel have participated in such a workshop.

643. The Psychological Service of the Ministry of Education has developed 11 such prevention programs for use in the classroom, adapted for children of different ages, from kindergarten through 12th grade. For example, a program for children in the first and second grades, called "Learning to Protect Ourselves", encourages children to protect themselves from adult harassment. A program for children in third and fourth grades addresses protection in the context of children's rights: assertiveness, recognizing one's feelings, and dealing with uncomfortable situations, such as an uncle who forces a girl to kiss him on the lips. The program teaches children which secrets should not be kept, how to recognize adults who can be helpful, and how to contact help hotlines. The director of the Unit for the Prevention of Child Abuse reported that these programs are not often used: To her knowledge, the prevention programs were used in only 400 of the nearly 37,000 elementary classrooms in Israel during the 1996/1997 school year. The prevention unit is now trying a new approach to disseminating abuse prevention programs in the apparently less threatening context of "life skills", alongside issues such as communication, friendship, violence, and drug abuse.

644. The Ministry of Health. In response to mandatory reporting, in 1990 the Ministry of Health published regulations regarding the obligation of health workers to report any suspected abuse or neglect of minors to a child protection officer and/or the police, and to submit a report to the Ministry's Central Committee on Family Violence, Abuse and Neglect of Minors and the Helpless. These regulations were circulated a second time in 1996.

645. The Police Force. The Police Force is also an important component of the system to identify and prevent abuse and neglect. Representatives of the Police Force serve on relevant national committees and, in cooperation with the Ministry of Education and the Ministry of Labor and Social Affairs, give presentations in schools.

646. The Prime Minister's Office. Recently, the Prime Minister's Office has initiated an extensive media campaign to increase awareness of and prevent all forms of family violence.

(b) Non-government organizations

647. ELI - The Israel Association for Child Protection operates educational programs that increase awareness of and disseminate information about child abuse. Some of these programs are geared for children and adolescents, in an effort to encourage them to seek help if they or other children are subject to abuse. Other programs educate and train professionals. Special programs have been designed for immigrant families, in an attempt to introduce to them unfamiliar approaches to violence against children, including the use of therapy to resolve family problems and crises. ELI also operates a "Child Protection Data Bank" that collects and disseminates information about child abuse and its treatment. ELI also lobbies for legislation and social policy that would prevent child abuse and provide rehabilitative services.

648. Through lectures and seminars, the National Council for the Child educates and raises awareness about child abuse as part of its activities for children's rights. For example, the council held a one-day conference on non-violent education, and published the lectures presented. The council also circulates a booklet in Hebrew and Arabic entitled "Education without Violence - A Guide for Parents". The council operates a "children's rights" minivan that travels among schools to raise awareness and encourage reporting among children.

649. Women's organizations such as NA'AMAT, WIZO, and Emuna actively combat family violence and offer support services to women and children who are victims of violence.

650. Meital, the Israeli Center for Treatment of Child Sexual Abuse works to increase public awareness of sexual abuse and its effects through lectures and presentations in the media (e.g., in children's magazines and television programs). In 1997, the organization provided training and consultation for professionals in social service and voluntary agencies, the education system, and on the police force, including those who work with specific populations (e.g., Arabs, Ultra-orthodox Jews, immigrants from the former Soviet Union).

651. In addition, some radio and television channels show programs about child victims of abuse and how they may seek help. During the slot of television time reserved for children, information is presented about hotlines, whose telephone numbers are presented through catchy "jingles". Issues of child abuse, particularly sensational cases, receive much attention in the electronic and print media.

VIII. BASIC HEALTH AND WELFARE

A. Article 23 of the Convention - Children with disabilities

652. In this section we will describe the legislation and policy that aim to ensure the right of children with disabilities and their families to special services, and the extent to which, in so doing, they fulfill the stipulations of the Convention. It should be noted that, apart from specific rulings or policy regarding children with disabilities, these children and their families are eligible for the same services as children without disabilities. Therefore, this section will concern itself with those policies and services that are geared for disabled children and their families, and those areas in which the capabilities of the children and their families prevent them from participating in or enjoying the rights granted all children.

653. The past two decades have brought a relatively large number of changes in legislation concerning children with disabilities. These changes testify to an increasing recognition of the special needs of disabled children and their families, and to the State's obligation to meet these needs. This section begins with a description of court rulings and legislative initiatives concerning children with disabilities. It then presents data on the number of children in Israel who suffer from disabilities, and on differences in disability rates among population sub-groups. Then the system of services for disabled children and their families is described, with emphasis on the way these enable disabled children to realize their right to live full lives and become self-reliant. The section then describes the identification and diagnosis of disability, and the provision of developmental and para-professional treatment. Lastly, it discusses the opportunities for disabled children to participate in community life and recreational activities.

1. Legislation

654. In 1980, Israel's National Insurance Law 1953 was amended to grant disabled child benefits to children with disabilities who had been deemed eligible for them by a medical committee. The amendment, which was enacted in 1981, covered minors up to age 18 and was provided to families that cared for a disabled child, to help them bear the burden of personal and nursing care designed to improve the child's functional ability. In addition, disabled children who attend school are eligible for a monthly stipend, which pays for additional scholastic assistance. Benefit levels are determined by the child's level of functional dependence on his parents, whether he suffers from illnesses or certain syndromes, his age and his school attendance. Prior to 1991, children became eligible for benefits only at age three; in 1991, eligibility was extended to begin at birth. The benefit level was dependent on a means test until July 1995, when this condition was abolished.

655. Although disabled children were always eligible for free compulsory education according to their needs under the Compulsory Education Law, the Special Education Law passed in 1988 mandated and regulated the right of the "exceptional child" to special education according to his needs and level of development (see Chapter IX). To this end, the law states that a child must be provided with the assistance due him under law in the "least restrictive framework"; this constitutes a declaration of a policy of integrating children with disabilities into regular frameworks to the extent possible - also known as "mainstreaming".

656. The National Health Insurance Law 1994 regulates the eligibility of disabled children for medical and developmental care. The law established uniformity among children insured by the country's sick funds, and set uniform minimum levels of care for all children. According to this law, children up to six years of age are eligible for diagnosis and care by an interdisciplinary team that comprises a pediatric neurologist, a psychologist, a physiotherapist, a social worker, communications clinician, and an occupational therapist. These children are also eligible for speech diagnosis and therapy, and for multi-professional care for learning disorders, minor cerebral dysfunction, language and speech impediments, communication disorders, and motor dysfunction. Medical diagnosis and care for physical disabilities are also provided by a multi-professional team regardless of the child's age.

657. The recently enacted Rehabilitative Day-care Centers Law 2000 is designed to ensure a proper care, rehabilitation and educational framework for children ages one-three with mental retardation or other disabilities. Such children are eligible for care and education based on a basket of services determined by the Minister of Labor and Social Affairs and the Minister of Health in consultation with the Minister of Finance and the Knesset labor and welfare committee. The cost of the basket is borne by the national government, the sick funds, and the children's parents. Care is to be provided at the rehabilitative day care center nearest the child's home. Professional and para-professional caregivers set an individual care program for each disabled child, in consultation with a center for child development authorized by the Minister of Health, and based on the basket of services.

658. The Equal Rights for People with Disabilities Law 1998 defines a disabled person as one who has a permanent or temporary physical, emotional or mental (including cognitive) disability that severely limits his functioning in at least one primary activity of daily living (ADL). Under the law, the rights of persons with disabilities, and Israeli society's obligation to secure these rights, are based on the principal of equality, on the recognition that man was created in God's image, and on the principal of respect for one's fellow man. The goal of the law is to preserve the dignity and freedom of the disabled person; anchor in law his right to equal, active participation in society; and meet his special needs while enabling him to live with a maximum of independence and dignity and to fulfill his potential. A disabled person should be enabled to make decisions that affect his life based on his own wishes and priorities. In particular, the law addresses the rights of disabled people concerning employment and access to public transportation, and calls for the establishment of a commission that will ensure equal rights for people with disabilities. The sections of the law concerning employment rights for the disabled also cover parents and relatives who care for a disabled person. Most of the law's sections specifically avoid dealing with children.

659. The law is based on the recommendations of the public commission to examine comprehensive legislation on the rights of disabled persons in Israel, which was established after the Knesset passed the Equal Rights for People with Disabilities bill in 1996. The commission examined the bill, as well as all other legislation concerning disabled persons in Israel. The law represents only some of the legislation recommended by the commission, which continues to work to enact additional legislation. However, a major limitation of the law is that it does not ensure that funds will be budgeted for its implementation, but rather leaves this to the discretion of the Minister of Labor and Social Affairs and the Minister of Finance.

2. Rates of disability and handicap among children in Israel

660. Existing information in Israel on children suffering from disabilities is incomplete. The government ministries and agencies that serve children with disabilities possess some information on this population, yet the extent to which it encompasses all children with disabilities is unclear.

661. The National Insurance Institute (social security administration) and the JDC-Brookdale Institute conducted a national study, the first of its kind in Israel, to estimate the number of children and youth (up to age 18) with special needs, to examine these needs, and to determine the gaps between needs and services (Naon, Ifrah and Baich-Moray, 1998). "Children with special needs" were defined as children with disabilities or chronic illnesses who require constant care or medical supervision, including children who suffer from deafness, paralysis, cancer, kidney disease, mental retardation or severe learning disabilities or behavior disorders. These children have special medical, paramedical and educational needs in excess of those of their peers.

662. The study revealed that about 177,000 children, or approximately 8.5% of the children in Israel, suffer from a functional disability or chronic illness that requires constant care or medical supervision. This estimate does not include the many children who have slight learning disabilities or behavioral disorders, or problems that have not been diagnosed.

663. The study also revealed the following:

- About 145,000 of the children had severe learning disabilities and/or behavioral-emotional disorders, or were suffering from borderline retardation.

- About 48,000 children suffer from illnesses that require constant medical or paramedical care.

- About 23,000 suffer from a severe physical disability.

- About 65,000 children (3.1% of all children in Israel) suffer from more than one type of disability, as certain types of disability are accompanied by educational, behavioral or emotional problems.

664. Significant differences were found among various population sub-groups in rates of disability among children. The following were the most noteworthy:

- The rate of boys with special needs was almost twice as high as that of girls: 9.8% versus 5.4%, respectively.

- The rate of children with special needs was especially high in towns with low socio-economic ratings: 11.0% of all children in such towns, compared to 7.7% of all children in Israel.

- The rate of children with disabilities was especially high among elementary school children, as disabilities are often identified and diagnosed when children enter the education system: 10.7% of elementary school children had special needs, compared to 5.2% of children newborn to age five.

Table 26

Rates of disability among children living in the community in Israel, by type of disability (in %)*

Type of disability	Percentage of all children	Percentage of children with disabilities
Total	**8.7**	**100**
Personal Care (ADL)	1.1	13
Motor control and mobility	2.5	29
Communication	3.1	36
Hearing	0.7	8
Vision	0.6	7
Speech	2.1	24
Behavior	5.6	64
Learning disabilities	4.8	55
Behavioral disabilities	1.9	22
Emotional disabilities	0.5	6
Mental retardation	0.4	5

Source: Naon, Ifrah and Baich-Moray, 1998.

* The percentages do not add up to 100% , as some children suffer from more than one type of disability.

665. Table 26 shows the rates of children suffering from various disabilities, according to the survey. (As some of the children suffer from more than one disability, the data do not add up to 100%.) As can be seen, more than half of the children identified in the survey as being disabled (5.6% of all children) had behavioral problems; they included children with diagnosed and non-diagnosed learning disabilities, and those broadly defined as having "behavior problems". About one-third of the disabled children (3.1% of all children) were diagnosed with communication problems; most suffered from speech impairment, while others were deaf or blind. About two-thirds of the children defined as being disabled (5.7% of all children) suffered from one disability, while the remaining one-third suffered from two or more disabilities.

666. Table 27 shows the rates of children suffering from various disabilities according to sector and age (as some children suffer from more than one type of disability, the percentages in the Table do not total 100%). As can be seen, a comparison of the Jewish and Arab sectors reveals variance for specific disabilities. For example, the rates of disability in ADL, motor disorders, emotional disability, mental retardation and blindness were higher in the Arab sector than in the Jewish sector - in some cases, two and even three times as high. These differences can be attributed to the socioeconomic and health conditions of this population, as well as to the relatively large percentage of intra-family marriages in the Arab sector. Conversely, the rates of learning, behavior and speech disabilities were higher in the Jewish sector. There may be a

number of reasons for this. First, awareness of the need to identify and diagnose disability, even if it is "less severe", is not as great in the Arab as in the Jewish sector. Second, professionals report a severe lack of diagnostic services in the Arab sector, particularly for disabilities of this type.

Table 27

Disabilities among children living in the community in the Jewish and Arab sectors, by type of disability and age (in %)*

	Jewish sector			Arab sector		
	Age			Age		
	0-5	6-11	12-17	0-5	6-11	12-17
All children with disabilities	4.9	11.8	9.5	4.0	9.2	12.2
Personal Care (ADL)	0.0	1.3	0.5	0.6	1.4	3.4
Motor control and mobility	1.7	2.8	2.6	2.0	2.4	4.3
Communication						
Hearing	0.6	1.0	0.6	0.5	0.7	0.6
Vision	0.3	0.5	0.6	-	2.0	1.3
Speech	2.6	2.8	1.4	1.9	0.9	1.9
Behavior						
Learning disabilities	1.2	7.8	5.6	0.2	5.3	7.6
Behavioral disabilities	0.8	3.0	2.2	0.7	0.9	3.2
Emotional Disabilities	0.2	0.4	0.6	0.2	0.5	2.3
Mental Retardation	0.3	0.4	0.2	0.1	0.8	1.9

Source: Naon, Ifrah and Baich-Moray, 1998.

* The percentages do not add up to 100% , as some children suffer from more than one type of disability.

3. The service system for disabled children in Israel

667. In Israel, services for children with disabilities are provided primarily by the Ministry of Health, the Ministry of Labor and Social Affairs, and the Ministry of Education. The National Insurance Institute also plays a role in the care of these children.

668. In addition, many voluntary and parents' organizations play a central role in providing services to disabled children and their families, mobilizing resources, raising awareness, and advocacy. In fact, voluntary organizations that work on behalf of disabled persons in general, and disabled children in particular, play a pivotal role. Among the main organizations active on behalf of disabled children are the ALYN Hospital - Pediatric and Adolescent Rehabilitation Center devoted to children with cerebral palsy; ILAN, devoted to children and adults with physical disabilities; MICHA - The Society for Deaf Children and SHEMA, devoted to

hearing-impaired children; and AKIM, devoted to children with mental retardation. The majority of the services operated by these organizations are government-financed. These organizations often operate services for disabled children by using funds received from national and local government authorities.

669. The services available to children with disabilities, and the organizations that provide them, will be described in greater detail in a later section.

(a) The health system

670. Health services play an important role in identifying, diagnosing and providing care to disabled children and their families. These include family health centers, centers for child development, the system of mental health services, and hospitals.

671. Family health centers provide preventive health services to pregnant women and children newborn to age five. Centers are located throughout the country, operate on a neighborhood or community basis, and employ a holistic approach. Most of the nurses work with families from pregnancy through a child's early development. Families perceive the centers, which cover almost the entire population, as a source for support: It is estimated that 95% of all families with young children visit a family health center from pregnancy through the child's first two years of life. Use of these centers declines after a child has reached two and a half years of age.

672. As part of their mandate to monitor pregnancies and early childhood development, family health centers conduct examinations at pre-defined intervals, according to a uniform protocol. Consequently, they serve as a primary agent for identifying children with disabilities: They alert parents to possible problems, instruct parents how to encourage their child's development and, when problems are identified, conduct follow-up examinations and refer children for further diagnosis and care.

673. In fact, the agencies responsible for diagnosis and care of young children with disabilities (such as child development centers) report that family health centers are a primary source of referral to them. In a 1999 study of a representative sample of 16 directors of child development centers, ten directors reported that children were most often referred by a family health center (Naon, Sandler-Loeff and Strosberg, 2000).

674. When developmental problems are suspected, or when they are discovered by a primary care physician or nurse at a family health center, the child is usually referred to a center for child development. There are 29 such centers in Israel: 11 of them are operated by the Ministry of Health, nine by Clalit Health Services (Israel's largest sick fund), five by the Maccabi Sick Fund, two by the Meuhedet Sick Fund, one by the kibbutz movement, and one by the Sisters of Mercy in Nazareth. Most of those operated by the Ministry of Health are located in hospitals; those operated by the Maccabi and Meuhedet Sick Funds are located in the community; and those operated by Clalit Health Services are located in either a hospital or the community.

675. Centers for child development focus on early diagnosis, counseling, and care for preschool children who may be suffering from developmental or functional disabilities. The centers view their primary role as providing diagnosis and care for developmental problems in order to promote a child's maximum ability to function. Many center directors view support of the family as a primary objective. Some centers operate nursery schools for children with mental retardation, blindness and autism. The centers' services include diagnosis by a developmental physician or neurologist; psychological diagnosis; paramedical diagnosis and care (e.g., physical and occupational therapy, communications therapy); and consultation with a social worker. Some centers also offer special services, such as parent support groups, art therapy and examination by a developmental nurse.

676. A study of a representative sample of 16 centers for child development found that the centers treat between 100 and 800 children at any given time (the average number was 450). In all, then, the centers serve an estimated 13,000 children at any given time. Most of the centers treat children age three and older. Under the National Health Insurance Law, child development services are covered by the sick funds up to age six, though there is no age ceiling on services for children with severe physical disabilities. As of 1998, the centers operated by the Maccabi Sick Fund and the Ministry of Health usually ceased treatment at age six, while the centers operated by the Clalit and Meuhedet Sick Funds treated children as old as seven and eight. One-quarter of the centers studied had special programs for children ages 11-12 with learning disabilities and behavior problems (Sandler-Loeff and Naon, 1997).

677. The majority of children who receive care at these centers suffer from developmental retardation, language impairment, and learning disabilities. The centers operated by the Ministry of Health and the Clalit Health Services also treat a relatively large proportion of children with more severe disabilities, including moderate to severe mental retardation and cerebral palsy.

678. According to center directors, some groups of children are not adequately covered by the centers, including Arab children, ultra-Orthodox Jewish children, children who are new immigrants and children from disadvantaged families. A recent study of these centers revealed that most of them have waiting lists, and that the waiting time for specific services, such as speech therapy, may be as long as several months. This is critical, as early detection may be crucial to overcoming developmental problems. Center directors cited several reasons for this situation: (a) the centers themselves do not have the resources to identify children who need intervention and, except for family health centers, neither do other services; (b) both families and medical professionals in the community lack awareness of developmental disabilities; and (c) the centers do not have staff who speak languages other than Hebrew - a fact which makes utilization of services even more difficult for some population groups (Strosberg, Sandler-Loeff and Naon, 2000).

679. Another group whose needs are not being met is that of children with non-physical disabilities who require care beyond age six (when their eligibility for care under the National Health Insurance Law ends). If deemed eligible by a placement committee, these children may receive care through the special education system. Most children with non-physical disabilities who receive care at a child development center are ineligible for special education, and have

been integrated into the regular education system (i.e. “mainstreamed”); these children may receive assistance in the framework of a “reinforcement basket”, which only partially covers their needs. Other needs are met by continuing programs, offered by other frameworks. Child development centers have proposed extending their services to additional age groups.

680. Children with somatic (physical) disabilities are eligible for services after age six under the National Health Insurance Law. Most are eligible for paramedical services under the Special Education Law. The majority of center directors who participated in the study cited above reported that they do not provide services to children who attend special education frameworks.

681. Another problem with coverage arose following implementation of the National Health Insurance Law, which made the sick funds responsible for financing developmental services for children under the age of eight. Under the law, these services are conditional upon a co-payment by parents; however, co-payment covers only a small proportion of the cost of service - which may be substantial, if a child requires more than one type of service, or if a family has limited income. In the past, parents could petition a special committee to be exempted from co-payment. However, these committees were disbanded following implementation of the law and the transfer of responsibility to sick funds, such that parents with severely disabled children, or with limited financial means, may not be able to afford services (Strosberg, Sandler-Loeff and Naon, 2000).

682. It should also be noted that the transfer of responsibility for developmental services to the sick funds caused upheaval in the system of child development centers. As the sick funds were now compelled to cover these expenditures from the mandated basic basket of services, they developed their own developmental centers, believing this to be more cost effective. However, the sick funds’ developmental centers focus on children with less severe problems, which do not require a multi-professional response. This led to fewer referrals to centers operated by the Ministry of Health, which employ multi-professional teams and which serve children whose disabilities are more severe and require greater expertise and more resources. It is not yet clear what impact this trend may have on the ability of the centers or the service system to meet the needs of children with disabilities.

683. The Ministry of Health provides equipment and medical assistive devices to disabled children, including devices to aid mobility and walking, special mattresses and beds, and hearing and vision aids, as well as additional devices at the discretion of a committee for exceptional circumstances. The Ministry usually pays up to 75% of the cost of an assistive device, and 100% of the cost for a low-income family receiving National Insurance Institute income benefits. In order to receive 75% coverage of an assistive device from the Ministry, a physician’s confirmation of need is required (as is that of additional professionals, in some cases). In 1996, 663 pairs of special shoes or assistive devices for walking, and 93 prosthetics, were provided to children with disabilities, most of whom had cerebral palsy or a somatic birth defect. An inter-ministerial committee comprising representatives of the Ministries of Health and Housing provides cash grants to adults and children who have impaired mobility, which enable them to renovate their home - e.g., widen doorways, build an access ramp, add safety features in the bathroom - to make them more accessible.

684. Mental health services. Public mental health services are provided through a network of out-patient mental health clinics for children and adolescents that are operated by the Ministry of Health, sick funds, and hospitals for the mentally ill. These clinics are staffed by specially-trained professionals, and offer diagnostic testing, counseling and psychiatric care, as well as training for parents. Services are usually provided free of charge or for a token fee.

685. Nonetheless, professionals note large gaps between available mental health services and the community's needs. The clinics have been criticized for serving primarily middle-income groups and not addressing more difficult populations, including dysfunctional families. This may be because the clinics do not reach difficult populations, such as non-compliant families and families with multiple problems. In recent years, the Ministry of Health has sought to improve mental health services for children and youth. For example, the Ministry helped establish a mental health center for children in Beer Sheva to alleviate the shortage of mental health services in the south. The center reflected the Ministry's commitment to inter-organizational efforts on behalf of at-risk populations. A similar center was established in Ashdod in 1997.

686. Another problem facing mental health service delivery is the inaccessibility of clinics in some geographic areas. Most clinics are regional, and serve a broad geographic area. For example, prior to the establishment of the clinic in Ashdod, psychiatric care was available to the city's children only at a children's clinic in a hospital in another city.

687. Services for children whose mental health problems require them to be hospitalized are provided in the inpatient departments of hospitals for the mentally ill. According to Ministry of Health data, 369 children and youth were hospitalized for psychiatric reasons in 1998.

688. In recent years, two issues have arisen regarding the psychiatric hospitalization of children and youth. One concerns children who are hospitalized only because of the lack of another framework that suits their needs. In response to this problem, the Service for Children and Youth of the Ministry of Labor and Social Affairs, in cooperation with the Ministry of Health, has begun to operate out-of-home frameworks that offer an alternative to hospitalization.

689. The other issue concerns the compulsory psychiatric hospitalization of children and youth - a practice severely criticized in the 1997 State Comptroller's Report. According to the Treatment of Mentally Ill Law 1991, the person responsible for a minor may request that the minor be admitted to a psychiatric hospital, and consent in the minor's name to his hospitalization and treatment. However, if a minor who has reached the age of 15 refuses to be hospitalized, a court order is necessary, issued on the basis of the regular causes cited in cases of compulsory hospitalization of a minor. If the minor has not yet reached the age of 15 and his caregivers realize that he does not agree to be hospitalized, a decision will be made by a district psychiatric committee for children and youth comprising a legal professional, a psychiatrist specializing in child and adolescent psychiatry, a clinical child psychologist, an educational psychologist and a social worker. A minor who has reached the age of 15 may ask to be voluntarily admitted to a psychiatric hospital, although if the person responsible for him does not agree, the consent of the court is required. Fifty-three (about 10%) children were admitted to a psychiatric hospital in 1996 under a compulsory hospitalization order. The State Comptroller

found that the district psychiatric committees for children and youth met irregularly, and that some children and youth were hospitalized in a manner that contradicted the letter of the law. The Ministry of Health responded that "substantial effort was made to recruit committee members and set guidelines … The primary difficulty implementing the law stems from a lack of manpower and the short deadlines set in the law … For many months we have been working with the Ministry of Justice to alter the law" (State Comptroller's Office, 1997).

(b) The social welfare system

(i) The National Insurance Institute

690. As noted, the National Insurance Institute pays disabled child benefits to children who are eligible for them by law.

691. A disabled child above the age of three whose disability renders him totally dependent on his parents 24 hours a day is eligible for a monthly benefit equivalent to about 40% of the average wage. A completely dependent child who is attending school or is older than 14 is eligible for an additional 20%. In addition, autistic children and deaf children up to age eight are eligible for this benefit, regardless of their diagnosed level of dependency. A disabled child who is dependent on his parents to a great extent for most of the day is eligible for a monthly benefit equivalent to 25% of the average wage. Children with Down's Syndrome are eligible for 50% of the full individual benefit, regardless of their diagnosed dependency, as are children between the ages of eight and 18 who are hearing impaired (45 decibels), sight impaired or blind, or who require protracted medical care (dialysis, chemotherapy, etc.). In the early 1990s, eligibility for disabled child benefits was extended to newborn children.

692. Children whose disability is developmental are eligible for the benefit according to the following criteria, regardless of their diagnosed dependency:

- A young child suffering from a serious illness is eligible for the full benefit;
- A young child suffering from a severe developmental deficiency is eligible for 60% of the benefit, and for an additional 40% if he is receiving developmental care (paramedical or other services);
- A young child with Down's Syndrome is eligible for 30% of the benefit and an additional 20% of the benefit if he is participating in a care program;
- A young child who is blind is eligible for the full benefit;
- A child with a hearing impairment is eligible for 60% of the benefit, and for an additional 40% if he is participating in a care program.

693. In addition, children ages three-18 with disabilities in their lower limbs who undergo a medical examination at a district health office and are found to have impaired mobility are eligible for a child mobility benefit, instead of a disabled child benefit. This provides for a

standing loan for the purchase of an automobile, which is repaid without interest or linkage when the automobile is sold. The loan is equivalent to up to 75% of the taxes paid when purchasing an automobile. In addition, a monthly benefit is paid to cover expenditures incurred in operating the automobile. On average, it is equivalent to about one-third of the full benefit for a disabled child. It is not possible to receive both benefits for one child. However, a family with two disabled children is entitled to a child mobility benefit in addition to two disabled child benefits.

694. According to National Insurance Institute data, in 1998, 14,379 children - or 7.1 of every 1,000 children in Israel - received a disability benefit from the Institute. The proportion of children receiving National Insurance Institute disability benefits was higher in the Arab than Jewish population. This corroborates the finding that a larger proportion of Arab than Jewish children have severe disabilities (and thus are eligible for National Insurance Institute benefits); it also reflects the high rate of utilization of this service in the Arab population.

Table 28

Children receiving National Insurance Institute Disability Benefits in June 1997, by age (in absolute numbers)

Age	Children receiving National Insurance Institute Disability Benefits
Total	**14 379**
0-3	1 551
4-14	9 711
15+	3 117

Source: Ben-Arie and Zionit, 1999.

695. Eligibility criteria for the child disability benefit have been developed on a piecemeal basis; historically, the inclusion of various populations has been influenced by the activities of lobbyists (such as parents of children with a specific disability). Therefore, eligibility criteria for providing benefits do not always reflect the level of disability. Consequently, efforts are being made to revise the criteria to better reflect the needs of the child. Based on data from a survey of children with disabilities (Naon, Ifrah and Baich-Moray, 1998), a proposal was made to change the criteria for provision of the disability benefit, and to add some 4,000 children (half of whom are moderately or severely retarded) to the eligibility pool. The Knesset's health and welfare committee has adopted the proposal and is promoting this change.

696. The Fund to Develop Services for the Disabled of the National Insurance Institute provides funding for the development of new services for disabled people who receive disability benefits. Grants are made to develop services (such as structural modifications, rehabilitative or therapeutic equipment) to public agencies (e.g., associations, local authorities). The fund is not meant to be used for the development of services that are the stated responsibility of other government agencies (e.g., opening a school or clinic), nor is it meant to be used to purchase property or to construct facilities.

(ii) The Ministry of Labor and Social Affairs

697. Two divisions of the Ministry of Labor and Social Affairs are responsible for the care of the disabled of all ages. The Division of Care for the Mentally Retarded is responsible for children with mental retardation, and the Division of Rehabilitation is responsible for children with somatic disabilities, the blind and the deaf, and those suffering from borderline mental retardation who have not been classified as being mentally retarded by the Division of Care for the Mentally Retarded.

698. These divisions are responsible for placing disabled children in out-of-home frameworks, and for supervising these frameworks. In addition, they supply a variety of services to disabled children in the community. Along with the Ministry of Education and other organizations, they operate preschools for disabled children who are not yet eligible for special education, and help operate extended school day programs for children with disabilities, beyond what is budgeted by the education system. In addition, they operate respite care centers for these children, so as to grant their families temporary relief from the ongoing need to provide care.

699. The Service for the Blind is responsible for providing blind people with special equipment that enables them to function normally in the community. In also provides aides who accompany disabled children to classes in regular schools.

700. The Ministry also provides support services and psychosocial assistance to disabled children and their families through local social welfare departments. It also places disabled children in foster and adoptive homes (see Chapter VII).

701. As noted, the social welfare system has primary responsibility for providing out-of-home care. At present, some 1,500 mentally retarded children and a small number of children with other disabilities reside in various frameworks. A small number of children currently reside in several community housing frameworks, one of which is for children with mental retardation, and one of which is for those with physical disabilities. Community housing frameworks are developing rapidly. While most of them serve children with mild disabilities, four new facilities are geared for severely mentally disabled children.

702. As noted, in the past, children with emotional or severe behavior problems were admitted to psychiatric hospitals due to the lack of a more suitable way to meet their needs. In the 1990s, in an attempt to better meet these needs, the Ministry of Labor and Social Affairs established post-hospitalization units within existing out-of-home frameworks. These units are geared for severely emotionally disturbed children who have been discharged from a psychiatric hospital but who are unable to reside in the community; their goals are to be an alternative to psychiatric hospitalization and to prevent long, unwarranted hospital stays. In 1996, there were six such post-hospitalization frameworks.

703. Another group of children with disabilities (primarily learning disabilities and behavioral disorders) is that of children who reside in out-of-home and rehabilitation frameworks supervised by the Service for Children and Youth of the Ministry of Labor and Social Affairs (see Chapter VII).

(c) The education system

704. The education system is a major provider of services to disabled children in Israel, through special education and regular schools, and support frameworks under the auspices of the Ministry of Education. A major part of the services are provided under the Special Education Law 1988.

705. Section 1 of the Special Education Law covers "exceptional children" ages three-21 who are physically, mentally, emotionally or behaviorally dysfunctional. The goal of special education, as stipulated in section 2 of the law, is "to promote and develop the talents and abilities of the exceptional child; repair and improve his physical, mental, emotional and behavioral functioning; teach him knowledge, skills and habits; and help him acquire acceptable social behavior in order to ease his integration into society and employment". It is assumed that these children have special educational needs; that meeting these needs requires special teaching materials and methods; and that without these, the children will not enjoy equal developmental opportunities.

706. A personal study plan must be prepared for each exceptional child attending a special education framework. The plan should describe the child's level of functioning at the time of its preparation, and set educational goals and objectives, determine the length of time and the means necessary to realize them, and establish a standard for measuring whether these have been achieved. At the end of the school year, the child's parents are given a written evaluation of his progress, with reference to his personal study plan.

707. The approach of the law, as stipulated in sections 7b and 7c, is to integrate disabled children into the least restrictive framework possible. Eligibility is determined by a placement committee composed of a representative of the local school system (the chairman), two Ministry of Education supervisors, an educational psychologist, a pediatrician, a social worker, and a representative of the national special education parents' committee. The placement committee must hear the child's parents or representative before making a decision; it may also hear directly from the child. In general, the committee must explain its decisions to the parents; if there is a reason for not doing so, an educational psychologist, physician or social worker is given access to the committee protocol on behalf of the family. Every three years, the principal of a special education institution must bring the students' cases for review before the placement committee. Review may take place after a shorter interval at the behest of the principal or a voluntary organization that serves exceptional children and that has been recognized by the Minister of Education. The child's parents may also request a review one year after the previous hearing. In addition, the placement committee's decision may be appealed to an appeals committee by the child, his parents, or a recognized voluntary organization.

708. Although the aim of the law, as noted, is to integrate into regular education those children who can benefit from such integration, the law does not determine the rights of these children, or the services for which they are eligible and which would make integration possible. Consequently, in practice, most of the funds for implementing the law have been allocated to special education frameworks, and this presents a serious barrier to mainstreaming. Despite this,

the Ministry of Education does allocate funds for mainstreamed children, which are used to provide them with educational and paramedical services. These funds are allocated on an individual basis by "integration committees" that operate at the local level, and not under the provisions of the law.

709. Teachers at a special education institution must be certified as teachers and have undergone training in special education. However, the director-general of the Ministry of Education is authorized to grant a temporary permit to teachers who have not undergone such training. In this way, non-teaching assistants and caregivers such as psychologists may be employed in special education frameworks. The Minister of Education, with the consent of the Minister of Finance, must set a maximum number of students permitted in a special education classroom. He is permitted (with the consent of the Minister of Finance) to establish an extended school day at some or all special education institutions, to determine the number of hours in an extended school day, and to determine the services necessary for an extended school day (e.g., meals).

(i) Implementation of the Special Education Law

710. The Special Education Law 1988 does not define the extent or type of services for which students are eligible. Rather, it stipulates that these be determined in regulations governing the law's implementation, which requires the agreement of the Ministers of Education and Finance. The lack of a clear definition of eligibility under the law led to a protracted process, during which regulations and methods of implementation were determined. In addition, disagreement over budgetary allocations between representatives of the Ministries of Education and Finance further delayed implementation.

711. In 1994, a master plan was designed to help formulate standards and assess how much the Special Education Law would cost the education system. The plan details the types of care to be provided under the law, as well as the number of care hours and the manpower required per disability. It defines the type and scope of service provided by the education system to children who are eligible for special education, based on the extent of their disability and type of need, and the type of educational framework.

712. At the request of the Ministry of Education, the JDC-Brookdale Institute assessed the equipment needs of special education frameworks (Naon et al., 1996). The results of this assessment became, in effect, a recommendation regarding the extent of equipment allocation under the law, and served as the basis for equipping the special education system. In addition, the Institute for Education and Welfare Structures prepared a detailed construction plan for schools in the special education system.

713. In order to implement the Special Education Law 1988, NIS 200 million over and above the budget for the 1995 school year were allocated over a four-year period (1996-1999, during which time implementation was to be completed). This budgetary supplement was to facilitate the gradual introduction of the baskets of services included in the master plan. It did not cover three areas eligible for separate budget supplements: the provision of medical and paramedical care; the physical development of special education institutions; and the equipping of special education frameworks.

714. The Special Education Law did not determine the extent of funding required to implement it. Thus, its implementation is dependent on the allocation of funds by the Ministry of Finance, through negotiation with the Ministry of Education. The process of implementation has consequently been lengthy, extending over the course of a decade. During this process, elements of the law that are explicitly defined, such as longer school days and extension of coverage from age three to 21, have been implemented, while elements of the law that are ambiguous, such as the level of paramedical services or equipment required, have not been implemented. Negotiations between the Ministries are continuing.

(ii) The structure of the education system for children with disabilities and special needs

715. Children with disabilities and special needs may attend any of the following frameworks:

- Special education schools classified according to the types of disability of their students;
- Special classrooms in regular schools for students with less severe disability;
- Special education kindergartens, and regular kindergartens and classes into which a small number of students with special needs have been integrated.

716. In addition, many children attend regular schools but receive special education services. A small proportion of them have been "mainstreamed" by a placement committee, while most of them receive special education services without having been deemed eligible by a placement committee, after having been placed in a regular framework by an integration committee.

717. According to data from the Ministry of Education, about 35,000 children attend special education frameworks. An additional 80,000 children receive special education services in a regular framework (see Table 29).

Table 29

Students in special education frameworks, by type of framework, 1996

Type of framework	Number of students
Total	**35 492**
Special education schools	15 106
Special education classes in regular schools	16 163
Special education and integrated preschools	4 223

Source: Ben-Arie and Zionit, 1999.

718. Two groups of disabled children in the special education system are of special interest: those who are blind or have impaired vision, and those who are deaf or have impaired hearing. Although these children are portrayed as being part of the special education system, most have been mainstreamed into the regular system and attend regular classes, receiving special education assistance and assistive devices that enable them to function like the other students. These two groups, along with children who have learning disabilities, are the only ones who are almost completely mainstreamed into the regular education system.

719. Table 30 shows the distribution of children in special education frameworks by type of disability, as defined by the Ministry of Education. As can be seen in the Table, the majority (70%) of students in special education frameworks have learning disabilities, behavior or emotional problems, delayed development (preschool children), or mild retardation. Nineteen percent suffer from moderate to severe retardation, and 3% suffer from cerebral palsy or a physical handicap. Seven percent are autistic or emotionally ill, or are hospitalized.

Table 30

Children in special education frameworks (special education schools or special classes in regular schools), by main disability

Type of disability*	Total students	Percentage
Total	**35 492**	**100**
Learning disabilities, behavior or emotional problems, mild retardation, developmental or speech delay	23 915	67.5
Moderate retardation	3 952	11.0
Severe retardation	2 707	8.0
Deafness, hearing impairment	1 078	3.0
Blindness, visual impairment	114	0.5
Autism, mental illness	1 770	5.0
Cerebral palsy, physical handicap	1 123	3.0
Hospitalized	883	2.0

Source: Ben-Arie and Zionit, 1999

* Disabilities are defined according to accepted classifications of the Ministry of Education.

(iii) Children with special needs attending regular schools

720. The implementation of the Special Education Law 1988 is based on three guiding principles, one of which is to mainstream children into the regular education system. Ministry of Education data indicate that about 80,000 pupils attend classes in regular schools, with the help of special education services.

721. The master plan defines two different baskets of services for children with disabilities who attend regular schools. The "integration basket" is for students who have been mainstreamed by a placement committee, and includes special education teaching, paramedical and therapeutic services. The "reinforcement basket" is for blind and visually impaired, and deaf and hearing impaired, students who have been mainstreamed (not necessarily by a placement committee), and includes special aids and educational services. The Division for Special Education also covers educational services for home-bound students. Services are allocated according to a student's personal study plan. The scope of services allocated as part of the integration and reinforcement baskets is smaller than that of the services allocated in special education schools and classes. The Ministry of Education allocates some 84,000 weekly special education hours (integration hours) for mainstreamed students. Each local authority is allocated a quota of teaching hours based on the number of students in its jurisdiction, the school's "development index", and the percentage of students with slight disabilities who are referred to placement committees in an effort to encourage their mainstreaming. In addition, the Ministry of Education allocates some 350 positions for full-time assistants to students with severe physical disabilities who have been mainstreamed into regular schools and need this assistance to function. However, these resources are limited, and are provided mainly to children with severe disabilities. As a result, children with mild disabilities (such as learning disabilities) do not receive services in accordance with their needs.

722. Over the years, programs have been developed to assist disabled children who have been mainstreamed into the regular education system. These programs lie on the continuum between the full integration of disabled children into the regular school system, through partial integration in which the child learns some subjects in a regular classroom or attends regular classes on certain days, to full social integration in and out of school through joint recreational activities for disabled and non-disabled children. One example is the MACHAR Program, implemented in Jerusalem, which offers support and rehabilitation to children with cerebral palsy who have been mainstreamed into regular classes, as well as paramedical services and educational services after school hours. It should be noted that there is no systematic information on the success of these programs, nor is there information on or policy regarding the resources necessary for them to succeed. However, there is evidence that professional assistance both to the disabled children and the regular schools that integrate them contributes to successful educational and social integration.

723. The gradual implementation of the Special Education Law 1988 and the policy of mainstreaming children with special needs into the regular education system have resulted in a significant decrease in the number of children attending special education classes in regular schools and special education schools. In 1991, the proportion of students in special education schools and special education classes in regular schools was 4% of all students in the Jewish sector and 2.3% of all students in the Arab sector; by 1997, these figure had dropped to 3% and 2%, respectively. For the most part, integration has affected children with learning disabilities, deafness or hearing impairment, and blindness or vision impairment. There is no systematic policy of integration regarding children with other disabilities. It is worth nothing that, due to the limited allocation of resources to the regular education system, relative to the special education system, the needs of mainstreamed children may not be being adequately met.

724. Another goal of the master plan for the implementation of the Special Education Law 1988 is to make special education and paramedical services available to all those who need them, as well as to decentralize the allocation of resources to municipalities and schools. To this end, the Ministry has established 67 local/regional support centers, some of which are located in facilities that also offer paramedical and therapeutic services to disabled children. However, not all regions have a center as yet.

725. Children with special needs, especially those with learning disabilities who attend regular schools, are eligible for special consideration regarding matriculation examinations, including being given extra time to take the examinations, being tested orally, and being exempted from parts of examinations. The right to such consideration is granted by a special committee, which bases its decision on the diagnosis of a psychologist or an expert in learning disabilities. In recent years, increased awareness of learning disabilities has led to a dramatic increase in the number of requests for special consideration: In 1996, some 15,000 students petitioned the committee. This will require reorganizing the system of referral, rethinking who should make referrals, and reexamining the criteria for referral.

726. Special services for children with disabilities - children who attend both regular and special education classes and schools - are also provided under other laws. For example, the Safe Transportation of Invalid Children Law 1994 stipulates that children ages three to 21 who, due to physical, mental, emotional or behavioral disability are unable to travel by themselves, are eligible for transportation from their home or a proximate location to an educational institution and back, in accordance with their needs and handicaps. It is the responsibility of the local authority in which a child resides to provide this transportation, and to ensure that it is undertaken in a safe vehicle that is adapted for the child's disability.

(iv) The involvement of parents and children in determining placement and a program of care

727. One issue that has drawn a great deal of public attention is that of the process of placement in special education, which stigmatizes a child as being "exceptional" and, when unwarranted, can impede his opportunities to realize his potential and his right to a suitable type and level of education. Therefore, a child is only placed in a special education framework if it is clear that he cannot benefit from regular education. As noted, eligibility for special education is determined by a placement committee.

728. Placement committees operate according to guidelines meant to ensure parental participation in the placement process. Each includes a representative of the national special education parents' committee, so that a layperson can monitor the committee's decisions from the parents' perspective and offer a sympathetic ear to the parents of the child under discussion.

729. Before making a decision, the placement committee must hear the parents and allow them to review all relevant documents. The committee may also hear the child, though this is not mandatory; nevertheless, according to administrative regulations, the committee must at least consider hearing the child. The committee must also inform parents in writing of its decision

and the reasons for it. The child, a parent or a representative of a public organization can appeal a committee's decision within 21 days. Parents may also have their child's case brought before a committee for review after one year.

730. The emphasis placed on parents' rights and involvement in decisions concerning their child's placement also finds expression in Ministry of Education guidelines: "An ongoing dialogue with parents is desirable, as is the provision of assistance in admitting the child and adopting suitable methods of care" (Ministry of Education, 1992).

731. By law, parents must be included in the preparation of their child's personal care and study plan at the beginning of each academic year, and must be given reports of his progress.

732. There is no systematic information on the extent to which these provisions are adequately implemented. Apparently, this differs depending on the locality and the composition of the placement committee, and the approach of the specific professionals involved in the committee.

733. There are, however, indications that the law's directives are not being implemented in their entirety. HILA, an organization of parents of children in the special education system, helps parents who feel their child has been or is being unjustly placed in special education. According to HILA, committees do not always give preference to the regular system, and in many instances, children from families with low income (or who live in poor neighborhoods or development towns) who have difficulty with their studies or who have adjustment problems are referred to special education. In addition, many parents are unaware of their right under the law to seek a review after one year, to appeal the placement committee's decision, and to be partners in the planning of their child's study plan. Moreover, the HILA official reported that parents are often not involved in setting their child's study plan, remain unaware of efforts to assist exceptional children, and do not receive progress reports that they can understand.

734. According to HILA, the problem is particularly severe among new immigrants, especially those from Ethiopia who do not understand Hebrew or the special education placement process. Many parents claim that they are not invited to appear before the placement committee, and have no idea what is taking place.

735. On the other hand, according to professionals, supervisors and parents in the special education system, many schools hold special activities for parents, especially those whose children are in their first year of special education, and include them in all aspects of the special education placement process as well as in making the study plan. Some professionals even claim that the need to protect the rights of parents and include them as partners is not to the children's benefit, and that the system "fears" the parents and "makes no move without them".

736. The lack of systematic information on this issue impedes an estimate of how prevalent such feelings are. Nevertheless, the system is aware of the difficulties that can arise between parents and professionals during the special education placement process. In recent years, a number of steps have been taken to promote partnership between parents and professionals. The committee for special education of the HILA deals with problems encountered by parents in the

special education system nationwide. The committee maintains contact with the Ministry of Education and various institutions, on one hand, and with parents who have "fallen between the cracks", on the other, promoting partnership between parents and the special education system and bridging the gap between parents and both schools and placement committees.

737. Recently, various efforts have been made to improve the functioning of placement committees and monitor their work. These include the establishment of routine procedures under the law; the formulation of regulations governing referral to and the work of placement and appeals committees; and the holding of study days and workshops for committee members on the Special Education Law, committee work procedures, the mainstreaming of exceptional students, and the rights of parents in the placement process.

738. In 1994, a pamphlet was published for parents whose children have been referred to a special education placement committee, explaining the care provided to children; the process of referral for psychological testing; the role and functioning of placement and appeals committees; and where to find additional information.

(d) Voluntary organizations

739. There are a large number of voluntary organizations that serve people with disabilities. Some organizations serve only children, while others serve children as part of a broader target population. Some organizations advocate for the rights of the disabled, while others provide information and counseling or services, and others do a little bit of everything. We shall refer to some of the organizations that operate nationally.

(i) General organizations

740. Bizchut - The Israel Center for Human Rights of People with Disabilities, established by the Israel Association for Civil Rights, promotes the rights, welfare and well-being of disabled people of all ages by providing counseling and legal representation concerning education, housing and employment. It also provides information on the rights of the disabled, and lobbies to raise public awareness and promote better legislation.

741. The Umbrella Organization of Organizations for the Disabled and of Unaffiliated Disabled Persons promotes the full social integration of the disabled. It attempts to enhance the disabled persons' self-image and their image in the eyes of others. It works on behalf of all disabled persons and organizations for the disabled in Israel, operating an information center, raising issues in public forums, lobbying for legislation, and conducting information campaigns. It provides free legal counseling for disabled people and makes referrals to other organizations.

742. KESHER was established in 1989 as a pilot project of the Jerusalem Council for Children and Youth. It became an independent, non-profit national organization in 1993. KESHER's professional counselors assist parents, free of charge, through the maze of services and multitude of service providers involved in their child's care. It helps them to sort out difficulties and reconnects them to the relevant services, offers advice about service referrals, and acts as a

mediator/advocate for families with community agencies. KESHER's hotline for parents and professionals operates in Hebrew, Arabic, Russian and Amharic. Information on rights, benefits and services is constantly updated via a bi-monthly newsletter, as well as in pamphlets on specific issues. A national network of local branches is being developed.

743. HILA serves the parents of children in special education frameworks and promotes the rights of these children.

(ii) Physical disability and handicap

744. ILAN - The Israel Foundation for Handicapped Children provides assistance, education and rehabilitation to children with polio, cerebral palsy, and conditions that result in motor dysfunction or impaired mobility. It sponsors a variety of activities, including kindergartens and schools, a Mainstreaming Center, clubs and recreational frameworks for children, sports teams and activities, respite care, vocational training, the procurement of assistive devices, group homes, and community housing for independent living. In addition, ILAN offers children and their families consultations with a social worker, and disseminates information.

(iii) Hearing impairment

745. MICHA - The Society for Deaf Children develops and operates educational, rehabilitation and care frameworks for children newborn to age seven who are hearing impaired and their families, and provides professional counseling and support to the organizations and professionals that serve them. MICHA operates preschool programs and programs in language acquisition for infants identified with hearing loss by family health centers (in cooperation with the Ministry of Health). In addition, MICHA operates programs through regional associations, including special frameworks for young children, care for children in integrated preschools, communications therapy, and psychosocial counseling for children and their families. MICHA's goal is to promote the inclusion of hearing-impaired individuals into education and society.

746. SHEMA operates under the supervision of the Ministry of Education. It identifies and provides educational and rehabilitative services to deaf and hearing impaired children and youth ages six-20. Available nationwide, SHEMA's services include developmental, psychological and social diagnosis; psychosocial care; counseling and training for parents; social clubs and activities; remedial and enrichment lessons; communications therapy; and financial assistance purchasing hearing aids. It also disseminates information and audio-visual materials, and advises professionals. In addition, SHEMA has developed a model for mainstreaming students with hearing impairment, which is currently being implemented.

(iv) Learning disabilities, retardation, autism and Down's Syndrome

747. ALUT - The Israeli Society for Autistic Children cares for children from birth onwards who have been diagnosed with varying degrees of autism or P.D.D. (Pervasive Developmental Disorder). ALUT establishes frameworks (settings) for these children, and offers counseling and guidance for parents. It sets up group homes for young children, adolescents and adults. A center for parents provides lectures, parent support groups and raises awareness about autism and P.D.D.

748. AKIM - The National Association for the Habilitation of Persons with Mental Retardation promotes the welfare of mentally retarded individuals of all ages and all levels of retardation, and their families. It provides therapeutic, educational, occupational, social, sport, cultural, housing, counseling services and respite care for infants age six months, to adults age 30. It develops community housing and social services; offers legal assistance; establishes open-houses for families (which offer individual or group therapy, guidance and enrichment for families, a parent-to-parent program, and a club for parents); operates a social center for retarded adults; offers art education, organized outings, day and holiday camps, and cultural and sporting events and disseminates information. AKIM increasingly encourages mainstreaming.

749. YATED - The Association of Parents of Down Syndrome Children is a parents' association that provides counseling and guidance; operates an information center; holds conferences and study days for parents and professionals; sponsors family support groups; publishes periodicals; maintains contact with government ministries and public authorities to promote the rights of children with Down's Syndrome and promotes research. This national association contributes to the progress of children and adults with Down's Syndrome, aids their families, changes negative stereotypes about them, and ensures their right to a happy and creative life.

750. The Shalem Foundation helps establish, finance, enlarge and equip community services geared for retarded individuals, and gives financial grants to local authorities that develop such services. A condition of this assistance is the existence of additional funding partners. The Foundation does not underwrite manpower or operational costs.

751. NITZAN - Society for the Advancement of Learning Disabled Children and Adults, established in 1964, is a voluntary parents' association that serves children, adolescents and adults with learning, adaptive and functional disabilities. NITZAN has 40 branches nationwide, and employs professionals and public figures in its institutions. It provides diagnosis; family counseling and support; paramedical care; psychological counseling; remedial instruction; enrichment classes; assistance to special schools and classes; stipends for low-income families; and information about other service providers. To raise awareness, NITZAN publishes pamphlets, organizes in-service training and conferences for professionals, and sponsors a pedagogic hotline for parents and others.

(e) Discounts and tax breaks

752. The parents of disabled children receive tax breaks and discounts on fees as compensation for having to invest financial and other resources in the care of their children. These include:

- Parents with a physically disabled, retarded, blind or autistic child, or a child with an emotional disorder or chronic illness, are eligible for an income tax credit; they are also eligible for these credits if the child resides in an out-of-home framework.

- Parents of a child with special needs may receive a discount of up to 25% on their municipal taxes at the discretion of the local authority.

- Parents of a child who receives a full disability benefit, and parents of a blind child or a child undergoing dialysis are eligible for discounted telephone services. The discounts include a 50% reduction on regular monthly charges; 60 free telephone units per month for a disabled child and 300 units for a blind child; and a 50% reduction on telephone line installation or transfer charges. Parents with two children who each receive a full disability benefit are eligible for double discounts.

(f) Gaps in needs and services

753. A survey conducted by the National Insurance Institute and the JDC-Brookdale Institute examined the extent to which children's and families' needs are being met by services. The survey revealed large gaps between needs, and the services actually provided:

- One-third of children with special needs receive paramedical services, such as physical and occupational therapy, on a regular basis.

- About 20% of the children with special needs meet with a social worker or psychologist.

- About 80% of these children receive at least one special service from the service system.

- Eighty-five percent of the children need medical care or supervision on a regular basis, but only 40% actually receive it; 75% require paramedical services, while only one-third receive them; and 83% require the services of a social worker or psychologist, yet only 18% receive them.

- Exclusive of the universal benefits from the National Insurance Institute, gaps were found between Jewish and Arab towns in the rates of children with special needs who receive services: Larger proportions of Jewish than Arab children receive most services; at times, service provision is two to three times as great in Jewish as in Arab towns.

- While multi-professional committees recommended that 25% of the children with special needs - or 1.9% of all children in Israel - receive disabled child benefits, only 0.6% of the children in Israel were receiving such benefits at the time of the study, and only 0.7% were receiving benefits in 1999.

(g) Issues arising from the complexity of the service system: inter-service coordination and the availability of information about services

754. As can be seen, care for children with disabilities is provided by a variety of agencies and organizations. Each one's area of responsibility is determined by type of disability, age and type of service provided. Consequently, a child may need services from a number of sources concurrently. For example, he may receive paramedical care from a child development center, counseling from the Educational Psychological Service, respite care from the Ministry of Labor

and Social Affairs, and a disabled child benefit from the National Insurance Institute. In addition, responsibility for care is transferred from one authority to another when the child reaches a certain age. For example, responsibility for children with mental retardation passes from the country's sick funds to the education system when the child enters the special education system.

755. Service providers have a major impact on the lives of disabled children and their families. Due to the multitude of providers, parents often find it difficult to navigate the network of services and to understand the regulations governing eligibility. The parents bear the responsibility for coordinating the services their child receives so as to ensure continuity of care. Many parents complain that every time a new professional enters the picture, they must relate the history of their child's disability, wrestle with a complicated bureaucracy, and have their child diagnosed yet again. Thus, two issues confront the system of services for disabled children: inter-service coordination, and the availability and accessibility of information to parents.

756. Professionals, policymakers and parents of disabled children repeatedly emphasize the need to coordinate and define more clearly the roles of various organizations on behalf of their respective target populations; and to establish mechanisms for transmitting information among professionals from different organizations who care for individual children, and among those who care for children at various points in time and in transition from framework to framework.

757. At present, the JDC-Brookdale Institute is conducting a comprehensive study of mechanisms for the coordination of services for disabled children of all ages. The study is focusing on policy, as well as on the coordination of care for individuals. Its findings will provide insight into the advantages and disadvantages of existing coordination mechanisms. The study is being monitored by a steering committee, whose members represent a range of organizations.

758. As may be seen from the description of the system of care, many organizations attempt to provide parents with information on services and rights. KESHER periodically publishes an "Information Notebook", the National Insurance Institute periodically publishes a guide to the rights of disabled children, and other organizations use a variety of means to inform parents about specific disabilities. In order to meet the need for up-to-date information on the rights of parents and professionals to services, JDC-Israel established a computerized data base on rehabilitative services for people with disabilities, including children. The data base is now managed by the Henrietta Szold Institute.

4. The accessibility of public areas and services

759. Accessibility to one's environment is the key to true social integration and equal opportunity. For the disabled, accessibility is essential if they are to fully participate in society. The public commission for the comprehensive examination of legislation concerning persons with disabilities emphasized an additional aspect of accessibility: the visibility of the disabled in society. Accessibility enables the disabled to be present in the community, and creates contact and recognition between them and others. This can promote the participation of children with disabilities in the community. Several laws deal in a limited manner with accessibility for the disabled.

760. In addition, a number of dispensations for the families of disabled children are meant to ease access. For example, special parking permits are given to the parents of children who have lower extremity motor disorders or who need a respirator; these permits allow them to park in spaces designated for disabled drivers, as well as to park free of charge in areas where parking is available for a fee. The parents of children with mobility problems (i.e., who have been granted a 60% disability rating by the district health bureau or have been designated by a physician as having a disability that requires a motor vehicle for purposes of mobility) are exempt from annual motor vehicle registration fees.

761. Despite laws pertaining to accessible planning and construction, many buildings in Israel are inaccessible to wheelchair-bound persons. In a spot-check conducted by the Ministry of Economic Planning in 1995, 40% of the structures examined were found to be inaccessible. In general, schools, shelters and public transportation are inaccessible to wheelchair-bound individuals. Many city sidewalks have not been lowered despite provisions in the Municipalities Ordinance. The results of a survey conducted for the City of Tel Aviv-Jaffa in 1993 and presented to the public commission on legislation on the rights of persons with disabilities in Israel reveal that the majority of municipal structures (hospitals, preschools and schools, colleges and universities, museums, cultural and community centers, clubs, sports centers and swimming pools, sick fund clinics and movie theaters) are inaccessible to the disabled: Only 17 of the 167 structures examined were found to be accessible.

762. Problems of physical accessibility are compounded for some disabled people by problems of sensory accessibility. Most services provided by local authorities (e.g., information and service counters) are inaccessible to people who are blind or deaf. Most television broadcasts are inaccessible to the deaf. Even in times of emergency (such as war) or particular public interest (elections), the country's television networks do not provide close-captioned or signed broadcasts for the deaf. Few traffic signals emit an audible sound that would enable the blind to cross the street unassisted.

763. For children, access to schools is particularly important. According to the Planning and Building Law 1965 and the Planning and Building Regulations (Permit Application, Permit Terms and Fees) 1970, a permit will be denied for the construction of a public building that does not comply with regulations concerning access for the disabled. According to these regulations, in schools and other public structures, only one storey need be accessible to the disabled. As such, even when the law is implemented, it is difficult for disabled children to become integrated into schools - a fact often cited as the primary difficulty with mainstreaming.

764. An Israeli Supreme Court's ruling dealt specifically with this issue ((Petition to the) High Court of Justice 7081/93 *Botzer v. Maccabim-Reut Local Council*, P.D. 50(1) 19). In this case, a wheelchair-bound youth suffering from multiple sclerosis petitioned the court to require his school to install an elevator, which would enable him to use the lavatory, which was not on the same floor as his classroom. The local authority had refused to install the elevator because of the high cost involved. The court found in favor of the youth, stating that legislation concerning the accessibility of public institutions had been passed to enable the disabled to become integrated into society; it ruled that the local authority must comply with the letter of the law, despite the considerable financial expense.

765. The accessibility of cultural and recreational facilities is also particularly crucial for disabled youth. As noted, there is evidence that many such facilities are inaccessible to children and youth with disabilities. According to the chairman of the Knesset culture and recreation sub-committee, thousands of children and youth with special needs are unable to join youth movements or participate in nature and sports activities. Nevertheless, according to the director of the culture and arts division of the Ministry of Education, the Ministry has no national plan or special budget for the disabled.

766. The report of the public commission on comprehensive legislation on the rights of persons with disabilities in Israel recommended that the right of the disabled to access to public spaces and services be grounded in law. It also recommended that this right be "translated" into detailed regulations that ensure the law's implementation, and that implementation be effectively enforced. The commission also proposed that the initiation and development of cultural and recreational activities for the disabled become mandatory for the Ministry of Education, the Ministry of Interior and the local authorities, and that preference be given to mainstreaming disabled children into activities for non-disabled children.

767. In recent years, JDC-Israel, in cooperation with the Association of Community Centers, has been implementing a program promoting accessibility, focused on public recreation sites and national parks and shrines. As a basis for this program, a comprehensive survey was conducted and a data base established on cultural, recreational and vacation sites for persons with impaired mobility. The data base covers nature reserves, holy sites, national parks, archaeological sites, museums, hotels and inns, and vacation and sports facilities. It contains important information about parking and entry, a site's accessibility and suitability for people with impaired mobility, hearing or vision, the accessibility of public restrooms, and so forth. This information helps families of children with disabilities plan vacations and recreational activities. Despite the recent interest, the expansion of accessibility represents a major challenge that needs to be addressed.

D. Articles 6 and 24 of the Convention - Health and health services

768. This section will review primary health indices for children in Israel, the system of primary and preventive health services, efforts to promote the health of the population in general and that of vulnerable groups in particular, and the accessibility of health services. In addition, it will address the extent to which the provision of health services considers the views of children.

1. Basic data on the health of children and youth in Israel

769. The health problems of children and youth in Israel are similar to those of children elsewhere in the western world. According to indices such as life expectancy, infant mortality, public expenditures on health, and number of practicing physicians, Israel holds a respectable rank among western industrialized nations. Following we present data on mortality rates for women in childbirth, infant and child mortality rates, underweight births, the prevalence of infectious diseases among children, injuries caused by accidents, adolescent health behavior, and traditional customs that may have an impact on children's health.

(a) Mortality rates of women in childbirth, infant mortality and underweight births

770. The mortality rate for women in childbirth in Israel has declined steeply during the past 50 years. At present, it equals the rates for the most developed nations: 0.6-0.8 per 10,000 births, with no variance among sub-populations.

771. Progress in medical knowledge and technologies and changes in lifestyle and health behavior have caused infant mortality rates to drop significantly. If at the end of the 1970s Israel's infant mortality rate was 18.7 deaths for every 1,000 live births, by 1998, it was 5.8 deaths for every 1,000 live births. However, there was variance among population sub-groups: 4.2 deaths for every 1,000 live births among Jews, 3.6 among Christians, 9.3 among Druze, and 8.7 among Moslems. It should be noted that the difference in the mortality rates of Jewish and Arab infants remains stable, despite the decline in overall infant mortality rates. Table 31 shows the gradual decline in infant mortality rates in Israel during the 1980s and 1990s.

772. The most prevalent causes of infant mortality are birth defects and perinatal complications. The mortality rate due to birth defects is higher among Arabs than Jews (3.6 per 1,000 births and 1.5 per 1,000 births, respectively, in 1993-1997). This is due, at least in part, to the higher incidence of such defects.

Table 31

Infant mortality per 1,000 live births, by population group, 1979-1996

Year	Total	Moslems	Druze*	Christians*	Jews
1979	18.7	24.6	24.8	16.8	12.9
1983	15.1	21.2	20.1	15.0	10.9
1987	11.1	18.4	18.1	11.8	8.9
1991	9.2	14.5	13.9	11.1	7.2
1996	6.3	10.0	8.9	4.1	5.0
1998	5.8	8.7	9.3	3.6	4.2

Source: Ben-Arie and Zionit, 1999.

* It should be noted that the Druze and Christian Arab populations in Israel are small, and that there are significant fluctuations in infant mortality among these populations annually.

773. In 1998, 92% of the babies born in Israel weighed more than 2.5kg, and 5% weighed between 2.0kg and 2.4kg. The figures were similar for both Jews and Arabs. (It must be noted that in recent years there has been a slight increase in the percentage of underweight newborn babies, due to an increase in the use of fertility treatments, which may result in multiple births.)

774. The Department of Health Service Studies at Tel Hashomer Hospital near Tel Aviv, which is a support unit of the Ministry of Health, is participating in an international study of the causes of infant deaths and ways to reduce them. Along with hospital pediatric wards, the department is also participating in a study of underweight newborn babies. The results of these studies will be used in designing health policy.

(b) Child mortality

775. In 1997, the child mortality rate in Israel was 0.4 per 1,000 children age one-four, 0.2 per 1,000 children ages five-14, and 0.6 per 1,000 children ages 15-19. Table 32 shows the causes of death for children age one-14 in 1996. Beginning at age one, accidents are a significant cause of child deaths.

Table 32

Causes of death among children ages 1-14 in 1996, by population group (in %)

Cause of death	Total		Jews		Arabs	
	Age		Age		Age	
	1-4	5-14	1-4	5-14	1-4	5-14
Total	**100**	**100**	**100**	**100**	**100**	**100**
Accident	19.6	21.3	18.8	23.1	20.0	19.0
Suicide	-	1.4	-	2.5	-	-
Other external causes	8.2	11.8	5.8	13.2	9.6	10.0
Birth defect	16.3	6.3	14.5	8.3	17.4	4.0
Infectious disease	1.6	3.2	2.9	3.3	0.9	3.0
Cancer	9.2	15.8	18.8	17.4	3.5	14.0
Illness or other cause	45.1	40.3	39.9	32.2	48.7	50.0

Source: Ben-Arie and Zionit, 1999.

(c) Infectious diseases

776. Data regarding the prevalence of infectious diseases are based on reports of the Ministry of Health. The data in Table 33 indicate a greater prevalence of some diseases among Jews. However, as the extent of reporting is not uniform (there are gaps in reporting in the Arab sector), the prevalence of infectious diseases among Arab children may actually be greater than is indicated by the data. In addition, as some diseases (such as measles) are epidemic, and break out every few years, it is difficult to identify trends in the prevalence of disease in recent years. It should be noted that almost every child in Israel has been inoculated against measles, rubella and tuberculosis.

Table 33

Contagious and infectious diseases among children newborn to age 14 in 1996, by age and population group (per 100,000 in each age group)

Disease	Population group	Age			
		Newborn	1-4	5-9	10-14
Rubella	Jews	0.0	0.9	0.2	0.2
	Arabs	0.0	0.0	0.0	0.0
Measles	Jews	0.0	2.1	0.0	0.5
	Arabs	0.0	0.8	0.0	0.0
Salmonella	Jews	273.5	398.0	88.8	39.9
	Arabs	80.3	90.4	9.8	4.9
Campillo-bactereosis	Jews	32.5	74.8	18.3	10.8
	Arabs	8.4	9.0	0.0	0.0
Tuberculosis	Jews	1.2	1.5	1.0	1.0
	Arabs	0.0	0.8	0.0	0.8

Source: Ben-Arie and Zionit, 1999.

777. Infant mortality in Israel from intestinal and other infectious diseases is low. In 1996, infectious diseases were responsible for 1.5% of all infant deaths in Israel, 1.6% of all deaths of children ages one-four, and 3% of all deaths of children ages five-14.

(i) Preventive care and control of epidemics

778. District health bureaus are responsible for the surveillance of sanitary conditions at institutions for children, and for preventing the outbreak of infectious diseases. If there is an outbreak of meningitis or hepatitis A, everyone who has come in contact with the patient receives free preventive treatment from the district health bureau.

(ii) AIDS

779. By 1995, there were 83 cases of children with the HIV virus, who were born to HIV-positive parents in Israel; 11 of these children eventually contracted AIDS, and seven of them died. As of late 1998, there were 96 HIV-positive children in Israel. As can be seen in Table 34, there was no trend of increase in the rate of new cases identified during the 1990s.

Table 34

New cases of AIDS among children newborn to age 14 (per 100,000 children) in Israel, by year

Year	Number of cases
1990	**0.7**
1991	**0.6**
1992	**0.7**
1993	**0.9**
1994	**0.6**

Source: Central Bureau of Statistics, 1998.

780. The Detection of the AIDS Virus in Minors Law 1996 allows a minor to undergo voluntary testing for HIV without the consent of his parent or guardian. The physician at the medical institution conducting the test must fully explain it and its implications to the minor, as well as how the disease is transmitted and methods of prevention, and must verify that the minor opposes seeking the consent of his parent or guardian. The physician must be convinced that, in light of the minor's age, emotional maturity and ability to form an opinion, it is in the minor's best interest to be tested without the consent of his parent or guardian. If the minor is under age 14, a team comprising a social worker and physician must consent to the test. If the test is negative, the results are given to him by a specially trained physician, nurse or social worker. If the test is positive - that is, if the minor is found to be carrying the AIDS virus - the results are reported to him by the above-noted team, in the presence of a welfare worker, who then asks if he wishes to inform his representative of the test results. If the minor refuses to inform his representative, he is given guidance and instruction about methods of treatment. The law requires that everyone involved in this process preserve the minor's right to confidentiality.

(d) Accidents

781. The Israeli public has recently become more aware of the issue of injuries to children and youth due to accidents in the home, on the road and at school. A number of agencies provide information on accidental injuries to children. The Ministry of Health maintains a central data base on child hospitalizations. In 1997, the National Council for the Child initiated and funded ground-breaking research on the referral of children to emergency rooms, and their hospitalization following accidents. The goal of the study was to estimate the annual rate of referral of children and youth to hospital emergency rooms in Israel, and to identify risk groups. The study examined data on referrals in 1994 and, after weighting, estimated that the annual number of injuries from accident was 131,643, or 693 injuries per 10,000 children per year. The injury rate is higher among boys than girls, and among Jews than Arabs. The highest rate of injury from accident is among children newborn to age four. Traffic accidents are particular cause for concern: According to Israel police data, in 1998 some 7,200 children and youth - most of them passengers of vehicles or bicycle riders - were injured in traffic accidents. More than 6,000 of them were slightly injured, about 700 of them suffered severe injuries, and 76 were

killed. The Ministry of Transportation and the Police Force conduct information campaigns in the media and schools to encourage traffic safety among children and youth, which stress the importance of wearing a helmet when riding a bicycle and not driving after drinking.

782. The Ministry of Health conducts administrative follow-up of accidents. A memorandum from the director-general of the Ministry stipulated that schools must report any injury occurring on school grounds or on the way to or from school. During the 1997/98 school year, 14,042 injuries were reported, representing 0.9% of all students. A survey conducted in 1994 and 1998 on the health and health behavior of youth covered the subject of accidents in depth. (This survey was part of the international Health Behavior in School-age Children (HBSC) survey project of the World Health Organization (WHO), which facilitated comparison of the health and risk behavior of school-age children from 23 countries. Israel's participation in this international framework indicates its commitment to long-term, comprehensive monitoring of the health of children and youth.) It found that, as in other countries, a much greater number of injuries was reported by the youth in the survey than by the Ministry of Education and the Ministry of Health. This may be explained in part by differences in methodology and criteria: Information was gathered from youth using anonymous self-reporting, and the HBSC survey covered injuries that were less serious than those that require hospitalization or reporting by the Ministry of Education. According to the findings of the 1998 HBSC survey, some 55% of the sixth and tenth grade students who were interviewed said they had received an injury requiring medical attention at least once during the 12 months prior to the survey; this was the highest rate among the 12 nations that included this index in their study. Nevertheless, the rate of serious injury was relatively low in Israel, compared to other countries. According to the researchers, this reflects relatively high rates of use of and accessibility to health services (e.g., school nurses) in Israel for slight injuries, compared to other countries.

783. An inter-ministerial, multidisciplinary work group is comparing HBSC data with data from the Ministries of Education and Health, with the aim of developing a national strategy to significantly reduce injuries among children and youth.

784. Accidents are a primary cause of death among children over the age of one year in Israel: In 1996, about 20% of all deaths of children ages one-four and 21% of all deaths of children age five-14 were caused by accidents. The most frequent causes of accidental death were traffic accidents, drownings, falls and traumatic injuries, suffocation, poisoning and burns.

785. The Interdisciplinary Center for Child Education, Health and Safety at the children's hospital in central Israel conducts research, disseminates information, and makes policy recommendations aimed at reducing child injuries due to accident.

(e) Adolescent health behavior

786. In recent years, adolescent health has been the focus of much attention in Israel. In 1994, a survey was conducted by Bar-Ilan University and the JDC-Brookdale Institute in conjunction with the Ministry of Health and the Ministry of Education as part of the HBSC project (Harel et al., 1997). Its findings have been widely disseminated and discussed, and inform efforts to prevent injury and risk behavior among adolescents. This survey was based on the self-reports of some 8,000 Jewish students in grades six through 11. In 1998, a follow-up survey

was conducted that included a similar number of Israeli Jewish and Arab youth in grades six through ten. Below we present a number of findings from these two surveys, and indicate the trends they revealed regarding the health habits of youth in Israel.

(i) Nutrition and physical exercise

787. Both surveys found that 90% of the youth in Israel eat fruits and vegetables at least once a day - the highest percentage among all of the participating countries. On the other hand, the proportion of youth in Israel who consume food and drink that is rich in sugar or fat was large, compared to that in other countries. The amount of physical exercise engaged in by Israeli youth was relatively low, although many youth reported participating in passive activities such as watching television and playing computer games. Many girls in Israel reported that they did not engage in any physical activity, although they did report dieting to lose weight at a higher rate than did girls in any other participating country; most of them did this without professional supervision.

(ii) Smoking, and alcohol and drug use

788. The rates of smoking among Israeli youth are lower than those among European youth. Nevertheless, 13% percent of the boys and 6% of the girls in 11th grade reported smoking at least once a week. Twenty-five percent of the boys and 13% of the girls in tenth grade reported smoking regularly. It was of particular concern that 8% of the boys and 2.5% of the girls reported smoking at least once a week by the sixth grade. These percentages were much higher among the Arab population, where 14% of the boys and 5% of the girls reported that they smoke. In addition, there is a trend of decline in the age at which adolescents begin smoking.

789. The percentage of students who reported drinking alcoholic beverages at least once a month was already high in the lower grades (36% of the boys and 20% of the girls). This percentage increases with age, so that by tenth grade, 46% of the boys and 24% of the girls reported drinking alcohol at least once a month. Seventeen percent of the boys and 6% of the girls reported drinking heavily (five or more alcoholic drinks within a few hours) during the past month, and similar percentages reported having been drunk at least once in the past. (It should be noted that these were the lowest rates found among all of the countries that participated in the survey.) The rates of drinking and the amounts of alcohol consumed were higher for boys of all ages than for girls, although this gap narrows as age increases. In comparison with other participating countries, students in Israel begin drinking alcohol at an earlier age. However, as age increases, the percentage of those who drink grows slowly, such that adolescents in Israel have one of the lowest drinking rates of adolescents in all of the participating countries.

790. The 1994 survey revealed that 10.5% of the tenth and 11th grade students in Israel's State school system had used some type of illegal drug or pills during the past year (4.7% had smoked hashish or marijuana, 2.5% had taken L.S.D., 5.9% had taken speed or diet pills, 6.9% had taken sleeping pills or tranquilizers, 2.5% had used methadone, 2.8% had used opium, heroin, or "black tar", and 2.6% had used crack or cocaine). Some reported using the drug only once, while others reported wider use. For example, of those who reported using hashish, 33% said they had used it 25 times or more during the past year. The tendency to use drugs was found to be greater among students from a very good or a poor economic background, than among those

from a middle-class economic background. The survey findings corroborate those of a national survey on the use of addictive substances conducted in 1998 by the Drug Prevention Authority, a government agency that designs policy and disseminates information concerning the prevention of drug abuse (Drug Prevention Authority, 2000). According to the 1998 survey, 9.8% of all youth in Israel reported using some drug during the past year, while 87% of them reported being unwilling to try any drug. Among youth who neither attend school nor work, 31.6% reported using some drug during the past year, while only 57% reported being unwilling to try any drug.

(iii) Sexual behavior and birth control

791. The 1994 survey also examined the sexual behavior of youth in Israel. It found that 20% of the students in the tenth and 11th grades had already engaged in sexual intercourse, close to half of them with more than one partner. This rate was low, relative to the United States, where 50% of the youth reported thus. The survey also examined the practice of safe sex. Forty-three percent of the boys and 20% of the girls who were sexually active reported that they did not use a condom the last time they had sexual intercourse; 13% of the boys and 16% of the girls reported that they used no birth control measures whatsoever the last time they had intercourse.

792. The number of teenage pregnancies in Israel is low. An international comparison of live births among girls ages 15-19 revealed that the rate of girls in this age group who give birth in Israel is among the lowest of the countries participating in the study - an average of 6.0 births per 1,000 girls between 1990 and 1995 (Ben-Arie and Zionit, 1999). In 1998, some 700 minors gave birth in Israel, most of them Arabs. There were no births among minors under the age of 15. It appears that most of the minors who give birth are age 17 or 18, at which point they are legally entitled to marry. Most of the girls who give birth at a younger age are also married. (For information on permission for pregnant minors to marry, see Chapter IV.) It should be noted that in 1997 more than 1,000 girls age 18 or under applied to committees to terminate a pregnancy; more than half of them were under the age of 16, and most of them were unmarried.

Table 35

Live births among minors in 1998, by age, population group and marital status

	Total*	Age		
		15	16	17
Total	**725**	**36**	**164**	**525**
Population Group				
Jewish	181	10	41	130
Arab	540	26	123	395
Marital Status				
Unmarried	272	23	90	159
Married	424	13	70	341

Source: Ben-Arie and Zionit, 1999.

* Includes cases where religion or marital status are not known.

(iv) Emotional well-being

793. The HBSC survey also examined the emotional well-being of youth. Nineteen percent of the youth reported that they were not at all happy - the highest rate of all participating countries. About one-fifth reported being very happy.

794. Eighteen percent of the youth reported experiencing emotional symptoms (anger, nervousness, a bad mood) almost every day, and 40% reported experiencing physical symptoms (headaches, stomach aches, backaches, dizziness) more than once a week. Moreover, about one-fifth reported having difficulty falling asleep almost daily, and 28% reported feeling sleepy in the morning on their way to school at least four times a week. Israel was ranked sixth of 28 countries for this index. Rates of some of the physical and emotional symptoms reported by Arab youth were high enough to be cause for alarm. For example, half of the Arab youth reported experiencing physical symptoms, and one-third of them reported experiencing emotional symptoms.

795. The 1994 survey examined suicidal thoughts and acts among tenth and 11th grade students. The findings reveal that a relatively large percentage (17%) of boys and girls had seriously contemplated suicide during the previous 12 months. Nine percent reported devising a plan to take their life during that period, and 6% reported actually attempting to take their life at least once. As this subject was not part of the international survey, it is not possible to compare Israeli youth to those in other countries.

796. In 1997, 15 teen suicides and 234 attempted suicides (30 girls, 190 boys, and the remaining genders unknown) were reported to the Ministry of Health. It is assumed that the actual totals were higher, as not every attempted suicide is identified and reported as such.

(f) Dental health

797. In a number of surveys conducted from the late 1980s to the early 1990s, it was found that the average number of teeth affected by tooth decay among children up to age seven ranged from 2.7 to 3.6; among children ages 12-13 it ranged from 1.9 to 3.0. This is recognized as a major area of concern. It should be noted that, in recent years, efforts to fluoridate Israel's drinking water have increased; by 1996, 47% of Israel's population resided in towns that had optimum levels of fluoride in their drinking water (Ministry of Health, 1997). It should be noted that there are no public dental insurance programs in Israel, although there are some subsidized clinics.

(g) Traditional customs that may affect a child's health

798. Although no definite information exists on its prevalence, female circumcision is apparently an accepted practice among a number of Bedouin tribes in southern Israel. Recently, a bill was proposed to forbid female circumcision. Almost 100% of the country's Jewish and Moslem newborn males are circumcised for religious reasons. Some Christian infants are

circumcised for health reasons. Most circumcisions are conducted by ritual circumcisers, in some cases with medical supervision. Injuries to the child's health due to circumcision are apparently rare. Nevertheless, there have been calls to raise the standards for licensing, training and supervising ritual circumcisers.

2. Health and preventive services for children

799. This section will examine the extent to which Israel's health system complies with the Convention's stipulations for meeting the health needs of children, and the extent to which health services are accessible to children.

(a) The legal and organizational status of the health system in Israel

800. Health services in Israel are provided under the National Health Insurance Law, which was first implemented in 1995. However, the existing health system can trace its roots to the 1920s, well before the founding of the State in 1948.

801. Before National Health Insurance Law 1994, 97% of Israel's population had health insurance coverage through one of four sick funds (Rosen, 1994). According to estimates, between 200,000 and 300,000 people (including 90,000 children) did not have health insurance, some because they could not afford it, and others because they preferred private insurance. Health services, as well as health insurance, were provided by Israel's four sick funds, which were established prior to 1948. The services provided by the sick funds were financed by membership fees, payments by employers, and government subsidies. The Ministry of Health supervised the provision of services, and itself provided some of the country's hospital, public health, preventive, mental health, and long-term care services.

802. The National Health Insurance Law stipulates that all of Israel's residents are eligible for health services based on principles of justice, equality, and mutual assistance. The law mandated the provision of a basket of health services, which are largely provided by sick funds - non-profit corporations whose income is used to provide these services. The government finances health services, primarily through an earmarked, progressive tax paid by all residents. Nonetheless, non-payment or late payment does not exempt the sick funds from their obligation to provide health services. Sick funds are forbidden to reject applicants on the basis of age, health status or place of employment. The law further stipulates that health services must be provided while maintaining human dignity and the patient's right to privacy and medical confidentiality. Residents age 18 and over must register themselves and their minor children with a sick fund of their choice. Sick funds receive payment from the government for each individual member, regardless of his family's income. An age coefficient sets a higher rate of payment for preschool children and the elderly, who make greater use of health services. This was meant to give the sick funds an incentive to address the needs of large, low-income families, many of which are minorities.

803. Following public debate, the Knesset finance committee allowed sick funds to charge their members supplemental fees, so as to increase competition and curb the wasteful use of health services. People with low income are exempted from paying supplemental fees, although the exemption does not cover the entire low-income population - especially large families in which the head(s) of the household are employed. This arrangement gives the sick funds an incentive to serve populations that can afford to pay the supplemental fees. The implications of this for children have yet to be studied.

804. Studies conducted following the implementation of the National Health Insurance Law revealed that 40% of the respondents sensed an improvement in health services (Berg et al., 1996, 1998; Farfel et al., 1997). (A small proportion reported sensing a decline in health services, while the remainder sensed no change.) Arab respondents reported the most significant improvement, corroborating findings regarding the increased competition among sick funds in development towns and Arab towns and villages.

805. Under section 6a of the law, the basket of services must cover the following areas of health service:

1. Individual preventive care and health education

2. Medical diagnosis

3. Ambulatory medical care, including psychiatric care, whether in a clinic, at home, or in an institution (e.g., old-age home, day care center)

4. Acute, psychiatric, and psycho-geriatric hospitalization, and chronic nursing care

5. Rehabilitation, including medical and psychological rehabilitation, physical, speech, and occupational therapy, and social work in the area of speech

6. Medications

7. Medical instruments and assistive devices

8. Preventive dental care for children up to an age specified by regulations

9. First aid and transportation to a hospital or clinic

10. Medical services at work

11. Medical and psychological care for addicts and alcoholics undergoing rehabilitation.

Some aspects of the law are still being implemented.

806. In 1998, the national expenditure for health was 8.4% of Israel's Gross Domestic Product, compared to 7.5% in 1991. Health services are provided through two large sub-systems of equal size: the ambulatory system (i.e. clinics and preventive services), and the hospital system. Community health services are provided by the sick funds through neighborhood clinics. At the end of 1997, there were 3.8 physicians per 1,000 residents in Israel - one of the highest ratios in the world (Kop, 1999).

807. In 1995, Israel had 15.7 pediatric beds in general hospitals per 1,000 children age 14 and under (Ministry of Health, 1998). A number of years ago, a children's hospital was established in central Israel; it also serves as a multi-regional center. Nevertheless, there was a decline in pediatric beds, hospital days, and the average length of hospital stay as a result of the system's efforts to transfer pediatric care to clinics in the community. As part of this trend, sick funds have established child health centers, which are staffed by pediatricians, and various hospitals around the country have established special children's centers to treat children at risk (e.g., the Child Welfare Unit at the B'nei Zion Hospital in Haifa). In addition, sick funds have established a system of after-hours emergency services in the community, which they hope will reduce public reliance on emergency rooms. Although this service is provided for a fee, children pay less than do adults.

(b) Preventive services

(i) Preventive services for young children

808. As noted elsewhere in this report, family health centers attend to the welfare of pregnant women and children from birth to age five, offering pre-natal examinations, inoculations, early detection of physical and emotional disabilities, health education, and counseling. In addition, they identify families that are unable to provide proper care for their children and refer them to the social welfare system. There are about 1,000 such centers throughout Israel, most of them under the purview of the Ministry of Health or the municipalities, and some under the purview of the sick funds. Family health centers are staffed by nurses, gynecologists and pediatricians. Most routine work is performed by the nurses, who have been trained in public health. One nursing position is budgeted for every 180 infants born annually in a center's jurisdiction, such that nurses are responsible for pregnant women and a total of about 600 infants and young children newborn to age five. Service is universal and contingent upon payment of a health fee that covers part of the cost of the service. Parents who are unable to pay may obtain an exemption. Family health centers are located in and are accessible to the community. Most of the nurses become acquainted with the families during pregnancy and the early stages of child development. Families perceive these centers to be a source of support, and nearly the entire population uses them. It is estimated that 95% of all families of child rearing age visit a family health center from the beginning of pregnancy through a child's first two years of life; the rates of use decline after a child has reached the age of two and a half.

809. Family health centers provide a pregnant woman with preventive care by monitoring her weight, blood pressure, urine, and blood count; screening for birth defects; and counseling her regarding nutrition, smoking, and preparation for birth and motherhood. Preventive care for the infant includes inoculations, nutrition counseling, testing and counseling concerning child development, identifying hearing and vision problems, and health education.

810. In 1997, between 92% and 95% of all two-year-old children received their four primary inoculations at a family health center. Since some children are under the care of a private clinic, it is assumed that the actual rate of inoculation is even higher. The rates of inoculation were similar among Jews and Arabs.

811. When developmental problems are suspected or identified by a center's primary care physician or nurse, the children are referred to a center for child development. Centers for child development offer early diagnosis, counseling and care for children up to age five (and, in special cases, older children) who may have a developmental or functional disability. Their multi-professional staffs provide diagnostic and paramedical services, and sometimes support and training for parents. Children over age five who need care are usually referred to a special education or other medical framework.

(ii) Preventive programs for special populations

812. Programs for New Immigrants: From the beginning of the 1990s to the end of 1998, some 900,000 immigrants, about 230,000 of them children, arrived in Israel from the former Soviet Union and Ethiopia. A number of special programs were developed for these immigrants. Health programs for women and elderly people from the former Soviet Union were prepared in Russian, and family planning clinics were provided with additional, Russian-speaking staff.

813. A significant number of Ethiopian immigrants arrived in the 1980s, and an additional group of immigrants from Ethiopia arrived in 1992. In all, there are some 70,000 Ethiopian immigrants now in Israel, approximately 60% of them under age 18. As most of this population came from rural areas in Ethiopia, special effort was required to acquaint them with the Israeli health system and teach them health habits suited to their new environment. This effort was stepped up in the 1990s on the initiative of the Ministry of Health and JDC-Israel, which developed a number of programs that were operated through district health bureaus and family health centers. Outreach to the Ethiopian immigrant community using "facilitators" fluent in Amharic and familiar with culturally sensitive terminology that the immigrants could understand emphasized preventive services for pregnant women and children. Health education programs are now being implemented by skilled individuals from the Ethiopian community who have been in Israel for a decade, speak both Hebrew and Amharic, and understand Ethiopian culture. These programs increase the response rate to inoculations and preventive care, and are changing health behaviors (e.g., improving nutrition, preventing home accidents), especially among children.

814. As the proportion of people with the AIDS virus is relatively high among Ethiopian immigrants, efforts have been made to prevent contagion within the community and to treat those who are HIV-positive. Educational materials have been prepared in Amharic, and Ethiopian immigrants have been trained to instruct youth and adults. In 1997, the decision was made to use "facilitators" from the Ethiopian immigrant community to make contact with Ethiopian immigrants who have AIDS or are HIV-positive; the facilitators help these patients communicate with the professional staff at AIDS treatment centers and teach them how to keep from spreading the disease. In addition, funds have been invested in a health education program on AIDS used in schools and the army, and seminars on Ethiopian culture that are meant to help teachers, social workers, physicians and nurses serve this population more effectively.

815. Programs for Bedouin: Special programs have been developed for the Bedouin population, the majority of which resides in the south of Israel. One noteworthy project is an educational program sponsored by the Ministry of Health, which aims to reduce the birth rate among very young women and to reduce infant mortality among risk groups. The project attempts to increase awareness of the dangers inherent in intra-family marriage (which is prevalent in this population), the need to monitor pregnancies, and the need to inoculate children.

(iii) Additional programs

816. Health education programs on preventing accidents in the home, at school and on the roads are conducted at family health centers. In addition, some of the centers offer enrichment programs, programs to improve children's cognitive development, and parenthood preparatory programs, in cooperation with social welfare services. Special programs designed to increase the centers' effectiveness in their work with families and children at risk are presently being implemented nationwide.

(iv) Promotion of breastfeeding

817. The State of Israel is a cosignatory of the 1990 WHO- and UNICEF-sponsored "Innocenti Declaration", whose aim is to promote breastfeeding. In compliance with the declaration, Israel has placed limits on advertisements for and efforts to market baby formula in maternity wards, although these are apparently not strictly enforced. Between 1994 and 1996, the Department for the Mother and Child of the Ministry of Health conducted a comprehensive survey of hospital support for breastfeeding. The survey revealed that only eight of the 29 hospitals exceeded the international average score for following the recommendations of the Innocenti Declaration. On the other hand, the survey found that two-thirds of the mothers were allowed to hold their babies immediately after birth. All of the hospitals reported having informational material on breastfeeding, though it was not of uniform quality and contained inaccuracies. Also, hospital counseling and instruction for mothers was found to be ineffective. An independent association at the Interdisciplinary Center for Child Education, Health and Safety at the children's hospital in central Israel is working to improve the situation by preparing a kit for nurses with the latest information on breastfeeding. Also, a WHO course on breastfeeding has been approved and will be taught to public health nurses. A special committee at the Ministry of Health is formulating a change of policy on breastfeeding. The Ministry is also working to ensure that there is a salaried breastfeeding counselor in every hospital.

818. In 1998, the National Commission on Child Medicine, which operates within the Ministry of Health and examines policy concerning children's health, established the committee for the promotion of breastfeeding, whose goal is to encourage breastfeeding, in part by creating conditions that will make it easier for mothers to breastfeed their children (e.g., longer maternity leave, private rooms in work places where mothers can pump milk, etc.).

(v) Preventive services for school children

819. Health services for elementary and secondary school students in Israel are financed by the State. The Supreme Court has ruled that the State may hire contractors through public tenders to provide these services.

820. Health services are provided in elementary schools by public health nurses and physicians. Officially, one public health nurse is employed for every 1,800 students, and one physician for every 6,000 students. In elementary schools, the nurses conduct routine examinations, such as testing vision and hearing and measuring height; give inoculations; and teach nutrition, personal hygiene, and sex education. Although the Ministries of Education and Health stipulate that health education lessons be held weekly, a shortage of nurses impedes this.

821. The health services provided in secondary schools are primarily educational and focus on preventing drug and alcohol addiction and communicable diseases such as AIDS, and on safety and accident prevention.

822. Despite government financing, parents are charged a fee for dental health services. There are reports, however, that local authorities with populations of limited means and little awareness of the importance of preventive dentistry find it difficult to collect this fee; consequently, services are not provided.

823. In addition to the health services provided at schools, preventive services are offered to adolescents through specialty service centers, which are financed by the Ministry of Health, social welfare agencies, and Clalit Health Services. These centers specialize in adolescent health and provide sex education, medical testing, and treatment of problems that arise during adolescence, such as acne and weight problems.

824. In recent years, youth counseling centers have been established throughout the country to provide youth with instruction, counseling and referral in a variety of areas, including health.

(c) Psychiatric services

825. Psychiatric services, including diagnosis, counseling, psychotherapy and parental guidance, are provided by mental health clinics for the child and adolescent, or by hospital outpatient clinics serving special areas. The clinics usually operate free of charge or charge a nominal fee. Nevertheless, professionals have noted serious gaps between available psychiatric services and the needs of the community. Moreover, it has been an issue of some debate that existing clinics primarily serve middle class families, and are unavailable to those who truly need them or are in distress. This is primarily because these clinics do not reach more problematic populations, including families that do not cooperate or that have multiple problems. In recent years, the Ministry of Health has made an effort to improve psychiatric services for children and youth. For example, it has established two child psychiatric centers in two cities in the south, to remedy the lack of services in this region. This represented a commitment to inter-organizational cooperation, as well as to work with at-risk and distressed populations.

826. Every year, a small number of children are hospitalized in special wards at psychiatric hospitals (in 1998, 230 children were admitted to psychiatric hospitals). In recent years, following criticism over the unnecessary hospitalization of youth and the lack of alternative frameworks, health and social welfare services have begun to cooperate in establishing out-of-home frameworks as an alternative to hospitalization.

(d) The accessibility of services

827. The physical accessibility of services is expressed in data on the geographic distribution of physicians in Israel, which greatly corresponds with the distribution of hospital beds and medical infrastructure in general. Data from the Central Bureau of Statistics reveal that the north and south of the country have a smaller number of physicians per 100,000 population, and that children newborn to age four in these regions visit physicians less frequently than do their peers elsewhere in the country. The findings of an analysis conducted in 1996 support the assumption that the number of physician visits is related to the availability of services, and that these two variables are linked to income or the socio-economic status of a given town or region.

Table 36

Distribution of physicians and number of physician visits by children newborn-age 4 in 1993, by area of residence

Area of residence	Children's visits to a physician during a three-month period, per 100 000 population	Number of physicians per 100 000 population
Jerusalem	290	485.4
North	378	266.0
Haifa	436	482.7
Central Israel	531	475.0
Tel Aviv	543	517.3
South	379	323.9

Source: Kop, 1997.

828. Data from the early 1990s reveal gaps between health services in the Jewish and Arab sectors, for indices such as the number of physicians per 100,000 population and the level of services. However, it should be noted that since 1993, the Ministry of Health has earmarked funds for the construction of new family health centers in Arab towns and villages, and for "closing the gap with the Arab sector" in preventive care. As noted, one of the main implications of the National Health Insurance Law was an increase in the incentive to provide services to low-income populations; a survey of sick fund members on the improvement of services since implementation of the National Health Insurance Law found the greatest level of improvement reported by the Arab population.

829. One group with particular problems gaining access to medical services is that of the Bedouin who reside in villages that are not recognized by the government. Only four clinics serve the nearly 50,000 people who reside in these villages. Not one of the villages - one-quarter of whose population are children age four or less - has a family health center. Under contract to the Ministry of Health, the Galilee Society - The Arab National Society for Health Research and Services has been operating a mobile clinic in these villages; however, the Ministry of Health has not approved extension of the contract. In response, a petition has been filed with the

Supreme Court, in its role as a high court of justice, to force the State to construct permanent clinics. The Ministry of Health has countered that 84% of the infants in these villages receive preventive medical care, and that residents can receive services at centers located six kilometers away. The Ministry further responded that because the villages are illegal, it is under no obligation to provide services within their boundaries, and that the residents therefore have no legal basis to claim discrimination. The Supreme Court justices refused to accept the claim that children need not be provided with preventive medical services merely because they reside in unrecognized settlements. Following the court's decision, the Ministry of Health agreed to construct six family health centers in these villages; however, this has yet to be done. The Ministry of Infrastructure has begun efforts to find a comprehensive solution to the problems of these villages, which will presumably also solve the problem of provision of health services.

830. An additional problem in implementing the National Health Insurance Law concerns the children of residents of East Jerusalem (whose population is Arab). The 1997 report of the Ombudsman for the National Health Insurance Law lodges a number of complaints concerning children, especially in cases where one parent resides in East Jerusalem and the other in territories controlled by the Palestinian Authority. While the National Health Insurance Law covers all residents of the Israel, approval of residency by the National Insurance Institute can take time (an average of 59 days, according to the ombudsman's report); in the interim, the child does not receive health services. It is the opinion of the ombudsman that the sick funds must provide health care during this period, particularly for children, and especially if failure to provide health services endangers the child's life. It should be noted that in 1997, the ombudsman's office intervened in a number of cases in which children's lives were endangered due to a lack of medical care; ultimately, care was provided free of charge. The ombudsman favors the long-term solution proposed by the head of the Ministry of Health's Division of General Medicine, according to which a child born to a mother who resides in East Jerusalem and a father who resides in an area controlled by the Palestinian Authority will automatically be eligible for all services provided by the mother's sick fund, including preventive services, until his residency is approved by the National Insurance Institute. In response to a petition by several civil rights organizations, the Supreme Court recently instructed the National Insurance Institute to make administrative arrangements that will enable the children of such parents to receive medical care from birth.

831. In recent years, a great many foreign workers have come to Israel. Some of them live and work in Israel legally, while others do not. It is estimated that they have a total of between 2,500 and 3,000 children, who live with them in Israel. The National Health Insurance Law does not cover these workers or their children, regardless of whether they are in the country legally or illegally. Some workers are insured by their employer, through a commercial insurance agency. Many of their children have no health insurance whatsoever; medical care exclusive of emergency treatment is usually provided for fees that the workers cannot pay. Family health centers provide preventive treatment to foreign workers who are mothers, and their children. In Tel Aviv, where most of the foreign workers reside, Physicians for Human Rights has established the country's first clinic for foreign workers. Family physicians, pediatricians and general practitioners, as well as hospital and sick fund nurses, volunteer their time at this clinic, which is open three days a week and offers low-cost primary medical care to legal and illegal foreign workers.

832. Human rights organizations, including the National Council for the Child, Physicians for Human Rights, and the Association for Civil Rights in Israel, have asked the Minister of Health to use his discretionary power to extend national health insurance coverage to the children of all foreign workers. They believe the Minister should declare that the rights accorded by law extend to all children born in Israel, for as long as the child resides in the country, regardless of his parents' status, as well as to any child who stays in Israel longer than three months.

833. In July 2000, the Foreign Workers' Law took effect. Under this law, the Minister of Health must define a basket of services that insurance companies will be required to provide foreign workers. Guidelines for defining the basket have yet to be formulated. A contractor has been chosen to provide health care to the children of foreign workers. A Knesset committee is monitoring the provision of health care to foreign workers and their children, and will determine if additional steps need to be taken.

3. Environmental factors that affect health

834. Environmental regulation is the responsibility of the Ministry of Health and Ministry of the Environment.

(a) Water quality

835. Virtually every home (99.8%) in Israel is connected to the country's central water network. Great effort is invested in preventing water contamination, with monitoring that includes routine examinations for salinity and chemicals according to standards recommended by the WHO. In recent years there has been a downward trend in the percentage of bacterially contaminated drinking water samples, from 7.6% of all samples in 1990 to 2.3% in 1995 (Ministry of Health, 1998b).

836. The individual dwellings of the 50,000 Bedouin who reside in unrecognized settlements are not connected to the water system. Every Bedouin encampment that requests water is linked to the national network; residents pump water from central holding tanks and bring it home by automobile or camel, or on foot. The following steps are taken to avoid water contamination in this region:

- Routine testing is conducted
- Running water is provided in every Bedouin school
- Pamphlets on the prevention of water contamination are distributed.

837. The issue of drinking water will be addressed as part of the initiative to find a comprehensive solution to the problems of unrecognized Bedouin settlements.

(b) Air pollution

838. Awareness in Israel is increasing of the harmful effect that the release of pollutants into the air has on health, especially that of children. The level of air pollution is not uniform nationwide: Between 1986 and 1993, a number of geographic areas were found to have exceptionally high levels of sulfur dioxide, nitrogen dioxide, ozone and ash. In 1994, new national policy regarding air quality was introduced, including the legislation and enforcement of air quality standards, continuous monitoring of air quality, and a reduction in sources of pollution. As of 1994, 63 monitoring stations were in operation; however, this was not sufficient basis for a national air pollution program. Consequently, Israel is formulating plans for 50 additional monitoring stations and a central data base (Ministry of Health, 1998b).

4. Considering the views of the child in the medical process

839. According to article 12 of the Convention, "a child capable of forming an opinion should be given the right to freely express it for any issue concerning him, with due weight being given his opinion based on his age and level of maturity" (see Chapter IV).

Medical ethics

840. While ethical guidelines issued by the Israel Medical Association cover all human beings who require medical care, including children, they also specifically address children. Section 32 of the guidelines stipulates that, in an emergency, a physician must provide medical care to a minor even without the express permission of his parent or guardian, and must consider the minor's opinion if he is able to express it. Section 33 of the guidelines requires a physician to consult with the authorities, and in exceptional circumstances to use his own judgment even if he cannot consult with the authorities, if a parent or guardian refuses to allow a minor to receive treatment and the physician is convinced that non-treatment will endanger the minor's life.

841. The Israel Medical Association helped draft a proposed declaration on the rights of the child patient, which was sent to the World Medical Union. The declaration, based on the UN Convention on the Rights of the Child, emphasizes a child's right to life and health, and respect for his views regarding medical procedures.

C. Article 26 of the Convention - Social security

842. During the 50 years since its establishment, Israel has gradually developed as a welfare state. During this period, Israel has managed to build an extensive system of social security and income support, as well as a national system of welfare services in the framework of the health and education systems, to meet the needs of vulnerable populations. These are described in the various sections and chapters of this report.

843. This section will examine the degree to which children in Israel benefit from the right to social security, while taking into consideration the situation of the child and that of the people who are responsible for his livelihood, according to article 26 of the Convention. In this section, we will describe the social security and other mechanisms that secure a reasonable standard of living for children. (See Chapters VII and IX for further information about services and institutions that help working parents care for their children (article 18(3) of the Convention).)

1. The National Insurance Institute

844. The National Insurance Institute is a statutory corporation charged with implementing the National Insurance Law [Consolidated Version] 1995, and other laws that grant residents of the State social benefits and other transfer payments. The National Insurance Institute collects social security payments from the public, and pays benefits to people eligible for them by law. Some of these are short-term benefits meant to replace the salary of a person who temporarily finds himself outside the work force (whether because he has been fired or injured on the job, has given birth, or is doing reserve army duty). Others of these are long-term benefits intended to ensure a minimum standard of living for people who have been forced to permanently leave the work force (because of age or disability), surviving relatives who have been left without a primary breadwinner, and families that cope with the economic burden imposed by raising children. Benefits that replace salary are set as a (fixed or progressive) proportion of the salary of the beneficiary prior to the event that made him eligible for the benefit, such that its level changes from one individual to the next. Long-term benefits, in contrast, are set as a certain proportion of the average market wage, with the exception of child allowances, which are set at fixed rates that are linked to the Consumer Price Index. The level of these allowances depends on the composition of the family. Families of limited means, whose allowance is very low or who do not meet the eligibility criteria for this benefit under the National Insurance Law, are eligible for an income support benefit under the Assurance of Income Law 1980. This law was intended to be an economic safety net for those needy who cannot, either by themselves or with the help of some benefit, meet their basic needs. The law created a continuum of eligibility for receipt of payments from the social security system, and ensures a minimum income for every family in Israel, whose amount is set as a fixed percentage of the average wage as determined in the National Insurance Law.

845. Social security payments are collected from salaried employees, from employers, from the self-employed, and from those who are not employed. The government also participates in some branches of insurance and finances in full the benefits that are paid not under the National Insurance Law, for which social security payments are not collected.

846. In 1999, collection from the public for the various branches of social security was 4.5% of the Gross Local Product. During that year, the primary branch of the National Insurance Institute was that of aging and surviving relatives (34% of the Institute's payments were to recipients of old age and survivors' benefits). Children's allowances were second in size, reaching 18.8% of all benefit payments in that year. (All of the data in this section were taken from the National Insurance Institute Statistical Annual, 1999.)

2. The system of benefits

847. Below we will describe the benefits relevant to the social security of children, including the conditions of eligibility, the populations that benefit, and the percentage of recipients. Some of the benefits are paid directly to families for the support of children; others are paid to the person eligible due to temporary or permanent loss of salary, but are also intended to support his dependents, including children. We will then discuss eligibility for social security and realization of rights. Lastly, we will address the degree to which all benefits, alongside other arrangements, help children and their families to maintain a basic standard of living.

848. Most benefits are paid independent of income on a universal basis. This is for fear of the disturbance of social solidarity caused when the entire population makes social security payments, but only some of the population receive benefits; the affront to dignity caused when social security, health and welfare services are limited to the poor only; and the fear that the necessity of meeting an income test in order to be eligible for benefits will prevent the weaker strata of society, which are most in need of benefits, from realizing their right to them.

(a) Benefits directly related to children

849. Children's allowance: The children's allowance is a monthly allowance paid to a family according to the number of children in it. The allowance is determined according to benefit points assigned per child. At the end of 2000, a law was passed that increased the number of benefit points per child for families with four or more children, beginning with the fourth child. This change has aroused much public debate. Since 1987, the benefit points have been updated for the full increase in the Price Index at the beginning of every year (January) and whenever a cost of living increase is paid to all of the employees in the market. In order to ease the burden on families, the hospital automatically informs the National Insurance Institute of every birth; payment of the children's allowance is transferred to the mother's bank account. Since close to 100% of the mothers in Israel give birth in the hospital, this mechanism ensures maximum fulfillment of the right to the benefit. In 1999, about 890,000 families received children's allowances every month, for 2,000,000 children.

850. Disabled child allowance: This allowance is intended for families that care for a disabled child, to ease the burden of personal and nursing care. The levels of the allowance are determined by the child's level of dependence on his parents in order to function, the child's age, school attendance/education, and the type of illness or disability from which he suffers. About 14,100 children received this benefit in 1999. (See the section on children with disabilities, above.)

851. Maternity insurance. As part of maternity insurance, women who have given birth are entitled to the following benefits:

(a) Hospitalization grant - this is meant to cover the expenses of the birth, and of the hospitalization of the mother and baby (including premature babies); it is paid directly to the hospital. A woman who gives birth abroad is also eligible for the grant, which is paid directly to her after she has filed a claim. A woman who is not a resident of Israel but who has worked in

Israel, or whose spouse has worked in Israel for at least six months prior to the birth, and who gave birth in Israel, is also eligible for this grant. The sum of the payment is updated according to the cost per hospital day, which is determined by the Ministry of Health;

(b) Maternity benefit - this benefit is paid for 20 months to families in which three or more children are born during one birth (that is, triplets or more), in order to help the family cope with economic hardship. The mother is eligible for a monthly maternity benefit for nine months;

(c) Equipment grant - this grant is intended to cover initial equipment for the baby, and is paid directly to the mother. The grant is 20% of the average wage. When two or more children are born during one birth and remain alive for a period of time determined by law, the equipment grant is higher: for twins, 100% of the average market wage, and for each additional child, 50% of this wage;

(d) Maternity leave allowance - this is an income replacement allowance. It is meant to compensate the working mother for the loss of wages during her maternity leave, which she is required to take under the Employment of Women Law. Women who are eligible for this allowance are mothers who work for a salary, who are self-employed, or who are undergoing vocational training and for whom, during the period prior to the birth, social security payments were made for periods of time determined by law. The maternity leave allowance is paid for six or 12 weeks, depending upon the length of time a woman paid into social security prior to taking maternity leave. As of October 1994, maternity leave allowances were 75% of a mother's average daily wage during the three months that preceded her cessation of work. Since November 1994, the maternity leave allowance has been paid according to 100% of a mother's average daily wage during the three months that preceded her cessation of work, minus income tax, social security and health tax payments. As a result, the real level of the average maternity leave allowance per day in 1995 was 53% higher than it was in 1994;

(e) Pregnancy benefit - this is an income replacement benefit, which is intended to support employed women who for reasons related to their pregnancy are forced to cease working for 30 days or more and for whom no social security payment is being made by their employer or any other agent. The rate of the benefit is the woman's average wage during the three months that preceded her cessation of work.

852. In 1999, hospitalization and equipment benefits were paid to 129,000 mothers. During that year, 65,000 women received a maternity leave allowance.

(b) Benefits for eligible persons and their dependents

853. Unemployment benefits. Unemployment insurance grants eligibility for unemployment benefits to people who worked for a minimum of six months during the year that preceded their unemployment, or for a year and a half prior to their unemployment. Claimants are eligible to receive unemployment benefits for a maximum of 138 days, or 175 days if they are age 45 and over or have at least three dependents. The amount paid per day is calculated at rates determined by law on the basis of the average daily wage of the beneficiary during his last 75 days of employment.

854. In 1998, about 112,000 children lived in families in which at least one of the parents received unemployment benefits. These children represent 5.4% of all of the children in Israel. In recent years, there has been an increase in the percentage of children who live in families that receive unemployment benefits.

855. Work injury benefits. Work injury benefits grant an individual who has been injured on the job the right to receive benefits based on the outcome of the injury. Also in this framework, a benefit is paid to relatives of people who were killed on the job, if those relatives were dependent on the deceased for their income. The full amount of this dependents' benefit is 75% of the deceased's salary. The partial amount of this benefit depends on the number of dependents: A widow with three children is eligible for the full benefit.

856. General disability pension. The disability pension is paid to individuals who as a result of a physical, mental or emotional disability can not and do not earn a salary that exceeds 25% of the average wage. A supplement of 10% is provided for each of the two first children.

857. Survivors' pension. This pension is paid to survivors of individuals who have died. The rate of the pension is paid as a fixed percentage of the average wage, according to the composition of the family: A widow or widower with one child receives 16% of the wage; an additional 7.5% is paid for each additional child. A child who does not have parents, or whose living parent does not live in Israel, receives 10% of the wage. If both of his parents have died, the child is eligible to receive two survivors' pensions. In addition, living expenses are paid at a rate of between 6.5% and 9% of the average wage to orphans who spend the majority of their time in secondary school or vocational training.

858. Income maintenance. Income maintenance is intended to be a safety net for individuals and families whose level of income, with or without the other income replacement benefits, does not enable them to maintain a minimal level of existence. This benefit is provided under the Assurance of Income Law 1980. Among those eligible for the benefit are families with no wage earner, and families whose wage-earners work for low wages. Eligibility for the benefit is conditional on both a means test and an employment test: Recipients of the benefit are required to make an effort to become integrated into the work force. Only women with young children (under age 7) are exempt from the employment test. Pregnant minors and orphaned or neglected children are also eligible for this benefit. The benefit rate is dependent on family size and composition. The maximum benefit - paid to a widow(er) with at least two children - is equivalent to 52.5% of the average wage.

859. In 1998, 190,488 children (9.2% of all of the children in Israel) lived in families that received an income support benefit. Forty-eight percent of these children lived in families that received this benefit because they had no wage earner. About 21% of them lived in families that received this benefit because of low wages. Between 1990 and 1998, there was an increase of 133% in the number of children living in families that receive income support benefits, which is explained primarily by the mass immigration during this period.

860. Alimony insurance. The Maintenance (Assurance of Payment) Law 1972 ensures payment to women who are divorced, separated or in other circumstances, and to whom the court has awarded alimony but who are not receiving said alimony because the individual required by law to pay it is not fulfilling his obligation. A child is also eligible for this benefit if an alimony ruling has been made in his favor and he is not in the custody of his mother, and his maintenance is not being paid by the State or a local authority. The rate of payment is determined as in the alimony ruling, but is not to exceed the amount set in the regulations. The rate of alimony payments set in the regulations is equivalent to the rate of the income support benefit for widows, depending on the number of children in her custody.

(c) International conventions

861. Israel is a party to multilateral international conventions with most of the European countries, which ensure the payment to residents of those countries who migrate from one country to another, and in some cases to stateless refugees. In addition, Israel has signed a multilateral convention on the preservation of the right to benefits of migrants, and a multilateral convention on the legal equality of citizens and non-citizens in social security.

3. Recent changes in benefit payments

862. Benefit payments often undergo changes. Some of these changes are a result of the desire to reduce the public expenditure involved in payment, while others are directed at ensuring the efficiency of the benefits in maintaining a basic standard of living for the entire population. Following are the primary changes that have been made in recent years.

(a) Elimination of the means test for the children's allowance

863. In 1985, the decision was made that families with up to three children whose level of income was above a certain threshold would not receive a benefit for their first child, and in 1990, the decision was made to eliminate this benefit for the second child, as well. In 1993, the payment of the benefit to all small families was renewed, without a means test. As a consequence, in that year the number of families and children who received such benefits increased by 50%.

(b) Equalizing the children's allowance for people who did not serve in the army

864. In the past, a supplement to the children's allowance was paid to families in which at least one member had served in the army. The "eligibility points" provided for the fourth child and additional children thereafter were higher for families in which at least one member had served in the army. Since most of the Arab population is exempt from military service, the benefits that were paid to that population were lower than those paid to the Jewish population. In addition, the families of new immigrants, some of which (especially those from Ethiopia) had many children, also did not benefit from the supplement.

865. In January 1994, a process was begun of unifying the children's benefits for all families that receive them, unconditional upon military service. This change, which was completed in 1997, equated the level of the benefit for all families, by increasing the level of the benefit paid to about 100,000 families with three or more children (for example, a family with four children now receives a benefit that is 60% larger than in the past).

(c) Benefits to low income groups

866. In recent years, legislative efforts have been made to reduce the extent of poverty among children by increasing selected benefits. Following the Reduction of Poverty and Income Disparity Law 1997, and the Reduction of Poverty (Supplementary Measures) Law 1995, benefit points were increased for the fourth, fifth and sixth child in a family, and supplements were increased for the first and second child in about 50,000 "special" families (e.g., in which someone was disabled, the woman was receiving alimony, there was only one parent). In addition, payment of the supplement for a child, which is granted to recipients of the survivor's pension, was expanded to each child (without limitation on their number), and disability benefits were increased for approximately 90,000 families of disabled persons. Finally, the level of benefits paid to single-parent families in which the parent is not defined as being the sole parent (e.g., women who are separated, or who have been abandoned, or whose husbands are in prison) were brought up to the increased rate, such that almost all (de jure and de facto) single-parent families became eligible for an income supplement at the increased rate. As a result, about 3,000 single-parent families benefited from a supplement to their benefit of up to 50%.

867. As noted, the children's allowance is paid on the basis of "eligibility points", which are allocated to each child in a family. The greater the number of children in a family, the more "eligibility points" the family receives, both because of the large number of children and because of the larger number of "eligibility points" allocated to each successive child, beginning with the third child. One of the main problems with the children's allowance is its inability to maintain its value over time, relative to market wages, as it is linked to the Consumer Price Index and not to the average market wage, like the other benefits. Thus, its ability to maintain a given relative income standard has declined very significantly. According to data from the National Insurance Institute, in 1975 the value of an eligibility point was 4.4% of the average wage, while in 1990 it was worth 3.0% of the market wage, and by 1997 it was worth only 2.7% of the market wage.

4. Additional mechanisms that ensure a minimum standard of living for the employed

(a) Minimum wage

868. The system of ensuring a reasonable standard of living for employees (including employees with children) is the minimum wage, which was instituted in Israel by the Minimum Wage Law 1987. The rate of the minimum wage is presently 47.5% of the average market wage. However, this law has not been sufficiently enforced, and there are many employees who earn less than is stipulated by the law.

(b) Tax breaks

869. The tax system in Israel is progressive. In addition, the tax system provides discounts, dispensations, and tax breaks to working women, single-parent families, and so on.

D. Article 27(1)-(3) of the Convention - Standard of living

870. Below we will examine the degree to which the State of Israel recognizes the right of every child to a standard of living that is adequate for his development, the degree to which the mechanisms described in the previous section help ensure this right, and the degree to which additional steps are taken to assist those who are responsible for the child, especially regarding nutrition, clothing and housing, as required by article 27, sections 1-3 of the Convention on the Rights of the Child. We will also examine efforts to ensure this right to all segments of the population.

1. Recognition of the right to an adequate standard of living

871. The right - especially that of children - to an adequate standard of living has earned recognition in Israeli law. A number of legislative and administrative mechanisms, among them the social security payments described above, are meant to promise an appropriate standard of living for all. The constitutional right to dignity, under sections 2 and 4 of the Basic Law: Human Dignity and Liberty, is commonly believed to subsume the right to a basic standard of living. Case law also recognizes the right to a minimum standard of living. Thus, for example, the Supreme Court has ruled that causes that would normally incur non-payment of alimony to children, such as inappropriate behavior of children toward parents, will not be upheld if withholding alimony would deny the children a basic standard of living. Nevertheless, to date, the right to a basic standard of living has not been explicitly grounded in law.

2. Poverty

(a) Measuring poverty

872. Poverty, as a rule, and among children in particular, is increasingly recognized in Israel as a social problem that must be addressed. Data on poverty in Israel have been collected and published since the 1970s by the National Insurance Institute. An annual report on the state of poverty is presented to the government and garners extensive media coverage. Since the 1970s, Israel has adopted a relative definition of poverty that reflects the general standard of living. According to this definition, a family is considered poor when its living conditions (as reflected in family income) are significantly inferior to the accepted living conditions of a society. Poverty is measured on the basis of income; the means used to measure poverty do not take into consideration a family's other financial resources or in-kind services provided by the State or other agencies. The "poverty line" is defined in Israel as being 50% of the median net income per "standard" capita, based on a scale that matches income to family size, so as to facilitate comparison of the standard of living of families of different sizes. (For example, according to this scale, two individuals are equal to two standard individuals, three individuals are equal

to 2.65 standard individuals, and seven individuals are equal to 4.75 standard individuals.) A family in Israel is considered poor when its income, divided among the number of "standard" individuals in that family, is below the poverty line for a standard individual. Thus, for example, the poverty line for a family of four is 62% of the median wage; a family of eight will be defined as living below the poverty line if its available income is 100.7% of the median wage.

873. Measures of poverty are calculated based on annual income surveys conducted by the Central Bureau of Statistics. The population surveyed includes the households headed by an employed or unemployed person (but not households headed by someone who is self-employed), in urban settlements with a Jewish or mixed population of 2,000 or more residents. Up to 1994, the income surveys included settlements with 10,000 or more residents. Beginning in 1995, the surveys were expanded to include settlements with between 2,000 and 10,000 residents (many of which are Arab). The population surveyed in 1995 encompassed about 88% of all of the households in Israel (as opposed to 80% of all households in 1994).

874. Below we present recent data on the extent of poverty among children in Israel, and among specific groups of children. We then present data on the effect of the various mechanisms reviewed in the previous section on the reduction of poverty.

(b) The extent of poverty among Israel's children: changes over time

875. The introduction of children's allowances in the 1970s brought about a dramatic reduction in the incidence of poverty among children during that period. About 8% of the children in Israel were living below the poverty line in the mid-1970s. However, poverty rates rose throughout the 1980s and early 1990s, reaching 23.2% by 1995. A decline was observed in the percentage of children living below the poverty line for the first time in 1996, when 21.4% of Israel's children lived below the poverty line (see Table 39). This trend was ascribed to the implementation in 1994 of a government program to prevent poverty, which included a change in the payment of children's allowances. However, an increase in the percentage of children living below the poverty line was again observed in 1998, when it reached 22.8% of all children. This increase was attributed in part to an increase in unemployment, and in part to changes in the method of income survey: As of 1997, income surveys included smaller Arab villages, whose populations are poor. Data for 1999, which were just released, indicate that poverty among children has reached a new peak (26%).

(c) The extent of poverty among different groups

876. Table 37 presents the incidence of poverty among children in different groups in 1998. As the Table indicates, the poverty rate is particularly high among a number of groups: Arab families, families with four or more children, and single-parent families. For years, the extent of poverty among new immigrants (who arrived in Israel in or after 1991) was higher than in the general population. However, in 1998 it was only 18.1% - a smaller percentage than that in the general population (although still slightly higher than that of children in the Jewish population, 16.3%).

877. It should be noted that between 1995 and 1996, there was a significant decrease in the percentage of children in Arab families who lived below the poverty line; this was explained by the extension of benefits for families whose members had served in the army to families whose members had not served in the army, which primarily affected Arab families. However, beginning in 1997, there was again a rise in the percentage of children in Arab families living below the poverty line. As noted, this may be due in part to changes in the method of income survey.

Table 37

The incidence of poverty among children in different groups in 1998 (in %)

Group	Incidence of poverty among children
Total population of children	22.8
Families with four or more children	34.9
Single-parent families (1997)	36.5
Immigrant families	18.1
Arab families	42.7

Source: National Insurance Institute, 1999.

878. Although there is a wealth of data on the extent of poverty and its distribution among various population groups, there is little data on poverty's implications for and influence on the well-being of children and youth. For example, there are limited data on the extent to which poor children are precluded from participating in the activities and social experiences that are accessible to the majority of children in Israel, or on the prevalence of undesirable behaviors (such as involvement in crime) among poor children. It is clear, however, that poverty affects the welfare of children and families, and serves as a background to other problems. Existing data indicate that children from families with low income are over-represented among those who suffer from abuse and neglect, underachievement and inability to attain a minimum level of education, dropping out of school and involvement in criminal activity (Dolev et al., in Primak, ed., 1998).

(d) The effectiveness of mechanisms to reduce the extent of poverty

879. The main reduction in the incidence of poverty is accomplished by transfer payments (most of them social security benefits). In addition, since poverty is defined relatively, progressive taxation improves the relative status of the poor. In this section we will examine the efficiency of transfer payments and taxes in the reduction of the extent of poverty among children in general, and among specific groups. Table 38 presents the proportion of poor children among all children in Israel for different years, prior to and following transfer payments and taxes. The Table indicates that while in 1980, taxation and transfer payment mechanisms

managed to extricate nearly half of the poor children of Israel from poverty, the efficacy of these mechanisms was sorely damaged during the 1980s. During the 1990s, there was some improvement in the efficiency of transfer payments and taxes, apparently as a result of deliberate policy. Nevertheless, most poor families remained below the poverty line despite government assistance. Moreover, most of the families whose income rose above the official poverty line continued to experience significant financial difficulties, and to need additional help.

Table 38

The incidence of poverty among children, 1980-1998 (in %)

Year	Prior to transfer payments and taxes	After transfer payments and taxes	Percentage removed from poverty
1980	15.4	8.1	47
1990	31.4	22.3	29
1993	33.0	22.1	33
1994	34.5	22.8	34
1995	35.2	23.2	34
1996	33.4	21.4	36
1998	38.2	22.8	40

Source: National Insurance Institute 1999.

880. Table 39 presents the influence of transfer payments and direct taxation on the incidence of poverty among children in various groups. As may be seen in the Table, despite favoring large families, transfer payment and taxation mechanisms have had only slightly greater success in extricating large families from poverty than small families: In 1998, transfer payments and taxation extricated about 41% of the children in large families from poverty, compared to 40% of the children in small families. This was nevertheless an improvement over 1995, when only 31.8% of the children in large families were removed from poverty, compared to 37.5% of the children in small families.

881. It is interesting to note that transfer payments and taxes were more effective in extricating children in single-parent and immigrant families from poverty. In 1998, transfer payments and taxes managed to remove about 55% of the children in immigrant families and 43% of the children in single-parent families from poverty. It should be noted, however, that in 1996, more than half of the children in single-parent families were removed from poverty. The decline in the effectiveness of these mechanisms may be attributed to the vulnerability of single-parent families to rising unemployment.

Table 39

The percentage of children in different groups living below the poverty line or removed from poverty by transfer payments and taxes in 1998

Group	Prior to transfer payments and direct taxes	After transfer payments and direct taxes	Percentage of children removed from poverty
All children	38.2	22.8	40.0
Single-parent families (1997)	64.0	36.5	43.0
Immigrant families	40.6	18.1	55.4
Large families	59.6	34.9	41.4
Small families	24.5	14.8	39.6

Source: National Insurance Institute, 1999.

(e) The national council for narrowing social gaps and reducing poverty

882. In August 1996, the government established a national council for narrowing social gaps and reducing poverty, which began its work in May 1997. The council was to examine all aspects of economic and social hardship, including education, housing and health, and to suggest ways of reducing it. It was also charged with redefining poverty and its measurement, in light of the support services provided to poor families.

883. In December 1999, the council presented its final recommendations for social service policy. It stressed the importance of identifying populations at risk and their needs, and allocating earmarked resources to vulnerable segments of the population and to peripheral geographic areas, with the aim of developing innovative projects, primarily at the local level.

3. Additional assistance with basic living conditions for families with children

884. In Israel, individual welfare services, including those for children and youth, are provided under general welfare legislation that requires local authorities to supply welfare services to individuals and families who need them. In the past, social welfare departments provided financial support to needy families. Since 1982, support has been paid to families through National Insurance Institute benefits, under the Assurance of Income Law. Social welfare departments continue to provide counseling, personal services, and emergency financial aid. Social welfare departments are also responsible for investigating reports about children who may not be getting appropriate care from their parents, or whose living conditions endanger their welfare and well-being (see Chapter VII). The direct financial support that the departments provides is limited, temporary, and reserved for families in severe financial distress; it includes help purchasing basic household equipment (35,000 families received such assistance in 1995), and temporary assistance with housing expenditures.

4. The right to adequate housing

885. Since its establishment, the State of Israel has seen itself as responsible for providing adequate housing to its residents. This right is not anchored in legislation, but rather is realized primarily through administrative programs.

886. Information on the housing situation in Israel is based primarily on the household expenditures surveys conducted by the Central Bureau of Statistics. The 1997 household expenditures survey indicated that 69% of the heads of households owned their apartment, while about one-quarter of them rented their apartment. Most of the home owners purchased their apartment during their first three years of marriage.

887. There has been a consistent improvement in housing conditions over time, with the percentage of three or more people per room declining steadily. Arab households are more crowded than Jewish ones. In about 9% of Arab households there is crowding of more than three people per room, compared to 1.5% of Jewish households. This is in part due to differences in family size.

(a) Assistance for owners of inadequate housing

888. The State implements various programs that aim to provide all of its residents with appropriate housing. For example, in order to ensure an adequate supply of apartments, the Ministry of Housing plans new cities and neighborhoods.

889. The State employs the following measures to help residents obtain housing:

(a) Government subsidized mortgages. The first criterion for receiving a mortgage is that no one in the household owns an apartment or has received a mortgage in the past. Those who are eligible for a mortgage according to this criterion are classified by resident status (new immigrant versus long-time resident) and marital status (unmarried, married, single-parent family). The level of assistance is determined according to variable criteria (number of years of marriage, number of children, size of the spouses' families) and socio-economic criteria. Special assistance purchasing an apartment is provided to single-parent families and soldiers who have been discharged from the army, under the Single Parent Families Law 1992 and the Discharged Soldiers Law 1949. In addition, assistance with housing is influenced by the geographic location of the apartment: Israel was divided into four areas according to national priority, with greater assistance provided for housing in peripheral areas and development towns. The 1990s saw an increase in the number of young couples who applied for a government-subsidized mortgage. The greatest increase was registered among young couples in the Arab and Druze sectors. According to Ministry of Housing data, in 1996 more than 52,000 residents took advantage of their right to apply for a government-subsidized mortgage;

(b) Government rent subsidies. This program was meant to help people of limited means - including new immigrants, single-parent families, families with low income, and people in the process of divorce who are responsible for children - rent an apartment on the private

market. It is meant to provide temporary assistance for between one and three years, although families with exceptionally low income are eligible for a rent subsidy for an unlimited time. In 1996, 140,000 households received a monthly rent subsidy. Eighty percent of them were new immigrants, and 9% of them were young couples;

(c) Public housing. Preference in the provision of public housing is granted to single-parent families with three or more children, families that have a member with a physical disability, and families with particularly low income. Residents of public housing pay a low monthly "rent". About 120,000 housing units around the country (7.5% of all of the housing units in the country) belong to public housing companies - two of them large public housing companies, and the remainder public-municipal housing companies. Many families are waiting to receive public housing. Recently, a law was passed that enables families living in publicly-owned housing to purchase their apartment under advantageous conditions.

890. Claims have been made that these forms of assistance are insufficient. Specifically, it has been claimed that the government-subsidized mortgage is not ample enough to allow purchase of an apartment, that rent subsidies do not keep pace with inflation, that there is no new public housing, and that existing housing is in poor condition.

891. Assistance is also provided to families that live in extremely crowded conditions, or poor housing conditions that may endanger their health (as determined by a medical committee). For example, assistance is provided to households in which the crowding is more than 2.2 individuals per room.

892. The Ministry of Labor and Social Affairs, through its social welfare departments, provides temporary assistance to families that need help paying rent, making home repairs, or moving. Such assistance is a "safety net" for people who are undergoing a temporary housing crisis. It is provided for a maximum of two months; eligibility criteria are similar to those of the Ministry of Housing. The decision to grant assistance is made on the basis of a social worker's report.

(b) Assistance to the homeless

893. In recent years, awareness has grown of the problem of homelessness. It is estimated that some 3,000 homeless people, most of them childless adults, live in Israel. A number of local authorities, in cooperation with government ministries, have developed a network of services for homeless people, which includes shelters and rehabilitative services.

894. Another serious problem is that of youth who have nowhere to live, or who have run away from home and find it difficult to return and reestablish contact with their parents. ELEM - Youth in Distress, in cooperation with other agencies (such as ASHALIM) supports these young men and women through two shelters for homeless youth in Tel Aviv and Jerusalem, a network of therapeutic "coffee houses", and a mobile unit that travels to the meeting places of homeless youth in large cities (see Chapter X).

(c) Population groups with special housing problems

(i) New immigrants

895. Almost 70% of the new immigrants who came to Israel from the former Soviet Union between 1989 and 1994 have purchased an apartment. Special attention has been devoted to housing for Ethiopian immigrants. At present, approximately 60,000 immigrants from Ethiopia live in Israel; the percentage of children among them is large - about 60%. These immigrants arrived during two waves of immigration: during the 1980s, and the 1990s. Most of the immigrants who arrived during the 1980s were settled in public housing, and have remained in the towns where they were first settled. During the second wave of immigration, in the early 1990s, public housing was not in sufficient supply; consequently, the immigrants were housed in hotels, and later in caravans (mobile homes) at 22 temporary housing sites that were also home to immigrants from the former Soviet Union. After a number of years, the decision was made to encourage the immigrants to move to permanent housing by offering them large, subsidized loans to purchase an apartment. This effort proved be fruitful; at the end of 2000, only about 100 families remain at temporary sites.

Table 40

Number of immigrant families residing in temporary housing, by year

Site	September 1992	April 1996
Temporary site (mobile homes)	3 720	450
Absorption centers	1 460	250
Hotels	157	-
Total	5 337	700

Source: Ministry of Immigrant Absorption data.

(ii) The Bedouin population in unrecognized villages

896. A special housing problem is posed by Bedouin living in encampments that are not recognized by government urban and rural planning frameworks. Most of these "settlements" are in the south of the country, although 3,000 people (Bedouin and non-Bedouin Arabs) live in unrecognized villages in the north. In the 1960s and 1970s, as part of a national program to address this problem, seven small towns were planned and established in the south for the Bedouin population. Although 40,000 Bedouin moved to these towns, more than 50% of them refused to move, such that at present, 50,000 people remain in unrecognized villages. These villages are not connected to infrastructure, and all construction in them is illegal; about 54% of their residents are children under the age of 14 - a particularly high percentage. Israel has come to understand that it cannot force an urban lifestyle on the Bedouin. Since 1993, an attempt has been made to change policy; between 1993 and 1995, the Ministry of Housing invested NIS 138 million in improving the standard of living of the Bedouin without disturbing their traditional lifestyle. In 1996, a special Knesset committee recommended that the

government compromise by recognizing some of the illegal villages, and indeed, eight of the 40 unrecognized settlements have been recognized. Residents of villages that have not been recognized will be compensated. The committee also recommended planning villages and towns for Bedouin in a way commensurate with their needs and traditions.

IX. EDUCATION, RECREATION AND CULTURAL ACTIVITIES

A. Articles 28 and 29 of the Convention

897. In this chapter, we present the education system of Israel. We will describe the laws and principles on which it is founded, as well as its organizational structure and infrastructure. We will also present data on the allocation of funds, and indicators of its success, such as attendance and drop-out rates.

898. We will then discuss the extent to which the main principles of the Convention are implemented in the Israeli education system: the steps taken to ensure education for all; the way in which education is made possible for each religious, national, cultural and linguistic sector; and the degree to which the education system expresses the cultural and religious differences of Israel's heterogeneous population. We will cite the agencies and mechanisms that facilitate freedom of speech, teach self-expression, and increase awareness of human rights. We will also cite programs that encourage the participation and involvement of children in the community. We will survey the agencies that provide cultural and recreational services to children and youth, and discuss government involvement in their promotion, as well as data on participation rates in different sectors. We will describe disciplinary regulations and practices for enforcing them, and will address the mechanisms for reporting and addressing deviations from them.

899. In December 2000, the Knesset passed the Pupils' Rights Law 2000. The aim of this law, as defined in its first section, is to determine principles for students' rights, in the spirit of human dignity and of the UN Convention on the Rights of the Child, while preserving the uniqueness of the various education frameworks as defined in the relevant laws. According to the Pupils' Rights Law, every child and youth in the State of Israel has the right to an education according to all instructions of the law.

1. The constitutional right to education

900. In Israel's fundamental human rights laws, which the Supreme Court has ruled have constitutional status, the right to education is not mentioned. However, some believe that the right, or aspects of the right, to an education is subsumed in the right to human dignity established by sections 2 and 4 of the Basic Law: Human Dignity and Liberty. Although one Supreme Court justice opposed this view, the justices who sat with him wished to cite this as requiring study, and the matter was not decided ((Petition to the) High Court of Justice 1554/95 *"SHOHAREY G.I.L.A.T." Association v. Minister of Education, Culture and Sport*, P.D. 50(3) 2).

901. Another question which has yet to be decided in Israel is whether the right to an education is a fundamental one according to "accepted legal standards" - that is, whether the administrative authorities are obligated to provide education.

902. In any case, the practical importance of these questions is relatively limited, as a long list of specific laws and regulations ensure extensive rights to an education. As noted, the recently enacted Pupils' Rights Law 2000 stipulates that "every child and youth in the State of Israel has the right to an education according to all instructions of the law". Some of these will be reviewed below.

903. One problem that has no satisfactory solution at present is that of education for the (estimated 3,000) children of foreign workers who are in Israel legally, and illegally. Although the Ministry of Education recognizes its responsibility to provide education to all children residing in the country, it appears that some of these children, particularly those whose parents are in Israel illegally, do not regularly attend school. Many of the younger children spend a large part of the day in poorly-organized, unsupervised frameworks. Children of foreign workers are not entitled to supplementary services, such as special Hebrew languages classes like those provided to new immigrants. Several Knesset committees are engaged in seeking solutions to these problems.

2. Legislation

(a) Government education

904. The State Education Law 1953 stipulates that, in Israel, education will be provided, as a rule, by the State on the basis of an educational program that is supervised and approved by the Ministry of Education.* The law recognizes two streams of education: State education, and State religious education. The law allows the Minister of Education to approve, at the request of 75% of the parents of students in State or State religious schools, an additional or special educational program. The law also sanctions non-government education institutions, recognized but not official institutions that are supervised by the Ministry of Education, and independent institutions that are not supervised by the Ministry.

905. Section 10 of the law stipulates that parents have the right to choose the stream of education which their children will attend. However, parents who request that their children attend a State or State religious school are not allowed to choose the specific school their children will attend. The local school board refers children to schools, first and foremost in accordance with the policy of social integration, which is imposed upon parents and children.

906. The law prohibits discrimination in the provision of education due to ethnic background, nationality, or disability. Cases brought before the courts have resulted in rulings in favor of citizens.

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* On 5 September 1999, matters of culture and sport were transferred from the care of the Ministry of Education to that of the Ministry of Science.

(b) Compulsory education

907. The Compulsory Education Law 1949 stipulates that education in Israel is compulsory for children ages three to 15 inclusive, or until the completion of ten years of schooling. In effect, as will be discussed below, in most regions compulsory education is enforced beginning at age five. The law allows the Minister of Education to grant an exemption from compulsory education in special cases, such as when a child is educated privately, or cannot be integrated into a regular school.

908. Responsibility for the regular school attendance of each and every child falls on parents, the State, and the local authorities. According to section 4(a) of the Compulsory Education Law, parents (or guardians) must register their school age children at an education framework and ensure that they attend it regularly. Parents who do not fulfill this obligation are committing a criminal offense. School principles, homeroom teachers, guidance counselors, and truant officers are responsible for enforcing regular school attendance on behalf of State and local authorities.

(c) Free education

909. According to the Compulsory Education Law 1949, children and youth age three to 17 have the right to free education. Local education authorities are responsible for the education of the children and youth who live under their jurisdiction; ultimate actual authority rests with the mayor or head of the local authority. The Supreme Court enforces this obligation.

910. Parents are required to purchase books and school supplies for their children, and sections 6-8 of the law allow a local authority to charge fees for services provided to pupils. In addition to mandatory fees, the school is authorized to collect optional fees for special services, if these are approved by a parents' committee. However, school registration and attendance are not conditional upon any payment.

911. Complete implementation of free education for children ages three-four has been deferred for budgetary reasons; free education for children age three-four is only provided in some towns and neighborhoods, although their number has expanded recently under the Compulsory Education (Implementation in Nursery Schools) Ordinance 1999. Under this ordinance, free education is provided from age three in some towns and neighborhoods, and from age four in others. In the remaining towns, free education is provided from age five, although the local authorities in these towns provide pre-compulsory education from age three-four for a fee. This preschool tuition is progressive, and is set according to socio-economic criteria.

912. Some expansion of free education is anchored in Ministry of Education policy. For example, the State finances the education of technicians and junior grade engineers for two years beyond 12th grade (i.e. grades 13 and 14). It also provides financial assistance to students whose parents cannot pay for school services that supplement those required by law. In order not to place any student at a disadvantage, a committee comprising representatives of schools, parents' organizations and the local authority determines which families are eligible for assistance, discounts or exemptions because of their financial situation or because they have more than one child in school.

(d) Extended school day and enrichment programs

913. The Extended School Day and Enrichment Education Law 1997, which orders the extension of school hours, is intended to increase equal opportunity in education and to enable children to fulfill their potential. The law stipulates that at least four school days a week will be eight-hour school days. It is being implemented gradually, first in neighborhoods and towns whose education systems need reinforcement. The law should be implemented in the entire education system by 2001.

(e) Special education

914. Education services were also significantly expanded by the passage of the Special Education Law in 1988. This law establishes the right of children with physical, mental, emotional or behavioral disabilities to an education suited to their needs and development, and ensures that education frameworks are adapted appropriately.

915. The law stipulates how eligibility for special education is to be determined, and that an individual study plan is to be made for each and every child, so as to enable him to fulfill his potential.

916. The law also expands the type and scope of services provided in the framework of special education. Under the law, special education is provided to children and youth ages three through 21; the law also increased the number of special education hours, lengthened the school day and year (special education schools are open during vacations), and established the right of children to paramedical services (e.g., physical, occupational, and speech therapy), expressive therapies, and assistive devices.

917. The Special Education Law has been implemented gradually during the past decade. The law itself does not determine the sources or the extent of funding for its implementation. Consequently, implementation of its various provisions has required the development of master plans and negotiation between the Ministries of Education and Finance. Provisions of the law that are clearly defined, such as longer school days and extending coverage from age three to age 21, have been implemented. Other provisions of the law, which were more ambiguous (such as the extent of paramedical services or equipment required), have yet to be implemented. Negotiations between the Ministries are continuing.

918. In addition, the law expresses a deliberate policy of integrating disabled children into regular schools to the extent possible, by requiring that children be given the assistance they need in the “least restrictive environment”. However, services provided under the law are allocated mostly to children in special education schools and classes, while funds allocated to children who have been mainstreamed are limited and considered insufficient (for additional information, see Chapter VIII).

919. The Rehabilitative Day-care Centers Law 2000 is meant to ensure toddlers ages one-three, who suffer from a disability, mental retardation, or some other handicap, an appropriate rehabilitative, therapeutic and educational framework, financed by the State.

3. The goals of education in Israel

920. Israeli society views education as important both to ensuring social mobility and equality, and to enabling every child to realize his ability to become integrated into the labor market as an adult.

921. The goals of State education, as defined in section 2 of the State Education Law 1953 and recently amended, are as follows:

(a) To educate the individual to love others, his people and his country, and to be a loyal citizen of the State of Israel who respects his parents and family, his heritage, his cultural identity and his language;

(b) To impart the principles embodied in the Declaration of Independence of the State of Israel and the values of the State of Israel as a Jewish and a democratic State, and to foster respect for human rights, fundamental liberties, and democratic values; obedience to the law; preservation of one's culture and respect for the opinions of others; and commitment to working for peace and tolerance among individuals and between nations;

(c) To teach the history of the Land of Israel and the State of Israel;

(d) To teach the *Torah* of Israel, the history of the Jewish people, the heritage of Israel, Jewish tradition, the memory of the Holocaust and heroism, and respect for these;

(e) To develop the personal character, creativity and diverse talents of every boy and girl, so that they may fully realize their abilities as human beings and live lives of quality and meaning;

(f) To ground their knowledge in the various fields of science and all manner of human creativity over the centuries, to impart the basic skills that will be required of them during their lives as adult human beings in a free society, and to encourage physical education and recreational culture;

(g) To reinforce in them sound judgment and critical faculties, to cultivate their intellectual curiosity, independent thought and initiative, and to develop their awareness of and alertness to change and innovation;

(h) To grant equal opportunities to each and every child, to enable them to develop in their own way, and to create an atmosphere that encourages and supports individuality;

(i) To cultivate involvement in Israeli society, a willingness to accept and fill roles with dedication and responsibility, a desire to provide mutual assistance, contribute to the community, volunteer, and work for social justice in Israel;

(j) To foster respect for and responsibility toward the natural environment, and a bond with the land, landscapes, flora and fauna;

(k) To teach the language, culture, history, heritage and tradition unique to the Arab population and other population groups in the State of Israel, and to recognize the equal rights of all citizens of Israel.

922. It is the policy of the Ministry of Education to encourage every youth to complete 12 years of school and matriculation examinations. Special effort is invested in helping students from vulnerable population groups, promoting and improving Arab education, absorbing immigrants into the education system, and implementing the Special Education Law for populations with special needs.

4. Resources in education

(a) National expenditures on education

923. The expenditure on education is the largest of the government's expenditures on social services, and represents the second largest expenditure (after security) in the national budget. Public expenditure on education grew steadily during the past decade, from 6.5% of the Gross National Product in 1990 to 8.4% of the GNP in 1998.

(b) Number of classes, number of students per class, and number of school hours

924. In 1999/2000, the education system included approximately 45,000 classes, about 80% of them in the Jewish sector and 20% of them in the Arab sector. The number of students per class and the number of school hours influence both the extent of education provided to students, and its quality. Despite the large investment of resources in education, the system is characterized by relatively large classes.

Table 41

Average number of students per class, by sector

Year	Total	Average students per class	
		Jewish sector	Arab sector
1980	26.7	25.8	31.1
1990	27.8	27.1	30.9
1995	28.1	27.4	30.9
1998	29.0	27.0	31.0

Source: Ben-Arie and Zionit, 1991.

925. The accelerated development in the number of classes has not matched the increase in the number of students; consequently, the average number of students per class is on the rise: from 26.7 in 1980 to 29 in 1998. This rising trend in the number of students per class is characteristic of elementary education in the Jewish sector. Although the average number of students is higher in the Arab sector, the average number of students (31) per class in the Arab sector has remained stable during the past decade.

926. As the Extended School Day and Enrichment Education Law 1997, which requires extending the school day, has yet to be implemented in full, most of the pupils in pre-kindergarten and elementary education attend school for between four and five hours a day; older children attend school up to seven hours a day only.

(c) The quality and training of teaching staff

927. Another factor influencing the quality of education and the ability of children to make the most of it is the quality of teachers and teaching. Table 42 presents the level of education of teachers in 1981 and 1998, by sector. As may be seen, there has been an improvement in the level of education of teachers in both the Jewish and Arab sectors. However, as the Table indicates, teachers in the Arab sector are less educated than those in the Jewish sector.

Table 42

Level of education among teachers, by sector (in %)

Education framework	Jewish sector		Arab sector	
	1981	1998	1981	1998
Elementary schools				
University degree	14	38	9	25
Senior	22	40	6	52
Certified	48	6	58	12
Non-certified	16	6	27	11
Secondary schools				
University degree	58	72	53	62
Senior	12	16	10	22
Certified	27	10	33	12
Non-certified	3	2	4	4

Source: Sprintzak et al., 2000.

928. During the 1997/98 school year, 38% of the elementary school teachers and 72% of the secondary school teachers in the Jewish sector were university graduates, compared to 25% and 62%, respectively, of their colleagues in the Arab sector.

5. The structure of the education system

(a) Description of the system

929. The education system in Israel is under the surveillance of the Ministry of Education. During the past 20 years, there has been a constant increase in the number of students attending school, particularly secondary schools, preschools, and schools in the Arab sector.

930. The education system comprises preschools, elementary schools (grades one through six), and secondary schools, which comprise two organizational structures of three years each: middle schools (grades seven through nine) and high schools (grades ten through 12). In certain towns, elementary schools provide eight years of education (through grade eight).

Table 43

The structure of the education system: the number of students in the education system, by type of framework, 1998/99

Type of framework	Number of students
Early childhood education (preschools for ages 2-5)	350 887
Elementary education (grades 1-6)	725 745
Elementary schools	676 865
Special schools	17 606
Other institutions (*Talmud-Torah* "*cheder*")	31 274
Secondary education (grades 7-12)	550 148
High school (grades 10-12)	238 165
Middle school (grades 7-9)	296 983
Other institutions	15 000

Source: Ben-Arie and Zionit, 1999.

931. Israel's education system comprises two main sectors, which are operated as two separate systems: the Jewish sector (which serves 81.5% of the students) and the Arab sector (which serves 18.5% of the students, who are Moslem and Christian Arabs, Druze, Circassian, etc.). Each of these sectors has its own institutions and curricula.

932. The structure of educational institutions and the content of study in the Arab sector are similar to those in the Jewish sector, with differences that reflect the different cultures of the two populations. Studies of the educational institutions in each sector are conducted in the mother tongue of the population that attends the institution.

933. The Jewish sector is divided into three streams or "types of surveillance": State (with a secular orientation), State religious (with a moderate orthodox orientation) and independent-"*haredi*" (with an ultra-orthodox orientation). Each of these streams has its own

schools. State religious schools follow the same format as do State schools, but their curriculum includes studies with a religious emphasis. Independent schools ("exempt institutions") that are affiliated with the *haredi* stream are not under the surveillance of the Ministry of Education.

934. In 1998, 66% of all elementary school students attended State schools, 21% attended State religious schools, and 13% attended independent schools. In that year, three-quarters of all secondary school students attended State schools, 18% attended State religious schools, and 9.8% attended independent schools.

935. Almost all of the children attend "public" schools that are under the surveillance of the Ministry of Education and are financed by the Ministry and the local authorities. A few schools are operated by private associations but are financed by and under the surveillance of the Ministry. Educational frameworks that are completely private and that function outside of this system are rare. Such schools are more prevalent in the Arab sector, and in the *haredi* segment of the Jewish sector.

936. The division of educational institutions into Jewish and Arab sectors and according to level of religious observance enables each sector to maintain its linguistic and cultural uniqueness, and limits cultural tension among students within the schools themselves. However, this separation limits opportunities for a meeting of the minds and mutual acquaintance among the different groups.

937. In addition, since there is a strong correlation between choice of the State religious stream and low socio-economic status in the Jewish sector, and even lower socio-economic status in the Arab sector, the separation among the sectors may intensify discrepancies in the levels of scholastic achievement and perpetuate the social dissociation among these groups. Moreover, a disproportionate percentage of the better students in the State religious stream choose to attend yeshivas and boarding schools for grades ten through 12, leaving the State religious schools in the community to the weaker students.

(b) Early childhood education (newborn-age 5)

938. A large proportion of Israel's children attend public or private preschools. In 1998/99, 351,000 children ages 2-5 who attended public preschools operated by local authorities and supervised by the Ministry of Education, and private day care centers. Table 44 presents the percentages of preschool attendance by sector.

939. As the table indicates, attendance at preschools and day care centers is almost universal among children ages three to five in the Jewish sector. In fact, nearly 70% of children age two already attend preschools; by age three, the attendance rate has risen to 95%, and by age five, when education becomes compulsory, attendance has reached 99.5%.

Table 44

Preschool attendance,* by sector, 1997/98 (in %)

Age	Preschool Attendance	
	Jewish Sector	Arab Sector**
2	68.6	No data available
3	95.0	44.0
4	99.0	71.0
5	99.5	90.0

Source: Ben-Arie and Zionit, 1999.

* Attendance rates at preschools under the surveillance of the Ministry of Education; does not include data on children attending preschools under the surveillance of the Ministry of Labor and Social Affairs or the Ministry of Religion.

** Not including private preschools and schools in East Jerusalem.

940. In the Arab sector, preschool attendance is relatively low: 44% of the Arab children age three and 71% of the Arab children age four attend preschools. The attendance rate at kindergarten, which is compulsory, is lower among Arab children (90%) than among Jewish children.

941. These data indicate that although free education from age three is not implemented due to budgetary limitations, the State of Israel has attained nearly universal participation in pre-compulsory education (ages two to four) in the Jewish sector. The high level of participation in early childhood education in this sector is a result of investment of resources in the construction of preschools and day care centers and the training of teachers and aides, which was accelerated during the 1970s in recognition that beginning education at the earliest possible opportunity promotes equality and equal opportunity. This recognition is also reflected in the efforts made to enable families with little means to send their children to such frameworks.

942. As noted, one of these means is that of progressive tuition in public preschools (for children ages three to four) and day care centers (children up to age three) according to household income per capita. Fees are set by the Ministry of Labor and Social Affairs, which determines the rate of tuition for day care centers and family child care, and the Ministry of Education, which determines the tuition for preschools. Discounts for preschool education are also given on a geographic basis. Towns with a concentration of weak populations sometimes exempt them from paying for early childhood education.

(c) Elementary schools (ages 6-12)

943. About 700,000 pupils attended elementary schools in 1998. In the Arab sector, the number of pupils in the elementary school system was about 163,000.

Table 45

Elementary school attendance rates (ages 6-12), by sector (in %)

Attendance rates	1992/93	1998
Jewish sector	95.1	96.3
Arab sector	95	95.7

Source: Ben-Arie and Zionit, 1999.

944. Elementary school attendance rates are very high and are increasing. Table 46 indicates that nearly all children ages six to 12 in the Jewish (96.3%) and in the Arab (95.7%) sectors attend school.

945. State and State religious elementary schools function on a neighborhood basis, and therefore usually enroll an economically and culturally homogenous population. Independent schools are organized according to religious community affiliation.

946. In some (State, State religious and Arab) elementary schools, the Ministry of Education operates a separate section for kindergarten through grade two; this is meant to ease the children's transition from kindergarten to first grade.

(d) Secondary schools

(i) The structure of the secondary school system

947. In Israel, the majority of schools in the secondary system are under the surveillance of the Ministry of Education. In some towns, all secondary education takes place in one framework, which comprises grades nine through 12. However, secondary education usually lasts six years (from grades seven through 12), and is divided into two organizational frameworks, each of which lasts three years: middle school (grades seven-nine) and high school (grades ten-12).

948. Middle schools were part of a reform of the education system that took place in 1968 and that changed the structure of the system: Neighborhood elementary schools that ran from first through eighth grade were replaced by elementary schools that ran from grades one through six and middle schools that ran from grades seven through nine. The establishment of middle schools was meant to increase integration - that is, contact among students from different neighborhoods and cultural backgrounds - thereby closing gaps in scholastic achievement among students from different elementary schools. The law requires that classes in middle schools be heterogeneous with the exception of certain subjects, such as English and mathematics. This reform has to date encompassed close to 70% of all secondary school pupils in the Jewish and Arab sectors.

(ii) Educational tracks in high schools

949. Students in elementary and middle schools study according to the same curriculum. In high school, students may choose between an academic or a technological/vocational "track". Another product of the reform of the education system was the "comprehensive" secondary school, which offers both academic and technological/vocational tracks at a variety of levels for students in grades seven through 12. In establishing these schools, policymakers hoped to enable the maximum number of students to complete 12 years of education. Alongside comprehensive schools are high schools that offer only one track (either academic or technological/vocational). At present, 58.7% of high school students study in an academic track and 41.3% study in a technological/vocational track. In addition, about 16,000 youths ages 14-17 attend technological and industrial schools that are under the surveillance of the Ministry of Labor and Social Affairs. These schools integrate academic studies with vocational training, and apprenticeships outside of school in the upper grades.

950. The placement of students in tracks was intended to improve education and its outcomes, and to facilitate designing curricula that are suited to students' needs and goals, whether these be to attend college or university (students in academic tracks), or to enter the labor force or obtain post-secondary technological education (students in technological/vocational tracks). The level of education offered to students in technological/vocational tracks varies widely from school to school. Some technological tracks are on a very high level and prepare students to take matriculation examinations, which are a condition for acceptance to institutions of higher education, while others provide only low-level vocational training, and prepare students for matriculation examinations only in part, if at all.

951. In preparation for the transition to high school, some middle schools offer vocational guidance that includes information about high school programs and admission requirements. Students are referred to placement examinations that test their abilities and natural inclination. The results are then matched to the educational tracks appropriate for each student. School guidance counselors are required to report the results of the examination to the student and his parents. Some secondary schools base acceptance on the results of these examinations, as well as on the student's scholastic achievements.

952. Critics of the track system have claimed that it sustains and even reinforces discriminatory social processes by creating homogenous groups of students with similar abilities and achievements. They warn that this is liable to transmit a negative message to weaker students about their ability, to deter them from trying to succeed in school, and even to block them from important educational opportunities. For example, data show that the drop-out rates of Jewish students in technological tracks are twice those of students in academic tracks (8.4% versus 4.1%, respectively; Central Bureau of Statistics, 1997). Awareness of the problematic nature of placement in tracks has led some schools to make the placement system more flexible, allowing students to transfer between tracks for some or all of their subjects of study if their scholastic achievements enable them to do so.

(iii) High school attendance rates

953. Israel has a clear policy of continuing the education of youth until they have completed 12 years of schooling, parallel to their reaching the age of 17 or 18. Data from 1998 indicate that more than 95% of Jewish youth ages 14-17 attend high school. Since 1989, attendance rates have risen by about 6%.

Table 46

Attendance rates of students ages 14-17 at high schools under the surveillance of the Ministry of Education,* by sector (in %)

Year	Jewish sector	Arab sector
1989/90	90.5	62.8
1994/95	95.9	67.3
1997/98	94.5	78.9

Source: Ben-Arie and Zionit, 1999.

* Data do not include private schools, schools in East Jerusalem, or schools under the surveillance of the Ministry of Labor and Social Affairs.

954. The discrepancy between the rates of attendance in the Jewish and Arab sectors is notable. Many (20%) Arab youth do not attend schools under the surveillance of the Ministry of Education. While the increase in the rate of attendance has occurred in both sectors, there is still a significant difference between them (see the section below on the Arab sector).

955. Table 47 reveals that attendance rates decrease consistently with age, as might be expected: In the Jewish sector, the attendance rate of students ages 14-15 (who are still subject to the Compulsory Education Law) is close to 100%, while the attendance rate of students age 17 is less than 90%. In the Arab sector, attendance rates also decline with age, though far more sharply: The attendance rate of students age 14 is 90%, while that of students age 17 drops to 67%.

Table 47

Attendance rates at high schools under the surveillance of the Ministry of Education,* by age and sector (in %)

Age	Jewish sector	Arab sector
14	98.6	90.4
15	98.0	83.0
16	94.3	73.8
17	88.8	67.4

Source: Ben-Arie and Zionit, 1999.

* Data do not include private schools, schools in East Jerusalem, or schools under the surveillance of the Ministry of Labor and Social Affairs.

956. The attendance rates of girls ages 14-17 are higher than those of boys in both the Jewish (97.3% of the girls, compared to 91.9% of the boys) and the Arab (82.5% of the girls, compared to 75.5% of the boys) sectors (data are for 1995/96). Table 48, which is based on an analysis of data from 1993, highlights differences in attendance rates by socio-economic composition of town of residence: In general, attendance rates are lower in weaker towns, which are often also geographically peripheral.

Table 48

Attendance rates of students ages 15-18, by sector and socio-economic level of town of residence, 1993 (in %)

Sector	Socio-economic level of town of residence	Attendance rates*
Jewish	middle or upper class	99
	lower class	81
Arab	middle or upper class	81
	lower class	59
Bedouin	lower class	31

Source: Brandes, 1996.

* Data are estimates.

(e) Boarding schools

957. Boarding schools began to be developed and established as a legitimate and normative education framework in Israel even prior to establishment of the State. In 1933, Youth Aliyah was established as a department of the Jewish Agency in order to rescue Jewish youth from Nazi Germany. Many youths were brought to Israel prior to the Second World War and educated in Youth Aliyah boarding schools. After the war, more young people came in their wake, many of them Holocaust survivors. Since these young people usually arrived in Israel without their parents, boarding schools were an efficient way to care for them and absorb them into Israeli society.

958. The absorption of children and youth who are immigrants or refugees in a group framework, outside their parents' home, continued during the mass immigration of the 1950s, when boarding schools absorbed both children who arrived in Israel alone, and children who arrived with their parents. Because they quickly and effectively inducted these children into the nascent society, boarding schools and "youth societies" also eased the absorption of the children's parents. Boarding and group education also came to be highly regarded by the social elite during this period.

959. As the large waves of immigration abated and social values changed, the role and status of boarding schools was transformed. Gradually, the boarding school population changed from one of refugees, immigrants and the social elite, to one of children and youth who were at risk or in danger, or who could not find their place in community schools and their parents' homes. However, because of the social and historical circumstances that led to the development of boarding schools, many - including children and parents - still perceived boarding school education as being prudent, rather than as an extreme measure requiring a child to be rent from his parents' custody.

960. At present, about 67,000 (or 3%) of Israel's children and youth live and are educated outside their homes in approximately 500 boarding schools, "youth societies" on kibbutzim, and in foster families. The exact number of children and youth who live outside their families can not be calculated due to insufficient data on the number of children who live and are educated in yeshivas, particularly in the *haredi* sector, and on the number and nature of these settings.

961. About 40,000 of the children living in boarding schools are ages 14-17. These young boys and girls represent 9.6% of the students in the secondary education system. For the purpose of comparison, fewer than 1% of the youth these ages in the United States, and fewer than 2% of those in England, reside in boarding schools. At the same time, it is important to note that the percentage of students in boarding schools has been declining in the past two decades. In 1980, 13% of all secondary school students attended boarding schools. Many of the boarding schools for youth are operated by Youth Aliyah, which merged with the Boarding School Department of the Ministry of Education in 1996.

962. For several groups in Israeli society, boarding school education is more accepted. About two-thirds of the youth who attend boarding schools are affiliated with a religious education stream (48.9% with State religious schools and 22.8% with independent schools). Examination of the patterns of participation of youth in boarding school education between 1979 and 1997 indicates a 61% increase in the students attending boarding schools in the State religious sector, and a more than 200% increase in those attending boarding schools in the independent sector. During the same period, the percentage of students attending State boarding schools decreased (by 13.2%). Current data from the Department of Personal and Community Services of the Ministry of Labor and Social Affairs indicate that the percentage of religious and *haredi* children among the children referred to boarding schools by that Ministry is 55.5% (33.2% *haredi*) - significantly higher than their percentage in the population. This reflects the acceptability of boarding school education in religious sectors. In fact, boarding school frameworks such as yeshiva high schools and, in recent years, similar frameworks ("*ulpanas*") for girls, are perceived by the religious-Zionist public as prestigious and as a hothouse for the cultivation of social leadership. Among the *haredi* public, boarding school education is not only acceptable but is even perceived as desirable for families that find it difficult to bear the burden of raising or educating many children.

963. Boarding schools have also once again become a solution for immigrant youth. Following the waves of immigration of the 1990s, Youth Aliyah boarding schools developed various programs for the absorption of immigrant youth from the former Soviet Union and from Ethiopia (see the section on immigrants).

964. Between one-quarter and one-third of the youth who attend boarding schools are not affiliated with any of the sectors cited above. Most of them attend boarding schools out of choice - either theirs or their parents'. For many of them, the boarding school framework is a solution to personal or family problems, difficulties adjusting to an education framework, or social or behavioral problems. Some of these children are in fact placed in boarding schools by the Service for Children and Youth, which pays their tuition. Regretfully, we do not have information on the characteristics of these youth or the reasons for their studying outside their homes. Neither do we have information on the solutions provided to these youth in education or other frameworks, or the degree to which these solutions suit their characteristics or needs. Recently, with the transfer of responsibility for Youth Aliyah from the Jewish Agency to the Ministry of Education, policymakers have expressed a need for such data, as a basis for examining the efficiency of out-of-home placements for these youth.

965. In addition, some younger children are referred to boarding schools by their local social welfare department, through the Service for Children and Youth. These children attend boarding schools primarily because of serious family problems, their own severe behavior problems at school, or large gaps in their scholastic achievements. For many of these children, the boarding school system is an alternative to other forms of placement, such as a foster family. About 8,000 children ages six to 14 (or 1% of the children in this age group) attend 85 such institutions (see Chapter VII).

966. The few boarding schools in the Arab sector are geared for children and youth with serious emotional, behavioral and scholastic problems. (For information on schools and curricula in Youth Protection Authority institutions see Chapter X, and in institutions for children with disabilities see Chapter VIII.)

(f) Scholastic outcomes of high school education

967. One of the primary goals of the Ministry of Education is to increase the percentage of students who successfully complete matriculation examinations. In Israel, having successfully matriculated, which involves passing a number of standard examinations, is a pre-condition for obtaining higher education. The Ministry of Education uses a variety of means to achieve this goal (see section (e) below).

Table 49

Percentage of students age 17 eligible for a matriculation certificate, by sector and selected demographic characteristics, 1987-1997

Characteristic	1987	1992	1997
Total population	29	33	39
Jewish sector			
Total	34	38	44
Gender: boys	30	32	38
girls	39	43	50
Ethnic origin (parents' birthplace)			
Israel	45	49	48
Asia-Africa	23	28	37
Europe-America	42	40	45
Arab sector			
Total	14	16	21
Gender: boys	14	15	18
girls	13	16	25

Source: Sprintzak et al., 2000.

968. Table 49 indicates changes in the percentages of students eligible for a matriculation certificate between 1987 and 1995 in the Jewish and Arab sectors, by significant demographic characteristics. The percentage of Jewish students age 17 who were eligible for a matriculation certificate increased from 34% in 1987 to 44% in 1997. The percentage of Arab students age 17 who were eligible for a matriculation certificate increased from 14% in 1987 to 21% in 1997. The rates of success on matriculation examinations in the Arab sector are much lower than those in the Jewish sector. In addition, the percentage of students age 17 who sit for matriculation examinations is much smaller in the Arab than in the Jewish sector: In 1997/98, 59% of all Arabs age 17 and 33% of Bedouin Arabs age 17 sat for matriculation examinations, compared to 70.3% of all Jews age 17.

969. The matriculation success rate of girls is significantly higher than that of boys: 50% of the girls in the Jewish sector and 25% of the girls in the Arab sector received a matriculation certificate, compared to only 38% and 18% of the boys, respectively.

970. Differences in the rates of success on matriculation examinations among ethnic groups in the Jewish sector that were recorded during the early years of the State were still present in 1997. The percentage of students whose parents immigrated from Asia-Africa who were eligible for a matriculation certificate was lower than that of students whose parents were born in Israel or in Europe-America. Nevertheless, the gap is diminishing.

971. As with rates of attendance (see above), so it is with eligibility for matriculation based on the socio-economic status of a student's town of residence. According to data from the Central Bureau of Statistics, which are based on a division of the towns in Israel into ten socio-economic clusters, 38% of the 12th grade students in clusters 1-2 (towns with the lowest socio-economic status) were eligible for a matriculation certificate, compared to 70% of those in clusters 9-10 (towns with the highest socio-economic status). It is nevertheless interesting to note that the rates of success on matriculation examinations in State religious schools are similar to those in State schools, even though a weaker socio-economic population attends State religious schools.

972. Students in technological schools (under the surveillance of the Ministry of Labor an Social Affairs) have the opportunity to take vocational qualification examinations, and thereby obtain an authorized vocational certificate. However, in reality, the young people who are referred to technological schools usually have relatively poor scholastic achievements, and find it difficult to obtain a certificate of completion of technological education. In fact, data from 1992 indicate that only 30.4% of the Jewish students and only 10.4% of the Arab students who took these examinations were eligible for a certificate of completion of technological education.

973. Since many students fail matriculation examinations, experts in the field of education have been debating the possibility of enabling students to receive a lower-level certificate of scholastic achievement. This issue is controversial, as educators and laymen alike fear that institutionalizing the granting of a lower-level certificate will reduce the overall level of scholastic achievement, and defer efforts to help many more students obtain a matriculation certificate.

974. At the same time, recent years have seen an increasing trend toward letting students sit for some of the matriculation examinations, even if they do not study in a program or track that is geared toward full matriculation. In fact, students in industrial (the lowest-level) schools are allowed to sit for matriculation examinations if their scholastic level makes this possible.

6. Equal opportunities in education, preventing dropping out, and programs for special populations

(a) Equal opportunities in education

975. The State education system is perceived as a tool for obtaining social equality among various groups in the population. It is therefore not surprising that many of the policy initiatives taken in the education system are meant to achieve this goal, and that many mechanisms are directed toward creating the greatest possible degree of equal opportunity. First, providing free compulsory education to all students through a uniform curriculum under the surveillance of the Ministry of Education indicates concern for accessibility to education. In addition, the stated goals of the Ministry of Education of reducing drop-out rates and improving students' achievements (especially increasing the number of students eligible for a matriculation

certificate) also reflect its commitment to creating equal opportunity. Further, the development of a universal system of public surveillance of pre-compulsory preschools, the subsidization of attendance fees at these schools, the emphasis placed on special programs for weak students of all ages, and efforts to prevent students from dropping out of high school all indicate that the education system views ensuring equal opportunity as being of supreme importance.

976. Nevertheless, despite all of these mechanisms, throughout Israel's existence, the education system has coped with gaps in the level and outcomes of education. These gaps exist between various groups: between Jewish and Arab students, immigrant and more veteran Israeli students, students in central and peripheral geographic regions, and students with different socio-economic backgrounds.

977. A number of factors have influenced the creation of these gaps in the Israeli education system. As noted, the socio-economic differences among sectors, coupled with the relative homogeneity of schools, has led to gaps in achievements among different groups. Section 8 of the State Education Law 1953 authorizes the Minister of Education to approve an addition of up to 25% of the school hours in the curriculum, with expenditures arising from this to be paid by parents, if 75% of the parents of students at a given school request this. Consequently, many parents who feel that the school week and school activities are insufficient pay a supplemental fee, which is used to implement educational and recreational programs, reduce the number of students in a class, add class hours in the fundamental subjects, and enrich the infrastructure and assistance available to the school. However, this increases the social inequality among population groups, as families from poor neighborhoods cannot give their children the same level of support that more financially comfortable parents can afford. Similarly, the differential investment of parents in private lessons and extracurricular enrichment classes contributes to gaps. In addition, gaps arise from the differing investments of local authorities in the education system, as a supplement to the resources provided by the Ministry of Education.

978. Below we will describe a number of mechanisms and programs designed to increase the equality of educational opportunities. Additional discussion of special groups, such as immigrants and Arabs, may be found in other sections of this chapter. (For information on educational services for children with disabilities, see Chapter VIII).

(b) The extended school day

979. One means of improving the equality of education is the extended school day, which both provides educational enrichment to students who need it, including immigrants, and enables parents to work without having to pay for after-school child care. In 1990, the extension of the school day was begun on an experimental basis in a limited number of towns and neighborhoods. By 1993, the extended school day had been implemented in development towns and towns along the northern border of Israel, in disadvantaged areas and neighborhoods with a high rate (over 35%) of children in distress, and in schools with a large percentage (over 20%) of immigrants. The extended school day has been implemented in all of the classes at a total of 785 schools.

980. The extended school day has aroused public debate. Opponents claim its implementation requires investing many resources, even though the inputs it will provide are not necessary for most students. They also claim that implementing the extended school day in all schools will do nothing to increase equality as long as it is universal, rather than focused on weaker pupils. Furthermore, opponents of the extended school fear that it will lower the level of teaching, due to the need it will create to hire a large number of teachers. Despite these criticisms, and contrary to the recommendations of a 1996 public committee, the Extended School Day and Enrichment Education Law was passed in 1997, and steps are being taken for its broad implementation.

(c) The disadvantage index

981. Another strategy for improving the equality of educational opportunities and promoting weak populations is the introduction into elementary and middle schools of an index of disadvantage, which is meant to compensate for educational deficiencies arising from social and family circumstances. In 1994, a new method was introduced of distributing resources among schools, based on an index of disadvantage that measured general characteristics of a school and its population: family income, parents' education, family size, the percentage of new immigrants in the school, and the geographic location of the town. Resources are allocated to each school according to its relative rank on this index. In 1995, an index of disadvantage was devised for elementary and middle schools serving Arabs, Druze and Bedouin. Development resources were used to improve the scholastic achievements of weak students, promote excellence, help underprivileged students make use of their talents, prevent dropping out, and improve the social climate and communication in schools deemed eligible by their rank on the index.

(d) Preventing dropping out

982. Reducing drop-out rates by increasing the proportion of students who complete 12 years of education is one of the main goals of the education system. In a special memo from 1994 devoted to policy regarding dropping out, the director-general of the Ministry of Education noted that "retaining students until they complete 12th grade, and reintegrating students who have dropped out, are cornerstones of the policy of the education system of the State of Israel". The memo emphasized the importance of preventing visible and hidden dropping out, and demanded that schools completely abandon the practice of expulsion, and instead try to retain students and prevent them from dropping out. If the good of the student requires his being placed in another education framework, the director-general asked that the school help him find an appropriate one. In recent years, the government has increased its commitment to this issue, and has allocated resources to develop a new system of reporting and to provide incentives to schools that prevent dropping out. The policy of the Ministry of Education is to increase attendance rates by setting a number of operative goals:

(a) Creating educational and scholastic conditions that enable a student to become integrated into school at the level and to the extent appropriate to his ability, and that help him realize his potential;

(b) Preventing students from dropping out by making school staff aware of the importance of strictly enforcing regulations and by implementing special programs on the issue;

(c) Maintaining contact between the school and parents;

(d) Creating a system of support in the community for identifying, diagnosing and placing youth who have dropped out of and severed ties with the education system.

983. Regular attendance is enforced by many people in the education system. According to the Compulsory Education Law, municipal regulations, and a 1994 memo of the director-general of the Ministry of Education, "the school principal, homeroom teacher, teachers and guidance counselors of a school, the local authorities, the truant officer, the educational psychologist and the school nurse, the general supervisor and the truant supervisor, the youth promotion unit, the Ministry's legal counsel, and the social worker are responsible for the educational and legal aspects of dropping out, and are instructed to prevent students from dropping out of school and to increase attendance rates during all stages of education".

984. Truant officers play a key role in addressing the problem of irregular attendance. They deal with students who find it difficult to function in a formal education framework, students who are at high risk for dropping out, students in transition between education frameworks, and immigrant students who display adjustment difficulties. Their job is to reduce dropping out by identifying and reporting visible and hidden dropping out, by returning students who have dropped out to school, and by involving educational and therapeutic agents in preventing students from dropping out.

985. Nevertheless, the 1995 State Comptroller's Report criticized the Ministry of Education for not having reliable, current drop-out rates, which could make a valuable contribution to identifying students at risk. According to the protocols of the parliamentary commission of inquiry into the dropping out of youth and the illiterate 1994, the laws concerning the identification of drop outs. In recent years, the Ministry of Education has begun to manage a computerized data base on school drop outs have not been enforced. However, it is not sufficiently up to date, and therefore is of limited use.

986. It should be noted that while the improvement in attendance rates described above indicates a positive and very significant trend, it does not in itself reflect an improvement in the level of studies or quality of education. Educators have cited the phenomenon of "hidden dropping out" - that is, students who have not formally dropped out but who do not regularly attend school, or who do not actually study even though they attend school. Despite the obligation to report students who do not regularly attend school to a truant officer, data on the extent of school absence are incomplete. A health behavior survey conducted in 1998 among students in grades six through ten found that about one-quarter of them had cut classes or school at least three times during the past school year (i.e. not due to illness or vacation). These were among the highest percentages in the countries that participated in the study (Harel et al., forthcoming).

(e) Educational services and programs for students with adjustment or other difficulties

987. Enabling the majority of students to complete 12th grade and become eligible to sit for (at least some) matriculation examinations, preventing students from dropping out of high school, and reintegrating students who have dropped out into the education system are, as noted, important goals of the education system. To realize them, Israel's education system employs a wide and rich variety of services and programs in and outside of schools.

988. Below we will briefly review some of the more outstanding programs and services that have been developed over the years to help children with special difficulties.

(i) Support services

989. The education system offers support services to children and youth who have difficulty adjusting to the school environment. These services are provided by a large number of units and departments in the Ministry of Education and the local authorities. In middle and high schools, and to a lesser extent in elementary schools, guidance counselors help students who have scholastic, behavioral or emotional problems. Most of the students are referred to the counselors by their teachers, although some are referred by their parents, and others seek out the counselors themselves.

990. Students who suffer from more serious problems are usually referred to other psychological services within or outside the education system. Educational psychology services offer assessment, diagnosis and limited intervention for children referred to them by a school. School psychologists advise teachers how to address the problems of these children in the classroom.

991. Table 50 presents the distribution of such services in schools throughout Israel for the 1994/95 school year, based on a survey conducted in that year. The Table reveals that most of the Jewish schools in Israel maintain guidance counseling and psychological counseling services. There is over 90% coverage of secondary schools by guidance counselors, and more than 90% coverage of elementary schools by psychological counseling services. There are significant gaps in the Arab education system, regarding both guidance and psychological counseling.

992. There are also gaps in the availability of these services according to the socio-economic status of the student population (as measured by the Ministry of Education's index of disadvantage). According to a report of the Committee of Inquiry into the Ability of Students with Learning Disabilities to Fulfill their Potential 1997, guidance and psychological services are more readily available in affluent schools, although it may be assumed that the need for these services is greater among the populations of less affluent schools.

Table 50

Guidance and psychological counseling in schools: the percentage of schools in which counseling was provided in 1994/95

School	Guidance counseling		Psychological counseling	
	Jewish sector	Arab sector	Jewish sector	Arab sector
Elementary	67.4	18.7	91.3	44.4
Middle	95.7	64.4	81.0	27.4
High	94.0	74.4	65.8	34.8

Source: Central Bureau of Statistics, 1997.

993. Both psychologists and guidance counselors often handle a great many cases, and therefore cannot intervene intensively. A 1994 survey of the psychological services in two cities indicated that only 25% of the children who were referred to the services benefited from personal intervention; in most cases, only diagnostic and assessment services were provided, or consultation for the student's teachers.

994. The Ministry of Education's truant officers are responsible for monitoring and intervening with children who do not regularly attend school. It is their job to enforce the Compulsory Education Law, and to ensure that others in the system responsible for preventing students from dropping out (primarily the principal and his staff) perform their duty. Truant officers do the following:

- Identify students who have dropped out or who are in danger of dropping out, and returning them to school.

- Implement educational intervention programs in and outside of schools, in accordance with students' needs.

- Care for individual students, represent them and mediate on their behalf before professional committees.

- Report data.

In addition to working directly with children and their families, truant officers can make referrals to other services, if necessary. It should be noted that the Ministry of Education reports a shortage of truant officers (25% of the positions for truant officers remain unfilled).

995. Social work services are also available in some schools; they are usually provided by the municipal social welfare department to children from problem families.

996. Several agencies serve youth at risk: youth promotion units, which are operated by the Youth Advancement Department of the Youth and Society Administration of the Ministry of Education through local authorities; and the Service for Young People, Women and Girls

operated by local social welfare departments under the surveillance of the Ministry of Labor and Social Affairs. Youth at risk, in this context, are defined as young men and women who are neither working nor attending school, who are working but are not attending a supportive educational framework, who are enrolled in school but are at risk of dropping out, or who are at risk of deteriorating because they are recent immigrants, or because they are exposed to marginal or even criminal behavior. These services aim to prevent the alienation and dissociation of youth at risk, and to reintegrate them into school, work, the community of their peers, and normative society.

997. These services function in the community and offer a variety of personal and group interventions for youth, such as centers for supplemental basic education (the HILA Program); information and counseling centers for youth; and municipal services for immigrant youth at risk. Additional programs include "life without drugs", a program to prevent and reduce the abuse of drugs and alcohol; "I'm against violence", to prevent violence; and programs that prepare youth for compulsory military service.

998. In 1997, a survey was conducted of the characteristics, needs and attitudes of youth in the care of the Youth Advancement Department, and of the department's programs (Kahan-Strawczynski, 1999). The survey was the first to examine needs by sub-group: immigrant youth from the former Soviet Union, Arab youth, and veteran Israeli youth. The survey found that, during the past decade, the populations served by youth promotion units had changed. In addition to veteran Israeli boys, the units now served girls (18%), Arabs (5%), and immigrants from the former Soviet Union (22%) and Ethiopia. The survey further indicated that the units must vary the solutions they offer and adapt them to the unique needs of each of these groups. For example, it was found that a relatively large percentage of Arab youth reported feeling lonely and lacking recreational frameworks; a large percentage of immigrants from the former Soviet Union reported abusing drugs and alcohol; and a large percentage of girls reported seeking help from the unit with family problems. The survey also discovered that one-third of the youth in the care of units attend regular schools and do not work, and that an additional 15% both work and attend school. These findings indicate the need to reinforce contact with the schools the youths attend. The survey's findings have been presented to professionals and policymakers.

(ii) Special programs for students at risk

999. A variety of services have been developed for students who have difficulty with their studies or who are at risk of dropping out, most of them under the auspices of the Department of Education and Welfare Services or the Youth and Society Administration of the Ministry of Education. Below we present the programs for students who have adjustment problems.

1000. Several thousand children from multi-problem families attend boarding schools and after-school centers. Some of these are operated by the Department of Education and Welfare Services, while others are operated by local social welfare departments. During the past two years, the Ministry of Education and the Ministry of Labor and Social Affairs have cooperated to develop this service, which has consequently undergone significant expansion. These frameworks offer remedial tutoring, enrichment, social activities, meals, supervision, and access

to therapeutic services if needed. The after-school centers serve children from families in distress who are at high risk of dropping out without necessitating their going to boarding school, which would involve their separation from their families and natural environment.

1001. The Department of Education and Welfare Services also operates remedial classes and youth centers, beginning in ninth grade. Because these frameworks receive earmarked funds, classes remain small, enabling participants to receive special attention. It is currently estimated that some 25,000 children participate in remedial classes and youth centers.

1002. The OMETZ Program was established to help students who have completed middle school but who cannot be admitted to the high school of their choice because of their poor scholastic level. This program lasts four months, and prepares students to make the transition to high school-level studies.

1003. The New Educational Environment, developed by JDC-Israel, aims to prevent students from dropping out and help them improve their study habits and scholastic achievements. To date, the program has been implemented in schools throughout Israel, primarily municipal high schools and technological schools. The program strives to change the attitudes and actions of teachers; it also reorganizes the learning environment. In 1997/98, 3,000 students participated in the program, whose dissemination is continuing with the help of the Department of Education and Welfare Services.

1004. In addition to developing and disseminating specific programs, initiatives are taken based on local planning. Policymakers have realized that in order to significantly improve the education system, extensive, comprehensive action is necessary. This led to the formulation of the 30 Settlements Program, which received earmarked funds to develop "holistic" projects in 30 towns that have a low socio-economic profile (and that are geographically peripheral or in the Arab sector). Through this program, intensive assistance is provided for three or more years to all of the educational institutions in the chosen town, in cooperation with local educational leaders. The program identifies and solves problems, improves students' scholastic achievements, and develops local leadership.

1005. Among the variety of other programs is the youth movements' "grade 13" program, in which young people volunteer for a year after completing high school (for example, working in a disadvantaged neighborhood or with children and youth at risk).

1006. The Israel Defense Forces (IDF) implements special programs for youth in distress who join its ranks. In addition, it prepares youth for army service by implementing programs for the general population, in cooperation with schools, and for special populations, in cooperation with youth promotion units.

(iii) Programs that help students matriculate fully

1007. The Ministry of Education implements many programs to strengthen weaker students and improve their chances of completing all matriculation examinations. To increase the proportion of students eligible for a matriculation certificate, the Ministry of Education acts in four ways: it

encourages students to take matriculation examinations; provides intensive assistance to students who need it; creates post-secondary continuing education frameworks; and pays for students who lack only one or two examinations to study to complete matriculation. The Ministry has earmarked resources for allocation to schools that wish to take initiative in this matter, at their own discretion. However, schools are not required to provide special programs, and no one program is available throughout the system. Below we give examples of some of the main programs in this area.

1008. MABAR ("transition to matriculation") promotes students who ordinarily would not meet Ministry of Education criteria for taking matriculation examinations. MABAR establishes small classes and invests extra effort in their participants; in addition, classes focus on the curriculum covered by the examinations. As a consequence, most participants of MABAR do acquire a matriculation certificate. During the 1996/97 school year, about 10,000 students studied in MABAR classes.

1009. MICHAEL ("fulfilling potential and striving for excellence") encourages success on the matriculation examinations by imparting tools for effective learning and strengthening good study habits. During the 1995/96 school year - the third year of the program's operation - approximately 6,000 students participated in MICHAEL.

1010. MALBAM ("transition to modular matriculation") integrates students from weaker educational frameworks (e.g., remedial classes, youth centers) into matriculation programs. MALBAM attempts to increase these students' motivation to study and achieve, while teaching good study habits and bolstering the students' self-image. In 1995/96, 640 students participated in this program.

1011. External Schools are also an avenue to a full secondary education and a matriculation certificate, primarily for students who have left a regular school after age 16. External schools are unofficial institutions, and are usually established on the initiative of a private-educational network, which operates them for profit; nevertheless, they are under the surveillance of the Ministry of Education. Between 1,300 and 3,000 students attend external schools. Although the success rates at these schools are low, they are an important "stopgap", which prevents students from completely dropping out of the education system.

1012. The "Second Chance" Program (13th Grade) is geared for students who have completed 12th grade but have not yet taken all of the examinations required to receive a matriculation certificate. During the 1997/98 school year, about 3,000 students in 80 education centers around the country participated in this program. In addition, pre-academic study programs, usually offered at or in cooperation with an institution of higher education, offer a "second chance" to young people who have completed their military service and want to receive a matriculation certificate, so as to improve their chances of being accepted into one of these institutions.

1013. Despite the efforts to advance weak students and help them matriculate, there is consensus that large numbers of youth still fail to realize their full potential. This is due, at least in part, to the insufficient coverage provided by these programs, particularly in the Arab sector.

(iv) Alternative education frameworks for weaker students and students with adjustment difficulties

1014. Technological (industrial) schools under the surveillance of the Ministry of Labor and Social Affairs. Along with high schools under the surveillance of the Ministry of Education, there are technological and industrial schools administered by various public agencies and under the surveillance of the Ministry of Labor and Social Affairs, as stipulated by the Apprenticeship Law 1953 and the Youth Employment Law 1973. These schools developed as an alternative to the principal, regular system, and provide vocational training and basic education to young people ages 14-17 who find it difficult to adjust to the regular system, either because of behavior problems or poor achievements, or who wish to receive vocational training in a setting that integrates study with salaried employment. Over 80 vocational schools are scattered throughout the country, most of which provide three or four years of education (from ninth or tenth through 12th grade); about 16,000 students, or 4% of all youth ages 14-17, attend such frameworks.

1015. The approach of these schools is based on the assumption that the problems that make it difficult for the youths to adjust to school, may also make it difficult for them to adjust to a place of employment. Consequently, they are given supervision and guidance, and are taught good work habits alongside vocational skills and basic academic subjects.

1016. In recent years, technological schools have undergone many changes. Most of them began as apprenticeship frameworks, in which students worked five days a week and attended school only one day a week. With time, they became full-fledged schools, which provide a full week of education in the lower (ninth and tenth) grades, and combine education with a job placement (three days of work and three days of school) in the upper grades. Students who successfully complete their studies and pass external examinations given by the Ministry of Labor receive a vocational qualification certificate. Those who complete 12th grade and meet certain standards also receive a certificate of 12 years of education. In recent years, some of the students in these frameworks have also begun to take matriculation examinations.

1017. Critics have claimed that the technological education system does not sufficiently train its graduates to enter the labor force, as some of the vocations taught and the equipment used in the schools are not adapted for the current needs of industry. The claims made against the track system are also leveled against technological schools, which "segregate" weaker students in separate institutions. When the two tracks (e.g. academic versus technological/vocational) are offered in separate institutions, social alienation may result among the populations that attend different frameworks. Conversely, proponents of this system claim that technological schools are essential to meeting the needs of weaker students and enabling them to complete some form of secondary education.

(v) Special and therapeutic alternative frameworks

1018. Youth Centers and Education Centers, which are operated by the Department of Education and Welfare Services of the Ministry of Education, serve youth who have dropped out of the regular education system. Youth Centers combine academic study and vocational training in a relatively intimate framework. At present, 44 centers serve approximately 8,000 youth.

1019. *"Miftanim"* are an alternative framework operated by the Youth Rehabilitation Service of the Ministry of Labor and Social Affairs, in cooperation with the Department of Education and Welfare Services of the Ministry of Education and the local authorities. Miftanim teach basic studies, vocational training and good work habits to young people who are unable to adjust to other schools. This program emphasizes the acquisition of social skills, offers therapeutic support, and provides an opportunity to experience a work environment in vocational training workshops. There are 37 Miftanim scattered throughout the country, which serve some 2,400 youth.

1020. The HILA Program is a structured learning program developed by the Youth Advancement Department of the Ministry of Education. The Ministry of Education grants a formal certificate to students who complete eight, nine, or ten years of education in this framework. Some 2,500 youth participate in this program at 60 centers.

1021. As the descriptions above indicate, much effort is invested in improving attendance rates and developing programs to prevent or at least reduce the problem of dropping out. In addition to the programs described above, a variety of unique programs with similar aims are operated on a more limited scale. Unfortunately, few data are available on the effectiveness of these programs. Despite the relatively great need for such programs in the Arab sector, these programs are less prevalent there.

(f) Gifted students

1022. In addition to designing programs for weaker populations, the Ministry of Education devotes attention to students who are especially gifted. The Ministry employs two complementary strategies: One involves providing education instead of or supplemental to the regular curriculum, and the other involves identifying gifted students, primarily those from a poor socio-economic background, and placing them in boarding schools with high standards.

1023. The Department of Gifted Students of the Ministry of Education is responsible for operating enrichment programs for gifted children in community schools. For example, the department sponsors extracurricular enrichment classes during the afternoon, weekly enrichment days, special classes in schools, and enrichment programs in Arab and Druze schools. In 1998/99, 11,584 students participated in the programs for gifted children of the Ministry of Education. In addition, JDC-Israel and the Jewish Agency cooperate with the Ministry of Education on a variety of programs for gifted children in peripheral areas.

1024. The Association for the Advancement of Education operates boarding schools for gifted children from poor socio-economic backgrounds. These include the new Israel Academy of Arts and Sciences, which accommodates 182 students who are gifted in the sciences, mathematics and the arts from 70 different communities; the AMUTA School of Mathematics and Physics in Jerusalem; and the Negev 180 Regional Center for Excellence, which employs regional cooperation to improve the scholastic level of gifted children in the south of the country. Recently, associations and programs for gifted children have been approved in the Arab sector.

7. Children's rights in the education system*

1025. In recent years, children's rights in the education system have received social, educational and legislative attention. The education system recognizes the rights that accrue to children as human beings, which may not be annulled except in extreme circumstances. These rights are set down in director-general's memos - compulsory internal guidelines, principles and regulations of the Ministry of Education - which schools are required to carry out. Heightened awareness of the rights of the child is reflected in the document Involvement, Partnership and Responsibility, which was compiled by the Ministry of Education in 1992 and which emphasizes the rights of children in schools and contains programs for use in schools concerning the rights and obligations of schools.

1026. Students' rights recently received legislative attention in the form of the Pupils' Rights Law 2000, which addresses a series of situations that call for protection of students' rights. The law prohibits a local board of education from discriminating against students on the basis of socio-economic status, ethnic background, or political views in the registration for, admission to or expulsion from a school, the determination of a course of studies or promotion, the establishment of segregated classes in any one school, or the rights and obligations of the students, including rules of discipline. The law imposes a sanction of one year's imprisonment or a fine for contravention of the prohibition against discrimination.

1027. The law also sets procedures that must be followed before a decision is made regarding the permanent expulsion of a student from school. Inter alia, the student and his parents must be given the opportunity to state their claims in the matter, and must be allowed to appeal a decision regarding expulsion before a hearing committee, to be established in each region. Hearing committee decisions regarding appeals may also be appealed to the Court for Administrative Affairs.

1028. The law addresses the implementation of disciplinary measures in schools, and stipulates that discipline must be imposed in a manner commensurate with respect for human dignity; in this context, it is the students' right not to be subjected to corporal or humiliating punishment. The law also prohibits a school from punishing a student because of the omissions or commissions of his parents.

1029. The law requires all schools (with the exception of preschools) to encourage the establishment of a student council, and to determine its activities in consultation with students.

1030. The law addresses the confidentiality of matters involving students, and requires any individual who receives information about a student, in the context of a job he is legally authorized to perform, to keep that information secret and not to reveal it except for the express purpose of performing his job.

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* For a discussion of the legal rules regarding civil and political rights in the education system, see Chapter VI. The description in this section focuses on existing practices.

1031. All of the law's stipulations apply to every official school. The stipulations also apply to a recognized school that is not official, with the exception of those pertaining to student councils and procedures for permanent expulsion. However, the Minister of Education may impose these stipulations on such institutions in certain conditions and in consideration of the institution's character.

1032. A special section of the law requires bringing its content to the attention of students and their parents within 45 days of its publication.

1033. Below we review the rights of students in schools and their involvement and participation in school life. We also examine how the Ministry of Education and other agencies disseminate and uphold students' rights. Later we review how discipline problems and violence are addressed in Israeli schools, and how the school climate affects students.

(a) The rights of students in schools

1034. The policy of the Ministry of Education, as stated in the Minister of Education's preamble to Involvement, Partnership and Responsibility, is that "a school must prepare its students to live as citizens with equal rights in a democratic society … Despite the differences between the obligations and rights of a school child and those of an adult citizen, they nevertheless share a common denominator: At every stage of our lives and in every situation, none of us has rights without incurring obligations … we may not expect an individual to fulfill his obligations if his rights are not respected, if he is not treated with dignity and fairness. This is the dual educational message that … [we] must impart to our students, in word and primarily in deed".

1035. Involvement, Partnership and Responsibility, published in 1992 on the initiative of the head of the Pedagogical Secretariat, was prepared by Ministry staff, national student council representatives, teachers, principals, and supervisors. This document - the most progressive in Israel in formulating the rights of school children - upholds the principle of individual freedom and draws a parallel between the rights of an individual in society and the rights of a student in school. The document also drew a parallel between school life and the educational and cultural norms of Israeli society, which are founded on human dignity, equality, individual fulfillment, liberty, and freedom of speech.

1036. Furthermore, the document aimed to uphold the rights of the individual student, while defining his obligations and areas for his involvement, partnership, and responsibility in the planning, organization and implementation of forums concerned with school life. It acknowledges the right of the student to express his opinion, criticize, and suggest improvements concerning school life, and the obligation of the school to provide him with opportunities to do so.

1037. Following are the rights and obligations of children and youth in the education system.

(i) Freedom of speech

1038. It is the policy of Israel's education system to allow students to express themselves orally and in writing on any aspect of life, and to express personal opinions, even on controversial issues (such as politics and diplomacy), with respect for the rules of debate and polite speech.

1039. The production of a student newspaper in the framework of school is one expression of students' freedom of speech. Student newspapers are published in accordance with the rules, regulations, and professional ethics upheld by the Ministry of Education. Certain restrictions apply to students, as they do to adults: Incitement to violence or racism is forbidden, as are expressions that disturb the public order, insult human dignity or belief, or constitute libel.

1040. The Ministry of Education forbids students from participating in political and social demonstrations during school hours. However, students are allowed to assemble and demonstrate on matters that concern their education. Students have the right to assemble in representative bodies, such as student councils and committees. According to a 1996 survey conducted by the Central Bureau of Statistics, student councils are active in 65% of secondary schools; they are a venue through which students can express their needs and opinions. Student councils comprise elected representatives, who express the needs and opinions of all students and uphold their rights before teachers and the school administration; they also initiate activities for the good of the student body. The education system supports student councils and attempts to increase their involvement in both the organization and climate of school. During the 1997/98 school year, student councils initiated strikes in some districts, in protest against sanctions imposed by teachers that caused the cancellation of all out-of-school activities (e.g., field trips). The national student council was also involved in making changes in the format of matriculation examinations.

(ii) Privacy

1041. In accordance with article 16 of the Convention on the Rights of the Child (preservation of privacy), a student's right to privacy is protected by the guidelines of the Ministry of Education. According to these guidelines, any action or disclosure that is liable to violate a student's privacy must be avoided. Preservation of privacy in school is reflected in the discretion with which a student's personal, medical or academic file, or other data, are handled, and in the confidentiality with which any communication between a student and a teacher, counselor or psychologist, or any knowledge they may have of a student (e.g., his grades, psychological assessment) are treated. Under the Privacy Protection Law 1981, authorization to review such confidential documents is granted only to school staff, a student's parents, Ministry of Education supervisors, and other staff so authorized.

1042. Information about a student may not be published or disseminated to an agency that is not authorized to receive it. Further, the use of computerized school data bases is forbidden unless written authorization has been obtained from the education system, the student (once he has reached the age of 18), or the student's parent (if the student is a minor).

1043. Research on students requires the authorization of their parents or of the chief scientist of the Ministry of Education. Providing information about a student to an agent not authorized to receive it is a criminal offense. Any educational professional who publishes information concerning his work is forbidden to use names or otherwise identify students.

1044. When existing information is sensitive (e.g., the pregnancy of a minor, or a criminal offense committed by a minor), the student's permission should be secured before the information is transmitted. If transmission of the information is liable to harm the minor, the school principal will be responsible for handling the matter; he or she is also required to preserve the medical confidentiality of a student who carries the AIDS virus, and is charged with protecting the rights of that student.

1045. A school is obligated to keep all psychological assessments confidential. Referral to psychological testing is conditional upon the consent of a student's parents. A student may initiate consultation with the school psychologist; the psychologist is only required to tell the student's parents about the student's self-referral if more than two therapeutic consultations take place. The psychologist may report the outcome of psychological tests and assessments to the student's parents only if doing so does not contravene the student's best interests.

1046. As noted, the Pupils' Rights Law 2000 addresses the obligation to confidentiality in all matters pertaining to students, and requires any individual who receives information about a student in the process of performing a legally appointed job to keep this information secret and not reveal it except for the express purpose of performing his job.

1047. In a memo issued in November 2000, the Director-General of the Ministry of Education addressed the issue of searching a student's belongings for weapons. According to the memo, the principal or vice principal of an educational institution may authorize a search for weapons among a student's belongings by a police officer or guard legally empowered to conduct such a search, if it is suspected that the student is in possession of a weapon or weapons and if no other means has been found of locating said weapons. The memo stipulates that the search must be conducted in a manner that preserves the rights, privacy and dignity of the student, and that it must be limited to a search for weapons only. The reasons for conducting the search, and its outcome, will be recorded on a special form, which will be transmitted to the supervisor of the educational institution.

(iii) Receipt of information

1048. Involvement, Partnership and Responsibility emphasizes a student's right to receive information about him that is held by the school. A recommendation has been made to enable students to receive all information about the rules and regulations according to which the school operates. There are no guidelines for students who wish to review director-general's memos, although the court has ruled that any individual may review them. The Supreme Court has ruled that it is important to publish the policy and guidelines that obligate all education frameworks, so that teachers, parents and students may be aware of them.

1049. Copies of director-general's memos are distributed to all schools, pedagogic centers, and the Ministry of Education information center. Claims have been made that students - and even teachers and principals - are unaware that such memos are issued.

1050. The Pupils' Rights Law 2000 requires that its contents be made known to students and parents at the beginning of every school year. The law also requires informing students and their parents of director-general's memos to schools, and of the memos of school principals regarding the rights and obligations of students, including rules of discipline.

(iv) The involvement of students and parents in school life

1051. The involvement and participation of students and their parents in school life is defined by Ministry of Education policy as being their right. The Ministry of Education's guidelines encourage the implementation of article 12 of the Convention, which stipulates that a student must be ensured the right to express his opinion regarding all matters concerning him; his opinion must also be given due weight. In other words, students must be informed of decisionmaking processes concerning them, and must be allowed to appeal both the process and the decision. To this end, the school must allow students to be heard regarding decisions of concern to them, such as their placement in a class, the development of study tracks, the level of education, grades on matriculation and other examinations, punishment and suspension, and cheating. The hotline established by the ombudsman for students, described below, reflects the Ministry's commitment to enabling students to realize this right. In addition, the Ministry encourages students and parents to become involved in the planning and organization of school life. Involvement, Partnership and Responsibility, as noted, defines areas for the participation, involvement and responsibility of students in making and enforcing decisions concerning schools and pedagogic centers.

1052. Students and their parents are partial partners in decisions concerning schools. Under the State Education Law, the curricula in formal educational institutions are set in accordance with Ministry of Education guidelines and the unique character of each school. Students and parents may influence aspects of the curriculum through supplemental programs, which represent 35% of the total school curriculum. Involvement, Partnership and Responsibility suggests letting students and parents become involved in determining the subjects of study (choice of trends, tracks and levels of study, elective courses), as well as taking into consideration the students' capabilities when determining these. Nevertheless, only a few students and parents realize this right.

1053. Greater openness to the involvement of parents in school activity is a feature of community schools, whose curriculum is determined by school staff in cooperation with parents. Community schools require, and hence facilitate, joint decisionmaking regarding school policy among representatives of the school's school administration, teachers, parents, and students, the local authority and other community institutions. Community schools are founded on the belief that parents have the right, and the obligation, to be partners in their children's education.

1054. According to Ministry of Education guidelines, every school must publish regulations regarding the rights and obligations of students and disseminate them among students and parents. According to Involvement, Partnership and Responsibility, students must be allowed to help set regulations and express their opinions and needs.

1055. A 1995 analysis of 70 sets of elementary and secondary school regulations revealed a gap between the recommendations of the Ministry of Education and actual regulations: Most school administrations perceive regulations as a set of instructions to students regarding the rules of behavior that enable the school to be run efficiently. Often, regulations do not emphasize the rights of students or the obligations of the school. This would indicate that the Ministry's recommendation that regulations present the individual as having both rights and obligations has not been fulfilled (Zidkiyahu, 1995).

(b) Dissemination and implementation of individual rights in the education system

1056. The Ministry of Education and agencies that field public referrals or address civil rights are working to disseminate the rights of the child and implement them in the education system. Since publication of Involvement, Partnership and Responsibility, tens of schools have begun to implement the school convention that is based on that document. The convention does not obligate the schools as do director-general's memos, but rather makes recommendations, which schools may accept or reject.

1057. The Ministry of Education has developed an educational study program, entitled "Rights for All Ages", which disseminates to secondary school students their rights and obligations within the school system. The program defines students' rights in various social frameworks (family, school, peer group, society) and clarifies the limitations of their rights in these frameworks; it provides information on agencies and individuals that help children and youth whose rights have been violated; and it encourages youth to become involved in making sure their rights are duly considered. This program is used informally and in civics classes. Since the program is not compulsory, there are no data on the extent of its implementation.

1058. In 1990, the Ministry of Education established a "hotline" to promote the needs and rights of students in the education system. The hotline handles specific complaints about injustice or discrimination against students (e.g., unfair treatment, unjustified punishment, physical or verbal violence). The hotline serves children of all ages, from preschool through college, and enables students to maintain their privacy and avoid discrimination or harm that might arise if they turned to someone at their school. A student may call the hotline himself or may ask someone else to call on his behalf. Hotline staff are obligated to maintain confidentiality and privacy.

1059. The hotline staff is composed of educators, teachers, counselors, psychologists, supervisors, and administrators. They must comply with the Convention on the Rights of the Child. In addition to meeting the needs of students, the hotline serves the system by increasing staff awareness of the rights of children; helping design educational policy, change regulations and write director-general's memos; writing the convention that regulates relations between

teachers and students in secondary schools; and proposing legislation and regulations regarding the welfare and well-being of children. The hotline holds workshops for school staff and student council members, which inform, change attitudes, and intervene concerning children's rights.

1060. In addition, the hotline published a compilation of director-general's memos, entitled *School Regulations - The Rights and Obligations of Teachers, Students and Parents*. The goal of this publication was to implement the right of students to information (article 17 of the Convention on the Rights of the Child) and to make educators aware of Ministry regulations and of their obligations to students. At the same time, the hotline disseminated the full UN Convention. In 1998/1999, the central theme of the school year was "the right and the obligation to respect". The hotline was a partner in the steering committee established by the Pedagogical Secretariat to implement this theme.

1061. There has been a steady increase in the number of calls to the hotline: from about 300 calls in 1990 to 4,719 calls in 2000. Students, parents, education and welfare staff, and counselors call the hotline. To date, there are still more calls from parents than from students: 40% of the calls are made by parents, while only 35% of the calls are made by students and 25% of the calls are made by others. Nevertheless, the data indicate an increase in the percentage of calls made by students, from 18% in 1998 (Ministry of Education, 2000). The issues most commonly raised are truancy, teaching and studying, students with special needs, new immigrants, violence, sexual harassment, behavior, discipline and punishment, and personal problems.

1062. In 1995, the National Council for the Child published a guide to the rights and obligations of students in educational institutions, based on director-general's memos. It was hoped that dissemination of the guide would increase the awareness and knowledge of students, school staff, and parents regarding the rights and obligations of students.

1063. Information about students' rights is also disseminated through information centers for children and youth operated by several agencies, including the Ministry of Education, the National Council for the Child, and the International Organization for the Rights of the Child. These centers empower children by informing them of their rights and channels of action, counseling them about their rights in schools and other settings, and providing information to the agencies that serve them. The centers ensure that the legal rights of children are respected and preserved.

1064. Students can receive information about their rights in school from other agencies, such as the information center on the rights of the child established by the Israeli section of Defense for Children International (DCI), which provides students with information and legal consultation regarding difficulties that arise in the school system.

1065. The Ombudsman for Youth of the National Council for the Child is yet another address for students and the agencies that serve them, which protects and helps realize children's basic rights. About one-quarter of the referrals to the ombudsman in 1998 concerned education. There has been an increase in the number of children who seek the assistance of the ombudsman, due to advertisements and articles in children's magazines, lectures, and the distribution of leaflets at schools. Young children usually seek redress for infringement of their rights at school.

Other referrals concern the lack of an appropriate educational framework for some children, who may be precluded from attending school for months; and the inappropriate attitude of educational staff toward students. Specifically, students complain about physical, mental and emotional violence on the part of preschool, elementary and secondary school teachers, principals, and others. In one case, a parent's complaint about a teacher's physically harming his child was investigated by the police. Students also lodge complaints against teachers who have insulted or humiliated them. The National Council for the Child, in cooperation with an industrial corporation, has established a mobile rights unit, which visits schools and disseminates the rights of children (see Chapter III).

(c) Discipline and punishment in school

1066. According to article 29 of the Convention on the Rights of the Child, the disciplinary regulations implemented in schools must respect children. The Ministry of Education has anchored in law a teacher's authority to impose punishment, and has published guidelines regarding alternative ways of addressing disciplinary infractions, as well as the rights of students suspected of such.

1067. According to these guidelines, a school is forbidden to infringe on these rights; students and parents must be informed about students' suspected of breaches of discipline, and the essence of the alleged offense. They and their parents must be allowed to explain their behavior. In addition, parents must be informed before severe punishment is meted out; such punishment must also be authorized by the principal or a Ministry supervisor. A school is forbidden to permanently expel a student of compulsory school age; if it wishes to expel a student, the school must inform the parents of its intention, and help find an alternative framework for that student.

1068. The Compulsory Education Law 1949 forbids an educational institution from punishing a student for an act or infraction committed by his parents (such as failure to pay a fee to the school).

1069. According to the guidelines of the Ministry of Education, teachers are forbidden to use corporal punishment of any kind as a means of discipline. In addition, teachers are forbidden to utter verbally violent expressions (insulting or humiliating comments). The Ministry of Education views any expression of violence by a teacher as a crime. In a ruling handed down in 1994, the Supreme Court declared that "physical violence toward a student is forbidden … his body and soul may not be dealt with wantonly. His dignity as a human being is offended if his teachers use physical violence against him …". As stipulated by the Pupils' Rights Law 2000, discipline must be imposed in a manner commensurate with respect for human dignity. In this context, students have the right not to be subjected to corporal or humiliating punishment.

1070. Principals are required to report to a Ministry supervisor and district board of education chairman any physical violence perpetrated by a teacher against a student. Referral of the case to the police does not exempt the principal and supervisor from their obligation to educationally and professionally address the event. Disciplinary action against a teacher who has committed an act of violence is taken under the provisions of the Civil Servants (Discipline) Law 1963, which allows for the suspension of a teacher. Corporal punishment is a more prevalent means of discipline in Arab and *haredi* schools than in other Jewish schools.

(d) The school climate and violence in schools

1071. Studies indicate that the school climate affects the physical and mental health of students in the present and future. The interaction between teachers and students and among students, and the students' perception of school rules and regulations are only a few of the factors that influence the welfare and health of students. Studies have shown that students who do not feel they belong in their school or who are not involved in the decisionmaking process are less satisfied with their school. Students who sense that they do not "belong" tend to avoid participating in school activities.

1072. Surveys of social welfare, health and risk behaviors conducted in 1994 and 1998 (see Chapter VIII) examined the implications of school climate for students. They revealed that Israeli youth have a more negative attitude toward their school system than do youth in most of the other countries that participated in the survey. Not surprisingly, then, Israel is ranked among the countries in which only a small percentage of students like their school.

1073. Israel's youth's perception of school is complex; a relatively large percentage (38%) of Israeli youth feel they are involved in setting their school's rules and regulations, and that these rules are not too strict (34%). Nevertheless, the percentage of students in Israel who feel that their school's rules are fair is low (44%), compared to students in other countries.

1074. In contrast, relatively large percentages of Israeli students reported that their teachers take an interest in them as people, and encourage them to express their opinions in class (53% and 60%, respectively). For these measures, Israel was ranked in the top one-third of the countries participating in the surveys. The percentage of students who felt they could receive additional help if they needed it (71%) was moderate, compared to the percentage of students from other countries. The percentage of Israeli students who perceived their teachers' attitude toward them as being fair (about 51%) was lower than that of students in other countries. This is consistent with the students' perception of the fairness of school rules.

1075. These findings indicate a need for in-depth consideration of how to improve the relationship between students and their schools.

1076. The surveys examined risk behaviors and injuries among Jewish students in grades six through 11 in State and State religious schools. The surveys revealed severe verbal and physical inter-personal violence in schools: More than 50% of all of the students in grades six through 11 suffered at least once during the school year from bullying, while one in every five students experienced aggression three or more times during the school year (data from 1994 and 1998 are similar).

1077. Close to half of the students participated in bullying, harassment or teasing toward another student during the school year. Seventeen percent reported that they participated in such an act three or more times during the school year. The percentages of experience with or participation in violent incidents gradually decline with age, and are smaller among high school students. The prevalence of these phenomena is relatively great in Israel, which was ranked between fifth and seventh (depending on the indicators) among the countries that participated in the survey.

1078. A 1994 director-general's memo dealing with violence determined that the school, as an agent of education, must prevent violence among students in and outside its grounds. Schools are charged with prohibiting expressions of violence, ensuring the physical and psychological well-being of their students, and swiftly and effectively addressing violent incidents in which students are involved, even if they do not take place during school hours or on school property.

1079. A recent study (Habib et al. 1998) of police treatment of minors and youth uncovered dissatisfaction with the rates of reporting by schools of violent incidents that take place on their grounds. It was claimed that some schools refrain from reporting violent incidents, out of fear for their reputation. Nevertheless, in recent years there has been an increase of 53% in the reporting of violent incidents among youth at schools; this may be due to increased willingness to report such incidents, rather than to an increase in their number.

1080. In addition to reporting violent incidents to the police, schools are themselves required to address them. A school must inform the parents of the student involved in the incident and involve them in decisions regarding their child. If the best interest of the child requires not informing the parents of the violent incident or of the involvement of the police, the decision not to inform them is made by the school principal and another professional (psychologist, social worker, police officer).

1081. To protect students' safety, it is forbidden to carry weapons and dangerous objects on school grounds. In a 1998 survey of health behavior conducted among students in grades six through ten, about one-quarter of the boys and the girls reported carrying a weapon (such as a knife, club or pistol) during the past month, for self-defense. Forty-four percent of the boys and 30% of the girls claimed that they had seen someone in their class carrying a weapon during the past three months.

1082. A parliamentary committee of inquiry (the Vilnai Committee) into violence among youth found that daily violence among youth in Israel is serious in its scope and characteristics, and that action must be taken quickly to identify the causes of violence and develop programs to prevent it. The committee presented its recommendations in 1999; they concerned the authority of the school principal, the development of programs to reduce and prevent violence, guidelines for preventing weapons from being brought onto school grounds, and the establishment of a national system to monitor and periodically assess the attainment of these goals. Pursuant to the committee's work, a Director-General's memo was disseminated, which addressed some of the committee's recommendations. However, recommendations that would incur expense are not cited in the memo and have not been implemented.

1083. Concurrently, the Ministry of Education allocated resources for the development of a program to prevent violence among youth. Experimental implementation of a program to improve the school climate and prevent violence was begun (in five schools). This program is based on the constant distribution to students of questionnaires on the level of violence and their sense of security at school; on setting clear rules for dealing with violent incidents; on involving the students, teachers and parents in making these rules; on organizing activities to improve the climate at school; and on establishing school committees (comprising students and staff) to

address violent incidents. The Ministry of Education is preparing for broader implementation of the program. The Educational Psychology Service is also developing a series of lessons on coping with violence, teaching non-violent conflict resolution, and the like.

8. The integration of immigrant children and youth into the education system

1084. Since 1990, about 800,000 immigrants have arrived in Israel, increasing Israel's population by 17%. While most of these immigrants came from the former Soviet Union, a unique group of some 70,000 immigrants came to Israel from Ethiopia. In addition, immigrants have recently arrived from several Eastern European and Eurasian countries. Between January 1990 and December 1998, 231,000 children up to age 18 arrived in Israel, representing 26% of the immigrants. Of them, 21,000 were born in Ethiopia; they represent 58% of the immigrants from that country.

1085. The integration of immigrant children and youth into the education system is a unique and important challenge for both the schools absorbing them and the children and their families. As of late 1999, about 120,000 immigrant children (ages six-17) were studying in the education system.

1086. The process of immigration, characterized by a sharp and sudden transition from familiar social and cultural norms to unfamiliar ones, exposes the immigrant to many potentially stressful situations. The obstacle presented by a new language, the inability to understand accepted behavioral norms, and the shattering of traditional support systems, in addition to changes in employment and economic status, are all liable to cause tension, anxiety, and adjustment difficulties. Children and adolescents often confront even greater difficulties: The need to cope with the demands arising from immigration, while struggling with inner processes of maturation and forming a stable identity, make them even more vulnerable. Immigrant children and the education system that absorbs them face the challenge of knowledge acquisition in a new language and culture, and the imperative of social integration.

1087. This section will examine the integration of immigrant children into the education system. We will present the main issues arising from the need to successfully absorb these children, the steps taken by the education system to this end, and trends in the improvement of the assimilation of immigrant children into the education system.

(a) The integration of immigrant children into the education system

1088. As noted, immigrants who arrived in Israel during the 1990s may be divided into two main groups: immigrants from the former Soviet Union, and immigrants from Ethiopia. Children in these groups face different problems of absorption.

(i) The integration into the education system of immigrant children from the former Soviet Union

1089. In general, immigrants from the former Soviet Union are characterized by particularly high educational and vocational levels, relative to the population of Israel. Difficulties arise primarily among adolescents, usually during the last two years of high school. Although the

matriculation success rates of immigrant youth who complete 12th grade are similar to those of veteran Jewish youth, their drop-out rates are higher; consequently, the success rates of a given class/year appear to be lower.

1090. A study conducted by the JDC-Brookdale Institute between 1994 and 1996 examined the integration of immigrant youth from the former Soviet Union into the school systems of five towns. The study found great variance in the percentages of youth who do not attend school in each of the towns that participated in the study - between 8% and 23%. The percentage of youth age 17 who do not attend school ranged between 20% and 40%.

1091. Another problem which has attracted public attention is the rate of delinquency among immigrant youth from the former Soviet Union. In recent years, there has been concern surrounding the constant increase in the numbers of these youth who have criminal records; the proportion of immigrant youth who have a criminal record is greater than that of veteran Israeli youth (see Chapter X).

1092. Immigrants from the Caucasus mountains are unique among all of the immigrants from the former Soviet Union, in their background and culture and in the difficulties they face in the absorption process. Reports on the distress of immigrants from the Caucasus led to the establishment of an inter-ministerial committee on these immigrants in the mid-1990s. The committee addressed the needs of this population from a comprehensive perspective, and formulated a plan to improve the scholastic achievements of immigrant children and youth from the Caucasus.

1093. To augment the work of the committee, a national survey of immigrant children and youth from the Caucasus was conducted, with the aim of examining their integration into the education system (Ellenbogen-Frankowitz and Noam, 1997). The study revealed that immigrant youth from the Caucasus have particular difficulty learning Hebrew and adjusting to school; they have very high drop-out rates. The study also revealed that 25% of the youth do not attend a framework that is under the surveillance of the Ministry of Education, and that 10% of those ages 14-17 do not attend any framework at all. These percentages are much higher than those for the general Jewish population, only 4% of which does not attend a framework under the surveillance of the Ministry of Education. Furthermore, the percentage of youth who intended to take all of the examinations required for a matriculation certificate represented less than 20% of the entire eligible cohort. (There are no data on the percentage of youth who actually earned a matriculation certificate.) Nevertheless, both the youths and their parents ascribed a great deal of importance to successful completion of school. Girls were not found to be any less devoted to or interested in studying than were boys.

1094. Some schools with large concentrations of students from the Caucasus have instituted special programs (e.g., “Megashrim” and “Pele”) to promote their integration, which are similar to programs used with the Ethiopian immigrant population.

(ii) The integration into the education system of immigrant children from Ethiopia

1095. Immigrants arrived from Ethiopia in two main waves: "Operation Moses" in 1984-1985, and "Operation Solomon" in 1991. The successful integration of the children of these immigrants poses a challenge to Israeli society. Several unique factors encumber their integration into the education system: First, the majority of these children lived in a non-industrial society in Ethiopia; their parents worked primarily in agriculture or skilled trades such as weaving, potting, or blacksmithing. Most of the children did not attend school, receiving only informal education; the few children who did attend school were sent to the nearest village or town, which was sometimes quite distant. Not surprisingly, a significant proportion of them are illiterate in their mother tongue (Amharic).

1096. In addition to the stress of immigration and the transition to a western-modern society, Ethiopian children and youth have encountered practical factors that have hindered their integration into the education system. For example, these children usually transfer among schools several times within their first few years in Israel, as their families move among temporary residences until settling in a permanent one. Children who arrived during the second wave of immigration, in 1991, have only just settled in permanent housing.

1097. A national study conducted among Ethiopian immigrant youth (ages 12-18) revealed that most of the youth are raised in families with a difficult socio-economic background (Lifshitz et al., 1997a). About 18% of them are raised in single-parent families, and about one-quarter of them live in households with six or more children until they are 18. About half of the youth have fathers who are relatively old (age 55 and over). In addition, parents' employment rates are low; in about two-thirds of the families there is no breadwinner at all. Older parents also lack command of basic skills in Hebrew, which affects their ability to help their children with school work or communicate with school staff.

1098. The economic hardship that is an outgrowth of this situation is reflected in the lack of text books and resource books owned by Ethiopian children, as well as the lack of a quiet corner in which to do homework; about half of these children lack essential school supplies.

1099. Following "Operation Moses", two decisions were made that influenced the absorption of Ethiopian immigrant children into the education system. The first decision was to refer all Ethiopian immigrant children, beginning with first grade, to State religious schools. This decision was based on the assumption that the immigrants came from a traditional society. The second decision was to refer the majority of Ethiopian immigrant youth to Youth Aliyah boarding schools. This decision was made because many of the youth arrived in Israel without their parents, and even those who arrived with their parents faced financial hardship. All immigrant students who entered the school system shortly after their arrival in Israel attended special *ulpan* classes, where they learned Hebrew and study habits.

1100. These decisions led to large concentrations of Ethiopian immigrant pupils in a relatively small number of State religious elementary schools, particularly in towns where large

percentages of these immigrants settled. Many of these towns were themselves poor, and geographically peripheral; some of them became so thronged with Ethiopian immigrants that they struggled to provide appropriate assistance.

1101. As noted, Youth Aliyah boarding schools were thought to be the best and most apt to provide the education, remedial assistance, and living conditions that Ethiopian youth would need to assimilate into Israeli society. Because of their limited educational background, many of the youths were referred to vocational study tracks, and/or to boarding schools with a low academic level. Consequently, the immigrants encountered veteran Israeli students from the most disadvantaged sectors of society. This aroused public debate. Moreover, concern was expressed that removing the Ethiopian youth from their families would dissociate them from their parents and community, depriving their younger siblings of a role model and their parents of aid.

1102. Following "Operation Solomon", the Ministry of Education disseminated a number of guidelines to schools regarding the absorption of immigrant students from Ethiopia. These stipulated that all Ethiopian immigrant students should be integrated into regular classes; teachers who teach the immigrants should be trained in innovative teaching methods, and taught about Ethiopian culture and traditions; the percentage of Ethiopian immigrant students should be limited, so as not to exceed 25% of the class; and, in towns with a large concentration of Ethiopian immigrant students, the immigrants should be enabled to attend schools at a distance from their home, or to attend State schools, according to their parents' preference.

1103. During the past two years, under pressure from voluntary and public organizations and people in the field, efforts have been made to ensure the integration of youth into schools in their community of residence, the referral of youth to boarding schools with a high academic level and matriculation tracks, and the identification and treatment of youth at risk. These efforts have increased the integration of Ethiopian immigrant students into middle and high schools in their area of residence, reduced referrals to vocational, non-matriculation tracks, and promoted referral to better boarding schools.

1104. Reports of the Ministry of Education and findings from a national survey of youth indicate that, in 1998/99, about 25,000 Ethiopian immigrant students attended preschools and schools. About 10,000 youth attended middle and high schools. About half of the older youth (ages 15-18) attended boarding schools. The majority (78%) of Ethiopian immigrant youth still attend State religious schools under the surveillance of the Ministry of Education. Half of the students are in relatively small classes (of up to 25 students), which allows them to receive individual attention; about one-quarter of them are in classes with a large (51% or more) concentration of Ethiopian immigrant students. This phenomenon is more prevalent in boarding schools. In addition, about two-thirds of the youth attending high schools are in full-matriculation tracks.

1105. Scholastic Achievements. At present, there is no comprehensive information on the achievements of Ethiopian immigrant youth. However, two key studies dealt with aspects of the students' integration into elementary, middle and high schools.

1106. The findings of an evaluation of the SHILUVIM Project in elementary schools in the southern school district revealed significant gaps in the achievements of immigrant students (both the more "veteran" and the "newer" immigrants) and those of veteran Israeli students (Lifshitz et al., 1997b).

1107. A national study of the absorption of Ethiopian immigrant youth found that two-thirds of the Ethiopian immigrant students in grades ten-12 were in matriculation tracks, academic tracks (38%) or vocational tracks that lead to full matriculation (28%). However, only one-third (35%) of the students study for the number of points necessary to receive full matriculation. Most of the high school students reported a need for more or any assistance to succeed on matriculation examinations (Lifshitz et al., 1997a).

1108. The national study also revealed variance in the scholastic achievements of the youth. A significant percentage failed key subjects: 19% failed in Hebrew, and 32% failed in mathematics. However, a significant proportion also had good achievements (that is, received a grade of 80 or higher): 35% in Hebrew, and 27% in mathematics. Most of them received special assistance. A significant portion of the more "veteran" immigrants, who are no longer eligible for assistance, had difficulty with their studies. In addition, a significant portion of the students who have difficulty do not receive any assistance at all, for budgetary reasons.

1109. These findings indicate a need for continued remedial assistance to Ethiopian immigrant students, including those who have been in Israel for a longer period of time.

1110. Data from the Ministry of Education indicate that the percentage of Ethiopian immigrants who are "eligible" for a matriculation certificate is increasing from year to year, from 9% in the early 1990s to 28% in 1999. Nevertheless, eligibility is still much lower than that of the total Jewish population in Israel.

1111. Dropping Out of School. The percentage of Ethiopian immigrant youth ages 14-17 who are not attending a school that is under the surveillance of the Ministry of Education is 6.2%. These youth may be divided into three main groups: 2.6% attend frameworks that are under the surveillance of the Ministry of Labor and Social Affairs; 1% do not attend school but are employed; and 2.6% neither study nor work. Drop-out rates are particularly high among boys, and among the more "veteran" immigrants (those who arrived before 1990), reaching 14% of the veteran immigrant boys.

1112. Reasons cited for dropping out of school were the desire to transfer to another boarding school; lack of desire to attend a religious school; social difficulties; and the school's initiative, following discipline problems or conflict with teachers. About one-third reported that they left school because they did not succeed in their studies. Almost all of the youth who were not attending school, and their parents, reported that they would like to return to an educational framework. It should be noted that the FIDEL Association operates a youth information crisis center in the Tel Aviv central bus terminal. The main function of this center is to track down Ethiopian immigrant youth who have left their regular framework, and to re-integrate them.

1113. Two additional phenomena that exist in significant proportions among Ethiopian immigrant students, and that place them at risk, are great mobility among secondary schools (about 20% of the youth) and absence from school for unjustified reasons at least once a week (14%).

1114. However, it should be noted that Ethiopian immigrant youth and their parents display significant motivation and commitment to becoming integrated into high school, succeeding in military service, and acquiring higher education. This motivation hints that, with appropriate assistance, there is a good chance they will indeed obtain an education.

1115. Diagnosis of Ethiopian immigrant children as needing special education. Concern has arisen that Ethiopian immigrant children have been referred to special education frameworks because diagnostic tools are not suited to their cultural background. The decision was thus made to conduct special diagnostic tests on Ethiopian immigrant children who were being assessed for placement in the special education system. These tests were conducted using "dynamic diagnosis", developed by the International Association for the Advancement of Learning Potential (the Feuerstein Institute) to uncover the ability to change following learning.

1116. By law, a translator is present at meetings of placement committees when the presence of (Ethiopian immigrant) parents is required. According to Ministry of Education data, in 1996, about 600 (3%) Ethiopian immigrant children attended special education frameworks; this is similar to the percentage of children in special education in the general population.

(b) Special efforts of the education system

1117. Awareness of the educational, social, economic and other, unique difficulties that confront new immigrants has led the education system to make special effort on behalf of this population. Specifically, the education system has taken the following steps: it has opened absorption classes and *ulpans* in schools, which immigrants attend until they are able to be integrated into regular classes; it has added weekly teaching hours for every immigrant student in a school; it has added remedial classes for immigrants in Hebrew language and language-dependent subjects; it has given dispensation to make matriculation examinations easier and more accessible, for example by allowing immigrants to be examined in their native language; it has allowed immigrants to choose the language of their country of origin as their second language of study; it offers immigrant students special seminars and summer sessions that combine learning Hebrew with learning concepts in Israeli culture, Judaism and Jewish heritage; and it has instituted programs that ease the absorption process. In addition, The Ministries of Education and Absorption help immigrant students finance the cost of education - e.g., textbooks, field trips, cultural activities - which is usually paid by parents.

1118. The distribution of immigrants across schools is not uniform. Some schools have absorbed a few immigrants, while others have a majority of students who are immigrants. The Ministry of Education grants additional assistance to schools with large populations of immigrants, especially when the immigrants' eligibility for special assistance has expired.

This includes additional remedial teaching hours; tutorial assistance during the school day and in the afternoon, provided by soldier-teachers; and programs that combine study and socializing, such as the SHALHEVET Project (integration of immigrants through social activity) and Project 75 (a system-wide project for absorbing immigrants).

1119. In addition, in-service training on absorbing immigrants is provided to teachers; classroom aids are prepared for all teachers, especially those who teach immigrants; a pedagogic center on immigrant absorption has been established; Russian-speaking teachers are being trained; and special teams are being established in the Ministry of Education, in cooperation with other ministries, to deal with the issues of immigration and absorption.

1120. The Ministry of Education also holds activities for immigrant youth from the former Soviet Union and from Ethiopia who have not managed to become integrated into the education system, who have difficulty adjusting to school, or who have dropped out. These activities are provided through youth promotion units of the Youth and Society Administration and the local authorities, particularly in towns with large concentrations of immigrants. They include social activities, supplemental education and language acquisition, reintegration into normative frameworks such as school, and preparation for military service.

1121. As it recognizes the unique difficulties that face Ethiopian immigrants, the Ministry of Education has made care of these students a top priority, allocating more resources for their absorption than for that of other immigrants. The primary perquisites for Ethiopian immigrant students are extension of the period of eligibility for remedial study hours (an additional 1.75 hours of teaching per week), allocated to the school that has absorbed the student, and a financial grant to purchase textbooks and other school aids. Ethiopian immigrants receive more hours of education than do immigrants from other countries, and also receive subsidies for school supplies and expenditures for a longer period of time.

1122. During their first year in school, and sometimes for longer, Ethiopian immigrants attend special classes in regular elementary schools. These classes are small in size and attempt to accelerate the process of closing gaps, so that the immigrants may be integrated into regular classes as quickly as possible. Once in the regular classes, Ethiopian immigrant children continue to receive special assistance. Questions have arisen as to the efficiency of these classes and the appropriateness of separating the children from their peers, even for a limited time.

1123. Despite all of the special provisions made for immigrants, it appears their needs are not being sufficiently met. Many immigrant children who need assistance do not receive it at all, or do not receive it in sufficient quantity.

1124. The national study noted above examined the educational and economic assistance provided to Ethiopian immigrant youth at school (Lifshitz et al., 1997). The study revealed that 59% of the youth received educational assistance at school (remedial teaching in some subjects, assistance from teachers after school hours), or in an after-school frameworks. Nevertheless, most (70%) of the students - both those who were receiving assistance and those who were not - reported needing additional assistance to succeed in school. For one, a

significant portion of the Ethiopian children do not attend after-school frameworks, even though their parents cannot give them educational support. For another, there appears to be a lack of educational programs adapted to the unique difficulties and needs of Ethiopian immigrant students. The need to increase such assistance and adapt it to needs is thus obvious.

1125. The phenomenon of unmet needs was also found regarding economic assistance. About half of the youths reported receiving various sorts of financial assistance at school, such as subsidies to purchase textbooks, funding for field trips and extracurricular classes, and coverage of medical costs. Nevertheless, about half of them reported needing more financial assistance.

1126. The study also found that only one-third of the teachers of heterogeneous classes (immigrants and non-immigrants) had been specially trained to promote the integration of Ethiopian immigrant students into their class. About half of the teachers felt they needed additional guidance, or constant consultation, to better cope with the problems they encounter during their work with Ethiopian immigrant children.

1127. Special programs were also instituted, with the help of JDC-Israel and the Association for the Advancement of Education, to enable the more gifted Ethiopian students to attend better boarding schools in Israel. For example, some Ethiopian students attend special courses offered at adjunct preparatory institutes and technological schools, which prepare them to take matriculation examinations. Some attend the preparatory pre-academic programs offered by universities and colleges.

1128. The departments of the Ministry of Education initiate and implement programs that foster the integration of Ethiopian immigrant youth into the education system. Youth Aliyah, which absorbs a significant number of immigrant youth into its boarding schools, has established programs that integrate Ethiopian immigrants into classes of veteran Israeli youth (e.g., SHILUV, MABAR), and enrichment programs for Ethiopian students that foster young leadership, reinforce Ethiopian Jewish identity and heritage, and teach health education.

1129. The Youth Advancement Department of the Youth and Society Administration develops educational and therapeutic programs for youth at risk, and training programs for youth counselors who are themselves immigrants from Ethiopia, and who work with members of their community.

1130. Recently, various intervention programs have been developed to help government, public, and voluntary agencies cope more efficiently with the needs of Ethiopian children in preschools, elementary and secondary schools. These programs are implemented in schools with large concentrations of Ethiopian immigrant students, and emphasize the teaching of basic skills alongside social integration. In recent years, these programs have also focused on increasing the familiarity of school staff with Ethiopian culture, and on efforts to involve the children's parents. It should be noted, however, that these programs are not implemented in all schools attended by Ethiopian immigrant students.

1131. In order to address the unique problems of Ethiopian immigrant students, the Ministry of Education established the Steering Committee for Ethiopians in the Education System in 1995. The Committee, half of whose members are Ethiopian immigrants, formulates and implements

comprehensive policy on the absorption of Ethiopian immigrants into the education system. It also coordinates among agencies that serve Ethiopian immigrant children and youth in the field of education; formulates long-term policy on the treatment of Ethiopian immigrant students in the education system; and cooperates with members of the Ethiopian immigrant community and organizations that assist the community.

1132. In preparation for the 1998/99 school year, the Committee formulated an extensive plan of action comprising projects for children and youth that emphasize their self-image, identity, and ties to their heritage. It also comprised increased in-service training for teachers, individual and group work with parents, increased integration of very young children into preschools, involvement of Ethiopian immigrant adults and children in informal frameworks, the hiring of Ethiopian immigrant school aides, and the prevention of dropping out.

1133. The Committee sponsors a number of activities for youths age 12-18, among them enrichment clubs and after-school frameworks, which it hopes will keep the children from dropping out and help them fulfill their potential. It also runs programs for very young children, system-wide programs in schools with large concentrations of Ethiopian immigrants, and programs for outstanding students.

1134. One of the main problems integrating Ethiopian immigrant children into school is that their parents are not aware of the demands school makes on them, are not involved in their education, and do not have contact with school staff. Lifshitz et al. (1997) found that parents are not sufficiently involved in choosing their child's school or in what happens to their child at school. For example, only 40% of the parents in the study had visited the boarding school that their child would attend prior to registration, and the majority of mothers reported not knowing anything (39%) or very little (47%) of what happens to their children at school. Although about two-thirds of the parents attend parents' meetings, these are problematic, as it is often the children themselves who translate what the teachers have to say; an interpreter is present in only in a small proportion (14%) of cases. Alienation between parents and the education system is even more pronounced at boarding schools. One expression of parents' lack of information regarding their children's education is that 70% of the mothers of adolescents did not know what a matriculation certificate was.

1135. In many schools, Ethiopian immigrant "facilitators" are employed to reinforce the ties among school staff, parents, and the local Ethiopian immigrant community. In addition, the Department of Adult Education has developed a program "bridging old and new", and offers courses for parents that are led by a professional group leader and an Ethiopian immigrant facilitator.

1136. A number of public and voluntary organizations, in which Ethiopian immigrants are also active, intervene to promote the integration of children and youth into the education system. At the head of this activity is the Coalition for the Advancement of Education for Ethiopian Immigrants, in cooperation with the Steering Committee. The Coalition was established in early 1997 to set comprehensive educational policy and priorities, and to raise funds. Headed by JDC-Israel, the Coalition comprises government ministries, voluntary organizations and foundations that advance this goal. The Coalition began work in ten towns with large Ethiopian

immigrant populations, with the aim of promoting the scholastic achievements and social integration of Ethiopian immigrant children and youth, while coordinating among the agencies in this field and developing comprehensive policy.

1137. The following are among the other agencies active in this field:

- ALMAYA - The Association to Promote the Family and the Child in the Ethiopian Community in Israel implements a number of intervention programs for very young children and involves parents in preschool activities.

- The North American Council on Ethiopian Jewry (NACOEJ) implements projects that promote the integration of children into elementary and secondary schools. These include "finance high school", which gives scholarships to high school students who are interested in remaining in their community of residence; "twin bar mitzvah", which matches Ethiopian immigrant children with children from the Diaspora; and "extended school day", which provides students with remedial lessons and help with homework.

- The Fidel Foundation primarily trains Ethiopian immigrants to work as facilitators with school staff, and youth and their parents.

- The Umbrella Organization of Ethiopian Immigrants is involved in various projects, and finances the integration of children into preschools.

- The Israel Association for Ethiopian Jewry (IAEJ) monitors government activity and lobbies to promote the integration of Ethiopian immigrant children and youth into the education system.

(c) Social integration

1138. An important goal of Israel's absorption policy is the social integration of immigrants and veteran Israelis, and of different groups of immigrants. A great many programs in and outside of schools promote this goal. Nevertheless, there are many reports of alienation between veterans and immigrants, as well as reports of conflict and violence. Studies conducted by the JDC-Brookdale Institute on immigrant youth from the former Soviet Union, from the Caucasus, and from Ethiopia have provided a glimpse of these youths' feelings and perspective. A distinction should be made between the youths' perception of relations, and their personal relationships. In general, most immigrant youth see relationships with Israelis as being problematic - sporadic, confrontational, and mutually antagonistic. Ethiopian immigrant youth tend to see things in a more positive light than do those from the former Soviet Union, although they do not deny that relations are problematic. On a personal level, in contrast, the youths have a much more positive perspective. Most immigrant youth report having at least one Israeli friend, and viewing the attitude of Israelis toward them as being positive; they do not report being victims of taunting or violence. Many immigrant youth report spending time with Israeli youth outside of school. This would indicate that the goal of integration is gradually being attained, although many difficulties remain. Israel's youth movements, the Society for the

Protection of Nature, the Department of Police and the Community, and the Association of Community Centers are working to cultivate leadership and involvement among immigrant youth.

9. The Arab education system

1139. In 1998, there were about 516,000 Arab children up to age 17, constituting 25.3% of all of the children in the State of Israel. Of them, 294,698 Arab children attended school, comprising 18.4% of all school children. In 1998, children in the Arab sector represented 24% of all elementary school children and 17.8% of all secondary school children (Ben-Arie and Zionit, 1999).

1140. A number of factors present special challenges to the Arab education system in Israel. These factors may be divided into two types: intra-social factors, and external factors. Intra-social factors include family size, parents' level of education and socio-economic status, cultural and social changes (social-cultural transition).

1141. External factors include the need of Arab students to learn three languages (Arabic, Hebrew and English), and significant gaps in the investment in education in the Arab and Jewish sectors. These gaps are reflected in both the more limited investment by the government, as well as in the more limited resources provided to the education system by the local authorities and the children's parents. Analysis of information provided by the Ministry of Education revealed that, in 1991, the total investment in education per pupil in Arab municipalities was approximately one-third of the investment per pupil in Jewish municipalities. Government investment per Arab pupil was approximately 60% of the investment per Jewish pupil. The remaining gaps are a result of very limited investment on the part of the local authorities (less than 20% per pupil, compared to the Jewish sector) and the insignificant contribution by parents. The gaps in government allocation are mainly a result of more limited allocation to enrichment and extracurricular activities such as libraries, programs for weaker students, cultural activities, and counseling and support services. The more limited investment by local authorities and parents can be ascribed to the dire financial state of the Arab local authorities, as well as to the higher level of poverty among Arab families. It is important to note that in many cases, allocation of government funding for extracurricular activities, special programs and support services is dependent on matching funds provided by the local authority and parents. As such funds are not available in the Arab local authorities, services of this type are often not implemented in the Arab education system.

1142. Since the establishment of the State, changes have occurred in the Arab education system, which has gradually become open to all segments of the Arab population. There has been an increase in the number of schools, in teacher training, in attendance rates, and especially in the education of girls. Yet despite these changes, gaps in most areas remain.

1143. In this section we will review characteristics of and developing trends in the Arab education system, and discuss attendance and drop-out rates, scholastic achievements, the investment of resources in education, education services, the training and education of teachers, and the special education system.

(a) The structure of the education system

1144. Among the Arab population, we may distinguish different patterns of residence (e.g., urban versus rural). The majority of the Arab population lives in villages and small towns, and it may be said that even those who live in larger towns and cities lead a lifestyle that is rural in character.

1145. About 80% of Israel's Arab citizens are Moslems, 11% are Christians, and 9% are Druze. The Arab education system is composed mainly of public schools. Five percent of the schools in this sector are private and are operated by churches, but are open to children of all denominations. These schools are considered "recognized but unofficial" and, as such, are more autonomous and selective, on one hand, and receive more limited government funding, on the other.

(i) Early childhood education

1146. Attendance rates at early childhood education frameworks (day care, preschools and kindergartens) are very low among Arab children in Israel, compared to their Jewish counterparts. In 1999, only 35% of the Arab children ages two-five attended such frameworks, compared to 86% of Jewish children the same ages. The difference in attendance rates is evident in all age groups (see Table 51). While two-thirds of the Jewish children age two attend preschools, only 5% of the Arab children age two do so. While almost all (93%) Jewish four-year-olds attend preschool, only one-third of the Arab children this age do. As noted, kindergarten for children age five is free and compulsory in Israel. Despite this, the kindergarten attendance rate of Arab children age five is only 81%.

1147. There are a number of reasons for the differences in the preschool attendance rates of Jews and Arabs. The availability of preschools in the Arab sector is relatively limited, and there is a lack of preschool teachers and teacher training programs. In addition, there is no structured preschool program. This is a result of the relatively small government investment in this sector, as well as of the fact that Arab local authorities have to finance the construction of preschools and cover 25% of the tuition for municipal preschools for children ages three-four. As noted, Arab local authorities have financial difficulties and a negative financial balance, and cannot allocate the financial resources necessary to construct preschools.

Table 51

Preschool attendance rates among different age groups, by sector (in %)

Age	Jews	Arabs
Total	**86**	**35**
2	68	5
3	89	23
4	93	34
5	94	81

Source: Central Bureau of Statistics, 2000.

1148. The need for more preschools in the Arab sector is also a result of the increasing number of Arab women entering the work force. Therefore, in 1995/96, the Ministry financed the construction of 100 pre-compulsory preschool classes in the Arab sector. In addition, following the recommendations of a special Knesset committee, training for Arab preschool teachers was expanded: In 1995 and 1996, the number of college classes to train Arab preschool teachers was doubled, the professional surveillance of the Ministry was expanded to cover preschools, professional guidance was improved, and unique curricula were developed.

(ii) Elementary and secondary education

1149. During the past decade, the number of middle schools in the Arab sector has increased by 43%, and that of high schools has increased by 24%. During the past decade, there has been an increase in attendance rates in the Arab sector, which have risen from 67. 3% to 78.9%. There has also been an increase in attendance rates in the Jewish sector, but at a slower pace, such that the gaps between the sectors have decreased. However, in 1997/1998, the drop-out rate of Arab students remained five times as high as that of Jewish students - 20.7% versus 4.5%, respectively (see Table 52).

Table 52

Attendance rates of youth ages 14-17 in schools under the surveillance of the Ministry of Education, by sector (in %)

Year	Arab sector*	Jewish sector**
1980	51.0	66.8
1995	67.3	95.9
1998	78.9	94.5

Source: Ben-Arie and Zionit, 1999.

* Not including private schools and schools in East Jerusalem.

** Not including data on attendance rates in institutions under the surveillance of the Ministry of Labor and Social Affairs.

1150. By age 17, attendance rates have dropped to 68% among Arabs, while they are still close to 90% among Jews.

Table 53

Attendance rates, by age and sector, 1997/98 (in %)

Age	Arab sector	Jewish sector
14	90.4	98.6
15	83.0	98.0
16	73.8	94.3
17	67.4	88.8

Source: Ben-Arie and Zionit, 1999.

1151. A trend of major significance is the increase in the attendance rates of girls, and the closing of the gap in attendance rates between boys and girls. During the 1980s, 44% of Arab girls attended grades nine-12. Within ten years, their attendance rate had increased to 71%, matching that of boys (70%; see Table 54). By 1998, the attendance rate of girls had clearly exceeded that of boys (82% and 75%, respectively).

Table 54

Average attendance rates of Arab students in grades 9-12, by gender (in %)

Year	Total	Boys	Girls
1980	51	58	44
1993	70	70	71
1998	79	75	82

Source: Sprintzak, 2000.

Not including private schools and schools in East Jerusalem.

1152. There are notable differences in the attendance rates of groups within Arab society. For example, the 12th-grade attendance rate of the Druze is higher than that of all Arabs, while that of Bedouin Arabs is lowest (76.0%, 67.3% and 49.7%, respectively).

Table 55

12th-grade attendance rates, by sector, 1997/98 (in %)

Sector	Attendance rate
Arabs	67.4
Bedouin in the Negev	49.7
Druze	76.0
Jews	84.2

Source: Ben-Arie and Zionit, 1999.

(b) Scholastic achievements in the Arab and Druze sector

1153. The scholastic achievements of Arab children are lower than those of Jewish children: In national examinations conducted in 1991 and 1992, children in the Arab and Druze school systems scored lower than did children in the Jewish sector. For example, the percentage of children in the Arab sector who failed the examination in arithmetic was more than twice that of children in the Jewish sector (Lavi, 1997; Abu-Asbah, 1995).

1154. There is also a gap between the Arab and Jewish sectors in the rates of eligibility for a matriculation certificate: In 1997, about 21% of all Arab (including Bedouin and Druze) youth age 17 were eligible for a matriculation certificate, compared to 44% of their Jewish peers

(see Table 49 above). (Differences were also found among segments of the Arab sector. For example, 26% of the Druze, 18% of the Moslems, 44% of the Christians, and only 10% of the Bedouin were eligible for a certificate.) As in the Jewish sector, the rate of eligibility for a certificate is higher among girls in the Arab sector.

(c) Resources in the Arab education system

1155. There is a great deal of variance in the resources allocated to education in the Arab versus the Jewish sector. These discrepancies are reflected in various aspects of education in the Arab sector, such as physical infrastructure, the average number of students per class, the number of enrichment hours, the extent of support services, and the level of education of professional staff.

1156. In 1991, the government established national and local committees to examine the achievements of Arab students. These recommended reinforcing educational resources in the Arab sector, allocating more teaching hours per student, matching the quality of teaching in this sector to that in the Jewish sector, hiring more teachers in the Arab system, and hiring more supervisors, particularly of Arabic language instruction.

1157. Also in 1991, the Ministry of Education prepared a five-year plan whose aim was to place the budgetary and educational standards of the Arab sector on a par with those of the Jewish sector. To this end, it suggested unified criteria for allocating resources to the Arab sector, relative to the Jewish sector, and proposed integrating the Arab and Druze sectors equally and fully in all new Ministry programs.

1158. In the intervening years, the recommendation to match the budgetary standards of the two sectors has only been implemented in part. Significant gaps in the budgets of the Jewish and Arab education systems have therefore remained.

1159. In 1998, a committee established to prepare a five-year plan, headed by Professor Miriam Ben-Peretz, presented its recommendations, which addressed some but not all of the areas needing improvement. In July 1999, the decision was made to implement the recommendations of this committee for 1999-2003. The various departments of the Ministry of Education reviewed the recommendations relevant to their respective areas of responsibility, and the Ministry began implementing them. The Follow-up Committee on Arab Education claims that the Ministry's implementation has only been partial, and does not encompass all of the recommendations presented in the original five-year plan. According to the committee, a budget of NIS 792 million is still lacking (Follow-up Committee on Arab Education, 2000). In addition, the five-year plan did not at all address informal education, art and culture, despite the extensive need in the Arab sector.

(i) Physical infrastructure

1160. There has been a large increase in the number of classrooms in the Israeli education system in the past decade: In the Jewish sector, the number of classrooms increased from 29,448 in 1990 to 34,747 in 1998, and in the Arab sector, the number of classrooms increased from 6,720 in 1990 to 8,423 in 1998 (Sprintzak et al., 2000).

1161. According to a 1996 report of The Follow-up Committee on Arab Education, the Arab sector still lacks physical resources, especially in the elementary school system, despite the recent increase in the numbers of schools and classrooms. For example, the number of laboratories, workshops and sports facilities is still insufficient. More than one-third of Arab children study in flammable and dangerous structures. The situation is particularly severe in the Bedouin sector, especially in the south of the country and in the unrecognized settlements, where few classrooms have been built.

(ii) Number of students per class and hours of instruction

1162. Table 56 presents the differences in the average number of students per class between the sectors. The average number of students per class has remained higher in the Arab than in the Jewish sector throughout the past decade. In 1998, there was an average of 27 students in each class in the Jewish sector and 31 students in each class in the Arab sector. Contrary to a trend of constant increase in the number of students per class in the Jewish sector, the number of students per class (31) has remained stable in the Arab sector over time.

Table 56

Average number of students per class, by sector (1980-1998)

Year	Average number of students per class	
	Arab sector	Jewish sector
1980	31.1	25.8
1990	30.9	27.1
1998	31.0	27.1

Source: Central Bureau of Statistics, 1999.

1163. Hours of instruction were added to the enrichment basket that, until five years ago, was provided to Jews only. In 1995, an index of disadvantage was introduced, specifically to measure disadvantage in the Arab and Druze sector. The index makes it easier to aptly allocate resources to schools in the Arab sector, so as to cultivate weak populations. In 1996, the average enrichment basket for Arabs had already reached two-thirds of that in the Jewish sector. However, the distribution of hours and budgets per school is not equal in the two sectors, and does not take into consideration the existing gaps between the two sectors.

(iii) Support services

1164. Table 57 demonstrates the increase in support services in the Arab education system between 1992 and 1996. The number of truant officers in schools tripled, and the number of extracurricular clubs grew. Positions were added for psychologists, and students from the Arab and Druze sector who had not previously participated in the MABAR Program (which offers special assistance with matriculation examinations) were now able to benefit from it.

Table 57

Allocation of resources to different sectors, 1992-1996

Resource (in numbers)	Jewish sector	Arab sector (includes Bedouin)	Druze sector
Truant officers			
1992	111.5	11.0	2.5
1995	167.0	30.5	7.5
After-school enrichment centers			
1992	118	1	1
1995	412	33	5
Students in the MABAR Program (help with matriculation exams)			
1992	708		
1995	1 078	189	44
Educational psychologists			
1992	475	2.5	1.7
1995	680	43.5	6.5

Source: Brandes, 1996.

Table 58

Percentage of schools having different support services, by sector (1994/95)

Service	Jewish sector			Arab sector		
	Elementary schools	Middle schools	Secondary schools	Elementary schools	Middle schools	Secondary schools
Guidance counselor	67.4	95.7	94.0	18.7	64.4	74.4
Psychologist	91.3	81.0	65.8	44.4	27.4	34.8
Social worker	63.4	60.6	52.7	27.7	23.3	40.8
Truant officer	64.7	72.8	61.1	51.1	64.4	53.5
Mentors*	55.2	10.2	25.0	37.4	5.3	18.5
Computer-assisted learning	55.4	57.7	53.7	26.2	33.3	32.2
Study center	28.7	51.4	31.0	15.0	14.7	8.2
In-service training for staff	88.8	84.9	82.2	59.4	65.3	74.0

Source: Central Bureau of Statistics, 1997.

* Such as university students who help elementary school children (PERAH Program), volunteers in big brother/sister programs, etc.

1165. Despite the increase in the number of positions available for support staff (truant officers, social workers, educational psychologists, speech therapists), support services in the Arab sector are still very inadequate, and are still not commensurate with the percentage of

Arab children and youth in the population. According to The Follow-up Committee on Arab Education, 160 psychologist and guidance counselor positions and 150 truant officer positions remain unfilled in the Arab sector. According to the Committee, this issue has not received sufficient attention in the five-year plan. Table 58 indicates the discrepancies between the support systems in each sector.

(iv) Manpower in the education system

1166. The training, development, and level of education of teachers has a very significant effect on their students' levels of achievement. The traditional teaching methods and authoritative relationship between teachers and students that are the norm in the Arab sector have received extensive attention in every discussion of the Arab education system. A comparison of the levels of education of Jewish and Arab teachers reveals that the academic training of Jewish teachers is on a much higher level than that of Arab teachers. In light of the results of feedback examinations and the discrepancy in the failure rates of Jewish and Arab pupils (on tests of reading comprehension and arithmetic) in 1991, a committee established in 1992 recommended immediately reinforcing the educational resources allocated to the Arab sector. It also strongly recommended that hours of instruction be added for Arab students and that the qualifications and training of their teachers be improved (Lavi, 1997).

1167. Recent years have seen an increase in the number of teachers with academic degrees and a decrease in the number of uncertified teachers in the Arab sector, thanks to the accreditation of the Arab Teachers' Seminary in Haifa in 1996, and the accreditation of the Arab Teachers' Seminary at Beit Berl in 1998. Nevertheless, the percentage of Arab teachers with academic degrees is still low, relative to that of Jewish teachers. According to the *2000 Statistical Abstract* (Central Bureau of Statistics, 2000), in 1997/98, 39.7% of all of the teachers in the Arab education system had an academic degree, compared to 59.5% of their Jewish colleagues. According to Sprinzak et al. (2000), 25% of the elementary school teachers and 62% of the secondary school teachers in the Arab education system had an academic degree, compared to 38% and 72%, respectively, of the elementary and secondary school teachers in the Jewish education system.

1168. The Ministry of Education has established a framework for in-school, in-service professional training in alternative teaching methods. Resources invested in training and development must also take into consideration school administration and supervision, which are crucial to school life. Rather than "settling" for the training of teachers alone, resources should be allocated to train administrators and supervisors to be leaders in education.

(v) Special education

1169. The attendance rates in special education frameworks in the Arab sector are lower than those in the Jewish sector. This is a result of the lack of special education frameworks and classes, the lack of special education teaching hours, the lack of professional supervision, under-diagnosis of children who need special education, limited awareness in the Arab sector of the importance of education for the disabled child, and insufficient awareness on the part of parents of the needs of disabled children.

1170. The percentage of children with special needs is 7.6% in the Jewish sector, compared to 8.3% in the Arab sector. The percentage of children with special needs in the Arab sector may be an underestimate, due to the lower rate of detection and diagnosis of children with mild disabilities such as learning disabilities or behavior problems in that sector. It is also important to note that the percentage of children with severe disabilities is much higher in the Arab than in the Jewish sector (5.4% and 3.3%, respectively; Naon et al., 2000; see Chapter VIII). There are no data available on the number of children in the Arab sector who need to be diagnosed for a learning disability. Key personnel in the Ministry of Education have reported that an inter-university committee was recently established to develop instruments for the diagnosis of learning disability for use in the Arab sector. In addition, an Arab association was recently established at Aabelin College to construct diagnostic tools appropriate for use in the Arab education system.

1171. It should be noted that effort is being made to reduce the gaps in special education between the Jewish and Arab sectors, under the Special Education Law. In recent years there has been an increase in the number of Arab students attending special education: In 1997, 6,000 children attended special education schools in the Arab sector, which was double the number who did so in 1985. In 2000, the percentage of Arab children in the special education system was 18% - more fairly representative of their percentage in the total student population (21%). In addition, there has been an increase in the number of special education classes in the Arab sector. For example, between 1999 and 2000 the addition of special education classes in the Arab sector constituted 45% of the entire budget earmarked for the addition of special education classes. Despite the increase in Arab children attending special education frameworks and the increase in special education classrooms, special education classes are still more crowded in the Arab than in the Jewish sector.

1172. Not all Arab local authorities offer extensive diagnosis, due to the lack of educational psychologist positions. Moreover, the lack of special education institutions in the Arab sector often means that placement committee decisions cannot be implemented. Children who have been diagnosed as needing special education do not necessarily receive it. Many disabled children in the Arab sector do not attend a framework appropriate for their needs. The study found that thousands of children who need special education do not receive it, and that hundreds do not attend any framework at all, and remain at home. According to the study, many special education schools in the Arab sector do not meet the minimum level or conditions required of an educational institution. Consequently, special education is “uniform”, and children with differing needs are placed in the same class and receive the same care.

1173. As noted, there is a significant lack of professionals who can care for children with disabilities. This impedes appropriate diagnosis and treatment. A significant proportion of disabled Arab children do not receive the pedagogical, psychological, and paramedical services, or the hours of instruction, for which they are eligible. Many special education teachers lack appropriate training, although their number is diminishing due to the opening of suitable frameworks of study.

1174. It is also still necessary to develop continuing frameworks for children with handicaps (especially the blind and deaf, physically disabled, and those with severe behavior problems); academic and vocational tracks in special schools; and curricula for special education schools in

the Arab sector. The Department for Training of Manpower in Education has allocated NIS ten million annually for the years 2001-2006 to train teachers and other staff to work in special education in the Arab sector.

(d) Programs for weak students and drop outs in the Arab sector

1175. As indicated elsewhere, the drop-out rate among Arab youth is high, and remains one of the most difficult problems confronting the Arab education system. Nevertheless, this rate has been declining slowly. One of the implications of the decline in the drop-out rate is that schools must address a population with more educational difficulties. This increases the importance of investing in programs for disadvantaged youth within schools.

1176. As a rule, only a small number of the programs for weak students and drop outs are implemented in the Arab sector. The Arab education system has not received reinforcement hours for projects for weak populations from the Department of Social Welfare. In 1997, the Follow-up Committee on Arab Education, through Adalah - The Legal Center for Arab Minority Rights in Israel, appealed to the Supreme Court in its instance as the High Court of Justice to instruct the Ministry of Education and the government of Israel to implement these programs in Arab towns and villages. The State reported that it would implement the programs gradually during the coming five years; this was reflected in the 1998 budget for education. It should be noted that the Ministry of Education employs two different indices of disadvantage for the Jewish and Arab sectors. In order to address the needs of weaker Arab students, these indices should be unified, and a policy instituted of differential distribution of hours of instruction, based on the needs of the individual student (see Kahan and Yelenick, 2000).

(e) The education system in the Bedouin sector

1177. The Bedouin sector in the south of the country is the weakest of all of the population groups in Israel. The largest gaps in education may be found in this sector, which suffers from dire problems that prevent it from developing and improving the level of services. The extremely high natural reproduction rate of the Bedouin requires swift expansion of the education system, which involves building classrooms and adding appropriately-trained teachers. It is important to distinguish between the situation of the Bedouin in the north and in the south, as that in the south is more desperate.

1178. That a significant portion of the Bedouin population does not live in permanent settlements adds hardship to legal and organizational difficulties (see Chapter VIII). Schools attended by Bedouin children are located both in permanent settlements (where they were established by the State), and in unplanned, unrecognized encampments and settlements. The latter are well below par: Their budgets are low, they lack appropriate buildings or even electricity and water, in some cases, and they lack appropriate supplies and equipment. Schools in permanent settlements are better equipped and in better physical condition, but they lack equipment such as laboratories, and the level of crowding in them is very high. There is a severe shortage of compulsory kindergartens or preschools for this population.

1179. The Bedouin education system also lacks teachers with suitable training. According to the Ministry of Education, in 1994, 23% of the teachers in Bedouin schools were uncertified. As it is not currently possible to find an appropriate number of teachers from within the Bedouin population itself, Arabic-speaking teachers are often recruited from the north of the country. However, these teachers do not persevere in their work in the south, and this also reduces the level of education. Opening preparatory courses for graduates of 12th grade from the Bedouin sector and providing additional incentives to teachers from the north may help, although it will not meet all needs. The new five-year plan developed for the Bedouin population, which began to be implemented in 1998, addresses this issue.

1180. The low level of education is related to many factors: the limited resources available for education in the Bedouin sector, especially in unrecognized villages, the destitute financial state of the Bedouin community, and the lack of programs to increase the community's awareness of the importance of education. According to a report from 1996, the percentage of Bedouin students eligible for a matriculation certificate in 1994/95 was 6% (Abu-Saad, 1998).

(f) The status of Arabic language and culture

1181. Arab children and Jewish children attend separate schools. The instruction in Arab schools takes place entirely in Arabic. Hebrew is taught as a second language beginning in the third grade, and English is taught beginning in the fourth grade. The curricula for the maths and sciences used in the Jewish sector are usually translated into Arabic. A number of unique curricula, such as history, Arabic language, and Arab heritage are taught in all segments of the Arab sector; several hours per week are set aside for the study of religion (Islam, the Druze religion, Christianity) by each segment of the population.

10. Informal education

1182. In addition to what is taught in schools, a great deal of emphasis is placed on "informal" education in Israel. The goals of informal education are to teach positive values, promote social skills, increase involvement in and identification with the community, provide an opportunity for social integration and social-cultural enrichment, and offer supplementary academic assistance.

1183. The Youth and Society Administration of the Ministry of Education is responsible for implementing informal education programs in and outside of schools. Public agencies such as community centers and youth movements are also part of the informal education system, and receive budgetary and professional support from the Administration.

1184. In this section, we will review the informal education system in Israel. First, we will review informal education programs in schools, and then we will review informal education programs outside of schools.

(a) Informal education in schools

1185. Informal education in schools encompasses a variety of programs.

(i) Weekly homeroom hour

1186. At all schools under the surveillance of the Ministry of Education, one hour a week is "homeroom hour". During this hour, the homeroom teacher raises issues and engages the class in activities that are outside the scope of the curriculum. Homeroom hour may be devoted to social issues that affect the class, issues of national concern, or inter-personal issues of interest to the students. Activities are adapted to the students' grade level.

1187. The Youth and Society Administration of the Ministry of Education has developed a variety of structured programs, which are meant to help teachers engage their class during homeroom hour. The programs address complex issues, and guide teachers in fostering an open dialog with their students, which will enable the students to openly express their opinions and feelings. Programs deal with preparation for military service, the rights and obligations of students, student and youth leadership, and the like. They are meant to cultivate fairness in the school environment; open channels of communication and engender mutual respect; impart the social skills needed for life in a democracy and enable students to experience democratic processes and leadership; and enrich the students by exposing them to culture and art.

(ii) Special social programs

1188. In most schools, social programs are implemented to reinforce positive values (e.g., democratic values) and social skills, and prevent the development of problematic social phenomenon (e.g., violence, drug abuse). One example is the "life skills" program, which was developed by the psychological counseling service, the Curriculum Department, the Department of Elementary Education and the Department of Religious Education of the Ministry of Education. The "life skills" program encourages dialog between teachers and students, inculcates decisionmaking skills, and gives students a deeper understanding of themselves, others, and current events. The "life without drugs" program is implemented in schools by the Youth and Society Administration, in cooperation with the Authority to Fight Drugs. Because the choice of using this program rests with the school principal, its implementation varies from year to year.

1189. Another program offered by the Youth and Society Administration and implemented in many schools around the country is the SHELACH (Nature, Land and Society) Program. SHELACH fosters a sense of belonging to the country and the State, and encourages youth to fulfill their national and civic obligations. SHELACH comprises a variety of activities outside the classroom (e.g., nature hikes), including activities conducted in cooperation with the IDF to prepare youth for their military service. In 1996, SHELACH activities were held in 671 schools.

1190. The CRB Foundation facilitates the implementation of enrichment, tutorial, and social action programs in schools. Close cooperation among schools, parents and program directors determine which programs will be implemented. In 1996, CRB-funded programs were implemented in 400 schools and 700 preschools. However, implementation of these programs has decreased in recent years.

(iii) Encouraging youth participation in the community and school, and developing youth leadership

1191. Informal programs in the education system also encourage youth to get involved in school and community life. For example, the "personal commitment" program, implemented in schools throughout the country, requires students to volunteer for several hours each week at a community service. After undergoing training that familiarizes them with the needs of the population they will assist, the youths volunteer at community centers, or work with disabled children, or children from families in distress, or in clubs or institutions for the elderly. This program imparts basic coping skills and cultivates sensitivity to the needs of others. In 1996, 65,000 students participated in the "personal commitment" program.

1192. The development of leadership among youth has garnered special attention. The Youth and Society Administration implements three leadership development programs: Student and Youth Councils, the Youth SHELACH Leadership Program, and the Youth Leadership Program, which are implemented in cooperation with the Association of Community Centers and the local authorities. Aspects of these programs take place outside of school, and require participants to invest time and energy in them. Student and youth councils and the youth leadership program allow youth who are not in the formal education system to participate. All three programs enable youth to take leadership roles, learn from experience, and experience the democratic process. Participants learn how to formulate a plan of action, make decisions, resolve conflict, be assertive, represent and report to others, and the like. They are trained in preparation for the roles they fill in these programs.

1193. Student and Youth Councils are a democratically elected body of students and youth that provide a channel for dialog and cooperation between teachers and students, and between the school and the community; they represent students of all ages before the school and education authorities. The councils act on four levels:

(a) School councils are elected in every school that participates in the student councils program. According to the staff of the program and council representatives, the goal of school councils is to represent students to the school administration and take responsibility for their welfare. Advisors see the councils as a sort of "union" for students;

(b) School councils choose from among their members a representative to the local authority council. These councils also comprise members who were not elected by students, but who represent groups of youth who are active in other organizations, such as community centers and youth movements. In this way, the program enables youth who are not in a regular education framework, or who do not attend any framework at all, as well as youth who are interested in leadership roles but who were not elected by the students in their school, to take part in the program and experience a leadership role. In 1996, student and youth councils were active in 95 local authorities. The local authority councils represent youth before the community and the local authority. They initiate and organize activities for children and youth in the community, work for the welfare of children, and help the community. Some local authority council representatives see their role as being a broad one that involves helping all residents of the community;

(c) Representatives from the local authority councils are elected to the regional council. At present, there are regional councils in all regions of the Ministry of Education in Israel. In 1998, 408 young people served on regional councils, representing their peers before the Ministry of Education and other government and public organizations. Regional councils follow regulations formulated by the council members together with their advisors and other staff in the education system. The regional councils comprise committees that are responsible for writing regulations and monitoring their implementation, disseminating information about the councils and their activities, initiating social activities for students, and fielding referrals and complaints from students concerning infringements of their rights by the education system or others;

(d) Representatives from each regional council are elected to the national student council, which is the highest representative body of students. Representatives of the national council participate in meetings of the Pedagogic Center of the Ministry of Education and the education committee of the Knesset. They initiate activities at the national level to promote the interests of students.

1194. Elected representatives of student councils are trained in leadership skills during a five-day summer course, which teaches them how to present a position, lead a discussion, plan and organize programs, market an idea, and cope with conflict. In addition, each student or youth council has an advisor appointed by the Youth and Society Administration, whose job is to guide and facilitate their work.

1195. The Youth SHELACH Leadership Program trains youth who have completed grades nine and ten to lead field trips alongside SHELACH teachers at their school, help organize SHELACH activities at school and in the community, teach lessons on the land of Israel and lead nature observations, implement leadership programs in the community, and fill various roles in school and community activities, based on their talents and interests. Youth SHELACH leaders work according to the structured annual plan developed by SHELACH teachers.

1196. Candidates for this role are selected by the school administration and the SHELACH teacher in consultation with the homeroom teacher. The final selection of candidates for the training course is made by a regional selection committee. Training for youth SHELACH leaders prepares them to guide and manage field trips and SHELACH activities in and outside of school, under the guidance of a SHELACH teacher.

1197. SHELACH training has several stages: a preparatory course, prior to the basic course; a basic training course at a summer camp; continued training in the regions during the school year; a course in field navigation and camping (one year after the basic summer course); a course in survival training; and conferences and practice workshops. In 1997, 903 young people participated in the basic summer training course.

1198. For the Youth Leadership Program, students are recruited from the ninth grade. Unlike student and youth councils and SHELACH activities, all youth leadership activities take place outside of the school system and are sponsored by local authorities and community centers. The main role of the youth leader is to lead younger children (from grades three and four through six) who participate in activities organized by community centers, clubs, or other local organizations.

The youth leaders also contribute to the community by volunteering, and planning and implementing community or neighborhood programs (e.g., painting fences, helping children, organizing social activities for the public).

1199. Candidates are selected for this program in two stages: First, they are personally interviewed by the youth coordinator to clarify their motives for joining the program, and their personal ability. Then the youth coordinator and the regional advisor judge the candidate on his personal and group behavior during a training session.

1200. The training of youth leaders also has two parts: The first is a local course (60-90 hours) held weekly or biweekly during the school year; and the second is a regional, week-long seminar held at a summer camp. In 1997, 1,401 youth leaders attended the regional summer course. The youth coordinator, the department of youth, the community center, or the youth department of the local authority oversee the activities of youth leaders.

1201. In 1998, a comprehensive study was conducted of these three leadership programs, which focused on their activities and youth participation (Kahan-Strawczynski et al., 2000). The study examined the characteristics of program participants, their attitudes and values, their patterns of activity, and their view of the programs' contribution to them and to their community and school. Between 60% and 90% of the participants reported that their participation in one of these programs improved their self-confidence to a great or very great extent, taught them new skills (such as guidance and administration), and increased their knowledge about and concern for the community and the country. Discussions with youth leaders revealed that that program induced some of them to adopt new norms of recreational activity, which have a preventive ("gives me a framework") or even a therapeutic ("keeps me off the streets") nature. In addition, it was widely reported that the activities of these programs contribute to the systems in which they operate.

1202. All three of these programs are also implemented in the Arab sector, to a limited extent.

(iv) Community schools

1203. Community schools promote the approach that the meaning of education extends beyond the curriculum, to social and cultural values and involvement in the community. Community schools create a link between the goals of the formal education system, which are primarily to impart knowledge, and the goals of informal education systems. They do so by fostering openness and mutual influence among the school, community and parents. In other words, community schools are open to the influence of parents and the community, and attempt to generate openness in the community to the influence of the school. The physical and educational environment of the school is available to the community, and parents, other residents, and community organizations contribute their expertise and experience to the school. In this way, students are educated to become active citizens involved in their neighborhood.

1204. Interaction between these schools and the community is reflected in the following:

(a) Cultural-educational activities: recreational activities, enrichment courses such as "the science of family", "industry and the community", "open minds", and "dilemmas during adolescence";

(b) One-time community activities: a community sports day, a health day, activities to prevent traffic accidents;

(c) Activities during the school day: lectures of parents on educational topics, development of curricula by parents and members of the community;

(d) Activities in which the community is perceived as an experiential and learning site: students helping people and institutions (Magen David Adom, old age homes, hospitals, absorbing immigrants); expansion on subjects of study through assistance to people and institutions (e.g., learning about the customs and ceremonies of local ethnic groups, the history of the community, etc.).

1205. In Israel, there are both elementary and secondary community schools. Community elementary schools are operated through the Association for the Advancement of Community Schools, in cooperation with the Department of Welfare Services of the Ministry of Education, the Association of Community Centers, and JDC-Israel. The Association for the Advancement of Community Schools began implementing this program in 1978 in five elementary community schools. At present, there are 250 such schools (70 of them in the Arab sector).

1206. The programs implemented in elementary community schools vary from one school to another and may include joint activities for parents and children, activities to develop community student and youth councils, recreational activities, and programs in good citizenship and values education. These programs may be part of the curriculum, or extracurricular. The outlook of the community school is also reflected in its administration: Each school has a public committee comprising parents, and representatives of community residents and organizations, the local authority, and the school. This committee identifies the needs of the school and the community, translates ideas into operative goals, and helps school staff construct a budget that is in keeping with these.

1207. Community secondary schools are operated by the Youth and Society Administration of the Ministry of Education. These schools began to be established in the 1980s. As their student population is more mature, secondary community schools emphasize cooperation between teachers and students, in addition to cooperation and mutuality between the school and the community. Community secondary schools also define the community in which they are active. Unlike community elementary schools, most of which are in the neighborhood where students and parents live, community secondary schools cover a wide geographic area, sometimes even serving an entire or several regions. Community secondary schools also define their activities in accordance with the needs of teachers, students, parents and others in the community; their activities are therefore varied, involving community leaders and laymen in the school, as well as involving students and teachers in community projects. Community secondary schools are also administered by a public council, which comprises student representatives (usually the school's student council, or the youth council of the local authority). The Youth and Society Administration offers in-service training to the students, teachers and other school staff, parents and community leaders who are involved in making the community school work. In 1996, 82 schools functioned as community secondary schools.

(b) Informal education outside of schools

1208. Informal education for children and youth outside of schools takes place in many settings, including community centers, youth clubs and youth movements.

(i) Community centers

1209. Israel has a network of more than 170 community centers, located in cities and towns throughout the country but concentrated in areas with residents who have low income. Most of the community centers are operated by the Association of Community Centers, and offer residents of all ages, particularly children and youth, a variety of recreational activities.

1210. Community centers aim to improve the quality of community life. They are involved primarily in the social absorption of immigrants, community communication (local radio, community television, local newspapers, and computerized communication), learning centers, art and culture, health and sports, science and technology, active creativity for the disabled, and international cooperation with like organizations. They also maintain ties with Jewish youth movements in the Diaspora, sometimes hosting joint summer camps, student exchanges, and the like. A sizable portion of the budget of the Association of Community Centers is provided by the Ministry of Education.

1211. Community centers offer youth a variety of cultural activities that enable them to experience, enjoy, initiate and learn. The cultural-educational activities of the centers emphasize positive social messages, such as personal and social responsibility, love of Israel, community involvement, individual growth, and the like. Most of these activities take place among peer groups, local youth movements, and the youth leadership program. Community centers also offer culture clubs for youth, community television, computer, dance and drama classes, sports, and occasional activities such as field trips, ceremonies, and community celebrations.

1212. Community centers also operate a program that prepares immigrant youth and their families for the young people's military service, and clubs for immigrant youth, which offer activities for youth from specific areas (Ethiopia, the former Soviet Union, the Caucasus, Bukhara).

1213. Data from a 1991 Central Bureau of Statistics survey of students in grades nine through 12 indicate that 21% of Jewish students and 25% of Arab students participate in some activity at a community center. It must be noted that the lower school attendance rates of Arab youth do not have any bearing on the relative participation of Arab and Jewish youth in community center activities.

1214. Community schools (see above) function as community centers after school hours. Many of these schools offer students an opportunity to participate in activities that are not part of the curriculum. Nearly all of the activities offered by community centers, community schools and schools are offered for a fee, although discounts are available for special groups (e.g., large families, single-parent families).

(ii) Youth movements

1215. Traditionally, youth movements were an important experience for many young Israelis. The roots of Israel's youth movements lie in Europe, prior to the establishment of the State; many young immigrants found a path to Israel through socialist, Zionist, or religious youth movements. Beginning in the 1920s, youth movements, under the auspices of political parties, were central to the ideological and values education of young people everywhere. They were the harbingers of a unique youth culture, autonomous in part, which functioned as a society of equals and which served as an agent of political socialization and a channel of political mobility.

1216. At present there are 12 youth movements in Israel, representing different sectors. Some of them are tied to political parties, while others are not. All of them promote individual responsibility, involvement in society, and commitment to national values, while stressing their ideological positions. The movements are active in political and civic education, building a tie between the youth and their country, and cultivating a sense of belonging to and love for the homeland.

1217. Youth movements also offer their members a variety of informal educational and recreational activities, including field trips and hikes, summer camps, sports and cultural-values activities. The youth movements encourage their members to volunteer to help absorb immigrants, work in a disadvantaged neighborhood or development town, or otherwise contribute to their community.

1218. The youth movements provide an opportunity for leadership development, enabling teenagers to serve as counselors and group leaders for younger children, or to progress in the hierarchy from junior to senior counselor, to advisor. Members perform various organizational tasks and initiate movement activities (such as being responsible for a cultural activity, for equipment, for a field trip, etc.). Adult coordinators and counselors advise and assist the young participants. Some of these adults may be performing their military or national service, while others may be older, although usually in their 20s or 30s. Youth movement administrations usually comprise representatives of participants, who are party to decisionmaking.

1219. The movements also support youth leadership programs in development towns, and work with youth at risk who have not completed high school by the time of their army enlistment. Some "graduates" of the youth movements do their military service in the framework of NAHAL (as partners in the establishment of new settlements in Israel); others are activists in the fields of guidance, welfare and immigrant absorption.

1220. In recent years, there has been a decline in the popularity of the youth movements, and in the percentage of young men and women who participate in their activities. Nevertheless, youth movements continue to be influential among many youth, and are still the largest framework for informal education. A 1997 estimate of their relative size made by the Ministry of Education indicated that 257,408 (or 26.9% of) Jewish children ages nine-18 participated in youth movement activities, and 23,815 Jewish youth participated as counselors.

(c) Informal education in the Arab sector

1221. The Ministry of Education, through the Youth and Society Administration in the Arab sector, develops and implements informal education programs for Arab youth. Most of the programs described above chapter are also implemented in the Arab sector, although the majority of them are not as prevalent as they are in the Jewish sector. These programs are adapted or redeveloped for the Arab sector.

1222. One program unique to the Arab sector is school scouts. The scout movement operates in cooperation with the Youth and Society Administration in some Arab schools, and its activities are part of the curriculum in those schools.

1223. The CRB Foundation promotes education in the Arab sector, as well. Its programs generate dialog and cooperation among schools, parents and local authorities in order to maximize the children's potential, teach them better skills and study habits, and empower local agencies. The CRB Foundation has been active in Arab schools since 1993; in 1996, it implemented programs in 30 schools in 14 villages and two cities. During that year, 12,000 of the 165,000 Arab school children in the country participated in these programs. However, as noted, the Foundation has curtailed its activities in recent years.

1224. At times, it has been difficult to implement programs in Arab schools and local authorities because of the requirement that parents and local authorities help finance them, and because school and local staff are not always forthcoming about generating dialog with parents. Nevertheless, some schools have succeeded in enlisting the cooperation of parents and involving them in school life. These schools have benefited from a variety of enrichment programs, some of which have been integrated into the curriculum. A few schools have been able to offer in-service training for teachers and principals, including guidance days on changing teaching methods.

1225. The "creativity program", unique to the Arab sector, aims to improve the climate in Arab schools, which, due to teacher burn-out and conservative teaching methods, can be an unattractive place for students. Developed by the Follow-up Committee on Arab Education and Insann and first implemented in 1992, the program develops students' creativity. Initially, creative writing was chosen as the focus of the program, and writing groups were led in participating schools by renowned Arab authors and poets. The success of the program led to its expansion to additional schools and additional areas of creativity.

(i) Extracurricular activities

1226. Some claim that a lack of informal education activities, including sports, is a major problem in the Arab sector. Research has found a lack of sports and games facilities for elementary school children, for whom the streets are a favored playing field. Until recently, financing for extracurricular activities was insufficient, and unlike many Jewish parents, most Arab parents are still unable to pay the fees required of them. Nevertheless, interviews conducted with field staff and researchers working in the Arab sector reveal that, recently, there

have been significant changes. Informal education within schools has increased, and resources have been allocated for extracurricular activities. Nevertheless, a seminar conducted in late 1996 to define the main issues confronting Arab children and youth raised the need to increase informal activities and recreational frameworks, primarily given increasing concern about undesirable social phenomena, such as violence, crime, and drug abuse.

1227. The Association of Community Centers is very active in implementing after-school recreational programs for Arab youth. In recent years, a network of community centers has been established in Arab towns and villages; many attempts have been made to plan activities appropriate to the culture and needs of Arab children and youth. Professionals at the community centers and their partners have discovered an urgent need to increase both physical infrastructure and manpower so as to expand recreational and cultural activities for Arab youth. This corroborates the finding that Arab youth tend to explain their lack of involvement in informal activities as being due to a lack of services, and not a lack of interest.

11. Leisure, recreation and cultural activities

1228. In this section we will discuss the funds allocated for cultural, recreational, and artistic activities, cultural programs for children in and outside of education frameworks, and efforts to preserve the traditions and cultures of unique groups. We will then present data on the participation of children in recreational and cultural activities.

(a) The budget for culture, entertainment and sport

1229. The State of Israel invests a significant percentage of its resources in promoting participation in cultural and recreational activities. Directly and indirectly, the government supports a variety of public and private cultural activities. The Ministry of Education and the Ministry of Science, Culture and Sport financially aid 300 artistic and cultural institutions, projects, and initiatives in culture and the arts, as well as initiating activities around the country and helping ethnic groups preserve their culture. The Ministry of Foreign Affairs and the Ministry of Science, Culture and Sport also promote cultural relations and exchanges between Israel and other countries.

1230. In 1997, the national expenditure on culture, entertainment and sport was 6% of the Gross Local Product. Public expenditure is 1.5% of the Gross Local Product. In 1999, about 4.5% of the Ministry of Education's budget was devoted to culture, sports, and educational television. In 2000, care for most of these matters was transferred to the Ministry of Science, Culture and Sport. We have no information that would make it possible to estimate what part of this expenditure is devoted to recreational and cultural activities for children.

1231. The allocation of resources for cultural activities is determined by the Ministry of Education, the Ministry of Science, Culture and Sport, or the local authorities. Public and private foundations, private individuals and organizations, and commercial businesses also support cultural endeavors (e.g., the Foundation to Promote Quality Israeli Cinema, the Documentary Film Foundation).

1232. The Department of Culture in the Ministry of Science, Culture and Sport promotes culture and art, religious Jewish (*Torah*) and orthodox Jewish culture. It formulates long - and short-term policy. Three public councils work alongside the Department of Culture: the Public Council on the Arts, which makes decisions, sets processes, and determines budgets for various arts; the Council for Public Libraries, which sets criteria for the proper management of libraries; and the Museums Council, which sets criteria for distributing budgets to museums. In addition, the Public Council for the Promotion of Art and Culture in Neighborhoods and Development Towns sponsors activities for weaker populations.

(b) Cultural institutions that hold activities for children

1233. There are a variety of cultural institutions in Israel, most of which have activities for children.

(i) Museums

1234. There are 180 museums in Israel in the fields of art, nature, science, archaeology, history, and technology. Some of these museums hold special activities for children and youth during the afternoon, as well as special events and camps during the summer and vacations. Also, special programs have been developed to enable school children to attend enrichment activities at museums.

(ii) Literature, libraries and print media for children

1235. Israel has an extensive range of literature for children and youth. Once a year, the "Hebrew Book Week" fair is held, during which a variety of children's and youth books are sold at reduced prices. In the Arab sector, private agencies hold an annual book fair in major population centers.

1236. In the Jewish sector there are a variety of newspapers and journals for children and youth. These include journals geared for young children ages five to seven (e.g., "First Reader", "*Maariv* for Children"), and for teenagers (e.g., "All of Us", "Young *Maariv*"). In some cases, children and youth themselves write and prepare articles for publication.

1237. The Public Libraries Law 1975 requires the State to establish public libraries, and sets criteria for recognizing a library as a public library. There are 950 public libraries in Israel, as well as school and other libraries. Practically every town in Israel has at least one library, with the exception of a few small settlements. The libraries house books in the following languages: Hebrew, Arabic, English, Russian, French, Romanian, Hungarian, Polish and Yiddish. There are also mobile libraries which bring books to small and far-flung settlements.

1238. Public libraries have a children's wing, with books for children and youth. In addition to loaning books, public libraries offer young readers a variety of journals for children and youth, and enrichment activities such as story hours, guest lectures by authors, and the like.

(iii) Theater, music and dance

1239. Israel offers a great deal of theater, music and dance for children, and in which children participate. A number of publicly-funded theaters in Israel present plays for children. In addition, private theaters and theater groups produce musicals, plays, magic shows, dance productions, circuses and the like for children.

1240. Many local authorities sponsor and fund a children's dance troupe; some also sponsor and fund a youth orchestra or band.

1241. "Art for the People" is a unique Israeli organization that brings artistic and cultural activities to residents of peripheral areas and development towns. The organization also promotes art education and appreciation. For example, it "adopts" some 12,000 artistic productions a year, and makes sure they travel around the country. It also provides a "cultural basket" to schools (see below).

(iv) Enrichment activities in the sciences and technologies

1242. The Ministry of Science, Culture and Sport supports a variety of programs that promote technology among the public, while giving preference to educating children and youth who live far from the main urban centers. This Ministry supports extracurricular activities, which cannot be held in schools due to budgetary limitations; programs for populations with limited opportunities for enrichment; programs for disabled and handicapped populations; and programs for the Arab and Druze sectors. For example, in 1997 the Ministry funded science workshops, summer seminars and science trips for children and youth, and a new science journal in Arabic.

1243. The computerization of Israel's education system received a significant push following the 1992 publication of a report of the senior committee on science and technological education. Learning with computers is perceived as being advantageous for the entire student population, and particularly beneficial for weaker students. Educational programming has been developed to aid the study of certain subjects and train teachers in using computers.

1244. Since 1994, the "Today 98" Program has been implemented to computerize all schools and integrate computers into teaching. Recently, the Ministry of Education initiated development of an internet and intra-net network, to which 1,400 of Israel's 3,800 schools have already been connected. With the help of the National Lottery, the Ministry is striving to connect all schools to the computer network. In addition, computers are being used to set up specific sites, establish virtual communities, introduce distance learning and guidance, and provide educational support for children who are home-bound or in the hospital, in cooperation with schools around Israel and abroad.

1245. The belief that scholastic achievement is not only a consequence of what happens in school has led to the establishment of innovative community projects. "A computer for every child" was established with the understanding that, in today's world, information technology skills are essential to the advancement of every child, yet economic hardship makes it difficult

for many families to purchase a computer, and hence widens the gap between segments of society and increases inequality. As part of this program, children from poor families or from towns with limited resources are given a computer, computer programs, guidance using computers, and the continuing support of a mentor. A computer is brought to each child's home, and parents are given guidance so they can help their child use it. By early 2000, about 10,000 computers had been distributed to children in this manner.

(c) Cultural institutions in education frameworks

1246. At all levels of the education system (preschool, elementary and secondary school), subjects such as literature, foreign languages, arts, photography, and theater are taught as part of the curriculum, and as elective courses. In addition, various initiatives promote exposure to culture, cultural studies, and arts and crafts. Following are several examples.

1247. Art high schools, which are part of the secondary school system, emphasize the arts alongside the regular curriculum.

1248. Cultural enrichment is an important subject in every school. Schools receive a "cultural basket" (sponsored by "Art for the People"; see above), which includes attendance at between five and seven productions for each student throughout the year. A variety of cultural activities are held in the schools themselves, such as student choirs and bands, and dance and theater groups. The government, with the assistance of the National Lottery, is building arts and science centers in middle schools around the country, with the aim of developing an inter-disciplinary curriculum in the arts and sciences. These centers offer music, dance, ceramics, science and similar activities.

(d) The role of the media in promoting the participation of children in cultural life

1249. Television plays an important role in Israel's cultural life. Radio stations and television programs are devoted to literature, art, Jewish culture and the cultures of minority groups. Certain programs address art and cultural activities, and report on festivals and productions. Special radio programs on culture, the arts, and educational subjects are devoted to children. Newspapers are a source of information on cultural topics, and contain special sections and supplements devoted to culture and the arts. Families that own a computer, usually also have access to the internet.

1250. The Ministry of Education is responsible for educational television. By law, educational television must receive air time on public and private channels. Educational television educates, provides information, teaches about arts and culture, the sciences, communications and other topics, increases involvement in education and in the arts and culture, expresses Jewish culture in Israel and the Diaspora, and both reflects and teaches about the cultural traditions of all citizens of the State. Educational television broadcasts "teaching programs" during the morning, which are sometimes viewed by school children, and enrichment, family, current events, and more broadly educational programs in the evening. Israeli educational television also produces original educational and enrichment programs for children of all ages. Two television channels

set aside time for children's programs. The cable television companies also produce a children's channel, which broadcasts programs for children during most of the day and evening, and "imports" scientific, cultural and educational programs from other countries. The Open University also broadcasts educational programs on radio and television. It should be noted that Israeli television and radio programs are broadcast in Hebrew, Arabic, English, Russian and Amharic.

(e) Preserving cultural identity and traditions

1251. As a multi-cultural society, Israel helps various groups preserve and promote their culture by financially supporting ethnic artists. A number of museums are devoted to preserving various cultures, such as the Diaspora Museum, which presents the tradition and history of the Jewish people; the Babylonian Tradition Museum, which presents the history and folklore of Jews from Iraq; the Arab Folklore Museum; an institution for Arab art; the Joe Allon Center for Bedouin Culture; and a Center for Sephardi Jewish Culture, which promulgates Sephardi heritage. Students visit these museums and participate in workshops and special activities that increase their awareness of other cultures and educate them to respect other cultures.

1252. It is the policy of the Ministry of Education to support cultural heterogeneity; it therefore funds professional and amateur dance troupes, singers and musicians who preserve the ethnic and cultural traditions of Israel's various immigrant communities. Within the Jewish sector, a variety of cultural activities for children from different backgrounds are supported by community centers, which also host amateur folk dancers and singers who preserve various traditions.

1253. The State also helps preserve the heritage of its Arab, Druze and Circassian citizens, by supporting traditional dance troupes, ethnic music groups, museums and theaters. A number of museums preserve Arab and Islamic culture, most notably the Islamic Art Institute and the Arab Folklore Museum. In the Druze community, the State supports a number of amateur and professional theaters, music centers, and dance troupes. Infrastructure is being established for the construction of museums about the Druze community; at present, there is a library in every Druze village in Israel.

(f) Patterns of recreational and cultural activity among children and youth

1254. In recent years, a number of studies have been conducted of the participation of youth in cultural and recreational activities. This section presents their findings.

(i) Participation in cultural activities and entertainment

1255. In 1997, the Public Council on Art and Culture conducted a survey to determine the consumption of culture of Jewish youth ages 13-17 who attend school. Table 59 presents the patterns of culture consumption found by the survey. The Table indicates that cinema is the cultural activity most popular among youth. About 72% of them reported visiting the cinema at least once during the past month, and only 5% reported that they had never been to the cinema.

Table 59

Frequency of attendance at cultural performances and exhibitions, 1997 (in %)

Frequency	Cinema	Theater	Other	Music	Dance	Pop Music	Museum
During the past month	72	26	12	5	7	12	13
Within the past 3 months	10	19	8	3	4	6	7
Within the past 6 months	4	9	7	2	4	8	6
More than 6 months ago	9	24	18	15	15	33	27
Never	5	22	55	75	70	41	47

Source: Ben-Arie and Zionit, 1999.

1256. The percentage of youth who had participated in other cultural activities was much lower: About one-quarter of the youth had been to the theater at least once during the past month, 12% had enjoyed another type of entertainment, and a similar percentage had been to a museum. Only a minority reported having attended a music or dance performance at least once during the past month, and most reported that they had never been to such performances.

(ii) Exposure to the media, books and computers

1257. An "exposure" survey conducted by the Israel Association of Advertisement Agencies is conducted every year to determine the media to which young people are exposed, for the purpose of advertisement and marketing. The survey is conducted only among Jewish youth ages 13-18. It indicates that 84% of these youth read a newspaper on at least one of the five days that precede the survey; about three-quarters of them read a weekly magazine during the month that precedes the survey; and only one-quarter of them read a monthly magazine during the four months that precede the survey. Fewer than half (44%) of the youth reported listening to the radio on the day preceding the survey, and 15% reported that they never listen to the radio.

Table 60

Exposure to the media among Jewish youth (in %)

Type of media and frequency of exposure	Percentage
Read a daily newspaper during the past five days	84
Never read a daily newspaper	15
Read at least one weekly magazine during the past month	75
Never read weekly magazines	18
Read at least one monthly magazine during the past four months	30
Never read monthly magazines	53
Listened to the radio yesterday	44
Never listens to the radio	15

Source: Ben-Arie and Zionit, 1999.

1258. In 1991, the Central Bureau of Statistics conducted a survey for the Ministry of Education, which examined the patterns of recreational activity of Jewish and Arab students. No such survey has been conducted since. The findings of that survey indicated that 58% of the Jewish students had read one book during the month that preceded the survey, compared to 74% of the Arab students. This gap may be explained in several ways: First, the survey was conducted among students in grades nine though 12 in the two sectors. Since school attendance rates in the Arab sector are lower than those in the Jewish sector, it is possible that the findings do not reflect reading patterns among all Arab youth, and that Arab youth who attend school are more likely to read than are those who do not attend school. Second, it is possible that Arab youth read books because a wider variety of recreational activities is not available to them. Support for this may be sought in the finding that only one-third of the Arab students viewed a movie on a VCR during the day preceding the survey, compared to 46% of the Jewish students. In addition, one-third of the Arab students, compared to half of the Jewish students, used a personal computer during the month preceding the survey (see Table 60).

Table 61

Types of recreational activity of 9th-12th grade students in 1997, by sector (in %)

Activity	Total	Jews	Arabs
Viewed a movie on a VCR*	44.2	46.4	33.1
Read a book**	60.8	58.1	74.1
Used a personal computer	46.4	48.7	43.8

Source: Ben-Arie and Zionit, 1994.

* On the weekday preceding the survey.

** During the month preceding the survey.

(iii) Recreation outside the home

1259. It is possible to divide the recreational activities of youth outside the home into two main categories: unorganized activity, such as going to a coffee shop, restaurant, pub or discotheque; and organized activity, such as participating in extracurricular classes (see the section on informal education, above).

1260. Table 61 presents information on the participation of Jewish and Arab students in these two types of activity. The Table is based on data from the survey conducted by the Central Bureau of Statistics in 1991 (as noted, no more up-to-date information is available). The Table indicates that larger percentages of youth in both sectors participate in unorganized than in organized activities. The most prevalent unorganized activity is going to a coffee shop or restaurant: More than three-quarters of the respondents engaged in these activities at least once during the month prior to the survey. Close to 40% of the youth went to pubs, discotheques, or game arcades.

Table 62

Youth participation in recreational activities outside the home during the past month, by sector, 1990/91 (in %)

Activity	Total	Jews	Arabs
Unorganized activity			
Coffee shop or restaurant	78.7	82.4	60.3
Pub	43.7	48.7	19.0
Discotheque	38.8	42.9	15.4
Game arcade	41.1	42.5	34.0
Organized extracurricular classes			
Drama, dance or music	20.0	21.3	14.1
Painting, sculpture or photography	7.4	6.3	13.1
Arts and crafts	7.8	6.3	15.4
Science, technology and computers	10.3	9.0	16.6
Sports	38.0	37.5	40.7
Nature and land of Israel	9.6	6.9	22.8
Other academic subjects	6.3	5.6	9.6
Foreign languages	4.9	4.2	8.4

Source: Ben-Arie and Zionit, 1994.

1261. The comparison between the Jewish and Arab students indicates that the Arab students spend less time in all of the unorganized activities than do the Jewish students, although the most popular recreational activity among them was going to a coffee shop or restaurant (60.3%). However, much smaller percentages of them went to pubs and discotheques; this may be explained by the sanction against the consumption of alcohol imposed by the Moslem religion. About one-third of the Arab students spend time in game arcades.

1262. While the Arab youth participate less in all of the unorganized activities, they participate more, and in greater proportions, in many types of extracurricular class and activity - with the exception of drama, dance and music. Similar percentages (about 40%) of Arab and Jewish youth participate in sports; these classes have the highest participation rates.

1263. The greater participation in extracurricular classes of the Arab students would seem to contradict the reports of fewer facilities and appropriate infrastructure for recreational activity in Arab towns and villages (see the section on informal education). However, it is important to remember that the information was gathered among students only; it is possible that, as a result of the low attendance rates of Arab students, the information does not reflect the behavior of all Arab youth, as it is reasonable to assume that youth who attend school are more apt to participate in such classes, and have more opportunities to do so than youth who do not attend school.

X. SPECIAL PROTECTION MEASURES

1264. This chapter addresses the protection of children involved with the criminal justice system (as suspects, defendants, or convicted wards or prisoners); children who have been subjected to economic or sexual exploitation; children exposed to injury from armed conflict; and children seeking asylum (see also Chapter VII). This chapter also presents a summary discussion of issues concerning minority children, as raised in previous chapters.

A. Articles 37, 39 and 40 of the Convention - Children involved in the juvenile justice system

1. Age of criminal responsibility

1265. As stated in Chapter IV, children under the age of 12 are not criminally liable. A child under age 12 may not be arrested, interrogated as a suspect or brought to trial. Generally, such children are put in the care of the child protection services, and their acts are likely to constitute grounds for determining that the minor needs protection under the Youth (Care and Supervision) Law 1960. Section 2(3) of the aforesaid law stipulates that "a minor is in need of protection if … he has performed an act that is a criminal offense, but has not been brought to trial" (see also Chapter VII).

1266. Section 3(b) of the Police Directives - 14.01.05, Police Work with Minors (section 3(b); hereinafter Police Directives - Minors), addresses minors who have not yet reached the age of criminal liability, and states the following:

> "1. An unpunishable minor who is suspected of committing an offense must be treated as a witness: He is not to be arrested or charged, nor fingerprinted, nor is a form bearing information about his identity to be completed.
>
> "2. An unpunishable minor may be detained for the purpose of clarifying his identity or bringing him to the attention of a child protection officer, who will be summoned to the police station."

2. Principles for dealing with children in the criminal justice system

1267. In the State of Israel, criminally liable minors (i.e. youths between the ages of 12 and 18) are treated differently than are adults. The following are the principal laws prescribing how they are to be treated: The Penal Law 1977; the Youth (Trial, Punishment and Modes of Treatment) Law 1971 and regulations enacted thereunder; and the Probation Ordinance [New Version] 1969 and regulations enacted thereunder. The Youth (Trial, Punishment and Modes of Treatment) Law pertains to Juvenile Court, arrest and pre-trial proceedings, procedure, punishment and modes of treatment (see below for further detail).

(a) Application of the Youth (Trial, Punishment and Modes of Treatment) Law

1268. Under the Youth (Trial, Punishment and Modes of Treatment) Law, a minor is a person who has not yet reached the age of 18 on the date an indictment is filed against him. The Supreme Court has held that this rule applies even if the accused has reached the age of 18 by the time of trial.

1269. Section 226 of the Criminal Procedure Law [Consolidated Version] 1982 provides that the Youth (Trial, Punishment and Modes of Treatment) Law will not apply to offenses punishable by a fine (such as traffic offenses), with the exception of Section 5 thereof (which deals with punishment and modes of treatment). Section 45B of the Youth (Trial, Punishment and Modes of Treatment) Law further limits its application to traffic offenses. For some traffic offenses, minors will be tried by a traffic judge (and not a Juvenile Court judge); only some of the special rules that apply to minors in criminal proceedings will apply to them in traffic cases. Nevertheless, under section 45B(d) of the law, "A traffic judge may, on special grounds, which will be recorded … [and] if he deems it necessary and in the best interest of the minor, transfer the hearing to Juvenile Court".

(b) The framework of action and general principles

1270. The following agencies, by law, deal with minors suspected of having contravened the law: the Police Force; the Youth Probation Service (a State social welfare service acting under the auspices of the Ministry of Labor and Social Affairs); the Public Defender's Office; the courts; the Youth Protection Authority (also under the auspices of the Ministry of Labor and Social Affairs, and responsible for juvenile residences); and, in a few cases, the Prison Authority. These agencies are governed by a series of laws, regulations and directives, which are founded on the principles of avoiding the labeling of a minor as a result of his interaction with the criminal justice system, and providing for his rehabilitation. In most cases, minors are handled by people who are specially trained for the task. In all systems, there are rules that aim to provide special protection for minors, including protection of their privacy and prevention of their stigmatization as criminals. A minor is accompanied by therapeutic professionals from the initial stages of criminal proceedings; the majority of decisions regarding the fate of the minor are made in consultation with these professionals, and with preference given to treatment and rehabilitation. Section 2(b) of the Police Directives - Minors states:

> "Police policy regarding youth is anchored in the distinction between young people whose delinquency is a way of life, and young people who have committed a random offense that is not a felony, and who should be extricated as quickly as possible from the cycle of criminal behavior. This policy is reflected in the efforts made to prevent the minor from being labeled a criminal, and to prevent his involvement with the police from being known to the public."

3. Minors as suspects or defendants

(a) Basic rights

1271. Beyond the rights accorded to minors, to be specified hereunder, a number of basic rights are due all suspects and offenders in criminal proceedings in Israel.

(i) Indictment only for acts prohibited by law

1272. Section 1 of the Penal Law determines that "there is no offense, and no penalty therefore, unless prescribed by statute or in accordance therewith".

(ii) Presumption of innocence

1273. Under section 34I of the Penal Law, a defendant in a criminal trial is presumed innocent, unless his guilt is proven beyond a reasonable doubt. The legal process is so structured as to impose the burden of proof on the prosecution; a defendant may, by entering a plea of "not guilty", force the prosecution to bring proof of the charges against him (section 152a of the Criminal Procedure Law).

(iii) Defense against self-incrimination

1274. A suspect in a criminal investigation and a defendant on trial have the right to remain silent. The Criminal Procedure (Witnesses) Ordinance 1927 determines that "a person interrogated [at a police station] … is required to respond correctly to all questions posed to him during the investigation by the police officer in question, or any other authorized officer, with the exception of questions the answer to which may put him in danger of incriminating himself". During trial, the court is obligated to notify the defendant that he has the right not to testify or to testify, in which case he may be cross-examined (section 161 of the Criminal Procedure Law). The court is also obligated to explain to the defendant that a decision not to testify is likely to be considered in support of any other incriminating evidence (supra, section 162). Failure to explain his rights to a suspect or defendant may, under certain circumstances, constitute cause to disqualify an admission which the suspect made during investigation.

(iv) The right to an immediate trial

1275. Under sections 59-61 of the Criminal Procedure (Enforcement Powers - Arrests) Law 1996, a suspect must be released if an indictment has not been filed against him within 75 days of his arrest; if a trial has not commenced within 30 days of filing the indictment; and if sentencing has not been passed within nine months. These periods may be extended by the Supreme Court in special circumstances. When an indictment has been filed, the court must set the earliest date possible for commencement of the trial (Regulation 19 of the Criminal Procedure Regulations 1974). In the case of a minor, section 14 of the Youth (Trial, Punishment

and Modes of Treatment) Law stipulates that, "save with the consent of the attorney general, a minor will not be brought to trial for an offense if a year has passed since its commission". The Supreme Court has held that this limitation does not apply if the minor became an adult within the year determined in section 14, in which case the general statute of limitations on the specific offense committed would apply to him.

(b) Conducting the investigation

1276. The police are usually the first to come into contact with a minor accused of an offense against the law. The police have special instructions regarding the modes of treatment of minors accused of having committed an offense.

1277. In most cases, contact with a minor suspected of committing an offense against the law is made by youth units, which exist in every police station (section 2(3) of the Police Directives - Minors). The units are composed of police officers who undergo special training and in-service refresher courses on interrogation of youth, and who receive information on the distinct laws and procedures for handling youth and on community services for minors and youth. The Youth Department at Police Headquarters is responsible for the professional activities of these units.

1278. The Police Force has set criteria for the appointment of youth workers; these include having completed at least 12 years of study and obtained a matriculation certificate. Preference is given to college graduates who majored in the social sciences. However, an internal study conducted by the Police Force revealed that, despite an increase in the number of educated investigators in recent years, at least 40% of the youth workers still do not have a matriculation certificate (although the majority of them have completed 12 years of study), and only one-quarter of them have higher education. In a study conducted in 1998 (Habib et al., 1998), the majority of respondents - senior staff on the Police Force and in services that work with the Police Force - reported the high quality of the personnel dealing with youth, particularly the dedication and sensitivity of youth workers. However, some of the respondents expressed dissatisfaction with the hiring of youth workers, claiming that assignment are sometimes based on shortages of manpower, rather than on the candidate's suitability for the position. It should be noted that a significant number of new staff have been hired in youth units during the past two years. The units are being reorganized, and much effort is being invested in increasing their professional level - including hiring people to fill specific positions (e.g., prevention officers), most of whom have academic degrees and a great deal of experience.

1279. In many cases, initial contact with a minor suspected of having committed an offense is made by a police officer who is not a youth worker, but rather a patrol officer, detective, or civil defense guard. These officers have the authority to make an initial inquiry into the incident and decide whether there is a need for the case to be further handled by the criminal justice system. (For example, they have the authority to disperse an affray among minors and dismiss them with a warning only.) If further investigation is required, the case is transferred to a youth unit. Police officials estimate that ordinary police officers prefer to transfer the cases involving minors to a youth unit as soon as possible, for fear of violating the special instructions.

(c) Special protection of minors in criminal proceedings

1280. Many of the rules governing police handling of minors are not defined by statute, but may be found in internal police regulations (Israel Police Force, Minors/Youth Department Directives). As noted, police handling of minors rests mainly with youth workers. According to section 3(a) of the Police Directives - Minors, only a youth worker (as noted, a specially-trained police officer) may interrogate a minor suspect, with the exception of a minor under the age of 14 who is suspected of being involved in a sex offense, who is to be interrogated by a youth interrogator (a social worker from the Youth Probation Service). Many sections of the Police Directives are designed to protect a minor's privacy and prevent his being labeled as a criminal. For example, youth workers must wear civilian clothing and travel in unmarked vehicles, rather than in police vehicles (section 2(e) of the Directives). Youth workers are prohibited (except in urgent cases) from interrogating or arresting a minor at night or at his place of study or work (section 2(d) of the Directives); if this is nevertheless imperative, the interrogation must be coordinated with the school principal, and measures should be taken to avert unnecessary attention (section 3(2)(b) of the Directives). Interrogation at a police station should be conducted in a separate room, in which no adults are being interrogated. It is prohibited to shackle a minor, except in exceptional cases (section 4(c) of the Directives). A minor under the age of 14 may not be examined by polygraph, and a minor ages 14-16 may only be examined by polygraph with his consent and that of his parents (section 3 (e) of the Directives). There are limitations on photographing and finger printing a minor suspected of having committed an offense (section 3(g) of the Directives).

(d) Special protection of minors in criminal proceedings: implementation

1281. A study of police handling of minors revealed that the rights of minors in criminal proceedings are not always strictly protected (Habib et al., 1998). The Police Directives allow for exceptions, in which it is possible not to comply with the stipulation to protect these rights: For example, a regular police officer may interrogate a minor if a youth interrogator cannot be found and it is feared that any delay will impede the investigation. However, the Directives stress the need to reduce non-compliance where possible. As part of the study, the heads of investigation departments in police stations around the country were asked to estimate the prevalence of non-compliance with the Directives.

1282. The Table reveals that some of the heads of investigation departments reported frequently or always violating most of the Directives. It is interesting to note that the injunction against interrogating or arresting a minor at school or work was violated infrequently, if at all. This indicates that police staff are sensitive to the minor's privacy, and tend to protect it from friends and teachers when making an arrest or conducting an interrogation. Conversely, the directives most frequently violated were transporting a minor in a (not unmarked) police vehicle (42%); interrogation or arrest of a minor by a police officer who is not a youth worker (33%); and transporting an arrested minor by a police officer who is not a youth worker (26%). At 74% of the police stations studied, the injunction against shackling a minor's arms and/or legs is violated from time to time. Although only a small percentage of the heads of investigation departments reported that the instruction to separate minors from adults is always or often violated, about

one-quarter of them did confirm that it is violated from time to time. These findings corroborate information obtained through interviews with senior police personnel, and are generally explained by a lack of the manpower, resources and infrastructure (such as unmarked cars, interrogation rooms) that would facilitate compliance.

Table 63

Investigation department heads reporting violations of the instructions for handling minors at their police station, by frequency of non-compliance (in %)

	Always/ Often	Rarely	Never	NA
Transportation of an arrested minor by a police officer who is not a youth worker	26	72	2	
Interrogation or arrest of a minor by a police officer who is not a youth worker	33	60	7	
Interrogation and detention of a minor in a room with or adjacent to one with adults	11	23	66	
Transportation of a minor in a police (not an unmarked) vehicle	42	51	7	
Transportation of an arrested minor in a vehicle with an arrested adult	12	23	65	
Arrest or interrogation of a minor at night	16	84		
Interrogation of a minor at school, work or "hangout" for youth	-	40	60	
Arrest of minor at school, work or "hangout" for youth	-	65	35	
Shackling the arms and/or legs of a minor	14	60	19	7

Source: Habib et al., 1998.

1283. Also as part of this study, youth workers, heads of investigation departments, and police station superintendents were asked their attitude about protection of the rights of minors in criminal proceedings. Table 64 reveals that 85% of the superintendents and 66% of the youth workers believed that the police must make sure that minors are aware of their rights. A larger percentage of those youth workers educated in a related field agreed that the police must inform youth of their rights. It is interesting to note that, despite their belief in the importance of informing a minor of his rights, the majority of superintendents (82%) and of heads of investigation departments (72%) believed that minors are not usually aware of their rights in criminal proceedings. Only one-half of the youth workers agreed with their assessment.

Thirty-nine percent of the superintendents, 37% of the heads of investigation departments, and 31% of the youth workers agreed that minors' knowledge of their rights would interfere with investigation. This clearly reveals the tension between acknowledgement of the need to inform minors of their rights, and concern that doing so will impede police work.

Table 64

Police officers responding "agree" or "definitely agree" with statements concerning the rights of a minor in criminal proceedings, by respondents' position

	Position		
	Station superintendent	Investigation department head	Youth worker
Police must inform minors of their rights	85	81	66
A minor's knowledge of his rights will impede investigation	39	37	31

Source: Habib et al., 1998.

1284. The senior police personnel interviewed were willing to accommodate to new legislative initiatives concerning the rights of minors (e.g., the amendment to the Arrests Law; the bill on representation of minors in legal proceedings). At least in word, the senior officers were willing to admit that the initiatives were part of a natural process to which the Police Force will have to adapt. Senior staff of social services that work with the Police Force reported that, indeed, police officers are increasingly aware of the rights of minors and are increasingly apt to enforce directives, whose violation is treated with severity (by the Police Force and the Ministry of Justice) due to the public's sensitivity to this issue. For the record, many on the Police Force appear to accept the idea of minors' rights and the directives meant to protect them. However, many are concerned that respect for these rights will take a toll on the efficacy of police work. This indicates a need to improve the ability of the Police Force to follow directives meant to preserve the rights of minors, while effectively doing their duty.

1285. Children's rights organizations, such as DCI - Defense for Children International and the National Council for the Child, are also a source of information on violation of Police Directives. Activists in these organizations criticize the failure of the Police Force to cooperate with attempts to distribute information to police stations about the rights of minors in criminal proceedings; only after pressure was exerted did the police agree to publish the directives concerning the handling of minors. Children's rights organizations would like to anchor these directives in legislation, which would be binding and open to public criticism. The proposed amendment to the Youth (Trial, Punishment and Modes of Treatment) Law is meant to address this issue.

1286. Every year, children's rights organizations receive complaints about infractions of the Police Force, whether these be violation of the instructions regarding minors (such as shackling their hands and/or feet) or disorganization (such as failure to inform a minor's parent or guardian

of his release from detention). Complaints of improper behavior toward a citizen by a police officer are addressed by the Police Investigation Division of the Ministry of Justice. (The way in which the Division collects data does not allow for separate presentation of complaints relating to treatment of minors.)

(e) Representation of minors in criminal proceedings

(i) Court appointment of defense counsel

1287. The Public Defenders' (Entitlement of Additional Minors to Representation) Regulations 1998 entitle a minor under arrest or involved in legal proceedings to representation by a public defender. In addition, section 18(a) of the Youth (Trial, Punishment and Modes of Treatment) Law empowers a Juvenile Court to appoint counsel for the defense of a minor, if it believes this to be in the best interest of the minor. It has this authority throughout all stages of the criminal process, including investigation. However, a minor does not have the right to the presence of legal counsel during interrogation.

(ii) Representation by a parent or guardian

1288. Under section 15 of the Guardianship and Legal Capacity Law 1962, "parental guardianship [over a child] includes … the authority to represent him". According to the Police Directives, a parent or guardian must be allowed to be present at the interrogation of a minor under the age of 14 (section 3(c)(c) of the Directives). This rule may be disregarded if it is suspected that the parent's presence may cause the minor harm or interfere with the investigation (section 3(c)(d) of the Directives). If a minor is over the age of 14, parents have no right to be present at the interrogation, unless the police decide otherwise (section 3(c)(c) of the Directives). However, police staff report that if a parent asks to be present and there is no reason not to allow it, his presence is allowed; in fact, the parent's presence may even be used to clarify for the minor the severity of his offense. On the other hand, police staff report that a parent's presence during questioning may influence a minor not to admit to an offense, if he fears the parent. Since most minors suspected of having committed an offense are over the age of 14, parents are not present at most interrogations. Critics feel that the existing instructions favor the investigation at the expense of the minor's best interest, and that, as they are mere directives not anchored in law, they give the police too much latitude.

1289. Even when a parent is present during questioning, he is not always able to ensure that the rights of the minor being investigated are being safeguarded. Some fear that this causes minors (who are not even considered legally competent to conclude a contract) to unwittingly waive their rights, and even make false confessions. It has been claimed that minors often have difficulty understanding the language of a warning and the information given them about their rights.

1290. In a presentation to a committee examining this issue headed by a Supreme Court justice, the National Council for the Child proposed stipulating a minor's right to his parents' presence, as well to the presence of an attorney, and requiring the presence of an attorney during the signing of a confession. For minors not mature enough to instruct counsel, the Council proposed appointing a legal guardian (a parent or, where there is a conflict of interests, another adult).

(For more information on the appointment of a legal guardian, see Chapter IV.) In addition, a proposal has been made to establish other conditions for the admissibility of a minor's confession. This and similar matters are at issue in a proposal for extensive reform of the Youth (Trial, Punishment and Modes of Treatment) Law (see below).

(f) Opening a criminal file and filing an indictment

1291. Youth units are responsible for investigating offenses when the suspects are minors. It is their responsibility to decide, in cooperation with the Youth Probation Service and the police prosecutor or the district attorney, the fate of the file - that is, whether to open a criminal case or decide on no-prosecution proceedings, whether to close a file due to the suspect's innocence or to lack of evidence or public interest, or whether to file an indictment.

1292. The police may decide, at their discretion, not to open a criminal file for a minor, even before the investigation has been completed, and even if it is found that the minor committed the offense. In such a case, "no-prosecution" - a proceeding that does not impose a criminal record - will be the course of action. Section 3(b)(d) of the Police Directives - Minors states, "a decision … to use the no-prosecution proceeding will be made in light of a minor's prior police record and the recommendation of the youth worker handling the case". The Police Directives instruct using the "no-prosecution proceeding" for a first or petty offense of a minor who admits his act, expresses regret for said act, and seems to be a candidate for rehabilitation. It should be noted that approximately one-quarter of the files opened annually are later closed due to insufficient evidence, lack of public interest, and the like; this should not be confused with the no-prosecution proceeding, which is an alternative to opening a criminal file and does not establish a criminal record.

(i) Police considerations for opening a criminal file

1293. In an attempt to allow a minor's personal circumstances to be taken into consideration, and to facilitate rehabilitation, the police are given a wide berth in making decisions concerning the prosecution of minors. Critics fear that the "no-prosecution proceeding", though designed to prevent a minor from being labeled a criminal and to contribute to his rehabilitation, does in fact infringe upon his right to prove his innocence, as minors sometimes admit to an offense they have not committed so as to forestall criminal proceedings against them (even though they are made to sign a form explaining the nature of the no-prosecution proceeding). Others claim that the discretion granted the police in the use of the no-prosecution proceeding is susceptible to bias, to the detriment of minorities. A 1997 study revealed that the no-prosecution proceeding was used in cases involving minors who were repeat offenders or who had committed a felony (Habib et al., 1998). The study also highlighted inconsistencies in the criteria used when considering the no-prosecution proceeding for different groups (for example, this proceeding is invoked more often for girls than for boys, and for Jews than for Arabs, even when the severity of the offense and the minor's criminal record are similar). In 1998, the Police Directives were clarified to emphasize that the no-prosecution proceeding should only be invoked for first-time offenders, unless there are special circumstances that justify its being invoked for a repeat offender. Preliminary data reveal that, since this amendment to the Directives, the use of the no-prosecution proceeding has decreased, from in approximately 60% to in approximately 40% of the cases involving minors. In most of these cases, the offense for which the no-prosecution

proceeding was invoked was classified as a contravention or misdemeanor, for which penalties are statutory and relatively mild (up to three months' imprisonment and up to three years' imprisonment, respectively). According to the instructions of the attorney general, the police and the district attorney also have the authority to invoke a no-prosecution proceeding for more serious offenses, classified as felonies. In felony cases, the police must obtain the report of an officer of the Youth Probation Service (for less serious offenses, no such report is required).

1294. Special instructions set down by the attorney general apply to drug offenses: In an investigation of a minor suspected of using or possessing for the purpose of self-use (excluding injecting or snorting) a dangerous drug, the police will weigh initiating criminal proceedings against invoking the no-prosecution proceeding. According to these instructions, the police will refrain from initiating criminal proceedings against a minor suspected of such offenses, if all of the following conditions have been met: There is no indication of previous drug use; the minor admits to having committed the offense, and agrees to undergo treatment; the minor does not use drugs on a regular basis, did not initiate the purchase or distribution of the drugs, and did not solicit other minors to use drugs; the minor discloses the source of the drugs to the interrogator. No-prosecution may also be invoked if the chief investigating officer is convinced that the minor is either unaware of or afraid to reveal the source of the drugs.

1295. These instructions have been distributed to schools, in an effort to encourage them to report drug use among students and to involve them in constructing a rehabilitation program for minors, with the assistance of the Educational Psychological Service.

(g) The role of the Youth Probation Service during investigation and trial

1296. According to section 12 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971, the police are under obligation to inform the Youth Probation Service about any minor whom they feel may be tried: "If a criminal investigation has revealed grounds for bringing a minor to trial, the police will notify a probation officer, who may thereupon exercise the authority of a child protection officer under the Welfare (Procedure in Matters of Minors, Sick Persons and Absent Persons) Law 1955, even in the absence of a court order".

1297. Every minor against whom the police intend to file an indictment is referred to the Youth Probation Service, which performs a psycho-social assessment. The assessment constitutes the beginning of the rehabilitative-treatment process. It is also the basis for the report that the Service will make to the court, which will inform court's decision regarding the appropriate mode of treatment and punishment, if it determines that the minor has indeed committed the offense attributed to him (section 22 of the Youth (Trial, Punishment and Modes of Treatment) Law).

1298. Since the 1990s, data on minors for whom the no-prosecution proceeding has been invoked are also transferred to the Youth Probation Service, and the minor is made to sign a release indicating that he knows the data have been transferred. The Youth Probation Service may summon the minor to determine whether intervention (by the Youth Probation or another service) is called for. However, the minor is under no obligation to appear.

1299. The Youth Probation Service also submits a report prior to a decision to close a file, and sometimes prior to a decision to invoke the no-prosecution proceeding. An indictment may not be filed against a minor under the age of 13 without having received a report from his youth probation officer (section 12(b) of the Youth (Trial, Punishment and Modes of Treatment) Law).

1300. Several years ago the Youth Probation Service was allocated a few positions for staff who would compile reports on minors residing in the Palestinian Authority. They prepare their reports based on an interview with the minor and a report on his family received from the Palestinian Authority.

1301. A youth probation officer should maintain contact with a minor and his parents. After an indictment has been filed, the officer should explain the significance of the court hearing to them (see section 13 of the Bringing Offenders to Probation (Probation Services) Regulations 1959).

1302. The Youth Probation Service is developing alternatives to indictment, such as an experimental program to begin treatment rather than filing an indictment, which has been implemented by the police in Beer Sheva. As part of this program, "mediation" is conducted between the offender (usually a minor who has committed a crime against property) and the victim, whose aim is to arrive at an agreement regarding compensation of the victim. Another program now being formulated is that of the "family conference", in which the police, the Youth Probation Service and other therapeutic agents, together with the minor and his family, are in some cases authorized to set a rehabilitation program for the young offender (which sometimes includes determining compensation for the victim), as an alternative to filing an indictment. In July 2000, this program was implemented experimentally in two police stations, one in Ashdod and one in Jerusalem.

(i) Data on minor suspects

1303. In 1998, the police handled 27,187 cases involving minors and youth. In 12,599 (about 46%) of the cases, criminal files were opened. The remainder (about 54%) of the cases concluded with a no-prosecution proceeding. According to reports of the Youth Probation Service, in recent years, 2.4% of youth are suspected of having committed an offense.

1304. Table 65 presents the offenses that minors were suspected of committing in 1998.

1305. In 1998, minors were suspects principally in property offenses (42%), offenses against the public order (20%), and offenses against the person (21%). Offenses against the public order and offenses against the person were mainly violent crimes, such as assault of a layman or police officer, threats, grievous bodily harm and affray. The most prevalent offenses against property were theft of or breaking into a vehicle, and breaking and entering into a home or business. Nine percent of the offenses were drug-related, most of them surrounding drug use, and 2.5% of the offenses were sex and morality offenses. In recent years, concern has been expressed over the increase in violent and drug-related offenses committed by young people.

Table 65

Juvenile files in 1998, by type of offense

Type of offense	All files	Criminal files	No-prosecution proceeding files
Total	**27 187**	**12 599**	**14 588**
Offenses against human life and security	258	215	43
Offenses against the person	5 811	1 415	4 396
Offenses against public order	5 359	2 269	3 090
Sex and morality offenses	684	244	440
Drug-related offenses			
Drug use	1 773	894	879
Drug trafficking	381	353	28
Possession of drugs	228	199	29
Property			
Breaking and entering a home or business	1 849	1 374	475
Theft of or breaking into a vehicle	2 864	2 243	621
Other property offenses	6 721	2 628	4 093
Other offenses	1 259	765	494

Source: Israel Police Force, 1999.

1306. The police and the Youth Probation Service are collecting and publishing data on the minors in their care. Some of the data concern all minors suspected of having committed an offense, and some concern only those minors against whom criminal charges have been brought (see the Tables 66 and 67). The data reveal that the majority of minors suspected of having committed a crime are men, and are ages 16-17. Moreover, young immigrants from the former Soviet Union and Ethiopia comprise a larger proportion of offenders than their proportion in the population. The number of Arab youth with criminal files also exceeds their proportion in the population.

Table 66

Principal demographic characteristics of minors with a criminal file, 1996

Total	**7 226**
Percentage of boys	94
Percentage of youth age 16-17	71
Population sub-groups (in numbers)	
Jewish (native born)	3 583
Immigrants from the former Soviet Union	884
Immigrants from Ethiopia	183
Arab residents of Israel	1 899
Arab residents of the West Bank and Gaza	677

Source: Habib et al., 1998 (analysis of Israel Police Force data).

1307. Youth Probation Service data from 1996 reveal that the majority of minors (residents of Israel) with a criminal file come from large families or broken homes; many of them also have family problems or learning difficulties. For example, 50% of the Jewish minors with a criminal file came from families with at least four children, compared to 27% of all Jewish children in Israel; 91% of the Arab minors with a criminal file came from large families, compared to 63% of all Arab children in Israel. Twenty-five percent of the Jewish and 13% of the Arab minors with a criminal record came from families in which the parents do not live together, compared to only 8% of the total population of children in Israel. Similarly, 15% of the minors with a criminal file have a sibling or parent who has committed a criminal offense.

Table 67

Family characteristics of minors with a criminal file who were referred to the Youth Probation Service in 1996, compared to all children in Israel (in %)

Family characteristics	Has a criminal file and was referred to the Youth Probation Service	General population of children (ages 0-17)
Family has 4 or more children (Jewish)	50	27
Family has 4 or more children (Arab)	91	63
Lives with one parent only (Jewish)	25	8 (both Jews and Arabs)
Lives with one parent only (Arab)	13	

Source: Youth Probation Service, 1999.

1308. In general, the level of education of minors with a criminal file is significantly lower than that of their peers in the general population. In 1996, 43% of these minors attended a class that was two grades lower than the class in which they ought to have been placed, according to their age. Approximately 70% of these minors attended some kind of school (elementary or secondary school, or a vocational training or special education framework). Twenty-three percent of them worked full or part time. Seven percent neither worked nor attended school.

4. Sentencing, punishment and modes of treatment

(a) General principles

1309. The Criminal Procedure Law and the Penal Law apply to every legal hearing concerning minors, unless there is an express provision to the contrary in the Youth (Trial, Punishment and Modes of Treatment) Law. As a rule, the provisions of the Youth Law are designed to augment and not detract from the authority granted in other legislation. The Supreme Court has held that where the legislature wished to bring specific and unique provisions into the Youth Law to supplant corresponding legislative provisions, it has done so expressly.

1310. A "minor" is defined as a person who, on the day on which an indictment is filed against him, is under 18 years of age (see section 1 of the Youth (Trial, Punishment and Modes of Treatment) Law). According to section 3 of the law, a minor charged with an offense will be

tried in a Magistrates' (Circuit) Court or a District Court, depending on the gravity of the offense, sitting as a Juvenile Court. The trial is to be conducted by a juvenile judge - that is, a judge assigned by the chief justice of the Supreme Court, with the consent of the Minister of Justice (section 2 of the law).

1311. As a rule, a minor will not be brought to trial together with an adult, save with the consent of the attorney general (section 4(a) of the law). However, where a minor is brought to trial together with an adult, and the court decides to continue hearing the matter, the court will deal with the minor as if it were a Juvenile Court (section 4(b) of the law). If at any stage before the conclusion of a trial it is discovered that a minor has erroneously been brought before a court that is not a Juvenile Court, the court must transfer the case to a Juvenile Court (section 5(a) of the law), unless it perceives special circumstances that justify its not doing so, in which case the court is allowed to continue hearing the case, although from that point onward it will proceed as if it were a Juvenile Court, and will have the authority granted a Juvenile Court (section 5(b) of the law). If the error is detected after a judgment has been handed down, the court will continue to handle the case as if it were a Juvenile Court (section 5(c) of the law). The chief justice of the Supreme Court has the authority to order a retrial, if grave miscarriage of justice has been caused by bringing the minor to trial before a regular court (section 7 of the law).

(b) Hearing procedures for Juvenile Court

1312. A Juvenile Court will, to the extent possible, hold its hearings in a place where other trials are not being held, or in a place where other hearings are held, but at a different time (section 8(a) of the Youth (Trial, Punishment and Modes of Treatment) Law). To the extent possible, minor defendants will not be transported to and from court together with adult defendants (section 8(b) of the law). According to Juvenile Court judges, these procedures are not always complied with. As a rule, hearings involving a minor should be held in camera (section 9 of the law). This duty does not apply automatically with regard to a hearing concerning detention for the purpose of investigation, although the judge may direct that the hearing be held in camera pursuant to the provisions of section 68 of the Courts Law [Consolidated Version] 1984. This duty also does not apply to hearings held in the Supreme Court when it sits as an appellate court on the decision of a Juvenile Court, nor to a hearing concerning the detention of a minor conducted in a court that is not a Juvenile Court. Section 17 of the law allows for part of the hearing to be held in the absence of the minor. Some claim that this section constitutes a material infringement of the minor's right as a defendant; this claim has yet to stand the test of case law. In any event, this section is rarely invoked. This matter has also been addressed in the proposal to reform the Youth Law (see below).

(c) Representation of minors in court

(i) Appointment of defense counsel by the court

1313. For adults, the duty to appoint defense counsel applies only in felony cases, or if the defendant has a handicap that prevents him from representing himself (see section 15 of the Criminal Procedure Law [Consolidated Version] 1982). Section 15 of the Criminal Procedure Law also establishes the duty to appoint defense counsel for a defendant who has not yet reached

the age of 16 and who has been brought before a court that is not a Juvenile Court. This duty is not generally invoked, as many judges are authorized to act as juvenile judges. According to section 18(a) of the Youth (Trial, Punishment and Modes of Treatment) Law, a Juvenile Court may appoint defense counsel for a minor if it considers that the interest of the minor so requires. In any case, it seems that the problematic nature of the right to representation has been resolved by the Public Defenders (Entitlement of Additional Minors to Representation) Regulations 1998, which stipulate that a minor against whom an indictment has been filed, excluding an indictment filed before a traffic judge for an offense that is not a felony, is entitled to representation by a public defender. In actuality, no systematic data are available on the extent to which minors are represented; however, professionals in the court system estimate that a large proportion of the minors brought to trial are still not represented by a lawyer.

(ii) Appointment of a legal guardian

1314. Both Juvenile Court and Family Court have the legal authority to appoint a legal guardian for a minor (see Chapter IV).

(iii) Self-appointment of defense counsel by a minor

1315. Section 18(d) of the Youth (Trial, Punishment and Modes of Treatment) Law stipulates that its provisions will not derogate from the right of a minor to be represented by an attorney, as instructed by the Chamber of Advocates Law 1961. Under section 18(c) of the law, if a minor has no defense counsel, the court will help him question the witnesses.

(iv) Representation by a parent

1316. Under section 19 of the Youth (Trial, Punishment and Modes of Treatment) Law, the parent of a minor defendant is entitled to be present in the court at the time of the hearing, unless the court determines otherwise; the parent may file a motion or petition on behalf of the minor, question witnesses, and make a plea or argument on behalf of the minor.

(d) The right to an interpreter

1317. Under section 140-142 of the Criminal Procedure Law, if the court finds that a defendant does not understand Hebrew, it is required to appoint an interpreter for him at the expense of the State Treasury, or else the judge must act as an interpreter. In addition, testimony heard in a language other than Hebrew must be translated into and recorded in Hebrew, unless the court instructs otherwise. The proposed reform of the Youth (Trial, Punishment and Modes of Treatment) Law would make the presence of an interpreter obligatory during interrogation, as well.

(e) Prohibition against the publication and transfer of information, and the statute of limitations

1318. As noted, hearings in Juvenile Court, as well as other criminal proceedings involving a minor, are conducted in camera. Section 70 of the Courts Law [Consolidated Version] 1984 provides that a person may not publish anything concerning a hearing that has been held in

camera in any court, save with the permission of that court. The section also prohibits taking photographs in a courtroom and publishing a photograph so taken, save with the permission of the court.

1319. Section 70(c) of the law provides that a person may not publish the name, photograph, or any other detail that may lead to the identification of a minor defendant in a criminal trial. This section applies to courts of all instances and is not contingent on the proceedings being held in camera.

1320. Recently, for the first time, the Supreme Court permitted publication of the names of adults suspected of committing offenses while they were adults, even though publication led to their being identified as having been convicted of murder when they were minors. The court held that the grave circumstances of the case required that the principles of publicity of trial, the public welfare, and the right of the public to be warned about offenders convicted in aggravated circumstances, be given priority over the desire to protect the interests of minors.

1321. Section 24 of the Youth (Care and Supervision) Law 1969 protects a minor from the publication of any detail that would impute an offense or moral corruption to him. Similarly, section 13 of the Crime Register and Rehabilitation of Offenders Law 1981 restricts the transfer of information about an offense committed by a minor who has not yet reached the age of 14; about a misdemeanor committed by a minor between the ages of 14 and 16; about any ruling or order handed down in accordance with section 24 of the Youth (Trial, Punishment and Modes of Treatment) Law; and about a probation order, an order of recognizance to abstain from an offense, or an order to perform community service made without a conviction. The law allows for such information to be transferred only to the specific persons and agencies that require it in order to discharge their duty. The list of such persons and agencies is fairly long, and includes, inter alia, the attorney general, the military prosecutor, a committee investigating the criminal record of a soldier, and so forth. Information on no-prosecution proceedings may not be stored by the police in a computerized form, and may not be transmitted to any external entity.

1322. The Crime Register and Rehabilitation of Offenders Law sets a statute of limitations for offenses committed by minors. As a rule, the period of limitation at the end of which no information about a conviction may be delivered is significantly shorter for offenses committed by a minor than for offenses committed by an adult. In addition, there is a hierarchy of limitation periods for minors, based on the severity of the penalty imposed.

(f) Rehabilitation versus punishment

1323. The Youth (Trial, Punishment and Modes of Treatment) Law 1971 takes a rehabilitative-treatment approach, and defines the punishments and modes of treatment that may be imposed upon a minor whom a court has determined has committed the offense with which he was charged. Initially, a court will not convict a minor, but will determine whether he committed the crime with which he was charged (sections 21 and 24 of the law). A court that determines that an adult defendant has committed the crime imputed to him must, as a rule,

convict him. This is not so for a court that hears the case of a minor. If a court finds that a minor has committed an offense, it will instruct a probation officer to submit a report and, where necessary, it may direct that examinations and investigations be carried out, as stipulated in section 22 of the law. The court then uses these findings to determine the minor's fate. At this stage, the court may choose one of the three alternatives set down in section 24 of the law.

1324. First, the court may decide to convict and sentence the minor. If the court decides to act in this manner, it may impose any punishment on the minor, subject to the provisions of section 25 of the law (which specifies modes of punishment).

1325. Second, the court may decide to order one or more of the measures and modes of treatment enumerated in section 26 of the law. If the court chooses this alternative, it will not convict the minor, but will order that these measures and modes of treatment be used.

1326. Third, the court may decide to discharge the minor without an order, as noted, but with a warning only. In this case, the court will neither convict the minor nor impose on him any measure or mode of treatment.

1327. The Supreme Court has noted that the last two alternatives are meant to deflect the stigma attached to a conviction, in consideration of the minor's young age, the nature of his offense, or some other reason, such as the court's feeling that the offense was a one-time error, which the minor regrets, and that the minor's general functioning is normal.

(g) Modes of punishment

1328. As noted, if a court finds a minor guilty of the offense imputed to him, it may choose to discharge him without an order, impose a punishment, or order treatment. The alternatives available to a court that decides to convict a minor include most of those available with regard to adults: actual imprisonment, a suspended prison sentence, placement under the surveillance of a probation officer, a fine, compensation and public works. In addition, there are alternatives exclusive to minors, such as placement in a closed residence instead of imprisonment.

(h) Modes of treatment

1329. Following are the modes of treatment without a conviction that a court may order under section 26 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971: (a) committing the minor to the care and supervision of a fit person other than his parent (such as an employer, social worker or educator) for a period to be prescribed by the court, and the restriction of his parent's rights as his guardian during said period; (b) placing the minor under the supervision of a probation officer; (c) obtaining an undertaking, from the minor or his parent, as to the minor's future behavior; (d) requiring the minor to report to a day residence for a period prescribed by the court; (e) keeping the minor at an open or closed residence during a period prescribed by the court; (f) requiring the minor or his parent to pay a fine or the costs of the proceedings; (g) requiring the minor or his parent to pay compensation to a person who sustained damage as

a result of the minor's offense; (h) any other order that the court feels is necessary to the treatment of the minor. This last alternative is extremely varied and encompasses all orders and educational measure that the court deems necessary to the minor's treatment, including undergoing psychological counseling, requesting pardon from the victim, making a donation and the like. In one case, a court obligated a minor to write an essay on violence and its effects.

1330. The Youth Probation Service uses a variety of treatment methods with convicted minors including individual, group and family methods and special programs, such as those for treatment of sex offenders. Even modes of treatment that are not implemented by the Youth Probation Service will in most cases be implemented under the supervision of a probation officer, who may petition the court to change the mode of treatment based on changes in the minor's condition. It is important to note that the minor himself does not have the right to request a change in his treatment method.

1331. Some of these alternatives - such as placement under the supervision of a probation officer - may be used both in the framework of a conviction and punishment, and as a mode of treatment without a conviction. As noted, a mode of treatment imposed without a conviction is likely to be less detrimental to the minor's future.

(i) Court considerations and verdicts

1332. When sentencing a minor, courts stress the importance of his need for special consideration. The younger the child, both at the time the offense was committed and at the time of sentencing, the more his being a minor will factor into the considerations of the court.

1333. Considerations regarding minors brought into the criminal justice system are significantly influenced by the prospect of rehabilitation. Research published in 1997 (Hassin, 1997) revealed that the decisions of Juvenile Court judges are influenced primarily by a rehabilitative approach: In most cases, the judge notes that his decision was made "in the best interest of the minor" or "for his rehabilitation and to modify his behavior". In recent years, the question has arisen in Israel as elsewhere as to whether this emphasis on rehabilitation does not diminish the deterrent power of the law enforcement system. Only a very few verdicts address punishment as a deterrent to or restriction on criminal behavior, or as an expression of the priority of the public good. This can be seen in court decisions: In 1997, 44% of the 8,882 criminal files opened against minors were closed by the police and the public defender's office without ever receiving a court hearing, due either to lack of public interest or lack of evidence. This year the courts heard 4,940 cases involving minors. Of them, 1,182 minors received a verdict of a fine and compensation or guarantees (i.e. obtaining an undertaking of future good behavior); 617 minors were placed under the surveillance of a probation officer; 291 minors were actually imprisoned; and 159 minors were placed in an open or closed residence. In addition, the courts imposed suspended prison sentences on 538 minors. Analysis of data from 1996 by age reveals that the courts prefer verdicts that order treatment for younger minors, and verdicts that impose a penalty for older minors. Incomplete data from 1997 show a similar trend.

Table 68

1996 court verdicts in cases involving minors, by minor's age

Verdict	Age		
	Up to 14	15-16	17+
Number of minors	197	1 105	2 291
Total percentage	100	100	100
Imprisonment and suspended prison sentence	30.0	8.9	16.8
Open or closed residence	16.7	6.7	2.1
Care and supervision order by a fit person	30.4	23.8	13.4
Fine and guarantee (undertaking of good behavior)	31.9	38.4	43.0
Revocation of driver's license and "any other order"	15.2	19.7	2.2
Discharge without an order and acquittal	2.5	2.6	2.9

Source: Youth Probation Service, 1999.

1334. A 1997 study (Hassin, 1997) revealed differences in the verdicts handed down for Jewish minors and Arab minors (who were residents of Israel). For example, larger percentages of Arab minors received a sentence of actual imprisonment, or a suspended prison sentence. In 1994, the last year in which such an analysis was made, actual imprisonment was imposed on 20% of convicted Arab minors, compared with only 1.5% of the Jewish minors brought to trial. The percentage of Arab minors who received a suspended prison sentence was 8.2%, compared to 5.7% of the Jewish minors. Accordingly, smaller percentages of Arab minors received treatment verdicts such as supervision orders (18.4% of Jewish minors versus 7.1% of Arab minors) or residence orders (3.5% of Jewish minors versus 2.8% of Arab minors). In 1994, 246 minors received prison sentences. Of them, 166 (two-thirds) were Arab residents of East Jerusalem, 37 (15%) were Arab residents of Israel (exclusive of East Jerusalem), and 46 (18.7%) were Jewish residents of Israel. Similarly, the majority of verdicts for Arab minors were "with a conviction" - namely, they were more grave, as they gave the minor a criminal record that would dog him for years to come. The study's analysis of the data reveals that the breakdown of the offenses committed by Arab minors does not justify the variance in court verdicts. One reason for this variance was a shortage of closed residences for Arab youth; one such residence was established in 1999, following a petition of the National Council for the Child to the Supreme Court ((Petition to the) High Court of Justice 1070/96 *National Council for the Child v. Minister of Labor and Social Affairs* (not yet published)).

(j) Appeal of judgments

1335. Every defendant has the right to appeal a judgment before a court of higher instance (see sections 41 and 52 of the Courts Law [Consolidated Version] 1984). Both the verdict and the sentence may be appealed. The judgment of a Juvenile Magistrates' (Circuit) Court may be appealed to a juvenile District Court. Further appeal to the Supreme Court requires obtaining leave to appeal. In either instance (appeal by right or appeal by leave), the court must explain the right of appeal and the time limitation set on it to the defendant.

5. Children deprived of their liberty, including arrest, imprisonment and placement in a residence

(a) Considerations in court decisions to deprive a minor of his liberty

1336. Juvenile Court case law indicates that the courts regard the deprivation of a minor's liberty as more harmful for the minor than it would be for an adult. For example, the Supreme Court has ruled as follows:

> "The conditions of detention and prison, even without the characteristics of such places, are liable to cause severe emotional shock and trauma. More often than not, a minor is liable to encounter a world of drugs and serious crime. The court must become a 'father to minors', and preserve them - whenever possible - from this experience" (Miscellaneous Criminal Applications 1363/93 *Y.Z. (Minor) v. State of Israel*, P.D. 47(2) 71).

1337. Another Supreme Court judgment held that before lending its hand to the incarceration of a youth age 15, albeit for a grave crime, the court would first have to be convinced that his incarceration was necessary to the protection of the public welfare, or - though this is essentially the other side of the same coin - to the prevention of his recidivism (Miscellaneous Criminal Applications 537/75 *Anonymous Plaintiff v. State of Israel*, P.D. 30(2) 51). The court nevertheless held that being a minor did not establish absolute immunity from arrest and imprisonment (Miscellaneous Criminal Applications 7136/93 *Anonymous Plaintiff (Minor) v. State of Israel* (31.12.93 not yet published)).

(b) Arrest

(i) Arrest for the purpose of investigation

1338. Some minors are arrested for the purpose of investigation. The Youth (Trial, Punishment and Modes of Treatment) Law 1971 prescribes that a minor who has not yet reached the age of 14 may not be kept under arrest for a period exceeding 12 hours without a warrant from a judge. However, if it is not possible to bring the minor before a judge within 12 hours, a police officer in charge of a police station may order the continuance of his arrest for a further period not to exceed 12 hours, provided that it is necessary to do so for the safety of the public or the minor's personal safety, or to keep him away from an undesirable person, or because the minor is suspected of having committed a felony punishable by seven or more years' imprisonment and his release may lead to the concealment of evidence; the police officer will record the reason for extending the arrest, and such reason will be brought to the attention of the judge before whom the minor is brought (section 10(2) of the law).

1339. A minor who has reached the age of 14 may not be kept under arrest for a period exceeding 24 hours without a judge's warrant; under special circumstances, a police officer may order the continuance of his arrest for a further period not to exceed 24 hours. If he does so, he will record the reason for extending the arrest, and such reason will be brought to the attention of the judge before whom the minor is brought (section 10(1) of the law). Police sources report that

in actuality, the right to extend a minor's incarceration without a warrant is rarely invoked. At present, following recent changes in the Criminal Procedure (Enforcement Powers - Arrests) Law, the period of arrest for minors over the age of 14 is the same as that for adults.

1340. Under section 10(4) of the Youth (Trial, Punishment and Modes of Treatment) Law, Juvenile Courts are authorized to order that a minor be kept under arrest for a period not to exceed ten days, and to extend such period from time to time for additional periods not to exceed ten days each. A minor suspect may not be kept in custody continuously for the same incident, including arrest without a warrant, for a period exceeding 20 days, unless the application for further arrest was submitted with the approval of the attorney general. From this point henceforth, the law regarding the duration of arrest is the same with respect to a minor as it is with respect to an adult. In other words, a suspect who has been in custody for 75 days continuously without charges being filed against him must be released from custody. However, the court may make his release conditional on provisions it will prescribe.

(ii) Arrest until termination of proceedings

1341. The Youth (Trial, Punishment and Modes of Treatment) Law 1971 makes no express reference to arrest until the termination of proceedings. However, the provisions in chapter three of that law, titles "Arrest, Release and Pre-Trial Proceedings", which concern holding minors in detention, also apply to the arrest of minors until the termination of proceedings. The Supreme Court has held that a suspect's being a minor must be considered when deciding upon arrest until the termination of proceedings, although this does not in itself create grounds for immunity (Miscellaneous Applications 190/79 *State of Israel v. Doron*, P.D. 33(3) 589).. The Supreme Court has also held that there is no obligation to keep a minor under arrest until the termination of proceedings, even in the case of murder (Miscellaneous Criminal Applications 23/89 *Ben Shimon v. State of Israel*, P.D. 42(4) 770). Conversely, the Supreme Court has held that a minor under the age of 14 may be arrested until the termination of proceedings, even though imprisonment may not be ordered for a minor of this age (Miscellaneous Criminal Applications 6074/97 *Anonymous Plaintiff v. State of Israel* (22.10.97 not yet published)). At a petition to imprison a minor until the termination of proceedings, the minor must be represented by defense counsel.

(iii) Hearing of a petition for arrest

1342. A petition to arrest a minor is not generally heard by a Juvenile Court judge, but rather by an ordinary arrests judge (duty judge). According to existing law, the court is not obligated to receive a preliminary or full report from the Youth Probation Service before handing down a decision regarding a petition to extend arrest for the purpose of investigation or until the termination of proceedings. However, this has been proposed as part of the reform of the Youth Law (see section 8 below).

(iv) Appeal

1343. All court decisions regarding the extension of arrest, bail, or other release conditions may be appealed to a higher court (section 52 of the Criminal Procedure (Enforcement Powers - Arrests) Law 1996).

(v) Arrest to ensure a minor's personal safety

1344. Section 10(3) of the Youth (Trial, Punishment and Modes of Treatment) Law 1971 prescribes that "a judge before whom a minor has been brought may order his arrest if it is necessary to ensure the minor's personal safety or keep him away from the company of an undesirable person". This section has been criticized, and in practice it is rarely used. The Youth Law reform bill addresses this issue.

(vi) Notification of arrest

1345. Section 11 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971 provides that the officer in charge of a police station to whom an arrested minor has been brought must notify one of the minor's parents or, if this is not possible, any person close to the minor, as soon as possible after the arrest. However, if the officer apprehends that such notification may prejudice the welfare of the minor, he will notify a probation officer only. As noted, the Youth Probation Service must be notified of the arrest of any minor, or when there are grounds for bringing a minor to trial.

1346. In recent years, the Youth Probation Service has been operating a "club" in one of the detention centers, where it holds meetings and interviews with arrested suspects, and social activities. At some detention centers, a probation officer is present on a permanent basis (duty service); his role is to mediate on behalf of minors, examine options for commencing rehabilitation, protect the rights and physical and emotional welfare of minors, and provide them with information on the legal processes awaiting them. Since implementation of the Public Defender's Regulations 1998, the police have developed procedures whereby they inform the Public Defender's Office whenever a minor is arrested, and allow a public defender to meet with the minor in detention.

(vii) Conditions of arrest

1347. Under the Youth (Trial, Punishment and Modes of Treatment) Law 1971, a minor may only be detained in a separate detention center for minors, or in a wing of a general detention center that is separate, intended for minors only, and allows no access or visual communication with the other wings of the detention center or their inmates. Notwithstanding this, a minor may be held, for the purpose of investigation only, at a police station, provided he is held separately and there is no contact between him and adult suspects or arrested persons. If the police station is located in or near a detention center for minors, the minor may be kept overnight in that detention center only (section 13 of the law). Internal police procedures also recommend separating minors of different ages; minors who are persistent offenders and minors who are first-time offenders; and minors who are persistent offenders, or who are known to be violent, or who are suspected of having committed a felony or a violent or sexual offense, and all other minors (section 4(I)(3) of the Police Directives - Minors).

1348. A significant portion of the criticism surrounding the protection of the rights of minors involved in criminal proceedings concerns the conditions of arrest. It has been claimed that due to overcrowding in detention centers and the unsuitability of their physical structure, the

separation between minors and adults, first-time offenders and recidivists, etc. is not always maintained. Similarly, the physical conditions in some detention centers are inadequate, and minors are not kept occupied or educated during their free time (this is particularly important during longer terms of arrest).

1349. Over the years, some of these faults have been remedied. For example, often a minor who has been arrested until the termination of proceedings is transferred to a juvenile prison, where conditions are much better than in detention centers. In some cases, the minor is placed under house arrest on condition of bail; for the minor, house arrest is preferable to detention in a juvenile prison. However, the police claim that this solution is problematic in the case of minors whose families have difficulty supervising them.

1350. By law, the Minister of Labor and Social Affairs is allowed to declare a closed residence (used for the custody and rehabilitation of juvenile offenders) a detention center. The purpose of this would be to ameliorate the physical and psychological difficulties associated with incarceration in a detention center. However, no such declaration has ever been made, as professionals fear that housing minors who have been sent to detention with minors who have been sent for treatment and rehabilitation will both obstruct the therapeutic process and turn the closed residence into a detention center. The Ministry of Public Security and the Ministry of Labor and Social Affairs are currently discussing the possibility of jointly establishing a detention center.

1351. The conditions of arrest at police stations are also unsatisfactory. A 1998 study (Habib et al., 1998) found that only 12% of the police stations in Israel reported fully complying with the rules regarding arrest, such as separating minors of differing ages, and new from repeat offenders. Children's rights organizations have claimed that there are false arrests and arrests that extend beyond the time required for the purpose of investigation. As noted, the new legislation regarding arrest has increased the courts' surveillance of police practices.

(viii) Alternatives to arrest

1352. Cooperation among the court, the public defender's office and the Youth Probation Service promotes the possibility of finding alternatives to arrest, which are always considered preferable (see section 13(b) of the Criminal Procedure (Enforcement Powers - Arrests) Law and sections 5 and 8 of the Basic Law: Human Dignity and Liberty), particularly with regard to minors; this preference is also reflected in case law (Miscellaneous Criminal Applications 604/88 *Tamir v. State of Israel*, P.D. 42(3) 617; Miscellaneous Criminal Applications 2955/91 *Danino v. State of Israel*, P.D. 45(3) 832).

1353. Once an indictment has been filed, a court may order a minor to be sent to an open or closed residence for observation and diagnosis for a period not to exceed 90 days (section 20(a)(1) of the Youth (Trial, Punishment and Modes of Treatment) Law). On the petition of a probation officer, the superintendent of residences, or the minor, a Juvenile Court may vary the observation order, issue any instruction necessary for its implementation, extend it for an additional period not to exceed one month, or revoke it (section 20(b) of the law).

The observation order must be made with prior coordination with the superintendent of residences and the probation officer, to ensure that a suitable residence is found for the minor, and that the residence has room to admit him. Although observation is also an alternative to detention, professionals agree that it should be used in exceptional cases only, and that the need remains to develop a special framework that is expressly an alternative to detention.

(ix) Data on the arrest of minors

1354. According to police data, 4,131 minors were arrested in 1998. Twelve percent of the arrests lasted for up to 12 hours, an additional 31% of them lasted for between 12 and 24 hours, 11% of them lasted for between 24 and 48 hours, 26% of them lasted for between two and seven days, 14% of them lasted for eight or more days, and 5% of the arrests extended until the termination of proceedings. In two-thirds of these cases, the minors arrested were ages 16-17.

Table 69

Arrest of minors and duration of arrest in 1998, by age (in numbers)

	Duration of Arrest						
	Total	Up to 12 hours	12-24 hours	24-48 hours	2-7 days	8 or more days	Until the termination of proceedings
Total	**4 131**	514	1 277	442	1 083	599	216
Age							
12	32	7	11	3	8	2	1
13	115	17	31	12	30	20	5
14	450	70	124	64	109	64	19
15	851	90	263	99	230	127	42
16	1 213	161	368	120	316	190	58
17	1 469	169	480	144	389	196	91

Source: Ben-Arie and Zionit, 1999.

(c) Open and closed residences

1355. A closed residence, as defined in section 1 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971, serves as an out-of-home residence or locus of custody for minors who have been referred to them by the superintendent of residences.

1356. A minor may be sent to a closed residence by the court in any of the following instances: (a) under the Youth (Care and Supervision) Law 1960, as a means of providing care and supervision to a minor who has been declared in need of protection (see also Chapter VII); (b) under the Youth (Trial, Punishment and Modes of Treatment) Law, as punishment following conviction within the ambit of section 24(1) of that law; or (c) as a mode of treatment as

determined under section 24(2) of said law. The judge must decide a priori which alternative he will choose. The distinction between being sent to a closed residence with a conviction, or being sent to one as a mode of treatment, is very significant, and will be noted in the crime register accordingly. The Supreme Court has instructed that punishment for a felony in the form of incarceration in a closed residence should be handed down with a conviction, so to emphasize the severity of the offense (Criminal Appeal 403/88 *Anonymous Plaintiff v. State of Israel*, P.D. 42(3) 570).

1357. The residences that house minors who have been convicted of committing an offense are operated by the Youth Protection Authority of the Ministry of Labor and Social Affairs. The Authority's residences exist along a continuum, and include closed residences, open residences in the community, and crisis intervention centers. As noted, these frameworks also serve minors in need of protection. Most of the minors who are sent to a residence for an infraction of the law are sent to closed residences, which are relatively small (housing between 30 and 40 minors) and offer educational and therapeutic services. The existence of a continuum of services allows for a minor to be transferred from a closed to an open residence toward the end of his sentence or period of confinement, in preparation for his return to the community. This is also stipulated by section 31 of the Youth (Trial, Punishment and Modes of Treatment) Law: "When a Juvenile Court has ordered a minor remanded to a closed residence, the superintendent of residences may remove him therefrom to an open residence, provided he has spent a reasonable period of time in the closed residence and circumstances justify his transfer". To improve the efficiency of the transfer of inmates between residences, the Youth Protection Authority together with JDC-Israel and ELEM has established facilities with both an open and a closed wing.

1358. Under section 25(a) of the Youth (Trial, Punishment and Modes of Treatment) Law, the court may not order a convicted minor to serve a sentence in a closed residence that is in excess of the sentence prescribed for the offense of which he has been convicted. However, a remand to a residence as a means of treatment must take into account the convicted minor's treatment and rehabilitation needs as assessed by the probation officer, such that the duration of the sentence takes these into account. Further, such a sentence is contingent on finding a residence that can admit the minor, so as to afford him the proper conditions for rehabilitation.

1359. Also under section 25(a)of this law, a closed residence may be an alternative to imprisonment, but cannot itself be considered imprisonment. The Supreme Court has held that when a court convicts a minor and sentences him to imprisonment, it is not authorized to order the minor to serve his prison sentence in a closed residence (Miscellaneous Criminal Applications 1316/90 *Anonymous Plaintiff v. State of Israel*, P.D. 45(1) 309).

1360. Under section 42 of the law, a minor remanded to an open or closed residence who escapes therefrom, or whose release therefrom has been canceled, or whose leave therefrom has expired, may be arrested by a police officer without a warrant (as he has escaped from lawful custody, which is grounds for arrest without a warrant) and kept under arrest until he has been returned to the residence. The police must immediately notify the superintendent of residences of the arrest, and act to ensure the swift return of the minor to the residence.

(i) Periodic review of placement

1361. According to the Youth (Trial, Punishment and Modes of Treatment) (Conditions of Minors in Residences) Regulations 1976, the case of any minor who has been placed in an open or closed residence will be reviewed by a special committee at least twice a year; the committee will assess his condition and determine an education program for him (regulation 17). Wherever possible, the director of the residence will summon the minor or his parent to appear before the committee and make a statement (regulation 19). In recent years, the Youth Protection Authority has developed a clinical follow-up to evaluate the status and progress of the residents.

(ii) Release from a closed residence

1362. A minor held in a closed residence may be released after one year or, in special circumstances, before this time, at the discretion of a release committee (see section 36 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971). Regulation 3 of the Youth (Trial, Punishment and Modes of Treatment) (Procedures in Release Committees) Regulations states that "A petition for release from an open or closed residence pursuant to section 36(a) of the law may be filed by the minor, his parent, the superintendent of residences, or the minor's representative". Regulation 6 provides that "the [release] committee may hear a case not in the presence of the minor, although if the committee finds that there is no prima facie reason for releasing the minor, it must hear the case again after granting the minor or his parent an opportunity to state his claims". Regulation 11 makes similar arrangements with regard to petitions to change conditions.

1363. The Juvenile Court may, on the petition of the superintendent of residences and after having heard the minor and his parent, extend for a further year the period that a minor may remain in a residence, if it deems this to be in the minor's best interest, or continue his treatment or vocational training (section 33 of the law). The authority to treat a minor in a closed residence extends until the age of 20 (section 34 of the law). Some see in the ability to extend a minor's stay in a closed residence for the purpose of treatment an infringement on his rights, given that a minor's stay in a closed residence for the purpose of punishment may not be extended.

(iii) Rehabilitation and reintegration into society

1364. The Youth (Trial, Punishment and Modes of Treatment) (Treatment Follow-up) Regulations 1976 define the role of the follow-up officer with regard to minors in residences. Regulation 5 prescribes that "the follow-up officer will begin handling a case six months prior to the lapse of the warrant placing the minor in the residence, or earlier, at the discretion of the superintendent of residences". A minor who has been released from a residence will remain under the supervision of the follow-up officer for at least one year (section 38 of the Youth (Trial, Punishment and Modes of Treatment) Law. According to regulation 6, "should the follow-up officer be of the opinion that the period of treatment should be extended for more than one year after the date of release, he will make a reasoned petition to the superintendent of residences, who will then notify the follow-up officer and any person under his care of his decision by no later than one year after release".

1365. Regulation 4 of the Youth (Trial, Punishment and Modes of Treatment) Regulations 1976 defines the role of a follow-up officer as follows:

> "In performing his role under section 39 of the law, a follow-up officer will ensure the physical and emotional well-being, professional rehabilitation and absorption into society of the person under his care, taking into account the attributes of the person under his care".

(iv) Conditions and rights of minors in residences

1366. The Youth (Care and Supervision) (Conditions of Minors in Residences) Regulations 1976 prescribe the conditions under which a minor is to be kept in a residence. Inter alia, they require the director of a residence to notify a minor arriving therein of his rights and obligations; to inform the minor's parent on the minor's arrival at the residence (unless this is not in the minor's best interest); to provide educational, social, and recreational activities and medical treatment; to make provisions for religious observance; and to arrange for the reception of visitors and the exchange of mail (regulations 5, 6, 8, and 9).

1367. The regulations allow the person in need of protection to submit a complaint about the conditions of his residence, and require the director of the residence to convey this complaint to the appropriate State authorities with due haste (regulation 10). The disciplinary measures to be used in residences are to be solely educational; emotional and corporal punishment and denial of food are prohibited; no penalty that is liable to cause physical or emotional harm may be imposed on the minor in need of protection, nor may he be placed in solitary confinement (regulation 13). The staff of the residence may only deprive a person in need of protection of his rights, use force against him, or place him in solitary confinement if educational considerations make this imperative, or in self-defense, or to restrain a person in need of protection who is causing a disturbance (regulations 14-16). Regulations 14-16 also prescribe the procedures for authorizing and reporting these acts.

1368. Keeping a minor in a residence is subject to the Supervision of Residences (Keeping Children in an Ordinary Residence) Regulations 1965. During the past two years, the Youth Protection Authority has been working to improve surveillance of the residences it operates (see Chapter VII).

(v) Lack of space in residences

1369. Until recently, referral to a closed residence was not available to the entire population of youth in Israel. This denied a segment of this population an appropriate rehabilitative option, and forced the courts to either impose imprisonment, or refrain from imposing any sanction. As noted, a closed residence for Arab youth was only established in 1999, after the National Council for the Child had petitioned the Supreme Court. In two rulings in this matter, the court iterated the necessity of establishing a closed residence for Arab youth ((Petition to the) High Court of Justice 3437/92 *National Council for the Child v. Minister of Labor and Social Affairs*, P.D. 47(1) 148; (Petition to the) High Court of Justice 1070/96 *National Council for the Child*

v. Minister of Labor and Social Affairs (13.7.97 not yet published)). Similarly, the number of places for girls in closed residences does not meet requirements. At present, additional places are being designed for the purposes of diagnosis and crisis intervention in a closed residence for girls.

(d) Imprisonment

1370. In July 1999, 133 minors were in prison. Of them, 64 had been sentenced to up to 12 months in prison, 44 had been sentenced to between 12 and 24 months in prison, and 25 had been sentenced to over two years in prison. This was a first prison sentence for 81 of these minors.

Terms of imprisonment

1371. Under section 25(e) of the Youth (Trial, Punishment and Modes of Treatment) Law, "A minor on whom imprisonment has been imposed may not be held in prison together with a person who is not a minor". Minors are held in only one prison, in a special wing, away from the other prison wings. Minors under arrest may also be held in this wing. At any given time, there are some 130 youth ages 14-18 in the minors' wing, most of whom have been sentenced, and some of whom are under arrest. The wing is divided into three sub-areas: the reception and selection area, the advanced area, and the rehabilitation area. The minors are usually held in cells of two people, although some cells accommodate between four and six people. A set schedule governs the youth wing, which includes four hours of formal study (sometimes combined with work) at the education center in the wing, and enrichment and leisure activities. The staff of the youth wing comprises education officers, social workers and a psychologist. Each minor who arrives on the wing has a treatment plan. In addition, there are various therapy groups, such as a group that is preparing for release, a communication group, a group that works on improving conflict resolution skills, and so forth. In 1999, a new project was initiated by the Rehabilitation of the Offender Authority, in cooperation with the Youth Probation Service and the Prison Authority, in which each minor has a rehabilitation plan drawn up for him while he is in prison; in cooperation with community services, the minor continues to receive assistance two years after his release from prison.

6. Sentencing of children, capital punishment, and life imprisonment

1372. Under section 25(d) of the Youth (Trial, Punishment and Modes of Treatment) Law 1971, a court may not impose a prison sentence on a minor who is under the age of 14 at the time of sentencing. When an offense has been committed by a person who was a minor on the day he committed it, the death penalty may not be imposed. In any case, the death penalty is not imposed in Israel, even on adults. (Since establishment of the State, the death penalty has only been used once: against Nazi war criminal Adolf Eichmann.) Under section 25(b) of the law, it is not mandatory to impose a life prison sentence, a mandatory prison sentence, or a minimum penalty on a minor (even if these are so prescribed by law for offenses the minor is convicted of

having committed). Unlike the death penalty, there is no absolute prohibition against imposing a life prison sentence on minors. The Supreme Court has held, in a majority decision, that the court has the discretion to review each case on its merits; should it reach the conclusion that the appropriate punishment is life imprisonment, and should it consider that this punishment is just and necessary, it may sentence a minor to life imprisonment (Miscellaneous Criminal Applications 530/90 *John Doe v. State of Israel*, P.D. 46(3) 648). One Supreme Court justice, basing herself, inter alia, on the Convention, expressed the view that life imprisonment should only be imposed on a minor in exceptional cases; however, her opinion was deemed as "needing further study" by the justices who sat with her (Miscellaneous Criminal Applications 3112/94 *Abu Hassan v. State of Israel* (11.2.99 not yet published)). In practice, life imprisonment is imposed on minors very rarely; to date, it has been imposed on three 17-year-olds who stabbed a bus passenger to death as part of the "initiation rite" of a terrorist organization; and on a youth age 17 and 10 months who strangled his employer to death after she commented on his work and delayed payment of his salary for two days.

7. The rehabilitation and reintegration into society of youth offenders and youth at risk of becoming offenders

1373. As discussed above, many of the alternatives for the rehabilitation of juvenile offenders exist within the modes of treatment prescribed by the Youth Law, and implemented by the Youth Probation Service and the Youth Protection Authority. However, most of these alternatives exist for minors who have already been charged, or for whom a criminal file has been opened. In addition, a number of other services help minors who are in trouble or at risk of criminal behavior; they work in cooperation with the Youth Probation Service in treating youth suspected, accused or convicted of committing an offense. The Youth Advancement Department of the Ministry of Education, the Service for Children and Youth and the Service for Women and Girls of the Ministry of Labor and Social Affairs help disaffected youth who have dropped out or are at risk of dropping out of school or work (some of whom are already involved in delinquent activity). The Service for Children and Youth reports serving about 10,000 young people a year, through 260 social workers; the Service for Women and Girls reports serving some 7,000 girls and young women ages 13-22. The Youth Advancement Department of the Ministry of Education reports serving 13,500 young people ages 14-18 through municipal social welfare departments throughout the country. These services offer diverse educational, preventive and therapeutic programs (e.g., programs for completion of matriculation, support with job integration, preparation for military service, drug prevention programs), using individual and group methods. The Al-Sam Association offers counseling, treatment and rehabilitation at centers throughout the country for young people involved with drug abuse, and operates a number of projects (primarily in conjunction with the education system) to prevent the use of drugs. Table 70 presents the principal agencies that help such minors, by organizational affiliation, contact with the police, primary functions, and target population.

Table 70

Principal agencies treating minors suspected of having committed an offense

Agency	Organizational affiliation	Is contact with the police mandated by statute?	Primary functions	Target population
Youth probation officers	The Youth Probation Service, Ministry of Labor and Social Affairs	Yes	– Receive report from police on files opened, arrests, releases – Report to police before the fate of a file is sealed – Provide and supervise treatment: no-prosecution of crime, drugs; mediation between offender and victim – Maintain contact with arrested minors; treat, rehabilitate and supervise minors during their involvement in the criminal system	Minors (age 12-17) suspected of having committed an offense under the law
Youth interrogators	Youth Probation Service, Ministry of Labor and Social Affairs	Yes	Coordinate investigation of minors (conducted by police)	Minors (under age 14) suspected of having committed a morality offense
Youth Protection Authority	Ministry of Labor and Social Affairs	Yes	Assess, treat and supervise minors under court order	Convicted minors sentenced to a closed residence; minors in need of protection

Table 70 (continued)

Agency	Organizational affiliation	Is contact with the police mandated by statute?	Primary functions	Target population
Child protection officers under the Youth Law	Service for Children and Youth, Ministry of Labor and Social Affairs	Yes	Treat minors not criminally liable (under age 12) who are suspected of having committed an offense	Minors not criminally liable (under age 12) suspected of committing an offense
Schools	Ministry of Education	No	Disseminate information, implement crime prevention projects	Minors suspected of having committed an offense; minor victims
Psychological counseling service	Ministry of Education	No	Develop programs to prevent violence and drug abuse	Students and school staff
Service for Children and Youth	Correctional Services Department, Ministry of Labor and Social Affairs	No; procedures exist for reporting offenses	Treat minors at risk of criminal behavior	Minors suspected of or at risk for committing an offense
Youth Promotion Units	Youth and Society Administration, Ministry of Education		Develop crime prevention programs	
Al-Sam	Registered association	No	Treat minors referred for treatment; implement drug prevention projects	Minors who abuse drugs
Drug Prevention Authority	Government agency		Set policy concerning drug-related problems; initiate prevention projects (e.g., with the civil guard)	Youth involved in drug use

Table 70 (continued)

Agency	Organizational affiliation	Is contact with the police mandated by statute?	Primary functions	Target population
The National Council for the Child	Voluntary organization	No	Examine complaints of unfair treatment and violations of rights of minors in criminal proceedings; propose laws; raise public awareness	Minors suspected of having committed an offense; victims
Defense for Children International (DCI)	Voluntary organization	No	Examine complaints of unfair treatment of minors in criminal proceedings; propose laws; give legal advice to minors	Minors suspected of having committed an offense
ELEM - Youth in Distress	Voluntary organization	No	Help develop a hostel; raise public awareness; help establish a network of therapeutic coffee houses for youth; operate a mobile unit that locates and assists youth at night	Minors in need of protection or at risk for criminal behavior

8. The proposed reform of the Youth (Trial, Punishment and Modes of Treatment) Law

1374. The Ministry of Justice has recently been discussing a proposal to amend the Youth (Trial, Punishment and Modes of Treatment) Law 1971. The amendments in question would reflect a new approach, in the spirit of the UN Convention on the Rights of the Child: one that would protect the dignity and rights of minors suspected or accused of having committed an offense, and consider their developing abilities and best interests. Like the current provisions of the law, the proposed amendments are based on a desire to reform and rehabilitate minors, through suitable punishment and treatment.

1375. The amendments would ensure that the dignity of any minor involved in criminal proceedings would be safeguarded, and his age considered. Minors would no longer be arrested if the end goal of arrest could be obtained with the least possible infringement of their liberty; an arrest would only be made if the age of the minor and the effect of the arrest on his welfare and development had been taken into account. Arrest would be for the shortest period necessary to achieve its object.

1376. Also under these amendments, if a court hearing a petition to arrest a minor found no grounds for his arrest, yet believed the minor was in danger of death or injury and felt there was no safe place for him, the court would order the arrest of the minor for a period not to exceed 24 hours, for the minor's protection, and to allow a child protection officer to exercise his authority. Further, should the court believe it possible to find a way to protect the minor for more than 24 hours but not exceeding 48 hours, the court would order the minor's arrest for the required period.

1377. The amendments further stipulate that a parent of a minor who is under 14 years of age will be summoned to a hearing on his arrest. If it is not possible to summon the parent, another person close to the minor will be summoned, and this person will be given the opportunity to make a statement. A parent or relative will not be summoned if their presence would be injurious to the minor's well-being. In such cases, an order will be given to a probation officer. A minor suspected of having committed an offense will be summoned to an investigation via his parent, and the parent will be summoned to be present at the investigation of the minor, unless the parent cannot be traced through reasonable efforts.

1378. The proposed amendments detail the procedures for investigating a minor, and present the explicit wording of the warning and explanation of rights that the investigator must declaim to the minor at the commencement of the investigation. The amendments strive to respect the human dignity of a minor held under arrest or imprisoned, and to provide him with conditions suited to his age and needs. The minor will be permitted to maintain contact with the members of his family; the minor's welfare will be specially supervised. The punishment arrangements proposed in these amendments will also apply to an adult who committed a specific offense when he was a minor.

9. Summary

1379. Israel's criminal justice system aims to protect children, as reflected in its separate system of investigation, adjudication and punishment for minors, staffed by professionals who are trained to handle minors; its special proceedings and procedures to prevent the stigmatization of minors; and its integration of treatment and rehabilitation into all aspects of legal proceedings. Nevertheless, the system has been criticized severely. First, it has been claimed that the statutory arrangements are meant to protect minors, but not to safeguard their rights. Both legislative initiatives that would ensure suitable representation for minors, and the proposed amendments to the Youth (Trial, Imprisonment and Modes of Treatment) Law intend to close gaps in the existing legislation. Second, according to senior officials in the criminal justice system, despite significant improvement in the awareness of children's rights in criminal proceedings and their protection by children's rights organizations, minors' rights are still being violated, and police staff have voiced concern about the implications of having to apply principles arising from the rights of the child. Critics have objected to what they feel is an excessive use of arrest, and to the conditions of arrest of minors. Concern has also been raised that minors' rights are being violated, and the ability to rehabilitate them is being impeded, by the lack of space in closed residences. Lastly, concern has been expressed over the different treatment of Jewish and Arab minors.

B. Articles 32-36 of the Convention - Children in situations of exploitation, including physical and psychological recovery and reintegration into society

1. Economic exploitation of children, including child labor

1380. This section will examine the measures taken to prevent the economic exploitation of children and to protect working children, as required by article 32 of the Convention.

The legal situation

1381. The principal law dealing with the employment of minors is the Youth Employment Law 1953. Another, supplementary law is the Apprenticeship Law 1953, which covers minors who acquire a trade through apprenticeship. The Youth Employment Law and the Apprenticeship Law, which were enacted at the same time, were designed to protect working minors and set the frameworks and conditions of their employment. In 1998, the Youth Employment Law was amended in an effort to adapt it to the standards of the Convention.

1382. Since 1953, Israel has been a party to a number of treaties of the International Labor Organization (ILO): the Conventions on Medical Examinations Concerning the Capacity and Employment of Children and Youth in Industry and Non-industrial Professions (Treaties Nos. 77 and 78, respectively, 1946); the Conventions on Night Labor of Children and Youth in Industrial and Non-industrial Trades (Treaty No. 90, 1948, and Treaty No. 79, 1946). Since 1980, Israel has been a party to the Convention on the Minimum Age of Employment (Treaty No. 138, 1973).

1383. Definition of a working minor. The legal definition of a "workplace in which a minor works" is very broad; only a few workplaces are outside the bounds of the definition. Consequently, the blanket of protection provided by the law covers the majority of working minors. For example, the Youth Employment Law includes in its definition of work the employment of a minor with his parents for the purpose of their business or occupation even when the business is not for profit, excluding non-industrial work and agricultural work on the parents' farm.

1384. Minimum working age. Israeli law considerably restricts the ability of minors to work. Broadly speaking, it prohibits the employment of a minor who is under the age of 15 (section 2 of the Youth Employment Law). Section 5 of this law prohibits minors from working in certain places, and section 6 of the law defines types of work that are prohibited. It is prohibited to employ minors who are obligated to be in school under the Compulsory Education Law 1949, unless the Minister of Education is convinced that the minor is unable to study in an ordinary manner at a recognized educational institution, or the minor is working as an apprentice under the Apprenticeship Law. Since the Compulsory Education Law applies to minors up to age 16, in practice minors may only really be employed on a regular basis from the age of 16. However, during official school vacations it is permissible to engage minors over the age of 14 in light work that is unlikely to harm their health or development (section 2A of the Youth Employment Law). The most recent amendment to the Youth Employment Law repealed the prohibition on peddling.

1385. Restriction of dangerous work. The Youth Employment Law and the regulations enacted there under provide that even minors who may be employed, may not be employed in every place. The Minister of Labor may prohibit certain types of work, if these are liable to adversely affect the minor's physical, mental or educational development. The Youth Labor (Prohibited and Restricted Work) Regulations 1954 restrict the employment of minors, and specify places and types of work in which it is prohibited to employ a minor. These include underground work in a mine or quarry, work in a slaughterhouse, the production and assembly of explosives, work involving contact with chemical materials, work in a hospital where there is danger of contracting a disease, work in a microbiology laboratory, work on dangerous machines such as presses, and work on or near machinery that emits radiation. The regulations also specify objects that minors are prohibited from moving without mechanized lifting equipment, and restrict the load that a minor is permitted to carry when engaged as a porter (12.5 kilograms for a boy, eight kilograms for a girl, and the number of hours (two) per day during which a minor may work as a porter.

1386. Medical examinations. The law stipulates that, prior to employment, a thorough medical examination must be performed on a minor to assess whether he is physically fit to do the work for which he has been hired. The law prohibits employing a minor if he has not yet undergone such an examination and been declared medically fit to do the job in question or a similar job, or if said job will pose a health risk to or require undue physical effort from the minor. In addition, minors are to be examined periodically, to ensure that the work they are doing is not having an adverse effect on their development and health. These examinations are to be conducted by the minor's family physician, at the expense of the State (section 11 of the Youth Employment Law). Special procedures are to be followed with regard to work that requires fitness examinations.

1387. Should a medical examination discover that a minor is not medically fit to perform tasks for which a child of his age is generally fit, or that the minor is not medically fit to do the specific job for which he has been hired, or that the work is adversely affecting the minor's health, the examining medical establishment will so inform the Regional Inspector of Labor, through the minor's parents, and the minor's employer (section 13 of the Youth Employment Law).

1388. An employer receiving notice as aforesaid must terminate the employment of the minor within ten days of having received the notice (section 14 of the Youth Employment Law). Section 16 of the law extends it to young people up to the age of 21, by providing that medical examinations be performed when a young person is employed in work that poses a particular danger to his health.

1389. Hours of work and rest. The law restricts the number of days and hours a minor may work per week. Section 20 of the Youth Employment Law stipulates that a minor may not be employed for more than eight working hours a day and forty working hours a week. Under section 22, the employer is obligated to allow a minor to take breaks to rest and eat; the duration of these breaks is determined in the law. In addition, work hours must include short, sanctioned breaks for rest and fresh air (section 20). Section 21 of the Youth Employment Law provides that minors may not be employed on the weekly rest day of his religion. Section 25 of the Youth Employment Law prohibits a minor from engaging in night work, where "night" is defined, for a minor to whom the Compulsory Education Law applies, as being the 12 hours between 20:00 and 08:00, and for a minor to whom the Compulsory Education Law does not apply, as being the ten hours between 22:00 and 06:00. The Minister of Labor and Social Affairs may make exceptions to these restrictions, for example by issuing a permit to employ a minor for part of the night, or for the purpose of doing shift work (section 25 of the Youth Employment Law). Even when a permit has been granted under section 25, a minor must be guaranteed a rest of at least 14 hours between one working day and the next (section 26(a)). Overtime employment of a minor, beyond the hours permitted by law, is a criminal offense, although the minor himself is not regarded by the law as having committed the offense or even as having been an accessory to the offense of his employer. The Supreme Court has held that employing a minor not in accordance with the restrictions set down in law does not prevent the minor from later demanding wages for extra hours worked (AA 150/63 *Mizrahi v. Anstock*, P.D. 17 1361).

1390. Social security. Minors are entitled to the same rights that accrue to adult employees, such as sick leave and severance pay. They are entitled to a vacation of 18 days per annum, compared to the annual minimum vacation of 14 days owed to an adult employee under the Annual Leave Law 1951 (section 27 of the Youth Employment Law). Working minors are entitled to a minimum wage, although the minimum wage for a minor is significantly lower than that owed to an adult (see the Minimum Wage (Working Youth and Apprentices) Regulations 1987).

1391. An employer is required to pay social security for the minors he employs. These payments are made at the employer's expense, and should not be deducted from the working minor's salary. In any case, a working minor is entitled to compensation for an injury incurred at work, even if his employer has failed to make social security payments for him.

1392. Minors may be taxed on their income, should they exceed the tax threshold. Minors ages 16-18 have an additional tax break (an amount on which they need not pay taxes), above that for adults.

1393. Studying while working. The law encourages working minors, even those who are no longer obliged by the Compulsory Education Law, to attend school and acquire an education. Working minors are obliged by law to participate in vocational training one [full] day a week (or three partial days a week), for a total of up to nine hours a week. The object of this is to train the minor in a trade or for a job; training takes place in accordance with a study program determined by the Minister of Labor and Social Affairs. Employers are bound to release minors from their work during study hours, and are prohibited from deducting from the minor's salary the hours during which the minor was absent from work due to studies. Vocational training is provided free of charge (section 27A of the Youth Employment Law). Some working minors aim to acquire a particular trade; however, they may only be employed in this trade through an apprenticeship, under the Apprenticeship Law. Apprentices may not be given work that is unrelated to the purpose of the apprenticeship; they are entitled to a minimum wage (slightly lower than the minimum wage of a working minor). The employer is obligated to release the apprentice to participate in authorized vocational training, without deducting this time from his salary.

1394. In order to implement the law, special frameworks have been established under the auspices of the Ministry of Labor and Social Affairs, which combine work and study. Approximately 16,000 minors study in such frameworks. Beginning in 11th grade, most of these minors work outside of school, usually for three days a week, and are paid a wage. The frameworks teach vocational studies and give the youth practical work experience in fields such as automobile mechanics, electrical work, carpentry, printing, hairdressing and industrial sewing; the studies are specifically designed for youths age 16 and over. They also teach the students good work habits and help them adjust to a work environment. In addition to payment for their work, the students may be eligible to receive a certificate of completion (see Chapter IX).

1395. Youth Vocational Rehabilitation Centers ("Miftanim") are operated by the Youth Vocational Service of the Ministry of Labor and Social Affairs and the local authorities. These centers offer basic studies, vocational training and work for minors who are unable to continue their studies in the regular education system due to serious adjustment problems. The centers also teach social skills and offer therapeutic support. Approximately 2,500 minors attend 34 Youth Vocational Rehabilitation Centers throughout the country.

1396. Special jobs. The Youth Employment Law makes special provisions for minors who participate in performances, television advertisements and films (section 4). The general rule is that a child under the age of 15 may not be employed in a public or artistic performance, a performance for the purpose of advertising, or filming for the purpose of advertising. Exceptions to this rule are only made by permit, which the Minister of Labor and Social Affairs may grant to a specific minor for a limited time.

1397. An employer who wishes to obtain such a permit must submit a description of the performance program; the number of hours the minor will need to work; the type of task the minor will be required to perform (e.g., rehearsals, performances, etc.); the consent of the

minor's parent or guardian; a physician's report that the minor is medically fit to be employed in this manner; and an assessment from the principal of the minor's school that his participation will not harm his studies (regulation 9). The permit will cite the conditions necessary to preserving the health and development of a minor participating in such a performance (e.g., training hours, the need for an application for night employment, etc.). The individual circumstances, as well as the age, of each minor will also be considered. No information was obtained on the number of permits granted in a given year, or on the characteristics of minors to whom permits were granted.

1398. A recent amendment to the law, which quoted the Convention on the Rights of the Child, determined that a minor who is able to express his own opinion should be entitled to express it regarding the granting of a permit for his employment, and appropriate weight should be given to his opinion, based on his age and level of maturity.

1399. Data on working minors. Table 71 reveals that 7% of the minors ages 15-17 are employed (7.7% of the boys and 6% of the girls). The percentage of Arab boys who are employed is greater than that of Jewish boys, but the percentage of girls who are employed is smaller among Arab girls. It should be noted, however, that in the Arab sector, particularly in villages, minors engage in work (primarily in agriculture and housework) that is not usually reported. Given this and the high rates of illiteracy in this sector, it is possible that more youth work in the Arab sector than is reported; this may be particularly true of girls. Further, it appears that most of the Jewish youth who are employed also attend school or some other education framework, while most of the Arab youth who work do not attend any education framework (see also Chapter IX).

Table 71

Work and study among youth ages 15-17 in 1998, by population group (in %)

	Total population (age 15-17)	Jews	Arabs
Total Youths Employed	6.8	7.5	4.5
Of them: attend school	5.1	6.4	0.6
do not attend school	1.7	1.1	3.9
Boys			
Employed	7.7	7.5	8.4
Of them: attend school	5.1	6.2	1.3
do not attend school	2.6	1.3	7.1
Girls			
Employed	6.0	7.6	0.6
Of them: attend school	5.1	6.6	-
do not attend school	0.9	1.0	0.6

Source: Ben-Arie and Zionit, 1999.

1400. Minors employed illegally. In a 1993 study (Feingold, 1993), interviews were conducted with 45 working children ages eight-15 from several Israeli cities. Of them, 20 were native-born Israelis, 19 were new immigrants from the former Soviet Union, and six were Arabs from the

West Bank and Gaza. The interviews revealed that children are being employed for more hours than is permitted by law, and earn less than the minimum wage. Many of the children interviewed had external marks of poor health: injuries, scars, dental problems. They reported suffering cuts, bruises and falls, but did not report having been hospitalized for a work-related injury. The researchers estimated that the number of children under the age of 15 who were unlawfully employed in Israel at that time reached 10,000; most of them were Arabs from the West Bank and Gaza. We may assume that the transfer of a substantial part of these territories to the Palestinian Authority, and the restrictions on the employment of residents of these territories in Israel, have caused this number to drop significantly.

1401. Surveillance and penalty. Under the Youth Employment Law and the Apprenticeship Law, councils were established to supervise the employment of minors: the Council on Working Minors and the Apprenticeship Council. Section 32 of the Youth Employment Law obligates employers to make the provisions of the law known to the minors in his employ. The Youth Employment Law and the Apprenticeship Law prescribe penalties of a fine and imprisonment for anyone who employs a minor in contravention of the law and regulations (section 33). The Youth Employment Law prescribes penalties for a parent who allows a minor to work in contravention of the law, unless he proves that he did not know his actions were in contravention of the law, or took all appropriate steps to prevent contravention of the law (section 37). A similar liability is ascribed by section 38 of the law to managers, directors or partners of establishments that employ minors in contravention thereof. Special liability is ascribed to agents of performance and film (section 33d). All of these sections, like many other protective labor laws, impose strict criminal liability on the employer.

1402. In 1998, the Law Enforcement Department of the Ministry of Labor and Social Affairs handled 4,181 cases of minors. In 1,101 of the cases, the employer remedied the defect found, and criminal charges were not brought against him. In 3,080 of the cases, criminal charges were brought against the employer. Complaints about the employment of minors are also made to non-government organizations like the Federation of Working and Studying Youth and the National Council for the Child. These organizations also distribute information on the rights of employed minors among young persons.

1403. Minors who work for pocket money in occasional jobs, like waiting tables, are often subject to a violation of their rights or the employer's failure to pay them the minimum wage. Employers have even been known to demand that a minor work for a certain period without salary and then, in contravention of the law, pay the salary based on tips rather than on the minimum wage. Voluntary organizations claim that there is an inadequate number of inspectors and that, consequently, the laws are not sufficiently enforced. Further, these organizations demand more severe punishment of employers who contravene the law.

2. Sexual exploitation and sexual abuse

(a) The legal situation: definition of offenses

1404. Sexual exploitation is addressed by the Penal Law 1977; sections 345-354 of the Penal Law deal specifically with the sexual exploitation of minors. The law imposes particularly harsh penalties on sexual contact with a minor, especially if initiated by force, through exploitation of a

relationship based on control or authority, or with a minor under the age of 14. The law reflects the belief that a child does not have full legal capacity to form free consent, particularly when the offender is a relative or other individual on whom the child is dependent.

1405. Section 345 of the Penal Law prohibits sexual intercourse with a girl under the age of 14, even if the act is engaged in with her consent, and prescribes a particularly serious penalty (20 years' imprisonment) for rape (forced sexual intercourse) of a minor who has not yet reached the age of 16. Section 347 of the Penal Law imposes the same penalty for a person who commits an act of sodomy in similar circumstances. Section 346 of the law prescribes a penalty of five years' imprisonment for sexual intercourse with a minor between the ages of 14 and 16 who is not married to the perpetrator of the act, even if it is committed with her consent. Section 353 of the Penal Law stipulates that a defendant may claim in his defense that the age difference between himself and the girl with whom he engaged in sexual intercourse does not exceed three years, that the girl consented to the act, and that the act was committed in the context of a relationship based on mutuality, and not through the exploitation of the defendant's status. A recent amendment to the law applies the same criteria to sexual relations between males. A maximum penalty of five years is imposed on a person who has sexual intercourse with a minor over the age of 16, even if she consented to the act, if the act involved the exploitation of a relationship based on control, domination, educational authority or supervision, or a false promise of marriage when the offender is already married. In contrast, section 347 of the law declares that an act of sodomy with a minor over the age of 14 is punishable by five years' imprisonment, regardless of whether the minor consented to the act or the perpetrator exploited his authority or control over the minor. Sections 348 and 349 define as an offense an indecent act (that is, "an act [committed] for sexual stimulation or gratification, or out of contempt") against a minor, under circumstances that also apply to rape and to consensual, unlawful sexual relations. Section 351 defines sexual offenses committed against a minor by a person who is related to the minor as extraordinary offenses; it imposes particularly severe penalties on these offenses.

1406. A 1998 amendment to the Penal Law eradicated a distinction that had formerly been made between a boy and a girl minor regarding consensual sexual intercourse. The amendment set a standard age for prohibition of an act of sodomy or of consensual, unlawful sexual intercourse: In both cases, the prohibition applies to a person between the ages of 14 and 16. Moreover, the amendment set a minimum penalty of one-quarter of the maximum penalty for severe sexual offenses, unless a court found exceptional grounds for reducing the penalty.

1407. The Penal Law 1977 prohibits physical, mental and sexual violation of a minor, and prescribes a maximum sentence of seven years' imprisonment for such offenses, or nine years' imprisonment if the perpetrator is responsible for the child (sections 368B and 368C). Special Section F1 of the Penal Law is devoted to the harm of minors and helpless persons. The principles underlying the provisions in this section of the law are as follows: First, an offense against a minor is more severe than an offense against an adult. Second, an offense is considered more severe when committed by a person who is responsible for a minor, than by one who is not. Third, any person knowing of an offense against a minor committed by a person who is responsible for that minor is obligated to report the offense.

1408. In Israeli law, prostitution is not an offense, although pimping and soliciting are offenses. A perpetrator of any of the above offenses against a minor is liable to seven years' imprisonment. The law prohibits a person from making an indecent proposal to a minor who has not yet reached the age of 16, or to a woman. Section 209 makes it possible to find a minor guilty of soliciting or abetting an immoral act.

1409. Recent amendments to the Penal Law declared the following to be offenses against the law: advertisement of prostitution services provided by minors (section 205A); claiming that a provider of prostitution services is a minor even if this is not true (section 205B); and publication of pornographic material that involves the body of a minor (sections 214(b) to 214(b3)).

1410. A proposal to amend the Penal Law, aimed at combating the sexual exploitation of minors and broadening the safeguards available to them, would apply the principle of extra-territorial jurisdiction to offenses of prostitution committed against minors. It would also restrict the protection of perpetrators offered by double jeopardy (that is, it would allow an offense to be tried twice) for offenses of prostitution and pornography committed against minors, to allow perpetrators of such acts to be tried in Israel, even if the acts were committed in a country in which they are not considered offenses.

(b) Treatment and rehabilitation

1411. The existing system of intervention in Israel for young people at risk or in danger does not include specialized services for addressing the prostitution or commercial exploitation of minors, although a number of services for minors do help minors who have been exploited sexually.

1412. The Ministry of Labor and Social Affairs helps youth in severe crisis situations through the Service for Women and Girls and the Service for Youth and Youngsters, which locate and provide crisis intervention and emergency services to young people who have difficulty adjusting to or functioning in normative society; often, such young people neither attend school nor work, instead loitering and roaming the streets, where they are susceptible to crime and exploitation. The Ministry of Education operates youth promotion units, which work with young people who neither attend school nor work, or who attend school sporadically. Treatment may involve individual, family or group intervention, alongside help integrating the young person into an educational or employment framework. The Youth Protection Authority operates residences for youth who have been referred to them by a court order because they have broken the law or because they are exposed to severe distress that necessitates their being removed from their home (under the Youth (Care and Supervision) Law 1960). The Youth Protection Authority also operates two frameworks for homeless youth, which offer educational, therapeutic and rehabilitative services. The Youth Protection Authority and other services that refer youth to residences have cited a lack of space in these residences.

1413. In addition, voluntary and public organizations field complaints, initiate legislation, and recommend treatment policy for youth in crisis (see Chapter III). The commercial exploitation of minors is of great concern to ELEM - Youth in Distress, which helps minors who have been sexually exploited for commercial purposes; it also promotes research and initiates legislation in

this area. ELEM offers counseling and support services for youth in crisis situations, and runs a "night patrol" that locates children who are wandering the streets. Together with JDC-Israel and the Ministry of Labor and Social Affairs, ELEM is developing a new type of residence for young girls in distress. SHANI - The Center to Combat Slavery and Exploitation in Israel, (the Israeli branch of the international organization I.A.F.), is primarily an information and research center.

(c) The committee to examine the commercial sexual exploitation of minors

1414. In September 1996, following the first World Congress against the Sexual Exploitation of Children, held in Stockholm, Israel's Ministry of Justice initiated the first professional discussion of its kind on sexual exploitation and prostitution among minors in Israel, with the participation of representatives from government ministries and voluntary organizations. At the conclusion of the discussion, the participants resolved to establish an inter-ministerial and inter-organizational committee to examine this issue and make recommendations for policy directions.

1415. The conclusions of the committee, submitted to the government in May 1997, were based on the consolidation of partial yet diverse information, which drew on field studies (conducted by the staff of ELEM), discussions, and reports received from various sources. For the purpose of the committee's work, sexual exploitation was defined on the basis of article 34 of the United Nations Convention on the Rights of the Child, but was restricted to commercial sexual exploitation - that is, child prostitution, and trafficking in children for the purposes of prostitution and pornography.

1416. The committee reported that it was unable to determine the exact number of minors who were subject to commercial sexual exploitation. Nevertheless, from the data obtained, the following view of the phenomenon appeared:

(a) Hundreds of the more than 10,000 girls treated by the Service for Women and Girls have been exposed to various types of commercial sexual exploitation, some of them heinous. Scores of young girls in out-of-home treatment (usually at a residence of the Youth Protection Authority) have been victims of sexual or commercial sexual exploitation at some time prior to their admission to placement;

(b) ELEM staff on the "night patrol" reported that, at any given time, about 50 boys are prey to sexual exploitation in the city of Tel Aviv. On the basis of this figure, the committee estimated that, at any given time, about 100 boys are subject to sexual exploitation throughout the country.

1417. According to the committee's report, most of the adolescent minor victims had experienced the sexual exploitation during their young childhood. Many had run away or were turned out of their homes, and had come to Tel Aviv from the suburbs, from poor development towns, and from Arab villages; they work as prostitutes to survive.

1418. The committee uncovered several types of sexual exploitation, including prostitution of minor boys and girls in striptease clubs and massage parlors; street prostitution; and collective exploitation of young girls within groups of teens or street gangs, often to finance drug abuse by

other members of the group or gang. Similarly, the committee expressed concern over the relatively recent phenomenon of "importing" women, including young girls ages 16-17, from Eastern European countries and the former Soviet republics, for the purpose of prostitution.

1419. The committee recommended establishing a public, professional forum to monitor these phenomena and implement its recommendations in the areas of legislation, enforcement, education, information and prevention, treatment and rehabilitation, and research. Specifically, the committee recommended implementing information and prevention programs among minors, as well as among potential customers of minors offering sexual services; increasing enforcement against providers of sexual services who exploit minors, and against those who purchase these services; training professionals to locate and individually treat minors who have been exposed to sexual exploitation; and expanding the scope of treatment services currently provided, for example by establishing additional rehabilitative frameworks for young girls and open shelters for young people who live on the streets.

1420. The recommendations were presented to a combined Knesset committee. At the request of the Ministry of Justice, this forum prepared a three-year operative plan to address commercial sexual exploitation of minors, which would receive inter-ministerial and inter-organizational funding. Initially, the plan will cover activities to locate and identify minors who are being sexually exploited; a hotline; legislative activity; and acquisition and dissemination of information. Later, the plan will involve developing methods of treating and rehabilitating minors who have been found to have been sexually exploited.

1421. Israel's Police Force has recently made preparations to increase enforcement against people who sexually exploit minors. Sexual exploitation of minors was declared a priority for all intelligence units working in the field: Intelligence coordinators have been instructed to collect information on pornography involving minors, brothels in which minors are employed, and sites where prostitution involving minors takes place. The police have also begun closing sexual emporiums where minors are employed and, in an expedited procedure, filing indictments against the owners of these establishments and against any adults found engaging in sexual intercourse with a minor.

(d) Protection of minor victims of sexual offenses in criminal proceedings

1422. Israeli law offers unique safeguards for minors who have been victims of or witnesses to a sex offense, or to an offense committed against them by their parent. In a 2000 amendment, these safeguards were expanded to cover some offenses against the sanctity of the body and extended to persons responsible for a minor who are not his parents. However, these extended safeguards have yet to be used in full, due to organizational and budgetary problems.

(i) Minor victims of sex offenses or offenses committed within the family

1423. Israeli legislation specifically addresses sex offenses against a minor and offenses in which a minor suffers injury within his family. Section 368d of the Penal Law 1977 stipulates procedures for reporting the abuse of a minor or helpless person, whether in the form of violence, sex, neglect or abandonment. The section imputes a general duty to report to any person who has grounds to believe that an offense has been committed against a minor by the

person responsible for him, and a special duty to report to those persons who, by virtue of their role, are privy to intimate information and are likely to know details that would reveal the offender. The latter include medical and other professionals who provide treatment; all those who work in education; police officers; psychologists; the director or staff of a boarding school, other residence, or treatment facility where the minor or helpless person is staying; child protection officers; social workers; etc.. As the law imputes to these individuals a more weighty obligation, the penalties for breach thereof are relatively severe.

1424. If a report of suspected abuse is made to a child protection officer, and the latter is satisfied that the report is well-grounded, he must inform the police, and append his own recommendation for action or inaction. If the child protection officer is of the opinion that reporting the case to the police will disrupt treatment of the family, he may bring the case to an "exemption committee", which includes a representative of the police; the committee will decide whether to authorize the child protection officer's decision not to report the incident.

1425. Conversely, and also under section 368d of the Penal Law, any information that reaches the police directly concerning the suspected abuse of a minor will be made known to a child protection officer. Suspicion of injury to a minor within the family may be brought to the attention of the police by anyone - a relative, a neighbor, a teacher or physician. (Health and education services have their own procedures stipulating when and how suspicion of abuse must be reported.) The police will not act before consulting with a child protection officer, unless immediate action is required. In any case, even immediate action does not contravene the obligation to inform a child protection officer of the case, so as to prevent further harm to the minor during the investigation. It is the police who investigate such cases, and maintain contact with the minor's school, place of employment, etc., in order to take testimony, question the minor, or examine him medically without his parents' knowledge. Concurrently, the child protection officer collects the information necessary to treat the minor and his family.

1426. It should be noted that the duty to report is unusual, as criminal law does not generally impose a duty to report a crime that has already been committed. The duty to report has both practical and proclamatory importance. Many times relatives, friends and neighbors are torn between the desire to protect the minor, and their feelings of obligation toward the perpetrator of the offense. Professionals often confront a conflict between their desire to help and protect the minor, and their legal obligation to maintain confidentiality. However, the duty to report prevails over the duty of confidentiality prescribed in any law. It thereby resolves this conflict and carries an unambiguous message as to what constitutes appropriate and correct behavior in the eyes of the law.

1427. To increase the special protection of minor victims of a sex offense or an offense committed within the family, the police have decided that these offenses, and the adults suspected of committing them, will be investigated by youth units, which comprise specially-trained police officers (who also investigate minors suspected of having committed an offense). However, minors under the age of 14 who are involved in a sex offense (either as suspected perpetrator or victim), and minors who are victims of a violent act committed by the person responsible for them, will be investigated by a youth interrogator who is not a police officer (see below).

(ii) Investigation of minor victims of or witnesses to offenses of sex or violence

1428. The Evidence Revision (Protection of Children) Law 1955, which was recently expanded, prescribes that minors under the age of 14 may not testify concerning sex offenses (so-called "offenses against morality") or most violent offenses ("offenses against the person") perpetrated upon their body, in their presence, or which they are suspected of having committed, save with the permission of a youth interrogator. Youth interrogators are Youth Probation Service employees, social workers who are specially qualified to investigate minors and who are appointed by the Minister of Justice following a recommendation by a committee headed by a judge and comprising representatives of the Ministries of Health, Education, and Labor and Social Affairs, and the police.

1429. Under the law, a minor will not be interrogated by a police officer, but by a youth interrogator. When necessary, and in cases of an offense committed within the family, the minor will be interrogated in coordination with a child protection officer. (In the past, these interrogations were recorded on tape; recently, it has become mandatory to videotape them.) Another person may be present at the interrogation, but only with the permission of the youth interrogator (section 5 of the law). The authorization of the youth interrogator is required if the minor must be present at or participate in a lineup, a medical examination, or another event essential to the investigation (section 7 of the law). A youth interrogator is authorized to testify in court in place of a minor, and is also authorized to permit a child to undergo a medical examination and participate in a lineup. A child may not be made to testify if he was a victim of or witness to an offense against morality or against the body, and his testimony is not accepted as evidence unless this is so authorized by a youth interrogator (section 2(a) of the law). If a youth interrogator has permitted a minor to testify, his testimony will be heard in the presence of the prosecutor, the defendant and his attorney, the youth interrogator and any other person the court has allowed to be present (section 2(b) of the law). These stipulations are meant to protect the minor from further emotional harm, to ensure that the investigation is professional, and to facilitate immediate referral of the minor to treatment and assistance.

1430. In the case of a minor (up to the age of 18) who will be testifying against his parent who is accused of having committed a sex offense, the court may direct that testimony be heard in the presence of defense counsel only, and not in the presence of the parent who is the defendant, if it deems this is necessary to protecting the minor from emotional anguish. The law was recently amended to extend this provision to testimony against a guardian or an adoptive parent known publicly as the spouse of a biological parent.

1431. The testimony of a minor concerning an offense against morality or against the body, as well as any record of an interrogation that is made during or immediately after the interrogation by a youth interrogator, are admissible in court as evidence, even though they technically constitute hearsay evidence (section 9 of the law). However, under section 11 of the law, a person may not be convicted on evidence under section 9, unless it is corroborated by other evidence. Under the law, exclusive discretion concerning the testimony of a minor rests with the youth interrogator, and not the court. The prohibition against a minor's testifying without the

permission of a youth interrogator is absolute. The Supreme Court has held that a court has no discretion in this matter, nor may it bypass the prohibition; neither can the litigants or their counsel impose any condition on this prohibition (Criminal Appeal 1880/91 *State of Israel v. Anonymous Defendant*, P.D. 45(3) 137).

1432. Data on investigations of offenses committed against minors. The police and the Youth Probation Service publish data on minor victims of offenses. In 1998, 6,228 files were opened concerning offenses against minors. In that year, youth interrogators investigated 3,930 minors, 1,711 of whom were victims of a sex offense, 313 of whom had witnessed a sex offense, and 1,640 of whom were victims of an offense committed in the family (see Table 72).

Table 72

Police files on offenses against minors opened in 1998

	Total	In the family	Outside the family
Total	**6 288**	**1 507**	**4 781**
Assault of a minor	3 610	1 011	2 599
Physical or mental abuse of a minor	519	205	314
Sexual offenses against a minor	2 159	291	1 868

Source: Ben-Arie and Zionit, 1999.

1433. The sex offenses to which minors were exposed included rape, consensual, unlawful sexual relations, and acts of sodomy (8% of the cases); indecent acts (36% of the cases); obscene language and threats (5% of the cases); embraces and kisses (17%); exposure (10%); and other offenses (24%).

1434. The Youth Probation Service also publishes data on the circumstances surrounding the incident: In 45% of the cases, the perpetrator of the offense was a stranger to the child; in 37% of the cases the perpetrator was a friend, acquaintance or neighbor; and in 19% of the cases the perpetrator was a parent or close relative. In about half of the cases, the incident was committed in the home of the victim or the perpetrator. Half of the sex offenses were one-time incidents.

1435. A large percentage (75%) of the victims of a sex offense investigated by the Youth Probation Service are girls: of them, 45% are under eight years of age, 30% are ages nine-11, and the remainder are age 12-14. Fewer than 6% of the victims of a sex offense investigated by the Youth Probation Service are Arabs, even though their percentage in the population is 20%. Professionals estimate that this does not necessarily indicate a lesser prevalence of sex offenses in this population, but merely a lower rate of reporting.

(iii) Testimony of victims in court

1436. Under section 117A of the Criminal Procedure Law [Consolidated Version] 1982, if an indictment is filed or an investigation made into an offense to which the Evidence Revision (Protection of Children) Law applies, a court may take the testimony of a minor immediately, at

the request of the prosecutor or the suspected perpetrator of the offense, with the authorization of the youth interrogator. Testimony is heard according to the rules governing early testimony, which also apply to adults. The court has the authority to discontinue the minor's testimony, if it believes testifying is causing the minor emotional harm.

1437. Testimony against a parent. As noted above, when hearing the testimony of a minor concerning a sex offense committed by his parent, the court may direct that the testimony be heard not in the presence of the parent, if it believes this is necessary to prevent emotional harm to the minor (section 2A of the Evidence Revision (Protection of Children) Law 1955). The court may order the discontinuation of the minor's testimony if it forms the opinion, after having heard the youth interrogator, that continuation of the testimony is likely to cause the minor mental anguish (section 2(c) of the law). In such a case, the defendant or the prosecutor may request, and the court may order, that the youth interrogator re-examine the minor. However, the youth interrogator is authorized to refuse to ask all or some of the necessary questions, if he believes these questions will cause the child emotional harm or anguish (section 10 of the law).

1438. Testimony against a stranger. Under section 2B of the Criminal Procedure Revision (Examination of Witnesses) Law 1957, in a criminal trial for a sex offense, the court may direct, either on its own initiative or following a petition by the prosecutor, either prior to or during the taking of evidence, that the plaintiff testify in the presence of the defense counsel but not in the presence of the defendant, if the court is convinced that testifying in the presence of the defendant will harm the plaintiff or interfere with his testimony; testimony not in the presence of the defendant will be taken outside the courtroom or in some other manner that will prevent the witness from seeing the defendant. This section of the law is general, and applies to any plaintiff in a sex offense, whether minor or adult. The section expands on section 2A of the Evidence Revision (Protection of Children) Law (see above). In light of this expansion, it is possible that a minor may testify not in the presence of the defendant when the defendant is a stranger, and not the minor's parent.

1439. Data on the testimony of minors. In 1998, youth interrogators permitted 15% of the minors for whom a petition to testify was made to actually testify in court. Twenty-one percent of the minors for whom a petition to participate in a lineup was made were permitted to participate in a lineup. The percentage of permits increases with age.

1440. Youth interrogators indicate that they have two main grounds for refusing to allow a minor to testify. First, they fear that testifying will indeed harm the minor's emotional state, which in any case is usually wretched following the traumatic experience he has undergone. Many youth interrogators believe that allowing a minor to testify in court and exposing him to the defendant and to intensive - and at times aggressive - cross-examination by defense counsel is liable to cause his emotional state to further deteriorate; hence, their restraining minors from testifying in court is, they feel, justified. Furthermore, since months and even years may elapse before a case is heard on its merits, requiring a minor to testify might cause him to recall or relive the traumatic experience, and hinder his emotional recovery.

1441. Following extensive effort by youth interrogators, social workers, and educators, aided by the media, the public has finally come to understand that minors who file a complaint with the police about a sex offense committed against them do not usually appear in court, as their testimony is submitted by a youth interrogator. Professionals believe this is one of the main reasons for the significant increase in the reporting of these offenses by the minors and their families in recent years.

(iv) Minors over the age of 14

1442. There is no special statutory protection of testimony given by a minor over the age of 14 who was a victim of or witness to a sex crime, nor is there special statutory protection of testimony by a minor (of any age) who was a victim of any other offense (with the exception, noted above, that both a minor and an adult plaintiff may testify concerning a sex offense not in the presence of the defendant). A minor who gave testimony to a youth interrogator before reaching the age of 14, and who has reached the age of 14 by the time of trial, may testify without the permission of the youth interrogator. However, the Supreme Court has held that a statement made by a minor to a youth interrogator, as well as the reports of a youth interrogator, will not be disqualified as evidence because the minor has reached the age of 14 (Criminal Appeal 1421/71 Mimran v. State of Israel, P.D. 26(1) 281).

(v) Prohibition against publication

1443. Section 6 of the Evidence Revision (Protection of Children) Law prohibits the publication of anything calculated to reveal the identity of a minor who has been investigated concerning contravention of the law or who has testified in connection therewith, save with the court's permission. Section 24 of the Youth (Care and Supervision) Law 1960 in its amended form (1998) prohibits publication of any information that will identify a minor who has been brought before a court, or who is under the care of a child protection officer, or who has attempted or committed suicide, or that would attribute to him or his family an offense or moral turpitude, or that would reveal that the minor was a victim of a sexual or violent offense or abuse or any other offense committed by the person responsible for him, or that would reveal his having undergone a psychiatric examination or a test for AIDS.

(vi) Initiatives to improve the handling of minor victims of and witnesses to sex offenses

1444. An inter-ministerial committee was recently established to review the status of victims of offenses. This committee established a sub-committee, whose task was to propose a plan of action for helping minors who were victims of a sex offense, as well as other types of offense.

1445. This committee has proposed a model of assistance for minor victims of offenses, which would include a national and regional centers. These centers would consolidate and coordinate among the agencies involved in the assessment and investigation of these victims (the police, the

Youth Probation Service, medical personnel), so as to reduce their suffering and that of their family. The centers would provide immediate crisis intervention, assistance during criminal proceedings, and information on rights.

1446. The National Council for the Child is establishing a project to monitor and support minor victims of and witnesses to an offense, and their families, who are involved in criminal proceedings. The project will offer assistance through an intermediary, either a therapist or lawyer, who handles the flow of information and prepares the minor for the legal proceedings. In 2000, the National Council for the Child and the police began implementing a joint project to help minor victims at two police stations, one in Jerusalem and one in Tel Aviv. The National Council for the Child is also promoting policy and legislation that will give victims status in criminal proceedings - that is, that will provide them with government compensation and the statutory right to information on the progress of proceedings, and that will establish an obligation to hear them prior to a ruling concerning a plea bargain or early release of the suspected or convicted perpetrator. Similarly, the Attorney General's Office has proposed establishing a special unit that would apprise victims of offenses (including minors) of the progress of criminal proceedings involving them.

1447. Recently, a bill has been proposed that would grant victims the right to therapeutic services and compensation.

(vii) Rehabilitation

1448. A number of non-government organizations field complaints and provide immediate help, treatment and rehabilitation to minors who have been exposed to a sex offense. These include ELI - The Israel Association for Child Protection, which serves children who have sustained injury from their parents (ELI received 1,000 complaints of sexual assault in 1998); Meital - The Israeli Center for the Treatment of Child Sexual Abuse, which serves minor victims of sexual abuse and adults who were victims of sexual abuse in their childhood (Meital received 200 complaints from minors in 1996); and rape crisis centers (which received 1,800 complaints from minors in 1998). These and other organizations cooperate with government ministries, initiate advertising and information campaigns against child abuse, and encourage people to report attacks against minors (see also Chapters III and VII).

3. Trafficking in children

1449. Section 364 of the Penal Law 1977 stipulates that "A person who offers or gives compensation for the permission to take custody of a minor who has not yet reached the age of 14, and a person who requests or receives compensation for the right to take custody of a minor is subject to three years' imprisonment". Section 367 stipulates that "A person who takes or detains a minor who has not yet reached the age of 14, by fraud or force or enticement, or who receives or hides such a minor … with the intent of depriving his parent, or guardian, or another person legally responsible for him of his custody, is subject to seven years' imprisonment". Trafficking in children is not known to exist in Israel.

4. Drug abuse

1450. The possession and personal use of dangerous drugs is a criminal offense in Israel. Furthermore, under the Dangerous Drugs Ordinance 1973, a person giving a dangerous drug to a minor, or a person responsible for a minor who allows him to possess or use a dangerous drug, or a person who entices a minor to possess or use a dangerous drug, is liable to 25 years' imprisonment and a fine (section 21 of the ordinance).

1451. In recent years, concern has been expressed over the widespread use of drugs by young people. Various agencies have increased their efforts to develop prevention and treatment programs for adolescent drug users. As noted, it is the policy of the Police Force and the district attorneys office, in cooperation with the treatment and education systems, to allow minors who are involved in drug trafficking and abuse to be referred to treatment and rehabilitation programs, rather than to the criminal justice system. The Drug Prevention Authority coordinates policy on this topic and, inter alia, operates information programs and treatment and rehabilitation services for minors involved in drug abuse. Together with the civil guard, the Drug Prevention Authority is developing an experimental program that will recruit adult citizens to patrol cities and locate youth who are not attending school and who are exposed to drug abuse. The Al-Sam Association operates treatment and counseling centers for youth involved in drug abuse. Treatment is provided on an anonymous basis, although the young person may ask that his parents or school become involved in his treatment; the young person may also participate in group therapy. The Ministry of Education implements drug prevention programs in schools, as part of the "preparation for life" programs designed for adolescents (some of which operate in cooperation with the Drug Prevention Authority and Al-Sam). Such programs aim to help adolescents cope with the changes they're going through, make independent decisions, and stand up to peer pressure; they also disseminate information about the ill effect of drugs. The Ministry of Education and the Ministry of Labor and Social Affairs also operate drug prevention programs for youths who do not attend school. In addition, periodic advertising campaigns in the media, aimed at young people, explain the deleterious effects of drug use.

1452. In addition to the sanction against drug use, which applies to adults as well as minors, Israeli law prohibits selling alcohol to a minor or encouraging him to drink alcohol (section 193A of the Penal Law 1977). This prohibition applies to the seller, and not to the minor. The proprietor or employee of an establishment that sells alcoholic beverages to be drunk on its premises is forbidden to sell or serve these beverages to a minor and may not encourage him to drink such beverages. The proprietor or employee of such an establishment may demand to see the identification, indicating age, of a patron who wishes to purchase an alcoholic beverage; if the patron refuses to produce said identification, no alcoholic beverage will be served him. As this law is frequently violated, the police have instituted special patrols, with the participation of citizens, to supervise such establishments and prevent them from selling alcohol to minors.

1453. There is no statutory prohibition against cigarette smoking, although a bill has been proposed to this effect, and smoking is forbidden within the bounds of most educational establishments (see Chapter VIII).

5. Other forms of exploitation

Manipulative marketing to minors

1454. Following recent incidents in which minors have been induced to sign documents obligating them to purchase goods or services, the Ministry of Trade and Industry has begun preparing regulations designed to protect minors from such exploitation.

C. Articles 22, 38 and 39 of the Convention - Children in emergency situations

1. Children in armed conflict

(a) The age of military draft

1455. Although the age of compulsory military recruitment under the Defense Service Law [Consolidated Version] 1986 is generally 18 years of age, persons over the age of 17 may make a written request to be inducted into the armed forces with the consent of their parents (or one parent, if there is real difficulty determining the opinion of the other parent) or guardian (see also Chapter IV).

(b) Defense and rehabilitation

1456. Owing to the constant security threat, the State of Israel devotes a significant portion of its budget to the defense of its citizens from belligerent acts (e.g., constructing shelters, supplying means of protection against chemical warfare). Furthermore, it takes steps to help rehabilitate citizens (including children) who have been injured as a result of a belligerent or terrorist act. For example, the Ministry of Defense and the National Insurance Institute (the social security administration) have statutory authority to pay benefits to a soldier who was injured during military service and his family; to the survivors of a soldier killed during active duty (including, for example, a benefit that covers the educational and other expenditures of war orphans); and to a person injured as a consequence of a hostile act and his family. Benefits may also include in-kind medical treatment, psychological treatment, social recreation and assistance with rehabilitation (including reintegration into school or work). (See, for example, the Invalids (Pensions and Rehabilitation) Law [Consolidated Version] 1959, and the Fallen Soldiers' Families (Pensions and Rehabilitation) Law 1950.)

1457. In 1997, there were 1,126 children living in Israel who had lost one parent during active duty in the armed forces. In that year, 360 children received benefits from the National Insurance Institute because they were maimed in a terrorist attack.

1458. Kiryat Shmona, a town close to the Lebanese border which has intermittently been exposed to Katyusha rocket attacks, operates a community stress prevention center. The center develops preventive programs to be used in schools in the north of Israel; trains professionals (psychologists, school counselors, social workers, physicians and nurses, teachers, etc.) in stress and crisis management; and plans and implements emergency intervention teams in schools and towns along Israel's northern border, which offer psychological support during local and national

crises (wars, terrorist attacks). The center has also conducted a number of workshops on individual and group management of crisis situations, and has developed a model of self-help for use in remote towns and villages. The center has trained professionals from the former Yugoslavia, England, Northern Ireland, Cyprus, Greece and Sweden.

2. Child refugees

1459. Since its inception, the State of Israel has been and still is a haven for refugees. Jews and their relatives may obtain Israeli citizenship immediately upon arrival in Israel (the Law of Return 1950; the Nationality Law 1952). Even today, more than 50 years after the State's establishment, over half of its population is composed of recent immigrants. During the 1990s, Israel absorbed a large number of immigrants - among them 200,000 children - primarily from the former Soviet Union, and from Ethiopia. A large proportion of these immigrants arrived during a period of political and economic distress. New immigrant adults and children are entitled to special financial assistance, help with housing and employment, and educational assistance which is meant to ease their integration into Israeli society (see Chapters VIII and IX).

1460. The State of Israel is a party to the Convention on the Status of Refugees. It is also a party to the 1967 Protocol Relating to the Status of Refugees. On a number of occasions, Israel has offered asylum on a humanitarian basis, for example to Vietnamese boat people, members of the Moslem community of Bosnia, and children injured in the Chernobyl disaster. Some of these children still remain in Israel.

D. Article 30 of the Convention - Children belonging to minority groups

1461. Israeli law does not differentiate among children on the basis of race or religion, and its Declaration of Independence is committed to equality. Nevertheless, the situation of the large minority of Arab nationals who reside in Israel - in education, welfare, health and other areas - differs from that of the Jewish population. One group whose living conditions are particularly harsh is that of the Bedouin, some of whom live in settlements or encampments that are not recognized by the State and hence do not receive all of the services to which the general population is entitled. In recent years, the State of Israel has striven to increase equality and solve these problems. Its efforts, as well as the gaps that persist, are set forth in Chapters VIII and IX.

1462. Another group of children whose rights are often infringed is that of children whose parents are not Israeli nationals. In particular, the children of foreign workers - the influx of foreign workers, particularly illegal ones, has burgeoned in recent years - are at a disadvantage. The National Health Insurance Law and the Compulsory Education Law do not apply to these children. In actuality, the Ministry of Education enables the children of foreign workers to attend schools in the State education system. Programs to ensure that the children of foreign workers receive medical insurance and treatment are currently being examined. Another group of children whose rights are liable to be infringed is that of Arab children of "mixed-national" couples: that is, one parent is a citizen of Israel, and the other is a resident of the West Bank or Gaza. The status of such families is not always clear, and this can place their children at a disadvantage, relative to children who are Israeli nationals (see Chapters V, VII, VIII and IX).

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations: Israel

1. The Committee considered the initial report of Israel (CRC/C/8/Add.44) which was received on 20 February 2001, at its 829th and 830th meetings (see CRC/C/SR.829 and 830) held on 2 October 2002, and adopted at its 833rd meeting (CRC/C/SR.833) held on 4 October 2002, the following concluding observations.

A. Introduction

2. The Committee notes that the initial report (submitted over seven years after it was due) follows the guidelines for reporting, is very elaborate, analytical and, in some parts, self-critical. Given the responsibility of the State party for the implementation of the Convention in the occupied Palestinian territories, the Committee deeply regrets the lack of any information about the situation of children in the occupied Palestinian territories. The Committee appreciates the additional material that was provided prior to and during the discussion and the informative written replies which were submitted. The Committee also appreciates the presence of a well-qualified and cross-sectoral delegation, which contributed to a better understanding of the process of implementation of the Convention in the State party.

B. Positive aspects

3. The Committee welcomes:

(a) The establishment and work of the Rotlevy Committee on Children and the Law and the various parliamentary committees dedicated to advancing the rights of children, including the Committee on Legislation for Children and the Committee for the Advancement of the Status of the Child, as well as the establishment of local status of children committees at the municipal level;

(b) The enactment of progressive legislation, including the 2002 law on information regarding the influence of legislation on children's rights, and laws on minor victims' rights and legal assistance for children;

(c) The prohibition of corporal punishment in homes, schools and other institutions.

(d) The active involvement of civil society in the promotion and protection of human rights in the State party, including through public-interest litigation, and the many court rulings based upon the articles of the Convention;

(e) Affirmative-action programmes for education of Israeli Arabs;

(f) The various measures taken to support families in need (e.g. single-parent families).

C. Factors and difficulties impeding the implementation of the Convention

4. In the present context of violence, the Committee recognizes the difficulties of the State party in fully implementing the Convention. Amidst continuing acts of terror on both sides, especially the deliberate and indiscriminate targeting and killing of Israeli civilians, including children, by Palestinian suicide bombers, the Committee recognizes the climate of fear which persists and the State party's right to live in peace and security. At the same time, the Committee recognizes that the illegal occupation of Palestinian territory, the bombing of civilian areas, extrajudicial killings, the disproportionate use of force by the Israeli Defence Forces, the demolition of homes, the destruction of infrastructure, mobility restrictions and the daily humiliation of Palestinians continue to contribute to the cycle of violence.

D. Principal subjects of concern and recommendations

1. General measures of implementation

5. The Committee emphasizes that a peaceful and stable future for children in the region can only be achieved on the basis of international human rights and humanitarian law, compliance with which is essential to guarantee respect for the equal dignity of all people in Israel and the occupied Palestinian territory.

Legislation

6. The Committee notes the enactment of new legislation in the area of children's rights. However, it is concerned that the implementation of these measures has been impeded by factors, including insufficient budgetary allocations.

7. **The Committee recommends that the State party take all necessary measures, including the allocation of the required resources (human and financial), to ensure and strengthen the effective implementation of existing legislation.**

8. The Committee welcomes the commitment of the various parliamentary committees campaigning to promote children's rights through, among other things, proposals for new legislation (i.e. on implementation of the Convention and on the right to quality education on an equal basis) in the area of children's rights.

9. **The Committee encourages the State party:**

(a) To ensure the speedy promulgation of legislation relating to child rights and its effective implementation;

(b) To consider the adoption of a comprehensive children's code, which would incorporate the principles and provisions of the Convention;

(c) To continue to support the work of these committees through the allocation of adequate resources.

10. The Committee is concerned that religious laws, particularly in the area of personal status, may not be in compliance with the principles and provisions of the Convention.

11. **The Committee encourages the State party to take all possible measures to reconcile the interpretation of religious laws with fundamental human rights.**

Coordination

12. The Committee is concerned that the absence of a central mechanism to coordinate the implementation of the Convention makes it difficult to achieve a comprehensive and coherent child rights policy.

13. **The Committee recommends that the State party:**

(a) Establish a central mechanism for intersectoral coordination and cooperation at and between the national and local levels of government;

(b) Ensure the preparation and implementation of a national plan of action for children, including the implementation of the Convention, that is comprehensive, human rights based and undertaken through an open, consultative and participatory process.

Data

14. The Committee welcomes the comprehensive statistical volume provided by the State party, but is concerned that the data are not sufficiently analysed so as to be able to assess progress in the implementation of the Convention, and regrets that no data were provided with respect to children living in the occupied Palestinian territories.

15. **The Committee encourages the State party:**

(a) To collect data on all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups (i.e. children living in remote areas) and in the occupied Palestinian territories;

(b) Use these data to assess progress and design policies to implement the Convention.

Monitoring structures

16. While noting the different channels open to children for making complaints (i.e. the Open Line, the Ombudsman of the Ministry of Health, etc.), the Committee is concerned that the responses of these mechanisms are not sufficiently coordinated to ensure the effective implementation of the Convention. Moreover, the Committee is concerned at the absence of an independent mechanism with the mandate to regularly monitor and evaluate progress in the implementation of the Convention.

17. **The Committee recommends that the State party:**

(a) Improve coordination between the various existing complaints mechanisms to ensure that they effectively contribute to the implementation of the Convention;

(b) Consider the establishment of an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (The Paris Principles) (General Assembly resolution 48/134, annex) and the Committee's General Comment No. 2, to monitor and evaluate progress in the implementation of the Convention at the national and local levels. This institution should be adequately resourced, accessible to children and empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively.

Resource allocation

18. Against the backdrop of a declining economy, the Committee is concerned that the proposed budget cuts in social spending will negatively affect the economic, social and cultural rights of children belonging to the most vulnerable groups.

19. **The Committee recommends that the State party:**

(a) Ensure the economic, social and cultural rights of all children, to the maximum extent of available resources;

(b) Continue to prioritize and target budgetary allocation for children belonging to the most vulnerable groups (e.g. Israeli Arab children, Bedouins, children of foreign workers);

(c) Systematically assess the impact of budgetary allocations on the implementation of child rights.

Cooperation with civil society

20. Recognizing under the prevailing conditions the important role of civil society, as well as international humanitarian organizations, in the implementation of the provisions of the Convention, particularly in the occupied Palestinian territories, the Committee is concerned at the inadequate efforts by the State party to fully cooperate with and facilitate their efforts.

21. **The Committee recommends that the State party strengthen its cooperation with non-governmental and international organizations, including United Nations agencies, and guarantee the safety of their personnel in the course of their work on behalf of children and their access to the children concerned.**

Training/dissemination of the Convention

22. The Committee welcomes the efforts by the State party to disseminate the Convention and notes the delegation's acknowledgement of the need to disseminate the Convention more widely throughout the State party.

23. **The Committee encourages the State party:**

(a) To strengthen, expand and make ongoing its programme for the dissemination of information on the Convention and its implementation in all official languages among children and parents, civil society and all sectors and levels of government, including initiatives to reach those vulnerable groups who are illiterate or without formal education;

(b) To develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel).

2. Definition of the child

24. The Committee is concerned that Israeli legislation discriminates in the definition of the child between Israeli children (e.g. persons under 18 in the 1962 Guardianship and Legal Capacity Law, and the Youth (Trial, Punishment and Modes of Treatment) Law) and Palestinian children in the occupied Palestinian territories (i.e. persons under 16 in Military Order No. 132).

25. **The Committee recommends that the State party rescind the provision of Military Order No. 132 concerning the definition of the child and ensure that its legislation conforms to articles 1 and 2 of the Convention in this regard.**

3. General principles

Non-discrimination

26. The Committee is concerned that discrimination, contrary to article 2 of the Convention, persists in the State party, and that non-discrimination is not expressly guaranteed under the Constitution. In particular, the Committee is concerned about discrimination against girls and women, especially in the context of religious laws, discrimination on religious grounds, inequalities in the enjoyment of the economic, social and cultural rights (i.e. access to education, health care and social services) of Israeli Arabs, Bedouins, Ethiopians and other minorities, children with disabilities and children of foreign workers, and of the rights and freedoms of Palestinian children in the occupied territories.

27. **The Committee recommends that the State party:**

(a) Take effective measures, including enacting or rescinding legislation where necessary, to ensure that all children enjoy all the rights set out in the Convention without discrimination, in accordance with article 2;

(b) Strengthen its efforts with respect to affirmative-action initiatives;

(c) Carry out comprehensive public education campaigns to prevent and combat negative societal attitudes in this regard;

(d) Mobilize religious leaders to support such efforts;

(e) Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (General Assembly resolution 45/158, annex).

28. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Durban Declaration and**

Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and taking account of the Committee's General Comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

Best interests of the child

29. The Committee is concerned that the general principle of the best interests of the child contained in article 3 of the Convention is not incorporated in all legislation concerning children and is not always considered in practice, for example by rabbinical courts.

30. **The Committee recommends that the State party continue its efforts to fully incorporate in legislation and in practice article 3 of the Convention.**

Right to life

31. The Committee deeply regrets the killing and injuring of all children in the State party committed by all actors prior to and during the present armed conflict. It is extremely concerned about the consequences of the climate of terror which seriously harms the development of children.

32. **The Committee strongly urges the State party and all relevant non-State actors:**

(a) To take immediate and all necessary measures to end the violence;

(b) To take immediate and all necessary measures to ensure that children are not recruited and do not participate in the conflict;

(c) To investigate immediately and effectively all killings of children and bring the perpetrators to justice;

(d) To take all necessary measures to provide child victims of these human rights violations with possibilities for adequate compensation, recovery and social reintegration.

33. **Finally, the Committee recommends that the State party include in its second periodic report information about the implementation of the above recommendations.**

Respect for the views of the child

34. The Committee welcomes the efforts by the State party to promote respect for the views of the child, including in Knesset debates, schools and communities, and before the courts (i.e. the Youth (Care and Supervision) Law, and the Youth (Trial, Punishment and Modes of Treatment) Law).

35. **The Committee recommends that the State party:**

(a) Continue to promote and facilitate, within the family, the school, institutions, the courts, including rabbinical courts, and administrative bodies (i.e. decision and placement committees), respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention;

(b) Develop skills-training programmes in community settings for parents, teachers, social workers and local officials to help children to express their informed views and opinions and to have them taken into consideration.

4. Civil rights and freedoms

Protection from torture and inhuman or degrading treatment or punishment

36. The Committee is seriously concerned at allegations and complaints of inhuman or degrading practices and of torture and ill-treatment of Palestinian children by police officers during arrest and interrogation and in places of detention (i.e. Ma'ale Adummim, Adorayim, Beit El, Huwarra, Kedumin, Salem and Gush Etzion police station and prisons such as Terza, Ramleh, Megiddo and Telmond).

37. **The Committee strongly recommends that the State party:**

(a) Establish and strictly enforce instructions for full compliance with the principles and provisions of the Convention by all persons involved in the arrest, interrogation and detention of Palestinian and other children in the State party;

(b) Investigate effectively all cases of torture and inhuman or degrading treatment or punishment by police officers or other government officials and bring the perpetrators to justice;

(c) Pay full attention to the victims of these violations and provide them with opportunities for adequate compensation, recovery and social reintegration;

(d) Include in its next report information concerning the above recommendations.

5. Family environment and alternative care

Violence/abuse/neglect/maltreatment

38. The Committee welcomes the many efforts of the State party to prevent and combat all forms of violence and abuse within the family, in schools and in other institutions which care for children, but is concerned at the apparently limited impact of these efforts owing to, among other things, the lack of a comprehensive strategy and adequate resources.

39. **The Committee recommends that the State party:**

(a) Establish a national and comprehensive strategy to prevent and combat violence and abuse within the family, in schools and in other institutions caring for children, which should include, among other things, a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address these practices;

(b) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(c) Strengthen procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary;

(d) Allocate sufficient resources for the provision of care, recovery and reintegration for victims;

(e) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment.

40. The Committee notes the efforts (e.g. training and support programmes) of the State party to improve the care provided by foster families, but remains concerned that a relatively high number of children continue to live in residential care.

41. **The Committee recommends the State party further strengthen the foster care system by, among other things, conducting public programmes to increase the number of foster families and providing sufficient financial and other resources.**

6. Basic health and welfare

Children with disabilities

42. The Committee notes the various efforts of the State party to address the rights and special needs of children with disabilities. However, it remains concerned at the large gap between the needs and services provided, and the gap between services provided to Jewish and Israeli Arab children.

43. **The Committee recommends that the State party continue and strengthen its efforts to prioritize and target resources (human and financial) to ensure that the needs of children with disabilities are met and the necessary services provided. Furthermore, it recommends that the State party ensure that Israeli Arab children receive the same level and quality of services as Jewish children.**

Health

44. The Committee is deeply concerned about the serious deterioration of health and health services of children in the occupied Palestinian territories, especially as a result of the measures imposed by the Israeli Defence Forces, including road closures, curfews and mobility restrictions, and the destruction of Palestinian economic and health infrastructure. In particular, the Committee is concerned about the consequent delays of and interference with medical personnel, the shortages of basic medical supplies and malnutrition in children owing to the disruption of markets and the prohibitively high prices of basic foodstuffs.

45. **The Committee recommends that the State party guarantee safe and unconditional access by all Palestinian children to basic needs and health services, including medical supplies and personnel.**

46. The Committee welcomes the information that the National Health Insurance Law covers all citizens of Israel, but remains concerned at the persistent and significant gap in health indicators between Israeli Jews and Arabs.

47. **The Committee recommends that the State party strengthen and increase the allocation of resources to ensure that all citizens benefit equally from available health services.**

Adequate standard of living

48. The Committee notes the State party's activities to improve support for vulnerable families (e.g. single-parent families), but is concerned at the recent cuts in the budget for social welfare and at the very high percentage of children living in poverty, particularly those living in large families, single-parent families and Arab families.

49. **The Committee recommends that the State party develop and implement a comprehensive strategy for the eradication of poverty, and provide it with adequate financial and human resources.**

50. The Committee is deeply concerned at the large-scale demolition of houses and infrastructure in the occupied Palestinian territories, which constitutes a serious violation of the right to an adequate standard of living for children in those territories.

51. **The Committee recommends, with reference to international humanitarian law, notably the Geneva Convention relative to the Protection of Civilian Persons in Time of War, that the State party fully comply with the rules of distinction (between civilians and combatants) and proportionality (of attacks that cause excessive harm to civilians) and thus refrain from the demolition of civilian infrastructure, including homes, water supplies and other utilities. It further recommends that the State party provide the victims of such demolitions with support for the rebuilding of their houses and with adequate compensation.**

7. Education

Education

52. The Committee is concerned about the serious deterioration of access to education of children in the occupied Palestinian territories as a result of the measures imposed by the Israeli Defence Forces, including road closures, curfews and mobility restrictions, and the destruction of school infrastructure.

53. **The Committee recommends that the State party guarantee that every Palestinian child has access to education, in accordance with the Convention. As a first step, the State party should ensure that restrictions on mobility are lifted throughout the occupied Palestinian territories during school hours.**

54. The Committee welcomes the information that the budget for education has been protected from recent cuts in spending, but is concerned that investment in and the quality of education in the Israeli Arab sector is significantly lower than in the Jewish sector.

55. **The Committee recommends that the State party continue and strengthen its affirmative-action programmes and further increase the budget allocated for education in the Arab sector.**

56. The Committee is concerned that the aims of education outlined in article 29 of the Convention, including the development of respect for human rights, tolerance and equality of the sexes and religious and ethnic minorities, are not explicitly part of the curricula throughout the State party.

57. **The Committee recommends that the State party and all relevant non-State actors, including the Palestinian Authority, taking into account the Committee's General Comment No. 1 on the aims of education, include human rights education, including children's rights, in the curricula of all primary and secondary schools, particularly with regard to the development of respect for human rights, tolerance and equality of the sexes and religious and ethnic minorities. Religious leaders must be mobilized in this effort.**

8. Special measures of protection

Armed conflict

58. The Committee is seriously concerned about the impact of terrorism on the rights of children in the State party, as well as the impact of military action on the rights of children in the occupied Palestinian territories. Moreover, the Committee is concerned about the insufficient cooperation of the State party in relation to demining efforts in southern Lebanon and the lack of redress available to the child victims of Israeli Defence Forces operations there.

59. **The Committee recommends that the State party and other non-State actors:**

(a) Establish and strictly enforce rules of engagement for military and other personnel which fully respect the rights of children as contained in the Convention and protected under international humanitarian law;

(b) Refrain from using and/or targeting children in the armed conflict and comply fully with article 38 of the Convention, and as much as possible with the Optional Protocol on the involvement of children in armed conflict;

(c) Provide full support and cooperation for demining efforts in southern Lebanon, and possibilities for adequate compensation, recovery and rehabilitation to the child victims of Israeli Defence Forces actions in southern Lebanon;

(d) Ratify and fully implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, of 1997.

Sexual exploitation

60. The Committee notes the establishment of an inter-ministerial and inter-organizational committee to combat the commercial sexual exploitation of minors, its activities, and the involvement of non-governmental organizations in this area. However, the Committee is concerned that these and other efforts have so far had a limited impact.

61. **The Committee recommends that the State party take all necessary measures to increase the effectiveness of these efforts to address the commercial sexual exploitation of minors by, among other things, providing the necessary financial and other resources.**

Administration of juvenile justice

62. The Committee is concerned about:

(a) The differential application of law concerning children, such as with respect to the definition of a child in Israel and in the occupied Palestinian territories;

(b) The practice relating to the arrest and interrogation of children in the occupied Palestinian territories;

(c) Military Orders Nos. 378 and 1500, as well as all other military orders which may allow prolonged incommunicado detention of children, and which do not provide due process guarantees, access to legal assistance and family visits.

63. **The Committee recommends that the State party:**

(a) Ensure that the provisions of the Convention, in particular articles 37, 39 and 40, are fully integrated into the legislation and practice of the system of juvenile justice, along with other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Guidelines for Action on Children in the Criminal Justice System;

(b) Ensure that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

(c) Ensure that children have access to legal aid and independent and effective complaint mechanisms;

(d) Train professionals in the area of rehabilitation and social recovery of children;

(e) Rescind all provisions in the military orders which violate international standards on the administration of juvenile justice.

9. Optional Protocols

64. **The Committee encourages the State party to ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

10. Dissemination of the report

65. **In light of article 44, paragraph 6, of the Convention, the Committee recommends that the report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned non-governmental organizations.**

66. **In light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee, aware of the considerable delay in the State party's reporting, underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is to ensure that the Committee on the Rights of the Child has regular**

opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its second, third and fourth reports in one consolidated report by 1 November 2008. The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.

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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 8 (1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Initial reports of States parties due in 2007

ISRAEL*

[18 March 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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Introduction

1. The Government of the State of Israel is pleased to submit its initial report concerning the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Pursuant to the requirements of article 8, the present report shall provide comprehensive information on the measures Israel has taken to implement the provisions of the Optional Protocol.

2. The State of Israel signed the Optional Protocol on 14 November 2001, and ratified it on 18 July 2005. In accordance with article 10, paragraph 2, the Optional Protocol entered into force for Israel on 18 August 2005.

3. All relevant Governmental Ministries and institutes were requested to supply data and information concerning their respective fields of responsibility. Non-governmental organizations were also approached to contribute information assisting in the compilation of the present report.

4. The present report was compiled by the Human Rights and Foreign Relations Department in the Ministry of Justice.

Article 1

5. Following its ratification of the Optional Protocol, the State of Israel made the following declarations, in accordance with article 3, paragraph 2:

> "The Government of the State of Israel declares pursuant to article 3, paragraph 2 of the Optional Protocol on the Rights of the Child on the Involvement of Children in Armed Conflict that:
>
> (a) The minimum age in which the State of Israel permits voluntary recruitment into its armed forces is 17 years of age, according to article 14 of the defense service law (consolidated version) 5746-1986;
>
> (b) The Government of the State of Israel maintains the following safeguards in respect of voluntary recruitment into the armed forces so as to ensure that such recruitment is not forced or coerced:
>
> (i) In accordance with section 14 of the defense service law (consolidated version) 5746-1986, no person under 18 years of age may enlist in the Israeli armed forces without a written application submitted by the person and the written consent of the person's parents or legal guardian; however, should there be an appreciable difficulty in contacting one of the parents, the written consent of the other parent is sufficient;
>
> (ii) Clear and precise explanation of the nature of the duties involved in military service is provided to both the person and the person's parents or legal guardian;

(iii) Prior to acceptance of any person into the Israeli armed forces a reliable proof of age is obtained through the Ministry of the Interior's official national population registry;

(iv) The IDF has several long-term programmes in which participants may engage in academic or rabbinic studies or perform volunteer work, prior to the commencement of their actual military service. Enrollment in these programmes is open to participants from the age of 17 and a half. For administrative purposes, these participants undergo a one-day administrative induction into the armed forces. Following their administrative induction, these participants are released from active service and enrol in their chosen programme;

(v) Persons under 18 years of age, who enlist in one of the aforementioned ways, may in no case be posted to combat duty."

6. As stated in section 5 of the above declarations, members of the Israel Defence Force (hereafter referred to as the IDF), aged under 18, are not posted in combat duty and therefore do not take a direct part in hostilities.

7. Following the above statement and Amendment 13 to the *Defence Service Law (Consolidated Version)*, 5746-1986 ("*the Defence Service Law*") outlined below, persons aged 17-18, who volunteer for early military service, on their own initiative, pursuant to their written request, and according to the provisions declared by the State of Israel, are limited to military training until they attain 18 years, and do not take a direct part in hostilities.

8. There are a few isolated instances where a person under 18 may be recruited to a combat unit. It occurs only where recruits are to join a special unit, generally elite units, which require long-term training which begins only once a year. However, these units, and their commanders, are given clear instructions, prohibiting any person below the age of 18 to take direct part in combat duty prior to them becoming of age.

9. Furthermore, note that according to the aforementioned units training programmes, the length of the training required to directly take part in combat duty is such that virtually all recruits will be over 18 before they are required to participate in combat duty.

10. There are no IDF soldiers under the age of 18, who have been taken prisoner, regardless of their non-participation in hostilities.

Article 2

11. The IDF was founded on May 26, 1948, shortly after the establishment of the state of Israel, through the *Israel Defence Forces Ordinance*, 5708-1948 ("*Israel Defence Forces Ordinance*").

12. According to section 2 of *Basic Law: The Army* (1976), The IDF is subordinate to the directions of the civilian authorities, and is subject to the laws of the State. The goal of the IDF is to protect the independence and existence of the State of Israel, and to thwart all enemy efforts to

disrupt a normal way of life therein. IDF soldiers are obligated to fight, to dedicate all their strength, and even to sacrifice their lives in order to protect the State of Israel, its citizens, and its residents. IDF soldiers operate according to IDF orders, whilst honoring the laws of the State, the norms of human dignity, and the values of the State of Israel as a Jewish and democratic state.

13. The Basic Values of the IDF are: Defence of the State, its Citizens and its Residents - The IDF's goal is to defend the existence of the State of Israel, its independence and the security of the citizens and residents of the state. Dedication to the Homeland and Loyalty to the Country - At the core of service in the IDF is a deep rooted sense of dedication to the homeland, commitment, and devotion to the State of Israel - a democratic state that serves as a national home for the Jewish People - its citizens and residents. Human Dignity - The IDF and its soldiers are obligated to protect human dignity. Every human being is of value regardless of his or her origin, religion, nationality, gender, status or position.

Calculation of age

14. According to section 13 of the *Israeli Defence Service Law*, the IDF may enlist a person of "military age" for regular service at a certain time and place. A man, found fit for service, will be of military age from 18 to 29 years. A woman, found fit for service, will be of military age from 18 to 26 years.

15. The above age is calculated, according to the amended section 2 of the *Defence Service Law*, in the following manner:

> "Calculation of age
>
> 2. For the purpose of this Law -
>
> (1) The calculation of age shall be in accordance with the Jewish calendar.
>
> (2) A person who attains a particular age in a particular year of the Jewish calendar shall be regarded -
>
> (a) If he attains that age after the 1st of Tishrei and before the 1st of Nissan of that year - as having attained that age on the 1st of Tishrei of that year;
>
> (b) If he attains that age after the 1st of Nissan of that year - as having attained that age on the 1st of Nissan of that year;
>
> (2a) Paragraph (2) shall not apply to the calculation if the person attains or does not attain the age of 18 years, regarding -
>
> (1) The definition of a person of military age in section 1 and section 13, 15 and 16, except for service in the academic reserve tracks recognized in the army regulations and non-payment service according to its meaning in the said regulations.

(2) Sections 20(a) and (a1), 24 and 24a.

(3) The determination of age shall be governed by the provisions set out in the schedule."

16. According to the above section 2, the age for enlistment, is calculated according to the Gregorian calendar, with the exception of those enlisting to a one-day administrative induction of the academic reserve and the Hesder Yeshivas, a programme which combines advanced Talmudic studies with military service into the IDF, as will be detailed below.

17. Note that the above criteria relating to determination of age is attributed to Amendment 13 of the *Israeli Defence Service Law*, approved in the Knesset on 2 February 2004, which concluded the extensive process conducive to ratification of this Optional Protocol.

18. Under the former legislation, for administrative purposes, the year was divided according to the traditional Jewish calendar. Hence, the law applied a "presumption of ages" according to which persons designated for military service who were to reach the age 18 in the first half of a particular year, were considered to have reached that age on the first day of that year, while persons designated for military service who were to reach age 18 in the second half of that year, were considered as having turned 18 on the first day of the second half of that year. Hence, there were some instances where those who have reached the age of seventeen and a half, were eligible for compulsory draft. This situation was rectified by the existing legislation in order to conform with the provision of the Optional Protocol. Further details are provided below.

19. The explanatory note to the above amendment bill states: "In the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, accepted in the United Nations General Assembly in New York on 25 May 2000, entered into force on 12 February 2002 and signed by the State of Israel on 14 November 2001, it was determined, for the purpose of putting an end to the phenomenon of children and youth under the age of 18 being recruited to the armed forces, that the minimum age for compulsory recruitment to armed forces and taking part of hostilities is the age of 18."

20. Additional provisions applying to volunteer service can be found in the *Defence Service Regulations (Volunteering for Defence Service)*, 5734 - 1974. These Regulations also apply to those aged 17-18 whose parents or legal guardians agreed to their volunteering.

The recruitment process

21. According to the *Defence Service Law*, the IDF may call-up persons designated for military service who are over 17 years of age, according to the Jewish calendar and the age presumption outlined in section 2 as detailed above, for registration, medical examination and other examinations to determine their general suitability for service. This enables the IDF to call-up persons for registration, medical examination and other examinations starting from the age of 16 and a half. According to the IDF regulations, (MG-09-06 - Planning the Procedure for the 1st and 2nd Registration), medical examination will only take place after the person designated for military service is 17 years of age.

22. The practical effect is that when they reach the minimal age, persons designated for military service are called to register their personal details, and attend a fitness examination and various other examinations, to determine their general suitability for service. If possible, all the above is performed on one single date.

23. Until completion of the entire enlistment procedure, persons designated for military service may be called-up for additional examinations. These subsequent exams might concern, for example, a specific medical situation, or a socio-economic evaluation for additional alleviations, or they might aid in additional classification for specific positions.

24. Once the age of enlistment is attained, persons designated for military service are called-up to commence their military service, (otherwise known as an enlistment order). This concludes their recruitment process. On the date of their enlistment, soldiers are sent for basic training, and subsequently, to their respective designated military units.

Requisite documentation

25. The IDF considers the Ministry of the Interior's official national population registry as reliable proof of age. Data from the registry is transmitted directly from the Ministry of the Interior. Moreover, in the process of registration, additional data verification is performed. The person designated for military service is requested to provide a statement regarding his personal details including his age, and the date he/she is scheduled to conclude his/her high school education. Where any inconsistency is found, further inquiries are made.

Times of emergency

26. According to section 34 of the *Defence Service Law*, the Minister of Defence may, in emergency circumstances where state security so necessitates, call upon a person of military age, e.g. men - 18-54, women, 18-38, for regular, or reserve service. Such an order must be brought before the Knesset Foreign Affairs and Defense Committee, as soon as possible after it is issued. The Committee may approve such an order with or without adjustments, or they may disapprove it, or bring it before the Knesset. Unless approved, such an order shall expire within 14 days from the date of its issuance.

27. There are no legal options to lower the recruitment age, in times of emergency and those who are not designated for service, but wish to do so, may assist in the performance of non military activities that shall not constitute direct participation in hostilities. Therefore, any service volunteered for by persons under 18 will adhere to objectives and spirit of the Optional Protocol, whilst still allowing these persons, to be actively engaged in civil aid of the State during a crisis.

Article 3

Paragraph 1

28. The above declarations are in accordance with the provisions of section 14 of the *Defence Service Law*. Those provisions enable an Israeli citizen or permanent resident, who is aged 17-18

and found fit for service, to be enlisted according to his written application and the written consent of the person's parents or legal guardian. In the event of an appreciable difficulty in contacting one of the parents, the written consent of the other parent will be sufficient.

29. Note that according to section 14 (b) of the *Defence Service Law*, the provisions of this Law shall apply to a person who was enlisted according to section 14 (a) as if he were enlisted according to section 13, excluding the limitation of their taking direct part in hostilities, according to IDF guidelines.

30. Section 17 of the *Defence Service Law* enables a person not required to perform regular service to volunteer to serve in the IDF regular forces. The age limitation in this section is subject to the age limitation in Section 14, i.e. 17 years of age. Volunteering in this manner is subject to a signed declaration by the volunteer, and necessitates the approval of the Minister of Defence (note that according to section 54 of the *Defence Service Law* this authority was delegated to the Head of the Recruitment Administration or his deputy). A volunteer serving in accordance with this section will, with regard to his rights and duties, be subject to the same law as any other person serving under this law.

Statistics

31. Current IDF data indicates that between July 18, 2005 and October 10, 2007 - 1,014 persons designated for service, aged under 18 (according to the Gregorian calendar) were called for service. The vast majority underwent a one-day administrative induction into the armed forces. Following these procedures, these participants were released from active duty to enroll into their chosen programme - most notably with the academic reserve, or Hesder Yeshiva studies.

Paragraph 2

32. Israel provided the above declarations in accordance with section 3(2) and adheres to every aspect of it. Safeguards ensuring that service is genuinely voluntary include:

(a) The requirement of a written application submitted by the person requesting permission to serve;

(b) Before enlisting a person aged 17-18 as per their request, a written, and informed consent from the person's parents or legal guardians must be obtained;

(c) To be genuinely voluntary a person must give full and informed consent. To that end, a clear and precise explanation of the nature of the duties involved in military service is provided to both the person, and the person's parents or legal guardian;

(d) Additionally, prior to acceptance of any person into the Israeli armed forces, reliable proof of age is obtained through the Ministry of the Interior's official national population registry;

(e) Additional data verification is performed.

33. Adoption of the Optional Protocol was the successful outcome of a lengthy process, which included intensive inter-ministerial deliberation among the IDF, the Ministry of Defense, the Ministry of Justice, and the Ministry of Foreign Affairs. These deliberations resulted in the above-stated Amendment 13 of the *Defence Service Law* and further required the amendment of several IDF procedures to fully comply with the provisions of the Optional Protocol.

34. The Knesset Committee on the Rights of the Child devoted a session to this issue on March 8 2001, in the presence of representatives from the Ministry of Justice, the IDF, (the Head of the Recruitment Administration, his deputy, and a representative of the Military Attorney's Office), and members of the relevant NGOs.

Paragraph 3

The volunteering process

35. In accordance with the procedures of the above-stated section 14 of the *Defence Service Law*, persons aged 17-18 may apply for service via a written request to enlist. IDF guidelines grant the authority to approve this request to the Head of the IDF Recruitment Administration, or his deputy.

36. According to the IDF guideline (attached as annex), such a request will be examined to ensure that is not in contradiction with an existing order or guideline. The Head of the IDF Recruitment Administration has to find proper justification for an early enlistment. Such justification may be based on financial, family or other relevant considerations. This requirement applies to: Cadets; graduates of an IDF driving course; members of Hesder Yeshivas, a programme which combines advanced Talmudic studies with military service into the IDF. Except in very extreme circumstances, the Hesder Yeshivas programmes do not include combat duty until the actual enlistment; persons designated for military service of non-combat nature, which begins with courses that only take place once a year (The IDF orchestra, the IDF theatre, etc.); special cases (e.g. extraordinary personal circumstances), and is based on the stipulation that combat duty will not take place until the person turns 18 years of age according to the Hebrew Calendar.

37. It is noteworthy that under no circumstances can the enlistment of a person less than 17 years of age take place. Furthermore, according to the above guidelines, enlistment of a person aged at least 17 years necessitates the authorization of the Head of the IDF Recruitment Administration.

Parental consent

38. Parental/legal guardian consent to early enlistment of their son/daughter shall be given in writing, in the IDF Recruitment Administration in the presence of an officer or a non-commissioned officer, or before the city officer or his aid, (an officer or a non-commissioned officer), the head/secretary of the local municipality, or a lawyer who can attest to their identity, approval, and signature in his presence. A legal guardian must provide legal proof of his guardianship.

39. Following the signing of this document, a clear and precise explanation of the nature of the duties involved in military service is provided to both the person, and the person's parents or legal guardian. Note that due to the prevalence of military service in the IDF in Israel, the nature of the duties constituting military service is considered to be common knowledge. As such, no information in addition to the verbal explanation and data provided in the consent form has been published, or otherwise issued in that regard.

40. According to section 2 (2a) of the *Defence Service Law*, persons aged 17-18 who take part in the IDF academic reserve are not soldiers during their NPS. These persons require IDF permission to work or travel abroad, and may theoretically be enlisted for combat duty in very extreme times of state emergency, e.g. wars. In practical terms however, these persons may only be enlisted following the minimum standard of military training that must be provided for members of the academic reserve after a year of studying - i.e. after they attain 18 years of age. The first year of the service of members of the Hesder Yeshivas is devoted to schooling, and therefore these members are as a minimum 18 when beginning their military training, and later their combat duty.

Requisite documentation

41. As detailed above, the IDF considers the Ministry of the Interior's official national population registry as reliable proof of age. Data from the registry is transmitted directly from the Ministry of the Interior for that purpose. Furthermore, during the process of registration, additional data verification is performed, and the person designated for military service is asked to provide a statement regarding his/her personal details, including his/her age and the date he is scheduled to conclude his high school education. Where an inconsistency is found, a further inquiry is made.

Service periods

42. According to Section 15 of the *Defence Service Law*, men serve for a period of: 30 months (36 months following a temporary provision) if called to enlist between the ages of 18-26; for a period of 24 months if called to enlist between the ages of 27-29; and for a period of 12 months if they are doctors or dentists, and are aged 35-38. New immigrants, (oleh), aged 27 and above will serve for a period of 18 months only, excluding certain exceptions.

43. According to section 16 of the *Defence Service Law*, women serve for a period of: 24 months where they are called to enlist between the ages of 18-26, or are doctors or dentists aged 27-34, if they are doctors or dentists aged 35-38 service will be for a period of 12 months. New immigrants, (oleh), aged 27 and above will serve for 18 months only, excluding certain exceptions setting a 36 months service, according to section 61a of the *Defence Service Law*.

44. The provisions of the above Sections 15-16 of the *Defence Service Law*, apply to those volunteering for service aged 17-18, in accordance with Section 14 of the *Defence Service Law*.

45. According to Section 11 of the *Defence Service Regulations (Volunteering for Defence Service)*, 5734 - 1974, the Minister of Defence may approve that a person volunteer for a period shorter than that set out in the Regulations, e.g. less than the provisions in sections 15 -16 of the *Defence Service Law*, or a shorter period set for older enlistees.

Application of the Military Law

46. Section 35 of the *Defence Service Law* applies the provisions of military laws to all those enlisting, commencing on the date set for their enlistment. The *Military Jurisdiction Law*, 5716-1955, ("*Military Jurisdiction Law*"), defines a soldier as a member of the IDF regular forces, or a volunteer. Section 4 of the *Military Jurisdiction Law* applies the Law to those lawfully accepted to the IDF regular forces. Accordingly, military justice and discipline laws apply, inter alia, to those volunteering for service aged 17-18.

Israel Border Police

47. According to section 24 of the *Defence Service Law*, those serving in the Border Police, are recruited in a manner comparable with that of IDF soldiers, including the same age restrictions. They see out their service in the Israel Border Police, which is the operational branch of the Israeli Police. Three years as a border policeman is equal to three years as an IDF soldier. According to section 25, 24A of the *Defence Service Law*, except for drug-related offences, the *Military Jurisdiction Law* does not apply to border policemen throughout the duration of their service. Rather the *Police Ordinance*, 5731-1971 applies. The same *Ordinance* applies to those serving in other Police units *in locus* of their military service, according to section 24A of the *Defence Service Law*.

Israel Prisons Service (IPS)

48. According to section 24B of the *Defense Service Law*, those serving in the IPS, are recruited in a manner identical to that of IDF soldiers, including the same age restrictions. They see out their service in the IPS *in locum* of their military service duty. Three years in the IPS is equal to three years as an IDF soldier. According to section 24C of the *Defence Service Law*, except for drug-related offences, the *Military Jurisdiction Law* does not apply to IPS wardens throughout the duration of their service. Rather the *Prisons Ordinance [Consolidated Version]*, 5732-1971 applies.

Punishment for desertion and absence from service

49. According to section 94 of the *Military Jurisdiction Law*, absence from service without permission is punishable by three years imprisonment; unless it is proven that there was permission, or another reasonable justification exists. Desertion, defined as absence from military service with the intention not to return to the army, is punishable by 15 years imprisonment.

Encouraging volunteering

50. The IDF, the Israel Border Police and the IPS, neither encourage, nor use incentives to encourage volunteers to enlist for military service under the age of 18. The only instances where early enlistment is offered under the age of 18, is in cases where the starting date of a certain course or special service programme (i.e. the academic reserve, "combined service" in Hesder Yeshivas), not involving belligerent activity, precedes the date set for the persons designated "for

military service" date of enlistment, and the IDF desires to enable the said persons to attend the course or service programme, (usually, a course or service programme which can be adhered only once a year). In this instance, the persons are invited to apply in writing for an early enlistment, in accordance with section 14 of the *Defence Service Law*.

Paragraph 5

Long-term programmes

51. The IDF has several long-term programmes in which participants may engage in academic and rabbinic studies. For administrative purposes, these participants undergo a one-day administrative induction into the armed forces. Following their administrative induction, these participants are released from active service to enroll in their chosen programme.

Schools operated by or under the auspices of the IDF

52. The IDF also has several schools and programmes designated for youths aged 13.5-18, where specific professional and military professions are taught. Some schools operate as boarding schools, and some as daily schools.

53. The IDF operates 6 military schools that provide schooling for three to four years. As of March 2007, these schools had a total of 2,766 pupils. The educational part of the training in these schools is carried out in high schools in the vicinity of the schools, whilst the technical/professional part is carried out on school grounds. The professional part of the pupils' training is provided through IDF personnel and civilians working for the IDF alike.

54. Prior to their enrolment, the pupils are required to sign a contract between the pupils, his/her parents/legal guardian and the Ministry of Defence, and a form for three years of standing military service. These will be signed in the schools' secretariats in the presence of the pupil and his/her parents/legal guardian.

55. School curriculum: In addition to specialized training, IDF-operated schools abide by the same curriculum as every other school in the Israeli educational system. The Ministry of Education curriculum specifically relates to relevant human rights and humanitarian issues, such as the United Nations Declaration of Human Rights and the Convention on the Rights of the Child.

56. Military training: Except for specific military style training, and during their basic training, pupils in the school do not receive or carry arms.

57. The pupils in these schools are not soldiers and the provisions of the *Military Jurisdiction Law* do not apply to them. In times of emergency, pupils over 16, (according to the provisions of the *Civil Defence Law*, 5711-1951), may engage in civil aid activities, of a non-military capacity; such as assisting in hospitals, local municipalities, schools, etc., as well as contributing professional assistance in their field of schooling. They may also undertake limited tasks relating to home security assignments.

58. Pupils in IDF operated schools are allowed to quit school any time they so desire. Provided they quit before completion of the 12th (and last grade), they will not be obligated to serve an additional standing military service. Pupils who have completed the 12th grade and wish to be exempt from additional standing military service, may apply for annulment of this period based on personal grounds.

59. Conditions, and discipline, in IDF-operated schools are determined by the IDF Human Resources Branch Orders. The disciplinary provisions which pupils willingly take upon themselves are well proportioned, balancing between the need to maintain a high level of discipline in a manner that is adequate and suited to the pupils' position. A right to plea provides a mechanism for the pupils to complain against their superiors in circumstances where discipline is considered excessive or ill-suited. All these aforementioned guarantees help uphold the pupils' right to human dignity, and is in accordance with the spirit of the Optional Protocol and the Convention on the Rights of the Child.

60. Discipline in IDF-operated schools includes certain limitations, mostly similar to those imposed in civilian high schools/boarding schools: i.e. prohibitions on drinking alcoholic beverages, gambling, etc. The pupils are required to keep to a stricter dress code, including dressing in uniforms when on school grounds, as well as to observe certain limitations concerning shaving and haircuts.

Article 4

61. No armed groups distinct from the Israel Defence Forces, (the State's armed forces), exist in Israel, nor are they allowed to operate. This is in accordance with the *Israel Defence Forces Ordinance*, and section 6 of *Basic Law: The Army* (1976), which holds that:

> "No armed force other than the Defence Army of Israel shall be established or maintained except under law."

62. In addition, section 143 of the Israeli *Penal Law* criminalizes unlawful military exercises, as detailed:

Section 143

Unlawful military exercises

(a) If a person did one of the following, then he is liable to seven years imprisonment:

(1) He drilled or trained others - without permission from the Government - in the use of arms or the performance of military exercises, movements or operations;

(2) He was present at a meeting or assembly of persons held without permission from the Government, in order to drill or train other persons in the use of arms or the practice of military exercises, movements or operations.

(b) If he trains or drills the use of arms or the practice of military exercises, movements or operations at a meeting or assembly convened without Government permission or is present therein order to be so trained or drilled, then he is liable to three years' imprisonment.

Article 5

63. The State of Israel is committed to and adheres to the provisions of the relevant national and international law in all matters relating to the present Optional Protocol.

International mechanisms

64. The status of ratification of the main international instruments concerning children in armed conflict, is as follows:

(a) The Convention on the Rights of the Child (1989) - the State of Israel signed the Convention on 3 July 1990 and ratified it on 3 October 1991;

(b) Amendment to article 43 (2) of the Convention on the Rights of the Child - (New York, 12 December 1995), the State of Israel ratified the amendment on 27 December 1999;

(c) International Covenant on Civil and Political Rights (1966) - the State of Israel signed the Convention on 19 December 1966 and ratified on it 3 October 1991;

(d) The Minimum Age Convention, 1973 (No. 138) of the International Labour Organization (ILO) - the State of Israel ratified it on 21 June 1979;

(e) Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour Convention, 1999 (182) of the International Labour Organization (ILO) - the State of Israel ratified it on 15 March 2005;

(f) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949 - the State of Israel ratified it on 6 July 1951;

(g) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949 - the State of Israel ratified it on 6 July 1951;

(h) Geneva Convention relative to the Treatment of Prisoners of War, 1949 - the State of Israel ratified it on 6 July 1951;

(i) Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949 - the State of Israel ratified it on 6 July 1951.

Article 6

Paragraph 1

65. Israel signed the Optional Protocol on 14 November 2001, and ratified it on 18 July 2005. In accordance with article 10, paragraph 2, the Optional Protocol entered into force for Israel on 18 August 2005.

66. Amendment 13 of the *Defence Service Law* took place prior to the ratification of the Optional Protocol, as detailed above.

67. The Protocol is fully applicable before *domestic jurisdictions*, and its provisions are a cornerstone for the relevant bodies, as detailed throughout the present report. To date, issues with regard to the Optional Protocol have yet to be brought before Israeli Courts.

68. The State of Israel made no reservations regarding the Optional Protocol.

69. The implementation of the Optional Protocol is relevant to several Government Ministries and bodies, according to their different areas of expertise. Among the relevant bodies are the Ministry of Defence, The IDF, the Ministry of Public Security, the Ministry of Justice, and the Ministry of Foreign Affairs.

70. The provisions of the Optional Protocol have been implemented through legislation, regulations, circulations, and procedures, as detailed throughout the present report.

Civil society

71. The State of Israel is a robust and vibrant democracy, with a diverse and active civil society. Non-governmental organizations play a distinctive role in Israel in several ways - they actively participate in public debate, and promote awareness and sensitivity to human rights issues on the whole, and with regard to children's rights in particular. Many of these organizations maintain regular working relations with the above mentioned Government Ministries and bodies.

Paragraph 2

72. Following the ratification of the Optional Protocol, Israel has taken several measures to make the principles and provisions of the Optional Protocol widely known. It has been promoted via appropriate means, to adults and children alike.

73. Accordingly, the Optional Protocol was translated into Hebrew by the Ministry of Justice and published on 1 January 2008 in the Official Gazette (K.A. 1465/54).

74. Presently, Israel has no international peacekeeping personnel, and therefore does not provide particular training on the subject although initial steps have been taken to explore relevant existing training provided by the United Nations.

75. There are currently four IDF officers and two police officers, who are intended to take part in international peacekeeping missions, as representatives of the State of Israel. All of them took part in a three-week United Nations training for peacekeeping personnel, that included the following issues:

(a) The relevant principles and standards of international law and best United Nations peacekeeping practice;

(b) Basic knowledge of the structure of the United Nations, the Charter, the United Nations mission, humanitarian and international law, including the human rights conventions and the Optional Protocol;

(c) Training on different nationalities, accents, cultures and atmosphere in simulation of an actual United Nations mission;

(d) Practical (mine awareness, map reading, driving, hostage taking) and theoretical training (United Nations organizations and functions, stress management, negotiations and mediations, United Nations policing best practice procedures).

76. Following ratification of the Optional Protocol, its provisions were disseminated notably to those responsible for military recruitment, and via training offered to all professional groups working with and for children.

77. The monitoring of the implementation of the Optional Protocol is carried out by several bodies - the Ministry of Defence, the IDF and the Ministry of Justice. Monitoring is done via legislation, as well as under routine supervision, and was also advanced during the process of compiling the present report.

Paragraph 3

78. Not applicable to Israel.

Article 7

79. The State of Israel fully adheres to the provisions of the Optional Protocol, in the manner specified above, and is acting to prevent any activity contrary to its provisions.

80. At present, budgetary limitations restrain the State of Israel from providing financial assistance to third parties, with regard to matters relating to the Optional Protocol.

Annex

PERMANENT ORDERS

9-10 September 2006

M.G. 09-10 Reporting for service as per personal request - Drafting of Minors - Parental/Guardians Consent

General

1. Drafting to the IDF will be done according to Defence Service Law (Consolidated Version) 5726-1965, according to the age of drafting determined therein.

2. Article 14 of the law states that "an Israeli citizen or permanent resident that has not yet reached the age of 18, and was found fit for service, can be called for regular service duty upon his written request, where his parents or guardian had given their consent, and he is at least 17 years old. It is sufficient to satisfy the requirement of parental consent if only one parent gives their consent where real difficulty is had in establishing contact with the other parent so as to inquire as to their stance".

3. A person designated for military service will be drafted before he is 18 years of age according to the provisions of this order. Nothing in this provision shall diminish from any other orders or drafting guidelines.

4. For the purpose of calculating if the person reached or did not reach the age of 18, no use will be made of the age presumption set in Article 2(2) of the Defence Service Law, except unless on the subject of the academic reserve or the service without pay courses.

5. This order details the procedure for the treatment of minors designated for service who wish to apply for early drafting, not taking into account those designated for service who are graduates of pre-military training who would be otherwise treated according to the permanent order for the Chief of Staff - Human Resources Section MN10-01 " Prior Commitment of Pre-military Training Cadets".

Method

6. Where a person designated for service, who is over 17 years of age according to the Hebrew Calendar, and reports to the Recruitment Bureau and asks to be drafted, the Recruitment Bureau will check if the minor's drafting does not contradict an existing guideline or order.

7. If it is realized that the minor's early recruitment contradicts an existing guideline or order, or the Head of the Recruitment Bureau does not find sufficient reason for an early recruitment - his request will be denied.

8. If it is realized that the early recruitment of the person designated for service does not contradict orders or guidelines, and the Head of the Recruitment Bureau considers that there is reason to accept the persons request based on economic, family considerations, or on any other grounds, the Bureau shall act as follows:

(a) It will request that the minor file a private written request for early recruitment. (Form 7308 - “Minor request for early recruitment”);

(b) In the request, (found at Part B of the form), the parents/guardian of the person are asked for their consent to his early recruitment;

(c) The request will be addressed to the Head of the Recruitment Bureau, and either he, or his deputy, shall consider it for approval.

9. **A.** Authority to approve the recruitment of minors lies with the Head of the Recruitment Bureau or his deputy, and may be exercised at the request of the following persons:

(a) Cadets;

(b) Graduates of pre-military driving course;

(c) Members of NAHAL (Fighting Pioneer Youth) seed groups - for enable them to enlist together with the group they belong to;

(d) Students of Hesder Yeshivas;

(e) Persons designated to join non-combat military courses that open once a year;

(f) The authority may also be exercised for other exceptional reasons, such as extraordinary personal circumstances, and of reasons to be recorded - provided the minor will not participate in any military training or combat duty before he has reached the age of 18.

B. Preceding drafting by more than six months from the date it is permitted to draft the minor according to the Defence Service Law, but not before he has reached the age of 17, will be done solely with the permission of the Head of the Recruitment Bureau.

10. Signing of the parental consent form for the early drafting of their son/daughter, (as per art. 7), will take place in the Recruitment Bureau in the presence of an officer, or a non-commissioned officer; or with the City Officer (an officer/ non-commissioned officer), with the head of the local municipality, or the local municipality secretary, or by having a lawyer approve the signing of the form, (after examining Identity certificates), and stating that the parents/guardian have given their genuine consent in his presence.

11. Parents or guardians residing abroad at the time shall sign their consent with one of the Israeli consulates abroad.

12. Despite the provisions of article 7(b), it is enough to have one parent consent for early recruitment of a minor if there is real difficulty in making contact with one of the parents. For example: if one parent is staying abroad for a long time and cannot come before an Israeli representative as detailed in article 11, or for other special reasons, the other parent will declare as much in the presence of a lawyer, and his signature alone will suffice on the volunteering form.

13. Where a person is designated for service whose parents have died, or had a guardian appointed to him for any other reason, the guardians signature shall be made as per article 7 (b) detailed above. The guardian must prove his guardianship with appropriate documentation.

14. A person drafted early according to the provisions of this order will not be sent to combat duty before he is 18 years old, according to the Hebrew calendar.

15. Drafting to academic reserve courses recognized in military orders, and service without pay as per its meaning in these orders, shall generally be done according to the relevant provisions of the Defence Service Law. The above will not prevent drafting of these persons for service according to a request for early recruitment, as previously detailed in this order.

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Committee on the Rights of the Child

Fifty-third session

11–29 January 2010

Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Concluding observations: Israel

1.The Committee considered the initial report of Israel (CRC/C/OPAC/ISR/1) at its 1475th meeting, held on 19 January 2010 (see CRC/C/SR.1475), and adopted at its 1501st meeting, held on 29 January 2010, the following concluding observations.

Introduction

2.The Committee welcomes the submission of the State party's initial report. The Committee further welcomes its written replies (CRC/C/OPAC/ISR/Q/1/Add.1) to the list of issues. The Committee appreciates the constructive dialogue with a multisectoral delegation, which included a representative of the Ministry of Defence, which shed light on the implementation of the provisions of the Optional Protocol, as part of Israel's broader commitment to children's rights in general.

3.The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's initial report on 4 October 2002 (CRC/C/15/Add.195).

4.The Committee reiterates that, in accordance with State responsibility in international law and under the prevailing circumstances, the provisions of the Convention and optional protocols apply to the benefit of the children of the occupied Palestinian territory, notably with regard to all conduct by the State party's authorities or agents that affects the enjoyment of rights enshrined in the Convention. The Committee underlines the concurrent application of human rights and humanitarian law, as established by the International Court of Justice in its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, and recalls the explicit references to humanitarian law in the Optional Protocol.

5.The Committee notes the difficulties of the State party in fully implementing the Optional Protocol. The Committee recognizes the climate of fear which persists and the deliberate and indiscriminate targeting and killing of Israeli civilians, including children by Palestinian armed groups, some of whom carry out terrorist attacks. At the same time, the Committee recognizes the illegal occupation of Palestinian territory, the bombing of civilian areas, extrajudicial killings, the disproportionate use of force by the Israel Defense Forces, the demolition of homes, the destruction of infrastructure, the construction of the wall and mobility restrictions resulting in the denial of access to education, health care, clean water and employment, all of which have a severe impact on Palestinian children. The Committee reiterates that the daily humiliation of Palestinians continues to contribute to the cycle of violence.

I.Positive aspects

6.The Committee notes as positive the State party's ratification of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 15 March 2005.

7.The Committee welcomes information provided by the State party that asylum-seeking children who have been recruited or used in armed conflict have been granted refugee status on the basis of having been used as child soldiers in armed conflict.

II.General measures of implementation

Non-discrimination

8.The Committee is concerned that Israeli legislation continues to discriminate in the definition of the child between Israeli children (18 years) and Palestinian children in the occupied Palestinian territory (16 years) according to Military Order No. 132 .

9 . The Committee reiterates its recommendation that the State party rescind the provision of Military Order No. 132 concerning the definition of the child and ensure that its legislation conforms to the Convention on the Rights of the Child in this regard.

Right to life, survival and development

10.The Committee is concerned over the violations of the right to life, survival and development of children within the jurisdiction of the State party. The Committee, while noting that Israeli children are affected, is concerned that Palestinian children are disproportionately vulnerable. The Committee expresses grave concern for the serious violations suffered by children in Gaza during the Operation "Cast Lead" in December 2008 and January 2009 owing to the disproportionate violence, the lack of distinction for civilians and the obstruction of humanitarian and medical aid, notably documented by the United Nations Fact-Finding Mission on the Gaza Conflict, endorsed by the General Assembly (A/RES/64/10) and the Human Rights Council (A/HRC/RES/S-12/1). Furthermore, the Committee is concerned over the threat to the life of children posed by anti-personnel mines, originating from the State party, which have been placed in parts of the occupied Palestinian territory, southern Lebanon and the occupied Syrian Golan.

11 . The Committee urges the State party to :

(a) Take prompt measures to comply with the fundamental principles of proportionality and distinction enshrined in humanitarian law, including the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949, which set out the minimum standards for the protection of civilians in armed conflict ;

(b) Pay special attention to the right to life of Palestinian children and recommends the State party to, as a matter of urgency, discontinue the blockade and support the reconstruction of homes, schools and hospitals ;

(c) Comply with the recommendations of the United Nations Fact - Finding Mission on the Gaza Conflict , while paying particular attention to those recommendations which directly or indirectly affect children ;

(d) Clear all anti-personnel mines in the occupied Palestinian territory, southern Lebanon and the occupied Syrian Golan and seek international cooperation for this purpose, as necessary.

Dissemination and awareness

12.The Committee, while noting information on measures undertaken by the State party, is concerned that awareness of the Optional Protocol among the general public remains low .

13. The Committee recommends, in the light of article 6, paragraph 2, of the Optional Protocol, that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public and among both Israeli and Palestinian children.

Training

14.TheCommittee is concerned that relevant professional categories, in particular the military, the police and those working for the administration of justice, do not receive adequate training on the provisions of the Optional Protocol.

15. The Committee recommends that the State party strengthen human rights training for members of the A rmed F orces with specific training on the provisions of the Optional Protocol. Furthermore, the Committee recommends that the State party develop awareness-raising, education and training programmes on the provisions of the Optional Protocol for relevant professional groups working with children, notably prosecutors, lawyers, judges, law enforcement officers, social workers, medical professionals, teachers, media professionals and local and district officials. The State party is invited to provide information in that respect in its next report.

Data

16.The Committee regrets the reiterated refusal of the State party to provide any information on the situation of children in the occupied Palestinian territory. The Committee further regrets the absence of data on the number of children in armed groups and children who have been charged and prosecuted for security offences.

17. The Committee urges the State party to provide relevant information in its next periodic report under the Convention and that data on the occupied Palestinian territory be included therein .

III.Prevention

Compulsory recruitment

18.The Committee, while noting information provided by the State party during the dialogue that persons under 18 years of age cannot take direct part in hostilities, nevertheless remains concerned that the State party fails to fully comply with article 2 of the Optional Protocol by designating persons below 18 years for compulsory recruitment. The Committee is concerned over information provided by the State party that persons under 18 years of age may be recruited to combat units.

19. The Committee recommends that the State party revise its laws and ensure that its policy on compulsory recruitment is consistent with the provisions of the Optional Protocol.

Voluntary recruitment

20.The Committee notes that the minimum age of voluntary recruitment is 17 years and that those volunteers are not allowed to be

deployed to armed duty.

21. The Committee notes that the great majority of States parties to the Optional Protocol do not permit voluntary recruitment of children. The Committee therefore encourages the State party to raise the minimum age for recruitment into the A rmed F orces to 18 years in order to promote the protection of children by means of a legal standard that is higher overall .

Military education

22.The Committee is concerned that the curricula of programmes that combine military service with Talmudic studies (*hesder yeshivas*), such as programmes that explicitly encourage students to volunteer for recruitment and seek active combat duty, are contrary to the aims of education and human rights values enshrined in article 29 of the Convention.

23. The Committee recommends that any military education should take into account human rights values and article 29 of the Convention , and that the educational content of such programmes should be periodically monitored by the Ministry of Education. Furthermore, the Committee recommends that the State party ensure that all students, including those undertaking military and religious studies, have access to an independent complaints mechanism.

Use of children as human shields and informants

24.The Committee is deeply concerned over the persistent practice whereby Palestinian children are used as human shields and informants for intelligence purposes. Furthermore, the Committee regrets that the State party declines to provide information on compliance with the ruling of the Israeli High Court of Justice in *Adalah et al. v. Commander of the Central Region et al.* (HCJ 3799/02, Judgement of 23 June 2005).In view of reports indicating the use by the Israeli army of Palestinian children as human shields, including during Operation "Cast Lead" in Gaza in December 2008 and January 2009, the Committee notes information from the State party provided during the dialogue that investigations have been initiated. However, the Committee is concerned over delays and the lack of information regarding the outcome of such investigations.

25.**The Committee urges the State party to ensure strict compliance with humanitarian law, abide by the ruling of the Israeli High Court of Justice in *Adalah et al. v. Commander of the Central Region et al.* a nd revise its Defen c e Services Law No. 5746- 1986 accordingly. Furthermore, the Committee urges the State party to promptly and impartially investigate reports of such crimes and ensure that those responsible are duly prosecuted and sanctioned with appropriate penalties.**

Peace education

26.The Committee notes information from the State party regarding efforts to promote peace education in Israeli schools, but is concerned that peace education is extremely limited in Israel and the occupied Palestinian territory.The Committee is concerned over the lack of access to education in the occupied Palestinian territory. Furthermore, the Committee is concerned at the contrasts in the values promoted in education and, in particular, the extensive militarization of the educational system in Israel and the inclusion of mandatory military components as part of the school curricula.

27 . The Committee recommends that the State party ensure that the education curricula is consistent with article 29 of the Convention and encourages the systematic inclusion of peace education both in the Israeli and Palestinian school system. For this purpose, the Committee encourages its g eneral c omment No. 1 on the aims of education to be taken into account. The Committee encourages joint initiatives, bringing together both Israeli and Palestinian children, to be undertaken to promote peace education.

IV.Prohibition and related matters

Legislation

28.The Committee, while noting provisions on unlawful military activities in the Israeli Penal Law, is concerned that it fails to specifically include the crimes covered in the Optional Protocol.

29 . In order to further strengthen international measures for the prevention of the recruitment of children and their use in hostilities, the Committee urges the State party to:

(a) Revise the Penal Code and include a provision which explicitly criminali z es violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities and include a definition of direct participation in hostilities;

(b) Ensure that all military codes, manuals and other military directives are in accordance with the provisions of the Optional Protocol.

Extraterritorial jurisdiction

30.The Committee notes the statement of the State party that it may assume extraterritorial jurisdiction for the war crime of conscripting or enlisting children under the age of 15 years; however, the Committee is concerned over the lack of a specific legal basis on which such jurisdiction could be exercised.

31 . The Committee recommends that the State party review its legislation in order to establish extraterritorial jurisdiction for crimes under the Optional Protocol.

32 . The Committee recommends that the State party consider ratifying the following international instruments, already widely supported by the international community:

(a) The Protocol Additional to the Geneva Conventions of 12 August 1949, and R elating to the P rotection of V ictims of International Armed Conflicts (Protocol I), 1977;

(b) The Protocol Additional to the Geneva Conventions of 12 August 1949, and R elating to the P rotection of V ictims of Non-International Armed Conflicts (Protocol II), 1977;

(c) The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997;

(d) The Rome Statu t e of the International Criminal Court, 1998;

(e) The Convention on Cluster Munitions, 2008.

V.Protection, recovery and reintegration

Prosecution of children on terrorist charges

33.The Committee is seriously concerned that the State party has failed to comply with the recommendations issued in 2002 (CRC/C/15/Add.195, paras. 62 and 63) regarding the practices of arrest and interrogation of children in the occupied Palestinian territory. The Committee expresses concern that provisions in military orders (specifically Nos. 378 and 1591) continue to be in violation of international standards on the administration of juvenile justice and the right to a fair trial. The Committee further notes with concern information regarding attempts to incorporate juvenile justice standards within military courts.

34.The Committee is gravely concerned over reports that more than 2,000 children, some as young as twelve, have been charged with security offences between 2005 and 2009, held without charge for up to eight days and prosecuted by military courts. The Committee is particularly concerned that children charged with security offences are subjected to prolonged periods of solitary confinement and abuse in inhumane and degrading conditions, that legal representation and interpretation assistance is inadequate and that family visits are not possible as relatives are denied entry to Israel.The Committee is disturbed by information indicating that children have been subjected to administrative detention orders for renewable periods of up to six months. Finally, the Committee regrets the insufficient information provided by the State party on the above concerns.

35 . The Committee urges the State party to :

(a) Rescind the Military Orders Nos. 378 and 1591, as previously recommended in 2002;

(b) Never hold c riminal proceedings against children in military courts and not subject children to administrative detention;

(c) Guarantee that juvenile justice standards are applied to all children within its jurisdiction and any trials should be conducted in a prompt and impartial manner, in accordance wi th minimum fair trial standards;

(d) Ensure that any definition of terrorist crimes is brought in line with international standards and norms, as recommended by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/6/17/Add.4, para . 55) ;

36. The Committee furthermore recommends that the State party :

(a) Ensure that children are only detained as a measure of last resort and for the shortest possible time period. If in doubt regarding the age, young persons should be presumed to be children;

(b) Guarantee that children, if accused of having committed security offen c es, are detained in adequate conditions in accordance with their age and vulnerability;

(c) I nform parents or close relatives where the child is detained and allow contact;

(d) Provide adequate free and independent legal advisory assistance for all children;

(e) Guarantee children a periodic and impartial review of their detention;

(f) Ensure that children in detention have access to an independent complaints mechanism. Reports of cruel, inhuman and degrading treatment of detained children should be investigated promptly in an impartial manner;

(g) Provide educational programmes and recreational activities, as well as measures for all detained children's social reintegration;

(h) Provide all professionals working in the juvenile justice system with training on the Convention, the o ptional p rotocols , other relevant international standards and the Committee's general comment N o. 10 on children's rights in juvenile justice.

Assistance for physical and psychological recovery

37.The Committee notes the information provided on physical and psychological recovery for Israeli children, but regrets the absence of information on such measures available for Palestinian children. In particular, the Committee is deeply disturbed by the psychological effects on children in Gaza resulting from Operation "Cast Lead" and the lack of assistance for these children. The Committee is furthermore concerned over the lack of adequate programmes for rehabilitation of children who have been victims of anti-personnel mines.

38. Given the psychological trauma on children as a consequence of the disproportionate attacks on civilians by Israel Defense Forces, the Committee urges the State party to assume its responsibility for providing assistance for the physical and psychological recovery of all affected children, Israeli and Palestinian. Furthermore, the Committee recommends that the State party support specific programmes for children who have been victims of anti-personnel mines.

VI.International assistance and cooperation

International cooperation

39. The Committee welcomes information that the State party supports Security Council resolution 1612 (2005) and recommends that the State party further strengthen its cooperation with the Special Representative of the Secretary - General for Children and Armed Conflict in order to effectively implement Security Council resolutions 1612 (2005) and 1882 (2009) within its jurisdiction.

Arms export

40.The Committee observes that Israel is a significant arms exporter and notes information from the State party indicating that legislation adopted in 2007 (Israeli Security Export Control Law No. 5767-2007) regulates the exportation of such materials in accordance with an assessment which takes into account the respect of children's rights; however, the Committee is concerned over the absence of an explicit prohibition of arms export to countries where children are recruited or used in hostilities.

41. The Committee recommends that the State party expressly prohibit in its legislation, the sale of arms when the final destination is a country where children are known to be or may potentially be recruited or used in hostilities.

VII.Follow up and dissemination

42. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to the Ministry of Defen c e, the Ministry of Education, the Cabinet and the Knesset for appropriate consideration and further action.

43. The Committee recommends that the initial report submitted by the State party and concluding observations adopted by the Committee be made widely available to the public at large and children in particular in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring. The Committee specifically requests that the State party ensure that the recommendations are disseminated both in Israel and the occupied Palestinian territory.

VIII.Next report

44. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, due since 1 November 2008.

United Nations CRC/C/ISR/2-4

Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of the reports submitted by States parties under article 44 of the Convention

Combined second, third and fourth periodic reports of States parties due in 2008

Israel*

[11 June 2010]

* In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not edited.

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I. Introduction

1. This is the second periodic report of the State of Israel, submitted to the United Nations Committee on the Rights of the Child in accordance with the requirements of article 44 of the International Convention on the Rights of the Child (hereinafter referred to as the "Convention. This report has been compiled by the Human Rights and Foreign Relations Department of the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other Israeli Government bodies. Israeli non-governmental organizations (NGOs) were also invited to submit comments prior to the compilation of the present report, both through direct application, and a general invitation to submit remarks, which was posted on the Ministry of Justice website. Their contributions were given substantial consideration.

2. Since the submission of the initial report (CRC/C/8/Add.44), many legislative, administrative and judicial developments relevant to the implementation of the Convention have occurred. A brief summary of the most significant of these changes is set out below. This report provides a comprehensive account of these developments. It also addresses the comments made by the Committee in its concluding observations (CRC/C/15/Add.195) dated 10 October 2002.

3. As of Israel's first submission to the Committee, noteworthy legislative steps have been taken to promote children's rights. Several of the more prominent new pieces of legislation include:

- Amendment No. 10 to the Public Defenders Law (the: "Public Defenders")

- Amendment No. 11 to the Criminal Procedure Law 5756-1996 (the: "Criminal Procedure Law")

- Amendment No. 12 to the Criminal Procedure (Enforcement Powers and Bodily Search) (Legislative Amendment) 5765-2005 (the "Enforcement Powers and Bodily Search Law")

- Amendment No. 13 to the Legislative Amendment Law to the Evidence Revision (Protection of Children) Law 5765-2005 (the: "Evidence Revision Law")

- Amendment No. 5 to the Courts Law (Consolidated Version) 5744-1984 (the: "Courts Law")

- Legislative Amendment to the Treatment of Mentally Ill Law 5751-1991 (the: "Treatment of Mentally Ill Law")

- Amendment No. 14 to the Youth (Trial, Punishment and Modes of Treatment) Law 5731-1971 (the: "Youth Law")

- Amendment No. 9 to the Transportation Ordinance (New Version) 5721-1961 (the: "Transportation Ordinance (New Version)")

- Amendment No. 6 to the Penal Law 5737-1977 (the: "Penal Law"), which endeavours to assimilate the principle of a child's best interest (as a leading principle) in legislative, administrative and judicial matters affecting children

4. In Israel, the principle rights enshrined by the Convention are effectively protected through legislation and judicial decisions. Having said this, it should be noted that Israel has not enacted any further basic laws (Israel's constitutional law) regarding children's rights since the submission of its previous periodic report. Israel did however incorporate the Convention on the Civil Aspects of International Child Abduction 1980 into Israeli domestic law as the Hague Convention Law (Return of Abducted Children) 5751-2001.

With respect to judicial decisions, the Supreme Court has continued to play a major role in the implementation of the rights protected by the Convention.

Judicial rulings

5. Both the Israeli Supreme Court and several of Israel's District Courts referred to different provisions of the Convention in a number of their decisions. The most noteworthy examples of this practice which occurred during the reporting period are:

- The Supreme Court noted the provisions of article 3 regarding the best interests of the child in HCJ 7395/07 *Anonymous* v. *The Rabbinical Court of Appeals* (21.1. 2008). This case involved a dispute over the education of the children of a divorced couple. The Supreme Court overruled a decision of the Rabbinical Court, which had not considered the best interests of the children in question. The Supreme Court determined that the children should study in the national education system as opposed to the national-religious education system.

- The Supreme Court also referred to article 28 of the Convention regarding a child's right to education in HCJ 6914/06 *The National Parents Organization (Registered Society)* v. *The Ministry of Education, Culture and Sports et. al.* (14.8. 2007). In this case, the National Parents Organization claimed that school-related payments, which parents are required to pay each year, violate the right to free education; and therefore filed a petition requiring the Ministry of Education to receive the approval of the Knesset Education Committee for all forms of parental school payments that parents are required to pay for each school year.

- District Courts also referred to the rights enshrined in the Convention. For example, the Tel-Aviv District Court, when sitting as a Juvenile Court, addressed article 37(a) of the Convention in relation to the imposition of life imprisonment upon a minor who committed a murder before he reached the age of eighteen, and stressed that the punishment in question did not violate article 37(a) as the Israeli legal system permits the release of those sentenced to life imprisonment (S.Cr.C (Tel-Aviv) 204/05 *The State of Israel* v. *Anonymous* (251. 2007)). In another case, the Tel-Aviv District Court, sitting as an Administrative Court, made reference to article 2, paragraph 2 of the Convention requiring a State to take all appropriate measures to ensure the protection of children from all forms of discrimination. In the relevant case, a school had refused to admit certain girls due to their ethnic affiliation. (Ad.P. (Tel-Aviv) 2176/06 *Anonymous* v. *The Ministry of Education, Culture and Sports et. al.* (15.11.06)).

- Family Matters Courts also referred to the rights set out in the Convention. For example, the Jerusalem Family Matters Court relied on article 3 of the Convention when emphasizing that the best interests of the child should be considered in determining a child's surname when her/his parents are not married nor share custody. (F.M.C (Jerusalem) 9182/06 *Anonymous* v. *Anonymous* (10.4.2007)).

- The Jerusalem District Court was asked to grant visitation rights to the divorced parents of two minor children. The Court consulted an expert on child development prior to reaching its decision. The Court emphasized the fact that since 1990, there had been a significant increase in the attention paid to a child's well-being. The visitation rights that the court decided upon were largely based on the Convention on the Rights of the Child. The Court considered the Convention and the Rotlevi Committee recommendations as sources of interpretation and guidance (C.M 6802/04 *Anonymous* v. *Anonymous* (19 .12.2004)).

- Yated – Non-Profit Organization for Parents of Children with Down Syndrome, together with parents of children with disabilities, petitioned the Supreme Court to order the State to finance the integration of children with disabilities (who are deemed fit) into ordinary schools. In this way, equality would be achieved for children who study in special education schools. The Court determined that the right to education is a fundamental one, which is enshrined both in article 13 of the International Covenant on Economic, Social and Cultural Rights and in articles 28 and 29 of the Convention. See specification in Chapter VI, below. (H.C.J. 2599/00 *Yated – Non-Profit Organization for Parents of Children with Down Syndrome* v. *The Ministry of Education* (14.8.02)).

Children and rights

6. Children possess certain rights that are particular to them, primarily welfare rights. These rights protect important interests, such as health and adequate living standards. Recognizing a child's rights created a concomitant duty for the parent or the State respectively. Adults have duties to protect important interests of children but these interests do not necessarily correlate with rights held by children (such as choosing whether or not to attend school, purchase alcoholic beverages, drive etc.) Other rights are shared by children and adults. The guiding rule is the child's best interest. In recent years, an increasing number of liberties previously reserved for adults have been extended to children. Under Israeli law, a child is defined as any human being below the age of 18. Any deviations from this definition must be made in accordance with a particular law applicable to the child, such as the Penal Law, which stipulates that with respect to criminal liability, the age of maturity is 12, whereas legal capacity is normally at eighteen.

The best interests of the child

7. This principle is a primary guiding principle under Israeli law, which has absorbed this relatively modern concept. The majority of child-related legal issues (including legislative, administrative and judicial issues) that arose in Israel following the submission of Israel's initial report were guided by this rule. In fact, decisions and rulings may be rendered based entirely on the child's best interests. If a child has a certain right, others have a duty not to interfere with that right.

8. One of the rights that promotes children's welfare, and which has been incorporated into Israeli law in recent years is the right of a child to be heard in matters affecting her/his interests. This right has been clearly defined in some of the latest legislative amendments, for example Amendment No. 14 to the Youth Law, which constitutes an extensive amendment that applies to several laws applicable to children, as detailed below.

9. In concluding observation No. 32 of the Committee on the Rights of the Child concerning Israel's previous periodic report dated 4 October 2002 (CRC/C/15/Add/195), the Committee encouraged the continuation and assimilation of the respect for the views of the child. In that regard, Section 1B (a) of Amendment No. 14 to the Youth Law states that minors are entitled to state their opinion and express their personal feelings prior to a decision being reached in matters that affect them (the Youth Employment Law underwent a similar amendment, below). The weight afforded to the minor's view is dependent upon the child's age and level of maturity. In order to encourage the participation of minors in matters affecting them, and for the purpose of enabling them to exercise their right to express their opinion, the minors are provided with information in a manner and language comprehensible to them (information that can cause actual harm to the minor is not conveyed). In cases where a decision has been made regarding a minor but the minor has not been afforded the opportunity to express her/his view, the minor shall be provided with such an opportunity subsequent to the completion of the decision-making process, provided that the decision has yet to be implemented, and the reason for the revocation no longer

exists. If the decision that was made conflicts with the minor's wishes, the person who reached the decision or a person acting on her/his behalf shall explain to the minor (in a manner understandable to her/him) the justification for their decision. The explanation given must be compatible with the minor's age and level of maturity. The information ought not to cause the minor actual harm or be of the kind that is forbidden to be disclosed under Section 1B (b) (1–2) to the Youth Law. The Amendment also stipulates, with respect to Section 2(a) of the Youth Law that jurists appointed to serve as juvenile court judges, may also preside in proceedings concerning the arrest of minors as well as in preliminary hearings, provided that the jurists in question undergo special educational training in youth and child care.

10. The right of the child to express her/his opinion, as stipulated in article 12 of the Convention, is incorporated in the following legislation.

11. Amendment No. 9 to the Youth Employment Law 5713-1953, (the: "Youth Employment Law") issued on 7 July 1998, supplements Section 27F–27G which sets out guidelines regarding work permits for youth. According to Section 27F(a) a work permit for the employment of a youth will not be granted if it may harm the best interests of the youth. Section 27F(b)–(c) stipulate that the Minister of Industry, Trade and Labor may issue rules, limitations and conditions concerning the employment of youth. Section 27G(a) stipulates that any youth who is capable of expressing an independent opinion, will have the right to do so with regard to the granting of a permit for her/his employment. Her/his opinion will be afforded a degree of consideration that accords with her/his age and level of maturity. According to Section 27G(b), the Minister of Industry, Trade and Labor (ITL) shall issue regulations regarding the manners in which this right can be realized.

12. A 2009 Amendment to the Hours of Work and Rest Law 5711-1951 (hereinafter: the "Hours of Work and Rest Law") determines time for recreation away from one's work in order to enable use of the lavatory (Section 20A). As mentioned, the Youth Employment Law underwent a similar amendment (Section 3 of Amendment No. 13 to the Youth Employment Law).

13. Section 24 of the Legal Capacity and Guardianship Law 5722-1962 (the: "Legal Capacity and Guardianship Law" 5722-1962 (the: "Legal Capacity Law") determines that parents who do not live together are entitled to conclude a guardianship agreement, as well as to determine the rights of the non-custodian parent. Such parents can therefore now determine custodianship and visitation rights. Such an agreement requires the approval of the courts in order to confirm that the agreement is in fact in the child's best interests.

14. Information concerning the implications of children's rights in legislation can be found in the "Indication of Information Regarding Legislation Influences on the Rights of the Child" 2" 5762-2002 (the: "Children Rights Influence of Legislation Law"). This law requires the systematic inclusion of explanatory notes in every bill regarding the bill's expected implications on the rights of children. These explanatory notes should include information as to any impingement or improvement in the rights of children and the scope of these rights as a result of the bill, as well as any changes regarding what constitutes satisfactory living conditions for children and/or services provided to children. Furthermore, the explanatory notes should include the data and information relied upon to determine whether the bill is impinging or improving the rights of children. Amendment No. 14 implemented these changes.

15. Nevertheless, in some cases, the rights of the parents or the interests of society are considered in addition to the "best interests of the child." Thus, for example, the best interest of the child is not, in itself, a cause for adoption. In a series of rulings, the Supreme Court determined that even if adoptive parents are likely to be better parents than a child's biological parents, this does not constitute a sufficient reason to remove the child from the

custody of her/his biological parents (see C.A. 623/80 *Anonymous* v. *The Attorney General,* P.D. 45(2) 72) 12.3.1980. It is permissible to place a child up for adoption only when there is a specific reason to do so, for example, when the biological parents are unable to provide sufficiently for the child. When there is a reason for an adoption, the child's best interests will be the primary consideration.

16. This report addresses the main issues raised by the Committee on the Rights of the Child in their 2003 concluding observations in the period between the submission of the Israel's previous periodic report and December 2009, as well as concerns raised by the Committee following the 2002 session before the Committee.

II. General measures of implementation (arts. 4, 42 and 44, para. 6)

The Convention's legal status

17. The Convention on the Rights of the Child was signed by the State of Israel on 3 July1990 and was ratified by the Knesset on 4 August 1991; it entered into force on 2 November 1991. Although the Convention does not have the status of law, it is often cited in rulings of both the Supreme and the lower courts as a legal basis for a decision reached and as a source of interpretation.

18. The State of Israel is also a signatory to other international conventions concerning children. Since the submission of Israel's initial report, the State of Israel became a party to several major international instruments concerning children. On 15 March 2005, Israel became a party to the ILO Convention 182 on Worst Form of Child Labour 1999. In its concluding observation No. 62 concerning Israel's previous periodic report, the Committee encouraged the State party to ratify the Optional Protocols to the Convention on the Rights of the Child: On 18 July 2005, Israel became a party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The State of Israel has also signed the Optional Protocol on the sale of children, child prostitution and child pornography on 14 November 2001, and ratified it on 19 June 2008.

19. In addition, on 14 December 2006, Israel became a party to the United Nations Convention on Transnational Organized Crime, 5760-2000. On 23 July 2008 Israel also became a party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

20. The State of Israel made no reservation**s** upon ratification of the Convention.

The Committee to examine fundamental principles concerning children and the law, and the implementation of these principles in Israeli legislation

21. A Committee chaired by the Deputy President of the Tel Aviv District Court, Justice Saviona Rotlevi, was appointed in 1997 by the Minister of Justice. The Minister appointed the Committee to thoroughly examine Israeli legislation concerning the rights of children and children's legal and welfare status under Israeli law, in light of the principles set down in the Convention on the Rights of the Child, so that Israel could meet its commitments under the Convention. The Committee was also asked to assess the need to draft a comprehensive law regarding the status of children and youth. The Committee was further asked to examine the necessity of establishing agencies and mechanisms to implement, coordinate, and regulate the rights of children as outlined by the Convention.

22. The Committee involved approximately 70 senior public and other officials from a variety of fields, including the Courts Administration and the Ministries of Justice, Labor and Social Affairs, Departments of Social Work and professors from Law and Psychology Faculties of Academia. Representatives of children's mental health services and the Israeli Bar Association were also involved in this project.

23. Six reports prepared by Sub-Committees were submitted to the Minister of Justice. These reports concerned: Representation of Children in Civil Proceedings, Out-of-Home Placement of Children, Children and their Family, Education, Children in Criminal Proceedings, and a general report. Since the submission of the general report, the recommendations of the Sub-Committees' reports have been gradually implemented. Since the submission of the Sub-Committees' conclusions, numerous developments related to the implementation of the Convention have occurred. This report provides a comprehensive survey of the advancement in legislation, and judicial decisions. The Rotlevi Committee was committed to creating equal opportunities for all children, to enable them to develop independently, to be heard and represented in matters affecting them, and to create an environment that encourages and supports their individuality. The core revisions that have resulted from the Rotlevi Committee and the various subcommittees' reports are referred to throughout this report. The main recommendations regarding the promotion of children's rights are set out below:

- Redefine the rationale for State actions with respect to children's rights.
- Redefine State liabilities with respect to children's rights, for instance, recognize and address children's grievances in various areas or submit annual reports on the state of children to the Prime Minister and the Advisory Committee.
- The Committee recommended the establishment of an Advisory Committee within the Ministry of Justice. The Committee recommended that the Advisory Committee be empowered to provide opinions to the Minister of Justice regarding laws passed with respect to children and judicial rulings that effect child's rights, and provide updates concerning organizations that operate to promote children's rights etc.

Recommendation regarding the adoption of a comprehensive children's law

24. The Committee recommended the adoption of a comprehensive Children's Law. Such a law, the Committee believed, should settle the legal relations between children, their parents and the State. The committee's recommendation was to take all child-related protection laws, such as: the Legal Capacity Law, the Youth (Care and Supervision) Law 5720-1960 (the: "Youth (Care and Supervision) Law"), the Adoption of Children Law 5741-1981 (the: "Adoption of Children Law"), the Kindergartens Supervision Law 5725-1965, the Safety of Protected Persons Law 5726-1966, and the Welfare (Procedure in Matters of Minors, Mentally Sick Persons and Absent Persons) Law 5715-1955 and incorporate them into one extensive Children's Law, that shall consist of existing laws and unambiguous rights of children.

Recommendations regarding the ban on physical punishment

25. The Committee formulated its recommendations against the background of the multicultural society which exists in Israel. The Committee's recommendations were based on the following premise: physical punishment is a breach of a child's right to wellbeing and physical safety, and is accordingly illegal. The Committee concluded that in order to guarantee a reduction in both the amount and degree of physical punishment directed against children in Israel, extensive regulation was required. The followings are its main recommendations.

Legislation

26. The Committee strongly condemned the usage of any physical punishment against children. Nevertheless, the Committee distinguished between physical punishment imposed by immediate family members (such as a parent) and physical punishment imposed within an educational framework.

Minimizing physical punishment inside the family

27. A child is entitled to protection from physical harm and/or humiliation. The Committee proposed that the applicable law would be a Civil Law rather than a Criminal Law.

Minimizing physical punishment in the educational framework

28. The Committee recommended that specific criminal sanctions apply to educational personnel who impose physical punishment against children.

Education and explanation

29. The Committee recommended that Government bodies implement explanatory, educational activities in order to raise the consciousness of individuals against the use of physical punishment. The Committee encouraged the use of different methods of discipline.

Prevention

30. The Committee recommended that the Government take actions against any violations of the prohibition on physical punishment.

Adaptation of laws applicable to children

31. Recently, there has been extensive legislative activity on behalf of children. Many new bills, as well as amendments to existing laws, have been proposed, some of which have been finalized.

32. An indication of the information concerning the implications of legislation can be found in the Children Rights Influence of Legislation Law. This law requires the systematic inclusion of explanatory notes in every bill regarding its expected implications on the rights of children.

33. These explanatory notes should include information regarding any impingement or improvement of children's rights as a result of the bill in question, any changes regarding the basic living conditions that need to be met, and any amendments to services provided to children. Furthermore, the explanatory notes should include the data and information which was employed to determine whether the bill is impinging or improving children's rights.

34. Section 2G of the Business Licensing Law 5725-1965, forbids businesses from tattooing and piercing minors under the age of sixteen without the consent of the minor's parents or custodian. This does not apply to ear lobe piercing.

35. An initiative for a comprehensive reform of the Youth Law led to the adoption of Amendment No. 14 to the Youth Law on 21 July 21, . The Amendment entered into force in July 2009. This Amendment greatly improves the treatment of minors in criminal proceedings.

Implementation of the Convention by National and Local Government

36. One measure taken to effect the implementation of the Convention by National and Local Government was the adoption of the *P*rohibition of Selling Lottery and Gambling Tickets to Minors (Legislation Amendments) Law 5767-2007. This Amendment forbids

any offering, selling or distributing of tickets (or other means of participation in gambling activities of any kind) to a minor. This law imposes a punishment of six months' imprisonment in the event that its terms are breached.

37. The Directives and general guidelines of the Director General of the Ministry of Education refer to various aspects of children's rights. For example, the Ministry published a Directive regarding the involvement of divorced/separated parents in school-related projects and events, such as school trips. The Directive stipulates that the school shall communicate with both parents, but shall provide updates and notifications regarding any other school-related issues to the court-appointed custodian, and/or in accordance with the best interests of the child (Directive 5763/5(a), January 2003).

38. In its concluding observation contained in paragraph 22(b) concerning Israel's "previous periodic report, the Committee encouraged the dissemination of the Convention, Directive 5767/6 (February 2007) generate the implementation of the Pupils Rights Law 5761-2000 (the: "Pupils Rights Law") and its amendments, including the distribution of a brochure entitled "In the Path of Rights" aimed at promoting the awareness and inculcation of the Law by pupils. The Ministry's Division for pupils' rights is charged with guiding teachers and creating an informative disc regarding the Law for teachers in primary and secondary schools. The disc includes movies, presentations and detailed information regarding the manner in which schools and teachers at school can promote an atmosphere that embraces pupils' rights.

39. Directive 5765/3(a) (September 2005) published the amendments to the Youth Law and the Evidence Procedure Revision (Protection of Children) Law 5715-1955 (the: "Evidence (Protection of Children) Law"). It stipulated that in cases where a pupil is under investigation and requests that her/his parents not be notified about the investigation, the school and its personnel will help the pupil manage the results of the investigation.

40. Below are the primary changes introduced by Amendment No. 14 to the Youth Law concerning legal proceedings.

Police investigation

41. When a child is suspected of committing a crime and is summoned to a police station to undergo questioning, the minor's parents or a close relative (in the event that the parent cannot be located despite reasonable efforts to do so) must be notified.

42. A child residing at a group home will be summoned subject to the group home's superintendent's notification and parental knowledge. The policy with respect to a group home is the same as above – in the event that the parent cannot be located despite reasonable efforts to do so, then another adult who is a family member, that is known to the minor, will be notified.

43. In other circumstances (such as in the event of a minor's detention) the Police Commissioner in charge at the time, is required to notify the parents or other close relative as to the child's whereabouts.

44. Simultaneously, the commissioner is required to inform the child that the family member has been notified. When a child, who is suspected of having committed a crime, comes to a police station on her/his own initiative, or was brought to the police station by someone else, a parent or a family member must be notified, unless the minor expressly states that she/he objects to the notification.

45. Notification will not be given when the minor expresses a clear objection. If the minor has been arrested, her/his objection is considered in light of her/his age and level of maturity. The minor's objection must be specified, reported and filed.

46. The Police Commissioner's final decision — whether or not to notify the minor's parents — will be documented visually, vocally or in writing. The Commissioner's decision must be detailed, and must afford substantial consideration to the minor's objection, if the minor objects. If the Commissioner decides not to inform the parents, she/he must inform another close relative.

47. In its concluding observation contained in paragraph 29 concerning Israel's previous periodic report, the Committee recommended that the State party continue to fully incorporate in legislation and practice the principle of the best interests of the child. The above principles demonstrate the assimilation of such considerations. However, under the circumstances below, an authorized officer may summon a minor, who has not been arrested, to undergo an investigation without giving any adult notification thereof if:

- The notification may physically or mentally harm the child, or otherwise impact upon her/his or another person's wellbeing.

- Obstruction of justice in the event that notification is given, is foreseeable as a result of a family member's involvement in the suspected crime.

- There is a national security risk.

48. An authorized officer may consider (when issuing an order not to notify a family member) a Group Home Superintendent's statement. Such statement must disclose a threat against the minor's physical and/or mental wellbeing. When such an order is issued, the Police have eight hours before they are required to give notification to a family member, or a period until such time as the reason for the non-notification ceases to exist (whichever is the earlier).

49. In cases where notification is postponed, the period of additional postponement shall not exceed six hours (except for cases where genuine danger to the child's wellbeing or safety exists, or where there is a foreseeable risk of obstruction of justice, or there exist national security risks).

50. When a suspect, who is a minor, is summoned to undergo an investigation that has been agreed upon by her/his parents (or family member) in advance, she/he is entitled to have them present during the investigation and/or to consult with them. This will not apply if the minor objects to the family member's presence or she/he is placed under arrest. This is slightly different to the situation described above as the parents know about the investigation in advance but are prohibited from participating in the investigation (rather than not being notified).

51. An authorized office may bar a family member from the investigation room in the following circumstances:

- The presence of the family member could cause harm to the minor or impair the investigation.

- The presence of the family member may physically or mentally harm the child or otherwise curtail her/his or another person's wellbeing; obstruction of justice as a result of the family member's involvement in the suspected crime is foreseeable; or there is the possibility of a national security risk.

- There is a foreseeable obstruction to the investigation or an obstruction to some other suspect's investigation and/or an obstruction of a potential arrest. Another reason to ban the presence of family member during an investigation or to prevent consultation with a family member is the potential loss of evidence that may result.

- It will create difficulties for the prevention of other crimes.

- It will create difficulties for the minor's release.

- It will cause the disclosure of another minor's private affairs (infringement of her/his right to privacy).

52. A decision to investigate a minor with no parent or close relative present shall be documented. The decision must include the justification therefore, as specified by the officer in charge.

53. If a parent's or a family member's presence in the investigation room interrupts or interferes with the investigation in any way, for instance, by threatening the child in a direct or implied manner, the investigator is authorized to remove them from the room. A decision to remove a parent from the room must be in writing.

54. Prior to the investigation of a minor, the investigator shall notify the minor of her/his rights and obligations particularized by law in simple intelligible language, that is compatible with the minor's age and level of maturity.

55. There is no requirement to appoint an attorney to represent a minor in every case in which a minor is involved, even though the proceedings may infringe the minor's rights (with her/his parents' tacit consent or even support). However, Family Matters Courts and Juvenile Courts are authorized to appoint a legal guardian for a minor if she/he is considered to be a "minor in need" under the Youth (Care and Supervision) Law. In such a case the court will appoint a separate defence council to represent the minor.

A minor's rights in legal proceedings are as follows

56. A minor has a right to a private consultation with a defence attorney and a right to be represented by a defence attorney. The Public Defenders' (Entitlement of Additional Minors to Representation) Regulations 5758-1998 entitle a minor detainee or a minor involved in legal proceedings to be represented by a public defender (Amendment No. 14).

57. Section 18(a) of the Youth Law empowers a Juvenile Court to appoint counsel for minors in legal proceedings on the basis of the best interest of the child. The court enjoys this power throughout the criminal proceedings, including during the investigation stage. Moreover, the minor is entitled to any right valid under the Public Defenders Law and to have a parent or a family member present.

58. Directive 5765/4(a) (December 2004) focuses on the recognition of suicidal behaviour and the prevention of suicide attempts by children. The Directive details warning behavioural signs and explains available methods of treatment for school personnel.

59. Directive 5763/2(a) (October 2002) determines the means to remove a pupil from a class or from school, and preliminary efforts to be taken in order to prevent such a removal, including the notification of the parents, warnings etc. (Director General of the Ministry of Education).

Mechanisms regulating implementation of the Convention

60. This issue was addressed in Israel's initial report. No change has occurred in this respect since the submission of Israel's initial report.

The Knesset Committee on the Rights of the Child

61. The Knesset Committee on the Rights of the Child was addressed in Israel's previous Report. Amendments to legislation and new bills have been proposed by the Knesset Committee, some of which were formulated by the Committee as a whole and some by individual Knesset members. The Ministry of Education and the Ministry of Social Affairs and Social Services aspire to improve and adjust existing laws so as to

integrate the articles of the Convention. Representatives of the National Student and Youth Council, with the collaboration of the Israeli National Council for the Child, drafted various bills; both have also participated actively in the Knesset Committee's discussions.

62. On 18 December 2001, the Committee held a session regarding the formation of Municipal Committees to promote the rights enshrined in the Convention. The Knesset Committee reviewed the functioning of Municipal Committees in municipalities where such Committees have begun to operate.

63. In other sessions held by the Knesset Committee, the principle of the best interest of the child has been focused upon. This focus has resulted in, for example, the right of a child to have regular contact with her/his grandparents, the right of a child to be raised by her/his family, the right of a child to have contact with her/his parents. Emphasis has been placed on the Convention as a means of preventing the deportation of minors, and as a means of imposing a duty on the State to ensure the provision of certain rights to all children, including, the right to education, the prevention of violence towards children, and the right to a name and identity. The Convention also serves to guarantee that a section of the budget is allocated so as to implement the State's duties. Special sessions of the Knesset Committee were dedicated to the ratification of the 1999 ILO Convention No. 182 Worst Forms of Child Labour, and to the experience of an Israeli delegation to the United Nations General Assembly, which was sent to discuss the rights of the child and its relevance to children in legal proceedings.[1]

State Comptroller

64. As yet there is no specific mechanism available for regulating the implementation of the Convention. Nevertheless, the State Comptroller's Office publishes an annual report citing shortcomings in government activities, including violations of children's rights. For example, the 2007 State Comptroller's annual report (published in May 2008) reviewed the Ministry of Education's attempts to address the hooliganism and violence in the school system. The report found that between the years 1999–2006 there were no changes in the frequency of physical, social and sexual violence in educational institutions. During these years, a third of school children were harassed and intimidated on school premises. Moreover, the 2008 annual report also highlighted difficulties in the ability of the Youth Probation Service to fulfil its role in rehabilitating offending youth.

65. The 2007 State Comptroller Report on Local Authorities revealed that the position in schools situated in Ultra-Orthodox and Arab localities is far from satisfactory. Most of these schools do not comply with the Ministry of Education's regulations regarding infrastructure and maintenance, and some even pose a threat to the health of the pupils or even to their lives.

66. The 2006 State Comptroller Report on Local Authorities illustrated that in the four municipalities examined, there was no programme in place to assist female minors in distress, and assistance was granted to these girls following a significant delay, if at all. Furthermore, according to a 1999 Government Resolution, the Ministry of Social Affairs and Social Services was to publish a plan for the treatment of, and follow-up on, female minors in distress. The 2006 State Comptroller Report indicated that during 2005, approximately 17,000 female minors in distress were located and assisted by the Local Authorities' social workers.

[1] This was conducted on 5 March 2001 (see the protocol of the session – http://www.knesset.gov.il/protocols/data/html/yeled/2001-03-05.html).

67. The 2004 State Comptroller Report on Local Authorities examined the issue of private accident's insurance for children within the education system. Under a 1994 amendment to the Compulsory Education Law 1949-5709 (the: "Compulsory Education Law") the local education authority is obligated to insure pupils that are entitled to free education within its jurisdiction. The State Comptroller found that in several local authorities, the parental-payment required for the insurance exceeded the maximum stipulated by the Ministry of Education, and that several populations of pupils do not enjoy the insurance.

The Ombudsman

68. In Israel, the State Comptroller also serves as Ombudsman. He performs this function by way of a special unit within the State Comptroller's office – the Office of the Ombudsman. The Ombudsman investigates complaints against statutory bodies that are subject to audit by the State Comptroller, including Government Ministries, local authorities, state enterprises and institutions, and government corporations, as well as their employees.

69. Complaints relating to the activities of public bodies, which the law does not authorize the Ombudsman to investigate, such as banks, insurance companies and other non-governmental entities that serve the public, are often forwarded to the bodies statutorily charged with their supervision, such as the Supervisor of Banks, the Supervisor of Insurance and the Director of Capital, Insurance and Savings. Thus, the Ombudsman is an effective address for dealing with problems of discrimination within a broad array of governmental and public institutions.

70. For example, in 2007, the Ombudsman investigated a complaint regarding the lack of service available in Russian in the Ministry of Education; and a complaint regarding flawed treatment in exemptions granted from the Compulsory Education Law. This had resulted in a minor's missing his matriculation exams due to the Ministry's refusal to open an examinee card for the minor who did not study in a recognized institution. Both complaints were found to be justified.

71. In 2003, the Ombudsman investigated a complaint regarding the refusal of a school to refund payment made for a school-trip, which was paid by the parent prior to the trip, after the child did not participate in the school trip as a result of the security situation. These complaints were found justified and the relevant bodies acted according to the recommendations issued by the Ombudsman.

Reducing discrepancies among groups and geographic areas

72. The efforts to reduce gaps among population groups have continued since the submission of Israel's initial report. These steps are discussed extensively in the relevant chapters contained hereinafter.

Voluntary organizations that implement and disseminate the convention

73. This issue was discussed in Israel's initial report. No change has occurred in this regard since the submission of Israel's initial report.

Non-government organizations' interaction with the government

74. Many voluntary organizations have extensive contact with government agencies. While non-government organizations are not systematically involved in planning policy, their influence has continued to be felt in recent years, and they often take the initiative in developing services and promoting legislation in the spirit of the Convention, which is aimed at the facilitation of the best interest of the child.

Disseminating the Convention

75. As aforementioned, in the observation contained in paragraph 22(b) of the Committee's concluding observations, it is encouraged to disseminate the Convention. And thus, the English, Hebrew and Arabic text of the Convention appears on the website of the Ministry of Justice, and in Hebrew and in English on the Ministry of Education website – a popular website for Israeli pupils and students.

Education and the Convention

76. Moreover, the Ministry of Education distributed the Convention on the Rights of the Child to the majority of schools throughout the country. The purpose of this distribution was to ensure that pupils of all ages are familiar with the Convention.

77. The Pupils Rights Law and its Regulations were published in the Director General's section of the Ministry of Education, and are posted in Hebrew and Arabic announcements in schools once every two years, in accordance with Section 4 of the Pupils Rights Law.

78. Between the years 2000 and 2005, the Ministry of Education distributed a notebook written in Hebrew and Arabic that included a summary of children's rights as laid down by the Convention. The Ministry also distributed a summary of the Convention to all schools in Hebrew, Arabic, English, Russian,[2] Amharic and Spanish. These materials were also published on the Internet.

79. Annual teacher's training was conducted in 2008 in Oranim College. In 2010, an additional teacher's seminar will be held in the northern and southern districts for the Muslim, Bedouin and Christian populations.

80. A unique programme designed for blind children was conducted by the Ministry of Education between 2005 and 2008. In this programme the pupils studied the essence of the Convention, in addition to the means available for its implementation. The children implemented the Convention in their lives through the use of communication skills acquired during the programme (radio broadcasting). Thus, the pupils established the foundation for verbal abilities, diction, and intonation. They are now able to express their personal opinion clearly and from different points of view. Another interesting programme involved high school pupils who became familiar with the Convention and their rights by means of joint activities for children in Israel and abroad. The pupils published articles in an international journal, and two of the pupils were sent to the United Nations General Assembly to participate in global discussions on the subject of "A World Fit for Children."

81. The Unit for Supervision and the Implementation of the Pupils Rights Law in the Ministry of Education, together with the National Parents Organization, is conducting joint seminars for parents concerning how to assimilate children's rights within the family and at school.

82. According to the head of the Israel Psychologists' Union, the chief psychologist of the Ministry of Education (MOE) is disseminating the Convention to educational psychologists and SHEFI (Psychological Counseling Services) stations, and encouraging psychologists to assist schools in taking responsibility for respecting and promoting the rights of pupils.

[2] See annex No. 1 enclosed.

Police officers and police youth experts in the police

83. According to the head of the youth section at police headquarters, the Israeli Police provide guidance and training with respect to child victims of crime, with the intention of increasing the efficiency and sensitivity of the Police in handling youth. Police investigators attend special courses offered by the Police Youth Department in order to qualify as juvenile interrogators. According to Section 3(a) of the internal police regulations (Israel Police, Minors/Youth Department Directives (the: "Police Directives Minors"), only a Police youth expert (an informal educational instructor) or a specially trained police officer may interrogate a minor suspect. Many of the rules governing the Police's handling of minors are not defined by statute, but may be found in internal police regulations (Israel Police, Minors/Youth Department Directives).

84. The youth interrogators qualification course reflects the spirit of the Convention on the Rights of the Child and thus, officers receive information on the distinct laws and procedures available for handling youth and on community services for minors and youth. Among the topics taught is the encouragement of a reciprocal relationship between the youth officer, a social worker and the minor.

85. Officers also attend lectures given by juvenile court judges concerning detailed procedures for investigating a minor. Currently, several changes are being affected. These changes relate to minors who are suspected of having committed sexual offences, the promotion of tolerance for cultural differences, the prevention of crimes, the enhancement of investigation methods and the level of care provided by police officers. Regarding minors who have perpetrated crimes, new guidelines, regulations and laws drafted in the spirit of the Convention have been distributed to police youth experts and field units, and are strictly enforced.

III. Definition of the child

86. The definition of a child was discussed in Israel's initial report. No change has occurred in the definition since the submission of Israel's initial report.

Taking legal action: the legal capacity of minors

87. This issue was discussed in Israel's initial report. No change has occurred in this area since the submission of Israel's initial report.

Permission to employ children

88. This issue was discussed in Israel's initial report. No change has occurred in this area since the submission of Israel's initial report.

Marriage

89. The phenomenon of underage marriage still takes place in certain Israeli population groups, including ultra-orthodox Jews originating from Georgia, and Arabs. According to the Central Bureau of Statistics, in 2004, 1,360 Arab-Israeli girls, younger than seventeen, were married. Additionally, 44 per cent of Arab women were married before the age of nineteen. In 2005, the rate of marriage for Muslim girls was more than 2.5 times higher than that of Jewish girls. Also in 2005, 30 requests to allow the marriage of minors were submitted to Family Matters Courts – seventeen were approved. During the years 1997–2005, more than half of the 251 requests for the marriage of minors were approved. During the years 2000–2006, 41 complaints were submitted to the Police due to violations of the

Marriage Age Law 5710-1950. In half of these cases criminal files were opened. In all other cases it was decided not to prosecute.

Consent to sexual relations

90. Recently, several provisions of the Penal Law were amended to add specific provisions regarding sexual abuse by a therapist. This is discussed in a Chapter VI B.

The compulsory draft, volunteering for military service, and participation in acts of war

91. The State of Israel signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 14 Novembe2001, and ratified it on 18 July 2005. In accordance with article 10(2), the Optional Protocol entered into force for Israel on 18 August 2005.

92. The State's initial report detailing Israel's implementation of the Optional Protocol on the involvement of children in armed conflict was submitted to the Committee in March 2008.

Criminal and tortuous liability

93. These issues were discussed in Israel's initial report. No changes have occurred in these areas since the submission of Israel's initial report.

Statute of limitations

94. This issue was discussed in Israel's initial report. No change has occurred in this area since the submission of Israel's initial report.

Revocation of liberty

Detention

95. The Youth Law and the Criminal Procedure Law established restrictions regarding minors in detention. Adults may be detained without a court order for 24 hours, children who are under fourteen years of age may be detained without a court order for only twelve hours; while in special circumstances, the on-duty officer at the police station can order the continued detention of a minor for an additional period not to exceed twelve hours. Amendment No. 14 to the Youth Law stipulates that a decision to hold a minor on a Saturday or on a holiday requires the approval of the Youth District Officer.

96. The Amendment allows for a period of extension not to exceed 24 hours in the following circumstances:

- Constitution of a sufficient cause specified in Section 29 of Criminal Procedure (Enforcement Powers Arrest) Law 5756-1996 (the: "Criminal Procedure (Arrests) Law".

- Where a decision to extend the arrest of a minor in detention could not be made prior to midnight, and therefore the minor could not be brought before a judge due to the termination of working hours. Hence, the minor shall be brought before a judge immediately upon the resumption of working hours. With regard to minors between the ages of fourteen and eighteen, at present the arrangement for such a minor's detention without a court order is similar to that of an adult they may be detained without a court order for a period of up to 24 hours; in special circumstances, this period may be extended by an additional 24 hours.

97. The Youth Law and the Criminal Procedure (Arrests) Law imposes restrictions pertinent to the detention of minors. According to this law, the period of a minor's detention prior to indictment is as follows:

98. The Amendment in question reflects a new approach that accords with the spirit of the Convention on the Rights of the Child. Under Section 17 to the Criminal Procedure (Arrests) Law, a Juvenile Court is authorized to order the detention of a minor for a period that is not to exceed ten days (fifteen days for an adult). A minor who is a suspect may not be detained continuously for a period in excess of twenty days (30 days for an adult). A petition to extend the detention of a minor may be filed only subject to the Attorney General's approval.

99. Under Section 21 of the Criminal Procedure (Arrests) Law, which addresses the detention of a minor following the filing of an indictment, the court may order that the minor be detained until the termination of proceedings subject to Amendment No. 14 to the Youth Law rectifications:

(a) A minor who is under 14 years of age may not be detained until the termination of proceedings against her/him;

(b) A minor may not be detained continuously for a period in excess of twenty days.

100. Section 59 of the Criminal Procedure (Arrests) Law stipulates that an adult may be detained for a maximum period of 75 days if an indictment has not been filed. In the case of a minor, the maximum period is limited to 40 days.

101. A minor that has been accused of a crime may be detained for a maximum period of 45 days, as opposed to the 90 days which an adult who has been accused of a crime may be detained (Section 62 to the Criminal Procedure (Arrests) Law).

102. The amendment further states that when no verdict is reached, a minor is not to be detained for a period in excess of six months (nine months for an adult).

Alternative to detention

103. A closed residence may serve as an alternative to imprisonment. Closed residences, as defined in the Youth Law, serve as an out-of-home-placement or the locus of custody for a minor referred by the Supervisor of Residences. A minor may be placed in a closed residence as a penalty or as a treatment alternative to a penalty. Also, a minor who is under the age of criminal liability, and a minor who is a danger to her/himself and/or others, and who has been declared a minor in need, may be placed in a closed residence. The prohibition against a minor's leaving a place of residence (on condition of bail) (according to Section 48(a) (9) of the Criminal Procedure (Arrests) Law) is for a maximum period of nine months. Nevertheless, the court may issue an order necessary to extend the condition for an additional period not to exceed 90 days. If a court issued such an order on condition of bail for over sixteen hours a day; the order will be re-examined by the court once every three months during that time.

Separation between minors and adult detainees

104. In its concluding observation contained in paragraph 61 concerning Israel's previous periodic report, the Committee on the Rights of the Child recommends that the system of juvenile justice fully integrates into its legislation and practice the provisions of the Convention. Section 13 of the Youth Law requires a separation to be enforced between minor and adult detainees. This section was amended in 2008 to include more detailed orders regarding the required separation. Amendment No. 14 sets that although a minor is to be held in a separate detention facility for minors or in a separate section of a general

detention facility, a female minor can be held in a detention cell together with an adult female detainee. This is subject to the minor's agreement and the following conditions: holding the minor alone is not in her best interests; holding the minor with an adult detainee is in her best interests (or there is no possibility of holding the minor with another minor) and the holding of the minor with an adult detainee does not risk the physical or mental health of the minor. Such holding is to be approved by a court within 24 hours. The amendment also stipulates that a detained minor who is in the custody of the prison's authority is entitled to a meeting with a social worker within 24 hours, or as soon as possible after the Sabbath or a holiday ends.

Detention for protective purposes

105. It is permissible to detain a minor for the purpose of self-protection. Section 10(3) of the Youth Law stipulates that "the judge before whom a minor is brought is authorized to order the minor's detention if this is required to ensure the minor's personal safety or to remove him from the company of an undesirable individual." A police officer is authorized to order the detention of a minor on such grounds for twelve hours, until the minor is brought before a judge, and in special circumstances up to 24 hours.

Children in criminal procedure

106. A 2004 Amendment made several changes in this area, including those set out below.

107. The implementation of special procedures allowing children to testify in court, in relation to offences to which the Law applies (Section 2d). In this regard, the child's testimony will be permitted by the youth investigator subject to certain conditions being met. The investigator may require, for example, that the child testifies via closed circuit television, on one specified date, not on the witness stand, in the judge's chamber, etc.

108. In the concluding observation contained in paragraph 32 of its concluding observations, the Committee on the Rights of the Child encouraged the continuation and assimilation of the respect for the views of the child. And thus, decisions of the youth investigator and the Court concerning testimony and testimonial measures, will be concluded only after hearing the opinion of the child, if she/he can express her/his own opinion. The child's opinion will be weighed according to her/his age and her/his level of maturity (Section 2f).

109. Once the youth investigator reaches a decision as to the child's testimony, whether or not to allow her/him to testify, she/he must, without delay, re-evaluate her/his decision in respect of the admission of the child's testimony. (Section 2g).

110. The decision of a children's' investigator may be re-examined by a senior youth investigator (Section 2h).

111. A youth investigator must provide substantial reasons for her/his decisions (Section 2i).

112. The above 2004 amendment to the Criminal Procedure Revision (Examination of Witnesses) Law 5718-1957 established the rule that a child's investigation must be conducted with her/his parent's knowledge, except in certain circumstances. For example; if there is a concern as to any harm to the child's physical and mental wellbeing, or that the suspect is a family relative and there is a concern of possible harm to the child. Moreover, when there is a substantial difficulty in informing the parent despite reasonable efforts having been taken to do so, and the delay might foil the investigation or the prevention of a crime (Section 4a). In addition, the amended law states that if an investigation without the parent's knowledge is required, the child may, under specific circumstances, be removed

from the place where she/he is located (school, kindergarten, etc.) (Section 4b). The conditions include such requirements as consultation with educational workers who know the child, providing explanations to the child, supplying identification details of the youth investigator to the administrator of the institution in question, etc. An investigator's decision to investigate a minor without the presence of a parent or a close relative must be documented and be substantially reasoned. However, if a parent or family member is present in the investigation room, but interrupts or interferes in any way such as, by threatening the child in a direct or implied manner, the investigator is authorized to remove the parent from the investigation room. The youth investigator must provide substantial reasons for her/his decisions.

113. A 2006 amendment stated that a child with a mental disability is to be questioned by a special youth investigator in accordance with the Investigation and Testimony Procedures (Suitability to Persons with Mental or Physical Disability) Law 5766-2005.

114. Amendment No. 10 to the Evidence (Protection of Children) Law issued on 12 August 2004, supplements Section 2(f) to the Law. The Amendment stipulates that a youth investigator shall decide whether to allow or exclude the testimony of a minor, as well as determine the conditions under which the testimony is given, according to Section 2(d) of the Law. The Court shall terminate the testimony or condition it, according to Sections 2(c) and 2(e) of the Law, only after a minor, capable of forming an opinion, was given a chance to express her/his opinion regarding her/his testimony and the manner of collecting it. The opinion of the minor shall be given proper consideration according to her/his age and maturity.

115. The 2008 Amendment No. 14 to the Youth Law adds the following conditions, with regard to the investigation of a minor:

- The Amendment creates a rule that a child not suspected of committing a crime may not be investigated during night hours, unless the child her/himself filed the complaint or if a Child Protection Officer was convinced that the child is in danger. In such cases, the Amendment stipulates that a Child Protection Officer (Supervisor of the social workers team with regard to children protection) is authorized to conduct the investigation at night (Section 9 of the Youth Law).

- Amendment No. 14 also broadened the definition of parental notification. The officer in charge of a police station to which a minor has been brought must notify one of the minor's parents.

- Children are entitled to a consultation with a parent prior to their investigation as well as to have a parent or a close relative present during the investigation. There is also an obligation to inform the minor of her/his right to consult with an attorney, to have legal representation, and the right to have a parent or other family member present during an investigation.

116. Recently, the Tel-Aviv District Court determined that visual documentation of a suspect's investigation can be published following a court decision allowing such publication, even if the proceedings are still pending. However, the publication may not include reference to the testimony of witnesses (other than witnesses who are police officers), and shall not include any identifying details regarding a minor involved directly or indirectly in the case (Cr. C. 40247/07 *The Israeli News Company Inc.* v. *The State of Israel* (25.12. 2008)).

Legal representation without parental consent

117. This issue was discussed in Israel's initial report. On 27 June 1997, the former Minister of Justice appointed the Rotlevi Committee to examine fundamental principles concerning children and the law (see above) and accordingly, in 2003, six reports prepared

by Sub-Committees were submitted to the Minister of Justice, one of which addressed the increase in child representation in Civil Proceedings.

Representation of children in civil proceedings

118. The separate representation of children in civil proceedings is sometimes essential to ensure the maintenance of appropriate legal procedure. The Supreme Court, as well as the courts of lower instance, recognize the significance of this trend and have therefore promoted its development in recent years. The Sub-Committee on the Representation of Children in Civil Proceedings raised this issue by laying the foundations for specific laws drafted in the spirit of the Convention. Hence the Committee formulated a number of recommendations concerning children's representation.

119. The Sub-Committee made use of the Convention's principles, as well as adopting and adapting additional models from different countries around the world. The purpose of the recommendations is not to "attach" an attorney to every child, but rather to assist children who experience unusual difficulties resulting from judicial matters. The Committee's recommendations relate to representation of minors up to eighteen years of age and include civil courts and courts of appeal. The Sub-Committee established the following recommendations:

A child's right to representation

120. Family legal disputes involve both parties' interests. However the child's interests may go unnoticed and unaddressed. Such circumstances require the courts to intervene and ensure that the child's opinion is heard. Under optimal circumstances, the child ought to be represented by her/his parents. However, when the best interests of the child are impaired, it is the State's duty to provide separate legal representation to act on behalf of the child.

Court discretion

121. The Sub-Committee formulated principles aimed at assisting the court in deciding whether to appoint a representative on behalf of the child. Below are two examples where there is an obligation to appoint legal representation on behalf of the child:

(a) Parents are unable to represent their child's best interest, either because of a conflict of interest or because of a lack of an individual ability. In such a case, legal representation will be appointed to represent the child, merely for the purpose of court proceedings;

(b) A child above twelve years of age that is capable of expressing her/his will articulately, will be appointed legal representation to enable the conveyance of her/his wishes to the court.

122. The degree of frequency in representation alters in accordance with the child's level of maturity and personal skills. The Sub-Committee distinguishes between children below and above the age of twelve:

123. When a child is below twelve years of age, the representation is similar to a legal guardian appointed by law. Child representation endorses the welfare principle, thereby the child's wishes and desires gain more credibility as she/he grows older.

124. When a child is above twelve years of age, legal representation is an expression of the minor's wishes and desires.

125. The Sub-Committee recommends that the court's discretion concerning children between ages ten to fourteen remain in the hands of the court. Notwithstanding, the minor's level of maturity and legal capacity must be considered. Such capacity is expressed in the child's ability to understand matters at hand.

126. The Sub-Committee also recommended acknowledging the legal representation of children as a (separate) complicated interdisciplinary legal field. This area is in need of professionals in: (1) Child care (2) child law (3) child development.

127. The Sub-Committee recommended that the court compile and maintain a list of professionals in the field of child legal care and appoint professionals solely from that list. Moreover, the Sub-Committee suggested adopting the interdisciplinary model of professional assistance – that is a counsellor (psychologist, psychiatrist or social worker) that works together with the legal representative in order to achieve the best results for children involved in legal affairs.

128. The Sub-Committee recommended that minor's representatives be subject to additional legal ethical regulations that include, among other things, directives regarding the transmission of information to minors, confidentiality, and immunity towards minors in legal proceedings. Moreover, the Sub-Committee recommended supervising the continuity and consistency of a minor's representation, assurance of a minor's participation in legal proceedings and imposing an obligation to act in good faith in reaching agreements between the parties involved.

129. The person who acts as guardian or as the child's legal representative is subject to a full fiduciary duty. As such, the person in charge of the child's legal matters is obliged to treat her/him with respect and give significant weight to her/his wishes.

130. The Sub-Committee recommended setting up a legal representation unit for the sake of children and youth. As aforementioned, the State is responsible for the fulfillment and finances of a child's right to legal representation and therefore the Minister of Justice should form such a unit.

131. The recommendations determine that the child, her/his parents, the representative of the State, the State attorney's Office and the social workers from the Family Matters Courts (Assistance Unit) are allowed to approach the court in order to ask for the appointment of legal representation for a child.

132. Legal instructions and case law also emphasize the right of the child to be heard when there is a conflict between her/him and her/his parents. Under the *Legal Capacity Law*, parents or guardians are appointed by the court to represent minors in legal proceedings; they can however, appoint someone else to represent their child. The Law authorizes the court to appoint a representative on behalf of the child (a legal guardian or an attorney).

133. Generating a Public Defense Attorney representation makes it possible for additional minors to be represented in criminal proceedings. The Public Defenders Law provides funding for complete child representation.

Military Court proceedings

134. Amendment No. 14 to the Youth Law effected several other changes, including to Military Court proceedings.

135. Section 45 of the Youth Law determines that Youth Law Regulations shall not apply to Military Courts' proceedings and the Military Justice Law 5715-1955 (the: "Military Justice Law"). However, Section 45(a) of the Youth Law establishes that a sixteen-year old minor is indictable in a Military Justice Court (consistent with the Protection (Urgency) Directives 1945). Amendment No. 14 stipulates that Juvenile Courts which arraign recruited minors above sixteen years of age shall be considered as Military Courts. Hence, Military Judges who are trained and qualified to engage in child and youth matters as defined in Section 2(a) of the Youth law: "Proceedings Regarding Juvenility" are appointed.

Adoption

136. According to the Adoption of Children Law it is possible to adopt a child who has not yet reached the age of eighteen. It is not possible, however, to adopt a foetus before it is born or an adult above the age of 21. According to Section 7 of the Adoption Law, the court will not grant an adoption unless it is convinced that a child above the age of nine — or who has not yet reached the age of nine but is capable of understanding the issue — stated that she/he agrees to the adoption by the specific adopter(s).

137. The court must listen to the opinion of a much younger child who is not an infant in each adoption case. On the other hand, there are cases where the court may issue an adoption order without revealing the fact of the adoption to the adoptee. There are two conditions that apply in this regard:

- The adoptee does not know that the adopter is not her/his parent
- All signs indicate that the adoptee desires the continuation of the relationship with the adopter

138. The best interest of the adoptee requires not apprising her/him of the adoption. In lieu of hearing the adoptee in person, the court may be convinced of the adoptee's wishes in some other manner, for example, through a Child Protection Officer.

139. Additional changes regarding the Adoption Law shall be delineated below.

Changing one's name

140. As a rule, under the Names Law 5716-1956 (the: "Names Law"), the names of minors are chosen and may be changed without their consent. However, in certain cases the court and the Minister of Interior are authorized to intervene in the decision of parents or guardians in this matter.

The right to a name

141. On 18 February 2008, an amendment to the Names Law was issued, addressing the determination of the father's name (detailed in a minor's State-issued identity card) if his identity is unknown. For a child under the age of sixteen, the mother may either determine the unknown father's first name or make no determination at all. However, if the child is sixteen years or older and the father's name is unknown or undetermined, the child may either determine the name of the father or leave it undetermined. Finally, the amendment stipulates that if the father's name was determined by the mother, a person over the age of sixteen has the right to amend it.

Legal capacity to inherit and transfer property

Legal capacity to inherit

142. This issue was discussed in Israel's initial report. No changes have occurred since the submission of Israel's initial report.

Consumption of alcohol

143. Section 193 A (a) to the Penal Law stipulates that a person encouraging or persuading a minor under the age of eighteen to consume alcohol is subject to three months' imprisonment.

144. Amendment No. 79 to the Penal Law issued on 9 July 2004 supplements Section 193A by adding Section 193A (a1): "Any person who sells alcohol to minors under the age of eighteen is subject to six months' imprisonment."

Driving

145. A minor's receipt of a driver's license depends upon the type of vehicle. From the age of sixteen, a minor may obtain a driver's license for a tractor or a motorcycle with an engine up to 125 cc. If the intended driver has not yet reached the age of 17, she/he must obtain the written consent of her/his parents or guardian to receive the driver's license.

146. At the age of seventeen, a minor may receive a driver's license for most types of private and commercial vehicles, if the vehicle's total weight does not exceed 3.5 tons and its maximum number of passengers does not exceed eight.

147. A driver is referred to as a "new driver" for the first two years after receiving her/his license. During the first three months after receiving her/his license, the minor must drive while being accompanied by an experienced driver. Subsequent to these three months, and until the minor is 21; she/he may not drive more than two passengers unless she/he is accompanied by an experienced driver. As of the age 21, an individual may receive a license to drive a bus, taxi or a rescue vehicle.

148. The Transportation Regulations 5721-1961 (the: "Transportation Regulations") allow a minor to start taking driving lessons before reaching the age at which she/he is permitted to receive a license. Thus, it is possible to begin learning to drive a motorcycle (up to 125 cc) at age sixteen, a tractor and most types of private vehicles at age sixteen and a half.

149. At age seventeen a minor may file a request to receive an apprentice pilot's license.

A right to a dignified death

150. On 6 December 2005, the Knesset enacted the Terminally Ill Patient Law 5766-2005 (the: "Terminally Ill Law") in response to the medical-ethical dilemma presented by the treatment of terminally-ill patients. The Law is based on the recommendations of a public committee appointed by the Minister of Health in 2000. See further details below.

IV. General principles

A. Article -6- The right to life, survival and development

The right to life and physical development

151. Several amendments were proposed by the Rotlevi Committee concerning the scope and implementation of the Youth Law. The Committee advocated several mechanisms by which to guarantee the rights of minors — physically, mentally, socially and educationally — in any situation in which a minor is deprived of her/his liberty. These rights include the provision of essential necessities (such as clothing, food, medical treatment, and hygiene), psychotherapy, psychiatric treatment, protection from violence, aspects of leisure, physical activity and the promotion of family ties.

152. Another area that raises concern regarding the welfare of children and youth is that of accidents, including accidents in and around the home environment, on the road, at school or during social activities. Approximately one-quarter of children's deaths are caused by accidents. In recent years, efforts have been made to reduce car accidents through campaigns launched in the media and at schools (including the participation of children in safety patrols). Programmes to promote safe behaviour and encourage compliance with safety measures have been instituted (examples of these programmes will be provided throughout this report).

Emotional, cognitive and social development and the acquisition of skills

153. The total national expenditure on education in the year 2007, amounted to 56.2 billion NIS ($15.1 billion), comprising 8.3 per cent of the Gross Domestic Product. The total national expenditure on education (in constant prices) in the year 2007 increased by 5 per cent following a 2 per cent increase in 2006 and in 2005 respectively.

154. In November of 2003, the Government of Israel established a public committee headed by Professor Hillel Schmidt to examine the state of children and youth at risk in Israel from birth to age eighteen. In 2008, the Israeli Government launched a national early childhood initiative called New Beginnings through Ashalim – The Association for Planning and Development of Services for Children and Youth at Risk and their Families.

155. In Israel, 80,000 children from birth to age six are defined as being "at-risk," representing 8 per cent of Israel's total child population. These children suffer from inadequate parental care, severe learning difficulties and poverty. In many poverty-stricken localities the New Beginnings Association offers programmes including the improvement of services within existing day-care centres, home visits by professionals, parent-child programmes, empowerment programmes for fathers, nutrition and health promotion, identification of developmental delays and accident prevention.

156. According to data reported by welfare authorities, 40,000 children are victims of abuse, exploitation and neglect each year and are eligible for treatment. Out of the children who were assessed by child investigators in 2007, many were classified as victims of abuse committed by family members (56.1 per cent), and nearly one third of those analyzed were sexually abused (31 per cent).

157. New medicines have been introduced as part of Israel's Health Funds and are now included in the array of medicines available to insured individuals. Some of these medications are specific to children and assist in child care.

The right to life, survival and development of children with disabilities

General

158. In 2007, 293,000 disabled or chronically ill children resided in Israel, amounting to 12.8 per cent of the total population of children in the country. Approximately 176,000 children (out of the 293,000) are disabled or suffer from a chronic illness. Of these, 7.7 per cent suffer from disabilities that impinge upon their daily functioning for a period of at least a year.

159. The percentage of children who suffer from at least one disability among the Bedouin population (in the southern Negev area) stands at 9.1 per cent, at 8.3 among the total population of Arab children, and at 7.6 per cent among Jewish children.

160. Between the years 2001–2005 there was a decrease in the percentage of children with disabilities who were either sexually assaulted or were victims of family violence (from 11.2 per cent to 9 per cent).

161. In comparison with western countries, Israel has a relatively high rate of children born at a very low weight. The rate of children born with low birth weights increased from 15.8 per cent (on average) between 1995 and 1998, and 18 per cent in 2005.

162. Approximately 25 per cent of children with disabilities live with two unemployed parents, who in many cases depend on an income support pension. Among the Bedouin population, 50 per cent of the children with disabilities' fathers are unemployed.

Sexual and family violence

163. The percentage of children with disabilities who were sexually molested, assaulted or were the victim of family violence and were questioned by a special child investigator (9 per cent), is higher than the rate in the total population of children in Israel (7.5 per cent).

Education

164. In Israel there are approximately 46,000 pupils in the Special Education System; which includes kindergartens for disabled children, schools for disabled children, and classrooms in regular schools which are allocated to disabled children. Between the years 2002–2005 the rate of disabled pupils and classrooms assigned to disabled children in regular schools grew by 16 per cent. In the same period, the number of kindergartens for disabled children grew by 26 per cent. In 2005, approximately 72,164 children with disabilities were incorporated into the regular education system.

165. Of the children who are schooled in the Special Education System, the number of children with learning difficulties amounts to 38 per cent of the total number of children with disabilities. Most of the children in this group study in classrooms in regular schools which are earmarked for children with disabilities. Children with mental disabilities constitute a significant group in the Special Education System – comprising roughly 20 per cent of the total population of children in the system.

166. As mentioned above, the Special Education Law 5758-1998 (The "Special Education Law") was amended in 2002 and a chapter devoted to children with disabilities was added. In concluding observation No. 40 of the Committee on the Rights of the Child, the Committee recommended that the State party continue to strengthen its efforts to ensure the needs of children with disabilities meet the necessary services. The purpose of the amendment is to ensure that the same level of services granted to children in regular schools is afforded to children with disabilities. Moreover, the amendment obligates the Placement Committee to favour the placement of a child with disabilities in a regular educational facility rather than in a special facility. Among the purposes of the amendment is the inclusion of children with disabilities within the regular education system while gradually enlarging the budget allocated for this purpose. Eligibility is determined by a Placement Committee composed of a representative of the local school system (the chairman), two Ministry of Education supervisors, an educational psychologist, a paediatrician, a social worker, and a representative of the national special education parents' committee. The Placement Committee must hear the child's parents or representative before making a decision; it may also hear directly from the child. Prior to the Amendment 2002, children with non-physical disabilities who required care beyond age six (when their eligibility for care under the National Health Insurance Law ends) could receive care through the special education system. These children previously received assistance by the "reinforcement basket", which only partially covered their needs. This Amendment meets their needs and compares services of all children.

Data on children and institutions

167. As of 2009, 57,943 children with disabilities were placed in various educational facilities. This number represents 3.2 per cent of the total number of pupils (approximately 1.8 million) in Israel. 9,677 attend special education kindergartens, 27,592 study in special education classrooms within regular schools and 20,674 attend special education schools.

168. There are approximately 75,000 children with disabilities included in the regular educational system. Approximately 56,000 (75 per cent) are Jewish and the remaining 19,000 (25 per cent) are members of Israel's Arab population. The Special Education Law applies to approximately 133,000 children, 103,000 of which study in regular education

institutions (in regular classrooms or in special education classrooms) and 30,000 study in institutions designated for children with disabilities.

Table 1
Number of pupils and classrooms in special education institutions, 2009

Population groups	*Classrooms*	*Pupils*
Jewish	5 077	45 145
Arab	1 000	9 416
Druze	161	1 343
Bedouin	215	2 039
Total	**6 453**	**57 943**

Source: The Ministry of Education 2009.

169. The Dorner Committee (named after Justice Dalia Dorner – chairman of the Committee for the Examination of Special Education in Israel) was appointed by the Minister of Education in September 2007. The Committee submitted its recommendations to the Government in January 2009.

170. The Committee examined the Israeli school system for children with disabilities. The Committee recommended implementing a model based on "Parental Choice" which gives the parents the choice as to whether or not the child should attend a regular school or a special education school The Committee also recommended the adjusting of the allocation of funding according to the principle that "funding follows the child". This principle would help to insure that the needs of every child are met and would also help to prepare future teachers and assistants on how to work with children with disabilities. The Committee recommended the establishment of more schools and kindergartens for children with disabilities alongside the existing regular educational institutions.

171. The Committee also highlighted problems resulting from the distinction drawn between children with disabilities who are included in the regular education system and those who receive special education services. The Committee recommended greater parental involvement in the education process Accordingly the Committee suggested that parents choose their child's education structure that is whether their child will be educated in a special or regular educational framework. This model exists in other countries including several countries that are members of the OECD (Organization for Economic Co-operation and Development).

172. The Committee concluded that the current method of budgeting is too rigid and does not always allow for the appropriate treatment of children with disabilities. Hence the Committee recommended that the budget be determined based on a model called the "funding according to needs – system "which stipulates that the budget is determined by the individual characteristics of every child with disabilities. The Committee also recommended that the placement of the child and degree of assistance offered to the child as well as the characterization of the child should be effected based on the child's individual functioning abilities rather than the type of disability from which the child suffers.

173. In order to smooth the implementation of the above recommendations the Committee suggested the following approach: establishing a committee to examine each disabled child's entitlement to special education services. Parents ought to be encouraged to participate in all stages of the various procedures and the case of every child with disabilities ought to be examined once every three years. Based on its recommendations the Committee formulated an amendment to the Special Education Law.

174. In accordance with the above mentioned concluding observation No. 40 of the Committee on the Rights of the Child in 2002 the Knesset approved the amendment to the Special Education Law. Following the amendment a pupil with disabilities who is included in the regular school system is entitled to receive supplementary tutoring and studies as well as access to special services such as psychology services aid services medical services or any other services that the Minister of Education after consulting with the Minister of Health and the Minister of Social Affairs and Social Services establishes in a Directive (The Special Education Law (Amendment No. 7)).

Personal assistance

175. Moreover the Safe Transportation for Children and Infants with Disabilities Law 5755-1994 (the: "Transportation for Children Law") has also been amended several times: in 2002, 2005 and 2008. According to this law a child with disabilities is entitled to transportation from her/his place of residence or a place nearby to an educational institution in accordance with her/his needs and the type of disability which the child has ((Section 2(a)).

176. An infant with a disability is entitled to transportation to a rehabilitation day-care centre and to be accompanied by one adult in addition to the driver (Section 2(a1)). The relevant local authority is responsible for providing transportation during the school year and school hours respectively (Section 3(a)). The local authority must employ a safe vehicle as determined by the Regulations of the Minister of Transportation unless there are less than five children or infants transferred at a time. Such transportation is available if sitting or lying in the vehicle does not harm the health or safety of the children and infants respectively (Section 4).

177. The Committee recommended that the Ministry of Education provide personal assistant services for children with disabilities The Committee recommended that the Ministry of Education periodically reassess its eligibility policy for personal assistance. The Committee recommended that these services be expanded.

178. In order to fully utilize the financial resources at the disposal of the Ministry of Education teachers from the regular education system must be educated and trained to work with children with disabilities who are included in regular education institutions.

179. The Committee recommended that the Ministry of Education instruct The National Insurance Institute (NII) to participate in the financing of any shortage of equipment in special education institutions. To this end the Committee recommended that the Ministry of Education set up financial funds for the purchase of the equipment required.

180. Finally the Committee recommended that the Ministry of Education advocate the establishment of schools and kindergartens for special education near the regular education institutions. In this regard the Planning and Construction Committees shall submit annual reports specifying the special education schools and kindergartens to be constructed by the local authorities.

181. In addition to the above the Rights of Pupils with Learning Disabilities in Secondary Education Facilities Law 5768-2008 was recently enacted. This law affirms the rights of pupils with learning disabilities to adjustments in the criteria for admission to secondary education facilities (academic technological rabbinical or professional) as well as in the exams and other assignments that they are required to sit and submit throughout school years.

182. Moreover modifications of matriculation exams for children with Learning Disabilities were approved. In 2007 62 912 out of 281 511 pupils (22.3 per cent) requested modifications to their matriculation exams due to learning disabilities. The majority of the

applications were approved. Among the Arab population 3 207 of the 46 579 pupils (6.9 per cent) requested that adjustments be made and these requests were approved. Among the Druze population 246 of the 5 689 pupils (4.3 per cent) requested that adjustments be made and their requests were approved.

Case law

183. In a recent case the Tel-Aviv District Court residing as an Administrative Court addressed the scope of the State's obligation to provide free education to children with disabilities. The petitioners contested an internal Directive of the Ministry of Education according to which commencing in the 2007/8 school year the supervisors of special education schools could authorize reinforcement assistants for special education classes; but could not authorize personal assistants for the children. The petitioners claimed that the Directive violates the rights of a child with a disability to free education as established by the Special Education Law.

184. The Court determined that the State has a substantial obligation under the Special Education Law to provide free education for children with disabilities and cannot release itself from this obligation once a child is placed in the special education system. A Directive that negates the ability of an individual or a group of individuals such as persons with disabilities to benefit from personal assistance impinges their fundamental right to education and therefore violates the State's obligation. The Court determined that it is essential that the Ministry's policy take individual circumstances into consideration as a strict framework of rules which does not allow for deviation in the event of exceptional cases arising may constitute a breach of the fundamental right of a child to education and as such would be invalid. The Court further held that the Ministry of Education's Directive prohibiting the authorization of personal assistants in the special education system is void and had to be reworded so as to allow for the inclusion of personal assistants for pupils in exceptional circumstances (Ad.P 1214/08 *Orel (minor) et. al.* v. *The Ministry of Education et. al.* (07.09.2008)).

Special education in the minority populations

185. Children with disabilities are absent from school for longer periods of time during the school year than children without disabilities. Approximately 25 per cent of disabled children were absent four to seven days of school in the first three months of the school year 19 per cent were absent seven days of school in the first three months of the school year and a further 14 per cent were absent from between fourteen days to the entire first three months of schooling.

Health care

186. Approximately 18 per cent of children admitted to general hospitals with a stay of 21 days or more were hospitalized in psychiatric and rehabilitations wards. In 2004 756 children were hospitalized for psychiatric reasons.

187. According to a recent Amendment to the National Health Insurance Law 5754-1994 Amendment 43 (the: "National Health Insurance Law") dated 5 November 2008 children with Autistic disorders shall receive 3 hours of paramedic treatment (physiotherapy speech therapy and occupational therapy). These treatments require a minimum co-payment of 23 NIS ($6) per session. The Amendment was gradually implemented as of January 2009.

188. The National Health Insurance (Children with Disabilities) Directives 5770-2010 (the: "National Health Insurance (Children with Disabilities) Directives") enlarged the scope of eligibility for a disability pension of disabled children. The increase in the scope of eligibility was followed by the recommendations of 2009 Ornoy Committee (named after Professor Ornoy – Chairman of the Committee for the Examination of the Criterions

for Disability Pension of Disabled Children). The Minister of Social Affairs and Social Services appointed the Committee that determined the following: children dependant on others due to a mental or a physical disability will be eligible for additional pension concerning their education. Such pension is intended for school assistance studies arrangements and exams accommodation adapted to their disability.

Case law

189. In July 2009 the High Court of Justice held that The National Insurance Institute was required to recognize all children who fall on the autistic spectrum that is who have diverse autistic disabilities (including PDD NOS and Asperser's Syndrome) as children entitled to full disability pensions in accordance with The National Insurance Institute (Subsistence Allowance Studying Assistance and Arrangements for Disabled Child) Regulations 5758-1998. The petition was submitted in 2006 subsequent to the NII's decision to cease payments of pensions to autistic children. The NII claimed that the payment of the pension was dependent on the child's level of functioning. The ruling allows parents of autistic children to finance the expensive treatments that children who fall on the autistic spectrum require. The Court also held that essential services such as rehabilitation day care and the like will continue to be provided by the State (H.C.J 7879/06 *"ALUT" The Israeli Society for Autistic Children* v. *The National Insurance Institute of Israel* (19.7.2009).

190. Children with disabilities receive various services from the Social Welfare Department including family guidance education psychosocial aid and para-medical treatments. There is also an allowance granted by the NII for disabled children although only 12 per cent of the children with disabilities are entitled to it. Approximately 1 000 children are entitled to walking aids orthopaedic shoes or limb prosthesis funded by the Ministry of Health. In 2008 the number of families receiving child allowances increased by 1.4 per cent following a similar increase in 2007. In 2008 (monthly average) child allowances were paid to approximately 2.4 million children from 994 800 families.

B. Article 2 – Non-discrimination and equal opportunity

191. Non-discrimination is a central principle of Israeli legislation. Equality among population groups is promised in the State's Declaration of Independence and in various pieces of legislation. The provision of equal opportunity for all citizens has guided social policy since the establishment of the State.

192. For the last two decades two groups of immigrants with radically different social and cultural characteristics came to Israel: immigrants from the former Soviet Union and immigrants from Ethiopia. Immigrant children and youth face major difficulties and in general experience higher rates of dropping out of school and of social deviance. The educational gap is particularly significant for Ethiopian immigrants and for certain groups of immigrants from the southern parts of the former Soviet Union.

193. In recent years concern regarding the quality of the integration of immigrant children into the school system has led to a range of initiatives taken to promote their educational and social integration (see details below).

194. The absorption of Ethiopian immigrant children presents a particular challenge given the dramatic cultural transition and their families' socio-economic status. There is also a problem of demographic composition and their parents' fairly low level of education. Policies have been developed to promote equal opportunity for these children and to support their absorption into the school system.

195. Nevertheless a certain percentage of them have scholastic difficulties and do not regularly attend school. The rate of school attendance and of eligibility for matriculation certificates among Ethiopian youth are low compared to the general population.

196. In May 2009 the Israel National Council for the Child applied to the Ministry of Social Affairs and Social Services (as a final resort before filing a petition with the High Court of Justice) for equal medical treatment and social services for all children in Israel. In the request the Ministry of Social Affairs and Social Services was asked to issue an order granting equal services in the fields of medical care general assistance and social services for children who have no legal status in Israel.

Differences between Jewish and Arab children

197. Gaps between the Arab and Jewish population with respect to child development services have considerably decreased in recent years. Eight child development centres which provide health services have been opened in close proximity to Arab populations in addition to the opening of the development institute located at the French Hospital in Nazareth. Recent years have witnessed an increase in the establishment of Child Development Centers in majority Arab areas.

198. Currently there are 34 child development institutes and 65 units that are recognized by the Health Division of the Israeli Ministry of Health. These units primarily serve children who suffer from arrested development difficulties. In majority Arab areas there are six units that serve children with developmental difficulties and one development institute. The services provided at these facilities include access to preventive medical care tracking delays in development diagnostic services and support services (such as psychological and counselling services). This indicates significant progress in medical and therapeutic services for disabled Arab children and Arab children who suffer from arrested development.

Children of foreign workers

199. In 2007 approximately 1 000 children of foreign workers lived in Israel. According to Directive No. 5760/10(a) dated June 2000 of the Director General of the Ministry of Education the Compulsory Education Law *a*pplies to all children living in Israel regardless of their status in the Population Registry.

200. Since the submission of Israel's initial report there has been progress in the legal status of foreign worker's children. Government resolution No. 3807 dated 26 June 2005 was amended by Government resolution No. 156 dated 18 June 2006 and states the following:

> "Upon request the Minister of Interior is entitled to grant permanent residency status to children of illegal immigrants who have been part of the Israeli society and culture if they fulfil the following conditions:
>
> (a) The child has lived in Israel for at least six years (as of the date of the Resolution) and entered Israel prior to the age of fourteen. A short visit abroad will not be viewed as an interruption of this time period;
>
> (b) Prior to the child's entry or birth the parents must have entered Israel legally and with an entry permit in accordance with the Entry into Israel Law 5712-1952 (the: "Entry into Israel Law");
>
> (c) The child speaks the Hebrew language;
>
> (d) The child is in first grade or above or has completed her/his studies;

(e) Those filing the request will be required to submit documentation or participate in hearings in order to prove that they meet the abovementioned criteria.

201. The Minister can grant temporary residency status in Israel to the parents and the siblings of the child as long as they have lived in the same household from the date of the child's entry into Israel or birth in Israel and are in Israel as of the date of this Resolution. If there is no reason for objection the temporary residency status will be renewed until the child reaches the age of 21. At that point the parents and the siblings will be entitled to file a request for permanent residency status.

202. As of 1 June 2009 approximately 862 requests have been filed of which 436 were accepted 424 were rejected and 2 were still pending. In the case of 424 rejected requests 354 appeals were filed to the committee of appeals. On review 131 applications were accepted by the Ministry of Interior and 219 were rejected. Of the rejected appeals 31 were referred to the committee that reviews humanitarian issues and 4 appeals are currently under review. In total 567 files were accepted and 291 were rejected.

203. As of June 2009 there are 1 431 children of foreign workers who study in schools and kindergartens. Among them are 956 schoolchildren and 475 are kindergarten children.

Table 2
Distribution of children of foreign workers by grades 2009

Grade	*Elementary school*	*Junior high school*	*High school*	*Total*
Kindergarten		-	-	**475**
1	150	-	-	**150**
2	104	-	-	**104**
3	85	-	-	**85**
4	78	-	-	**78**
5	70	-	-	**70**
6	60	-	-	**60**
7	19	34	-	**53**
8	17	30	-	**47**
9	2	28	23	**53**
10	-	-	92	**92**
11	-	-	115	**115**
12	-	-	47	**47**
13	-	-	2	**2**
Total	**585**	**92**	**279**	**1 431**

Source: Ministry of Education 2009.

C. Article 3 – The best interest of the child

The best interest of the child as a guiding principle

Preserving the best interest of the child

Case law

204. The District Court determined that if child support payments impose a heavy burden, a father is entitled to request a reduction in payments, provided that the reason for the reduction accords with one of the causes listed by the law as sufficient cause. However, the father can only seek to enforce an indemnification agreement when his former wife can refund him without causing harm to the welfare of the child after she/he reaches the age of eighteen, or when his former wife has financial prosperity and if there is no conflict with the best interest of the child. (F.M.A 785/05 *Anonymous* v. *Anonymous et. al.* (03.01.2006)).

205. In a separate case, the Supreme Court accepted an appeal against a decision of the Family Matters Court which determined that a claim for child support should be regarded as a substantial claim, given that the children are not bound by the amount agreed to by their parents during their divorce. The appeal was submitted by a mother on behalf of two minors regarding their child support payments. The father did not oppose the change, but emphasized that from his viewpoint, the claim was essentially for a change of child support payments that had already been ruled upon. It is critical to understand the difference in the parents' positions is since a substantial claim requires the Court to examine the needs of the minor(s) before it and then set the amount of child support accordingly. On the other hand, a claim for the alteration of child support payments means that the applicant must prove a change of circumstances which justify the alteration. (F.M.A 7916/03 *Anonymous et. al.* v. *Anonymous* (28.02.05)).

Preserving the best interest of the child in child welfare proceedings

206. The Supreme Court, residing as the High Court of Justice, was asked to revoke a decision reached by the Sharia (the Muslim Court System) regarding guardianship of three children, aged 7, 8t and a half, and 10. The Sharia Court and the Sharia Court of Appeals both granted the father of the children with guardianship, without examining evidence regarding their best interests or questioning the children themselves. Moreover, the Courts' decisions violated the relevant laws, in particular the Legal Capacity Law and the Equal Rights for Women Law 5711-1951, which stipulate that guardianship is to be determined according to the best interests of the children and which apply to all courts, including those part of the religious court system. Therefore, the Supreme Court ruled in favour of the applicant, revoked the decision and remanded the case to the Sharia Court so that evidence from social workers regarding the best interests of the children could be considered. (HCJ 1129/06 *Anonymous et. al.* v. *The Shari'a' Court of Appeals et. al.* (05.06.2006)).

207. In another case, the Supreme Court determined that the judgment reached by the Jerusalem Rabbinical Court and affirmed by the High Rabbinical Court should be annulled. The Supreme Court determined that the rabbinical judges did not consider the best interest of the child when considering the father's request to be awarded custody over the child. The family's place of residence was in the United States and the child remained there with his mother following his parents' separation and divorce proceedings, which were held before the courts abroad. Those courts awarded the father supervised visitation rights with the child. However, since the father opposed the requirement that his visits be supervised, he refused to visit his child. Subsequently, the father moved to Israel and upon learning this, the mother petitioned the Jerusalem Rabbinical Court for a "Get" (Jewish divorce

document). The father, simultaneously, petitioned for custody. The Jerusalem Rabbinical Court determined that the custody issue should l be resolved after the finalization of the divorce, by agreement of the parties. The Jerusalem Rabbinical Court, after granting the divorce between the couple, awarded the father custody. The High Rabbinical Court affirmed the lower court's decision. The decision was reached without considering the child's best interest; and since the courts in the United States had already awarded custody to the mother, the Supreme Court determined that the courts in Israel were 'Forum Non Convenient' according to private international law applicable in Israeli courts, including the rabbinical courts, and that therefore custody should remain with the mother, and the judgments of the High Rabbinic Court should be annulled. (H.C.J 1073/05 *Anonymous et. al.* v. *The High Rabbinical Court et. al.* (25.06. 2008)).

Preserving the best interests of the child in out-of-home care

208. In Israel there are approximately 70,000 children and youth (3 per cent of all children) living separately from their families. For the most part the children are scattered among government-supervised facilities. 55,000 children (ages fourteen to eighteen) attend boarding schools. In most cases the decision to leave home is made by the children themselves or their families. Far fewer children and youth (approximately 8,500) have been placed outside their homes by Child and Family Services. 6,500 children were placed in boarding schools and the remaining 1,950, were placed in foster families.

209. Some children were placed in facilities operated by the Youth Protection Authority (a government agency of the Ministry of Social Affairs and Social Services that is responsible for supervising correctional facilities), which is responsible for the placement of delinquent and near delinquent youth; while others were admitted to psychiatric hospitals, and certain disabled children were removed from their homes by Social Welfare Departments.

210. Another issue concerning children in out-of-home frameworks is their relationship with their parents. The welfare system is aware of the importance of maintaining a relationship between parents and their children, and a special programme has been designed for this purpose. A committee of experts that established standards for maintaining the relationship between boarding school pupils and their parents recommended that schools regularly report to parents on their child's status, set times for telephone calls between parent and child, pre-arrange vacation dates, and host at least one event per year to which parents are invited. The Youth Protection Authority has also set guidelines and methods for including parents in the care of their child and reinforcing their relationship with their child. Such recommendations are already in effect.

Preserving the best interests of the child in immigration matters

211. On 2 October 2008 the Supreme Court overturned a decision reached by the District Court preventing the immigration of a seven year-old minor to Germany with his German mother, and determined that they may temporarily emigrate to Germany despite the objection of the Israeli father. The Court stipulated that the leading principle in the decision making process regarding custody and residency of children, as in any other case concerned with the relationship between parents and their children is the best interest of the child. This principle obligates parents and Courts alike, and is an individual and independent guiding principle in determining custody and residency issues.

212. In situations of parental separation, the Court must determine what is the lesser of two evils with regard to the minor. The Court is obligated to find an arrangement which will be a stable solution – awarding custody to the parent deemed to be fitter, while maintaining, as much as possible, the relationship between the child and the second parent, especially when the minor emigrates from Israel.

213. In the case in question, the Court imposed several restrictions on the emigration, including the continuation of the minor's education in a Jewish school, and at least four annual visits of a minimum of seven days each by the minor to Israel, as well as awarding the father the right to visit the minor in Germany as many times as he desires following the giving of advance notice. The mother was required by the court to deposit a personal bond with the Family Matters Court to guarantee the fulfilment of these conditions, and it was decided that the Court would reconvene after two years to determine whether the conditions were met, as well as to determine whether to make the arrangement a permanent one. (F.M.A 10060/07 *Anonymous* v. *Anonymous* (2.10.2008)).

214. Subsequent to the immigration of families with children to Israel, requests for status in Israel are filed. The file is forwarded to the Ministry of Interior's Inter-Ministerial Humanitarian Committee for review. Since the best interest of the child is the leading criterion, requests for status which involve children are granted more often than not.

Preserving the best interest of the child in local authorities

215. Following the details presented in the initial report, according to a 2000 Amendment to the Municipalities Ordinance (New Version) 5724-1964, the municipality's council should elect a Committee for the purpose of initiating and planning activities for the advancement of the status of children and youth. This Committee should act in order to protect children and youth, to ensure their rights, including the realization of the principle of the child's best interest, non-discrimination, the right to decent conditions of development and the right of children and youth to participate in the decision-making process with respect to decisions concerning them.

216. The Committee should include between three and five members of the municipality's council, the director of the education division and the director of the social services division, a principal of one of the schools in the municipality, representatives of the teacher's union, the chairperson of the pupils council, the chairperson of the parent's organization, representatives of youth movements and others.

D. Article 12- Respect for the views of the child

The right to be heard and respect for the views of minors in matters affecting them

217. Israeli Laws and policies support the broader consensus that a child's opinion should be heard and considered in matters affecting her/him. Laws and administrative procedures tend to recommend, and even demand, that the child's opinion be heard prior to making a decision that concerns the child.

218. In proceedings involving conversion, adoption or admission to a psychiatric hospital, the consent of the minor (once she/he has reached an age determined by the law) is required before a decision is made and actions are taken. Courts are authorized to rule against the minor's wishes or even not to allow her/his opinion to be heard if doing so (allowing her/him to be heard) would cause harm to the child. Another reason for a court to disallow a child's statement is if the information that would be revealed is confidential (Section 1B of the Youth Law).

219. The novelty in the above legislation is in the legislative requirement as opposed to merely a customary one. Amendment No. 14 to the *Youth Law* stipulates that courts' rulings should be given subsequent to the child in question having expressed her/his opinion. Judges and administrators are required to pay attention and give substantial weight to the minor's opinion when ruling or making a decision that affects the child, bearing in mind the child's age and level of maturity (though not to obtain her/his consent). The court will explain its decision to the minor in a comprehensible manner.

220. The Rotlevi Sub-Committee regarding the Child and her/his Family provided a valid argument in favour of the right of the child to be heard: it promotes the child's independence (subject to the child's age and level of maturity). This right is granted in a gradual manner, consistent with the child's best interest. The committee also recommended setting up a mechanism to facilitate the child's participation in court proceedings. Below are the primary mechanisms:

- Appointing a person to accompany the child throughout the court proceedings.

- Establishing a separate department within the Assistance Units of the Family Matters Courts, intended for children in legal proceedings.

Protection of children in legal proceedings

221. Amendment No. 1 to the Pupils Rights Law issued on 22 December 2004, amends Section 1 of the Pupils Rights Law, and stipulates that the purpose of the Law is to formulate principles for the rights of pupils which are in accordance with the spirit of human dignity and the principles contained in the Convention, while still preserving the dignity of all who operate in the education system (the pupil, the educational employee, and the education institution staff), and preserving the uniqueness of different kinds of educational institutions, and fostering an atmosphere of mutual respect in the educational institution community. The amendment also amends Section 4 of the Pupils Rights Law, and stipulates that the Director General guidelines, as well as the guidelines of each school principal, must include rules for the protection of dignity, discipline and the prevention of violence.

222. On 1 June 2007, an experimental programme entered into force at the Haifa and Jerusalem Family Matters Courts, with the participation of the children involved in Family Matters Court's proceedings. The programme operates in association with the Courts Administration bodies within the Ministry of Justice, the Assistance Units to the Family Matters Courts within the Ministry of Social Affairs and Social Services body and Ashalim (an NGO).

223. The participation of children in the decision-making processes that affect their lives is achieved by implementing the recommendations of the Rotlevi Committee, with the assistance of the Department for Child Participation in Family Matters Courts.

224. On 3 December 2007, the Minister of Justice signed the Civil Procedure Regulations (Temporary Order) 5767-2007, which adds Chapter K2 to the Civil Procedure Regulations 5744-1984. The practice embodied in Chapter K2 regulates the procedures for children's participation in Family Matters Courts for the duration of the experimental programme, namely between 7 and 9 December 2007. (See also Supreme Court Decision HCJ 1129/06 Anonymous et. al. v. The Shari'a' Court of Appeals et. al. (05.06.2006)) above.

Removal of pupils

225. In 2004, the Minister of Education published Regulations regarding the removal of pupils from the educational system (Compulsory Education Regulations (Rules for the Permanent Removal of a Pupil Due to School Achievement) 5765-2004).

226. These Regulations include a prohibition on removing a pupil in the first to sixth grades from school due to a lack of achievement in their studies. Regarding pupils in the seventh to twelfth grades, removal from school shall not be made based on a lack of achievement unless the pupil fails at least 70 per cent of the mandatory subjects for that school year. Moreover, the failure must not occur due to illness, death of a family member,

separation or divorce of the pupil's parents, or other exceptional event which, according to the educational personnel, led to the failure.

227. The Pupils Rights Regulations (Publishing Orders and Pupil Removal) 5762-2002, establishes rules regarding the removal of pupils from school. Among them is the necessity of holding a hearing before finalizing the decision to remove a pupil (Section 4). The pupil or her/his parents can file an appeal with the Head of the Ministry of Education's District, according to Section 6(a). A hearing should be held before a panel within fourteen days, according to the provisions of Section 6(b). According to Section 6(d) the pupil and her/his parents may state their claims in person or through an appointed person.

228. The Pupil Rights Law was amended on 27 July 2009. The amendment allows the removal of pupils from school following severe disciplinary or violence-related problems. Prior to the amendment the actual removal of a pupil was impossible until a final decision had been reached in the case. Section 6(d) to the Pupil Rights Law determines that a school principal is permitted to permanently dismiss a pupil who has presented repeated disciplinary and/or violence-related problems without delay, provided the principal has received the approval of the District Supervisor. Section 7(b) to this law was also amended with respect to a decision taken on appeal. As of the entrance into force of this amendment, the Discipline Committee will be presented not only with the pupil's parents, but also with the person in charge of the educational institution or someone acting on her/his behalf.

Case law

229. Recently, the District Court of Jerusalem sitting as an Administrative Court, dealt with a case regarding the right of a minor to be heard in administrative appeal procedures. Specifically, the issue before the Court concerned the possible violation of the integrity of matriculation exams. The Court stated that in general, it is sufficient for an administrative authority (the Ministry of Education in this case) to allow for a written right of appeal – it is not required to alter the appeal procedure and allow for an oral right of appeal simply because the appellant is a minor.

230. The Court did however note that in several cases, the fact that the administrative authority was dealing with a minor justified their granting the right to appeal orally. For example, minors who cannot express themselves properly in writing, may give rise to a justification for holding an oral appeal.

231. The Court in the case held that the disqualification by the supervisor or inspector, on the basis of a breach of the integrity of a matriculation exam, violated the rights of pupils as defined in the Pupil Rights Law. Being disqualified in this way allowed for appeals to be lodged only after the administrative act was completed, which violates the requirement that the right to a hearing shall be granted prior to the relevant decision being finalized. Since the circumstances of the case in question did not fall into any of the exceptions to this rule, the Court held that the Ministry of Education had to revise the Director General's Directive, and grant the right to a hearing prior to disqualification based on the suspicion of the supervisor or inspector. (Ad.P 362/07 *Anonymous v. The Ministry of Education*; Ad.P 377/07 *The National Council for the Child* v. *The Ministry of Education* (1.7. 2007)).

232. Additional protection in legal proceedings is found in the Crime Victims' Rights Regulations 5762-2002, which were enacted following the enactment of the Crime Victims' Rights Law 5761-2001, under which the rights of a minor under the age of fourteen may be realized by her/his parents or legal guardian (Section 18(b)). However, the rights of a minor over the age of fourteen may be realized by the minor herself/himself, as well as by the parents or legal guardian, unless the minor requested that she/he alone will realize her/his rights (Section 18(c)).

233. The realization of the minors' rights will not be made by the parent or legal guardian if either of them is a suspect or an accomplice of the offence of which the minor was a victim, and if the realization of the minor's rights by them may harm the physical integrity or mental stability of the minor (Section 18(d)). The realization of the rights of a minor, who is a victim of violence or of a sexual offence, includes a right to express an opinion with respect to the possibility of a delay in procedures and/or a plea bargain, as well as a right to express an opinion before a prison release board, and to express an opinion regarding the possibility of a pardon being granted.

234. Furthermore, reference can also be made to the Pupils Rights Regulations (Publishing Orders and Pupil Removal) 5762-2002; mentioned in this periodic report (paras 225-226 above, which stipulate the right of a pupil to express her/his opinion before her/his removal from school.

Legal representation of minors

235. Observation No. 61 made by the Committee in its concluding observations engaged in children and the criminal justice system. This recommendation, among others things, was aimed at ensuring that children have access to legal aid. Amendment No. 14 to the Youth Law determines that a minor who is prosecuted is entitled to representation. The court is also authorized, based on what it believes to be the best interest of the child, to appoint a defence attorney to act on behalf of a minor even if an indictment has not been filed. In matters specified below, the court will rule only after the child's parents have been given the opportunity to express their opinion on the matter.

236. The Amendment also determines that at any point during the legal proceedings, if a child is not represented or her/his parents are missing; the court is authorized to appoint a legal guardian based on what it considers to be the best interest of the child. Legal instructions and case law emphasize the importance of individual legal representation, principally when an absence of representation imperils the interest of the minor.

Legal representation

237. On 24 January 2007 (A.A 000379/06 *Anonymous* v. *The Ministry of Interior*), the Haifa District Court accepted the appeal of a fifteen year old foreign minor who had been a victim of trafficking in persons (TIP). The Court decided to release the minor after eight and a half months in custody. This was the first decision of an Israeli court which recognized a person as a TIP victim for purposes other than prostitution.

238. The District Court held that in cases where an illegal resident is a minor and cannot speak Hebrew, the Detention Review Tribunal must appoint a Public Defender to provide him with legal assistance. As the minor in question had not been provided with legal representation, the Court held that he had been deprived of his procedural and fundamental rights to such a degree as to amount to a distortion of justice.

239. The Court stated that 'custody' as it is referred to in the Entry into Israel Law, can be defined as "custody until the completion of the proceedings." Subsequently, if proceedings cannot be completed, then custody which is based solely on this law is illegal. In this particular case, the proceedings could not be completed because they required the minor's removal from the country. This was however impossible as a result of a lack of diplomatic relations between Israel and the child's country of origin. Indefinite detention of the minor under these circumstances, and based only on the Entry into Israel Law, was thus considered to be invalid.

240. Subsequent to the above court decision and following proceedings that took place in the Detention Review Tribunal (14 February 2007), the General Director of the Ministry of Justice ordered the Department of Legal Assistance in the Ministry Of Justice to provide

legal representation to minors and persons claiming minority, including on appeals. In a case where a minor is in custody during criminal proceedings and is not represented – she/he is entitled to legal representation and this information must be conveyed to her/him by the relevant authority. This Directive is retroactive, that is to say that people who began their criminal proceedings prior to this regulation's coming into effect are also entitled to representation from the moment that the regulation came into effect.

E. Articles 7 and 8

Registration of children at birth and establishment of identity

241. Under Section 6 of the Population Registry Law 5725-1965 (the: "Population Registry Law"), there is a duty to notify a registration officer of the Ministry of Interior of every birth that occurs in Israel. The notification is to be made within ten days of the birth by the institution at which the birth occurred, or by the parents of the child.

242. Amendment No. 9 to the Population Registry Law issued on 14 December 2005 supplements Section 6, so as to include requirements regarding a birth that occurred outside a health institution. According to Section 6(b), if the birth occurred outside an institution and a midwife or a physician was present at the birth then the midwife or the physician should provide a written deposition stating that the mother of the infant is her/his natural mother. According to Section 6(c)(1), if the birth occurred outside an institution but was not attended by a midwife or a physician then the following additional documents should be provided: depositions from the infant's parents stating that the infant's mother is her/his natural mother, a medical certificate issued by an authorized physician who examined the pregnant women from the 28th week of her pregnancy, and a medical certificate issued by a physician who examined the women within 48 hours of the birth. If the parents fail to provide the abovementioned medical certificates, they will be required to provide the results of a genetic parental test confirming that the mother is the infant's natural mother.

243. Section 32 of the Population Registry Law, stipulates that details that might reveal the identity of an adopted person, her/his adoptive parents or her/his biological parents and other relatives will not be disclosed other than to officials as prescribed in the Law. However, the Minister of Interior shall issue orders for allowing an official who registers marriages, or a person who needs the information in order to perform her/his duty in registering marriages, to ascertain whether the marriage-applicant was adopted. This provision is necessary to prevent consanguineous marriages.

The Citizenship and Entry to Israel Law (Temporary Provision), 5763-2003 (the: "Citizenship and Entry to Israel Law")

244. According to a 2005 amendment to the *Citizenship and Entry to Israel Law*, the Minister of Interior is authorized to grant a permit to stay in Israel to a minor under the age of fourteen from the West Bank, in order to prevent her/his separation from her/his legal guardian who is lawfully residing in Israel.

245. Furthermore, the Minister is authorized to approve a request for a stay permit submitted by the Military Commander of the Judea and Samaria Area, for a minor over the age of fourteen, residing in the West Bank, in order to prevent her/his separation from her/his legal guardian, who is lawfully residing in Israel, as long as the permit shall not be extended if the minor does not reside in Israel on a permanent basis.

Case law

246. The Tel-Aviv District Court, while residing as an Administrative Court, dealt with the case of a child born to an Israeli mother and to a father who lacked legal status because

he had illegally resided in the country for ten years, subsequent to overstaying his tourist visa. The Court found that the competent authorities failed to address the best interest of the child despite evidence presented before them regarding the emotional bond between the child and his father and the father's financial support of his child. Thus, the Court ordered the Ministry of Interior's Inter-Ministerial Humanitarian Committee to reconsider granting the applicant legal status in the State in accordance with the best interests of the child. (A.A. 002454/04 *Collins Okthzuko Obi* v. *The Minister of Interior et. al.* (06.03.2007)).

The right to acquire nationality and the protection of nationality

247. This issue was discussed in Israel's initial report. No change has occurred in this area since the submission of Israel's initial report.

The right to know one's parents' identity

Case law

248. On 28 January 2008 the District Court of Haifa affirmed a judgment reached by the Family Matters Court in Haifa, which determined that the determination of the identity of the father of a child through paternity tests does not accord with the best interest of the child, as it might result in the child's being labelled a 'bastard' according to Jewish "Halacha" resulting in her/his inability to marry a Jewish person other than another 'bastard.' Therefore, the Court ordered that the said test not be conducted. In the case in question, a couple who had two children, were in the process of divorce, during which time the woman was in a new relationship with a man whom she claimed was the father of her third child, born eight and a half months after the finalization of the divorce. A year and a half after the child was born, and a month after the mother requested an increase in the amount of the maintenance paid for the couple's two children, the divorced husband submitted a claim to the Court to be recognized as the child's father. The Court determined that although society in general supports the clarification of the identity of a child's parent, and although it is the right of a person to know that he fathered a child, the rights of the minor prevail and his best interest is the primary concern of the court.

249. The Court determined that subjecting the minor to a paternity test in order to determine who her father was, may harm the minor's dignity, her developmental needs, and the formation of her self-identity. The Court stressed that although the right of the child to know her/his father is an important right as it is stipulated in article 7 to the Convention on the Rights of the Child, and is recognized at a national constitutional level as constituting the basic dignity of a person, this right can be realized at a later date if the need arises. (F.A. 526/07 *Anonymous* v. *Anonymous* (28.1.2008)).

250. On 22 January 2006 the Jerusalem Family Matters Court determined that a person, who refused to undergo a tissue analysis in order to determine whether he was the biological father of a minor, would be regarded as the father since there was external evidence to support such a conclusion being drawn. In the case in question, the Court determined that the child's interest to know the identity of her father, and the need to know in case of a medical emergency in the future, overruled the alleged father's right to privacy and to abstention from invasive examinations. Moreover, the alleged father tried to resist the request for analysis by pointing to the fact that the mother had several other relationships at the time that she fell pregnant and that she had previously unsuccessfully claimed that another man, with whom she claimed to have had an exclusive relationship, was the father. The Court held that even if the mother's previous testimony was a lie, the proper response was not to deny the request for a paternity test, as the harm resulting from not holding the test would be inflicted upon the child and would impinge upon the child's rights and not the mother's. (F.M.C 26762/01 *Anonymous* v. *Anonymous* (22.01.2006)).

251. The Jerusalem District Court decided to allow a single woman to receive fertility treatments involving sperm donations from a married man, although such a practice is not in accordance with current regulations. The Court considered the rights of all parties involved, including those of the wife and children of the married man. The Court determined that becoming a parent is a fundamental right, and the couple made an agreement regarding the child as required by the regulations of the Ministry of Health. Moreover, the Court held that the rights of a child, even one that is not yet born, to know both his parents, takes priority over the property rights of the wife and children involved in this case. The rights of the child include the right to dignity, the right to know both parents, to receive emotional and financial support from both parents, and the right not to be considered a "Sh'tooki" – a Jewish term meaning the illegitimate child of an unknown father, who according to Jewish "Halacha" as interpreted by some rabbinical circles, cannot marry a Jewish person and may only marry a converted person. Therefore, the Court issued a declaration allowing the woman to receive fertility treatments with sperm donated by a married man. (O.M. 5222/06 *Anonymous* v. *The Minister of Health, et. al.* (26.07.2006)).

252. In another case, the Tel-Aviv District Court determined that in certain cases when two males claim parentage to the same child it is important to determine the identity of the biological father. In the case in question, the child was being raised by the mother and her new husband, who signed a child support agreement prior to the marriage, stating that in the event of separation, he would provide child support until the child reached the age of eighteen. This second marriage took place four years after the child was born, but the new husband claimed to be the child's biological father, and stated that even if it was proven that the child was not biologically his, he wanted to adopt her. However, the first husband also claimed parentage of the child, paid child support and had visitation rights under the divorce agreement regarding the said child and two other children.

253. The Court examined the complex situation, in which the child recognized the new husband as her "psychological father" and while the visitation with the first husband took place, feared him and was intimidated by him. The Court held that under these circumstances, it is important to determine the identity of the father, due to the complex relationships between the parties involved and their effects on the child. The Court disagreed with the Family Matters Court who postponed the determination until the child reached the age of eighteen. The Court held that the decision should be made based on the best interests of the child; either by paternity tests or by external evidence, and therefore remanded the case to the Family Matters Court for a ruling. (F.A (Tel-Aviv) 1327/06 *Anonymous et. al.* v. *Anonymous et. al.* (18.12.2007)).

The right to parental care

254. As detailed in Israel's initial report, parents are regarded as the natural guardians of their children. This means that children are entitled to be cared for by their parents and parents are entitled to care for their children.

255. Amendment No. 12 of the Legal Capacity Law issued on 28 June 2004 supplements Section 35 to include Section 35(b), which stipulates that when appointing a legal guardian for a minor, the court should give priority to a fit person who is a member of the minor's family (including siblings, grandparents, aunts or uncles, or a spouse of one of the parents) unless the court decides it is in the child's best interest to appoint a legal guardian that is not a family member.

256. Section 24 of the Legal Capacity Law stipulates that if the parents of a minor are separated, whether they remain married or their marriage is annulled, they can agree on the issue of guardianship over the minor and each parent's respective rights. Such an agreement requires the approval of the court. Amendment No. 13 to the Law issued on 23 March 2005 amends Section 24 so as to include unmarried parents. The Amendment also

broadens the scope of the court's approval which is needed to validate the agreement, so as to include recognition by the court that the guardianship agreement is in the best interest of the minor. Upon receipt of the court's approval, the agreement will have the status of a court decision for all matters other than appeals. (See above).

F. Article 13 – Freedom of expression

257. This issue was discussed in Israel's initial report. No change has occurred in this area since the submission of Israel's initial report.

G. Article 14 – Freedom of thought, religion and conscience

258. This issue was discussed in Israel's initial report. No change has occurred in this area since the submission of Israel's initial report.

H. Article 15 – Freedom of association and peaceful assembly

259. The Non-Profit Associations Law 5741-1980 the: "Non-Profit Associations Law") requires that the establishment of any association be by at least two adults, thus restricting the right of children to establish an association. Nevertheless, Amendment No. 5, issued in February 2005 amends Section 15 to stipulate that any person aged 17 and above is eligible to be a member of a non-profit association.

260. Section 4 of the Legal Capacity Law states that legal action taken by a minor requires the approval of her/his representative (a parent or a legal guardian appointed) either in advance of the action or subsequent to the action. In contrast, Section 15(b) that was included in amendment No. 5 to the Non-Profit Associations Law holds that a minor joining such an association and voting in its institutions does not require the approval of her/his representative.

Political assembly

261. This issue was discussed in Israel's initial report. No change has occurred in this area since the submission of Israel's initial report.

Assembly of pupils and youth councils

262. The Ministry of Education encourages the establishment of pupils' councils, which are elected bodies of pupils that represent the entire student body before the school administration, the local school board and the Ministry of Education. Members of Pupils' councils are elected democratically, with adequate representation for every age group (see the Director-General's circular nt/1(a) of 1 September 1998) A pupil council member also serves on the committee to promote the status of children, which was established in each local authority under Section 149G of the Municipalities Ordinance, as amended in 2000. The Pupils' Rights Law stipulates that a school must encourage the establishment of a pupils' council, and refrain from any action that would inhibit its establishment.

Freedom of protest and demonstration

263. In principle, the freedom of protest and demonstration enjoyed by adults also applies to children. The Ministry of Education prohibits pupils from taking part in political demonstrations during school hours, although it recognizes that pupils and teachers have a

right to participate in demonstrations outside of school hours, subject to their own responsibility.

264. The Ministry also stipulates that parents of children who are absent from school due to participation in any gathering or demonstration are required to notify the school of the absence in writing. The school will handle this absence in accordance with the regulations applying to any absence from school.

I. Article 16 –The right to dignity, privacy and reputation

265. The Ministry of Education Directives include numerous provisions to protect pupils' dignity, including their privacy. For example, the Directives prohibit anyone in the school from conducting a bodily search of a pupil to discover drug use, even if pupils and parents have given their consent to such searches. Another Directive of the Ministry of Education prohibits an educational institution from punishing a pupil for any act or omission of her/his parents. This is directed at parents who fail to make all of the payments requested by the institution. A pupil may not be removed from a classroom or suspended from school as a result of non-payment, nor can her/his grades or certificates be withheld for reason of non-payment. In fact, another Directive stipulates that matters of payment will be settled directly with parents, without involving pupils. A pupil's dignity will not be violated due to a dispute with her/his parents regarding payment.

The right to privacy in the narrow sense

266. Juvenile court proceedings are conducted in camera. The Court must authorize the publication of a hearing conducted in camera, including a photograph of the courtroom. Sections 70 and 70(c) of the Courts Law prohibits publication of any detail including pictures, addresses or other details that are likely to lead to the identification of minor defendants or witnesses in criminal trials, or a complainant, or those affected in a trial for offences according to Sections 208, 214, 345–352 and 377A to the Penal Law, which includes the prohibition against allowing a minor to reside in a brothel, the prohibition against committing sexual offences and the prohibition against trafficking in persons. This provision applies to courts of all instances in which minors may be tried — not only juvenile courts — and its application is not restricted to cases which are heard in camera.

Genetic testing

267. Following previous information provided regarding the Protection of Genetic Information Law 5760-2000 (the: "Genetic Information Law"), an amendment was enacted in July 2008. The amendment entered into force on 30 November 2008.

The definition of Genetic Testing for Family Connections

268. The definition of "Genetic Testing for Parenthood" set out in Section 2 of the Law was amended and is now entitled: "Genetic Testing for Family Connections", which is genetic testing for establishing the family connections of an individual.

The performance of genetic testing for establishing family connections

269. The Amendment added chapter E1 to the Genetic Information Law to regulate this issue through Sections 28A to 28Q.

270. Section 28A stipulates that genetic testing can be conducted only subject to an order granted by the Family Matters Court. Furthermore, Section 28B determines that the person's consent to the testing is required. If the individual is under 16 years, the consent of her/his guardian is necessary. A minor over the age of 16's consent is required; the Court

shall not order the performance of such a test prior to hearing the minor's objection (regardless of her/his age).

271. The court shall take into consideration the minor's age and level of maturity, unless it is convinced that such a hearing may harm the best interest of the child. Nevertheless, if the minor is a parent or is alleged to be a parent, the court may order (for reasons noted) the performance of the test without the consent and presence of the minor's guardian as long as an explanation is provided to the minor. This option is subject to the minor-parent's consent to the test and consideration of the minor-parent's best interest.

272. Section 28C stipulates that a court may order genetic testing of an embryo, only when such a test is required during the pregnancy. The test may be conducted subject to the mother's informed consent and only after she was provided with a detailed explanation of the possible risks involved.

273. Section 28D refers to special circumstances. These circumstances are as follows: when the mother of a minor was married (in accordance with the Population Registry Law) for a period of 300 days prior to the minor's birth, the court shall not order genetic testing. The reason for this is the best interest of the child, which prevent performing a test that may indicate that another person is the child's father. However, the court may order the tests in cases where it is convinced that the necessity of the test outweighs the harm it may cause the child.

274. Furthermore, Section 28E to the amended Protection of Genetic Information Law amendment also stipulates specific rules regarding the performance of the test when the outcome is likely to indicate that the child is a 'bastard' (illegitimate according to the Jewish Halachic Law). This status prevents the person from marrying another Jewish person. Therefore, the Law tries to prevent such results from being reached by prohibiting the performance of the test in such cases.

275. The court may find that it is in the best interest of a minor to undergo such a test even though it may result in illegitimacy, however, it shall order that the test results will not be valid in a Religious Court.

Case law

276. In a related case, the Tel-Aviv District Court established the normative criteria to compel the performance of a paternity test. The Court held that a child has a fundamental right to know the identity of her/his biological father. And thus, the court can order a paternity test or draw the conclusions arising from a person's refusal to undergo the test. As a rule, the court will not order that a paternity test be performed when there is a fear of illegitimacy. Still, this rule is not absolute; there are exceptional circumstances in which the court will consider ordering the performance of a paternity test despite the fear of illegitimacy. In such circumstances the court examines the child's best interest together with the legitimate interests of the parents. When the court orders a paternity test it must examine the best interest of the child and be certain of the degree of any potential harm to the child as a result of the test outcome (M.A 1364/04 *Attorney General* v. *Anonymous et. al.* (5.7.2006)).

277. The Tel-Aviv District Court, while residing as Juvenile Court, agreed to disclose a minor's identity, subsequent to the child's fleeing from a closed residence where he was sent post-conviction. The minor was convicted of committing severe sexual offences against two small children, aged 6 and 10.

278. The Court faced a difficult decision, balancing between the defendant's and his family's right to privacy, as they were member of an ultra-orthodox community, and the protection and security that the court owed to the public. The Court stressed that the

publication would in fact terminate the efforts to rehabilitate the defendant; however, by escaping from the facility the defendant had actually showed indifference to the rehabilitation efforts.

279. The Court held that the defendant's identity would be publicized. However, the Court gave the defendant a chance to come forward and avoid such publication. (S.Cr.C 203/*05 Anonymous v. Anonymous* (08.12.2008)).

The right to privacy in the broad sense

280. In a recent decision of the Tel-Aviv Magistrate Court, the Court convicted a defendant for violations of the right to privacy and for the publication of profanities. The defendant was caught taking photographs of naked children at the beach with his cellular phone, which attracted the attention of bystanders. The Court found that these profane photos included images of children and thus violated Section 214(b3) to the *Penal Law* which states that a person who possesses profane photos, including images of children, will be sentenced to one-year imprisonment unless the possession is random and in good faith. The Court found that although the legislator did not specify what constitutes profanity, the concept involves emotions of repugnance and loathing. The Court determined that photographing children for the purpose of satisfying the sexual desires of the defendant qualified as profanity. The Court further stipulated that the interpretation of what profanity is should include reference to the nature of the Law, which is to protect children against paedophiles and sex maniacs.

281. Furthermore, the Court found that the defendant violated the Protection of Privacy Law, 5741-1981. These children were photographed without their parents' consent. The Court held that there is a difference between an adult who exposes himself in public and can therefore be seen as consenting to any resulting photographs, and a child who does not have legal capacity, is naïve, and is being used for profane purposes.

282. The fact that the children were naked on the beach does not preclude their right to privacy, including the right not to be stalked or photographed. The defendant was eventually sentenced to one year imprisonment and 18 months of suspended imprisonment. (Cr.C (Tel-Aviv) 006136/07 *The State of Israel* v. *Salomon-Ballivoy Korido* (08.01.2008)).

J. Article 17 – Access to information: television, radio, and film

Protection of children

283. In accordance with recommendation No. 59 of the concluding observations of the Committee on the Rights of the Child, the Committee recommended that the State party shall take all necessary measures to increase the effectiveness to address commercial sexual exploitation by providing the necessary financial and other resources. Below are the measures undertaken to address this recommendation.

284. In 2001, the Knesset approved the Classification, Marking and Prohibition of Harmful Broadcasts Law 5761-2001 (the: "Broadcasts Law"). The Law determined that television broadcasts that allow visual, verbal or vocal elements of violence, sexual acts and cruelty or which could be seen as encouraging criminal behaviour or the use of illegal drugs, shall be classified as broadcasts that are not appropriate for children under a certain age.

285. The Classification, Marking and Prohibition of Harmful Broadcasts Rules (Commercial Broadcast, Advertisement and Issuing of a Notice) 5765-2005, (The: "the Broadcasts Rules") distinguish between three categories of classification: programmes inappropriate for children under the age of eight, programmes inappropriate for children

under the age of fourteen and programmes inappropriate for children under the age of eighteen. The classifications are made according to the content of the programme.

286. After a long process initiated by the Broadcast Cable and Satellite Council (the "Council"), which included a public hearing and a comprehensive examination accompanied by a professional counsellor, the Council decided on 9 July 2009, to recommend to the Minister of Communication, to change the existing rules in order to adapt the broadcast categories of classification in a more appropriate way to the stages of development of children and youth.

287. Therefore, the Council recommended classifying the broadcasts according to four categories of classification instead of three. The 4th category recommended is: "programs inappropriate for children under the age of twelve". In addition to this, the Council recommended to cancel the category of "programs inappropriate for children under the age of fourteen" and to replace it by a category: "programs inappropriate for children under the age of fifteen".

288. Furthermore, the Council recommended adding categories of description according to the characteristics classifying the broadcasts: "sex and pornography", "violence and cruelty", "fear of encouraging violence" or "using dangerous drugs".

289. According to a 2002 amendment to the Communication Law (Broadcasting and Television) 5742-1982, a company licensed to transmit television broadcasts, shall not broadcast profanities including the screening of sexual intercourse that involves violence, abuse, humiliation, contempt or exploitation. Moreover, it is prohibited to broadcast sexual intercourse with a minor or a person impersonating a minor.

290. The Consumer Protection Regulations (Commercial and Marketing Directed at Minors) 5751-1991 (the: "Consumer Law") creates principles for commercials and marketing directed at minors under the age of eighteen. The content of the commercials and marketing of a product must be appropriate to the understanding and level of maturity of the intended audience. The message transmitted ought to accord with moral values such as justice, equality, non-violent behaviour, integrity and tolerance. Moreover, the information broadcasts must contain accurate and valid information (Section 2 to the Consumer Law). Section 3 prohibits the making of commercials and any marketing that involves the abuse of children's imagination and innocence, violent descriptions, nudity or sexual innuendos. Such content may result in a feeling of deprivation and inferiority among minors. Section 4 prohibits the making of commercials and marketing techniques that encourage minors to act carelessly, risk their health and/or safety and use dangerous accessories. Section 5 forbids commercials and marketing techniques that encourage minors to consume alcohol and/or tobacco, participate in gambling and games of chance, with the exception of lottery games entered for non-commercial purposes. The Consumer Law also prohibits the encouragement of any illegal act (Section 7). The Law further bans the publication of a minor's personal details, directly or indirectly, without the consent of her/his parents or custodian (Section 7(a)).

Children's television programmes

291. These prohibitions are also stipulated in the Second Authority for Television and Radio Regulations (Broadcasting of Television Programs by a Concessionaire) 5762-2002. Moreover, according to these regulations, a television programme that is intended for adults should not be broadcast before 22:00 p.m. whereas a television programme that is intended for adults and has blunt sexual scenes, severe violence, or foul language should not be broadcast before 24:00 p.m. In addition, the concessionaire is obligated to provide a diverse and balanced broadcasting programme. The concessionaire broadcasts at least eighteen hours a day, and such broadcast includes programmes for the family. Programs

intended for children up to the age of twelve or programmes for youth between the age of twelve and fifteen must be broadcast at least during 90 per cent of the time between 16:00–24:00 p.m.

292. The Second Authority for Television and Radio Regulations (Insertion of Commercials in Television Broadcasts) 5752-1992 controls the transmission of commercials during children's programmes. According to the regulation, programmes designated and/or that might be popular among minors ought not to include commercials for drinks that contain alcohol, elements that may start a fire or easily catch fire. It is also prohibited to air commercials concerned with medications, vitamin additives, sedatives and adult films before 22:00 p.m.

293. The Second Authority for Television and Radio Regulations (Ethics in Television Commercial) 5754-1994, prohibits the transmission of commercials that may encourage inappropriate acts. It is also prohibited to broadcast a commercial that tolerates the appearance of minor in an improper manner or transmit commercials that offend the dignity of minors.

294. In accordance with the recommendation contained in paragraph 26 of the concluding observations of the Committee on the Rights of the Child, the right to non-discrimination must carry out comprehensive public education campaigns. Hence, the Israeli Broadcasting Authority devotes considerable efforts to encouraging tolerance and equality among children and youth. The Authority emphasizes the importance of impartiality and equivalence between dissimilar races, diverse skin colour, different ethnicities, origins and nationalities. The Broadcasting Authority — television and radio — transmits varied programmes on the subject of religious pluralism, co-existence between the Arab and the Jewish population, children and children with disabilities, children of immigrants, children of foreign workers and so on. These programmes aim to educate children, teach them about the various populations in the society and how to accept diverseness.

295. Attention is paid to fighting racism and communal segregation among youth. Daily news covers social and legal racial discrimination and struggles in order to raise awareness of the issue among adults and children.

296. "Kol Israel" – is a part of the Israeli Israel Broadcasting Authority (IBA) and is required by law to air artists of different styles, and broadcast programmes in Amharic, Russian and other languages on a regular basis. It is also committed to objectivity and to raising the awareness among people by discussing matters of controversy online. For instance, recent debate concerning a dispute between certain private schools in the central region of Israel and the Ethiopian community was broadcast broadly by the majority of networks.

Protection against the publication of children in the media

297. In 2004, Section 24(a) (2) to the Youth (Care and Supervision) Law was amended. The amendment stipulates that photographs of minors aged 5 (rather than 9, as it was previously) without their cloth, which photographs can result in the identification of the minor cannot be published. Thus, whoever advertises such pictures is liable and can be imprisoned for a period of up to one year.

K. Article 37 (a)

Prohibition against torture and cruel treatment

298. This issue was discussed in Israel's initial report. No change has occurred in this regard since Israel's initial report.

Corporal punishment of children – Remedies for parental cruelty

Case law

299. On 4 July 2006, the Tel-Aviv District Court sentenced a defendant to seven years' imprisonment and two years' suspended imprisonment. The defendant was convicted of multiple accounts of violence and abuse of a minor, which he performed against his two children over a period of several years.

300. The Court stressed that children should not be subject to corporal punishment, nor to strict discipline from their parents, but rather to parental care and warmth. Instead, the children in the case, were systematically abused, insulted, isolated from peers, and terrorized, all of which resulted in the children's need for psychiatric treatment including medication. The defendant had been residing in Israel for over fifteen years and was well aware of the legal situation in Israel in this regard. The fact that the defendant himself was also brought up in a similar manner, does not warrant leniency by the Court. The defendant pleaded guilty from the commencement of the investigation, which spared the need for the children to testify. The defendant also expressed remorse for his actions. Nonetheless, due to the severity of the offences, and the impact on the children, the Court did not find reason to impose a light sentence (Cr.C 40362/05 *The State of Israel* v. *Onimaya Theodor* (04.07.2006)).

301. On 12 February 2003, the Be'er-Sheva District Court accepted the State's appeal regarding the leniency of the punishment imposed on a defendant. According to the appeal, the defendant was convicted following a plea bargain reached with respect to two charges of abuse against minors and two charges of violence against minors. The Court stipulated that these offences were committed on numerous occasions.

302. The defendant, a father of seven children, abused them physically and mentally, and whipped them using a belt. The Ashkelon Magistrate Court sentenced him to 25 months' imprisonment, of which seven months was to be served as suspended imprisonment. The Be'er-Sheva District Court held that due to the severity of the offences, and due to the fact that the defendant did not demonstrate genuine remorse, the defendant should be subject to 36 months' imprisonment and one year of conditional imprisonment for the duration of three years following his release from prison, and provided he does not assault family members or injure minors and defenceless persons. The District Court held that violence towards children cannot be accepted as a method of education. Furthermore, the Court stipulated that a minor is a person, as underscored by the Basic Law: Human Dignity and Liberty, and therefore, beating him violates his basic human rights; and the parent is not entitled to violate the minor's rights this way. (Cr.A (Be'er-Sheva) 7161/02 *The State of Israel* v. *Z.Y.* (12.2.2003)).

303. On 9 September 2007, The Ashkelon Magistrate's Court sentenced the defendant to a period of two years' imprisonment and one year suspended imprisonment, after he again attacked three of his children during 2006. The Court also activated the one year of conditional imprisonment which was included in the defendants' previous conviction. The court stated that parents must protect, love and educate their children, rather than serve as source of violence, fear and terror. (Cr.C (Ashkelon) 1414/06 *The State of Israel* v. *Zur Yehoshua* (9.9.2007)).

304. On 17 July 2008 the Tel-Aviv District Court sentenced a father who was found guilty of committing an indecent act against his child during a period of two years, to eight years' imprisonment and two years' suspended imprisonment. Furthermore, the Court ordered the father to compensate his daughter with the sum of 50,000 NIS (13,500$) (S.Cr.C. 1043/06 (Tel-Aviv) *The State of Israel* v. *Anonymous* (17.07.2008)).

305. On 27 March 2008 the Tel-Aviv District Court sentenced a father who was found guilty of committing multiple acts of incest against his daughter, to twelve years' imprisonment and two years' suspended imprisonment. Furthermore, the Court determined that due to the severity and frequency of these acts, the father should compensate his daughter with the maximum compensation stipulated in the law in the amount of 228,000 NIS (61,500$). (S.Cr.C 1035/03 (Tel-Aviv) *The Tel-Aviv District Attorney (Criminal)* v. *Anonymous* (27.03.3008)).

The obligation to report

306. This issue was discussed in Israel's initial report. Certain changes have occurred with respect to the obligation to report since Israel's initial report. In accordance with recommendation No. 37 of the concluding observation of the Committee on the Rights of the Child, a State party ought to establish a national and comprehensive strategy violence and abuse within the family, in schools and other institutions carrying for children. Such strategy is now implemented by means of the Compulsory Education (Physical Violence Reporting Rules) Regulations 5770-2009. A recent enactment that obligate Principals of educational institutions to report in writing to the supervisor of such institution regarding any occurrence of physical violence between an educator and a pupil (additional details provided below).

Minors in need of protection

307. In a groundbreaking decision reached by the Jerusalem Magistrate Court, the Court ordered the Municipality of Tel-Aviv to pay 200,000 NIS ($54,000) as compensation to the plaintiff. This was awarded as a result of the Municipality's failure to remove the plaintiff from his home, when he was 10 years old, despite the existence of evidence available to the Department of Welfare, regarding abuse and neglect inflicted by the plaintiff's father. When the municipality finally acted based on the information before it, after severe emotional damage was inflicted upon the plaintiff, it failed to provide an appropriate out-of home placement, therefore the plaintiff ended up in the youth wing of a psychiatric hospital where he stayed for over a year, despite the fact that he did not exhibit any symptoms of psychiatric illness, other than distress that would be expected under the circumstances. As a result of the inappropriate hospitalization, the plaintiff suffered from several difficulties in his adult life, including the reluctance of the Israeli Defense Force to draft him, reluctance of the authorities to issue him a driving license and a permit to carry a weapon, all of which resulted from the stigma associated with mental instability. The Court agreed with the plaintiff that an evaluation conducted by a psychiatric hospital of the condition of a child removed from his home should last several weeks at most, and thereafter, the child should have been placed in a out-of-home facility according to his needs and according to the options available to the relevant authorities. The Court determined that the primary harm was the failure to remove the plaintiff from his home in due time, which resulted in extensive hospitalization, and was part of the pain and suffering caused by the municipality, therefore entitling him to compensation for non-pecuniary damages. (C.C. 3970/98 *Yitzhak Goldstein* v. *The State of Israel* (14.01.2007)).

Children suspected of a criminal offence

308. The Mentally Ill Patients Treatment Law was amended by Amendment No. 14 to the Youth Law. According to the Amendment, psychiatric examinations, treatment orders etc, can only be issued by psychiatrists and professionals in child psychiatry.

Capital punishment

309. This issue was discussed in Israel's initial report. No change has occurred on this subject since Israel's initial report.

Life imprisonment

310. On 18 January 18, 2006 the Supreme Court rejected an appeal filed against a sentence of 25 years' imprisonment imposed on a minor. The minor was 17 and three months at the time he murdered his own father. The rationale of the appeal was anchored in Section 25(b) to the Youth Law that stipulates that there is no obligation to impose life imprisonment, mandatory imprisonment or a minimum penalty on a minor. The appellant claimed that the District Court that sentenced him to 25 years' imprisonment was not authorized to sentence him to more than twenty years. The Court affirmed prior decisions determining that Section 25 of the Youth Law allowed courts discretion as to whether or not to impose severe punishment on minors and under what circumstances. The Court stressed that the legislator's purpose in enacting Section 25 of the Youth Law was to broaden the scope of punishments that can be imposed on minors, excluding capital punishment which cannot be imposed under any circumstances. Therefore, the Court rejected the appeal and the punishment remained (Cr.A. 4379/02 *Anonymous* v. *The State of Israel* (18.01.2006)).

311. In another case, the Supreme Court rejected an appeal lodged by two defendants who were convicted of the joint perpetration of a murder when they were seventeen and a half years old. The convictions were passed down in separate trials, and the first defendant was sentenced to life imprisonment while the second was sentenced to 24 years' imprisonment. The appeals were heard together. The first appellant appealed his sentence of life imprisonment on the basis of the fact that he was a minor at the time he committed the crime. This outcome, he claimed, violated Section 25(b) of the Youth Law and the Basic Law: Human Dignity and Liberty. According to the appellant, his rights were violated.

312. The Court held that the legislator was aware of the sensitive issue of minors' sentencing, namely that extra caution is required. Therefore, even though there is a mandatory sentence imposed on those who have committed murder, the court has the discretion regarding the punishment in cases of unusual circumstances, even if it results in a deviation from the mandatory sentence.

313. In Israel, a life sentence does not entail life-long imprisonment with no option of early parole. Therefore, it does not contradict or refute the provisions of the Convention that prohibits an imposition of life sentence in its literal meaning on a minor. This way, the proper balance is struck between the need to be lenient with minors, even if they committed the most severe offences, with the need to respect the rights of the victim. Thus, the practice in this matter is consistent with the Basic Law. The Court determined that the judgment should remain and the sentence should not be reduced.

314. The second appellant contested the severity of her punishment; while the State appealed to impose the same punishment on Sigalit Haimovich of life imprisonment as imposed on the first appellant, as they committed the crime together and should serve the same sentence. The Court held that even when the offence was jointly performed, there is

space to consider each perpetrator's specific circumstances. Therefore, the Court denied both appeals. (Cr.A 9937/01 *Roei Horev et. al.* v. *The State of Israel* (09.08.2004)).

V. Family environment and alternative care

The definition of the term "Family" under Israeli law

315. Both the Rotlevi Committee (2003) and it Sub-Committees recommended several changes to the Israeli legal definition of a family. Some of the recommendations were implemented by Amendment No. 14. It is worthwhile noting that in addition to the changes that this Amendment rendered, it had several implications for related legislation in particular the Criminal Procedure Law.

316. A recent amendment was made to the definition of a "Family Unit." The amendment adds extended family members to the list of individuals who constitute immediate family. The addition includes grandparents. As a result of the amendment, less direct family members may hold rights with respect to minors. Moreover, a 2007 Amendment to the Limitation Law 5718-1958 (the: "Limitation Law") includes the parent's partner (even if they are not married), foster parents (and their partners, even if they are not married), as well as grandparents in the definition of immediate family members. The term family member was also amended to include persons over the age of 15, who are either biological or foster siblings, as well as their spouses, uncles or aunts including their spouses, and siblings' in-law. This definition is also incorporated into the Penal Law following recent amendments.

317. A similar definition can be found in the Criminal Procedure Law, (Enforcement Powers – Physical Search and Obtaining Means of Identification) 5756-1996 (the: "Criminal Procedure Law (Enforcement Powers) Law"). This definition includes the parents, grandparents, their spouses (even if they are not married), siblings (including step-siblings), and their off-spring, aunts or uncles and their off-spring, and siblings-in-law.

Family structure

318. Israel's population is relatively young. In 2008, 34.85 per cent of Israel's population was classified as children, aged between newborn and the age of 18. In the same year, 43.3 per cent of Israeli households were families with children under the age of 17. More recent numbers are detailed below.

Family size

319. As indicated in table No. 3 below, in 2008 the average number of children per family was 2.38, which is similar to the average reported in Israel's initial report. Large families with four or more children comprise 16.43 per cent of all families, while approximately one-third of all families have only one child. The number of children in families varies greatly according to sub-population: Jewish families have an average of 2.24 children, while Arab families have an average of 2.95 children. Large families with four children or more comprise 12.7 per cent of Jewish families and 30.8 per cent of Arab families. The ultra-orthodox Jewish population is also characterized by large families.

320. New immigrant families that came to Israel during the 1990's tend to be smaller: In 2005, 50 per cent of these families had one child, compared with 33 per cent of the general population (in 2006). Between 1996 and 2008, the population of Jewish children decreased from 35.84 per cent to 33.11 per cent, while simultaneously, the number of Arab children decreased from 50.8 per cent to 49.63 per cent.

Table 3
Number of children per family, by sub-population (average and percentage)

2001		*2008*	
Number of children	*Total population*	*Number of children*	*Total population*
Average	2.35	Average	2.38
Percentage	-	Percentage	-
1 child	34.20	1 child	31.4
2 children	29.90	2 children	32.23
3 children	18.90	3 children	19.95
4 or more children	16.80	4 or more children	16.43

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2009.

Family composition

321. In Israel, most families (90 per cent) with children are headed by two parents; the remainder (10 per cent) are single-parent families. There are fewer single-parent families in the Arab population (5.5 per cent), and significantly more such families among the new immigrant population (29.56 per cent). Most (57.6 per cent) single parents are divorced, 13.2 per cent of single parents are married but live separately, 18.8 per cent are widowed and 10.4 per cent were never married.

322. In 2008, 3,943 children were born to girls age 19 and younger. These births amount to 2.51 per cent of all births that occurred in Israel in 2008. Births to single minors are rather uncommon in Israel. In 2006, 581 children were born to girls under the age of seventeen, of which 432 were Muslim and 107 were Jewish, 10 per cent of these girls had given birth previously. In 2007, 2,811 girls aged 19 and younger approached the State Termination of Pregnancy Committees. 84 per cent of these girls were Jewish, 10.9 per cent had no religious affiliation and only 2.85 per cent were Muslim. Nearly all of these girls (96.8 per cent) were single. The majority of the abortion requests were granted.

323. Directive 4/08 of the General Director of the Ministry of Health Directives deals with an expansion of services provided in the State medical basket of services for the year 2008. Prior to this expansion, female minors below the age of eighteen were entitled to undergo a free abortion. However, as of 3 March 2008, all women below the age of nineteen are entitled to a free abortion.

Same-sex couples

324. Civil marriages are not recognized under Israeli law. Marriages are conducted in accordance with the couple's religious law; therefore marriages between two persons of the same-sex are not possible. Nevertheless, in recent years two alternatives to the traditional institution of marriage were developed. The first is the recognition of Reputed Couples (common-law partners). Such a relationship is legally binding, and enjoys similar legal rights and duties as do couples who were legally married. Gradually, the legal status of same-sex couples has been encompassed within the legal concept of Reputed Couples. The second alternative for same-sex couples is the registration of a marriage which took place abroad with the Israeli Population Registration. According to a ruling of the Israeli High Court ruling in November 2006, same-sex couples who were married abroad can be registered with the Israeli Population Registration. This registration renders the civil (legal) status of reputed and/or same-sex couples equal to that of legally married couples,

including with respect to National Insurance and tax benefits (the above relates to all religious groups in Israel).

325. Another leading case concerning same-sex couples was heard by the Supreme Court of Israel, residing as a Civil Court of Appeals. The Court accepted an appeal submitted by two unmarried woman, mothers to minor children, who were living together as a couple. The couple applied to adopt each other's children. The Supreme Court emphasized that there are various aspects to the concept of the child's wellbeing, some of which are personal and individual to each child and some of which are environmental. In order to reach a decision, a court is required to consider all potential aspects that may impact upon the child's wellbeing as a result of her/his adoption; such as the future relationship between the child and her/his parent, difficulties that may arise within the immediate (and remote) family and with friends, and even the response of the child's community to the adoption. The Adoption Law is formulated in a flexible manner (both in terms of its wording and its interpretation) as cases and circumstances vary. And thus, the Supreme Court revoked the lower court's decision and remanded the case to the Family Matters Court in order for that court to re-evaluate the matter. The Supreme Court ordered that the re-evaluation must include consideration of the children's wellbeing (C.A. 10280/01 *Yaros-Hakak* v. *The Attorney General* (10.01.05)).

Marriage and birth among minors

326. Please see Chapter III, above.

A. Articles 5, 9 and 18

Parental guidance and responsibilities

327. The Rotlevi Sub-Committee, which engaged with issues related to the child and her/his family, presented a conceptual basis for legislation addressing the issue of childrearing. The traditional legal presumption is that parents ought to be granted wide-ranging legal rights with respect to their minor children. In 2003, the Sub-Committee recommended principles that the Israeli legislator should adopt in this regard. By 2009, the majority of the recommendations had either been approved by the Israeli legislator or were in the process of enactment, as stated in this Report.

328. It is worth mentioning that in recent years there has been a change of perception with respect to children's rights throughout the western democratic world. The previous legal, social and educational notions have evolved, and are now governed by a child-central perception. This perception acknowledges the value of the child's autonomy and encourages the participation of children in decisions affecting them and their interests. The legal, welfare and educational systems respectively examine the child's best interest in every proceeding, whether or not these accord with the parent's points of view and/or their wishes.

329. The rights and the duties related to raising a child are granted legal recognition and are governed by diverse legal duties, including the acknowledgement of the importance of the extended family's involvement in childrearing. The committee also suggested the adoption of new terminology, and the replacement of the phrase the "Rights and Duties" of parents, with the phrase "Parental Responsibility". The novelty inherent in this conception lies in the aspect of "equivalency". Parents no longer have the sole rights over their children's lives; children now enjoy rights of their own over their lives.

330. Albeit, children still enjoy the right that an adult will bear parental responsibility for them. A child's right to be cared for stems from, among other things, well-founded "child

development psychology," which recognizes that children need a stable home and a nurturing environment to ensure their healthy development.

331. Children enjoy a number of rights with respect to family and childrearing, for example:

- The right of a child to live, grow, and develop with her/his parents.
- The right of a child to dignity and security, and the right to be cared for by her/his own (not necessarily biological) parents.
- The right of a child to an intimate, steady, and continual relationship with her/his parents.
- The right of a child to guidance and consultation from her/his parents.

332. Few laws can shield children from emotionally neglected childhoods; nevertheless, the essence of the Sub-Committee's recommendations is already regulated by the Legal Capacity Law and affected by the Social Welfare Department in her/his region.

Parents' legal responsibilities

333. Section 361 of the Penal Law distinguishes between different types of neglect. The Section stipulates that leaving a child under the age of six without proper care, while subjecting the child to the danger of actual harm to her/his health or wellbeing, can result in three years' imprisonment. If the act is done negligently, the offender may be sentenced to one years' imprisonment. However, if the act was committed in order to abandon the child, the offender may be sentenced to up to five years' imprisonment.

334. The Amendment also modified Section 323 of the Penal Law, stipulating that a parent or a legal guardian is obliged to provide the minor with all her/his substantial needs, such as providing healthcare, preventing them from being abused, and bodily or emotionally harmed. The guardian shall be liable for failing to satisfy her/his legal obligations, and if the guardian endangers the child's life, she/he may be sentenced to up to three years' imprisonment.

Parents' tortuous wrong

335. On 31 August 2005 the Jerusalem Family Matters Court determined that a father, convicted of performing an indecent act against his child when she was three years old, could also be seen as violating other sections of the Penal Law, including violating the obligation to care for a child, committing assault, and committing abuse; and could be seen as violating his parental obligations to care for his child as stipulated under the Legal Capacity Law. Accordingly, these violations constitute a breach of statutory duties and assaults under the Civil Wrongs (Tort) Ordinance, 5728-1968 which establishes a right to compensation.

336. The Court held that this kind of harm, inflicted on a small child, would continue to affect the child at different stages of her/his life, thus qualifying as mental harm which would necessitate psychological assistance. The Court also found that this harm created a permanent mental disability of 20 per cent. Due to the breach of the obligation to care for the child in question, both under the Penal Law and the Legal Capacity Law, as well as a violation of Articles 16 and 19 of the Convention, the Court determined that the father should reimburse his child for the mental treatment she had already received. In addition, the Court ordered the father to compensate his child for future mental treatment, and for the infliction of misery and pain, in the total sum of 480,000 NIS (129,000 $). (F.M.C 2160/99 *Anonymous* v. *Anonymous* (31.08 .2005)).

337. In another case, the Rishon-Lezion Family Matters Court ordered a father who was convicted of committing an indecent act against his child, when she was 14 years old, to compensate her in the amount of 160,000 NIS (43,000$). The child was forced to change schools and move to a private school, as a result of the change in her behaviour caused by the trauma. Furthermore, the child dropped out of social work studies at university after only two months, after being asked to write a paper on sexual abuse. Therefore, the Court ordered the child's compensation, which included compensation for the infliction of misery and pain, for past and future medical treatment, and for the costs of changing schools and dropping out of University. (F.M.C 10970/04 *Anonymous* v. *Anonymous* (29.10 .2006)).

Income support for families

338. The National Insurance Institute (NII) is responsible for the payment of income support benefits. In 2006, the NII paid income support benefits to approximately 130,341 families, which did not earn the minimum level of income as determined by the Income Support Law 5740-1980, and were not covered by any other income maintenance programmes.

339. As of 1 January 2006, women who are unable to work owing to their high-risk pregnancies are to receive a "maternity allowance" for a period of at least 30 days. The amount which is to be received per day is the lower of the following two amounts: the basic amount divided by 30–259 NIS, (70$); or the woman's average salary, as determined based on her income in the previous three months, divided by 90 (starting from 1.1.2009). Following the Emergency Economic Plan and the Recovery Plan for the years 2002–2006, the sum of the maternity allowance was reduced by 4 per cent, effective as of June 2002 and up until December 2007. The 4 per cent reduction was annulled as of 1 January 2008.

340. As of 1 January2005, the NII of Israel makes payments of maternity grants, which are provided to post-natal new mothers in order to help cover the cost of a layette for the newborn child, directly into the mother's bank account approximately one month after the date on which she gave birth. The maternity grant was previously paid by means of a check given to the mothers in the hospital in which the birth took place.

Table 4
Maternity allowance and birth grants, 1990–2008

Year	*Recipients of maternity allowance (thousands)*	*Annual increase (per cent)*	*Recipients of birth grant (thousands)*	*Annual increase (per cent)*
1990	43.7	0.5 (1986–1990)	103.6	0.5 (1986–1990)
1995	55.2	4.8 (1991–1995)	113.1	1.8 (1991–1995)
2001	71.2	0.8	127.1	-3.6
2003	73.9	3.5	136.4	6.1
2004	77.5	4.9	141.2	3.5
2005	77.0	-0.6	142.9	-
2006	82.7	7.3	143.6	0.5
2007	86.0	4.1	147.2	2.5
2008	93.6	8.8	152.0	3.3

Source: The National Insurance Institute, 2008.

Maternity Hospitalization Grant

341. This grant is paid by the NII and is intended to cover the cost of childbirth and the cost of hospitalization for the mother and child, and is conveyed directly to the hospital. Women who enter offence prematurely are provided with a higher fee. Women who give birth overseas receive payment directly if they submit a claim therefore. Since April 2005, the amount paid for a premature delivery was increased by 50 per cent and by January 2007 it climbed a further 12.1 per cent. The added percentage amounts to 151.6 million NIS ($40 million) per annum. These grants are funded by the Ministry of Finance. In 2008, 2,500 grants were paid for premature childbirths, an increase of 5 per cent as compared to 2007.

342. As of 1 January 2009, a "maternity grant" given to a new mother upon the birth of her first baby, or to adoptive parents upon adoption, was 1,556 NIS, (420$). The maternity grant for a second child was 700 NIS, (175$), and for every third and additional child to the family was 467 NIS, (126$).

343. The NII grants a benefit to a mother who has given birth to three or more children in one birth, and again at the end of a 30-day period after the date of the birth, if at least three of those children have survived. The childbirth allowance is paid, in addition to the maternity grant, for the period from the first day of the month following the birth, up until twenty months from that date.

344. In 2006 and 2007, a number of significant Amendments were made to the Women's Employment Law 5714-1954 (the: "Women's Employment Law"). These changes prohibit the employment of women during their maternity leave; prolong the period of leave permitted after hospitalization; prolong the period during which an employer is prohibited from dismissing an employee returning from maternity leave to 60 days; prolong the period during which dismissal of a female employee staying in a battered women's shelter is prohibited to 90 days (also requiring the consent of the Minister of Social Affairs and Social Services); extends maternity leave from twelve to fourteen weeks; and notably alters the pre-existing conditions so that after six weeks' maternity leave, should a new mother decide to return to work, or otherwise waive her remaining leave, the father will be permitted permanent, (previously temporary), leave in her stead, for the duration of the maternity leave. Another significant Amendment was legislated in 2008 (Amendment No. 44), and stipulated that a female employee who worked for at least twelve months under the same employer up until the beginning of her maternity leave, is entitled to a leave of absence for a period of one fourth of all her employment period, but no more than twelve months (before the Amendment, the requirement was that the woman work for the same employer for at least 24 months).

345. Amendment No. 5 to the Sick Day Payment (Absence from Work due to Child's Illness) Law 5753-1993 (the: "Sick Day Payment Law") issued on 26 March 2001, increased the number of paid leave per year for a child's illness from six to eight days.

346. Amendment No. 6 issued on 15 July 2002, supplemented Section 1(b) to the Sick Day Payment Law, stipulating that if the child in question is in the sole custody of a working or single parent, she/he is entitled to up to twelve days of paid leave per year on account of her/his child's illness. Amendment No. 8 issued on 3 March 2008 further extended this to sixteen days.

347. Amendment No. 7 issued on 18 June 2007 supplemented Section 1B(a) stipulating that if a parent of a child with a disability works for the same employer or in the same workplace for one year, she/he is entitled to fifteen days leave per year. These may correspond with regular vacation time or sick days, so long as the assistance provided to the disabled child requires absence (including treatment, supervision, accompaniment, or other necessary assistance). Furthermore, the parent is entitled to fifteen additional days

leave per year if she/he is a single parent, has sole custody of the disabled child, or if her/his spouse was not absent from her/his workplace under this amendment. The above Amendment supplements Section 1C, stipulating that the right accorded in Sections 1A and 1B will apply to foster parents if the biological parent or the adoptive parent did not take advantage of the right.

348. If the parent worked for one year in the same workplace or for the same employer, she/he is entitled to leave for up to 30 days per year (which may correspond to regular vacation time or with sick days) in the event of a child suffering from a terminal disease. If the second parent was not absent from her/his workplace or if the parent is a single parent, or the child is under her/his sole custody, then the parent is entitled to 60 days leave per year in the event that the child suffers from a terminal disease (Amendment No. 3, dated 2 April 1997). Many work places grant additional privileges such as shorter work days for mothers or employers' participation in day care expenses.

Social insurance and entitlements

349. As detailed in Israel's initial Report, all families residing legally in Israel, regardless of income, are entitled to receive a "child allowance", a monthly grant which increases with the number of children in a family. The Government policy of instituting drastic cuts in the amount provided in child allowances — the first stage of which was carried out in 2002–2004 — was set to continue in subsequent years up until the year 2009. The policy was partially implemented by means of temporary orders, and partially as permanent legislation. By the end of the legislative process in 2009, the allowance was a set amount for every child in all families, regardless of the child's position in the family. Beginning January 2006, for children who were born as of 31 May 2003, a family with one child received 159 NIS (42$) per month; a family with two children received 318 NIS (85$) per month; a family with three children received 509 NIS (127$) per month; a family with four children received 862 NIS (232$) per month; and a family with five children received 1,215 NIS (303$) per month. The amount per child born after 1 June 2003, is 159 NIS (42$) constantly. In 2005, 956,294 families received child allowances, amounting to 19 per cent of the total benefits paid by the NII. In 2006, 968,282 families received child allowances, amounting to 17.6 per cent of the total benefits paid by the NII. (For further details see chapter VI (C) on child allowance, below).

Social services support

Social welfare departments

350. Social welfare departments assist with the placement of children in day care centres so as to assist working mothers. In some cases, particularly in families that are unable to adequately care for their children, the Social Welfare Departments will refer the children to a centre and finance their care. As of May 2009, 14,000 children were placed in day care centres or family day care by the Social Welfare Department. Six various day care facilities operate within municipalities with an Arab majority, among them are 280 infants and 250 children that were placed in day-care facilities by the Social Welfare Departments.

351. After-school frameworks provide older children with supervision, hot meals, recreational activities, informal education and some therapeutic services. As of May 2009, approximately 10,000 children were placed in such frameworks by Social Welfare Departments – a dramatic increase from the 4,000 children who were placed in such frameworks in 1989. This increase was the result of cooperation between the Ministry of Labor and Social Affairs and the Ministry of Education, which worked together towards the increasing the number of after-school frameworks. (For more information on the after-school frameworks provided by the Ministry of Education, see Chapter VII.)

The Counseling and Psychological Services Department

352. The Counseling and Psychological Services ("Shefi") Department is a department within the Ministry of Education responsible for providing counselling and psychological Services, as well as educational counselling for pupils, parents and educators.

353. Resource distribution is as follows: "Shefi" currently allocates a total of 1,302 educational psychologists to kindergartens and schools in every local authority in Israel. 1,023 psychologists are allocated to the Jewish population and 159 are assigned to the Arab population. Among these, 71 are specialized in educational counselling and psychological services, fourteen are allocated to work with the Bedouin population and five are assigned to work with the Druze population.

354. With respect to kindergartens, "Shefi" operates an educational advisory service for kindergartners composed of children aged 3 to 6. The guidance is given by M.A. graduate educational advisors who are trained to deal with infants.

355. With respect to schools, "Shefi" currently allocates approximately 4,300 educational advisors to all official educational institutions (440 of which work with the Arab population, 70 with the Druze population and 37 with the Bedouin population).

356. Shefi plays a major role in the process of assimilation and implementation of the new Directive 5770/1(A) (September 2009) of the Director General of the Ministry of Education, which was concerned with the creation of a safe environment, and treatment against violence in educational institutions. The Directive comprises policy for the prevention of violence and the creation of a safe environment. The scope of the policy includes the advancement of schools' cultural environments, inter-personal communications, emotional and social studies, environmental studies, the importance of accepting children with disabilities and cooperation with parents. The Directive includes specific rules regarding violent behaviour while presenting a positive model of behavioural norms in accordance with the recommendations of the State Comptroller.

357. Since 2005, "Shefi" annually updates its website regarding the HIV virus and the Ministry of Education's website (prior to World AIDS Day). The websites includes theoretical and preventive information, surveys, and educational job offers for HIV infected youth.

Separation of children from their parents

Out of home placements

358. Out of home placements refer to all kinds of child residences outside the nuclear family home that stem from the order of a court or welfare authorities. The Rotlevi Sub-Committee, which addressed the issue of the child and her/his family, examined out-of-home-placements while these were partially regulated by legislation. Below are the Sub-Committee's recommendations with respect to out-of-home placements. Most of the recommendations were accepted and implemented by 2008, through Amendment No. 14 to the Youth Law.

The Sub-Committee's recommendations regarding out-of-home placement of children

Equality

359. The Sub-Committee recommended applying the principles of equality in a manner suitable to an out-of-home placement environment. One of the important factors emphasized by the Sub-Committee was adherence to children's civil, political, social and cultural rights despite the change of environment. The child's wellbeing is maintained by allowing her/him to obtain information relevant to her/him, to be protected, to be heard, to

enjoy respect of her/his privacy, to ensure responses to the child's claims, to obtain education, to enjoy leisure and to encourage the development of the child's own personality. The Sub-Committee gave special attention to the rights of children with disabilities. Those taking part in out-of-home placement — parents, foster parents and the entire group home personnel — must adjust their care in accordance with the child's abilities, potential and changing needs.

The decision-making process

360. The Sub-Committee's premise is that a child is better off raised by her/his parents. Thus, a decision to place a child in an out-of-home placement ought to be seriously considered and based on the belief that such a placement is in the best interest of the child. The decision is subject to the receipt of permission from the child's parents. The decision must be made by a group of professionals, specializing in child care.

361. When a child is placed out of home, the State is responsible for her/his wellbeing throughout her/his stay. The Minister of Social Affairs and Social services is bound (by regulations) to provide an appropriate and sufficient framework. All children must be placed in a framework suitable to their individual needs. Out-of-home placement is subject to periodical inspection and every child is accompanied by a person responsible for her/him during their residence.

Ending of placement

362. The Sub-Committee recommended establishing a mechanism to ensure continuous examination, designated to assist children return to their natural environment, namely their parents. The Sub-Committee paid special attention to the importance of particular guidance being given to children who reached maturity during their stay at their out-of-home residence (ages 18 to 21).

Qualitative out-of-home placement treatment

363. The Sub-Committee emphasized the importance of the presence of professional supervision at the facilities and accommodation of the placement concerned. Additional weight is put on the processes of training, guidance, documentation and research.

Divorced or separated parents

364. This issue was discussed in Israel's initial report. Few changes have occurred in this area since the submission of Israel's initial report.

Case law

365. On 27 September 2004 the Tel-Aviv District Court determined that pursuing the principle of the best interest of the child required granting custody to the father of two minor girls (ages nine and seven). The court-appointed expert, after evaluating both parents and their spouses, determined that both couples were qualified to be awarded custody of the girls. However, since the girls' mother intended to immigrate to the United States, where her new spouse resided, a decision had to be made. The Court determined that according to the Convention several of the girls' interests needed to be considered when a custody dispute involves emigration, such as: the right to maximum survival and development of the child (art. 6), the right to grow in a family environment (arts. 18 and 20) the right to education (art. 28), the right of the child to preserve her/his identity (art. 8) and the right of a child to form her/his own views and to express those views freely in all matters affecting him (art. 12).

366. The Court heard the girls unaided and together with each of their parents, and determined that the girls understood the situation and the desire of both parents to include

them in their new family. The Court held that although the girls did not express a specific desire to live with one of the parents, mainly due to their desire not to take sides in the conflict, they indirectly expressed their desire to remain in Israel, by the emphasis they placed on their relationship with relatives and friends in Israel. In the eyes of the Court, fulfilment of the right to identity as well as the right to grow with family members meant that the best interest of the girls was to stay with their father, therefore the Court awarded the custody to the girls' father. (F.A (Tel-Aviv) 1152/04 *Anonymous* v. *Anonymous* (27.9.2004)).

367. In another case regarding custody and emigration, the Tel-Aviv District Court determined that the children in question may immigrate to the U.K. with their mother subsequent to granting her custody. A year later the mother petitioned the Family Matters Court, requesting to be allowed to immigrate to the U.K since her parents and brother resided there, and provided the Court with detailed information regarding the relocation plan (such as place of residence and intended school for the children). While the motion was in process the mother revised her petition, informing the Court that she and the girls would reside with her new spouse in the U.K. The father objected to both of the plans suggested.

368. The Family Matters Court held that the mother may immigrate to the U.K., as she and the children were British citizens, and determined that this option would cause the least damage to the children, and it was in their best interest, since the father was not qualified to have sole custody, and forcing the mother to remain in Israel would harm the children psychologically. The father then appealed to the District Court and claimed that the children's independent will was not determined nor was their voice heard in court proceedings. The Court determined that the children were interviewed by the court-appointed expert who determined that they did not want to express a preference for either one of their parents, and would be traumatized if forced to appear before the court.

369. Therefore, the District Court affirmed the decision rendered by the Family Matters Court, allowing them to immigrate with their mother. (F.A (Tel-Aviv) 1287/05 *Anonymous* v. *Anonymous* (26.12.05)).

370. The father requested permission to appeal to the Supreme Court, which was granted. Thus the Supreme Court served as a third instance in this matter. The Supreme Court reaffirmed the decision made by the District Court. The Court held that hearing a minor according to article 12 to the Convention, does not need to be done directly, and as the court-appointed expert ascertained that the children wished to avoid appearing before the court, it was sufficient to hear their wishes through the evaluation of the court-appointed expert. Furthermore, it held that the right of the child to express his will does not necessarily accord with the best interest of the child, which the court must determine in any given case. Moreover, the fact that the court proceedings regarding the immigration of the children lasted more than three years, did not comply with the best interest of the children either. (F.M.A. 27/06 *Anonymous* v. *Anonymous* (1.5.06)).

Maintaining contact with both parents

371. Please see Chapter I, introduction above.

Tax deduction for childcare services

372. On 3 April 2008 the Tel-Aviv District Court determined that expenses paid for childcare services, such as nursery and after-school programmes are expenses made for the purpose of generating an income, and can therefore be deducted from the taxable income of a mother each tax year. The Court determined that these costs are essential in allowing the integration of mothers with young children into the labour market. In the case at hand, the

Court determined that a mother of two children, a lawyer with a private practice, who was required to work long hours in order to succeed in her work, was required to find a solution for the care and supervision of her children during her working hours. However, the tax authorities did not agree to deduct the expenses paid for childcare from the mother's taxable income. The Court determined that a distinction should be drawn between the component of care and supervision (including the amount of money necessary to operate a childcare institution) and the component of education and enrichment the children receive while in those childcare institutions.

373. The Court emphasized the fact that the premise for its decision is the right of the two spouses to fulfil their career aspirations, their right to practice their occupation and create a livelihood for themselves and their family members. The placement of children who need adult supervision in childcare institutions is done for the purpose of allowing both parents to leave for work and to perform their offence. Therefore, the Court ordered that the tax authorities deduct two-thirds of the expenses paid in the years in dispute from the mother's taxable income. (I.T.A (Tel-Aviv) 1213/04 *Vered Peri* v. *The Income Tax Assessor of the Dan Metropolitan Area* (03.04.2008)).

374. Following the judgment, a State appeal was submitted to the Supreme Court on May 12, 2008. On 30 April 2009 the Supreme Court rejected the appeal and determined that child care during the time as a parent was at work is a deductible expense (C.A. 4243/08 *The Income Tax Assessor of the Dan Metropolitan Area* v. *Vered Peri*).

B. Article 10– Family reunification

Permanent residence in Israel

375. The Law of Return 5710-1950 (the "Law of Return") and the Law of Citizenship 5712-1952 (the "Law of Citizenship") entitle people of the Jewish faith, their spouses and their children (including adopted children) as well as grandchildren, to Israeli citizenship. Thus, family reunification is automatic if children and parents are both Jewish; the Minister of Interior is authorized to grant Israeli citizenship even to those who do not meet these requirements. For instance, if the person is a spouse of an Israeli citizen who is not Jewish (subject to the Citizenship (Temporary Order) Law) or if the person, usually a great-grandson of a person of the Jewish faith or a child from the first marriage of the spouse of a Jewish person, has served in the Israel Defense Forces (IDF). The entitlement of Israeli citizenship is not limited to family reunion matters or subject only to the provisions of the Law of Return. A person is entitled to apply for citizenship based on several rationales, such as settlement, birth, adoption and more (Sections 1–5 to the Law of Citizenship).

376. However, once a person becomes a citizen, together with her/his minor children, in the course of a single procedure, citizenship is granted to her/his minor children – provided that they reside in Israel - and that the parent holding the citizenship has custody over the children. If the minor is a foreign citizen and both her/his parents share her/his custody, the minor will not be granted Israeli citizenship if one of the parents declares that she/he does not wish that the child acquire such citizenship. Parents of citizens and permanent residents of Israel are not entitled to family reunification, but the Minister of Interior may grant them citizenship or permanent residency at her/his discretion (See: Citizenship (Temporary Order) Law, detailed above).

C. Article 11 – Illicit transfer and non-return

377. Israel is a party to the Hague Convention on the Civil Aspect of International Child Abduction and has enacted the Hague Convention Law. Section 4 of the Hague Convention

Law stipulates that the Attorney General is the sole executor of this Convention. She/he may appoint a Child Protection Officer who is subject to the supervision of the chief of the Child Protection Officer. The Child Protection Officer is empowered by the Youth (Care and Supervision) Law.

378. The Attorney General is authorized by Section 5 of the Hague Convention Law to transmit information to persons and/or an organization in Israel and/or abroad in order to execute the Convention's Directives. Such information must remain confidential. A Child Protection Officer is authorized to convey information on behalf of the Attorney General, subject to her/his consent.

379. Family Matters Courts are authorized to issue an order that prevents abducted children and/or the person holding them from leaving the country. The Court can also instruct the Police to investigate the abduction, locate the abducted children and assist the Child Protection Officer in bringing the children to court. Injunctions that can prevent injury to the children, infringement of their rights, and ensure their return are advisable. Regulation 295/9(5) of the 1995 Amendment to the Civil Law Procedures 5744-1984 (the: "Civil Law Procedures") stipulates that if the child's age and level of maturity enables it, the court shall not make a decision prior to hearing the child's opinion, unless there is a special reason not to do so (such reason must be documented). Regulation 295/9(5) of the 1995 Amendment to the Civil Law Procedures also allows the court to consider the child's opinion in an indirect manner, namely via a professional in child care, in accordance with the Convention on the Right of the Child. The Israeli Courts formulated basic conditions to consider the weight given to a child's opinion: (a) age and level of maturity; (b) free will; (c) rationality.

380. Table 5 below indicates the total number of child related cases handled by the Central Authority under the Hague Convention between the years 1993 and 1996. Among the 139 cases of children abducted to Israel in the above years, 52 were children abducted from the United States, fifteen from France and fifteen from the U.K. Of the 215 cases of abducted children from Israel, 60 were children taken to the United States and twelve to the U.K.

381. As another means of preventing the illicit transfer of children in situations of parental disagreement, in addition to the fact that both parents are the child's guardian, the Ministry of Interior issues passports to children only with the consent of both of their parents. If a parent fears that the other parent may attempt to illicitly transfer the child to another country, she/he may request an injunction against the child leaving the country.

Table 5

Cases of abducted children handled by the Attorney General under the Hague Convention

Case resolution	*Children brought to Israel**	*Children abducted from Israel**
Total	**139**	**215**
Children returned following court ruling	47	60
Children not returned following court ruling	13	40
Waiting for appeal	2	7
Petition withdrawn	11	18
Re-abducted to the State of origin	12	2
Refusal by State authorities	1	7
State not party to Convention	2	8

Case resolution	*Children brought to Israel**	*Children abducted from Israel**
Case not active	17	38
Child not located/never entered the country	7	1
Visitation arrangement (child remained by agreement in country to which abducted)	5	9
Voluntary return	18	21
Pending	4	4

Source: The Public Defenders Office Data, 2009.

* These statistics reflect the number of cases, not the number of children. Each case may contain more than one child.

Case law

382. The Tel-Aviv District Court held that two girls taken by their mother to Israel should return to their father in the United States. The couple married in the United Stated in 1996 and were divorced in 2000. The father filed suit with the New York Civil Court and the Court ordered that the children remain in the U.S. until the following hearing; nevertheless, the mother took the girls to Israel while the proceedings were still pending. In addition, the father was granted custody over the children, therefore, by taking the children out of the U.S. the mother violated the father's custodial prerogative. The Israeli District Court held that Section 3 of the Convention on the Civil Aspects of International Child Abduction was breached. Thus, the Court did not grant the girls the opportunity to express their wishes, although it emphasized the significance of such proceedings in order to fulfil the rights as set out in Section 13 to the aforementioned Convention, and Article 12 to the Convention on the Right of the Child. (F.A 1085/01 *Anonymous* v. *Anonymous* (8.8.2001)).

383. In another case, the Israeli Supreme Court ordered the return of two children to their state of origin in accordance with the Convention on the Civil Aspects of International Child Abduction. The mother had legal custody over her minor children and they were living with her in Italy. During one of the father's regular visits to Italy to meet with his children, he took them with him to Israel without the knowledge and/or permission of the children's mother. The mother filed a suit with the Israeli District Court – demanding the return of the children according to the Hague Convention. The father claimed that the children's wish was to stay in Israel and therefore (according to Section 13 of the Hague Convention) they should stay in Israel.

384. The court held that under Section 13 of the Convention there is no duty to return the children to the State of origin, if the children explicitly object to the idea. The premise is that the best interest of the child is fulfilled by the child's returning to the State of origin, and the exception cited in Section 13 must be limited to extreme cases, in order to accord with the Convention's goal. In this case it was held that the children's determination to stay in Israel was not established, therefore they should return to Italy and to the custody of their custodian parent. (F.M.A 672/06 *Taufik Abu Arar* v. *Paula Ragozo* (15.10.2006). (For a similar decision see, F.M.A 902/07 *Anonymous* v. *Anonymous* (26.4.2007)).

385. In another case, an Israeli citizen (the mother) and a Belgian resident (the father) were divorced in 2004. The couple had one child. In 2004, the mother applied to the Court for permission to leave with the child to France. The Belgium Court held that the mother could leave with the child (permanently) to reside in France. However, the Belgium Court of Appeals decided in 2005 that the child must return to Belgium to his father's custody. In 2006 the mother took the child to Israel without the father's permission. The Israeli Supreme Court examined the weight of Section 13 of the Convention on the Civil Aspects

of International Child Abduction. The Supreme Court held that the best interest of the child outweighed the exception cited in Section 13 of the Convention in rare circumstances only. Such circumstances did not present themselves in this case; the return of the child to the State of origin was not proven to cause serious physical or mental harm to the child. Therefore the Court ordered the return of the child to Belgium. (F.M.A 1855/08 *Anonymous* v. *Anonymous* (8.4.2008)).

D. Article 27, paragraph4 – Recovery of maintenance for the child

386. The Maintenance (Assurance of Payment) Law 5732-1972 (the: "Maintenance Law") states that the NII shall grant a Child Support Allowance to any person whom the court has awarded child support, but who is not receiving these payments from the person who by law is obliged to make them.

387. The 2002 Amendment No. 4 to The Maintenance Law broadened the scope of payments of Child Support Allowances by the NII, not only to decisions by Israeli courts, but also to foreign judgments, foreign interlocutory sentences or interim orders that were determined to be enforceable according to the Enforcement of Foreign Judgment Law 5718-1958 (the: "Enforcement of Foreign Judgment Law"). The Amendment also amended Section 2 of The Maintenance Law, stipulating that a person who is an Israeli resident and who received a court decision in her/his favour for the payment of child support, is entitled to request the NII for a monthly allowance if the person who was found liable to pay child support was an Israeli resident on the day the court gave its decision or is that person was an Israeli resident for at least 24 out of the 48 months prior to the court's issuing the decision for child support. With regard to foreign judgments, foreign interlocutory sentences or interim orders, the court's decision date is the day the decision was announced as being enforceable under the Enforcement of Foreign Judgment Law.

Case law

388. See Chapter IV (C), article 3 of the Convention – The best interest of the child, a father's claim to reduce payments and the determination of the Court to allow such reduction subject to the keeping the welfare of the child (F.A 785/05 *Anonymous* v. *Anonymous et. al*. (03.01.2006)), was discussed above.

389. In another case, the Supreme Court accepted an appeal submitted by a mother on behalf of two minors regarding their child support allowances. The suit, which was filed by the children four years after the divorce of their parents, requested the determination of the amount of child support payments. The Supreme Court held that the Rabbinical Court did not consider the children's best interest, and therefore remanded the case to the Family Matters Court in order for it to determine the claim as if it was an original claim coming before it. (F.M.A 7916/03 *Anonymous et. al.* v. *Anonymous* (28.02.05)). (See Chapter IV (C.)- The best interest of the child above).

390. In a different case, the National Labor Court discussed the meaning of a child's entitlement to alimony. According to the Maintenance Law, The National Insurance Institute pays alimony when the debtor fails to pay and the person entitled to the alimony is an Israeli resident. The NII argued that the parent is the lawful creditor of such alimony, and since the mother was not an Israeli resident she was not entitled to the payments. The court rejected the NII's claim and held that the child herself/himself is the rightful person to whom alimony payments should be made. The judgment indicated that alimony is a part of the child's legal rights to dignity and property. The parent is only the child's means of fulfilling her/his rights. The child in question was an Israeli resident, and thus entitled to the NII alimony. (La.A 592/07 *The National Insurance Institute of Israel* v. *Gaya Assi* (1.6.2009)).

E. Articles 20 and 25– Children deprived of a family environment

The alternative care system in Israel

391. Out-of-home placement of children and youth can be divided into several groups. The majority, 61,726 (ages fourteen to eighteen) reside at boarding schools (mostly out of personal choice). A smaller group (9,599) of children and youth are placed in residential facilities and foster homes by social services. A yet smaller number of youth are placed in Youth Protection Authority facilities equipped to handle juvenile offenders and youth with severe behavioural problems.

Children placed outside their home by social services

392. In 2009, a total of 8,500 children, newborn to age eighteen, resided in an out-of-home facility arranged by the Ministry of Social Affairs and Social Services. Contrary to the situation in most western countries, the majority of children placed in out-of-home facilities are the older ones. 6,500 of them are placed in boarding schools and 1,950 live with foster families (1,830 in standard foster families and 120 in special care foster families). 35 per cent of the children are placed out-of-home by court order and 65 per cent agree to out-of-home placement as a result of parental dysfunction or as a result of serious behavioural problems (such as acts of violence, involvement in sexual offences or post-hospitalization difficulties).

Residential facilities

Residential settings and boarding schools

393. In recent years the State has accelerated the development of new residential-care models. For instance, community-based residential settings and group homes have been established in collaboration with Non-Government organizations. The residences located in the child's home community encourage her/his parents to participate in her/his daily activities and in decisions concerning her/him. In addition, family units are being built for twelve to fourteen member families. Some of the units are part of larger residential settings whereas others function as individual Group Homes scattered throughout the community. Some residential facilities provide a "Day-Care" programme where the children arrive in the morning and return to their family homes mid- afternoon.

Children and youth in residential facilities

Table 6
Presents status of placement in boarding schools by social services

Distribution by age		*Number of children*	
(iii)	0–5	(iv)	62 (0.9%)
(v)	6–12	(vi)	2 400 (36.6%)
(vii)	13–18	(viii)	3 899 (59.5%)
(ix)	19 +	(x)	196 (3%)
Distribution by educational population		*Children (in %)*	
(xiii)	Arab and Druze	(xiv)	14%
(xv)	State	(xvi)	45%
(xvii)	State-religious	(xviii)	18.6%
(xix)	Orthodox	(xx)	22.4%

Source: Welfare department the pedagogy clerkship – Welfare supervision department 2009.

Protecting the rights of children in out-of-home placements

Laws protecting children in out-of-home placements

394. Sections 368A-368F of the Penal Law addresses injuries to minors and defenceless persons. Amendment No. 94 to the Penal Law issued on 30 May 2007, added certain individuals to the definition of a family member (Section 368A(2)) including foster parents, their spouses, their parents or offspring, their siblings and the spouse of each of these.

395. The observation contained in paragraph 37(c) of the concluding observations of the Committee on the Rights of the Child suggests a mechanism that investigates and monitors complaints and suspicion for abuse. This Amendment added Section 368D (c1), which creates a duty to report to the Police or to the Child Protection Authority any grounds that give rise to a suspicion of sexual offences performed against a minor or a defenceless person, by a family member who has not reached the age of eighteen years. Failure to report such abuse is a criminal offence, which carries a term of three months' imprisonment. This Amendment also imposes a sentence of six months' imprisonment on professionals who fail to report the abuse of a minor to the police or Child Protection Authority (e.g. physicians, nurses, educators, social workers, police officers, psychologists, criminologists, and school principals and staff; (Section 368D(c2)). The Amendment also imposes a sentence of six months' imprisonment on the person responsible for a minor or a defenceless person who, despite having had reasonable ground to believe that a sexual offence was committed against the minor or defenceless person by a family member who had not reached the age of 18 years, failed to report the abuse to the Police or Child Protection Authority (Section 368D (c3)).

396. On 28 July 2000, the Knesset enacted the Infants at Risk (Entitlement to Day Care) Law 5760-2000 (The: "Infants at Risk Law"). This law was amended in 2002. According to Section 2 of the Law, infants at risk are infants who are less than three years old, and whose development is believed to be in jeopardy. A decision to this effect is made by a professional committee, which will order the stay of the infant in day care to avoid her/his removal from home.

397. According to Section 3 of the Infants at Risk Law, perilous situations applicable under the Law are:

- According to the evaluation of a social worker and a medical opinion given by a physician, the infant is either physically abused or her/his developmental needs are continually ignored.

- One of the parents does not function properly as a result of domestic violence, a mental illness, alcoholism, drug addiction, severe disability, retardation, prostitution, criminal behaviour or a chronic disease of one of the family members.

- The infant is evaluated and found to be able to develop normally. This determination must be made either by a paediatrician, who is an expert in child development, or a developmental psychologist. Moreover, the decision is to be accompanied by severe family circumstances which give rise to developmental problems or which actually cause them.

398. Section 4 of the Infants at Risk Law specifies the conditions that must be met, after an infant is found to be at risk, in order for the infant to stay in day care near her/his place of residence. The Minister of Social Affairs and Social Services, in conjunction with the Minister of Finance, determines the participation rate for the person obligated to pay child support, calculated based upon their income. The operator of the day care centre is responsible for 5 per cent of the total cost of the infants' stay in day care. The local

municipality will fund 25 per cent of the cost of the infant's stay in day care, after deducting the amount funded by the day care operator and the payments of the person obliged to provide child support. This funding will not apply to infants at risk whose participation in day care is provided for by the Ministry of Social Affairs and Social Services according to laws other than the Infants at Risk Law.

Case law

399. The Israeli Supreme Court residing as the High Court of Justice held that visitation arrangements agreed to by a divorced couple regarding their children, did not bind the children in question. As a rule, the Court stated that when an agreement regarding a minor's welfare (such as a place of residence) is reached without considering the minor's opinion, it might not be binding. The High Court of Justice clarified that a lower instance decision, which stated that a divorce agreement concerning alimony payable for a child does not bind the children involved, could be extended and applied to child visitation rights. The Convention on the Rights of the Child and the Basic Law: Human Dignity and Liberty both strengthen the recognition of the child as an independent entity who holds separate rights from those of her/his parents. (H.C.J 2898/03 *Anonymous et. al.* v. *The High Rabbinical Court et. al.* (21.1.2004)).

F. Article 21 – Adoption

Circumstances of adoption

400. Amendment No. 6 to the Children Adoption Law, (issued on 20 July 2004), stipulates that a court's ruling that a child should be taken from her/his parents for adoption shall be given within twelve months of receiving the request for such a proclamation unless the court postponed its decision in view of reasons specified (Section 13(b)).

Case law

401. The Supreme Court recently ruled that an adoption should be a 'closed adoption' – therefore, from the date the adoption was approved, there should be no further contact between the biological parents and the adopted child.

402. The Court debated whether to allow contact between the biological mother and the child, as she had had supervised visitation rights for three years prior to the court hearings, thus rendering the adoption as an 'open adoption' (where some contact remains between the parties). The Court, after examining psychological reports admitted in earlier proceedings, as well as the report of a court-appointed psychologist, determined that it was in the child's best interest to approve the adoption as a 'closed adoption' and, to deny further visitation with the biological mother. The Court found that further visitation would require the approval of the adoptive parents in order to avoid further confusion for the child and to prevent forcing him to take sides between the adoptive parents and the biological mother; and would also require the biological mother's expressing opinions concerning the raising of the child. Such an opinion, assuming it would be a negative one, would significantly harm the child. The Court further determined that according to reports submitted by the adoptive parents, visitation with the biological mother was harmful to the emotional stability of the child, causing him to fear being detached from the family, to suffer sleep disorders, etc. The Court decided to approve the adoption as a 'closed adoption' and denied the biological mother's appeal. (F.M.A 366/06 *Anonymous* v. *The Attorney General* (14.02.2007)).

Adoption in practice

403. In a recent case, the Supreme Court accepted an appeal submitted by a father who requested the cancellation of a decision which declared that his minor child was adoptable, since he had not been aware of the proceedings. The Court noted that the declaration of a minor as adoptable would not be reversed if it would cause the minor significant harm. The court would only revoke such a decision after having examined the child's wellbeing. The Court considered the rights of the biological parent and the interest of the adoptive parents. (F.M.A 778/09 *The Attorney General* v. *Anonymous et. al.* (29.11.09)).

404. On 21 April 2005 the Supreme Court decided to revoke a decision handed down by the District Court, and determined that the child in question was eligible for adoption, despite the fact that the child's biological father did not know of his existence nor of the decision to give him up for adoption. The mother, who gave the child up immediately after giving birth, refused to reveal details of the child's father; and therefore the welfare authorities could not locate him, and determined that the child was eligible for adoption with regard to both biological parents. The father learned that he fathered a child only after the mother changed her mind, and began legal proceedings in order to regain custody of the child. Upon learning of the existence of the child, the father made efforts to have the decision regarding the child's status revoked.

405. The legal proceedings were conducted over a period of two years, during which the child was raised by a foster care family that intended to adopt him. The potential adoptive parents appealed to participate in the legal proceedings as they believed that they represented the child's best interest.

406. The Supreme Court held that the father did not express his desire to raise the child immediately upon receiving information regarding his existence, but rather hesitated for a few months, and that this period of time was crucial for the child.

407. The Court emphasized that the first period of time in a child's life is the most significant with regard to the relationship formed with the primary caregivers. The Court stressed that continuity and stability in the relationship was extremely important for a child's development. The longer the child stays with the potential adoptive parents, the graver the damage to the child if her/his is removed and therefore the greater the weight of the interest of the potential adoptive parents. Moreover, removing the minor from the custody of the individuals he views as "psychological parents" could result in damage to the minor, and may render him a minor at risk, who needs parents with special parental skills, the kind of skills that his biological parents lacked. The Supreme Court held that the child in question would therefore stay with the adoptive parents, as he should not have to pay a heavy price solely to ease the pain of his biological parents. (F.M.A 377/05 *Anonymous and Anonymous* v. *Anonymous et. al.* (21.4.2005)).

408. In another case, the Supreme Court debated whether a minor could be declared eligible for adoption, after the mother put him up for adoption and refused to reveal the identity of the father but did provide several details about him in the event that the child would need the information at a later point in life.

409. The Court considered the right of the biological father to know his child, the right of the biological mother to give her child up for adoption, and her interest in not providing details of the biological father, and the right of the child to know his parents and be raised by them, as well as the public interest in encouraging adoptions that might be endangered if the biological mother was forced to reveal the identity of the biological father, and the public interest to know the identity of one's biological parents. The Court determined that a child can be declared as being eligible for adoption despite the fact that the biological father is unknown and that forcing disclosure of the father's identity might reduce the

number of adoptions and harm the relevant children's best interest. (F.M.A 5082/05 *The Attorney General* v. *Anonymous et. al.* (26.10.05)).

Inter-country adoption

410. Section 28 of the Child Adoption Law is the primary section stipulating the conditions for inter-country adoption. Amendment No. 5 dated 5 July 2004 modified several provisions. The amendment also modified several provisions regarding inter-country adoption.

411. In Section 28G that defines the eligibility of an Israeli person to request inter-country adoption, the Amendment replaces the words 'permanent resident' with "an Israeli citizen, or a person holding a "Teudat Ole" (provided by the Ministry of Immigrant Absorption), a document stating that a person is a "New Immigrant" (to Israel)". In addition, a permanent resident is eligible to adopt from abroad provided she/he resides in Israel for a period of three out of the last five years prior to the submission of the adoption request or twelve out of the eighteen months prior to the submission of the request. The Amendment also stipulates that the request should be submitted with additional information from a social worker regarding the competence of the person to be an adoptive parent.

412. The Amendment also amended Section 28H that requires the prospective parents to hand over an evaluation by the social workers to the adoption agency of information received from the prospective parents which attests to their competence as parents.

413. Further, the Amendment amended Sections 28–33 of the Child Adoption Law, which sections stipulate that an adoption agency shall not request, charge or receive, directly or indirectly, payments in return for inter-country adoption, in Israel or abroad, save for authentic expenses paid by the agency towards the adoption.

414. Sections 28–36(a) were amended to stipulate that if the competent authorities in the relevant foreign country affirmed the issuance of an adoption decree or the granting of a judgment, in terms of which the adoption is made final, the legal status of the adoption in Israel will be the same as intra-country adoption, provided that the relevant authorities have determined that the adoption is in the best interest of the child and does not offend public morality.

415. According to the Central Authority for Inter-Country Adoptions in the Department of Personal and Societal Services in the Ministry of Social Affairs and Social Services, between 1999 and 2007, a total of 2,059 children were adopted abroad and brought to Israel. Most of these children arrived from the Ukraine, Romania, and Russia. The following tables demonstrate the number of children arriving per year and the total number of children adopted in each country.

Table 7
Countries of adoption, 1999–2007 (in absolute numbers)

The country	*Number of children*
Ukraine	692
Russia	629
Romania	381
Guatemala	115
Belarus	79
Georgia	39
Moldova	39

The country	*Number of children*
Kazakhstan	25
Azerbaijan	19
Kirgizstan	17
Bulgaria	17
Other	7

Source: The Ministry of Social Affairs and Social Services, 2008.

G. Articles 19 and 39 – Abuse and neglect, recovery and reintegration

Legislation

416. Amendment No. 6 to the Special Education Law was issued on 24 July 2002. This Amendment obligates the Minister of Education to promulgate regulation regarding the placement of children with disabilities in educational institutions. The idea is to allocate placement based on requests made by parents, in addition to the receipt of a professional opinion affirming that the child has a severe disability which requires her/his placement in the educational institution and that her/his integration in a regular educational institution is not feasible. Furthermore, the regulations promulgated should include information for parents with reference to the rights of children with disabilities and alternative educational institutions which are available to them.

417. Amendment No. 7 to the Special Education Law supplemented the Law to define disability as including physical, mental, intellectual, emotional-behavioural, cognitive, linguistic or any other developmental problem. The Amendment supplements regulation regarding the integration of a child with disabilities in the regular education system.

418. The purpose of the Amendment was to ensure that services of the same quality were provided to children integrated in regular schools as those provided to children in special educational institutions. The Amendment further obligates the inclusion of children with disabilities within the regular education system while increasing the annual budget designated for this purpose (See recommendations of the Dorner Committee, above). The Compulsory Education Law was amended in 2007 (Amendment No. 29). The Compulsory Education Law applies to children aged 3 years and older. (See also under: "The right to life, survival and development of children with disabilities" chapter IV (A) above).

419. A 2002 Amendment to the Rehabilitative Day-care Centers Law 5760-2000 (the: "Rehabilitative Day-care Centers Law"), expanded the basket of services provided to infants with disabilities to include not only treatment and educational services available in rehabilitation day-care centres, but also the infants' transportation from their private residence to day-care and back. When transported, the child is accompanied by an adult, other than the driver, who is available to assist the child when necessary.

420. According to a 2005 Amendment to the Rehabilitative Day-care Centers Law, a rehabilitation day-care centre provides treatment and education throughout the day to a minimum of ten infants with disabilities, either through the central rehabilitation day-care centre or through one of its smaller branches. A Rehabilitative Day-care extension is considered to be one which provides treatment to a minimum of six infants with autism, hearing deficiency, sight deficiency or other recognized deficiency, or an infant whose place of residence is located over 25 kilometres outside the area of the original rehabilitation day-care centre.

421. According to a 2008 Amendment, an infant with a disability is a child between six months to three years of age, who is entitled to the NII pension; or is a child between one and three years of age with respect to whom it was determined, by a Diagnosis Committee, that the child suffers from a developmental disability. The 2008 Amendment stipulated that a recognized child development institute is qualified to determine the immediate placement of such an infant in a rehabilitation day-care centre under certain circumstances in order to prevent significant damage to the child. This Amendment entered into force in February 2009.

The Penal Law

422. Amendment No. 59 to the Penal Law, enacted on 29 March 2001, replaces Section 361 of the Law (See under parents' legal responsibilities, above). If an act was performed negligently, the offender may be sentenced to one years' imprisonment. However, if an act was committed in order to abandon the child, the offender may be sentenced to five years' imprisonment.

The Prevention of Stalking Law 5762-2001 (the: "Stalking Law")

423. The Stalking Law, enacted on 16 October 2001 amended the Prevention of Domestic Violence Law 5751-1991 (the: "Prevention of Domestic Violence Law") to include subsection 2(h1) which stipulates that when a court considers an appeal for a protective order according to the Prevention of Domestic Violence Law, it may also issue an order to prevent stalking the Prevention of Stalking Law.

424. Amendment No. 15 to the Youth (Supervision and Care) Law issued on 30 October 2001 stipulates that a court considering the interests of a minor, may issue a restraining order against stalking, according to the Stalking Law (Section 3A).

The Prevention of Domestic Violence Law

425. Amendment No. 9 to the Prevention of Domestic Violence Law was enacted on 21 March 2007. The Amendment supplements Section 3A which states that a request for a protection order against a minor shall only be submitted to the Family Matters Court (Section 3A(a)). The following orders will apply to the request presented by a family member (Section 3A (b)):

- The court will refer the applicant and the minor to the 'Assistance Unit' within the court (Section 3A(b)(1)).

- The Assistance Unit shall inform the court if the parties were able to find a solution to the conflict and the recommendation of the Assistance Unit on the issue (Section 3A(b)(2)).

- If the parties were unable to find a solution, the Assistance Unit will inform the minor of her/his right to be represented by a lawyer in a court hearing according to the Legal Aid Law 5732-1972 (the "Legal Aid Law), unless the minor chooses to be represented by a lawyer of her/his choice (Section 3A(b)(3)).

426. The court will consider the circumstances of the matter and the best interest of the minor, against which the protective order is requested. The aim of the protective order against a minor is to defend a family member (or particular persons) that the minor constitutes a threat to. If the court finds that there is a need to issue a protective order, it may issue such an order subsequent to granting the minor the opportunity to appear before the court. However, the court shall not issue a protective order according to Section 2(a)(1) to the Law, stipulating a prohibition against entering the home of her/his family member,

unless an appropriate out of home arrangement was reached for the minor and only after receiving the evaluation of a social worker (Section 3A(b)(4)).

427. Amendment No. 9 also amended the Legal Aid Law regarding the availability of legal assistance which is granted to a minor whose family member applied for a protective order against her/him. Such an order is available in terms of Section 3 of the Prevention of Domestic Violence Law, in a hearing under Section 3A (b) (4) or an appeal on a decision reached under this section. The representation is not subject to a written request for assistance and cannot be terminated according to Sections 3 and 4 of the Legal Aid Law. However, an appeal regarding a decision reached by a court regarding a minor may be subject to termination according to Section 4 of the Legal Aid Law.

428. Amendment No. 11 issued on 4 March 2008 supplements Section 4 to include subsection (d), which stipulates that the court can deny a request for a protection order only after granting the applicant or her/his attorney an opportunity to present their claims verbally, unless the court finds that there are irregular circumstances and for reasons that will be recorded. This section is inclusive to minors and adults.

429. According to the Compulsory Education (Physical Violence Reporting Rules) Regulations 5770-2009, the Principal of an educational institution will report in writing to the supervisor of such institution any occurrence of physical violence between an educator and a pupil (Section 2(a) (1)). In addition, incidents of physical violence that take place within the educational institute or during school hours that resulted in injury must be reported (Section 2(a) (2)). Such a report is submitted immediately, as well as conveyed to the district supervisor of the school in question (Section 3).

Case law

430. The Israeli High Court of Justice struggled with the legal presumption that parents enjoy a legal and moral right over their minor children, which is to be free from State interference. The High Court of Justice held that childrearing is not absolute and it is subject to the child's best interest and her/his right to a good life as a separate entity. Thus, the State is entitled to intervene in the parent's prerogative when circumstances present themselves – that is if the child's welfare or wellbeing is placed at stake. According to the principle legal presumption, parents are the sole legal guardians of their minor children; though, the State has discretion to act when necessary. In the case at hand, the Supreme Court held that the parent's lack of desire to keep in contact with their minor children despite the children's continuous need, indicated a lack of competence on behalf of the parents. The parents petition to "subordinate" their children to their authority was therefore denied. (H.C.J 927/05 *Anonymous et. al.* v. *The Social Welfare Departments – Municipality of Bnei-Brak et. al.* (15.5.2006).

431. A mentally ill mother appealed to the Supreme Court after her children were declared to be "needy minors." These children had no father involved in their lives and their mother was ill. The Family Matters Court revoked the mother's custody and ordered the Netanya Welfare Authority to serve as primary custodian. The mother submitted an appeal to the District Court, but it was rejected. A second appeal was submitted to the Supreme Court. The Supreme Court rejected the appeal since the lower instance court had already examined the wellbeing of the children, and thus there was no reason to interfere with its decision. Moreover, the Supreme Court held that since the mother was not capable of raising the minors and there were no other family members responsible for the kids, the Welfare Authorities were required to care for the children, afford them a good life and end their deterioration. (C.M.A 369/08 *Anonymous* v. *The Welfare Authority of Natanya* (10.4.08)).

432. In another Case, the Supreme Court discussed the implementation of Section 12 of the Youth (Care and Supervision) Law. This Section enables the court to use its discretion with respect to temporary custody orders. The court acknowledged the parents right to childrearing, but it also established the boundaries. Such limitations include the child's right to a good life and to a minimum standard of living. When the parents do not fulfil their parental duties and responsibilities, the State may take over. The Supreme Court emphasized that Section 12 is feasible only when the child is legally defined as a "needy minor" or in immediate need of assistance. Under such circumstances, such assistance is necessary for the child's wellbeing. Significant consideration must be given to the harm that can be caused to a child by her/his neglectful or unfit parents as well as the harm that can be caused by revoking parental custody. Revocation of parental rights may only occur as an act of last resort, in exceptional cases and in order to maintain the child's wellbeing. (6041/02 *Anonymous et. al.* v. *Anonymous et. al.* (12.7.2004)).

Non-governmental organizations

433. The Beit Lynn Center is a child protection centre based in Jerusalem, which serves minors who have been victims of sexual, physical and psychological abuse. In order to provide holistic care, Beit Lynn employs a team of professionals from several sectors of the work force, including a child protection officer, a child investigator, a youth investigator, a housemother, a paediatrician, and an attorney. This team works jointly so as to ensure sensitive and holistic treatment is provided in each case of abuse. Beit Lynn serves several of the minor's most immediate needs, and for example provides immediate intervention when necessary and offers children and youth a safe environment in which to seek shelter. Beit Lynn also provides medical check-ups and initial urgent treatment; as well as referrals and recommendations for further treatment. In addition, Beit Lynn aims to prevent further trauma to the youth by shortening and centralizing the interview and diagnosis process which follows reports of abuse.

434. The Haruv Institute is dedicated toward the development of a capable and skillful professional community able to ensure the welfare and wellbeing of children who have suffered from various types of abuse and/or neglect. In pursuit of this end, Haruv provides high-level study and training programmes for professionals working in the field of child abuse and neglect, and has developed a range of advanced approaches and methodologies in the prevention of abuse, and the care of children who have been abused and/or neglected. Professionals who attend the seminars and programmes offered by Haruv are drawn from diverse sectors of the workforce, including welfare, education, health, judiciary, local authorities, and academia. In addition to its work with individual professionals, Haruv works with both governmental and non-governmental agencies which operate in the field of child welfare. Through this interaction, Haruv has contributed to the formation and influence of Israeli public opinion and social policies. Finally, Haruv brings together local and international experts working in the field of child care, and thereby ensures a fruitful exchange of information and ideas.

VI. Basic health and welfare

A. Article 23 – Children with disabilities

Table 8
Pupils with special needs in primary and post-primary education according to the type of disability and type of setting, 2006–2007

	Type of setting				*Type of setting*			
	Integrated	Special classes	Special schools	*Total*	Integrated	Special classes	Special schools	*Total*
*Type of disability**	Percentages				Absolute numbers			
Total**	100	100	100	100	65 728	23 687	16 829	106 244
Developmental delay	6.5	0.5	0.6	3.9	3 405	129	109	3 643
Language disorders	3.7	0.6	0.1	2.2	1 930	135	9	2 074
Learning disability	67.1	72	18.3	59.5	34 963	17 051	3 066	55 080
Behavioural disturbance	10.2	5.1	16.6	10	5 286	1 207	2 792	9 285
Borderline IQ	4.2	11.8	-	5.4	2 177	2 785	-	4 962
Suspicion of mild retardation	-	0.5	0	0.1	-	115	6	121
Mild retardation	0.5	1.2	12.1	2.8	276	278	2 023	2 577
Moderate retardation	0.1	0.7	12.8	2.6	48	176	2 146	2 370
Multiple diagnosis moderate retardation	-	0.1	9.5	1.7	-	18	1 599	1 617
Severe/profound retardation	-	-	12	2.2	-	-	2 019	2 019
Cerebral palsy/severe physical handicaps	1.1	0.4	4.5	1.5	553	101	762	1 416
Autism	0.6	4	5.5	2.4	323	946	918	2 187
Psychiatric disorders	0.4	0.2	5.5	1.3	223	36	916	1 175
Rare diseases	0.5	-	-	0.3	257	-	-	257
Deafness/hearing impairment	3.5	3	2.1	3.1	1 813	710	351	2 874
Blindness/vision impairment	1.6	-	0.4	1	818	-	67	885

Source: Statistical Abstract of Israel, CBS, Central Bureau of Statistic. 2009.

* Type of disability is determined by the type of class in which the pupil is enrolled, except for pupils in integrated classes, for whom the source of the data is based on the main disability assessed by the integration committee.

** Including pupils in special schools who have not been characterized by type of class, as well as pupils in integrated classes who have not been characterized by type of disability.

Table 9

The **number of children who received prostheses, medical devices for rehabilitation and mobility, all funded by the Ministry of Health in accordance with age and diagnosis (2008)**

		Age			
Diagnosis	***Total***	*0–4*	*5–9*	*10–14*	*15–17*
Prosthesis					
Total	**65**	**18**	**23**	**13**	**11**
Congenital Malf.	**63**	18	22	12	11
Tumor	**2**	0	1	1	3
Device for rehabilitation or mobility					
Total	**1 282**	**306**	**564**	**326**	**86**
Cerebral palsy	**911**	217	402	242	50
Spina Bifida	**122**	32	49	31	10
Polio	**10**	1	3	5	1
Cong. Malf.	**94**	29	36	21	8
Muscular Dystrophy	**33**	2	18	8	5
Hemiplegia	**112**	25	56	19	12
Medical shoes					
Total	**232**	**12**	**48**	**94**	**78**
Cong. Malf.	132	11	37	46	38
Cerebral palsy	63	0	1	35	27
Polio	6	0	2	1	3
Other	31	1	8	12	10

Source: The Ministry of Health, Lewis Institute, Tel Hashomer, 2008.

Table 10

Provision of hearing aids between the ages of 0 and 18, according to year and type of device

Year	*Referrals*	*FM**	*Bilateral*	*Unilateral*
2006	1 436	176	585	266
2007	-	174	610	356
2008	-	135	567	235

Source: The Ministry of Health, Department of Mother, Child and Adolescent Health, 2009.

"Aleh Negev" ("The Southern Israel leaf")

435. Aleh is an organization that provides services to children with severe cognitive and physical disabilities, as well as making employment available to the adult residents. These services consist of high-quality medical care. Aleh Negev is a modern communal Rehabilitative Village situated in the city of Ofakim. It is home to over 500 residential adults with disabilities and each year serves approximately 12,000 children and young people with disabilities based on an outpatient treatment method. The village also provides

vocational training, occupational therapy and medical facilities. Approximately 650 severely disabled children receive the best possible care, educational and rehabilitative treatments. Aleh cares for children with serious medical conditions such as Autism, Cerebral Palsy, Down syndrome and genetic disorders. Many of the children learn how to overcome their handicaps and conduct themselves in the same manner as other children. Many of Aleh's children come from families lacking the financial resources or time to adequately care for their children.

"Mechina L'Chaim"

436. The "Mechina L'Chaim" ("Readiness for Life") programme was established in 2005. To date, "Readiness for Life" has enrolled 68 physically disabled, blind and visually disabled young people in two regions – Bustan Hagalil in the north, and Sderot and Netivot in the south. The programme is operated by JDC-Ashalim, associated with the Ministry of Social Affairs and Social Services, the NII and the "Kivunim" and "Gvanim" associations. This project is a two-year residential programme designed to assist young adults with disabilities who are between the ages of eighteen and twenty with the transition to an autonomous, independent and productive adult life. It offers these young adults an alternative to other frameworks for people their age, such as IDF service, National Service and higher education common among young adults. In the course of the programme the young adults share their lives with peers who also face challenges with their own disabilities and volunteer for the National Service program. This programme assists its graduates to settle in life, find group apartments and become accustomed to their independence.

Rates of disability and handicap among children in Israel

437. In 2007, 300,000 disabled or chronically ill children resided in Israel, comprising 12.8 per cent of the total child population of the country. Approximately 190,000 children (out of the 293,000) were disabled or suffered from a chronic illness that affected their daily functioning and had persisted for more than one year. These children comprised 7.7 per cent of the total child population. (See Chapter IV General principles above).

438. In accordance with the 2008 report of the Commission for Equal Rights of Persons with Disabilities, most disabled people living in Israel are not born with the disabilities but rather become disabled at some point during their life.

The system of services available for disabled children in Israel

The health system

439. When developmental problems are suspected, or when they are discovered by a primary care physician or nurse at a family health centre, the child is usually referred to a centre for child development. There are 29 such centres in Israel: eleven are operated by the Ministry of Health, nine by Clalit Health Funds (Israel's largest health fund) five by the Maccabi Health Fund, two by the Meuhedet Health Fund and two by the kibbutz movement and the Sisters of Mercy in Nazareth. Most of the centres are operated by the Ministry of Health and located in hospitals.

440. The needs of children with non-physical disabilities who require care beyond the age of 6 years old (when their eligibility for care under the National Health Insurance Law ends) are not being met. If deemed eligible by a Placement Committee, these children receive care from the special education system. Most children with non-physical disabilities who receive care at a child development centre are ineligible for special education and have been included within the regular educational system. The children

receive assistance through the "Reinforcement Basket," which only partially covers their needs. Other needs are met by ongoing programmes, offered in other frameworks.

441. Section 7 of the second appendix of Amendment No. 43 to the National Health Insurance Law stipulated what Paramedical Services included when it came to Child Development. For children aged 7 to 18 who are diagnosed as Autistic – children whose diagnosis is located on the Autistic spectrum by the DSM-4 (the leading guidance book accepted by the international medical community) are entitled to multi-professional medical team treatment. Such services are granted subject to an observation by a neurologist of an Israeli Health Fund or subject to a medical opinion provided by a Paediatrician who is specialized in Child Development.

442. A further problem relates to the implementation of the National Health Insurance Law, which rendered the Health Funds responsible for financing developmental services for children under the age of eight. According to this law, these services are conditional upon a co-payment being made by the parents of the child; however, co-payments cover only a small proportion of the cost of service – which may be substantial, if a child requires more than one type of service, or if a family has a limited income. In the past, parents could petition a special committee to be exempted from having to make the co-payment.

Mental health services for children and adolescents

443. Services for children whose mental health problems require them to be hospitalized are provided in the in-patient departments of hospitals for the mentally ill. There are a total of thirteen in-patient departments for minors under the age of eighteen located in general and mental hospitals.

Table 11

The number of minors admitted to mental health facilities according to religious-national denominations between the years 2006 and 2008

Religious affiliation	*2006*	*2007*	*2008 (January–June)*
Jewish	861	775	391
Muslim	71	78	44
Christian	11	6	5
Druze	2	6	6
Other	78	72	28
Total	**1 023**	**937**	**474**

Source: The Ministry of Health, 2008.

444. According to the above data there are approximately 1,000 hospitalizations of minors under eighteen per annum, of which 83 per cent–84 per cent are Jewish, 9 per cent–11 per cent are Muslim, Christian and Druze, and 6 per cent–7 per cent are of another affiliation.

445. As of 2008, there are 65 out-patient clinics for children and adolescents. During 2007, 11,300 minors were treated in out-patient clinics, with 147,400 individual sessions.

446. The in-patient hospitalization of minors is regulated by two laws – the Treatment of Mentally Ill Law and the Youth (Care and Supervision) Law. In recent years, in accordance with these laws, hospitals do not report all hospitalizations of minors, but only hospitalizations of those who have suffered from a mental illness and posed a violent threat. According to the Treatment of Mentally Ill Law, an expert psychiatrist reviews all hospitalizations of minors (Section 3). A minor's custodian can request the admission of

the minor to a psychiatric hospital as well as consent on her/his behalf to treatments received during the hospitalization (Section 4a (b)). However, if a minor who has reached the age of fifteen refuses to be admitted, a court order is necessary in order to admit the minor. Such order is issued based on regular causes cited in cases of the compulsory hospitalization of minors (Section 4a(c)). If the minor has not yet reached the age of fifteen and her /his caregivers understand that, she/he does not consent to the hospitalization; a District Psychiatric Committee shall make the relevant decision. The Committee is comprised of professionals: a psychiatrist specializing in children and adolescents, a clinical child psychologist, an educational psychologist and a social worker (Section 4a (d)). A minor who has reached the age of fifteen may request of her/his own free will to be admitted to a psychiatric ward; if the custodian refuses, court approval is necessary (Section 4b). The District Psychiatric Committee for Children and Youth also functions as consultant to the court and has the authority to decide whether or not to continue the hospitalization of an individual minor.

447. The Mentally Ill Law was amended by Amendment No. 14 to the *Youth Law*. According to the Amendment, psychiatric examination, treatment orders etc. can only be issued by psychiatrists who have specialized in child psychiatry.

448. In 2008, the Ministry of Health sponsored an annual meeting to discuss mental health issues that was open to the public. Over 1,000 people participated in the meeting, including mental health professionals, non-profit associations and families. Emphasis was placed on attempts to de-stigmatize and rehabilitate disabled individuals in the community.

449. In order to promote children's rights to health care in general, and mental health care in particular, the Mental Health Services of the Ministry of Health, along with other institutions, carried out a nation-wide study: "The prevalence of mental disorders among adolescents in Israel." The purpose of this research was to identify the relevant areas of need and to recognize groups at high risk for mental disorders, in order to plan appropriate services to cope with the needs The research included 1,000 adolescents (together with their mothers), aged 14 to 17, who were from different population groups. Preliminary analyses revealed that the prevalence of mental disorders among adolescents in Israel is 11.7 per cent, similar to the prevalence in other western countries. No significant differences in prevalence of mental disorders were found between Jewish and Arab adolescents, but it was found that there was higher risk of having a mental disorder for children of divorced parents, dysfunctional families, children who have a learning disability or children who suffer from a chronic disease. The study also provided important data regarding geographic regions that may not have access to treatment. The study will help to facilitate plans for the treatment of mentally ill children and adolescents that most require such treatment.

The social welfare system

The National Insurance Institute

Children with disabilities

450. The National Insurance Institute pays a special benefit on behalf of disabled children, defined as follows: children under eighteen (including an adopted or step-child) of an insured person, or of an insured person who died as an Israeli resident, who is of the following:

- A child (from age three) dependent on the help of others for the performance of everyday functions (dressing, eating, washing, mobility in the home, and requires the permanent presence of another, as defined in the regulations) to a degree significantly greater than is normal for her/his age group.

- A child (over 91 days) in need of constant supervision.

- A child with a special impairment, that is (from birth) Down's syndrome or deterioration in hearing, or (over 91 days) vision impairment, Autism, psychosis or severe developmental disabilities (the latter till the age of three).

- A child (over 91 days) in need of special medical treatment as defined in the regulations, due to a severe chronic disease.

Table 12
Children receiving National Insurance Institute disability benefits in 2008 by age (in absolute numbers)

Year	***Total number of recipients (thousands)***	*Aged 0–3*	*Aged 3–8*	*Aged 8–18*	*Annual increase (per cent)*
1990	**5.8**	-	-	-	7.7 (1986–1990)
1995	**10.3**	-	-	-	12.2 (1991–1995)
2001	**16.4**	-	-	-	7.2
2003	**18.36**	1.46	4.57	12.67	5.1
2004	**19.54**	1.58	4.86	13.09	6.0
2005	**21.09**	1.7	5.2	14.04	7.2
2006	**22.2**	1.81	5.47	14.91	6.0
2007	**23.81**	1.89	5.84	16.06	7.2
2008	**25.25**	1.97	6.17	17.11	6.3

Source: The National Insurance Institute, Publications, Statistical Quarterly, 2008.

451. In 2008 (monthly average) the number of benefit recipients (on behalf of children with disabilities) increased by 6.1 per cent. That is 25,255 recipients as compared with 23,810 recipients during 2007.

The Ministry of Labor and Social Affairs

452. As noted, the social welfare department has primary responsibility for providing out-of-home care. At present, 1,500 children with developmental problems and a small number of children with other disabilities, reside in various frameworks. A small number of children currently reside in several community-housing frameworks. One is for children with mental disorders and the other is for children with physical disorders. While most of the community-housing frameworks serve children with mild disabilities, four new facilities are geared for severely mentally disabled children. In recent years, after-school and holiday activities are operated for mentally disabled children as well as for children residing at rehabilitation centres. Autistic children are provided with out-of-home activities like all children. The services are financed by the Ministry of Social Affairs and Social Services.

The education system

453. In Israel, there are approximately 46,000 pupils in the special education system; which incorporates special kindergartens, special schools and special classrooms in regular schools. Between the years 2002–2005, the rate of school pupils in special schools and special classrooms in regular schools grew by approximately 16 per cent. In that time period, the number of kindergarten-aged children in special kindergartens grew by approximately 26 per cent. In 2005, approximately 72,164 children with disabilities were integrated within the regular education system.

454. Among the special education children, the number of children with learning disorders makes up 38 per cent of the total number of children with disabilities. Most of the children in this group studied in special classrooms in regular schools. A significant group of children who study in the special education system is comprised of children with mental disabilities, who constitute roughly 20 per cent of all the children in the system (for more details regarding learning disabilities see: Chapter IV (A)-Personal assistance- and for special education in the minority populations see Chapter VI).

455. Two groups of disabled children in the special education system are of special interest: those who are blind or have impaired vision, and those who are deaf or have impaired hearing. Although these children are portrayed as being part of the special education system, most have been mainstreamed into the regular system and attend regular classes, receive special education assistance and assistive devices that enable them to function like other pupils. These two groups, along with children who have learning disabilities, are the only ones mainstreamed into the regular education system as a group.

Children with disabilities attending regular schools

456. The Ministry of Education allocates some 84,000 weekly special education hours (integration hours) for mainstreamed pupils. Each local authority is allocated a quota of teaching hours based on the number of pupils in its jurisdiction, the school's "development index," and the percentage of pupils with minor disabilities who are referred to Placement Committees in an effort to encourage their mainstreaming. A Local Resource Center for Special Education Services is the operational organizational division of the inclusive education; it provides educational services dependent on the regulation of the special education in every municipality.

457. The Ministry of Education allocates 350 positions for full-time assistants to pupils with severe physical disabilities who have been mainstreamed into regular schools and require assistance. The Dorner Committee recommended that placement and assistance, as well as the characterization of the children's needs, should be performed based on the children's specific functioning abilities rather than the type of deficiency. The current resources appear limited, and are provided mainly to children with severe disabilities. As a result, the Dorner Committee concluded that the current budgeting method is too rigid and does not always enable appropriate treatment to be provided to children with disabilities. Thus, the Committee recommended budgeting be performed on the basis of a model called: "Funding according to needs – system," namely that the budget is determined by the characteristics of every child. These recommendations are already in effect.

The involvement of parents and children in determining placement and a programme of care

Case law

458. The Nazareth District Court, residing as an Administrative Court, was asked to address a decision of the Ministry of Education to close a school for children with disabilities in the village of Al-Dihi. The school's closure was the result of a decline in the number of pupils from 32 (which is the minimum according to the Ministry's regulations) to eighteen. Such a decrease in the number of pupils required the placement of seven different age groups in one classroom (a maximum difference of three age groups is allowed in unique circumstances according to the regulations). This situation caused financial cutbacks within the local authority and a decision to cutback was approved by the District Director of the Ministry of Education. The decision was annulled by the District Court, which stated that the District Director's approval was issued in contradiction to the principles of proper governance. In the school year following the court order, only nineteen

pupils attended; therefore, in accordance with the Ministry's regulations, a reduction was made in the number of classrooms.

459. During the re-examination of the above mentioned decision, consideration was given to the opinions of parents, the suitability of alternative placements for the pupils in light of their disabilities, the opinions of relevant Ministry personnel, etc. Nevertheless, the decision to close the school was once again reached.

460. The parents petitioned the decision again, questioning the sincerity of the reasoning given in the decision to close down the school. The Court determined that the Ministry of Education's decision was reached after proper examination and consideration of the best interests of the pupils. Moreover, the decision allowed the parents to choose from three different schools and promised the full cooperation of the Ministry's personnel in registration and integration into these schools. Therefore, the Court rejected the petition and the decision to close the school was finalized. (Ad.P 1114/07 *The Board of Parents for the School of Bustan-Almargh et. al* v. *The Ministry of Education, et. al.* (30.07.07)).

Discounts and tax breaks

461. The parents of disabled children receive tax breaks and discounts on fees as compensation for having to invest financial and other resources in the care of their children. These include:

- Parents with a physically disabled, blind or autistic child, or a child with an emotional disorder or chronic illness, are eligible for an income tax credit; they are also eligible for these credits if the child resides in an out-of-home framework.

- Parents of a child with disabilities may receive a discount of up to 25 per cent on their municipal taxes, at the discretion of the local authority.

- Parents of a child who receives a full disability benefit, and parents of a blind child or a child undergoing dialysis, are eligible for discounted telephone services. The discounts include a 50 per cent reduction on regular monthly charges; 60 free telephone units per month for a disabled child and 300 units for a blind child; and a 50 per cent reduction on the cost of the installation or transfer of telephone lines. Parents with two children who each receive a full disability benefit are eligible for double discounts.

The accessibility of public areas and services

462. In September 2008, new regulations were promulgated, requiring the modification of various public sites to accord with the needs of persons with disabilities. The Equal Rights for People with Disabilities (Site Accessibility Adjustments) Regulations 5768-2008, laid down the accessibility requirements for archaeological sites, national parks and nature reserves, as well as other areas, mainly forests, managed by the Jewish National Fund or on its behalf. According to these Regulations, new sites are not to open for public use unless the accessibility requirements are met (Section 5). Existing sites are compelled to gradually meet the requirements within ten years (Section 7).

463. Recently, a number of resort sites have been made accessible for the disabled with the help of funds from the National Insurance Institute. The duty of the Commission for Equal Rights of Persons with Disabilities, among other things, is to enforce the law, and thus the Commission insists on the implementation of any law or regulation that concerns persons with disabilities.

464. On 1 August 2009, a new Directive dealing with accessibility entered into force. This Directive enforced accessibility for people with a disability in public places, and was added to the Planning and Construction (Permit Application Conditions and Fees)

Regulations 5730-1970. The new accessibility Directive applies to all public structures as opposed to limited developments (public buildings and other forms of construction) that are legally obligated to make public areas accessible as required by the Directive. The scope of the new Amendment is extensive and details modification, accommodation and accessibility for persons with disabilities. Moreover, these Directives are applicable to different kind of disabilities, considerably more than the previous directives, including blindness, hearing deficiencies, physical disabilities and so on.

465. In addition, a number of dispensations included for the families of disabled children are meant to ease access. For example, special parking permits are given to the parents of children who have lower limb motor disorders or who need a respirator. These permits allow them to park in spaces designated for disabled drivers, as well as to park free of charge in areas where parking is available for a fee. The parents of children with mobility problems (i.e., who have been declared to be at a 60 per cent degree of disability by the District Health Bureau or have been designated by a physician as having a disability that requires a motor vehicle for purposes of mobility) are exempt from annual motor vehicle registration fees.

466. For children, access to schools is particularly important. According to the Planning and Building Law 5725-1965 (the: "Planning and Building Law") and the Planning and Building Regulations (Permit Application-Permit Terms and Fees) 5730-1970, a permit will be denied for the construction of a public building that does not comply with regulations concerning access for the disabled. According to these Regulations, in schools and other public structures, only one storey need be accessible to the disabled. As such, even when the Law is implemented, it is difficult for disabled children to become integrated into schools – a fact often cited as the primary difficulty with mainstreaming disabled children.

Case law

467. An NGO, together with parents of children with disabilities, petitioned the Supreme Court to order the State to finance the integration of children with disabilities (who are deemed fit) into ordinary schools. Such integration would require the State to finance personal assistance for the children. The petitioners claimed that the right to education is a fundamental one, and therefore, should not be confined to financing the children's education in special schools, but rather their integration into ordinary schools. In this way, equality would be achieved for children who study in special education schools. If the State did not cover the costs, it would compel parents without means to send their children to special schools despite the fact that they were found fit to be integrated into the ordinary system. The Court determined that the right to education is a fundamental one, which is enshrined both in article 13 of the International Covenant on Economic, Social and Cultural Rights and in articles 28 and 29 of the Convention on the Rights of the Child. The Court stipulated that the right to special education derives from the right to education, even if it was yet to be determined whether the right to education was part of the right to human dignity. Moreover, the Court referred to Article 23(2) of the Convention, which stipulates that the States recognize the rights of disabled children.

468. In light of the Supreme Court ruling that both customary and treaty law affect Israeli law, since Israeli law operates under the presumption of compatibility between the domestic law and international norms Israel has undertaken to uphold; human rights treaties constitute an important tool for the interpretation of national legislation, and serve to further enhance and entrench international human rights norms in the domestic sphere.

469. Therefore, the Court determined that the purposive interpretation of the Special Education Law obligates the State to execute the law in an equal manner, which means changing the budgetary policy to enable allocation of budget to both the special schools,

and children with disabilities in ordinary schools. (H.C.J. 2599/00 *Yated – Non-Profit Organization for Parents of Children with Down Syndrome* v. *The Ministry of Education* (14.8.02)). For that reason the Dorner Committee was established and its recommendations, as cited above, have since been implemented.

B. Articles 6 and 24 – Health and health services

A right to a dignified death

470. On 6 December2005, the Knesset enacted the Terminally Ill Law in response to the medical-ethical dilemma presented by the treatment of terminally ill patients. The Law is based on the recommendations of a public committee appointed by the Minister of Health in 2000.

471. The Law presumes that every person has the will to continue living, unless proven otherwise. Furthermore, in the event of doubt, the will to live shall be presumed (Section 4). One shall not avoid granting medical treatment to a terminally ill patient unless it is clear, according to specific conditions, that the patient has no will to continue living (Section 5). If the terminally ill patient has "capacity," meaning that she/he is older than seventeen years old, can express her/his will, and was not declared incapacitated, or excluded from this status as a result of a documented, justified medical decision, then any decision concerning her/his medical treatment shall be subject to her/his implicit will (Section 5(a)). If the terminally ill patient does not have "capacity", any decision concerning her/his medical treatment shall accord with her/his preliminary instructions, the instructions of an empowered person, or the decision of an "institutional committee" as defined below (Section 5(b)). If no such instructions or decisions exist, then the responsible physician, in consultation with the patient's relatives or guardian (only in the absence of a relative), will determine the appropriateness of withholding medical treatment (Section 5(c)).

472. The Law states that a terminally ill patient's desire to forego treatment to extend her/his life shall be respected, and medical treatment shall not be provided, for so long as she/he has "capacity" (Section 15(a)). However, the Law does not allow for an act to be committed, including a medical act, that is intentionally directed at causing the terminally ill patient's death or which will result in certain death, even if motivated by grace and compassion (section 19). In addition, assisting the patient to commit suicide or the cessation of continuous medical treatment are both prohibited (Sections 20 and 21 respectively). However, it is permitted to cease the renewal of continual and/or cyclic medical treatment that has been terminated unintentionally as long as it was not against orders (Section 21).

473. The Terminally Ill Law contains different provisions as to the manner and procedure in which a person can express, in advance, her/his will with respect to medical treatment she/he will receive in the event of being diagnosed as terminally ill. In addition, the Law states that every medical institution will appoint, in consultation with a state committee, institutional committees which are to determine treatment in cases of conflict or in the event of doubt as to the course of treatment. These committees will consist of three physicians, a nurse, a social worker or a clinical psychologist, an academic specializing in philosophy or ethics, a jurist qualified to be appointed as a district judge, and a public representative or religious persona.

474. The Terminally Ill Law contains different provisions regarding the applicability of the Law to minors, and defines a minor as any person who has not reached the age of

seventeen. The parent of a minor is authorized to represent her/him with regard to medical treatment and may choose to decline treatment. A legal guardian, who is a related person,[3] may express her/his opinion regarding the treatment, and the physician in charge may act accordingly. If the minor is parentless, or if the legal guardianship of the parents was negated and there has not been a determination of a new guardian, or if the guardian is not a related person (as defined above), the medical institution's commission shall make the decision regarding the minor (Section 24).

475. The Law stipulates that a terminally ill minor shall have the right to participate in decisions concerning her/his medical treatment if she/he understands her/his condition, requests to participate in decisions regarding her/his treatment, and if the physician in charge determines that her/his mental capability and maturity allows her/him to participate (Section 25(1) and (2)). The Law also states that the physician in charge shall provide the minor with information regarding her/his medical condition or treatment so long as the physician determines that her/his mental capability and maturity enables her/him to fully grasp the meaning of such information and that it will not harm her/his physical or mental health or pose a risk to her/his life (Section 26(1) and (2)).

476. The Law states that the decisions as to whether to inform the minor of her/his medical condition (Section 26) and as to the minor's ability to participate in decisions as to her/his treatment (Section 25) shall be made after consulting with the minor's parents, the legal guardian if one has been appointed, caregivers, relevant physicians and specialists, as well as with her/his personal physician if possible (Section 27).

Discrimination

477. In accordance with the Patient's Rights Law 5756-1996 (the: "Patient's Rights Law"), detailed in Israel's initial report, every member of the health system is committed to refrain from all forms of discrimination and maintain the patient's privacy, in the spirit of the Law. The Patient's Rights Law was amended in 2004, and Sections 4 and 28(a) prohibit discrimination on grounds of gender inclination. The Law and its provisions are an integral part of the basic training of the personnel working in the Health System with respect to the health of children and youth in Israel.

Maternal mortality, infant mortality and underweight births

478. 3The maternal mortality rate for Israel has declined steeply over the past 50 years. At present, it equals the rates found in the most developed nations: 0.04–0.12 per 1,000 births, with no variance among sub-populations between the years: 1990–2000.

479. Maternal mortality in Israel is relatively rare and in recent years the rate of maternal mortality remained generally low. The following table displays the number of maternal deaths in Israel in recent years.

[3] A person who, according to the opinion of the physician in charge, is either a dedicated family member or a dedicated person with an emotional relationship to the minor, who has intimate knowledge of the terminally ill minor, due to continuous contact before or during the medical treatment.

Table 13

Maternal mortality, 1990–2006

Year	*Number of maternal deaths*
1999	10
2000	3
2001	8
2002	6
2003	7
2004	9
2005	7
2006	9

Source: Ministry of Health, 2008.

480. Progress in medical knowledge and technologies and changes in lifestyle and behaviour have resulted in infant mortality rates dropping significantly. Throughout the 1970's, Israel's infant mortality rate was 21.9 deaths for every 1,000 live births. By 2007, Israel's infant mortality rate was 3.9 deaths for every 1,000 live births. However, there remains variance among population sub-groups: 2.9 deaths for every 1,000 live births among Jews, 2.8 among Christians, 6.0 among Druze, and 7.2 among Muslims. According to data from the Ministry of Health, there was an 11 per cent decrease in the infant mortality in the Arab population in 2005 compared to infant mortality in 2004.

481. In 2007, the infant mortality rate of Bedouins decreased to 11.5 deaths for every 1,000 live births and the Government is continuing to open Mother and Child Health clinics in unauthorized villages and Mother and Child Health clinics to better serve the population.

Table 14

Causes of infant death by population group, 2005–2007 (rate per 1,000 live births)

Causes of death	*Jews*	*Others*
Congenital malformations	0.8	2.5
Causes of prenatal mortality	1.5	2.4
All other unspecified causes	0.6	1.9
External causes	0	0.2
Infectious diseases	0.1	0.1
Total	**3.0**	**7.2**

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2009.

482. The Arab infant mortality rate is higher than the infant mortality rate in the Jewish population (7.2 versus 3.0). The higher Arab infant mortality rate is due in large part to a higher rate of deaths from congenital malformations. This is related to the high rate of consanguineous marriages in the Arab population, particularly among the Bedouin population.

Table 15

Contagious and infectious illnesses among children, newborn to 14 years of age, by age and population group, 2008 (per 100,000 in each age group)

		Age group (years)			
Illness	*Population group*	*Newborns*	*1–4*	*5–9*	*10–14*
Rubella	Jews	0.0	0.0	0.0	0.0
	Arabs	0.0	0.0	0.0	0.0
Measles	Jews	98.7	47.5	26.5	23.4
	Arabs	22.9	4.3	0.9	0.0
Salmonellosis	Jews	178.1	94.4	19.3	12.7
	Arabs	150.1	48.2	7.9	3.0
Campylobacteriosis	Jews	301.1	228.1	89.7	65.6
	Arabs	885.5	176.6	19.6	9.1

Source: The Ministry of Health, October 2008.

Table 16

Infant mortality rates, by selected causes, religion and age (rates per 1,000 live births)

	2000–2004			*2005*
Cause of death	*0–27 days*	*28–364 days (1–11 month)*	***Total***	***Total***
Grand total	**3.3**	**1.8**	**5.1**	**4.4**
Intestinal infectious diseases	(0.0)	(0.0)	**(0.0)**	**-**
All others infectious and parasitic diseases	-	0.1	**0.1**	**(0.0)**
Pneumonia	(0.0)	-	**(0.0)**	**-**
Congenital anomalies	0.9	0.4	**1.3**	**1.4**
External causes	(0.0)	0.1	**0.1**	**(0.1)**
Causes of per natal mortality	2.2	0.3	**2.5**	**1.9**
All others and unspecified causes	0.2	0.9	**1.1**	**0.9**
Jews – total	**2.7**	**1.1**	**3.8**	**3.1**
Intestinal infectious diseases	. .	-	**(0.0)**	**-**
All other infectious and parasitic diseases	(0.0)	-	**(0.0)**	**-**
Pneumonia	(0.0)	-	**(0.0)**	**-**
Congenital anomalies	0.5	0.3	**0.8**	**0.9**
External causes	(0.0)	0.1	**0.1**	**. .**
Causes of prenatal mortality	2.0	0.2	**2.3**	**1.6**
All others and unspecified causes	0.1	0.4	**0.6**	**0.6**
Other religions – total	**4.9**	**3.5**	**8.4**	**7.7**
Intestinal infectious diseases	0.0	(0.1)	**(0.1)**	**-**
All other infectious and parasitic diseases	-	0.1	**0.1**	**-**
Pneumonia	-	(0.0)	**(0.0)**	**-**
Congenital anomalies	1.9	0.8	**2.6**	**2.9**

	2000–2004			2005
Cause of death	*0–27 days*	*28–364 days (1–11 month)*	***Total***	***Total***
External causes	-	0.2	**0.2**	**(0.3)**
Causes of prenatal mortality	2.5	0.5	**3.1**	**2.6**
All others and unspecified causes	0.4	1.8	**2.3**	**1.8**

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2008.

Infant mortality rate in Israel

483. In 2007, the overall infant mortality rate in Israel was 4.1 per 1,000 births (compared to 5.5 in 2001). Among the Jewish population the rate was 3.0, and among the Arab population the rate was 7.2. The trend in the rate of infant mortalities per 1,000 live births has been as follows.

Table 17
Infant mortality, 2004–2007

Druze		*Christians*		*Muslims*		*Jews*	*Total population*		
Rates	Absolute numbers	Rates	Absolute numbers	Rates	Absolute numbers	Rates	Absolute numbers	Rates	Absolute numbers	*Year*
4.3	11	3.3	8	8.8	319	3.1	315	4.6	670	2004
5.9	15	3.2	8	8.1	277	3.1	313	4.4	628	2005
5.0	13	-	4	7.3	252	3.0	312	4.0	594	2006
6.0	15	2.8	7	7.2	250	3.0	309	4.1	586	2007

Source: The Ministry of Health and the Israel Central Bureau of Statistics, Abstract of Israel 2008.

484. In 2007, there was a 2 per cent decline in infant mortality among the Jewish population and a 22.7 per cent decline among the Arab population, compared to 2003. A large part of the decrease in infant mortality rates is attributed to the decrease in mortality caused by infectious diseases, a decrease in prenatal mortality and a decrease in infant mortality as a result of the contraction of pneumonia. Death from congenital disorders also indicates a downward trend.

485. In 2008 infant mortality rates decreased further to 2.9 infant mortality cases per 1,000 live births among the Jewish population and 6.5 cases among the Arab population (compared to 7.2 cases in 2007). The infant mortality rate among the Arab population is still relatively high despite the continuing decrease in the rate. The difference in the rates between the populations stems from a number of factors, among them the high rate of consanguineous marriage – approximately 35 per cent among the Arab population and approximately 60 per cent among the Bedouin population, a religious prohibition against abortion among the Arab population, even in medically recommended cases, as well as socio-economic differences.

486. According to a report issued by the Ministry of Health, and published in February 2009, the infant mortality rate of Bedouin infants in 2008 was 11.5:1000, representing a decline from the rate in 2005 (15:1000). The high rate is mostly attributed to high rates of congenital anomalies and hereditary illnesses due to the high rate of consanguineous marriages. Another element impacting upon mortality rates is the religious prohibition against abortion among Muslims even in medically recommended cases, as well as the high rate of births among elderly women. It should be noted that the infant mortality rate among Bedouin infants living in unauthorized villages was actually lower than that among

Bedouin infants living in established towns. The Government is continuing to open Mather and Child Health Clinics in unauthorized villages and new Clinics are being built to serve the population.

487. Furthermore, the Government has been funding several special projects to improve the health and expand the health-care services provided to Bedouin living in unauthorized villages. One of these programmes is a special long-term intervention programme to decrease infant mortality among the Bedouin. The programme is community-based, and boasts a wide-consortium of participants, including representatives from the Bedouin community leadership and the educational system, along with providers of curative and preventative health care services, the Department of Health in the Community and the Epidemiology Department of the Faculty of Health Sciences at Ben-Gurion University of the Negev.

488. Free genetic testing is also funded by the Government, along with genetic consulting, for any member of a Bedouin tribe in which the prevalence of a serious inherited disease is above 1:1000, and has an available genetic test.

489. The Ministry continues to work intensively to reduce the Israeli Muslim Arab infant mortality rate through a Health education/information project. The central aims are to discourage marriage among close relatives, attempt to encourage pregnant women to make more use of diagnostic procedures during pregnancies, and encourage mothers to make more use of the Mother and Child Care Services available throughout the country.

490. There has also been an important improvement in the growth of Bedouin infants and toddlers over the past two decades, indicating improved nutrition. Moreover, there has been increased compliance with recommendations for supplemental folic acid among Bedouin women in their fertile years, and a decrease in the incidence of open neural tube defects (NTD's) among Bedouin foetuses and infants. Unfortunately there are still high rates of congenital malformations and inherited diseases among Bedouin infants, due to multiple factors including the tradition of consanguineous marriage (approximately 60 per cent), as well as cultural-religious-social barriers to pre-marital and pre-natal screening for inherited diseases.

491. According to the Central Bureau of Statistics, in the last decade the infant mortality rate has decreased by nearly 40 per cent, from 6.0 per cent to 3.9 per cent per 1,000 live births. The largest decrease was among the Jewish population – a decrease of 38 per cent (from 4.7 per cent to 2.9 per cent per 1,000 live births), and among the Arab population a decrease of 26 per cent (from 8.8 per cent to 6.5 per cent per 1,000 live births).

Preventive care and control of epidemics

492. The Ministry of Education Director General's Directive dated 1 September 2004, forbade the collection of fees from parents in order to finance medical services in schools. This issue arose due to financial cutbacks that reduced funding for school nurses from levels allowing a nurse's full-time presence to levels only allowing a nurse's presence once a week. Some parents were willing to pay to fill the budgetary gap.

493. Following the filing of a petition with the Supreme Court, on 21 November 2005, the Ministry of Education made several suggestions in order to resolve the situation. The latest suggestion was dated January 2007, and included the publishing of a tender to create regional motorized centres, manned by professionals. The petitioners did not agree to this suggestion, arguing that the arrival of paramedics would be delayed if several calls were received simultaneously, and that such a delay could lead to harmful consequences.

494. On 7 June 2007, the Ministry of Education decided that in order to best prepare the timetables for the following school year (commencing on September 1st), it was best to

postpone the tender. Therefore, the Ministry contracted with MDA (the provider of emergency medical services in Israel) so that it would provide the services. The State emphasized before the Court that this was a temporary solution until the end of 2008, and that during this period; lessons would be learned.

495. The Supreme Court held that the State has an obligation to provide first aid care to pupils in the education system and that the prohibition on collecting fees from parents was meant to maintain equality between children. The Court found that the contract with MDA was a reasonable solution, primarily because of the convening of a follow-up committee to examine the results of this solution. However, the Court held that the petitioners may petition again if they feel that the solution is not satisfactory and if the State fails to provide a proper solution. (HCJ 10794/05 *Dudy Landoi et. al.* v. *The State of Israel* (26.08. 2007)).

AIDS

496. In the years 1981–2007, 5,358 new cases of HIV/AIDS were notified in Israel. Taking account of fatalities and those who left Israel, 4,239 people registered as living with HIV/AIDS remain in Israel. Approximately 5,940 HIV/AIDS carriers presently reside in Israel. Between the years 2003–2007, an annual average of 333 individuals were notified of their being HIV carriers.

497. An assessment of the HIV/AIDS epidemic in Israel incorporates several tools, both qualitative and quantitative, which are meant to promote and evaluate the National Evidence-Based Policy. A National multidisciplinary Steering Committee (NAC) advises the Minister of Health and its Director General on the overall national HIV prevention and treatment efforts. This NAC includes representatives from several Ministries, directors of AIDS treatment centres, academic professionals and representatives from two NGOs (Israel AIDS Task Force and Physicians for Human Rights). A dedicated department at the Ministry of Health (the Department of Tuberculosis and AIDS) promotes and evaluates both prevention and treatment programmes, in coordination with several other departments, within and outside the Ministry of Health (including the Department of Health Promotion).

498. National HIV/AIDS registration has been available since the beginning of the epidemic in 1981. HIV testing is systematic amongst blood donors and amongst certain selected groups. In addition, HIV testing is available at all community clinics around the country, confidential and free of charge for any person requesting the service. Each year, approximately 5 per cent of the adult Israeli population is tested voluntarily. Health education programmes are developed for both the general population and groups at high-risk, usually in conjunction with NGOs. Medical treatment and follow-up counseling is provided by seven specialized regional AIDS centres that offer comprehensive treatment (including HAART, and highly effective medicine) to all patients. The financial burden is placed on the Health Fund to which the patient belongs, with minimal or no financial contribution being required on behalf of the patient. Since 2005, HIV drug resistance testing became part of the standard care in Israel.

499. From 1996–2006, 35 HIV+ women gave birth to 45 infants. 31 (88 per cent) of these women were of Ethiopian origin and gave birth to 39 infants. Of the 35 HIV positive women, 30 were aware of being HIV positive. They gave birth to 40 infants. Another five women (14 per cent) were not aware of being HIV positive at the time of delivery. They gave birth to five infants. Of the group of women who knew of their HIV positive status, 26 (87 per cent) were Ethiopian immigrants who delivered 34 infants and four were non-Ethiopians who delivered six infants. In the group of five women who were not aware of their HIV positive status, all were Ethiopians.

500. A programme launched by an Israeli medical infectious disease specialist has succeeded in decreasing the fatalities among Ethiopian children infected with the

HIV/AIDS virus. The programme involves treating the children with anti-retroviral therapy. Since the anti-retroviral therapy began, the number of children who have died from the virus and related diseases has been reduced to three. Treatment has been given to 130 children, who are all doing very well.

HIV education

501. The Ministry of Education invests a great deal of effort in the education of students and educational institution's personnel regarding illnesses, the rights of ill persons, and ways to include them in educational institutions and within the community. Children with an immunodeficiency virus are included in kindergartens and schools and participate in every school activity (unless there is a specific medical condition that prohibits their participation). Children receive all the support possible without breaching their right to privacy. According to the law, children are entitled to check whether they carry the HIV virus without their parents' knowledge. Principals must circulate information on the HIV virus among pupils in the ninth to twelfth grades.

Encouraging breastfeeding

502. The Ministry of Health is presently establishing a Breastfeeding Committee in order to advise the Head of Public Health Services on the implementation of the International Code of Marketing of Breast-Milk Substitutes in Israel. The promotion of breastfeeding has been included as an objective of the guidebook for the "Healthy Israel 2020" initiative. The guidebook was created by the Ministry of Health to lay out the Israeli policy of disease prevention and health promotion.

Table 18
The objectives defined specifically for the promotion of breastfeeding

	2000	*Objective for 2020*
Breastfeeding initiation rate	85%	90%
BF rate at 3 months	56%	75%
BF rate at 6 months	38%	55%
BF rate at one year	14%	25%
Exclusive BF rate at 3 months	25%	40%

Source: The Ministry of Health, National Health and Nutrition Survey, 2000.

503. A Breastfeeding Promotion Committee was established in 2001 with the purpose of further advancing the Ministry of Health's activities. The objective of the Committee is to continue encouraging breastfeeding. The Committee is composed of several representatives of different Departments in the Ministry of Health. The Committee has been successful in accomplishing the following:

- Provision of professional breastfeeding training programmes for nurses and delivery-room teams.
- Professional training programmes for nurses and dieticians in the Public Health Services.
- Organizing discussion forums for graduates of the above mentioned breastfeeding programmes.
- Publication of informational bulletins on the subject of breastfeeding for the general population.

- Provision of breastfeeding information for hospital staff conveyed by the World Public Health Organization.

- Setting up breastfeeding spaces in public places as a part of public service.

- Publication of a guide for Mother and Child Health Clinics and information on breastfeeding.

- Participation in various parliamentary committees engaged in encouraging breastfeeding.

- Encouraging public health services' personnel to attend an International Breastfeeding Course for Lactation Consultants (IBCLC) and obtain certification.

- Encouraging workers of the health and hospital services to support breastfeeding.

- Organizing a public campaign that promotes breastfeeding in the workplace (associated with Israeli Health Funds).

- Advertisements on the Ministry of Health website of: the "Baby-Friendly Work Place."

- Including the promotion of breastfeeding in the objectives of the Ministry of Health for the year 2020.

- Encouraging cooperation between the Civil Service Commission and the chairperson of the Authority for the Advancement of the Status of Women in the Ministry of Health.

Road safety

504. In recent years, various Amendments concerning the safety of children were passed:

505. Amendment No. 80 to the Transportation Ordinance (New Version) issued on 8 February 2007, supplemented Section 65C. The Section stipulates that a person may not ride a bicycle and/or carry another person, unless they wear a safety helmet with a strap to prevent from loosening during the ride. A parent, a legal guardian, or the adult in charge, must prevent the minor from riding a bike with no helmet on her/his head while in their care.

506. An owner of a bicycle business must place a noticeable sign in her/his shop regarding the obligation to wear a helmet. For the purpose of this section, the term bicycle includes skateboards, roller-skates, rollerblades, and a motor scooter, while excluding a tricycle.

507. According to Section 83 to the Transportation Regulations only an authorized vehicle is allowed to transport children. Furthermore, children must sit down inside the vehicle: they can no longer remain standing while moving. The permission that once existed to seat three children in a seat designated for two children was abolished.

508. The duty to fasten children into a safety seat while in a vehicle has been expanded. A child under the age of three must be fastened into a baby seat. A child between the ages of three and eight must be fastened into an elevated seat which fits her/his height and weight. Above the age of eight, there is a general duty to fasten a safety belt (Section 83A to the Transportation Regulations).

509. In order to prevent the transportation of young children on motorbikes, it is prohibited to carry a person on a motorbike if her/his legs cannot reach the side pedals (Section 119 to the Transportation Regulations).

510. The legal Directives dealing with driving under the influence of alcohol and/or drugs have been expanded. The requirement of an exhalation test to determine if a driver is a drunk driver is legitimate even when there is no valid suspicion of drunkenness. The police officer at the scene has the discretion regarding whether to demand that the driver undergo an exhalation test. The saliva-test that determines intoxication is performed at the police station subject to the consent of the person.

511. In 2008, the Minister of Transportation approved a comprehensive reform for the qualification of drivers. This reform will enter into force in May 2010, and improves the level of driving schools and prolongs any probationary periods. For instance, the requirement that a mature driver accompany a new driver for her/his initial three months of driving following her/his receipt of a license shall be extended by three more months and a further three months with respect to driving at night.

512. The National Road Safety Authority was re-established in 2007 under new standards. It is a statutory corporation that was established due to temporary order, for a limited number of years. This authority practices road safety and acts to promote awareness among educational frameworks. These standards accord with the National Road Safety Authority (Temporary Order) Law 5766-2006 (the: "National Road Safety Law"). According to Section 6 of the Law, one of the duties of the Authority is to advise and assist the educational system as well as conduct research in the field of road safety.

513. The National Road Safety Authority carries out activities for the protection of children, as delineated below.

514. Involvement in determining the curriculum of the educational system – the Authority, together with the Road Safety Division in the Ministry of Education, develops, manages, and finances studies on the issue of road safety in kindergartens, elementary schools and high schools. Representatives of the Authority and the Ministry of Education lead committees that approve activities and presentations on road safety within educational settings. In 2008, the Authority succeeded in receiving the consent of approximately 98 per cent of high school principals to assimilate a grading system on the issue of road safety as a condition for receipt of a matriculation certificate. The Authority also boasts approximately twenty guidance centres for guidance regarding safe cycling. The centres are intended for fourth and fifth grade children across the country.

515. Coordinating with youth movements – the Authority conducts national campaigns on the issue of road safety by youth movements in coordination with the Council of Youth Movement in Israel.

516. "At High risk" – the Road Safety Authority Information Centers undertakes explanatory activities for the Bedouin population. Such activities raise the awareness concerning accidents 'around the home', the importance of fastening safety belts and wearing bicycle helmets while riding.

517. Media – the Road Safety Authority produces explanatory activities for children's television programmes, in playgrounds, and in locations where children frequently gather.

518. General research – the Road Safety Authority researches road accidents that involve children. The Authority studies the cause of these accidents and then seeks solutions to avoid their recurrence.

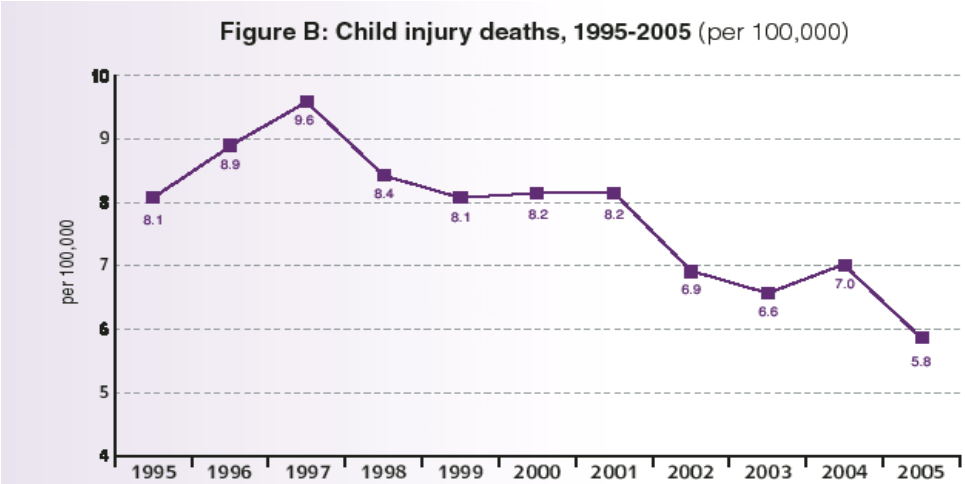
Accidents

519. Approximately 2.3 million children between the ages of 0–17 currently reside in Israel. Child injuries result in approximately 150 deaths per year, 25,000 hospitalizations and 180,000 visits to emergency rooms. Half of Israeli children sustain injuries that require medical care. Such care is available within the community medical services.

Child injury trends in Israel

520. Over the past decade, injury-related mortality rates in children between the ages of 0–17 have decreased by 28 per cent, from 8.1 deaths per 100,000 children in 1995 to 5.8 deaths per 100,000 children in 2005.

Chart 1
Child injury deaths, 1995–2005



Source: 'Beterem', a special analysis of the Israeli Bureau of Statistic Data on Mortality, Unpublished (Mortality). 2005.

Causes of childhood injury

521. During the years 2003 and 2005, the leading cause of injury-related death in children aged 1 to 17 was road accidents. As for infant's aged up till one years old, half of the injury-related deaths occurred in domestic and playground environments, with the leading cause of death being choking/strangulation. The primary causes of injury-related death among children aged one to seventeen are: drowning, suffocation, falls, poisoning, fire/burns and firearm related injuries.

Injury by population groups

522. Between the years 1999 and 2005, injury-related mortality rates decreased in both Arab and Jewish children. In 1999, there were 12.3 and 6.7 injury-related deaths per 100,000 Arab and Jewish children respectively. In 2005, the injury-related mortality rate was 9.3 and 4.4 in Arab and Jewish children respectively (a 34 and 24 per cent decrease respectively). Injury-related mortality among Arab children is still higher when compared to injury-related mortality among Jewish children.

523. A report published by the Israel Medical Association Journal (IMAJ) in 2007, indicated that road accidents constituted the most frequent causes of mortality among children older than one year, and were second in causes of hospitalization. A secondary cause was found to be falls from high altitudes.

Sexual behaviour and birth control

Table 19
Live births among minors by age and religion in 2007

		Age			
Religion	*Total*	*14*	*15*	*16*	*17*
Total		**20**	**137**	**747**	**2 177**
Jews	**530**	31		105	394
Muslims	**2 371**	12	102	602	1 655
Christians	**23**	-	-	23	
Druze	**22**	-	-	-	22
No religion stated	**134**	10		38	86

Source: CBS, Central Bureau of Statistics, 2008.

Table 20
Unmarried girls up to the age of nineteen who requested authorization for pregnancy termination, by religion and number of previous induced abortions, 2006

		Up to age 19		
Religion	*All ages*	*Absolute numbers*	*Percentage*	*Rate per 1,000 for age group*
Jews	14 818	2 215	79.5	11.3
Muslims	1 619	92	3.3	1.7
Christians	496	44	1.6	7.4
Druze	204	11	0.4	(2.0)
No religion stated	1 893	355	12.7	32.8
Number of previous induced abortions				
0	-	2 229	80.0	-
1–2	-	412	14.8	-
3+	-	8	0.3	-

Source: The Central Bureau of Statistics, 2008. (Data based on estimates).

Emotional well-being

524. Suicide ranks as the second most common cause of death among children and youth in Israel, similar to other developed Western countries. The extent of the phenomenon of suicide and the attempts at suicide are not precisely known.

525. In order to understand and deal with the phenomenon of suicide among youth at the national level, the Inter-Ministerial Committee for the Prevention of Suicide among Youth has made great efforts with children and youth under the age of 24. The Committee includes representatives from various bodies and has prepared a suicide prevention kit for personnel working with children.

Table 21

Number of suicide attempts among children and youth in emergency departments, by age and gender, 1999–2007

		Boys				*Girls*			
Year	***Total***	***Total***	*Up to 9*	*10–14*	*15–17*	***Total***	*Up to 9*	*10–14*	*15–17*
1999	**469**	**124**	5	24	95	**345**	1	59	285
2000	**525**	**110**	8	20	82	**415**	0	82	333
2001	**484**	**99**	3	12	84	**385**	4	108	273
2002	**535**	**97**	4	19	74	**438**	0	109	329
2003	**621**	**135**	3	32	100	**486**	1	133	352
2004	**691**	**117**	6	28	83	**574**	4	154	416
2005	**694**	**148**	5	34	109	**546**	1	147	398
2006	**638**	**133**	1	31	101	**505**	1	147	357
2007	**685**	**128**	7	40	81	**557**	0	158	399

Source: The Ministry of Health, Department of Health Information, 2008.

526. In 2007 there were 685 reported suicide attempts among children that resulted in their being brought to emergency rooms. Since 1996, there has been an increase of approximately 30 per cent in suicide attempts. This can be attributed to an improvement of the data collection system, rather than an increase in the number of suicide attempts. The rate of suicide attempts among girls is much higher than that among boys.

Dental health

527. Following a petition submitted to the Israeli High Court of Justice by the NGO Physicians for Human Rights – Israel (PHR) in March 2008, the Ministry of Health announced on 7 June 2009 that dental checks for every pupil in Israel between the ages of five and eighteen would be financed by the Government. The Ministry also declared that it would triple the budget of Dental Health Services by up to 30 million NIS (8,100,000$) per year. Pending this solution, dental checks were partially financed by local authorities (depending on their financial situation). The treatments that are funded by the Ministry of Health include routine checks, preventive treatments and guidance. It does not include dental treatments (the National Health Insurance Law). On 14 December 2009, the Israeli Government decided to include children's dental treatments within the State Medical Basket that is covered by the National Health Insurance.[4]

Traditional customs that may affect a child's health

528. Recent data indicates that over the last few years there were no reports of women who underwent female genital mutilation in Israel.

[4] The Health and Welfare Committee gathered on15 December, 2009 to discuss the Government resolution, see Protocol No. 158 and 166 dated 15 and 22 December 2009, respectively.

Preventive services for young children

Mother and Child Health Services (MCH)

529. In recent decades, the proportion of pregnant women making use of the MCH services as their principal source of prenatal care has declined dramatically – from close to 100 per cent in the mid-1980s to approximately 20 per cent of Jewish women and 50 per cent of Arab women as of 2002. Women opt to receive their prenatal care through State health insurance coverage, namely through their Health Funds or from their private doctors.

530. The MCH services remain essentially the sole source of Mother and Child Health Clinics. In 2006, approximately 145,000 infants received care at over 1,200 clinics that belong to the Ministry of Health, the Israeli Health Funds and two localities (Jerusalem and Tel Aviv). The Ministry of Health operated 44 per cent of the clinics and cared for approximately two-thirds of the infants. The Israeli Health Funds operated 50 per cent of the clinics, including many relatively small clinics in rural areas and cared for 20 per cent of the infants. All of the services operate under the supervision of the Ministry of Health and conform to the service guidelines promulgated by the Ministry.

531. In 2004, the Government of Israel approved an experimental plan for the responsibility of MCH services to be transferred from the Ministry of Health and municipalities to the Israeli Health Funds that are funded by the Government. In 2007, the Prime Minister decided to halt the pilot project and his decision was confirmed by the Government.

532. A new service was added to the Israeli Health Funds on 1 January 2009, a Metabolic Disease Screening for 11 diseases, which is performed for all newborns. This service is funded by the Ministry of Health and expands the former service that detected only Congenital Hypothyroidism and Phenylketonuria (hereditary disease PKU).

Vaccinations

533. New vaccinations were added to the childhood vaccinations schedule. Two doses of Varicella, an additional two doses of Pertussis and 2+1 Pneumococcal are scheduled in 2009.

Table 22

Children at age two who received inoculations, by population group and type of inoculation for the years 2003, 2005, 2006 (percentages)

Pop.	*DTP 4 doses*			*Polio IPV*			*MMR*			*Hep B*			*Hep A*			*Hib*
group	2003	2005	2006	2003	2005	2006	2003	2005	2006	2003	2005	2006	2005	2006	2005	2006
Total	93	93	95	93	95	94	96	94	96	98	96	98	90	84	93	94
Arab	97	98		97	97		98	98		100	96		96		98	
Jews	91	91		91	94		95	93		97	96		88		91	

Source: The Ministry of Health, Lewis Institute, Tel Hashomer Hospital, 2008, *Source:* The Central Bureau of Statistics, 2009.

Table 23

The percentage of children in 1st, 2nd and 3rd grades who received routine vaccinations from the Association of Public Health, 2008

	1st grade MMR		*2nd grade IPV + dTaP*		*3rd grade dT*	
	Abs.	*%*	*Abs.*	*%*	*Abs.*	*%*

	1st grade MMR		*2nd grade IPV + dTaP*		*3rd grade dT*	
	Abs.	*%*	*Abs.*	*%*	*Abs.*	*%*
Candidates	136 199	100.0	138 206	100.0	117 158	100.0
Vaccinated	124 236	91.2	123 684	89.5	99 250	84.7
No need*	3 220	2.5	4 142	3.2	6 618	6.2
Refusal	1 306	1.0	1 376	1.0	1 130	1.0

Source: The Ministry of Health, Public Health Services, 2008.

* Children who did not need the vaccine or were already vaccinated.

Preventive programmes for special populations

The Ethiopian community

534. In 2006, there were approximately 27,000 Ethiopian-Israeli youth between the ages of ten to nineteen in Israel. 12,000 were born in Israel to immigrant parents and 15,000 were born in Ethiopia.

535. Israeli national data indicate that there are significant gaps in the educational results of Ethiopian-Israeli youth compared to the general population.

536. However, the country's 115,000 Ethiopian-Israelis are a particular priority and JDC's (American Jewish Joint Distribution Committee) chief PACT (Parents and Children Together) operate a programme designed to facilitate Ethiopian-Israelis' inclusion within the Israeli educational system. This programme tackles critical educational and social gaps between Ethiopian-Israeli children under the age of six and their veteran Israeli peers by promoting inclusion of every Ethiopian-Israeli child into a pre-school framework. The programme thereby, provides culturally sensitive support, and PACT assists the children to acquire social and cognitive skills that Ethiopian-Israeli parents who were in most cases raised in a rural society, cannot provide. This, in accordance with recommendation No. 20 of the concluding observations of the Committee on the Rights of the Child concerning Israel's previous periodic report, recommending that cooperation with NGOs and international organizations should be strengthened.

537. Since 1998, the city of Be'er-Sheva together with the Jewish Community PACT (Parents and Children Together) operates in fourteen locations. In 2007, over 11,000 Ethiopian-Israeli children and their parents benefited from PACT and the city's assistance to the community.

Science and technology

538. In the recommendation contained in paragraph 53 of the concluding observations of the Committee on the Rights of the Child it was recommended to increase the budget allocated for education in the Arab population. Accordingly, the Ministry of Science and Technology operates regional Research and Development Centers in Arab localities. Between the years 2003 and 2008, 4,307,984 million NIS (1,164,320$) were conveyed to the Galilee region and another 5,086,680 million NIS (1,374,778$) was transferred to a centre in the "Meshulash" (Triangle) region in the north of Israel. In addition, since 2005, 948,200 NIS (256,270$) have been transmitted to the regional centre for the Bedouins in the Negev.

539. The Ministry of Science and Technology also supports projects that promote Arab student's academic achievements. During the 2006/7 school year, 500 financial grants were awarded to Arab students. In 2007/8, an addition of 300 scholarships were granted, 50 per

cent of which were to Arab students. During the 2008/9 school year, 700 scholarships were granted, 480 of which were to Arab students.

540. The Ministry of Science and Technology also allocated an exceptional budget in 2008/9 in order to establish two new centres for the teaching of science in the "Meshulash" region in the north of Israel. In the Galilee, the budget for the 2008 fiscal year was 1.5 million NIS 405,000$) per centre in addition to a new National Research Center which was opened for the Druze population and which was funded in the amount of 400,000 NIS (108,000$).

Table 24
Financial aid granted by the Ministry of Science and Technology between the years 2001–2008 (by million NIS)

Project	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*
Studies in regional research and development centres	0.699	0.317	0.093	0.441	2.548	0.495	1.95	1.258
Operating Arab-population research and development centres		0.67	0.536	0.536	0.536	-	-	-
Support for regional research and development centres	0.536	0.707	0.552	0.505	0.591	0.827	0.548	0.654
Support for Bedouin regional research and development centres	-	-	-	-	0.3	0.3	0.3	0.15
Supplying for regional research and development centres	-	-	-	-	-	-	-	0.94
Minorities scholarships	1.415	1.637	0.48	0.4	0.48	0.09	0.33	0.15
Inauguration scholarships	-	-	-	-	-	-	2.52	2.8
Psychometric test scholarships	-	-	-	-	-	-	-	0.5

Source: The Ministry of Science and Technology, 2008.

The budget for culture, entertainment and sports

541. The Ministry of Culture and Sports and the Ministry of Education provide financial aid to 850 artistic and cultural institutions, including children's theatres, dance schools and choirs. Moreover, museums are recognized by law as beneficial and qualitative enrichment institutions for children. The State accepted the Holon Children's Museum as such an establishment. The State encourages the conservation of Arab, Druze and Circassian traditions.

Table 25
The budget for Arab, Druze and Circassia culture 2001–2008

	2001	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*
Arab culture	7 500	7 175	6 919	6 017	6 703	7 106	10 362	12 453
Druze and Circassian culture	2 026 NIS (547$)	1 919 NIS (518$)	1 874 NIS (506$)	1 653 NIS (446$)	1 593 NIS (430$)	1 638 NIS (442$)	2 075 NIS (560$)	1 866 NIS (504$)

Source: The Ministry of Culture and Sports, 2008.

Preventive services for schoolchildren

542. Preventive services for pupils are no longer provided directly by the Ministry of Health. This responsibility was outsourced in 2006 when the Ministry was replaced by a non-governmental organization. Dissatisfaction with the level of services led to the advertising of a public tender for the next five years, beginning in the summer of 2009. At this date, the provider of the service has not yet been chosen. (See: Preventive care and control of epidemics section B, above).

Psychiatric services

543. The Israeli child and adolescent mental health services are available in both inpatient and outpatient settings. These services aim to prevent developmental difficulties as a result of emotional problems. The services enable young people with mental disabilities to return rapidly to their daily lives.

544. Recent technological developments have introduced new drugs available as part of the National Health Insurance. The availability of treatment in the community environment contributes to the care of children and youth, as it allows young patients to remain in a familiar environment.

545. The psychiatric hospitalization system includes fourteen psychiatric hospitals. Eight of these are governmental, two belong to the Clalit Health Services Health Fund (the leading Israeli HMO), one is owned by a public non-profit organization and the remaining three are privately owned. There are also twelve psychiatric wards in the general hospitals. These wards specialize in treating all age groups.

Table 26
Children and youth admitted hospitalized, by gender, age and diagnosis (2005)

		Age		
Diagnosis	*Gender*	*Up to 11*	*12–17*	***Total***
Total		**155**	**856**	**1 011**
	Males	129	454	583
	Females	26	402	428
Schizophrenia and delusional disorders	**Total**	**9**	**123**	**132**
	Males	8	76	**84**
	Females	1	47	**43**
Acute psychotic disorders	**Total**	**10**	**99**	**109**
	Males	8	67	**75**
	Females	2	32	**34**
Affective disorders	**Total**	**4**	**149**	**153**
	Males	4	55	**59**
	Females	0	94	**94**
Organic disorders	**Total**	**3**	**11**	**14**
	Males	2	9	**11**
	Females	1	2	**3**
Neurotic disorders	**Total**	**15**	**95**	**110**

Diagnosis	*Gender*	*Age*		
		Up to 11	*12–17*	***Total***
Personality disorders	Males	10	32	**42**
	Females	5	63	**68**
	Total	**2**	**51**	**53**
Childhood disorders	Males	2	10	**12**
	Females	0	41	**41**
	Total	**99**	**202**	**301**
Drug and alcohol use	Males	83	127	**210**
	Females	16	75	**91**
	Total	**1**	**15**	**61**
Mental retardation	Males	1	11	**12**
	Females	0	4	**4**
	Total	**8**	**17**	**25**
Other	Males	7	9	**16**
	Females	1	8	**9**
	Total	**4**	**94**	**98**
	Males	4	58	**62**
	Females	0	36	**36**

Source: The Ministry of Health, Department of Information and Evaluation.

Education, health care and welfare in Jerusalem

546. There are 28 Mother and Child Health Clinics located in the Jerusalem municipal area. Among these clinics, there are four situated in the eastern neighbourhoods and 24 located in the western neighbourhoods. Since 2001, no additional centres have been opened. Additionally, according to the Jerusalem municipality's data, 407 social workers are currently employed in Jerusalem. 343 are allocated to facilities in the western neighbourhoods and 64 to facilities in the eastern neighbourhoods. Over the course of eleven years (1997–2008), fourteen kindergartens and 340 schoolrooms were added for the benefit of the residents of the eastern neighbourhoods of Jerusalem.

The Bedouin population

Environmental factors that affect health

Medical care and infrastructure

547. The medical facilities in the vicinity of Bedouin villages are fully equipped, Mother and Child Health Clinics are computerized, air conditioned and maintained in good condition.

548. The Ministry of Health operates special health services and Health Clinics for the Bedouin population in the Negev. The service includes an ambulance, run by the Bedouin population that resides in the Negev. The purpose of this service is to ensure an open gateway between the nearest hospital and the Bedouin community. This enables

professional workers from nearby residencies to evaluate the living arrangements of patient's subsequent to their release from hospital. Such personnel can view the patient's sanitary living conditions prior to their release and provide recommendations accordingly. The cost of a visit to the Health Clinic is identical throughout the State.

549. There are 42,400 Bedouin Israeli children under the age of 6 (53 per cent) who live in Bedouin towns, whereas 47 per cent of Bedouin children live in unauthorized villages. In 2007, the Ministry of Health operated 27 Family Health Centers providing services to the Bedouin population in the Negev, in addition to 51 clinics operated by the various Health Funds.

550. There are 18 Mother and Child Health Clinics located in Bedouin villages. In addition six Mother and Child Health Clinics have been established within the illegal clusters. There are 32 Medical Clinics run by the various Health Funds located in Bedouin communities; nine of which provide services to the unauthorized Bedouin villages.

551. According to a large-scale study conducted by the Myers-JDC-Brookdale Institute during 2003–2005 in association with the Ben-Gurion University, the "Shatil" organization and the Council for Unauthorized Villages in the Negev, approximately 9 per cent of all Bedouin children in the Negev suffer from functional disabilities or chronic illnesses that require ongoing medical treatment and/or monitoring. This percentage is slightly higher than among the general Arab and Jewish populations in Israel (8.3 per cent and 7.6 per cent respectively).

552. For most types of disabilities, the proportion of children in the Bedouin population who suffer from the disability is higher than that among the Jewish population. The number of children in need of continual medical and paramedical treatment is higher in the Bedouin population than in the general Arab and Jewish populations (4.9 per cent, 2.8 per cent, and 2.1 per cent respectively). Furthermore, the percentage of sensory disability among Bedouin and Arab children is twice as great as that found among the Jewish population (2.0 per cent 2.2 per cent and 0.8 per cent respectively).

553. In March 2009, the Israeli NGO, Physicians for Human Rights, published a report regarding the absence of paediatricians in the unauthorized Bedouin villages. Since most of the Bedouin villages are unrecognized by the State, health services are not available to the inhabitants. Although eleven villages were recognized by the State in 1999, it was claimed that they were not yet receiving the services they are entitled to by law. Twelve clinics and eight Mother and Child Health stations are located in unauthorized villages, yet their working hours are limited. However, no paediatrician, gynaecologist or pharmacy was found within a reasonable radius of the area. According to the PHR report, based on data provided by Soroka Hospital, when compared to Jewish children, more Bedouin children approach emergency rooms, are admitted to the hospital and intensive care units, and die from disease. Consequently, many inhabitants turn to private health services or the Health Care clinics available in the large cities.

554. Some of the major improvements in the past decade in the field include improved immunization coverage of Bedouin infants in the Negev. Thus, there has been a significant decrease in vaccine-preventable infectious diseases; with the 2006 figures indicating that 90 per cent–95 per cent of Bedouin children have completed all necessary vaccinations by age three – a sizeable improvement compared to a rate of 27 per cent in 1981. Two mobile immunization teams managed by the Ministry of Health also provide home immunizations to infants in unauthorized Bedouin communities, whose families do not bring the infants to one of the Mother and Child Health Clinics for treatment. A computerized tracking system allows the Ministry of Health to identify infants who are behind on their immunization schedule and to send one of the mobile immunization teams to immunize them.

555. There has also been an important improvement in the growth of Bedouin infants and toddlers over the past two decades, indicating improved nutrition. Moreover, there has been increased compliance with recommendations for supplemental folic acid among Bedouin women in their fertile years, and a decrease in the incidence of open neural tube defects (NTD's) among Bedouin foetuses and infants. Unfortunately there are still high rates of congenital malformations and inherited diseases among Bedouin infants, due to multiple factors including the tradition of first-cousin marriages, as well as cultural-religious-social barriers to pre-marital and pre-natal screening for inherited diseases.

556. In 2007, the infant mortality rate among Bedouins decreased to 11.5 deaths for every 1,000 live births. The Government is continuing to open Mother and Child Health clinics in unauthorized villages and MCH centres to better serve the population.

557. Furthermore, the Government has been funding several special projects to improve the health and expand the health-care services provided to Bedouins living in unauthorized villages. One of these programmes is a special long-term intervention programme aimed at decreasing infant mortality among Bedouins. The programme is community-based and boasts a wide-consortium of participants, including representatives from the Bedouin community leadership and the educational system, along with providers of curative and preventative health care services, the Department of Health in the Community and the Department of Epidemiology in the Faculty of Health Sciences at Ben-Gurion University of the Negev.

558. The Government funds genetic testing and counselling for members of tribes which have a prevalence of serious inherited diseases. The diseases included in the funding scatter among the population in a 1:1000 relation.

559. There has been a sustainable decline in the incidence of infectious disease among Bedouin infants over the past decades. There is, however, generally a higher rate of infectious disease among Bedouin infants than among Jewish infants of the same age. Bedouin infants and children have lower rates of Pertussis, Tuberculosis and HIV infection. Furthermore, due to high immunization coverage among Bedouin infants, indicating improved access and utilization of preventive health care services, there have been no cases of measles since 1994 and no cases of poliomyelitis, diphtheria, congenital rubella, neonatal tetanus or tetanus in Bedouin children in the Negev since 1990. During the period 2000–2003, no cases of mumps were reported. Additionally only one to two cases of Homophiles influenza disease was reported in 2000–2002, and none in 2003.

560. Specialty physician services are provided to the Bedouin community in the Negev, including: Paediatrics, General Internal Medicine, Neurology, Family Medicine, Dermatology, Gynaecology and Obstetrics, Ear, Nose and Throat, Ophthalmology, Orthopaedics, Gastroenterology, Cardiology, Surgery and Trauma, Paediatric Surgery and Paediatric Pulmonary Medicine. In addition, every resident has equal access to all the specialty clinics at the Soroka University Medical Center, with no discrimination made between Bedouin or Jewish patients.

561. The Government, as well as the main HMO serving the Bedouin population, has made substantial efforts to train and recruit Bedouin physicians and nurses. The Government provided all the funding required for three classes of Bedouin students to complete their training as registered nurses, including funding their transportation to nursing school, a meal allowance during their studies, and special remedial lessons to assist those who needed it. The Government has similarly provided special funding to hire Arab physicians and nurses.

562. A course for qualified Bedouin nurses opened in 1994. It should be noted that students who participate in the course are committed to serving their first three years of practice after graduation wherever the Ministry of Health decides their services are needed.

This will guarantee that the trained nurses serve the target population: the Bedouins. In addition, the first female Bedouin physician in Israel, Rania al-Oqbi, recently completed her degree. She was part of the special "Cultivating Medicine in the Desert" programme, which is aimed at incorporating more Bedouin into the health services. Currently, six Bedouin women are studying medicine; 35 Bedouin women have completed degrees in various health professions; and 45 additional women are studying health sciences.

563. Seventy per cent of Bedouins live in planned, urban towns, with municipal infrastructure, including running water in every home (with the water in question meeting the Israeli standards for drinking water quality). The percentage of bacterially contaminated drinking water samples followed previous downward trends reaching 0.25 per cent in 2007 (7.6 per cent in 1990 and 1.9 in 2001).

564. Nearly 62,000 Bedouin live in illegal clusters throughout the Negev; these villages cause difficulties in terms of supplying the residents with necessary services, especially the provision of water. While the Government does not question its duty to supply its inhabitants with services such as water, it is practically impossible to supply it to sporadic destinations which disregard the national construction and planning programmes.

565. Nevertheless, until the completion of the establishment of permanent Bedouin towns and the regulation of water supply systems, the Ministerial Committee for the Arab Population has decided to build "Water Centers".

566. Following this decision, instructions were given concerning the planning of water supply systems to several "Water Centers". The Water Centers are part of the Government's understanding of the needs and current realities of the Bedouin population and its efforts to improve their living conditions. The planning of the centres takes into account an amount of water suitable for the magnitude of the population expected in 2020, and the establishment of the centres is very costly.

567. These systems will enable the supply of water to a significantly larger portion of the Bedouin population, than the portion receiving a water supply today through individual connections. There are currently 5 Water Centers, which are located in the most populated areas of the Bedouin Diaspora, compatible with the Government's plans for the establishment of permanent towns.

568. An additional method employed, is through direct water connections to the main water pipeline, granted to a minimum of ten families. Due to the problematic nature of these connections, which require the transfer of water to unauthorized villages, this method is less frequently used than in the past. The Water Committee, which evaluates requests for connections to pipelines, approves the connection to such a pipeline, as well as negotiates agreements in cases of disputes between residents of the Diaspora over ownership of such connections.

569. In addition, according to "Mekorot," the Israel National Water Corporation, numerous pirated connections to pipelines are being made without the authorization of the Water Committee.

Case law

570. On 13 September 2006, the Haifa District Court (sitting in its capacity as a Water Tribunal) rejected an appeal filed by Adalah-the Legal Center for Arab Minority Rights in Israel ("Adalah") on behalf of 767 Israeli-Bedouin living in the Negev's Diaspora, demanding access to sources of water (D.C.H. Appeal 609/05, *Abdallah Abu Msaed, et. al.* v. *The Water Commissioner)*. The appeal was submitted against prior decisions of the Water Commissioner, who had also denied these requests.

571. In its decision, the President of the Haifa District Court emphasized that while the case deals with connections to the primary water pipe, behind it lies the complex issue of the organization of "unauthorized villages". The Court added that it is not disregarding the fact that all citizens possess the basic human right to water and health, which must be granted by the State in order to guarantee the right to dignity, but explained that, in its opinion, providing connections to the water mains is not the way in which to resolve the problem of unauthorized villages. According to the Court's decision, the right to water is not absolute, but can be made conditional upon a "clear" public interest "not to encourage cases of additional illegal unauthorized villages".

572. On 18 November 2006, Adalah submitted an appeal to the Supreme Court against the ruling delivered by the Haifa District Court.

573. In the appeal, Adalah argued that the Water Commissioner's decisions to deny the petitioners the right to water were based upon improper and arbitrary considerations. Adalah asked the Supreme Court to overturn the decision of the Water Tribunal, and to order the provision of water access points via the existing main water distribution network.

574. Adalah further argued in the appeal that in reaching its decisions, the Water Commissioner relied entirely on the recommendations of the Water Committee, which is administered by the Bedouin Development Authority. To date, the appeal is still pending. (C.A. 9535/06, *Abdullah Abu Musa'ed, et. al.* v. *The Water Commissioner and the Israel Lands Administration*).

Air pollution

575. On 22 July 2008, the Knesset enacted the Clean Air Law, 5768–2008, which will enter into force on 1 January2011 (the: "Air Law"). The purpose of this law is to prevent and treat air pollution by establishing an arrangement which enables the imposition of greater responsibility and obligation on the Government, local municipalities and factories.

576. Government Ministries are compelled, by this law, to establish a national monitoring station and to allow access to data. Each local authority is obligated to act in favour of reducing sources of air pollution in their municipality and facilities. A detailed course of action must precede any such operation. Instructions as mentioned are consistent with standard air pollution provisions in other developed countries. These provisions also accord with international organizations and the European Union recommendations and directives. (Section 19(c) to the Air Law).

577. Infecting and polluting factories listed in the Air Law's third Appendix must ensure that they hold a valid emissions license. Factories that are not listed in the Appendix are subject to the conditions of the environmental protection legal terms described in their working license – operating contrary to the provisions of these Directives constitutes an illegal act. Factories that produce toxic waste are sources for air pollution, and hence must obtain authorization from the Minister of the Environmental Protection in order to operate.

578. The new Air Law grants the Ministry of Environmental Protection the authority to initiate Directives to prevent and reduce sources of air pollution. Sources of air pollution particles may also be discharged by vehicles, aircraft and fuel machinery. The Air Law empowers local authorities to act against pollution by imposing penal sanctions, and warrants, as well as seeking the assistance of the court. The Ministry of Environmental Protection has the power to take legal measures against corporations that violate the Directives. The Air Law determines that air pollution may carry criminal responsibility and liability for damages.

C. Article 26 – Social security

Case law

579. On 7 January 2009 the Supreme Court handed down its ruling in a petition submitted by the Association of Defense for Children International (DCI) (Israel) against the National Insurance Institute (NII). The DCI requested the translation of the NII forms into Arabic, which would enable the population living in the eastern neighbourhoods of Jerusalem to submit forms to the NII in Arabic, and for the NII to send letters and notices to the population of the eastern neighbourhoods of Jerusalem in Arabic.

580. The purpose of this petition was to enable the population residing in the eastern neighbourhoods of Jerusalem access to the social rights granted by the NII, as the majority of the population does not know Hebrew. The petition was submitted in 2001, at which point the NII committed to translate all of its forms. However, this commitment was not fulfilled, and in May of 2007, the Court issued a conditional order against the NII. In July 2008, the Court criticized the NII and ordered the NII to present, within 90 days, a concrete plan of action, together with a detailed schedule, regarding the translation of its forms. On 1 December 2008, a time schedule in which to translate the forms was presented to the Court. Furthermore, the NII confirmed that they would accept forms submitted in Arabic. Thus, the Court issued an order according to which the NII was required to complete the translation of the forms into Arabic, and to accept forms which were submitted to it in Arabic. However, the Court held that the demand that the NII send letters and notices in Arabic to the population of the eastern neighbourhoods of Jerusalem should not be granted, as translators were available in the offices of the NII should clarification be sought. (HCJ 2203/01 *The Association of Defense for Children International (DCI)* v. *The National Insurance Institute* (07.01.2009)).

Child allowance

581. In addition to the child allowance payments paid to families with minor children, school funding is granted by the NII to single-parent families with four or more children, in accordance with NII criteria for social security pensions. This funding is provided to children between the ages of six and fourteen, for the purpose of facilitating the purchase of annual school supplies. In 2008, approximately 145,500 children received a school funding grant, compared with 141,000 children in 2007. The grant comprises 18 per cent of the basic cost (1,323 NIS/ 357$ in 2008) for children between the ages of 6 and 11, and 10 per cent of the basic cost for children between the ages of twelve and fourteen (735 NIS 198$). The cost of the grant in 2008 amounted to 147 million NIS ($ 39 million). (See also Chapter V(A), above).

Maternity leave payments

582. For further details on Maternity Allowances see Chapter V (A), above).

583. In 2007 (the monthly average) the number of women who received maternity leave payments was 86,285. In 2008, (the monthly average) the number of women who received maternity leave payments was 93,630, constituting an increase of 8.8 per cent.

584. In 2008 (the monthly average) the number of woman who received childbirth grants increased by 3.3 per cent to a total of 152,319 recipients compared to 147,245 recipients in 2007.

Table 27

Number of woman who received maternity leave grants and childbirth grants (monthly average) between the years 1990–2008

Year	*Recipients of maternity allowance (thousands)*	*Annual increase (%)*	*Recipients of birth grants (thousands)*	*Annual increase%*
1990	43.7	0.5 (1986–1990)	103.6	0.5 (1986–1990)
1995	55.2	4.8 (1991–1995)	113.1	1.8 (1991–1995)
2001	71.2	0.8	127.1	-3.6
2003	73.9	3.5	136.4	6.1
2004	77.5	4.9	141.2	3.5
2005	77.0	-0.6	142.9	-
2006	82.7	7.3	143.6	0.5
2007	86.0	4.1	147.2	2.5
2008	93.6	8.8	152.0	3.3

Source: The National Insurance Institute, Annual Survey 2008.

Dependence allowance

585. Section 135 of the National Insurance Law stipulates that once a widow remarries she is entitled to receive two benefit payments, but forfeits her claim to the monthly dependence allowance. It should be noted that the Law defines the term "wife" (and therefore someone who marries) as including a women who cohabitates with a man and who is jointly responsible for the household.

D. Article 27, paragraphs 1-3 – Standard of living

586. As mentioned in Israel's initial report, the right to enjoy an adequate standard of living is well recognized in Israeli society and under the Israeli legal system, under which the Judiciary, Executive and Legislative branches are all committed to pursuing the fulfilment of this right.

587. A prominent example of the State's adherence to provide people with an adequate standard of living can be found with respect to the NII and its activities, which are designed to guarantee that forsaken segments of the population and needy families, who find themselves facing temporary or long-term difficulties, will have a financial basis which will ensure an adequate level of existence. The NII services, described in further detail above, are equally accessible to the various populations in Israeli society.

588. The courts in Israel continue to play a pivotal role in the protection of the right to enjoy an adequate standard of living. The issue of minimum standards of living was addressed by the Supreme Court, residing as the High Court of Justice, in a petition filed by the Commitment to Peace and Social Justice Association – (HCJ 366/03, The *Commitment to Peace and Social Justice Association* v. *The Minister of Finance* (12.12.2005)). In its ruling, the Court emphasized that while the Basic Law: Human Dignity and Liberty does create an obligation for the State to ensure human dignity, it does not guarantee an absolute guarantee of social rights. In this regard, however, the State is obligated to maintain a 'safety net,' which is designed to ensure that the condition of the underprivileged does not deteriorate to one of existential deprivation, in the sense that they

would suffer from a shortage in food, or a lack of shelter, sanitation, health care services and such.

589. On 14 March 2008, the Jerusalem District Court determined that in order to ensure the receipt of child support payments, a parent may take action to receive a stay of exit order against the second parent when there is evidence which suggests that the second parent intends to violate their obligation to pay child support.

590. In the relevant case, the Court determined that the right of a child to receive child support derives from two separate rights – the right to dignity and the right to property. These rights override the right of the father, who is obligated to pay child support, to travel abroad even when he is a permanent resident elsewhere. The Court stressed that when dealing with a child, the opinion of the Supreme Court, as reflected in its rulings, is that the right of the child to fulfil his physical and material needs is a fundamental right deriving from the right to human dignity which is enshrined in the Basic Law: Human Dignity and Liberty.

591. According to the Court, the right of the child to receive child support is stipulated in article 27 of the Convention, according to which the State is required to recognize the right of a child to enjoy a standard of living that is adequate for the child's physical, mental, spiritual, moral and social development. The Court emphasized Article 27(2) of the Convention, as imposing the primary obligation of care for the child on the child's parents.

592. The Convention, although not anchored in internal legislation, constitutes an important interpretative instrument, which can be used in balancing the constitutional right of the father to travel abroad with his obligation to provide for his children tilts the aforementioned balancing act in favor of the obligation to provide for one's children. (M.A 3284/07 *Merav Pelman et. al.* v. *Erez Pelman* (14.03.2008)).

Poverty

593. The year 2000 witnessed a slight decline in the incidence of poverty in Israel. The percentage of families, whose net income (after transfer payments and the payment of direct taxes) was below the poverty line, fell from 17.8 per cent in 1999 to 17.6 per cent in 2000. In 2002, there was no change in the incidence of poverty. In 2003, following reductions in several Social Security Benefits and a tax reform, the scope of poverty in Israel increased. A further increase occurred in 2004. The figures for 2006, as well as the results of a survey conducted in 2007, indicate a slight decline in the rate of poor families in Israel (20 per cent in 2006 and 19.9 per cent in 2007). As of June 2008, 20 per cent of households in Israel were considered to be living below the "poverty line." The poverty rate among individuals and among children has declined — in 2007, 23.8 per cent of individuals were considered to be poor, in comparison with 24.5 per cent in 2006. With respect to children — as of June 2008, 34.1 per cent were considered to be below the "poverty line" compared to 34.2 per cent in 2007, and 35.8 per cent in 2006.

594. As of June 2008, the rate of poverty among large families (households with at least four children) increased to 58.1 per cent, in comparison with 56.5 per cent in 2007, and 60 per cent in 2006. A similar reduction also occurred among Arab families who comprise a significant proportion of the families with four children or more – 51.4 per cent in 2007, in comparison with 54 per cent in 2006. However, gaps remain in the incidence of poverty among the Jewish and the Arab populations.

595. In 2007, 24.8 per cent of families with children lived under the poverty line, a decline in comparison with the rate of 25.5 per cent in 2006. As of June 2008 the rate had declined to 24.7 per cent.

The extent of poverty among different groups

Table 28
The incidence of poverty in different groups in 2007 (per cents)

Group	*Incidence of poverty among children*
Total population of children	**34.2**
Families with 1–3 children	18.4
Families with four or more children	56.5
Families with five or more children	66.7
Single-parent families	29.8
Immigrant families	18.8
Arab families	51.4

Source: The National Insurance Institute, Annual Survey 2008.

Table 29
The incidence of poverty among children, 2004–2007 (percentages)

	After transfer payments and direct taxes	*Incidence of poverty (%)*	*After transfer payments only*	*Incidence of poverty (%)*	*Before transfer payment and direct taxes*	*Incidence of poverty (%)*
2004	713 600	33.2	632 100	29.4	881 600	41.0
2005	768 800	35.2	686 500	31.4	899 600	41.1
2006	796 100	35.9	718 600	32.3	921 900	41.5
2007	773 900	34.2	697 700	-	901 000	39.9

Source: The National Insurance Institute, Annual Survey 2007.

Table 30
Children in different groups living below the poverty line or removed from poverty by transfer payments and taxes in 2006 (percentages)

Children in	*After transfer payments and direct taxes*	*After transfer payments only*	*Before transfer payments and direct taxes*
Total population	**796 100**	**718 600**	**921 900**
Incidence of poverty (%)	35.9	32.3	41.5
Single-parent families	74 400	71 400	113 400
Incidence of poverty (%)	37.9	36.3	57.7
Immigrant families	73 300	65 900	98 500
Incidence of poverty (%)	27.3	24.6	36.8
Large families	501 400	457 000	546 500
Incidence of poverty (%)	62.3	56.8	67.9
Small families	294 700	261 600	375 400
Incidence of poverty (%)	20.9	18.5	26.5

Source: The National Insurance Institute, Annual Survey 2007.

The right to adequate housing

596. The 2006 survey of household expenditure indicated that 69.5 per cent of the heads of households owned their place of residence, while approximately one-quarter of them rented their place of residence.

597. There has been a consistent improvement in housing conditions over time, with the percentage of three or more people per room declining steadily. Arab households are more crowded than Jewish ones. In 2007, approximately 6.1 per cent of Arab households lived with over three persons per room, compared to 0.4 per cent of Jewish households. This is in part due to differences in family size.

The Bedouin population

598. There are more than 170,000 Bedouins living in the Negev desert area. Most of those live in urban and suburban towns, which have been legally planned and constructed. All existing towns have approved plans and include infrastructure such as schools, clinics, running water, electricity, etc.

599. There are several existing Bedouin towns in the Negev: Laqiya, Hura, Kseife, Arara, Tel-Sheva and Segev Shalom, in addition to the city of Rahat. Although the seven existing towns can effectively provide a proper solution to the Bedouin population's needs, subject to their expansion, the Government decided that a further nine new towns should be established for Bedouins. The first additional town to be constructed is "Tarabin," situated in the Bney-Shimon District Council area and designated for the members of the Tarabin El-Sana tribe. The first stage of this town's development has been finalized, with most of the lots having been distributed and hundreds of residents already populating the town. Each of the families received developed land for construction and an agricultural piece of property. The new town was planned jointly with its inhabitants, as a modern town offering educational services, underground infrastructure, and health services. The town extends over a territory of 1,132 dunams, designated to be home to approximately 3,500 people by 2020.

600. Additional towns that are in the process of planning and development include: Abu Krinat — located on 7,320 dunams, which is intended to accommodate around 15,000 people by 2020; and currently (in its first stage of construction) consists of 1,300 lots and an industrial centre. Bir Hadaj — an agricultural town located in an area of 6,550 dunams, and which is designated to accommodate approximately 12,500 people by 2020. Kasar a-sir- located in an area of 5,000 dunams and which is intended to accommodate approximately 8,000 people by 2020. The other towns to be established are Makchul-Marit — for which a detailed plan of 2 neighbourhoods was approved in September 2005, and a detailed plan for a third neighborhood is currently being prepared and which is intended to cover an area of 6,300 dunams, and to accommodate approximately 12,000 people by 2020; Um Betin — for which a master plan was approved in March 2005, and which is located on 6,700 dunams, and is designated to accommodate approximately 8,000 people by 2020; Moleda — for which a master plan was approved in March 2005, and which is located on 11,000 dunams; and Darijat. The names of these towns were chosen by the Bedouin population. In addition, the Government is in the process of expanding thousands of units in the existing towns.

601. As such there are nine new towns planned. Of those Tarabin is currently populated and 100 new houses have been built; Abu Krinat and Bir Hadaj are under construction; and Kasar A-Sir, Marit (Makhol), Darjat, Um Batin, Mulada and El Seid are all in the planning stages. A further three towns — Ovdat, Abu Tlul, and El-Foraa — are in the process of receiving statutory approval: A regional council has been established for five of the new towns. It is called "Abu Basma," and was officially founded on 3 February 2004.

602. Moreover, in two different resolutions adopted in April and September of 2003, the Government formulated a comprehensive plan for the advancement of the Bedouin population, including investments of 1.1 Billion NIS ($0.29 Billion) in the improvement of infrastructure, and the establishment of public institutions over the next six years.

603. Following lessons learned from past planning committees, the planning authorities carried out this task while in constant consultation with Bedouin representatives, who provided input as to their vision of every towns' desired character depending on such characteristics as whether the town was to be built for an agrarian or an urban population and whether the town was planned for a group who requires a strict separation to be maintained between the various tribes who will populate it.

604. On 15 July 2007, the Government adopted a resolution concerning the establishment of a new Authority in the Ministry of Construction and Housing, intended to deal entirely with development in the Bedouin Population, including the expansion of towns, and the provision of housing solutions for all Bedouins.

605. Despite the establishment of a number of permanent towns for the Bedouins, approximately 70,000 Bedouins still choose to live in illegal clusters of buildings throughout the Negev, and ignore the planning procedure of Israel's planning authorities. This illegal building is carried out without any plans, as required by the Planning and Building Law, and with no pre-approval from the planning authorities. In addition, it causes many difficulties in terms of the provision of services to residents.

606. The Government encourages the movement of those living in unauthorized villages to permanent towns by providing unique financial benefits to all the residents of the Bedouin Diaspora who seek to move to permanent towns, regardless of their economic condition or of any entitlement test. These benefits include, *inter alia*, provision of land plots for free or at a very low cost, and compensation for the demolition of illegal structures.

607. 4An Advisory Committee for the Policy regarding unauthorized villages was established on 28 October 2007 by Government Resolution No. 2491.

608. The Committee's task, as set forth by the Government in the aforementioned Resolution, is to present recommendations regarding a comprehensive, feasible and broad-spectrum plan which will establish the policy for regulating unauthorized villages in the Negev, including establishing rules for compensation, mechanisms for the allotment of land, civil enforcement, a timetable for the plan's execution, and proposed legislative Amendments, where needed.

609. The Committee submitted its final recommendations to the Government, which began to enforce them through Government Resolution No. 4411 dated 18 January 2009.

610. On 18 January 2009, the Government confirmed resolution No. 4411 after a full examination of the committee's report. The government accepted the committee's recommendations as a basis for arranging the housing situation of the Bedouins in the Negev, and appointed a professional cadre comprised of representatives of Government Ministries, the Israel Land Administration, and the Attorney General. The cadre is intended to submit a detailed and implement-able outline for the fulfilment of the Government Resolution.

611. In addition, in 2007, the proper authorities began the planning procedures for the Beer-Sheva Metropolis district plan (No. 23/14/4). The plan seeks to regulate the planning of the entire Negev area, with consideration being afforded to the needs of the population, any relevant restrictions, environmental concerns etc. Several objections have been submitted to the Courts regarding the abovementioned plan, none of which have yet been ruled upon by the Court.

612. Currently, the implementation team is in the final stages of completing the detailed governmental plan for the regulation of unauthorized villages in the Negev. The Plan is based on the recommendations of the Goldberg Committee for the Regularization of the Bedouin Housing Situation in the Negev (the: "the Goldberg Committee") and on intensive work that was conducted in the past year and included consultations with representatives of various segments of the Bedouin community and the consideration of remarks made by civilian organizations with respect to the Committee's report.

613. Note, that in its current work, the team attempted to formulate an extensive regulatory shift in the law with respect to land ownership and the development of physical and social infrastructures. To that end, the necessary systems (both legal and implementing) for the establishment of new localities, for the development of existing localities and for the settlement of law suits, are now being created.

VII. Education, recreation and cultural activities

Education (arts. 28 and 29)

614. On 27 June 1997, the former Minister of Justice appointed the Rotlevi Committee. One of its six Sub-Committees, which was engaged in education, focused on two aspects:

(a) Pupil's rights; and

(b) Equality and the right to an education.

615. The Rotlevi Sub-Committee examined the Pupil's Rights Law and found that the existing law did not fully accord with the rights established in the Convention. Thus, the Sub-Committee formulated a bill that extended the rights of pupils, in order to render them compatible with the spirit of the Convention. The Bill was implemented through the adoption of two supplementary Amendments to the Pupil's Rights Law (both Amendments are detailed throughout this Report).

616. The intention of the Sub-Committee was to promote reciprocal respect between pupils and teachers. In addition, the Sub-Committee's recommendations encouraged the non-violent resolution of conflicts. The Sub-Committee emphasized the importance of equal opportunity for access to qualitative education. One can only guarantee such equal opportunity if a right to this effect is framed as part of the law, and includes rights unique to children, such as the right to maintain personal relationships with parents, the right to individuality, and the right to an education.

617. The following are the central aspects of the right to education recommended by the Sub-Committee.

618. The premise of the Convention is that a child is considered to be an autonomous being, with rights and responsibilities. This contrasts with the paternalistic outlook accepted until such time as the Convention was adopted, and which focused on the protection of children and on responsibilities borne towards them, rather than on the protection of their rights. The basis for the right to education is grounded in a child- centred approach which views various issues from the child's perspective, while focusing on her/his future and her/his best interests. Investing in qualitative education for all children enhances the sense of equality among pupils.

619. Each local municipality ought to guarantee the well being, health, security and safety of its pupils. Pursuing this objective requires the taking of active measures to protect children, thereby ensuring their right to the best possible education and personal growth.

620. The Sub-Committee emphasized the benefit derived for children who are involved in the decision-making process in matters affecting their school life. In this context, Section 8 of the Sub-Committee's recommendations determined that a child's welfare must be the first and foremost consideration in all actions or decisions taken regarding pupils. The Committee underlined the importance of pupils' participating in proceedings that jeopardize their rights. The Committee also recommended that certain rights are taught to pupils at school, including:

(1) The right of pupils to freedom of expression and opinion, within school activities and in any disciplinary proceeding involving the minor.

(2) The right of access to information.

(3) The right to privacy.

(4) The right to associate and assemble, for instance in legitimate demonstrations and pupils' gathering.

(5) The right to individuality – pupils are entitled to develop and demonstrate their independent way of thinking in school activities and after hour frameworks.

(6) The right to freedom of religion and conscience – pupils have the right to practice their religious beliefs, so long as the practice involved is compatible with their school schedule.

621. The Committee also recommended establishing the following mechanisms within every educational institute:

(1) Formal mechanisms that examine the infringements of pupil's rights.

(2) Disciplinary committees.

622. The Sub-Committee's recommendations regarding equality in education are as follows: The Sub-Committee discussed the inequality in the education of children, problems in education, problems stemming from gaps in the provision of education to Arab children and poor children, paying special attention to the issue of violence against children and among youth, the importance of early childhood education and the rights of children in the education system. The Sub-Committee noted that placing all pupils in educational institutions is not nearly enough; hence the Government, through its municipal authorities, must assure that every institution provides qualitative education, allocated equally to all children living in Israel.

623. According to the Sub-Committee, qualitative education is based on four measures: accessibility (physical and economic), availability (of educational resources), correlation (between the education and its aims) and compatibility (pupils and community needs).The Sub-Committee recommended that the Minister of Education formulate a policy of 'Reverse Discrimination'. This policy would give precedence to pupils as individuals and as members of minority groups. The intention of the policy was to rectify a continual state of deprivation, inequality and deficiency in pupil's rights.

624. The Sub-Committee recommended various actions which should be taken so as to eliminate discrimination among pupils. The absence of an equal measure of educational opportunity for children is perhaps the major problem; the Sub-Committee emphasized the importance of striving for the best interest of the child, respect for children's views, and the right of the child to develop to the maximum extent possible, preferably as part of a heterogenic group of children. Such a heterogenic group of children is a feature of equality that facilitates and promotes non-discrimination.

625. In the recommendation contained in paragraph 53 of the concluding observations of the Committee on the Rights of the Child it was recommended to strengthen its affirmative

action programmes in the Arab population. Whereat, the Sub-Committee recommended reinforcing and furthering the involvement of the Arab population in the educational system by determining a quote of impartial and proper representation of the Arab population within the Ministry of Education.

Education in Arab localities

626. The Ministry of Education is constantly investing great efforts in the promotion of education in Arab localities, in order to bridge the gaps which currently exist between the Jewish and the Arab populations. During the 2009/2010 school year, the Ministry took additional measures in pursuit of this purpose:

- Operating new programmes for the Arab kindergarten and elementary school population, in order to improve the children's fluency in their native tongue.
- In order to promote pupil's achievements in international and national subjects, the Ministry of Education added three school hours per day to every elementary school located in Arab localities and eight hours to every seventh grade classroom (a total sum of 37 million school hours). Moreover, the Ministry of Education allocated an additional 195 days and 5,236 school hours for lessons in Arabic, mathematics and science.
- The programme "Ofek Hadash" (New Horizon) has been gradually implemented in all Israeli schools since 2008, and is currently implemented fully in 216 of the 390 (55 per cent) Arab elementary and junior high schools. In addition, 210,000 supplementary school hours are allocated to the Arab educational system in the course of this programme.
- During the 2007/8 school year, nine schools in the north and 31 in the south were included in the "New Horizon" reform, followed by six schools in the north and seventeen in the south in the 2008/9 school year. This reform is intended to provide pupils with poor performance levels an opportunity to improve their performance and to fulfil their potential.
- Approximately 140,000 Arab and Bedouin pupils benefit from the "Karev Program" for Educational Involvement, a joint initiative of the Ministry of Education and the "Karev Foundation." This foundation aims towards achieving an educational-social change within Israeli society by means of enrichment activities and reinforcement of the education system.
- The State financed warm meals for approximately 122,000 pupils who study for extended hours (see: Government resolution No. 2342 of 1 August 2004).
- 400 new teachers were added to the Arab Educational System.
- A five year plan for the promotion of the education of the Arab population added hundreds of thousands of school hours to schools including kindergartens, amongst which 25,000 hours are dedicated to studies for matriculation exams only. Professionals were trained and placed at 200 schools, along with 150 educational advisors, and learning centres for psychometric tests (the equivalent of the scholastic aptitude test (SAT)) were established for 500 pupils.

Case law

627. On 20 August 2007 the Be'er-Sheva District Court residing as an Administrative Court, held that the taking of tests in order to determine the placement of first-graders in special schools (such as art schools, etc.) for the school year 2007–2008, contravened the directives of the Ministry of Education. The Ministry Director General's specific Directives prohibit the affording of unequal opportunities to children of the same age group.

Furthermore, since the petition to disqualify the tests in question was received in close proximity to the beginning of the school year, accepting the petition would result in harm to the children who took the tests and passed. Therefore, the Court stressed the prohibition against taking these tests. However, the Court determined that until the Ministry of Education determined guidelines clarifying the criterion for first-graders to qualify for special schools, the results of the testing, namely those who passed and had been accepted, would remain unchanged. Annulling the results would cause greater harm to the children who were already accepted to the schools in question for the 2007–2008 school-year, and the petitioner's son would have to study in a regular school near his place of residence. (Ad. P. 327/07 *Gordon Michal et. al.* v. *The Municipality of Ashkelon et. al.* (20.08.2007)).

Education in Bedouin localities in the south

628. The Bedouin population in the Negev consists of eight local authorities: Abu-Basma, Hura, Lakia, Kseifa, Arara, Rahat, Segev Shalom and Tel-Sheva. In 2009, there were 72,460 pupils in the education institutions of the Bedouin population in the Negev, in comparison with 45,117 pupils in 2001. Since 2001 there has been an increase of approximately 70 per cent in the number of educational institutions established in Bedouin localities in the Negev. During that time there was a decrease of 4 per cent in the number of Jewish educational institutions established.

Table 31
Number of pupils and education institutions in the southern Bedouin population, 2009

Local authority	*Kinder-gardens*	*Pupils*	*Elementary schools*	*Pupils*	*High schools*	*Pupils*	*Special education schools*	*Pupils*	*Total institutions per authority*	*Total pupils per authority*
Abu-Basma	132	3 854	26	14 432	4	837	-	-	162	19 114
Hura	45	1 337	5	2 557	3	1 977	1	92	54	5 963
Lakia	33	910	4	2 339	2	1 642			39	4 891
Kssaife	35	1 004	5	3 230	2	2 464	1	65	43	6 763
Arara	39	1 131	6	2 798	2	1 865	1	58	48	5 852
Rahat	102	2 898	16	10 920	4	4 455	1	126	123	18 399
Segev Shalom	29	715	4	2 488	2	2 083	-	-	35	5 286
Tel-Sheva	49	1 343	4	3 075	3	1 775	-	-	56	6 193
Total	464	13 192	70	41 830	22	17 097	4	341	560	72 460

Source: Ministry of Education, the Southern Educational locality, 2009.

Table 32
Number of educational institutions in the southern district between the years 2000–2009

Population	*Education phase*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*
Jewish	Kindergarten	1 130	1 148 (+18)	1 128 (-20)	1 132 (+4)	1 114 (-18)	1 094 (-20)	1 084 (-10)	1 093 (+9)	1 129 (+36)	1 130 (+1)

Population	*Education phase*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*
	Elementary school	274	277 (+3)	271 (-6)	271 (0)	269 (-2)	267 (-2)	261 (-6)	260 (-1)	260 (0)	263 (+3)
	High school	113	122 (+9)	122 (0)	95 (-27)	100 (+5)	94 (-6)	93 (-1)	97 (+4)	95 (-2)	99 (+4)
Total		1 517	1 547 (+30)	1 521 (-26)	1 498 (-23)	1 483 (-15)	1 455 (-28)	1 438 (-17)	1 450 (+12)	1 484 (+34)	1 492 (+8)
Arab											
	Kindergarten	198	263 (+65)	317 (+54)	365 (+48)	398 (+33)	413 (+15)	445 (+32)	461 (+16)	452 (-9)	459 (+7)
	Elementary school	51	53 (+2)	55 (+2)	55 (0)	56 (+1)	66 (+10)	70 (+4)	73 (+3)	76 (+3)	79 (+3)
	High school	13	15 (+2)	18 (+3)	20 (+2)	21 (+1)	20 (-1)	20 (0)	22 (+2)	22 (0)	23 (+1)
Total		262	331 (+69)	390 (+59)	440 (50+)	475 (+35)	499 (+24)	535 (+36)	556 (+21)	550 (-6)	561 (+11)

Source: The Ministry of Education Southern region, 2009.

629. In 2000, the Southern Department in the Ministry of Education began to implement a five-year plan for promoting the education system in the Bedouin population. The plan includes bridging gaps between the Bedouin population and the Jewish population. The purpose of the plan is to achieve better results in school, improve school environments and prevent violence. The plan also trains educators; extends teaching hours, improves learning techniques, improves the quality of construction, and provides missing technological equipment.

Table 33

The plan for promoting the education in Bedouin localities in the south – activities and budget (NIS) during 2007–2009

Subject	*Activity*	*2007 budget*	*2008 budget*	*2009 budget*	***Total budget***
Promoting pupils' achievements	Supervising pupils' achievements	1 038 000	151 204	-	**1 189 204**
	Reinforcing core studying subjects	4 300 300	3 086 500	3 770 000	**11 156 500**
	Developing teleprocessing skills	840 000	-	-	**840 000**
Training educators	Educators' professional development	540 000	400 000	570 000	**1 510 000**
	Localities accompanists	-	-	90 720	**90 720**
	In-service trainings	450 000	189 000	254 700	**893 700**
	Training and qualifying educational advisors	1 400 000	-	-	**1 400 000**
Supplying	Reading books for 1th–2th grades	821 100	-	-	**821 100**
	Upgrading science labs and technology	856 000	759 500	-	**1 615 500**

Subject	*Activity*	*2007 budget*	*2008 budget*	*2009 budget*	***Total budget***
Total sum		**10 245 100**	**4 586 204**	**4 685 420**	**19 516 724**

Source: The Ministry of Education Southern region, 2009.

630. In recent years, the Ministry of Education carried out various activities for children of all ages. These activities included the promotion of Arabic, Hebrew, English, mathematics and sciences learning skills as well as computerizing the school learning environment.

631. In addition to the expended five-year plan, the Ministry of Education is involved in a serious effort in order to prevent Bedouin children from dropping out of school. The Ministry of Education operates several educational treatment centres for youth at risk or minors outside the education framework. These services locate potential dropouts, conduct workshops for parents, and insist on the use of teaching methods that accord with the pupils' needs. The drop-out rate in the Bedouin population in the Negev has decreased from 9.4 per cent in 2004 to 6.7 per cent in 2008.

Training for professional personnel

Guidance Counselors

632. Between 2004 and 2008, three training courses for Guidance Counselors were opened: two in the North and one in the South.

633. In addition, two classes of Learning Functions Diagnosticians were opened, one in Sakhnin College (north), and the other in Be'er-Sheva (south) – both within the framework of the Open University.

Psychologists

634. Additional positions for psychologists were allocated, yet a shortage of positions per pupils and of educational psychologists persists.

Special education frameworks

635. Four special education schools and 25 kindergartens currently serve the Bedouin population in the South, as well as three Regional Support Centers. In 2008, two additional regional support centres were opened, as well as ten classes in primary schools. In addition, all primary and intermediate schools received additional reinforcement teaching hours.

636. In the North – a new school for severe intellectual disabilities was established, as well as six special education kindergartens. In addition, four classes in secondary schools were added, as well as 3,000 hours of integration.

Table 34

Dropout rates in the southern Bedouin population between the years 2003–2008 (percentages)

School year	*National*	*South District*	*The Bedouin population in the South*	*Bedouin boys*	*Bedouin girls*
2003–2004	4.3	4.5	9.4	9.4	9.4
2004–2005	3.6	3.8	8.3	9.3	7.2
2005–2006	4.4	4.8	8.4	9.6	7.0
2006–2007	3.6	3.6	6.7	7.5	5.9
2007–2008	3.1	2.8	6.7	8.3	5.1

Source: The Ministry of Education Southern region, 2009.

Table 35
The budget for establishing classrooms between the years 2002–2007

Year	***Total classrooms***	*Classrooms in the Bedouin population in the South*	*Rate of Bedouin pupils out of the total pupils*
2002	**3 265**	182 (5.6%)	2.79%
2003	**455**	6 (1.3%)	2.98%
2004	**778**	110 (14.1%)	3.1%
2005	**1 283**	35 (2.7%)	3.27%
2006	**1 312**	119 (9.1%)	3.41%
2007	**1 573**	183 (11.6%)	3.57%
Total	**8 666**	**635 (7.3%)**	**-**

Source: The Ministry of Education Southern region, 2009.

Elementary and secondary education

637. Since the submission of Israel's initial report, there has been a slight decrease in attendance rates in the Arab population, from 78.9 per cent to 77.6 per cent. There has also been a decrease in attendance rates among the Jewish population, from 94.5 per cent to 85.6 per cent.

Table 36
Attendance rates of pupils aged 14–17 at high schools under the surveillance of the Ministry of Education by population (percentages)

Year	*Jewish population*	*Arab population*
2001/2–2002/3	85.0	76.1
2002/3–2003/4	84.8	76.0
2003/4–2004/5	85.2	75.8
2004/5–2005/6	85.4	76.7
2005/6–2006/7	85.6	77.6
2006/7–2007/8	85.6	77.6

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2003–2008.

Legislation

Compulsory education

638. During the reporting period, the Compulsory Education Law was amended several times.

639. A 2001 Amendment issued on 7 August 2001 stipulated that the principal of an educational institution shall inform the director of the education department in the local authority and the relevant Ministry of Education personnel, with respect to a pupil registered in an educational institution who does not regularly attend, or with respect to a pupil who was enrolled in the institution in a given school year, and did not enrol in the same institution the following year. Furthermore, a pupil may be removed from school

permanently on account of scholastic achievements only in accordance with the regulations stipulated by the Minister of Education.

640. A 2002 Amendment, issued on 2 July 2002 stipulated that a local authority (the "sending authority") should fund the schooling of a child or adolescent residing in its territory, in an education facility in another local authority (the "receiving authority"), provided that the intended educational facility does not exist within the sending authority's territory. The Amendment further stipulated that the sending authority must locate the nearest educational institute to the child's place of residence, unless determined otherwise by the Minister of Education, and must decide having taken into consideration public transportation arrangements.

641. The Rotlevi Educational Sub-Committee recommended the funding of preparatory courses for the psychometric test for pupils from the lower echelons as part of the compulsory education programme.

642. The Rotlevi Educational Sub-Committee also recommended a right to school transportation under the following conditions (as previously mentioned, most of the Rotlevi recommendations have already been implemented):

(1) The distance for which the authority is obliged to provide transportation must be reduced with respect to localities where there is no public transportation.

(2) Safe service and bus-stations for transportation on expressways must be established.

(3) The obligation to provide transportation for 11th–12th grade pupils who study outside their localities should be extended.

643. An Amendment issued on 19 December 2005, stipulates that a principal of an educational institute shall report to the appointed person in the Ministry of Education, regarding any incident of physical violence either between a teacher and a pupil, or between pupils, which caused physical damage. The principal shall report the incident immediately after it has occurred, together with the consequences of the incident, including disciplinary measures taken.

644. In 2007, The Compulsory Education Law, was amended in order to broaden its scope and extend compulsory education to youth between the ages of fifteen and seventeen (inclusive) – the 11th–12th grades. Prior to the Amendment, education in the 11th–12th grades was free, but not compulsory. With the aim of protecting youth during this vulnerable stage in life from negative influences, and in order to prepare them and provide better tools to them for their successful integration as productive adults in society in the future, the Government decided to make the 11th and 12th grades compulsory. Another desired effect of the Law, is a decrease in drop-out rates and removal of pupils, by requiring the provision of solutions within the education system for all pupils falling within this age group. The Law is to be fully implemented by 2009 for pupils attending the 11th grade and by 2010 for those attending the 12th grade. This Amendment shall enter into force in a gradual manner, by the year 2011 it is expected to be fully implemented.

645. Amendment No. 28 to the Compulsory Education Law, issued on 5 June 2007 supplemented Section 12d of the Law. This Section stipulates that in a recognized educational institution, the teaching of basic skills to first and second grade classes should take up at least ten hours of weekly teaching time, and should be conducted in a framework where the number of pupils per teacher does not exceed 20. These basic skills include basic reading, writing and mathematics. This provision is to be gradually implemented over a period of four years.

Free education

Case law

646. The National Parent Association petitioned the Supreme Court to address the issue of parental school payments (see Chapter I above). Parental payments are divided into four different categories: compulsory payments, non-compulsory payments, voluntary purchase payments, and payments for additional educational programmes. The Compulsory Education Law mandates free education for all between the ages of three and fifteen. Section 6 of the Law creates exceptions to the right to free education, and qualifies the imposition of compulsory and non-compulsory payments. Over the years, several compulsory payments have been transferred into the category of non-compulsory payments. Additional educational programmes include aid in problematic subjects during afternoon hours, and are subject to the approval of the district supervisor. These programmes are optional – parents who lack the means for such programmes or do not wish for their child to participate in them are not obliged to make the relevant payment. HCJ 6914/06 *The National Parents Association* v. *The Ministry of Education, Culture and Sports, et. al*. (14.08.2007).

647. Payments for additional educational programmes are regulated by Section 8 of the National Education Law 5713-1953, but are not subject to the approval of the Knesset Education, Culture and Sports Committee. Voluntary purchase payments are intended to save money by centralizing the purchase of products or services (including school-books, school uniforms, etc.) and require the approval of the school supervisor as well as the parents of all pupils in need of the service.

648. The Ministry of Education determines the rate of all four of these payments for each school year through a process of consultation with several bodies, including the Union of Local Authorities in Israel (ULAI). After the rate of these payments is determined, the Knesset Education, Culture and Sports Committee must approve them. The Ministry then publishes the rates of payments and schools are prohibited from collecting payments exceeding these rates.

649. The petitioner requested that all four categories of payments be subject to the approval of the Knesset Education, Culture and Sports Committee. The State argued that in past years, the payments were not properly divided into their different categories, thus complicating the Committee's approval process. However, the State confirmed that the Knesset Education Committee approved the payments required by law (i.e., the compulsory and the non-compulsory payments) and received reports regarding the two other categories of payments, in keeping with its obligation to supervise the Ministry of Education.

650. The Court declared that the law regarding free education is crucial for the actual realization of the right to education for every child. Free education reflects the value of equality in education and aims to provide all children with equal educational opportunities. It also decreases the financial burden imposed on parents as well as serving to restrict extra curriculum programmes and services parents are financially obliged to bear.

651. The Court held that the Ministry acted in accordance with the law, which does not require it to present the voluntary purchasing payments and payments for additional educational programme to the Committee for approval. The Court acknowledged the tension between non-compulsory payments on the one hand, and the difficulty facing the educational system when parents wish to invest more in their children's education (especially with regards to extra-curricular programmes), on the other.

652. The Tel-Aviv District Court, while residing as an Administrative Court, ordered the Municipality of Holon to fully subsidize the cost of school books and school transportation for a child whose father had passed away and whose mother was mentally ill and deeply in

debt. The municipality did not contest the unfortunate financial status of the mother, but rather contested the order on the basis of its inability to fully subsidize the child's needs due to the existing obligations of its municipal welfare department. Although the Court found no deviation from the law or procedures relevant to the issue at hand, it declared that it is within its power to issue a remedy in the interest of justice because of the importance of the principle of free education. Thus, the fact that a remedy was not provided for anywhere in the relevant statutes did not prevent the Court from fashioning an adequate judicial remedy. The Court determined that the right to education is essential for every child in order to fully realize their skills and abilities, and emphasized that the parents' financial difficulties should not preclude the child from receiving an education. (Ad.P (Tel-Aviv) 2402/05 *Anonymous* v. *The Ministry of Education et. al.* (13.06.2006)).

Extended school day and enrichment programmes

653. Due to budgetary constraints, the gradual implementation of the Long School Day and Enrichment Studies Law 5757-1997 (the: "Long School Day and Enrichment Studies Law"), detailed in Israel's initial report, is to be completed only in 2014.

654. Section 3 of the Daily Meal for the Pupil Law 5765-2005 (the: "Daily Meal for the Pupil Law") stipulates that each pupil will receive one warm meal per day, which meal will accord with a well-balanced and varied menu which will be determined by the Ministry of Health, and will take into consideration the age and needs of the pupils.

655. The Daily Meal for the Pupil Law is to be gradually implemented. The Minister of Education, in conjunction with the Minister of Finance, will determine the population of pupils regarding which the Law will be implemented each year (Section 4).

656. The Ministry of Education and the local municipalities fund the nutrition service. The Daily Meal for the Pupil Law permits the local municipality to collect participation payments from parents, yet it requires the Minister of Education's consent to do so. The parental participation payment will be determined by the Minister, according to socio-economic standards and in the framework of payments stipulated under the Compulsory Education Law.

Special education

Regional support centres

657. The Special Education Law is implemented in the same manner with respect to every Israeli child between the ages of 3 and 21. There are 68 regional support centres in the educational system, 53 dispersed throughout Jewish localities, eight scattered in Arab localities, four in Bedouin localities and three in Druze localities. However, every centre provides services to all populations living within its region. The centres are responsible for supporting children with disabilities in both official and unofficial institutes. The centres are also used as sources of information.

Table 37
Average number of students per class, by population

		Average students per class	
Year	***Total***	*Jewish population*	*Arab population*
2001/2	**26**	26	29
2002/3	**26**	26	29
2003/4	**27**	26	30
2004/5	**27**	26	30

Year	Total	Average students per class	
		Jewish population	Arab population
2005/6	**27**	26	30
2006/7	**27**	26	30
2007/8	**27**	26	30

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2002–2008.

658. The accelerated development in the number of classes has not matched the increase in the number of pupils; consequently, the average number of pupils per class has risen slightly, from 26 in 2001–2003, to 27 since 2003. Although the average number of pupils is higher in Arab localities, the average number of pupils (29–30) per class in Arab localities has remained stable during the past decade.

Table 38
Level of education among teachers, by education systems (percentages)

Education framework	Jewish education system	Arab education system
Elementary schools		
University degree	56.7	52.9
Senior	19.4	19.9
Certified	4.2	4.7
Uncertified	4.0	3.9
Secondary schools	-	-
University degree	46.7	62.6
Senior	8.7	4.7
Certified	3.7	3.6
Uncertified	2.5	3.0

Source: The Central Bureau of Statistics Statistical Abstract of Israel 2008.

659. During the 2008–09 school years, 73.0 per cent of the elementary school teachers and 84.4 per cent of the secondary school teachers in the Hebrew education system were university graduates, compared to 77.4 per cent and 86.4 per cent, respectively, of their colleagues in the Arab education system.

Work force in the education system

660. In 2007/8, 83 per cent of all of the teachers in the Arab education system had an academic degree, compared with 86 per cent of their Jewish colleagues. Breaking these figures down, 73 per cent of elementary school teachers and 87 per cent of secondary school teachers (including intermediate schools) in the Arab education system had an academic degree, compared with 70.5 per cent and 86 per cent, respectively, of the elementary and secondary school teachers (including intermediate schools) in the Jewish education system.

Training for educators

661. There are 61 colleges in Israel for training educators, not including Universities. There are twelve State colleges, thirteen Religious State colleges; eight Arab designated colleges and 28 ultra-orthodox designated colleges. The eligibility requirements for educator's training in the field of special education are the same for all population groups.

The minimum requirement needed to enter a special education course is a matriculation certificate and a psychometric score.

Boarding schools

662. There are approximately 600 boarding schools in Israel. There are 280 educational boarding schools supervised by the Ministry of Education, 60 State boarding schools, 120 Religious-State boarding schools and 100 ultra-orthodox boarding schools. There are 40,000 teenagers between the ages of twelve and eighteen who reside in educational boarding schools, a third are girls and two-thirds are boys. A little more than half (22,000) are financed by the Ministry of Education. There are approximately 150 Bedouin teenagers in educational boarding schools, in addition to the 50 youth that arrived over the course of the last year from Sudan and were placed in those schools.

Health services for pupils

663. The Ministry of Health and the State Association for Public Health, with the cooperation of the Ministry of Education, provide health services for pupils. These services are consistent with Section 21A of the National Health Insurance Law and Directive 5768/1 (September 2007) of the Director General of the Ministry of Education. The health services include routine checks, vaccinations, preventive treatments, guidance and supervision by physicians and nurses.

Table 39
The distribution of health services for pupils

Population	*Allotted days/manpower*	*% of pupils of the population group*
Jewish	57%	56.8%
Arab	22.07%	19.7%
Ultra-orthodox	13.4%	15.66%
Bedouin	4.88%	5.49%
Druze	2.58%	2.31%

Source: The Ministry of Education, the pedagogy – Health supervision department, 2009.

Education for infancy

664. The Compulsory Education Law applies to children from the age of three years old. The Law is implemented in accordance with the State's budget. In 2009, the rate of children aged 3 to 4 who studied in kindergartens which are Stated-financed was 49 per cent (39 per cent in the Jewish population, 80 per cent in the Arab and Bedouin population, and 62 per cent in the Druze population).

Table 40
Rate of participation of children aged 3 to 6 in institutions of the Ministry in 2009

Age	*Jewish*	*Arab-Bedouin*	*Druze*	***Total***
3	66%	56%	95%	**64%**
4	87%	64%	97%	**81%**
5	94%	86%	97%	**92%**
6	13%	2%	3%	**10%**

Source: The Ministry of Education, the pedagogy – elementary education department 2009.

Table 41
Distribution of pupils by classrooms and populations, 2009

Population group	*Elementary school (pupils)*	*Elementary school (classrooms)*	*Junior high school (pupils)*	*Junior high school (classrooms)*	*High school (pupils)*	*High school (classrooms)*
Jewish	577 747	23 032	264 597	10 205	253 661	10 077
Arab	160 306	5 541	72 597	2 459	55 272	1 956
Druze	18 132	688	8 450	297	7 203	265
Bedouin	47 942	1 694	18 678	624	11 592	417
Circassian	-	-	142	8	-	-
Total	**804 127**	**30 995**	**364 464**	**13 593**	**327 728**	**12 715**

Source: The Ministry of Education the pedagogy – elementary education department 2009.

Prevention of dropout

665. During the 2008–2009 school year, the rate of high school pupils who dropped out of school (9th–12th grades) was 4.3 per cent (19,333 out of a total of 444,843 pupils). The total dropout rate of pupils between the first and twelfth grades was 2 per cent (28,947 out of a total of 1,454,777 pupils).The Ministry of Education operates an internal unit of officers who regularly visit schools in order to prevent children from dropping-out of school. The Ministry of Education has a special department aimed at maintaining school attendance and preventing children from dropping out of school. This department works in accordance with the Compulsory Education Law (Section 4) and as part of the policy of the Ministry of Education. Currently, there are 498 attendance officers, of which 369 operate in Jewish localities (including 37 within the Ultra-Orthodox population), 96 in Arab localities, seventeen in Bedouin localities and sixteen in the Druze localities.

Table 42
Dropout rates between 7th–12th grades in school year 2008–2009

Population group	***Total pupils***	*Number of dropouts*	*In %*
Jewish	**515 414**	16 039	3.1
Arab	**122 201**	5 738	4.7
Bedouin	**28 209**	2 110	7.5
Druze	**15 238**	434	2.8
Circassian	**134**	2	1.5
Total	**681 196**	**24 323**	**3.6**

Source: The Central Bureau of Statistics, 2009.

Table 43
Preschool attendance rates among different age groups, by population groups in the 2006–2007 school year (percentages)

Age	*Jews*	*Arabs*
Total	**84.4**	**68.0**
2	54.5	12.3
3	89.8	74.3

Age	*Jews*	*Arabs*
4	95.5	83.3
5	99.6	99.7

Source: The Central Bureau of Statistics, 2008.

High school dropout rates

666. In 2007, a total of 20,085 (4.5 per cent) of the pupils in grades 9–12 dropped out of the education system. 12,958 (3.7 per cent) of the pupils in grades 9-12 dropped out of the Jewish education system compared with 7,127 (7.2 per cent) of the pupils in the Arab education system.

Table 44
Percentage of 17 year old pupils eligible for a matriculation certificate, by population and selected demographic characteristics, 2001–2006

Characteristic	*2001*	*2003*	*2005*	*2006*
Total population	**55.1**	**56.4**	**53.8**	**53.4**
Jewish population				
Total	**55.6**	**57.4**	**55.1**	**54.9**
Gender: Boys	49.3	51.2	49.9	49.5
Girls	61.9	63.3	61	61.0
Ethnic origin (parents' birthplace)				
Israel	57.2	58.2	56.1	56.2
Asia-Africa	51.0	54.3	51.4	50.9
Europe-America	57.1	61.8	59.7	59.3
Arab population				
Total	**52.2**	**50.7**	**47.2**	**46.3**
Gender: Boys	44.3	41.8	39.2	36.5
Girls	58.8	58.3	54.2	55.3
Religion:				
Muslims	50.3	49.2	44.9	43.7
Christians	68.5	63.9	63.9	60.9
Druze	50.2	48.8	50.3	54.6

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2003–2008.

667. The percentage of Jewish pupils aged 17 who were eligible for a matriculation certificate decreased from 55.6 per cent in 2001 to 54.9 per cent in 2006. The percentage of Arab pupils aged 17 who were eligible for a matriculation certificate decreased from 52.2 per cent in 2001 to 46.3 per cent in 2006.

668. The matriculation rate of girls is significantly higher than that of boys: 61 per cent of girls in the Jewish population and 55.3 per cent of girls in the Arab population received a matriculation certificate, compared to only 49.5 per cent and 36.5 per cent of the boys, respectively according to 2009 Statistic Abstract Report of Israel, 2009 (issued by the Central Bureau of Statistics).

669. According to data collected in 2007, and based on a division of the towns in Israel into ten socio-economic clusters: 9.2 per cent of 12th grade pupils in clusters 1-2 (towns with the lowest socio-economic status) were eligible for a matriculation certificate; compared to 74.6 per cent of those in clusters 9–10 (towns with the highest socio-economic status) in Jewish localities. 43.8 per cent of 12th grade pupils in clusters 1–2 were eligible for a matriculation certificate compared to 52.5 per cent in clusters 7–8 (the highest status) in Arab localities.

Programmes that help pupils matriculate fully

670. The Ministry of Education implements many programmes to assist weaker pupils and increase their chances of completing all matriculation examinations. To increase the proportion of pupils eligible for a matriculation certificate, the Ministry of Education acts in four ways: it encourages pupils to take matriculation examinations; it provides intensive assistance to pupils who need it; it creates post-secondary continuing education frameworks; and it pays for pupils, who lack only one or two examinations, to study to complete their matriculation. The Ministry has earmarked resources to be allocated to schools, which take an initiative in this regard, to use at their own discretion.

Alternative education frameworks for weaker pupils and pupils with adjustment difficulties

671. Over 68 vocational schools are scattered throughout the country. Most of the schools provide three or four years of education (from the 9th or 10th grade through the 12th grade). Approximately 13,000 students, or 3 per cent of all youth, aged 14 to 17 attend such schools.

Special and therapeutic alternative frameworks

672. Youth Centers and Education Centers, operated by the Department of Education and Social Welfare Departments of the Ministry of Education, serve youth who have dropped-out of the regular education system. Youth Centers combine academic study and vocational training in a relatively intimate framework. At present, 44 centres serve approximately 8,000 youth.

673. The HILA Program (Learning Together Programs for Youth At-Risk and Dropout Prevention) is a structured learning programme developed by the Youth Advancement Department of the Ministry of Education. The Ministry of Education grants a formal certificate to pupils who complete 8t, 9, or 10 years of education in this framework. Some 2,500 youth participate in this programme at 60 centres.

Children's rights in the education system

674. See details above.

Commercial activities

675. On 31 December 2007, the Knesset enacted the Prohibition on Commercial Activity in Educational Institutions Law 5767–2007. According to this Law, a principal of an educational institute (including kindergartens, special education institutions, and schools) shall not allow the carrying out of the following activities by publishers and service providers, including manufacturers who operate in the school area.

(1) Entrance for advertising purposes, sale promotion and marketing, exposure of products or providing commercial services, for any reason whatsoever, during the operating hours of the education institution.

(2) Presentation of commercials in any manner.

(3) Distributing commercial publications or gifts, arranging raffles or making pupils sign papers, during the operating hours of the educational institution.

(4) Using learning aids for publication or sales promotion.

(5) Receiving identifying details about pupils or their families from pupils.

676. Furthermore, according to the Law, whoever received information on pupils or their family members, in the course of fulfilling her/his duty or in the course of working in an educational institute, shall not transfer these to an advertiser or to a service provider. This section does not detract from the confidentiality obligations established by law.

677. The Director General of the Ministry of Education, upon receiving a request by a principal of an educational institute, may authorize an abovementioned activity, for reasons that must be recorded. The authorization may be for a specific matter or for a general period.

The integration of the "Ole Hadash" (new immigrants) and youth into the education system – special efforts taken by the education system

678. Awareness of the educational, social, economic and other, unique difficulties that confront new immigrants has led the education system to make special efforts to integrate this population. Specifically, the education system has taken the following steps:

- It has opened additional classes in schools that the children attend until they are ready to be integrated into regular classes
- Weekly teaching hours have been added, including extra hours of Hebrew language dependent subjects
- Dispensation has been granted to make matriculation examinations easier and more accessible, for example by allowing new immigrants to be examined in their native language
- It has also allowed immigrants to choose the language of their country of origin as their second language of study
- It offers immigrant pupils special seminars and summer sessions that include Hebrew learning by means of learning concepts in the Israeli culture, Judaism and Jewish heritage
- It has instituted programmes that ease the absorption process

679. In addition, the Ministries of Education and the Department of Immigrants Absorption finance the cost of education — e.g., schoolbooks, field trips, cultural activities — which are usually covered by parents.

680. The steps taken further include additional remedial teaching hours; tutorial assistance during the school day and in the afternoon, provided by IDF soldiers/teachers and programmes that combine studying and socializing, such as the Shalhevet Project (integration of immigrants through social activity) and Project 75 (a system-wide project for absorbing immigrants).

681. Recognizing the unique difficulties that face children whose parents came from Ethiopia, the Ministry of Education has made care of these pupils a top priority, allocating further resources for their absorption than for that of other new immigrants. The primary pre-requisites for Ethiopian pupils are the extension of the period of eligibility for remedial study hours (an additional 1.75 hours of teaching per week) allocated to the school that has absorbed the pupils, and a financial grant to purchase schoolbooks and other school aids.

Children whose parents originate from Ethiopia receive more hours of education than new immigrant children from other countries do, and also receive subsidies for school supplies and expenditures for a longer period of time.

Social integration

The Arab education system

682. In 2006, there were approximately 656,000 Arab children up to the age of seventeen (specifically 570,000 Muslims, 46,000 Druze and 39,000 Christians) constituting 27.7 per cent of all of the children in the State of Israel. In 2006, children in the Arab population represented 28 per cent of all elementary school children and 23.3 per cent of all secondary school children.

The structure of the education system

Early childhood education

683. In 2007, 68 per cent of Arab children aged 2 to 5 attended early childhood education frameworks, compared to 84.4 per cent of Jewish children of similar ages. The difference in attendance rates is evident in all age groups (see table below). While nearly 55 per cent of Jewish children age two attended preschools, only 12 per cent of Arab children aged 2 do so. There is a decrease in this gap as the children get older, and at age five, the attendance rate is nearly the same in both Jewish and Arab localities.

The education system in Bedouin localities

684. As aforementioned, in concluding observation No. 53 of the Committee on the Rights of the Child it was recommended to increase the budget allocated for education in the Arab population. According to the multi-year plan, a special budget was allocated towards establishing additional educational facilities in Bedouin localities in both the North and the South. As part of the Ministry of Education's plan to advance the educational framework in Bedouin localities, funding was allocated towards establishing and upgrading science and computer laboratories. Educational counsels providing assistance to school principals in preparing the school's work plan and funding allocated reinforcement hours for pupils in need at all levels of education, in order to reduce academic gaps, including raising the rate of entitlement to matriculation certificates.

685. In addition, a programme for training Bedouin teachers and assisting them in the first stages of their employment was initiated in order to reinforce the teachers' status and to improve their pupils' achievements. To date, 165 teachers have participated in the programme. An additional training programme for the improvement of the teaching staff in secondary education was also initiated in cooperation with the Ben-Gurion University.

The Bedouin population in the south

686. Since 2004, three High Schools have been established in unauthorized villages in the Negev – Abu-Krinat, Al-Huashlla and Bir-Hadge. The schools contributed greatly to the significant reduction in dropout rates, especially among Bedouin girls, whose parents previously prohibited them from attending school, due to the distance of the school from the village and religious and cultural barriers. Construction of new High School classes in Kasar-a-Sar is in final stages.

The 'Daroma' (South) Program

687. In 2004, the Ministry of Education commenced a programme to improve educational achievements among exceptional pupils in the 10th–12th grades. The

"Daroma" program now operates in five Bedouin High-Schools (approximately 300 pupils). The purpose of the programme is to advance these pupils in Mathematics and English, develop their learning skills and prepare them for the psychometric test required for enrolment in higher education institutions. The pupils participate in courses in academic institutions such as the Ben-Gurion University. The programme also focuses on self-empowerment and activities within the community and for its benefit. A similar programme commenced in 2009, in the Abu-Basma municipality and in Tel-Sheva in the South. A comparable programme entitled "Heznek Atidim," is also operated in the North.

688. An extra-curriculum activities programme is also operated in the Bedouin localities in the Negev, in conjunction with the Ministry for the Development of the Negev and the Galilee, and the Israel Association of Community Centers. The programme provides scholarships for extra-curricular activities for children in the 4th to 6th grades in the Negev.

Higher education

689. In 2008, the Ministry of Education announced its intention to grant Bedouin students studying engineering, technology and science with tuition grants and scholarships in the amount of 5,000 NIS each, for the upcoming academic year. The scholarships were intended to further encourage Bedouin students to enrol in and complete higher education.

690. In accordance with Government resolutions No. 412 and No. 413 dated August 2006, the Authority for the Advancement of the Status of Women grants scholarships for female Bedouin students in the north, as well as for Druze and Circassian female students. In 2007/8, 75 scholarships were granted. The Authority recently published an announcement calling upon Bedouin, Druze and Circassian women to submit applications for the upcoming year.

The status of the Arabic language and culture

691. See Chapter VI (C) — article 26 of the Convention — Social security and HCJ 2203/01 *The Association of Defense for Children International (DCI) v The National Insurance Institute* (07.01.2009), above.

692. In 2006, a proposal for the establishment of an Academy of the Arabic language was submitted to the Knesset. In the first meeting held by the Knesset Education, Culture and Sports Committee on the matter, it was acknowledged that in order to give proper expression to Arabic as a formal language of the State of Israel, an Academy of the Arabic language was necessary. It was also thought that other academic institutions in Israel would benefit from the establishment of this Academy, and the new institution would improve Arabic education and the teaching of Arabic in Israel.

693. The High Institute for the Arabic Language Law 5767–2007, was the basis for the establishment of the Arabic Language Academy in December 2007. The Arabic Language Academy's functions include the publishing reports of its activities, relations with the Hebrew Language Academy and advising the Ministry of Education and the Institute of Higher Learning regarding Arabic Language issues. The Arabic Language Academy is also in charge of researching Arabic and its cultural and historic resources, promoting the study of terminology, grammar, vocabulary, pronunciation and transcription. The Academy also addresses the current linguistic computerized reality. According to the Law, the Institution's activities are State-funded.

Informal education in schools

694. This issue was discussed in Israel's initial report. No change has occurred in this area since the submission of Israel's initial report.

695. According to the Gym Regulations (License and Supervision) (Training Minors in a Gym) 5765–2005, a trainer qualified to train minors ("trainer"), will not train minors under the age of six in a gym. Furthermore, a gym shall not allow a minor under the age of six to train in a gym, unless undergoing physiotherapy with a physiotherapist.

696. In addition, the number of minors a trainer can train simultaneously is eight trainees between the ages of six and fourteen or fifteen trainees between the ages of fourteen and eighteen when teaching aerobics or using instruments; and five trainees between the ages of six and fourteen and ten trainees between the ages of fourteen and eighteen when training with free weights.

697. The trainer must maintain eye contact with all of the trainees during the entire duration of the training session. The gym must also comply with safety standards.

The budget for culture, entertainment and sports

698. In 2007, the national expenditure on culture, entertainment and sports was 5.5 per cent of the Gross National Product. Households paid for 84.4 per cent of this expenditure. 60.7 per cent of the expenses were for cultural services – theatre, movies, concerts, sports events, internet, gambling, etc. The remainder was used to purchase products.

699. In 2007, of the total national expenditure on culture, recreation and sports, 9.4 per cent was spent on cultural heritage, literature and visual arts. 21.5 per cent was spent on music and performing arts, 22.6 per cent on radio, television, cinema and photography, 10.2 per cent on socio-cultural activities. 23.7 per cent was spent on sports, games, computers and internet, 5.8 per cent on gambling nature and environment, and 4.9 per cent was spent on "fixed capital," which is a business or personal capital that can be used repeatedly without changing form or ownership.

700. The Ministry of Education and the Ministry of Culture and Sports financially assisted 300 artistic and cultural institutions, projects, and initiatives in culture and the arts, as well as initiated activities country-wide and helped ethnic groups preserve their culture. The Ministry of Foreign Affairs and the Ministry of Culture and Sports also promoted cultural relations and exchanges between Israel and other countries.

Cultural institutions that hold activities for children

701. The Public Libraries Law ("Public Libraries Law") requires the State to establish public libraries in Israel, as well as school and other libraries. Subsequent to several Amendments from the years 2002, 2003 and 2007, Section 5 to The *Public Libraries Law* now obligates the Ministry of Finance to partake in the maintenance and the administration of the public libraries, with an inclusive rate of 50 per cent, according to the conditions and criterions set by the Minister of Finance. Such funding is progressive and will be completed by 2013.

702. The above-mentioned Amendments were enacted as a response to the Supreme Court's decision regarding the interpretation of the *Public Libraries Law* in H.C.J 2376/01 *The Union of Local Authorities in Israel* v. *The Minister of Science, Culture and Sport* (21.10.2002). The Court held that the services offered by public libraries must be provided by the State for free to the public at large on the basis of equal opportunity for all citizens of all ages to gain knowledge and education regardless of their economic background. The Court emphasized the public library's special role in shaping the younger generation and exposing it to culture. The Court also highlighted the implication of the UNESCO Public Library Manifesto of 1994, which emphasized the importance of public library services, including the encouragement of reading habits among children. Therefore, the Court held that there is a close connection between free library services and the State's obligation to assist the local authorities in funding and establishing library services.

The role of the media in the promotion of children in an educational life

Television

703. The Ministry of Education is responsible for the content aired on Israel Educational Television (hereinafter: IETV). The IETV teaches a variety of topics, including arts, culture, sciences and variety of topics. It increases children's involvement in schooling, interest in fine arts and bringing children up-to-date on intellectual matters. Its curriculum includes spreading the Jewish culture and the Jewish tradition. IETV broadcasts "learning programmes" throughout morning hours, intended for school children spending time outside a school framework. IETV televises enrichment curriculum programmes, family programmes, current events and other educational series. IETV, in collaboration with the Counseling and Psychological Services of the Ministry of Education (Shefi), dedicates a week each year to raising awareness of the prevention of sexual violence. During that week, a daily programme regarding the prevention of sexual violence is aired. IETV refers annually to International Children's Day by broadcasting programmes that emphasize the importance of a child's right to wellbeing – such as short movies directed by UNICEF.

704. The Israeli television curriculum provides a daily News Edition appropriate for children and youth (entitled: "The Edition"). The programme enables children to actively participate as hosts, interviewers and field reporters. This programme is engaged in cultural affairs, entertainment, national and international reports, environmental issues, nature and science, sports, internet, press and the like. The purpose is to provide the youth with important information which will attract them to partake in social activism.

705. Private Cable television companies also air channels for children, which air programmes for children, such as scientific, cultural and educational programmes produced by assorted countries. Furthermore, the Open University in Israel broadcasts educational programmes on the radio and television. The Second Authority for the Television and Radio, in cooperation with the Ministry of Education, makes an effort to expand children's learning skills. To this end, particular learning materials are prepared for elementary schools, and teachers are trained as to how to promote over-achievement among pupils. Documentaries are filmed at high-schools and summer camps for gifted pupils. Israeli television and radio programmes are broadcast in five languages: Hebrew, Arabic, English, Russian and Amharic.

Radio

706. The Israeli Broadcasting Authority initiates special projects to promote the participation of children in cities' cultural life. Radio "Kol Israel" — a leading radio station — undertook a project involving 48 radio stations that broadcast in different educational institutions, colleges and Universities. This project has functioned for fifteen years, and has engaged the youth in the promotion of human rights issues, freedom of expression and freedom of the press. The project also assists with the integration of youth into society, as well as the admission of children into child protected employment. Radio network "A" allocates a daily hour to the live broadcasting of youth, thereby enabling them to choose the content in accordance with the relevant law. These Radio programmes are aimed at educating and interviewing youth of different backgrounds. Radio network "B" widely covers any event of violence against children and discusses matters regarding children's rights.

The institutional infrastructure of cultural life in Israel

The National Council for Culture and Art.

707. On 12 November2002, the Knesset enacted the Culture and Arts Law 5763-2002, which created the National Council for Culture and Art as an advisory body assisting the

Minister of Culture and Sports, as well as other Government bodies, in issues relating to arts, culture and the financing of cultural institutions. The role of the National Council is to promote and initiate policies and programmes encouraging art and culture, ensuring freedom of creation and the expression of the cultural variety of Israeli society. The National Council is required to suggest multi-year policy plans in the fields of art and culture, including the financing of institutions in these fields. The council was established in 2004.

National Library

708. On 26 November 2007, the Knesset enacted the National Library Law 5768-2007, declaring a library at the Hebrew University as the National Library. Prior to the Law, the library in question at the Hebrew University performed as a de-facto national library but was not legally recognized as such. According to the Law, the National Library is intended to accumulate, preserve, nurture and bequeath knowledge, heritage and cultural resources, in general, and those linked to the State of Israel, the land of Israel and the Jewish people, in particular.

Film

709. In 2000, the Israeli Film Council was established. The Council was founded in accordance with the Film Law 5759-1999, which was legislated on 10 January 1999. The Council's aim is to encourage the Israeli film industry, promoting freedom of creation and expression of the cultural variety in Israeli society. The council's role includes advising the Minister of Culture and Sports on all relevant issues regarding the film industry, including defining criteria for financial support to public institutions dedicated to encouraging and promoting creation, production and distribution of Israeli films as well as international cooperation.

Jewish heritage

710. In January 2007, the Knesset approved the creation of two national heritage authorities for the heritage of the Jewish community of Bukhara and for the heritage of the Jewish community of Libya. Each of these authorities is mandated to preserve the cultural heritage of its community, and to research and document it (The National Authority for the Cultural Heritage of the Bukhara Jewish Community Law 5767-2007, and the National Authority for the Cultural Heritage of the Libyan Jewish Community Law 5767-2007).

711. The Council for Commemoration of the Spain and Eastern Heritage Law 5763-2002 was enacted on 13 November 2002. According to this Law, the Minister of Culture and Sports, and the Minister of Religious Affairs will appoint a Council for Commemoration of Sephardic and Eastern Heritage, to advise the Ministers regarding the promotion, assistance, and encouragement of activity relating to the heritage of Spanish Jewry.

712. On 6 December 2005, the Knesset enacted the Diaspora Museum Law 5766-2005. This Law recognizes the Diaspora Museum in Tel-Aviv as the national centre for Israeli communities in Israel and abroad. According to the Law, the responsibilities of the Diaspora Museum are to present items relating to the Israeli communities and to the history of the Jewish people, to conduct research, and to accumulate knowledge on issues relating to the Jewish people. In addition, the Museum is to create a reservoir of genealogical trees and family names of Jewish families in the world, as well as a database of Jewish communities in the world and their history. The Ministry of Culture and Sports is in charge of executing this law, and the State will participate in the funding of the Diaspora Museum.

Druze heritage

713. On 4 June 2007, the Knesset enacted the Druze Cultural Heritage Center Law 5767-2007. Its purpose was to facilitate the establishment of a Druze Cultural Heritage Center in Israel. According to the Law, the Government is required to designate the necessary budget for the establishment, operation and maintenance of the Center. The Center includes a research institute, a museum and an archive on Druze heritage, culture and history. The Center is required to develop and promote research activities, as well as educational programmes, including tours, lectures, conferences and exhibitions geared towards developing, enriching and promoting knowledge related to the different aspects of Druze culture, history and heritage.

VIII. Special protection measures

A. Articles 37, 39 and 40 – Children in the juvenile justice system

714. One of the Rotlevi Sub-Committees was engaged with the issue of children involved in criminal proceedings. This Sub-Committee examined the present criminal proceedings regulations, and whether or not they accorded with the central principles of the Convention on the Rights of the Child.

715. The premise of the Sub-Committee was that minors in criminal proceeding are entitled to rights encompassed by law, in addition to 'special rights' as a result of the fact that they were minors. The following are the central recommendations of the Sub-Committee.

General

716. The Youth Law and Criminal laws which apply to minors must be amended.

717. There is a need to insert an introductory section to the Youth Law which stipulates the purpose of the Law, the principles behind its implementation, and a description of the rights granted to minors in criminal proceedings. These modifications have already been adopted and entered into force in July, 2009.

Particular

718. The Sub-Committee recommended that children accused and/or convicted of committing a crime be subject to rehabilitation treatment rather than punishment. Amendment No. 14 to the Youth Law implemented this recommendation.

719. The Sub-Committee indicated in its report that the rehabilitation of minors cannot, by itself, justify an infringement of a minor's rights. The Sub-Committee also recommended the revocation of Section 10(2) of the Youth Law since it allows for minors under the age of fourteen to be detained without a court order and/or the existence of legal grounds for an arrest. Section 10 of the Youth Law was amended by Amendment No. 14.

A 2008 amendment establishing the principles of criminal proceedings

Detention and/or child custody

720. In accordance with recommendation No. 61(b) of the concluding observations of the Committee on the Rights of the Child which requires that the deprivation of liberty only be used as a measure of last resort against a minor who finds her/himself involved in the juvenile justice system, a child suspected of committing a crime shall not be detained if

there is an equivalent alternative. Thus, children are placed in a secured group home if they are closely monitored and receive treatment. This 2008 amendment was in accordance with the recommendations of the Rotlevi Sub-Committee regarding alternative custody arrangements for children, so as to ensure that the law was compatible with Article 40(3) (b) of the Convention on the Rights of the Child.

721. If a request to arrest a minor is filed in court, a Probation Officer is certified to take the initiative and submit her/his report or express her/his professional opinion regarding the matter at hand. If the minor is being indicted, the court is authorized to instruct the submission of such a report or agree to an oral presentation of the Probation Officer's opinion (Section 10(G) (b) of Amendment No. 14). When a detained minor resides and/or is being held in a secured group home, the Group Home Officer is permitted to submit her/his professional opinion regarding the minor's arrest (Section 10(G) (c) to Amendment No. 14). Non-submission of a Probation Officer Report may not, in itself, establish grounds for the continuance of the minor's arrest (Section10 (G) (d) to Amendment No. 14).

Notification of a child hearing in court

722. When a hearing is conducted, the youth investigator and/or the prosecutor in the minor's pretrial or arrest hearing must notify the minor's parent or a close relative of the hearing. The minor's parent or a close relative is invited to appear before the court and state their opinion regarding the relevance of their presence at the hearing (Section 10(H) (a) to Amendment No. 14). Exceptions to the obligation of parental notification in legal proceedings are set out below.

(1) Reasoned objection made by the minor – The Youth investigator or the prosecutor acting in the case can prohibit the notification and revoke a family member's privilege to be present during the investigation or court proceedings, in accordance with the minor's request.

(2) Parents or a close relative may also be excluded if the investigator and/or the prosecutor in the case believe that such presence endangers the minor's well-being. The minor's parent or a close relative will not be summoned to a pretrial arrest hearing, if by doing so, it may thwart the purpose of the arrest or if it is a matter of national security. However, a decision not to inform the parents is subject to the court's approval.

723. In the event that a minor's parents are absent, the following exceptions will apply:

- The court can order detention of up to 24 hours in certain circumstances. In such circumstances, the minor's parents or a close relative who were absent from the hearing shall be summoned to the next hearing regarding the child's arrest. The next hearing will be scheduled for the end of the detention period.
- If the court concludes that the minor's parents or a close relative do not intend to appear in court despite the summons, it will instruct the involvement of a social worker or a Probation Officer in the next hearing to be held.
- If a parent and/or a relative and/or a social worker and/or a Probation Officer have not appeared in court on behalf of the minor, the judge is authorized to conduct the hearing without their presence. The non-appearance of the above-mentioned legal guardians or extended family members at the hearing, shall not, in itself, establish grounds for the minor's arrest.

Detention

724. The recommendation contained in paragraph 61(B) of the concluding observations of the Committee on the Rights of the Child also addresses child detention as a measure of last resort used for the shortest possible time. Therefore the Youth Law and the Criminal

Procedure (Arrests) Law establish restrictions for the detention of minors. Amendment No. 14 reflects a new approach to this issue, which approach is in accordance with the spirit of the UN Convention on the Rights of the Child. The Amendment to the Youth Law also applies to the Criminal Procedure (Arrests) Law. For example, due to the Amendment the detention of a minor prior to the filing of an indictment is limited – under Section 17 of the Criminal Procedure (Arrests) Law, Juvenile Courts are allowed to order a minor's detention for a period not to exceed ten days (fifteen days for an adult). A minor suspected of committing a crime may not be detained continuously for a period in excess of twenty days (30 days for an adult).

725. Section 21 of the Criminal Procedure (Arrests) Law addresses detention following the filing an indictment. When an indictment is filed, the court must set the earliest date possible for the commencement of the trial (Regulation 19 to the Criminal Procedure Regulations). In the case of a minor, Section 14 of the Youth Law stipulates that: "save with the consent of the Attorney General, a minor will not be brought to trial for an offence if a year has passed since its commission." Once an indictment has been filed, the court is entitled to order detention until the termination of proceedings.

726. In the case of a minor, Section 21 to the Youth Law applies subject to the following modifications.

727. Detention until the termination of proceedings shall not apply to a minor who is under fourteen years of age. A minor may not be detained continuously for a period in excess of twenty days (30 days for an adult). Under Sections 59-61 of the Criminal Procedure (Arrests) Law, a suspect must be released if an indictment has not been filed against her/him within 75 days of the beginning of the arrest. According to Amendment No. 14, a minor in such circumstances may not be detained for a period in excess of 40 days. If there is no verdict, minors may not be detained for a period in excess of six months (nine months for an adult). The maximum period of detention for an accused minor is 45 days instead of the 90 days allowed for an adult (Section 62 of the Criminal Procedure (Arrests) Law). Amendment No. 14 has significantly shortened the period a minor can be detained and serves to distinguish a minor from an adult in similar circumstances.

728. When considering an alternative to imprisonment, a closed residence is an adequate substitute for incarceration. Release on condition of bail (according to Section 48(a) (9) of the Criminal Procedure (Arrests) Law) is for a period not to exceed nine months. Nevertheless, the court may issue an order if necessary to extend the leave on bail for an additional period, not to exceed 90 days each time. If the court has issued an order for house arrest on condition of bail for more than sixteen hours per day, it shall order a hearing once every three months throughout that time in order to review its order. Amendment No. 14 implements the Rotlevi Sub-Committee's recommendations calling for a minimum of time in prison and the greatest degree of possibilities for alternative incarceration for minors.

Orders of supervision and observation orders

729. Following the filing of an indictment, a Juvenile Court is authorized to order temporary supervision of a minor by a Probation Officer. The order applies until the court submits its ruling. The court decision is subject to the Probation Officer's Report and its conviction that a temporary custody order is in the best interest of the child. The court must also ensure that there is no other, less harmful way to achieve this objective.

730. Supervision by a Probation Officer includes the followings:

- Maintaining a relationship with the child (through daily phone conversations)

- Assessments made by professionals: psychological and psychiatric diagnosis (in accordance with Mentally Ill Law); employment, educational, social, developmental and clinical diagnosis as well as a prognosis for drug abuse and alcohol
- The evaluation of the child's functioning within the family and community environment

731. A Juvenile Court is authorized, at the minor's or the Probation Officer's request, to order an out-of-home-placement for the minor while a temporary supervision order is in effect. Such an order must accord with the best interest of the child and be reviewed once every three months.

732. A temporary supervision order shall not exceed a period of six months without a court order. The court order must accord with the best interests of the child. Although responsibility for a child's subsistence falls first and foremost on her/his family, the State is responsible for helping the family ensure a child's existence and development by providing social services.

733. A court's decision concerning a child's welfare is based on the opinion of professionals. The court orders child care experts to review the case, make factual findings and present recommendations. Such findings will not be used as evidence against minors in criminal proceedings; but will only be used for the sake of the future care and treatment of the minor.

734. Once an indictment has been filed, the court may issue an order, based on the best interests of the child and a request submitted by the Probation Officer, an order for observation and diagnosis for a period not to exceed 70 days (Section 20(a) (1) of the Youth Law).

735. The observation order must be made in co-ordination with the Superintendent of Residences and the Probation Officer, in order to ensure that a suitable residence is located for the minor and that the residence has room to admit her/him. Although observation is an alternative to detention, professionals agree that it should be used in exceptional circumstances only, and that a special framework designed particularly for detention must be established. However, the court will not issue an order for observation unless the following conditions are met:

- A lawyer who represents her/him directly, without the intercession of the court or the legal guardian, legally represents the minor. An unrepresented minor who is above fourteen years of age shall be protected by the court, thus the minor's right to due process is guaranteed by law. When a minor is not represented, the court is required to ensure that the order for observation is justified and does not cause harm to the child.
- Either the minor grants her /his consent to be sent to a closed residence for observation or legal counsel represents her/him. When an observation order is enforced against the minor's wishes, representation is required.

736. An alternative judge to the one deciding the case will issue a temporary supervision order (Section 20 to the Youth Law). Such order must be either: a) Subject to a statement that there is substantial evidence against the minor b) A request to arrest the minor has been filed (under Section 21 to the Criminal Procedure (Arrests) Law, and the court is assured of the existence of convicting evidence or, c) the minor has confessed in court to the existence of the evidence. A temporary supervision order granted by a court at the request of the minor (provided that she/he has legal counsel) will render the above conditions redundant.

Revoking temporary supervision and/or an observation order

737. According to Amendment No. 14 to the Youth Law, a Juvenile Court is authorized to cancel or extend the temporary supervision and/or observation order at the request of a Probation Officer. The extension cannot exceed 30 days. This decision may be appealed twice.

738. It is the task of the court that decided to send the child to a closed residence, to explain to the child in a manner understood by her/him and compatible with her/his age and level of maturity, under what circumstances the closed residence can be replaced with incarceration. Furthermore, the court must inform the minor of the possibility that imprisonment can have a serious effect on her/his life. Ruling or making a decision to place a child at a closed residence instead of in detention is reversible. The court can later reconsider and send the minor back to imprisonment. Incarceration as an inverse alternative to the closed residence is subject to the evaluation of the Superintendent of Residences. However, imprisonment shall not exceed the time remaining in the original order.

739. The court may send a minor from the closed residence back to detention if it is convinced of one of the following:

- The child is in danger or endangers others.
- The child is causing damage to property.
- The child's behaviour while in closed residence prevents the maintenance of the order.

740. The court is allowed to initiate a hearing during the minor's imprisonment for discussing alternatives to detention. Section No 25(a) of the Youth Law determines that the court must ensure the right of the minor to express her/his opinion and argue her/his case. A legal counsel will be appointed to represent the minor in such proceedings.

741. It is also noteworthy that under Amendment No. 14, there are procedures concerning methods of treatment or the duration of treatment for which it is mandatory to obtain the approval of the minor. For example, a court decision to extend an order of treatment beyond the period originally set is subject to the minor's consent (Section 32). A Juvenile Court's decision to extend the order is appealable.

742. A Juvenile Court is entitled, at the request of the Probation Officer — subject to the minor's consent — to extend the period of a minor's treatment as set by a court order, for up to one year.

743. The Superintendent of Residences is entitled to transfer a minor from an open residence to a closed residence without court approval. However, a minor must be allowed to express her/his opinion prior to the superintendent reaching a final decision. Moreover, the holding of a minor in a closed residence pursuant to the Superintendent's order shall not exceed seven days.

744. The conditions for such relocation are as follows:

- The minor endangers her/him-self or others; or causes serious continual damage to property.
- Relocation of the minor from an open to a closed residence was an act of last resort.

745. A Superintendent's order to transfer a minor can be appealed to the Juvenile Court. The Juvenile Court, who ordered the holding of a minor in a closed residence, is entitled, at the request of the Superintendent, and subsequent to hearing arguments by both parties; to extend the temporary supervision order for an additional period not to exceed 30 days.

746. Section 32 of the Youth law stipulates that the Superintendent of Residences may alter the order that placed the minor in a closed residence, or an order issued for its implementation, to an order placing the minor in a foster home. (Amendment No.14 states that the minor's opinion on the matter of her/his placement within a foster home shall be considered).

747. Moreover, the court is authorized (at the request of the Superintendent of the Residence) to add a period, not to exceed one year, during which the minor will be held in a closed residence. However, according to Amendment, No. 14, such extension is subject to the minor's consent or based upon her/his personal request. If the court extended the period of stay, it may cancel its order at the request of the minor. The court is also authorized, at the request of the Superintendent and subject to the discretion of the court to cancel the additional period determined.

748. Section 34 of the Youth Law determines that a person shall not be held in a closed residence nor be obliged to report daily to any residence when she/he reaches the age of twenty-one.

749. However, once minors are settled in a residence, the supervisor of the residence must inform them of their rights. The Superintendent of the Residence must also inform the minor at a reasonable time prior to the end of the first year of residence, that they can bring their matter before a Parole Board.

Age of criminal responsibility

750. This issue was discussed in Israel's initial report. No changes have occurred in this area since the submission of Israel's initial report.

Data on minor suspects

751. In 2007, 7,390 police investigation cases involving minors and youth were filed. In 2002, there were 7,776 cases. Among the cases filed in 2007, 7,227 were filed with the Magistrate Courts and 163 cases were filed with the District Courts (comparably, in 2002, 7,572 were filed with Magistrate Courts and 204 with District Courts). In 2007, 8,285 cases involving minors were closed compared to 7,282 cases closed in 2002.

752. Table 45, below, specifies the kind of registered offences that minors were involved in during 2007 in comparison with offences they were involved in during 2002. In 2007, 32 per cent of the minors were primarily suspected of having committed property related offences, 25 per cent of the minors were suspected of having committed offences against the person and 11 per cent were suspected of involvement in drug-related offences.

Table 45
Minors' registered offences, 2002 and 2007

Type of offence	*2002*	*2007*
Total	**6 535**	**6 875**
Security offences	103	29
Public order offences	246	266
Offences against the administration of rule and justice	315	581
Offences against the person	1 423	1 756
Sex offences	157	223
Assault causing actual harm	24	193
Drug-related offences	899	737

Type of offence	*2002*	*2007*
Property and trespassing	1 941	2 173
Other criminal offences	666	280
Transportation – general	82	83
Transportation – tickets total	640	519
Transportation – car accidents with/without casualties	39	35

Source: The Court's Administration System, 2008.

Principles for dealing with children in the criminal justice system

753. Note that the majority of the provisions relevant to this chapter were amended in Amendment No. 14 to the Youth Law and are detailed throughout this report.

Defence against self-incrimination

754. Suspects in a criminal investigation and a defendant on trial have the right to remain silent. The Criminal Procedure (Witnesses) Ordinance 1927 determines that "a person interrogated [at a police station] … is required to respond correctly to all questions posed to them during the investigation by the police officer in question, or any other authorized officer, with the exception of questions the answer to which may put them in danger of incriminating themselves." During trial, the court is obligated to notify the defendant that she/he has the right to testify or not to testify. If they choose to testify, she/he may be cross-examined (Section 161 of The Criminal Procedure Law [Consolidated Version] 5742-1982 (the "Criminal Procedure [Consolidated Version] Law"). The court is also obligated to explain to the defendant that a decision not to testify is likely to be considered as supporting any other incriminating evidence (Section 162). Failure to explain her/his rights to a suspect or defendant may, under certain circumstances, constitute cause to disqualify an admission that the suspect made during an investigation.

Special protection of minors in criminal proceedings

755. For the Rotlevi Sub-Committee's recommendations regarding minors in criminal proceedings see: "2008 Amendment that established the principles of Criminal Proceedings," as detailed below.

756. Many of the rules governing the police's handling of minors are not defined by statute, but may be found in the Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives). The Police's handling of minors rests mainly with youth investigators. According to Section 3(a) of the Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives), only a police youth-expert (who is a specially trained police officer) may interrogate a minor suspect. An exception to the rule is a minor under the age of fourteen who is a suspect, witness or a victim of a sexual or violent offence, including trafficking in persons and abduction. In such a case, a youth investigator (a social worker from the Youth Probation Service of the Ministry of Social affairs and Social Services) interrogates the minor.

757. Many sections of the Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives) are designed to protect a minor's privacy and prevent her/him from being labelled as a criminal. For example, a police youth-expert must wear civilian clothing and travel in unmarked vehicles, rather than in police vehicles (Sections 2(e) and 2(g) of the Directives). Police youth-experts are prohibited (except in urgent cases) from interrogating or arresting a minor at night or in public places such as her/his place of study or work (Sections 2(d) and 3(c) (2) (a) of the Directives). If this is

nevertheless imperative, the investigation must be coordinated with the school principal and measures should be taken to avert unnecessary attention (Section 3(c) (2) (b) to the Directives). Investigation at a police station is conducted in a separate room specially designed for the investigation of minors. The room must prevent all forms of contact between minors and adults who are suspects or detainees. In most police stations, there is a separate entrance for this investigation room, in order to prevent contact or exposure of minors to adult suspects or detainees.

758. The investigation of a minor must be conducted during daytime, however not inside an educational or employment place or a gathering place for youth (Sections 3(c) (2) (a) to the Directives). An exception is made if a delay may lead to a failure of the investigation or when the investigation is necessary for the minor's welfare and safety. The investigation can only transpire subject to the cooperation of the school principal or employer. Amendment No. 14 to the Youth Law regulated a time-schedule that is suitable for interrogating a minor. According to the Amendment, a minor aged 14 and above must not be interrogated between 22:00 p.m and 07:00 a.m. A minor under the age of fourteen must not be interrogated between 20:00 PM and 07:00 AM. An exception can be made when a minor is a witness to a crime that she/he is not suspected of committing; or if the minor voluntarily came to the police station; or if the crime was committed nearby and an officer accompanies the minor to the police station.

759. In some cases, a minor suspected of committing a crime may be investigated during the night (subject to a written and detailed decision submitted by a police officer). The relevant circumstances are as follows:

- The crime was committed near the place of arrest.
- If the crime is a specific type determined by law and a delay in the investigation could cause physical or mental harm to the minor, her/himself or others.
- If an interference with the investigation may prevent the release of the minor, another suspect, thwart the exposure of evidence, or other related objects and/or interfere with the fight against crime, a minor may be investigated during the night.

760. It is prohibited to shackle a minor except for in exceptional cases (Section 4(c) to the Directives). According to the Police Directives – Shackling a Detainee in Public Place, a minor under the age of twelve must never be shackled. A minor detainee between the ages twelve and fourteen can be shackled by the hands only with the prior consent of a police officer. Such shackling is allowed without prior consent if a police officer believes that the delay might detract from the purpose of the shackling. Other considerations are that the detainee may damage or conceal evidence or that she/he may receive or deliver an object that may be used to commit a crime (Section 8 of the Directives). A minor detainee between the ages twelve and fourteen can be shackled by the legs only with the prior consent of a police officer. Such shackling is permitted with no prior consent when a delay may detract from the purpose of the shackling and the detainee caused corporal or property damage by trying to escape or assist others to escape (Section 9 of the Directives).

761. Amendment No. 14 2008 to the Youth Law determines that a minor must not be arrested if the purpose of the arrest can be achieved using less harmful measures. The arrest of a minor shall be for the shortest period possible. A decision regarding an arrest must consider the minor's age and the affect that an arrest may have on her/his physical and mental wellbeing.

762. A minor under the age of fourteen cannot be examined by use of a polygraph. A minor between the ages of fourteen and sixteen can be examined by use of a polygraph subject to the minor's, her/his parents and authoritative police officer's consent. Polygraphs

can be used only with regard to severe crimes or a crime which involves a major public interest (Section 3(e) of the Directives).

763. There are limitations on photographing and finger printing of a minor suspected of committing an offence. A minor under the age of fourteen will not be photographed and finger prints will not be taken from a minor under the age of twelve (Section 3(g) of the Directives).

Table 46
Minor's polygraph examinations in the year 2008, by year of birth

Year of birth	*Polygraph examinations*
1990	15
1991	12
1992	4
1993	2
Total	**33**

Source: The Ministry of Public Security, 2009.

764. The Youth (Care and Supervision) Law and the Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives), also establish strict rules regarding the prohibition on the publication of details of convicted minors or minors declared by the law as "needy minors." Thus, the Police do not publish the identity of a suspected minor in the media, except for limited circumstances determined by law. In publicized cases, the minor is generally described as "missing" and not as suspected of committing a crime. Police Directives also strictly limit the transfer of information concerning a minor's criminal record between official bodies.

Special protection of minors in criminal proceedings: implementation

765. The Amendment to the Youth Law addresses this issue and improves its provisions comprehensively, as detailed below.

Representation of minors in criminal proceedings

Court appointment of defense counsel

766. Recommendation No. 61c of the concluding observations of the Committee on the Rights of the Child requires to ensure that children have access to legal aid (that includes legal representation). Amendment No. 14 to the Youth Law amended The Public Defenders Office Law on 30 July 2008. According to the Amendment, a minor is entitled to legal representation in criminal proceedings.

767. The Public Defender's Office (PDO) is responsible for representing minors in legal proceedings, especially criminal proceedings. According to data provided by the PDO in 2007, legal assistance was granted in 11,944 cases that year, from which 11,325 were held in Juvenile Courts and 619 were held in District Courts residing as Juvenile District Courts. These cases demonstrate the degree of assistance provided with respect to criminal charges, different hearings, requests for arrests and criminal appeals. The PDO operates in five districts and in 2007 the distribution of cases among them was as follows: in Nazareth and the northern district — assistance was provided in 857 cases, in the Haifa district — assistance was provided in 1,875 cases, in the southern district — assistance was provided in 2,833 cases, in Jerusalem — assistance was provided in 1,809 cases and in the Tel-Aviv district- assistance was provided in 4,570 cases.

Representation by a parent or guardian

768. Under Section 15 of the *G*uardianship and Legal Capacity Law "parental guardianship [over a child] includes … the authority to represent her/him." According to Police Directives, a parent or guardian is allowed to be present at the investigation of a minor under the age of fourteen (Section 3(c) (c) of the Directives). This rule may be disregarded if it is suspected that the parent's presence may cause the minor harm or interfere with the investigation (Section 3(c) (d) of the Directives). If a minor is over the age of fourteen, a parent or guardian has no right to be present at the investigation, unless the Police decide otherwise, or when the minor or the parent ask to be present at the investigation and such presence does not interfere with the investigation (section 3(c)(c) of the Directives).

769. Amendment No. 14 changes the proceedings as it determines that a minor suspect under the age of eighteen who is summoned for an investigation is entitled to the presence of a parent or a relative during the investigation. The minor is also entitled to a consultation prior to the investigation.

770. The minor can object to the presence of her/his family member in the investigation room. However, she/he should offer a reasonable argument against the presence of a family member. Another objection to parental presence can be raised when the minor is under arrest.

771. A police officer in charge can prevent parental presence if she/he is convinced that their presence may cause physical or mental harm to the minor or to other persons; or the officer is certain that such presence interferes with the investigation, harms state security (when the minor is suspected of having committed a security offence), prevents the release of the minor (or other suspects) from being arrested, prevents the finding of evidence or objects related to the minor's suspected offence or interferes with the prevention of other offences. This prevention of the minor's right can only go on for so long as the aforementioned circumstances continue to exist.

Opening a criminal file and filing an indictment

772. According to Amendment No. 14, an individual committing a crime will not be prosecuted if the crime was committed while the individual was a minor (Section 14 to the Youth Law).

773. Section 3(c) (b) (d) to the Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives) states "a decision … to use a no-prosecution proceeding be made in light of the minor's former police record and the recommendation of the police youth-expert handling the case." This proceeding is designated to prevent the labelling of minors as offenders after having committed their first offence and assist in their removal from the criminal path. The Police Directives instruct using the "no-prosecution proceeding" (since 2007 this is known as "contingent treatment") for a first and petty offence of a minor who admits her/his actions, expresses regret and seems to be a candidate for rehabilitation. This will not appear in the minor's police record. The decision to use the no-prosecution proceeding is subject to a warning form completed by the minor and her/his parents, in which the minor undertakes to cooperate with the Youth Probation Officer. The minor also undertakes not to commit additional offences in the next six months.

Police considerations for opening a criminal file

774. The use of no-prosecution proceedings has decreased. The no-prosecution proceeding was utilized in approximately 60 per cent of cases involving minors and has decreased to being used in approximately 40 per cent of the cases. In most of these cases the offence for which the no-prosecution proceeding was invoked was classified as a felony

or misdemeanour, for which penalties are statutory and relatively mild (up to three months' imprisonment and up to three years' imprisonment, respectively).

775. Special instructions laid down by the Attorney General apply to drug offences: In an investigation of a minor suspected of using or possessing a dangerous drug for the purpose of self-use (not including acts of injecting or sniffing drugs), the Police will weigh initiating criminal proceedings against invoking the no-prosecution proceeding. According to these instructions, the Police will refrain from initiating criminal proceedings against a minor suspected of such offences, provided that the following conditions are met: there is no indication of previous drug use, the minor admits to having committed the offence and agrees to undergo treatment, the minor does not use drugs on a regular basis, did not initiate the purchase or distribution of the drugs, and did not solicit other minors to use drugs. In addition, the minor must disclose the source of the drugs to the investigator. A no-prosecution proceeding may also be invoked if the chief investigating officer is convinced that the minor is either unaware of or afraid to reveal the source of the drugs.

776. The above instructions were distributed to schools in an effort to encourage the report of drug use among pupils. The idea is to promote the involvement of minors, in rehabilitation programmes accompanied by "Shefi," the Educational Counseling and Psychological Services.

Table 47
Data on youth investigation files opened in 2008

Type of file	*Number of investigation files*
No-prosecution proceeding – general	12 062
Criminal investigation file – general	20 570
Total	**32 632**
No-prosecution proceeding – drugs	2 179
Criminal investigation file – drugs	2 822
Total	**5 001**

Source: The Courts Administration System, 2008.

Youth Probation Services data

777. In 2008, out of 33,965 offences committed by youth, the Youth Probation Services treated 20,472 adolescents. Presently there are 210 Youth Probation Officers. The Youth Probation Services treat an average of 4,700 children from minority populations annually.

Table 48

Youth referred to the Probation Service in 2008

Gender	*Number of youngsters directed*	*In per cent*
Males	19 991	87.9
Females	2 481	12.1
Total	**20 472**	**100**
Age		
12–14	4 326	21.1
15–16	8 059	39.4

Gender	*Number of youngsters directed*	*In per cent*
17–18	8 087	39.5
Total	**20 472**	**100**
Population		
Jewish	15 765	77.1
Arabs	4 707	22.9
Total	**20 472**	**100**

Source: The Courts Administration System, 2008.

Table 49
Youth directed to the Probation Service in 2008 according to the type of offence

Type of offence	*Number of youngsters directed*	*In per cent*
Offences against public order	2 426	11.9
Violence	7 768	37.9
Drug-related offences	3 281	16.0
Sex and morale offences	580	2.8
Property offences	4 687	22.9
Transportation and car accidents	1 116	5.5
Other offences	614	3.0
Total	**20 472**	**100**

Source: The Courts Administration System, 2008.

Table 50
Court's decisions regarding minors in 2008

Court's decision	*Still minors after decision*	*Number of decisions*
Imprisonment	417	1 419
Conditional imprisonment	619	1 378
Community service	94	257
Secured institution	13	63
Institution	30	76
Supervision in residence conditions	89	256
Supervision	489	1 219
Treatment by appropriate person	3	8
Any other order – contribution in community	302	535
Any other order – restrictions	3	5
Any other order – contribution	36	44
Any other order	12	16
Fine	319	496
Victim's compensation	120	179
Deprivation of license	162	235
Conditional deprivation of license	71	90

Court's decision	*Still minors after decision*	*Number of decisions*
Minor's bail	1 191	1 770
Total	**3 970**	**8 046**

Source: The Courts Administration System, 2008.

Children in administrative proceedings

778. Recently, the Haifa District Court held that the removal of two sixteen year old foreign minors was invalid. Moreover, since the minors were held in custody for over 60 days, the Border Commissioner was required to examine within fifteen days the possibility of their release under the terms of the Entry into Israel Law. The State was obligated to make sure that a social worker examined the minors and determined whether they were "minors in need" as stipulated in the Youth (Supervision and Care) Law and act accordingly.

779. The Court explained in its ruling that the State did not follow the legal principle regarding an unaccompanied minor. The minors' refusal to leave Israel on the basis of the fact that their lives were endangered while they were applying for asylum or their refusal to be transferred to an asylum country, cannot be considered as a lack of cooperation that would justify a dismissal of a request for bail. (A.A 000222/08 *Anonymous et. al.* v. *The Ministry of Interior et. al.* (10.06.2008)).

Sentencing, punishment and modes of treatment – general principles

Court considerations and verdicts

780. The Courts take into consideration the age in cases involving minors, which is evident in the low rates of prison sentences imposed on minors. Only 13 per cent of the cases in 2007, compared to 12.1 per cent in 2002, resulted in sentence of imprisonment. According to Amendment No. 14 to the Youth Law, an individual committing a crime shall not be prosecuted if the crime was committed while the individual was a minor. When sentencing, ruling, or reaching a decision in matters affecting minors, Amendment No. 14 determines that the presence of the minor is imperative, that the minor is represented and her/his best interest is well thought out (Section 17 to the Youth Law). (See the Rotlevi Committee recommendations and implementation, below.)

Children deprived of their liberty, including arrest, imprisonment and placement in a residence

Considerations in court decisions to deprive a minor of her/his liberty

781. The Tel Aviv District Court held that due to the severe sexual offences inflicted by the defendant, a fourteen-year old minor at the time he committed the crimes, against a six-year old girl, the Court was obligated to impose an actual imprisonment term. This, despite the fact that there is a need to balance between the general rules of punishment, according to which consideration is given to the severity of the crime, its essence, the need for deterrence and the offender's personal circumstances; and between the fact that the offender was a minor at the time of committing the offences in question.

782. The Court stressed that there is a difference between the conviction and punishment of a minor to that of an adult. The Court acknowledged the fact that in sentencing a minor, the rehabilitation aspect should be considered more favourably. However, at times, considerations of deterrence, prevention and punishment outweigh the consideration of

rehabilitation even when dealing with a minor. Therefore, the minor was convicted of committing sodomy in rape circumstances, and indecent acts in aggravated circumstances according to Section 347(b) together with Section 345(a)(3), and Section 348 together with Section 345(a)(3) of the Penal Law. The minor was sentenced to two years' imprisonment of which six months could be served by Community Service if a positive evaluation was submitted by the Supervisor of the community service. In addition, the minor was sentenced to eighteen months' suspended imprisonment on the condition that he did not commit sexual offences for a period of three years. (S.Cr.C 204/02 *The State of Israel* v. *Anonymous (Minor)* (10.04.2003)).

783. In another case, the defendant, a minor who was thirteen/fourteen years old when committing the sexual offences in question against four minor boys, was himself a victim of sexual misconduct when he was nine years old. The Nazareth Juvenile Court weighed the option of imposing a period of imprisonment on the minor as opposed to rehabilitating him. The Court stressed that the minor underwent a lengthy period of rehabilitation and was determined to make positive progress. The Court determined that on the one hand, sending the defendant to prison would compromise the rehabilitation process, which is the main purpose of the sentencing of youth – prevention of recidivism. On the other hand, since the offences that were committed were severe in nature, they demanded the imposition of a prison sentence.

784. The Court decided to sentence the minor to three years' suspended imprisonment for all sexual offences committed and eighteen months' suspended imprisonment for the rest of the offences of which he was convicted. In addition, the Court issued a two and a half year probation order for the participation of the minor in youth treatment programmes for sexual offenders and for his supervision and residency in a youth facility. Furthermore, the minor and his family were required to compensate each of the victims in the amount of 15,000 NIS (4,054$), half of which was to be paid by the minor himself and half of which was to be paid by his family. (S.Cr.C 108/06 *The State of Israel* v. *Anonymous* (15.05.2008)).

Arrest until termination of proceedings

Case law

785. On 21 November 2001, the Tel-Aviv District Court sentenced a defendant to six years' imprisonment twelve months of which would run simultaneously to the prison term he was serving at the time of the sentence. In addition, the Court sentenced the defendant to eighteen months of conditional imprisonment subject to the condition that he did not commit sexual offences for a period of three years after his release. This ruling was made in accordance with a plea bargain.

786. The defendant was a minor prisoner in the juvenile ward of the "Hasharon" prison facility, where he sexually assaulted a fellow minor inmate. He was charged with committing sodomy and indecent acts against a minor under the age of sixteen, constituting an offence similar to rape according to the Penal Law.

787. The Court stressed that the minor's actions were grave and that he had already been charged with similar offences, as well as with charges of violence. The Court also emphasized that it was its duty to protect not only the public, but also the population of prisoners and detainees, as all are entitled to protection from sexual and physical abuse. This is true especially when dealing with minor prisoners. The defendant should have realized that the body and dignity of a fellow prisoner are not negated, even if the inmate was himself convicted for similar acts. (S.Cr.C. 1071/01 *The State of Israel* v. *Mishady-Moshe Naga'fob* (21.11.2001)).

Terms of arrest and placement in closed or open residence

788. Some of the criticism surrounding the protection of the rights of children involved in criminal proceedings concerned the conditions of arrest. It had been claimed that there was overcapacity in detention facilities and that their physical structure was inappropriate. Amendment No. 14 to the Youth Law has remedied some of these faults. Some of the adjustments made by the Amendment are:

(1) An on-duty officer may transfer a detainee to a private cell in order to keep her/him safe. Such a safety measure will occur when a detainee endangers her/him-self and others or if her/his best interest requires it.

(2) A minor detainee shall be held in adequate conditions appropriate to her/his age and personal needs, subject to supervision that is compatible with her/his physical and mental wellbeing.

(3) The detainee is granted educational services and free time. The Ministers of Public Security, Social Affairs and Social Services and Education determined the contents of the services. This is done to relieve the physical and psychological difficulties associated with incarceration of minors in detention facilities.

789. Although the provisions of the Criminal Procedure (Arrests) Law create different structures with regard to adults, a minor detainee not yet indicted, is entitled to visitation by immediate family members and telephone communication. The minor also has the right to send and receive mail. A decision to hold minors together in a detention facility is dependent on the minor's wellbeing, the age difference between the minors, the offences each minor is suspected of having committed, their criminal record and potential violence between the detainees.

790. Recommendation No. 61b of the concluding observations of the Committee on the Rights of the Child requires that persons under the age of eighteen shall not be detained with adults. Under Section 25(e) of the Youth Law: "a minor on whom imprisonment has been imposed may not be held in prison together with a person who is not a minor." Minors are detained in only one prison in Israel, in a special wing, which is located away from the other prison wings. Section 13 of the Youth Law requires the separation of minors and adult detainees.

791. A minor on whom imprisonment has been imposed may not be held in prison together with a person who is not a minor. The authorities must ensure that minor's wings are separate from adult wings and are fully secure. In cases of fully occupied prison cells, minors must at least be held in a different wing. Minors' wings are designed in such a way that no access and visual contact between adults and minor detainees is possible. A minor detainee who reaches the age of eighteen, yet not the age of 21 throughout her/his detention time, can be held together with a minor detainee as long as the other minor has reached the age of seventeen. Placement of an adult detainee (under the age of 21) together with a seventeen year old detainee is weighed against the best interest of the child. The minor is entitled to express her/his opinion on the matter prior to the decision of placement with an adult.

792. A minor can be held together with an adult detainee for the period during which she/he awaits a court hearing, not to exceed 24 hours. Prisons authorities that hold the minor under these circumstances shall uphold the rule of no access between and/or maintaining visual contact between an adult and a child detainee to the extent that it is possible. A minor detainee can be held for up to 72 hours if the court hearing is set for Saturday/holiday or the decision regarding the minor's arrest and/or indictment is still pending.

793. According to Section 42 of the Youth Law, a minor remanded to an open or closed residence who escapes therefrom or whose release therefrom has been cancelled, or whose leave therefrom has expired, may be arrested by a police officer without a warrant as she/he escaped from lawful custody, which is grounds for arrest without a warrant. The minor may be kept under arrest until she/he has been returned to the residence. The Police must immediately notify the Superintendent of Residences of the arrest and act to ensure the swift return of the minor to the residence.

794. Concurrently, a minor remanded to an open or closed residence who escapes therefrom, or whose leave therefrom has been cancelled or expired – is regarded as a minor who escaped from lawful custody (unless the minor is arrested and placed in detention). In such a case, the court may instruct, at the request of the Superintendent of Residences or the minor her/himself, to include the missing period as time served (Section 42(c) to the Youth Law). Leave from lawful custody at a closed or opened residence is granted to minors when interlacement in an educational or employment framework is required. Leave of custody may also be considered for reintegration into society. Section 37 of the Youth Law prescribes a maximum of 30 days for leave under special circumstances. Amendment No. 14 extends the period a minor may remain on special leave by an additional 30 days, if the chairperson of the Parole Board deems this to be in the minor's best interest. The chairperson may also grant leave based on the continuance of the minor's treatment or vocational training. A further 30 days can be granted at the discretion of the Parole Board.

Means of restraint

795. Amendment No. 14 stipulates the means of restraint that can be used against minors remanded to an open or closed residence. A primary caregiver is permitted to take reasonable restraining actions against minors in order to prevent their escape there from, or their causing physical damage to her/himself; to property or to others (handcuffing is forbidden). Restraining methods are available to a limited extent, namely the minimum necessary for achieving the result. Means of restraint used against minors must be reported to the Superintendent of Residences immediately.

796. One of the methods used to restrain and/or prevent the escape of a minor is the placing of a minor in a separate room for a maximum period of twenty minutes per time. Such a method is part of a comprehensive treatment plan for misbehaviour. The regulations emphasize that this educational technique must be limited to a maximum duration of two hours.

797. The youth instructor and the person in charge of educational programmes in the residence are both responsible for implementing the restraining practices. During this period, minors remanded to the closed area are closely monitored; and any response, difficulty or change in behaviour is reported. Separate placement as an educational practice can be implemented only when there are no other, less restrictive, measures available. The Minister of Social Affairs and Social Services, following consultation with the Minister of Justice and the Knesset Constitution, Law and Justice Committee established guidelines for the above restraining practices. These guidelines prescribe terms of reporting and documentation requirements.

Sentencing of children and life imprisonment

798. The Criminal Procedure [Consolidated Version] Law and the Penal Law applies to every legal hearing concerning minors, unless there is an express provision to the contrary in the Youth Law. Under Section 25(d) of the Youth Law, a court may not impose a prison sentence on a minor who is under the age of fourteen at the time of sentencing. It is not obligatory to impose a life prison sentence, a mandatory prison sentence or a minimum penalty on a minor.

Capital punishment

799. A death penalty cannot be imposed on a minor who committed the offence while she/he was a minor.

Bed to every prisoner

800. On 12 February 2007, the Supreme Court declared that the State must provide a bed to every prisoner held in an Israeli prison. The Court ordered full implementation of this obligation by 1 July of that year. In its decision, the Court stated that the right to sleep on a bed is a minimum standard of living and dignity, based on the right to dignity enshrined in the Basic Law: Human Dignity and Liberty.

801. The Public Defenders Office claimed that the deterioration of the security situation in Israel as of October 2000, resulted in an increased number of detainees and prisoners held in Israeli prisons, thus Israel Prisons Service (IPS) failed to provide a bed to every prisoner. Instead, only mattresses on the floor were provided due to a serious lack of incarceration facilities. Nevertheless, the State did not object to the petitioners' claim that a prisoner's right to sleep on a bed is an integral part of her/his basic right to dignity, but requested that the Court recognize possible limitations which might prevent full implementation of the principle of affording a "bed to every prisoner," especially in unforeseen times of emergency. The Court stated: "when on the one side of the balance equation rests the right of a person to minimum standards of living when held in prison, a contradictory value with a special significance is necessary in order to justify damage to this fundamental right". (HCJ 4634/04 *Physicians for Human Rights et.al.* v. *The Minister of Public Security, et.al.*).

Data on the arrest of minors

802. 6,705 minors were arrested in 2008, of them 1,068 were sentenced to house arrests. 60 per cent of the arrests were for no more than several days, 16 per cent of the arrests were house arrests and 10 per cent of the arrests were extended until the termination of proceedings. In two-thirds of these cases, the minors arrested were ages sixteen to seventeen.

Table 51
Arrest of minors and type of arrest in 2008, by age (in numbers)

	Type of arrest				
Age	*Days*	*Until another decision*	*Until the completion of proceedings*	*House arrest*	***Total***
12	44	11	5	9	**69**
13	104	39	12	40	**195**
14	400	119	68	140	**727**
15	832	177	140	218	**1 367**
16	1 156	257	225	301	**1 939**
17	1 518	273	246	360	**2 397**
Total	**4 054**	**876**	**696**	**1 068**	**6 705**

Source: The Courts Administration System, 2008.

Open and closed residences

Case law

803. On 2 December 2007, the Haifa District Court, sitting as a Juvenile Court convicted a thirteen year old defendant of committing sodomy, indecent acts, abuse and violence against a minor, who was only four years old when the offence was committed.

804. The Court held that in sentencing a minor, the Court faces three possibilities; the first, sending him to an open facility where the minor participates in the activities within the facility and may enjoy vacations. The second, a closed facility, where the minor is placed in a more strict educational facility, where supervision and security is amplified and the Court can also determine additional limitations regarding vacations. The third option is sending the minor to prison, where he will be held in a separate wing for minors. The Court stressed that in general, in cases where it is appropriate to impose a sentence that includes imprisonment on a minor, it is preferable to send her/him to a closed facility. However, if the minor refuses to accept treatment in the closed facility or if the Probation Officer did not recommend integrating the minor into a closed facility, there is no alternative but to send her/him to prison. However, this cannot be the case when dealing with imprisonment according to Section 24(1) together with Section 25(1) of the Law. That is to say that Court-imposed imprisonment cannot be an alternative to a closed facility, but rather a closed facility is an alternative to the imprisonment period.

805. The Court held, in a majority vote of 2-1, that due to the defendant's minority status, the possibility of his rehabilitation and the severity of the offences, the minor would be placed in a closed facility for a period of three years and be subject to eighteen months of conditional imprisonment. (S.Cr.C (Haifa) 306/06 *The State of Israel* v. *Anonymous* (02.12.2007)).

806. However, in another case dealing in a similar context, the Supreme Court held that due to the severity of the offence the minor defendant had to be subject to imprisonment. However, since the possibility of his rehabilitation continued to exist, and considering the young age of the defendant at the time that he committed the offence, it was found to be proper to leave open the possibility of placing the minor in a closed facility, at a later date. In this sense, the sentence was not peremptory and the defendant could petition the Court, provided it was with the agreement of the State and the Probation Office. (Cr.A 9828/06 *Anonymous et. al.* v. *The State of Israel* (10.06.2007)).

Conditions and rights of minors in residences

Case law

807. On 18 January 2006, the Supreme Court rejected an appeal filed against a 25 year sentence of imprisonment imposed on a minor who was seventeen and three months old at the time he murdered his own father. The appeal was based on Section 25(b) of the Youth Law that stipulates that there is no obligation to impose a sentence of life imprisonment, mandatory imprisonment or a minimum penalty on a minor. It was also based on Section 41 of the Penal Law that stipulates that when sentencing for an offence which bears a sentence of life imprisonment that is not legally mandated, the court-imposed sentence should not exceed twenty years.

808. The appellant claimed that the District Court that sentenced him to 25 years imprisonment was not authorized to sentence him to more than twenty years according to the above-mentioned sections.

809. The Court affirmed prior decisions holding that the purpose of Section 25 to the Youth Law is to allow the court discretion in determining the judgment imposed on minor

offenders. The Court stressed that the legislator's purpose in enacting Section 25 of the Youth Law was to broaden the scope of punishments a court may impose on minors, excluding capital punishment that cannot be imposed on minors. Hence, the Court rejected the appeal and the 25 years' imprisonment remained (Cr.A. 4379/02 *Anonymous* v. *The State of Israel* (18.01.2006)). Also see: Cr.A 9937/01 *Roei Horev et. al.* v. *The State of Israel (09.08.2004)* Chapter IV, above.

B. Articles 32–36 – Children in situations of exploitation, including physical and psychological recovery and reintegration into society

International conventions

810. Since the submission of Israel's initial report, Israel became a party to several major international instruments concerning children. On 15 March 2005, Israel became a party to the ILO Convention 182 on the Worst Forms of Child Labuor (1999). In addition, on 14 December 2006, Israel became a party to the United Nations Convention on Transnational Organized Crime, (2000). On 23 July 2008 Israel became a party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002) and to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).

The legal situation

Hours of work and rest

811. Section 25 of the Youth Employment Law stipulates that the Minister of Industry, Trade and Labor may allow the employment of a youth until 23:00 pm in a workplace in which the work is shift work (see Chapter I, Introduction, above).

812. According to Amendment No. 11 of the Youth Employment Law issued on 6 February2007, if a state of emergency was declared, the Minister could allow for the employment of youth after 23:00 PM. This is provided that the relevant workplace operates in shifts or that the minor is in need of employment due to the state of emergency. The Minister must receive guarantees that conditions are maintained to preserve the health and wellbeing of the youth. The Minister's authorization shall terminate once the state of emergency is over. The state of emergency may include the proclamation of a special situation in the civil population according to Section 9C of the Civil Defense Law 5711-1951, recruitment of military reservists according to Section 8 of the Defense Service Law, 5746-1986, (The: "Defense Service Law") or a proclamation of a mass disaster according to Section 90B of the Police Ordinance (New Version) 5731-1971.

813. The National Labor Court rejected the appeal of Alonail, the company operating McDonald's branches in Israel and its acting manager and shareholder, against their conviction. The company and its manager were convicted of employing Jewish youth on Sabbath, which is considered their day of rest, contrary to Section 21 of the *Youth* Employment Law. The company and the manager were fined 30,000 NIS (8,108$) and 50,000 NIS (13,513$) respectively (Cr.A 1004/00 *Alonail v. The State of Israel* (09.02.2003)).

Minimum wage

814. In a case brought before the Haifa District Labor Court, the Court ordered the compensation of three female employees who were fired from their positions in a sewing workshop. These employees started to work in the workshop as minors; one of them was employed as a minor for a period of five years. These employees did not receive the

minimum wage they were entitled to; did not receive payment for overtime work; their wage was delayed on a monthly basis and they were fired without receiving proper notice and without receiving severance payment.

815. The Court determined that these employees had been employed full-time, contrary to the workshop's claim; and that therefore they were entitled to receive a supplement to the minimum wage and to receive severance payments. In sum, the Court ordered the compensation of the three employees in the following manner: the first complainant was to be paid 20,500 NIS (5,540$), the second was to be paid 13,356 NIS (3,609$) and the third was to be paid 22,738 NIS (6,145$) (La.C 5595/98 *Lobna Hassan et. al v. Crown Jolies Textile Inc.* (19.07.2002)).

Administrative offences

816. According to a 2002 Amendment of the Administrative Offences Regulations (Administrative Fine Youth Employment) 5754-1994, a violation of Sections 33, 33A-33D, 33H of the Youth Employment Law constitutes an administrative offence. These sections include the prohibition against employing youth under fifteen years of age, the prohibition/restriction against employing youth in dangerous work, the prohibition against employing youth on the weekly day of rest or over time, the prohibition against employing youth without requiring a medical examination, etc. An administrative fine of 1,500-5,000 NIS (4,055,405$) is to be imposed in the event of a violation of these sections.

Sexual harassment

817. According to the Prevention of Sexual Harassment Law, 5758-1998 (the: "Sexual Harassment Law"), repeated suggestions of a sexual character made towards a person, or repeated references concerning the sexuality of a person who has expressed to the harasser her/his lack of interest in the suggestions or references, as well as sexual extortion and indecent acts are forms of sexual harassment.

818. According to a 2007 Amendment to the Law, the abovementioned suggestions and references will be considered sexual harassment when committed towards a minor or a helpless person, by exploiting a relationship of authority, dependency, education, or treatment, even if the minor did not express her/his lack of interest in the suggestions or references. If the minor was below the age of fifteen, these suggestions and references will be considered sexual harassment even if the harasser was not exploiting their relationship with the minor, provided that the harasser is not a minor her/himself.

Record keeping

819. According to a 2004 Amendment of the Youth Employment Law, an employer shall record the following details in a notebook which is kept in the workplace: the names of a minor employee's parents, the minor's date of birth, identity number, residential address, date of the beginning of her/his employment, dates of annual vacation and sick days, detailed information regarding the workday and week, including actual work hours and breaks. If the recording of hours in the notebook is performed manually, then the employee who is assigned the task of recording the hours is required to sign the number of hours recorded.

820. The Jerusalem Labor District Court ordered Pizza Hut (Israel) Inc. to compensate a minor employee in the sum of 3,043 NIS (822$) for extra hours worked, as well as 842 NIS (210$) in lieu of vacation , and 215 NIS (58$) for recuperation pay. The Court stressed that the defendant systematically deprived its employees of their rights, and openly violated the provisions of the labour laws. Also, since many of its employees were youth, who are not familiar with their rights under the law, it could be assumed that only a small percentage of them filed claims against the company following the termination of their employment. The seriousness of the situation was aggravated by the fact that the company has many branches

throughout Israel with many employees, and that the company unlawfully accumulated a substantial amount of money as a result of its failure to pay its employees all the amounts that they were legally entitled to. Therefore, the Court ordered the defendant to pay the full amount of overdue payment from the time that the employment relationship was terminated until the actual date of payment. (Su.P. 1588/01 *Ze'ev Shalman* v. *Pizza Hut (Israel) Inc.* (04.04.02)).

821. According to the Tax Ordinance, a minor is obligated to file a tax report and to pay income tax, provided that he earned an income of at least 59,900 NIS (16,189$) in 2007 (compared to 44,460 NIS (12,016$) in 2001).

Youth protection

822. As detailed in Israel's initial report, the Youth Employment Law prohibits the employment of persons under the age of fifteen. Under the Law, an executive (as defined by the Law) in a corporation has a duty to supervise and adopt all necessary measures in order to prevent violations of the Law by the corporation or one or more of its employees. A 2000 Amendment to the Law broadened this duty so as to include the responsibility of executives in public bodies to ensure that contractors hired by the public body do not violate the Law. The Amendment also enumerates the different measures that a public executive must adopt in order to fulfil her/his duty.

Tobacco

823. A 2001 Amendment to the Youth Employment Regulations (Prohibited Employment and Restricted Employment) 5756-1995 expands the prohibition against the employment of youth in the manufacturing of cigarettes and cigars, and the handling of tobacco leaves, to include employment which involves the employee's dealing with formaldehyde, ethylene oxide and other such substances.

824. In addition, there is also a prohibition against selling cigarettes and tobacco products to minors following a 2004 Amendment of the Restriction of Advertisement of Tobacco Products for Smoking Law 5743-1983. This Amendment, issued on 4 August 2004, augments Section 8A so as to prohibit the selling of tobacco products to minors. A business owner who sells tobacco products may request identification from a person who requests to purchase tobacco, in order to verify her/his age, and is obligated to place a sign in a noticeable place regarding the prohibition against selling cigarettes and tobacco products to minors and stipulating her/his authority to request identification (Sections 8A(b)–(c) to the Law). In addition to the prohibition against selling cigarettes and tobacco products, the prohibition scope has been modified so that selling, renting or borrowing products designate for smoking as water pipes, etc. are illicit for minor use (2008 Amendment).

Eating disorders

825. A project opened a hostel in northern Israel for teenage girls who suffer from eating disorders and are in the intermediate stages of the disease. This project was initiated by the director of the clinic for eating disorders at the Rambam hospital in Haifa, in cooperation with the Department for Special Enterprises in the National Insurance Institute (NII), which will also fund most of the project, and with authorization from the Ministry of Social Affairs and Social Services.

826. The project will be guided and supported by the staff of the eating disorders' clinic and will be operated by a non-profit organization. The project's cost is estimated at 3.5 million NIS (900,000$) over the next three years, during which time, its efficacy and results will be evaluated. The Ministry of Health will participate in the funding of some of the treatments depending on the numbers of girls who receive treatment.

827. The purpose of this project is to create an intermediate stage, to help young women who are in the recovery process to maintain their recovery, and to support them in their reintegration to every-day life. It should be mentioned that in 2007, the NII established a hostel in Herzliya, intended for girls whose rehabilitation was complete, whereas the hostel to be established in the north is intended for girls who have not completed their rehabilitation process and are still at risk of reverting to their eating disorder.

Performances and commercials

828. According to a 2001 Amendment to the Youth Employment Regulations (Mediation for Employment of Youth in a Performance or Commercial) 5759-1999, the mediation fee payable on account of a child's participation in a performance or commercial shall not exceed 20 per cent of the payments received from the person permitted to employ a child under the age of fifteen.

829. In addition, a request to receive a mediation permit should include a commitment by the person requesting the permit to adhere to the relevant laws and regulations, as well as the conditions of the permit. Furthermore, the person requesting a permit authorizes the Minister of Industry Trade and Labor to receive information from the Criminal Registry regarding her/him, as stipulated by the Criminal Registry and the Rehabilitation Law 5741-1981, as well as information regarding open cases in which indictments were filed against her/him. The request should also include the opinion of the child, if she/he is capable of forming her/his own opinion and the consent of the child's parents.

Data on working minors

830. Table 52 (below) reveals that 6.9 per cent of minors aged 15 to 17 are employed (7.6 per cent of these minors are boys and 6.1 per cent of these minors are girls). The percentage of Jewish boys who are employed is greater than that of Arab boys. However, in the Arab population, particularly rural communities, minors engage in work which is usually not reported, such as agriculture and housework. Given this fact, and the high rates of illiteracy in the Arab population, it is possible that more youth work in Arab localities than is reported. This may be particularly true regarding girls.

Table 52
Population aged 15–17 by work, studies, gender and population group 2001–2007

	2001			*2006*			*2007*		
	Arabs	*Jews*	***Total***	*Arabs*	*Jews*	***Total***	*Arabs*	*Jews*	***Total***
Grand total									
Thousands	77.9	258.4	**336.3**	85.2	254.4	**346.3**	89.7	255.8	**350.6**
Percentage	100	100	**100**	100	100	**100**	100	100	**100**
Work	3.2	9	**7.6**	3.5	8	**7**	2.5	8.3	**6.9**
Thereof: Study	1.2	7.6	**6.1**	-	6.9	**5.3**	-	7.2	**5.5**
Do not study	2.2	1.4	**1.6**	3.3	1.1	**1.7**	2.2	1.1	**1.4**
Do not work	96.8	91	**92.4**	96.5	92	**93**	97.5	91.7	**93.1**
Thereof: Study	82.1	85.6	**84.8**	82.6	86.2	**85.2**	85.1	86.3	**85.9**
Do not study	14.7	5.4	**7.6**	13.8	5.8	**7.8**	12.4	5.5	**7.2**
Men									
Thousands	38.9	134	**172.9**	43.7	130.8	**177.7**	45.8	130.9	**179.4**
Percentage	100	100	**100**	100	100	**100**	100	100	**100**

	2001			*2006*			*2007*		
	Arabs	*Jews*	***Total***	*Arabs*	*Jews*	***Total***	*Arabs*	*Jews*	***Total***
Work	5.6	9.4	**8.6**	6.6	8.8	**8.3**	4.3	8.6	**7.6**
Thereof: Study	-	7.8	**6.4**	-	7.6	**5.8**	-	7.7	**5.8**
Do not study	4.1	1.6	**2.1**	6.2	1.3	**2.5**	3.9	0.9	**1.8**
Do not work	94.4	90.6	**91.4**	93.6	91.1	**91.7**	95.7	91.4	**92.4**
Thereof: Study	77.7	84.9	**83.3**	79.9	85.2	**83.9**	82.9	85.9	**85**
Do not study	16.4	5.6	**8.1**	13.7	6	**7.8**	12.8	5.5	**7.4**
Women									
Thousands	38.9	124.4	**163.3**	41.5	123.7	**168.6**	43.9	124.8	**171.2**
Percentage	100	100	**100**	100	100	**100**	100	100	**100**
Work	-	8.4	**6.7**	-	7.1	**5.5**	-	8	**6.1**
Thereof : Study	-	7.2	**5.8**	-	6.2	**4.7**	-	6.8	**5.1**
Do not study	0.3	1.2	**0.9**	-	1	**0.8**	-	1.2	**1**
Do not work	99	91.6	**93.3**	99.5	92.8	**94.4**	99.4	92	**93.9**
Thereof : Study	86.2	86.4	**86.4**	85.5	87.1	**86.7**	87.3	86.6	**86.8**
Do not study	12.8	5.1	**7**	14.0	5.7	**7.8**	12.1	5.4	**7.1**

Source: The Central Bureau of Statistics, 2002, 2007, 2008, 2009.

Table 53
Youth labour: files opened and fines imposed during 2005–2008

	2005	*2006*	*2007*	*2008*	***Total***
Files opened	412	89	453	682	**1 636**
Fines imposed	162	85	67	576	**890**
Amounts (NIS)	704 500	447 900	448 000	4 725 250	**6 325 650**

Source: The Central Bureau of Statistics, 2002, 2007, 2008, 2009.

Table 54
Minimum wage for youth (in accordance with the *Minimum Wage Regulations (Working Youth and Apprentices)* 5747-1987))

Age	*per cent of the minimum wage of an adult*	*Minimum wage per month*	*Minimum wage per hour*
Under 16	70%	2 695.13 NIS	15.58 NIS
Under 17	75%	2 887.63 NIS	16.69 NIS
Under 18	83%	3 195.65 NIS	18.47 NIS
Apprentice	60%	2 310.11 NIS	13.35 NIS

Source: The Ministry of Trade, Industry and Labor, July 2008.

C. Article 34 – Sexual exploitation and sexual abuse

The legal situation: definition of offences

831. Amendment No. 61 to the Penal Law, issued on 12 June 2001 supplements Section 348 regarding the performance of indecent acts. According to Section 348(a), a person committing an indecent act against a person in one of the circumstances enumerated in Section 345(a)(2) to (5), is liable to seven years' imprisonment. The acts are as follows: when receiving consent as a result of the use of deceit in respect of her/his identity or the nature of the act; when the act is committed against a minor below the age of fourteen, regardless of her/his consent; when exploiting the state of unconsciousness or other condition that prevents the giving of consent freely or by exploiting the fact that the person is mentally ill or deficient. Exploitation of this kind does not constitute free consent. According to Section 348(b), if a person committed an indecent act against a person in one of the circumstances specified in Section 345(b)(1) to (5), then that person will be liable to ten years' imprisonment. The circumstances specified in Section 345(b)(1) to (5) are as follows: a person commits an act against a minor below the age of sixteen, and in the circumstances specified in Section 345(a)(1), (2),(4) or (5); while threatening the minor with a firearm or other weapon; while causing bodily or mental injury, or pregnancy; together with the abuse of the person before, during or after the act; in the presence of one or several others, who came together to commit an indecent act by one or several of them.

832. According to Section 348*(c),* if a person committed an indecent act against a person without her/his consent, but not under the circumstances stipulated in Subsections 348(a), (b) or (c1) – that person will be liable to three years' imprisonment. According to Section 348(c1), an indecent act committed against a person without her/his consent, which is achieved as a result of the use of force or other coercive measures, or as a result of the threat to use force or other coercive measures – whether towards the person or towards anybody else, will render the person liable to seven years' imprisonment.

833. Section 351 of the Penal Law is concerned with sexual offences committed within the family, and prescribes harsher punishments than those prescribed for offences committed by someone who is not related to the victim (See Chapter V, above).

834. According to Section 203B(a) of the Penal Law, if a person induces another to engage in prostitution, and there are aggravating circumstances with respect to the prostitution (Sections 199, 201, 202, 203), the person who committed the offence will be liable to a longer term of imprisonment. That is, with respect to offences for which a penalty is of five years' imprisonment, the person committing the act against a minor will be liable to seven years' imprisonment due to the aggravating circumstances. Accordingly, a sentence of seven years' imprisonment will be extended to ten years; a sentence of ten years' imprisonment — will be extended to fifteen years, and a sentence of sixteen years' imprisonment — will be extended to twenty years.

835. Furthermore, if an offence was committed under these sections against a minor below the age of fourteen by a person responsible for the minor, then the perpetrator shall be liable to double the penalty, but no more than twenty years' imprisonment.

836. The Penal Law was amended in 2006 (Amendment No 91), so that Section 15 now applies the principle of extraterritoriality to the offences of pornography and prostitution when committed against minors. It is currently possible to try offenders in Israel for such offences, even though the act might not constitute a criminal offence in the country in which it was performed (no double criminality is required).

837. Limitations on the Return of a Sex Offender to the Surroundings of the Victim of the Offence Law 5765-2004 was enacted in order to protect the victim of the offence and to prevent additional harm that might occur as a result of frequent encounters with the sexual

offender. The Law is not intended to impinge -proportionally upon the rights of the sex offender.

838. According to Section 3 of the Limitations on the Return of a Sex Offender to the Surroundings of the Victim of the Offence Law 5765-2004 (the "Victim of the Offence Law"), a Court may issue an order that imposes limitations on the places of residence or employment of a sexual offender. The court will order this in cases where the offender's place of residence or employment is in the vicinity of the victim's place of residence or employment, provided that the court is convinced, after holding a hearing, that it is necessary to impose such limitations as a failure to do so may cause the victim to suffer serious mental harm. The Court in its decision should consider the implication of such limitations on the sexual offender's rights.

839. Section 3 further states that the court will hold a hearing regarding the imposition of limitations on a sexual offender, following a request submitted by one of the following: the victim (or a person on her/his behalf), the Attorney General, a police or military prosecutor or a Social worker . However, the Court may decide not to hold a hearing even if requested to do so, if the victim or the person on her/his behalf requested that such a hearing not be held.

840. The hearing should be held after sentencing, or if the offender has been sentenced to imprisonment or a period of hospitalization, before or at the time of the release from these institutions. However, in special circumstances, which must be recorded, the Court may hold the hearing up to three months following the release.

841. The decision to impose restrictions shall not exceed a period of three years. The Court may extend the period from time to time for additional periods that shall not exceed three years if the circumstances that originally justified the order still hold.

842. According to Section 4, a Court deciding to issue such an order may appoint an expert who shall submit a written opinion as to the state of the victim. This opinion shall include an evaluation of the mental harm that may be caused to the victim, as a result of residing or working near the offender. Section 5 of the Law stipulates that the approval of the victim is required for such an evaluation by a court-appointed expert. Furthermore, upon receipt of the consent of a victim over the age of fourteen, there shall be no need to obtain the further authorization of her/his legal guardian in order to perform the evaluation.

843. The court may agree to the evaluation of a minor under the age of fourteen who cannot express her /his consent, even if the legal guardian refused to give consent to the evaluation. The court will only do so if it is convinced that the evaluation is in the best interest of the minor, and after hearing the opinions of the minor's guardian and the Social Welfare Department that is responsible for the minor's case.

844. On 7 August 2001 the Knesset enacted the Prevention of Employment of Sex Offenders in Certain Institutions Law 5761-2001, which has since been amended several times. The Law defines institutions as schools attended by minors, educational institutions for minors, minors' day-care centres and nurseries. In addition, sports and cultural centres for youth, gyms and sport clubs attended by minors, kindergartens, zoos, amusement-parks, youth movements, swimming pools open to minors, summer camps, boarding schools, clubs, clinics, children's hospitals, or paediatric wards, transportation services that transport groups of minors, or a business that organizes trips for minors or provides security services for minors on their trips. In addition, these institutions include, minors' residence, day-care centres or treatment centres, employment rehabilitation centres, a club and/or businesses providing tourism services and transportation services for mentally or developmentally disabled persons; as well as hospitals and health clinics as defined by the Mentally Ill Patients Treatment Law.

845. Section 2 of the Law stipulates that an employer in such institutions shall not employ an adult convicted as an adult of committing sexual offences. Furthermore, an adult convicted of committing sexual offences shall not undertake employment involved with children. These rules as of the date of conviction and for a period of twenty years thereafter.

846. Furthermore, Section 3 of the Law stipulates that an employer shall not accept an adult for work in such an institution, prior to receiving the Police's confirmation that there is no legal hindrance according to this law to hiring the individual in question.

847. Section 5 of the Law prescribes a fine of 67,300 NIS ($18,189) for an employer who hired a convicted sexual offender, or hired the offender prior to receiving the abovementioned police confirmation, and prescribes a year's imprisonment for the offender.

848. These provisions apply to a direct employer as well as to employment through manpower companies.

849. The Haifa District Court sentenced a defendant to a sentence of ten months' imprisonment and fourteen months' suspended imprisonment, on the condition that he does not commit any related offences for three years following his release. In addition, the defendant was fined the amount of 3,000 NIS (810$). The defendant was convicted under Sections 214 (b), and 214(b3) of the Penal Law, for the possession of obscene publications, including the likeness of a minor.

850. The Court stressed that the protection of minors from abuse for pornographic purposes is a universal interest that is reflected in article 34 of the Convention. The State of Israel shares this concern and has enacted legislation prescribing a significant penalty for those who violate the rights of minors. (Cr.C 1780/06 *The State of Israel* v. *Aharon Ofer* (23.09.2007)).

Sexual exploitation

851. Amendment No. 77 of the Penal Law, issued in November 2003, supplements Section 346 to include sexual intercourse between a therapist and a female minor between the ages of sixteen and eighteen as a form of exploitation of a relationship of dependency, unless the sexual intercourse commenced before the beginning of the therapy and within the course of an intimate relationship (Section 346(2)). The same is true of sodomy committed by a therapist against a minor between the ages of sixteen and eighteen, unless the sodomy commenced before the beginning of the therapy and within the course of an intimate relationship (Section 347(a)(2)).

852. The Amendment supplements Section 347 of the Penal Law and inserts the definition of sexual intercourse with a therapist. Section 347A(a) defines therapy as any diagnosis, evaluation, consultation, treatment, rehabilitation, or conversations performed over a long period of time through personal meetings, in order to aid a person suffering from distress, disturbance, illness, or a different problem, stemming from a mental or emotional basis. A therapist is defined as a person who engages professionally in providing therapy as an occupation or a profession, and is a psychologist, psychiatrist or social worker, or a person masquerading as one of these professionals. Section 347A(b) stipulates that a therapist who engages in sexual intercourse with a women or commits sodomy against a person, who reached the age of eighteen, during the course of treatment or in the three years following the treatment, while obtaining consent by exploiting the actual mental dependency that existed as a result of the treatment given, is subject to four years' imprisonment. For the purpose of this Section, acts committed during the period of treatment, will be regarded as exploiting the relationship of dependency. This will not apply if the acts were committed prior to the commencement of the therapy.

853. According to Section 348(d)(1) of the Law, a person committing an indecent act against a minor between the ages of fourteen and eighteen, exploiting a relationship of dependence, authority, education or supervision, is subject to four years' imprisonment. Amendment No. 77 supplements Section 348(d)(2) and stipulates that a therapist committing an indecent act against a minor between the ages of fourteen and eighteen, during therapy, will be regarded as an act committed by exploiting the relationship of dependence. This will not apply if the minor reached the age of sixteen, and the acts were commenced prior to the beginning of the therapy, while engaging in an intimate relationship.

The Ministry of Education's treatment of sexual abuse

854. The Unit for the Prevention of Child and Youth Abuse ("the Unit") in "Shefi," which is the Counseling and Psychological Services within the Ministry of Education, has dealt with the issue of sexual abuse since 1989. Assistance is granted through development, prevention, and treatment programmes and the training of professionals. The Unit includes 32 advisors and seven psychological coordinators, four of which are assigned to the Arab population. During 2008, the Unit dealt with approximately 750 cases of sexual abuse which took place in schools.

855. The Director General of the Ministry of Education Directives' refers to the Ministry's policy of addressing sexual abuse. Directive No. 5760/2(a) 1999 includes guidance on how to stop the abuse, treat the victim and assist the criminal offender; and when necessary, report to the relevant authorities. Directive No. 5763/6(b) 2003 refers to the sexual abuse of pupils by their educators, and clarifies the manner in which an educator suspected of abusing pupils is to be treated – that is the immediate separation between the educator and the victim, assisting the victim and reporting the incident to the Police.

856. The Directive also renders it possible to suspend an educator immediately. Directive No. 5769/3(b) 2008 relates to the duty to report on such incidents, by obliging every school principal to conduct annual workshops that raise awareness on the subject. Since 2006, the Ministry of Education has dedicated an annual week to raise awareness of sexual abuse. The week is called the "Educational System Week – Against Sexual Violence." This week includes educational activities and workshops for pupils of all ages, which are conducted in every school.

857. The Ministry of Education trains educators to identify sexual abuse among pupils. Such training is achieved through the use of special programmes designed for professionals who work in the field of education. Since 2003, the Ministry of Education has trained approximately 500 educational psychologists to treat pupils who are victims of sexual abuse and since 2009, the Ministry began training psychologists for short-term intervention with minors who exhibit harmful sexual behaviour.

The child-victim

858. The Crime Victims' Rights Law was enacted in order to stipulate the rights of the victims of crime and to protect their dignity as human beings, without detracting from the rights of suspects, defendants, and accused individuals.

859. According to this law, when granting rights to victims, one is required to consider each victim and her/his needs, while protecting their dignity and privacy, and within a reasonable time. Section 4 of the Law determines that granting rights to victims who are minors shall be realized while making the necessary adjustments for the relevant circumstances, and while considering the maturity of the minor and the principles of the Convention on the Rights of the Child.

860. During the criminal proceedings, which include the court hearings, the victim is entitled to protection from the suspect, defendant or accused, as well as from their relatives and associates (Section 6).

861. The personal information of victims of severe violence or of a sexual offence, for which an investigation was launched or an indictment was filed, and which information was gathered by the authorities during the investigation or which forms part of the indictment, shall not be given to the defendant or her/his attorney. Furthermore, a prosecutor is permitted not to transfer material from the investigation to the defence when the offence is violent or sexual, even if the offence is not severe in nature, if it might cause damage to the wellbeing of the victim (Section 7).

862. The victim in a criminal proceeding is entitled to receive information regarding her/his rights as a victim and regarding the criminal proceeding provided that the receipt of such information is not prohibited by law. The victim is entitled, following her/his request or following the request of her/his attorney, to study the indictment filed and to receive a copy of it unless the Law prohibits it or if the District Attorney's Office or the head of the police prosecution unit determine it is inappropriate.

863. The victim of a violent or sexual offence, who so requested, is entitled to receive information from the relevant authorities regarding the imprisonment or other lawful custodial methods imposed upon the defendant. In addition, the victim is entitled to express her/his opinion in writing regarding the issue of early release and to submit it to the Parole Board; and regarding a request for pardon submitted to the President, and submit that to the Parole Department in the Ministry of Justice. In addition, victims of a violent or sexual offence are entitled to an opportunity to express their opinion, in writing, with regard to the foreseeable risk of releasing a sentenced offender who is about to be brought before the Parole Board (Section 19). Similarly, the victim of a violent or sexual offence is entitled to express her/his opinion regarding a request for amnesty applied for by a sentenced offender (Section 20).

864. Furthermore, the victim of an offence is entitled to receive information regarding assistance services available for victims, whether they are made available by the State or by private bodies.

865. The Law further stipulates that the proceedings relating to violent or sexual offences shall be carried out within a reasonable time, in order to prevent the delay of justice.

866. Victims of a severe violent or sexual offence are entitled to be accompanied by a person of their choice during the investigation, unless such person damages or disrupts the investigation or the procedures involved in the investigation. Moreover, victims of a severe violent or sexual offence, who receive notice of the possibility of a plea bargain's being reached with the defendant, are entitled to express their opinion before the prosecutor. The victim's opportunity to do so is to occur prior to the prosecutor's decision making, unless the District Attorney's Office or the head of the police prosecution unit determined that it would lead to a disruption of the procedure. Similarly, a victim of a severe violent or sexual offence who received notification of the intention to stay the proceedings is entitled to an opportunity to express her/his opinion in writing before the Attorney-General or before a person acting on her/his behalf.

867. Furthermore, these victims should not be investigated regarding their sexual past, except for necessary investigations regarding any sexual relationship with the suspect, unless the officer in charge determines that such an investigation is necessary in order to determine the truth. In addition, victims, together with a person of their choice who accompanies them, are entitled to be present in court sessions conducted behind closed doors.

868. Any victim may submit a statement to the investigating body or to the prosecutor, regarding any injury or damage caused as a result of the offence, including physical damage, emotional damage or damage to property. Victims who provided such statements are entitled to be heard by the court in the sentencing hearings.

869. Furthermore, the Law calls for the formation of assistance units in the District Attorney's Offices and in the State Attorney's Office which will be in charge of ensuring the fulfilment of the rights of the victims according to this law, as well as the appointment of officers within the Police who will be placed in charge of implementing the Law.

870. The Rotlevi Committee noted in its recommendations that minors, who are victims of a crime, are particularly vulnerable, and thus, ought to receive all legal information relevant to their situation. Such information must be conveyed in language which is clear and compatible to the minor's level of maturity. A minor's objection to the notification of her/his parents must be respected so long as it does not cause substantial harm. The Committee also concluded that a minor who is a victim should be able to participate in legal proceedings and be granted all treatment necessary, including rehabilitation services offered by the State. All of the above mentioned recommendations were incorporated into Amendment No. 14 to the Youth Law.

Protection of minor victims of sexual offences in criminal proceedings

871. On 10 April 2008 the Knesset enacted the Assistance to Minor Victims of Sexual or Violence Offences Law 5768-2008 (The: "Minor Victims of Sexual or Violence Offences Law"). The purpose of this law is to determine the right of a minor who is a victim of a sexual offence or a violent offence to receive initial assistance in a specially designated centre.

872. According to Section 3 of the Law, each centre shall facilitate initial assistance according to the minor's needs in the following areas: the provision of medical and mental diagnosis and treatment, and the provision of immediate physical needs including food and clothing. A session with a youth investigator, police investigator, social worker or other authorized personnel in order to begin the necessary treatment or the investigation, and referral to State or private entities, which provide assistance services, including legal assistance, emergency housing, company and long-term treatment.

873. Such assistance shall be provided without infringing upon the rights of the suspect, accused or defendant.

874. Due to budgetary constraints, the implementation of this law shall be gradual, so that each year at least one centre shall be established and begin its operation, provided that within three years, at least eight centres deployed nationwide are established, allowing for the full realization of this law.

875. As part of the implementation of the Minor Victims of Sexual or Violence Offences Law, the Tel Ha'Shomer Protection Center opened in March 2009. This centre is located next to the Emergency Room of the Children's Hospital that makes it possible to treat a child medically and for a Child Protection Officer to simultaneously collect medical evidence to conduct a criminal investigation. The Center responds to cases of minors (between the ages of three and eighteen years of age) suspected of suffering family abuse, reported by the hospital to the Social Welfare Department. The Center's personnel include a doctor trained to collect evidence from children, and a nurse.

Minor victims of sex offences or offences committed within the family

876. Section 368A-368F of the Penal Law addresses injuries to minors and defenceless persons. Amendment No. 94 of the Penal Law issued on May 30, 2007, adds to the

definition of a family member (Section 368A (2)) foster parents, their spouses, their parents or offspring, their siblings and the spouse of each. This Amendment also adds Section 368D (c1), which incorporates the requirement to report any reasonable ground of suspicion that sexual offences have been committed against a minor or a defenceless person, by a family member who had not reached the age of eighteen years, to the Police or to the Child Protection Authority. Failure to report such abuse constitutes a criminal offence, which carries a sentence of three months' imprisonment. This Amendment also imposes a sentence of six months' imprisonment on professionals who fail to report such abuse to the police or Child Protection Authority, (e.g., physicians, nurses, educators, social workers, policemen, psychologists, criminologists, and school principals and staff members (Section 368D(c2)). The Amendment also imposes a sentence of six months' imprisonment on a person responsible for a minor or a defenceless person who had reasonable ground to believe that a sexual offence was committed against the minor or the defenceless person by a family member who had not reached the age of eighteen, and failed to report the abuse to the police or Child Protection Authority.

877. The Social Welfare Department in the Ministry of Health developed a course of study for the prevention of violence and sexual abuse within the family. The course is composed of 200 hours. It includes training professionals and volunteers such as hospital companions and Para-medical personnel. To date, eighteen physicians have already passed this course.

Investigation of minor victims or witnesses to offences of sex or violence

878. The provision regarding testimony of a minor who is testifying against her/his parent – who is accused of committing sexual offences, was revoked following the broadening of the Penal Law application. In a recent case, the Supreme Court reaffirmed its position regarding the unequivocal prohibition against a minor testifying without permission having been granted by a Youth Investigator. The Court stated that it holds no discretion in such matter, nor may it evade the prohibition. The Court may request a re-evaluation of the minor by the Youth Investigator closer to the date of the trial, if the proceeding are extended, according to Section 2(g)(2) to the Evidence Procedure Revision (Protection of Children) Law. Still, the decision of the Youth Investigator following a re-evaluation is final and absolute. (S.Cr.C 1149/05 *The State of Israel* v. *Anonymous* (27.5.2008)).

Data on investigations of offences committed against minors

879. In 2008, 34,641 files concerning general violent offences committed against minors were submitted. 2,509 files concerning violent offences against minors within the family were opened. 2,504 files relating to sexual offences against minors were opened.

Table 55
Data on the opening of police files regarding offences committed against minors in 2008

Type of offence	***Total***	*In the family*	*Outside the family*
Violence offence against a minor	**34 641**	2 509	32 132
Sexual offences against a minor	**2 420**	-	-

Source: Israeli Police, Crime Victims' Department – Violence Towards Children, 2008.

880. Minors were exposed to the following sexual offences: rape, unlawful sexual intercourse, sexual harassment, sodomy, indecent acts (forcefully, non- forcefully and in public).

Testimony of victims in court

881. A 2004 Amendment of the Criminal Procedure Revision (Examination of Witnesses) Law, supplements Section 2C and stipulates that a minor who is a witness in a criminal proceeding involving sexual offences, abuse and assault, prostitution and obscenity, murder, attempted murder, and manslaughter, shall have the same protection whether the defendant is a relative or not. Thus, the Court may direct that the testimony be given without the presence of the defendant. The same protection is provided to a minor testifying regarding harm caused with aggravated intent, grievous harm, and violence against a minor by a person in charge, when the minor is testifying against the person in charge, her/his sibling or the sibling's spouse or the descendent of one of these. In addition, the same protection applies when a minor testifies against her/his parent regarding sexual offences such as rape, sodomy, indecent acts, etc. Furthermore, this protection applies to offences for which the penalty is death, life imprisonment or over ten years' imprisonment, and when the trial is conducted in a District Court.

A new police programme for the assistance of minor victims and suspects

Restorative justice and mediation groups

882. This mechanism is an alternative to criminal proceedings. Minors who committed a crime meet with the victims of the crime to discuss the offence's impact and the damage the offence caused, and to discuss possible corrective actions which the minor can take. In addition, a rehabilitation programme was constructed especially for minor-offenders in order to assist them to leave the criminal path. If the process is successful, the Police can consider the repeal of the criminal charges against the minor. During 2008, 76 minors participated in such mediation groups, 25 meetings were completed, 29 meeting were halted and 22 meetings are still in progress.

Project "Chances"

883. Chances"" is a pre-rehabilitation programme, designated for minors who committed a crime and wish to reform their ways with the assistance of a family member. The programme provides an immediate answer for youth who were often required to wait for weeks before they were able to meet with a Probation Officer. The programme operates in 22 population areas, and the majority of the participants are new immigrants ("Olim") (75 per cent). In 2008, 914 minors were referred to the programme and 474 actually participated in the programme.

Programme to accompany minor victims and witnesses

884. This programme offers minors who are victims and/or witnesses of crimes the opportunity to be accompanied by an adult companion and to receive professional support during criminal proceedings. The programme starts with a Police investigation, and continues with the minor's testimony or giving of evidence in court. 330 children took part in this programme during 2008, with the aid of the Council for (child) Social Welfare Department.

National Program in Support of Children and Youth at Risk

885. This programme implements the recommendations of the Schmidt Committee, a Prime Minister Committee for Children and Youth at Risk. The Committee was established on 16 November 2003 by the Israeli Government (chaired by Professor Hillel Schmidt, head of the Hebrew University Social Work Department) in order to examine the condition of Israeli children and youth in distress and at risk. The Committee has published its recommendations in 2006, which included a series of measures aimed at improvements, including: a budget increase; affirmative action for the Arab population, the Ultra-Orthodox population and new immigrants. The programme was initiated in 2008 in 56

municipalities and a budget of over 100 million NIS (27,000,000$) for the next five years, was allocated. According to Government Resolution No. 1007, dated 16 November 2003, Israel's former Prime Minister and former Minister of Social Affairs and Social Services, appointed a public Committee for the examination of the conditions of children and youth at risk or in distress. On 12 September 2006, following a report submitted by the committee in March 2006, the Government accepted Resolution No. 477 for the gradual implementation of a plan recommended by the Committee. In 2007, the implementation of the plan began in the local authorities of several towns in Israel with a special annual budget of 200 million NIS (54,000,000$).

Child protection centres

886. These centres assemble experts involved in the process of investigation and medical diagnosis of minors who are victims of sexual and violent crimes. It aims to shorten and focus the questioning and diagnosis process, to provide emergency treatment if needed, facilitate the decision-making process and offer referrals and recommendations for further treatment. Moreover, the centres ensure sensitive and versatile professional guidance. The first centre was established in Jerusalem in 2002 and treated 295 children during 2008. The second centre was opened in March 2009 in Tel-Hashomer hospital and six additional centres will be opened over the next three years.

Legislation

887. In 2006, Section 2B of the Criminal Procedure Revision (Examination of Witnesses) Law was revised, adding a trafficking in person's offence to the previous provision regarding sexual offences. The Rotlevi Committee (2003) focused on the Evidence Procedure Revision (Protection of Children) Law. The Committee's recommendations were premised on the assumption that minors who are witnesses and part of the process of testimony have an independent status that requires separate attention. The Committee also suggested that child investigators include professionals such as psychologists, psychiatrics and clinical criminologists with at least five years of experience in their field.

888. The Committee recommended the reduction of the weight of evidence attached to a child's testimony by an investigator in order to strike an appropriate balance between the rights of defendants and the witnesses. The Committee recommended the creation of a more supportive environment for minor witnesses, in court and in the investigation rooms. Particular attention must be given to children with disabilities.

889. In 2006, a new law defending the public from sex offenders was enacted, the Public Protection from Sex Offenders Law, 5766-2006 (the: "Protection from Sex Offenders Law"). The aim of this law is to defend the public from sex offences by repetitive sex offenders. The Protection from Sex Offenders Law enables courts to issue supervision orders against sex offenders, subsequent to experts' risk evaluation. A risk evaluation is an assessment of the possibility of harm of repetitive sex crimes and a recommendation on how to supervise her/him in order to prevent future sex crimes. Professionals specializing in the mental health field make the risk assessment. These professional will be trained accordingly and be responsible for the supervision and a follow-up plan of the Offenders.

890. The experts shall be appointed by the Minister of Health and the Minister of Social Affairs and Social Services from the following related fields: psychiatry, psychology, social work and clinical criminology in order to asses the dangerousness of the sex offenders and supervise their behaviour. Subsequent to a specialist evaluation conveyed to court, the sex offender who was found to be above minimum risk is subject to a supervision court order. A hearing will be scheduled in two cases: (1) based on the offender and/or the

Attorney General initiative. (2) When the victim of the crime is a minor. Such order may impose the following restrictions:

- Alcohol and drugs consumption.
- Possessing any kind of sexual arousing substance.
- Driving.
- Leaving a place of residence at certain hours.
- Hanging out at certain places.
- Socializing with other sex offenders.
- Socializing with minors.
- Possessing certain objects.
- Meeting with the victim or passing by her/his place of residence.
- Working or volunteering at certain places.
- Living or working at certain locations.
- Using an Internet connection.

891. The maximum period of a supervision order shall not exceed five years. After five years, a new order can be issued if the assessment of the sex offender remains of high risk. The total period of supervision shall not exceed 20 years.

892. The Minister of Public Security established a special Supervision Unit responsible for these assessments. Such assessments are made prior to court decisions regarding treatments, punishments and court orders that can be imposed on the sex offenders. A supervision order is granted after the sex offender completed to serve her/his punishment or followed a conviction where no imprisonment is imposed.

893. The Protection from Sex Offenders Law currently applies to offenders who were sentenced to imprisonment and completed their punishment or those who their victims were children. By 2 October 2011 this law will apply to all sex offenders (Section 34 to the Law).

Minors over the age of fourteen

Case law

894. In a petition for an additional hearing submitted to the Supreme Court, a defendant convicted of committing indecent acts against, and rape of, his stepdaughter, claimed that a written expert opinion and the testimony of a youth investigator should not be regarded as evidence. The defendant argued that the minor herself is over fourteen and testified in the proceedings. Here, the minor was questioned by the youth investigator in the investigation stage, and turned fourteen, a month before the date set for the review of evidence in the trial. Therefore, she was called as a witness by the prosecution, testified and was confronted with her testimony before the youth investigator during the cross examination.

895. In its ruling, the District Court created a new rule, allowing the testimony of the youth investigator regarding the credibility of the minor's testimony; even after the Evidence Procedure Revision (Protection of Children) Law no longer applies.

896. The testimony and expert opinion of the youth investigator were needed to clarify the investigation stage, as the minor's credibility was questioned during the cross examination, due to the fact that her complaint against the actions of her father was made

gradually during the investigation, and not in a complete and integral manner. The Court did not find that there were grounds for a further hearing, as the defendants' claims did not give rise to new legal questions, and therefore rejected the request. (C.A.H 3281/02 *Anonymous* v. *The State of Israel* (19.9.02)).

Trafficking in children

897. The Anti Trafficking Law (Legislative Amendments) 5767-2006 entered into force on 29 October 2006. The Law promulgates a broad crime of trafficking for a number of illegal purposes: prostitution, sexual crimes, slavery or forced labuor, removal of organs, pornography, and using the body of a person to give birth to a baby who is then taken from her.

898. Offences involving minors are regarded severely, and specific sections were added regarding the abuse of minors:

- The crime of trafficking in persons (Section 377A) – Anyone who carries on a transaction in a person for one of the above stipulated purposes or in so acting places the person in danger of one of the following, shall be liable to sixteen years' imprisonment and twenty years' imprisonment if the offence is committed against a minor.

- The crime of holding a person under conditions of slavery (Section 375A) – Anyone holding a person under conditions of slavery for the purposes of work or services, including sexual services - is liable to sixteen years' imprisonment. Where the offence was committed against a minor, the offender is liable to twenty years' imprisonment.

- The crime of causing a person to leave a state for purposes of prostitution or slavery (Section 376B) – Anyone who causes another person to leave the state in which she/he lives for purposes of engaging the person in prostitution or holding that person under conditions of slavery shall be liable to ten years' imprisonment. Where the offence was committed against a minor, the offender is liable to fifteen years' imprisonment.

899. An obligation to report suspected trafficking offences committed against minors or those who cannot care for themselves by those who care for them, has been imposed upon certain professionals (doctors, nurses, educational workers, social workers, employees of the social welfare services, police officers, psychologists, criminologists, paramedics, staff members in shelters) who have a reasonable basis to believe that a trafficking offence has been committed (at any time). These professionals are to report their suspicions as soon as possible to a welfare worker or the Police. Violation of this obligation is a criminal offence. In addition, it is incumbent upon a member of the general public to so report if she/he has a reasonable basis to believe that such a crime has just been committed (recently). Violation of this obligation is a criminal offence.

Case law

900. On 24 January 2007 the Haifa District Court accepted the appeal of a fifteen year old foreign minor who had been a victim of trafficking in persons. The Court decided to release the minor after a period of eight and a half months in custody. This was the first decision by an Israeli court recognizing a person as a victim of trafficking in persons for purposes other than prostitution.

901. The District Court held that in cases where an illegal resident is a minor who does not speak the language, the Detention Review Tribunal must appoint a Public Defender to provide her/him with legal assistance. As the minor in question was not provided with legal

representation, the Court held that he had been deprived of his procedural and fundamental rights to such a degree as to amount to a distortion of justice.

902. The Court stated that 'custody' as referred to in the Entry into Israel Law is defined as "custody until the completion of the proceedings." Subsequently, if proceedings cannot be completed, then custody based solely on this Law will be illegal. In this particular case, the proceedings could not be completed because they required the minor's removal from the country. The removal was prevented by a lack of diplomatic relations between Israel and the minor's country of origin, a situation which has yet to be resolved. Indefinite detention of the minor under these circumstances, based exclusively on the Entry into Israel Law, was found to be illegal. (A.A 000379/06 *Anonymous* v. *The Ministry of Interior*).

903. To date, trafficking in minors never constituted a major problem in Israel. In some cases victims were under the age of eighteen, yet even in these cases, adolescents rather than children were involved. These findings are reflected in intelligence data, as well as in the numbers of women removed from Israel, and those residing in the "Maagan" shelter for victims of trafficking.

Child prostitution

904. Under Israeli law, the act of prostitution is itself not criminalized. Nevertheless, related activities of those who profit from acts of prostitution are criminalized, such as pandering for purposes of prostitution, purchasing the prostitution services of minors, and publicizing the prostitution services of minors. The penalties are as follows:

- Exploitation of a minor for prostitution – heightens penalties according to Section 203B of the Penal Law, thus:
- For an offence with a maximal penalty of five years – to seven years
- For an offence with a maximal penalty of seven years – to ten years
- For an offence with a maximal penalty of ten years – to fifteen years
- For an offence with a maximal penalty of sixteen years – to twenty years
- If the offence is committed against a minor who is less than fourteen years old or by a person who is responsible for the minor – the maximum penalty is double the penalty established by the relevant section, but no more than twenty years
- Liability of a minor's customer — (section 203C of the Penal Law) — maximal penalty of three years' imprisonment.
- Prohibition of publicizing prostitution of a minor — (section 205A of the Penal Law) — maximum penalty of five years' imprisonment.
- Prohibition of mentioning that a person is a minor in an advertisement for prostitution — (section 205B of the Penal Law) — maximum penalty of six months' imprisonment.

Drug abuse

Israel Anti-Drug Authority (IADA)

905. In recent years, concern over the widespread use of drugs by Israeli youth has grown, and various agencies have increased their efforts to develop prevention and treatment programmes for adolescent drug users. It is the policy of the Police and the State Attorney's Office, in cooperation with the Education Systems, to allow minors involved in

drug trafficking and abuse to be referred to treatment and rehabilitation programmes, rather than to the criminal justice system.

906. The IADA coordinates policy, including information centres, in addition to treatment and rehabilitation services for minors subject to drug abuse. Together with the Civil Guard, the IADA have developed an experimental programme that recruits adult citizens who volunteer to patrol the cities and locate dropouts susceptible to drug abuse. The "Al-Sam" Association activates treatments and counselling centres for youth addicted to drugs. Treatment is provided on an anonymous basis, although the minor may request that her/his parents or a member of the school personnel become involved in her/his treatment. The minor may also participate in group therapy. The Ministry of Education initiates drug prevention programmes in schools, as part of the "preparation for life" programmes designed for adolescents (some of which are operated in cooperation with the IADA and Al-Sam). Such programmes aim to help adolescents cope with the changes they are going through, make independent decisions, and stand up to peer pressure; they also disseminate information about the ill effects of drugs. The Ministry of Education and the Ministry of Social Affairs and Social Services also operate drug prevention programmes for youth who do not attend school. In addition, periodic advertising campaigns in the media, aimed at young people, inform them about the fatal risks of drug use.

907. In order to create a database that examines drug abuse among children, the IADA conducts surveys and research. The latest national survey was conducted in 2005. The survey examined ordinary pupils and detached youth between the ages of twelve and eighteen. This survey revealed that approximately 10 per cent of ordinary pupils and 20 per cent of detached youth consumed some kind of illegal drug during that year. Approximately 20 per cent of ordinary pupils and 58 per cent of detached youth smoked tobacco during that year, and approximately 50 per cent of ordinary pupils and 60 per cent of detached youth reported drinking alcohol. In 2004, surveys focusing on the Arab, Druze and Bedouin populations revealed that approximately 12 per cent of Arab ordinary pupils and 14 per cent of the Arab detached youth had used an illegal psychoactive drug in the course of that year. Approximately 10 per cent of Druze standard pupils and 6 per cent of Druze detached youth had used an illegal psychoactive drug in the course of that year. Approximately 22 per cent of Bedouin youth had used at least one kind of illegal drug throughout that year. In 2007, a survey of former Soviet Union immigrant youth between the ages of twelve and eighteen was conducted. The survey revealed that approximately 35 per cent of the immigrant youth had used illegal drugs and 84 per cent consumed alcohol in the course of that year. Such data facilitates the estimation of the effort needed to reduce the rates of drug abuse among minors, as well as assist in developing a unique aid plan for each population group.

908. Several youth projects are operated by the IADA and analyzed by scholars that examine their effect. Among these projects are plans for treatments and prevention of runaway youth, pupils and minor children, who are regarded as 'children at high risk.' In addition, studies on different subjects are currently being conducted, for example world terrorism and its affect on drug abuse among youth (2008); and Availability, sources of information and the extent of minor's seeking assistance (2008). There are also studies that examine the scope of minors living with their parents, yet consuming drugs (2005).

909. The programmes developed by the IADA are intended for all ages – from infancy to maturity. Such programmes are guiding and instructing teachers and pupils on how to abstain from dangerous chemical usage (common among youth). Other programmes aimed towards the Jewish and the Arab populations are based on psycho-educational models, advanced technology and interactive workshops. The psycho- educational model of counselling, views the counsellor as an instructor. It allows the counsellor to consider

aspects of therapy similar to instructional situations, therefore creating the opportunity for using an established, empirical research methodology.

910. The treatment and rehabilitation arm of IADA includes varied programmes; all are subject to the supervision of the Ministry of Health. Each year, 1,500 youngsters are treated in ambulatory municipality welfare department clinics. There are four regional day-care centres designated for children that battle drug abuse. Each centre admits fifteen to twenty youngsters for a period of one year. Although there is no emphasis on gender or population groups, the number of immigrants from Ethiopia and the former Soviet Union is relatively high. The IADA also operates a National Rehabilitation Unit, intended for sixteen youngsters, for a period of three months. Two more rehabilitation clinics are set to open during 2009 and 2010.

911. The IADA also operates youth hostels and community treatments centres (Malkishua – community treatment for 70 youngsters, Tirat Zvi – youth hostel for eight religious girls, Kfar Rupin – youth hostel for eight secular girls, Afulla – youth hostel for ten, Tiberius – youth hostel for fifteen boys, Returno – community treatment centre for 25 religious youngsters) as well as in-school educational/treatment programmes that operate simultaneously in approximately 60 schools.

912. The IADA developed many youth assistance programmes. One of the programmes focuses on field work; the programme is called “Parents Patrols”. This programme supports youth during holidays and vacations, especially during night hours. The programme involves patrol vehicles composed of students who provide emotional aid to youth at risk, group activities for the prevention of drugs and alcohol abuse and spread information against drunk driving.

913. The IADA is responsible for vocational training; and instructs professionals who work with children and youth. Training regarding the prevention of drug and alcohol abuse is provided, among other things, to University professors, Ethiopian community mediators, scholars, MDs, paediatricians, parents, consultants at Mother and Child Health Clinics, special education professionals and the employees of the Probation officer and the services for youth in the Ministry for Social Affairs and Social Services.

914. Following a comprehensive 2007 Amendment to the Prohibition of Smoking in Public Places and Exposure to Smoking Law 5743-1983, it is now prohibited to smoke in public places including cinemas, shopping centres, hospitals, public transportation, restaurants, pubs, schools, kindergartens, etc. Furthermore, the owner of a public place must place signs in the public place regarding the prohibition against smoking, and is obligated to inspect and do all within her/his power to prevent smoking in the place she/he owns.

915. Each local municipality shall empower inspectors to enforce this law, and these inspectors, as well as police officers, are authorized to enter public places to ensure their compliance with the Law.

916. A recent Amendment to this law, issued on 4 February 2008, expands the prohibition against selling tobacco products to minors, to include a prohibition against selling products used to smoke tobacco to minors. Furthermore, the Amendment stipulates that a person shall not lease nor lend a product used to smoke tobacco to minors. According to Section 61(a)(1) to the Penal Law a fine shall be imposed on a person selling tobacco products or selling, lending, or leasing a product used to smoke tobacco to a minor.

Case law

917. The parents of a minor submitted a request to the Ashqelon Magistrate Court to forcibly place the minor in a rehabilitation and treatment centre. The request was submitted

due to serious risk to the minor's life stemming from his addiction to drugs and alcohol. The social worker who dealt with the case supported the parents' request. The Court held that the Youth (Care and Supervision) Law authorizes the court to intervene in such matters and thereby force treatment on minors at risk. The court noted that even though there is no unanimity as to the efficiency of forced treatment with regard to addictions, there is no alternative treatment in this case that can save the minor's life. Since the Court could not find a facility suitable for the minor, it ordered the social worker to seek other ways of treatment. (C.M 378/07 *Welfare Agency* v. *Anonymous* (7.8.08).)

D. Articles 22, 38 and 39 – Children in emergency situations

Children in armed conflict

918. The State of Israel signed the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict on 14 November 2001, and ratified it on 18 July 2005. In accordance with article 10, paragraph 2, the Optional Protocol entered into force in Israel on 18 August2005.

919. The Government of the State of Israel submitted its initial report concerning the implementation of the Optional Protocol in March 2008.

The age of military draft

920. According to Section 13 of the Israeli Defense Service Law, the IDF may enlist a person of 'military age' for regular service at a certain time and place. A man, found fit for service, will be of military age from 18 to 29 years. A woman, found fit for service, will be of military age from 18 to 26 years.

921. The above age is calculated, according to the amended Section 2 of the Defense Service Law, in the following manner:

Calculation of age

922. For the purpose of this Law:

- The calculation of age shall be in accordance with the Jewish calendar.

- A person who attains a particular age in a particular year of the Jewish calendar shall be regarded as follows:

  (a) If she/he attains that age after the 1st of Tishrei and before the 1st of Nissan of that year – as having attained that age on the 1st of Tishrei of that year;

  (b) If she/he attains that age after the 1st of Nissan of that year – as having attained that age on the 1st of Nissan of that year;

- (2a) paragraph (2) shall not apply to the calculation if the person attains or does not attain the age of 18 years, regarding:

  (1) The definition of a person of military age in Section 1 and Sections 13, 15 and 16, except for service in the academic reserves track recognized in the army regulations and voluntary service according to its meaning in the said regulations.

  (2) Sections 20(a) and (a1), 24 and 24a.

  (3) The determination of age shall be governed by the provisions set out in the schedule."

923. According to the above Section 2, the age for enlistment is calculated according to the Gregorian calendar, with the exception of those enlisting to a one-day administrative induction for the academic reserves and the Hesder Yeshivas, a programme which combines advanced Talmudic studies with military service in the IDF.

924. Note that the above criteria relating to determination of age is attributed to Amendment 13 of the Israeli Defense Service Law approved in the Knesset on 2 February 2004, which concluded the extensive process conducive to ratification of the Optional Protocol.

925. The explanatory note to the above Amendment Bill states: "In the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, accepted in the United Nations General Assembly in New York on 25 May 2000, entered into force on 12 February 2002 and signed by the State of Israel on 14 November 2001, it was determined, for the purpose of putting an end to the phenomenon of children and youth under the age of 18 being recruited to the armed forces, that the minimum age for compulsory recruitment to armed forces and taking part of hostilities is the age of 18".

Children in emergency situations

The effect of rockets on the City of Sderot and Israeli localities around the Gaza Strip

926. Over the last 10 years of endless rocket and mortar strikes, the impact on the Israeli population of the daily barrage of rockets has been debilitating. Studies have documented an entire generation of children traumatized by the terror of rocket strikes and the helplessness of adults to ensure their safety. Hamas increased the terror engendered by its attacks by timing them to coincide with the time when children were on their way to school in the morning or were returning in the afternoon.

927. There are over 2,200 primary and secondary schools within the range of the rockets. These institutions include over 1,700 kindergartens (with over 52,200 children) and nearly 500 schools (with over 196,000 children). There are over 248,000 pupils within rocket range. Had the onslaught of rocket attacks continued unabated, it was only a matter of time before a direct hit on a school, hospital or other public facility would have caused extensive loss of life. It was inevitable that civilian casualties, economic loss and the overall impact of these terrorist assaults would have mounted.

Data on casualties associated with mental disorder and anxiety

928. According to official data, 18 Israeli citizens were killed and hundreds were physically injured (most of them civilians) due to the use of short range rockets against the civilian population of Israel. These figures do not include and do not represent thousands of people who suffer from anxiety, stress and trauma following explosions of rockets and mortar shells.

929. According to data of the Mental Health Communal Center in the city of Sderot, in 2007 alone, more then 652 new cases of stress and trauma victims were reported in Sderot and the western Negev (an increase of more then 200 per cent in comparison to 2006), and more then 4,860 persons received Psychiatric, psychological or mental treatment for symptoms of stress, anxiety and trauma following rockets explosions (an increase of more then 400 per cent in comparison to 2006).

930. According to the Mental Health Communal Center in the city of Sderot, about 30 per cent of the trauma victims are diagnosed as suffering from severe anxiety and trauma. The severe cases include uncontrolled crying, fainting, temporary lose of ability to speak, physical and other symptoms. In many cases the situation is so severe that medications are

necessary as treatment. The number of anxiety, stress and trauma injuries is very difficult to assess and is considered to be even higher, since not all those suffering from it, turn to seek immediate medical help. Furthermore, the affects of anxiety, trauma and stress may appear in later stages (post-trauma) and not necessarily at the moment of the traumatic event. Therefore, the number of anxiety, stress and trauma victims is believed to be around several thousands people.

931. A study from 2006, found a significant increase in the rate of people living in the city of Sderot that suffer from the psychiatric syndrome of post-traumatic disorder (26 per cent). In addition, 44 per cent reported symptoms of Hyper Arousal syndrome and 30 per cent reported symptoms of Intrusive symptoms. All of these symptoms cause difficulties in concentration, memory problems and high degrees of stress.

932. A study that was conducted in 2007 found that 28.4 per cent of the adult population in the city of Sderot reported symptoms of post-traumatic syndrome. That is 3 times higher then that of the control group – a city outside the range of the rockets. Moreover, the frequency and severity of the psychiatric symptoms among Sderot residents are much higher then those who live in cities outside the range of the rockets.

933. According to another study that was conducted by NATAL – the mental and psychological help centre for cases of stress and trauma, at least 75 per cent of the children living in Sderot (ages 4–18) suffer from post-traumatic symptoms of sleeping disorder and concentration difficulties. About 30 per cent of Sderot children suffer from severe symptoms that disrupt their daily function.

Child refugees and asylum seekers

934. Children of school age, weather asylum seekers, children of work migrants or infiltrators, regardless of the legality of their status in the country, are integrated in Israel's educational system, and are eligible for subsidized health insurance.

935. Israel is a party to the United Nations 1951 Convention on the Status of Refugees, and to its 1967 Protocol. Any person may apply for a refugee status in Israel, regardless of his/her religion, and his claim will be assessed based on the convention's definitions.

936. Every asylum seeker has full and free access to the United Nations High Commissioner for Refugees (UNHCR), and may approach the Police and the Courts regarding any claim in his/her regards, and on many cases this right was exercised, either directly or through NGOs.

937. In 2002, a procedure for the processing of requests by asylum seekers in Israel was formed in coordination between the delegation of the UNHCR in Israel, the Ministry of Interior and the Ministry of Justice, and has been in force until June 2009.

938. In 2009, a special unit for the Treatment of Asylum Seekers was formed within the Ministry of Interior and received extensive training from the UNHCR Israeli branch.

939. The Refugee Status Determination (RSD) Unit in the Population, Immigration and Border Authority (PIBA) within the Ministry of Interior, was established in order to conduct thorough interviews for asylum seekers and provide written recommendations for further discussions in the Advisory Committee, composed of representatives of the ministries of Interior, Justice and Foreign Affairs. The Unit began its operation in July 2009.

940. Subsequently, every asylum seeker was referred to UNHCR until July 2009. Since 1 July 2009 the RSD Unit performs the initial and in-depth interviews. However, all asylum seekers have full access to UNHCR, as well as to NGOs.

941. Naturally, as the authority and responsibility for the determination of a refugee status is a sovereign Israeli decision, Israel reserves the right not to grant a stay permit in Israel for citizens of hostile or enemy States.

942. A person recognized as entitled to asylum, and following an evaluation it was determined that his/her matter should be brought before the Advisory Committee, should be awarded with a six-month stay permit.

943. As of December 2009, there were over 20,000 infiltrators/asylum seekers residing in Israel, most of whom received temporary protection based on their country of origin. In 2009, 2,525 infiltrators applied for asylum and were interviewed by the RSD Unit of the Ministry of Interior, the Immigration Authority, and received temporary status. 948 infiltrators completed the questioning process but their case had not yet been referred to the inter-ministerial National Status Granting Body (NSGB). 520 infiltrators were considered by the inter-ministerial NSGB, and five are under appeal procedures regarding the committee's decision. 284 infiltrators turned to the courts after their appeal was rejected by the inter-ministerial NSGB.

Unaccompanied foreign minors

944. Some of the illegal foreign populations living in Israel are minors, several dozens to date. These minors require special treatment. The Ministry of Interior procedure No. 10.1.0016 (currently undergoing an amendment process): Unaccompanied Foreign Minors Treatment Procedure establishes modes of treatment, as follows: Placement in custody must be in a residence principally for minors; the removal of minors under eighteen years of age must be done following the primary consideration of the best interest of the child. An illegal minor who is under a temporary custody order shall be brought as soon as possible — no later than 24 hours — to a Passport Control Officer. The Passport Control Officer, after considering the minor's opinion regarding the custody order and the removal order, shall decide which order shall be given effect (that is consistent with the specific circumstances).

945. A minor under the age of fourteen shall not be held in custody, but rather in an appropriate facility or foster care pending removal. A minor must be informed of her/his right to counsel. Within 24 hours (48 hours in special circumstances and 72 hours if it is a holiday or a weekend) the minor will meet with a social worker. The social worker shall submit her/his professional opinion to the Passport Control Officer within 48 hours, followed by a decision to keep the minor in custody or release the minor from custody. Notification as to the delay in removal shall be transmitted to the minor's state of origin, unless it endangers the minor's life, freedom or the lives or freedom of members of her/his family.

946. A minor placed within an educational framework is dependent on the Ministry of Education as the responsible authority, which shall take care of its medical insurance. A minor can be held for up to 60 days in custody and then be moved to an appropriate alternative facility or foster care, pending age confirmation and availability of a facility or foster care arrangements. Notification of the relocation is provided at least seven days prior to the final date set for relocation, and is coordinated as far as possible with the recipient state. A minor will not be removed if her/his life or liberty is in danger in her/his home land.

947. The Legal Aid Department in the Ministry of Justice provides legal aid for minors who arrived illegally to Israel, and claims the release of such minors from detention while transferring them to alternative custody, such as foster families and boarding schools.

United Nations CRC/C/OPSC/ISR/1

Convention on the Rights of the Child

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Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Reports of States parties due in 2010

Israel*

[Date received: 12 November 2012]

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Introduction

1. The State of Israel is pleased to submit its initial report (this "Report") concerning the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography ("the Protocol"). Pursuant to the requirements of Article 12 of the Protocol, this Report provides comprehensive information on the measures Israel has taken to implement the provisions of the Protocol.

2. By way of background, the State of Israel signed the Protocol on 14 November 2001 and ratified it on 19 June 2008. The Protocol entered into force on 23 July 2008.

3. The State of Israel fully adheres to the purposes of the Protocol and is committed to its obligations thereunder. While much remains to be done in order to eradicate the worldwide phenomenon of trafficking in children, child prostitution and child pornography, Israel believes that its efforts since 2008 have been quite successful. At the same time, Israel appreciates the opportunity to learn about the practices and experience of other countries leading the fight against trafficking in children, child prostitution and child pornography, and views the reporting process established by Article 12 of the Protocol as an invaluable tool for such purpose.

4. This Report is the product of extensive internal consultations and efforts. All relevant Government Ministries and bodies (including the Ministry of Justice, the Ministry of Interior, the Ministry of Education, the Ministry of Health and the Ministry of Social Affairs and Social Services) were requested to provide data and information concerning their respective fields of responsibility. In addition, non-governmental organizations (NGOs) were invited to submit comments prior to the compilation of the Report, both through direct application, and through a general invitation to submit remarks, which was posted on the Ministry of Justice website. Their responses were given due consideration.

5. The compilation of the information and data and the drafting of this Report were conducted by the Department for International Agreements and International Litigation at the Ministry of Justice, in cooperation with other governmental agencies.

6. Please note that the imprisonment terms and monetary fines specified in the Israeli Penal Law 5737-1977 (the "Penal Law") represent the maximum term or fine that a court may impose. Accordingly, references in this Report to imprisonment terms and monetary fines correspond to such maximum punishments, unless specified otherwise.

Articles 1–3

7. Article 1 is introductory in nature and creates the overarching obligation to prohibit the sale of children, child prostitution and child pornography in accordance with the Protocol. Article 2 includes the definitions of "sale of children", "child prostitution" and "child pornography".

8. Article 3 provides that States parties shall ensure that the acts and activities referred to by the Article are covered under their criminal or penal law and punishable by appropriate penalties.

9. As discussed below, the acts and activities referred to by Article 3 violate the Israeli Penal Law.

Sale of children

10. In the context of sale of children, State parties are required, as a minimum, to criminalize the offering, delivering, or accepting by whatever means of a child for the purpose of sexual exploitation of the child, transfer of organs for profit, or engagement of the child in forced labor (Article 3(1)(a)(i)). (The prohibition on inducing consent for the adoption of a child (Article 3(1)(a)(ii)) is addressed in paragraphs 58–89 below.)

11. The sale of children, as defined in Article 2, is prohibited by Israeli law through several provisions.

12. On October 29, 2006 Israel enacted the Prohibition of Trafficking in Persons (Legislative Amendments) Law 5766–2006 (the "Anti-Trafficking Law"). Most of its provisions were incorporated in the Penal Law. The Anti-Trafficking Law's provisions, as will be further detailed below, address the relevant aspects of offering, delivering or accepting, by whatever means, of a child for the purposes enumerated in Article 3(1)(a)(i) of the Protocol.

13. The legislative technique which Israel adopted on this matter was to create a group of five offenses, detailed below, which together encompass the main aspects of the trafficking phenomenon. This broad approach was adopted because it was felt the creation of a single offense might fail to cover all aspects of this criminal phenomenon. The legislation was designed to be comprehensive in order to prevent evasion by criminals.

14. The offenses were incorporated in the Penal Law under the chapter that deals with offenses relating to the deprivation of a person's liberty. It should be noted that of these five core offenses, only the first two criminalize the act of "trafficking in a person" in the strict sense of the term. The other three criminalize other conducts which are similar to trafficking, in that a person is treated in a manner so abject that the act is assimilated to "trafficking". The common denominator of the five core offenses is that they all criminalize conduct by which a person is objectified and denied his or her basic human dignity and freedom. All five are punishable with severe prison terms.

15. Trafficking in Persons – This offense is set out in Section 377A of the Penal Law, and carries a maximum penalty of 16 years' imprisonment, and 20 years' imprisonment if the victim is a minor. The crime includes two elements:

(a) A transaction in a person (distinguished from a transaction *with* a person, thus denoting the objectification of the victim). For this matter, "transaction in a person" means selling or buying a person or carrying out another transaction in a person, whether or not for consideration.

(b) For one of seven pernicious purposes: removing an organ from the person's body (which corresponds to Article 3(1)(a)(i)(b) of the Protocol); giving birth to a child and taking the child away; subjecting the person to slavery or forced labor (which corresponds to Article 3(1)(a)(i)(c) of the Protocol); inducing the person to commit an act of prostitution or inducing him/her to take part in an obscene publication or obscene display or committing a sexual offense against the person (which corresponds to Article 3(1)(a)(i)(a) of the Protocol).

16. Section 377A also forbids trafficking in a person if in doing so the offender exposes the victim to the risk of one of the purposes listed above.

17. Section 377A(c) of the Penal Law provides that the middleman in trafficking in a person, whether or not for consideration, shall be liable to the same penalty as the actual trafficker.

18. Abduction for the Purpose of Trafficking – This offense is set out in Section 374A of the Penal Law and carries a maximum penalty of 20 years' imprisonment. The crime consists of the following three elements:

(a) Inducing a person to move from one place to another;

(b) By means of threats or force or by fraudulently obtaining her/his consent;

(c) For any of the purposes of trafficking in persons as detailed in Section 377A (a) of the Penal Law or placing the person in one of the dangers set forth in the said section.

19. Holding a Person Under Conditions of Slavery – It is a crime to hold a person under conditions of slavery for the purposes of work or services, including sex services. This offense is set in Section 375A of the Penal Law, and carries a maximum penalty of 16 years' imprisonment, and 20 years' imprisonment if the victim is a minor. For the purposes of this provision, "slavery" means a situation under which powers generally exercised towards property are exercised over a person; substantive control over the life of a person or denial of his/her liberty are deemed to be such an exercise of power.

20. Forced Labor – This offense is set in Section 376 of the Penal Law. According to this Section, a person who unlawfully forces a person to work, by using force or other means of pressure or by threat of one of these, or by consent elicited by means of fraud, whether or not for consideration, shall be liable to seven years' imprisonment.

21. Causing a Person to Leave Her/His State for Purposes of Prostitution or Slavery – This offense is set in Section 376B of the Penal Law, and carries a maximum penalty of ten years' imprisonment, and 15 years' imprisonment if the victim is a minor. The elements of this crime are as follows:

(a) Causing a person to leave the State in which she/he resides;

(b) For the purpose of employing the person in prostitution or holding her/him under conditions of slavery.

22. The Israeli legislator views trafficking offenses as very grave. For that reason, a high minimum punishment has been set for the offense of holding a person under conditions of slavery and trafficking in persons. According to Section 377B of the Penal Law, where a person is convicted of an offense under Sections 375A (holding a person under conditions of slavery) or 377A (trafficking), the sentence imposed shall not be less than one-quarter of the maximum sentence set forth for the said offense, unless the court has decided, for special reasons that shall be recorded, to impose a more lenient sentence. Moreover, a sentence of imprisonment, as mentioned above, shall not be wholly suspended, if there are no special reasons.

23. Additionally, the Penal Law includes offenses that may assist law enforcement authorities in addressing trafficking in children, which are often, though not necessarily, related to trafficking but do not constitute trafficking per se. These include crimes such as pandering and charging excessive brokerage fees. Another example is the prohibition on detaining a passport (Section 376A of the Penal Law – three years' imprisonment), which is a common practice used by offenders to maintain control over victims and prevent their escape. If the offender detains a passport for one of the purposes set forth in Section 377A of the Penal Law or by so doing places the person in one of the dangers set forth in the said section, the offender is liable to five years' imprisonment.

24. The Penal Law also includes other offenses that impose duties and criminal liability on parents, legal guardians of minors or other persons responsible for minors, inter alia, to protect minors and to narrow the risk of them becoming victims of trafficking. For example:

(a) A person that leaves a child under six years of age without proper supervision, and in doing so endangers the life of the child or risks harming his/her health or well-being, is liable to three years' imprisonment; if it was done out of neglect, that person is liable to one year of imprisonment; and if it was done with the intent to desert the child, then that person is liable to five years' imprisonment (Section 361 of the Penal Law);

(b) Offering or giving remuneration for permission to have charge of a minor under 14 years old and asking for or receiving remuneration for permission to have charge of a minor as aforesaid, is an offense punishable by three years of imprisonment, irrespective of whether the remuneration was in cash or in kind (Section 364 of the Penal Law);

(c) A parent or legal guardian of a minor under the age of 14 who delivers or allows to deliver the minor to a person who is not his/her parent or his/her legal guardian, while renouncing his/her duties or his/her rights towards the minor, is liable to two years' imprisonment (Section 365 of the Penal Law);

(d) Taking away or detaining by fraud, force, or enticement a minor under the age of 14 from his/her parent or legal guardian with the intent of depriving the parent or legal guardian from custody over the minor is an offense punishable by seven years' imprisonment, unless the defendant proves that he/she has a bona fide claim to a right of custody (Section 367 of the Penal Law).

Child prostitution

25. Israeli legislation addresses the criminal aspects of prostitution by criminalizing the various ranges of conduct of those involved in the prostitution industry, from pandering to inducing prostitution to holding or renting a place for prostitution to publishing prostitution services. This is the case both for prostitution generally and for child prostitution specifically. Thus, all actions supporting or sustaining the prostitution industry are prohibited, signalling the State's efforts to minimize this phenomenon. Furthermore, the Penal Law imposes stricter penalties when child prostitution is involved, as detailed below.

26. Specifically, the Penal Law states that a person who fully or partially, permanently or for any period of time, lives on the earnings of a person engaged in prostitution or who knowingly receives something that was given for a person's act of prostitution (or part thereof) is liable to five years' imprisonment (Section 199 of the Penal Law). Where the person engaged in prostitution is the offender's spouse, child or stepchild, or the offense was committed by exploiting a relationship of authority, dependence, education or supervision, then the maximum imprisonment term is seven years (Section 199(b) of the Penal Law). For the purposes of this offense, it is immaterial whether the offender received money, valuable consideration, a service or some other benefit, whether he/she received it from a person who engages in prostitution or from some other person and whether he/she receives what was given for an act of prostitution or as a substitute for what was so given (Section 199(c) of the Penal Law). If a man lives with a prostitute or regularly accompanies her, or if he exerts control or influence over her in a manner that aids her or forces her to engage in prostitution, then he/she shall be presumed to live on her earnings, unless the contrary is proven (Section 200 of the Penal Law).

27. In addition, a person that induces someone to perform an act of prostitution with another person is liable to five years' imprisonment (Section 201 of the Penal Law), and a person that induces someone to engage in prostitution is liable to seven years' imprisonment (Section 202 of the Penal Law).

28. The Law establishes aggravating circumstances regarding both Sections 201 and 202, which lead to a harsher punishment. If the above-mentioned offenses are committed

under the following circumstances, then the person guilty of the act is liable to ten years' imprisonment (Section 203 of the Penal Law):

(a) The offense was committed by exploiting a relationship of authority, dependence, education or supervision, or by exploiting the economic or mental distress of the person who was induced to perform an act of prostitution or to engage in prostitution;

(b) The offense was committed by the use of force or by use of other means of pressure, or by threat of one of the above, whether against the person who was induced to commit an act of prostitution or to engage in prostitution or against some other person;

(c) The offense was committed by exploiting a situation that prevents opposition by the person induced to commit an act of prostitution or to engage in prostitution, or by exploiting the fact that he/she is mentally ill or mentally incompetent;

(d) The offense was committed by consent that was obtained deceitfully from the person induced to commit an act of prostitution or to engage in prostitution.

29. The maximum prison terms are increased when an offense described in Sections 199, 201, 202 or 203 is committed against a minor, as follows:

(a) When the victim is 14 years old or older, then the applicable penalties are increased as follows:

(i) For offenses punishable by five years' imprisonment, the maximum imprisonment term is increased to seven years;

(ii) For offenses punishable by seven years' imprisonment, the maximum imprisonment term is increased to 10 years;

(iii) For offenses punishable by 10 years' imprisonment, the maximum imprisonment term is increased to 15 years;

(iv) For offenses punishable by 16 years' imprisonment, the maximum imprisonment term is increased to 20 years;

(b) If the victim is less than 14 years old, or if he/she is a minor who is 14 years old or older and is under the care and responsibility of the offender, then the maximum imprisonment terms for these offenses are doubled, up to a maximum of 20 years (Section 203B of the Penal Law).

30. Sections 203C and 203D of the Penal Law are additional measures demonstrating the severity with which Israeli law deals with prostitution offenses committed against minors. Pursuant to Section 203C, a person who accepts sexual services from a minor is liable to three years' imprisonment. For this matter, as well as all other offenses related to prostitution or pornography committed against minors, if the defendant claims that he/she did not know the age of the person with whom or in respect of whom an offense was committed, then he/she bears the burden of proof.

31. Moreover, a person who maintains or operates a place including a vehicle or a vessel for the practice of prostitution, is liable to five years' imprisonment (Section 204 of the Penal Law), and a person who rents out or renews the rental of such a place, knowing that it is or will be used for acts of prostitution, shall be liable to six months' imprisonment (Section 205 of the Penal Law).

32. As an additional measure, aimed at reducing prostitution, the Penal Law provides that a person who delivers information or publishes any publication about the provision of a service that constitutes an act of prostitution provided by a minor, is liable to five years' imprisonment or a fine of 226,000 NIS (US$ 59,473) (the amount is doubled if the offense is committed by a legal person). The foregoing applies regardless of whether the

prostitution service is provided in Israel or abroad, whether the information refers to a specific minor and whether the publication indicates that the person who provides the service is a minor (Section 205A of the Penal Law). In contrast, with respect to adults, the offense applies only to the publication of such services (it does not include the offense of "delivering information") and the penalty for such a publication is three years' imprisonment (Section 205C of the Penal Law).

33. Finally, Section 208 of the Penal Law provides that a person who permitted a minor between the age of 2 and 17 years old, of whom he/she has custody, to reside in a brothel or to visit it frequently, is liable to three years' imprisonment.

Sexual abuse of children

34. Just as with trafficking offenses, whereby a broad array of criminal offenses capture the different types of conduct associated with trafficking, so is it too with child prostitution. The following provisions of the Penal Law are detailed to provide a fuller picture of the legislative situation with respect to the protection of minors from sexual offenses which typically accompany child prostitution and increased punishments where minors are involved.

(a) Rape (Section 345 of the Penal Law) – Generally, rape is punishable by 16 years of imprisonment. Rape consists of intercourse with a woman (1) without her consent, (2) with consent which was obtained by deceit in respect of the identity of the person or the nature of the act, (3) with a minor who is less than 14 years of age, regardless of whether the victim consented or not, (4) by exploiting the woman's state of unconsciousness or other condition that prevents her from giving her free consent, or (5) by exploiting the fact that she is mentally ill or deficient, if – due to her illness or mental deficiency – her consent was not given freely. However, the maximum penalty for rape is increased to 20 years, if committed in the following cases: (a) if the victim is a minor under the age of 16, under the circumstances set forth in items (1), (2) (4) and (5) above, (b) if the act was committed under threat of a firearm or other weapon; (c) if it was committed by causing physical or emotional harm, or pregnancy, (d) if abuse was committed before, during or after the act, or (e) if it was committed in the presence of one or more persons, who joined together in order for any of them to commit the act.

(b) Forbidden intercourse despite consent (Section 346 of the Penal Law) – if a person has intercourse with a minor between the ages of 14 and 16 who is not married to him, or if a person has intercourse with a minor between the ages of 16 and 18 by exploiting a relationship of dependence, authority, education or supervision, or by a false promise of marriage, then that person is liable to five years' imprisonment.

(c) Sodomy (Section 347 of the Penal Law) – sodomy is punishable by five years' imprisonment, if the victim is between the ages of 14 and 16, or if the victim is between the ages of 16 and 18 but the act was committed by exploiting relations of dependency, authority, education or supervision. If sodomy was committed against a victim under one of the circumstances specified in section 345, mutatis mutandis, then the offender is liable to the penalties of a rapist.

(d) Indecent act (Section 348 of the Penal Law) – Generally, an indecent act committed against a person without his/her consent is punishable by three years of imprisonment. "Indecent act" is defined as an act committed for the purpose of sexual stimulation, gratification or abasement. If an indecent act is committed under the circumstances set forth in items (2)–(5) in paragraph 34 (a) above, or if it is committed by the use of force of any kind or by threat of using such force – against the victim or against another person, it is punishable by seven years' imprisonment. If the indecent act is

committed under the circumstances set forth in items (a)–(e) in paragraph 34 (a) above, it is punishable by 10 years' imprisonment. If the indecent act is committed against a minor who is above 14 years of age by exploiting relations of dependency, authority, education, supervision, work or service, it is punishable by four years' imprisonment. For this matter, an act as mentioned above committed by a psychotherapist against his/her patient is considered as committed by exploiting relations of dependency.

(e) Indecent act in public (Section 349 of the Penal Law) – A person committing an indecent act in public in the view of another person without his/her consent is liable to one year of imprisonment. If the act is committed, in any place, in the view of a person who is under 16 years of age, the maximum term of imprisonment is three years.

(f) Offenses within the family and offenses by persons responsible for an individual in a state of helplessness (Section 351(a) of the Penal Law) – This provision deals with sexual offenses committed within the family, and prescribes harsher punishments than those prescribed for offenses committed by someone who is not related to the victim.

Child pornography

35. The Israeli legislator addresses the phenomenon of pornography in a comprehensive manner.

36. The Penal Law provides that if a person publishes obscene material or prepares such material for publication, or if a person presents, organizes or produces an obscene display in a public place, or in a place which is not public (other than a private residence or a place used by a group of persons which restricts membership to persons aged 18 years old and above for a continuous period), then he/she shall be liable to three years' imprisonment (Section 214 of the Penal Law). Additionally, if a person published an obscene publication and it includes the likeness of a minor, including a representation or a drawing of a minor, he/she is liable to five years' imprisonment (Section 214b of the Penal Law) and if a person utilized the body of a minor in order to advertise an obscenity, or used a minor in the presentation of an obscenity, he/she is liable to seven years' imprisonment (Section 214(b1) of the Penal Law).

37. As with trafficking in children, the legislator ascribes great importance to the responsibilities of parents and other persons in charge of children. Accordingly, the Penal Law provides that if an offense under subsections 214(b) or (b1), as mentioned above, was committed or consented to by a person responsible for a minor, as defined in Section 368A of the Penal Law, then that person is liable to 10 years' imprisonment (Section 214(b2) of the Penal Law). In order to impair the profitability of this commerce and thereby reduce the use of children for pornography, the Penal Law provides that a person having in his/her possession an obscene publication that includes the likeness of a minor, is liable to one year of imprisonment, except where such material was held by coincidence and in good faith (Section 214(b3) of the Penal Law).

38. In order to enable different officials to fulfil their duties, the Penal Law states that a person shall not be deemed to have committed an offense under Sections 205A to 205C and 214, if the provision of the information, its publication or the possession thereof was for a legal purpose, including true and fair reporting on the subject of prostitution and obscenity. This, subject to the condition that the provision of information, the publication or the possession are not prohibited under any other law and were not carried out in order to encourage acts prohibited under the Penal Law.

Duty to report

39. In order to protect minors, there is a legislated duty to report offenses committed against minors. Section 368D of the Penal Law provides that the following offenses committed against minors, by a person responsible for the minor, must be reported to a welfare officer or to the Police:

(a) Prostitution and obscenity offenses under Sections 199, 201, 202, 203, 203B, 203C, 205A and 214(B1);

(b) An offense of endangering life and health under Section 337;

(c) A sexual offense under Sections 345, 346, 347, 347A, 348 and 351;

(d) An offense of abandonment or neglect under Sections 361 and 362;

(e) An offense of assault or abuse under Sections 368B and 368C;

(f) An offense of trafficking in persons under Section 377A.

40. The duty to report is imposed on any person who has reasonable grounds to believe that such a crime was committed, on a person in charge of the minor, on a professional (physician, nurse, educator, social worker, social welfare employee, policeman, psychologist, criminologist, paramedic, director or staff member of a home or institution in which minors or persons under care live) in the course of his/her professional activity or responsibility. Violation of this duty constitutes an offense punishable by three to six months' imprisonment.

Article 3 (1) – Commission of offenses on an organized basis

The commission of offenses individually or on an organized basis

41. In accordance with the requirement of Article 3(1) of the Protocol, the Battle Against Organized Crime Law 5763 – 2003 creates separate criminal offenses for criminal activity committed as a part of an organized crime group and states that if a crime is committed in the context of organized crime, its maximum punishment is double the punishment of that crime, but may not exceed 25 years' imprisonment. This provision applies to "crimes", which is defined as offenses the commission of which is punishable by a prison term of more than three years. As such, the great majority of offenses detailed above fall within the scope of this provision.

Statute of limitations

42. As a rule, according to Section 9 to the Criminal Procedure Law [Consolidated Version] 5742-1982, a person may not be indicted for an offense if the following terms have elapsed since the date of its occurrence: in an offense defined as a felony, attended by a penalty of death or life imprisonment – twenty years; in another felony – ten years; in a misdemeanor – five years; in a transgression – one year.

43. In certain sexual offenses committed against a minor, the period of limitation begins the day the victim reaches the age of 28. However, if ten years have elapsed since the offense was committed, filing an indictment requires the approval of the Attorney General (Section 354 of the Penal Law).

Article 3 (2) – Attempt, complicity and participation

44. Article 3(2) provides that "subject to the provisions of the national law of a State party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts". Although the Protocol does not obligate States to criminalize attempts to commit acts covered by Article 3(1) or complicity or participation in such acts, Israeli law is consistent with the requirements of Article 3(2) of the Protocol. The Penal Law contains general provisions concerning attempts to commit a crime, complicity and participation in a crime.

45. Section 25 of the Penal Law defines "attempt" as performing an act with the intent of committing an offense, where such act is considered beyond mere preparations and provided that the offense was not completed, regardless of whether commission of the offense was impossible because of circumstances of which the person who made the attempt was not aware or in respect of which he/she was mistaken (Section 26 of the Penal Law). However, no criminal liability is attached to an attempt if the defendant proves that, acting of his/her own free will and out of remorse, he/she stopped in the commission of the act or substantively contributed to prevention of the results on which the completion of the offense depends; however, the foregoing does not derogate from his/her criminal liability for another completed offense connected to the act (Section 28 of the Penal Law).

46. Where the Penal Law sets a mandatory penalty or a minimum penalty for an offense, then this penalty shall not apply to an attempt to commit the offense (Section 27 of the Penal Law).

47. Additionally, the Penal Law recognizes the possibility that an offense might be committed by an individual or by a group of persons. Indeed, a perpetrator of an offense is defined to include a person acting in concert with others (joint perpetrators) or through someone else. Participants in the commission of an offense are each deemed joint perpetrators, irrespective of whether the entire offense was committed by each of them or whether different acts constituting the offense were performed separately by any of them. Committing an offense "through" someone else is defined as contributing to someone else's commission of an act by using that other person as his/her instrument for the commission of the act, where the other person is in one of the following situations (within the meanings assigned to them in the Penal Law):

(a) Minority or mental incompetence;

(b) Lack of control;

(c) Without criminal intent;

(d) Misunderstanding of the circumstances;

(e) Under duress or with justification.

Enticement

48. Enticement is defined as causing someone else to commit an offense by means of persuasion, encouragement, demanding, requesting persistently or by other means involving the application of pressure (Section 30 of the Penal Law).

Accessory

49. If a person does anything – before an offense is committed or during its commission – to make its commission possible, to support or protect it, or to prevent the perpetrator from being captured or the offense or its spoils from being discovered, or if he/she

contributes in any other way to the creation of conditions for the commission of the offense, then he/she is an accessory (Section 31 of the Penal Law).

Penalty for being an accessory

50. The penalty for being an accessory to the commission of an offense is half the penalty established for commission of the main offense; however, if the penalty is:

(a) The death penalty or mandatory life imprisonment, then his/her penalty shall be twenty years' imprisonment;

(b) Life imprisonment, then his/her penalty shall be ten years' imprisonment;

(c) A minimum penalty, then his/her penalty shall not be less than half the minimum penalty;

(d) Any mandatory penalty, then that shall be the maximum penalty and half thereof shall be the minimum penalty (Section 32 of the Penal Law).

Attempt to entice

51. The penalty for attempting to entice a person to commit an offense is half the penalty set for its main commission; however, if the penalty is:

(a) The death penalty or mandatory life imprisonment, then his/her penalty shall be twenty years' imprisonment;

(b) Life imprisonment, then his/her penalty shall be ten years' imprisonment;

(c) A minimum penalty, then his/her penalty shall not be less than half the minimum penalty;

(d) Any mandatory penalty, then it shall be the maximum penalty and half thereof shall be the minimum penalty (Section 33 of the Penal Law).

52. If a person incited another or was an accessory, then he/she shall not bear criminal liability for enticement or for being an accessory if he/she prevented the commission or completion of the offense, or if he/she informed the authorities of the offense in time in order to prevent its commission or its completion, or if – to that end – he/she acted to the best of his/her ability in some other manner; however, the foregoing does not derogate from criminal liability for another completed offense in connection with the same act.

53. In this context, "authorities" means the Israel Police or any other body lawfully empowered to prevent the commission or completion of an offense (Section 34 of the Penal Law).

54. In order to properly address the problem of joint perpetrators, the Penal Law provides that if, in the course of commission an offense, a person also commits a different or an additional offense, then the co-perpetrator will also be held liable for that second offense if, under the circumstances, an ordinary person could have been aware of the possibility that the second offense could be committed. However, if the second offense requires "intent", then the co-perpetrator shall be liable for the lesser offense of "indifference".

55. Similarly, if a person entices another person to commit an offense or acts as an accessory to an offense, and in the course of commission of the offense, the principal perpetrator also commits a different or an additional offense, then the former person will also be held liable for an offense of negligence in connection with that second offense, provided such an offense of negligence exists in respect of the second offense (Section 34A of the Penal Law).

56. Attempt, enticement, attempt to entice and abetting are not punishable in respect of an offense defined as a "transgression" (i.e. any offense that is punishable by up to three months' imprisonment or a fine of up to 14,400 NIS (US$ 3,789)) (Section 34C of the Penal Law).

57. Unless legislation explicitly or implicitly provides otherwise, any enactment that applies to the commission of a completed offense itself, also applies to an attempt, incitement, an attempt to incite or abetting in respect of that same offense (Section 34D of the Penal Law).

Article 3 (3) – Appropriate penalties

58. States parties are required by the Protocol to make the offenses related to the Protocol punishable by appropriate penalties that take into account their grave nature. As detailed above, all of the above offenses are attended by severe penalties, matching their grave nature.

Article 3 (4) – Liability of legal persons

59. According to Section 23 of the Penal Law, legal persons can bear criminal liability as follows:

(a) For an absolute liability offense: if the offense was committed by a person in the course of the performance of his/her duties in the corporation;

(b) For an offense that requires proof of criminal intent or negligence: if – under the circumstances of the case and in light of the position, authority and responsibility of the person in the management of the affairs of the corporation – the act by which he/she committed the offense, his/her criminal intent or his/her negligence are to be deemed the act, the criminal intent or the negligence of the corporation;

(c) If the offense was committed by way of omission, when the obligation to perform is directly imposed on the corporation, then it is immaterial whether the offense can or cannot be related also to a certain officer of the corporation.

60. The vast majority of the offenses relevant to the Protocol require criminal intent, such that the liability of legal persons would be determined according to the circumstances of the above subsection (2).

Articles 3 (5) and 3 (1) (a) (ii) – Adoption

61. In the context of sale of children, the Protocol requires that States parties criminalize "improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international instruments on adoption" (Article 3(1) (a)(ii)). The Protocol further requires State parties to take all appropriate measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments (Article 3(5)).

62. The law in Israel permits adoption. Most matters related to adoption, including the rights and obligations of persons involved in the process and the procedural aspects of the issue, are regulated in the Adoption Law 5741-1981 (the "Adoption Law").

63. The main principles of the Adoption Law are that adoption can only occur pursuant to an order given by a court of law, upon request of an adopter, and that the adoption order, as well as every decision regarding the adoption proceedings, may be issued only if the

court is convinced that it is in the best interests of the child (Section 1 of the Adoption Law). Making the validity of any adoption conditional upon a court-issued adoption order ensures the court's supervision over the entire process. The court is thus empowered to act as guardian of the child's best interests. This process also helps to reduce the likelihood of illegal adoptions.

64. According to Israeli law, a court may not issue an adoption order unless it is convinced that the biological parents gave consent to the adoption or if the child was declared adoptable by the court, in accordance with the conditions set by the Adoption Law.

Parental consent

65. The Adoption Law contains specific detailed provisions concerning parental consent. Such consent can only be made before a State official following the provision of sufficient explanations and verification that the consent is informed.

66. Parental consent for adoption must be informed and may only be given after the full information concerning all relevant issues has been brought to the parents' attention, in clear language (Section 8A of the Adoption Law), including: the possibility to raise the child by himself/herself or with the assistance available under law; the implications of adoption, including emotional aspects; the stages of the adoption process; the legal implications and consequences of adoption; the possibility to consult any other person before signing the consent document; the possibility to be accompanied by another person while signing the document; the importance of providing details of the other parent; and the possibility to leave a letter or a memento in the adoption file for the child (Section 8B of the Adoption Law).

67. An authorized social worker must explain to a parent who is asking to give his/her child up for adoption, the importance of providing details of the other parent in order to seek his/her opinion concerning the adoption and to ensure the best interests of the child. If the parent refuses to do so, the authorized social worker must bring it to his/her attention that he/she may provide such details that would be used only for the purpose of locating the other parent for medical reasons, reference or any other reason specified by the parent (Section 8C of the Adoption Law).

68. Parental consent for adoption may be given before both a judge and an authorized social worker, or before both a lawyer, authorized by the Attorney General, and an authorized social worker. This arrangement was established specifically to guarantee that the consent is informed and given freely. Parental consent must be documented and signed by the parent and by both the judge or the lawyer and the social worker before whom the consent was given (Section 9 of the Adoption Law).

69. Parental consent for adoption given outside the State of Israel may be given by signing the consent document before the diplomatic or the consular representative of Israel, in accordance with the laws in the place where the consent was given or in accordance with the laws in the main residence of the parent or the child at the time of consent (Section 9A of the Adoption Law).

70. In addition to the safeguards mentioned above, the court may, upon request of a parent, annul parental consent for adoption if it is convinced that the consent was given by illegitimate means. The court may also, in special cases, allow a parent to reconsider his/her consent to give his/her child up for adoption, on the condition that the request is made within 60 days following the later of the day on which the child was given to the potential adopter and the day of signature of the consent document, and that the adoption order has not yet been issued (Section 10 of the Adoption Law).

71. In order to prevent attempts to persuade mothers or pregnant women to give up their children for adoption, the Adoption Law forbids the acceptance of parental consent for adoption within seven days following the birth of the child, unless this is approved by the court upon a finding that such a delay could jeopardize the life or well-being of the parent or the child (Section 8A of the Adoption Law).

72. In order to prevent illegal actions and in order to maintain control over the process, transferring the custody of a child to the adoptive parents is possible only through an authorized social worker, who is required by law to verify that the child's parents have given their consent to the adoption or that the child was declared adoptable by the court. Any other action made by the social worker is required to be approved by the court (Section 12 of the Adoption Law).

73. As stated above, parental consent is the primary means provided by the law for adoption to occur. However, if parental consent is not given, the court is authorized, at the request of the Attorney General, to declare the child as adoptable, if the court determines that (Section 13):

(a) There is no reasonable possibility to identify the parent, to locate him/her or to obtain his/her opinion concerning the adoption;

(b) The parent is the father of the child but was not married to the mother and did not recognize the child as his own, or he recognized the child but the child did not live with him and the father refused without reasonable grounds to allow the child to live with him;

(c) The parent is dead or was declared incompetent, or his/her guardianship concerning the child was denied;

(d) The parent abandoned the child or, without reasonable ground, refrained from having a personal relation with him/her during six consecutive months;

(e) The parent refrained, without reasonable ground, to fulfil all or most of his/her obligations toward the child during six months in sequence;

(f) The child was held outside his/her parents' home during six months that began before the child reached the age of six and the parent refuses, without justification, to allow the child to reside with him/her;

(g) The parent is unable to take proper care of the child due to the parent's behaviour or condition, and there is no likelihood that such behaviour or condition will change in the near future despite any reasonable financial or treatment assistance by the welfare authorities to rehabilitate the parent; or

(h) The refusal to give consent is motivated by immoral grounds or aimed at an illegal purpose.

74. The court must refrain from ordering the taking of action that is aimed at locating the parent in any of the following cases:

(a) The action could jeopardize the life or the health of any of the parents or the child, or cause irreversible damage to any of them;

(b) The child was born as a result of sexual intercourse that constitutes a sexual offense or as a result of sexual intercourse between family members;

(c) The father knew about the pregnancy or about the existence of the child but refrained, without reasonable ground, from contacting the mother concerning the pregnancy or from contacting the child.

Inter-country adoption

75. In principle, Israeli law allows for the adoption of a child from another country ("inter-country adoption"). The procedure for such an adoption is subject to the rules set by the Adoption Law and to applicable international law. In that regard, the State of Israel is a party to the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (29 May 1993) and fully complies with its provisions.

76. In order to conduct and supervise the process of inter-country adoption, the Minister of Social Affairs and Social Services appointed a chief social worker who functions as the "central authority" for inter-country adoption pursuant to the Adoption Law as well as for the purposes of the Hague Convention (Section 28B to the Adoption Law).

77. Inter-country adoption may only be carried out through a non-profit organization whose exclusive purpose is to act in the field of inter-country adoption and is approved and recognized by the Minister of Social Affairs and Social Services and the Minister of Justice (hereinafter, the "Ministers") (Section 28C of the Adoption Law). The organization must act in good faith while ensuring the best interests of the child and the protection of his/her basic rights in accordance with applicable laws and international standards.

78. The approval for such organization is given for a period of two years, which can be extended from time to time for additional periods, in order to enable ongoing supervision and inspection of the organization's activities (Section 28V to the Adoption Law).

79. The Ministers may approve an organization if they are satisfied that it meets all the conditions set by the Law, including, inter alia, employing qualified employees and high-level professionals such as social workers, a lawyer, a bookkeeper and an internal auditor, and paying reasonable and fair remuneration or salary to its managers, employees and those acting on its behalf. The above conditions are essential to ensure that the organization functions and performs its duties in an appropriate manner and to prevent misuse of its role in a manner that might harm the minors.

80. An application for approval of the organization must be submitted in writing to the Ministers in the manner prescribed by the Adoption Regulations (Recognition of an Inter-Country Adoption Organization) 5758-1998. The application must include a legal opinion as to the adoption procedures applicable in the countries in which the organization wishes to act, a copy of all relevant laws, and all other permits and certifications that confirm the organization's authorization to carry out inter-country adoption in those countries.

81. A recognized organization is subject to the central authority's supervision and, upon request from time to time, must provide information and documents regarding its activities.

82. While the organization is subject to the central authority's ongoing supervision, the issuance of an inter-country adoption order remains within the sole purview of a court, which may grant it only after being convinced that all conditions for inter-country adoption prescribed by law have been met. A violation by the organization of its obligations can constitute a civil tort as well as a criminal offense liable to one year's imprisonment or a fine of 75,300 NIS (US$ 19,815).

83. Moreover, an organization is not allowed to publish any advertisement other than advertisements containing practical information concerning its activities and on the condition that publishing such information is consistent with the principle of the best interests of the child.

84. An organization is not allowed to demand, charge or receive, directly or indirectly, any payments from an applicant for its activities in regard to inter-country adoption, either in Israel or abroad, except for its actual expenses incurred for such activities, and for services authorized by the Minister of Social Affairs and Social Services to the extent the

amount charged does not exceed the maximum amounts prescribed by the Minister of Social Affairs and Social Services in the Adoption Regulations (Maximum Payments for Recognized Organization) 5758-1998.

85. In order to enforce the obligations under the Adoption Law, Section 32 of the Adoption Law provides that a person who offers, gives, requests or accepts remuneration (other than amounts that can legally be charged for the inter-country adoption), whether by money or in kind, for adoption or for mediation, without the court's permission, commits an offense punishable by three years' imprisonment.

86. Additionally, pursuant to Section 33 of the Adoption Law, a person who delivers, receives or holds a child for adoption in Israel or for inter-country adoption in a manner contrary to the provisions of the Adoption Law, commits an offense publishable by three years' imprisonment.

87. Finally, several acts concerning the adoption procedure, such as disclosing information, breaching confidentiality obligations, making a prohibited advertisement and receiving illegal payments in regard to inter-country adoption, are criminalized and carry a penalty of one year's imprisonment or a fine.

88. The State of Israel conducts a registration of the population, according to the Population Registration Law 5725-1965 (the "Registration Law"), in which several details concerning a resident are registered. The notification for all births in Israel must be delivered to a registration official within 10 days of the date of birth (Section 6 of the Registration Law). The notification must be delivered by the person in charge of the institution where the birth took place. "Institution" is defined to include a hospital, prison, hotel, public aircraft, sea craft or vehicle. If the birth took place elsewhere, the notification must be delivered by the parents of the newborn, or the physician or the midwife who attended the birth. In such a case, the notification must include a medical certificate from the physician or a deposition from the midwife confirming that the mother of the newborn is his/her biological mother.

89. If the birth took place outside an institution and was not attended by a physician or a midwife, the notification must include an affidavit from the parents of the newborn confirming that the mother of the newborn is his/her biological mother, a medical certificate given by a physician who monitored the pregnancy starting from week 28 of the pregnancy, and a medical certificate given by a physician who examined the mother of the newborn within 48 hours of the time of birth. If the above-mentioned medical certificates are not available, the notification must include the results of a genetic test made in accordance with the law in order to ascertain that the mother of the newborn is his/her biological mother.

90. Moreover, according to the Registration Law, a notification must be made concerning any death within 48 hours (Section 7 of the Registration Law), and any abandoned child within 10 days (Section 9 of the Registration Law).

91. In order to enforce the obligations mentioned above, the Registration Law provides that a person that knowingly delivers any incorrect detail, document or notification is liable for three months' imprisonment. Moreover, a person who does not deliver a notification as required is liable for two weeks' imprisonment or a fine (Section 35 of the Registration Law).

92. The above-mentioned offenses in Sections 32 and 33 of the Adoption Law conform with the obligation set in Article 3(1)(a)(ii) of the Protocol, in which States parties are required to criminalize "improperly inducing consent, as an intermediary, for the adoption of a child". A common practice used to improperly induce consent is by offering or giving compensation for the relinquishment of parental rights, an act criminalized by the offense

set in Section 364 of the Penal Law, as mentioned above. Should parental consent be induced improperly through other means, such as intimidation, threats or deception, the relevant criminal offenses would apply to such acts.

Case law

93. In accordance with the above-mentioned legislation, Israeli law enforcement agencies fully utilize every measure available to combat the offenses relevant to the Protocol, as evidenced by the following examples of case law.

Child prostitution

94. On 22 March 2012, the Supreme Court rendered a judgement regarding a case in which the defendant was charged with exploitation of minors for prostitution by way of inducing minors to prostitution (Sections 203B(A)(1) and 201 of the Penal Law), for soliciting four girls to have sadomasochistic sexual relations in his apartment, and attempting to exploit a fifth minor. The defendant was also charged with inducing minors to prostitution by way of pandering (Sections 203B(A)1 and 199(A)2 of the Penal Law), exploitation of minors by way of inducing a minor to prostitution under aggravated circumstances (Sections 203B(A)(3), 201 and 203 of the Penal Law), and supplying all five girls with drugs (Section 21 of the Dangerous Drugs Ordinance 5733-1973). Tel Aviv District Court had initially sentenced the defendant to a five-year prison sentence, with an additional 18 months' suspended imprisonment, and fined him 10,000 NIS (US$ 2,631), while taking into account that there was no precedent for sentencing such offenses. The State Attorney's office appealed to Supreme Court, which found that the sentence was too lenient and extended the term of imprisonment to eight years. The Supreme Court mentioned in its ruling that the lack of precedent was taken into account, and that future crimes, if brought before the court, should receive harsher sentences, of ten years or more (Cr.A 3212/11 *The State of Israel v. Anonymous*).

95. In August 2010, the Petah Tikva Magistrate's Court convicted a defendant on three different counts: 1) maintaining a place for purposes of prostitution (Section 204 of the Penal Law); 2) prostitution and obscenity (Section 199(A) (2) of the Penal Law); and 3) exploitation of minors for prostitution (Section 203B (A) (1) of the Penal Law). The defendant was found guilty of operating a massage parlor and "employing" a 16-year-old girl, and was sentenced to ten months' imprisonment. The defendant argued that, in her application, the young woman had lied about her age. The Court rejected the defendant's claim, holding that the defendant willfully ignored the possibility that the young woman was underage, and did not ask for any certification and/or official document to verify her age (Cr.C, 20510/09 *The State of Israel v. Michael Praver*).

96. On 18 October 2009, Jerusalem District Court convicted a defendant who had solicited two teenage girls to have intercourse with men inside his apartment in exchange for money. The defendant himself compensated the girls for maintaining sexual relations with him on several occasions and supplied the girls with drugs. The Court convicted the defendant of exploitation of minors for prostitution (Section 203B (A) (1) of the Penal Law) and influencing the girls to use dangerous drugs (Section 21 of the Dangerous Drugs Ordinance). The Court sentenced the defendant to 15 months' imprisonment and four months' suspended imprisonment (S.Cr.C. 605/09 *The State of Israel v. Ben Moha*).

97. In December 2008, Jerusalem District Court convicted a woman of exploitation of minors for prostitution with aggravating circumstances, namely, an offense committed by a person responsible for the minor (Section 203B(c) of the Penal Law). The mother subjected and involved her 16-year-old daughter in acts of prostitution that took place in the family home. The Court mentioned that this case is complicated due to the mother's and daughter's difficult daily routine. Nonetheless, the Court held that society could not tolerate

such repugnant behavior and lack of moral values. The defendant was sentenced to five years' imprisonment and a one-year suspended imprisonment, and she was fined NIS 30,000 (US$ 7,894) (S.Cr.C, 8075/07 *The State of Israel v. Anonymous*).

Child pornography

98. On January 10, 2012, the District Court of Nazareth rendered a judgement in an appeal regarding a case concerning the possession of child pornography. The defendant was charged with multiple violations of Section 214(b3) of the Penal Law (possession of obscene photos, including images of children) (see paras. 36–39 above). In this case, following an investigation request from INTERPOL, the defendant's computer was searched and a large amount of child pornography was found. Nazareth Magistrate's Court found the defendant guilty, despite the State's inability to prove that he had actually watched or distributed the material. The Court ruling stated that the offense required the mere possession of the material, regardless of actual use or distribution. This perception stems from the purposes of the law, which include prevention of the exploitation of minors, by deterring the potential consumers of such material. Nazareth Magistrate Court sentenced the defendant to eight months' suspended imprisonment and fined him 10,000 NIS (US$ 2631). The State and the defendant both appealed to the District Court, which extended the sentence by an additional six months' imprisonment, to be served in community service. The District Court stressed the importance of sentences that will create substantial deterrence, but took into account the defendant's contribution to the community and his good behaviour since the offenses were committed, and therefore did not impose the maximum penalty (Cr.A. 490/11 *The State of Israel v. Yafeem Gorivich*).

99. On 14 October 2009, Haifa Magistrate's Court sentenced a defendant to five months' imprisonment to be served in community service, nine months' suspended imprisonment and a fine of NIS 2,000 (US$ 526). The defendant was found guilty of possession of obscene publications and display (Section 214(b3) of the Penal Law). The Court emphasizes the gravity of the offense, as it enables and creates the continuance of demand for child pornography (Cr.C. 14057/08 *The State of Israel v. Itzhak Bruk*).

100. On 17 May 2009, the Supreme Court rejected an appeal filed by a convicted offender. The appellant was convicted by Tel Aviv District Court based on his own admission for possession and display of obscene publications (Section 214(b3) of the Penal Law). The Supreme Court held that the purpose of Section 214(b3) is to eradicate sexual abuse of minors. According to the Court, the classification of this Section as a "misdemeanor" does not detract from the gravity of the crime or the severity of the defendant's actions, which ultimately contributed to the production and distribution of pedophile materials (P.Cr.A. 3890/09 *Inbar Mor v. The State of Israel*).

Adoption

101. An Israeli couple offered a Philippine foreign worker compensation and flight expenses back to the Philippines in exchange for her baby. Be'er Sheva Magistrate's Court convicted the two defendants based on their own admission and sentenced them to 250 hours of community service for the crime of relinquishing a minor for consideration (Section 364 of the Penal Law). Contrary to the probation officer's recommendation, the Court increased the recommended community service hours from 150 to 250 (Cr.C. 4833/08 *The State of Israel v. Tibi*).

Statistics

Sale of children

Table 1
Data regarding investigation cases opened between 2006 and 2011 concerning the sale of children (Sections 374A, 375A, 376, 376A, 376B, 377A of the penal law)

Year	*Number of cases*
2006	1
2007	1
2008	3
2010	2
2011	5
Total	**12**

Source: Israel Police, 22 February 2012.

Table 2
Data regarding the status of investigation cases opened between 2006 and 2011 concerning the sale of children

Status	*2006*	*2007*	*2008*	*2010*	*2011*	***Total***
Under investigation					2	**2**
Closed		1	2			**3**
Prosecution being considered (by the State Attorney's Office)					3	**3**
Prosecuted	1		1	2		**4**
Total	**1**	**1**	**3**	**2**	**5**	**12**

Source: Israel Police, 22 February 2012.

Child prostitution

102. The scope of child prostitution in Israel, which tends to be a covert activity, is subject to a lack of consensus among State authorities and non-governmental bodies. Significant efforts are made by law enforcement agencies and NGOs in order to arrive at accurate numbers of children in prostitution, so that adequate programs would be available to all the relevant children. Government bodies, along with NGOs, are cooperating in this arena and are making a sincere effort towards finding an immediate solution.

103. One of the main difficulties in regard to child prostitution is locating the children. However, all Ministries dealing with children at risk are working together towards dealing better with this phenomenon, to best estimate and assess accurately its scope.

Child sex tourism

104. Police intelligence indicates that sex tourism in general, and child sex tourism specifically, does not constitute a problem in Israel.

Table 3
Data regarding investigation cases opened between 2004 and 2011 concerning child prostitution (Sections 199, 201-203, 203B, 203C, 204, 205, 205A-205C of the penal law)

Year	*Number of cases*
2004	9
2005	8
2006	5
2007	12
2008	8
2009	12
2010	14
2011	11
Total	**79**

Source: Israel Police, 22 February 2012.

Table 4
Data regarding the status of investigation cases opened between 2004 and 2011 concerning child prostitution

Status	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*	***Total***
Under investigation						1	1	1	**3**
Closed	6	7	3	10	7	6	4	3	**46**
Prosecution being considered (by the State Attorney's Office)			1	1		4	8	6	**20**
Prosecution being considered (by Police Prosecution)							1	1	**2**
Prosecuted	3	1	1	1	1	1			**8**
Total	**9**	**8**	**5**	**12**	**8**	**12**	**14**	**11**	**79**

Source: Israel Police, 22 February 2012.

Child pornography

105. There are no statistics with regard to the extent of child pornography in Israel.

Table 5
Data regarding investigation cases opened between 2004 and 2011 concerning child pornography (Section 214 of the penal law)

Year	*Number of cases*
2004	25
2005	29
2006	25
2007	78
2008	122
2009	100

Year	*Number of cases*
2010	46
2011	43
Total	**468**

Source: Israel Police, 22 February 2012.

Table 6
Data regarding the status of investigation cases opened between 2004 and 2011 concerning child pornography

Status	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*	***Total***
Under investigation		1		1	4	3	13	14	**36**
Closed	20	16	15	50	90	71	20	18	**300**
Prosecution being considered (by the State Attorney's Office)		4	3	8	16	20	11	11	**73**
Prosecution being considered (by Police Prosecution)				2	7	3	2		**14**
Prosecuted	5	8	7	17	5	3			**45**
Total	**25**	**29**	**25**	**78**	**122**	**100**	**46**	**43**	**468**

Source: Israel Police, 22 February 2012.

Article 4

Article 4 (1) – Jurisdiction

106. Article 4(1) provides that each State party shall take measures as may be necessary to establish jurisdiction over criminal conduct identified in Article 3(1) of the Protocol, concerning the sale of children, child prostitution, and child pornography, when the offenses are committed in its territory or on board a ship or aircraft registered in that State.

107. Israeli criminal laws apply to all domestic offenses (Section 12 of the Penal Law). For such purpose, the term "offense" includes every offense committed within Israeli territory, fully or partially, or an act in preparation for the commission of an offense, an attempt, an attempt to induce another to commit an offense, or a conspiracy to commit an offense committed abroad, on condition that all or part of the offense was intended to be committed within Israeli territory; for this matter, "Israeli territory" is the area of Israeli sovereignty, including the strip of its coastal waters, as well as every vessel and every aircraft registered in Israel (Section 7 of the Penal Law).

108. In order to apply the Israeli Penal Law, it is important to verify that the applicability of Israeli criminal laws – also in respect of foreign offenses – is not restricted by any foreign enactment or any act of a foreign court of law, unless otherwise provided by law. Moreover, no person may be put on trial for a foreign offense, except by the Attorney General or with his/her written consent, if he/she concluded that doing so is in the public interest; Israeli criminal laws do not apply in respect of an offense if the person was tried for it abroad at the request of the State of Israel and, in the event that he/she was convicted there, he/she served his/her sentence. In any case, if Israeli criminal laws can be applied by

virtue of several ways of applicability, they shall be applicable by the least restricted applicability (Section 9 of the Penal Law).

109. In addition to the applicability of the Penal Law according to the sections mentioned above, the State of Israel can establish jurisdiction over foreign offenses through international conventions, at the request of a foreign State and on a reciprocal basis, provided that the criminal laws of the requesting State apply to the offense; and that the offense was committed by a person who is on Israeli territory and who is an Israeli resident, whether or not he/she is an Israeli citizen. Subject to the application of Israeli law against that person, the requesting State must waive the applicability of its law to the case at hand. Finally, the penalty imposed for that offense cannot be more severe than that could have been imposed under the laws of the requesting State. Additional relevant provisions may be set in the convention.

Article 4 (2) (a) – Offenses committed by nationals or against nationals

110. In regard to offenses committed against an Israeli citizen or an Israeli resident**,** the Penal Law applies to foreign offenses committed against the life, body, health or freedom of an Israeli citizen or of an Israeli resident, for which the maximum penalty is one year's imprisonment or more. As mentioned above, according to Israeli law, the acts referred to by the Protocol are punishable by penalties that exceed one year's imprisonment and therefore, the Penal Law applies to such acts.

111. However, if the offense was committed on a territory that is subject to the jurisdiction of another State, then the criminal laws shall apply to it only if all the following conditions are met (Section 14(b) of the Penal Law):

(a) It is an offense also under the laws of that State;

(b) No restriction on criminal liability applies to the offense under the laws of that State;

(c) The person was not already found innocent of it in that State, or – if he/she was found guilty – he/she did not serve the penalty that was imposed.

112. In such cases, the penalty imposed for that offense cannot be more severe than the penalty that could have been imposed under the laws of the State in which the offense was committed (Section 14(c) of the Penal Law).

113. In regard to offenses committed by an Israeli citizen or an Israeli resident, the criminal laws of Israel apply to a foreign offense categorized as a felony or misdemeanour (maximum penalty of three months' imprisonment or more), which was committed by a person who, at the time the offense was committed or thereafter, was an Israeli citizen or an Israeli resident (Section 15 of the Penal Law), unless such person was extradited from Israel to another country because of that offense and was tried there for that offense. In cases where the Penal Law applies, the above-mentioned restrictions in Section 14(b) and (c) apply as well. However, the double criminality condition in Section 14(b)(1) of the Penal Law does not apply with respect to any of the offenses set forth below if the person was an Israeli citizen at the time of commission of the offense:

(a) An offense under Section 10 of Chapter Eight (Prostitution and Obscenity), committed by a minor or in connection to a minor;

(b) Conveying a person beyond the boundaries of the State, under Section 370;

(c) Causing a person to leave a State for purposes of prostitution or slavery, under Section 376B;

(d) Trafficking in persons, under Section 377A.

Article 5

114. Article 5 addresses the issue of extradition between States parties in connection with the offenses referred to in Article 3(1) of the Protocol.

115. Extraditing a person from Israel to another country can be made only in accordance with the provisions of the Extradition Law 5714-1954 ("Extradition Law"), which regulates all aspects of extradition.

116. According to the Extradition Law, extradition is possible only if there exists an extradition treaty in force between Israel and the requesting State and if the requested person is either a defendant or convicted of an extraditable offense. It is important to emphasize that reciprocity is an important condition applied in considering requests for extradition, unless determined otherwise by the Israeli Minister of Justice.

117. For the purposes of the Extradition Law, a "treaty" is either a bilateral agreement or a multilateral convention, including an agreement or convention that is not specific for extradition but includes provisions concerning this matter; or a special agreement between Israel and the requesting State concerning extraditing a specific person, for example an ad hoc extradition agreement, in accordance with the Extradition Law. An "extraditable offense" is an offense that, if committed in Israel, would be punishable by at least one year's imprisonment. As mentioned above, all acts and activities referred to by the Protocol are criminalized and punishable by penalties that exceed one year's imprisonment. They are thus considered "extraditable offenses".

118. Accordingly, Article 5 of the Protocol constitutes an appropriate basis for extradition between Israel and other States Parties to the Protocol, subject to the fulfilment of the conditions set forth in the Extradition Law.

119. Some additional examples of multilateral or bilateral agreements can be mentioned here: Israel has been a party to the 1957 European Convention on Extradition since 1967, and is also a party to bilateral extradition agreements, with the United States (1963), Canada (1969), Australia (1975), Swaziland (1970) and Fiji (1972).

120. Moreover, the following are examples of conventions to which the State of Israel is a party, that are not extradition conventions but that include provisions concerning extradition:

(a) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of 1988 (Section 6);

(b) The United Nations Convention against Transnational Organized Crime, of 2000 (Section 16); and

(c) The United Nations Convention against Corruption, of 2003 (Section 44).

121. The Extradition Law places several restrictions on extradition to the requesting State, some of which are relevant to the matter at hand, for example if there are grounds to believe that the extradition request is based on discrimination against the requested person due to race or religion, or if the requested person was prosecuted in Israel for that offense and was found guilty or innocent.

122. Extradition is not possible if the extradition offense is punishable by the death penalty in the requesting State, and in Israel the penalty for that offense is not as such, unless the requesting State assures that death penalty will not be imposed or that, if it were

initially imposed, it would be replaced with a less severe punishment (Section 16 of the Extradition Law).

123. Additionally, extraditing a person is conditional upon the requesting State's assurance that that person will not be arrested, prosecuted or punished in the requesting State for another offense committed prior to extradition and that he/she will not be extradited by the requesting State to another country for an offense committed prior to the extradition. Such condition does not apply, however, if that person left the requesting State after extradition and came back to the State willingly, or if after extradition he/she was given the opportunity to leave the requesting State and did not leave the State during 30 days, or if the Minister of Justice consents in writing to such an action against the requested person (Section 17 of the Extradition Law). The same restrictions apply when considering requests for extradition under an agreement or convention that is not specific for extradition but includes provisions concerning this matter.

124. As for extraditing nationals of the State, the Extradition Law provides that a person who, when committing an extraditable offense, was an Israeli citizen or an Israeli resident, may not be extradited unless the extradition request is for prosecution in the requesting State, and the requesting State has undertaken to return him/her to Israel for carrying out the sentence should he/she be found guilty and sentenced to imprisonment. An Israeli citizen may waive his/her right to return to Israel for carrying out the sentence.

Article 6

125. This Article provides for general mutual legal assistance between States parties in connection with investigations or criminal or extradition proceedings brought in respect of the offenses established in Article 3(1).

Article 6 (1) – Mutual legal assistance

126. The International Legal Assistance Law 5758-1998 (the "International Legal Assistance Law") allows for mutual legal assistance between Israel and other countries in legal proceedings. Such mutual legal assistance may be granted without specific agreements, and the State of Israel provides and receives such assistance on a routine basis, regardless of the existence of specific agreements.

127. According to Section 2 to the International Legal Assistance Law, legal assistance includes the following: service of documents, collecting evidence, search and seizure operations, transfer of evidence and other documents, relocation of a person in order to testify in a criminal proceeding or to participate in an investigation, investigative acts, transmission of information, confiscation of property, provision of legal relief, authentication and certification of documents or the performance of any other legal act (civil and criminal proceedings).

128. To date, the Department of the International Affairs in the Ministry of Justice has not engaged in proceedings concerning the sale of children, child prostitution and child pornography among its mutual legal assistance cases.

Article 6 (2) – Treaties and arrangements on mutual legal assistance

129. Israel is a party to the European Convention on Mutual Assistance in Criminal Matters, of 1959, and also to bilateral agreements on mutual legal assistance with the following States: the United States (1991), Chile (1995), Turkey (1995), Ukraine (1995),

Cyprus (1996), Greece (1996), Jordan (1996), Hungary (1997), Mexico (1997), the Russian Federation (1997), Latvia (1998), Malta (2000), Argentina (2002), Panama (2002), Romania (2002), the Republic of Moldova (2004), India (2005), Italy (2007), and Serbia (2010).

Article 7

130. This Article addresses the issues of seizure and confiscation of goods used to commit or facilitate offenses and proceeds derived from these offenses.

Article 7 (a) and 7 (b) – Seizure and confiscation

131. Section 32 of the Criminal Procedure Ordinance (Arrest and Search) (New Version) 5729-1969 (the "Criminal Procedure Ordinance") grants policemen the power to seize an object, if he/she has reasonable grounds to believe that an offense was or is about to be committed with that object, that it could serve as evidence in a judicial proceeding, or that it was given as remuneration for the commission of an offense or as a means for its commission. Section 36 of the Criminal Procedure Ordinance stipulates that, if during the legal proceedings, that object was submitted to the Court as evidence, the Court may determine what shall be done with the object.

132. Section 39 of the Criminal Procedure Ordinance states that a Court may order the confiscation of an object that was seized or held by the Police in accordance with this ordinance, if the object is owned by the person who was convicted of the offense and is connected to the offense. If the person who was convicted of an offense is not the owner of the object, and the object was given as remuneration for the commission of that offense (or a related offense) or as a means for its commission, then the object may be confiscated only if it was given or consented to be given for such purpose by its owner or by its lawful possessor.

133. Other criminal statutes provide ample bases for seizure and confiscation. The legislation contains several provisions authorizing forfeiture for offenses covered by the Protocol: the Battle Against Organized Crime Law 5763-2003 (the "Organized Crime Law") and the Seizure and Confiscation of Profit Earned by Offenses Publication 5765-2005; and Sections 11 and 21 of the Prohibition of Money Laundering Law 5760-2000.

134. Section 377D of the Penal Law, which was incorporated into the Penal Law in October 2006 as part of the enactment of the Anti-Trafficking Law, states that the provisions of Sections 5 to 33 of the Organized Crime Law (other than Sections 8, 14(2) and 31 thereof), apply to the forfeiture of property related to the offense of holding under conditions of slavery (Section 375A of the Penal Law) and the offense of trafficking in persons (Section 377A of the Penal Law), as the case may be and mutatis mutandis.

Article 7 (b) – Mutual legal assistance requests

135. On 24 October 2010, the International Legal Assistance Law was amended with regard to the conditions for assistance in confiscation and forfeiture. Prior to the amendment, the Law required that a foreign State requesting the issuance of a temporary order undertake to bear the expenses regarding any damages caused to third parties, in the event that the property is ultimately not forfeited. Similarly, a foreign State requesting the transfer of property outside of Israel was required to undertake to bear such expenses in the event that the forfeiture order was to be canceled by the court. Prior to the amendment, such

undertaking constituted a potential obstacle to cooperation in forfeiture. The International Legal Assistance Law was therefore amended, by granting discretion to the Minister of Justice to waive the requirement for such undertaking by the requesting State.

Article 7 (c) – Closing of premises

136. The Law Limiting Use of Premises in Order to Prevent the Commission of Crime 5765-2005 authorizes the Police and the courts to limit the use of premises and to close them if there are reasonable grounds to suspect that those places would continue to serve for the purpose of the following offenses: procurement (Section 199 of the Penal Law), inducement to engage in prostitution (Section 202 of the Penal Law), trafficking in persons for inducing the person to commit an act of prostitution (Section 377A(a)(5) of the Penal Law), maintaining a place for purposes of prostitution (Section 204 of the Penal Law) and renting a place for prostitution (Section 205 of the Penal Law).

137. The courts have the authority to issue closure orders for periods of 90 days each time, with the possibility of extension. The Police may issue such orders for a period not to exceed 30 days, during which they may request the court to rule on the matter. Violating such an order is punishable by two years' imprisonment.

Article 8

138. As is detailed below, Israeli law provides extensive protection for child victims, as required by Article 8 of the Protocol.

139. At the outset, it is important to note that the victim of an offense can often play a key role in all stages of the criminal legal process. Israeli law grants such victims special status, beyond their regular status as prosecution witnesses. Indeed, Israel makes every effort so that all officials at all stages of the process treat victims with dignity, fairness and understanding, assist them to receive full compensation available by law for their damages and do their best to protect victims from further damages, subject of course to the rights of defendants.

140. The main legislation regarding the rights of crime victims is the Crime Victims' Rights Law 5761-2001 (the "Victims' Rights Law"), the purpose of which is to determine the rights for a crime victim and to protect his/her dignity as a human being without prejudicing the legal rights of suspects, defendants and convicts. The principles of the Victims' Rights Law are that granting rights to the victim of a crime must be made while giving consideration to his/her needs, while protecting his/her dignity and privacy, within a reasonable amount of time (Section 3 of the Victims' Rights Law).

141. The Victims' Rights Law applies to "victims of a crime". The term is defined as a person that suffered directly because of a crime, as well as a family member (spouse, parent, parent's spouse, children, brother or sister) of a person who died as a consequence of the crime (excluding the suspect, the defendant or the person convicted of the crime). For the purposes of this law, "crime" refers to an offense, excluding traffic violations, which is qualified as a misdemeanor or a felony, and which was either committed in Israel or, committed abroad but prosecuted before an Israeli court by official State authorities.

142. As mentioned above, all actions and activities referred to by the Protocol are criminalized by Israeli law and penalized by severe punishments, thus falling within the scope of the Victims' Rights Law.

143. The Victims' Rights Law grants victims of crime a wide range of rights. Victims of sexual or violent offenses are granted additional rights, stemming from the particular

gravity of such offenses. The Victims' Rights Law provides measures for protecting the rights and interests of victims of crime, including children, through all stages of the legal proceedings, as is described more fully below.

Article 8 (1) (a) – Recognizing the vulnerability of child victims

144. Section 4(a) of the Victims' Rights Law states, as a core principle, that the implementation of a child victim's rights should be adjusted and modified according to the relevant circumstances of each case, and the child's age and level of maturity, all in accordance with the Convention on the Rights of the Child.

145. According to Section 18 of the Crime Victims' Rights Regulations 5762-2002 (the "Crime Victims' Rights Regulations"), the rights of a child below the age 14 can be exercised through his/her parent or legal guardian, while the rights of a child who is 14 years old or older can be exercised either through his/her parent or legal guardian or personally if he/she so requests. However, exercising such rights through parents or legal guardians is not possible if the parent or the legal guardian was a suspect or involved in committing the crime, or if exercising the rights through the parent or the legal guardian might impair the physical or mental well-being of the child. In such a case, the exercise of the child's rights must be done through another person, whose identity will be determined after consulting with a social worker and, to the extent possible, after hearing the child's opinion.

Children as witnesses

146. Investigating children, either as witnesses or as victims of a crime, is one of the most sensitive aspects of the legal criminal process, requiring a heightened level of awareness of the vulnerability of child victims and an adaptation of the procedures in place so as to recognize the special needs of child victims.

147. The Law of Evidence Revision (Protection of Children) 5715-1955 (the "Protection of Children Law") provides that children under the age of 14 may be questioned and investigated in connection with specific offenses (which includes, inter alia, prostitution and obscenity offenses and sex and violence offenses), only by a specialized investigator trained in dealing with children and appointed by the Minister of Justice (the "investigator for children").

148. The investigator for children must document the investigation of the child, including all that transpired, by video, by audio (if video recording was not possible or if the child refused to answer questions due to the video recording), or in writing (if audio recording was not possible or if the child refused to answer questions due to the audio recording). Such testimony, written notes or report edited by the investigator for children during the investigation or afterwards are admissible as evidence in a court of law. However, a defendant cannot be convicted based on such evidence without the presence of other corroborating evidence (Section 11 of the Protection of Children Law).

149. Later, during legal proceedings in court, a child under the age of 14 may not testify, and his/her written statement may not be submitted to the court, unless the submission of such testimony or statement is authorized by the investigator for children. If that authorization is granted, the testimony will be given in closed doors in the sole presence of the prosecutor, the defendant, his/her attorney and the investigator for children. Other persons can be present only with the court's permission.

150. The reason for such an instruction is to avoid or minimize the potential harm to the minor and to allow for the testimony to be given with less pressure. Such testimony, depending on the circumstances, may be given through closed-circuit television

(Section 2(c) of the Amendment of Procedure (Examination of Witnesses) Law 5718-1957 (the "Examination of Witnesses Law")).

151. Other measures for recognizing the vulnerability of child victims and adapting procedures to recognize their special needs will be discussed below, regarding the Article dealing with protecting the privacy and identity of the child victim.

Article 8 (1) (b) – Keeping child victims informed

152. As mentioned above, even though a child victim of a crime is not a party to the proceedings, Israeli law grants him/her special status through all stages of the legal proceedings and imposes on all officials specific duties in this regard. This includes the duty to inform the victim of a crime regarding several matters concerning the legal process.

153. The general obligation on that matter is prescribed in Section 8 to the Victims' Rights Law, which details the rights of a victim of a crime to receive information concerning his/her rights as a victim and also concerning the manner in which the criminal proceedings are being conducted, except if disclosure of these details is forbidden by law or if the person in charge of the investigation or the prosecution determines that providing that information could impair the investigation or the privacy or well-being of another person.

154. With respect to information concerning the manner in which the criminal proceedings are being conducted, the Victims' Rights Law imposes duties upon all officials involved in the legal process, to provide information to the victim.

155. The Victims' Rights Law includes a list of types of information that the crime victim is entitled to receive and specifies the identity of the person or body responsible for conveying that information. Some of the information is mandatory, while the remainder can be obtained by request of the victim.

156. Note that the provisions of this law do not derogate from the obligation to inform a complainant under the provisions of the Criminal Procedure Law.

Article 8 (1) (c) – Presenting the views, needs and concerns of child victims

157. Section 17 of the Victims' Rights Law grants the victim of a "grave sexual or violent crime", as defined in that law, the right to express to the prosecutor his/her opinion, position and views concerning the plea bargain, prior to the court's approval of the plea bargain, unless the District Attorney or the Head of the Prosecution Department of the Israel Police, as the case may be, determines that this would cause material harm to the conduct of the proceedings. A similar right is granted concerning a decision to delay the procedures against the defendant (Section 16 of the Victims' Rights Law).

158. Section 18 of the Victims' Rights Law grants the crime victim the right to submit a written statement to the investigating body or the prosecutor concerning any injury or damage caused to him/her as a result of the crime, including bodily or mental harm, or damage to property (Victim Impact Statement). In such a case, the prosecutor will present the above-mentioned statement to the court during the sentencing hearing.

159. Section 19 of the Victims' Rights Law entitles a victim of a sexual or violent crime to express in writing his/her position and views concerning the expected danger stemming from a possible early release of the sentenced offender from prison, before the parole board makes a final decision on the matter.

160. Section 20 of the Victims' Rights Law entitles a victim of a sexual or violent crime to express in writing his/her opinion, position and/or views, through the Pardons Department of the Ministry of Justice, prior to the decision of the President of the State of Israel concerning an application for a pardon or mitigation of punishment. To that end, the Department of Pardons in the Ministry of Justice assigns a designated attorney to establish contact with the victims and their families and seek their input. The Department makes every effort to contact the victim and to inform them of their rights as mentioned above.

Article 8 (1) (d) – Providing appropriate support services to child victims

161. Section 11 of the Victims' Rights Law provides for the right of victims of a crime to receive information concerning available support services provided by the State or by non-governmental bodies, including centers for prevention of domestic violence.

162. The Crime Victims' Rights Regulations require the State to disseminate information leaflets that contain details concerning the legal rights of a victim of a crime and the stages of the legal process, telephone numbers and addresses of bodies providing social and legal support to victims of a crime, and details concerning available protection from perpetrators. Those information leaflets are deposited in an accessible and conspicuous place in different locations where they are most likely to be viewed by victims of a crime after its occurrence, such as police stations, relief agencies, emergency rooms, ambulance stations, legal aid offices, centres for treatment and prevention of domestic violence, the secretariat of the State Attorney's Offices, and courts of law. The information leaflets are printed in different languages, including Hebrew, Arabic, English, Amharic and Russian, and they are also available on the internet.

163. Furthermore, the Victims' Rights Law requires that the State Attorney's Office establish an Assistance Unit and that the Police appoint a policeman in charge, in order to ensure that victims can properly exercise their rights. These officials are responsible for conveying information to and from victims, guiding other employees and assisting them in implementing this law, and gathering relevant and updated information concerning support and assistance services for victims of a crime and disseminating such information to other employees.

164. State Attorney's Guideline No. 14.7, entitled "Assistance to Crime Victims and Prosecution Witnesses in a Criminal Proceeding" (last update – 1.8.2011) ("Guideline No. 14.7"), instructs that members of the State Attorney's Office be trained to ensure that crime victims are provided with the information necessary to receive support, including urgent medical and social care, compensation according to the law and information on public and national bodies providing counsel and care.

Article 8 (1) (e) – Protecting the privacy and identity of child victims

165. As mentioned above, Israeli law recognizes the vulnerability of victims of sexual or violent offenses, including and especially children.

166. When a minor is a witness in a criminal procedure or a victim of an offense under Sections 208, 214, 352-345, 374A, or any of 377A(5) to (7) of the Penal Law (sexual offenses and prostitution, obscenity offenses, abduction for the purpose of trafficking and trafficking in persons), it is forbidden to publish the minor's name, picture, address or other details that can identify him/her without the court's permission (Section 70 to the Courts Law (Consolidated Version) 5744-1984 (the "Courts Law")).

167. Guideline No. 14.7 of the State Attorney's Guidelines instructs that members of the State Attorney's Office must ask the court to explicitly mention the prohibition on disclosing the child victim's personal details, so that everyone present in the court, including the media, can be aware of it.

168. Moreover, it is forbidden to publish (except with the court's permission) any details that can identify a child under the age of 14 who was interrogated concerning an offense listed in the Protection of Children Law or who testified concerning such an offense in court, or to publish any part of their testimony. Violating the above prohibition is an offense punishable by three years' imprisonment, by a fine, or by both (Section 6 of the Protection of Children Law).

169. With respect to protecting the privacy of victims generally, Section 7 of the Victims' Rights Law prohibits all authorities from providing personal details of a victim of a sexual or violent offense (home address, workplace address and telephone number), including to the defendant or his/her attorney, without the victim's consent. The rule in regard to other crimes is that only the prosecutor is authorized to withhold personal details of the crime victim from the defendant or his/her attorney, and the prosecutor may do so only if there are grounds to believe that providing such details would impair the well-being of the victim(s).

170. In order to balance between a victim's right to privacy and the rights of the defendant, in cases where details regarding the victim are not disclosed to the defendant, the Victims' Rights Law authorizes the court, upon request of the defendant or his/her attorney, to order the disclosure of the victim's personal details, if the court finds it necessary for the defendant's defense.

171. Another kind of protection for the privacy of a victim of a crime can be found in Section 13 of the Victims' Rights Law, according to which during an investigation of a sexual or violent crime, the crime victim may not be investigated about his/her sexual past, except for an inquiry relevant under specific circumstances regarding a previous sexual relationship with the suspect, unless the officer in charge of the investigation determines that due to written reasons, such an investigation is essential for discovering the truth. If such an investigation is approved, it shall be conducted with due care while maintaining the victim's dignity and privacy. Moreover, during the trial, the court shall not allow the questioning of a victim of a sexual offense about his/her sexual past, unless preventing such questioning would cause a miscarriage of justice with regard to the defendant (Section 2A of the Examination of Witnesses Law).

Article 8 (1) (f) – Providing for the safety of child victims

172. Protection of victims during the criminal procedure constitutes a key aspect of victims' rights. The right of victims to protection is provided in Section 6 of the Victims' Rights Law, the first section in the chapter that enumerates the various rights granted to victims of a crime. Without such a protection, the criminal procedure cannot exist. Victims of a crime would not complain and would not testify, and perpetrators would not be brought to justice.

173. Such a protection must be effective and comprehensive. To that end, Section 6 of the Victims' Rights Law provides that during a criminal procedure a crime victim is entitled to four aspects of protection: first, protection from the suspect, the defendant or the convicted person, or from his/her agents or his/her friends and relatives, as much as possible and according to necessity; second, protection in the court of law, as much as possible, from any contact or unnecessary communication with any of the above individuals; third, to receive information from the Police concerning relevant options for protection from the above-mentioned persons; fourth, to live quietly in his/her home, without the presence of

the suspect, defendant or convicted person, if he/she resides with him/her, under a decision of a court of law in accordance with the Prevention of Domestic Violence Law 5751-1991 ("Prevention of Domestic Violence Law").

174. Generally, the hearings in Israeli courts are open to the public. However, for the sake of protecting victims of a crime or witnesses, the prosecutor may ask the court to conduct the hearings behind closed doors if he/she finds that it is essential for 1) protecting moral values; 2) protecting a matter related to minors or persons in a state of helplessness; 3) protecting a victim of a sexual offense; 4) protecting a victim of trafficking in persons; 5) ensuring that a victim or a witness is able to testify freely, if holding a public hearing might deter him/her from testifying or from doing so freely. If the prosecutor's motion is approved, the legal hearing is to be conducted behind closed doors. The court may, however, allow certain persons or a group of persons to be present during that legal hearing. In such cases, the court must clarify the prohibition on publishing any details concerning that legal hearing, to all persons present in the courtroom. A violation of this prohibition constitutes an offense punishable by six months' imprisonment, or one year's imprisonment if the violation concerned a minor (Section 68, 70 of the Courts Law).

175. Even in cases where the hearings are open to the public, the prosecutor may ask the court to prohibit any publication concerning the legal hearing if he/she believes that it is necessary to protect the safety of a witness or another person who was mentioned during the hearing (Section 70(d) of the Courts Law).

176. Moreover, if the presence of a certain person in the courtroom might deter a witness from testifying freely or from testifying at all, the prosecutor may ask the court to remove that person from the courtroom (Section 69(b) of the Courts Law).

177. In cases where a minor who is less than 14 years of age is testifying during a criminal procedure under Sections 345–351 of the Penal Law (sexual offenses), the prosecutor may ask the court to allow the minor to testify without the presence of the defendant, but with the presence of his/her attorney, if he/she believes that doing so is necessary to prevent mental harm to the minor (Section 2 of the Protection of Children Law). Additionally, Section 2B of the Examination of Witnesses Law enables a complainant of a sexual offense, in certain circumstances and subject to certain conditions, to testify in court without the presence of the defendant, except his/her attorney, if testifying in front of the defendant could cause damage to the complainant or impair the testimony.

178. Finally, Section 2 of the Examination of Witnesses Law grants crime victims and witnesses protection from inappropriate examination in court. This section provides that the court shall not allow examination of witnesses which includes insults, intimidation or shaming which are irrelevant or unfair.

179. In addition to the protections detailed above, which are relevant to the course of the criminal procedure itself, victims of trafficking in persons and victims of sexual offenses may be admitted to the Witness Protection Program, should they meet the relevant eligibility criteria, in particular concerning the level of intimidation and threats they risk being subjected to. The Witness Protection Authority protects witnesses and their families prior to, during and after the trial. The Authority was established in 2008, pursuant to the Witness Protection Program Law 5769-2008. The Police and the Israeli Prisons Service, as applicable, continue to protect witnesses who do not meet the criteria for this heightened protection.

Article 8 (1) (g) – Avoiding unnecessary delays

180. Section 12 of the Victims' Rights Law requires that proceedings in regard to sexual or violent offenses take place within a reasonable time to prevent any miscarriage of justice.

181. State Attorney's Guideline No. 8.2, titled "Plea Bargain in Sex Offenses and Child Domestic Abuse Cases" (last update – 1.1.2003), instructs the State Attorney's Office to utilize the greatest sensitivity and caution in handling such cases, and to take special care when considering plea bargains in such cases.

182. State Attorney's Guideline No. 8.2, also instructs that a plea bargain should be considered to promote swift indictment and sentencing, in the case where holding a trial may cause additional harm to the victim. Due to the unique sensitivity of this issue, every such plea bargain requires the approval of the District State Attorney, and in especially sensitive cases, further consultation may be held with the State Attorney. Prior to decision-making regarding such a plea bargain, consideration should be given to the possibility of consulting with an expert or the relevant welfare officer.

Article 8 (2) – Uncertainty as to the actual age of the victim

183. The first step to determine the age of the victim is to consider documentary proof, which is possible mainly to Israeli victims who hold an identity card or are otherwise registered in Israel's population registry. For this matter, the official national population registry of the Ministry of Interior constitutes reliable proof of age.

184. With regard to foreign victims, who usually lack any documentation, the Ministry of Health has issued a special procedure for determining the biological age of a foreign resident, using three levels of evaluation – a physical examination by a physician specializing in child endocrinology, an x-ray of the left hand and an ortho-partogramic filming. The findings are examined by an expert physician.

Article 8 (3) – The best interest of the child as a primary consideration

185. The best interest of the child principle exists in most Israeli child-related legislation and constitutes a primary guiding principle under Israeli law. The majority of child-related legal issues (including legislative, administrative and judicial issues) are guided by this principle. For instance:

(a) Section 2 of the Prevention of Domestic Violence Law states that any order for the protection of the child must accord with the best interest of the child consideration;

(b) Section 8(c) of the Youth Law (Care and Supervision) 5720-1960 empowers courts engaged in matters concerning a minor to appoint a legal guardian for the child if it is in the child's best interest;

(c) The Youth (Trial, Punishment and Modes of Treatment) Law 5731-1971 (the "Youth Law") considers the child's best interest as a primary consideration. The Youth Law states that minors are entitled to state their opinion and express their personal feelings prior to a decision being reached in matters that affect them.

186. The determination of the best interest of a child in a given case is based on factual elements, and is made by the court in accordance with the ordinary rules of evidence and procedure. In order to make its decision, the court hears all relevant parties and their arguments, guardians of the child, welfare representatives and social workers, expert opinion on behalf of the parties to the case or at the request of the court, and the child

himself/herself concerning his/her needs, views and opinion. Sometimes, the court requests the opinion of the State Attorney.

187. The weight afforded to the minor's view is dependent upon the child's age and level of maturity.

Article 8 (4) – Training

Investigators for children

188. As mentioned above, children under the age of 14 can be investigated as suspects, witnesses or victims of prostitution and obscenity offenses (Section 199-214 of the Penal Law) only by an investigator for children, appointed by the Minister of Justice after consultation with an advisory committee headed by a juvenile court judge. Investigators for children are under the authority of the Ministry of Social Affairs and Social Services.

189. The process of training investigators for children includes several stages, the first of which is a basic course for investigators for children, which includes 20 sessions totalling 120 hours. During the course, the investigators learn about the various ways in which children are typically harmed, thus allowing the graduates to conduct basic investigations of children. The training involves lectures, workshops, simulations, guidance, and joining experienced investigators in real investigations. During this course, the investigators are taught both the legal basis for working as investigators for children, the unique aspects of such an investigation process, and child psychology — including the memory process in regard to children, behaviour patterns that characterize children who have fallen victim to offenses and the like. The investigators are then taught how to assess whether the child is fit to testify, the reliability of their testimony and other data resulting from the investigation. The investigators are able to exercise their newly acquired skills by using the video-recordings of previous investigations and by reading instructional materials. At the end of the course, the investigators receive formal certification and become eligible for nomination before the Advisory Committee for the appointment of investigators for children.

190. The second stage of the training process is an advanced course for investigators for children. This course is available for investigators with one year of practical experience, and also includes 20 sessions totalling 120 hours. This course is designed to enhance the investigators' grasp of complex issues related to their work, and to expose them to the work and expertise of professionals in related fields. Among the topics included in the course are the therapeutic aspects of dealing with victims of sexual assault, considerations with regard to permitting a child to testify in court, the investigation of child suspects, collaboration with social workers and with the Police, and more.

191. Additionally, the training process of a special investigator may be relevant to children who are victims of offenses covered by the Protocol. This training process is intended to train the investigators for children, once they have acquired the skills of investigating and questioning children, to conduct investigations of people with mental disabilities, pursuant to the Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability) 5765-2005. The training process is divided into two parts: the first part is an annual course consisting of 20 sessions totalling 120 hours, which covers topics such as the definition and diagnosis of mental deficiency and other disabilities, the effects of such a disability on the behaviour of the victims, and how to deal with people with disabilities who have fallen victim to sexual assault. This course includes professional guided tours and an introduction to the various populations in question. At the end of the course, the Minister of Social Affairs and Social Services is asked to appoint the graduate as a special investigator, and only then may she or he conduct special investigations.

192. The second part of the training process is an annual course of ten sessions, totalling 60 hours, which is intended to further educate the investigators and accompany them in professional issues that they may encounter while investigating people with disabilities. This part completes the training process of the special investigator, who at that point will have undergone 420 hours of training in total.

Police juvenile investigators

193. Investigating minors (under the age of 18 years old) with regard to trafficking offenses (section 374A-377A of the Penal Law) is under the jurisdiction of the Police.

194. The Police provide guidance and training to their officers with respect to child victims of crime, for the purpose of increasing the efficiency and sensitivity of the Police in dealing with young people. Police investigators attend special courses offered by the Police Youth Department in order to qualify them as juvenile investigators.

195. Consistent with the Convention on the Rights of the Child, officers taking the juvenile investigators' qualification course receive information on the distinct laws and procedures available for handling youth and on community services for minors and youth. Among the topics taught is the encouragement of a constructive relationship between the youth officer, a social worker and the minor.

State Attorney's Office

196. State Attorney's Guideline No. 14.7 requires that members of the State Attorney's Office be trained to ensure that crime victims are provided with the information necessary to receive support, including urgent medical and social care, compensation according to the law and information on public and national bodies providing counsel and care.

Article 8 (5) – Protecting the safety and integrity of persons and/or organizations protecting victims

197. The State of Israel is fully committed to the safety and integrity of those persons and organizations involved in the prevention and/or protection and rehabilitation of victims of such offenses. While there are no formal procedures in place dealing specifically with this issue, the Police remains in constant contact with such persons and organizations, such that if any actual or perceived safety threats arise, the Police responds immediately.

Article 9

Article 9 (1) and 9 (2) – Prevention of the offenses and promoting awareness

198. The Government of Israel spares no efforts in the prevention of the offenses referred to in the Protocol and promoting awareness, both among the public at large and among children specifically, in relation to the harmful effects of these offenses and preventive measures that can be taken.

199. Due to the complex nature of the phenomenon, many governmental agencies are involved, in one way or another, in anti-trafficking efforts. The agencies that have taken the lead are: the National Anti-Trafficking Coordination Office, the Ministry of Public Security and the Israel Police, the State Attorney's Office, the Legal Aid Branch of the Ministry of

Justice, the Ministry of Social Affairs and Social Services, the Ministry of Health, the Ministry of Education, and the Ministry of Foreign Affairs.

Levinsky Clinic

200. The Levinsky Clinic ("the Clinic") was established in 2002 by the Ministry of Health's Tel Aviv District Health Clinic in order to reduce the rate of sexually transmitted diseases and raise awareness among the public at risk. The Clinic provides medical services, diagnosis examination, and support and counseling, all of which are provided anonymously and free of charge. These services are given impartially to individuals of all ages (including minors), without discrimination.

201. In line with other similar clinics worldwide, children and youth were identified as populations at risk for sexually transmitted diseases. The Levinsky Clinic provides support and counseling in matters relating to sex, sexually transmitted diseases, sexuality and sexual relationships, and also organizes explanatory meetings and workshops outside the Clinic, such as in schools, military units and other educational frameworks.

202. The Clinic offers professional training on the subject of sex, sexuality, sexual orientation, and the identification, treatment and prevention of sexually transmitted diseases. During these meetings, the staff promote discussions about stigma, prejudice, ignorance and other challenging topics. The program qualifies professional teams that will facilitate prevention of sexually transmitted diseases as well as responsible behavior among youth, Israel Defense Forces soldiers, students etc.

Authority for the Advancement of the Status of Women

203. The Authority for the Advancement of the Status of Women, under the auspices of the Prime Minister's Office, is directing its efforts towards breaking the cycle of prostitution and addressing the phenomenon of prostitution in general, through public information campaigns and interministerial plans of action. These measures target both potential trafficking victims and the potential "clients" of prostitution. They have been widely acknowledged as having contributed significantly to raising public awareness regarding prostitution and trafficking.

204. The following are examples of these information and education campaigns:

- The Authority's website (http://www.women.gov.il/MA/) is regularly updated with information regarding trafficking in women and related information on government plans for eliminating trafficking, as well as further relevant links on the issue.
- The Authority has established and published a list of women who are experts on trafficking in women and gender issues, and funds their lectures in local authorities, government ministries and government hospitals all over the country. The lectures target the public and government officials. The list of lecturers is published on the Authority's website for the benefit of the public.
- During 2011, the Authority initiated a new educational campaign for young people. It has appointed a professional team responsible for creating a campaign targeted specifically at young people, in order to address several worrisome phenomena among Israeli youth, such as strip-tease performances during parties etc. The team is expected to launch the campaign in the next few months on websites targeted to young people.
- An annual budget of NIS 200,000 (US$ 54,000) is allocated by the Authority to the Ministry of Education's programming for raising awareness within the education system on the topic of trafficking in women (as described above). Teachers and other educators are provided with a detailed lesson regarding prostitution and trafficking in

women as a form of slavery in the twenty-first century, with booklets on trafficking in women, to serve to educate students on these subjects.

- The Authority annually updates and distributes the "Nobody has the right to hurt you" brochure, which includes the contact details of organizations that assist women who were victims of violence and of trafficking for prostitution. This brochure is distributed in hospitals, clinics and local authorities, in culture, youth and sports centers, and during various public events conducted throughout the country. The brochure is published in Hebrew, English, French, Amharic, Russian, Spanish and Arabic.
- The Authority contacted officials of local authorities regarding strip clubs working within their jurisdiction, and the Chief of Police was requested to address the issue of advertisements for prostitution services distributed locally.
- In addition, the Authority is cooperating with the Office of the National Anti-Trafficking Coordinator and the Hotline for Migrant Workers to publish a brochure for the public detailing the means of identifying victims of all forms of trafficking. This brochure will be wholly funded by the Authority.

Ministry of Education

205. Educational programs on empowerment and gender equality for pupils aged 3–16 and for all educational staff (e.g. teachers, principals):

- Seminars for teachers on challenging common stereotypes regarding gender, the status of women and violence against women;
- Integrating gender topics within education programs and the research papers of pupils;
- Conventions and seminars;
- Programs designated for pupils on issues of empowerment, gender, equality between the genders, preventing trafficking in women and violence against women.

206. Programs focused on preventing human trafficking and violence against women and young girls:

- A program for pupils and seminars for teachers on gender equality – in the Jewish education system;
- Programs for preventing violence against women – in the Arab education system;
- Lectures for pupils and teachers in junior high school during the month of November, marking International Day for the Elimination of Violence Against Women. Every year, 200 lectures are given throughout the country, in collaboration with the Authority for the Advancement of the Status of Women;
- Conventions for teachers and pupils in junior high school entitled "Human Dignity – Men and Women", dealing with the prevention of trafficking in women (seven conventions in collaboration with the Authority for the Advancement of the Status of Women have taken place thus far);
- Informational brochures are sent to schools and uploaded on the Ministry's website, to mark International Day for the Elimination of Violence Against Women.

207. The Ministry of Education is disseminating the text of the Convention on the Rights of the Child to educational psychologists and the Psychological Counseling Services

stations (SHEFI), thereby encouraging psychologists to assist schools in promoting awareness of the rights of children among the teaching staff and students.

208. SHEFI employs approximately 50 consultants, advisers, experts and psychologists specializing in sexuality, family relations and domestic disputes as well as the prevention of sexual vulnerability and the detection of potential abuse situations. These experts guide and accompany school personnel in the implementation of educational programs and in making interventions where suspicions of exploitation or abuse are raised.

209. Seminars and study days – SHEFI personnel undergo professional training regarding sexual abuse and distress and the duty to recognize and report potential abuse situations. The courses taught include "From Healthy Sexuality to Sexual Abuse and Back"; "Identifying Children at Risk"; "Treating and Caring for Sexual Crime Victims"; "Treating Children with Sexual Behavior Disorders".

210. Treatment and care – SHEFI has trained about 500 pedagogical psychologists to treat child victims of sexual offenses. Around 160 children are treated annually by SHEFI professionals. In addition, courses are taught on treatment and care for children with emotional and behavioral problems. This includes a unique approach on how to identify child hardship and assist in such cases.

211. Prevention programs – the Ministry of Education operates several programs in elementary and middle schools. One of the more substantial programs, called "Life Skills" ("Kishurey Haim"), teaches about safe browsing of the internet, dealing with pornography, and more. Educational materials are written and developed, and real-time assistance by professionals is available for school personnel.

212. The Ministry of Education has published on its official website the Hebrew translation of the Convention on the Rights of the Child, as well as its child-friendly version, and the text of the Protocol.

National Anti-Trafficking Coordination Office

213. While data in recent years shows that trafficking in children is not an issue in Israel, Israel is aware of the need to combat trafficking in children worldwide, and remains vigilant as to any possible emergence of such a phenomenon in Israel. To that end, several government bodies take an active role in raising awareness of trafficking.

214. The National Anti-Trafficking Coordination Office has a central role in the fight against trafficking on two levels: creating mechanisms to encourage cooperation, and designing substantive initiatives.

215. The Office assists policymaking in this area and in particular as regards protection of victims. It makes efforts to identify potential issues and bring about solutions before the problems escalate, promotes education and training, encourages research, develops established channels of communications between government and NGO actors, in an effort to strengthen cooperation, deals with specific problems which arise as they arise, promotes legislation, regulations and procedures which are important for the battle against trafficking, and is actively involved in subjects which pertain to the battle against trafficking in the government ministries, including procedures that create a climate unfriendly to trafficking. The Office serves in an advisory capacity to government agencies and other bodies which need information on issues regarding this subject. Most importantly, the Office's first concern is the battle against trafficking and, as such, it places the issue in the foreground of any context in which it appears. It also sees – as its first duty – ascertaining that Israel accords with international standards in this area and, in particular, its human rights focus.

216. To that end, the Office strengthened and broadened cooperation mechanisms with government agencies by means of convening meetings when apprised of problems, opening communication channels among bodies experiencing difficulties with one another, assisting bodies by means of tool kits, comparative research and legal documents, and serving as a clearing house for information among bodies. The Office conducts periodic meetings every few months in order to exchange information and forge common solutions. In addition, the Office conducts periodic meetings with NGOs, sometimes together and sometimes separately.

217. The Office is active in building and maintaining the coordination between different Ministries as well as between these Ministries and other organizations, in issues concerning the battle against trafficking in persons, at the national and international levels. The Office initiates and participates in training of various government officials and non-governmental personnel. The Office is involved in public information lectures aimed at the public at large and certain targeted audiences. The Office prepares legal opinions, participates in and convenes meetings, and accompanies the work of legislation. In regard to regulations – in the wake of the regulations regarding the forfeiture fund (Section 377E of the Penal Law – see para. 241 below), the Office has acted to facilitate transfer of money to the fund.

218. The Office maintains a broad network of international connections with international bodies such as the UNODC, the OSCE, the IOM, and the ILO and with other countries.

219. While the Office does not maintain direct connections with victims as a rule, it does assist them in cases that are emergencies or are particularly sensitive. Thus, the Office assists specific victims, when approached by the Legal Aid Branch of the Ministry of Justice, or NGOs.

220. The Office maintains daily contact with NGOs and meets with NGOs in order to learn about problems they encounter and to report to them regarding developments. In addition, the Office tries to involve them in interministerial teams and training sessions.

221. Identifying New Patterns of Trafficking – One of the most important functions of the Office is to identify new patterns of trafficking and assist government agencies to deal with them, by alerting them to their potential and bringing together relevant bodies in an effort to forge policy and procedure.

Knesset Subcommittee on Trafficking in Women

222. In the Knesset (Israel's Parliament), there is a subcommittee within the Committee for the Advancement of the Status of Women that focuses on the battle against trafficking in women.

223. The Subcommittee is active in three major areas related to trafficking: (1) policy development and deliberating legislation; (2) ongoing monitoring and debating of current events; and (3) in-depth research and assessment of subjects of interest.

Policy development and legislation

- Active promotion of the amendment to the Penal Law prohibiting the advertising of sexual services.

Ongoing monitoring and debating of subjects of interest

- Assessment of the steps taken by the Authority for the Advancement of the Status of women regarding trafficking in women;
- Assessment of the final report of the interministerial team regarding trafficking patterns on prostitution and related offenses.

- Hearing various data on sexual assaults against women migrant workers.
- Conducting a hearing on prostitution and commercial sexual exploitation of minors.

In-depth research and assessment of subjects of interest

- Initiating the preparation of research reports on issues related to trafficking in women, including reports on the medical treatment provided to victims of trafficking in persons for the purpose of prostitution, and on commercial sexual exploitation of minors and minors'prostitution.

Israel Police

224. The Police has made the fight against trafficking one of its priorities over the last few years, such that every District Unit and Regional Unit within the Police has accounted for this issue in their annual action plan. This has impacted positively not only on the Police's enforcement efforts in the field, but on its intelligence-gathering activities as well, both in Israel and abroad.

225. An anti-trafficking Coordinating Officer has been appointed to monitor the trafficking, slavery and forced labour-related offenses and to ensure proper coordination between the various units. The Coordinating Officer also seeks to ensure the seamless implementation of the organizational reform, and serves as a contact point for trafficking, slavery and forced-labour cases within the Police and before governmental authorities. Each of the Regional Units has appointed contact officers who serve a double function: they act as liaisons to the Coordinating Officer and other personnel involved in anti-trafficking efforts, and they serve as experts with knowledge and experience who can advise other regional officers regarding the special aspects of trafficking cases.

State Attorney's Office

226. Members of the State Attorney's Office often lecture in various forums on trafficking issues, in order to raise their awareness of the phenomenon. Among the forums are international representatives from source countries, high schools, higher education facilities, and social workers.

Legal Aid Branch

227. The Legal Aid Branch is a special division of the Ministry of Justice, and in many ways its operational model is unique. The Branch's attorneys are Ministry of Justice attorneys, but they function independently from the Ministry of Justice and other government entities in some ways. The Branch provides legal services to various segments of the population, free of charge. In effect, it can be described as a government-funded independent pro bono legal department. Its independence from the Ministry of Justice enables it to represent individuals in all kinds of civil and administrative proceedings, including, in some cases, against the Government itself.

228. The Legal Aid Branch acts to raise awareness among the public, potential victims, trafficking perpetrators and potential "clients", through publication of its achievements and activities in the media, and through lectures conducted in educational institutions on trafficking in persons. The Legal Aid Branch also directs its advocacy efforts towards ensuring that victims are made aware of their right to legal aid.

Israel Second Authority for Television and Radio

229. The Israel Second Authority for Television and Radio routinely addresses the issue of trafficking for prostitution. The issue is expansively addressed and debated on the

Authority's television and radio channels. For example, channel 2 television morning programs regularly include items and discussion on the issue, with the participation of government officials and representatives of NGOs.

Article 9 (3) – Victim assistance

230. Article 9(3) requires State parties to take all feasible measures with the aim of ensuring all appropriate assistance to victims of the offenses covered by the Protocol, including their full social reintegration, and physical and psychological recovery.

231. The Assistance to Sex Violence Minor Crime Victims' Law 5769-2008 was enacted in 2008 and is gradually being implemented. This law adds the right of a child victim of a sexual or violent crime to immediate assistance in a crisis center designated by the Minister of Social Affairs and Social Services particularly for this purpose. Such centers are intended to provide initial treatment in:

(a) Diagnosis and medical care;

(b) Providing for the victim's immediate and essential needs, including food and clothing;

(c) Setting up a meeting with the investigator for children, police investigator, social worker, or any other agent as needed based on the situation at hand;

(d) Referring the victim to the Legal Aid Branch, appropriate medical, health, and/or psychological care, and emergency centers for long-term treatment.

Shelters

232. Atlas and Ma'agan shelters: Government-funded shelters specially created to care for victims of trafficking for the purpose of prostitution, slavery and forced labour. Although receiving their funding from the Government and being under the supervision of the Ministry of Social Affairs and Social Services, they are operated by an independent, non-profit NGO. The Ma'agan shelter houses female victims of trafficking, and the Atlas Center houses male victims.

233. The above-mentioned shelters do not house child victims of trafficking offenses, but they constitute a well-founded platform for establishing shelters for children if the need were to arise.

Visas

234. The Ministry of Interior has issued specific internal directives that deal with visas for trafficking victims. There are three directives: 1) a directive regarding treatment of victims of trafficking for prostitution who request to testify; 2) a directive regarding visas for victims of trafficking and/or prostitution for rehabilitation purposes; and 3) a directive regarding the status of victims of trafficking and/or forced labor. In addition, in cases where the criminal proceedings against an offender have ended or where a victim does not wish to cooperate with the Police, the victim is entitled to apply to the Ministry of Interior to receive visas for rehabilitation purposes.

235. The B1 visa is a work and residency permit, which can be granted to a victim of trafficking for a one-year rehabilitation period; this period may be extended in exceptional circumstances. A B1 visa can also be granted to enable a victim to remain in Israel in order to testify in proceedings against traffickers. The B1 *testimony-related visa* may be extended for the duration of investigations and/or court proceedings.

236. Such visas can only be issued if a) the person indeed is a victim of trafficking, and b) the person is capable of being rehabilitated. It is not a prerequisite that victims reside in the shelters in order to receive year-long visas for rehabilitation purposes.

Treatment and assistance

237. The Authority for the Advancement of the Status of Women has been cooperating with the Ministries of Social Affairs and Social Services, Health and Education since 2008, in an interministerial plan offering services to empower women to leave the vicious cycle of prostitution, including access to safe accommodation, education, training, drug rehabilitation, and to ongoing support. The budget allocated to this program in 2011 was NIS 8 Million (US$ 2.1 million), and this has become a permanent item in the State budget. During 2011, the budget was used on the following endeavours:

- Holding emergency apartments which provide temporary housing for prostitutes, in Tel Aviv (Sal'it) and in Haifa (Ofek Nashi);
- Creating a national hotline for providing an initial response for women and young people in the cycle of prostitution who often encounter severe cases of abuse, rape and robbery; the hotline provides a response by promptly referring the women to the appropriate treatment providers, and by providing emergency care;
- Operating a hostel, located in Tel Aviv, intended for psychological treatment and rehabilitation over prolonged periods of time;
- Operating two day-centres for psychological and occupational rehabilitation, in Tel Aviv and in Haifa;
- Operating two therapeutic evening-centers, in Tel Aviv and in Haifa;
- Operating a therapeutic day-centre in Be'er-Sheva;
- Operating an emergency program in Eilat.

238. Free psychological treatment program – Since 2008, the Ministry of Social Affairs and Social Services has been operating a free psychological treatment program for child victims of sex crimes. The National Insurance Institute and the Rashi Foundation established this program. The budget allocated for this purpose is 10 million NIS (US$ 2,631,578). There are twelve centers throughout the country, located in central cities. Rural populations are also treated by additional clinics that include sex crime victim professionals. The treatment plan is tailored to the children's needs, the trauma he/she has experienced and the needs of the child's family. Treatment is provided for up to 18 months.

Article 9 (4) – Compensation of victims

239. Article 9(4) requires States parties to ensure that child victims have access to adequate procedures to seek compensation for damages.

240. While financial compensation alone is not sufficient to heal all the physical, psychological and emotional damage endured by child victims of an offense, it remains, nonetheless, a key component of restorative justice.

241. To that end, Section 77 of the Penal Law authorizes the court to impose monetary compensation to the victim, as part of the court's sentence. In appropriate cases, during the argumentation for punishment, the prosecutor may ask the court to grant the victim of the offense full compensation. The prosecutor must inform the victim about ways to obtain the documentation and evidence required for determining the damages.

242. Such compensation can be imposed in respect of each offense of which the defendant was convicted, up to an amount of 258,000 NIS (US$ 67,894), as partial compensation for the damage or suffering caused to him/her. Compensation under this section must be determined according to the value of the damage or suffering caused, on the day the offense was committed or on the day the decision on compensation is rendered, whichever is greater. For the purposes of collection, compensation under this section is treated like a fine. Furthermore, any amount paid or collected on account of a fine when compensation is also due, shall first be allocated to compensation.

243. Such a procedure is aimed to ease the victim's suffering and to prevent the need for him/her to conduct a separate procedure for compensation and spare him/her from enduring once again the difficulties of the legal process, including testifying and cross-examination.

244. As opposed to ordinary offenses, if a person is convicted of an offense under Sections 375A (holding a person under conditions of slavery) or 377A (trafficking in persons), and if the Court did not award compensation for the injured person under Section 77, then the Court must explain, in its sentencing ruling, its reasons for not awarding such compensation (Section 377C of the Penal Law).

245. The compensation granted under Section 77 of the Penal Law is not exclusive and does not restrict the victim's right to seek compensation under any other statute, including under the laws of tort.

246. If a victim of an offense believes that the amount of compensation awarded to him/her according to Section 77 of the Penal Law is not adequate, and wishes to file a civil lawsuit against the convicted perpetrator, with or without others, he/she is entitled to do so through two different procedures. First, the victim may file a lawsuit according to Section 77 of the Courts Law. Such a lawsuit can be filed only against the convicted person and should be submitted to the court that convicted the perpetrator and to the same judge. All factual determinations made during the criminal procedure are admissible in the civil procedure without the need for the victim to prove them again. The second option is to file an ordinary and independent lawsuit, whether against the convicted perpetrator or against him/her and others parties who might also be liable towards the victim.

247. Moreover, section 377E of the Penal Law creates a special victims' compensation fund. If there is no reasonable possibility for the victim to actually obtain the compensation by having recourse to existing laws, then Israel's Administrator-General (the government authority handling State assets and managing public trusts) must provide the compensation stated in the judgement and not yet realized directly to the victim of the offense out of that fund.

Legal aid

248. The Legal Aid Branch in the Ministry of Justice cooperates with NGOs in locating and referring trafficking victims in need of legal assistance. The Branch has been working since 2004 to represent victims of trafficking. Until 2006, only victims of trafficking for prostitution were represented, but since the end of 2006 all victims of trafficking have been represented, including persons held under conditions of slavery, victims of trafficking in persons for purposes such as slavery, forced labour, organ harvesting, kidnapping and forced participation in illicit advertising. Legal aid is provided in civil and torts claims against the offenders and in proceedings according to the Entry into Israel Law 5712-1952, such as requests for a one-year rehabilitation work visa, release from detention, and requests for legal status in Israel. It should be noted that victims of trafficking are accorded free legal aid, without having to meet the prescribed economic criteria for eligibility.

249. It should be stressed that the evidential burden that a victim needs to establish in order to receive legal aid is relatively low and preliminary evidence is enough. In addition,

the Legal Aid Branch accords legal aid even if the case is a borderline one. Thus, there are cases in which the Police reached the conclusion that the evidentiary burden of "beyond reasonable doubt" has not been established regarding trafficking or slavery, but the Legal Aid Branch will conclude that according to its own evidentiary burden, the person is a victim of trafficking or slavery.

250. According to the Courts (Fees) Regulations 5767-2007, those represented by the Legal Aid Branch are exempted from paying court fees.

Article 9 (5) – Prohibition of the production of material advertising the offenses

251. Article 9(5) requires States parties to take measures to effectively prohibit the production and dissemination of material advertising the relevant offenses.

252. Please see Articles 1–3 above for the legal basis for prohibiting access to the production and dissemination of material advertising the relevant offenses – the sale of children, child prostitution and child pornography.

Article 10

Article 10 (1) – International cooperation

253. Article 10(1) calls on State parties to strengthen international cooperation to best address perpetrators of the crimes relevant to the Protocol, and to promote international cooperation and coordination.

International mechanisms

254. The mounting extent of the worldwide trafficking phenomenon led to the creation of global mechanisms to deal with this issue. In addition to the Protocol, the applicable instruments to which Israel is a party are: the International Covenant on Civil and Political Rights (1966) (Articles 4 and 8), the Convention on the Rights of the Child (1989) (Article 11(1)), the Convention on the Elimination of All Forms of Discrimination against Women (1979) (Article 6), the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000) (Article 1), the Slavery Convention (1926), the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).

International cooperation

255. Israel regularly engages in bilateral and multilateral efforts to deter and prevent the increasing international traffic in children for labor and sexual exploitation. In an effort to address this issue at its core, Israel has worked with foreign governments and NGOs to inform potential victims of the risks posed to them by the traffic in children. Within the United Nations system, Israel supports UNICEF and the International Labour Organization (ILO) and, thus, participates in ILO programmes such as the International Programme on the Elimination of Child Labor aimed at suppressing trafficking in children and prostitution. International labor law imposes a total prohibition on labor trafficking, as enshrined in the

following conventions of the ILO, including Convention No. 29 (1930) concerning Forced Labor, Convention No. 105 (1957) concerning the Abolition of Forced Labor, and Convention No. 182 (1999) concerning the Worst Forms of Child Labor, all of which Israel is a party to.

256. Additionally, pursuant to bilateral and multilateral legal assistance treaties with foreign governments, Israel cooperates with law enforcement agencies of other countries to combat child prostitution, pornography, the sale of children and sex tourism. Israel also supports deterrent programs that encourage innovative partnerships among governments, labor, industry groups and NGOs to end the employment of children in hazardous or abusive conditions.

Sex tourism

257. According to the Israeli authorities' information, sex tourism in general, and child sex tourism specifically, does not constitute a problem in Israel. No cases or other information have been brought for examination by the Israeli authorities by NGOs, international organizations or other entities regarding international and domestic child sex tourism, involving Israeli citizens.

Article 10 (2) – International victim assistance

258. Article 10(2) calls on State parties to promote international cooperation to assist child victims of the offenses referred to by the Protocol.

259. To date, all of the victims of trafficking in need of assistance were adults rather than children, due to the nature of the trafficking phenomenon in Israel. Should a child victim be found, he/she would be eligible to benefit from the "Safe Return" program, detailed below.

260. The "Safe Return" Program: The "Ma'agan" and "Atlas" shelters work in cooperation with NGOs in the origin countries of victims in order to assist and facilitate the return of the victims of trafficking to their home countries and their reintegration into their communities. When it is determined that a victim is to return to his/her country of origin, the social worker in the respective shelter meets with him/her and inquires whether he/she needs and wishes to receive assistance with regard to his/her return. If the victim requests such assistance, contact is made with shelters and organizations in the origin country in order to find appropriate solutions, such as assistance in returning to the family residence or to shelter for an initial adaptation period. The shelters' staff remains in contact with the relevant organizations in the country of origin and monitors the integration process of the victims even after they arrive home. Currently the shelters maintain a list of approximately 50 organizations in countries of origin.

Article 10 (3) – International cooperation on the root causes

261. Article 10(3) addresses cooperation in addressing the root causes of the crimes relevant to the Protocol.

262. Unfortunately, currently Israel is unable to provide such assistance.

Article 10 (4) – Providing financial, technical or other assistance

263. Article 10(4) calls upon States parties to provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

264. The International Development Cooperation Division (MASHAV) of the Ministry of Foreign Affairs supports and funds international anti-trafficking training courses attended by representatives of other governments and NGOs from developing countries. These courses are conducted in cooperation with foreign embassies, international organizations and relevant NGOs. In 2011, two courses were dedicated to the subject of trafficking. In June 2011, the Ministry sponsored a course entitled "The Battle Against Trafficking: A Victim-Centred Approach", at the Golda Meir Mount Carmel International Training Center in Haifa. The course was organized jointly by the International Aid Division, the United States embassy in Tel Aviv, the Center for International Migration & Integration, and Israel's Ministry of Justice, and was attended by 20 individuals from 12 countries. In September 2011, a course was held on the subject of "Violence Against Women and Children", also at the Carmel Center. This course, organized jointly with the International Organization for Migration, was attended by 27 individuals from 20 countries.

265. During these training courses, government representatives introduce the Israeli anti-trafficking system and support systems introduced for victims in trafficking. For instance, the participants visited the Ma'agan and Atlas Shelters and other NGOs serving victims of violence and trafficking. In addition, the Legal Aid Branch has participated in one of their special workshops and presented the Branch's work and its unique role in assisting all trafficking victims with free legal assistance, representing them in civil suits against the traffickers, in applications for work visas from the State and in personal status related suits. A similar course, entitled "Profiles of Trafficking: Patterns, Populations and Policies" was held in May 2012 for 24 participants representing 19 countries, and also included a day conference on the Relationship between Governmental and Non-Governmental Organizations. A 2012 Workshop on Violence Against Women saw 25 professionals taking part from 17 countries.

266. Israeli trafficking experts participate in professional meetings and conferences in international forums aimed at enhancing cooperation and assisting counterparts worldwide.

267. The National Anti-Trafficking Coordination Office maintains a broad network of international connections and cooperation with international bodies, including dealing with mutual assistance requests. Among the organizations that the coordinator works with are the UNODC, the OSCE, the IOM, and the ILO, and with other countries.

United Nations CRC/C/ISR/CO/2-4

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Committee on the Rights of the Child

Concluding observations on the second to fourth periodic reports of Israel, adopted by the Committee at its sixty-third session (27 May – 14 June 2013)

1. The Committee considered the combined second to fourth periodic reports of Israel (CRC/C/ISR/2-4) at its 1796 and 1797 meetings (see CRC/C/SR. 1796 and 1797), held on 3 June 2013, and adopted the following concluding observations at its 1815th meeting, held on 14 June 2013.

I. Introduction

2. The Committee welcomes the submission of the combined second to fourth periodic reports of the State party and the written replies to its list of issues (CRC/C/ISR/Q/2-4/Add.1), and expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

3. The Committee however considers that the State party's persistent refusal to provide information and data and to respond to the Committee's written questions on children living in the Occupied Palestinian Territory (hereafter OPT), including East Jerusalem and the Occupied Syrian Golan Heights, greatly affects the adequacy of the reporting process and the State's accountability for the implementation of the Convention. The Committee urges the State party to comply with the advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the OPT (I.C.J report 2004, para. 163 (3) A.) and to abide by its obligations to ensure the full application of the Convention in Israel and in the OPT, including the West Bank, the Gaza Strip as well as in the Occupied Syrian Golan heights.

II. Follow-up measures undertaken and progress achieved by the State party

4. The Committee welcomes the adoption of the following legislative measures:

(a) The Amendment No. 14 to the Youth (Trial, Punishment and Modes of Treatment) Law No. 5731-1971 of July 2009 which gives priority to rehabilitation treatment over punishment of children accused and/or convicted of committing a crime and prohibits detention of children below 14 years without a court order;

(b) The Assistance to Sex Violence Minor Crime Victims' Law No. 5769-2008 which establishes the right for a child victim of sexual violence to receive immediate assistance in crisis centre;

Please recycle

(c) The 2006 and 2007 amendments to the Employment Law No. 5714-1954 which extend the maternity leave from twelve to fourteen weeks;

(d) The 2002 Registration of Information on the Influence of Legislation on the Child's Right Law No. 5762;

(e) The 2002 amendment to the Special Education Law No. 5758-1998 which gives priority to the placement of children with disabilities in a regular education facility and increases the budget for this purpose;

(f) The Compulsory Education (Physical Violence Reporting Rules) Regulations No. 5770-2009.

5. The Committee notes as positive the ratification of the Convention on the Rights of Persons with Disabilities, in September 2012.

6. The Committee further welcomes the following institutional and policy measures:

(a) The Child Friendly Initiative (CFCI) which aims to integrate children's rights in policies, programmes and budgets at municipal level;

(b) The Ofek Hadash (New Horizon) reform of 2008 and the Oz Betmura (courage for change) reform, both aiming at changing and improving the education system;

(c) The Arabic language education programmes in pre-school, elementary school and high school for improving the Arab populations' language skills;

(d) The programme "Tsila" creating afternoon centres for the ages 3-9 in pre-schools and elementary schools with extracurricular and social education in small groups, aimed at reducing the gap between socio-economic levels, as recommended by the Trajtenberg Committee.

III. Factors and difficulties impeding the implementation of the Convention

7. The Committee takes into account the national security concerns of the State party. The Committee however emphasizes that the illegal long-lasting occupation of Palestinian territory and the Syrian Golan Heights, the continued expansion of unlawful settlements and construction of the Wall into the West Bank as well as land confiscation, destruction of houses and livelihood of Palestinians constitute severe and continuous violations of the rights of Palestinian children and their families, feed the cycle of humiliation and violence and jeopardize a peaceful and stable future for all children of the region. The Committee urges the State party to end the occupation of the OPT and the Syrian Golan Heights, to withdraw all settlements illegally established which present, as observed by the United Nations Secretary General (A/67/375, para. 47) an existential threat to the viability of a future Palestinian State, and to cease the transfer of its population into the Occupied Syrian Golan Heights.

IV. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

The Committee's previous recommendations

8. The Committee regrets that the State party has consistently failed to provide information on the follow-up to the Committee's recommendations relating to children

living in the OPT contained in the concluding observations on the State party's initial reports under both the Convention and the Optional Protocol on children and armed conflict (CRC/C/15/Add.195, paras. 27 (a), 37, and 62, 2002, and CRC/C/OPAC/ISR/CO/1, paras. 11, 17, 35 and 38, 2010). The Committee also regrets that a number of the Committee's concluding observations of 2002 on the State party's initial report under the Convention have not been addressed.

9. **The Committee urges the State party to implement as a matter of utmost priority its recommendations relating to children living in the OPT contained in the concluding observations on the State party's initial reports under both the Convention and the Optional Protocol on children and armed conflict. The Committee also recommends that the State party take all necessary measures to address those recommendations that have not been implemented or not sufficiently implemented and, in particular, reiterates its recommendations to the State party to:**

(a) Establish a central mechanism for intersectoral coordination and cooperation at and between the national and local levels of government (para. 13 (a)) as also recommended in 2003 by the Israeli Rotlevy Committee for investigation of the basic principles in the field of children, law and legislation implementation;

(b) Collect data on all persons under 18 years for all areas covered by the Convention, including children in the most disadvantaged situations and use this data to assess progress and design policies to implement the Convention (para. 15 (a) and (b));

(c) Strengthen and expand its programme for the dissemination of information on the Convention and its implementation in all official languages among children and parents, civil society and all sectors and levels of government, including initiatives to reach those vulnerable groups who are illiterate or without formal education (para. 23 (a));

(d) Develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel) (para. 23 (b));

10. **In light of its previous recommendation (para. 13 (b)), the Committee also encourages the State party to prepare a comprehensive policy on children and, on the basis of that policy, to develop a strategy with the necessary elements for its application, which is provided with sufficient human, financial and technical resources.**

Legal status of the Convention

11. The Committee takes note of the information provided by the delegation during the interactive dialogue about the progressive incorporation of the principles and provisions of the Convention into its domestic legal system. The Committee is however concerned that this process is yet to be completed, a situation which affects the justiciability of children's rights in the State party.

12. **The Committee recommends that the State party accelerate the integration process of the rights and principles and provisions of the Convention into its domestic legal system to ensure the justiciability of all children's rights.**

Allocation of resources

13. The Committee regrets that insufficient information has been provided by the State party on the resources allocated for the implementation of the Convention, on the impact on

children of its budgetary decisions and on the specific budgetary allocations for the provision of critical social services to children, including those in the most vulnerable situations. The Committee is also concerned that the average spending per child in the Arab localities is estimated to be more than a third lower than in Jewish localities and that the State party fails to take into account the unequal level of resources provided to the two health systems to explain the persistent disparities in relation to health indicators between the Arab and Jewish children.

14. **The Committee urges the State party to:**

(a) Utilize a child-rights approach in the elaboration of the State budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget, thus providing visibility to the investment on children and allowing impact assessments on how investments in any sector may serve to fulfil children's rights;

(b) Ensure transparent and participatory budgeting through public dialogue, especially with children and for proper accountability by local authorities;

(c) Ensure that budgetary allocations, including budgetary allocation for the health sector, no longer discriminate against Arab Israeli families and their children, and define strategic budgetary lines for children in disadvantaged or vulnerable situations, in particular Bedouin, Palestinian, Arab Israeli children, as well as children of migrant workers and asylum seekers.

Independent monitoring

15. While acknowledging the role of the State Comptroller, the Committee expresses concern that limited progress has been made by the State party since its previous recommendation (CRC/C/15/Add.195, para. 17) to establish an independent mechanism with the mandate to regularly monitor and evaluate progress under the Convention as recommended by the Rotlevy and Peretz committees.

16. **The Committee draws attention to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child and recommends that the State party accelerate the process for the establishment of an Ombudsperson for children in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) to monitor and evaluate progress in the implementation of the Convention at the national and local levels and to deal with complaints from children in a child-sensitive and expeditious manner.**

Cooperation with civil society

17. The Committee regrets that limited information was provided on the involvement of civil society in the elaboration of the State party's report and that non-governmental organizations are not systematically involved in planning policies and laws for children as acknowledged by the State party in its report. The Committee also expresses concern that Palestinian non-governmental organizations and international human rights organizations working in the OPT are increasingly perceived as a threat to national security and are subject to, among others, harassment, arrest and denial of work permits. It is further concerned about the denial of work permits to foreign nationals working for humanitarian organizations in the OPT and about the tightened control of foreign funding of non-governmental organizations when they cooperate with United Nations fact-finding missions.

18. **The Committee urges the State party to systematically involve communities as well as civil society, including non-governmental organizations and children's organizations, in the planning, implementation, monitoring and evaluation of policies,**

plans and programmes related to child rights. The Committee also urges the State party to take concrete steps to build a climate of trust and cooperation with civil society and to engage in a constant dialogue with civil society actors, including those which monitor the child rights situation in the OPT with a view to formulating and implementing strategies for the protection and promotion of the rights of all children without discrimination. The Committee further recommends that the State party ensure that non- governmental organizations can solicit, receive and utilize resources for the monitoring and promotion of children's rights.

B. Definition of the child (art. 1 of the Convention)

19. The Committee takes note of Military Order 1676 adopted in September 2011 raising the age of majority in the military courts from 16 to 18 years, in line with the Committee's recommendations under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/ISR/CO/1, para. 9). The Committee is however concerned that, to date, this Military Order has not been fully applied in practice.

20. **The Committee urges the State party to ensure that children living in the OPT are considered as children up to the age of 18 years and that they effectively benefit from the full protection under the Convention, in particular, the provisions relating to the administration of juvenile justice.**

C. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

21. While taking note of court decisions on discrimination, the Committee however reiterates its concern (CRC/C/15/Add.195, para. 26) that non-discrimination is not expressly guaranteed under the Basic Laws of the State party. The Committee also expresses concern about the adoption of numerous discriminatory laws over the reporting period as pointed out notably by the Committee on the Elimination of Racial Discrimination (CERD/C/ISR/CO/14-16, paras. 11, 15, 16, 18 and 27, 2012) and which primarily affect Palestinian children, in all aspects of their life, but also Arab Israeli, Bedouin, and Ethiopian children as well as children of migrant workers and asylum seekers. The Committee is deeply concerned that the establishment of separate means of transport and road services as well as the implementation of two separate legal systems and institutions amount to de facto segregation and lead to inequality between Israeli and Palestinian children in the enjoyment of their rights.

22. **The Committee urges the State party to include the prohibition of discrimination and the principle of equality in its Basic Laws and to undertake a comprehensive review of its legislation and policies to ensure that laws that discriminate against non-Jewish children be repealed without delay. The Committee also urges the State party to take immediate measures to prohibit and eradicate policies or practices which severely and disproportionately affect the Palestinian population in the OPT as already recommended by the Committee on the Elimination of Racial Discrimination (CERD/C/ISR/CO/14-16, para. 24) and to ensure that all children living in the OPT enjoy their rights under the Convention without discrimination.**

Best interests of the child

23. The Committee welcomes the numerous measures taken over the reporting period to ensure respect for the right of the child to have his or her best interests taken as a primary consideration, in particular, the 2002 Registration of Information on the Influence of

Legislation on the Child's Right Law which provides for a child rights impact assessment of new legislations. The Committee also welcomes the 2006 and 2008 rulings of the Supreme Court which revoked decisions of Sharia and Rabbinical Courts granting custody of children to their father without taking into consideration the best interests of the children The Committee is however concerned that the right of children to have their best interests assessed and taken as a primary consideration has not been appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to, and with an impact on children, and that this right can be subject to misinterpretations by some courts as reflected notably in court decisions taken on paternity testing. It is also concerned that the best interests of Palestinian children continue to be disregarded by the State party.

24. **The Committee draws attention to its general comment No.14 (2013) on the right of the child to have his or her best interests taken as a primary consideration and recommends that the State party strengthen its efforts to ensure that this right is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to, and with an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance for determining the best interests of the child in every area, and to disseminate this to the public, including traditional and religious leaders, and private social welfare institutions, courts of law, administrative authorities and legislative bodies. The Committee also urges the State party to undertake a full impact assessment of its policies on children living in the OPT and ensure that their best interests are fully taken into account in its military governance of the OPT and in the 2002 Anti-Infiltration Law.**

Right to life, survival and development

25. Referring to its 2010 concluding observations under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/ISR/CO/1, para. 10), the Committee reiterates its deepest concern that children on both sides of the conflict continue to be killed and injured, children living in the OPT being disproportionately represented among the victims. The Committee expresses serious concerns that hundreds of Palestinian children have been killed and thousands injured over the reporting period as a result of the State party military operations, especially in Gaza where the State party proceeded to air and naval strikes on densely populated areas with a significant presence of children, thus disregarding the principles of proportionality and distinction. The Committee is deeply concerned about:

(a) Palestinian children being shot by the State party's military near the Gaza border whilst collecting building material to support their families in the reconstruction of their homes, 30 such cases having been reported over the reporting period;

(b) The rise in the number of children from the OPT being subjected to attacks by settlers in the West Bank, four of them having been killed since 2008 and hundreds injured over the reporting period. The Committee notes with concern that in most of the cases Israeli military forces not only fail to intervene to prevent violence and to protect children, but also bring support to those committing violence. The Committee further notes with concern that, in most of the cases, perpetrators are not brought to justice and enjoy full impunity for their crimes;

(c) The devastating impact on the right to life, survival and development of children living in the OPT of the construction of the Wall as well as the Gaza blockade imposed since 2007 which was considered by the International Committee of the Red Cross as a collective punishment imposed in clear violation of Israel's obligations under international humanitarian law.

26. **The Committee reiterates its recommendations (CRC/OPAC/ISR/CO/1, para. 11 (a), and CRC/C/ 15/Add.195, para. 32 (c) and (d)) that the State party take prompt measures to comply with the fundamental principles of proportionality and distinction enshrined in humanitarian law, including the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War , put an end to all killings and injuring of children, investigate immediately and effectively all such crimes, bring the perpetrators to justice and take all necessary measures to provide child victims of these human rights violations with possibilities for adequate compensation, recovery and social reintegration. The Committee also urges the State party to:**

(a) Take all necessary measures to prevent further incidents of excessive use of force and in particular review all regulations on the use of live ammunitions by security and defence forces as recommended by the High Commissioner for Human Rights (A/HRC/19/20, para. 52);

(b) Clearly and publicly condemn all forms of violence committed by settlers, and send a clear message that these acts will no longer be tolerated. The State party should take immediate measures to ensure public order, prevent further violence and ensure investigation and accountability for all acts of violence committed by settlers against children and for complicity in the perpetration of such violence;

(c) Cease the construction of the Wall in the Occupied Palestinian Territory and fully lift the Gaza blockade, and urgently allow entry of all construction materials necessary for Palestinian families to rebuild homes and civilian infrastructures so as to ensure respect for children's right to housing, education, health, water and sanitation as recommended notably by the Committee on the Elimination of Racial Discrimination (CERD/C/ISR/CO/14-16, para. 26) and in line with Israel's Manual on the Laws of War (1998) which prohibits the conduct of a scorched earth policy "with a view to inflicting starvation or suffering on the civilian population".

Respect for the views of the child

27. The Committee notes as positive the steps taken to expand to all courts by 2014 the experimental programme initiated in 2007 at the Haifa and Jerusalem Family Matters Courts with the participation of children involved in family matters proceedings as well as the Hadassah University hospital's practice of including children in decision-making on medical treatment and procedures. The Committee is however concerned that:

(a) In proceedings involving conversion, or admission to a psychiatric hospital, courts are not obliged to hear the opinions of the child if it would cause harm to the child, and that derogation to the right of the child to be heard in adoption proceedings is permissible when children are not aware of being adopted. The Committee is further concerned that migrant and asylum-seeking children are rarely heard in proceedings that concern them;

(b) The participation of children in decision-making processes, while receiving increased attention in the State party, is still not a widespread practice and the views of children are not sufficiently solicited or taken into account, especially in public policy decisions.

28. **Referring to its general comment No. 12 (2009) on the right of the child to be heard, the Committee reminds the State party that this right applies to all relevant judicial and administrative proceedings affecting the child, without limitation, and that in decisions on adoption, the "best interests" of the child cannot be defined without consideration of the child's views. The Committee recommends that the State party reconsider the limits it has posed on the right of the child to be heard in cases of conversion, admission to a psychiatric hospital or adoption and to take measures to effectively ensure the right of migrant and asylum-seeking children to be heard in**

proceedings that concern them. The Committee also recommends that the State party establish clear mechanisms and guidelines for an effective implementation in practice of the right of the child to be heard and ensure that the views of the child are taken into account by policymaking bodies and that children are provided with adequate responses to their proposals.

D. Civil rights and freedom (arts.7, 8, 13-17, 19 and 37 (a) of the Convention)

Birth registration / nationality

29. The Committee, while noting that Section 6 of the Population Registry Law establishes a duty to notify a registration officer of the Ministry of Interior of every birth that occurs in Israel, expresses concern that:

(a) The ban on the granting of Israeli citizenship to children born of an Israeli parent and a parent from the OPT, the decision of the State party to stop processing residency applications for Palestinian children since 2000 as well as the arbitrary revocation of residency and identity of those living in East Jerusalem have resulted in thousands of unregistered Palestinian children excluded from access to health services, education and any other type of social benefits as well as in thousands of children being prevented from living with their parents;

(b) Children of migrants born in the State party often do not receive an official birth certificate but a hand-written official notification without the father's name being indicated. The Committee is also concerned about information that migrant families who are unable to cover the cost of hospitalization might be denied birth notification, and about reported cases of migrant families who have to pay exorbitant costs for a DNA test in order to have the father's name included in the birth notification. The Committee is further concerned about reported cases of families forced to sign voluntary return declarations to be able to obtain official birth certificates.

30. **The Committee urges the State party to take immediate steps to repeal all legal provisions which result in denying the right of Palestinian children to be registered immediately after birth in violation of article 7, paragraph 1, of the Convention, to acquire a nationality and to be cared for by their parents. To this end, the State party is urged to transfer the population registry to the Palestinian Authority. The Committee also urges the State party to issue free birth certificates indicating the names of both parents to all children of migrants as it is done for Israeli children. The issuance of birth certificates should in no way be made conditional on the signing of "voluntary" return declarations.**

Right to identity

31. The Committee is concerned about the provisions of the Adoption of Children Law which allows hiding from a child the fact that he or she has been adopted. The Committee is also concerned about the 2008 reasoning of the Family Matters and District court of Haifa which considered that allowing a paternity test was not in the best interests of the child as it might result in the child being labelled as a "bastard" according to Jewish Halasha.

32. **In the light of article 7 of the Convention, the Committee recommends that the State party ensure, as far as possible, respect for the child's right to know his or her parents' identity in the case of an adopted child or a child born out of wedlock who has not been recognized by either of his or her parents. It also urges the State party to ensure that religious laws be brought in line with the Convention and do not contain derogatory language against children born out of wedlock.**

33. The Committee is concerned that, when regulating surrogate motherhood arrangements, the State party has paid insufficient attention to the rights and interests of children born as a result of assisted reproduction technologies, particularly with the involvement of surrogate mothers.

34. **The Committee recommends that, in the regulation of assisted reproduction technologies, particularly with the involvement of surrogate mothers, the State party ensure respect for the rights of children to have their best interests taken as a primary consideration and to have access to information about their origins. The Committee also recommends that the State party consider providing surrogate mothers and prospective parents with appropriate counselling and support.**

E. Violence against children (arts. 19, 37 (a) and 39 of the Convention)

Torture and other cruel or degrading treatment or punishment

35. The Committee expresses its deepest concern about the reported practice of torture and ill-treatment of Palestinian children arrested, prosecuted and detained by the military and the police, and about the State party's failure to end these practices in spite of repeated concerns expressed by treaty bodies, special procedures mandate holders and United Nations agencies in this respect. The Committee notes with deep concern that children living in the OPT continue to be:

(a) Routinely arrested in the middle of the night by soldiers shouting instructions at the family and taken hand-tied and blindfolded to unknown destination without having the possibility to say good bye to their parents who rarely know where their children are taken;

(b) Systematically subject to physical and verbal violence, humiliation, painful restraints, hooding of the head and face in a sack, threatened with death, physical violence, and sexual assault against themselves or members of their family, restricted access to toilet, food and water. These crimes are perpetrated from the time of arrest, during transfer and interrogation, to obtain a confession but also on an arbitrary basis as testified by several Israeli soldiers as well as during pretrial detention;

(c) Held in solitary confinement, sometimes for months.

36. **The Committee reminds the State party about its unavoidable responsibility to prevent and eradicate torture and ill-treatment of children living in the OPT which are not only a serious violation of article 37 (a) of the Convention on the Rights of the Child but also a grave breach of article 32 of the Fourth Geneva Convention. The Committee strongly urges the State party to:**

(a) Immediately remove all children from solitary confinement;

(b) Launch without delay an independent inquiry into all alleged cases of torture and ill- treatment of Palestinian children. This should include ensuring that at all levels of the chain of command, those who have been ordering, condoning or facilitating these practices be brought to justice and be punished with penalties commensurate with the gravity of their crimes;

(c) Take immediate measures to ensure that children living in the OPT are provided with safe and child-friendly complaint mechanisms, including during trials, with regard to the treatment they were subjected to at the time of arrest and subsequent detention;

(d) Ensure that relevant judicial authorities are exercising due diligence in investigating and prosecuting acts that amount to torture or other forms of ill-

treatment, even in the absence of a formal complaint when circumstances cast a doubt about the way confession was obtained;

(e) Ensure physical and psychological recovery as well as social reintegration assistance to all children living in the OPT who have been victims of torture and ill-treatment.

Corporal punishment

37. The Committee welcomes the full prohibition of corporal punishment in all settings in the State party as well as the Compulsory Education (Physical Violence Reporting Rules) Regulations No. 5770-2009 which obliges Principals of educational institutions to report in writing any occurrence of physical violence between an educator and a pupil. The Committee is however concerned about the high proportion of students reporting that they have experienced physical and emotional maltreatment, and that corporal punishment continues to be inflicted on children in detention.

38. **In light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the State party take effective measures to eliminate corporal punishment and its psychological consequences including through the implementation of public and professional awareness raising programmes including campaigns. The State party should also promote positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment and establish child-friendly complaints mechanisms.**

Abuse and neglect

39. The Committee notes as positive the State's appeals against court decisions pronouncing light sanctions for parents abusing and neglecting their children (e.g. Cr.A (Be'er-Sheva) 7161/02 The State of Israel v. Z.Y. (12.2.2003). The Committee also welcomes the 2007 decision of the Jerusalem Magistrate Court (C.C. 3970/98 Yitzhak Goldstein v. The State of Israel (14.01.2007) condemning the Municipality of Tel-Aviv for its failure to remove a child from his home and to protect him from abuse and neglect despite evidence available to the Department of Welfare that the child was mistreated. The Committee however expresses concern about insufficient support and services to promote responsible parenting and the shortage of placement for children at risk which lead some children to be held in detention facilities, as in the case of 153 teenage girls reportedly held in detention facilities awaiting placement in May 2012.

40. **The Committee recommends that the State party strengthen its efforts to protect children from abuse and neglect and to promote positive parenting and take all appropriate measures to increase the number of protective shelters available to children at risk who should benefit from psychosocial assistance and appropriate care. As a matter of priority, the State party should remove all children at risk currently held in detention facilities and place them in appropriate rehabilitation and care facilities.**

Harmful practices

41. The Committee expresses concern about reported short and long-term complications arising from some traditional male circumcision practices.

42. **The Committee recommends that the State party undertake a study on the short and long-term complications of male circumcision.**

Freedom of the child from all forms of violence

43. The Committee is deeply concerned about the climate of violence in which Palestinian and Israeli children live, especially during explosions caused by rocket attacks, air strikes and shelling. The Committee is also gravely concerned about the psychological violence inflicted on Palestinian children who witness their parents being beaten or humiliated and the demolition of their homes, and about the long-term consequences of this violence on these children.

44. **Recalling the recommendations of the United Nations study on violence against children of 2006 (A/61/299), the Committee recommends that the State party prioritize the elimination of all forms of violence against children and to refrain from adopting and implementing policies that exacerbate rather than diminish violence resulting from the conflict. The Committee further recommends that the State party take into account its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and in particular:**

(a) Develop a comprehensive national strategy to prevent and address all forms of violence against children;

(b) Adopt a national coordinating framework to address all forms of violence against children;

(c) Pay particular attention to and address the racist and gender dimension of violence;

(d) Cooperate with the Special Representative of the Secretary-General on violence against children and other relevant United Nations institutions.

F. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)

Family environment

45. The Committee welcomes the measures adopted by the State party to provide assistance and support services to parents and legal guardians in the performance of their child-rearing responsibilities, including the provision of income support benefits to families which do not earn the minimum level of income, as well as the 2007 amendment to the Sick Day Payment Law which entitles parents of children with disabilities to additional leave days to care for their children. The Committee is however concerned about the situation of children of asylum seekers, refugees and migrant workers who are left in mass babysitting or alone in apartments or in the streets without any support from social services during the time their parents work outside the home.

46. **The Committee urges the State party to take concrete measures to ensure that social support is provided to all parents who cannot afford private after school programmes for their children and have no choice but to leave their children alone while they work. Special attention should be paid to children in particularly vulnerable situations, such as children of asylum seekers, refugees and migrant workers.**

Children deprived of a family environment

47. While noting the positive efforts made by the State party to accelerate the development of new residential-care models, such as community-based residential settings and group homes in the child's home community, the Committee remains concerned that only a small proportion of children are placed in foster care compared to those placed in residential institutions. The Committee also expresses concern that in 2008, the Israeli

Defence Forces closed down two institutions for children in Hebron without any written instructions and proper alternative plans, evicting 3,192 children and confiscating all clothing, food, stationary and other supplies, as reported by the High Commissioner for Human Rights (A/HRC/8/17, para. 50).

48. **The Committee reiterates its recommendation (CRC/C/15/Add.195, para. 41) that the State party further strengthen the foster care system. The Committee also urges the State party to investigate the responsibilities in the closure of the child institutions in Hebron and ensure that human, financial and technical resources are provided for all evicted children to be sheltered and cared for in appropriate conditions.**

49. The Committee expresses concern that thousands of Palestinian children are deprived of their right to live and grow up in a family environment with both of their parents or with their siblings and that thousands live under the fear of being separated because of the severe restrictions on family reunification under the Citizenship and Entry into Israel Law as amended in 2005 and 2007. The Committee is particularly concerned about the State party's decision to stop processing residency applications for Palestinian children since 2000 and to revoke the residency status of Palestinians living in East Jerusalem. The Committee notes with deep concern that even children who have lost one of their parents are prevented from reuniting with their surviving parent in the West Bank.

50. **The Committee urges the State party to take immediate measures to ensure that all separated Palestinian children are reunited without delay with both of their parents and with their siblings, and that all family members obtain proper registration to avoid any further risk of separation. The State party should revoke the Citizenship and Entry into Israel Law and all policies which are in breach of articles 9 and 10 of the Convention and which prevent family reunification, as previously recommended by the Human Rights Committee (CCPR/C/ISR/CO/3, para.15, 2010), the Committee on the Elimination of Discrimination against Women (CEDAW/C/ISR/CO/5, para. 25, 2011) and the Committee on the Elimination of Racial Discrimination in 2012 (CERD/C/ISR/CO/14-16, para. 18).**

G. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)

Children with disabilities

51. The Committee welcomes the ratification of the Convention on the Rights of Persons with Disabilities in September 2012 and the adoption of numerous laws with respect to children with disabilities, in particular the amendment to the Special Education Law No. 5758-1998 and the Rights of Pupils with Learning Disabilities in Secondary Education Facilities Law No. 5768-2008, as well as the measures taken for children with disabilities to receive supplementary tutoring and special psychological and medical services when integrated in regular school. The Committee is however concerned that:

(a) The overwhelming majority of children with disabilities attend special schools or special classes in ordinary schools;

(b) The placement of a child in regular or special schools depends on parental choice and does not result from a procedure which would allow the child to express him/herself and to have his or her best interests assessed and determined;

(c) The resources allocated to the inclusion of children with disabilities in regular schools have been insufficient, especially the number of full time assistants available to support children with disabilities.

52. **Recalling its general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:**

(a) Reconsider the model of parental choice and establish a formal process, with strict procedural safeguards, designed to assess and determine the best interests of the child with disabilities and ensure that the right of children with disabilities to be heard and have their views taken into account is fully respected in this process;

(b) Develop a comprehensive national strategy on children with disabilities with the view to expanding inclusive education to all children who could benefit from it. Particular attention should be paid to children in the most disadvantaged situations, among them children with autism;

(c) Ensure the provision of adequate human, financial and technical resources for schools to effectively provide inclusive education for children with disabilities by implementing the so called "funding according to needs" system recommended by the Dorner Committee.

Health and health services

53. The Committee welcomes the development of a system of high quality health services for children in the State party. The Committee regrets however the unequal access to these services which mainly affects Bedouin and Arab children as well as children belonging to the Ethiopian Israeli community. Notwithstanding the information provided by the State party during the dialogue, the Committee expresses deep concern that the deteriorated situation of health and health services for children in the OPT noted by the Committee in 2002 considerably worsened over the reporting period due to attacks on hospitals and clinics of Gaza (more than half of them were severely damaged during the operation Cast Lead) and the denial of, and delays in, delivering permits to transfer children or pregnant women to medical facilities outside the OPT which have caused the death of many children and pregnant women over the reporting period. The Committee is also highly concerned about:

(a) The high level of mortality of Bedouin children living in so-called "unrecognized" villages in the Negev who are deprived of basic health services;

(b) Children in the Gaza Strip suffering from blood disorders and sanitation related diseases such as watery diarrhoea and typhoid due to daily exposure to highly contaminated water (12 per cent of child death in Gaza being attributed to the poor quality of water).

54. **In light of its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, the Committee urges the State party to take all necessary measures to ensure that all children enjoy this right without discrimination. The Committee also reiterates its recommendation (CRC/C/15/Add.195, para. 45) that the State party guarantee safe and unconditional access by all children and pregnant women living in the OPT to health services, including emergency medical care, and ensure the availability of adequate medical supplies and trained personnel. This recommendation also applies to Bedouin children in the Negev. The Committee urges the State party to cease its attacks against hospitals and medical facilities and to urgently allow entry into Gaza of all the necessary material for the reconstruction of medical infrastructure and to ensure timely transfer without delay of all children and pregnant mothers in need of medical care outside the OPT. The Committee also urges the State party to adopt immediate measures for the restoration of safe drinking water and adequate sanitation services and ensure unimpeded access of humanitarian agencies which provide those services until the restoration is completed.**

Adolescent health

55. The Committee is concerned about the high rate of suicide and attempts at suicide among adolescents in the State party, especially among girls.

56. **Referring to its general comment No. 4 (2003) on adolescent health, the Committee recommends that the State party undertake an in-depth study of youth suicide and its causes, including a gender perspective, and use this information to develop and implement a national plan of action on youth suicide, in cooperation with child guidance centres, social workers, teachers, health workers and other relevant professionals. The State party should also consider increasing the availability of psychological counselling services and provide adolescents with the support of trained social workers in schools.**

Standard of living

57. The Committee is concerned that poverty among children has risen over the years, and that one out of three is living under the poverty line or on the edge of it. The Committee is also concerned about the privatization of social services and the limited access to free services, which increase the difficulties that children and their families in need are facing.

58. **The Committee urges the State party to ensure that children and their families living in poverty receive adequate financial support and free, accessible services without discrimination.**

59. In light of its previous concluding observations (CRC/C/15/Add.195, paras. 50 and 51), the Committee remains deeply concerned about the increasing poverty among Palestinian children and the serious violations of their right to an adequate standard of living resulting from the occupation of the Palestinian territories by the State party and about the measures taken to accelerate expansion of Israeli settlements, the construction of the Wall to separate communities and the Gaza blockade. The Committee is particularly concerned about:

(a) Land confiscation, large-scale demolition of Palestinian houses, expulsion of Palestinian and Bedouin families from the homes they have occupied for generations, discriminatory building regulations, especially in the West Bank and East Jerusalem, which continue to result in hundreds of Palestinian families and their children being displaced, homeless or in constant fear of eviction and demolition;

(b) The critical water shortage faced by Palestinian children and their families and by Bedouin children in the Negev due to prohibitions of access to natural resources, restrictions on water utilization and destruction of water services including traditional cistern-based water infrastructure essential for maintaining the Bedouin people's nomadic and agricultural way of life. The Committee is further concerned about the State party authorities' opposition to the creation of waste water treatment facilities in East Jerusalem and to providing access to safe drinking water to Bedouin families and their children living in so-called "unrecognized villages" even in cases where the Supreme Court has ruled that villages should be connected, as in Civil Appeal 9535/06, *Abdullah Abu Musa'ed, et al*. v. *The Water Commissioner and the Israel Land Administration* (decision delivered 5 June 2011);

(c) Children in the OPT increasingly suffering from chronic malnutrition, a situation which has been gravely exacerbated by the closure of the Gaza Strip and the constraints placed on agencies providing humanitarian aid in Gaza, by the maintenance of severe restrictions on access to agricultural land and the sea and by the destruction and confiscation of means needed for Palestinian livelihood, including the thousands of Palestinian-owned trees, mainly olive trees damaged or uprooted by Israeli settlers and the State authorities.

60. **In light of the numerous recommendations addressed to the State party by the United Nations Secretary General, the High Commissioner for Human Rights and various treaty bodies in relation to the right of Palestinian and Bedouin families to an adequate standard of living, the Committee urges the State party to unconditionally commit itself to refrain from any actions that would further deprive Palestinian and Bedouin families of their land and of access to safe drinking water, sanitation and food as well as to allow humanitarian agencies unimpeded access to families and children in need without fear of persecution or other recrimination. The Committee also urges the State party to:**

(a) Adopt a moratorium on demolition and evictions until the planning and zoning regime is brought into compliance with applicable international legal standards for areas in the West Bank under its full control, including East Jerusalem, and ensure that Palestinians in the West Bank have access to a fair, effective and participatory planning system;

(b) Restore confiscated land to Bedouin and Palestinian families and their children;

(c) Take immediate measures to ensure the availability of sufficient and safe drinking water and adequate sanitation for Palestinians living in the OPT as already recommended by the Committee on Economic, Social and Cultural Rights (E/C.12/ISR/CO/ 3, para. 29, 2011);

(d) Review the restrictions placed on Palestinian access to land, sea and livelihood. The State party should also put an end to the impunity enjoyed by settlers who destroy Palestinian livelihood and take active measures to prevent further violence and destruction.

H. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

61. The Committee welcomes the 2007 amendment of the Compulsory Education Law which broadens its scope and extends free compulsory education to children between the ages of fifteen and seventeen. The Committee also notes as positive the five-year plan (2011-2016) to reduce the gaps in the education of Bedouin children as well as the agreement reached in the municipality of Eilat whereby children of migrant asylum seekers will eventually be integrated into the regular public schools and not in a separate education frameworks as was previously the case. The Committee is however concerned that:

(a) Collection of tuition fees from parents is widespread, jeopardizing the right to free education enshrined in the Compulsory Education Law;

(b) There is serious discrimination against Bedouin children who are often left without any school available for them or without safe roads and transportation means to schools, as well as against children belonging to the Ethiopian community who are disproportionately placed in special education without proper screening and the identification of their special needs;

(c) Jewish and Arab children continue to be educated in segregated school systems as observed by the Committee on the Elimination of Racial Discrimination (CERD/C/ISR/CO/14-16, para. 11) with lower investment in the education system for Arab children which results in a severe shortage of classrooms, in substandard conditions and quality of teaching, low academic results and high school dropout.

62. The **Committee urges the State party to:**

(a) Take the necessary measures to effectively enforce the Compulsory Education Law and ensure that education remains free by discontinuing the practice of requesting that parents pay fees and other non-official contributions for the education of their children;

(b) Take active measures to ensure the right to education of Bedouin children and immediately remove Ethiopian children who have been unnecessarily placed in special schools;

(c) Put an end to the segregation of Arab and Jewish children in schools and build an education system based on tolerance and understanding among children from all communities;

(d) Establish an inclusive education system for all children regardless of individual differences or difficulties, ethnic or cultural background, or socioeconomic status in order to build a society that is genuinely inclusive, that values difference and respects the dignity and equality of all human beings regardless of difference.

63. The Committee is also concerned that:

(a) 300 educational facilities have been damaged during the operation "Pillar of Defence" of the State party, and that in the West Bank, 32 attacks by the army have been reported since 2009. Palestinian schools were attacked by the State party military or settlers and in some cases used as military outposts or detention centres. Furthermore, children continue to be subject to harassment, threats and violence by the State party's military and security forces as well as by settlers on their way to and from school as observed notably by the United Nations Secretary General (A/67/375, para.23);

(b) In spite of the construction of new classrooms highlighted by the delegation of the State party during the interactive dialogue, there is a serious school shortage (1000 classrooms lacking in East Jerusalem according to the State Comptroller's 2009 report) and a state of disrepair of school infrastructure in all the OPT which have led Palestinian children to be deprived of education or to attend classes in tents or caravans in unsuitable and overcrowded conditions. The Committee is further concerned that the State party continues to refuse permits to build new classrooms and orders the demolition of schools, thus further depriving Palestinian and Bedouin children of their right to education;

(c) Due to the Gaza blockade, in 2010, UNRWA was unable to meet the enrolment needs of 40 000 school age children. Additionally, the restrictions on freedom of movement imposed by the wall, closures, checkpoints and permit regimes continue to prevent some Palestinian children from attending schools.

64. **The Committee urges the State party to:**

(a) Protect children in the OPT from harassment, intimidation and violence by ensuring that the settlers and security forces are held accountable;

(b) Cease attacks against schools and use of schools as outposts and detention centres in the OPT and immediately declare a moratorium on the destruction of schools in the OPT and in the Negev;

(c) Remove aggregates, iron bars and cement from the dual use list in order to allow the reconstruction of schools in Gaza, take all the necessary measures to facilitate the construction of temporary schools and prepare as a matter of priority an investment plan to tackle the school shortage in East Jerusalem;

(d) Remove all disproportionate restrictions on freedom of movement which prevent Palestinian children from attending schools.

Aims of education

65. The Committee reiterates its concern that peace education is extremely limited in the State party given the state of conflict and the extensive militarization of the educational system (CRC/C/OPAC/ISR/CO/1, para 26). Notwithstanding the information provided by the delegation of the State party, the Committee is also concerned at the removal of significant information on Palestinian history, heritage, flag and cities from school textbooks distributed in 2011 to all private and public schools in East Jerusalem.

66. **The Committee reiterates its recommendation (CRC/C/OPAC/ISR/CO/1, para. 27) of systematic inclusion of peace education both in the Israeli and Palestinian school system, and again encourages joint initiatives, bringing together both Israeli and Palestinian children, to be undertaken to promote peace education. The Committee also draws the attention to its general comment No. 1 (2001) on the aims of education and reminds the State party of its duty to ensure that Palestinian children are educated with respect to their cultural identity, language and values and therefore urges the State party to cancel the prohibitions of using Palestinian textbooks and curricula.**

Early childhood development

67. The Committee expresses concern that despite the fact that the Compulsory Education Law applies to all children from the age of three, there continue to be a disproportionally low number of Arab children enrolled in early childhood education. The Committee is also concerned that the State party has still not adopted the necessary legal framework for the licensing and supervision of early childhood institutions.

68. **The Committee recommends that the State party adopt a comprehensive national policy for early childhood education and development and ensure that all children have access to high quality early childhood care and education opportunities without discrimination. The Committee also recommends that the State party adopt a legal regulatory framework applicable to early childhood care and education and ensure that all institutions undergo compulsory registration and are supervised based on specified criteria.**

I. Other special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)

Asylum seeking and refugee children and children of migrant workers

69. The Committee welcomes the creation of a Youth Village in Nitzana in 2011 for unaccompanied children. The Committee also notes as positive the attention that the situation of children without legal status has recently received from the State Comptroller and the Knesset Child Rights Committee. The Committee is however concerned about the increased marginalization of children of asylum seekers and migrant workers as well as unaccompanied children in the State party, who are often left without any support from welfare authorities. The Committee is further concerned that these children are often denied access to day-care centres, education, and health services and therefore stay alone while their parents work outside of their home or are exposed to various forms of exploitation. The Committee also expresses concern about:

(a) The Anti-Infiltration Law enacted in January 2012 which allows for the prolonged detention of children, including child victims of exploitation, torture and trafficking who migrate illegally to the State party;

(b) The rise in arrests since August 2011 of children of migrant workers, including children born in the State party, in extremely stressful conditions such as those

conducted at night. These children and their mothers are then placed in Yahalom detention facility at Ben Gurion International Airport until their deportation, in small cells that are unsuitable for families without the possibility to contact their father or any other family members and without access to health services, social workers or legal counselling;

(c) The conditions of detention of children in Saharonim detention centre which were judged harsh and overcrowded by the Public Defender in his August 2011 report. In 2011, 19 boys attempted suicide in the Matan detention facility of Harera and in the Givon detention facility, girls have been detained together with adults. Child victims of abuse, torture or trafficking are not provided with appropriate psychosocial care and support;

(d) The arrest, imprisonment in harsh conditions and deportation in 2012 of Sudanese children, including children who had been placed in protective care services due to violence and severe neglect by their parents, following arrest and imprisonment of the parents in harsh conditions, causing serious emotional damage to these children.

70. **The Committee draws attention to its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin and reminds the State party that all children involved in or directly affected by international migration are entitled to the enjoyment of their rights, regardless of age, sex, ethnic or national origin and economic or documentation status, in both voluntary and involuntary migration situations, whether accompanied or unaccompanied, on the move or otherwise settled, documented or undocumented or any other situation. The Committee urges the State party to:**

(a) Guarantee the right for all asylum-seeking children and children of migrant workers to access public schools, boarding schools, kindergartens, nurseries and health services and ensure coordination among responsible government actors with the view to protecting and adequately supporting these children;

(b) Develop and enact as a matter of priority a national legal framework to regulate the Israeli asylum procedure, including the principle of non-refoulement, and repeal the provisions of the Anti-Infiltration Law which allow for the prolonged detention of children;

(c) Take all appropriate measures to promote physical and psychological recovery, as well as social reintegration of child victims of any form of neglect, exploitation, abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment;

(d) Cease with immediate effect the detention of children on the basis of their immigration status;

(e) Conduct individual assessments and evaluations of the best interests of the child at all decision stages of the migration process affecting children, and with the involvement of child protection professionals, the judiciary as well as children themselves. Primary consideration should also be given to the best interests of the child in any proceeding resulting in the child's or their parents' detention, return or deportation;

(f) Consider ratifying the 1961 Convention on the Reduction of Statelessness, and review nationality legislation and existing procedures to bring them in line with international standards for the prevention and reduction of statelessness.

Follow up to the Optional Protocol on the involvement of children in armed conflict

71. The Committee expresses deep concern about the continuous use of Palestinian children as human shields and informants (14 such cases having being reported from January 2010 to 31 March 2013 only) and about the failure of the State party to comply with the ruling of the High Court of Justice in *Adalah et al.* v. *Commander of the Central*

Region et al. (HCJ 3799/02, Judgement of 23 June 2005) as recommended by the Committee in 2010 (CRC/OPAC/ISR/CO/1, para. 25) in this respect. The Committee notes with deep concern that:

(a) The State party's soldiers have used Palestinian children to enter potentially dangerous buildings ahead of them and to stand in front of military vehicles in order to stop the throwing of stones against those vehicles as observed by the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism (A/HRC/6/17/Add.4, para.48);

(b) Almost all those using children as human shields and informants have remained unpunished and that the soldiers convicted for having forced at gunpoint a nine-year old child to search bags suspected of containing explosives only received a suspended sentence of three months and were demoted.

72. **The Committee urges the State party to immediately abide by the High Court of Justice in *Adalah et al*. v. *Commander of the Central Region et al.*, to take active measures to prevent the use of children as human shields and informants, effectively enforce the prohibition to use of children as human shields and informants and ensure that perpetrators are brought to justice and punished with sanctions commensurate with the gravity of their crimes.**

Administration of juvenile justice

73. The Committee commends the State party for the significant improvement of its juvenile justice system which contains a wide range of guarantees and safeguards for Israeli children in conflict with the law. The Committee is however concerned that the State party fully disregarded the recommendations it made in 2002 and 2010 in relation to arrest and detention of Palestinian children and their detention conditions and has continued to deny all these guarantees and safeguards to children living in the OPT who remain subject to military orders. The Committee is gravely concerned that an estimated 7000 Palestinian children aged from 12 to 17 years, but sometimes as young as nine years, have been arrested, interrogated and detained by the State party's army over the reporting period, (an average of two children per day), this number having increased by 73 per cent since September 2011 as observed by the United Nations Secretary General (A/67/372, para 28). The Committee expresses deep concern that:

(a) Most of the Palestinian children arrested often on an arbitrary basis as testified by several Israeli soldiers are accused of having thrown stones, an offence which can carry a penalty of 20 years of imprisonment;

(b) 236 children are currently detained for alleged security reasons; dozens of them are between the ages of 12 and 15;

(c) Arrested Palestinian children can be detained for four days before being brought before a judge (eight days until August 2012), are rarely informed of their rights, including their right to have the presence of a parent who are often not even aware of the place where their children are detained, and to have access to a lawyer;

(d) Palestinian children arrested by the State party military and police are systematically subject to degrading treatment, and often to acts of torture, are interrogated in Hebrew, a language they do not understand, and sign confessions in Hebrew in order to be released;

(e) Children are brought in leg chains and shackles wearing prison uniforms before military courts where confessions obtained from them under duress are used as the main evidence. The lawyers they meet for the first time do not have access to a translated version into Arabic of military orders which will be applied to children;

(f) The sentencing provisions applicable to adults apply to children aged 16 and 17;

(g) Many Palestinian child detainees (215 children since 2009) are transferred out of the OPT and serve their detention and sentences inside Israel in breach of article 76 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. A large number of them are detained in overcrowded cells together with adults in poor conditions, with poor ventilation and no access to natural light. Poor quality and inadequate amounts of food, harsh treatment by prison officials and deprivation of any form of education add to their plights.

74. **The Committee strongly urges the State party to guarantee that juvenile justice standards apply to all children without discrimination and that trials are conducted in a prompt and impartial manner, in accordance with minimum fair trial standards. The Committee also urges the State party to dismantle the institutionalized system of detention and use of torture and ill-treatment of Palestinian children at all stages of the judicial procedure. All those who have been involved in this illegal system should be brought to justice and punished if found guilty. The Committee also urges the State party to comply with the recommendations it made in 2002 and 2010 and which have been constantly reiterated by all human rights mechanisms, the United Nations Secretary General and the High Commissioner for Human Rights and in particular that it:**

(a) Review and amend all laws that allow the sentencing of Palestinian children to 20 years of prison for having thrown stones, and remove from detention all children that are held there for this reason;

(b) Ensure that detained children have effective access to an independent judicial review of the legality of their arrest and detention within 24 hours of their arrest and are provided with adequate free and independent legal assistance immediately after their arrest and can contact their parents or close relatives;

(c) Ensure that children accused of having committed security offences are only detained as a measure of last resort, in adequate conditions in accordance with their age and vulnerability and for the shortest possible period of time. In case of doubt on having reached the age of criminal responsibility, children have to be presumed to be below this age;

(d) Ensure that all confessions written in Hebrew and signed or adopted by a Palestinian child be rejected as evidence by the courts and that decisions are no longer made solely on the basis of confessions from children;

(e) Ensure that all detained Palestinian children are separated from adults and are held in appropriate conditions and with access to education in facilities located in the OPT. Their detention should be periodically and impartially reviewed;

(f) Ensure that children in detention have access to an independent complaints mechanism and that all those who were unlawfully detained and subject to torture and ill-treatment obtain redress and adequate reparation, including rehabilitation, compensation, satisfaction and guarantees of non-repetition.

J. Ratification of international human rights instruments

75. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify all core human rights treaties to which it is not yet a party, namely the Third Optional Protocol to the Convention on the Rights of the Child on a communication procedure, the Convention for the Protection of All Persons from Enforced Disappearance as well as the Optional**

Protocols the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Discrimination against Women, the Convention against Torture and the Convention on the Rights of Persons with Disabilities.

K. Follow-up and dissemination

76. **The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented by, inter alia, transmitting them to the Head of State, the Knesset, relevant ministries, the Defence and Security Forces, the Supreme Court and local authorities for appropriate consideration and further action.**

77. **The Committee further recommends that the combined second and fourth periodic report and the written replies by the State party and the related recommendations (concluding observations) be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and the Optional Protocols thereto and of their implementation and monitoring.**

L. Next report

78. **The Committee invites the State party to submit its next combined fifth and sixth periodic report by 2 November 2018 and to include in it information on the implementation of the present concluding observations. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the guidelines. In accordance with General Assembly resolution 67/167 of 20 December 2012, in the event that a report exceeding the page limitations is submitted, the State party will be asked to review and resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, translation of the report for purposes of examination by the treaty body cannot be guaranteed.**

79. **The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/GEN/2/Rev.6, chap. I).**

United Nations CRC/C/OPSC/ISR/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Israel under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

1. The Committee considered the initial report of Israel (CRC/C/OPSC/ISR/1) at its 2007th meeting (see CRC/C/SR.2007), held on 28 May 2015, and adopted the following concluding observations at its 2024th meeting (see CRC/C/SR.2024), held on 5 June 2015.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPSC/ISR/Q/1/Add.1). The Committee appreciates the constructive dialogue held with the State party's multisectoral delegation.

3. The Committee reiterates its previous concern (see CRC/C/ISR/CO/2-4, para. 3) that the State party did not provide information and data on children living in the Occupied Palestinian Territory (OPT), including East Jerusalem, and in the Occupied Syrian Golan Heights, which affects the State's accountability for the implementation of the Optional Protocol. The Committee urges the State party to comply with the advisory opinion of the International Court of Justice on the legal consequences of the construction of a wall in the OPT[1] and to abide by its obligations to ensure the full application of the Optional Protocol in Israel and in the OPT, including the West Bank, the Gaza Strip as well as in the Occupied Syrian Golan Heights.

4. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined second to fourth periodic reports submitted by the State party under the Convention on the Rights of the Child (CRC/C/ISR/CO/2-4), adopted on 14 June 2013, and on the initial report submitted under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/ISR/CO/1), adopted on 29 January 2010.

* Adopted by the Committee at its sixty-ninth session (18 May–5 June 2015).

[1] See International Court of Justice, Legal consequences of the construction of a wall in the Occupied Palestinian Territory, advisory opinion of 9 July 2004, para. 163 (3) A.

II. General observations

Positive aspects

5. The Committee welcomes the measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including:

(a) The amendment to Section 214(b3) of the Penal Law (Amendment No. 118, 2014 – Accessing obscene publications);

(b) The amendment to the Prevention of Sexual Harassment Law 5758–1998 (Amendment No. 10, 2013 – Section 3(a)(5A));

(c) The guideline of the Deputy Attorney General for Criminal Affairs of 11 December 2014, entitled "Treatment of cases regarding publication, possession and accessing obscene materials that include the image of a minor";

(d) The amendment to the International Legal Assistance Law with regard to the conditions for assistance in confiscation and forfeiture, in October 2010;

(e) The enactment of the Assistance to Sex Violence Minor Crime Victims' Law No. 5769–2008, in 2008;

(f) The enactment of the Prohibition of Trafficking in Persons (Legislative Amendments) Law 5766–2006 (the Anti-Trafficking Law), in October 2006, and incorporation of most of its provisions into the Penal Law.

6. The Committee notes with appreciation the State party's ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in July 2008.

7. The Committee welcomes the institutional and policy measures that facilitate the implementation of the Optional Protocol, including:

(a) The establishment of the Cyber Crime Division within the Police and the special team to investigate cybersex crimes among minors, in 2013;

(b) The establishment of the Special Inter-Ministerial Team to develop a collaborative action plan to improve ways to tackle child prostitution, in 2012;

(c) The initiation of the Plan of Proactive Detection as well as the Street Search and Open Space programmes by the Ministry of Social Affairs and Social Services, which are designed to facilitate identification of minors involved in prostitution and their rehabilitation;

(d) The free psychological treatment programme for child victims of sex crimes, established by the National Insurance Institute and the Rashi Foundation and operated by the Ministry of Social Affairs and Social Services since 2008.

Data collection

8. The Committee is concerned at the absence of a comprehensive disaggregated data collection system covering all offences under the Optional Protocol.

9. **The Committee recommends that the State party develop and implement a comprehensive data collection mechanism to ensure analysis, monitoring and impact assessment of all the areas covered by the Optional Protocol. The data should be disaggregated by, inter alia, sex, age, nationality, ethnic origin, socioeconomic background, urban and rural residence, with particular attention to children in the**

most vulnerable situations. Data should also be collected on the number of prosecutions and convictions, disaggregated by the nature of the offence.

III. General measures of implementation

National plans of action

10. The Committee regrets the absence of a comprehensive policy and strategy on children that includes all issues covered by the Optional Protocol.

11. **With reference to its concluding observations under the Convention (CRC/C/ISR/CO/2-4, para. 10), the Committee reiterates its recommendation that the State party adopt a comprehensive policy and strategy on children that include the necessary measures to be taken in all areas covered by the Optional Protocol and are supported by adequate human, technical and financial resources for their implementation. Particular focus should be placed on the prevention, protection, physical and psychological recovery and social reintegration of child victims. The Committee also encourages the State party to ensure that such policy and strategy are regularly evaluated.**

Coordination and evaluation

12. The Committee notes the information provided by the State party that many government agencies are involved in the implementation of the Optional Protocol. However, the Committee is concerned at the absence of an overall mechanism ensuring coordination among the various government agencies on the implementation of the Optional Protocol.

13. **The Committee recommends that the State party designate a coordinating body capable of providing leadership and effective general oversight for the monitoring and evaluation of activities on children's rights under the Convention and its Optional Protocols. The State party should ensure that the coordinating body is provided with the human, technical and financial resources necessary for its effective operation**.

Dissemination and awareness-raising and training

14. The Committee welcomes the efforts made by the State party to disseminate information, provide training, including to investigators working with and for children, police juvenile investigators, pedagogical psychologists, and raise awareness through prevention programmes at elementary and middle schools. However, the Committee is concerned that there is no overall plan for awareness-raising among the general public and that the efforts made do not cover all areas of the Optional Protocol.

15. **The Committee recommends that the State party:**

(a) **Further strengthen its efforts to systematically make the provisions of the Optional Protocol widely known to the public, particularly to children, in a child-friendly manner, their families and communities;**

(b) **Develop, in close cooperation with relevant government agencies, civil society organizations, the media, the private sector, communities and children, awareness-raising programmes on all issues covered by the Optional Protocol, as well as protection measures against offences under the Optional Protocol, including in domestic laws;**

(c) **Ensure that its training activities are systematic and multidisciplinary and that they include all areas covered by the Optional Protocol and are provided to**

all relevant professionals working with and for children, especially judges, prosecutors, social workers, law enforcement and immigration officials at all levels throughout the territory of the State party.

Allocation of resources

16. The Committee is concerned that the State party has not provided adequate information on the budget specifically allocated for activities under the Optional Protocol, the lack of which presents an obstacle to assessing the implementation of the Protocol.

17. **The Committee recommends that the State party allocate sufficient and targeted resources for the effective implementation of the Optional Protocol**.

Independent monitoring

18. While acknowledging the role of the various institutions for the protection and promotion of human rights, the Committee is concerned that limited progress has been made by the State party since its previous recommendations under the Convention (see CRC/C/15/Add.195, para. 17 and CRC/C/ISR/CO/2-4, para. 16) to establish an independent mechanism with the mandate to regularly monitor and evaluate progress under the Convention and its Optional Protocols.

19. **The Committee draws the attention of the State party to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child and recommends that the State party accelerate the process for the establishment of an Ombudsperson for children, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), to monitor and evaluate progress in the implementation of the Convention and its Optional Protocols at the national and local levels and to deal with complaints from children in a child-sensitive and expeditious manner**.

IV. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and 2)

Measures to prevent offences prohibited under the Optional Protocol

20. While noting the efforts of the State party to prevent offences prohibited under the Optional Protocol, the Committee is concerned that those measures do not cover all offences under the Optional Protocol. In particular, the Committee is concerned that:

(a) The State party has does not have sufficient programmes specifically targeting children in vulnerable and marginalized situations;

(b) There are not sufficient mechanisms in place to identify and monitor children at risk of becoming victims to the offences under the Optional Protocol;

(c) There is insufficient information on the scale of sexual exploitation of children, in particular child prostitution and child pornography, in the State party, including on the Internet.

21. **The Committee recommends that the State party expand and strengthen its preventive measures to cover all areas of the Optional Protocol and in particular:**

(a) **Establish special prevention programmes targeting children throughout the territory of the State party, including children in vulnerable and marginalized situations, such as girls victims of sexual and domestic violence; children in street**

situations; children living in institutions; Bedouin, Palestinian and Arab Israeli children; and children of migrant workers and asylum seekers;

(b) **Establish mechanisms and procedures for identifying children at risk of becoming victims of the offences under the Optional Protocol, in particular children in vulnerable situations, and provide them with psychosocial support and awareness-raising programmes;**

(c) **Carry out studies with a view to assessing the scale of sexual exploitation of children, in particular the sale of children, child prostitution and pornography, including on the Internet.**

Child sex tourism

22. The Committee welcomes the measures taken by the State party to prevent child sex tourism, including the efforts by the Ministry of Tourism which led to the adoption of the World Tourism Organization Global Code for Ethics in Tourism by the Israeli Tourist and Travel Agents Association. However, the Committee is concerned at the lack of an effective regulatory framework and that measures taken to effectively prevent and combat child sex tourism abroad are insufficient.

23. **The Committee recommends that the State party:**

(a) **Establish and implement an effective regulatory framework and take all necessary legislative, administrative, social and other measures to prevent and address all cases of child sex tourism;**

(b) **Further strengthen its international cooperation through multilateral, regional and bilateral arrangements for the prevention and elimination of child sex tourism;**

(c) **Continue advocacy with the tourism industry on the harmful effects of child sex tourism and disseminate the World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies;**

(d) **Encourage all stakeholders to become signatories to, and comply with, the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.**

Birth registration

24. The Committee is concerned that the lack of birth certificates, in particular for migrant, asylum-seeking and refugee children, may present an obstacle to ascertaining the age of victims when investigating offences under the Optional Protocol and to their accessing medical and rehabilitation services.

25. **The Committee recommends that the State party urgently take measures to ensure that all children within the territory of the State party have access to birth certificates**.

V. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3), 5, 6 and 7)

Existing criminal or penal laws and regulations

26. While noting the relevant provisions in the Prohibition of Trafficking in Persons (Legislative Amendments) Law 5766–2006 (the Anti-Trafficking Law) and the Penal Code, the Committee is concerned that the Penal Code does not adequately specify all offences under the Optional Protocol. In particular, the Committee is concerned that:

(a) Not all forms of the sale of children covered by articles 2 (a) and 3 (1) (a) (i) of the Optional Protocol are classified as offences distinct from human trafficking;

(b) Forced labour by children is not criminalized as a form of the sale of children;

(c) Offences related to child prostitution committed under sections 199, 201, 202 and 203 of the Penal Code carry double penalties only if the victim is under 14 years of age, or if he or she is a minor who is 14 years or older and under the care and responsibility of the offender.

27. **The Committee recommends that the State party continue to revise and bring its Penal Code and other relevant legislation into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should:**

(a) **Define, regulate and criminalize the sale of children in accordance with article 3 of the Optional Protocol, including explicitly criminalizing forced labour of children as a form of the sale of children — a concept that is similar, but not identical, to trafficking in persons;**

(b) **Ensure that all children under the age of 18 are fully and equally protected by the Penal Code.**

28. While noting the efforts of the State party to regulate international surrogacy arrangements, the Committee is concerned that there is no appropriate procedure for screening prospective parent(s) of children born to surrogate mothers abroad, aimed at preventing the hidden sale of children and/or possible sexual abuse.

29. **The Committee recommends that the State party put in place more stringent policies to secure the protection of children born through international surrogacy arrangements.**

Prosecution of perpetrators

30. The Committee is concerned that the number of investigated cases of the offences under the Optional Protocol is low, that only a small percentage of those cases lead to prosecution and that penalties for offences relating to child prostitution and child pornography are not always commensurate to the gravity of the crime.

31. **The Committee recommends that the State party:**

(a) **Ensure that perpetrators are fully investigated and prosecuted;**

(b) **Ensure that penalties for offences relating to child prostitution and child pornography are commensurate to the gravity of the crime and, in particular, increase the penalty for accepting sexual services from a minor.**

Extraterritorial jurisdiction

32. The Committee is concerned about the lack of a specific legal basis on which extraterritorial jurisdiction for crimes under the Optional Protocol could be exercised.

33. **The Committee recommends that the State party review its legislation in order to establish extraterritorial jurisdiction over the offences under article 3 (1) of the Optional Protocol, especially when the alleged offender is a national of the State party or a person who has his habitual residence in the territory of the State party or when the victim is a national of the State party.**

VI. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))

Measures to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

34. While welcoming the wide array of measures aimed at protecting child victims and child witnesses in criminal procedures, including the adoption of the Law of Evidence Revision (Protection of Children) No. 5715–1955 (the Protection of Children Law) and the establishment of crisis centres, the Committee is concerned that provisions of the Protection of Children Law apply only to children under 14 years of age.

35. **The Committee recommends that the State party:**

(a) **Strengthen measures to protect the rights and interests of child victims of all offences under the Optional Protocol and, in particular, ensure that all children below 18 years of age benefit from full protection from offences under the Optional Protocol, including by bringing the Law of Evidence Revision (Protection of Children) No. 5715–1955 into full compliance with the Optional Protocol and other applicable international laws;**

(b) **Ensure the mandatory application of special protection measures in criminal proceedings to all child victims and child witnesses up to the age of 18;**

(c) **Ensure, through adequate legal provisions and regulations, that all child victims and/or child witnesses of crimes under the Optional Protocol are provided with the protection required by the Convention and the Optional Protocol;**

(d) **Take fully into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex).**

Recovery and reintegration of victims

36. The Committee welcomes the measures taken by the State Party to ensure the recovery and reintegration of child victims of all offences under the Optional Protocol. However, the Committee is of the view that those measures can be improved.

37. **The Committee recommends that the State party take all necessary measures to ensure that child victims of the offences covered by the Optional Protocol throughout the State party are provided with appropriate assistance, including for their physical and psychological recovery and full social reintegration, by, inter alia:**

(a) **Developing programmes to provide short-, medium- and long-term support for all child victims of offences under the Optional Protocol;**

(b) **Further strengthening throughout its territory, directly or through service providers, the specialized services and adequate assistance for children who have been trafficked, sold for sexual or economic exploitation or are otherwise victims of crimes under the Optional Protocol and ensure the allocation of adequate human, technical and financial resources for those purposes;**

(c) **Taking the necessary measures to facilitate and increase access to appropriate accommodation for child victims of offences under the Optional Protocol, particularly children in the most vulnerable situations, and ensure that such infrastructure is sufficiently and adequately available and well equipped**.

VII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

38. **In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered by the Optional Protocol.**

VIII. Ratification of the Optional Protocol on a communications procedure

39. **The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in order to further strengthen the fulfilment of children's rights in the State party.**

IX. Follow-up and dissemination

40. **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations by, inter alia, transmitting them to the relevant government ministries, the Parliament (Knesset) and national and local authorities, for appropriate consideration and further action.**

41. **The Committee recommends that the report and written replies submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol, its implementation and monitoring**.

X. Next report

42. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report to be submitted in accordance with article 44 of the Convention**.

United Nations CRC/C/PSE/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Initial report submitted by the State of Palestine under article 44 of the Convention, due in 2016*, **

[Date received: 21 September 2018]

* The present document is being issued without formal editing.

** The annexes to the present report, containing the endnotes and the tables, are on file with the Secretariat and are available for consultation. They may also be accessed from the web page of the Committee.

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Introduction

1. The State of Palestine acceded to the Convention on the Rights of the Child on 1 April 2014, as an expression of its respect for the principles and the spirit of the Convention. The present report was drafted in response to the commitments and in fulfilment of the duties incumbent upon the State of Palestine under the Convention, particularly its article 44. In addition to national measures, frameworks and benchmarks, the report covers in particular the legislative, administrative and judicial aspects relating to the provisions of the Convention.

2. The State of Palestine is under a colonialist, military occupation on the part of Israel and this report will throw some light on the colonialist policies of that occupation and the serious, systematic and widespread violations that infringe the provisions of the Convention. In fact, the Israeli occupation authorities deliberately and systematically target Palestinian children on a wide scale including through extrajudicial killings, arbitrary detention, displacement and forced migration with the aim of terrorizing an entire generation.

3. Following the accession of the State of Palestine to a number of international conventions and treaties, on 7 May 2014 the President of the State of Palestine issued a decree for the formation of a standing national committee at ministerial level to follow up on that accession. The committee is chaired by the Ministry of Foreign Affairs and Migrants with members drawn from other ministries and competent institutions, and with the Independent Commission for Human Rights acting as observer, and its purpose is to monitor the fulfilment of obligations arising from accession to the treaties in question. The present report was drafted by a joint national committee, which was brought into existence by decree of the standing committee and is part of that committee. The joint committee is chaired by the Ministry of Social Development, which is the competent authority, and its members are drawn from the Ministry of Education and Higher Education, the Ministry of Health, the Ministry of Labour, the Ministry of Information, the Ministry of Culture, the Office of the Public Prosecutor, the Supreme Judicial Council, the Ministry of Justice, the Ministry of the Interior, the Bureau of the Chief Qadi and the Sharia Courts, the Commission for Detainees and Former Detainees, the Ministry of Local Government, the Broadcasting and Television Authority and the Palestinian Central Bureau of Statistics.

4. The joint committee drafted the report in cooperation with a number of civil society institutions that work with children, which provided various kinds of data and information. The report was then submitted to relevant government and civil society institutions via a series of workshops organized in collaboration with the competent ministries and other official bodies, and with support from the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF) and Save the Children.

5. The joint committee also includes Defense for Children International – Palestine Section, the SAWA Foundation, the Young Men's Christian Association (YMCA) – Jerusalem, the Tamer Institute, the Women's Studies Centre, the Prisoners' Club and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

6. A draft of the present report was transmitted for consideration to representatives of civil society institutions, specifically Palestinian human rights and non-governmental organizations (NGOs). Those representatives studied the text then participated in the national consultations conducted by the State of Palestine concerning the report. Given that Israel, the occupying power, bars civil society institutions in the Gaza Strip from accessing the West Bank, two national consultation meetings have been held: one at the office of the Ministry of Foreign Affairs and Migrants, on 13 December 2017, with civil society institutions in the West Bank and Jerusalem; and the second by videoconference at the headquarters of the Independent Commission for Human Rights, on 6 February 2018, with civil society institutions in Gaza. The consultations were attended by representatives of ministries of the State of Palestine and of civil society institutions in the form of human rights organizations and NGOs working in the Occupied Palestinian Territory. The

substance of the report was discussed and civil society offered comments that facilitated the preparation of the final draft of the report.

7. During the drafting of this initial report of the State of Palestine under the Convention on the Rights of the Child, eight workshops were organized for children in Gaza and the West Bank including East Jerusalem with the intention of informing them about the drafting process and of canvassing their views about the extent to which the rights arising from the obligations of the State of Palestine under the Convention are being effectively applied. The workshops targeted children in marginalized areas, child victims of violence, children deprived of family care, and adolescents and children who have dropped out of school A total of 118 children participated in the workshops. In addition, 14 children participated in the national consultations held to present the report.

8. The Government of the State of Palestine has sought to provide a favourable constitutional, legislative and procedural environment for the drafting of the present report and of reports under other treaties. This is in line with general comment No.2 of 2002 of the Committee on the Rights of the Child regarding the creation of national institutions to facilitate the implementation of the Convention, according to which the creation of such bodies falls within the framework of the obligations to which States parties subscribe when acceding to the Convention. It was in this context that the standing national committee was established in 2014 under the Ministry of Foreign Affairs and Migrants to follow up on the accession of the State of Palestine to international treaties and conventions. In addition, a committee was established in 2017 under the Ministry of Justice to harmonize the domestic legislation of the State of Palestine with international treaties.

9. In drafting the present report, the State of Palestine relied on the provisions contained in the Convention itself, in particular articles 1 to 45, and on the general guidelines produced by the Committee on the Rights of the Child regarding the form and content of initial reports to be submitted by States parties under article 44 (1) of the Convention (CRC/C/5), which the Committee adopted at its fifty-fifth session in October 1991. Account was also taken of the Committee's general comments. The report covers the period from April 2014 to the end of 2017.

10. The submission of the present report does not exempt Israel, the occupying power, from reporting on its own compliance with the provisions of the Convention on the Rights of the Child in the Occupied Palestinian Territory including East Jerusalem, on the basis of its obligations and responsibilities as an occupying power, in accordance with international humanitarian law and international human rights law, as well as on the basis of the advisory opinion given by the International Court of Justice in 2004 on the legal consequences of the construction of a wall in the Occupied Palestinian Territory. The fact is that Palestinian children are victims of flagrant violations of their legally enshrined rights due to the manifest absence of international mechanisms to hold the occupying power to account for its daily actions against Palestinian people of all categories. Palestinian children are the principal target of daily operational practices in the occupation such as killings, detentions, torture and incursions into homes and places of education, despite the fact that children are a protected category under international law and custom.

Substantive information regarding the implementation of the Convention on the Rights of the Child

General measures of implementation (arts. 4, 42 and 44 (6))

A. Legislation

11. In the Palestinian Declaration of Independence, issued by the Palestinian National Council (PNC) in 1988, the State of Palestine proclaimed its commitment to the principles and goals of the United Nations and to the Universal Declaration of Human Rights. The Declaration also served to announce the creation of the State of Palestine as a free and independent State based on the principle of full equality of rights and freedoms among all Palestinians, wherever they might be, within a democratic parliamentary system based on

principles of social justice, equality and non-discrimination in public rights. The Palestinian Declaration of Independence confirmed the adherence of the State of Palestine to the human rights system as enshrined in international treaties and conventions, including the protection of children's rights, and established foundations to safeguard those commitments in the form of a legal system rooted in rule of law and an independent judiciary.

12. The Palestinian legal system is made up of a body of laws and legislation, which reflects the repeated periods of occupation and of foreign governance to which the State of Palestine has been subjected over the years. Laws from the Ottoman period, from the British occupation, from the Egyptian administration of the Gaza Strip and from the Jordanian governance of the West Bank are still in force.

13. The State of Palestine has shown particular concern over issues affecting children and the protection of children's rights, via its legal system as well as via its practices and policies. During a conference on Palestinian children on 5 April 1995, the late President of the State of Palestine, Yasser Arafat, announced the State's voluntary commitment to the Convention on the Rights of the Child and declared 5 April as Palestinian Children's Day. This was subsequently confirmed at the special session on children of the General Assembly of the United Nations in May 2002. As part of national efforts to promote children in Palestine, the Palestinian Children's Act No. 7 of 2004 was issued, subsequently amended by presidential decree in 2012 to bring it more closely into line with the Convention on the Rights of the Child.

14. Over the years, the State of Palestine has enacted a number of pieces of domestic legislation that contribute to promoting and protecting the fundamental rights of all citizens, including children. The Palestinian Basic Law as amended in 2003 has a particular focus on issues affecting children[(1)] and states that the State of Palestine has a duty and responsibility to provide them with comprehensive care and protection.

15. Amendments brought by the State of Palestine following its accession to human rights treaties have had the purpose of harmonizing domestic legislation with those treaties; abrogating the Jordanian Juveniles' Act No. 16 of 1954, which was still in force in the West Bank, and the Juvenile Offenders' Act No. 2 of 1937, which was in force in the Gaza Strip; and issuing a decree-law for the protection of Palestinian juveniles, which had been worked on by a technical committee on juvenile justice.[(2)] The provisions of the decree-law, which was approved on 4 February 2016 and published in the Official Gazette in March 2016, are similar to those of the Convention on the Rights of the Child in general and of the new criminal policy in particular. The decree-law envisages the creation of special police, prosecutors and courts for juveniles and highlights the need to take account of the best interests of the child in all legal and judicial proceedings.

16. Since its accession to international treaties and conventions, the State of Palestine has been endeavouring to provide training, within its own institutions, on human rights mechanisms and the drafting of official reports. During the period in which the reports to be presented to the treaty bodies were being drafted, the need emerged to establish a committee to examine and harmonize existing laws. In fact, in 2017, the committee for the harmonization of legislation was brought into being by decree of the Minister for Foreign Affairs and Migrants in his capacity as chair of the standing national committee of the State of Palestine for follow-up on accession to international treaties. The committee, which is chaired by the Ministry of Justice and has members drawn from relevant government and civil society institutions, undertakes to harmonize local laws and legislation with international human rights standards in general and with the Convention on the Rights of the Child in particular. The committee reviews the existing legislation of the State of Palestine then identifies the legislative amendments that need to made pursuant to international treaties. The Criminal Code is one of the laws due to be reviewed and amended, because the Jordanian Criminal Code (Act No. 16 of 1960) is still valid in the West Bank and the British Mandatory Criminal Code (Act No. 74 of 1936) in the Gaza Strip.

17. Laws governing civil status currently applicable in the State of Palestine include numerous provisions that concern children. Articles 154 and 155 of the Jordanian Personal Status Code (Act No. 61 of 1976) govern the custody of children and the characteristics the

custodian must have. It stipulates that "the custodian is to be of age and of sound mind and must not neglect the child". Article 38 of the Code states that the father must provide financial support for the child while article 39 focuses on financial support for the child's education. Article 170 concerns responsibility for the child's medical treatment while article 171 covers financial support for the child in the event of the father's death or incapacity to pay. The law applicable in the Gaza Strip is the Family Rights Act No. 303 of 1954, in which article 117 covers the lineage and article 118 the custody of the child.

18. The State of Palestine is concerned that persons with disabilities, particularly children with disabilities, should be able to enjoy all their human rights and fundamental freedoms. To that end a new law on persons with disabilities is currently being prepared that will be consistent with the relevant international treaty.

19. The Supreme Constitutional Court issued ruling No. 04/2017 in which it confirmed that international treaties take precedence over ordinary domestic legislation. According to the ruling, those treaties acquire greater force than domestic legislation particularly after they have been ratified and published and after they have gone through the formal stages required to be issued as domestic legislation, which is binding both on individuals and on the authorities. In addition, they should be consistent with the provisions of the Palestinian Basic Law. In March 2018, another ruling was issued by the Supreme Constitutional Court in which it provided an interpretation of article 10 of the Palestinian Basic Law as amended in 2003, which states: "Fundamental human rights and liberties shall be respected."

20. In its ruling, the Constitutional Court considered the Palestinian Declaration of Independence, issued by PNC on 15 November 1988, not only to be an inseparable part of the constitutional system in Palestine but also the most exalted element in that system, followed by the Palestinian Basic Law. Since the Supreme Constitutional Court had also stated that international treaties take precedence over ordinary domestic legislation (laws and decree-laws) it follows that such treaties rank lower than the Basic Law but higher than other pieces of legislation in force in Palestine.

21. The ruling also underscored the need to introduce a body of internal legislative measures to facilitate the exercise of those fundamental rights and freedoms as part of the process of reviewing laws and legislation. The purpose of this is to ensure closer integration with the provisions of the international human rights instruments that have been ratified by the President of the State of Palestine.

Responsibility for implementing the Convention on the Rights of the Child lies with the judiciary and with the executive, as follows:

22. *The judiciary*: Following the enactment of the decree-law for the protection of Palestinian juveniles, the Supreme Judicial Council designated juvenile judges and a special court registry independent from other registries in all courts of first instance. Thus, each court now has a special judge for juveniles. On 8 February 2016, the Public Prosecutor issued a decree establishing a special prosecutor's office to examine cases involving juveniles, endangered children and those at risk of delinquency. As part of this, investigations and court procedures remain confidential, the rights of the child are respected and ways are found to reform children and speedily reintegrate them into society, in accordance with the Code of Criminal Procedure and the Juveniles' Act. In addition, the special prosecutor's office may also file objections, appeals and requests for cassation against sentences and call for certain cases to be re-tried. It also cooperates with the Ministry of Social Development via child protection counsellors who follow up on cases involving delinquent children, in accordance with the law.[3] The Office of the Public Prosecutor for Children currently has 34 members.

23. Sharia courts in the State of Palestine also protect the rights of children, particularly with the introduction of the Sharia Enforcement Act No. 17 of 2016. The Act, under which the sentences of sharia courts are enforced, affects families and children in matters such as financial support, custody medical treatment, education and the visiting rights of parents if the child is in the custody of just one of them, always with a view to protecting the interests of the child.

24. *The executive*: According to law, different ministries hold responsibility for the implementation of different children's rights, under the overall leadership of the Ministry of Social Development.[4] They are: the Ministry of Education, the Ministry of Health, the Ministry of the Interior including the police, the Ministry of Justice, the Ministry of Labour, the Ministry of Local Government, the Higher Council for Youth and Sports, the Ministry of Culture, the Ministry of Information, the Ministry of Finance and the Palestinian Central Bureau of Statistics. There is also cooperation with other national and international institutions such as the Independent Commission for Human Rights, UNRWA and civil society organizations.

B. National strategies

A number of national strategies and plans have been developed that have a direct and an indirect bearing on the rights of children, as follows:

25. In 2010, the Ministry of Social Development rolled out its strategic plan for the protection of children 2011–2013. The plan was developed in cooperation with other governmental institutions that work to protect children such as the Ministry of Education, the Ministry of Health and the Office of the Public Prosecutor, with international institutions such as UNICEF and Save the Children, as well as with NGOs active in the field of child protection. Although children were not themselves involved in the drafting process, the strategy was designed to harmonize with the provisions of the Convention on the Rights of the Child and with relevant domestic laws, and to promote the achievement of Millennium Development Goals relevant to children, in particular the eradication of poverty, the promotion of gender equality and the empowerment of women. In addition, the strategy envisaged policies and policy interventions for the protection of children, and it designated the financial and human resources necessary for its own implementation and the bodies responsible for overseeing such implementation. It also included a sub-plan to follow up on and evaluate the implementation process with the aim of identifying loopholes and introducing the necessary amendments. Partners for the implementation of the plan were identified in government, civil society, the private sector and at the international level, and a series of indicators was developed with which to gauge impacts and desired outcomes. A number of interventions envisaged in the strategic plan have been carried out.

26. In 2012, working in partnership with the competent governmental organizations and NGOs, the Ministry of Social Development drafted the national juvenile justice strategy, which includes provision for the development of a legal environment supportive of juvenile justice as well as capacity building and professional skill enhancement for persons who work in that sector. Following the enactment of the decree-law for the protection of Palestinian juveniles, the strategy was further developed a view to facilitating the application of the law, and it was updated to cover the years 2016–2018.

27. In 2013, the Government of the State of Palestine drew up its national development plan 2014–2016. The plan acts as a strategic framework regulating priorities for government action, including social protection, as well as perfecting the delivery of rights-based and sustainable social services in order to contribute to the alleviation of poverty and the attainment of social justice among different groups. Also in 2013, the Ministry of Social Development – in line with the goals of the national development plan and with the participation of a national team made up of all institutions active in the field of social welfare – drew up its national social welfare strategy 2014–2016.

28. In 2015, the Ministry of Social Development prepared its plan of action for 2016. The plan covered a number of interventions in areas such as protection, care, training and awareness-raising directed at the various target categories of children, among them orphans, victims of violence of all forms, children born out of wedlock, adolescents and children with disabilities.

29. The transfer and networking system for the protection of children from violence, exploitation and neglect was reviewed in 2016. Established in 2008, it had previously been known as the transfer system. The system has begun to be tested by partners and, following the test period, it will be amended in line with the observations made by the child protection

networks that actually use it. Following that, it will be submitted to the Council of Ministers to be approved under the law.

30. In 2017, in cooperation with partners, the Ministry of Social Development completed drafting its strategic plan for the protection of children 2018–2022. The plan was submitted to the Palestine Children's Council, which is accredited to advise the Ministry in matters pertaining to children, and children themselves were able to identify their own priorities. The plan was then sent to be reviewed by UNICEF then to the Ministry of Social Development for approval by the Minister. It should be noted that the Palestine Children's Council was formed by Defense for Children International in cooperation with Save the Children and, since 2017, it has acted as an advisory body for a number of governorates and ministries.

31. On 16 January 2017, the Council of Ministers approved the national strategy for development and intervention during early childhood 2017–2022, which was developed by the Ministry of Education and Higher Education, the Ministry of Social Development and the Ministry of Health, in partnership with the competent institutions.

32. In 2013, the Ministry of Education and Higher Education rolled out a policy on violence and discipline in schools. The policy aims to curb school violence and sets forth the measures to be taken against offenders. In 2014, the Ministry launched its national strategy for inclusive education, which envisages the right to education for students with disabilities.

33. The Palestinian police issued its general strategy for 2014–2016 setting forth its mandate under the supervision of the Director-General of Police and the Ministry of the Interior. The Bureau for the Protection of the Family and Adolescents is an inherent part of the police strategy.[5]

34. In mid-2017, the Office of the Public Prosecutor prepared an executive plan for the activities of the Office in the period 2017–2018.

35. The Supreme Judicial Council has drawn up an executive plan in line with the national strategy for justice and the rule of law 2014–2016. The plan, which aims to improve the quality of justice, covers the following themes: fair trial guarantees, specialized judicial institutions particularly in regard of cases involving children and families, and easier access to justice for women and children in marginalized categories and refugees.[6]

36. *The National Council for Children*: Under article 70 of the Palestinian Children's Act, the Council of Ministers is to establish a body called the National Council for Children. The Council has legal personality and is formed and regulated in accordance with a statute, issued by the Council of Ministers, that sets forth its objectives, composition, duties and mandate. That mandate includes proposing strategies and public policies on the care and protection of children, then submitting them to the Council of Ministers for ratification and implementation.[7] The National Council for Children was approved by the Council of Ministers on 11 May 2017 and ministerial representatives were delegated, and its first meeting was held in May 2018. According to its statute, the Council for Children is to meet every two months.

37. Practical difficulties in achieving the goals of the various plans have emerged. They include economic difficulties, legislative dysfunction, poor coordination and follow-up among partners, lack of effective participation by children in past years and an increasing population, particularly in the occupied Gaza Strip. All of this has made it difficult to meet the needs of many children. However, the chief difficulty resides in the inability of the Palestinian Government to exercise its role and authority over its own occupied territory and resources, due to the Israeli occupation, and its daily reality in which children are targeted and deprived of their legal rights. This has been emphasized by the Committee on the Rights of the Child in its concluding observations on periodic reports of Israel, the occupying power. In fact, according to the Committee, the illegal long-lasting occupation of Palestinian territory, the continued expansion of unlawful settlements and construction of the Wall into the West Bank as well as land confiscation, destruction of houses and livelihood of Palestinians constitute severe and continuous violations of the rights of

Palestinian children and their families, feed the cycle of humiliation and violence and jeopardize a peaceful and stable future for all children of the region.

C. Data collection

38. The Public Statistics Act No. 4 of 2000 designated the Palestinian Central Bureau of Statistics as the official body with overall responsibility for gathering data and statistics within the State of Palestine.[8] In 1997, the Bureau established a children's statistics programme with a view to providing data on Palestinian children and measuring the progress made towards fulfilling their needs.

39. The Bureau began gathering data on children's rights in 1999. In 2012, it developed a series of indicators on the fundamental rights of children with a view to helping governmental and non-governmental institutions monitor how the rights of Palestinian children are being implemented in line with the Convention on the Rights of the Child. This took place through the formation of a special working group in collaboration with Save the Children and with help from government institutions and NGOs that work with children. Each year, data is collected from the relevant bodies in accordance with the established indicators. Those were also used in the drafting of the present report. In addition, the Palestinian Central Bureau of Statistics undertook a census of population and facilities in 2017.

40. Government institutions submit regular reports to the Council of Ministers to enable the Council to monitor how they implement their sectoral plans and any limitations they may face. Child-focused research and studies undertaken by civil society, international institutions, institutes of higher education and children themselves all help to provide information and data about the condition of children in Palestine.

41. The State acceded to all the human rights treaties at once, and did so only recently. As a result, administrative records were not ready and this has been the main challenge in the field of data collection. In addition, there is no centralized, comprehensive data-documentation system at the national level that covers all areas of the Convention, and not all cases are recorded by the competent ministries. Surveys that are carried out periodically have determinants that do not necessarily cover all categories of children, and this affects the representativeness and completeness of the information gathered.

42. The plan for the future is that the Ministry of Social Development will set up a national child protection database with support from Save the Children. The database will be created in stages, beginning with the establishment of a link between educational counsellors in the Ministry of Education and Higher Education and child protection counsellors in the Ministry of Social Development.

D. Coordination

43. The Ministry of Social Development is responsible for coordinating with competent institutions to ensure that children's rights in Palestine are duly fulfilled, in accordance with the Palestinian Children's Act, as amended.

44. At the national level, progress has been made in the area of coordination and cooperation in planning. Plans directly targeting children, such as the strategic plan for the protection of children 2013–2015, as well as other national sectoral plans that have goals related to children and their rights, such as the national social welfare strategy 2014–2016, were all drafted as a result of coordinated efforts between governmental institutions, civil-society and international partners. The plans were devised by national teams that included representatives from all those bodies and through special workshops.

45. A national transfer and follow-up system was developed in 2008 to ensure that services for children who suffer violence, neglect or abuse are integrated, coordinated and comprehensive. Institutions involved in the protection of children came together to develop the system and to define their own roles in such a way as to synchronize their activities and to ensure the best interests of the child.[9]

46. In order to develop the system of juvenile justice in Palestine, in 2010, the Council of Ministers issued a decree for the creation of the National Committee for Juvenile Justice.

47. In 2014, the National Committee for Child Labour was set up by decree of the Minister of Labour in partnership with civil society groups, trade unions and governmental institutions. The purpose of the Committee is to develop plans and policies to ensure that children are protected from economic exploitation.

48. In 2015, the Ministry of Social Development put together a national team made up of representatives from governmental institutions and NGOs that work with children. The team was created to ensure coordination and cooperation in the drafting of the official report under the Convention on the Rights of the Child, to which end it organized numerous meetings and workshops.

49. The lack of coordination with or involvement of children in the planning process, coupled with generally poor coordination and follow-up on plans between partners are among the biggest coordinative challenges in the area of childcare. In that connection, efforts to involve children in planning processes began in 2016.

50. In order to ensure coordination for the future, committees are to be set up by official institutions to monitor, evaluate and issue reports on the implementation of sectoral plans. The committees will include representatives from all competent institutions.

E. Budget allocation

51. The total budget of the Government of the State of Palestine in 2018 was 16,559,061,000 shekels while the budget allocated to the social sector was 7,321,684,382 shekels, which represents 44.22 per cent of the total budget of the Government of the State of Palestine.[10] For its part, the budget of the Ministry of Social Development stood at 859,251,863 shekels, or 11.74 per cent of the social sector budget and 5.19 per cent of the total government budget. The budget allocated to social assistance is part of the budget of the Ministry of Social Development; in fact, the amount allocated to cash assistance was 480,000,000 shekels in 2018, which represents 6.56 per cent of the social sector budget and 2.90 per cent of the total government budget.

52. The budget of the Ministry of Health was 2,087,818,000 shekels, or 28.52 per cent of the social sector budget and 12.61 per cent of the total government budget. The budget allocated for education in 2018 stood at 90,300,196 shekels, or 0.96 per cent of the total budget of the Government of the State of Palestine. In 2017, it had stood at 78,411,192 shekels.

53. The budget for leisure activities was divided between the Higher Council for Youth and Sports, with 08,553,907 shekels or 0.66 per cent of the total budget of the Palestinian Government, and summer camps, with 3,097,103 shekels of 0.02 per cent of the total budget of the Palestinian Government.

54. Children are among the categories benefitting from the various sectoral budgets in the State of Palestine, on an equal footing with other members of society; however, there is no specific budget for children’s services.

55. The budgetary programme of the Ministry of Social Development has changed since 2010 and the budget is now allocated on the basis of programmes and performance, whereby the planning process includes a programme with goals to be achieved and a corresponding budget.

56. During the phase that the budget for programmes run by the Ministry of Social Development is being drawn up (the anti-poverty programme;[11] the programme for the protection, care and rehabilitation of vulnerable and marginalized groups;[12] and the administration and planning programme[13]), each programme is classified in terms of its purpose, goals, outcomes and activities. That preparatory phase would be a good time to allocate independent budgets for children; however, the problem lies in the fact that the implementation phase of each programme constitutes a separate programme, which is not part of the same mechanism because the budgets required for each sector are classified as separate items and, when they are disbursed, only operational expenses, salaries and the purchase of services are shown. Thus, unlike the budget preparation phase, they do not appear as programmes for which disbursement has been made.

57. As regards follow-up and evaluation, once the approach to budget preparation had been adopted with its methodology of a budget for programmes, performance and items, and with the beginning of the process to develop and reform public finances, the idea arose of moving towards a budget that was both efficient and effective. The move towards a programme and performance budget was effected in 2012. The Ministry of Finance has provided technical assistance in various different forms to government ministries and institutions to promote the creation of programmes that reflect the nature of the activities of each institution and the services they provide, and to promote their capacity to manage available resources efficiently and effectively.

58. In order to ensure that goals have been achieved, the competent departments within the Ministry of Finance and Planning prepare analytical reports on the performance of ministerial budgets over a specific time period, then confront them with outcomes for the programmes and activities for each institution, as set forth in the Budget Act, using standard indicators for each outcome. This is a way of monitoring and evaluating performance for each outlay, irrespective of any information about budgets allocated for children.

59. The State of Palestine works to fulfil its commitments vis-à-vis children's rights, despite the difficulties if has to face in terms of available resources, reductions in foreign aid and the effect of those reductions on the delivery of public services, not to mention the lack of distinction between services provided to children and those provided to adults.

Tables 1, 2, 3 and 4, attached in the annexes, show the budgets and budget items for 2014 and 2015.

F. International cooperation

60. Since 1994, numerous international organizations have been providing aid to the Palestinian Government to help it develop legislation, regulations, plans and programmes in support of children in Palestine. They include the following:

- UNICEF has helped to support the State of Palestine in developing important legislation, regulations, plans and programmes, including the Palestinian Children's Act of 2004;
- Save the Children has provided support to a number of Palestinian ministries in programmes related to children and persons with disabilities. In collaboration with the Ma'an News Agency, it has promoted television series, discussions, advertisements and other visual media content on the subject of the rights of children and the rights of persons with disabilities. It has also provided training for professionals on how to adopt approaches based on children's rights and on how to interview children;
- The European Union supports the Ministry of Social Development in programmes related to persons with disabilities, including children, and in other programmes;
- The United Nations Development Programme (UNDP) has provided support to the Ministry of Social Development with a view to improving juvenile justice. In addition, the Supreme Judicial Council and the Bureau of the Chief Qadi cooperate with UN-Women and UNDP on the "Sawasya" programme and European police forces provide support to the Palestinian police via a number of different programmes;
- Thanks to cooperation between the Ministry of Culture and the Government of Norway, a cultural fund has been created for a period of three years. In addition, the Ministry of Education and Higher Education is continuing to cooperate on a number of programmes with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and UNICEF;
- The International Labour Organization (ILO) is supporting the Ministry of Labour on a programme to protect children from economic exploitation;
- The Office of the Public Prosecutor has signed an agreement with the Italian Agency for Development Cooperation for the provision of capacity-building and technical

support in the area of juvenile justice. Memorandums of understanding have been signed with the University of Perugia, the eCampus University and the Siracusa International Institute for Criminal Justice and Human Rights, in Italy.

61. The challenges in the area of international aid lie in the fact that it does not address certain basic needs, such as the provision of specialized human resources or the logistical requirements needed to expand and promote efforts in the area of children's rights. Furthermore, poor coordination between financial donors has at times led to problems in overlapping activities and difficulties in funding infrastructure, such as care and protection centres or centres for children with disabilities, in order to improve children's rights.

G. Independent monitoring

62. Monitoring by the State. The Ministry of Social Development follows up with the competent bodies on complaints regarding violations of children's rights and seeks to provide remedies. This takes place via the complaints department within the Ministry itself and via child-protection networks. Complaints are then referred to the child protection counsellor who is legally responsible for the protection of children and who coordinates with the competent bodies.

63. The complaints unit in the Ministry of Education and Higher Education follows up with the competent bodies on complaints regarding children's rights, to address those complaints in accordance with administrative and professional standards and rules.

64. The Palestinian police has a complaints system accessible via the police's Grievances and Human Rights Department. The system received 20 complaints in 2016 and 2017. A number of measures are taken, beginning with the formation of a team within the Department to investigate the complaint, gather all necessary documents and statements, examine the procedures followed by the Family and Juvenile Protection Department then forward recommendations to the Director-General of Police. The Family and Juvenile Protection Department is the body designated to deal with complaints involving children. It also acts to ensure that places of detention for juveniles are separate from places of detention for adults and that they respect the relevant international standards.

65. Procedures in regard of complaints from children regarding access to justice and court proceedings have been updated to reflect children's needs and posted on the website of the Supreme Judicial Council. This makes it easier for children or their legal representatives to lodge complaints, which can then be examined and pursued by the competent bodies.

66. A complaints department has been set up, based in the Office of the Public Prosecutor, to examine and pursue any violations against children and submit a report on the matter to the Public Prosecutor. The matter is then transferred to the office of the competent prosecutor and, following investigation, the complaint is resolved, either by holding the party responsible to account or by dismissing the matter due to absence of grounds or lack of evidence.

67. In 2017, the Office of the Public Prosecutor received three complaints regarding children's rights via civil society groups, lawyers and prosecutors. In accordance with due legal procedure, the complaints were dealt with by contacting the bodies concerned to verify the legality of the procedures taken. The first complaint concerned the detention of a youth by military intelligence; he was eventually released because he was being held by an unauthorized body. The second complaint concerned the detention of a youth by the preventive security department. Having looked into the matter, the public prosecutor decided that, in the light of the seriousness of the charges and in order to protect the juvenile from imminent danger, he was to remain in the custody of preventive security with the approval of his own family and on condition that he was held in an appropriately equipped location and that his educational and health needs were met. The third case involved a youth who alleged that he had been beaten by the police. An approach was made to the police and it emerged that the youth concerned had resisted arrest but that he had not been assaulted.

68. There is a complaints department within the Ministry of Justice's human rights unit. In addition, a special file for complaints involving children is currently being developed on the Ministry's website.

69. In order to protect children from economic exploitation, the Ministry of Labour receives and investigates complaints and pursues them before the courts. As a proportion of the whole, the number of complaints involving only children is extremely small.

70. The Ministry of Education and Higher Education has developed indicators on students – particularly students with disabilities – who suffer violence in any form. It also monitors cases in schools and has developed mechanisms for dealing with them. In addition, the Ministry has developed mechanisms to monitor all Israeli violations of education over the course of the year. These violations – which consist in attacking and closing schools, carrying out raids, arresting teaching staff and students, imposing house arrests, using schools as military posts and destroying Bedouin schools – affect the ability of the State of Palestine to fulfil its obligation to ensure that children are able to enjoy the right to education.

71. A national monitoring system is in place to monitor the rights of children on the basis of certain indicators. In 2011, following a recommendation from the Consultative Council for Official Statistics, the Palestinian Central Bureau of Statistics established a cross-sectoral statistical monitoring system to act both as a comprehensive database and as a means of updating data. The Council of Ministers issued a decree to establish a national statistical monitoring team, to be led by the Palestinian Central Bureau of Statistics with members drawn from various government agencies.(14) The task of the statistical monitoring team is to contribute to the development of indicators for the monitoring system.(15) The decree of the Council of Ministers also envisaged the creation of subcommittees for the different sectors and subjects covered by the system, including that of children and young persons.

72. In cooperation with Save the Children and with competent government ministries, the Palestinian Central Bureau of Statistics has developed indicators for the Convention on the Rights of the Child. For the purpose of drafting the present report, indicators relative to the implementation of the Convention were also developed by UNICEF. The annual reports issued by the Central Bureau serve to throw light on the extent to which the Convention is being implemented in Palestine and are, in fact, part of the national monitoring mechanism on violations to the rights of children and an indicator on the extent to which the State of Palestine is respecting the rights set forth in the Convention.

73. Monitoring by the Independent Commission for Human Rights. The Independent Commission for Human Rights was set up by presidential decree in 1993.(16) Article 31 of the Palestinian Basic Law of 2003, as amended, states: "An independent commission for human rights shall be established, its composition, duties and mandate to be defined by law. The commission shall submit its reports to the President of the National Authority and to the Palestinian Legislative Council." The Independent Commission acts as the official bureau for grievances in the State of Palestine and pursues complaints from citizens in regard of human rights violations committed by the State, including violations against the rights of children.

74. The Commission has issued a number of official annual reports on human rights in the State of Palestine, most of which include specific sections dedicated to the rights of children, in line with the Convention on the Rights of the Child.(17) The Commission also produces legal reports on children's rights covering subjects such as child labour, violence and ill-treatment against children and children in conflict with the law in reform and social care institutions. In addition, the Commission runs training programmes, directed particularly at law enforcement officials, on children's rights, juvenile justice, monitoring mechanisms and how to receive complaints from children.

75. In 2016, with support from Save the Children, the Commission launched a special children's complaints programme. The programme, which covers the mechanisms whereby children themselves can submit complaints regarding violations of their rights, is still in the process of being developed.

76. Child-related plans for the future in Palestine include the formation of a council made up of children within the Independent Commission for Human Rights. The council would have the task of monitoring the status of child rights in national institutions and verifying the extent to which the environment is safe and supportive of the right of children to enjoy a higher degree of protection and participation. The council would also help to review legislation, laws and policies on children, to draw up child-related plans and programmes, and to help the Commission to identify priorities for children.

77. The Independent Commission received 311 complaints concerning children in 2014 and 260 in 2015. In 2016, 230 complaints concerning children were received in the West Bank and Gaza while 204 were received in 2017, 153 in Gaza and 51 in the West Bank.

Table 5 shows the complaints concerning children received by the Independent Commission for Human Rights.

78. The principal violations by Palestinian governmental institutions that have been the subject of complaints involving children are as follows:

- *West Bank including East Jerusalem*: Complaints in which the principal violation was related to children's rights numbered 43;[(18)] 42 complaints concerned violations of the right to physical integrity,[(19)] 13 concerned violations to the right to health[(20)] and 31 concerned the right to due legal process during arrest and detention;[(21)]
- *Gaza Strip*: Complaints in which the principal violation was related to children's rights numbered 156; 285 complaints concerned violations of the right to physical integrity, 3 concerned violations to the right to heath and 85 concerned the right to due legal process during arrest and detention.

79. *Monitoring by civil society organizations*. The State of Palestine is making concrete efforts to create a climate of trust and cooperation between government bodies and civil society organizations and to establish continuous dialogue between the two sides with a view to protecting and promoting the rights of Palestinian children in the face of the violations they suffer as a result of the daily realities of Israeli occupation. In fact, civil society organizations monitor the extent to which children's rights are being enforced by government institutions and receive and corroborate complaints from citizens (including children) concerning rights violations they may have suffered at the hands of government bodies. Complaints are normally followed up with the government body concerned in order to stop the violation against the child and to promote cooperation with a view to guaranteeing children's rights in line with the Convention. After that, the progress achieved or results obtained are duly monitored.

80. A complaints service exists in the State of Palestine in the form of a telephone helpline run by an NGO, the SAWA Foundation, which is also a member of the child protection network.

81. The Working Group on Children and Armed Conflict brings together a number of international organizations, including UNICEF, the Office for the Coordination of Humanitarian Affairs (OCHA), Save the Children and Defense for Children International – Palestine Section. Its purpose is to monitor the six grave violations to which children are exposed during armed conflicts, which were defined by the Security Council with a view to protecting children during armed conflicts because of their particular vulnerability and to bringing an end to impunity. The six grave violations are: killing and maiming of children, recruitment or use of children as soldiers, sexual violence against children, attacks against schools or hospitals, denial of humanitarian access for children and the abduction of children.

82. Reports by the United Nations and by many different human rights organizations confirm that Israel, the occupying power, continues to kill and injure Palestinian children, to arrest them and subject them to torture and inhuman and degrading treatment of all kinds, to attack schools and hospitals, and to deny the access of humanitarian aid thereby affecting the lives and well-being of Palestinian children. In addition to that, children are suffering as a result of the illegal blockade that the occupying power is imposing on Palestinian civilians residing in the Gaza Strip, isolating them from the rest of the world and denying them access to humanitarian aid. Children suffer as a result of the policy of forced

displacements and the destruction of homes. Responsibility for these racist practices against Palestinian children lies with the occupation, and the army and the colonists should be placed on the United Nations blacklist of groups and States that violate the rights of children.

83. The biggest deficiencies in the monitoring of children's rights arise from shortcomings in the documentation of violations against children in Palestine, the lack of specialized staff to work with children and the restrictions imposed on the Palestinian Government by the Israeli occupation.

84. The statute of the National Council for Children was approved by the Council of Ministers in May 2017. The Council includes all government bodies that work with children and has the Independent Commission for Human Rights as observer, in addition to civil society and academic institutions. Its purpose is, among other things, to monitor the implementation of the Convention on the Rights of the Child.[22] One problem that has been recognized is a lack of coordination among the institutions that monitor and follow up on complaints from children, while action to enable wide-scale access by children to mechanisms from submitting complaints is still in its early stages.

H. Dissemination and training

85. A number of governmental institutions and NGOs in Palestine work to raise awareness about children's rights, provide training on the Convention on the Rights of the Child and disseminate the Convention within Palestinian society. The training is directed at children themselves, at persons who work with children and at other community groups.

86. Subcommittees within the child protection networks – which include representatives from governmental and non-governmental institutions under the leadership of the Ministry of Social Development – play an important role in raising awareness about children's rights. The networks exist in all Palestinian governorates. In 2012, with support from UNICEF, the Ministry of Social Development printed and distributed the Palestinian Children's Act in the form of a booklet to workers in different institutions.

87. The institutions of State that are covered by the dissemination and training are: the Ministry of Foreign Affairs and Migrants; the Ministry of Social Development including its child protection and welfare centres; child counsellors and others; the Palestinian police (Bureau for the Protection of the Family); the Office of the Public Prosecutor; the Supreme Council of the Judiciary including court judges and registrars; the Ministry of Education and Higher Education; the Ministry of Health; the Ministry of Justice; the Ministry of Labour; and the Independent Commission for Human Rights in its capacity as the national human rights institution.

88. Civil society institutions and international organizations that have been involved in dissemination and training are: Defense for Children International – Palestine Section, the Palestinian Centre for Democracy and Conflict Resolution, the Al Mezan Centre for Human Rights, the Tamer Institute, the Terre des Hommes Foundation, the Women's Studies Centre, the Shoruq Organization, the Palestinian Counselling Centre, the Palestinian Vision Foundation, the Qader Organization, YMCA – Jerusalem, OHCHR, UNICEF, Save the Children, the French Médecins du Monde, Spain, Médecins sans frontiers, World Vision International, the Norwegian Refugee Council (NRC) and UNESCO.

89. The principal areas covered by dissemination and training activities are: the rights of children under the Convention on the Rights of the Child and the Palestinian Children's Act; violence against children and protection mechanisms; the decree-law for the protection of Palestinian juveniles; sexual abuse and protection against such abuse; case management; methodologies for drafting intervention plans; and national and international obligations resulting from accession to the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict, including the drafting of official reports regarding the implementation of treaties and training in human rights-related concepts. Numerous other issues are also covered, among them juvenile justice; how to submit and follow up on complaints at the national and international levels; places of detention for juveniles; how to deal with children during periods of treatment; protecting children from online dangers; procedures whereby children can access the courts; and the

right to education, which includes the national strategy for inclusive education, the promotion of discipline in schools, crisis intervention for children, etc.

90. The training is aimed at children of both sexes among them children with disabilities, children from marginalized areas, child victims of violence who are staying in protection centres, and children in conflict with the law being held in places of detention. It is also directed at parents, guardians and school students as well as at the public at large through television programming and other media outlets. The training also targets professionals who work with children including judges, prosecutors, police, inclusive education counsellors, education counselling supervisors, special education supervisors in the Ministry of Education and Higher Education, school teachers, labour inspectors in the Ministry of Labour, officials of the Ministry of Health, child protection counsellors in the Ministry of Social Development and lawyers.

91. Once the State of Palestine acceded to the Convention on the Rights of the Child, the Ministry of Foreign Affairs and Migrants – in collaboration with the Ministry of Education and Higher Education and the Independent Commission for Human Rights, and with technical support from OHCHR – issued a booklet containing the corpus of treaties to which the State of Palestine had acceded, and distributed it to ministries, schools and universities in all governorates.

92. As part of an information campaign related to reports on the implementation of the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, the Ministry of Social Development has been providing training on those instruments to groups of children and young people, in cooperation with the Higher Council for Youth and Sports. It has also run training workshops for persons who work with children. Once the drafting of the initial report under the Convention is complete, information about the Convention and the report will be disseminated widely among the public, children and the relevant organizations by the competent ministries.

Table 6 shows the training imparted to members of the police's Bureau for the Protection of the Family in 2014.

Table 7 shows the training imparted to members of the police's Bureau for the Protection of the Family in 2015.

Table 8 shows training and workshops offered to members of the Office of the Public Prosecutor.

93. The most significant shortcomings in the field of awareness-raising lie in the limited human and logistical capabilities of the institutions responsible for children, as well as a lack of training in disseminating a culture of diversity and an absence of mechanisms to respond to individual differences among children, including children with disabilities.

I. Cooperation with civil society

94. Some important examples of collaboration with civil society in the drafting of plans and the implementation of programmes affecting children are listed below:

- A memorandum of understanding between the Ministry of Social Development and Defense for Children International – Palestine Section was signed in 2004, to improve cooperation in the area of juvenile justice. In addition, an agreement was reached in 2016 whereby Defense for Children International supports the Ministry in the implementation of its strategic plan for juvenile justice, which it recently developed and updated;
- A memorandum of understanding has been signed with the SAWA Foundation, which provides a telephone helpline service for children;
- A memorandum of understanding has been signed with the Palestinian Counselling Centre, in order to consolidate cooperation in the provision of psychosocial services for children by the Centre;
- The Office of the Public Prosecutor has signed memorandums of understanding with the Ma'an News Agency and with a number of Palestinian universities;

- Government institutions and NGOs cooperate in the commemoration of Palestinian Child's Day with activities that seek to make children themselves more aware of their rights;
- Government institutions and NGOs work together to draw up plans affecting children;
- The child protection network, which is headed by the Ministry of Social Development, includes civil society institutions that are active in the field of child protection. The institutions work together – in the national transfer and networking system – to provide children with the services they require, using a comprehensive methodology that takes account of the best interests of the child;
- The Palestinian Government cooperates and coordinates with civil society organizations specializing in the area of mental health, such as the mental health office of the Palestine Red Crescent Society, in order for them to provide psychological support services to children in difficult situations who suffer mental problems;
- Training courses on juvenile justice and children's rights are organized in cooperation with civil society while legal aid is provided to juveniles in cooperation with Defense for Children International and the International Law Association.

95. The Palestinian Government provides financial support to certain civil society organizations that work with children. Services are purchased from service providers for 930 children at a total annual cost of 5,274,000 shekels.

96. There are 34 associations working with children in the southern West Bank, 8 in the central West Bank, 19 in the northern West Bank, 9 in East Jerusalem and 53 in the Gaza Strip.

Table 9 shows the associations working with children that received financial assistance.

97. The biggest challenge lies in the limited financial resources available, both to civil society organizations and to government institutions.

1. Definition of the child (article 1)

98. The Palestinian Children's Act defines a child as any human being under the age of 18 years. That definition covers, and thus protects, unborn fetuses, in addition to all persons under the age of 18. According to the final results of the 2017 population, housing and establishments census, there were 2,115,370 children under 18 years of age in the State of Palestine, including 1,083,720 males and 1,031,650 females. Children comprise 45.3 per cent of the total population of Palestine, 43.4 per cent of the population of the West Bank and 48 per cent of the population of the Gaza Strip.

Table 10 shows the number of children, disaggregated by age group, region and sex in 2017.

99. There are disparities with other laws in force in the State of Palestine with regard to certain issues relevant to the age of the child; those laws are not necessarily consistent with the aforementioned definition in terms of a minimum legal age and the responsibilities stemming therefrom. Those issues include:

100. The age of legal capacity: the Ottoman Civil Code of 1876, applicable in the State of Palestine, places children into different categories; the first category includes young children who have not attained the "age of discretion" and whose actions, according to article 966 of the Code, have no legal repercussions, even if authorized by the child's guardian. The second category includes children who have reached the "age of discretion" and who thus enjoy the right to take action that has legal repercussions if that action is beneficial, even if it is not authorized by the child's guardian, while their action has no legal repercussions if it causes harm.

101. Compulsory education age: pursuant to the Children's Act, the compulsory education age is from 6 to 16 years. The 2017 decree-law on public education states that education is obligatory until the end of the tenth grade.

102. Working age: the Palestinian Children's Act, and article 93 of the Palestinian Labour Code No. 7 of 2000, prohibit the employment of children under the age of 15. The Palestinian Labour Code describes working children as "juveniles". That term is to be modified as it is applied in the decree-law for the protection of Palestinian juveniles to children in conflict with the law. In article 1 of the Labour Code, a working child (for whom the Code uses the term "juvenile") is defined as: "a person who is at least 15 years of age but who is not yet 18 years of age". Articles 94–98 of the amended Palestinian Children's Act also prohibit the employment of children in hazardous work. This was confirmed by the Minister of Labour in Decree No. 1 of 2004, which sets forth the types of hazardous work in which the employment of children is prohibited.

103. Article 99 of the Labour Code stipulates that the provisions of the Code do not apply to children who work with their first-degree relatives, on condition that their work is at all times in line with appropriate health and social standards that ensure work has no negative effect on their mental and physical development or on their education. Children who work with their first-degree relatives are not subject to any work-related age restrictions.

104. Age for giving testimony: pursuant to article 83 of the Code of Criminal Procedure (Act No. 3 of 2001), in force in the State of Palestine, the minimum age for testifying in court is 15 years. However, such testimony is given only in exceptional circumstances and the individual concerned does not have to swear an oath before giving evidence.

105. Age of marriage: the minimum age for contracting a marriage for males and females is prescribed by the sharia courts, which have established that, if both spouses are Muslim, the bride must be at least 15 Islamic calendar years old and the groom at least 16 Islamic calendar years old. It should be noted that an Islamic calendar year is 354 days long and is divided into 12 months. Six of those months are 29 days long and the other six months are 30 days long. Article 7 of the Personal Status Code provides that, if the prospective husband is more than 20 years the bride's senior, the conclusion of the marriage is conditional on a judge confirming the consent of the bride, and that the marriage is in her interest.

106. For non-Muslims, the Syriac Orthodox Personal Status Code, while taking into account domestic laws, prohibits men under the age of 18 and women under the age of 16 from getting engaged or entering into a marriage. The Personal Status Code of the Catholic Denominations regulates personal status issues for adherents of the six Catholic denominations listed in article 1 of the Code, namely the Maronite, Melkite Greek Catholic, Armenian, Syriac, Latin and Chaldean sects. The law provides that, in order for an engagement to be valid, the parties must be of sound mind and discriminating and have entered into the engagement freely, and that the betrothal must done be in accordance with the marriage laws of the Eastern Church, for Eastern Christians, and in accordance with Canon 1017 of the Latin Code of Canon Law, for Latin Christians.

107. The Sharia Court Council is to take action in the future to raise the age of marriage to 18 years for both spouses.

108. National penal laws criminalize underage marriage that has not been sanctioned by a judge or legal guardian. Article 156 of the Mandate-era Criminal Code, in force in the Gaza Strip, provides that any person who marries a girl under the age of 15 years commits an offence and shall serve a prison term of two years. The Jordanian Criminal Code stipulates that any man who marries a girl under the age of 16 years, any person who participates in such a marriage, any man who marries a girl under 18 years of age without the agreement of her guardian and any person assisting in that marriage shall be liable to a penalty of between 1 and 6 months' imprisonment.

109. A total of 24.2 per cent of women between the ages of 20 and 49 were married for the first time before they were 18 years old. In the West Bank, that figure is 21.4 per cent and in the Gaza Strip it stands at 28.6 per cent. [(23)]

110. Age of criminal responsibility: the Palestinian Children's Act has raised the age of legal accountability to 12 years. This is, moreover, affirmed in article 5 of the decree-law for the protection of Palestinian juveniles.[24] In accordance with instructions issued by the Public Prosecutor, the ages of juveniles and children are determined when they are brought before the Office of the Public Prosecutor for Children for the first time; the date on which the relevant incident took place and the age of the juvenile at the time that the incident was perpetrated must also be determined.

111. Age for conducting business operations: The Jordanian Trade Act (No. 12 of 1966) stipulates that commercial responsibility is regulated by the Civil Code, which, in turn, stipulates that children under the age of majority may conduct business operations that involve small sums of money. The courts may permit children who are at least 15 years old to conduct business operations involving any amount of money on condition that consent for this is granted by their guardians, who may withdraw their consent and prohibit them from conducting of business transactions.

112. Consumption of alcohol and narcotic drugs: the Palestinian Children's Act prohibits children from smoking or consuming alcohol or narcotic drugs. The Anti-Smoking Act (No. 25 of 2005) prohibits the sale, distribution, display or advertising of tobacco products to persons under 18 years of age.

2. General principles (articles 2, 3, 6 and 12)

Right to non-discrimination (article 2)

113. The Palestinian Declaration of Independence of 1998 established the legal basis for equality and the prohibition of discrimination in all its forms in the State of Palestine. The Declaration states that the State of Palestine shall be for all Palestinians, wherever they may be, and therein they shall enjoy full equality in terms of their rights within the framework of a parliamentary democratic system established on the basis of social justice, equality and non-discrimination on the basis of race, religion, colour or gender. The amended Palestinian Basic Law affirms the principles of equality and non-discrimination enshrined in the Declaration of Independence, while article 38 of the Palestinian Children's Act[25] prohibits discrimination and stipulates, "The State shall adopt appropriate and effective measures aimed at the eradication of all forms of discrimination in enjoyment of the right to education and shall work to guarantee equal opportunities for all children."

114. Inheritance: inheritance rights in the State of Palestine are addressed as personal status matters. However, there is no uniform, modern and fair legislative framework for personal status matters in Palestine. In the West Bank, the applicable codes are the Jordanian Personal Status Code (Act No. 61 of 1976) and the Code of Sharia Legal Procedure (Act No. 31 of 1959), as amended. In the Gaza Strip the applicable codes are the Ottoman-era Palestinian Personal Status Code from 1917 and the Family Rights Code (Order No. 303 of 1954), followed by the Code of Sharia Legal Procedure (Act No. 12 of 1965) issued by the governor of the Gaza Strip, with supplementary provisions from the Ottoman Civil Code of 1876. Meanwhile, the Sharia Court of East Jerusalem operates according to the personal status laws applicable in the Hashemite Kingdom of Jordan, because that Court is still administratively part of that Kingdom's sharia justice system. Any amendments to the Kingdom's personal status codes are instantly put into force by the Court, which is currently enforcing the 2010 Jordanian Personal Status Code (No. 36 of 2010).

115. Custody: In accordance with the provisions of the laws in force, when a female child reaches the age of majority, she must be placed in the custody of her guardian, while a male may chose to remain in the custody of his mother or be subject to the custody of his guardian. This gives rise to a form of discrimination that favours male children. If the girl refuses to join her father or her guardian, then she will no longer be eligible to receive money from him.[26]

116. Disability: article 2 of the 1999 Rights of Persons with Disabilities Act stipulates that persons with disabilities, including children, shall enjoy equal rights and shall not be discriminated against because of their disability.[27] Furthermore, the 2017 decree-law on

public education provides that education is a right that shall be enjoyed by all individuals on an equal and non-discriminatory basis and without discrimination, and also stipulates that the Ministry of Education shall adopt an inclusive and supportive education policy that addresses the needs of all students.

117. The 2015 annual report of the Independent Commission for Human Rights stipulates that persons with disabilities, including children, are subjected to two types of discrimination: discrimination in terms of the obligations of the State towards them and its failure to uphold its commitments, and discrimination in terms of societal perceptions and treatment by members of society of persons with disabilities. These factors have repercussions on the enjoyment of their rights in all areas, including their rights to education, health, transport and accessibility.

Best interests of the child (article 3)

118. Article 4 of the Palestinian Children's Act stipulates that: "The following must be taken into consideration: 1. The best interests of the child in all measures taken in his or her regard by the legislative authorities, the courts, the administrative authorities or public or private social welfare institutions. 2. The psychological, mental, physical and moral needs of the child in accordance with his or her age, health status and other factors."

The Children's Act also upholds the best interests of the child if the child's parents separate and stipulates that the best interests of the child must be safeguarded if that child is separated from one or both of his or her parents and that the child has the right to maintain personal relations and direct contact with both parents on a regular basis.

119. The State of Palestine endeavours to uphold the best interests of the child in numerous areas, including by taking administrative steps that are followed up on by child protection counsellors at the Ministry of Social Development in order to protect children from physical or sexual violence, as well as from neglect or exploitation including in cases when the abuser of the child is that child's guardian and the interests of the child cannot be upheld while that child remains with his or her guardian or custodian. In such cases, the child protection counsellor and the Public Prosecutor will act on the complaint to protect the child's interests.[(28)] The child protection counsellor will also interview the child victim so that his or her views are taken into account when deciding the steps that should be taken in that regard.

120. In cooperation with the Office of the Public Prosecutor and child protection counsellors, the police provide ongoing protection to children whose lives are threatened, endeavour to uphold the best interests of those children and protect them from all forms of danger.[(29)]

121. The child's best interests are determined through consultations involving the child protection counsellor, family protection police officers, the Office of the Public Prosecutor, educational counsellors and the authorities relevant to the situation of the child in question. A meeting is held so that the parties concerned can discuss the situation of the child, including his or her social, academic and psychological situation and needs. A decision regarding the child is made, and follow-up steps are taken. The child's views are taken into account in the procedures or the decision that is made, and procedures are conducted in accordance with the transfer and networking system guidelines followed by the child protection networks.

122. The Supreme Judicial Council seeks to take into account the best interests of the child and to give priority to those interests during proceedings, by giving consideration to the child's views and by appointing juvenile judges to issue a ruling in the child's case. The Bureau of the Chief Qadi has also taken action to uphold the interests of the child by issuing Circular No. 59/2012 on facilitating the visiting rights of parents, which includes a proposed interpretation of article 163 of the Personal Status Code of 1976, namely: "The mother or the father of the minor who has been given in charge to a party who holds the right to custody shall enjoy the right to see and to host the child once a week for a period of 24 hours, provided that the parties take into account the age and circumstances of the child. This shall uphold, first and foremost, the interests of that child and, secondly, the interests of the two parties". The hosting period may be extended upon agreement of the parties,

with the provision of a legal guarantee in all cases to ensure the return of the child to the person granted custody of that child after the expiry of the hosting period. The Circular also takes into account the interests of the child by facilitating the provision of a suitable environment and location for parental visits, to which the father and mother and all other parties that enjoy custody rights are entitled.

123. Adult children are sometimes summoned to attend family conciliation meetings to discuss reconciliation between spouses in divorce proceedings. Those adult children can play a positive role in reconciling differences between their parents and safeguarding the best interests of the child in question.

Right to life, survival and development (article 6)

124. The Basic Law provides for the protection and comprehensive care of the child and his or her right to physical integrity. The Children's Act states that it is the duty of the Government to ensure, "the protection of the rights of the child to survival and to development as well as their right to live in a free, safe and developed environment. The Children's Act also stipulates that children shall enjoy the right to life.

125. Death penalty: the death penalty is neither imposed nor carried out on children in the State of Palestine. The decree-law for the protection of Palestinian juveniles states explicitly that the death penalty shall not be imposed on a juvenile. Article 46 of that decree-law stipulates that, if a juvenile who is at least 15 years old but who is not yet 18 years of age commits an offence that is punishable by death, that juvenile shall be placed in a social care institution for a period of up to 9 years. In June 2018, the State of Palestine acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

126. Abortion: The Palestinian legal system provides for the protection of all children, including unborn children. The Palestinian Children's Act defines a child as any human being below the age of 18 years, and therefore the rights of the child are applicable to all children, including those who have yet to be born. Article 8 of the Public Health Act (No. 20 of 2004) prohibits abortion and provides that it is forbidden to cause a pregnant woman to miscarry by any means unless two specialist physicians testify that that procedure is necessary to save her life, and unless prior written consent for the procedure is obtained from the pregnant woman. If she is unable to provide her consent, the written consent of her husband or her guardian shall be obtained. The abortion shall be carried out in a health institution. The penal laws in force also contain explicit provisions that penalize abortion and the provision of assistance in order to facilitate an abortion. The Code of Criminal Procedure provides for the implementation of sentence of the convicted pregnant woman to be postponed until her delivery and until three months after her delivery if she has received a custodial sentence.

127. Suicide: Palestine has taken a number of measures to reduce the incidence of child suicide. Those measures include awareness-raising campaigns conducted by various authorities in schools on the prevention of violence in general, including suicide prevention. The Ministry of Health has also established a national suicide prevention commission.[30] In cases of attempted suicide, the police ascertain that the attempted suicide involved no suspected criminal activity and the Office of the Public Prosecutor is informed accordingly. Furthermore, protection counsellors at the Ministry of Social Development, who enjoy a mandate to take action, monitor the situation and prevent further suicide attempts, are informed of the situation and work together with the Ministry of Education in accordance with specific procedures set forth in the national transfer and networking system guidelines.

128. Three child deaths by suicide (one by hanging and the others by strangulation) were recorded in 2014.[31] Three female suicides were recorded in 2015.

129. Traffic accidents: One of the achievements of the Ministry of Health in 2009 was the establishment of the road accident monitoring programme, which includes a system for monitoring injuries. The Ministry of Health also conducts routine health education activities in schools that cover public safety, road safety and road accident prevention, and cooperates with the Ministry of Education to reduce the number of accidents near schools. In addition, the Ministry of Transport and Communications established the Supreme Traffic

Council in 2010 and has taken a number of steps to raise road safety awareness.[32] As for protecting children from traffic accidents, the police have held a number of awareness-raising lectures in schools on road traffic hazards with a view to educating children about traffic safety. Traffic accidents can cause disabilities among children. In 2014, of the 24.6 per cent of children aged 0–14 years who were involved in road accidents and sustained injuries therefrom, 0.4 per cent became disabled as a result of their injuries. According to statistics, 35 children under the age of 18 died as a result of road accidents in 2014, and 44 children died as a result of road accidents in 2015.

130. Domestic accidents: The Ministry of Health has launched an awareness-raising programme to prevent accidents among children, including accidents at home. Initiatives include the dissemination of educational materials and radio and television advertisements. All accidents, including those that occur at home, are reported to and recorded by the police. The data obtained on accidents is subjected to limited analysis for statistical purposes only.

131. Deaths and extrajudicial killings of children: the right of the child to physical safety and protection are among the basic rights guaranteed by the Palestinian Basic Law. Article 10 of the Basic Law provides that, "Fundamental human rights and liberties shall be respected". Article 32 provides that, "Any infringement of personal liberty or violation of the right to privacy or of other public rights and freedoms guaranteed by the Basic Law or laws in force is an offence not subject to any statute of limitations with respect to civil or criminal proceedings." The Palestinian Government shall ensure just reparation for any such harm suffered." The right of the child to a fair trial is a constitutional right guaranteed by the Basic Law, which provides that all persons accused of crimes shall receive a fair trial in accordance with article 14, which, in turn, provides that, "Accused persons are innocent until proved guilty at a legal trial at which they have had the guarantees necessary for their defence".

132. The Palestinian Centre for Human Rights in Gaza documented six child deaths and five cases of children being injured as bystanders in cases of killings, during family disputes, arms misuse, internal explosions and acts of property destruction in 2015.[33] The Independent Commission also recorded 49 child deaths in unusual circumstances in 2015[34] and 56 such deaths in 2014.

133. Execution of Palestinian children by the Israeli occupation forces: Israel, the occupying Power, grossly and systematically violates the rights of Palestinian children and commits daily crimes against them in violation of international human rights law and international humanitarian law, which obliges the occupying Power to ensure the well-being and safety of the civilian population under its occupation. Children are among those who are most likely to be affected by the daily attacks perpetrated by the Israeli occupation forces, and they are directly targeted in operations undertaken as part of a systematic and far-reaching occupation policy against the Palestinian people, and children especially, which causes deaths and injuries that very often result in disabilities.

134. According to statistics provided by the Palestinian Ministry of Health, 546 Palestinian children were extrajudicially killed by the Israeli occupation forces in 2014,[35] and 3,887 children were wounded in the Gaza Strip alone. Thirty-two children were killed and 594 were wounded in 2015. In 2016, 32 children were killed and 82 were wounded in the West Bank. More than half of those children were shot with live ammunition. Fifteen children were killed in 2017. The Prosecutor General has appointed a competent prosecutor to investigate crimes perpetrated by the occupation authorities.

Respect for the views of the child (article 12)

135. Article 12 of the Palestinian Children's Act provides: "2. The views of the child shall be taken into consideration in accordance with his or her age and maturity. 3. The child shall be given the opportunity to express his or her views in judicial proceedings or with regard to social or educational measures related to his or her circumstances."

136. As for respecting the views of the child in administrative procedures regarding child victims of community violence, and specifically in cases involving the transfer of a male or female child to a protection centre, the child's views are taken into consideration by the child protection counsellor, although problems may sometimes arise in that regard. For

example, a child that requires protection while in a protection centre may, when asked, state that he or she does not wish to be protected. In such cases, the psychological counsellor appointed to the case will work with the child with a view to balancing the child's interests and his or her views.

137. The police uphold the right of the child to be heard in all judicial and administrative proceedings. The child is given a simple understanding of the procedures, and the views and best interests of the child are taken into account, whether in connection with his or her life, education or residence. The police also take the necessary steps to protect children by ensuring that they enjoy access to urgent assistance, because ensuring that the child is heard facilitates efforts to resolve his or her situation.

138. The Office of the Public Prosecutor informs the juvenile of all the guarantees afforded to him or her by law, and particularly the guarantees provided under the decree-law for the protection of Palestinian juveniles.

139. As for ensuring respect for the views of children during litigation procedures, an opportunity is provided for them to express their views clearly and in confidence according to the specificities of the case, while ensuring that they are not subjected to any force or coercion, in accordance with Code of Criminal Procedure and the decree-law for the protection of Palestinian juveniles. This is one of the guarantees offered to accused persons in criminal cases. In addition to enjoying the right to a defence, the child also enjoys the right to speak before the sentence is pronounced.

140. Although article 12 of the Children's Act stipulates that the child shall be given the opportunity to express his or her views in judicial proceedings, the child's views are not taken into consideration by the judiciary if he or she has been the victim of exploitation, neglect or physical or sexual violence.

141. With regard to healthcare treatment, treatment is provided if consent is granted by the child's guardian; the child's views are not taken into consideration.

142. Children have not been involved in a systematic manner in the formulation of plans and strategies on children by government institutions, with the exception of the Higher Council for Youth and Sports, which involved groups of children in the process to draw up its annual plan for 2013. The Ministry of Social Development also involved children in efforts to draw up its national plan for the years 2018–2022. Initiatives to promote the involvement of children have also been launched by certain non-governmental organizations, and similar steps are now being taken by a number of governmental authorities, including the Ministry of Education and the governorates of Hebron, Bethlehem and Ramallah.

143. With regard to non-governmental organizations, Defense for Children International – Palestine Section is working to strengthen the participation of children and ensure respect for their opinions in all areas of their lives. To that end, it has established the Palestinian Network for Children's Rights, which brings together a number of grass-roots institutions located in the governorates of the country.[36]

144. The establishment of student parliaments by the Ministry of Education, in cooperation with the organization World Vision International, clearly reflects the interest of Palestine in the right of the child to express his or her views. Children were also involved in the preparation of this report.

145. In April 2016, 70 child rights protection teams were established in all West Bank governorates by Defense for Children International, in cooperation with the Ministry of Education and Higher Education, where they were tasked with collecting information about and corroborating violations of children's rights.

146. In partnership with the Palestinian Network for Children's Rights and Save the Children, and with the support of the Ministry of Education and Higher Education, Defense for Children International facilitated the establishment of the first children's council in Palestine through elections held for this purpose: the Palestine Children's Council represents children, reflects their views and aspirations, and questions policymakers on the extent to which children's rights are respected and upheld in Palestinian society. The

Council acts as an advisory body and provides recommendations to Defense for Children International, the Ministry of Education, the Ministry of Social Development and the organization Save the Children. The Council has also been accredited to act as an advisory body to Bethlehem, Hebron and Ramallah governorates

3. Civil rights and freedoms (articles 7, 8, 13, 17, 28 (2), 37 (a) and 39)

Birth registration, name and nationality (article 7)

147. The Palestinian Children's Act guarantees a child's right to be registered in the civil registry immediately after birth. Nationality is granted immediately to the child under the provisions of the said law, in addition to articles 17 to 19 of the 1999 Civil Status Code, which provides that a well-known person shall be entrusted with immediately notifying the Ministry of the Interior of the birth and providing information on the sex, name and condition of the child in a birth certificate provided by the health-care provider.[37] We note here that there is an inconsistency between the Children's Act, which requires immediate notification of birth, and the Civil Status Code, which states that notification must be given within 10 days. The Code will need to be amended in order to bring it into line with the Palestinian Children's Act.

148. The Ministry of the Interior operates in accordance with the Civil Status Code and its amendments, as well as the implementing regulations of the Code, which were approved by the Council of Ministers in 2009.

149. The rate of birth registration in Palestine (99.5 per cent), which is a component of the right to citizenship, is among the highest in the region according to the World Health Organization. In 2014, 78,174 births inside Palestine were registered in the birth register. A total of 12,519 births were registered outside Palestine in 2015. In 2016, there were 82,366 children born in Palestine and 11,898 children born outside the country. It should be noted that the parents of children born outside Palestine usually delay registering the birth of their children.

150. Registration procedures are the same for all Palestinians and no distinctions are made between them in order to ensure that all births are registered and facilitate procedures for citizens. The Palestinian Ministry of Interior has increased the number of civil registration offices and streamlined and accelerated registration procedures. If the child is registered within 10 days, no registration fees are charged and a free birth certificate is issued. After that, parents pay a penalty charge of up to 20 dinars for delaying the registration of the birth of their child.

Right to identity (article 8)

151. The right to identity is guaranteed to every child who has a parent with Palestinian identity. Both the father and the mother are entitled to register their children and to establish them as citizens. The father or mother of the child must also be registered in order for the child to obtain a national identification number, so that he can obtain an identity when he reaches the prescribed legal age. However, Palestinian identity and national identity numbers are linked to a population registry that is controlled by Israel, the occupying Power.

152. Article 16 of the Children's Act guarantees the right of the child to obtain a decent name that is neither degrading nor humiliating, and the parents of the child are obliged to uphold that right. The child is entitled to change his or her name by applying to the courts through his or her guardian or by requesting to change his or her name after reaching the age of majority. After obtaining a decision in that regard, the individual concerned is referred to the Ministry of the Interior. A court decision must be obtained providing for an individual's name to be changed by all government agencies.[38]

153. A difficulty encountered in the birth registration process relates to the time taken by parents to register their children. To address that challenge, a number of actions have been taken by the Ministry of Interior to encourage people to register their children. Those actions include visiting mosques, particularly in villages, and using mosque pulpits to emphasize how birth registration facilitates efforts by the national authorities to plan for the

future. The Ministry has also taken part in radio and television interviews on the subject, held networking meetings with municipalities and issued brochures to raise awareness among members of society and parents of the importance of birth registration.

154. The Ministry of the Interior is also planning to roll out an automated programme that will provide a direct link and facilitate cooperation with the Ministry of Health, so that births and deaths recorded by hospitals will be automatically registered in the population registry; this will facilitate the issuance of birth and death certificates, which will then be sent out in the post. The Ministry also plans to implement the same programme with the Bureau of the Chief Qadi to facilitate the registration of marriages and divorces. A challenge impeding the roll out of the programme is that a code must be assigned to each area of Palestine; this will require access to records controlled by Israel, the occupying Power, which are difficult to change without the agreement of the occupation authorities.

Preservation of identity

155. Article 7 of the Basic Law provides that: "Palestinian nationality is regulated by law." Article 28 of that law states: "No Palestinian shall be expelled from the homeland, deprived of return, prevented from leaving, stripped of his nationality or handed over to any foreign party." In accordance with article 28 of the Civil Status Code, Palestinians receive their identity cards when they reach 16 years of age. In order to obtain an identity card, he or she must provide a birth certificate in addition to documentation proving that one or both parents hold Palestinian identity.

156. Children under 16 years of age who are born abroad may apply for a Palestinian identity card provided that one or both of their parents have been given an official identification number. However, children between the ages of 16 and 18 who apply for an identity are not granted identity numbers or identity cards if they were born abroad to parents without Palestinian identity numbers. Palestinian nationality is given to children of a Palestinian mother and a non-Palestinian father.

157. The national registry and identity card system is associated with the Israeli occupation authorities, and therefore not all persons obtain identity cards even if they reside within the Occupied Palestinian Territory. In addition, children living permanently in East Jerusalem are not allowed to register in the Jerusalem registry if one of their parents is not resident in Jerusalem, and many Palestinian children are thus denied their right to live with one or both parents as a result of Israel's rejection of family reunification requests. In that regard, the Committee on the Rights of the Child has urged the occupation authorities to take immediate steps to abolish all legal provisions that deprive Palestinian children of their right to be registered immediately after birth, their right to a nationality and their right to be cared for by their parents. The Committee has also urged the occupation authorities to transfer the population registry to the Palestinian Government.

158. With regard to children of unknown parentage, a manual on procedures to be followed with children of unknown parentage and children born out of wedlock has been developed by the Ministry of Social Development in partnership with the Ministry of the Interior and other partner institutions; the Ministry of Social Development monitors the child registration procedure, completes the birth notification form and places the stamp of the Ministry on that notification. After ensuring that the child's file has been completed, the Ministry of Social Development sends the original file to the Ministry of the Interior, which registers the child and issues a birth certificate in his or her name.

Right to nationality (article 13)

159. The Palestinian National Charter of the Palestine Liberation Organization defines Palestinians as, "the Arab citizens who habitually resided in Palestine until 1947, whether those who were expelled therefrom or remained therein. Anyone born to a Palestinian Arab father after that date, in or outside Palestine, is Palestinian." Article 18 of the Children's Act provides: "Every Palestinian child shall have the right, immediately after birth, to Palestinian nationality in accordance with the provisions of the relevant law." There is no Palestinian law on Palestinian nationality to date, because the State of Palestine is under Israeli occupation.

160. Palestinians in occupied Jerusalem must deal with numerous problems and inconsistencies when reporting and registering the birth of a resident child in the city. The occupation authorities have granted most Palestinians "permanent residence" rather than "Israeli nationality and have prevented them from obtaining Palestinian identity. Jerusalemites living abroad for more than seven years have difficulty registering a birth and obtaining birth certificates for their children from the occupying power, because their residency rights are liable to be revoked unless they are able to prove that East Jerusalem has been their "centre of life" for the previous seven years.

161. In its concluding observations on the periodic reports of Israel, the occupying Power, the Committee on the Rights of the Child considered the ban on the granting of Israeli citizenship to children born of an Israeli and a Palestinian parent, the decision of the Government of the Israeli occupation to stop processing so-called "residency" applications for Palestinian children since 2000 as well as the arbitrary revocation of residency and identity of those living in occupied Jerusalem, which have resulted in thousands of unregistered Palestinian children excluded from access to health and educational services as well as in thousands of children being prevented from living in dignity.

Freedom of expression and right to request, receive and impart information (article 13)

162. Article 19 of the Palestinian Basic Law provides that freedom of opinion and expression is a fundamental right that shall be enjoyed by all.[39] The Children's Act also guarantees the right of the child to express his or her opinion and provides for the views of the child to be taken into consideration in accordance with his or her age and maturity.[40] Article 33 of that Act provides: "The child shall have the right to request, receive, transmit and impart all types of information and ideas provided that this does not run counter to public order and morality."

163. A website for children has been created by the Palestinian Central Bureau of Statistics and can be accessed from its web page. The website presents statistical data and figures in an articulate, attractive, clear and user-friendly format so that children, and particularly school students, can easily access statistical information. Furthermore, the Palestinian Broadcasting Corporation broadcasts a special programme, entitled "Bayt Buyut", that reaches out to children and promotes their creativity by giving children from different parts of Palestine the opportunity to engage with an important female broadcast journalist.

164. The amended decree-law on cybercrime, which was adopted in 2017, places certain restrictions on freedom of expression for both adults and children.

Freedom of thought, conscience and religion (article 14)

165. The Basic Law provides that Islam is the official religion of Palestine, and that respect for the sanctity of all other divine religions shall be maintained. Palestinian legislation also provides that a child shall be protected from any influence on his or her faith, and that children shall, in normal circumstances, adopt the religion of their fathers and continue to adhere to that religion until they attain the legal age of 18 years, at which time they shall be able to choose to exercise their religious rights.

166. If a child chooses to change his or her religion and his or her parents object, he or she can appeal to the courts. In addition, article 18 of the Basic Law provides that: "Freedom of belief, worship and performance of religious rituals are guaranteed, provided that they do not violate public order or public morals." No judicial rulings have been made on that matter.

Freedom of association and of peaceful assembly (article 15)

167. Article 34 of the Children's Act provides for the establishment of children's associations, freedom to join associations and clubs, and freedom to hold public meetings. There are, however, no associations in Palestine that have been established exclusively by children. There are a number of associations active in areas of relevance to children, including associations that work with children with disabilities or provide rehabilitation

services. As regards bodies whose membership is made up of children, reference has already been made in the present report to the Palestinian Children's Council.

168. With the support of World Vision International, the Ministry of Education started thinking of establishing student parliaments in 2002, and there are now approximately 50 student parliaments in the West Bank. The formation of those parliaments and parliamentary elections are held with the support of educational counsellors in schools. Internal regulations and guidelines for those parliaments have also been drawn up. The parliaments endeavour to address behavioural problems, reduce violence, support students' personal development, enhance communication between teaching staff and students and strengthen students' involvement in the educational curriculum.

Protection of privacy (article 16)

169. The Basic Law provides that adequate attention shall be accorded to the privacy of the individual, while the Palestinian Children's Act stipulates that the privacy of the child shall be respected, while taking into account the rights and duties of the child's parents and guardians.[41]

170. With regard to respect for the privacy of the child in judicial proceedings, if a child is brought before the judiciary, most hearings will be held in private if this is requested by the child or his or her legal representative, or if the judge deems that doing so is in the interests of the child, in accordance with decree-law for the protection of Palestinian juveniles. In order to maintain confidentiality, it is prohibited for any person to access any electronic or hard copy information relating to child obtained by the judiciary and the Office of the Public Prosecutor, including information contained in claims and complaints, unless that person is involved directly in the case and has obtained prior authorization from the court. Anyone who accesses or discloses information or data relevant to the case is liable to prosecution under the law. The Office of the Public Prosecutor for Children has established an independent electronic portal to facilitate the work of juvenile prosecutors. All forms, records and notes can be uploaded to that portal in accordance with the law and members of the Office of the Public Prosecutor for Children can carry out all proceedings in judicial cases involving juveniles and children electronically.

171. Under sharia law, court proceedings are normally held in public. They may, however, be held in closed session if the parties or the judge are of the opinion that this is in the interest of the family. Access to confidential information is only granted to the owners of that information.

172. Privacy is also guaranteed in situations in which social workers deal with cases of child abuse, and the code of conduct governing their work contains a specific section on that subject. Their files are kept confidential and every effort is made to ensure that no one can access them without special permission.

173. Numerous measures are taken to preserve the privacy of children in care institutions run by the State and only relevant parties are authorized to view a child's personal file. Children also enjoy the right to confidentiality insofar as their correspondence and communications with their families is concerned during their say at the care institution. In terms of their living environment, a child residing in a care institution will share their room with others.

174. The Independent Commission for Human Rights documents cases of persons whose privacy has been violated, including children. The law protects the right of the child to privacy in cases where he is the perpetrator of an offence, a victim or a witness. The Mizan programme allows the user to keep any information specific to the child confidential to prevent its dissemination; that information is kept in a safe and confidential data storage file and is unavailable to non-authorized persons. Furthermore in that regard, little data is available from the children themselves about their perceptions of whether their right to privacy is being respected or not.

Access to information from a diversity of sources and protection from material harmful to the well-being of the child (article 17)

175. The Children's Information Service (a specialized department within the Ministry of Information) prepares reports on the fundamental rights of children and encourages audio, visual and print media providers to produce programmes and material for children. The Ministry of Information also instructs radio and television stations to pay attention to and promote respect for children's rights. Nonetheless, newspapers continue to provide only scant coverage of issues affecting children.

176. The overall strategy of the Ministry of Information is to support governmental and non-governmental bodies involved in efforts to raise awareness of and promote respect for the rights of children by focusing on child-related themes, using various media platforms to disseminate information relevant to those themes, working with the Palestinian Broadcasting Corporation and promoting special programmes broadcast on International Children's Day and Palestinian Children's Day.

177. The Ministry of Information is also seeking to address the issue of the economic exploitation of children by providing training to media personnel and using the media to raise public awareness of that issue. In that connection, a workshop was held for Palestinian media personnel under the theme, "Together to stop the economic exploitation of Palestinian children" and a network of Palestinian journalists has been established to combat violence against children. The Ministry is also supporting the formation of national networks to combat economic exploitation, and awards prizes for investigative media reports on child labour.

178. The Palestinian Broadcasting Corporation broadcasts a number of daily programmes for children. Careful consideration is given to the educational, psychological and technical aspects of those programmes during the drafting and production stages. Experienced specialized writers prepare and draft scripts for those programmes and work closely with governmental and non-governmental institutions. Palestinian Broadcasting Corporation production teams focus on children's issues both during live broadcasts on the Palestine channel and in reports that are broadcast during children's programmes or as part of local news bulletins. The Palestinian Broadcasting Corporation also covers a wide range of international events related to children and has engaged directly with children by inviting schools to visit its headquarters so that school children can learn about the work done by its staff.

179. Palestinian television also allocates half an hour of airtime every day to children's programmes, which include cartoon series in additional to educational and entertainment programmes. All programmes, including those broadcast outside the period dedicated to children's programmes, comply with the provisions of the Convention on the Rights of the Child, which are used as a reference in that respect.[42]

180. The telecommunications company Paltel provides citizens with Internet services in most parts of Palestine, either directly or through its authorized suppliers. Statistics for 2014 show that 48.3 per cent of Palestinian households have Internet access, which includes 51.4 per cent of households in the West Bank and 42.2 per cent in Gaza.

181. A draft law on the right to access information is currently being drawn up.

Blocking pornographic sites

182. A decision was taken in 2012 to prohibit pornographic sites with a view to protecting children, adolescents and the fabric of Palestinian society, and a ministerial decision was issued requiring Internet providers to block such sites. Article 36 of the Children's Act also provides: "It is prohibited to publish, display, circulate or possess any printed or audiovisual material aimed at arousing the instincts of children that may induce them to behave in a manner that is contrary to public order and morality or encourage them to deviate from the right path."

183. The Palestinian police and certain non-governmental organizations, including World Vision International, have held seminars to raise awareness among parents regarding the

importance of monitoring their children's use of the Internet in addition to seminars on the need for Internet service providers to shut down pornographic sites.

National Libraries

184. The Ministry of Culture is supporting the expansion and diffusion of libraries. Children's activities have been organized during the Palestine International Book Fair since 2014 in the West Bank. The Book Fair was visited by 5,567 students and children from 154 schools from the various governorates in Palestine.

185. During the ninth Palestine International Book Fair, held in 2014, the Palestinian Ministry of Culture purchased books and publications worth $50,000, which were distributed to schools, kindergartens and cultural centres and disseminated on the Internet. During the tenth Palestine International Book Fair, held in 2016, the Ministry, supported by the President of the State of Palestine, purchased books and publications worth $100,000, which were then distributed to schools, kindergartens and cultural centres.

186. Children enjoy access to 104 public libraries in the West Bank, 46 public libraries in the Gaza Strip and 11 public libraries in East Jerusalem, The Ministry of Culture also oversees six libraries for the blind in the West Bank.[43] The Ministry plans to provide additional funding to cultural centres and libraries to enable them to update their stock, and will continue to support the country's Cultural Development Fund.

187. In cooperation with the Ministry of Education and other institutions, the Tamer Institute for Community Education, a non-governmental organization, works with children and encourages reading among children and adolescents through its provision of support to mobile libraries. The Institute, which is active in the West Bank and Gaza, seeks to foster a culture of reading among students and children and focuses on Arab heritage in its initiatives to encourage reading and learning.

4. Violence against children (articles 19, 24 (paragraph 3), 28 (paragraph 2), 34, 37 (a) and 39)

(a) Ill-treatment and neglect (article 19)

188. Under article 13 of the Basic Law, all forms of ill-treatment are prohibited. Article 29.2 provides that children have the right to be protected against abuse and cruel treatment, and this is reaffirmed in articles 42 and 68 of the Children's Act.[44] The Children' Act also obliges any person who believes that there is a threat to the safety of a child or that a child is placed in danger to inform the child protection counsellor accordingly. Anyone who is proven to have violated the Children's Act is liable to prosecution. Furthermore, the policy on violence and discipline in schools emphasizes measures and procedures to be taken against those who commit acts of violence in schools.

189. The Code of Conduct for care home staff expressly prohibits corporal punishment in care homes. Corporal punishment is also prohibited in care arrangements.

190. In accordance with its mandate under the Children's Act, the Ministry of Social Development oversees the social protection sector in Palestine, in partnership and coordination with other relevant institutions. The Ministry of Social Development has also set up a child protection department, which includes a number of child protection counsellors who, under the law, act as law enforcement officers to ensure compliance with the Children's Act and intervene to protect children in all situations in which their safety is threatened.

191. When a child protection counsellor receives any communication that a child is being subjected to violence or neglect, he or she meets the child and the caregiver to hear their statements and responses regarding the facts reported. The child protection counsellor then visits the place where the child is located, and carries out that visit either alone or accompanied by those who believe his or her presence is needed. In carrying out that visit, the child protection counsellor is required to show his or her identity badge to prove his or her status. If the counsellor is unable to enter the place in question, he or she may request assistance from the police. If the place is a dwelling, a judicial order will be issued to

facilitate entry. Measures are then taken to protect the child, who may be allowed to remain with his or her family, be placed with another family or be placed in a temporary protection centre.

192. In 2009, the Ministry of Social Development launched a child protection network,[45] which brings together representatives of all government and non-governmental institutions concerned with the protection of children. The network operates in accordance with the national transfer and follow-up system and endeavours to coordinate the provision of services and streamline efforts by governmental and non-governmental entities to protect and care for children who have been subjected to various forms of violence. The network operates through technical committees that have been established in all the country's governorates, which provide protection, care and follow-up services to child victims of violence, in accordance with the intervention plan drawn up for the child in question and the child's best interests.

193. The network operates in accordance with the transfer system for child victims of violence which was reviewed by the Council of Ministers in late 2018 and renamed the "guidelines on the transfer and networking system for child victims of violence."[46] Those guidelines set forth the procedures that must be followed when dealing with child victims of violence, neglect or exploitation, the forms that must be completed, and the situations in which a meeting to discuss the situation of the child must be held. If the child is in danger, a meeting to discuss the child's case is held by staff at the Ministry of Social Development and partner organizations and the child is then transferred to a shelter. Protection arrangements are always in line with the provisions of the Children's Act. Table 11 sets forth the names of the institutions comprising the child protection network.

194. With the support of UNICEF, a database on children subjected to violence and children of unknown parentage has been created by the Ministry of Social Development. That database was created with the aim of strengthening the monitoring and evaluation system for those children and developing statistical indicators for all categories of children. In addition, questionnaires have been designed for all categories, as well as computer-based models and training courses on the use of the system for staff at the Department of Child Protection, child protection counsellors and protection centre personnel. The application and use of the database in the field was tested in 2016.

195. With the support of UNICEF, an evaluation of the child protection system in Palestine was conducted by the Ministry of Social Development in 2016. A number of recommendations were made regarding revisions to the guidelines on the transfer and networking system for child victims of violence. That evaluation led to the formulation of a national strategic plan for the protection of children for the years 2018–2022, which was drafted with input from with the participation of groups of children.[47]

196. According to the annual reports of the child protection network in the West Bank for the years 2014 and 2015, a total of 1,010 children were subjected to sexual assault, physical abuse, economic exploitation, neglect and ill-treatment, including 572 male and 438 female children. In 2016, the total was 566, including 334 male and 232 female children. In 2017 the total was 387, including 214 male children and 173 female children. Table 12 shows how many children were subjected to various forms of abuse and ill-treatment.

197. The Bureau for the Protection of the Family and Adolescents, which was established by the Palestinian Police, has offices in all governorates. It provides protection and support to women and children and includes specialized and qualified personnel who wear civilian clothing while performing their duties. The Palestinian Police have also developed a standard procedure manual that addresses the procedures that officers must follow when dealing with children. The Bureau for the Protection of the Family and Adolescents ensures the personal security of child victims of abuse, their families and child protection counsellors during the intervention process, and also ensures that members of the child protection network are protected while carrying out their duties.[48]

198. The Ministry of Health has trained medical and nursing staff and psychologists on the mechanisms of early detection of abuse, violence and neglect in children, in addition to the country's transfer and networking system. The Ministry also has a system for collecting and corroborating information on cases of abuse, violence and neglect in six governorates.

The Ministry of Health plans to train other staff in the remaining governorates and then expand its protection programme to cover the private health-care sector.

199. The Office of the Public Prosecutor received 1,224 complaints from children regarding other individuals in 2014. The details of the complainants and the accusations made by the children (child victims) are shown in table 14.

200. In 2013, the Ministry of Education developed a policy on school violence with a view to protecting students and teachers from various forms of abuse, including corporal punishment, and creating a non-violent environment conducive to education. That policy is based on the Public Education Act and the Children's Act, which provide that children have a right to protection and are entitled to learn in a safe and stimulating environment free of fear and intimidation.[49]

201. The most recent survey of violence in Palestinian society conducted by the Palestinian Central Bureau of Statistics (carried out in 2011) found that 20 per cent of school children between the ages of 12 and 17 had experienced violence at school. For the West Bank the figure was 21.6 per cent and for Gaza the figure was 22.7 per cent. The survey found that psychological violence was the most common form of violence perpetrated, with 25 per cent of the children who had experienced violence having been subjected to psychological violence perpetrated by other students, and 27.6 per cent having been subjected to psychological violence at the hands of teachers. In contrast, 21.4 per cent had been subjected to physically violence by teachers and 14.2 per cent had been subjected to physical violence by other students. Children who took part in the national consultations indicated that acts of verbal violence still take place in schools.

202. Psychological and educational counselling services are provided to students by educational counsellors, who work in schools with children who are subjected to abuse, violence and neglect. Cases that cannot be dealt with by educational counsellors are referred to child protection networks. A total of 1,100 educational counsellors work in public schools in the West Bank and Gaza, However, although they are present in more than 90 per cent of schools in the Gaza Strip, educational counsellors are present in less than 60 per cent of public schools overall. Educational counsellors act as representatives of the Ministry of Education within the child protection networks overseen by the Ministry of Social Development.

203. A number of institutions in Palestine undertake awareness-raising activities in schools and cultural centres, particularly in marginalized areas, with a view to educating children and parents about the need to protect children against violence, the role of the police Bureau for the Protection of the Family and Adolescents and the child protection networks, reporting and complaint mechanisms, and measures to prevent violence within schools. Table 13 provides an overview of the stakeholders who have attended awareness-raising activities.

204. The Office of the Public Prosecutor has developed special procedures for dealing with cases of violence against children, including those involving complaints made by children and those in which complaints have been made against a child. The child in question is protected at all times. There are also two specialized departments within the Office of the Public Prosecutor that deal with cases involving juveniles and family violence. In February 2016, another department, named the Family Protection Office, was established within the Office of the Public Prosecutor.

Child victims of violence perpetrated by the Israeli occupation authorities

205. The Commission for Detainees and Former Detainees and the child protection networks endeavour to address the situation of child victims of violence perpetrated by the Israeli occupation authorities. Reports on those children are drawn up and disseminated by the Commission for Detainees and Former Detainees to facilitate their release from custody. If the Ministry believes that the released child requires psychological support, he or she is transferred to a partner institution within the child protection networks.

206. The Commission for Detainees and Former Detainees became a member of the child protection network committees in 2016. This is an important step in that the committees

work with children who have been held in arbitrary detention by Israel and, as a governmental body, the Commission for Detainees and Former Detainees can provide legal support to children held in detention by the occupation authorities.

207. The Head of the Occupational and Social Counselling Department at the Commission immediately informs the child protection counsellor and transfers the child to the child protection network which addresses the situation and provides appropriate psychological assistance. In cases in which it is ascertained that serious ill-treatment and abuse has been inflicted on the child in detention, such as acts of physical torture or sexual assault, and that the child will require long-term treatment and psychological rehabilitation, the Commission informs the child protection counsellor and then refers the child to a mental health clinic run by the Palestinian Ministry of Health or another partner institution that provides mental health-care services.

208. Palestinian children are exploited by the Israeli occupation authorities as informants, whereby those authorities intimidate or threaten Palestinian children or take advantage of their mental state to encourage them to cooperate with them and work as informants. In exchange, the occupation authorities offer to release them from detention or provide them with a small allowance. All this leaves a long-term psychological impact on the child. Although it is difficult to corroborate such cases, Defense for Children International has, since 2006, corroborated 16 cases of children who have been pressurized or enticed to become informants but who have refused to do so.

(b) Measures to prevent and eliminate all forms of harmful practices, including female genital mutilation and early and forced marriage (article 24 (paragraph 3))

209. According to article 44 of the Children's Act, the forced marriage of a male or female child is a grave offence. Such marriages are prohibited and pose a threat to the child's psychological and physical well-being.[50] If it is proven that the marriage was contracted under duress, the marriage contract is annulled if the wife so requests. In such cases, the wife may refuse to conclude the marriage and to move to her husband's house, and she may request the annulment of the marriage contract. If she has married her husband of her own free will and is satisfied with the marriage contract, the contract becomes valid.

210. The marriage of girls and boys under the legal age of maturity still takes place in the State of Palestine. In 2015, some 20.3 per cent of females and 1.1 per cent of males who got married were younger than 18 years old.

211. According to the results of the 2017 population, housing and establishments census, 10.8 per cent of women aged 20–24 in Palestine were married before they were 18 years old. For the West Bank, including East Jerusalem, that figure was 8.5 per cent and for the Gaza Strip it was 13.8 per cent.

212. Female circumcision is not prevalent in Palestine.

(c) Sexual exploitation and sexual abuse (article 34)

213. Although sexual abuse and exploitation are forms of violence that are perpetrated against children, all relevant information in that regard is provided in the section entitled "Special protection measures".

(d) The right not to be subjected to torture or other cruel, inhuman or degrading treatment, including corporal punishment (articles 37 (a) and 28 (paragraph 2))

214. Article 13 of the Basic Law and article 68 of the Children's Act expressly prohibit anyone from being subjected to any physical or mental coercion or torture or to any form of cruel, inhuman or degrading punishment. The accused and other persons deprived of their liberty, including children, are properly treated. The Child Act provides: "1. The child has the right to be protected from all forms of physical, psychological or sexual violence or abuse, neglect, negligent treatment, displacement or other forms of ill-treatment or exploitation." Furthermore, the decree-law for the protection of Palestinian juveniles provides: "Every juvenile shall enjoy the right to treatment commensurate with his age that protects his honour and dignity and facilitates his integration into society. The juvenile shall

not be subjected to physical or psychological torture, or to cruel, inhuman or degrading treatment."

215. Prosecutors at the Office of the Public Prosecutor for Children must conduct interviews with juveniles in a manner commensurate with their age. To that end certain parameters are established for the first interview with a juvenile, notably that the prosecutor will sit and talk to that juvenile in a certain manner and will involve him or her in the discussions and listen to his or her point of view. According to statistics, there were no documented cases of children reporting that they had been tortured by the Palestinian security services in 2014 and 2015.

The arrest and torture of Palestinian children by the Israeli occupation forces

216. According to statistics provided by from the Commission for Detainees and Former Detainees, 1,384 children were arrested in 2016, all of whom reported that they had been subjected, to varying degrees, to one or more forms of torture, maltreatment, humiliating treatment and deprivation of basic human rights.(51)

217. One the most important findings of the Commission for Detainees and Former Detainees report on children arrested by the Israeli occupation forces is that 324 out of the 429 Palestinian children arrested between 2012 and 2015 were subjected to physical violence. Israeli interrogators used verbal abuse and threats and solitary confinement to extract confessions from a number of children detained. All children convicted by the occupation forces between 2012 and 2015 received custodial sentences.

218. The Israeli occupation authorities impose two different and separate legal systems in the West Bank: settlers are subject to civil and criminal law while Palestinians are subject to military law. Palestinian children resident in occupied Jerusalem are subject to the provisions of the Israeli Juveniles Act, which are imposed on them in a discriminatory manner.

219. When compared with its application to Israeli children, the law is, in practice, applied in a discriminatory manner to Palestinian children living in Jerusalem who are in conflict with the law. The Israeli occupation police have denied the rights of Palestinian children living in Jerusalem during their detention and interrogation. Indeed, exceptions have become the norm when the occupation authorities deal with Palestinian Jerusalemite children and there is clear racial discrimination in the application of the law.(52) Although different legal systems apply to Palestinian children, whereby Palestinians in occupied Jerusalem are subject to Israeli civil law and Palestinians in the rest of the West Bank, Palestinian children in East Jerusalem and the West Bank are all subjected to ill-treatment from the moment of their arrest and throughout their interrogation. The placing of Palestinian children under house arrest is systematic practice of the occupying Power.

(e) Measures to promote the physical and psychological recovery and social reintegration of child victims (article 39).

220. The Children's Act guarantees care and rehabilitation measures for child victims of violence and children at risk of delinquency. Such measures include the placement of children in appropriate vocational, cultural, sports or social training courses and/or temporary placement in a family, social, educational or appropriate public or private health-care institution.

221. Through its various institutions, the Palestinian Government endeavours to reintegrate children into nuclear, extended or foster families. The placement of children in an institution or shelter is seen as an option of last resort. The situation of those children is monitored by families and psychological counselling services are provided to them and their families in coordination with competent civil society institutions. Child victims of violence, neglect, economic exploitation and underage employment are rehabilitated through a range of psychological, social and vocational rehabilitation measures.

222. The State also endeavours to rehabilitate child victims of economic exploitation and employment at vocational training centres run by the Ministry of Labour. A number of measures are taken to promote the reintegration of children into society, including reuniting those children with their families while ensuring that their families make a commitment that

they will no longer allow their children to work, reintegrating those children into school, and providing financial assistance to their families if they are in financial need. If it is not possible to return a child to his or her family within an agreed time frame, he or she is placed in a child protection centre. Cases are also monitored by child protection networks in the various regions of the country.

223. A number of non-governmental organizations in Palestine offer psychosocial support services for children and the family, such as the Palestinian Counseling Center, which provides psychological and social support to children and their caregivers through 11 technical committees which form part of the child protection networks in the West Bank. The Palestinian Red Crescent Society also provides psychosocial services to children at eight centres throughout the State of Palestine.

(f) Telephone helplines for children

224. Although there is no government-run telephone helpline to assist and protect child victims of violence, a helpline is managed by the SAWA Foundation, a non-governmental organization. Every year, the Palestinian Child Protection Line receives between 1,500 and 2,500 documented calls regarding various types of violence. In 2014 and 2015, more than 60 per cent of callers were female, 72 of callers were under 21 years of age, and between 60 and 70 per cent of callers were from Gaza.(53)

225. Depending on the needs of the child, some child victims of violence are transferred to child protection networks for follow up. The consent of victims is obtained before they are transferred.

226. The Government is seeking to address the serious ongoing and institutional challenges facing the national child protection system; The Ministry of Social Development, as the official body responsible for the protection of children, faces serious challenges in providing critical services to the large number of children in need of protection, social integration and rehabilitation due to its weak logistics capacity and insufficient human resources. Counselling services are not available in all public schools and action still needs to be taken to mainstream national preventive measures to reduce violence rather than to continue to provide treatment services to a growing number of child victims of violence. There is also a need for a unified national database shared by all child protection institutions.

5. Family environment and alternative care (articles 5, 9–11, 18 (paragraphs 1 and 2), 19–21, 25, 27 (paragraph 4) and 39)

(a) Parental guidance (article 5)

227. The Children's Act affirms the right of the child to be cared for, protected, raised and maintained by his or her family.(54) The Ministry of Social Development is responsible for providing social support with a view to strengthening family relations and supporting the rehabilitation of families, especially families living in difficult circumstances or which include family members who require special care. The Ministry also provides assistance to families in need so that they can become more active and productive.

228. The Ministry of Social Development has established the Department for the Protection of the Child and the Family, together with subordinate offices in each district. The Department undertakes preventative and treatment interventions to uphold the right of the child to live in a safe, appropriate and developmentally sound and protective environment. In the majority of situations, this is the family environment.

(b) Parental responsibility (article 18, paragraphs 1 and 2)

229. The Children's Act obliges both parents to work together in a responsible manner to care for, raise and educate their children, in accordance with their level of maturity and development.(55) Specific articles provide that parents and educators have a responsibility to provide care, support and guidance to children in their care. Article 21 of the Children's Act provides that caregivers who neglect their duty to care for a child are subject to punishment.(56) The Act also obliges caregivers to ensure that the child receives food,

clothing, housing, education and health-care. If the father or guardian cannot afford to do so, the cost is covered by the Maintenance Fund.

230. The penal laws in force provide for the punishment of a parent or guardian who refuses or neglects to provide a child with food, clothing, bedding and other necessities, thereby harming the child's health, and of a parent or guardian who abandons a child under 12 years of age without a legitimate reason or reasonable grounds despite being able to support that child.

231. Article 31 of the Children's Code stipulates the categories of children entitled to social assistance. According to the Act, those are: "orphaned children, children of unknown parentage, children in social institutions, children without a provider, children with disabilities and chronically ill children, children whose homes have been destroyed or burned down, twins ages up to three years, and the children and families of those have been imprisoned, have disappeared or are unable to work due to illness or disability." In practice, financial assistance is not provided to all orphans.

232. Under the Civil Service Act, female employees receive leave with full pay for a period of 10 consecutive weeks before and after giving birth. A nursing mother has the right to leave work one hour before the end of the working day for a year following the birth of the child.

(c) Separation from parents (article 9)

233. The Children's Act provides that only in exceptional circumstances may the child be removed from his or her family or placed in one of the forms of alternative care. Such circumstances exist if there is a danger that the child will be mistreated or if the child has no family to care for him or her. The right of a child who is separated from one or both parents to maintain personal relations and direct contact with both parents is respected, unless it is contrary to the child's best interests.

234. Working with the police Bureau for the Protection of the Family and Adolescents and pursuant to a decision issued by the Office of the Public Prosecutor, the child protection counsellor may remove a child from his or her family, provided that this provides better protection for the child and is in his or her interests. The removal of the child from his or her parents is seen as an option of last resort. Following the child's removal, a plan of action involving the child and the child's family is drawn up with a view to returning the child to the family. A judicial review is then conducted. The child is removed from his or her family only when there are no other options available. The situation of the child is evaluated in case meetings that are convened by the child protection counsellor together with other social partners.

235. There are two centres for the protection of child victims of violence in the West Bank, namely the Beituniya Centre in Ramallah for males and the Girls' Care Home in Beit Jala for females. The child protection counsellor works with those centres to ensure implementation of the intervention plans that are drawn up when children are admitted. Children at the centres remain in contact with their parents through telephone calls or visits, provided that this is in their best interest. A child at one of the centres is evaluated regularly, in accordance with his or her intervention plan, and implementation of the plan is assessed by the child protection counsellor who remains in contact with the child's family.

236. Child victims of violence and neglect are placed in those centres in order to provide them with temporary emergency protection and a series of services, including psychological and social rehabilitation services, which are provided in coordination with relevant social and psychological support institutions. The Girls' Care Home provided shelter and rehabilitation services to 34 girls in 2015, to 44 girls in 2016 and to 42 girls in 2017. The Beituniya Centre in Ramallah provided shelter and rehabilitation services to 20 boys in 2015 and to 70 boys in 2017.

Table 15 provides details on the number of girls admitted to the Girls' Care Home

(d) Family reunification (article 10)

237. Thousands of Palestinians are prevented from entering or leaving the country because of the Israeli occupation authorities, which exercise total control over the Palestinian population registry in the Occupied Palestinian Territory, as well as control over the issuance of identity cards and visiting permits. Palestine is also unable to facilitate the return of any Palestinian from the diaspora who wishes to return to its territory, even if the Palestinian is the husband or wife of a Palestinian who carries a Palestinian identity card.

238. Families in which one spouse is from Gaza and the other is from the West Bank may be broken up. Under arbitrary Israeli military laws, a resident of the West Bank can be deported to the Gaza Strip if the identity card was issued in Gaza.

239. The situation of the residents of occupied Jerusalem is the most difficult, since the Israeli Citizenship Act remains in force in the city, distinguishing between individuals on ethnic and national grounds. Palestinians from inside the Green Line who marry Palestinians from the West Bank or the Gaza Strip are also prohibited from granting their spouses Israeli citizenship or residency rights. This situation has resulted in the rejection of hundreds of family reunification requests and/or residency rights for their spouses and children.

240. Thousands of requests for family reunification and requests for personal identification cards have been submitted to the Palestinian Ministry of the Interior, but are still awaiting the approval of the Israeli occupation authorities. The Palestinian Government is unable to grant family reunification permits until it has received approval from the Israeli occupation authorities. Thus, the families in question either remain in the Occupied Palestinian Territory in a manner that Israel, the occupying Power, considers illegal, or they break up, with different family members scattered in the West Bank, Jerusalem, Gaza and abroad. The forcible deportation of Palestinians by the Israeli occupation authorities is an ongoing phenomenon.

(e) Recovery of maintenance for the child (article 27 (paragraph 4))

241. Article 29 of the Children's Code provides: "The father or guardian of the child is obliged to cover the cost of maintaining the child." If the father has the necessary resources, he shall bear primary responsibility for the child's maintenance. If he does not, responsibility shall fall to other parties, such as the child's grandfather, mother or uncle, in accordance with the Personal Status Code for Muslims. If the child's family is poor and cannot maintain the child on its own, or if the child has lost his father and has no one to support him, the costs of maintaining the child shall be covered by the Maintenance Fund.

242. Decisions are made with respect to child maintenance and support payments by Islamic and Christian religious courts. In accordance with the 1976 Personal Status Code, other relatives of the child may be required to maintain the child if the father dies or cannot afford to provide child support.[57] The resources of the Palestinian Authority Maintenance Fund are used to cover the costs associated with the implementation of rulings, including child maintenance payments, which are collected as fees by the religious courts. The Fund was established pursuant to a decree-law issued by the President of the State of Palestine in 2015.

243. As regards the children of a Christian family, the maintenance of the child is regulated in accordance with the provisions of the Personal Status Code for Christians.[58] Article 164 of the 1954 Personal Status Code of the Diocese of the Latin Patriarchate of Jerusalem provides: "All forms of maintenance shall be paid by the father to his poor underage son or daughter. When a male child reaches the age at which he can earn his own living, the father will help set him up in life. He will also marry off his daughter. If the father dies, the child will be maintained by his or her mother provided she has the means to do so and, if not, by the child's close relatives if they have the means to do so, and if they do not, by the child's more distant relatives." The Personal Status Code of the Catholic Sects[59] also stipulates that the father must pay for the maintenance of his children until his male children reach the age at which they can earn a living and until his female children

marry. Pursuant to both the Personal Status Code of the Diocese of the Latin Patriarchate of Jerusalem and the Personal Status Code of the Catholic Sects, if the mother complains that the father does not provide any or only inadequate financial support for their child, the courts may order him to pay maintenance to the child's mother, which she can then spend on that child.

244. In cases in which the father fails to pay maintenance for the child, the Ministry of Social Development will provide assistance to the family if sufficient resources are available, and if the child's family is in need of assistance.

245. The Ministry provides its services to beneficiaries through a cash transfer programme called the National Programme for Social Protection, the Development Assistance Programme, which is administered by The World Food Programme, and the Emergency Programme. The Ministry also provides free health insurance, university and school fee exemptions and runs economic empowerment projects.(60)

(f) Children deprived of their family environment (article 20)

246. The Ministry of Social Development endeavours to address the situation of children deprived of their family environment, and seeks to provide care to children who have lost their father or both of their parents. In cooperation with the Red Crescent Society of the United Arab Emirates, the Ministry provides maintenance payments to cover the cost of psychological and social assistance for orphaned children, including those with disabilities, and for their families.(61) The Ministry also seeks to expand the scope of the financial support provided to orphans by strengthening partnerships with local communities and zakat committees. Children are entitled to receive maintenance payments if they lose their father or both parents.

247. Palestine provides financial support to the mothers of children who have lost their fathers, regardless of the mother's current marital status, by transferring funds to their accounts. In the case of orphans who reside in a care institution or who are looked after by a relative, the payment is made into the sharia court orphan fund. The party caring for the orphan obtains a certificate of guardianship from the sharia court and then receives the payment from the court. The Ministry of Social Development, working through specialized counsellors in the country's districts monitors marginalized groups, while the Ministry's Department of Orphans has established maintenance funds for orphans, families and orphans with disabilities to help them meet their basic needs.

248. In 2014 and 2015, the Ministry of Social Development provided maintenance for orphans, including orphans with disabilities, as well for families, with the support of the Red Crescent Society of the United Arab Emirates. Maintenance payments are approximately $600 per year, equivalent to approximately $50 per month. Orphans with disabilities are entitled to higher maintenance payments and receive $80 per month. As for an orphan who lives with a poor family, the family will receive a family maintenance payment (a new form of payment) of between $120 and $130 per month. The Red Crescent Society of the United Arab Emirates stopped paying maintenance payments in 2016. The Ministry has sought to find another source of funding to continue making maintenance payments for orphans and, in that regard, is awaiting an official response from the Oman Charitable Organization.

249. In addition to the Ministry of Social Development, the following bodies also contribute to the maintenance funds for orphans: the zakat committees, Human Appeal International (United Arab Emirates), Islamic Relief and the Attadamun Charitable Society. The Islamic Charitable Society in Hebron has used donations from within Palestine and from abroad to provide homes to 5,000 male and female orphans.

250. The sharia courts monitor the guardians and trustees of orphan children; the latter cannot dispose of the child's financial assets unless permission is granted by the sharia court following verification that doing so is in the child's interest.

251. Children of unknown parentage and orphans deprived of a family environment are sometimes cared for in private institutions or foster families under the supervision of the Ministry of Social Development; the situation of children deprived of their family

environment is addressed by the official authorities, which entrust those children into the care of those institutions. There are five private child care institutions in Palestine.

252. Those institutions provide comprehensive protection and care to children deprived of a family environment, and provide many forms of care, including, in particular, healthcare, legal assistance, social and psychological care and educational support in both kindergarten and school. Each child receives the particular care that he or she requires, and those institutions provide the services of specialized staff, including nannies, (who can act as the child's mother) kindergarten teachers, specialists (in nursing, paediatrics, social and psychological services, occupational and motor therapy), as well as kitchen, cleaning and maintenance and other support staff.

253. The Ministry of Social Development was aware of 253 children whose fathers had died in the Gaza Strip and 117 children whose fathers had died in the West Bank in 2015. Table 16 shows the number of children in Palestine who are registered with the Ministry of Social Development as having lost either mothers or fathers. Maintenance payments were approved for an additional 137 orphans in 2015.

254. It is challenging to address the situation of orphans without a database containing information of all the support being provided to those children by the various entities and bodies active in that area. The Ministry's Department of Orphans is now selecting coordinators to develop statistics on orphans in care institutions in the West Bank, with a view to drawing up intervention strategies and monitoring institutions and associations concerned with orphans in order to ensure that they provide appropriate care. Children who have been separated from their parents (due to violence, or in order to provide them with protection, or for other reasons), are placed in the same facilities as children deprived of a family environment, including orphans and other children deprived of family care.

255. To support orphans over 18 years of age, work is underway to conclude agreements with Palestinian universities that will exempt orphans from paying university fees, which will help them complete their university studies, and arrangements are being made with the Red Crescent Society of the United Arab Emirates for the provision of awards to outstanding orphan students in State secondary schools.

Table 17 shows the number of orphans in various care institutions in the West Bank

(g) Periodic review of child placement (article 25)

256. As part of their review of the remedial measures taken to address the situation of child victims of violence, child protection counsellors undertake ongoing periodic reviews of the measures taken within the context of the transfer system and they verify that those measures are still appropriate to the needs of the child and continue to promote his or her best interests.[(62)]

(h) Adoption (article 21)

257. Palestine has adopted laws to uphold the best interests of the child and his or her right to care. Article 32 of the Children's Act provides for the right of children deprived of their family environment to alternative care, either in a foster family or a public or private social welfare institution.[(63)] Adoption, in the universally recognized sense of the word, does not exist in Palestine. The alternative to adoption, for religious reasons, is the kafalah (sponsorship) or foster placement system.

258. Under the kafalah system, the needs of the sponsored individual are addressed fully, including his or her food and drink, clothing, education, and health care requirements. The sponsored child enjoys rights equal to the sponsor's own son with the exception of the legal rights stemming from family lineage such as those relating to marriage and inheritance. The following documents shall be issued for the sponsored child: a birth certificate providing an invented four-part name and reason for being placed in foster care. A passport may be issued for the child in accordance with the decision of the Child Placement Committee. No distinction is made among children in the application of those provisions. A Palestinian child can be adopted internationally provided that the adopting family is Palestinian family residing abroad.

259. The “foster system” is regulated by the Foster System Regulations, which were issued by the Cabinet of Ministers in 2013. Those regulations apply to children of unknown parentage and children deprived of care within their own families.

260. The regulations set forth the modalities by which families can apply to provide foster care, and the conditions that foster families must meet. The regulations also provide for formation of a foster care committee that is headed by the Ministry of Social Development and whose membership includes officials from the sharia judiciary, the Ministry of Interior, the Ministry of Awqaf and Religious Affairs and the Fatwa Council. The Ministry of Social Development child protection counsellor monitoring the placement of the child with the foster family also attends the meetings of the foster care committee.(64)

261. The first phase of the foster care database has been completed by the Ministry of Social Development, and a trial of that database is being carried out by the competent department within the Ministry. In 2016, the Minister of Social Development approved a manual for working procedures with children of unknown parentage and children born out of wedlock.

(i) Illicit transfer and non-return (article 11)

262. The Children’s Act prohibits the abduction or unlawful separation of a child from his or her family. The police and the Office of the Public Prosecutor are responsible for ensuring the implementation of judgments in cases involving the abduction of a child. The perpetrators of those offences are liable to penalties ranging from fines to custodial sentences. Due to the Israeli occupation, the Government of Palestine has no control over entry and exit at its borders, and this impedes the extradition of persons accused of such offences.

263. There are cases in which a child is abducted by one of the parents, in order to prevent the child from joining the other parent; the abducting parent travels with the child in question. In order to avoid that situation, an administrative decision may be obtained from the sharia judiciary to prevent the child’s travel abroad without the consent of the other party. The Ministry of the Interior is informed of that decision and the child’s name is communicated to security officers at the country’s border crossings to prevent him or her from travelling. However, the prohibition on travelling can only be enforced at Palestinian border crossings and it has therefore not been possible to prevent all child abduction cases.

264. The State of Palestine has not yet acceded to the Hague Convention on the Civil Aspects of International Child Abduction and the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, but will consider becoming a State party in the future.

(j) Children of those in prison

265. Article 31.4 of the Children’s Act stipulates that the criteria established by the State and its institutions for the provision of social support are applicable to the children of prisoners: “Children of the imprisoned, missing persons or persons incapacitated by illness or disability, who have no one to support them”.

266. The State of Palestine pays particular attention to the children of prisoners. Pursuant to the Correctional and Rehabilitation Centres Act, the Department of Correctional and Rehabilitation Centres coordinates with the Ministry of Social Development to ensure that the children of prisoners enjoy the right to privacy, facilitates special visits for children and ensures that visits take place in an appropriate environment that can help strengthen relations among members of the family.

267. Special care is provided to pregnant detainees and prisoners. In 2016 and 2017, three births took place in correctional and rehabilitation centres. Children stay with their mothers for the period specified by law. During their stay, those children are provided with social, material and health-care services and they receive the food and clothing that they require.

268. The Department of Social Welfare at the Ministry of Social Development in turn provides care and counselling services to prisoners held at correctional and rehabilitation

centres and seeks to ensure that they remain in contact with their families, especially if children and women are involved. In 2017, the Department facilitated family communications and visits for 118 prisoners.

269. Ministry researchers assist female and child members of prisoners' families by signing them up for the cash and in-kind assistance provided by the Ministry. The personal needs of male and female prisoners and the needs of children living with their imprisoned mothers are addressed within correctional and rehabilitation centres. Transport is provided so that the families of prisoners can visit them in detention and a transport programme facilitated the visits of more than 100 children to see their mothers in these centres in 2016 and 2017. Cash assistance is provided to support the women and children in prisoners' families, and steps are taken to ensure that the personal and health-care needs of children living with their imprisoned mothers are met. In some cases educational grants are provided to the children of detainees, including for regular educational and vocational training courses.

270. Because Israel, the occupying Power, does not fulfil its obligation to care for the families of prisoners, as provided for in articles 81 and 98 of the Fourth Geneva Convention, which underscore the responsibility of the occupying Power to provide for the support of those dependent on the internees if such dependents are without adequate means of support or are unable to earn a living. The Commission for Detainees and Former Detainees provides financial allowances to the families of prisoners and detainees held by the Israeli occupation forces, with the amount paid depending on the duration of their detention.

6. Basic health and social welfare (articles 6, 18 (paragraph 3), 23, 24, 26, 27 (paragraphs 1–3) and 33)

271. Articles 22 and 23 of the Children's Act enshrine the right of the child to the highest level of health care free of charge, in accordance with the Public Health Act.[65] In that regard, the State of Palestine has significantly improved child health and children's access to health-care services, and infant and under-five mortality rates have fallen over the past two decades.

272. According to data provided by the Ministry of Health, the main causes of infant mortality in 2014 and 2015 were respiratory diseases (31.6 per cent) followed by congenital malformations (22.9 per cent), premature birth and low weight (15.6 per cent), blood poisoning (13.0 per cent), sudden infant mortality (5.1 per cent) and metabolic disorders (3.2 per cent).

273. Many diseases such as neonatal tetanus, poliomyelitis, smallpox and measles have been eradicated. There were no deaths due to tuberculosis, measles or AIDS in 2015.

274. There are 2,529 doctors in Palestine (including general medicine practitioners and specialists), equivalent to 5.3 doctors per 10,000 inhabitants. Of these, 1,464 (57.9 per cent) are general medicine practitioners (3 doctors per 10,000 inhabitants), 878 (34.7 per cent) are medical specialists (1.8 per 10,000 inhabitants), and 187 (7.4 per cent) are dentists (0.4 per 10,000 inhabitants).

275. The Ministry of Health provides training to new health-care personnel on public health and primary health care programmes, as well as training to staff in various ministerial departments on new developments in the area of health care.

276. In terms of growth indicators, data for primary health care centres in 2016 indicated that 0.4 per cent of children suffered from wasting, with 24.9 per cent of those children suffering from severe wasting, and 0.5 per cent of children were underweight, with 30.8 per cent of those being severely underweight. The percentage of children who were overweight was 1.4 per cent, and 27.2 per cent of those children were obese. A total of 1.4 per cent of children were below average height for their age and 30.6 per cent of those children were significantly below average height for their age.

277. A total of 234 children were underweight, 135 children were severely underweight, 270 children suffered from wasting and 193 children were stunted in their growth. A total of 99 per cent of children were vaccinated against various diseases in 2014 and 2015.

278. In 2015, 99.7 per cent children were born in hospitals or other safe facilities. In 2016, that figure was 99.9 per cent, with only 0.1 per cent of births taking place at home. Some 5.9 per cent of newborn children in Palestine weighed less than 2,500 grams. The proportion of mothers who practiced exclusive breastfeeding was 28.6 per cent in 2015 and 11.3 per cent in 2016.

279. In 2015, maternal mortality was 24.7 per 100,000 live births. In 2016, it was 13.8 per 100,000 live births. Causes of death included pulmonary embolism, postpartum haemorrhage, cardiac arrest, vascular thrombosis and hypertension.

280. Before the conclusion of a marriage contract, the sharia courts provide that one of the parties to the marriage must undergo a test for thalassemia. The marriage cannot be contracted until the engaged couple have presented a thalassemia test certificate that has been certified by the Palestinian Ministry of Health. If the court learns that one of the parties to the marriage suffers from thalassemia, his or her fiancé must also undergo a test for the disease. If it is found that the couple both suffer from thalassemia, the conclusion of the marriage is strictly prohibited and the judge overseeing the case will inform the Bureau of the Chief Qadi of the outcome of the test and the names of the couple. An administrative circular prohibiting the couple from marrying is then issued and sent to other sharia courts.

281. The Ministry of Health exerts significant efforts to limit the spread of HIV/AIDS by conducting free laboratory tests in the various health districts, and by facilitating the provision of treatment for those infected with HIV at free private medical clinics, which also provide patients and their families with health-care advice. Awareness-raising programmes are also conducted on a regular basis for students in high school and at university to deepen their knowledge of how HIV is transmitted and the dangers associated with the virus.

282. If one of the parties to the marriage is a foreign national, he or she must take an HIV test and submit a certificate, as issued and certified by the Palestinian Ministry of Health, testifying that he or she is not infected with the virus. If he or she does not do so, the marriage cannot be completed.[66]

283. The sharia courts issue rulings on husbands in favour of their wives at the wives' request in which the husband is required to pay for necessary treatment for his wife in addition to expenses incurred during childbirth, regardless of whether or not the wife has reached the age of majority. In addition, the sharia courts issue rulings compelling fathers to pay for the treatment of their underage children, in addition to their unemployed adult male children and their unmarried adult female children, if the children so request. A father has an obligation to pay for treatment. In cases in which there is no father, the courts may oblige children's grandparents, paternal uncles or mothers to cover the costs of treatment, in accordance with the circumstances of each case.

(a) Children with disabilities (article 23)

284. Articles 9 and 22 of the Palestinian Basic Law stipulate that all Palestinians are equal before the law and the judiciary, that there is no discrimination on the grounds of disability, and that they shall have access to education services and to health and social insurance. In the same context, the 1999 Rights of Persons with Disabilities Act and its implementing regulations of 2004 have established a legal framework on the rights of persons with disabilities within the Palestinian legal system, which provides that persons with disabilities are entitled to enjoy their basic rights on a non-discriminatory basis.

285. Articles 3, 8, 11, 28, 31 and 42 of the Children's Act provide that the State shall take appropriate steps and measures to ensure that children with disabilities receive all necessary support in all areas, particularly in connection with their rights to education and health and vocational rehabilitation, in order to enhance their autonomy and ensure their active participation in society.

286. The National Strategy on Disability sector was formulated in 2012 on the basis of a developmental rights model. The Strategy sets forth several intervention initiatives, including initiatives to mainstream the needs of persons with disabilities, adopt legislation guaranteeing equal rights for all, ensure that all persons with disabilities can live in dignity,

change attitudes regarding disability so that it is seen as part of the natural diversity of society, ensure equal opportunities and access, and strengthen the relevant role of institutions.

287. According to the 2017 population, housing and establishments census, 0.9 per cent of children have at least one form of disability, including 0.7 per cent of children in the West Bank and 1.2 per cent of children in the Gaza Strip, and 1.1 per cent of male children and 0.8 per cent of female children are disabled.

288. The Ministry of Health seeks to provide the best possible health-care services to children, particularly children with disabilities, in accordance with the provisions of the Children's Act, which stipulates that health insurance shall be provided free of charge for all children under six years of age. For children between the ages of 6 and 18, preventive school health-care services, psychological health and dental services, and treatment for infectious and malignant diseases and school health emergencies are all provided without the need for health insurance coverage.

289. Children with disabilities are provided with primary health care in addition to public and preventive health-care services free of charge while they are in school. The services provided include psychosocial support, health education and vaccinations. Rehabilitation and physiotherapy services are also provided under the health insurance system in accordance with the service procurement policies of the Ministry of Health. In certain situations, the Ministry of Social Development will provide services to persons with severe disabilities through specialized institutions such as the Casablanca Center of Mental Disability in Salfit and through the purchase of those services from both the Orthodox Care Homes and the al-Ihsan Charitable Society.

290. The Ministry of Health does not provide aids or equipment to children with disabilities. The Ministry of Social Development provides medical devices and equipment, including wheelchairs, and hearing aids by purchasing the relevant services for persons with disabilities, including children, as part of its procurement programme. The Ministry of Health intends to update its policies on standards of supporting devices and rehabilitation services to ensure that persons with disabilities are provided with high-quality support and rehabilitation equipment that meet national standards at reasonable cost.

291. UNRWA incorporates disability issues in all its programmes, and provides rehabilitation services to refugees with disabilities that include vocational rehabilitation, home modification, speech, physical and occupational therapy, special needs education, the payment of transportation allowances and the provision of aids and prostheses. More than 2,000 males and females benefit from those initiatives each year, and more than 3,000 students with disabilities attend school and rehabilitation centres. UNRWA also provides training on working with persons with disabilities to technical and educational staff.

292. The Ministry of Social Development coordinates with governmental and non-governmental institutions to provide care and rehabilitation services to children with disabilities. It uses reports drawn up by the Ministry of Health to determine the nature and degree of disability and provide appropriate assistance. The Ministry also provides accommodation in care homes for people with severe disabilities.

293. The Ministry of Social Development is planning to launch a "Disability Card" programme for the provision of the services provided by the law. Under the programme, the Ministry will establish an integrated database of persons with disabilities that will include data on disability type and eligibility criteria, and will provide training to staff on the programme, in coordination with the Central Bureau of Statistics and with the support of Save the Children.

294. Children with disabilities receive cash assistance from the Ministry of Social Development. A total of 3,994 children in the West Bank and 7,149 children in the Gaza Strip received cash assistance in 2015.

295. Challenges impeding the provision of health and rehabilitation support services to children with disabilities include a lack of financial resources and specialized staff with the necessary skills to assist with children with disabilities, the failure of efforts to ensure that the health insurance policy covers the cost of medical aids and equipment and the numerous

drugs needed by children with disabilities, a lack of relevant expertise and medical specialists, either for diagnostics or the provision of health and rehabilitation services, outdated criteria for diagnosing the type and severity of a disability, (which undermines the accuracy of medical committee reports and thus access by children with disabilities to appropriate services), and Ministry of Health hospitals and health-care centres and public roads and facilities that are not well-adapted to the needs of persons with disabilities.

Table 18 shows the number of children with disabilities by type of disability.

296. Education for Children with Disabilities: the Ministry of Education and Higher Education has begun to integrate children with disabilities into schools without specifying how curriculums should be adapted for persons with disabilities. The process begins with integrating children with more obvious disabilities, including oral/aural, motor and speech disabilities. Steps are then taken to integrate children with intellectual disabilities. No decision has been taken with regard to other forms of disability. However, it has proven difficult to integrate certain children with motor disabilities into sports classes, and playgrounds in certain schools are not well-suited for children with disabilities.[67]

297. In the 2014–2015 school year, there were 7,552 students with disabilities integrated into public schools. These included 5,557 children in the West Bank (of whom 2,967 were male and 2,590 female) and 1,995 children in the Gaza Strip (of whom 1,031 were male and 964 were female).

Table 19 shows the distribution of students with disabilities in public schools by type of disability and region for 2015/2016.

298. In order to facilitate the integration of students into schools, the Ministry of Education appointed two counsellors for inclusive education[68] and, in September, officially launched an inclusive education policy. In coordination with other ministries, the Ministry of Education has formed an advisory committee to ensure that all programmes are in line with that policy.[69]

299. The Ministry of Education provides certain educational aids and specialized equipment to persons with disabilities, including chairs, eyeglasses and hearing aids. The Ministry is also working with researchers to adapt the curriculum so that blind students can learn using Braille, and is now endeavouring to complete that process. However, physical environments are still not suitable for all categories of disability, because efforts have been focused on addressing the needs of individuals with motor disabilities rather than on addressing the needs of those with other forms of disability.

300. With regard to adapting schools so that they are accessible to children with disabilities, changes have been made to school toilets in 63.6 per cent of public schools in Palestine, and staircases adapted for children with disabilities have been installed in 53.3 per cent of those toilets. Such adaptations have been made to a higher proportion of toilets in public and UNRWA schools than in private schools. Although toilets suitable for children with motor disabilities have been installed in many schools, schools must take further steps to accommodate students with certain disabilities, such as taking steps to facilitate access to those schools and making adaptations to classrooms.

301. A general secondary examination for students with disabilities has been developed. To date, the exam is available for students with visual, auditory and motor disabilities.[70] The Ministry has also established classrooms for special needs teachers. Those classrooms are attached to regular schools and equipped with suitable furniture and relevant educational materials and games.[71]

302. There are 223 special needs classrooms in the West Bank and Gaza, in addition to three special needs centres (two in the West Bank and one in Gaza). In 2017, 1,703 special needs education staff members were employed by the Ministry of Education and Higher Education.

303. Factors impeding the enjoyment by children with disabilities of their right to education include a lack of equipment for children with disabilities in schools and the fact that inadequate steps have been taken to integrate children with disabilities into many schools, and particularly those with no evident disability, who are not easily identified and

whose precise needs are often not determined due to a lack of approved tools for diagnosing those types of disability in Palestine. Furthermore, special needs classrooms have still not been integrated into the school system because there is no clear policy on how they should operate.

(b) Basic health (article 24)

304. Palestinian laws, and in particular the Basic Law, the Public Health Act, the Children's Act, the Health Insurance Act and the Rights of Persons with Disabilities Act, guarantee the right of the child to an adequate standard of health on the basis of equality and without any discrimination on the basis of sex or disability.[72]

305. The National Strategy for Child Health in Palestine, which applies to all children, including children with disabilities, complies with international standards and provides for international cooperation in that area whenever necessary.

306. The Ministry of Health provides health care, while at the same time it allows refugees to benefit from government services. The data collected by UNRWA, which provides health services to refugees, is kept separate from data collected by the Ministry of Health.

Survival and development (article 6 (paragraph 2))

307. To enhance the provision of postnatal care, the Ministry of Health has launched the "Child-friendly Hospital" initiative in government hospitals, hospitals run by the Palestinian Red Crescent Society, UNRWA hospitals and a number of private hospitals with a view to promoting breastfeeding. Seven hospitals, including private, government and UNRWA hospitals have been nominated "child-friendly hospitals". Seven health-care centres[73] currently monitor the growth and development of children, carry out early detection tests for disabilities and a number of diseases, and provide vaccinations. The Ministry of Health also provides services and health-care advice to mothers to promote their health and the health of their children.

308. A total of 739 primary health-care centres have been established, including 587 in the West Bank and 152 in the Gaza Strip. In 2015, there were 162,979 families with government insurance in the West Bank, including 12,515 families provided with free health insurance. In 2016, there were 214,982 families enrolled in the health insurance scheme, including 15,304 families provided with free health insurance. Pursuant to a presidential decree, all persons in the Gaza Strip are granted free health insurance.

309. The average maternal mortality rate in Palestine was 24.7 deaths per 100,000 live births in 2014. In 2016, the rate was 13.8 deaths per 100,000 live births.

310. In 2016, neonatal mortality was 5.5 deaths per 1,000 live births (5.3 per 1,000 live births in the West Bank and 5.6 per 1,000 live births in Gaza). Causes of death included prematurity, underweight, delivery complications and congenital malformations. The mortality rate of infants up to one-year-old was 10.5 deaths per 1,000 live births. The mortality rate of children up to the age of 5 years was 12.2 deaths per 1000 births. The mortality rate for children aged 6–18 years was 16.7 deaths per 100,000 children in the same age group in 2016. Accidents and external causes accounted for 38.9 per cent of deaths, neurological diseases for 22.8 per cent, congenital malformations for 11.4 per cent, and tumours for 8.4 per cent of deaths.

311. No deaths from poliomyelitis have been reported, nor has the Ministry of Health recorded any cases of infanticide.

312. Under the Children's Act, the Ministry of Health is obliged to take appropriate measures to enhance its health-care capacities in order to improve child nutrition and health. The Ministry has affirmed that food intended for consumption by children should contain substances that have a medical impact only for preventative purposes, and only if approval for this is obtained from the Ministry. The promotion of any breast milk substitute in any Ministry of Health institution constitutes a violation of the law and is prohibited.

313. The Ministry of Health provides maternal health care services, including sexual and reproductive health services, and family planning. The Ministry also carries out preventive health-care check-ups and provides pap smears to ensure the early detection of cervical cancers, and provides counselling on family planning, the prevention of sexually transmitted diseases and cancer and the importance of detecting those diseases in their early stages.

314. The Ministry of Health also provides a range of preventative health-care services in schools to prevent certain forms of disability. These include screenings for the early detection of visual and auditory disabilities, learning difficulties, oral and dental diseases and psychological and behavioural disorders. The Ministry transfers and follows up on cases to ensure that those who require treatment receive it. The Ministry also provides psychological support services for school students, especially students with disabilities, and conducts health awareness programmes on proper nutrition and other issues in all Ministry of Education schools, institutions affiliated with the Ministry of Social Development, including centres for juveniles, schools run by the Ministry of Awqaf and Religious Affairs, and vocational training centres run by the Ministry of Labour. The Ministry of Health also monitors vocational and technical education centres to ensure the safety of students, carries out preventive health checks for students and seeks to raise students' awareness of preventative health care measures and public safety.

315. Other preventative initiatives overseen by the Ministry of Health include the country's national immunization programme, which offers vaccinations against poliomyelitis, measles and other diseases, in addition to screenings to detect Phenylketonuria and abnormal levels of Thyroid-Stimulating Hormone. Those affected receive lifelong treatment free of charge. There are approximately 500 children receiving preventive treatment for Phenylketonuria in Palestine.[74]

316. Following a number of cases in which babies have been born at checkpoints because of Israeli military closures and roadblocks, the Ministry of Health has stepped up its efforts to deliver emergency obstetric services in marginalized areas through the establishment of well-equipped safe childbirth and emergency delivery clinics and centres that are staffed with qualified health-care personnel, especially in areas in the Jordan Valley, which are sealed off with roadblocks manned by the Israeli occupation authorities.

317. The main obstacles to the provision of care and support include the limited physical, financial and human resources and capacities available to those endeavouring to provide assistance to persons with various disabilities, in addition to the fact that certain Ministry of Health centres for children with disabilities do not provide an appropriate environment for addressing those children's needs.

318. A total of 713 cases of children with mental health issues were registered in 2016, including 401 male children and 312 female children.

Prevention of drug abuse (article 33)

319. The Children's Act prohibits the employment or commissioning of a child to perform any form of any job, including in places where cigarettes or narcotic or psychotropic substances are produced, or to traffic in, possess, promote or transport those products. Perpetrators are liable to criminal prosecution and penalties are prescribed for offenders. The 2005 Anti-Smoking Act[75] contains provisions prohibiting smoking in school yards and kindergartens and the sale, distribution, display or advertising of tobacco to persons under 18 years of age. The Anti-Smoking Act also prohibits the import, sale or manufacture of imitation tobacco products, including sweets and toys that resemble any type of tobacco product.

320. Further to the adoption of the 2015 decree-law on the control of narcotic drugs and psychotropic substances, in 2017, the State of Palestine acceded to the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

321. The State of Palestine has taken several steps to improve the health practices of children and adolescents, including the establishment of committees comprising police officers and staff at the Ministries of Health and Social Development to monitor shops and stores with a view to preventing the sale of tobacco to children and adolescents. Talks on the dangers of smoking and alcohol consumption are also given to children in lower grades at school, while talks on the dangers of illicit drug use are given to children in secondary school. The police gave 448 talks in 2014 and 356 talks in 2015. Non-governmental organizations also raise awareness about the dangers of smoking and drug abuse by designing health education activities for school and university students. According to the 2015 Palestinian Youth Survey, 10.0 per cent of children in the 15–17 age bracket smoke, including 13.4 per cent in the West Bank and 5.0 per cent in the Gaza Strip. No recent surveys have been conducted by the Ministry of Health to assess the extent of drug abuse by children and adolescents.

322. During the national consultations held for the purpose of preparing this report, children reported that, despite the decision issued by the Governor of Ramallah and Al-Bireh in 2017 to tighten control over shops and cafes, children continue to engage in hookah smoking in cafes without the owners of those establishments checking their ages, and not all shops refuse to sell tobacco products to children.

323. In the context of drug abuse prevention, Palestine has established the National Supreme Council for Drug Control. The Ministry of Health has also established the Alternative Treatment Centre for the treatment of drug users and addicts, including children. Other centres will be established in the near future.

324. With regard to treatment services, particularly those designed for children, the Ministry of Health provides free psychosocial counselling, rehabilitation services and treatment and conducts the necessary tests for drug users.

325. With regard to treatment and rehabilitation centres for victims of drug abuse, there are two centres for adults and children, and a third centre is under construction. An evaluation of the services provided by these centres is being conducted. No statistics on victims of drug abuse are currently available.

Health challenges and efforts exerted

326. HIV/AIDS is not considered to be a problem in Palestine. Since 1988, 84 cases of HIV infection have been recorded, including seven cases in children. No cases of children with HIV/AIDS were registered in 2017. Early detection of the disease is carried out by means of a national counselling and voluntary testing programme in Palestine that targets individuals that are most at risk of contracting the disease. Sexually transmitted infections are diagnosed and recorded along with their causes or symptoms in accordance with World Health Organization recommendations; one case of a child infected with a sexually transmitted disease has been recorded.[76]

327. The Ministry of Social Development provides cash assistance to chronically ill patients. In 2015, 4,486 children in the West Bank and 9,021 children in the Gaza Strip received monetary assistance because they were suffering from a chronic disease.

328. Due to the repeated Israeli attacks on the Gaza Strip, the health sector, which is often directly targeted, has been severely impaired. However, the Ministry of Health, through its service procurement department, deals with cases in the Gaza Strip that require referral to hospitals, including those that are not run by the Government.

Adolescent and reproductive health

329. Palestinian legislation, including the Children Act, the Anti-Smoking Act and the decree-law on the control of narcotic drugs and psychotropic substances, aim to protect adolescents and children and uphold their rights. In order to safeguard adolescents from various diseases, the Ministry of Health has conducted numerous courses and workshops and issued various publications on the prevention of communicable diseases and on the medical services provided by the Ministry. The Ministry also seeks to raise awareness in schools, and especially among children and juveniles in secondary school, regarding the

importance of proper nutrition and physical activity. The Ministry also provides guidance on adolescent health, the dangers of early marriage and reproductive health issues.

330. A pilot youth-friendly health centre programme has been launched by the Ministry of Health in South Hebron Governorate and will be extended to other governorates in the next few years. The Ministry also provides counselling and psychological support in both secondary schools and at health centres.

331. Under Palestinian law, an adolescent girl who becomes pregnant is not permitted to have an abortion. If she performs the abortion herself or with the assistance of others, however, she benefits from mitigating circumstances. The law does not specify the age of consent for an abortion. The Ministry of Health has no data on pregnancies among adolescent girls and illegal abortions performed. Adolescent health and reproductive health are among the priorities addressed by educational counsellors in schools, and a national guidebook on adolescent health has been formulated and serves as a key reference document for educational counsellors and health-care workers.

Social services and standard of living

Social security and child care services and facilities (articles 26 and 18 (paragraph 3)

332. The decree-law on social security was issued in 2016. The Palestinian Government is also taking action to reduce the numbers of children who drop out of school in order to enter the labour market, including through anti-poverty programmes and the provision of assistance, health insurance and job opportunities for fathers and mothers.

333. Other social protection institutions, and certain non-governmental organizations, charities and UNRWA play a complementary role to that of the Ministry of Social Development, providing job opportunities and monetary assistance to poor families. Those initiatives have mitigated – albeit partially – the phenomenon of students dropping out of school to work so they can help their families.

Standard of living, (article 27 (paragraphs 1–3))

334. The Ministry of Social Development provides a range of relief and empowerment assistance services to poor and marginalized families living below the poverty line, including children within those families. The Ministry has granted an unconditional right to all families to request services provided by the Ministry, while the Council of Ministers has approved approaches for addressing the needs of families on a non-discriminatory basis.

335. The Ministry of Social Development provides assistance to the families covered by its programmes on a regular basis in order to safeguard the interests of children. That assistance includes emergency cash assistance, food aid, school fee exemptions and health insurance for those who require it. The Ministry also provides exceptions from customs duties to facilitate automobile purchases by families with children with disabilities. A number of religious, charitable and social institutions also provide in-kind, cash and food assistance to poor families.

336. The Ministry of Social Development has taken a number of steps to facilitate the development of a national poverty and marginalization database, such as drawing up a manual on the provision of emergency assistance.[77] Assistance is no longer provided if the Ministry concludes, on the basis of a field visit, that the recipient is no longer entitled to assistance.

337. Difficulties related to the provision of support sometimes arise. Usually this is due to insufficient funding from donors, which can result in delayed payments from the Ministry to poor families, who are then unable to cover their expenses.

338. A total of 71,455 children in the West Bank and 178,284 children in the Gaza Strip received cash assistance in 2014. In 2015, cash assistance was provided to 58,544 children in the West Bank and 193,505 children in the Gaza Strip, while in 2017, 58,708 children in the West Bank and 189,503 children in Gaza received that assistance. Total assistance in 2017 amounted to 518,397,372 new Israeli shekels (NIS).

339. If a child or juvenile is placed in foster care or a care home, child support officials can apply for assistance on his or her behalf. Assistance is provided on a monthly basis to children in care in accordance with the procedures stipulated in article 25 of the Foster System Regulations.[78] The Minister of Social Development must grant approval for assistance payments, which must be disbursed by the competent authorities in accordance with the applicable rules.

Education and recreational and cultural activities (articles 28, 29 and 31)

(a) The right to education, including vocational training and guidance (article 28)

340. The Ministry of Education in Palestine supervises public education in public, UNRWA and private schools. The Ministry is committed to carrying out its work and providing education for all people in Palestine, in line with article 24 of the Basic Law and articles 37 and 38 of the Children's Act, which affirm the right of all children to receive free education in State schools, without discrimination, until their completion of secondary-level education. The Children's Act also affirms that education is compulsory until the completion of higher basic level, at a minimum, in addition to the duty of the State to take all appropriate measures to prevent children from dropping out prematurely from school. Article 169 of the Personal Status Code provides that a father is obliged to pay for the education of his children.

341. During the 2002–2003 academic year, the Ministry of Education and Higher Education conducted a study to determine Palestinian standards for child-friendly schools. The Ministry then adopted those standards in its plans and programmes. The standards served as key monitoring and evaluation indicators for the second and third strategic plans. The Ministry has also drawn up the violence reduction policy for Palestinian schools and issued numerous regulations and instructions prohibiting all forms of violence in schools.[79] The aim of the violence reduction policy, which also aims to improve discipline in schools, is to improve safety for students and teachers, create an appropriate educational environment for students and teachers, strengthen school management with a view to achieving educational goals, support the creation of safe school environments, foster positive behaviour, and establish a system for the protection of students and all those employed in the educational sector.[80]

342. With regard to school fees and school fee exemptions, it should be noted that the collection of financial donations from students takes place at the beginning of the school year, whereby a nominal fee is levied on students who are able to pay it, while students in particular financial difficulty, in addition to students with family members in prison or whose family members have been killed or injured in the national liberation struggle, are fully or partly exempt from paying the fee. Students receiving monetary assistance are fully exempt from the payment of school fees. However, the Ministry of Social Development pays 50 per cent of the total amount due for those students.[81]

343. Statistics show that basic infrastructure is available in most schools in Palestine, that 99.1 per cent of the schools in the West Bank are connected to the electricity network and that 91.2 of the schools in the West Bank are connected to the public water network. In the Gaza Strip, 90.0 per cent of schools are connected to a public water network, and 99.3 per cent are connected to a public electricity network. Due to the blockade and the illegal closure imposed by Israel, the Gaza Strip suffers from ongoing interruptions to its electricity supply. Water and sewage systems have also been destroyed.

Religious education

344. All Palestinian schools teach Islamic subjects to Muslims and Christianity to Christians, as with all other compulsory subjects. In the West Bank there are six sharia schools run by the Ministry of Islamic Endowments rather than the Ministry of Education. The curricula of those schools are the same as those followed by regular schools, except for differences in certain subjects, which are taught from a religious perspective. The Ministry of Education licences those schools as private schools that are under its supervision. In the Gaza Strip, public schools are run by the Ministry of Education, and offer various branches of study, including a sharia branch.

345. The net enrolment rate for primary education in Palestine was 94.2 per cent in 2014 and 94.6 per cent in 2015. The net enrolment rate for primary education in the West Bank was 94.1 per cent for males, as compared with 96.4 per cent for females, In the Gaza Strip, the primary education enrolment rate was 94.3 per cent for males and 95.9 per cent for females.

Table 20 shows total enrolment rates by educational stage, region and sex.

Table 21 shows the distribution of students by region, educational stage and sex in 2015/2016.

Early childhood education

346. Early childhood education is education provided to children between the ages of 4 years and 5 years, 5 months. Kindergarten education is still not particularly widespread and the kindergarten enrolment rate was 55.1 per cent in 2014 and 2015. More than 99 per cent of children enrolled attend private for-profit institutions rather that those that do not charge fees. There are no suitable kindergartens for children with disabilities.

347. The Ministry of Social Development endeavours to provide a safe environment for play, education and early childhood skills development by licencing suitable kindergartens. Those kindergartens are attended by children between the ages of 1 month and 4 years.

348. Committees that comprise a number of authorities and are headed by the Ministry of Social Development have been established in each of the Palestinian governorates.[82] Those committees monitor and carry out inspections in kindergartens to ensure that they meet health and safety standards, and submit recommendations to the departments of social development in a governorate.[83] The Ministry of Health, in partnership with the Trust of Programs for Early Childhood, Family and Community Education, has issued a guide on health issues for kindergarten educators in order to enable them to address the most important physical, dental, psychological and first aid issues that can arise in kindergartens.

349. The Ministry of Development has proposed that comprehensive surveys of all operating kindergartens should be conducted with a view to creating a database that can be used to help kindergartens meet licensing standards. However, to date, no standardized programme that sets forth how kindergartens should operate has been formulated.

350. In the context of Ministry of Education policy to provide education for all as a basic right, the Ministry has created a pre-primary grade (a grade for children before they begin primary education) in public schools in marginalized areas with a view to offering pre-school education to children in those areas. The Ministry is gradually extending that initiative to cover all schools, in accordance with educational needs.

Table 22 shows the number of licenced and monitored kindergartens in 2014 and 2015.

Table 23 shows the total enrolment rate in early childhood education for children between 4 and 5 years of age, disaggregated by sex.

Vocational and technical education

351. The Ministry of Education has developed a national strategy for vocational and technical education and training that is in line with global trends. That strategy has been reviewed by specialized teams composed of a wide range of public- and private-sector stakeholders. Vocational and technical secondary education is taught in vocational schools,[84] which aim to provide students with the knowledge and skills they need to enter the labour market or to enrol in higher education institutions.

352. Studies indicate that societal attitudes towards vocational education are not positive, and that the majority of parents would prefer that their children obtain a university education after high school rather than enrol in a vocational education course. Those attitudes were confirmed by children themselves in interviews conducted as part of the national consultations.

353. To help promote vocational education, raise awareness regarding certain trades and occupations, and underscore their contribution to the country’s development, the Ministry of Education has introduced vocational courses for the seventh, eighth and ninth grades, so

that students in each of those grades can learn about three trades or occupations practiced in the community.

354. In 2015 and 2016, the total secondary education enrolment rate in Palestine for males was 58.7 per cent and for females it was 78.6 per cent.

355. Some 2.94 per cent of all secondary school students were enrolled in non-commercial vocational education in Palestine, including 4.6 per cent of secondary school students in the West Bank and 0.51 of secondary school students in the Gaza Strip. It should be noted, however, that there are no vocational schools in Gaza.

356. One of the factors that discourage girls from enrolling in vocational and technical education is the low number of institutions that offer programmes that women have traditionally wished to take. That factor has limited women's vocational and technical education options for this type of education. Furthermore, according to the Central Bureau of Statistics, women made up only 19.1 per cent of the country's work force, with men making up the remaining 71.9 per cent.[85]

357. Institutions providing education and vocational training services in the different regions include governmental, civil society, UNRWA and private-sector institutions. There are 18 vocational schools in Palestine, including 13 government schools with industrial and agricultural sections.

Table 24 shows the number of students enrolled in vocational and industrial education.

School dropouts

358. Palestine has made significant efforts to reduce school dropout rates, and seeks to address the impact of that phenomenon through outreach programmes and following up with individuals who have dropped out of school. Palestine has also introduced parallel education and literacy programmes.

359. The Ministry of Education has taken a number of measures to limit dropout rates. It has opened new schools and courses of study in remote areas, particularly for female students, and has provided new portable schools for nomadic Bedouin communities. Students who have left school in order to work are referred to the child protection network with a view to reducing child labour and educating those children regarding their right to education. The Ministry also runs programmes to integrate children with disabilities into schools.[86]

360. The Ministry of Social Development has established youth social rehabilitation centres for boys and girls who drop out of school, and for children whose families receive social assistance. There are 13 of those youth centres in Palestine and they aim to provide children with social, educational, cultural and vocational skills, and empower them to play an active role in their families and within society.

361. The primary education dropout rate in the 2015–2016 school year was approximately 1.2 per cent for boys and 0.7 per cent for girls. The secondary education dropout rate was 1.3 per cent for boys and 1.1 per cent for girls.

Table 25 shows dropout rates disaggregated by sex and educational stage

362. The State of Palestine has given priority attention to the provision of high quality and comprehensive education for all in a national policy document entitled "Citizen First", which sets a policy agenda for the years 2017–2022. That priority attention stems from the Government's long-standing commitment to the provision of high-quality education for all Palestinians on a non-discriminatory basis, including for members of marginalized and vulnerable groups.

363. Palestine has taken a number of measures to ensure that children in marginalized areas receive an education, and has developed intervention plans in that area in coordination with the European Union and the Office for the Coordination of Humanitarian Affairs (OCHA). Support provided to marginalized areas includes the allocation of buses to transport students from certain Bedouin communities to their schools, and the provision of mobile classrooms and the construction of schools made of corrugated iron in areas where

buildings are threatened with demolition and the inhabitants are in danger of being forcibly removed by the Israeli occupation forces.

364. The Ministry of Education has paid particular attention to the provision of education in all circumstances, including in emergency situations. Palestine is a State under occupation and suffers from systematic and widespread Israeli violations of the right to education stemming, inter alia, from the killing of children, the arrest of students and teachers and attacks on schools.

365. Save the Children, in partnership with the Ministry of Education and Higher Education, and the Ma'an Development Center, has launched the Safe Schools project to keep children safe in schools and prevent interruptions to children's education during periods of violence. The project works with children, educational partners and local communities to raise awareness regarding the importance of sustaining the education process and endeavours to influence relevant local, national and global policies.

Education for children with disabilities

366. Palestine has been integrating students with disabilities into education since 1997, when the Ministry of Education adopted an inclusive education programme to integrate students with disabilities into public schools. The programme, which began as a three-year pilot project, was extended to all public education schools because of the difficult circumstances faced by the Palestinian people, particularly those caused by the Israeli occupation and its ongoing attacks and criminal actions, which have resulted in an increase in the number of persons with disabilities.

367. The future plans of the Ministry of Education with regard to children with disabilities include: completing the comprehensive national policy on inclusive education, which is now in its final stages, updating the skills of those working in the field of special education and increasing their numbers, and hiring specialists with training in all forms of disability, including autism and learning disabilities, as well as specialists who can address the needs of particularly gifted children.[87]

(b) Aims of education (article 29)

368. The Ministry of Education has adopted its third strategic plan on the basis of a set of guiding principles, including the need to strengthen a sense of national identity and citizenship, the need to strengthen the society's system of values, and the importance of the rule of law.[88] The Ministry of Education has also worked to improve conditions for teachers and enhance their skill sets. Teachers must now have a diploma in education. The Ministry has also initiated a process for updating educational curricula, taking a number of key elements into consideration, including the need to involve and uphold the rights of children.

369. In 2013–2014, 31.1 per cent of qualified teachers had been awarded teaching diplomas attesting to the fact that they met national teaching standards, including 22.9 per cent of male teachers and 30.7 per cent of female teachers. Other relevant data is provided in the index of the teacher training strategy.[89] On average, there were 21.6 students per teacher at all stages of education during the 2015–2016 academic year: 20.6 students per teacher in public schools, 29.2 students per teacher in UNRWA schools and 16.2 students per teacher in private schools.

370. The Ministry of Education has been using information and communication technology to help achieve education for all objectives. The Ministry has striven to improve school environments, improve teaching methods, strengthen curriculums, promote the teaching of life skills, and develop children's relationships with local communities, and has taken other steps with a view to making schools attractive and child friendly. There are, moreover, 620 environmental clubs in public schools, which are overseen by the Department for School Health and which promote student interest in environmental and hygiene issues.

371. In order to fulfil the obligations of the State of Palestine under various human rights conventions, a decree-law was issued in 2017 public education, which regulated the education sector in Palestine in accordance with international principles. The decree-law

addresses the issue of inclusive education, namely the education of all members of society irrespective of difficulties, disability or gender.

372. The aforementioned decree-law provides for penalties to be imposed on any parent or guardian who fails to enrol his son or daughter in an educational institution, namely "imprisonment for a period of up to one year, or a fine of up to 1,000 Jordanian dinars".(90)

373. Palestinian primary and secondary education curriculums address the issue of gender and aim to foster a stimulating environment for students by directing teachers towards the use of certain educational techniques. A comprehensive, integrated and standardized curriculum development plan is currently being developed.(91)

374. Attacks on the education sector by the Israeli occupation authorities: widespread and systematic Israeli rights violations, crimes and acts of destruction, particularly attacks on educational institutions and infrastructure, have had a significant impact on Palestinian educational institutions. This has led to overcrowding in certain schools; most schools and classrooms are housed in rented property and many schools must operate with double or even triple shifts. Schools lack specialized educational facilities such as libraries and laboratories, as well as appropriate health facilities. Violations and attacks take many forms and the Israeli occupation forces have also closed, stormed and laid siege to many schools. Those forces have also destroyed numerous schools, sometimes partially and sometimes completely. UNRWA schools have not been spared and have also been attacked and destroyed, resulting in the deaths of both students and teachers. This also occurred during the most recent attack against the Gaza Strip, which severely undermined education during the 2014–2015 academic year.(92)

375. In 2016, a total of 89,799 male and female students and 5528.5 male and female teachers and educational sector employees were subjected to attacks by the Israeli occupation forces, whose actions resulted in deaths, injuries, arrests, detentions, the imposition of house arrest, delays at checkpoints and the denial of safe access to schools following the closure of checkpoints, gates in the wall and so-called "flying checkpoints". A total of 162 schools were subjected to at least 346 attacks. Attacks included the storming of classrooms and firing live ammunition, rubber bullets and tear gas. The Israeli occupation forces caused physical damage to schools, partially or completely halting learning activities, ordered schools to cease operations and issued notices threatening schools with demolition. A total of 27 students were killed, including one student from a school in Jerusalem. One teacher was also killed.

376. Violations by the occupation authorities of the right to education in occupied Jerusalem: the multiplicity of authorities overseeing education in Jerusalem seriously impedes efforts by the Palestinian Ministry of Education to strengthen the education sector in Jerusalem for the following reasons:

- Because of the Israeli occupation, there is no unified administration to coordinate the authorities responsible for education. Education in Jerusalem is overseen by five authorities, namely the Awqaf (14 per cent of students), private schools (30 per cent of students), UNRWA (3 per cent of students), municipal and so-called Ma'arif (Israeli Government) schools (46 per cent of students) and semi-Ma'arif schools (so-called contractual schools) (7 per cent of students), which makes it difficult for the Ministry to intervene in and change the educational policies of those authorities;
- There is no unified curriculum for all authorities responsible for education in Jerusalem;(93)
- There is a lack of qualified teachers and specialists due to the refusal of the Israeli occupation authorities to issue permits to teachers without Jerusalem identity cards to teach in the city, which is surrounded by the annexation wall and numerous military checkpoints, and is also due to the low salaries paid to employees at all Jerusalem schools. To address that challenge, the Ministry of Education has increased the salary of teachers working in Jerusalem above the salaries paid in the West Bank, in order to attract qualified teachers to schools in occupied Jerusalem.(94)

(c) Cultural rights of children belonging to indigenous and minority groups (article 30)

377. Article 3 of the Children's Act provides that all children shall enjoy the rights provided by law, including cultural rights, without discrimination on account of national or ethnic origin, language, religion or any other reason that may lead to discrimination. Article 38 of the same Act also underscores the need to take appropriate and effective measures with a view to eliminating the various forms of discrimination that impede the enjoyment of the right to education.

378. In its concluding observations on the periodic reports of Israel, the Committee on the Rights of the Child reminded Israel, the occupying Power, of its duty to ensure that Palestinian children are educated with respect to their cultural identity, language and values and therefore urged Israel to cancel the prohibitions of using Palestinian curriculums. Israel, the occupying Power, continues to attempt to impose its curriculums on the occupied city of Jerusalem.

Human rights in national education

379. One of the objectives of the Children's Act is to "prepare the child for a free and responsible life within a harmonious civil society that balances an awareness of rights with respect for duties and upholds the principles of justice, equality, tolerance and democracy." To that end, the Ministry of Education aims, inter alia, to strengthen human and religious values, improve economic conditions by fostering comprehensive development, and adopt curriculums and teaching methods that provide for high-quality education. Those curriculums are based on intellectual principles that uphold respect for others and the values of peace, freedom, equality, democracy and human rights.

(d) Rest, leisure, play, recreation and cultural and artistic activity (article 31)

380. Article 40 of the Children's Act enshrines a child's right to play and rest, to engage in appropriate activities and to participate freely in cultural life and the arts.

381. The Ministry of Culture supports cultural centres, which play a key role in promoting children's cultural rights, and holds workshops in schools and kindergartens. There are 52 cultural centres for children in the Occupied Palestinian Territory, including Jerusalem. Activities at those cultural centres include theatre and drama, drawing, plastic arts, embroidery, straw arts, music, creative writing, storytelling, singing, circus arts and contests.

382. In accordance with its strategic plan for the years 2014–2015, the Ministry of Culture supports activities that foster creativity and promote literary talent. The Ministry supports children's and youth publications in cooperation with a number of NGOS, including the Tamer Institute, leads cultural activities in schools and runs extracurricular programmes and competitions for students with a view to encourages reading among young people and children.

383. The cultural centres also hosted a children's film festival in the Gaza Strip in 2014. The Cultural Development Fund, which was allocated a budget of $2,015,500 by the Ministry for the years 2013 to 2016, also supports various children's activities in the fields of music, drama, art, theatre and creative writing.

384. The Higher Council for Youth and Sports runs a number of programmes that provide children with the opportunity to participate in a wide range of sports and recreational activities. Those activities include summer camps and extracurricular activities. The Higher Council, moreover, supports the participation of male and female children in national and international sports programmes.

385. The Higher Council for Youth and Sports promotes the participation of children in numerous programmes, including voluntary work campaigns, youth camps and training courses run by youth organizations. A children's parliament has been established in order to develop children's leadership skills. The Higher Council also manages sports fields and green spaces in cooperation with municipalities, local councils and sports clubs.

386. The National Committee for Summer Camps includes representatives of all governmental and civil society institutions involved in the organization of summer camps

in Palestine. In 2010, the President of the State of Palestine issued a presidential decree that gave the Committee independent legal personality and the legal capacity to undertake all steps and actions to achieve the purposes for which it was established, under the supervision of the President. The Committee seeks to carry out its mandate by disseminating civic, cultural and scientific educational principles through extracurricular activities and by promoting respect for all concepts and values enshrined in the Convention on the Rights of the Child. The Committee also formulates high-quality programmes and implements sports, artistic, cultural, community, environmental and health activities to develop the skills of children and promote capacity-building in institutions concerned with their welfare with a view to upholding children's right to survival and development as well as their rights to protection and to participate in society.

387. The objective of the Committee is to provide for the welfare of children, including children with disabilities, by organizing summer camps and extracurricular activities that provide opportunities for children to express themselves.(95)

388. A total of 199 summer camps were held in 2016. Those camps, five of which were held in coordination with organizations for persons with disabilities, were attended by 18,578 children. A total of 19,365 children, including orphans and 240 children with disabilities, participated in 207 summer camps in 2017.

388. The main challenges impeding efforts to uphold children's rights to leisure and play include a shortage of personnel trained to work with children, especially in rural areas, the lack of adequate infrastructure for leisure time activities and the difficult economic situation of many families, which prevents many children from participating in extracurricular activities in the summer. Moreover, some communities lack facilities for children and there is only limited awareness among members of society of the right of children to participate in sports. Difficulties also arise because of the need to adhere to customs and traditions that discourage male and female children from participating together in extracurricular activities, and because of the pressure placed on Palestinian children, except, in some cases during summer vacations, by their very demanding school curricula, which leave little time for them to participate in such activities.

390. Future plans of the Higher Council for Youth and Sports include ensuring that the strategic plan that it is developing for the years 2017 to 2022 accelerates efforts to mainstream children's rights in all its programmes and activities.

Special protection measures (articles 22, 30, 32, 34–37(b) to (d) and 38–40)

(a) Refugee children (article 23)

391. Since 1948, the Palestinian people have been subjected to the most brutal and systematic forced displacement campaign by Israel and its terrorist groups. Most of the Palestinian people have become refugees as a result of the expulsion of more than 800,000 of the 1.4 million Palestinians living in historic Palestine from their villages and towns in 1948. Approximately 5.9 million Palestinian refugees were registered with UNRWA in 2017. UNRWA data reveal that Palestinian refugees comprise some 42.5 per cent of those living in Palestine and that 39.3 per cent of refugees residing in Palestine are under 15 years of age.

392. UNRWA was established as a subsidiary organ of the General Assembly pursuant to General Assembly resolution 302 of 1949. UNRWA works closely with Palestinian ministries to provide assistance and protection to registered Palestinian refugees in the State of Palestine and in the other countries where UNRWA operates, namely Jordan, Lebanon and Syria. Its primary mission is to help Palestinian refugees to realize their full potential in terms of human development. UNRWA also endeavours to support the rights of Palestinian refugee children through its provision of services, particularly in the areas of education and health, and through its social safety net programmes and protection activities.

393. Protection services provided by the Ministry of Social Development are also extended to refugee children in camps in Palestine. UNRWA provides all services from its regular and emergency budgets, except for vaccinations and school books, which are provided by the Palestinian Government. The assistance provided by the Palestinian

Government in camps is provided directly to the refugee affairs department in the camps and to the popular committees.

394. UNRWA provides free primary education to children in the occupied State of Palestine, and runs 96 schools in the West Bank[96] and 257 schools in the Gaza Strip.[97] In cooperation with national and international institutions, UNRWA has adopted a human rights-based teaching methodology.

395. UNRWA also provides education service at two vocational training centres in the West Bank and the Gaza Strip, as well as opportunities for students to develop their skills through work placements.

396. The start of the 2014 school year was postponed for UNRWA school students in the Gaza Strip because of Israeli attacks on UNRWA schools, which resulted in damage to 91 of those schools.

397. In 2015, there were 20,113 boys and 28,771 girls enrolled in UNRWA primary schools in the West Bank,[98] and 128,591 boys and 121,527 girls enrolled in primary schools in the Gaza Strip. Illiteracy rates for Palestinian refugees were less than 4 per cent.[99]

398. UNRWA aims to enhance the ability of students to speak and listen, and 78 school parliaments have been established in the West Bank.[100] A number of initiatives have also been undertaken to enhance the quality of education and ensure a safe learning environment for students.

399. UNRWA provides primary health-care services for children in Palestine. In 2015, it provided health-care services to 68,870 boys and 69,827 girls in the Gaza Strip. In the West Bank, mobile clinics provide therapeutic and preventive health-care services to communities that find it difficult to access health-care services in Area C, including East Jerusalem.

400. UNRWA monitors infant and neonatal mortality rates among Palestinian refugees[101] and also administers a comprehensive vaccination programme in coordination with the Palestinian Government. A number of agreements have been concluded between UNRWA and the State of Palestine on the provision of primary health-care services to children; important services provided include: Phenylketonuria screening, Ministry of Health approved immunizations, school health services, including check-ups and awareness-raising activities, growth and development monitoring and nutritional support services.

401. Fully 100 per cent of refugee children aged 18 months received all prescribed vaccinations in the West Bank in 2014 and 2015, while in the Gaza Strip 99.5 per cent and 99.8 per cent of children were vaccinated in 2014 and 2015, respectively.

402. All school children in the West Bank, including children with disabilities, receive preventive and therapeutic health-care services and take part in awareness-raising campaigns that aim to promote healthy behaviour. UNRWA has adopted a policy on disability and pays particular attention to children with disabilities to ensure that they are able to access the services they require, and also seeks to address their needs through its implementation of the inclusive education policy.[102]

433. UNRWA provides social assistance to Palestine refugees in the State of Palestine, thereby establishing a social safety net for those in particular need, including children.[103]

404. In 2016, UNRWA formulated a child protection framework, which affirms its commitment to strengthen the protection of children through its provision of services. UNRWA carries out child protection activities in cooperation with relevant stakeholders, including competent Palestinian ministries. In 2015, UNRWA was involved in 153 child protection cases in the Gaza Strip and 60 in the West Bank.

(b) Children belonging to a minority or indigenous group (article 30) and internally displaced children

405. Since the beginning of the Israeli occupation of Palestinian territory in 1967, the Palestinian people have been subjected to a policy of forced displacement implemented

through the confiscation of land, house demolitions and other practices of occupation and systematic rights violations, including the forced internal displacement of Palestinians and their families throughout the Occupied Palestinian Territory. Most Palestinians are concentrated in Area C and in the Gaza Strip.[104] The recent Israeli attack on the Gaza Strip has displaced many Palestinian families from their homes.

406. In 2015, the Tamer Institute launched a project to provide protection and support in the area of education to children in Gaza. That project focuses on promoting the mental and social health of marginalized children in border areas and in creating safe learning environments.

407. In the light of its conviction that every human being is entitled to all rights and freedoms without distinction as to race, colour or national origin, the State of Palestine acceded to the International Convention on the Elimination of All Forms of Racial Discrimination in 2014. However, because few anthropological studies have recently been conducted to investigate the race, colour, ethnic origin, nationality, descent and religion of various groups within Palestine, there are at present no accurate and comprehensive statistics on the minorities present in Palestine.

408. The racial, ethnic, and national groups that are categorized on the basis of descent or colour in Palestine include the Samaritans[105] and the Armenians[106]. Members of those groups living in the State of Palestine adhere to Christianity and the Armenians continue to use the Armenian language and practice Armenian culture, customs and traditions. Other such groups include people of African descent,[107] Syriacs,[108] Copts,[109] people of Maghrebi descent,[110] and Gypsies.

409. The Mar Afram Syriac school is the only school that teaches Aramaic to its students. Several other schools and private educational institutions in Palestine focus on the education of certain ethnic and linguistic groups. Those schools include the following:

1. A school affiliated with the Ministry of Education for the Samaritan community, which teaches members of that community and other residents of Nablus who live near the Samaritan quarter;

2. The Sts Tarkmanchatz private Armenian school in Jerusalem;

3. Another Armenian school that trains monks and provides instruction in Christian teachings;

4. The Mar Afram Syriac school, which was established in 2003 and has 285 students. The school teaches children from kindergarten through to the tenth grade and is the only school that teaches Aramaic to its students.

410. Because rights are guaranteed by law for all citizens, all forms of discrimination among citizens in the application of national legislation and policies are prohibited.

(c) Street children

411. Article 32 of the Children's Act[113] provides that family support and appropriate accommodation must be provided to the child, and that appropriate measures must be taken so that the child does not remain homeless in the street, either because of difficult economic circumstances of because he or she has been abandoned by his or her family.

412. The phenomenon of children living on the street is not widespread in Palestine. In recent years, the Ministry of Social Development has been made aware of a limited number of cases in which, because of family breakups, children have been found living on the street. In such cases, protection measures in the Children's Act are usually implemented, whereby the protection counsellor establishes contact with the family to learn whether the child can return to live with them and whether appropriate conditions and guarantees can be put in place to ensure that he does not return to the street. The case will be monitored by protection counsellor. If this is not possible, the child is placed in a social care institution until a permanent and appropriate situation is found and the child's situation will be communicated to a member of the child's extended family. If this is not successful, the child will be placed in a care institution until it is possible to place him in an appropriate family situation.

(d) Children in situations of exploitation, including physical and psychological recovery and social reintegration

(i) Economic exploitation, including child labour (article 32)

413. The Palestinian legislature endeavours to protect children from all forms of exploitation, including economic exploitation. Articles 42 and 43 of the Children's Act prohibits the exploitation of children by making them beg, their employment in circumstances that violate the law, and their engagement in work that would impede their education or threaten their physical or mental health or safety.

414. While children who work for their first degree relatives are excluded from the scope of the protections provided under the Palestinian Labour Code, the Children's Act addresses the situation of children employed by the heads of their households.[114] Pursuant to the Labour Code, a fine of between 200 and 500 dinars is imposed on any employer who violates the provisions of the Code in that regard. If the perpetrator commits the offence a second time, the fine is doubled and then multiplied by the number of workers in respect of which the offence was committed.

415. The phenomenon of "disguised begging" is widespread in Palestine, whereby children engage, on a habitual basis, in the sale of certain simple goods in various locations, including at Israeli military checkpoints established by the Israeli occupation authorities to isolate Palestinian towns and cities from each other. Children engage in such activities with the primary objective of begging rather than working. The Ministry of Social Development coordinates with the police, the Ministry of Labour and other competent authorities in the governorates to investigate and monitor the situation of children who work in the streets as self-employed street vendors, and measures are taken to ensure that those children enjoy the protections prescribed in the Children's Act.

416. According to the police Bureau for the Protection of the Family and Adolescents, there were 27 cases of begging in 2017, including 12 cases in which the beggar was male and 15 cases in which the beggar was female.

417. Obstacles impeding the protection of children from economic exploitation include the deliberate denial by the occupation authorities of access by the Palestinian police and the deliberate obstruction of their work, which impedes the arrest of those suspected of exploiting children by compelling them to work as street beggars, in addition to the flight of individuals wanted by the Palestinian police to areas under full Israeli control, where they go into hiding, which impedes the implementation of judicial rulings issued against them.

418. Palestinian children working in illegal Israeli settlements, who are usually employed on farms and construction sites, are subjected to various forms of psychological and physical violence upon their entry to and exit from those settlements. Children also engage in disguised begging by selling certain simple goods. This places them at risk of economic and physical exploitation. These cases are usually addressed in coordination with the Palestinian Ministry of Social Development, which takes all necessary measures when those children are handed over at the Jalamah checkpoint.

419. With a view to protecting children from economic exploitation, the Ministry of Labour monitors compliance with relevant laws in children's places of employment. A total of 81 labour inspections were conducted in 2017 and 96 inspections will be carried out in 2018.[115]

420. According to the Central Bureau of Statistics, 3.9 per cent of children between 10 and 17 years of age were in employment in 2016, including 5.3 per cent and 1.9 per cent of children in that age group in the West Bank and the Gaza Strip, respectively. In 2017, approximately 3.4 per cent of children between 0 and 17 years of age (including 6.6 per cent of boys and 0.1 per cent of girls) were in paid or unpaid employment, including 4.6 per cent and 1.7 per cent of children in that age group in the West Bank and the Gaza Strip, respectively. A total of 1.2 per cent of children were attending school while working, including 1.6 per cent of children in the West Bank and 0.7 per cent of children in the Gaza Strip.

421. Because of the deteriorating economic and political situation, children are increasingly vulnerable to exploitation by employers. The difficult economic situation in the Gaza Strip, which has worsened as a result of the blockade that has been imposed on the territory by Israel since 2007, has compelled many school children to look for work. Children work in numerous locations, including as street vendors, and are sometimes employed in particularly hazardous jobs, such as in the concrete and gravel crushing industries and in tunnels. Under the Palestinian Labour Code, it is prohibited for children to work in such jobs, which are categorized as forms of hazardous work, A number of other factors, such as weak workplace oversight, have also contributed to the rise in child labour rates.

422. The Ministry of Labour has opened vocational training centres in most governorates. It has also taken action to open new training centres to address identified needs, in line with available resources. The Ministry runs 13 employment offices in the West Bank and nine vocational training centres, including a multi-purpose centre in Halhoul. Steps are also being taken to open vocational training centres in Salfit and Jerusalem governorates.

423. The priorities established by the Labour Sector Strategic Plan and the Decent Work Agenda include qualitative and quantitative improvements to the inspections unit so that it can fulfil its mandate and its legal responsibility to regulate child labour and protect children from exploitation. Furthermore, the annual and periodic plans drawn up by the Ministry of Labour prescribe key activities and interventions to improve regulation in the area of child labour.(116)

424. In practice, all establishments are subject to the provisions of the Labour Code, while children are subject to special provisions that stipulate that no person under 15 years of age may work. Children must undergo a preliminary medical examination before starting work and must then undergo periodic medical check-ups.(117) The Ministry endeavours to ensure that children in work participate in its vocational training programmes, and enrol in the trade and professional centres that it oversees.

425. The National Committee on Child Labour was established pursuant to Decree No. 80 of 2013 of the Minister of Labour. The Committee, which includes representatives from Government, and from workers', employers' and civil society organizations, develops plans and formulates policies to protect children from economic exploitation.(118)

426. The Office of the Public Prosecutor for Children, in partnership with the Police Bureau for the Protection of the Family and Adolescents and relevant ministries, has intensified its regular and emergency field visits to work establishments. The Office carried out 20 such field visits in early 2017, which brought to light a number of cases of illegal child labour, in respect of which the necessary measures were taken.

427. No cases of children being used as slaves have been reported in the State of Palestine.

428. There are no legal provisions prohibiting children aged 15 and over from joining trade unions and associations. However, no clear regulations on that matter have been adopted by the country's trade unions.

429. The Palestinian Government carries out awareness-raising and vocational guidance campaigns within the workplace to raise awareness of minimum occupational health and safety standards and to ensure a safe working environment for workers in general and for working children in particular. Awareness campaigns on child labour are also organized in schools, universities and local communities.

430. In 2014, 12,937 individuals attended awareness-raising activities. In 2015, a total of 12,053 individuals attended those activities.

(ii) Use of children in the illicit production and trafficking of narcotic drugs and psychotropic substances (article 33)

431. Please see the information provided above in section 7.

(iii) Sexual exploitation and abuse (article 34)

432. Article 42 of the Children's Act provides that the child must be protected from all forms of exploitation, including sexual exploitation. Article 44 of the Act prohibits children from being subjected to sexual or economic exploitation, which are among the phenomena that pose a threat to children's safety and physical and psychological health.

433. Under the penal legislation in force, prostitution is an illegal act. Inciting, coercing, practicing or abetting prostitution, or living off the proceeds thereof, is penalized in legal codes under the heading of incitement to obscenity or violation of ethics and public morality. That legislation prohibits the opening of brothels. Preparing, renting or acquiring any location to be used for prostitution, or contributing to the use of such location for the purposes of prostitution on a regular basis, is punishable by imprisonment of up to six months. That legislation applies to both children and adults.

434. Article 47 of the Children's Act provides that a child is at risk of delinquency if he is found, lives or works in an environment related to prostitution, fornication or immorality or if the child is in the service of persons engaging in those activities. The law sets forth measures that are to be taken by the protection counsellor to promote the welfare of the child.[119] No cases of children engaging in prostitution were recorded during the reporting period.

435. The Child Protection Counsellor takes action in accordance with the Children's Act: he or she follows up on any communication regarding the abuse of a child within 72 hours of its receipt to verify the information contained therein. If the counsellor is able to confirm that information, he or she takes immediate action, in coordination with all relevant authorities, to draw up a protection plan for the child that provides an overview of the situation and sets forth the type of intervention and the most appropriate measures to be taken under relevant legislation and the approved transfer and networking system guidelines. In cases in which the life of the child is in danger, the child is placed in safe accommodation by the Ministry of Social Development, in coordination with relevant stakeholders.

436. In this context, Palestine has formulated a draft law on the protection of the family from violence, which provides legal safeguards for women and children within the family.

(iv) Sale, trafficking and abduction of children (article 35)

437. In late 2017, the State of Palestine acceded to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Although Palestinian legislation does not address the crime of child trafficking, the Criminal Code contains explicit detailed articles that criminalize and penalize direct forms of human trafficking. Slavery is considered a human trafficking offence.[120] There have been no cases involving the sale or trafficking of children in the State of Palestine, and no cases involving the sale or trafficking of persons have been brought before Palestinian courts.

(v) Other forms of exploitation (article 36)

438. The Basic Law prohibits the exploitation of children for any purpose and also prohibits the carrying out of scientific or medical experiments on any person without prior consent. The Children's Act further affirms that prohibition for children. No complaints have been made concerning the exploitation of children in the media or in sports, or the exploitation of gifted children.

Children in conflict with the law and child victims and witnesses

The administration of juvenile justice (article 40)

439. Article 1 of the 2016 decree-law for the protection of Palestinian juveniles[121] defines the juvenile as, "a person who was under the age of 18 full calendar years when he or she committed a criminal offence or was at risk of delinquency." The age of a juvenile is established by referring to an official document. If there is no such document, the court or

the Office of the Public Prosecutor will appoint an expert to determine the person's age scientifically. The age of criminal responsibility is 12 calendar years.

440. The State of Palestine began to focus on juvenile justice prior to its accession to the Convention on the Rights of the Child. The Ministry of Social Development established two centres, in the West Bank and Gaza, and, in 2010, the Council of Ministers issued a decree for the creation of the National Committee for Juvenile Justice under the aegis of the Ministry of Social Development. The National Committee, whose membership includes representatives of the Ministry of the Interior – Police Department, the Ministry of Justice, the Ministry of Education, the Supreme Judicial Council, the Office of the Public Prosecutor, the Ministry of Health, the Ministry of Labour, the Ministry of Women's Affairs, the Ministry of Justice, The Independent Commission for Human Rights and Defense for Children International – Palestine Section, is responsible for identifying needs and priorities at the national level and developing plans and programmes.(122)

441. In partnership with other relevant authorities and with the support of the European Union and UNDP, the Ministry of Social Development launched several initiatives in 2010 to facilitate the establishment of a comprehensive and integrated juvenile justice system. A manual was drafted setting forth procedures to be followed by all parties, in addition to draft guidelines on the transfer of juveniles that set forth the duties of the relevant stakeholders in the judicial system and other areas of government in order to facilitate the provision of integrated services to juveniles and ensure that situation assessments are conducted in a manner that upholds all their rights within an effective and integrated justice system.

442. In 2016, with the support of UNICEF, the Ministry of Social Development formulated and revised a strategic plan for juvenile justice and, on the basis of that strategic plan, drew up a five-year long-term plan together with a one-year road map, implementation of which has already begun. Furthermore, the establishment of a committee monitoring implementation of the decree-law for the protection of Palestinian juveniles was approved by the Minister of Social Development.(123) That committee monitors implementation of the aforementioned decree-law, the strategic plan for juvenile justice and its implementing plan.(124)

443. The decree-law for the protection of Palestinian juveniles, which entered into force in 2016, was drafted by a technical committee that was established by the National Committee for Juvenile Justice and replaced the laws on juvenile justice that were previously in force, namely the Jordanian Juveniles' Act and the Egyptian Juvenile Offenders' Act. The new decree-law is in line with international standards on juvenile justice and modern approaches to criminal law; it deals with offending children as victims rather than offenders, and provides for priority consideration to be given to alternative measures and forms of restorative justice.

444. Steps have been taken to formulate a draft executive plan for juveniles, draft guidelines for juvenile care homes, a standard procedure manual for juveniles, and a directory of alternatives to detention.

445. To prevent children from coming into conflict with the law, the Ministry of Social Development pays particular attention to some 400 children who have dropped out of school and are at risk of delinquency. They receive care at youth rehabilitation centres, attend vocational training courses and also receive special attention through regional child protection networks.

446. The Office of the Public Prosecutor for Children has established a register in order to monitor procedures involving children. The aim of the register is to ensure that no criminal proceedings against children at risk of delinquency are recorded and that they are not given criminal records. The register lists cases involving endangered children and children at risk of delinquency, and establishes mechanisms by which prosecutors can initiate technical measures in respect of those children.

447. There is as yet no database or national information system on juvenile justice in Palestine.(125)

448. In most cases, children who are accused of committing offences or who are arrested are not dealt with or detained in the same way as adults. They are not physically restrained, for example. In addition, children are usually arrested by officers from the police Bureau for the Protection of the Family and Adolescents and, if they are not, are transferred to officers from the Bureau following their arrest. The accused juvenile may, in certain cases, be arrested by the security services; this depends on the nature of the charges brought against him.

449. Juvenile welfare institutions in the West Bank and Gaza are monitored and subject to period inspections by the Independent Commission for Human Rights and non-governmental organizations, including Defense for Children International. Furthermore, in cooperation with the Human Rights Unit of the Office of the Public Prosecutor, public prosecutors conducts monthly inspection visits to care homes and juvenile detention centres in all governorates. Reports are filed on those inspection visit and steps are taken to follow up on any shortcomings or legal violations with the authority responsible.

450. A number of legal violations related to the living conditions of juveniles have come to light. In those cases, the Office of the Public Prosecutor contacted the competent authorities and monitored the situation until all issues were resolved.[126] Furthermore, a working group consisting of the Office of the Public Prosecutor, the police and the Ministry of Social Development is usually formed to address any issues that occur in places of detention.

451. A challenge impeding the application of the law in that regard is posed by the limited number of child protection counsellors working with juveniles. There are only 21 child protection counsellors in the West Bank, who are employed only on a part time basis and have other jobs and duties to perform.

452. Efforts to provide legal protection to Palestinian juveniles are also undermined by the Israeli occupation forces, which impede the transfer of juveniles between provinces, carry out extrajudicial killings of children and subject children to arbitrary detention and torture.

453. There are no provisions in Palestinian law concerning child witnesses.

The judiciary and fair trial rights

454. Pursuant to the decree-law for the protection of Palestinian juveniles, a special police unit has been established within the police force. The police Bureau for the Family and Adolescents has 11 offices in the State of Palestine, which are located throughout the West Bank.

455. As for measures taken by Palestine to establish a dedicated juvenile justice system, juvenile justice units comprising 34 prosecutors were established within the Office of the Public Prosecutor in 2016. Each criminal division includes a prosecutor from the Office of the Public Prosecutor for Children, and juvenile judges have been assigned to each court of first instance and an independent registry established. A specialized juvenile court has been established in Dura in Hebron Governorate and a number of intensive courses have been held on juvenile justice and crimes against children.

456. Although the decree-law for the protection of Palestinian juveniles contains provisions on the establishment of an integrated juvenile justice system, no steps have been taken to implement those provisions in the Gaza Strip.

457. On 4 March 2016, the Public Prosecutor issued a circular to all members of the Office of the Public Prosecutor for Children providing that they shall only hear cases involving juveniles or children that are referred to them by the police Bureau for the Protection of the Family and Adolescents. Official communications regarding that matter were also sent to all other relevant authorities.

458. In 2014, the juvenile police were notified of 2,677 cases. In 2015, they were notified of 2,696 cases in the West Bank. In 2016, they were notified of 2,211 cases, including 2,165 cases involving males and 46 cases involving females. In 2017, they were notified of 2014 cases, including 1978 cases involving males and 36 involving females. The offences

perpetrated included theft, assault to public property and serious abuse.[127] No information regarding cases in the Gaza Strip is available.

459. A total of 850 cases involving juveniles were referred to the Office of the Public Prosecutor in 2014, and 24 of those cases were closed or retained by that Office. In 2015, 887 cases were filed, including 9 cases in which the juvenile concerned was a repeat offender. Thirty-four of those cases were closed by the Office of the Public Prosecutor. In 2017, the Office received 2108 cases, in which 97.4 of those accused were male and 2.6 per cent were female.

460. Most cases (33 per cent) that are referred to the Office of the Public Prosecutor involve abuse, 14 per cent involve theft and 13 per cent of cases involve threats and menaces.[128]

Table 26 shows the number of accused persons in 2017 disaggregated by sex and the type of offence committed.

461. The Supreme Judicial Council has developed a dedicated programme (the Mizan programme) to collect and analyse data related to cases, including those involving children. That data is disaggregated by age group, type of offence, gender and geographic region. The programme collects data on cases registered in the courts from the moment they are submitted until the end of the judicial process, including data on each trial session, the statements delivered in court and the duration of proceedings.

Fair trial guarantees for juveniles

462. Juveniles enjoy fair trial guarantees in the Palestinian judicial system. These include reading them their rights, and the provision of appropriate forms of assistance and other guarantees. The Office of the Public Prosecutor for Children endeavours to uphold the best interests of juveniles during the questioning and investigation stages. The child protection counsellor is required to draft a report on the basis of information available prior to and after the interrogation and to make decisions accordingly.

463. The right of juveniles to contact their parents is respected by all official authorities, as is their right to have their cases kept confidential through the use of electronic and hard copy archiving. The Public Prosecutor is prohibited from releasing any information that might identify a juvenile and from registering verdicts handed down in respect of that juvenile in a criminal record.[129]

464. Juvenile cases are dealt with as a matter of urgency and a computerized system has been established to facilitate the conclusion of juvenile cases by recording the date of registration of the case and the date it is received by the Office of the Public Prosecutor for Children. Juvenile cases are exempt from fees and charges; all proceedings involving juveniles and children are handled by the Office of the Public Prosecutor free of charge.

465. A number of circulars that have been issued by the Public Prosecutor to underscore that juveniles should only be placed under arrest as a last resort. The relevant authorities should coordinate with the child protection counsellor to ensure that, if at all possible, juveniles are detained in a social care institution. Juveniles in detention must be monitored and held separately from adult or convicted juvenile offenders during the period of their legal proceedings. A juvenile under the age of 15 may not be detained. Due to the aforementioned guarantees, there has been a significant reduction in the number of juvenile arrests, from more than 600 arrests in 2016 to fewer than 158 in 2017.

466. In-court detention facilities for juveniles are provided for the day of the trial. Children are held separately from adults. Refurbished buildings with facilities for children that comply with the highest standards, including special areas for the detention of children that are much more child-friendly than older facilities are provided in five courts in the various regions.

Table 27 provides statistics on cases involving juveniles that were referred to the police in 2016 and 2017.

Legal assistance

467. Measures taken by the State of Palestine include the provision of free legal assistance to children. The Public Prosecutor has issued instructions that no juvenile may be questioned without a lawyer being present.

468. Three lawyers have been appointed in the northern, central and southern West Bank as part of a programme that the Ministry of Social Development has been implementing in collaboration with UNDP since 2013. The programme has been further developed and institutionalized through the signing of memorandums of understanding with non-governmental organizations providing legal assistance services. Since it was launched, the programme has provided legal assistance to 919 juveniles.(130) The right to legal assistance through the appointment of a lawyer to represent the juvenile is guaranteed. If no resources are available to appoint a lawyer, the Office of the Public Prosecutor for Children will provide free legal assistance to the juvenile at the expense of the State or by requesting civil society institutions to provide that assistance. Non-governmental organizations also provide legal assistance.(131)

Children deprived of liberty (article 37 (paragraphs b–d))

469. With regard to minors deprived of their liberty, the Dar al-Amal rehabilitation centre is a social welfare institution that accommodates male juveniles who have been arrested or detained in the West Bank, while the Dar al-Rabea Foundation accommodates male juveniles in Gaza. These institutions receive children between 13 and 18 years of age. There is no specialized institution to accommodate female juveniles.(132) In recent years, however, the Girls' Care Home has accommodated female children in conflict with the law. Those institutions are affiliated with the Ministry of Social Development.

470. Children in Dar al-Amal have the right to contact their families. The child receives legal and other forms of assistance. Guidelines have been formulated on procedures to be followed by juvenile care institutions and a file is kept on every juvenile.

471. Dar al-Amal accommodated 236 children in 2014, 170 children in 2016, and 205 children in 2017. One female child in conflict with the law was accommodated at the Girls' Care Home in 2014, but none were held there in 2015, 2016 and 2017. The low number of female juveniles in detention is due to the prevailing societal culture, which means that cases involving female children are, in most cases, resolved very quickly and before they reach the courts.

472. Juvenile accused persons are sometimes held in reform and rehabilitation centres but in separate accommodation from adult detainees.(133)

473. In the past few years, efforts have been made to further develop Dar al-Amal. Approval has been granted for the Ministry of Education to provide educational services at the facility to the juveniles held there and a memorandum of understanding has also been signed with the Ministry of Health.(134)

474. In order to facilitate the reintegration of juveniles into society, the Ministry of Social Development carried out a number of activities in 2016 to strengthen interactions between Dar al-Amal and broader society. The administration of Dar al-Amal organized visits for juveniles to a number of community institutions, including a home for the elderly, invited members of society to visit Dar al-Amal and involved the juveniles living there in the organization of traditional iftar breakfasts during the month of Ramadan.(135) Juveniles also took part in dance and musical activities.

475. The Palestinian Government is taking steps to ensure that, when they are arrested, juveniles are given a free medical examination by the Ministry of Health that includes clinical, laboratory and psychological tests. At the end of the examination, the Ministry will draw up a report. With a view to ensuring that the right of juveniles to protection during their detention has been upheld, they will undergo another medical examination upon their release. The Public Prosecutor has also issued written instructions stating that a medical and psychological examination of the juvenile must be carried out prior to the initial investigation, in coordination with the child protection counsellor and the juvenile police, that a medical report must then be submitted to Office of the Public Prosecutor for Children

and attached to the case file, and that appropriate action must be taken in the light of that report.

476. Psychologists who can provide ongoing psychological counselling services are still needed at juvenile centres. The Ministry of Health is alerted to any difficult psychological cases involving juveniles. In that regard, staff at Dar al-Amal received training from the Palestinian Counselling Centre in April 2016, with the aim of updating and further developing the guidelines on counselling followed at their institution. Steps are also underway to formulate a five-year agreement with the Palestinian Counselling Centre on the provision of training to counsellors working at Dar al-Amal. A psychologist from Defense for Children International also visits Dar al-Amal on a weekly basis.

477. With regard to the ill-treatment of juveniles in detention, only one case of ill-treatment was reported; that case was reported by a child protection counsellor.(136) Defense for Children International followed up on the matter with the police, in cooperation with the child protection counsellor concerned.

478. Despite the establishment of the Dar al-Rabea Foundation in the Gaza Strip,(137) children placed under arrest continue to be detained in adult reform and rehabilitation centres. Juveniles are sometimes arrested with adults and held in police custody, including for periods that exceed legal limits, before they are transferred to the Dar al-Rabea Foundation.

479. Within the context of the partnerships it has established with local community organizations with a view to mobilizing free legal assistance, the Dar al-Rabea Foundation in Gaza works with a team of lawyers at the Palestinian Center for Democracy and Conflict Resolution to facilitate the provision of free legal assistance to juveniles who have been accused of an offence. The Foundation has also established a rehabilitation committee which follows up on juveniles' cases and works with the police legal office to address any legal abuses that occur.

480. In 2015, a total of 900 children were accommodated at the Dar al-Rabea Foundation, including some children who had been transferred to the Foundation on more than one occasion. Approximately 10 juveniles were detained in facilities that were not suitable for children, including adult correctional and rehabilitation facilities (prisons) and police cells. Fourteen juveniles were found guilty of offences by the courts and sentenced to periods of detention of between 3 and 9 months.

Table 28 shows the number of juveniles who have been referred to child protection counsellors and placed in the Dar al-Amal rehabilitation centre.

The sentencing of children, in particular the prohibition of capital punishment and life imprisonment (article 37 (a))

Diversion to outside the judicial system and alternatives to detention

481. Under the laws in force in Palestine, neither the death penalty nor the penalty of life imprisonment is imposed by the courts on children. Article 36 of the recently adopted decree-law for the protection of Palestinian juveniles establishes alternative measures for juveniles under the age of 15 years, namely a reprimand, delivery into the custody of a third party, enrolment in vocational training, the imposition of specific obligations, judicial probation, placement under social supervision, placement in a social welfare institution or placement in a specialist hospital.(138)

482. If a juvenile over the age of 15 years commits an offence for which a custodial sentence is prescribed as punishment, the judge may decide not to place that juvenile in a juvenile care home and substitute that penalty with one of the aforementioned measures or with another penalty that serves the public interest, in accordance with applicable laws. The judge may make use of restorative justice, which aims to rehabilitate the child who has committed the offence.

483. The Ministry of Social Development published a directory of institutions providing alternatives to detention in 2017 and, as an initial step, will select three institutions in each governorate and draw up memoranda of understanding with each of those institutions.

484. The decree-law for the protection of Palestinian juveniles provides for mediation and redress measures, particularly in cases in which only a misdemeanour has been committed. Article 23 of that decree provides: "(1) The Office of the Public Prosecutor for Children shall, on its own initiative and before the initiation of criminal proceedings, offer to mediate between the victim and the juvenile in cases involving misdemeanours and minor offences, provided that this is consented to by the juvenile or his or her guardian and the victim and provided that the Office of the Public Prosecutor determines that the process will remedy the harm suffered by the victim or end the disorder caused by the offence and contribute to the rehabilitation of the juvenile. To that end, the Office of the Public Prosecutor for Children may avail itself of the services provided by the juvenile police, the child protection counsellor or an intermediary, provided that the juvenile acknowledges that he or she perpetrated the offence of which he or she is accused."(139)

485. The Public Prosecutor has developed a legal framework to guide the mediation process provided for in the decree-law, and has circulated that framework to all members of the Office of the Public Prosecutor for Children in order to facilitate their work. A mediation model has also been developed for use by all juvenile prosecutors. In order to compel prosecutors at the Office of the Public Prosecutor for Children to conduct mediation, a standardized computer-based mechanism has been developed to impede judicial investigations of misdemeanours and minor offences until mediation has been attempted. No records or investigations are opened until after the completion of the mediation process.

486. To monitor the effectiveness of the mediation process, any mediation conducted by the Office of the Public Prosecutor is filmed and monitored by juvenile prosecutors. The extent to which the mediation follows established guidelines and the quality of the mediation process are assessed and a report on the mediation is submitted to the Public Prosecutor.

487. The Office of the Public Prosecutor, in cooperation with child protection counsellors, facilitated mediation for 576 children who had been brought before the courts in 2016. In 171 cases mediation resulted in the termination of criminal proceedings and the implementation of protection measures in respect of the accused juvenile. In the first quarter of 2017, mediation was used in 405 cases.

Training in juvenile justice

488. Many professionals working with juveniles, including school counsellors, members of the bar association, police officers, staff at the Ministry of Justice, protection counsellors, juvenile care workers, staff at the Ministry of Justice, children's lawyers at the Ministry of Social Development, and staff at the Office of the Public Prosecutor and the judiciary, have received training in various areas relevant to juvenile justice, which is provided with a view to enhancing the professional capacities of all stakeholders in the juvenile justice system. Some of that training was carried out as part of a European Union project to support the establishment of the juvenile justice system in Palestine while other training was conducted by non-governmental organizations, including Defense for Children International, which conducted training on the basis of an agreement concluded between that organization and the Ministry. Advanced mediation training was conducted for members of the National Committee for Juvenile Justice.

489. A total of 56 prosecutors received training. Training was also given to 14 juvenile judges, with a view to enhancing their professional capacities and helping to disseminate their expertise among other judges in the various regions in Palestine. A total of 22 male and female staff working in various court departments concerned with children, including staff at the department for the execution of judgments and court registrars, also received training.

490. In the future, the Supreme Judicial Council intends to promote institutionalized specialization in the work of the judiciary, especially in areas of the law relevant to families and children. Efforts will also be exerted to strengthen legal assistance mechanisms and improve access to justice.

491. With the support of UNDP, a memorandum of understanding has been drawn up between the Supreme Judicial Council and the Ministry of Social Development on

monitoring the implementation of all interventions related to juvenile justice and the integrated development of the juvenile justice system. In the future, the Police Bureau for the Protection of the Family and Adolescents intends to strengthen the Bureau to bring it into line with the highest standards on the provision of services, including by moving all activities related to the protection of families and juveniles, including the offices of specialized prosecutors and judges, forensic doctors and women's and children's protection counsellors, out of police directorates and into separate premises.(140)

Physical and psychological recovery and social reintegration (article 39)

492. The Ministry of Social Development provides psychosocial support and rehabilitation services to victims of violence, exploitation and neglect by carrying out assessments to identify the support services that can provide appropriate psychological and social support to victims and by implementing transfer and psychological and social rehabilitation mechanisms. Support is provided, inter alia, to children who are victims of violence, abuse and exploitation, and to children who have been subjected to traumatic experiences when they were arrested or when hostilities occurred near their homes The Ministry provides psychological and physical rehabilitation through child protection networks in the various regions of Palestine.

493. For child victims of violence and exploitation, if the parties at the meeting to discuss the child's case decide that the child should remain with his or her family, the child protection counsellor, in cooperation with relevant partners, will implement an agreed intervention plan. Psychosocial support is also provided to the child and his or her family to facilitate the child's reintegration. The Ministry of Development may provide monetary or in-kind assistance if the family is in financial difficulties.

494. Child victims of violence are placed in child protection centres, namely the Beituniya Centre for males and the Girls' Care Home for females, where they receive social and psychological support. They may also receive vocational rehabilitation services.

495. In 2017, 37 girls were discharged from the Girls' Care Home on completion of their rehabilitation programmes.

496. With regard to psychological support services, the child protection counsellor will make a presentation on the child's case to relevant partners and, if they agree, refer that child to the Palestinian Counselling Centre where he or she can receive psychological support, in accordance with a memorandum of understanding signed by the Ministry and the Centre. The child victim also receives psychological rehabilitation services if he or she has been placed with foster family or in a care home.

497. Unfortunately, the State provides no financial compensation to provide redress to the child. A civil claim for damages filed against the party that violated the rights of the child may be brought before a competent court.

(e) Children in armed conflict (article 38)

498. Palestine has acceded to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and will prepare a report on its implementation.

United Nations CRC/C/ISR/5-6

Convention on the Rights of the Child

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Committee on the Rights of the Child

Combined fifth and sixth periodic reports submitted by Israel under article 44 of the Convention, due in 2018*, **

[Date received: 28 October 2019]

* The present document is being issued without formal editing.
** The annexes to the present report may be accessed from the web page of the Committee.

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I. Introduction

1. Hereinafter are the combined fifth and sixth periodic reports of the Government of the State of Israel, submitted to the United Nations Committee on the Rights of the Child, in accordance with the requirements of Article 44 of the Convention on the Rights of the Child (hereinafter – the "Convention" or the "CRC") and the CRC Treaty-specific Guidelines (CRC/C/58/Rev.3).

2. Since the submission of our second to fourth periodic reports, many developments relevant to the implementation of the Convention and its protocols have taken place. This Report provides a comprehensive account of the most significant developments since 2014 until today. It also addresses the comments made in the Concluding Observations by the Committee (CRC/C/ISR/CO/2-4), dated 4 July 2013 as well as its Concluding Observations on the Additional Protocols: CRC/C/OPSC/ISR/CO/1, dated 8 June 2015 and RC/C/OPAC/ISR/CO/01, dated 14 March 2010.

3. Israeli Non-Governmental Organizations (NGOs) were invited to submit comments prior to the compilation of the report, through both direct application, and a general invitation posted on the Ministry of Justice (MoJ) website.

4. This Report was compiled by the Counselling and Legislation (International Law) Department at the MoJ, in cooperation with other Governmental Ministries and agencies.

II. General measures of implementation

Article 4
The Convention's legal status

Incorporation of the Convention rights

5. The fundamental rights protected by the Convention are effectively protected through legislation, judicial decisions and otherwise. Israel has not enacted any further *basic laws* on the rights of the child since the submission of our previous report. However, many legislation amendments were enacted during the reporting period, as detailed in this Report.

6. On April 16, 2019 the Deputy to the Attorney General (Constitutional Law) published Guidelines for the implementation of the *Indication of Information Regarding Legislation Influences on the Rights of the Child Law* 2002-5762. These Guidelines relate to the legislative process, and requires the State to consider the legislation's effect on children's rights, in the spirit of the CRC. In the event that a law may negatively impact, directly or indirectly, the rights of children, the State is obligated to consider alternatives that will eliminate or mitigate such impact.

Independent human rights institutions

7. There are several national institutions that operate in Israel and provide services for the protection of human rights, such as the State Comptroller and Ombudsman, the Equal Employment Opportunities Commission (EEOC), the Commission for Equal Rights for Persons with Disabilities, the Authority for the Advancement of the Status of Women (AASW) and others.

Dissemination, review and implementation of concluding observations

8. See Annex I.

Non-application of the Convention in the west bank

9. The applicability of the Convention to the West Bank has been the subject of considerable debate in recent years. In its Periodic Reports, Israel did not refer to the implementation of the Convention in these areas for several reasons, ranging from legal considerations to the practical reality. Moreover, in line with basic principles of treaty

interpretation, Israel believes that the Convention, which is territorially bound, does not apply, nor was it intended to apply, to areas beyond a state's national territory.

Trainings on the application of the Convention

10. With reference to the Committee's recommendation regarding training programs for the legal profession and judiciary, a wide range of training days on Human Rights Conventions and specifically on the rights of the child have been held. For details, see Articles 28, 29 and 40 below.

Other human rights related conventions Israel has ratified in the reporting period

11. Since the submission of Israel's Second Periodic Report to the CRC Committee in 2010 (hereinafter: the "Second Report"), Israel became a party to several major international instruments concerning children. On November 2018, Israel joined the 2014 Protocol to the ILO Forced Labour Convention, 1930. In March 2016, Israel ratified the WIPO's Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. On September 2012, the State of Israel ratified the Convention on the Rights of Persons with Disabilities.

Consultation with non-governmental organizations (NGOs)

12. Israel acknowledges the key role played by NGOs in the development and implementation of the Convention. NGOs were invited to submit comments prior to the compilation of the Report, both by way of direct contact with them and by way of a general invitation to submit comments posted on the MOJ's website. Due consideration was given to the responses of the NGOs.

13. For additional information, see Annex I.

14. In 2012, a joint project was initiated by the Ministries of Justice and Foreign Affairs, with the Minerva Center for Human Rights at the Hebrew University of Jerusalem, which aims to improve cooperation between State authorities and civil society organizations, specifically relating to the reporting process to the UN Human Rights Treaty Bodies. Following the completion of this draft report, NGOs were invited to comment on this draft prior to its submission and a round table with various NGOs took place on September 10, 2019. Their comments were transferred to the relevant Ministries for their response, and were given due consideration.

Dissemination, training and integration of the CRC into school curriculum

15. The CRC is distributed in child-friendly language to all educational institutions once every three (3) years (in Hebrew, English, Arabic and Russian). According to the Ministry of Education (MoE) directives, the values and principles of the CRC, such as the pupils' right to be heard and the respect of their best interests, are incorporated in the various study subjects, in the formal and non-formal level.

16. Furthermore, there are several international days in which the education system notes the rights of the child and human rights in general, such as the Universal Children's Day. During these days children all over Israel receive information on the CRC, with the assistance of relevant government bodies as well as NGOs such as the Association for Civil Rights in Israel (ACRI), UNICEF, and the Center for Educational Technology.

17. In addition, the Ministry of Foreign Affairs, in collaboration with Israel's Agency for International Development Cooperation (MASHAV) carries out projects for children through its missions worldwide and also in Israel. For further information, see Annex I.

III. Definition of the child

Article 1
Definition of the child

18. The definition of a child was discussed in Israel's former reports. No change has occurred in the definition since the submission of the Second Report.

Raising the marital age from 17 to 18

19. In accordance with the 2011 Concluding Observations of the CEDAW Committee, the Knesset amended the *Marital Age Law* 5710-1950 (Amendment No. 6) in order to raise the minimum marital age from 17 to 18. Subsequently, a Family Matters Court is authorized to permit the marriage of a minor if she/he is above the age of 16 and if there are unique reasons to do so linked to the minors' best interest. The Court must hear the minor before deciding on this matter. With regard to the marriage of a minor below the age of 17, the Court must also request a social worker assessment.

20. Police Enforcement – The Police deal with violations of the *Marital Age Law*. Police officers hold periodic meetings with representatives of the Population and Immigration Authority (PIA) to ensure that they receive the relevant information. An investigation is initiated following every complaint submitted to the Police by the PIA. In the framework of the investigation, the parents of the minor, who are often directly involved in the marriage, are also investigated. In addition, all police districts are given lectures on the Law's implementation and enforcement.

21. Prosecution according to the *Marital Age Law* – In May 2018, the Attorney General's Guideline No. 4.1113 concerning the Attorney General's policy regarding applications for a marriage of minor permit was published. Also, in May 2016, the State Attorney published a Guideline entitled "*The Prosecution Policy regarding the marriage of a minor's offence*", setting out the Prosecution's policy in respect to this offence. For details, see CESCR Fourth Periodic Report (hereinafter: CESCR Report) Annex No. I, p. 39–40, 111–112.

IV. General principles

Article 2
Non-discrimination

22. Equality has been established as a fundamental principle in the Israeli legal system through legislation and extensive case law. The High Court of Justice (HCJ) plays a leading role in the promotion of the principle of equality through the development of jurisprudence when interpreting the *Basic Law: Human Dignity and Liberty*. For further elaboration, see Israel's Core Document (HRI/CORE/ISR/2008) and its update (HRI/CORE/ISR/2015).

23. In May 2014, the Knesset legislated Amendment No. 3 to the *Prohibition of Discrimination in Products, Services and in Entry into Places of Entertainment and Public Places Law* 5761-2000 in order to include the prohibition of discrimination on the basis of age in the Law, which is relevant to minors as well as to elderly.

24. On March 24, 2014, Amendment No. 4 to the *Pupil Rights Law* 5761-2000 was approved by the Knesset. This amendment added sexual orientation and gender identity to the list of grounds upon which discrimination of pupils is prohibited.

Fight against racism

25. The recommendations of the Committee on Racism, Discrimination and Exclusion in the Healthcare System (see para. 28 below) include preventive measures such as designated training for pupils and active staff members, an awareness raising campaign for equality and a racism-free environment, and creating an open dialogue between different populations and healthcare staff.

26. On August 1, 2016, the Ministerial Committee for the Advancement of the Integration into the Israeli Society of Israeli Citizens of Ethiopian Origin, adopted the recommendations of an inter-ministerial team charged with forming an action plan to deal with racism against persons of Ethiopian origin, pursuant to Government Resolution (GR) No. 1107, and decided to implement several steps, including the establishment of a new governmental unit within the MOJ: the Unit for the Coordination of the Fight Against Racism (hereinafter: the "Unit"). The Ministerial Committee's decision was adopted in GR No. 1958 (19.08.2016).

27. The Unit is in charge of supervising the implementation of the inter-ministerial team's recommendations, receiving complaints concerning discrimination and racism and forwarding them to the relevant authorities, safeguarding the handling of these complaints, composing an annual report regarding the Unit's responsibilities, and examining required legal amendments.

28. In December 2016, the Director General (DG) of the Ministry of Health (MoH) appointed a Committee on Racism, Discrimination and Exclusion in the Healthcare System, with the purpose of identifying the challenges in this field and their underlying causes, as well as recommending measures for their elimination. The Committee's recommendations include preventive measures such as designated training for pupils and active staff members, an awareness raising campaign for equality and a racism-free environment, and creating an open dialogue between different populations and healthcare staff. For further information, see Annex I.

29. On the health services provided to minority groups such as centers for teenage Bedouin girls, mother and child health care stations ("Tipat Halav") in the Bedouin local authorities, promoting health services within Bedouin local authorities, Promoting Health Services within the Druze and Circassian localities see CEDAW Sixth Periodic Report (hereinafter: "CEDAW Report") Annex I, p. 63–65.

Article 3
Best interests of the child

30. Israeli Laws and policies support the broader consensus that the best interests of the child should be heard and considered in matters affecting her/him, as detailed in the Second Report.

Out-of-home care

31. On December 6, 2016 the *Children Foster Care Law* 5776-2016 entered into effect. Article 1 of this Law stipulates its purpose: to establish the rights of children in foster care and the duty of the State to ensure their best interests and rights, pursuant to the CRC, in recognition of their unique vulnerability and their right to receive special protection and assistance, without derogating from the responsibility, duty and right of their parents to ensure their best interests. The Law places an emphasis on the best interests of the child and incorporates in Section 4 a broad and comprehensive definition, in accordance with Article 3 of the Convention, as interpreted by the CRC Committee in its General Comment No. 14 (2013)[1]. For further information, see Annex I.

32. The best interests of the child is a guiding principle in any act being performed with respect to a child, under this Law. The Law provides detailed guidance to the decision-making bodies on how to determine the best interests of the child in the foster care context. According to Section 32 of the Law, the choice of a foster care family is carried out in pursuit of the most suitable foster care for each child, according to her/his best interests and specific needs. Wherever possible, placement will be among the child's family members, carried out without separation between the child and her/his siblings and where possible – at a foster family residing within geographical proximity to the child's parents or to members of her/his family with whom there are significant ties.

[1] CRC/C/GC/14, dated 29 May, 2013.

Article 6 (1)
The right to life

Capital punishment

33. As mentioned in our previous report, a death penalty cannot be imposed on a minor who committed the offense while she/he was a minor.

Steps to eradicate infanticide

34. In 2014 the Unit for Prevention of Suicidal Behavior was established in the MoH in order to implement the national action plan for reducing suicide and attempted suicide rates, which was established by GR No. 1091 (22.12.2013). For further information, see Annex I.

Promoting child safety

35. According to GR No. 4289 (19.02.2012), a multi-year plan for the promotion of child safety in Israel should be established. In March 2017, the "National Child Safety Program" was approved along with approx. 50 Million NIS (14 Million USD) five (5)-year budget. The inter-ministerial committee that compiled the program was headed by the MoH, and set two (2) main goals for the National Program: to reduce the rate of child mortality as a result of injuries, and reducing disparities in general mortality rates between Jewish and Arab children.

36. Furthermore, due to an increase in the number of infants that were forgotten in the car by their parents, leading to injury or death, the MoH and the National Road Safety Authority launched several campaigns to increase public awareness to this issue.

Article 12
Respect for the views of the child

Legislation

37. Israeli Laws and policies support the broader consensus that a child's opinion should be heard and considered in matters affecting her/him, as detailed in the Second Report.

38. Section 11 of the *Children Foster Care Law* stipulates the right of a child to express her/his desire, feelings, opinions and standpoint on any matter concerning her/him. The child's standpoint will be accorded the appropriate weight when adopting decisions by any competent body, although this body may not hear the child's viewpoints if the body is convinced that the child will suffer significant harm from presentation of the matter before it, that exceeds the harm from its non-presentation.

Representing children in civil law and administrative proceedings

39. The Legal Aid Administration (LAA) at the MoJ is the main provider of legal services for children in child protection proceedings in Israel. The National Child Representation Unit (NCRU) within the LAA is providing high-quality, child-friendly, and accessible legal aid service for children and youth, free of charge, and promotes their right to access to justice, particularly in child protection proceedings.

40. As of August 2018, (following Amendment No. 20 to the *Legal Aid Law* 5732-1972), the NCRU also provides legal aid and assistance to children and youth victims of severe sexual abuse, both throughout the criminal law proceedings against the perpetrator, as well as during any legal or administrative proceeding connected to the penal proceedings (such as protection orders, civil tort suits, etc.). For further information, see Annex I.

Religion conversion

41. According to Section 13A of the *Legal Capacity and Guardianship Law* 5722-1962, the religion of a child shall not be converted, unless both parents have given their prior written consent, or that the court, at the request of one of the parents, or at the request of the child's guardian, has given prior consent to the conversion. If the child has reached ten (10) years of age, her/his religion shall not be converted unless, in addition to the parents' consent or the

court's approval, she/he has also given prior written consent. For further information, see Annex I.

Respect for the views of the child in the educational system

42. Normative values derived from the CRC are incorporated to the MoE DG Directives. Thus, the need to ensure active participation of children, their ability to express views regarding decisions being made in their respect, and merely having adults listen to them – are basic components in the MoE policy. The inclusion of pupils constitutes an additional stage in the implementation of the right to education, which exists in two (2) levels: as a right and as a process.

43. The inclusion of pupils as an educational process began in 2000, with the *Pupil's Rights Law*. Inclusion enables children and youth to develop a sense of belonging, union, justice, responsibility, care and sensitivity. For further information, see Annex I.

Youth and pupils councils and youth movements

44. The *Local Authorities (Youth Department Manager and Youth and Pupils Council) Law* 5771-2011, stipulates that in each local education authority, a pupils and youth council will be established that shall be elected by pupils and youth residing in the locality. For further information, see Annex I.

V. Civil rights and freedoms

Article 7
Registration of children at birth, name and nationality

Certification of live births of foreign residents

45. Any birth in Israel, whether that of an Israeli resident or citizen or that of a foreign resident, is documented by the hospital in which the birth took place. The hospitals provide the parents a document entitled "Notice of Live Birth" which contains relevant details of the birth, including the date, place, names and nationalities of the parents etc. In the case of Israeli residents, births are also registered in the Population Registry and a birth certificate reflecting this registration is issued.

46. Following a petition to the HCJ submitted in 2013, the State of Israel decided to make changes to the "Notice of Live Birth" issued to foreign parents in order to ensure that it complies with the standards of an "Official Document", as defined by the *Evidence [New Version] Ordinance* 5731-1971, and enable its authentication with an Apostille. These changes enable parents to submit the "Notice of Live Birth" to the relevant authorities in their country of nationality (H.C.J 1528/13 *Atani v. The Minister of Interior* (22.12.2016)).

47. With regard to the name of the father, this is written in the relevant section of the "Notice of Live Birth", along with a clarification that it is based solely on the declaration of the parents.

48. Parents who are foreign residents may submit the "Notice of Live Birth" that they have been given by the hospital to the Ministry of Interior (MoI) in order to receive a document entitled "Affirmation of Birth in Israel – Replication of Notice of Live Birth". This affirmation includes the name of the father as stated on the "Notice of Live Birth".

49. Further to the ruling of the HCJ 6946/17 *M.G. v. The Minister of Interior* (22.11.2018) (see Annex III), this document is to be given to parents who are foreign residents until the MoH completes the computerization of the "Notice of Live Birth" which is currently given to parents as a hand-written form. The Supreme Court further determined that insofar as a declaration concerning the name of the father was wrongfully omitted from the "Notice of Live Birth" by the MoI, the parents may request the MoI to amend the Notice. The request will be examined in light of the evidence supporting it (H.C.J 6946/17 *M.G. v. The Minister of Interior* (22.11.2018); H.C.J 1528/13 *Etni v. The Minister of Interior* (1.6.2016); H.C.J 10533/04 *Weiss v. The Minister of Interior* (28.6.2011)).

50. Foreign residents are asked to sign a declaration whereby they are aware that the "Affirmation of Birth in Israel" document supplied by the MoI is not to be construed as agreement to their continued stay in Israel.

Registration of parents in identity cards

51. As of November 2014, following applications of same-sex families, the MoI has changed the registration of parents in Israeli identity cards. Currently the names of either both mothers or both fathers are preceded by the correct titles.

The right to know one's parents

52. According to the *Adoption Law*, adoptees aged 18 and above requesting to inspect the Adoption Registry, can receive information from the "adoption file" on the reasons for their adoption, and with the consent of the biological parent, the details of the Adoption Registry. For further information, see Annex I.

Article 8
The right to acquire nationality and the protection of nationality

53. This issue was discussed in Israel's Initial Report. No change has occurred in this area since.

Article 13, 14, 15

54. No changes have occurred in these areas since Israel's Initial Report.

Article 16
The right to dignity, privacy and reputation

Protection of privacy – general

55. Section 5 of the *Children Foster Care Law* determines that at the time of exercise of rights and the provision of services to a child, principles on preserving the dignity of the child and protecting her/his privacy will be taken into account. According to Section 17 of the Law, it is the child's right to freely file a complaint on any matter concerning her/him under the Law in a manner that shall protect her/his privacy.

56. In August 2015, a public committee, headed by former Supreme Court Justice Edna Arbel, was appointed by the Minister of Justice in order to review measures to protect the public, including Civil Service employees, from harmful publications and activities conducted online, such as bullying, defamation and privacy violations. The Committee is due to complete its work and publish its report in the near future.

Installation of cameras in educational institutions

57. In December 2018, the Knesset legislated the *Installation of Cameras for the Protection of Toddlers in Day Care Centers Law* 5768-2018. This Law aims to protect the safety of toddlers who are placed in day care centers by installing cameras, while preserving, to the extent possible, the dignity and privacy of the toddlers, the employees and any other persons in these facilities. The Law shall enter into effect on September 1, 2019 and shall apply gradually on all day care centers, except in day care centers operating in private homes, or in which more than 70% of the parents do not consent to the installation of the cameras. In order to protect the privacy of the toddlers, their relatives and the employees of the day care centers, the Law requires that the footage will be kept by the director of the day care for a period of time that will not exceed 30 days, while taking reasonable steps to prevent unauthorized access to the footage. Furthermore, viewing the footage, transferring or using it is allowed only in accordance with a court order.

58. In May 2015, the MoE's DG published a Directive regarding the placement of cameras in educational institutions, aimed to balance between the obligations to promote the pupils' welfare, and their right to privacy. The Directive guides the schools on ways to install the cameras: its use, locations and educational activities that should accompany the installation of cameras. The MoE does not view the installation of cameras as necessary means to prevent violence and protect the pupils' welfare. However, in such cases where local authorities or schools choose to do so, the Ministry determines that they are obligated to implement educational programs in order to fulfill the aforementioned.

Article 17
Access to appropriate information

Children's television programs

59. In 2017, the Broadcast Cable and Satellite Council (hereinafter: the "Council") amended the *Telecommunications Rules (Bezeq and Broadcasts) (Broadcasting License Holders)* 5748-1987 in order to explicitly obligate cable television services providers to allocate a minimum of 7% of their production budget to original Israeli youth's productions. The Council launched a television campaign to promote safe and balanced media orientation and use. It also launched a campaign aimed, *inter alia*, at informing parents of the option to block inappropriate programming from children on cable television channels in 2017. For further information, see Annex I.

The NCOPB

60. The NCOPB is a joint civil-police bureau dedicated to the prevention of crime and violence against children and adolescents online, led by the MPS and the Police. The NCOPB engages in forming a system for protecting minors against offenses of violence, sexual exploitation, sexual abuse, prostitution, pornography and child trafficking, and distribution of sexually oriented contents, up to assaults that are not criminal yet their impact may be most severe, such as excommunication, ostracism and shaming, insofar as such offenses take place in cyberspace.

61. The NCOPB was established in January 2016 by GR No. 1006 (17.01.2016). In order to operate the NCOPB, four (4) Government Ministries are cooperating with the MPS and the Police: The MoE, the MoH, the MoLSAaSS and the MoJ. For further information, see Annex I.

Prevention of distribution of harmful materials online

62. Furthermore, the MoJ runs a media campaign, including in social media and television, which raises awareness of the prohibition on the publication of videos which constitute sexual harassment pursuant to the *Prevention of Sexual Harassment Law* 5758-1998. This is according to Section 3(A)(5A) to the Law, that was added as part of Amendment No. 10 to the Law in 2014, which stipulates that the publication of a video which focuses on the sexuality of an individual in a way that humiliates her/him under the relevant circumstances, constitutes sexual harassment.

63. According to Amendment No. 49 to the *Telecommunications (Bezeq and Broadcasts) Law* 5742-1982, legislated in 2011, internet service providers are obligated to operate mechanisms for protection against profanities online and websites with harmful content, without additional fees, and to inform their subscribers of their availability. For further information, see Annex I.

VI. Violence against children

Article 19
Violence against children – abuse and neglect

Legislation amendments

64. In January 2019, Amendment No. 137 to the *Penal Law* 5737-1976 entered into force. It includes an extensive reform of homicide offences, the purpose of which is to create a cohesive set of homicide offences according to their severity. The Amendment replaces, *inter alia*, the separate offences of murder and manslaughter with a basic murder offence and a number of aggravating and mitigating circumstances for an aggravated murder offence and a mitigated murder offence. According to Section 301A(a)(8) of the amended Law, the murder or manslaughter of a child under fourteen (14) years old, a "helpless person" or a minor for which the offender is responsible is an aggravating circumstance. Section 368A of the Law defines "helpless person" as "a person who because of her/his age, illness or physical or mental infirmity, mental impairment, or any other cause, cannot provide for the needs of her/his livelihood, health or welfare". The punishment for this aggravated murder offence must be life imprisonment.

65. In February 2012 the Knesset legislated Amendment No. 14 to the *Center for Collection of Fines, Fees and Expenses Law* 5755-1995, which entered into force on January 1, 2013. According to the Amendment, a child who the court ruled to be entitled to compensation in criminal proceedings as a victim of a crime, shall receive the compensation from the Center for Collection of Fines, Fees and Expenses, up to the amount of 10,000 NIS (2,790 USD). The Center will reimburse itself by collecting the payment from the offender at a later time. This Amendment is critical in providing the children their compensation in part, as most offenders are also sentenced to imprisonment which makes collecting the compensation difficult.

The Israeli authority for the prevention of violence, drugs and alcohol abuse

66. On February 7, 2018, the *Authority for the Prevention of Violence, Drugs and Alcohol Abuse Law* 5777-2017 entered into force. The Law established the Israeli Authority for the Prevention of Violence, Drugs and Alcohol Abuse (hereinafter: the Authority). For further information, see Annex I.

Article 24 (3)
Elimination of harmful practices

Preventing polygamy

67. In recent years the GOI has been enhancing its efforts to eliminate polygamy. The issue has been highly prioritized and accordingly, many efforts are invested in this field.

68. On January 29, 2017, the GOI accepted Resolution No. 2345, which established an Inter-Ministerial Committee designated for the issue of polygamy. The Committee includes the following Ministries: Education, Justice, Labor, Social Affairs and Social Services, Interior, Health, Agriculture and Rural development, and Public Security. The Resolution further calls for the establishment of a wide-ranging inter-ministerial team tasked with forming a strategic plan to encounter this phenomenon, and accordingly the Government will allocate the appropriate budget in the annual state budget of 2019-2020. The inter-ministerial committee included representatives of several NGOs.

69. The Inter-Ministerial Committee published its report in July 2018. Its main recommendations included improving data collection and reporting mechanisms in the relevant Government Ministries and law enforcement bodies, allocating additional budgets to the NII and to the Police for this purpose and carrying out additional research on the matter. It also recommended expanding education on polygamy and in general, especially among Bedouin communities, implementing a welfare support plan for women in situations of

polygamy and their children, and expanding the role of the Sharia' Religious Courts on this matter.

70. Subsequently, in GR No. 4211 (25.10.2018), the DG of the MoJ was tasked with heading an inter-ministerial committee for the implementation of these recommendations.

71. On 2017 the Attorney General published Guideline No. 41112 titled *"The polygamy offence"* aimed to enhance enforcement of the polygamy offence, see CEDAW Report p. 14–15.

Article 34
Sexual exploitation and sexual abuse

Legislation amendments

72. Following the Concluding Recommendations of the CRC Committee in 2015 (CRC/C/OPS/C/ISR/CO/1, para. 31), in 2016 the State of Israel amended Section 203C of the *Penal Law* and increased the penalty for the offense of obtaining the service of an act of prostitution from a minor from three (3) to five (5) years imprisonment (Amendment No. 127). This Amendment changes the status of the offense to a felony, reflecting the gravity of the act. As a result, minors who were victims of such crimes are entitled to convey their opinion to the prosecutor before a decision regarding a plea bargain is made, and to convey their opinion before a presidential decision regarding a pardon of the offender, according to the *Rights of Victims of Crime Law* 5761-2001.

73. Furthermore, many other Legislation Amendments were enacted during the reporting period:

(a) On October 10, 2019, Amendment 139 to the *Penal Law* 5737-1977 entered into force. The Amendment extended the statute of limitations on sexual offenses to fifteen (15) years. This is due to the gravity of such offenses, as well as the unique characteristics and vulnerability of the victims of these heinous crimes.

(b) In July 2018, the *Limitation of Return of a Sex Offender to the Victims' Vicinity Law* 5765-2004 was amended. The Law as amended enables the Court to determine limitations on a sex offender, after the sentence or after the release from prison, which can include that the offender will not live, study, or work in the vicinity of the offense victim's residence, education, or work. The Law is intended to prevent psychological damage to the victim which may occur due to frequent meetings with the sex offender, in such cases where the latter returns to the victim's vicinity, in the street, local facilities, etc. The exceptionality of the Law requires special care in its implementation and interpretation.

(c) With regard to the definition of sex offender – prior to the amendment, the Law authorized the court to determine limitations to a sex offender only if the offender was an adult when the offense was committed. The Amendment expanded the definition of "sex offender" to include those who were minors when the offense was committed, provided that the offender served active prison sentence or was incarcerated in a closed facility, and turned 19 after being released. The Law further stipulates that when the Court wishes to impose limitations on a person who was a minor when the offense was committed, it would refrain, to the extent possible, from harming the unique needs relating to her/his rehabilitation.

(d) On August 3, 2017, Amendment No. 20 to the *Legal Aid Law* 5732-1972, concerning legal aid for persons who are victims of severe sexual crimes, including minors, entered into force. This Amendment grants free legal aid, without means or merit testing, to all victims of severe sexual violence, from the moment the indictment was filed throughout the legal proceedings. For minors who are victims of severe sexual crimes, legal services will be provided by the LAA at the MoJ. This Amendment is a significant step forward in order to implement and defend the rights of child victims in penal proceedings. Since this Amendment entered into force and until December 2018, 79 minors have been referred to the LAA to receive legal services.

(e) In June 2018, Amendment No. 132 of the *Penal Law* entered into force, adding a new offense prohibiting the publication of proposals to engage in prostitution (e.g. direct

proposals, wanted ads etc.) (Section 205D). According to this offence, publishing such a proposal carries a maximum sentence of three (3) years imprisonment or a fine up to 226,000 NIS (62,700 USD), and if the proposal is aimed at a minor – a maximum sentence of five (5) years imprisonment or the abovementioned fine. If a corporation committed the offense, it carries double the said fine. This offence is also included in both *Blocking of Telephone Numbers for the Prevention of Crimes Law* and *Authorities for Prevention of Internet Use for the Commission of Offenses Law*, and it complements the 2011 addition of the offence of publication of prostitution services.

(f) In May 2018, the Knesset adopted Amendment No. 94 to the *Courts Law*, which stipulates that cases of causing a person to leave their country for prostitution or slavery, will be brought before one (1) judge instead of a panel of three (3). This enables better enforcement of these severe offences, by facilitating the early testimonies of witnesses in a prompt manner, before they leave the country.

(g) In March 2018, the Knesset enacted the *Blocking of Telephone Numbers for the Prevention of Crimes Law* 5768-2018, which authorizes a police officer to block a publicized telephone number (regardless of the means of publication), if he/she has reasonable grounds to believe that this phone number is used for the commission of crime. This further enables the removal of websites publishing the prohibited proposals, and the blocking of telephone numbers published in such publications.

(h) In July 2017, the Knesset legislated the *Authorities for Prevention of Internet Use for the Commission of Offenses Law*, which authorizes courts to issue an order for blocking access to a website or for its removal from the internet. Such an order will be issued if it is crucial for the prevention of an ongoing offense set in the Law's Addendum, such as offences relating to prostitution, child pornography, gambling and drugs and dangerous substances. This law enables the courts to issue one (1) of three (3) kinds of orders: order for restricting the access to the relevant website, order for restricting the possibility of locating the relevant website and an order for the removal of a website from the internet – provided that the relevant site is stored on a server in Israel or is under the control of a person who is present in Israel. The aim of the Law is to provide law enforcement authorities with additional tools to combat the phenomenon of prostitution of minors in the virtual world, as part of the overall ongoing efforts on the matter.

(i) For further Legislation Amendments, see Annex I.

Treatment of victims of sexual crimes

74. The MoLSAaSS is operating group intervention programs in various institutions, in order to assist minors who are victims of violence and abuse in their rehabilitation, mainly in the employment field, in preparation for normal functioning in the family, community and society. Furthermore, the MoLSAaSS operates institutions for emergency removal and immediate protection of children in imminent danger and additional therapeutic responses in the community to help minors who are victims of sexual assault. In the treatment centers, there are initiated activities of information, consultation and training that take place concerning sexual assault of children and means for identification, recognition and intervention in these cases. For further information, see Annex I.

Article 37 (a) and 28 (2)
The Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

Prohibition against torture and cruel treatment

75. This issue was discussed in Israel's Initial Report. No major changes occurred in this regard since Israel's Initial Report.

Interrogators of the Israel Security Agency (ISA)

76. The ISA is responsible by law for the safeguarding of Israel's national security and state institutions from terrorist threats, espionage and other threats. The ISA and its

employees act within the limits of the law and are subject to constant internal and external supervision and review, including by the State Comptroller, the State Attorney's Office (SAO), the Attorney General, the Knesset (Parliament) and every instance of the courts, including the HCJ.

77. The detainees undergoing ISA interrogation, including minors, receive all the rights to which they are entitled according to the applicable law and international conventions to which Israel is a party, including the rights to legal representation, medical care and visits by the International Committee of the Red Cross (hereinafter: the "ICRC"), if relevant.

78. The operative Guidelines of the ISA provide special protection to minors, which their age requires, in order to ensure proper protection of their rights and physical and mental wellbeing. Interrogations of minors take place pursuant to the approval of the highest position holders in the ISA and according to special Guidelines on the interrogation of minors. These interrogations are conducted by interrogators who undergo relevant training and the interrogation time frames and the sleeping hours are adapted to the needs of minors. Furthermore, minors are detained in accordance with the law and are held separately from adults, and any case of alleged wrongdoing by an ISA investigator can be referred to the Inspector for Complaints against ISA (the Inspector).

79. Moreover, as of January 2018, in accordance with the recommendations of several human rights treaty bodies and Israeli committees, cameras in ISA interrogation rooms broadcast regularly via closed circuit to a control room located in an ISA facility, where interrogations are not conducted. The control room is accessible and available to an external supervising entity on behalf of the MoJ at any time. The interrogators have no indication of when the MoJ supervisor is watching them in the control room. The supervising entity must report immediately to the Inspector if he/she believes that an exceptional incident has taken place during interrogation. During 2018, hundreds of control and supervision hours were conducted by the supervisors. For further information, see Annex I.

Alleged abuse in out-of-home facilities

80. The MoLSAaSS operates out-of-home facilities for children with disabilities. In these facilities any complaint received is immediately and thoroughly inspected by the supervisors in MoLSAaSS. In addition, the Children's and Youth Complaints Commission (hereinafter: the "Commission") for out-of-home placed children, which started its work in 2017 (see Article 25), operates in accordance with Section 56 of the *Children Foster Care Law* and was appointed by the Minister of Labor, Social Affairs and Social Services. For further information, see Annex I.

Article 39
Physical and psychological recovery and social reintegration

Programs for the reintegration of children

81. The MoLSAaSS initiated several unique programs in order to provide support and assist parents and families of children who are in conflict with the law and allow their optimal integration in the society. Some of the programs are tailored for children who are immigrants from the former Soviet Union, and children from Ethiopian descent. For further information, see Annex I. On the rehabilitation of children who are victims of violence, sex crimes, prostitution and trafficking see Articles 34, 19 and CRC-OP-SC.

VII. Family environment and alternative care

Article 5
Parental guidance and responsibilities

Parental consent for their children's medical treatment

82. The legal arrangements concerning medical treatment of children are based on the provisions of the *Legal Capacity and Guardianship Law* 5722-1962, which is the general law that also applies to parent-children relationships. In the healthcare system, these arrangements are usually expressed in the following matters:

(a) The parent is usually the one authorized to provide informed consent for medical treatment of a child;

(b) There is a presumption in law that a parent agrees to the action of the other parent. In cases of special medical treatment (such as a medical experiment) or if there is another basis for denying the presumption of parental consent – the consent of both parents is needed to provide medical treatment.

83. The MoH directed all HMOs to provide each parent independent access to the child's online medical file. This directive severs the dependency between the parents, solves the need to receive information from the other parent in cases of non-cooperation and conflict between them, and enables both parents to be involved in the medical care of their child.

84. In 2016, Amendment No. 9 to the *Patient's Rights Law* 5766-2005 added Section 16A which enables preventing a parent accused of or convicted in sexual abuse of her/his child from receiving medical information about that child, and keep her/him away from receiving medical decisions regarding the medical treatment of the child.

Special guidance programs for parents

85. The MoLSAaSS operates several programs for children and their families, in order to improve parental capabilities to families for all populations, including families living in poverty. For further information, see Annex I.

Article 9
Separation of children from their parents

Measures to ensure the protection of children living in prisons with their mothers

86. Section 2 of the *Prisons [New Version] Ordinance* 5732-1971 stipulates that female prisoners can raise their infant children (under the age of two (2)) in prison. According to various Israel Prisons Service (IPS) Directives, a prisoner with her infant will be kept in a suitable chamber approved by a physician. A newborn in prison or an infant who stays with his mother in prison, will receive all the necessary medical treatment, including appropriate nutrition, baby formula and vaccinations. The IPS medical staff will monitor the infant's condition, and in a case of such infant's illness, a pediatrician may be summoned to the prison. The treatment of the infant will take place in the prison, in a hospital or at Mother and Child Health Care Stations ("Tipat Halav"), all in accordance with the medical needs. For further information, see Annex I.

Article 10
Family reunification

87. The *Citizenship and Entry into Israel Law (Temporary Provision)* 5763-2003 was extended several times, up until June 30, 2019. Due to the Knesset's dispersal the Law is further extended automatically until December 17, 2019. For further information, see Annex I.

Article 11
Illicit transfer and non-return

88. The implementation of The Hague *Convention on the Civil Aspect of International Child Abduction* is led by the Department of International Affairs in the SAO. When there is concern for the wellbeing of children during or after abduction cases, the SAO may refer the case to the welfare authorities to continue treatment as they deem fit. In some cases, the court prescribes in the ruling that the social services should be involved. For further information, see Annex I.

Article 18 (1) and (2)
Parents' common responsibilities, assistance to parents and provision of childcare services

The Family dispute settlement law

89. In 2014, *the Family Dispute Settlement (Temporary Provision) Law* 5775-2014 was enacted. This Law determines that spouses who wish to separate are first referred to a dispute resolution in one of the Family Assistance Units (FAU) of the relevant court. The parties are not able to turn to judicial means prior to doing so. After submitting an application, the FAU holds up to four (4) initial meetings with the parties which allow them to examine the possibility to turn to an alternative dispute resolution, other than litigation in court. The Law aims to reduce the complex implications of divorce litigation in courts, to all family members. It also assists in preventing discrimination against women in a judicial proceeding, in cases when women are in a weaker position than men and need to cope with the intense conflict and feelings accompanying the separation process. This Law requires preparation and training of professionals and entered into effect in July 2016. The Law was enacted as a temporary order valid for three (3) years.

90. For more information on parental custody in divorce, child support and the tender years doctrine, see CESCR Report, p. 19–20.

Article 20
Children deprived of a family environment

The Children foster care law

91. Article 1 of the *Children Foster Care Law* stipulates its purpose to establish the rights of children in foster care and the duty of the State to ensure their best interests and rights. According to Section 5 of the Law, in general, the following principles should be taken into account when adopting decisions or providing services to a child: preserving the dignity of the child and protecting her/his privacy; preserving equality between children, subject to the unique needs of each child; and ensuring the implementation of time schedules and limiting delays in the provision of services.

92. Section 13 of the Law establishes the right of a child to information. According to this Section a child has a right to obtain information, taking into consideration her/his ability to understand this information, at any stage of the placement process and residence at a foster family, about her/his situation, needs, the proceedings taking place, plans, decisions, the foster family, her/his rights, etc.

93. Another significant issue regulated in the Law is the status of biological parents and their participation. According to Section 33 of the Law, a parent has the responsibility, duty and right to maintain personal contact with her/his children placed in foster care, subject to the care plan determined for the child, and the decisions of the court. Any act or decision concerning the placement of the child will be made with the full recognition of the responsibility, duties and rights of the parents to their children and with them, wherever possible. The child's parents have a right to express their standpoint in the care planning processes and appropriate weight will be accorded to their opinion.

94. Furthermore, the parents of a child placed in foster care are given a right to obtain information on all matters relating to the care processes and decisions concerning the placement of the child in foster care, including: details about the foster family in which the child has been placed, the child's situation, including mental and physical state, school achievements, functioning, information about the termination or any material change to the foster care. This information will not be conveyed if there is real concern that it is likely to cause any harm to the child, or any other limitation has been determined under the court's instruction.

95. Generally, the placement of a child in foster care will be carried out while striving to obtain the consent of the parents wherever possible. If such consent is obtained, an agreement will be drawn up between the parents and the MoLSAaSS Social Services Department, consisting of the main elements of the care plan, the parents' consent to convey information about the child, information about the responsibilities, duties and powers of the foster family and so forth. Such agreement will be drawn up, wherever possible, even where the decision on the placement of the child was accepted without the parental consent.

96. On November 25, 2018 *Foster Care (Permit Request) Regulations* 5779-2019 entered into force. These Regulations clarified the requirements and the documents which must be filed in order to be considered a foster family. The documents ensure a thorough check of the applicants' intentions as well as their medical and economic situation, to assure the children's rights in their foster care are maintained.

97. For more information on the procedure of filing complains, see Article 25 and Annex I.

Article 21
Adoption

Recognition of parenthood in cases of adoption and surrogacy

98. Legal recognition of parenthood is conducted by different types of judicial orders:

(a) Biological parenthood is recognized by law, and is registered by the Population Registry without need for a court order. In cases of doubt concerning the identity of the biological parent, the parenthood can be proven through a genetic test, and a declarative court order may be issued relying on the test's results.

(b) Parenthood by way of adoption, which is not based on a genetic relationship between the parent and the child, is constituted by a judicial adoption order, pursuant to the *Adoption of Children Law* 5741-1981. The Law regulates the issue of intercountry adoption, in accordance with the CRC and 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

(c) Parenthood by gestational surrogacy conducted in Israel is constituted by a constitutive parenthood order, pursuant to the *Agreements for Carrying of Embryos (Approval of the Agreement and Status of the Infant) Law* 5756-1996.

Domestic surrogacy

99. On July 17, 2018, Amendment No. 2 of the *Agreements for Carrying of Embryos (Approval of the Agreement and Status of the Infant) Law* 5756-1996, was legislated by the Knesset with the purpose of, *inter alia*, strengthening the protection of the rights of the child, the surrogate mothers and the intended parents throughout the surrogacy process in Israel. Section 5 of the Amendment sets out detailed criteria for the qualification of the surrogate mother and the intended parents throughout the Law, such as age limits and the absence of a criminal record. In accordance with the recommendations of the CRC from June 2015, the Amendment stipulates that in cases where the Court or a social worker consider that a risk might be posed to the wellbeing of the child by the future parents, the social worker shall submit its assessment to the Court and request that the Court give due consideration to the assessment in making its decision on the issuance of the parenthood order.

100. The Law applies to women suffering from a medical disorder preventing them from bearing children, regardless of whether they have a spouse or are single. An ongoing petition regarding this aspect of the Law is pending before the HCJ, its main claim being that the Law discriminates against same-sex couples and single men, as it denies them access to surrogacy in Israel. The petitioners request to expand access to surrogacy in Israel to same-sex couples and single men (H.C.J. 781/15 *Arad-Pinkas et. al. v. The Committee for Approval of Agreements for Carrying of Embryos et. al.*).

Foreign surrogacy

101. Following a decision of the HCJ (H.C.J. 566/11 *Doron Memet Meged et. al v. The Ministry of Interior et. al.* (28.1.2014), see Annex III), for the first time, the requirement for an issuance of an adoption court order for the spouse of the biological parent was replaced with a judicial parenthood order, subject to the conditions set out by the Attorney General for the purpose of the issuance of the warrant, all in accordance with the best interest of the child.

102. In order for a judicial parenthood order to be issued in cases of foreign surrogacy, the stability of the couple's relationship and a mutual intent to raise the child must be proven, along with certain additional criteria. The criteria are examined in light of the best interest of the child. Furthermore, in order to ensure the protection of the rights of the child and the surrogate mother throughout the process, the applicants are required to prove the legality of the surrogacy procedure in the relevant country, the prior and informed consent of the surrogate mother to undergo the medical procedure and the latter's consent, following the child's birth, to give up the child. It is also required that the child be genetically related to at least one of the future parents, and that there will be no genetic relationship between the child and the surrogate mother. This is in order to prevent child trafficking and circumvention of adoption procedures. In addition, a social worker is required to examine the criminal record of the applicant and to verify that a child has not been removed from the custody of the applicant in the past. This is in order to ensure that no risk will be posed to the wellbeing of the child. Furthermore, the social worker may require a social worker assessment in order to ensure the best interest of the child. The social worker assessment is similar to the one required for adoption. However, the process is significantly shorter than that of adoption and the child is not registered as adopted.

103. In February 2015, following the former judicial development, the State has extended the judicial parenthood order to the spouse of a woman who chose to have a child through an anonymous sperm donation in Israel. In such cases, the order can only be issued in situations in which the sperm donor's identity is unknown to the parents. Similar to the conditions applied in cases of foreign surrogacy, a judicial parenthood order through sperm donation requires that the couple prove the stability of their relationship and their mutual intention to raise a child.

104. In April 2018, the MoLSAaSS, at the request of the Attorney General, appointed a professional inter-ministerial team for the review of the conditions for the issuance of a judicial parenthood order in cases of an anonymous sperm donation for couples in Israel or foreign surrogacy. Its members include social workers, professionals and legal experts from the relevant Government Ministries. The inter-ministerial team met with members of the academia, relevant professionals and LGBTQ community representatives, and concluded its work in October 2018. The team's report was fully adopted by the Minister of LSAaSS and the Attorney General recognized and presented it as the official view of the State of Israel in different legal proceedings involving the State. For further information, see Annex I.

The Gross committee on adoption

105. In 2007 an inter-ministerial committee on the adoption of children, headed by former vice president of the Tel Aviv-Jaffa District Court Yehoshua Gross (hereinafter: the "Gross Committee") was appointed by the Ministers of Justice and of LSAaSS. In 2016, the Gross Committee published its report, concerning adoption as a means of treatment of children at risk. Its recommendations, which include a proposal to replace the existing law on adoption, relate to all stages of the adoption procedure and to the different institutions involved therein,

e.g., the courts, the social workers, etc. The recommendations include guidelines on determining the best interests of the child for the bodies involved in the adoption process.

Article 25
Periodic review of placement

The children foster care law

106. Any child placed in foster care or in out-of-home placement facilities can file complaints to the Commission independently (see para. 80 above), discreetly and freely, without any fear of harm of consequences. The Commission is accessible to children and includes the accommodations required according to the age, language and level of maturity of the child, and in the case of a child with disabilities – also to her/his disabilities. The results of the inquiry of the complaint will be passed on to the complainant and a copy will be passed on to the supervisor for follow-up on the necessary remedies.

107. Section 66(c) of the Law protects children against harm that might be caused to them due to filing a complaint and determines that such harm constitute a criminal offence with one (1) year imprisonment.

108. Under Section 50 of the Law, the MoLSAaSS has to maintain supervision of foster care agencies, foster care counselors and foster families and review their activities.

109. According to Section 54 of the Law, as part of the supervision, supervisors are authorized and given various authorities, including the authority to demand from any person concerned to pass on information or any document required by the supervisor to carry out her/his duties, and the power to enter places, and, *inter alia,* to visit the foster family home, even without prior coordination and at any time, if there is concern as to any harm to the well-being of the child placed with the foster family. Likewise, the supervisor may convey to the operating entity, the foster care counselor or the foster family written details of instructions that were not carried out and demand that they rectify shortcomings.

110. On March 30, 2019 the *Foster Care Regulations (Complaint Mechanism for Children in Out-of-home Placement Facilities)* 5779-2019 entered into force. These regulations set forth procedures to ensure that children in foster care and out-of-home placement are informed about the complaint mechanism. For example, the Regulations include the obligation to publish the Commission's information in a public and accessible place, in addition to ensuring each child placed in foster care receives the information in a manner and language suited for them. The Regulations further clarifies the various methods through which a complaint can be filed, and the parameters by which it should be assessed by the Commission. For further information, see Annex I.

Article 27 (4)
Standard of living

Alimony and child support

111. In 2013, the *Execution Law* 5727-1967 was amended (Amendment No. 42), and a new chapter was added – Enforcement and Collection of Children's Entitlement to Alimony – Temporary Provision, in order to assist women eligible for child entitlement to alimony. According to the Amendment, the Law Enforcement and Collection System Authority will manage the collection process for those eligible for child alimony through a special alimony procedure. In cases of an NII debt, the special procedure will be mandatory, while in cases of private debts, such procedure will be optional.

112. The *Alimony (Assurance of Payment) Law* 5732-1972 ensures that a woman, who won a child's entitlement to alimony ruling, whether she is divorced, separated, or a common-law spouse, has means of subsistence for her and her children when the debtor owing alimony does not fulfill his obligation. The Law allows a woman to apply to the NII for payment. For further information, see Annex I.

113. In 2012, the Shiffman Committee, a public inter-ministerial committee which was appointed by the Minister of Justice in 2006 in order to review the rates of financial child's entitlement to alimony, published its final report and recommendations. The recommendations included a draft bill regarding the formula that shall be used for calculating the rates of child's entitlement to alimony a divorced parent is required to pay for the benefit of their child.

114. In 2018, the Minister of Justice appointed a team of economic experts in order to reassess the Shiffman Committee's bill. The team's aim is to update the formula for calculating a child's entitlement to alimony with relevant factors such as the child's age and place of residence, in addition to the parent's income and number of children, with the purpose of better reflecting the cost of living. The team is expected to complete its work by the end of 2019.

VIII. Disability, basic health and welfare

Article 6 (2)
Survival and development

Decreasing infant mortality rate

115. Measures taken by the MoH to decrease the infant mortality rate include pregnancy monitoring and postnatal monitoring of infants and toddlers in order to detect risk factors to the mother's and child's health, such as: domestic violence, mental illness and genetic diseases, and providing them with the necessary assistance. Postnatal care is provided by Mother and Child Health Care Stations ("Tipat Halav"), which provide counselling, pregnancy follow-ups, vaccinations, screening tests, and health promotion programs. For more information on infant mortality rate, see CESCR Report, p. 42 and Annex II.

Article 18 (3)
Assistance to parents and provision of childcare services

116. Following the recommendations of a Public Committee on Poverty in 2013, the MoLSAaSS significantly lowered the contribution paid by parents of poor families for the day care of toddlers at risk pursuant to *Infants at Risk (Right to Day Care Center) Law* 5760-2000. Furthermore, a new procedure enables communities with a low socio-economic index to benefit from Government support of up to 100% of the cost of construction of day care centers. Further to GR No. 4193 (29.01.2012), more places have been offered to children of Arab women who are employed in part-time positions. For further information, see Annex I.

117. Additionally, Amendment No. 57 of the *Women's Employment Law* 5714-1954 enables the father to go on paid parental leave for a period of one (1) or more weeks (instead of a minimum of three (3) weeks). The purpose of this amendment is to encourage the exercise of this right by fathers, thus promoting greater involvement of fathers in raising their children. Furthermore, a father can take seven (7) days of parental leave simultaneously with his wife, and will be able to utilize them at any stage of the parental leave, according to the Law's provisions.

Article 23
Children with disabilities

Benefits for a disabled child

118. As a rule, children with specific disabilities and medical conditions are eligible for Disabled Children's Allowance. In some cases, the allowance can be received even from the age of three (3) months to assist the family in providing care to the child at home. Approximately 42,000 children receive disabled children's benefits through the NII.

119. The following significant amendments have been introduced in this field:

(a) In May 2018, an Amendment made to the *Arrangements Law* determined that an additional 26.09% of the General Disability Allowance will be paid to a child entitled to 188% of that allowance, and an additional 6.88% of the General Disability Allowance will be paid to a child entitled to 50% of that allowance.

(b) In July 2016, Amendment No. 2 to the *National Insurance Regulations (Disabled Child)* 5776-2016 entered into force. This Amendment adds new definitions to the categories defining children with various disabilities, while adding the category of "a child in need of regular medical treatment". The Amendment further states that children in this category are entitled to 50% of the General Disability Allowance.

(c) On July 25, 2016, Amendment No. 2 to the *National Insurance Regulations* 5770-2010 entered into force. It created a benefit for a child requiring "constant medical care". This is defined as a child who, according to doctor's instructions, is unable to attend an educational institution for at least three (3) days a week, for at least three (3) consecutive months. The amount of the benefit for special arrangements has been increased to an amount equal to 188% of the General Disability Allowance. For further information, see Annex I.

(d) On June 30, 2015, Amendment No. 2 to the *National Insurance Regulations (Disability Insurance) (Receiving Special Services)* 5739-1978 entered into force. This Amendment granted children with severe disabilities, completely dependent on the assistance of others, benefits equal to the maximum rate of the "special services" pension. This is given to approx. 5,400 children.

Out-of-home placement for children with disabilities

120. The vast majority of children with disabilities remain with their families and receive support and services in the community. Only about 2,100 children are treated in out-of-home care facilities. These are usually extreme cases, where their families are unable to cope with the child's complex needs, and therefore coming back to the family after placement in these facilities is rare. For further information, see Annex I.

Education of pupils with disabilities

121. On July 2, 2018, Amendment No. 11 to the *Special Education Law* 5758-1998 entered into force, as part of a large-scale reform in the special education system. The Amendment updates the scope of the authority granted to the local placement committees. According to the amended Law, the pupil's parents, after receiving all the relevant information, shall decide whether their child will be enrolled as a pupil in a general educational institution, or in an institution for special education. The placement committee has discretion to decide otherwise, in cases where there is substantial risk that the decision of the child's parents may severely harm his/her or others' wellbeing. If no preference was expressed by the parents, priority should be given to placing the child in a general educational system. Furthermore, the Law as amended stipulates explicitly and transparently the type of services to which the pupil with disabilities is entitled. Such services are provided based, *inter alia*, on the pupil's cognitive, emotional, lingual and social abilities.

122. In July 2018, the *Equal Rights Regulations (Individual Access Adjustments for Parent and Child)* 5768-2018 entered into force. These Regulations determine accessibility adjustments that pupils with disabilities are entitled to, and stipulates the educational institutions' obligations to perform them. For further information, see Annex I and Israel's Initial Report, p. 60–62, 83–85.

Article 24
The Right to health

The Early Childhood Council

123. In August 2017, the Knesset passed the *Early Childhood Council Law* 5777-2017, a new Law which directs the establishment of an Early Childhood Council. This Law aims to

further the care of infants and their physical and intellectual development, ensure their physical and mental health and the fulfillment of their educational, social, physical and emotional needs and to provide an appropriate environment which will enable them to enjoy equal rights in adulthood. The Council has been established and operates under the direction of the MoE.

Encouraging breastfeeding

124. The MoH promotes breastfeeding and recommends exclusive breastfeeding for the first six (6) months following birth and breastfeeding combined with supplementation until the infant is twelve (12) months old. For further information, see Annex I.

Child and maternal health

125. The "Possible and Healthy" ("Efshari-Bari") initiative aims to develop the well-being of toddlers by providing tools for improving the child-parent bond and for creating a family environment conducive to optimal parenting through a healthy lifestyle and attentive nourishment. The MoH and Joint Israel are leading this program based on an evidence-based model developed in the UK.

126. On the updated infant mortality rates, the efforts to decrease the rates in minority populations and vaccinations, see CESCR Annex I, p. 82–84.

Sexuality programs

127. The MoH offers annual lessons in schools on health issues which are relevant for children and youth, such as healthy lifestyles and nutrition, mental health, substance abuse and sexual health.

128. Furthermore, the MoLSAaSS participated in 2017-2018 in an inter-ministerial pilot concerning "education for healthy sexuality" which deals with the importance of access to information, contraceptive and treatment with respect to sexually transmitted diseases. For further information, see Annex I.

129. Note that girls and women up to the age of twenty (20) are provided with the option of purchasing contraceptives at a reduced rate as part of the subsidized medical services provided by the HMOs.

Sexual abuse and violence prevention

130. In addition to teaching content regarding healthy sexuality in the education system, on January of each year there is a week dedicated for prevention of sexual injury, in the schools which chose to participate. In recent years the focus is on normative sexuality and the line between normative sexuality and injury. The activities deal with questions about positive communication, consent, mutual relationship, etc.

131. The healthcare system has a national program for coping with violence, in cooperation with the MPS and the Police, which includes the operation of institutional committees for prevention of violence in all healthcare institutions. Trainings on these issues are held under the responsibility of MoH.

AIDS

132. From 1980 to 2016, there have been 324 reported cases of children, up to the age of seventeen (17), who are carriers of HIV. The majority of the cases are of children of Ethiopian descent. Some of the more recent cases are of asylum seekers and children with no legal status.

133. All children, regardless of their legal status, receive antiretroviral treatment and support at HIV clinics throughout the country.

134. Education in schools – schools discuss HIV/AIDS with pupils. Around the World AIDS Day, the MoE's Psychology and Counselling Service uploads updated material to its website, including recommended workshops. Community organizations, such as the Israel AIDS Task Force, deliver training in schools. For more information on prevention of

HIV/AIDS and support, see CESCR Periodic Report, p. 45–46. On the adequate and affordable access to safe water, see CESCR Periodic Report, p. 29–30 and Annex 1.

Article 26
Social security

Legislation amendments on child allowances and other financial assistance for children and their families

135. In March 2017, the *National Insurance Law* 5755-1955 was amended (Amendment No. 194) in order to add to the Law's definition of a 'child', persons who actively serve in national or community service and are under twenty-four (24) years old. According to the definition of the 'child' set in Section 238 of the *National Insurance Law*, a child is a person under the age of eighteen (18); a person under the age of twenty (20) who is enrolled in secondary school or in a pre-military preparatory school; or a person under the age of twenty-four (24) who actively serves in mandatory military service or serves in community or national service.

136. In February 2016, the Knesset enacted Amendment No. 169 to the *National Insurance Law*. The Amendment sets a uniform rate for the school funding grant allocated to children from the age of six (6) to eighteen (18), and replacing the previous arrangement.

137. In November 2015, the Knesset legislated Amendment No. 164 to the *National Insurance Law*, according to which each child is granted an additional monthly allowance in the sum of 50 NIS (14 USD) by the NII which is allocated to a special long-term savings account run by the NII under the child's name. The child shall receive his/her savings account upon reaching the age of 18 (with the parents' agreement), unless there is an urgent need justifying the withdrawal of the savings. However, incentives for the child to withdraw the savings at the age of 21 or later were also introduced, in order to encourage a wise use of the savings in his/her adult life. In addition, the parents of the child can designate another 50 NIS (14 USD) out of the regular monthly child allowance for this child's savings account. For further information, see Annex I.

138. For further information on the significant amendment on child benefits which include: uniform benefit, a minor convicted of security offenses, children in foster care, study grant, as well as other amendments on birth allowances, birth grants and maternity allowance, see CESCR Annex I, p. 34–35.

Article 27 (1–3)
Standard of living

Combating poverty

139. The MoH, the MoLSAaSS and the MoE marked the issue of developing poverty-awareness policy as a central goal in acting to reduce the economic gaps. The Ministries have been operating in order to reduce inequality and to provide specific response to socio-economically weaker populations.

140. The MoLSAaSS and the MoE added a budget to socio-economically weaker populations, thereby enabling narrowing social and educational gaps. In recent years, substantial parts of the resources added to the education system were differentially allotted while prioritizing the rural areas and the weaker social layers. For further information, see Annex I. For more information on the National Action Plan to Combat Poverty, see CESCR Annex I, p. 59–60.

Children and young adults at risk

141. On July 17, 2018, the Knesset approved Amendment No. 4 of the *Infants at Risk (Entitlement to Day Care) Law* 5760-2000. The aim of the Amendment is to improve and shorten the duration of the proceedings in cases of infants at-risk who are entitled to stay in day care. Furthermore, the Amendment expands the criteria for determining that an infant is

at risk, by allowing the consideration of written medical information stating that the infant suffers from abuse, or based on information relating to gambling addiction of one of the infant's parents. For further information, see Annex I.

Article 33
Measures to protect children from substance abuse

The Authority's activities on drug abuse prevention

142. In the course of 2018, the Authority formulated a program for prevention of violence and use of drugs and alcohol in local authorities.

143. The Authority replaced the National Anti-Drug Authority (IADA), the former body dealing with similar issues. The IADA participated in the development of services for treatment and rehabilitation of youth affected by drug abuse. For examples, see Annex I.

144. On August 13, 2013, the *Combating the Use of Dangerous Substances Phenomenon Law* 5773-2013, entered into force. This Law provides effective tools for the enforcement agencies to cope with the phenomenon of New Psychoactive Substances – NPS, that are not included in the *Dangerous Drugs Ordinance [New Version]* 5733-1973. This Law broadly defines a dangerous substance, grants the Police power to seize and destroy a dangerous substance, and enables the relevant bodies to temporarily declare a dangerous substance as prohibited for distribution. The Law also stipulates that manufacturing, sale, display for sale, import, export, supply, trade or any other transaction and possession with the intention of making one of the said actions for a substance prohibited for distribution is a criminal offense with three (3) years imprisonment; and a person giving or soliciting a minor to obtain substance prohibited for distribution is liable for five (5) years imprisonment. For further information, see Annex I.

Changes in the enforcement policy of self-consumption use of cannabis

145. On July 19, 2018, Israel enacted the *Dangerous Drugs (Special Fine Offense – Temporary Provision) Law* 5778-2018, which entered into force on April 1, 2019. The Law adopts a policy of gradual administrative sentencing and criminalization as a last resort on the offense of possession or use of cannabis for self-consumption. The Law stipulates that the model of fines, defined in the Law for the first and second cannabis possession or use offenses, will not apply to minors under 18 years old when committing the offense.

146. The Law also stipulates that the special fine offenses will be recorded in a separate Police system (the "Special Police Register") established for that purpose, and separated from the criminal records. The Special Police Register will be classified and no information from it will be provided unless according to the Law.

147. With respect to minors, the Law stipulates that the Special Police Register will include records of minors who committed an offense of possession or use of cannabis for self-consumption. Including such records will only be made under terms and circumstances determined by the Police, MPS and the MoJ in a protocol posted on the Police website. The special protocol for minors is expected to be published soon.

Educational programs for promoting healthy lifestyle and prevention of exposure of children to addictive substances

148. The MoE works together with the MoH as part of the national program "Possible and Healthy", setting a joint goal: by 2020, all education institutions, schools and kindergarten, will act as health promoters.

149. For details on these programs, pupils involved in drug abuse, and a MoE Youth Leadership Program, see Annex I and CESCR Annex I, p. 89–92.

IX. Education, leisure and cultural activities

Article 28
The Right to education

Legislation amendments

150. On October 2018, the Knesset legislated the *Supervision of Toddlers' Day Care Centers Law* 5768-2018, aimed to establish a legal framework for the operation of toddlers' day care centers, in order to protect the safety, rights and dignity of toddlers who are placed in these facilities. The Law defines the conditions required for obtaining a license for operating day care centers, the mechanisms for their supervision, and obligates the examination of the employees' criminal record and the safety of the facilities. Furthermore, the Law prohibits leaving a toddler without constant supervision during operating hours and imposes first aid training as a mandatory qualification for all employees. The Law provides numerous administrative enforcement tools and financial sanctions designed to encourage its application, and allows the Minister of LSAaSS to regulate the training, education and experience requirements of the staff working in the day care centers.

151. On July 16, 2018 the Knesset amended the *National Education Law* 5713-1953 (Amendment No. 17). According to the Law as amended, educating for a meaningful military or national civil service has been added to the purposes of the national education. Moreover, the Minister of Education is authorized to set regulations preventing the activity in education institutions of a person or body, which is not a part of the education system, if its activity is severely and substantially contrary to the purposes of national education, as detailed in Section 2 of the Law, or if it takes active legal or political measures outside of Israel against the Israel Defense Forces (IDF), regarding actions taken in the course of their line of duty, or against the State of Israel. Such regulations are yet to be introduced.

152. On August 7, 2017, the Knesset legislated the *Supervision over the Operation of Afternoon Child Care Centers Law* 5777-2017. This Law sets forth instructions regarding the supervision of afternoon child care facilities that are operated in educational institutions or by local authorities. The Law determines the conditions for the opening and operation of such facilities, as well as the required physical, safety and environmental conditions ensuring its proper operation, the requirements for the appointment and terms of employment of its employees, and the instructions regarding the services to be provided in these facilities.

153. On May 29, 2017, the Knesset legislated the *Supervision of the Prices of Public Summer Camps Law* 5767-2017. The Law stipulates that the Minister of Interior, after consultation with an advisory committee, is authorized to set a maximum price that a public summer camp can charge for the services it provides. "Public summer camp" is defined as a summer camp run by a public authority or anyone acting on its behalf, or operated in a public building or property. The Law applies to summer camps for children between the ages of three (3) years and seven (7) months to those starting the 7th grade, and contains provisions regarding the supervision of its implementation. For further information, see Annex I.

An action plan for the promotion of integration of pupils of Ethiopian descent

154. GR No. 324 (31.07. 15) adopted an action plan for the promotion of optimal integration of persons of Ethiopian descent in Israeli society. This plan includes, *inter alia*, the advancement of education, in many programs aimed to mitigate gaps and identify excelling pupils for further advancement. Specifically, the programs aim to elevate the grades of high-school pupils from Ethiopian descent on their matriculation certificate allowing them to advance to higher education. Such programs are executed in 35 local authorities and include over 10,000 pupils from Ethiopian descent. For further information, see Annex I.

Educational initiatives in the eastern neighborhoods of Jerusalem (ENoJ)

155. GR No. 3790 (13.04. 18) on the mitigation of the social and economic gaps and economic development of ENoJ, also addresses the education system in the ENoJ and establishes a sub-committee on education headed by the MoE DG, that is charged with

forming a plan to advance the education system. The goals set for the advancement of education in the ENoJ include: strengthening the Hebrew knowledge among pupils, advancing technological knowledge, broadening the non-formal sectors of education and creating incentives for adopting the Israeli education program. The educational plan that shall be formulated by the sub-committee, in accordance with this Resolution, shall set the goals of each educational institution, based on their unique characteristics.

156. In February 2018, the Jerusalem Municipality published a multi-annual operative plan for reducing the classroom gaps in Jerusalem during the next five (5)-year term, following the decision in H.C.J 6183/16 *Parents' Organization for the Education System v. The Ministry of Education*. This program presents the classroom construction data in the Jerusalem Municipality, the unique challenges in building classrooms in Jerusalem, the actions required for lessening the shortage in classrooms, including budget and increasing efficiency of governmental and municipal processes. The goal of the Jerusalem Municipality five (5) years program for 2018–2022 is to add approximately 5,000 classrooms and kindergartens to the existing classes in Jerusalem, almost half of them in the ENoJ (for the Arab population in Jerusalem (2,350 classes)). The total program budget is approximately 9.015 Billion NIS (2.516 Billion USD) (excluding existing budgetary designations at a sum of 400 Million NIS (111.6 Million USD)).The program's implementation is carried out in cooperation with the relevant Ministries, while allocating the required budgets, removing barriers and improving the process. In addition, the MoE has informed the Supreme Court that the criteria for the allocation of the construction budget to municipalities has been amended to address the need in further classrooms country-wide.

157. For more on the education in the ENoJ, see CESCR Annex I, p. 99–103, and Annexes I and II to the current report. For more information on the right to education: on dropout rates, see CESCR Report p. 48–58, on the national expenditure on education, see CESCR Report, p. 53–55.

Article 29
The aims of education

Special programs to promote education for democracy

158. The MoE conducts advanced professional courses on democracy, civil education and fighting racism for supervisors, principals, and school and kindergarten teachers, with a scope of approximately 2,300 hours every year.

159. Recently, a MoE DG Directive was published in order to encourage promotion of open discourse and freedom of speech for education professionals and pupils. For further information, see Annex I.

Prohibition on discrimination on the grounds of gender, sexual orientation or gender identity

160. On March 24, 2014, Amendment No. 4 to the *Pupil Rights Law* 5761-2000 was legislated by the Knesset. This Amendment added sexual orientation and gender identity to the list of grounds upon which discrimination of pupils is prohibited. On August 2015 a MoE DG Directive (No. 5775/12) was published on this issue.

161. The education system deals with eradication of gender discrimination and nurturing a pluralistic and tolerant approach towards the LGBTQ community throughout the year, as part of the "Life Skills" program. Each year on May the education system discusses the LGBTQ in the classrooms, and special educational materials are published on the issue.

The dissemination of nutritional principles

162. On August 7, 2014 the Knesset enacted the *Supervision on Food Quality and Proper Nutrition in Education Institutions Law* 5774-2014, which authorizes the Minister of Education to set terms and conditions regarding the food and nutritional values of foods sold in education institutions. The Law also requires food suppliers to publish the nutritional composition of foods sold within the institution. The *Supervision on Food Quality and*

Proper Nutrition in Afternoon Childcare Facilities Law 5777-2016, which was legislated in 2016, sets forth similar provisions regarding food served in afternoon childcare facilities.

163. As part of these efforts, in 2016 the Minister of Health appointed the Committee for Nutritional Regulation, headed by the DG of the MoH, in order to address unhealthy food consumption habits and to adopt additional policies, regulations and guidelines which promote healthy eating habits. For further information, see Annex I.

Article 30
Cultural rights of children belonging to minority groups

164. The MoCS runs many initiatives in order to promote the participation of children from a variety of populations in the Israeli society, in culture and sports activities. A number of sports projects for different populations were allocated a joint budget of more than 1.6 Million NIS (446,560 USD). An inter-ministerial program for the participation of persons with disabilities in sports was allocated a joint budget of 4.61 Million NIS (1.28 Million USD). For further information, see Annex I.

Sensitivity to cultural background of children

165. The MoLSAaSS is taking into consideration the sensitivity to children's culture in every decision concerning their treatment. This is manifested in all services: communal, regional or out-of-home. For example, the protection centers for child victims of sex or violence offenses are accommodated to the needs of the populations they serve: a center was established for the Arabic speaking population in the Galilee area, for the religious-Orthodox population in the Jerusalem area, and a unit inside it for Arabic speaking children in the ENoJ.

166. Furthermore, therapeutic solutions for children and youth who are victims of sexual abuse were established to accommodate various populations. The services are provided by the therapists with accommodation of the treatment language, treatment accessories and location of the therapeutic center.

167. Whenever the service is not designated to a specific population, there will be accommodation, if the needs of the children and families require it.

The Committee for the empowerment of the heritage of sephardi and mizrahi jews

168. This Committee was appointed in February 2016 in order to examine ways to enrich the national curriculum (especially in history and literature) regarding *Mizrachi* and *Sfaradic* Jewish culture. The recommendations, submitted in June 2016, included the recommendation to make the study of *Mizrahi and Sfaradic* history and culture compulsory in the Hebrew education system; creating an educational television series on the history of *Mizrahi and Sfaradic* culture; increasing research within humanity faculties; and establishing a *Mizrahi and Sfaradic* heritage museum.

Article 31
The right of the child to rest, play, leisure, recreation and cultural and artistic activities

169. There are approximately 8,075 sport facilities in Israel, such as gymnasiums, soccer fields, basketball courts and swimming pools, which are operated by localities, with partial funding by the MoCS, and the Sports Gambling Council. The MoCS also provides partial funding to children's theatres and youth dance schools which meet the relevant criteria.

Guidelines on the allocation of land for public use

170. The Planning Administration in the Ministry of Finance has published in 2016 Guidelines on the Allocation of Land for Public Use, which include allocation of land for purposes that especially benefit children and their wellbeing, such as: education institutions, community and youth centers, recreational and sport facilities, health facilities, welfare

facilities and outdoor areas. According to these Guidelines, some of the parameters that should be taken into account by localities when allocating land for such purposes include the age groups in the relevant population and their size, and needs, including children. The Guidelines also include detailed directions as to the planning and building of each type of facility including schools, such as its size, location etc.

X. Special protection measures

Article 22
Child refugees and asylum seekers

171. According to PIA, there are about 5,950 children in Israel whose parents are asylum seekers, or that submitted an asylum request.

Health services provided to asylum seekers, including children

172. A range of medical services are available to asylum seekers in Israel, as follows:

(a) Emergency medical treatment – According to the *Patient's Rights Law*, in medical emergency situations, any person, regardless of their legal status in Israel, is entitled to receive unconditional medical treatment in hospitals in the following situations: inpatient admission in emergency cases, including surgery (no advance payment required); termination of pregnancy for minors and rape victims (funded by the MoH); giving birth, including intensive care for premature babies (no advance payment required);

(b) Family health stations – These provide preventive medical services to infants, toddlers and pregnant women, including routine immunizations. The service is provided free of charge. The MoH grants the asylum seekers' population with a preventative medicine services basket that includes: growth and development monitoring of infants and toddlers, and routine vaccines in the family health stations. The service is provided free of charge. Most asylum seekers are located and receive treatment in Tel Aviv-Jaffa mother and child healthcare stations. In addition, some seek treatment such as family health stations in other areas;

(c) General medical services – The "*Terem*" Clinic, located in the new Tel Aviv-Jaffa central bus station provides medical services to asylum seekers and children. It is funded by the MoH and operated by *Terem* healthcare chain. The clinic provides primary medical services including doctor's examinations, laboratory and imaging services. It includes a volunteer clinic where specialist doctors offer their services. The clinic handles roughly 37,000 appointments annually;

(d) Mental health services – The "*Gesher*" clinic, based in Jaffa, provides mental health services, including psycho-social assistance and pharmacotherapy. The clinic operates nine (9) hours a week. So far, the clinic treated over 700 patients in a professional and culturally-adjusted manner, with recognition of the need to provide an appropriate solution to this population. The MoH has recently completed a tender process for the provision of mental health services to this population instead of the *Gesher* clinic, with an emphasis on accessible, high-quality and available treatment, for the first time, all across Israel;

(e) Treatment for venereal diseases – The "Levinsky Clinic" of the MoH in Tel Aviv-Jaffa operates under the auspices of the Tel Aviv-Jaffa city council. It was established in 2002 for the diagnosis and treatment of venereal diseases. Services are provided free of charge and anonymously regardless of age, gender or legal status. The clinic operates five (5) days a week at various hours and *inter alia*, it deals with primary prevention, and subsequently, promotes secondary prevention. About 50% of the patients are Israelis, about 30% are Eritrean and the rest are tourists, citizens of other countries with no official status or immigrants from the former Soviet Union;

(f) Treatment for the homeless and persons engaged in prostitution – In the framework of the "Levinsky Clinic", a mobile clinic provides services to the homeless and

to women engaged in prostitution. Several thousands of persons receive treatment by this clinic annually;

(g) The Sheba Medical Center – This hospital, situated near Tel Aviv-Jaffa, operates a clinic for the uninsured, focusing primarily on oncology;

(h) Health insurance to children under the age of eighteen (18) of migrants and foreign workers and unaccompanied minors – Parents are entitled to purchase healthcare insurance for their children (under the age of eighteen (18)) in 'Meuhedet' HMO, with a cost of 120 NIS (32.5 USD) per month for the first and second child. The MoH subsidizes the insurance by additional 160 NIS (43 USD) per month. From the third child onwards – the MoH pays the full monthly premium for that child. The insured children are eligible to full service basket, similar to Israeli residents, except for the eligibility for treatments abroad. Nearly 80% of the children of this population are insured. As of June 13, 2018, 8,118 previously uninsured children were registered for the 'Meuhedet' health insurance;

(i) Maternity insurance – A female foreign worker or the wife of a foreign worker employed in Israel is entitled to a hospitalization grant (a grant paid to the hospital where the birth occurred to cover hospitalization costs) and a birth grant (financed by the NII). These allowances are paid even if the mother is unemployed. The insurance terms are similar to those of Israeli residents, with two (2) additional provisions – that the birth took place in Israel and that the mother or her spouse have at least six (6) consecutive months of employment in Israel (Section 40(a)(2) of the *National Insurance Law*). A female foreign worker who has been employed for the minimum period in Israel is also entitled to maternity allowance, under similar terms to those required of an Israeli resident.

(j) Health care to victims of trafficking – The shelters for victims of trafficking continue to provide medical care, psycho-social care and rehabilitation services. In addition, the MoH also funds an annual budget of approximately 3 Million NIS (837,300 USD) for healthcare services that are given to victims of trafficking in hospitals (visits to ICU, external clinics and hospitalization, pregnancy monitoring etc.). For further information, see Annex I.

Social rights of child asylum seekers

173. Education – *The Compulsory Education Law* 5709-1949 applies to every child residing in Israel, including children of asylum seekers. According to MoE data, all children of foreign workers and asylum seekers in Israel between the ages of three (3) and eighteen (18) are integrated into kindergartens and schools.

174. Childcare Support – According to recent assessments there are approximately 85 unsupervised private kindergartens ("babysitters") in Tel-Aviv Jaffa, a decrease of about 100 such kindergartens from previous assessments. Approximately 1,800 infants and toddlers attend these kindergartens until 15:00, while in the afternoon several hundred children above the age of three (3) join them. On April 8, 2015, the Government approved Resolution No. 2487, providing additional childcare support services in Tel Aviv-Jaffa for infants and toddlers of parents without legal status. The Government allocated a budget of 14 Million NIS (3.8 Million USD) per year for four (4) years (April 2015-March 2019) for this purpose. This Resolution also set standards for operating the day care centres and stipulates MoLSAaSS supervision over them.

175. As of 2018, approximately 700 infants and toddlers of parents without legal status are enrolled in day care centres operated by non-profit organizations, which receive funding from the Tel Aviv-Jaffa Municipality pursuant to GR No. 2487 (08.04.15). The Social Services Department in the Tel Aviv-Jaffa Municipality, "Mesila", also provides a number of afterschool facilities for children and operates parenting programs. The current assessment is that these efforts will enable approximately 1,100 infants and toddlers to attend appropriate facilities.

176. Children at risk – According to the MoLSSaSS DG Directive No. 100 for at-risk children and their families, all at-risk children regardless of their status, and their family's status, have access to all services as is provided to any minor with civil status. As part of this initiative, 5 Million NIS (approximately 1.38 Million USD) are allocated every year for community-based solutions for these children and their families. Additionally, in 2019 ten

(10) new social workers positions were opened in local authorities with high concentrations of migrants who may not be returned to their countries of origin in order to provide rehabilitation, support, and assistance to this population.

177. In 2018, the Tel Aviv-Jaffa Municipality treated 2,234 children and their families through the provision of emotional therapy, support groups, afterschool programs and parental training. In addition to individual therapy, group solutions are provided to both women and men on family health, family planning and relationships.

178. In addition, in Tel-Aviv-Jaffa and in some of the district authorities, MoLASaSS provides material assistance in addition to donations of food, diapers and infant formula.

179. Domestic abuse of migrant women – According to current procedures, the Police convene a meeting every six (6) months with officials from MoLASaSS and local authorities to discuss opportunities for cooperation and individual cases related to the management of domestic violence against migrant women. The last meeting was convened on July 9, 2019. Cooperation between the Police and the Local Authorities has proven successful and new therapeutic programs and frameworks have been established to protect vulnerable women and their children.

180. Furthermore, in order to facilitate the reintegration of these women back into the community following their treatment in the Ministry's shelters, a system of half-way houses where they can reside for an additional six (6) months at which they continue to receive assistance from a social worker was established. In 2018, twenty-four (24) migrant women were offered protection in the Ministry's shelters for battered women.

Inter-ministerial committee reviewing the social rights granted to migrants who may not be returned to their countries of origin

181. In August 2017, an Inter-Ministerial Committee reviewing the social rights granted in Israel to migrants who may not be returned to their countries of origin was established, at the request of the Attorney General. The Inter-ministerial Committee, headed by the DG of PIA, included representatives of the relevant Ministries: MoLSAaSS, MoH, MoJ, MoI, the Ministry of Finance and the Ministry of Construction and Housing. The Committee's main purpose was to examine the possibility of providing social, welfare and health services to migrants who may not be returned to their countries of origin.

182. In July 2018, the Committee submitted its recommendations to the Ministers of LSAaSS and of Interior for examination. On February 28, 2019, the Minister of LSAaSS adopted the recommendations of the Committee concerning his Ministry. As part of this decision, the Minister ordered a partial provision of welfare services to migrants who may not be returned to their countries of origin in need of out-of-home placements: victims of domestic violence, persons with disabilities and persons in street situations. The budget allocated for this is 36 Million NIS (10 Million USD) (out of which 20 Million NIS (5.5 Million USD) is allocated to the MoLSAaSS). As part of these services, a special program was set up in order to provide various welfare services for child migrants at risk who may not be returned to their countries of origin.

183. A petition on this issue was filed to the HCJ and is pending (H.C.J. 8907/16 *Assaf – Aid Organization for Refugees and Asylum Seekers in Israel v. The Minister of Labor, Social Affairs and Social Services* (pending)). In March 2019, the Government informed the Supreme Court that the Minister of LSAaSS agrees to the Inter-Ministerial Committee's recommendations to allocate funds (approx. 30 Million NIS (8.33 Million USD)) to secure social rights for certain groups of migrants who may not be returned to their countries of origin. Most recently (July 2019), the Government informed the Supreme Court that it is looking into alternatives for purchasing a designated health insurance for migrants who may not be returned to their countries of origin, i.e., purchasing existing insurance packages for them or providing them with medical services through a different arrangement.

Article 32
Economic exploitation, including child labor

Protection of employed youth

184. On July 29, 2018, the *Youth Employment (Prohibited and Restricted Employment) Regulations* 5756-1995 were amended. These Regulations set a list of types of work in which it is prohibited to employ youth. This Amendment adds an overall prohibition on employment of youth in construction work (including work at construction sites), except for cases where the youth is employed as part of an internship or professional training.

185. Furthermore, a number of legislative amendments have been made to the *Youth Employment Law* 5713-1953, for example, a 2016 Amendment to the Law requires employers to refrain from employing youth until their identity card, or that of their parents that includes their details, has been shown to them (Section 27H(a)). This Amendment also redefined the term "medical certificate" so as to ensure that it includes only information concerning the youth's fitness to work, in order to protect the youth's privacy (Section 8(c)). Further Amendments are stipulated in CESCR Annex I, p. 47–49.

Children in street situations

186. The MoLSAaSS operates identification programs, field work and outreach to identify adolescents in distress, loitering and in extreme risk with the purpose of building trust and creating motivation to receive solutions. The Ministry also operates eight (8) shelters providing accommodation adolescents who have no families or are not in contact with their families. Furthermore, there are open centers within the community designated for adolescents at risk, danger and disengagements spectrum who dropped out of the education institutions.

Article 35
Child sale, trafficking and abduction

Reducing the purchase of sexual services

187. An inter-ministerial committee, headed by the DG of the MoJ was appointed in 2016 in order to review and provide recommendations of policy measures to reduce the purchase of sexual services.

188. The committee was comprised of leading representatives from various ministries and agencies: the Police, the MoJ, MPS, MoE, MoLSAaSS, MoH, Finance, Social Equality, and the Prime Minister's Office. The committee held many sessions in 2016-2017 and heard various experts, NGOs, academics, and Knesset members. It also visited commercial sex venues and rehabilitation programs, and met with women in prostitution.

189. The committee found that there is basis for justifying the criminalization of clients of prostitution, but that the decision must ultimately be taken by the legislator, and recommended that if the Knesset chooses to criminalize prostitution, certain guidelines should be taken into account as to the legislative model. The committee's report also includes comprehensive recommendations in the various fields covered by the teams, e.g., education, treatment and rehabilitation, alongside the criminal aspect, based on the conception that the reduction of the purchase of sexual services can only be achieved through the combination of those three (3) elements. In addition, the report addressed the link between prostitution and trafficking in persons.

190. In August 2018, following the recommendations of the above-mentioned inter-ministerial committee, a team headed by the MoJ DG was established in order to examine possible alternatives for the implementation of the committee's recommendations. In December 2018, the team concluded its work and adopted an implementation program, which was included in GR No. 4462 (13.1.2019). The Resolution addresses the rehabilitation, treatment and education aspects, while the enforcement aspect will be addressed by the Police.

191. On December 31, 2018, the Knesset legislated the *Prohibition of Consumption of Prostitution Services Law (Temporary Provision)* 5779-2018, which prohibits the consumption of sexual services. The Law was legislated as part of the ongoing efforts of the State to reduce prostitution and provide assistance and rehabilitation to persons in prostitution. According to the Law, the offense of consumption of prostitution services, which includes the presence in a location which is used for prostitution, is an administrative offense that can be fined for 2,000 NIS (540 USD) for first time offenders and double the sum for repeat offenders. According to the Law, he/she who is present in a location which is principally used for prostitution will be seen as being there for the purpose of consumption of such services, unless proven otherwise. Nevertheless, the Law authorizes the State Attorney's Office to indict an offender, in which case the court could impose a fine of up to 75,300 NIS (20,350 USD). The Law further enables the Minister of Justice to set alternative penalties to fines within the Law's Regulations, by means of indictment. The Law will come into force in 2020 for a period of five (5) years. Its extension will be determined in accordance with research on its effects. In addition, the Ministers of Public Security and of LSASS will conduct periodic reviews of its implementation and the overall progress of the efforts to reduce consumption of prostitution. For further information, see Annex I.

Legal proceedings

192. In 2017 the MPS and the Police took initiatives to improve the available mechanisms to address the prostitution of minors. A main goal defined by the Police for 2018 was the implementation of treatment of minors who are exploited in prostitution and encouraging the opening of additional investigations.

193. Steps taken in recent years include: a letter from the State Attorney to the Head of the Investigations and Intelligence Division, reiterating the need to enhance enforcement efforts and make them a priority; meetings between the Prosecution and the Police representatives and the Office of the National Anti-Trafficking Coordinator (NATU) in order to examine the existing difficulties and explore other possible courses of action; the SAO examined investigation files where an indictment was not filed in relation to drawing conclusions and a forward-looking examination. For further information, see Annex I.

Article 36
Other forms of exploitation

Domestic violence

194. Each year during December the "Combatting Domestic Violence Week" takes place and the MoE publishes in the relevant website materials for teachers and educational staff. The issue is discussed during the domestic violence week and throughout the year as part of the "Life Skills program" provided to the pupils in the Education system. In 2015, a booklet translated into Arabic titled: "Friendship and intimate relationship without violence" was published among education staff in the Arab and Bedouin populations, as part of a recommended program for grades 10–11.

195. There are many steps taken by the Police in order to protect victims of domestic violence, including children, such as, *inter alia*, the establishment of family matters units in sixteen (16) police stations throughout the country in September 2019. Police officers who are social workers are placed in these units, in order to assess the damage caused to the entire family, while putting an emphasis on the post-traumatic treatment aspect. For further information, see CEDAW Report, p. 18–20 and Annex I, p. 20–22 and CESCR Report Annex I, p. 43–44.

Article 37 (b)–(d)
The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

Indictment and testimony of children in sex or violence cases

196. On July 24, 2017, the Knesset enacted Amendment No. 17 to the *Evidence Procedure Revision (Protection of Children) Law* 5715-1955. This Amendment aims to facilitate the testimony of children under the age of fourteen (14) in regards to offenses to which the *Evidence Procedure Revision (Protection of Children) Law* applies, such as sex and violence offences and related offences. According to the Amendment, procedures in which children testify shall be prioritized, a juvenile interrogator shall be present when the child testifies, cross-examination shall only be performed by advocate defense attorney and a waiting room shall be designated for the testifying child. In addition, the court shall hear the child's testimony in consecutive sessions, limit the duration of the cross-examination and set out the procedure in order to ensure that the examination is comprehensible to the child.

197. Following this Amendment, on August 21, 2017, the President of the Supreme Court published a Directive on the Procedures regarding the Testimony of Children in Courts (Directive 1-17). The application of the Directive was extended to include all children under the age of eighteen (18) who are victims of the offenses stipulated in the *Evidence Procedure Revision (Protection of Children) Law*. According to the Directive, the child's testimony must be heard within 90 days from the day the indictment is filed; the court shall ensure that there is no interaction between the child and the suspect; the hearing in which a child testifies shall be scheduled as the first hearing on that day; and the child's testimony shall be given in one (1) day, or if that is not possible, in consecutive days, insofar as the best interests of the child so require.

198. Accordingly, the State Attorney published Guideline No. 6.13 (9.5.18) on the "Indictment and Testimony of Children in Sex or Violence Cases in which the Crime Victim, or a Major Witness is a Child". This Guideline deals primarily with setting shorter timeframes for the procedures in cases in which a child is involved, such as the filing of indictments, prioritizing such cases and hearing the child at the earliest convenience. This Guideline applies to children under the age of fourteen (14). However, efforts are made by the SAO to widen its scope to all children, on the basis of the aforementioned Directive of the Supreme Court on the matter.

Regulations for the evidence procedure revision (children protection)

199. *On* September 27, 2018 *The Regulations for the Evidence Procedure Revision (Children Protection (Wording of the Notification of Rights to a Minor Suspect Prior to an Investigation))* 5778-2018 entered into force. According to these Regulations, minors who are suspects must be informed of their rights prior to their questioning and investigation: the right to remain silent, to consult with a lawyer in private prior to the investigation, to be represented by the Public Defender Office (PDO), to inform their parents on the investigation, and to request that one of the parents will be present at the investigation. In cases where it is decided according to the law to postpone the realization of some of these rights, the juvenile investigator must inform the minor. The Regulations include the specific wording the juvenile investigator shall use when informing the minor of his/her rights.

Representation of minors in legal proceedings by the PDO

200. Amendment No. 14 to the *Youth Law* amended *The Public Defenders Office Law* (July 30, 2008), entitling minors to legal representation in criminal proceedings by the PDO. For further information, see Annex I.

Minors in IPS detention facilities

201. The IPS is committed to fulfilling all of the needs of minors held in its facilities, including their basic needs: security, physical and mental protection, and nutritional needs in accordance with their developmental stage.

202. Education – Minors under the authority of the IPS are integrated into educational frameworks inside the prison, in order to complete their education, and take external tests and complete ten (10) and twelve (12) school years, depending on the period of their imprisonment. Minors with ADHD are offered special individual programs at the ADHD Center that has been operating since 2018 at the Ofek Prison.

203. Relationship with the Families – The IPS strives to strengthen the relationship with the minor prisoners' families and to turn them into an involved and supporting part of the minors' rehabilitation process, keeping in mind the long-term best interests of the minor. For further information, see Annex I.

Article 38
Children in armed conflicts

204. Over the past two decades, and in particular during the conflicts that took place in the Gaza Strip, children were especially vulnerable. During the 2014 Gaza Conflict, which lasted for 50 days, all residents living within 40 kilometers of the Gaza Strip were instructed to remain close to protected areas. Children living within a range of up to seven (7) kilometers from the Gaza Strip often remained in bomb shelters for the entire day in order to ensure they would not be in open areas during a rocket or mortar attack.

205. A study conducted throughout ten (10) years by the Israel Psych trauma Center at the Herzog Hospital in Jerusalem, which was published by Ynetnews in 2014 (based on findings prior to the 2014 Gaza Conflict), demonstrated the long-term effects of the constant rocket threat, as more than 70% of the children suffering from behavioral and emotional problems in 2004 as a result of rocket and mortar attacks continued to display such symptoms in 2011. Moreover, the study found that the rate of aggressive behavior displayed by children in southern Israel was three (3) times higher than in the general population.[2]

Article 40
Children in conflict with the law, and administration of juvenile justice

Inter-ministerial committee on minors recidivism

206. In September 2017, the Minister of Justice appointed an inter-ministerial committee to review the release of minors from detention, due to the high recidivism rates among minors released from detention (75% as opposed to 41% for adults). The inter-ministerial committee published its report in December 2017 and it was subsequently adopted by the GR No. 3711 (25.3.18), establishing a steering committee to determine which of the inter-ministerial committee's recommendations would be implemented immediately.

207. The Inter-ministerial Committee focused its work on the causes of recidivism among minors released from detention and an appropriate working strategy to decrease the current rates. The committee was composed of three (3) teams that dealt with the continuity of the treatment of minors, the release process of minors and the rehabilitation of minors.

208. The inter-ministerial committee found that overall, due to the short detention periods and subsequent short paroles, there are significant time constraints which limit the necessary rehabilitation assistance available to minors, aggravated by a general negative attitude of minors towards rehabilitation programs. Only a small number of the minors are released with a rehabilitation plan and most minors who are referred to out-of-home facilities do not stay there. For further information, see Annex I.

Head of Juvenile Justice (HJJ) and an Inter-ministerial coordinator (IMC) at the MoJ

209. In 2017, a new position for a HJJ was established in the SAO. This role includes instructing State Attorneys at the national level regarding juvenile justice and improving the measure of expertise in the field. The HJJ heads the National Youth Forum, which is

[2] https://www.ynet.co.il/articles/0,7340,L-4555927,00.html.

composed of representatives from the District Attorneys' Offices and the relevant law enforcement and welfare bodies and is in charge of reviewing juvenile justice issues and implementing its principles. In 2018 and 2019 the HJJ conducted a seminar on children in conflict with the law for State Attorneys who are involved in decisions regarding arrest and the sentence of minors.

210. In 2018 an IMC was appointed in the MoJ for preventing children from coming into conflict with the law, pursuant to GR No. 1840 (11.08. 16). The functions of the IMC include holding consultations between the relevant professionals, holding training sessions, maintaining cooperation with NGOs and promoting projects and research in the field. The IMC is responsible for coordinating the activity of the Government bodies dealing with children in conflict with the law, with the main purpose of promoting the continuity of treatment and with a focus on prevention. The emphasis on prevention is based on the recognition that an early treatment which provides minors with the support system adjusted for their specific needs is proven to be the most effective long-term system to deal with minors in conflict with the law. Recently, the IMC established a youth forum in the MoJ for officials in the Ministry whose work effects youth, such as from the SAO and the PDO. For further information, see Annex I.

Restorative justice: Alternative models to the criminal proceeding

211. The Youth Probation Service in MoLSAaSS has developed, together with the Police, the MPS and the MoJ programs based on the principles of restorative justice. These programs are based on the restorative justice approach and serve as an alternative or supplement to the criminal proceedings, based on the premise that criminal proceedings alone do not suffice for coping with perpetrators and victims who are minors. For further information, see Annex I.

Minors and terrorism

212. Israel faces a complex and difficult reality of ongoing terrorism. Unfortunately, serious offenses have been committed by minors, including minors aged 13 and 14, and on occasion, the victims of these crimes have been minors themselves. Some measures were adopted in order to counter the recent wave of terrorism.

Amendments to the youth law

213. During the recent wave of terrorism, there has been an increase in the phenomenon of stone violence (e.g. throwing stones on cars, buses, pedestrians, and policemen), oftentimes by minors. Due to the serious nature of this kind of violence, which can result in grave damage to life and limb, offenders are often remanded to custody. However, it is common for offenders who are minors to be released on bail during the legal proceedings, in many instances with the agreement of the State.

214. For example, the *Youth Law* was amended to extend the court's power to impose a fine on the parents of a minor, in lieu of a criminal conviction, in order to include the power to impose such a fine even if the minor was convicted. In addition, a 2016 amendment established the possibility of sentencing a minor under the age of 14 to a prison sentence, on the condition that she/he be held in a children's facility rather than a prison until she/he reaches the age of 14. At the age of 14, the court may order her/his transfer to a prison, after considering the circumstances of the case, the effect of the prison on the minor, his/her age at the time of the offense and his/her personal circumstances.

The offense of stone-throwing

215. In addition, a parallel amendment was made to the *National Insurance (Consolidated Version) Law* 5755-1995, regarding a minor convicted of a security offense (as defined in the *Counter-Terrorism Law*) or of the offense of stone-throwing (as defined in the *Penal Law*) when committed with a nationalistic motive or in connection with terrorist activity, and sentenced to imprisonment. According to the Amendment, the parents of the minor are not eligible to receive NII payments which relate to the minor for the period of her/his imprisonment. These payments amount, on average, to about 160-200 NIS (44–54 USD) per

month. During this time, the needs of the minor, as of all prisoners, are fully supplied by the State.

XI. Follow-up to the Optional Protocol to the Convention on the rights of the child on the sale of children, child prostitution and pornography (CRC-OPSC)

The protection of children victims of trafficking or children of victims

216. The Government of Israel provides three (3) fundamental types of services to assist victims of trafficking in persons: medical care, legal aid and shelters. None of the services are contingent upon cooperation with law enforcement. In addition, the Government provides victims of trafficking special visas allowing them to work if they meet certain criteria.

217. Generally, the NATU, headed by the National Coordinator, is the primary government agency to coordinate anti-trafficking efforts on a national scale. The NATU was established according to a 2006 GR and it operates independently, under the MoJ. All Government agencies take an active part in anti-trafficking efforts, and the NATU is the leading Government agency which performs the overview functions in the realms of prosecution, protection and prevention. The NATU serves both as a coordination body and as a leader in policy development. Its mission is to promote cooperation between all relevant government authorities and also to serve as a bridge between Government authorities and non-Governmental organizations, as well as with relevant international bodies. For further information, see Annex I.

Sex tourism involving children

218. The Ministry of Tourism has taken action to tackle the issue of sex tourism within Israel as well as raise awareness on the subject within the tourism industry. For example, the Ministry encouraged several organizations in the tourism industry to join the Global Code for Ethics and led to the signing of the Code by the Travel Agents' Association.

219. Close cooperation is maintained on this issue with PIA, whose border control officers are on high alert for this sensitive issue, and will not admit a minor into Israel before confirming their reason for arrival. If there is suspicion of an illegal purpose, entry is refused, and PIA will, in most cases, notify the Ministry of Foreign Affairs, so that the relevant consul may be informed and legal follow-up be taken, if necessary. For further information, see Annex I.

Indictments and convictions on crimes in the additional protocol

220. The SAO gives special emphasis to those cases in which the victims of crime are minors, due to their particular severity. For further information, see Annex I.

International cooperation for the prevention, exposure and punishment of the crimes in the additional protocol

221. Israel takes an active part in the Global Alliance Against Child Sexual Abuse Online by the European Commission and the US, aimed to raise standards worldwide and unite efforts around the world to more effectively combat online sexual crimes against children.

222. Further international cooperation between police bodies and the MoJ in various countries in the world is taking place through the NCOPB headed by the MPS, as stipulated in Article 17. For further information, see Annex I.

Trainings and education on the CRC-OPSC

223. In the Education System – The Psychological Counseling Service in the MoE operates a unit that focuses on sex education and the prevention of sexual assault. The Unit operates several programs aimed to prevent trafficking in persons and prostitution. Lesson plans are adapted for pupils in high schools, regarding dangerous sexual behavior and the involvement in prostitution, both as being exploited in prostitution or as consumers of prostitution. The

unit also develops guidelines for educators in order to aid them in the identification of pupils in distress, including those who engage in prostitution.

224. Trainings of Police Officers – In 2017, a seminar was held in the Ben Gurion University, in which 130 officers were trained on the topic of prostitution of minors. The purpose of the seminar was to enhance the cooperation, as well as recognition and treatment of this phenomenon. The seminar included officers from different Police departments, which were given lectures by the SAO, MoLSAaSS, MPS, the Police and "Elem" NGO.

Cooperation between the civil society and the government

225. Israel continues to encourage fruitful cooperation between NGOs and enforcement authorities. For example, a joint work protocol is being formulated with the aim of tackling the prostitution of minors. An additional cooperation led to the formulation of an information leaflet "Take note" on identifying victims of trafficking.

XII. Follow-up to the Optional Protocol to the Convention on the rights of the child on the involvement of children in armed conflict (CRC-OPAC)

The number of recruits of minors

226. As mentioned in the Initial Report of Israel on the implementation of the CRC-OP-AC submitted in 2008, and in accordance with the Israeli Declaration upon its ratification of the Optional Protocol, persons aged 17–18, who volunteer for early military service, on their own initiative, pursuant to their written request, and according to the provisions declared by the State of Israel, are limited to military training until they reach the age of eighteen (18), and do not take a direct part in combat duty.

227. The number of recruits of minors under the age of eighteen (18) during 2014–2018 was 1,092. The majority of these recruits are enrolled in military preparatory schools and programs for which they are required to undergo a one-day administrative induction into the armed forces for administrative purposes, while the rest of their military service is postponed. Moreover, the number of minor-recruits who are recruited to a combat unit out of the overall number of minor-recruits is only 50, and is in decline. The number of minor-recruits to combat units, was 22 in 2014 and five (5) in 2017.

Schools operated by or under the auspices of the IDF

228. The IDF has several schools and programs designated for youths aged 13.5-18, where specific professional and military professions are taught. Some schools operate as boarding schools, and some as daily schools. Enrollment in IDF operated schools is voluntary and pupils are allowed to quit these schools at any time they so desire. For further information, see Annex I.

The control of defense export

229. The control of defense export in Israel is regulated by the *Defense Export Control Law* 5766-2007, according to which export of defense and items of dual use which are intended for military use, are subject to licensing by the Ministry of Defense according to control lists. The decisions regarding defense export licenses are made in accordance with the defense export policy of the State. In the framework of this policy, many considerations are taken into account, including the implementation of human rights in the destination state and the recruitment of children and their involvement in armed conflicts.

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Committee on the Rights of the Child

Concluding observations on the initial report of the State of Palestine*

I. Introduction

1. The Committee considered the initial report of the State of Palestine (CRC/C/PSE/1) at its 2444th and 2445th meetings (see CRC/C/SR.2444 and 2445), held on 28 and 29 January 2020, and adopted the present concluding observations at its 2460th meeting, held on 7 February 2020.

2. The Committee welcomes the submission of the initial report of the State party and the written replies to the list of issues (CRC/C/PSE/RQ/1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the progress made by the State party in various areas, in particular its accession to the Optional Protocol to the Convention on the Rights of the Child on a communication procedure, to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and to the Optional Protocol to the Convention on the Rights of Persons with Disabilities, all on 10 April 2019, and its accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 18 March 2019. The Committee notes with appreciation the adoption of Decree-Law No. 4 of 2016 on the protection of Palestinian juveniles and of Decree-Law No. 8 of 2017 on public education, which stipulates the adoption of a policy on inclusive education. The Committee further welcomes the significant progress in the vaccination coverage of children and the high number of births attended by skilled health personnel.

III. Factors and difficulties impeding the implementation of the Convention

4. The Committee recognizes that the ongoing Israeli occupation of the territory of the State party, its building of new settlements and blockade of the Gaza Strip constitute a serious obstacle to the implementation of the rights enshrined in the Convention and lead to

* Adopted by the Committee at its eighty-third session (20 January–7 February 2020).

grave violations of children's rights, such as excessive use of force and abuse by Israeli security forces, including in the context of demonstrations and clashes, restrictions on children's freedom of movement, displacement, house demolitions and illegal settlements, arbitrary detention, ill-treatment, attacks on schools and hospitals, and denial of access to humanitarian aid. The Committee recalls the obligations of Israel, as the occupying Power, under international humanitarian law and international human rights law. It recognizes that the above-mentioned challenges limit the State party's effective control of its own territory and its possibilities to ensure children's rights. However, the Committee notes that the Convention is applicable in the entire territory of the State party. In this regard, the Committee regrets the State party's limited progress in resolving internal political issues that negatively affect children's rights and contribute to the political and geographic fragmentation in the State party. It notes that, owing to this fragmentation, children are subject to multiple legal systems that impede the full realization of their rights under the Convention.

IV. Main areas of concern and recommendations

5. **The Committee recommends that the State party ensure the realization of children's rights in accordance with the Convention, the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography throughout the process of implementing the 2030 Agenda for Sustainable Development. It also urges the State party to ensure the meaningful participation of children in the design and implementation of policies and programmes aimed at achieving all 17 Sustainable Development Goals as far as they concern children.**

A. General measures of implementation (arts. 4, 42 and 44 (6))

Legal status of the Convention

6. The Committee notes that the Convention and other international human rights treaties take precedence over national legislation after their official publication in the official gazette and incorporation into national law, according to decisions No. 4 (2017) of 19 November 2017 and No. 5 (2017) of 12 March 2018 of the Supreme Constitutional Court. The Committee is, however, concerned that, according to the Supreme Constitutional Court, the application of provisions of international treaties is dependent on their conformity with "the national, religious and cultural identity of the Arab Palestinian population".

7. **The Committee recommends that the State party:**

(a) **Expedite the implementation of the ministerial decision of 13 January 2020 to publish the Convention in the official gazette and to equally do so for other international human rights treaties;**

(b) **Take all other steps necessary for the incorporation of international human rights treaties into national law and their full application in the State party;**

(c) **Ensure that the interpretation of the Supreme Constitutional Court in its decisions No. 4 (2017) and No. 5 (2017) does not prevent the enjoyment of children of all rights enshrined in the Convention and in other international human rights treaties, ensuring primacy of the Convention over national legislation.**

Legislation

8. While welcoming the Palestinian Children's Act No. 7 of 2004, amended in 2012, and the establishment of a committee mandated to harmonize national legislation with international treaties in 2017, the Committee is seriously concerned that:

(a) The Palestinian Legislative Council was dissolved by the Supreme Constitutional Court in its decision No. 10 (2018), and that since the Council's suspension

in 2006, the State party legislates by decree-laws issued by the President, which are not recognized and applied in the Gaza Strip, leading to multiple sets of laws with varying degrees of protection;

(b) The Legal Harmonization Committee only reviewed selected legislation and that no mechanism and timeline have been established to fully harmonize national legislation with the Convention;

(c) There is no information on the timeline to review and adopt a number of draft laws, including the Decree-Law on family protection and the Decree-Law on the rights of persons with disabilities.

9. **The Committee urges the State party to:**

(a) **Expeditiously schedule and organize national elections, including for the Palestinian Legislative Council, and ensure the recognition, harmonization and enforcement of child-related national legislation in all parts of the State party;**

(b) **Conduct a comprehensive review to fully harmonize its existing legislation with the principles and provisions of the Convention;**

(c) **Expedite the adoption of pending child-related legislation.**

Comprehensive policy and strategy

10. The Committee notes the adoption of a strategic plan for the protection of children (2018–2022), the National Policy Agenda (2017–2022) and sectoral strategies on early childhood, education, health and juvenile justice, and also notes the ongoing review of the National Policy Agenda and sectoral strategies. However, the Committee is concerned that the State party has not:

(a) Adopted an overall policy on children's rights, with a strategy and budgeted action plan;

(b) Allocated the required resources to implement and regularly monitor relevant strategies and policies.

11. **The Committee recommends that the State party:**

(a) **Prepare a comprehensive policy on children that encompasses all areas covered by the Convention and continue its efforts to revise existing policies and strategies;**

(b) **Develop a comprehensive implementation strategy for an overall policy and sectoral strategies, and a mechanism for monitoring and evaluation, supported by sufficient human, technical and financial resources.**

Allocation of resources

12. The Committee notes the limited financial resources of the State party in the context of the Israeli occupation and its blockade of the Gaza Strip, and the State party's reliance on decreasing international financial support. Nevertheless, the Committee is concerned that the preparation, approval, execution and monitoring of budgets lacks a child-rights perspective and the participation of civil society and children.

13. **Recalling its general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee recommends that the State party:**

(a) **Utilize a child-rights approach in the budgeting process by including specific indicators and a tracking system for the allocation and use of resources for children throughout the budget and in relevant sectors and agencies;**

(b) **Use this tracking system for assessment of how investments in any sector could serve the best interests of the child, ensuring the full participation of civil society and children in budget-related processes.**

Data collection

14. The Committee notes the work of the Palestinian Central Bureau of Statistics, but remains concerned that disaggregated statistical data on children's rights is not collected for all areas covered by the Convention and the Optional Protocols and is not sufficiently used in decision-making processes.

15. **The Committee recommends that the State party ensure that statistical data and indicators cover all areas of the Convention, are disaggregated by age, sex, ethnic and national origin, urban or rural area, geographic location, and disability, refugee and socioeconomic status, and that they are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention.**

Cooperation with civil society

16. The Committee notes the formal cooperation agreements established by the State party with civil society organizations working in the area of children's rights, but it is concerned that, according to information received, there have been cases of harassment and arbitrary detention of human rights defenders and civil society representatives working on children's rights in both the West Bank and the Gaza Strip.

17. **The Committee reminds the State party of the important role of independent civil society organizations and human rights defenders in promoting the human rights of children, and urges the State party to promptly and thoroughly investigate any cases of violence committed against human rights defenders and civil society representatives working on children's rights.**

B. Definition of the child (art. 1)

18. Noting that the Personal Status Law, amended on 21 October 2019, increases the minimum age of marriage for girls and boys to 18 years, the Committee remains seriously concerned that the amended article 5 of the Law stipulates that sharia courts and other religious authorities may allow exceptions to the minimum age of marriage.

19. **The Committee urges the State party to amend and harmonize its legislation to remove all exceptions that allow marriage under the age of 18 years.**

C. General principles (arts. 2, 3, 6 and 12)

Non-discrimination

20. The Committee remains deeply concerned about persistent de facto discrimination against some groups of children, particularly against girls, specifically with regard to custody, maintenance and inheritance, and against children belonging to the Bedouin communities, primarily living in Area C, concerning access to services and protection from stigmatization and violence.

21. **The Committee recommends that the State party enact comprehensive anti-discrimination legislation; review its legislation and practices, with a view to prohibiting all forms of discrimination, particularly against girls; and strengthen the effectiveness of its social protection system for all children in disadvantaged or vulnerable situations, without discrimination.**

Best interests of the child

22. The Committee is concerned that considerations of age and gender of the child often prevail over the best interests of the child.

23. **Recalling its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party ensure that this right is consistently applied in all judicial**

proceedings and decisions, and develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration.

Right to life, survival and development

24. The Committee is deeply concerned about the context of the Israeli occupation, the blockade of the Gaza Strip and armed conflict, which affects the right to life, survival and development of children, in particular:

(a) The high number of children killed and injured as a result of the Israeli occupation, its building of settlements and blockade of the Gaza Strip, as well as the participation of children in demonstrations and conflict-related activities against Israel in both the Gaza Strip and the West Bank, and reports that such participation has sometimes been encouraged and facilitated and that the death or injury of children has been glorified by authorities of the State party, de facto authorities in the Gaza Strip and non-State armed groups;

(b) The recruitment and use of children in hostilities by non-State armed groups operating from the territory of the State party and the attempt by Israeli forces to recruit Palestinian children as informants;

(c) The negative effect that the Israeli occupation, its building of settlements and blockade of the Gaza Strip, as well as the restrictions of movement and violence in the context of demonstrations, clashes, search and arrest operations, evictions and detention have on children's immediate and long-term psychological well-being;

(d) The high level of poverty, unemployment and reliance on food aid, as well as the inaccessibility of affordable and safe drinking water, particularly in the Gaza Strip, leading to an increase in malnutrition-related conditions among children and pregnant and breastfeeding mothers.

25. **The Committee urges the State party to:**

(a) **Prevent children's participation in violence and apply all feasible measures to ensure their protection from the effects of hostilities and to care for child victims, which should include:**

(i) **The implementation of the code of conduct signed by all Palestinian parties and factions, which prohibits the use of children in any conflict-related activities, as stated by the State party's delegation in the dialogue;**

(ii) **The offer of guidance to children on safety and protection measures;**

(iii) **The provision of rehabilitation and psychological and medical health care;**

(b) **Fully implement the Palestinian Security Forces Military Service Act No. 8 of 2005 and article 46 (1) of the Palestinian Children's Act, which prohibit the recruitment and involvement of children in hostilities, and take prompt measures to investigate, prosecute and sanction the perpetrators in cases of child recruitment;**

(c) **Strengthen measures to address trauma experienced by children as a result of armed conflict and violence and its harmful impact into adulthood;**

(d) **Increase its investment in poverty-reduction measures and social welfare policies, including by strengthening the Palestinian Cash Transfer Programme and by improving its methods to assess multidimensional poverty, and to ensure that children living in poverty receive adequate financial support and have access to affordable food and safe drinking water.**

Respect for the views of the child

26. Noting the existence of about 50 student parliaments in the West Bank, the Committee is concerned about the absence of a mechanism to systematically facilitate children's effective engagement with national processes on issues that affect them.

27. **The Committee recommends that the State party establish a consultative mechanism or structure to involve children in all affairs affecting them, including in the design of laws, policies, programmes and services.**

D. Civil rights and freedoms (arts. 7, 8 and 13–17)

Birth registration and name

28. The Committee is concerned that:

(a) The registration of children, particularly children of parents living outside of the State party, is often delayed and that fees apply if the registration is not made within 11 days of the birth;

(b) Children born to unmarried parents or as a result of incest cannot take their parents' name;

(c) Some children lack identification, because they do not have a birth certificate and/or their parents do not hold Palestinian identity, including because they reside outside the State party or in East Jerusalem, or stay illegally in the West Bank or the Gaza Strip, and that this can lead to family reunification requests being delayed.

29. **Taking note of target 16.9 of the Sustainable Development Goals, the Committee urges the State party to:**

(a) **Consider waving fees for late birth registration, in particular for families living outside of the State party, and continue its measures to promote birth registration;**

(b) **Adopt regulations to ensure that children born to unmarried parents have the right to take on the name of at least one of their parents and that children born of incest are afforded the same opportunity, where it is in their best interest;**

(c) **Continue its efforts to facilitate family reunification and to provide services, including education and health-care services, to children who lack identification.**

Freedom of expression, association and peaceful assembly

30. The Committee is deeply concerned that:

(a) National legislation, including Decree-Law No. 16 of 2017 on cybercrimes, in force in the West Bank, and the Criminal Code Ordinance (No. 74 of 1936), in force in the Gaza Strip, could be interpreted as allowing the limiting of the right to freedom of expression, including of children, and that according to reports received by the Committee, children had been arrested by the Palestinian Security Forces and the de facto authorities in the Gaza Strip for expressing their political opinions;

(b) Article 1 of the Bylaw No. 9 of 2003 of the Law on charitable societies and non-governmental organizations (2000) requires founders of an association to be at least 18 years of age.

31. **The Committee urges the State party to ensure full respect for the right of all children to freedom of expression, association and peaceful assembly as guaranteed by the Convention, including by repealing all laws and regulations that restrict that right, by allowing children to set up associations and by ensuring children's access to information and material from a diversity of national and international sources.**

Right to privacy

32. The Committee notes the measures taken by the State party to protect the privacy of children in the context of child justice, but remains concerned that the media often disseminate the names, photos and other personal details of children who have been injured, who have allegedly committed a crime or whose family member has allegedly committed a crime.

33. **The Committee recommends that the State party expedite its work on a national policy to ensure the right to privacy of children in the field of media and the digital environment.**

Freedom of thought, conscience and religion

34. While taking note of reports that legislation in the State party provides that a child should be protected from any influence on his or her faith, the Committee is concerned that any child who wants to change his or her religion can do so only if the parents do not object.

35. **The Committee recommends that the State party respect the right of the child to freedom of thought, conscience and religion, and respect the rights and duties of parents to provide direction in a manner consistent with the evolving capacities of the child.**

E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

Corporal punishment

36. The Committee is seriously concerned that:

(a) Children in the State party, particularly boys, are subjected to corporal punishment, especially in the home and at school;

(b) Corporal punishment is lawful under article 62 of the Penal Code No. 16 of 1960, in force in the West Bank, and is not explicitly prohibited in the Law on Education (2017).

37. **Bearing in mind its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to:**

(a) **Amend article 62 of the Penal Code No. 16 of 1960 and the Law on Education (2017) to explicitly and fully prohibit all corporal punishment, however light, in law, in all settings, particularly in the home, educational and residential settings, and in all parts of the State party, and fully implement and enforce article 29 (4) of the Basic Law (2003) that prohibits corporal punishment of children;**

(b) **Strengthen its measures to develop awareness-raising and education campaigns that promote positive, non-violent and participatory forms of child rearing and discipline, and that underscore the adverse consequences of corporal punishment, targeting in particular children, parents, teachers and social protection professionals.**

Abuse and neglect

38. The Committee notes with appreciation the steps taken by the State party to increase the protection of children, including its work on the draft Decree-Law on family protection and the establishment of a child protection department in the Ministry of Social Development, as well as a child protection network, a dedicated police bureau and a database on children subjected to violence. It also notes the existence of several complaint mechanisms, including by the Ministry of Social Development, the Ministry of Justice, the police and the public prosecutor. However, the Committee is concerned about:

(a) The high incidence of children being subjected to abuse, neglect and other forms of violence, particularly in schools by teachers and peers;

(b) The low rate of reporting of cases of violence against children;

(c) The underresourcing of the national child protection system, including the insufficient number of well-trained and specialized staff;

(d) The absence of information on measures to prevent violence against children and to address the specific needs of girls who are victims of violence, particularly the fact that they are being placed in the same facilities together with girls in conflict with the law.

39. **Recalling its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and taking note of target 16.2 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Effectively enforce article 29 of the Basic Law and articles 1 and 42 of the Palestinian Child Act concerning the protection of children against abuse and strengthen its measures to implement the policy on school violence (2013);**

(b) **Establish mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child abuse and neglect, and continue training the professionals concerned to identify and adequately respond;**

(c) **Allocate adequate human, technical and financial resources to the national child protection system and other measures to protect children from abuse and neglect in order to ensure a comprehensive and effective child protection infrastructure;**

(d) **Further strengthen awareness-raising and education programmes, including campaigns, with the involvement of children in order to formulate a comprehensive strategy for preventing and combating violence against children, including a gender perspective.**

Sexual exploitation and abuse

40. The Committee is seriously concerned that:

(a) Disaggregated statistical data on cases of sexual exploitation and abuse of children and on the number of investigations, prosecutions and their outcome are not systematically collected;

(b) A high number of children experience sexual violence, particularly in the school environment, and that child victims of such violence suffer from stigmatization and discrimination;

(c) Child victims of sexual violence often lack access to justice owing to recourse to customary mechanisms and that girls who are victims of sexual abuse, in particular rape, have reportedly been required to marry the abuser.

41. **Taking note of target 5.2 of the Sustainable Development Goals, the Committee urges the State party to:**

(a) **Establish a national database of cases of sexual exploitation and abuse with a view to formulating evidence-based national policy;**

(b) **Develop programmes and policies, including awareness-raising activities, for the prevention of sexual exploitation and abuse, including in schools;**

(c) **Ensure access to justice for child victims of sexual abuse, including by combating impunity of abusers;**

(d) **Establish a child-friendly and multisectoral investigation and prosecution with the aim of avoiding the retraumatization of child victims, and ensure their recovery, psychological assistance and social reintegration, including protection from stigmatization.**

Harmful practices

42. The Committee is seriously concerned about the high number of marriages of girls under the age of 18 years, which are a result of insecurity and economic deprivation and lead to early childbearing and school dropout.

43. **Recalling joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices and taking note of target 5.3 of the Sustainable Development Goals, the Committee urges the State party to take active measures to put an end to child marriage and develop awareness-raising**

campaigns and programmes on the harmful effects of child marriage on the physical and mental health and well-being of girls and boys.

F. Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20, 21, 25 and 27 (4))

Family environment

44. The Committee is concerned that:

(a) National legislation concerning family and personal status matters is fragmented in the State party and that provisions of the Jordanian Personal Status Law (1976) and the Egyptian Family Rights Law (1954), which are in force in the West Bank and the Gaza Strip, respectively, allocate guardianship rights to fathers and specify the parent with whom children have to live in case of the divorce of their parents, without consideration of the best interests of the child;

(b) Maternity leave is limited to 10 weeks;

(c) A number of children are deprived of the care of at least one of their parents owing to restrictions by Israel on the freedom of movement to and from the State party and on residence in the State party or East Jerusalem.

45. **The Committee recommends that the State party:**

(a) **Harmonize national legislation concerning family and personal status matters and bring national legislation into line with the Convention and international standards, particularly concerning guardianship and maintenance of children;**

(b) **Increase the duration of paid maternity leave to at least 14 weeks, in line with international standards, and undertake all other measures to facilitate the equal sharing of parenting responsibilities between mothers and fathers;**

(c) **Take all possible measures to ensure that children are cared for by both parents.**

Children deprived of a family environment

46. The Committee notes with serious concern that:

(a) The State party has not established a comprehensive database on children deprived of a family environment and on the support that they receive;

(b) The financial support to orphaned children ended in 2016 (CRC/C/PSE/1, para. 248);

(c) Children have reportedly been removed from their families without a court decision;

(d) Children with different needs, including children deprived of a family environment, child victims of neglect and abuse and children with behavioural problems or accused of offences, are placed in the same residential care institutions;

(e) Monitoring of residential and foster care of children deprived of a family environment is infrequent, in part as the result of an insufficient number of qualified child protection counsellors.

47. **Drawing the State party's attention to the Guidelines for the Alternative Care of Children, the Committee urges the State party to:**

(a) **Collect data on children who are deprived of a family environment and the support they receive, including by finalizing the foster care database (CRC/C/PSE/1, para. 261), in order to facilitate regular monitoring of their situation;**

(b) **Ensure that all orphaned children receive social assistance, in line with article 31 of the Palestinian Children's Act;**

(c) **Ensure that removal of children from their families is based on a court order;**

(d) **Further support and prioritize family-based care for all children under the age of 18 years who cannot stay with their families, with a view to reducing the institutionalization of children, and ensure that children in residential care are housed and provided with services according to their needs;**

(e) **Allocate the human, technical and financial resources necessary to fully implement the Foster System Regulations (2013) and ensure periodic review of the placement of children in foster care and alternative care institutions, and monitor the quality of care therein.**

G. Children with disabilities (art. 23)

48. While noting that the Decree-Law of 2017 on public education stipulates the adoption of a policy to implement inclusive education and that the General Directorate for Counselling and Special Education of the Ministry of Education conducts awareness-raising activities to combat stereotypes against persons with disabilities, the Committee is concerned about:

(a) The absence of information on the precise timeline for adopting the draft Decree-Law on the rights of persons with disabilities, for updating the national strategy on disability of 2012 and the national strategy for inclusive education of 2014, and for launching the "Disability Card" and an integrated database on persons with disabilities;

(b) Children with disabilities being subjected to stigmatization, discrimination, abandonment and concealment from society;

(c) Abuse and violence committed against adolescent girls with disabilities.

49. **Recalling its general comment No. 9 (2006) on the rights of children with disabilities and recalling also the commitment made by the State party on the occasion of the thirtieth anniversary of the Convention to draft a law on the rights of persons with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability, establish a comprehensive strategy for the inclusion of children with disabilities in society that incorporates, inter alia, the development of accessible services, including health, education, social protection and support services, and:**

(a) **Expedite the adoption of the draft Decree-Law on the rights of persons with disabilities, the revision of relevant national policies and strategies and any other measures necessary, in cooperation with the council on persons with disabilities, to ensure that children with disabilities are guaranteed equal rights;**

(b) **Undertake awareness-raising campaigns in order to combat stigmatization, prejudice and multiple forms of discrimination against children with disabilities, promote a positive image of such children and their recognition as rights-holders, with respect for their dignity and evolving capacities on an equal basis with other children;**

(c) **Promptly investigate all cases of abuse and neglect committed against children with disabilities, paying special attention to those committed against girls and adolescents with disabilities, adequately sanction the perpetrators, and strengthen its efforts to protect girls with disabilities from abuse and neglect.**

H. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)

Health and health services

50. The Committee notes that the rates of maternal, infant and under-5 mortality have decreased and that persons living in the Gaza Strip, including children, are provided with health insurance free of charge. The Committee is, however, deeply concerned about:

(a) The insufficient availability of specialized medical care, particularly prenatal, delivery and postnatal care, and of medicine and medical equipment in both the West Bank and the Gaza Strip;

(b) The devastating impact of the Israeli occupation and blockade of the Gaza Strip on the availability of and access to adequate health services, in particular the killing and injuring of health personnel, the damaging of health facilities by the Israeli security forces, the restrictions on movement from the Gaza Strip to the West Bank as well as within the West Bank, and the low rate of approval of applications by children to enter Israel for medical treatment.

51. **Recalling its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, the Committee recommends that the State party:**

(a) **Ensure sufficient budgetary allocations to health services and establish clear budget lines for children's health, and ensure access to antenatal, delivery and postnatal care;**

(b) **Take all steps possible to restore health services, where disrupted by the hostilities and the Israeli blockade of the Gaza Strip, and continue efforts to provide safe childbirth and emergency health services through the establishment of local clinics and health centres, particularly in areas where restrictions of movement are imposed by Israel.**

Adolescent health

52. The Committee takes note of the Sexual and Reproductive Health Strategy (2018–2022) and notes the provision of free laboratory tests to curb HIV/AIDS. However, the Committee notes with concern:

(a) The criminalization of abortion by article 8 of the Public Health Act No. 20 of 2004;

(b) The high rate of adolescent pregnancies;

(c) That sexual and reproductive health education is not implemented in all schools and, where it exists, has content based on biological aspects only.

53. **Recalling its general comment No. 4 (2003) on adolescent health and development in the context of the Convention and its general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, the Committee recommends that the State party:**

(a) **Decriminalize abortion in all circumstances and ensure access to safe abortion and post-abortion care services for adolescent girls, making sure that their views are always heard and given due consideration as a part of the decision-making process;**

(b) **Continue its efforts to ensure access to sexual and reproductive health information and services countrywide for girls and boys, including in schools, in particular access to modern contraception methods;**

(c) **Ensure an approach to sexual and reproductive health education that encompasses emotional, physical and psychological aspects.**

H. Education, leisure and cultural activities (arts. 28–31)

Education, including vocational training and guidance

54. The Committee is extremely concerned about challenges faced in the realization of the right to education, including the detrimental effect of the Israeli occupation, its building of settlements and the blockade of the Gaza Strip. In particular, the Committee is concerned about:

(a) The limited access of children to quality education, the shortage of qualified teachers, the requirement for some students to pay school fees, the lack of water and sanitation facilities in schools, the low enrolment rate in early childhood education and the insufficient access to vocational education;

(b) The high percentage of children with disabilities who are out of school, the prevalence of segregated education and the absence of adapted curricula, specialized teachers and accessible school buildings;

(c) The prevalent attacks on school facilities and personnel by Israeli forces and non-State armed groups operating from the Gaza Strip, the use of schools for military or other purposes by Israeli forces and the disruption of education through law enforcement operations by the Palestinian security forces, resulting in children and teachers being killed or injured and school facilities being damaged, which leads to the overcrowding of the remaining schools and the absence of children from school;

(d) The detrimental effect of the rule by the Ministry of Education and Higher Education, according to which an absence from school of more than 30 days requires a child to repeat a class;

(e) Reports that the contents of some textbooks do not promote peace and tolerance as outlined in article 29 of the Convention.

55. **The Committee urges the State party:**

(a) **Strengthen its efforts to improve the quality of education, ensure an adequate number of qualified teachers, develop a strategy on early childhood education and implement its national strategy for vocational and technical education;**

(b) **Provide inclusive education for all children with disabilities, including by finalizing the policy on inclusive education, and ensuring the training of teachers, the elaboration of adapted curricula and the reasonable accommodation of school infrastructure, paying particular attention to children with psychosocial and intellectual disabilities;**

(c) **Take all possible measures to protect students and teachers from the negative impact of the armed conflict on education, including preventive measures by the Palestinian security forces when undertaking law enforcement operations around schools, and by implementing its pledges under the Safe Schools Declaration, and ensure that non-State armed groups operating in the State party respect international humanitarian and human rights law and respect schools as protected objects;**

(d) **Provide children who cannot attend school owing to a lack of safety, whether at school or on the way to and from school, with continued learning opportunities and repeal the rule of the Ministry of Education and Higher Education that obliges such students to repeat a class;**

(e) **Ensure that the contents of school curricula are aligned with the aims of education as set out in article 29 of the Convention, in particular the promotion of peace and tolerance.**

I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)

Asylum-seeking and refugee children

56. The Committee is deeply concerned about the high number of refugee and internally displaced children in the State party owing to the Israeli occupation, forced displacement, evictions and armed hostilities. It notes with concern the dire situation of the majority of these children in refugee camps or living with extended family, including owing to overcrowding, poor living conditions, the unemployment of their parents, the discontinuation of cash payments by the United Nations Relief and Works Agency for Palestine Refugees in the Near East, food insecurity and lack of privacy.

57. **The Committee urges the State party to increase the allocation of human, technical and financial resources to support refugee and internally displaced children, particularly measures aimed at ensuring their physical and psychological well-being, including food security, and at facilitating the reintegration of their parents into the job market.**

Administration of child justice

58. The Committee welcomes the adoption of the Decree-Law No. 4 of 2016 on the protection of Palestinian juveniles. However, the Committee is deeply concerned that:

(a) The Decree-Law on the protection of Palestinian juveniles is not being implemented in the Gaza Strip and is not fully being implemented in the West Bank, owing to the absence of a dedicated budget and the unequal geographic distribution of institutions and services in the territory of the State party;

(b) The Palestinian Children's Act and the Decree-Law on the protection of Palestinian juveniles set the minimum age of criminal responsibility at 12 years, while the Juvenile Offenders' Law No. 2 of 1937, applicable in the Gaza Strip, sets it at 9 years;

(c) Children are sometimes held in centres for deprivation of liberty for adults and there is limited information on the use of non-custodial measures;

(d) Children in detention, both in the West Bank and in the Gaza Strip, are reportedly ill-treated;

(e) A large number of children are held in detention by Israel for security offences and are reportedly ill-treated and subject to violations of due process.

59. **Recalling its general comment No. 24 (2019) on children's rights in the child justice system, the Committee urges the State party to:**

(a) **Bring its child justice system fully into line with the Convention and other relevant standards in all parts of the State party, including by providing the necessary human, technical and financial resources to fully implement the Decree-Law on the protection of Palestinian juveniles in all parts of the State party;**

(b) **Raise the minimum age of criminal responsibility to an internationally acceptable level of at least 14 years;**

(c) **Promote non-custodial and non-judicial measures, such as diversion, probation, mediation, counselling or community service, wherever possible, for all child offenders, and in cases where detention is unavoidable, ensure that detention conditions for children are compliant with international standards;**

(d) **Ensure that ill-treatment of children in places of deprivation of liberty does not occur, provide qualified and independent legal aid free of charge to children in conflict with the law and offer child-friendly and accessible complaint mechanisms;**

(e) **Continue to ensure the provision of legal support and other services to children detained by Israel and assist them through the provision of psychological support, rehabilitation, education and other measures, after their release.**

J. Ratification of international human rights instruments

60. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the following core human rights instruments:**

(a) **The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;**

(b) **The International Convention for the Protection of All Persons from Enforced Disappearance.**

61. **The Committee urges the State party to fulfil its reporting obligations under the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography, as the related reports have been overdue since 7 May 2016 and 29 December 2019, respectively.**

V. Implementation and reporting

A. Follow-up and dissemination

62. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the initial report, the replies to the list of issues and the present concluding observations be made widely available in the languages of the country.**

B. National mechanism for reporting and follow-up

63. **The Committee notes with appreciation the National Standing Committee at ministerial level that was established by a presidential decree on 7 May 2014 and is in charge of following up on the accession of the State of Palestine to international human rights instruments. However, it notes that the National Standing Committee lacks sufficient human, technical and financial resources and does not yet function as a standing government structure to coordinate and prepare reports to and engage with international and regional human rights mechanisms, and to coordinate and track national follow-up to and implementation of treaty obligations and the recommendations and decisions emanating from those mechanisms. The Committee recommends that the State party allocate such resources and seek technical assistance from the Office of the United Nations High Commissioner for Human Rights. It emphasizes that the National Standing Committee should have the capacity to consult systematically with the Independent Commission for Human Rights and civil society.**

C. Next report

64. **The Committee invites the State party to submit its combined second and third periodic reports by 2 May 2025 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.**

65. **The Committee also invites the State party to submit a core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I) and paragraph 16 of General Assembly resolution 68/268.**

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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Initial report of States parties due in 1993

Addendum

ISRAEL

[9 April 1998]

* In view of the length of the document and the shortness of the period between the date of submission by the State party of the Revised Report and the date of examination by the Human Rights Committee, the present document is circulated in the language of submission only.

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INTRODUCTION

A. Land and people

Geography

1. Israel's area within its boundaries and ceasefire lines is 10,840 square miles (27,800 sq. km²). Long and narrow in shape, it is some 280 miles (450 km) in length and about 85 miles (135 km) across at the widest point. The country may be divided into four geographical regions: three parallel strips running north to south and a large, mostly arid zone in the southern half.

Demographics

2. As of October 1997, the total population of Israel numbered 5,863,000 with over 4.7 million Jews (80.2 per cent of the total population), 872,000 Muslims (14.9 per cent), about 190,000 Christians (3.2 per cent) and around 100,000 Druze and other faiths (1.7 per cent).

3. The population of Israel increased in 1996 by 140,000, of whom 88,000 are Jews, representing a lower rate of increase than in 1995. In 1990-1991, at the height of immigration from the former USSR and the CIS, the average annual growth rate was 250,000. Since the beginning of 1990 the population of Israel has increased by a total of 26.3 per cent.

4. The birth-rate in 1995 was 21.1 per 1,000, while the infant mortality rate was 6.8 per 1,000. As of 1993, life expectancy for male Israelis was 75.3 years and for female Israelis 79.5 years. The total fertility rate was 2.9 per 1,000. 29.7 per cent of the population was aged 14 or younger while 9.5 per cent of the population was aged 65 or older.

5. Israel has a literacy rate of over 95%.

The Economy

6. Israel's Gross Domestic Product (GDP) in 1996 was 272.8 billion new Israeli shekels (NIS) (approximately US$ 85 billion) in 1995 constant prices. GDP per capita for this period was approximately 48,000 NIS (approximately $15,000). The external debt was $44.28 billion.

7. The dollar exchange rate at the close of 1990 was 2.048 NIS per $1, and at the close of 1995, 3.135 NIS per $1. The annual average of the dollar exchange rate in 1990 was 2.0162, and in 1995, stood at 3.0113. In 1997 the dollar exchange rate was about 3.5 NIS per $1.

Language

8. Hebrew and Arabic are the official State languages. They are primary languages of instruction in compulsory education, and either language may be used by a member of the Knesset (Israel's parliament) to address the House. Israel television and radio broadcast in Hebrew, Arabic and, to a lesser extent, English, Russian and Amharic.

B. General political structure

Recent history

9. The State of Israel was founded on 15 May, 1948. Israel represents the culmination of almost 2,000 years of longing on the part of the Jewish people for the reestablishment of an independent State. A guiding principle for all governments of Israel since its inception has been the “ingathering of the exiles”, the historic return of the Jewish people to its ancestral land. This concept was enshrined in the Declaration of Independence and has continued to be a major component of Israel's national life to the present day. In the words of Israel’s Declaration of Independence, the State “extend(s its) hand to all neighbouring States in an offer of peace and good neighbourliness.”

10. In 1977 the late President of Egypt, Anwar Sadat, became the first Arab head of State to visit Israel. In 1979 a treaty of peace was signed between Israel and Egypt. The Madrid Peace Conference, convened in October 1991, was the first time that Israel, the Syrian Arab Republic, Lebanon, Jordan and the Palestinians had met in an open and public setting for the specific purpose of negotiating peace. In September 1993, Israel and the Palestine Liberation Organization signed the Declaration of Principles in Washington D.C., and in November 1994, Israel and Jordan concluded a peace treaty, formally ending 46 years of conflict. In September 1995 Israel and the PLO signed the Interim Agreement on the West Bank and Gaza Strip and, pursuant to that agreement, a Final Status Agreement regarding these territories is to be concluded by 1999.

Structure of Government

11. Israel is a parliamentary democracy, consisting of legislative, executive and judicial branches. Its institutions are the presidency, the Knesset (parliament), the Government (Cabinet), the judiciary and the Office of the State Comptroller.

12. The system is based on the principle of separation of powers, with checks and balances, in which the executive branch (the Government) is subject to the confidence of the legislative branch (the Knesset) and the independence of the judiciary is guaranteed by law.

The presidency

13. The President is the head of State, and his office symbolizes the unity of the State, above and beyond party politics.

14. Presidential duties, which are primarily ceremonial and formal, are defined by law. Among the President’s formal functions are the opening of the first session of a new Knesset, accepting the credentials of foreign envoys, signing treaties and laws adopted by the Knesset, appointing judges, appointing the Governor of the Bank of Israel and heads of Israel's diplomatic missions abroad, pardoning prisoners and commuting sentences on the advice of the Minister of Justice. The President’s approval is required prior to dissolving the Knesset by the Prime Minister.

15. The President, who may serve two consecutive terms, is elected every five years by a simple majority in the Knesset from among candidates nominated on the basis of their personal stature and contribution to the State.

The Knesset

16. The Knesset is the House of Representatives of the State of Israel; its main function is to legislate. Elections for the Knesset and for the Prime Minister are held simultaneously. They are secret, and the entire country constitutes a single electoral constituency. Knesset seats are assigned in proportion to each party's percentage of the total national vote. A party's surplus votes, that is, those which do not reach the threshold for an additional seat, are redistributed among the various parties according to their proportional size resulting from the elections, or as agreed between parties prior to the election.

17. The Knesset is elected for a tenure of four years, but may dissolve itself or be dissolved by the Prime Minister, with the President’s approval, before the end of its term. Until a new Knesset is formally constituted following elections, full authority remains with the outgoing government.

18. The Knesset operates in plenary sessions and through 13 standing committees: the House Committee; the Foreign Affairs and Security Committee; the Finance Committee; the Economics Committee; the Interior and Environment Committee; the Education and Culture Committee; the Labour and Social Affairs Committee; the Constitution, Law and Justice Committee; the Immigration and Absorption Committee; the Committee for State Audit Affairs; the Committee on the War Against Drug Addictions; the Science Committee and the Committee for Advancing the Status of Women.

19. In plenary sessions, general debates are conducted on government policy and activity, as well as on legislation submitted by the government or by individual Knesset members. Debates may be conducted in Hebrew and Arabic; simultaneous translation is available.

The Government

20. The Government (Cabinet of Ministers) is the executive authority of the State, charged with administering internal and foreign affairs, including security matters. Its policy-making powers are very wide and it is authorized to take action on any issue which is not delegated by law to another authority. The Government usually serves for four years, but its tenure may be shortened by the resignation of the Prime Minister or by a vote of no-confidence.

21. The Prime Minister is elected directly by popular vote, simultaneously with the Knesset elections. Until the 1996 elections, the task of forming a government and heading it was assigned by the President to the Knesset member considered to have the best chance of forming a viable coalition government.

22. The ministers are responsible to the Prime Minister for the fulfilment of their duties and are accountable for their actions to the Knesset. Most

ministers are assigned a portfolio and head a ministry; others serve without a portfolio but may be called upon to take responsibility for special projects. The Prime Minister may also serve as a minister with a portfolio.

23. The number of ministers, including the Prime Minister, may not exceed 18, nor be less than 8. At least half the ministers must be Knesset members, but all must be eligible for candidacy for Knesset membership. The Prime Minister, or another minister with prime ministerial approval, may appoint deputy ministers, up to a total of six; all must be Knesset members.

The Judiciary

24. The absolute independence of the judiciary is guaranteed by law. Judges are appointed by the President, on the recommendation of a special nominations committee comprised of Supreme Court judges, members of the bar, ministers and Knesset members. Judges' appointments are with tenure, until mandatory retirement at age 70.

25. Magistrates' and District Courts exercise jurisdiction in civil and criminal cases, while juvenile, traffic, military, labour and municipal appeal courts each deal with matters coming under their jurisdiction. There is no trial by jury in Israel.

26. In matters of personal status such as marriage, divorce and, to some extent, maintenance, guardianship and the adoption of minors, jurisdiction is vested in the judicial institutions of the respective religious communities: the Rabbinical court, the Muslim religious courts (Shari'a courts), the religious courts of the Druze and the juridical institutions of the 10 recognized Christian communities in Israel.

27. The Supreme Court, seated in Jerusalem, has nationwide jurisdiction. It is the highest court of appeal on rulings of lower tribunals. In its capacity as High Court of Justice, the Supreme Court hears petitions in constitutional and administrative law issues against any government body or agent, and is a court of first and last instance.

28. Although legislation is wholly within the competence of the Knesset, the Supreme Court can and does call attention to the desirability of legislative changes. It also has the authority to determine whether a law properly conforms with the Basic Laws of the State and to declare a law void.

The State Comptroller

29. The State Comptroller carries out external audits and reports on the legality, regularity, economy, efficiency, effectiveness and integrity of the public administration in order to assure public accountability. Israel recognized the importance of State audit in a democratic society and in 1949 enacted a law which established the Office of the State Comptroller. Since 1971, the State Comptroller has also fulfilled the function of Public Complaints Commissioner (ombudsman) and serves as an address to which any person may submit complaints against State and public bodies which are subject to the audit of the comptroller.

30. The State Comptroller is elected by the Knesset in a secret ballot for a five-year term. The Comptroller is accountable only to the Knesset, is not dependent upon the Government, and enjoys unrestricted access to the accounts, files and staff of all bodies subject to audit. The Comptroller's activities are carried out in cooperation with the Knesset Committee for State Audit Affairs.

31. The scope of State audit in Israel is among the most extensive in the world. It includes the activities of all government ministries, State institutions, branches of the defence establishment, local authorities, government corporations, State enterprises, and other bodies or institutions declared subject to audit.

32. In addition, the State Comptroller has been empowered by law to inspect the financial affairs of the political parties represented in the Knesset, including election campaign accounts and current accounts. When irregularities are found, monetary sanctions are imposed.

Basic Laws

33. Israel has no formal constitution as yet. Instead, it has chosen to enact Basic Laws dealing with different components of its constitutional regime; these Basic Laws, taken together, comprise a "constitution-in-the-making".

34. The Basic Laws are adopted by the Knesset in the same manner as other legislation. Their constitutional import is derived from their nature and, in some cases, from the inclusion of "entrenched clauses" whereby a special majority is required to amend them. The following are the Basic Laws of the State of Israel: Knesset (1958); State Lands (1960); President (1964); State Economy (1975); Israel Defence Forces (1976); Jerusalem (1980); Administration of Justice (1984); State Comptroller (1988); Human Dignity and Liberty (1992); Freedom of Occupation (1992); The Government (1992).

35. There are currently three additional draft Basic Laws being circulated prior to their submission to the Ministerial Committee on Legislation: Draft Basic Law: Due Process Rights, Draft Basic Law: Social Rights, and Draft Basic Law: Freedom of Expression and Association.

Article 1 - Self-determination

36. Israel's recognition of the universal right to self-determination is embodied in its Declaration of Independence, which contains a clear commitment that Israel will be "faithful to the principles of the United Nations Charter".

37. The State of Israel maintains a democratic, republican form of government through a system of national elections which are prescribed by law. As discussed under article 25, every citizen of at least 18 years of age is entitled to vote, without distinction as to gender, race, colour, ethnicity, wealth, property or any other status (Basic Law: Knesset, sect. 5). The voting rate in national elections is generally very high in all sectors of the population. While a person may be denied the right to vote only by judgement

of a competent court pursuant to valid legislation (Basic Law: Knesset, sect. 4), no statutory provisions have been enacted to enable denial of the right to vote.

38. The citizens of the State of Israel are able to determine their "political status@ not only through election of the national leadership, but also through local and regional elections, which are discussed under article 25, and, indirectly, through the legislative process.

39. Reference is made to the Introduction of this report for a discussion of Israel's ongoing diplomatic efforts in the peace process.

Economic and Cultural Development

40. The right to pursue economic development has long been recognized in the case law as a basic pillar of Israel's liberal-democratic political order. Israeli legislation bearing on the right to economic development tends to grant these rights to individuals, and not to groups as such. Indirectly, however, the enjoyment of many fundamental individual rights discussed in this report, such as the right to freedom of speech, opinion and association, the protection of the right to property, the right to pursue a vocation, and the right to freedom of religion and conscience, create the groundwork on which groups may pursue their economic and cultural development. A draft Basic Law: Social Rights, which was prepared following Israel's ratification of the Covenant on Economic, Social and Cultural Rights, and which is currently being circulated prior to submission to the Ministerial Committee on Legislation, should bolster that foundation. (Cultural and economic development in minority communities is discussed under article 27.) The State of Israel has combined a largely free-market economy with a scheme of basic civil and political rights to provide the basis for free and liberal pursuit of economic and cultural development. The only legitimate restraints on such pursuit involve fair and reasonable economic regulation, and measures necessary to protect national security or public welfare.

41. The State of Israel does not prevent the free disposition of the country's natural wealth and resources, nor those that may be owned by any distinct sub-group of the population. At the same time, Israel retains its prerogative to regulate the export of natural resources and to impose duties thereon.

Article 2 - Implementation of rights in the Covenant

42. International agreements are not, as such, part of Israeli internal law, and the Knesset generally does not legislate by way of direct reference to such agreements. Accordingly, the provisions of the Covenant have not been made a part of internal Israeli law by an enactment of the Knesset. However, the basic rights protected by the Covenant are to a very great extent already guaranteed by internal Israeli legislation or case law, and effective mechanisms exist for the assertion and enforcement of such rights, both in the courts and through other arms of government, as described under the other articles in this report. For this reason, among others, it has not been deemed necessary to enact implementing legislation to give effect to the

provisions of the Covenant. Thus, as a matter of domestic law, the Covenant does not, by itself, create private rights directly enforceable in Israeli courts.

43. Of particular importance for the implementation of the rights guaranteed by the Covenant, and particularly for Israel's obligations under subsection 2 of this article, is the wave of legislative reform in that it has followed the enactment of Basic Law: Human Dignity and Liberty. As discussed under many articles in this report, the fundamental rights guaranteed in that Basic Law not only form the basis for interpretation of previous legislation, and the limiting criteria for new laws; in addition, the Basic Law has itself stimulated numerous legislative efforts, in areas such as arrest and detention, searches and seizures, legal aid, restrictions on emergency legislation, privacy, imprisonment for civil debts, freedom of information, the rights of people with disabilities, and the rights of patients, which aim to give the fullest practical realization of the principles embodied in the Basic Law. The explanatory notes for the three draft Basic Laws (see para. 35) explicitly mention Israel's ratification of the Covenant, among other instruments, as a motivating consideration in developing these new constitutional laws.

44. The law enforcement authorities - primarily the Police and Prisons Service - have established a thorough regimen of training in the area of human rights in courses for officers and trainees. The curriculum at these courses, as described under article 9 below, includes study of relevant legislation and Supreme Court rulings, development of interpersonal skills, and lectures by representatives of non-governmental organizations working in the field of human rights.

45. Senior officials and legal advisers in numerous ministries and other government authorities were consulted during the preparation of this report. At these consultations, the obligations under the Covenant, as well as the interpretation of those obligations by the Human Rights Committee, were reviewed as they pertained to the activities of each ministry or authority. In addition, an interministerial task force has been set up to carry out ongoing reporting on the implementation of the rights guaranteed by the Covenant. It is anticipated that these internal reporting mechanisms will be the beginning of a process that will foster awareness of the rights and freedoms under the Covenant, both within government authorities and, gradually, among the general public. This report will be widely distributed to officials in all government ministries and authorities, to members of the judiciary, to NGOs, scholars, policy institutes, libraries and the like. Prior to appearing before the Human Rights Committee, the Ministry of Justice and the Ministry of Foreign Affairs will hold a public seminar on this report, at which NGOs will be invited to offer comments and feedback. Until now, the work of publicizing the Covenant has been done for the most part by various NGOs working in the field of human rights, academic symposia and, indirectly, by the media, when the provisions of the Convention are invoked in certain petitions to the High Court of Justice. The Ministry of Education has circulated materials on the Universal Declaration of Human Rights for use in the public school curriculum.

46. The implementation by the State of Israel of its obligation to maintain equality in the enjoyment of the rights under the Covenant is discussed in detail under many of the other articles, particularly articles 3, 26 and 27.

Nationality

47. The State of Israel was expressly established as a Jewish, democratic State, which would be a homeland for Jews from around the world and at the same time would accord all of its citizens the full enjoyment of civil, political and social rights. In 1950, the Knesset enacted the Law of Return, 5710-1950, under which Jews who immigrate to Israel may be accorded the status of *oleh* (lit. "a person who ascends"), which automatically entitles them to citizenship, as discussed below, unless the person is deemed likely to endanger public health, the security of the State or public welfare, or the person is "engaged in an activity directed against the Jewish people" (Law of Return, sect. 2 (b)). The rights of an *oleh* are also extended to the spouse of a Jew, to the child and grandchild of a Jew and to their spouses, respectively (Law of Return, sect. 4 A).

48. In 1952, the Knesset enacted the Nationality Law, 5712-1952, which provided a new regime for granting citizenship in place of the institution of Mandatory citizenship, which had been annulled. Under the Nationality Law, Israeli citizenship may be acquired by birth; by residence; by a combination of birth and residence, by return, under the Law of Return; by naturalization; and by grant. All persons, regardless of religion or ethnicity, who are born in Israel - and, in most cases, also outside Israel - to a parent who is an Israeli citizen automatically are citizens themselves. In general, non-Jews can attain citizenship through birth, residence, or naturalization, while Jews attain citizenship primarily by birth or by return. The main difference between Jews and non-Jews in this regard relates to foreign nationals residing abroad who wish to come to Israel and to become citizens. In any case, the *manner* in which persons become Israeli citizens does not affect in any way the scope of their rights and privileges deriving from citizenship, such as the right to vote and be elected, or the right to hold public office.

49. Initially, citizenship by residence was granted to persons who held Palestinian citizenship during the Mandatory period; who were continuously resident in Israel from the establishment of the State until the entering into force of the Law (14 July 1952), or who entered Israel legally during that period; and who were registered as an inhabitant with the Population Administration shortly prior to the commencement of the Law. Citizenship was also granted to the children of persons who became Israel nationals by residence under the above terms (Nationality Law, sect. 3). Many Arabs, however, did not meet the criteria for citizenship by residence, particularly among those who entered or re-entered what had become the State of Israel following the War of Independence and during the four years until enactment of the Nationality Law; most such persons were initially granted permanent resident status. In 1980, the Nationality Law was amended to broaden substantially the category of persons who were entitled to citizenship by residence, by eliminating the requirement of continuous residence in Israel and extending citizenship to all descendants of persons thus nationalized by residence, instead of only to their children. As a result, almost all Arab residents of Israel are now citizens of the State.

50. **Naturalization**. The criteria for acquisition of citizenship by naturalization under Israeli law are modelled on those applicable in perhaps more than 100 other States. Under section 5 of the Nationality Law, a person over 18 years of age may attain Israeli nationality if he or she:

(a) Is in Israel; and

(b) Has been in Israel for three out of the five years preceding the application for citizenship; and

(c) Is entitled to reside in Israel permanently; and

(d) Has settled, or intends to settle, in Israel; and

(e) Has some knowledge of the Hebrew language; and

(f) Has renounced his or her prior nationality or has proved that he or she will cease to be a foreign national upon becoming an Israeli national.

These requirements are subject to several specific exemptions, and the Minister of Interior has discretion to exempt an applicant from several of the above conditions if there is a special justification for doing so. Upon being naturalized, a person's minor children automatically become Israeli citizens, except in rare circumstances (sect. 8).

51. **Nationality by birth**. A person born in Israel whose mother or father was an Israeli national will also be an Israeli national. If, on the other hand, that person is born outside Israel, then he or she will be granted citizenship unless his or her parent also acquired citizenship by birth abroad to an Israeli parent. Originally, the Law allowed the descendants of Israeli nationals living abroad automatically to be deemed citizens, regardless of how many generations had passed. In 1980, the Law was amended to limit such automatic conferral of citizenship to a single generation. The second-generation children may nevertheless become Israeli citizens upon application. It may be clarified that acquisition of Israeli citizenship by birth does not involve any distinction in law or in fact between Jews and non-Jews.

52. Two other avenues of acquiring citizenship were instituted by amendment to the Nationality Law. Under section 4 A of the Law, a person who was born after the establishment of the State in a place which was Israel territory on the day of his birth, and who has never had any nationality, may become an Israeli citizen, provided he or she has been a resident of Israel for at least five years preceding the application. In addition, the spouse of an Israeli national may obtain Israeli citizenship by naturalization, even if he or she is a minor or does not meet the statutory requirements for naturalization (sect. 7 of the Law).

53. **Loss of citizenship**. Under section 11 of the Nationality Law, an Israeli national may have his or her citizenship revoked in three sets of circumstances: if the acquisition of citizenship was based on the submission of false or fraudulent information, as discussed under article 13; if he or she performs an act “constituting breach of allegiance to the State of

Israel"; or if he or she leaves Israel illegally for one of seven States mentioned in the Prevention of Infiltration (Offences and Jurisdiction) Law, 5714-1954, or acquires the nationality of one of those States. As a practical matter, a "breach of allegiance" has never been invoked to terminate the citizenship of an Israeli national, and the annulment of citizenship for illegal entry into prohibited countries is no longer applied. In addition, an Israeli national may voluntarily renounce his or her citizenship, or that of his or her children, under certain circumstances (sect. 10 of the Nationality Law).

54. Permanent residency status is granted by discretion of the Minister of Interior, as discussed under article 12.

55. So long as resident aliens are within Israel pursuant to a valid residency permit, they are accorded the full range of basic civil, political and social rights under Israeli law, except for those rights deriving from citizenship (such as the right to vote in Knesset elections and to run for election, the right to receive a passport, the right to hold public office, and the unlimited right of re-entry into the country after leaving it). Non-resident aliens enjoy full civil and political rights in their dealings with the justice and law enforcement systems, including the right to petition the courts, freedom from arbitrary arrest, the right to due process, the freedom from arbitrary or cruel and unusual punishment; they also enjoy full equality of the rights to freedom of speech, religion, movement, privacy, assembly, and other rights under this Covenant. In certain areas, typically related to employment or economic entitlements, non-resident aliens do not enjoy the same rights as citizens and resident aliens.

56. Remedies available under Israeli law for denial or removal of citizenship or permanent residency status are discussed under article 12. Remedies available for violation of the various rights under the Covenant in general are discussed under the particular article referring to the right in question.

Article 3 - Equal rights of men and women

Constitutional principles and legislation

57. In the absence of a written constitution, Israel has developed the basic constitutional principles of its legal system in an accumulating series of Basic Laws and through judicial interpretation. Except for a provision in Basic Law: Knesset requiring that national elections be "equal", the right to equality is not mentioned directly in any of the Basic Laws, including the two most recent Basic Laws dealing with individual rights, Basic Law: Human Dignity and Liberty, and Basic Law: Freedom of Occupation. The reason for this exclusion, as a normative and practical matter, resides perhaps primarily in the systemic accommodation that Israel has maintained between its character as a liberal democracy and the prerogative it has granted to religious law in various areas of public and private life. While the right to equality is not expressly enshrined in the language of the Basic Laws, it has long been considered an "unwritten fundamental right" in Israel's constitutional order by the Supreme Court. The Court established this fundamental, if unwritten, right to equality by giving constitutive weight to the fact that Israel was

founded as a democracy; it also took note of the passage in the Declaration of Independence stating that “The State of Israel will maintain complete equality in social and political rights for all citizens, irrespective of religion, race or sex.” Although the Declaration does not itself have binding constitutional force, the 1992 Basic Law: Human Dignity and Liberty provides that the human rights it articulates shall be interpreted “in the spirit of the principles in the Declaration of Independence” (sect. 1). The trend of opinion among members of the Court appears to be that the basic right to human dignity includes various unenumerated rights, such as the right to equality. Until recently, the Court has taken the view that it may invalidate secondary legislation, such as administrative regulations, which violate “unwritten” fundamental rights, but not primary legislation enacted by the Knesset, in view of the Knesset's supremacy. In the aftermath, however, of the enactment of two Basic Laws mentioned above, the Court has held that it may now invalidate Knesset legislation which violates those fundamental individual rights beyond the extent allowed by the limitation clauses in those Laws.

58. Given the lack of a written constitutional right to equality, the principle of gender equality has been given form largely through specific legislation and case law. The first significant legislative effort to implement the principle of gender equality was the Women's Equal Rights Law, 5711-1951, which provides that one law shall apply to men and women regarding any “legal act”, and that any law that discriminates as such shall not be binding. The law also equates the legal status of women to that of men. Although the law deals specifically with the rights of married women regarding property ownership, and with the rights of women as mothers regarding their children, it does not apply directly to matters of marriage and divorce as such. Moreover, the Women's Equal Rights Law is an ordinary statute, which in theory can be revoked or qualified by subsequent legislation. Nevertheless, the Supreme Court has accorded the law almost constitutional weight in its decisions, calling it “an ideological law, revolutionary, a change of social structure”. Prohibition of discrimination on the basis of gender in the private sector is guaranteed in discrete areas by legislation, such as the Equal Employment Opportunities Law, 5748-1988, the Equal Pay (Male and Female Employees) Law, 5756-1996, which are discussed below, and to a certain extent by judicial decisions which have applied the non-discrimination principle in private settings. Other legislative enactments, described in the following sections, promote the equal status of women and men in a wide range of affairs, such as the rights of working pregnant women and mothers, affirmative action, the prevention of domestic violence, national security entitlements, and so on.

International instruments

59. Israel is a party to the Convention on the Elimination of all Forms of Discrimination against Women and submitted its initial and first periodic report under that Convention in March 1997. Israel is also a party to the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, the Convention on the Political Rights of Women and the Convention on the Nationality of Married Women.

Participation of women in politics and public life

60. **Voting**. There is full equality between men and women regarding the right to vote and to be elected in Israel. Section 5 of Basic Law: The Knesset specifically states that every Israeli citizen aged 18 or older is entitled to vote, and section 6 of the law states that every Israeli citizen aged 21 or older is entitled to run for election. There is no noticeable difference between men and women regarding participation in the act of voting (approximately 85 per cent for both sexes). In the Arab community, women have a higher rate of voting in national elections (89.1 per cent) than men (80.5 per cent).

61. **Women's representation in political parties and the Knesset** Women operate within political parties under two categories: in specific women's sections and as individual members. Women may be considered to have a dual role, of recruiting support for the party among female constituents, and of promoting women's representation in the party. The introduction, in several political parties, of primary elections in 1992, in which only registered members of the party in question may vote for its candidates to the Knesset, has heightened the sensitivity to the significance of women party members. In a recent survey, 17.0 per cent of the men and 10.9 per cent of the women respondents reported actual membership in political parties. Moreover, 44.3 per cent of the women polled stated that they did not support nor were active in any political party. A small number of women hold high-ranking positions in Israeli political parties. These include Zehava Galon, the General Secretary of Meretz (Israel Democratic Party); Tamar Gozhansky, one of the leading members of Chadash (Democratic Party for Peace and Equality); Limor Livnat (Likud), current Minister of Communications; and until recently, Shulamit Aloni, who founded the Citizen's Rights Party and served as a Cabinet minister in the government headed by the late Yitzhak Rabin. None of the religious parties has had any female candidates in viable places on their party lists. In the 1996 elections, 69 women ran in party primaries. The Labour party secured 6 places (out of 44) on its Knesset candidates list; the Likud party placed 3 women (out of 42); and Meretz secured 3 places for women (out of 14) on its list.

62. The representation of women in the Knesset has varied between 6 and 10 per cent over Israel's history. In the 1996 elections, 9 women (out of 120 Knesset members) were elected to the Knesset, a slight decline from the level of representation in the previous Knesset. Many of the powerful positions in the Knesset have never been assigned to women. For example, there has never been a woman Knesset Speaker, though in quite a few instances women have served as deputy speakers. On the two most powerful Knesset committees, the Foreign and Security Affairs Committee and the Finance Committee, few women have been members. As in other countries, women are relatively well represented on committees responsible for matters related to traditional women's interests, such as education, welfare and social services. Women members of Knesset have been active in promoting bills and petitions dealing with the family, welfare, social and economic matters. In the present Knesset, elected in 1996, the nine women in the Knesset serve on one or more of the following Knesset committees: one woman heads the Absorption Committee and another heads the Science and Technology Committee; there is one woman serving on the Constitution, Law and Justice Committee; three women on the

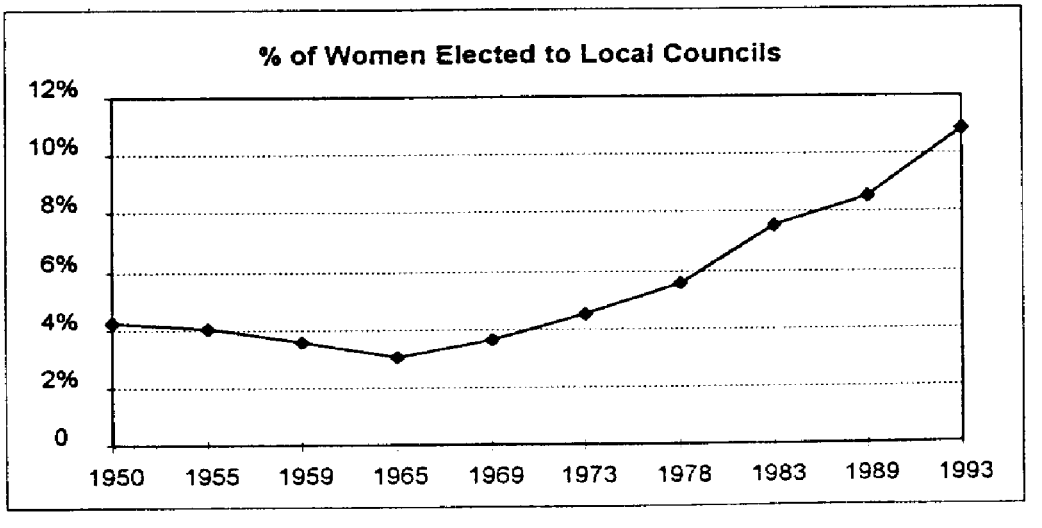
Labour Committee; three women on the Education and Culture Committee; three women on the Immigration Committee; two women on the Interior Affairs Committee; and several women on the Committee for the Advancement of the Status of Women, including the Committee chair.

Women in government, local authorities and the civil service

63. Since the establishment of the State of Israel, one woman, Golda Meir, has served as Prime Minister, after having served as a Cabinet minister in a succession of governments and as a Knesset member for 20 years. Six women have served as Cabinet ministers, including one in the present government (out of 17 ministers). In addition, the Director-General of three government ministries, the Ministry of Justice, the Ministry of Environmental Protection and the Ministry of Absorption, are currently women.

64. Women's representation on local councils has been quite limited, although it has risen steadily since the mid-1960s. As of 1993, roughly 11 per cent of local council members were women. Only six women have served as heads of local councils during Israel's history, none of them in a city with a population over 10,000. Currently, one woman is the head of a local council, and seven women serve as deputy mayors.

Figure 1. Women elected to local councils



65. As of December 1995, 59.4 per cent of all civil servants were women. However, women are under-represented in senior positions: in December 1995, only 10.5 per cent of senior staff (the top three grades in the four main managerial classifications) were women. At the same time, women made up 62.4 per cent of civil service employees in the lowest ranks (grade 8 and below). Recent data submitted by the Civil Service Commission to the Knesset Committee on the Advancement of Women show that significant progress was made

between December 1994 and December 1996, during which period the number of women holding senior staff positions has more than tripled (from 25 to 85), so that women now make up 14 per cent of senior staff.

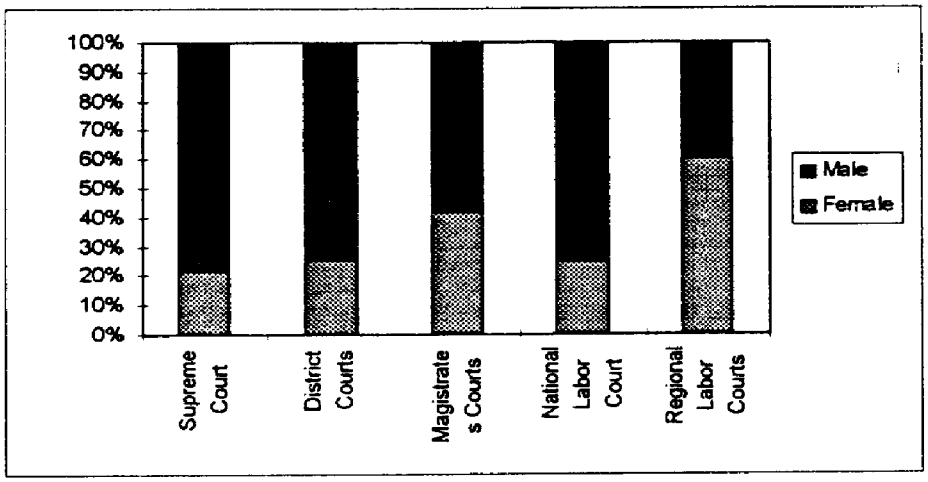
66. The participation of women in internal job tenders in the civil service has been increasing consistently over the last several years. In the four years between 1993 and 1996, the percentage of women candidates in such tenders has more than doubled (from 23.2 per cent in 1994 to 51.9 per cent in 1996), and the percentage of women appointed in such tenders has also more than doubled (from 26.1 per cent to 55.7 per cent over the same period). Participation by women in public job tenders for civil service positions rose much more gradually (up to 35.2 per cent of candidates and 36.7 per cent of appointees in 1995, and declined slightly in 1996. Between the change in the Civil Service Code in 1993, requiring representation of both sexes in tender committees, and 1995 there was an overall decline in the number of such committees composed of men only from 5.4 per cent to 1.6 per cent of internal tenders and from 33.5 per cent to 28.6 per cent of public tenders.

67. **The judiciary and lawyers in the public sector**. The percentage of women in the judiciary is extraordinarily high compared to other areas of public life. In all of the different civil courts combined, there are 146 women judges and 229 men judges, such that 40 per cent of the civil judiciary in Israel is composed of women.

Table 1. Judges, by court and sex

	Female	Male	Total	% Women
JUDGES				
Supreme Court	3	11	14	**21**
District Courts	23	67	90	**26**
Magistrates Courts	87	121	209	**42**
Traffic Courts	14	15	29	**48**
National Labour Court	1	3	4	**25**
Regional Labour Courts	18	12	30	**60**
REGISTRARS				
Local Affairs Courts	28	22	50	**56**
Regional Labour Courts	9	2	11	**82**

Figure 2. Percentage of female and male judges in various courts



Women are also well-represented in public sector legal employment. The present State Attorney is a woman. Her predecessor was the first woman to serve in this position, and was later appointed to the Supreme Court. Four out of the five District Attorneys are women. In the District Attorneys' offices, there are 207 women lawyers as against 126 men, and 237 women attorneys working in other governmental offices compared to 115 men.

68. **Representation in religious bodies**. The Religious Judges Law, 5715-1955, the Rabbinical Courts (Jurisdiction) Law and the Druze Courts Law, 5722-1962, have been interpreted by Jewish, Muslim and Druze religious leaders to mean that only men can serve as judges in these courts. Over the last decade, however, there have been certain important developments in the representation of women in other religious bodies. Following two landmark Supreme Court decisions in 1988, women were granted the right to participate in the Committee for Selection of Chief Rabbis and the right to participate in municipal religious councils. In H.C.J. 953/87, *Poraz* v. *Mayor of Tel Aviv*, 42(2) P.D. 309, the Court affirmed the right of women to participate in the Committee for the Selection of the Tel Aviv Chief Rabbi, holding that the exclusion of women from such political committees dealing with religious matters constitutes unlawful discrimination. In H.C.J. 153/87. *Shakdiel* v. *Minister of Religious Affairs*, 42(2) P.D. 221, the Court granted women the right to be elected to the religious council of the city of Yeruham in southern Israel. The number of women serving on municipal religious councils remains small. Out of 139 such councils, only 12 include a woman.

69. **Government corporations**. Under a 1993 amendment to the Government Corporations Law, 5735-1975, men and women must be appropriately represented on the board of directors of every government corporation, and ministers must appoint directors from the less-represented sex until such representation is achieved. Two subsequent appointments of men to the boards of directors of the Israel Ports and Trains Authority and Israel Refineries, respectively, which had no women members, were invalidated by the Supreme Court. According to research conducted in 1996, 68 per cent of government corporations have taken some affirmative action in the aftermath of the above amendment. In

48 per cent of such corporations women have been appointed as directors where there were no women directors in 1993; in 21 corporations (18.9 per cent) which had women directors in 1993, their number has significantly increased. Still, there are 18 government corporations (16 per cent) in which there are no women directors, and in 12 corporations (11 per cent) the number of women directors remains the same. Overall, women still constitute less than 30 per cent of the directors in the majority of government corporations.

70. **Women in the military and police**. In general, men and women in Israel must perform mandatory military service, although the conditions of service vary between the sexes. Under the Defence Service Law, 5746-1986, men are subject to military service duties between the ages of 18 and 54, women between 18 and 38. The law also differentiates between men and women with regard to the length of mandatory service in the army, the extent of reserve duty obligations, voluntary service, and exemptions. Women are exempt from mandatory service if they are married, pregnant or mothers. There is a legislative exemption for young women who, for reasons of religion or conscience, do not wish to serve in the army. Some of these women perform national service for two years or a shorter period at an accredited institution. Ultra-orthodox males may be exempt from military service if they study in an institute of religious learning and agree not to work during the time they are studying; under this arrangement, such religious students may postpone their military service annually. Approximately 42 per cent of all conscripted soldiers in 1996 were women. While approximately 68 per cent of draftable women were conscripted (the remaining 32 per cent receiving exemptions of one form or another), 83.3 per cent of draftable men were enlisted.

71. In practice, the policy of the Israel Defence Forces (IDF) has been to discourage or forbid women soldiers from serving in combat positions, although they do hold combat-training posts. In a landmark 1995 decision, the Supreme Court held that women could not be excluded from serving as air force pilots based on budgetary and logistical considerations. H.C.J. 4541/94, *Miller* v. *Minister of Defence*, 49(4) P.D. 94. The army has since taken steps to implement the decision in the *Miller* case. Several classes of women have begun the pilot training course, and guidelines have been established to adapt army policy regarding women's service to the potential reality of women combat pilots. The representation of women in various branches of the IDF is shown in the following charts:

Figure 3. Percentage of women officers in service (mandatory and career), by corps

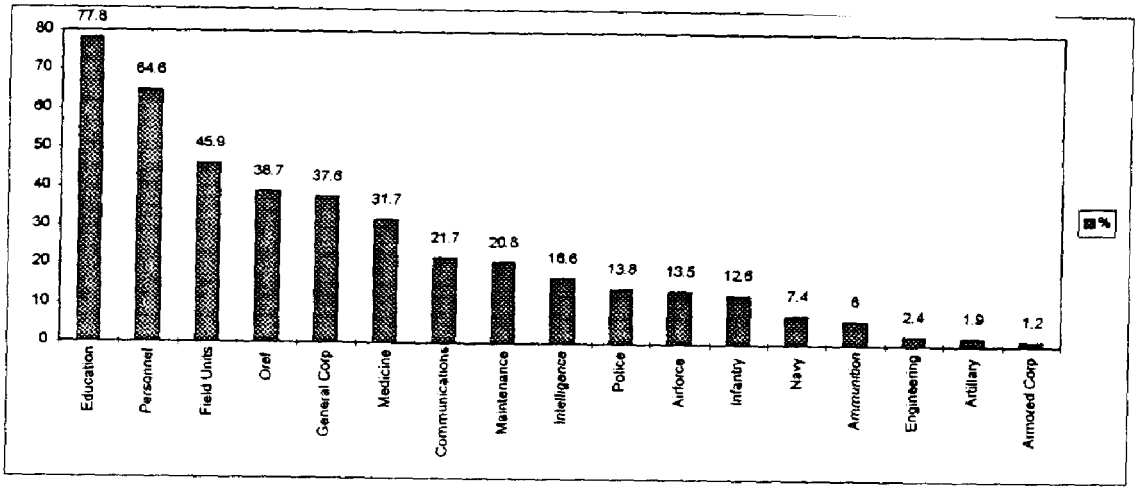
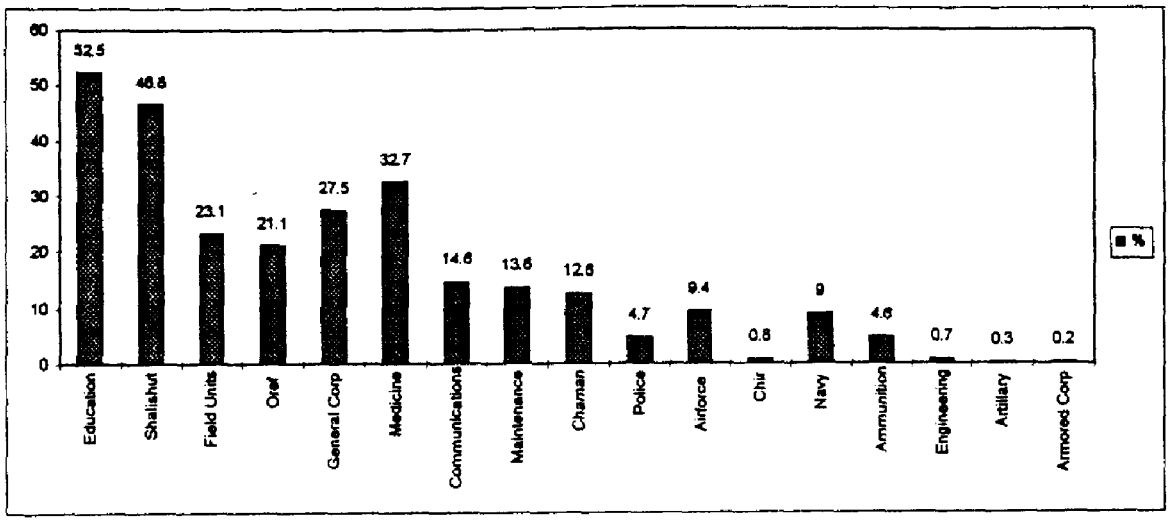


Figure 4. Percentage of women officers in career service, by corps



72. Because women do not serve in combat positions, they are often excluded from the upper echelons of the military hierarchy. In 1995, there were nine women holding the rank of colonel. The proportion of women officers holding the rank of lieutenant-colonel or lower, however, has risen significantly over the last decade.

73. According to Israel Police statistics, women constituted approximately 18 per cent of the police force in Israel as of December 1995. While the police has no official policy limiting women's service, previous army combat experience is either a precondition or a preferred qualification for many positions, including senior positions, effectively barring or hindering women from being able to serve in those positions. A pending 1996 petition to the Supreme Court by women who claimed discrimination against women in police hiring has led the police to establish a committee to investigate the hiring policies regarding women. As of the submission of this report, women serve as the head of the Personnel Division, the head of the Criminal Investigation Division and as the Legal Adviser to the Israel Police.

74. **Other public institutions**. The General Labour Federation (*Histadrut*), discussed under article 22, acts as an umbrella for the majority of labour unions in Israel. In 1995, the Histadrut added a provision to its articles of association requiring 30 per cent female membership in the leadership of every labour union under its auspices. At present, 10 per cent of all workers' committees are headed by women, and women comprise 17 per cent of their membership. Women hold managerial positions in many labour councils; altogether, 51 per cent of the personnel on labour councils are women.

75. **Non-governmental organizations**. Women are deeply involved in myriad non-governmental organizations which aim to influence the governmental decision-making process, both on issues relating specially to women and to the full gamut of social concerns. Some groups, such as the Israel Women's Network and the Association for Civil Rights in Israel, have played a highly significant role in the legislative process and in legal advocacy on issues related to women. Other women's groups, such as Women for Women, the Women's Organization for Political Prisoners, the Jerusalem Link, and the

Association of Women for Peace, have focused their activities on promoting Israeli-Palestinian dialogue and influencing public opinion on Palestinian-Israeli issues.

Equality in employment

76. Until the end of the 1980s there were few statutes which dealt specifically with matters of gender equality in the workplace. The Employment Service Law, 5719-1959, which prohibits discrimination in job referrals on the basis of sex (sect. 42), and the Equal Pay (Male and Female Employees) Law, 5724-1964, requiring that male and female employees receive comparable pay for comparable work, were perhaps the most important early pieces of legislation. The Womens' Equal Rights Law, 5711-1951, while not dealing explicitly with labour-related issues, provided that “one law shall apply to men and women regarding every legal act”. Although lacking the constitutional status of a Basic Law, the Supreme Court has interpreted this Law to contain norms of a constitutional nature and has held that, where possible, other laws should be interpreted in conformity with its provisions. In 1987, the Equal Retirement Age (Male and Female Employees) Law, 5747-1987, was enacted, prohibiting employers from forcing early retirement on women workers. The broader Equal Employment Opportunities Law, 5748-1988, prohibits discrimination in the workplace based on gender, sexual orientation, marital status, parenthood, race, age, religion, nationality, country of birth, political or other orientation. Neither governmental employers nor private employers with six or more employees may take the above classifications into account in matters of hiring, promotion, termination of employment, training, work or retirement conditions, except in special cases where the unique nature of the position makes those classifications irrelevant. Protections offered to women employees which take into account their special needs as women or mothers are not considered discriminatory, although the law specifies that any such rights offered to working mothers must equally be given to men who either have sole custody of their children, or whose wives work and have chosen not to make use of these entitlements or rights. The range of entitlements offered to pregnant women, new mothers and their spouses are discussed under article 23.

77. The Equal Employment Opportunities Law also recognizes sexual harassment as a form of discrimination in the workplace subject to criminal and civil sanctions. Although harassment is defined relatively narrowly and does not include the notion of a hostile working environment, the law forbids employers from penalizing employees or job applicants in any manner for refusing to accept proposals or advances of a sexual nature. A 1995 amendment to the law has placed the burden of proof upon the employer in civil sexual harassment suits; where an employee has proved refusal of a sexual advance, the employer must then prove that there has been no violation of the law (i.e. that the employee has not been penalized in any manner). The sexual harassment provision in the Equal Employment Opportunities Law applies to all employers, unlike the other provisions in the law, which apply only to those employers with five or more employees.

78. In the civil service, sexual harassment is a disciplinary offence under the Civil Service Code, which defines harassment more broadly than the Equal Employment Opportunities Law. The Code's definition includes any act with the characteristics of a sexual act, including speech or insinuation; it also covers acts by co-workers as well as superiors. In the case of harassment by a superior, the Code provides that the worker's consent is irrelevant, as is

the question of who initiated communication of a sexual nature. A 1995 amendment to the Civil Service Code added the creation of a hostile working environment to the definition of sexual harassment, and provided for legal and professional aid to the plaintiff.

79. A bill which would provide criminal and civil sanctions against all forms of sexual harassment, and would hold employers responsible for not acting to prevent harassment in the workplace, is in its final legislative stages.

80. The Equal Pay (Male and Female Employees) Law, 1996, aims to promote equality between men and women in work compensation. Replacing a similar law from 1964, the new law widens the definition of discrimination, provides greater access to remedies, and implements a progressive notion of pay equity. While the earlier law dealt only with “salaries”, the new law extends to “all other forms of compensation”, including benefits, bonuses, grants, coverage of expenses and overtime, all of which previously were used by employers to evade the spirit of the law. Instead of requiring employers to pay workers in “essentially equal” positions at the same workplace equal salaries, the new law mandates equal pay for positions at the same workplace that are “equal in value”, which is defined as jobs that demand equal qualifications, effort, expertise and responsibility. Any deviation from this standard of equality imposes a burden of proof on the employer that non-gender-related circumstances justify the difference in pay. Employees who are found by the labour court to have been underpaid under the criteria of the new law may sue for up to 24 months' back pay. Employees may not forfeit or qualify their rights under this law.

81. In general, women have become much more involved in the labour market in Israel over the years, but occupational segregation and gaps in pay between men and women remain fairly entrenched. Over the last decade, women's participation in the workforce (i.e. the percentage of women aged 15 and over who are working or unemployed) increased around 1 per cent annually, reaching 45.5 per cent in 1995. During that period, men's participation in the workforce has stayed more or less the same (62.6 per cent in 1995). Women composed 43.2 per cent of the total workforce in 1995, compared to 33 per cent in 1975. The increase in women's participation is evident in almost all age groups, except for the youngest and eldest. Jewish women's level of participation is higher than overall women's participation, reaching 50.5 per cent in 1995. At the same time, participation of Arab women in the workforce has increased, from 13.9 per cent in 1992 to 16.8 per cent in 1994. In 1994, roughly 24 per cent of women were employed full-time, and 16 per cent part-time; among men, 54 per cent worked full-time and 6 per cent part-time. Not surprisingly, the other major difference in work patterns between men and women was that 23 per cent of women in 1994 were classified as “homemakers”, which is defined by statute as applying only to females. Homemakers are not considered part of the labour force, as they neither work for pay nor actively seek such work. Women's participation in the labour force is correlated dramatically with their educational level, much more so than is the case with men. In 1995, among Jewish women with 16 years of schooling and over, 77.5 per cent belonged to the workforce, as compared to 74.9 per cent of Jewish men with the same level of education; among Jewish women with 0-4 years of schooling, only 10.1 per cent participate in the workforce. Participation of married women has steadily increased, from roughly 25 per cent in 1967 to roughly 50 per cent in 1995.

82. **Occupational distribution**. Differences in employment patterns between men and women in Israel are shown in the following table showing the relative level of employment in various branches of the economy:

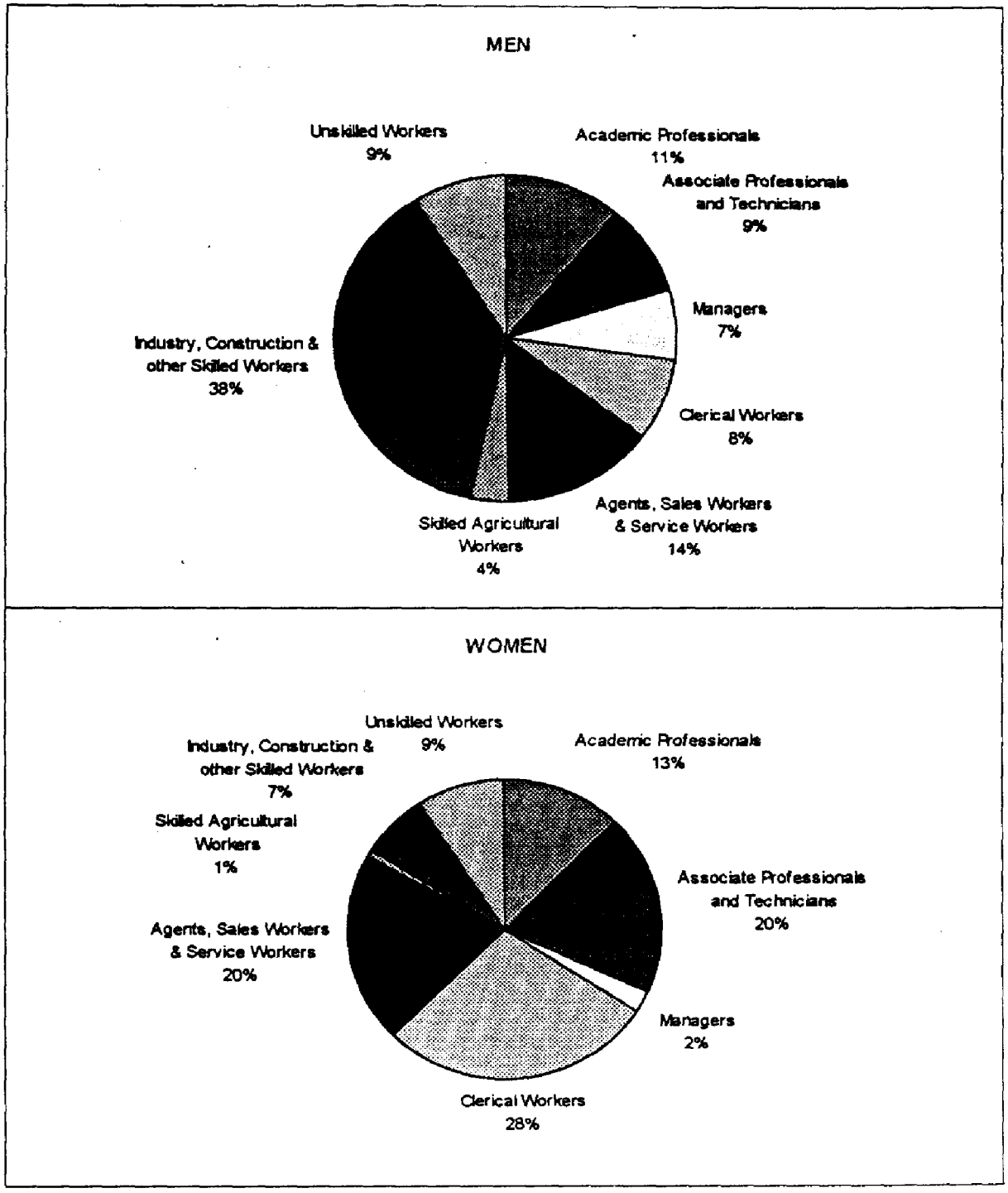
Table 2. Percentage of women and men in economic branches

Economic branch	% of total employed men in branch	% of total employed women in branch
Agriculture	4.2	1.2
Manufacturing	26	13.6
Electricity and water supply	1.5	0.3
Construction (building and engineering projects)	11.8	1
Trade and motor vehicle repair	14	11.1
Accommodation services and restaurants	4	4.4
Transport, storage and communication	7.8	3.3
Banking, insurance and finance	2.6	4.7
Business activities	8.9	9.3
Public administration	5.6	5.3
Education	5.4	21
Health, welfare and social services	3.8	15.6
Community, social and personal services	4.3	5.4
Private households with domestic personnel	0.2	3.6
Total	100	100

Work segregation is also evidenced by differences in distribution among occupational categories. In 1995, as shown in the pie chart below, close to 30 per cent of employed women were clerical workers (a figure that has remained unchanged since 1980), compared to 8 per cent of men; more than 20 per cent of employed women were agents, sales workers or services workers, compared to 14.4 per cent of men. A higher proportion of women than of men were academic professionals (12.5 per cent for women, 11 per cent for men) and associate professionals and technicians (19.5 per cent for women, 9.4 per cent for men). However, it should be noted that most women in these latter occupational categories are teachers, nurses, social workers and the like,

primarily in the public services. Thirty-eight per cent of employed men worked in industry and other skilled labour, compared to only 7 per cent of employed women.

Figure 5. Employed persons, by last occupation



Source: Labor Force Surveys, 1995.

83. **The "glass ceiling"**. Although thoroughgoing data regarding the ability of women to advance to senior positions in their place of employment are difficult to gather, available statistics indicate that a "glass ceiling" still exists for women in the Israeli workplace. According to the Central Bureau of Statistics, in 1995 6.9 per cent of all working men were managers, while only 2.2 per cent of all working women were managers. Of the total managerial segment of the workforce, 19.5 per cent were women in 1995, a slight increase from 1990 (18 per cent of managers were women). During the decade between 1980 and 1990, women made up more than 25 per cent of the increase in total managers.

84. Although women's representation in managerial roles has gradually increased, it is still quite low when compared to the increase in the general rate of women in the workforce. For example, the Union of Industrialists recently conducted a survey of 152 high-tech corporations, which revealed that 14 per cent of the managers in these companies are women, while in 51 per cent of such companies there were no women managers at all. On the other hand, among the larger corporations (100 employees or more), 44 per cent have more than one woman in managerial positions. In the civil service, roughly 60 per cent of all workers, but only 14 per cent of senior staff, were women, according to 1996 data.

85. **Earning gaps**. In all branches of the labour market, a male employee's average monthly income was 1.7 times higher than that of a female employee (1992-1993). This is partly explained by the differences in average weekly work hours, which were 46.3 for men and 34.1 for women. However, a large gap still exists in the average income per hour, which for women was 80 per cent of men's hourly income. This earning gap remains fairly constant when other variables, such as level of education, are taken into account. During the period between 1992 and 1994, the average monthly and yearly salaries of women in the workforce were 50-55 per cent of men's salaries. In 1995, 69 per cent of all employees who earned less than the minimum wage were women. Salary gaps between male and female full-time employees in the civil service have decreased from 29 per cent in 1988 to 24 per cent in 1996.

86. **Employment of Arab women**. Arab women in Israel, on the whole, are far less employed outside of the home than are Jewish women. Of the 350,000 Arab women who are of working age (over 15), roughly 83 per cent do not belong to the workforce, a slight decrease from the 1960s (approximately 91 per cent did not belong to the workforce). The rate of employment of Arab women living in cities is much higher than that of those living in villages, who comprise 90 per cent of all Israeli Arab women. Most Arab villages are located on Israel's periphery, far from centres of economic activity. In the past agriculture was an integral source of income for Arab villages, and Arab women were thoroughly involved in such agricultural work while maintaining their traditional role as housewives. Downsizing in the agricultural sector, which occurred as a result of the appropriation of farm lands, shifted the main economic focus of villages to work in the cities, leaving a vacuum in the job market for Arab women. While many village men moved into the modern workforce and left their villages to work in the Israeli cities, women remained at home to run their households and work the fields, without tangible compensation.

87. The first wave of Arab women seeking work outside their villages began in the 1960s, mostly in jobs at nearby Jewish villages or cooperatives which did not require any formal education or literacy. In the 1970s, Arab women began to take on blue collar positions in factories set up near their villages, particularly in the textile industry. By 1989, the percentage of Arab women who worked in the textile industry, either at factories or in cottage industries within the villages, reached 29 per cent. During the 1990s, more Arab women have entered the Israeli job market, particularly as unskilled labourers, to help their families shoulder increasing financial burdens. In recent years, more Arab women have been taking positions which require a high school education.

88. The reluctance of the traditional Arab communities to allow women to work outside their homes stems from religious, social and economic concerns. Particularly in the villages, the traditional Arab lifestyle places women in the home, not in the workplace or at school. Single Arab women, particularly at the lower and the higher economic strata, work much more frequently than married Arab women. The labour force participation of Arab and Druze women has been found to peak at ages 18-24, and to decline dramatically with marriage or the birth of a first child.

Education

89. Under the Compulsory Education Law, 5709-1949, all children must study between the ages of 5 and 15. Education is provided free of charge through the age of 17, and for 18-year-olds who have not yet completed the eleventh grade. The illiteracy rate (defined to include persons with up to four years of schooling) is higher among women than among men, although dramatic improvements have been made in this respect among all sectors of the population. Median years of schooling is lowest among Arab women (9.7 years in 1994, as compared to 10.6 years among Arab men); Jewish women and men have more or less identical median educational levels (12.2 and 12.3 per cent in 1993). However, there has been a steady and significant increase in the median educational level within the general Arab population, and when specific age groups are examined, among Arab women as well: in 1980, the median years of schooling was 6.4 for Arab women, 7.5 for Arab men, and roughly 11 years for Jewish men and women.

90. As of the 1994/95 school year, attendance rates of 14-to-17-year-olds in the Jewish educational system were 92.6 per cent for boys and 99.6 per cent for girls. In the Arab sector during the same year, 65.7 per cent of boys and 69.2 per cent of girls were enrolled in educational programmes. In all sectors, attendance rates have increased dramatically over time. Approximately two thirds of all matriculation examinees are girls, and a higher percentage of girls than boys pass their matriculation exams.

91. Secondary education in Israel is made up of different educational tracks. In the eighth or ninth grade students are placed on either a general or technological/vocational track, and proceed to separate high schools accordingly. Within each general track, the students select specific courses of study, such as sciences or humanities, or a specific vocational field, such as electronics, biotechnology and so on. Most of the students who take their matriculation exams have studied in the general high schools, as matriculation

is a prerequisite for university education. As of 1985, 43.6 per cent of girls studied in the general track, while only 27.7 of boys did the same. Within the vocational tracks, machinery and electronics are almost exclusively male subjects, building and architecture are studied equally by men and women, and fashion and nursing/paramedical training are female-dominated fields, as are programmes for biotechnical engineers and technicians.

92. Everyone, regardless of gender, may choose to study or major in any subject in higher education. Opportunities are limited to the extent that certain departments have prerequisites such as a certain level of science matriculation, which many girls do not choose to take in high school. In 1995, 55 per cent of undergraduate university students in Israel, and over 50 per cent of graduate students, were women. The proportion of university degree recipients who are women is similar to the percentage of women students. At the doctoral level, 43.8 per cent of students are women. In the 1992/93 school year, 46.6 per cent of law students, 46 per cent of medical students, and 18.2 per cent of engineering and architecture students studying for a first degree were women. Women are highly represented in university programmes in education (84 per cent), the humanities (71.4 per cent) and the social sciences (59 per cent) while they are under-represented in technological fields (20 per cent). Women university students tend to receive their bachelor's degrees earlier than men (median age 26.0, compared to 27.6 for men), largely due to the fact that their mandatory army service is one year shorter than that of men. The median age for receiving master's degrees is virtually identical for men and women, and the median age for receiving doctoral degrees is a year lower for men than for women. In non-university institutions of higher education, women made up 64 per cent of students during the 1995/96 school year. More than three times the number of non-Jewish men receive higher education than do non-Jewish women.

Governmental review of legislation and practice affecting women

93. **Commission on the Status of Women**. The International Women's Year in 1975 triggered the formation of an ad hoc Commission on the Status of Women, appointed by then-Prime Minister Yitzhak Rabin, and headed by Ora Namir, who later became Minister of Labour and Social Affairs. The Commission's main function was to investigate the status of women in Israel and to present the Government with proposals for social, cultural, educational, economic and legal measures necessary to promote equality between men and women in Israel. The Commission's 1978 report included a list of 241 recommendations for reform, only some of which have been implemented.

94. **Women's status in the civil service**. The Israeli Government is the largest employer in Israel, and almost 60 per cent of civil servants are women. In 1989, a governmental commission investigating the civil service reported, among other things, on the status of women in the service, and concluded that discrimination against women is the main cause of their lower status in the service. To implement the commission's recommendations for the improvement of women's status in the service, a subcommittee was established (the Ben Israel Committee, after its Chairwoman) by the Ministry of Economics and Planning. In 1993, the subcommittee presented its reform proposals, which included specific provisions for ensuring women's participation in tender committees, and invalidating decisions of tender committees with no women

members; improving the functioning of the supervisors on the status of women in the different ministries; and securing firmer treatment of sexual harassment. In addition, the proposals include the publication of a worker's rights manual for women employees, the preparation and dissemination of information regarding the status of women in the service to Knesset committees and women's organizations; and the joint establishment of a Progressive Employer Award to be granted by the Na'amat women's organization, the Union of Industrialists and the Union of Local Authorities to the public employer demonstrating a commitment to the advancement of women. Most of these proposals were incorporated into the Civil Service Code, and are in the process of being implemented.

95. Other changes in the Civil Service Code include the changing of provisions regarding family members who may accompany employees on overseas missions on gender-neutral terms, thus giving men and women employees equal opportunities to participate in overseas work, and allowing women employees with small children to choose whether or not to work overtime. In 1985, the Government, following one of the recommendations of the Namir commission, decided that a supervisor on the status of women employees would be appointed in each government ministry. These supervisors are responsible for promoting equal opportunities for women employees, monitoring obligations for representation of women on all professional and tender committees, developing special tracks for promotion of women, increasing the representation of women in senior positions, handling gender discrimination and sexual harassment complaints, and preparing annual progress reports. Such supervisors have been appointed in most ministries.

96. Recently, the Civil Service Commissioner created a new position for a Supervisor-General on the advancement of women in the civil service, who reports directly to the Commissioner. In 1996, a new unit was established on the Commission, which is responsible specifically for hiring and promoting women in the civil service, with a particular view to increasing representation in senior positions. The new unit also supervises the implementation of affirmative action policy under the State Service (Appointments)(Adequate Representation) Law (Amendment No. 7), 5755-1995. This law obligates the Civil Service Commissioner to use all necessary means to achieve appropriate representation of both sexes in the civil service. Its provisions are read to all tender committees at the beginning of every tender deliberation, including the requirement that preference be given to the candidate of the less-represented sex when candidate's qualifications for the position are similar.

97. **The Prime Minister's Adviser on the Status of Women** The Office of the Prime Minister's Adviser on the Status of Women, established in 1980, was initially given responsibility for advising the Prime Minister on all issues pertaining to women, and coordinating governmental actions in this regard. The office suffered from a dearth of funding until 1992, when the late Prime Minister Rabin abolished the Office of Prime Minister's Advisers altogether, including the Adviser on the Status of Women. In its place, he formed a steering committee to restructure the office of the Adviser and the function of the National Authority on the Status of Women, discussed below. Following the 1996 election, the Government appointed a new Adviser on the

Status of Women, with responsibility for organizing a campaign against family violence and drafting Israel's report on the March 1997 session of the Commission on the Status of Women, in the aftermath of the Beijing Conference.

98. A bill currently under consideration in the Knesset calls for the establishment of a National Authority on the Status of Women. Under the proposed legislation, the Authority will have a mandate to formulate policy regarding gender equality and the elimination of discrimination against women; to coordinate and promote cooperation between national Government, municipalities and other bodies regarding the promotion of the status of women; to advise ministries on the implementation of equality laws and of the Convention on the Elimination of All Forms of Discrimination against Women; to establish special programmes and services for women to promote gender equality; to create a research and public information centre; and to promote legislative measures for the advancement of women and the elimination of gender discrimination. The Knesset Committee for the Advancement of the Status of Women is now preparing the bill for its final readings, and it is expected to be enacted in the near future.

99. **The Knesset Committee for the Advancement of the Status of Women** In 1992, a broad coalition of women Knesset members created the Committee for the Advancement of the Status of Women. This Committee has been instrumental in promoting important legislation bearing on women's status and in raising awareness of women's concerns. In January 1996, the Committee was granted the status of a permanent (standing) Knesset committee, with the following mandates: (a) to see to the advancement of women's equality in public representation, education and personal status; (b) to work toward the prevention of discrimination on the basis of sex or sexual orientation in all areas of life; (c) to reduce wage gaps in the economy and the labour force; and (d) to eliminate violence against women. The Committee is currently composed of 15 members, including 8 men, and has working subcommittees dealing with the advancement of women in the workplace, the advancement of Arab women, and personal status. Recently enacted legislation in which the Committee played a pivotal role includes, among others, the Equal Pay (Male and Female Employees) Law, 5756-1996; the State Service (Appointments) (Appropriate Representation) Law (Amendment No. 7), which introduces affirmative action into the civil service; the Prevention of Domestic Violence Law (Amendment No. 2), 5756-1996; and the Family Court Law, 5755-1995. Over 40 different legislative bills relating to the advancement of women's status have been enacted since the establishment of the Committee. The Committee has also used other parliamentary powers to pursue its mandate, such as the creation of the parliamentary investigative committee on the murder of women by their spouses. Furthermore, the Committee has been an important catalyst for activity on women's issues outside the Knesset, by maintaining close working relations with women's NGOs and with women in senior positions in business and academia. It thus serves as a forum where women's voices are heard, and for political mobilization on women's issues.

100. The Ministry of Labour and Social Affairs has a Division for Employment and Status of Women, which, among others, is involved in the development of child-care programmes, the supervision and subsidizing of child-care programmes operated by women's organizations, the provision of vocational training for women who are unskilled or who wish to enter non-traditional

fields of work, and the dissemination of information regarding women's rights, with a focus on employment. Other ministries have staff members designated as responsible for overseeing the status of women employees in that ministry as well as any activities of that ministry which engage women's issues more generally.

101. In 1994, the Union of Local Authorities in Israel appointed an Adviser on the Advancement of Women in Local Authorities, in an attempt to provide a mechanism for addressing women's concerns at the municipal level. The Adviser is responsible for establishing Women's Councils in each local council in Israel; 70 such Women's Councils have been created thus far, including 8 in Arab local councils. The Adviser is also involved in promoting legislation dealing with women's daily concerns at the municipal level, and cooperates closely with the Ministry of Labour and Social Affairs on issues such as shelters for battered women. The tasks of the local Women's Councils include coordination among all local women's organizations, implementation of educational programmes on gender equality, prevention of domestic violence and technological education for girls, improvement of day-care facilities, and provision of services for women with special needs such as single mothers, elderly women, immigrant women and Arab women. Each Women's Council is headed by a woman who also acts as the Adviser on the Status of Women to the head of the Municipal Council. Once again, the main obstacle facing the work of the local Women's Council is the absence of a dedicated budget, making the work of the councils largely voluntary.

Equal rights in the domestic sphere

102. Israeli law and practice regarding the equality between spouses, and between spouses and their children, are discussed under articles 23 and 24.

Impact of marriage on nationality

103. As discussed under article 2, the Nationality Law, 5712-1952, states that Israeli nationality may be acquired in one of four ways: by birth; under the Law of Return, 5710-1950; by residence in Israel; or by naturalization. Israeli citizenship laws do not differentiate between men and women. Both sexes have equal rights in regard to acquiring, changing or retaining their nationality. Neither the change of nationality by one member of a couple nor marriage to a non-citizen has any effect on one's citizenship. According to the laws relating to citizenship acquired by birth, both the father's and mother's citizenship carry equal weight.

104. Provisions in the Nationality Law dealing with the acquisition of citizenship by naturalization also uphold the principle of gender equality. Section 7 of the law provides that the spouse of a person who has applied for Israeli citizenship through the naturalization process may thus be granted citizenship even if he or she does not meet all of the statutory requirements for naturalization. Naturalization also confers citizenship on the minor children of the naturalized person who were residents of Israel at the time of his or her naturalization. However, if the minor citizen was a citizen of another country, and both parents were entitled to custody, but only one underwent the naturalization process, then the child will not obtain

citizenship if one of the parents declares his or her opposition thereto. In any case, these provisions do not distinguish between parents on the basis of gender.

105. Under a 1980 amendment to the Nationality Law, if either parent was an Israeli citizen at the time of his or her death, then any child born after that parent's death shall be entitled to acquire citizenship.

Article 4 - States of emergency

106. The State of Israel has remained in an officially proclaimed state of public emergency from 19 May 1948, four days after its founding, until the present day. The original declaration of a state of emergency was issued by the Provisional Council of State in the midst of the war with neighbouring States and the local Arab population that had begun several months prior to the declaration by Israel of its independence on 14 May 1948. Since then, the state of emergency has remained in force due to the ongoing state of war or violent conflict between Israel and its neighbours, and the attendant attacks on the lives and property of its citizens. Upon ratifying the Covenant, the State of Israel made a declaration regarding the existence of a state of emergency.*

107. Concurrently with the achievement of peace agreements between Israel and Egypt in 1979, between Israel and Jordan in 1994, and the recent agreements between Israel and the PLO, an internal debate regarding the necessity of a state of emergency, and the scope of powers granted to the executive branch thereunder, has culminated in the enactment by the Knesset of two Basic Laws

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* The text of Israel's declaration, dated 3 October 1991, is as follows: “Since its establishment, the State of Israel has been the victim of continuous threats and attacks on its very existence as well as on the life and property of its citizens.

“These have taken the form of threats of war, of actual armed attacks, and campaigns of terrorism resulting in the murder of and injury to human beings.

“In view of the above, the State of Emergency which was proclaimed in May 1948 has remained in force ever since. This situation constitutes a public emergency within the meaning of article 4 (1) of the Covenant.

“The Government of Israel has therefore found it necessary, in accordance with the said article 4, to take measures to the extent strictly required by the exigencies of the situation, for the defence of the State and for the protection of life and property, including the exercise of powers of arrest and detention.

“Insofar as any of these measures are inconsistent with article 9 of the Covenant, Israel thereby derogates from its obligations under that provision.”

which significantly modify both the constitutional mechanism for maintaining a state of emergency, as well as the scope of the executive branch's discretion in promulgating emergency regulations. In the framework of those new Laws, which are discussed further below, the state of emergency currently exists by force of the declaration of the Knesset in May 1997, which is valid for a period of up to 12 months.

108. During the period of the British Mandate, numerous emergency or defence regulations were enacted by the High Commissioner on specific matters such as prohibiting the manufacture of explosives, overseeing the Mandatory police, and regulating immigration into the country. In 1945, these earlier regulations were superseded by the enactment of the Defence (Emergency) Regulations, which granted the Mandatory authorities extremely broad powers for the purpose of quelling riots and insurgencies and maintaining public order. Among other things, these regulations enabled the destruction and sealing of houses, administrative detention, trial of civilians for security-related offences in special military courts, prohibitions on freedom of movement of individuals or the general public, deportation, censorship, expropriation of private property, illegalization and prosecution of hostile organizations, restriction of the use of telecommunications, and so on. As with most other Mandatory and Ottoman legislation that was in force on the eve of Israel's proclamation of independence, the Defence (Emergency) Regulations, 1945, remained in force upon the establishment of the State. With several notable exceptions - most prominently the power to deport civilians under Regulation 111, which was repealed in 1982, and the power of preventive or administrative detention under Regulation 112, which is now regulated by the Emergency Powers (Detention) Law, 5739-1979 - these regulations remain in force in Israel to the present day.

109. On 19 May 1948, Israel's Provisional Council of State enacted the Law and Administration Ordinance, 5708-1948, which created the new legislative and executive branches of the fledgling State, provided for the continued validity of previous laws and legal institutions, and transferred governmental powers held by Mandatory authorities. Section 9 of this Ordinance, which is quoted in full below, authorized the Provisional Council of State to declare a state of emergency, and gave ministers in the Provisional Government the power to enact emergency regulations for the purpose of protecting the State, public security and the maintenance of essential services and supplies:

> "9. (a) If the Provisional Council of State deems it expedient so to do, it may declare that a state of emergency exists in the State, and upon such declaration being published in the Official Gazette, the Provisional Government may authorize the Prime Minister or any other Minister to make such emergency regulations as may seem to him expedient in the interests of the defence of the State, public security and the maintenance of supplies and essential services.
>
> "(b) An emergency regulation may alter any law, suspend its effect or modify it, and may also impose or increase taxes or other obligatory payments.

"(c) An emergency regulation shall expire three months after it is made, unless it is extended, or revoked at an earlier date, by an Ordinance of the Provisional Council of State, or revoked by the regulation-making authority.

"(d) Whenever the Provisional Council of State thinks fit, it shall declare that the state of emergency has ceased to exist, and upon such declaration being published in the Official Gazette, the emergency regulations shall expire on the date or dates prescribed in such declaration."

As mentioned above, the Provisional Government declared a state of emergency on the same day that it enacted the enabling provision. Section 9 of the Law and Administration Ordinance remained in force until June 1996, when it was replaced by new constitutional arrangements regarding emergency powers in Basic Law: Government, which are discussed below.

110. A significant change in the scope of executive emergency powers has recently been made in the new version of Basic Law: Government, which entered into force in June 1996. This Basic Law repeals section 9 of the Law and Administration Ordinance, replacing it with new arrangements regarding the duration of and power to declare a state of emergency, as well as substantive limitations on the content and application of emergency regulations, which aim at protecting human rights. Under section 49 of the Basic Law, the official state of emergency no longer continues automatically until repealed. Rather, the Knesset may declare a state of emergency that will extend for up to one year; the Government may also declare a state of emergency, which may last for up to one week, until approval by the Knesset. In addition, emergency regulations are to be issued by the Government, rather than by individual ministers, except when there exists an urgent and critical need to enact such regulations and the Government cannot be convened, in which case the Prime Minister may issue such regulations or authorize another minister to do so. Under the new Basic Law, moreover, the validity of all emergency legislation, including that of previously enacted laws extending the force of emergency regulations under section 9 of the Law and Administration Ordinance, is now contingent upon the Knesset's decision whether to declare a new state of emergency at the end of each 12-month period, which the Knesset did in mid-1997. In addition, particular emergency legislation may be annulled by the Knesset, and ordinary emergency regulations expire after three months unless extended by law.

111. The new Basic Law (sect. 50) specifically provides that emergency regulations may not prevent persons from seeking redress therefrom in the courts, nor may they set retrospective punishments or allow injury to human dignity. In addition, no emergency regulations may be promulgated, nor may any powers, arrangements or measures be exercised thereunder, except to the extent required by the state of emergency. Although the Supreme Court has not yet had the opportunity to interpret the effect of these limiting principles on emergency legislation since the enactment of the new Basic Law, the clear intent of the Knesset was to circumscribe the powers of the executive branch

to impair enjoyment of fundamental human rights in a state of emergency, and to give the courts the necessary tools to enforce such curbs on executive discretion.

112. In Israel there are three principal types of legislation (statutes or regulations) which have application during a state of emergency. The first type consists of regulations enacted pursuant to the enabling legislation (i.e., until recently, section 9 of the Law and Administration Ordinance, and, since 1996, section 49 of Basic Law: Government) during periods when public security, the security of the State or the maintenance of supplies and essential services are seriously threatened, typically in time of war. For example, during the Gulf War in 1991, a series of emergency regulations were promulgated dealing with the maintenance of civil defence, the preservation of vital telecommunications capacities, the prohibition of firing employees due to their absence from work during the war, altering the school schedule, and the like. See, e.g., Emergency (Special Situation Period in Civil Defence) Regulations, 5751-1991; Emergency (Wireless Telegraph) Regulations, 5751-1991; Emergency (Telecommunications) Regulations, 5751-1991; Emergency (Prohibition of Termination of Employment during Special Situation in Civil Defence) Regulations, 5751-1991; Telecommunications (Installation, Operation and Maintenance) (Amendment) Regulations, 5751-1991; Emergency (Educational Institutions during Special Situation Period in Civil Defence) Regulations, 5751-1991. These regulations generally remain in effect for a brief period.

113. The second type of emergency legislation includes statutes which extend the validity of particular emergency regulations for a set period of time, or until the officially declared state of emergency ceases to exist. The regulations extended by this second type of emergency legislation deal with matters in which the need to safeguard public security, the security of the State or maintenance of supplies and essential services is of an ongoing nature, for example, regarding security at schools, regulating travel between Israel and other countries with which Israel is in an official state of war; and supervision of sea-going vessels. See, e.g., Emergency (Guarding of Educational Institutions) Extension Law, 5734-1974; Emergency (Departure Abroad) Regulations Extension Ordinance, 5708-1948; Emergency (Supervision of Sea-going Vessels) Extension Law, [Consolidated Version], 5733-1973.

114. Finally, several laws have effect during an officially declared state of emergency, although they are enacted as a normal statute, and not pursuant to the above-mentioned enabling provisions. As a formal matter, then, these laws are not emergency legislation, properly so-called; nor, as a rule, do they create arrangements which impair the enjoyment of rights under this Covenant. See, e.g., Supervision of Goods and Services Law, 5718-1957.

115. Over the past 50 years, government ministers have used their authority to enact emergency regulations in a broad array of matters. Though a complete discussion of all emergency regulations enacted during this entire period would well exceed the scope of this report, the following examples may serve to indicate the nature and variety of such regulations:

(a) Regulations allowing for uninterrupted operation of specific types of institutions, professions and industries declared “essential”, such as the courts, various civil service positions, government companies, doctors and other health professionals, social workers, flour mills, the national telecommunications company, the sole electric utility company, the petroleum and gas industries, educational personnel, etc.;

(b) Regulations providing for security protection in the schools;

(c) Regulations requiring the registration of certain manufacturing equipment and allowing for its employment by the State in times of national emergency;

(d) Regulations relating to the use of sea-going vessels;

(e) Regulations to redress the effects of fluctuations in foreign exchange rates;

(f) Regulations raising the maximum age of reserve military service;

(g) Regulations providing for lodging certain types of workers in hotels;

(h) Regulations for preventing fires in agricultural areas;

(i) Regulations, which remained in effect only for several days, requiring the national broadcast authority, whose employees were on strike at the time, to air campaign broadcasts from various political factions in the period prior to Knesset elections;

(j) Regulations allowing police authorities to post stake-outs on roofs of private houses;

(k) Regulations regarding the treatment of goods not redeemed from the offices of customs authorities;

(l) Regulations reducing the amount of water allotted for agricultural, industrial and domestic use.

116. **Entrenchment of certain statutes against emergency legislation** Many, but not all, Basic Laws contain a provision which makes them invulnerable to alteration, modification or suspension by emergency regulations.* As these entrenchment provisions are themselves generally not susceptible to change by emergency regulations, laws containing them are thus not susceptible to change by the executive branch. In other cases, such as in Basic Law: Human Dignity and Liberty, duly enacted emergency legislation may deny or restrict rights so long as such denial or restriction is for a proper purpose, and for a period and to an extent that is no greater than necessary.

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* For example, see section 44 of Basic Law: Knesset, section 25 of Basic Law: President of the State, section 53 of Basic Law: Government, section 22 of Basic Law: Judiciary.

117. **Judicial review of ministerial discretion** The scope of ministerial discretion in enacting emergency regulations, and in issuing orders pursuant to emergency legislation, admittedly has been quite broad. Any person injured by such orders or regulations may apply to the courts, and principally to the High Court of Justice, for relief against improper exercise of ministerial authority. Prior to the enactment of Basic Law: Human Dignity and Liberty, in 1992, and the entering into force of Basic Law: Government in June 1996, the extent of the Court's intervention in ministerial discretion under emergency legislation was generally rather limited, in view of the broad discretion granted by the general statutory enabling provision (sect. 9 (a) of the Law and Administration Ordinance), or by the specific statutory powers in cases of administrative detention and supervision of goods and services. It may be said, nevertheless, that the Court's jurisprudence in this regard developed over the years, culminating in a series of important decisions in which the Court nullified ministerial regulations or orders made under emergency powers. In *Poraz v. the Government of the State of Israel,* H.C.J. 2944/90, 44(3) P.D. 317, the High Court invalidated emergency regulations promulgated by the Minister for Construction and Housing, which bypassed existing statutory arrangements for building permits, in part on the ground that it was not necessary to employ emergency powers when it was possible to achieve the same purpose through the ordinary, if slower, legislative process.

118. Basic Law: Human Dignity and Liberty, enacted in 1992, which constitutes a charter of basic human freedoms, significantly enlarged the scope of judicial review of emergency regulations, and of official actions taken thereunder. Section 12 of this law provides as follows:

> "12. Emergency regulations shall not have the power to alter this Basic Law, to suspend temporarily its force or to make it subject to conditions; however, when a state of emergency exists in the State by virtue of a proclamation under section 9 of the Law and Administration Ordinance, 5708-1948, emergency regulations may be promulgated by virtue of the said provision which may deny or restrict rights under this Basic Law, provided that such denial or restriction shall be for a proper purpose and for a period and to an extent that is no greater than required."

Among the rights protected by the Basic Law which are relevant for the non-derogation provisions of article 4 (2) of the Covenant, one may note the right to protection of life, body and dignity (sects. 2 and 4 of the Basic Law); the right to protection of personal liberty (sect. 5); and the right to privacy (sect. 7).

119. **Judicial review: administrative detention** The Emergency Powers (Detention) Law, 5939-1979, gives the Minister of Defence and the Chief of General Headquarters of the Israel Defence Forces the authority to order the detention of a person if the Minister has reasonable grounds to presume that such detention is necessary for reasons of State security or public safety. The term of such detention, if ordered by the Minister of Defence, may be for a renewable period of up to six months; if ordered by the I.D.F. Chief of

General Headquarters, it may be only for 48 hours, and may not be renewed. The statute ensures ongoing judicial review of the administrative detention order. First, the detainee must be brought before the President of a District Court, and the Court may approve the detention order, annul it or shorten the period of detention (sect. 4 (a) of the above Law). If the detainee is not brought before the Court within 48 hours, then he must be released. In addition, the Law requires a reconsideration of the detention order by the Court at least every three months; once again, if such a hearing is not held within the three-month period, then the detainee must be released, unless there is another lawful ground for his detention. All decisions of the President of the District Court are appealable to a single judge of the Supreme Court. Under section 4 (c) of the Law, the President of the District Court "shall annul the detention order if it is shown that the reasons for issuing the order were not proper reasons of State security or public safety, or if it was issued in bad faith or was based on improper considerations". The Court hears appeals of administrative detention orders in closed-door session, and is empowered not to disclose to the detainee or his attorney evidence if the court is convinced that disclosure is likely to compromise State security or public safety.

120. Administrative detention orders are frequently challenged in the courts. In some cases, the courts have nullified the orders, either due to technical flaws or when the purpose of the detention is found not to be strictly related to requirements of national or public security (see, e.g.,*A.D.A 1/82, Kawasme v. Minister of Defence, 36(1) P.D. 666*) in which the detention order was voided when its actual purpose was to detain the appellant until the end of legal proceedings). The courts have interpreted their authority under section 4 (c) of the Detentions Law to include a thorough examination of the validity of the purpose for the detention, the propriety of the Defence Minister's considerations, and the degree of necessity for such a limitation on personal freedom (*A.D.A. 2/86, Anonymous v. Minister of Defence, 41(2) P.D. 508*).

121. Since the early years of Israel's statehood, administrative detention has been employed against Jews and Arabs who, according to evidence submitted by the Minister of Defence, are active members of organizations which aim to undermine Israel's existence or the safety of its citizens through terror operations and by other means. In 1994, following the murder of 29 Muslim worshippers at the Patriarch's Tomb in Hebron, and following the assassination of Prime Minister Yitzhak Rabin in November 1995, tens of persons known or alleged to be active in incitement against the Arab population or the Government were placed in administrative detention, or had restrictions on their freedom of movement imposed on them under the Defence (Emergency) Regulations. The cases involving restriction orders are discussed under article 12 below.

122. Given the severity of the threat to human life posed by terror attacks, and of other actions aimed at undermining Israel's very existence, as well as the exceeding difficulty in preventing such acts, the policy of the State of Israel has been that its use of administrative detention, when efficient criminal prosecution or other measures are not possible, is consistent with

its obligations under article 4 of the Covenant, in light of the availability of substantive judicial review available under the restraining provisions of section 4 (c) of the Emergency Powers (Detentions) Law and section 12 of Basic Law: Human Dignity and Liberty. Israel's employment of administrative detention is not done in a manner that amounts to discrimination solely on the basis of race, colour, sex, language, religion or social origin. The de facto discrepancy between the numbers of administrative detainees from different ethnic groups clearly derives from the inter-ethnic nature of the violent conflict that has attended Israel's entire life as a State. So long as the actual purpose of administrative detention orders, based on evidence reviewed by the President of the District Court, is to protect national security or public safety, then the de facto discrepancy in the numbers of detainees, does not, in itself, entail impermissible discrimination.

123. **Limitations on emergency powers**. The larger question surrounding the discussion of Israel's emergency legislation is whether, and to what extent, the formal state of emergency may be ended or modified. Emergency legislation was initially intended to enable maintenance of crucial services and public order when a state of war or violent conflict might prevent or seriously impair the normal operation of governmental institutions and services; indeed, as mentioned above, section 9 of the Law and Administration Ordinance was enacted in precisely such circumstances. Israel's history, however, has been rather anomalous in this regard: on the one hand, the State and its citizens have been subjected without cease to a grimly real existential threat, to an ongoing state of war with some of its neighbours whose policies still aim at Israel's destabilization or destruction, to campaigns of political violence which continue to exact a dreadful toll, and to full-scale armed conflict six times in nearly 50 years. On the other hand, aside from those periods of all-out war, Israel's civil and governmental institutions generally function uninterruptedly in normal fashion in the midst of the continuing conflict. As a matter of political reality, Israel's need for a formal state of emergency will abate when it succeeds in concluding and implementing formal peace arrangements in the region.

Article 5 - Non-derogable nature of fundamental rights

124. As mentioned above under article 2, the Covenant has not been made a part of internal Israeli law by Knesset legislation. Under Israeli doctrine regarding the enforceability of conventional international law, as articulated in decisions of the Supreme Court (see, e.g., C.A. 25/55, *Custodian of Absentee Property v. Samra et al.*, 10 P.D. 1825, 1829; H.C.J. 606/78, *Ayub* v. *Minister of Defence*, 33(2) P.D. 113), the courts may consider and interpret the provisions of international human rights covenants when a claim is made that internal law is in violation of Israel's obligations under such covenants, but the concrete disposition of rights in any particular case is based on principles contained in Israel's internal law. As a formal matter, then, the provisions of the Covenant cannot be invoked in any judicial proceeding to justify any restriction of or derogation from existing rights granted under Israel's internal law. In several instances, the Supreme Court has looked to international human rights covenants, including the present Covenant, as a potential indicator of *customary* international law, which is considered part of Israel's internal law. See, e.g., Cr.A. 174/54,

Stampfer v. Attorney-General, 10 P.D. 5, 15. But in no instance has the Court determined that the custom reflected in international human rights instruments justifies limitation of existing rights.

125. During the course of Israel's life as a State, the courts have built an edifice of human rights founded on the fundamental principle of statutory interpretation under which human rights must be given their full weight when they come into conflict with other legitimate values or interests, and that only when the competing interest is at least of equal weight with the human right, and it is impossible to realize both of them, may the human right be impaired. (H.C.J. 73, 87/53, *Kol Ha'am v. Minister of Interior*, 7 P.D. 871; H.C.J. 680/88, *Schnitzer v. Chief Military Censor*, 42(4) P.D. 617). The principle of non-derogation from human rights was codified in the limitation clause (sect. 8) of Basic Law: Human Dignity and Liberty, which prohibits any restriction of the rights articulated therein except by a statute which befits the values upheld by the State of Israel, and is intended for a proper purpose, and such derogation must be only to an extent no greater than necessary. These firmly entrenched principles of narrow construction of any legislation or official act tending to impair human rights are binding on all official authorities. By their nature, they are antithetical to any derogation from existing rights based on the argument that the Covenant does not recognize such rights or recognizes them to a lesser extent.

Article 6 - Right to life

Measures to reduce the threat of war

126. The State of Israel has made diplomatic achievements of historic importance aimed at reducing the state of war and violent conflict with other States in the region and with its Palestinian Arab neighbours. The peace agreement signed with Egypt in 1979, the peace agreement with the Hashemite Kingdom of Jordan signed in 1994, and the series of agreements with the PLO, including the Declaration of Principles on Interim Self-Governing Arrangements signed in Washington, D.C., on 13 September 1993, and the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, signed in Washington, D.C., on 28 September 1995; are the major landmarks in Israel's pursuit of comprehensive arrangements that will ultimately eliminate the threat of war in the region. These bilateral agreements, and the larger process of which they form a part, bear a crucial import for the fulfilment of the provisions of this article. Israel's support of United Nations peacekeeping forces in Lebanon, in the Golan Heights and in the Sinai Peninsula may also be noted in this regard.

Reduction of infant mortality, epidemics and malnutrition

127. Under the National Health Insurance Law, 5755-1995, all residents are granted basic health care by right, regardless of ability to pay. Health care is generally organized through several health funds. In addition, the Ministry of Health and municipal governments subsidize health care for infants at drop-in mother-and-child-clinics, called *tipat halav*, which provide basic care and monitoring of the infant's development. Recent statistics indicate that over 90 per cent of infants under one year of age, in all sectors of the population, receive a basic battery of immunizations. During the years 1993

to 1995, between 91 and 94 per cent of Jewish infants, and between 93 and 98 per cent of non-Jewish infants were immunized against diphtheria, pertussis, tetanus, measles and poliomyelitis.

128. Israel's infant mortality rate fell by almost half between 1983 and 1996, when the rate stood at 6.8 deaths for every 1,000 live births (5.5 deaths among Jewish newborns, 9.9 deaths among non-Jewish newborns). The precipitous decrease in infant mortality over the last quarter decade, and the causes for such deaths, are shown in the following tables:

Table 3: Infant mortality, 1989-1995

	Total	**Jews**	**Non-Jews**
1989	10.1	8.2	14.7
1990	9.9	7.9	14.9
1991	9.2	7.2	14.2
1992	9.4	7.5	14.3
1993	7.8	5.7	12.8
1994	7.5	5.7	11.5
1995	6.8	5.6	9.6

Table 4: Average infant mortality, 1970-1995

Period	**Number of infant deaths per 1,000 live births**
1970-1974	21.9
1980-1984	14.4
1985-1989	10.9
1990-1994	8.8
1991-1995	8.1

Table 5: Infant mortality (rate per 1,000 live births) by religion and age of neonate at death, 1990-1994

	Total		**Early neonatal mortality** 0-6 days		**Late neonatal mortality** 7-27 days		**Post-neonatal mortality** 28-365 days	
	Rate	Per cent	Rate	Per cent	Rate	Per cent	Rate	Per cent
Total	8.8	100	4.1	46.6	1.4	15.9	3.2	36.4
Jews	6.8	100	3.6	52.9	1.2	17.6	2.0	29.4
Non-Jews	13.5	100	5.3	39.2	1.9	14.1	6.3	46.7

129. Most cases of infant mortality occur within the first week of life. As the table above indicates, despite the dramatic drop in infant mortality in both the Arab and the Jewish sectors of the population, there remains a significant gap between the infant mortality rates in the Arab and Jewish sectors. Statistical analysis completed in 1992 regarding infant mortality rates in municipalities around the country found that the nine cities with the highest infant mortality rates (ranging from 16.8 to 24.6 per cent) were localities in which the majority of the population is Arab. A breakdown of infant deaths according to recorded causes generally parallels the substantial decline in overall infant mortality and indicates a lingering discrepancy in the frequency of certain particular causes between the Jewish and non-Jewish populations. As may be discerned from the following table, the frequency of non-Jewish infant deaths due to intestinal infectious diseases and pneumonia declined most dramatically over the 25-year period between 1970 and 1995, from a level several times higher than that among the Jewish population to essentially the same level. During the same period, the rate of infant deaths caused by congenital abnormalities, while decreasing 35 per cent in the non-Jewish population, remained substantially higher than that in the Jewish population, which declined 61 per cent over the same period.

Table 6: Infant deaths, by population group and cause

Cause of death	1970-1974	1980-1984	1985-1989	1990-1994
Jews Total	18.6	11.8	8.8	6.8
Intestinal infectious diseases	0.6	0	0	
All other infectious and parasitic diseases	0.4	0.2	0.1	0.1
Pneumonia	1.2	0.3	0.2	0.1
Congenital anomalies	4.4	2.8	2.3	1.7
Other causes of perinatal mortality	9.9	5.8	4.4	3.6
External causes	0.3	0.2	0.4	0.2
All other and unspecified causes	1.8	2.4	1.6	1.2
Arabs and others Total	32.1	22.6	16.8	13.5
Intestinal infectious diseases	4.8	0.2	0.3	0.1
All other infectious and parasitic diseases	1	0.9	0.5	0.3
Pneumonia	4.4	1.8	0.6	0.2
Congenital anomalies	6.5	4.9	5.4	4.2
Other causes of perinatal mortality	10	7.3	5.3	4.3
External causes	0.7	0.6	0.8	0.5
All other and unspecified causes	4.7	6.8	4	3.8

Source: CSB, SAI 1996.

130. The mortality rate of Jewish female newborns and infants during the first year of life has been consistently lower than that of their Jewish male counterparts. In the non-Jewish sector, however, the average mortality rate of female infants passed that of male infants during the years 1989-1993, and has remained consistently higher than the mortality rate of non-Jewish male infants between their second and twelfth month of life. To combat infant mortality, the Ministry of Health undertakes widespread information campaigns, through its Public Health Services, to inform the population of risk factors for congenital defects, such as marriage between close relatives. In addition, the National Insurance Institute provides benefits to every woman who gives birth in a hospital, where the risk of perinatal mortality is lower. Israel's labour laws allow a pregnant woman to be absent from work for prenatal care, including for high-risk pregnancies, and nursing mothers are allowed to leave their workplace during the workday in order to feed their newborns, as discussed under article 24.

131. On the following pages is the table presenting main indicators of physical and mental health indicators for the Israeli population between 1980 and 1995, including live births, infant mortality, new cases of common diseases, hospital discharges, and other indicators.

Environmental pollution

132. **Water pollution**. Because water is scarce in Israel, considerable efforts are made to prevent water pollution, and effluents are recycled for secondary use, primarily in the agricultural sector. Standards of effluent quality are strictly monitored to prevent damage to public health and to crops. Water for domestic use is inspected and tested for bacteria and unwanted chemicals in compliance with regularly updated national standards and the recommendations of the World Health Organization. In 1993 and 1994, only 4 per cent of all test results indicated a possibility of contamination. Most households dispose of sewage through a central sewage system; some smaller settlements use septic tanks and cesspools, but they are gradually being linked to the central sewage system.

133. **Air pollution**. The main sources of air pollution in Israel are from energy production, transport and industrial manufacture. A new programme for the control of air quality was drawn up in 1994, to prevent air pollution through the integration of physical planning, monitoring, intermittent control systems, legislation and enforcement, reduction of pollution sources and the reduction of pollutant automobile emissions.

134. Israel's energy economy is based on fossil fuels, mainly oil and coal. Data on the amount of pollutants emitted into the atmosphere from fuel combustion show significant declines in levels of sulphur oxides and lead, increased emissions of carbon dioxide, carbon monoxide, nitrogen oxides and hydrocarbons, and no significant change in concentrations of suspended particulate matter.

Table 7. Selected HFA indicators for Israel

Indicator title	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
1. Demographic and socioeconomic																
Mid-year population, total	3,879,000	3,949,700	4,026,700	4,076,200	4,159,100	4,232,900	4,298,800	4,368,900	4,441,600	4,518,200	4,660,100	4,946,200	5,123,500	5,261,400	5,399,300	5,539,700
Mid-year population, male	1,938,300	1,973,000	2,010,800	2,011,600	2,075,700	2,112,300	2,144,600	2,179,000	2,215,100	2,253,200	2,321,000	2,458,300	2,543,000	2,609,400	2,675,800	.
Mid-year population, female	1,940,700	1,976,700	2,015,900	2,026,000	2,083,400	2,120,600	2,154,200	2,189,900	2,226,500	2,265,000	2,339,100	2,487,900	2,580,500	2,652,000	2,723,500	.
Live birth, total	93,484	93,308	96,695	98,724	98,478	99,376	99,341	99,022	100,454	100,757	103,349	105,725	110,062	112,330	114,543	117,182
Live birth, male	48,144	47,204	49,566	50,838	50,914	50,911	50,936	50,559	51,603	51,638	53,013	54,141	56,603	57,775	58,855	60,155
Live birth, female	45,340	46,104	47,129	47,886	47,564	48,465	48,405	48,463	48,851	49,119	50,336	51,584	53,459	45,555	55,688	57,027
Total fertility rate	3.14	3.06	3.12	3.14	3.13	3.12	3.09	3.05	3.06	2.90	2.80	2.80	2.70	2.80	2.90	.
% Unemployed persons, total	5	5	5	5	6	7	7	6	6	9	10	11	11	10	8	6
Annual rate of inflation	133	102	132	191	445	185	20	16	16	21	18	18	9	11	15	8
GNP, US$ per capita	5,423	5,746	5,968	6,526	5,977	5,474	6,677	7,881	9,660	9,633	10,958	11,766	12,589	12,346	13,580	15,406
GDP, US$ per capita	5,615	5,887	6,151	6,729	6,240	5,699	6,922	8,140	9,911	9,887	11,223	11,987	12,822	12,522	13,752	15,660
GDP, PPP$ per capita	6,922	7,756	8,269	8,813	9,221	9,807	9,947	10,728	11,339	11,794	12,647	13,288	13,942	14,346	15,205	16,273
2. Health status																
Number dead borns fetuses, 1000 + grams	422	504	482	506	469	459	423	457	453	418	343	396	409	.	.	
Number of deaths, 0 - 6 days, 1000 + grams	.	385	328	380	370	321	325	317	326	280	293	258	242	204	208	193
Number of livebirths, 1000 + grams	.	91,205	94,224	96,765	96,157	97,248	97,637	97,801	99,119	99,406	101,283	104,182	107,132	109,149	111,391	113,993
Number of deaths, 0 - 6 days, 500 + grams	.	629	550	608	575	551	525	522	469	461	460	414	408	339	365	331
Number of deadborn fetuses, 500 + grams	455	547	529	539	509	524	478	517	515	469	381	448	458	.	.	.
New cases, tuberculosis	249	227	232	222	257	368	239	184	226	160	234	505	345	419	343	392
New cases, hepatitis - total	3,924	4,525	3,146	3,898	4,965	4,558	3,208	2,058	2,813	2,452	2,650	1,751	1,353	3,547	3,891	2,308
New cases, hepatitis - A	.	.	.	.	.	.	.	.	.	.	.	.	1,037	3,041	3,483	2,165
New cases, hepatitis - B	.	.	.	.	.	.	.	.	.	.	.	.	139	138	132	69
New cases, syphilis	.	.	.	.	122	160	54	32	41	45		.	.	156	118	.
New cases, gonococcal infections	.	.	.	.	644	674	424	127	135	146	0	0	0	0	0	0

Cont.

Indicator title	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
New cases, pertussis	19	25	62	78	7	24	47	96	7	260	189	35	99	138	71	59
Number of new cases, measles	215	228	7,864	129	137	3,005	1,951	438	178	29	212	991	66	141	1,565	28
Number of new cases, malaria	.	.	.	.	.	.	36	94	268	251	183	67	213	58	26	45
Number of new cases, diphtheria	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0
Number of new cases, tetanus	2	3	3	2	2	3	1	1	3	1	0	5	0	2	1	1
Number of new cases, acute poliomyelitis	11	8	5	4	1	2	0	2	16	0	0	0	0	0	0	0
Number of new cases, congenital rubella	.	.	.	.	.	.	0	2	.	.	.	0	6	2	1	0
Number of new cases, neonatal	0	1	2	1	0	0	0	1	2	1	0	0	0	0	0	0
Number of new cases, rubella	881	451	602	2,302	7,189	556	284	4,220	1,718	354	99	437	2,145	104	62	46
Number of new cases, mumps	3,041	5,956	5,092	3,904	6,584	2,113	1,052	2,579	6,999	891	364	349	676	895	891	117
Estimated cumulative cases, HIV seropositive	.	.	.	.	.	.	.	.	.	.	.	.	.	.	2,000	2,000
New cases, clinically clinically diagnosed AIDS	.	0	2	8	5	10	25	19	24	34	45	37	39	55	32	53
Hospital discharges: infectious and parasitic diseases	.	.	.	.	.	.	.	22,798	.	.	.	.	.	.	30,245	.
Hospital discharges: all cancers	.	.	.	.	.	.	.	30,632	.	.	.	.	.	.	54,374	.
Number of new cases of cancer, all sites, total	8,866	8,942	8,980	8,663	9,785	9,930	10,106	10,088	10,165	10,987	12,253	13,109	13,354	14,072	.	.
Number of new cases of cancer, all sites, male	4,400	4,409	4,393	4,273	4,794	4,883	4,961	4,992	4,878	5,283	5,820	6,117	6,389	6,694	.	.
Number of new cases of cancer, all sites, female	4,466	4,533	4,587	4,390	4,991	5,047	5,145	5,096	5,278	5,704	6,433	6,992	6,965	7,378	.	.
Number of cases, malignant neoplasms, total	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

Cont.

Indicator title	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Number of cases, malignant neoplasms, male	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Number of cases, malignant neoplasms, female	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Number of new cases of trachea/ bronchus/lung caner, total	718	715	757	755	858	883	792	870	829	937	946	949	905	987	.	.
Number of new cases of trachea/ bronchus/lung caner, male	536	532	565	543	637	647	554	654	601	667	692	680	661	700	.	.
Number of new cases of trachea/ bronchus/lung caner, female	182	183	192	212	221	236	238	216	228	270	254	269	244	287	.	.
New cases, cancer of the female breast	1,174	1,152	1,243	1,128	1,317	1,289	1,360	1,305	1,409	1,616	1,811	2,005	2,049	2,153	.	.
New cases, cancer of the cervix	64	82	86	85	66	95	79	91	97	124	118	117	148	139	.	.
Number of cases, diabetes mellitus	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Number, mental health patients in hospital, 365 + day	6,163	6,106	6,141	6,102	5,977	5,854	5,606	5,285	5,076	5,014	4,951	4,865	4,812	4,824	4,771	4,578
Number of new cases of mental disorders	4,548	4,486	3,962	3,570	3,812	3,485	3,124	3,115	2,933	3,196	3,293	3,558	3,517	3,699	3,714	4,141
Number of new cases of alcoholic psychosis	13	5	30	31	39	28	22	26	29	23	27	35	38	35	45	51
Number of cases, mental disorders	8,678	.	.	8,164	8,059	7,780	.	7,167	7,036	.	6,877	.	6,867	6,866	6,949	6,846
Hospital discharges: diseases of circulatory system	.	.	.	.	.	.	.	64,876	.	.	.	.	.	.	102,302	.
Hospital discharges: ischaemic heart disease	.	.	.	.	.	.	.	31,127	.	.	.	.	.	.	47,439	.
Hospital discharges: cerebrovascular diseases	.	.	.	.	.	.	.	7,365	.	.	.	.	.	.	12,425	.
Hospital discharges: diseases of respiratory system	.	.	.	.	.	.	.	41,060	.	.	.	.	.	.	65,368	.
Number of cases, chronic obstructive pulmonary diseases	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

Cont.

Indicator title	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Hospital discharges: diseases of digestive system	.	.	.	.	.	.	.	42,879	.	.	.	.	.	.	63,786	.
Hospital discharges: diseases musculoskeletal & connect.tissue	.	.	.	.	.	.	.	14,708	.	.	.	.	.	.	26,280	.
Hospital discharges: injury and poisoning	.	.	.	.	.	.	.	37,069	.	.	.	.	.	.	55,576	.
Absenteeism due to illness, days per person per year	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Newly granted invalidity (disability) cases	.	.	.	.	.	.	.	.	.	13,445	14,117	11,659	18,176	20,667	20,801	15,516
Number, persons receiving social benefits due to disablement	.	.	.	.	.	.	.	.	.	108,499	111,702	113,931	118,401	125,436	132,618	140,089
% of disabled regular occupation, 15 - 64 years	.	.	.	.	.	.	.	21	.	.	.	.	.	.	.	.

135. In 1994, 63 air quality monitoring stations were operating in Israel. All of these stations monitor sulphur dioxide, most monitor nitrogen oxides and particulate matter, and a few monitor ozone and/or carbon monoxide. Airborne chemicals at hazardous waste disposal sites are monitored. The limited information available indicates that sulphur dioxide levels are mostly below regulation limits, nitrogen dioxide is significantly above the limit in some areas, and ozone levels in most places exceed recommended limits.

136. Recognizing that its current monitoring network needs to be augmented to formulate a national air quality management programme, Israel has recently prepared a preliminary programme for a multi-million-dollar national air monitoring system with a central data storage and display centre. To implement this national programme, some 50 monitoring stations are planned, in addition to the 63 currently in operation. The network is to be constructed over a three-year period.

Basic Law: Human Dignity and Liberty

137. The right to life is enshrined in sections 2 and 4 of Basic Law: Human Liberty and Dignity, which provide:

> "...
>
> "2. There shall be no violation of the life, body or dignity of any person.
> "...
>
> "4. All persons are entitled to protection of their life, body and dignity."

Under the limitation clause of the Basic Law (sect. 8), the above rights cannot be impaired except by a statute which is intended for a worthy purpose, which befits the values of the State of Israel, and which limits the right to an extent no more than required.

Legislation directly or indirectly prohibiting deprivation of life

138. The Penal Law, 5737-1977, contains several specific sections prohibiting actions which result or are intended to result in loss of life, principally the following:

(a) Manslaughter (sect. 298) - maximum penalty 20 years' imprisonment;

(b) Murder (sect. 300) - life imprisonment;

(c) Procuring or abetting suicide (sect. 302) - maximum 20 years' imprisonment;

(d) Infanticide (sect. 303) - maximum 5 years' imprisonment;

(e) Causing death by negligence (sect. 304) - maximum three years' imprisonment;

(f) Attempted murder (sect. 305) - maximum 20 years' imprisonment;

(g) Written threat to murder (sect. 307) - maximum 7 years' imprisonment;

(h) Carrying, selling, importing or exporting firearms without a licence (sect. 144) - maximum 3 or 15 years' imprisonment;

(i) Carrying a knife outside of one's home without showing a lawful purpose (sect. 186) - maximum 5 years' imprisonment;

(j) Selling, manufacturing or importing a knife for a purpose other than use in a profession, labour, business, home or other lawful use (sect. 185) - maximum 7 years' imprisonment;

(k) Battery with aggravated intent (including causing an explosion or sending an explosive to a person (sect. 329) - maximum 20 years' imprisonment;

(l) Placing an explosive with intent to cause injury (sect. 330) - maximum 14 years' imprisonment;

(m) Reckless endangerment of a person's life on a transportation route (sect. 332) - maximum 20 years' imprisonment;

(n) Endangerment of life through use of a poisonous substance (sect. 336) - maximum 14 years' imprisonment;

(o) Reckless and negligent acts calculated to cause risk to human life (sect. 338) - maximum 3 years' imprisonment.

For certain offences, such as rape and battery, the maximum punishment is doubled if a firearm or other weapon is used during its commission. In general, solicitation, conspiracy, and complicity in the commission of any of the above offences are subject to a lesser punishment, usually half of the maximum punishment in the case of actual commission, except if the penalty for the offence is death or mandatory life imprisonment, in which case complicity in or attempt to solicit commission of the offence is punishable by 20 years' imprisonment; and if the penalty for the offence is life imprisonment, then the penalty for complicity or attempt to solicit is 10 years' imprisonment.

139. Under the Aviation (Offences and Punishment) Law, 5731-1971, a person who acts with intent to endanger human life on an aeroplane, or to cause injury to the person, to the aeroplane or any property on the aeroplane, is punishable by 20 years' imprisonment; if the act results in loss of life, the punishment is mandatory life imprisonment (sect. 18). The same penalties are imposed on a person who endangers safety at an airport in certain circumstances (sect. 18 A of the Law). Under this law, conspiracy, attempt, or solicitation to commit the above offences, or complicity in the commission thereof, bear the same punishment as if the offender actually committed the offence himself.

140. The Defence (Emergency) Regulations, 1945 define certain specific offences regarding illegal use or possession of firearms, use of

explosives or inflammable objects with intent to kill or cause grievous bodily harm, and illegal possession of such explosives or inflammable objects (Regulations 58-59), which overlap similar provisions in the Penal Law. Finally, the Prevention of Terror Ordinance, 5708-1948, punishes activity, membership in or support of a terrorist organization, which is defined as "a group of persons which employs acts of violence which are likely to cause the death or injury of a person, or threats of such acts of violence."

Incidence of murder, attempted murder, manslaughter, and negligent homicide

141. The following table is a compilation of the incidence of reported cases of the four types of offence involving deprivation of life. It should be noted that the percentage of cases in which the suspect was apprehended is correct as of December 1995, except for the figures for 1996, which are updated to June 1996.

Table 8. Incidence of offences involving deprivation of life, 1991-1996 (first half)

Offence	Murder	Attempted murder	Manslaughter	Negligent homicide
1991				
Reported cases	100	81	6	66
% apprehended	61%	81.5%	100%	89.4%
1992				
Reported cases	91	112	19	53
% apprehended	73.6%	79.5%	94.7%	84.9%
1993				
Reported cases	96	100	10	88
% apprehended	77.1%	84%	90%	79.5%
1994				
Reported cases	114	122	11	72
% apprehended	75.4%	77.0%	63.6%	73.6%
1995				
Reported cases	112	139	16	66
% apprehended	71.4%	48.2%	87.5%	84.8%
1996 (Jan.-May)				
Reported cases	53	50	3	14
% apprehended	50.9%	48.0%	-	21.4%

Deprivation of life by law enforcement officials

142. Law enforcement officials in Israel, like nearly all public servants* are subject to the provisions of the criminal law, as well as to internal disciplinary regimes for unlawful actions. In addition to the general criminal prohibitions noted above, the Penal Law, 5737-1977, explicitly forbids a public servant from using force or violence, or ordering the use thereof, against a person in order to extract from that person or another person in whom he has an interest, a confession to a crime or information regarding that crime (277 (1)). Several parallel legal institutions function to investigate cases of deprivation of life by law enforcement officials, to impose liability and punish those found responsible, and to provide compensation for victims; as these institutions deal not only with deprivation of life, but with all forms of violence and mistreatment by public officials, they are discussed under article 7 as well as under this article.

Disciplinary and criminal proceedings

143. In any case in which the actions of law enforcement officials or security forces result in death, an internal investigation is conducted by the authority involved, regardless of any other external proceedings that may be initiated. If basis is found for disciplinary or criminal violations, then the case is referred to the appropriate authorities for investigation and trial, as described below and under article 7.

144. Disciplinary and criminal proceedings may also be initiated by complaints filed by citizens, typically victims of alleged mistreatment, members of their families or their legal representatives. Disciplinary investigations and trials are regulated by law in the case of the Israel Police, the Prisons Service and the Israel Defence Forces. Criminal matters relating to alleged offences by soldiers in the Israel Defence Forces are investigated and tried under the Military Justice Law, 5715-1955, including for the offences of murder and manslaughter. Until 1992, criminal investigations against public servants in the Israel Police and the General Security Service were carried out by internal investigations departments. To remedy the problems inherent in such an arrangement, an external body, the Department for Investigation of Police Misconduct (DIPM), was set up within the Ministry of Justice. This department has authority over investigations of suspected criminal activity by personnel in the Israel Police (including the Border Police) and the General Security Service, the liability for which bears a penalty of more than one year's imprisonment. To the extent that the Department's investigation reveals evidence of criminal liability, the Department transfers the case to a representative of the District Attorney or State Attorney's Office with a recommendation to file a criminal indictment.

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* The only exceptions are judges, who are exempt from criminal and civil liability for matters relating to the performance of their office during the term of their tenure, and members of the Knesset, who are immune from legal proceedings in respect of acts relating to the performance of their mandate and may not be prosecuted for other acts, unless the Knesset votes to relieve them of their immunity in respect of the charge in question (Knesset Members (Immunity, Rights and Duties) Law, 5711-1951).

From the inception of the DIPM in 1992 until mid-1997, 10 criminal indictments were filed against police officers in cases involving causing of death while on duty. The overall statistics are discussed under article 7 below.

145. In the event that the Department for Investigation of Police Personnel closes a criminal investigation without indictment, a person aggrieved by the decision may appeal to the State Attorney's Office. Up until October 1995, out of 120 such appeals, one was accepted.

146. Under Israeli law, public servants may be exempt from criminal liability in certain circumstances. For instance, a police officer is exempt from criminal (and civil) liability in connection with carrying out an arrest which, in the opinion of the presiding court, was carried out in good faith and for the sake of public order (sect. 44 of the Criminal Procedure (Arrest and Search) Ordinance [New Version], 5729-1969). Similarly, a police officer may be exempt from criminal liability, including for causing death, for actions taken through reasonable use of force under orders from a senior commanding officer in dispersing a riotous disturbance by a group of people which threatens public safety or causes public terror, if the commanding officer has duly notified the group of his presence and ordered them to disperse and they continue in their reckless disturbance (sects. 153-154 of the Penal Law, 5737-1977). The use of force by the police officer in such circumstances is regulated, however, by the rules for the use of firearms, discussed in paragraph 148 below.

147. In addition, several affirmative defences to criminal liability may be claimed by police officers or members of the security forces on trial. Under section 6 of the Police Ordinance [New Version], 5731-1971, a police officer may be relieved of criminal liability if he acted properly under an order issued by a court or by the Chief Execution Officer, who presides over proceedings for execution of judgements. Generally, claims of self-defence (sect. 34 (10) of the Penal Law) or “justification” emanating from a legal obligation or authorization to perform the act involved (sect. 34 (13) of the Penal Law) are not infrequently invoked in cases involving the use of force which results in death.

Open-fire regulations

148. The rules of engagement applicable to the Israel Police are contained in various regulations and standing orders. If a police person acts in violation of these regulations, he or she may be subject to a disciplinary trial pursuant to the Police Ordinance; if as a result of the violation of the open-fire regulations, a criminal offence is committed, including manslaughter, murder or negligent homicide, the police officer may be tried in normal criminal proceedings.

149. The rules of engagement for the Israel Police authorize use of firearms in three sets of circumstances: in carrying out an arrest of a person suspected of a severe felony; in dispersion of reckless disturbances or riots; and as a means of protecting against imminent danger to human life or injury. The regulations specify that firearms are to be used cautiously, only as a last resort, and only in circumstances in which the danger emanating from the use of firearms does not bear a reasonable relation to the other danger which

the police officer is trying to prevent. The police officer must assess the degree of necessity of the use of firearms at each stage of a particular event, and must refrain from using firearms immediately once the need to use them has ceased.

150. **Use of firearms in carrying out an arrest**. Under the police open-fire regulations, firearms may not be used in carrying out an arrest unless all of the following conditions have been met:

(a) The arrest relates to suspected commission of a felony, and either the felonious act or the perpetrator thereof significantly endangers the life or bodily integrity of a person;

(b) There is no other way to carry out the arrest;

(c) The use of firearms will not significantly endanger the lives or bodily integrity of passersby and innocent persons.

Once all of the above conditions have been met, the police officer must give prior warning of the intention to open fire. To the extent possible, such warning is to be given in two stages: first, by calling over a loudspeaker, if possible in the language understood by the suspect; then, if the police officer has grounds to believe that the suspect heard and understood the warning but did not stop, the officer may fire a warning shot in the air, taking adequate caution to prevent possible injury to persons or property. Police procedure No. 90.221.065, which further explains the open-fire regulations in operational terms, specifies the warnings to be given in Hebrew, Arabic and English. The police officer may be relieved of the duty to issue a warning when there is a serious, imminent danger to the life or bodily integrity of the officer or any other person, such as when the suspect is clearly identified as carrying firearms. If firearms are ultimately used, the police officer bears a further duty to use them with maximum caution, in a manner that will result in minimum injury to persons or property. Single shots may be fired, only at the legs of the suspect; it is forbidden to aim or shoot at the suspect's upper body.

151. **Firing in the air to disperse rioters**. In the case of a riot, which is defined as a group of people who have assembled to commit a crime, or for some other common purpose, and who behave in a manner that gravely violates public safety or order, firearms may not be used against people, but rather only to fire in the air. Firing in the air is prohibited unless the following conditions are met:

(a) A senior police officer orders the rioters to disperse, but they do not do so within a reasonable time from the giving of the order, and they continue severely to violate public order or safety,

(b) A warning is given regarding the impending use of force to disperse the riot, and less severe methods of force, such as water cannons or tear gas, have been used to no avail.

Firing in the air in such circumstances must, again, be done with maximum caution so as to prevent to the extent possible any injury to persons or property. The firing must be authorized by the commanding officer, and must

be done in single shots. However, if, in the course of the riot, there arise lawful grounds to arrest a particular rioter, or circumstances that necessitate self-defence, then the police officer is authorized to open fire pursuant to the regulations applicable to such situations.

152. **Use of firearms to prevent imminent danger to life** Under the police open-fire regulations, firearms may be used in the event of a real danger of imminent injury to the life or bodily integrity of a police officer or of others, provided that there is no other way to prevent such injury. Use of firearms in such circumstances must not exceed what is reasonable for the purpose of preventing the imminent injury, and in such a manner that the damage that may result from the use of firearms does not outweigh that which the use thereof is intended to prevent. Police officers are required to fill out a report regarding every use of firearms, including accidental firings; in the latter case every police officer present during the accidental firing must fill out such a report. These regulations, which apply to the Israel Police and the Border Police, are taught to all police officers in training courses or sessions.

153. **Israel Defence Forces**. The open-fire regulations applicable to soldiers in the IDF are based on principles analogous to those incumbent upon the Israel Police and Border Guard. In general, the IDF open-fire regulations address two types of situations: arresting persons who are suspected of having committed a dangerous security-related offence, and defending against mortal danger. In the first class of case, the soldier may open fire only as a last resort, when all other means of apprehending and arresting the suspect have failed. Under the procedure for arresting a suspect, the soldier must first call out a warning; if that is to no avail, then he may fire a warning shot in the air in a manner that does not endanger any person or property; if the warning shot, too, does not suffice, then the soldier may direct fire, solely at the legs of the suspect. In the second class of case, when there is real, imminent danger to life, the soldier may open fire to injure the attacker, and him alone. Such self-defence is permitted if it conforms with the "necessity" defence as defined in the Penal Law. If the circumstances allow, the soldier must use his weapons in a graduated manner, according to the open-fire procedure for arresting a suspect described above. In both types of cases, it is forbidden to open fire if there is a danger of injuring innocent bystanders. In every case in which a person is injured, the soldiers must ensure medical treatment.

Investigation of Felonies and Causes of Death Law

154. Another significant instrument for investigating cases of arbitrary deprivation of life is the Criminal Procedure Amendment (Investigation of Felonies and Causes of Death) Law, 5718-1958. Under this law, a Magistrate's Court judge is empowered to undertake a thorough investigation of the reasons for a person's death when there are reasonable grounds to suspect that the death was not due to natural causes, or was caused by a criminal act, or the person died while detained, imprisoned, or hospitalized in a mental hospital or closed institution for developmentally disabled minors (sect. 19 of the Law). Application for such an investigation may be made by a relative of the deceased, as well as by the Attorney-General, a police captain or a doctor (ibid).

155. Once an application for an investigation is filed with the Magistrate's Court, all actions with regard to the corpse of the deceased are prohibited without permission from the investigating judge. When a person dies while in detention, imprisonment, hospitalization in a mental hospital or in a closed institution for retarded minors, the commander or director of the facility or institution has a duty to notify the police regarding the death. Breach of this duty is punishable by up to three years' imprisonment (sects. 22-23 of the Law). In the course of his or her investigation, the judge may summon and examine witnesses, order an autopsy or other examination of the corpse, and order the delay of burial or the removal of the body from the grave for the purpose of such an examination. The investigation continues until the judge determines that the reasons for death have been proved to his or her satisfaction, or, conversely, that the evidence does not prove a clear cause of death. In the latter case, the judge may suspend the investigation until further evidence is brought.

156. If the evidence brought before the investigating judge is sufficient to prove that a criminal offence was committed, he or she may order the District Attorney to issue an indictment for that offence (sect. 32 of the Law), without need for further investigation. Before ordering an indictment, the judge must allow the person suspected of committing the offence to raise claims and bring evidence in his defence. The proceedings in such investigations may be public or sequestered in whole or in part, at the discretion of the investigating judge. Similarly, publication of the proceedings or their results may be prohibited, in whole or in part, by the investigating judge (sect. 36), according to legal rules applying to publicity of court proceedings, which are discussed under article 14.

Compensation of victims

157. In cases of arbitrary deprivation of life, the estate or dependents of the deceased may seek compensation from the person who caused the death in the context of criminal or civil proceedings. If the act causing death constitutes a crime, and the perpetrator is convicted, the court which hears the criminal case may award compensation for injury or suffering up to a specified ceiling, without affecting the right to sue for civil damages (sect. 77 of the Penal Law, 5737-1977). In addition, a suit for compensation may be filed against the perpetrator or his principal for negligent causing of death under the Civil Wrongs Ordinance [New Version], with no ceiling on damages.

158. When the person allegedly responsible for causing death is a member of the law enforcement authorities, security forces, or other public servant, the estate or dependents of the deceased may sue both the perpetrator and the State for compensation (sect. 7 of the Civil Wrongs Ordinance, sect. 2 of the Civil Wrongs (Liability of the State) Law, 5712-1952). Compensation may be awarded for the full gamut of types of injury recognized by the law of torts in cases of negligent causing of death. However, the public servant and the State may be exempted from civil liability in certain circumstances, as follows:

(a) If the act in question was done within the scope of lawful authority, or in good-faith use of apparent legal authority (sect. 7 of the Civil Wrongs Ordinance, sect. 3 of the Civil Wrongs (Liability of the State) Law, 5712-1952);

(b) A public servant is not liable in tort for civil wrongs done by an agent that he appointed or by another public servant, except if he permitted or ratified the action explicitly;

(c) Similarly, the State or its authorities, like any other principal, are not civilly liable for an act of assault undertaken by a public servant, unless the authority explicitly allowed or ratified the assault (sect. 25 of the Civil Wrongs Ordinance);

(d) A police officer may claim a defence from civil liability for injury, including death, caused by reasonable use of force during dispersal of a riotous disturbance, provided that a series of earlier actions to disperse the disturbance are taken previously and the disturbance still threatens public order, as discussed above, and the open-fire regulations are not violated;

(e) A police officer may also claim a defence from civil liability if he acted properly pursuant to a court order or an order of the Chief Execution Officer (sect. 6 of the Police Ordinance [New Version], 5731-1971);

(f) The State is exempted from civil liability for injury emanating from an act of war taken by the Israel Defence Forces.

However, neither the State nor public servants are exempted from civil liability in cases of negligence.

159. Despite the above defences to civil liability, many suits for compensation are filed against public servants and the State for use of force which exceeds the scope of lawful authority, including suits for negligent homicide. In a substantial number of these cases, the State pays considerable compensation. At the time that this report was written, no official statistics were available on the overall number of such civil lawsuits and their outcomes.

160. Institutional reforms in law enforcement and educational programmes aimed at reducing the occurrence of violence and mistreatment by law enforcement authorities are discussed under article 7.

Death penalty

161. Although several provisions in Israel's criminal legislation allow for the imposition of the death penalty, as described below, the death penalty has been carried out only once since the establishment of the State, in the case of Adolph Eichmann. There are no persons who are currently appealing a death sentence. The most recent case was that of John Demjanjuk, who, after having been sentenced to death for war crimes, genocide and crimes against the Jewish

people, was acquitted in 1993 on appeal to the Supreme Court due to a reasonable doubt as to whether he was indeed "Ivan the Terrible" from the Treblinka death camp.

162. Under Israeli legislation, the death penalty may be imposed in four instances. Section 1(a) of the Nazi and Nazi Collaborators (Punishment) Law, 5710-1950, prescribes the death penalty for acts constituting crimes against the Jewish people committed during the period of the Nazi regime, and for crimes against humanity or war crimes committed during the Second World War. As is the case in other states that have enacted war crimes legislation in respect of acts committed during the Second World War, the above Law is based on the notion that the crimes that they prohibit constituted violations of the law of nations at the time they were committed.

163. In addition, pursuant to the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, to which Israel is a party, the Knesset enacted the Crime of Genocide (Prevention and Punishment) Law, 5710-1950, sections 1 and 2 of which provide as follows:

> "1. (a) In this Law, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group (hereinafter referred to as group) as such:
>
> "(1) killing members of the group;
>
> "(2) causing serious bodily harm to members of the group;
>
> "(3) inflicting on the group conditions of life calculated to bring about its physical destruction, in whole or in part;
>
> "(4) imposing measures intended to prevent births within the group;
>
> "(5) forcibly transferring children of the group to another group;
>
> "(b) In subsection (a), child means a person under eighteen years of age.
>
> "2. A person guilty of genocide shall be punishable with death; provided that if he committed the act constituting the offence under circumstances which, but for section 6 [which provides that certain defences normally available under the criminal law such as legal duty, necessity or compulsion do not apply to genocide], would exempt him from criminal responsibility or would be reason for pardoning the offence, and he tried to the best of his ability to mitigate the consequences of the act, he shall be liable to imprisonment of a term not less than ten years."

Persons found guilty of conspiracy or incitement to commit genocide, or of acting as an accomplice to genocide, are also subject to the death penalty by law.

164. Sections 97-99 of the Penal Law, as well as section 43 of the Military Justice Law, 5715-1955, prescribe the death penalty as the maximum punishment for offences constituting treason during wartime.

165. Finally, the Defence (Emergency) Regulations, 1945, allow for imposition of the death penalty for offences involving illegal use of firearms against persons, or use of explosives or inflammable objects with intent to kill or to cause grievous bodily harm (Regulation 58). In practice, however, the State Attorney's Office does not request the death penalty, even for the most severe offences.

166. The Youth (Judgment, Punishment and Modes of Treatment) Law, 5731-1971, prohibits imposition of the death penalty on any person who was a minor at the time the offence was committed (sect. 25 (b)). There is no legislation specifically prohibiting the imposition of the death penalty on pregnant women. This issue has never arisen as a practical matter, as no woman has been sentenced to death since the establishment of the State of Israel.

167. In every case in which a death penalty may be imposed, the Criminal Procedure Law [Consolidated Version], 5742-1982, requires an automatic appeal to the Supreme Court, even if the defendant has not appealed the sentence or conviction (sect. 202). As with any other convicted person, a person sentenced to death has the right to petition the President of the State for pardon, clemency, or commutation of sentence.

Article 7 - Freedom from torture or cruel, inhuman or degrading treatment or punishment

168. Israel is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Israel's initial report under that convention was submitted in January 1994 (CAT/C/16/Add.4); Israel submitted a special report to the Committee against Torture (CAT/C/33/Add.2/Rev.1) in 1997. For a consideration of these two reports by the Committee, reference is made to documents CAT/C/SR.183 and 184 and Official Records of the General Assembly, Forty-ninth Session, Supplement No. 44 (A/49/46), paras. 159-171 (initial report); CAT/C/SR.295 and CAT/C/SR.295/Add.1 (special report). In addition, the obligations under this article relating to the prohibition of cruel, inhuman or degrading treatment or punishment are related to the discussion under several other articles, particularly articles 6 and 8 and paragraph 1 of article 10.

Legislative provisions bearing on the prohibition of torture and of cruel, unusual or degrading punishment

169. Current Israeli legislation does not contain an explicit definition of “torture” as such. Instead, a variety of statutory provisions cover all acts of torture and of cruel, inhuman or degrading punishment, as discussed below. As of the submission of this report, three legislative bills, relating to the prohibition of torture, the invalidation of confessions extracted through torture, and the regulation of the activities of the General Security Service (GSS) are in various stages of the legislative process.

170. Section 2 of Basic Law: Human Liberty and Dignity, which prohibits any "violation of the life, body or dignity of any person as such", and section 4 of the Basic Law, which grants all persons the right to protection against such violations, have constitutional status in Israel's legislative framework. The Supreme Court arguably has the power to void any legislation enacted after the entering into force of the Basic Law which violates the above provisions; previously enacted laws may not be deemed void by the Court for this reason, but they will be interpreted in accordance with the fundamental principles of the sanctity of life, integrity of the body and primacy of human dignity, broadly construed. These provisions in the Basic Law, then, may be deemed to constitute a general prohibition of cruel, inhuman or degrading treatment or punishment, including torture, and are binding both on public and private entities.

171. Several provisions in the Penal Law, 5737-1977, prohibit actions that amount to cruel and inhuman or degrading treatment or punishment. Section 277 forbids oppression by a public servant, as follows:

> "A public servant who does one of the following is liable to imprisonment for three years:
>
> > "(1) uses or directs the use of force or violence against a person for the purpose of extorting from him or from anyone in whom he is interested a confession of an offence or information relating to an offence;
> >
> > "(2) threatens any person, or directs any person to be threatened, with injury to his person or property or to the person or property of anyone in whom he is interested for the purpose of extorting from him a confession of an offence or any information relating to an offence."

Section 329 of the Penal Law prohibits causing harm with aggravating intent, as follows:

> "A person who does one of the following with intent to disable, disfigure or do grievous harm to another or to resist or prevent the lawful arrest or detention of himself or another is liable to imprisonment for 20 years:
>
> > "(1) unlawfully wounds or does grievous harm to a person;
> >
> > "(2) unlawfully attempts to strike a person with a projectile, knife or other dangerous or offensive weapon;
> >
> > "(3) unlawfully causes an explosive substance to explode;
> >
> > "(4) sends or delivers an explosive substance or other dangerous or noxious thing to a person or causes a person to receive any such substance or thing;
> >
> > "(5) puts a destructive or explosive substance or a corrosive fluid in any place;

"(6) throws any substance or fluid mentioned in paragraph (5) at a person or otherwise applies it to his body."

Section 333 of the Law makes unlawful causing of grievous harm to another person punishable by seven years' imprisonment. Sections 368 B and 368 C prohibit assault or abuse of minors and invalids. Sections 378-382 proscribe assault, making it punishable by between two and six years' imprisonment. "Assault" is defined as directly or indirectly striking, touching, pushing or otherwise applying force to the person of another without his consent or with his consent obtained by fraud; it specifically includes "the application of heat, light, electricity, gas, odour or any other thing or substance if applied in such a degree as to cause injury or discomfort" (sect. 378). In addition, section 427 of the Law prohibits blackmail with use of force, including the administration of drugs or intoxicating liquors. All of the above provisions are applicable to law enforcement officials and members of the security forces.

172. In addition, section 65 of the Military Justice Law, 5715-1955, provides that a "soldier who strikes or otherwise maltreats a person committed to his custody or a soldier inferior to him in rank, or who abuses them in another manner, is liable to imprisonment for a term of three years."

173. **Attempt, assistance, encouragement and incitement** The general provisions of the Penal Law also provide for criminal liability of persons who attempt or assist or encourage the commission of any of the offences noted above, a matter of particular importance in cases of physical or psychological abuse. The following are the relevant provisions of Chapter Five of the Penal Law, entitled "Derivative Offences":*

"Title One: Attempt

"What constitutes an attempt

"25. A person attempts to commit an offence, if he - with intent to commit it - commits an act that does not only constitute preparation, provided the offence was not completed.

"Commission of offence is impossible

"26. For purposes of attempt, it shall be immaterial that the commission of the offence was impossible, because of circumstances of which the person who made the attempt was not aware or in respect of which he was mistaken.

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* These provisions were enacted in 1994 as an amendment to the Penal Law. As no official translation of the amendment is yet available, the following is an unofficial translation.

“Special penalty for attempt

“27. If a provision sets a mandatory penalty or a minimum penalty for an offence, then it shall not apply to an attempt to commit that offence.

“Exemption for remorse

“28. If a person attempted to commit an offence, he shall not bear criminal liability therefor, if he proved that, of his own free will and out of contrition - he stopped its commission or substantively contributed to the prevention of results on which the completion of the offence depends; however, the aforesaid shall not derogate from his criminal liability for another completed offence connected to the same act.

“Title Two: Parties to an Offence

“Perpetrator

“29. (a) 'Perpetrator of an offence' includes a person who committed the offence jointly or who committed through another.

“(b) Participants in the commission of an offence, who perform acts for its commission, are joint perpetrators, and it is immaterial whether all acts were performed jointly or some were performed by one person and some by another.

“(c) A perpetrator of an offence through another is a person who contributed to the commission of the act by others who acted as his instrument, the other person being in one of the following situations, within their meaning in this Law:

“(1) he is a minor or mentally incompetent;

“(2) he lacks control;

“(3) he has no criminal intent;

“(4) he misunderstands the circumstances;

“(5) he is under duress or has a justification.

“(d) for the purposes of subsection (c), if the offence is conditional on a certain perpetrator, then the person in question shall be deemed to have committed that offence even if the condition is only met by the other person.

“Incitement

“30. If a person causes another to commit an offence by means of persuasion, encouragement, demand, cajolery or by means of anything else that constitutes the application of pressure, then he incites an offence.

“Accessory

“31. If a person does anything, before an offence or during its commission, to make its commission possible, to support or protect it, or to prevent the perpetrator from being taken or the offence or its spoils from being discovered, or if he contributes in any other way to the creation of conditions for the commission of the offence, then he is an accessory.

“Penalty of accessory

“32. The penalty for being an accessory to the commission of an offence shall be half the penalty determined by legislation for the commission of that offence; however, if the penalty set is:

> “(1) the death penalty or mandatory life imprisonment, then his penalty shall be 20 years' imprisonment;
>
> “(2) life imprisonment, then his penalty shall be 10 years' imprisonment;
>
> “(3) a minimum penalty, then his penalty shall not be less than half the minimum penalty;
>
> “(4) any mandatory penalty, then it shall be the maximum penalty and half thereof shall be the minimum penalty.

“Attempted incitement

“33. The penalty for attempting to incite another to commit an offence shall be half the penalty for the commission of the offence itself; however, if the penalty set is:

> “(1) the death penalty or mandatory life imprisonment, then his penalty shall be 20 years' imprisonment;
>
> “(2) life imprisonment, then his penalty shall be 10 years' imprisonment;
>
> “(3) a minimum penalty, then his penalty shall not be less than half the minimum penalty;
>
> “(4) any mandatory penalty, then it shall be the maximum penalty and half thereof shall be the minimum penalty.

“Exemption for remorse

“34. (a) If a person was an accessory or if he incited another to commit an offence, he shall not bear criminal liability for being an accessory or for incitement, if he prevented the commission of the offence or its completion, or if he informed the authorities of the offence in time, in order to prevent its commission or its completion, or if - to that end - he acted to the best of his ability in some other manner; however, the aforesaid shall not derogate from his criminal liability for another completed offence connected to the same act.

“(b) For the purposes of this section, 'authorities' means the Israel Police or any other body lawfully empowered to prevent the commission or completion of an offence.

“Other or additional offence

“34A. (a) If, while committing an offence, a perpetrator also committed another or an additional offence, and if, under the circumstances, an ordinary person could have been aware of the possibility that it would be committed, then:

“(1) the other joint perpetrators shall also bear liability for it; however, if the other or additional offence was committed intentionally, then the other joint perpetrators shall bear liability for it only as an offence of indifference;

“(2) a person who incited or was an accessory to it shall also bear liability, as an offence of negligence, if such an offence exists based on the same facts;

“(b) If the court found an accused guilty under subsection (a) (1) for an offence for which there is a mandatory penalty, then it may impose a lighter penalty on him.

174. Mention may also be made of a law enacted shortly after Israel's independence, which prohibited punishment by lashing and repealed all legislation from the British Mandatory period which provided for such punishment (Repeal of Lashing Law, 5710-1950).

Administrative guidelines for GSS interrogations

175. The State of Israel maintains that the basic human rights of all persons under its jurisdiction must never be violated, regardless of the crimes that the individual may have committed. Israel recognizes, however, its responsibility to protect the lives of all its citizens and residents from harm at the hands of terrorist organizations. To prevent terrorism effectively while ensuring that the basic human rights of even the most dangerous of criminals are protected, the Israeli authorities have adopted strict rules for the handling of interrogations. These guidelines are designed to enable investigators to obtain crucial information on terrorist

activities from suspects who, for obvious reasons, would not volunteer such information, while at the same time ensuring that the suspects are not maltreated.

The Landau Commission

176. The basic guidelines on interrogation were laid down in 1987 by the Landau Commission of Inquiry. The Commission, headed by former Supreme Court President Justice Moshe Landau, was appointed following a decision by the Government to examine the General Security Service's methods of interrogation of terrorist suspects. In preparing its recommendations, the Landau Commission examined international human rights law standards, existing Israeli legislation prohibiting torture and maltreatment, and the guidelines of other democracies confronted with the threat of terrorism.

177. The Landau Commission set out to define "with as much precision as possible the boundaries of what is permitted to the interrogator and, mainly, what he is prohibited from doing." The Commission determined that in dealing with dangerous terrorists who are shown to represent a grave threat to the State of Israel and its inhabitants, the use of a moderate degree of pressure, including physical pressure, to obtain information crucial for the protection of life is unavoidable in certain circumstances. Such circumstances include situations in which the information sought from a detainee believed to be personally involved in serious terrorist activities can prevent imminent murder, or where the detainee possesses vital information regarding the activities of a terrorist organization which could not be uncovered by any other means (for example, the location of arms or caches of explosives intended for use in imminent planned acts of terrorism).

178. The Landau Commission recognized the danger posed to the democratic values of the State of Israel should its investigative authorities abuse their power by resorting to unnecessary or unduly harsh forms of pressure. As a result, the Commission recommended that psychological forms of pressure be used instead of physical pressure whenever possible, and that no more than "moderate physical pressure" be sanctioned in limited cases in which the degree of anticipated danger is sufficiently great.

179. In full awareness of the seriousness and sensitivity of the use of moderate pressure during interrogation, the Landau Commission set forth guidelines which provided for limited forms of pressure under very specific circumstances, to be determined on a case-by-case basis. The guidelines by no means authorize indiscriminate use of force. Rather, the Commission attempted to define those specific circumstances, and the interrogation practices permissible therein, so that, in the opinion of the Commission, "if these boundaries are maintained exactly in letter and in spirit, the effectiveness of the interrogation will be assured, while at the same time it will be far from the use of physical or mental torture, maltreatment of the person being interrogated, or the degradation of his human dignity."

180. To ensure that disproportionate pressure is not used, the Landau Commission determined several norms which have been adopted and are now in force, namely:

(a) Disproportionate exertion of pressure on the suspect is forbidden; pressure must never reach the level of physical torture or maltreatment of the suspect, or grievous harm to his honour which deprives him of his human dignity;

(b) The use of less serious measures must be weighed against the degree of anticipated danger, according to the information in the possession of the interrogator;

(c) The physical and psychological means of pressure permitted for use by an interrogator must be defined and limited in advance by issuing binding directives;

(d) There must be strict supervision of the implementation of these directives for GSS interrogators;

(e) The interrogators' supervisors must react firmly and without hesitation to every deviation from the permissible, imposing disciplinary punishment, and, in serious cases, causing criminal proceedings to be instituted against the offending interrogator.

181. In the second section of its report, the Landau Commission described the forms of pressure permitted for GSS interrogators and the circumstances in which they may be used. This section has remained confidential out of concern that, should the narrow restrictions binding the interrogators be known to the suspects undergoing questioning, their effectiveness would be vitiated.

Supervision and review of interrogative practices

182. The Government of Israel recognized the importance of establishing systems of review of interrogation practices to ensure that GSS investigators do not violate the guidelines. Initially, the GSS Comptroller was instructed to examine all claims of torture or maltreatment during interrogation. From 1987 until 1994, the Comptroller carried out this review function, initiating disciplinary or legal action against interrogators in cases where they have been found to have deviated from the legal guidelines.

183. **The Department for Investigation of Police Misconduct** In 1992, a special department was set up at the Ministry of Justice - the Department for Investigation of Police Personnel (DIPM) - to investigate allegations of criminal conduct by police generally. In 1994, in accordance with the recommendations of the Landau Commission that there be external oversight of General Security Service activities, responsibility for claims of maltreatment by GSS interrogators was also transferred to the DIPM, under the direct supervision of the State Attorney. As discussed under article 6, the activity of the DIPM appears to have had a significant deterrent impact on the incidence of intentional physical abuse of detainees and citizens by law enforcement officials, including GSS interrogators. Statistical information regarding the performance of the DIPM appears below under this article.

184. **The State Comptroller's Office**. In 1995, the State Comptroller's Office completed an examination of the GSS's investigator's unit during the years 1990-1992. The State Comptroller's findings, which were submitted to a

special subcommittee of the Knesset State Comptroller Committee, found several instances of deviations from the Landau Commission's guidelines, and recommended measures to ensure compliance. The findings themselves have not yet been made public.

Ministerial scrutiny

185. In accordance with the recommendations of the Landau Commission, a special ministerial committee headed by the Prime Minister was established in 1988 to review the interrogation guidelines periodically.

186. In April 1993, the ministerial committee determined that several changes should be made in the GSS guidelines. On the basis of the committee's recommendations, new guidelines were issued to GSS investigators. The new guidelines clearly stipulate that the need and justification for the use of limited pressure by investigators must be established in every case, according to its own special circumstances. The guidelines emphasize that the use of exceptional methods is intended only for situations in which vital information is being concealed, and not as a way to humiliate or mistreat those under investigation. They place a duty on the investigator to consider whether the means of pressure the use of which is being contemplated is proportional to the degree of foreseeable danger of the activity under investigation. Senior GSS staff must approve in writing the use of measures deemed to constitute moderate physical pressure, once again on a case-by-case basis, in light of the above criteria. In any case, it is expressly forbidden to injure or torture suspects, to deny them food or drink, to refuse permission to use the bathroom, or to subject the person to extreme temperatures for prolonged periods.

187. Since then, the guidelines have been reviewed from time to time by the ministerial committee, in the light of conclusions drawn from recent experience. The ministerial committee also reviews, in real time, specific cases of persons under investigation who are known to be active members of the military arms of terror groups, and with regard to whom there are grounds to believe that they have knowledge of future terror attacks in the planning or execution stages.

Judicial Review

188. All complaints of alleged mistreatment during investigation may be challenged directly to the Supreme Court sitting as a High Court of Justice. Any party who believes he or she has been wronged - not only the detainee himself or his family, but, under the extremely flexible rules of standing in Israeli law, also virtually any person or group who claims an interest in legal or humanitarian issues involved - may have its petition heard by the High Court of Justice within 48 hours of being filed. Over the past few years several petitions have been filed with the Court seeking injunctions to forbid the GSS from using any force, or particular methods of pressure, throughout the investigation. The Court reviews each of these cases for their compliance with the detailed guidelines, and often, with the approval of the petitioner or his attorney, hears sensitive evidence in camera to examine whether the magnitude of foreseeable or imminent danger, and the grounds for believing

that the suspect actually has vital information which is crucial to preventing such danger, are sufficiently clear to justify the use of the specific methods of interrogation in question. Two such cases are worth mentioning in detail.

189. In December 1995, the High Court of Justice issued an interim injunction on the basis of a petition brought by Abd al-Halim Belbaysi against the GSS (H.C.J. 336/96), forbidding the use of physical pressure against the petitioner during his interrogation. At the request of the GSS, this interim order was later cancelled after the petitioner, who had earlier signed a written declaration denying any connection to any illegal activity, admitted that he had planned the terrorist attack at Beit Lid on 22 January 1995 in which two suicide bombers killed 21 persons. Belbaysi confessed that three bombs had been prepared at his home, that he himself had hidden the bombs in the vicinity of Beit Lid and that on the day of the attack he had handed over the two bombs to the two suicide bombers and had driven them to the site of the attack. Belbaysi also provided information which enabled the authorities to retrieve the third bomb, containing 15 kg of explosives, from its hiding place. During the investigation it also became apparent that Belbaysi had additional information regarding grave terrorist attacks planned for the near future in Israel. To help uncover this crucial information, the GSS appealed to the Court to cancel the interim injunction. The Court accepted the GSS arguments, based on evidence presented, that disclosure of this information by Belbaysi could save human lives. In cancelling the injunction, however, the Court emphasized that the investigation could not involve torture or any other "measures which are not compatible with the law and the relevant guidelines" (H.C.J. 336/96, supra).

190. More recently, in the case of Muhammad Abdel Aziz Hamdan (H.C.J. 8049/96), the High Court issued an interim injunction similarly forbidding the GSS to use any form of physical pressure throughout his interrogation. In this case, within 24 hours, as a result of new inquiries and additional information regarding the petitioner, the GSS moved to cancel the interim injunction. Hamdan had previously admitted that he belonged to and was active in a cell of the Islamic Jihad; he had been among the activists deported to Lebanon in 1993, had served terms of imprisonment and administrative detention in Israeli jails, and had been detained by the Palestinian Authority in March 1996, together with other activists of rejectionist terrorist organizations. He was released from detention by the Palestinian Authority in August 1996. In October of that year, the GSS received information that raised definite suspicions that Hamdan possessed extremely vital information, the disclosure of which would help save human lives and prevent imminent serious terrorist attacks. It was at this point that the GSS applied to the Court to cancel the interim injunction. The GSS representative stated before the Court that the physical measures being contemplated did not amount to "torture" as defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and that each of the measures fell within the defence of "necessity" specified in section 34 (11) of the Penal Law, as the conditions for such a defence existed in the circumstances. The Court agreed to cancel the interim injunction, holding, inter alia:

> "After having reviewed the classified material presented to us, we are satisfied that the respondent does indeed have in its possession

> information on which a clear suspicion can be based that the petitioner possesses extremely vital information, the immediate disclosure of which will prevent the most serious attacks. Under these circumstances, we are of the opinion that there is no justification to continue with the interim injunction."

Once again, the Court stressed that "the cancelling of the interim injunction is not tantamount to permission to use interrogation methods against the petitioner which are against the law" (H.C.J. 8049/96, supra).

191. In several other cases, the Court issued interim injunctions forbidding the use of physical pressure during GSS interrogations, which remained in force throughout the investigation. See, e.g., H.C.J. 2210/96, *Algazal* v. *General Security Service* (not yet published). Another petition, which challenged the legality of the GSS interrogation guidelines then in force and demanded that the secret portion of the Landau Commission report be made public, was denied by the Court, inter alia, because it was not linked to the application of these guidelines in the circumstances of a particular case. H.C.J. 2581/91, *Salkhat et al.* v. *State of Israel et al.*, 47(4) P.D. 837.

Treatment of Detainees

192. The discussion under this and the following paragraphs should be read in conjunction with that under article 10.

193. The fundamental right of detainees and prisoners to conditions ensuring basic maintenance of their human dignity has been articulated and enforced in a long line of judgements of the Israel Supreme Court. In *Yusef* v. *Director of Central Prison*, for example, the Court held that "the order of life in the prison by its nature requires an infringement of liberties which a free person enjoys, but such infringement must derive from the nature and needs of imprisonment, and not beyond that ... [t]he purposes of criminal punishment may not be achieved through violation of the prisoner's dignity or his humanity ... It is the right of every person in Israel who is sentenced to imprisonment (or lawfully detained) to be confined in conditions that allow for civilized human life ... Only 'the most serious reasons', such as special security measures that must be taken, may justify any deviation from this basic approach." (H.C.J. 540-546/84, 40(1) P.D. 567, 573. See also H.C.J. 114/86, *Weill* v. *State of Israel et al.*, 41(3) P.D. 477 (minimal civilized arrangements include the right to conjugal visits).

194. Most of the basic conditions granted to prisoners and detainees as a matter of right, as well as limitations on measures that may impair their liberty or dignity and procedures for adjudicating prisoners' complaints, are provided for in legislation, primarily in the Criminal Procedure (Enforcement Powers - Arrest) Law, 5756-1996, and regulations thereunder. Other privileges or services have been given the status of a legal right by decisions of the Supreme Court, such as the presence in the prison facility of a social worker to deal with certain prisoner's concerns (*Yusef* v. *Director of Central Prison*, supra).

195. **Segregation and solitary confinement**. Under section 21 (a) of the Prisons Regulations, 5738-1978, a senior prison official may order that a

prisoner be confined separately from the rest of the prison population if he is convinced that doing so is necessary for reasons of State security, for maintenance of security, order or discipline in the prison, for protection of the safety or health of the prisoner or other prisoners, or at the prisoner's own request. This type of separate confinement is a preventive, not a punitive measure, and is to be distinguished from solitary confinement, which is discussed below. Segregation is to be used only when the purpose therefor cannot be accomplished by less restrictive means. Segregated prisoners have all of the rights and privileges of ordinary prisoners, except for conditions deriving by their nature from the fact of segregation. Such prisoners remain in their cells during the day hours, except for their daily excursion, family visits, medical care, visits with legal counsel, parole officer, social worker and so on. Such prisoners are always accompanied by a warden whenever they are outside of their cell. Prisoners convicted of a criminal offence who are held in segregation for more than three months may be granted additional privileges and personal effects (Part 14 of the Prison Commissioner's standing orders). The term of segregation is for 48 hours when ordered by a senior prison official; it may be extended for additional periods up to a total of 14 days with the consent of the director of the prison. Thereafter, separation may be extended only by order of the prison director, with the consent of the Commissioner of Prisons, provided that the justification for separation must be reviewed periodically (between 48 hours and 2 months, depending on the type of case in question), or at earlier intervals if the prisoner requests. Any prisoner who is confined separately for a period exceeding eight months may lodge an appeal to the Prisons Commissioner, who decides whether the separation will continue or cease. Certain classes of prisoners or detainees are segregated as a matter of law or policy from the rest of the prison population, such as known drug addicts or persons under administrative detention, and persons suspected or convicted of security-related offences.

196. Solitary confinement, on the other hand, is one of several punitive measures that may be imposed on a prisoner for violation of the prison code of conduct (sect. 56 of the Prisons Ordinance). Solitary confinement may be imposed only by the director or deputy director of the prison. As with all punitive measures, the decision to place a prisoner in solitary confinement may not be taken except following an investigation and a hearing at which the prisoner may hear the charges and evidence against him, and may defend himself properly (sect. 60 of the Prisons Ordinance). The maximum term of solitary confinement is 14 days, though the prisoner may not serve more than 7 days consecutively, and must be given a break of at least 7 days before solitary confinement is resumed.

197. All decisions regarding segregation and solitary confinement may be appealed directly to the appropriate District Court, and the District Court's decision may be appealed to the Supreme Court.

198. **Contacts with the outside world**. Immediately upon the arrest of any person, notification must be made to a relative or other person close to the detainee regarding the fact of the arrest and the place of detention (Criminal Procedure (Enforcement Powers - Arrest) Law, 5756-1996, sect. 33). Notice will also be given, at the detainee's request, to legal counsel of his choice, or, if the detainee does not have a lawyer, to one of the attorneys appearing

on a list drawn up by the Bar Association and presented to the detainee. Notification of a person's arrest for certain security-related offences, or for other offences carrying a penalty of at least 10 years' imprisonment may be delayed for up to 48 hours by decision of a District Court judge, or be delivered only to a person whom the judge determines, if the Minister of Defence certifies in writing that national security requires that the arrest be kept secret, or if the Inspector General of the Israel Police certifies in writing that the success of the criminal investigation so requires. This period may be renewed, by application of the Minister or the Inspector General, for subsequent 48-hour periods, up to a total of 7 days, or, in rare cases of certain defined security-related offences, up to a total of 15 days (ibid.).

199. The rights of incarcerated persons to maintain contacts with the outside world vary according to the type of detention. The rights to conduct correspondence, use the telephone, have visitation as well as conjugal visits, and to leave the prison on furlough, are discussed under article 10.

Disciplinary and Criminal Proceedings and other Judicial Relief

200. As discussed under Article 6, the actions of law enforcement officials are subject to several overlapping legal institutions for review and sanctions. In general, each arm of the law enforcement authorities has disciplinary procedures, which may be initiated by the person claiming a violation, by other entities, or by the authorities themselves; all public servants are subject to the provisions of the criminal law; and detainees or prisoners may apply directly to the courts for relief against the action or decision in question.

201. **Israel Police**. Disciplinary proceedings are initiated by submission of a complaint to the disciplinary department of the Personnel Division at Central Headquarters or to one of its several branch offices. The Police may initiate disciplinary proceedings when it becomes aware of violations from other sources (e.g., statements of witnesses in the course of investigations, or information forwarded by police personnel). In addition, the Department for Investigation of Police Misconduct (DIPM) in the Ministry of Justice, which is responsible for most criminal investigations against police officers, transfers files to the Disciplinary Department of the Police both when the actions complained of fall short of a criminal offence but constitute a prima facie disciplinary violation, and also when criminal proceedings are brought against a police officer for actions which may entail parallel disciplinary sanctions.

202. If the Disciplinary Department, upon investigating the incident, finds that there is sufficient evidence of an infraction, then the matter is referred to a disciplinary tribunal, composed of either a single judge or a three-judge panel, depending on the gravity of the violation. See generally Police (Disciplinary Proceedings) Regulations, 5749-1989; Police (Definition of Disciplinary Offences) Regulations, 5715-1955; Police Ordinance (New Version), 5731-1971, chapter 5.

203. Alongside the disciplinary sanctions that may be imposed by a tribunal or single judge, the Police is bound to consider administrative sanctions

against an officer who violates the law or internal standing orders. Administrative sanctions may be imposed at any time during the disciplinary or criminal proceedings, as well as after they are concluded. Such sanctions include dismissal from the police force, suspension, transfer to another position or department, demotion, postponement of promotion, and probation.

204. Criminal investigations against police officers may be initiated by a complaint filed with the DIPM by the victim or his representative, by the DIPM itself as a result of information submitted to it by independent human rights groups or by entities within the Israel Police. A preliminary screening is carried out by a DIPM staff lawyer, who decides either to open an investigation or to close the file if the acts accused of do not give rise to a criminal offence (in the latter case the file may be transferred back to the Police for appropriate disciplinary measures, as aforesaid). In the course of investigation, the DIPM staff takes testimony from the complainant, the suspect and other witnesses, as well as any other evidence relevant to the case. If the investigation indicates sufficient evidence of a criminal offence, then the file is transferred to the District Attorney's Office in the region where the offence occurred, or, in cases of unlawful use of force, to the State Attorney's Office, for a final decision as to whether to file criminal charges against the police officer. Under current guidelines, all criminal trials against police officers are prosecuted by the District Attorney's office. The DIPM may also decide that the police officer should stand trial in disciplinary proceedings for the unlawful use of force, in lieu of criminal proceedings.

205. Below are statistics compiled by the Israel Police and the DIPM regarding treatment of disciplinary and criminal complaints, respectively.

206. Between 1992 and July 1996, the DIPM investigated 211 cases involving the use of firearms, and 25 cases involving the use of force, or threat of using force, in order to extract a confession. In 1993, 15 officers were tried in criminal proceedings for involvement in offences amounting to assault; 12 of these officers were convicted, and 3 were acquitted. In 1994, 10 officers were convicted of such offences in criminal proceedings. In one noteworthy case, five police investigators in the Minorities Division of the Jerusalem Region were convicted in July 1995 for unlawful use of force in investigating suspects (Cr.F. 576/91, in the Jerusalem District Court). In September 1995 the defendants were sentenced to varying terms of imprisonment. The case is currently on appeal in the Supreme Court.

207. In 1994, 22 police officers were dismissed from the force, 2 of whom as a result of their involvement in violent offences (down from 18 dismissals as a result of violent offences in 1993); 13 others were dismissed for “unsuitability”, which includes those who were involved in repeated incidents of unlawful use of force (in 1993, as a result of a special effort by the Police to remove the most problematic employees, 30 officers were dismissed for unsuitability). In 1995, 29 officers were similarly dismissed for unsuitability, and no officers were dismissed in 1995 as a result of violent offences. One officer was suspended in 1994 (out of a total of 20 suspensions that year) and 8 in 1995, as a result of involvement in violent offences; in 1993, no such suspensions were made.

Table 9. Unlawful use of force by police officers: number of complaints and results of investigation

Circumstances	**1993**	**1994**	**1995**	**1996 a/**
Investigation	119	95	97	70
Arrest	524	611	554	384
Conditions of detention	25	35	187	100
Refusal of citizen to identify himself or to accompany police officer	17	37	59	64
Search of suspect or premises	103	99	109	81
Violation of public order	110	122	233	106
Violation of order or discipline in a detention facility	44	34	26	35
Use of crude language	1	1	4	2
Traffic offences	101	120	161	113
Carrying out orders of the Execution Office (for civil judgement debts)	93	71	43	28
Holding persons in custody	103	40	47	54
Abuse of authority	283	286	334	70
Disputes between neighbours	2	6	4	2
Family disputes	1	1	1	1
Private disputes	4	5	4	13
On-duty dispute between two police officers	18	31	16	21
Argument between drivers	1	7	32	3
Training incidents	1	1	12	-
Demonstrations b/	-	-	1	32
Total files received	**1 960**	**1 861**	**2 155**	**1 301**
Referred for disciplinary trial	**280**	**208**	**184**	**104**
Final recommendation to file criminal indictment	**52**	**40**	**53**	**20**
Total files completed (including files from previous years)	**1 979**	**1 876**	**2 001**	**1 428**

a/ 1996 figures are for January-July.

b/ Demonstrations were inserted as a statistical category in 1996.

Table 10. Disciplinary investigations and results

	1994	1995
Disciplinary indictments filed (all offences)		
Charge sheets (three-judge panel)	252	251
Complaints (single judge)	217	49
Disciplinary indictments adjudicated (all offences)		
Charge sheets	301	215
Complaints	217	51
Files received from DAM.		
Regarding use of force - recommendation to file criminal charges	41	50
(Total number of officers involved)	(64)	(92)
Regarding use of force - with recommendation to file disciplinary charge sheet	168	127
(Total number of officers involved)	(246)	(180)
Regarding use of force - with recommendation for trial before a single disciplinary judge	79	47
(Total number of officers involved)	(93)	(55)
Recommendation to weigh disciplinary sanctions	307	366
(Total number of officers involved)	(388)	(459)

208. Alongside the ordinary criminal and disciplinary processes described above, detainees held in police lock-ups have the right to file for habeas corpus relief against any unlawful treatment, including torture or other cruel, inhuman or degrading treatment on the part of police officers.

209. **Prisons Service**. Currently, the disciplinary and criminal investigation procedures regarding Prisons Service personnel differs from those followed with regard to police officers. Any prisoner or detainee under the care of the Prisons Service may file a complaint regarding ill-treatment or conditions of detention to the director of the prison. In cases involving use of force, a special committee within the Prisons Service investigates the complaint and transfers the file to the Attorney-General, who decides whether to institute disciplinary or criminal proceedings. Disciplinary trials are held before a tribunal within the Prisons Service, which is similar in structure and procedures to that of the Israel Police (see generally the Prisons Ordinance, sect. 101 et seq., and second schedule defining disciplinary offences; and the Prisons (Disciplinary Procedures) Regulations, 5749-1989), while criminal files are transferred first to the Israel Police, for completion of the investigation, and then to the appropriate District Attorney's office for filing a charge sheet.

210. **General Security Service**. Complaints by persons detained by the General Security Service regarding their treatment during investigation may be filed by the detainee or his legal representative, by local or international human rights organizations (complaints have been filed by the Public Committee against Torture in Israel, the Physicians' Association for Human Rights, Amnesty International, and the ICRC, among others). All complaints are examined by a complaints review unit within the GSS, which is subordinate to the State Attorney's Office. In the event that complaints are submitted to other governmental authorities, they are transferred to the above complaints unit, which is responsible for the initial investigation. Complaints that give rise to a suspicion that a criminal offence was committed are transferred to the DIPM at the Ministry of Justice.

211. In 1995, 81 such complaints were received regarding treatment of detainees during GSS investigations. Thirty-four of these complaints were filed by the detainee, 23 by the detainee's legal counsel, 9 by local organizations and 15 by international organizations. In some instances, several entities filed complaints regarding a particular case. In four cases during 1995, the complaints unit found deviations from lawful authority; these cases were dealt with administratively within the GSS, including sanctions against the persons involved. In one case, that of Samed abd al Harizat mentioned under article 6, a GSS investigator was tried in disciplinary proceedings before a special tribunal.

212. As discussed above, detainees in the custody of the GSS also have the right to petition the High Court of Justice directly for habeas corpus relief.

213. **Israel Defence Forces**. The IDF maintains a strict policy of investigating every claim of mistreatment of detainees by IDF investigators. Soldiers who are found to have deviated from IDF standing orders forbidding violence or the threat of violence in interrogations are either court-martialled or have disciplinary proceedings brought against them, depending on the severity of the charges. In 1991, the IDF also appointed a commission to review its interrogation practices and policies, headed by Major General (Reserve) Raphael Vardi, which resulted in the punishment of several interrogators. The Vardi Commission also submitted a list of recommendations designed to reduce the possibility of mistreatment by IDF investigators, which have been adopted.

Compensation to victims

214. Persons who have been subjected to torture or to any other unlawful mistreatment in violation of this article may, in addition to criminal, disciplinary or habeas corpus proceedings, initiate a tort action for damages against the perpetrators and against the State. In cases of assault, the State, like any other employer, is liable only if it has approved the unlawful assault or to have retroactively ratified it. In addition, victims may receive a certain degree of compensation in the context of criminal proceedings under section 77 of the Penal Law, 5737-1977, which empowers a convicting court to order the payment to the victim of a crime for damages or suffering. Such compensation is recovered in the same manner as a fine. Currently, the maximum amount payable to a particular victim is fixed at NIS 60,000.

Training of law enforcement officials

215. The Israel Police and the Prisons Service maintain thoroughgoing training programmes for personnel at all levels, in which their obligations regarding the respect and realization of civil and human rights are taught. These training programmes take three basic forms: required courses for all entry-level personnel, and subsequently for all personnel as a condition prior to promotion in rank; voluntary continuing education seminars on specific topics, which typically last between several days and one week; and periodic refresher courses.

216. Required courses for Israel Police personnel are taught at the National Police Academy in Shfar'am or at the Senior Officers' College near Netanya. All police employees must pass a two-month basic training course, which includes a total of 47 hours of instruction in the areas of professional ethics, providing service to citizens, police powers, use of force, unlawful commands, and disciplinary violations.

217. The required courses for sergeants, captains, and senior staff officers also devote between 42 to 80 hours to instruction regarding the above matters, as well as to modules on competence in human relations, conflict resolution, investigation of police personnel, media in a democracy, citizens' complaints, family violence, treatment of juvenile offenders, legal and practical duties deriving from the right to human dignity, and inculcation of awareness of human rights. In addition, continuing education courses on specific topics, such as methods of investigation, arrest and searches, and so on, involve practical instruction in observance of human rights.

Other institutional reform measures

218. In addition to the principal methods adopted in Israel to prevent the occurrence of torture or other ill-treatment of detainees, discussed above and under article 6, several important efforts at institutional and statutory reform which deserve mention are currently under way.

219. **The Kremnitzer Committee**. Following a report in 1993 by the Comptroller of the Israel Police which examined the systemic response to acts of violence by police personnel, the Minister of Police (now the Minister of Internal Security) appointed a public commission, headed by the former dean of the Law Faculty at the Hebrew University, Prof. Mordecai Kremnitzer, to propose a plan of action for dealing with the issue. The Kremnitzer Committee, as it is called, issued its report in June 1994, which included specific recommendations for the prevention and deterrence of violence by police officers. These recommendations may be summarized as follows:

(a) Prevention of police violence should be achieved by:

(i) Improvement in screening candidates for enlistment;

(ii) Involving more women in detective and fieldwork, so as to "soften" the contact between the police and citizens;

(iii) Examining the disciplinary profile of police personnel prior to promotion;

(iv) Placing emphasis on the responsibility of commanders to transmit the educational message directly to their charges, and especially regarding the equality of all persons and the rights of minorities;

(v) Videotaping investigations and field operations;

(b) The response to incidents of violence should include:

(i) Distinguishing between severe violence and the use of force which does not amount to severe violence; the former cases, according to the Committee's recommendation, should be adjudicated before a specially appointed Magistrate Court judge. If the police officer admits to the acts attributed to him, or if there exists unequivocal evidence against him, then he should be dismissed from the Police;

(ii) Any police officer who is convicted of severe violence should likewise be dismissed;

(iii) Occurrences of unlawful use of force which do not amount to severe violence should be dealt with in disciplinary proceedings or by senior commanding officers. Repeat occurrences should result in dismissal from the police force.

220. Following publication of the Kremnitzer Committee's report, the Israel Police adopted its recommendations, and the Minister of Police appointed an oversight committee to ensure their implementation. While the oversight committee has only recently begun to function actively, the Israel Police has taken several measures to implement the committee's recommendations, such as strict screening of candidates for enlistment in the police, including weighing of sociometric tests indicating capacity for self-control and interpersonal skills; periodic evaluations of performance; training workshops in questioning persons who are not designated as criminal suspects, as well as in prevention of violence, human rights and equality before the law (some of these workshops were taught by members of independent human rights groups); giving an annual prize for tolerance to particular precinct stations; publishing a newsletter on police ethics; and starting an experimental "community policing" project in 10 precincts. In addition, the disciplinary desk of the Israel Police was expanded to a full-fledged department, with added personnel, to improve the efficiency and quality of handling disciplinary complaints. The response of the Israel Police thus far in implementing the recommendations of the Kremnitzer Report has met with praise from at least one prominent independent civil rights group*.

* See Israel Human Rights Focus: 1996, Na'ama Yashuvi (ed.), Association for Civil Rights in Israel, June 1996, p. 130.

221. **The Goldberg Committee**. In 1993, the Minister of Justice and the Minister of Police appointed a public committee, headed by Supreme Court Justice Eliezer Goldberg, to examine the efficacy of convictions based solely or almost solely upon the defendant's confession, the availability of retrial, and other topics relating to the rights of those investigated by the police. The Goldberg Committee's report, published in 1994, included recommendations aimed at ensuring that false confessions are not extracted by illegal means. Among other things, the Committee recommended employment of investigation techniques and technologies which have been developed elsewhere, and which have proven effective in fulfilling the purposes of the criminal investigation without resort to violence; increasing supervision of investigation by senior investigators; videotaping of any interview at which the interviewee's lawyer is not present; and giving the judge who presides over detention hearings more of a role in actively investigating the conditions of detention and the investigation.

222. A draft law is currently being prepared at the Ministry of Justice to implement the above recommendations of the Goldberg Committee.

223. **Public Defender's Office**. In 1995, a national Public Defender's Office was created by legislation. The major impetus for forming the new department derived from the difficulties encountered by the courts in appointing experienced criminal attorneys to represent indigent persons suspected of serious offences. While it is too early to assess the performance of the new, State-funded department, it is anticipated that the augmented protection of the rights of criminal defendants and detainees by a highly trained corps of criminal defence attorneys will result, among other things, in a decrease in violent treatment on the part of law enforcement officials.

Corporal punishment and correctional methods in the schools

224. Under Israel law, a teacher or administrator who employs corporal punishment against a student may be prosecuted for criminal assault and, in appropriate circumstances, sued for civil damages.

225. A 1991 circular published by the Director-General of the Ministry of Education and Culture outlines procedures for disciplining students. Corporal punishment is explicitly forbidden. Under the guidelines, the teacher must first discuss the disciplinary infraction with the student, either alone or with an educational adviser, psychologist, or the student's parents. Before imposing any disciplinary measure, the student must be given a chance to explain his or her actions. Permitted disciplinary measures include an oral warning or reprimand, a written warning or reprimand, deprivation of privileges, removal from the classroom, transfer to another class for a specified period, suspension for specified periods, transfer to another school, or dismissal from the school. Any disciplinary measure must be reported to the student's parents, and in cases of transfer to another school the parents must be given a prior hearing.

Expulsion to countries where a person might be subjected to torture

226. According to judgements of the Israel Supreme Court in specific cases regarding the legality of deportation, the Court has specifically held that no

person may be deported to a country in which his physical safety cannot be guaranteed. Reference is made to the discussion under article 13 on this matter.

Commitment to psychiatric hospitals

227. The enactment in 1991 of the Mentally Ill Treatment Law, 5741-1991, marked a significant change of approach in protecting the rights of mentally ill persons, primarily with regard to involuntary commitment but also with regard to the patient's rights once hospitalized. Under the new law, the District Psychiatrist or someone authorized by him may commit a person to involuntary hospitalization only after having performed a psychiatric examination, which the person may be compelled to undergo. The law distinguishes between “urgent” and “non-urgent” involuntary hospitalization. In the first case, the District Psychiatrist may commit a person immediately to a psychiatric hospital if he determines that the person is mentally ill in such a manner that substantially impairs his judgement or his reality testing, and that as a result he is likely to pose an immediate physical danger to himself or to others.

228. The director of a hospital may involuntarily hospitalize a person for a period of up to 48 hours, even without an order of hospitalization from the District Psychiatrist, if he determines, on the basis of a medical, physical and psychiatric examination, that the person fulfills the criteria for urgent involuntary commitment. At the end of 48 hours, the person must be released, unless a commitment order has been issued within that time or the patient agrees to be hospitalized voluntarily (sect. 5 of the Law).

229. In the case of a minor, the District Psychiatrist may, at the request of a child welfare worker, order the child to undergo an urgent psychiatric examination prior to commitment if in his view there is prima facie evidence that the minor is mentally ill or mentally disturbed, and such illness or disturbance is likely to pose a physical danger (as opposed to an “immediate” physical danger) to himself or to others. All such examinations of minors must be performed by a psychiatrist specializing in children and adolescents (sect. 6 of the Law).

230. The District Psychiatrist may order a person who refuses to be tested to undergo a “non-urgent” involuntary examination if he deems that there is evidence to indicate that the person is mentally ill in such a manner that substantially impairs his judgement and reality testing; and that he is likely to pose a physical danger to himself or others that falls short of being “immediate”, or his ability to take care of his basic needs is severely impaired, or he is causing severe mental suffering to others in such a manner that impairs his maintenance of a normal functioning, or he causes severe damage to property (sect. 7 of the Law). Such a “non-urgent” examination order remains valid for a period of 10 days, during which the person is to undergo the examination; if the examination bears out the conclusion that the person is in fact mentally ill in the above manner, and as a result is likely to pose a “non-immediate” danger to himself or to others, then he may be committed within 24 hours.

231. The District Psychiatrist may order the involuntary commitment of a person only for a period of seven days, which he may extend for another seven days at the detailed, written request of the director of the hospital in which the patient is confined. He must also notify the Attorney-General or his representative of any hospitalization orders. After the initial period of 14 days, involuntary hospitalization may be extended only by decision of the District Psychiatric Committee, which is composed of a lawyer and two psychiatrists, one of whom is a public servant (sect. 24 of the Law). The District Committee may extend the involuntary hospitalization for a period of up to three months, and thereafter for subsequent periods of three months, if they are convinced that the patient still meets the criteria for commitment mentioned above.

232. The new law also provides the District Psychiatrist with the power to order the patient to undergo involuntary outpatient treatment, instead of hospitalization, for periods of up to six months.

233. A hospitalization or involuntary outpatient treatment order issued by the District Psychiatrist may be appealed by the person committed or any other person before the District Psychiatric Committee. Appeals are heard within five days of their submission. In all proceedings before the Committee, the patient and his lawyer may be present, as well as additional persons at the Committee's discretion, and may raise claims on the patient's behalf. If the Committee decides to extend the involuntary commitment of a patient for a period exceeding three months, then the patient, his relative or guardian has the right to demand an additional hearing after three months have passed. All decisions of the District Psychiatric Committee are appealable as of right to the District Court, and thereafter to the Supreme Court by leave.

234. Judicial decisions interpreting the District Psychiatrist's powers of involuntary commitment have stressed that the evidence of the patient's inability to function, and of the danger posed to himself or to others, must be specific and well-founded in order to justify such a deprivation of liberty, especially in view of section 5 of Basic Law: Human Dignity and Liberty, noted above. See, e.g., App. No. 81/92, *Anonymous* v. *Attorney-General et al.*, P.D.M. 5753, vol. 3, p. 221 (judgement of the Jerusalem District Court). Mere general statements that a person has attacked others is insufficient; specific incidents must be described in detail, including dates, the severity of the incident, the persons involved, the degree of provocation, and so on (ibid.).

235. Over the period between 1988 and 1995, the number of involuntary hospitalization orders issued by the District Psychiatrist remained fairly stable, between 1,300 and 1,600 per year, while the total number of psychiatric hospitalizations rose steadily, from 11,286 in 1988 to 15,515 in 1995.

236. **Court-ordered hospitalization**. In the context of criminal proceedings, a court may order the hospitalization of a mentally ill detainee for the period of his detention, and may order the hospitalization or outpatient treatment of a defendant who is found unfit to stand trial due to mental illness. If a defendant has been found guilty of a criminal offence, but the Court declares that he is not eligible for punishment because he was mentally

ill at the time he committed the offence, then the Court may order his involuntary hospitalization or treatment if he is still ill. The law imposes no time limit for such involuntary hospitalization; however, judicial decisions have clarified that court-ordered hospitalization may extend only so long as the convict poses danger to himself or to others. Cr.A. (T.A.) 613/95. *Malca* v. *Attorney-General et al.* (not yet published), issued 20 October 1995.

237. **Restrictions on treatment and other rights of the patient** All patients in psychiatric hospitals are entitled to send and receive closed letters, to have visitors, to maintain contact with persons outside the hospital and with their lawyers, and to hold personal effects and wear their own clothes, in accordance with terms set by the director of the hospital.

238. Solitary confinement and physical restraint of a patient may be done only to the extent required for his medical treatment, or to the extent necessary to prevent danger to himself or others. Such measures must be authorized in writing by a doctor, except in cases of emergency when a doctor is not present, in which case a nurse may order such measures (sect. 34 of the Law). If the nurse orders the patient to be placed in restraints, then a doctor must be found as quickly as possible to approve the measure; if the doctor does not approve the use of restraints, then the patient must be released from them immediately. Restraints may be ordered for a period of up to four hours, and then for subsequent periods of up to four hours, subject to an examination by a doctor at the end of each period (Regulation 29 of the Mentally Ill Treatment Regulations, 5752-1992).

239. Electric shock therapy may be used on patients only if the following conditions have been met:

(a) Three doctors at the hospital, including the hospital director or his deputy, the director of the department in which the patient is hospitalized or his deputy, and the director of the clinic at which the patient is treated, have all decided that electric shock therapy is indicated;

(b) The patient has undergone a physical examination by a doctor, and appropriate tests do not evince any contra-indications to electric shock therapy;

(c) The patient or his guardian has consented in writing, if the patient voluntarily hospitalized himself.

Electric shock may be administered only under anaesthetics, with necessary safety measures, and medications to relieve post-administration symptoms must be on hand.

Experimentation on human beings

240. The Helsinki Declaration regarding Guidelines for Doctors in Biomedical Research Involving Human Beings of 1964, as amended in Tokyo in 1975, has been implemented directly in Israeli legislation by the National Health (Medical Experiments on Human Beings) Regulations, 5741-1980, which actually includes

the text of the Helsinki Declaration. Regulation 2 of the above Regulations stipulates explicitly that no medical experimentation may be done on human beings in a hospital in violation of the Helsinki Declaration.

241. Under the implementing legislation, medical experiments are defined as:

> "(1) Use of a medication, radiation or a chemical, biological, radiological or pharmaceutical substance, in contradiction to the approval given for such substance by legislation, or when said use is not accepted in Israel for the purposes for which the use is requested, or has not yet been tried in Israel, and such use has, or is intended to have, an effect on the health, body or mental health of a person or employee, or a part thereof, including genetic structure;
>
> "(2) Any proceeding, action or examination regarding a human being which is not commonly accepted."

Such medical experiments may be performed only if the Director-General of the Ministry of Health approves them. The Director-General's approval, in turn, is contingent upon fulfilment of the following conditions:

(a) The "Helsinki Committee" of the hospital in question has approved the experiment. This committee is composed of a member of the clergy or a lawyer, three medical directors of departments at the hospital with the rank of professor at a recognized medical school, one of whom is a specialist in internal medicine, and another doctor who represents the hospital's management;

(b) The Director-General is convinced that the experiment is not in violation of the Helsinki Declaration or the Israeli regulations;

(c) The Medications and Foods Department of the Health Ministry or the "Supreme Helsinki Council" has rendered its opinion regarding experiments involving genetic structure, artificial fertility treatments, or other types of experiments. The "Supreme Helsinki Council" is composed of one lawyer, one member of clergy, six professors, of whom three are medical doctors, and the Director-General or his representative, provided that they are also physicians.

242. Under article 9 of the Helsinki Declaration, which is an operative part of the regulations mentioned above, every person who may be a subject in a medical experiment must give his or her informed consent thereto, preferably in writing, and may cease to participate in the experiment at any stage. In cases in which the patient may have a relation of dependency with the doctor who requests his informed consent, or in which the patient might consent under duress, another doctor uninvolved in research must request the patient's consent. Persons lacking legal capacity may serve as subjects in medical experiments only if their legal guardian, or relative responsible for their welfare, consents on their behalf (article 11 of the Helsinki Declaration).

Article 8 - Prohibition of slavery

243. Israel is a party to the Geneva Slavery Convention of 1926 and the Amending Protocol of 1953 (ratified 12 September 1955); to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (ratified 23 October 1957); to the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (ratified 28 December 1950); and to International Labour Organization Convention No. 105 concerning the abolition of forced labour.

244. The principal legislative prohibitions against slavery or servitude are contained in the Penal Law, 5737-1977. Section 376 of the Penal Law, entitled "forced labour", provides: "A person who unlawfully compels another to work against his will is liable to imprisonment for one year." Other sections of the Penal Law, prohibiting kidnapping and false imprisonment, may be invoked against a person who detains or otherwise limits the freedom of movement of another person, including with the intention of imposing conditions of servitude or slavery upon him.

245. Slavery and servitude would also seem clearly to be prohibited by section 9 of Basic Law: Human Liberty and Dignity, under which "[t]here shall be no deprivation or restriction of the liberty of a person by imprisonment, arrest, extradition or by any other means". Furthermore, every employee is entitled to the full protection of Israel's labour laws, which provide extensive protection regarding hours of work and rest, overtime pay, vacation and sick days, payment of wages, prohibition of work on rest days and holidays, and many other substantive safeguards, including protection of the right to strike. These employment guarantees are discussed more fully in Israel's Initial and First Periodic Report under the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.39), as well as under article 21 of the present report.

246. Israeli law does not allow hard labour to be imposed as the punishment for a crime. Incarcerated convicts are required to work at tasks or jobs which do not involve hard labour (Penal Law, sect. 48) unless an Exemptions Committee of the Prisons Service releases them from the obligation for reasons of rehabilitation, health or other reasonable grounds. In practice, prisoners are generally not required to work without their consent. Prisoners' hours of work and rest are subject to the same restrictions as any employee under the Hours of Work and Rest Law, 5711-1951, and they are paid at the minimum wage. Prisoners with health-related limitations may only perform work approved by the prison medical officer (Prisons Regulations, 5737-1978, regulation 14).

247. Detainees who have not been convicted of a crime, and persons sentenced to imprisonment in the context of civil proceedings (for example, due to contempt of court), may perform work only at their consent (Prisons Regulations, regulation 17).

248. All work performed by convicts, detainees and other prisoners is supervised by the director of the prison in which they are incarcerated.

249. The sentencing provisions of the Penal Law, 5737-1977, allow for two types of punishment, less severe than incarceration, which involve the performance of work. Under section 51 A of the Law, a court which has sentenced a criminal defendant to imprisonment for a period not exceeding six months may, at the defendant's consent, decide to substitute incarceration for part or all of that period with “service work” outside the prison at a public institution or private workplace determined by the Director of the Employment Service. The convict may live at home during the period of “service work”, and receives wages unless he or she is serving the sentence at a public institution. A person convicted of a crime but not sentenced to imprisonment may be required to perform “community service” work during his spare time at no pay, for a number of hours to be determined by the court (sect. 71 (A) of the Penal Law). “Public service” may also be imposed on a person whom the court has found to have committed a crime, without convicting him (sect. 71 A (b) of the Penal Law); generally, this provision is used as a measure of leniency, to enable the defendant to avoid having a conviction in the Criminal Register, even though the court could lawfully convict him. Public service works are supervised by parole officers of the Ministry of Labour and Social Affairs. Neither of the alternative sentences mentioned involve hard labour. Typically, they are performed at places such as hospitals, institutions for disabled youths, government boarding schools, and the like.

250. International Labour Organization Convention No. 105, to which Israel is a party, requires ratifying States to undertake to suppress and not make use of forced labour in five specific cases: as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilizing and using labour for purposes of economic development; as a means of labour discipline; as punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination. As discussed in Israel's periodic reports to the ILO under this convention, and in the preceding paragraphs, forced labour is not used in Israel, either generally or for any of the purposes prohibited by ILO Convention No. 105.

Military Service

251. Most Israeli citizens and some permanent residents are required to perform regular and reserve military service under the Security Service Law [Consolidated Version], 5746-1986. Those exempted from obligatory military service include those with physical disabilities or mental illness, and women who declare that requirements of religion or conscience prevent them from performing military service. A portion of women granted such an exemption choose to perform one or two years of “national service” at a public or private institution. Orthodox Jewish men who commit themselves study in a religious institution and not to work during that period receive annual postponements of military service upon application. Approximately 30,000 such postponements were granted in 1997. If the orthodox student receives annual postponements up until the maximum age of conscription, then he is fully exempted from military service. Some such students elect to postpone their

service for several years while they pursue religious study exclusively, and then are conscripted later, generally for a shorter period than the usual three-year tour of duty.

252. Israeli Muslims are generally not conscripted into military service, though they may serve as volunteers. Druze and Circassian men perform regular and reserve military service, while Bedouins may serve as volunteers. Christians are generally not conscripted, unless they are *olim* under the Law of Return. The influx of immigration from the former Soviet Union has resulted in an increase of Christian conscripts, as in many of those families one or the other spouse, or parent, is Christian.

253. The period of regular military service for men who are conscripted between the ages of 18 and 26 is currently three years; those conscripted between the ages of 27 and 29 serve for a period of between 24 and 30 months. Women conscripts between the ages of 18 and 26 perform two years of regular military service; married women, mothers and pregnant women are released from their military service obligations.

254. After discharge from regular military service, men and women may be obligated under the Security Service Law [Consolidated Version], 5746-1986, to perform up to 30 days of reserve service. Under internal IDF guidelines, the actual length of annual reserve service, and the age until which one must perform it, are set according to the specific reserve position and rank of the soldier, among other factors. Under section 1 of the Law, men may be obligated to perform reserve service up until the age of 54, and women up until the age of 38. In practice, the vast majority of women soldiers are completely exempted from reserve service, while most of the remaining women soldiers may serve for brief annual periods up to the age of 24.

255. As mentioned in respect of article 4, emergency legislation allows for the call-up of employees and professionals in various institutions and industries deemed essential, to enable their uninterrupted operation when circumstances related to the state of emergency make it necessary to do so.

Article 9 - Liberty and security of person

256. From its inception, the State of Israel has regarded the right of personal liberty as fundamental to the nature of its political and social order. The Declaration of Independence of 14 May 1948, provides that the "State of Israel ... shall be founded on the principles of liberty, justice and peace as envisioned by the prophets of Israel ...". Until recently, in the absence of a formal bill of rights, this clause in the Declaration constituted the basis on which the Supreme Court developed rules for protection of personal liberty, including with regard to arrest and detention. At the same time, a thorough body of legislation was developed to ensure that restrictions of liberty in the context of arrest or detention are strictly circumscribed; the principal legislative landmarks in this regard were the Criminal Procedure Law [Consolidated Version], 5742-1982, the Criminal Procedure (Arrest and Searches) Ordinance [New Version], 5729-1969.

257. With the enactment of Basic Law: Human Dignity and Liberty in 1992, the right to personal liberty was accorded formal constitutional status. Section 1 of the Basic Law provides:

> "Fundamental human rights in Israel are founded upon recognition of the value of the human being, the sanctity of human life, and the principle that all person are free; these rights shall be upheld in the spirit of the principles set forth in the Declaration of the Establishment of the State of Israel."

Arrest and Detention

258. The purpose of the Basic Law, as defined in section 1 A, is "to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic State". Section 5, entitled "Personal Liberty", stipulates that "there shall be no deprivation or restriction of the liberty of a person by imprisonment, detention, extradition or otherwise". This substantive right is qualified by the saving clause in section 8, which prohibits any derogation therefrom "except by a Law befitting the values of the State of Israel, enacted for a proper purpose, and to an extent no greater than is required, or by regulation enacted by virtue of express authorization in such Law". While legislation enacted prior to the Basic Law remains valid, it is interpreted in light of the substantive rights and principles in the Basic Law. New legislation, on the other hand, may be invalidated by the Supreme Court to the extent that it violates the principle of human liberty, including in the context of arrest and detention.

259. Following the enactment of Basic Law: Human Liberty and Dignity, several significant legislative efforts have been made in the area of arrest and detention, culminating in the enactment of a series of interrelated statutes, as well as new standing orders for the Police and Prisons Service. The most significant of such recent statutes for the purposes of this article, the Criminal Procedure (Powers of Enforcement - Arrest) Law, 5756-1996, comprehensively treats all phases of the detention process with the declared purpose of "ensuring maximal protection of a person's liberty and rights" (sect. 1 (b) of the Law). The provisions of the new statute apply to arrest and detention under any law, unless the other law specifically indicates otherwise.

Arrest by warrant

260. A judge may issue an arrest warrant only if he is convinced that there is a reasonable suspicion that the person committed a felony or misdemeanour, and that one of the following grounds applies:

(a) There are reasonable grounds to suspect that the suspect's release or non-arrest will result in the obstruction of the criminal investigation or trial, in the suspect's evasion of the investigation, trial or sentence, or will lead to concealing of property, tampering with witnesses or with evidence in another manner; however, in such cases the court must also be satisfied that the objective of the arrest cannot be achieved by setting bail or other conditions which will be less restrictive of the suspect's liberty;

(b) There are reasonable grounds to suspect that the suspect will endanger the safety of a person, public safety or national security;

(c) The court is satisfied, for special reasons that shall be recorded, that it is necessary to take investigative measures that cannot be taken unless the suspect is under arrest; in such cases the Court cannot order an arrest for more than five days, unless it deems that the investigative procedures contemplated cannot be carried out in that period, in which case it may order a longer period of arrest, or extend the original period, for a total of not more than 15 days.

(Criminal Procedure Law (Enforcement Powers - Arrest) Law, 5756-1996, sect. 13.)

261. An application for an arrest warrant must be submitted in writing by a police officer, supported by a sworn statement or affidavit which confirms the facts and information on which the application is based. The application must include details of previous arrests, copies of previous applications for arrest warrants against the suspect in the same matter and the minutes of court hearings on those earlier applications (ibid., sect. 15). In urgent cases, the judge may hear the application for the warrant without seeing the copies of earlier warrant requests and minutes of the hearings, if he or she is satisfied that enough information has been submitted to enable a decision; in such instances, the length of the arrest cannot exceed 24 hours (ibid., sect. 15 (b)).

262. The Court bears a clear obligation to review the evidence on which the warrant application is based, and must issue a reasoned written decision (ibid., sect. 12).

263. The arrest warrant must include, in addition to basic identifying information, the arresting officer's identity, the description of the alleged offence, the specific grounds for arrest, the precise date and time when it was issued and when it lapses, as well as a statement of the arresting officer's obligation to bring the suspect before the court as soon as possible, unless the person is released before an initial hearing (ibid., sect. 18).

Arrest without a warrant

264. The new Arrest Statute sets out a series of strict procedural safeguards which must be followed in the event of arrest without a warrant. A police officer is empowered to arrest a person without a warrant if he or she has reasonable grounds to suspect that the person committed a felony or misdemeanour, and if one of the following applies:

(a) The person committed an offence for which he or she may be arrested in the police officer's presence or very shortly beforehand, and the officer believes that as a result the person is likely to endanger the safety of a person, public safety or the security of the State;

(b) The police officer has reasonable grounds to suspect that the suspect will not appear for the criminal investigation, or that the suspect's

release or non-arrest will result in a disruption of legal proceedings, including concealment of property, tampering with witnesses or tampering with evidence in another manner;

(c) The person is suspected of having committed one of the following offences:

(i) An offence which carries a sentence of death or life imprisonment;

(ii) Certain security-related offences;

(iii) Narcotics offences other than those involving use or possession for personal use;

(iv) An offence committed with severe violence or cruelty, or with a firearm or other weapon;

(v) A violent offence against a family relative under the Family Violence Prevention Law, 5751-1991;

(d) There are reasonable grounds to suspect that a person released on bail has violated the terms of the release, or is about to abscond from legal proceedings, or has escaped lawful custody;

(e) The police officer lawfully attempts to detain a person for questioning at the police station, but the person does not comply with the officer's instructions or interferes with lawful detaining for questioning;

Arrest without a warrant, on the grounds described above, may not be done if it is sufficient to bring the person to the police station for questioning (ibid., sect. 23).

265. **Unlawful arrest and resistance to arrest**. At the time of arrest, the arresting officer must identify himself or herself to the suspect, inform the suspect immediately of the fact of the arrest, and, as soon as possible in the course of the arrest, explain the reasons therefor. If these requirements are not met, then as a rule the arrest is not lawful, and the suspect is not deemed to be in lawful custody. As a consequence of the fundamental right to liberty, any person may take reasonable actions to avoid or resist an unlawful arrest as he or she would against an assailant by fleeing, use of reasonable force or other means, and the arresting officer may be sued for assault or false imprisonment under the Civil Wrongs Ordinance (Cr.A. 136/51, *Frankel* v. *State of Israel*, 8 P.D. 1604). Full notification at the time of arrest may be delayed, however, if it is likely to undermine the carrying out of the arrest, to endanger the arresting officer's safety, to result in concealing of evidence, or if the officer's identity and the nature of the offence are obvious under the circumstances (ibid., sect. 24).

266. The powers of a police officer to arrest without a warrant may be delegated to other public servants by order of the Minister of Police (now the Minister of Internal Security). At present, arrest powers have been granted

to 21 different groups of public servants, such as income tax investigators, port authority guards, municipal inspectors, civil guards, prison wardens, and so on.

267. **Bringing the person under arrest to the police station** Persons arrested without a warrant must be brought immediately to a police station and placed under the authority of the station officer in charge of investigations, or the station commander, unless the person is released beforehand. The duty to bring the suspect immediately to the police station may be qualified if the suspect is in urgent need of medical treatment, or if the police officer's presence is urgently needed in another place to prevent injury or death to a person, or severe harm to public safety or national security, if the needs of the investigation so require, or if the suspect consents to go with the officer to another place in order to seize evidence or prevent its destruction. As soon as such mitigating considerations have lapsed, then the suspect must be brought immediately to the police station (ibid., sect. 25).

268. Once the suspect is brought to the police station, then the officer-in-charge bears a duty to examine whether there were indeed adequate grounds for arrest without a warrant; if those grounds are not met, then the person must be released immediately, unless any of the grounds applicable to arrest with a warrant apply, in which case the officer-in-charge must explain these considerations to the suspect, and then arrest him or release him on bail. The officer-in-charge may not continue the arrest or release the suspect on bail, or set bail conditions, without first having given the person an opportunity to raise his or her claims, after having warned the person of the right to remain silent and that anything that he or she may say may be used as incriminating evidence, and that abstaining from responding to questions may be used as corroborating evidence (ibid., sect. 28 (a)). If the person's attorney is present at the time of the decision by the officer-in-charge, then he or she may also raise oral claims in regard to the arrest or release on bail (sect. 28 (b)). If the officer-in-charge decides to arrest the suspect, then he must immediately explain to the suspect that he is under arrest, the reasons for the arrest, the length of time until the suspect will be brought before a court or released, the suspect's right to have notice of the arrest sent to a close friend or relative and to his attorney, and the right to see an attorney, except in certain extreme circumstances, as discussed below (ibid., sect. 32).

269. In all cases of arrest without a warrant, the officer-in-charge of the police station must prepare a detailed report of all actions taken in respect of the arrest itself, notification of rights, the investigation, decisions regarding the right to meet with legal counsel, the suspect's statements, and so on (sect. 37).

270. **Notification of arrest**. If a person is arrested, notice must be given promptly to a friend or relative who can reasonably be located, unless the detainee asks that such notice not be sent (ibid., sect. 33). At the request of the person under arrest, notice will also be sent to an attorney of his or her choosing, or to one of the defence attorneys appearing on a list drawn up by the Bar Association and presented to the suspect; if the Minister of Defence gives written confirmation that State security so requires, then notice may be sent only to an attorney who has proper security clearance under

the Military Justice Law, 5715-1955. By decision of a District Court judge, notification of a person's arrest for certain security-related offences or for other offences carrying a penalty of at least 10 years' imprisonment may be delayed for up to 48 hours, or be delivered only to a person whom the judge determines, if the Minister of Defence certifies in writing that national security requires that the arrest be kept secret, or if the Inspector General of the Israel Police certifies in writing that the success of the investigation so requires. If the Minister of Defence or Inspector General of the Police are still convinced that an additional delay is necessary for the above reasons, they may apply to the District Court for subsequent 48-hour delays, up to a total of seven days. In the case of certain defined security-related offences, notification may be delayed for a total of 15 days, provided that the Minister of Defence certifies in writing that national security so requires.

Consultation with legal counsel

271. The detainee has a right to consult freely with legal counsel with all due expediency. (ibid., sect. 34 (a)). With the exception of special cases described below, the detainee must be allowed to meet with his lawyer before a judicial hearing regarding the extension of his detention. Evidence gathered from the detainee through violation of the right to confer with counsel may be invalidated to the extent that the lawyer's absence "resulted in infringement of the detainee's free will in giving his confession". Cr.A. 533/82,*Zakai* v. *State of Israel*, 38(3) P.D. 66. Meetings with counsel must be held in conditions that ensure their privacy, while allowing supervision of the suspect's movements (Criminal Procedure Law (Enforcement Powers - Arrest) Law, sect. 34 (c)).

272. The realization of the right to confer with legal counsel may be delayed in four sets of circumstances. A senior police officer, of the rank of superintendent or higher, may order, by a reasoned decision in writing, that the meeting with legal counsel shall be delayed for up to several hours if the person under arrest is in the midst of activities related to the criminal investigation, in such a manner that his or her presence is necessary for their completion, and the meeting with counsel will require delaying or postponing those investigative activities, and the officer-in-charge believes that such a delay or postponement is likely to endanger the investigation substantially. An officer-in-charge of similar rank may also order, by reasoned written decision, that the meeting with counsel be delayed for up to 24 hours from the time of arrest, if he is convinced that the meeting with counsel is likely to frustrate or to interfere with the arrest of other suspects in the same manner, or to prevent the discovery or seizure of evidence. The officer-in-charge may delay, once again by reasoned written decision, the meeting with counsel for up to 48 hours after the arrest, if he is convinced that doing so is necessary to protect human life, to prevent commission of an offence, or, in certain security-related offences, that the meeting is likely to interfere with the arrest of other suspects, to disrupt discovery or seizure of evidence, or to interfere with the investigation in some other manner, provided that the detainee has a reasonable opportunity to confer with counsel prior to the initial judicial hearing on his detention (ibid., sect. 35). Finally, persons who are detained on suspicion of involvement in a specific set of security-related offences may be denied the

right to confer with legal counsel for a period of up to 10 days, if the officer-in-charge finds that one of the grounds for a 48-hour delay mentioned above apply. At the request of the person under arrest, notice of the postponement and its length must be given to a person of his or her choosing. The President of the District Court may order that a suspect in such security-related offences not meet with counsel for up to 21 days, if the application is made with the approval of the Attorney-General. Decisions delaying the meeting with counsel in security-related cases for up to 10 days may be appealed before the President of the District Court, or, in his or her absence, before the Deputy President, and may be appealed again, if necessary, to the Supreme Court. Decisions delaying the meeting with counsel for more than 10 days are appealable directly to the Supreme Court (ibid., sect. 35).

First judicial hearing

273. In nearly all cases, a person who is arrested other than in the presence of a judge, and whom the officer-in-charge at the police station does not release, with or without bail, must be brought before a judge as soon as possible, and at most within 24 hours of the arrest; otherwise, the arrestee must be released (ibid., sects. 17 (c), 29). The arrestee or his or her representative may immediately file a motion to release him on bail, in which case the judicial hearing often takes place well before the 24-hour period has elapsed.

274. There are three exceptions to the general requirement that a judicial hearing take place within 24 hours. If an officer in charge of the investigation concludes that urgent investigative actions be carried out, that they can only be done while the suspect is under arrest, and that they cannot be postponed until after the suspect is brought before the judge, then the judicial hearing may be postponed for up to an additional 24 hours. In the case of certain specified security-related offences, it is sufficient to show that urgent investigative actions are necessary to postpone the initial judicial hearing for the additional 24-hour period.

275. The second set of exceptions to the 24-hour limit relates to arrest just prior to or in the midst of the weekly Sabbath or religious holidays. If the 24-hour limit expires during the Sabbath or a holiday, then the person under arrest should be brought before a judge before the Sabbath or holiday commences - that is, before 24 hours have passed from the time of arrest - unless a senior police official confirms that, due to special needs of the investigation, it is not possible to do so, in which case the initial hearing must take place no later than four hours after the end of the Sabbath or holiday. Sometimes, however, the holiday itself lasts two days, or it falls immediately after the Sabbath. If these holiday and Sabbath days together last longer than 48 hours, and the arrestee was not brought before the court prior to their commencement, then the initial hearing must take place as soon as possible after the end of the Sabbath or holiday, or within 24 hours after the arrest, whichever is later; if the Sabbath and holiday together are longer than 72 hours, then the initial hearing must take place within 32 hours of the arrest. If, finally, the person under arrest requests that the initial hearing be delayed until after the end of the Sabbath or the holiday, then the initial hearing shall be held as soon as possible after the end of the Sabbath or the holiday (ibid., sect. 29).

276. The other exception relates to certain security-related offences, such as treason and espionage, in which case a senior police officer may order the person to be detained for up to 15 days before he is brought before a judge (see, e.g., Penal Law, sect. 125).

277. At the initial judicial hearing, which usually takes place before a single judge of the Magistrate's Court, the judge must first review the evidence brought by the police to see if there are indeed reasonable grounds to suspect that the detainee in fact committed a crime. The detainee or his counsel may cross-examine the police officer appearing on behalf of the State in this regard. In addition, the court must decide whether or not there exist legitimate grounds to keep the suspect in detention, which may be grouped roughly under three separate categories:

(a) To ensure the integrity and efficiency of the criminal investigation - for example, if there are grounds to believe that the suspect may flee, may destroy, tamper with or conceal evidence, or influence witnesses;

(b) The severity of the offence - in terms of its scope and nature, the damage allegedly caused, the punishment prescribed by law, or particular aggravating circumstances, such as alleged use of violence, employment of a minor or a mentally incompetent person to commit the offence, arrest *in flagrante delicto* for a serious offence, and so on;

(c) A special public interest in detention of the suspect - including judicial policy regarding widespread offences, such as car theft; concern that the suspect will repeat the offence.

278. The Court will also weigh "external" considerations, such as the detainee's age (Cr.M. 190/79, *Doron* v. *State of Israel*, 33(3) P.D. 889), health (Cr.M. 242/66, *Amar* v. *State of Israel* 20(4) P.D. 584), financial needs (Cr.M. 12/55, *Abu Ghosh* v. *State of Israel*, 9 P.D. 195), the need to care for children in the case of a female detainee (Cr.M. 82/83, *Alia* v. *State of Israel*, 37(2) P.D. 742), past criminal record (as an indication of the danger that the investigation may be subverted or that there is a public interest in detaining the person) (Cr.M. 1/73, *Lavi* v. *State of Israel*, 27(1) P.D. 254), use of violence by the police against the suspect during investigation (Cr.M. 34/79, *Hazan* v. *State of Israel*, 33(1) P.D. 557), the time that has elapsed between the commission of the offence and the detention hearing (Cr.M. 273/78, *Attias* v. *State of Israel*, 32(3) P.D. 582), the expected duration of the detention (particularly in cases where the offence in question is not very grave)(Cr.M. 693/84, *Levitan* v. *State of Israel*, 40(10) P.D. 551), and other considerations.

279. The court may decide to extend the detention, to release the suspect outright, or to release the suspect on bail; the court may impose conditions on the suspect's release on bail intended to ensure appearance for the investigation, such as depositing the suspect's passport, limitations on freedom of movement, partial or total house arrest, compliance with a "protective order" in cases of family violence, preventing the suspect from having contact with family members or from living at the family house, deposit of a weapon in cases of violent offences, treatment for drug abuse, or

periodic appearances at the police station (ibid., sect. 48). The court may also issue an order preventing the suspect's departure from Israel, if there is a reasonable possibility that the suspect will not appear for the investigations, and his or her appearance cannot be ensured by bail or by other conditions. The new statute requires that all conditions of bail and release do not exceed what is necessary in order to achieve the purposes of imposing bail (ibid., sect. 47).

280. **Period of arrest before indictment**. In the event that the court does not release the suspect at the initial hearing, it may order continued detention for a period of up to 15 consecutive days. If, at the end of this period, the police still wish to keep the suspect in detention for purposes of the criminal investigation, then another hearing is held, and the court's decision is based on the standards noted above; however, the longer the detention, the more weighty the evidence that the suspect actually committed the crime must be in order to justify extending the remand. The total period of detention based on police requests may not exceed 30 days. Detention may be extended beyond the 30-day period only by a decision of the court upon a special motion signed by the Attorney-General.

281. A person under arrest will be released when the criminal investigation against him or her is completed, except if the prosecution notifies the court that a charge sheet is about to be filed, and the court is satisfied that there are prima facie grounds for remand until the end of trial, in which case the court may extend the arrest for a period of not more than five days, during which the charge sheet will be filed; these five days are not in addition to the 30-day period described above, but included within it.

282. **Maximum period of arrest prior to indictment**. Except in certain security-related cases, discussed below, a person must be released from arrest, with or without bail, if a charge sheet has not been filed within 75 days from the time of arrest (ibid., sect. 59), unless a single justice of the Supreme Court orders that the arrest be extended or renewed for subsequent periods of not more than 90 days each.

Appeals

283. All decisions of the court regarding extension of detention, bail, or other conditions of release may be appealed to a higher judicial instance. If the detainee claims that there are "new facts" or "changed circumstances", if considerable time passed since the decision was handed down, or if the person is in detention because of an inability to post bail, then he or she has the right to a "reconsideration" of any decision before the same court that rendered it (ibid., sect. 52). The lower court's decision on "reconsideration" may itself be appealed to a higher instance. If the appeal is to the District Court, the detainee also has a right of second appeal to the Supreme Court.

Court-appointed counsel

284. Prior to the filing of a charge sheet, Israeli law requires court appointment of legal counsel for a person in detention who is mentally ill (Criminal Procedure Law [Consolidated Version], 5742-1982, sect. 15: Mentally

Ill Treatment Law, 5751-1991, sect. 18), or under 16 years of age, or when it is necessary to take testimony prior to filing the charge sheet, and the detainee is either blind, deaf, dumb or mentally disabled, or when the detainee is suspected of murder or another offence bearing a penalty of 10 years or more (Criminal Procedure Law, sect. 15 (a)). In cases where there is no obligation to appoint legal counsel for a detainee, a court may decide at its discretion to appoint counsel if the detainee has insufficient financial means to do so, if the offence involved bears a penalty of at least 10 years' imprisonment, if the detainee is blind, deaf, dumb or mentally incapacitated, or if for any other reason the court deems that the detainee is unable to manage his own defence adequately (ibid.).

285. Since its establishment in 1995, the Public Defender's Office has established itself in several judicial districts, with on-call public defenders available to represent detainees, among others, at all stages of their detention, and representatives at the various courts to make the process of appointing defence counsel for detainees who qualify under the Public Defender Law, 5755-1995, more efficient.

286. The obligation to appoint counsel for a defendant after a charge sheet is filed is discussed below.

Arrest and detention under other legislation

287. In addition to the general authority noted above to arrest and detain criminal suspects, there are several specially defined circumstances in which police officers or other security personnel may arrest and detain a person for security-related offences.

288. Under sections 124-125 of the Penal Law, 5737-1977, a person suspected of treason or espionage under the relevant provisions of the Penal Law may be arrested and detained without bail for a period of up to 15 days before being brought before a judge by order of a senior police officer. On the application by the Attorney-General, a single judge of the Supreme Court may order the arrest of a suspect in such cases for a period of up to 30 days before a detention hearing on the merits, and may extend such arrest for additional periods of up to 30 days, provided the total period of arrest before the detention hearing is no more than four months.

289. The Defence (Emergency) Regulations, 1945 (hereinafter "DER") also have special provisions regarding arrest and detention of persons suspected of having committed an offence thereunder. Any soldier or police officer may arrest, without a warrant, a person whom they witness committing an offence under these Regulations, or whom they have reasonable grounds to believe has committed such an offence. When the offence involved is one over which jurisdiction lies with the special military court under the Regulations, then the arrest is made by a warrant, which may be issued by a Magistrate's Court judge, an officer of the IDF or the officer-in-charge of a police station (Regulation 16 (1) of the Defence (Emergency) Regulations). Most arrests made under the DER are treated like ordinary arrests - that is, the person must be brought before a Magistrate's Court judge or before the officer-in-charge of a police station immediately, and in any case must be brought before a judge within 48 hours to review the legality of the detention, as discussed below.

The only exception obtains with regard to offences under the DER for which jurisdiction rests **exclusively** with the special military court; in such instances, the president of the military court may approve a deviation from the normal procedures, and the person may be brought directly before the military court, instead of the Magistrate's Court, for review of the detention and further proceedings (DER, regulation 17).

290. It may be noted that Regulation 132 of the DER allows for arrest and detention for up to seven days, by order of a police captain, of a person who is found in "suspicious circumstances" and is not able to give an adequate account of his doings at that place.

291. Under the Search Powers in Time of Emergency (Ad Hoc Provision) Law, 5729-1969, police officers, soldiers, and authorized civil defence personnel may, in the course of carrying out searches during a time of public emergency, arrest a person who refuses to allow a search or to come in for questioning, and who is suspected of unlawfully harbouring a knife, firearm or explosive (Search Powers in Time of Emergency (Ad Hoc Provision) Law, sect. 2 (c)).

292. Administrative detention is discussed under article 4.

293. The Extradition Law, 5714-1954, provides for arrest, by written order of the Attorney-General or a senior police official, of a person when there are grounds to believe that he or she is subject to extradition. The person must be brought before a judge within 48 hours, and may be detained for additional periods of up to 15 days each. Any extension of detention beyond 30 days must be filed by the Attorney-General, and in any case a formal request for extradition must be filed within 50 days. See H.C.J. 182/72, *Marenhal* v. *Attorney-General*; Extradition Law, section 22.

294. Arrest and detention may also be employed by courts as a means to secure the orderly conduct of legal proceedings. For example, a court may issue a warrant to compel the attendance of a defendant or witness who has been summoned to a trial but failed to appear. If such a person is not released on bail by the police, then he or she may be arrested and brought before a judge, who may decide to detain the person, and for how long, or to release on bail. A judicial arrest warrant may be issued against a person in the context of contempt of court proceedings, either if that person does not appear in court for a hearing in proceedings against himself or herself, or refuses to comply with a judicial decision (Contempt of Court Ordinance, sect. 5).

295. The law and procedure regarding imprisonment of a judgement debtor is discussed under article 11; arrest of a person in the context of deportation proceedings is discussed under articles 12 and 13. Under the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law, 5713-1953, a person may be imprisoned, at the request of the Attorney-General, in order to compel compliance with a Rabbinical Court order to give or accept a letter of divorce under Jewish religious law, or to release the widow of a man's brother from levirate obligations (*halitza*). A person may also be imprisoned as an alternative to payment of certain criminal fines.

Remand after a charge sheet is filed (until the end of trial)

296. In the event that the District Attorney decides to file a charge sheet against the suspect in detention, then a request may be filed with the court, together with the charge sheet, to remand the defendant until the end of trial. The standards for ordering detention until the end of trial, while similar to those for arrest during investigation, are stricter and more thorough in several basic respects, as is necessary in view of the severe restriction on liberty entailed by remand until the end of trial.

297. One precondition for detention until the end of trial is that the defendant must be represented by legal counsel at the remand hearing, unless he or she has clearly stated a wish to represent himself or herself. In the latter case, the court must try to convince the defendant to be represented by counsel, either of the defendant's own choosing or appointed by the court, and must be convinced that the defendant is in fact capable of adequately managing his or her own defence. If it is not so convinced, then it may appoint defence counsel on its own initiative. In practice, however, it is extremely rare that a defendant represents himself or herself at the remand hearing. The court will delay the hearing until the defendant (who wishes to be represented) has found counsel of his or her choice, or the court has appointed counsel to whom the defendant consents, for a period of up to seven days, which may be extended for additional similar periods not totalling more than 30 days. In the event of such delay, the court will hold a preliminary hearing without counsel to see whether the other criteria for detention are met, so as to determine whether there are grounds to detain the defendant until he engages counsel.

298. The first substantive requirement for remand until the end of trial is that prima facie proof exists of the defendant's guilt. Upon filing the charge sheet, and prior to the remand hearing, all evidence gathered during the police investigation that is not classified must be shown to the defendant and his or her legal counsel (Criminal Procedure Law, sect. 74). The court undertakes a thorough investigation into the evidence assembled by the police, to decide whether, on its face, it indeed could support a finding that the defendant is guilty of the offence with which he or she is charged. Although the court will not consider evidence that would be inadmissible at trial, it does not enter into the credibility or weight of the evidence at this stage; rather, it reviews the evidence "as it is", including contradictory evidence and other flaws in the prosecution's case (Cr.M. 901/89, *Ben Hamou* v. *State of Israel*, 43(4) P.D. 526).

299. If the court is convinced that prima facie proof of the defendant's guilt exists, then it considers whether or not there are grounds justifying detention until the end of trial. Section 21 of the Criminal Procedure (Enforcement Powers - Arrest) Law stipulates four general justifications for detention at this stage:

(a) If there is reasonable cause to believe that releasing or not arresting the accused will result in obstruction of justice, in the evasion of trial or punishment by the accused, in concealment of property, tampering with witnesses or with evidence in another manner;

(b) There is reasonable cause to believe that the accused will endanger the security of another person, public safety or the security of the State; certain serious offences are deemed to create a rebuttable presumption that such a danger exists;

(c) The court has released the accused on bail, but the bail has not been deposited to the court's satisfaction, or the defendant has violated a condition of his release on bail, or there exist other lawful grounds for cancelling bail.

(ibid.)

300. Even if the court is satisfied that there are grounds for detention as noted above (with the exception of violation of bail conditions), it may not order the defendant's detention unless it is convinced that the purpose of the detention cannot be achieved by release on bail and by imposing other conditions of release, such as restrictions on freedom of movement, which are less drastic a restriction on the defendant's liberty. As with hearings on detention during the investigation stage, the court will also consider "external" considerations, such as the defendant's personal circumstances, the time that has elapsed since alleged commission of the offence, and so on.

301. After weighing all of the above considerations, the court decides, as a matter of discretion, whether or not to detain the defendant until the end of trial, to release him on bail, or to release him without bail if the sufficiency of the evidence is doubtful.

302. If a defendant is detained after the filing of the charge sheet for a cumulative period of 30 days and the trial has not begun, then he or she must be released, unless the defendant or defence counsel requests a postponement of the opening of trial (ibid., sect. 60). A Supreme Court justice may extend the detention or order the detention anew, for subsequent periods of not more than 90 days at a time, even if the trial has not commenced (ibid., sect. 62). The trial is deemed to have begun when the charge sheet is read in court before the defendant (H.C.J. 304/72, *Ze'evi* v. *State of Israel*, 26(2) P.D. 490). When the defendant or his representative makes an initial appearance to claim that he is unfit to stand trial due to mental illness or disability, the trial will be deemed to have commenced for purposes of the 30-day requirement. (Cr.F. 336/66, *Cohen* v. *State of Israel*, 57 P.M. 321.)

303. If the defendant has been in detention for a cumulative period of nine months following filing of the charge sheet and the court has not issued a verdict, then the defendant must be released (ibid., sect. 61), unless a single justice of the Supreme Court extends or renews the detention for periods of up to 90 days.

304. As with detention decisions prior to filing the charge sheet, any decision regarding detention until the end of the trial or release on bail may be appealed to a higher judicial instance, before a single judge. If the jurisdiction over the offence in question lies with the Magistrate's Court, then the defendant may be able to appeal twice: if the decision on first appeal to the District Court is unfavourable, then he may appeal that decision before a single judge of the Supreme Court. The defendant also may file for a

"reconsideration" of the decision in light of new facts or changed circumstances that ought to have a bearing on his or her detention or terms of release.

305. **Compensation for unlawful arrest**. Persons who are arrested and released without a charge sheet being filed against them may receive compensation from the State Treasury for the detention and for legal expenses if the court finds that "there were no grounds for the arrest" or that "other circumstances justify awarding compensation" (ibid., sect. 38 (a)). The court may also order the person who filed the criminal complaint to compensate the detainee if it finds that the complaint was groundless or made in bad faith. The amount of compensation is fixed in accordance with the average wage. In addition, the detainee may file a civil suit for false arrest under the Civil Wrongs Ordinance, in which case the amount of compensation is not limited by the regulations, but rather subject to the principles of tort law, and generally results in much more substantial compensation awards.

Minors and mentally ill persons

306. The Youth (Adjudication, Punishment, and Modes of Treatment) Law, 5731-1971, sets specific safeguards on arrest and detention of minors. Children under 14 years of age who are arrested must be brought before a judge within 12 hours of arrest, and only for "special reasons" may the officer-in-charge of a police station delay the initial hearing for up to 12 additional hours. Under current law, minors between the ages of 14 and 18 must be brought before a judge within 24 hours of arrest (sect. 10 (2) of the Law), unless such "special reasons" justify a delay of up to an additional 24 hours. Youth are held in a separate detention facility intended especially for minors, or at least in a separate wing of a prison or police lock-up where there is no contact whatsoever with the adult detainees or prisoners. Minors who are detained do not sleep at a police station if there is a detention facility for minors in the area. A minor may not be detained before indictment for more than 10 consecutive days, or 20 days in total, unless the Attorney-General so requests (sect. 10 (4) of the Law). In addition to the grounds for detention applicable to adults, a minor may be detained if doing so is necessary to ensure his or her personal security or to separate the minor from an undesirable person (sect. 10 (3) of the Law). Other special procedures applicable to minors are discussed under articles 10 and 24.

307. **Mentally ill and mentally disabled persons**. Reference is made to the discussion of involuntary hospitalization of mentally ill persons under article 7.

308. In general, for the purposes of arrest and detention in the criminal process, mentally ill and mentally disabled persons are subject to the same law that applies to all adults. However, the Mentally Ill Treatment Law, 5751-1991, contains special provisions regarding the place of detention for such persons, medical examinations and appointment of counsel. If, on the basis of a psychiatric evaluation, the court deems that the suspect has a mental illness which requires hospitalization, then it may order that the suspect will be detained in a psychiatric hospital or in the psychiatric wing of a prison (sect. 16 (a) of the Mentally Ill Treatment Law). Such a hospitalization order may not be given except in the presence of the suspect's

legal counsel; if he or she has no legal counsel, the court must appoint one (sect. 18 of the Mentally Ill Treatment Law). The suspect need not be present at such a hearing if the District Psychiatrist or his or her authorized deputy determines that the hearing cannot be held in the suspect's presence, or that the suspect's mental health would be harmed thereby. (ibid.). The suspect may appeal the hospitalization order to a higher judicial instance, or may apply for "reconsideration" of the order based on new facts or changed circumstances.

309. **Appointment of counsel**. Once a charge sheet is filed against a person who the court believes may be mentally ill, he or she must be represented by counsel in all proceedings. Prior to filing of a charge sheet, such a person must be represented by counsel not only in proceedings related to a hospitalization order, as noted above, but also in any other case in which a detainee is entitled to representation under applicable law. In practice, however, the court almost always will use its discretion to appoint counsel for a mentally ill person in all proceedings during the investigation stages.

Article 10 - Treatment of persons deprived of their liberty

310. As mentioned in the discussion under article 7 above, the right of persons under detention to conditions ensuring basic maintenance of their human dignity is acknowledged as a fundamental right in Israeli law. The enactment of Basic Law: Human Dignity and Liberty in 1992 has spurred significant legislative reform bearing on the treatment of detainees, as well as policy changes in the education, hiring and training of police and prison personnel who deal with detainees. Some of these reforms are discussed under articles 7 and 9 above; others are examined below.

311. The Prisons Service operates 15 incarceration facilities in Israel, 3 of which function as detention facilities and 12 as prisons. From an administrative standpoint, these facilities are divided into three geographic regions (north, central and south), such that in each region there is one maximum-security prison and one detention facility. There is one incarceration facility, named Neve Tirza, for female convicts and defendants bound over until the end of trial. The Israel Police administers nine regional detention facilities; in addition, many of the 60 police stations across the country have several detention cells, generally used for brief detentions or prior to transfer to one of the regional facilities.

312. There is a certain overlap in the types of populations handled by the Police and the Prisons Service. In addition to convicted criminals sentenced to terms of imprisonment, the Prisons Service facilities are used for detention of persons imprisoned in the context of civil proceedings (such as non-payment of alimony or contempt of court); for certain suspects, defendants and convicts in security-related criminal cases; for administrative detainees; and for defendants remanded until the end of their trial. Suspects in security-related cases who have not been charged with criminal offences, as well as some who have been formally indicted, may be held during the course of the criminal investigation or the trial in either Police or Prison Service facilities; if such persons are convicted and sentenced to imprisonment, however, they will serve their sentence in a Prison Service facility.

Supervision by public authorities

313. Detention conditions and treatment of detainees are subject to several overlapping systems of review and supervision by public authorities. In addition to the investigation and prosecution of disciplinary and criminal investigations against law enforcement officials described under article 7, and the procedures for filing detainees' internal complaints or petitions to the courts regarding any matter related to their detention as discussed further on under this article, there are four existing layers of institutions with auditing authority over the workings of the prisons and detention facilities. First, the Israel Police and the Prisons Service maintain internal audit departments, which are charged with ensuring compliance with standing orders in force. Second, the State Comptroller has general authority to audit the operation of any official entity. It has used this power to investigate detention practices, though not, thus far, in relation to physical conditions of detention. In addition, both the Prisons Service and the Israel Police have independent, high-ranking governmental auditors with broad powers. Under the Prisons Ordinance, the Attorney-General and Justices of the Supreme Court are granted full auditing powers ex officio with regard to any prison facility in the country; District and Magistrate's Court judges have auditing powers over prisons within the area of their jurisdiction. In addition, the Minister for Internal Security has used his authority to appoint literally dozens of official auditors to investigate the operations of particular prisons. These appointed auditors are generally lawyers at the State Attorney's Office or one of the District Attorney's offices; but they have also included an auditor on behalf of the Israel Bar Association, the members of the Council for Criminology in Israel, and lawyers from various government ministries. Finally, two Knesset Committees - the Constitution, Legislation and Law Committee and the Interior Committee - have assumed auditing powers over detention facilities to ensure compliance with legislative requirements and protection of the rights of detainees.

314. Official auditors may enter prisons over which they are appointed at any time, and may examine conditions of detention, the treatment of prisoners, the orderly operation of the prison and the degree of compliance with any legislative or other provisions. The auditor may speak with any prisoner privately, and prisoners may themselves request an interview with the auditor. Prison officials are obligated to provide the auditor with any information or document at his or her request; security-related files, however, may be released only to auditors who are Supreme Court Justices (Prisons Ordinance, sects. 71-72 F).

315. Independent official auditors are also appointed by the Minister of Internal Security regarding police detention lock-ups. These latter auditors are selected from among lawyers at the Ministry of Justice, and have powers similar to those granted to Prison Service auditors. See Attorney-General Directive No. 62.003.

316. Over the past several years, conditions of detention at police lock-ups have been subjected to thorough scrutiny by governmental authorities as well as NGOs. During 1994 and 1995, the Israel Police and the Ministry of Police (now the Ministry for Internal Security) carried out its own investigation of physical conditions at detention facilities, and cooperated with

investigations made by NGOs such as the Association for Civil Rights in Israel, and by the Israel Bar Association. Justices of the Supreme Court have made widely publicized visits to detention facilities, at which they have called for rebuilding or closing down particular facilities at which conditions were deemed inadequate. Many detention facilities have been found to be severely overcrowded, and to lack facilities and basic services necessary for maintaining reasonably satisfactory living conditions. Some detention cells lack toilets, and many cells have open toilets which are not separated from the rest of the cell; many cells have been found to lack adequate lighting and ventilation, clean mattresses and blankets; detainees are not generally given utensils for personal hygiene, such as soap, a toothbrush, toothpaste and towels. Detention lock-ups, unlike Prisons Service facilities, do not have social workers on staff, education and rehabilitation programmes or other social services. The inadequacy of facilities and services has especially serious consequences in view of the fact that a significant portion of the population at these lock-ups do not work, and may be detained for many months, or even over a year, until their criminal trial has been decided.

317. The Israel Police and other governmental authorities have taken concrete steps on several different fronts to improve conditions at detention facilities. In the aftermath of a series of investigative reports submitted by official and independent bodies in 1994 and 1995, as mentioned above, the Israel Police decided on a series of remedial actions, including massive reconstruction and refurbishing of physical facilities at detention facilities around the country. A $4.5 million refurbishment project has already begun at the Abu Kabir lock-up in the Tel-Aviv area, and similar programmes are planned for the Russian Compound lock-up in Jerusalem and the Kishon lock-up in Haifa.

318. These physical improvements have been accompanied by legislative reform, primarily the enactment of the Criminal Procedure (Enforcement Powers - Detention) Law, 5756-1996, and detailed implementing regulations, which stipulate minimum conditions of detention and detainees' rights. As discussed in respect of article 9, this new statute sets minimum standards for all persons in detention; prior to its enactment, such standards had been codified and applied only for persons in the custody of the Prisons Service. Moreover, under section of the new statute and regulation 2 of the implementing regulations, detainees are to be held only at a detention facility which meets all of the requirements of the law regarding infrastructure, services and detainees' rights. The Minister of Internal Security may rescind his approval of a particular detention facility at his discretion, if the conditions or the detainees' ability to enjoy the full range of their rights under the new law are sufficiently inadequate. If, instead, the Minister orders that certain shortcomings at a facility be repaired to comply with the provisions of the law, and they are not so repaired within a reasonable time, then the Minister must rescind his declaration that the facility is fit for operation (Criminal Procedure (Enforcement Powers - Arrest and Detention) (Conditions of Detention) Regulations, 5757-1997, regulation 2).

319. **Physical plant requirements**. Under the new law and regulations, each cell in a detention facility must have adequate lighting and a window affording adequate ventilation from the outdoors, or, if there is no such window, then reasonable alternate ventilation must be installed. Each cell

must have a sink and toilet, and the toilet must be physically separate from the living area of the cell to enable privacy, as must showers, if located in the cell. Any cells lacking a toilet or sink may be used only for very restricted purposes and for a limited time period, mainly to prevent attempts to destroy or conceal evidence in a criminal investigation, particularly in narcotics cases.

320. All cells built after the enactment of the implementing regulations (May 1997) must have a table, seats, and shelves for the detainees' personal use, must have no more than four beds, must afford an average area of not less than 4.5 m^2 for each detainee, sufficient electric capacity to accomodate heating and cooling appliances, television, and other appliances that detainees are entitled to use. Showers must be separated from the toilet. To the extent possible, all refurbishments of existing detention facilities should observe the above criteria as well (regulation 3).

321. **Hygiene and medical treatment**. The new regulations require that every cell be painted at least twice a year, disinfected and fumigated at least once annually or according to the instructions of the physician of the detention facility. The detention facility must provide detainees in every cell with adequate materials to clean the cell, which they are obliged to do (regulation 4). Each detainee will be given a bed, mattresses and clean blankets, and a reasonable quantity of personal hygiene materials, such as soap and toilet paper. Detainees are entitled to shower once a day on hot days, except if they are suspected of attempting to destroy or conceal evidence held on or inside their body, in which case, they may be prevented from showering for no more than three days (regulations 6-7). Persons whose detention has been extended by a judge for a period exceeding 24 hours, and who are unable to have someone bring them a change of clothes, sheets, a towel and basic means of personal hygiene, shall be given all of these by the detention facility. Detainees are also guaranteed medical treatment as required to maintain their health, and to suitable health supervision as ordered by a physician (Criminal Procedure (Enforcement Powers - Arrest) Law, sect. 9 (b) (1)).

322. **Food and exercise**. All detention facilities are obligated to provide detainees with three regular meals a day, of a type and quantity that will maintain the detainee's health. Detainees with special dietary requirements based on reasons of health may receive such food with the approval of the physician at the facility (regulation 8).

323. All detainees are entitled to a daily walk outdoors during daylight hours, if the conditions at the detention facility so allow; no person may be detained for more than seven days at a facility which cannot provide the opportunity for a daily constitutional outdoors, and must be transferred thereafter to a facility that can. However, the person responsible for investigation of a particular detainee who has not yet been indicted may, by a reasoned written decision, order the commander of a detention facility to restrict or deny the right to outdoor exercise if necessary to protect the integrity of the investigation. Detainees whose right to exercise has been restricted are still entitled to outdoor exercise, not necessarily during daylight hours, for one hour at least every seven days for a period of up to one month. A senior investigation official, having a rank of chief

superintendent or higher, may extend the period of restriction on exercise for additional 15-day periods if necessary to protect the criminal investigation (regulation 9).

324. In addition, the commander of a detention facility may restrict the right to outdoor exercise of a particular detainee to protect his or her own safety, in which case the detainee will be allowed outdoor exercise of at least one hour every five days (ibid.).

325. **Use of telephone**. Every detainee who has been indicted has the right to use the telephone once a day. Detainees who have not yet been formally charged cannot use the telephone unless the official in charge of the criminal investigation decides that such use will not impair a criminal investigation in progress (regulation 10); however, unindicted detainees may file a written request to the commander of the facility to have a telephone message sent to his or her attorney, except in the extreme cases in which the detainee's exercise of the right to meet with counsel has been delayed (regulation 10).

326. **Visitation rights**. A detainee who has been formally charged may receive visitors, in addition to legal counsel, once a week for 30 minutes, unless extended by the commander of the detention facility. Those who have not yet been indicted may not receive visitors unless the official in charge of the criminal investigation confirms that doing so will not impair the progress of the investigation, in which case he may place conditions on the manner of visitation to ensure the integrity of the investigation (regulation 12). Administrative detainees are entitled to receive visits from immediate family members every two weeks; more frequent visits, as well as visits by persons other than immediate family and legal counsel, may be granted at the discretion of the director of the prison. The total number of visitors in any particular visit is limited to three persons in addition to the detainee's spouse and children, unless the prison director permits otherwise. As discussed under article 7, visitation rights of administrative detainees may be restricted only for reasons of State security. If such visitation rights are withheld for more than two months, the detainee may appeal before the Minister of Defence. All restrictions on the visitation rights of administrative detainees must be reviewed at least once every two months, if not earlier at the request of the detainee (Emergency Powers (Detention)(Conditions of Confinement in Administrative Detention) Regulations, 5741-1981, regulation 11). As with all decisions affecting the detainee, restrictions on visitation rights may be appealed before the District Court, and thereafter to the Supreme Court if necessary.

327. **Correspondence**. Under the new law, indicted detainees may send and receive letters, and may receive writing implements upon request; in cases of financial need, the detainee may be exempt from paying postal charges (regulation 13). Detainees who have not yet been indicted may send letters if the official in charge of the criminal investigation confirms that doing so will not impair the investigation; if correspondence is allowed, the official in charge of the investigation may impose conditions intended to ensure that the integrity of the investigation, including review and censorship of the detainee's letters (ibid.). Administrative detainees have the right to receive mail, and may normally send four letters and four postcards per month, not including correspondence with legal counsel or with official authorities

(Regulation 14 of the Emergency Powers (Detention) (Conditions of Confinement in Administrative Detention) Regulations, 5741-1981), or more with the permission of the prison director. The right of administrative detainees to send and receive mail may be restricted by the prison director if he is convinced that doing so is necessary for reasons of State security; in such circumstances, the prison director does not have to notify the detainee that a letter written by or to him has not been forwarded, except in the case of letters to or from family members (ibid.).

328. **Furloughs**. Detainees who have not yet been convicted and sentenced are not granted furloughs except by court order, or by special permission in extenuating circumstances. While the right of convicted and sentenced prisoners to furloughs is not provided for in primary legislation, furloughs are granted according to the provisions of Prisons Commission standing orders which have the status of law (sect. 80 C (a) of the Prisons Ordinance). Such prisoners are categorized, within 30 days of their incarceration, into one of three groups for the purpose of determining their rights to furloughs: those who may not be granted furloughs except by permission of the Minister of Internal Security, either because their leaving the prison may pose a danger to public order and security, or due to an outstanding arrest warrant, or those who are detained by virtue of an extradition or deportation order; those who may be given furloughs according to conditions determined by the Israel Police; and those who may be granted furloughs with no such conditions. In general, prisoners have the right to furloughs after having completed one quarter of their sentence, or three years, whichever is earlier. Prisoners who are sentenced to life imprisonment may be granted furloughs after seven years, even if their sentence is not commuted to a specific period by the President of the State. The length of the furlough is between 36 and 96 hours, and the frequency varies between once every three months and once a week (from Friday afternoon to Sunday morning), depending on the type of offence which the prisoner committed, his behaviour record in the prison, the type of rehabilitation programme in which the prisoner is participating, and other considerations. The interval between furloughs may be shortened in order to enable the prisoner to observe religious holidays outside of prison, or for family or medical reasons. In addition, furloughs may be granted even though the prisoner has not completed the minimum portion of his sentence, or even if the interval between furloughs has not transpired, in special circumstances, such as births, marriages or deaths in the family, memorial services, vocational testing, preparation of a rehabilitation programme, or medical reasons.

329. Persons imprisoned in the context of civil proceedings may be granted furloughs of 48 hours after having completed one quarter of his or her term of imprisonment or three months, whichever is earlier, and additional furloughs of 48 hours once every three months thereafter. If the term of civil imprisonment is four months or less, then the prisoner may be granted a furlough after having completed half of his sentence.

330. **Conjugal visits**. Under standing orders now in force, conjugal visits are allowed for criminal prisoners who are not eligible for furloughs. Prisoners who have non-married spouses are accorded the same rights to conjugal visits as married prisoners. Recently, the Prisons Service has

broadened its conjugal visits policy, to enable such visitation during daytime hours, together with visits by the prisoner's children. A new facility dedicated to housing prisoners during their conjugal visits is being built at the Ayalon prison, and the Prisons Service has planned the construction of several more such facilities.

331. **Religious observance**. All detainees must be given the opportunity to observe the commandments of their religion, to the extent practicable. The participation of a particular detainee in group prayers may be restricted if the commander of the facility has reasonable grounds to believe that the detainee's presence will constitute a danger to the security or order of the detention facility, or to the detainee's own security (regulation 14).

332. **Security detainees**. The conditions of detention mentioned above apply to detainees suspected of security-related offences, with a few modifications (regulation 22), which allow restriction, for example, of the right to use the telephone and outdoor exercise. The use of other means of contact with the outside world (such as the use of a television or radio or receiving newspapers) may be restricted for security detainees who have not yet been indicted if the official in charge of the investigation believes that allowing such contact will harm the investigation (ibid.). The types of personal effects to which a security detainee is entitled, the special conditions for allowing or restricting their use to pre-indictment detainees, and the number or amount of such articles that may be held at any one time are stipulated in the new regulations.

333. The other principal policy initiative aimed at alleviating the stress on police detention lock-ups has been to examine the feasibility of transferring virtually all detainees and detention facilities to the Prisons Service. Although recent legislation requires detention facilities to meet the criteria discussed above, Prisons Service facilities are still better equipped to provide a full array of support services and facilities enabling reasonably dignified living conditions for detainees. Moreover, the Supreme Court has held that defendants remanded until the end of trial should be under the custody of the Prisons Service. Due to overcrowding, such defendants often remain in detention lock-ups for periods far longer than such facilities were intended to hold them.

334. The new policy of transferring responsibility for all detainees to the Prisons Service has been inaugurated in a trial programme at the Ohalei Keidar detention facility in the Negev region, under which suspects who have not yet been formally charged with an offence are being placed in the custody of the Prisons Service. The rights and conditions granted to detainees participating in the trial programme are thoroughly set out in joint standing orders of the Police and the Prisons Service. Among other things, a physician must confirm that the physical conditions in each detention cell will not harm the detainees' health; the cell must have sufficient lighting to enable reading without undue effort, must have sufficient ventilation approved by a physician, a sink and water faucet, a hot-water shower and toilet which afford privacy, an electrical outlet for use of appliances, a table or writing shelf and chair, and the detainee must be allowed to heat the cell subject to prison procedures. The cells must be painted and disinfected periodically, and the detainees must be given adequate means to maintain personal hygiene, including

a daily hot shower and shave. Detainees must have a bed, mattress and blankets for his or her own exclusive use. Blankets must be laundered or changed periodically. Those detainees who do not have a towel, washing or laundering utensils and cannot obtain them from persons outside the detention facility may receive such utensils for personal use during the period of detention. Detainees are allowed to maintain religious observance, and to receive a special diet on religious grounds. They are entitled to at least three nutritious meals per day at accepted mealtimes, with no more than 6 hours between meals and no more than 12 hours from the final evening meal until breakfast the next morning; special diets must be provided by the detention facility if necessary for reasons of health. Detainees may wear their own clothes, and must be given proper clothing if they cannot procure such clothes by themselves. They are entitled to a daily walk outdoors for at least one hour, to prompt and adequate medical care, and to dental care when necessary.

335. The conditions of detention for incarcerated convicts, and for those defendants remanded until the end of trial who are detained in Prisons Service facilities, are governed by the Prisons Ordinance and regulations thereunder, as well as the new Criminal Procedure (Enforcement Powers - Arrest) Law discussed in the preceding paragraphs. In addition to those conditions of detention previously described under articles 7, 8, 9 and this article, the following rights and conditions for convicted prisoners (and remanded defendants in Prisons Service custody) may be noted:

(a) The right to visits from clergy, and to an organized room for group prayer;

(b) Educational programmes, with special emphasis on promoting literacy, use of the prison library, and special arrangements to allow for advancing the education of individual prisoners during their spare time;

(c) Rehabilitation programmes, both inside and outside the prison;

(d) Detainees in security-related cases are treated differently in some respects than the ordinary criminal population. Some of their conditions of detention are more generous, for instance with respect to visitation rights, the right to outdoor exercise, and the right to receive special food; other conditions, such as with regard to furloughs and use of telephone, are more restrictive.

336. **Separation among detainee populations**. In Prisons Service incarceration facilities, separation is maintained between male and female detainees, between convicted prisoners and defendants or detainees who have not been convicted, between minors and adults, between persons detained in the context of civil proceedings and other detainees, between administrative detainees and other detainees, and, to the extent possible, between first-time and recidivist offenders. Under the new Arrest Law, all detention facilities must maintain a separation between detainees and convicted prisoners, and, to the extent possible, between persons who have not yet been indicted and those who have, as well as between first-time detainees and recidivists. In practice, Jewish and Arab prisoners or detainees may be separated from one another, to a greater or lesser extent, if necessary to maintain order within the prison.

337. Security-related suspects, defendants and convicts are held separately from the rest of the population at the facility, both for their own protection as well as to maintain order among the detainee population as a whole. To the extent possible, prisoners who are undergoing drug rehabilitation are separated from the general prison population.

338. The confinement of mentally ill persons in psychiatric hospitals is discussed under article 7. Convicted prisoners who are found to suffer from mental illness are held at the mental health facility at Ayalon prison, which is staffed by Health Ministry employees while remaining under the overall administrative responsibility of the Prisons Service. Police detention lock-ups do not have separate wings or facilities for mentally ill detainees. Rather, to the extent that the concern is raised at any stage of the criminal process that a person detained for any reason may suffer from a mental illness, then the court or the District Psychiatrist may order that the detainee be transferred to a mental hospital and held there for observation under conditions of detention, in order to determine whether the detainee needs treatment for a mental illness, or whether he or she is fit to stand trial, accordingly.

Complaint procedures

339. Detainees held in police lock-ups and in Prisons Service facilities may avail themselves of several, parallel complaint procedures regarding their conditions of detention or their treatment at the detention facility. In addition to those disciplinary and criminal procedures against law enforcement officials described under article 7, detainees may file complaints regarding the conditions of their detention as described below.

340. **Prisons Service**. Persons in the custody of the Prisons Service may file a complaint with the director of the prison at which they are held in respect of the conditions of detention. Such a complaint may be filed in writing or, at specified times, orally. Upon submission of any such complaint, the director of the prison must investigate the matter and give an answer to the detainee within seven days, or, in urgent cases, within three days. Should the detainee not receive a response within that period, or should the response be unsatisfactory - or should the complaint involve the director of the prison himself - then the detainee may apply to the Prisons Commissioner, and the prison director is bound to deliver such complaints to the Commissioner. The Commissioner must respond to such complaints within 14 days, or within 6 days in urgent cases. The deadlines for response to complaints may be extended if the matter in question requires an in-depth investigation, either by law or as a practical matter. The complainant must be notified of the reason for the delayed response in such cases. See generally Prisons Regulations, 1978, regulation 24 A.

341. The standing orders governing the trial programme at the Ohalei Keidar detention facility mentioned above, require a warden to circulate among the detainees in that programme once a day, and to register any complaints regarding the conditions of their detention. Detainees may also file written complaints directly with the officer-in-charge. In either case, under these standing orders, a response must be given within 48 hours, unless, as above, a more thorough investigation is required by law or in practice.

342. In addition to the internal complaint procedure described above, detainees at Prisons Service facilities are entitled to file petitions against governmental authorities or officials "in any matter related to his imprisonment or detention" directly to the District Court in the region where the prison is located. In practice, such petitions are often heard at the prison itself by a single District Court judge who comes periodically to the prison for that purpose. The volume of such complaints has grown dramatically following the institution of hearings at the prison. It is estimated that approximately 10,000 petitions are filed and adjudicated annually, on matters small and large. Decisions of the District Court may be appealed by leave to the Supreme Court. In addition, the Supreme Court, sitting as High Court of Justice, retains residual jurisdiction over such petitions in appropriate circumstances (Prisons Ordinance, sects. 62 A-62 D).

343. **Police lock-ups**. Under current law and practice, detainees in police lock-ups may file petitions with regard to any matter related to their detention to the District Court where the lock-up is located. In practice, most detainees in police lock-ups must be brought before a judge periodically in any case to determine whether to release them or to extend the detention during the criminal investigation, and during these detention hearings complaints regarding conditions of detention are commonly raised and adjudicated. See Police Standing Order No. 12.03.01, *Yalkut Pirsumim* 4230, 5754 (14 July 1994), p. 4228.

Publicity

344. A loose-leaf folder outlining the rights of detainees and minimum conditions of detention in Prisons Service facilities is available in the library of every prison facility. Under the new statute dealing with arrest and detention mentioned above, a description of detainees' principal rights and duties must be posted in a prominent place at each detention facility (Criminal Procedure (Enforcement Powers - Detention) Law, 1996, sect. 9 (d)).

345. During the preparation of this report, a copy of the United Nations Minimum Standard Rules for the Treatment of Prisoners, as well as the Code of Conduct for Law Enforcement Officials, was forwarded to the Legal Adviser of the Prisons Service at his request, so that the Prisons Service can review the Minimum Standard Rules and the degree to which Israeli law and practice is in actual compliance with them. From the discussion under this article, it would appear that the criteria in the Minimum Rules are guaranteed by Israeli legislation and standing orders of the authorities involved.

346. **Rehabilitation**. The preparation of convicted prisoners for a successful, law-abiding life after imprisonment has always been one of the overarching policy priorities of the Prisons Service, and of the criminal process in general. Provided that the individual prisoner is willing to participate in rehabilitation programmes, the Prisons Service encourages enrolment in a variety of programmes designed to give the prisoner improved employment skills, and to ease the social transition to life in the outside world. While a full description of the rehabilitation programmes and activities currently operating would far exceed the scope of the present report, the following activities may be noted:

(a) Drug rehabilitation;

(b) Separation of chosen groups of persons from the rest of the prison population, based on good behaviour and other indicators;

(c) Work outside the prison: prisoners who have completed part of their sentence with good behaviour may be allowed to work for pay at an appropriate job outside the prison and near their home community, or to begin a course of study, either with or without an escort. Such prisoners in a "work rehabilitation" programme are separated from the rest of the prison population.

(Prison Regulations, regulations 50-60)

Treatment of juvenile offenders

347. In addition to the discussion of juvenile offenders below, reference is made to special laws and practices for the protection of juveniles, including in cases involving violence within the family, under articles 23 and 24.

348. Israeli legislation provides for special handling of juveniles throughout the criminal process in a manner that is intended to minimize recidivism and to promote rehabilitation. The Israel Police and welfare authorities follow detailed, binding procedures that aim, among other things, to prevent as much as possible the public exposure of the minor's involvement in criminal activity, his or her arrest, investigation, trial or treatment; and to remove non-recidivists as quickly as possible from the cycle of criminal behaviour (Police Standing Order 14.01.05, sect. 2).

349. Children under 12 years of age may not be held responsible for a criminal offence by law. As a consequence, Israel Police standing orders forbid the arrest, opening of a criminal investigation file, or the taking of fingerprints or photographs of such children (Israel Police Standing Order 14.01.05, sect. 3 (b) (1)). The statute of limitations on any offence allegedly committed by a minor is one year, except if the Attorney-General allows prosecution after such period (Youth (Trial, Punishment and Modes of Treatment) Law, 5731-1971, sect. 14).

350. Criminal proceedings involving juvenile suspects take place in special juvenile courts, which must hold their proceedings in a location where other trials are not taking place, or, if the same facility is used, then the juvenile proceedings must be held at a different time of day (ibid., sect. 8 (a)). In practice, certain District and Magistrate's Court judges devote part of their time to juvenile cases, which are generally heard in the regular court buildings outside of normal court hours. Proceedings are generally held in closed-door session (Youth (Trial, Punishment and Modes of Treatment) Law, sect. 9), and, in appropriate circumstances, in the judge's chambers (Juvenile Offenders Regulations, 1938, regulation 4). Juveniles are to be physically separated from the adult detainee population in all phases of the process: in transport to and from court hearings, in the holding cells at the court, and in detention facilities. With respect to the last, relevant legislation requires that minors be detained only in a separate detention facility, or in a separate wing of a lock-up that allows for total

segregation, including prevention of all physical or eye contact, between the juvenile and adult detainee populations. The only current exception to this requirement applies in the case of detention at a police station for the purpose of investigation, in which case the juvenile must still be separated completely from adult suspects and detainees, albeit not necessarily in a separate wing or facility.

351. In practice, the severe overcrowding that has beleaguered Israel's detention lock-ups and prisons generally has had, in certain cases, the unfortunate result of making it virtually impossible to maintain total separation between the juvenile and adult populations. Furthermore, even in situations which allow for separation between juveniles and adults, the lack of space does not always enable separation among different types of juveniles needing special care or supervision. Two interrelated reforms are being undertaken to redress these inadequacies. The refurbishing programme mentioned above is intended, among other things, to bring physical conditions at detention facilities to the point where they enable actual compliance with the letter of the law. At the same time, a proposed amendment to the Youth (Trial, Punishment and Modes of Treatment) Law, prepared by the Ministries of Justice and Internal Security, requires dramatic broadening of the necessary separations between different juvenile detainees. Among other things, the proposed amendment requires that no juvenile be detained together with other juveniles during the first 24 hours of his or her detention; that no juvenile may be detained together with others if he or she is under 14 years old, or is suspected of having a mental or emotional disability, or whose safety may be at risk for any other reason; that a separation must be maintained between juvenile detainees more than two years apart in age; between minors suspected or previously convicted of sex-related or violent crimes from minors who have never been so suspected or convicted; between any two or more minors who, it is reasonably suspected, may become violent with one another; between first-time juvenile detainees and others; and between sexes. In light of the fact that these legislative changes will substantially raise the physical space requirements in every detention facility in the country, they are to enter into force no earlier than two years, and no later than five years, after their approval by the Knesset, without exempting authorities from compliance with the new provisions where physical conditions at the detention facility so allow.

352. **Other special procedures regarding arrest and detention** Among the practices employed with respect to minor suspects, one may note the following (see generally Police Standing Order 14.01.05):

(a) Generally, minors are to be brought to the police station for investigation by their parent or guardian, who must be present during the investigation if the minor is under 14 years of age;

(b) Investigations of minors must generally be done during the day, but not at their school, workplace or other place in which they might congregate with other minors;

(c) The police must notify the Youth Parole Office immediately of the arrest or investigation of a minor, must work together with the Youth Welfare officer throughout the handling of the case, and must keep the Youth Welfare officer abreast of all significant developments;

(d) With certain exceptions, the investigation of a minor is carried out by a specially-trained police youth officer;

(e) Police investigations officers have discretion to refrain from photographing minor suspects who are not known offenders, and to remove any photographs of the minor from official files in the event that the investigation file is closed without indictment; if the file is closed due to "absence of guilt", then such photographs must be removed from police records;

(f) Arrest and transport of minor suspects must be done in a manner that avoids, as much as possible, arousing the attention of passers-by. The police youth officer who carries out the arrest or transports the minor must be dressed in civilian clothing and use an automobile without police markings or licence plates;

(g) Minors are not to be handcuffed except in extraordinary circumstances, such as if the minor is known to be violent, has attempted to abscond from lawful custody in the past, or if there are reasonable grounds to believe that the minor will tamper with evidence. Minors under 16 years of age may not be placed in leg-irons, and if over 16 may have leg restraints only if the police officer in charge deems that there is no other way of safely transporting the minor;

(h) No information may be published, at any stage of the criminal process, which might lead to the identification of the minor, including the fact that the minor or his or her family are involved in criminal or immoral behaviour, that a court or welfare officer is involved in the minor's affairs, that the minor has attempted or committed suicide, or any information connecting the minor to examinations or treatment having to do with psychiatric illness or with AIDS.

353. The general statutory limits on the length of detention of juveniles are discussed under article 9 above.

354. **Closing of criminal files before indictment or trial** In practice, many criminal cases involving juveniles do not reach trial. The juvenile parole officer often gets involved early on during criminal investigations of minors, to examine the possibility of treatment programmes that may avoid the necessity of a criminal trial. In the great majority of criminal investigations against juveniles the file is closed without indictment, typically with the involvement of the parole officer. In certain types of offences, a practice has developed of "not opening" an investigation, with or without dispensations for treatment and follow-up. During 1996, for example, out of 15,881 cases referred to the Youth Parole Office after criminal suspicions were raised against juveniles, 8,522 cases were closed without having a formal criminal investigation file opened, while such files were

opened in the remaining 7,359 cases. During that same year, an additional 1,841 criminal files against juveniles were closed without having a charge sheet filed, while 3,192 cases went to trial.

355. **Sentencing**. In the event that a court finds that a juvenile has in fact committed a criminal offence, it may determine, at its discretion, whether to convict and sentence the minor, to exempt him from liability outright, or to order him to undergo one or more modes of treatment aimed at rehabilitation (without conviction), as described in the next paragraph. No minor under the age of 14 years at the time of sentencing may be imprisoned. Judges, moreover, are mandated to take the offender's age at the time of commission of the offence into account in sentencing. As an alternative to prison, the court may order that a convicted juvenile be held in a closed juvenile home, which must provide for the juvenile's education, health care, psychological care, social activity, entertainment, and so on (Youth (Trial, Punishment and Modes of Treatment) (Conditions for Holding Minors in a Home) Regulations, 5736-1976, regulation 7).

356. **Treatment**. Instead of traditional criminal punishments, the court, after having determined that a juvenile has indeed committed a criminal offence, and after reviewing the mandatory pre-sentencing report of a probation officer, may order juvenile offenders to undergo one of the following alternative methods of rehabilitative treatment:

(a) Placing the juvenile under the supervision and care of an appropriate person other than his or her parent, and to limit the parents' guardianship rights accordingly during a specified period;

(b) Sufficing with probation;

(c) Releasing the minor subject to the offender's or his parent's written obligation, with or without a money guarantee, of good behaviour;

(d) Placing the juvenile in a daytime juvenile home programme;

(e) Placing the offender in an open or closed juvenile home for a specified period;

(f) Paying a fine by the juvenile offender or his parent;

(g) Compensation of the victim's damages.

(Youth (Trial, Punishment and Modes of Treatment) Law, sect. 26.) Under the proposed amendment to the Law, juvenile offenders may also be ordered to perform “public service works”, such as working at a hospital or other welfare institution.

357. During 1996, of 1,150 criminal trials decided, 534 resulted in a supervision order, 112 in placement in a juvenile home, 63 in a treatment programme for the minor without any judicial order, and 447 in the other forms of treatment or sanctions; 153 minors were sentenced to terms of imprisonment.

358. The Criminal Register and Rehabilitation Law, 5741-1981, place firm restrictions on the disclosure of a juvenile's criminal record.

359. Another important facet of the rehabilitative treatment of juvenile offenders is mandatory follow-up treatment for offenders who have been placed in juvenile homes. Such follow-up typically lasts for one year from the date of release from the home, and is supervised by a "follow-up officer" under the aegis of the Labour and Social Affairs Ministry, who has authority to make decisions regarding the juvenile's residence, studies, employment and activities during his spare time (Youth (Trial, Punishment and Modes of Treatment) Law, sects. 38-39). Such follow-up treatment may be cancelled if deemed unnecessary by the court.

Article 11 - Freedom from imprisonment for breach of contractual obligation

360. The Execution Law, 5727-1967, which deals with the execution of civil judgements, allows for imprisonment of judgement debtors, including debtors in respect of contractual obligations, in certain defined circumstances for refusal to pay a judgement debt. A recent landmark Supreme Court judgement in 1993 substantially narrowed the use of imprisonment against judgement debtors, and led to a far-reaching amendment of the Execution Law in 1994, as described below.

361. Before the 1994 amendment of the Execution Law, section 70(A) provided that a judgement debtor could be imprisoned by order of the Chief Execution Officer, who sits in a judicial capacity, for a period of up to 21 days if two conditions were fulfilled: that the debtor has means to pay the judgement amount, and that "there is no other way" to force him to pay the debt. In practice, creditors often found that having an imprisonment order issued against the recalcitrant debtor was the surest way of ensuring payment of the judgement debt. As a result, orders of imprisonment came to be used with great frequency, often without undertaking any thorough formal investigation before the Chief Execution Officer regarding the debtor's ability to pay. In H.C.J. 5304/92, *Perah Association v. Minister of Justice et al*., 47(4) P.D. 715, the Supreme Court declared invalid a regulation under which an order of imprisonment may be issued if up until the date of the order *the debtor* did not show that execution of judgement was possible by other means. The Court held that imprisoning a debtor without first undertaking a full-fledged investigation which shows that the debtor can indeed pay the debt but refuses to do so, is inconsistent with the fundamental rights to liberty and dignity under sections 1 and 6 of Basic Law: Human Dignity, as it is tantamount to punishment for non-payment, rather than a means of ensuring execution of judgement. The Court further held that a judgement debtor who truly has no means to pay the debt may not be imprisoned.

362. Amendment No. 15 of the Execution Law (S.Ch. 1479 (5754), p. 284) introduced a new regime regarding investigation of a debtor's means and, on the whole, severely narrowed the availability of imprisonment orders, in accordance with the *Perah* judgement mentioned above. Under the amended section 70 of the Execution Law, a mere inability to discharge a debt is not a sufficient ground for imprisonment. An order of imprisonment may be issued against a judgement debtor only when the Execution Office holds the debtor in

contempt because he has the means to pay the judgement debt but avoids doing so. Prior to issuing an imprisonment order, the Chief Execution Officer must hold a hearing in the presence of the debtor, in which the debtor is examined regarding all assets on the basis of an affidavit filed previously. If the debtor patently refuses to comply with the execution proceedings, for example by refusing to file an affidavit regarding his assets, then the Chief Execution Officer may order his imprisonment. During the investigation of the debtor's assets, the Chief Execution Officer may order the debtor to pay monthly instalments based on his ability to pay, or, if the debtor requests a long-term schedule and waives secrecy of his financial records, the Officer may declare that the debtor is “limited in means”. Once this status is conferred on the debtor, his name is entered into a special register at the Execution Office, and he may be restricted from using credit cards or from serving as a manager or director of a limited liability company.

363. Following the investigation of means, the debtor may be imprisoned for contempt for a period of up to seven days in any of the following circumstances:

(a) He does not bring full and accurate information regarding his ability to pay the judgement debt;

(b) He has been shown to have the ability to pay the judgement debt, but does not comply with the order of payment by instalments;

(c) He does not comply with other decisions given by the Chief Execution Officer during the hearing regarding the ability to pay;

(d) He has actively concealed his assets.

In each of these instances, the Chief Execution Officer must consider the efficacy of alternative measures, such as attachment of the debtor's assets, before issuing an imprisonment order. If two years have passed since the last appearance of the debtor before the Chief Execution Officer, then he may not be imprisoned unless another hearing is held.

364. An order of imprisonment may not be issued against a minor or an incompetent person, or against a soldier in active service; nor may it be issued against a spouse, descendant or parent of the judgement creditor (except for execution of judgements awarding maintenance or alimony), or if the debt is for an amount less than 50 shekels (sect. 71 of the Execution Law). Debtors who do not pay court-ordered alimony or maintenance instalments to their spouse, parent, or minor or disabled child currently may be imprisoned for up to 21 days without a full-fledged investigation as to means, provided that a written warning has been sent to the maintenance debtor; the grounds and procedural safeguards relating to imprisonment of debtors in general do not apply, under current law, to maintenance debtors. It should be noted that in such cases a previous investigation will have been undertaken by the court as a basis for the award of alimony or maintenance. In any case, the maintenance debtor must still be brought before the Chief Execution Officer within 48 hours of arrest, and the Officer may annul the imprisonment

order or shorten the period of imprisonment, with or without imposing payment or other conditions on the debtor, and may take any other decision which he or she deems appropriate.

365. Imprisoned debtors generally have the right to have their case reviewed within three days. They must be released before the end of the period stated in the order if they pay the debt or instalment for which they were imprisoned, or provide satisfactory security for payment, or show other cause why they should be released. Before the imprisonment order is executed, the debtors may of their own initiative make payment or offer security, or may apply to the Chief Execution Officer to give another reason why they should not be imprisoned, such as that they have been declared bankrupt in the interim.

366. One result of the amendment to the Execution Law, discussed above, is a sharp decline in payments by recalcitrant debtors. New legislation is currently being considered, which will promote collection of debts while ensuring that debtors are not imprisoned for the inability to pay them, but rather only in cases in which the debtor has the ability to pay but refuses to do so.

Article 12 - Freedom of movement

367. **The legal landscape**. Until 1992, the right to enter and exit Israel, as well as the right to freedom of movement within the State, were articulated and developed mainly through judicial decisions which interpreted legislation dealing with these matters. The Israel Supreme Court has held that "freedom of movement ... is a natural right, recognized ... in every State with a democratic form of government - of which our country is one - and the citizen does not need any special qualifications to be entitled this 'grant'". H.C.J. 111/53, *Kaufman v. Minister of Interior et al.*, 7 P.D. 534. Any governmental action affecting travel is subject to review by the Supreme Court, which must be convinced by clear, unequivocal evidence that there exists a "genuine, serious concern" that national security or other equally crucial interests will be "substantially damaged" if the person's right to travel is not restricted. H.C.J. 448/85, *Dahar et al. v. Minister of Interior*, 40(2) P.D. 701.

368. With the enactment of section 6 of Basic Law: Human Dignity and Liberty in 1992, the rights to leave and to enter Israel were given a firmer constitutional grounding. Section 6 provides:

(a) All persons are free to leave Israel;

(b) Every Israel national has the right of entry into Israel from abroad.

These rights are subject to the limitation clause (sect. 8) of the Basic Law, which prohibits any impairment of the right except by a statute which befits the values of the State and is intended for a proper purpose - and then only to the extent required; or pursuant to such a statute which explicitly authorizes impairment of the right. In addition, section 12 of the Basic Law stipulates that emergency regulations properly in force may deny or restrict

these rights only for a proper purpose, and for a period and to an extent that does not exceed what is necessary. The Basic Law is binding on all official authorities.

369. Legislation predating 1992 which deals with entry into or exit from Israel remains in force, but is now interpreted according to the principles in the Basic Law.

370. **Freedom of movement within the State**. For all persons who are lawfully within the territory of the State of Israel, there is no requirement of registration in particular districts, and movement within the State is generally unrestricted. All residents of Israel (i.e. citizens, permanent residents who are not citizens and temporary residents) are required to register their address, or any change thereof, at the Population Registry. Aliens need not register their whereabouts while in the country.

371. The Mandatory Defence (Emergency) Regulations, 1945, grant military commanders or ministers broad powers to limit freedom of movement by a variety of means for the purpose of ensuring public safety, national security, public order, or for quelling of riots and insurgencies (see Palestine Order in Council (Defence), 1937, section 6 (1), which authorized promulgation of the 1945 Regulations). Such measures include curfews (regulation 124), declaration of closed military zones (regulation 125), orders prohibiting an individual from entering specified places or areas or requiring a person to notify the authorities of his whereabouts (regulation 109), orders placing a person under police supervision and restricting a person's place of residence or movement outside of a specified place or area (regulation 110). The above measures are employed very sparingly within the State of Israel. In 1994, for example, one order placing an individual under police supervision was issued by the Military Commander for the Home Front; in December 1995, following the assassination of Prime Minister Yitzhak Rabin, eight such orders limiting the freedom of movement of individuals were issued, four of which were extended in June 1996; in April and June 1996, a total of eight additional orders of restriction were issued against individuals. All of the above orders were issued against persons active in Jewish extremist groups. Some of the orders restricted the person's movement outside of a specified area, while others restricted their access to a particular place, such as the Temple Mount in Jerusalem.

372. In each of the above instances, the military commander, pursuant to guidelines issued by the Attorney-General, conducted prior consultations with the Attorney-General's representatives before issuing the orders restricting individual freedom of movement. Initially, a temporary order expiring after 14 days was issued, during which period the persons subject to the orders were granted an appeal hearing before a representative of the military commander. Such a hearing is granted in every case of an order restricting freedom of movement under the Defence (Emergency) Regulations. The military officer presiding over the appeal must have legal training, hold a rank of lieutenant-colonel or colonel, and must not serve as the commander's permanent legal adviser. As a result of this appeal procedure, the duration of two of the orders mentioned above was reduced from six to three months.

373. All orders restricting freedom of movement issued under these emergency regulations are appealable to the High Court of Justice, which will apply the standard of review mentioned above.

374. Movement of persons within Israel may also be restricted in the context of criminal proceedings under the Criminal Procedure Law, 5734-1974 or the Criminal Procedure (Enforcement Powers - Arrest) Law, 5756-1996. When a person is released from detention for the duration of a criminal investigation or trial, the court has authority to make the release conditional on limitations of the person's movement if necessary to protect public order or safety, to ensure the person's appearance at trial or at subsequent investigations, or to ensure that the criminal investigation is not undermined. Such restrictions on movement on released detainees may include house arrest, house arrest qualified with limited movement within a specified area during specific hours, or orders prohibiting entry to a specific place or area. The latter type of order may also be issued in the context of a civil court proceedings in domestic disputes, or in proceedings under the Protection of Privacy Law, as discussed under article 17.

375. **Exit from Israel**. All persons leaving the State of Israel must present a valid passport, laissez-passer or other travel document. Citizens with valid passports generally may leave the country freely, provided that if they still have an obligation to perform military reserve service, then they receive approval from the Israel Defence Forces; such approval is routinely granted unless the person has received a call-up order for reserve duty which is scheduled during the period of his absence from the country and has not secure a postponement of the order.

Restrictions on the right to leave Israel

376. No person may leave Israel directly for any of the countries specified in the Prevention of Infiltration (Offences and Punishment) Law, 5714-1954 (the current list includes Lebanon, the Syrian Arab Republic, Yemen, Saudi Arabia and Iraq) without a permit from the Minister of Interior. Israeli nationals are likewise forbidden from entering the above countries without a similar permit.

377. Under section 6 of the Emergency (Departure Abroad) Regulations, initially enacted in 1948 and still in force, the Minister of Interior may forbid the exit of a person from Israel, if there is a basis to suspect that his or her exit is likely to harm national security. As noted above, in exercising authority under this provision, the Minister of Interior has an obligation to balance national security concerns against the basic right to freedom of movement, by finding clear evidence of a genuine, serious fear that national security would be "substantially damaged" if the person is allowed to leave the country (*Dahar v. Minister of Interior,* supra (petitioner denied exit permit to Romania based on evidence that purpose of petitioner's travel was, inter alia, to contact representatives of hostile organizations and bring funds into Israel for hostile purposes)). It may be noted that this decision was rendered before the enactment of Basic Law: Human Dignity and Liberty.

378. The right to leave Israel may be restricted in the context of civil court proceedings. The court, or the Chief Execution Officer, may issue an

order preventing departure abroad of a defendant or judgement debtor for a period of one year if there are genuine, substantial grounds to believe that the latter is about to leave the country and thereby frustrate the judicial proceeding or the payment of the judgement (sect. 361 of the Civil Procedure Regulations, 5744-1984; section 14 of the Execution Law, 5727-1967). In such circumstances, the defendant or judgement debtor may also be required to deposit his or her passport or travel document with the court. Such orders are issued not infrequently in the case of spouses who fail to fulfil alimony or child support arrangements. However, the courts will allow the person to leave the country if there are adequate alternative means to ensure his appearance at trial or payment of judgement, such as depositing a sum of money or bank guarantee with the court. Persons who are not Israeli nationals are very rarely prevented from leaving the country in these circumstances (M.C.A. 7208/93, *Weisglass v. Weisglass*, 48(4) P.D. 529).

379. The right to leave Israel may also be restricted for persons in the context of criminal proceedings, in order to guarantee appearance at trial, to prevent undermining of an investigation, to protect public order, or as a condition of probation.

Travel documents

380. Passports and travel documents are generally issued as a matter of course. Under section 6 of the Passports Law, the Minister of Interior has authority to refuse to grant or to extend the validity of a passport or laissez-passer, to attach conditions to the grant or extension of validity of a passport or laissez-passer, to cancel them, or to limit the range of countries for which they are to be valid. In exceptional circumstances, the Minister or his representative may cancel or refuse to issue a passport or travel document, or limit its validity solely to return to Israel from abroad. Examples of such exceptional cases include a person who has violated a court order prohibiting his or her exit, or that of a minor, from Israel; a person who was naturalized based on fraudulent representations, and whose nationality was subsequently revoked; or a person whose departure abroad, in the opinion of the Director-General of the Ministry of Defence, is likely to harm national security.

381. In many cases in which a passport is refused, the applicant is granted a laissez-passer, which will enable the person to depart from Israel but does not confer the right to a tourist visa in the countries with which Israel has bilateral entry agreements. A laissez-passer document may be given to Israeli citizens, at their request, in special circumstances, or to persons whose nationality is undefined or doubtful (Passports Law, 5712-1952, sect. 2 (b)). In general, a laissez-passer is not issued to a foreign national if that person's State has an official representative in Israel. Until recently, many laissez-passer documents were issued to foreign nationals, due to the lack of such official representation in Israel. Over the last several years, however, the frequency of such occurrences has drastically decreased, as most other countries now have official representatives, consular or otherwise, in the country. Arab residents of Jerusalem, many of whom are Jordanian citizens, nevertheless receive laissez-passer documents routinely.

382. Israel does not place any general restrictions, by law or policy, on the validity of passports for countries where armed hostilities are in progress, or where there is danger to the public health or physical safety of Israeli nationals, beyond the five countries noted above in the Prevention of Infiltration (Offences and Punishment) Law, 5714-1954.

383. **Appeal procedures**. When a passport has been denied, revoked or restricted, the person affected receives notice in writing. In all of the above instances, the decision of the representative of the Interior Ministry may be appealed directly to the Minister, and if the result is unfavourable, to the High Court of Justice. The appeal procedure before the Minister of Interior is informal, usually in writing, though the person affected or his or her attorney may be granted a hearing with the Minister's representative upon request. There are no formal provisions for bringing evidence, or the right to confront and cross-examine witnesses.

384. **Entry into Israel**. Any person who is neither an Israeli national or the holder of an *oleh*'s certificate under the Law of Return, 5710-1950, must enter Israel by visa and permit of sojourn. For such persons, there are four general categories of visas and permits of residence under Israeli law: a permit of transitory sojourn (up to five days); a visitor's permit (up to three months); a permit of temporary residence (up to three years); and a permit of permanent residence (Entry into Israel Law, 5712-1952, sect. 2). Each of these permits may be renewed for periods prescribed by law.

385. **Visitor's permits**. Israel is party to bilateral agreements with some 70 other countries, in accordance with rules developed by the International Civil Aviation Organization, under which nationals of those countries automatically receive a three-month tourist visitor's permit, so long as they do not seek to work in Israel. Visitor's permits are issued in accordance with the purpose of the person's stay in Israel - for employment, for tourism, or as a volunteer. If the purpose of the person's visit to Israel is not clear, a visitor's permit will be issued for a period of up to one month, during which the person must apply to the appropriate authorities to clarify his or her status (Entry into Israel Regulations, 5734-1974, Regulation 5). Persons from countries with which Israel does not have such a bilateral entry agreement must secure a visitor's permit prior to arriving in Israel or at the border entry station, depending on the country in question.

386. **Permits of temporary residence**. There are four types of temporary resident permits which may be granted to aliens. If the applicant wishes to study at an educational or training institution in Israel, he or she must present confirmation from that institution showing that he has been accepted as a student, or other evidence proving that the person in fact intends to pursue a course of study in Israel; he or she must also show financial capacity for supporting oneself during the stay in Israel, and must have a valid travel document.

387. Temporary residence is also granted to clergy and other persons serving at religious institutions in Israel, including at hospitals and other welfare institutions operated by organized religious denominations. In practice, such temporary resident permits are renewed without any overall time limit so long as the applicant continues to serve at the religious institution. The policy

of the State of Israel has been not to grant such religious personnel permanent residency status, to avoid possible claims of discrimination against any particular religious denomination. However, permanent residency is commonly granted to persons who have served at a religious institution in Israel for a long period, and wish to remain in Israel thereafter.

388. Persons who hold *oleh* visas under the Law of Return, and who wish to reside in Israel for a period of up to three years to consider the possibility of remaining as citizens, may be issued a temporary resident permit for that purpose. Finally, a temporary residence permit may be issued to an applicant who intends to come to Israel for a reason other than those mentioned above.

389. Permanent resident status is granted at the discretion of the Interior Minister. *Olim* who decline citizenship are permanent residents, as are residents of the Golan Heights and East Jerusalem who do not apply for citizenship. Permanent resident status may also be granted in cases of family reunification and on other humanitarian grounds. Although the Minister has no statutory obligation to give reasons for his decisions on such applications, the practice has been to give reasons to the extent possible. The criteria applied by the Interior Ministry in applications for permanent residency focus on the capacity to show that one's life, or that of one's immediate family, is centred, as a practical matter, in Israel. If a permanent resident leaves Israel for a period of at least seven years, or has become a permanent resident or citizen of another country, then his permanent residency status in Israel is deemed to have expired.

390. **Diplomatic personnel**. Foreign nationals who enter Israel with a diplomatic or service passport are exempt from the need to have a valid entry permit, provided their country has signed an exemption agreement with Israel. The Interior Minister may also exempt particular persons or groups from this obligation, if he deems it justified. The Ministry of Foreign Affairs, as a practical matter, gives entry permits to diplomatic personnel serving in Israel.

391. **Discretion of Interior Ministry**. The Interior Minister has broad discretion in granting, refusing, revoking or extending residency permits. The applicant may be required to provide information and evidence as part of the process. By law, the Minister is obligated to show reasons for his decision only with regard to cancellation of a visa and entry permit held by a person who is lawfully in the State. In practice, especially since the enactment of Basic Law: Human Dignity and Liberty, reasons for decisions regarding visas and residency permits are noted in the applicant's file, and are generally shown to him or her upon request, unless special security considerations justify not disclosing the evidence on which the decision is based. All persons adversely affected by decisions regarding cancellation of visas or residency permits may appeal to the Interior Minister and, if necessary, to the High Court of Justice.

392. In accordance with section 6 of Basic Law: Human Dignity and Liberty, no Israeli national can be deprived of the right to return to Israel.

Article 13 - Expulsion of aliens

393. Aliens who have entered and are inside Israel, lawfully or unlawfully, may be expelled only pursuant to deportation proceedings, as described below. Aliens who are denied entry at frontier stations may be removed from the country without full-fledged deportation proceedings, though their removal must be formally decided upon by the Minister of Interior or his representative (Entry into Israel Law, 5712-1952, sect. 10). A person who enters Israel other than through a frontier station may be deported either through regular deportation proceedings at the Ministry of Interior or, if applicable, by the Minister of Defence under the Prevention of Infiltration Law, 5708-1948. Persons whose Israeli citizenship has been revoked may also be subject to deportation, subject to various procedural safeguards.

394. **Removal of aliens who are not permitted to enter Israel** When a person comes to Israel and wishes to enter it, a frontier control officer may delay his entry until it has been ascertained whether he is permitted to enter, and he may indicate a place where such a person shall stay until completion of the examination or until his departure from Israel (Entry into Israel Law, 5712-1952, sect. 9). In practice, the person is detained at the border police facility at the point of entry, but the Entry into Israel Law also provides for detention at another police station, a prison, a quarantine or disinfection facility of the Ministry of Health, the vehicle on which he or she arrived at the border, or any other place deemed appropriate by the frontier control officer (Entry into Israel Regulations, 5734-1974, regulation 18).

395. **Persons subject to deportation**. An alien who is in Israel without a valid permit of sojourn or residence is subject to deportation (Entry into Israel Law, sect. 13). In many such instances, the alien's permit of sojourn has expired and has not been renewed; in other cases, the Ministry of Interior cancels or shortens permits of sojourn or residence, on several possible grounds. A 1985 amendment to the Administrative Procedure Amendment (Statement of Reasons) Law, 5719-1958, requires that the Minister of Interior give reasons for any decision cancelling a permit of residence. The grounds for such cancellations are not stipulated by law; nevertheless, the Minister's decision must be based on proper, relevant reasons. Though no official statistics are currently available regarding the total number of cancellations, or a breakdown according to the reasons therefor, it may be said that in the vast majority of cases residency permits have been cancelled because the bearer has violated the conditions of his or her permit (for instance, by working in Israel despite having only a tourist visa), or has provided false information as a basis for receiving the permit. Other grounds for cancellation or curtailment include evidence that the person poses a risk to national security, public health or public order. Once a permit has been cancelled, and the person does not leave Israel voluntarily, then he or she is subject to deportation. The same is true for a person who has been recognized as an *oleh* under the Law of Return on the basis of fraudulent representations.

396. **Deportation procedures**. Only the Minister of Interior, or one of several senior Ministry officials, may issue a deportation order. The order must be transmitted in writing. Once it is properly issued, a frontier control officer or police officer may arrest the person subject to deportation

and detain him in the place and manner prescribed by the Interior Minister, until his voluntary departure or deportation from Israel. Such detention is not automatic; in practice, it is used in those instances when it is deemed necessary to enable the carrying out of the deportation order. Although the relevant regulations provide that detention may be in a police station, a prison, a quarantine or disinfection facility of the Ministry of Health, or another place which the Minister deems appropriate, the Minister must consider less restrictive alternatives, such as house arrest, posting of bond, regular reporting to the police, and so on. *Al-Taye et al. v. Minister of Interior et al.*, H.C.J. 4702/94, 5190/94, 5448/94 (not yet published).

397. The deportation order may not be executed for at least three days from the date of notification (Entry into Israel Regulations, regulation 21), to enable the person subject to deportation or his or her attorney to appeal directly to the Minister of the Interior. As with appeals of cancellation of residency permits, the appeal of a deportation order does not involve a formal administrative or quasi-judicial hearing. The appellant's claims and evidence are submitted in writing, and the execution of the deportation order will be postponed at least until the appeal is considered and decided. In certain cases, the appellant or his or her counsel may hold an informal hearing with the Director of the Population Administration at the Interior Ministry or a representative of the Ministry's Legal Department. The evidentiary basis for the deportation order may be shown to the appellant, unless doing so would cause harm to national security.

398. **Appeal of deportation orders to the Supreme Court** If, as a result of the appeal to the Minister, the deportation order is not cancelled and the appellant does not agree to leave the country voluntarily, then he or she may file a petition to the High Court of Justice against the order. The petitioner may challenge not only the legality of ordering his or her deportation per se, but also the need for detention prior to deportation, the degree of restrictiveness of the conditions of detention and, in certain circumstances, the country to which he or she is to be deported. In accordance with article 33 of the Convention relating to the Status of Refugees, 1951, to which Israel is a party, no one may be deported to a country in which his life or liberty may be endangered. In the*Taye* case mentioned above, the High Court considered the deportation orders issued against 24 Iraqi citizens who had crossed the border illegally and were being detained in prison, some for periods exceeding two years, due to their refusal to return to Iraq, as they claimed that their lives would be endangered for political reasons if they returned. Moreover, attempts to find another country that would accept the deportees had proved fruitless. Although the Court held that the authorities were clearly empowered to deport the petitioners, it reiterated the acceptance of the principle of non-refoulement, interpreting it to entail not only that the Minister of Interior could not deport them to a country where their lives or liberty might be endangered, but also to any other country that could not guarantee that the petitioners would not be returned to Iraq. Regarding the prolonged detention of the petitioners, the Court further held that, if a deportation order is not executed within a reasonably prompt period of time, then continued detention must be justified by showing that there is a basis to believe that the detainee may flee to escape deportation, that if released he may harm public order or national security, or other similar grounds; otherwise, the

authorities had to consider release under suitable conditions as an alternative to detention for those petitioners against whom there was no clear evidence that releasing them might impair national security. In fact, roughly 20 of these Iraqis were released from detention in late 1995, and many of them are still in Israel as of the submission of this report.

399. In the first stage of the petition to the High Court, an order to show cause (order *nisi*) may be issued, requiring the Minister of Interior or other authorities to show why the order should not be cancelled, its execution postponed until a different country of destination is found, or the conditions of detention changed. Usually the Court will issue a stay of execution of the deportation order together with the order to show cause. Prior to execution of the deportation order, the Minister must consider any new circumstances which might justify cancellation of the order.

400. Official statistics on the number of deportation orders issued and executed against persons in Israel, divided according to the reason for deportation, are currently available for 1993-1995, as follows:

Table 11. Deportations, 1994-1996

Reason for deportation	**Number of deportation orders issued**		
	1994	**1995**	**1996**
Lack of valid permit of residence or work permit	571	712	1 787
Security-related	18	6	17
Criminal activity or conviction	56	78	120
Infiltration of border	54	79	52
Other	46	40	18
Total issued	**745**	**915**	**1 992**
Total executed	**386**	**581**	**1 421**

During the above years, the deportees came from more than 70 different countries.

401. According to the practice followed by the Ministry of Interior, when the citizenship of an Israeli national or the *oleh* permit of an *oleh* under the Law of Return is revoked due to fraudulent representations, the person is not formally deported, but rather is generally provided with a laissez-passer used for aliens and told that he should leave the country. In case the person encounters difficulties in finding another country that will receive him, the

Ministry of Interior follows a policy of taking certain temporary measures that may help the person secure such an entry visa and enable him or her to subsist in Israel until the date of departure.

402. Under section 11 (a) of the Nationality Law, 5712-1952, an Israeli national who leaves Israel illegally for one of the States mentioned in the Prevention of Infiltration (Offences and Jurisdiction) Law, 5714-1954, is deemed to have renounced his Israeli nationality, which is deemed to have terminated as of the date of his leaving Israel. In the past, persons who came under this provision were subject to deportation upon return to Israel. In the last five or six years, however, this provision has not been applied, and in several instances persons whose citizenship had previously been terminated for this reason succeeded in having their citizenship restored to them. Thus, the deportation of former Israel nationals on these grounds no longer arises as a practical matter.

403. Persons who are deported from Israel under the Entry into Israel Law may be required to pay the expenses incurred from the time of their detention to the execution of the deportation order. If they are foreign workers illegally in the country, then their employers may be required to pay.

Article 14 - Right to fair trial; judicial independence

Organization of the judiciary

404. The structure and operation of Israel's system of courts of general jurisdiction are discussed in the Introduction to this report. The discussion under this article, therefore, should be read in conjunction with the relevant portions of the Introduction.

405. Israel has several court systems which, for the most part, have independent areas of original jurisdiction. The general court system, which deals with both civil and criminal matters, has three instances: Magistrates' Courts, District Courts and the Supreme Court (Basic Law: Adjudication, sect. 1 (a)). The Supreme Court sits in Jerusalem and currently has 14 judges. Its substantive jurisdiction lies in two main areas: as a court of appeal in civil and criminal matters from District Courts, and as the High Court of Justice in petitions against decisions of administrative authorities. In addition, it hears certain specified civil matters as a court of first instance, such as appeals of decisions by the Chairman of the Knesset Elections Committee regarding disqualification of political parties from running for national election, appeal of decisions made by the Health Ministry under the Physician's Ordinance, and sundry specific matters. Over the last several years, in an attempt to relieve the Supreme Court of part of its caseload, appeals of certain administrative matters, such as prisoners' petitions, tenders, and building and planning issues have been transferred to the District Courts as the courts of first instance (see, e.g., Prisons Ordinance [New Version], 5731-1971, sects. 62A-62D; Planning and Building Law, 5725-1965, sects. 255A-255F). A recent proposal by a committee headed by a Supreme Court Justice aims, among other things, at allowing the Supreme Court to focus more on cases raising questions of general legal import, for example by creating another judicial instance or reshaping the jurisdiction of the lower courts, have yet to be implemented.

406. Generally, the Supreme Court hears cases in panels of three judges, except when the President or Deputy-President directs that a larger bench preside (Courts Law [Consolidated Version], 5744-1984, sect. 26). The Court may, at the decision of the President of the Court, decide to rehear a case which it has already adjudicated, when the case raises significant legal questions of first impression. Such further hearings are heard by a panel of five or any larger, uneven number of judges (Courts Law, sect. 30). Judgements of the Supreme Court are binding on the lower courts, but not on the Supreme Court itself, which may alter its holdings in a further hearing of a particular case or in subsequent cases (Courts Law, sect. 20).

407. Geographically, jurisdiction is divided among five judicial districts, with District Courts in Jerusalem, Tel-Aviv, Haifa, Beersheba and Nazareth. District Courts have original jurisdiction over all criminal and civil matters which do not fall within the jurisdiction of the Magistrates' Courts, and general residual jurisdiction to hear any matter which is not under the exclusive jurisdiction of any other court or tribunal. If the District Court has concurrent jurisdiction with another court over a particular matter, then it may adjudicate the matter so long as it has not been heard by the other court or tribunal (ibid., sect. 40). The District Courts also hear appeals from Magistrates' Courts. The court sits in a three-judge panel when hearing appeals, as it does in the trial of serious criminal offences. Most other matters are tried before a single judge (ibid., sect. 37).

408. Magistrates' Courts have original jurisdiction over most criminal offences which carry a punishment of up to seven years' imprisonment. In certain specified offences punishable by more than seven years' imprisonment, the State Attorney may still file the charge sheet in the Magistrates' Court, provided that any sentence of imprisonment actually imposed will not exceed seven years (ibid., sect. 51 (a)(1)). In civil suits for money damages, the Magistrates' Courts have jurisdiction over claims of up to NIS 1 million (approximately $300,000). In cases concerning real property, Magistrates' Court jurisdiction extends over matters pertaining to “use or possession”, as opposed to “ownership”, regardless of the amount of money involved. As a rule, cases in the Magistrates' Court are heard by a single judge, although the judge hearing the case or the President of the Magistrates' Court may direct that the case be heard by three judges (ibid., sect. 47).

409. Youth Courts under the Youth (Trial, Punishment and Modes of Treatment) Law, 5731-1971, and the Youth (Modes of Treatment and Supervision) Law, 5720-1960, operate within the framework of the Magistrates' Courts. Particular Magistrates' Court judges are empowered to handle a broad range of matters relating to the protection and treatment of minors in need, as well as criminal cases involving juveniles. Magistrates' Court judges are also empowered to try traffic offences, as defined by legislation (Traffic Ordinance [New Version], sect. 23) as well as other offences relating to motor vehicles.

410. In addition, Magistrates' Courts function as small claims courts for claims of less than NIS 8,000 (approximately $2,400). Such claims are always heard before a single judge; the courts are not bound by the rules of evidence and procedure; legal counsel is allowed only by permission of the judge. Small claims judgements may be appealed by leave to the District Court.

411. Under recent legislation, special Family Courts have been set up within the Magistrates' Court system, with specially appointed judges to deal with cases of adoption, custody, and other matters involving juveniles (Family Court Law, 5755-1995).

412. The Minister of Justice has also established Courts for Local Matters, which have jurisdiction over building offences, municipal offences and other specific controversies. The geographical jurisdiction of these courts may exceed that of the regional Magistrates' Court, and may include several local authorities (ibid., sects. 54-55).

413. **Labour Courts**. The Labour Court system consists of two instances. Regional Labour Courts hear cases involving employer-employee relations, tort actions related to labour relations, benefit fund disputes, certain social security matters, labour-related crimes and disputes related to specific collective agreements. The National Labour Court hears appeals as of right from the regional courts, and has original jurisdiction over disputes involving general collective labour agreements or between labour organizations. In appeals on criminal matters, the National Labour Court is bound by the law of criminal procedure and evidence, and its judgements are appealable by right to the Supreme Court. All other judgements of the National Labour Court may be challenged only by a petition to the High Court of Justice, which will review such judgements on restricted grounds of administrative legality (see, e.g., *Chatib v. National Labour Court*, 40(1) P.D. 673 (1986)). Except in the case of criminal appeals, as mentioned above, the rules of evidence and procedure are generally looser in the labour courts than in the courts of general jurisdiction.

414. Regional Labour Courts usually hear cases in three-member panels: one presiding judge and two “public representatives”, who need not have legal training. The National Labour Court sits at first instance in a seven-member panel: three judges, two employees' representatives and two employers' representatives. In criminal appeals, the court sits as a three-judge panel; and in other matters, as a five-member panel, consisting of three judges, one employees' representative and one employers' representative, unless the President of the court decides upon a seven-member bench (Labour Courts Law, 5729-1969, sects. 32-36, 18-20).

Military Courts

415. The Military Justice Law, 5715-1955, creates six courts martial of first instance: the District Courts Martial, Naval Court Martial, Field Court Martial, Special Court Martial and Traffic Court Martial (Military Justice Law, sect. 183). The Naval Court Martial and Field Court Martial are established ad hoc for each case; the other courts martial are permanent. The Special Court Martial is empowered to try officers of the rank of lieutenant-colonel or higher on any charge, and any soldier charged with an offence punishable by death. Naval Courts Martial may be constituted on a naval vessel outside the coastal waters of Israel to try a soldier for an offence committed on that vessel, only if postponing the trial could severely harm discipline on the vessel and if the vessel is not expected to return to coastal waters within 21 days. Field Courts Martial are constituted only in periods of actual combat (Military Justice Law, sects. 461-474, 471).

Courts martial in general may not include judges whose rank is lower than that of the accused. The judge with the highest military rank presides. District Courts Martial sit in three- or five-judge panels, the majority of whom are officers, and at least one of whom is a legally trained military judge (ibid., sects. 201-202). A Naval Court Martial always sits as a three-judge panel, at least one of whom must be an officer. A Field Court Martial is composed of three judges, at least two of them officers, and one, if possible, having legal training (ibid., sect. 465). A Traffic Court Martial always sits as a single judge (ibid., sect. 209 B).

416. The decisions of all of the above courts are appealable to the Appeals Court Martial, which generally hears cases in a three-judge panel. In exceptional cases, the Appeals Court Martial will sit in a panel of five, either when the President of the Court so decides, when the Military Advocate General believes that the case involves novel legal issues, when the judgement being appealed involves the death penalty, or where the bench itself decides to expand its composition. Appeals from Traffic Courts Martial are typically heard by a single judge (ibid. sects. 210, 214-215 B).

417. Until 1986, judgements of the Appeals Court Martial were appealable on restricted grounds of administrative legality to the Supreme Court sitting as the High Court of Justice, for example in cases of patent error on the face of the record, lack of functional jurisdiction or violation of the rules of natural justice. Under a 1986 amendment to the Military Justice Law, 5715-1955, judgements of the Appeals Court Martial may be appealed by leave to the Supreme Court when the case raises legal questions of significant novelty or complexity (ibid., sect. 440 J).

418. A separate military court exists pursuant to the Defence (Emergency) Regulations of 1945, for trial of any offences under those regulations (Defence (Emergency) Regulations, sects. 12-15, 1945 P.G., supp. 2, p. 855). Many of these offences are parallel to those in the general penal law, and jurisdiction is concurrent with the general court system. Decisions of the military court established under the Defence (Emergency) Regulations may be appealed to the Appeals Court Martial.

419. The proceedings of courts martial are not entirely independent. All sentences imposed in a final judgement of a court martial must be brought before the proper “confirming authority” - either the IDF Chief of General Staff, the Minister of Justice or the military head of the judicial district, according to the type of case involved - who may either confirm the sentence, mitigate it, or amend it in almost any way he sees fit (Military Justice Law, sects. 442-444 A). These “confirming authorities” are bound to review the opinion of the military prosecutor prior to making their decision, but they need not give reasons for their decision. In addition, the heads of judicial districts, who need not have legal-training, may decide that a certain matter will be tried in disciplinary proceedings rather than in a court martial, or that a trial will be heard in camera, or to quash a charge sheet filed in a court martial subject to the consent of the military advocate (ibid., sects. 151, 171, 324 and 308 (a)).

Religious courts

420. During the British Mandatory period, the jurisdiction of the religious courts of various officially recognized communities, or denominations, was defined in the Palestine Order-in-Council, 1922-1947.* This Order gives the religious courts jurisdiction over matters of marriage and divorce, and "matters of personal status" of varying scope, depending on the court in question. Since establishment of the State, specific statutes were enacted for some of the recognized religious communities: the Kadis Law, 5721-1961 (for Muslims), the Druze Religious Courts Law, 5722-1962 (for Druze); and the *Dayanim* Law, 5715-1955 (for Jews) under the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law, 5713-1953. The religious courts of the officially recognized communities still operate under section 54 of the Order-in-Council mentioned above. The substantive matters adjudicated by the different religious courts, and the overlap between the activity of religious and general courts, are discussed in greater detail under article 18.

421. In special cases, when the parties to a legal proceeding in respect of personal status belong to different religious communities - thus raising a conflict or ambiguity of the different religious courts over the matter - each party may appeal to the President of the Supreme Court who, after receiving substantive legal opinions of the different courts, will decide which court will have jurisdiction. Similarly, when it is not clear, due to the differing religious affiliations of the parties, that a dispute relating to "personal status" falls within the jurisdiction of *any* religious court, based on the substantive law of each denomination, then the President of the Supreme Court refers the matter to the decision of a special tribunal, composed of two Supreme Court judges and one judge whose religion is that of a religious court whose jurisdiction is in question (Palestine Order-in-Council, 1922-1947, sect. 55). Neither of the above arrangements will apply, however, in cases concerning the dissolution of marriage between two people of different religions. In such cases, the Attorney-General asks the religious court or courts involved for their opinion; on the basis of these opinions, the President of the Supreme Court decides which religious court shall have jurisdiction, or may refer the case to the civil District Court (Jurisdiction in Matters of Dissolution of Marriage (Jurisdiction in Special Cases) Law, 5729-1969, sects. 2, 6, 23).

Appointment of judges

422. All judges in courts of general jurisdiction in Israel are appointed by the President of the State, after having been selected by a nine-member Judicial Selection Committee. The Selection Committee is composed of three judges of the Supreme Court, including the President of the Court; two

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* In addition to the Jewish and Muslim denominations, the following communities were officially recognized under Mandatory legislation: the Eastern Orthodox, Latin (Catholic), Gregorian-Armenian, Armenian Catholic, Syrian Catholic, Abyssianian (Oneatic), Greek Catholic, Maronite, and Syrian Orthodox. Palestine Order-in-Council, 1922-1947, second schedule. In the early 1970s the Evangelical Episcopal Church and the Baha'i faith were recognized as religious communities. *Kovetz Hatakkanot* 2037, 5730 (7 May 1970), p. 1564; *Kovetz Hatakkanot* 2673, 5731 (11 March 1971), p. 628.

representatives of the Bar Association, two members of the Knesset appointed by the Knesset, and two ministers elected by the Cabinet, including the Minister of Justice, who serves as Chair of the Committee (Courts Law [Consolidated Version], 5744-1984, sect. 6). Decisions are made by majority vote, except when the judicial candidate is an eminent jurist who has not practised as an attorney for the minimum period ordinarily required, in which case seven out of nine members of the Committee must approve the appointment. In practice, appointments are not made without the consent of the Supreme Court judges on the Committee. Thus, a delicate system of balances on the Committee has been sustained over the years, in which the Justice Minister retains the procedural prerogatives of his capacity as Committee Chair, but the votes of the politicians on the Committee have not been controlling. As a result, it may be said that judicial appointments in Israel are made, both as a formal and a practical matter, not on ideological or political grounds, but rather on the basis of professional merit.

423. The promotion of sitting judges to higher courts is also handled as part of the Committee's powers. The presidents of the different courts, however, are appointed by the Minister of Justice with the consent of the President of the Supreme Court, from among judges already sitting on the same court (Courts Law, sect. 9). On the Supreme Court, the practice has been to appoint the President and a Deputy President on the basis of seniority: when the President retires or ceases to serve for any reason, then the Deputy President with the most seniority on the Court is appointed President after the justice with the next-highest seniority is appointed as Deputy President.

424. When the Minister of Justice sees the need to appoint one or more new judges, a notice is published in *Reshumot*, the official gazette, and the Judicial Selection Committee is convened. Candidates may be proposed by the Minister of Justice, the President of the Supreme Court, or jointly by three members of the Selection Committee (ibid., sect. 7 (a)). A person who wishes to be considered for a judicial appointment will apply to the Courts Director, who is responsible for all administrative work related to the deliberations of the Selection Committee. Typically, dozens of applicants will apply for each vacant position. The Committee divides itself into two or more subcommittees composed of a Supreme Court Justice who acts as Chair, a member of the Knesset, and a representative of the Bar Association. Once the Courts Director has verified that the candidate has complied with the minimum qualifications required by law, the candidate has a personal interview with the subcommittee, at which legal questions are asked, as well as other questions intended to garner a general impression of the candidate's fitness for the bench. The candidates are asked to provide references, including judges; if they themselves are judges seeking appointment to a higher court, the opinion of the president of the court on which they currently sit will be requested. The representatives of the Bar Association, for their part, request an opinion on the candidate's suitability from the Bar Association District Committee in the area where the candidate practises. In addition, candidates who are sitting traffic judges, Magistrates' Court judges or Regional Labour Court judges must submit several judgements which they have handed down during the two years prior to their application for appointment. The meetings of the Judicial Selection Committee, as well as any information concerning the candidates, are confidential (see generally Adjudication Rules (Rules of Procedure of the Judicial Selection Committee), 5744-1984, *Kovetz*

Hatakkanot 2370). Public notice of the Committee's selections is made prior to their actual appointment, so that members of the public can object to or comment on the impending appointment.

425. Judicial appointments are made for life, until mandatory retirement at the age of 70. A judge may retire early with a pension if he or she has served the minimum number of years set by law (ibid., sect. 13). Under a 1984 amendment to Basic Law: Adjudication, a judge may be removed from office prior to retirement if the Judicial Selection Committee so decides by a vote of at least seven out of nine members (Basic Law: Adjudication, sect. 7 (4); Adjudication Rules (Working Arrangements Regarding the Termination of Office of a Judge in Accordance with a Decision of the Judicial Selection Committee), 1986, *Kovetz Hatakkanot* 498). However, this dismissal procedure has never been employed since its enactment. Normally, judges whose functioning has been found to be defective are approached informally by the president of the court on which they sit, or the President of the Supreme Court, in an effort to resolve the problem. The Basic Law also provides for early removal from office by decision of a special disciplinary tribunal appointed by the President of the Supreme Court, and composed of either three or five judges (including two or three Supreme Court judges, respectively) (Basic Law: Adjudication, sect. 13 (c); Courts Law, Part Five).

Substantive judicial independence

426. Basic Law: Adjudication formally mandates that any person having judicial authority shall be "bound to obedience solely to the law" (sect. 2). Similar statutory provisions provide for the adjudicative independence of judges of religious and military courts (Military Justice Law, sect. 184; *Dayanim* Law, 5715-1955, sect. 14; Kadis Law, 5721-1961, sect. 9 (for Muslim judges)). In addition, a series of legal rules and practical arrangement help promote the substantive independence of the judiciary, as described below.

427. **Criminal and civil immunity**. Judges in Israel are liable to criminal prosecution for offences not related to the discharge of their duties; except for any explicit contrary statutory provision, they enjoy immunity from criminal prosecution for any act done in the course of discharging judicial duties, even if the judge "exceeded his power or refrained from acting as he was required to do" (Penal Law, 5737-1977, sect. 23). A judge who commits fraud or bribery, however, in the discharge of his official functions will not enjoy immunity from criminal prosecution (Cr.App. 26/66, *Taher Hamed* v. *Attorne-General*, 20(3) P.D. 57). A criminal indictment against a judge cannot be filed except by the Attorney-General personally, and must be heard before a three-judge panel of the District Court, unless the judge agrees to be tried in the ordinary manner (Basic Law: Adjudication, sect. 12). Until 1981, this procedure was followed even in cases of simple traffic violations by judges. A judge who is formally indicted for a criminal offence may be suspended by the President of the Supreme Court pending outcome of the trial (ibid., sect. 14).

428. Judges also enjoy immunity from civil liability for tort actions relating to acts or omissions in the discharge of judicial authority (Civil

Wrongs Ordinance [New Version], sect. 8). It is not clear whether this civil immunity extends to instances of bad faith on the part of judges. (See G. Tedeschi et al., *The Law of Torts* (2nd ed., Jerusalem, 1976), p. 395.)

429. **Transfer to other courts**. A judge in a court of general jurisdiction may be transferred to a court in another locality upon the consent of the presidents of both courts concerned (Courts Law, sects. 36, 46). A permanent transfer to another court, however, may be done only with the consent of the President of the Supreme Court, or by decision of the judicial Disciplinary Tribunal. Thus, decisions regarding transfer of judges in general courts are made solely by other members of the judiciary. *Dayanim*, or judges in Jewish Rabbinical Courts, may be permanently transferred to another court by the Minister of Religious Affairs only with the consent of the President of the Supreme Rabbinical Court (*Dayanim* Law, 5715-1955, sect. 19). On the other hand, Kadis, or judges of the Muslim religious courts, may be transferred to another court permanently without need for consent of representatives of the judiciary (Kadis Law, 5721-1961, sect. 16).

430. Judicial salaries are normally determined by the Finance Committee of the Knesset. They are adjusted periodically according to the increase in the average wage, except when a larger, general increase in salary scales is voted by the Knesset Finance Committee. The Finance Committee cannot reduce the salaries of judges alone. Currently, the total budget for the courts system is included as part of the overall budget for the Ministry of Justice, which can lead to involvement by members of the executive branch in funding for the courts.

431. **Sub judice rule and contempt of court**. Two statutory restrictions on public comment regarding the courts and judicial proceedings help safeguard substantive judicial independence: the *sub judice* rule, which prohibits any comment that may influence the conduct or the result of a matter pending before the courts, and the prohibition of scurrilous attacks on judges (Courts Law, sect. 71; Penal Law, sect. 255). As with laws regarding protection of privacy, discussed under article 18, there is a statutory exception to the *sub judice* rule for publication in good faith of anything said or any event that occurs during a public court hearing. The rule has been interpreted by the Supreme Court to require a "reasonable likelihood" that the publication in question will influence the conduct or result of the proceeding (H.C.J. 223/88, *Sheftel v. Attorney-General*, 43(4) P.D. 356). Similarly, the prohibition against scurrilous attacks on judges exempts frank criticism in good faith on a judicial decision concerning a matter of public interest. Although the Supreme Court has interpreted this prohibition rather strictly, Cr.A. 364/73 *Seidman* v. *State of Israel*, 28(2) P.D. 620, in practice there are exceedingly few criminal investigations or trials under this provision.

Right to fair trial

432. **Public access to court proceedings**. The fundamental right to a "public hearing" in both criminal and civil court proceedings has been given constitutional status in Israeli law in section 3 of Basic Law: Adjudication, under which "a court will adjudicate in public except if stipulated otherwise

in a statute or if the court orders otherwise pursuant to a statute". Even prior to enactment of the above Basic Law, the Supreme Court buttressed the importance of public hearings in Israeli law:

> "It is a fundamental legal rule that the Court shall deliberate publicly. This principle is one of the pillars of criminal and civil procedure alike, and one of the most important instruments that aim to ensure fair and impartial legal proceedings. By virtue of this principle the operations of the Court, on the one hand, stand exposed to public scrutiny, in respect of objective management of the proceedings, adjudicative competence and discretion. On the other hand, the parties are placed before the public, which hears the proceedings and, aware of the facts presented before the court may, on the basis of information at its disposal, duly offer rebuttal evidence. Thus, perhaps, parties may be deterred from offering to the presiding judge unexamined or unreliable facts." Cr.App. 334/81, *Haginzar* v. *State of Israel*, 36(1) P.D. 827, 832.

433. The Courts Law [Consolidated Version], 5744-1984, after reiterating the general principle of open legal proceedings, sets out several specific exceptions to this principle: the court may decide that part or all of a certain matter may be heard in camera if it is necessary to do so to protect State security, to prevent harm to foreign relations, to protect morals, to protect the interests of a minor or incapacitated person, to protect the interests of a complainant or defendant in a sex-related crime; or if a public hearing may deter a witness from testifying, or from testifying freely (Courts Law, sect. 68 (b)). Motions for interlocutory decisions, including temporary orders, may be heard in camera with no need for justification by the court. The court may use its discretion to order hearings in camera "only after a good deal of deliberation and sparingly" (L.C.A. 176/68, *Anonymous* v. *Anonymous*, 40(2) 497, 499). Most "family matters", as defined by the new statute setting up a separate family court jurisdiction, are to be heard in camera unless the court decides otherwise (ibid., see also Family Court Law, 5755-1995).

434. Specific persons may be prohibited from entering the courtroom if, in the opinion of the court, that person's presence will deter a witness from testifying (ibid., sect. 69). Even when a hearing is held in camera, the court may permit certain people to be present during the entire hearing or part of it.

435. In criminal proceedings, the general rule is that the defendant must be present personally at all hearings (Criminal Procedure Law [Consolidated Version], 5742-1982, sect. 126). The courts generally have interpreted this rule strictly to mean that unless explicitly permitted by law, a defendant cannot waive the right to be present at proceedings against him, and the court may not allow him to do so (Cr.App., 247/66 *Sa'ada* v. *State of Israel*, 20(4) P.D. 36). In a recent case, however, the Supreme Court ruled that a defendant should not be required to attend all hearings if his personal appearance is not necessary. Even the voiding of an indictment in the defendant's absence

must undergo a re-examination to ensure that his rights and interests were adequately protected (Cr.App. 95/72, *Zindoleker* v. *State of Israel*, *Daf Lepraklit* 90). In certain limited circumstances, the court may allow part of a criminal proceeding to take place without the defendant. The "commencement of the trial", that is, the first hearing at which the charge sheet is read to the defendant, who then enters his initial plea and may raise other preliminary claims, may be held without the defendant in the case of petty crimes and misdemeanors to which the defendant has already confessed in writing to all the relevant facts, provided the defendant has been duly summoned; or when the defendant asks to be represented by legal counsel at the hearing and the court is convinced that no injustice will result (Criminal Procedure Law, sect. 128). Similarly, the court is authorized to hold a specific hearing in the absence of the defendant in cases of petty crimes or misdemeanors when the defendant has been duly summoned and the summons explicitly notifies him that the court may hold the hearing if he does not appear (ibid., sect. 130). However, if the defendant, having been summoned, credibly notifies the court in advance that he or she will be unable to attend the hearing for reasons not within his control, then the court will not conduct the hearing in his or her absence.

436. In any case, even if the defendant has confessed to all the facts alleged against him or her, the court may not impose a sentence of imprisonment on a person unless the defendant has first been given the opportunity to appear before the court, either by directly or through legal counsel, and raise claims in respect of the punishment to be imposed (ibid., sect. 129); and if the defendant is convicted without being present in court, under the limited exceptions above, then under no circumstances can he be sentenced except in person and after he has had the opportunity to raise sentencing claims (ibid., sect. 130). Moreover, if the defendant appears at any stage, even after conviction, after the court has held hearings in his or her absence, then the court must inform him or her of the right to ask that the hearings or conviction held in his or her absence be nullified; the court will grant his request if it is convinced that there was a reasonable explanation for the defendant's absence - or even if there is no such reasonable explanation, but the court nevertheless deems it proper to do so.

437. A court may also hear part or all of a criminal trial in the absence of a defendant upon the explicit request of defendant's counsel, if the court believes that holding the trial in the defendant's presence will be harmful to his or her physical or mental health (ibid., sect. 132). In certain offences involving State security, such as treason and espionage, the court may order that the defendant or counsel be dismissed from the courtroom for any part of the proceedings, if it deems that there is no other way to prevent State security from being compromised (Penal Law, sect. 128). When the court uses this discretionary authority, however, it must ensure that the defendant's capacity to defend against the charge sheet is not thereby impaired; the court may, for example, appoint a special defence counsel with security clearance for the purpose of a particular proceeding, or allow the defendant to choose special counsel for that purpose (ibid.). In addition, certain traffic offences and other minor crimes punishable by a fine may be tried in the defendant's absence, provided the defendant has had an opportunity to respond to the charges (Criminal Procedure Law, sect. 240).

438. Publication of any information regarding a matter which the court hears in camera, either by law or by its own decision, is forbidden without the court's permission. In addition, there is a statutory prohibition on publishing the name, likeness, address or any other potentially identifying information of any juvenile who is a defendant in any criminal proceeding, or a juvenile complainant or victim in any trial for sex offences (Courts Law, sect. 70). The court also has the discretion to forbid publication regarding court proceedings if necessary to protect the safety of a party, a witness or another person whose name has been mentioned in the course of the proceedings (ibid.). If necessary to protect the integrity of the criminal investigation, the court may also forbid publication of the name of a suspect or other information which may make it possible to identify him or her, so long as the suspect has not yet been formally charged.

439. In practice, appeals to the Supreme Court of decisions by the Israel Bar Association Disciplinary Tribunal are generally heard in closed door session, and the name of the attorney is not published. Disciplinary proceedings against civil service employees used to follow the same practice until a 1977 statutory amendment which made those disciplinary proceedings public (See Civil Service (Discipline) Law, 5723-1963).

440. In all criminal trials the court must maintain minutes which reflect "all that was said and occurred" during the trial, to the extent that it "relates to the trial" (Criminal Procedure Law, sect. 134). Should the judge decide that a particular matter which he or she is requested to record in the protocol does not "relate to the trial", and thus need not be recorded, he or she must so indicate in the protocol, to preserve a record of the request and the refusal to record the matter in question, for purposes of appeal (Cr.App. 288/55, *Horowitz* v. *State of Israel*, 10 P.D. 483). A mistake in the protocol may be corrected upon request of one of the parties up until the time for appeal of the judgement has elapsed (Criminal Procedure Law, sect. 137). Upon permission from the secretariat of the court, any person may investigate the protocol of a legal proceeding if there is no other justification for forbidding publication or publicity of the proceedings.

441. **Judicial bias and recusal**. Until 1992, there were no statutory provisions allowing for disqualification of judges for bias. Judges who did not recuse themselves, for example because of a family or business relation with one of the parties, were virtually never disqualified: the Supreme Court had held that motions for disqualification must be submitted to the judge whose removal was being sought; thus, as interlocutory decisions in criminal trials are not appealable under Israeli law, the decision of the judge on the issue of his personal disqualification was final as a practical matter. At the recommendation of the Supreme Court, among others, Cr.M. 525/63,*Samuel* v. *Attorney-General*, 18(3) P.D. 452, the Courts Law was ultimately amended to provide for disqualification of judges. Under 77A of that law, a party may request that a presiding judge disqualify himself or herself if there are circumstances "which tend to create a substantial suspicion of bias". Once such a motion is filed, the judge must decide it immediately, before making any other decisions; this decision is appealable to the Supreme Court (ibid., Criminal Procedure Law, sects. 146-148). Motions for disqualification may be raised once the trial has commenced. Another mechanism which may be employed to reduce the possibility of bias, generally before the trial begins, is a

motion to the President of the Supreme Court to order a change of venue in a case being heard in the lower courts. If the trial has already commenced, then the President of the Supreme Court may issue such an order only with the consent of the judge who has begun hearing the case (Courts Law, sect. 78). In practice, the Police or the District Attorney may transfer a criminal file to another district at the investigation stage, or after the police have recommended filing a charge sheet, if there are objective grounds to presume that holding the trial in the defendant's home district may make it difficult to have an impartial trial.

442. **Presumption of innocence**. In 1994, the Penal Law was amended to include the fundamental presumption, thoroughly established in the case law, that the accused in a criminal case is innocent until his guilt is proved beyond a reasonable doubt (Penal Law, sect. 34T). The basic structure of the criminal process, beginning with the initial burden imposed by law on the prosecution to prove its case against the accused, through the right of the accused to bring evidence in his defence, without requiring him to prove his innocence, and culminating in the court's decision based on a strict standard of criminal liability, is both shaped by the presumption of innocence and gives the presumption its practical embodiment. The accused has the right to deny all or part of the facts alleged in the charge sheet, with the result that the prosecution will have to prove the guilt which it ascribes to him (Criminal Procedure Law, sect. 152(a)). Even if the defendant admits all of the facts alleged in the charge sheet, he may still claim any of a number of preliminary claims that may relieve him of criminal liability (ibid., sect. 124).

443. **Right to be informed promptly of charges**. As discussed under article 9, suspects who are arrested, with or without a warrant, must be informed at the time of arrest of the reason for the arrest. If the arrest is by warrant, then the suspect must receive a copy thereof, which includes a summary of the charge. Similarly, if the police officer in charge of a police station decides to keep a suspect under arrest for a period of up to 24 hours or to release him or her on bail, the arrested person must be informed of the charge of which he is suspected in a language which the suspect understands. In detention hearings prior to filing a charge sheet, the suspect will learn of the charges of which he or she is suspected at the time of periodic hearings before a judge. If the suspect is in fact indicted, then he or she must be served promptly with a written summons to trial, accompanied by a copy of the charge sheet which, among other things, describes all material facts constituting the offence, and indicates the time and place of alleged events to the extent that they can be ascertained (Criminal Procedure Law [Consolidated Version], sect. 85).

Right to prepare defence and communicate with counsel

444. **Review of prosecution evidence and materials**. Immediately upon being formally charged with a felony or misdemeanor, the defendant has a right to inspect and copy all “investigation material” in the prosecutor's possession (Criminal Procedure Law, sect. 74). This right to inspect the investigation material entails a duty on the part of the prosecution to prepare such investigation material in a form that can be reviewed by the defendant, e.g., by setting all substantive testimony of witnesses into writing. Only statements by witnesses on formal matters which are insignificant to

examination of the charges need not be set in writing, but the prosecutor must notify the defendant or his counsel reasonably in advance of trial of the name of the witness and the nature of the testimony on such formal matter (ibid., sect. 77). The right to inspect investigation material does not, however, include material which may be privileged by law, such as correspondence between attorney and client, psychologist and patient, or material the non-disclosure of which may be permitted for reasons of national security (ibid., sect. 78). In any case, the prosecution may not introduce any such secret evidence, either written or oral, at trial if the defendant has not had a reasonable opportunity to review and copy them, unless the defendant has waived this right (ibid., sect. 77).

445. Should the prosecution not promptly or properly honor the defendant's right to inspect the prosecution's evidence, the defendant may apply to the trial court to enable inspection of the material in question. Under a recent amendment to the Criminal Procedure Law, decisions of the trial court on the right to inspect prosecution material are subject to interlocutory appeal, unlike most intermediate decisions in criminal trials (ibid., sect. 74). Prosecution material that must be made available to the defence has been deemed to include agreements with prosecution witnesses (Cr.App. 79/73, *Lavi* v. *State of Israel*, 28(2) P.D. 510), investigation files against other persons which have relevance for the defendant's guilt or innocence (Cr.App. 179/78, *Gavron* v. *State of Israel*, 34(2) P.D. 692), internal police correspondence and evaluations, if it is shown that they are “relevant” to the investigation or the indictment (Cr.App. 364/73, *Zeidman* v. *State of Israel*, 28(2) P.D. 627), and, in some cases, investigation files against witnesses (H.C.J. 233/85, *al-Hozayil* v. *Israel Police*, 39(4) P.D. 124, 130).

446. The rights of persons in detention to meet with legal counsel during the criminal investigation are discussed under articles 9 and 10 above. Once a person is formally charged with an offence, he or she is to be allowed all reasonable opportunities to communicate with his or her legal counsel and to meet with him in order to prepare the defence (Prisons Ordinance, sect. 45). An attorney whom a prisoner has asked to see may visit him or her every day, except Saturdays, and at any reasonable hour, provided that the prisoner has given advance notice of such meeting. The meetings between the defendant and counsel take place in a specially designated area where privacy may be ensured to the extent that security conditions at the jail and considerations of State security so allow (Prisons Regulations, 5738-1978, regulation 29).

447. **Right to trial without undue delay**. Under the Criminal Procedure (Enforcement Powers - Arrest) Law, 5756-1996 (sects. 59-61), a suspect must be released if he is not formally charged within 75 days of arrest; if the trial does not begin within 30 days of the indictment, provided the defendant is in detention, unless the defendant or his or her counsel requests a postponement; and if a final judgement is not handed down within nine months. Once the indictment is filed, the court is to schedule the beginning of trial for the earliest possible date under the circumstances (Criminal Procedure Regulations, 5734-1974, regulation 19). If the charge sheet is filed by the Attorney-General or the State Attorney's Office, then at least 14 days must elapse between service of the charge sheet upon the defendant and commencement of the trial; if the charge sheet is filed by a prosecution department of another government authority, such as the police or tax authorities, then at

least seven days must elapse after service of the charge sheet. With the defendant's consent, these minimum periods may be shortened (ibid., regulation 20 A). In other, minor offences, a trial may be held shortly after service of summons on the defendant, provided the defendant has adequate time to arrange to come to court, and does not wish to postpone the trial in order to hire defence counsel or to summon witnesses (ibid., regulation 44). Once the evidentiary hearings have commenced, the court must continue the trial without interruption until it is finished, unless it finds that it is "impossible" to do so (Criminal Procedure Law, sect. 125). In practice, the sheer volume of cases on the dockets of the general courts make it unfeasible to hear every criminal case without interruption.

448. Other procedural mechanisms which aim at promoting the efficiency of criminal trials include the opportunity for the defendant to admit all or part of the facts in the charge sheet, which then need not be proved by the prosecution; the necessity of raising at the first hearing preliminary claims against the indictment which, if accepted by the court, would terminate the trial, such as lack of jurisdiction, defects in the charge sheet, immunity, a former acquittal or conviction regarding the same acts, and so on (Criminal Procedure Law, sect. 149); and the joinder, in certain circumstances of several defendants and offences in a single trial (ibid., sects. 86, 95).

Right to counsel

449. The right of a defendant to be represented by legal counsel in criminal proceedings has long been recognized as fundamental in Israeli law, and thus may be restricted only by explicit statutory authorization (H.C.J. 344/65, *Hijazi* v. *Minister of Justice*, 19(4) P.D. 203). Typically, a defendant engages legal counsel of his or her own choice, who, once empowered by the defendant, may represent him or her before any State or local authority and any other body or person carrying out public functions by virtue of law (Chamber of Advocates Law, 5721-1961, sect. 22). Moreover, the attorney, once appointed, must represent the defendant in all stages of the criminal proceeding, including appeal, and may not be released from representing him without the court's permission (Criminal Procedure Law, sect. 17(a)). The defendant is limited in his or her choice of counsel to accredited members of the Israeli Bar Association, except in trials against foreign nationals for offences punishable by death under the Crime of Genocide (Prevention and Punishment) Law, 5710-1950, or the Nazi and Nazi Collaborators (Punishment) Law, 5710-1950, in which case a foreign defence counsel may be appointed by approval of the Minister of Justice. Such foreign defence counsel was permitted in the trials of Adolph Eichmann and John Demjanjuk, the two cases prosecuted under those laws. The only limitation on the right to be represented by counsel of one's choice occurs when the Minister of Defence certifies in writing that considerations of State security make it necessary that the defendant be represented only by a person with security clearance to act as defence counsel (Criminal Procedure Law, sect. 14; Military Justice Law, 5715-1955, sects. 311, 318). In a trial for espionage or treason, the court may rule, as mentioned above, that the defendant or counsel may be dismissed from the courtroom if there is no other way to prevent compromising the security of the State. In such circumstances, the court must ensure that the defendant's right to defend himself is not impaired, and may appoint

defence counsel for that particular proceeding, or allow the defendant to choose counsel with appropriate security clearance. Such cases are exceedingly rare.

450. **Appointment of counsel by the court: right to defend oneself** If the defendant has not engaged counsel on his or her own, the court bears an obligation to appoint counsel if the defendant is charged with murder or another offence punishable by death or life imprisonment, or if he or she is charged in the District Court with any offence punishable by at least 10 years' imprisonment; if the defendant is less than 16 years of age and the proceeding is not held in Youth Court; if the person is deaf or dumb; or if there is concern that the defendant is mentally ill or disabled (Criminal Procedure Law, sect. 15). There is no obligation to appoint counsel in criminal appeals. In addition to those cases in which the court must appoint counsel, the court may also appoint counsel at its discretion, at the request of the defendant, the prosecutor, or at its own initiative, if the defendant does not have the means to pay for legal counsel according to criteria set out in legislation (ibid., Defence Counsel Law, 5755-1995). A Public Defender's Office was established by legislation in 1995, and has begun to operate in certain parts of the country, with the intention of gradually expanding its reach to the entire population in all judicial districts. The costs of appointed counsel, as well as other costs of legal defence, such as remuneration to witnesses, is paid out of the State treasury.

451. In principle, whenever the court bears an obligation to appoint counsel for the defendant, as mentioned above, the defendant may not refuse the appointment, nor may the court hold a hearing in the absence of counsel (Cr.App. 859/78, *Zaideh* v. *State of Israel*, 33(3) P.D. 255). Even if the defendant does not want to be represented by counsel but prefers to represent himself or herself, the court must not only explain to the defendant that he or she is entitled by law to appointed counsel, but must attempt to convince the defendant to agree to the appointment (Cr.App. 383/87, *Hajaj* v. *State of Israel*, 42(4) P.D. 57). The court will usually appoint counsel without the defendant's consent, in the hope that appointed counsel will find a way to convince the defendant of the efficacy of legal representation (ibid.). Only if the court is convinced that there is absolutely no possibility of cooperation between defendant and appointed counsel, such that the appointment will be wholly ineffective, may the court allow the defendant to represent himself at trial. Before allowing the defendant to appear pro se, however, the court must be convinced that he can reasonably manage his or her defence. In any case where the defendant is not represented by counsel, the court must make special efforts to make up for the defendant's lack of legal expertise by guiding the defendant in detail with respect to his or her rights, to legal issues invoked in the case, to the risks involved in different courses of action; to summoning and cross-examining witnesses; and to raising any claims against the prosecution's case (Criminal Procedure Law, sects. 143, 152, 161).

452. **Right to examine witnesses and to confront adverse witnesses** In principle, the defendant is entitled to call and examine witnesses on his or her behalf who have not already testified as a witness for the prosecution, and to cross-examine prosecution witnesses, subject to general restrictions of the law of evidence and criminal procedure. The court may deny this right only when it deems the evidence to be brought by the witness to be irrelevant

or inadmissible, or when it concludes that the defendant requested a particular summons for reasons other than clarifying the questions raised by the case (ibid. sect. 106). Prior to service of summons on a witness, the defendant typically has to deposit with the court a certain amount of money, or furnish security for the witness' expenses. Defendants who are unable to post such security, or who have had counsel appointed by the court, will be relieved of this obligation (Criminal Procedure Law, sects. 105-111, 172-181).

453. **Right to interpreter**. Should it come to the attention of the court that the defendant does not know Hebrew, it must appoint a translator who is paid out of the State treasury, or, alternatively, the judge will act as a translator. Evidence presented to the court in a language other than Hebrew or some other language familiar both to the court and the parties, must be translated by a translator and read into the record in Hebrew, unless the court directs otherwise (ibid., sects. 140-142).

454. **Protection against self-incrimination**. During the criminal investigation, as at trial, the defendant (or suspect) has a right to be silent. At trial, the court bears a duty to inform the defendant that he or she has the right either not to testify on his or her own behalf, or to testify, in which case he or she may be cross-examined (ibid., sect. 161). The Court must also explain to the defendant that a decision not to testify may be deemed to support other incriminating evidence against him or her (ibid., sect. 162). An absence of such explanation to the defendant of his rights may, under certain circumstances, be grounds for invalidating a conviction (Cr.App. 555/77, *Rabi* v. *State of Israel*, 32 (2) 769).

455. **Appeal of conviction and sentence**. All judgements in criminal cases may be appealed by right to the next highest judicial instance (Courts Law, sects. 41, 52). The defendant and the prosecution may appeal both the conviction and the sentence imposed by the trial court. Any judgement which imposes the death penalty is subject to automatic appeal, whether or not the defendant himself wishes to appeal (Criminal Procedure Law, sect. 202). If the right of appeal is to the District Court from one of the lower courts, then the defendant may have a second appeal, to the Supreme Court, if leave is granted either by the District Court or the Supreme Court. Such permission for a second appeal will be granted if the appellant raises “an important legal question that justifies an additional appeal” (Cr.M. 167/79,*Ferdman* v. *State of Israel*, 34(1) P.D. 730); if such a second appeal is the only way to prevent a particularly unconscionable and unjust result (Cr.A. 465/70,*Arbib* v. *State of Israel*, 25(1) P.D. 557); or if extraordinary circumstances justify doing so, e.g. when the judgement on first appeal is substantially unclear, or was heard in the absence of the defendant (Cr.App. 185/64,*Biton* v. *State of Israel*, 18(4) P.D. 366). In both cases - appeal by right and by leave - the court must explain to the defendant the nature of the right to appeal and the deadline for doing so.

456. Although the court of appeal generally tends not to intervene in the factual findings of the trial court, which are based, among other things, on the trial court's impression of the credibility of testimony given in open court, the appeals court may allow new evidence to be brought during the appeal if there was no way the evidence could have been brought earlier, and the new evidence would likely have a substantial bearing on the defendant's

guilt or innocence, such that admitting the new evidence is "necessary in the interests of justice" (Courts Law, sect. 211; see also Cr.App. 476/79, *Boulos* v. *State of Israel*, 35(1) P.D. 793). In such cases, the appeals court will generally remand the file to the trial court for the hearing of evidence and issuing of a new judgement. On the same rationale, the court of appeal may reach a different conclusion from the facts found by the trial court, or may decide that those facts cannot support the conclusions reached by the trial court (Courts Law, sect. 212). In general, the appeals court may accept or reject all or part of the appeal, may amend the judgement of the trial court, issue another judgement in its place, or remand the case to the trial court with instructions (ibid., sect. 213). The appeals court may also convict the defendant of a different crime than that of which he was convicted by the trial court, provided that the facts proven at trial support such a conviction, that the defendant has a chance to respond to such "new" charges, and that the sentence will not exceed that maximum allowable under the offence with which he or she was originally charged (ibid., sect. 216).

457. **Further hearing**. During the period of the British Mandate, decisions of the Supreme Court were appealable to the Privy Council in London. An analogous procedure was reintroduced into Israeli law by the institution of the further hearing, under which the Supreme Court may reconsider with an expanded odd-numbered panel of judges certain legal issues that it has previously decided by a three-judge panel, or even in some cases by a five-judge panel, if it deems those legal issues to be of particular importance, difficulty or novelty, or if the rule laid down by the three-judge panel conflicts with earlier decisions of the Court. A further hearing may be ordered by the three justices when they hand down their decision on appeal, or by the President of the Supreme Court at the request of either of the parties (Courts Law, sect. 30). The further hearing is not, strictly speaking, another appeal: it will not be granted for the purpose of reviewing the severity of the sentence or the correctness of factual findings (F.H. 6/82, *Yanai* v. *State of Israel*, 36(3) P.D. 94, 99; F.H. 13/72, *Tal* v. *State of Israel*, *Daf Lepraklit* 95). On the other hand, a further hearing will not be held if the decision therein cannot influence the ultimate outcome of the criminal proceedings (F.H. 516/91, *Benderly et al.* v. *Pension Fund of Members of Egged Ltd.*, 45(3) P.D. 356, 360).

458. **Retrial**. The President or Deputy President of the Supreme Court may order a retrial of a criminal conviction, upon request of the defendant, his or her descendants, or the Attorney-General, in any of the following four instances:

(a) A court has determined that any of the evidence brought during the trial of the defendant is false or forged, and there are grounds to believe that the absence of such evidence might have altered the outcome of the case in favour of the sentenced person;

(b) Facts or evidence have come to light which, by themselves or together with other material that was already before the trial court, is likely to alter the outcome of the case in favour of the sentenced person;

(c) Another person has in the meantime been convicted of the same offence, and from the circumstances that came to light at the trial of that other person it appears that the person originally convicted for the offence did not commit it;

(d) A substantial suspicion has arisen that the conviction has resulted in a miscarriage of justice.

(Courts Law, sect. 31 (a) (1)-(3)). The right to request a retrial is independent from the right to various appeals discussed above: a convicted person may ask for a retrial regardless of whether or not he or she has appealed the judgement, or whether the time for appeal has lapsed. A retrial may be heard by the Supreme Court or a District Court, regardless of where the trial was originally heard. If the retrial is heard by a District Court, then its judgement on retrial may be appealed to the Supreme Court as of right, in the same manner as any criminal judgement by a court of first instance (Courts (Procedures in Retrial) Regulations, regulation 13).

459. **Compensation for person unjustly convicted** If the conviction of a person is quashed on retrial, and the person has served at least part of the original sentence, then the court may make any order it deems fit to indemnify a sentenced person. If the accused has died in the interim, the court may issue such an order to the benefit of the accused's descendants or another third party (Courts Law, sect. 31). In addition, the defendant may have a cause of action in a suit for damages under the Civil Wrongs Ordinance against the persons or entities, both private and public, who were responsible for the miscarriage of justice through malice, negligence or oppression.

460. **Double jeopardy and related rules**. Under sect. 5 of the Criminal Procedure Law, a person may not be tried for an act “if he has previously been acquitted or convicted of an offence constituted by the same act”. Pursuant to this general principle, a defendant may raise the preliminary claim, immediately following the reading of the charge sheet in open court, that he or she has already been acquitted or convicted for the same act, or that another criminal trial is pending against him in respect of that act (Criminal Procedure Law, sect. 149 (5)-(6)). The Law creates one exception to the rule: if the act in question has resulted in the death of a person who was still alive when the defendant was originally tried, then the defendant may be tried in connection with the same act, provided that the first trial ended in conviction. Annulment of a charge sheet for any reason will not prevent a subsequent indictment for the same act, as it is deemed not properly to constitute a “judgement of acquittal” (Cr.App. 250/77, *Kryzcynski* v. *State of Israel*, 32(1) P.D. 94). The Supreme Court has drawn a doctrinal distinction between the statutory protection against subsequent indictment, which is based on the principle of *res judicata*, and the common-law “double jeopardy” rule, which derives from the desire not to put a defendant under risk of conviction for the same act more than once (Cr.App. 72/60, *Attorney-General* v. *Geoaya*, 14 P.D. 1093). The “double jeopardy” rule is deemed to include those situations in which a defendant has been properly charged with an offence but the trial did not end in a judgement of acquittal or conviction; it does not include cases in which a charge sheet is annulled, in which proceedings are suspended indefinitely or otherwise “interrupted” but the law contemplates the possibility of “resuming” the proceedings (ibid.). Due to the narrow range of

application of the double jeopardy rule in Israeli law, it has not yet been accepted as the basis for quashing an indictment in any particular case, even though the courts acknowledge the existence of the rule (see Y. Kedmi, *On Criminal Procedure* (Updated edition, Tel Aviv University, 1993, pp. 589-590).

461. **Juveniles in the criminal process**. The law and practice relating to the treatment of juveniles in the criminal process are discussed in detail under article 10 above. The courts in Israel are bound not only to observe the explicit special statutory provisions regarding juveniles in the criminal process, but must take the minor's age into account in every stage of the process (Cr.M. 190/79, *State of Israel* v. *Doron*, 33(3) P.D. 589, 590). Mention may also be made of special rules allowing the parents or another person associated with a juvenile defendant to be involved as a sort of quasi-party in the criminal proceedings, by giving them the right, upon court permission, to file motions and examine witnesses, or to require their presence at court hearings (Youth (Trial, Punishment and Modes of Treatment) Law, 5731-1971, sects. 19, 28-29). The court may also order that the juvenile be absent from the courtroom for a particular hearing or part thereof if it deems it in the child's best interest to do so (ibid., sect. 17).

462. **The Israel Bar Association**. The organization and functions of the Bar Association are determined in the Chamber of Advocates Law, 5721-1961. The Israel Bar is a corporation; its actions are subject to the review of the State Comptroller, which gives it the character of a quasi-public institution for certain purposes, such as jurisdiction of the High Court of Justice over the legality of decisions by the Bar's administrative bodies. The principal statutory functions of the Bar are to accredit attorneys, to supervise the apprenticeship (“articling”) of articled clerks prior to their qualifying examinations, and to hold disciplinary proceedings for actions of its members. In practice, the Bar is highly active in many areas of legal endeavour and in public life generally. It is thoroughly involved in the legislative process, commenting on legislation when it deems fit, forming special committees which draft legislation, lobby Knesset members and participate in other aspects of the legislative process. The Bar also refers applicants to mediation by lawyers according to fields of specialization, has published the official reports of Supreme Court judgements, offers continuing education courses for practising attorneys, maintains dozens of active committees in such areas as human rights, judicial administration, international relations, and so on. Two representatives of the Bar Association are voting members of the nine-person Judicial Selection Committee, which decides on the appointment of all judges in the courts of general jurisdiction. Attorneys are bound by law to act faithfully and diligently in the best interest of their clients (Chamber of Advocates Law, sect. 54). The ability of attorneys freely to assist their clients is safeguarded, to a certain extent, by the attorney-client privilege, under which the attorney may not disclose any matters or documents exchanged between himself and his or her client which are related to the attorney's professional representation of the client, unless the client waives this privilege (ibid., sect. 90). Other guarantees that enable lawyers to assist their clients are discussed under articles 9 and 10.

Article 15 - Prohibition of ex post facto laws

463. The principle prohibiting ex post facto legislation is firmly rooted in the legal tradition of Israel. The Talmud, in a passage often quoted in Israeli case law, states "There shall be no punishment without prior warning" meaning that no person may be punished for conduct which was not a crime at the time of commission.

464. Until 1994, there was no Israeli legislation generally prohibiting retroactive application of substantive criminal law norms. However, the principle of non-retroactivity has long been accorded the status of a constitutional principle in the case law. In *Hacksteter v. State of Israel*, the Supreme Court held that:

> "Even if Israel still has no legislative provision prohibiting retroactive application of the criminal laws, it is clear that the rule that there is no punishment except according to the law valid at the time of commission of the offence, is the law in Israel ... [and is] a constitutional legal rule in a State in which the rule of law obtains, so long as legislation does not stipulate otherwise." (Cr.A. 557/71, *Hacksteter v. State of Israel*, 26(2) P.D. 240, 245)

See also H.C.J. 221/51, *Aslan v. Military Governor of the Galilee*, 5 P.D. 1480, 1486.

465. In two instances, specific criminal legislation stipulated that provisions more lenient than the laws they replaced could be applied retroactively. Under section 42 of the Penal Law Amendment (Modes of Punishment) Law, 5714-1954, the substantive provisions of that law, which deal with maximum and minimum sentencing guidelines for different types of offences, would apply to a person who committed an offence prior to its entering into force if such provisions "benefit or are more lenient to him".* Section 25 (b) of the Youth (Adjudication, Punishment and Treatment) Law, 5731-1971, prohibits imposing the death penalty, and "notwithstanding any other law" provides that there is no obligation to impose a sentence of life imprisonment, mandatory imprisonment or a minimum punishment on a person who was a minor at the time he committed the offence. This provision replaced an earlier one which prohibited imposition of life imprisonment on offenders who were minors at the time of conviction. The Supreme Court held that the later, more lenient sentencing provision applied retroactively to persons who committed the offence prior to its enactment. Cr.A. 485/76, *Vanunu v. State of Israel* (unpublished).

466. The only legislation of general application bearing on ex post facto laws until the 1994 amendment of the Penal Law, 5737-1977, could be found in section 10 of the Law and Administration Ordinance, 5708-1948, which provides

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*This provision was not included in the general Penal Law, 5737-1977, even though the other provisions of the earlier statute were incorporated therein, as the 23 years that elapsed until passage of the Penal Law made what was essentially a transitional provision irrelevant as a practical matter.

that “legislation shall enter into force on the date of publication”, but allowed for the possibility of retroactive application as of a specific earlier date; and in section 22 (3) of the Interpretation Law, 5741-1981, under which “repeal of a law shall not affect a right or duty under the repealed law or a sanction for violation thereof”.* The latter provision would seem to imply a prohibition of *all* retroactive application of criminal law norms, including those that were beneficial to the offender. Nevertheless, the Supreme Court sometimes interpreted criminal legislation to require retroactive application of a more lenient sentencing provision, without explicit statutory authorization. Cr.A. 348/67, *Anonymous v. Attorney-General*, 22(1) P.D. 225, 232.

467. Amendment No. 39 of the Penal Law, which came into force on 23 August 1995, introduced several general provisions regarding retroactive application of the criminal law which, taken together, bring Israeli legislation into strict compliance with the obligations under article 15 of the Convention. Sections 3-6 of the Penal Law provide as follows:

> “3. (a) Legislation that creates an offence shall not apply to an act committed prior to the date of its publication according to law or the date of its entering into force, whichever is later.
>
> “(b) Legislation that determines a punishment for an offence which is more severe than the punishment applicable at the time the offence was committed shall not apply to an act perpetrated prior to its publication according to law or prior to its entering into force, whichever is later; however, a revaluation of a fine shall not be deemed an increase in punishment.
>
> “4. If an offence is committed and its prohibition is repealed by legislation, criminal liability for its commission shall be annulled, proceedings that have been commenced shall be ceased, the execution of any sentence shall be terminated, and there shall be no further future consequences deriving from the conviction.
>
> “5. (a) If an offence has been committed with regard to which a final judgement has not yet been given, and the definition of the offence or the liability or punishment therefor is changed, the legislation that is more lenient on the offender shall apply; 'liability therefor' shall include the application of exceptions to criminal liability for the act.
>
> “(b) If a person has been convicted of an offence by final judgement, and afterwards a punishment is determined by legislation for that offence which is more lenient in degree or in type than the punishment imposed on him, his punishment shall be the maximum punishment determined by the subsequent legislation, as if it had been imposed from the beginning.

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*In 1994, the words “or sanction for violation thereof” were stricken from this provision by amendment, in the context of Amendment No. 39 of the Penal Law, which is discussed in the next paragraph. *S.Ch.* 1335 (5754), p. 358.

> "6. The provisions of sections 4 and 5 shall not apply to an offence under legislation which is to remain in force for a particular period, or which by its nature may change from time to time."

S.Ch. 1335 (5754), p. 358. It may be noted that the retroactivity provisions cited above also apply to the substantive provisions of Amendment No. 39 itself, which introduce new defences to criminal liability and several changes in the facts necessary to establish criminal liability, both in general and with respect to specific offences. Most of the substantive changes in Amendment No. 39 define standards more lenient on criminal defendants than those in prior legislation.

468. **Military Courts**. The non-retroactivity provisions in Amendment No. 39 of the Penal Law were not explicitly integrated into the Military Justice Law, 5715-1955, or other legislation dealing with adjudication in Military Courts. In practice, however, the general provisions of the Penal Law are applied in the Military Courts. Prior to the enactment of Amendment No. 39, the Military Courts applied the principle derived from case law which forbade retroactive application of substantive criminal law norms. Now they will also apply the principles contained in sections 3-6 of the Penal Law.

469. Although the retroactivity provisions of the Penal Law are still quite new, their effect may be illustrated by the following example. In a case still pending before the Jerusalem Municipal Court, the defendant was previously convicted of building without a permit, in violation of the Building and Planning Law, 5725-1965, and currently is being tried for non-compliance with a court order to remove the portion of her house that was built without a permit. During the course of trial, Amendment No. 39 came into force. The amendment includes not only the general provisions regarding retroactive application of criminal law norms that are more lenient on the offender, but also a new *de minimis* exception to criminal liability, under which a person shall not bear criminal liability for an act that, in view of its nature, circumstances, results and the public interest, is of minor import (sect. 34Q). The defendant was specifically allowed to claim an exemption from liability under section 34Q. Cr.A. 22/96, *Witt v. State of Israel* (Jerusalem District Court) (unpublished). In several other cases in which the defendant has been charged with incitement or attempt to commit an offence for actions preceding the enactment of Amendment No. 39, the new provisions in that amendment regarding exemption due to evidence of remorse have been deemed to apply retroactively.

470. The Nazi and Nazi Collaborators (Punishment) Law, 5710-1950, was enacted to prosecute those guilty of crimes against humanity and war crimes committed during the Second World War. The application of the Crime of Genocide (Prevention and Punishment) Law, 5710-1950, enacted pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide, is not limited in time, and may be applied retroactively. As with similar legislation in other countries, these laws are founded in the notion that the crimes prohibited by them are deemed to have constituted a violation of the law of nations at the time when they were committed, including during the Second World War. They therefore comply with the provisions of article 15 (1).

471. Under section 50 of the new Basic Law: Government, emergency regulations cannot impose "retroactive punishment". Therefore, even though emergency regulations take precedence over ordinary legislation, they cannot impose criminal norms retroactively. As Israel has been in an officially declared state of emergency during the whole course of its existence, the retroactivity provisions in the Penal Law apply, as a practical matter, during a state of emergency. The question whether emergency regulations may restrict the retroactive application of criminal norms that relieve an offender from liability or impose a lighter punishment - or whether such a restriction is itself a form of "retroactive punishment" - has yet to be brought before the courts.

472. The prohibition of ex post facto laws does not apply under Israeli law to procedural criminal law norms, nor to the law of evidence, but rather only to substantive norms. Any change in the law of criminal procedure or evidence will apply to proceedings that began before such change, unless explicitly indicated otherwise in legislation. C.A. 238/53, *Cohen and Buslik v. Attorney General*, 8 P.D. 4, 35; F.H. 25/80, *Katashvili v. State of Israel*, 35(2) P.D. 457.

473. **Basic Law Bill: Due Process Rights**. In February 1998, the Ministry of Justice completed its draft of a new Basic Law which articulates fundamental individual rights related to legal proceedings, including the freedom from retroactive punishment. Section 7 of the Bill provides:

> "(a) A person will not bear criminal liability for an act or omission which was not an offence according to law at the time of the act or the omission.
>
> "(b) A person shall not receive a punishment more severe than that to which he would have been subject under the law at the time of commission of the offence; however, revaluation of fine amounts according to the rate of inflation is not deemed a more severe punishment."

474. Enactment of Basic Law Bill: Due Process Rights will give the prohibition on ex post facto laws fully entrenched constitutional status, which, among others, will enable the Supreme Court to declare invalid any legislation which does not meet the criteria of its limitation clause.

Article 16 - Recognition as a person before the law

475. All human beings within the jurisdiction of the State of Israel are recognized as persons before the law. Sections 1 and 2 of the Capacity and Guardianship Law, 5722-1962, provide:

> "1. Every person shall be capable of having rights and obligations from the completion of his birth until his death.
>
> "2. Every person shall be capable of performing legal acts, unless he has been deprived of that capacity or it has been restricted by a statute or by the judgement of a court of law."

These principles apply to aliens, who are granted most basic constitutional rights and are entitled to the protection of the courts; they also apply to prisoners and detainees, as discussed in greater detail under articles 7 through 10. As mentioned under article 8, involuntary servitude is directly prohibited by law, and slavery is deemed prohibited by relevant sections of the Penal Law, 5737-1977.

476. The recognition of every person before the law is given explicit constitutional footing in the draft Basic Law: Due Process Rights, which reiterates the principles cited above in sections 1 and 2 of the Capacity and Guardianship Law. As of the submission of this report, the draft Basic Law is being circulated prior to submission to the Ministerial Committee on Legislation.

477. Under the Capacity and Guardianship Law, persons who are declared incompetent, such as the mentally ill or disabled, and minors do not lose their status as subjects before the law. Rather, the performance of any legal acts affecting them, the discharge of legal duties and the enjoyment of their legal rights must be realized in most circumstances through their legal guardian.

478. With the exception of the right to enter Israel, which is guaranteed to citizens and permanent residents, the fundamental rights protected by Basic Law: Human Dignity and Liberty are granted to all persons, regardless of nationality, mental capacity, or any other characteristic.

479. In addition to the above legislative provisions, the recognition of the property rights of married women was specifically articulated in the Women's Equal Rights Law, 1951, as follows: “A married woman shall have full capacity in respect of property and of actions relating thereto as if she were unmarried; and property which she acquired prior to marriage shall not be affected by the marital bond” (sect. 2).

Article 17 - Freedom from arbitrary interference with privacy, family, home

480. The right to privacy was accorded constitutional status in Israel with the enactment in 1992 of Basic Law: Human Dignity and Liberty, section 7 of which provides:

> “(a) All persons have the right to privacy and to the confidentiality of their lives.
>
> “(b) There shall be no entry into the private domain of a person without that person's consent.
>
> “(c) No search shall be conducted in the private domain or on the body of a person, nor in the body or belongings of a person.
>
> “(d) There shall be no violation of the secrecy of the spoken utterances, writings or records of a person.”

481. Under the limitation clause in section 8 of the Basic Law, the privacy rights in section 7 may not be impaired except pursuant to a statute which reflects the values of the State of Israel and is intended for a proper purpose, and to an extent no more than necessary. It should be noted that the Basic Law does not define "privacy" as such: it does not set out general minimum conditions for determining when the law will treat a person's actions or utterances as private; nor does it define the boundaries of a person's "private domain", his "home" or his "family" in which the right is realized. Rather, the Basic Law articulates the general right and adds three specific prohibitions, which do not comprise a closed set of situations in which the right to privacy is recognized. The full ambit of the right to privacy, as well the scope of lawful intervention into a person's private domain, is developed in a legal landscape defined by several principal statutory landmarks: the Protection of Privacy Law, 5741-1981, the Secret Monitoring Law, 5739-1979, the Prohibition of Defamation (Prohibition) Law, 5725-1965, and criminal statutes dealing with searches and seizures.

482. **The Protection of Privacy Law**. As with section 7 of Basic Law: Human Dignity and Liberty, mentioned above, the Protection of Privacy Law, 5741-1981, does not define the right to privacy; rather, it defines the following 11 types of violations of privacy which, if done without consent, give rise to criminal and civil liability:

(a) Spying on or trailing a person in a manner likely to harass him, or any other harassment;

(b) Listening-in prohibited under any law;

(c) Photographing a person while he is in the private domain;

(d) Publishing a person's photograph under such circumstances that the publication is likely to humiliate him or bring him into contempt;

(e) Copying or using, without permission from the addressee or writer, the contents of a letter or any other writing not intended for publication, unless the writing is of historical value or 15 years have passed from the time of writing;

(f) Using a person's name, appellation, picture or voice for profit;

(g) Infringing a duty of secrecy determined by law in respect of a person's private affairs;

(h) Infringing a duty of secrecy determined by express or implicit agreement in respect of a person's private affairs (civil liability only);

(i) Using, or passing on to another, information on a person's private affairs otherwise than for the purpose for which it was given;

(j) Publishing or passing on anything obtained by way of an infringement of privacy under paragraphs (a) to (g) or (i);

(k) Publishing any matter relating to a person's intimate life, state of health, or conduct in the private domain.

483. The Protection of Privacy Law, sections 1-2, provides several defences to and exemptions from liability, such as when the invasion was done in good faith in various circumstances,* when it involves a matter of public concern

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*Section 18 of the Protection of Privacy Law provides as follows:

"18. In any criminal or civil proceeding for infringement of privacy, it shall be a good defence if one of the following is the case:

"(1) the infringement was committed by way of a publication protected under section 13 of the Defamation (Protection) Law, 5725-1965;

"(2) the defendant or accused committed the infringement in good faith in any of the following circumstances:

(a) he did not know and need not have known that an infringement of privacy might occur;

(b) the infringement was committed in circumstances in which the infringer was under a legal, moral, social or professional obligation to commit it;

(c) the infringement was committed in defence of a legitimate personal interest of the infringer;

(d) the infringement was committed in the lawful pursuit of the infringer's occupation and in the ordinary course of his work, so long as it was not committed by way of publication;

(e) the infringement was committed by way of taking a photograph, or of publishing a photograph taken, in the public domain, and the injured party appears in it accidentally;

(f) the infringement was committed by way of a publication protected under paragraphs (4) to (11) of section 15 of the Defamation (Prohibition) Law, 5725-1965;

"(3) the infringement involved a public interest justifying it in the circumstances of the case, provided that, if the infringement was committed by way of publication, the publication was not untruthful."

Section 19 of the Law, entitled "Exemption", provides:

"19. (a) No person shall bear responsibility under this Law foran act which he is empowered to do by law.

"(b) A security authority or a person employed by it or acting on its behalf shall bear no responsibility under this Law for an infringement reasonably committed within the scope of its or his functions and for the purpose of carrying them out.

which justifies the invasion of privacy, an interference deemed trivial, or an invasion of privacy by security authorities reasonably committed in the proper course of fulfilling their duties (ibid., sects. 6, 18). In the latter case, a "reasonable" invasion of privacy by security authorities is deemed to require a balancing, in the circumstances of each instance, between the right to privacy and the end for which the information in question is sought.

484. The applicability of the defences in section 18(2) of the Law to the activity of private investigators has generated a certain amount of controversy in Israeli courts. For example, the District Courts are divided on the question whether a private investigator who photographs a married woman in a hotel room in an intimate situation with her lover, for use by her husband in a judicial proceeding, is liable for invasion of privacy. One decision of the Jerusalem District Court has held that the investigator would have a valid defence in such circumstances, because he was acting on behalf of the husband, who had a legitimate interest in proving the fact of his wife's infidelity in the context of the judicial proceeding (S.A. (J-m) 31/92, *Frisch v. Private Investigators Disciplinary Committee*, P.M. 5752(2), p. 508). Two more recent decisions, however, have reached the opposite conclusion, based on a balancing of the right to privacy against the public interest in bringing of evidence before judicial instances (Cr.F. 4593/93, *State of Israel v. Hatoukha et al.* (Tel-Aviv Magistrates' Court, unpublished); S.A. (J-m) 628/92, *Disciplinary Committee under the Private Investigators Law ex rel. Attorney General v. Frisch*). In the aftermath of these conflicting decisions, a committee was established to review the existing defences to invasion of privacy and to recommend possible changes.

485. Any material obtained through an infringement of privacy under the Law is inadmissible as evidence in a court proceeding without the victim's consent, unless the court allows use of the material for reasons which it records, or, of course, unless the infringer is a party to the judicial proceeding and can claim a valid defence or exemption under the Law (Protection of Privacy Law, sect. 32).

486. Civil or criminal liability for infringements of privacy which are published in a newspaper may be imposed not only on the person who brought the information to the newspaper, but also the editor, the person who actually decided on publishing the damaging information, and the publisher. For other types of published material, civil and criminal liability may be extended to the printer and distributor (ibid., sects. 30-31).

"(c) For the purposes of this section, 'security authority' means any of the following:

"(1) the Israel Police;

"(2) the Intelligence Branch of the General Staff, and the Military Police, of the Israel Defence Forces;

"(3) the General Security Service."

487. Recent amendments to the Protection of Privacy Law, which regulate the dissemination of personal information held by public authorities or in databases, as well as direct mail, are discussed below.

Search and seizure in criminal proceedings

488. In the past, Israel Police personnel had the authority, as part of their powers of arrest and detention, to carry out a search of a person's body. This power was used, among others, by Prison Service officials to carry out searches inside the body to obtain concealed evidence, such as the use of an enema to find narcotics. In a landmark decision in 1979, the Supreme Court ruled that absent the consent of the person being searched, the power to carry out bodily searches extended only to searches on a person's body, and not to any intervention into the body itself. H.C.J. 375/79, *Katalan v. Prisons Service*, 34(3) P.D. 294.

489. In March 1996, the Knesset enacted a new statute which deals specifically with searches of a person's body. The Criminal Procedure (Enforcement Powers - Search of a Suspect's Body) Law, 5756-1996, defines precisely which actions constitute external or internal searches of a person's body, and prescribes exacting procedural requirements for allowing and carrying out such searches.* Only those types of “internal” and “external” searches specifically contemplated by the Law may be performed, and then only under the circumstances prescribed in the Law. The closed set of “internal” searches includes a blood test, internal imaging of the body by ultrasound, x-ray or scanner instruments, and gynaecological examinations, including removal of substances (ibid., sect. 1). Prior to carrying out any search, the person must be asked if he or she consents. “External” searches may be performed even if the suspect refuses to give his or her consent, subject to several procedural requirements.** If, on the other hand, the suspect refuses to undergo one of the “internal” searches contemplated by the law, then the law enforcement authority must receive permission from the Court to undertake the search. The Court will not grant a permit if there is an alternative, less invasive way to accomplish the purpose of the search.

490. Under the new Law, the refusal by a suspect to undergo an internal body search of the types permitted in the Law can add incriminating weight to the

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*An “external search” is defined by the new law as one of the following: frontal examination, including a photograph, of a person's naked body; taking an imprint of any part of the body; removing a substance from underneath the fingernails or from the nostrils; removing hair, including roots; removing material found on the surface of the skin; examination of skin; urine or saliva samples, breath analysis; removing cells from the internal part of the cheek. Criminal Procedure (Enforcement Powers - Search of a Suspect's Body) Law, sect. 1.

**For example, a police captain must give written approval for the external search, must give the suspect an opportunity to explain his or her refusal, and must explain to the suspect the manner in which the search will be carried out, and the fact that a refusal to undergo the search may have incriminating evidentiary weight if the suspect is ultimately tried. A doctor must confirm, after examining the suspect, that there is no health-related impediment to carrying out the search. In addition, even external searches generally must be done by a person of the same sex as the suspect, and must not be done in the presence of others if it involves exposure of any bodily parts that normally are not exposed (ibid., sects. 2-5).

prosecution's evidence, if the search is not undertaken because of the suspect's refusal. No such evidentiary effect will obtain if the police did not request a permit for an internal search (unless the police do not do so because the delay involved in getting a court permit will likely harm the evidence), or if the court did not issue a permit for an internal search upon request, or if necessary medical approval is not given for an internal search. Refusal by a person suspected of an offence involving dangerous drugs (not including personal use) or offences involving severe violence to undergo an internal search when the Court issued a permit to do so, or to undergo an external search in a manner preventing the police from carrying out the search reasonably, is liable to two years' imprisonment.

491. The powers given to police personnel under the new Law, and the procedures it sets out for bodily searches, apply in substantial part to searches by prison wardens, certain customs inspectors, and military policemen (sects. 17, 18, and 22 of the Law).

492. **Search of a person's home**. The Israel Police may carry out a search in a person's private domain, including in his or her home, in two overarching sets of circumstances: to prevent the imminent commission of a crime, when the police officer has a reasonable suspicion that a crime is being committed, or has just been committed, in a particular place; and to secure evidence which cannot otherwise be obtained in the course of a criminal investigation. A search warrant from a court is necessary only in the latter case. Motions for warrants are typically heard *ex parte*, and routinely granted.

493. A person's home may also be searched without his consent in the context of proceedings to collect a civil debt through the Execution Office. Specially appointed deputies of the Execution Office may enter into a judgement debtor's home or yard to find movable property and other assets which may be garnished to ensure repayment of the debt. In certain circumstances, they may also enter the home or personal domain of third parties who have movable property owned by or owing to the debtor. To carry out such a garnishment order, the court deputies have the right to use reasonable force, including to break the locks on doors (Execution Law, 5727-1967, sect. 22).

Electronic surveillance: wiretapping and eavesdropping

494. The Knesset has recognized that personal privacy can be seriously infringed through the use of electronic devices to track the movement of persons or things and to intercept private communications. Some forms of surveillance are dealt with by the Protection of Privacy Law discussed above. The Secret Monitoring Law, 5739-1979, was enacted for two principal purposes: on the one hand, to protect the individual against invasion of privacy by preventing private or unregulated eavesdropping into his or her personal communication without his knowledge, by listening in on the telephone or other telecommunications instruments, or by placing a microphone near that person, and by setting strict criminal penalties for illegal eavesdropping. At the same time, the Law establishes procedural requirements for eavesdropping by certain official authorities for purposes of State security or prevention of crime and apprehension of offenders.

495. The Law defines eavesdropping as any listening in, recording or copying of a conversation or electronic transmission of information, by mechanical means, without the consent of either party to the conversation or either the sender or receiver of the transmission. The types of transmissions covered by the Law have recently been broadened to adjust to technological developments, and now include cellular telephones, wireless communications, facsimile, telex, teleprinter or communications between computers (Secret Monitoring Law, sect. 1).

496. **Eavesdropping by the Israel Police**. The Law empowers the Israel Police to carry out eavesdropping for the purpose of preventing crime or apprehending offenders, after having received a permit from the President of the District Court. Such permits are valid for up to three months, and may be extended (ibid., sect. 6). In deciding whether to grant the permit, the judge must consider the degree of invasion of privacy entailed by the type of eavesdropping requested. Refusal by the court to issue a permit may be appealed to the Supreme Court by the Attorney-General. The Inspector General of the Police must file a monthly report to the Attorney-General regarding the eavesdropping permits issued under the Law, and the terms of those permits (ibid.). The number of wiretap permits given to the Police has averaged roughly 1,000 - 1,100 annually over the last several years. Roughly half of these wiretap permits are given in connection with drug-related offences.

497. The Inspector General of the Police may authorize a wiretap for up to 48 hours if he deems that it is urgently necessary to prevent a crime or apprehend offenders and that it is not possible to receive a permit quickly enough in the circumstances. In such cases, the Inspector General must notify the Attorney-General immediately regarding the issuing of the permit, and the Attorney-General may cancel it at his discretion.

498. In the annual report published by the State Comptroller in 1991, police practices relating to eavesdropping were critically reviewed. Among other things, the Comptroller's report found that wiretap permits were not always used according to their strict terms, as the Police had tended to record all conversations made on a particular telephone line, not merely those made by the particular person with regard to whom the permit was granted. The report further found a lack of oversight regarding the volume of wiretap requests and permits, the number of arrests, indictments and convictions made as a result of the wiretaps, and the number of persons or telephone lines involved. To respond to these problems, the Secret Monitoring Law was amended in 1995 to tighten the scope of and procedures for police wiretap permits. New internal police directives require the approval of a senior police official to apply for a wiretap. In addition, the Law requires an annual report by the Inspector General of the Police to the Constitution, Law and Justice

Committee of the Knesset regarding the number of requests and permits in the reporting period, as well as the number of persons, telephone lines and telecommunications devices covered by the permits.

499. **General Security Service**. The heads of the General Security Service and of Military Intelligence may authorize eavesdropping to protect national security, upon approval of their written request by the Prime Minister or the Minister of Defence. As with police wiretaps, security-related permits are valid for up to three months, but may be renewed. In urgent circumstances, the head of the security apparatus involved may authorize a wiretap for up to 48 hours (ibid., sects. 4-5). Under the 1995 amendment to the Law, the Prime Minister or Defence Minister may also authorize a wiretap of employees in the defence establishment in order to prevent leaking of sensitive security information. The 1995 amendment also requires the GSS to present an annual report regarding its surveillance activity to a "mixed committee" composed of the Knesset Defence and Foreign Affairs Committee and the Constitution, Law and Justice Committee. The report is presented in closed-door session.

500. In addition to wiretapping by the above authorities, the Law allows the Chief Military Censor to eavesdrop on international conversations to or from Israel for purposes of censorship; internal eavesdropping on police or military communications systems; listening-in by properly authorized personnel to ensure proper functioning of telecommunications lines; and amateur radio frequencies (ibid., sect. 8). Conversations heard in the public domain do not require a permit if the eavesdropping is done by properly authorized police or security personnel for the specific purposes contemplated by the law, or if a person is openly making a recording in good faith for purposes of publication or research.

501. Except for the exemptions noted above, any electronic eavesdropping without a permit is a criminal offence, as is the wilful, unauthorized use or disclosure of any information obtained by electronic eavesdropping, even if the eavesdropping itself was legal. It is also an offence to install any instrument for use in unlawful eavesdropping. Despite the threat of criminal liability, unauthorized wiretapping and eavesdropping have unfortunately become quite common in Israel. Much of the illegal activity is performed by private investigators for their clients, in the context of marital conflicts, or for commercial and political espionage. Over the past several years a significant number of complaints have been filed with the Police by politicians and members of the media regarding suspicion that their conversations are being tapped. Of particular note is the uncovering of large-scale wiretapping of journalists at Israel's two major daily newspapers, *Yediot Ahronot* and *Ma'ariv*, allegedly at the behest of the editors-in-chief of the two newspapers, who were indicted along with other persons in 1995, and some of whom were recently convicted.

502. **Amendment of the Secret Monitoring Law**. The sweeping amendment of the Secret Monitoring Law in 1995, noted above, attempts to address the burgeoning phenomenon of unauthorized surveillance. Among other things, the amendment increased the maximum sentence for violations of the law from three years' imprisonment to five, and provided for cancelling the professional licence of a private investigator convicted under the Law. The definition of eavesdropping was extended to include newer telecommunications media such as

facsimile, computers, and satellite transmissions. The standards for admissibility of evidence was loosened somewhat: whereas the Law formerly imposed an absolute prohibition on the use of evidence obtained by an illegal wiretap, it now allows the use of such evidence in certain exceptional circumstances when the evidence is sought for use in a trial, or, in the case of the Police, for the investigation of a serious felony carrying a sentence of at least seven years' imprisonment. The Attorney-General, the State Attorney, or, in military court proceedings, the Military Advocate General, must give prior approval of all requests to submit such evidence to the court. On the other hand, if the eavesdropping is performed unlawfully by a person who is otherwise entitled to request a permit, then evidence obtained thereby may be used in a trial for a serious felony only if the eavesdropping was done by mistake and in good faith, with presumed legal authority. In either case, the court, to admit such wiretap evidence, must show why the need to uncover the truth should prevail over the right to privacy in the circumstances of the case. Lawfully obtained eavesdropping evidence, on the other hand, may be used in any criminal proceeding (ibid., sect. 13).

503. Another significant change under the 1995 amendment allows for eavesdropping by police or security personnel on privileged communications between a person and his lawyer, psychologist, doctor or member of clergy, which hitherto had been forbidden. Under current law, the President of the District Court may permit a recording or other surveillance of such privileged conversations if he or she is convinced that there is a reasonable suspicion that the lawyer, psychologist, doctor or clergy member is personally involved in murder, manslaughter, a drug transaction or a felony involving damage to State security, and that the wiretap is necessary or essential for preventing or investigating the offence (ibid., sect. 9 A (a)).

504. **Correspondence**. The term “correspondence” may be deemed today to include communication by facsimile and electronic mail no less than sending of letters and other articles by post. Electronic correspondence is regulated for the most part by the Clandestine Listening Law, discussed above.

505. Under Regulation 89 of the Mandatory Defence (Emergency) Regulations, 1945, the Postal and Telegraph Censor, which operates as a civil department within the Ministry of Defence, has the power to open any postal articles and inspect them in order to prevent harm to State security, to public safety or public order.

Protection of personal information in databases

506. The State of Israel has recognized the need to regulate the use of personal information contained in private and public databases. One part of the Protection of Privacy Law deals with protection of personal privacy in databases. All databases not exempted from the purview of the Law must be registered in a central registry. Under section 7 of the Law, a “database” is defined to include any computerized compilation (not including private personal computers) of information on the personality, personal status, intimate affairs, state of health, economic position, vocational qualifications, opinions and beliefs of a person. However, the Law does not require registration of personal databases containing less than 10,000 names; databases containing only information previously published or made available

to the public; or databases in which the information was given by the persons listed therein by consent and which is not used for direct mailings. Compilations that include only a person's name, address and means of establishing contact are not regulated, so long as the information in the database does not include anything which, if disclosed, would constitute an invasion of privacy. The Registrar of Databases may refuse to register a database if there are reasonable grounds to believe that it will be used for illegal ends, including the invasion of privacy, or if the database was itself compiled by way of invasion of privacy.

507. The holders or managers of databases bear a statutory duty not to use or send any information on the database except for the purpose for which it was established; to give basic information about the database when approaching persons to ask them to give information about themselves for inclusion in the database; to allow individuals to examine information about themselves which is included in the database and to request corrections of the information; and to maintain security of the information on the database against illegal use, copying or tampering. Certain entities, such as banks, insurance companies, credit rating services, public bodies, and any entity that maintains more than four databases which are owned by more than one party, must appoint a properly qualified person to maintain security of the information on the database. The duty to allow inspection of personal information does not apply to databases compiled by security authorities, including the Israel Police, the Intelligence Branch of the IDF General Staff, the IDF Military Police, the GSS, the Ministry of Defence, certain military industries, and the Mossad, or to those possessed by the Prisons Service or tax authorities. The law also provides that a person may be denied the right to inspect information about him- or herself in a database if considerations of State security or foreign relations so require (ibid., sect. 13).

508. Under a new amendment to the Protection of Privacy Law, which entered into effect in April 1997, any direct marketing activity, by telephone, mail or otherwise, which uses personal information from a database must clearly and prominently note the database from which the personal information was taken, and must notify the recipient of his or her right to be stricken from the database. All persons have the enforceable right to have personal information about them stricken from a database, or to demand that such information not be disseminated, or that it not be sent to particular persons or categories of persons (sect. 17 F of the Law).

509. In practice, the regime created by the Protection of Privacy Law for registration and oversight of databases has thus far been implemented only partially. Approximately 5,200 databases are registered as of submission of this report, which, by all accounts, is far from the actual number of currently existing databases covered by the Law. While the Office of the Registrar of Databases has fairly broad supervisory powers under the Law, a significant increase in budget and personnel has been necessary to help ensure fuller compliance with the law. Recognizing this need for added resources, the Knesset recently amended the law to mandate formation of a “monitoring unit” the size of which “shall fit the monitoring needs”. The Registrar must now prepare an annual report for submission to the Constitution, Law and

Justice Committee of the Knesset by the Council for Protection of Privacy, which will describe the enforcement and monitoring activities during the preceding year (sect. 10 A of the Law).

Disclosure of information by public bodies

510. The Protection of Privacy Law also creates arrangements regarding sharing of personal information by various public bodies. As a general matter, public bodies may not disclose personal information to other public bodies unless such information was already lawfully published or made available to public inspection, or the person involved consents. The Law grants an exemption to security authorities, which may receive or disclose personal information in order to fulfil their functions, so long as such disclosure is not otherwise prohibited (sect. 23 B of the Law). In addition, public bodies may share information if it is deemed necessary to carrying out their functions or compliance with the Law. If the sender of the information is not a ministry or other national official institution - for example, a municipal authority or government corporation - then the transfer of information must itself be properly within the powers and function of that institution. The exemption for non-security-related public bodies does not apply if the personal information was originally given to them on condition that it would not be disclosed.

511. Public bodies cannot disclose personal information from their databases to private entities.

512. **Information regarding criminal record** The Israel Police maintains two types of databases regarding criminal records. The first, called the “criminal register”, includes information on criminal convictions and sentences, decisions of unfitness to stand trial due to mental illness or disability, and other punishments and court orders connected with criminal proceedings (Criminal Register and Rehabilitation Law, 5741-1981, sect. 2). The GSS, the Military Police, and the Field-Security Department of the IDF, as well as the Israel Police, have direct access to this database, and are empowered to pass on information from it to 30 different government bodies for which information on a person's criminal record may be relevant in carrying out their functions. These 30 bodies also may receive information on criminal files still pending against a person.

513. The Police also maintains records of a range of other information regarding criminal proceedings which are not included in the “criminal register”. Information regarding decisions not to investigate or to indict a person - for example due to lack of evidence, lack of guilt, or lack of a public interest in prosecution - or of a decision to suspend criminal proceedings, may be disclosed only to the Attorney-General or his deputies, a parole officer, a scientific researcher, or the security authorities who have direct access to the register. Files closed for “lack of guilt” are stricken from the police register, and the name of the suspect in the file is deleted from computerized databases. In the case of files closed for lack of evidence or public interest, the suspect can apply to the head of the Investigation Division of the Police seven years after closure of the file to strike the file from the register. In general, the Law also provides for prescription of convictions, that is, the period after which information about a person's

conviction may not be disclosed and that person bears no duty to disclose the fact of the conviction; and for striking convictions from the criminal register. The period for prescription varies with the severity of the sentence, and the time for striking the conviction from the register is typically 10 years after the date of prescription (sects. 14-16, 19-20). Once a conviction is stricken from the register, the person is deemed not to have been convicted; any evidence disclosing the fact of a conviction which has thus been stricken from the register shall not be admissible, either in court proceedings or before any public servant or entity, unless disclosed by the person whose conviction has been stricken; and the person bears no duty to answer any questions about the conviction.

Privacy of medical records

514. The recently enacted Patient's Rights Law, 5756-1996, contains provisions ensuring the privacy of medical information and records. Under section 19 of the Law, all medical personnel or employees at a medical institution are obligated to maintain the confidentiality of all information regarding a patient that they learned in the course of carrying out their duties; the attending physician and the director of the institution bear a further duty to ensure that all workers under their authority fulfil their duty of confidentiality.

515. Medical information regarding a patient may be disclosed to third parties only in clearly circumscribed circumstances defined in the Law, such as when the physician or institution bears a legal duty to do so, when the disclosure is necessary for treating the patient, or a statutory ethics committee decides, after hearing the patient's claims, that disclosure of the information is crucial for protecting the health of another person or of the public, and that the need for disclosure outweighs the interest in non-disclosure (Patient's Rights Law, sect. 20). In any case, the disclosure must be to an extent no greater than what is necessary for the matter at hand, and with maximal avoidance of disclosing the identity of the patient (ibid.)

Information protected by professional privilege

516. The law recognizes several types of professional privilege that safeguard information regarding a person that has been communicated to his or her doctor, lawyer, psychologist, social worker or priest. Under the Evidence Ordinance [New Version], 5731-1971 (sect. 48), a lawyer and his or her employees bear no duty to disclose information or documents exchanged between the lawyer and client or a person on behalf of the client as evidence in legal proceedings, so long as that information is related to the matter which the lawyer is handling for the client; the lawyer bears a positive ethical duty not to disclose such information. The attorney-client privilege is deemed to be that of the client, so that if the client waives the privilege, then the lawyer may be obligated to disclose such information in legal proceedings. Physicians, as noted above, bear a statutory obligation to maintain the confidentiality of medical information regarding their patients. In legal proceedings, physicians may be compelled to disclose medical information without the patient's consent if the court decides that the need for

disclosure for the purposes of justice outweighs the interest in maintaining the patient's privacy (sect. 49). A similar privilege applies to psychologists and social workers (sects. 50-50 A). Clergy have a stronger privilege regarding any matter which they are told by a person at confession, so long as applicable religious law forbids disclosure (sect. 51).

Individual freedom of information

517. As of the submission of this report, the Constitution, Law and Justice Committee of the Knesset has completed the preparation of a Freedom of Information Act, and it is expected to be enacted within a few weeks. The bill was introduced by the Government, spurred by a sustained campaign by a coalition of NGOs led by the Public Committee for Freedom of Information. It will allow every person to receive information from public authorities, with an exemption for the release of information that would constitute the invasion of another person's privacy.

Unlawful attacks on honour or reputation

518. The Prohibition of Defamation Law, 5725-1965, imposes both criminal and civil sanctions for defamation, libel or slander. Defamatory matter is defined under section 1 of the Law as “anything the publication of which may -

> “(1) lower a person in the estimation of others - or expose him to hatred, contempt or ridicule on their part;
>
> “(2) bring a person into disrepute because of acts, conduct or qualities attributed to him;
>
> “(3) injure a person in his office, whether it be a public or any other office, or in his business, vocation or profession;
>
> “(4) bring a person into disrepute because of his origin or religion, sex and sexual orientation, race, or place of residence.”

519. Publication may be not only by speech or writing, but also by a painting, an effigy, a gesture, or any other means. To constitute a publication, the defamatory matter must be intended for a person other than the injured party, or, if in writing, it must be likely under the circumstances to reach someone other than the injured party. Criminal defamation may be claimed where the defamation was made with intent to injure and is published to two or more persons other than the injured party. To make out a civil claim, the defamatory matter must reach at least one person other than the injured party. Both civil and criminal claims are limited by certain exemptions and defences. The exemptions apply to publications made by official authorities in their capacity as such, or in the proper course of official proceedings, as well as accurate and fair summaries of what was said or occurred at court hearings or before a governmental commission of inquiry.

520. If the defamatory matter was true, and its publication was in the public interest, then the defaming party may claim an affirmative defence to criminal

and civil liability under the statute, provided that the publication did not exceed what was necessary from the standpoint of the particular public interest invoked (sect. 14 of the Law). Another statutory defence to liability is that the publication was made in good faith under any of the following circumstances (sect. 15 of the Law):

> "(1) he did not know and need not have known of the existence of the injured party, or of the circumstances which imply defamation or its attribution to the injured party;
>
> "(2) the relations between him and the person to whom the publication was addressed imposed on him a legal, moral or social duty to make the publication;
>
> "(3) the publication was made in order to protect a legitimate personal interest of the accused or defendant, of the person to whom the publication was addressed or of someone in whom that person had a legitimate personal interest;
>
> "(4) the publication was an expression of opinion on the conduct of the injured party in a judicial, official or public capacity, in a public service or in connection with a public matter, or on his character, past actions or opinions as revealed by such conduct;
>
> "(5) the publication was an expression of opinion on the conduct of the injured party -
>
> "(a) as a party, the representative of a party, or a witness, at a public session in a [judicial or quasi-judicial] proceeding ...
>
> "(b) as a person whose case is the subject of an inquiry, as the representative of such a person or as a witness at a public session of a commission of inquiry ...
>
> or on his character, past, actions, or opinions as revealed by such conduct;
>
> "(6) the publication was a criticism of a literary, scientific, artistic or other work which the injured party had published or publicly exhibited, or of an act he had performed in public, or - insofar as pertinent to such a criticism - an expression of opinion on the character, past, actions or opinions of the injured party as revealed in such a work of art;
>
> "(7) the publication was an expression of opinion on the conduct or character of the injured party in a matter in which the accused or defendant was a superior of the injured party, by law or contract, and the publication was justified by his being a superior as aforesaid;
>
> "(8) the publication was a complaint against the injured party in a matter in which a person to whom the complaint is submitted was a

superior of the injured party, by law or contract, or a complaint submitted to an authority competent to receive complaints against the injured party or to investigate the matter which is the subject of the complaint;

"(9) the publication was an accurate and fair report of a public meeting or of any such meeting or session of a body corporate as the public had access to, and the publication was in the public interest;

"(10) the publication was made for the sole purpose of denouncing or denying defamatory matter published previously;

"(11) the publication was merely the delivery of information to the editor of a newspaper in order that he might examine the question of its publication in the newspaper."

521. The Law also establishes statutory presumptions regarding good faith. Among other things, the publication is presumed to have been in bad faith if it is untrue and the writer either did not believe it to be true, or did not take reasonable steps prior to publication to ascertain whether it was true or not; or if the defendant intended to inflict greater injury by the publication than was reasonable in defending the values protected by any of the good faith defences mentioned above.

522. Section 4 of the Defamation Law makes it a criminal offence to defame any group as such. Criminal proceedings may be initiated for "group defamation" only upon the approval of the Attorney-General.

523. The protection of a person from false and defamatory attacks on his honour or reputation is tempered by the fundamental principle of free expression, which entails, among other things, the right to speak and write without fear of civil or criminal liability. As interpreted in judicial decisions, the right of free speech significantly shields persons engaged in critical, even derogatory speech, particularly where that speech concerns a public figure. The balance struck by the Supreme Court between the right to free speech and the right of a public figure to his reputation has evolved over the years. In one landmark case, the Court, reversing on rehearing its own decision in the same case, held that the competing rights hold more or less the same normative weight, but that the importance in a democratic society of scrutinizing the conduct of public officials should not devolve into a "right to slander under the guise of fair comment". and thus a journalist may claim the defence of good faith expression of opinion only if the "factual" and "opinion" parts of an article are clearly separated (F.H. 9/77, *Israel Electric Company et al.* v. *Ha'aretz Newspaper Publishing Co. et al.*, 32(3) P.D. 337). In a later case, the Court held that the free speech principle has greater normative weight, as a general matter, than the right to honour or reputation of a public figure. As J. Barak, reasoned:

"In the public and political realm, it is difficult to sever the link between an opinion and the person who expresses it. Hence the social

> need to allow freedom not only of opinions, but also with regard to officials who serve as their mouthpiece ... Bodies and persons who hold public office or positions in which the public has an interest, take upon themselves by their very position and role certain risks related to attack on their reputation. Of course, this does not justify injuring their reputation, which is their most treasured asset, but it does weaken the weight that ought to be given to this consideration in relation to free expression ... The proper response to defamation is to disclose its falsity, and to bring the truth to light. And it is precisely the public figure who has the wherewithal, the knowledge and the access to the media, and with these he has the capacity - more than a 'private' person - to defend his reputation properly."

Avneri v. *Shapira*, 43(3) P.D. 840.

Invasion of privacy of the family

524. **Removal of child from parental custody**. As discussed under articles 23 and 24, under the Youth (Care and Supervision) Law, 5722-1962, the courts have the power to intervene in a variety of ways in the parental guardianship of their children, if it believes that a parent cannot adequately care for or supervise the child; if the child's physical or mental health has been or may be harmed for any reason; if the child is found loitering or begging; or if the child lives in a place that is used continually for the commission of crimes. The court, in such circumstances, may order that the child be removed from parental custody if it deems that there is no other way to ensure proper care and supervision. It may also place the child under the supervision of a welfare officer, and require the parents to comply with any directives regarding the child's care, including that the child undergo psychiatric observation or care.

525. **Family violence**. In 1991, the Knesset enacted the Family Violence (Prevention) Law, 5751-1991, which grants the courts broad discretion to grant urgent relief in order to protect persons who have been or may be threatened by violence from other family members. Among other things, the court may issue protective injunctions, under which the person suspected of violence against a family member may be prevented from entering the family home, from coming within a specified distance from it, from coming into contact with family members, or from carrying weapons. Until enactment of the Law, the availability of such an order removing a violent family member from the home was fairly restricted, typically as a subsidiary form of relief in alimony disputes, and only then in limited circumstances.

526. **Family privacy and the law of evidence**. The Evidence Ordinance [New Version], 5731-1971, provides that a spouse, parent or child may not testify in a criminal trial against the spouse, child or parent, respectively (sects. 3-4). Such testimony is admissible, however, in trials for violent crimes, neglect of children, sexual offences within the family, offences against minors and invalids, or obstruction of justice or witness tampering related to any of these offences.

527. Court proceedings in many family-related matters, such as adoption, custody contests between parents and trials of minors, are generally heard in closed-door session.

Reproductive privacy: abortion

528. Until 1977, Mandatory legislation criminalizing abortion remained in force. Current law enables legal abortions at recognized medical institutions, but not without encroaching upon the autonomy and privacy of the pregnant woman. For an abortion to be performed legally in Israel, it must first be approved by a statutory committee composed of three persons, at least one of whom is a specialist in obstetrics and gynaecology and another a registered social worker, and at least one of whom must be a woman. Moreover, under the Penal Law, 5737-1977, only certain specific grounds can justify approving an abortion: if the woman is under the legal age of marriageability or over 40; if the pregnancy is due to relations prohibited by the criminal law, to incest, or to extramarital relations; if the child is likely to have a physical or mental defect; or if continuing the pregnancy is likely to endanger the woman's life or cause her physical or mental harm (Penal Law, 5737-1977, sect. 316).

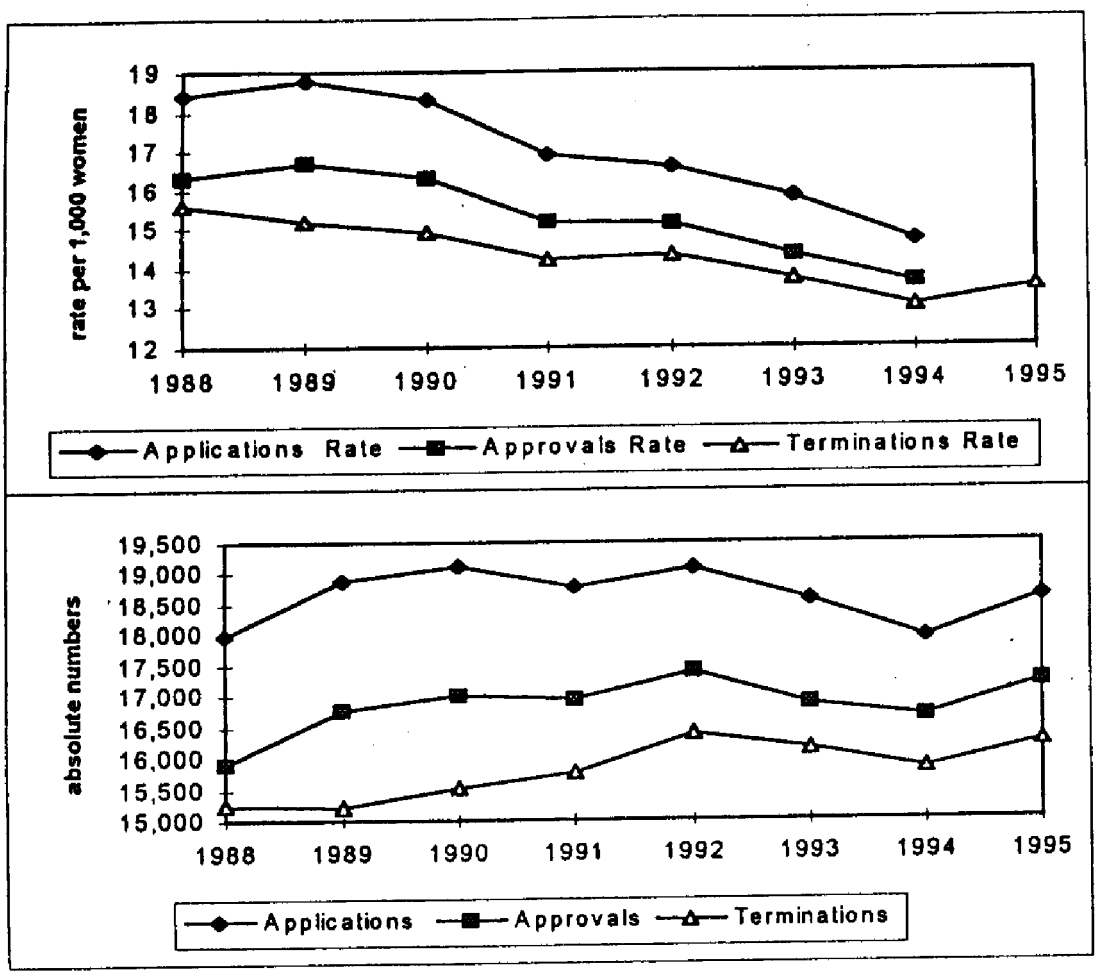
Table 12: Terminations of pregnancy in hospitals, by cause

Year	1980-1983	1987-1988	1990	1993	1994	1995
Applications			19,121	18,568	17,958	18,586
Approvals			17,020	16,855	16,650	17,211
Actual terminations	61,444	30,545[b/]	15,509	16,149	15,836	16,244
Article:						
Woman's age	6,827	3,405	1,717	1,778	1,538	1,629
Out-of-wedlock pregnancy	23,301	13,370	6,417	7,063	7,239	7,747
Malformed foetus	9,326	6,203	3,116	2,837	2,779	2,704
Danger to woman's life	21,543	7,498	4,259	4,471	4,280	4,164
Rates per 100 live births	16.1	15.3	15	14.4	13.8	14.2
Percentage of known pregnancies [a/]	13.8	13.3	13.1	12.6	12.1	12.4

a/ Live births and terminations of pregnancies

b/ The report of one of the commissions in 1987 was incomplete; 72 procedures are estimated to be missing.

Figure 6: Applications for abortions, approvals, and actual terminations



529. No approval for an abortion is needed other than that of the committee, even if the woman seeking the abortion is a minor. Upon applying to the committee, the woman seeking the abortion must meet with a social worker, who is directed by law to explain the physical and emotional dangers of abortion, and is also instructed by the Ministry of Health to attempt to convince her to choose an alternative solution to the unwanted pregnancy. The woman must also meet with a doctor who explains the medical risks involved. The reports of both the doctor and the social worker must be reviewed by the committee before it makes its decision. The woman must also give her written consent to an abortion after the physical and mental risks have been explained to her.

Table 13: Applications to commissions for termination of pregnancy (1995)

Marital status and religion	Total	To age 19
Absolute numbers		
Total	18,145	2,318
Married women	8,457	105
Unmarried women	6,668	2,193
Religion:		
Jewish	15,305	2,136
Muslim	863	51
Christian	493	13
Rates per 1,000 women		
Total	13.0	10.4
Married women	12.8	9
Unmarried women	13.2	10.5
Religion:		
Jewish	13.5	12.3
Muslim	4.5	
Christian	10.5	

530. Applications for abortion of a pregnancy that has developed beyond the twenty-third week must be reviewed by a special committee, composed of the director of the medical centre to which the application has been sent, the director of the maternity ward, the director of the neonatology ward, the director of a genetics centre, and a chief social worker. Thus far, six such special committees have been formed. It should be noted that a minor may give her consent to an abortion without requiring approval of her parent or representative.

531. Since 1980, the number of legal abortions performed in Israel has fluctuated between an estimated 14,000 to 19,000 per year.

Article 18 - Freedom of religion and conscience

532. The State of Israel was founded as a home for the Jewish people, in which freedom of religious worship and conscience would be guaranteed to members of all faiths. The full fabric of the relationship between religion and State in Israel is quite labyrinthine. History, political expediency, party politics, the lack of a constitution which specifically deals with freedom of religion, and the broad power of the Knesset to legislate in religious matters have resulted in a patchwork of laws and practices that are not easily susceptible to generalization. Although the Declaration of Independence defines Israel as a “Jewish State”, and the recent Basic Law: Human Dignity refers to a “Jewish and democratic State”, there is no established religion in Israel, properly so-called. Nor, however, does Israel maintain the principle of separation between matters of religion and the institutions of Government. Rather, the law and practice in Israel regarding religious freedom may best be understood as a sort of hybrid between non-intervention in religious affairs, on the one hand, and on the other hand

the interpenetration of religion and Government in several forms, most notably by legislation establishing the jurisdiction of religious courts of the different faiths in specified matters of "personal status"; by government funding of authorities which provide religious services to several of the religious communities; and by a series of legal institutions and practices which apply Jewish religious norms to the Jewish population. While it may be said that Israel has been quite successful in guaranteeing the freedom of religious practice and the use of sites holy to the three monotheistic faiths, particularly for the non-Jewish communities, it is more difficult to claim that "freedom from religion" is fully protected, particularly for the Jewish population.

Historical background: organization of the religious communities

533. The relationship between religion and State in Israel is to a great extent an outgrowth of the regime instituted during the Ottoman period and maintained during the British Mandate. The Ottoman order was grounded in a social structure in which homogeneous religious minority communities existed within a Muslim society. These non-Muslim religious communities, called *millets*, were led by religious dignitaries who were responsible to the Ottoman Government, and generally enjoyed a fairly high degree of independence in managing their communal religious affairs.* Muslim law (Shari'a), which was one of the three branches of the Ottoman legal system, applied to all questions of personal status involving Muslims, including marriage, divorce and succession. The courts of the recognized non-Muslim communities were granted judicial autonomy in matters of personal status for persons who belonged to their community. The jurisdiction of these community courts depended on the scope of rights granted to the community in question, which varied. In general, non-Muslim communities were granted jurisdiction in matters of marriage, divorce and maintenance, as well as the power to regulate their internal affairs, such as education and charitable institutions.

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* One noteworthy exception in this regard was the Greek Orthodox Patriarchate. Following the death of the reigning Patriarch in the 1870s, internecine conflict surrounding the election of his successor developed into prolonged rioting and violence. To help restore order, the Ottoman Grand Vizier promulgated in 1875 an ordinance, which was actually a lengthy telegram, setting out, among other things, the procedures for electing the new Patriarch. This conflict over succession of a deceased Patriarch repeated itself in the 1930s, during the British Mandate, resulting in two additional Mandatory ordinances regarding the election of the Patriarch and the management of the Greek Orthodox Church. These ordinances have never been repealed or superseded, and thus, somewhat anomalously, remain part of the law of the State of Israel. L.C.A. 688/91, *S.B.C. Establishment Inc. et al.* v. *Greek Orthodox Patriarch of Jerusalem* (Takdin - S.Ct. 91 (2), p. 2,797 (non-compliance with Ottoman and Mandatory ordinances regarding election of the Greek Patriarch may be grounds for disqualifying the Patriarch as a proper party in a lawsuit).

Certain communities also had jurisdiction in matters of succession. Ottoman law did not apply to foreign nationals who were subject to the consular courts.

534. The British Mandatory authorities adopted the Ottoman system and kept it largely intact: the applicable law in matters of personal status was the religious law of the community to which the individual belonged, and jurisdiction lay with the religious courts of that community.* Muslim courts were given jurisdiction with regard to those foreign nationals whose national law made them subject to Muslim religious jurisdiction, as was the case under the Ottoman system. Matters of personal status affecting all other foreign nationals were handed over to the newly established District Courts, unless the foreign national consented to the jurisdiction of a religious court.

535. One of the principal problems of the Ottoman-Mandatory system was that it largely did not provide for persons who belonged to none of the recognized communities, either because they espoused no religion or disavowed the one into which they were born, or their religion was not practised in the country, or their religion was practised but their community not officially recognized. Such persons were deprived, among other things, of the right to marry unless they adopted the religion of a recognized religious community.**

536. Following the establishment of the State of Israel, the Knesset maintained the three underlying principles of the status quo: religious law in matters of personal status, communal jurisdiction and preferential treatment of foreign nationals. As discussed in more detail below, the principal change that occurred following independence was the subsuming of Jewish communal religious institutions into official State bodies, with authority over the entire Jewish population, and the piecemeal enactment into legislation of certain religious practices under Jewish religious law (*Halakha*). Three additional religious communities have been recognized - the Druze (in 1957), the Evangelical Episcopal Church (in 1970) and the Baha'i faith (in 1971). Several other religious communities are not officially recognized - Anglicans, the Church of Scotland, Lutherans, Unitarians, Baptists, Quakers and others - and thus no local religious tribunal has

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* Under the British Mandate, the recognized communities included the Eastern (Orthodox), Latin (Catholic), Gregorian Armenian, Armenian Catholic, Syrian (Catholic), Chaldean (Uniate), Greek Catholic Melkite, Maronite, Syrian Orthodox, and Jewish (Knesset Israel). Palestine Order in Council, 1922, as amended in 1939, Second Schedule. As under the Ottoman system, the Muslim population was not defined as a "recognized community"; this difference in appellation did not impair the power of Muslim courts to rule in matters of personal status involving Muslims.

** The British Government made an initial attempt to deal with this problem in 1939 by adding article 65 A to the Palestine Order in Council, under which "provision may be made by ordinance for the celebration, dissolution and annulment of marriages of persons neither of whom is a Muslim or a member of a religious community and for the granting by the courts of orders or decrees in connection with the marriages of such persons, their dissolution or annulment." No implementing legislation, however, was ever enacted by the Mandatory authorities.

jurisdiction over their members in matters of personal status. This lack of official recognition does not affect the ability of these communities to practise their religion freely or to maintain communal institutions. In certain ways these smaller, unrecognized communities are freer for their lack of official status, not being subject to regulation in any matter relating to religious practice or law. The principal consequence of non-recognition is that they do not receive government funding for their religious services, as do many of the recognized communities. Their institutions do, however, receive various tax benefits and exemptions.

537. **The Muslim community**. During the Mandatory period, the Supreme Council for Muslim Religious Affairs was established to manage Muslim matters, including the control of *wakf* affairs (*wakf*: property, including religious sites, held in trust for the benefit of the Muslim community or individuals) and Muslim courts. The members of the Supreme Council were initially elected, and then for a brief period were appointed by the British High Commissioner. Following a period of violent unrest in 1936-37, *wakf* matters were removed from the control of the Council and transferred to a special committee appointed under the Mandatory Defence Regulations (Muslim Charities), 1937. Upon the establishment of the State, the Supreme Council and the special committee ceased to function and the Muslim community was left without a religious organ or communal religious institutions.

538. The Muslim religious courts were re-established by legislation in 1961. These courts have exclusive jurisdiction in matters of personal status over all Muslims, including foreign nationals who are subject to the jurisdiction of Shari'a courts under their national law. In fact, the scope of powers of the Shari'a courts is broader than all other religious courts in Israel, a vestige from the Ottoman and Mandatory periods. As organs of the State, the Muslim courts are funded through the Ministry for Religious Affairs; its judges (kadi) are State employees, appointed by the President of the State upon the nomination of a nine-member committee which parallels the selection committee for judges in the rabbinical and civil courts. The terms of office for kadi mirror those of judges in the other court systems, and are similarly aimed at ensuring judicial independence.* In matters of personal status, the Shari'a courts apply Muslim law as consolidated in the Ottoman Law of Family Rights of 1917, with modifications deriving from Israeli legislation in specific matters. While the Shari'a courts enjoy substantive independence in deciding the cases before them, they may be said to suffer from two principal problems. First, the law does not require that kadis have legal training, or any minimum level of education, as a condition for appointment, resulting in a bench of uneven quality. In addition, the Muslim religious court system has not received adequate government funding to maintain an efficient level of judicial administration. Efforts to remedy these problems are discussed below.

539. The Israeli Government, which assumed the powers of the British High Commissioner under the 1937 regulations mentioned above, has not used its powers to reconstitute the special committee for management of *wakf* affairs.

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* Terms of judicial tenure, and judicial independence generally, are discussed under article 14 above.

Rather, under the Absentees' Property (Amendment No. 3)(Release of Charity Property and its Use) Law, 5725-1965, ownership of *wakf* property has passed to the Custodian of Absentee Property. The Law requires the setting up of a committee of trustees for each of the Muslim communities in Tel-Aviv-Jaffa, Ramle, Lod, Haifa, Acre, Nazareth and Shfar'am. These committees are not elected, but appointed by the Government. The law empowers the Custodian to release *wakf* property and to transfer it to the trustee committees, which are directed by the Law to manage the property and use its income on behalf of the Muslim population for educational grants, professional training, health, religious studies, maintenance of religious rites or customs, aid to the poor, and other purposes sanctioned by the Government. The income from *wakf* property not transferred to the trustee committees must nevertheless be used only for the above purposes. *Wakf* properties in Jerusalem - including the Temple Mount, holy to Muslims and Jews alike - are not subject to the above arrangement. Rather, they continue to be managed by the Jerusalem *wakf* committee, which was appointed by the Jordanian Government until the formation of the Palestinian Authority.

540. Apart from the Jerusalem *wakf*, religious services in the Muslim community are generally maintained and funded locally by residents of the towns and villages, with some funding from the Government, which pays the salaries of the prayer caller (muezzin) and clerical leader in many towns, and also distributes funds for repair and maintenance of mosques, graveyards and other sites of religious import.

541. **The Christian communities**. Compared to the other religious communities in Israel, the Christian communities maintain the highest degree of independence in managing their affairs. With the exception of the Greek Orthodox Patriarchate, as discussed above, the 10 recognized Christian communities have no statutory provisions regulating their internal constitution, as none of them has applied either to the British High Commissioner or to the Israeli Government, under the Religious Communities Ordinance, for confirmation of their rules of organization. However, religious marriages between Protestants, whose communities have not been "recognized", are celebrated, registered and recognized by the relevant government agencies. While the judgements of the religious courts of the recognized communities have the same status and force as any judgement issued by the civil courts, the organization and activity of the Christian courts - unlike their Muslim and Druze counterparts - are not provided for in Israeli legislation, but are wholly an internal matter for each Church. Some of the Christian communities in Israel are controlled and directed by their higher religious authorities in Arab countries; the Government has consistently maintained a policy of not intervening in such control, and allows visits by religious figures across the border to enable these communities to manage their affairs.

542. The Christian communities receive a minimal amount of funding from the Government for repair and maintenance of churches, graveyards and other religious sites.

543. **The Druze community**. In 1957 the Druze community applied for and received recognition as a religious community from the Minister for Religious Affairs. The community is headed by a Religious Council appointed by the

Minister for Religious Affairs, and has its own system of religious courts, established under the Druze Religious Courts Law, 1962. These courts have exclusive jurisdiction in matters of marriage and divorce of Druze, as well as in matters relating to the creation and administration of Druze religious trust charities. In other matters of personal status, the Druze courts have jurisdiction by consent of the parties. The Government has undertaken recently to increase significantly the amount of funding directed towards religious services for the Druze community. In 1997, the total amount of funding will reach approximately NIS 8 million ($2.4 million), as part of a much larger funding programme for the Druze and Circassian communities generally, which is discussed under article 27.

Funding of non-Jewish religious services

544. In comparison with funding of Jewish religious institutions, the non-Jewish communities are rather severely undersupported by the Government. The Muslim community, for example, which comprises roughly 16 per cent of the general population, received in 1996 an amount equal roughly to 2 per cent of total funding for religious services by the Ministry for Religious Affairs.

Table 14. Funding of religious services to non-Jewish and Jewish sectarian communities (in thousands of shekels), 1994-1996

Type of funding	1994	1995	1996
Religious courts	3 200	4 757	5 006
		640 a/	640
Development of religious sites	824	2 300	6 920
Muslim religious services	10 200	11 733	14 221
Druze religious services	158	308	1 056
Christian religious services	357	652	1 083
Samaritan religious services	33	50	52
Karaite religious services	469	698	727

a/ In 1995 and 1996 an extra NIS 640,000 were added to the operating budget of the religious courts for computerization and rental fees.

545. The problem of underfunding has perhaps been greatest in the Muslim and Druze communities, for two reasons: their religious courts are State organs, and thus rely on Government funding for their operation, and, unlike most of the recognized Christian communities, they do not receive substantial support from a central religious organ, either abroad or within Israel. The Ministry of Religious Affairs has recognized the need to improve the level of funding for religious matters to the non-Jewish communities. In August 1995, the Ministry published a detailed plan, entitled “One Law”, which set out to achieve gradual equality in the services given to the non-Jewish and Jewish communities, both by substantial increases in funding and by institutional

reforms. For the Muslim community, the plan includes, among other things, the establishment of a national Muslim Religious Council, improvement of terms of employment of Muslim clergy who are employed by the State, substantial increases in funding to Muslim holy places, establishment of an organization that would handle all matters relating to the annual pilgrimage to Mecca (haj) by Muslim Israeli citizens, establishment of a centre for development of religious services and structures for the Muslim community, improvement of physical plant and computerization of the Shari'a courts, adding more kadi positions, establishment of a code of ethics for kadis, and an amendment of the Kadis Law, 5721-1961 to require legal or other academic training as a minimum requirement for appointment of kadis. For the Druze community, the plan included the addition of two kadis, one of whom would serve as the director of the Druze religious courts, finding new quarters for the Druze courts and computerizing them, and establishing a Druze religious council which would manage the religious affairs of the Druze in Israel. For the Christian communities, the plan included the participation of the Ministry for Religious Affairs in the cost of repairing certain Christian holy sites, churches and graveyards. The recommendations of the above plan have been implemented only partially. Funding for religious services to the Muslim and Druze communities has been increased, some 50 new positions have been filled for clergy and administrative staff, and the budget for repair of religious buildings has also been augmented. In particular, the allocations of the Ministry of Religious Affairs for development of religious sites and buildings in the Druze and Circassian communities were increased from NIS 910,500 (approx. $300,000) in 1995 to NIS 7.7 million (approx. $2.41 million) in 1996, and a projected NIS 8.4 million (approx. $2.5 million) in 1997.* The recommendations regarding institutional and legal reform, however, have not yet been implemented as of the submission of this report.

Jewish religious institutions and the State

546. To understand the degree to which Israel implements its obligation under this article with regard to the Jewish population, it is necessary first to delineate some of the main features of the complicated institutional and legal context in which Jewish religious law operates in a "Jewish and democratic" State.

547. Judaism has always been at once a religious doctrine and way of life, a race, a nation *(am yisrael)*, a shared culture and history. Until the modern era, virtually the entire Jewish people lived according to the precepts of Jewish religious law (*Halakha*), which encompasses not only a religious doctrine and form of worship, but a comprehensive body of binding laws extending to every area of private, religious and civic life. Religious life took place within traditional communities in the various countries to which the Jewish people were dispersed, and these communities had clerical institutions with effective power to interpret and enforce compliance with the

* The Circassian community, which is grouped together with the Druze community for administrative purposes, essentially consists of one town, Kfar Kama, which received NIS 500,000 in funding from the Ministry of Religious Affairs in 1996, and a significant portion of the population of another town, Rehania.

religious law. Within this self-contained legal and social system, certain secular laws promulgated by the gentile rulers in places where Jewish communities dwelled were recognized as binding in various degrees. While throughout its history Judaism has been witness to heterodox doctrinal factions, such as the pre-Paulian Christians, the Essenes, and the seventeenth century Sabbatean movement, and to differences of religious doctrine within the mainstream communities, it has been primarily over the last 250 years that Jews around the world have developed a spectrum of approaches to religious practice, ranging from total non-observance to complete observance of *Halakhic* law. In the West, the Reform, Conservative and Reconstructionist movements emerged as voluntary alternatives to orthodox religious practice. For most of the twentieth century, and especially following the annihilation of European Jewish communities during the Second World War, the vast majority of the world Jewish population has not been orthodox in religious practice.

548. In the land of Israel, even prior to the establishment of the State, the lack of a complete overlap between Judaism as a people and as a religion has taken on a more pronounced, political cast than elsewhere. Although Zionism as an ideology and political movement had deep roots in the Jewish tradition, in which the return to the Holy Land and re-establishment of the ancient religious order has held a central eschatological role, Zionism was in practice largely a non-religious movement, with a minority of religiously observant members; in the eyes of many of its adherents, moreover, it was viewed explicitly as an alternative path of collective self-realization to the rigorously observant life of Jewish communities in the Diaspora. This dominant strand of Zionism sought to create a homeland for the Jewish people as a whole, regardless of their level of religious observance. On the other hand, the orthodox Jewish communities viewed the establishment of a Jewish homeland through the prism of the religious tradition, in which it was clear that the comprehensive system of *Halakha*, emanating under orthodox doctrine from divine revelation at Mount Sinai, would be the law of the land. In scholarly debates through the centuries, the notion of a Jewish Government in the land of Israel based upon a secular outlook was never even considered. See, e.g., Maimonides, *Law of Stolen and Lost Things*, V, 11; Maimonides, *Commentary on the Mishna, Nedarim* 27 b. Thus, the emergence of a largely secular Zionist movement and the establishment of a Jewish State based on secular laws which are to a great extent inconsistent with *Halakha* set two legal orders against one another, each demanding primacy. Some segments of the orthodox community do not recognize the legitimacy of the State's secular institutions, preferring, for example, to bring their disputes before rabbinical tribunals rather than the civil courts. At the same time, religious political parties have been represented in every Knesset since the establishment of the State - they comprise roughly one fifth of the current Knesset - and take a substantial role in the administration of Government at all levels. The religious parties work through the political and legislative processes to further the adoption of Jewish religious law as the law of the land, or at least the law that binds the Jewish population, in a variety of areas. Most of the observant community, however, as well as the State itself, have attempted to accommodate the two competing systems of law within a democratic framework.

549. The nature of the accommodation between Jewish religious law and the institutions of the secular State is based upon the following principles:

(a) As it does with regard to the other recognized religious communities, the State recognizes the jurisdiction of the Rabbinical Courts over all Jewish citizens and residents (not only those who were voluntary members of the community, as during the Mandatory period) in matters of personal status, including exclusive jurisdiction over matters of marriage and divorce. These courts decide according to the precepts of *Halakha*;

(b) In certain other matters of personal status the provisions of *Halakha* are binding and are applied even in the civil courts;

(c) The State confers powers upon the Chief Rabbinate, which is organized under law and supported by State funds;

(d) At the local level, the State confers powers on religious councils, which are similarly organized under law and funded in part by the State;

(e) The State attends to religious education, and there is a network of State religious schools in addition to the State non-religious schools and independent religious school systems, which also receive government funding in many cases;

(f) The Ministry of Religious Affairs may use part of its budget for the religious needs of the Jewish community, as it may do for other religious communities, and the Minister may enact regulations with a religious purpose if so authorized by the Knesset;

(g) The Knesset has enacted laws with a religious background regarding the Sabbath and Jewish holidays, dietary laws, and other matters;

(h) The Israel Defence Forces has a chaplaincy, and applies Jewish dietary laws to the entire army;

(i) The actions of all State institutions that act in the religious sphere - both government offices and organizations operating under colour of Knesset legislation - are subject to review by the High Court of Justice, including in matters related to the application of religious law;

(j) The provisions of certain secular laws, such as regarding equal rights for women, adoption of children and spousal property relations, are binding on the religious as well as the civil courts. According to Supreme Court precedents, a judgement of a religious court contrary to such secular provisions of law is in excess of its jurisdiction. (See H.C.J. 202/57, *Sidis* v. *President of Supreme Rabbinical Court*, 12 P.D. 1528.)

550. As discussed in more detail below, these arrangements are not always easily reconciled with the broad principle of religious freedom. While it should be emphasized that the State protects the freedom of Jews and non-Jews alike to engage in their chosen form of religious practice or worship, and that in most cases the application of religious precepts by institutions of

the State, such as in the prohibition of work on religious days of rest, does not compel Jews or non-Jews to violate the precepts of their chosen faith, it remains the case that some religious norms - primarily in matters of personal status, such as marriage, divorce, conversion and burial - are applied in a manner that infringes upon the right of persons not to be bound by religious laws which they do not espouse. In addition, the non-orthodox Jewish communities have had to struggle to attain a level of recognition equal to that of the orthodox communities in matters of worship and religious authority.

Legal sources guaranteeing religious freedom

551. Article 83 of the Palestine Order in Council, 1922, enacted during the Mandatory period, provides:

> "All persons in Palestine shall enjoy full liberty of conscience, and free exercise of their forms of worship subject only to the maintenance of public order and morals. Each religious community recognized by the Government shall enjoy autonomy for the internal affairs of the community subject to the provisions of any Ordinance or Order issued by the High Commissioner."

The individual right to freedom of religion is not specifically mentioned, but is included in the broad term "freedom of conscience", which encompasses all forms of belief and points of view. C.A. 450/70, *Rogozinski* v. *State of Israel*, 26(1) P.D. 129, 134. During the Mandatory period, article 17 of the Order-in-Council provided that any legislation limiting absolute freedom of religion and worship in all forms, except as necessary to ensure public order and morals, should be null and void; it also prohibited legislation discriminating in any manner between persons on grounds of nationality, religion or language. Since the establishment of the State, however, the Order-in-Council no longer occupies the supreme position which it held under the Mandate: although it still is binding on the executive branch, the Knesset, by virtue of its sovereignty as a legislative body, is not prevented from passing laws in contravention of it. Israel's Declaration of Independence specifically guarantees freedom of religion and conscience to all citizens of the State, without regard to religion, race or sex. However, as noted elsewhere in this report, the Declaration does not have the force of a Constitution or an ordinary statute; the principles which it enunciates are basically of declarative effect, although they have served as an important interpretive tool in the formation of Israel's development of human rights. Indeed, it may be noted that one of the most recalcitrant problems that has prevented the consolidation and enactment of a constitution since Israel's founding has been the difficulty of resolving at the political level the fundamental tension between orthodox and secular conceptions of a Jewish State, as discussed above. Although the Supreme Court, in the absence of a proper constitution, has established several fundamental human rights in Israeli law by giving constitutive weight to the fact, as stated in the Declaration of Independence, that Israel was founded as a democracy, it has ruled that it will interpret statutes in a manner which accords with the Declaration and upholds freedom of conscience and religion in its entirety only to the extent that there is doubt as to the legislative will of the Knesset in this regard (ibid., p. 136).

552. The enactment in 1992 of Basic Law: Human Dignity and Liberty may well help provide a firmer constitutional foothold for the protection of religious freedom. Although the Basic Law does not explicitly mention religious freedom as one of the fundamental rights protected therein, it does provide that fundamental human rights shall be interpreted "in the spirit of the principles in the Declaration of Independence" (sect. 1), which, as mentioned, specifically include the freedom of religion and conscience. Moreover, the express intention of the Basic Law is to establish "the values of the State of Israel as a Jewish and democratic State" (sect. 1 A); setting aside for the moment the difficulties in reconciling these two defining characteristics of the State, the constitutive principle of democracy, which the Supreme Court has used to buttress the existence of the right to freedom of religion and conscience, has now been given clear grounding in a constitutional statute. While the Court has not yet ruled squarely on the issue, several decisions and other writings by some of the Justices indicate support for the view that the general right to human dignity protected by the Basic Law includes freedom of religion and conscience (as well as other freedoms contained in the Declaration, such as the right to equal treatment and freedom of speech), which thus has the status of a supreme, constitutional legal norm. See, e.g., H.C.J. 5016/96, *Horev* v. *Minister of Transportation* (97 *Takdin* 421 (1997)) ["Religious coercion constitutes a violation of human dignity" (Barak, P.)]; H.C.J. 5394/92, *Huppert* v. *"Yad Vashem"*, 48(3) P.D. 353.

553. **Specific laws protecting freedom of worship, holy places and religious sentiments**. Apart from the general guarantees of religious freedom described above, several specific statutory provisions help ensure the freedom of religious worship and the safekeeping of and access to holy places for members of all faiths in Israel. Several of these are contained in sections 170-173 of the Penal Law, 5737-1977, as follows:

> "170. A person who destroys, damages or desecrates a place of worship or any object which is held sacred by a group of persons with the intention of thereby reviling their religion or with the knowledge that they are likely to consider such destruction, damage or desecration as an insult to their religion is liable to imprisonment for three years.
>
> "171. A person who willfully and without proving lawful justification or excuse disturbs any meeting of persons lawfully assembled for religious worship or wilfully assaults a person officiating at any such meeting or any of the persons there assembled is liable to imprisonment for one year.
>
> "172. A person who, with the intention of wounding the feelings of a person or of reviling his religion or with the knowledge that the feelings of a person are likely to be wounded or his religion likely to be insulted thereby, trespasses on any place of worship or burial or any place set apart for funeral rites or as a depositary for the remains of the dead or offers any indignity to a human corpse or causes disturbance to any persons assembled for a funeral is liable to imprisonment for three years.

> "173. A person who does any of the following is liable to imprisonment for one year:
>
> > "(1) publishes any print, writing, picture or effigy calculated to outrage the religious feelings or belief of other persons;
> >
> > "(2) utters in a public place and in the hearing of another person any word or sound calculated to outrage his religious feelings or belief."

554. The Protection of Holy Places Law, 5727-1967, expands on the sanctions contained in the Penal Law by mandating that holy places of all religions be protected from any "desecration or other violations", and prohibiting any act that might impair the free access of members of all religions to their holy places or "anything likely to violate the feelings of the members of the different religions with regard to those places". Desecration or other violations of holy places are punishable by seven years' imprisonment; impairment of free access and violation of feelings as mentioned above are punishable by five years' imprisonment. It should be noted that the protection of religious feelings of religious groups under this law, unlike the parallel provisions in the Penal Law, does not require actual criminal intent or knowledge, but suffices with constructive knowledge by the offender that such an emotional violation is likely to be caused as a result of his conduct. In addition, several other statutes aim to protect holy sites against physical harm by requiring the consent and guidelines of the Minister of Religious Affairs as a precondition to the performance of certain actions in or near a holy place, such as excavations (Mines Ordinance, sect. 8 (1) (a)), drainage plans (Drainage and Protection Against Flooding Law, 5718-1958, sect. 22 (a)), water and sewage systems (Water Law, 5719-1959, sects. 70-71; Local Authorities (Sewage) Law, 5722-1962, sect. 14), declaring the site a national garden (National Parks and Nature Reserves Law, 5723-1963, sects. 4-5), vacating and demolishing houses (Building and Evacuation of Rehabilitation Areas Law, 5725-1965, sect. 51), and so on. Furthermore, most of the holy places are also antiquities sites, and thus are protected by similar provisions in the Antiquities Law, 5738-1978.

555. In practice, the access to holy places and freedom of worship for members of all faiths is very strictly guarded, with a few exceptions relating to the maintenance of public order or morals. Within the Christian community, there are no holy sites at which freedom of access and worship is restricted by the State. It may be noted that the physical control over some parts of the Church of the Holy Sepulchre, the nearby Deir Sultan chapel, the Tomb of St. Mary and the Church of the Ascension have been the subject of centuries-old internal disputes between different Christian denominations, and give rise to a certain limitation on freedom of access to members of rival denominations; the State, however, has adopted a consistent policy of non-intervention in these disputes.

556. **The Temple Mount**. Access to the Temple Mount, Judaism's holiest site and the third-most holy site to Muslims, has been treated with special caution and sensitivity due to the extreme volatility of the religious and political passions that surround the place, which have more than once erupted into violence. For this reason, among others, in the aftermath of the June 1967

war in which Israel took control of the Old City of Jerusalem, administration of the Temple Mount was left in the hands of the Muslim *wakf*. Moreover, the Government made the extraordinary decision to prohibit Jews from praying on the Temple Mount, as opposed to merely visiting the site. In the many petitions which have been filed over the years on behalf of Jewish groups seeking to pray on or near the Mount, the Supreme Court has held that while Jews have the fundamental right to pray on the Temple Mount, the realization of that right is conditional upon the approval of the government authorities, who must decide in each case whether an exception may be made to the general policy against allowing Jews to realize their right to pray, for reasons of public order and safety. In general, the Court decides in such cases whether the realization of the right of Jews to worship where they choose bears a "near certainty" of severe violation of public order or safety, and whether time, place and manner restrictions may enable a realization of the right without thus endangering public order. The Court has dismissed a series of petitions by Jewish groups seeking to pray on the Temple Mount; in one case the Court allowed a single Jew to pray on his own on the Temple Mount, provided that the prayer did not amount to "a demonstration", later limiting this right of individual prayer by holding that it could not be performed with prayer accessories such as a prayer book, prayer shawl or phylacteries. H.C.J. 99/76, *Harluf Cohen* v. *Minister of Police*, 30(2) P.D. 505; H.C.J. 67/93, *"Kach" Movement et al.* v. *Minister for Religious Affairs et al.*, 47(2) P.D. 1. In other cases the Court has allowed Jewish groups to pray outside one of the gates to the Temple Mount subject to restrictions of time, place, number of worshippers and so on. See, e.g., H.C.J. 292/83, *Temple Mount Faithful* v. *Commander of Police for the Jerusalem Region*, 38(2) P.D. 449. On the other hand, the Police reserves the right to exclude individual Muslims from entering the Temple Mount for prayers when it deems it necessary to do so to maintain public order and safety, typically during periods of particularly heightened tension or unrest, when thousands of worshippers come for Friday prayers. Under current practice, the Police maintain checkpoints outside the gates to the Temple Mount, and the *wakf* screens entrants inside the gates on "religious" grounds, such as appropriateness of dress or exclusion of non-Muslims during prayer times.

557. Adjoining the Temple Mount on the west side is the site known as the Western Wall, widely considered to be the most important existing place of prayer for Jews. During virtually the whole period since the destruction of the Second Temple in 70 A.D., Jews were not allowed to enter the Temple Mount by those who controlled it, and this remnant of the retaining wall of the ancient Jewish Temple became the most tangible link to the bedrock of the Jewish religion and history. Because of its centrality, the Wall has recently become the focus of conflicts regarding the right of all Jews to conduct prayer services according to their chosen manner of worship.

558. In 1989, a group of women who sought to pray at the Wall in a manner unacceptable to the majority of orthodox Jewry, carrying the scrolls of the Torah, wearing prayer shawls and reading from the Torah, were violently evicted from the Wall area by orthodox worshippers. Two groups of women, who came to be known as the "Women of the Wall", petitioned the High Court of Justice to allow them to worship as they wished. H.C.J. 257/89, 2410/90, *Hoffman* v. *Custodian of the Western Wall*, 48(2) P.D. 265. During the hearing of the petition, the Regulations for the Protection of Holy Places for Jews,

5741-1981, were amended to prohibit the "conduct of a religious ceremony [at the Western Wall] in a manner not in accordance with the practice of the place, which violates the feelings of the worshipping public towards the place". A divided Court rejected the womens' petitions, subject to the recommendation of the President of the Court that a public committee be set up to find an arrangement which would not prevent the women from praying as they wished, and at the same time would reduce the injury to the feelings of the orthodox majority of worshippers at the Wall. The Committee thus established during the course of the legal proceedings also considered a request by Reform and Conservative Jewish groups to hold prayer services according to their custom in the rear section of the Western Wall plaza, after attempts to do so were disrupted due to the fact that these groups conduct their services without any physical separation between men and women. In April 1996, the Committee recommended that an "alternative plaza" be established for the prayer services of the women and Reform groups, outside of the Old City walls; it also recommended that the Reform and Conservative groups not be allowed to pray in groups according to their custom in the Wall plaza itself, even during separate prayer times. As of the submission of this report, a permanent solution has yet to be reached on the matter, which pits the right to freedom of worship of different segments of the Jewish community against one another. The division of opinion among the members of the three-judge Supreme Court panel rather aptly reflects not only the tension between these statutory rights, but also the underlying tension between religious and secular conceptions of the Jewish homeland. One of the Justices, D.P. Elon argued that the womens' manner of prayer violates Jewish religious law, such that allowing it would be tantamount to a desecration of the holiness of the site. Because allowing the women to pray as they wished, in Justice Elon's view, would violate the freedom of worship of orthodox persons, it was necessary to find "the broadest common denominator among all worshippers"; and as the vast majority of worshippers at the Wall are Orthodox, Justice Elon argued that their interest should be preferred, both because of the fear of violation of public order that the womens' services would arouse, and because such services would effectively prevent the orthodox worshippers from holding their services at the site. J. Levin, in a minority opinion, rejected the "broadest common denominator" approach of Justice Elon as giving a monopoly to one religious outlook on the issue over all others; instead, he argued that the proper balance must be found to enable all Jewish groups to pray in groups at the Wall without overly violating the feelings of other worshippers. P. Shamgar joined Justice Elon's opinion, but maintained that the "broadest common denominator" requires finding arrangements that "ensure freedom of access and freedom of worship to everyone, without forcing a unique form of conduct on those who do not desire it and without harm to the feelings of the faithful".

559. The rule in the "Women of the Wall" judgement may not extend beyond the special case of the Western Wall. In an earlier decision, for example, the Court declared null and void the refusal of a local religious council to lease

a public hall to a non-Orthodox group for holiday prayer services due to its deviance from orthodox practice. H.C.J. 262/62, *Peretz* v. *Kfar Shmaryahu Religious Council*, 16 P.D. 2101.

Imposition of secular norms in contravention of religious law or custom

560. In certain instances, overriding public policy interests are deemed to justify the imposition of certain secular norms on the entire population, as is the case with the criminal prohibition of bigamy. In rejecting an appeal against the prohibition of bigamy as constituting religious compulsion against the Muslim community, for whom bigamy is not forbidden by religious law, J. Silberg, noted that "the meaning of 'freedom of religion' is not freedom to do what the religion allows, but rather freedom to do what the religion requires". H.C.J. 49/54, *Milchem* v. *Judge of the Shari'a Court*, 8 P.D. 910, 913. Over the years, however, the Court has fully recognized the right to freedom from religion in such a manner that this earlier holding may not still be controlling (see H.C.J. 5016/96, *Horev v. Minister of Transportation*, supra).

561. Until 1980, the Anatomy and Pathology Law, 5713-1953, permitted the performance of autopsies without the prior consent of the deceased or the consent of his or her family. Following vehement opposition to the law by the Orthodox Jewish community, the law was amended to prevent autopsies in the event that a family member or, in appropriate circumstances, a relative, opposes such a procedure, except when it is necessary to use part of the body of the deceased to save another human life. The problem becomes more thorny when the secular norms are imposed upon authorized religious institutions rather than private persons. To take one example, the Supreme Court held the Rabbinical Court, in adjudicating questions of division of marital property in the context of a divorce suit, must rule in accordance with civil law principles guaranteeing the woman's right to an equal share in the marital estate, based on the notion that marital property issues are not among those issues of "personal status" which are to be governed by religious law. H.C.J. 1000/92, *Bavli* v. *Great Rabbinical Court of Appeal*, 48(2) P.D. 221. Such a decision departs from the principles of Jewish law, under which the divorcing husband must pay his wife the amount stipulated in the formal religious marriage contract, unless released from that obligation according to other *Halakhic* principles.

562. **Employment and days of rest**. The State of Israel fully guarantees the right of employees to observe the holidays and days of weekly rest prescribed by their religion. The Law and Administration Ordinance, 1948, provides that "Sabbath [Saturday] and Jewish festivals ... shall be the established days of rest in the State of Israel. Non-Jews shall have the right to observe days of rest on their Sabbath and holidays." The Hours of Work and Rest Law, 5711-1951, gives every worker the right to a day of weekly rest which shall not be less than 36 consecutive hours. Non-Jews may choose the day on which they take their weekly rest, either on Friday, Saturday or Sunday (sect. 9); this rule allows employees to adapt their work schedules, if they wish, to that of an employer who observes a different day of rest. Moreover, employers are forbidden from refusing to hire an employee who, upon being hired, notifies the employer that he or she will not work on the weekly day of rest for reasons of religious observance; nor may employers require an employee to

obligate to work on the day of weekly rest as a condition of employment. These restrictions do not apply to enterprises responsible for public security, State security, public health or the provision of certain essential services, as well as hotels and the electric utility. The law further forbids employment of workers, or the performance of work by owners of workshops or industrial undertakings, on the day of rest unless a permit is received. The Minister for Labour and Social Affairs issues permits for Sabbath work if he is convinced that interruption of work will impair the defence of the State, the protection of property or bodily integrity, or if it will cause significant economic loss or substantially impair the provision of essential services. A ministerial committee is authorized to give general permits to classes of enterprises, which it has done, for example, for hotels and guest houses, medical institutions and lifeguards. Members of cooperative societies, such as kibbutzim, may perform work on the Sabbath which is connected with maintenance of necessary services.

563. **Public restrictions on the Sabbath and holidays** While the right of individual employees to observe their religious holidays and rest days is protected as described above, the mandatory closing of businesses and services on the Jewish Sabbath has been the source of contention between the religious and secular segments of the Jewish community. Until the late 1980s, local and municipal authorities tended to prohibit opening of businesses on the Jewish Sabbath and holidays by virtue of their general authority to oversee the opening and closing of various businesses. In 1987, for the first time, the Jerusalem Magistrate's Court held that a municipal regulation forbidding the opening of cinemas on the Sabbath was *ultra vires*, and that municipalities could properly enact such regulations only if explicitly empowered to do so by the Knesset. Cr.F. (Jerusalem) 3471/87, *State of Israel* v. *Kaplan et al.*, P.M. 5748, vol. 2, p. 265. Following this judgement, the Knesset amended the Municipalities Ordinance to give municipalities such explicit authority to take account of considerations related to religious tradition in ordering the opening or closing of businesses on the Sabbath. Municipalities Ordinance (Amendment)(No. 40) Law, 5750-1990. As a practical matter, cinemas in the larger cities, including Tel Aviv, Haifa and, to an extent, Jerusalem, are open on the Sabbath eve. In one city, Netanya, a municipal regulation was enacted to prohibit operation of cinemas on the Sabbath eve unless their operation is intended “for cultural or educational needs”. In a petition challenging the validity of these regulations, the Supreme Court ruled that cinema is undoubtedly a “cultural and educational activity”, and thus would not be prohibited. H.C.J. 5073, 5609, 5799/91, *Israel Theatres Ltd. et al.* v. *Netanya Municipality*, 47(3) P.D. 192.

564. Public bus transportation does not operate on the Sabbath, except for the cities of Eilat and Haifa, according to long-established custom which has not been altered by municipal by-laws. In those cities in which public bus transportation does not operate, there are private bus and taxi companies which, to a certain extent, serve the needs of the secular population. The Ben-Gurion International Airport has incoming and outgoing flights on the Sabbath, but El Al, Israel's national airline, has no flights on the Sabbath, by virtue of a government decision; nor does Israel Railways operate on the Sabbath.

565. Another hotly contested issue, primarily in Jerusalem, has been the closing of traffic arteries which pass through Orthodox Jewish neighbourhoods on the Sabbath and holidays. Many side streets in such neighbourhoods have long been closed on the Sabbath, so as not to violate the sanctity of the Sabbath for the Orthodox community, for whom all manner of labour (including motor transportation) is prohibited on the Sabbath. Over the past several years the principal conflict has been over the efforts to close a major traffic artery, Bar Ilan Street, during the Sabbath or at least during prayer times. Several petitions have been filed in this matter to the High Court of Justice (see, e.g., H.C.J. 5016/96, *Horev* v. *Minister of Transportation*, supra), and two separate public committees have been formed to recommend solutions to the problem. The Court has ruled that the Transportation Inspector, who is authorized to decide on closing major traffic arteries, may take the needs of the religious public into consideration, but must balance those needs against the freedom of movement of the non-Orthodox community. The street is currently closed during times of prayer, and open during the rest of the Sabbath.

566. While Israel recognizes the need to balance between the needs and interests of religious and non-religious communities in imposing general restrictions on the Sabbath such as those described above, the restrictions themselves do not impair the freedom of religion the secular community as such - certainly in the sense of the freedom to practise their religion in the manner they choose, but also in the sense of freedom from religious compulsion, provided that reasonable alternatives exist for the activities and services so restricted.

567. **Conversion**. In general every person in Israel has the right to change his or her religion, and the State intervenes neither in the individual's decision to adopt or change religion, nor in the decision of a particular religion to accept any person as a member. H.C.J. 1031/93, *Pesarro (Goldstein)* v. *Minister of Interior*. In certain circumstances, however, a formal official approval of conversion may be demanded, such as when the conversion would result in the conferral of particular rights as a result of one's religious status (primarily under the Law of Return). (ibid.) One must distinguish here between recognition of conversion by the secular organs of the State and approval of a change in religion for purposes of matters of personal status, which are determined by religious law. In Israel, the religion and nationality of every resident and citizen are registered in the Population Register, and these details appear on one's identity card. While the State may act to ensure, for example, that conversions to Judaism have not been made fictitiously for purely economic reasons, i.e. to receive the economic benefits given to an *oleh* under the Law of Return, the registration as Jews of persons who have converted to Judaism under the auspices of non-Orthodox religious bodies has been and remains a controversial issue, due to the opposition of the Orthodox religious parties to recognizing such conversions. In the late 1980s, the Supreme Court ruled that the conversion to Judaism of an *oleh*, so long as it were supported by a document evidencing conversion by *any* Jewish community *abroad*, Orthodox or not, would be sufficient for registration as a Jew. H.C.J. 264/87, *Sephardi Torah Guardians Movement* v. *Director of Population Administration et al* 43(2) 726. In the *Goldstein* case noted above, the Supreme Court ruled, in a majority decision, that the Ministry of Interior also had no authority to refuse to recognize

non-Orthodox conversions to Judaism performed *inside Israel* for purposes of recognition as an *oleh* under the Law of Return. However, the Court stopped short of ordering the Interior Ministry to register the petitioner as a Jew and to give her the status of an *oleh*. Under current law, then, the legitimacy of a non-Orthodox conversion to Judaism may not be denied by State authorities acting under colour of a civil, secular law. On the other hand, the Rabbinical Courts, which apply Jewish religious law in matters of personal status, do not recognize persons converted by a non-Orthodox body as Jews. Thus, a person who was converted to Judaism abroad by a non-Orthodox body, who immigrated to Israel under the Law of Return and who was registered as a Jew in the Population Register will be unable to marry in Israel if the Rabbinate does not recognize the conversion.

568. The application of religious law to matters of personal status also affects the right of secular Jewish families who adopted children abroad to convert them to Judaism according to their chosen manner of observance. Rabbinical courts tend to pose Orthodox conditions for the conversion of such children, such as the observance of dietary laws and Sabbath, and the obligation to give the child an Orthodox education. As of the submission of this report a petition is pending in the High Court of Justice which seeks recognition for non-Orthodox conversions of such adopted children. The right of adoption generally, it may be noted, is reserved in Israel to a wife and husband together, and if the adoption is to be done in Israel the child must be of the same religion as the parents. Such requirements pose special difficulty for couples who do not share the same religion, or for those whose marriage may not be recognized by the law of the religion in question, or in the case of a child whose religion is not clear.

569. As of the time of submission of this report, legislative efforts are being made by religious parties to require all conversions to Judaism performed in Israel, at least, to be approved by an Orthodox body. At the same time, a committee appointed by the Prime Minister is attempting to work out a compromise arrangement.

570. **Burial**. As a practical matter, until very recently, all cemeteries in Israel, except those of kibbutzim, have been managed by religious institutions of the various religious communities. If a person who dies is not a member of a religious community which administers graveyards, or has expressed the wish not to be buried according to religious tradition, a special solution must be found, often at the kibbutzim. Jewish burial grounds are managed by officially appointed Orthodox burial societies (*hevrot kadisha*), which will bury only those who are Jewish according to Orthodox religious law, and according to an Orthodox ceremony. In a 1992 judgement, the Supreme Court ordered the Minister for Religious Affairs to recognize a non-Orthodox Jewish burial society, and also ordered the Israel Land Administration to allot land for such a non-Orthodox graveyard. In April 1996, the first “alternative” graveyard for Jews was inaugurated in Beersheba. Additional licences for alternative burial services have been granted in Jerusalem and Haifa. During that year a new law was enacted guaranteeing the right of citizens to be buried according to their chosen manner of observance in alternative graveyards (Right to Alternative Civil Burial Law, 1996). The Law requires

that such alternative graveyards be established in various areas around the country, sufficiently distant from one another so that all those who wish to take advantage of the new arrangement may reasonably be able to do so.

571. **Public restrictions related to Jewish dietary laws** To a certain extent, Jewish dietary laws are applied by Knesset legislation or municipal by-laws to the general public or to the Jewish community. For example, public institutions which are not located in non-Jewish towns or localities, such as hospitals, the army, and government offices, serve kosher food (i.e. food which meets Jewish religious dietary laws) to enable religious Jews as well as non-religious Jews and members of other faiths to use these facilities. In addition, certain tenets of the Jewish dietary laws are enforced to varying degrees over the Jewish population. For example, the Swine-Raising Prohibition Law, 1962, forbids the raising, maintaining or slaughtering of pigs except in specified (generally Christian) towns, scientific research institutes and zoos. Local and municipal authorities may, by municipal legislation, restrict or forbid the sale of pork and pork food products within their jurisdiction. Local Authorities (Special Authorization) Law, 5716-1956. Although many cities have enacted municipal regulations forbidding the sale of pork under the above Law, these regulations are generally not enforced. In two currently pending court cases, sweeping prohibitions on the sale of pork have been challenged as unreasonably extreme in infringing upon the freedom from religion of the secular public and the “freedom of occupation” of storeowners who wish to sell pork.

572. Jewish dietary laws are also imposed on the importing of all meat from abroad. Because of a relative shortage of grazing land, most beef in Israel is imported from abroad, primarily from Argentina. Until 1992 the Government managed the import of meat, and allowed only kosher meat (that is, meat slaughtered and prepared according to the requirements of Jewish religious law) to be brought into the country. When the Government decided to privatize the importation of meat, it undertook to enact implementing legislation which would grant import licences only to those who obligated to import kosher meat exclusively. The Supreme Court overturned this decision as an excessive infringement on the freedom of non-Orthodox persons not to be subject to religious norms, and indicated that the decision also unduly restricted the freedom of occupation of companies who wished to import non-kosher meat. In the aftermath of this judgement the Knesset enacted a law which forbade importation of meat to Israel without a *kashrut* certificate from the Chief Rabbinate, and a parallel amendment to Basic Law: Freedom of Occupation, which specifically empowered the Knesset to enact laws in contravention of the Basic Law. As of the submission of this report, a petition is pending in the Supreme Court regarding the legality of the new laws.

573. Jewish dietary laws also forbid Jews from eating leavened bread or other foods which do not meet special strict dietary norms during the holiday of Passover. In 1986 a special law was enacted forbidding Jewish storeowners to display leavened bread publicly for purposes of sale or consumption. Passover (Prohibition of *Hametz*) Law, 5746-1986. In practice, however, this law does not prevent the sale of leavened bread or other “not-kosher for Passover” products in restaurants or in many stores, and the law does not apply in non-Jewish cities or neighbourhoods.

574. The Chief Rabbinate is responsible under law for giving certificates of compliance with Jewish dietary laws to restaurants and banquet halls. Such regulation is intended to ensure that any person who observes the religious dietary laws can rely on the proprietor's representation that the food is in fact kosher. However, under current practice the Rabbinate may condition the issuing of a *kashrut* certificate on matters of religious law unrelated to the dietary laws themselves; for example, it will refuse to grant a *kashrut* certificate to a restaurant which is open on the Sabbath, even if the dietary laws are strictly observed. In this manner, the control by the Rabbinate of *kashrut* supervision constitutes a preference of Orthodox Jewish practice over non-Orthodox Jewish practice, such as that of traditional but non-Orthodox Jews who may keep the dietary laws but be willing to eat at a place which is open on the Sabbath. The Supreme Court has demonstrated a willingness to intervene in certain cases of imposition of other religious norms by means of withholding the *kashrut* certificate. In H.C.J. 465/89, *Raskin* v. *Jerusalem Religious Council*, 44(2) P.D. 673, the Court, in accepting the petition of a belly-dancer against the policy of the Jerusalem Religious Council under which it refused to issue *kashrut* certificates to proprietors of banquet halls or restaurants that allowed “immodest” performances (including belly-dancing), held that the authority to issue *kashrut* certificates does not empower the Rabbinate to enforce a particular type of behaviour at the place in question, even if such behavior violates their religious precepts.

575. **The right to marry**. Israel entered a reservation upon ratifying the Covenant, explaining that matters of personal status are governed in Israel by the religious law of the parties concerned, and that to the extent that such law is inconsistent with its obligations under the Covenant, Israel reserves the right to apply that law.

576. Under the religious law applied in matters of marriage and divorce, many couples are prevented from being able to realize their right to marry in Israel, including couples who belong to different religions, or persons who may not marry the person of their choice due to prohibitions deriving from religious law. Many persons, particularly immigrants from the former Soviet Union and Ethiopia, who have been granted *oleh* status and registered as Jews in the Population Registry, are nevertheless not considered by the Rabbinate to be Jews according to *Halakha* and thus may not marry in Israel. These limitations on marriage have potential implications on the rights of any children born to parents whose marriage may not be recognized under religious law. In addition, Jewish religious law severely limits the ability of women in certain circumstances to get a divorce if the husband refuses, or to annul the marriage in the event that the husband's mental illness prevents him from being able to give a decree of divorce, or if the husband disappears but his death is not strictly confirmed.

577. **Participation of women and non-Orthodox representatives on religious councils**. Local and regional religious councils, which operate pursuant to the Jewish Religious Services Law, are responsible for the carrying out of certain religious functions in their community. Among other things, the religious councils are involved in the performance of wedding ceremonies, maintenance and operation of ritual baths (*mikvot*), support for synagogues and other religious institutions, and arranging cultural activities of a religious nature. These religious councils have been controlled exclusively by members

of the Orthodox community. In a landmark Supreme Court judgement in 1988, the Court ordered a religious council to take on a woman as a member, whose appointment they had opposed precisely on those grounds. H.C.J. 153/87, *Shakdiel* v. *Minister of Religious Affairs et al.*, 42(2) P.D. 221. Several petitions have also been filed against the refusal to appoint non-Orthodox representatives to several religious councils. Although the Supreme Court has more than once invalidated the appointment of religious councils in Jerusalem and elsewhere, in which a non-Orthodox candidate was rejected because his or her form of religious belief and practice approach was deemed unacceptable by members of the council, the various entities responsible for appointing the religious councils in Jerusalem and Tel-Aviv (that is, the municipal council, the local rabbinate and the Minister of Religious Affairs) have not yet implemented the Court's decisions. H.C.J. 699,955,1025/89,*Hoffman et al.* v. *Jerusalem Municipal Council et al.* 48(1) P.D. 678. On the other hand, these petitions have resulted in the appointment of Reform and Conservative Jewish candidates to the religious council in Haifa, Netanya and elsewhere.

578. **Funding and support of non-Orthodox institutions** Until very recently, local and national government funding for Jewish religious services was considered virtually the exclusive domain of Orthodox Jewish institutions. As a result of a petition filed by Reform institutions, the Ministry of Religious Affairs amended its funding allocation criteria to guarantee funding of Orthodox and non-Orthodox institutions on an equal basis. The allocation of public land for use by non-Orthodox religious institutions on an equal basis with Orthodox institutions has also been the source of controversy in several towns and cities.

579. **Education**. The State maintains two parallel educational systems - State (secular) and State Religious. In addition, officially recognized alternative schools have been established by the Reform and Conservative Jewish movements at the primary and middle-school level, and certain Orthodox communities maintain their own educational institutions, some of which are recognized by the State. Some non-Jewish communities also maintain religious schools. Parents are free to choose which school their children will attend.

580. **Conscientious objection**. As discussed under article 8, women have a statutory right to claim exemption from military service due to reasons of conscience. Men may be exempted from military service at the discretion of the military authorities.

Aricle 19 - Freedom of opinion and expression

581. **Introduction**. As with other fundamental rights, the right to freedom of opinion and expression is not explicitly protected in Israel by constitutional legislation. On the basis of the commitment to maintain a democratic polity in Israel's Declaration of Independence, the Supreme Court has developed and buttressed the freedom of speech and opinion in its various manifestations when interpreting statutory provisions granting official powers over specific forms of expression. The right to free speech has long been recognized as a supreme, constitutional norm, and any limitations on its exercise for reasons related to public order or the rights and reputation of others must meet strict standards of scrutiny regarding their justification and scope. While Basic Law: Human Dignity and Liberty, enacted in 1992, does not directly

articulate the right to freedom of expression and opinion, it has been suggested that these rights fall within the ambit of the general right to human dignity protected by the Basic Law, as the stated purpose of the Law is to protect and entrench the right to human dignity as required in a democracy and in the light of the principles contained in the Proclamation of Independence. See, e.g., L.C.A. 2687/92, *Geva v. Walt Disney Co.*, 48(10) P.D. 251; H.C.J. 2481/93, *Dayan v. Wilk et al.*, 94(1) *Takdin* 1170; C.A. 105/92 *Re'em Engineers and Contractors Ltd. v. Upper Nazareth Municipality,* 47(5) P.D. 189, 201. The explicit judicial inclusion of the right to free expression within the scope of the Basic Law would enable the Supreme Court to invalidate new Knesset laws or ministerial regulations which do not meet the strict doctrinal limitations on official interference in freedom of expression which have been developed by the Court.

582. At the same time, a new draft Basic Law: Freedom of Expression and Association prepared at the Ministry of Justice is being circulated prior to submission to the Ministerial Committee on Legislation. The draft Basic Law articulates a basic right to freedom of expression and opinion, including the right to publish information and opinions, as well as to the related freedoms of assembly, procession, demonstration, association, and creative expression.

583. Certain aspects of the right to freedom of expression and opinion are discussed under articles 17 (the right to privacy and reputation), 18 (freedom of religious expression), 20 (racist or inflammatory speech), 21 (the right to demonstrate and to hold assemblies), 22 (the freedom of association) and 25 (freedom of political expression in the electoral process, including campaign financing). The discussion under the present article will address those facets of the freedom of expression not discussed elsewhere in this report.

584. **Freedom of expression: the "near certainty" test** With several exceptions which are discussed below, freedom of expression may be restricted by official action only if, in the specific circumstances of the case, the speech in question gives rise at least to a "near certainty" that the public peace, broadly construed, will be endangered, and only if other means to lessen the severity or the likelihood of such a violation of public peace are of no avail. H.C.J. 73/53, *Kol Ha'am Ltd.* v. *Minister of Interior*, 7 P.D. 871, 888. Over the years, the "near certainty" test has been used to balance the fundamental right of free expression against other properly compelling governmental interests which fall under the general rubric of "public peace", such as the security and existence of the State, public order and safety, and the respect for public morals and sentiments. In certain contexts, the "near certainty" test has been tightened to require that the anticipated violation of the public peace be not only virtually certain to occur, but also "severe and serious" in itself, to justify a prior restraint on expression. See, e.g., H.C.J. 14/86, *La'or* v. *Council for Review of Films and Plays*, 41(1) P.D. 421, 432 (reversal of decision banning public performance of a play). The application of this doctrine to various forms of expression is discussed below. As discussed under article 20, in criminal prosecutions stemming from prohibited forms of speech, such as incitement to racism, a less demanding standard of proof is applied than the "near certainty" test for prior restraints.

585. The near certainty test is not applied to certain classes of instances where the freedom of expression clashes with other compelling interests which the court has deemed to have equal status, or where the legislature has indicated its preference for a different balance between the contending interests. In balancing between the integrity of the judicial process and the principle of free expression - primarily in the context of the prohibition on publishing accounts of matters which are *sub judice* under the Courts Law [Consolidated Version], 5744-1984 - a "reasonable possibility" that the publication in question will substantially affect the integrity of the proceedings is sufficient to justify a restraint on expression. Cr.A. 696/81, *Azulai* v. *State of Israel*, *37 (2) 565.* When the freedom of speech collides with the right to privacy or reputation, the Supreme Court has held that time, place and manner restrictions should be employed so as to allow substantial realization of both basic rights. C.A. 723/74, *Israel Electric Company Ltd.* v. *Ha'aretz Publishing Ltd.*, 31(2) 281; F.H. 9/77 *Israel Electric Company Ltd.* v. *Ha'aretz Publishing Ltd.*, 32(3) 337.

586. **Legislative prohibitions on specific types of speech** Certain types of speech are expressly forbidden by Knesset legislation. Among others, the Prevention of Terrorism Ordinance, 5708-1948, prohibits written or oral publication of any praise, support or encouragement of violent acts which are likely to cause the death or injury of a person, of threats of such violent acts, or of terrorist organizations (sect. 4). The name, picture, address or other identifying information regarding a minor who is either a defendant or witness in a criminal trial, or a complainant or victim in criminal trials involving certain sex-related offences, may not be published without explicit permission of the court (Courts Law [Consolidated Version], 5744-1984, sect. 70). Similar provisions require confidentiality with respect to the names or other information enabling identification of adopted children and their adoptive or biological parents (Child Adoption Law, 5741-1981, sect. 34). The Denial of the Holocaust Prohibition Law, 5746-1986, prescribes a maximum punishment of five years' imprisonment for publications which deny or minimize the extent of the crimes against the Jewish people and humanity committed during the Nazi regime in Germany, with the intent of defending perpetrators of such crimes or of praising or identifying with them; indictments under this law may be filed only with the consent of the Attorney-General. In addition, various provisions in the Penal Law, 5737-1977, prohibit seditious utterances, incitement to racism, insult of a public servant, and speech which is calculated to outrage the religious beliefs of those who hear it.

587. In addition, several specific matters, such as the deliberations and decisions of the Ministerial Committee on Security Affairs and other information bearing on State security have been declared secret by decision of the Government, to the extent that such publication of such information is not permitted by the responsible minister. See, e.g., *Yalkut Hapirsumim* 1611 (1970), part 2, p. 1590; *Yalkut Hapirsumim* 1287 (1966), part 2, p. 1874.

588. **Political expression**. Since the beginnings of free speech jurisprudence in Israel in the early 1950s, and increasingly during the 1970s and 1980s, the freedom of political opinion and of expression of a political nature has been rigorously defended by Israeli courts as essential to the existence of democracy. The Supreme Court has consistently upheld the principle that

freedom of expression entails the freedom not only to express popular opinions, but also those which the majority despises (E.A. 2,3/84, *Neiman* v. *Chair of the Central Elections Committee of the Eleventh Knesset*, 39(2) P.D. 225, 277), as well as the freedom to criticize government action (H.C.J. 351/72, *Kenan* v. *Council for Review of Films and Plays*, 26(2) P.D. 811). The Court has overturned a blanket ban by the Israel Broadcast Authority on television appearances by the late MK Meir Kahane based on the content of his political views (H.C.J. 399/85, *Kahane* v. *The Managing Committee of the Israel Broadcast Authority*, 41(3) 255). As discussed under article 20, the Court also annulled the disqualification of Rabbi Kahane's Kach party and of the Progressive List for Peace from running in Knesset elections based on the content of their political platforms, however objectionable they were to certain segments of the population (E.A. 2,3/84, Neiman, supra). In the aftermath of the latter decision, the Knesset amended Basic Law: Knesset and the Knesset by-laws to enable disqualification of a party's list of candidates if its platform clearly may be shown to be racist, to violate democracy or to negate the existence of the State as the State of the Jewish people. During the subsequent Knesset election campaign, the Court upheld the disqualification of the Kach party list on grounds of racism, and denied a challenge to the approval of the Progressive List for Peace. E.A. 1/88, *Neiman v. Chair of the Central Elections Committee of the Twelfth Knesset*, 42 (4) 177. In addition, the Penal Law was amended to prohibit publication of any utterance for the purpose of inciting to racism (sect. 144 B), whether or not the publication is true or actually resulted in racism.

589. In general, the prosecutorial policy of the Attorney-General's Office has been to protect the principle of free speech by refraining as much as possible from filing criminal charges for speech which may fall within the offences noted above. On the basis of this policy, the Attorney-General decided not to indict a former Chief Rabbi who declared that Jewish religious law requires soldiers to refuse to obey any order to evacuate Jewish settlements, and the Attorney-General's decision was upheld by the Supreme Court. H.C.J. 588/94, *Schlanger* v. *Attorney-General*, 48(3) P.D. 40. This prosecutorial policy underwent a certain change over the past several years, particularly following the assassination of Prime Minister Yitzhak Rabin in November 1995. Earlier that year, for the first time, a person was charged and convicted of publishing incitement to racism, based on an article discussing the religious law relating to the killing of non-Jews (Cr.F. (J-m) 251/94 *State of Israel* v. *Elba* (4 April 1995)); the trial court held that to convict the defendant it was not necessary to prove a "near certainty" that the article in question would lead to further racist acts. Similarly, three persons were convicted of publishing praise for acts of violence after having voiced support for the massacre of Muslim worshippers at the Tomb of the Patriarchs in Hebron in 1994 (Cr.A. 116/95, *Tadmor* v. *State of Israel* (7 September 1995)). Two youths who, several weeks prior to Prime Minister Rabin's assassination, published and distributed a flyer picturing Rabin in an S.S. uniform were convicted of defamation, insult of a public official, support of a terrorist organization and defacing of property, and received suspended sentences of imprisonment. In addition, several rabbis were investigated on suspicion of issuing religious rulings mandating the killing of Rabin, but were not indicted due to insufficient evidence. In these and other cases, the Attorney-General deemed that the speech in question gave rise to a near certainty of a violation of public order. A directive was

subsequently issued which made the opening of any investigation into cases involving suspected praise of the assassination conditional on the consent of the head of the Israel Police Investigations Department.

Freedom of the press

590. **Licensing of print media**. The legislative framework in which the print media operates in Israel dates from the Mandatory period, and may be said to stand somewhat at odds with the full-bodied protection of freedom of expression developed by the Supreme Court in post-independence Israel. The Press Ordinance, 1933, was enacted by the Mandatory authorities in the aftermath of the 1929 riots by the Arab population, and was motivated to a significant degree by the findings of a commission of inquiry which held that inflammatory articles in the press played a crucial role in inciting the passions of the population. See Report on the Commission On the Palestine Disturbances of August 1929 (the "Shaw Report"), Cmnd. 3530, p. 90, 167. Later on, as the tensions between the Mandatory authorities and the local population intensified, the British High Commissioner enacted additional administrative restrictions on licensing of print media in the Defence (Emergency) Regulations, 1945. Under the still-valid Mandatory legislation, both newspapers and printing presses which publish them must have a licence to operate; newspapers are defined very broadly as "... any publication ... published in Palestine for sale or free distribution at irregular or irregular intervals" (Press Ordinance, sect. 2). Licensing thus became an effective means of regulating almost all print media in the country, with the exception of books and one-time pamphlets. A licence is granted only if the proprietor and editor meet a series of qualifications, such as having reached 25 years of age, passed matriculation exams and showing ability to speak, read and write in the language in which the newspaper is printed; the Minister of Interior has discretion to waive these personal requirements.

591. The ministerial control over issuing and repealing of newspaper licences under the Mandatory legislation is very broad. The District Commissioner at the Ministry of the Interior may refuse to issue a licence, and need not give reasons for its decisions (Defence (Emergency) Regulations, 1945, Regulation 94). Persons who publish or edit a newspaper without a licence are subject to criminal sanctions. In addition, a licence may be suspended or annulled on a broad array of grounds, some of which are purely technical, such as if the licence is not used for three months after being issued, if notice is not given of the appointment of a new editor or of the intention of the owners of the paper to leave Israel, if the owners of a daily newspaper fail to publish at least 12 consecutive issues, excluding holidays, in each calendar month, or if non-daily publications do not fulfil comparable frequency requirements. Under section 19 of the Press Ordinance, the Minister of the Interior may suspend publication of a newspaper if, in his opinion, it has published information which is likely to endanger the public peace, seditious expression, or "false news ... or rumours calculated ... to create alarm and despondency"; while the Minister may warn the paper in advance of his intention to suspend publication, he is not required to do so. The courts are empowered to close down or suspend the activity of newspapers and printing presses, as well as to disqualify a person from owning or editing a paper, if they were convicted of seditious libel (Press Ordinance, sect. 23). Newspapers are also obligated under the Press Ordinance to publish any denial

issued by the Government pertaining to information previously published in the paper, as well as any official announcements free of charge. In addition to governmental control of local newspapers, the Press Ordinance empowers the Minister of Interior to regulate the entry of foreign printed material into the country which is deemed likely to endanger the public peace.

592. Since Israel's independence, the administrative and criminal sanctions of the Mandatory legislation regarding licensing of newspapers have largely fallen into disuse, and, with a few exceptions, their application has been significantly narrowed by the case law. The requirement to print official announcements and responses has never been enforced. Criminal sanctions for sedition or for publication without a licence have very rarely been employed. Due to the extremely broad definition of newspapers in the Press Ordinance, the licensing requirement is often not applied, particularly with regard to smaller publications. Beginning with the landmark *Kol Ha'am* judgement in 1953, in which the Supreme Court overturned the closure of the Hebrew and Arabic Communist dailies for severe criticism of then-Foreign Minister Abba Eban, the power of the Minister of Interior to suspend publication of a newspaper has been made subject to the "near certainty" test discussed above. Over the last 20 years, the Supreme Court has only once upheld, despite the doctrines protecting freedom of expression, the closure of a newspaper under section 19 of the Press Ordinance due to the near-certainty that continued publication would endanger the public peace. H.C.J. 644/81 *Omar International Inc., New York* v. *Minister of Interior*, 36(1) P.D. 227, 234. In 1994, the licence of Al-Biyan, an Arabic newspaper published in Jerusalem, was permanently revoked due to suspected connections with the Hamas terrorist organization. On the other hand, the parallel power of the District Commissioner under the Defence (Emergency) Regulations, 1945, to order the closure of a newspaper or to revoke its permit without giving reasons therefor has been used several times since Israel's independence. While the Supreme Court has repeatedly and severely criticized such sweeping power as "a drastic, even draconian provision, enacted by a colonial regime, [which] does not accord with fundamental principles of a democratic State regarding freedom of speech and expression" (see, e.g., H.C.J. 2/79, *Al'Asad* v. *Minister of Interior*, 36(1) P.D. 505, 513), the extent of judicial review of such decisions is limited in those instances in which the District Commissioner does not give reasons for the closure. As an admittedly partial remedy to this problem, the Court generally uses its powers to inspect, in camera, privileged security-related information on which the Commissioner has based his decision, to review whether it indeed justifies such a drastic restriction on the freedom of expression. See, e.g., H.C.J. 322/81, *Mah'ul* v. *District Commissioner, Jerusalem District*, 37(1) P.D. 789.

593. **Military censorship and the "Editors' Committee"**. In addition to the powers of the District Commissioner mentioned above, the Defence (Emergency) Regulations, 1945, also give the Chief Military Censor broad powers to oversee publications in the print and electronic media. Under those regulations, the Censor may require any person involved in publication of information or opinions to submit such material for his review and approval, and the Censor may forbid publication of any material which "is likely, or may be likely, to injure ... the defence of Israel, the public peace or public order" (Regulations 87 (1), 97 (1)). The Censor also has the power to confiscate or forbid the use of printing presses used to publish material which he has not

previously approved. Moreover, one may not publish any notice or other symbols indicating that the Censor has amended an article or broadcast prior to publication, without the Censor's consent.

594. The Supreme Court has strictly limited the powers of the Censor to impose administrative sanctions against the press. In the landmark*Schnitzer* case, the Court overturned the decision of the Censor to forbid publication by a local Hebrew-language paper of an article highly critical of the head of the Institute for Intelligence and Special Functions (the Mossad) shortly before the end of his tenure. Dismissing claims that the publication would harm the functioning of the Mossad at all levels, and that by focusing attention on the head of the Mossad it would substantially endanger his personal security, the Court held that only a near certainty of a substantial, grave injury to public peace or State security could justify prior censorship. H.C.J. 680/88, *Schnitzer* v. *Chief Military Censor*, 42(4) P.D. 617.

595. In practice, the Censor does not exercise his powers against those newspapers which are members of an informal "Editors' Committee" which maintains an agreement with the Minister of Defence regarding censorship matters. The Editors' Committee originated in 1950, and included the major Hebrew-language dailies as well as the English-language daily*Jerusalem Post*. Under this agreement, the Censor obligated not to impose administrative sanctions, such as closure, against the member newspapers, and to disqualify only distinctly security-related information from publication, as opposed to information bearing on the maintenance of public peace and order; the newspapers, on their part, agreed to self-censorship in military matters that might harm State security, and not to file petitions against the Censor's decisions in the High Court of Justice. The agreement was amended several times over the years, and gave rise to different treatment between those papers which were members of the Editors' Committee and those which were not.

596. In the aftermath of the *Schnitzer* judgement noted above, the agreement between the “Editors' Committee” and the Minister of Defence was amended to restrict the Censor's powers only to those instances in which there is a "near certainty that the publication will result in serious harm to the security of the State" (sect. 1 of the agreement); moreover, military censorship would not be applied to "political matters, opinions, interpretation, evaluations or any other matter unless they contain or allow one to derive security-related information" (sect. 2 of the agreement). Until recently, the agreement provided for internal review of the Censor's decisions, by a special committee composed of one representative of the military, the press and the public, respectively, in lieu of review by the High Court of Justice.

597. With regard to those newspapers which are not party to the “Editors' Committee” agreement, the Censor typically issues an order requiring the editors to submit news articles on matters specified in the order.

598. The “Editors' Committee” agreement was substantially amended in May 1996, following a report prepared under the auspices of the Knesset Foreign Affairs and Defence Committee. Among other things, the agreement preserves the right of all media to file petitions against the Censor in the High Court of Justice; it clarifies the limitation of military censorship to matters clearly related to State security; it allows all media to quote freely

from items previously published in Israel or abroad; and it established a Censorship Appeals Committee, headed by a retired Supreme Court Justice. Under the procedures in the agreement, the Censor cannot appeal decisions by the Committee, while the newspaper can appeal to the Supreme Court if it wishes. The new “Editors' Committee” agreement applies to all media in Israel, whether or not they are members of the “Editors' Committee”.

599. **Broadcast Media**. Until the late 1980s, there was only one television station, a public body under the auspices of the Israel Broadcast Authority, and several radio stations, including “Kol Israel”, also part of the Broadcast Authority, and “Galei Zahal”, run as a division within the Israel Defence Forces. Between 1986 and 1990, the Knesset enacted several laws which provided for cable television broadcasts, including original programming, pay-per-view television, and the creation of a second television channel in which programming is carried out by private franchisees. Cable broadcasts bring unedited programming by satellite from around the globe into the homes of Israelis, including from Jordan, Morocco, Turkey, the Russia Federation, several European countries, India and the United States. In 1995, the Government began to issue franchises for local radio stations around the country. These developments have changed the face of broadcast media in Israel, and by greatly expanding the range and variety of sources of broadcasted information, they have made an important practical contribution to the freedom of expression in Israel.

600. The Israel Broadcast Authority (IBA) is a public body which operates under the Broadcast Authority Law, 1965. It bears a statutory obligation to broadcast “reliable information” on current events and “to make room for appropriate expression of different views and opinions current among the public” (Broadcast Authority Law, sect. 4). Because of its statutory role as a forum for different views and ideas, the Broadcast Authority bears not only a duty to broadcast, but also to enable reasonable reception of its broadcasts, so that it may effectively promote the principle of free expression. H.C.J. 3472/92, *Brand* v. *Minister of Communications*, 47(3) 143. The Authority's policies are determined by a managing committee and a plenary appointed by the Government from various political parties according to their representation in the Knesset. As a public authority, its actions are reviewable for administrative legality by the High Court of Justice.

601. The willingness of the Supreme Court to intervene in the Authority's broadcast decisions depends in part on the type of expression involved. If the broadcast decision is based on artistic or professional considerations, then the Court will almost never intervene in the exercise of the editor's discretion. In contrast, if the IBA decides not to broadcast a commercial advertisement, his decision may be reviewed for discrimination or reasonableness. H.C.J. 606/93, *Kidum Enterprises and Publishers (1981) Ltd.* v. *Broadcast Authority*, 48(2) 1. Decisions by the Authority to prevent airing of a particular person or political group on content-based grounds have been overturned twice by the Court, first in the decision during the early 1980s not to air interviews with persons who were associated with the PLO, which Israel had not yet recognized at the time (H.C.J. 243/82, *Zichroni* v. *Managing Committee of the Broadcast Authority*, 37(1) P.D. 757), and later in the refusal of the Authority to broadcast interviews with MK Meir Kahane, so as to prevent exploitation of government-controlled media for purposes of racist

incitement, as discussed above under this article. In general, however, the Court will intervene in the Authority's broadcast decisions only in rare instances, when the harm to important public interests is quite severe. See, e.g., H.C.J. 606/93, *Kidum*, supra; H.C.J. 2437/92, *Lev* v. *Minister of Education and Culture*, 46(3) P.D. 756 (petition against changing the day of broadcast of a particular news programme denied); H.C.J. 1/81, *Shiran* v. *Broadcast Authority*, 35(3) P.D. 365 (a documentary on Zionist history which allegedly failed to present adequately the contribution of Oriental Jewry did not give rise to patent illegality or a near certainty that the public peace would be violated, which would justify a court order to prevent the broadcast).

602. Whereas the IBA is funded by a license fee on all television owners and a tax on car owners, the new second television channel and local radio stations established under the Second Television and Radio Broadcast Authority Law, 1990, are operated by private franchisees and funded through sale of commercial broadcast time. In recognition of the power given to the franchisees, and the risks of concentrating ownership of the media in the hands of a small number of dominant economic enterprises with vested economic or political interests, the law places a series of restrictions on the franchisees, regarding both the ownership of the company holding the franchise and the content of broadcasts. No company may hold a franchise to broadcast on the second television channel or local radio if it also holds a franchise for cable broadcasts; if a single person has more than 30 per cent of a particular form of control in the company; or if more than 24 per cent of the franchisee is owned by a newspaper publisher or a company that owns a controlling share of a newspaper (sect. 40 (B) of the Law). In addition, a local radio franchise may not be given to any person or entity which has an ownership interest, directly or indirectly, in a newspaper or a company that holds a television broadcasting franchise (sect. 40 (C) of the Law). Similar provisions apply to cable franchisees. Concession holders are expressly forbidden from broadcasting any “incitement to racism, discrimination or substantial harm to a person or a group of people on the basis of their religious, national, sexual or ethnic affiliation, their way of life or origin”; nor may they broadcast any party-political propaganda, except for approved election broadcasts during Knesset campaigns. The owners of the franchise are strictly forbidden from airing their own personal views, as well as those of the directors or other parties holding an interest in the franchisee. The managing council of the Second Broadcast Authority has promulgated detailed ethical rules which impose upon franchisees, inter alia, a duty to promote responsibly the principles of free expression and the right of the public to receive information, including the right to express deviant or unpopular views (Second Television and Radio Authority Rules (Ethics in Television and Radio Broadcasts), 1994, sect. 2); the duty not to refrain from airing “information for which there is a public interest” (sect. 3 of the Rules); the duty to maintain fair, objective, accurate and balanced broadcasts (sects. 5-7); and the duty to provide persons criticized with an opportunity for proper response (sects. 9 and 10).

603. All Israeli broadcast media are subject to military censorship in security-related matters in the same manner as the press, as well as to

regulation regarding the content of films, dramatic and artistic programmes, as discussed below under this article. Foreign broadcast media, however, are not subject to military censorship.

604. **The right to receive information**. In a long line of precedents, the Supreme Court has clearly articulated the right of the public to receive information as an essential facet of the freedom of expression, and hence crucial to the maintenance of a democracy. This "right to know" has been held to entail the publicizing of the decisions and actions of government authorities and the access of the media to information held by public bodies on matters of public interest, even absent a specific statutory duty of disclosure. H.C.J. 5771/93, *Citrin* v. *Minister of Justice* 48(1) P.D. 661. It also has been held to require the disclosure to individuals of information affecting them personally, such as employers' files, medical reports or information relating to legal proceedings to which the person is a party. See, e.g., H.C.J. *Shapira* v. *District Committee of the Chamber of Advocates, Jerusalem*, 25(1) P.D. 352 ("documents received by the authority in the course of exercising its authority under law must be open before the involved party"); H.C.J 337/66, *Fital* v. *Appraisal Committee, Holon Municipality*, 21(1) P.D. 69. Only if the disclosure of such information is expressly prohibited by law, or would violate compelling interests such as the right to privacy, State security, foreign relations, or certain private economic interests, or the information is privileged under law, may the right to receive information be qualified. Perhaps the most distinctive application of the public's right to know occurred in the *Shalit* case, in which the Supreme Court held that agreements between political parties, Knesset factions or individual Knesset members pertaining to the formation of government coalitions must be made public, unless there is a near certainty that certain fundamental public interests will be severely harmed. H.C.J. 1601/90, *Shalit* v. *Peres et al.*, 44(3) P.D. 353.

605. It may be said, however, that the disclosure of information by government authorities has not yet become as firmly rooted in practice as it is in the decisions of the Supreme Court. The absence of legislation imposing a duty of disclosure by public authorities, the lack of efficient, computerized archiving, and perhaps even a certain misplaced understanding of official secrecy deriving from the prevalence of legitimate security concerns in everyday life, have led to an unfortunately common set of habits and attitudes in some quarters of the public service, in which ordinary, proper requests for information relevant to the public or to the applicant are not always routinely granted, and sometimes are denied without sufficient justification. In recognition of the need to remedy this state of affairs, the Knesset is in the final stages of enacting a Freedom of Information Law, based on a previous draft bill prepared with the involvement of a coalition of NGOs. The draft law imposes a general duty of disclosure on ministerial offices, other State institutions, local and municipal authorities and corporations controlled by them; any refusal to disclose must have written justification.

606. **Censorship of films and plays**. Pursuant to Mandatory legislation, theatre productions and films have been subject to prior censorship by a civilian Censorship Council to protect against violations of public morals or sentiments or of public order. Over the years, the Supreme Court has

considerably restricted the scope of the Censorship Council's discretion to restrict freedom of expression, firmly upholding the right "to create any creation, whether of sublime artistic merit or wholly lacking artistic merit, and even if, in the [Censorship] Council's view, it is a 'perverse mix of erotica, politics and deviance of all types'" (H.C.J. 14/86, *La'or*, supra; see also H.C.J. 4804/94, *Station Film Ltd.* v. *Council for Review of Films*, 97(1) *Takdin* 712).

607. Under the Cinematic Films Ordinance, 1927, no film may be screened without prior approval by the Film Censorship Council. The Council has the authority to disqualify a film in its entirety, to censor specific segments, or to set a minimum viewing age. The Ordinance provides no substantive standards for the decisions of the Council, and initially the Supreme Court displayed a reluctance to intervene in the discretion of the Council without a specific statutory foothold (see, e.g., H.C.J. 383/73, *Avidan* v. *Geri*, 28(2) 766), provided that the considerations weighed by the council were broadly related to questions of morals and good taste (H.C.J. 146/59, *Cohen* v. *Minister of Interior*, 14 P.D. 283). In the early 1960s, the Court for the first time applied the "near certainty" test to a cinematic production, overturning the decision of the Council to disqualify a newsreel which showed a violent altercation between citizens and the police. H.C.J. 243/62 *Israel Film Studios v. Geri*, 16 P.D. 2407. In the mid-1970s the Court applied this doctrine for the first time to a non-news film, in overturning the Council's decision to forbid the screening of "The Night Watchman", a film which involved a daring erotic plot against the background of the Holocaust. H.C.J. 549/75, *Noah Films Ltd.* v. *Council for Review of Films*, 30(1) P.D. 757. A decade later, the Court significantly expanded the protection given to artistic expression in films by holding that the Council could disqualify a film for injury to public sentiments only if there is a "near certainty of a severe, extreme, deep and crass injury to such sentiments, which may not be avoided". H.C.J. 806/88, *Universal Studios Inc.* v. *Council for Review of Films and Plays*, 43(2) P.D. 22 (decision to disqualify "The Last Temptation of Christ" by Martin Scorcese as injurious to sentiments of the Christian community overturned). The Court rejected the role of the Council as the arbiter of truth or of moral and educational standards, and will allow disqualification of a film only as a last resort, if less severe methods, such as setting a minimum viewing age, cannot prevent such a severe and near-certain violation of public order. H.C.J. 14/86, *La'or* v. *Council of Review of Films and Plays*, supra. Even the fact that a film contains material which constitutes a criminal offence, such as a violation of religious sentiments or obscenity (sects. 173, 214 of the Penal Law, 1977) is not sufficient to justify a prior restraint on screening. H.C.J. 806/88, *Universal Studios*, supra.

608. All television stations in Israel are bound, by law or practice, not to screen films which have been disqualified by the Censorship Council. This obligation does not apply to foreign televisions or satellite broadcasters.

609. The statutory arrangements regarding censorship of plays were similar to those regarding films, and were administered by the same Council. Following mounting criticism of the Council's decisions in this area, and the severe narrowing of its discretion by the Supreme Court, the Knesset decided in 1991 to repeal the Council's authority with respect to plays, initially for a

two-year trial period, and then permanently, in favour of new criminal sanctions for obscene displays and publications (Penal Law, 1977, sect. 214). The term “obscenity” is not defined in new provision, and has yet to be interpreted by the Supreme Court.

610. **Confidentiality of journalists' sources**. Unlike certain types of communications, such as between attorney and client, doctor and patient, psychologist and client, and sensitive security-related information, the right of a journalist not to reveal documents or sources of information is not protected by statute. Nevertheless, the Supreme Court has recognized such a “journalist's privilege”, to the extent that disclosure is not essential, or at least of substantial importance, to the prosecution of justice in connection with serious criminal offences, to avoid serious wrongdoing to persons or grave violations of public order; even then, a court will not order disclosure of the journalist's sources or information unless it is shown to be crucial in the concrete circumstances of the case, and other available evidence cannot fulfill the purpose for which the privileged information is sought. Cr.M. 298, 368/86, *Citrin* v. *Disciplinary Tribunal of the Chamber of Advocates, Tel-Aviv District*, 41(2) P.D. 337; H.C.J. 172/88, *Time, Inc.* v. *Minister of Defence*, 42(3) P.D. 139.

611. A Government bill to entrench the journalist's privilege is in the advanced stages of preparation, and will be submitted in the near future to the Ministerial Committee on Legislation.

612. **Sub judice rules**. As mentioned above, the Courts Law, 1984, prohibits publication of accounts of pending legal proceedings if there is a “reasonable possibility” that they will affect the course or outcome of the trial. One of the rare instances in which this *sub judice* rule was enforced involved articles published in a major daily newspaper during the trial of John Demjanjuk for crimes against humanity, in which the author purported to show that Demjanjuk was in fact “Ivan the Terrible” from Treblinka, a central question of fact in the trial and appeal. The paper, as well as its editor and the author of the article in question, were convicted of a violation of the *sub judice* rule after Demjanjuk's counsel successfully petitioned the High Court of Justice to force the Attorney-General to initiate criminal proceedings. H.C.J. 223/88, *Sheftel* v. *Attorney-General*, 42(4) P.D. 356.

613. In addition to the *sub judice* rule itself, the Penal Law also prohibits publications which express contempt or scorn for a judge and his manner of deciding cases, unless the criticism is “honest and courteous”, and the matter is of public interest.

614. In practice, Israelis are inundated with local and foreign media. There are nearly 60 newspapers regularly published in Israel, of which 14 are dailies; 8 of the daily newspapers are in Hebrew, 1 in Arabic, and the others in English, Russian, and other languages. Literally hundreds of foreign newspapers and periodicals are sold on newsstands, and all people may subscribe to them freely. Radio broadcasts from around the region and beyond are easily received, and cable and satellite television broadcasts bring in an extremely broad range of foreign news and programming. Israel is host to a disproportionately large number of foreign journalists, who generally have the same freedoms, and are subject to the same censorship limitations, as Israeli

journalists. They meet freely with government and military officials, and are provided daily with translations of articles from the Hebrew press by the Government Press Office. In certain instances, the freedom of foreign journalists is greater than that of their Israeli counterparts, such as in gaining access to areas where there is a risk of violence.

615. **Prevention of discrimination based on political or other opinion** In addition to the measures described above under this article, several laws contain provisions which aim to prevent interference with the free expression of political or other opinions. Under the Equal Employment Opportunities Law, 5748-1988, both governmental employers and private employers with six or more employees are forbidden from taking a person's political or other opinions into account in making decisions regarding hiring, promotion, termination of employment, training, or wages and conditions of employment. The Council for Higher Education is forbidden from imposing any restrictions on freedom of opinion or conscience in rescinding accreditation for an educational institution (Council of Higher Education Law, 5718-1958, sect. 18). In national elections, all parties, candidate lists and prime ministerial candidates are given a fixed amount of free radio and television broadcast time (Elections (Modes of Propaganda) Law, 5719-1959, sects. 15-15 A).

Article 20 - Prohibition of propaganda relating to war or racial, national or religious hatred

616. **War propaganda**. The dissemination of war propaganda is prohibited by section 166 of the Penal Law, 5737-1977, which provides as follows:

> "166. A person who, by making a speech in a public place or at a public gathering or by publishing any writing, endeavours to incite hostile acts against the government of a friendly State is liable to imprisonment for three years."

Under the standard of *mens rea* defined in the Penal Law (sect. 20), the above prohibition will apply not only to a person who clearly intends to incite to war, but also if that person is merely indifferent or careless regarding the possibility that such hostilities might occur.

Racism, national or religious hatred

617. Until the mid-1980s, there was no legislation specifically forbidding incitement to racism or national-ethnic hatred. Persons advocating racial, national or religious hatred could, and have been, prosecuted for sedition under section 133 of the Penal Law, which is defined to include "promoting feelings of ill-will and enmity between different sections of the population" (Penal Law, sect. 136). In such cases, the "near possibility" that a seditious statement would reach the ears of persons in Israel is sufficient for conviction (See Cr.App. 3795/95, *Attorney-General* v. *Balhasan* (person who advocated a campaign against "Satanic Islam" convicted of sedition)). For the most part, however, racist incitement was generally dealt with in judicial decisions in the context of the right to freedom of expression, with the courts displaying a wariness of placing prior restraints on racist expression, for fear of compromising the principle of free speech. As the court held in one case, "... the weakness of racism and incitement is the lie which they

harbour, which is laid bare to everyone precisely by that free competition of opinions and ideas that makes democracy unique". E.A. 2,3/84, *Neiman* v. *Chairman of the Central Elections Committee of the Eleventh Knesset*, 39(2) P.D. 225.

618. Two landmark decisions by the Supreme Court during the mid-1980s, which followed the approach to racist speech noted above, ended up prompting legislative reform. In the *Neiman* judgement (E.A. 2,3/84, supra), the Court overturned the decision of the Central Election Committee which disqualified the Kach party list, led by Rabbi Meir Kahane, from running for election to the 11th Knesset on free speech grounds, as well as on the ground that the right to be elected should not be limited without explicit statutory authorization. In another controversial judgement involving Rabbi Kahane's Kach party, the Supreme Court annulled the decision of the Israel Broadcast Authority, which refused to broadcast statements made by Rabbi Kahane or other members of the Kach party, except for those having "distinct news value", due to the inflammatory nature of the party's views and statements. H.C.J. 399/85, *Kahane* v. *Broadcast Authority*, 41(3) P.D. 255. In invalidating the decision of the Broadcast Authority, the Court relied not only on general principles of free speech, but also on the fact that the Kach faction was a legitimate political party, represented in the Knesset.

619. **Legislative reform**. In the aftermath of the Supreme Court's decisions *Neiman* and *Kahane* v. *Broadcast Authority* noted above, the Knesset enacted two legislative provisions specifically prohibiting racist incitement. The first was an amendment to the Penal Law, which made the publication of any utterance for the purpose of inciting to racism punishable by five years' imprisonment (sect. 144 B), whether or not the publication is true or actually resulted in racism. "Racism" is defined in section 144 A as "persecution, humiliation, display of hostility, or violence, or causing strife against a group or segments of the population, all due to colour or belonging to a race or national-ethnic background". Possession of material containing racial incitement, so defined, is punishable by a maximum prison sentence of one year. A later amendment to the Penal Law stiffened minimum and maximum sentences for roughly half of the offences in the entire Penal Law if they are committed with a racist intent, as defined above (Penal Law, sect. 144 D1). The offences covered by this amendment include all offences against a person's body, life, liberty, property and welfare; threats and extortion, hooliganism, nuisances, and abuse of office by public servants. Three of these offences are relevant to the obligations under this article. Under section 173 of the Penal Law, a person who "publishes any print, writing, picture or effigy calculated to outrage the religious feelings or belief of other persons", or who "utters in a public place and in the hearing of another person any word or sound calculated to outrage his religious feelings or belief" is liable to imprisonment for one year. Section 194 (b) of the Law forbids insulting a person in a public place "in a manner likely to provoke a person present to commit a breach of the peace"; and section 198 prohibits all acts "likely to cause public mischief". If any of these latter offences are committed with racist intent, then the maximum sentence is doubled.

620. The Knesset also amended Basic Law: the Knesset, to forbid any political party from running for election to the Knesset if, inter alia, its objects or actions, explicitly or by implication, show incitement to racism or denial of the democratic character of the State (Basic Law: Knesset, sect. 7 A). On the basis of this amendment, the Kach party was disqualified from running in the subsequent national elections, as its objects and actions were deemed by the Supreme Court to be "frighteningly similar to the most horrible examples which the Jewish people has experienced". E.A. 1/88, *Neiman* v. *Central Elections Committee of the Twelfth Knesset*, 42(4) P.D. 177, 197.

621. To justify the curtailment of the right to be elected, it must be shown that the racist incitement is one of the party's central and controlling aims, an eminent reflection of its identity, and not merely a marginal concern; the party's candidacy in the elections must be a means to realize such racist objectives; and the evidence of such racist objectives or actions must be clear, convincing and unequivocal. E.A. 1/88, supra at 196 (per P. Shamgar). The amendment of Basic Law: Knesset, as interpreted by the Supreme Court, has thus lowered the standard for placing prior restraints on racist speech in the context of Knesset elections, as it no longer requires a "near certainty" that the racist election propaganda will actually endanger the public peace. Similarly, the Parties Law, 5752-1992, prevents registration of a political party on the same grounds provided for disqualification of a party's candidate list in Knesset elections.

622. At the same time, the Knesset amended its own by-laws, to forbid the submission of any legislative bills which, inter alia, are racist in content (Knesset By-laws, by-law 134 (c)).

623. The Kach movement was disqualified from running in three successive Knesset elections. In 1994, following the massacre of Muslim worshippers at the Tomb of the Patriarchs by a Jewish fanatic, the Government outlawed the Kach movement and its offshoot, Kahane Chai, even though they were not involved in the massacre itself.

624. Under the Second Television and Radio Authority Law, 1990 (sect. 46 (a) (2), the holders of concessions for cable television services may not broadcast any material containing racial incitement, and they bear a duty to ensure that none of their broadcasts will be liable to incite discrimination on grounds of religion, race, nationality, ethnicity, lifestyle or origin.

625. The defamation of any group as such, including national, racial or religious groups, is prohibited by law (Prohibition of Defamation Law, 1965, sect. 4). To the extent that such defamation, in each case, constitutes incitement to discrimination or hostility, then it arguably falls under the provisions of this article.

626. The Prevention of Terrorism Ordinance, 1948, section 4 (a), makes it an offence to publish, in writing or orally, any praise, support or encouragement to acts of violence that are likely to result in death or injury.

627. In practice, the laws described above, including those prohibiting incitement to racism and group defamation, are used sparingly, and only in the most extreme cases, so as not to infringe upon the freedom of expression.

628. In practice, the advocacy of racial, religious or national hatred contemplated under this article may often be controlled or prevented by the need to receive a permit to hold a public demonstration. The Israel Police has the authority to deny, restrict or place conditions on such a demonstration permit due to the likelihood of incitement or violence having a racial or religious cast. In such cases, the formal reason for denial of a demonstration permit will be a concern for violation of public order and security. Challenges to such denial of permits are discussed in the context of the right to freedom of assembly, under article 22.

Article 21 - Freedom of assembly

629. Although the right to peaceful assembly is not mentioned in any Basic Law, it has been recognized as among the fundamental freedoms deriving from the democratic character of the Israeli polity. H.C.J. 153/83, *Levi* v. *Israel Police Southern District Commander*, 38(2) P.D. 383, 398-399. As developed by the Supreme Court, the right includes the freedom of assembly, of procession and of demonstration, all of which involve the physical congregation of a group of people who wish to express, by speech or conduct, their views on a given issue in public. The Court has clarified in many decisions that the right to assembly, while not absolute, is to be enjoyed by all persons, regardless of the views they wish to espouse:

> "There are those who argue that the intellectual basis for this liberty is the desire to guarantee the freedom of speech, which in turn contributes to the discovery of the truth. Others maintain that at the root of this right lie the existence and functioning of the democratic polity, which is based on freedom of information and freedom of protest. Still others claim that the freedom of demonstration and procession are essential components of the general freedom of a person to self-expression and autonomy of thought ... It would appear that the freedom of demonstration and assembly stands on a broad ideological basis, at the centre of which is the recognition of the value of the human being, of his dignity, of the freedom given him to develop his personality, and the will to maintain a democratic form of government. By this freedom, a means of expression is given to those who cannot avail themselves of the official or commercial means of expression. It is thus accepted in our system of law, as in those of other enlightened democracies, that the right to demonstration and assembly holds a place of honour in the hall of fundamental human rights ... Freedom of expression and freedom of demonstration do not mean only the freedom to express things that are pleasant to the ear. [It is] not only the freedom of children with bouquets of flowers in their hands to march in the city streets, but also the right to march of persons whose views are not accepted, when the very fact of their marching is irritating and maddening ... Both are entitled to march, and their right is not related to the degree of approbation or anger that they arouse ..." *Levi* v. *Israel Police*, supra, 38(2) P.D. 393 at 398, 411.

630. In decisions handed down after enactment of Basic Law: Human Dignity and Liberty, the Supreme Court has indicated that the freedom of speech may be deemed to be included in the general guarantee of human dignity in section 2 of the Basic Law. It may thus be said that the right to peaceful assembly now has a definite, if implicit, textual footing in Israel's constitutional law. See, e.g., *Dayan* v. *Israel Police Jerusalem District Commander et al*., 48(2) P.D. 456, 458.

631. The restrictions on the right to peaceful assembly may be found in the Police Ordinance [New Version], 5731-1971, and in the Penal Law, 5737-1977. Under section 83 of the police Ordinance and relevant Police standing orders, a demonstration will require a permit if at least 50 persons will participate, and if it involves either (a) an assembly out of doors in order to hear a speech or an address on a topic of political interest, or to discuss such a topic, or (b) an assembly out of doors in order to proceed together from one place to another. Thus, no license is needed if the meeting or procession involves fewer than 50 persons; if it takes place indoors, or if it is not devoted to listening to a speech or an address on a topic of political interest or to discussion of such a topic, no matter how many persons participate; or if the participants at an outdoor protest or vigil stand and hold signs, without hearing a speech or lecture on a political topic or discussing such a topic. To hold a meeting or a march without a permit where the law requires one, or to disobey the conditions stated in the license, is a criminal offence. (Police Ordinance, sect. 89).

632. The Penal Law defines an “unlawful assembly” as any gathering of three or more people - even if they have received a license to demonstrate - who conduct themselves in such a way as to give “persons in the neighbourhood” reasonable grounds to fear that the persons assembled will cause a breach of the peace, or that their assembly will “needlessly and without reasonable cause” provoke other persons to commit a breach of the peace (Penal Law, sect. 151). Participation in an unlawful assembly is punishable by up to one year's imprisonment, and the Police may order the dispersal of any such assembly.

633. Requests to hold an assembly or procession in the Knesset building or precincts are considered not by the police, but by the Speaker of the Knesset under the Knesset Building and Precincts Law, 5728-1968.

634. Once a request for a license to hold an assembly or procession is submitted, the district police commander may either agree or refuse to grant the license as requested, or he may grant the license subject to time, place and manner restrictions that he deems necessary and appropriate. The request must be filed at least five days prior to the day of the planned demonstration. The district commander is bound to take the following considerations into account when deciding on a permit application (Police Standing Order 12.01.06 - Licensing of Assemblies and Processions):

(a) In general, the commander may refuse the license only if there is substantial evidence showing a “proximate certainty” that holding the assembly or procession as requested will result in a breach of public security or public order, or a violation of other equally fundamental interests, and then only if the police cannot, with a reasonable effort, allot the forces

necessary to control public order and thus enable realization of the right to demonstrate. The “proximate certainty” standard for restricting the right to demonstrate due to danger to public order or security is the same as that adopted in Israeli law with respect to restraints on freedom of speech generally. In assessing the likelihood of a breach of public order or security, the Police may consider past experience with the group applying for the license;

(b) The views of the demonstrators or the subject of the lecture or speech are explicitly excluded from consideration;

(c) The police may refuse or restrict a license if there is reasonable basis to suspect that the demonstration will involve criminal offences such as rioting, incitement to rebellion or racism, incitement of people in the army to disobey a legal order, or incitement to any other offence;

(d) The fact that holding a demonstration would oblige the police to deploy personnel in order to preserve security and order, is not in itself sufficient cause to refuse a license. The police have a duty to allot personnel resources to enable the exercise of the right to peaceful assembly. Only in special circumstances, when needs of a higher priority do not enable the police to allocate the necessary personnel at the requested place and time, may the Police demand a change in the time, manner or place of the assembly. For example, in H.C.J. 1928/96, *Council of Settlements of Judea, Samaria and Gaza* v. *Amit* (not yet reported), the Supreme Court upheld the refusal of the Jerusalem District Police Commander to grant a license to a group that opposed the Oslo peace agreements from holding a procession that would pass down a major traffic artery and end next to the hotel where the President of the United States was staying at the time. Due to the unusually severe demands on Police personnel occasioned by the President's visit, as well as the increased security made necessary in the aftermath of several terrorist bombings, the Court ruled that the Police Commander was justified in demanding, as a condition for granting the license, that the demonstration take place away from the hotel where President Clinton was staying, or that the number of participants be limited;

(e) When necessary, the police must strike a balance between the right to demonstrate and the public's interest in unimpeded traffic. In general, the police will not have properly balanced these contending interests if it allows a demonstration at a time or on a route which frustrate the demonstrators' aim of attracting the attention of the public, such as allowing the demonstration when the streets are empty, or at a location where there are no passers-by;

(f) A license for a demonstration on private property will not normally be given without the owner's or custodian's consent. Private property rights will be respected even when the planned demonstration relates to a public figure, as, for example, when the Supreme Court upheld the refusal to grant a license to hold a demonstration opposite the Foreign Minister's private residence. H.C.J. 456/73, *Kahane* v. *Israel Police Southern District Commander* (unreported);

(g) The police should also consider whether the planned time and place of the demonstration would likely injure the "religious or traditional sensibilities" of the residents living nearby;

(h) The District Commander may not refuse to grant a permit unless the conditions, reservations and alternative solutions have been thoroughly examined with the aim of finding a way to allow the demonstration, and finding a proper balance between contending rights or values reflected in the time, place and manner of the demonstration (sect. 7 (a) (3), Police Standing Order 12.01.06).

635. The Supreme Court has upheld denial of a demonstration, on the grounds of a near certainty of substantial violation of public security or order, in the case of a protest against religious coercion to be held on the eve of the Jewish Sabbath at the entrance to an ultra-Orthodox neighbourhood in Jerusalem and opposite Orthodox academies, H.C.J. 606/87, *Marciano* v. *Israel Police Southern District Commander*, 41(4) P.D. 449; in the case of a procession by a group called the Temple Mount Faithful through the Old City of Jerusalem, and requests by the same group to hold a prayer assembly at the entrance to the Temple Mount, H.C.J. 292/83, *Temple Mount Faithful* v. *Israel Police Jerusalem District Commander*, 38(2) P.D. 449, H.C.J. 411/89, *Temple Mount Faithful* v. *Israel Police Jerusalem District Commander*, 43(2) P.D. 17; in the case of a planned demonstration opposite the Egyptian Embassy in Tel-Aviv, H.C.J. 496/85, *Servetman* v. *Israel Police Tel-Aviv District Commander*, 40(4) P.D. 550; and others.

636. Once a license to demonstrate is issued, the police bear an affirmative duty to maintain security during the demonstration and to protect those who participate in it, within the framework of its overall resources and priorities (sect. 9, Police Standing Order no. 12.01.06). As the Supreme Court held in this regard:

> "The force at the disposal of the police is indeed limited, and must be apportioned according to the order of priorities set by those responsible therefor, according to their overall responsibility under the Police Ordinance ... However, the above-mentioned setting of priorities must not be arbitrary, discriminatory or irregular. When setting the above-mentioned order of priorities, the right to demonstrate must not be left out. Furthermore, it is not right that one march should receive the necessary police protection, while another does not receive it just because of the ideological difference in the content of the demonstration. The police are not in charge of ideology. They must apportion their forces according to needs and not according to opinions. The argument that holding a gathering on the requested route constitutes 'a significant burden to the police, which would have to allot a large force, which would require special preparations' is not a proper argument. It is the function of the police to allot the manpower required to maintain normal existence, which of necessity includes various processions and demonstrations. The task of the police is to allot manpower to maintain democratic order, which includes the right to demonstrate; and therefore it is their duty to make special preparations therefor, and the 'significant burden' is not a reason to refrain from doing so. The question which the police must ask themselves is whether

all of the demands facing them at any one time can be met." H.C.J. 148/79, *Sa'ar* v. *Minister of Interior and Police*, 34(2) P.D. 169, 178-179.

637. In 1983, in the aftermath of an incident in which a demonstrator was killed by a hand grenade thrown by an onlooker, the Attorney-General and the Police Inspector General issued a joint policy statement, as follows: "Due to the danger to the foundations of the democratic regime from attacks on assemblies and demonstrations, priority will be given to combating hooliganism in this sphere, and the prosecution will act to expedite judicial procedures and demand that severe penalties be imposed on anyone found guilty of criminal behaviour against demonstrators." Prosecutorial policy in this matter has not changed. At roughly the same time, the Attorney-General also published detailed official guidelines for the police regarding the licencing of demonstrations and dispersal of gatherings ("The Freedom to Demonstrate", Guidelines of the Attorney-General 21.566, volume 3 (1 April 1983)).

638. Under the Attorney-General's guidelines mentioned above and police standing orders, State-owned property which is normally closed to the general public, such as buildings containing government offices or halls open only to persons on official business there, are deemed to be "private" property for the purpose of allowing demonstrations, and hence may be used as the site for an assembly only with the agreement of the State or its authorized representatives. On the other hand, State-owned areas open to the general public, such as roads, public parks, squares or open areas next to government offices, are by their nature suitable for holding assemblies, and normally the State is assumed to have agreed in advance to hold demonstrations at such sites.

639. If an assembly is or becomes illegal - that is, if the conditions of the licence are violated, or if a demonstration is held without a licence where one is required, or if there is reasonable fear of a breach of the peace as mentioned above and reasonable measures cannot prevent such a fear - then police personnel are authorized to take various steps against those suspected of having committed the illegality, in an ascending order of severity. First, the police should try, if possible, to prevent the offence and allow the holding of the demonstration legally, for instance, by asking the demonstrators to refrain from blocking a road or to return to the permitted route of the procession. If the demonstrators commit an offence, such as blocking a road and disturbing the traffic, without a license or against the stipulations in the license, a police officer is authorized to ask them to disperse; if they resist, the police are permitted to use a reasonable amount of force in order to overcome those resisting them in the fulfilment of their duty. In addition, under sections 153 and 154 of the Penal Law, if three or more people riot, or there are grounds to fear that they are about to riot, a police officer may order them to disperse and if they resist, may do anything required to disperse them. Of course, should a police officer have reasonable cause to suspect that a person has committed a criminal offence, including the offence of illegal assembly, he or she is authorized to demand that the person accompany him to a police station, or to arrest the person.

640. As mentioned under article 6, the Israel Police began compiling separate statistics regarding the excessive use of force by police personnel at

demonstrations during the latter part of 1995. In 1996, 32 complaints for excessive use of force at demonstrations were filed; as of the submission of this report, statistics are not yet available regarding the outcome of disciplinary or criminal proceedings undertaken in those cases.

641. To assist in the apprehension and prosecution of persons who commit offences at demonstrations, as well as of police personnel who may use excessive force against demonstrators, and in general to help in supervising and improving the handling of demonstrations, the police enacted standing orders allowing for video recording of assemblies (Standing Order 14.02.10).

Article 22 - Freedom of association

642. **Introduction.** The freedom to associate with other persons or groups in order to pursue any lawful aim has long been recognized in Israel as a fundamental civil right and a cornerstone of any democratic regime. See, e.g., M.F.H. 16/61, *Companies Registrar* v. *Kardosh*, 16 P.D. 1209, 1220; H.C.J. 124/70, *Shemesh* v. *Companies Registrar*, 25(1) P.D. 505, 509. As with the other basic freedoms to which it is related - speech and expression, assembly, thought and conscience - the freedom of association is not absolute, and must be reconciled in appropriate circumstances with other legitimate fundamental interests of the society, such as the maintenance of social order, public security, or the very existence of the State. H.C.J. 507/85, *Tamimi* v. *Minister of Defence*, 41(4) P.D. 57, 59. As a general matter, the freedom of association may be thus restricted only by express legislative authorization. The one exception to this rule in Israel's history involved the disqualification of a party running for election to the Knesset on the grounds that its purpose was to work towards the elimination of the State. E.A. 1/65, *Yardor* v. *Chairman of the Central Elections Committee for the Sixth Knesset*, 19(3) P.D. 365. Since then Basic Law: Knesset was amended to provide explicitly for disqualification of a Knesset list on such grounds, as discussed in detail under article 25. Furthermore, although the Supreme Court has not yet ruled on the issue, the freedom of association may fall under the ambit of Basic Law: Human Dignity and Liberty, enacted in 1992; as a consequence, any restriction on this freedom must not only be by express authorization of the Knesset, but also for a legitimate purpose and to an extent no greater than necessary to achieve such purpose.

643. There are three types of statutory restrictions on the freedom to associate in Israeli law: the first type is found in statutes that regulate the formation and operation of corporations, cooperative associations and the like; the second class of restriction involves statutes which aim to prevent the formation or activity of subversive organizations, including terrorist groups; the third involves direct or indirect restrictions on the freedom to form professional associations in certain fields or the requirement that certain professionals belong to such an association. These different statutory limitations shall be discussed in turn below.

Corporations, cooperative societies and *Amutot*

644. The Companies Ordinance [New Version], 5743-1983, which is largely similar to the ordinance enacted during the British Mandate, gives the Minister of Justice “absolute discretion” to allow or disallow the

incorporation of a company (sect. 17 of the Ordinance). The Supreme Court, however, has held that the Minister's discretion in this regard, which is exercised in practice by the Companies Registrar, must be used to promote the purpose for which such discretion is granted by the Ordinance. For example, the Court has annulled a refusal by the Companies Registrar to register a company whose members had been convicted previously of publishing without a permit a newspaper which had been found to include incitement against the State; the Registrar based his refusal on the grounds that the members of the company were likely to use the company to spread views endangering State security. The Court held that such a prospective evaluation of the company's activities was not a proper exercise of the Registrar's discretion, and allowed the company to be registered. H.C.J. 241/60, *Kardosh* v. *Companies Registrar*, 15 P.D. 1151; M.F.H. 16/61, *Companies Registrar* v. *Kardosh*, 16 P.D. 1209. The Registrar may also refuse to register a company under a particular name which is "likely to violate public policy or public feelings" (sect. 36 (a) (3) of the Ordinance), or which was chosen by its founders for an improper or fraudulent purpose. These latter restrictions, however, do not affect the right to incorporate as such, but rather to the name chosen by the company.

645. Non-profit organizations in Israel were regulated until 1980 under the Ottoman Law of Association, No. 121 of 1327 (1909), as amended by Mandatory and Israeli legislation. "Ottoman associations" under that law needed no permit as a condition for their formation (sect. 2), but had merely to notify the Government of their formation, purposes and by-laws. The only substantive restrictions upon the formation of Ottoman associations were that they could not have any purposes contrary to law or public morality; they could not aim to violate public order, to change the political regime in the State; and they could not be based on national or racial distinctions. Minors and persons convicted of a felony were not allowed to become members of an Ottoman association. In 1980 the Ottoman Law of Associations was replaced by the *Amutot* Law, 5740-1980; non-profit organizations established thereunder are called *amutot* (sing. *amutah*). The *Amutot* Law empowers the *Amutot* Registrar to refuse to register an *amutah* if "one of its purposes is to negate the existence of the State of Israel or its democratic character, or if there are reasonable grounds to conclude that the *amutah* will serve as a cover for illegal activity" (sect. 3 of the *Amutot* Law). To justify a claim that an *amutah* aims to negate the existence of the State or its democratic character, it would appear, based on Supreme Court judgements interpreting the parallel provisions in Basic Law: Knesset, that the Registrar must show by "convincing, clear and unequivocal evidence" that the forbidden aim is in fact central to the *amutah* or to its founders; that the *amutah* was founded to pursue the forbidden aims; and that the expression of such aims by the founders of the *amutah* is not only clear but extreme. With regard to the other ground noted above for refusal to register an *amutah*, the Supreme Court has interpreted "reasonable grounds" strictly, to require that the Registrar show by convincing, verified evidence, rather than mere speculation, that there exists a "proximate certainty" that the *amutah* will in fact be used as a cover for unlawful activity (C.A. 1282/93, *Amutot Registrar* v. *Kahane*, 47(4) P.D. 100). It may be noted that prior to the enactment of the Parties Law, 5752-1992, discussed below, political parties were governed either by the *Amutot* Law or by the Ottoman Law of Association, depending on when they were formed.

646. The *Amutot* Law empowers the District Courts to order the winding up of an *amutah* if it, or its purposes, are aimed at the negation of the existence or the democratic character of the State; if it violates the law or its own by-laws; if it is unable to pay its debts; or if "reasons of justice or equity so require" (sect. 49). A similar provision in the Companies Ordinance is used to wind up companies for reasons related to the law of companies, and not to restrict freedom of association (see U. Procaccia, **The New Companies Law in Israel** (Jerusalem, 1989), 534-535); it may be assumed that the provision in the *Amutot* Law would be applied in a similar manner, especially in view of the enactment of Basic Law: Human Dignity and Liberty and Basic Law: Freedom of Occupation.

647. "Cooperative societies", another form of association recognized under Israeli law, are similar to corporations, except that their purposes must involve "the cultivation of savings, self-help and mutual assistance between persons with common economic interests, in order to bring about an improvement of their living conditions, business affairs and methods of manufacture, or a society formed in order to facilitate the activities of such societies" (sect. 4 of the Cooperative Societies Ordinance, 1933). The Cooperative Societies Registrar may refuse to register a society "without giving any reason for such refusal" (sect. 9 (1) of the Ordinance); however, if the Registrar does give reasons for a refusal to register, the courts may review the validity and reasonableness of his reasoning under principles of administrative law.

648. Israeli law allows persons to form partnerships under the Partnerships Ordinance [New Version], 5735-1975, which are registered upon fulfilment of certain technical requirements, such as notification to the Registrar regarding the name, address and nature of the partnership. No administrative authority has the power to prevent registration of a partnership on any substantive ground.

649. The activities of each of the types of associations discussed above are regulated by the appropriate Registrar pursuant to legislation. In general, such associations must file annual reports to the Registrar, must comply with other technical regulations regarding, for example the proper use of the organization's name or financial auditing, and may not pursue illegal objectives or activities. They may be wound up or liquidated, inter alia, in the event of financial insolvency or non-compliance with technical or legal requirements. The ideological or political content of the association's activities is not properly the subject of administrative review, except in those cases where an *amutah* aims to negate the existence or democratic character of the State.

Subversive organizations

650. Several statutory provisions aim to prohibit the formation and operation of subversive organizations. Sections 145-150 of the Penal Law, 5737-1977, adopt earlier Mandatory provisions regarding unlawful associations. Under section 145 of the Penal Law, "unlawful associations" are defined as

"(1) any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates, incites or encourages any of the following unlawful acts:

"(a) the subversion of the political order of Israel by revolution or sabotage;

"(b) the overthrow by force or violence of the lawful government of Israel or of any other state, or of organized government;

"(c) the destruction or injury of property of the State or of property used in commerce within the State or with other countries;

"(2) any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages the doing of any act having as its declared or implied object sedition within the meaning of article One [of the Penal Law];

"(3) any body of persons which does not notify its rules as required by law or continues to meet after being dissolved by law;

"(4) any body of persons, incorporated or unincorporated, which is or appears to be affiliated with an organization which advocates or encourages any of the doctrines or practices specified in this section;

"(5) any branch, centre, committee, group or faction of an unlawful association and any institution or school managed or controlled by it."

651. Membership in such an unlawful organization is punishable by imprisonment for one year. The Penal Law also makes it an offence to solicit contributions to such an association, to contribute money to it, to publish or transmit writings for or in the interests of such an unlawful association, or to advocate or encourage the acts that constitute an unlawful association under section 145, with maximum punishments ranging from six months to three years' imprisonment. While commentators have noted the potential infringement on the freedom of association occasioned by section 145 (4) above, which does not require those affiliated with an unlawful association to have actual subversive intent (see, e.g., A. Rubinstein, **The Constitutional Law of the State of Israel** (4th ed., Tel Aviv 1991), p. 813, n. 33), no indictment filed under these provisions has been appealed to the Supreme Court.

652. The second set of statutory prohibitions against seditious associations is found in sections 84-85 of the Mandatory Defence (Emergency) Regulations, 1945. These regulations are stricter than the above provisions of the Penal Law both in scope and in terms of the punishments they prescribe. Under Regulation 84, the Minister of Defence may declare any body of persons to be an "unlawful association" if it incites or encourages the overthrow by force or violence of the political order or Government of Israel; the bringing into contempt or arousal of disaffection against the Government or its ministers in their official capacity; the destruction of or injury to government property; or acts of terrorism directed against the Government of Israel or its servants.

653. Finally, the Prevention of Terrorism Ordinance, 5708-1948, which was enacted shortly after the establishment of the State, defines a "terrorist organization" as a body of persons which in its operations uses acts of violence which are liable to cause the death of a person or injure him, or threatens such acts of violence. Activity in a terrorist organization is punishable by 20 years' imprisonment; membership in such an organization carries a maximum sentence of five years' imprisonment. The Ordinance also forbids support or encouragement of terrorist organizations, possession of propaganda of such an organization, allowing one's property to be used by a terrorist organization or its members, or identification with such an organization through the unfurling of a flag, display of a symbol or slogan or singing of a hymn which clearly indicates such identification or support for a terrorist organization. A provision forbidding contacts with members of declared terrorist organizations was repealed following the signing of the Declaration of Principles by Israel and the PLO. In addition to specifying methods of proving that a group of persons is a terrorist organization, the Ordinance empowers the Government to declare a given group of persons as a terrorist organization, and such notice is prima facie proof in any legal proceeding that that group is in fact a terrorist organization "unless the contrary is proved". The Prevention of Terrorism Ordinance has been employed primarily against Palestinian organizations which have engaged in terrorist activity against the Israeli population; but it has also been employed against Jewish organizations, such as the Lehi (Stern Gang) immediately after the establishment of the State, and, more recently, against the Kach and Kahane Chai movements.

Trade unions and professional associations

654. **International conventions**. Israel has ratified ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, of 1948, and Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, of 1949. While these conventions have not formally been made a part of Israel's internal law, they have had a significant influence on the development of Israeli law and practice regarding the right to organize, the activity of trade unions and collective bargaining agreements. In fact the Collective Agreements Law, 5717-1957, was enacted specifically on the basis of the above conventions, and gives effect to their substantive provisions.

655. **The right to form trade unions**. The right of workers and employers to organize in trade unions for the promotion of their interests is not yet expressly articulated in Israeli legislation, although it is firmly entrenched in the decisional law and is an underlying presumption of existing collective bargaining legislation, as detailed below. A draft Basic Law: Freedom of Expression and Association, a previous version of which has been approved by the Ministerial Committee on Legislation, would give firm written constitutional status to the right to organize, as provided in sections 6 and 7 of the draft Basic Law:

> "6. Every citizen or resident of the State has the freedom to associate.

> "7. (a) Employees are entitled to organize by their choice in employees' organizations, and employers are entitled to organize by their choice in employers' organizations; an employees' organization may engage in a collective agreement with an employer or an employers' organization.
>
> "(b) Employees are entitled to strike for the protection of their rights and for the promotion of their interests as employees.
>
> "(c) Financing of the activities of employees' organizations or employers' organizations with the participation of the employees or the employers, and the manner of collection from them, may be determined in a law or pursuant thereto.
>
> "(d) The rights under this section shall be respected according to the principles of labour law in Israel."

656. In the current absence of such an explicit statutory right to organize, or legislation which regulates the formation of and conditions for joining trade unions, the National Labour Court has established that the freedom of association in trade unions and the freedom to engage in collective bargaining, as guaranteed in ILO Convention Nos. 87 and 98, apply to all workers in Israel. L.C.A. 35/5-1, *Markovitz* v. *Hahistadrut Haclalit et al.*, 6 P.D.A. 179. As the Court stated:

> "The fundamental right of association carries special meaning in the realm of labour relations ... [in which] this right has been consolidated as a 'right to organize' and as a right to 'freedom of association', which complement one another ... The right to freedom of association is the right of workers and employers to establish organizations, and, subject only to the regulations of the organization in question, to join the organization which they choose without need of prior permission from the governmental authorities. One of the basic principles underlying the freedom of association is the right of the organization to determine its constitution, subject to the laws of the State, to the extent that those laws do not contravene the principle of freedom of association."

657. The right to organize in trade unions thus includes the right to form a union, the right to join or not to join a union, and the freedom of the union's operation.

658. **Collective agreements and the attributes of authorized trade unions** Section 1 of the Collective Agreements Law, 5717-1957, defines a collective agreement as "an agreement between an employer or employers' organization and an employees' organization, made and submitted for registration under this Law, with regard to hiring a person or terminating his employment, terms of employment, labour relations, rights and duties of the organizations which are parties to the agreement, or part of these matters."

659. As a general rule, any group of workers may form a trade union; however, to be legally empowered to act as a union, it must meet a series of recognized

characteristics of a workers' organization and must be “representative”. The Labour Courts have developed the following tests for identifying an organization as a legally empowered trade union:

(a) Stability - the organization must have been created in such a manner that it will continue existing without time limit, or at least for a long period, and not merely for a particular bargaining session;

(b) By-laws - the organization must have by-laws regulating its aims, its institutions and their powers, conditions for membership, and the like;

(c) Personal and voluntary membership - a trade union must be based on the free consent of each individual worker to become a member or to forfeit membership;

(d) Workers' representation - the vast majority of a union's members must be employees;

(e) Aims - first and foremost among a trade union's aims must be to engage in collective bargaining with the employer for the purpose of fixing working conditions and workers' rights within collective agreements;

(f) Independence - a trade union must be independent from the employer, and must be free to operate without external intervention;

(g) Internal democracy - a trade union must respect basic democratic principles such as periodic, free and equal elections of representatives, in which all member workers participate, public accountability of the representatives, freedom of speech for the employees and maintenance of principles of non-discrimination.

660. Representation requirements for trade unions are defined in the Collective Agreements Law, 5717-1957, according to the type of agreement involved. The Law (sect. 2) distinguishes between a “special collective agreement”, which relates to a particular employer or place of employment, and a “general collective agreement”, which relates to branches of employment in the entire country or in a distinct area. In both types of agreements, the union must represent “the greatest number of organized employees to whom the agreement is to apply”. In the case of a general agreement, representation is a function purely of membership in the union; in the case of special agreements, representation may be determined either by membership or by other means, such as a special decision by the workers; in any case, the union must represent not less than one third of the total number of employees to whom the special agreement is to apply (sects. 3 and 4 of the Law).

661. All rights conferred by a collective bargaining agreement on employees as individuals may not be waived (sect. 20, Collective Agreements Law), nor may a collective agreement derogate from any rights granted to employees by law (sect. 21).

Limitations on professional associations

662. The right to form trade unions may be restricted narrowly with regard to specific classes of workers or professionals when an overriding public interest justifies doing so. For example, section 93 B of the Police Ordinance [New Version] prohibits the formation of a union by police personnel, although they may join regular trade unions; and standing orders of the Israel Defence Forces General Headquarters, which have the status of law, forbid military personnel from forming their own union. Judges traditionally do not consider themselves free, as a matter of judicial ethics and policy, to organize in a union, even though they are not prohibited by legislation from doing so. Other civil servants, however, with the exception of police employees as noted above, are subject to no restrictions regarding their right to organize, and they have done so.

663. Certain professional associations, such as the Israel Bar Association, are created and function pursuant to Knesset legislation as the sole professional association to which members of those professions may belong. Thus, while the freedom of association of the profession as a whole is maintained, the right of individual members of those professions to choose their preferred form of organization and its rules is limited in the interest of enabling uniform oversight of their qualifications, activity and ethical conduct.

Structure and membership of trade unions

664. **The Histadrut**. Most salaried employees in Israel are organized in trade unions. The vast majority of such employees are members of the New General Federation of Labour, known as the Histadrut, an organization which predated the establishment of the State. Under the Histadrut by-laws, any worker aged 18 or over who is not a member of another labour organization may become a member. The Histadrut represents salaried employees in industry, agriculture and service industries, including public sector employees, musicians, social workers, pharmacists, actors and directors, employees in the printing and binding, diamond and textile, chemical and petrochemical, plastics, building, garment and other industries, physiotherapists and other therapists, tour guides, nurses, academics in the humanities, biochemists and microbiologists, engineers and technicians, clerks in a broad range of institutions, hotel employees, metalworkers and electricians, food service employees, housewives, retirees, students and others.

665. The highest executive institution of the Histadrut is its National Conference, and its House of Representatives is the primary legislative organ. The members of both bodies are elected in proportional and secret elections from the lists of candidates associated with various political parties. All of the major political parties are represented. Until 1994, the Labour Party maintained a majority in the National Conference; currently, the Conference is controlled by a coalition of Labour and a new list which won the 1994 elections. The Secretary-General of the Histadrut has always been a Knesset member from the Labour Party, except for a period of roughly two years between 1994 and 1996.

666. Histadrut trade union activities are conducted through a three-level institutional structure: the workers' committees in each plant, which represents all workers at the plant; a local or regional workers' council; and the national unions, organized by profession, occupation or industry. There are currently 37 such national unions operating under the Histadrut umbrella. Each national union is empowered to sign collective agreements on behalf of the Histadrut.

667. The activities of the Histadrut have extended beyond those of a typical union, including mutual aid, culture and education. As the dominant workers' organization in the country, the Histadrut has also traditionally been active in shaping the social security system and the labour economy itself. General collective agreements between the Histadrut and the Coordinating Council of Economic Organizations (which represents private sector employees) or the Government (for most public sector employees) are the most influential instruments shaping labour relations and working conditions in Israel today, especially if such agreements are extended to other groups or classes of employees not covered by the original agreement, which occurs frequently.

668. Until 1995, membership in the Histadrut was linked to membership in the General Health Fund, the largest provider of health services in the country, such that members of the General Health Fund became members of the Histadrut, even if they were not employees. With the inception of the new model of health care under the National Health Insurance Law, 5755-1995, the link between the Histadrut and the General Health Fund was severed, resulting in a certain decrease in Histadrut membership. Although the Histadrut no longer discloses exact membership figures, there is no doubt that its ranks dwarf those of all other trade unions taken together.

669. **Trade unions other than the Histadrut**. Other labour unions include the Israel Medical Association, the National Union of Israeli Journalists, the Organization of Upper School, Seminar and College Teachers, the organizations for the Teaching Faculty at universities, and the National Organization of Workers. Some of these other unions overlap in membership with the Histadrut, in which case they generally divide between them the authority to bargain with employers over different matters. Certain unions which are organized formally within the Histadrut itself enjoy a high degree of autonomy, such as the Union of Engineers and Architects.

670. In addition, there are a few other unions of general character, which have a relatively small membership and much less political and social influence than the Histadrut. The largest such organization is the National Workers' Federation, which propounds a platform with nationalist political overtones, in comparison with that of the Histadrut, which retains a fair degree of the socialist tenor of its early days. The National Workers' Federation does not publish membership figures, and for the most part has not been successful in becoming the representative organization in places of employment.

671. Several small labour organizations with a religious orientation generally have come to agreements with the Histadrut, which grant them representation in particular places of employment.

672. **Individual freedom to join a trade union**. Under principles developed in the case law, no employee in Israel may be forced to join a trade union, and every employee may resign from union membership. L.C.A. 1975/5-1, *Markovitz* v. *Histadrut*, supra; L.C.A. 1985/5-2, *Histadrut* v. *Paz Senior Workers' Association*, 14 P.D.A. 367, 385. Collective agreements generally operate on the "agency shop" principle, under which the employer recognizes the labour organization with which the agreement is made as the authorized representative for collective bargaining, and agrees that the collective agreement will apply to all employees, whether or not they are members of the representative organization, but the individual workers still are free to choose whether or not to join the union. Non-member employees generally pay a "trade union service fee", which is considered a fair contribution in return for services, and by law may be deducted from the employee's wages (Wage Protection Law, 5718-1958).

673. **Freedom of operation of trade unions**. In addition to general civil liberties, such as the freedom of expression and the freedom from arbitrary arrest or imprisonment, which apply as a matter of course to the activities of trade unions in Israel, the procedure for recognition of collective agreements and the limitation of interference by the State are an important aspect of the ability of trade unions to operate freely. The Collective Agreements Law, 5717-1957, provides that a collective agreement need only be filed to be registered, giving the registrar no discretion on the matter. Furthermore, a challenge to representation by a trade union may be initiated only by another employees' organization (section 6 of the Collective Agreements Law).

674. On the other hand, as collective agreements have the effect of law for the workers to whom they apply, the agreements may not contravene the law or fundamental public interests. For example, the Labour Court has held that principles of general contracts law, such as the duty of good faith in contract negotiations, or the grounds for rescission, apply to collective bargaining and agreements.

675. Because the Histadrut developed as a more or less centralized labour union prior to the establishment of the State, and was fully in place far before most employers or Israeli labour legislation came into existence, many of the struggles common to employees in other countries in attempting to form unions have not presented themselves to any significant extent in Israel.

676. **The right to strike**. As with the right to form trade unions, Israeli legislation does not explicitly confer the general right of employees to strike or the right of employers to stage a lock-out. These rights have been affirmed by decisions of the Labour Courts, and are protected and regulated by the Settlement of Labour Disputes Law, 5717-1957. Under section 3 of the Settlement of Labour Disputes Law, the parties in a labour dispute between an employer and all or some of its employees are the employer and the labour organization representing most of the employees affected by the dispute, or, in the absence of such a labour organization, the representatives elected by a majority of the employees. The representative employees' union must give formal notice of its intent to strike at least 15 days in advance; the same rule applies to employers who intend to stage a lock-out. Employees who participate in a strike duly called by the representative workers' organization are exempt from liability for breach of their employment

contract, including their obligations under a collective agreement, or from liability in tort for causing the employer or others to breach contractual relations. Collective Agreements Law, section 19; Civil Wrongs Ordinance [New Version], section 62 (b). The strike only suspends the labour contract, but does not constitute grounds for its termination. In addition, a duly called strike does not interrupt continuity of employment for the purposes of calculating benefits such as pensions, severance compensation, annual leave and veterans' rights. The Employment Service may not interfere with strikes, and is prohibited from referring potential employees to replace striking workers, except in the case of unprotected strikes in the public sector (sect. 44 of the Employment Service Law, 5719-1959).

677. The right to strike extends to economic disputes involving the determination of new employees' rights in collective bargaining, as opposed to "legal" disputes regarding the enforcement of rights which have been determined in the past, for which the proper remedy lies in enforcement proceedings before the Labour Courts. L.C.A. 31/4-4, *Committee of Employees of the Cable and Electric Wire Company Ltd.* v. *Cable and Electric Wire Company Ltd.*, 4 P.D.A. 122, 134.

678. **Restrictions on the right to strike**. The Knesset has imposed special limitations on the right to strike of civil servants, local government employees, health service employees, educational personnel, and employees involved with the production or supply of gasoline, water, electricity and telecommunications. Any strike by such employees that occurs while a collective bargaining agreement is in force will be "unprotected" and illegal, unless it does not relate to a dispute over wages or benefits, and it is approved by the central management of the union. Even if there is no collective bargaining agreement in force, a strike by such employees will not be "protected" unless it is duly approved by the authorized employees' organization. Unprotected strikes expose employees to liability for breach of their employment contract and causing breach of contract by their employers. In the event of a partial unprotected strike by such public sector employees, the Law establishes a special procedure under which the employer must apply to the Labour Court for an order declaring the existence of a partial, unprotected strike, at which time the employees become entitled to receive half of their normal wages. Afterwards, the employer or employee may apply to the court for payment of any differential in wages, based on work actually performed (sect. 37 of the Dispute Resolution Law).

679. Collective agreements themselves often contain provisions limiting the right to strike. Moreover, the Labour Courts have held that collective agreements contain an implicit presumption that the employees' organization has obligated not to strike. Unless the collective agreement indicates otherwise, a strike conducted during the period of a collective agreement will generally be deemed unlawful, so long as the employer has fulfilled its obligations under the agreement.

680. Trade unions also often provide, in their constitutions or by-laws, for certain obligatory procedures that must be followed prior to staging a strike. For example, the constitution of the Histadrut requires an initial series of consultations and voting procedures, involving the national union

representatives, local workers' committees and the Histadrut Workers' Council, before declaring a strike. Failure to comply with these preliminary procedures will make the subsequent strike unlawful.

681. **Criminal sanctions against coercive behaviour**. The Penal Law, 5737-1977, protects members of either side of a labour dispute from violent or threatening interference. Section 164 of the Law makes each of the following acts punishable by imprisonment for one year, when done in the context of a labour dispute and with intent to compel another person to do an act which he or she is not legally bound to do, or to abstain from any act which he is entitled to do:

(a) Using violence against or intimidating another person or his wife or children, or injuring his property;

(b) Persistently following such a person about from place to place;

(c) Hiding any tools, clothes or other property owned or used by such other person or depriving him of or hindering him in the use thereof;

(d) Watching the house or other place where such other person resides or works or carries on business or happens to be, or the approach to such house or place, or prevents access thereto;

(e) Following such other person in a disorderly manner in any street or road.

However, the Penal Law expressly allows a person, on behalf of any of the protagonists in a labour dispute, to seek peacefully to obtain or communicate information or to persuade persons to work or to abstain from working (sect. 64).

682. **Compliance with ILO conventions**. Israel submitted its most recent report under ILO Convention No. 87 with respect to the period 1994-1995, and responded separately to General Direct Request 1995*bis* of the Committee of Experts under that Convention by referring to the provisions of section 19 of the Collective Agreements Law, 5717-1957, discussed above. Israel's legal protections of the freedom of association and the right to organize are fully in accord with the provisions of ILO Convention No. 87. Israel's most recent report under ILO Convention No. 98, and relating to the years 1995-1996, was submitted in December 1997. The substance of Israel's responses to questions submitted by ILO supervisory bodies in recent years in the context of reporting under the above two conventions is included in the discussion under this article. No further comments or special direct requests have been forwarded to Israel by ILO supervisory bodies under those conventions in at least a decade.

683. **Stay-at-work orders**. In the past, the Government and its ministers exercised their broad emergency powers under section 9 of the Law and Administration Ordinance, 1948, to issue “stay-at-work” orders against strikes by workers deemed to provide essential services. These stay-at-work orders typically do not entail any attempt to resolve the labour dispute itself, but rather require some workers - generally only a small number from among the

participants in a strike - to remain at work in order to prevent interruption of the most essential services. With the entering into force of the amended Basic Law: Government, in June 1996, the scope of governmental emergency powers is substantially narrowed: only the Government as a whole, not individual ministers, may enact emergency regulations, and such regulations or orders must not exceed what is actually required by the circumstances of the emergency at hand. It may be expected that henceforth the Government will employ its emergency powers sparingly, and only when the interruption of truly crucial services may damage the State's vital interests.

684. **Frequency of strikes**. The following table shows the frequency and scope of strikes and lockouts in Israel over a period ending in 1994.

Table 15. Strikes and Lock-outs, 1960-1994

Year	No. of slow-downs	No. of strikes and lock-outs (excluding slow-downs)	No. of persons involved in strikes and lock-outs	Work days lost
1960		135	14 420	49 368
1965		288	90 210	207 561
1970		163	114 941	390 260
1971		169	88 265	178 621
1972		168	87 309	236 058
1973	54	96	122 348	375 023
1974	49	71	27 141	51 333
1975	62	117	114 091	164 509
1976	76	123	114 970	308 214
1977	57	126	194 297	416 256
1978	55	85	224 354	1 071 961
1979	97	117	250 420	539 162
1980	54	84	91 451	216 516
1981	59	90	315 346	782 305
1982	79	112	838 700	1 814 945
1983	47	93	188 305	977 698
1984	74	149	528 638	995 494
1985	64	131	473 956	540 232
1986	92	142	215 227	406 292
1987	89	174	814 501	995 546
1988	93	156	327 193	516 071
1989	58	120	209 841	234 073
1990	75	117	571 172	1 071 279
1991	52	77	38 776	97 923
1992	64	114	211 833	386 658
1993	40	73	462 208	1 636 866
1994	38	75	106 047	792 533

In view of Israel's relatively small population (approximately 5.8 million), the above figures demonstrate how extensively employees in Israel have made use of their right to strike.

Political parties

685. The discussion of the registration and activity of political parties in this and the following sections should be read in conjunction with the discussion of the right to be elected under article 25.

686. The right to organize political parties is recognized in Israel as an important facet of the freedoms of speech and association (E.A. 2/84, *Neiman* v. *Central Elections Committee of the Eleventh Knesset*, 39(2) P.D. 225). In 1992, the Parties Law, 5752-1992, which regulates the formation and activities of political parties, was enacted as part of a broader electoral reform which included the direct election of the Prime Minister and other amendments to Basic Law: Government. Prior to the enactment of that law, political parties were regulated by the laws relating generally to non-profit organizations, either as Ottoman associations or *amutot*, as noted above; there was no registration procedure for "political parties" as such, as the Elections Law speaks only of "candidate lists", and so it was not necessary to associate as a "political party" in order to participate in national or local elections, or for a Knesset faction to receive public funding under the Party Financing Law. With the enactment of the Parties Law, only registered political parties may submit candidate lists for election to the Knesset, only a representative of a registered party may run for the office of Prime Minister, and public funding is given only to registered parties which run for election. Existing political parties were required to register under the new law within six months of its enactment. As of the submission of this report, there are 30 registered political parties in Israel, including 19 parties which are represented in the Fourteenth Knesset, either alone or in combined factions with other parties.

687. Under the Parties Law, a political party is defined as "a group of persons which has associated to promote lawfully political or social aims and to bring about their representation in the Knesset by elected representatives" (sect. 1); the law thus does not apply to political organizations operating purely at the local level, or, apparently, to those which seek to realize their aims outside of the parliamentary process. Any group of at least 100 persons may organize as a political party, according to a registration procedure which is similar to that of non-profit organizations generally: the application must state the name of the proposed party, its purposes, the names and other basic information regarding its founders, and a set of proposed by-laws (sect. 4). The by-laws must include, inter alia, conditions for acceptance of new members, as well as for their suspension or ejection; members' rights and duties; arrangements for disciplinary proceedings and sanctions; the powers of branch offices; the functions, composition and manner of operation of party institutions; and the method of choosing candidate lists for Knesset elections (sect. 14). Notice of the application for registration is given to the Central Elections Committee, to representatives of all Knesset factions or candidate lists, and is published in the Official Gazette and newspapers.

688. Any citizen residing in Israel may file an objection to the registration of a political party within 30 days after the notice of application has been published (sect. 6 (a)). The Parties Registrar, appointed by the Minister of Justice, is empowered to rule on these objections, and his decisions are

appealable by leave to the Supreme Court. Ultimately, the Parties Registrar decides whether or not to approve registration of the party; any refusal to register a party must first be approved by the Supreme Court (sect. 6 (d)). The scope of the Registrar's power to refuse to register a party for non-compliance with technical registration requirements, such as inclusion in the by-laws of all matters enumerated by the Law, is not entirely clear from the wording of the Law itself, and has not yet been reviewed by the Supreme Court. The law also provides that a party may not be registered under a name which is likely to be confused with that of a current or previously existing party, to be misleading generally or to "violate public policy or public feelings". Here, too, the scope of the Registrar's powers is not yet entirely clear: while it would appear that the Registrar may actually refuse to register a political party under a particular name which, in his opinion, falls under the prohibitions noted above, one may assume, based on judicial interpretation of similar powers given to the Companies Registrar and the *Amutot* Registrar, that such powers will be construed narrowly, and must be balanced against the fundamental right to form political parties, especially if the decision whether or not to register a party is made relatively close to a Knesset election.

689. As mentioned under article 25, the Parties Registrar may refuse to register a political party if, by its purposes or actions, it may be deemed, expressly or implicitly, to negate the existence of the State of Israel as a Jewish and democratic State; to incite racism; or if there is reasonable basis to conclude that the party will serve as a cover for illegal activity (sect. 5). Since enactment of the Law in 1992, the Registrar has not refused to register any political party. Petitions against the registration of two different political parties, one Arab and one Jewish, were rejected by the Supreme Court. M.L.A. 2316/96, *Isaacson* v. *Parties Registrar* (not yet reported); M.L.A. 7504/95, *Yasin* v. *Parties Registrar* (not yet reported). Although the Court has not yet ruled squarely on the issue, it would appear that these substantive grounds for refusal to register a political party shall be interpreted very narrowly, as are the parallel provisions in Basic Law: Knesset and the *Amutot* Law, and shall be upheld only in the most extreme instances. See, e.g., H.C.J. 5364/94, *Welner* v. *Chairman of the Israel Labor Party* (not yet reported). Reference is made to the discussion of those parallel provisions in Basic Law: Knesset under article 25 of this report, and under the *Amutot* Law in this section. While the Parties Law, on its face, does not clarify whether a party may be stricken from the register by court order if it is found later on to be pursuing any of the prohibited aims mentioned above, the parallel provision in Basic Law: Knesset gives such authority to the Central Elections Committee and the courts with regard to parties which seek to participate in a Knesset election.

690. **Controls on activity of political parties** Political parties have a dual character: they are at once voluntary associations, subject to the provisions of private law, and "constitutional" entities many of whose actions are subject to review under norms of public law. H.C.J. 1635/90 *Zharzhevsky* v. *Prime Minister*, 45 (1) 749, 836. At least in matters having a public dimension, government authorities, including the courts, will display a reluctance to intervene in the activities of a party, so long as it does not violate its status as "public fiduciaries". See H.C.J. 5364/94, *Welner* v. *Chairman of the Israel Labor Party*, supra (per D.P. Barak). For example, the

Supreme Court has held that coalition agreements between political parties must be made public, in order to give voters a chance to gauge their support of the parties involved (H.C.J. 1601/90, *Shalit* v. *Peres*, 44 (3) 353); and the Court will nullify such coalition agreements if they are illegal or patently violate public policy (H.C.J. 1635/90, *Zharzhevsky* v. *Prime Minister*, supra.) Recognizing the public character of political parties, the Parties Law, 5752-1992, makes them fully subject to audit by the State Comptroller in matters related to management of financial affairs and compliance with applicable law (sect. 13 (b) of the Law). The Law also prohibits parties from engaging, directly or indirectly, in business activities (sect. 21), except for investing its assets and receiving income from "properties which are intended for party activity, even if they are not so used at the time" (sect. 25). In addition, the Party Financing Law and the Parties Law set various limits and restrictions on contributions during primary and election campaigns, as well as in between elections. Parties may not receive contributions, in money or in kind, from domestic or foreign corporations (sect. 8 (a) of the Party Financing Law), from minors or from anonymous donors. Parties may receive up to NIS 500 (roughly $150) from individual families, or up to NIS 1,000 (roughly $300) in a campaign year, unless the party waives the right to public funding, in which case the ceiling for individual contributions rises to NIS 60,000 (roughly $18,000). Contributions to cultural or educational enterprises managed by a political party are not subject to the above limits, so long as that enterprise does not finance any election propaganda or party activity (sect. 8 (b) of the Party Financing Law). Persons running in party primaries may not receive more than NIS 5,500 (roughly $1,700) from individual donors and may not exceed a prescribed maximum aggregate amount in contributions; as with the parties themselves, primary candidates may not receive contributions from corporations, minors or anonymous donors, and all contributions may be used only for the primary campaign (sect. 28 A-28 BB of the Parties Law).

691. **Activities of human rights organizations**. The State of Israel places no legal restrictions on the right of organizations to engage in activities for the promotion and observance of human rights. For legal purposes, they are indistinguishable from any other organization: to the extent that they are registered as *amutot*, they must comply with applicable law; in every other sense, human rights organizations fully enjoy the freedom to associate and to pursue their various aims. There are dozens of organizations in Israel which work freely and fruitfully in all areas of human rights, including the Association for Civil Rights in Israel, several organizations which promote the rights of Arabs, a coalition of 53 different organizations working in the area of children's rights, over 100 organizations involved in womens' rights issues, the Religious Action Centre of the Movement for Progressive Judaism and other organizations involved in issues related to freedom of religion, organizations working to promote the rights of the disabled, homosexuals, minorities, organizations working to promote freedom of information and speech, and many more. These groups have played a crucial role in the development of human rights law in Israel. They have filed petitions and acted as legal counsel in a great number of landmark Supreme Court cases related to human rights. They also are significantly involved in legislative lobbying and, through elected representatives, in the initiation of legislation bearing on human rights. Their reports and conferences are generally widely covered in the media, and their publications are freely

circulated in Israel and abroad. They cooperate with international human rights organizations, and conduct varied publicity and fund-raising activities abroad. The activities of human rights organizations have not been curtailed in any way by government authorities.

Article 23 - Protection of the family

692. **Introduction**. As discussed under article 18, Israel has preserved the Ottoman and Mandatory arrangement under which the principal religious communities apply their own religious laws to their members in matters of "personal status". The scope of "personal status" matters is defined by relevant legislation to include marriage, divorce, alimony and child support, and in some cases succession. The jurisdiction of Muslim (Shari'a) courts is broader than that of other religious denominations, including child custody and paternity. Israel retained the application of religious law in these matters for two principal reasons. On the one hand, the new State wished to preserve the tradition of non-intervention by the ruling regime in the affairs of the many long-established non-Jewish religious communities. On the other hand, the application of Jewish religious law to the entire Jewish population in matters of personal status is a crucial pillar in the delicate constitutional edifice which Israel has created to strike a balance between its aspirations as a Jewish and a democratic State. Israel entered a reservation upon ratifying the Covenant, explaining that matters of personal status are governed in Israel by the religious law of the parties concerned, and that to the extent that such law is inconsistent with its obligations under the Covenant, Israel reserves the right to apply that law. As a result, the discussion under this article does not address the law and practice in matters of marriage and divorce or spousal support.

693. In 1995, a new family court division within the Magistrates' Courts was established with jurisdiction over a broad range of family-related matters, including adoption, alimony, change of name, paternity and maternity, child custody, succession and family violence. Family Courts Law, 5755-1995. These family-related matters were hitherto adjudicated in several different courts within the civil system. The new Law, however, does not alter existing jurisdictional divisions between the civil and religious courts in matters of personal status, as many such matters remain under the parallel jurisdiction of the various religious courts. For example, in certain circumstances a Jewish religious court, which has original jurisdiction over divorce suits between Jewish spouses, may, in the context of the divorce proceedings, also decide matters of alimony and child custody at the request of the party filing for divorce. If a suit for divorce has not yet been filed, however, then either of the parties may initiate proceedings in the civil courts, which can decide on alimony and custody but lacks the power to issue a divorce decree (*get*). In addition, child custody and succession matters pertaining to Muslims remain under the exclusive jurisdiction of the Shari'a courts.

694. **Meaning of "family"**. Although the family is firmly acknowledged, under both religious and civil law, as the basic, natural group unit in Israeli society, Israeli law contains no single definition of "family". The past two decades have witnessed significant demographic changes in the structure of families in Israel. Single parenthood has risen dramatically, almost doubling over the last decade (1985: 54,600; 1995: 91,900); non-marital cohabitation,

with or without children, has also become more common. For various purposes such as entitlement to benefits, social insurance and income taxation, Israeli law and practice recognize various forms of family, including "extended" family and non-marital cohabitation. Homosexual couples have received partial recognition by administrative authorities in matters such as entitlement to pensions. The administrative programmes and policies of the Government aim at supporting the family without showing a preference for a particular form or concept of family. A recent legislative amendment has expanded the support programmes for single-parent families, including cash entitlements, education grants, job training, housing loans, and preference in day-care placements. Single Parent Family Law, 5752-1992. Families with four or more children receive from the National Insurance Institute a higher monthly allowance and cash grant upon birth for each child from the fourth onward. At the same time, special benefits are given to families which care for ageing or sick relatives within their own homes, thus encouraging the strengthening of extended family ties.

Non-marital cohabitation

695. Israeli law recognizes non-marital partnerships, and in most areas gives such unions a status equal to that of formal marriage. Non-married partners enjoy the same rights as formally married couples for purposes, among others, of social security entitlements, pensions, resident's protection against eviction, tort damage awards, income taxation. Non-married spouses have the same inheritance rights as married spouses provided that they are not legally married to someone else. The Supreme Court has articulated in several decisions the policy that non-marital partnerships are as important to the strength and stability of society as traditionally married spouses, and that it is in the public interest for the State to support such unions. In one such case, the Court ordered the Minister of Interior to register the name of a woman who wished to change her family name to that of her non-married spouse. H.C.J. 69/91, *Efrat* v. *Director of Population Administration*, 47(1) P.D. 749. In 1996, this landmark holding was incorporated by legislative amendment into the Names Law, 5716-1956. The right to take the family name of a common-law spouse has even been upheld recently in a case where one member of the couple was still married to another person. H.C.J. 6086/94, *Nazeri* v. *Director of Population Administration*, 96(1) Takdin 679.

696. To the extent that relations between non-married spouses and their children are determined by civil law, non-married spouses bear the same statutory obligations as married (or divorced) parents with respect to the duty of care toward their children or other minors in their care, except in the case of Muslims, for whom religious law applies in this regard. They also bear the same statutory rights and duties as married parents in cases of family violence. Although non-married spouses bear no statutory duty to support each other, the courts have held that an implied commitment to support may exist in appropriate circumstances. The "community property" rule, which applies in Israel to matrimonial property relations for those marriages entered into prior to 1973, has been extended by case law to non-marital partners.

697. In certain specific matters, non-married spouses do not enjoy the same rights as married spouses. Among others, they are not immune, as are married

spouses, from testifying against one another in most criminal proceedings not involving family violence; they do not enjoy the right of non-resident spouses to enter Israel under the Entry into Israel Law, 1952; and they do not have the right to adopt a child together within Israel, although they may adopt a baby from abroad under applicable law, as discussed under article 24.

698. **Minimum marriage age**. Under the Marriage Age Law, 5710-1950, women from the age of 17 onward may marry freely. Women under the age of 17 may not marry, regardless of the religious law applicable to them, except in two sets of circumstances: a court may allow an under-age woman to marry if she is pregnant with or has given birth to the child of the man whom she seeks to marry; the court may also permit a woman who is at least 16 years old to marry in "special circumstances", which specifically do not include community custom and tradition. There is no statutory minimum marriage age for men; as a result, the individual's religious law will apply. The current legal arrangement regarding minimum marriage age for men, and its difference from that applying to women, is presently under review by the Supreme Court; at the same time, a private member's bill which would eliminate the discrepant arrangements for men and women is currently being considered by the Knesset.

699. The Marriage Age Law prescribes criminal penalties of up to two years' imprisonment for anyone who arranges or conducts the marriage of an under-age woman without court permission, as well as for the man who marries her. The woman is excluded from liability. Moreover, the mere fact that a marriage was made in violation of the law is a ground for divorce.

700. The rate of Jewish and Muslim marriages involving minors has steadily declined in Israel over the last two decades, as can be seen from the following table:

Table 16. Marriage of minors up to age 17
(per thousand registered marriages)

Year	Jews			Muslim		
	Brides		Grooms	Brides		Grooms
	Up to 16	17	17	Up to 16	17	17
1975-1979 (avg.)	12.3	48.4	1.2	19.6	133.1	2.2
1985-1989 (avg.)	2.4	17.4	0.3	15.4	140.2	1.7
1991	0.9	13.9	0.1	10.1	179.1	0.7
1992	0.7	11.4		0.5	179.7	
1993*	0.6	10.6	0.2			

* Statistics are not available for this year for Muslims.

701. **The right to marry and civil marriage**. Due to the application of religious law in matters of marriage and divorce, neither civil marriages nor marriages between people of different religions are performed in Israel. Each religion applies its own rules regarding validity of marriages, including consanguinity restrictions.

702. Marriages which are prohibited or invalid under religious law are nonetheless recognized if conducted outside Israel, so long as they are conducted in accordance with the laws of the country where the marriage took place. Divorces in such cases, however, if done in Israel, must be in accordance with relevant religious law; in some cases a person who has married or divorced in a civil ceremony outside Israel will need the approval of the proper religious court if he or she wishes to remarry in Israel.

703. There are no mandatory waiting periods or blood tests for persons of any religion wishing to marry in Israel. The law of each religion prescribes its own consanguinity restrictions.

704. **Bigamy**. As bigamous marriages are recognized under relevant religious law, and the validity of marriages is determined solely according to religious law, the Knesset has acted to limit the practice of bigamy by making it a criminal offence punishable by up to five years' imprisonment (Penal Law, 5737-1977, sect. 176). A person who conducts a marriage ceremony which is bigamous for either the bride or groom is also subject to the general criminal prohibition against conducting marriages forbidden by law or marriages which amount to a criminal offence (Penal Law, sect. 182).

705. There are two exceptions to the rule of criminal liability for bigamy. A Jewish man will be immune from prosecution for bigamy if he is given permission to have a second wife by a final judgement of a rabbinical court which is confirmed by the President of the Rabbinical Court of Appeals. Persons belonging to other religions will be immune from prosecution if they can show that their first spouse is unable, due to mental illness, to perform actions necessary to annul or terminate the marriage; or if the first spouse has been absent for at least seven years in circumstances which indicate a reasonable probability that he or she is no longer alive (sects. 179-180).

706. Specific legislative arrangements have been made to safeguard the interests of wives in bigamous marriages, such as section 146 of the Succession Law, 1965, which provides that both wives of a bigamous husband shall share in his estate upon his death.

707. To prevent unilateral divorce, and thus indirectly to lower the possibility of bigamous marriages, the Penal Law (sect. 181) also makes it an offence, punishable by up to five years' imprisonment, for a man to divorce his wife against her will without a proper judicial divorce decree.

Measures of protection

708. **Social insurance and entitlements**. The State of Israel operates several entitlement programmes through the National Insurance Institute (NII) as well as other benefits which aim to preserve the family's standard of living and to enable them, directly or indirectly, to bear the economic burdens of raising

children. All families residing in Israel, regardless of income, receive a "children's allowance", a monthly cash grant which increases with the number of children in the family. In December 1996, for example, a family with one child received NIS 141 a month (approx. $43); a family with two children received NIS 282; with three children - NIS 564; four children - NIS 1,135; and five children - NIS 2,144 per month. In 1994, 795,000 families received children's allowances, amounting to 21.3 per cent of the total benefits paid by the NII and approximately 1.7 per cent of GNP. Families also receive income tax deductions according to the number of children in the family.

709. The NII administers several general programmes which protect the family by insuring against loss of income, such as unemployment and disability. The NII also pays income support benefits to families and individuals who do not earn the minimum level of income as determined by the Income Support Law, 5740-1980, and who are not covered by other income maintenance programmes. Eligibility for income support benefits is determined by income and by proof of inability to integrate into the labour market. In 1994, these benefits were paid to approximately 35,000 families.

710. Persons who receive old-age pensions, survivors' pensions or disability allowances from the NII are granted incremental benefits for dependents. Under the NII's disability insurance programme, families with disabled children receive a special allowance to help them shoulder the financial burden of caring for the child at home. Similarly, the NII provides an in-home care grant for families who wish to care for sick or disabled elderly family members in their home.

711. The NII grants the full range of allowances (children's, disability, and income supplements) to children whose parents live abroad, including primarily those children who have immigrated to Israel with relatives other than their parents.

712. Until recently, the NII followed a policy of setting off children's allowances against any income tax debts of the parents. This policy had a disproportionate effect on poorer families. After a significant lobbying effort by NGOs working in the area of children's rights, the NII agreed to refrain from setting off child allowances against tax debts; a private bill to amend the National Insurance Regulations in this regard has passed its first reading in the Knesset.

713. State institutions and voluntary organizations offer a variety of health services serving virtually the entire population, as well as a broad range of welfare services for families with particular needs and difficulties. These programmes are discussed under article 24.

Maternity and paternity assistance

714. Israeli labour law, together with a comprehensive system of cash entitlements and other benefits, provides support for mothers and their families during pregnancy, birthing and postnatal care. A pregnant woman must notify her employer of her condition by the fifth month of pregnancy. Thereafter, she may not be employed for more than six days a week, on the weekly day of rest, or at night, and she may not work overtime hours without

her consent and a physician's permission. A pregnant woman who has been working for the same employer or at the same workplace for at least six months may not be fired by her employer without special permission from the Minister of Labour and Welfare. Any employer who fires a pregnant woman without ministerial permission is subject to criminal liability, and the employee is reinstated. In the event that a pregnant employee is fired before she informed her employer of her pregnancy, she will be reinstated without any criminal sanctions imposed on the employer.

715. Pregnant women are entitled to paid absences from work for routine medical examinations. A pregnant woman who receives medical confirmation of her inability to work for a specified period may take a paid leave from work with no effect on any seniority-related rights. Under a recent amendment to the National Insurance Law, women who are unable to work due to a high-risk pregnancy receive the equivalent of their salary from the NII, up to 70 per cent of the average wage.

716. The cost of the birth mother's hospitalization during childbirth is paid by the NII directly to the hospital as part of the basic basket of health services. Costs are also covered in the event of a stillbirth. Immediately upon birth of the baby, the mother receives a “maternity grant”, equal to 20 per cent of the average wage, or more in the event of a multiple birth, to help cover some of the initial costs of preparing their home for the baby. The maternity grant is paid to all women residents or wives of residents, even if they gave birth in a hospital outside of Israel, and to women working in Israel or wives of men working in Israel, provided they gave birth in a hospital in Israel. A similar grant is given to adoptive parents. The maternity grant is currently equivalent to roughly $300.

717. From the third child onward, families receive an additional “birth allowance” for six months, equal to 50 per cent of the average monthly salary for the third child, 75 per cent for the fourth child and 100 per cent for the fifth and subsequent children.

718. The Employment of Women Law, 5714-1954, gives all working women a 12-week paid maternity leave, which can be extended in special circumstances such as sickness, multiple births or hospitalization of the infant. Maternity leave is mandatory - an employer may not employ a female employee during her maternity leave - although the woman may choose when to begin her leave at any time after the middle of the seventh month of pregnancy. A recent amendment to the Women's Employment Law allows the father to take half of the 12-week maternity leave in place of the mother, even if she is not employed. During maternity leave, the mother's or father's employer, as the case may be, must continue payments to the employee's retirement fund and to any other recognized employer-employee contribution-driven plans. The mother's or father's salary during that period is paid as a “maternity allowance” by the NII, at a rate equal to 100 per cent of his or her average salary during the three months prior to the leave, up to a certain maximum ceiling. Until 1994, the maternity allowance was 75 per cent of the pregnant woman's average salary, but was not taxable.

719. After the end of the paid maternity leave, the mother is entitled by law to take an additional leave without pay for a period of up to 12 months

depending on how long she has been employed, with full security against termination of employment. Fathers whose wives have been working for at least six months may take the unpaid leave of absence instead of their spouse. This right also applies to fathers who have sole custody of the infant or whose wives are incapacitated, as well as to adoptive fathers. During the first four months after the maternity leave, full-time working mothers may take off one hour from work each day with no decrease in salary. Adoptive mothers enjoy the same rights and benefits as biological mothers with respect to maternity leave. Other laws enable parents to devote themselves to caring for their children without suffering undue economic loss. For example, the Severance Pay Law entitles an employee who quits his or her job during the first nine months following childbirth in order to care for a child to receive severance pay, so long as the other parent has not done the same. Under the Sick Pay (Absence from Work due to Child's Illness) Law, 5753-1993, parents may decide which one of them will take an absence from work for a combined total of six days a year to care for a child under the age of 16. In addition, under the Equal Employment Opportunities Law, 5748-1988, any day-care services, shortened work days or maternity absences offered to mothers, as well as day-care expenditures covered by employers, must also be offered to fathers.

720. All of the maternity and paternity assistance programmes just described are available to all citizens of Israel, regardless of race or religion. Only persons who have failed to pay their social insurance dues for a minimum number of months during the two years preceding birth may not receive NII benefits.

New reproductive technologies

721. Fertility treatments in Israel are highly developed and well-subsidized. Israel currently has 20 in-vitro fertilization (IVF) clinics, or approximately one centre for every 285,000 inhabitants, the highest per capita rate in the world. Insurance subsidies cover, on average, NIS 6,500 (approx. $1,900) for each cycle of IVF treatment, not including hospital expenses and other costs which are generally covered by the basic basket of health services. Although there is no clear standard of eligibility for subsidized fertility treatments, couples are generally eligible if one year of sexual relations without contraception fails to result in pregnancy. The basic basket of health services covers the cost of seven cycles of treatment, up to the birth of two live children; there is no limit to the number of non-subsidized treatments a woman may receive prior to conception. Unmarried women are now eligible for fertility treatments with donor sperm in the same manner as married women. In 1993, 7,000 cycles of IVF treatment were performed (some women received more than one cycle of treatment).

722. Israel has become the first country to give full legislative sanction to surrogate motherhood. The Surrogate Motherhood Agreements (Approval of Agreement and Status of Newborn) Law, 5756-1996, sanctions full surrogacy (where the carrying mother is not genetically related to the resulting child) provided, among others, that all parties are adult residents of Israel; that the carrying mother is unmarried, except perhaps in certain extenuating circumstances; that the surrogate and the designated parents have no family relation; that the surrogate and the designated mother have the same religion;

and that the sperm used is that of the designated father. The request for surrogacy must be approved by a seven-member statutory committee composed of physicians, social workers, psychologists, attorneys and a member of clergy of the contracting couple's faith. All requests must be supported by a psychological evaluation of the parties and a medical examination regarding the inability of the designated mother to become pregnant or to carry a pregnancy to term. The committee may approve monthly payments to the carrying mother to cover actual expenses in addition to compensation for loss of income, time, or other reasonable compensation. Any payment to the carrying mother beyond the amount approved by the committee is illegal, and subjects all parties to the agreement to criminal liability. To become the child's legal parents, the contracting couple must apply for a "parenthood order" within one week of the birth; such orders are issued by a court unless it is convinced that to do so would be contrary to the best interests of the child. Prior to the issuing of the parenthood order, the carrying mother may ask to withdraw from the agreement, and the court may decree that she is the child's legal mother, provided that her retraction is justified by a change in circumstances, and the child's best interests will not be jeopardized. No retraction is possible after the parenthood order is issued.

723. The first birth in Israel by a surrogate mother - who gave birth to twins - took place in February 1998.

724. **Child custody**. Under the Capacity and Guardianship Law, 5722-1962, parents are recognized as the equal, natural guardians of their minor children. They bear both a statutory obligation and a right to attend to the child's needs, including education and upbringing, vocational training, and maintenance of the child's property; their guardianship also includes the right to custody of the child, the right to determine the child's place of residence, and the authority to represent the child (Capacity and Guardianship Law, sect. 14). In all matters related to their guardianship, parents are obligated by law to act "in the best interests of the child in the manner that dedicated parents would act under the circumstances" (sect. 15). In the event that one parent dies, the surviving parent retains the duty (and the right) to be the child's guardian.

725. The "best interests of the child" doctrine is also applied in determining the custody of children between biological parents, or in cases in which children may be removed from parental custody. Courts typically consider a number of factors in determining what is in the child's best interests, such as who was the primary caretaker, the relationship that each parent (or third party) has with the child, and, depending on the child's age, the child's preference. In custody disputes between parents, the Capacity and Guardianship Law establishes a presumption that maternal custody is to be preferred for children under six years old. This presumption may be rebutted in rare and extreme circumstances when the mother is deemed unfit. In general, most courts tend to favour maternal custody, even with older children, and liberal visiting rights for the father. Joint custody arrangements have become somewhat more common over the past several years. In cases involving the removal of a child from parental custody, the interests of the child alone are not sufficient to warrant a denial of parental custody: it is also necessary that specific statutory grounds for denial of parental custody be fulfilled, such as if the parents are incapacitated or incapable of

fulfilling their obligations, if they refuse without reasonable justification to care for the child's needs, or if the child's physical or mental well-being is found by a welfare officer to be at risk (See, e.g., Capacity and Guardianship Law, sects. 27, 33 and 38; Child Adoption Law, 5741-1981, sect. 13 (4); Youth (Treatment and Supervision) Law, 5720-1960, sect. 3 (4)).

726. **Maintenance and child support in the event of separation or dissolution of marriage**. Under the Family Law Amendment (Maintenance) Law, 5719-1959, the "personal" law of the husband and wife - that is, the substantive law of the religion with which they are affiliated - governs questions of child and spousal support. Under a 1981 amendment to the law, the parents' child support obligations shall be determined according to their respective incomes.

727. Several legal remedies are available under Israeli law to ensure payment of maintenance and child support. As a judgement debtor, the non-paying parent may be subject to the full range of remedies available for enforcement of judgements, such as garnishment and attachment of assets, preventing departure from Israel, restrictions on financial activity and, in extreme cases of bad faith avoidance, even imprisonment for up to seven days. In any bankruptcy proceedings against the non-paying parent, child support payments are given preference over the claims of other creditors, including the tax authorities. Finally, under the Maintenance (Guarantee of Payment) Law, 5732-1972, the NII will act as guarantor for the parent in default, upon request by the custodial parent. The NII not only pays the creditor the monthly amount set in regulations, but takes on the burden of handling execution proceedings against the recalcitrant spouse. Currently, the amount paid by the NII is 25 per cent of the average monthly wage if the woman has no children; 39.7 per cent of the average wage if the woman has one child; and 49.6 per cent for a woman with two children. However, if the court has previously set alimony and child support payments at an aggregate amount less than that set by the regulations, the NII will pay the lower amount.

Division of marital property during marriage and upon dissolution

728. Under the Women's Equal Rights Law, 1951, married women enjoy equal rights in marital property. The law, however, specifically does not apply to determining the status of marriage and divorce itself, which is governed by religious law. As the question of dividing marital property arises, for the most part, upon divorce or separation, Israeli jurisprudence has witnessed a certain conflict and overlap regarding the law to be applied in dividing marital property. As mentioned above, the civil and religious courts both may claim jurisdiction over division of marital property, the former by original jurisdiction, and the latter by ancillary jurisdiction in the context of a divorce proceeding. Religious courts must apply civil law, not religious law, in matters of spousal property distribution, on the ground that property distribution is not, strictly speaking, related to the "personal status" of the spouses, which is the basis for application of religious law. H.C.J. 1000/92, *Bavli* v. *Rabbinical Court of Appeals*, 48(2) P.D. 221. The Court held that the Rabbinical Court must divide marital property in accordance with the equality provisions in the Women's Equal Rights Law, 5711-1951, and thus may not decide upon a distribution that discriminates against the wife.

729. Under Israeli law, the distribution of marital property is governed by the principle of “community property”, which treats all earnings, profits and assets acquired during the marriage as owned jointly by husband and wife, regardless of their respective incomes. Property acquisitions by gift, bequest, or devise, and property acquired before marriage are considered separate property. The community property principle was developed in case law as a presumption that the partners have an equal share in marital property provided that there was a “joint effort” by both partners in the overall family enterprise. In 1973, the Knesset incorporated the community property principle into law, in such a manner that all couples married from 1973 onward are deemed to share equally in the marital estate, unless they contract otherwise; the “joint effort” requirement does not apply to couples covered by the statute. Spouses (Property Relations) Law, 5733-1973. The judicial community property rule, which requires a showing of “joint effort”, continues to apply to all couples married prior to enactment of the Law, as well as to non-married couples.

730. Under principles developed in the case law, the presumption of shared spousal ownership of all marital assets vests only upon the dissolution of the marriage. This rule makes it difficult for creditors to recover judgements against one spouse from assets held by or registered in the name of the other spouse, so long as they are married. It also can impair the ability of one spouse to recover his or her share of the marital property in the event that the couple, for some reason, is unable to get divorced.

Inheritance

731. To the extent that matters of inheritance are adjudicated in civil courts, they are governed by the Succession Law, 5725-1965, which gives husbands and wives equal inheritance rights in the event of an intestate death. The surviving spouse inherits either one half or all of the estate, depending on whether or not there are children or grandchildren living at the time of death. Sons and daughters receive equal, proportional shares in the estate. There are two exceptions to the equality of intestate inheritance rights: a widow is entitled to alimony payments from her deceased husband's estate, and may remain in the home in which they lived together; no such rights exist for widowers.

Choice of family name

732. Until recently, the Names Law, 5716-1956, section 6, provided that as a rule, a married woman takes her husband's family name upon marriage, although she may keep her own name or add it to her husband's name. In practice, however, the Ministry of Interior would automatically change the woman's family name upon registration of her marriage, without asking what she preferred. A February 1996 amendment to the Names Law placed men and women on equal footing, clarifying that upon marrying, either spouse may retain his or her former name, choose the spouse's family name, add the spouse's family name to the person's former name, select a new family name identical to a new one chosen by his or her spouse, or add such a new name to a shared former name (Names Law, sect. 6). The amendment further provides that the husband or wife shall notify the marriage registrar of his or her name preference at the time of registration, instead of having the wife's name changed automatically. In addition, the law no longer requires any change in the family name of married couples to be made jointly by the husband and wife.

Article 24 - Protection of children

733. During the nearly 50 years of its existence, Israel has built a thorough foundation of law, social institutions and services for the protection and welfare of children. In roughly the first two decades following its establishment, Israel set in place the basic components of a comprehensive system of social protection characteristic of a modern welfare State, including social insurance, income support programmes, health care and universal education, and special programmes designed to meet the needs of disadvantaged groups. At the same time, the Knesset enacted a body of legislation establishing a framework of rights of children to protection and treatment in various areas of their lives, extending from parental obligations to controls on child labour, protection of disabled children and children in danger, special treatment of children in the legal process, and so on.

734. The past decade has witnessed a heightened awareness on the part of State agencies and society, as well as significant legislative development and the institution of new social programmes in areas such as child abuse, violence in the family, the family court system, health care, treatment of children in detention, involuntary hospitalization and child labour.

735. In 1991, the State of Israel ratified the Convention on the Rights of the Child. Israel's initial report under the obligations of that Convention will be submitted in the near future. In July 1997 an expert committee headed by a District Court judge was appointed by the Minister of Justice to undertake a comprehensive review of Israeli legislation bearing on the rights and welfare of children, and to recommend any legislative changes necessary to bring Israeli law and practice fully into accord with the provisions of the Convention on the Rights of the Child.

736. As a fundamental principle in Israel's legal system, the right to equality, and the corresponding right to freedom from discrimination, extends to the protection of children and is enforceable in the courts, even in the absence of a general constitutional prohibition of discrimination. The occurrence of de facto discrimination will be addressed in the specific contexts in which it may arise in the discussion under this article.

Primary responsibility

737. Parents bear the primary responsibility for the protection and upbringing of children in Israel. Under the Capacity and Guardianship Law, 5722-1962, as the “natural guardians” of their minor children, parents bear both a statutory obligation and a right to attend to the child's needs, including education and upbringing, vocational training, and maintenance of the child's property; their guardianship also includes the right to custody of the child, the right to determine the child's place of residence, and the authority to represent the child (Capacity and Guardianship Law, sect. 14). The rights attendant to parental guardianship have been interpreted as “the right to fulfil their obligations” (B.D.M. 1/81, *Nagar* v. *Nagar*, 38(1) P.D. 365, 393). In all matters related to their guardianship, parents are obligated by law to act “in the best interests of the child in the manner

that dedicated parents would act under the circumstances" (sect. 15). In the event that one parent dies, the surviving parent retains the duty (and the right) to be the child's guardian.

738. **Child custody**. As discussed under article 23, "the best interests of the child" doctrine is applied in determining the custody of children between biological parents, or in cases in which children may be removed from parental custody. However, in the latter class of cases, the interests of the child alone are not sufficient to warrant a denial of parental custody: it is also necessary that specific statutory grounds for denial of parental custody be fulfilled, such as if the parents are incapacitated or incapable of fulfilling their obligations, if they refuse without reasonable justification to care for the child's needs, or if the child's physical or mental well-being is found by a welfare officer to be at risk (See, e.g., Capacity and Guardianship Law, sects. 27, 33 and 38; Child Adoption Law, 5741-1981, sect. 13 (4); Youth (Treatment and Supervision) Law, 5720-1960, sect. 3 (4)). In general, a decision to remove a child from parental custody is made by the Court; in urgent circumstances, however, a welfare officer may place the child in the custody of the State, provided that the matter is brought promptly before a Youth Court for its consideration. The child has a right to be heard before a court decides to remove him or her from parental custody.

739. **Adoption**. The Child Adoption Law, 5741-1981, prescribes a series of standards designed to protect the interests of children put up for adoption. First, adoption is permitted only after a court has been satisfied that the biological parents have given voluntary and informed consent, or that there are other appropriate grounds for waiver of such consent. In circumstances in which the welfare of the child urgently requires the removal of a child from the parental home, the welfare case officer may place the child in the home of the prospective adoptive parents or elsewhere even without first receiving parental consent or a court order sanctioning waiver of such consent, so long as the court approves the removal within 14 days (Child Adoption Law, sect. 12). Second, if the child is at least nine years old, or is younger but shows a suitable level of understanding, the court will not issue an adoption order unless it is satisfied that the child wants to be adopted by his or her prospective adoptive parents. The fact of the adoption will not be disclosed to the child only if he or she does not know that the adoptive parents are not his or her biological parents, all indications point to the desire of the child to continue the relationship with the adoptive parents, and the interests of the child are deemed to require non-disclosure (sect. 7). Third, an adoption order will not be granted until after the child has lived with his or her adoptive parents for at least six months and the welfare case officer gives a favourable written report regarding the child's condition and welfare in the adoptive home. Finally, the child and his or her adoptive parents must be of the same religion (sect. 5).

740. The adopted child has a right to know, upon reaching the age of 18, the identity of his or her biological parents.

741. In part because of the relatively small number of Israeli-born children put up for adoption, as well as the requirement that the child and the adoptive parents share the same religion, many parents in Israel who wish to adopt a child have found it necessary to adopt children from other countries.

The absence of clear local guidelines and controls on international adoptions, the lack of adequate staffing to handle the caseload at the Ministry responsible for overseeing these adoptions, and other factors conspired to make adoption of alien children a dauntingly expensive, risky and time-consuming affair. Recently, following the ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993, the Knesset enacted a substantial amendment to the Child Adoption Law which establishes guidelines and procedures for international adoptions. Among other things, the amendment provides for a system of duly accredited private adoption agencies which may handle requests by Israeli residents who wish to adopt a child from another country; standards for evaluating the fitness of the adoptive parents and for the oversight of the work of the private agencies; and coordination with the authorized organs of the foreign State to ensure that adoption by Israeli parents is in the best interests of the child and that the necessary legal conditions under the law of the foreign State for putting the child up for adoption have been met.

Oversight and support of the primary care giver

742. **Parental role**. As discussed above, Israeli law requires parents to provide for their minor children to the extent of their financial abilities. Failure of parents to provide adequate support can lead to removal of the child from parental care. In addition, the Penal Law, 5737-1977, sections 361 *et seq.*, prescribes criminal sanctions against parents or other primary care-givers for abandonment and neglect:

> "361. A person who unlawfully abandons or deserts a child under the age of two years, whereby its life is endangered or its health is or is likely to be permanently injured is liable to imprisonment for five years.
>
> "362. The parent of a child under 14 years of age or of an invalid unable to provide for his own needs (each of these in this and the next section referred to as a 'helpless person'), or a person bound by law or agreement to provide for the needs of a helpless person in his charge, who does not supply him with food, clothes, bedding and other essentials of life to the extent required to preserve his well-being and health is liable to imprisonment for three years unless he proves that he took steps which in the circumstances were reasonable in order to secure the means of supplying those essentials and that he is unable to supply them.
>
> "363. The parent of a helpless person, or a person bound by law or agreement to provide for the needs of a helpless person, who refuses to receive the helpless person in his charge from a person not bound to provide for his needs or leaves him in the hands of a person who has not agreed so to provide is liable to imprisonment for six months; if he abandons the helpless person, he is liable to imprisonment for three years.
>
> "364. A person who offers or gives consideration for permission to have possession of a minor under the age of 14 years or asks for or receives

a consideration for such permission is liable to imprisonment for three years, and it is immaterial whether the consideration is money or money's worth.

"365. (a) A parent or guardian of a minor under 14 years of age who surrenders the minor, or permits him to be surrendered, to a person not his parent or guardian, such surrender involving repudiation of his obligations or rights with regard to the minor, is liable to imprisonment for two years.

"(b) It shall be a good defence to a charge under this section if one of the following is proved:

"(1) the minor was surrendered for the purpose of adoption under the Adoption of Children Law, 5720-1960;

"(2) the minor was surrendered for a determinate period and with the consent of a welfare officer within the meaning of the Welfare Services Law, 5718-1958;

"(3) the minor was surrendered to his grandparent, uncle, aunt, brother or sister and the surrender was in the interest of the minor."

The mechanisms for enforcement of child support obligations by non-custodial parents in case of separation or divorce are discussed under article 23. The special arrangements for protection of children exposed to abuse or neglect within the family are discussed below.

743. **Financial support programmes**. The National Insurance Institute (NII) is responsible for the administration of all social insurance programmes in Israel. The NII administers several general programmes which indirectly benefit children by covering the major contingencies of income loss, such as unemployment, disability and maternity. Children's allowances are paid to all families with children, regardless of income, according to the number of minor children in the family. The amount of the allowance for each child in a given family increases from the third child onward, thus helping large families attain a minimum income necessary for the care and upbringing of their children. In 1994, 795,000 families received children's allowances, amounting to 21.3 per cent of the total benefits paid by the NII and approximately 1.7 per cent of GNP.

744. The amount of the children's allowance provided to the fourth and subsequent children is higher for families in which at least one of the members served in the military. Since most of the Arab population is exempt from military service, the level of benefits has not been equal for larger Arab and Jewish families. In January, 1994, the Government began a four-year programme to equalize benefits paid to families whose members have not served in the military so that all families will receive children's allowances based solely on family size.

745. The NII also pays income support benefits to families and individuals who do not earn the minimum level of income as determined by the Income

Support Law, 5740-1980, and who are not covered by other income maintenance programmes. Eligibility for income support benefits is determined by income and by proof of inability to integrate into the labour market. In 1994, these benefits were paid to approximately 35,000 families.

746. Special income supplements are also given to single-parent households, including education grants for their children. Child disability allowances are given to families with children who have a recognized disability. The NII also gives income supplements for "abandoned" children, which includes, among others, orphans, children who have been removed from the parental home due to neglect, abuse or incest, children whose parents are unknown, and children whose parents live abroad. This last category embraces primarily the considerable number of children who have immigrated to Israel with relatives other than their parents. Recently, the NII decided to grant the full range of allowances (childrens, disability, and income supplements) for these children in the same manner as if they lived with their parents in Israel. In certain circumstances where the child has no legal guardian in Israel, the allowances are paid directly to the minor. In addition to income supplements for single-parent families, the Single Parent Family Law, 5752-1992, gives preference to single parents in job training, acceptance to day care programmes, and makes them eligible for a special housing loan.

747. Other grants and benefits, such as birth grants, guarantee of maintenance payments by the NII, orphan's grants, and maternity and paternity leaves, are discussed under article 23.

Health care

748. Until January 1995, when the new National Health Insurance Law came into effect, roughly 95 per cent of Israel's population was covered by health insurance. Insurance and health care was provided by four major sick funds, similar in nature to health maintenance organizations, and were financed by personal contributions, employer contributions and government subsidies. The largest and oldest of these health funds, Kupat Holim Clalit, operates its own hospitals, clinics and family health centres; the smaller funds often contract with private physicians for primary care, and generally purchase hospital services from Government-owned hospitals, the Kupat Holim Clalit and other agencies. Following an ongoing crisis in the Israeli health care system, a governmental commission recommended sweeping reforms, including the passage of a national health insurance law, decentralization of the hospital system, and the divestiture of the Ministry of Health from most of the service provision functions it had carried out until then. Thus far, the principal reform has been the enactment and implementation of the National Health Insurance Law in January 1995. The new law provides for automatic coverage of all residents of the State, regardless of ability to pay; even if a child's parents do not pay their health fees, a child will always have health coverage. The health funds provide a mandatory service package in return for an annual payment by the Government for each member, drawn from the health fees paid by each person or family to the National Insurance Institute, and are required under the new law to assume responsibility over time for certain services previously provided or funded by the Government in areas such as mental health and prevention,

including the family health centres. Patients are free to choose among the competing funds, which are prohibited from denying membership to anyone on the basis of age, health status or place of employment.

749. Specialized medical care for children in Israel includes a centrally-located Children's Hospital and designated children's wings in a number of general hospitals, preventive services and specialized mental health services, child abuse teams in general hospitals and special out-patient child abuse units.

750. The cornerstone of preventive health care for children has been the network of mother-child clinics (*Tipat Halav*), which focus on the well-being of women during pregnancy and of children from birth to age five. These centres offer prenatal examinations, vaccinations, early detection of mental and physical handicaps, abuse and neglect, and health education and counselling. Parents pay a nominal fee every six months for well-child care including immunization. Those unable to pay are referred to social workers for financial counselling and financial assistance if necessary; in any case, health care is never denied due to an inability to pay. The centres are community based, and most nurses become acquainted with the families during pregnancy and early development of all children. Thus these clinics are considered by the families as a source of support, and serve almost the entire population. It is estimated that 95 per cent of all families of childbearing age visit the mother-and-child clinics during pregnancy and the child's first two years. The rate of utilization drops sharply after children reach 2½ years of age.

751. In 1995, Israel's infant mortality rate was 6.8 per 1,000 live births. While there remains a steady difference in the infant mortality rates of Jews and non-Jews, the absolute difference in these rates has declined significantly over the past two decades. In 1979, the overall infant mortality rate was 18.7 per 1,000, 12.9 for Jews, 16.8 for Christians, 24.8 for Druze and 24.6 for Muslims. In 1995, the infant mortality rate was 5.5 for Jews, 6.7 for Christians, 7.1 for Druze and 9.7 for Muslims.

752. Children with diagnosed or suspected developmental problems are often referred to one of 26 child development centres. Some of these centres are affiliated with the health funds or the Ministry of Health, and a few are connected to general-care hospitals. The centres deal with early diagnosis, counselling and treatment for children up to age five who may be suffering from developmental or functional disabilities. Some centres also provide support services and guidance for parents. Children requiring treatment after the age of five are usually referred to a special educational facility or other medical framework.

753. **School-based public health services**. In elementary schools, preventive health services funded largely by the Ministry of Health are provided by specially trained public health nurses. Services in the schools include health education on topics such as nutrition, personal hygiene and puberty- and sex-related issues, immunizations and periodic hearing and vision tests.

754. Municipalities and regional authorities are responsible for preventive health services in high schools. The services provided are mainly educational in nature, with emphasis on preventing drug and alcohol abuse, communicable diseases including AIDS, and issues of safety.

755. The Ministry of Health, in conjunction with social service agencies and the Kupat Holim Clalit, give services at specialized centres to adolescents in addition to school-based services. These centres focus on sex education, including medical check-ups, treatment of adolescent problems such as acne and weight problems. At the time of submission of this report, the number of these centres is still small in relation to the total adolescent population.

756. Public mental health services include diagnostic testing, counselling and psychotherapy, and parental guidance which are provided by local Child and Adolescent Mental Health Clinics. In-patient treatment is given in special children or adolescent mental health wards by specially trained personnel. Out-patient clinics, serving particular catchment areas, are generally free of charge or charge only nominal fees. Nevertheless, the Ministry of Health has acknowledged that these mental health services serve middle-class families more effectively than the truly needy or disadvantaged, in part due to a lack of outreach to more difficult populations, such as less cooperative or multi-problem families. To redress this gap in services, the Ministry began by recently establishing a mental health centre for children and youth in Beersheva, serving the southern region of the country, and specifically dedicated to reaching more disadvantaged families and dealing with such problems as child abuse and family violence, which are discussed in more detail below.

757. Recent legislative developments related to children's health care include an amendment allowing minors to undergo testing for AIDS without parental consent; a new law which gives minors increased autonomy regarding consent to medical treatment; and a sweeping amendment of the Youth (Treatment and Supervision) Law, 5720-1960 which redefines the grounds for involuntary psychiatric hospitalization of minors, clarifies that commitment may be employed only if there is no less restrictive alternative, recognizes for the first time the right of minors to be heard in legal commitment proceedings, and provides for independent legal representation of the minor in such proceedings.

Welfare services

758. **General**. Under the Welfare Services Law, 5718-1958, personal social services for youth and children in Israel are provided by local authorities to individuals and families in need, with professional supervision and regulation by the Ministry of Labour and Social Affairs. The State's budget for operating welfare services is supposed to be based on a fixed formula, under which the State pays 75 per cent and the local authorities pay 25 per cent. In practice, the local authorities often bear more than their share of the cost. Moreover, poorer authorities are more dependent on State funding, which results in a certain discrepancy between local authorities regarding the extent of services and the ability to meet local needs.

759. Most personal social services are delivered through an extensive system of social service offices that operate on a local neighbourhood basis. These offices are staffed with professional social workers, who provide direct counselling services to members of the community. Local authorities are also responsible for the development and regulation of other programmes and services such as home help for families and after-school programmes. Other services are provided directly by the Ministry of Labour and Social Affairs, such as probation services, adoption services and most out-of-home services.

760. The Ministry of Labour and Social Affairs is responsible for meeting the needs of three major populations of children and youth: children living in poverty, children who are victims of abuse or neglect, and young people who engage in socially deviant behaviour. Within the Ministry, the Division for Personal and Social Services (DPSS) addresses the needs of children who are at risk or are disadvantaged. Local welfare offices serve the needs of poor and disadvantaged families under the supervision of DPSS, working with families as a whole while addressing the needs of the children in those families. Workers at these offices have, at minimum, a bachelor's degree in social work (BSW). Financed by various national insurance programmes, these workers provide counselling, advocacy, referrals, and to a certain extent can arrange direct financial aid, including assistance in purchasing basic household equipment (35,000 families received such help in 1995), temporary assistance in housing expenses (140,000 received assistance in 1995), home help to families who have difficulties managing their households (4,500 such families received home help in 1995), and assistance with placing children in day care, particularly while the mother is looking for work in compliance with the family's rehabilitation plan. In 1995, a total of 180,000 disadvantaged families, not including the elderly, received serves from the DPSS. Over the past several years, in an attempt to help prevent future problems for children in young families, the DPSS has been involved in developing specialized programmes for poor and disadvantaged families, particularly for young multi-problem families with at least one child under the age of six. These programmes emphasize the acquisition of basic life skills (such as managing the family budget and looking for employment) and improving family relationships and parental functioning.

761. The DPSS is also responsible for the implementation of several recent laws dealing with cases of custody disputes, marital problems, family violence and child abuse. A national network of 19 family-violence prevention centres has been established to work with families in which violence occurs. The DPSS also operates 74 family counselling stations serving approximately 9,500 families per year (35,000 children) through counselling to help improve parenting skills and solve marital problems. In child custody cases, specially-appointed family welfare officers are responsible for reviewing the family involved and making recommendations to the court regarding the preferred custodial arrangement. The DPSS also operates several centres where parents and children can meet in cases where the court has determined that one of the parents may not live at or visit the home; and 38 counselling and support centres for single-parent families.

762. The Service for the Child, a unit within the DPSS, bears statutory responsibility for placing children in adoptive families, including choosing appropriate adoptive parents. In 1992, the Service served

approximately 400 children, placing more than 200 in adoptive homes, and also served nearly 300 young unwed mothers through residential programmes and counselling. The Service operates two transitional facilities for children before adoption and one hostel for pregnant girls.

763. Another unit within the DPSS bears primary responsibility for providing services to children and youth who are victims of abuse or neglect, or are otherwise at risk. These services are given within the community and, when necessary, in out-of-home residential programmes. The community services include counselling for families and children, day care subsidies for children at risk of abuse and neglect, after-school settings providing recreation, therapy and hot meals, and a series of programmes aimed at improving parental skills and preventing further abuse. Reported cases of abuse and neglect are investigated by trained child protection officers, who have authority to appear in court and apply for protective orders for children at risk. Under the Prevention of Family Violence Law, 5751-1991, the child protection officer, as well as other persons, may apply to the court to have the violent parent or other person removed from the home, for periods ranging from several days to a total of a year. Following the enactment of legislation that mandated reporting of child abuse and neglect, which is discussed below, and a sharp rise in the number of reported cases, a network of emergency centres has been established by the Ministry of Labour and Social Affairs in cooperation with other non-governmental organizations, to give short-term residential services for up to three months and longer-term out-patient services in complex cases by referral.

764. The bulk of the DPSS's budget for handling cases of children at risk is devoted to residential placements. In 1995, approximately 7,700 children were living in residential homes and 1,700 were living with foster families, comprising roughly one-quarter of the children at risk in the care of the DPSS. Even when residential placement is voluntary, the placement must first be approved by a local committee consisting of social service workers, doctors, teachers, psychologists and health clinic nurses. In recent years, the Ministry, in an attempt to expand the range and effectiveness of out-of-home services for children at risk, has begun developing several alternative forms of residential placement, including community-based residential homes, group homes, residential homes operated by private families, and “day homes” in which the children return to their own homes at night. The Ministry has also begun developing special settings for mentally-disturbed children who have been transferred from closed institutions.

765. The delivery of effective social services to children at risk in Israel faces several problems common to many social service systems: the necessity to work within budgetary constraints, which limit the number of children who may be served, particularly those over the age of six, and the development of programmes which may best fit their needs along with those of the family; a certain reliance on out-of-home placements rather than family-centred intervention programmes, in part due to the relative scarcity of community-based settings with adequate resources; inefficiencies arising from overlapping responsibilities within the Ministry; and the difficulty of ensuring the quality of care in residential facilities. The Ministry of

Labour and Social Affairs has invested significant resources over the last several years in developing standards and practices to improve the quality of care in residential facilities.

766. Another department at the Ministry, the Division for Correctional Services and Services for Youth in Distress, handles marginal youth populations, such as juvenile offenders, children with substance abuse problems, those who have dropped out of school or have behavioural problems. Although juvenile crime and substance abuse are less widespread than in some Western countries, they have become increasingly common in Israel, particularly among high-school drop-outs. Two separate youth services, one for boys and one for girls, provide rehabilitative treatment for young people between the ages of 13 to 22, who have dropped out or are in the process of dropping out of educational frameworks and have shown other symptoms of behavioural problems. These services provide therapy, vocational training and educational enrichment, and operate youth clubs and runaway shelters, serving approximately 15,000 adolescents and young adults annually. They also operate services for battered women and rape crisis centres in conjunction with volunteer organizations. Another unit at the Ministry places youths who have not been integrated successfully into regular educational frameworks in alternative schools and work-study programmes.

767. The Ministry of Labour and Social Affairs also bears primary responsibility for handling cases of juvenile delinquency, investigating allegations of child abuse and neglect not involving the family, and investigating sex-related crimes involving children under the age of 14 either as victims or as witnesses. In each case involving a juvenile criminal defendant, a case officer at the Juvenile Probation Service within the Ministry prepares a pre-trial report on the defendant's behaviour, physical and mental health, and potential for rehabilitation, as well as post-trial sentencing and treatment recommendations. The Youth Protection Authority operates 37 rehabilitative residential settings for delinquent and severely troubled youth, including locked detention facilities, boarding schools, half-way houses, apartments and hostels, as well as a diagnostic centre.

768. The Israel police has special youth units that investigate alleged juvenile offenders, locate minors in distress and refer them to social service agencies. The police also run or participate in several outreach projects which aim at preventing drug abuse and reducing violence in the schools.

Methods of intervention for children in need

769. When a welfare officer has reason to believe that a minor is in need of assistance, he or she is authorized by law to begin intervention for the safety and welfare of the child. A “child in need” is defined by law as meeting any of the following criteria:

> “(a) The person responsible for him cannot be found;
>
> “(b) The person responsible for him is unable to care for or supervise him, or neglects such treatment or supervision;

"(c) He perpetrated an act which is a criminal offence and was not brought to trial;

"(d) He is found loitering, begging or peddling in violation of the Child Labour Law, 5713-1953;

"(e) He is subject to harmful influence or lives in a place that serves continuously as the site of a criminal offence;

"(f) His physical or emotional health is harmed or is likely to be harmed for any reason;

"(g) He was born suffering from drug withdrawal syndrome."

[Youth (Treatment and Supervision) Law, 5720-1960, sect. 2.] In such circumstances, if the parents or the person responsible for the child does not agree to the welfare officer's recommendations for treatment, or if the child's guardian agrees but the child refuses to comply,then the welfare officer may apply for an order from a youth court or family court, as the case may be. The court may require the child, or the parents or guardians, to carry out any measures deemed necessary for the treatment or supervision of the child, including with regard to education and psychological rehabilitation; it may appoint a "friend" for the child, who functions as a counsellor with powers and tasks defined by the court, or may place the child under the supervision of a welfare officer; or it may order the removal of the child from the custody of the parent or guardian if there is no other way to ensure the treatment or supervision of the child. The court may also order that the child undergo psychiatric diagnosis or treatment. Under a recent legislative amendment, the courts are also authorized, under certain circumstances, to notify the guardian of positive AIDS test results (sect. 3 of the law).

770. In all court proceedings regarding the treatment of the child, the court may not issue any decision without giving the child, his or her guardian and the welfare officer the opportunity to have their claims heard, and without receiving a written report by the welfare officer (sect. 8 of the law).

771. In severe cases involving imminent danger to the child, or in which urgent medical treatment (not including psychiatric diagnosis or hospitalization) may not be delayed, the welfare officer may take such measures necessary to prevent such danger or provide such medical care without the consent of the parent or guardian, and without a court order, provided that the child is not removed from the custody of the guardian for more than seven days without court approval (sect. 11 of the law).

772. **Confidentiality**. To help prevent unnecessary damage to children in need, the Treatment and Supervision Law makes it a criminal offence to publish any information which may enable identification of the child, in such a manner that discloses that the welfare services or the courts have intervened in the child's case, that the child has attempted or committed suicide, or which suggests that the child has committed a crime or an immoral act, or that he or she is a relative of a person who has committed such an act (sect. 24 of the Law). A currently-pending legislative bill would expand the prohibition to

include information leading to the identification of a child as a victim of a crime. Welfare officers and any persons with knowledge relating to psychiatric diagnosis or treatment of a child bear strict duties of confidentiality; no written or computer records of a child's psychiatric hospitalization may be kept beyond the child's personal medical file at the treating hospital, except if the child is diagnosed as having a mental illness which endangers himself or herself or others (sect. 23 of the Law).

Child abuse

773. Over the last decade, significant legislative reform in the area of child abuse has resulted in a dramatic increase in the detection and treatment of such cases, and in public awareness of an acutely harmful phenomenon the dimensions of which had remained largely hidden until then. In 1989, the Knesset enacted the Child and Helpless Persons Abuse Prevention Law, which created special criminal offences for assault and molestation - including physical, emotional or sexual molestation - of children or helpless persons, in addition to already-existing offences in the Penal Law.

774. The Penal Law (sect. 368 A) provides increased sentences for assault or molestation by a broadly defined category of persons deemed to have some degree of responsibility over the victim:

> "'Person responsible for a minor or helpless person' means any of the following:
>
> "(1) A parent or a person who is responsible for the sustenance, health, education or welfare of a minor or a helpless person, by operation of law, judicial decision, express or implied contract; or a person who is responsible as aforesaid for a minor or a helpless person by virtue of an unlawful or forbidden act that he has done;
>
> "(2) A member of the family of a minor or helpless person, who is at least 18 years old and is not a helpless person, and is one of the following: the spouse of a parent, grandmother or grandfather, offspring, sister or brother, brother- or sister-in-law, uncle or aunt;
>
> "(3) A person with whom the minor or the helpless person resides or is with on a permanent basis, who is at least 18 years old, provided that there exist relations of dependency or mastery between them."

775. Furthermore, the law imposes a duty, under pain of criminal liability, on all persons to report suspected cases of abuse against children or helpless persons to a welfare officer or to the police; professional workers, such as doctors, nurses, educational staff, social workers, psychologists, and staff at youth residential facilities, bear an augmented duty of disclosure (sect. 368 D of the Law). This new policy has had an important role in increasing reporting of child abuse. In 1994, the welfare services intervened in roughly 3,000 cases. At the same time, its implementation has raised certain difficulties when the duty of disclosure conflicts with a duty to maintain confidentiality, as in the case of a psychologist who learns of a suspected case of child abuse from his or her patient.

776. The Family Violence Prevention Law, 5751-1991, added an important new means of protecting children in families suffering from domestic violence by giving the court the power, in cases of actual or reasonably imminent violence or sexual abuse, to issue *ex parte* protective orders for a period of seven days, extendable if necessary for up to one year, which forbid the violent family member from entering the home, from harassing family members in or out of the home, from impairing the lawful use of property by the other family members, or from carrying firearms. During the seven-day period a hearing is held in the presence of the parties regarding the extension of the order. The court is entitled in such proceedings to depart from the usual rule preventing family members from testifying against one another.

777. A recent law makes it possible for witnesses in sexual abuse trials to testify by closed-circuit video (Criminal Procedure Amendment (Sexual Offences Testimony) Law, 5756-1996). This law also empowers the courts to require a victim impact statement by a welfare officer regarding the victim's condition, and requires trials for sex offences to be heard by a three-judge panel instead of by a single judge. In response to the recognition that incest victims frequently take many years to file complaints, the Penal Law was amended in 1996 to extend the 10-year statute of limitations in cases of incest, such that the period of limitation begins to toll not from the date of the offence but from the date on which the victim turns 18 (Penal Law (Amendment no. 47), 5756-1996).

778. The conviction and sentencing patterns since the above legislative reforms indicate a certain rise in conviction rates and the severity of sentences in cases of child abuse and incest. One Supreme Court decision, overturning an earlier decision by the same Court acquitting a father of incest on the ground that the daughter “was not in a situation preventing opposition”, held that a child victim of incest is presumed to be unable to object to the act. F.H. 6008/93, *State of Israel* v. *Anonymous*.

779. **Corporal punishment**. As discussed under article 7, corporal punishment of students by teachers or school administrators constitutes criminal assault, and may ground a claim for civil damages in appropriate circumstances. Disciplinary guidelines published by the Ministry of Education, Culture and Sport prescribe series of alternative disciplinary measures, ranging from an oral reprimand to dismissal from school, as well as procedures that educational staff must employ prior to taking disciplinary action, including discussions with the student and his or her parents. Several years ago, following intensive lobbying efforts by NGOs, the Knesset decided to strike a provision from an amendment to the Penal Law which would have created a defence to criminal liability for any “reasonable” acts, including “reasonable” corporal punishment, taken with regard to a child by parents, teachers and other persons entrusted with authority over a child.

Protection of children in legal proceedings

780. Apart from the system of special safeguards throughout the criminal process for minor suspects or defendants, which are discussed under articles 9, 10 and 14, Israeli law provides for several legal institutions which help protect the welfare of children involved in various legal proceedings. Except in cases of violence or sexual abuse within the family,

testimony by a child against his or her parent, or by the parent against the child, are inadmissible in any criminal proceeding (Evidence Ordinance, sect. 3). Victims of or witnesses to sexual offences under 14 years old may not be called to testify, nor may any written statement they give be admissible, without the permission of a specially-trained youth investigator. If the youth investigator gives such permission, then the child is generally examined only by the youth investigator, and his or her testimony is heard only in the presence of the prosecutor, the defendant and his or her counsel, and the youth investigator, unless the court permits other persons to be present (Evidence Amendment (Child Protection) Law, 5715-1955, sect. 2). If the youth investigator does not allow the child to give testimony, then the investigator testifies in the child's place. When a minor testifies against his or her parent for sexual abuse, the court may order the accused parent to vacate the courtroom if it is deemed necessary to avoid emotional damage to the child (sect. 3 of the Law). Publication without court permission of any information enabling the identification of a minor who testifies in a sexual abuse trial is punishable by six months' imprisonment and a fine (sect. 6 of the Law).

781. Under a special procedure, the testimony of a child victim of a sex offence may be taken immediately, either in court after an indictment is filed, or even during the criminal investigation, provided that the youth investigator handling the case so consents (Criminal Procedure Law [Consolidated Version], 5742-1982, sect. 117 A). In 1995, a system of family courts was established with jurisdiction over a broad range of family-related matters, including family violence, adoption, alimony, change of name, paternity or maternity, child custody and succession. In all proceedings before these courts, minors have independent standing to file suits and to appear before the court, either by themselves or through a “close friend” in any matter in which their rights might be substantially impaired (Family Courts Law, 5755-1995, sect. 3 (d)). The court may also hear the testimony of a minor in camera, and may prevent the examination of a minor if the judge feels that the minor might be harmed thereby (sect. 8 of the Law).

Education

782. Education in Israel is compulsory for children between the ages of 5 and 15, or until the end of the 10th grade, which ever comes earlier; public education is free of charge, except for books and materials, for all children aged 5 to 18 (Compulsory Education Law, 5709-1949, sect. 6). Most 3- and 4-year-olds attend publicly supervised and subsidized kindergartens. The vast majority of Israeli youth continue their schooling beyond the age of 15. Almost all children attend public schools that are regulated by the Ministry of Education, with funding from the Ministry as well as local authorities. Some secondary schools are operated by voluntary organizations, but remain part of the governmental education system. Entirely private schools that operate outside this system are relatively rare, and are found primarily in the Arab sector and among the ultra-orthodox Jewish population.

783. Under the Schools Supervision Law, 5729-1969, schools regulated by the Ministry are required to maintain standards of health and hygiene, security, curriculum, physical plant, pedagogic training and quality, and financial solvency. No teacher may be employed unless he or she has a permit to do so

from the Ministry of Education, Culture and Sport; the Director-General of the Ministry may refuse to grant a teaching permit if, among other things, it has been shown that the teacher's behaviour has a harmful influence on the students (sect. 16 of the Law).

784. The public education system is organized in two main sectors: Jewish (serving 83 per cent of all students) and non-Jewish (Arab, Druze, Christian and other religious minorities), each with its own curriculum and institutions. The Jewish educational sector has three different streams - State-secular, State-religious and independent (primarily ultra-Orthodox) - each of which has separate schools.

785. **Special education**. The Ministry of Education operates a series of special education programmes and facilities free of charge for eligible youth between the ages of 3 and 21. Under the Special Education Law, 5748-1988, children with physical, mental or learning disabilities or behavioural disorders are entitled to special education at an appropriate institution in their residential area or as close as possible thereto. The policy of the Ministry of Education has been, to the extent possible, to place such children within the regular school system, either in special education classes or in regular classes with supplementary tutoring. This policy has been implemented primarily in the case of hearing- and visually-impaired children. The Special Education Law also mandates adequate training for full-time special education teachers, an individual study plan for each child, and the provision of para-medical and psychological services for special education students.

786. The Ministry of Education offers a series of support services for children who have problems adjusting to a school environment, in addition to those services provided by the welfare agencies. These services include counselling and psychological assessment, afternoon programmes, running drop-in centres, remedial classes with special budgets to permit smaller size classes, a “Grade 13” programme for students who complete the 12th grade without having fulfilled the subject requirements for a matriculation certificate, and others.

787. Boarding schools are attended by approximately 10 per cent of the school population aged 13 to 18. Historically, boarding schools were used primarily by refugees prior to and after the Second World War who arrived without their parents. Today, the boarding schools are attended by new immigrants, primarily from the Former Soviet Union and Ethiopia, and by youth from disadvantaged backgrounds. In addition, many of the better students among orthodox Jewish teenagers attend religious boarding schools. Roughly one-fifth of the boarding school population consists of children who are placed out of the home by the welfare services or the Ministry of Education due to severe family problems or behavioural problems at school.

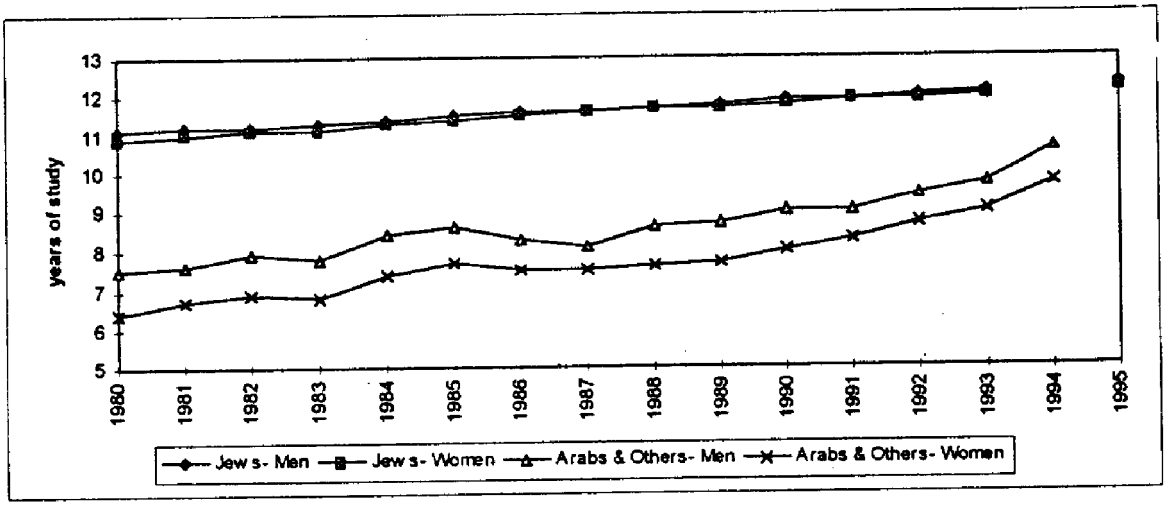
788. **Educational disparities**. The separation of educational institutions into Arab and Jewish sectors, and according to level of religious observance, enables each segment of the population to maintain its language and cultural identity, and limits the possibility of cultural tensions among students within the schools themselves. However, as there is a correlation between religious observance and low socio-economic status in the Jewish sector, and a lower socio-economic status in the Arab sector generally, the separation of

educational tracks may help preserve disparities in educational attainment levels. In general, there remain significant disparities between the Jewish and Arab sectors in the number of years of schooling completed, in the levels of school attendance, particularly in kindergartens and after the age of 14, in the number of students per class, and in the level of support services and facilities. At the same time, there have been dramatic improvements in many of these areas over time. In 1975, 35.8 per cent of the Arab population had four years or less of education, compared to 11.9 per cent of the Jewish population; by 1992, the proportion of persons with four or less years of schooling decreased to 18.1 per cent in the Arab population and 6.2 per cent in the Jewish population. Over the same interval, the proportion of students completing at least 13 years of education rose from 4.5 per cent to 10.0 per cent in the Arab sector, and from 17.7 per cent to 31.2 per cent in the Jewish sector.

Table 17. Population with 0-4 years of education

Jews				Arabs and others			
Sex and age	Thousands	Years of schooling (per cent)		Sex and age	Thousands	Years of schooling (per cent)	
Women		0	1 to 4	**Women**		0	1 to 4
Total	1 681.30	4.3	2.1	Total	318.2	13.6	6.6
15-17	111.4	0.1	0.3	15-17	34.1	2	0.7
18-24	260.8	0.5	0.2	18-24	74.1	2.9	1.5
25-34	302.5	1	0.4	25-34	83.9	3.6	3.2
35-44	311.4	1.5	0.4	35-44	54.3	8.7	9.5
45-54	232.6	2.5	1.4	45-54	32.2	31.6	18.9
55-64	178.8	11.3	5.5	55-64	20.8	47	19.6
65+	283.8	13.3	6.7	65+	18.8	67.1	8.2
Men				**Men**			
Total	1 588.00	1.7	1.8	Total	315.7	4.1	5
15-17	118		0.2	15-17	35.7	1.6	1.3
18-24	271.2	0.4	0.4	18-24	76.4	0.9	1.1
25-34	307.9	0.7	0.5	25-34	83.9	1.1	1.4
35-44	302.2	0.8	0.4	35-44	53.2	3.1	10.7
45-54	219.8	1.5	0.8	45-54	32.1	5.1	3.4
55-64	156.6	3.6	4.4	55-64	19.5	13	23
65+	212.2	6.3	7.3	65+	14.9	34.6	24.5

Figure 7. Median number of years of study of persons over 15



789. School attendance rates for both Jewish and Arab children aged 5 to 13 are well above 90 per cent. Prior to age 5 and after age 13, however, there are significant differences between the two populations. Approximately 95 per cent of all Jewish children also receive pre-school education, as compared to an estimated 44 per cent of Arab three-year-olds and 71 per cent of Arab four-year olds. In the 14-17 age group, the discrepancy in attendance rates increases with age, as indicated in the following table:

Table 18. Attendance Rates in regular education frameworks, by age and sector (per cent)

Age	Jewish sector	Arab sector
2	68.6	
3	95.0	44.0 (est.)
4	99.0	71.0 (est.)
5	99.5 (est.)	90.0 (est.)
13	95.5	95.8
14	99.9	75.5
15	97.8	72.4
16	94.3	59.0
17	88.5	54.4

790. Nevertheless, a dramatic increase in attendance rates may be noted over the last 25 years, and a corresponding narrowing of the gap in attendance rates between Arabs and Jews. In the 14-17 year-old group, for example, attendance rates in the Arab sector rose from 29.4 per cent in 1969-1970 to

64.4 per cent in 1991-1992, as compared to a rise from 66.8 per cent to 91.8 per cent in the Jewish sector. Within the Arab sector, attendance rates are significantly higher in the Christian community than in the Muslim and Druze communities. In 1994, about 30 per cent of Arab students were eligible for a certificate of matriculation, as compared to 48 per cent of Jewish students.

Figure 8. Matriculation candidates, by age group (per cent)

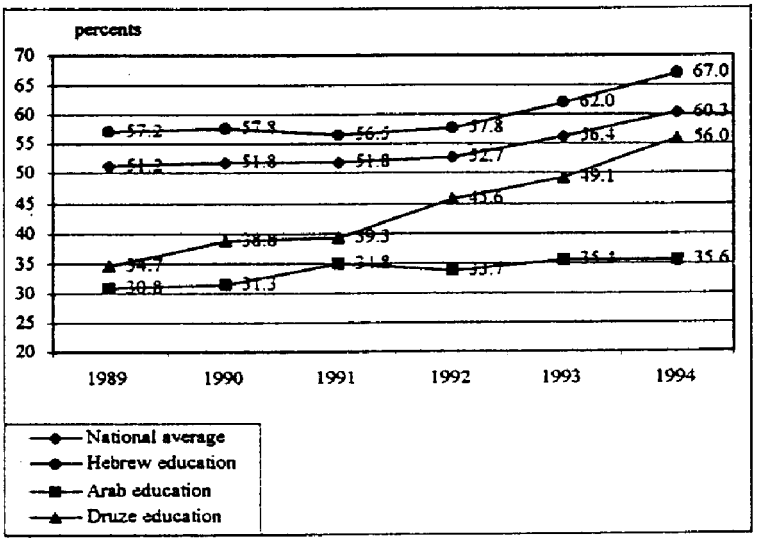
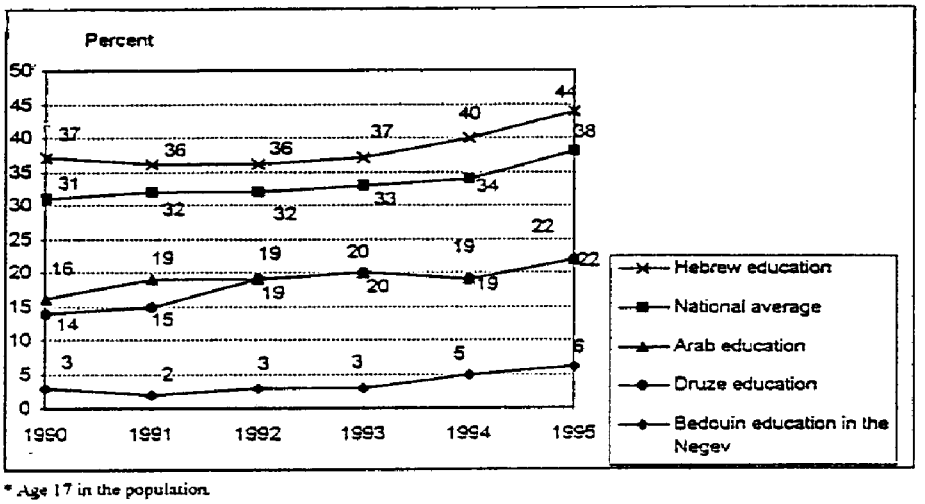


Figure 9. Percentage of those entitled to matriculation certificates by age group*

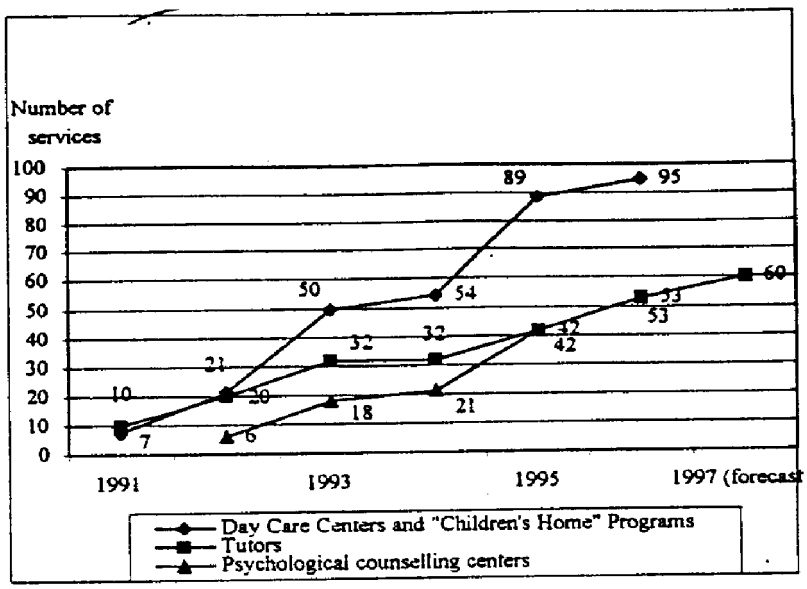


* Age 17 in the population

791. In 1995, the average number of students per class was 27.4 in the Jewish sector and 30.9 in the Arab sector. During the period from 1980 to 1995, the average number of students per class declined in the Arab sector (31.1 in 1980), while it actually increased in the Jewish sector (25.8 in 1980). Over the last several years, the Government as well as private institutions have initiated programmes to eliminate the gaps in educational services between the

Jewish and Arab sectors through increased funding and special programmes. In the four years between 1989-1990 and 1993-1994, the total number of teachers in Arab schools has increased 24 per cent, and a higher percentage of teachers had academic training. Over the last decade, the number of middle and high schools in the Arab sector has nearly doubled. In addition, significant investments have been made in funding for educational services such as day-care centres, tutors, psychological counselling and home-based programmes.

Figure 10. Expansion of pupil support services in the Arab and Druze sectors (1991-1997)



(Other government educational programs in the Arab and Druze sectors are discussed under articles 26 and 27)

Child Labour

792. Israel is a party to International Labour Organization (ILO) Convention (No. 138) concerning minimum age for admission to employment. Except in special circumstances, the minimum age of employment in Israel is 15. In practice, however, the effective minimum age is 16, as the Child Labour Law, 5713-1953, generally forbids employment of 15-year-olds if they have not yet fulfilled their compulsory education requirements, unless the Minister of Education, Culture and Sport specifically exempts the child from completing his or her compulsory education, or unless the child is employed in an approved apprenticeship programme, as discussed below. Minors 14 years of age or older may be employed during school vacations, in light work which will not harm his or her health or development (Child Labour Law, 5713-1953, sects. 2, 2 A). By approval of the Minister of Labour and Social Affairs, children under 15 may be employed in artistic performances, subject to any conditions the Minister may deem fit to safeguard the child's health as well as his or her physical, educational and moral development, and to ensure that the child has at least 14 hours' rest from one work day to the next (sect. 4 of the Law).

793. The Child Labour Law also enables the Minister of Labour and Social Affairs to forbid or restrict employment of minors under 16 in any place or type of enterprise which is likely to harm the child's health, welfare, or development. Recently-enacted regulations forbid employment of a child in work involving exposure to underground mines, wells or sewage, explosives, cleaning motor engines, lifting cranes, a range of heavy machinery and cutting instruments, highly flammable substances, certain types of laser instruments, extreme hot or cold temperatures, dangerous or poisonous organic substances, mental hospitals or hospital departments which pose a risk of contracting infectious diseases, and others (Child Labour (Prohibited or Restricted Employment) Regulations, 5755-1995). In addition, jobs requiring manual lifting and carrying bear restrictions on the number of hours of heavy exertion and maximum weights allowable (ibid.). A child may not work in any job until he or she first passes a free medical examination to ensure that labour involved is within his or her physical capacity. In certain types of potentially hazardous jobs, the child must undergo annual or semi-annual medical examinations.

794. The Child Labour Law also sets limitations on the hours of work and rest of all minors under 18 years old which are stricter than those for adults. Minors may not work more than 8 hours per day and 40 total hours per week, and an employer who exceeds these limitations is subject to criminal penalties. Night-time work is generally forbidden, except in special circumstances by permit of the Minister of Labour and Social Affairs. Working youth have the right to a longer daily break, weekly rest day and annual vacation than adults. Other statutory provisions ensure that the employment of all minors under 18 will not interfere with their education or vocational training (Child Labour Law, sects. 20-27). Employers who deprive minor employees or apprentices of legally-required food, clothing and lodging are liable to three years' imprisonment (Penal Law, sect. 366). Minors who work enjoy all of the rights given to adults under Israeli labour law in such matters as wages, severance pay, and other benefits.

Other measures of protection

795. Israel has ratified several conventions which bear on the protection of children, including the Geneva Slavery Convention of 1926 and the Amending Protocol of 1953; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery; the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. In addition to criminal sanctions for child abduction, Israeli law has incorporated the Hague Convention on the Civil Aspects of International Child Abduction of 1980 into domestic law, making the provisions of that convention enforceable in Israeli courts (Hague Convention (Return of Abducted Children) Law, 5751-1991). The International Division of the Ministry of Justice, reporting to the Attorney-General, bears primary responsibility for handling cases of international child abduction.

796. Among the other legislative measures aimed at protection of children the following may be noted:

(a) The Helpless Persons Protection Law, 5726-1966, prohibits various forms of exploitation of children under 14 years of age, or any disabled minor, by an adult responsible for the child.

(b) The content, language, and presentation of advertisements intended for children are regulated so as to avoid exploitation of children's innocence or impressionability for commercial ends, creation of peer pressure to buy a certain product or service, gratuitously violent, frightening or sexually inappropriate advertisements, or the encouragement of dangerous or illegal behaviour (Consumer Protection (Advertisement Directed at Minors) Regulations, 5751-1991).

(c) An interministerial committee was set up following the Stockholm Conference to develop adequate legislative and other safeguards against commercial sexual exploitation of minors. The committee's report and recommendations are currently being reviewed by a Knesset committee, and a bill creating new criminal sanctions against those involved in child prostitution is currently pending.

(d) Children's games and playgrounds must meet a series of safety and health specifications.

797. Recent legislative activity bearing on the protection of children includes an amendment to the Youth (Treatment and Supervision) Law that makes it a criminal offence to publish any pictures of naked children under nine years old (sect. 24 of the Law); and an amendment to the Execution Law, 5727-1967 that prohibits the carrying out of an order to garnish property at a debtor's home in the presence of a child alone.

Registration and nationality

798. Under the Population Registry Law, 5725-1965, the Population Registry must be notified within 10 days of all births which occur in Israel, either by the director of the institution at which the birth occurred, or, in the event that the birth did not occur at an institution, by the parents of the child and the physician and midwife who attended to the birth (sect. 6 of the law). Every person so registered must be given a surname and first name, with special provisions for cases in which the parents have different surnames or are unmarried at the time of birth. Where the parents fail to agree on the child's first name, each of them may give the child a name (Names Law, 5716-1956, sects. 2-4).

799. As discussed under article 2, all persons born in Israel at the time that one of his or her parents was an Israel national is an Israeli national. The same rule applies whether or not the parents were married at the time of birth. If the child is born after the death of one of its parents, it is sufficient if such parent was an Israeli national at the time of his or her death. Children born outside of Israel also acquire Israeli nationality if at least one parent acquired Israeli nationality by the Law of Return, by virtue of residence in Israel, by naturalization or by having been born in Israel of at least one Israeli parent. When the parents of a child born in Israel are both permanent residents, then the child automatically acquires permanent resident status, which entitles the child to the full range of social and

health-care benefits accorded to nationals. When one parent is a permanent resident and the other is neither a permanent resident or a national, then the child acquires the status possessed by his or her father or guardian, unless the other parent objects (Entry into Israel Regulations, 5734-1974, regulation 12). In the latter case, the policy followed by the Minister of Interior is to grant permanent residency status to such children upon a factual showing that the child's life is centred in Israel.

800. **Participation of minors in armed conflict** As a general matter, persons below the age of 18 may not be drafted into the Israel Defence Forces or other security services. In certain circumstances, a minor who has reached the age of 17 may enlist for his or her regular army service with parental consent.

Article 25 - Access to the political system

801. The right to vote is the principal mechanism for participating in the Israeli political system. All citizens at least 18 years of age are entitled to vote, without distinction as to gender, race, colour, ethnicity, wealth, property, or any other status (Basic Law: Knesset, sect. 5). While a person may be denied the right to vote only by judgement of a competent court pursuant to valid legislation (Basic Law: Knesset, sect. 5), no statutory provisions have yet been enacted to enable denial of the right to vote. However, the technical requirement that a person "may vote only at the polling station where the list of voters includes his name" (Knesset and Prime Ministerial Elections Law [Consolidated Version], 5729-1969 (hereinafter - the Elections Law), sect. 7) has in the past prevented hospitalized persons, diplomatic personnel abroad, prisoners and detainees, and citizens temporarily outside of the country from voting. Over the past decade the Knesset, recognizing that considerations of administrative convenience should not operate in a manner that restricts such a fundamental right, has enacted several amendments to the Elections Law guaranteeing the exercise of the right to vote for prisoners and detainees (1986), for diplomatic and consular personnel (1992) and for hospitalized persons (1996). The Elections Law also includes special arrangements for voting by persons in active military service, police, prison staff, and persons serving on Israeli sea-going vessels (sections 89-116 of the Law). The expense of transporting voters in Knesset elections to and from the ballot station is paid for out of the State Treasury if on election day they are not in their permanent place of residence (Party Financing Law, 5733-1973, sect. 18).

802. Beginning with the national elections to the current 14th Knesset, which were held in June 1996, Israeli citizens elect the entire Knesset and the Prime Minister at the same time, but by separate ballots. Formerly, national elections were held only for the Knesset, and the candidate, typically the head of a party list, who was deemed to have the best chances of forming a Government was invited by the President of the State to do so within a limited time period. If that person succeeded in doing so, then the head of that party's list would become Prime Minister. Under the new system, the Prime Minister is elected by direct ballot; the Prime Ministerial candidate who receives the most votes is similarly invited to try to form a governing coalition, even if his or her party did not receive the most votes in the

Knesset elections. National elections are "direct", in the sense that there are no electors or other intermediaries. Knesset members are not elected from particular geographical districts, but as part of a national party list.

803. **The right to run for national public office** Any citizen 21 years of age or more may run for Knesset, subject to three sets of exceptions. First, if a person has been sentenced to imprisonment for at least five years for certain offences against State security, and five years have not yet passed since the end of that term of imprisonment, then the person is ineligible to run in national elections. Second, a court may deny an individual the right to run for office pursuant to legislation (Basic Law: Knesset, sect. 6 (a)); as a practical matter, however, no such legislation exists. Third, several public officials are precluded from running for election to the Knesset by virtue of their position: the President of the State, the two Chief Rabbis and other members of clergy who earn wages from their religious function, any active judge of a general or religious court, the State Comptroller, the IDF (Israel Defence Forces) Chief of Staff, Police and Prisons Service personnel, and senior public servants and army officers of certain rank (sect. 7 of the Basic Law). Such senior public servants or army officers may run for national election if they leave office at least 100 days prior to the elections (Elections Law, sect. 56 (A1)). Other, less senior public servants and military personnel may run for elected office so long as they vacate their positions by the date of submission of the candidates list; if elected, they are deemed to have ceased their service so long as they remain members of Knesset (Elections Law, sect. 56 (b)). Dual nationals may run for election to the Knesset, but if elected they may not take the oath of office until they have taken all steps necessary to relieve themselves of the other nationality, nor will they hold the rights of Knesset members until they do so (Elections Law, sect. 16 A).

804. Candidates for the Office of Prime Minister must meet all of the above conditions for Knesset candidates, with the exception that the minimum age is 30 years. In addition, the Prime Ministerial candidate must generally be the head of a list of candidates for Knesset elections; in special Prime Ministerial elections, which are to be held only in extraordinary circumstances, such as when no Prime Minister is elected by the normal process, or the elected Prime Minister fails to present a government within the 45-day statutory time limit, or the Knesset decides, by a majority of at least two-thirds of the entire House, to remove a serving Prime Minister from office, the Prime Ministerial candidate need not be the head of a party list, but merely a member of Knesset (Basic Law: Government, sect. 8).

The election process

805. **Proposal of Knesset Candidates List**. Only registered political parties may propose candidates for Prime Minister or for the Knesset (Elections Law, sect. 4; Basic Law: Government, sect. 9). A political party may be constituted by a group of 100 people, provided that they meet the requirements of the Parties Law. Aside from technical registration requirements, the Parties Registrar may refuse to register a political party on the same grounds that were earlier enacted to enable disqualification of a list of Knesset candidates: that is, if the party, by its purposes or actions, may be deemed to negate the existence of the State of Israel as a Jewish and democratic

State; to incite racism; or if there is reasonable basis to conclude that the party will serve as a cover for illegal activity (Parties Law, section 5). Having met this standard, the political party may propose a list of up to 120 Knesset candidates. The candidate list is chosen by internal party primaries, by the party central committee or by other mechanisms, according to rules adopted by each party. A recent amendment to the Elections Law repealed the precondition that at least 1,500 voters confirm their support for the candidate list (Knesset and Prime Ministerial Elections (Amendment No. 31) Law, 5756-1996). The formal barriers, then, to proposing a list of candidates for election to the Knesset have become almost symbolic.

806. **Proposal of Prime Ministerial Candidate**. Under the new electoral system in Israel, the nomination procedures for the Prime Ministerial elections are rather thoroughly linked to those for the Knesset elections. An incumbent Knesset faction, or group of factions, holding at least 10 Knesset seats may nominate a candidate for Prime Minister, so long as they have filed a list of Knesset candidates for the impending elections. A party which holds no seats in the current Knesset, but has duly filed a list of Knesset candidates for the impending elections, may also nominate a candidate for Prime Minister if it can provide written confirmation of 50,000 registered voters for their candidate (Basic Law: Government, sect. 9). In the event of an extraordinary Prime Ministerial election, the parties not represented by a Knesset faction may not nominate a candidate (ibid.).

807. Knesset and Prime Ministerial elections are overseen by a three-tiered system of election committees: local Ballot Committees and Regional Election Committees, which carry out largely technical functions; and the Central Elections Committee, which is chaired by a Justice of the Supreme Court and is responsible for the lawful organization and holding of elections. Among other things, the Central Elections Committee must approve or disqualify each list of candidates and its identifying symbol or letters, which are used in election propaganda and on the ballots themselves; it must approve all broadcast election propaganda for compliance with statutory restrictions; it has quasi-judicial powers to rule on all complaints regarding acts or omissions under the Elections Law; and it publicizes the results of the elections. A list of candidates may be disqualified not only for technical reasons, but also, once again, if its platform or actions clearly and substantially evinces an intention, explicitly or by implication, to negate the existence of Israel as the State of the Jewish people, to negate the democratic character of the State, or to incite to racism (Basic Law: Knesset, sect. 7 A). Approval or disqualification of candidates' lists by the Central Election Committee may be appealed to the Supreme Court. The Court has twice upheld disqualification of a list by the Central Election Committee: first, in 1965, prior to the enactment of substantive standards for disqualification, the Court upheld the disqualification of the "Socialist List" based upon a finding that the party's platform aimed to "undermine the existence of the State" (E.A. 1/65, *Yardor* v. *Central Elections Committee of the Sixth Knesset*, 19(3) P.D. 365). Later, following enactment of section 7 A of Basic Law: Knesset above, the Court upheld the disqualification of the Kach Party, led by the late Rabbi Meir Kahane, for negating the democratic character of the State and incitement to racism (E.A. 1/88, *Neimann* v. *Central Elections Committee of the Twelfth Knesset*, 42(4) P.D. 177). Section 7 A actually had been enacted following a 1984 Supreme Court decision which

overruled the disqualification of the same "Kach" Party list in the previous elections, on the ground, among others, that the right to be elected should not be limited without explicit statutory authorization (E.A. 2,3/84,*Neiman* v. *Central Elections Committee of the Eleventh Knesset*, 39(2) P.D. 225). The approval of a candidate list by the Central Elections Committee may also be appealed to the Supreme Court by the Attorney-General, the Chairman of the Committee or one-quarter of its members, on the grounds that the list falls under the ambit of one of the prohibitions in section 7 A of the Basic Law above-mentioned (Elections Law, sect. 64 (A1)).

808. Citizens cast their ballots in booths which ensure their privacy. Special booths suitable for use by disabled persons are required by law (Elections Law, sect. 68 A). The presence of persons at the voting facility is limited to a closed list of persons associated with the election committees, election observers or police personnel whose presence is necessary, in the opinion of the ballot committee, to ensure order (sect. 73 of the Law). Upon presenting one's personal identity card, the voter is given two envelopes, one each for the Knesset and Prime Ministerial elections. Inside the voting booth, the voter selects the slip containing the name of the Knesset list (or Prime Ministerial candidate) of his or her choice in the appropriate envelope, and places the sealed envelope into the ballot box in the presence of the local ballot committee (sects. 74 A, 75 of the Law). The voting slips, as well as instructions for voting posted inside each booth, are printed in Hebrew and Arabic. Persons who due to illness or disability are unable to follow the above procedure alone may be accompanied by an assistant, whose identity is registered in the protocol of the ballot committee.

809. The 120 Knesset seats are divided among the candidate lists according to the proportion of the total popular vote received by each of them, with two important exceptions: first, a party must pass a statutory threshold of 1.5 per cent of the total national vote to be given a Knesset mandate. Second, as a practical matter of arithmetic, the division of the popular vote into the 120 Knesset mandates leaves one or more Knesset seats to be allotted among the rival lists according to the proportion of “extra” votes received by the lists, under a special procedure prescribed by statute (Elections Law, sects. 81-82). Members of ethnic and religious minorities and of other groups protected under the Covenant vote for Knesset lists along the entire political spectrum. In addition, as discussed under article 27, Arab political parties have been represented consistently in the Knesset, as is the case in the current, fourteenth Knesset.

810. The results of national elections may be appealed to the District Court for any illegalities in the conduct of the election, in the division of votes and mandates, or in the manner in which votes were secured for a particular candidate list, provided that the alleged illegality might have influenced the outcome of the elections (Elections Law, sect. 86). The Court is empowered to annul the elections and to order new elections, to determine the correct distribution of Knesset mandates among the rival lists, or to declare that a particular member-elect of Knesset will be replaced by another person (ibid). The Court also may annul the voting results at a particular polling station if there is sufficient evidence of procedural irregularities.

811. **Local and municipal elections**. The fundamental right to vote and be elected applies as well to participation in local government. (*Burstein et al.* v. *Minister of Interior et al.*, 42(4) P.D. 462.) A series of statutes regulating elections of mayors, municipal and local councils generally mirror the arrangements for national elections, including the requirement that elections be "equal", "general", "secret", "direct" and "proportional"; the right of all persons 18 years of age and over who reside in the municipal area in question to vote in such elections; the right to run for election, subject to exceptions for judges, convicts, those lacking legal capacity, and certain classes of civil servants; and the right to propose candidate lists. (See Local Authorities (Elections) Law, 5725-1965.) For the purposes of this article, the principal differences between local and national elections are that non-citizen residents may vote in local elections, but not in national elections, and that persons who have been declared bankrupt by a competent court are ineligible to run for local office (sects. 7 (8), 13 of the Law).

812. In certain non-urban areas, local and regional government is regulated by laws which do not explicitly require that elections be equal. (See, e.g., Local Councils Ordinance [New Version], N.V. 256, sects. 2, 3, 38.) Nevertheless, the Supreme Court has applied the principle of equality and the right to run for local public office to invalidate ministerial orders enacted pursuant to such legislation which restricted the right of residents of certain cooperative settlements to be elected to the local council unless they already serve as directors of a parallel entity within their community. (H.C.J. 753/87, *Burstein* v. *Minister of Interior*, supra.)

813. **Women and ethnic minorities in public office**. For a discussion of the participation of women in national and local political life, reference is made to the discussion under article 3, and to Israel's initial and first periodic report to the Committee for the Elimination of All Forms of Discrimination against Women. The participation of members of ethnic minorities in political life is discussed under articles 26 and 27.

814. **Campaign financing**. Since the 1970s, political parties running for election to the Knesset receive campaign funding from the State Treasury, in an amount based on the number of mandates they win in the election in question. Under current law, a three-member public committee headed by a judge determines the amount of the "funding unit" for a given election (Party Financing Law, 5733-1973, sect. 1 A-B). Following publication of the election results, parties which were not represented in the outgoing Knesset receive an amount of "funding units" equal to the number of mandates they won in the election, plus an additional funding unit; parties which were represented in the outgoing Knesset receive an amount of "funding units" based on the average between the number of mandates they held in the outgoing and incoming Knessets, respectively, plus an additional funding unit (sects. 2 and 3 of the Law). Other parties which fail to win a Knesset mandate, but receive at least one per cent of the popular vote, receive an amount equal to one "funding unit" (sect. 2 (A1) of the Law). The Party Financing Law also sets limits on campaign expenses based on the number of mandates each party holds in the outgoing Knesset, on the expenses of parties not represented in the outgoing Knesset, and on the amount of individual campaign contributions (sect. 7 of the Law). In this manner, the statutory arrangements attempt to preserve substantial equality of the economic resources available to the parties

contending for election. In a line of important precedents, the Supreme Court, recognizing that "economic inequality among the various [Knesset] factions creates inequality of political rights" (H.C.J. 141/82, *Rubinstein* v. *Chairman of the Knesset*, 37(3) P.D. 141, 153), has intervened in parliamentary decisions regarding campaign financing which are deemed to violate the requirement in section 4 of Basic Law: Knesset that Knesset elections be "equal". For example, the Court held invalid an amendment to the Party Financing Law which conferred retroactive legitimacy on campaign spending well above the statutory limit by several parties which ran for election to the tenth Knesset, holding that such a violation of the equality principle could be approved only by an absolute majority of the Knesset, under the terms of the entrenchment clause in Basic Law: Knesset. (H.C.J. 141/82, *Rubinstein* v. *Chairman of the Knesset*, supra.) More recently, the Court annulled a decision by the Knesset Affairs Committee which retroactively changed the amount of the "funding unit" following the elections to the twelfth Knesset, in a manner which appeared intended to cover overspending by the ruling Likud faction. (H.C.J. 2060/91 *MK Ran Cohen et al.* v. *Dov Shilansky et al.*, 46(4) P.D. 319.) In the aftermath of this latter judgement, the Knesset amended the Party Financing Law to give the authority to determine the "funding unit" to the external public committee as mentioned above, replacing the Parliamentary Affairs Committee of the Knesset.

815. The financing of Knesset election campaigns by political parties is subject to thorough oversight by the State Comptroller, and parties which exceed the spending limit may be obligated to pay the State Treasury the difference between allowed and actual expenses.

Access to public service

816. The State of Israel employs more than 83,000 civilian employees.* With very few exceptions, as discussed below, civil servants are selected pursuant to legislation and the Civil Service code of bylaws, known as the *Takshir*, which establishes a merit-based civil service system. The State Service (Appointments) Law, 5721-1961, generally requires that civil servants be appointed through a competitive tender process which clearly defines minimum qualifications for the position in question. In the case of certain positions, such as the director-general of Government Ministries or Government companies, applicable legislation allows for appointments based on political affiliation (see State Service (Appointments) Law, 5721-1961, sects. 12, 23), although all appointments to such positions are reviewed by an impartial committee headed by a retired judge, to ensure adequate professional

* Source: *Statistical Abstract of Israel, 1996*. This number includes permanent, special contract and temporary employees of Government Ministries and other bodies directly related to them. It does not include the staff of the President's office, the Knesset staff, the State Comptroller's office, the Attorney-General, judges and judges in rabbinical courts, teaching staff of the educational system, the staffs of the Employment Service and the National Insurance Institute, the Airport Authority, Bezek - Israel Communication Company, the Postal Authority, Israel Railways, local staff in embassies abroad, soldiers and civilians employed in the army, and the staff of the security authorities.

qualifications. In addition, Government Ministers may choose certain personal aides without a tender for positions which are deemed to involve a particularly high degree of personal trust, such as spokesperson, bureau director, secretary, advisors, and driver. While no official statistics are available as of the submission of this report, it is estimated that roughly one government service position in one thousand is filled without a tender, not including temporary appointments.

817. Several layers of legislation aim to protect against discrimination in access to the civil service. Both the Employment Service Law, 5719-1959, and the Equal Opportunity in Employment Law, 5748-1988, which apply to private and public employers generally, forbid discrimination among job applicants on the basis of religion, race, nationality or national origin, sex, sexual orientation, age, personal or marital status, personal worldview or political affiliation. These provisions apply, mutatis mutandis, to civil service hiring without a tender, to terms of employment, promotion, on-the-job professional training, and termination of employment. The State Service (Appointments) (Tenders and Examinations) Rules, 5721-1961, obligates members of tender committees to avoid as much as possible questions relating to controversies between political parties. (See also *Takshir*, paras. 11.61 and 12.367, and Civil Service Commissioner Notice 56/12.)

818. Despite the legislative guarantees of equal access to the public service, the actual representation of women and ethnic minorities in the civil service is still far from adequate. Though women constitute roughly 60 per cent of all civil servants, for example, they are on the whole vastly underrepresented in senior positions. To help redress this entrenched phenomenon, the Knesset enacted in 1995 an amendment to the State Service (Appointments) Law requiring that members of both sexes be adequately represented in the civil service, and imposing a duty on the Civil Service Commissioner to remedy unequal representation of members of either sex in a particular ministry, department or type of position, including through affirmative action programmes. Since the above amendment, the Civil Service Commissioner has drafted guidelines for promoting women's representation in the civil service which, among other things, require governmental bodies to report on the number of women employees and their distribution according to rank, as well as on job vacancies and tenders. In addition, even prior to the amendment, the Civil Service Bylaws (*Takshir*) was amended to require that tender committees for civil service positions must include members of both sexes as for the results of the tender (that is, the selection of a particular person for the position in question) to be lawful (Civil Service Bylaws, sect. 11.461).

819. Arabs and Druze are also under-represented in the government service as a whole. In 1994, the Government decided to take affirmative action measures to enhance the integration of Arabs and Druze into the civil service, among other things by issuing tenders for mid-level positions solely to members of those minorities. Between 1 January 1994 and April 1996, 661 Arabs and Druze were appointed to government service posts. At present there are roughly 2,300 members of ethnic or national minorities in the government service (not including the Israel Police, the Prisons Service, or those bodies mentioned above), out of a total of roughly 50,000. Employees in local and regional government bodies largely reflect the demographic composition of the locality

or region. In the 88 local councils or municipalities which serve towns and settlements in which the population is primarily composed of Arabs, Druze, Bedouin or Circassians, the employees of the local government bodies are almost exclusively composed of members of those minorities. In larger municipalities with mixed populations, such as Jerusalem, Haifa and Lod, members of minorities are employed at a level which approaches their representation in the population, although less so at the most senior levels.

Foreign nationals

820. As mentioned above, only Israeli citizens may run for election to the Knesset or the office of Prime Minister. In addition, the President of the State, the State Comptroller, members of the Postal Authority Council and the Jerusalem Development Council, the Chief Rabbis, judges in courts of general jurisdiction, and judges in Jewish, Muslim and Druze religious courts must be Israeli citizens. Dual nationals who are candidates for election to the Knesset, the office of Prime Minister or for judicial appointment in the general courts bear a special statutory obligation to take all steps necessary to be relieved of their other nationality (Basic Law: Knesset, sect. 16 (a); Courts Law [Consolidated Version], 5744-1984, sect. 5).

821. Employment of aliens in the civil service is also restricted. Under section 16 of the State Service (Appointments) Law, 5719-1959, only an Israeli national may be formally appointed as a civil servant. However, foreign nationals may be hired under “special contracts”, which may be renewed periodically. Civil servants with dual nationality are not required to relinquish their other nationality.

Article 26 - Equality before the law

Other international conventions

822. Israel is a party to several international conventions bearing on the prevention of discrimination, including the International Convention on the Elimination of All Forms of Racial Discrimination (seventh, eighth and ninth periodic reports submitted in July 1997); the Convention on the Elimination of All Forms of Discrimination Against Women, since 1991 (initial and first periodic report filed in March 1997); the International Covenant on Economic, Social and Cultural Rights, since 1991 (Israel's initial and first periodic report submitted in November 1997); the International Labour Organization (ILO) Discrimination (Employment and Occupation) Convention, 1958 (No. 111), since 1959 (Israel's most recent report relates to 1992-1993); the ILO Equality of Treatment (Social Security) Convention 1962 (No. 118), since 1965 (Israel's most recent report covers the period between 1991-1993); the ILO Equal Remuneration Convention, 1951 (No. 100), since 1965 (Israel's last report covers the years 1991-1993). As is the case with the present Convention, these conventions have not been made part of Israel's internal law by Knesset legislation, although they have exerted an important influence on the development of Israeli law, including in legislation and judicial decisions bearing on the promotion of equality. The discussion under this

article, and other related articles in this Convention, substantially covers many of the anti-discrimination concerns dealt with in reports under the above-mentioned Conventions.

The status of the right to equality in Israeli law

823. **Constitutional norms**. As mentioned elsewhere in this report, Israel did not enact a constitution upon its establishment, as called for in its Declaration of Independence. Instead, it has chosen to enact Basic Laws regarding different components of its constitutional regime; these Basic Laws, taken together, comprise a "constitution-in-the-making". In 1992, the Knesset enacted two Basic Laws - Basic Law: Human Dignity and Liberty and Basic Law: Freedom of Occupation - which give written constitutional footing to a series of fundamental individual rights. The general right to equality before the law, however, is not specifically enshrined in these, or in any other of Israel's Basic Laws (only Basic Law: Knesset contains a provision requiring equality in parliamentary elections). Indeed, earlier legislative proposals for a bill of rights which included a general guarantee of equality failed to garner a majority necessary for enactment. The parliamentary history of these earlier proposals, as well as of the initial efforts to enact a constitution after Israel's founding, suggest that the absence of a written constitutional guarantee of equality has derived in no small part from the difficulty in reconciling a comprehensive equality principle with the dictates of religious law, in which equality is not necessarily a paramount value, and from the effect of that value-conflict in the arena of coalition politics.

824. Despite the lack of an explicit, written constitutional guarantee, the right to equality has been firmly entrenched as a binding, overarching principle in Israeli law since the beginnings of the post-independence legal system. Israel's Declaration of Independence, drawing on the Universal Declaration of Human Rights, provides that "[t]he State of Israel will maintain equal social and political rights for all citizens, irrespective of religion, race or sex". Although the Declaration, strictly speaking, lacks binding constitutional force, the Supreme Court has relied on it, as well as on common-law doctrines requiring administrative authorities to act in good faith and consistently with public policy, to establish the right to equality before the law as "the life breath of our entire constitutional regime" (H.C.J. 98/169, *Bergman* v. *Minister of Finance*, 24(1) P.D. 693, 698), and to make that right enforceable in the courts.

825. **Statutory guarantees and judicial development of the right to equality** In lieu of a constitution, the right to equality has been secured until recently either through specific statutory guarantees of equality in matters such as women's rights and employment, and through the case law, as part of the Supreme Court's painstaking development of an "unwritten Bill of Rights". The first significant equal rights legislation was the Women's Equal Rights Law, 5711-1951. This law prescribes equality of legal status between men and women, requires that "one law" apply to men and women regarding "any legal act", and declares that any law that discriminates against a woman as such shall be null and void. It guarantees equal rights mainly in relation to acts of government authorities, and deals specifically with property rights and

parental rights of married women, but excludes matters of “personal status” themselves, such as marriage and divorce, in which the relevant religious law is dispositive.

826. The Supreme Court's broad development of the right to equality has taken two principal forms: first, in the willingness of the Court, sitting as High Court of Justice, to intervene in the exercise of administrative discretion so as to require all arms of the executive branch to act without unlawful discrimination; and second, by creating a presumption of statutory interpretation under which the purpose of any given statute is presumed to favor the promotion of equality rather than its curtailment, unless the statute explicitly states the contrary. Until recently, the Court, in deference to the constitutional supremacy of the Knesset in the Israeli scheme of government, has refrained from invalidating Knesset legislation which it deemed to violate fundamental rights, including the right to equality; it has, however, invalidated ministerial regulations or administrative policies (“secondary” legislation) on these grounds.

827. The enactment of Basic Law: Human Dignity and Liberty may well elevate the right to equality to full-fledged supreme normative status, superior to any ordinary Knesset statute. Based on Section 1 of the Law, under which “[f]undamental human rights in Israel ... shall be respected in the spirit of the principles in the Declaration of Independence” - i.e., including the guarantee of full equality of political and social rights - several justices of the Supreme Court have already expressed the view that the right to human dignity protected by the Basic Law includes the right to equality - even though a provision in early drafts which specifically guaranteed equality and forbid discrimination was not included in the final text of the Basic Law. (See, e.g., H.C.J. 453/94, *Israel Women's Network* v. *Government of Israel*, 48(5) 501; H.C.J 5394/92, *Huppert* v. *“Yad Vashem”*, 48(3) P.D. 353; H.C.J. 721/94 *“El-Al” Israel Airlines Ltd.* v. *Danilovitz*, 48(5) P.D. 749 (per Barak, D.P.); H.C.J. 5688/92 *Wechselbaum* v. *Minister of Defence*, 47(2) P.D. 812). Another view, espoused by several members of the Court, holds that “the Basic Law protects against violation of the principle of equality when that violation results in humiliation, that is, in a violation of human dignity as such. Such is the case ... in certain types of discrimination against a group, including discrimination on the basis of sex ... and ... race.” (H.C.J. 4541/94, *Miller* v. *Minister of Defence* [cite] (per Dorner, J.). As of the submission of this report, the Court has yet squarely to face this issue. To the extent that the Court decides to include the principle of non-discrimination within the ambit of the rights protected by the Basic Law, the Court will be empowered to void discriminatory Knesset legislation which does not comply with the terms of the limitation clause (sect. 8) of the Basic Law.

828. **Elimination of discrimination in the private sphere** Thus far, discrimination by private actors is prohibited in Israeli law only to the extent that legislation explicitly so provides. Such is the case, for example, with the Equal Employment Opportunities Law, 5748-1988, which prohibits all forms of discrimination by private or public employers; the Goods and Services Supervision Law, 5717-1957, which prohibits any unreasonable refusal to provide goods or services covered by the law; the Patient's Rights Law, 5756-1996, which prohibits discrimination between

patients on the basis of religion, race, sex, nationality, country of origin or any other such grounds; the Council for Higher Education (Accreditation of Institutions) Rules, 5724-1964, which forbid an institution from discriminating between students or in academic appointments on the grounds of race, sex, religion, nationality or social status; and various statutes which ensure gender equality in domestic relations, such as the Spouses (Property Relations) Law, 5733-1973, the Family Violence Prevention Law, 5751-1991, and the Women's Equal Rights Law, 5711-1951. A recently enacted law prohibits automobile insurance companies from gathering information from insurees related to their religion or nationality, in order to prevent the possibility of discrimination in setting insurance premiums (Motor Vehicle Insurance Law, 5758-1998). Over the past several years, the view has been advanced, in *obiter dicta* and by legal scholars, that the rights protected by Basic Law: Human Dignity and Liberty apply in the private as well as the public sphere. (See, e.g., C.A. 239/92, *"Egged" Cooperative Ltd.* v. *Mashiach*, 48(2) P.D. 66; A. Barak, **Interpretation in Law** (vol. III: Constitutional Interpretation)(Jerusalem: Nevo), p. 649 *et seq.)*. In any case, there would appear to be a growing tendency in Israeli law to apply the right to equality in the private sphere, while the degree of protection afforded will depend on the specific balance struck by the Court between the right to equality, on the one hand, and countervailing rights in the particular circumstances of each case.

829. **Affirmative action.** In matters of government funding, Israel has long embraced the notion that special allocations or benefits may - and ought to - be made available to members of disadvantaged or needy groups in matters such as housing, teaching hours in schools, and the like. It is only recently that the Government and the Knesset have instituted policies involving affirmative action in hiring or appointments to public institutions. Two recent legislative acts - a 1993 amendment to the Government Companies Law and a 1995 amendment to the State Service (Appointments) Law - impose a positive obligation to pursue hiring and appointment practices that ensure appropriate representation for women in the civil service and on the boards of government companies, respectively. In addition, the Civil Service Commission has pursued an affirmative action policy over the last several years designed to increase the representation of Arabs, particularly those with academic degrees, in mid-level civil service positions, as discussed under article 27.

830. The Supreme Court's equal rights jurisprudence has evolved in this respect as well. While most of the early decisions adopt a formal, or Aristotelian, conception of equality, over the last decade the Court has repeatedly affirmed a more substantive approach which considers the equality of outcomes, including for members of disadvantaged groups. As a result, the Court has confirmed the legality of government policies and practices which give preferences of various sorts to members of groups singled out for special treatment. For example, in denying a petition filed by a Jew who wished to participate in a special offer to sell housing plots solely to Bedouins at favourable rates, on the ground that the government housing programme impermissibly discriminated on the basis of national or social origin, the Court stated:

> The principle of equality serves the aim of achieving a just outcome. It is not "technical" or "formal" equality that is worthy of protection, but rather substantive equality, that is, equality among equals. Persons, or groups of persons, often differ from one another in their conditions, characteristics and needs, and sometimes it is necessary to discriminate between unequals to protect, encourage and advance the weak or needy.

831. The Court has interpreted statutory affirmative action guarantees expansively, going as far to suggest, without holding, that the purpose of affirmative action is not only to remedy past discrimination, but also to ensure present and future equality (see *Israel Women's Network* v. *Government of Israel*, supra, in which the Court annulled appointments of three men to the boards of directors of two government companies which had no women directors).

832. **Israel as a "Jewish and democratic" State**. Israel aims to be at once a Jewish State and a democracy. This dual political foundation finds its expression not only in the Declaration of Independence, but in Basic Laws and specific statutes. The stated purpose of Basic Law: Human Dignity and Liberty is "to protect human dignity and liberty, in order to entrench in a Basic Law the values of the State of Israel as a Jewish and democratic State" (sect. 1). An amendment to Basic Law: Knesset allows for disqualification of a list of candidates for Knesset elections which, among others rejects "the existence of Israel as the State of the Jewish people", or which rejects "the democratic character of the State" (sect. 7 A). In several areas of law and practice, such as the granting of citizenship to Jewish immigrants under the Law of Return, the residential development activities of the Jewish Agency and the Jewish National Fund, and elsewhere, the State differences exist between the Jewish and non-Jewish populations in different ways that derive from Israel's fundamental identity as a Jewish State. Moreover, Israel acknowledges that over the course of its turbulent history, inequalities have arisen between Jews and non-Jews in the degree to which they enjoy the State support in a variety of fields, many of which are addressed in this report. Nevertheless, Israel remains committed to a policy of closing the gaps in treatment between the Jewish and non-Jewish sectors, and to ensuring equality of social and political rights for all of its citizens. While progress remains to be made in a variety of realms, such as housing and development, pre-school education, funding of religious services, and the integration of non-Jews into senior government positions, important advances have been made in many areas, as described under article 27 and other articles in this report, as well as below under this article.

Equality in employment

833. The Equal Employment Opportunities Law, 5748-1988, is the cornerstone of equal rights legislation relating to the workplace. The law prohibits discrimination in the workplace based on gender, sexual orientation, marital status, parenthood, race, age, religion, nationality, country of birth, political or other orientation. Neither governmental nor private employers may take the above classifications into account in hiring, promotion, termination of employment, training, terms of employment or retirement arrangements of employees, except in special cases where the unique nature of the position makes such classifications relevant. The prohibition of

workplace discrimination in the Law applies not only to explicit discriminatory practices, but has also been interpreted to apply to terms of employment which are non-discriminatory on their face but in fact amount to impermissible discrimination, such as requiring previous military service (which very few Arabs perform) when such a requirement is not relevant to the job in question. Protections offered to women employees which take into account their special needs as women or mothers are not deemed discriminatory, although the Law specifies that any such rights offered to working mothers must be given equally to men who either have sole custody of their children, or whose wives work and have chosen not to use their rights. The Law also recognizes sexual harassment as a form of workplace discrimination subject to civil and criminal sanctions.

834. Violations of the substantive provisions of the Equal Employment Opportunities Law constitute a criminal offence, punishable by a fine. They also entitle the employee to a range of civil remedies including compensation, including when no material damage is proved, and, in appropriate circumstances, enforcement injunctions against the employer. Civil proceedings under the law can be initiated by an employee, a trade union or a voluntary association for the protection of civil rights.

835. The Enforcement Division of the Ministry of Labour and Social Affairs is authorized under the law to investigate complaints by individuals; in 1996, workplaces employing more than five persons were investigated, among others, for possible violations relating to sexual harassment, discrimination in hiring, promotion and wages, exercise of parental rights and discriminatory employment advertisements. Since 1988, relatively few cases of employment discrimination under the law have reached the courts, and most of these have involved the unlawful publication of employment advertisements. One possible reason for the relative paucity of discrimination or harassment suits under the law may be the low damage awards typically determined by the labour courts.

836. The anti-discrimination provisions in the Equal Employment Opportunities Law are mirrored in the Employment Service Law, 5719-1959, which regulates the operations of the government agency that matches public and private employers with persons seeking work. Section 42 of the latter Law forbids the Employment Service, in deciding which prospective employees to send to available positions, from discriminating against any person on the basis of age, gender, race, religion, nationality, country of origin, political affiliation or opinion. The Law also forbids any employer which registers with the Employment Service from refusing to accept any job applicant on the above grounds whether or not that applicant was referred to the employer by the Service (sect. 42). An exception is made, once again, for jobs which by their nature make any of the above classifications relevant, or which prevent the hiring of a particular person for reasons of State security. The Law further forbids employers from publishing job notices which have the effect of discriminating on the basis of any of the classifications noted above.

837. Similarly, the Hours of Work and Rest Law, 5711-1951, forbids an employer from refusing to hire a person “solely because he has given notice upon being hired, that he does not agree to work on the weekly days according

to a religious prohibition which he observes", and prohibits employers from demanding that an employee obligate to work on his weekly rest day as a condition for being hired (sect. 9 C).

838. Other equal rights legislation in the field of employment relate mainly to gender equality. The Equal Pay (Male and Female Employees) Law, 5756-1996, requires equal compensation for men and women in positions that are "equal in value", which the law defines as any two jobs that demand equal qualifications, effort, expertise and responsibility. Any deviation from this standard of equality requires the employer to prove that non-gender-related circumstances justify the discrepancy in compensation. Employees who are found to have been underpaid may sue for up to 24 months' back wages. The Law empowers the Labour Court to appoint a job-analysis expert at its own initiative, or at the request of either party, to examine the "value" of the two jobs in question; it also allows for the possibility of class action suits, which are rare in the Israeli legal system. Statistical information regarding the implementation of gender equality in the workplace may be found in the discussion under article 3.

839. The Equal Retirement Age (Male and Female Employees) Law, 5747-1987, prohibits employers from forcing women workers to retire earlier than their male counterparts, despite the fact that women may by law elect to do so with full pension rights several years earlier than men. Measures aimed at maintaining equality of status for working mothers are discussed under articles 23 and 24.

Education

840. **Background and legislative provisions**. The Israeli public educational system is divided into several "streams" at the pre-school, primary and secondary levels: State schools, which serve the majority of the Jewish and Arab population; State Religious schools, which serve roughly one fifth of all enrolled students, and retain autonomy with respect to curriculum and pedagogy; and recognized "independent" schools, most of which provide an ultra-orthodox Jewish religious education or a Christian religious education. These independent schools operate as non-profit organizations, financed by the Government. Jewish and Arab schools within the State educational system maintain separate curricula and institutions.

841. The Compulsory Education Law, 5709-1949, as amended in 1991, prohibits any discrimination in acceptance, placement, curriculum or advancement of students on the basis of ethnicity. In addition, the rules of the Council for Higher Education, which accredits institutions of higher learning, prohibit all accredited institutions from discriminating in the acceptance of students and appointment of academic staff on the basis of race, gender, religion, nationality or social status. (Higher Education Council (Recognition of Institutions) Rules, 5724-1964, rule 9.)

842. Within the Jewish sector, problems of discrimination have arisen historically in cases where schools have refused, or been reluctant, to accept students of Oriental (Sephardi) extraction. Such overt ethnic discrimination by now is a rare phenomenon, confined mainly to "independent" ultra-orthodox institutions, which receive State funding and are subject to less stringent

supervision by the Education Ministry than State schools. During the last decade, the influx of recent Ethiopian immigrants into the educational system has given rise to a special set of challenges and difficulties. On the one hand, Israel has made an extraordinary effort in bringing the Ethiopian community to Israel and integrating them into the society, including through vast funding for housing and other benefits which are higher than those given to any other group, immigrant or otherwise. On the other hand, the very magnitude of the task of helping an entire community make an abrupt transition to a different culture, society and language has challenged the capacities of a range of government authorities, including in the field of education. The vast majority of Ethiopian youth who arrived in Israel since 1985 were placed initially in separate classes or educational frameworks, necessary to help these students, many of whom had little formal education, to bridge educational gaps. In the first several years following Operation Solomon, the mass airlift of over 20,000 Ethiopians in 1990, roughly 90 per cent of Ethiopian teenagers were sent to boarding schools, where students tend to have lower levels of academic achievement and often come from disadvantaged or distressed backgrounds. A high proportion of all Ethiopian students were placed in separate classes in which all or most of the students were Ethiopian. At the secondary and post-secondary level, a large proportion of Ethiopian students are routed to vocational educational tracks which lessen the likelihood that such students will matriculate and go on to university. Attendance of Ethiopian children in pre-school frameworks has been far lower than the rest of the population, in part due to the inability of their families to shoulder the cost of such programmes. As a result, Ethiopian students have shown significantly lower educational attainments than other sectors of the population on the whole, and delinquency, unheard-of in the Ethiopian community before their immigration, has become a worrisome phenomenon. To respond to the special educational needs of Ethiopian youth, the Education and Absorption Ministries, which bear primary responsibility for the complex task of integrating Ethiopian students into the educational and social mainstream, have initiated special educational enrichment programmes at several schools. In 1992, an interministerial decision forbid schools from placing Ethiopian students in separate classes, and the Ministry of Education issued an order requiring that Ethiopians not make up more than 25 per cent of the student body at any particular school. As a result, the degree of segregation of the Ethiopian students from the general student body has decreased considerably over the last several years. Recently, an interministerial task force has begun to develop a long-term plan for improving the integration of Ethiopian students into the educational mainstream, which is to include training of teachers and supervisors, broader enrichment programmes, an educational evaluation process which emphasizes learning potential rather than standardized performance indicators, and the like.

843. **Education in the Arab sector**. As discussed under article 24, the Arab educational system in Israel has suffered, on the whole, from problems of pedagogical method and quality, from a lower level of educational achievements by students, a relative shortage of adequate facilities and a lower level of government funding in comparison with the Jewish educational system. Over the last five years, the Government has made impressive advances towards equality of the Jewish and Arab educational systems. Hundreds of new classrooms have been built in the Arab sector over this relatively brief period; the number of

middle and high schools in the Arab sector has nearly doubled over the last decade. The number of classroom hours per school and per student have increased dramatically, reaching parity with the Jewish educational system in 1995. In the 1994/1995 school year, a special educational-care index was introduced in the Arab sector, similar to that used in the Jewish system. This index enables a calibration of the needs of each school for additional classroom hours, and has resulted in the addition of tens of thousands of classroom hours, particularly in the neediest schools. The total number of teachers in Arab schools increased 24 per cent between 1989-1990 and 1993-1994, and more of these teachers had proper academic training; 20 Arab academics were hired during the last several years to senior positions, such as school inspectors. The Ministry of Education has instituted technology education programmes in Arab schools, including laboratories in 40 primary schools, 35 middle schools, and 47 high schools, as well as science and technology instructional kits in 15 localities. The drop-out rate among Arab students has declined precipitously over the past two decades, and decreased 30 per cent in a single year (1994-1995); at the same time, matriculation rates and other indicators of academic performance have increased as well. A special educational programme for gifted Arab children was initiated in 1993; in 1996, 1,655 schoolchildren participated in the programme. The Minister of Education recently announced his intention to develop a long-term educational plan for the entire Arab sector. Significant progress remains to be made, together with local government authorities, in nursery and pre-school education, in which the Arab sector suffers from a shortage of facilities and trained staff; in special education, despite increased funding for teaching hours, there remains a severe shortage of facilities, trained personnel, and professional supervision.

844. **Citizenship and residency**. As discussed under article 2, there is a clear difference in the treatment of Jews and non-Jews regarding the acquisition of citizenship. With very few exceptions, any Jew who immigrates to Israel, as well as any Jew born in Israel may automatically become a citizen under the Law of Return. Non-Jews may become citizens through birth, residency, or naturalization. As a result of amendments to the Law of Return, 5710-1950, and the Nationality Law, 5712-1952, almost all Arab residents of Israel are citizens, and all persons born in Israel, regardless of religion, who have at least one parent who is an Israeli citizen automatically become citizens at birth. The principal difference, then, in the acquisition of citizenship between Jews and non-Jews relates to immigrants or persons born in Israel whose parents are not Israeli citizens.

Military service and subsequent entitlements

845. Under the Security Service Law [Consolidated Version], 5746-1986, all permanent residents of Israel, men and women, are obligated to perform military service. In practice, the military does not draft certain sectors of the population, and the Supreme Court has repeatedly held that it will not review the military's exercise of discretion in this matter. With very few exceptions, Christian and Muslim Arabs are not enlisted, while Druze and Circassian men perform their compulsory service, following the request by the heads of their communities in the 1950s to allow their enlistment. Ultra-orthodox Jewish men who can show that they are studying in a religious institute (*yeshiva*) may postpone their military service for renewable periods

of one year, so long as they remain in the *yeshiva* full-time and do not perform any work for pay. The number of Jewish men who have taken advantage of this arrangement has grown roughly fivefold over the last 30 years, reaching a total of approximately 30,000 in 1997. The great majority of them end up performing no military service whatsoever, or an extremely short tour of duty. Others eventually serve a truncated regular tour of duty and are integrated into the military reserves. Several petitions challenging the postponement arrangement for *yeshiva* students for impermissible discrimination on religious grounds were all denied by the Supreme Court. (See, e.g., H.C.J. 40/70, *Becker* v. *Minister of Defence*, 24(1) P.D. 238; H.C.J. 448/81, *Ressler* v. *Minister of Defence*, 36(1) P.D. 81; H.C.J. 910/86 *Ressler* v. *Minister of Defence*, 42(2) P.D. 441). In the last of these challenges, the Court held that the Minister of Defence's reasons for not drafting *yeshiva* students - their doubtful effectiveness as soldiers and other, non-security related reasons - were not sufficiently unreasonable to warrant the Court's intervention. At the same time, the Court indicated that their decision might change if the number of *yeshiva* students granted postponements increased to the point where it significantly affects security considerations. (H.C.J. 910/86, *Ressler v. Minister of Defence*, 42(2) P.D. 441, 506). A pending petition to the Court asks that the IDF reexamine the practice of exemptions for *yeshiva* students in light of its dramatic increase over the years.

846. Orthodox Jewish women are exempted from military service if they file a declaration stating that religious reasons prevent them from serving in the IDF, that they observe Jewish dietary laws and do not travel on the Jewish Sabbath (Security Service Law, sect. 40). In practice, a small but significant number of women thus exempted perform one or two years of non-military “national service”. Non-Jewish women are not conscripted into military service, although in rare cases they serve as volunteers. Recently, it was decided that non-Jewish women can volunteer for national service, and as a result they are eligible to receive the benefits given to such volunteers.

847. While men bear considerably heavier military obligations than women in Israel, the Supreme Court, in holding that the failure to admit a woman to the Air Force pilot's course amounted to impermissible discrimination, determined that the principle of equality requires that women be allowed to waive their preferential status and to bear the same duties as men. (H.C.J. 4541/94, *Miller* v. *Minister of Defence* (49(4) P.D. 94.)

848. **Benefits given on the basis of military service** Because the policies of exemption from military service draw a clear distinction on the basis of national origin, benefits granted to released soldiers have been scrutinized closely to ensure that the fact of military service justifies the benefit in question. Until 1994, applicable law granted a series of privileges to released soldiers for a three-month period, including tuition subsidies, preference in acceptance to university and university housing, and preference in hiring for certain positions in public institutions or in job placements through the Employment Service. One particularly problematic benefit was the “released soldier's allowance” which the National Insurance Institute paid to families with at least three children in which at least one family member

served in the military. The underlying justification for the allowance was the increased financial burden that military service placed on the soldier's family, the soldier's own loss of income during the several years of mandatory service, and the desire to grant a veteran's benefit in recognition of military service. In effect, such families received significantly higher “children's allowances” than families - particularly in the Arab sector - in which no one had performed military service. Shortly after entering into office in 1992, the Government led by Yitzhak Rabin initiated a broad reform of veterans' benefit arrangements. The “released soldier's allowance” was eliminated, and the level of children's allowances given to all families was equalized over a three-year period ending in 1997. Moreover, non-monetary benefits, such as preference in acceptance to university and vocational training programmes, were eliminated. Although these benefits were in themselves a legitimate form of aid to released soldiers who had foregone university study or vocational training for at least three years, it was deemed preferable to make all such benefits more directly monetary. Under the Released Soldiers Absorption Law, 5754-1994, soldiers and persons who perform National Service are given a small cash grant upon their release, and may receive an additional grant for purposes such as education, opening a business, or buying housing within five years from their release. In addition, soldiers may apply for partial or total exemptions from university tuition based on economic need, or for parallel tuition exemptions regardless of economic need in certain fields in which there is a proven need for additional personnel. Under criteria applied by the Ministry of Housing and Construction, released soldiers receive an enlarged government-sponsored mortgage for acquiring their first apartment.

Housing and land

849. Over the course of Israel's history, serious disparities between the Jewish and Arab populations in the availability of housing and of land for development have become entrenched. A significant part of the problem derives from expropriations of land in the aftermath of the War of Independence. Only 7 per cent of all land in Israel is privately owned, 4 per cent by Arabs and 3 per cent by Jews. The remaining 93 per cent is managed by the Israel Lands Administration (ILA) on behalf of the owners of the land: the Keren Kayemet Leyisrael, an organization funded by private Jewish donations (10 per cent of ILA-managed land); the Development Authority (10 per cent), and the State (80 per cent). The ILA has, over the years, leased or transferred significant land holdings for development of Jewish towns and settlements, while for the most part new Arab localities have not been established through similar arrangements, except for the eight Bedouin towns established in the southern Negev region. Another source of the gap in housing and development is the historic lack of approved town plans in the Arab sector, which made it exceedingly difficult to develop existing Arab localities to meet the needs of the Arab population, which has grown sixfold since 1948.

850. Over the past decade, the Government has taken measures designed to reduce the considerable differences in housing and development between the Jewish and Arab sectors. Among others, the ILA has allocated land for

residential projects, industrial areas and public buildings in several Arab localities; the Ministry of Interior has approved town plans for 29 Arab local authorities (out of 81), is close to approval of five other town plans, and has begun expedited development of town plans for 41 more localities; the land area of several localities has been enlarged for use in development, and plans for the enlargement of nearly 20 other Arab localities are currently under review; many Arab localities have been included in highest-priority development areas, which enables entrepreneurs to develop land and, in appropriate circumstances, to lease land at a fraction of its real cost; government ministries have increased their funding for development of residential and industrial infrastructure considerably over the last five years; the Interior Ministry has initiated a variety of programmes aimed at improving the effectiveness of Arab local authorities in spurring and managing development in areas under their jurisdiction, and actively encourages the formation of economic corporations which make it easier to receive public and private development funding (thus far 17 such corporations have been formed). In addition, a rule that allowed only army veterans to receive subsidized mortgages in development towns was abolished several years ago, on the basis of the Attorney-General's opinion that the rule was impermissibly discriminatory. Other government development activities in the Arab sector are discussed under article 27. Further progress remains to be made before the level of housing and land development can approach equality between the Jewish and Arab sectors.

851. **The Bedouin community**. The Bedouin population in Israel, particularly in the Negev Desert area, is perhaps the most disadvantaged single community in Israel in terms of per capita income, unemployment, and the level of infrastructure and services in their communities. There are approximately 100,000 Bedouins in the Negev, and roughly 38,000 in the Galilee. For most of Israel's history, the Bedouins have been engaged in a dispute with the Government over possession of lands and housing rights, which recently appears to be significantly closer to its resolution.

852. The Bedouins were originally nomadic tribes, whose economy was based on camel and sheep herding. They began settling in Eretz Yisrael in the fifth century A.D., and their numbers increased gradually throughout the centuries. Among themselves, land possession and ownership was determined by internal custom, which did not involve any written deeds of sale or ownership. Most of the lands used by Bedouins for herding and cultivation are of the legal category known as *muwat*, that is, land which is not privately owned or possessed. Under applicable Ottoman and British Mandatory Law, the possession of such *muwat* land is conditional upon receiving a permit; those who lacked permits were liable to prosecution for trespassing. (Ottoman Land Law of 1858, sect. 103; Land Ordinance (*Muwat*), 1921.) Alternatively, persons who cultivated such land prior to the enactment of the 1921 Mandatory Ordinance were entitled to receive formal rights to the land by submitting a request to the Land Registrar within two months of its publication. Although the Bedouins did not register the land that they inhabited, and had no written documents proving their rights, the British Mandatory authorities decided not to evacuate them.

853. Beginning in the 1950s, the Government pursued a policy of concentrating the Bedouins in the northern Negev, particularly in the *Sayig* area, which covers roughly 1.5 dunams, 40 per cent of which is used by the Bedouins for habitation, agriculture, and animal grazing; and of settling them in new government-planned towns, which had the unfortunate effect of uprooting them from their traditional way of life. Much of the hundreds of thousands of dunams over which Bedouins claimed ownership by force of possession and cultivation was transferred to State ownership. Seven towns were built in the Negev area, which today are the homes to roughly 50,000 persons, or half of the Negev Bedouin, who received compensation and very favourable terms for building or purchasing housing. The others live in unplanned, unlicensed homes and settlements, often without basic services such as water, electricity, roads, health care and educational facilities. In some cases, the Government provides these services without proper planning and legal arrangements. In other cases, the Ministry of Interior demolishes homes which have been built without permits. The Bedouins wish to be permitted to form rural settlements, where they can maintain their traditional way of life, and demand that the Government recognize existing structures and settlements, sanction the establishment of local authorities and town planning councils, and fund the development of infrastructure. The Government's position has been to find a workable solution within the framework of the law which will not force upon the Bedouins a housing solution inimical to their traditional way of life, but will also not involve a duty to create local government institutions and fund infrastructure in every place where members of the Bedouin community wish to live. According to a Ministry of Interior survey, it is estimated that there are over 100 illegal settlements, many consisting only of a small cluster of structures, spread over the Negev area alone, involving 108 tribes, over 9,000 housing units, and roughly 50,000 inhabitants, or slightly less than 1 per cent of the national population. Another 3,000 Bedouins live in illegal settlements in the Galilee region.

854. Over the past five years, the Government has taken important steps towards solving the land and housing problem in the Bedouin communities and towards bringing their quality of life to a level closer to that of the rest of the population, while preserving their way of life. Eight Bedouin settlements were recognized by the Government during 1994-1996, and consultations are currently taking place between the Government and Bedouin representative organizations regarding the recognition of a ninth settlement. Official recognition allows these settlements to receive government funding prior to the approval of town development plans. Consultations over other, smaller illegal settlements, mostly comprised of single families, are continuing, with the intention of integrating these settlements into larger, recognized settlements. Zoning and development plans for these newly-recognized settlements are being prepared, and the Government made a special allocation of NIS 5 million in 1996 for immediate infrastructure development in these settlements. In addition, plans developed by the Housing Ministry call for the construction of two or three new urban localities (each accommodating 600-800 families), two or three agricultural settlements (each containing up to 600 families), 10 agricultural farms (to be inhabited by 30 families each), and five to seven shepherding settlements for a total of

roughly 100 families. In 1996, a parliamentary commission which reviewed the condition of the Bedouin communities recommended that sufficient resources be allocated for the development of these new localities, and that arbitrators be appointed to expedite processing of Bedouin land claims.

855. Government investment in the Bedouin sector has increased markedly over the last several years. Overall funding by the Housing Ministry increased from NIS 50 million in 1989-1992 to NIS 138 million in 1993-1995. Several years ago, the Minister of Housing issued guidelines requiring that investments in infrastructure in the Bedouin communities be allocated on a level comparable to those granted to Jewish localities. The Israel Lands Administration invested NIS 128 million in infrastructure between 1991 and 1995, as well as NIS 50 million in compensation for Bedouin land claims. As part of the settlement of such land claims, the ILA also subsidizes 80 per cent of the cost of plots sold to Bedouins. In addition, the ILA has approved an NIS 280 million sewage-system installation project, has developed industry and crafts areas in three Bedouin localities, and, together with the Agriculture Ministry, has funded the construction of several commercial greenhouses.

856. The Ministry of Interior has approved outline development plans during the past five years for each of the seven existing Bedouin towns, which will facilitate the construction of housing, industrial areas, public institutions and public works. In addition, the Interior Ministry has significantly increased its regular allocations to Bedouin local and regional authorities, as part of its campaign to eliminate the disparity in allocations between Arab and Jewish municipal authorities generally.

857. Aside from its efforts at resolving the problems of land ownership and municipal organization in the Bedouin communities, the Government has pursued a range of activities aimed at improving the level of social services and the quality of life, including the following:

(a) The Ministry of Energy and Infrastructure has helped fund the connection of Bedouin localities to the electricity grid and has set up lighting at traffic intersections and in towns.

(b) In 1993, the Health Ministry submitted a plan to improve health services in the Bedouin communities, including the establishment of family clinics, health-education programmes, dental clinics, and drug prevention programmes. In 1994, four new family health clinics were built in Bedouin towns, and another two were completed in 1995-1996.

(c) The Ministry of Industry and Trade has worked to establish industry and crafts areas in all of the existing Bedouin towns, has invested NIS 11 million in new enterprises, and has established a business promotion centre in Rahat, the largest Bedouin town to counsel and train entrepreneurs.

(d) The Ministry of Education has increased school hours in Bedouin communities, doubled the number of comprehensive high schools, and has approved a budget for building 37 standard classrooms in Bedouin communities.

Nevertheless, the Bedouin communities still need a great deal of assistance in opening pre-school facilities, reducing truancy, hiring and training qualified teachers, busing students from remote localities, developing special education facilities, and improving the educational performance of their students.

(e) A course for qualified Bedouin nurses has been opened, with the intention that such nurses will serve as role models in the Bedouin community in the field of primary preventive health care.

858. In 1996, an interministerial committee was established to oversee and implement all government programmes related to the Bedouin communities. Within the National Infrastructure Ministry, a Directorate for the Advancement of Bedouins has also been set up, and has begun developing new plans for continued resolution of housing, land and development problems.

859. **Disabled persons**. Over the past decade, several new statutes have been enacted to ensure equality of treatment for persons with physical or other disabilities. The Special Education Law, 5748-1988, establishes the right of all children with special needs to appropriate special education. The Assistance of the Deaf Law, 5752-1992, requires that one quarter of originally-produced, non-live television broadcasting on each television channel must have subtitles, and that the Israel Broadcast Authority must broadcast at least one news programme per week with simultaneous sign-language translation. The Prohibition of Discrimination Against Blind Persons Accompanied by Guide Dogs Law, 5752-1992, forbids discrimination against blind persons in entering public places or using public transportation on account of the fact that they use a guide dog. The Disabled Persons Parking Law, 5754-1994, entitles disabled persons to park in no-parking zones, with certain restrictions. Other municipal or building and planning laws which require provision of access to the disabled are not stringently enforced, including at places such as health funds, welfare offices, local council offices, museums and office buildings. In response to one recent petition, the Supreme Court obligated a local authority to install adequate means of access in all public buildings. (H.C.J. 7081/93, *Botzer* v. *Maccabim-Reut Local Council* 50(1) P.D. 19.)

860. Following the findings of a public commission appointed by the Minister of Justice and the Minister of Labour and Social Affairs, a bill currently is being considered by the Knesset which would create comprehensive legal arrangements for protecting the rights and needs of disabled persons. The first part of the law will be enacted shortly following the submission of this report.

Equality in other contexts

861. The safeguarding of equality is discussed in specific contexts under many of the other articles in this report, particularly in articles 3 (Equal rights of men and women), 12 (Freedom of movement), 18 (Freedom of religion and conscience), 19 (Freedom of opinion and expression), 23 (Protection of the family), 24 (Protection of children), 25 (Access to the political system), and 27 (Rights of minorities to culture, religion and language).

Article 27 - Rights of minorities to culture, religion and language

862. **Introduction: Defining minority groups**. Israel was founded as a homeland for the Jewish people in which all citizens, regardless of religion, race or ethnic background would enjoy equal social and political rights. Its Jewish population is composed largely of immigrants and the descendants of immigrants from countries spanning virtually the entire globe. Many Jews in Israel maintain cultural, linguistic and traditional ties with others from the same geographical origin through a plethora of voluntary organizations, newspapers and electronic media programming in the language of their country of origin, and other, informal contexts. Members of these subcommunities, moreover, participate in social and political action groups to advance their interests, and in two cases have created political parties with significant representation in the Knesset (the Shas Torah Guardians party, composed of orthodox Jews of Oriental (*Sephardi*) ethnic origin, and the Israel Ba-aliya Party, founded largely by immigrants from the former Soviet Union). Although the process of integration into Israeli society often inevitably involves a dissipation of traditional cultural practices in these subcommunities, their members are in no way limited in their capacity to engage in cultural or linguistic activity within their communities; in many instances they receive government support for such activities, as in radio and television programming in nine different languages on government-owned stations, direct funding to voluntary organizations for cultural activities, and various government-administered programmes in education and culture. At the same time, some of the immigrant communities have confronted considerable difficulties in areas not directly related to the rights enumerated under this article, particularly in the initial stages of their integration into the larger society. Over the first decades of Israel's history, many Jews who immigrated from Arab countries (known as *Sephardim* or Oriental Jews) suffered from a relative lack of economic opportunity, lower educational attainments, and a lower level of participation in the conduct of public affairs in comparison with Jews of European (*Ashkenazi*) extraction. These gaps, as well as the social tensions attending them, have by and large narrowed considerably over the last two decades. More recently, the mass immigration of Jews from the Soviet Union since 1989, and particularly of the bulk of Ethiopian Jewry in 1990, have given rise to special problems in meeting the needs of these immigrant communities in such areas as education, vocational training, housing, and personal status. To respond to many of these needs, and to ease what for many is an abrupt cultural transition, the Government has instituted an array of policies and programmes which, to a greater or lesser extent, treat these subcommunities as distinct groups.

863. Despite the fact that different Jewish subcommunities are often viewed, both by the public and by official authorities, as distinct groups within Israeli society, they are not deemed minorities for the purposes of reporting under this article. Rather, only the non-Jewish communities - Muslims, Christians, Druze, Circassians, and Baha'i - will be considered as minorities, properly so-called, in the discussion below.

864. The definition of minorities in Israel straddles certain ethnic and racial categories. Most Muslims and Christians in Israel are of Arab ethnicity. The Circassians are non-Arab Sunni Muslims originally from the area of the Caucasus. Within the Muslim community there are several sub-groups, such as the Bedouins and the Ahmadis, a small sect living primarily in the village of Kababir in the Carmel mountain range. The Christian community is comprised of 10 different recognized denominations, as discussed under article 18, and several other small subcommunities which function independently of any official sanction. The Baha'i residents of Israel come from a variety of ethnic backgrounds.

865. **Minority populations**. At the end of 1996, Israel's total population was 5,759,400, of whom 4,637,400 (80.5 per cent) were Jews, 842,500 (14.6 per cent) were Muslims, 183,200 (3.2 per cent) were Christians, 96,300 (1.7 per cent) were Druze, approximately 5,500 were Circassians, concentrated in the towns of Kafr Kama and Rehania, and between 600-700 Baha'i, who live in the Haifa area and in Acre, close to the two sites holy to the Baha'i in Israel. The following table shows the growth of the major population groups (Jewish, Muslim, Christian and Druze) from the establishment of the State until 1995.

866. Several larger cities, such as Jerusalem, Haifa, Tel Aviv-Jaffa, Acre, Lod and Ramla have mixed Jewish and non-Jewish populations. Apart from these, however, the members of non-Jewish minorities generally reside separately from the Jewish population in smaller cities, towns and villages. Most of the Druze population lives in 13 towns or villages which are either entirely or nearly all Druze, with the remainder spread out among other Arab or Circassian towns.

Participation in the conduct of public affairs

867. **The Knesset and political parties**. Members of minorities have been elected to every Knesset since Israel's founding. Until the 1980s, nearly all Arab Knesset members were affiliated with the Israel Communist Party (*Maki*) and its offshoot, the New Communist Party (*Rakah*). More recently, a number of Arab or mixed Arab-Jewish political parties, such as the Democratic List for Peace and Equality (which subsumed the New Communist Party together with the Sephardi “Black Panther” activists and other Jewish and Arab groups), the Arab Democratic Party and others, have run in national elections and have received up to five Knesset mandates. In addition, Arabs and Druze have held seats in the Knesset factions of several other parties. Of the nine minority members in the current Knesset, two are Christian, one Druze, and six Muslim. No Arab has yet served as a minister in any of Israel's Governments. In the Government headed by the late Yitzhak Rabin and Shimon Peres between 1992 and 1996, two Arabs and one Druze served as deputy ministers. The Chairman of the Knesset Interior Committee is Druze. In the past, there have been several Arab Deputy Speakers of the Knesset.

Table 19. The population, by religion

(Thousands)

Average population						Population at end of year						
Arabs & others						Arabs & others						
Druze	Chris-tians	Muslims	Total	Jews	Grand total	Druze	Chris-tians	Muslims	Total	Jews	Grand total	
									156.0	716.7	872.7	(1)8 XI 1948
..	..	..	..	671.9	..	..	..	..	..	758.7	..	1948
			158.0	901.0	1,059.0	14.5	34.0	111.5	160.0	1,013.9	1103.9	1949
14.8	35.0	113.8	163.8	1,103.0	1,266.8	15.0	36.0	116.1	167.1	1,203.0	1300.1	1950
15.3	37.5	117.5	170.3	1,324.0	1,494.3	15.5	39.0	118.9	173.4	1,404.4	1,577.8	1951
15.8	39.7	120.8	176.4	1,429.8	1,606.2	16.1	40.4	122.8	179.3	1,450.2	1,629.5	1952
16.5	40.9	125.2	182.6	1,467.7	1,650.3	16.8	41.4	127.5	185.8	1,483.6	1,669.4	1953
17.4	41.7	129.7	188.8	1,500.7	1,689.5	18.0	42.0	131.8	191.8	1,526.0	1,717.8	1954
18.5	42.7	134.1	195.1	1,555.3	1,750.4	19.0	43.3	136.2	198.6	1,590.5	1,789.1	1955
19.4	43.5	138.9	202.0	1,626.4	1,828.4	19.8	43.7	141.3	204.9	1,667.5	1,872.4	1956
20.2	44.8	144.1	209.2	1,721.2	1,930.4	20.5	45.8	146.8	213.2	1,762.8	1,976.0	1957
21.0	46.6	149.8	217.4	1,782.7	2,000.1	21.4	47.3	152.8	221.5	1,810.2	2,031.7	1958
21.9	47.8	156.0	225.9	1,836.2	2,062.1	22.3	48.3	159.2	229.9	1,858.8	2,088.7	1959
22.8	49.0	162.8	234.4	1,882.6	2,117.0	23.3	49.6	166.3	239.1	1,911.3	2,150.4	1960
25.8	50.7	171.2	247.9	1,942.0	2,189.9	26.3	51.3	174.9	252.5	1,981.7	2,234.2	(2)1961
26.8	51.9	178.9	257.7	2,030.5	2,288.2	27.3	52.6	183.0	262.9	2,068.9	2,331.8	1962
27.9	53.2	187.7	268.4	2,111.3	2,379.7	28.5	53.9	192.2	274.5	2,155.6	2,430.1	1963
28.5	54.6	197.3	280.4	2,197.1	2,477.5	28.6	55.5	202.3	286.4	2,239.2	2,525.6	1964
29.2	56.3	207.3	292.8	2,269.8	2,562.6	29.8	57.1	212.4	299.3	2,299.1	2,598.4	1965
30.4	57.8	217.7	306.0	2,323.2	2,629.2	31.0	58.5	223.0	312.5	2,344.9	2,657.4	1966
31.5	64.8	256.2	352.7	2,362.6	2,715.2	32.1	71.0	289.6	392.7	2,383.6	2,776.3	1967
32.6	71.8	294.6	398.9	2,407.6	2,806.5	33.3	72.2	300.8	406.3	2,434.8	2,841.1	1968
33.9	72.9	307.8	414.6	2,469.6	2,884.2	34.6	73.5	314.5	422.7	2,506.8	2,929.5	1969
35.2	74.5	321.2	431.0	2,543.1	2,974.0	35.9	75.5	328.6	440.1	2,582.0	3,022.1	1970
36.6	76.4	336.1	449.1	2,620.1	3,069.3	37.3	77.3	344.0	458.7	2,662.0	3,120.7	1971
37.8	77.8	352.3	468.0	2,704.6	3,172.6	37.8	73.8	360.6	472.3	2,752.7	3,225.0	(2)1972
38.5	75.2	368.7	482.4	2,795.6	3,278.1	39.3	76.7	377.2	493.2	2,845.0	3,338.2	1973
40.0	77.7	386.1	503.9	2,873.6	3,377.4	40.8	78.7	395.2	514.7	2,906.9	3,421.6	1974
41.5	79.4	403.1	524.0	2,931.2	3,455.3	42.2	80.1	411.4	533.8	2,959.4	3,493.2	1975
43.1	81.2	420.6	544.7	2,988.3	3,533.0	43.9	82.0	429.0	555.0	3,020.4	3,575.4	1976
44.8	83.0	438.1	565.9	3,047.2	3,613.0	45.6	83.8	446.5	575.9	3,077.3	3,653.2	1977
46.4	84.6	454.7	585.7	3,106.9	3,692.6	47.3	85.5	463.5	596.4	3,141.2	3,737.6	1978
48.1	86.6	472.2	606.9	3,179.5	3,786.4	49.0	87.6	481.2	617.8	3,218.4	3,836.2	1979
49.9	88.8	489.7	628.3	3,249.4	3,877.7	50.7	89.9	498.3	638.0	3,282.7	3,921.7	1980
51.5	90.7	505.9	648.3	3,300.0	3,948.1	52.3	91.5	513.7	657.4	3,320.3	3,977.7	1981
64.6	92.8	522.6	680.0	3,346.6	4,026.7	65.6	94.0	530.8	690.4	3,373.2	4,063.6	1982
67.0	94.8	533.3	695.1	3,381.0	4,076.2	68.0	95.9	542.2	706.1	3,412.5	4,118.6	(2)1983
69.0	97.0	551.0	717.1	3,442.1	4,159.1	70.0	98.2	559.7	727.9	3,471.7	4,199.7	1984
71.0	98.8	568.7	738.5	3,539.3	4,233.0	72.0	99.4	577.6	749.0	3,517.2	4,266.2	1985
73.0	100.2	586.3	759.5	3,539.3	4,298.8	74.0	100.9	595.0	769.9	3,561.4	4,331.3	1986
75.0	102.0	604.7	781.7	3,587.2	4,368.9	76.1	103.0	614.5	793.6	3,612.9	4,406.5	1987
77.1	104.0	624.5	805.7	3,636.0	4,441.7	78.1	105.0	634.6	817.8	3,659.0	4,476.8	1988
79.2	106.0	644.9	830.1	3,688.1	4,518.2	80.3	107.0	655.2	842.5	3,717.1	4,559.6	1989
81.4	109.8	666.2	857.5	3,802.7	4,660.2	82.6	114.7	677.7	875.1	3,946.7	4,821.7	1990
83.7	121.8	689.5	894.8	4,054.3	4,949.1	84.8	128.0	701.4	914.3	4,144.6	5,058.8	1991
85.9	134.6	713.2	933.7	4,189.8	5,123.5	87.1	140.9	725.4	953.4	4,242.5	5,195.9	1992
88.1	146.3	738.4	972.8	4,288.7	5,261.4	89.3	151.8	751.4	992.5	4,335.2	5,327.6	1993
90.4	154.5	766.4	1,011.3	4,388.0	5,399.3	91.7	157.3	781.5	1,030.4	4,441.1	5,471.5	1994
92.8	159.9	797.2	1,049.8	4,495.1	5,544.9	94.0	162.6	813.0	1,069.5	4,549.5	5,619.0	(3)1995
95.1	172.8	827.7	1,095.6	4,593.2	5,688.9	96.3	183.2	842.5	1,122.0	4,637.4	5,759.4	(3)1996

(1) Date of population registration.

(2) Census year.

(3) Based on 1983 Census.

868. **The judiciary**. As of October 1997, out of a total of 410 judges serving in the civil court system, there were seven Christian judges (one in the district court, five in the magistrates courts, and one in a regional labour court); eight Muslim judges (three in the district court, four in the magistrates courts and one traffic court judge); and four Druze judges, all in the magistrates courts. Thus far, the highest judicial rank achieved by a member of a minority has been the deputy president of a district court. Present and past members of the Judicial Selection Committee, including several justice ministers, Supreme Court judges and the courts director, have expressed great interest in appointing more members of minorities to the bench, including to the Supreme Court, which has never had an Arab justice, and they continue to take informal steps to encourage applications by qualified minority members of the bar. All judges in the Muslim, Christian and Druze religious courts are members of the religion in question, and they apply the substantive law of that religion to matters of personal status over which they have jurisdiction, as discussed under article 18.

Participation in the civil service

869. In the late 1980s a government committee (the Kobersky Committee) undertook a comprehensive review of the civil service and of other bodies supported by State funds. The Kobersky Report, submitted in 1989 and adopted by the Government in 1990, called for strenuous efforts to include more members of minorities in the civil service. To begin to redress the severe under-representation of minorities in government ministries, the Government adopted a three-year plan to create 160 new mid-level positions in the ministries and actively to seek out and hire properly-qualified Arabs (Muslims and Christians) and Druze to fill those positions. Under the terms of this affirmative action plan, three quarters of the positions were reserved for Arabs and one quarter for Druze. The project was ultimately completed successfully in June 1997. Actually, over that period the number of minority employees in government ministries grew by almost 1,000, from 1,369 to 2,357, out of a total of roughly 56,000 total employees. It has been observed that the Government affirmative action programme seemed to have had the effect of breaking settled assumptions both on the part of the ministries and among the Arab population itself. In addition, the Civil Service Commission decided during this period to publish all job tenders for government ministry positions in Arabic newspapers, not just those positions specifically relating to the Arab sector, which may also have had some role in the increase of minority job applicants over this period. The following table summarizes the distribution of these minority employees according to religious/ethnic affiliation and level of education.

Table 20. Arab and Druze ministry employees, according to religion, ethnicity and educational level
(as of June 1997) (not including school employees)

Level of education	Religion and ethnicity						
	Muslim Arab	Muslim non-Arab	Christian Arab	Christian non-Arab	Druze	Other	**Total**
Unknown	27	1	2		2	2	34
Elementary	241		10	5	1	8	265
Secondary	385	7	135	52	97	56	732
Post-secondary	397	7	143	21	65	35	668
Partial university study	24	2	6	5	10	1	48
Bachelor's degree	139	14	52	13	32	8	258
Master's degree	30	17	6	12	8	8	81
Doctorate	111	7	56	17	29	49	269
Quasi-academic	2						
Total	**1 356**	**55**	**410**	**125**	**244**	**167**	**2 357**

870. Of these 2,357 minority employees, 925 have managerial positions, 219 are doctors, and 768 are nurses, 33 are social workers, 27 are biochemists or microbiologists, 22 are certified x-ray technicians, and 19 are engineers. The ministries which employ the highest number of minorities are the Health Ministry (1,370), the Ministry of Religious Affairs (316, including Muslim religious judges (*qadis*)), the Finance Ministry (219), the Labour and Social Affairs Ministry (119) and the Ministry of Education, Culture and Sport (101). These figures do not include over 15,000 teachers, principals and educational inspectors employed by the Ministry of Education in the Arab educational system.

871. Recently, the Civil Service Commission formed a new commission to weigh the continuation of the affirmative action project. Further progress remains to be made, not only in the overall representation of minorities in government ministries, but also in their appointment to senior positions. Until now, no Arab has served as a Director-General of a ministry, and one has served as a Deputy Director-General (in the Ministry of Education, Culture and Sport). The current Ambassador to Finland is Arab, and the Consul-General in Bombay is Druze. During the previous government, there was one Consul-General in the United States. Although members of minorities have in recent years been appointed as directors of government corporations and have been hired to professional positions in such corporations, minorities are still vastly under-represented in this area as well.

872. Among the 20,056 regular employees of the Israel Police (including the Border Police) as of October 1997, 1,963 (9.8 per cent) are members of minorities. More than half of these minority employees are Druze, roughly one quarter are Muslim (including Bedouins), 15 per cent Christian, and the remainder Circassians, except for one Samaritan. The distribution of rank held by minority employees is summarized below.

Israel Police Rank	**# Minority Officers**
Senior Commander (second highest rank, after Commissioner)	1
Commander	4
Chief Superintendent	18
Superintendent	73
Chief Inspector	105
Inspector	55
Sub-Inspector	11
Senior NCO (Non-Commissioned Officer)	11
Senior Staff Sergeant Major	69
Adv. Staff Sergeant Major	357
Staff Sergeant Major	13
Sergeant Major	660
Deputy Sergeant Major	317
Sergeant	189
Corporal	46
Lance Corporal	26
Constable	8
Total:	**1 963**

In addition, as of October 1997, 140 members of minorities were serving in the Police or Border Police in fulfilment of military service obligations, including 26 Muslims and Bedouins, 17 Christians, 17 Druze, one Circassian and one Samaritan.

873. In the Prisons Service, minorities are relatively well-represented, including among the ranks of officers, in relation to their representation in the general population: 23.5 per cent of all personnel (834 out of 3,542) are members of minorities, including 13.6 per cent of those holding officer rank. As of late 1997, there were two minority prison officials holding the rank of Commander, one Chief Superintendent, 37 Superintendents (10.5 per cent of all personnel at that rank), 51 Chief Inspectors (16.3 per cent), 30 Inspectors (19.1 per cent), and 14 Sub-Inspectors (46.7 per cent). Among minority employees of the Prisons Service, the vast majority are Druze (791 out of 834); of the remainder, there are 25 Bedouins, 11 Christians, five Muslims and three Circassians.

Local government

874. In Israel, local and regional authorities are largely responsible for providing public services in many areas of civic life related to the rights specifically enumerated in this article - particularly education and culture - as well as other services which indirectly relate to the advancement of

minorities, such as building and planning and economic development. The participation of minorities, then, at the local government level, is central to the enjoyment of rights under this article. In Israel, the membership in local governing councils and the administrative personnel in local authorities generally reflect the demographic make-up of the local population. Due to the demographic separation between different population groups outside of several larger cities as described above, there are 82 local authorities in which the members of the executive organs and the employees are exclusively or almost exclusively members of minorities, out of a total of 241. Of these local authorities, 61 of the non-Jewish and 72 of the Jewish localities have formal local councils; 15 of the local authorities are in Druze localities, two are in Circassian towns, and the remainder are defined as Arab councils, without distinguishing between those in which the population is primarily Muslim or Christian, respectively. As of 1995, there were roughly 650 Arab members of local councils and roughly 7,500 Arab employees in local authorities or municipalities.

875. In the larger cities with mixed population, the level of representation of minorities on municipal councils and among local government employees tends to be somewhat lower than their representation in the local population. In Jerusalem, in which roughly 30 per cent of the population is Arabic, those Arabs who became residents of Israel following the June 1967 war choose, by and large, not to vote or to put forth candidates in municipal elections; they are, however, fairly well-represented among the ranks of municipal employees. It has been the policy of recent governments, as part of a general effort to achieve equal civic and social rights of minorities generally, to encourage the hiring of more members of minorities at the local government level. The activities taken at the local government level to help ensure the realization of rights under this article are discussed below.

Language

876. Arabic, like Hebrew, is an official language in Israel. It is the primary, virtually exclusive language of social intercourse within the Arab and Druze communities, and, of course, there are no official restrictions on its use in all facets of communal life. Arabic is the language used in the State-run educational system in Arab localities and in Arab communities within the larger, mixed cities, as well as in independent religious schools. Virtually all of the teachers, and all but one of the principals in Arab schools are members of the community. The curriculum, which is administered by each local authority with oversight by the Department for Arab Education at the Ministry of Education, Culture and Sport, places an emphasis on Arabic language, culture and history, and includes required hours of instruction in religious (Christian, Muslim or Druze) topics.

877. There are over 40 privately-published newspapers and magazines in Arabic, including two dailies (*al-Ittihad*, affiliated with the Communist Party, and *al Kuds*, published in Jerusalem), one bi-weekly (*al-Sinara*, the largest-circulation Arabic newspaper in Israel, published in Nazareth), several weeklies (including *Kol il-Arab*, *Panorama*, *Saut-al-Hak wal-Huriyah* (published by the Islamic Movement), and *Fasl-al-Mekal*), several Arabic-language periodicals on culture and current affairs (some of which receive partial government funding), and six Arabic-language book publishers.

One licensed local-radio station, as well as a substantial number of currently unlicensed stations are owned and operated by Arab concerns, providing a full range of radio broadcasting to the Arabic-speaking minorities in addition to Arabic programming broadcasted on government-owned radio. The government-owned first television channel currently broadcasts roughly 19 hours of Arabic-language programming each week. Radio and television broadcasts from many Arabic countries, such as Jordan, Lebanon, Egypt and Morocco, are freely available through ordinary radio and television reception and cable television operators.

878. In the larger sphere of Israeli civic life, the right of Arabic-speaking minorities to use their language is generally recognized and observed. Official forms used by government ministries are generally produced in both Hebrew and Arabic (as well as English, Russian and Amharic in certain instances). The government-owned television and radio stations include daily Arabic-language broadcasts. The franchisees of the second television channel are required by law to provide a minimum level of Arabic-language programming as well. In January 1994, the Civil Service Commission decided, as mentioned above, to publish all civil service job tenders in Arabic-language newspapers, which had not previously been the case. Similarly, in December 1995, the Minister of Finance promulgated regulations requiring all notices of tenders administrated by that Ministry to be published in a daily or weekly Arabic newspaper of wide circulation.

879. One area in which the use of Arabic in the public realm has not been fully realized is in road signs, which sometimes appear only in Hebrew and English. Two recent Supreme Court decisions have buttressed the status of the Arabic language in this regard. In December 1993, the Court issued a consent decree requiring the city of Haifa to include Arabic inscriptions in all municipal signs within two years. In 1995, the Court invalidated a municipal law requiring all notices posted in the city of Nazareth Illit to be entirely or mostly in the Hebrew language. In this latter decision, the Court gave constitutional status to the right to use the Arabic language, as part of the broader right to freedom of expression:

> "The freedom of expression includes the freedom to express oneself in the language of one's choosing. Freedom of expression cannot be guaranteed without ensuring freedom of language. Language is central to expression."

(C.A. 105/92, *Re'em Engineers and Contractors Ltd.* v. *Nazareth Illit Municipality*, 47(5) P.D. 189) In spite of these judicial developments, a fair portion of traffic signs, particularly on inter-urban roads and highways, do not yet include Arabic inscriptions. Recently, the Government, at the instigation of NGOs, has committed to post Arabic inscriptions on road signs throughout the country over a period of three years.

880. **Religion**. As discussed in detail under article 18, the religious minorities in Israel enjoy full freedom of religious worship, including the statutory right to observe holidays and weekly rest days according to the dictates of their faith. The integrity of holy places of all major religions is protected by statute. Funding for non-Jewish religious services and institutions has increased substantially over the last several years.

Governmental measures to foster cultural life of minorities

881. **Arab (Muslim and Christian) communities**. Until 1988, the Government did not pursue activities in any structured manner to promote cultural and artistic life in the Arab sector. In that year, a Department for Arabic Culture was formed within the Ministry of Education and Culture, with offices in Jerusalem, Tel Aviv and Nazareth; since 1992 the Department has been headed by an Arab professional, Mr. Muafak Houri. The formulation of programmes and policies by the Department is guided by a public committee appointed by the Minister (now the Minister of Education, Culture and Sport), which consists primarily of prominent cultural figures in the Arab community. The Department has initiated or helped administer a broad range of cultural programmes for the Arab communities, including the following:

(a) **Community centres**. In conjunction with other Government ministries and local authorities, the Department has helped establish 28 new community centers in Arab localities, which serve as a local home for cultural life and extrascholastic programmes.

(b) **Theatre**. The Department has aided in the establishment or funding of six different Arab theatre companies - the Haifa Arabic Theatre, the Beit Hagefen Arabic Theatre, the al-Gorbal Theatre in Shfar'am, the as-Sakfa Children's Theatre in Kafr Kama, the Azhbana Theatre, and a theatre in Kfar Tamra - as well as helping sponsor theatre programmes in the schools.

(c) **Music**. The Department assists in the funding of six Arabic orchestras playing traditional music, in Haifa, Nazareth, Tarshiha, al-Gorbal, Kfar Yasif, and 'Ablin, as well as in 16 different after-school music programmes, each of which are attended by 70-150 students.

(d) **Plastic arts**. Four art galleries displaying the works of Arab and Jewish artists, in Nazareth, Umm el-Fahm, Kfar Yasif, and Daliat al-Carmel, receive support from the Ministry of Education, Culture and Sport.

(e) **Dance**. In conjunction with local authorities and local workers' committees, the Ministry provides partial funding for 64 different traditional Arab dance (*debka*) troupes, as well as for annual trips abroad for 30 to 35 such troupes to participate in international festivals.

(f) **Libraries and literature**. Fifty-one public and school libraries in Arab localities are partially funded by the Education Ministry, enabling the purchase of tens of thousands of books annually. For the last eight years, the Ministry also gives awards to promising writers which allow them to devote their full energies to writing for one year. Five such prizes are awarded annually. In addition, until 1996 the Ministry assisted in funding the publishing costs for books in the Arabic language, either directly or by buying a predetermined number of copies of the book upon publication.

(g) **Festivals**. The Ministry provides substantial funding for an annual Arabic Culture and Literature Week in 35 to 40 different localities; Arabic folk music festivals in conjunction with the Kaukab and Shfar'am local

authorities; a folkdance festival in Majdal Kurum; the annual Nazareth Festival for Theatre Arts; and the participation of Arabic theatre productions at the annual Acre Theater Festival.

882. **Druze and Circassian communities**. In 1993, a Department for Culture in the Druze and Circassian sectors was established at the Ministry of Education, Culture and Sport upon the recommendation of a public committee which examined education and culture in the Druze community. The new Department was also given responsibility for mixed communities in which Druze reside. The policy of the Department, as formulated by a public council composed of cultural professionals from the Druze and Circassian communities, has been to deepen and rekindle the engagement with the Druze and Circassian cultural heritage, on the one hand, and on the other hand to integrate Druze culture within the larger Israeli culture through association with nationwide cultural programmes. Since 1994, the Department has used its budget to help fund a wide range of cultural and artistic programmes, including the following:

(a) Local music, theatre and folklore festivals, as well as participation in international cultural festivals (15 local authority recipients total).

(b) The establishment or preservation of four cultural museums.

(c) Three musical centres and a Druze choir company, eight different theatre troupes, mounting of exhibitions by plastic artists, cash prizes to artists and art students, art camps for youth funding of folklore and plastic arts workshops, and the production of movies and television programmes related to Druze culture.

(d) Publication costs and other support for nearly 60 different writers or book projects, and funding for public libraries in conjunction with 13 different local authorities.

(e) The Druze community archive at the University of Haifa, the Institute for the Study of the Circassian Community, and other cultural programmes or centres.

Development of infrastructure and economic opportunity

883. Over the past several years, the Government, recognizing the need to close a substantial gap in funding given to the Jewish and non-Jewish sectors, respectively, has dramatically increased its budget and activities aimed at developing infrastructure and economic opportunities in Arab, Druze and Circassian localities. The implementation of policy and budget allocations to these communities is supervised by two recently-formed interministerial committees, one for the Druze and Circassian communities and the other for the rest of the Arab communities, both of which are coordinated through the Prime Minister's Office.

884. Between 1992 and 1997, governmental funding for development to the Arab sector increased from roughly NIS 230.7 million to NIS 604 million (approved 1997 budget). In addition, the direct allocations to Arab local authorities to cover operating expenses, hiring additional personnel and the cost of

municipal works increased from NIS 230.7 million in 1992 to NIS 604 million in 1997, bringing it to parity with the average of such allocations to Jewish local authorities. It may be noted that despite severe budget cuts in the budgets of all ministries in fiscal 1997, no cutbacks whatsoever were made in any allocations to the Arab sector; in certain cases, such as in allocations to local authorities for operating expenses and development, the budgets earmarked for use in the Arab sector increased substantially while parallel funding in the Jewish sector was decreased.

885. Among the broad spectrum of government measures related to development in the Arab sector during this period, the following may be noted:

(a) The Government has included many Arab localities in the geographical areas designated as "Development Area A", which receive highest priority in government development programmes. The inclusion in Development Area "A" confers the highest level of funding, incentives and entitlements to commercial ventures and private citizens alike. Among other things, entrepreneurs in approved ventures receive the highest level of government stipends and various tax incentives; land allocated by the Government for industrial or residential projects is sold to entrepreneurs at far less than its real value (69 per cent discount on land for residential projects, 89 per cent discount for industrial projects); commercial enterprises located in the high-priority development area receive preferential treatment in government tenders; substantial government support is given for building infrastructure in commercial and residential development projects; individuals are exempted from various payments, such as for government-sponsored nursery schools; and other entitlements.

(b) The Ministry of Interior has enlarged the land area of several Arab localities for use in development by adjusting borders to include land previously under the jurisdiction of other local authorities or land lacking municipal status. Plans for the expansion of roughly 20 other localities are currently being reviewed.

(c) Since January 1996, eight new Arab local authorities have been established, and two other previously-unrecognized villages have been accorded official recognition of their status within larger regional authorities. The acquisition of independent municipal status is a crucial spur for economic development, as it enables direct assessment of municipal taxes and the full range of government funding for municipal services and development projects.

(d) The Ministry of Interior also carries out several programmes aimed at improving the ability of Arab and Druze local authorities to exploit opportunities for economic development. The Ministry actively supports and encourages the formation of economic corporations and associations partially owned or managed by local authorities, which make it much easier to receive government and private funding for development projects, and which serve as a vehicle for planning and implementing such projects. Since 1989, 17 economic corporations have been created in Arab localities, and five more are in the process of formation. In addition, the Ministry has overseen the formation of 13 different municipal associations which provide an efficient vehicle for funding and carrying out a range of culture and social programmes. Finally, the Ministry provides organizational counselling to local authorities, courses

in organizational management to local officials, and training of Arab and Druze organizational counsellors, to help improve the efficiency of the municipal administration in matters that affect the capacity of local authorities to plan, fund and execute economic development projects.

(e) Allocations for developing residential infrastructure in Arab localities increased fourfold between 1992 and 1996.

(f) The Government has directly funded extensive building of access roads, water works and sewage projects, and connection of towns and villages to the national electricity grid.

(g) Since 1991, municipal "outline" development plans have been approved for 29 of the 81 Arab local authorities, and outline plans for five others are in advanced stages of the preparation and approval process. Recently the Government has initiated an ambitious programme to expedite preparation and passage of municipal outline development plans for an additional 41 existing Arab localities, and for eight other areas inhabited by Bedouins in the Galilee to which the Government decided to accord full-fledged municipal status. These outline plans allow for fullscale development of industrial areas, residential neighbourhoods, public structures and municipal works. Over the years, the lack of approved outline plans in many Arab localities has been a major obstacle to economic development. Typically, the process of approving such long-term municipal outline plans takes many years. The Government has recently decided to commit substantial funding and staff to shorten the planning process drastically. Implementation of the planning process is being coordinated by an interministerial task force, and Arab professionals are to make up a significant proportion of the planning staff.

(h) Various government ministries have been involved in setting up industrial zones in 30 Arab localities, including in the allocation of State-owned land, planning, building of infrastructure, and marketing the projects through State-sponsored tenders.

(i) The Small Businesses Authority has set up five regional offices to assist and advise entrepreneurs in the Arab sector in the various stages of setting up private ventures. Informative materials on government assistance programmes have been distributed in Arab localities and published in the Arabic-language press.

(j) Direct government grants have been given to several agricultural enterprises in the Arab sector, including the expansion of greenhouses, export crops, farm roads, water systems and water for irrigation.

(k) The Ministry of Environment has created eight regional environmental protection units in the Arab sector, serving over 50 Arabic municipalities and local authorities, as well as several regional authorities with large Arab populations. These units handle such matters as solid and hazardous waste disposal, environmental education programmes in the Arab schools, creation of landfills, waste recycling, and agroecology. The personnel at these field units come from the local population. Since 1993, the Ministry's budget for waste recovery in the Arab sector has been increased fourfold, and currently comprises 28 per cent of the total national waste

recovery budget. Over the same period, as part of a nationwide effort to control and supervise waste disposal, roughly 100 illegal dumps near Arab localities have been closed, and two central landfills and a sorting plant have been created in the northern Galilee region, serving Arab and Jewish localities alike.

(l) The Ministry of Tourism has been involved in the development of tourism projects in the Arab sector, such as in Nazareth, Acre and Jisr es-Zarqa, as well as in consulting and training courses for Arab tourism professionals.

(m) Several hundred classrooms were built each year under the auspices of the Ministry of Education, which used over 30 per cent of its development budget for projects in the Arab sector (which, in turn, comprises 19 per cent of the national population).

(n) A special educational programme for gifted Arab children was initiated in 1993; in 1996, 1,655 schoolchildren participated in the programme.

(o) Many Arab municipalities have been included in the first stage of a national longer-school day programme.

886. **Other measures**. In 1994, the Ministry of Health earmarked a budget of NIS 33.6 million for the establishment of family health centres in underserved Arab villages and townships over a four-year period. Under this programme, the Ministry provided partial funding for the building of 20 new family health centres in 1994, and for 30 such centres in 1995.

887. The Government has concluded a special agreement to eliminate disparities in funding and development for the Druze and Circassian communities over a five-year period, involving a total allocation of NIS 1,070 million, which will be dedicated among other things to the building of cultural centres, libraries, mother-child care clinics, religious court buildings, roads, water and sewage systems, and the development of industry and tourism.

The Bedouin community and culture

888. Although the Bedouin community in Israel shares a common religious and ethnic heritage with the other Muslim Arabs in Israel, in certain significant senses they are culturally distinct. While about half of the roughly 100,000 Bedouins who live in the southern Negev Desert region, and a majority of those in the northern Galilee region, reside in several towns set up by the State over the years, the remainder are scattered among small, unrecognized settlements and maintain, to a greater or lesser degree, a traditional, semi-nomadic way of life. While the Bedouins maintain traditional cultural practices, their encounter with modern Israeli society has placed certain characteristic strains on the social and family culture. Other problems facing the Bedouins are discussed under article 26; issues related directly to the rights enumerated under this article are discussed below.

889. Bedouin social culture is patriarchal and highly traditional. Bedouin women generally assume all domestic responsibilities, from upkeep of the family tent to education of children and care of the elderly or infirm. As a result of the State-sponsored transition of a large segment of the Bedouin population from a semi-nomadic way of life to permanent residence in towns, the context for the traditional roles of women has been altered, and, in some areas such as education, largely removed. The abandonment of their traditional way of life has left a vacuum in the lives of Bedouin women who are often unequipped or unable to enter the labour market or to pursue a formal education. On the whole, moreover, Bedouin women are not allowed to leave their village for educational or employment purposes. Although Bedouin girls constitute at least 50 per cent of the student body of recognized Bedouin schools, very seldom do girls go on to higher education, as many parents expect their daughters to return to their traditional roles in the household, and, if they are allowed to work, to hand over their wages to their parents. At the same time, Bedouin men are more apt to leave their villages to work or study, thus becoming exposed to a modern, western form of social life, and often returning home with more "modern" expectations regarding the proper role of women in the home and beyond.

890. One result of the changes in social practices arising from urbanization and the encounter with a modern society has been a deterioration in the status and prestige of Bedouin women in the community, who have been deprived to a certain extent of their traditional role, while at the same time being less able to meet the more modern conceptions of their male counterparts. Many Bedouin women remain unmarried at relatively advanced ages (late 20's to early 30's), and are perceived as economic burdens on their families. As a result, quite a few of these older unmarried Bedouin women are married off as second or third wives, often in forced marriages, leading to a rise in polygamy. Recent research of marriage ages in Rahat, the largest Bedouin town, showed that the average age of legal wives in monogamous marriages was 18.3 years old, the average age of first wives in polygamous marriages was 20.5 years old, while the average age of subsequent wives in a polygamous marriage was 24.24 years old. Although polygamy is a criminal offence, it is generally not enforced among the Bedouin population.

891. At the same time, many Bedouin women who do manage to get an education find the strictures of their traditional role difficult to accept, leading a significant number of young Bedouin women to run away from their homes to shelters or half-way houses. Recently, higher education has begun to gain acceptance among some Bedouin parents who realize that in order for their daughters to lead comfortable lifestyles and find suitable husbands (given the rise in demand for educated wives among young Bedouin men), they must have an advanced education. Nevertheless, most parents still associate universities with decadence, and fear that sending their daughters to study will result in the desecration of their family's honour.

892. **Female Circumcision**. Ritual female genital surgery, or female circumcision, has been found to be a normative practice among several Bedouin tribes in southern Israel. Generally, the circumcision occurs between the ages of 12 and 17, as the girls have passed menarche but have not yet reached a marriageable age. A physical examination of women from the tribes in question showed that the surgery performed on them did not involve

clitoridectomy. However, all of the women recorded bleeding and pain at the time of the ritual surgery, several required medical attention, and all reported pain during intercourse in the months after marriage. Those Bedouin women among whom the custom is prevalent refer to it as "purification". On the whole, it would appear that most women in these tribes will continue to practice ritual genital surgery on their daughters. The State has not intervened to control or prevent the practice of female ritual genital surgery among the Bedouin tribes. In several specific cases, government social workers have advised Bedouin women of the possibility of refraining from the practice.

Related rights

893. The equal enjoyment by minorities in Israel of certain other rights under the Convention, such as the freedom of movement, the freedom of expression, the right to vote and be elected, which bear an important relation to the rights specifically enumerated in this article, is discussed under articles 12, 19, 25 and 26.

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HUMAN RIGHTS COMMITTEE
Sixty-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Israel

1. The Committee considered the initial report of Israel (CCPR/C/81/Add.13) at its 1675th, 1676th and 1677th meetings (see CCPR/C/SR.1675-1677), held on 15 and 16 July 1998, and adopted the following concluding observations at its 1694th meeting (CCPR/C/SR.1694), held on 28 July 1998.

A. Introduction

2. The Committee welcomes the initial report submitted by the Government of Israel, and notes with satisfaction that it was largely prepared in accordance with the Committee's guidelines concerning the form and contents of initial reports. The Committee, however, regrets the considerable delay in the submission of the report, which was received five years after the date on which it was due.

3. The Committee notes that the report, while providing extensive information on prevailing legislation in the field of human rights in Israel, lacks sufficient information on the implementation of the Covenant in practice and on the factors and difficulties impeding its effective implementation. This was partly rectified by the oral information provided by the delegation during the examination of the report, which enabled the Committee to embark on a frank and constructive dialogue with the State party. The Committee expresses satisfaction that the Government had widely disseminated the report among non-governmental organizations prior to its consideration by the Committee.

B. Factors and difficulties affecting the implementation of the Covenant

4. The Committee notes the security concerns in the State party, the frequent attacks on the civilian population, the problems linked to its occupation of territories and the fact that the State party is officially at war with a number of neighbouring States. However, the Committee draws attention to article 4 of the Covenant, which permits no derogation from certain basic rights even in times of public emergency.

C. Positive factors

5. The Committee notes with satisfaction that Israeli society is a democratic one in which sensitive issues are openly debated and that an active non-governmental community has taken firm root. It expresses appreciation for the wide dissemination of the initial report of Israel among professionals in the justice system who work directly in matters relating to the promotion and protection of human rights and among non-governmental organizations. It welcomes indications that the inter-ministerial network of persons that have worked together on the drafting of the present report may soon be institutionalized.

6. The Committee welcomes the fact that the report includes many references to decisions of the Supreme Court upholding rights protected under the Covenant.

7. The Committee welcomes the recent establishment of the Public Defender's Office. It also welcomes efforts to implement the recommendations of the Kremnitzer Committee, which address questions of police violence, and of the Goldberg Committee regarding rules of evidence. It welcomes the progressive steps which have led to the amendment of the Criminal Code and to the establishment of the Department for Investigation of Police Misconduct within the Ministry of Justice to review complaints of maltreatment by members of the police and security forces. The Committee takes note that the State Comptroller's Office is responsible for acting as Ombudsman, and would welcome further information on its activities, particularly as regards measures to combat discrimination.

8. The Committee notes with satisfaction the establishment of bodies in various ministries to address questions relating to the status of women, and particularly welcomes the activities of the Knesset Committee for the Advancement of the Status of Women. It also notes with satisfaction: the establishment of a national authority on the advancement of women with a wide range of responsibilities; the amendment of the Equal Employment Opportunities Law placing the burden of proof upon the employer in civil sexual harassment suits; and the enactment of the Equal Pay (Male and Female Employees) Law.

D. Principal subjects of concern and recommendations

9. The Committee notes with regret that, although some rights provided for in the Covenant are legally protected and promoted through the Basic Laws, municipal laws, and the jurisprudence of the courts, the Covenant has not been incorporated in Israeli law and cannot be directly invoked in the courts. It

recommends early action in respect of recent legislative initiatives aimed at enhancing the enjoyment of a number of the rights provided for in the Covenant, including proposals for new draft Basic Laws on due process rights and on freedom of expression and association. It also recommends that consideration be given to enacting further laws to give effect to any rights not already covered by Basic Laws.

10. The Committee is deeply concerned that Israel continues to deny its responsibility to fully apply the Covenant in the occupied territories. In this regard, the Committee points to the long-standing presence of Israel in these territories, Israel's ambiguous attitude towards their future status, as well as the exercise of effective jurisdiction by Israeli security forces therein. In response to the arguments presented by the delegation, the Committee emphasizes that the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under article 2, paragraph 1, for the actions of its authorities. The Committee is therefore of the view that, under the circumstances, the Covenant must be held applicable to the occupied territories and those areas of southern Lebanon and West Bekaa where Israel exercises effective control. The Committee requests the State party to include in its second periodic report all information relevant to the application of the Covenant in territories which it occupies.

11. The Committee expresses its deep concern at the continued state of emergency prevailing in Israel, which has been in effect since independence. It recommends that the Government review the necessity for the continued renewal of the state of emergency with a view to limiting as far as possible its scope and territorial applicability and the associated derogation of rights. In this regard, the Committee draws attention to article 4 of the Covenant, which permits no derogation from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18, and requires that permitted derogations be limited to the extent strictly required by the exigencies of the situation.

12. The Committee expresses serious concern over deeply imbedded discriminatory social attitudes, practices and laws against Arab Israelis that have resulted in a lower standard of living compared with Jewish Israelis, as is evident in their significantly lower levels of education, access to health care, access to housing, land and employment. It notes with concern that most Arab Israelis, because they do not join the army, do not enjoy the financial benefits available to Israelis who have served in the army, including scholarships and housing loans. The Committee also expresses concern that the Arabic language, though official, has not been accorded equal status in practice, and that discrimination against members of the Arab minority appears to be extensive in the private sector. In this regard, the Committee urges the State party to take steps without delay to ensure equality to Arabs and to proceed as soon as possible with the planned formulation of a draft law on discrimination in the private sector and to adopt it at an early date.

13. The Committee is concerned that Palestinians in the occupied territories who remain under the control of Israeli security forces do not enjoy the same rights and freedoms as Jewish settlers in those territories, in particular in regard to planning and building permits and access to land and water. The Committee is also concerned at the policies of confiscation of lands and

settlement in the occupied territories. The Committee recommends that coordinated and targeted efforts be made to establish basic standards that are applicable equally to all persons under the jurisdiction of Israel.

14. The Committee is also concerned at the discrimination faced by Bedouins, many of whom have expressed a desire to continue to live in settlements in the Negev which are not recognized by the Israeli Government and which are not provided with basic infrastructure and essential services. The Committee recommends that members of Bedouin communities should be given equality of treatment with Jewish settlements in the same region, many of which are also dispersed and populated by small numbers of people.

15. The Committee expresses concern over the situation of women who, despite the advances noted in paragraph 8, continue to face discrimination in many aspects of life, including in military service and in religious institutions, and that they are underrepresented in the conduct of public affairs. The Committee notes that no clear plan of action exists which addresses the situation of the most disadvantaged group of women, namely those belonging to the Arab minority. The Committee recommends that targeted measures be considered to accelerate progress towards equality, in particular for Arab women.

16. The Committee regrets that women brought to Israel for purposes of prostitution, many under false pretences or through coercion, are not protected as victims of trafficking but are likely to be penalized for their illegal presence in Israel by deportation. Such an approach to this problem effectively prevents these women from pursuing a remedy for the violation of their rights under article 8 of the Covenant. The Committee recommends that serious efforts be made to seek out and punish the traffickers, to institute rehabilitation programmes for the victims and to ensure that they are able to pursue legal remedies against the perpetrators.

17. With respect to article 6 of the Covenant, the Committee is concerned about the number of Palestinians who have been killed by the security forces, as well as all persons who have been the victims of terrorist attacks. The Committee expresses concern over the use of rubber-coated metal bullets by the security forces in the occupied territories in dispersing demonstrations. This type of rubber bullet is reported to have killed many Palestinians, including children. The Committee urges the State party to enforce rigorously the strict limitations on the operational rules as to the use of firearms and the use of rubber bullets against unarmed civilians. It requests that the next periodic report include precise information on the number of deaths, including those caused by rubber bullets, the number of complaints arising from their use and the number of defence and security personnel that have been punished or disciplined as a result.

18. The Committee regrets the introduction by the Government of a draft law which would deny victims compensation for excesses committed by members of the security forces against Palestinian residents of the occupied territories. It requests that detailed information on these matters be included in the next periodic report of the State party.

19. The Committee is deeply concerned that under the guidelines for the conduct of interrogation of suspected terrorists authority may be given to the security service to use “moderate physical pressure” to obtain information considered crucial to the “protection of life”. The Committee notes that the part of the report of the Landau Commission that lists and describes authorized methods of applying pressure remains classified. The Committee notes also the admission by the State party delegation that the methods of handcuffing, hooding, shaking and sleep deprivation have been and continue to be used as interrogation techniques, either alone or in combination. The Committee is of the view that the guidelines can give rise to abuse and that the use of these methods constitutes a violation of article 7 of the Covenant in any circumstances. The Committee stresses that article 7 of the Covenant is a non-derogable prohibition of torture and all forms of cruel, inhuman or degrading treatment or punishment. The Committee urges the State party to cease using the methods referred to above. If legislation is to be enacted for the purpose of authorizing interrogation techniques, such a law should explicitly prohibit all forms of treatment prohibited by article 7.

20. Further in relation to article 7 of the Covenant, the Committee notes that prisoners may be segregated in Israel as a preventive measure for the protection of security, the maintenance of order or to guarantee the safety of the prisoner. Noting that segregation involves substantial isolation and may be extended over long periods of time, the Committee recalls its General Comment 20 (44) in which it noted that prolonged solitary confinement of a detained or imprisoned person may violate article 7. The Committee recommends that efforts be made to avoid prolonged isolation of segregated prisoners.

21. The Committee remains concerned that despite the reduction in the number of persons held in administrative detention on security grounds, persons may still be held for long and apparently indefinite periods of time in custody without trial. It is also concerned that Palestinians detained by Israeli military order in the occupied territories do not have the same rights to judicial review as persons detained in Israel under ordinary law. A specific concern of the Committee is that at least some of the persons kept in administrative detention for reasons of State security (and in particular some Lebanese) do not personally threaten State security but are kept as “bargaining chips” in order to promote negotiations with other parties on releasing detained Israeli soldiers or the bodies of deceased soldiers. The Committee considers the present application of administrative detention to be incompatible with articles 7 and 16 of the Covenant, neither of which allows for derogation in times of public emergency. The Committee takes due note that Israel has derogated from article 9 of the Covenant. The Committee stresses, however, that a State party may not depart from the requirement of effective judicial review of detention. The Committee recommends that the application of detention be brought within the strict requirements of the Covenant and that effective judicial review be made mandatory.

22. While acknowledging the security concerns that have led to restrictions on movement, the Committee notes with regret the continued impediments imposed on movement, which affect mostly Palestinians travelling in and between East Jerusalem, the Gaza Strip and the West Bank, and which have grave consequences affecting nearly all areas of Palestinian life. The Committee considers this to raise serious issues under article 12. In regard to persons

in these areas, the Committee urges Israel to respect the right to freedom of movement provided for under article 12, including the right to return to one's country.

23. In regard to Palestinians who are resident in East Jerusalem, the Committee is concerned that the increasingly restrictive conditions for maintaining the right to permanent residence, the denial of requests for family reunification and the difficulty experienced by non-Jews in obtaining building permits and accommodation have resulted in increasing numbers being forced to move to the occupied territories. The Committee expresses its profound concern at the effect of the unpublished directive of the Ministry of the Interior, under which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their “centre of life” for the past seven years. The Committee notes that this policy is being applied retroactively to both Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. The Committee recommends that the rules and procedures relating to permanent residency status be applied without discrimination.

24. The Committee deplores the demolition of Arab homes as a means of punishment. It also deplores the practice of demolitions, in part or in whole, of “illegally” constructed Arab homes. The Committee notes with regret the difficulties imposed on Palestinian families seeking to obtain legitimate construction permits. The Committee considers the demolition of homes to conflict directly with the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home (art. 17), the freedom to choose one's residence (art. 12) and equality of all persons before the law and equal protection of the law (art. 26).

25. The Committee is also concerned that the Israel Lands Administration (ILA), responsible for the management of 93 per cent of land in Israel, includes no Arab members and that while the ILA has leased or transferred land for the development of Jewish towns and settlements, few Arab localities have been established in this way until recent years. The Committee recommends that urgent steps be taken to overcome the considerable inequality and discrimination which remain in regard to land and housing.

26. The Committee regrets that the authorities appear to be placing obstacles in the way of family reunion in the case of marriages between an Israeli citizen and a non-citizen who is not Jewish (and therefore not entitled to enter under the Law of Return). These obstacles, which include long waiting periods for entry permits, a “probation” period of over five years' residence to establish that the marriage is genuine and a further waiting period for citizenship, are applied even more rigorously in the case of Arab citizens, particularly those who marry persons resident in the occupied territories. The Committee considers such obstacles to be incompatible with articles 17 and 23. It is recommended that the Government reconsider its policies with a view to facilitating family reunion of all citizens and permanent residents.

27. The Committee is concerned that Arab women citizens of Israel have in some cases been required to relinquish their citizenship should they marry a Palestinian and apply for residence in the occupied territories. It welcomes the Israeli Government's response that this policy no longer applies and recommends that those already affected be made fully aware of the relevant legal provisions and that their status be restored.

28. The Committee is concerned at the preference given to the Jewish religion in the allocation of funding for religious bodies, to the detriment of Muslims, Christians, Druze and other religious groups. The Committee recommends that regulations and criteria for funding be published and applied to all religious groups on an equal basis.

29. The Committee is concerned that the application of religious law to determine matters of personal status, including marriage and divorce, and the absence of provision for civil marriage effectively deny some persons the right to marry in Israel, and result in inequality between men and women. It is also concerned that the minimum age of marriage for girls, fixed by law at 17, may be reduced by the religious courts, and that no minimum age is fixed for men. The lack of provision for civil burial is also a matter of concern. The Committee urges early implementation of measures currently under consideration to facilitate civil marriages and civil burial for those who do not belong to a religion. It recommends that the State party take into account international standards for the age of majority in its current review of the minimum marriageable age for men and women.

30. The Committee recommends that the Government consider ratifying the Optional Protocol to the Covenant.

31. The Committee requests that the Government of Israel submit its second periodic report, which is due by June 2000. It also requests that the next report include information on the implementation of the Covenant in all lands over which Israel exercises effective control during the period covered by the report.

32. The Committee recommends the publication and distribution of the concluding observations of the Committee to public bodies, media agencies, and non-governmental organizations working in the area of human rights.

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Consideration of reports submitted by States parties under article 40 of the Covenant

Second Periodic Report

Addendum

Israel*

[20 November 2001]

* This report is issued unedited, in compliance with the wish expressed by the Human Rights Committee at its sixty-sixth session in July 1999.

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Introduction

1. This is the Second Periodic Report of the Government of Israel, submitted to the United Nations Human Rights Committee (HRC) in accordance with the requirements of article 40 of the International Covenant on Civil and Political Rights (the "Covenant" or the "ICCPR"). This report has been compiled by the Department for International Agreements and International Litigation at the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other Israeli government departments. Israeli Non-Governmental Organizations ("NGOs") were invited to submit comments prior to the compilation of the present report, and their contributions were given substantial consideration.

2. Since the submission of the Combined Initial and First Periodic Report (UN document - CCPR/C/81/Add. 13) by Israel in 1998 (the "Initial Periodic Report"), many legislative, administrative and judicial developments relevant to the Covenant occurred. This report provides a comprehensive account of these developments.[1] It also addresses the comments made in the concluding observations by the HRC (CCPR/C/79/Add.93) dated August 18, 1998.

3. We should note that Israel underwent substantial policy and legislative changes since the Initial Periodic Report was submitted. Some policy and legislative changes, although decided upon, will no doubt take time until they are fully implemented. In many areas, however, substantial changes are already visible. A short summary of the main changes is included below.

4. In terms of legislation, between 1998 and today significant steps have been taken to promote human rights issues. Some of the more prominent new laws include the Prevention of Sexual Harassment Law, 5758-1998, and the amendment to the Equal Rights for Women Law, 5711-1951 adopted by the Knesset (Israel's parliament) in the year 2000 (both laws are described in detail under Article 3 of this report), the Freedom of Information Law, 5758-1998 (described in detail under article 19) and the Equal Rights for People With Disabilities Law, 5758-1998 (described in detail under article 26). Another significant legislative act, now in its drafting stages, is the Israeli Security Agency Bill, described in detail under article 2.

We should note that Israel has not enacted any further basic laws (Israel's constitutional law) on human rights since the submission of its Initial Periodic Report. Nevertheless, the fundamental rights protected by the Present Covenant which are still not included in legislation, are effectively protected through judicial decisions and otherwise.

5. With respect to judicial decisions, The Supreme Court of Israel has continued playing a major role in the implementation of civil and political rights. The Supreme Court, led by its president, the Honorable Chief Justice Aharon Barak, has issued a number of precedent setting decisions on human rights issues, often creating a quick, apparent change in the practices of the relevant governmental agency. The court has faced many challenges over these years, and confronted head- on problematic and highly political and security-related contentious issues. Such cases include *H.C. 5100/94* Public Committee Against Torture in Israel v. The State of Israel, in which the court has held that the Israeli Security Agency is unauthorized to employ investigation methods which involve the use of physical pressure against persons suspected of engaging in terrorist activities; C.F.H *7048/98 Anonymous v. The Minister of Defense*, in which

the court invalidated the detention of Lebanese citizens held in Israel; and *H.C 6698/95 Ka'adan v. The Israel Lands Administration*, which effectively prohibited the allocation of State land on the basis of a discriminatory criteria.

6. On the administrative level many administrative decisions and regulations have been promulgated, enhancing human rights principles. A major advancement to be noted is the proposal to establish a Human Rights Commission in Israel. Once established, the Commission should play an important role in strengthening and enforcing the protection of fundamental rights. This proposal carries with it an additional declarative value, stating Israel's commitment to the protection of human rights and the assurance of effective remedies to all persons, without distinction of any kind, as required under article 2 of the Covenant. Thus, the establishment of the commission shall serve to enhance human rights consciousness within Israeli society, strengthening and enforcing the protection of fundamental rights.

7. The following report addresses the main issues raised by the covenant between the submission of the Initial Periodic Report and September 2000, as well as concerns raised by the Human Rights Committee. As instructed, the report shall be presented in the order of the Articles of the covenant.

Applicability of the ICCPR to the West Bank and the Gaza Strip

8. In its Concluding Observations on Israel's Initial Report, the Committee questioned Israel's position regarding the applicability of the Covenant to the West Bank and the Gaza Strip. Israel has consistently maintained that the Covenant does not apply to areas that are not subject to its sovereign territory and jurisdiction. This position is based on the well-established distinction between human rights and humanitarian law under international law. Accordingly, in Israel's view, the Committee's mandate cannot relate to events in the West Bank and the Gaza Strip, inasmuch as they are part and parcel of the context of armed conflict as distinct from a relationship of human rights.

Furthermore, pursuant to the Israeli-Palestinian Interim Agreement of 1995,[2] and the consequent documentation and undertakings of the Palestine Liberation Organization (P.L.O),[3] the overwhelming majority of powers and responsibilities in all civil spheres (including civil and political rights, as well as a variety of security issues, have been transferred to the Palestinian Council, which in any event is directly responsible and accountable *vis-a-vis* the entire Palestinian population of the West Bank and the Gaza Strip with regard to such issues. In light of this changing reality, and the jurisdiction of the Palestinian Council in these areas, Israel cannot be internationally responsible for ensuring the rights under the ICCPR in these areas.

The fact that the Palestinian Council does not represent a State, does not, in itself, preclude its responsibility in the sphere of human rights protection. In fact, this is also evident under Article XIX of the *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip,* according to which the Palestinians have taken it upon themselves to exercise their powers and responsibilities "with due regard to internationally accepted norms and principles of human rights and the rule of law". Similarly, under Article II(C)(4) of the *Wye River Memorandum,* the Palestinian Police is obliged "to exercise its powers and

responsibilities with due regard to internationally accepted norms of human rights and the rule of law, and be guided by the need to protect the public, respect human dignity and avoid harassment".

Article 1 - Self Determination

9. This issue has been discussed in Israel's Initial Periodic Report and no change has occurred in this area since the Initial Periodic Report was submitted in 1998.

Article 2 - Implementation of the Rights in the Covenant

10. **General.** As described in detail in the Initial Periodic Report, international agreements are not, as such, part of Israeli internal law, and the Knesset generally does not legislate by way of direct reference to such agreements. Accordingly, the provisions of the Covenant have not been made a part of internal Israeli law by an enactment of the Knesset. Thus, as a matter of domestic law, the Covenant does not, by itself, create private rights directly enforceable in Israeli courts. However, as described under other articles of this report, Israeli legislation and case law have continued to offer effective protection and remedies for the basic rights protected by the Covenant.

11. **Basic Law: Human Dignity and Liberty.** This law, which was described in the Initial Periodic Report, is one of the fundamental backbones if Israeli Human rights legislation. This law has continued to influence the enactment and amendment of new laws, as well as the judicial interpretation of these laws, and continued to influence a wide range of legal and social practices, from the amendment of the arrest and detention procedures of military personnel, to the physical disciplining of children.

12. **Publicity and Dissemination.** The Initial Periodic Report concerning the implementation of the ICCPR, and the HRC's comments, were translated into Hebrew and widely distributed, thus contributing to the creation of a public discussion on human rights issues.

13. **Towards The Establishment of a Human Rights Commission.** In April 2000, the Ministry of Justice appointed a steering committee, composed of government officials, academics and representatives of NGOs, in order to establish an Israeli Human Rights Commission. The steering committee was instructed, for the first time since the establishment of the State of Israel, to guide the conducting of thorough research on the development of a human rights commission in Israel. The objective of the committee is to advise the director general of the Ministry of Justice on issues regarding the proposed structure of the Commission, the desired scope of the Commissioner's responsibilities and the legislation and required practical measures for the establishment of the Commission.

At the time of writing this report, researchers at the Hebrew University of Jerusalem's Minerva Center for Human rights, supported by the steering committee, have already completed a comparative study of human rights commissions throughout the world. The recently

completed study aims to identify and develop a model for a commission to suit Israel's unique political and social structure. The steering committee and the research team will present their recommendations for a draft law to the Minister of Justice.

Once established, the Commission will play an important role in strengthening and enforcing the protection of fundamental rights. The creation of a Human Rights Commission carries with it not only a huge practical change, but also an important declarative value, stating Israel's commitment to the protection of human rights and the assurance of effective remedies for all persons, without distinction of any kind, as required under Article Two of the Covenant. Thus, the establishment of the commission shall serve to enhance human rights consciousness within the Israeli society and government.

14. The newly-established Commission for the Rights of Persons with Disabilities makes for another first step in the ongoing process towards the implementation of human and civil rights in Israel (see article 26 for a detailed survey of the commission).

15. **Human Rights Education.** The Ministry of Education has increased its efforts in the area of human rights education. The main educational theme for the 1998-99 academic year was "The right to dignity and the duty to respect", putting an emphasis on human rights related materials in the schools. The Ministry of Education has also taken targeted measures to eliminate gender bias from schools, and promote equality between men and women. In Addition, the Convention on the Rights of the Child has been introduced and studied in the schools, in order to increase children's awareness to this instrument.

16. **Equality**. The implementation by the State of Israel of its obligation to maintain equality in the enjoyment of the rights under the Covenant is discussed in detail under many of the other articles in this report, and in particular articles 3, 26 and 27.

17. **Nationality.** As described in detail in Israel's Previous Report (sections 47-52), one way of acquiring Israeli citizenship is by way of Return: Jews who immigrate to Israel will automatically be accorded the status of *oleh* (new immigrant) which entitles them to citizenship, unless the person is deemed likely to endanger public health, the security of the state, or the public welfare, or the person is "engaged in an activity directed against the Jewish people". Under section 4A of the Law of Return, 5710- 1950 rights of an *oleh*, are also extended to the spouse of a Jew, to the child and grandchild of a Jew and to their spouses, respectively. For many years, The Ministry of Interior's policy has been to interpret the Law of Return as extending also to the Non-Jewish spouses of Jews who were already Israeli nationals (and not new immigrants), according them a status similar to that of a Jewish person, and of an *oleh* under the Law of Citizenship 5712-1952.

On 1995, the Ministry of Interior has changed its policy, and started to apply a different interpretation to the law. Under the new interpretation, the Law of Return will not, henceforth, apply to the Non-Jewish spouse of a person who already is an Israeli national, so that he or she will no longer receive the benefits of a Jewish new immigrant, including the right to automatically acquire Israeli citizenship.

Thus, the Ministry of Interior no longer favors Jewish Israeli nationals by automatically granting a citizenship to their foreign national spouses. At present, the foreign spouses of persons who are already Israeli nationals, whether Jewish or Non-Jewish, may attain Israeli nationality by way of naturalization (For further details regarding naturalization, please see Israel's Previous Report under section 50).

A petition challenging the new policy was dismissed by the High Court of Justice which affirmed the new policy (HCJ 3648/97 *Stamka v. The Minister Of the Interior)*. A later request for a further hearing in this case was also dismissed by the High Court of Justice.

The Israel's Security Agency Draft Law

18. For the last 52 years, the Israeli Security Agency (the ISA) has operated under the government's general residual authority, as specified by section 40 of Basic Law: The Government. The scope of the ISA's authority, its structure and its roles were only partially regulated by Israeli law, although a number of sensitive issues, such as electronic surveillance, information regarding criminal record, the transfer of information between governmental agencies, and communications were regulated in specific legislation. For several years, a team of experts from various governmental ministries had been working on the drafting of the Israel's Security Agency Bill (in its current form, the "ISA Bill"). The ISA Bill, which seeks to offer an explicit legal description of all of the aforementioned matters, was developed after a thorough study of similar in the legislation of western democracies, such as Canada, Australia, Germany and the UK. At present, it is in the process of enactment by the Knesset.

19. Under article 7(a) to the ISA Bill, the ISA's roles comprise of protecting the security of the State of Israel and the democratic system against threats of terror, espionage, disclosure of national secrets and other similar threats, as well as the protection and promotion of other vital national interests. This, subject to the decisions of the Government of Israel, and to Israeli Law

20. Supervision over the Agency will be on a four-tier basis. The Agency will be supervised by an independent comptroller (who is not a member of the ISA), by a special Knesset committee, by a special ministerial committee and by the Prime Minister.

21. Under this draft legislation, an applicant for a classified job, rejected by the ISA for security reasons, can appeal against his/her rejection. A committee of three, headed by a district judge or a retired district judge, shall hear the appeals.

Article 3 – Equal Rights of Men and Women

22. **General.** In its comments on the Initial Periodic Report, the HRC expressed concern over the ongoing discrimination against women. The HRC recommended that targeted measures be considered to accelerate progress toward equality, in particular for Arab women.

Since the submission of the Initial Periodic Report, there has been significant progress in the status of women in Israel. This progress is apparent in the adoption of several new notable acts of legislation, in the precedent setting decisions given by the courts, and in actions and initiatives taken by the different government bodies. It is also true, however, that in some areas

of Israeli society, women are still relatively underprivileged. Some legislative changes have been rapidly implemented, as in the case of the Prevention of Sexual Harassment Law, 5758-1998. Other changes are harder to implement, for many reasons. For example, the integration of women within the formerly male dominated Israeli Defense Forces (the "IDF") is still quite far from desirable, as is the status women hold within the religious establishment.

Hopefully, all the positive changes detailed below, in conjunction with the constantly rising gender awareness in Israel, shall serve to further enhance the status of Israeli women in the years to come.

23. **The Authority for the Advancement of the Status of Women (the "AASW").** The AASW was established by the Knesset in a unanimous vote in March 1998, marking International Women's Day. The functions of the AASW include the formulation of policy regarding gender equality and the elimination of discrimination against women; coordination and promotion of cooperation between state government, municipalities, and other formal institutions; advising the ministries on the implementation of Equal Rights for People with Disabilities Law, 5758-1998; establishment of special programs and services for women which promote gender equality; promotion of legislative measures for the advancement of women and the elimination of discrimination; and provision of information and tools necessary for the achievement of these goals to the government. Additionally, the law has specifically charged the AASW with the responsibility to heighten public awareness of violence against women through use of the educational systems and the media and to promote activities designed to decrease all forms of such violence.

A detailed survey of the Actions and Programs of the AASW is provided in the AASW's National Report on the Status of Women in Israel "Beijing 5+", published in June 2000, and provided as an Appendix to this report.

24. **The amendment to the Equal Rights for Women Law, 5711-1951**, adopted by the Knesset in 2000, was another substantial step toward gender equality. The amended law establishes the principles of equality in all areas of life, adequate representation of women, a woman's right over her body, affirmative action as an essential means to achieve equality and women's right to social equality.

25. **Women's Representation in Political Parties and the Knesset**. Women are still under-represented in political positions, both in the national and municipal levels. However, there have been significant positive changes in the past few years. In the municipal elections of 1998, two women were elected to head larger cities, (Netanya and Herzliya) together with a 40 per cent increase in the number of women serving on local and municipal councils throughout Israel. In national elections, for the first time, several of the large parties included women's representation as a dominant factor in the establishment of party lists (through appointments, quotas, affirmative action etc.). Of the 120 members of the Knesset, 15 are women, among them the first Arab woman ever to be elected to the Israeli parliament.

Prime Minister Ehud Barak appointed two women as cabinet ministers, and a third as a deputy minister. Several other women were appointed to important Knesset committees.

Women in Government, Local Authorities and the Civil Service

26. Since its establishment in 1996, **the Department for the Advancement of Women within the Civil Service** has been active in various areas including the implementation within the Civil Service of legislation oriented towards the improvement of women's status, the promotion of information and counseling for women within the civil service, as well as the formation and professional orientation of professionals working to promote the advancement of women in the Civil Service. The Department has also served as an address for the complaints of female workers and has worked at maintaining on-going contact with organizations dealing with women's status in furtherance of common objectives, as well as with the Knesset various committees to advance women's rights legislation.

In the context of action aimed at implementing the 1995 amendment to the Civil Service Law (Appointments) 5719-1959, a steering committee was formed to make recommendations to the Civil Service Commissioner. As a result of the committee's suggestions and the relevant department 's efforts, section 15A of this law has been revised once again in December 2000. A current project the Department is preparing is the safeguarding of senior positions for women, by creating a resource of information, statistics, and guidelines for cooperation with the ministries' administrators.

27. **The Prevention of Sexual Harassment within the Civil Service.** With regards to the implementation of the Law on the Prevention of Sexual Harassment 5758-1998 and the reinforcement of awareness on the subject, the Department has been involved on several levels: dissemination of information and explanation of the Law to more than 10,000 workers in 1999 alone, and provision of tools to the supervisors on the status of women so that they may receive the workers' complaints. Indeed, since the passage of the Law in 1998, the number of complaints of sexual harassment received by the Department has increased dramatically (with 20 complaints received in 1997, 30 in 1998, 61 in 1999 and 75 complaints received in 2000). These Complaints are handled in cooperation with the Unit for Discipline and the Investigations Department within the Civil Service Administration. Women who submit complaints of sexual harassment to the Department are provided with legal advice, and are accompanied and supported throughout the investigative process and the trial.

As part of the training and professional orientation of Supervisors on the Status of Women in government offices, the Department held 3 training courses as well as approximately 30 sessions and conferences while providing on-going updates of relevant information and material to deal with issues relating to the status of women (in 2000, for example, 60 circulars were distributed to the Supervisors by the Department), in addition to biannual meetings that take place for the purpose of regulating and supervising the Supervisors' work. Apart from guiding and supervising the Supervisors, the Department also holds direct contact with female Civil Service employees in the manner of information dissemination and personal meetings.

In addition to all the above, the Department has served as an address to which women workers turn to complain of discrimination, injustice and injury in their status and work conditions. Dozens of such complaints are received each year, concerning a wide variety of subjects. For example, in 2000, the Department processed and dealt with a total of 149 complaints relating to recruitment procedures for administrative positions which discriminated

against women, as well as with the non-application of labor laws in the realms of maternity leaves, sexual harassment, and lack of proper representation of women in state tenders.

28. **Affirmative Action in the Civil Service.** A December 2000 amendment to section 15A of the Civil Service Law (Appointments) 5719-1959 expands the use of the affirmative action doctrine within the civil service**.** According to the amendment it is obligatory to apply affirmative action in all sorts of hiring for the civil service. This includes actual appointments and non-tendered appointments. This amendment also authorizes the safeguarding of certain positions for women only. While the amendment carries tremendous significance with regards to the implementation of the law, its application might prove to be problematic given that these principles have been simultaneously employed for the advancement of other populations – minorities and people with disabilities. It is still not clear how the civil service will adapt to the application of this important amendment .

The Department for the Advancement of Women in the Civil Service supervises the affirmative action policy asserted in section 15A of the Civil Service Law (Appointments) 5719-1959. Preliminary data that was received from the Department, portrays an unchanging situation, in which the representation of women within the higher ranks of the civil service is far from being adequate, and the rate of their success in civil service tenders remains low.

29. **Ranks of Women in the Civil Service.** The rate of women among the top three ranks of the senior staff of the civil service's four main classifications – which compose the main source for administration managers – remains low. In 1997, when women made up 61% of all civil servants, that rate was still less than 15%, and in October 1999, when women made up 61% of all civil servants, the rate stood at 16.4%. Women's representation in the top echelons of the administration stands out yet more when contrasted with their representation in the lowest ranks (i.e. 8th rank and bellow), where their overrepresentation only seems to be growing: from 66% of all workers in 1997, to 71% in 1999. Between 1993-1999, not one woman occupied the highest rank of the administrative or the technical classification, two of the most prestigious classifications in the service.

30. **Tenders in the Civil Service**. The method of appointments to the civil service is through both internal and external tenders. While the increase of women's participation in internal job-tenders in the civil service, both as candidates and appointees, is quite constant, the situation in public tenders is far less positive. Beyond the overall decline in the number of female candidates and appointees through the tenders system, the trend, which consistently tended to appoint women at a slightly higher rate relative to the rate of women who presented their candidacy was reversed in recent years. For example, while 38% of the candidates for public tenders in 1998 were women, they constituted only 36% of the appointees.

31. **The Judiciary and Lawyers in the Public Sector**. Since the submission of the Initial Periodic Report, the percentage of women in the Judiciary has grown, most notably in the higher courts, with a growth of 72 per cent in the National Labor Court, 42 per cent in the District Courts and 28 per cent in the Supreme Court. In all of the different civil courts combined, there are 200 women judges and 262 men judges, such that 43 per cent of the civil judiciary in Israel is composed of women (compared to a total of 40 per cent in 1998).

Table 1: Judges, by Courts and Gender*

	Female	Male	Total	% Women
JUDGES				
Supreme Court	4	11	15	**27**
District Courts	41	69	110	**37**
Magistrates Courts	95	124	219	**43**
Traffic Courts	10	20	30	**33**
National Labor Court	3	4	7	43
Regional Labor Courts	21	14	**35**	**60**
Family Courts	18	14	32	**56**
Local Affairs Courts	2	1	3	**66**
Youth	5	2	7	**71**
Courts Administration	1	3	4	**25**
Total	**200**	**262**	**462**	**43**

** Figures are as of 16 November 2000.

32. **Government Corporations**. The 1993 amendment to the Government Corporations Law, 5735-1975 (section 18a) set a requirement for appropriate representation of both genders on the board of directors of every government corporation. Since the enactment of section 18 (a), there has been a significant increase in the number of women appointed to the board of directors of government corporations. According to recent data, 253 of a total of 685 directors (37 per cent) are women.

33. Under the above-mentioned amendment, a feminist NGO won a suit against the Minister of Labor and Social Affairs following the appointment of a male deputy director general of the National Insurance Institute, in violation of the principle of adequate representation of women. In a precedent setting ruling, the Supreme Court declared that anyone responsible for the appointment of public officials must take every possible measure to uphold the doctrine of adequate representation of women (H.C.2761/98 *Israel Women's Network v. The Minister of Labor and Social Affairs*).

Women in the Military and Police

34. Under recent legislation, all military professions in Israel, including combat positions will be open to both men and women. The military leadership has also committed itself to placing women in higher ranks and positions. The Israeli Air Force has continued the implementation of its egalitarian policy regarding women's service as air crew, which was still in its initiative steps by the time of the submission of the Initial Periodic Report. Today, four women are already serving in this capacity.

35. The IDF has embarked on several programs aimed to advance the status of women in the military forces. Among which are a program of workshops and empowerment courses to encourage junior officers to advance within the military, along with the appointment by the chief of staff of an advisory committee to identify female officers with potential for senior leadership

positions. Another program, initiated in conjunction with the Ministry of Education, encourages female recruits to choose to enlist in technological branches of the military and discharged female soldiers to continue their technological education.

Equality in Employment

36. Over 60% of Israeli women are still concentrated in a small number of large, female-dominated, labor intensive, and low-paying occupations, which encompass less than 25% of the range of occupations in Israel. It is thus not surprising that women comprise more than 70% of those who earn less than the average minimal wage. In addition, women are the first to be hit by unemployment. In 1998, while the annual national unemployment rate was 8.6, women's unemployment reached nearly 10 per cent. Several legislative changes, which will be detailed below, seek to solve this problem and close the gender gap, which still exists in certain areas of [text missing at this point].

37. The 1998 amendment to the Women's Employment Law, 5714-1954 protects women requiring hospitalization for themselves or their infants after child birth, prohibits dismissal during pregnancy of both permanent and temporary women workers, prohibits dismissal within 45 days after maternity leave, and prohibits dismissal for reason of absence from work for health reasons after giving birth.

Additional provisions prohibit dismissal after unpaid leave following (paid) maternity leave and reduction of work hours of pregnant women. According to the new legislation, a woman may, under certain conditions, work overtime, even after the fifth month of pregnancy.

38. Legislation mandating the integration of supplementary benefits (e.g. travel and clothing allowances) into salaries has recently been passed in the Knesset. This legislation is intended to help eliminate gender discrimination and to correct wage gaps, which have persisted despite equal pay legislation.

39. The Department of Women's Employment at the Ministry of Labor and Social Affairs has established the Unit for the Advancement of Women, specifically dedicated to the development of models for several types of empowerment workshops, including courses for Bedouin and Arab women.

40. In recognition of the wave of unemployment and its implications for women, the Minister of Labor and Social Affairs, in conjunction with the AASW, seeks to revise the traditional programs of occupational training, to provide women with training in more viable professions, such as computers, communications and technological education.

41. Only a handful of women attain top posts in management, whether in industry, government, the public sector or academia. Only 2% of women serve in positions of senior management and/or on the board of directors of large companies.

42. **Occupational Distribution**. Differences in employment patterns between men and women in Israel are shown in the following table, showing the relative level of employment in various branches of the economy. Few significant changes have occurred in the occupational

distribution of women since the submission of the Initial Periodic Report. However, at present, 3.5% of all employed women in Israel are employed in managing positions – an increase of 75% since 1998.

Table 1: Percent of Women and Men in Economic Branches, 1999

Economic Branch	% of Total Employed Men in Branch	% of Total Employed Women in Branch
Agriculture	3.3	1.1
Manufacturing	24.1	11.4
Electricity and water supply	1.4	0.3
Construction (building & engineering projects)	9.6	0.9
Trade and motor vehicle repair	14.5	11.8
Accommodation services & restaurants	4.4	4.1
Transport, storage & communication	8.6	3.7
Banking, insurance & finance	2.7	4.4
Business activities	10.9	10.2
Public administration	5.6	5.3
Education	5.5	21.3
Health, welfare & social services	4.5	16.7
Community, social & personal services	4.3	5.1
Private households with domestic personnel	0.4	3.7
Total	**100**	**100**

Table 2: Employed Persons, By Last Occupation and Gender

	Percent of all Employed Men	Percent of all Employed Women
Academic professionals	12.2	13.0
Associate professionals and technicians	10.5	19.7
Managers	8.7	3.5
Clerical workers	8.2	27.7
Agents, sales workers and service workers	15.3	21.9
Skilled agricultural workers	2.9	0.6
Industry, construction & other skilled workers	33.8	5.6
Unskilled workers	8.4	8.2
Total	**100**	**100**

43. The ability of a woman to continue working right after childbirth has been enhanced through a recent decision in the Circuit Labor Court in Tel Aviv. This court adopted a broad interpretation of a provision of the Equal Employment Opportunities Law, 5748-1988, under which a female parent, entitled to a shorter working day, can pass that right to her spouse,

regardless of whether her being a hired worker or an independent businesswoman. The court has held that this interpretation, which expands the circle of male workers, willing to tend to their children while their spouse is out working, is consistent with the view that objects to gender based discrimination. The court further emphasized that it is unjustified to discriminate between men and women as to their chances and ability for equal employment, a flourishing career, self fulfilment and satisfaction at the work place (Labor 031993/96 *Yahav v. The State of Israel*).

44. **Education.** The Ministry of Education has instituted "Equality 2000", a unique program, designed to further equal opportunity between the genders in the education system. The program, scheduled to run for four years, will reach pupils, teachers and counselors as well as parents. A pilot program has been operated in four schools whose populations represent different sectors of Israeli society and the program will be expanded in the coming year.

45. **Women in the Media**. The Commission on the Status of Women in Radio and Television, under the purview of The Israel Broadcasting Authority, actively attempts to promote the participation of women at all levels of Media. The commission has sponsored courses for women within the broadcasting authority. These courses provide information on women's rights, awareness training concerning the role of the media in advancing the status of women, skills for working in male-dominated environments, and personal and professional empowerment.

46. **Equal rights in the Domestic Sphere.** Israeli law and practice regarding the equality between spouses, and between spouses and their children, are discussed under articles 23 and 24.

Violence Against Women

Domestic Violence

47. Protection from violence is provided at 12 shelters for battered women, located throughout the country. Due to their particular cultural and religious needs, there are special centers for Arab women (one) and for ultra-Orthodox Jewish women. Together, these shelters provide emergency intervention for nearly 1,600 women and children yearly.

The shelters provide professional counseling, legal advice and assistance, as well as childcare and rehabilitation. Several shelters also have multi-lingual staff and volunteers in order to assist immigrant women. Children continue in community-based day care or elementary school frameworks while residing in the shelter. In addition, there are thirty transitional apartments, which provide women with additional options when they are ready to leave the shelters.

A unique shelter for abusive men who have been removed from their homes by court orders has been established. In this shelter, the men receive group and individual treatment, as well as consciousness-raising and behavior modification counseling.

48. At least ten hotlines are devoted to battered women throughout the country; one is devoted to Arabic speakers, while Russian and Amharic (Ethiopian) speakers are available on most of the others. Callers receive advice and information from trained volunteers.

49. During the course of 1999 – upon the initiative and financial support of the National Authority for the Advancement of the Status of Women – the Department held a wide range of activities on the subject of domestic violence and violence against women, including information and counseling session which drew as many as 13,500 male and female workers and employees.

50. There are 25 centers for the prevention of family violence, located throughout the country. These centers are jointly funded and administered by the Ministry of Labor and Social Affairs, women's organizations, and the local authorities. The centers provide direct treatment, visiting centers where parents and children who have been separated can meet (under supervision if necessary); and legal advice and research and information.

51. The Knesset has recognized the Battered Women's Syndrome, acknowledging the right of a battered woman to defend herself against her attacker and effectively broadening the definition of "self-defense".

52. Furthermore, the Knesset has passed an amendment to the Penal Code to allow the courts to impose more lenient sentences on victims of severe abuse who have been convicted of murdering the perpetrator of the abuse. While the amendment is not limited to abuse within the family, it seems that this will be among its most important applications.

53. **Police treatment of Domestic Violence.** Police personnel currently receive special training for dealing with family violence. Police policy dictates that domestic violence be treated as a violent crime, and that the victim be protected. Furthermore, the police may continue to investigate a complaint of violence even if the woman withdraws her complaint. However, as in most countries, the majority of abused women do not file complaints with the police.

The police also have the prerogative of filing a report even if the abused woman declines to do so. Women's organizations report that cooperation with the police is generally effective, and the Minister of Public Security has appointed an advisor on violence against women.

54. In March 1995, the Knesset appointed a parliamentary committee of inquiry to investigate the subject of women murdered by their spouses and life partners. The committee further broadened its mandate to investigate the subject of violence against women, so as to investigate the subject of violence against women and presented its conclusion and recommendations in June 1996. This comprehensive report analyzed the causes of domestic violence, the adequacy and efficacy of existing services, and gaps in service-provision. The report presented comprehensive, integrated and binding recommendations to each of the relevant Ministries.

55. Building on this report, the government decided in 1998 to establish an inter-ministerial committee to deal with issues of law enforcement and strengthening of existing services. The committee was chaired by the director general of the Ministry of Labor and Social Affairs, and included representatives from the Prime Minister's Office, the AASW, the Ministry of Public Security, the Ministry of Health the Ministry of Education and women's organizations.
In 1997-98, the Prime Minister's Office sponsored a national media campaign against violence against women, including a national hotline and referral service.

Sexual Harassment

56. In March 1998, the Knesset passed a far-reaching sexual harassment law, one of the most comprehensive laws of its kind in the world. The law provides a broad definition of sexual harassment, and makes such behavior both a criminal and civil offence. The law applies not only to the civilian labor market, but also to the military, police, as well as all institutions of higher education. The law holds the employer responsible for instructing his workers in abstaining from sexually harassing behavior. Furthermore, the employer must establish procedures for submitting complaints and is required to deal with all complaints effectively.

57. In the past year, there has been a significant increase in complaints. This can be attributed to both the new legislation, and to the growing public awareness of the subject fostered by it.

58. As the sponsors of the bill had hoped, the law has also served as a springboard for numerous institutions to initiate a process of discussion and awareness of gender equality among both men and women. Following its enactment, the AASW, together with numerous women's organizations, is conducting extensive educational campaigns. The AASW further provides supervision, follow-up and monitoring of all government ministries, municipalities, local councils, and academic institutions regarding enforcement of the Sexual Harassment Law.

59. The Supreme Court has issued several precedent-setting decisions in regard to sexual harassment. Even prior to the enactment of the Sexual Harassment Law, the court has held that a professor who sexually harassed a student was to be convicted in the offence of behaving in a manner inappropriate for a civil servant, asserting that sexual harassment is a prohibited violation of human dignity (Civil Service Appeal 6713/96 *The State of Israel v. Zohar Ben Asher*).

Under the new Sexual Harassment law, the Supreme Court has prevented the promotion of an IDF officer to the rank of general, after he was found guilty of abusing his superior rank in order to become involved in a sexual relationship with one of his subordinates (H.C. 1284/99 *Anonymous v. The IDF Chief of Staff*). In another recent, precedent setting decision, the court has held that the reprimanding of a civil servant convicted of sexual harassment is an insufficient disciplinary method, and ordered his dismissal from the service (Civil Service Appeal 1298/00 *The State of Israel v. Bruchin*). The lower courts throughout the State of Israel are applying these precedents, set by the Supreme Court.

The IDF has committed itself to addressing issues related to sexual violence and harassment in the military, and all recruits, both men and women, participate in a program of empowerment and awareness to counteract harassment.

Treatment of Rape Victims

60. Israel's eight rape crisis centers receive over 10,000 referrals each year. These centers also maintain hotlines and provide educational services. Public support for the rape crisis centers is relatively low. Donations and contributions provide most of the support. The centers report

that while police directives are meant to provide sensitive and effective care for the victim, the implementation of these directives is not uniform throughout the country. Moreover, in Israel, as in other countries, assaulted women are often reluctant to contact the police.

Trafficking in Women

61. In its comments on Israel's Initial Periodic Report, the HRC expressed concern in regard to Israel's treatment of the victims of trafficking in women. In July 2000, the Penal law was amended to include section 203A – Trafficking in Human Beings for Prostitution. The provisions of section 203A apply a maximum sentence of 16 years of imprisonment on any person who engages in trafficking in human beings for prostitution, and a maximum sentence of 10 years on any person who causes another person to leave the country in which he or she resides, in order to engage them in prostitution.

62. As the amendment is recent, there are no cases which have gone through the entire trial process thus far. However, the effect of the amendment has been felt in decisions relating to bail. In a decision given in a criminal case under section 203A, Judge Cheshin of the Supreme Court had expressed the severity in which Israeli courts regard the phenomenon of trafficking, saying, *inter alia*, that:

> "The provisions of section 203A of the Penal Law are meant to combat the modern and ugly form of the slave trade of bygone days, and we, the courts, are charged with the task of raising our contribution in this war, a fight to the finish… [T]he war against the trade in human beings to engage in prostitution, is like the war between Israel and the Amalekites [*In the Old Testament, a tribe that tried to destroy the Israelites]*. … a war in which there are no cease-fires and no compromises."

Criminal Hearing Request 7542/00, *Chanukow v. The State of Israel (*Unpublished*)*

63. The effect of the amendment has also been felt in cases in which there was some measure of consent on the part of the victim. Supreme Court Justices have said several times that whether or not the victim consents, if the elements of trafficking are present, the offence has been completed and such an offence is viewed with gravity.

64. We should also note that currently victims of trafficking who choose to testify are housed in hotels or hostels, at the expense of the police, under police protection. In addition, as a matter of policy, the Israeli police does not prosecute these women for crimes relating to their illegal entry into Israel.

65. The suffering of women who were victims of such offences is a matter of concern to the Attorney General, and in November 2000 he appointed an inter-ministerial committee to recommend steps to combat this phenomena. Since then the committee has heard many witnesses and formulated a series of recommendation which will be publicized soon. Among these recommendations – the founding of a shelter for victims, financing legal representation for the victims, taking legal action against traffickers for income tax and money laundering crimes, extending the jurisdiction of the courts to order forfeiture of the profits of such crimes, running

awareness campaigns in order to alert potential victims etc. A parliamentary committee is also carrying an investigation into trafficking in women. Its recommendations will be drafted soon.

66. Israeli women's and human rights organizations have established a coalition to combat trafficking in women and to assist its victims. At this time, they are attempting to raise funds to establish a shelter for such trafficking victims. In addition, a telephone hotline has begun to function. The coalition is also attempting to prevent trafficking through the preparation of a data sheet to be distributed, with the help of organizations in Eastern Europe, to women intending to work in Israel. They are also advocating for the enforcement of existing laws against traffickers and to improve the conditions of incarcerated women awaiting deportation.

Status of Arab Women

67. In its comments regarding the Initial Periodic Report, the HRC expressed a specific concern as to the status of women belonging to the Arab minority. Admittedly, Arab women are still among the most disadvantaged groups of women in Israel. However, Since the establishment of the AASW, certain targeted measures has been taken in order to expedite progress towards equality. *Inter alia*, the AASW is sponsoring a series of literacy projects for women in the Arab and Bedouin sectors. This program is the result of the express requests of the women themselves, and has established a new Arab-language hotline for personal status issues which now provides emergency information and referral services.

68. Several women's NGOs have established special projects to advance the status of Arab women pursuant to the law, through amendments of current family courts laws. Such amendments would enable Arab women to settle issues of maintenance and custody in civil courts, which are bound by principles of gender equality, rather than at the religious courts which are bound by religious law.

69. The Ministry of Religious Affairs has instituted a course that trains women to serve as "pleaders" (representatives) in the Muslim religious courts. The nineteen participants are studying topics such as Islamic religious law, Israeli civil law and feminist thought. Upon successful completion of their exams, the ministry will accredit the graduates. Similar courses are offered to Jewish women, who act as pleaders for women in the rabbinical courts.

Article 4 – States of Emergency

70. In its comments on the Initial Periodic Report, the HRC expressed concern with regard to the continuing state of emergency in Israel.

71. As explained in detail in the Initial Periodic Report, under Basic Law: The Government, the Knesset may declare a state of emergency for a period of up to one year. The State of Israel has remained in an officially proclaimed state of public emergency since May 19, 1948, four days after its founding, until the present day. Consequently, Israel has made a declaration regarding the existence of a state of emergency upon ratifying the Covenant.

72. In recent years, The Government of Israel has been inclined to refrain from extending the state of emergency any further. However, the actual termination of the state of emergency could

not be executed immediately, as certain fundamental laws, orders and regulations legally depend upon the existence of a state of emergency. These acts of legislation must be revised, so as not to leave crucial matters of the state unregulated when the state of emergency expires. Since January 2000, the government has decided to ask the Knesset to extend the state of emergency to a reduced period of six months, and not for a year, the maximum period prescribed under section 49(b) of Basic Law: The Government, as was the former practice.

73. Following the present extension of the state of emergency, the Israeli government and the Knesset have embarked on a joint program to complete the needed legislative procedures required in order to end the state of emergency. As a result, measures toward a termination of the state of emergency were accelerated during the previous months, including concentration of orders considered to be canceled. In addition, the Military Service Law was amended. As a result, non of its articles are now linked to the state of emergency. Other laws are still in the process of revision, in collaboration with the relevant ministries.

74. In a recent petition to the High Court of Justice, there was a demand to pronounce the declaration regarding the existence of a state of emergency void, or alternatively, order that it is to be immediately terminated. The petitioners claim that the ongoing state of emergency poses a threat to democracy and to civil rights and that in the present circumstances it is no longer vital. At present, the matter is still pending before the High Court of Justice. The government has submitted to the Court, upon its request, a comprehensive estimated schedule regarding the measures required in order to replace the acts of legislation linked directly to the state of emergency.

Article 5 – Non-derogable Nature of Fundamental Rights

75. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 6 – Right to Life

Reduction of Infant Mortality, Epidemics and Malnutrition

76. Recent statistics indicate that Israel's infant mortality rate continues to decrease. Among Jewish, Christian and Druze newborns, the infant mortality rate fell to 7.5 deaths for every 1,000 live births, as per the Ministry of Health's goal for the year 2000, set in 1989. Among the Muslim population, despite the continuing decrease in child mortality rate, the aforementioned objectives are yet to be achieved. The further decrease in infant mortality over the last quarter decade, and the causes for such deaths, are shown in the following tables:

Table 1: Infant Mortality, 1995-1998 – Per 1,000 Live Births

	Total	Jews	Muslims	Non-Jews (Total)
1995	6.8	5.6	9.9	9.6
1996	6.3	5.0	10.0	9.3
1997	6.4	5.0	10.2	9.4
1998	5.8	4.7	8.7	8.3

** 1997-1998 – temporary data

Table 2: Infant Mortality (Rate per 1000 Live Births) By Religion and Age of Neonate at Death, 1992-1996

Cause of Death	Total	Early Neonatal Mortality 0-6 Days	Late Neonatal Mortality 7-27 Days	Post-Neonatal Mortality 28-365 Days
Total				
Total	**7.6**	**3.5**	**1.3**	**2.8**
Infectious and parasitic diseases	0.1	..	(0.0)	0.1
Pneumonia	0.1		(0.0)	0.1
Congenital anomalies	2.2	0.4	1.0	2.2
Other causes of prenatal mortality	3.4	2.2	0.7	0.5
External causes	0.2	(0.0)	(0.0)	0.2
All other and unspecified causes	1.6	0.2	0.2	1.2
Jews				
Total	**5.9**	**3.1**	**1.1**	**1.7**
Infectious and parasitic diseases	0.1	..	(0.0)	0.0
Pneumonia	0.0		..	0.0
Congenital anomalies	1.6	0.7	0.3	0.5
Other causes of prenatal mortality	3.2	2.2	0.7	0.4
External causes	0.1	0.0	(0.0)	0.1
All other and unspecified causes	0.9	0.1	0.1	0.7
Non-Jews				
Total	**11.4**	**4.5**	**1.6**	**5.3**
Infectious and parasitic diseases	0.4	..	..	0.3
Pneumonia	0.1		..	0.1
Congenital anomalies	3.7	1.7	0.6	1.4
Other causes of prenatal mortality	3.8	2.4	0.6	0.7
External causes	0.3	..	..	0.2
All other and unspecified causes	3.1	0.3	0.3	2.5

Incidence of Murder, Attempted Murder, Manslaughter and Negligent Homicide

77. The following table is a compilation of the incidence of reported cases of the four types of offenses involving deprivation of life, as of August 2000 .

Offense	Murder	Attempted murder	Manslaughter	Negligent homicide, excluding vehicle accidents
1997 – Reported cases	117	102	17	72
% arrested	62.4%	65.7%	82.4%	75.0%
1998 – Reported cases	147	113	7	62
% apprehended	4.6%	65.5%	71.4%	72.6%
1999 – Reported cases	137	105	12	58
% apprehended	70.1%	65.0%	83.3%	72.4%
Jan.- Aug. 2000 Reported cases	85	72	11	29
% apprehended	63.5%	58.3%	72.7%	55.1%

Environmental Policy

78. **Air Quality.** Since the submission of the Initial Periodic Report, the State of Israel has completed a 24-station national monitoring network, composed of population and transportation stations, regional control centers and a national control center for data storage, analysis and display. The network, which monitors concentrations of sulfur dioxide, nitrogen oxide, ozone, carbon monoxide, particles smaller than 10 p.p.m and hydrocarbons, provides real-time information about air quality throughout the country. The information facilitates enforcement of air quality standards, identifies major sources of air pollution, and informs the general public about air quality levels.

Sulfur dioxide emissions from the country's oil fired power plants dropped dramatically from 113 thousand tons in 1990 to 55 thousand tons in 1999, mostly through the use of low-sulfur fuel.

The Israeli Ministry of the Environment has issued some thirty personal decrees directed personally to those officials or top executives responsible for air pollution abatement under the Abatement of Nuisances Law. The Ministry of the Environment has also drafted new regulations for pollution prevention from power generating stations. These personal decrees and regulations will mandate use of fuel with low and very low sulfur concentrations, require old power units in Tel Aviv to switch to natural gas by 2003, phase out old oil-powered stations and replace them with combined cycle gas turbines by 2005, obligate the use of the best available technologies, demand continuous monitoring and reporting, and oblige the reduction of pollutants which are considered greenhouse gas emissions.

Since the submission of the Initial Periodic Report, new environmental impact assessments were prepared for power plants, oil refineries, cement plants and other industrial plants expected to adversely impact the environment.

79. **Water Quality.** The State of Israel has established the River Rehabilitation Authority and created river rehabilitation administrations for twelve rivers, which flow into the Mediterranean Sea and two rivers in the eastern basin of the country. Master plans have been drawn for these rivers, and landscape and park development have been initiated.

Water quality in rivers is monitored in 110 effluent reservoirs on a biannual basis.

The Ministry of the Environment has drafted recommendations on upgraded standards for wastewater and sludge treatment, and published a new Israeli standard on laundry powders. The standard reduces salt and boron content in detergents according to a graduated timetable. Implementation of the standard will enhance the possibility for wastewater reuse under conditions of water scarcity. The Ministry of the Environment has also promulgated regulations regarding the prevention of water pollution from gas stations and initiation of restoration projects for fuel-contaminated soils. Furthermore, new regulations have been published on effluent standards for industrial sewage.

Article 7 – Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

80. In its comments on the Israel's Initial Periodic Report, the HRC expressed deep concern, that the guidelines for the conduct of interrogation of suspected terrorists, authorizing Israel's Security Agency (ISA) to apply moderate physical pressure, can give rise to abuse and the violation of article 7 of the Covenant.

81. From its foundation, the State of Israel has been engaged in an unceasing struggle for both its very existence and security. Terrorist organizations have established, as their goal, nothing less than Israel's annihilation. To prevent terrorism effectively while ensuring that the basic human rights of even the most dangerous of criminals are protected, Israeli authorities have adopted strict rules for the handling of interrogations.

82. The guidelines on interrogation were those laid down in 1987 by the Landau Commission of Inquiry, headed by former Supreme Court President, Justice Moshe Landau. As described in detail in articles 70-74 of the Initial Periodic Report, the commission determined that in dealing with dangerous terrorists who are shown to represent a grave threat to the State of Israel and its inhabitants, the use of a moderate degree of pressure, including physical pressure, to obtain information crucial for the protection of life is unavoidable in certain circumstances (H.C.J. 5100/94 *The Public Committee Against Torture v. The Government of Israel)*.

83. These partly confidential guidelines were designed to enable investigators to obtain crucial information on terrorist activities from suspects who, for obvious reasons, would not volunteer such information, while at the same time ensuring that the suspects are not maltreated. However, On September 6, 1999, the High Court of Justice ruled that the ISA is no longer authorized, according to the present state of the law, to employ certain investigation methods that involve the use of physical pressure against such a suspect.

84. This decision is a result of several petitions, which were brought before the Supreme Court (sitting as the High Court of Justice), in which it was argued that certain methods used by

the ISA (for instance, the shaking of a suspect, holding him in particular positions for a lengthy period and sleep deprivation) are unlawful. It was argued, among other reasons, that the illegality is due to the lack of authority permitting the use of these interrogation methods.

85. The Court, in an extended panel of nine judges, unanimously accepted the applications before it. Speaking for the court, Chief Justice Aharon Barak held that ISA investigators are endowed with the same interrogation powers given to police investigators. The authority which allows the investigator to conduct a fair investigation does not allow him to torture a person, or to treat him in a cruel, inhuman or degrading manner. The Court recognized that, inherently, even a fair interrogation is likely to cause the suspect discomfort. The law does not, however, authorize the use of interrogation methods, which infringe upon the suspect's dignity, for an inappropriate purpose, or beyond the necessary means.

86. Additionally, the Court held that the "necessity" defense, as it appears in article 34(11) of the Israeli Penal Law (which negates criminal liability in certain circumstances), cannot constitute a general basis for allowing ISA investigators to employ interrogation methods involving the use of physical pressure against the suspect. An ISA investigator applying such prohibited interrogation methods is acting without authority. He or she may, however, potentially avail himself or herself of the "necessity" defense, under the circumstances provided by the law, if facing criminal charges for the use of prohibited interrogation methods. The attorney general may so instruct with respect to the circumstances under which charges will not be brought against ISA investigators, in light of the materialization of the conditions of "necessity." At the same time, the "necessity" defense does not constitute a basis for authorizing the infringement of human rights in advance. The mere fact that a certain action does not constitute a criminal offence, under a given set of circumstances, does not in itself authorize the ISA to employ this method in the course of its interrogations.

87. The judgement relates to the unique security problems faced by the State of Israel since its founding and to the requirements for fighting terrorism. In light of the above, the court highlights the difficulty associated with deciding this matter. This having been said, the court did not rule out the possibility that the Knesset may decide, in conformity with Basic Law: Human Dignity and Liberty, to amend the law so as to provide special authorization for the use of certain interrogation techniques. It is important to mention that the Knesset did not change the existing legislation relating to interrogations, and the ISA fully complies with the Supreme Court decision.

88. **Treatment of Detainees.** On April 1, 1998, section 9 of the Arrests Law was amended and special arrangements were prescribed regarding the right of detainees (who had been indicted) to send and receive letters, including modes of inspection of letters.

On November 25, 1999, the regulations under the Arrests (Conditions of Detention) Law were amended and the Inspector General of the Israel Police Force was empowered to order the denial of visits from a detainee person, as specified therein.

The Israel Police Force complies with the provisions of the Arrests Law and the Regulations thereunder, although at certain times and at certain places of detention, rights are not fully upheld (for example, accommodation without a proper bed, separation and daily exercise).

The police are currently renovating the places of detention for which it is responsible, expending scores of millions of New Israeli Shekels ("NIS") on this project. The renovations should be completed within two years, and after completion the detention installations should be of a higher standard than that required under the Law.

Disciplinary and Criminal Proceedings and other Judicial Relief

89. A number of bodies are engaged in the investigation, examination and clarification of complaints against police officers: the Department of Investigation of Police Misconduct of the Ministry of Justice (the "DIPM") investigates criminal offenses which are punishable by imprisonment of more than one year; police investigation units investigate criminal offenses punishable by imprisonment of up to one year; the Israel Police Public Complaints Unit at its various levels, as well as investigating officers and committees examine and clarify those complaints not investigated by the DIPM and police investigation units.

Depending on the results of the clarification of the complaints, criminal or disciplinary proceedings are taken against police officers found, *prima facie*, to have committed an offense.

The DIPM, which is responsible for the majority of criminal investigations against police officers, transfers files to the Disciplinary Department of the Police Personnel Department (the "Disciplinary Department") in which disciplinary offenses are found to exist *prima facie*, in order to examine such cases from the disciplinary aspect, including making a decision on initiating disciplinary action.

Such files include files in which the offense ascribed to the police officer does not constitute a criminal offense, as well as files closed by the DIPM from the criminal aspect, on various grounds.

In this regard, we should note that in files in regard to offenses relating to the use of unlawful force, the Director of the DIPM is competent to decide that disciplinary proceedings be taken.

90. The Disciplinary Department examines files transmitted to it from various examining bodies, and decides whether disciplinary action should be taken. Such action includes bringing a person for a disciplinary hearing before a disciplinary tribunal, bringing a person for a disciplinary hearing before a sole adjudicator, or the giving of a warning.

From the beginning of the investigation until after the conclusion of the criminal or disciplinary proceedings, if taken, the police also consider taking administrative proceedings, including dismissal from the police, suspension, being put on enforced vacation, transfer to another function, lowering of rank, delay in any rise in rank and issue of a warning.

91. The following statistics were compiled by the Israel Police Force and the DIPM regarding the treatment of disciplinary and criminal complaints, respectively :

Table 1: Treatment of Disciplinary and Criminal Complaints

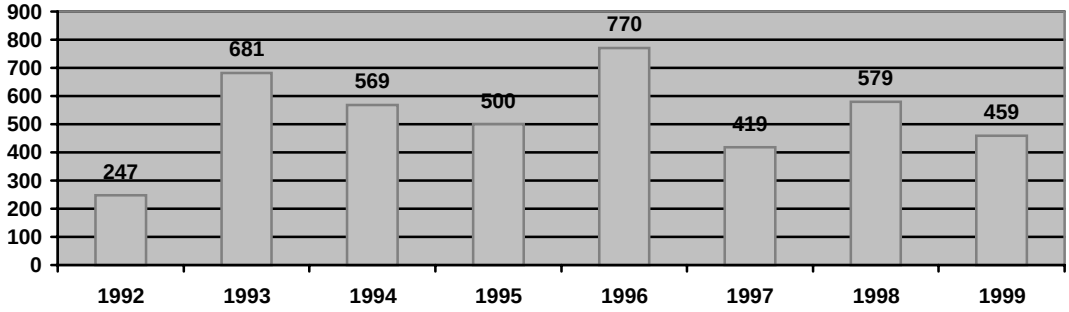
	1996	1997	1998	1999
No. of indictments filed in the Disciplinary Tribunal	135	164	175	140
No. of indictments adjudicated in the Disciplinary Tribunal	150	147	137	117
No. of DIPM files regarding use of force – recommended to be put on trial	18	38	47	78
No. of DIPM files regarding use of force – recommended for hearing before Disciplinary Tribunal	121	112	78	69
No. of DIPM files regarding the use of force – recommended for trial before a single adjudicator	50	65	34	64
No. of DIPM files received by the Disciplinary Department – recommendation to consider disciplinary proceedings	406	357	425	424
No. of officers dismissed from the force for involvement in violent offenses	-	4	3	7
No. of officers dismissed from the force for involvement in other offenses	22	18	32	34
No. of officers dismissed from the force for disciplinary problems – functional or not-suitable	16	18	21	38
No. of officers suspended from the force for involvement in the commission of offenses	13	10	15	15

Table 2: Cases Handled by the Department for Investigation of Police Misconduct

Subject		1997	1998	1999
Number of Cases at the beginning of the year		788	924	1 097
Cases opened during the year	Use of Force	2 605	3 138	3 477
	Others	2 429	2 650	2 667
	Total	**5 034**	**5 788**	**6 144**
Cases handled in full during the year	Closed due to lack of guilt	755	833	820
	Impossible to fully clarify	5	0	0
	Lack of Evidence	906	1 101	1 257
	Disciplinary charges	246	333	243
	Criminal charges	173	246	216
	Other*	686	669	574
	Total	**2 771**	**3 182**	**3 110**
Cases closed without an investigation		2 127	2 433	2 987
Remaining cases by end of year		924	1 097	1 144
Average number of cases treated per month		231	468	508
Average duration of handling (months)		4.0	2.3	2.3

* Cases opened by mistake, cases united, unknown offender, lack of public interest.

Chart 1: Number of DIPM Files Recommended to be Put on Trial



Training of Law Enforcement Officials

92. The Israel Police Force maintains comprehensive training programs for personnel at all levels, based on a profession level as well as on the position held by the person on the hierarchical scale. In all the courses, without exception, human rights and human dignity are dealt with, either by directly dealing with these topics or by dealing with professional issues in the spirit of human rights and dignity.

Special emphasis is placed on the issue at two junctures: first, in the police officers entry-level training course. This course has an important function, serving as a connecting factor to provide the civilian of yesterday with the rules of conduct and framework of reference required by him as a police officer.

The second juncture is the officers' course, which constitutes a change of status, where henceforth the police officer is not only responsible for his or her own values and norms of conduct but also for those personnel under his command.

The training which the police give to police personnel and officers includes, *inter alia*, workshops on "Human Rights and Democratic Values" led by presenters from the Association for Civil Rights in Israel and from the Council for the Rule of Law and Democracy. For example, 124 of these workshops were held in 1999, with the participation of thousands of police officers.

Similarly, about 90 professional ethics workshops are held each year for about 3,000 police officers, in which emphasis is placed on human dignity.

Other Institutional Reform Measures

93. Further to the recommendations of the Kremnitzer Committee on Police Violence, adopted by the inspector-general, the police have, for a number of years, conducted numerous activities in many aspects relating to handling the occurrence of violent behavior among police officers. In an effort to base appropriate norms among police officers regarding use of force while on duty, much has been done in recent years in terms of information and training, by means of courses and practical workshops.

In addition, administrative action has been taken against police officers involved in the commission of violent crimes, and action has been aimed at increasing the involvement of those entrusted in the field to deal with this issue, including their increased responsibility for any excessive acts committed by the police officers subject to their control. For further information on the Kremnitzer Committee, please see section 199 of the Initial Periodic Report.

94. **The Goldberg Committee.** As reported in detail in the Initial Periodic Report, a public committee headed by Supreme Court Justice Eliezer Goldberg was appointed in 1993 by the Minister of Justice and the Minister of Police to examine the validity of convictions based solely or almost solely upon the defendant's confession, the availability of retrial, and other topics related to the rights of those investigated by the police. As part of the police preparations toward imposition of an obligation to record investigations, a trial model has been employed for about three years, in most police investigation units, of recording investigations in the most serious crimes. It should be noted that in view of these steps, the amount of *voir dire* hearings has significantly decreased.

One of the recommendations of the Goldberg Commission was to set up a school to learn investigative techniques. As a result of this, in September 1999 the police set up a center for training the Investigations Department designed to train the investigation and prosecution branches of the Israel Police Force.

By August 30, 2000, 1,268 trainees had completed studies of various kinds at the continuing education center, designed to broaden the professional knowledge of investigators in the specific areas which an investigator particularly requires increased knowledge, such as the study of fraud and deceit, sex offenses, juvenile crime, questioning, offenses involving death, crime rings, and others areas.

95. **Commitment to Psychiatric Hospitals.** The following table refers both to psychiatric hospitals and to psychiatric wards within the general hospitals:

Table 1 – Involuntary Psychiatric Commitments, 1995-1998

Year	Court ordered	District Psychiatrist's order
1995	1 235	1 589
1996	1 110	1 564
1997	1 128	2 039
1998	1 310	2 681
1999	913	3 257

96. Since the submission of Initial Periodic Report, there has been an increase in the number of involuntary commitments to psychiatric hospitals, which now make up 14.6% of all commitments, as opposed to 9.7% in 1996. This rise can be attributed to the enactment of the Patient Rights Law 5756-1996. The law has brought about a notable increase in awareness to the

necessity to obtain the patient's rational consent to the hospitalization, or an adequate legal substitute. Thus, statistics of cases when the patient had to be hospitalized involuntarily are now more accurate.

97. The number of beds assigned for psychiatric hospitalization has decreased. Instead, a growing number of patients are referred to geriatric hospitals, hostels, and other alternatives provided by the community. An amendment to the Welfare (Treatment of Mentally Handicapped Persons) Law, 5729-1969 regarding the rehabilitation of the mentally disabled in the community was recently enacted.

Experimentation on Human Beings

98. In 1999, the regulations pursuant to the National Health (Medical Experiments on Human Beings) Law were amended in order to decentralize the authority to approve "simple" experiments. Authority was delegated to the Helsinki Committee and to the directors of hospitals, thus allowing more resources to be allocated to supervision and enforcement by the Ministry of Health. In addition, efforts are being made to pass the aforementioned regulations as primary legislation.

Prohibition of Human Cloning

99. The Prohibition of Genetic Intervention (Human Cloning and Genetic Manipulation of Reproductive Cells) Law, 5759-1999 is an innovative statute. The law prohibits, for a period of five years, the performance of any act or intervention regarding human cells which is intended to clone a human being or create a human being by use of genetically altered cells.

The law prescribes that the five-year period should be used to examine the consequences of such acts. For that purpose, the legislator has established an Advisory Committee, to pursue developments in medicine, science and biotechnology in the area of genetic experiments on human beings. The Advisory Committee shall submit a yearly report to the Minister of Health, to advise the Minister on the matters set out in the law, and to make recommendations to the Minister regarding the force of the prohibitions set out in the Law.

To enable the law to advance at the same rate as scientific developments and not prevent them, the Minister of Health is authorized, after consulting with the advisory committee, to permit, by regulations, certain acts of genetic interference originally prohibited by the law. Those acts would be subject to attaining a permit in advance, and certain conditions may be imposed. Criminal penalties of two-years imprisonment have been set for breach of provisions of this law.

It should be emphasized that the main purpose of the law was declaratory. At present, there are no experiments taking place in Israel aimed at cloning human beings. However, the legislator thought it important to declare that at this stage, prior to the full examination of all moral, legal, social and scientific aspects, the cloning technique is not a proper and desirable method of bringing a child into the world.

Article 8 – Prohibition of Slavery

100. **General.** As described in detail in the Initial Periodic Report, Israeli law does not allow hard labor to be imposed as the punishment for a crime. Incarcerated convicts are required to work at tasks or jobs which do not involve hard labor (Section 48 of the Penal Law, 5737-1977) unless the Exemptions Committee of the Prisons Service releases them from the obligation for reasons of rehabilitation, health or other reasonable grounds.

101. Due to a lack of suitable employment, the prisoners' workforce is not being utilized to the fullest capacity.

Between November 1998 and the end of 1999, there was a 20 per cent increase in the number of employed prisoners. This increase derives, mostly, from the increase in the employment of prisoners in private entrepreneurs' factories.

102. The Prison Service work scheme operates in two major areas: On one hand it focuses on imparting the prisoners with professional skills. For that purpose, professional training courses are held within the prisons by the Ministry of Labor and Social Affairs, granting the graduating prisoners professional diplomas from the ministry. On the other hand, it deals with the employment of prisoners within the prisons.

103. About 500 prisoners are employed in 17 branches of private entrepreneurs' factories within the prisons' industrial zones. The terms of the employment of prisoners are similar, and are set by agreement between the Prison Service and the private entrepreneur. Payment in these factories is determined by the worker's productivity. In addition, approximately 350 prisoners are employed within the prisons in assembling different products. This is easy work, and is performed by prisoners who are not skilled assembly workers, and are thus unable to work in the commercial factories.

104. When approaching the date of his release, the working prisoner joins an individual or a collective rehabilitative program. The prisoners in these programs are employed in factories outside the prison. At this time, about 300 prisoners are employed in such rehabilitative programs.

105. The prisoners employed in the private entrepreneurs' factories receive a fixed salary, slightly lower than the minimum wage .The Prison Service pays prisoners on a set date every month, even when the private entrepreneur has not yet provided the actual pay.

Foreign Workers

106. **General.** During the last six years, the number of foreign workers employed in Israel, with or without legal permit, has increased considerably. Thus, the employment of foreign workers has gained significance in the realm of labor, employment and welfare in Israel. The recent legislation regarding foreign workers reflects two major aims of the Israeli government: the reduction of the scope of foreign workers employment within the Israeli economy, and providing enforceable legal protection of the rights of foreign workers. While the past legislation used to deal only with the criminal aspect – punishment of those who employ foreign

workers or act as agents without an appropriate license, the amendments the Foreign Workers (Unlawful Employment and the Securing of Suitable Conditions) Law, 5751-1991, have introduced three main additional aspects. They are dealing with securing the foreign worker's rights, the imposition of compulsory fees on employers of foreign workers, and the necessity of imposing more severe punishment for violation of the law.

107. **Securing Foreign Workers Rights.** Although the majority of the rights of foreign workers were already defined in various labor laws prior to the recent amendment, there was a growing necessity to combine them all under specific legislation. The reason was, *inter alia*, that there were objective difficulties experienced by foreign workers due to their lack of familiarity with the Hebrew language and the standard conditions of work in Israel.

Among the rights which were granted to foreign workers is the requirement for a labor contract detailed in writing in the foreign worker's language, with a translation into Hebrew. An additional improvement is the obligation to provide medical insurance for the worker at the employer's expense, since even though the Employment Service Law has required employers to insure their workers as part of the employment conditions, this was, until now, mainly an administrative arrangement. Finally, the new amendment contains an obligation to provide proper lodging and to ensure the welfare of foreign workers, both at the expense of the employer.

In addition to these rights, employers are obliged to submit, to the payment division of Employment Service, monthly reports regarding the payment of wages for every foreign worker employed. Along with the contract of employment, they are also obliged to keep, at their place of work, a copy of the medical insurance, wage slips and a register of each worker's hours of work and rest.

108. **The Necessity to Impose Severe Punishment for Violation of the Law**. Fines under the law were raised up to NIS 80,000 and nine new offenses were added, mainly for violation of foreign workers' rights. Another section provides foreign workers with protection against any attempt made by the employer to harm their wages and work conditions due to the workers' complaint regarding deprivation.

The range of liability for violations of the law was also broadened to cover contractors active in this field, those who arrange living conditions, medical insurance, wages, etc.

The supervision authority of the inspectors enforcing the law was also defined and expanded. Under the amended law, inspectors now have the right to seize documents, such as wage slips and registers of work and rest hours, at the place of work if they are needed in order to prove whether the law has been violated.

At the same time, the Employment Service Law, 5719-1959, was amended and the ban on private agencies to exact payment from workers was expanded. Now, a private agency may not receive, collect or charge any payment directly or indirectly from workers, or from anyone acting on their behalf in Israel or abroad.

109. According to data supplied by the Employment Services, the number of permits issued in 2000 to employ foreign workers amounts to 72,445. Estimates of the Central Bureau of

Statistics indicate that around 150,000 workers are presently employed in Israel of whom many are illegally employed. Work permits are issued for a limited period of time and apply only to that particular worker. No family members are entitled to accompany him.

110. According to data supplied by the Ministry of Interior the following are the countries of origin of the majority of foreign workers:

Europe	Asia	Africa	South and Central America
Poland	Philippines	Ghana	Columbia
Bulgaria	Thailand	Nigeria	Bolivia
Romania	India		Ecuador
Yugoslavia	China		Chile
The former	USSR		Brazil

111. No bilateral agreements regarding issues of foreign workers have been signed between Israel and these countries of origin.

112. The Ministry of Labor and Social Affairs distributes an informative leaflet in several languages for workers arriving at the airport. The leaflet lists employers' obligations, and informs workers about the existence of a "hot line" for complaints. Additional relevant information is being distributed to foreign workers by NGOs.

113. The law stipulates that employers are obligated to provide foreign workers, at their expense, with medical insurance according to a basket of services which is presently being prepared by the Ministry of Health.

114. A collective agreement was recently drawn up in the building sector between the contractors and the New General Federation of Labor (Histadrut), with a special appendix defining work conditions regarding foreign workers in the building sector.

115. Administrative fines for violation of the law were raised in 1998 from NIS 2,000 to NIS 5,000.

116. **Trafficking in Women.** See above, under Section 61.

Article 9 – Liberty and Security of Person

Arrest and Detention

117. **Notification of Arrest.** If a person is arrested, notice must be given promptly to a friend or relative, who can reasonably be located, unless the detainee asks that such notice not be sent. At the request of the arrested person, notice will also be sent to an attorney of his or her choosing, or to one of the defense attorneys appearing on a list drawn up by the Bar Association and presented to the suspect. Furthermore, an arrested person without means is entitled to

representation by the Public Defender's Office. An application on his or her behalf shall be sent to the Public Defender's Office by the police as soon as possible. For further details, see section 235 of the Initial Periodic Report.

118. **First Judicial Hearing.** In nearly all cases, a person who is arrested, other than in the presence of a judge, and whom the officer-in-charge at the police station does not release, with or without bail, must be brought before a judge as soon as possible, and at most within 24 hours of the arrest. If that is not done, the arrested person must be released. The arrested person or his or her representative may immediately file a motion to release him on bail, in which case the judicial hearing may also take place before the 24-hour period has elapsed.

119. At the initial judicial hearing, which usually takes place before a single judge of the Magistrate's Court, the judge must first review the evidence brought by the police to see if there are indeed reasonable grounds to suspect that the detainee in fact committed a crime. The detainee or his counsel may cross-examine the police officer appearing on behalf of the state in this regard. In addition, the court must decide whether or not there exist legitimate grounds to keep the suspect in detention. Detention might be ordered for the following reasons:

120. To ensure the completion of the investigation or judicial proceedings or serving the sentence if there are reasonable grounds to believe that upon release the suspect may interfere with proceedings, flee, conceal property, influence witnesses or harm evidence;

A. To ensure protection of the public if there are reasonable grounds to believe that the suspect will endanger human safety, public safety or state security;

B. In exceptional cases, to allow for interrogation procedures which could not be conducted unless the suspect is held in detention".

121. **Period of Arrest before Indictment.** In the event the court does not release the suspect at the initial hearing, it may order continued detention for a period of up to 15 consecutive days. If at the end of this period, the police still wish to keep the suspect in detention for purposes of the criminal investigation, another hearing is held, and the court's decision is based on the standards noted above. However, the longer the detention, the more weighty the evidence that the suspect actually committed the crime must be, in order to justify extending the remand. The total period of detention based on police requests may not exceed 30 days. However, arrest for the purposes of investigation where only this ground exists may in no case exceed 15 days. Detention may be extended beyond the 30-day period only by a decision of the court upon a special motion signed by the attorney general.

122. **Court-Appointed Counsel.** Prior to the filing of a charge sheet, Israeli law requires court appointment of legal counsel for a person in detention in cases where he or she is mentally-ill within the purview of the Criminal Procedure [Consolidated Version] Law, 5742-1982, section 15 or the Mentally Ill Treatment Law, 5751-1991, section 18, or where he or she is under sixteen years of age, or when it is necessary to take testimony prior to filing the charge sheet and the detainee is either blind, deaf, dumb or mentally disabled, or when the detainee is suspected of murder or another offense bearing a penalty of ten years or more (Criminal Procedure Law, section 15(a).

In cases where there is no obligation to appoint legal counsel for a detainee, a court may decide at its discretion to appoint counsel if the detainee has insufficient financial means to do so, if the offense involved bears a penalty of at least ten years' imprisonment, if the detainee is blind, deaf, dumb or mentally incapacitated, or if for any other reason the court deems that the detainee is unable to manage his own defense adequately. A detainee without means is entitled to representation by the Public Defender's Office, even without being appointed by the court. For further details on this subject, see article 246 of the Initial Periodic Report.

Arrest and Detention of Armed Forces Personnel

123. Following the enactment of Basic Law: Human Dignity and Liberty, the arrest procedures under the Military Justice Law, 5715-1955 had to be amended to better suit the new legal circumstances. The first attempt to amend the Military Justice Law that an IDF soldier can be held in arrest for 96 hours before he is brought before a judge (as opposed to civilians, who, under sections 17 and 29 of the Criminal Procedure Law (Enforcement Powers – Arrest) must be brought before a judge as soon as possible, and at most within 24 hours of the arrest, or be released)**.** That amendment was struck down by the High Court of Justice, which accepted a petition claiming that the 96 hours arrest-without-trial period is disproportional, and thus inconsistent with Basic Law:Human Dignity and Liberty (H.C 6055/95 *Zemach v. Minister of Defense).*

124. Consequently, the Military Justice Law 5715-1955 was re-amended, reducing the maximum period a soldier can be held in arrest before he is brought before a judge to 48 hours.

The Lebanese Detainees:

125. The HRC, in its comments on Initial Periodic Report, expressed concern over the administrative detention of persons who did not personally threaten state security, but were kept as "bargaining chips" in order to promote negotiations with other parties on releasing captured Israeli soldiers or the bodies of deceased soldiers.

126. Over the years 1984-1987, a number of Lebanese civilians were arrested and tried in Israeli courts of law. Each was found guilty of crimes against the state and sentenced to prison for a fixed number of years. After the Lebanese prisoners had served their sentences in Israeli prisons, they were not released. Rather, the Minister of Defense ordered that they be held in administrative detention.

127. The prisoners were detained for the purpose of being used as "bargaining chips" for negotiations with Islamic terrorist militia groups believed to be holding, or having information about IDF soldiers missing in action in Lebanon. In 1994, after the president of the district court extended their administrative detention for another six months, a number of Lebanese prisoners submitted an appeal to the Supreme Court, arguing against their use as "bargaining chips". The Supreme Court, sitting in a panel of three judges, rejected the prisoners' appeal by a vote of 2-1.

Subsequently, the prisoners submitted an application for further hearing, which was accepted. It was decided that the case would be heard by an extended panel of nine judges. On April 12, 2000, the Supreme Court reversed its previous judgment (Criminal Further Hearing

7048/98 *Anonymous v. The Minister of Defense*). In a 6-3 vote, the court held that the Minister of Defense does not have the authority to place a person in administrative detention when the person does not pose a threat to national security and the sole purpose for his detention is to use him as a "bargaining chip".

The majority held that due to the significance of protecting human dignity and freedom of the person, the proper balance between civil rights and national security is such that the law must be interpreted in a way that does not give the Minister of Defense the authority to place someone in administrative detention as a "bargaining chip", and that such an interpretation is also required by International Law. Moreover, the Supreme Court held that the prisoners' detention would have been unlawful even if the Minister of Defense had the aforementioned authority, since it was not based on sufficient evidence to prove that holding the prisoners in administrative detention would lead to the release of Israeli prisoners of war and soldiers missing in action.

128. Following the aforementioned decision, The High court of Justice dismissed a petition submitted by the family of Ron Arad, an Israeli airman missing in action which argued against the release of the Lebanese prisoners (*H.C. 2967/00 Arad v. The Knesset et al*.). The Minister of Defense ordered the immediate release and return to Lebanon of the eight Lebanese appellants in the aforementioned *C.F.H 7048/98 Anonymous* case, along with five other Lebanese prisoners. Prisoners who were found to pose a threat to the security of the State of Israel were not released. Accordingly, the Minister of Defense determined that prisoners Mustafa Dirani and Abed Al-Karim Ubeid, who were directly responsible for the launching of numerous terrorist attacks against the State of Israel and its citizens, pose a direct threat to the security of the state and should not be released. They were remanded to administrative detention, an action which was confirmed by the District Court, and lately reaffirmed in an appeal to the Supreme Court.

Article 10 - Treatment of Persons Deprived of their Liberty

129. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 11 – Freedom from Imprisonment for Breach of Contractual Obligations

130. As described in detail under sections 308-314 of Israel's Initial Periodic Report, Amendment no. 15 of the Execution Law (S.Ch. 1479 (5754), p. 284) introduced a new regime regarding investigation of a debtor's means and, on the whole, severely narrowed the availability of imprisonment orders, in accordance with the supreme court judgement in H.C.J 5304/92 *Perah Association v. Minister of Justice et al. (*see section 309 of the Initial Periodic Report for further details*)*. Under the amended section 70 of the Execution Law, Prior to issuing an imprisonment order, the Chief Execution Officer must hold a hearing in the presence of the debtor, in which the debtor is examined regarding all assets on the basis of an affidavit filed previously. If the debtor patently refuses to comply with the execution proceedings, for example by refusing to file an affidavit regarding his assets, then the Chief Execution Officer may order his imprisonment. During the investigation of the debtor's assets, the Chief Execution Officer may order the debtor to pay monthly instalments based on his ability to pay, or, if the debtor requests a long-term schedule and waives secrecy of his financial records, the Officer may

declare that the debtor is "limited in means". Once this status is conferred on the debtor, his or her name is entered into a special register at the Execution Office, and he or she may be restricted from using credit cards or from serving as a manager or director of a limited liability company.

One result of the amendment to the Execution Law, discussed above, was a sharp decline in payments by recalcitrant debtors. Debtors usually chose not to attend the investigation of assets hearing, in order to avoid the risk that the investigation reveals their ability to pay the debt, thus exposing them to the risk of imprisonment.

On 19.4.1999, the Execution Law was amended (Amendment no.19), in order to promote collection of debts while ensuring that debtors are not imprisoned for the inability to pay them, but rather only in cases in which the debtor has the ability pay but refuses to do so. This amendment creates an incentive for the debtors to attend the investigation of means, by allowing the imprisonment of a debtor for refusal to attend the investigation. According to the amendment, within 20 days after receiving the notice of warning – a document opening the execution procedures – the debtors are to report to an execution office of their choice, at the time most convenient for them (within the office opening hours). To ensure that the warning is served to the debtor in a proper manner, the amendment prescribes a special procedure of "*full service*" – the warning must be served to the debtor or to a relative who resides with him, in an actual service or by registered mail. Only then, the execution officer can file for a warrant of arrest. In addition, the notice of warning was translated to Arabic and to Russian, to guarantee that most debtors are able to read it in their mother tongue.

A debtor who, after receiving the notice of warning, filed an order of payment, attaching the relevant documents, will be exempted from reporting to the execution office.

Article 12 – Freedom of Movement

131. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 13 – Expulsion of Aliens

132. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 14 – Right to Fair Trial, Judicial Independence

133. An amendment to the Criminal Procedure (The Right to a Hearing) Law 5742-1982, enacted in 2000, compels the State Attorney's Office to inform a suspect regarding an intention to press charges against him in all criminal offences aside from misdemeanors.

The suspect has the right to a hearing conducted by a district attorney or any person authorized by the district attorney. In addition, the amended law provides that no formal charges will be pressed against a person suspected of committing a crime who requested to exercise his right to a hearing, before he has been given a reasonable opportunity to have a hearing.

134. The Civil Procedure (The State as a Litigant) (Amendment) (Granting an Injunction and Exercising a Judgement Against the State) Law, 5779-1998 has been amended, and unlike before now makes possible the granting of an injunction against the state. It is also possible for a court to grant such an injunction *ex parte* in cases where the plaintiff might suffer severe or irreparable damage. Thus, the law further reduces state immunity.

Preliminary Appellate Procedure (*Kdam Bagatz*)

135. The preliminary appellate procedure is an administrative practice, which enables the public to submit written complaints and demands regarding administrative actions of government agents and agencies. The practice takes place prior to submitting a petition to the High Court of Justice. In many cases the answers given by the government satisfies the person who sent the complaint, thereby making it unnecessary to go to court. This process is administrated by the High Court of Justice Department in the Ministry of Justice, which is responsible for representing the different State agencies in petitions to the court. This practice is intended to assist the public, and also to reduce the extremely large number of cases waiting to be dealt with by the Supreme Court and the Ministry of Justice. The department's attorneys attempt to resolve the public's requests by contacting the appropriate state agencies and conducting a preliminary inquiry. The process is beneficial for all sides involved by saving valuable time, energy and money. Hundreds of complaints are processed in this manner every year.

The Public Defender's Office

136. The Public Defender's Office (PDO), established by legislation in 1995 (for further details, please see section 388 to the Previous Report), has substantially expanded its reach in the course of the last 3 years. The first PDO office was opened in the Tel-Aviv/Central judicial district in June 1996. Gradually, PDO offices were opened in all the remaining four judicial districts – Jerusalem, Be'er-Sheva, Haifa and Nazareth, In addition to the establishment of a National PDO.

In 2000, the PDO has provided legal representation in approximately 25,000 cases, over the 5 judicial districts. The PDO employs about 50 public defenders ("Internal Counsels"). In addition, it employs about 750 private counsels, providing representation on its behalf. Private counsels included in the list of public defense counsels were carefully chosen, and are subject to supervision by the Internal Counsels.

The Defense Counsel Law 5756-1995 entitles minor defendants or detainees to representation by a public defender, without being subject to an inquiry regarding their financial means. In the past, the vast majority of minors defendants tried before the Youth Courts had appeared without counsel. In 1999, Following a thorough research conducted by the Consulting and Legislation Department at the Ministry of Justice, the Minister of Justice has enacted regulations, entitling minors to a public defender, under section 18(c) to the Defense Counsel Law. As a result, special youth departments were established in all districts of the PDO, and at present, most minors charged with criminal offences receive representation from specialized public defenders. The enactment of these regulations has brought about a fundamental change in the realization of minors' rights in criminal procedures.

In 2000, the Minister of Justice, in recognition of the importance of the right to proper legal representation, has expanded the scope of entitlement to representation by the PDO in regulations, endorsed by the Knesset Constitution, Law, and Justice Committee in August 2000. Under the regulations, already applied in the Tel-Aviv-Central, Jerusalem, Be'er Sheva and Nazereth judicial districts, minors and detainees facing criminal charges are entitled to representation by a public counsel. The Ministry of Justice intends to apply the regulations to the Haifa judicial district by 2001, thus completing the application of these regulations, which had started in 1999.

However, Data recently gathered by the PDO, from a sample of close to 2,000 cases litigated in the magistrates' courts of Tel-Aviv, Natania, Acre, Zefat, Ashdod and Hadera, shows the national average rate of defendants appearing without representation to exceed 50%. Many of these defendants are consequently sentenced to substantive periods of incarceration. Thus, it is clear that the efforts to prevent defendants from having to appear before a court without proper representation are not yet fully accomplished. The Ministry of Justice, in conjunction with the PDO, are working to further expand the right to a public counsel, in hope to accomplish more progress in this area during the course of 2001.

Alternative Dispute Resolution

137. The National Center for Mediation and Conflict Resolution was established as an independently functioning Unit of the Ministry of Justice in 1998. The decision to set up the center was taken by the Minister of Justice, with the approval and support of the chief justice of the Supreme Court, the Honorable Aharon Barak.

Mediation and Alternative Dispute Resolution (ADR), as an alternative methods to litigation and the resolution of disputes by a decision-making body, encourages the parties to a dispute to negotiate with one another and reach an acceptable solution while allowing them maximum control over the process and its results.

The establishment of a National Center for Mediation and Conflict Resolution within the Ministry of Justice is aimed at ensuring that the development of mediation and ADR in Israel is undertaken by a professional, impartial organization, on the basis of objective criteria, international experience and the particular needs of Israeli society. Court systems, public institutions, community organizations, the educational system and the business sector are some of the segments of society to which the center's work is directed.

Article 15 - Prohibition of *Ex Post Facto* Laws

138. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 16 – Recognition as a Person Before the Law

139. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 17 – Freedom from Arbitrary Interference with Privacy, Family, Home

140. **The Protection of Privacy Law, 5741-1981**. According to information gathered by the Registration of Private Investigators and Guard Services Department of the Ministry of Justice, in the year 2000 the licenses of seven private investigators who had been convicted, *inter alia*, of offenses under the Protection of Privacy Law, 5741-1981 were not renewed.

Search and Seizure in Criminal Proceedings

141. Following the enactment of the Criminal Procedure (Enforcement Powers – Physical Search of a Suspect) Law, 5756-1996, Central Command Orders, ensuring rights of the person, were published in 1998 to implement the law, on the following subjects:

14.05.01 Internal physical examination of suspect.

14.05.02 External physical examination of suspect.

14.05.03 Internal and external physical examination of a person who is not a suspect.

Search of a Person's Home

142. The Israel Police Force is authorized to perform a search of private property, including the person's house, by means of a court ordered search warrant when:

(a) The search is necessary to secure the introduction of an object for the purposes of an investigation, trial or other proceedings;

(b) There are grounds to believe that stolen property is being held at the particular premises or that an offense has been committed therein or that such place is being used or is planned to be used it for an unlawful purpose.

(c) There are grounds to believe that an offense has been committed or that an offense is being planned against a person situated on such premises.

Applications for a search warrant are generally heard *ex parte*.

The police may perform such a search, even without a court order, in the following circumstances:

(a) A police officer has grounds to believe that a serious crime is being committed on the premises or that a serious crime was recently committed therein;

(b) Where the occupier of the premises calls for police assistance;

(c) Where the person found on the premises calls for police assistance and there are grounds to believe that an offense is being performed therein;

(d) Where a police officer chases a person evading arrest or escaping from lawful custody.

Electronic Surveillance: Wiretapping and Eavesdropping

143. **Eavesdropping by the Israel Police Force.** As described in detail in Israel's Initial Periodic Report, there is specific legislation which regulates the issue of Electronic Surveillance. The police submits to the Constitution, Law and Justice Committee of the Knesset an annual report on wiretapping performed by it, specifying the number of permits given to the police by the court, the number of permits given and not implemented, the number of applications for permits refused by the court and the number of telephone lines subject to wiretaps each year.

Furthermore, the police sends the attorney general a monthly report in which it specifies the names of persons subject to wiretapping, the telephone numbers being wiretapped, the duration of the wiretapping and the offenses attributed to the person being wiretapped for which reason the wiretapping was initiated.

144. **Scope of Illegal Activity.** The Israel Police Force investigated the following offenses against the Secret Monitoring Law 5739-1979 (the Wiretapping Law).

In 1998 – 55 files were opened, 43 of which were closed, two defendants were convicted and nine cases are still in judicial proceedings.

In 1999 – 50 files were opened, 34 of which were closed, and 11 are still in judicial proceedings.

In 2000 (until the end of August) – 31 files were opened, 16 of which were closed and five are still in judicial proceedings.

Protection of Personal Information in Databases

145. The Israel Police Force Districts (not including the Judea and Samaria District) opened the following investigative files on suspicion of offenses under section 8 of the Protection of Privacy Law 5741-1981:

In 1996 – two files were opened – one of these was closed and the other was a conviction.

In 1997 – one file was opened and then closed.

In 1998 – four files were opened – two of them were closed, one of them was a conviction and one is still in judicial proceedings.

In 1999 – three files were opened – two of them were closed and one is still open.

In 2000 (until the end of August) – no files were opened.

Information Regarding Criminal Record

146. The Israel Police Force maintains a database including two types of records – a "crime register" and "police records". The crime register includes data as specified in section 2 of the Crime Register and Rehabilitation of Offenders Law, 5741-1981 (in this article "the Law").

Police records include mainly information on pending and closed criminal files.

The police, the Israel Security Agency, the Military Police and the IDF Field Security Department (as a group, the "Agencies") have direct access to the crime register and may transmit information found therein among themselves.

The police transmit crime information from its records to other Agencies entitled to receive such information under Law, for the purpose of carrying out their functions, at their request and to the extent prescribed by Law. Similarly, the other Agencies may transmit such information within the restrictions prescribed under Law.

The Agencies entitled to receive information from the crime register are also entitled to receive information about pending files.

A competent prosecutor, the Agencies, warrant officers and scientific investigators may also receive the records on closed files.

Records of files closed with a finding of no guilt are removed from the police records and no longer appear in the name of the person to whom the entry related.

A person against whom there is an entry of a file which was closed for lack of evidence or for lack of public interest may apply to the head of the Investigations Department at the National Police Headquarters to remove the record.

A decision of the head of the Investigations Department shall be reached by taking into account the following:

- The substance and circumstances of the offense;

- The time which has elapsed since the incident involved in the record,

- The number of and quality of the complaints recorded against the accused;

- The personal circumstances of the accused.

The Law prescribes statutory prescription periods at the end of which a criminal conviction lapses. Some of the Agencies entitled to receive criminal information may not be able to receive information about such conviction .The prescription (limitation) period varies according to the severity of the penalty.

The Law also prescribes provisions on "deletion" of convictions. When the conviction is erased, information about such conviction may be transmitted to a limited number of agencies, as specified in section 16 of the Law.

As a general rule, a conviction is regarded as a deleted conviction ten years after the termination of the prescription period.

In certain circumstances, such as on the conviction of a minor for a misdemeanor, the deletion periods are shorter.

As a general rule, a person whose conviction has been "deleted" shall be deemed, for the purposes of any law, to have not been convicted and he is not bound to respond to questions concerning the said conviction. Any evidence disclosing the fact of conviction which was deleted from the register, as stated, is not admissible in a court proceeding nor before a public employee or employee of a public entity, unless it was knowingly disclosed by the person whose conviction was deleted. Officials may receive information on a deleted conviction and they may, obviously, take it into account for the purpose of fulfilling their functions.

Unlawful Attacks on Honor or Reputation

147. On November 5, 1998, the Prevention of Defamation Law 5725-1965 was amended, providing that courts may, in certain circumstances, order the payment of compensation in the amounts fixed in the law for defamation, even without proof of damage.

148. Reproductive Privacy – Abortion

Table 1: Applications for Abortions, Approvals and Actual Terminations (in absolute numbers)

	1995	**1996**	**1997**
Applications	18 903	20 408	20 550
Approvals	17 528	19 228	19 465
Terminations	16 609	17 987	18 596

Table 2: Rate of Actual Termination of Pregnancy

	1990	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**	**1997**
Per 1,000 women aged 15-49	13.6	12.9	12.9	12.4	11.8	11.9	12.6	12.7
Per 1,000 live births	150.1	149.1	148.9	145.1	140.1	142.1	148.2	149.4

Table 3: Terminations of Pregnancy in Hospitals, by Cause, 1996 (percentage)

	Total	19-	20-24	25-29	30-34	35-39	40+
Woman's age	11.1	17.8				4.2	70.1
Out of wedlock pregnancy	51.6	77.3	78.5	53.8	40.0	28.5	10.8
Malformed fetus	13.5	1.9	7.7	17.8	22.0	22.2	7.5
Danger to woman's life	23.0	3.0	13.5	27.3	43.7	43.7	11.6

149. **Protection of Genetic Data**. The Genetic Information Law 5760-2000 was recently enacted. This law was designed to protect the right to privacy of genetic information. It includes provisions as to the confidentiality of data gathered by means of genetic examinations, prohibits, under certain conditions, discrimination in employment and in insurance as a result of genetic data; and includes specific provisions as to the use of genetic data for crime solving and in the identification of corpses.

150. **The Right to a Dignified Death.** On May 1, 2000, The Minister of Health appointed a committee, headed by Prof. Avraham Steinberg of the Sha'arey Tzedek Medical Center in Jerusalem, to advise him on legislation which will provide an answer to the medical-ethical dilemma presented by the treatment of terminally-ill patients (the "Public Committee"). The Public Committee was appointed following an intensifying public debate on the issue of the right to die with dignity, together with several decisions given by the district courts and the Supreme Court, and legislation proposed by certain individuals. The general public in Israel has demonstrated great interest in this subject, which has medical, cultural, emotional, religious, moral and legal consequences, and is not within the Israeli consensus. The Public Committee consists of four sub-committees – Professional, Philosophical, Legal and Religious – and its recommendations to the Minister of Health are due within the year 2001.

Community Housing for People with Disabilities

151. One of the most severe wrongs against people with disabilities in Israel is the clear preference for institutional frameworks as opposed to the state providing them with special adequate housing within the community. This is the case particularly for developmentally disabled and mentally ill people. Thousands of people with disabilities in Israel live in crowded institutions, under relatively poor conditions. It has been argued that the present position is inconsistent with the principle of equality established by the case law of the High Court of Justice, and which is now incorporated in Basic Law: Human Dignity and Liberty.

152. Leading professionals in this field have already determined that the quality of life and development of people with disabilities at all levels improves when they live in special housing within the community, in their natural environment. The situation in Israel stands in contrast to this:

(1) Out of 7,400 developmentally disabled people living outside their homes, approximately 6,000 of them live in 53 institutions. New institutions are continually being constructed. Families and associations wishing to exercise the

right of mentally retarded people to live in special community housing are curbed by the authorities for budgetary reasons. Institutional housing account for the lion's share of the budget allocated to housing for people with disabilities.

(2) 6,700 mentally ill people live in psychiatric hospitals. It is estimated that many of these people remain in such institutions because of lack of adequate special community housing frameworks.

(3) In March 1999, a Public Committee submitted a report on the condition of mentally ill holocaust survivors living in psychiatric hospitals in Israel. The findings were particularly grave.

(4) The general phenomenon of institutionalization also includes scores of people with physical disabilities living in institutions and even in hospitals.

153. In the face of the present reality, recent legislation enshrines the right of people with disabilities to live in their natural community. The Equal Rights for People with Disabilities Bill, 5760-2000 includes a chapter in relation to housing. Of the central provisions of the Bill in this area are those establishing the right of people with disabilities to live in the community and the obligation of the state to make this right a practical reality by the provision of personal assistance services.

154. A recent amendment to the Welfare (Treatment of Persons with Mental Disabilities) Law, 5729-1969 regarding the obligation of the state to allocate resources for housing frameworks and day frameworks for persons with mental disabilities, provides that when determining the type of housing framework, the assessment committee will give priority to community housing.

155. On July 5, 2000, the Rehabilitation of Mentally Ill People in the Community Law, 5760-2000 was enacted, establishing the right of a mentally-ill persons to a basket of community rehabilitation services in a number of areas, including housing, employment, completion of education, leisure and recreation.

For further information regarding the rights of people with disabilities, see article 26 below.

Demolition of Illegal Dwellings in Jerusalem

156. In its comments on the Initial Periodic Report, the HRC expressed concern over the practice of demolition of illegally constructed houses in the eastern neighborhoods of Jerusalem.

157**.** **Historical Background.** In the face of 3,000 years of history, it is noteworthy that the concept of East Jerusalem derives solely from the 19-year period between 1948 and 1967, when Jerusalem was a divided city.

From 1948 to 1967, under Jordanian occupation, the eastern part of Jerusalem was relatively underdeveloped. The western part of Jerusalem, on the other hand, was a modern

capital city, whose neighborhoods had developed since 1914 according to urban plans based on the city's special topography. Thus, in 1967, on the reunification of Jerusalem, significant gaps existed between its eastern and western parts.

The villages in East Jerusalem did not develop through urban planning, but as expansion of family settlements. Furthermore, the tendency was for small parcels of land to be owned by a variety of private landlords. Since land registration of the area was not systematic or up-to-date, ownership rights in many cases are unclear, and there are many instances of more than one claim to ownership to the same piece of property. Urban planning is based on land ownership. This requires re-designing and updating of the registration system relevant to the eastern neighborhoods of Jerusalem, prior to the preparation of final urban plans, as well as resolution of some of the conflicting claims. This is a process that also involves extensive surveying, and it is as yet incomplete.

In 1967, residents of East Jerusalem used wells to obtain water. Reunification of the city has necessitated the unification of the infrastructure, and today effective water and sewage systems are in place. Jerusalem's own water supply is only sufficient for 15-20,000 people. Infrastructure has to be planned further prior to any construction, and cannot be developed in response to building by individuals.

158. **Demographic Factors.** Natural increase in the Arab population has always exceeded that of the Jewish population. In 1967, the city's population consisted of 197,000 Jews (74.2%) and 68,000 Arabs (25.8%). In 1999, 429,000 Jews made up 69% of the population, while 193,000 Arabs made up the remaining 31%. Current plans are for 15,000 new housing units in the Arab sector and 35,000 in the Jewish sector Approximately proportional to the Arab percentage in the overall population.

159. **Cultural Characteristics.** The Arab tradition of building detached homes for the extended family on privately owned land is very land intensive in comparison to the apartment blocks which dominate the Jewish neighborhoods. In the Arab sector there are on average 11 people in 1.9 housing units per dunam (approximately 0.25 acre) while in the Jewish sector there are 19 people per dunam, in 5.9 units. Moreover, much of the public building in West Jerusalem is financed by donations from the Jewish Diaspora whereas public buildings in the eastern part of the city are financed only by the Municipality of Jerusalem and the Israeli government.

160. **Development of Infrastructure and Services.** City-center services, such as shopping centers and arterial roads, benefit residents from all parts of the city. Other services are locally based.

Recognizing that the future of Jerusalem as a united city depends to a large extent on the provision of municipal services on an equal basis for all sectors of the population, the Jerusalem Municipality has given priority to a development program for East Jerusalem, in conjunction with the Government of Israel. The total sum required in order to close the gap between the two parts of the city is estimated at NIS520 million (approximately 130 million $US).

In Jerusalem, the policy is to plan development in cooperation with residents of Arab neighborhoods. For example, in the Arab village of Tsur Baher, 400 units are to be built on government land and will be marketed by an Arab association. The area has been re-zoned in order to allow for more intensive construction.

At A-Sawaneh, a camp of homeless people was set up on land belonging to the Muslim *Wakf*, where a school for special education was planned. The *Wakf* allocated the land for the school, which was later built by the municipality, and is to be named after the late King Hussein of Jordan.

161. **Applications for Building Permits.** Informative leaflets, available both in Hebrew and in Arabic, give details as to the procedure required for applying for building permits. The same information is published on the municipality's Hebrew and Arabic web sites.

162. All building plans are equally subject to approval by the District Committee for Planning and Building, a governmental body.

163. The rate of application for building permits corresponds approximately to the proportions of the population. In the first half of 1999, 195 applications, which make 20% of the total number of applications, were received from residents of East Jerusalem. Of the 195 applications, 116 (60%) were granted. West Jerusalem residents submitted 791 applications, of which 553 (67%) were granted. Due to the application fee involved, many applications are not followed up – the applicants preferring to risk the fine, which might be imposed if the case is taken to court.

164. **Illegal Construction.** In West Jerusalem, building violations almost invariably consist of additions to a legal building, such as the addition of a room in courtyard or an attic within a roof space. In East Jerusalem, violations typically take the form of entire buildings constructed without a permit. Thus, demolitions in East Jerusalem are far more dramatic than in the western part of the city.

165. **Demolitions.** The policy of the Jerusalem Municipality is to issue demolition orders where buildings interfere with plans for public facilities such as schools or roads, where they pose a safety threat to their inhabitants, or where they interfere with the city's historical heritage. The Ministry of Interior also has the authority to demolish buildings, autonomous from the one given to the Municipality of Jerusalem, and a small number of demolitions initiated by the ministry take place every year. It should be noted that in both cases, demolition is never arbitrary. It takes place in accordance with due process and the rule of law, and allowing for the holding of a fair hearing, and the ability to appeal to the courts of law.

Table 1: New Buildings Constructed Without a Permit (By Neighborhood, East Jerusalem)

Neighborhood	1997	1998	1999
Issawiya	10	59	45
Shuafat	16	32	62
Wadi Joz	13	14	18
Ras Al Amud	10	65	41
Beit Hanina	27	39	100
A-Tur	12	43	35
Sheikh Jarrah	2	8	15
Old City	10	43	65
Tsur Baher	31	25	13
Um Tuba	6	19	35
Abu-Tor	35	19	6
Silwan	9	39	49
Jabel Mukhaber	11	65	38
Other neighborhoods (Sawahra, Um Lison, Walgia, Sheikh Sa'ad and others)	10	15	32
Total	**202**	**485**	**554**

Table 2: Building Offences – eastern and West Jerusalem (Jan.–Aug. '98)

	East Jerusalem	West Jerusalem
Violations Discovered	80,000 square meters*	10,000 square meters*
Means of Discovery	95% via inspection tours and aerial photos	98% via neighbors complaints
Type of Violation	• Construction of homes and entire buildings Construction on areas designated for roads or public use	• Addition to roofs or yards • Opening attics • Closing Balconies
Demolition Orders	30	15
Demolitions Carried Out	7	10

* a square meter is 10.85 square feet

** Main Causes of Building Offences in East Jerusalem:

- Avoidance of fee payments
- Inability to conform to planning conditions (e.g., designated area)

Table 3: Building Contour Plans Submitted for Approval

	East Jerusalem	West Jerusalem
15.11.98 – 31.12.98	91	77
1.1.99 – 30.11.99	440	543

Table 4: Requests Submitted for Building Permits

	East Jerusalem	West Jerusalem
1998	321	1 661
1999	325	1 544

Table 5: Building Permits Granted

	East Jerusalem	West Jerusalem
1998	265	1 508
1999	289	1 403

Table 6: Demolition Orders Carried Out

	East Jerusalem	Sawaneh Camp	West Jerusalem
1993	23		10
1994	7		4
1995	14		10
1996	8		4
1997	19		12
1998	13	30 Tents	13
1999	17		4
Total	**101**	**30**	**57**

Table 7: Building Offences – Cases Opened

	East Jerusalem	West Jerusalem
1998	575	351
1999	436	227

Table 8: Completed Projects in East Jerusalem, 1997- 1999

	Cost (in millions of NIS)
New roads	42
Improvements to existing roads	40
Water and sewage systems	40
Community centers	10
Other	47
Total	**179**

Article 18 – Freedom of Religion and Conscience

Religious Institutions

166. **Jewish Religious Councils.** As discussed in detail under sections 468-470 to the Previous Report, the state confers certain powers, at the local level, on Jewish Religious Councils, which are organized by law and funded in part by the State. Traditionally, the Religious Councils were comprised exclusively of Orthodox-Jewish representatives. On 1998, The High Court of Justice has ordered the appointment of non-Orthodox representatives on the religious councils of Jerusalem, Tel-Aviv, Haifa, Kiryat Tiv'on and Arad Municipalities (H.C.J.4727/97 *Meretz Party in Jerusalem Municipality, et al. v. The Minister of Religious Affairs*, P.D. 52(5) 241). However, the implementation of the court order is still pending.

Burial

167. **Alternative Civil Burial.** The access to alternative civil burial has been improved greatly since the 1998 submission of the Initial Periodic Report, following the enactment of the Right to Alternative Civil Burial Law, 5756-1996 (described under section 489 to Israel's Previous Report). On April 1999, the first alternative cemetery for Jews was opened in the city of Beer-Sheva (in the south of Israel), in accordance with the Right to Alternative Civil Burial Law. At the time of writing this report, other alternative cemeteries are not yet operational, but additional licenses for alternative burial services have been granted in Jerusalem and in Haifa.

168. **Headstone Inscriptions.** The right of engraving of Gregorian dates and Latin Letteres, in addition to Hebrew ones, on headstones in Jewish cemeteries was established and than reinforced in various judicial decisions. Following the enactment of the Right to Alternative Civil Burial Law, The Orthodox Burial Society ("*Chevra Kadisha")* in Rishon L'zion refused to continue to allow the engraving of Latin letters and Gregorian dates on headstones, claiming that the existence of alternative civil burial cemeteries has alleviated the need to allow non-Hebrew headstone inscriptions in Jewish cemeteries. The *Chevra Kadisha*'s decision was challenged in an appeal to the Supreme Court. In a 2-1 vote, the Court accepted the petition (C.A 6024/97 *Shavit v. Chevra Kadisha Rishon L'Zion*).

169. **Equality in Funding.** On April 2000, The High Court of Justice has accepted a petition against the Minister of Religious Affairs, regarding inequality in the allocation of funds for Jewish and Arab Cemeteries. The High Court of Justice, stressing the importance of the principle of equality in the allocation of state funds, has ordered the Ministry of Religious Affairs to rearrange its cemetery budget, so that the Arab sector receives its fair share (H.C.J. 1113/99 *Adalah, et al. v. The Minister of Religious Affairs*). At the time of writing this report, the Court's decision has not yet been carried out.

Article 19 – Freedom of Opinion and Expression

170. **Political Expression.** *In H.C.* 6396/96, *Zakin v. The Mayor of Be'er Sheva*, P.D. 53(3) 289, the High Court of Justice has held that freedom of political expression is entitled to the highest degree of protection, both because it is of major social importance, constituting the foundation of the democratic government, and because it is exposed, more than any other form

of speech, to abuse by the government. Thus, it was held that a municipal regulation should be interpreted in accordance with the right to political expression, therefore permitting the hanging of political banners on private buildings without obtaining a special license from the mayor.

Broadcast Media

171. Whereas the Israel Broadcast Authority is funded by a license fee on all television owners and a tax on car owners in addition to sale of commercial broadcast-time , the new second television channel and local radio stations established under the Second Television and Radio Broadcast Authority Law, 5750-1990, are operated by private franchisees and funded through sale of commercial broadcast-time alone.

172. In 1994, the Second Authority for Television and Radio began to issue franchises for local radio stations around the country. By 1996, 14 privately-owned local radio stations were operating, under government supervision. In 2000, the Second Authority for Television and Radio published a tender in search of prospective franchisers for the operation of an additional commercial channel (the "Third Television Channel").

173. In recognition of the power given to the franchisees and the risks of concentrating ownership of the media in the hands of a small number of dominant economic enterprises with vested economic or political interests, the law places a series of restrictions on the franchisees of the second television channel, detailed under article 19 of the Initial Periodic Report. In a similar manner, no company may hold a franchise to broadcast on the forthcoming Third Television Channel if it also holds a franchise for cable or satellite broadcasts (section 40(B)(1) of the Second Television and Radio Broadcast Authority Law, 5750-1990).

174. **Freedom of Information**

The 1998 enactment of the Freedom of Information Law 5758-1998 has given a solid legislative basis to the public's right of access to information. The law prescribes a procedure for submitting requests and their handling and imposes several duties on the public authorities. These duties include, inter alia, the publication of periodic informative reports, and the appointment – from among the employees of each authority – of a Commissioner to be in charge of making information available to the public, of handling requests for information and of implementing the provisions of this law.

The main innovation of the law is in recognizing the right of an Israeli citizen or resident to receive information from public authorities, regardless of whether he or she has any personal interest in it, and without having to state a reason for the request. Moreover, section 12 applies the provisions of the Freedom of Information Law to persons who are not citizens or residents of the State of Israel, regarding information concerning their rights in Israel.

Similar to other such laws around the world, the right of access to information is not unlimited. Section 9 of the law lists several categories of information which must not or which does not have to be delivered. In addition, section 14 prescribes that the provisions of the law

shall not apply to certain security agencies and the information produced, gathered, or held by them. In addition, there are several circumstances listed under section 8, in which a public authority may reject a request for information.

If a request for information under the law is rejected, the applicant or a third party may, under section 17, submit a petition to the District Court (or, in exceptional cases, to the Supreme Court). Notwithstanding the provisions of section 9, the Court may order that all or part of the requested information be given on conditions which it shall prescribe, if it is satisfied that the public interest in the information's disclosure is greater than the reasons for rejecting the request, on condition that disclosure of the information is not prohibited by an enactment.

Article 20 – Prohibition of Hate Propaganda

175. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 21 – Freedom of Assembly

176. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 22 – Freedom of Association

177. **Forming Trade Unions and joining them.** Since the submission of the Initial Periodic Report, the legal protection of the right to organize trade unions has been boosted by some important judicial decisions.

In the case of *Mifealey Tahanot v. Israel Yaniv* (46/3-209 National Labor Court, November 1996) the court annulled the dismissal of two workers after finding that the real ground for dismissal was their initiative to organize a workers committee. In this case the company had no previous workers organization and the two employees had clear intentions of initiating collective bargaining with the employer. This landmark case was important in two respects. First, it laid down two alternative legal grounds for the recognition of the right to organize as a basic right: a) the right derives from the concept of human dignity entrenched in Basic Law: Human Dignity and Liberty and b) the right derives from the general right to equality, namely the prohibition to discriminate against workers on irrelevant grounds, such as involvement in organizational activities. This issue was developed in the *Delek* case discussed below. Second, regarding which remedy is available in case of a breach of this right, the court recognized its competence to issue a reinstatement order. This was seen as an important initiative. In Israeli case law, reinstatement at work is generally limited to dismissals in contradiction with a collective agreement, where a specific legal provision exists, and within the public service where norms of administrative law apply in addition to private contract law. This remedy had previously been ruled out by the High Court of Justice in private labor contract relations, in light of a provision in a contract law according to which a court should not order the enforcement of a personal contract. The novelty of the *Mifealey Tahanot* case lies in considering a breach of a basic right as a legal ground allowing the enforcement of a private labor contract.

This ruling was recently clearly reinforced in the *Horn & Leibivitz Transport Co. v. The Histadrut* case (99/323 National Labor Court, July 2000). A bus transport company dismissed a group of drivers who tried to organize themselves in a union, just after the New General Federation of Labor (*Histadrut)* had expressed its willingness to recognize it under its federation. (For further information regarding the *Histadrut*, see paragraph 566 to the Initial Periodic Report.) The regional labor court issued a temporary reinstatement order, until end of proceedings. The company appealed to the National Labor Court, which upheld the decision. The courts' rulings at both instances relied on prior decisions, which had recognized the right to organize in labor unions as a basic human right. Here again, the remedy of reinstatement was declared the most effective one in order to protect this right, since an employer might not be deterred by the threat of compensation alone when deciding how to respond to his employees' organizational activities.

Interestingly, the company then reacted by firing about a hundred more drivers, arguing that it had to close a whole department. The *Histadrut* then threatened to appeal to the court in a contempt of court proceeding. The conflict ended by the parties signing a collective agreement.

In the case of *Delek The Israeli Petrol Company v. The Histadrut* (98/4-10 National Labor Court), the court extended the consideration of the legal basis for the recognition of the right to organize, introduced in the *Mifealey Tahanot* case mentioned above. The court ruled in favor of protection of the workers' right to organize. It stated that –

> "… the right to organize protects the worker's dignity at the place of work, where he usually spends a third of his day. The individual worker has less power than the employer, and in most cases he is unable to conduct fair negotiations. Joining a workers' union bolsters the worker's strength and provides a balance in his negotiations with the employer… in many cases the individual worker's dignity will only be secured by joining a group of workers, i.e., a workers union"

The court also analyzed the right to organize as "a two-dimensional right, realized in the actions of both the group and the individual".

Finally, the court further developed the legal construction of the right to organize on the basis of the non-discrimination principle. The question arose in this case in light of the fact that the Delek company chose to dismiss, in the context of legitimate economic dismissal and in accordance with the collective agreement in force, mostly members of the representative labor organization at the place of work. Only a few employees who were not members of the said organization were dismissed. The court ruled that consideration by the employer of union membership, when deciding upon economic dismissals, equated to unjustified discrimination between workers.

178. **The Right to Form of a Trade Union.** Since submission of Israel's Initial and Initial Periodic Report, the right to form a trade union was further qualified in the landmark decision of *Tadiran Kesher Inc. et al. v. The Histadrut* (97/41-96 National Labor Court, February 1998). During the life of a collective agreement Tadiran, an Israeli company, underwent a structural change, dividing itself into three sub-companies. The question arose what should the bargaining

unit be. The workers wanted it to be a single one while Tadiran wanted to conduct three distinct bargaining units. A strike broke on this ground, and the Tadiran filed a motion for a temporary injunction ordering the workers back to work.

The court denied the motion. Labor Court President Adler looked for a proper balance between the basic right of employees to organize and to chose their organization, and the employer's basic right to property entrenched in Basic Law: Human Dignity and Liberty. The employer's prerogative to manage his business was, in this case, countered by the workers' basic rights. The court said:

> "When balancing between the workers' right to organize and the employer's right to manage his business, a special weight should be given to the workers' right because their fate is embedded in the rights that are to be entrenched in the collective agreements applying to them. The employer's right to be part of a change in the bargaining unit is a relative one and is subordinate to the condition that it is not intended to impair organizational rights of workers…. The employer and the labor union have therefore to agree on the structure of bargaining appropriate for them. In a democratic society there is great importance in granting dignity and liberty to each worker. An expression of this is a worker's power to participate in the determination of the bargaining unit to which they belong This includes the power to influence changes in the bargaining unit, by way of negotiations between the labor organization who represents the workers and the employer who provides them with work."

The court decided that until an agreement was reached on the determination of the bargaining unit, the regular rules regarding industrial conflicts would apply, and the workers' right to strike was upheld.

179. **Number and Structure of Trade Unions in Israel**. No notable change in the structure of labor movements in Israel has occurred since the submission of Israel's previous report. The *Histadrut* remains the largest and most representative workers' organization in Israel, and still refrains from disclosing exact numbers on membership.

180. For further information regarding the status of trade unions in Israel, please see this report regarding the Covenant on Economic, Social and Cultural Rights.

181. **The Right to Strike.** Since the submission of the Initial Periodic Report a significant decision was handed down in the case of *Mekorot Inc. v. The Histadrut* (99/19 National Labor Court, August 1999). Mekorot Inc. is a government corporation, responsible for the supply of water to most Israelis. The right of its workers to strike was contested in this case by the public employer on the ground that such strike would impair its ability to provide vital services. The court granted only a limited injunction against the strikers. It held that the right to strike is a relative one, which must be balanced against conflicting rights. Therefore the injunction was construed in a way that left some room for a strike but not at the price of leaving people with no water. It did permit the workers to work only within the limited scope normally in usage during the Sabbath and holidays. It also urged the parties to get back to negotiations and instructed them to report to the court within four days.

182. **Restrictions Placed on the Right to Strike.** Since the submission of the Initial Periodic Report an important decision was handed down, qualifying the implication of the classification a strike as "unprotected". An unprotected strike will usually result in a court injunction ordering returning to work. Nevertheless, this was not so in the case of *The Tel Aviv-Jaffa Workers' Organization v. The Tel Aviv-Jaffa Municipality* (97/41-92 National Labor Court, February 1998). Even though the strike in this case was held without respecting the normal "cooling-off" period requirement, the court "protected" it. In the midst of collective negotiations the municipality had tried to bypass the workers' union by hiring a private contractor to provide services normally provided by the municipality's employees. The court considered this kind of privatization as a unilateral act by the employer, especially threatening both the individual workers and the workers' organization at the place of work. The court therefore used its discretion not to grant the injunction. It should be mentioned that one of the judges in the panel issued a dissenting opinion, not refuting the court's power to use discretion but arguing that the circumstances did not justify such an exceptional step.

183. **Statistics on Strikes in Israel**

The figures presented in the Initial Periodic Report (in article 246) can now be updated as following

Year	No. of works to rule	No. of strikes and lock-outs (excluding works to rule)	No. of persons involved in strikes and lock-outs	Work days lost
1960		135	14,420	368 ,49
1965		288	90,210	207,561
1970		163	114,941	390,260
1971		169	88,265	178,621
1972		168	87,309	236,058
1973	54	96	122,348	375,023
1974	49	71	27,141	51,333
1975	62	117	114,091	164,509
1976	76	123	114,970	308,214
1977	57	126	194,297	416,256
1978	55	85	224,354	1,071,961
1979	97	117	250,420	539,162
1980	54	84	91,451	216,516
1981	59	90	315,346	782,305
1982	79	112	838,700	1,814,945
1983	47	93	188,305	977,698
1984	74	149	528,638	995,494
1985	64	131	473,956	540,232
1986	92	142	215,227	406,292
1987	89	174	814,501	995,546
1988	93	156	327,193	516,071
1989	58	120	209,841	234,073
1990	75	117	571,172	1,071,279
1991	52	77	38,776	97,923

Year	No. of works to rule	No. of strikes and lock-outs (excluding works to rule)	No. of persons involved in strikes and lock-outs	Work days lost
1992	64	114	211 833	386,658
1993	40	73	462,208	1,636,866
1994	38	75	106,047	792,533
1995	51	71	75,792	257,796
1996	28	75	124,215	190,146
1997				
1998	10	53	275,478	1,227,722
1999	33	67	293,057	1,564,827

Article 23 – Protection of the Family

Measures of Protection

184. **Social Insurance and Entitlements**. As reported in the Initial Periodic Report, all families residing legally in Israel, regardless of income, are entitled to a "child allowance", a monthly grant which increases with the number of children in the family. In January 2001, a family with one child received NIS171 a month (approximately $US43); a family with two children received NIS343; with three children - NIS 685; four children - NIS1,379; and five children - NIS2,235 per month. In 1999, 891,500 families received child allowances, amounting to 19% of the total benefits paid by the National Insurance Institution (NII). In 2000, 912,481 families received child allowances, amounting to 17.6% of the total benefits paid by the NII.

185. Until 1997, the NII followed a policy of setting off child allowances against any income tax debts of the parents. This policy had a disproportionate effect on poorer families. In 1997, the NII Regulations in this regard were amended and the provision under which the set-of policy was operated was nullified.

186. The NII is also responsible for the payment of income support benefits. In May 2000, the NII paid income support benefits to approximately 127,131 families which did not earn the minimum level of income as determined by the Income Support Law, 5740-1980, and which were not covered by other income maintenance programs. In November 2000, the NII paid income support benefits to approximately 132,448 such families.

Maternity and Paternity Assistance

187. As of April 2000, women who are unable to work due to a high-risk pregnancy receive the equivalent of their salary from the NII, up to 100 % of the average wage.

188. The "maternity grant" given to the mother immediately upon birth of her baby or to the adoptive parents, to help cover some of the initial costs of preparing their home for the baby, is currently equivalent to NIS1,269 (slightly over US$300) .

189. From the third child on, families receive an additional "birth allowance" for twenty months. The allowance is equal to a certain percentage of the average monthly wage, and decreases with time.

190. Presently, maternity grant is given only to women who give birth in a recognized medical facility. This legal situation is problematic especially to Bedouin women, who occasionally give birth outside these medical institutions. Several draft laws seek to extend the range of maternity grant receivers to include women who give birth not in an official medical institution. These draft laws are still in the primary stages of enactment. Another draft law in its primary stages seeks to prohibit the dismissal of a worker undergoing in-vitro fertility treatments (IVF).

New Reproductive Technologies

191. In 1996, the birth rate in Israel was 2.9 (2.6 among the Jewish population, 4.6 among Muslims population, 2.6 among Christians, and 3.4 among the Druze). There has been a decrease in birth rate, most notably among Muslim women.

192. Between the years 1985-1995, there was almost a hundred per cent increase in the amount of births by single women. It is also noted that there has hardly been any change in the total amount of births by women under the age of 24.

193. **Fertility Treatments**. In 1996, 12,345 cycles of IVF treatment were performed, resulting in 1,950 live births (15.8 per cent). Births resulting from IVF treatments constitute 2.1 per cent of all live births in Israel.

194. **The Halperin Committee.** At this time, ovule donation is only permitted under Israeli law in the case of a self-donation from a woman undergoing IVF treatment. Following an ongoing public debate on the subject, the Minister of Health decided, on February 29, 2000, to establish a public committee, headed by Dr. Michael Halperin, to examine the social, ethical, religious and legal aspects of ovules donation. The committee is looking, *inter alia*, at the legitimacy of ovule donation by a woman other than the one undergoing the IVF treatment, and the appropriate supervision and registration procedures of such process. The committee shall look into the need for legislation to regulate the rights and duties of all parties involved in such IVF process, including the resulting children, and will submit its recommendations as to any related subject it finds relevant. (More information about the actions of the committee can be attained from the Israeli Ministry of Health web site – www.health.gov.il).

195. **Surrogate Motherhood.** As of October 2000, 78 surrogacy agreements were approved, resulting with the birth of 26 children in 19 child births (due to the prevalence of twins). Two other surrogate mothers are currently pregnant. Twenty-five couples whose agreements had been approved terminated the process midway, or completed the surrogacy process but without getting pregnant. Two of the prospective parents gave birth to children unaided by a surrogate after the approval of their surrogacy agreements.

Family Violence

196. In recent years there have been significant changes in dealing with family violence, particularly with respect to the deployment of the Israel Police Force. There has been an emphasis regarding victims of the crime. In view of recognition of the basic characteristics of these offenses, such as the need for an immediate response in order to prevent the danger, the need to evaluate the risks at each stage of police handling, the need to exhaust police procedures, including preventing access to weapons, the basic need for cooperation with treatment agencies in the community, and more, it was decided to set up a separate investigation system within the police force, for the area of violence offenses between spouses. The objectives of setting up the system are the following: focusing responsibility, professionalism in the police response, and a link with community treatment agencies.

The family violence system began to operate at the beginning of 1999. 170 special investigators were allocated to this special system. These investigators underwent a special five-day training program which included the legal, investigative, social and emotional aspects of the issue.

We should note that out of the 170 special investigators, 120 investigators are engaged in this task (including nine in the Arab sector) and 50 more investigators are engaged in such investigations, in addition to their regular duties, so as to ensure that at each police station there are at least two investigators in this function.

Marriage

197. In its comments on Israel's Initial Periodic Report, the HRC recommended that international standards for the age of majority in its current review of the minimum marriageable age for men and women.

By the time of the submission of the Initial Periodic Report, women were able to consent to marry without their parent's or guardian's permission from the age of seventeen, whereas there was no minimum age for males to consent to marry. The Marriage Age Law, 1950, was amended in 1998, and in accordance with the amendment, the rules applying to female youngsters now apply equally to males. However, the minimum marriageable age for both men and women remain 17.

Section 5 of the Marriage Age Law, 1950, provided for two alternative grounds for judicial permission of under-age marriage. The amendment in 1998 added a third ground which permits a young male to marry, if the woman he wants to marry became pregnant or gave birth to his child.

Article 24 - Protection of Children

198. **General.** Since the submission of the Initial Periodic Report, Israeli State agencies and society have remained constant in their efforts in the protection of children. The State of Israel recently submitted its initial report under the International Covenant on the Rights of the Child. This comprehensive survey of the rights of children in Israel is provided as an appendix to this report.

Welfare Services maintain

199. The recently enacted the Rights of Children at Risk to Services Law seeks to establish the entitlement of children, classified as children at risk, to receive certain services, and the government's duty to provide those services. The scope of services the child and his family shall be entitled to will be determined according to the degree of risk the child faces. According to this law, committees in the local authorities will be responsible to ascertaining the child's risk level (i.e., the degree of services the child is entitled to) and to the forming of the treatment plan for the child and the family. This innovating law is establishing, for the first time, the child's right to receive the services rather than the state's duty to supply them to him. On one hand, it provides a definition of the risk levels. On the other hand, it imposes a duty on the local authorities to provide services according to risk level, regardless of the budget concerns of the local authority, or of the Ministry of Labor and Social affairs. However, the law limits the period during which the child is entitled to the benefits to one year in order to ensure a close watch over the status of the child and his family, and of the success of the intervention program prepared for them. The law also requires that the child be given a right of hearing during the discussions and that the child and his family will be able to participate in the preparing of the treatment plan. In addition, it gives precedence to services which allow the child to remain with his family.

200. **Welfare Services in the Criminal Process.** The Ministry of Labor and Social Affairs also bears primary responsibility for handling cases of juvenile delinquency, investigating allegations of child abuse and neglect not involving the family, and investigating minors under 14 years of age who are suspected, by the children's investigators of the Ministry of Labor and Social Affairs, of being victims and witnesses of offenses of prostitution and indecency, sex-related crimes and offenses of endangering life and health, or violence by a parent against his child. The law was recently expanded to additionally include offenses against the person under Chapter 10 of the Penal Law, 5737-1977, and offenses of endangering life and health and violence of any responsible person as defined in section 368A of the Penal Law against a minor for whom he is responsible. This expansion to the law came into force on January 1, 2001, although bills have been introduced into the legislative process to reduce the effect of this expansion.

201. In each case involving a juvenile criminal defendant, a case officer at the Juvenile Probation Service within the Ministry prepares a pre-trial report on the defendant's behavior, physical and mental health, and potential for rehabilitation, as well as post-trial sentencing and treatment recommendations.

202. In the past year, the police defined the function of an officer/prevention worker at each police station, whose function is to be employed in the area of prevention of offenses among minors. In the large part, these workers have an academic background in social sciences and/or behavioral sciences and some of them are longstanding juvenile workers. Furthermore, many additional positions have been allocated to the juvenile units, most of which are already manned, so that by the end of the year 2000 the juvenile system would have doubled in size compared to 1997.

Child Abuse

203. Since the submission of the Initial Periodic Report, several laws relevant to the issue of child abuse have been enacted: The Law of Evidence Revision (Protection of Children) (Amendment No. 6) Law, 5760-1999, which came into force on June 9, 2000, and provided, *inter alia*, that investigations regarding children under this law by child investigators of the Ministry of Labor and Social Affairs, would be recorded on video. An additional law recently enacted is the Law of Evidence Revision (Protection of Children) (Amendment No. 7) (Definition of Parent) Law, 5760-2000, which expanded on the definition of parent to allow the court to order that the testimony of a witness against his parent, in a sex-related crime, shall be heard not in the presence of the accused parent, so that it will also include a partner of a parent, a common law spouse of the parent, an adoptive parent and a guardian.

204. **Sexual Abuse.** A 1998 amendment to the Penal Law abolished the distinction between male and female minors as for the age of consent regarding the offences of sodomy and consensual illegal intercourse, setting it at the age of 14-16 for both genders. In addition, the amended law set a minimum penalty for severe sex offences – at least one-fourth of the maximum penalty for the offence, except in the rare cases where the court uses its discretion to reduce the sentence.

205. **Child Prostitution.** Amendments to the Penal Law from 1998 made the advertisement of prostitution services given by minors (section 205a) a criminal offence, even if the provider of the service was not actually a minor (section 205b). It was additionally made illegal to use minors in pornographic advertisements (sections 214b-214b(3)**)**.

206. A proposed amendment to the Penal Law seeks to curb the possibility of sexual abuse of children and broaden the scope of the legal protection of children. The proposal suggests to apply the extraterritorial principal on prostitution offences against minors. It also suggests to add restrictions to the double-jeopardy principal as to prostitution and pornography offences against minors so as to make it possible to try offenders in Israel even though the act is not a criminal offence in the country in which it was performed.

Protection of Children in Legal Proceedings

207. In the Law of Evidence Revision (Protection of Children) (Amendment No. 6) Law, 5760-1999 the title "youth investigator" was amended to "child investigator". In the same amendment, the prohibitions on publication were expanded and the penalty for publication of a

prohibited publication was made more severe, up to three years imprisonment and a fine currently standing at 150,000 NIS. Furthermore, it was expressly provided that the hearing would be held *in camera*, unless the court orders otherwise.

208. The recently established inter-ministerial Committee on the Status of Criminal Offences Victims has established a sub-committee, tasked with proposing a plan of action for the treatment of minors who were victims of sex offences.

209. The National Council for the Rights of the Child is setting up a project for the accompaniment and support of minor victims and witnesses during the criminal procedures of sex offences. The projects provide the minor and his or her family with the assistance of a lawyer or counselor, whose main part is providing information to the minor and preparing him or her to the forthcoming legal proceedings. The council also strives to promote changes in legislation and policy to further strengthen the status of the victim within the criminal proceedings.

Other Measures of Protection

210. **The Penal Law (Amendment No. 52), 5758-1998**. This law, *inter alia*, expands and tightens the penalty for use of an image and body of a minor for the purpose of advertising and presentation of indecent material, so that one publishing indecent material with an image of a child, including imaging and drawing, is liable to a penalty of five years imprisonment. The use of a minor for indecent publication or indecent presentation is punishable by seven years imprisonment, and if it was done by a person responsible for the minor or with his consent, ten years imprisonment. Anyone a person possessing such publication, not incidentally and in good faith, is liable to one-year imprisonment.

Education

211. In 1999, The Knesset passed legislation which lowers the age for free, compulsory education to ages 3-4 (instead of age 5, as was previously mandated). This law is being gradually implemented throughout the country. For younger children, an extensive system of early childhood and day care centers, with means-tested discounts, is available, and the cost is subsidized by the Ministry of Labor and Social Affairs.

Pupils Rights Law, 5761-2000

212. The newly enacted Pupils Rights Law 5761-2000 (hereinafter: “the Pupils Rights Law”) is intended to establish principles for the rights of pupils in the spirit of human dignity and the principles of the United Nations Convention on the Rights of the Child, while preserving the uniqueness of the various educational institutions as defined in the Compulsory Education Law, 5709-1949, the State Education Law, 5713-1953, the Special Education Law, 5748-1988, and any other law.

Under section 3 of the Pupils Rights Law, every child and adolescent in the State of Israel is entitled to an education in accordance with the provisions of every law.

213. **Prohibition of Discrimination.** Under section 5(a) of the Pupils Rights Law, a district education authority, educational institution, or a person acting on their behalf, shall not discriminate against a pupil for sectarian reasons, for socio-economic reasons, or by reason of political orientation, whether of the child or of his parents, in any of the following:

(1) Registration of a pupil, or his admission to or expulsion from an educational institution;

(2) The establishing of separate educational curricula or advancement tracks in the same educational institution;

(3) The establishing of separate classes in the same educational institution;

(4) Rights and obligations of pupils, including disciplinary rules and their application.

Under section 5(b) of the Pupils Rights Law, any person who infringes the provisions of this section shall be liable to imprisonment for one year, or a fine, as provided under section 61(a)(3) of the Penal Law, 5737-1977.

214. **Disciplinary Measures.** Under section 10 of the Pupils Rights Law, It is the right of every pupil that discipline be maintained in the educational institution in conformance with human dignity and, in that regard, he is entitled that he not be subjected to corporal or degrading disciplinary measures. In addition, section 11 of the Pupils Rights Law prescribes that an educational institution shall not subject a pupil to punitive measures for an act or omission of his parents.

215. **Educational Disparities**. The following tables provide data concerning the diminishing, yet still existing, educational disparities between the different sectors within Israeli society. This data regards the number of persons with 4 or less years of education, and the number of matriculation certificate candidates and receivers.

Table 1: Population with 0-4 years of Education, 1999

Jews				Arabs and Others			
Sex and age	Thousands	Years of schooling (percentages)		Sex and age	Thousands	Years of schooling (percentages)	
Women		**0**	**1 to 4**	**Women**		**0**	**1 to 4**
Total	**1 871.9**	**3.4**	**1.6**	**Total**	**370.2**	**10.7**	**5.5**
15-17	121.2	-	0	15-17	36.2	1.9	0.6
18-24	283.0	0.3	0.2	18-24	79.6	2.3	0.6
25-34	338.9	0.6	0.1	25-34	97.6	4.1	1.6
35-44	314.0	0.7	0.2	35-44	67.8	5.6	6.2
45-54	305.6	1.2	0.5	45-54	40.4	16.6	16.1
55-64	187.9	7.1	3.9	55-64	24.9	38.6	17.7
65+	320.9	13.1	5.8	65+	23.3	57.6	12.6
Men				**Men**			
Total	**1 744.3**	**1.5**	**1.2**	**Total**	**371.9**	**3.2**	**4.8**
15-17	130.2	-	0.2	15-17	36.3	0.3	1.9
18-24	294.4	0.2	0.1	18-24	82.6	1.1	1.5
25-34	338.7	0.4	0.2	25-34	99.8	1.0	2.0
35-44	292.4	0.7	0.3	35-44	71.1	2.3	3.4
45-54	285.7	0.8	0.5	45-54	39.7	4.0	4.8
55-64	164.5	2.7	1.8	55-64	24.7	6.9	16.2
65+	238.1	6.4	5.9	65+	17.4	26.6	31.2

Table 2: Attendance Rates in Regular Education Frameworks According to Age and Sector (percentages), 1998-1999

Age	Jewish sector	Arab sector
2	67.6	5.1
3	89.3	22.5
4	92.9	33.5
5	94.0	80.7
6	97.8	97.2
14	99.7	92.6
15	97.7	79.4
16	94.7	75.6
17	89.6	68.3

Table 3: Age Group 17 - Percentage of Matriculation Candidates and Those Entitled to a Matriculation Certificate, 1998

	Matriculation candidates	Entitled to a matriculation certificate
Total	**63.5%**	**40.1%**
Jewish education	68.3%	44.8%
Arab education (including Druze)	45.1%	22.2%
Druze education	69.4%	30.7%

In 1999, the average number of students per class was 26 in the Jewish sector and 30 in the Arab sector. During the period from 1995 to 1999, the average number of students per class declined in both the Arab sector (30.9 in 1995) and the Jewish sector (27.4 in 1995).

216. **The Extended School Day and Supplementary Education Law, 5757-1997**. This law is aimed to further advance equal opportunity in education, and contribute to helping the children make the most of their natural abilities. It provides that four school days per week shall last for no fewer than eight academic hours each. The law is being gradually implemented, with a preference to municipalities and neighborhoods in need of additional assistance in education. The full implementation of the law is to be completed during the year of 2001.

Education in the Arab Sector

217. The Education and Welfare Services Department in the Ministry of Education (EWS) is responsible, since its establishment in the 1970s, for the advancement of weaker populations by applying special programs and projects in the educational system. For the first ten years of its existence, the EWS did not handle the Arab and Druze sectors, which were dealt with by a special unit in the Ministry of Education.

218. In 1997, The Legal Center for the Rights of Arabs in Israel petitioned the High Court of Justice, demanding that the Ministry of Education apply the EWS special reinforcement programs in the Arab municipalities, as well as the Jewish ones (*HCJ* 2814/97 *The High Follow-up Committee on Matters of Arab Education in Israel et al. v. The Ministry of education, Culture and Sports*).

219. **The Ben-Peretz Committee.** Following the petition, the Ministry of Education set up a special committee, headed by Professor Miriam Ben-Peretz, to develop a five year plan for education in the Arab sector - the years 1999-2003. In 1998, the Ben-Peretz Committee presented its comprehensive report, with recommendations ranging across several policy areas.

The recommendations made by the Ben-Peretz Committee include:

The building of approximately 1,600 classes (including kindergartens and special education) within five years;

Significantly expanding the programs applied by the Education and Welfare Services Department (EWS);

Significantly expanding the Tutorial Project (*Perach*), in which university students give tutorials to school children in need of additional help;

The establishment of a experimental program for the prevention of school drop-out in five municipalities as a groundwork for a wider model;

Expanding the scope of teachers' training, and the establishment of regional centers for teachers' training;

Granting 50 teachers with scholarships in the field of science and technology;

The founding of prestigious study courses in order to attract competent students, as well as technologic alternatives which will answer to the needs of weaker students;

Expanding the budget for construction and equipping of science labs;

Improving the efforts to identify students for the special education, and adding approximately 13,000 academic hours and 120 positions for educational psychologists;

Decreasing the number of children in every class;

Establishing regional education centers.

220. In July 1999, the government had decided to start the implementation of the committee's recommendations. The Ministry of Education will allocate NIS50 million a year for five years. In addition, the Ministry of Education decided on the implementation of an affirmative action policy, favoring education in the Arab sector to the education in the Jewish sector. The five-year plan includes, *inter alia*, the allocation of 37% of the pre-school education budget to the Arab municipalities, the allocation of 29.5% of the Ministry's construction budget to building classes in the Arab schools and the doubling of funding assigned to the Arab education for special guidance, making it 18% of the total budget. In addition, the growth rate of teaching positions in the Arab sector was 25%, while in Jewish sector, it was only 10%.

221. The efforts made by the Ministry of Education have led to the reduction of gaps between the sectors, but not to their complete elimination. The Follow-up Committee on Matters of the Arab Education in Israel asserted that the plan lacks sufficient reference to some of the committee's recommendations, such as the additional positions for psychologists and visiting officers, the establishment of regional administrations for the special education, the reduction of crowding in the special education classes, funding the establishment of special programs for gifted Arab students, the opening of teacher training centers, and the allocation of funds for the adaptation of exams and diagnostic tools for the needs of the Arab population.

Genetic Information

222. Under the Genetic Information Law, 5760-2000, the ability to acquire and/or use a DNA sample from a minor is subject to the written consent of the child's legal guardian. In the case of a minor over the age of 16, the child's own written consent is also required. The law limits the objectives for which a genetic sample can be attained and provides that the taking of a genetic sample is only possible if the act is certain to not cause the child any physical or mental damage. The conducting of genetic testing on a minor, for the benefit of someone other than a minor's family member, requires the written consent of the legal guardian as well. The findings of a test given to a minor may not be given to his legal guardian unless the existence, or non-existence, of a disease or a disease carrying gene is discovered, and a reasonable medical assessment shows that intervention or treatment at the early stage might prevent or postpone the eruption of the disease or improve the minor's medical condition, prevent the eruption of a disease in other members of the minors family, or be of fundamental value to somebody else, without causing any physical or mental damage to the minor.

In addition, the law prescribes that a minor over the age of 16 taking part in a research involving genetic testing shall be able to instruct the researchers as to the protection of his personal data. When the minor turns 18 years old, he will be able to revoke, limit or change any consent regarding his participation in the study.

Physical Disciplining of Children

223. Until recently, section 24(7) of the Tort Ordinance, enacted in 1944, granted a defense to a charge under the tort of battery to a parent, a legal guardian or a teacher in cases where the plaintiff was a minor, and the assault was reasonably necessary for educational purposes. A 1999 draft law is proposing the amendment of the Tort Ordinance, and the abolishment of above mentioned article 24(7).

224. The legitimacy of "reasonable physical disciplining" was rejected by the Supreme Court in C.A. 5224/97 *The State of Israel v. Rachel Sde-Or*. The court overturned the acquittal of a nursery school teacher charged with hitting infants that were left under her care, stating that:

> "An educational philosophy which stands for the use of force for educational purposes, does not correspond with the predominant norms in our society, especially when young children are concerned.… For that matter, the severity of the physical punishment used against a child is insignificant. As a rule, physical punishment cannot be a legitimate method for school teachers, nursery teachers or any other educator. The wrong standpoint on this context puts the wellbeing of children in jeopardy, and might harm the fundamental values of our nation – human dignity and the integrity of one's body".

Furthermore, the Supreme Court has held that the use of physical punishment against preschool children does not fulfil the demand of "reasonably necessary for educational purposes", and thus does not entitle the aggressor to the defense in of article 24(7) of the Tort Ordinance.

225. In a recent decision (C.A.4596/98 *Anonymous v. The State of Israel*), the Supreme Court has held that the criminal prohibition of physical punishment applies to parents as well, stating, *inter alia*, that:

> "Physical punishment is not only painful or degrading as an educational method, but also unable to truly accomplish its goals, causes physical and psychological damages to the child, and violates the fundamental right of children in our society to dignity and the integrity of the mind and body. A court examining the normative aspect of a parent's behavior towards his child shall weigh the contemporary judicial approach to the status and the rights of the child. Thus in many other states in the world, and thus in Israel, in the era following the enactment of Basic Law: Human Dignity and Freedom, and Israel's ratification of the International Convention on the Rights of the Child. Today, one can ascertain that in a society such as ours, the child is an autonomous person, with independent interests and rights. Society is obligated to protect him and his rights."

226. Ministry of Education guidelines strictly forbid the use of all sorts of physical punishment as a disciplinary method. The use of verbal violence, such as offensive or degrading remarks, is also forbidden. Remedies for a breach of the guidelines are being enforced by both the penal system and by disciplinary means. In addition, as mentioned under section 196 to the Present Report, section 10 of the newly enacted Pupils Rights Law 5761-2000 prescribes that no pupil shall be subjected to corporal or degrading disciplinary measures.

Family Violence

227. The Penal Law was recently amended (amendment 56 - the application of a minimum punishment for offences of violence against women and children)**.** The amended law sets the minimal sentence for those convicted of offences involving severe violence against a family member at no less than one fifth of the maximum possible sentence. However, the court may, on special cases, use its discretion and reduce the sentence.

Children with Disabilities

228. **The Equal Rights of Persons with Disabilities Bill, 5760-2000** creates a comprehensive statutory framework concerning the rights of people with disabilities, including the rights of children with disabilities. For further information on this subject, see article 26 below.

229. **The Rehabilitative Day Care Facilities Law, 5760-2000.** This law aims to ensure suitable rehabilitative, therapeutic and educational treatment for mentally retarded or otherwise disabled infants, between the ages of 1-3 years. The funding of the rehabilitative day care is to be divided between from the state, the health funds and the parents.

Foreign Workers' Children

230. During the last decade, many foreign workers arrived in Israel from all over the world (For further information regarding the status of foreign workers, see article 8 above). The National Health Insurance Law does not apply to foreign workers and their children, even if they are legally present in Israel. Subsequently, the foreign worker is required to ensure himself, and

not all-Israeli employers provide health insurance to their employees. At present, there are approximately 2,500-3,000 children of foreign workers living in Israel. Some of their parents have stay and work permits, and some have remained in Israel illegally. Many of these children don't have any kind of health insurance, and their parents cannot afford medical treatment. It should be noted that emergency services are granted without distinction to anyone arriving at outpatients' emergency wards of hospitals. In addition, "Physicians for Human Rights", An NGO, established a clinic for foreign workers in Tel Aviv, where most of the foreign workers reside, which provides for additional medical treatment. The clinic employs, on a voluntary basis, family physicians, pediatrics, and general physicians, along with hospital and health-fund clinic (*Kupat Holim*) nurses. The clinic operates three times a week, and offers basic medical services to both legal and illegal workers, at modest prices.

231. In July 2000, The Foreign Workers law, 5760-2000 came into force. Under this law, the Minister of Health is to make regulations defining an assortment of services the insurance companies are required to supply the foreign workers with. The regulations have been published recently. As for the foreign workers' children, the Ministry of Health had published a tender to supply them with health care services. One of the health funds was chosen as a supplier, and the arrangement, which took effect on 1.2.2001, applies the following rules:

Children born in Israel can be enrolled, if at least six months have passed since the mother's arrival in Israel, to the health fund chosen in the tender, within six months from the child's birth. Then, the child will be immediately insured. Failing to enroll the child within a period of six months shall result in a delay of six months in the child's entitlement to the health fund's services. However, every child is immediately entitled to emergency services without any waiting period.

Children not born in Israel can be enrolled in the health fund chosen in the tender no earlier than six months from the child's arrival in Israel. The child's entitlement to the health fund's services shall begin 6 months from the date of enrolling. Again, emergency services will be provided without any waiting period.

The arrangement is to apply to all children of foreign workers, regardless of the legality of their parents' stay in Israel.

232. In *C.A. 3275/98, Welfare Officer, the City of Holon v. Anonymous*, the Tel Aviv District Court reviewed a request of the social services to order the performance of an operation on a two-year-old girl deserted by her mother, a Moldavian citizen, who left Israel shortly after giving birth to her. The court held that by accepting the International Convention on the Rights of the Child, the state took upon itself to provide children with the highest attainable level of health, and ordered that a medical procedure necessary to improve the girl's quality of life be performed regardless of her nationality.

Homeless Children

233. During the last few years, there had been growing awareness to the problem of homeless people in Israel. According to recent evaluations, there are approximately 3,000 homeless people living in Israel, nearly all of them adults with no children. Still, there are some

adolescents or runaway children among the homeless. The Society for Youth in Distress and the Authority for Youth Protection operate, in conjunction with other organizations, a support network for these youths, including two shelters for homeless youths located in Tel Aviv and in Jerusalem; a treatment "cafe" located at the Tel Aviv Central Bus Station, and special vehicles which patrol areas in the major cities where homeless youth gather.

Article 25 - Access to the Political System

234. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 26 – Equality Before the Law

235. **Elimination of Discrimination in the Private Sphere.** Discrimination by private parties is prohibited in Israeli law only to the extent that legislation explicitly so provides. The legal position in this area has changed dramatically due to the recent enactment of the Law for the Prohibition of Discrimination in Products, Services and in Entry to Public Places, 5761-2000. Under section 3(a) of this law, a provider of products or a services to the public, or anyone engaged in the operation of a public place, is prohibited from discriminating on the grounds of race, religion or religious group, nationality, country of origin, sex, sexual orientation, views, political affiliation, personal status, parenthood or disability. Such discrimination constitutes, under section 5, a civil wrong ,enforceable under the provisions of the Tort Ordinance. In addition, such discrimination constitutes, under section 9, a criminal offence, punishable by fine. Under section 11, this law applies to the state as well. It also establishes a series of legal presumptions, passing the burden of proof to the defendant in cases of *prima facie* discrimination.

Rights of People with Disabilities

236. **Legislation.** On February 23, 1998, the Equal Rights for People with Disabilities Law, 5758-1998 was passed by the Knesset, establishing, for the first time, the statutory right to equality and human dignity of people with disabilities and creating a new system of obligations for the State of Israel *vis-a-vis* its disabled citizens. The principal impetus for the enactment of the Equal Rights for People with Disabilities Law, 5758-1998 was The Report of the Public Commission on Comprehensive Legislation Concerning the Rights of People with Disabilities (the "Public Commission") which was submitted to the Minister of Justice and the Minister of Labor and Social Affairs in July 1997.

The Equal Rights for People with Disabilities Law, 5758-1998 came into effect on January 1, 1999, and was only part of the complete Bill. It includes provisions concerning basic principles, general principles, equality of employment, accessibility of public transportation and establishment of a Commission on Equal Rights for People with Disabilities. The remaining chapters of the Bill were re-tabled before the Fifteenth Knesset in the form of the Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999.

On August 1, 2000, the Equal Rights for People with Disabilities Commission was formally established and is presently in its formative stages. Although two years have elapsed since the entry into force of the Equal Rights for People with Disabilities Law, 5758-1998, many of its provisions have not yet been implemented, mostly for budgetary reasons. However, efforts are being strongly made in regard.

The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999 passed its first reading on December 22, 1999, and is currently being debated in the Labor, Social Affairs and Health Committee of the Knesset.

At the same time, laws and legislative amendments are being enacted in specific areas promoting the rights of particular groups of people with disabilities (the mentally-ill, disabled infants, mentally-retarded persons, etc.)

237. Starting on October 5, 1999, the disabled persons community in Israel declared a strike. The strikers demanded that the government grant basic living conditions to them, specifically, the correction of flaws in the area of social security sphere. After 37 days of a sit in strike in the lobby and forecourt of the Ministry of Finance's main offices, the government decided to give in to the demands and improvements were made to the entitlements of those persons with severe disabilities to mobility allowance and special services benefits.

238. Most public buildings and places in Israel are inaccessible to people with disabilities who are wheelchair users (examples are government offices, local authority offices, schools, universities, coffee houses, theaters, restaurants, courts, etc.).

239. An amendment to the Planning and Building Law, 5728-1968 and accompanying regulations enacted at the beginning of the 1980s provided that a building permit would not be granted for a public building if lacking the provision of special arrangements for people with disabilities. However, this legislation only applies to public buildings. Moreover, the legislation distinguishes between Type A public buildings and Type B public buildings, where the latter, which include, for example, schools, government ministries and local authorities, are only obliged to make special arrangements on one floor in order to obtain a building permit. The Local Authorities (Provisions for People with Disabilities) Law, 5748-1988 obliges local authorities to lower sidewalks on pedestrian crossings and junctions.

240. As a general rule, public transportation in Israel is inaccessible to persons with disabilities, i.e., there are few buses which are equipped for travel by wheelchair users.

241. The Equal Rights for People with Disabilities Law, 5758-1998 provides people with disabilities with a right of access to public transportation (city buses, trains, boats, air transport) and charges the Minister of Transport with the enactment of regulations in relation to the ways in which, and the time frame within which, public transportation is to be made accessible. These regulations have yet to be enacted. Recently a petition was submitted to the High Court of

Justice by 20 organizations engaged in promoting the rights of people with disabilities. In the interim order the Minister of Transport was ordered to submit draft regulations to the Knesset by the commencement of the winter session.

242. Recently, the importation of a new type of taxi-cab, suitable for wheelchair users, has begun.

243. The Knesset and Prime Minister Elections Law [Consolidated Version] 5729-1969 contains provisions concerning the accessibility of polling stations for people with disabilities, primarily aimed at providing at least one accessible polling station for every 20,000 residents. These and similar provisions in the Local Authorities (Elections) Law, 5725-1965, are seriously inadequate at this time.

244. The elections law was amended to include a provision whereby every person whose mobility is impaired may vote at any polling station for handicapped persons, by means of the so-called "double envelopes" method.

245. Several public information services are not accessible to people with sensory disabilities (the partially sighted, blind persons, people who are hard of hearing or deaf).

246. Television programs were, until recently, rarely accessible to people who are hard of hearing or deaf. The Deaf Persons Relief Law, 5752-1992 includes provisions requiring the Broadcasting Authority: (A) to translate at least one news program a week into sign language; (B) to add subtitles to a quarter of these non-live broadcasts - Hebrew broadcasts with Hebrew subtitles, and Arabic broadcasts with subtitles in Arabic. As a result of two petitions to the High Court of Justice (1994), the Broadcasting Authority now translates the current affairs program "From Today to Tomorrow", which is broadcast at 23:30, into sign language, once a week on Thursdays.

A petition was recently filed in the High Court of Justice by "Bekol", an organization for the hard of hearing and hearing impaired, demanding that the Broadcasting Authority fulfill its obligations under the Deaf Persons Relief Law and add subtitles to one-quarter of its non-live broadcasts. After an interim order was granted, the Broadcasting Authority has agreed that from now on it shall add Hebrew subtitles to at least one-quarter of its non-live Hebrew broadcasts, and Arabic subtitles to at least one quarter of its non-live Arabic broadcasts. In addition, the Broadcasting Authority shall see to it that shows accompanied by subtitles will be noted in the programming schedules published in the media. (H.C.J 5959/00 *Bakol v. The Broadcasting Authority*).

247. The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999 institutes an innovative and comprehensive scheme covering physical, sensory and social accessibility.

Employment of People with Disabilities

248. Unemployment rates among people with disabilities are high. In a survey conducted by the Service for the Blind of the Ministry of Labor and Social Affairs it was found that 72 per cent of the blind persons are unemployed (March 1997). The Rehabilitation Department of the Ministry of Labor and Social Affairs estimates the rate of unemployment among people with severe disabilities, physical illness, mental illnesses and retardation is 70%-75%. In a survey conducted in1992, unemployment levels among deaf people aged 30-64 were found to be at 18%-22%. Moreover, experts testifying before the Public Commission pointed to professional flaws in the area of employment rehabilitation of people with disabilities in Israel. One specific criticism of the experts was that insufficient attention is devoted to free market employment alternatives, as opposed to segregated employment frameworks, given that the latter make insufficient use of the qualifications of the employee, and fail to realize his/her personal employment potential.

249. People with disabilities in Israel suffer from wage discrimination. The Minimum Wage Law, 5747-1987 does not apply to people with physical, mental or intellectual disabilities employed in state-supported "protected enterprises", and these employees generally earn only several hundred NIS per month, regardless of their output. Section 17(a) of the law authorizes the Minister of Labor and Social Affairs to enact regulations to the effect that the provisions of the law shall apply to such employees. The Minister of Labor and Social Affairs has yet to enact such regulations. The Minimum Wage Law was amended in 1997, adding Section 17(b), and the Minister of Labor and Social Affairs was authorized to prescribe, by way of regulations, a reduced minimum wage for people with disabilities who are not covered by section 17(a) of the law, effectively people with disabilities. The regulations have yet to be enacted. (Draft regulations were recently circulated for the comments of the pertinent government ministries and public organizations.)

250. The Equal Rights for People with Disabilities Law, 5758-1998 devotes one of its principal chapters to a series of provisions establishing the right of people with disabilities to employment equality. Section 8 of this law prohibits discrimination in employment on the grounds of disability, and defines discrimination as, *inter alia*, the failure to make reasonable adjustments to the position. The Minister of Labor and Social Affairs and the Minister of Finance are charged with the enactment of regulations providing for state aid in the financing of adjustments. Such regulations have not yet been enacted. A transitory provision of seven years' duration under section 9 of this law requires a person who employs in excess of 25 employees to ensure fair representation of people with disabilities in his or her workforce; In addition, section 28 of this law contains an indirect amendment to the State Service (Appointments) Law, 5719-1959 with respect to the duty of fair representation of people with disabilities in the civil service. Fair representation is still inadequate.

Section 16 of the Equal Rights for People with Disabilities Law, 5758-1998 prescribes that the Minister of Labor and Social Affairs shall initiate and develop programs for employment rehabilitation of people with disabilities and that he shall submit a report each year on this matter to the Labor, Social Affairs and Health Committee of the Knesset. To date, no such report has been submitted to the Knesset. Draft regulations regarding the granting of priority to people

with disabilities in the allocation of parking spaces at workplaces were recently submitted by the Minister of Labor and Social Affairs to the Labor, Social Affairs and Health Committee of the Knesset, and a meeting has since been convened for the approval of the regulations.

251. Last year, the Bar Association (Arrangements for Examination in the Laws of the State of Israel and Practical Matters) Rules, 5723-1962 were amended, so as to include the following provisions:

> "(a) With respect to a written examination under rule 18B, the examining committee, at the request of an examinee who is a person with a disability, within the meaning of the Equal Rights for People with Disabilities Law, 5758-1998, may prescribe the modifications required for such person, on account of his or her disability, which shall ensure that he will be examined under conditions which are equal, as far as possible, to those of the other examinees.
>
> (b) Modifications determined by the examining committee, as stated in sub-rule (a), may be by way of prescribing a form of examination not included within rule 18B(a)".

252. Pupils, parents and teachers who are wheelchair users are physically unable to enter many of the school buildings in Israel, as well as classrooms and various study and social facilities. As stated above (see the chapter on accessibility above), the law requires no more than one floor in a school to be accessible, even where the school is housed in a modern building, with many floors and levels. Enforcement of this legislation is inadequate. In the case of *Botzer et al v. Maccabim-Reut Local Council et al*, 50(1) P.D. 19 the High Court of Justice established (in March 1996) the right of pupil in a wheelchair to independent, safe and dignified accessibility at school. However, this precedent did not bring about any real change beyond the individual *Botzer* case, and the Ministry of Education has still not prepared a multi-year plan on accessibility in schools in Israel.

253. The objective of the Ministry of Education is to integrate pupils with disabilities into the ordinary education system. However, for many years the view has prevailed in the Ministry of Education, that pupils with disabilities who are integrated in regular schools lose their basket of services under the law. The numerous complaints reaching the Ministry of Education on this matter, and regarding the state of special education in Israel in general, led former minister of education, Mr. Yossef Sarid, to appoint the Committee to Examine the Implementation of the Special Education Law. On July 20, 2000, the committee submitted its report and recommendations, being, in essence, the recognition of the right of pupils with special needs to study together with children of their own age, and to achieve results according to their ability by being allowed to realize their potential, and the duty of society to prevent this right from being denied, other than in exceptional cases, and taking into consideration the wishes of the family.

254. A wide gap exists in the area of special education between the Jewish sectors and minority sectors. Most children with disabilities in the Arab and Bedouin sectors do not study in educational frameworks which meet their needs and minority schools for special education existing in these sectors do not comply with the minimum level of conditions required in an educational framework. Children of various ages and with various disabilities study in the same

classes, and there is a severe lack of professional personnel to deal with those children having special needs, i.e., speech therapists, occupational therapists, physiotherapists, and the like. The Ministry of Education has recently issued a new policy statement of closing gaps in this area.

255. The Rehabilitative Day-Care Centers Law, 5760-2000 was recently enacted as a result of a private Knesset Member initiative, and establishes the right of an infant with severe disabilities to treatment in a rehabilitative day care center in accordance with a basket of services (the law shall come into effect on April 9, 2001).

256. The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999 includes a chapter establishing the right of a person with disabilities to a education and to schooling according to his needs.

257. Recreation and leisure, which take up increasingly more time in modern life are no less important to people with disabilities. However, people with disabilities, both adults and children, often find themselves outside the diverse cultural life which Israeli society offers. First, much of the cultural and leisure sites are inaccessible to persons with physical or sensory disabilities (see above), and many cultural activities are not relevant to people with who are mentally retarded. Second, local government in charge of these areas has no planning in this area: there is no special department and no exclusive budget for activity for people with disabilities. As a result of this lack of appropriate attention to the special needs of adults and children with disabilities, the social isolation from which these people suffer increases.

258. The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999 includes a provision imposing an obligation on the State to initiate and develop programs in the areas of culture, leisure and sport for people with disabilities, giving priority to their integration in regular programs.

259. **Sexual Abuse of People with Disabilities.** People with disabilities, and especially with mental or psychiatric disabilities, are found to be exposed to sexual abuse or assault more than anyone else. The police and the judicial system are not adequately prepared to deal with this phenomenon. Procedures of investigation and giving testimony have not yet been adapted to the special needs of people with disabilities who are victims of sexual or violent offences.

In order to solve this problem, a committee headed by Deputy Attorney General Ms. Yehudit Karp was established in the Ministry of Justice. The objective of the committee is to adapt methods of interrogation and testifying which will suit the special needs of people with disabilities. The committee is currently preparing draft legislation dealing with these issues.

Multi-Year Plan for Development of Arab-Sector Communities

260. A comprehensive government resolution was put forward in October 2000, regarding all aspects of the development of Arab-Sector communities. It follows thorough preparatory work, involving most government agencies. The decision, translated in full from the original Hebrew version, is as follows:

"In General

(a) The government of Israel regards itself as obligated to act to grant equal and fair conditions to Israeli Arabs in the socio-economic sphere, in particular in the areas of education, housing and employment.

(b) The government regards the socio-economic development of the Arab-sector communities of Israel as contributing toward the growth and development of all of Israel's society and economy.

(c) The government shall act for the socio-economic development and advancement of the Arab-sector communities and to reduce the gaps between the Arab and Jewish sectors, pursuant to the following plan, as set forth by the Prime Minister's Office and the Ministerial Committee on Arab-Sector Affairs in cooperation with the directors-general of the Prime Minister's Office and the representatives of the Arab authorities.

(d) The development plan is based on joint-working with the Arab authorities. This cooperation lays down a position regarding the recovery plans implemented through the Ministry of the Interior in the various authorities, as well as on the maintenance of good management (the application of municipal bylaws, collection of municipal taxes, compliance with construction laws, etc.)

(e) The cost of the development plan for the Arab-sector communities shall total NIS4 billion for the years 2001-2004. This sum includes an additional sum of NIS2 billion in excess of the existing development budgets in the government ministries for the Arab-sector communities, including NIS1 billion as an additional payment from the Ministry of Finance for the budget of the ministries. These budgets include the share of the Arab-sector communities in the development budgets of the government ministries designated for the entire population and include all the development budgets for the sector during the term of the plan.

(f) The development plan shall incorporate Arab local authorities and Arab communities located within regional councils.

(g) An inter-ministerial team, headed by the Prime Minister's Office and with the participation of the Ministry of Finance and other ministerial representatives, as required, shall coordinate the workings of the staff, including the mode of implementation, planning the operations, priorities, budgetary amounts and timetables for performance. The inter-ministerial team shall oversee and control the mode of implementation of the development plan by the government ministries and, in cooperation with the representatives of the Arab sector, shall perform an annual evaluation in relation to performance of the plan.

Ministry of the Interior

(a) General

The Ministry of the Interior shall allocate NIS 412 million for development of Arab-sector communities, an annual average of NIS103 million for the years 2001-2004.

(b) Advancement of master schemes, outline schemes and detailed schemes

The Ministry of the Interior shall act to advance the master plans, the outlines and detailed plans for the Arab-sector communities as set forth in Government Resolution No. 1433, dated March 30, 2000, in addition to updating plans for communities where outlines require updating. The plan shall be financed by means of a special budget in the amount of NIS28 million, approved by government resolution.

The Ministry of the Interior - NIS9.4 million;

The Israel Lands Administration - NIS4.75 million;

Local Authorities - NIS1.25 million;

The Ministry of Finance - NIS12.7 million.

A joint team of the Ministries of the Interior and Finance, the Israel Lands Administration and the Prime Minister's Office shall discuss any expansion of scope of performance of planning in additional communities by means of an additional budget of NIS12 million, taking into account the requirements and the pace of performance of the plans.

(c) The Ministry of the Interior shall allocate NIS22 million for restoration, establishment and development of religious institutions in the Arab-sector communities, NIS5.5 million in each of the years 2001-2004. The sources of funding each year shall be as follows:

The Ministry of the Interior - NIS4.5 million

The Ministry of Finance - NIS1 million.

Ministry of Construction and Housing

(a) Development of older neighborhoods

The Ministry of Construction and Housing shall coordinate the infrastructure development project in the Arab-sector communities, including new infrastructure

and improvement of existing infrastructure, with a budgetary scope of NIS220 million, an average of NIS55 million for each of the years 2001-2004, where the sources of funding for each year shall be as follows:

The Ministry of Construction and Housing - NIS23 million;

The Ministry of Finance - NIS32 million.

The plan includes NIS1.025 million per year in the neighborhoods' physical restoration clause - for the purpose of renovating dwellings owned by old people living alone. The communities are: Kfar Manda, Kfar Kana, Mishad, Tamra, and Majad el-Kroom.

The scheme shall include budgets from the Ministries of Transport, the Interior and Construction and Housing for the roads and internal routes as stated in this Resolution and shall be implemented jointly by three government ministries: the Ministry of Construction and Housing, the Ministry of Transport and the Ministry of the Interior, coordinated and administered by the Ministry of Construction and Housing and the Prime Minister's Office.

(b) Development of new neighborhoods using high-density construction

1. The Ministry of Construction and Housing shall allocate NIS120 million for development of new neighborhoods in the Arab-sector communities, to be constructed using high-density public building, mainly on state lands, a total of 5,000 housing units, averaging NIS30 million for each of the years 2001-2004, pursuant to existing arrangements between the ministries and the arrangements to be agreed upon between the ministries following the examination referred to in clause 3 below.

2. Locating the lands for high-density construction shall be implemented in coordination with the Israel Lands Administration, the Ministry of the Interior and the local authorities. The Israel Lands Administration shall transfer the authority for planning and development to the Ministry of Construction and Housing, at its request, for implementation of the plan.

3. The standard of development in the new neighborhoods shall meet acceptable standards, such that the cost thereof shall not exceed NIS70,000 per residential unit. The amount of subsidy in the high-density construction shall not exceed NIS35,000 per residential unit. Those communities to benefit from the subsidy shall be those on the map of national priority areas. Furthermore, the feasibility of encouraging such neighborhoods in those communities located outside the priority areas shall also be examined.

4. The Ministry of Construction and Housing shall allocate an additional NIS40 million for the development of new neighborhoods on private lands located within the bounds of the Arab-sector communities to be constructed using

high-density public construction in a total of not fewer than 50 housing units per neighborhood; NIS10 million on average for each of the years 2001-2004.

By developing new neighborhoods on private lands, the aid will include funding for planning (at the detailed plan stage), in addition to contributions toward development in an amount not exceeding 50% of the approved infrastructure tariffs up to a ceiling of NIS20,000 per residential unit. The budget shall be given to those neighborhoods and buildings where building permits have been granted after January 1, 2001.

5. Construction density on the sites to be chosen pursuant to this chapter shall not be below six residential units per dunam (net).

(c) Development of public institutions

1. The Ministry of Construction and Housing shall allocate NIS320 million as participation in the construction of public institutions for cultural, social and sports activities in the Arab-sector communities, an average of NIS80 million for the years 2001-2004, where the sources of funding shall be as follows:

   The Ministry of Construction and Housing - NIS10 million;

   The Ministry of Finance - NIS70 million.

2. This budget does not include construction of public institutions under the Report of the Committee of the Directors-General on Construction of Public Institutions, but does include budgets to be allocated to public institutions pursuant to other standards in the years 2000-2004.

3. Those institutions to be constructed as first priority shall include community centers of various sizes and sports halls in large communities with over 5,000 inhabitants, and subject to availability of implementation.

4. In the performance of the plan and the scope of participation, supplementary sources of financing shall be taken into account, such as the National Lottery (*Mifal HaPayis*) budgets, public institutions standard budgets and the development budgets of the Ministry of the Interior.

5. The Ministry of Construction and Housing shall set a program for public building, approve the work plans of the communities and coordinate the implementation of construction of the buildings; the maximum sum for a single public institution shall not exceed the amount determined in the Report of the Committee of the Directors-General on Construction of Public Institutions.

Ministry for National Infrastructure

(a) Administration for Sewage Infrastructure

1. The Administration for Sewage Infrastructure shall make loans and grants available to the Arab-sector authorities for regulation of the internal sewage system, conduit lines and end installations, in accordance with those budgetary restrictions stated in clause 2 below.

2. The Ministry of National Infrastructure shall allocate NIS400 million for the years 2001-2004, where 50% of this amount is allocated in loans toward solutions to deal with waste in the Arab-sector communities. The allocation shall be made in accordance with needs. The amount shall be increased and allocated by the Ministry for National Infrastructure by the Ministry of Finance.

   A joint team of the Ministry for National Infrastructure (the Water Commission and the Sewage Administration), the Ministry of Finance and the Prime Minister's Office shall determine by November 30, 2000, the parameters for the plans based on the principle of a grant of up to 50% of the amount of invested capital. As a general rule, the solutions for dealing with waste shall be compiled fully and systematically and shall include, as required, completion of internal systems, conduit lines and end installations. Solutions for utilizing purified waste water shall be funded from the budget designated for this purpose by the Ministry for National Infrastructure.

3. The Administration for Sewage Infrastructure shall direct the Arab-sector authorities in regulating those matters which are a prerequisite for receiving loans and grants, including the approval of bylaws.

(b) Israel Lands Administration

The Israel Lands Administration shall allocate NIS4.75 million as participation toward promoting master plans, outlines and detailed plans for the Arab-sector communities, as set forth in section C, in the section on the Ministry of the Interior, above.

Ministry of Transport

(a) Internal roads

The Ministry of Transport shall allocate NIS180 million for implementing internal road systems and safety projects in the Arab-sector communities; NIS45 million for each of the years 2001-2004.

(b) Regional roads

The Public Works Administration (*Ma'atz*)

The Public Works Administration shall allocate about NIS325 million for the development of a network of roads in the areas of the Arab-sector communities; NIS81.25 million for each of the years 2001-2004.

Ministry of Trade and Industry

(a) Development of industrial zones

The Ministry of Trade and Industry shall allocate NIS120 million in the years 2001-2004 for locating suitable areas and developing infrastructure in six industrial zones in densely-populated Arab areas common to a number of authorities, subject to planning availability and economic analysis. Funding sources shall be, on average as follows:

The Ministry of Trade and Industry - an average of NIS15 million;

The Ministry of Finance - an average of NIS15 million.

The budgetary expenditures shall not be subject to income from development of the areas.

(b) Benefits to industrial zones

All the benefits awarded to enterprises located in industrial zones in national priority areas (aid, grants, discounts, etc.), within the ambit of the Encouragement of Capital Investments Law, based on geographic location, shall apply to the industrial zones in section A above. The Ministry of Trade and Industry, the Ministry of Finance and the Prime Minister's Office shall examine additional modes of encouraging the above industrial zones.

(c) Development of trade and services areas

The Ministry of Trade and Industry shall allocate NIS80 million for development of services and trade areas in the Arab-sector communities, subject to planning availability and an economic analysis, NIS20 million for each of the years 2001-2004. Funding sources shall be as follows:

Ministry of Trade and Industry - NIS10 million;

Ministry of Finance - NIS10 million.

The budgetary expenditures shall be made available, without being contingent on income.

Ministry of Tourism

(a) Tourism infrastructure

The Ministry of Tourism shall allocate NIS20 million for development of tourism infrastructure in the Arab-sector communities, NIS5million for each of the years 2001-2004.

(b) Guest rooms

The Ministry of Tourism shall allocate NIS4 million to support setting up guest rooms (*Tzimmerim*) in the Arab-sector communities, according to the general rules of the Ministry of Tourism, NIS1 million for each of the years 2001-2004.

Ministry of Agricultural and Rural Development

(a) Agricultural investments

The Ministry of Agriculture shall allocate NIS20 million to promote investments for the development of agriculture in the Arab-sector communities, NIS5 million for each of the years 2001-2004.

(b) Beit Natufa Valley Project

Upon the initial analysis of the project, the amount of the investment stands at approximately NIS60 million. A team of the Ministries of Agriculture, National Infrastructure, Ministry of Finance and Prime Minister's Office shall examine feasibility and viability of the project, including the possibility of implementing the project in stages, dividing the financing between various government ministries and contribution from other users, beyond the contribution amounting to half of the aforesaid cost to be financed by the Ministry of Finance. The team shall conclude its work within three months.

Ministry of Education

(a) Construction of classrooms

The Ministry of Education shall allocate NIS700 million for construction of classrooms in elementary and high schools, in addition to pre-compulsory kindergarten classrooms, an average of NIS175 million for each of the years 2001-2004. Sources of funding each year shall come from the Ministry of Education and from the National Lottery.

(b) Pedagogical plans

The Ministry of Education shall allocate a sum of NIS280 million in the years 2001-2004 for various pedagogical plans to advance the education system in the Arab sector, NIS70 million on average for each of the years 2001-2004. Funding sources for each year shall be as follows:

The Ministry of Education - NIS50 million;

The Ministry of Finance - NIS20 million.

(c) Technological education

The Ministry of Education shall allocate NIS66 million for opening new courses of study in high schools and in post high-school institutions in technological fields, NIS16.5 million for each of the years 2001-2004. Funding sources (average) each year shall be as follows:

The Ministry of Education - NIS8.25 million;

The Ministry of Finance - NIS8.25 million.

The Ministry of Labor and Social Affairs

Vocational training

The Ministry of Labor and Social Affairs shall allocate a total amount of NIS268 million for setting up engineering-technician and vocational training courses; NIS67 million for each of the years 2001-2004.

This clause includes an amount of NIS24 million for opening supplementary education classes for women, NIS6 million for each of the years 2001-2004. Funding sources for each year shall be on average as follows:

The Ministry of Labor and Social Affairs - NIS47 million;

The Ministry of Finance - NIS20 million.

Ministry of Health

Health stations

The Ministry of Health shall allocate NIS10 million for construction of family health stations and oral health stations in the Arab-sector communities, NIS2.5 million for each of the years 2001-2004. Funding sources (on average) for each year shall be as follows:

The Ministry of Health - NIS1.25 million;

The Ministry of Finance - NIS1.25 million.

Ministry of Internal Security

Police stations

The Ministry of Internal Security shall allocate NIS120 million for construction of police points and stations in the Arab-sector communities, NIS30 million for each of the years 2001-2004. Funding sources shall be as follows:

The Ministry of Internal Security - NIS10 million;

The Ministry of Finance - NIS20 million.

Ministry of Science, Culture and Sport

(a) Construction of cultural institutions and sports installations

The Ministry of Science, Culture and Sport shall allocate NIS28 million for construction of cultural institutions and sports installations, NIS7 million for each of the years 2001-2004. Funding sources for each year shall average as follows:

The Ministry of Science, Culture and Sport - NIS3.5 million;

The Ministry of Finance - NIS3.5 million.

(b) Infrastructure for regional research and development "R& D" centers

The Ministry of Science, Culture and Sport shall allocate NIS16 million for improvement of the physical infrastructure of regional R & D centers in the Arab-sector communities; NIS4 million for each of the years 2001-2004, from a budgetary supplement from the Ministry of Finance.

(c) Support of cultural, artistic and sport activities

The Ministry of Science, Culture and Sport shall allocate NIS91 million to assist cultural, artistic and sports activities, an average of NIS22.75 million for each of the years 2001-2004.

Prime Minister's Office

Operation

The Prime Minister's Office shall allocate NIS8 million for operation, overseeing and control of implementation of the plan, including appointment of projectors for promoting the various component parts of the scheme, NIS2 million."

261. **The Electricity Supply Law (Temporary Order) 5756-1996.** This law was enacted to solve the problem of Arab and Druze citizens whose houses were built without building permits, and were consequently not connected to the central electricity grid. Under the temporary order, the electricity administration in the Ministry of National Infrastructure has approved, in the course of the last three years, the connection of close to 6,000 households to the electric grid.

Recently, a law prolonging the validity of the temporary law for two years was passed in the Knesset. The aim of the extension is to enable the Ministry of National Infrastructure to examine close to 5,000 additional buildings, and connect them to the national electric grid.

Land Allocation

262. In H.C. 6698/95 *Ka'adan v. The Israel Lands Administration* (ILA), The High Court of Justice has held that the State of Israel was not permitted, by law, to allocate State land to the Jewish Agency for Israel for the purpose of establishing a community which would discriminate between Jews and non-Jews. The petitioners, an Arab couple, wished to build a home in Katzir, a communal village in the Eron River region at the north of Israel. Katzir was established in 1982 by the Jewish Agency in collaboration with the Katzir Cooperative Society, on state land that was allocated to the Jewish Agency (via the Israel Lands Administration) for such a purpose.

The Katzir Cooperative Society only accepted Jewish members. As such, it refused to accept the petitioners and allow them to build their home in the communal village of Katzir. The petitioners claimed that the policy constituted discrimination on the basis of religion or nationality and that such discrimination with regard to state land is prohibited by law.

The court held in the *Ka'adan* case that the state may not allocate land directly to its citizens on the basis of religion or nationality. This conclusion is derived both from the values of Israel as a democratic state and from the values of Israel as a Jewish State. The Jewish character of the state does not permit Israel to discriminate between its citizens. In Israel, Jews and non-Jews are citizens with equal rights and responsibilities. The court emphasized that the state engages in impermissible discrimination even if it is also willing to allocate state land for the purpose of establishing an exclusively Arab settlement, as long as it permits a group of Jews, without distinguishing characteristics, to establish an exclusively Jewish settlement on state land ("separate is inherently unequal").

Moreover, the court held that the state may not allocate land to the Jewish Agency knowing that the Agency will only permit Jews to use the land, saying that where one may not discriminate directly, one may not discriminate indirectly. If the state, through its own actions, may not discriminate on the basis of religion or nationality, it may not facilitate such

discrimination by a third party. It does not change matters that the third party is the Jewish Agency. Even if the Jewish Agency may distinguish between Jews and non-Jews, it may not do so in the allocation of state land.

It should be noted that the court limited its decision in the *Ka'adan* case to the particular facts of this case. The general issue of use of state lands for the purposes of settlement raises a wide-range of questions, which are still not resolved. First, *Ka'adan* is not directed at past allocations of state land. Second, it fozcuses on the particular circumstances of the communal village of Katzir. In discussing this issue, the court did not take a position with regard to other types of settlements (such as the commune-based *Kibbutz* or *Moshav*) or to the possibility that special circumstances, beyond the type of settlement, may be relevant, stating that:

> " [I]t is important to understand and remember that today we are taking the first step in a sensitive and difficult journey. It is wise to proceed slowly, so that we do not stumble and fall, and instead we will proceed cautiously at every stage, according to the circumstances of each case".

263. With regard to the relief requested by the petitioners, the court noted various social and legal difficulties. In light of these difficulties, the court rendered the decision that the State of Israel must consider the petitioners' request to acquire land for themselves in the town of Katzir for the purpose of building their home. The state must make this consideration based on the principle of equality, and considering various relevant factors - including those factors affecting the Jewish Agency and the current residents of Katzir. The State of Israel must also consider the numerous legal issues. Based on these considerations, the state must determine with deliberate speed whether to allow the petitioners to make a home within the communal town of Katzir.

Appropriate Representation

264. **The Civil Service.** Under the Newly enacted Civil Service (Appointments) (Amendment No. 11) (Proper Representation) Law, 5760-2000, the civil service must maintain appropriate representation regarding appointments as well as in the distribution of professional ranks with regard to specific circumstances. Minorities and under-represented populations such as women, the disabled, and the Arab, Druze and Circassian population shall be represented according to their proportion in the eligible work force population. Under the Law, the government is entitled to apply an affirmative action policy when necessary and allocate certain positions to an under-represented group, so as to achieve proper representation.

265. **Government Corporations.** According to data gathered in September 2000, ten out of 599 directors were of Arab origin (about 1.7 per cent). Under an amendment to the Government Corporations (Amendment 11) Law 5735-1975 made June 11, 2000, the Arab population (namely, Israeli citizens of Arab, Druze and Circassian origin) must be appropriately represented on the board of directors of every government corporation.

In addition, the law prescribes that until appropriate representation is achieved, ministers must appoint as many Arab directors as possible. Section 60(a) of the Government Corporations Law extends the application of amendment 11 to appointments to the board of directors of statutory corporations and other statutory organizations.

Sexual Orientation

266. On February 21 ,2000, the High Court of Justice ordered the Minister of Interior to register the adoption of a child by his mother's lesbian partner in the Population Registration. The court held that the adoption order, granted by a court in the child's native state of California, is valid, and rejected the registration clerk's claim that the registration of two mothers of one child is "biologically impossible" (H.C. 1779/99 *Brener-Kadish v. the Minister of Interior*). It should be noted that a request for a Further Hearing by an extended panel of the High Court of Justice has been filed on this matter.

Religion

267. Following a petition filed by a secular NGO against the unusual benefits given to prospective occupants of the centrally-located orthodox-Jewish city of El'ad. The High Court of Justice directed the Ministry of Construction and Housing to refrain from discriminating on a religious basis by granting El'ad prospective residents excess benefits which are withheld from other house buyers in central Israel (H.C. 4906/98 *Am Hofshi v. The Ministry of Construction and Housing*).

268. **Equality in Employment**

Table 1. Employment and Unemployment of Israelis: Levels and Trends, 1996-1999

	Average annual percentage change			
	1996	**1999**	**1991-1996**	**1996-1999**
Total population				
Aged 15 & over (thousands)	4 019.9	4 358.5	3.2	2.7
Civilian labor force:				
Number (thousands)	2 156.9	2 345.2	4.0	2.8
Participation rate (%)	53.7	53.8		
Employed (thousands)	2 012.8	2 136.7	4.9	2.0
Unemployed				
Number (thousands)	144.1	208.5	-4.9	13.1
Unemployment rate (%)	6.7	8.9		
Jews				
Aged 15 & over (thousands)	3 362.6	3 616.2	3.0	2.5
Civilian labor force:				
Number (thousands)	1 880.2	2 029.4	3.9	2.6
Participation rate (%)	55.9	56.1		
Employed (thousands)	1 753.3	1 857.0	4.7	1.9
Unemployed				
Number (thousands)	127.0	172.4	-5.0	10.7
Unemployment rate (%)	6.7	8.5		

Table 1 (Continued)

	Average annual percentage change			
	1996	**1999**	**1991-1996**	**1996-1999**
Men				
Aged 15 & over (thousands)	1 959.7	2 116.3	3.1	2.6
Civilian labor force:				
Number (thousands)	1 217.8	1 285.0	3.1	2.6
Participation rate (%)	62.1	60.7		
Employed (thousands)	1 147.0	1 176.2	3.8	0.8
Unemployed				
Number (thousands)	70.8	108.8	-4.7	15.4
Unemployment rate (%)	5.8	8.5		
Women				
Aged 15 & over (thousands)	2 060.1	2 242.2	3.3	2.9
Civilian labor force:				
Number (thousands)	939.1	1 060.2	5.2	4.1
Participation rate (%)	45.6	47.3		
Employed (thousands)	865.8	960.5	6.5	3.2
Unemployed				
Number (thousands)	73.3	99.7	-5.6	6.3
Unemployment rate (%)	7.8	9.4		
Arabs and others				
Aged 15 & over (thousands)	657.3	742.2	4.6	4.1
Civilian labor force:				
Number (thousands)	276.6	315.8	5.3	4.5
Participation rate (%)	42.1	42.5		
Employed (thousands)	259.5	279.7	6.3	2.5
Unemployed				
Number (thousands)	17.2	36.1	-5.1	3.2
Unemployment rate (%)	6.2	11.4		
Aged 15-17				
Aged 15 & over (thousands)	303.2	324.1	1.0	1.7
Civilian labor force:				
Number (thousands)	38.5	29.6	4.0	-8.4
Participation rate (%)	12.7	9.2		
Employed (thousands)	30.9	24.1	6.5	-7.9
Unemployed				
Number (thousands)	7.6	5.5	0.3	-10.2
Unemployment rate (%)	19.7	18.6		

Table 1 (Continued)

	Average annual percentage change			
	1996	**1999**	**1991-1996**	**1996-1999**
Aged 18-24				
Aged 15 & over (thousands)	698.9	739.9	3.8	1.9
Civilian labor force:				
Number (thousands)	304.2	325.1	5.0	2.2
Participation rate (%)	43.5	43.9		
Employed (thousands)	265.3	271.2	8.8	0.7
Unemployed				
Number (thousands)	38.9	53.8	-5.9	11.4
Unemployment rate (%)	12.8	16.6		
Aged 45-54				
Aged 15 & over (thousands)	553.1	671.5	6.9	6.7
Civilian labor force:				
Number (thousands)	422.1	520.8	8.2	7.3
Participation rate (%)	76.3	77.6		
Employed (thousands)	402.9	486.3	10.6	6.5
Unemployed				
Number (thousands)	19.2	34.5	-0.3	21.6
Unemployment rate (%)	4.5	6.6		
Aged 55-64				
Aged 15 & over (thousands)	383.3	402.3	2.7	1.6
Civilian labor force:				
Number (thousands)	188.7	198.1	2.4	1.6
Participation rate (%)	49.2	49.2		
Employed (thousands)	179.6	184.8	4.7	4.1
Unemployed				
Number (thousands)	9.1	13.3	-5.6	13.5
Unemployment rate (%)	6.7	4.8		
Residing in development areas				
Aged 15 & over (thousands)	417.9	452.0	6.5	2.6
Civilian labor force:				
Number (thousands)	218.9	240.9	6.5	3.2
Participation rate (%)	52.4	53.3		
Employed (thousands)	195.9	212.2	9.9	3.7
Unemployed				
Number (thousands)	23.0	28.8	-1.3	7.8
Unemployment rate (%)	10.5	11.9		

Table 1 (Continued)

	Average annual percentage change			
	1996	**1999**	**1991-1996**	**1996-1999**
New immigrants[(1)]				
Aged 15 & over (thousands)	553.7	719.5	21.3	9.1
Civilian labor force:				
Number (thousands)	296.0	397.8	25.2	10.4
Participation rate (%)	53.4	55.3		
Employed (thousands)	268.6	352.6	33.8	9.5
Unemployed				
Number (thousands)	27.4	45.2	-5.8	18.2
Unemployment rate (%)	9.3	11.4		

Source: Israel, Central Bureau of Statistics, Labor Force Surveys

(1) Arrivals from 1990 onwards

Table 2: Employed Persons, by Occupation, Sex and Population Group, 1999

All Workers

	Thousands			Percent Distribution		
Occupation	**Total**	**Men**	**Women**	**Total**	**Men**	**Women**
Total	2 136.6	1 176.2	960.5	100.0	100.0	100.0
Academic professions	264.7	141.1	123.6	13.0	12.2	12.5
Other professions & technicians	309.6	121.8	187.8	14.7	10.5	19.7
Managers	133.6	100.7	33.0	6.3	8.7	3.5
Clerical workers	358.4	94.6	263.9	17.0	8.2	27.7
Agents, sales & service workers	387.3	177.9	209.4	18.3	15.3	21.9
Skilled agricultural workers	39.3	33.6	5.7	1.9	2.9	0.6
Manufacturing, construction & other skilled workers	444.7	391.7	53.0	21.0	33.8	5.6
Unskilled workers	175.7	97.8	77.9	8.3	8.4	8.2
Unknown	23.1	16.9	6.2	-	-	-
Jews						
Total	1 857.1	964.6	892.5	100.0	100.0	100.0
Academic professions	244.5	126.2	118.3	13.3	13.3	13.3
Other professions & technicians	284.9	110.7	174.2	15.5	11.7	19.7
Managers	128.1	95.8	32.4	7.0	10.1	3.7
Clerical workers	337.5	84.7	252.8	18.4	8.9	28.5
Agents, sales & service workers	345.0	149.2	195.8	18.8	15.7	22.1
Skilled agricultural workers	32.6	27.7	5.0	1.8	2.9	0.6
Manufacturing, construction & other skilled workers	326.0	284.4	41.6	17.8	29.9	4.7
Unskilled workers	137.5	71.1	66.4	7.5	7.5	7.5
Unknown	20.9	14.8	6.1	-	-	-

Table 2: (Continued)

Arabs and Others

	Thousands			Percent Distribution		
Occupation	**Total**	**Men**	**Women**	**Total**	**Men**	**Women**
Total	279.5	211.6	68.0	100.0	100.0	100.0
Academic professions	20.3	14.9	5.3	7.3	7.1	7.8
Other professions & technicians	24.7	11.1	13.6	8.9	5.3	20.1
Managers	5.5	4.9	0.6	2.0	2.3	0.9
Clerical workers	21.0	9.9	11.1	7.6	4.7	16.4
Agents, sales & service workers	42.3	28.7	13.6	15.2	13.7	20.1
Skilled agricultural workers	6.7	6.0	0.7	2.4	2.9	1.0
Manufacturing, construction & other skilled workers	118.7	107.3	11.3	42.8	51.2	42.8
Unskilled workers	38.3	26.8	11.5	13.8	12.8	17.0
Unknown	2.2	2.1	0.1	-	-	-

Source: Israel, Central Bureau of Statistics, Labor Force Survey,1999

269. **Equality in Social Security.** Since the submission of the Initial Periodic Report there have been a few notable positive changes enhancing equality in social security, which are already presented in this report:

- The gradual erosion in the historical distinctions existing between "housewives" and other women in old-age benefits, survivors' benefits and disability insurance;

- The improvements in the benefits of severely disabled persons.

In order to further promote the welfare of women in Israel, a steering committee, headed by the director general of the National Insurance Institute, has been set up.

In addition, mention should be made of a number of examples of recent legislation bearing on the subject of gender equality in social security:

- The definition of "self-employed" has been changed, allowing women who work part-time to be insured for work injuries and to be eligible for maternity allowance;

- The payment of maternity allowance to fathers, allowing women to return to work before the end of the three-month maternity leave, leaving the infant with his father;

- The period during which a woman must rest, due to pregnancy risks, is now considered part of the qualifying period for purposes of maternity allowance;

- The expansion of the definition of single-parent family to include women who have just begun the divorce process, in civil or religious courts.

The Bedouin Population

270. **General.** There are now, according to recent estimates, more than 120,000 Bedouin living in the Negev desert area, in the south of Israel. Their annual population growth rate is about 5.8%. At this time, approximately 50% of the Bedouin population (60,000 out of 120,000) reside in the seven planned settlements in the Negev, known as the "Bedouin towns". Most residents of these towns are Bedouins of *Fallah* (Farmer) origin.

271. The rest of the Bedouin population in the Negev still lives in unplanned settlements. About 80% of these Bedouin are of nomadic origin. As they wish to continue and keep "their" lands, they are unwilling to move to the towns, and demand, instead, the establishment of their own rural settlements, within the lands they currently occupy. Close to 20% of these Bedouin are of *Fallah* origin and would be willing to move to the existing settlements if offered better conditions.

272. The unplanned Bedouin settlements are not recognized by the government. As a result, those settlements, commonly known as "the unrecognized settlements", are not entitled to many public services, and are not given any building permits, since they are at odds with the existing plans for the development of the Negev. The government feels that giving recognition to these settlements would bring to an end all attempts to establish new settlements in an orderly manner, and would leave the disputes over the land unresolved.

273. In 1999, the government decided to establish up to five new Bedouin towns. Under the special new arrangement made for the compensation of Bedouins moving these town, the government would provide the land at no charge. Moreover, the Bedouin would receive significant compensation for any property they had to abandon at the unrecognized settlement.

274. The above decision gained the support of the Ministry of Health, the Ministry of Education and the General Health Fund. Each of these departments will see to the establishment of its institutions in the new towns, namely, the establishment of schools, health clinics, and more.

275. On August 21, 2000, The Ministerial Committee on Arab Affairs decided to place its recommendation before the government regarding the adoption of a new plan for dealing with the Bedouin residing in the Negev. The aims of the plan are to generate of a significant change, within a fixed period of time, in the status of the Bedouin population, thus closing the large gap between them and the rest of the citizens of the State of Israel.

276. The ministerial committee further recommends to integrate the Bedouins as citizens with equal rights, as well as equal duties. The above plan is composed of three major elements:

(a) A comprehensive long term plan for the establishment of Bedouin settlements in the Negev, in cooperation with Bedouin representation, and in accordance to the needs of the different tribes.

(b) Continuation of the land settlement claims process. However, this shall not be a prerequisite for the establishment of new settlements or the granting of services.

(c) Improving the image of the seven existing towns by improving infrastructure, mainly educational and sewage infrastructure, and building additional public facilities.

277. There has been no expropriation of Bedouin land since 1989, aside from expropriation for the purpose of roads or railroad construction. The last expropriation, which took place in 1989, was done for the purpose of building a new Bedouin town.

278. Hardly any of the illegal Bedouin houses in the Negev have been demolished within the last two years. According to recent estimates, there are now over 60,000 illegal houses in the Negev.

279. Five new Mother and Child Health Clinics (*Tipat Halav*) have recently been built in Bedouin towns.

280. Since the submission of the Initial Periodic Report, five additional Health Fund medical clinics (*Kupat Holim*) have been built to provide for the needs of Bedouin living in unrecognized settlements, raising the total there to seven.

281. **Educational Facilities:** Since 1998, three new schools have been built, in addition to the establishment of kindergartens, located within the premises of elementary schools. All of the schools have electricity, provided by generators, and are directly connected to water pipes. Almost all of the Bedouin pupils enjoy the same standards of transportation to and from their schools as do the Jewish pupils**.**

282. **Water Allocation:** Water is allocated to the Bedouin community living in unrecognized settlements through the Water Connections Allocation Committee. Within the last three years, the total number of connections to the water main lines has increased from 60 connections to 260.

283. **Sewage Treatment.** Since the submission of the Initial Periodic Report, there has been a great advancement in the field of sewage disposal. Sewage treatment facilities have been installed and now operated in almost every Bedouin town.

284. A recent budget proposal for the years 2001-2004, based on a four years plan for the completion of development and infrastructure in the existing Bedouin towns, requests the allocation of NIS1,195,050,000. This significant sum is to be used to complete the infrastructure in existing settlements, to construct water and sewage infrastructure where it is incomplete and for the establishment of public facilities such as schools, clinics, etc.

285. The total funds allocated to the Bedouin sector within Israel's budget for the year 2000 have increased threefold in comparison to the time of the submission of the Initial Periodic Report.

286. **Public Services.** The Israeli government seeks to establish six new "Service Centers" for the Bedouins in the Negev. When built, these centers shall contain facilities for various service providers, ranging from educational facilities, religious centers and health centers to shopping and industrial facilities. These centers are planned to be built outside of the existing towns, with the purpose of serving as a basis for new Bedouin towns.

287. Since the submission of Israel's Initial Periodic Report, New Industry and trade centers have been built in Hura, Segev Shalom and Aroer.

288. **Education.** The education system in the Bedouin sector faces many difficulties, deriving from the unique Bedouin lifestyle and culture. The school drop-out rate is relatively high for both genders. Girls drop out of school at an early age due to marriage or tradition, while boys mainly drop out to join the work circle. In addition, Many of the Bedouin pupils who do finish high school choose not to take the matriculation exams, a necessary requirement for higher education, and settle for a high school diploma.

289. Nevertheless, the Bedouin education system has improved greatly in the past few years:

A computerized center has been established in order to reduce the school drop-out rate. A computerized follow up of pupils at risk is being conducted, and much effort is put to bringing them back to school. As a result, the number of pupils in general, and of the female pupils in particular, is constantly increasing.

The educational achievements in primary education had improved during the last two years, due to an intensive program of pedagogical intervention.

A retired Jewish school principal has been assigned to every Bedouin school principle as a "coach", to advise him on educational subjects, as well as management ones.

Ben-Gurion University and the Kaye College in Be'er Sheva have assisted high school teachers in Bedouin schools, in order to promote an increase the number of students who receive matriculation certificates. Over the last three years, the number of pupils receiving matriculation certificates has grown from 10% to 32%.

The number of Bedouin teachers in the Bedouin education system continues to rise. At this time 60% of all teachers in the Bedouin schools are of Bedouin origin, a notable increase from 1996, when only 40% of the teachers were of Bedouin origin.

The Druze and Circassian Sectors

290. A five-year plan for the advancement of the Druze and Circassian sectors was adopted in October 2000. The government resolution is as follows:

291. The government takes note of the report of the director general of the Prime Minister's Office on the agreement reached on the five-year plan for the Druze and Circassian sector, as follows:

(a) Development budget in all the government ministries for the years 2000-2003 shall be as set forth hereunder (in 2000 prices):

- 2000 - NIS180 million

- 2001 - NIS190 million

- 2002 - NIS190 million

- 2003 - NIS190 million

These budgets are derived from the all the budgets which were in existence within the scope of the five-year plan and include, *inter alia*, sewage loans in the scope of NIS16 million per annum and do not include financing to be given for the purpose of construction of neighborhoods for discharged soldiers.

(b) A special one-time grant for the year 2000 in the amount of NIS30 million shall be granted to meet an accumulated deficit in the regular budget. The grant derives from the shortages in the previous five-year plan (1995-1999), and shall be allocated between the councils according to the resources allocation percentage in the current five-year plan, the details of which are to be concluded with the Ministry of the Interior.

(c) Furthermore, a grant shall be given to fill the gaps in the five-year plan which ended in 1999, in the amount of NIS15 million, regarding deficits in the extraordinary budgets and to complete the arrangement concluded on October 21, 1999 (section 2A).

(d) A NIS5 million supplement to the grant shall be granted for the year 2000 in order to minimize the cut in this year. The allocation shall be made according to the proportionate share of the supplement from the grant amount.

(e) The Prime Minister's Office (Coordination, Supervision and Control Branch) in cooperation with council representatives, shall supervise and oversee performance of the development plans and shall ensure their complete performance each year.

(f) This summary concludes the total settling of accounts for the five-year plan for the Druze sector for the years 1995-1999 and suitably answers the future development needs of the sector.

(g) The Committee of Directors General of the relevant government ministries shall consolidate the annual budget allocation according to the various ministries. The allocation to be determined shall be budgeted in separate plans designated for the Druze and Circassian sector.

Article 27 - Rights of Minorities to Culture, Religion and Language

292. **Minority Populations**. At the end of 1998, Israel's population stood at 6,041400, of whom 4,785,100 (79.2 per cent) were Jews, 899,800 (14.9 per cent) were Muslims, 128,700 (2.1 per cent) were Christians, 99,000 (1.6 per cent) were Druze, and 128,700 unclassified. The following table shows the growth of the major population groups (Jewish, Muslim, Christian and Druze) between the years 1996-1998:

Table 1: The Population at the End of Year, By religion (thousands)

	Arab and Others					Jews	Grand Total
	Druze	**Christians**	**Moslems**	**Un-Classified**	**Total**		
1996	94.5	123.4	839.9	84.0	1 141.8	4 616.1	**5 757.9**
1997	96.7	126.1	867.9	107.7	1 198.4	4 701.6	**5 900.0**
1998	99.0	128.7	899.8	128.7	1 256.2	4 785.1	**6 041.4**

Table 2: The Average Population, By religion (thousands)

	Arab and Others					Jews	Grand Total
	Druze	**Christians**	**Moslems**	**Un-Classified**	**Total**		
1996	93.4	122.0	825.5	75.0	1 115.9	4 569.2	**5 685**
1997	95.6	124.7	853.9	95.9	1 170.1	4 658.8	**5 828.9**
1998	97.8	127.4	883.9	118.2	1 227.3	4 743.4	**5 970.7**

Status of the Arabic Language

293. **General.** As described in detail in the Initial Periodic Report, Arabic, like Hebrew, is an official language in Israel. In the larger sphere of Israeli civic life, the right of Arabic-speaking minorities to use their language is generally recognized and observed. As stated by justice Cheshin of the Supreme court in P.C.A 12/99 *Jamal v. Saback :*

> " …The Arabic language is the language of approximately one-fifth of the population – the language of conversation, of culture and of religion – and this share of the population is a substantial minority, whom we ought to respect – the minority and their language. The State of Israel is a Jewish and democratic state, and being what it is, it has a duty to respect the minority within it: the person, the person's culture and the person's language."

294. **Official Documents.** Under directive number 21.556A of the attorney general, regarding the translation of official documents from Arabic, a public authority should not demand that a

citizen translate into Hebrew a document written in Arabic such as a marriage certificate, a divorce certificates, etc., which was issued by an authority formally acknowledged by the State of Israel.

295. **Vehicle License Plates**. Under a specific directive issued by the attorney general and directed at the Ministry of Transportation, new car license plates are to bear the name of the State of Israel in Arabic as well as in Hebrew.

296. **Publication of Public Tenders in Arabic**. The attorney general has directed all legal advisors of the civil service, that all public tenders are to be published in both an Arabic newspaper and a Hebrew one, as well as made available on the internet, as specified in regulations concerning public tenders. The directive has stressed that it is unauthorized to distinguish between public tenders according to their relevance to the Arab sector. Furthermore, the duty to translate the public tenders into Arabic rests on the government.

Notes

[1] This report covers the period between the end of the first reporting period and August 2000.

[2] *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (28 September 1995).*

[3] The *Wye River Memorandum* signed on 23 October 1998, and the *Sharm-el-Sheikh Memorandum* of 4 September 1999.

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HUMAN RIGHTS COMMITTEE
Seventy-eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Israel

1. The Committee considered the second periodic report of Israel (CCPR/C/ISR/2001/2) at its 2116th, 2117th and 2118th meetings (see CCPR/C/SR.2116-2118), held on 24 and 25 July 2003, and adopted the following concluding observations at its 2128th - 2130th meetings (CCPR/C/SR.2128-2130), held on 4 and 5 August 2003.

A. Introduction

2. The Committee welcomes the second periodic report submitted by Israel and expresses its appreciation for the frank and constructive dialogue with a competent delegation. It welcomes the detailed answers, both oral and written, that were provided to its written questions.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee has noted and recognizes the serious security concerns of Israel in the context of the present conflict, as well as the difficult human rights issues relating to the resurgence of suicide bombings which have targeted Israel's civilian population since the beginning of the second intifada in September 2000.

C. Positive factors

4. The Committee welcomes the positive measures and legislation adopted by the State party to improve the status of women in Israeli society, with a view to promoting gender equality. In this context, it welcomes in particular the amendment to the Equal Rights for Women Law (2000), the Employment of Women Law (Amendment 19), the adoption of the Sexual Harassment Law (1998), the Prevention of Stalking Law (2001), the Rights of Victims of an Offence Law (2001), and other legislative measures designed to combat domestic violence. It also welcomes the establishment of the Authority for the Advancement of the Status of Women but would appreciate further, up-to-date information on its responsibilities and functioning in practice.

5. The Committee welcomes the measures taken by the State party to combat trafficking in women for the purpose of prostitution, in particular the Prohibition on Trafficking Law enacted in July 2000 and the prosecution of traffickers since that date.

6. The Committee notes the efforts to increase the level of education for the Arab, Druze and Bedouin communities in Israel. In particular, it notes the implementation of the Special Education Law and the Compulsory Education Law Amendment (2000).

7. The Committee also notes the State party's information about the significant measures taken for the development of the Arab sector, in particular through the 2001-2004 Development Plan.

8. The Committee welcomes legislation adopted by the State party in respect of persons with disabilities, in particular the enactment of the Equal Rights for People with Disabilities Law (1998). It expresses the hope that those areas where the rights of disabled people, acknowledged by the delegation as not being respected and requiring further improvements, will be addressed as soon as possible.

9 The Committee notes the efforts by the State party to provide better conditions for migrant workers. It welcomes the amendment to the Foreign Workers Law and the increase in penalties imposed on employers for non-compliance with the law. It also welcomes free access to labour courts for migrant workers and the provision of information to them about their rights in several foreign languages.

10. The Committee welcomes the Supreme Court's judgement of September 1999 which invalidated the former governmental guidelines governing the use of "moderate physical pressure" during interrogations and held that the Israeli Security Agency (ISA) has no authority under Israeli law to use physical force during interrogations.

D. Principal subjects of concern and recommendations

11. The Committee has noted the State party's position that the Covenant does not apply beyond its own territory, notably in the West Bank and in Gaza, especially as long as there is a situation of armed conflict in these areas. The Committee reiterates the view, previously spelled out in paragraph 10 of its concluding observations on Israel's initial report (CCPR/C/79/Add.93 of 18 August 1998),

that the applicability of the regime of international humanitarian law during an armed conflict does not preclude the application of the Covenant, including article 4 which covers situations of public emergency which threaten the life of the nation. Nor does the applicability of the regime of international humanitarian law preclude accountability of States parties under article 2, paragraph 1, of the Covenant for the actions of their authorities outside their own territories, including in occupied territories. The Committee therefore reiterates that, in the current circumstances, the provisions of the Covenant apply to the benefit of the population of the Occupied Territories, for all conduct by the State party's authorities or agents in those territories that affect the enjoyment of rights enshrined in the Covenant and fall within the ambit of State responsibility of Israel under the principles of public international law.

The State party should reconsider its position and to include in its third periodic report all relevant information regarding the application of the Covenant in the Occupied Territories resulting from its activities therein.

12. While welcoming the State party's decision to review the need to maintain the declared state of emergency and to prolong it on a yearly rather than an indefinite basis, the Committee remains concerned about the sweeping nature of measures during the state of emergency, that appear to derogate from Covenant provisions other than article 9, derogation from which was notified by the State party upon ratification. In the Committee's opinion, these derogations extend beyond what would be permissible under those provisions of the Covenant which allow for the limitation of rights (e.g. articles 12, paragraph 3; 19, paragraph 3 and; 21, paragraph 3). As to measures derogating from article 9 itself, the Committee is concerned about the frequent use of various forms of administrative detention, particularly for Palestinians from the Occupied Territories, entailing restrictions on access to counsel and to the disclose of full reasons of the detention. These features limit the effectiveness of judicial review, thus endangering the protection against torture and other inhuman treatment prohibited under article 7 and derogating from article 9 more extensively than what in the Committee's view is permissible pursuant to article 4. In this regard, the Committee refers to its earlier concluding observations on Israel and to its general comment No. 29.

The State party should complete as soon as possible the review initiated by the Ministry of Justice of legislation governing states of emergency. In this regard, and pending the adoption of appropriate legislation, the State party should review the modalities governing the renewal of the state of emergency and specify the provisions of the Covenant it seeks to derogate from, to the extent strictly required by the exigencies of the situation (art. 4).

13 The Committee is concerned that the use of prolonged detention without any access to a lawyer or other persons of the outside world violates articles the Covenant (arts. 7, 9, 10 and 14, para. 3 (b).

The State party should ensure that no one is held for more than 48 hours without access to a lawyer.

14. The Committee is concerned about the vagueness of definitions in Israeli counter-terrorism legislation and regulations which, although their application is subject to judicial review, appear to run counter to the principle of legality in several aspects owing to the ambiguous wording of the

provisions and the use of several evidentiary presumptions to the detriment of the defendant. This has adverse consequences on the rights protected under article 15 of the Covenant, which is non-derogable under article 4, paragraph 2, of the Covenant.

The State party should ensure that measures designed to counter acts of terrorism, whether adopted in connection with Security Council resolution 1373 (2001) or in the context of the ongoing armed conflict, are in full conformity with the Covenant.

15. The Committee is concerned by what the State party calls "targeted killings" of those identified by the State party as suspected terrorists in the Occupied Territories. This practice would appear to be used at least in part as a deterrent or punishment, thus raising issues under article 6. While noting the delegation's observations about respect for the principle of proportionality in any response to terrorist activities against civilians and its affirmation that only persons taking direct part in hostilities have been targeted, the Committee remains concerned about the nature and extent of the responses by the Israeli Defence Force (IDF) to Palestinian terrorist attacks.

The State party should not use "targeted killings" as a deterrent or punishment. The State party should ensure that the utmost consideration is given to the principle of proportionality in all its responses to terrorist threats and activities. State policy in this respect should be spelled out clearly in guidelines to regional military commanders, and complaints about disproportionate use of force should be investigated promptly by an independent body. Before resorting to the use of deadly force, all measures to arrest a person suspected of being in the process of committing acts of terror must be exhausted.

16. While fully acknowledging the threat posed by terrorist activities in the Occupied Territories, the Committee deplores what it considers to be the partly punitive nature of the demolition of property and homes in the Occupied Territories. In the Committee's opinion the demolition of property and houses of families some of whose members were or are suspected of involvement in terrorist activities or suicide bombings contravenes the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home (art. 17), freedom to choose one's residence (art. 12), equality of all persons before the law and equal protection of the law (art. 26), and not to be subject to torture or cruel and inhuman treatment (art 7) .

The State party should cease forthwith the above practice.

17. The Committee is concerned about the IDF practice in the Occupied Territories of using local residents as "volunteers" or shields during military operations, especially in order to search houses and to help secure the surrender of those identified by the State party as terrorist suspects.

The State party should discontinue this practice, which often results in the arbitrary deprivation of life (art. 6).

18. The Committee is concerned that interrogation techniques incompatible with article 7 of the Covenant are still reported frequently to be resorted to and the "necessity defence" argument, which is not recognized under the Covenant, is often invoked and retained as a justification for ISA actions in the course of investigations.

The State party should review its recourse to the "necessity defence" argument and provide detailed information to the Committee in its next periodic report, including detailed statistics covering the period since the examination of the initial report. It should ensure that alleged instances of ill-treatment and torture are vigorously investigated by genuinely independent mechanisms, and that those responsible for such actions are prosecuted. The State party should provide statistics from 2000 to the present day on how many complaints have been made to the Attorney-General, how many have been turned down as unsubstantiated, how many have been turned down because the defence of necessity has been applied and how many have been upheld, and with what consequences for the perpetrators.

19. While again acknowledging the seriousness of the State party's security concerns that have prompted recent restrictions on the right to freedom of movement, for example through imposition of curfews or establishment of an inordinate number of roadblocks, the Committee is concerned that the construction of the "Seam Zone", by means of a fence and, in part, of a wall, beyond the Green Line, imposes additional and unjustifiably severe restrictions on the right to freedom of movement of, in particular, Palestinians within the Occupied Territories. The "Seam Zone" has adverse repercussions on nearly all walks of Palestinian life; in particular, the wide-ranging restrictions on freedom of movement disrupt access to health care, including emergency medical services, and access to water. The Committee considers that these restrictions are incompatible with article 12 of the Covenant.

The State party should respect the right to freedom of movement guaranteed under article 12. The construction of a "Seam Zone" within the Occupied Territories should be stopped

20 The Committee is concerned by public pronouncements made by several prominent Israeli personalities in relation to Arabs, which may constitute advocacy of racial and religious hatred that constitutes incitement to discrimination, hostility and violence.

The State party should take necessary action to investigate, prosecute and punish such acts in order to ensure respect for article 20, paragraph 2, of the Covenant.

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

The State party should revoke the Nationality and Entry into Israel Law (Temporary Order) of 31 July 2003, which raises serious issues under articles 17, 23 and 26 of the Covenant. The State party should reconsider its policy with a view to facilitating family reunification of all citizens and permanent residents. It should provide detailed statistics on this issue, covering the period since the examination of the initial report.

22. The Committee is concerned about the criteria in the 1952 Law on Citizenship enabling the revocation of Israeli citizenship, especially its application to Arab Israelis. The Committee is

concerned about the compatibility with the Covenant, in particular article 24 of the Covenant, of the revocation of citizenship of Israeli citizens.

The State party should ensure that any changes to citizenship legislation are in conformity with article 24 of the Covenant.

23. Notwithstanding the observations in paragraphs 4 and 7 above, the Committee notes with concern that the percentage of Arab Israelis in the civil service and public sector remains very low and that progress towards improving their participation, especially of Arab Israeli women, has been slow (arts. 3, 25 and 26).

The State party should adopt targeted measures with a view to improving the participation of Arab Israeli women in the public sector and accelerating progress towards equality.

24. While noting the Supreme Court's judgement of 30 December 2002 in the case of eight IDF reservists (judgement HC 7622/02), the Committee remains concerned about the law and criteria applied and generally adverse determinations in practice by military judicial officers in individual cases of conscientious objection (art. 18).

The State party should review the law, criteria and practice governing the determination of conscientious objection, in order to ensure compliance with article 18 of the Covenant.

25. The State party is invited to disseminate widely the text of its second periodic report, the replies provided to the Committee's list of issues and the present concluding observations.

26. In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party is invited to provide, within one year, relevant information on the implementation of the Committee's recommendations in paragraphs 13, 15, 16, 18 and 21 above. The State party's third periodic report should be submitted by 1 August 2007.

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Comments by the Government of Israel on the concluding observations of the Human Rights Committee

I. Allegations of "prolonged detention without access to a lawyer" (paragraph 13)

Arraignment before a judge

Criminal Offences

1. In Israel, pursuant to Section 29 of the *Criminal Procedure (Powers of Enforcement - Arrests) Law*, specifies that a person arrested without a warrant must be brought before a judge as soon as possible, and no later than 24 hours following the arrest, with a special provision regarding weekends and holidays.
2. Section 30 allows for an additional 24-hour extension based on the need to perform an urgent interrogation, which cannot be performed unless the detainee is in custody, and cannot be postponed following his arraignment; or if an urgent action must be taken regarding an investigation in a security-related offence. Following the completion of the above measures, the detainee shall be brought before a judge swiftly, or released from custody.
3. The *Criminal Procedure (Powers of Enforcement - Arrests) (Arrangements for Holding Court Hearings according to Section 29 to the Law) Regulations*, 5757 – 1997 provide special arrangements concerning the arraignment of detainees on weekends and holidays in order to properly balance respect for the holidays with the individual rights of the detainee.

Security Related Offences

4. A person arrested in accordance with the *Emergency Powers (Arrests) Law*, 5739 – 1979 ("the *Emergency Powers (Arrests) Law")*, according to an order issued by the Minister of Defence, shall be arraigned before the president of a District Court no later than 48 hours following the arrest. If not brought before the president within 48 hours, he shall be released unless another ground for arrest is proven to the president of a District Court (section 4). The 48-hour period does not include holidays.
5. On June 26, 2006, the Knesset approved the *Criminal Procedure (Detainee Suspected of Security Offence) (*Temporary *Provision) Law, 2006*, that constitutes a *Temporary Provision* set for a defined period of 18 months.
6. The law regulates the powers required for the enforcement authorities in order to investigate a detainee suspected of terrorism or security offences. Such investigations necessitate special enforcement powers due to the special characteristics of both the offences and the perpetrators. The main provisions of the law result from the exceptional circumstances of such a security offence.
7. Section 3 of the law stipulates that the appointed officer may delay the arraignment before a judge to a maximum of 48 hours from the arrest, if the officer is convinced that the cessation of the investigation would truly jeopardize the investigation. The officer may decide to delay the arraignment for another 24 hours if he is convinced that the cessation of the investigation would truly jeopardize the investigation or may harm the possibility to prevent harming human lives.
8. The officer may delay the arraignment for additional 24 hours for the same reason, provided that he explains his decision in writing and obtains the approval of the relevant approving authority. A delay of over 72 hours also requires the approval of the Head of Investigations Department of the ISA, or his deputy. In any case, the maximum delay would not exceed 96 hours from the time of the arrest.
9. It must be emphasized that the initial stage of the investigation of a detainee suspected of terrorism and security offence is critical for the investigation in many ways, such as the possibility to use the information obtained during the investigation to prevent additional imminent terror attacks. Therefore the legislator asserted that the provision concerning this delay in arraignment is properly balanced with the need to protect human lives.
10. Moreover, as a way of further assuring the rights of the detainee, and in light of the temporary nature of the law, during the duration of the law, the Minister of Justice would be obligated to report to the Committee of Constitution, Law and Justice of the Knesset on the implementation of the law every six months. The report would include, *inter alia*, detailed information concerning postponements in bringing a detainee before a judge (including the number of cases in which the postponement occurred and the duration of such postponements).

Soldiers - IDF

11. According to the *Military Justice Law*, following an amendment in 2000, the maximum period a soldier can be held under arrest before he is brought before a judge is 48 hours.

Access to Legal Counsel

12. In a recent decision by the Supreme Court, the Court held that "[t]here is no dispute as to the high standing and central position of the right to legal counsel in our legal system." (C.A. 5121/98, Prv. *Yisascharov v. The Head Military Prosecutor et. al.* (4.5.06)) Here, the Court adopted a relative exclusion doctrine, according to which the court may rule on the

inadmissibility of a confession due to the interrogator's failure to notify the soldier of his right to legal counsel.

Criminal Offences

Detainees

13. In Israel, pursuant to Section 11 of the *Criminal Procedure (Powers of Enforcement - Arrests)(Terms of Detention) Regulations*, 5757 – 1997, stipulates that the date of a detainee's meeting with an attorney shall be predetermined, and that the commander of the detention facility shall enable the first meeting of a detainee with an attorney, at their request, even during extraordinary hours.

14. Section 34 of the *Criminal Procedure (Powers of Enforcement - Arrests) Law*, states that a detainee has the right to meet and consult with a lawyer. Following a detainee's request to meet with an attorney or the request of an attorney to meet a detainee, the person in charge of the investigation shall enable the meeting without a delay. This meeting can be delayed if, in the opinion of the police officer in charge, such a meeting necessitates terminating or suspending an investigation or other measures regarding the investigation, or substantially puts the investigation at risk. The officer in charge shall provide a written reasoned decision to postpone the meeting for the time needed to complete the investigation, provided this deferment does not exceed several hours.

15. The officer in charge can further delay this meeting if he issues a sufficiently reasoned decision that such a meeting may thwart or obstruct the arrest of additional suspects in the same matter, prevent the disclosure of evidence, or the capture of an object apprehended regarding the same offence. Such additional delay shall not exceed 24 hours from the time of arrest. An additional 24 hours deferment (to a total of 48 hours) can be granted, if the officer in charge provides an elaborated written decision that he is convinced that such postponement is necessary for safeguarding human life, thwarting a crime, or is in relation to a security offence under certain provisions. However, such a detainee shall be given a reasonable opportunity to meet or consult with a legal counsel prior to the arraignment before a court of law.

Prisoners

16. A recent amendment to the *Prisons Ordinance*, 1971 (amendment no. 30, dated July 2005) further stipulates the conditions for a prisoner meeting with an attorney for professional service. According to section 45, this meeting shall be held in private and in conditions allowing for the confidentiality of the matters and documents exchanged, and in such a manner that enables supervision of the prisoner's movements. Following the prisoner's request to meet with an attorney for professional service, or the request of an attorney to meet a prisoner, the director of the prison shall facilitate the meeting in the prison during regular hours and without delay.

17. Section 45A of the *Prisons Ordinance* relates to all prisoners, except for detainees who have yet to be indicted. This section authorizes the Israeli Prisons Service (IPS) Commissioner and the director of the prison to postpone or stop such a meeting for a set period of time if there is a substantial suspicion that meeting with a particular lawyer will enable the commission of an offence risking the security of a person, public security, state security or the prison security, or a prison offence substantially damaging to the prison discipline and that brings about a severe disruption of the prison procedures and administration. The director of the prison may delay such a meeting for no longer than 24 hours, and the IPS Commissioner may order an additional 5 days delay, with the agreement of the District Attorney. Such a reasoned order shall be given to the prisoner in writing,

unless the IPS Commissioner specifically orders it shall be given orally. The reasoning may be withheld under certain limited provisions. Decisions rendered according to section 45A may be appealed to the relevant District Court.

18. The District Court may further extend the above time-periods up to 21 days, following an application of the representative of the Attorney General, based on one of the grounds specified above. The maximum delay shall not exceed 3 months. Such a decision can be appealed to the Supreme Court. A Supreme Court judge may further extend these periods based on one of the grounds specified above.

II. "Targeted killings" (paragraph 15)

1. As was stated by Israel to the Committee, in the context of its attempts to cope with the scourge of terrorism, Israel's occasional resort to the targeting of terrorists, as a matter of military necessity, is carried out in compliance with international law of armed conflict. Clearly, Israel shares the Committee's concern for the loss of all innocent life and makes every effort to ensure that even during active warfare and the conduct of military operations in response to terrorist threats and actual attacks, utmost consideration is given to the principles of necessity and proportionality.

2. Without prejudice to Israel's position regarding the non-applicability of the ICCPR to the present armed conflict against Palestinian terrorism, which is governed by the laws of armed conflict, Israel confirms that it does not use "targeted killings" as a means of deterrence or punishment.

3. This measure is carried out with respect to identified terrorists who are directly and substantially involved in serious terrorist activities (either in the carrying out of such attacks or in other ways, such as their planning or dispatch). All such operations are reviewed in advance to ensure full compliance with the laws of armed conflict, including the principles of military necessity, distinction, proportionality and humanity. Such a measure is only carried out as an extraordinary measure, where there is no feasible way to apprehend the identified terrorist, and only after all feasible precautions have been taken with a view to avoiding – and in any event minimizing - incidental damage to innocent individuals. Accordingly, targeting of terrorists is authorized only after carefully examining all available evidence and considering all operational alternatives.

4. Israel's legal position on this issue is a matter of public record, and was presented to the Israeli Supreme Court sitting as the High Court of Justice as part of the State's written and oral responses to a petition, still pending before the Court, concerning the legality of this measure (*HCJ* 769/02 - *Public Committee Against Torture et al v. Government of Israel et al*).

5. In this context, Israel has consistently maintained an absolute preference, where possible, to arrest terrorist operatives. However, in areas under the control and jurisdiction of the Palestinian Authority (the "PA"), arrest has not always been a realistic alternative. This is particularly true in the Gaza Strip, where Israel no longer exercises law-enforcement capacities, and in some areas in the West Bank under the security control of the PA. The difficulty of arresting senior and active terrorists is further compounded by the unwillingness of the PA to make such arrests and the operational difficulties, including

the grave danger to the lives of soldiers and the local civilian population, that would be entailed in requiring the IDF to send forces to enter such areas, not to mention the time it would give those terrorists to escape.

6. Despite the fact that during active warfare, armed hostilities and terrorist attacks against its population, Israel is not obliged under international law of war to take all measures to arrest a suspected terrorist before considering resort to the use of deadly force, it nevertheless has, to the extent possible in such difficult conditions, applied such policy in its fight against terrorists, to the extent possible in these difficult conditions.

7. Furthermore, Israel attaches importance to the principle of proportionality in dealing with terrorist threats and activities. Accordingly, attacks are only carried out if the collateral damage anticipated is not excessive in relation to the military advantage to be obtained from the attack, in accordance with the rule of proportionality. Indeed, on this basis, operations have been aborted, delayed or modified, in order to avoid causing damage to innocent individuals.

8. The authority to take final decisions regarding "targeted killings" is reserved to the very highest levels of the IDF and the Government of Israel with the guidance of legal counsel. Such decisions are taken only after carefully reviewing their compliance with all of the relevant principles noted above. IDF commanders at all levels (including regional military commanders) are issued with clear and compulsory instructions governing all operational activity. These instructions are drafted in consultation with legal counsel to ensure that they embody, and are fully consistent with Israel's obligations under Israeli law and the laws of armed conflict.

9. IDF operational guidelines, instructions and activities are also subject to the regular scrutiny of the Israeli Supreme Court sitting as the High Court of Justice according to norms of Israeli and international law.

10. With respect to the investigation of complaints regarding disproportionate use of force, the IDF is constantly acting to accelerate and streamline investigation procedures, which are regularly reviewed and evaluated. All IDF operations and activities which result in civilian casualties are reported to the Chief of Staff and the Military Advocate General within 48 hours. In each case, the Military Advocate General can then instruct that an operational investigation, be conducted, in order to determine whether there is any evidence of criminal behavior. Where there is such evidence or suspicion, the Military Advocate General is authorized to order that criminal investigations be carried out by the Military Police and where there is sufficient evidence, prosecutions are undertaken by the Military Prosecutor's office. It should be noted that the Military Advocate General is the highest legal authority in the IDF who, by virtue of his role, is independent from the command hierarchy of the IDF and is subject only to the rule of law.

III. Allegations of “Partly punitive demolition of property and homes” (paragraph 16)

1. As mentioned above, since September 2000 Israelis have been the victims of a relentless and ongoing campaign by Palestinian terrorists to spread death and destruction, killing more than 1,100 Israelis and injuring nearly 8,000. In light of this unprecedented lethal threat, Israeli security forces have sought to find effective and lawful counter-measures that may minimize the occurrence of such terrorist attacks in general, and suicide terrorism in particular, and discourage potential suicide bombers. Faced with the failure of the Palestinian leadership to comply with its obligations to fight terrorism, Israel has been compelled to combat this ongoing threat to the inherent right to life. One such security measure is the demolition of structures that pose a real security risk to Israeli forces.

2. Palestinian terrorists often operate from within densely crowded civilian neighborhoods in grave breach of international law, whether firing from within these buildings or activating roadside charges from orchards and fields. In such instances, military necessity dictates the demolition of these locations. Under international law, such locations are considered legitimate targets for attack. Therefore, in the midst of combat, when dictated by operational necessity, Israeli security forces may lawfully destroy structures used by terrorists.

3. A further instance necessitating the possible demolition of buildings is the use made by terrorist groups of civilian buildings in order to conceal openings of tunnels used to smuggle arms, explosives and terrorists from Egypt into the Gaza Strip. Similarly, buildings in the West Bank and the Gaza Strip are exploited for the manufacturing and concealment of weapons and explosive devices used against Israel, including the Kassam missiles fired on an almost daily basis against Israeli civilian population centers. The demolition of these structures is often the only way to combat these threats effectively.

4. Another method previously employed by Israel against terrorists was the demolition of homes of those who had carried out suicide attacks or other grave terrorist attacks, or those who are responsible for sending suicide bombers on their deadly murderous missions. The legality of this measure, used for deterrence and not as a punitive measure, was upheld by the Israeli High Court of Justice. The use of this measure has presently been discontinued by the IDF.

5. In this regard, Israel's security forces adhere to the rules of international law of armed conflict and are subject to the scrutiny of Israel's High Court of Justice in hundreds of petitions frequently brought by Palestinians and human rights organizations.

6. These counter-terrorism measures, by any reasonable standard, do not constitute a form of "collective punishment" as some have claimed. While the security measures do unfortunately cause hardships to sectors of the Palestinian population, this is categorically not their intent. Wherever possible, even in the midst of military operations, Israel's security forces go to great lengths to minimize the effects of security measures on the civilian population not involved in terrorism. In this context, Israel adopts measures in order to ensure that only terrorists and the structures they abuse are targeted.

7. Finally, another practice used when necessary, is the demolition of illegally constructed buildings, such as in cases where buildings interfere with plans for the construction of public facilities including schools or roads; pose a safety threat to their inhabitants; or interfere with historic landmarks. It should be stressed that all demolitions are conducted in accordance with due process guarantees, after a fair hearing opportunity is given and subject to judicial review with the right to appeal and without distinction on the basis of race or ethnic origin. Those affected by a demolition order are entitled by law to appeal to the Israeli Supreme Court

IV. "Certain interrogation techniques" (paragraph 18)

1. Following the High Court of Justice ruling in HCJ 5100/94, *The Public Committee Against Torture in Israel v. The State of Israel*, dealing with the use of "moderate physical pressure" in interrogations, the Attorney General is not authorized to grant an approval in advance permitting the use of such "exceptional measures".
2. The Israeli Security Agency (ISA) interrogators operate in accordance with standard operational procedures, detailing acceptable interrogation techniques, and receive extensive training on permissible investigation methods.

3. Every detainee undergoing an interrogation is allowed full access to a medical examination on a regular basis, as well as upon request.

Accountability issues:

4. Complaints against Israel Security Agency personnel alleging the use of prohibited investigation measures are dealt with in the following manner:

4.1 Persons who are detained by the Israel Security Agency for purposes of investigation are entitled to file complaints concerning any alleged mistreatment during such investigations. All such complaints are thoroughly investigated by the Comptroller of interrogates complaints.

4.2 According to ISA rules of operation, the Comptroller functions independently and no factor in the ISA, including its Head, has jurisdiction to interfere with the findings of the Comptroller.

4.3 Furthermore, the Comptroller functions under the close supervision of a high ranking member in the State Attorney's Office. Additionally, following the termination of the examination of the complaints, the Comptroller's report is thoroughly reviewed by the aforementioned high ranking official in the State Attorney's Office and in cases when the issues at hand are sensitive or circumstances so necessitate – also by the Attorney General and the State Attorney.

4.4 A decision regarding a complaint is made by the Attorney General, the State Attorney and the high ranking member of the State Attorney's Office who is in charge of dealing with this matter, only following a thorough examination of the Comptroller's findings. These decisions are administrative, subject to the judicial review of the High Court of justice, like any other administrative decision.

4.5 Since October 2000, thousands of investigations have been conducted, and a relatively low number of complaints have been filed – 65 complaints in 2001; 81 complaints in 2002; 127 complaints in 2003; 115 complaints in 2004; 64 complaints in 2005; 55 complaints in 2006; Most of these complaints were found to be unjustified. When complaints were found to be justified, measures were taken against the investigator involved.

4.6 Since the Supreme Court handed down its decision concerning the investigation methods of the ISA, virtually no petitions have been submitted to the High Court of Justice regarding investigation methods. In contrast, previous to the year 2000, hundreds of such petitions were filed. At present, there are no petitions pending from suspects interrogated, or Non-Governmental Organizations such as B'tselem, and Physicians for Human Rights. This is a strong indication of the fact that the investigations are just and lawful, and conducted in accordance with the Supreme Court's ruling. The change has indeed been dramatic.

4.7 To this date, no complaint has led to findings that a criminal offence has been committed. However, several disciplinary proceedings have been taken against several ISA personnel. Furthermore, several complaints resulted in reevaluation of interrogation techniques and conditions, and subsequent amendments were made.

4.8 The following list details incidents of complaints which led to the disciplinary measures detailed below:

- Following the complaint regarding the interrogation of **F.T.A.**, it was found that an ISA interrogator behaved in an inappropriate manner and he was reprimanded. A general guidance in this matter was issued to all ISA interrogators.

- Following the complaint regarding the interrogation of **H.M.H.A**., two general remarks were issued concerning reports during an interrogation to all ISA interrogators.

- Following the complaint regarding the interrogation of **M.A.R.B.**, certain general remarks concerning the methods of interrogation to all ISA interrogators were relayed.

- Following the complaint regarding the interrogation of **K.M.K.K.,** a general remark as to the documentation of methods of interrogation was issued.

- Following the complaint regarding the interrogation of **Z.A.K.,** certain general remarks concerning the methods of interrogation was issued.

- Following the complaint regarding the interrogation of **M.M.M.**, a general remark concerning the methods of interrogation to all ISA interrogators was issued.

- Following the complaint regarding the interrogation of **F.T.A.S.**, the ISA interrogators were issued a general remark concerning the methods of

interrogation. It was found that there have been difficulties in providing inmates with change of clothing and the Prison Authority was notified accordingly. Additionally, it was concluded that the conditions of the food, both its quantity and quality, did not comply with the accepted standards during the period in question and that there was a necessity for immediate improvement. Accordingly, the Police and the Prison Authority have taken steps to rectify the situation.

- Following the complaint regarding the interrogation of **M.A.Y.,** it was found appropriate to clarify the guidance pertaining to an immediate report regarding a change in a detainee's medical condition whilst undergoing an interrogation.

V. "Issues of family reunification in the context of the Nationality and Entry into Israel (Temporary Order) of 31 July 2003" (para. 21)

1. Since the outbreak of the armed conflict between Israel and the Palestinians towards the end of the year 2000, which led, *inter alia*, to the commission of dozens of suicide bombings inside Israel, there has been a growing involvement in assistance to terrorist organizations on the part of Palestinians originally from the West Bank and the Gaza Strip. Such individuals carry Israeli identity cards pursuant to procedures of family unification with Israeli citizens or residents, allowing their free movement between the West Bank and the Gaza Strip and into Israel.

2. In order to prevent such potential danger posed by *former* residents of these areas during the current armed conflict, the Government decided in May 2002 to temporarily suspend granting them legal status in Israel , through the process of family unification. The decision was adopted following the horrendous wave of terror attacks in March of 2002, when 135 Israelis were killed and other 721 were injured.

3. It should be noted that a State has the right to control entry into its territory, and more so, during times of armed conflict, when persons requesting to enter may potentially be involved in acts of violence against its citizens.

4. On July 31, 2003, the Knesset enacted the *Citizenship and Entry into Israel Law (Temporary Provision), 5763-2003* which limits the possibility of granting residents of the territories Israeli citizenship pursuant to the *Citizenship Law*, including by means of family unification; and the possibility of granting such residents residence permits into Israel pursuant to the *Entry into Israel Law*.

5. The Law is the direct result of 23 murderous terrorist attacks, made possible by the involvement of persons who were granted legal status in Israel based on their marriage to an Israeli citizen, and took advantage of their Israeli ID to pass checkpoints and carry into Israel either suicide bombers or explosives. The Law enables entry to Israel for the purposes of medical treatment, employment, or other temporary grounds, for an overall period of up to six months, as well as the unification of a minor up to the age of 12, with a parent lawfully residing in Israel. Furthermore, the Law does not change the status of people who already received their status prior to the day the Law came into effect. However, those people's status shall not be advanced, yet left static.

6. The Law was enacted for a period of one year. At the end of that period in August, 2004, the Law was extended for another six months. It was re-extended in February 2005 for a period of four more months and has been further extended until August 31, 2005. Simultaneously, the Government had prepared an amended draft of the law, while extending the exceptional cases to which the law does not apply. The revised law was published on August 1, 2005 and was invoked until March 31, 2006. At the end of that period it was extended again and is set to expire in January 2007.

7. The Law, which is a temporary measure, does not change the status of persons who already received their status prior to the day the Law came into effect. However, the Law provides that those people's status shall not be advanced, but instead left static.

8. The amendment to the Law (entitled *The Citizenship and Entry into Israel Law (Temporary Order) (Amendment), 2005)* sets several new instructions:

- The Minister of the Interior may authorize a request for family unification for those who are married to an Israeli spouse, and are residents of the area, for men over the age of 35 and women over the age of 25;
- Furthermore, the law authorizes the Minister of the Interior to grant residence permits to children of such a couple that are minors **under the age of 14**;

- Additionally, with regard to children of such a couple that are minors **over the age of 14**, the law stipulates that the Minister of the Interior has the authority to grant temporary permits under certain conditions;

- A request can be denied in cases where the Minister of the Interior or certain security functionaries assert that the person, or a family member of first relation, poses a security threat.

- In cases where a person or a family member has been known to act for the benefit of the State of Israel, the law enables the Minister of the Interior and certain security functionaries to grant permits to a resident of the area.

9. The Law's constitutionality was scrutinized and recently upheld by the Supreme Court in *H.C.J. cases 7052/03, 7102/03 Adalah and others v. The Minister of the Interior (14.5.06)*. The High Court of Justice, residing in an extended panel of eleven judges, rejected the petitions against the legality of the Law, by a six to five vote. The dissenting opinion was given by the President of the Court, Chief Justice Aharon Barak, whose position was that the law infringes on the constitutional right to family life and equality, in a manner exceeding that required, and the law must therefore be annulled.

10. The majority opinion was given by the Deputy President (retired), Justice Cheshin, whose position was that the law does not harm constitutional rights, and that even if some such harm occurs, it is proportionate. He concluded that the law is constitutional. Judge Naor fully concurred; Judge Gronis held that the law may harm the constitutional right to family life, but the harm is nevertheless proportionate; Judge Adiel also held that the law

harms the constitutional right to family life, but the harm is proportionate; similarly, Judge Rivlin held that the law harms the constitutional rights to family life and equality, but the harm is proportionate.

11. Judge Levi held that the law harms the constitutional rights to family life and equality, in a manner exceeding that required, but that the State should be given nine months duration to establish an alternate legislative arrangement.

12. The Court noted that the Government has decided to prepare an amendment to the Law adding exceptions to the general rule that would allow withholding application of the Law to groups of individuals who pose a lower security risk to the lives and security of Israeli citizens. The Supreme Court also pointed out the limited time frame of the Law and that the Government did not extend the Law for the full year. The Court thus did not issue any order concerning the Law, leaving open the possibility to request further information from the Government, if necessary, following the envisioned changes to the Law.

Following this judgment, a discussion was held by the Minister of Justice, which concluded with administrative work headed by the Attorney General, along with the Ministry of the Interior, for the preparation of a Law regulating the acquisition of status in Israel, as a result of a marriage. At present, comprehensive ongoing consultations are taking place as part of these governmental efforts to prepare a Bill that will reflect the Supreme Court's remarks.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Third periodic report of States parties due in 2007

ISRAEL*

[25 July 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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Introduction

1. This is the Third Periodic Report of the Government of the State of Israel, submitted to the United Nations Human Rights Committee (HRC) in accordance with the requirements of article 40 of the International Covenant on Civil and Political Rights (hereinafter referred to as the "Covenant" or the "ICCPR"). This report has been compiled by the Human Rights and Foreign Relations Department at the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other Israeli Government bodies. Israeli Non-Governmental Organizations ("NGOs") were also invited to submit comments prior to the compilation of the present report, both through direct application, and a general invitation to submit remarks posted on the Ministry of Justice Web site. Their contributions were given substantial consideration.

2. Since the submission of the Second Periodic Report (UN document - CCPR/C/ISR/2001/2), many legislative, administrative and judicial developments relevant to the implementation of the Covenant occurred. A short summary of the main changes is included below. This report provides a comprehensive account of these developments. It also addresses the comments made in the concluding observations by the HRC (CCPR/CO/78/ISR) dated August 21, 2003.

3. In terms of legislation, since the submission of Israel's previous periodic report, noteworthy steps have been taken to promote human rights issues. Some of the more prominent new laws include the Terminally Ill Patient Law 5766-2005 (the "Terminally Ill Patient Law") which provides an answer to the medical-ethical dilemma present in the treatment of terminally-ill patients. Later that year the Knesset enacted the Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability) 5765-2005 (the "Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability)") concerning investigations of persons with intellectual and mental disabilities. In 2006, the Anti Trafficking Law (Legislative Amendments) 5766 - 2006, (the "Anti Trafficking Law") entered into force, promulgating a broad trafficking crime for a number of illegal purposes. This has paved the way for Israel's ratification of both the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. In 2007, the Knesset enacted the Criminal Procedure Law (Amendment 51) 5767-2007, accepting the legal doctrine regarding "Abuse of Process" into Israeli criminal law. Later that year, the Knesset enacted the Gender Implications of Legislation Law (Legislative Amendments) 5768-2007 (the "Gender Implications of Legislation Law (Legislative Amendments)") which imposes a duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset.

4. While Israel has not enacted any further basic laws (Israel's constitutional law) on human rights since the submission of its previous Periodic Reports, the fundamental rights protected by the Covenant which are still not included in legislation, are effectively protected through judicial decisions and otherwise.

5. With respect to judicial decisions, the Supreme Court has continued to play a major role in the implementation of civil and political rights. Some of the more prominent cases include HCJ 4634/04 *Physicians for human rights et. al. v. The Minister of Public Security, et. al*. in

which the Supreme Court held that the State must provide a bed to every prisoner held in an Israeli prisons. On May 2006, the Supreme Court delivered a landmark decision, laying down a court-made doctrine on the exclusion of unlawfully obtained evidence (C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al*.). On June, 2007, the Supreme Court rejected two petitions challenging the annual Pride Parade in Jerusalem (HCJ 5277/07 *Baruch Marzel v. The Chief of Jerusalem Police, Ilan Franko,* and HCJ 5380/07 *"Kochav Ehad" Association v. The Chief of Jerusalem Police, Ilan Franko*).

6. Lower Court instances also contributed to the protection of human right, as the National Labor Court concluded that a decision of the Minister of Transports to allow transport operatives other than those on strike to provide transportation in the midst of a cessation of services in the city of Beer-Sheva, caused severe, direct, and intentional damage to the workers' right of association and their right to strike (L.C 57/05 *The New Histadrut v. the Minister of Transport*). The Tel-Aviv District Court determined that a prisoner held in the custody of the Israel Prisons Service (IPS), is entitled to the same medical treatment provided to all other citizens of the State by the public health services (Administrative Petition 002808/05 *Ahmed Yossef Mahmud Altamimi v. Head of IPS's Medicine Department et al*.). The Haifa District Court annulled a decision of the Haifa Traffic Court due to its failure to appoint a defender for the appellant (Cr. A. 002646/07 *Zrayek Nimer v. the State of Israel*).

7. Some additional developments can be found in an opinion published by the Ombudsman's Office of the Israeli Judiciary, determining that as a general rule, a detainee is not to be handcuffed during court hearings apart from exceptional cases. On January, 2008, the Jerusalem Planning and Construction Committee delivered for depositing the Jerusalem Mayor's plan to establish a cemetery for civil burial in the area of the new planned cemetery in Givat Shaul in Jerusalem.

8. The following report addresses the main issues raised by the Covenant in the period between the submission of the Israel's previous Periodic Report and April 2008, as well as concerns raised by the Human Rights Committee.

Article 1. Self-determination

9. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 2. Implementation of the rights in the Covenant

10. **General**. As discussed in the previous report, international agreements are not, as such, directly applicable as part of Israeli law. Israeli legislation, however, in particular its Basic Laws and case law, have continued to offer wide ranging, effective protection and remedies for the basic rights protected by the Covenant.

11. **Basic law: human dignity and liberty**. This law continues to serve as a fundamental part of Israeli human rights legislation. This law has had a sustained and heavy influence on the enactment and amendment of new laws, as well as on judicial interpretation of those laws. It continues to influence a wide range of legal and social practices. The Anti Trafficking Law was,

for example, enacted in accordance with the Basic Law, and broadly proscribes against trafficking for a number of purposes including prostitution, slavery or forced labor. The Courts have also ruled in accordance with the Basic Law on many occasions. Some notable such instances include the decision in HCJ 4634/04 *Physicians for Human Rights et al. v. the Minister of Public Security et al.*, determining that the State must provide a bed for every prisoner; the landmark decision in C.A 5121/98 *Prv. Yisascharov v. the Head Military Prosecutor et al.* concerning the exclusion of unlawfully obtained evidence; and the decision reached in HCJ 3045/05 *Ben-Ari v. the Ministry of the Interior* recognizing the right of same-sex couples holding wedding certificates from abroad to be registered as married by the Ministry of the Interior.

12. **Case law**. In addition, Israeli case law has referred to different provisions of the Covenant in a significant number of decisions. For example, the Supreme Court has referred to the Covenant in relation to article 14(1) concerning the right to a fair trial (Cr.A) 5121/98 Private (res.) *Raphael Yisascharov v. The General Military Prosecutor*). Other articles similarly referred to include article 14(5) concerning the right to appeal (C.R.A Imri Haim registered association v. Aharon Vizel), article 17 concerning the right to privacy (HCJ 6650/04 *Anonymous v. The Netanya District Rabbinate Court*), article 23 concerning the right to marry and form a family (HCJ 7052/03 *Adalah v. The Ministry of the Interior*) and also article 27 in relation to the right to freedom of culture and language (HCJ 4112/99 *Adalah v. The Municipality of Tel-Aviv*). District Courts have also referred to the rights granted by the ICCPR. The Jerusalem District Court, for example, referred to the Convention in relation to the prohibition of slave-trade and trafficking in persons (D.C.C 5049/02 *The State of Israel v. Ofer Hasson*).

13. **Publicity and dissemination**. The second report concerning the implementation of the ICCPR, and the HRC's comments, were widely distributed, thus fuelling public discourse and debate on human rights issues.

14. The newly-established Equal Employment Opportunities Commission in the Ministry of Industry, Trade and Labor (ITL), is headed by a National Commissioner, and divided into three district bureaus headed by district commissioners.

15. The Commission derives from a recent amendment to the Equal Employment Opportunities Law 5748-1988 (the "Equal Employment Opportunities Law"). Under that amendment, a 21-member advisory committee to the Commission shall be appointed, including representatives of the Authority for the Promotion of the Status of Women, the Commission for Equal Rights of People with Disabilities, relevant Government Ministries, organizations engaged in the promotion of equal employment rights, trade unions and employers organizations, as well as experts in areas associated with the work of the Commission.

16. Under the recent amendment, the Commission is charged, inter alia, with fostering public awareness through education, training and information; encouraging programs and activities; cooperation with relevant persons and bodies; conducting research and gathering information; intervention, with the courts approval, in ongoing legal proceedings; handling complaints regarding the violation of equal employment legislation; submission of requests for general

orders; and instructing employers to take general measures regarding all or part of their workforce or employment applicants, designed to ensure compliance with duties imposed by employment equality legislation or to prevent violations of such duties.

17. On November 11, 2007 the Government accepted Resolution Number 2578, concerning the appointment of an Equal Employment Opportunities Commissioner. This position is the first of its kind to be established in Israel. The Commissioner will be responsible for collecting information and hearing complaints from workers concerning instances of sexual harassment, and/or discrimination based on gender, sexual orientation, parenthood, religion and race. Where necessary, the Commissioner will also be responsible for initiating legal action on behalf of any adversely affected workers. The commissioner will also have the authority to request that Courts issue special orders prohibiting sexual harassment in places of work. Violation of these orders will be considered a criminal offence. In addition, the commissioner will be responsible for encouraging special programs relating to equality in employment as well as other educational and promotional activities in working places.

18. **Human rights education**. In 2008, the Ministry of Education had begun the implementation and assimilation of a fundamental change in teaching civic studies, including Human Rights issues. The goal is to increase the teaching hours given to the subject so far. In the extended program, there is an even greater emphasis on civil and political rights. The Ministry conducts visits to the Knesset and to Israeli Courts, where the pupils meet with members of governmental authorities - judges, police officers, etc. and learn about their performance.

19. **Equality**. The State of Israel has implemented the obligation to maintain equality in the enjoyment of the Covenant rights in a myriad of ways. Each is discussed in detail with reference to the relevant articles in this report, and in particular articles 3, 26 and 27.

20. **Nationality**. This issue has been discussed in our previous reports. No change has occurred in this area since the submission of our second periodic report.

Israel's Security Agency Law

21. As detailed in previous reports, Israel took it upon itself to legislate a specific law with regards to the Israel Security Agency (ISA). The enactment of the Israel Security Agency Law 5762-2000 (the "Israel Security Agency Law") is a very significant development in the implementation of the Covenant since the submission of our previous periodic report to this committee. This law addresses several major issues concerning the mandate, operation, and scope of power of the ISA, and will be further discussed below [A translation of the law is attached to this periodic report and is marked "A"].

22. The Law states that the head of the Agency shall be appointed by the Government and upon the proposal of the Prime Minister for a five-year term, unless the Government has prescribed a shorter term in its appointment resolution. The head of the Agency shall be in charge of the administration and operation of the ISA, as well as the development of its capabilities.

23. The law specifically provides that the Prime Minister shall be in charge of the ISA on the Government's behalf, and that no mission shall be imposed on the ISA for the promotion of party-political interests.

24. The law also establishes a Ministerial Committee for the ISA. The Committee shall operate on the ISA's behalf in the matters prescribed, and shall be composed of five members including: the Prime Minister, the Minister of Defence, the Minister of Justice and the Minister of Public Security.

25. Section 7 of the law details the mission of the Agency, as follows:

> "The Agency shall be in charge of the protection of State security and the order and institutions of the democratic regime against threats of terrorism, sabotage, subversion, espionage and disclosure of State secrets; and the Agency shall also act to safeguard and promote other State interests vital for national State security, all as prescribed by the Government and subject to every law."

26. Next, the law particulates the ISA's functions:

> "(1) Foiling and preventing illegal activities aimed at harming State security, or the order or institutions of the democratic regime;
>
> (2) Protecting persons, information and places as determined by the Government;
>
> (3) Determining directives on security classification for positions and offices in the public service and in other bodies, as determined by the Government, except for public appointees and judges; and determining the security suitability of a person for a position or office that holds a security classification, including by the use of polygraph tests, all as shall be prescribed by rules. In this paragraph, "judges" means any person holding judicial authority under the Basic Law: the Judiciary, except candidates for the judiciary and except a military judge under the Military Justice Law, 5715-1955;
>
> (4) Establishing protection practices for bodies as determined by the Government;
>
> (5) Conducting intelligence research and providing advice and position appraisals for the Government, and other bodies, as determined by the Government;
>
> (6) Conducting activities in any other area determined by the Government, with the approval of the Knesset Service Affairs Committee, which is designed to safeguard and promote State interests vital to the national security of the State;
>
> (7) Collection and receipt of information for safeguarding and promoting the interests set forth in this section.

27. Section 8 to this law also grants the ISA the following general powers for the purpose of fulfilling its functions in the receipt and collection of information: to pass on information to other bodies in accordance with rules to be prescribed and subject to the provisions of any law; to

investigate suspects and suspicions in connection with the commission of offences or to conduct investigations for the purpose of preventing offences in certain prescribed areas; to enlist the assistance of any person who is not an ISA employee for the carrying out of tasks in accordance with rules to be prescribed; ISA officials shall have the powers of police officers to fulfill certain functions, following authorization from the head of the ISA to enter certain premises not being a closed private structure, in order to conduct inspections and to carry out protective and preventative actions for a limited period.

28. Section 12 compels routine reports of the head of the ISA to the Ministerial Committee and to the Knesset Service Affairs Committee, from time to time and no less than every three months, on the activity of the Agency. Special reports shall be submitted to these Committees, at their request, pursuant to rules prescribed.

29. Section 13 to the Law also affixes an Agency comptroller, to be appointed by the Prime Minister in consultation with the head of the ISA. The Comptroller shall conduct internal auditing of the ISA pursuant to the provisions of the Internal Auditing Law, 5752-1992, and shall assist the Government and the Ministerial Committee in fulfilling their functions. The Comptroller shall submit an annual report on his findings, and any periodic report made by him, to the head of the ISA, the Ministerial Committee and the Knesset Service Affairs Committee.

30. According to section 18, an ISA employee or a person acting on behalf of the agency shall not bear criminal or civil responsibility for any act or omission performed in good faith and reasonably by him within the scope and in performance of his function; yet the provisions of this section shall not derogate from disciplinary responsibility under the provisions of any law.

Article 3. Equal rights of men and women

31. Since the submission of Israel's previous periodic report, there has been significant progress enhancing the status of women in Israel. This progress is clearly apparent in the adoption of several new and notable acts of legislation; in precedent setting decisions handed down by the courts; and in actions and initiatives taken by the different government bodies. At the same time, however, in certain areas of Israeli society, women are still comparatively underprivileged, and more efforts need to be invested.

32. Complete equality between men and women before the law is entrenched in Israel, except in some of the matters governed by religious law. The Equal Rights for Women Law 5711-1951 (the "Equal Rights for Women Law") states in section 1, that the same laws shall apply to men and women regarding "any legal action", and that any law discriminating against women shall be null and void. The Law also equates the legal status of women to that of men.

33. On November 20, 2007, the Knesset enacted the Gender Implications of Legislation Law (Legislative Amendments) which imposes a duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset. The Law is aimed to expose any hidden inequalities between men and women that might be present in different bills, in order to advance the status of equality between both genders. According to the Law, the Authority for the Advancement of the Status of Women will submit to the relevant

Knesset committee an opinion concerning the gender implications of any bill or secondary legislation, when brought for its consideration or approval. This will allow Knesset members participating in committee hearings to become acquainted with any gender implications inherent in legislation, if such implications in fact exist. In addition, the submission of these opinions will be anchored in the Authority for the Advancement of the Status of Women Law 5758-1998 (the "Authority for the Advancement of the Status of Women Law") as one of the official functions of the Authority for the Advancement of the Status of Women.

34. The Authority for the Advancement of the Status of Women (the "AASW") has provided a detailed survey of its actions and programs, entitled "Beijing +10" which was published in March 2005.

35. The Equal Rights for Women Law was amended by the Knesset in 2000, and amended again in 2005. The 4th Amendment to the Law (July 20, 2005), determined that any task force appointed by the Government for the creation of foreign and/or interior national policies (including negotiation teams working towards a peace agreement) must include an appropriate number of women. In order to effectively implement and enforce the provision, the appointing body must report on its composition to the Authority for the Advancement of the Status of Women, which will in turn examine the details, going towards the construction of an annual report to be submitted to the Committee on the Status of Women concerning the adequate representation of women in national policy task forces.

36. **Women's representation in political parties and the Knesset**. Women are still underrepresented in political positions, both in the national and municipal levels. However, there have been significant positive changes in the past few years. In national elections, several of the large parties included women's representation as a dominant factor in the establishment of party lists (through appointments, quotas, affirmative action etc.). Of the 120 members of the Knesset, 17 are women, and from among those women, one is of Arabic descent. The Speaker of the Knesset, MK Dalia Itzik, is a woman and three other women are chairpersons of different Knesset committees: MK Nadia Hilou, Chairperson of the Committee on the Rights of the Child, MK Sofa Landver, Chairperson of the Public Petitions Committee and MK Zahava Gal-on, Chairperson of the Subcommittee on Trafficking in Women.

Women in government, local authorities and the civil service

37. **Women in local authorities**. As of January 2007, out of 253 possible appointments, there were only 6 women actively employed as mayors, or heads of local councils/authorities. Local authorities employ 2,934 public-elected persons in total, of which only 13.2% are women.

38. In 2003-2004, the Authority for the Advancement of the Status of Women sponsored two central conferences, in order to augment the number of women preparing to run for local council. The first conference was attended by more than 200 persons, including advisors to mayors, heads of local councils, and women responsible for the status of women in Government Ministries. The event was notably sponsored in conjunction with the Center for Local Government. The second conference, attended by more than 100 representatives from women's organizations, was sponsored in conjunction with the Council of Women's Organizations. In

addition, in order to prepare these women for the upcoming council elections, the Authority is actively and deliberately encouraging the women involved to run for other elected positions; such as committee chairpersons, neighborhood council chairpersons, positions with parents' committees, etc.

39. In order to further enhance the status of women, the Authority has also engaged in activities aimed at deepening the knowledge and commitment of council women with regards to the status of women in their localities. These plans have long term benefits in addition to the short-term ones. They will assist in gradually preparing a cadre of women willing to run for local office in future elections (the next currently being scheduled for 2008), and in providing them with knowledge and skills, both personal and institutional empowerment, and the opportunity for widespread networking that they will need to run effective campaigns.

40. The Authority also sponsors ongoing courses and workshops for persons advising mayors and heads of local councils. In these courses, the Authority emphasizes personal skills, inculcates values relating to gender equality and provides the participants with further academic and practical skills. As part of this course, for example, the participants are required to analyze the municipal budgets from a gender point of view and they are provided with expert guidance and mentoring to enable them to do so. In cooperation with the Advisor on the Status of Women in the Civil Service, the Authority has actively promoted the interests of supervisors for the status of women in Governmental Ministries. This support has included workshops, conferences, preparation and distribution of informational materials and more.

41. **Local councils**. Legislation passed in the year 2000, detailed in the previous report, mandates that every local council must actively promote the status of women. To that end, each council must appoint an Advisor on the Status of Women who is to report directly to the mayor and/or head of the local council on pertinent matters. As a direct subordinate to the head of the local council, the Advisor is dedicated to ensuring ongoing communication between the head of council and the local women's council (where such a women's council exits) and to initiating policies for the advancement of the status of women within the local authority. As an additional safeguard, the Law further empowers the Minister of the Interior to order that local councils follow the law's directives, and in the event that local councils should fail to comply, to personally appoint an Advisor on the Status of Women on the councils' behalf. As of 2008, 219 of the 253 local authorities had appointed such an advisor.

42. The Authority disseminated personal communications to all 253 of the mayors and heads of municipalities in Israel, concerning appropriate representation of women in municipal corporations and companies. The Authority supervises appointments made to counsels, commissions, and state committees, and decisively warns the appointing bodies of the consequences, if provisions of the Law on appropriate representation of women are not implemented. In addition to this activity, and at the initiative of the Authority, the Attorney General and the Secretary of Government informed all government bodies of the unequivocal duty to include women within their ranks.

43. **Arab women in local authorities**. Whilst the representation of elected Jewish women in local authority councils equals 14.2%, Arab women comprise only 0.5% of those elected. This

gap is usually explained as being the result of various sociocultural factors, such as the impact of religion and local tradition on certain minority communities which can restrict women from considering running for elections to these positions.

44. To assist in remedying this situation, 203 female Advisors on the Status of Women in local municipalities are currently employed, 40 of whom work in the Arab sector. These advisors ensure the advancement of policy for enhancing the status of women within the purview of the local authority, in addition to ensuring that the necessary resources are provided to this end.

45. The Department for the Advancement of Women within the Civil Service, continues to play a vital role in various areas including the implementation within the Civil Service of legislation oriented towards the improvement of women's status, the promotion of information and counseling for women within the civil service, as well as the formation and professional orientation of professionals working to promote the advancement of women in the Civil Service. The Department has also served as a vestibule for the receipt of complaints by female workers, and has worked at maintaining ongoing contact with organizations dealing with women's status in furtherance of common objectives. The Department also plays a significant role in engaging with the various Knesset committees to advance women's rights legislation.

46. **The prevention of sexual harassment within the Civil Service**. The Department has been involved on several levels with regards to the implementation of the Prevention of Sexual Harassment Law 5758-1998, and reinforcement of awareness on that subject. In illustration, dissemination of information, and explanations of the Law were made available to more than 50,000 workers in 2005, and Supervisors on the Status of Women were provided with tools so that they might better receive the workers' complaints. Indeed, since the passage of the Law in 1998, the number of complaints regarding sexual harassment received by the Department has dramatically increased, with 82 complaints received in 2005, and 64 complaints received in 2006. These Complaints are handled in cooperation with the Unit for Discipline and the Investigations Department within the Civil Service Administration. All women who submit complaints of sexual harassment to the Department are provided with legal advice, and are accompanied and supported throughout the investigative process up until completion of any ensuing trial. In certain cases administrative measures are also taken to separate the alleged assailant from the victim. In 2006, 11 disciplinary administrative measures resulted in court proceedings. Of those instances, 5 workers were fired, and 5 others retired from the civil service following the initiation of procedures against them.

47. The Department for the Advancement of Women in the Civil Service supervises the affirmative action policy asserted in section 15A of the Civil Service (Appointments) Law 5719-1959 (the "Civil Service (Appointments) Law (Appointments)"). According to data received from the Department in 2006, the representation of women has improved among the higher ranks of the civil service.

48. **Ranks of women in the Civil Service**. The civil service has four main classifications which comprise the main sources in which administration managers may be ranked. The number of women featured among the top three ranking senior staff positions is slowly improving. In 1997, women comprised 61% of all civil servants, yet high ranking female civil servants numbered less than 15%. In October 1999, women still comprised 61% of all civil servants,

only the number of high ranking women had increased to 16.4%. As of December 31, 2006, 45% of the top four ranking positions, and 43% of the top three ranking positions were held by women. It should be noted that these figures do not include women in the security forces, but does include all other ranks such as nurses and advocates, in which the representation of women is very high.

49. **Tenders in the Civil Service**. The method of appointment to the civil service is through both internal and external tenders. While the increase of female participation in internal job-tenders within the civil service (both as candidates and as appointees) is quite constant, the situation in public tenders is less positive. In 2004, 45% of the candidates for public tenders were women. Of these tenders women constituted 58% of the appointees.

50. On September 23, 2007, the Tel-Aviv District Labor Court annulled a tender for employment with the Investigations Department of the Tel-Aviv Customs Division, as the Examiners Committee had not paid sufficient attention to the requirement for proper representation by women, and had not taken affirmative action, as required by law, in giving preference to women possessing the same qualifications as men: (L.C 3888/03 *Ruth Zuaretz v. the State of Israel - the Civil Service Commissioner et al.*). There were 26 candidates vying for only a few positions, and the claimant was the only woman.

51. The Court held that the duty to take action for proper representation of women in public entities is anchored in legislation; such as The Equal Rights for Women Law: (section 6(c)), the Civil Service Law (Appointments): (section 15(a)); and also in Case-Law, especially that handed down in the case of HCJ 2671/98 *Israel Women's Network v. the Minister of Labor and Welfare* and in HCJ 453/454/94 *Israel Women's Network v. the Government of Israel et al*. The Court indicated there that in 2003, the Attorney General had issued special guidelines obligating the implementation of the proper representation principle when making appointments in the civil service.

52. The Court held that the Examiners Committee failed to consider, or did not give proper weight to, the issue of affirmative action when choosing between the claimant (the only female candidate) and the successful male candidate whose qualifications were evidentially inferior to those of the claimant. The Court held that the extreme lack of reasonableness displayed in making the decision justified the Court's intervention in the Examiners Committee's decision, which had been approved by the Civil Service Commissioner. Of the 27 applicants, the claimant was the only woman. As that fact had not been properly considered by the Committee, the Court decided to annul the decision to appoint a different candidate.

53. **The judiciary and lawyers in the public sector**. Since the submission of our previous periodic report, the percentage of women in the Judiciary has substantially increased. There has been a growth of 72% in the National Labor Court, 42 % in the District Courts, and 28% in the Supreme Court. In all of the different civil courts combined, there are 317 female judges, and 304 male judges, so that 51 per cent of the civil judiciary in Israel is now composed of women (compared to a total of 40 per cent in 1998). In 2007 alone, 49 new judges were appointed, 27 of whom were females.

Table 1

Judges, by courts and gender*

	Female	Male	Total	% Women
Judges				
Supreme court	5	7	12	42
District courts	59	69	128	46
Magistrates courts	140	149	289	48
Traffic courts	14	20	34	41
National labor court	3	4	7	43
Regional labor courts	32	13	45	71
Family courts	26	19	32	56
Youth	9	4	13	69
Courts administration	-	3	3	-
Total	288	285	576	50

Source: The Courts Administration, 2008.

* The Government's Resolution and the provision of the Civil Service Regulations appear on the Website of the Ministry of Justice.

Table 2

Employees in the Ministry of Justice, 2007

% of Total	Total	No religious affiliation	Druze	Christians (Non Arabs)	Arab Christians	Non Arab Muslims	Arab Muslims	Jews	Religious affiliation
30.2%	832	3	14	3	10	1	38	763	Men
69.8%	1 922	3	0	6	11	0	43	1 859	Women
100%	2 754	6	14	9	21	1	81	2 622	Total

Source: The Ministry of Justice, 2007.

54. **Internship directory**. In 2008, the Ministry of Justice announced, for the second year, the creation of a directory of candidates for internship positions that are intended for the Arab population, new immigrants from Ethiopia and people with severe disabilities, in order to achieve suitable representation. The announcement:

"Civil Service Commission - Ministry of Justice

Looking for an Internship in a Challenging and Interesting Place? The Ministry of Justice announces the creation of a directory of candidates for internship positions for September 2008 and March 2009. These positions are intended for certain population groups to achieve suitable representation, as described below.

The Ministry of Justice invites candidates who meet the requirements for internship as specified in the Israeli Bar Association Law, 5731 - 1971, and the criteria set forth in the Government's Resolution of March 12, 2006 with respect to suitable representation among interns in the Ministry of Justice, as described below, to submit their candidacy for inclusion in the directory.

The list of the divisions in the Ministry of Justice in which the internship may be done is specified on the Website of the Ministry of Justice, the address of which appears at the end of this notice.

On March 12, 2006, the Government of Israel made a resolution, at the request of the Ministry of Justice, in the matter of suitable representation among interns in the Ministry of Justice. The Government decided, inter alia, as follows:

> "A. In accordance with the provisions of section 15A(b)(2) of the Civil Service (Appointments) Law to designate, insofar as possible, some ten percent of the annual class of interns in the Ministry of Justice solely for the employment of candidates who qualify for an internship in the Ministry of Justice and fulfill one of these:
>
> (1) The candidate is a member of the Arab population, including Druze and Circassian;
>
> (2) The candidate or one of his/her parents was born in Ethiopia;
>
> (3) The candidate is a "person with a severe disability" within its meaning in section 35.252 of the Civil Service Regulations …"

In accordance with the aforesaid resolution, it was decided to compile a directory of candidates that will effectuate the aforesaid Government Resolution with respect to "suitable representation" and will include candidates who meet the criteria set forth in the Government's Resolution and whose particulars and qualifications make them extremely suitable for internship. Selection will take place in two stages. The first stage is a selection process for inclusion in the directory. After that the various divisions in the Ministry will interview candidates for internship from among the candidates accepted for inclusion in the directory.

A directory of "suitable representation" candidates will be maintained alongside the general directory of candidates for internship positions in the Ministry of Justice, for which a separate selection process is held, open to all. A person who meets the criteria of the aforesaid Government Resolution may submit his/her candidacy for the general directory, like everyone else.

Procedure for Submitting Candidacy

1. The candidate must complete the "candidacy for tender form" (Form 2115 - which may be downloaded from the Website of the Civil Service Commission, whose address appears below).

2. If the candidate has a preference for specific divisions, the candidate should mention the order of priority on his/her application.

3. The candidate must attach to the candidacy form his/her resume (which shall include explanations and reference to fulfillment of the criteria specified in the Government's Resolution), a photocopy of his/her identity card, documents testifying to the candidate's education, record of grades for the first two years of college or university, confirmation of present and previous employment and recommendations.

Selection Procedure

- Candidates who meet the candidacy acceptance requirements will be invited, at the discretion of the Ministry of Justice, to appear before committees of examiners. These committees will examine the suitability of the candidates for internship based on their impression of the candidate, the candidate's contribution to society and community, test results and academic achievements. Candidates whom the committees find suitable for internship will be listed in the directory of "suitable representation" candidates for internship.

- Listing in the directory will enable the candidate in the tender to be a potential candidate for internship. Inclusion does not entail any obligation to accept the candidate for internship.

- The division heads may refer to lists in the directory according to their needs and according to the preferences of the candidates that were recorded at the time of registration, and invite them to appear before the ministerial selection committee, which will examine their suitability for internship.

- A candidate who is selected will be assigned to internship based on the Ministry's needs and, to the extent possible, taking into account his/her place of residence.

- A candidate who is selected and commits to do his/hers internship in a certain division of the Ministry is not allowed to switch the commitment to another division.

Website of the Civil Service Commission: www.civil-service.gov.il

Website of the Ministry of Justice: www.justice.gov.il

55. **Government corporations**. As mentioned in our previous Periodic Report, the 1993 amendment to the Government Corporations Law, 5735-1975 (section 18a) set a requirement for appropriate representation of both genders on the board of directors of every government corporation. According to recent data, 182 of a total of 550 directors (33.09% per cent) are women, a decline of 3.91% in comparison to the last report.

56. On March 11, 2007, the Government resolved to obligate Ministers to appoint women to directorates of Government Corporations until they achieve a 50% representation of women within two years from the date of the Government Resolution. The Governmental Corporations

Authority supervises closely and effectively any appointments made to directorates of Government Corporations. If the appointments do not adhere to the obligating standards, the Authority holds them until the appointing Minister proposes an alternative female nominee or can justify why he/she can not propose any alternative nominee under these circumstances.

Women in the military and police

57. As mentioned in our previous reports, military professions in Israel, including combat positions are open to both men and women. The military headship is committed to placing women in higher ranks and positions. The following details indicate the integration of women in compulsory service in combat positions: 2.5 % of all the women serving in the military are in combat units (updated October 2006); women account for 4% of all combat soldiers (updated July 2006); the percentage of women in comparison to men in joint units is 19%. Note that in 2007, the percent of women in compulsory service out of all soldiers is 33%. Most combat female soldiers serve in field units: the percent of women in the light infantry is 68%; Border Police 9%; artillery 12%; atomic, biological and chemical units of the engineering corps 33%; anti-aircraft 30%. In addition, there are 16 women serving today as air crew personnel.

58. The Chief of Staff's Advisor on Women's Issues has recently promoted three major projects:

58.1. The establishment of the Women Military Service Committee aimed to outline the vision and make recommendations concerning structural aspects of military service of women. The Committee is headed by a former General and consists of several senior officers and academic specialists.

58.2. Consolidation of a military behavioral code on gender issues which will constitute obligating norms and standards for soldiers and officers and influence the cultural environment and army daily life concerning gender issues.

58.3. Setting goals for a progressive improvement of women representation in the army and promotion of a plan for increasing the representation of women in senior leadership positions which includes specific targets for each of the corps and based on the percent of women entitled for promotion within each rank.

59. The IDF is obligated to advance women who serve in the army beyond their compulsory military service. In 2007, women consisted 19% of the standing army (officers and non-commissioned officers): First Lieutenant - the percent of women is 26.3%; Captain - 22.8%; Major - 21.8%; Lieutenant Colonel - 11.8%; Colonel - 4.6%; Brigadier General - 3.8%.

60. According to section 16A(c) to Defence Service Law (Consolidated Version) 5746-1986, the same law shall apply to men and women who completed their compulsory service and volunteer to serve in one of the IDF positions determined by the Minister of Defense, despite the difference in duration in women compulsory service in comparison to men's. The Defence Service Regulations (Determination of Positions for Voluntary Service of Women) 5761-2001, following amendments in 2002 and 2005, lists 26 military professions in which women are entitled to the same rights as men.

61. Since the submission of our previous report, the Supreme Court held a hearing concerning a petition of a female soldier that demanded to allow women to hold positions in a Vulcan launcher unit which is one of the IDF anti-aircraft units (HCJ 6757/03 *Ya'ara Stulberg v. the Minister of Defence et al*). The State argued that statistically only one percent of all women can meet the physiologically pre-conditions required for serving in the unit operating the Vulcan launcher. The petition is still pending before the Supreme Court due to the fundamental aspects of the issue, even though the petitioner completed her military service.

Equality in employment

62. In 2006 and 2007, a number of significant amendments were made to the Women's Employment Law, 5714-1954. Inter alia, these changes prohibit the employment of women during their maternity leave; prolong the period of leave permitted after hospitalization; prolong the period during which an employer is prohibited from dismissing an employee returning from maternity leave to 60 days; prolong the period during which dismissal of a female employee staying in a battered women's shelter is not permitted, to 90 days (also requiring the consent of the Minister of Social Affairs and Social Services); extends maternity leave from 12 to 14 weeks; and notably alters the pre-existing conditions so that after 6 weeks maternity leave should a new mother decide to return to work, or otherwise waive her remaining leave, the father will be permitted permanent, (previously temporary), leave in her stead, for the duration of the maternity leave.

63. On July 26, 2007, the National Labor Court rejected an appeal from a former female employee in the Knesset, who claimed that she was discriminated against in salary and retirement benefits in comparison to her male counterparts (La. A. 000222/06 *Shoshana Kerem v. the State of Israel*). The Court found that the appellant failed to prove that she experienced discrimination in comparison to her male colleagues, neither on the basis of the Equal Salary to Male and Female Workers Law 5714-1954 nor on the basis of Equal Employment Opportunities Law.

64. In its decision, the Court held that "the principle of equality is one of the basic principles of every democratic state. The principle of equality is a cornerstone in our legal regime. The principle of equality derives from the basic rights of every person and the natural desire of human beings to live side by side in harmony, fraternity and peace". The Court concluded that the prohibition of discrimination derives from the principle of equality and is anchored in the Equal Pay (Male and Female Employees) Law 5756-1996 (the "Equal Pay (Male and Female Employees) Law") and the Equal Employment Opportunities Law. In this case, however, the Court held that the Knesset former employee did not prove any connection between the claimed discrimination and her being a woman.

65. On August 24, 2006, the Jerusalem District Labor Court ordered compensation to be paid by the ISS Ashmoret Company Ltd. to their employee, who was illegally dismissed from her job when 7 months pregnant, without the approval of the Women Labor Supervisor, in the Ministry of Industry, Trade and Employment: (LC. 001452/04 *Ayenalem Ababito v. the ISS Ashmoret Company Ltd*). The Court accepted all the plaintiff's claims, and determined that the respondents had illegally dismissed her from her job when they discovered she was pregnant. In accordance with the Equal Employment Opportunities Law, the Court imposed personal responsibility on

both the branch director, and the regional director of the employee. The Court also ordered that the ISS Company pay the employee approximately 300,000 NIS, in compensation for dismissal, mental anguish, loss of earnings and loss of maternity allowance.

66. On November 20, 2007, the State Labor Court ruled that "freedom of contract" does not justify discrimination such as that evidenced by paying different salaries to men and women performing the same tasks. The court stated that in these circumstances, the principle of equality prevails over freedom of contract: (L.A 1156/04 *Orit Goren v. Home Center (Do It Yourself) Ltd.*). The plaintiff resigned after 4 months of work, after her employer denied her claim that she was being discriminated against in salary. She had compared her salary to that of another male worker who received 1,500 NIS more than she did, even though they both performed the same duties. In response, the respondent claimed that the difference in salary was the end result of negotiations held with all workers before they were hired to work, and during which the plaintiff had demanded less money than the other worker. The Lower Court ruled that there was no justification for the difference in salaries paid to the plaintiff and her colleague, and stated that the plaintiff was being discriminated against based solely on her gender.

67. The State Labor Court rejected the position that "freedom of contract" justified discrimination between salaries, and unanimously approved the Lower Court's decision, granting 7,000 NIS compensation to the plaintiff for her 4 months of work, based on the Equal Pay (Male and Female Employees) Law. However, the majority opinion ruled that as the difference in salary was the result of negotiations made prior to employment, the plaintiff had not been discriminated against based on the Equal Employment Opportunities Law, and therefore had no right to compensation for non-pecuniary damage in contrast to the Lower Court's ruling. Nevertheless, the dissenting opinion of the State Labor Court's President, argued that there was no difference in the level of proof required for granting compensation for violations of both laws, and accepted the Lower Court's ruling, granting additional compensation to the plaintiff based on the Equal Employment Opportunities Law.

68. In La. A. 8704/06 *Nadav Fitusi v. N&B Bogin Sports Center Ltd* - the plaintiff was employed by the respondent as a gym instructor and was dismissed from work following the respondent's desire to replace him with a female instructor. There was no disagreement among parties that the dismissal was due solely to the plaintiff's gender.

69. In its decision, the Tel-Aviv Labor Court held that "any discrimination based on gender is a negative social phenomenon that is to be uprooted completely. The prohibition on discrimination derives not only from the provisions of the Equal Employment Opportunities Law 5758-1988, but also from the general principle of equality which is part of our legal system and anchored in Basic Law: Human Liberty and Dignity".

70. The Court held that in order to prove discrimination, the worker needs only to convince the court that such prohibited consideration was actually a factor for the employer's decision, even if it was not the main reason. Based on section 10 of the Equal Employment Opportunities Law, the Court ordered the respondent to pay 30,000 NIS compensation to the plaintiff, considering the specific circumstances of the case.

71. Opportunities in the workforce have increased for women since the submission of our previous periodic report. In response to that growth, women's participation in the workforce

has also increased from 37.5% in 1980, to 50.0% in 2005. The employment rate for women aged 15-64 is similar to that for women in equivalent age groups in other developed countries, and stands at 58.1%, in comparison to 58.3% in the European countries of the OECD, and 60.4% in all of the OECD states.

72. As of 2005, approximately 54% of working Israeli women were still concentrated in a small number of widespread, female-dominated, labor-intensive and low-paying occupations, such as teachers, clerks, secretaries, nurses and nannies. In each of these sectors the percentage of female employees is at least 75%. In comparison, the percentage of women working in high-tech positions was only 2.4% of the total working women in 2005, constituting 34% of hired workers in the high-tech industry. In addition, women are the first to be hit by unemployment. In 2003, the annual national unemployment rate was 10.7%. Women's unemployment reached nearly 11.3% in that year, whilst men's unemployment hovered around 10.2%. According to data provided by the Bank of Israel, in 2006, when the annual national unemployment rate was 8.4%, women's unemployment reached nearly 9%, whilst the male unemployment rate remained at 7.9%. Several legislative changes seeking to narrow the gender gap (which is still apparent in some areas) are detailed below.

Table 3

Employed persons by industry and gender, 2006

Women		Men		
% of employees	% of employed persons	% of employees	% of employed persons	Economic branch
0.4	0.6	1.9	2.8	Agriculture
9.5	9.3	23.5	21.3	Manufacturing
0.3	0.3	1.3	1.1	Electricity and water supply
0.8	0.7	8.7	9.2	Construction (building & civil engineering projects)
11.7	12.0	12.8	14.2	Wholesale and retail trade and repair
4.2	4.2	5.5	5.3	Accommodation services & restaurants
4.4	4.2	8.2	8.9	Transport, storage & communication
4.7	4.4	2.6	2.6	Banking, insurance & finance
11.6	12.4	14.5	15.2	Business activities
4.8	4.4	5.6	4.7	Public administration
22.5	21.3	6.1	5.4	Education
17.4	17.2	4.4	4.4	Health, welfare & social services
4.3	5.5	4.2	4.6	Community, social and personal services
3.5	3.5	0.4	0.3	Services for households by domestic personnel
100	100	100	100	Total

Source: Central Bureau of Statistics, 2007.

Table 4

Employed persons, by last occupation and gender, 2006

% of all employed women	% of all employed men	
14.8	13.5	Academic professionals
20.1	12.1	Associate professionals and technicians
3.8	8.2	Managers
25.9	7.5	Clerical workers
24.0	16.9	Agents, sales workers and service workers
0.3	2.2	Skilled agricultural workers
4.1	30.7	Industry, construction & other skilled workers
7.1	8.9	Unskilled workers
100	100	Total

Source: Central Bureau of Statistics, 2007.

Education

73. The Ministry of Education has established a special department dedicated to the promotion of gender equality within the School System. The Ministry maintains an active, useful, and user-friendly website which not only provides information about the Ministry's programs and projects, but additionally provides visitors with perspectives on the meaning of gender equality and women's empowerment. The language of the website, and of directives issued by the Ministry of Education, reveal a clear commitment to gender equality and provide definitive guidelines for teachers and all school officials.

74. The current Minister of Education and her Director General are both women, and feminists themselves. The Minister of Education has repeatedly and explicitly declared that gender equality is not merely a "program" or a "project"; but a life-style. To that end, all schools are instructed the creation and maintenance of an educational climate conducive to equality and mutual respect.

75. In 2003, the Director General of the Ministry of Education issued a circular dealing with various aspects of gender equality, such as the development of new educational materials conducive to gender equality, the advancement of equal opportunities, the abandonment of dated stereotypes, the empowerment of educational leadership among teachers and principles, and more.

76. The Ministry of Education offers numerous In-Service Training Programs for teachers in order to increase their awareness of, and skills in promotion of, gender equality. Nation-wide programs such as "Girls Leading a Change" empower high school pupils, while the school curriculum formally addresses issues such as gender, government, and politics. Most recently, the Ministry has instituted a matriculation program in gender studies.

77. In 2005, the Ministry of Education instituted several educational programs designed to further enhance equal opportunity between the genders within the education system. The abovementioned program “Girls Leading a Change” was initiated by the Women’s’ Association in Israel to encourage empowerment and leadership amongst young women in high schools. The program was later broadened to include young men, and is now called “Girls and Boys Leading a Change”. In 2007, the program was found to be operating in more then 60 high schools in Israel, including schools in the Arab sector, and involved more than 2,500 young women and men. Also in 2005, the Ministry of Education together with the Authority for the Advancement of the Status of Women held 10 one-day seminars (in which more than 1,500 school principals participated) on the subject of encouraging girls in the fields of mathematics and exact sciences. The seminars dealt with the following issues: raising awareness of professional and management teams for this matter, illustrating the perceived barriers to female participation in this field, illustrating the actual ability of female students and methods of deconstructing these barriers, development of an intervention program encouraging female participation in these fields from an early age, and other relevant issues.

78. Furthermore, the Minister of Education appointed a special committee to examine the extent to which gender stereotypes were to be found in educational textbooks. After receiving the findings, the Minister decided not to incorporate books imbued with gender stereotypes into the education system, and those books already in use in the school system which promoted gender stereotypes would be gradually replaced.

79. The Ministry has made a particular commitment to promoting the talents of young girls and women who display exceptional aptitudes in math and science. These programs are based on the concept of enhancing gender equality, and allow each child to pursue his or her innate talents and inclinations without deference to social pressures and inflexible gender expectations.

80. Additional activities targeting gender issues include:

80.1. Promotion of a pluralistic view, enabling pupils to learn to deal with and criticize gender based dilemmas, emerging in society as a whole and in school life in particular.

80.2. Facilitating the equal acknowledgement of the role of both genders in all the cultural aspects - literature, science, history, arts, etc, whilst emphasizing the equal role of female figures.

80.3. The teaching material includes gender stereotypes, implied or apparent, emanating from the time and context in which the text was written. The objective is raising awareness to the stereotypes and challenging them.

81. “Bnot Mitzvah”- the Jewish ritual when a girl reaches 12 years, is used as a school event for the 6th graders and as a tool to highlight the female strength, and different substances regarding women leaders, influential women that changed society, women combatants, pioneers and others. This includes outer activities as well as in-school ones. The pupils examine the status of women in Israel and in other countries, and search for disciplines promoting women and allowing them to progress.

82. Empowering female pupils in the general school system aimed at promoting leadership and empowerment of pupils in the 7th-9th grades, which include themes promoting awareness to gender equality and its influence on all aspects of life. The program includes raising awareness to the possibilities facing the pupils in fulfillment of their personal potential, skills advancement, and social and personal awareness to changes needed in the social and personal aspects of the family, the society, and the education system. It also includes raising appreciation to the ability and potential of women to integrate in the economic, political, technological and military sectors and the importance of such integration. The program also includes activities with the male pupils aimed at changing their gender perceptions.

83. Empowering female pupils in the Arab sector program aimed at promoting and changing personal and social perspectives while emphasizing the role of women in the family, the society and in the workplace. The program targets 7th-9th graders and includes themes promoting awareness for stereotypes regarding both genders in the Arab society, their perception of their abilities and dreams etc. The program includes corresponding activities with the male pupils aimed at changing their gender-based perceptions.

84. Empowering female pupils in the religious schools while considering the changes in society in general and the religious society in particular. Coping with these developments requires from the religious women a re-evaluation of the fulfillment of the roles that fashion the home, family and society. This program includes 10 meetings and is targeted at pupils in the 7th-9th grade.

85. Promotion of equality in human dignity. The basis of the program is that gender equality also means equality in human dignity between the genders. Among the goals of the program is raising the personal capability of teenagers to deal with changing social circumstances with the peer group (peer pressure, social struggles, friendship relations etc.), and with the relationship with the adult world (authority, requesting help etc). During the program the pupils study social perceptions and equality on the basis of human dignity of men and women. The program is introduced to pupils in the 7th-10th grades.

86. Another important track for promoting human rights issues is the Civic Studies Programs:

86.1. The program for the 7th-9th grades includes diverse aspects of human rights, theoretical teaching as well as application on every-day events in the society and state. The main focus is on different rights implemented in the covenant such as the right to life, the right for equal treatment, the right to due process, the right for liberty, etc.

86.2. The program for the 10th-12th grades includes specific reference to the rights implemented in the covenant and the matriculation exam includes theoretical and practical questions aimed at enabling the pupils to express the knowledge they acquired on human rights.

86.3. In 2008, the Ministry of Education had begun the implementation and assimilation of a fundamental change in teaching civic studies. During the following three years, the goal is to increase the teaching hours given to the subject so far. In the extended program, there is an even greater emphasis on civil and political rights. In the framework of the

program, the pupils will commence a practical research assignment in which they will be required to research and propose solutions to a social or political problem existing in the State. Some of the issues addressed will be human rights issues.

86.4. Furthermore, in recent years the civic studies subject can be also taken in an extended version, thus these areas are explored even further.

87. **Women in higher education**. In 2004, 13.7% of women over the age of 18 were graduates of a B.A degree, in comparison to 11.5% of men over the age of 18. Additionally 7.4% of women had M.A degrees in comparison to 7.1% of men, and 0.7% of women had PhD degrees whilst the percentile for the male population was 1.4%.

88. 90,500 male students and 113,600 female students attended university or academic colleges in Israel. The amount of women studying towards B.A. degrees in all the universities and academic colleges (out of the total number of students) was 55% in 2005, compared to 54% in 1990. The rate of women studying for an M.A. degree in all universities and academic colleges (out of the total number of students) stood at 57% in 2005, compared to 50% in 1990, and the amount of women studying towards PhD's equaled 52% in 2005 in comparison to 41% in 1990.

89. **Women in science and technology**. The National Council for the Promotion of Women in Science and Technology was established in the year 2000. The council's goals are to serve as a network facilitator linking adult and adolescent women in the field of science and technology, to serve as a contact point for voicing problems related to women's roles in science, to collect information regarding programs promoting women's role in science, to propose and implement programs which will promote women in science, to raise public awareness regarding the state of women in science and to coordinate between public and private initiatives for the advancement of women's involvement in science.

90. **Women in sports**. In Israel, sports come under the province of the Ministry of Science, Culture and Sports. The Authority for the Advancement of the Status of Women, together with the Minister, has designed a unique training course for women, educating them on ways to become active and committed members of local and national Councils for the Advancement and Administration of Sports in Israel. In the years 2003-2004, several women's sports NGOs, encouraged by the Ministry of Education and the Authority for the Advancement of the Status of Women in Israel, initiated legislative changes that have profoundly impacted women's and girls' sports. In response to an appeal, Israel's High Court of Justice ruled that in order to redress long-standing inequality issues, local councils should allocate funds for women's sports at 150% of that allocated to men's sports: (HCJ 5325/01 L.C.N *Association for the Advancement of Women Basketball v. Ramat-Hasharon Local Council*). Similarly, the public committee that determines criteria for the allocation of public funding for sports has recommended the application of affirmative action plans to boost allocation towards women's sports, and has instituted programs to implement them.

91. **Women in the media**. Freedom of the press is both legislatively guaranteed and protected. In recent years, a corps of motivated, committed, female journalists has developed. Avowedly feminist, they present women's issues on the news, discuss non-traditional topics such as national security and the military, and bring a gender perspective to their analysis of events and

issues. Several women host prime time programs, both on radio and television. Similarly, in the print media, several feminist columnists and reporters from all political and religious affiliations have attained prominence. These women bring women's issues to the fore and engage in feminist campaigns; for example, a group of prominent female journalists in print and electronic media have taken it upon themselves to campaign and fundraise for the Rape Crisis Centers. In order to increase the visibility of women in the media, and to promote their authoritative position, the Authority for the Advancement of the Status of Women, together with the Council for the Advancement of Women in Science and Technology have produced an extensive and comprehensive list of female experts who can be called upon by the media. This list includes not only women who can speak about women's issues, but all women who are experts in their particular fields, and, especially features women working in non-traditional areas, such as nuclear science, defense and security, economics etc. Several female orientated NGOs have established media watchdog groups to react to offensive advertising. The women receive training in media monitoring and analysis, and are then encouraged to respond to offensive material.

92. **Equal rights in the domestic sphere**. With regards to equality between spouses and between spouses and their children, Israeli law and its effects in practice are discussed under articles 23 and 24 below

93. **Non-governmental organizations**. Women are deeply involved in myriad NGOs which aim to influence the governmental decision-making process, both on issues relating especially to women and to the full gamut of social concerns. Some groups, such as the Israel Women's Network, Itach - Women Lawyers for Social Justice and the Association for Civil Rights in Israel, have played a highly significant role in the legislative process and in legal advocacy on issues related to women. Other influential organizations include Naamat - Working and Volunteering Women, WIZO - Women's International Zionist Organization for an Improved Israeli Society, Emunah-National Religious Women's Organization and Kol Ha-Isha (The Women's Voice). Aid organizations such as the Association of Rape Crisis Centers in Israel and L.O. - Combat Violence against Women, support women who were sexually abused. Other women's groups, such as Women for Women, the Women's Organization for Political Prisoners and the Coalition of Women for Peace, have focused their activities on promoting Israeli-Palestinian dialogue and influencing public opinion on Palestinian-Israeli issues. There are also several NGOs that are very active in the issue of combating trafficking in persons, among the most prominent women's NGOs in this field are "Isha Leisha" (Women for Women), the "Organization for Assistance to Sexually Assaulted Persons", "Machon Todaa" (part of the International Abolitionist Federation) and "We are Equal".

Violence against women - domestic violence

94. **Shelters**. Protection from violence is provided by 14 shelters for battered women, established in different locations throughout the country. Due to their distinct cultural and religious needs, two shelters have been specially designated for Arab women, and one for ultra-Orthodox Jewish women. Furthermore, two shelters are accessible to the physically disabled, one of those also serving the Arabic population. Together, these shelters provide emergency intervention for nearly 1,600 women and children annually.

95. The shelters provide professional counseling and legal advice and assistance, as well as childcare and rehabilitation. Several shelters also have multi-lingual staff and volunteers in order

to better assist immigrant women. Children continue in community-based day care or elementary school frameworks, whilst residing in the shelter. In addition, thirty transitional housing apartments have been established, which provide women with additional support and options when they are deemed ready to leave the shelters.

96. **Regional centers for the treatment and prevention of violence against women**. There are 53 centers dispersed throughout the country for the treatment of violence against women and domestic violence. The centers operate within the framework of the local authorities' social services departments. Collected data indicates that there has been an increased number of inquiries about the centers from women, men and their families. The number of inquiries steadily increased from 12,467 in 2002, to 12,922 in 2003.

97. Half Way Housing Apartments are also utilized as another means of assisting battered women and their children. The housing is considered an integral part of the rehabilitation process, providing an important transition stage from the protection, support and treatment of the shelter to effective, independent life in the community. The transition is accompanied by continued assistance from social workers and includes occupational training. Forty-eight half way housing apartments were offered in 1998, with a declining trend in productivity from that point up until 2003 when only 18 housing apartments were obtainable. Despite the drop in the number of available apartments, a comparison between 2001 and 2003 indicates a rise in the number of individuals utilizing this service.

98. In 2005, 64 centers and units for the prevention of domestic violence and treatment of domestic violence victims were operating in Israel. 16 of those centers were designated for the Arab population, 1 for the Bedouin population and 2 for the Jewish ultra-orthodox population. The centers treat victims of domestic violence with both group therapy, and personal empowerment within the community.

Table 5

Domestic violence distribution, 2006

Number of new immigrants receiving treatment	Number of elderly persons receiving treatment	Total treatments per year	Number of children receiving treatment	Number of men receiving treatment	Number of women receiving treatment	Number of households receiving treatment	Total district population	District
363	124	2 497	361	592	1 544	1 915	1 919 100	Northern district (29 centers)
527	208	3 760	186	983	2 591	3 367	2 722 000	Tel-Aviv district (22 centers)
112	87	1 371	104	348	919	1 160	1 492 970	Jerusalem district (7 centers)
112	79	797	50	191	556	664	735 430	Southern district (6 centers)
1 114	498	8 425	701	2 114	5 610	7 106	6 869 500	Total

Source: The Knesset Information and Research Center (May 24, 2006).

99. **Police treatment of domestic violence**. Domestic violence is a social phenomenon which requires special treatment by the Police Victims of Crime Section, from both a societal and criminal point of view. Police recognition that attention to the status of victims of crime was required in police procedures, especially with regards to victims of domestic violence, led to a new Victims of Crime Section being established in 1996 within the Investigations Division of the Israel Police. New procedures were subsequently issued for the treatment of domestic violence offences, violations of protection and prevention orders and stalking and sex offences. These procedures are occasionally updated. In addition, special training has been introduced focusing specifically on the issue of domestic violence. Collaboration between police, welfare and community bodies is also being developed in accordance with legislative amendments and other developments. In fact, the Victims of Crime Section is intimately involved in manifesting societal change in this area, and takes part in all the relevant social processes, including that of creating legislation, steering committees, and inter-ministries committees, etc.

100. Owing to their special characteristics, domestic violence offences require special treatment. For example, an effective response to offences of this kind may require an immediate reaction to prevent possible abuse, risk assessments throughout the treatment, full utilization of police procedures including prevention of access to weapons, collaboration between all treatment bodies, and awareness of the difficulty in collecting evidence. Due to these unique characteristics, a special task force of 200 investigators specializing in the treatment of domestic violence and sex offences was implemented, and has been operating since the beginning of 1999. Additionally, nine female Arab investigators were appointed for treatment of the Arab sector. In every police station at least two investigators are trained especially for treatment of domestic violence offences and in police stations where the extent of such complaints is insignificant, investigators are trained for this function in addition to their ordinary functions.

101. Police investigators must be specially trained in order to treat cases of domestic violence. The training introduces police guidelines on the issue and includes focused studies on the specific aspects of domestic violence, providing theoretical and practical information as to the social, legislative and judicial aspects of the phenomenon. For example, the participants are to take part in lectures and discussions regarding risk assessment, prevention of access to weapons, certain aspects of legislation, treatment of battering men, special characteristics of children who witness domestic violence, models for collaboration with different welfare bodies, protection orders and their violations. In addition, the participants take part in a workshop aimed at encouraging victims of violence to come forward, during which they visit a shelter for battered women and watch a special film/theatre play on this issue. All persons who currently work as domestic violence investigators took part in this training, and were subsequently approved to treat cases of domestic violence.

102. During 2002, six Offence Victims' District officers were appointed to treat cases of domestic violence and victims of other offences. Their functions include: providing professional supervision and support to domestic violence teams in police units, supervising police policy implementation, providing training to other police sectors, strengthening relations and creating models of collaboration with other treatment bodies not related to the police force.

103. According to statistical data provided by the Israeli police, there has been a slight drop in reported cases of domestic violence since the year 2000. In 2004 there was an increase of 1.76 percent, but in 2006 there was a further decrease of 1.9 percent.

Table 6

Domestic violence, 2007

Number of prisoners serving time for domestic violence	Number of women murdered by their spouses	Number of offences between spouses	Year
(no data)	13	22 167	2001
1 414	14	21 003	2002
1 575	19	20 403	2003
2 041	10	20 763	2004
2 061	12	20 185	2005
2 066	16	19 793	2006

Sources: Yearly criminal statistical report, Israeli Police (April 11, 2007), Israeli Prisons Service (April, 2007).

104. In recent years the Israeli Police have been operating a computerized assessment system which assists in evaluating and assessing the danger posed by suspects in domestic violence cases. The system receives information from various sources, and by combining these sources and evaluating certain parameters, the system performs a risk assessment and assembles a profile of each suspect. The Israeli Police has also created specialized risk assessment squads in several police stations. These teams include a social worker, a clinical criminologist, and a police officer. The squads help to assess the threat posed by suspects, and initiate enforcement and treatment procedures. Additionally, in several police stations social workers are employed so as to provide instant assistance when a domestic violence complaint is being filed. The social workers make an initial assessment of the problem at hand, and also ascertain the willingness of the victim and/or the suspect, to receive treatment in help centers. The project is in operation at 11 police stations around the country.

105. Distress buttons are issued to women at high risk, once they have received a court order for their protection.

106. In addition to all of the above, the Ministerial Committee to Combat Domestic Violence operates an internet portal for women, children, and male victims of domestic violence. The portal provides information about domestic violence, projects for the prevention of domestic violence, help centers and other useful assistance sites.

Sexual harassment

107. The Supreme Court has issued several decisions in accordance with the 2002 Sexual Harassment Law. In a decision concerning sexual harassment in the work place, the Supreme Court rejected an appeal from the nursing deputy director in the Mental Health Center in Beer-Sheva, who had been convicted of harassing nurses during a training course: (Civil Service

Appeal 11976/05 *Ruchi Halil v. Civil Service Commission*). The Court found that the appellant had repeatedly spoken to his subordinates in a manner that contained sexual content, which is considered to constitute sexual harassment under the Law. The Disciplinary Court sentenced the appellant to severe reprimand, a rank reduction of one level for a period of two years, removal to a different governmental hospital and disqualification from service in the training of nurses for a period of three years.

108. In another decision, the Supreme Court rejected an appeal from an employee of the Ministry of Finance. He was found to have sexually harassed (verbally) an 18.5 year old worker, was convicted and sentenced to dismissal and disqualification from working in the civil service for a period of 5 years (Civil Service Appeal 292/06 *Moshe Rahmani v. Civil Service Commission*). The Court held that the appellant's repeated offers to the complainant, which were of a sexual character, and which she repeatedly and clearly rejected, could be considered sexual harassment under the terms of the Law.

109. The Supreme Court rejected another appeal from an inspector of the Ministry of Education who was convicted of sexually harassing teachers, and was sentenced to termination of his employment in the civil service (Civil Service Appeal 2868/04 *Uri Shamian v. Civil Service Commission*). In yet another case, the Supreme Court accepted the State's appeal requesting a more severe punishment for the director of the communications division in the Ministry of Defense, who was convicted of the sexual harassment of 3 workers from his division (Civil Service Appeal 7233/02 *The State of Israel v. Shahar Levi*). The Supreme Court President considered the circumstances of the case, in which the senior director had repeatedly harassed his subordinate, and had furthermore attempted to prevent her from complaining against him by abusing his authority and position of power over her and other subordinated workers, and held that he should not be employed in the civil service. The director was therefore sentenced to severe reprimand, immediate dismissal and disqualification from employment in the civil service until the age of 65.

The IDF

110. As mentioned in our previous reports, the IDF has committed itself to addressing issues related to sexual violence and harassment in the military. The following are examples of military court judgments relating to cases of sexual violence and harassment in the military:

110.1. A senior Colonel was convicted of offences of rape, indecent acts using force, attempted indecent act and two offences of inappropriate behavior. The Colonel was sentenced to 6 years imprisonment, 2 years of suspended imprisonment, rank reduction to Private and compensation to the victim. The Court held that sex offences committed by an officer taking advantage of his authority are even more severe as the rank of the officer is higher and the age gap between the officer and his subordinate is greater.

110.2. A soldier was convicted for taking photos of female soldiers, including officers, while showering, using a cellular phone and showing the photos to his friends (Military Appeal 55/06 *the Military Prosecutor v. Corporal Gabay*). The Military Court of Appeals held that the soldier broken the comradeship and the trust among the soldiers of the unit

and that the female soldiers became at once sexual objects and subjects for peeping and sexual stimulus. The soldier was sentenced to 4 months imprisonment, 5 months of suspended imprisonment and his rank was reduced to a Private.

110.3. A soldier was convicted for watching female soldiers in the women showers' building on two different occasions, and spraying them using a fire extinguisher (Military Appeal 38/06 *the Military Prosecutor v. Ladislav Agronov*). The soldier was sentenced to 3 months of imprisonment, a fine and suspended imprisonment, following an indictment of harm to privacy.

Treatment of victims of sexual violence

111. There are 11 rape crisis centers throughout the country working to provide emotional support, practical advice, and other support for victims including the maintenance of hotlines, and the provision of educational services. All centers are staffed by volunteers, and were contacted by 7,174 individuals in 2003. Israel has also developed a unique model of multi-disciplinary centers which provides interrelated services to women who have suffered abuse and violence. These centers combine psycho-social and psychological treatment with medical and legal services. Two such centers exist in Israel today.

112. **Police treatment of rape victims**. As detailed above, the Police special task force for treatment of domestic violence offences is specifically trained to better treat sex offences. Task force training educates those involved with an overview of the following: legal and judicial aspects, rape trauma, theoretical aspects of the rape offence, sexual harassment, events analysis, collaboration techniques with treatment bodies within the community, and a special seminar discussing techniques for encouraging victims to come forward and for making preliminary inquiries of suspects.

113. In addition, so that an appropriate number of investigators will be available to provide a suitable response to sex offences from all police units, special seminars for sex offence investigators (12 per annum) are to take place, and have taken place every year since 2004 in all six police Districts. These seminars are guided by the rape crisis centers in Israel, and are conducted with the participation of professionals from different fields, such as the legislative, post-trauma, incest, re-victimization, male victims of sexual assault, exceptional sectors etc. The seminars are designed to train investigators specializing in the treatment of sex offences, and also to provide them with emotional support and different ways of coping with this sensitive issue.

114. The following principles constitute the basis of police procedure in the treatment of sex offences:

- Only a trained investigator is authorized to investigate sex offences.

- Every complaint concerning a sex offence is investigated to the full extent possible, by an investigator of the same sex of the victim. Furthermore, as far as possible, the victim will be in contact with only one investigator during the entire course of the investigation.

- Only relevant and essential questions are to be introduced in consideration of the victim and his or her privacy.

- Excluding persons directly related to the investigation, the collection of proclamation is done, as far as possible, in a separate room without the presence of other investigators or investigatees.

- As the collection of the proclamation ends, the investigator shall deliver to the victim his/her name, details as to the registration of the complaint and the ways in which the victim can receive information concerning the progress of the case, or alternatively, can himself deliver any further information.

- Notifying the complainant as to the possibility of receiving support from a volunteer working with one of the sexual support assault centers, and providing assistance in contacting these centers.

- If the victim specifically requests to be accompanied by a relative or friend, it shall be permitted, having consideration of the needs of the investigation.

- Also, a representative from one of the sexual support assault centers is to be made available at the explicit request of the victim.

- At the victim's request, and where reasonable to do so having considered the needs of the specific investigation, the investigation is to be delayed until the arrival of the above-mentioned persons.

- Minors under the age of 14 will be questioned by a children's investigator authorized to treat sex offences. Similarly, minors over the age of 14 are to be questioned by a youth investigator authorized to treat sex offences.

- The Procedure provides advice on conducting victim/suspect confrontations, where they are deemed necessary and the victim's explicit consent is attained.

- The Procedure also provides information and details as to the referral of victims to medical care, including the collection of related evidence.

115. **The Social Affairs and Social Services Ministry's treatment of victims of sexual violence**. On January 1, 2007, the Israeli Prime Minister informed the Knesset's Committee on the Status of Women that a program submitted by the Ministry of Social Affairs and Social Services as to appropriate treatment of young women and teen victims of sexual assault had been approved. The special program included the implementation of: 25 social workers for identifying and treating young women, teenagers, and victims of sexual assault; 6 regional multidisciplinary centers for treatment of sexual assault victims, 6 places of residence for sexual assault victims, a special hostel for treatment of sexual assault victims (as an alternative to hospitalization), and seminars and training for identification and treatment of sexual assault victims.

116. An inter-ministerial committee, headed by the director of the Authority for the Advancement of the Status of Women was established to examine the implementation of the program. The committee appointed a special task force which prepared a list of high priority initiatives to be implemented during 2008, in accordance with the approved budget. Implementation of other, less urgent initiatives has begun gradually in 2008 and will continue in 2009.

117. The Government's program for treatment of sexual assault victims includes the following features:

117.1. Training and Seminars for Identification and Treatment of Sexual Assault Victims: As public servants work in many different environments, such as clinics, hospitals, social services departments and the education system, they are often in a position to encounter sexual assault victims. Nevertheless, many have difficulty in identifying such victims. In order to better enable them to do so, special training for social workers and psychologists within the health and welfare systems, physicians, nurses, educational advisors and psychologists within the education system began in 2008. The trainings will vary, highlighting relevant issues in accordance with the profession of the participants, in order to achieve maximum expertise. In addition, social workers and psychologists within the health and welfare systems, as well as professional workers of the regional centers, commenced taking part in special training for treatment of sexual assault victims during 2008.

117.2. Regional Multidisciplinary Centers for Treatment of Sexual Assault Victims: Following up on the focused treatment given in acute centers in hospitals, regional multidisciplinary treatment centers provide the physical necessities of life, in conjunction with psychological treatment for sexual assault victims. In addition, the centers identify and rehabilitate women and girls who have been sexually abused at different stages of their lives, and have not yet received any treatment. The centers conduct professional schooling in the treatment of sexual assault victims, and serve as teaching and training centers for different professions in the community who deal directly with sexual assault victims.

117.3. Currently, there are two regional multidisciplinary treatment centers operated by the Ministry of Social Affairs and Social Services based in Rishon-Lezion and Haifa respectively. There is also one other center, operated by the Ministry of Health in the Tel-Aviv Soraski Medical Center, which provides psycho-therapeutic and psychiatric treatments for victims of incest. Government programs for treatment of sexual assault victims include upgrading the capacity of these centers for simultaneous treatment of 100 victims. In addition, the establishment of another three centers in Nazareth, Jerusalem, and Beer-Sheva that will also be equipped to effectively treat the Arab, Bedouin and Jewish Ultra-Orthodox populations, is in advanced stages. Communities of a unique culture will receive treatment by members of the same community, who speak the same language.

117.4. Hostel for Treatment of Sexual Assault Victims (Alternative to Hospitalization): Currently, no 24 hour service for sexual assault victims is in operation, and the routine treatment of victims in existing hospitals might worsen their situation or even revive their trauma. The Government program includes the establishment of a hostel geared towards

meeting their special needs. The hostel is designed for 12 women, for a stay period of 3 months. The victims are to be referred to the hostel by therapists in the community, and are to return to these therapists at the end of their stay in the hostel. The hostel's staff will include a psychiatrist and a nurse, in addition to therapists specializing in treatment of sexual assault victims. A tender for this hostel was issued and the offers will be reviewed in June 2008.

117.5. Treatment of Children and Victims of Sexual Assault, in the Education System: In 2008, a budget was allocated for treatment of child victims of sexual assault that was initiated in the education system.

117.6. Establishment of Places of Residence for Sexual Assault Victims: A vast amount of the sexual assault victims treated in the regional multidisciplinary treatment centers suffer from severe economic distress. Many are attempting to find places of residence, and suitable employment, whilst lacking basic life skills. Another different group of victims, return to their homes following treatment in the centers, and continue to suffer from physical and mental abuse. Since both groups need a secure home, the Government program includes the establishment of 6 apartments of residence for sexual assault victims to be constructed next to each of the present, and future, regional multidisciplinary treatment centers. The residence apartments will serve as a secure home for the victims for a period of 6 months to one year, and will assist them in acquiring the life skills needed before returning to independent life.

117.7. Additional Social Workers Specializing in Treatment of Sexual Assault Victims: The Government program includes the addition of a further 25 social workers into welfare services provided by local municipalities. These social workers will specialize in the identification and treatment of sexual assault victims.

Trafficking in women

118. Since the submission of our previous periodic report, the State of Israel has taken several dramatic steps in combating trafficking in persons for all purposes, as will be detailed below. This issue has been given great attention, and was promoted in all levels - legislative, judiciary and administrative. This resulted in a sharp decline in the number of victims of trafficking for prostitution.

119. **Legislation**. The Anti Trafficking Law entered into force on October 29, 2006. The law promulgates a broad trafficking crime for a number of illegal purposes: prostitution, sexual crimes, slavery or forced labor, removal of organs, pornography, and using the body of a person to give birth to a baby who is then taken from her. The crime is attended with a punishment of 16 years of imprisonment and 20 years of imprisonment if the offence is committed against a minor. The law includes a full panoply of crimes to address gradations of exploitation: Slavery - 16 years of incarceration, trafficking for the purpose of slavery or forced labor - 16 years of incarceration, forced labor - 7 years of incarceration, exploitation of vulnerable populations - 3 years of incarceration. For the first time, Israel has a slavery offense, a broad forced labor offence with heightened sentencing and heightened punishment for exploitation of vulnerable populations.

120. The Limiting Use of Premises in order to Prevent the Commission of Crime Law 5765-2005, authorizes the Police and the Courts to limit the use of premises, or to close them completely, if those premises have served in the commission of prostitution offences or trafficking for the purpose of prostitution offences, in circumstances where the authorities involved are convinced that the premises will continue to be so used. Courts have the authority to issue such orders for a period of 90 days, with the possibility of extension. Police may issue such orders for a period of 30 days during which time they may request a further pronouncement from the court.

121. Criminal and Administrative Proceedings. Law enforcement agencies such as the Police, the Immigration Administration and the Enforcement Department in the Ministry of ITL, have greatly intensified their efforts to combat trafficking. Prosecution initiatives are undertaken on three planes. Firstly, police prosecutions are instated against traffickers and their accomplices in trafficking and trafficking related offences. Secondly, prosecutions and revocation of licenses may be initiated according to the provisions of various regulations and supplementary laws. Thirdly, prosecutions according to criminal laws other than trafficking such as pandering, causing a person to engage in prostitution, soliciting prostitution, kidnapping etc., may be instated, as well as prosecutions for fraudulent activity, forgery, or exploitation of vulnerable populations.

122. **Shelter**. The “Maagan” shelter for victims of trafficking for prostitution began operating on February 15, 2004. The shelter’s capacity is up to 50 victims and it has succeeded in creating a supportive climate for victims and provides access to psychological, social, medical and legal assistance. In addition, procedures have been developed in the framework of the shelter to allow for the return of victims of trafficking to their countries of origin in safety aimed towards promoting their rehabilitation. It should be noted that the shelter also finds jobs for women who are deemed ready to work while they await testimony.

123. **Visas**. All victims in the “Maagan” shelter receive temporary visas plus work visas if requested, whether they choose to testify or not. Women who choose to testify receive a visa for the duration of the court procedures (on average this takes a year). After they finish the procedures they are entitled to request a temporary visa for another year like all the other victims who chose not to testify. The set period for these visas is for a year, though in rare cases it may be longer or shorter. In addition, victims who do not stay in the shelter receive temporary visas.

124. **Director Generals Committee**. A Government Resolution of May 21, 2006 established a Directors Generals Committee that convened on July 10, 2006 and decided on the creation of two subcommittees, to recommend operative steps to combat trafficking for the purpose of prostitution and labor.

125. **National plans for combating trafficking**. National Plans have been approved to combat slavery and trafficking for slavery, forced labor and trafficking for the purpose of prostitution. These National plans were approved by the Directors Generals Committee on January 10, 2007 and July 11, 2007 and by Government Resolution No. 2670 dated December 2, 2007.

126. The appointment of a National Coordinator who assists policy making in this area and in particular with regard to protection of victims, tries to identify trouble spots and bring about solutions before they burgeon, maintains communication with international actors and learns from comparative materials, promotes education and training, encourages research, develops established channels of communications between government and NGO actors in an effort to strengthen cooperation.

127. **Integrated Intelligence Center**. An "Integrated Intelligence Center" was established on March, 5, 2007, in order to combat severe crime and organized crime and their outcomes, in accordance with Government Resolution on: "The Battle against Severe Crime and Organized Crime and their Outcomes" dated January 2006. The Intelligence Center integrates different intelligence bodies, including the Police, the Tax Authority and the Money Laundering Prohibition Authority. The establishment of the Intelligence Center is a unique and innovative step in which members of the different intelligence bodies will sit together and collaborate in order to produce integrated quality intelligence products at a real time.

128. **Legal assistance**. Victims of trafficking for prostitution have the right by law to receive free legal aid in order to institute civil suits arising from the trafficking offences committed against them or administrative procedures relating to the Entry to Israel Law, 5712-1952 (the "Entry to Israel Law"). The new Anti-Trafficking Law mandates legal aid for all victims of trafficking and slavery for a pilot period ending in 15 September, 2008, regarding civil suits arising from the crimes committed against them or suits arising from the Entry to Israel Law.

129. **Information and education campaigns**. The Authority for the Advancement of the Status of Women in the Prime Minister's Office has been increasingly active in the area of promoting awareness to the issue of combating trafficking in women. The Authority's activities are aimed at the following target audiences - the Civil Service, the Local Authorities, the Education System, the Kibbutzim Movement and the IDF. Annual activities conducted towards achievement of those goals include the following:

129.1. Establishing a public awareness project, in collaboration with government bodies and NGOs, to highlight the phenomenon of trafficking in persons.

129.2. Conducting promotional activities within the education system in co-operation with the Department for Gender Equality in the Ministry of Education, These activities take the form of conferences with senior education workers, inspectors and school headmasters, and also special lectures and presentations for teachers.

129.3. Conferences are held and information published, concerning the International Day for the Abolishment of Slavery. Taking place on December 2, the events of that day will be run with the Tel-Aviv Municipality and its special advisor for the status of women, Government Ministries in cooperation with the Civil Service Commission, Local Municipalities in collaboration with the Union of Local Authorities in Israel, the IDF in cooperation with the Chief of Staff's Advisor on Women's Issues, and the education system in collaboration with the Department for Gender Equality in the Ministry of Education.

129.4. In the course of Government Resolution (No. 2670) dated December 2, 2007, the Government approved a yearly national award for individuals and bodies who have made outstanding contributions to the battle against human trafficking. This kind of award is calculated to provide support to those who do this thankless work and arouse others to increase efforts to wage the battle.

130. Mutual cooperation between Israel and other countries was fostered during the past year by two visits of delegations from Moldova and the Ukraine. These delegations met with their Israeli counterparts, both in government bodies and NGOs and exchanged perspectives while discussing common problems. In addition, representatives of the International Organization of Migration (IOM) visited Israel and conducted conferences and round table meetings with government representatives and NGOs.

131. **Courts**. The courts also remained faithful to their policy of interpreting the relevant legislation in a broad manner, thus facilitating the conviction of a maximal number of traffickers, resulting in dozens of verdicts annually. In two of the most noteworthy cases, the Court sentenced one of the defendants to 18 years of imprisonment and another to 10 years of imprisonment, following their indictment on charges of TIP for the purpose of prostitution, false imprisonment, pandering, rape and abduction in order to cause harm or for sexual abuse.[1] In another case, the Court sentenced one of the defendants to 14 years of imprisonment and another to a 10.5 years of imprisonment, following their indictment on charges of organized crime, money laundering, causing a person to leave his country for the purpose of engaging in prostitution; 10 TIP for the purpose of prostitution charges inducement to prostitution under aggravated circumstances - through a plea bargain.[2]

132. **Risk assessments**. The police also aid in the protection of victims by performing risk assessments in cases where the victim claims she or her family will be endangered if she is returned to her country of origin. Police Intelligence, with the assistance of Interpol and the Israeli Police delegate abroad, prepare a risk assessment which relates to the victim's risk status in Israel and in her country of origin. In three cases in 2005, the police reached the conclusion that women would be endangered if returned to their countries of origin and the women were consequently not returned to their countries of origin. In 2007 the Police held 7 risk assessments and reached the conclusion that 2 of the women can not be returned to their countries of origin at this time.

Status of Arab women

133. **Local authorities**. Whilst the representation of elected Jewish women in local authority councils equals 14.2%, Arab women comprise only 0.5% of those elected. This gap is usually explained as being the result of various sociocultural factors, such as the impact of religion and local tradition on certain minority communities which can restrict women from considering running into or being elected to these positions.

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[1] G.Cr.C. 966/02 *The State of Israel v. sager Hanny and Others* (1.5.05).

[2] G.Cr.C. 774/04 *The State of Israel v. Genadi Boslovitz and Others* (20.3.05).

134. To assist in remedying this situation, 219 female Advisors on the Status of Women in local municipalities are currently employed, 40 of whom work in the Arab sector. These advisors ensure the advancement of policy for enhancing the status of women within the purview of the local authority, in addition to ensuring that the necessary resources are provided to this end.

135. Additionally, the Knesset Committee for the Advancement of the Status of Women discusses this issue frequently in the course of its sessions. The Authority for the Advancement of the Status of Women has also taken upon itself to seek new ways of improving the current situation and allocates funds in order to assist in this task. The Authority further encourages groups of local volunteers to assist the advisors for the advancement of the status of women by offering leadership courses for women.

136. A Government Resolution was passed initiating actions aimed towards the advancement of Druze, Circassian and Bedouin women. In accordance with the resolution, the Authority for the Advancement of the Status of Women will distribute scholarships to women from minority sectors meeting the specified criteria. Furthermore, surveys were conducted in order to determine the specific needs of women from these sectors. The information gleaned will be used for the purpose of enhancing the advancement of their status and in establishing culturally sensitive professional courses, and assistance in work integration.

137. **The Authority for the Advancement of Women**. This Authority, working under the auspices of the Prime Minister's Office, operates with the goal of actively integrating Arab women into the country's social life, whilst simultaneously addressing the problems and dilemmas facing this population. Since its establishment, the Authority has been active in promoting the status of Arab women in all aspects of life.

138. One of the major steps taken towards meeting this goal was the assignment of a special project manager for the Arab sector. That person's main role is to head and coordinate unique projects for the Arab sector, as well as to initiate and promote additional activities in this sphere. Examples of such activities are as follows:

138.1. Imbuing tools for the operation of community projects: in 2006 the Authority initiated advanced courses for the empowerment of women. Such courses were carried out in 3 Arab villages and provided training for the organization of community projects for the advancement of women. The Authority is currently preparing for an additional 20 courses to be opened in the north, 10 of which will be in the Arab sector.

138.2. Activities concerning the Bedouin sector in the Negev: in accordance with Government Resolution No. 881 dated September 2003, the Authority, along with the Ministry of Social Affairs and Social Services, is operating unique programs for the advancement of the status of Bedouin women in the Negev. The steering committee of these programs is composed of representatives of the Authority, as well as representatives of the academy, the health system, and the employment system etc. The budget for the programs started at 400,000 NIS in 2006, increased to 600,000 NIS in 2007, and will reach a sum of 1 million NIS in 2008.

138.3. Activities concerning the Bedouin, the Druze and the Circassian sectors in the North: according to a Government Resolution, dated August 15, 2006, the Prime Minister's Office will allocate to the Authority, between the years 2006-2009, 2 million NIS for the advancement of the status of women in the Druze and the Circassian sectors, and another 2 million NIS for the advancement of the status of Bedouin women in the North. The Authority is in the process of examining the needs of women from these sectors covering a wide range of fields such as health, education, and employment, in order to consolidate a working program to be implemented over several years. The Authority will further act to encourage education and vocational training through scholarships and other funds.

139. The Authority, which deems it highly important to familiarize itself closely with the special needs of women from different sectors, established a steering committee composed of representatives from the relevant governmental and non-governmental organizations, in order to identify the existing services and programs in the various ministries, and to formulate consolidated assistance programs. To that end, the Authority initiates visits to Arab villages and meetings with representatives of the Arab municipalities etc., to discuss the needs of the women, proposals for future plans and the estimated costs of such plans.

140. Additionally, due to the great significance of the subject, the Authority advocated the appointment of Advisors on the Status of Women to each of the municipal authorities which did not yet have one. In 2006, 50 such advisors were appointed, culminating in 219 total advisors for municipal authorities in Israel, approximately 40 of whom are located in Arab municipal authorities.

141. In 2006 the Authority launched a campaign with the slogan "violence is not only black and blue marks on your body", which include radio and television spots in Hebrew, Arabic, Russian, and Amharic. The campaign followed a survey conducted by the Authority, which revealed that the majority of the public in Israel believes that violence against women is carried out only physically, and was meant to raise public awareness regarding non-physical violence. In that regard, the Authority also produced explanatory material in Arabic, and sponsored shows and lectures in Arab municipalities on the issue of violence against women.

142. Additionally, according to the Authority for the Advancement of the Status of Women Law, the Prime Minister is required to appoint, in consultation with the head of the Authority, an Advisory Committee of 35 members, whose function is to advise the Authority with regards to political and policy matters. So far 2 Arab women have been appointed to the Advisory Committee, and the Authority is currently recommending to the Prime Minister's Office that that number be increased.

143. **Employment**. According to 2005 figures of the Central Bureau of Statistics, the number of Arab women between the ages of 25 and 54 (considered to be the ages during which women constitute part of the labor force), amounts to 228,400.

144. Among these women, 18,200 are part of the civil labor force, whilst 26,800 serve in part-time positions. The number of Arab women employed constitutes 24.9% of the total number of Arab women in the relevant age group.

145. According to data provided by the Central Bureau of Statistics, 11.5% of the 45,000 working Arab women are employed in academia and academic-related fields, 29.4% work as associate professionals and technicians, 19.4% as clerical workers, 20.6% as agents, sales workers and service workers, 6.5% work in manufacturing, construction and other skilled jobs, and 11.3% are unskilled workers.

146. In addition to the current centers, the Authority for Small Business is currently working to establish a designated Center for Nurturing Entrepreneurship in the Arab and Bedouin sector, which is expected to be better equipped to serve this sector's needs.

147. Following Government Resolution No. 1832, (April 29, 2004), where it was determined that mechanisms will be put in place in order to encourage employment, another Government Resolution (No. 3716) that established criteria to partially subsidize employers was adopted, thus establishing major centers of employment aimed at granting new opportunities for employment in peripheral areas.

148. According to this Resolution, and over a span of five years, Government support will be granted in order to create new job opportunities by establishing, expanding, or relocating existing companies. The support will be granted in accordance with a competitive procedure. The minority sector will compete only amongst itself.

149. Over the course of the past few years, there has been an increase in the rate of employment among Arab women, yet these rates remain relatively low. Academic education and vocational training are the key components for the integration of Arab women into the work force, yet various barriers remain inhibiting their integration in these educational and training systems, among those are educational and social/cultural barriers.

150. Many Arab women thus attend "traditional" courses because they are available locally, and are likely to enable them to meet the requirements of local job opportunities, whether they be full or part time. This is not the case with regards to education and work undertaken in the fields of computers, graphics or technical assistant/engineering. Work opportunities in these fields, in some of the residential towns, are very limited.

151. In that regard, during 2006, an education program was held for coordinators of the Project for the Advancement of the Bedouin population in northern Israel, dealing with the issues of social/cultural barriers, motivation, recruitment of candidates, and persistence in vocational training.

152. Additionally, in order to rectify the current situation, joint efforts are being made by the Ministry of Industry, Trade and Labor, local authorities, social services, vocational training institutes and employers, in order to provide vocational training, and to create more feasible job opportunities for women.

153. The Department for Professional Training in the Ministry of Industry, Trade and Labor, conducts courses for women and men referred to them by the National Employment Services, through training institutions nation-wide, including in Arab towns. In addition to the general training system, there are special programs for Arab women, aimed at bridging gaps and increasing women's participation in training courses.

154. In addition to the current centers, the Authority for Small Business is currently working to establish a designated Center for Nurturing Entrepreneurship in the Arab and Bedouin sector, which is expected to be better equipped to serve this sector's special needs.

155. In 2005, 1,406 out of 2,506 (or 56%), of the Arab participants in the vocational training courses were women, and in 2006, 1,697 out of 3,164 (or 53.6%), were women. The average cost for professional training per student is 7,000 NIS.

156. Furthermore, during 2006, 94 workshops for growth and working skills' development were conducted in 31 towns and villages, all designated for the advancement of unemployed women from amongst the Arab and Bedouin population, as well as from amongst other sectors, such as Ethiopian women, and Ultra-Orthodox women. Another 300 similar workshops were similarly conducted assisting women with skills for seeking employment.

Article 4. State of emergency

157. Under Basic Law: the Government, the Knesset may declare a state of emergency for a period of up to one year. The State of Israel was officially proclaimed to be in a state of public emergency on May 19, 1948, four days after it's founding, a state which has been annually renewed since 1997, until the present day. Consequently, Israel made a declaration regarding the existence of a state of emergency upon ratifying the Covenant.

158. In recent years, Israel has been considering refraining from extending the state of emergency any further. However, the actual termination of the state of emergency could not be executed immediately, as certain fundamental laws, orders and regulations legally depend upon the existence of a state of emergency. These acts of legislation must be revised, so as not to leave crucial matters of the state unregulated when the state of emergency expires.

159. Following the present extension of the state of emergency, the Israeli Government and the Knesset have embarked on a joint program to complete the needed legislative procedures required in order to end the state of emergency. As a result, measures toward removing the linkage to the state of emergency have been taken. Over the past few years, several laws were amended, and they are no longer linked to the state of emergency, and a number of other bills are now before the Knesset.

160. In addition, as detailed in the previous report, a petition was filed by the Association of Civil Rights in Israel to the Supreme Court demanding that the state of emergency declared by the Knesset on February 2, 1999 be annulled. (HCJ 3091/99 *the Association of Civil Rights in Israel v. the Knesset*). The Ministry of Justice continued to concentrate efforts towards promotion of the legislative alterations necessary for its annulment. Following several court hearings, the Supreme Court decided to postpone its decision with regards to the petition and allowed the State more extensions for the purpose of completing all the necessary legislative amendments. The Knesset extended the state of emergency on December 12, 2000; July 10, 2001; and June 26, 2002.

161. Since September 2000, Israel has been subjected to an unprecedented wave of terrorist activity. Its citizens have been the victims of countless attacks which have been perpetrated with the goal of causing mass havoc, destruction, and loss of life and limb. Due to the current state of

affairs, and the actual state of emergency that Israel is experiencing, the Supreme Court determined on March 25, 2003, that the petitioner should submit a revised petition to the Court. Meanwhile, the Knesset extended the state of emergency for another year on June 11, 2003.

162. Following submission of a revised petition, the Supreme Court held several hearings and ordered the respondent to report on the progression of any legislative amendments being made with regards to the annulment of State of Emergency status. The Court decided to postpone its decision in that petition and allow the State more extensions in order to conclude all the legislative amendments necessary for annulment. Accordingly, the Knesset extended the State of Emergency on May 24, 2004; November 29, 2004; June 14, 2005; May 31, 2006; and May 30, 2007.

Article 5. Non-derogable nature of fundamental rights

163. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of its Initial Periodic Report.

Article 6. Right to life

Reduction of infant mortality, epidemics and malnutrition

164. Recent statistics indicate that Israel's infant mortality rate continues to decrease from 6.1 between 1996-1999 to 4.5 in 2005. Among Jewish and Christian newborns, the infant mortality rate fell even furthermore to 3.2 and 3.4 deaths for every 1,000 live births, respectively. Among the Muslim population, despite the continuing decrease, the child mortality rate is still relatively high to these populations and stands at a rate of 8.4 deaths per every 1,000 live births. The gap between the sectors stems from a number of factors, among them the high rate of consanguineous marriage - approx. 35% in the Arab sector and approx. 60% in the Bedouin sector (these kinds of marriages lead to a high rate of birth defects), religious prohibition against abortion even in medically recommended cases, as well as socio economic differences. The further decrease in infant mortality over the last half decade, and the causes for such deaths, are shown in the following tables.

Table 7

Infant mortality per 1,000 live births

Muslims	Druze	Christians	Jews	Total	
9.6	8.7	4.9	4.8	6.1	1996-1999
8.8	5.9	2.8	3.8	5.1	2000-2004
8.4	6.3	3.4	3.2	4.5	2005

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

165. On December 2005 the Population Registry Law 5725-1965, was amended for the regulation of births occurring outside a medical institution. The purpose of the amendment was to ensure that illegal adoptions, exploitation of women and babies' trafficking would be reduced as far as possible.

166. Women who give birth at home or on the way to the hospital are entitled to comprehensive post-natal care in the hospital for themselves and their infants. All infants in Israel are entitled to well-baby care in government-run Maternal and Child Health Clinics, whether or not they are registered in the Population Registry. Furthermore, most women who give birth at home arrive anyway, shortly after birth, to a hospital in order to enjoy their right for a birth grant, therefore enabling the registration of their children in the population registry.

Table 8

Infant mortality (rate per 1,000 live births) by religion and age of neonate at death, 1998-2003

28-364 days	0-27 days	Total	Cause of death
1.9	3.5	5.5	Total
(0)	..	(0)	Intestinal infectious diseases
0.1	(0)	0.1	All other infectious and parasitic diseases
(0)	..	0.0	Pneumonia
0.4	0.9	1.3	Congenital anomalies
0.3	2.2	2.5	Causes of prenatal mortality
0.1	(0)	0.1	External causes
1.0	0.4	1.4	All other and unspecified causes
1.2	3.0	4.2	Total
..	..	(0)	Intestinal infectious diseases
0.1	..	0.1	All other infectious and parasitic diseases
(0)	..	(0)	Pneumonia
0.3	0.6	0.9	Congenital anomalies
0.3	2.1	2.4	Causes of prenatal mortality
0.1	..	0.1	External causes
0.5	0.2	0.8	All other and unspecified causes
3.7	4.8	8.5	Total
(0)	..	(0)	Intestinal infectious diseases
0.2	..	0.2	All other infectious and parasitic diseases
(0)	..	(0)	Pneumonia
0.7	1.6	2.3	Congenital anomalies
0.5	2.4	2.9	Causes of prenatal mortality
0.1	..	0.2	External causes
2.1	0.8	2.8	All other and unspecified causes

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

Incidence of murder, attempted murder, manslaughter and negligent homicide

167. The following table is a compilation of the incidence of reported cases of the four types of offenses involving deprivation of life, as of end of 2005.

Table 9

Reported cases of offences involving deprivation of life, 2005

Negligent homicide, excluding vehicle accidents	Manslaughter	Attempted murder	Murder	Offense
56	18	322	223	2001 - Reported cases
%57.1	%83.3	%26.4	%66.4	% apprehended
39	11	215	227	2002 - Reported cases
%46.2	%72.7	%59.1	%72.2	% apprehended
37	10	199	206	2003 - Reported cases
%70.3	%100.0	%56.3	%72.3	% apprehended
53	10	423	174	2004 - Reported cases
%81.1	%90.0	%82.5	%65.5	% apprehended
47	14	285	163	2005 - Reported cases
70.2%	64.3%	75.1%	65.6%	% apprehended

Source: Israel Police, Annual Reports - 2001-2005.

Environmental policy

168. **Air quality**. In order to provide a current picture of air quality throughout Israel, the Ministry of Environmental Protection collects information processed from over one hundred air quality monitoring stations, including a-25 station national monitoring network as well as stations operated by the Association of Towns for the Environment and the Israel Electric Corporation. The information is transferred to a national control center which provides real-time information on air quality throughout the country. In addition, a new and comprehensive air resources management system, based on a European model, is currently being established. The system will provide a variety of tools to forecast the country's state of air quality, analyze pollution events and facilitate policy making and planning.

169. Since the submission of Israel's previous reports, numerous measures have been initiated in order to solve the serious problem of vehicular pollution. A Government resolution is currently being promoted calling for the preparation of a national action plan on the reduction of pollution from vehicles. In addition, as of January 2004, only diesel and gasoline containing 50 ppm sulfur is available at gas stations, following a legislative order prohibiting the import or the production of fuel with a higher sulfur content.

170. Since March 2006, all gasoline powered vehicles in Israel (beginning with 1995 models) are required to undergo stringent air pollution checks within the framework of the annual car registration test. New regulations on smoke emissions from diesel vehicles entered into force that year. According to the regulations, diesel vehicles beginning with 2001 models must comply with lower emission standards. Today, all new imported vehicles must comply with Euro 4 standards, which require a combination of advanced engine technologies and effective systems for the treatment of exhaust gas.

171. One of the major changes in recent years in the area of energy and air pollution is the market shift from heavy fuel oil to the use of natural gas. It is expected that almost 50% of total electricity generation will be based on natural gas within a decade, which will result in much lower emissions to the air.

172. Israel is a party to the United Nations Framework Convention on Climate Change (1771 UNTS 107; S. Treaty Doc No. 102-38; U.N. Doc. A/AC.237/18 (Part II)/Add.1; 31 ILM 849 (1992)) since 1996 and to the Kyoto Protocol (UN Doc FCCC/CP/1997/7/Add.1, Dec. 10, 1997; 37 ILM 22 (1998)) since 2004, and is committed to fulfill its obligations in accordance with these instruments. Following ratification of the Kyoto Protocol, a Designated National Authority (DNA) was established for the Clean Development Mechanism (CDM) under the responsibility of the Ministry of Environmental Protection. So far 35 emissions reduction projects have been submitted to Israel's DNA for approval, twelve of which have been registered in the UN. The projects have the potential to deliver reductions of about 2 million tons to carbon dioxide equivalent (CERs) per year.

Article 7. Freedom from torture or cruel, inhuman or degrading treatment or punishment

173. According to the Israeli legislation, acts of torture or cruel, inhuman or degrading treatment or punishment are designated as criminal offences and perpetrators of such offences are tried and severely punished by the courts.

Legislation

174. In 2000, Israel enacted the Israel Security Agency Law which addresses the major relevant issues concerning the mandate, operation, and scope of functioning of the ISA.

175. Section 16 of the Penal Law 5377 - 1977 (the "Penal Law"), was enacted in order to enable the prosecution of offenders accused of crimes against the law of the nations, to which Israel is committed by international treaties to prosecute, regardless of whether the offender is an Israeli citizen or resident, and regardless of the place where the offence has been committed. Under this provision, and subject to a decision of the Attorney General Israel would have the jurisdiction to prosecute torture cases, in any case where it did not extradite the accused person.

176. In 2004, section 49I1 of the Police Ordinance was amended, expanding the Department for Investigation of Police Officers' scope of authority over ISA interrogators. Their expanded authority of review now applies to every criminal offence committed in the course of fulfilling the ISA interrogators' undertaking, or in relation with their undertaking. This scope was previously limited to criminal offences committed in the course of an interrogation, or as regards to a detainee in custody for interrogation.

177. Section 77 of the Penal Law, enabling the courts to order compensatory damages to a victim of a crime for damages or suffering, was amended in 2004 in order to raise the amount awarded to the victim. Presently, the maximum amount payable to a particular victim is fixed at 228,000 NIS (app. 67,000 US$).

Court judgments

178. On May 2006, the Supreme Court gave a landmark decision, laying down a court-made doctrine on the exclusion of unlawfully obtained evidence (C.A. 5121/98, *Prv. Yissacharov v. The Head Military Prosecutor et. al.*), relating to a soldier who was not advised of his right to legal counsel prior to his interrogation, and its effect on the admissibility of his confession while under interrogation.

179. The Court held that "[a]chieving justice is also based on the manner by which the court reaches a decision under the circumstances of the case before it. Basing an indictment on evidence obtained unlawfully or through the substantial violation of a protected human right, allows the investigation bodies to enjoy the fruit of their sin and may create an incentive for improper investigation methods in the future…under appropriate circumstances, substantial illegality in obtaining the evidence, shall lead to its exclusion, even if there is no suspicion as to the veracity of its content".

180. In this case, the Court adopted a relative exclusion doctrine, according to which the court may rule on the inadmissibility of evidence on the basis of the manner by which it was obtained, if two conditions are fulfilled: (1) the evidence was obtained unlawfully; and (2) admission of the evidence will harm the defendant significantly in regard to his right to fair proceedings, in a way and to an extent which is not in accordance with the limitation paragraph of Basic Law: Human Dignity and Liberty.

181. The Court held that "… the exclusion of evidence according to the said doctrine requires a causal connection between the administration of the improper methods of investigation and the collection of the evidence". The Court also held that exclusion of evidence can be exercised even when the right violated is not of a constitutional nature.

182. The Court enumerated a list of non-exhaustive circumstances which should be considered by courts deliberating upon the possibility of excluding evidence: (1) The nature and severity of the illegality involved in obtaining the evidence; (2) The influence of the improper method of investigation upon the evidence obtained; and (3) The social harm versus benefit involved in exclusion of the evidence.

183. This judgment also analyzed section 12 of the Evidence Ordinance (new Version) 5731 - 1971 ("the Evidence Ordinance"). While the Court did not rule on exclusion of the defendant's confession on these grounds, it held that the said section should be interpreted more widely on the basis of the new Basic Laws. According to this decision, a wider array of circumstances may now justify excluding confessions on the basis of section 12.

184. On August 5th, 2004, the Military Court of Appeals accepted an appeal by the Military Prosecution against the ruling of the Special Court which convicted lieutenant colonel Geva Sagi, upon his confession, of "inappropriate behavior" under section 130 of the Military Justice Law, 5715-1955 (the "Military Justice Law") (A. 153/03 *Geva Sagi v. Chief Military Prosecutor*).Lieutenant colonel Geva had been sentenced to 60 days imprisonment, and his rank was demoted from Lieutenant Colonel to a Major. In the appeal, the prosecution requested the

Court of Appeals to further demote his rank. The Court convicted lieutenant colonel Geva after he admitted to threatening Tarek, a 28 year-old resident of the Duha village, whose father was requested for questioning by the security forces.

185. The Court held that lieutenant colonel Geva, while searching for a person requested for questioning, threatened that person's son, Tarek, telling him that he would kill him if he did not indicate his father's whereabouts. The Court's judgement also described a series of humiliating and sexually degrading acts made by the defendant, including a threat to burn Tarek if he did not indicate where certain weapons were hidden.

186. The Court of Appeals ruled that the described abuse was performed during an investigation, which in itself, was for a worthy purpose. On the other hand, the Court stressed that acts of abuse against the local population are harmful both to the victim and to the IDF. "A commander who does not understand and assimilate the limits of the military use of force established by the principle of human dignity, and substantially deviates from these limits, is not worthy of command. No difference exists between an abuse of a subordinate, a soldier, an enemy or a simple person. The same rule applies for a commander who deviates from the orders concerning his subordinates and the commander who abuses a Palestinian, a suspect or an innocent, in order to force him to disclose information. Both commanders are unworthy of the command."

187. Regarding the case at hand, the Court of Appeals ruled that "it is possible that details could have been taken from Tarek concerning his father and concerning the place the gun was hidden. However, even if in that situation it was appropriate to interrogate him, there exist legal and moral rules which dictate the proper method of interrogation. The same applies even if Tarek himself had been the primary suspect".

188. The Court described lieutenant colonel Geva's threats towards Tarek as "shameful and extremely ugly", and stated that: "[n]o words can describe our shock". "Although it is only one incident, yet its escalation into a series of continuous actions, is inappropriate and ugly from its very beginning to its end."

189. Citing the Convention against Torture and previous High Court of Justice rulings, the Court held that "even if we accept the claim that the aggressive dimension in the defendant's behavior had been relatively limited, for there had been no physical contact between him and Tarek, it appears that the defendant's actions fall within the absolute prohibitions referred to by the High Court of Justice. This is so both because of the severe humiliation entailed in the undressing of a person in front of other people, as well as because of the harsh violence towards the man's spirit".

190. The Court accepted the appeal and, as noted above, demoted lieutenant colonel Geva to the rank of a First Lieutenant.

191. In accordance with Article 3 of the Convention against Torture, prohibiting the extradition of a person to another state where there are grounds for believing that he would be in danger of being subjected to torture, the court in Cr.A. 7569/00 *Genadi Yegudayev v. State of Israel* (23.5.02), ruled that Mr. Yegudayev is extraditable only after receiving the following assurances

from the Government of Russia: (1) It was assured that Mr. Yegudayev will not be subject to any kind of torture or inhuman treatment; (2) he would be entitled to visits by an Israeli representative; and (3) he would be entitled to due process of law and all the rights provided to him in the European Extradition Treaty.

192. Section 2B(a)(8) of Israel's Extradition Law 5714-1954 states that a person shall not be extradited to the requesting state where the extradition is likely to harm public order. The term "public order" has been interpreted by the Israeli Supreme Court to mean "the basic values of the State and the society, those values which express the moral and justice sense of the public in Israel". Specifically, in Cr.A. 7569/00 *Yegudayev v. the State of Israel*, Deputy President M. Cheshin declared that "a substantial concern as to physical injury or abuse of someone extradited to another country would clearly contradict the public order of Israel, and where the Court is convinced that such is the danger to a person, the Court shall deny the request of the [requesting] state and shall not declare the person extraditable".

Control measures and conduct of law enforcement agencies

193. As detailed in Israel's previous reports, the actions and conduct of law enforcement officials are subject to several legal institutions for review and oversight. Overall, each branch of the law enforcement authorities has disciplinary procedures, which may be initiated by the person claiming a violation, by other entities, or by the authorities themselves. All civil servants are subject to the provisions of the Penal Law and most of them to the regulations pertaining to governmental employees. Detainees, prisoners or any other relevant person may apply directly to the courts or administrative proceedings for relief against the action or decision in question.

Israel Police

194. The Department for Investigation of Police Officers in the Ministry of Justice is responsible for most criminal investigations against police officers. Disciplinary proceedings are initiated by submitting a complaint to the Disciplinary Department of the Personnel Division at the Police Central Headquarters, or to any of its branches. Also, administrative sanctions may be imposed at any time during the proceedings, as well as after the proceedings are completed.

195. The Department for Investigation of Police Officers (DIPO) conducts investigations concerning police misconduct on a routine basis. The following are some of the more noteworthy cases in the period since the submission of Israel's previous report:

196. In October 2006, during a border police raid, policemen detained three Palestinians suspected of illegal stay in Israel. While examining their documentation, one of the policemen in charge of watching the detainees fired a shot that resulted in the death of Iyad Abu Aya and the injury of another. Following a DIPO investigation, the Department filed an indictment against two of the police officers involved in the incident. On January 16, 2008, one of the defendants was convicted of manslaughter and assault under aggravating circumstances that causes actual bodily harm. The charges against the other policeman involved were altered and the case is still pending. (Cr. R 40182/07 *The State of Israel v. Tomer Abraham, et. al*. (16.1.08)).

197. In September 2004, five border policemen apprehended two Palestinians suspected of illegal stay in Israel in the Jerusalem neighborhood of Abu-Dis. The two were taken to a border police station for questioning, during which, they were subjected to different forms of abuse. The DIPO filed indictments and the five policemen were convicted and given different sentences. The first defendant received 14.5 months of imprisonment and suspended prison sentence following a plea bargain. The second defendant received 7.5 months of imprisonment and suspended prison sentence according to a plea bargain. The third defendant was convicted but his verdict is still pending. The fourth defendant pled guilty to the charges of assault under aggravating circumstances that causes actual bodily harm and to abusing a helpless person and was sentenced to 8 months of imprisonment as well as 12 months of suspended prison sentence, conditioned on refrainment from committing assault three years after his release, and one year probation according to the conditions of the probation service.

198. The fifth defendant pled guilty to the offences of aiding assault under aggravating circumstances that causes actual bodily harm and to aiding in the abuse of a helpless person, and was subject to 4 months of imprisonment to be served as community work, 8 months of suspended prison sentence conditioned on refrainment from committing assault for three years after his release, and one year probation according to the conditions of the probation service. (Cr. R. 436/04 *The State of Israel v. Nir Levy et. al* (19.5.05)).

199. In another case, border police officers robbing stores in the city of Hebron threatening to use force while enforcing a curfew in the city. The case involved multiple offences and led to an indictment filed by DIPO against 10 policemen. They were charged with robbery while abuse of office, obstruction of justice, assault under aggravating circumstances, assault, and malicious damage to vehicles. (Cr. C. (Jerusalem) 183/03 *The State of Israel v. Sisaiy Noga, et. al*. (02.07.07)).

200. Following are statistics compiled by the Department for Investigation of Police Officers regarding unlawful use of force by police officers:

Table 10

Unlawful use of force by police officers (2001-2004)

2004	2003	2002	2001	
1 273	1 531	1 552	1 257	Total complaints of unlawful use of force by police officers investigated
49	58	53	70	Criminal proceedings
121	119	93	116	Disciplinary measures
354	306	322	331	Lack of guilt
65	87	70	97	Lack of public interest
47	49	39	53	Unknown felon
637	800	605	735	Lack of evidence

Source: The Department for Investigation of Police Officers, 2005.

201. Following are statistics compiled by the Police Disciplinary Department regarding the treatment of cases forwarded by the Department for Investigation of Police Officers, recommending disciplinary measures.

Table 11

Cases handled by the Disciplinary Department (2001-2004)

Complaints fact sheets submitted	Indictments filed to the Disciplinary Tribunal	Cases received	Year
41	61	151	2001
67	43	115	2002
28	16	80	2003
33	11	149	2004

Source: Israel Police, 2005.

Israel Security Agency (ISA)

202. Complaints against ISA personnel alleging the use of unlawful investigation techniques are dealt with by the Inspector for the Complaints within ISA (hereinafter: "the Inspector").

203. The head of this unit is appointed directly by the Minister of Justice and is granted the authority of a disciplinary investigator. Moreover, according to ISA rules of operation, the Inspector functions independently. No member in the ISA has the authority to interfere with its findings.

204. The Inspector functions under the close supervision of a high-ranking prosecutor from the State Attorney's Office. Additionally, following a full examination of the complaints, the Inspector's report is thoroughly reviewed by the above-mentioned prosecutor and in cases in which the issues at hand are sensitive or circumstances so necessitate, also by the Attorney General and the State Attorney.

205. A decision is made regarding the complaint, by the Attorney General, the State Attorney and the prosecutor only following a thorough examination of the Inspector's findings. The decision is an administrative decision, subject to the judicial review of the Supreme Court sitting as High Court of Justice, like any other administrative decision.

206. Statistics indicate that the Inspector has initiated 35 examinations in 2000, 65 examinations in the year 2001, 81 examinations in the year 2002, 129 examinations in 2003, 115 examinations in 2004, 61 examinations in 2005, 67 examinations in 2006 and 30 examinations in 2007 (up to October 2007). These examinations were the result of external complaints, as well as incidents alleged in internal ISA reports. Four cases resulted in disciplinary measures and several cases resulted in general remarks to ISA interrogators.

Israel Defence Forces (IDF)

207. As detailed in Israel's previous reports, the IDF maintains a strict policy of investigating every claim of maltreatment by IDF soldiers. The IDF instructions specifically prohibit any improper attitudes towards detainees, and instruct as to the denunciation of any instance of an inappropriate behavior of a soldier in relation to detainees. In cases of soldiers' misbehavior of detainees and interrogatees, soldiers are either court-martialled or face other disciplinary proceedings, depending on the severity of the charges and policy of the Military Attorney's Office.

208. The interrogation of soldiers suspected of the above violations is performed by the Investigative Military Police. This unit is subordinate to the IDF Head of the General Staff, independent from the IDF regional commands, and therefore autonomous to handle the investigations within the auspices of the Military Attorney's Office.

209. The Military Attorney's Office and the military courts vigorously assist in upholding the above stipulated norms. Below are some noteworthy examples of such enforcement against soldiers deviating from the above norms: two soldiers charged with beating cuffed detainees while transporting them from the Beit El military court to a detention facility were sentenced to seven to ten months of imprisonment by the Military Court of Appeals; In another case several soldiers charged with assault, aggravated assault, and abuse of Palestinian residents at the Kalandia checkpoint were sentenced to four to nine months of imprisonment.

Commitment to psychiatric hospitals

210. The following table refers to both psychiatric hospitals, and to psychiatric wards within general hospitals.

Table 12

Involuntary psychiatric commitments, 2001-2006

District Psychiatrist's order		Court orders		Year
%	Totals numbers	%	Totals numbers	
20.6	3 689	5.2	921	2001
22.6	4 128	5.1	929	2002
21.2	4 037	5.6	1 058	2003
20.1	3 992	5.2	1 042	2004
18.3	4 063	5.7	1 271	2005

Source: Ministry of Health, Information and Assessment Department, 2006.

211. Since the submission of Israel's previous periodic report, there has been an increase in the number of involuntary commitments to psychiatric hospitals. Involuntary commitments currently constitute 24% of all commitments, as opposed to 17.6% in 1996. This rise can be attributed to the enactment of the Patient Rights Law 5756-1996. The law notably increased awareness of the

necessity to obtain a patient's rational consent to hospitalization, or an adequate legal substitute. Thus, statistics relating instances where the patient was hospitalized involuntarily are now more accurate.

212. The number of beds assigned for psychiatric hospitalization has decreased from 6,713 beds in 1996 to 5,352 in 2005. This may be attributed to the fact that a growing number of patients are referred to geriatric hospitals, hostels, and other alternatives provided by the community.

213. On July 26, 2007, the Haifa District Court accepted an appeal to the decision of the District Psychiatric Committee in the "Tirat Hakarmel" Mental Health Center which issued a hospitalization order based on the Mentally Ill Patients Treatment Law 5751-1991, (the "Mentally Ill Patients Treatment Law") without granting the Petitioner the right to a legal hearing (Haifa D.C. Appeal 001036/07 *Anonymous v. the District Psychiatric Committee in the "Tirat Hakarmel" Mental Health Center*).

214. The Court held that the petitioner has the right to a legal hearing before any decision is made regarding his case. It concluded that the right of the petitioner was violated and that the District Psychiatric Committee operated contrary to the law. The Court held that the hospitalization order remain valid for another seven days to allow the District Psychiatrist to operate according to the powers provided to him by the Mentally Ill Patients Treatment Law. Because the petitioner did not request his immediate release, and in order to avoid causing further damage, the Court held that the immediate release of the petitioner would not be beneficial.

Experimentation on human beings

215. In January 2006, the Pharmaceutical Administration of the Ministry of Health published procedure No. 14, titled "Guidelines for Clinical Trials in Human Subjects". These guidelines govern the method of submission, approval and inspection of clinical trials and clinical research in human subjects and define the procedure for handling application for clinical trials and the requirements for the conduct and the supervision thereof. Compliance with the requirements of the guidelines is designed to protect the trial participants and ensure that their rights, safety and wellbeing are maintained, and that the information obtained from the study is reliable.

216. According to the guidelines, any clinical trial, including the planning, approval, conduct, recording, and reporting thereof shall be carried out in due compliance with the principles of the Helsinki Declaration, the Public Health Regulations (Clinical Trials in Human Subjects) 5741-1980 - including all subsequent additions and amendments thereto, the Genetic Information Law 5761-2000, the provisions of these guidelines, the provisions of the current Harmonized Tripartite Guideline for Good Clinical Practice (ICH-GCP E6) (CPMP/ICH/135/95) and the provisions of the current ISO 14155-1, 14155-2 (2003): Clinical Investigation of Medical Devices for Human Subjects (http://www.iso.ch.), as well as regulations and guidelines published periodically by the Ministry of Health. In the event of an inconsistency between the aforesaid guidelines, the guidelines of the Ministry of Health shall prevail. In matters not covered by binding provisions in the guidelines of the Ministry of Health, the international guidelines are to be followed.

Prohibition of human cloning

217. The Prohibition of Genetic Intervention (Human Cloning and Genetic Manipulation of Reproductive Cells) Law, 5759-1999, which prohibits the performance of any act or intervention regarding human cells intended to clone a human being or create a human being by use of genetically altered cells, was enacted in 1999 for a period of five years, the Law was extended and revised in 2004 for a period of another five years, until March 2009.

218. The amended law now includes the following changes:

218.1. The examination of the moral, legal, social and scientific aspects of genetic intervention will be performed through "consideration of freedom of scientific research for the advancement of medicine".

218.2. The definition of "Human Cloning" was amended in order to make it clear that the prohibition stated in the Law applies commencing at the beginning of the procedure of human cloning for the purpose of reproduction, that is to say - from the moment of inserting the fetus into the uterus.

218.3. In order to clarify the distinction between reproductive cloning and therapeutic cloning, it was determined that the prohibited actions will include both human reproductive cloning and Germ Line Gene Therapy for the purpose of creating a human being.

218.4. The functions and powers of the Advisory Committee were redefined:

218.4.1. Pursue developments in medicine, science, biotechnology, bioethics and law in the area of genetic experiments on human beings in Israel and abroad.

218.4.2. Submit a yearly report to the Minister of Health and the Science and Technology Committee of the Knesset concerning the fulfillment of its functions and the exercise of its powers and report on the recent developments in the area of human cloning.

218.4.3. Advise the Minister of Health on the matters set out in the Law and make recommendations to the Minister regarding the extent of the prohibitions set out in the Law.

218.5. The Minister of Health is to determine by regulations provisions concerning the exercise of powers of the Advisory Committee, including supervision and monitoring powers. Such regulations entered into force in January 2006 (The Prohibition of Genetic Intervention Regulations (Human Cloning and Genetic Manipulation of Reproductive Cells) (Advisory Committee Powers) 5766-2006).

218.6. The Criminal penalties were amended in order to increase deterrence: a more severe penalty of four-year imprisonment or a one million NIS fine have been set for violation of the provisions of this law.

219. The five-year period of the Law is to be used to examine the consequences of the provisions of the law in order to reconsider its prohibitions in the light of the developments in the scientific community. At present, there are no experiments taking place in Israel aimed at cloning human beings.

Article 8. Prohibition of slavery

Legislation amendments

220. On October 29, 2006 the Anti Trafficking Law, 5766 - 2006 came into force. The new legislation reflects an attitude whereby combating trafficking in persons requires the integration of a series of tools and actors. It also places emphasis on the prohibition of all forms of slavery, as well as forced labor.

221. As regards trafficking for the purpose of slavery or forced labor, the following series of crimes had been established: trafficking in human beings for the purpose of slavery or forced labor (section 377A(a) of the Penal Law), holding a person under conditions of slavery (section 375A of the Penal Law), forced labor (section 376 of the Penal Law), and exploitation of vulnerable populations (section 431 of the Penal Law). In addition, the abduction offence has been broadened to include two new offences: abduction for the purpose of slavery or forced labor and conveying a person beyond the boundaries of a state (sections 374A and 370 of the Penal Law) and a new offence created of causing a person to leave a state for the purposes of prostitution or slavery (section 376A of the Penal Law).

222. These criminal offences exist alongside various regulatory offences intended to protect foreign workers, for example, the Foreign Workers Law, 5751 - 1991 (the “Foreign Workers Law”) and the Employment Service Law, 5719 - 1959 (the “Employment Service Law”). However, their inclusion in the Penal Law accords them a higher level of criminality and better expresses society’s moral condemnation.

223. Before the new law, Israel did not have a slavery offence. Now, it is a crime with a maximal punishment of 16 years of imprisonment and 20 years if committed against a minor. The elements of the offence require that a person be held under conditions of slavery for the purposes of work or services, including sex services. Slavery is defined as follows.

224. “Slavery” means a situation under which powers generally exercised towards property are exercised over a person; in this matter, substantive control over the life of a person or denial of his liberty shall be deemed use of powers as stated. This definition attempts to focus upon the hard kernel of slavery, which is acting towards a person as if towards property, thus destroying his separate legal personality and his basic autonomy.

225. The Law also created two new abduction offences which serve to cover behavior which is close to trafficking and slavery, but may not fall squarely into the elements of those crimes:

> 225.1. Aggravated abduction offence - (section 374A) which requires that the abduction be perpetrated in order to achieve the aims enumerated in the trafficking crime (including slavery and forced labor). The maximal sentence is 20 years imprisonment. This section was added in order to tailor abduction to a world rife with trafficking.

225.2. In addition, the law creates a new offence of "Conveying a Person Beyond the Boundaries of a State" (section 370) - which prohibits conveying a person beyond the boundaries of the state in which he resides. This provision reflects a reality by which people are abducted beyond national boundaries in order to "feed" the international "trafficking industry". The maximal sentence is 10 years imprisonment.

226. The Law also adds the offense of Causing a Person to Leave a State for Purposes of Prostitution or Slavery (section 376B of the Penal Law). Like the new abduction offence, this new offence fills the gaps left by the trafficking offence. It penalizes "Anyone who causes another person to leave the State in which he lives for purposes of engaging the person in prostitution or holding that person under conditions of slavery". The maximal sentence is 10 years imprisonment.

227. Forced Labor (section 376 of the Penal Law) - this offense is now punishable by a 7 years imprisonment. The section penalizes "Anyone who unlawfully forces a person to work, by using force or other means of pressure or by threat of one of these, or by consent elicited by fraud, whether or not for consideration …". This section deals with less severe situations which can still be considered as labor, rather than slavery.

228. This recent legislation has paved the way for Israel to ratify both the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Hence, Israel is currently in the final stages of these proceedings.

Hard labor in the penal system

229. **General**. As described in detail in our Initial Report, Israeli law does not allow hard labor to be imposed as the punishment for a crime. Incarcerated convicts are required to work at tasks or jobs which do not involve hard labor (Section 48 of the Penal Law) unless the Exemptions Committee of the Prisons Service releases them from the obligation for reasons of rehabilitation, health or other reasonable grounds.

230. Between 1997 and 2007, there was a 264% increase in the number of employed prisoners. This increase derives, mostly, from the increase in the employment of prisoners in private entrepreneurs' factories.

231. The Israel Prisons Service (IPS) work scheme operates in two major areas: On the one hand it focuses on imparting the prisoners with professional skills. For that purpose, professional training courses are held within the prisons by the Ministry of ITL, granting the graduating prisoners professional diplomas from the Ministry. On the other hand, it deals with the employment of prisoners within the prisons. Due to a lack of suitable employment, the prisoners' workforce is not being utilized to the fullest capacity.

232. About 5,300 prisoners are employed in 53 branches of private entrepreneurs' factories. The terms of the employment of prisoners are similar, and are set by agreement between the IPS and the private entrepreneur or determined by the worker's productivity.

233. When approaching the date of release, the working prisoner joins an individual or a collective rehabilitative program. The prisoners in these programs are employed in factories outside the prison. At this time, about 300 prisoners are employed in such rehabilitative programs.

234. The prisoners employed in the private entrepreneurs' factories receive a fixed salary, slightly lower than the minimum wage. The Prisons Service pays prisoners on a set date every month, even when the private entrepreneur has not yet provided the actual pay.

Foreign workers

235. **General**. Israel is a country of destination for migrant workers from Asia, Eastern Europe and Africa. The main countries of origin of foreign workers in Israel are: China, the Philippines, Turkey, Thailand and Bulgaria. In 2006, the Ministry of Industry, Trade and Labor (ITL) issued 87,692 permits for employment of foreign workers in various permitted fields.[3]

236. Migrant workers coming to Israel in search of employment, are motivated mostly by harsh economic conditions and low wages in their countries of origin. Some enter Israel by illegally crossing the southern border of Israel or illegally at its airports, using either a forged tourist visa, or a false Jewish identity. The vulnerability of these persons exposes them to the risk of being exploited for easy financial gain. This vulnerability may be heightened by requirements to pay high middleman fees in their countries of origin.

237. **Foreign Workers Law**. Employers may be prosecuted for violations of the labor laws in Israel, including the Foreign Workers Law. Criminal offences under this law include the following:

237.1. Employment of a foreign worker without providing him with a detailed contract.

237.2. Employment of a foreign worker without provision of medical insurance.

237.3. Employment of a foreign worker without providing proper lodging.

237.4. Employment of a foreign worker without providing a detailed pay-slip, or unlawfully deducting sums from his wages.

237.5. Employment of a foreign worker without holding the documentation pertaining to the above obligations, as well as a listing of hours of work, at the workplace or the offices of the employer.

237.6. Illegal employment of a foreign worker, i.e. - employment of a foreign worker by an employer who does not have a permit to do so, or employment of a foreign worker in violation of the conditions of his visa.

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[3] Nursing care - 44,178; Agriculture - 25,942; Construction - 14,522; Industry - 1,487; Restaurants - 1,087; Hotels - 476.

Under the provisions of this law, the administrative fine for its violation is now 5,000 NIS for each original offence, and 10,000 NIS for each repeated offence. A maximum criminal penalty of 52,200 NIS per employee, per offence, can be imposed upon the employer by a court of law, and when the violation occurs in a business framework, the maximum criminal penalty for each offence will be 104,400 NIS, or six months imprisonment. An additional penalty of 5,200 NIS for each day the violation continues can also be imposed.

238. **Additional relevant laws**. The Employment Service Law (Amendment No. 14) - criminalizes the collection of illegal excessive recruitment fees from foreign workers, and makes this crime punishable by up to 6 months imprisonment, and/or attended by a fine of up to 200,000 NIS (59,500$). According to the Prohibition on Money Laundering Law the amendment also makes the collection of exorbitant fees an origin offence.

239. **The Employment Service (Recruitment Fees) Regulations 5766-2006** - cap the possible recruitment fees to be demanded by an Israel recruitment agency at 3,050 NIS, (approximately 907$, or 88% of the monthly minimum wage), minus any sum already paid by the worker to a foreign recruitment agency. The agency may, however, be legitimately reimbursed from the foreign worker for the cost of airfare from the source country to Israel. The Regulations also state the terms under which it is permitted to collect the fee, for example, a detailed contract must have effect between the agency and the worker. Additionally, the Regulations outline the circumstances under which a recruitment agency shall reimburse payments collected from a foreign worker.

240. **The Employment Service (Provision of Information) Regulations, 5766-2006** - These regulations require a recruitment agency to provide foreign workers with all relevant information relating to their rights and obligations as foreign workers in Israel, for example, information as to the permitted recruitment fees, etc.

241. **Bilateral agreements**. An agreement was recently signed between the International Organization of Migration (IOM) and Thailand, a key country of origin to Israel. The agreement pledges to supervise the recruitment of Thai workers coming to Israel, so as to prevent the collection of high middleman fees in the country of origin. This is calculated to prevent a breeding ground for exploitation in general, and trafficking in particular, as workers who have incurred high debts will tend to accept any conditions of employment in an effort to eliminate those debts.

242. The agreement intends to decrease exploitative incentives for agencies to bring workers to Israel. Its implementation will begin in a few months. The agreement stipulates that a Thai citizen wishing to work in Israel will pay a maximum of US$1,800: that is US$ 1,200 for flights and US$ 600 for expenses- including permits, medical examinations and vaccinations. Whilst Israel has not signed the document, the Government decided more than two years ago to endorse it. High-ranking government officials have followed the process closely from the outset, including the Prime Minister’s Office Director. According to the agreement, the Thai labor ministry will be responsible for recruiting and funding the migrant workers, and IOM will oversee the process.

243. **Dissemination of information regarding rights among foreign workers** - A special workers’ rights brochure (“Zchuton”) regarding the rights of foreign workers in the construction

field, was issued by the Ministry of Industry, Trade and Labor in English, Russian, Romanian, Turkish, Thai and Chinese. The "Zchuton" is also distributed by the Ministry of the Interior to each foreign worker who arrives at the Ben Gurion airport. The "Zchuton" instructs workers to contact the Ombudswoman (detailed below) in any case of breach of the rights discussed therein.

244. In addition, a brochure discussing the general labor rights of foreign workers in Israel is published on the website of the Ministry of ITL in English, Hebrew, Chinese, Thai, Russian, Romanian and Turkish.

245. An additional method of disseminating information has been implemented by the Israeli Embassy in Thailand. In cooperation with the Ministry of ITL, and the Thai Labor Ministry, a brochure has been launched discussing the rights of foreign workers in Israel. The booklet, in Thai, provides information about the labor and social security rights of workers and includes other information, such as relevant phone numbers, places that accord medical treatment and basic Hebrew. The booklet is to be attached to the passport of each worker that receives a visa.

246. **Medical insurance**. The Foreign Workers Law requires employers to arrange broad medical insurance for employees who are foreign workers. Employers who violate this obligation may face criminal prosecution.

247. An Ombudswoman for the Complaints of Foreign Workers was appointed in the Ministry of ITL. Her mandate is to safeguard the rights of foreign workers employed in the construction industry, agriculture and nursing care fields in Israel, and to handle complaints from foreign workers, employers, citizens, NGOs, associations and newspapers. The Ombudswoman has the authority to recommend that a criminal investigation be carried out by the Enforcement Division, as well as to initiate administrative proceedings. In addition, she may allow foreign workers in the construction industry to change employers after less than the three requisite months. The Ombudswoman follows-up on complaints she has handled to ensure that workers are indeed paid the sums found due. The Ombudswoman works in cooperation with the Enforcement Department in the Foreign Workers Department, the Ministry of the Interior and the Payments Department in the Ministry of ITL, to review the complaints and oversee adherence to her decisions.

248. **Government assistance in detention facilities**. - At the detention facility, detainees are interviewed by detention facility officers to ensure that they have valid travel documents, as well as by inspectors of the Ministry of ITL to ensure that they are not owed monies by their employers, and to aid in the collection of any such back wages for the worker before removal. In 2006, Inspectors of the Enforcement Division collected wages owed to foreign workers from employers amounting 2,290,067 NIS (681,000 $).

249. **Trafficking in women**. See above, under paragraphs 118-132 above.

Article 9. Liberty and security of person

250. **Meeting with legal counsel**. A recent amendment to the Prisons Ordinance, 1971 (amendment No. 30, dated July 2005), stipulates the conditions under which a prisoner may meet with an attorney. According to section 45, such meetings shall be held in private and in

conditions suitable for maintaining both the confidentiality of the matters and/or documents to be exchanged, and adequate supervision of the prisoner's movements. Following a prisoner's request to meet with an attorney for professional service, or the request of an attorney to meet with a prisoner, the director of the prison shall, without delay, facilitate a meeting to take place, during regular working hours, within the prison confines.

251. Section 45A of the Prisons Ordinance operates with regard to all prisoners, except detainees who are yet to be indicted. The section authorizes the IPS Commissioner and the director of the prison, to postpone or refuse any meeting between a particular lawyer and detainee, for a limited period of time, where there are substantial reasons to suspect that the meeting will facilitate either the commission of an offence risking the security of a person, the public, the State or the prison; or a substantial breach of prison regulations in implementation of prison discipline, procedures, and administration. The prison director is authorized to delay such meetings for 24 hours, whilst the IPS Commissioner may order an additional postponement of 5 days, with the agreement of a District Attorney. Notification of the order shall be given to the prisoner in writing, unless the IPS Commissioner specifically orders that it should be given orally. The reasons for the order may be withheld under certain limited provisions. Review of decisions rendered under section 45A may be done by the relevant District Court.

252. Following application by a representative of the Attorney General, and based on the grounds specified above, a District Court may further postpone such a meeting for up to 21 days. The maximum delay shall not exceed 3 months. Decisions of the District Court may be appealed to the Supreme Court, where a Supreme Court judge may further postpone a meeting, again based on one of the grounds specified above.

253. In Cr.C. 10879/05, *Al Abid v. State of Israel* (18.12.05), the Supreme Court recently addressed the issue of a detainee's right to meet with an attorney whilst in custody. During Al Abid's detention, a court order had been issued postponing his meeting with an attorney. When that period concluded, he was not informed of his right to meet with an attorney. The Court stipulated that "the postponement of a meeting between a detainee and his lawyer on the basis of security reasons compels the authorities to inform the detainee of the postponement. Moreover, when the security impediment no longer exists, it is the duty of the authorities to inform the detainee that he is entitled to meet a lawyer. This is a fundamental right; the parties concerned must, through appropriate instructions, ensure the fulfillment of this right frequently". The court added that even during a regular police interrogation, where the detainee relinquishes the right to meet with an attorney and in cases where the interrogation is prolonged, "it is appropriate to remind the detainee of his right to meet an attorney". By interpreting the Criminal Procedure Law, (Enforcement Powers - Arrests) 1996- 5756 (the "Criminal Procedure Law, (Enforcement Powers - Arrests)"), the Court explained that impediments (prescribed by the Law) to meetings between a detainee and an attorney exist, however whenever such an impediment is removed, the detainee must be immediately informed of the removal, and must be allowed to meet with an attorney.

254. **Postponing/preventing a meeting with legal counsel**. The legal tests for determining what constitutes a "substantial risk" are anchored in section 45a(b) of the 2005 amendment to the Prisons Ordinance 5732-1971. One of these tests is, for example, evidence of a "substantial risk"

that “a prison offence which damages substantially the discipline in prison and might cause a severe disruption to prison order and its administration” will occur. It should also be noted that recourse to an additional extension of this kind has not yet been used in order to prevent access to legal counsel.

255. If such an extension were to be granted, the detainee or his representative is able to submit a petition to the District Court, in accordance with section 45a(f) of the Prisons Ordinance.

256. In a recent decision by the High Court of Justice of 2005, (HCJ 3168/02, *The Israeli Bar Association v. the Minister of Public Security*), the court annulled section 29(b) of the Prisons Regulations 5739 - 1978, which also authorized the IPS Commissioner or a prison director to postpone/prevent access to counsel if there was a substantial risk that meeting with a particular lawyer would enable the commission of an offence.

Arrest and detention

257. **First judicial hearing**. Section 17 of the Criminal Procedure (Enforcement Powers - Arrests) Law, was amended in 2006, so that for the period between June 29, 2006 - December 29, 2010, the following provisions would apply: if the officer-in-charge is convinced that breaking off an interrogation of a detainee arrested for security offences in order to bring that person before a judge will seriously harm the investigation, he may prolong the period of arrest to 48 hours. Additionally, if the officer-in-charge is convinced that breaking off interrogation of a detainee arrested for security offences, for the purpose of bringing that person before a judge would seriously harm the investigation in a manner that might thwart the prevention of harm to human life, he may, with consent of the authorizing authority, and by a written decision, prolong the period until arraignment before a judge for additional 24 hour periods, provided the overall period does not exceed 96 hours. Any decision to prolong the arraignment date for over 72 hours requires the authorization of a Head of the Investigation Department in the Israeli Security Agency, or his deputy.

The use of video conference

258. In 2002, the Criminal Procedure (Investigation of Suspects) Law 5762-2002, was issued. Section 2 of the Law states that a suspect must be investigated in his own language or a language he understands, including sign-language. In addition, section 3 asserts that the investigation must take place in a police station unless a police officer presumes it cannot be held in the station, or there is a reasonable ground to conduct it promptly outside the station, or if the officer in charge found that there is a reasonable ground to investigate the suspect outside the station. Furthermore, a decision to investigate a suspect outside the premises of the station must be documented in writing shortly after reaching the decision.

259. In addition, according to section 4, the entire investigation must be documented via visual or auditory media, including verbal exchanges between the suspect and the investigator or those made in the presence of the suspect. A visual documentation shall also include all bodily movements and responses. A written documentation shall include the major verbal exchanges as well as bodily movements or responses that replace verbal exchanges, which took place between

the suspect and the investigator or while the suspect was present, in a way that will reflect what occurred during the investigation. The documentation shall be written simultaneously during the investigation or closely afterwards.

260. According to section 8, if the investigation is documented in writing, it shall be documented in the language of the investigation. However, if the language of the investigation cannot be used to write the documentation, the investigation shall be documented visually or through audio techniques. If sign language was used during the investigation, the documentation shall be via audio or visual techniques. If the investigator has ground to believe that the suspect cannot read or write or that he is a person with physical, mental or cognitive disability which prevents him from affirming the correctness of the written documentation of the investigation, the investigation shall be documented visually or through audio techniques.

261. The Law is to be implemented gradually and the implementation shall be completed until the beginning of 2010.

262. Section 65A of the Criminal Procedure (Enforcement Powers - Arrests), Law was amended on 2007 to allow the use of Video Conferences for the purpose of keeping a suspect in detention, or releasing him on bail. Video conference may be used only in cases when the defendant in an adult, has not been indicted yet, is represented by an attorney and has agreed to the use of video conference after he was allowed to meet his attorney in person. Video conferencing must be conducted so that the defendant can see the procedures taking place in the court, and so that the judge, the opposing counsel and the arresting officer will be able to see the defendant and his surroundings. Confidentiality between the defendant and his attorney must also be maintained.

263. **Period of arrest before indictment**. In the event that the court does not release the suspect at the initial hearing, it may order continued detention for a period of up to 15 consecutive days. If at the end of this period, the police still wish to keep the suspect in detention for the purpose of criminal investigation, another hearing will be held, and the court's decision will be based on the standards noted above. The longer the detention however, the more substantial the evidence against the suspect must be, in order to justify extending the remand. The total period of detention based on police requests may not exceed 30 days. Detention may be extended beyond the 30-day period only by a decision of the court, and upon a special motion signed by the Attorney General.

264. **Detention pending court hearing**. On February 7, 2006, The Supreme Court accepted an appeal of a detainee kept in detention by the Jerusalem Police pending court hearings, despite the Magistrate Court's early decision not to stay his release (C.A 1145/06 *Mizrahi v. The State of Israel*). The Supreme Court stated that the police had to respect the Court's decision and pointed out that a request for his re-arrest could be brought before the Court even after his release. The court thus decided to release the detainee until an indictment against him or a request for his re-arrest was brought before the court.

265. According to the Supreme Court's decision - suspects, defendants, detainees and prisoners are all eligible to constitutional and procedural protections, stemming from the principles of human dignity and the rule of law in the Israeli justice system. Basic Law: Human Liberty and

Dignity and the Criminal Procedure (Enforcement Powers - Arrests) Law, both provide protection and ensure the rights of detainees. In this case, the Court stated that the continuing detention was contrary to earlier judicial decisions and ordered the detainee's immediate release under restricting conditions.

266. **Detention following serving of sentence**. On June 10, 2007, the Supreme Court rejected the State's request for the continued detention of a man who had already been convicted of assaulting his wife and served his sentence, while appeal proceedings for a more severe punishment were carried out to completion (Cr. R. 5024/07 *The State of Israel v. Salah Diab*). The Court stated that the risk from a person who has already been convicted and subsequently served his sentence, shall not be examined using the same criteria and standards applied to a person who has not yet served his sentenced. Thus, infringing upon the liberty of such a person, even if he or she are still considered a risk and face an appeal, shall be avoided in general.

267. The Court held that it has the authority to order the detention of the defendant until the completion of the appeal's procedures according to section 22 (B) of the Criminal Procedure (Enforcement Powers - Arrests) Law but it stated that such authority is to be exercised only in rare and exceptional cases, when the danger to public security from the defendant if he/she is released or the fear that they will escape from legal procedures is decisively stronger than their right to personal liberty. Despite the severe offences, the Court concluded that this case was not exceptional - it was the first offence of the defendant who had no criminal record. The Court decided that in this case the alternative of house arrest was acceptable, whilst strengthening the conditions for the release of the defendant.

Arrest and detention of armed forces personnel

268. **The right to legal counsel**. In a recent decision by the Supreme Court, the Court held that "[t]here is no dispute as to the high standing and central position of the right to legal counsel in our legal system." (C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al*. (4.5.06)). Here, the Court adopted a relative exclusion doctrine, according to which the court may rule on the inadmissibility of a confession due to the interrogator's failure to notify the soldier of his right to legal counsel. For further details see above, under Article 7.

269. In 2005, the High Court of Justice determined that military courts must give reasons in writing for their verdicts and punishments. Deviation from doing so will lead to an annulment of the judgment. Judges Levy and Rubinstein ruled in one particular case that among the procedural flaws was the fact that "the complaint sheet was completely blank" (HCJ 266/05 *Pilant v. the Deputy Military Advocate General*).

Article 10. Treatment of persons deprived of their liberty

270. **Incarceration of Unlawful Combatants Law**, 5762-2002. The Incarceration of Unlawful Combatants Law, 5762-2002 (the "the Incarceration of Unlawful Combatants Law"), was adopted in order to regulate in domestic legislation, the arrest of persons not entitled to a prison of war status, who nevertheless take an active part in combat and hostilities. Such persons are not entitled to prisoner of war status as accorded in the Third Geneva Convention relative to the

Treatment of Prisoners of War (1949), as they do not adhere to the provisions of section 4 of the Convention. This authority has long been recognized by many authors in the field of international law, and has become a vital tool in combating terrorism, where terrorists operate in grave breach of the most basic principles of the law of armed conflict, most notably of the duty to distinguish themselves from the civilian population.

271. Accordingly, section 2 of the Law defines an "unlawful combatant" as a person who had participated either directly or indirectly in hostile acts against the State of Israel, or is a member of a force perpetrating hostile acts against the State of Israel, where the conditions prescribed for lawful combatants in section 4 of the Third Geneva Convention (1949) with respect to prisoners-of-war, and granting prisoner-of-war status in international humanitarian law, do not apply.

272. Section 3(c) of the Law states that an incarceration order shall be brought to the attention of the prisoner at the earliest possible date, and that he shall be given the opportunity to put his submissions before the Chief of General Staff. Where the Chief of General Staff finds that the prisoner is not an unlawful combatant and that his release shall not adversely affect State security, the order shall be revoked.

273. With regards to "unlawful combatants", the Chief of General Staff may issue an incarceration order in accordance with the Law. According to section 5, a person arrested under the provisions of this Law shall be brought before a District Court judge within 14 days of the date the order was issued. Unless another ground for detention exists under the provisions of an existing law, such a prisoner shall be summarily released if he is brought before the District Court, and a hearing has not been commenced within 14 days of the date of granting the order.

274. After the initial hearing, and in accordance with section 3(c) of the Law, an incarceration order will be subject to periodic (6 monthly) judicial review before a judge of the District Court. Where the Court finds that a detainee's release will not harm State security, or that there are special grounds otherwise justifying his release, the order shall be revoked. The District Court's decision can, within 30 days, be appealed before the Supreme Court.

275. According to section 6 of the Law, a prisoner is entitled to meet with a lawyer at the earliest possible date on which such a meeting may be conducted without harming State security requirements, but no later than 7 days prior to him being brought before a judge.

276. Section 10 of the Law stipulates that the prisoner shall be held under proper conditions which shall not impair his health or dignity. Maintaining adequate conditions of detention was an issue addressed by Chief Justice Barak in HCJ 769/02, *The Public Committee against Torture in Israel et. al. v. The Government of Israel, et.al.*: "Needless to say, unlawful combatants are not beyond the law. They are not 'outlaws'. God created them as well in his image; their human dignity as well is to be honored; they as well enjoy and are entitled to protection, even if most minimal, by customary international law … That is certainly the case when they are in detention or brought to justice …"

277. The Law's constitutionality was recently reviewed and upheld by the Supreme Court sitting as the Court of Criminal Appeals in Cr. A. 6659/06, *Anonymous v. The State of Israel* (11.6.08).

278. **A bed to every prisoner**. On February 12, 2007, the Supreme Court declared that the State must provide a bed to every prisoner held in an Israeli prison with full implementation of this obligation to begin on July 1 of that year (HCJ 4634/04 *Physicians for human rights et.al. v. The Minister of Public Security, et.al*.). In its decision, the Court stated that the right to sleep on a bed is a basic condition for living in dignity, based on the right to dignity anchored in Basic Law: Human Dignity and Liberty (1992).

279. The State claimed that the deterioration of the security situation in Israel since October 2000, caused an increased number of detainees and prisoners held in Israeli prisons, thus Israel Prisons Service (IPS) failed to provide a bed to every prisoner. Instead only a mattress on the floor was provided due to a serious lack of incarceration facilities. Nevertheless, the State did not object to the petitioners' claim that a prisoner's right to sleep on a bed is an integral part of his basic right to dignity, but requested that the Court recognize possible limitations which might prevent full implementation of the principle of "bed to every prisoner", especially in unforeseen times of emergency. The Court stated that "when on the one side of the balance equation rests the right of a person to minimal life standards when held in prison, a contradictory value with a special significance is necessary in order to justify damage to this basic right".

280. In its decision, the Court also related to Article 7 of the ICCPR, stating that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" and to Article 10(1) stating that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". The Court pointed out that the UN Human Rights Committee determined, considering Article 10(1) of the ICCPR, that the dignity of persons deprived of their liberty should be ensured "subject to the restrictions that are unavoidable in a closed environment".

281. **Handcuffing detainees**. On March 13, 2007, The Ombudsman's Office of the Israeli Judiciary published an opinion concerning handcuffing of detainees in court hearings, following a complaint made by a journalist, accused of prohibited publication, who was handcuffed during his court hearing. The Ombudsman determined that as a general rule, a detainee is not to be handcuffed during court hearings apart from exceptional cases in which the police officer who accompanies the detainee requests the court's permission to keep him handcuffed. The Ombudsman also held that the judge has the authority to order to release detainees from handcuffs, even in exceptional cases, where the detainee is suspected of committing a severe crime or when there is a fear that he will escape or act violently. A judge's order to release the handcuffs will be adhered to immediately, using cautious measures as required in such cases.

282. In its opinion, the Ombudsman stated that the issue of handcuffing of detainees during court hearings is of great importance, since the handcuffing of a person damages his dignity severely. Therefore, the Court has to balance between the detainees' right to dignity on one hand, and ensuring security and public order on the other hand.

283. Following the Ombudsman's decision in the above journalist's case, the police published a new procedure (Patrol Department Procedure No. 02.220.044) on February 2, 2007, containing provisions concerning the handcuffing of detainees during court hearing. Section 5d(1)e of the new procedure states that as a general rule, a detainee is not to be handcuffed during court

hearing, save for in exceptional cases, the police officer who accompanies the detainee can request the court's permission to keep the detainee handcuffed and only the judge has the authority to approve it.

284. **Right to family and parenthood**. On June 13, 2006, the Supreme Court rejected a petition against the IPS which allowed the late Prime Minister Yitzhak Rabin's assassin, to take out from prison a sperm sample in order to allow artificial insemination in his spouse (HCJ 2245/06 *MP Netta Dovrin v. Israel Prisons Service*). In its decision, the Court stated that the right to family and parenthood is one of the main elements of human existence and is derived from the rights to dignity, privacy and autonomy of the individual's will. The Court asserted that prisoner's human rights are ensured during their imprisonment period, including their right to parenthood and procreation.

285. The Court based its decision on the principle of human dignity as in Basic Law: Human Dignity and Liberty (1992) and also on international law and several articles of the ICCPR: the right to marry and found a family (Article 23), the right to privacy and protection from arbitrary interference with family life (Article 17(1)), the right not to be subjected to cruel, inhuman or degrading treatment (Article 7) and the right of persons derived of their liberty to be treated with respect to the inherent dignity of the human person (Article 10(1)). The Court also mentioned that the UN Human Rights Committee determined in General Comment No. 16 (1988), that in relation to Article 17(1), interference with family life can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant. In relation to Article 10(1), the Court cited General Comment No. 16, stating that persons deprived of their liberty are not to be subjected to any hardship or constraint other than that resulting from the deprivation of liberty.

286. **Medical treatment**. On October 28, 2007, the Tel-Aviv District Court determined that a prisoner held in the custody of the Israel Prisons Service (IPS), is entitled to the same medical treatment provided to all other citizens of the State by the public health services (Administrative Petition 002808/05 *Ahmed Yossef Mahmud Altamimi v. Head of IPS's Medicine Department et. al*.). The petitioner, a Palestinian security prisoner, was handed down a life sentence, and has been held in an Israeli prison since 1993. In the last 5 years he has received hemodialysis treatments due to a terminal renal failure disease. Whilst the prisoner was permitted to undergo a kidney transplant operation, the IPS refused to finance such a high cost operation.

287. In its decision, the Court held that since the petitioner was in the custody of the State, the State was obligated to grant him the same medical treatment granted to all other citizens of the State by the public health service. The petitioner was entitled to the best medical treatment that the IPS could provide him, even if the cost of this treatment was exorbitant. The Court added that according to every existing medical assessment, any delay in the performance of the transplant might shorten the petitioner's life expectancy. The Court additionally rejected an argument that the transplant be financed by the Palestinian Authority.

Article 11. Freedom from imprisonment for breach of a contractual obligation

288. This issue has been discussed in our previous reports. No change has occurred in this area since the submission of our second periodic report.

Article 12. Freedom of movement

289. On August 1, 2007, the Tel-Aviv Magistrate Court determined that the general public has the right to enter and cross "Andromeda Hill", a residential area in Jaffa bordered by a fence, where the access to public areas inside the neighborhood was denied (Opening Motion 200681/04 *Jaffa Association for Human Rights v. Andromeda Hill Administration Ltd*). The Court held that according to the approved construction plan of the project, there is a public easement binding the land owners of the project to grant the general public the right to pass through the neighborhood along its walkways, and have access to public land designed for view points.

290. According to the Court's decision, the right of the general public to enter Andromeda Hill and cross it through the western gate and the main entrance is not in doubt. This right is anchored in the approved construction plan of the project and based on an easement which was registered in the Land Registration Office. Moreover, the plan's approval was stipulated by granting this right, and otherwise would not have been approved by the authorized committees. Under these circumstances, and since the respondents deny a free passage from the general public to the project despite its explicit right according to the law, the Court ordered that the entry to the neighborhood through the gates will be permitted freely between 8:00-22:00, subjected to security check as required, providing that it is done equally to all persons.

Exit from Israel

291. Restrictions due to Exemption from Military Service. On June 12, 2007, the Supreme Court rejected a petition against the Regulations which limit the exit from Israel of yeshiva students under the age of 29 (HCJ 5803/06 *Dubi Gutman v. The Minister of Defense*). Regulation 7 of the Service Postponement to Yeshiva Students whose Torah - their Craft, Regulations, 5762-2002 dealing with yeshiva students who decide to continue their studies and not attend military service, requires approval of the military authorities to exit Israel and determines maximum periods for exit. The Court held that regulation 7 is not to be tarnished legally or morally, but expressed its view that limiting the exit from Israel for those yeshiva students over the age of 22 shall be reevaluated by the legislator since it creates discrimination against them.

292. Restrictions due to Refusal to Pay a Fee. On February 12, 2006, the Tel Aviv Magistrate Court accepted a claim for damages of a citizen, who was prevented from crossing the border into Egypt at the Taba border crossing because of his refusal to pay the required fee (C.A 058252/04 *Hidud v. Israel Airports Authority*). The Court determined that the freedom of movement can not be deprived solely due to the arbitrary judgment of the manager of the terminal and ordered 10,000 NIS compensation to the claimant.

293. According to the Court's Judgment, section 6 of Basic Law: Human Dignity and Liberty states that every person has the liberty to leave Israel and that every Israeli citizen has the right to enter the country. According to the Basic Law, restrictions on the freedom of movement must be provided by a law fitting the values of the State of Israel and, designed for a proper purpose, and to an extent no greater than required. Provided that there is no such law which restricts the

freedom of movement, the manager of the terminal is not authorized to prevent crossing into Taba. Considering this lack of regulations and clear criteria, entry or exist of people from Israel can not be prevented because of refusal to pay a fee.

Article 13. Expulsion of aliens

294. **The Detention Review Tribunal**. On March 3, 2004, the Attorney General decided that the Administrative Tribunal for Detention Review would be administered by the Ministry of Justice. He also instructed the Immigration Administration that any person detained should be brought before the tribunal within four days, unless exceptional circumstances justify a delay. This is based on the language of the Entry to Israel Law, which requires that a person detained be brought before a tribunal "as soon as possible". In order to allow due process, the Attorney General instructed that the number of cases heard by each judge should be limited to a reasonable amount, and no more than 30 cases a day; that appropriate secretarial services should be provided; and an appropriate location within the detention facility should be allocated for the hearings. He also instructed that detainees receive a copy of the decisions pertaining to them.

295. On July 13, 2007, the Tel-Aviv District Court rejected the State appeal against the decision of the Detention Review Tribunal to release 38 African detainees from custody (A.A 000162/06 *The Ministry of the Interior v. Tigian and 37 others*). The Detention Review Tribunal decided in May to release the detainees because they were held for two months without "…any legal basis or based on invalid basis or of dubious validity (by force of the security legislation)". During this period, the detainees were held in "Ktziot" facility, without any judicial review, access to legal proceedings, contact with human right organizations or with the United Nations High Commissioner for Refugees.

296. Despite an appeal submitted by The Ministry of the Interior, the District Court issued a decision calling for the immediate release of the detainees. The Court rejected the State's position that the Detention Review Tribunal can not order release based on illegal custody. In addition, the Court criticized the State and pointed out that the detainees should not have been held according to the Prevention of Infiltration Law, 5714-1954, which does not contain a permanent mechanism of judicial review and evaluation of the custody.

297. **Legal representation**. On January 24, 2007 (A.A 000379/06 *Anonymous v. The Ministry of the Interior*), the Haifa District Court accepted the appeal of a 15 year old foreign minor who had been a victim of trafficking in persons. The Court decided to release the minor after 8.5 months in custody, constituting the first decision of an Israeli court recognizing a person to be a TIP victim for purposes other than prostitution.

298. The District Court held that in cases where an illegal resident is a minor and can not speak Hebrew, the Detention Review Tribunal must appoint a Public Defender to provide him with legal assistance. As the minor in question had not been provided with legal representation, the Court held that he had been deprived of his procedural and fundamental rights, to such a degree as to amount to a distortion of justice in this case.

299. The Court stated that "custody" as it is referred to in the Entry into Israel Law can be defined as "custody until the completion of the proceedings". Subsequently, if proceedings

can not be completed, then custody based only on this law is illegal. In this particular case, the proceedings could not be completed because they required the minor's removal from the country. That much was prevented by a lack of diplomatic relations between Israel and his country of origin, and constituted a situation which was not to be presently resolved. Indefinite detention of the minor under these circumstances, and based only on the Entry into Israel Law, was thus considered to be illegal.

300. On December 5, 2007, the Haifa District Court annulled a decision of the Haifa Traffic Court due to its failure to appoint a defender for the appellant despite the explicit provision of section 15a(c) of the Criminal Procedure Law 5742-1982 (the "Criminal Procedure Law") (Cr. A. 002646/07 *Zrayek Nimer v. the State of Israel*). The Haifa Traffic Court convicted the appellant according to his admission of guilt in several traffic offences and sentenced him to suspended imprisonment, a fine, disqualification from driving, suspended disqualification and an obligation to avoid similar offences. The appellant claimed that the Traffic Court did not appoint a defender for him despite the prosecutor's late announcement that he would demand actual imprisonment.

301. The Haifa District Court held that it was the Traffic Court's duty to appoint a defender for the appellant according to section 15a(c) of the Criminal Procedure Law, even though it did not intend to sentence him to actual imprisonment. Secondly, the Court stressed that the defender's role is not limited to arguing against actual imprisonment, but is also one of advising and influencing the entire sentence of the defendant. Thirdly, the Court stated that the right for legal representation is a fundamental right. Consequently, the District Court decided to annul the Traffic Court's ruling and return the case to the lower instance for reconsideration.

302. **Extraditions**. On August 5, 2004, the Supreme Court rejected a petition filed against the Minister of Foreign Affairs, the Attorney General and the State Attorney, by an Israeli citizen accused of the murder of his ex-wife in Thailand. The petition demanded his extradition from Thailand to Israel because of the foreseeable sentence of capital punishment if convicted in Thailand (HCJ 3992/04 *Eli Mimon-Cohen v. The Minister of Foreign Affairs, et. al*.). The Court stated that the specific objectives of the extradition institution, and the general objectives of the enforcement of the criminal law, (which are under the authority of the Attorney General), did not require Israel to request that the petitioner be extradited. Nevertheless, the court acknowledged that bringing the petitioner to trial in Israel might ensure two important purposes: that he would not be handed a death sentence and that he would be granted a fair trial. The court however, finally concluded that the prospect of imposing capital punishment on the petitioner was not to be considered a violation of human rights in accordance with Article 6 of the ICCPR, since the murder offence attributed to him was one of the "most serious [of] crimes". In addition, the Court stated that the right to a fair trial is recognized in Article 14 of the ICCPR, a Convention to which Thailand is committed as a State Party. Considering all the different interests and concerns, the Court declared that the State was not obligated to request the extradition of the petitioner to Israel.

Article 14. Right to fair trial, judicial independence

303. **"Abuse of process"**. On May 15, 2007, the Knesset enacted the Criminal Procedure Law Amendment 51), accepting the legal doctrine regarding "Abuse of Process" into Israeli criminal

law. According to the doctrine which had been previously recognized by the Supreme Court in a number of cases, the court is permitted to strike off an indictment, or halt criminal procedures against a defendant where there is a deficiency in those procedures caused by some fault of the executive authority, and the use of the deficient procedure would damage the right to fair trial of the defendant. According to the Supreme Court's decision in Cr. Appeal 4855/02 *The State of Israel v. Itamar Borovich et. al*., the Court is to examine the severity of the deficiency, to determine whether the deficiency can be restored in other way, and to balance the damage caused to the defendant by the deficiency against the damage caused to the public by the defendants crime. The Amendment to the Criminal Procedure Law anchored the doctrine of "Abuse of Process" in the context of preliminary claims. Section 149 of the amended law states that "10. Following the beginning of the trial, the defendant is allowed to claim abuse of process in preliminary claims, including the possibility to argue that…the submission of an indictment, or [conduction] of a criminal procedure, fundamentally contradicts the principles of justice and legal equity".

304. **Video conference**. On January 15, 2007, the Knesset enacted the Criminal Procedure Law (Enforcement Powers - Arrests) (Video Conference - Temporary Order) 5767-2007, which allows the Court to hold hearings concerning a suspect's arrest, subject to his consent, using video conference. Previously, this procedure required the physical presence of the suspect in the courts' hall, which caused excessive discomfort, due to the need to transfer him from one detention facility to another, and from the court and back when compared to the short duration of the procedure. According to the Temporary Order, the suspect will take part in the hearing from a special room connected to the court's hall using video conference technology, which will allow communication and viewing by all parties involved in the procedure, including the public.

305. **Electronic handcuffing**. Since 2006, a new measure of electronic handcuffing has been exercised as an alternative to physical detention. The option of electronic handcuffing is available up until the completion of procedures for indictment of a detainee.

306. **Investigation and Testimony Procedures (Adaptation to Persons with Mental or Psychological Disability) Law**. In 2005, the Knesset enacted a new law, similar in certain aspects to the law related to investigations of children, concerning investigations of persons with intellectual disabilities (retardation, autism, etc.) and persons who suffer from mental disabilities which damages their ability to testify or be investigated. According to the Law, the Minister of Social Affaires and Social Services is to appoint special investigators qualified in the therapeutic field for investigating persons with intellectual or mental disabilities whether they are complainants, witnesses or suspects of committing the offences indicated in the Law. In addition, the Law states that persons with intellectual or mental disabilities are eligible to have a person of their choice, who is not their lawyer, as their accompanier during the investigation.

307. According to the Law, when a person with an intellectual disability testifies in court, the court is allowed to order that the witness will not be cross examined by the defendant himself. A person with a mental disability will not be investigated by the defendant. In such cases, the court will appoint a public defender. In addition, the court is allowed to exempt a person with an intellectual or mental disability from testifying if it is concerned that the testimony might damage the person or if the person is not capable to testify due to his disability. The court is

allowed to determine different ways for protection of witnesses who are intellectually or mentally disabled, including: the defendant will not be present in the hearing, but only his lawyer; the witness will deliver his testimony behind a curtain; the judge and lawyers will not wear judicial uniforms; the testimony will take place in the judge's chamber or in another place outside the court hall; the testimony will be delivered using means of alternative or supportive communication, including the assistance of persons, electronic devices, etc.

308. **The Crime Victims' Rights Law** 5761-2001 (the "Crime Victims' Rights Law"). On March 6, 2001, the Knesset enacted the Crime Victims' Rights Law which was designed to prescribe the rights of victims of crime and to protect their personal dignity, without prejudicing the rights of suspected, accused or sentenced persons under the provisions of any law. According to the Law, the fulfillment of rights owed to a victim of crime shall be performed with consideration for the victim and his/her needs, respect for his/her dignity, protection of his/her privacy and within a reasonable time. Under this Law, the courts and authorities, each within their own spheres, are to take all necessary measures to safeguard the rights of the crime victim.

309. According to the Crime Victims' Rights Law, a crime victim is entitled to the following rights:

309.1. Protection - protection from the suspected, accused or sentenced person, or his/her agents and associates, including protection in court from any contact or unnecessary communication between him/her and the victim.

309.2. Restriction on furnishing particulars - The authorities shall not submit to any person and shall not include within the documents forming part of the investigation material or the indictment, the home address, work address or telephone numbers of the crime victim.

309.3. Right to receive information on criminal proceedings - a crime victim is entitled to receive information on his/her rights as a crime victim, and on the manner in which the criminal proceedings are to be conducted, and to be updated on the stage which any criminal proceedings in connection with the crime from which he was injured, have reached.

309.4. Right to inspect indictment - Except in certain cases, a crime victim is entitled, at his/her request, or at the request of his/her legal counsel, to inspect and receive a copy of the indictment against the accused.

309.5. Right to receive information on imprisonment or other custody - a victim of a sexual or violent crime, is entitled upon request, to be informed of the state of imprisonment of a sentenced person, or the state of any detention of an accused or sentenced person remanded in other lawful custody as a consequence of their crime.

309.6. Right to receive information on support services - a crime victim is entitled to receive information on support services available to crime victims, whether those services are provided by the State or by non-governmental bodies.

309.7. Conduct of proceedings within reasonable time - proceedings in connection with sexual or violent crimes shall be held within a reasonable time to prevent any perversion of justice.

309.8. Examination of investigating body into sexual history - during the investigation of a complaint by an investigative body into sexual or violent crimes, the crime victim shall not be investigated as to his/her sexual history, except as far as those queries may relate to the investigation at hand.

309.9. Right of accompanying person at examination - a victim of a sexual or violent crime is entitled to be accompanied by a person of his/her choice, who shall be present at the time of his/her examination at the investigating body, unless the responsible officer is of the view that this is likely to impede the examination.

309.10. Right to presence at in camera hearing - a crime victim is entitled to be present at a court hearing in the matter of the crime in which he/she was injured and to view the proceedings being conducted in camera, as well as being entitled to accompaniment by a person of his/her choice at the aforesaid hearing.

309.11. Right to express opinion on stay of proceedings - a victim of a sexual or violent crime who receives notice of an intent to stay criminal proceedings against the accused, is entitled to be given an opportunity to express his/her opinion on the matter, in writing, before the Attorney-General.

309.12. Right to express opinion on plea bargain - a victim of a sexual or violent crime who receives notice as to the possibility of the prosecution having reached a plea bargain with the accused, is entitled to be given an opportunity to express his/her opinion on this matter before the prosecutor prior to their reaching a decision in the matter.

309.13. Declaration of victim - a crime victim is entitled to submit a written declaration to the investigating body as to any injury or damage incurred by him/her on account of the crime, including bodily or mental harm, or damage to property. Where the victim has submitted such a declaration, he/she is entitled to have the prosecutor bring the declaration before the court during the hearing in respect of the sentence of the accused.

309.14. Right to state position before parole board - a victim of a sexual or violent crime who has received notice as to the date a sentenced person is to be brought before the parole board, is entitled to state his/her position in writing, and have the position presented to the parole board illustrating the expected risk they foresee from release of the sentenced person.

309.15. Right to state position in respect of pardon - a victim of a sexual or violent crime who has received notice as to the application of the sentenced person for a pardon or mitigation of punishment from the President of the State, is entitled to be given an opportunity to state his/her position in writing prior to a decision being reached by the President.

309.16. Protection from a criminal or civil action - infringement of any of the rights prescribed in this Law is not sufficient in itself to nullify criminal proceedings, or to constitute a cause of action for criminal proceedings, or to justify a civil action against a public authority or public employee; however, the provisions of this section shall not prevent the initiation of disciplinary proceedings under the provisions of any law.

309.17. Entitlement of family members - where a crime caused the death of a person, the rights of the victim under this Law shall be granted instead to his family members.

310. In order to ensure the proper exercise of rights made available to victims of crime under the provisions of the Crime Victims' Rights Law, the State and District Attorneys' offices have established support departments whose functions include: ensuring the transfer of information from the State and District Attorneys' offices to crime victims and from crime victims to the State and District Attorneys' Offices; directing and assisting the employees of the State and District Attorneys' Offices in implementing the provisions under the Law; and collecting and distributing updated information on support services for crime victims to employees of the State and District Attorneys' Offices. In addition, the Israel Police have appointed responsible police officers whose function is to safeguard the exercise of the rights of the crime victim under the provisions of the Law.

311. In a recent case, the Supreme Court had to determine whether to accept a plea bargain where the accused pleaded guilty to a criminal charge or to cancel the bargain, given that that it was concluded without the consent of the victim, in contradiction of the Crime Victims' Rights. The Court held that in balancing between the right of the victim to participate in the criminal process and the right of the accused to a fair trial, consideration should be given to the progress of the legal proceedings. That is, as the legal proceedings progresses, such as in this case where a plea bargain was already reached, the rights of the accused exceed the rights of the victim. (H.C.J 2477/07 *Anonymous v. the State Attorney at al*. (27.5.07)).

The Public Defender's Office

312. In 2006, the Public Defender's Office (PDO) marked the first decade since its establishment. From 2003 up until 2006, the percentage of representation by public defenders in magistrate court cases (including in youth magistrate courts) increased from approximately 35% to 54%. This increase is, on the one hand, the result of a gradual decrease in the number of indictments submitted to magistrate courts, and a gradual increase in criminal cases represented by the PDO on the other. In 2006, 1,329 defendants pleading financial difficulties applied independently to the PDO requesting representation. Of that number only 319 were found financially or otherwise eligible and 1,010 were rejected.

313. During 2006, the Knesset enacted the Criminal Procedure Law (Amendment 49), prohibiting the imposition of imprisonment on unrepresented defendants. Until the enactment of the Law hundreds of defendants were sentenced to imprisonment every year without having had legal representation. From the time the Law came into force and up until July 11, 2007, the PDO has represented 1,260 cases based on this issue.

314. During 2006, the Knesset enacted the Criminal Procedure Law (Amendment 48), stating that preliminary hearings may only take place subject to legal representation of the defendant. Despite of the Law, there are still magistrate courts which hold preliminary hearings without the participation of the PDO and in which many defendants are not represented by a defender ensuring their rights. In 2006, the PDO represented 6,000 criminal cases in this framework, using 40 public defenders.

315. According to the Criminal Procedure Law (Enforcement Powers - Arrests), every detainee is entitled to meet and consult with a lawyer. The supervising officer arresting the detainee must immediately notify him/her of their right to request legal representation by a public defender. The detainee is also eligible to have his/her request transferred without delay to the PDO. In order to fulfill the provisions of the Law the PDO has lawyers on duty and/or on call all over the country, from 7:30 am until late at night including weekends. Their function is to arrive at the relevant police stations or detention facilities in order to meet the suspects as soon as possible.

316. On January 1, 2005, section 60a of the Criminal Procedure Law entered into force. It concerns the conduction of hearings for suspects of criminal offences prior to the submission of an indictment. Only a represented suspect can request and view the investigation material and give directions on that material when meeting with the attorney treating the case.

317. Representing minor defendants and suspects constitutes a significant part of the work of the PDO, which represents 75% of detained or tried teenagers. About 12,000 procedures, which constitute 15.6% of all procedures represented by the PDO during 2006, were held in Youth Magistrate Courts.

318. In 2004, the Mentally Ill Treatment Law was amended to include a provision concerning the right of coercively hospitalized patients to be legally represented in psychiatric committee hearings, when re-evaluating their hospitalization period. The PDO is now responsible for the legal representation of patients hospitalized according to a court order following a criminal procedure opened against them. During 2006, the PDO completed the extension of its legal representation to cover all mental health hospitals and clinics throughout the country, offering representation to 550 patients, of whom 450 were registered during 2006 alone.

319. After serving two thirds of their imprisonment, every prisoner faces a release committee authorized to grant early release. During 2002, the Knesset enacted the Release under Conditions of Imprisonment Law 5761-2001, which states that release committees are authorized to consider the appointment of a defender for prisoners who face their decision. In the last five years following the entry into force of the Law, the extent of public representation during release committee hearings is still limited, but is gradually increasing. In 2006, the PDO represented 242 cases in comparison to 117 in 2005.

320. The PDO has a special department which conducts proceedings in the Supreme Court, including: criminal appeals, applications of requests to appeal, petitions for additional hearing, and petitions to the Supreme Court concerning High Court of Justice decisions. In 2006, more than 1,000 applications were registered in the department, and 418 Supreme Court procedures were opened. During 2006, the PDO had some major successes with regards to Supreme Court decisions, including in some fundamental cases with significant implications.

321. In October 2006, the first phase of the Protection of the Public from Sex Offenders Law 5766-2006 entered into force. The Law allows the imposition of significant restrictions, including supervision, on those who have been convicted of sex offences, after they have completed serving their sentence. This is done in order to prevent them from returning to the commission of sex offences. The PDO takes action in order to ensure substantial judicial review of requests for supervision orders when submitted by the authorities. In the framework of preparing for legal representation of clients, a new supervision system was established for specializing in representation according to the Law. In addition, the PDO uses a list of experts qualified to perform risk assessment of sex offenders.

322. **Legal representation before military procedures**. On October 21, 2007, the Military Court of Appeals held that the military judicial system should adopt the provision of the Criminal Procedure ((Enforcement Powers - Arrests)) Law, so that a military court would not be able to detain a defendant until the completion of proceedings if he did not have adequate legal representation. The provision, which is not addressed in the Military Jurisdiction Law, is thus applied to military courts. The Court held that a defendant not adequately represented, could only be detained for such short period of time as it took to appoint him with a defense attorney, (Military Appeal 58/07 *Private Kasania Segrashvili v. The Military Prosecutor*).

323. In this instance, the appellant was accused of unauthorized absence from military service according to section 94 of the Military Jurisdiction Law. The Military District Court's President ordered detention of the appellant until the completion of her proceedings, even though she was not represented by a defense attorney at the hearing.

324. The Military Court of Appeals held that sections 243(b), and 243B(b) of the Military Jurisdiction Law recognize the right of the defendants attorney to be present during court hearings concerning the defendants detention, despite the fact that cases concerning section 94 of the Law may be heard in the detainee's absence (section 243B(b)). The Court held that, excluding truly exceptional circumstances, the military courts were to strictly uphold the right of a defendant's attorney to be present in court. Where the defendant has not appointed a defense attorney, or the attorney is not present in Court, the court must postpone the hearing until one or the other failing may be achieved. In similar fashion to the provision contained in the Criminal Procedure (Enforcement Powers - Arrests) Law, in the exceptional circumstances where a court hearing is to be held without the participation of a defense attorney, the Court will only be able to order the detention of the defendant for such a short period of time as it takes to appoint a defense attorney.

Alternative dispute resolution

325. The National Center for Mediation and Conflict Resolution, reported in our previous periodic report, continues to work towards advancing the use of alternative dispute resolution strategies in Israel.

326. Mediation techniques advanced by the National Center have been particularly successful in the resolution of family disputes and disputes between local communities. Some criminal matters are also now amenable to non-adversarial resolution. By establishing effective alternative resolution procedures in such areas as these, the National Center both eases the burden on the adversarial system and empowers the community.

Article 15. Prohibition of ex-post facto laws

327. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 16. Recognition as a person before the law

328. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 17. Freedom from arbitrary interference with privacy, family, home

329. The Protection of Privacy Law, 5741-1981 ("The Protection of Privacy Law ") stipulates that in order to consider an act as offensive to the privacy of a person, it is to be established that the person did not consent to the act. Amendment No. 9 of the Law (dated June 19, 2007) further stipulated that the consent required must be an informed consent.

330. Furthermore, according to the amendment (Section 29a(a)), upon conviction in a felony according to section 5 to the Law - which requires the intent to harm the privacy of a person, the court is authorized to award the victim with damages of up to 50,000 NIS, without the need to prove actual damage. Section 29a(b) states that in a civil wrong action according to section 4 to the Law, the court is also authorized to award damages of up to 50,000 NIS, without the requirement to prove actual damage. If in such an action it is proven that the perpetrator had intent to harm, the court is authorized to award the plaintiff with up to 100,000 NIS, without the requirement to prove actual damage.

331. On May 10, 2004 the Supreme Court held that a permanent link between the computers of the Ministry of the Interior and the computers of the Income Tax Commission, the National Insurance Institute, the Israel Broadcasting Authority, the Bank of Israel and commercial banks is unlawful as it violates the privacy of the public. (H.C.J 8070/98 *The Association for Civil Rights in Israel v. the Ministry of the Interior at al.* (10.5.04)).

332. According to section 23b(a) of the Protection of Privacy Law, 5741-1981, a public institution is prohibited from providing information regarding an individual, unless the publication was made in accordance with the law, or after receiving the individual's consent. Section 23c to the Law states that the exchange of information between public institutions is permitted if it is within the authorities or duties of the informant body, and is required in order to execute legislation or to perform a duty either by the informant or the receiver, unless such transfer is forbidden according to legislation or according to the principles of professional ethics. Furthermore, such transfer of information between public institutions is permitted if the receiver of the information is entitled to demand it according to law, from any other source.

333. The Court accepted the arguments presented by the Association for Civil Rights in Israel, claiming that such a permanent link violates the right to privacy as it allows access to personal records to more governmental officials than necessary, thus does not fall within the scope of duties of the informant or the receivers. Therefore, the Court issued a permanent injunction annulling the relevant arrangement until the limitations on the transfer of information are set in appropriate regulations or administrative guidelines, The Court added that the issue of

transferring information to commercial banks should be anchored in legislation. The Court stated that due to the adjustments required, the injunction will come into force six months after its issuance.

334. On April 11, 2007, the Supreme Court rejected an appeal of "Clalit Medical Services" and determined that it is not a public authority as defined in the Protection of Privacy Law. Therefore, The Ministry of Defense is not authorized to provide "Clalit" with personal information regarding IDF disabled veterans which was requested for insurance purposes (C.A 8825/03 *Clalit Medical Services v. The Ministry of Defense*).

335. In its decision, the Court stated that the right to privacy is among the most important human rights and that it was recognized as a constitutional right in Basic Law: Human dignity and Liberty. The Court also mentioned that the right to privacy had been protected prior to the enactment of the Basic Law, through the Protection of Privacy Law. As such, this law reflects the legislator's will to balance between the right to privacy with other interests.

336. The Court held that the constitutional status of the right to privacy influences the interpretation of the Protection of Privacy Law. Therefore, the term "public authority" and the provisions of section 23c of the Protection of Privacy Law, which allows exchanging information between public authorities, shall be narrowly interpreted and "Clalit Medical Services" shall not be recognized as a public authority.

337. **The Prevention of Stalking Law, 5762-2001** (the "Prevention of Stalking Law"). On October 16, 2001, the Knesset enacted the Prevention of Stalking Law designed to protect people from having their lives, privacy, or personal choices disrupted; or from suffering physical injury at the hands of another person who has stalked or has caused them physical harm. The Law defines stalking as "harassment of an individual by any other individual, or by making threats against an individual under circumstances that provide a reasonable basis for assuming that the stalker or person posing a threat might continue to harm and disrupt the victim's life, privacy or choice, or could potentially cause physical harm". Stalking may include the following acts: spying, ambush, or any other activity tracking the actions of an individual or infringing upon an individual's privacy; inflicting actual harm or even the threat of it; establishing verbal, written or any other form of contact with the individual; damaging an individual's property, tarnishing an individual's reputation, or limiting an individual's freedom of movement.

338. According to the Law, if the Court finds an individual guilty of stalking it is entitled to impose a restraining order prohibiting that individual from committing any of the following acts: harassing the victim in any form or in any location; threatening the victim; spying, ambushing, tracking the movements or actions of the victim or infringing upon the victim's privacy in any other manner and establishing any verbal, written or other form of communication with the victim. If the circumstances of the stalking provide a reasonable basis to fear continued disruption or actual harm to another individual's life, the court is entitled to include in the restraining order a ban on committing the following acts: being present within a delimited distance of the victim's residence, car, workplace, school or any other location the victim regularly attends; bearing or possessing firearms, including weapons issued by a security authority or any other government authorities, all against the victim or a relative of the victim, either explicitly or implicitly, directly or indirectly.

339. **The right to disseminate public information**. - On March 26, 2006, the Tel-Aviv District Court dismissed the appeal of a former prisoner whose picture dining with a famous prisoner while serving his sentence in the Maasiyahu Prison was published on the cover of the "Yedioth Ahronoth" daily newspaper without his consent (R.A 001376/02 *Yefet v. Yedioth Ahronoth*). The Magistrate Court decided that the prisoner's name and personal details can be published, as well as his photograph.

340. In its decision the District Court held that when the right to privacy conflicts with the principle of publicity, the latter should prevail. Criminal conviction of a person can not be considered his private issue and the information published is in the public's interest to know. The Court held that the right to privacy is a relative right and not a definite one. Therefore, in balancing between these rights, the protection granted to the prisoner's right to privacy should be lesser in comparison to that of a reasonable man. The prisoner's photograph was taken on public property and therefore, there is no cause for a claim according to the Protection of Privacy Law.

Search and seizure in criminal proceedings

341. On September 19, 2005 the Criminal Procedure (Enforcement Powers - Physical Search of a Suspect) Law, 5756-1996 was amended and replaced by the Criminal Procedure (Enforcement Powers - Bodily Search and the Taking of Identification Measures) Law 5756-1996. The law regulates the following subjects: the principles of conducting a physical examination of a suspect, the persons allowed to perform an examination of a suspect, internal physical examination of suspect, external physical examination of suspect, internal and external physical examination of a person who is not a suspect, internal examination for a blood sample and proper reporting on the physical examination of a suspect and the possession of items found.

342. In addition, the Law sets the conditions and terms for the taking of identification measures for the police database. The Law also determines that a police officer or a lawyer authorized by a police officer may, if he finds that there was no reason to interrogate that person, delete those biological identification measures from the database.

343. The amended law also sets the rules for the use of identification measures and data, and stipulates that identification measures are only to be used for the identification of a person, and that the data will only be used for its inclusion in the database, for comparison with other data that is already in the database, and for authentication or updating of the database.

344. The Law also regulates that management of the database will be done by the Israeli Police and by police officers of the Criminal Forensic Department. The database will be confidential and no information will be extracted from it unless it is done so according to the law.

345. The Law also determines the level of comprehension and consent needed from minors and people with mental and intellectual disabilities in order to conduct a physical search. An officer will not conduct a physical search or examination of minors and people with mental and intellectual disabilities, unless in addition to the written consent of that person, he receives a further consent from that person's guardian. If the person does not have a guardian, he may request the courts to appoint him one.

Search of a person's home

346. This issue has been discussed in the previous reports. No change has occurred in this area since the submission of Israel's second periodic report.

347. **Electronic surveillance: wiretapping and eavesdropping**. The Israel Police Force investigated the following offenses relating to the Secret Monitoring Law 5739-1979 (the Wiretapping Law):

In 2005 - 40 files were opened.
In 2006 - 63 files were opened.
In 2007 - 58 files were opened.

Protection of personal information in databases

348. In January of 2006, the Israeli Government decided to establish a new authority within the Ministry of Justice - the Legal Authority for Information Technologies and Data Protection, hereon referred to as- ILITA. ILITA gathers together several law and technology regulatory functions, such as the Database Registrar, the Credit Information Registrar and the Certification Authorities Registrar.

349. The Database Registrar is the regulator supervising data protection under the relevant chapters of the Israeli Protection of Privacy law. Similarly, the Credit Information Registrar is the regulator supervising credit information services approved under the Israeli Credit Information law, 5762-2002, and the Certification Authority Registrar is the regulator supervising Certification Authorities for electronic signatures approved under the Israeli Electronic Signature law, 5761-2001.

350. ILITA is to be further involved in all of the future IT-related legislative initiatives in Israel, such as the Digital copyright issues (DRM etc.), the Electronic ID and Biometrics initiatives, electronic archiving, and Cybercrime initiatives, ILITA's role is also to consult to other Government Ministries engaging in major government IT projects.

351. By the end of 2006, the head of ILITA was appointed as both the database registrar and the credit reporting services registrar.

352. According to the Protection of Privacy Law, the right to privacy in Israel includes the right of a person to control personal information concerning themselves as a data subject. According to section 9 of the Law, the application to register a database must include the purpose of the database and the purposes for which the information is intended. According to section 2(9) of the Law, use of the data for a purpose other than that stated shall be considered an infringement on privacy.

353. Section 11 of the Law ensures that certain information will be provided to a data subject where data is collected personally from them. Information as to the purpose of the data processing, the recipients of the data and the purposes of its transfer must be provided to the

subject whether the subject is required by law to provide the data or whether the data has been collected with the subjects free consent. Section 13 of the Law grants data subjects the right of access to all processed data concerning themselves, and section 14 allows them to rectify that data where incorrectly processed.

354. The Privacy Protection Regulations (Transfer of Information to Databases Outside the Borders of the State) 5761-2001 (henceforth: "the Regulations"), regulate the transfer of information from databases in Israel to abroad, and outline strict conditions under which such transfers may be effected. According to the Regulations, information may only be transferred to another country if that country also provides an adequate level of protection for the data. Thus, the Israeli law guarantees that the provisions in that Law cannot be circumvented by transferring the data to third parties/countries.

Prohibition of money laundering

355. The Prohibition of Money Laundering Law 5760-2000 was enacted in order to combat the phenomenon of money laundering within the framework of the international struggle against severe and organized crime. Given that offenders make use of financial institutions in order to perform money laundering activity, the legislators decided to impose duties on these institutions to identify and report on irregular or suspicious financial activity as defined in the orders. In accordance with section 29(a) of the Law, such reports are to be transmitted to a special database managed, processed, and secured by the Israel Money Laundering Prohibition Authority (IMPA).

356. According to section 29(d) of the Law, access to the database shall be had only by persons holding positions at IMPA, as determined by the head of IMPA, and with the consent of the Commissioner of the Israel Police. Section 30(a) states that notwithstanding the provisions of the Protection of Privacy Law, IMPA shall not transmit information from the database, except in accordance with the provisions of the Law, and to the relevant authorities as specified. IMPA may transmit information from the database to the Israeli Police, the Israel Security Agency (ISA) or to authorities of the same category in other States as provided for under the provisions of the International Legal Assistance Law, 5758-1998.

357. According to section 30(g) of the Law, information transmitted to the Israeli Police, or to the ISA shall only be used for the implementation of this Law, or in order to investigate and prevent further offences not included under this Law. For example the information may be used in order to detect fugitive persons in order to bring them to trial, or to prevent and investigate the activities of terrorist organizations, or in other circumstances threatening to the security of the State. According to the Prohibition on Money Laundering Regulations (Rules on Use of Information Transmitted to Israel Police and Israel Security Agency for Investigation of Further Offences and Its Transmission to Another Authority) 5766-2006, transmission of information received from IMPA for investigation of further offences must be performed by persons authorized for that purpose within the Police and the ISA. The Regulations also impose a duty to document and register transmissions of information and to report to the Knesset's Constitution, Law and Justice Committee on the number of decisions, and the kinds of offences for which such information was used.

358. According to Section 31(a), a person who received information during the performance of his duty or in the course of his employment, shall maintain its confidentiality and shall not disclose it to any other person, nor make any other use thereof, except in accordance with the provisions of the Law, or pursuant to a court order. Under section 61(a)(3) of the Penal Law, a person who infringes the provisions of this subsection shall be liable to imprisonment for three years, or the imposition of a fine.

359. An additional protection for sources of information is to be found in Section 25(b), which states that a report received by the police, or at the database, shall not be regarded as investigation material under section 74 of the Criminal Procedure Law (Consolidated Version), and as such, shall not be admissible as evidence in any legal proceedings, excepting: (1) legal proceedings for breach of the obligation to report, or false or deceptive reporting, and (2) intelligence material presented for inspection by the judge only, during the course of an application for a judicial order.

Information regarding criminal records

360. Amendment No. 8 to the Criminal Registry and the Rehabilitation Law 5741-1981 (the "Criminal Registry and the Rehabilitation Law"), was enacted on March 25, 2008, stating that the Head of the Investigation Department in the Police, or a police officer whose rank is deputy-commissioner or a higher rank, can obliterate from the police records, a record of a decision not to investigate or a decision not to press charges, in accordance with standards set by the Minister of Public Security, and approved by the Constitution, Law and Justice Committee of the Knesset. Furthermore, investigation records regarding a decision not to press charges in criminal offences considered a minor infraction, or a misdemeanor will be removed automatically 7 years following the date of the incident, unless determined otherwise by an authorized personal. The decision to prevent removal should be in writing and in accordance with the above mentioned standards. The above provisions regarding a decision not to investigate or not to press charges that was reached before the publication of this amendment, the amendment will come into effect on March 2010.

361. The amendment also clarifies and intensifies the criminal prohibition on obtaining information from the criminal record. The amendment sets a penalty of one year imprisonment for obtaining or trying to obtain information from a criminal record, by a person not entitled to receive it. In addition, the amendment sets two years of imprisonment for obtaining or trying to obtain information from the record, for the purpose of decision making regarding employment, of the person to whom the information is concerned, or reaching further decisions regarding matters concerning him/her. Moreover, the amendment states that consent of the person concerned, does not create a right to obtain the information from the record regarding that person, whether towards deciding on his employment or other decision on his regard.

362. According to section 20(a) of the Criminal Registry and the Rehabilitation Law, a person whose criminal record is removed will be considered as a person who was not convicted for all purposes of the Law, and all disqualification resulting from the conviction, will be removed upon the erasure. However, measures taken upon the conviction, such as dismissal from work, will not be affected by the removal. Section 20(b) provides that evidence revealing a conviction that was obliterated will be considered as inadmissible evidence in legal proceedings, unless the convicted person gave it knowingly.

363. In a recent preliminary decision, the District Court of Tel-Aviv ruled that the court can not disqualify evidence on the sole ground that it raises the obliterated criminal record, for the purpose of a libel suit according to section 20(a). The Court held that evidence according to which the libellant knowingly gave interviews to the media, revealing his expunged criminal record, may be sufficient enough to be considered as corresponding to section 20(b). (C.A 1402/07 (Tel-Aviv) *People Newspaper at al. v. Eliezer (Babo) Kobo at al*. (16 December 2007).

364. A printout of one's criminal record issued by the police to a citizen includes information designated only for the citizen's own review, according to the Criminal Registry and the Rehabilitation Law. The printout allows each person to know what his criminal record includes and take action in order to correct any mistakes. Any body, including governmental bodies, governmental corporations and private employers, is forbidden from requesting one's criminal records for any purpose, including employment. According to the Law, certain governmental bodies are eligible to receive information of a person's criminal record directly from the Israel Police, in special circumstances under specified restrictions. The Law states that information concerning one's criminal record is confidential and accessing such information from the Criminal Registry directly or indirectly through non-eligible bodies or persons is considered a criminal offence. It shall be stressed that obtaining a person's consent to access information concerning his criminal record does not exempt criminal liability.

365. Recently, the Ministry of Justice and the Israeli Police examined the whole subject of publishing criminal records via printout and decided to change the structure of the printout to prevent the transmission of criminal information by non-authorized bodies through the person to whom the information is related. The new structure of the printout allows a person who has a criminal record to distribute employers or any other body the first page of the printout in which record of criminal activity is not written. The body or person receiving the printout will be unable to determine whether the person has no criminal record at all or whether having a criminal record, decided to deliver only the opening page.

366. On December 17, 2007, the Knesset enacted the Criminal Procedure Law (Powers of Enforcement - Communication Data), 5768-2007, which enables the Police or any other investigating authority to access necessary communication data and files from databases of authorized communication bodies under restricted conditions and special circumstances. This data includes receiving, following a court order, of dialing and location data, and information on the identity of the subscribers and location of antennas, without a court order. The Law balances between the Police's need to receive data in order to fulfill its function and the need to avoid infringing one's privacy.

367. According to the Law, following the request of an authorized police officer, the Court will be allowed to issue an order permitting the Police or any other investigating authority to access and transfer data from databases of communication bodies if convinced that the data is necessary for one of the following purposes: saving or protecting human life; exposure of offenses, investigation or prevention of offenses; exposure and prosecution of offenders; confiscation of property. The order will be issued on the condition that the transfer of data will not severely damage one's privacy. In urgent cases, an authorized police officer will be allowed to transfer data without a court order for 24 hours only. The Law states that the transfer of data will remain

confidential and that all data will be protected by the Police in a special, confidential database. Note that this certain provisions of this Law encountered strong opposition, including a petition filed on 28.4.08, currently pending before the High Court of Justice.

Unlawful attacks on honor or reputation

368. On April 22, 2007, the Haifa District Court decided to disallow disclosure of the identity of internet users in order to ensure the advantages of anonymity and its contribution to the freedom of speech on the internet (R.D.A 850/06 *Rami Mor v. Yedioth Internet Systems (YNET site)* and R.D.A 1632/06 *Rami Mor v. BARACK A.T.C*). In its decision, the Court rejected the plaintiff's request to appeal a previous decision of the Court concerning publications posted in an internet forum regarding his professional achievements as an alternative therapist. The plaintiff considered these publications to be defamatory and demanded the identity of the web-users responsible from the internet sites operators. The site operators refused this demand, but agreed to remove the insulting publications from the forum.

369. In its decision the court held that "the power of anonymity can not give 'immunity' from the act of defamation or any publication which is considered a tort according to the law". Nevertheless, the Court considered that disclosure of an internet user's identity where publications are considered defamatory might damage the advantages of anonymity. Therefore, "something additional" is required before exposure of an internet user's identity will be allowed. In this instance the Court decided to follow the existing precedent, stating that a user's identity will only be exposed in cases where a criminal offence has been committed in addition to the tort. The Court has also suggested that in future cases disclosure of a user's identity will only be allowed, where the user has received a prior warning.

Reproductive privacy - abortion

Table 13

Applications for abortions, approvals and actual terminations (in absolute numbers)

2005	2004	2003	2002	2000-2004	1995-1999	
20 987	21 685	21 226	21 025	105 713	100 208	Applications
20 533	21 286	20 841	20 684	103 883	94 648	Approvals
19 928	20 378	20 075	19 796	99 980	90 010	Terminations

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

Table 14

Rate of actual termination of pregnancy

2005	2004	2003	2002	2000-2004	1995-1999	
11.8	12.3	12.2	12.2	12.4	12.6	Per 1,000 women aged 15-49
13.8	14.0	13.9	14.5	14.2	14.3	Per 100 live births

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

Table 15

Terminations of pregnancy in hospitals, by cause, 2004

45+	40-44	35-39	30-34	25-29	20-24	19-	Total	
116	1 018	127				799	2 068	Woman's age
8	135	1 065	1 730	2 399	3 188	1 921	10 474	Out of wedlock pregnancy
15	160	744	995	847	331	52	3 151	Malformed fetus
11	200	1 004	1 146	874	392	78	3 714	Danger to woman's life
151	1 513	2 957	3 890	4 136	3 922	2 851	19 473	Total

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

370. **The right to a dignified death**. On December 6, 2005, the Knesset enacted the Terminally Ill Patient Law, which provides an answer to the medical-ethical dilemma present in the treatment of terminally-ill patients. The Law is based on the recommendations of a public committee appointed by the Minister of Health in 2000. The Committee consisted of 59 members representing different related areas relevant to the issue, such as: medicine, nursing, social work, religion, philosophy, law and ethics. The Law is based on the values of the State of Israel as a Jewish and democratic state, and attempts to create a balance between the values of sanctity of life, quality of life and respect for a person's autonomous will.

371. The Law presumes that every person has the will to carry on living, unless it is proven otherwise. Furthermore, in case of any doubt, the will to live shall be preferred (section 4a). One shall not avoid granting medical treatment to a terminally ill patient unless it is clear, according to specific conditions, that the patient has no will to continue living (section 4b). If the terminally ill patient has "capacity", meaning that he is more than 17 years old, can express his will, was not declared incapacitated, or excluded from this status due to a documented and justified medical decision, then any decision concerning his medical treatment shall be subject to his implicit will. If the terminally ill patient does not have "capacity", any decision concerning his medical treatment shall follow his preliminary instructions, the instructions of an empowered person or a decision of an "institutional committee" as defined below. If there are no such instructions or decisions, a decision whether to avoid granting medical treatment to the terminally ill patient will be made by the responsible physician, having had consideration of an implicit testimony from the patient's relative, and in the absence of such relative, considering the position of the patient's guardian (section 4b(1) and (2)).

372. The Law states that a terminally ill patient's will to not have his life extended shall be respected, and that providing him with medical treatment is to be avoided (section 8). Nevertheless, it shall be clarified that the Law does not allow committing an act, including a medical act, which is intentionally directed to cause the terminally ill patient's death, or which will certainly result in death, even if committed from means of grace and compassion (section 12). In addition, assisting the patient to commit suicide or stopping a consecutive medical treatment are both prohibited (sections 13 and 14a accordingly). However, it is permitted to avoid the innovation of a consecutive medical treatment which has been terminated only due to medical reasons, or the innovation of a cyclic medical treatment (section 14b).

373. The Terminally Ill Patient Law contains different provisions constituting the manner and procedure in which a person can express, in advance, his will concerning his medical treatment in the event that he becomes terminally ill. In addition, the Law states that every medical institution will appoint, in consultation with a state committee, institutional committees which are to determine in cases of conflict or if there is any doubt as to how to treat the terminally ill patient. These committees will consist of four physicians, a nurse, a social worker or a clinical psychologist, an academic specializing in philosophy or ethics, a jurist qualified to be appointed as a district judge and a public representative or religious personality.

Community housing for people with disabilities

374. **Community housing for people with intellectual disabilities**. To date, an estimated 33,000 people with intellectual disabilities live in Israel, from which 25,000 are treated by the social services. Some reside at home while others reside in different residential services.

375. Currently, 63 Residential Facilities provide housing for people with Intellectual Disabilities: 9 Governmental Facilities accommodating 1,816 residents, 40 Private Facilities accommodating 3,740 residents and 14 Public Facilities run by non-profit organizations, accommodating 1,175 residents.

376. In addition there are several Community Housing options: 140 foster families, 48 hostels (up to 24 residents in each), 21 communal houses (up to 15 residents in each) and 166 apartments in the community (up to 6 residents per apartment).

377. As mentioned in our previous periodic report, the Welfare (Treatment of Persons with Mental Disabilities) Law, 5729-1969, provides that when determining the type of housing framework, priority should be given to Community Housing. The Department for the Treatment of the Intellectual Disabled in the Ministry of Social Affairs and Social Services is operating to ensure that such a priority is given and implemented. Furthermore, there is a tendency to remove people from the Residential Facilities and place them in Community Housing in the form of hostels.

378. **Community housing for people with physical disabilities**. The Department for Rehabilitation in the Ministry of Industry, Trade and Labor, that is responsible for the treatment of people with physical or sensory disabilities, allocates 85% of the budget towards Community Housing (mainly hostels and apartments). The remaining budget is used to maintain existing Residential Facilities. Since 2001 new residential facilities were not established as most of the budget is invested in Community Housing. Recently, the Department published tenders for the establishment of new hostels for people with severe disabilities. Moreover, the existing facilities will be obligated to reassign appropriate persons from Residential Facilities to Community Housing.

379. When enacted, the Equal Rights for People with Disability Law, 5758- 1998 (“Equal Rights for People with Disability Law”) did not include a chapter referring to the issue of accommodation. Recently, several non-governmental organizations joined efforts, together with the Commission for Equal Rights of People with Disabilities, in order to inquire into ways to advance legislation of a chapter regulating the right to accommodation in the community within the Law.

Demolition of illegal dwellings in Jerusalem

380. In 2007, 283 applications, which make 12% of the total number of applications, were received from residents of the eastern neighborhoods of Jerusalem. Of the 283 applications, 135 (47%) were granted. Residents in the western parts of Jerusalem submitted 2,095 applications, of which 1,505 (71%) were granted.

381. **Illegal construction**. In the western parts of Jerusalem, building violations almost invariably consist of additions to a legal building, such as the addition of a room in courtyard or an attic within a roof space. In the eastern part of Jerusalem, violations typically take the form of entire buildings constructed without a permit. Thus, demolitions in the eastern neighborhoods of Jerusalem are far more dramatic than in the western part of the city.

Table 16

Requests submitted for building permits

Total	2007	2006	2005	2004	2003	2002	Year of request	
1 030	171	207	199	179	135	139	New building	Western neighborhoods of Jerusalem
11 312	1 955	1 964	2 085	2 002	1 650	1 656	Additional building	
12 342	2 126	2 171	2 284	2 181	1 785	1 795	Total building	
715	155	150	147	112	57	94	New building	Eastern neighborhoods of Jerusalem
606	128	116	11	112	78	61	Additional building	
1 321	283	266	258	224	135	155	Total building	

Source: Jerusalem Municipality, 2008.

Table 17

Building permits granted

Total	2007	2006	2005	2004	2003	2002	Year of request	
843	151	175	141	112	140	124	New building	Western neighborhoods of Jerusalem
8 353	1 508	1 552	1 552	1 357	1 167	1 217	Additional building	
9 196	1 659	1 727	1 693	1 469	1 307	1 341	Total building	
459	82	88	78	51	62	98	New building	Eastern neighborhoods of Jerusalem
370	68	56	61	65	56	64	Additional building	
829	150	144	139	116	118	162	Total building	

Source: Jerusalem Municipality, 2008.

Table 18

Demolition orders carried out

Western neighborhoods of Jerusalem	Eastern neighborhoods of Jerusalem	
35	69	2007
37	71	2006
26	76	2005
13	115	2004
11	331	Total

Source: Jerusalem Municipality, 2008.

Table 19

Building offences - cases opened

Western neighborhoods of Jerusalem	Eastern neighborhoods of Jerusalem	
992	1 081	2007
1 241	901	2006
1 272	857	2005
980	710	2004

Source: Jerusalem Municipality, 2008.

Article 18. Freedom of religion and conscience

Religious institutions

382. In December 2007, following the submission of a petition to the Supreme Court by the Israel Movement for Progressive Judaism (HCJ 10651/06 *Israel Movement for Progressive Judaism et. al. v. The Authority of Religious Services*), it was decided to amend the "Criteria for Building of 'Transportable Synagogues' in Regional Councils for 2006". According to section 3.2 of the amended Criteria, the existence of neighboring orthodox synagogues will not prevent the allocation of buildings for non-orthodox synagogues. In addition, section 3.4 states that non-Orthodox communities should receive priority in funding for the establishment of new synagogues in ratio of 1:1.25, if they include at least 30 families.

Burial

383. **Alternative civil burial**. On January 29, 2008, the Jerusalem Planning and Construction Committee deposited the Jerusalem Mayor's plan to establish a cemetery for civil burial in the area of the new planned cemetery in Givat Shaul in Jerusalem. The new cemetery is to cover an area of 350 dunam, in which a special section will be allocated for civil burial of persons that

Jewish Law (Halacha) does not allow to bury in religious cemeteries, or those who do not desire religious burial. According to the Municipality of Jerusalem, the plan is designated to allow every person to choose his way of life and the way of his burial without any kind of coercion.

384. **Dignity of the deceased**. On August 5, 2007, the Supreme Court rejected a petition demanding a permanent injunction against the construction of a central gas pipeline in the vicinity of a Muslim cemetery, subject to the construction placing the pipeline deep enough underneath the graves so that they would not be damaged in any way (HCJ 4638/07 *Al-Aktza Almobarak Company Ltd et. al. v. Israel Electricity Company et al.*). In its decision, the Court held that this petition raises a conflict between the public interest to carry out infrastructure and development works, and the protection of the dignity of the deceased, given that the works might foreseeably cause damage to the cemetery.

385. The Court stated that the interest of preserving the dignity of the deceased enjoys a constitutional protection based on interpretations of the Basic Law: Human Dignity and Liberty. However, it is not an absolute or definite interest but a qualified or relative one, and therefore shall be balanced with the public interest inherent in carrying out construction works. The Court additionally considered that protection of religious feelings was a public interest, but again, that it is not absolute and must be balanced with competing public interests.

386. The Court concluded that an alternative solution of placing the pipeline deep enough under the graves so as not to cause damage to the cemetery, both minimized the risk of any damage caused to the dignity of the deceased or the sentiments of the Muslim population, and fulfilled the principle of proportionality, having had consideration of the public interest inherent in carrying out construction works. The court therefore approved the alternative method of construction.

Article 19. Freedom of opinion and expression

Broadcast media

387. The Israel Broadcast Authority is publicly funded by license fees payable by all television owners, a tax on vehicle owners and the sale of commercial broadcast-time. The second television channel (Channel 2), on the other hand, as well as Channel 10 and local radio stations established under the Second Television and Radio Broadcast Authority Law, 5750-1990 (the "Second Television and Radio Broadcast Authority Law"), is operated by private franchisees, and are subsequently funded through the sale of commercial broadcast-time alone.

388. Today there are 14 local radio stations operating under the Second Television and Radio Broadcast Authority Law. Two of those radio stations are designated for distinct sectors of the Israeli society, such as A-Shams Radio which broadcasts to the Arabic speaking sector, and Kol-Hai Radio which broadcasts to the Haredi (Ultra-Orthodox) sector. In addition, a new tender for the operation of a radio station designated towards the Sephardic-religious sector is to be published soon. It should be pointed out that in 2001, the Lev-Hamedina radio station received authorization by the Second Television and Radio Broadcast Authority to split its broadcasts and broadcast in Russian for several hours of the day for the benefit of the Russian Speaking population in the franchise area of the station.

389. The Second Television and Radio Broadcast Authority Rules (Ethics in Television and Radio Broadcasts) 5754-1994, determine several provisions for the purpose of protecting the freedom of expression. Section 2 states: “A franchisee will serve in all its broadcasts, in loyalty and responsibility, the principles of the freedom of speech and the right of the public to know, including the right to express exceptional and uncherished opinions.” Section 3 determines: “A franchisee will not avoid broadcasting information of which there is a public interest to broadcast.” In addition, section 7 of the rules holds that “In an issue of public significance, the franchisee will give a proper and balanced expression to the different opinions widespread throughout the public and will not prefer one opinion over another.”

390. In 2005, the Second Authority for Television and Radio published a tender for broadcasting on Channel 2. According to the tender’s conditions, and in the framework of the Second Authority for Television and Radio (Television and Radio Broadcasting by a Franchisee) Rules, the franchisees are obligated to a number of provisions designated towards promoting specific sectors in Israeli society that have not been sufficiently expressed on screen. These include:

390.1. An obligation, according to section 7, to broadcast a specific number of hours of “preferred programmes” of the following categories: Jewish heritage and culture programmes, science and culture programmes, periphery programmes and public discourse programmes.

390.2. According to section 10(d), 10% of local productions which are to be purchased from external production sources must be produced in the periphery.

390.3. According to section 8, the franchisees are obligated to broadcast programmes in Arabic and Russian, or programmes translated to these languages, amounting to at least 5% of the broadcasts.

391. On January 1 2006, the Television Broadcast Law (Subtitles and Sign Language) 5765-2005 (the “Subtitles Law”), which applies to all broadcasting bodies in Israel, entered into force. The Law imposes different quotas on programmes in Hebrew and Arabic concerning subtitles and translation to sign language which are set to gradually increase until 2015.

392. **Freedom of information**. Since the enactment of the Freedom of Information Law 5758-1998 (the “Freedom of Information Law”), which is the legislative basis to the public’s right of access to information (that what previously acknowledge by Israeli courts) there have been two important amendments of the Law. The 2005 Amendment imposes a duty on any public authority to make information it holds concerning environmental issues available to the public through the authority’s internet website and via alternative methods to be determined by the Minister of Environmental Protection. The Environmental information includes: information on substances which have been emitted, spilled, removed or thrown, and results of noise, smell and radiation measurements, not on private property. The 2007 Amendment imposes the provisions of the Freedom of Information Law on all Governmental Corporations, excluding corporations determined by the Minister of Justice, and approved by the Knesset’s Constitution, Law and Justice Committee. Previously, the Freedom of Information Law applied only to Governmental Corporations as determined by the Minister of Justice, and approved by the Minister of Finance and the relevant Minister.

393. Israeli case law has referred to different provisions of the Freedom of Information Law in a significant number of decisions. For example:

393.1. Ad. A. 7024/03 *Arye Geva, Adv. v. Yael German, Mayor of Herzliya et. al*. - The appellant requested information held by an Examination Committee appointed by the Mayor of Herzliya, in addition to the protocols of its hearings concerning the differences between municipal rates for different city residents. The respondents refused to grant the appellant's request, and his initial administrative petition was rejected by the Tel-Aviv Court for Administrative Issues. The Supreme Court held that the right of access to information is based on several main rationales: first, it is essential for realization of the basic right for freedom of speech. Another rational is the authority's conception as a public trustee which should be committed first and foremost to the public interest, and not to the authority's interest. In addition, the right of access to information is an important and fundamental way for the public to foster transparency, and to impose supervision and control on public authorities. Nevertheless, the Court clarified that the right of access to information is not unlimited. Section 9 of the Law lists several categories of information which must not, or which does not, have to be delivered. Subsection 9(b)(2) allows public authorities not to deliver information on a certain policy while it is still under process of planning. In addition, subsection 9(b)(4) allows that information of an internal character need not be delivered. The Court held that generally, the provision of subsection 9(b)(2) should not apply to information collected by the authority for the purpose of planning a policy. As soon as the planning process is completed, the authorities must expose the information to the public. The Court determined that in this case, the Examination Committee had not accepted any recommendations, and that since six years have passed already, any new appointed committee would have had to use different information. The Court therefore ordered the Herzliya Municipality to deliver the information requested by the appellant.

393.2. Ad. A. 6013/04 the State of Israel - *The Ministry of Transport and Road Safety v. Israel News Company Ltd*. - The respondent requested the appellant to provide him with two internal control reports on the Department for Investigation of Air Accidents in the Ministry of Transport, and the International Relations Division in the Civil Aviation Administration, for the purpose of making a T.V. program on aviation accidents in Israel. The appellant refused to deliver these reports and the respondent petitioned to the Jerusalem District Court which ordered the delivery of the reports. The Supreme Court rejected an appeal from the District court and held that the Freedom of Information Law is based on the assumption that any information held by the authority must be exposed to the public. Exposure of control reports on governmental authorities realizes the public's right to know, and the freedom of speech; it realizes the interests of exposing the truth and the self-realization of the individual; it implements the principle of transparency of acts of government and advances the culture of government; it improves the public's confidence in public authorities; and it supports the principle that all the information held by public authorities belongs to the public. The Court added that the exposure of internal control reports does not damage the proper function of public authorities or the process of internal control. However, the Court did not impose a general obligation of non-controlled exposure. The State must always consider disclosing fully or partly the information that it

holds, and has the burden of proof in every single case, that prevention of such disclosure can be justified. As the public interest in the information is more prominent, the State must introduce a more convincing justification.

393.3. Ad. A. 9135/03 *Council for Higher Education and Yael Atiya v. Ha'aretz Publishing et. al*. and Ad. A. 9738/04 *Council for Higher Education v. Shahar* - Association for Advancement of Education in Israel: On January 19, 2006, the Supreme Court rejected two appeals concerning the Council for Higher Education's refusal to expose internal documents and protocols of its hearings. The Council for Higher Education based its refusal on section 9(b)(4) of the Freedom of Information Law, which states that a public authority does not have to deliver information concerning internal discussions. In its decision, the Supreme Court held that "the right to receive information concerning the activity of a public authority is one of the cornerstones of a free society. It is related to the existence of a democratic regime; it feeds the freedom of expression and is fed by it; it reflects the legal concept that a public authority is a trustee obligated to care for the public and not for itself while fulfilling its duty". The Court held that a public authority is allowed to refuse to deliver information concerning internal discussions based on section 9(b)(4) of the Law, but it must examine all the relevant considerations and find, according to the circumstances of each case, the balance point between the public interest not to expose information, and the private and public interest, where it exists, to deliver information. In addition, the court held that a public authority must justify its refusal to deliver information according to administrative provisions - a laconic refusal is not sufficient, and the authority must detail the reasons for it. The Court approved the District Court's decision, and ordered the authority to reveal the relevant documents in accordance with certain conditions.

Article 20. Prohibition of hate propaganda

394. **Incitement to violence and terrorism**. The 2002 Amendment to the Penal Law prohibits incitement to an act of violence or terrorism. Section 144D.2 states that "publication of a call for the execution of, as well as the publication of praise, sympathy with, or encouragement to acts of violence or terrorism, or support or empathy with such act (in this section - seditious publication), and according to the content of the seditious publication and the circumstances of its publication, if there's an actual possibility that the publication will result in an act of violence or terrorism, is punishable by a maximum prison sentence of five years". In addition, Section 144D.3 prohibits possession of publications inciting to violence or terror.

395. Protecting ethnic minority communities from hate speech is the foundation of debate and dialogue in intercultural societies. Hate crimes can not be excused on the basis of freedom of expression. The issue of incitement involves a constant delicate balance between the preservation of public wellbeing and the fundamental right to freedom of expression. Freedom of expression however, does not extend to incitement to racial hatred or discrimination.

396. The State Attorney Guideline No. 14.12 requires approval by the Deputy State Attorney (Special Functions), to initiate investigations into matters of great public sensitivity; i.e. offences of incitement to racism, incitement to violence, hate offences and other incitement related offences that clash with freedom of expression offences. The Law also requires the

Attorney General's approval to file an indictment for these offences. The Attorney General's Office operates in pursuit of the elimination of racial incitement in accordance with the guidelines set by the law and the Supreme Court.

397. The State Attorney's Office regards racial remarks made against the Arab population as incitement to racism and may initiate criminal proceedings on their behalf. In fact, criminal investigations have been conducted into a number of cases of incitement to racism against the Arab population, and indictments have been filed. Some of the cases were concluded with the defendants being convicted as a consequence. The following recent cases concerning incitement to racism are examples of the State Attorney's Office's determination to eliminate racially motivated remarks made against the Arab population:

397.1. In the case of Cr.C. 5120/05 (Jerusalem Magistrates Court), *The State of Israel v. Abadi, Cohen and Ben Yaacov*, the defendants were charged with both supporting a terrorist organization and incitement to racism after wearing a shirt displaying the symbol of the "Kach" movement, defendant 3 prepared and disseminated brochures calling for a referendum to disengage from the Arab-Israelis refusing to pledge allegiance to the State of Israel. They were also charged with publishing posters which incite to racism. Defendant 3, Ben Yaacov, was convicted of publication of racist incitement and 6 months of suspended prison sentence. Defendant 1, Cohen, was convicted in the framework of a plea bargain. Defendant 2 fled justice. An appeal is currently pending before the District Court.

397.2. In the case of Cr.C. 1232/06 (Haifa Magistrate Court) *The State of Israel v. Fauchi, Hershkovitz and Ben Naftalie*, the defendants were charged with incitement after publishing posters praising Eden Natan Zada, who committed the massacre in Shfaram. The court case is still pending.

397.3. In the case of Cr.C 3907/06 (Jerusalem Magistrate Court) *The State of Israel v. Raffi Chova et al*.: on July 20, 2006, an indictment was filed against the defendants for yelling derogatory, racially motivated comments against Arabs during a soccer match. The court case is still pending. A delay of proceedings was recently granted by the Attorney General to one of the defendants.

398. **Hate crimes**. Racist crime is more seriously expressed in the infliction of hate motivated mainstream criminal offences such as assault, murder or damage to property. Racial motivation is recognized as an aggravating circumstance in the Israeli Penal Law. Section 144F contains legal provisions according to which racist and xenophobic motivation, as well as hostility based on sexual orientation or a disability, is to be taken into account as an aggravating factor by the courts. Paragraph a) of this section states that "any person committing an offence motivated by racism as defined in section 144A, or who poses hostility towards a public owing to their religion, religious group, ethnic origin, sexual orientation or their status as a foreign worker, is liable to a sentence of double the punishment set for the same offence, or 10 years imprisonment, according to the lighter punishment". Paragraph (b) lists the types of offences included under the section.

399. In numerous instances of criminal offences motivated by hatred, investigations have been opened and indictments filed. An example of such a case is Cr. A. 9040/05, *Yitzhak Orion and*

Yehuda Ovadia v. The State of Israel, in which the Supreme Court, on December 7, 2006, rejected an appeal filed against a judgment given by the Jerusalem District Court, which had convicted the two appellants of various charges of violence and assault of Arabs, and sentenced each of them to 3 years imprisonment, 6 months suspended imprisonment, and compensatory payments to their victim, in the amount of 7,500 NIS.

400. Here, the District Court attributed great weight to the fact that the offences were racially motivated and the Court asserted that this kind of racial element to offences must be reflected in the punishment as well. The Supreme Court reaffirmed this approach, and emphasized that in a society which espouses values of equality and the protection of human rights, there is no room for racially motivated crime, and any such behavior is to be thoroughly condemned and denunciated.

401. In light of the above, the Supreme Court asserted that no intervention in the judgment of the District Court was required, and the appeal was rejected.

402. The Safety in Public Places Law 5722-1962 was amended (Amendment No. 3) on July 2005, to specifically prohibit racially motivated expression at sporting events. Consequently, indictments were filed against defendants who shouted “Death to the Arabs” during soccer matches.

403. **Education against hate propaganda**. The education system approaches the concept of preventing hate crime and propaganda from a wider point of view, which emphasizes the concepts of tolerance, pluralism, prevention of racism, and one’s attitude toward foreigners and “others”. These concepts are part of special educational programs designated for school students of all ages and aimed at exposing them to different groups within Israeli society. In addition, the students learn about the principles of democracy, the rule of law, human rights, rights of minorities and pluralism in the framework of civic lessons.

404. The education system has also taken action implementing the 1996 Shenhar-Kremnitzer Report, and has initiated other varied activities aimed at advancing the concepts of tolerance, acceptance of the “other” and prevention of racism and prejudice within the education system. The activities include: training for teachers on democratic values and principles, a special program on anti-semitism and racism for the 2004 International Day against Fascism and anti-semitism and different activities on tolerance and democracy on the Memorial Day for the late Prime Minister, Yitzhak Rabin.

405. **Police’s combat against hate propaganda**. The Israeli Police also perform educational activities for police officers in order to raise awareness of the social complicity in Israel and its effects on police work. The activities accord knowledge and understanding of the characteristics of minority groups in Israel, including Arabs, immigrants, the homosexual community and persons with disabilities, and provide tools for the provision of professional, sensitive police work among these groups. The concept of “equal and suitable service in a multi-cultural society” was set as the annual education target for 2007.

406. As an example, police activities include special training days and educational seminars in each police station, an academic course on the Arabic language and the Arab culture in collaboration with Haifa University, a special seminar on the homosexual community delivered

together with gay representatives, and distribution of information cards concerning police service to persons with disabilities. In addition, the Police performs educational activities on the legacy of the holocaust and the importance of combating racism and securing democratic values. As a result of these activities, the commitment of Police officers to protecting minority groups from discrimination and hate propaganda and crime has increased significantly.

Article 21. Freedom of assembly

The Pride Parade

407. On June 20, 2007, the Supreme Court rejected two petitions challenging the annual Pride Parade in Jerusalem (HCJ 5277/07 *Baruch Marzel v. The Chief of Jerusalem Police, Ilan Franko*, and HCJ 5380/07 *"Kochav Ehad" Association v. The Chief of Jerusalem Police, Ilan Franko*).

408. The Court concluded that the decision of the Jerusalem Chief of Police to approve the event was reasonable, and maintained an appropriate balance between all the rights and interests concerned, according to the standards already determined by the High Court of Justice (HCJ 8988/06) concerning the Pride Parade in Jerusalem in November 2006. The Supreme Court's president held that "harm of emotions does not justify damaging the freedom of speech and protest in a democracy which is based on social pluralism, so that the freedom of speech will not lose its content. The freedom of speech is not only the freedom to express consensual pleasant things, but also to give a stage to opinions which cause disagreements, and allow an opportunity for minority groups to raise their issues on the public agenda even if the majority opposes their views. The protection of the freedom of speech protects first and foremost the minority from the majority". Referring to the balance between the freedom of speech and the protection of religiously inspired emotions, the Court held that even if the Pride Parade in Jerusalem offends religious emotions, it was not a sufficient reason for denial of the right to protest.

409. The Court considered that the 2007 Pride Parade in Jerusalem was to take place over a shortened route of only 500 meters, and in streets which were not part of a clear residential area and were far removed from the ultra-orthodox neighborhoods of the city. The Court further noted the commitment of the parade organizers to creating an appropriate character for the event, and concluded that under the circumstances, the harm inflicted on religious sensibilities did not surpass the high tolerance threshold required to allow infringement on the right to freedom of speech and protest. The Court therefore decided not to intervene, and rejected the two petitions.

Demonstrations

410. On May 16, 2005, during the period of Israel's Disengagement from Gaza, a prohibited assembly took place in Jerusalem in which Mr. Moshe Batat took part. He was subsequently indicted for several offences; riot, enticement to riot, interference with a policeman in the performance of his duty, and obstructing a public servant (Cr.C. 002717/05 *The State of Israel v. Moshe Batat*). The Magistrate Court in Jerusalem determined that the defendant was officially present at the place of the demonstration as a press photographer for the purpose of taking photos of the event. He could not, therefore, be considered as one of the demonstrators. According to the Court, there was no further evidence that the defendant was warned to leave the place of the

demonstration, and he was subsequently acquitted of the charges filed against him. The Court admonished the State for bringing journalists to trial when they are engaging in legitimate documentation of an event or demonstration. The public has a right to be informed and this meant freedom of the press needed to be preserved.

411. On August 30, 2007, the Tel-Aviv District Court partially accepted a claim from the Tel-Aviv-Jaffa Academic College heads' and issued a permanent injunction banning protests and demonstrations against the establishment of a laboratory for experiments on animals, from taking place in front of the college heads' private homes (TA.Civil. C. 1558/06 *The Tel-Aviv-Jaffa Academic College v. Mackiton*). The Court rejected the plaintiffs' claims that the protests constituted defamation or incitement to violence, and held that demonstrations in front of private houses were not to be prohibited. The Court nevertheless determined that in the specific circumstances of the case, the protest demonstrations constituted violation of privacy and harassment.

412. In its decision, the Court held that there was no "public justification" for continued protest activity in front of the plaintiff's homes, and that the demand to stop it was justified. The Court held that "… the freedom of speech should not be lessened, but the test for the realization of the freedom of speech is not the 'personal feeling' of the person who seeks to realize this freedom, but an objective examination of the options that society provides to the individual in order to realize the freedom of speech". The Court added that the respondents "did not seek for the freedom of speech itself. They sought for freedom of harassment, the right to cause the plaintiffs non-pleasure and distress" … "The freedom to harass is not part of the freedom of speech" … "It is to be condemned in a situation where the freedom of speech can be realized without it."

Article 22. Freedom of association

413. **Forming trade unions and joining them**. Since the submission of our previous periodic reports, the legal protection of the right to organize trade unions has been boosted by some important judicial decisions. One of the more prominent such decision was handed down on March 3, 2005. Here, the National Labor Court accepted an appeal of "the New Histadrut" (the General Federation of Labor) against the Minister of Transport, stating that the decision of the Minister of Transport to allow other concessionaires to provide transportation services on closed transportation lines in the city of Beer-Sheva, instead of the concessionaires on strike, constituted a severe, direct and intentional damage to the workers' right of association and their right to strike (L.C 57/05 *The New Histadrut v. The Minister of Transport*). The Court stated that the right to freedom of association is recognized as a universal human right, and that it is cited in several conventions including the ICCPR in Article 22. The Court revoked the decision of the Minister of Transport and stressed that the strike may cause suffering to the residents of the city, but noted that this suffering is relatively "sufferable", and that it is not comparable to the direct or indirect damage inflicted on the workers' right of association and their right to strike by allowing other concessionaires to provide the inactive services.

414. **The right to form a trade union**. On January 1, 2001, the Knesset enacted the Collective Agreement Law (Amendment 6) 5761-2001, explicitly stating that every worker has the right to form trade unions, to be a member of a trade union and to operate within their framework (section 33h). The Law prohibits preventing the entry of a trade union's representative to a working place to promote stated rights (section 33i). In addition, the Law states that an employer

will not dismiss a worker, damage the employment conditions of a worker, or avoid hiring a person to work owing to their membership, or activities within a trade union, activities for the purpose of forming a trade union, or avoiding membership or ending membership in a trade union (section 33j). According to the Law, Labor Courts will have sole jurisdiction over civil proceedings concerning violations of the said provisions and will be authorized to grant injunctions, mandatory injunctions and compensation (section 33 k). The amended Law imposes a fine (based on section 61(a)(2) of the Penal Law), on an employer who avoids hiring a person to work, harms the employment conditions of a worker, or dismisses a worker due to one of the following reasons: membership in a trade union, avoiding membership in a trade union, or ending membership in a trade union (section 33n).

415. Since the submission of Israel's previous periodic report, the right to form a trade union has been further strengthened in a number of important judicial decisions.

416. **Collective agreement appeal 1003/01**. *The New General Federation of Labor et. al. v. E.C.I Telecom Ltd* - E.C.I Telecom, a company employing 4,900 workers, was determined to dismiss 142 workers, all members in a trade union, because of economic difficulties. In his decision, the National Labor Court's President, held that "the rule is that the employer holds the burden of proving that selecting which of the workers will be dismissed is based on justifiable reasons, and is not due to membership in a trade union". The Court decided to grant a temporary injunction preventing the immediate dismissal of the workers, in order to allow both parties to settle their dispute via negotiations based on the original collective agreement between them.

417. In the case of Civil Request 6726/07 *Alon Lee Green v. Excellence Coffee Ltd*, the petitioner requested an annulment of his dismissal which was, according to his claim, made in response to his activities in formation of a workers union. The Tel-Aviv District Labor Court held that it must protect the right of workers to form unions, and ordered the petitioner's return to work. According to the Court's decision, "a private employer shall not be forced to employ a worker against his will, and the solution then is usually to grant compensation to the worker. But this is an exceptional case since the respondent's behavior damaged the basic rights of the petitioner, and financial compensation can not heal the deficiency of its behavior. Damage to a constitutional right which is a 'privilege' and goes beyond the worker's economical rights brings about an exceptional result".

418. **Number and structure of trade unions in Israel**. No notable change in the structure of labor movements in Israel has occurred since the submission of Israel's previous report. "The Histadrut" remains the largest and most representative workers' organization in Israel.

419. For further information with regards to the status of trade unions in Israel, please see the report regarding the Covenant on Economic, Social and Cultural Rights.

420. **The right to strike**. Since the submission of our previous periodic report, a significant decision has been handed down as mentioned below, as the Court concluded that a decision of the Minister of Transports' to allow transport operatives other than those on strike to provide transportation in the midst of a cessation of services in the city of Beer-Sheva, caused severe, direct, and intentional damage to the workers' right of association and their right to strike (L.C 57/05 *The New Histadrut v. The Minister of Transport*).

Table 20

Statistics on strikes and lock-outs, strikers and locked-out, work days lost and slow-downs in Israel

Participants in slow-downs	Slow-downs	Work days lost**	Strikers and persons locked-out**	Strikes and lock-outs**	Year
73 621	56	2 011 263	297 882	54	2000
287 401	58	2 039 974	426 560	62	2001
158 590	34	1 488 120	1 647 810	47	2002
562 877	64	2 725 159	1 258 904	60	2003
199 673	55	1 224 423	722 875	49	2004
125 270	44	244 236	103 666	57	2005
187 465	40	136 189	125 730	35	2006

Source: Central Bureau of Statistics (CBS), Statistical Abstract of Israel, 2007.

** Excluding slow-downs.

Article 23. Protection of the family

Measures of protection

421. **Social insurance and entitlements**. As reported in our periodic report, all families residing legally in Israel, regardless of income, are entitled to a "child allowance", a monthly grant which increases with the number of children in the family. The Government policy of drastic cuts in child allowances - the first stage of which was carried out in 2002-2004 - will continue in subsequent years up to 2009. The policy is being partially implemented by means of temporary orders and partially as permanent legislation. By the end of the legislative process in 2009, the allowance will be a set amount for every child in all families, regardless of the child's place in the family. Starting from January 2006, a family with one child receives 148 NIS a month (approximately 44$); a family with two children receives 296 NIS; with three children - 474 NIS; four children - 803 NIS; and five children -1,132 NIS per month. The amount per every child born after June 1, 2003, is 148 NIS constantly. In 2005, 956,294 families received child allowances, amounting to 19% of the total benefits paid by the National Insurance Institution (NII). In 2006, 968,282 families received child allowances, amounting to 17.6% of the total benefits paid by the NII.

422. The NII is also responsible for the payment of income support benefits. In 2006, the NII paid income support benefits to approximately 130,341 families which did not earn the minimum level of income as determined by the Income Support Law, 5740-1980, and which were not covered by other income maintenance programs.

Maternity and paternity assistance

423. From January 1, 2006, women who are unable to work owing to their high-risk pregnancy are to receive a "maternity allowance" for a period of at least 30 days. The amount per day is the

lower of the following two amounts: the basic amount divided by 30 - 232 NIS, (slightly under 70$); or the woman's salary divided by 90. Following the Emergency Economic Plan and the Recovery Plan for the years 2002-2006, the sum of maternity allowance was reduced by 4%.

424. As of January 1, 2005, the National Insurance Institute of Israel pays a maternity grant, which is provided to post-natal new mothers in order to help cover the cost of a layette for the newborn child, directly into the mother's bank account and delivered approximately one month after the date on which she gave birth. The maternity grant was previously paid by means of a check given to the mothers in the hospital in which the birth took place.

425. As of January 1, 2006, a "maternity grant" given to a new mother upon the birth of her first baby, or to the adoptive parents upon adoption, will equal 1,390 NIS, (slightly more than 410$). The maternity grant for a second child will be equivalent to 626 NIS, (slightly over 186$), and for every third and additional child to the family it will be the equivalent of 417 NIS, (slightly over 120$).

426. The National Insurance Institute pays a benefit to a mother who has given birth to three or more children in one birth, and again at the end of a 30-day period after the date of birth, if at least three of these children have survived, the childbirth allowance is paid, in addition to the maternity grant, for the period from the first day of the month following the birth, up until 20 months from this date.

New reproductive technologies

427. In 2006, the birth rate in Israel was 2.9%, (2.8 among the Jewish population, 4.0 among Muslims population, 2.2 among Christians, 2.6 among the Druze and 1.6 among population with no religious classification). During the last decade, the general birth rate remained stable due to a slight increase in the birth rate among Jewish women, and a significant decrease in the birth rate of Muslim, Christian and Druze women.

428. During the last decade, the amount of births by single women continued to increase. In 2005, 3.3 births from 100 were by never-married women, in comparison to an average of 2.3 between the years 1995-1999. It is also notable that the increase was mainly among women above the age of 30.

429. **Fertility Treatments**. There are 24 fertility departments In Israel, 9 in governmental hospitals, 11 in public hospitals and 4 in private hospitals. In 2005, 24,995 cycles of IVF treatment were performed (in comparison to 16,396 cycles in 1998). The ratio of live births in Israel is relatively steady since 1996 (15.8 %), in 2005 it stood at 15.6 %.

430. The accumulative number of applications for surrogate motherhood, as of December 2007, is 450, resulting with 194 children in 160 successful child births (due to 32 labors of twins and one triplet). Out of the 450 applications some were made by couples for the second time after a success or a failure to conceive on the first application. Some of the applications never reached the stage of signing an agreement. At least two of the prospective parents gave birth to children unaided by a surrogate after approval of their surrogacy agreement.

Marriage

431. **Family Matters Court Law**, 5755-1995 (the "Family Matters Court Law"). Until 2001, section 51 of the Palestine Order in Council 1922 provided the Muslim courts with exclusive jurisdiction in matters of personal status including marriage, divorce, alimony, maintenance, guardianship and legitimating of minors. In addition, section 54 of this order endowed the Courts of several Christian communities with exclusive jurisdiction over matters of personal status (i.e., marriage, divorce, alimony, and any other matter of personal status) provided all parties consented to such jurisdiction. In November 2001, the Family Matters Court Law was amended in order to vest jurisdiction over issues of personal status amongst Muslims and Christians in the Family Matters Court. Marriage and divorce however, remain exclusively in the jurisdiction of Muslim and Christian courts and thus constitute the only exception to the amendment.

432. **Minimum marriageable age for men and women**. The phenomenon of underage marriage still takes place in certain sectors of Israeli society, including those of the ultra-orthodox Jews, Jews originating from Georgia and Arabs. According to the Central Bureau of Statistics, in 2004, 1,360 Arab-Israeli girls, younger than 17, were married. Additionally, 44% of Arab women were married before the age of 19. In 2005, the rate of marriage for Muslim girls was more than 2.5 times higher than that of Jewish girls. Also in 2005, 30 requests to allow the marriage of minors were submitted to family matters courts - 17 were approved. During the years 1997-2005, more than a half of the 251 requests for marriage of minors were approved. During the years 2000-2006, 41 complaints were submitted to the Police due to violations of the Marriage Age Law, 5710-1950. In half of these cases criminal files were opened. In all other cases it was decided not to prosecute.

433. **Dissolving of Marriage Jurisdiction Law** (Special Cases and International Jurisdiction), 5729-1969 - This Law, amended in July 2005, concerns the dissolution of marriages where the spouses have different religious affiliations or no religious affiliation at all. Prior to the amendment, spouses with different religious backgrounds wishing to dissolve their marriage had to first apply to the president of the Supreme Court for a determination of jurisdiction. The amendment allows for spouses with different religious backgrounds to apply directly to a Family Matters Court. In appropriate cases, the amendment mandates that the Family Matters Court seek the consul of the relevant religious court to determine whether it is necessary to dissolve the marriage according to the religious laws of either spouse for the purpose of remarriage. The amended Law also defines the international jurisdiction of Family Matters Courts in this matter.

434. **Civil marriages**. On November 21, 2006, the Supreme Court took a significant step of recognizing civil marriages which had taken place between Jewish Israeli residents and citizens outside of Israel (HCJ 2232/03 *Anonymous v. The Rabbinical Court of Appeals*). A Jewish man, who wanted to divorce his wife after having been civilly married outside of the State, turned to the Rabbinical Court which stated that the marriage should not be recognized. The wife, who did not want to divorce her husband, petitioned the decision to the Supreme Court based on her fear of loosing her right to alimony. The Supreme Court determined that the Rabbinical Court could not dissolve the marriage based on the fact that the marriage was not performed according to

Jewish Law. It further noted that civil marriages are indeed valid in Israel and created a status which could not only be considered as for the purpose of registration. This recognition of civil marriages conforms with Israel's obligations according to Article 23 of the Convention.

435. The Supreme Court decided that the Rabbinical Court may dissolve such a marriage and grant a divorce verdict, if it is convinced that it is unfeasible to accomplish domestic peace between the spouses, but it can not do so based on the religious causes for divorce. This sort of divorce can be defined as "divorce with no blame" (not owing to religious causes of blame), and is considered to be rather like a civil divorce. The Supreme Court raised the concern that "divorce with no blame" may damage the right of women to receive alimony, but emphasized that the solution can not be found through retaining the institution of formal marriage. Instead the economic aspects of the relationship should be resolved in a Family Matters Court, rather than as part of a divorce procedure in the Rabbinical Court.

436. **Spouses**. On April 15, 2007, the Nazareth Family Matters Court rejected a lawsuit brought by the two children of a deceased man against his second wife. In the claim, the children requested the rights to a property of their father's which the 2nd widow had inherited (Nazareth F.C 001180/04 *A.Z and P.Z v. V.Z and the Land Registry*). The plaintiffs claimed that their father's widow had a new spouse, and that according to a condition in their father's testament, she lost the right to the property under those circumstances and the children were subsequently to inherit it.

437. The Court held that the meaning of the word "spouse" as it appeared in the testament should be interpreted as 'a relationship characterized by economic management of a family unit, stemming from a joint family life'. This meaning complied with the testimony's objective that the children would inherit the property only if the wife developed a serious and permanent relationship with her new partner, similar to the one she had with the deceased.

438. The Court decided that in this case, the relationship between the respondent and her partner was based on friendship and intimacy, but could not be characterized as incorporating the economic management of a joint family unit. Therefore, the new couple could not be considered as "spouses" according to the terms of the testament, and the lawsuit was rejected.

Article 24. Protection of children

439. By the end of 2006, 2,365,800 children made up 33.2% of the total population of the State of Israel, in comparison to 33.8% in 2000. Despite the growing number of children in Israel, their percentage of the total population has continued to decrease since the 1970's (39.2% in 1970). This decrease is among all religious groups, including Muslims where the percentage of children decreased from 58.7% in 1970 to 48.7% in 2006. In 2006, 8.5% of all children in Israel lived in a single parent family, in comparison to 6.8% in 1995. The number of children who immigrated to Israel since 1990 and presently reside in Israel is 90,000.

440. Indication of information concerning the implications of legislation can be found in the Rights of the Child Law, 5762-2002. This Law requires the systematic inclusion of explanatory notes in every bill regarding its expected implications on the rights of children.

Welfare services maintain

441. In January 2007, there were 418,527 children known to the social services departments, this consists of nearly 20% of all children in Israel. From January 2001 to January 2007, there was an increase of 44% in the number of children in the social services system. 326,588 children were defined by the social services departments as “children at direct risk or family risk” - indicating that the child’s development and his reasonable manner of life are at risk and he may require assistance.

442. Welfare Services in the Criminal Process. In 2006, the Police opened 35,397 files against minors: 21,433 were criminal files (59.6%) of which 14,504 were closed without prosecution (40.4%). During the years 2004-2006, there was a significant decrease of 11% in the number of cases in which minors were involved. Between 2003 and 2006, the percentage of criminal and non-prosecution files opened against minors due to violent offences increased from 42.6% to 50.2%, while the percentage of files opened against minors involving property offences diminished from 34.7% to 28.7%.

443. In 2006, minors were represented by the Public Defender’s Office in 11,956 proceedings in comparison to 6,708 in 2001. Between 2001 and 2006, the number of these proceedings nearly doubled - with the most significant increase in the Haifa District (+185%).

444. It shall be clarified, that the Rights of Children at Risk to Services Law, detailed in our previous periodic report, was approved in first reading, but eventually was not enacted by the Knesset in contrast to the information indicated in our previous periodic report.

445. Since the submission of our previous periodic report, there have been some legislative changes concerning investigations of minors under 14 years of age by children’s investigators of the Ministry of Social Affaires and Social Services. Currently, investigations of children are held in violence offences; sex, prostitution and indecency offences; offences related to violations of parental duties and offences of abuse.

Child abuse

446. In 2006, 8,222 children that had been victims of sexual and violent offences under the age of 14 were investigated by a children’s investigator, in comparison 8,328 victimized children underwent investigation in 2005 and 5,704 children in 2000. Despite the gradual increase in the number of children interrogated by a children’s investigator, the percentage of girls interrogated has declined from more than two thirds of the investigatees in 1990 to less than half in 2005. Out of all children interrogated, 55% were victims of abuse within the family, 30.3% were victims of sex offences, 9.4% were witnesses of sex offences, and 5% were suspects of committing sex offences.

447. A 2001 Amendment expanded the Evidence Procedure Revision (Protection of Children) Law 5715- 1955 (section 1a), and determined that a child could be investigated by a children’s investigator concerning related offences. The expansion was designed to prevent a situation in which a child might be investigated by a children’s investigator concerning an offence included in the Law (sex and severe violence offences), but could not be investigated concerning a related offence - a situation which invariably led to a splitting-up of the investigation.

448. A 2004 Amendment made several other changes, including:

448.1. The implementation of special procedures allowing children to testify in court, in relation to offences to which the law applies (section 2d). In this regard, the child's testimony will be permitted by the children's investigator subject to certain conditions being met. The investigator may require for example, that the child testifies via closed circuit television, on one specified date, not on the witness stand, in the judge's chamber, and so on.

448.2. Decisions of the children's investigator and the Court concerning testimony and testimonial measures, will be concluded only after hearing the opinion of the child, if he/she can express his/her own opinion. The child's opinion will be weighed according to his age and his maturity (section 2f).

448.3. Once the children's investigator reaches a decision as to the child's testimony, he must, without delay, re-evaluate his decision in respect of; admission of the child's testimony if he has allowed the child to testify, or the trial, if he has prohibited the child's testimony (section 2g).

448.4. A decision of a children's' investigator may be re-examined by a senior children's investigator (section 2h).

448.5. A children's investigator must provide substantial reasons for his decisions.

449. A 2004 Amendment constituted the rule that investigation of a child must be conducted with his/her parent's knowledge, except in certain circumstances. For example: if there is concern as to any damage to the child's physical and mental wellbeing, if the suspect is a family relative and there is a concern of possible damage to the child, and if there is substantial difficulty in informing the parent by reasonable effort and the delay might foil the investigation or any crime prevention (section 4a). In addition, the amended Law states that if an investigation without the parent's knowledge is required, the child may, under specific conditions, be taken out from the place where he is staying (school, kindergarten, etc.). The conditions include such requirements as having had consultation with education workers who know the child, supplied explanations to the child, provided identification details of the children's investigator to the administrator of the place, etc.

450. A 2005 amendment stated that a child with a mental disability is to be investigated by a special children's investigator in accordance with the Investigation and Testimony Procedures Law (Suitability to Persons with Mental or Physical Disability).

451. Section 361 of the Penal Law was amended in 2001 (Amendment 59), and now determines that leaving a child under the age of six years old without appropriate supervision is a criminal offence.

452. **Sexual abuse**. Since 2002, there have been several Amendments to section 354 of the Penal Law concerning restrictions on limitation in sex offenses against minors. Currently, the Law states that in the case of offenses committed against a minor by a person responsible for the

minor, the limitation period shall begin when he reaches the age of twenty eight. If the offenses were committed by a person above the age of fifteen who is not a relative, or responsible for the minor, the limitation period shall begin when the minor reaches the age of eighteen. In addition, a 2001 Amendment (Amendment 61), to the Penal Law removed the element of 'use of force' from sex offenses, which has effectively moved the focus of the investigation to absence of consent. A 2003 Amendment (Amendment 77), also added an offence concerning the sexual exploitation of a patient by a mental therapist (Section 347a).

453. **Child prostitution**. Section 214 of the Penal Law was amended in 2007 (Amendment 93) and the short two-year limitation period for submission of indictments concerning pornographic advertisements of minors was annulled. It was additionally made illegal to use minors in pornographic advertisements (sections 214b-214b(3)).

454. The Penal Law was amended in 2006 so that section 15 now applies the principal of extraterritoriality to pornography and prostitution offences committed against minors. It is currently possible to try offenders in Israel for such offences, even though the act might not constitute a criminal offence in the country in which it was performed.

455. **The Committee for Examination of the Conditions of Children at Risk**. According to a Government Resolution from January 2004, Israel former Prime Minister and former Minister of Social Affairs, appointed a public committee for the examination of conditions of children and youth at risk or in distress. On September 12, 2006, following a report submitted by the committee in March 2006, the Government accepted Resolution Number 477 for the gradual implementation of a plan recommended by the committee. In 2007, the implementation of the plan began in several towns in Israel with a special annual budget of 200 million NIS.

Protection of children in legal proceedings

456. **The Committee to Examine Fundamental Principles Concerning Children and the Law, and Their Implementation in Legislation**. In June 1997, the former Minister of Justice appointed a "committee to examine fundamental principles concerning children and the law, and their implementation in legislation". The minister appointed this committee to thoroughly examine Israeli law as it pertains to the rights of the child and the child's legal and welfare status in light of the principles set down in the UN Convention on the Rights of the Child. The committee comprised of senior public and other officials from a variety of fields and was headed by Justice Saviona Rotlevi, Deputy President of the Tel-Aviv District Court. In 2003, six reports prepared by sub-committees were submitted to the Minister of Justice: representation of children in civil proceedings, out-of-home placement, the child and his family, education, the child in criminal proceedings and a general report. Since the submission of the reports, their implementation began gradually.

457. On June 1, 2007 a pilot program for the implementation of the recommendations regarding the participation of children in Family Court's proceedings commenced operation in the Haifa and Jerusalem Family Courts. The pilot program operates in cooperation with the Courts Administration within the Ministry of Justice, the Assistance Units to the Family Courts within the Ministry of Social Affairs and Social Services, and Ashalim (a non-profit organization).

458. The participation of children in decision-making regarding their future, is done according to the Committee's recommendations, with the assistance of the Department for Child Participation, which is composed of social workers and psychologists, and operates in the framework of the Assistance Units to the Family Courts.

459. In assembling the pilot, the unique characteristics of the participation of children were taken into consideration, and it was built in a way that allows follow-up and revision on each component of the program, while comparing the different alternatives, in order to reach conclusions regarding the optimal ways to exercise the participation rights of the child and to observe the child's other rights and best interest in the framework of the Family Court's proceedings.

460. On December 3, 2007, the Minister of Justice signed the Civil Procedure Regulations (Temporary Order) 5767-2007, which adds chapter K2 to the Civil Procedure Regulations 5744-1984 and regulates the procedures for children's participation in the chosen Family Courts for the duration of the pilot.

461. On June 5, 2006, the Supreme Court overturned a decision made by the Shari'a Court, which gave the custody of three young children to their father, without any factual basis concerning the children's condition (HCJ 1129/06 *Anonymous v. The Shari'a Court of Appeals*). The Court held that the "child's best interest" constitutes a basic principle of the Legal Capacity and Guardianship Law, 5722-1962 (the "Legal Capacity and Guardianship Law"), in cases of child custody, and the Supreme Court thus considered that any decision concerning children must be based upon a proper factual basis.

462. In this instance, the Shari'a Court gave a Muslim father who divorced his wife, custody of their three children, in accordance with a Muslim presumption that the best interests of a boy over 7 years of age and a girl over 9 years of age, are served by remaining with their father. The Supreme Court decided that this presumption contradicts the Legal Capacity and Guardianship Law, which states that the issue of child custody must be decided in accordance with their best interests as defined by that Law, and their best interests only. This decision is in alignment with the obligation to protect children in the case of dissolution of marriage, and as a result of their status as minors, as accorded by Articles 23 and 24 of the Convention.

Education

463. **Removal of pupils**. In 2004, the Minister of Education published Regulations regarding the removal of pupils from the educational system (Compulsory Education Regulations (Rules for the Permanent Removal of a Pupil Due to School Achievement)) 5765-2004.

464. These Regulations include a prohibition on removing a pupil in the 1st-6th grades from school due to lack of achievement in studies. Regarding pupils in the 7th-12th grades, removal from school shall not be made on the basis of lack of achievement unless the pupil fails at least 70% of the mandatory subjects for that school year, and if the failure did not occur due to illness, death of a family member, separation or divorce of the pupils parents or other exceptional event which, according to the educational personnel, led to the failure.

465. The principal of the school from which the pupil is removed, and the Head of the Local Council's Education Department, will make an effort to find an alternative educational system best fitted for the pupil upon removal. This shall be done in accordance with the Pupils Rights Regulation (Publishing Orders and Pupil Removal), 5762-2002.

466. The Pupils Rights Regulation (Publishing Orders and Pupil Removal), 5762-2002, establishes rules regarding the removal of pupils from school. Among them is the necessity of performing a hearing before finalizing the removal decision. The pupil or his parents can file an appeal with the Head of the Ministry of Education's District, according to section 6(a), and a hearing should be held within 14 days according to the provisions of section 6(b) before a hearings panel. The pupil and his parents may state their claims in person or by an appointed person.

467. **Special education**. In 2002, the Knesset approved an amendment to the Special Education Law, 5748-1988 (the "Special Education Law"), according to which a pupil with special needs integrated in the regular school system, is entitled to a supplement in tutoring and studies, as well as special services such as psychology services, aid services, medical services or any other service which the Minister of Education, after consulting with the Minister of Health and the Minister of Social Affairs and Social Services, sets in a directive (The Special Education Law (Amendment No. 7), 5763-2002).

Table 21

Population with 0-4 years of education, 2006

Arab sector				Jewish sector			
Years of schooling (percentages)			Gender and age	Years of schooling (percentages)			Gender and age
1 to 4	0	Thousands	Women	1 to 4	0	Thousands	Women
4.4	9.6	415.6	Total	1.1	2.8	2 118.5	Total
-	-	41.5	15-17	-	-	123.7	15-17
-	2.0	82.0	18-24	-	0.3	300.8	18-24
1.1	2.8	106.8	25-34	0.3	0.6	407.3	25-34
2.4	5.3	78.8	35-44	-	0.9	326.4	35-44
10.1	10.9	50.6	45-54	-	1.5	330.1	45-54
20.8	31.0	30.8	55-64	1.1	2.1	260.3	55-64
13.5	61.7	25.1	65+	4.6	11.5	370.0	65+
1 to 4	0	Thousands	Men	1 to 4	0	Thousands	Men
3.4	2.7	425.6	Total	0.9	1.4	1 985.5	Total
-	-	43.7	15-17	-	-	130.8	15-17
-	-	85.4	18-24	-	-	312.3	18-24
1.8	1.5	110.2	25-34	-	0.4	414.9	25-34
1.4	1.5	82.5	35-44	-	1.1	314.3	35-44
4.5	2.3	51.4	45-54	0.4	1.0	304.5	45-54
11.2	8.2	29.1	55-64	1.0	1.8	236.4	55-64
22.4	18.3	23.3	65+	4.1	5.7	272.3	65+

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

Table 22

Age group 17 - percentage of matriculation candidates and those entitled to a matriculation certificate, 2006

Entitled to a matriculation certificate	Matriculation candidates	
53.8%	83.4%	Total
55.1%	82.2%	Jewish education
47.2%	89.9%	Arab education (total)
50.3%	92.6%	Druze
63.9%	95.5%	Arab Christians
44.9%	89.5%	Muslims

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

468. **The Free Education for Sick Children Law** 5761-2001. This Law is aimed to advance equal opportunity in education for sick children and provide a suitable educational framework for children in hospitals or at home due to long term illness. According to the Law, the Minister of Education will introduce a special educational program for sick children to be implemented in their own homes or in hospitals with the consent of the parents.

Family violence

469. A 2002 Amendment to the Penal Law imposes a more severe punishment for violation of a judicial order when the order was made for the protection of a person's life or wellbeing. The punishment for violating a judicial order is currently set at two years imprisonment, and - the punishment for violation of an order made in protection of a persons' life or well being, is now four years imprisonment. The relevant orders are mostly protection orders based on the Prevention of Family Violence Law 5751-1991 (the "Prevention of Family Violence Law").

470. A 2000 Amendment to the Prevention of Family Violence Law, (Amendment 5), states that a restraining order will include a prohibition against carrying a weapon. Before the above amendment was enacted, the prohibition against carrying weapons was subject to judicial consideration (sections 2b to 2f of the Law).

471. A 2001 Amendment to the Prevention of Family Violence Law, (Amendment 7), states that a doctor, nurse, educator, social worker, police officer, psychologist, clinical criminologist, paramedic, lawyer, religious cleric or rabbinical pleader, who, pursuant to any treatment or advice provided to an individual within their professional capacity, has reason to believe that the individual has been the victim of a crime perpetrated by his or her spouse, or by a former spouse - the said professional will inform the patient that they may turn to the Police, department of social services, or family abuse prevention centers within the department of social services, and will provide him with the telephone numbers of the said parties that are located near his place of residence.

472. The Prevention of Stalking Law implements another civil procedure, in addition to that anchored in the Prevention of Family Violence Law that enables the Court to issue restraining

orders against stalking. The Prevention of Stalking Law is not directed towards familial relationships only. According to the Law, if the Court finds an individual guilty of stalking, it is entitled to place a restraining order on that individual prohibiting them from committing any of the stalking acts specified by the Law.

Children with disabilities

473. **General**. In 2007, 293,000 disabled or chronically ill children resided in Israel, composing 12.8% of the total child population of the country. Approximately 176,000 children (out of the 293,000), were disabled or suffered from a chronic illness that affected their daily function that had persisted for more than one year. These children made up 7.7% of the total child population.

474. The percentage of children with special needs who have at least one disability, stand at 9.1% among Bedouin children (in the southern Negev area), 8.3% among the total population of Arab children and 7.6% among Jewish children.

475. Between the years 2001-2005 there was a drop in the rate of children with special needs who were sexually assaulted or were the victim of family violence (from 11.2% to 9%).

476. In comparison to western countries, in Israel there are relatively high rates of children born at a very low weight. The rate of children born with low birth weights grew from 15.8% (on average) in 1995-1998 to 18% in 2005.

477. About 25% of children with special needs live with two unemployed parents, in many cases the parents depend on income support pension.

478. **Education**. In Israel there are approximately 46,000 pupils in the special education system: special kindergartens, special schools and special classrooms in regular schools. Between the years 2002-2005 the rate of school pupils in special schools and special classrooms in regular schools grew by about 16%. The number of kindergarten aged children in special kindergartens in those years also grew by about 26%.

479. Among the special education children, the number of children with learning deficiencies makes up 38% of the total number of children with special needs. Most of the children in this group study in special classrooms in regular schools. Another significant group in the special education system is children with mental retardation who consist of roughly 20% of the system.

480. As mentioned, the Special Education Law was amended in 2002 and a chapter dealing with integration of children with special needs was added. The purpose of the amendment was to equalize the services given to children that are integrated in regular schools to those given to children in the special education facilities. Moreover, the amendment obligates the Placement Committee to prefer the placement of a child with disability in a regular educational facility. Among the purposes of the amendment is the integration of children with disabilities within the regular education system while enlarging the budget set for the purpose from year to year. So far, The amendment applies thus far to school age children and children from the age of 5 years.

481. The Dorner Committee, a public committee established to examine the special school system in Israel, which operates these days, was established in order to examine the Ministry of

Education's policy towards the issue of children with special needs, examine the allocation of the Ministry's budget in treating these children, draw a plan for action, set a list of priorities to action in this regard, all while considering the restriction of the current budget of the Ministry.

482. Recently, the Rights of Pupils with Learning Disabilities in Secondary Education Facilities Law, 5768-2008 was enacted. This Law asserts the rights of pupils with learning disabilities to adjustments in the criteria for admission to secondary education facilities (academic, technological, rabbinical, or professional), in the exams and other assignments throughout the school years.

483. **Special education in the minorities sectors**. According to information from the Ministry of Education, a structural discrimination towards children from the Arab and Bedouin Sectors does not exist. All the relevant procedures within the framework of the circular of the Ministry of Education's General Manager, apply equally to all sectors of the populations.

484. Over the last several years, the achievements of school pupils with special needs (at the 5th and 8th grade levels) that were integrated in to regular schools were significantly lower than the achievements of children without special needs (10 to 20 points less in their tests results in mathematics, science and Hebrew/Arabic).

485. Children with special needs are absent from school for longer periods of time during the school year. About 25% of special needs children lost 4-7 days of schooling in the first three months, 19% lost 7 days of school and another 14% lost in between 14 days and 3 months of schooling.

486. **Health care**. About 18% of children admitted to general hospitals with a stay of 21 days or more, were hospitalized in psychiatric and rehabilitations wards. In 2004, 756 children were hospitalized for psychiatric reasons.

487. **Sexual and family violence**. The percentage of children with special needs who were sexually molested, assaulted or were the victim of family violence and were interrogated by a special children investigator (9%), is higher than their rate in the total children population in Israel (7.5%).

Foreign workers' children

488. In 2004, more than 2,000 children of foreign workers lived in Israel, 80% of them under 5 years old. In July 2007, 975 children of foreign workers under 5 years old were treated in family health care centers in the city of Tel-Aviv. In 2005, 1,300 children of foreign workers received health insurance from "Meuhedet" Health Maintenance Organization.

489. Since the submission of Israel's previous periodic report, there has been some progress in the legal status of foreign workers' children. Government Resolution 3807, dated June 26, 2005, was amended by Government Resolution 156, dated June 18, and states the following:

> Upon request, the Minister of the Interior is entitled to grant permanent residency status to children of illegal immigrants who have been part of Israeli society and culture, if they fulfill the following conditions:

(a) The child has lived in Israel for at least 6 years (as of the date of the Resolution), and have entered Israel prior to the age of 14. A short visit abroad will not be viewed as an interruption of this time period;

(b) Prior to the child's entry or birth, the parents must have entered Israel legally, and with an entry permit in accordance with the Entry into Israel Law;

(c) The child speaks the Hebrew language;

(d) The child is in first grade or above, or has completed his studies;

(e) Those filing the request will be required to submit documentation or participate in hearings, in order to prove that they fit the abovementioned criterion.

The Minister of the Interior can grant temporary residency status in Israel to the parents and the siblings of the child, as long as they have lived in the same household from the child's day of entry or birth in Israel, and are in Israel as of the date of this Resolution. If there is no reason for objection, the temporary residency status will be renewed until the child reaches the age of 21. At that point, the parents and the siblings will be entitled to file a request for permanent residency status.

490. As of August 9, 2007, approximately 826 requests have been filed of which 402 were accepted, 402 were rejected and 22 remain pending due to lack of adequate documentation. In the case of 324 rejected requests, appeals were filed to the committee of appeals which has to date reviewed 307 of the cases. On review 110 applications were accepted by the Ministry of the Interior, and 113 rejected. A further 24 appeals were referred to the committee which reviews humanitarian issues, and 60 appeals are currently under review.

Article 25. Access to the political system

491. On February 28, 2006, the Central Elections Committee rejected a petition against the participation of the "United Arab List-Arab Democratic Party" in the March 2007 elections. The petition was submitted by members of the right wing parties following a statement made by the chairman of the Arab party, Sheikh Ibrahim Sarsur, in which he expressed his support for Islam and an Islamic regime in Israel and called for respect of the Palestinian terrorist Hamas Government. The Chairperson of the Central Elections Committee, Justice Dorith Beinisch, held that Sheikh Sarsur spoke very severely and expressed a damaging view. Nevertheless, the standard for dismissal of the right to elect and be elected is very high, and so must be the degree of evidence required to dismiss that right. Therefore, the Committee approved the participation of the "United Arab List-Arab Democratic Party" in the elections.

492. In the framework of the television campaign for the 2006 general elections of the 17th Knesset, the Chairman of the Central Elections Committee, Justice Dorit Beinisch, decided to disqualify a broadcast of the "Shinui-the Center Party" in accordance with section 15(d) of the Elections Law (Propaganda) 5719-1959. The decision was approved by the Supreme Court on March 12, 2007, following a petition of the "Shinui - Liberal Party" against the disqualification of their television broadcast (HCJ 2194/06 *The Shinui Party-the Centre Party v. the Chairman of the Central Elections Committee, Justice Dorit Beinisch*). The

contested broadcast showed ultra-orthodox Jews attached to the legs of, and crawling down the street behind, a secular Jew as he walked down the street on his way to vote. At the end of the segment, the ultra-orthodox Jews were seen evaporating as the secular Jew drops a ballot of Shinui into the ballot box.

493. On June 28, 2006, the Supreme Court delivered its reasons for rejecting the petition. It held that a broadcast in the framework of an election campaign is entitled to special protection since it is a political expression in a time of very important and significant exchanges of ideas and opinions. However, the Court went on to hold that this specific broadcast was an exceptional example, which caused damage to public emotions, humiliation, and degradation amounting to a severe infringement on the right to human dignity, and should therefore not be protected. The Court expressed its outrage at the broadcast which was reminiscent, in its view, of anti-semitic propaganda in which the ultra-orthodox Jew becomes a faceless person, a "non-human" who crawls on the floor and sticks to the secular person as if he was a leech.

Article 26. Equality before the law

494. **Elimination of discrimination in the private sphere**. Since the submission of Israel's previous report, reference to the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law, 5761-2000 (the "Prohibition of Discrimination in Products, Services and in Entry to Public Places Law") has grown. Some of the most noteworthy examples are as follows.

495. In the case of C.C 47045/05 *Tokov Ariel v. Oltim Asakim Ltd. et. al*. the petitioner and his friend had not been allowed to enter the "Partizan" night club on two separate occasions owing to subjective selection criteria for guests at the point of entry. The Court ruled that the "Partizan" night club should be considered as a public place, and that when balancing between the club owners' liberty and right to property, and the value of equality, the latter should prevail despite private ownership of the business. The Court held that the respondents' refusal to let the petitioner enter the club while others were allowed entry, effectively discriminated against him. The Court ruled that the respondent should pay 15,000 NIS in compensation to the petitioner based on the Prohibition of Discrimination in Products, Services and Entry to Public Places Law.

496. In the case of C.C 12482/04 *Mizrahi Yitzhak v. Kibbutz Ramot Menashe et. al*. - the petitioner requested to enter the "Terminal" night club located in Kibbutz Ramot Menashe, but was denied entry even though concurrently others were allowed entry. The petitioner claimed that his entry was denied owing to the dark color of his skin, his race, and his ethnic origin. The Court held that the respondents' behavior inflicted grave damage on the basic right of equality, and further damaged the moral standards that every enlightened society desires to institutionalize as part of its basic principles and the way of life of its citizens". The Court held that the personal suffering of the petitioner and the damage to his dignity should not be overlooked and ruled that the respondent will pay 50,000 NIS in compensation in accordance with the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law. An appeal against the Magistrate Court's ruling was completely denied by the Haifa District Court on January 7, 2008 (C. Appeal 003742/06 *Kibbutz Ramot Menashe et al. v. Mizrahi Yitzhak*).

497. In the case of Opening Motion 110/06 *The Israel Watchtower Association Ltd. v. The International Convention Center-Haifa et al*. it was noted that between the years 2000-2005, the respondent allowed the Jehovah's Witness's community in Israel to use the conference hall of

the Haifa International Convention Centre for its conferences. As a result of opposition from certain religious Jewish groups in Haifa, and following an application of the city's Mayor, the respondent decided not to continue to allow the applicant to hold its conferences in the convention centre. The applicant requested the Court to grant an order prohibiting the respondent from discriminating against it based solely on religious considerations. In response, the respondent claimed that it was allowed to refuse the applicant's requests for use of its facilities since it was a "private body" and eligible to freedom of contract, based on business considerations.

498. In its decision, the Court held that the respondent was not a private body but a public one, and that its discrimination against the applicant was completely invalid and in contradiction of the principles of equality and equity. In addition, it contradicted the provisions of the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law. Therefore, the Court accepted the motion and granted an order prohibiting discrimination against the applicant.

499. In the case of C.C 5244/02 *Bugle Natan et al. v. the Ministry of Education et al*. it was found that on the relevant submission date of the petition, the education system applied an integration policy for pupils of Ethiopian origin, setting a maximal quota of 25 percent per school. The petitioners, a married couple whose son was born in Israel, wanted to register him at a specific school, but were denied and had to register him in a different school, as a consequence of the integration policy of that time. The petitioners claimed that the integration policy applied to pupils of Ethiopian origin only, regardless of the date of their arrival in Israel, lacked any relevant criterions and was based entirely on the Ethiopian origin of the pupil. Therefore, this discrimination harmed their right to equality and dignity, and contradicted the provisions of Basic Law: Human Dignity and Liberty, section 5 of the Pupil's Rights Law, and section 3 of the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law, 5761-2000.

500. In its decision, the Court held that the refusal to register the petitioners' son in school because of his ethnic origin when the registration was open to other ethnic groups living in the school's area did equal discrimination in the provision of a public service. The respondents violated the provisions of the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law, and the petitioners were entitled to be remedied according to the Law. However, the Court held that in this case the petitioners' son had not suffered any personal damage, since his parents preferred not to share with him their pain and feelings concerning his discrimination. Therefore, no compensation was awarded.

Rights of people with disabilities

501. **The Commission for Equal Rights of People with Disabilities**. Since Israel's previous periodic report, the Commission for Equal Rights of People with Disabilities (hereinafter: "the Commission") was established, its powers were broadened and the number of its employees increased. The Commission, headed by a commissioner, includes three main units: Accessibility, Integration in Society and the Legal department. The Commission's work is aimed at promoting public policies regarding the rights of people with disabilities as well as providing assistance to individuals who encounter difficulties. Alongside the Commission operates a steering committee, composed mainly of people with different disabilities who represent the main organizations operating in the field.

502. **Legislation**. On February 23, 1998, the Equal Rights for People with Disabilities Law was enacted by the Knesset, establishing, for the first time, the statutory right to equality and human dignity of people with disabilities and creating a new system of obligations for the State of Israel vis-à-vis its disabled citizens. The Law was amended in 2004 so that the temporary provision of adequate representation of people with disabilities in the work force will apply for 12 years from the day that the Law entered in to force (7 years before the amendment).

503. In 2005 the Law was amended again, this time a new section was added - section E1 - Public Places and Public Services. This section incorporated many new and important elements into the main law, including: prohibition of discrimination in public services, in public places and products, accessibility of public places, accessibility to public services, restrictions on the statutory duty of accessibility and accessibility to education and higher education institutions and education services. This came in addition to the regulations regarding insurance contracts, road accessibility, accessibility to emergency services, accessibility to public transportation, state participation in financing adjustments, accessibility coordinators and authorized personal, authorities of the Commissioner, penalties, legal prosecution and other issues. The Law was amended again in 2007.

504. In 2005, the Investigation and Testimony Procedures Law (Suitability to Persons with Mental or Physical Disability) was issued. This is a precedential law which regulates methods adjusted to investigate people with mental or intellectual disabilities and also adjusted methods for their testimonies. The Law applies to all suspects, victims and witnesses, to specific offences enumerated in the Law (violence offences, sexual assaults and prostitution). The implementation of the Law on victims and witnesses will proceed gradually until the year 2010.

505. In December 2007, the Prohibition of Slander Law 5726 - 1965, was amended by the Israeli Knesset. According to the revised law, making a mockery of, or humiliating persons with disabilities because of said disability - whether it is a psychological, mental (including cognitive) or physical, permanent or temporary, shall be considered unlawful and prohibited slander.

506. In this context it should also be noted that as a signatory to the UN Convention on the Rights of Persons with Disabilities, Israel is currently reviewing its legislation in this field, in order to assess which adjustment need to be made in its domestic law as part of the process of considering ratification.

Employment of people with disabilities

507. According to the Commission for Equal Rights of Persons with Disabilities, most adults with disabilities are of employment age, yet make up roughly one fifth of the total work force in the state of Israel. The rate of employment among persons with disabilities is lower than that of the rest of the population, especially among those with severe disabilities, contributing to increased levels of poverty and social exclusion. Furthermore, the rate of unemployment among the disabled population is very high, especially for persons with severe disabilities.

508. Recent data shows a moderate improvement in the rate of employment among persons with disabilities, especially among those with severe disabilities (36% in 2002, compared to 42% in 2005).

Table 23

Employed persons, unemployed persons and persons not in the workforce by severity of disability, ages 20-64 (percentage) 2005

Persons not in the workforce	Unemployed persons	Employed persons	
25.0	5.7	69.3	Without disability
25.8	6.2	69.9	With a problem, but without disability
41.1	6.7	52.1	Moderate disability
58.1	8.4	33.4	Severe disability

Source: State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities. Persons with Disabilities in Israel, 2007.

Table 24

Unemployed persons out of the workforce, ages 20-64 (percentage) 2005

Unemployed persons	
20.0	Severe disability
11.4	Moderate disability
8.4	With a problem, but without disability
7.6	Without disability

Source: State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities. Persons with Disabilities in Israel, 2007.

509. **Employment of persons with disabilities by gender**. Examination of the relative employment status of men and women with disabilities shows no significant difference between them. However, when comparing persons with disabilities to persons without disabilities there are differences among the genders. The rate of employment of women between the ages of 20-64 stands at about 80% of the rate of men.

510. The National Insurance Institute (NII) is in charge of payment of pensions to certain populations, as defined by law and regulation. The general disability pension is designed to act as minimum income to provide for daily existence for persons with disabilities.

Table 25

Persons with disabilities in Israel by severity of disability, employment and type of pension, ages 20-64 (percentage)

Unemployed persons			Employed persons			Severity of the disability	Type of pension
Receiving pension	Not receiving pension	Total	Receiving pension	Not receiving pension	Total		
25.2	41.3	66.5	3.4	30.0	33.5	Severe	General disability pension
9.0	38.5	47.5	1.5	51.0	52.5	Moderate	
15.1	39.6	54.7	2.2	43.0	45.3	Total	
41.3	25.2	66.5	6.2	27.3	33.5	Severe	Other pension from the National Insurance Institute
23.3	24.2	47.5	4.9	47.6	52.5	Moderate	
30.1	24.6	54.7	5.4	39.9	45.3	Total	

Source: State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities. Persons with Disabilities in Israel, 2007.

511. The rate of unemployed persons with disabilities that do not receive any pension from the NII is substantial at 171,000 people. The majority of the people in this group do not live independently, instead they are residing with their family and not on their own, two-thirds are under the age of 50, and two-thirds are women. 40% of the people in this group are Arab and 60% are Jewish.

512. Assessments of income per capita show that the average income per capita in households where severely disabled persons live stands at 60% of that of households that do not contain disabled persons, and 70% of that of households in which moderately disabled persons live.

Table 26

Average income per capita (net) of households of persons with severe disabilities, as percent of income of persons with no chronic health problem or disability, 2002-2005

2005	2004	2003	2002	Disability
100	96	99	98	With a problem but not a disability
84	85	83	84	Moderate disability
57	59	62	65	Severe disability

Source: State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities. Persons with Disabilities in Israel, 2007.

513. In two precedents given in 2006, the Tel Aviv and the Haifa Labor District Courts ruled that people with intellectual and/or mental disabilities, who work for private employers, are not to be regarded as "volunteers" but as "workers" entitled to employer-employee relationship and the applicability of all relevant labor laws. In both decisions, the employers were obligated to retroactively compensate the disabled and provide their inherent rights as employees. (L.C (Tel-Aviv) 10973/04 *Goldstein v. Na'amat*: L.C (Haifa) 3327/01 *Roth v. Ram Buildings Ltd*).

514. On July 10, 2005, the Nazareth District Labor Court ruled that the phrase "adjustment" as intended by section 8 to Equal Rights for People with Disabilities Law, is not limited to the physical adjustment of structures, equipment or accessories but could also mean "economical adjustment", which the Court interpreted as adjusting the salary to the disability of the employee, according to the extent of his work. Thus, the employer is obligated to continue employing an employee who became disabled, while continuing to pay him the same salary, even if there is a decrease in the extent of this work due to the disability, unless the employer can prove that it imposes an unreasonable burden on his business (L.C (Nazareth) 1732/04 *De Castro Dekel v. M.B.A Hazore'a*).

515. In L.C 2968/01 *Balilti v. Jerusalem Post Publications Ltd*, the Jerusalem District Labor Court held that within the duty to ensure proper representation of people with disabilities according to section 9 of the Equal Rights for People with Disabilities Law, the employer should give priority to persons with disabilities when performing cutbacks (L.C 2968/01 *Balilti v. Jerusalem Post Publications Ltd*).

516. As discussed in Israel's previous periodic report, the Electricity Supply Law (Temporary Order) 5756-1996, was enacted to solve the problem of providing electricity to Arab and Druze citizens whose houses had been built without building permits, and were consequently not connected to the central electricity grid. This law was amended in 2001, extending the temporary supply for a period of 7 years. In 2004 the Law was amended again, so that the extension would cease as of May 31, 2007.

Land allocation

517. The Supreme Court ruling in H.C.J. 6698/95 *Ka'adan v. The Israel Lands Administration (ILA)* was discussed in Israel's previous periodic report. In response to that judgment, the ILA, in cooperation with the Jewish Agency for Israel, issued new admission criteria to be uniformly applied to all applicants seeking to move into small, communal settlements established on State-owned land. These criteria stipulate that the applicants must be over the age of 20, have applied as an individual or a couple (including families), maintain sufficient economic resources and maintain suitability for a small communal regime.

518. If the Committee rejects an application for admission, the reasons for rejection are to be based upon an objective, professional, and independent opinion. Any criterion for admission is to be assessed in advance by the Administration and publicized.

519. The decisions of the committee are subject to review by a Public Appeals Committee, which is to be chaired by a retired judge. Application forms, and rules of procedure of the Appeals Committee, are to be made available to the public.

520. Four years after the abovementioned ruling, ACRI submitted an additional petition on behalf of the Ka'adan family, claiming that state agencies had been preventing the family from purchasing land in contradiction to a previous Supreme Court ruling specifically prohibiting discrimination between Jews and Arabs in the distribution of land. As a result, the Director of the ILA informed the petitioners that the Ka'adan family could purchase a plot of land, and build their home in the Katzir communal settlement at the April 1995 market rate, being the date the family first requested to purchase land.

521. On April 26, 2006, the Supreme Court additionally made the ILA pay the petitioner's court expenses which amounted to 30,000 NIS (H.C.J 8060/03 *Ka'adan v. The Israel Lands Administration, the Jewish Agency, Katzir Cooperative Society and Katzir Community*).

Appropriate representation

522. **The Civil Service**. As mentioned in Israel's previous periodic report, minorities and underrepresented populations such as women, the disabled, and the Arab, Druze and Circassian population shall be represented according to their proportion in the eligible work force population under the Civil Service (Appointments) (Amendment No. 11) (Proper Representation) Law, 5760-2000. The civil service must maintain appropriate representation regarding appointments of minority groups, as well as in the distribution of professional ranks with regard to specific circumstances.

523. As of December 2007, 6.1% of employees in the civil service were Arabs, Druze and Circassians.

524. On August 1, 2005, section 15a of the Civil Service (Appointments) Law was amended and persons of Ethiopian origin were added to the list of groups entitled to appropriate representation in the eligible work force population. Following this amendment, the Government accepted Resolution 1665 concerning allocation of positions for persons of Ethiopian origin in the Civil Service and giving them priority in appointments and promotion.

525. On March 12, 2006, the Government decided, based on section 15a of the Civil Service (Appointments) Law, to designate 337 employment positions promoting the integration of the Arab population, including Druze and Circassian minorities, in the Civil Service between the years 2006-2008. In addition, the Government decided to establish an Inter-Ministry Team for Examination of other Ways for Advancing Appropriate Representation of Arabs in the Civil Service. On July 16, 2006, the Inter-Ministry Team submitted its recommendations.

526. On August 31, 2006, the Government adopted Resolution 414 adopting most of the Inter-Ministry Team's recommendations, including: determination of new objectives for advancing appropriate representation of Arabs in the Civil Service: Arabs shall constitute 8% of all Civil Service workers by the end of 2008, and 10% by the end of 2010. In addition, 20% of all new positions shall be allocated for Arabs until the end of 2008; consolidation of annual work plans on this issue shall take place in each ministry; more positions for the Arab population shall be designated; the duty to give priority to Arabs in appointments and promotion shall be extended by another 4 years; a supervisor on the advancement of Arab representation in each Government Ministry shall be appointed and an Inter-Ministry Team to follow-up on the implementation of the Resolution shall be established.

527. On November 11, 2007, the Government adopted Resolution 2579 amending the previous Resolution 414 concerning the proper representation of persons from the Arab sector within the Civil Service. According to the new Resolution, Arabs, including Druze and Circassians, are to consist of 12% of all Civil Service workers by the end of the year 2012. In addition, all Government Ministries must consolidate a five-year working plan for advancement of the object of the resolution, for example; until the end of 2012, 30% of all new positions shall be allocated for Arabs; there shall be a duty to prioritize to Arabs for appointments and promotions until the end of 2012; more positions in Government ministries shall be designated for Arabs subject to the implementation of the five-year work plans and an Inter-Ministry Team headed by the Director General of the Ministry of Justice shall be established to follow-up on the implementation of the provisions mentioned above by every Government ministry.

528. **Government corporations**. As mentioned in our previous periodic report, under an amendment to the Government Corporations (Amendment 11) Law 5735-1975 made on June 11, 2000, the Arab population (namely, Israeli citizens of Arab, Druze and Circassian origin), must be appropriately represented on the board of directors of every Government Corporation. According to data gathered in December 2007, 51 out of 528 directors, (9.66%), were of Arab origin, including Druze and Circassian. A new legislative process is currently

taking place aimed at strengthening appropriate representation of workers from different sectors among the different Government Corporations', i.e.: women, persons with disabilities, Arabs, Druze, Circassian and Ethiopian origin.

529. On June 27, 2007, the Jerusalem District Court determined that an Arab citizen could not be disqualified from being appointed to the board of directors of Keren Kayemeth Le'Israel (KKL) - the Jewish National Fund, which is a dual entity committed to the principal of equality (OP 5299/06 *Uri Bank v. Keren Kayemeth Le'Israel KKL*). The petitioners requested the Court to annul the election of new directors to KKL which had taken place on July 13, 2006, due to fundamental deficiencies in the process, and the election of Mr. Radi Sfori, an Israeli Arab elected as a representative of the Meretz Party.

530. The Court discussed whether the procedure of appointing new directors to KKL was in line with the Companies Law 5759-1999, and whether an Israeli Arab could be appointed as director of a corporation defined as being "trustee of the Jewish people in the land of Israel". The Court stated that the appointment procedure was not deficient, and refused to annul the elections. It held that former court decisions acknowledged the duty of every authority in Israel to treat equally all different individuals in the State. Although KKL is a private company - it shall apply the principle of equality since it is a dual entity. Therefore, an Arab director shall not be disqualified, nor will be a party with an Arab candidate.

Equal treatment of Arab cooperative societies

531. All Israeli NGOs are treated equally without preference to NGOs in specific sectors. In 2007, The Registrar of Cooperative Societies published on its internet web site a document in Arabic entitled the "The Proper Administration of Cooperative Societies" which is a translation of a document in Hebrew first issued in October 2002. In addition, the Registrar of Cooperative Societies employs a lawyer from the Arab sector who treats applications in Arabic, a contractor lawyer who is fluent in Arabic and is involved particularly in registration, and another two accountants from the Arab sector who examine NGOs' files. The Registrar and its representatives took part in a number of conferences organized by representatives of the Arab sector in which the participants attended lectures concerning the different requirements of the Registrar of Cooperative Societies.

Sexual orientation

532. On November 21, 2006, the Supreme Court handed down a landmark decision concerning the rights of same sex couples. It held that a wedding certificate from a foreign country in which same-sex marriages are recognized, could allow the couple to be registered as married by the Ministry of the Interior. Five gay couples who held wedding ceremonies abroad petitioned to the Supreme Court following the Ministry of the Interior's refusal to register them as married: (HCJ 3045/05 *Ben-Ari v. The Ministry of the Interior*, HCJ 3046/05 *Bar-Lev v. The Ministry of the Interior*, HCJ 10218/05 *Herland v. The Ministry of the Interior*, HCJ 10468/05 *Lord v. The Ministry of the Interior* and HCJ 10597/05 *Remez v. The Ministry of the Interior*).

533. The Supreme Court based its decision on a previous Supreme Court ruling (HCJ 143/62 *Fonk Shlezinger v. The Minister of the Interior*) in which a distinction was made between the duty to register marriages, and the question of recognition of their status. The Supreme Court determined that the Ministry of the Interior must not discriminate against same-sex couples who hold a wedding certificate from a foreign country that permits same-sex marriages. Nevertheless, the Supreme Court notes that by doing so, it does not grant a new status to same-sex marriages, and reiterated that it is the role of the Knesset to endow as much.

534. On April 19, 2007, The Haifa Labor District Court accepted a claim against the "Mivtachim" pension fund, and determined that a surviving partner of a lesbian relationship was eligible to the legal rights of an "insured widow", and not of an "insured widower" (D.L.C 1758/06 *Moyal-Lefler v. Mivtachim*). Following this decision, the plaintiff is to be paid a survivors' pension of 40% as opposed to only 20%.

535. The Court concluded that in this instance, the plaintiff was the deceased's spouse, and was publicly recognized as her cohabitator. Therefore, she was eligible to a survivors' pension, according to the rules of the pension fund. The Court stated that "the distinction between men and women in the rules of the respondent and the Social Security Law derives from a similar rationale - a reflection of the economic situation in which we live, where women's incomes are lower than men's, and their promotion in the labor market is more difficult. Therefore there is a justification for the preference of female widows as it narrows the existing gap between men and women".

536. The Court held that the plaintiff should be classified as a female widow, and not as a male widower. She was therefore eligible for the rights of an "insured widow", and the pension as stated in the rules of the pension fund.

537. In a significant decision dated January 2005, the Supreme Court accepted the appeal of two women, a same-sex couple, to adopt each other's children. The Court ruled that under the Children Adoption Law, 5741-1981, each case should be examined on its own merits and all the relevant circumstances need to be taken into consideration. The Court emphasized that the decision solely concerns this couple and is not a principled one, thus leaving the question of same-sex relationships for a later date. The Court recommended that the Knesset amend the law to provide a solution to a real problem, and attempt to bypass ideological controversial problems that the issue presents. (C.A. 10280/01 *Yaros-Hakak v. The Attorney General* (10.01.05)).

538. In a recent decision, dated January 23, 2005, the Attorney General established a new precedent in which the State is willing to grant legal status to same-sex adoptions of the birth-child or adopted child of the other spouse. Furthermore, it states that the State is willing to allow the adoption of a non-biological child by same-sex couples, while considering the best interest of the child. This position regards the legal aspects of same-sex adoptions, however the decision regarding a specific case shall remain in the hands of the relevant social service.

Equality in employment

Table 27

Population aged 15 and over by civilian labour force characteristics 2003-2006 (thousands)

2006	2005	2004	2003	Year		
5 053.1	4 963.4	4 876.0	4 791.7	Total		
2 243.4	2 223.3	2 197.5	2 181.7	Not in the civilian labor force		
2 809.7	2 740.1	2 678.5	2 610.0	Civilian labor force - Grand total		
2 573.6	2 493.6	2 400.8	2 330.2	Total	Employed persons	Civilian labor force
1 641.0	1 595.1	1 541.3	1 536.1	Worked full-time		
749.6	733.9	703.5	644.3	Worked part-time		
26.7	26.8	26.3	24.7	Percentage of part-time workers of civilian labor force		
182.9	164.6	156.1	149.8	Percentage taking temporary absence from work		
236.1	246.4	277.7	279.8	Total	Unemployed	
100.3	106.9	114.3	125.3	Percentage who worked in Israel during the last 12 months		
135.9	139.6	163.5	154.5	Percentage who did not work in Israel during the last 12 months		
8.4	9.0	10.4	10.7	Percentage of unemployed in civilian labor force		
55.6	55.2	54.9	54.5	Percentage of civilian labor force of the total population aged 15 and over		

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

Table 28

2006 population aged 15 and over by civilian labour force characteristics, and population group (thousands)

Arabs	Jews	Year - 2006		
841.2	4 104.0	Total		
507.8	1 701.8	Not in the civilian labor force		
333.4	2 402.2	Civilian labor force - Grand total		
295.1	2 209.8	Total	Employed persons	Civilian labor force
217.6	1 374.4	Worked full-time		
62.1	669.9	Worked part-time		
18.6	27.9	Percentage of part-time workers in civilian labor force		
15.5	165.5	Percentage taking a temporary absence from work		
38.3	192.4	Total	Unemployed	
7.4	89.5	Percentage who worked in Israel during the last 12 months		
30.9	102.9	Percentage who did not work in Israel during the last 12 months		
11.5	8.0	Percentage of unemployed of civilian labor force		
39.6	58.5	Percentage of civilian labor force of the total population aged 15 and over		

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007

Table 29

Employed persons and employees, by occupation, 2003-2006 (percentage distribution)

2006	2005	2004	2003	Occupation
2 235.2	2 166.5	2 084.5	2 008.5	Total (thousands)
14.0	13.9	13.7	13.6	Academic professions
16.0	15.4	15.4	15.9	Associate professionals & technicians
6.0	5.6	5.9	6.8	Managers
18.0	18.1	18.3	18.1	Clerical workers
18.8	19.4	18.7	17.9	Agents, sales & service workers
0.8	0.9	0.8	0.7	Skilled agricultural workers
17.5	17.4	18.2	18.2	Manufacturing, construction & other skilled workers
9.0	9.3	9.1	8.8	Unskilled workers

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

Table 30

Employed persons and employees, by occupation, gender and population group - Jews, 2006 (percentage distribution)

Jews						Occupation
Women		Men		Total		
Employees	Employed persons	Employees	Employed persons	Employees	Employed persons	
993.1	1 088.7	921.9	1 121.0	1 915.0	2 209.8	Total (thousands)
15.2	15.3	15.0	15.0	15.1	15.1	Academic professions
19.1	19.5	14.1	13.7	16.7	16.6	Associate professionals & technicians
4.2	4.1	9.7	9.5	6.8	6.8	Managers
28.6	26.8	10.0	8.5	19.7	17.5	Clerical workers
22.8	23.9	16.1	17.6	19.6	20.7	Agents, sales & service workers
0.1	0.3	1.2	2.2	0.7	1.2	Skilled agricultural workers
3.5	3.7	25.0	25.9	13.8	15.0	Manufacturing, construction & other skilled workers
6.7	6.4	9.0	7.6	7.8	7.0	Unskilled workers

Source: Central Bureau of Statistics, Statistical abstract of Israel, 2007.

Table 31

Employed persons and employees, by occupation, gender and population group - Arabs, 2006 (percentage distribution)

Arabs						Occupation
Women		Men		Total		
Employees	Employed persons	Employees	Employed persons	Employees	Employed persons	
61.1	65.9	193.2	229.3	254.4	295.1	Total (thousands)
11.8	11.6	6.3	7.1	7.7	8.1	Academic professions
35.4	33.6	5.5	5.3	12.7	11.6	Associate professionals & technicians
-	-	2.0	2.9	1.6	2.3	Managers
18.5	17.3	4.0	3.5	7.5	6.6	Clerical workers
18.9	22.5	11.5	14.6	13.3	16.3	Agents, sales & service workers
-	-	2.5	2.6	1.9	2.0	Skilled agricultural workers
4.1	4.3	51.8	50.0	40.3	39.8	Manufacturing, construction & other skilled workers
10.8	10.3	16.3	14.1	14.9	13.3	Unskilled workers

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

539. **Equality in social security**. Since the submission of our previous periodic report, the National Insurance Institute (NII) has implemented a number of positive changes in pursuit of greater equality of social security services for residents in need of them.

540. Over the years, amendments are also continually being made to correct distortions as they become evident in the system. A gradual erosion of traditional, historical perceptions distinguishing “housewives” from other women, has seen the former becoming increasingly eligible for old-age benefits, survivors’ benefits and disability insurance. In 2004, also in the area of disability insurance, the determining date for disabled housewives was equalized with that of a regular disabled person, and in the maternity branch, maternity allowances for fathers were equalized with that of mothers. Further 2005 amendments also saw kibbutz members included in the categories of persons eligible for survivors’ pensions when widowed.

541. In 2006, changes to legislation widened the definition of “new immigrant”, which has effectively further expanded on the list of persons eligible for benefits. Prior to these alterations persons were only eligible for some benefits if they had immigrated to Israel under the Law of Return. Now, other categories of persons, with visas for temporary or permanent residence, are also eligible to apply for benefits such as long term care insurance and disability insurance.

542. Amendments to the Integration of welfare Recipients to the Work Force (Temporary Provisions) Law, 5764-2004 have also relaxed the conditions entitling persons with special needs to income support benefits. The occupation center now has the discretion to pay benefits to

persons they believe cannot participate fully in the program, even though they do not fall within a specified category of persons entitled to the benefit. Furthermore, more leniency with regards to the amount of hours one must work a week to retain the benefit has been given to persons approaching the age of retirement and disabled persons. In some areas, however, eligibility requirements were made more stringent. Persons suffering a temporary disability, for example, must now have a disability degree of 9% or over (previously 5%), to qualify for the benefit - however such individuals may still qualify at the discretion of the occupation centre.

543. In illustration of other attempts to make NII services more equally available, the NII may now initiate claims on behalf of certain persons who are entitled to benefits. Eligible widows, for example, will automatically begin to receive survivor's pensions without the need for application to the centre. Similarly, persons bereaved as a result of hostile actions, and self-employed women entitled to a maternity allowance, will be sent the appropriate claims forms without requiring them to initiate a dialogue with the NII themselves.

544. In addition, the NII website has been made available in English, as well as in Hebrew, to make information on rates of benefits and rules of entitlement etc. more widely available.

The Bedouin population

545. **General**. There are more than 170,000 Bedouins living in the Negev desert area. Most of those live in urban and suburban centers which have been legally planned and constructed. All existing towns have approved plans and include infrastructure such as schools, clinics, running water, electricity, etc.

546. There are 6 existing suburban Bedouin towns in the Negev: Laqiya, Hura, Kseife, Arara in the Negev, Tel-Sheva and Segev Shalom, in addition to the city of Rahat. Although the seven existing towns can effectively provide a proper solution to the Bedouin population's needs, subject to their expansion, the Government decided that from 1999 another 9 new towns for Bedouins should be established. The Government did so in an attempt to please the Bedouin population and in consideration of their special needs, including their desire to settle according to a tribal format.

547. As such there are nine planned new towns. Of those Tarabin is now being populated and 100 new houses have been built, Abu Krinat and Bir Hadaj are under construction, and Kasar A-Sir, Marit (Makhol), Darjat, Um Batin, Mulada and El Seid are all undergoing planning procedures. A further three towns are undergoing statutory approval procedures: Ovdat, Abu Tlul, and El-Foraa. A regional council was founded for five of the new towns. It is called "Abu Basma", and was officially declared on February 3, 2004.

548. Moreover, in two different resolutions decided in 2003 (April and September), the Government created a comprehensive plan for the Bedouin sector, including investments of 1.1 billion NIS in the improvement of infrastructure, and founding public institutions over the next 6 years.

549. Following lessons learned from past planning committees, the planning authorities performed this task in constant consultation with Bedouin representatives who provided input as to their vision of every towns' desired character depending on such characteristics as whether the town is built for an agrarian population with a special needs for designated flock areas; whether the town is planned for a group who require that strict separation is maintained between the various tribes or whether the town is designed for a population that has a more urban character.

550. On July 15, 2007, the Government adopted the following resolution concerning the establishment of a new Authority in the Ministry of Construction and Housing dealing entirely with development in the Bedouin Sector, including the expansion of towns, and provision of housing solutions for all Bedouins. Its text is as follows:

"D. The Government decided to establish, in the Ministry of Construction and Housing, the Authority for the Regulation of the Bedouin Residence in the Negev, whose purpose, functions and organizational structure are as follows:

- The care of Bedouin residence in the Negev, including:
  - Ascertaining claims of ownership over the land
  - Arranging permanent residences, including infrastructure and public services, both in existing towns and new towns
  - Aid in incorporation in employment
  - Coordination of education, welfare and community services
- The functions of the authority and its main powers:
  1. Accumulating information concerning the existing situation of the population, whether scattered or located in existing towns, including claims of ownership;
  2. Initiation and execution of land arrangements;
  3. Initiation of statutory planning, in coordination with the Planning Administration in the Ministry of the Interior, of suitable residence solutions, including solutions that address the characteristics of the group, social reciprocation, possible locations, etc.;
  4. Promoting the planning and development of local and regional infrastructures for permanent solutions;
  5. Accompanying the population through all the stages of residence;
  6. Giving recommendations on the issue of enforcement priorities;

7. Coordination and synchronization between the various authorities, while accompanying, tracking and supervising the execution of decisions made by authorities.

8. The aforementioned functions of the Authority will not detract from the powers of the various Government Ministries, or the powers of the local authorities according to the law.

- The proposed organizational structure of the Authority is designed to enable the efficient execution of all its goals and functions, as follows:

1. The Authority will act within the framework of the Ministry of Construction and Housing.

2. Alongside the Authority, an Inter-Ministerial steering committee will be established; whose function will be to discuss the obstructions in the way of arranging the residence and implementing the goals of the Authority. At the head of the steering committee will be the General Director of the Ministry of Construction and Housing.

3. A council will be appointed to the Authority, whose functions will be to lay out the Authority's line of action and advise the General Manager of the Authority in all that regards the execution of the Authority's policy. The council will be composed of 21 members, among them: 14 relevant Government representatives, (Construction and Housing - chairman, Finance, Justice, Education, the Interior, Industry, Trade and Labor, Health, Social Affairs and Social Services, Tourism, the Negev, the Galilee, Public Security, Agriculture and Rural Development, Environmental Protection and Transportation and Road Safety), and 7 public representatives who will be appointed by the Minister of Construction and Housing. Of the 7 public representatives, 4 will be from the Negev Bedouin and will have no ownership claims to the land.

4. The operational responsibility of the Authority will be in the hands of the Authority's General Manager. Underneath him will operate various sections, whose areas of occupation will be, inter alia, land transactions; programs and residence; planning, development and construction; community; legal counseling; finances and logistics and research, propaganda and documentation. The land transaction section will be subject, statutorily, to the authority of the Israel Land Administration.

5. A concessions and proceeds committee will act, alongside the General Manager of the Authority. The Committee will be headed by a retired judge, and its function will be to make recommendations concerning agreements brought before it, on the basis of the standards set out in the law. The recommendations of the committee will be submitted for approval by the Authority's general manager."

551. The Government has further decided:

(1) To request the General Director of the Ministry of Construction and Housing to make recommendations to the Government, within 30 days, and in coordination with the General Director of the Prime Minister's Office and the Supervisor of Budgets in the Ministry of Finance and the Civil Service Commissioner, on the kind of budgetary resources and personnel that are required to finance and otherwise execute this decision.

(2) To entrust the Minister of Construction and Housing with the appointment of a public committee headed by a retired Supreme Court Justice, and of whose members at least half will be representatives of the relevant Government Ministries, including representatives of the Ministries of Construction and Housing, Finance, the Prime Minister, Agriculture and Rural Development, the Negev and the Galilee, the Interior, Justice, the Transportation and Road Safety, and the Israel Land Administration. In addition to this the Minister will appoint public representatives, among them representatives of the Bedouin sector that have no ownership claims to land. The committee will submit its recommendations to the Minister in order to draft a bill concerning the regulation of the Bedouin sector in the Negev, including the sum of the reparations required, arrangements for allocating alternative land, civil enforcement and a schedule of the execution of arrangements. The committee will submit its recommendations within three months. The committee will act under the framework of a budget and land inventory which it will determine in coordination with the General Director of the Prime Minister's Office, the General Director of the Ministry of Construction and Housing and the Supervisor of Budgets in the Ministry of Finance, within 30 days.

552. Within the framework of Government policy regarding Bedouin residence and land in the Negev, and as an important step integrating other Government plans for the development of the Negev and the Galilee, the Government has promoted various resolutions enhancing the treatment of the Bedouin population in the Negev. Nonetheless, owing to the complexity of designing solutions for various issues, and the prolongation of the treatment in the availability of the land in the area of permanent towns, which are designed to receive the diaspora populations, there is a need to coordinate the totality of the plans within the organized framework of an authority, which will deal with the issues in a coordinated and expansive manner.

553. In spite of the establishment of a number of permanent towns for the Bedouins, about 70,000 Bedouins still choose to live in illegal clusters of buildings throughout the Negev, ignoring the planning procedure of the planning authorities in Israel. This illegal building is carried out without any preparation of plans as required by the Planning and Building Law, 5725-1965, and with no pre-approval by the planning authorities. In addition, it causes many difficulties in terms of providing services to the residents of these illegal villages.

554. Note that a solution to the housing problem of the greater part of the Bedouins living in the illegal villages will be solved subsequent to the completion of these new towns.

555. The Government is encouraging movement to permanent towns by providing unique financial benefits to all the residents of the Bedouin diaspora who seek to move to permanent towns, regardless of their economic condition or any entitlement test. These benefits include, inter alia, provision of land plots for free or for very low cost, and compensation for demolition of illegal structures.

556. The Advisory Committee on the Policy regarding Bedouin settlements has been established, in its present form, on October 24th, 2007 by force of Israeli Government Resolution No. 2491.

557. The Committee's task, as set forth by the Government in its aforementioned Resolution, is to present recommendations regarding a comprehensive, feasible and broad-spectrum plan which will establish the norms for regulating Bedouin settlement in the Negev, including rules for compensation, mechanisms for allotment of land, civil enforcement, a timetable for the plan's execution, and proposed legislation's amendments, where needed.

558. The Committee comprises seven members and one Chairperson, former Supreme Court Justice Mr. E. Goldberg. Note that two of the Committee members are representatives of the Bedouin sector.

559. The Committee began its sessions on January 2008, after having received over a hundred letters from the public, together with numerous other written material and documentation. The Committee's hearings are public and take place in Beer Sheva.

560. From the commencement of its activity, the Committee has held tens of sessions and has heard many depositions from various sources, including Bedouin representatives, various stakeholders, experts in the relevant fields (inter alia town planners, geographers, anthropologists, historians, sociologists and lawyers), and the general public. The Committee has also heard representatives of public bodies and institutions, including Municipal Authorities, public figures, Knesset members, and NGOs.

561. The Committee has, to date, held four field study trips in the Negev region in order to further deepen its knowledge on the subjects within its mandate.

562. The Committee is expected to give in its final recommendations to the Government within the next few months.

563. **Infrastructure**. All Bedouin towns have connections to running water. Five of the nine future Bedouin towns were connected to the water grid through the national water company (MEKOROT). The establishment of a sewage system is performed under the authority of the local government and the minority localities, who receive loans for this purpose.

564. Communities living in illegal villages can connect themselves to the water supply through the Water Connections Allocation Committee, which has been operating under the Administration for the Promotion of Bedouins since 1997.

565. **Medical care and infrastructure**. Clinics in illegal Bedouin villages located throughout the Negev are all computerized, air conditioned, and are all equipped according to the standards upheld by all the Health Funds in the country. Mother and Child stations are equipped in the same manner as any other Mother and Child station in the country.

566. The General Health Services Department operates a special health service for the Bedouin population which includes an ambulance service for Bedouin that is run by a Bedouin employee. The purpose of the ambulance is to ensure constant access between the hospital and community.

This enables a hospice with a talented professional staff to evaluate the living conditions of patients due prior to their release from hospitalization. Additionally, the ambulance transports patients' to the hospital and back when they are in need of emergency care. The cost of a visit to the clinic is identical throughout the country. That is, a visit will generally be cost free.

567. In addition to the existing station, the eighteen Mother and Child Health Clinics located in Bedouin towns, and a mobile family care unit, six new Mother and Child Health Clinics (Tipat Halav), have recently been constructed in the illegal villages. These Mother and Child Clinics are equipped like every other Mother and Child Clinic in the country.

568. Furthermore, in addition to the thirty-two Health Fund medical clinics already existing in the Bedouin towns, 9 Health Fund medical clinics (Kupat Holim), have been built to provide for the medical needs of Bedouin living in illegal villages. These clinics are all computerized, and air conditioned, and they are all equipped according to the standards that exist in all other Health Funds in the country.

569. There have been other major improvements in the past decade. Improved immunization coverage of Bedouin infants in the Negev, for example, resulted in a significant decrease in vaccine-preventable infectious diseases, recent 2006 figures indicate that 90%-95% of the Bedouin children have completed all necessary vaccinations by age three - a sizeable improvement compared to a rate of 27% in 1981. Two mobile immunization teams managed by the Ministry of Health also provide home immunizations to infants in Bedouin families living outside of permanent towns, whose families do not bring them to one of the Mother and Child Health Clinics for treatment. A computerized tracking system allows the Ministry of Health to identify infants who are behind on their immunization schedule and to send one of the mobile immunization teams to immunize them.

570. There has also been an important improvement in the growth of Bedouin infants and toddlers over the past two decades, indicating improved nutrition. Moreover, there has been increased compliance with recommendations for supplemental folic acid among Bedouin women in their fertile years, and a decrease in the incidence of open neural tube defects (NTD's) among Bedouin fetuses and infants. Unfortunately there are still high rates of congenital malformations and inherited diseases among Bedouin infants, due to multiple factors including the tradition of first-cousin marriages, as well as cultural-religious-social barriers to pre-marital and pre-natal screening for inherited diseases.

571. The infant mortality rate of Bedouin infants in 2005 was 15:1000, representing a decline from the rate in 2004. It should be noted that the infant mortality rate among Bedouin infants living in illegal villages was actually lower than that among Bedouin infants living in established towns. The Government is continuing to open Maternal and Child Health clinics in illegal villages and new MCH centers are being built to serve the population.

572. Furthermore, the Government has been funding several special projects to improve the health and expand the health-care services provided to Bedouin living in illegal villages. One of these programs is a special long-term intervention program to decrease infant mortality among the Bedouin. The program is community-based and boasts a wide-consortium of participants, including representatives from the Bedouin community leadership and the educational system,

along with providers of curative and preventative health care services, the Department of Health in the Community and the Department of Epidemiology of the Faculty of Health Sciences of Ben-Gurion University of the Negev.

573. Free genetic testing is also funded by the Government, along with genetic counseling, for any member of a tribe in which the prevalence of a serious inherited disease for which an available genetic test is above 1:1000.

574. The Government also participates in an intervention program to decrease the rate of home accidents among Bedouin children, and has funded the building of additional MCH clinics for Bedouin currently living in illegal villages (additional clinics are being built by the main HMO serving the Bedouin - Kupat Holim Clalit).

575. There has been a decline in the incidence of infectious disease among Bedouin infants over the past decades. There is, however, generally a higher rate of infectious disease among Bedouin infants than among Jewish infants of the same age. Bedouin infants and children have lower rates of pertussis, tuberculosis and HIV infection. Furthermore, due to high immunization coverage among Bedouin infants, indicating good access and utilization of preventive health care services, there have been no cases of measles since 1994 and no cases of polimyelitis, diphtheria, congenital rubella, neonatal tetanus or tetanus in Bedouin children of the Negev since 1990. During the period of 2000-2003, no cases of mumps were reported. Additionally only one or two cases of Homophiles influenza invasive disease in 2000-2002, and none in 2003.

576. Specialty physician services are being provided to the Bedouin community in the Negev, including: Pediatrics, General Internal Medicine, Neurology, Family Medicine, Dermatology, Gynecology and Obstetrics, Ear, Nose and Throat, Ophthalmology, Orthopedics, Gastroenterology, Cardiology, Surgery and Trauma, Pediatric Surgery and Pediatric Pulmonary Medicine. In addition, every resident has equal access to all the specialty clinics at the Soroka University Medical Center, with no discrimination between Bedouin or Jewish patients.

577. The Government, as well as the main HMO serving the Bedouin population, undertakes major efforts to train and recruit Bedouin physicians and nurses. The Government provided all the funding required for three classes of Bedouin students to complete their training as registered nurses, including funding their transportation to the nursing school, a meal allowance during their studies, and special remedial lessons to assist those who needed it. The Government has similarly provided special funding to hire Arab physicians and nurses.

578. A course for qualified Bedouin nurses opened in 1994. Since then, 34 students have graduated from the nursing course, whilst 32 are currently undertaking studies. It should be noted that students participating in the third course are committed to serving their first three years of practice after graduation wherever the Ministry of Health decides their services are needed. This will guarantee that the trained nurses serve the target population, the Bedouins. In addition, the first female Bedouin physician in Israel, Rania al-Oqbi, has recently completed her degree. She was part of the special “Cultivating Medicine in the Desert” program aimed at incorporating more Bedouin into the health sector. Currently, six Bedouin women are studying medicine; 35 Bedouin women have completed degrees in various health professions; and 45 additional women are studying health sciences.

579. **Education**. In recent years increased participation of Arab and Bedouin women in the work force has created a need for daycare centers and nurseries. The Government has moved to meet those needs. As a matter of Policy, the Ministry of Construction and Housing works on the construction of daycare centers throughout the country on the basis of one daycare for every 1,600 house units. Two centers have been recently built by the Government in the Bedouin town of Rahat.

580. **Public transportation**. On July 19, 2007, the Ministry of Transport and Road Safety published a tender (14/2007) for the operation of 10 lines of public bus transportation to serve more than 60,000 residents in the region of the Bedouin town Rahat. The tender was published in the framework of the Ministry's plan to expand public transportation services in non-Jewish towns to equalize them with those in Jewish towns. Bedouin towns currently lack an organized system of public transportation.

581. According to the tender, 4 city lines will operate in Rahat, and another 4 inter-city lines will connect Rahat with the City of Beer-Sheva and the new train station recently opened in Lehavim. Another 2 lines will connect the towns of Hura and Laqiya with the Bedouin market in Rahat. The plans for the new lines were carried out following surveys conducted which determined the needs of local residents. Local residents also participated in special workshops on the issue.

582. The winning company will be obliged to sell reduced tickets to youths, the elderly and other eligible persons such as students, in a similar arrangement to that made in the Jewish sector. The company will also be obliged to issue a monthly ticket allowing unlimited travel on all bus lines in the Beer-Sheva Metropolis. In addition, the winning company will be obliged to use new buses, and keep high standards of service. The new bus lines are expected to begin operating in 2008.

583. **Social services**. In May 2004, the Center for the Welfare of the Bedouin Family was established in Beer Sheva by the Ministry of Social Affairs and Social Services. The Center has two main goals:

583.1. To provide assistance to the Bedouin community in matters related to conflict and tension resolution in the family, as well as to provide therapeutic interventions.

583.2. **A center for the prevention of, and education on, domestic violence**. The center is financed and supervised by the Ministry of Social Affairs and Social Services and is operated by the Bedouin association of "Elwaha" which is manned by specialized social workers. The center provides many services unique to the needs of the population. For example assistance is given in locating Bedouin families willing to take in female Bedouin victims of violence, allowing those women to remain within the Bedouin community whilst protecting them from further violence. These women stay in the foster family is financed by the Ministry of Social Affairs and Social Services. Following its establishment, the center has become an integral part of the community, and an essential tool at the disposal of the courts which may refer battering men to be treated in the center.

584. Social Services operate in the Bedouin towns, as well as in illegal Bedouin villages. There are around 30 monthly appeals to social services from Bedouin women. Each receives individual care. There are also several Bedouin couples undergoing couple therapy. Note that the operation of the abovementioned center has improved the treatment of domestic violence in the Bedouin sector, enabling matter-of-fact, focused and efficient care to be provided, free from community and family pressures.

585. The Service for Girls and Young Women handles about 250 Bedouin young women annually, providing both individual and group treatment.

585.1. Rahat - Approximately 40 young Bedouin women treated individually. The service runs an "Open House", attended by approximately 80 young Bedouin women, five days a week. The Service offers courses on home-economics, handicrafts, nutrition etc. Female students from the Bedouin "Al-jik" association run an intergenerational workshop on mother-daughter relations, as well as conducting tours and summer activities.

585.2. Segev Shalom - Approximately 75 young women treated individually. The service runs a young women's group, (currently consisting of 12 members), who discuss issues such as adolescence, empowerment, polygamy, women's rights, changes in the Bedouin society, and the resultant ramifications on women's status.

585.3. Kseife, Tel Sheva and Lakia - Approximately 50 young women treated individually.

586. **Employment**. In order to complement the revised Encouragement of Capital Investments Law) 5719-1959 the Government decided to establish an additional program to increase employment in the remote areas of Israel and other areas of high unemployment. Eligibility requires that the participating companies employ a minimum number of workers at a minimum wage. Among the areas affected are the "Furthest Periphery", and designated towns of minority populations, (such as Arab, Druze, Circassians), as well as the Ultra-Orthodox Jewish population.

587. The Ministry of Industry, Trade and Labour is aware of the inherent difficulties faced by entrepreneurs from the Bedouin sector, such as limited financial capability, and is therefore taking affirmative action to bridge the gaps. In addition to the current centers, the Authority for Small Business is currently working to establish a designated Center for Nurturing Entrepreneurship in the Arab and Bedouin sectors, which will be better equipped to serve this sector's needs.

588. Furthermore, the Encouragement of Capital Investments Order (Development Areas) 2002, was amended in order to strengthen the Bedouins position by including several Bedouin towns in the updated list of industrial areas.

589. There are currently seventeen planned industrial areas in the Southern district, three (17%), of which are in the Bedouin towns - Rahat, Segev Shalom and Hura. Additionally, two new industrial areas currently in advanced stages of planning also service the Bedouin population -

Shoket (for Hura, Lakia, Meitar and Bney Shimon), and Lehavim, (for Rahat, Lehavim and Bney Shimon). Development of all these areas is uniform and subject to the same general criteria.

The Druze and Circassian sectors

590. On August 30, 2006, the Government of Israel adopted Resolution Number 412 for the development of the Druze and Circassian sectors in the amount of 447 million NIS for the years 2006-2009. Preparation of the plan took several months and involved participation from the relevant Government Ministries and the heads of the Druze and Circassian municipalities. This plan continues on from the two previous multi-year plans adopted by the Government, as detailed in the following table.

Table 32

Government plans for development of the Druze and Circassian sectors

% implemented	Essence	Amount (NIS millions)	Date	Resolution No.
95%	Five years development plan of infrastructures in the Druze-Circassian sector in the years 1995-1999	1 070	16.7.1995	5 880
95%	Completions to the Five-Year Plan	50	1.6.1998	3 836
88%	Multi-year plan for development of the Druze Sector in the years 2000-2003	560 (after cutback)	2.10.2000	2 425
		1 680		Total

Source: The Prime Minister's Office, the Department of Policy Implementation, 2007.

591. The new development plan for the years 2006-2009 focuses on three main issues: Investment in human resources including a special focus on the empowerment of women (188 millions NIS), economic development (190 million NIS), and employment - including tourism development as a source of income (70 million NIS). The budget sources of the plan come from the relevant Government Ministries (237 million NIS) and a special budget of the Prime-Minister's Office directed to the non-Jewish sector (210.6 million NIS).

592. It should be pointed out that Government Resolution 412 is supplement to the development budgets that the Ministry of the Interior allocates to the local municipalities, nor the subsidies given to retired soldiers in order to purchase land plots. In addition, The Druze Sector enjoys segments of the budget set aside for the rehabilitation of northern Israel, adopted after the second Lebanon war.

593. The plan for development of the Druze-Circassian sector is intended to engage with specific topics considered capable of bringing a real and positive change to the quality of life of Druze and Circassian citizens. The desired change is eventually supposed to beneficially influence the atmosphere in the villages, and ease the burden imposed on municipalities. For example: promoting and developing tourism will create new jobs, and will increase the municipalities' income from taxes imposed on trade areas and businesses. In addition, the massive investment in education will result, according to the shared vision of the Prime Minister's Office and the heads of the municipalities, in a growing number of educated persons who will attend universities and acquire academic education, and will eventually become "the engine that will carry the others".

Article 27. Rights of minorities to culture, religion and language

594. **Minority populations**. As of 2007 the total population of Israel is numbered approximately 7,150,000, of which over 5.4 million are Jews (76% of the total population), and 1.4 million are Arabs (mostly Muslims, with some Christians and Druze, who comprise about 20% of the total population). There are 310,000 non-Jewish immigrants who comprise 4% of the total population. The following table shows the growth of the major population groups, (Jewish, Muslim, Christian and Druze) between the years 2003-2006.

Table 33

Population according to religion (thousands), by year's end

Grand total	Jews	Arab and others					
		Total	Unclassified	Muslims	Christians	Druze	
6 772.4	5 165.4	1 607.0	281.3	1 072.5	142.4	110.8	2003
6 894.0	5 237.6	1 656.4	291.7	1 107.4	144.3	113.0	2004
7 015.9	5 313.8	1 702.1	299.9	1 140.6	146.4	115.2	2005
7 142.4	5 393.4	1 749.6	309.9	1 173.1	149.1	117.5	2006

Source: Central Bureau of Statistics, 2007.

Table 34

The average population, by religion (thousands)

Grand total	Jews	Arab and others					
		Total	Unclassified	Moslems	Christians	Druze	
6 713.4	5 129.8	1 583.6	277.2	1 055.4	141.4	109.6	2003
6 833.3	5 201.5	1 631.8	286.5	1 090.0	143.4	111.9	2004
6 954.9	5 275.7	1 679.2	295.8	1 124.0	145.4	114.1	2005
7 079.0	5 353.6	1 726	304.9	1 156.9	147.8	116.4	2006

Source: Central Bureau of Statistics, 2007.

Status of the Arabic language

595. In HCJ 4112/99, Adalah - *The Legal Center for Rights of the Arab Minority v. The City of Tel-Aviv, Jaffa* (25.7.02), retired chief Justice Barak stated that: “Indeed language plays a major role in human existence for both the individual, and for society. Using language we express ourselves, our individuality and our social identity. Take away a person’s language and you have taken away his essence. […] it is therefore my conclusion for the matter at hand, that the proper balance between the two competing purposes leads to the conclusion that on intercity road signs in the respondent cities, there should also be added, alongside the Hebrew writing, directions in Arabic.”

596. In 2006, a tender for the establishment of an academy of the Arabic language was issued to the Knesset. In the first meeting held by the Knesset Education, Culture and Sports Committee on the matter, Dr. Mohammed Ganaim from the Tel-avid University acknowledged that in order to give proper expression to the Arabic language as a formal language of the State of Israel, an academy of the Arabic language was necessary. He added that academic institutions in Israel would benefit from the establishment of this academy, and that the new institution would improve Arabic education and the teaching of the Arabic language in Israel.

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Consideration of reports submitted by States parties under article 40 of the Covenant

Concluding observations of the Human Rights Committee

Israel

1. The Human Rights Committee considered the third periodic report of Israel (CCPR/C/ISR/3) at its 2717th, 2718th and 2719th meetings, held on 13 and 14 July 2010 (CCPR/C/SR.2717, 2718 and 2719). At its 2740th meeting, held on 29 July 2010 (CCPR/C/SR.2740), it adopted the following concluding observations.

A. Introduction

2. The Committee notes the submission of the State party's third periodic report, which provides detailed information on measures adopted by the State party to further the implementation of the Covenant. While also noting the written replies to the list of issues (CCPR/C/ISR/Q/3/Add.1), it regrets their late submission. It also regrets the absence of disaggregated data and of any substantive answer to questions 3, 11, 12, 16, 18, 19, 20, 24 and 28. The Committee appreciates the dialogue with the delegation, the answers provided orally during the consideration of the report and the additional written submissions.

3. The Committee notes and recognizes Israel's security concerns in the context of the present conflict. At the same time, it stresses the need to observe and guarantee human rights, in accordance with the provisions of the Covenant.

B. Positive aspects

4. The Committee welcomes the following legislative and other measures, as well as ratifications of international human rights treaties:

(a) Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability) 5765-2005 (the "Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability)");

Please recycle

(b) Anti Trafficking Law (Legislative Amendments) 5766-2006, (the "Anti Trafficking Law");

(c) Gender Implications of Legislation Law (Legislative Amendments) 5768-2007, which imposes the duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset;

(d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2008);

(e) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2005).

C. Principal subjects of concern and recommendations

5. The Committee reiterates its view, previously noted in paragraph 11 of its concluding observations on the State party's second periodic report (CCPR/CO/78/ISR) and paragraph 10 of its concluding observations on the State party's initial report (CCPR/C/79/Add.93), that the applicability of the regime of international humanitarian law during an armed conflict, as well as in a situation of occupation, does not preclude the application of the Covenant, except by operation of article 4, whereby certain provisions may be derogated from in time of public emergency. The Committee's position has been endorsed, unanimously, by the International Court of Justice in its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion, I.C.J. Reports 2004, p. 136), according to which the Covenant is applicable in respect of acts done by a State in exercise of its jurisdiction outside its own territory. Furthermore, the applicability of the regime of international humanitarian law does not preclude accountability of States parties under article 2, paragraph 1, of the Covenant for the actions of their authorities or agents outside their own territories, including in occupied territories. The Committee therefore reiterates and underscores that, contrary to the State party's position, in the current circumstances, the provisions of the Covenant apply to the benefit of the population of the occupied territories, including in the Gaza Strip, with regard to all conduct by the State party's authorities or agents in those territories affecting the enjoyment of rights enshrined in the Covenant (arts. 2 and 40).

The State party should ensure the full application of the Covenant in Israel as well as in the occupied territories, including the West Bank, East Jerusalem, the Gaza Strip and the occupied Syrian Golan Heights. In accordance with the Committee's general comment No. 31, the State party should ensure that all persons under its jurisdiction and effective control are afforded the full enjoyment of the rights enshrined in the Covenant.

6. While noting that the principle of non-discrimination is incorporated in several pieces of domestic legislation and that it has been upheld by the State party's Supreme Court, the Committee is concerned that the State party's Basic Law: Human Dignity and Liberty (1992), which serves as Israel's bill of rights, does not contain a general provision on equality and non-discrimination. It is further concerned at long delays in deciding cases where the principle of non-discrimination is invoked, and their implementation (arts. 2, 14 and 26).

The State party should amend its Basic Laws and other legislation to include the principle of non-discrimination and ensure that allegations of discrimination brought before its domestic courts are promptly addressed and implemented.

7. With reference to paragraph 12 of its previous concluding observations (CCPR/CO/78/ISR) and to paragraph 11 of its concluding observations on the State party's

initial report (CCPR/C/79/Add.93), the Committee reiterates its concern at the State party's prolonged process of review regarding the need to maintain the state of emergency it declared in 1948. While noting the State party's declaration under article 4 with regard to derogations from article 9, the Committee nonetheless expresses concern at the frequent and extensive use of administrative detention, including for children, under Military Order No. 1591, as well as the Emergency Powers (Detention) Law. Administrative detention infringes detainees' rights to a fair trial, including their right to be informed promptly and in detail, in a language which they understand, of the nature and cause of the charge against them, to have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing, to be tried in their presence, and to defend themselves in person or through legal assistance of their own choosing (arts. 4, 14 and 24).

Referring to its general comment No. 29, the Committee reiterates that measures derogating from the provisions of the Covenant must be of an exceptional and temporary nature and be limited to the extent strictly required. Therefore, the State party should:

(a) Complete as soon as possible its review of legislation governing the state of emergency. Pending the completion of its review, the State party should carefully re-examine the modalities governing the renewal of the state of emergency;

(b) Refrain from using administrative detention, in particular for children, and ensure that detainees' rights to fair trial are upheld at all times; and

(c) Grant administrative detainees prompt access to counsel of their own choosing, inform them immediately, in a language which they understand, of the charges against them, provide them with information to prepare their defence, bring them promptly before a judge and try them in their own or their counsel's presence.

8. The Committee notes with concern the State party's military blockade of the Gaza Strip, in force since June 2007. While recognizing the State party's recent easing of the blockade with regard to the entry of civilian goods by land, the Committee is nevertheless concerned at the effects of the blockade on the civilian population in the Gaza Strip, including restrictions to their freedom of movement, some of which have led to deaths of patients in need of urgent medical care, and restrictions on the access to sufficient drinking water and adequate sanitation. The Committee also notes with concern the use of force when boarding vessels carrying humanitarian aid for the Gaza Strip, which resulted in the death of nine individuals and the wounding of several others. While noting the preliminary findings of the State party's investigation into the incident, the Committee is concerned at the lack of independence of the commission of inquiry and the fact that it is prohibited from questioning the officials of the State party's armed forces involved in the incident (arts. 1, 6 and 12).

The State party should lift its military blockade of the Gaza Strip, insofar as it adversely affects the civilian population. The State party should invite an independent, international fact-finding mission to establish the circumstances of the boarding of the flotilla, including its compatibility with the Covenant.

9. Referring to the conclusions and recommendations of the United Nations Fact Finding Mission on the Gaza Conflict dated 25 September 2009, the Committee notes that the State party's armed forces have opened few investigations into incidents involving alleged violations of international humanitarian law and human rights law during its military offensive in the Gaza Strip (27 December 2008-18 January 2009, "Operation Cast Lead"), which have led to one conviction and two indictments. It notes with concern,

however, that the majority of the investigations were carried out on the basis of confidential operational debriefings. While noting that the findings led to the preparation of new guidelines and orders concerning the protection of the civilian population and property and the assignment of humanitarian affairs officers to each military unit, the Committee nevertheless regrets that the State party has not yet conducted independent and credible investigations into serious violations of international human rights law, such as the direct targeting of civilians and civilian infrastructure, such as waste water plants and sewage facilities, the use of civilians as "human shields", refusal to evacuate the wounded, firing live bullets during demonstrations against the military operation and detention in degrading conditions (arts. 6 and 7).

The State party should launch, in addition to the investigations already conducted, credible, independent investigations into the serious violations of international human rights law, such as violations of the right to life, prohibition of torture, the right to humane treatment of all persons in custody and the right to freedom of expression. All decision makers, be they military or civilian officials, should be investigated and where relevant prosecuted and sanctioned.

10. The Committee notes the State party's affirmation that utmost consideration is given to the principles of necessity and proportionality during its conduct of military operations and in response to terrorist threats and attacks. Nevertheless, the Committee reiterates its concern, previously expressed in paragraph 15 of its concluding observations (CCPR/CO/78/ISR), that, since 2003, the State party's armed forces have targeted and extrajudicially executed 184 individuals in the Gaza Strip, resulting in the collateral unintended death of 155 additional individuals, this despite the State party's Supreme Court decision of 2006, according to which a stringent proportionality test must be applied and other safeguards respected when targeting individuals for their participation in terrorist activity (art. 6).

The State party should end its practice of extrajudicial executions of individuals suspected of involvement in terrorist activities. The State party should ensure that all its agents uphold the principle of proportionality in their responses to terrorist threats and activities. It should also ensure that the utmost care is taken to protect every civilian's right to life, including civilians in the Gaza Strip. The State party should exhaust all measures for the arrest and detention of a person suspected of involvement in terrorist activities before resorting to the use of deadly force. The State party should also establish an independent body to promptly and thoroughly investigate complaints about disproportionate use of force.

11. The Committee notes with concern that the crime of torture, as defined in article 1 of the Convention against Torture and in conformity with article 7 of the Covenant, still has not been incorporated into the State party's legislation. The Committee notes the Supreme Court decision on the exclusion of unlawfully obtained evidence, but is nevertheless concerned at consistent allegations of the use of torture and cruel, inhuman or degrading treatment, in particular against Palestinian detainees suspected of security-related offences. It is also concerned at allegations of complicity or acquiescence of medical personnel with the interrogators. The Committee also expresses its concern at information that all complaints of torture are either denied factually, or justified under the "defence of necessity" as "ticking time bomb" cases. The Committee observes that the prohibition of torture, cruel, inhuman or degrading treatment in article 7 is absolute and according to article 4, paragraph 2 no derogations therefrom are permitted, even in time of public emergency (arts. 4 and 7).

The State party should incorporate into its legislation the crime of torture, as defined in article 1 of the Convention against Torture and in conformity with article 7 of the Covenant. It also reiterates its previous recommendation (CCPR/CO/78/ISR,

para. 18), that the State party should completely remove the notion of "necessity" as a possible justification for the crime of torture. The State party should also examine all allegations of torture, cruel, inhuman or degrading treatment pursuant to the Manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment (Istanbul Protocol).

12. While noting that the conduct of law-enforcement officials is subject to review and oversight, the Committee expresses concern about the independence of these oversight mechanisms and about the fact that despite numerous allegations of torture, cruel, inhuman or degrading treatment and excessive use of force, only a few cases result in criminal investigations and sentences. Regarding the independence of the Ministry of Justice Police Investigation Unit ("Mahash"), the Committee notes that investigators employed by the police but working on a temporary basis in the unit are being replaced by civilians, but is concerned that the former still outnumber their civilian colleagues. The Committee is further concerned that the Inspector for complaints against the Israel Security Agency (ISA) interrogators is a staff member of the ISA and that, despite supervision by the Ministry of Justice and examination of the Inspector's decisions by the Attorney General and the State Attorney, no complaint has been criminally investigated during the reporting period. It is also concerned at the provision in the General Security Service Law which exempts ISA personnel from criminal or civil responsibility for any act or omission performed in good faith and reasonably by the official within the scope of his/her functions. Moreover, the Committee notes with concern that allegations against members of the Israel Defence Forces are being investigated by the Investigative Military Police, a unit subordinate to the Head of General Staff of the armed forces (arts. 6 and 7).

The State party should ensure that all alleged cases of torture, cruel, inhuman or degrading treatment and disproportionate use of force by law-enforcement officials, including police, personnel of the security service and of the armed forces, are thoroughly and promptly investigated by an authority independent of any of these organs, that those found guilty are punished with sentences that are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families.

13. The Committee notes that the State party is currently reviewing the definition of terrorism and other related issues. It regrets, however, the absence of information on whether the Committee's recommendation in paragraph 14 of its previous concluding observations (CCPR/CO/78/ISR) has been taken into account. While welcoming the State party's Supreme Court judgement according to which preventing a detainee suspected of security-related offences from meeting a lawyer constitutes a grave harm to his/her rights, the Committee is nevertheless particularly concerned at the State party's intention to include, in its revised anti-terror legislation, provisions based on the Criminal Procedure (Detainee Suspected of Security Offence) (Temporary Provision) Law which allow for significant delays before trial, before providing access to a lawyer and for decisions on the extension of detention to be taken, in exceptional circumstances, in the absence of the suspect. Moreover, in certain circumstances, a judge can decide not to disclose evidence to the detainee owing to security concerns. Furthermore, it is concerned at the continued application and declaration of conformity with Basic Laws by the State party's Supreme Court, of the Detention of Unlawful Combatants Law as amended in 2008. The Committee also regrets the lack of information on the possibility for a detainee to challenge any decision of postponement (arts. 2, 14).

The Committee reiterates its previous recommendation that measures designed to counter acts of terrorism, whether adopted in connection with Security Council resolution 1373 (2001) or in the context of the ongoing armed conflict, should be in full conformity with the Covenant. The State party should ensure that:

(a) Definitions of terrorism and of security suspects are precise and limited to the countering of terrorism and the maintenance of national security and are in full conformity with the Covenant;

(b) All legislation, regulations and military orders comply with the requirements of the principle of legality with regard to accessibility, equality, precision and non-retroactivity;

(c) Any person arrested or detained on a criminal charge, including persons suspected of security-related offences, has immediate access to a lawyer, for example by introducing a regime of special advocates with access to all evidence, including classified evidence, and immediate access to a judge;

(d) A decision on postponement of access to a lawyer or a judge can be challenged before a court; and

(e) The Detention of Unlawful Combatants Law as amended in 2008 is repealed.

14. The Committee notes with concern the issuance by the General Officer Commander of the Israeli Occupation Force of military orders No. 1649 "Order regarding security provisions" and No. 1650 "Order regarding prevention of infiltration", amending military order No. 329 of 1969 and widening the definition of "illegal infiltration" to persons who do not lawfully hold a permit issued by the military commander. While noting the assurances by the State party's delegation that the amended military orders would not affect any residents of the West Bank or anybody holding a permit issued by the Palestinian National Authority, the Committee is concerned at information that, with the exception of 2007–2008, Israel has not processed any applications for renewal of West Bank visitor permits of foreign nationals, including spouses of West Bank residents, and applications for permanent residency status, which therefore leaves many long-term residents, including foreigners, without permits. It is further concerned at information that persons in the West Bank holding residency permits with addresses in the Gaza Strip are being forcibly returned, including those with entry permits into the West Bank. The Committee is also concerned that, under the amended military orders, deportations may occur without judicial review if a person is apprehended less than 72 hours after entry into the territory. While noting the creation of a committee for the examination of deportation orders, the Committee is concerned that it lacks independence and judicial authority, and that review of a deportation order is not mandatory (arts. 7, 12 and 23).

The State party should carry out a thorough review of the status of all long-term residents in the West Bank and ensure that they are issued with a valid permit and registered in the population register. The State party should refrain from expelling long-term residents of the West Bank to the Gaza Strip on the basis of their former addresses in the Gaza Strip. In light of the State party's obligations under article 7, the Committee recommends that the State party review military orders No. 1649 and 1650 to ensure that any person subject to a deportation order is heard and may appeal the order to an independent, judicial authority.

15. Recalling its previous recommendation in paragraph 21 of the preceding concluding observations (CCPR/CO/78/ISR), the Committee reiterates its concern that the Citizenship and Entry into Israel Law (Temporary Provision), as amended in 2005 and 2007, remains in force and has been declared constitutional by the Supreme Court. The Law suspends the possibility, with certain rare exceptions, of family reunification between an Israeli citizen and a person residing in the West Bank, East Jerusalem or the Gaza Strip, thus adversely affecting the lives of many families (arts. 17, 23 and 24).

The Committee reiterates that the Citizenship and Entry into Israel Law (Temporary provision) should be revoked and that the State party should review its policy with a view to facilitating family reunifications for all citizens and permanent residents without discrimination.

16. Referring to paragraph 19 of the Committee's previous concluding observations (CCPR/CO/78/ISR), the Advisory Opinion of the International Court of Justice, and the State party's Supreme Court ruling of 2005, the Committee expresses concern at the restrictions to freedom of movement imposed on Palestinians, in particular persons residing in the "Seam Zone" between the wall and Israel, the frequent refusal to grant agricultural permits to access the land on the other side of the wall or to visit relatives, and the irregular opening hours of the agricultural gates. Moreover, the Committee is concerned that despite the State party's temporary freeze on the construction of settlements in the West Bank, East Jerusalem and the occupied Syrian Golan Heights, the settler population continues to increase (arts. 1, 12 and 23).

The State party should comply with the Committee's previous concluding observations and take into account the Advisory Opinion of the International Court of Justice and stop the construction of a "Seam Zone" by means of a wall, seriously impeding the right to freedom of movement, and to family life. It should cease all construction of settlements in the occupied territories.

17. The Committee is concerned that, despite its previous recommendation in paragraph 16 of its concluding observations (CCPR/CO/78/ISR), the State party continues its practice of demolishing property and homes of families whose members were or are suspected of involvement in terrorist activities, without considering other less intrusive measures. This practice was disproportionately exacerbated during the State party's military intervention in the Gaza Strip ("Operation Cast Lead"), leading to the destruction of housing and civilian infrastructure such as hospitals, schools, farms, water plants etc. Moreover, the Committee is concerned at frequent administrative demolition of property, homes and schools in the West Bank and East Jerusalem owing to the absence of construction permits, their issuance being frequently denied to Palestinians. Furthermore, it is concerned at discriminatory municipal planning systems, in particular in "area C" of the West Bank and in East Jerusalem, disproportionately favouring the Jewish population of these areas (arts. 7, 17, 23 and 26).

The Committee reiterates that the State party should cease its practice of collective punitive home and property demolitions. The State party should also review its housing policy and issuance of construction permits with a view to implementing the principle of non-discrimination regarding minorities, in particular Palestinians, and to increasing construction on a legal basis for minorities of the West Bank and East Jerusalem. It should also ensure that municipal planning systems are not discriminatory.

18. The Committee is concerned at water shortages disproportionately affecting the Palestinian population of the West Bank, due to prevention of construction and maintenance of water and sanitation infrastructure, as well as the prohibition of construction of wells. The Committee is further concerned at allegations of pollution by sewage water of Palestinian land, including from settlements (arts. 6 and 26).

The State party should ensure that all residents of the West Bank have equal access to water, in accordance with the World Health Organization quality and quantity standards. The State party should allow the construction of water and sanitation infrastructure, and wells. Furthermore, the State party should address the issue of sewage and waste water in the occupied territories emanating from Israel.

19. The Committee notes that certain exemptions from compulsory military service have been granted on the grounds of conscientious objection. It is concerned about the independence of the "Committee for Granting Exemptions from Defence Service for Reasons of Conscience", which is composed entirely, with the exception of one civilian, of officials of the armed forces. It notes that persons whose conscientious objection is not accepted by the Committee may be repeatedly imprisoned for their refusal to serve in the armed forces (arts. 14 and 18).

The "Committee for Granting Exemptions from Defence Service for Reasons of Conscience" should be made fully independent, persons submitting applications on the grounds of conscientious objections should be heard and have the right to appeal the Committee's decision. Repeated imprisonment for refusal to serve in the armed forces may constitute a violation of the principle of *ne bis in idem*, and should therefore be ceased.

20. While noting the State party's argument regarding security concerns, the Committee is nevertheless concerned at frequent disproportionate restrictions on access to places of worship for non-Jews. It further notes with concern that the regulations containing a list of holy sites only include Jewish holy places (arts. 12, 18 and 26).

The State party should increase its efforts to protect the rights of religious minorities and ensure equal and non-discriminatory access to places of worship. Furthermore, the State party should pursue its plan also to include holy sites of religious minorities in its list.

21. The Committee notes with concern that the State party's Supreme Court upheld the ban on family visits to Palestinian prisoners in Israel, including for children. The Committee is also concerned that detainees suspected of security-related offences are not allowed to maintain telephone contact with their families (arts. 23 and 24).

The State party should reinstate the family visit programme supported by the International Committee of the Red Cross for prisoners from the Gaza Strip. It should enhance the right of prisoners suspected of security-related offences to maintain contact with their families, including by telephone.

22. The Committee is concerned at a number of differences in the juvenile justice system between that operating under Israeli legislation and that under military orders in the West Bank. Under military orders, children of the age of 16 are tried as adults, even if the crime was committed when they were below the age of 16. Interrogations of children in the West Bank are conducted in the absence of parents, close relatives or a lawyer and are not audio-visually recorded. The Committee is further concerned at allegations that children detained under military orders are not promptly informed, in a language which they understand, of the charges against them and that they may be detained up to eight days before being brought before a military judge. It is also very concerned at allegations of torture, cruel, inhuman or degrading treatment of juvenile offenders (arts. 7, 14 and 24).

The State party should:

(a) Ensure that children are not tried as adults;

(b) Refrain from holding criminal proceedings against children in military courts, ensure that children are only detained as a measure of last resort and for the shortest possible time, and guarantee that proceedings involving children are audio-visually recorded and that trials are conducted in a prompt and impartial manner, in accordance with fair trial standards;

(c) Inform parents or close relatives of where the child is detained and provide the child with prompt access to free and independent legal assistance of its own choosing;

(d) Ensure that reports of torture or cruel, inhuman or degrading treatment of detained children are investigated promptly by an independent body.

23. While noting the State party's efforts to facilitate access to public administration services for its Arab minority, the Committee expresses concern at the continued limited use of the Arabic language by the State party's authorities, including the absence of translations of leading cases of its Supreme Court into Arabic. It is also concerned about the process of transliteration of road signs from Hebrew into Arabic, as well as the frequent lack of road signs in Arabic. Moreover, the Committee is concerned at severe limitations on the right to cultural contact with other Arab communities owing to the ban on travel to "enemy States", the majority of which are Arab States (arts. 26 and 27).

The State party should continue its efforts to make its public administration services fully accessible to all linguistic minorities and to ensure that full accessibility in all official languages, including Arabic, is provided. The State party should also consider translating cases of its Supreme Court into Arabic. It should in addition ensure that all road signs are available in Arabic and should reconsider its transliteration process from Hebrew into Arabic. Furthermore, the State party should increase its efforts to guarantee the right of minorities to enjoy their own culture, including by travelling abroad.

24. The Committee notes that school enrolment rates have increased and that infant mortality has declined among the Bedouin population. Nevertheless, the Committee is concerned at allegations of forced evictions of the Bedouin population on the basis of the Public Land Law (Expulsion of Invaders) of 1981 as amended in 2005, and of inadequate consideration of traditional needs of the population in the State party's planning efforts for the development of the Negev, in particular the fact that agriculture is part of the livelihood and tradition of the Bedouin population. The Committee is further concerned at difficulties of access to health structures, education, water and electricity for the Bedouin population living in towns which the State party has not recognized (arts. 26 and 27).

In its planning efforts in the Negev area, the State party should respect the Bedouin population's right to their ancestral land and their traditional livelihood based on agriculture. The State party should also guarantee the Bedouin population's access to health structures, education, water and electricity, irrespective of their whereabouts on the territory of the State party.

25. The Committee requests the State party to publish its third periodic report, the replies to the list of issues and these concluding observations, making them widely available to the general public and to the judicial, legislative and administrative authorities. The Committee also requests the State party to make the third periodic report, the replies to the list of issues and these concluding observations available to civil society and to the non-governmental organizations operating in the State party. In addition to Hebrew, the Committee recommends that the report, the replies to the list of issues and the concluding observations be translated into Arabic and other minority languages spoken in Israel.

26. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the recommendations in paragraphs 8, 11, 22 and 24 above.

27. The Committee requests the State party to include in its fourth periodic report, due to be submitted by 30 July 2013, specific, up-to-date information on follow-up action taken on all the recommendations made and on the implementation of the Covenant as a whole in

the entirety of the State party's territory, including the occupied territories. The Committee also requests that the fourth periodic report be prepared in consultation with civil society organizations operating in the State party.

United Nations CCPR/C/ISR/4

International Covenant on Civil and Political Rights

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Human Rights Committee

Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure

Fourth periodic reports of States parties due in 2013

Israel*

[14 October 2013]

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I. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

Question 1

Significant Developments in the Legal and Institutional Framework Within which Human Rights are Promoted

Ratification of the Convention on the Rights of Persons with Disabilities

1. Israel is pleased to report that in September 2012, the Israeli Government ratified the Convention on the Rights of Persons with Disabilities (CRPD) (Hereinafter: "the Convention").

2. Israel signed the Convention on March 30, 2007, and since then has been conducting extensive work in order to ratify this important Convention, which included among other things, examination of relevant legislation and required legislation amendments.

3. The ratification procedure was led by the Commission for Equal Rights of Persons with Disabilities in the Ministry of Justice, with the participation of other relevant Government Ministries, among them the Ministries of Social Affairs and Social Services, Foreign Affairs and Finance.

4. This ratification is an important step in enhancing the protection provided to human rights in Israel.

Legislation

5. On March 28, 2011, the Knesset approved Amendment No. 109 (Prohibition on Advertisement of Prostitution Services Ads) of the Penal Law 5737-1977 (Hereinafter the "Penal Law"). The aim of this amendment is to expand the prohibition on the publication of prostitution services. This amendment, combined with existing case law, makes it illegal to advertise sexual services using euphemisms such as "massage parlor" or an "escort service". According to this amendment: Section 205A of the Penal Law prohibits the publication of information on prostitution of minors, which applies regardless of whether the prostitution service is provided in Israel or abroad, whether the information refers to a specific minor, or whether the publication states that the person who provides the service is a minor. Prior to the amendment, the maximum penalty for such publication was five years of imprisonment. The amendment added a maximum fine to the offender (226,000 NIS (61,000 USD) if the offender is a natural person, and 552,000 NIS (149,000 USD) if the offender is a corporation). In addition, Section 205C(a) prohibits the publication of the provision of prostitution services of adults. Prior to the amendment, the maximum penalty for such publication was six months. The amendment increased the penalty to a maximum term of three years and a maximum fine to the offender of 75,300 NIS (20,300 USD) if the offender is a natural person, and 150,600 NIS (40,700 USD) if the offender is a corporation). Moreover, the amendment repealed Section 205C(b), which listed exceptions to this offense (if the advertisement was solely for sexual services, if it was advertised separately from other ads; if it was given to a person upon request, if it was clearly marked as advertising prostitution services).

6. The Expansion of Adequate Representation for Persons of the Druze Community in the Civil Service (Legislative Amendments) Law 5772-2012, was enacted in January 2, 2012. This law expands the already existing affirmative action scheme applicable to

persons of the Druze community, by requiring government corporations with more than 50 employees, as well as municipalities in which at least one tenth, but no more than 50% of the residents are Druze, to apply the Law's affirmative action requirements with respect to persons of the Druze community, for all the positions and ranks within these corporations. The amendment further mandates corporations and municipalities to actively promote the appropriate representation of their employees, for example by designating specific positions as vacancies for candidates of the Druze community and by guiding the corporations and municipalities when considering candidates with equal credentials, to give preference to the applicant belonging to this minority group. These requirements apply to all types of job openings as well as internal promotions within government corporations and municipalities.

7. The Expansion of Adequate Representation for Persons of the Ethiopian Community in the Civil Service (Legislative Amendments) Law 5771-2011, was enacted in March 28, 2011. This law drastically expands the already existing affirmative action scheme applicable to individuals who were born in Ethiopia or who have at least one parent born in Ethiopia, by requiring not only Government Ministries and agencies, but also government corporations with more than 50 employees, as well as municipalities, to apply the Law's affirmative action requirements with respect to persons of Ethiopian descent, for all the positions and ranks within these corporations. The amendment further mandates corporations and municipalities to actively promote the appropriate representation of their employees, for example by designating specific positions as vacancies for candidates of Ethiopian descent and by guiding the corporations and municipalities, when considering candidates with equal credentials, to give preference to the applicant belonging to the minority group. These requirements apply to all types of job openings as well as internal promotions within government corporations and municipalities.

8. The Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law 5761-2000 (Hereinafter the "The Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law"). This law prohibits discrimination by an individual operating a public place. Violation of the law is both a civil wrong and a criminal offence punishable by fine. The Law applies to the State and has been applied broadly to a host of public places, including schools, libraries, pools, stores, and other places serving the public. Court decisions have upheld this broad interpretation of the Law.

9. Section 3 of the Law prohibits discrimination on the basis of race, religion or religious affiliation, nationality, country of origin, gender, sexual orientation, views, political affiliation, personal status, or parenthood, in the provision of public products or services, and in the permission of entrance to a public place, by an individual who provides such products or services, or operates a public place. Amendment No. 2 of March 30, 2011, broadened the Law's definition for prohibited discrimination by including the act of setting irrelevant terms conditioning the enjoyment of public services or products. In addition, the Law is presumed to be violated, where it has been proved that a defendant delayed the provision of a public service or product or the entrance to a public place for persons related to a certain group indicated in Section 3, while providing without delay, in similar circumstances, for persons who are not related to that group.

10. In 2011, the National Health Insurance Law 5754-1994 (hereinafter: "the Law") was amended (Amendment No. 4). According to this amendment, Section 6 of the second addendum to the Law was amended to include fertility preservation treatments for girls and women who are intended to undergo chemotherapy or radiation treatments as part of the basic health service basket. The fertility preservation treatments include preservation of embryos, eggs or ovaries, and it is designated for childless couples for their first and second

child in the current marriage, and for childless women and girls for the purpose of fertility preservation.

11. Additional amendments were enacted to promote women's rights, on this issue, please see additional legal developments in Israel's reply to Question no. 11, below.

Case Law

Discrimination

12. On November 10, 2011, the Tel-Aviv Magistrate Court accepted a suit filed by a man, claiming he was refused to enter a nightclub in Tel-Aviv due to his skin color. The Court stated that the club violated the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law, since no rational reason regarding the refusal of entrance was given. Moreover, the respondents have failed to prove that their business' policy does not constitute prohibited practice of customers' discrimination on the grounds of race and/or origin, as required by the Law. The Court stated that according to the Law, the club's owners are liable for the violation, since they did not prove they have taken reasonable steps to prevent discriminative behavior at their business. The Court awarded the plaintiff compensation of 17,000 NIS (4,500 USD) (C.M. 969-03-11, *Jacob Horesh v. Tesha Bakikar LTD* (10.11.11)).

13. On September 23, 2011, the Hadera Magistrate Court accepted a suit filed by two men, who claimed they were discriminated at the entry to a nightclub due to their dark skin color. The Court stated that the fact that the plaintiffs were prevented from entering the club, while their fair-skinned friend entered with no delay, establishes the presumption of discrimination as set by the Law. The Court further stated that the respondents did not succeed in rebutting this presumption, yet their general entry policy was not questioned within the statement of claims. Therefore, the Court ruled that the plaintiffs are entitled to a compensation of 15,000 NIS each (4,050 USD). (C.C 46945-05-10, *Ziv Sayag et al. v. Key Entrepreneurship Art of Recreation and Leisure LTD et al* (23.9.11)).

14. On September 6, 2009, the Tel-Aviv Labor Court ruled that the prerequisite of serving military service set by Israel Railways Company as part of its requirements for employment of new supervisors constituted discrimination against citizens who do not serve in the IDF. The Court emphasized the importance of the right to equality and the prohibition of discrimination, which form the basis of all other basic rights, as well as the values of democracy, and noted that the Law also prohibits indirect discrimination (C.M. 3863/09, *Abdul-Karim Kadi et al. v .Israel Railways et al.* (6.9.2009)).

Same-Sex Couples

15. The prohibition of discrimination on the basis of sexual orientation is an important part of the Israeli legislation and may be found in several laws, such as Patient's Rights Law 5756-1996, Equal Employment Opportunities Law 5748-1988 and Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law.

16. On September 7, 2012, the Tel Aviv District Labor Court acknowledged three children (twins and a boy), that were born to a homosexual couple in two different surrogacy procedures within two months from each other, as a triplet for the purpose of an enlarged birth grant payment from the National Insurance Institute (NII). The court decided to interpret the National Insurance law 5755-1995 in a substantive manner and stated that the intention of the legislator was to relive the burden on parents and support them when having more than two babies. The Court emphasized that the law should suit the modern social reality in which there are different parental options, in accordance with the

Agreements for Carrying Embryos (Approval of an Agreement and Status of an Infant) Law 5756-1996 (Hereinafter the "Agreements for Carrying Embryos Law"). (L.C. 12398-05-11, *S.S.K et al. v. The National Insurance Institute* (7.9.12)).

17. In another recent decision, the Jerusalem Magistrate Court ruled in favor of a lesbian couple, which sued the Yad HaShmona Guest House for its refusal to provide venue for the couple's nuptial party. The guest house stated the couple's sexual orientation as grounds for its refusal and claimed that Yad HaShmona, the owner of guest house, is a locality of Messianic Jews, which regard homosexual relationships as contradicting their religious beliefs. The Court held that the Guest House meets the definition of "public place" under the Prohibition of Discrimination in Products, Services and Entry to Public Places Law. Therefore, the owners are prohibited from refusing to hold an event on grounds of sexual orientation. The Court addressed the balance between religious freedom and the prohibition of discrimination and rejected the defendants claim that this instance may be construed as an exception under Section 3(d)1 to the Law, which states that religious discrimination is permissible "where it is required by the character or nature of the… public place". The Court ruled that this exception should be interpreted carefully so as to allow discrimination only in limited situations, such as in public places of worship. The Court ruled that the appellants will be compensated with 30,000 NIS each (7,500 USD) that will serve both for restitution and for education and awareness raising to human dignity and equality (C.C. 5901-09, *Yaacobovitch et al. v. Yad Hashmona Guest House and Banquet Garden et al.* (3.9.12)).

18. In a decision dated September 14, 2010, the Supreme Court stated that the Jerusalem municipality must allocate financial support towards the Jerusalem Open House for Pride and Tolerance activities, following an appeal submitted by the organization. The Court emphasized in its judgment that the Municipality is not providing any support to the gay community members' special needs as opposed to assistance provided to other social organizations, and as opposed to support provided to gay communities in other large cities. (Ad.P.A 343/09, *The Jerusalem Open House for Pride and Tolerance v. The Jerusalem Municipality et al.* (14.9.2010)).

19. On January 31, 2010, the Regional Labor Court stated that same-sex spouse is entitled to receive dependents pension, as the deceased widower. The Court further stated that it resolved this decision despite the fact that the couple did not disclose their relationship with their families and friends. The Court stated that in examining if the couple should be recognized as a common-law couple, it should consider the special circumstances of this type of relationship, and therefore it should facilitate the burden of proof concerning their relationship nature. In this case, the Court acknowledged the spouses as common-law couple on the basis of mutual residence and joint household. (La.C. 3075/08, *Anonymous v. "Makefet" Pension and Compensation Center LTD* (31.1.10)).

Dissemination of the Covenant among Judges, Lawyers and Prosecutors

20. Since the submission of Israel's third periodic report, the following measures have been taken to disseminate the Covenant and related human rights issues among judges, lawyers and prosecutors:

The Institute of Legal Training for Attorneys and Legal Advisers in the Ministry of Justice (the "Institute")

21. The Institute has conducted many seminars, courses, and vocational training attended by hundreds of practitioners, to raise the awareness of attorneys and legal advisors to human rights issues and in particular to civil and political rights. The training focused on the following issues: children's' rights (February 2008), enforcement of international law (February 2009), infiltrators, asylum seekers and refugees in Israel (June 2009), social

rights (September 2009), equal rights for persons with disabilities (October 2010 and October 2012), crime victims' rights (October 2010), human rights in international law (December 2010, December 2011 and December 2012), social rights (February 2013) and seminars on freedom of speech versus incitement, workers' rights etc. The seminars and courses that will be held in 2013 include among other, the following issues: personal status (June 2013), equality (October 2013) and Human Rights in International Law (November 2013).

The Institute of Advanced Judicial Studies

22. The Institute holds lectures, seminars and courses on various human rights issues, including on civil and political rights, for judges of all instances. In December 2010 for example, the Institute held a course titled, "Equality and Discrimination," chaired by Professor Daphna Barak-Erez. In May 2009, the Institute held a four-day seminar titled: "Israeli Arabs – Culture and Customs." In February 2011, a three-day seminar was held on Labor Courts which dealt with labor laws, social security etc.; in March 2011, the Institute held a three-day seminar intended for youth judges; in September 2011, a three-day seminar on immigration and refugee law. In addition, various forms of discrimination and the need to eliminate it are also discussed in lectures presented by the Institute regarding other issues such as trafficking in persons etc.

Dissemination of Human Rights Conventions to the General Public

23. All of the Human Rights Conventions and Protocols that Israel is a party to can be found on the website of the Ministry of Justice in Hebrew, English, and Arabic. Also, the full body of work with the Human Rights Bodies – reports, list of issues, replies, concluding observations etc., can also be found on the website of the Ministry of Justice.

24. In 2012, the entire collection of concluding observations relating to Israel by all the human rights committees were translated to Hebrew and were also published on the Ministry of Justice website. Where available, links to the UN translation into Arabic of these concluding observations are also published.

25. In 2012, Israel began the translation to Hebrew of its periodic reports and these will also be presented on the Ministry of Justice website gradually.

Question 2

Administrative Measures

26. The procedure of transferring the Inspector for Complaints against the Israel Security Agency (ISA) Interrogators (hereinafter: the "Inspector") to the Ministry of Justice is in advanced stages of completion. In June 2013, Colonel (Ret.) Jana Modzgvrishvily was chosen to serve as the Inspector. Following this nomination, the Ministry of Justice is creating the additional required positions (For additional information regarding this issue please see further details below, in Israel's reply to Question no. 15). Following the completion of the manning of these positions the unit in the ISA will be dispersed.

27. On January 5, 2012, a special Team was appointed by the Attorney General to Examine the Issue of Women Segregation in the Public Sphere (for additional information regarding this issue please see further details below, in Israel's reply to Question no. 11).

Attorney General Opinions and Guidelines

28. In addition, on May 9, 2013, in the frame of two petitions which are currently pending before the High Court of Justice, the Attorney General was requested by the Court to provide his opinion, in regard to the question whether, in cases of surrogacy conducted

abroad, in which the State requires a procedure of adoption as a condition for the registration of the genetic parent's spouse as the second parent, it will be sufficient to issue a parenting order by a Family Matters Court in the same way that is conducted in regard to surrogacy conducted within Israel. The Attorney General was also requested by the Court to address the question of easing the procedures required for issuance of such an order (adoption or parenting) in cases of surrogacy conducted abroad.

29. In his opinion, the Attorney General stated, inter alia, that recognition of the genetic parent's partner as a parent can only be made by a decision of a judicial instance. The State noted that the Mor-Yosef Committee, which is a professional Inter-ministerial Committee, addressed this issue and recommended on several legislation amendments, including the assurance of supervision and prevention of exploitation of surrogate mothers, the assurance of the minors' rights in cases of surrogacy conducted abroad and others. The State noted that the term "parenting order" was chosen by the legislator exclusively for cases of surrogacy conducted in Israel which are supervised and that the Mor-Yosef Committee also recommended that this term will be used only in cases of supervised procedures in order to prevent exploitation of surrogate mother and trafficking in children. The State also noted that a supervised track for surrogacy conducted abroad should be established in order to prevent illegal occurrences mentioned above and recommended that only in the supervised track a court may issue a parenting order instead of an adoption order.

30. The Attorney General therefore stated, that up until the completion of the legislation regarding this issue, the State will agree to the issuance of a court parenting order instead of an adoption order in regard to surrogacy conducted abroad, by a Family Matters Court – and that only in regard to a spouse of the genetic parent. This agreement is given due to the unique circumstance of the situation, and only until the completion of the legislation on this matter, and not as an agreement to the establishment of a judicial parenting order in regard to surrogacy conducted abroad as an independent legal institution in Israel's legal system alongside the adoption institution and the parenting institution (according to the Israeli Surrogacy Law (Agreement for Carrying Embryos Law). All of the above are subject to the conditions that were recommended by the Mor-Yosef Committee to be included in the legislation. (H.C.J. 566/11, 6569/11, *Anonymous et al. v. The Ministry of Interior et al.* (notification on behalf of the respondents) (9.5.13)).

Civil Burial

31. Following a number of petitions on the subject, in August 2011, The Ministries of Finance and Religious Services announced a significant increase in the budget for alternative burial in Israel. The State notified that a budget of five Million NIS (1.350 Million USD) for each of the years 2011 and 2012 will be allocated instead of the original budget of 300,000 NIS (85,000 USD) for 2011.

32. In 2012 the Ministry for Religious Services has allocated four Million NIS (1.081 Million USD) for development of new civilian cemeteries.

33. As of November 2012, there are 11 cemeteries for alternative civilian burial which are contracted with the Israeli National Insurance Institution (NII), in accordance to the National Insurance (Burial Fees) Regulations 5736-1968. These cemeteries which are located throughout Israel (in Kiryat Tiv'on, Kfar Haro'eh, Kfar Saba, Petah Tiqwa, Hazor, Revadim, Giv'at Brenner, Be'er-Sheva and other localities) provide burial services for any person who desires to be buried in a civilian burial. In addition to these 11 civilian cemeteries, civilian burial in Israel may also be conducted in agricultural localities, in which residents may be buried without any payment. These alternatives provide solution for every Israeli resident who wants to be buried in a civilian burial.

Additional Measures

34. In May 2013, the Haifa University Senate decided to institute three additional days of vacation according to the most important holidays of the Christianity, Islam and the Druze religion – Christmas, Eid Al-Fitr (Feast of Breaking the Ramadan Fast), and Eid al-Adha (also called Feast of the Sacrifice). These holy days will not replace existing holidays of other religions and the decision will be implemented in the 2013-14 academic year. This decision was taken following the work of a special committee established by the University, with the participation of students' representatives. According to Haifa University's President, this decision reflects the University's vision, and the University's wish to promote academic excellence in research and teaching, whilst maintaining tolerance and acceptance.

Question 3

Dissemination of the Committee's Concluding Observations

35. As mentioned above, all of the Human Rights Conventions and Protocols Israel is a party to can be found on the Ministry of Justice website in Hebrew, English, and Arabic. Also, the full body of work with the Human Rights Bodies – reports, list of issues, replies, concluding observations etc., can be found on the Ministry's website.

36. In 2012, the entire collection of concluding observations relating to Israel by all the human rights committees were translated to Hebrew and published on the Ministry of Justice website. Where available, links to the UN translation into Arabic of these concluding observations are also published.

37. Specifically, this Committee's previous recommendations regarding Israel (CCPR/C/ISR/CO/3) were translated to Hebrew and disseminated, together with a summary of the Israeli delegation's appearance before the Committee, to high ranking officials with in the Ministry of Justice, the Ministry of Foreign Affairs and other relevant Ministries.

Implementation of the Committee's Previous Concluding Observations

38. The seriousness which the State of Israel attaches to human rights matters can be demonstrated by the establishment in 2011, of a joint inter-ministerial team, headed by the Ministry of Justice's Deputy Attorney General (Legal Advice), for reviewing and implementing the concluding observations of the various human rights Committees, including those of the ICCPR Committee.

39. This inter-ministerial team meets to examine the U.N. human rights committees' concluding observations and following its work since its establishment has made several significant changes in regard to human rights legislations.

Cooperation with the Civil Society in Preparations of Periodic Reports

40. Israel is making genuine efforts to involve civil society in the process of articulating its periodic reports to this as well as other Human Rights Committees. Prior to commencing the actual drafting of the Report, the previous report, session, concluding observations and general comments issued by the Committee since the last report was submitted, are studied. In addition to letters that are sent out to all the relevant Ministries and Governmental bodies, letters are also sent out to the relevant and leading NGOs, inviting them to submit comments prior to the compilation of the report, both through direct application, and a general invitation to submit remarks posted on the Ministry of Justice web site. Civil Society contributions are given substantial consideration during the drafting of the Report. In addition, the Ministry of Justice actively seeks data and information on the relevant

NGOs' websites, such information may include legal action taken by these NGOs as well as opinions and reports on various issues.

41. In addition, since 2012, the Ministries of Justice and Foreign Affairs are participating in a project initiated by the Minerva Center for Human Rights at the Hebrew University of Jerusalem's Faculty of Law, with the aim of improving the cooperation between State's authorities and civil society organizations with regard to the reporting process to the UN human rights treaty bodies. Israel is a party to seven human rights conventions: CRC, ICCPR, CAT, CESCR, CEDAW, CERD, and as stated above, recently ratified CRPD.

42. This innovative project is the first of its kind in Israel. The first stage of the project entailed creating a joint forum, attended by representatives of various state authorities, scholars and representatives of civil society organizations. The forum will conduct an ongoing symposium in order to improve the cooperation between the parties in composing the state reports that are submitted to these committees. The second stage includes inviting the civil society organizations participating in the project to comment on a draft report prior to its submission to the Committee.

43. The ultimate goal of this project is to enhance the cooperation between the parties in implementing the human rights conventions in Israel in the best possible manner.

44. The first periodic report that was chosen for this project is the present report – the 4th Periodic Report by the State of Israel to the Human Rights Committee.

II. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the Committee's previous recommendations

A. Constitutional and legal framework within which the Covenant is implemented (art. 2)

Question 4

Non-application of the Covenant in the Occupied Palestinian Territory

45. The International Convention on Civil and Political Rights (hereinafter: "ICCPR" or "the Convention") is implemented by the Government throughout the State of Israel. According to the Israeli legal system, international conventions, as opposed to customary international law, do not apply directly in Israel, unless they were formally legislated. Such is the case with the ICCPR which is implemented through a wide range of legal instruments, such as basic laws, laws, orders and regulations, municipal bylaws, and court rulings.

46. The applicability of the Convention to the West Bank has been the subject of considerable debate in recent years. In its Periodic Reports, Israel did not refer to the implementation of the Convention in these areas for several reasons, ranging from legal considerations to the practical reality.

47. The relationship between different legal spheres, primarily the Law of Armed Conflict and Human Rights Law remains a subject of serious academic and practical debate. For its part, Israel recognizes that there is a profound connection between human rights and the Law of Armed Conflict, and that there may well be a convergence between these two bodies-of-law in some respects. However, in the current state of international law

and state-practice worldwide, it is Israel's view that these two systems-of-law, which are codified in separate instruments, remain distinct and apply in different circumstances.

48. Moreover, in line with basic principles of treaty interpretation, Israel believes that the Convention, which is territorially bound, does not apply, nor was it intended to apply, to areas beyond a state's national territory.

49. *Jerusalem and the Golan Heights*. In accordance with Section 1 to Basic Law: Jerusalem, Capital of Israel 1980-5740 and Section 1 to the Golan Heights Law 1981-5742, Israeli law applies to the eastern neighborhoods of Jerusalem and to the Golan Heights, accordingly.

Question 5

Equality

50. The principle of equality is a fundamental principle in the Israeli legal system as apparent both in legislation and adjudication.

51. The Basic Law: Human Dignity and Liberty 5752-1992 (Hereinafter the "Basic Law: Human Dignity and Liberty"), protects basic guarantees of personal liberty within the framework of Israel's Jewish and democratic character. This Basic Law stipulates, inter alia, the following: There shall be no violation of the life, body or dignity of any person as such; There shall be no violation of the property of a person; All persons are entitled to protection of their life, body and dignity; There shall be no deprivation or restriction of the liberty of a person by imprisonment, arrest, extradition or otherwise (unless as provided by law); There shall be no violation of rights under this Basic Law except by a law befitting the values of the State of Israel, enacted for a proper purpose, and to an extent no greater than is required.

52. In addition to the Basic Law, many domestic laws emphasize the principle of equality, as detailed extensively in Israel's Initial and Periodic Reports.

53. The Israeli judiciary, spearheaded by the Supreme Court, has a significant role in interpreting, guiding and promoting the principle of equality and the prohibition on discrimination, through the development of jurisprudence that deals with contentious and highly charged political and security-related issues, as detailed in the Periodic Reports. For examples of case law regarding discrimination, please see Israel's reply to Questions no. 1 and no. 4 above.

Consensual-Based Constitution

54. The process of preparing a consensual-based constitution is complex and extensive and currently there is no timeline for its completion or adoption. The current draft includes a section concerning Equality and Prohibited Discrimination (Chapter II, Section 6) that includes several options for deliberation.

Equality Before the Law

55. Equality before the law is a basic principle of Israel's legal system. The law applies not only to private people or legal entities but also to every public authority. The courts are open and accessible to every person who is interested in claiming his/her rights. Every person has the right to be represented in criminal procedures taking place against him/her (subject to certain conditions).

56. For examples of case law regarding discrimination, please see Israel's reply to Question 1 above. Please also see Israel's reply to Question no. 4 above.

B. Right to privacy, right to participate in public life, right to equality and non-discrimination and rights of persons belonging to minorities (arts. 2, 17, 25, 26 and 27)

Question 6 (a)

57. Demolition of illegal constructions is done in accordance with the relevant laws and regulations, and according to the specific circumstances, and not as collective punishment.

Demolition of Illegal Structures – Bedouin Population

58. Notwithstanding the establishment of seven permanent towns, including the city of Rahat and additional 11 villages in two regional councils, more than 80,000 Bedouins still live in unauthorized villages throughout the Negev. Six such villages are currently undergoing planning procedures, however the rest of this population still live in unauthorized villages while ignoring planning and construction procedures. The unauthorized building is carried out without any preparation of plans as required by the Planning and Building Law 5725-1965 (Hereinafter the "Planning and Building Law"), and with no pre-approval by the planning authorities. In addition, it causes many difficulties in terms of providing services to the residents of these unauthorized villages. Note that there are few cases in which Bedouins who wish to relocate to permanent localities may not do so immediately due to temporary shortage in developed lots. However the State is doing its best to accommodate such requests for relocation.

59. Israel cannot overlook such disregard to the planning and zoning rules and is therefore compelled to issue demolition warrants for these unauthorized structures. Initially, a warning is granted to the person who constructed the structure, so he/she will have the opportunity to argue against the demolition through judicial process. In a case that the person fails to prevent the demolition through judicial process, he/she will be required to demolish the unauthorized structure by themselves. Only in cases that the unauthorized structure is not demolished by the person who constructed the structure, the authorities will act to demolish it. Note that enforcement activities are conducted only against structures that were constructed after 2010 and are found in areas that do not belong to any local authority. All enforcement activities are conducted according to the law.

60. Since 2010 and until January 2013, 2,104 illegal constructions were located, 999 such illegal buildings were demolished by the buildings' owners and 373 were demolished by the district supervision office. In addition, 1,253 demolition orders were issued and posted on illegal buildings. 46 demolition orders were cancelled and 254 orders were delayed or conditioned.

Demolition of Illegal Structures in the City of Jerusalem

61. In order to facilitate proper planning procedures, illegal construction is not tolerated. Such illegal construction harms the local population, given the fact that it does not take into consideration planning policies and parameters that will ensure a reasonable quality of life, and public needs.

62. All demolitions are conducted in accordance with due process guarantees and following a fair hearing, which is subject to judicial review and the right to appeal, and all demolitions are decided upon without distinction on the basis of race or ethnic origin. Those affected by a demolition order are entitled by law to appeal to the Supreme Court.

63. In 2013 (until August 15), 13 demolition orders against illegal construction were implemented in the eastern neighborhoods of Jerusalem. These illegal constructions include: temporary constructions, a car park, carpentry workshop, a garage, new building

that were constructed without legal permits, illegal building extensions etc. In one case the demolition was carried out by the illegal structure's owner. For comparison, in 2013, 46 demolition orders were implemented in the western neighborhoods of Jerusalem. In 2012, 24 demolition orders against illegal construction were executed in the eastern neighborhoods of Jerusalem. These illegal constructions include fences, caravans, goat pen, a shed and a warehouse, illegal building extensions and new building that were constructed without legal permits. In six cases the demolition was carried out by the illegal structure's owner. For comparison, in 2012, 48 demolition orders were implemented in the western neighborhoods of Jerusalem. During 2011, only a few demolitions were carried out in the eastern neighborhoods of Jerusalem. These demolitions also included illegal building extensions, a goat pen, an illegal car wash station and abandoned trailers. In addition, during 2010, 23 structures were demolished (mainly small structures, fences, shacks and house additions constructed without municipal permits).

64. In addition, please see Israel's reply to Question no. 4 above.

Question 6 (b)

Planning in Arab Localities

Outline plans and basic planning for the Arab population

65. As of August 2013, 126 of 133 localities in the Arab population have approved outline plans. 56 of these localities have updated outline plans (from 2000 and onward), 28 of these localities have new outline plans undergoing statutory approval, 13 localities have new outline plan in preparations and the preparations of outline plans for four localities is at the tender stage.

66. Of the seven localities that do not have valid outline plans – the outline plans of three localities are under statutory approval stage, the outline plan of one locality is under preparation, and thus only three localities do not have any outline plan. However, one of these localities is covered by a detailed plan (Salame), one new Bedouin locality is undergoing regularization procedure (Al-Fura'a) and the third locality includes only 10 families (Hamdoun).

67. In regard to planning for the Bedouin population in the Bedouin population – there are 18 Bedouin localities with approved outline plans, including the city of Rahat, six towns and 11 additional localities that are under the jurisdiction of two local authorities. In addition, the planning procedures of six additional localities are ongoing. The planning for the rest of the housing clusters in the Bedouin Diaspora is about to begin in the upcoming weeks, during which ten leading planning companies will be deployed to the entire region, each will be assigned with a specific geographic region and will examine special planning solutions for the population in that region. The planning is to be conducted with the participation of the population in each region and with emphasis on land arrangement and a wide range of housing arrangements. These planning activities are meant to provide full and complete solution to the Bedouin housing situation in the Negev, taking into consideration the will of the population and according to accepted planning parameters. This course of planning is unprecedented in Israel with a special emphasis placed on the participation of the Bedouin population.

68. The Ministry of Interior has promoted updated outline plans to 75 Arab localities and it is expected that in the next two years all the outline plans that are under statutory approval procedures will be completed. The rest of the plans are promoted by the local authorities of local councils.

69. The outline plans that are promoted by the Ministry of Interior added 70% to the existing localities lands in average. Some of these expansions also include lands that were previously nature reserves and forests, due to considerations of natural growth demands of these localities. All this, in addition to vacant lots within the area already approved for development, which is kept by their owners for the benefit of their future generations, and thus are considered part of the land that can be used for future development of the locality.

70. As a result in the vast majority of the outline plans they allow for a larger capacity of population than the population prediction for the relevant planning period.

Infrastructure as a Basis for Development

71. The updated outline plans are aimed at giving answers and solutions for residential areas, public areas, public open spaces, employment areas commercial areas etc. according to the characteristics of each locality and for a period of at least 20 years.

72. Note that the allocation of parks and open spaces are sometimes not in a locality's highest priority and there are many cases of converting approved open spaces to residential areas or illegal construction, even if they were allocated in the outline plan as public areas.

73. Lack of infrastructure at the regional level (such as sewage system etc.) is one of the common reasons for delays in approving outline plans – both Jewish and Arab localities.

Implementation of the outline plans

74. The implementation of the outline plans are carried out by detailed plans, that are to be promoted by each and every locality. The position of the Ministry of Interior is that lack of an updated outline plan should not delay detailed plan where the outline plan is compatible with the national planning policy and thus, in the majority of these localities detailed plans were and are promoted in order to issue building permits in various localities regardless of an updated outline plan.

75. Note that there were no gaps between the resources that were allocated for planning in central areas and resources that were allocated for planning in peripheral areas.

Participation of Arab Councils and Local Authorities in industrial Areas

76. Currently there are five industrial areas to which Arab localities and local authorities have partnered in:

- Dalton industrial area – the localities Psota and Hurfeish were added to this industrial area. The rest of the partners in this industrial area are the municipality of Safed and Marom Galil, Gosh Halav and Mevo'ot Hemon local authorities.
- Kidmat Galil industrial area – the locality of Tura'an was added this industrial area. The other partners in this industrial area are the municipality of Tiberius and Lower Galil local authority.
- Lehavim (Idan Ha-Negev) industrial area – the locality of Rahat was added this industrial area. The other partners include Bnei-Shimon and Lehavim local authorities.
- Izrael industrial area – the locality of Iksal is scheduled to be added to this Industrial area.
- Mevoe Carmel industrial area – the localities of Daliyat al-Karmel and Osffiya were added this industrial area. The other partners include the localities of Megido and Yoqneam.

77. Note that all of these industrial areas received financial support from the Ministry of Economy pursuant to Director General's order no. 6.3 "Integration of minority localities in the cooperative administrations", which was intended to provide incentive for such cooperation.

78. It is also important to note Shoket Industrial area which is administered by Bnei-Shimon and Metar local authorities together with Hura and Lakiya. This industrial area is not under the responsibility of the Ministry of Economy. However, pursuant to Government Resolution No. 546 of July 14, 2013, a unique financial support in the amount of 40 Million NIS (10.8 Million USD) was provided by the State in order to expedite the planning and development activities of this area.

Eastern Neighborhoods of Jerusalem

79. The new outline plan for Jerusalem, which is currently in authorization process, determines the planning policy in the city's jurisdiction. In the eastern neighborhoods of Jerusalem, the plan targets two main issues which are meant to facilitate the construction of additional housing units:

- Substantial increase of construction rates in all of the authorized residential areas in the eastern neighborhoods of Jerusalem. The outline plan increases these rates from 37-70 to 180 percent, whereas in certain areas the increase reaches 240 percent.
- In addition, the plan, for the first time, sets 14 new residential areas. Hereinafter are several examples: a master plan for the Arab Al-Sawhara neighborhood which includes about 2,500 housing units, a detailed plan for the Dir Al-Amoud and Al Mountar neighborhoods which includes about 750 housing units, a detailed plan for the Ein Eilouza neighborhood which includes about 1,000 housing units, an outline plan for the Tel Adasa neighborhood which (includes about 2,500 housing units.

80. Every plan that is filed according to the policy regarding outline plans receives the support of the planning institutions.

81. Please also see the reply to Question no. 4 above.

Question 6 (c)

The Bedouin Population

General

82. There are more than 206,000 Bedouins living in the Negev desert area. More than half of them (approximately 120,000 – 58%) live in urban and suburban centers which have been legally planned and constructed. The remaining 86,000 Bedouins (42%) reside in hundreds of unauthorized and unregulated clusters, which are spread over an area of almost 500,000 dunams, thus obstructing urban expansion in the greater Negev area and the common good of the Bedouin population.

83. Currently there are Seven Bedouin local councils: Rahat,- the biggest Bedouin town in Israel, Lakiya, Hura, Kuseife, Tel-Sheva, Segev Shalom and Ar'ara (an appointed council). All of them have approved plans and include infrastructure such as schools, health clinics, running water, electricity, roads, pavements, etc. In addition, in 2012, following a decision of the Minister of Interior and according to the recommendations of the Inquiry Committee for the Examination of the Proper Organization of the Municipal Jurisdiction Boundaries and Local Planning Areas in the Bedouin Population in the Be'er Sheva Region (the: Razin Committee), the former Abu-Basma regional council was split into two regional councils. These two regional councils encompass 11 Bedouin localities: the regional

council of Al-Kasum includes the localities of Tarabin, Um Batin, El Seid, Darijat, Kahla, Makhol (Merit) and Moleda; and the regional council of Neve Midbar includes the localities of Abu Krinat, Bir Hadaj, Abu Tlul, and Kasar A-Sir. Note that the two councils were appointed by the Minister of Interior, with the aim of conducting free democratic election within a few years.

84. Although the city of Rahat and the six local councils can effectively provide a proper solution to their population's needs, subject to their expansion, they cannot effectively absorb the entire population living in unauthorized villages, according to their tribal format. Therefore, the State had to plan and establish additional localities to that end. The Government's aforementioned decision to establish 11 new localities was designed to accommodate the Bedouin's special needs, including their desire to settle according to a tribal format and their agricultural lifestyle.

85. Additional development plans are in process in several other Bedouin towns; Rahat, for example, will be approximately tripled in size (from 8,797 dunams today to 22,767 dunams). The project is estimated to cost approximately 500 Million NIS (135.13 Million USD). The plan includes constructing 7,500 additional housing units (designated to populate 90,000 people by 2020), public and trade facilities, women employment centers and public areas. The Current project in Rahat (April 2013) includes the expansion of the city by adding 4,500 housing units on 2,991 lots.

86. Other localities are also in the process of expansion, development of infrastructures and construction of industrial and employment areas.

87. For detailed information regarding housing projects for the Bedouin community (as of March 2013), please see Annex no. 1 (Tables no. 1 and 2).

88. As aforementioned, in spite of the establishment of a number of permanent towns for the Bedouins, about 86,000 Bedouins still live in unauthorized and unregulated clusters of buildings throughout the Negev, while ignoring the planning procedure of the planning authorities in Israel. This unauthorized building is carried out without any preparation of plans as required by the Planning and Building Law, and with no pre-approval by the planning authorities. In addition, it causes many difficulties in terms of providing services to the residents of these unauthorized clusters.

89. The Government is encouraging movement to regulated localities (regardless of the localities' nature (city, town, village etc.)) by providing unique financial benefits to all residents of the Bedouin Diaspora who seek such movement, regardless of their economic condition or any entitlement test. These benefits include, inter alia, provision of land plots for free or for very low cost, and compensation for the demolition of unauthorized structures. It is important to note that a large majority of those currently residing in areas that are not regularized will be able to continue residing there in the future within regularized localities. The suitable planning solutions will be achieved by making compromises on claimed land and by participation of the local population in the planning. The planning companies were instructed to examine a number of residing solutions in order to allow a variety of possibilities to the local population.

Advisory Committee

90. For detailed information regarding the Advisory Committee, please see Israel's Reply to Question no. 7 in its Follow-up to the Oral Presentation by the State of Israel before the Committee on Civil and Political Rights regarding the Implementation of the International Convention on Civil and Political Rights (see CCPR/C/ISR/Q/3/Add.1. pp. 25-26) of October 2011.

91. Following the work of the Advisory Goldberg Committee, in May 2008, the implementation cadre completed the preparation of a Governmental plan for regulation of the Bedouin housing in the Negev and submitted it to the Government. The plan and the draft legislation that was attached to it were also available for the public review on the Prime Minister Office website.[1] The plan offers the Government a feasible outline to the fulfillment of Government Resolution No. 4411. The cadre aimed to enable the Government to operate an effective national plan, taking into account the resources required and the need for coordination and cooperation between the different authorities and bodies involved. The plan is based on the principles of the Goldberg Committee and on intensive staff work which included extensive consultations with representatives of various segments of the Bedouin community, as well as studying comments made by civil society organizations.

92. The cadre's final report mentioned six main principles for the operation of the national plan, among them:

1. Planning and Regulation of the Bedouin's housing in the Negev. In this context, the plan is to regulate the housing of the Bedouin population as much as possible in its current location, subject to acceptable planning parameters and economic efficiency. Note that the housing of the majority of the Bedouin population will be regulated in their current living areas and only a small minority will be relocated to a certain distance in order to allow housing in a locality that may be self-sufficient and provide proper public services.

2. Regulation of the compensation solutions geared towards settling the Bedouin's lawsuits in legislation.

3. Limited Schedule - According to the plan, the main issues will be settled and implemented within five years.

4. Enforcing the State's planning and construction laws in the Negev.

5. The establishment of a small operational headquarters to lead the national process and ensure its success.

6. An economic development plan.

93. An Economic Plan aimed at best facilitating the economic advancement and development of the Bedouin Population in the Negev.

94. On September 11, 2011, the Israeli Cabinet approved Government Resolution No. 3707, in which it approved the cadre's plan, as well as Resolution No. 3708, which specifies a plan for the economic development of the Bedouin population in the Negev.

The Bedouin Population in the Negev – Government Resolutions No. 3707 and 3708

95. On September 11, 2011, two Government Resolutions concerning the Bedouin population in the Negev were adopted, as part of the Israeli Government's ongoing comprehensive work-plan for the promotion of the Bedouin population rights. Government Resolution No. 3707 approved the Inter-Ministerial team's report (Prawer Report) for the implementation of the recommendations of the Advisory Committee Recommendations on the Policy Regarding Bedouin regularization and reconciliation (The Goldberg Committee), and established an Implementation Headquarters. The Government further resolved to anchor the implementation framework in legislation. The Government decided that the draft legislation formation process will be carried out in consultation and cooperation with the Bedouin population, and appointed Minister Binyamin Ze'ev Begin to coordinate public

[1] http://www.pmo.gov.il/PMO/PM+Office/Departments/policyplanning/goldberg.htm.

and Bedouin population comments on the issue and to submit recommendations to the Ministerial Committee on Legislation prior to the tabling of a draft legislation in the Knesset. In January 2012, the Ministry of Justice published a preliminary draft legislation to be discussed in this process. The consultation process included dozens of meetings with individuals, groups and organizations as well as the collection of comments in writing and through a special website established for that purpose.

96. On January 23, 2013, Minister Begin submitted a report containing the main comments to the Ministerial Committee on Legislation, accompanied by an updated draft legislation based on the draft published by the Ministry of Justice and encompassing the required changes recommended in his report.

97. The conclusions reached indicate a need for certain amendments to the draft legislation, yet made it clear that the basic structure of the draft law should be preserved, including the finality of the arrangement and the mechanisms necessary for its implementation. Note that one major change in the current version of the draft legislation is the ability of land claimants who do not possess the land itself to receive land compensation and not only financial compensation. This unprecedented position by the State, which was reached following the cooperation with the Bedouin population process, will lead to a significant increase in the land that will be privately registered as private Bedouin land – if and when the law will be enacted and conditioned on the Bedouin acceptance of this compromise.

98. On January 27, 2013, the Government approved Government Resolution No. 5345 in which it adopted the report submitted by Minister Begin, and approved the draft bill. In June 2013, this bill was approved by the Knesset by first reading. The Knesset Committee transferred the bill to the Knesset's Interior and Environmental Protection Committee and this Committee is scheduled to conduct a hearing regarding the Law on October 14, 2013.

99. Note the above mentioned legislation and plans have encountered large scale controversies among the Bedouin population, which have also taken the form of protests and demonstrations throughout the Negev, as well as country-wide Arab localities, against the Government policy. This campaign is also taking place in the Israeli and international media, as well as in various international organizations. The process held takes into account the variety of opinions in this issue. It should also be noted the bill also raised criticism and protest and is considered controversial by other populations who claimed that it is discriminatory since it provides significantly subsidized lots and lands only to the Bedouin population.

100. The second resolution adopted on September 11, 2011, Government Resolution No. 3708, set a plan to promote the economic growth and development of the Bedouin population in the Negev.

Government Resolution No. 3708

101. In Resolution No. 3708, the Government approved the plan to promote the economic growth and development of the Bedouin population in the Negev (hereinafter: the Economic Development Plan). The Economic Development Plan is a detailed plan, budgeted at 1.2 Billion NIS (324.32 Million USD) over five years (2012-2016), which will be allocated to the following fields: employment (360 Million NIS (97.3 Million USD)), education (90 Million NIS (24.32 Million USD)), employment and education-supportive infrastructure, primarily transportation (450 Million NIS (121.62 Million USD)), personal security (215 Million NIS (58.1 Million USD)) and society and community (90 Million NIS (24.32 Million USD)). About two-thirds of the budget is a new budget allocated by the Ministry of Finance.

102. The Development Plan began operating in 2012 and is the result of cooperation between 14 different Government Ministries, in light of the broad aspects of life which it concerns. In addition, a designated division within the Prime Minister's Office has been established in order to assist in the implementation of both Government Resolutions mentioned above: The Headquarters for the Economic and Community Development of the Negev Bedouins (hereinafter: "the Implementation Headquarters"), which is headed by Major General. (Res.) Doron Almog.

103. The Implementation Headquarters operates in cooperation with the relevant Government Ministries and the Bedouin local municipalities in order to fully implement the Development Plan. According to the Government Resolution, a Steering Committee of Government Ministries' General Directors and a Regional Committee, attended by government officials and heads of local authorities and civil society representatives, has been established.

104. For detailed information regarding the implementation of the Development Plan in various fields, as reported by the Ministries (updated as of January 2013) Please see Annex No. 2 Below.

Legislation for the Benefit of the Bedouin Population

105. The bill was formulated following a lengthy debate and many layers of discussion with the public, The State does not intend to withdraw the bill at this time and continues to promote the legislation for the regulation of the Bedouin housing in the Negev. The final legislation is subject to the Knesset, the legislative branch.

Recent Developments

106. Government Resolution No. 3211, dated May 15, 2011, approved a multi-year plan (2011-2015) for the development of the Bedouin population in northern Israel, in the amount of 350 Million NIS (94.6 Million USD). According to the plan, 22 Million NIS (5.95 Million USD) will be allocated to the field of employment among which 13 Million NIS (3.5 Million USD) will be invested in the establishment and operation of employment training and guidance centers. Additional four Million NIS (1.082 Million USD) and five Million NIS (1.351 Million USD) will be invested in a plan to encourage small and medium businesses and in professional training, respectively. Emphasis will be placed on increasing participation in the labor market of the Bedouin population in general and among women in particular.

107. The goal of the 2011-2015 plan is to develop and strengthen the communities and the Bedouin population in northern Israel. The plan was formulated at the initiative of the Prime Minister's Office, in cooperation with the Ministry of Finance, Bedouin local council chairmen in the north and other Government Ministries.

108. The communities included in the plan are: Zarzir, Ka'abia-Tabash-Hajajra, Bir Al-Makhsur, Basmat Tivon, Bueina Nujeidat, Shabli-Um Al-Ainam, Tiba-Zangariya and the Bedouin communities in the Al Batuf, Zevulon, Ma'aleh Yosef and Jezreel Valley Regional Councils.

Demolition of illegal structures

109. For detailed information regarding this issue please see Israel's reply to Question 6(a) above.

Question 6 (d)

110. In regards to the Bedouin population please see Israel's reply to Question 6(c) above.

111. In addition, please see Israel's reply to Question 4 above.

Question 7

Accessibility of Public Administration Services to Linguistic Minorities

Ministry of Health

112. In 2008, the Ministry has established a professional committee to examine the gaps between the health services provided in Israel's center and those provided in peripheral areas. This Committee handed its recommendations to the Ministry's Director General in December 2008. Since then, several publications were published by the Ministry regarding this issue and several plans have been compiled in order to deal with these gaps, the last one was introduced in 2010 and, inter alia, refers to the accessibility of the health system (including hospitals, health-funds etc.) to the entire population. This plan, for the years 2011-2014, has introduced the reduction of gaps and inequalities in health services as one of its main goals, while setting a clear action plan which involves all of the relevant wings and units. This plan, including its periodic updates, are the backbone of the Ministry of Health's activity in this field and refer to many aspects of accessibility, including cultural and linguistic accessibility. Note that due to the importance granted to this issue, this work plan is scheduled to continue and it is part of the Ministry's 2013-2016 work plan.

113. As part of this plan, the Ministry of Health introduced an internal procedure regarding linguistic accessibility of all health services. According to this procedure, by 2014, all national healthcare service providers will be obligated to provide service in Hebrew, Arabic, English and Russian. This procedure is in advanced stages of implementation. In addition, it was decided to produce explanatory materials regarding health issues, rights and medical forms in several languages, in addition to training employees who will be in charge of cultural adaptation of the healthcare system – the first course was held in 2012 and its graduates were designated to state-public hospitals. An additional course is scheduled to take place during 2013.

National Insurance Institute (NII)

114. The NII is investing great efforts to ensure full accessibility to its services by linguistic minorities who are not fluent in Hebrew. For this purpose, it has established an internet website to the benefit of the Arab population in which all relevant information and services are provided and translated into Arabic. In addition, in insurance policies that are sent to persons insured by the NII, there is a reference in Arabic to a phone number in which additional information and service in Arabic is provided. The NII employs in its branches interpreters that assist the Arab population who apply for service, in order to provide full service regardless of the language spoken by the applicants. Other measures include the installation of information stands in Arabic in the NII local offices etc.

Ministry of Culture and Sport

115. The Ministry employs persons of the Arab community and persons who are fluent in Arabic, inter alia, in order to process and provide replies to applications for financial support from culture institutions and others in the Arab population and for providing services in Arabic. In addition, the Ministry keeps constant translation of its website and operates a website in Arabic[2]. This website contains all the main information about the Ministry, including services it provides, thus making consumption and enjoyment of culture and applying for support in this field more accessible for the Arab population.

[2] http://mcs.gov.il/arabic/Pages/default.aspx.

Ministry of Social Affairs and Social Services

116. In 2012, the Ministry increased the budget allocated to the Arab population and Arab local authorities. In the past five years, the total budget has increased by 31%, whereas the budget for the Arab population has increased by 46%. Note that the rate of the Arab population is only 20% of the general population.

117. Recently, the Ministry has published a Request for Proposals (RFP) for receiving translation services. A large budget was allocated to this project that will allow the Ministry to offer professional translation services in all of the Ministry's units. The new service will provide, among other things, simultaneous translation, translation of social reports and of official documents. The translation will be provided in many languages including: Russian, Arabic, English, Amharic, Romanian, Spanish, Turkish, Far Eastern languages and sign language.

118. The Ministry translates most of its circulars, pamphlets, guides, documents and forms, and is offering simultaneous translation. The Ministry strives to staff programs and centers with appropriate manpower from the target population. The latter is done in order to ensure culturally sensitive treatment and that the services are conducted in a language that is understood by the target population.

119. The Ministry's services and programs are provided partially in other languages in addition to Hebrew. The services are accessible to the linguistic minorities in order to guarantee equal lingual rights.

120. In recent years, the Ministry has operated several programs and services accessible to minority population. Below are several examples of these programs and services:

- The Ministry together with five other Ministries operates an exclusive National Program for Children and Youth at Risk. This program aims at reducing the extent of risk situations among children and youth, ages 0-18, and places special attention on the Arab, Ultra-Orthodox and new immigrant populations. Out of 166 local authorities that have implemented this program, 83 are Arab local authorities (50%).
- The Division of Correctional Services – this Division also operates many such programs including approximately 30 national programs operated by the Service for Juvenile Probation that are aimed for youth from minority populations that is involved in crime. Approximately 20 of the programs are exclusively offered to the Arab and Bedouin populations. In addition, the Youth Protection Authority provides six facilities for the Arab population. In addition, the Service for Male and Female Youth treats youth between the ages 14 and 25 that have severed ties with the society on different levels. The service offers approximately 60 programs and facilities for the Arab and Bedouin populations.
- The Youth Rehabilitation Service treats youth at the ages of 12 to 18 that are at risk, have asocial behavior, emotional difficulties and do not attend school settings. The service runs a total of 37 educational and training programs and rehabilitation centers that treat approximately 2,600 teenagers. Of the 37 programs, nine are designated for the minority populations.
- The Service for the Treatment of Persons with Autism provides among other services, specific services that have been developed for the Arab population. These services include: family centers, workshops and support groups for parents and assistance to utilize rights and legal aid. Several seminars have been organized for professionals among the Arab population where the goal is to raise awareness of the importance of diagnosis, early intervention and treatment of Autism.

- The Division of Rehabilitation Services for Physically and Mentally Disabled – this Division also operates services for the Arab population including the Service for Community Based Rehabilitation, that offers a total of 25 programs and day centers for children and young adults, ages 6 months to 21 years and their families for the Arab and Bedouin populations. In addition, The Service for the Blind caters to all segments in the Israeli society. There are five centers designated for the Arab population.

121. Note that many other services and programs are being provided to minority populations, including the Arab population by the Ministry's Divisions.

Municipality of Jerusalem

122. The municipality of Jerusalem has translated most of its forms into Arabic, and the process should be completed during 2013.

Courts' Administration

123. Translation services within the courts' system is provided by two companies who were chosen by a public tender. However, while the translation services to Arabic are satisfactory in both extent and quality, the level of the translation services to certain other languages, and specifically Tigrinya and Amharic, is unfortunately unsatisfactory and there is room for improvements. In order to improve the level of translation within the courts' system, the Courts' Administration is being assisted by an independent advisor and is conducting further assessments to translators, through both written and oral exams. The employment of translators who fail these examinations is terminated. In addition, the Bar-Ilan University is currently developing a program for training translators in several languages with an emphasis of the legal and health fields. Hopefully, this program will be able to assist the Courts Administrating in the near future.

The Legal Aid Branch in the Ministry of Justice

124. The Legal Aid Department has been providing legal aid in the sphere of civil law for more than 35 years, under the provisions of the Legal Aid Law 5732-1972. Its main function is providing Legal Aid to a specific person in a particular case, and in addition, the Branch operates inter alia in order to inform those who require its services of the options available with respect to legal aid.

125. The Legal Aid Branch operates in five regional offices – in Nazareth Illit, Haifa, Jerusalem, Tel-Aviv Jaffa and Be'er-Sheva, and a further office, in the mixed city of Lod, is in advanced stages of establishment. In addition to these main offices, lawyers from the Legal Aid Branch interview applicants in 70 bureaus country wide, mostly in municipal welfare offices. Over 15% of the employees of the Branch are from the Arab population – both lawyers and administrative staff. Additional languages available for applicants are Russian, English, Tigrinya and Amharic. Further translation services are offered through a translation company who was chosen by a public tender.

Promotion of Cultural Rights

126. The Ministry of Culture and Sport sees great importance in the promotion of cultural activities for every Israeli resident, including the Arab population, both as producers and consumers of cultural activities. For that purpose, the Ministry allocates support budgets, which are aimed at nurturing the culture of all Israeli residents and all populations in Israel according to the fields of culture or art, such as: museums, dance groups, theaters etc. These support budgets makes culture accessible in peripheral areas and strengthen the activities of culture organizations in poor financial state.

127. The Ministry allocated support funds to culture institutions in Israel in a variety of fields, including: dance, theater, cinema, museums, music, plastic art, public libraries, schools in various fields (acting, cinema, creative writing, dance etc.) literature, heritage, Arab culture (including Druze and Circassian cultures), festivals and more. The total budget for this support is about 418 Million NIS (113 Million USD) per year with a separate budget of 73 Million NIS (19.7 Million USD) intended solely for the field of cinema and a budget of 78,500 NIS (21,200 USD) intended for support of public libraries. In addition the Ministry allocates each year about 120 prizes for excellent creators with a total sum of four Million NIS (1.08 Million USD).

128. The allocation of these support funds are carried out according to eligibility tests set by Section 3A to the Budget Foundations Law 5745-1985. These tests reflect the professional policy of the Ministry to promote culture while preserving equality and transparency with the persons or bodies who receive the support funds. Prior to the determination of these tests, they are presented to the public in order to receive comments and proposals, and following their determination they are published on the websites of the Ministries of Culture and Sport and Justice.

Jewish Heritage

129. In April 2012, the Knesset enacted the Ethiopian Jewish Community Heritage Center Law 5772-2012, aimed at establishing a center for research and commemoration of the Ethiopian Jewish Community's Heritage and an archive. According to the Law the center will collect and map archive materials concerning the Ethiopian Jewish community and will centralize all research activities concerning this community. The Center will operate to deepen the knowledge regarding the aspects of history, religion, justice and culture of the Ethiopian Jewish community, including by establishing a library. In addition, the Law establishes the Center's Council, which will be composed of 13 members, one third of which are required to be of Ethiopian origin or their descendants. As of June 2013, the Council is in advanced stages of appointment.

130. On July 9, 2008, the Knesset enacted the Sigd National Holiday Law 5768-2008, which will be celebrated every year on the 29th of the Hebrew month of Cheshvan. The Sigd is a traditional Ethiopian fast day, dedicated to prayers for the rebuilding of the Temple and to the giving of thanks for the right to return to the Holy Land. The Ethiopian community in Israel celebrates the holiday by holding a mass ceremony on Mount Zion in Jerusalem, followed by a procession to the Western Wall.

131. In 2012, the Ministry has initiated an Ethiopian culture festival in 12 cities and localities with large Ethiopian communities. The festival included music and dance shows, exhibitions of Ethiopian artists, traditional Ethiopian food and clothing fairs and more.

132. In January 2007, the Knesset approved the creation of two national heritage authorities, for the heritage of the Jewish community of Bukhara and for the heritage of the Jewish community of Libya. Each of these authorities are mandated to preserve the cultural heritage of each community concerned, and to research and document it (The National Authority for the Cultural Heritage of the Bukhara Jewish Community Law 5767-2007, and the National Authority for the Cultural Heritage of the Libyan Jewish Community Law 5767-2007).

133. On December 6, 2005, the Knesset enacted the Diaspora Museum Law 5765-2005, which recognized the Diaspora Museum in Tel-Aviv as the national center for Israeli communities in Israel and abroad. According to the Law, the Diaspora Museum's functions are to present items relating to Israeli communities and to the history of the Jewish people, to conduct research and to accumulate knowledge on issues relating to the Jewish people. In addition, its roles include the creation of a repository of genealogical trees and family

names of Jewish families around the world, and the creation of a database of Jewish communities in the world and their history.

134. The Council for Commemoration of the Jewish Sephardic and Eastern Heritage Law 5762-2002, was enacted on November 13, 2002. According to the Law, the Council's role will be to advise the Ministers regarding the heritage of Sephardic Jewry.

Arab Heritage and Culture

135. For information regarding the establishment of the Arabic Language Academy please see CCPR/C/ISR/Q/3/Add.1. (p. 11). The Academy regularly publishes books and a magazine. In recent years, the Academy has conducted many important activities for the advancement of the teaching of Arabic language, including: holding professional seminars, providing scholarships for students who excel at Arabic language studies, and training Arab and Jewish pupils delegations for Spain, in order to study the Arab culture in Andalucía and its effects on both Arab and Jewish Cultures.

136. Arab Culture Museum – In 2008, the Ministry of Culture and Sport initiated the establishment of a new museum dedicated entirely for the Arab culture in city of Um al-Fahm. The Ministry has allocated 600,000 NIS (162,000 USD) for the purpose of acquiring the museum's collection and for locating additional contributors for this museum.

137. The Department for Arab Culture in the Ministry of Culture and Sport – The object of the Department is to promote and develop Arab culture while preserving its cultural and ethnic uniqueness. The Department achieves its aims by encouraging and financing many activities, events and projects. The Department supports Arab writers, theaters, publications, colleges, research centers for the Arabic language etc.

138. The budget for cultural activities is allocated according to a policy which emphasizes the promotion of qualitative and professional cultural activities, and includes all Israeli citizens in the process of the formation of culture making. The budget is divided between all eligible cultural bodies in accordance with relevant eligibility tests.

139. The eligibility tests are open to all cultural institutions in Israel, without discrimination based on language, geographic location, the identity of the artists or the identity of the organs receiving the support. This fact is specifically mentioned in the eligibility tests conducted by the Ministry.

140. All of Israel's cultural institutions are open the public, regardless of their ethnicity or religion. Israelis are welcome to enjoy the activities conducted by these institutions and to take an active part in the activities. The list of cultural institutions and persons that receive governmental support includes numerous figures that operate within the Arab population, authors who write in Arabic and institutions that are identified with the Arab population. For examples and additional information, please see CCPR/C/ISR/Q/3/Add.1. (p. 13).

141. Furthermore, the aforementioned eligibility tests establish affirmative action mechanisms, including: preference which is afforded to works written in Arabic (under the theater and literature eligibility tests), and a preference which is afforded to artworks that address issues concerning the Arab population and which contribute to the multicultural dialogue (under the music and cinema eligibility tests) among others. Nearly all the eligibility tests (excluding two) are intended to promote cultural institutions belonging to the Arab population.

142. There are two eligibility tests for the receipt of financial support, which incorporate affirmative action mechanisms for the benefit of the Arab, Druze and Circassian populations: the eligibility test for the distribution of funds by the Ministry of Culture and Sport to public institutions that promote Arab culture, and the eligibility test for the allocation of funds to public institutions.

143. The eligibility tests for the receipt of financial support for the promotion of Arab culture were updated and published in 2008, after intensive consultations with the relevant personnel within the Administration and the Attorney General. The aims of these eligibility tests are: (1) to increase the awareness of the Arab population of all forms of artistic and cultural creations and to encourage their participation in the creative process; (2) to encourage the foundation, development and activities of cultural and artistic institutions among the Arab population, which strive to achieve quality, excellence and uniqueness; (3) to preserve, spread, develop and promote cultural and artistic traditions of the Arab population (Section 3 of the eligibility tests for the receipt of financial support of Arab culture).

144. Arab culture institutions may apply to the Ministry for financial support according to both the general tests and the specific tests regarding Arab culture. Such applications are handled, and such support is provided. Thus, the eligibility tests provide affirmative action for the Arab population, including the Druze and Circassian populations, by providing additional importance to culture institutions operating in peripheral areas or in localities with low socio-economic rating or with linguistic uniqueness or other.

145. In February 2013, ten Arab authors and poets received an award for their Arabic literature compositions in the fields of prose, poetry, literature research, children's literature and translation. Each of the winners received a prize of 20,000 to 50,000 NIS (5,400 to 13,500 USD).

146. In addition, in March 2013, the Ministry of Culture and Sport issued an invitation to submit requests for financial support by Arab culture and research institutions.

Druze and Circassian Heritage and Culture

147. As was mentioned in CCPR/C/ISR/Q/3/Add.1. (p. 14), on June 4, 2007, the Knesset enacted the Druze Cultural Heritage Center Law 5767-2007, and since the enactment of this Law, the Council responsible for its implementation was appointed and began its work.

Additional Information

148. In the frame of the project "Culture for Israel", aimed at promoting and making culture more accessible in peripheral areas, the Ministry of Culture and Sport has initiated a wide range of new culture events in the Arab and Druze population. The Ministry encouraged the Arab localities to invite a series of culture lectures to their localities (including theater shows, music and dance shows, literature lectures etc.) with the guarantee to subsidize the cost of these events in 29 localities.

149. The Ministry has also initiated and funded a number of unique projects, with the aim of exposing members of the Arab population to culture events. Thus, for example, the Ministry has funded a Druze festival in 15 localities; the mobilization of the "Masarahid" Festival to 30 peripheral localities (in this framework 80 shows were conducted); as part of the "classic nights" project, open concerts were held in three Arab localities. Furthermore, the Ministry held 138 children's shows in 70 localities, free of charge during the holidays season.

150. In May 29, 2013, "Adalah-the Legal Center for Arab Minority Rights in Israel" retracted a petition to the High Court of Justice, in which it demanded that the Ministry of Culture and Sport will operate a children's shows project in Arabic (similar to a project operated in Hebrew). In light of the Ministry's response to the Court that such a project was in fact being planned and already carried out at the time of the hearing of the case, the organization retracted its petition. (H.C.J. 4351/12, *Adalah the Legal Center for Arab Minority Rights in Israel v. The Ministry of Culture and Sport*).

Question 8 (a)

Arab Population within the Civil Service

151. Since 1994, the Government has been taking affirmative action measures to enhance the integration of the Arab and Druze population into the Civil Service, inter alia, by issuing tenders for mid-level positions solely to members of those minorities. Data indicates a steady increase in the rates of Arab, Druze and Circassian employees in the Civil Service. In December 2012, 8.4% of all the Civil Service employees were Arabs, including Bedouins, Druze and Circassians (5,520 employees out of 65,950) (this in comparison to 6.17% in 2007, 6.67% in 2008, 6.97% in 2009, 7.52% in 2010 and 7.8% in January 2012 (4,982 employees out of 64,020 – an increase of 538 Arab employees (10.7%) just within one year)).

152. As of June 2013, there are 1,730 positions in the Civil Service designated for persons of the Arab population, 309 of these positions are vacant and are in various stages of manning.

153. During 2012 several steps were taken in order to improve and accommodate the working conditions for persons of various populations, including through media campaign in cooperation with Authority for the Economic Development of the Arab, Druze and Circassian Populations in the Prime Minister's Office. In addition, a special website was established in which tenders, information as well as successes stories are published – all with the aim of making the Civil Service more accessible to the Arab population.

154. An increase is evident in the rates of Arab employees in many Government Ministries. Hereinafter are several examples for 2011: 38.5% of all employees in the Ministry of Interior were Arab employees – (compared with 22.7% in 2007); In the Ministry for Development of the Negev and Galilee, – 16.28% were Arab employees (compared with 12.1% in 2009). In addition, 10.09% of the employees in the Ministry of Social Affairs and Social Services were Arab employees (compared with 8.1% in 2007). 8.05% of the employees in the Ministry of Education were Arab employees (compared with 6.43% in 2007), In the Ministry of Justice – 6.94% were Arab employees (compared to 4.78% in 2007), in the Ministry of Tourism – 6.25% were Arab employees (compared with 4.37% in 2007) and in the Ministry of Transportation – 5.47% were Arab employees (compared with 2.50% in 2007).

155. Furthermore, in 2011, 12.77% of all new employees integrated into the Civil Service were Arabs, Druze and Circassians, in comparison to 6.9% in 2005, and 9.3% in 2009 and to 11.09% in 2010.

156. The number of Arab women employed in the Civil Service has also increased in recent years. In 2011, there has been an increase of 30.6% in the rate of Arab and Druze women employed in the Civil Service in comparison to 2008 (1,869 in 2011 compared to 1,431 in 2008). The rates of Arab, Druze and Circassian newly integrated female employees are also on the rise. In 2011, 35.9% of all recently accepted Arab, Druze and Circassian employees were women.

157. An increase is also evident in the employment of Arab, Druze and Circassian academics in the Civil Service. In 2011, 52.58% of Arab, Druze and Circassian Civil Service employees had an academic degree, in comparison to 43.7% in 2006, 48.6% in 2008 and 50.37 in 2009. This trend correlates with the general trend of allocating positions intended for the integration of Arab, Druze and Circassian academics.

158. Many of the Arab-Israeli employees within the Civil Service maintain senior level positions, with decision-making capacity. Civil Service employees from the minority population fulfill important roles such as investigative engineers, clinical psychologists,

senior tax investigators, senior economists, senior electricians, geologists, department comptrollers, lawyers and educational supervisors, to name but a few. Data indicates an increase of 19.4% in the number of Arab employees holding senior positions – 509 employees in 2011, in comparison to 486 employees in 2010, 451 in 2009, 376 in 2007 and 347 in 2006. These employees serve the good of the Israeli community as a whole and are a driving force in the integration of the Arab minority into the Israeli society.

159. In addition to the aforementioned information, in 2012, the Civil Service had designated for the first time 90 positions for persons with disabilities. A circular regarding these positions were disseminated to all Government Ministries. This is done in order to better integrate persons with disabilities in the society.

160. In addition, the implementation of Government Resolution No. 2506 of November 2010, which resolved to designate in 2011, 30 positions (13 of which are new positions) in the Civil Service to persons of the Ethiopian population, was postponed and this resolution will be implemented during 2013. These designated positions are aimed at recruiting mainly academicians. Note that the Ethiopian population constituted 1.5% of the Israeli population which parallels to this population representation in the Civil Service – 1.4%.

Recent Updates

161. On September 14, 2011, the Civil Service Commissioner applied to all the Government Ministries' General Directors as well as to the National Hospitals' Directors, regarding the promotion of appropriate representation of the Arab, Druze and Circassian populations within the Civil Service. In its letter, the Commissioner referred to both Civil Service (Appointments) Law 5719-1959 and Government Resolution No. 2579 as legal duties obligating the General Directors to implement appropriate representation of the said population among their employees. The letter further mentioned that the Civil Service Commission is operating in accordance with these duties and cooperating with the Government Ministries towards the integration of the Arab population within the Civil Service.

162. In order to achieve the objective set by the Government, the Commissioner requested each Ministry to consolidate, in collaboration with the Civil Service Commission Planning and Supervision Department, a detailed plan regarding the advancement of appropriate representation for Arab, Druze and Circassian populations within the timetable set by the Government. According to the Commissioner's request, the Ministries shall designate positions toward the said populations and specify the measures that will be taken by them in order to encourage adequate candidates to present their candidacy for vacant positions at the Civil Service.

163. In January 2012, the Civil Service Commission issued a letter to all Government Ministries and State Hospitals' Director Generals, regarding a new procedure for hiring employees in order to conform with Government Resolution No. 2579, according to which at least 10% of the Civil Service employees should be of the Arab population. According to the new procedure, every Ministry or auxiliary unit shall refer to the Planning and Supervision Department any request for hiring new employees. The Department will then determine the minimum number of positions that will be manned by persons of the Arab population. Any Ministry or unit that will meet the required 10% will be exempt from this procedure. According to the procedure, the allocation of the new positions that will be manned by Arab candidates will be as follows: If there is a request for three or more new positions – at least 30% shall be designated for Arab employees. If there is a request for two new positions – at least one of them (50%) shall be manned by Arab employee and if there is a request for only one new position – it shall be manned by an Arab candidate.

164. In 2011, the Equal Employment opportunities Commission, in the Ministry of Economics, joined a Twinning Project with the European Union in order to promote various issues in the years 2012-2013. The main topics that were chosen were: the promotion of diversity and the integration of all Israeli populations in finding employment in the public sector; integration of the Arab population in the private sector and decreasing the salary gaps between men and women. The activities on these three topics include legal action, seminars, awareness raising activities, research activity etc.

Case Law

165. In 2011, the Equal Employment opportunities Commission represented 21 Arab employees that were fired by a super market chain store with the claim that their dismissal was prohibited since it was carried out due to the employees' nationality. The Court accepted the petition, annulled these dismissals and determined that the employers must conduct a hearing to each of the employees prior to his/her dismissal. (58041-03-11, *Sawiti Anas et al. v. Almost Free Warehouse Chain Store R.A. Zim Direct Marketing L.T.D.*).

166. An additional case examined by the Commission was a military service clause that in effect denied the employment of Arab taxi drivers in a taxi company that provides transport service to Ben Gurion Airport. In an examination conducted by the Commission, it was found that the tender between the Airports authority and the cab company included such clause which required army service as a preliminary condition for employment, thus automatically disqualifying Arab drivers for this position. Following the inquiry, the discriminatory clause was cancelled and the taxi company hired the Arab driver which submitted the case to the Commission. Other Arab drivers were invited to apply for additional similar positions.

Question 8 (b)

Equality in Education

167. The State of Israel invests great efforts in the promotion and advancement of equal opportunity and access to education among the various communities. In recent years the Ministry of Education implemented a number of programs designed to improve equality in education together with applying affirmative action where necessary.

168. The efforts devoted to the amelioration of education in Arab localities resulted, among others, in higher rates of matriculation certificate eligibility among Arab pupils (48.3% in 2010, compared to 46.6% in 2009). In 2010, 95.6% of the female pupils and 87.6% of the male pupils in the Arab education system took the Matriculation exam (compared to 94.9% and 87.2% in 2008). Also in 2010, 56.3% of the female pupils and 38.4% of the male pupils in the Arab education system were entitled to a matriculation certificate.

169. In 2011, 59.7% of the female pupils and 43.6% of the male pupils in the Arab education system were entitled to a matriculation certificate (an increase of 5.8% among the girls and 13.5% among the boys compared to 2010).

The Main Improvements in the Arab Educational Systems in Recent Years

170. *Scholastic achievements* – the scholastic achievements of Arab pupils continue to increase both in the international examination and in the matriculation exams. The rate of Arab pupils that are entitled to a high school diploma in the Arab population has increased by 6%. In addition, the results of the Arab pupils in the international "Pirls" exam (Progress in International Reading Literacy Study) for the 4th grade have improved by 58 points in the Arabic language. Additional improvements are evident in the international "Timss"

exam (Trends in International Mathematics and Science Study exam), in which Arab pupils in the 8th grade have shown improvements of 57 points in mathematics and 59 points in science. These improvements are the result of allocation of additional resources by the Ministry of Education, including in some cases affirmative action, especially in the Arabic language field.

171. *Arabic language* – The Ministry of Education has implemented two educational programs to enhance knowledge of the Arabic language: "basic knowledge towards reading and writing in Arabic as a mother tongue in kindergartens" – for kindergartens in the Arab population, and "Education in Arabic – language, literature and culture" which is one of the leading programs for studying Arabic in the Arab world, for pupils in elementary schools. An additional program for high schools was developed and is being implemented since the 2011-12 school year. In addition, since 2010-11, the Ministry of Education is developing educational materials in Arabic which are being distributed free of charge to all the pupils in the 3rd to 10th grades.

172. *Additional teaching hours* – additional educational hours were added to 7th and 8th grades in Arab localities for the purpose of teaching the Arabic language, and to 4th and 5th grades in these localities for the improvement of reading skills in Arabic. The Ministry has also allocated additional weekly teaching hours for the 7th, 8th and 9th grades in Arab localities – one additional hour for teaching science (a total of about 1,700 teaching hours), and three additional hours for teaching mathematics (about 3,500 hours).

173. *Level of teachers* – Efforts are also made to improve the level of the teachers and future principals. These efforts include, inter alia, recruitment of teachers with scholastic excellence and examination in Arabic for teachers who will work and teach Arab pupils. In 2011 and 2012, 7,000 such teachers were examined. In 2012, 2,897 new teachers were appointed to teach in schools designated for the Arab population, most of them finished their studies with excellence.

174. *Preparations for higher education* – 50 career guidance centers were established in high schools in the Arab community, in order to assist pupils in choosing their educational path and their future career. In Addition, 50 centers for preparing Arab pupils for the psychometric exams (universities entry exams) were opened in Arab localities with the aim of assisting Arab pupils in passing these exams and raising the rate of Arab students in higher education institutes.

175. *New classrooms* – between 2007 and 2011, five Billion NIS (1.351 Billion USD) were invested in the construction of 7,930 new classrooms in schools, 3,025 of which (39%) were constructed for the Arab population with a total investment of 1.8 Billion NIS (486.5 Million USD). As a result of this affirmative action, 553 classrooms were built beyond the needs of the natural growth of the Arab population, and the need for new classrooms was reduced significantly.

176. *Class sizes* – The Ministry is implementing a program to reduce the maximum number of pupils in each class to 32. In 2012, the program focused on reducing the number of pupils per class in the 1st and 2nd grades in schools designated for the Arab population. For this purpose additional 10,500 teaching hours were added to the Arab education system with a total cost of 52.1 Million NIS (14.1 Million USD). In 2012, 66% of the 3rd to 5th grade classes and 52% of the 7th to 9th grade classes that were divided in to two classes in order to reduce the number of pupils were of the Arab population, whilst the Arab population is only 27% and 29% of these age groups, respectively. In total, between 2008 and 2011, the number of teaching hours in the national Arab education system increased by 6.5% (from 450,000 hours to 480,000 hours) whereas in the Jewish education system this figure increased only by 2.6%.

177. *Long school day* – Long school day (37 teaching hours) is already implemented in 1,239 kindergartens, 426 of which (34%) are of the Arab population; and in 659 elementary schools, of which 213 (32%) are of the Arab population. The long school day program encompasses 275,000 pupils, 117,000 of which are Arab pupils, which constitutes 23% of all Arab pupils. In addition, according to Government Resolution No. 4088 (January 2012), and in accordance with the Trajtenberg Committee's recommendations[3], the subsidies that are allocated for additional educational frameworks that will operate in the afternoon hours (ages 3 to 9, Sunday to Thursday and until 16:00) will gradually be expanded over the five upcoming years, with a total investment of seven Billion NIS (1.892 Billion USD). These frameworks will provide homework assistance, formal and informal enrichment etc. The implementation of these additional subsidies has begun in the 2012-13 school year in localities that ranked in the lower socio-economic rating, including Arab localities. Beginning in the 2013-14 school year, the State has been providing free and compulsory education for these young children.

178. *Hot meals* – hot meals are provided in 1,248 of the kindergartens, 418 of which (34%) are of Arab population and in 388 schools, 97 of which (25%) are of the Arab population. A total of about 65,000 Arab children enjoy the hot meal program (about 13% of the Arab children).

179. *Security in Arab education institutions* – following a Government Resolution, as of January 2012, the Government is implementing a four-year program aimed at raising the level of security in Arab education institutions. For that purpose, in 2012, 134 security guards have been posted in Arab schools alongside 11 designated policemen. In the following three years, the plan will be extended to the rest of the education institutions in the Arab population (560 education institutions in total). The program is financed with a budget of 30 Million NIS (8.1 Million USD).

180. *Adapting the education system to the 21st century* – As of 2010-11 school year the Ministry of Education is operating a new program aimed at adapting the education system to the 21st century, which includes introducing new information technologies in classrooms etc. The program is focused on the north and south periphery areas in which large numbers of schools designated for the Arab population exist. The program is budgeted with 420 Million NIS (113.5 Million USD) for 2011-2012. In 2013 this program will be extended to all junior high schools in the southern and northern districts.

181. *Technological education* – following Government Resolution No. 4193 of January 2012, a new program to increase the number of Arab female pupils in the technological institution of the Ministry of Education and in the professional schools administered by the Ministry of Economics will be implemented. In the 2012-13 school year, 400 female pupils begun studying in the framework of this program. In the following years this number is

[3] On July 2011, the Israeli protest for "Social Justice" began and involved hundreds of thousands of protesters from a variety of socio-economic and religious backgrounds demanding to reduce the high cost of living in Israel. The movement originally began as a demand for affordable housing protest. The protests expanded during the month of August raising other social issues relating to health, education, taxes and to the general economic structure in Israel.
In response to these events, on August 8, 2011, the Prime Minister established the "Trajtenberg Committee", headed by Prof. Manuel Trajtenberg, Chairperson of the Planning and Budget Committee of the Council for Higher Education in Israel and former Chairperson of the National Economic Council, to examine ways to implement social change in Israel and recommend practical solutions to the Government.
On October 9, 2011, the Government approved the final recommendations of the Committee.
The Committee's final report recommended a list of economic measures which will cost approximately NIS 30 Billion (8.3 Billion USD) over the period of the next five years.

expected to increase to 700 additional female pupils. In the next five years, 150 million NIS (40.5 Million USD) will be invested in this program.

182. *The "New Horizon" ("Ofek Hadash") program* that has been gradually implemented in all Israeli schools since 2008, is currently implemented fully in 346 schools in the Arab population (67% of the schools in this population encompassing 172,600 pupils), 113 schools in the Bedouin population (82% of the schools in the Bedouin population encompassing 57,000 pupils) and 53 schools in the Druze population (76% of the schools serving the Druze population, encompassing 20,500 pupils). In addition, this program has been implemented in 1,147 kindergartens in the Arab population (64% of the kindergarten in this population, encompassing 30,600 children), 440 preschools in the Bedouin population (71% of the kindergarten in this population, encompassing 12,000 children) and in 166 kindergartens in the Druze population (52% of the kindergartens in this population, encompassing 4,600 children). For comparison, this program is implemented only in 56% of the schools in the Jewish education system and 64% of the kindergartens under the Ministry of Education's supervision (including Ultra-orthodox schools and kindergartens).

183. *The "Oz Letmura" program* which is aimed at promoting the educational system's achievements and strengthening the teachers position in high schools, was implemented in the first year in 27% of the Arab population's junior high schools and high schools, in 32% of the junior high schools and high schools in the Bedouin population and in 55% of the junior high schools and high schools in the Druze population. That is compared to implementation of 33% of the junior high schools and high schools in the Jewish population (not including the Ultra-orthodox population) and 23% of the junior high schools and high schools in the Jewish population (including the Ultra-orthodox population).

184. Compulsory education until the age of 18 – Since 2009, the expansion of compulsory and free education from the age 16 to 18 is gradually being implemented with a preference to localities with higher dropout levels. The program includes additional positions for attendance officers, psychologists and additional resources. In the 2012-13 school year 28 localities were added to the program, 18 of which are Arab localities. This program is implemented in a total of 90 localities, 49 of which are Arab localities.

Measures to Reduce the Dropout Rates of Israeli Arab Girls

185. In 2011-2012, the total dropout rate in the Jewish population stood at 1.5% and in the Arab population at 2%. In addition, that year in the Jewish education system, the dropout rate of female minors in the 9th, 10th and 11th grades was 1.4%, 1.6% and 2.4% respectively (compared to 2.3% to 3.4% in 2009-2010), and in the 12th grade the rate of female pupils who dropped out was just 0.7% (0.8% in 2009-10). In the Arab education system, although the dropout rates of Arab female minors exceeded those of Jewish female minors, they were still relatively low – 2.9 in the 10th and 11th grades and 1.5% in the 12th grade. Arab male minors dropped out at a greater rate than did their female counterparts.

186. For further information on substantial reduction of the dropout rates, please see Annex No. 1 (Table no. 3).

187. As is evident from Table no. 3 in Annex No. 1, the actions taken in recent years have significantly reduced, in almost every grade, the dropout rate among all the populations in Israel. Note that the total reduction of the dropout rate since 2010 is 42.8%.

188. The Ministry of Education operates an internal unit of attendance officers who regularly visit schools in order to prevent pupils from dropping out of school. The Ministry of Education has a special department aimed at maintaining school attendance that works to prevent pupils from dropping out. This department works in accordance with the Section 4

to the Compulsory Education Law and as a part of the Ministry of Education's policy. As of July 2013, there are 555.7 attendance officers' positions and a total of 607 attendance officers. Of these attendance officers, 445 operate in Jewish localities (including 63 in the Ultra-Orthodox population); note that although many of these officers handle children of Ethiopian and Russian immigrants, there are eight attendance officers who are specifically assigned to handle children of Ethiopian immigrants and ten who are specifically assigned to handle children of Russian immigrants. In addition, 162 attendance officers operate in Arab localities, of which 19 in Bedouin localities and 19 in Druze localities.

Universities Psychometric Entry Test

189. The Psychometric Entrance Test (PET) is a standard test in Israel, generally taken as a higher education admission exam. The PET covers three areas: mathematics, verbal reasoning and English. It is administered by the Israeli National Institute for Testing and Evaluation (NITE).

190. The PET may be taken in Hebrew, Arabic, Russian, French, Spanish, or combined Hebrew/English. There are generally five dates the test may be taken a year; Arabic may be taken at four of these dates.

191. The Ministry of Education invests extensive efforts in improving the access of Arab pupils to higher education. and bridging the gaps between the Jewish and the Arab populations. Thus, during the 2010 academic year, the Ministry has, inter alia, trained 150 educational advisors and other professionals and posted them in learning centers for the PET that were established for 500 pupils of the Arab community.

192. In addition, the Ministry of Science and Technology also provides assistance in this regard, and allocates special scholarships to Arab pupils in order to take Psychometric Test preparatory course.

193. In the process of writing the exam, the National Institute takes into account the differences between population groups and conducts fairness examinations, particularly examining the test's sensitivity in regard to gender, religion, population and political correctness.

194. The Arabic version of the test is drafted by a professional academic team, comprised of native Arabic speakers. This team is responsible for supervising the test's wording in Arabic, in order to prevent differences between the Hebrew and Arabic versions in a way that may create unequal reference point for the different examinees.

Higher Education

195. The Arab population in Israel constitutes approximately 20% of Israel's population and about 26% of the age group relevant to higher education. In recent years, the rate of Arab students among the total students studying for their first degree is slowly increasing. According to figures of the Central Bureau of Statistics, in 2012, the rate of Arab students studying in universities stood at 12.1%, compared to 11% in 2010 and 7.6% in 2007. A further increase is also evident in second and third degrees. In 2011, Arab students constituted 8.2% of all the students for second degrees (compared to 6.6% in 2010 and 3.65% in the 1990') and 4.4% of the students studying for third degrees (compared to 3.5% in 2007).

196. This increase is attributed, among other things, to the opening of higher education institutions in peripheral areas, which increased the accessibility of higher education to the Arab population.

197. Worthy of mention is the substantial increase in the rate of Arab women studying in universities. In 2011 this rate stood at 67% of the Arab students (compared to 62% in

2009/10 and 40% in the early 1990s). This important development is also linked to the opening of higher education institutions in peripheral areas, which allowed Arab women to study in places closer to their residential areas.

198. In January 2010, the Planning and Budgeting Committee (PBC) of the Council for Higher Education has set a multi-year plan for the years 2011-2016, with the goal of lifting barriers and making the higher education system more accessible for the minority populations, including the Arab population (including the Druze, Bedouin and Circassian populations) and the Ultra-orthodox population. The Committee and the Ministry of Finance has allocated a budget of about 500 Million NIS (135.1 Million USD) for this purpose.

199. As part of this plan, the Committee has appointed in January 2010, a professional team headed by the PBC's Deputy Director for Planning and Policy, which invested great efforts in order to study this field and draft operative recommendations. The team's report titled: "Pluralism and Equal Opportunities in Higher Education – Expansion of the Accessibility of Academic Studies to Arabs, Druze and Circassians in Israel" was published in March 2013.

200. The Report mapped the main entry barriers of the Arab population into the higher education institutions, which included lack of information on entry requirements, lack of information regarding the various learning courses and possibilities, employment possibilities and difficulties getting accustomed to academic education. Additional barriers were found to be the psychometric entry test, lack of preparatory counseling and guidance, economic aspects and the need for special academic preparatory classes for Arab students.

201. In its report the team provides details on existing tools and programs for assisting Arab students and for increasing their participation in higher education institutions:

202. In 2001, a permanent steering committee was established in the Council for Higher Education for expanding the accessibility of higher education to the Arab population. This steering committee has an annual budget of 4-5 Million NIS (1.1-1.4 Million USD) which is used for academic counseling for Arab students and social and academic assistance classes; scholarships for excellent Arab third degree students and for supporting Arab students that study in academic preparatory classes. In addition, the majority of the higher education institutions invests additional funds in promoting and supporting Arab students through tutoring, academic assistance classes, Arab guidance counsels etc.

203. In addition to the above, the Planning and Budgeting Committee holds additional support programs for the Arab population or general programs which refer also to Arab students:

- "Maof" Scholarships – intended for excellent scientists of the Arab population, that higher education institution wish to hire as their academic staff. Each year, seven such scholarships are granted (91 scholarships so far) with an annual budget of three Million NIS a year (810,000 USD).
- Tutoring scholarships ("Perah" scholarships) – intended for first degree students who volunteer to tutor high school children in return for 50% of their annual tuition. This project operates at all higher education institutions which receive accreditation from the Higher Education Council. The rate of Arab students who participate in this project is 23% and the rate of schools designated for the Arab population who benefit from this program is 16%. The project's annual budget is about 150 Million NIS (40.5 Million USD).
- Students' assistance fund – the Planning and Budgeting Committee and the Ministry of Education utilize a special fund for providing assistance for students in need. This fund provide for scholarships and loans according to socio-economic key. The fund's total budget in 2013 is 100 Million NIS (27 Million USD). In 2012, 22% of the applications were filed by Arab students and 21% of the funds recipients were

Arab students. In addition, 40% of those who applied for a loan from this fund were Arab students, 80% of them decided to take this loan.

Government Resolutions

204. In recent years the Government had approved several multi-year resolutions in favor of the Arab population including the Bedouin, Druze and Circassian populations with a total budget of 3.7 Billion NIS (One Billion USD). Hereinafter are several examples:

205. Government Resolution No. 2861 of February 13, 2011 in which the Government approved a four-year program (2011-2014) intended for promotion of the economic development and advancement of the Druze and Circassian populations by investing mainly in employment, education, infrastructure and transportation. The Program's total budget is 680 Million NIS (184 Million USD).

206. Government Resolution No. 3211 of May 15, 2011 in which the Government approved a five-year program (2011-2015) intended for the economic development and advancement of the Bedouin population residing in northern Israel by investing mainly in employment, education and transportation. The Program's total budget is 353 Million NIS (95.4 Million USD).

207. In the frame of all of these programs which are included in the above mentioned Government Resolutions, the Ministry of Education took upon itself to implement, in the upcoming years, programs aimed at improving the achievements of Arab pupils and students, including by assisting in acquiring academic learning skills. In addition, the Ministry operates educational programs for development of employment and career life in 50 high schools in the Arab population, which, inter alia, expose the pupils to academic life, academic possibilities and future employment opportunities, including by meetings with Arab academic staff members in higher education institutions. The Ministry is working toward the establishment of 60 psychometric centers that will operate in high schools in the Arab population.

208. The professional team headed by the PBC's Deputy Director for Planning and Policy has made several initial recommendations which are based on the following guidelines:

209. Integration of students of minority population in the existing academic system while making the necessary accommodations according to the students' needs.

- The plan takes into account the entire framework of the students' time line – before and after the academic studies – beginning with the high school period and ending in finding proper employment subsequently.
- The plan is a holistic plan – which refers to entry barriers which are found both inside and outside of the academic system.
- The plan is meant primarily to improve the quality of absorption, support and the course of studies for students of minority populations and assists in maximizing all available opportunities to integrate the students in higher education.
- The plan requests the academic institutions' responsibility and commitment to this process together with clear plans and goal of absorption of Arab students, including to advanced degrees.

210. Hereinafter are the teams' main recommendations:

Preparatory Information, Guidance and Counseling

211. Establishment of information and guidance centers for the Arab population. These centers will disseminate updated information of professional and educational guidance, and

will provide employment counseling etc. These centers will be established in 19 Arab localities and gradually in additional Arab localities.

212. Education supervisors – these supervisors who will work in Arab localities, will operate in cooperation with high schools in order to provide pupils with information on academic institutions, courses, acceptance thresholds, preparatory courses etc. The supervisors will assist the pupils with their correspondence with academic institutions.

213. Teaching staffs in high schools – will actively inform the pupils about acceptance thresholds in academic institutions and the requirements needed.

Preparatory Training and Courses

214. Beginning in 2013, every preparatory college funded by the PBC, in which minority students are prepared for academic life, will receive additional funds for: Hebrew lessons, dormitories/transportation, preparatory course toward the psychometric exam and a counsel position.

215. In addition, the PBC will participate in a campaign intended for marketing and branding these colleges so to raise the awareness of the Arab population to the advantages of studying in them. In addition, starting from 2014, the PBC will grant excellence scholarships to 20% of the preparatory colleges' graduates who belong to minority populations. The scholarship will be awarded after admission to the first year in an academic institution. The scholarships will cover the first year's tuition.

Academic Preparation Programs towards the First Degree

216. A special course will be implemented for students of minority populations who are accepted to higher education institutions. This is a crash course that will be conducted in the 4 to 8 weeks prior to the beginning of the academic year, in which the students will be provided with important skills and information, including, inter alia, – languages (both Hebrew and English), learning skills and academic orientation, time management, computer literacy, building a weekly schedule, a scholarship seminar, library instruction, information on examinations anxiety, interpersonal communication, campus orientation, social activities etc.

Absorption Programs

217. The PBC will allocate a budget for programs that will ease the absorption of Arab students in the beginning of their first academic year, that will include social guidance, tutoring, academic workshops, mental support, professional academic guidance etc. this in order to reduce first year anxieties, reduce dropout rates and allow for smooth beginning of the academic year.

Absorption of Arab Graduates in the Academic Staff

218. The team recommended encouraging students who excel at their studies to continue their studies to advanced degrees and to integrate qualified candidates of the Arab population as academic staff members.

219. Scholarships and funds – due to the low number of scholarships and funds available to Arab students for first and second degrees, the PBC, together with the Prime Minister's Office and NGOs are working for the establishment of a scholarship and loans fund. Preference will be given for excellence, extra curriculum activities, required professions, etc.

220. As is evident from the information above, the State of Israel sees great importance in raising the numbers of Arab students in higher education institutions and invests great resources, time and thought of the best way of achieving this goal. The Council for Higher

Education and the PBC continue to work and promote this issue and will monitor its outcomes in the following years.

Question 8 (c)

Participation in Public Life

221. Every Israeli citizen over the age of 18 (with few exceptions), present in the country on the day of elections, has the right to vote, and every Israeli citizen over the age of 21 has the right to establish a political party and run in the elections for the Knesset. Knesset seats are assigned in proportion to each party's percentage of the total national vote.

222. Currently there are 12 Arab Knesset Members of the 120 Knesset Members (10%), including one woman and one Druze MK.

223. MK Ahmad Tibi is currently Deputy Knesset Speaker. Several Arab MKs are members of the Permanent Knesset Committees – MK Ahmad Tibi and MK Bassel Ghattas are members of the House Committee, MK Ahmad Tibi and MK Hamed Amar are members of the Finance Committee, MK Ibrahim Sarsur is a member in the Economic Affairs Committee, Mk Taleb Abu Arar and Mk Hamed Amar are members in the Internal Affairs and Environment Committee, MK Jamal Zahalka is a member in the Constitution, Law and Justice Committee, MK Esawi Frij and MK Masud Ganaim are members of the Education, Culture, and Sports Committee, MK Bassel Ghattas is a member of the State Control Committee, MK Hanin Zoabi is a member of the Committee on the Status of Women.

224. The Law states that indictment against Members of Knesset may be issued only with the authorization of the Attorney General, who operates independently of any other Government or political entity, making decisions purely on the basis of professional judgment.

225. Unfortunately, over the past years a number of indictments were filed against serving Members of Knesset, affiliated to political parties from across the political spectrum in Israel, holding a wide range of political opinions and points of view.

226. According to the Israeli law, a Member of Knesset has substantive immunity against legal action in regard to any spoken or written expressions of opinion or in regard to any act carried out either within or outside the Knesset, if these actions were carried out in the course of fulfilling his/her duties, or in order to fulfill his/her duties as a Member of Knesset. This Immunity is absolute and cannot be lifted.

227. In regard to actions of an MK that are not in the course of fulfilling his/her duties, he/she may be subject to criminal charges for these actions, with the authorization of the Attorney General. The MK has the right, after receiving a draft of the indictment from the Attorney General, to request that the Knesset shall rule that he/she has immunity from criminal prosecution in regard to charges detailed in the indictment.

228. In addition, note that in accordance with the law, an indicted Member of Knesset, is not required to resign and may continue serving as an MK until the completion of his/her trial. As a rule, during the period that the indictment is pending in court, there are no limitations on the parliamentary activity of the MK, and he/she may continue to serve in parliamentary positions he/she holds. The membership of an MK is only terminated in the event that he/she is definitively convicted of a criminal offence involving moral turpitude.

MK Ahmad Tibi

229. In January 2012, the "Legal Forum for the Land of Israel" approached the Attorney General, asking to open an investigation against MK Ahmad Tibi, following his participation in a convention held in the Palestinian Authority, where he made a speech,

that according to the application, contained legitimation and glorification to terrorist acts, incitement against Israel and its existence. After examining the case, the State Attorney decided not to open an investigation against MK Tibi. Following additional such applications, the Attorney General repeated that there is a great doubt in regards to the interpretation of MK Tibi's expressions and whether they can be interpreted as glorification of terrorists or incitement to acts of violence and terrorism. The Attorney general also noted that MK Tibi enjoys substantial immunity in this regard and found no reasons to alter the State Attorney's decision.

MK Mohammed Barakeh

230. Following a police investigation and with the authorization of the Attorney General, an indictment was filed against MK Barakeh, that included charges of insulting a public servant, interference with a policeman in the performance of his duty, failing soldiers in performance of their duties and assault. The indictment was submitted in full conformity to the provisions of the Knesset Members Immunity Law (Rights and Obligation) 5711-1951 (Hereinafter: "Knesset Members Immunity Law").

231. The Attorney General found that in this case the charges against MK Barakeh do not relate to acts carried out in the course of his duties or in order to fulfill his duties as an MK. Mk Barakeh chose not to appeal to the Knesset.

232. In October 2011, the Tel Aviv Magistrate Court ruled that the offences of insulting a public servant and interference with a policeman in the performance of his duty shall be removed from the indictment since these offences are protected under the substantive Immunity granted to MKs.

233. On November 18, 2012, the Court ruled that in regard to the third count of indictment – an act of violence that was allegedly committed against another person and after considering the evidence submitted in the trial, there is no justification to accept this claim that the substantive immunity protects from such charges. The Court also rejected other claims such as the delay of the proceedings and selective enforcement of the law. (C.C. 12318-12-09, *The State of Israel v. Mohammed Barakeh* (18.11.12)).

MK Sa'id Naffaa

234. On January 26, 2010, following a long debate, the Knesset Committee decided to remove MK Naffaa's immunity. In its preliminary response, the defense claimed that the immunity provided to Knesset members applies to this case since MK Naffaa discussed political issues rather than security issues with the persons he met. The case is still pending before the Nazareth District Court (S.Cr.C. 47188/12/11, *The State of Israel v. Sa'id Naffaa*). On December 26, 2011, MK Sa'id Naffaa was indicted for illegal travel abroad to an enemy state, aiding an illegal travel abroad to an enemy state to about 280 persons, and two counts of contact with a foreign agent. MK Naffaa was indicted following his trip to Syria in September 2007, despite a refusal of the Minister of Interior to allow this trip.

MK Hanin Zoabi

235. In April 2010, MK Hanin Zoabi left Israel together with five other MKs to meet with Moammar Gaddafi, former President of Libya. Upon their return, an application to revoke their privileges as Member of the Knesset (according to the Knesset Members Immunity Law) was submitted to the Knesset's Committee. This procedure is semi-judicial, and special instructions apply in its regard, in order to assure it fairness and integrity, such as the right to appear and argue before the Knesset, the right to be represented by an attorney, etc.

236. The Supreme Court deliberated on the matter of revoking MKs privileges in several cases, and determined the following principles: The Knesset Committee must take

precautions in its decisions in this regard, its decisions are subject to judicial review, the basic condition to revoke a privilege from a MK is the existence of evidentiary basis from which it can be deduced that the MK may use his/her privileges improperly. In addition, the Knesset Committee must be convinced that the MK is going to improperly use his/her privileges and that revoking these privileges will reduce the future risk in the MK behavior. Revoking these privileges is not to be viewed as a punishment but rather as a means to prevent future improper behavior by a MK.

237. With regard to the MKs who traveled to Libya, the first meeting in the Committee was conducted on May 24, 2010. The MKs were asked to present their case before the Committee, but all of them, including MK Zoabi, chose not to do so.

238. Several days later, on May 31, 2010, MK Zoabi took part in the Marmara flotilla during which severe violence was taken against the IDF soldiers, including the use of knifes, bats, metal bars and also firearms.

239. On June 7, the Knesset Committee held its second meeting regarding the travel of the six MKs to Libya, and decided to recommend to the Knesset to revoke MK Zoabi of the following MK privileges: 1. the privilege to leave Israel unconditionally (except in times of war); 2. the right to hold a diplomatic Passport; 3. the right to receive reimbursement of legal expenses from the State, if the expenses are related to a judicial procedure resulting from leaving or entering the country or a foreign territory, or from the commission of offences concerning state security, foreign relations and state secrets.

240. This recommendation was deliberated by the Knesset on July 13, 2010, and the Knesset decided to approve the recommendation and revoke the abovementioned rights. This decision was the subject of two appeals that were filed to the High Court of Justice. The Court issued an order nisi and extended the number of judges in this case. The case is still pending (H.C.J 8148/10, *MK Hanin Zoabi v. The Knesset*).

241. In addition, following MK Zoabi's participation in the flotilla, several complaints were filed to the Knesset's Ethics Committee, stating that the participation of MK Zoabi in the flotilla and her expressions and statements soon after are a violation of the rules of ethics applied to MKs. The Knesset Ethics Committee determined that "The very participation in the flotilla which was meant to break the maritime blockade on the Gaza Strip, that was applied as part of the conflict between Israel and the Hamas, even prior to the harsh consequences were known, and even with no connection between the two, is an act that harms State security, and does not coincide with the legitimate leeway of a MK". The Committee determined that MK Zoabi violated the second rule of ethics, according to which "A MK will observe the respect of the Knesset and its members, shall act in a way that respects his/her status and obligations as a MK and shall avoid improper use of his/her immunities and privileges as a MK." The Committee decided to temporarily remove MK Zoabi from the Knesset and Knesset committees meetings for a period of two weeks, while retaining her voting rights and ability to attend meetings that relate to her personally.

242. MK Zoabi chose not to appeal these decisions.

243. Following her participation in the flotilla, an additional legal process was initiated in the case of MK Zoabi, requesting to revoke her citizenship. Section 11 to the Citizenship Law, determines that the Minister of Interior is authorized to annul the Israeli citizenship of a person, with the consent of the Attorney General, and according to the conditions set by the Law.

244. The Attorney General is well aware of the great importance of the right to citizenship, and even though it is not specifically anchored in Israel's Basic Laws it is considered as a basic right of every person.

245. Following due deliberation regarding this matter, the Attorney General did not approve the revocation of MK Zoabi's citizenship.

246. In addition, In January 2012, the "Legal Forum for the Land of Israel" requested the Attorney General to open an investigation against MK Zoabi in light of her alleged meeting with operatives of the Hamas terrorist organization. After an examination of this case it was decided not to open an investigation against MK Zoabi regarding this matter.

247. Prior to the recent elections of January 2013, several applications were submitted to the Central Elections Committee for the disqualification of MK Zoabi from participating as a candidate. The Committee examined and deliberated on this issue and on December 19, 2012 decided to disqualify MK Zoabi from participating as a candidate. According to Section 7a(a1)(b) to the Basic Law: The Knesset, such a decision by the Central Elections Committee requires the approval of the Supreme Court. In the frame of this procedure, the Attorney general was requested to provide his opinion regarding the disqualification.

248. In his Opinion, the Attorney General reaffirmed his opinion that: "In accordance to the firm tests that were set in the Supreme Court's ruling on the matter of disqualification of a candidate from participating in the Knesset Elections – and despite that in MK Zoabi's case there is a significant and particularly disturbing accumulation of evidence, which are close to the prohibited line – it seems that the requests themselves do not elaborate a sufficient "critical mass" of evidence in regard to MK Zoabi case, that it alone, in accordance to the relevant court decisions, can cause her personal disqualification from participating as a candidate in the Knesset elections". The Attorney General therefore told the Court that to his opinion, the Court should not approve of the Central Election Committee's decision preventing MK Zoabi from being a candidate to the 19 Knesset.

249. On December 30, 2012, the Supreme Court, residing in a panel of nine judges, unanimously decided not to approve the Central Elections Committee's decision (E.A. 9255/12, *The Central Elections Committee for the 19th Knesset v. MK Haneen Zoabi* (30.12.12)).

Question 9

Treatment of the Sewage and Wastewater – Eastern Neighborhoods of Jerusalem

250. In the last six years (2007-2012) extensive development works were carried out in order to upgrade the City's sanitation and sewage network with a sum of 42 Million NIS (11.35 Million USD). The works that are currently conducted in Jabel Mukaber, Um Tuba, Tzur Baher, Issawiya, Shrafat and in other location which are detailed below are expected to be completed within two years. Upon their completion, all the eastern neighborhoods of Jerusalem will be connected to the central sewage system and the majority of the works will then focus on maintenance.

251. The Jerusalem municipality conducted extensive works intended to improve sewage and sanitary infrastructures in the eastern neighborhoods of Jerusalem with a total cost of 210 Million NIS (56.7 Million USD) as detailed below:

- Old City of Jerusalem – the sewage and drainage system is almost complete.
- New Ananta/Ras Ramis, Atour, Wadi Jous, Sheikh Jarrah, Silwan – in all of these neighborhoods the sewage system is complete and operating.
- Kidron stream – the works and operation that were carried out in order to replace the General sewage collector were completed.

- Shoafat – the neighborhood is connected to the sewage system apart from a few houses that cannot be connected due to technical reasons and/or for lack of cooperation on the part of the residents.
- Shrafat – the neighborhood is connected to the sewage system apart from a few isolated buildings.
- Jabel Mukaber – Over 60% of the neighborhood in connected to the sewage system. There is a multi-year program for completion of the rest of the needed connections.
- Ras Al-Amoud – in this neighborhood the operations on the sewage system are still incomplete.
- Beit Hanina – in most of Beit Hanina neighborhood there is proper and organized sewage system, apart from the new neighborhoods that were built without building permits and coordination with the Jerusalem water and sewage company, and their sewage systems are in very poor condition.
- Tzur Baher and Um Tuba – only 30% of these neighborhoods has a functioning sewage system. In the last three year the Jerusalem sewage and water company is operating extensively to connect the rest of the buildings to the municipality sewage system. In addition, the construction of a sewage collecting and purification plant that will serve the nearby villages is currently being completed.
- Akeb Village – the residents are uncooperative and refuse to pay fees and tolls and in several cases attacked maintenance workers and contractors.

Sewage Purification Centers and Pumping Stations which Serve the Residents of the Eastern Neighborhoods of Jerusalem

252. Shmuel Wall – currently a Sewage purification center is being constructed with a cost of approximately 30 Million NIS (8.1 Million USD). This purification center will serve the villages of Tzur Baher and Um Tuba which encompass about 30,000 people.

253. Nabi Musa – currently a sewage purification center is being constructed near Nabi Musa junction. This purification center will serve the villages of Issawiya, A-Tur, Beit Hanina and Mount Scopus. The construction is to be completed in the first half of 2013.

254. Talpiyot (east) Pumping Station – Currently the Jerusalem municipality is planning on an expansion of this facility, which upon its completion will serve the residents of Um-Lison, Areb Al-Swahra and Tzur Baher. The expansion is to be completed by 2015.

The Golan

255. Israeli residents and citizens living in the Golan are entitled to the same rights as any other resident or citizen in all aspects of life, including access to land and natural resources.

256. For further information please see Israel's reply to Question 4 above.

Question 10

General

257. In recent years the State of Israel is facing a massive wave of illegal immigration, of persons who, in the vast majority of the cases cross the border illegally from Egypt. This particular border is 220 Km long and until recently was an open border without any real obstacles.

258. According to the estimations of the relevant authorities, since 2006 over 64,000 persons entered Israel illegally, and as of May 1, 2013 about 55,000 persons are staying in

Israel after entering it illegally. The phenomena began with the illegal arrival of a few persons from Sudan, and in 2006, over 700 foreign residents who entered illegally were arrested, in 2007 about 5,200 were caught, in 2008 – 9,000, in 2009 – 5,300, in 2010 – 14,700, in 2011 – 17,300 and in 2012 about 10,421 entered Israel illegally. In 2013, the numbers of illegal arrivals decreased significantly, with only 38 illegal arrivals (until September 2013), a decrease which is mainly attributed to the building of the fence between Egypt and Israel. The majority of the illegal immigrants are from Eritrea (63%) and Sudan (26%) alongside other African countries. Note that until June 2012, the detention period was a few weeks at the most.

259. The Jewish people's history, and the fact that during the Holocaust many Jews were asylum seekers, makes Israel highly sensitive to this humanitarian issue. Due to our history, Israel was among the first countries to adopt and ratify the 1951 Convention Relating to the Status of Refugees. This sensitivity, in addition to Israel's obligations under international law and the will of the Israeli Government to protect human rights, lead to an honest attempt by all government agencies, to protect the human rights of these individuals despite increasing challenges. In this regard, Israel currently grants protection to more than 50,000 people, allows these individuals to enjoy their basic human rights.

260. The problem of controlling its borders while upholding the rule of law is not unique to Israel. Many other countries face similar dilemmas, and Israel cooperates closely with those countries in order to develop the appropriate legal mechanisms to cope with these challenges. However, the situation in Israel is much more complicated than in other developed countries. Israel is the only developed country with a long land border with the African continent, which makes it a lucrative destination for immigration without the need to use expensive means of transportation. Moreover, tight control of the borders in Europe makes those who seek a better life turn to the relatively easy route to Israel. Additionally, the current regional instability which touches nearly all of Israel's borders and the fact that a large proportion of these individuals come from Sudan – a country which is hostile towards Israel and does not recognize its existence – adds to the security challenges which a small country such as Israel faces. In this regard, many scholars see migration as a regional phenomenon and believe that the policies for coping with it should be regional. However, due to Israel's unique situation in the Middle East it is impossible for us to develop regional strategies for cooperation with our neighbors or countries of origin, as other states with similar challenges do.

261. This unique situation called for taking several immediate steps in various areas such as constructing a physical border on the Egyptian-Israeli border, expansion of the detention facilities in the south, together with several legal amendments to the relevant legislation. These measures are an honest attempt to try and control Israel's borders and reduce the financial incentives to arrive in Israel, while adhering to the rule of law and respecting the human rights of all individuals in its territory.

Equality

262. The principle of equality is a fundamental principle in the Israeli legal system as apparent both in legislation and adjudication.

263. The Basic Law: Human Dignity and Liberty protects basic guarantees of personal liberty within the framework of Israel's Jewish and democratic character. The goal of the Basic Law is "to defend Human Dignity and Liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic State." Furthermore, many laws emphasize the principle of equality, as detailed extensively in Israel's Initial and Periodic Reports.

264. Just as the Israeli legislature crafts and adopts both new laws and administrative measures to ensure that government agencies adhere to the principle of equality and do not engage in any discriminatory act or practice, the country's independent judiciary serves to interpret, guide, and enforce these measures. The Supreme Court has, on several occasions, reiterated the notion that equality is a constitutional right, derived from the Basic Law: Human Dignity and Liberty,[4] and that maintaining human dignity also prohibits discrimination.[5]

265. This judicial effort is also guided by the Supreme Court, which plays a pivotal role in the promotion of the principle of equality through the development of jurisprudence dealing with contentious and highly charged political and security-related issues, as detailed in the Periodic Reports.

266. The criticism expressed against the manner in which the State of Israel has been treating asylum seekers does not include claims of discrimination or inequality.

267. The Prevention of Infiltration Law (Offences and Jurisdiction) 5714-1954 (Hereinafter the "Prevention of Infiltration Law"), includes an exception for custody, stipulated in Section 30a(c)(1) and 30a(c)(2), whose purpose is to make sure that requests for asylum are handled within a reasonable time frame[6] and that genuine refugees are not held in custody. Note that the Population and Immigration Authority (PIA) is making every effort to uphold the schedule detailed in the law.

Amendment No. 3 to the Prevention of Infiltration (Offenses and Jurisdiction) (Amendment No. 3 and Temporary Provision) Law 5772-2012

268. On 16 September, 2013 the High Court of Justice ruled in a petition filed by several NGOs, regarding the constitutionality of Amendment No. 3 to the Prevention of Infiltration Law (Offenses and Jurisdiction) 5772-2012. This Amendment entered into force in January 2012, as a temporary provision, expiring in January 2015. Under Section 30A of the Law, as amended, a person that enters Israel illegally can be held in detention for a period of up to three years, subject to certain exceptions. An extended panel of nine judges ruled that holding persons for such a long period of time constitutes a material violation of their rights, including liberty and dignity, as enshrined in the Basic Law: Human Dignity and Liberty. The Court determined that this violation does not meet the proportionality criteria contained within the limitation clause of the Basic Law, and was therefore unconstitutional. The Court annulled Section 30A of the Law. Furthermore, the State was given 90 days to examine the possibility of releasing the 1,750 people held in detention pursuant to this section, on the basis of Section 13F of the Entry into Israel Law 5712 – 1952, which was deemed applicable (H.C.J. 7146/12, *Naget Serg Adam et al. v. The Knesset et al.*(16.9.13).

269. The Prevention of Infiltration (Offenses and Jurisdiction) (Amendment No. 3 and Temporary Provision) Law 5772-2012, was enacted on January 18, 2012 as a temporary provision for a period of three years and defines an "infiltrator" as: "infiltrator" – a person who is not a resident according to the definition in Section 1 of the Population Registry Law 5725 – 1965, who entered Israel other than by way of a border station prescribed by the Minister of Interior according to Section 7 of the Entry into Israel Law 5712 – 1952

[4] H.C.J. 721/94. *El-Al Israel Airlines v. Danielowitz*; H.C.J. 5394/92 *Hoppert v. Yad VaShem Holocaust Martyrs and Heroes Memorial Authority*.

[5] H.C.J. 4541/94 *Alice Miller v. The Minister of Defense*; H.C.J. 7111/96 *The Local Municipalities Center in Israel v. The Knesset.*

[6] Following three months from the day of submission of a request for a visa and a staying permit and the handling of the request has not begun (Section 30a(c)(1)), or following nine months subsequent to the submission of such a request if a decision on that request has not been issued (Section 30a(c)(2)).

(Hereinafter the "Entry into Israel Law"). Note that the law is valid for a period of three years and is currently scheduled to expire on January 18, 1, 2015. In addition since the Law was only applied in June 2012, the maximum detention period according to it is two and a half years.

Prevention of Infiltration (Offenses and Jurisdiction) (Temporary Provision) Law 5773-2013

270. In June 2013, the Knesset approved the Prevention of Infiltration Law which, inter alia, prohibits a person that entered Israel illegally to exit the State with property (including money and property rights) subject to several exemptions, among them that the property in movables intended for his/her reasonable use (Section 7A(b)(1)(a)), property in a value that is not higher than the minimum wage multiplied by the number of months he/she stayed in Israel and property in a value higher than that mentioned in Section (Section 7A(b)(1)(b)(1)) if proved that this property is legally his/hers (Section 7A(b)(1)(b)(2)).

271. Nevertheless, a person that entered Israel illegally will be allowed to exit the State with property, if the border control officer allowed him/her, on an exceptional basis, after being persuaded that the said person is unable to leave Israel to another country (Section 7A(d)(1)) and that there is a proof that his/her close relative is in a life threatening situation (Section 7A(d)(2)).

272. Note that this law is a temporary provision which entered into force on 13 September, 2013 and is scheduled to expire on January 17, 2015. The Minister of Interior has issued regulations according to the Law regarding its implementation on 28 August 2013, which also entered into force on 13 September, 2013.

Case Law

273. On July 7, 2013, the Supreme Court, residing as a Court for Administrative Appeals, rejected an appeal filed by several Ivory Coast nationals against the decision to deny their individual requests for asylum. The appellants stayed in Israel due to temporary group protection, after individual asylum requests filed by them have been denied. Following the end of the temporary group protection, the petitioners requested to review their individual requests claiming that while staying in Israel they joined the FPI party who later became to opposition party in the Ivory Coast – thus, they are in danger if sent back to their country. After reviewing the State's response and the evidence in this case, the Court rejected the appeal stating, inter alia, that the decision of the relevant authorities was reasonable according to the evidence. In addition the Court stated that the appellants only proved their membership in the FPI party without any political activity beyond that, and that it was not persuaded that the appellants' activity in the Israeli FPI branch may cause their persecution in the Ivory Coast or threat to their lives or liberty in the Ivory Coast. The Court that examined the individual applications of the appellants however stated that they did not prove any evidence of any change in circumstances that may affect their entitlement to a status of refugees or asylum, and therefore the decisions in their regard were given in accordance with the law (Ad.A. 4922/12, *Anonymous v. The Ministry of Interior et al.* (7.7.13)).

274. On April 30, 2013, the Administrative Court in Be'er-Sheva accepted a petition filed by an Eritrean woman and her two daughters, aged 8.5 and 11, for their release from custody due to unique humanitarian circumstances. The Court accepted the claim that minority may be construed as special humanitarian justification for release under Section 30a(b)(2) of the Prevention of Infiltration (Offenses and Jurisdiction) Law 5714-1954, as amended in January 2012 (Amendment No. 3). The Court determined that the release of minors from detention was a matter of judicial discretion, taking into account the

minor's age and the particular circumstances, and it is not limited to unaccompanied minors.

275. The Court further noted that according to Section 30a(b)(1) to the Law, an almost categorical reason for release from custody regarding a minor is that the continuation of "holding him/her in custody may cause harm to his/her health and there is no other way to prevent the said harm."

276. The Court held that babies and young children require special treatment due to their small size and young age. The Court also noted that the mere age of the appellants was to be considered a special humanitarian consideration, as their prolonged detention and uncertain prospects of release (due to Israel's decision not to deport Eritrean citizens), were sure to affect them emotionally and hamper their emotional development.

277. The Court ruled that the matter will be returned to the Detention Review Tribunal in order to examine other option for the petitioners, such as placing them in Carmel shelter in Osffiya, which in recent years housed many women who were released from the Saharonim facility (Ad.P. 44920-03-13 *(Be'er-Sheva), Saba Tedsa et al. v. The Ministry of Interior* (30.4.13)).

278. In another petition, the State noted in its response that the Petitioner and her minor daughter were released from custody in December 2012, and also noted that in May 2013, the Border Control Supervisor, with the approval of the Minister of Interior, ordered the release of nine mothers and their ten minor children which were held in custody since September 2012. The State further noted that as of May 2013, there were only five women and 11 accompanied minors in custody, and that the services and living conditions in the Saharonim facility were adapted to the needs of minors, including health, welfare and education services and special nutrition in provided to them. The State further noted that if any indications will be found that the custody causes harm to the minors' health, including mental health, such minors will be released together with their relative or the person accompanying them (H.C.J. 7146/12, *Anonymous v. The Minister of Interior (State response)* (29.4.13)).

279. In another case concerning a decision dated January 31, 2012, in which the Minister of Interior, following the declaration of independence of Southern Sudan, informed the nationals of Southern Sudan that they are required to return to their country and that beginning on April 1, 2012 enforcement activities will be taken against illegal immigrants of Southern Sudan who refuse to leave. According to the Court this decision is basically ending the collective protection for nationals of Southern Sudan. The Court rejected the appeal stating, inter alia, that due to the respondent notification that an individual examination will be made; there is no basis to the petitioners claim that there is an obligation to continue the policy of collective protection. The Court further noted that despite the fact that the respondent and the experts agree that the situation in some areas of Southern Sudan is problematic, violent and even dangerous, the petitioners did not base the claim that this situation takes place all across Southern Sudan and endangers every national as such. The Court further noted that the petitioners did not demonstrate that the decision to stop the collective protection and return national of Southern Sudan to their place of origin or another region in this county that does not endangers their life or liberty, is unreasonable. The Court here recognized that non-refoulement is applicable towards asylum seekers whose individual requests for asylum was denied. (Ad.P. 53765-03-12 (Jerusalem District Court), *ASSAF the Aid Organization for Refugees and Asylum Seekers in Israel. et al. v. The Minister of Interior* (7.7.12)).

Cases of Brutality and Violence against Asylum Seekers

280. Persons who entered Israel illegally through the Egyptian border crossed through the Sinai Peninsula, and in some cases, while on Egyptian ground, such individuals were held in camps ("Sinai Camps") where they suffered heinous crimes and grave abuse at the hands of their captors, for the purpose of obtaining ransom from their family members living in Israel or abroad ("Sinai Victims").

281. According to Government Resolutions No. 2806 of December 1, 2002 and No. 2607 of December 2, 2007, any case where there is a suspicion that a person is a victim of trafficking in persons (TIP) or slavery is transferred to the Police, which first determines if there is evidence that the relevant person is indeed a trafficking victim. If the relevant authority determines that there is such initial evidence the victim is transferred to a TIP victims' shelter (Ma'agan or Atlas). Note that it is insignificant if the victim is a witness in the case or not, since he/she is recognized as a victim he/she will be directed to the shelter. Due to this fact, all the Sinai victims, who were forced to provide sexual services to their captors or who were compelled to forced labor and were held in slavery conditions are also directed to the shelter, despite the fact that the offences against them were conducted outside of Israeli borders, by foreign nationals.

282. The investigation division, in the investigation and intelligence department within the Israeli Police monitors and supervises TIP investigation cases and cases regarding associated offences.

283. Victims of trafficking are afforded three fundamental types of rights: shelter, free legal aid and ability to work. These rights (except for the visas granted during court cases) are not contingent upon cooperation with law enforcement. The shelters are supervised and financed by the Ministry of Social Affairs and Social Services and run by an NGO; legal aid is state-funded, by the Legal Aid Branch of the Ministry of Justice; work visas are provided by the Population and Immigration Authority (PIA) in the Ministry of Interior. The victims who are directed to the shelters, and are also directed to aid organizations that provide additional legal aid, including in regard to the question of their status as refugees.

284. As a rule, victims identified as victims of trafficking by the various authorities and NGOs are transferred to the Police. The Police's threshold for admitting a person to the shelter is fairly low: if there exists preliminary evidence suggesting that the person might be a victim of trafficking, the person is promptly referred to the shelters. The shelters receive every individual referred by the Police. See the responses to Questions no. 34 and no. 36 of the Previous Report regarding the referral process.

285. The services available for the treatment of victims of trafficking in persons for prostitution, slavery and forced labor were established by two Governmental Resolutions, which led to the establishment of the "Ma'agan" shelter for female victims of trafficking for prostitution in February 2004, and the "Atlas" center for male victims in July 2009. The shelters are currently equipped to deal with a total of 88 victims: 35 places within the Ma'agan Shelter for women, 35 places in the Atlas Center for men, and eighteen places within transitional apartments.

286. The shelters function as a single, comprehensive resource aimed to provide all the necessary services and treatment for victims of trafficking, including meeting their physical, medical, emotional and social needs. During their residence in the shelter, a unique rehabilitation program is designed for them.

287. The shelters are staffed with professional employees with diverse backgrounds and specializations. The staff includes a manager, administrative team (including a secretary and maintenance supervisor), social workers, instructors, educators, translators, volunteers, mediators and security crew. These are complemented by two weekly visits by a doctor and

visits by a psychiatrist as needed, as well as external professional instructors who lead workshops and classes such as sports, yoga, dance, arts and crafts workshops, Hebrew and English lessons. In short, the shelters provide an open, tolerant, attentive, sensitive and rehabilitative environment for victims of trafficking.

288. In 2012, 21 women who were recognized as slavery/forced labor victims of the Sinai camps were directed to the shelter. 18 of the women were from Ethiopia and three from Eritrea. All of these women were identified by the Detention Review Tribunals, the Israeli Prisons Service (Hereinafter: the "IPS"), aid organizations and were recognized by Police as victims of slavery for providing sexual services and forced labor.

289. Also during 2012, 21 men who were recognized as slavery/forced labor victims were directed to the Atlas center for men. 14 of these men were from Ethiopia (among them two minors over the age of 17) and seven from Eritrea. All of these men were identified by the Detention Review Tribunals, the IPS, aid organizations (including the UN Refugee Agency) and were recognized by the Police as victims.

290. In recent years the Police handled ten cases concerning ransom payments for releasing Sinai victims, where there was involvement of Israeli citizens. In six cases indictments were served, two cases are still under investigation and two cases were closed for lack of evidence.

Question 11

The Advancement of the Status of Women

291. The advancement and promotion of gender equality and the promotion of women's rights have been on the agenda of every Israeli Government since the foundation of the State of Israel. Equality is a fundamental principle already enshrined in Israel's Declaration of Independence. In addition, the Equal Rights for Women Law 5711-1951 (Hereinafter the "Equal Rights for Women Law"), enacted only three years after the State was founded, is a testimony to the emphasis placed on gender-related issues from the State's inception. Throughout its existence these issues and principles have remained a priority for Israel and are of utmost importance to its Government and society.

292. As early as 1969, Israel had a woman Prime Minister – Golda Meir. Today, in the 19th Knesset the rate of women MK has increased from 19% to 22.5%. In addition, in the current 33rd Government, the rate of women ministers has also increased from 9.7% to 16%. Currently there are four female Government Ministers: Minister of Health Yael German, Minister of Justice Tzipi Livni, the Minister of Culture and Sport Limor Livnat and Minister of Immigrant Absorption Sofa Landver. Two Government Deputy Ministers are women: Deputy Minister of Interior- Fania Kirshenbaum and deputy Minister of Transportation and Road Safety- Tsipi Hotovely. In addition, the Head of the Opposition is also a woman (MK Shelly Yachimovich). In addition to these figures, as of January 2013, the rate of women directors in government corporations was 42% with 20.6% of women serving as chairperson of such directors. In addition, in 2011, the rate of women serving as managers in the private sector was 39% and the rate of women in senior positions within the Civil Service, was 32.6%.

293. Since 2011, women were appointed for the first time to serve at the following positions: the General Director of the Ministry of Finance, the Chief Accountant at the Ministry of Finance, the commander of a police station (in the city of Petah-Tikva) and for the first time a woman was appointed for the position of Director of the thoracic surgery unit in the Soroka University Medical Center in Be'er-Sheva.

294. In June 2012, the United States' State Department, in its Trafficking in Persons Report for the year 2011, has ranked Israel at Tier 1 for the first time since 2001, this is a

clear recognition of the U.S. Government of the Israeli efforts and concrete steps taken in order to fight TIP and an important determination that Israel fully meets the minimal standards required to the eradication of TIP. This achievement was also echoed in Israel's tier ranking concerning 2012, released on June 2013.

Legislation

295. On June 10, 2013, the Knesset approved Amendment no. 26 to the Religious Judges Law (Dayanim) 5715-1955, according to which, at least one of the two representatives of the Government, Knesset and the Israeli Bar association to the Committee for appointment of Religious Judges shall be a woman. In addition, the 11th member of the Committee shall be a rabbinic advocate that will be elected by the Minister of Justice. This law is intended to provide adequate representation for women in this important Committee.

296. On November 5, 2012, the Knesset enacted the Welfare Service Law (Adaptation Grant for Women who Stayed at a Shelter for Battered Women) 5773-2012. According to this Law, a woman who stayed at a battered women's shelter at least 60 days, will be entitled to an adaptation grant, provided according to a rehabilitation program upon her leaving of the shelter (within 60 days). This, provided she does not return to her permanent place of residence. According to the Law the grant will be at the sum of 8,000 NIS (2,160 USD) and in regard to women with children an additional 1,000 NIS (270 USD) will be granted for each child.

297. In 2010 and 2011, the Women's Employment Law 5714-1954 was amended in order to grant employment rights and mitigations to new mothers, adoptive parents, intended parents and parents in foster families. According to Amendment No. 46 to the Women's Employment Law (Extension of Maternity Leave to 26 Weeks) which entered into force on March 22, 2010, the maternity leave of an employee who is employed for at least one year prior to her maternity leave, shall be prolonged to 26 weeks. Of which 14 weeks are with pay, and an additional 12 weeks are without pay, during which the employer must reserve her rights at the workplace. The 2011 Amendment No. 48, provides maternity leave for parents in foster families and parents who adopt children and further extends the protection of the law to parents in such cases.

298. In August 2011, Amendment No. 4 to the Student's Rights Law 5767-2007 was enacted, according to which every academic institute will determine the modifications accorded to students on account of fertility treatments, pregnancy, childbirth, adoption or receiving a child for foster care or custody. This amendment applies the principles of promoting gender equality and provides solutions for a variety of family units, whilst increasing the flexibility of filling academic assignments, without reducing the academic quality of these demands.

299. The following measures are aimed at increasing the representation of women in the civil service and in decision making positions:

300. On April 10, 2011, the Knesset enacted the Expansion of the Appropriate Representation of Women Law (Legislative Amendments) 5771-2011 (hereinafter: "the Law"). This Law amended both the National Commissions of Inquiry Law 5728-1968 (Hereinafter the "Commissions of Inquiry Law") and the Equal Rights for Women Law, to obligate appropriate representation for both men and women in inquiry committees and national examinations committees. Moreover, according to the new Law, amending the Equal Rights for Women Law, the Authority for the Advancement of the Status of Women in the Prime Minister Office (the "Authority") will establish a list of women who are suitable and qualified applicants to take part in such committees. According to Section 3(4)(3) to the amendment, a woman who consider herself as suitable to be included in the Authority's list may apply to the Authority in order to be included, specifying her

education, experience and training. According to Section 3(4)(5)(a) of the amendment, in cases where the appointing body is unable to locate an appropriate women candidate to participate as a committee member, the appointing body will ask the Authority for details concerning women candidates which are suitable to the committee's field of interests. In addition, the person or team responsible for the appointment will examine the list prior to appointing the members of the committee, and will examine the suitability of the women according to their expertise, education, training and experience.

301. On November 1, 2010, the Knesset enacted the Career Service in the Israel Defense Force (Female Soldiers in Career Service) Law 5771-2010. The Law determines that a female career soldier may not be discharged from the Israel Defense Forces, in the sense of dismissal, due to her pregnancy, during a maternity leave, during a special leave following the maternity leave, or 60 days following these leaves, without the authorization of the Minister of Defense. The Minister shall not authorize the dismissal if, in his/her opinion, it relates to the pregnancy, delivery or an absence of the soldier due to the abovementioned leaves. The Minister may not issue an authorization for dismissal before conducting a hearing in which the soldier may present her arguments.

Case Law

302. A very recent and significant example of the prominent role played by the Israeli judiciary in safeguarding women's rights is the conviction of the former President of the State of Israel, Moshe Katzav, of committing serious sex offences. On 30 December 2010, the Tel Aviv District Court found Mr. Katzav guilty of several serious sex offences, including rape. (S.Cr.C 1015/09, *The State of Israel v. Moshe Katzav* (30.12.10)). On March 22, 2011, the Court sentenced Mr. Katzav to seven years imprisonment, two years suspended imprisonment and compensation in the amount of 125,000 to his victims. In May 2011, Mr. Katzav appealed against his conviction and sentence and on November 10, 2011, the Supreme Court unanimously rejected his appeal.

303. This case demonstrates the Israeli law enforcement authorities' and judiciary's relentless commitment to promoting and protecting human rights, including women's rights and dignity. It is evident that the Israeli justice system does not shy away from prosecuting even the highest level officials, where sufficient evidence is present.

Administrative Measures

304. In June 2013, the Civil Service Commissioner issued a circular (73/18), in which he notified about several amendments to the Civil Service Regulations (hereinafter "the Regulations"). According to this circular, the fact that parental rights are automatically provided to the mothers, and fathers are required to make special efforts in order to transfer these rights, wholly or partially, to them, anchors the women as the children primary caretakers. This constitutes as a barrier faced by many women when trying to advance to senior positions. Therefore, with the aim of providing equality in the family, assisting the advancement and promotion of women in the Civil Service and to facilitating fathers employed in the Civil Service with better implementation of their parental rights, it was decided to amend the Regulations. According to the amendment, the term "mother's position" will be replaced by the term "parent's position" and parenting rights will not be provided automatically to mothers, instead, any employee, male or female who is a parent to a child/children in the relevant ages, will be entitled to realize its parental rights. However, both parents will not be able to use the same right on the same day.

305. Also in June 2013, the Civil Service Commissioner issued a circular (73/16), notifying an additional amendment to the Civil Service Regulations relating to the reporting of absence hours due to pregnancy related examinations. According to paragraph 33.311 of the Regulations, women civil servants are entitled to absence hours for medical

examinations relating to pregnancy. These are not deducted of the employee's annual number of vacation days. Since many of the pregnancy examinations are conducted in the beginning of the pregnancy, at a stage in which the employee is not required by law to inform the employer about her pregnancy, it was decided to allow the employee to submit the medical absence authorization forms, confirming that these examinations are pregnancy related, together with her report regarding her pregnancy, which is required from the fifth month of the pregnancy. Upon receiving these authorizations, the annual number of the employee's vacation days account will be updated accordingly.

306. On May 13, 2013, the Government resolved to appoint a Ministerial Committee for the Promotion of the Status of Women in the Israeli society (Government Resolution No. 139). This committee will be comprised of the Ministers of Senior Citizens, Health, Justice, Interior, Immigration Absorption, and Social Affairs and Social Services and will be headed by the Minister of Culture and Sport. According to the decision, permanent members in the committee's deliberations will include the director of the Authority for the Promotion of Women in the Prime Minister's Office.

307. The Committee will be in charge, inter alia, of forming policies and promotion of various issues relating to the status of women and equal opportunities for women in the Israeli society.

308. In March 2012, the Government approved Resolution No. 4382, aimed at increasing the rate of women who serve and are employed in local municipalities, by special and unique programs intended for promoting and advancing women to leadership positions. This will be carried out by providing women with skills and tools for running in elections for local municipalities, conducting awareness raising and explanatory activities for encouraging women to enter senior and leadership positions in local authorities.

309. In addition, as of 2012, the Authority for the Advancement of the Status of Women (Hereinafter the "Authority") conducts special courses throughout Israel for the economic empowerment of women and for women leadership with the goal of integrating women in key positions in the society. The authority also hold special courses for training women to serve as directors, and each year several hundreds of women qualify such courses.

310. On January 3, 2012, the Civil Service Commissioner issued a circular to all Government Ministries' Director Generals, in which he emphasized that government authorities are obligated to operate equally towards both genders. The Commissioner also noted that the Commission will see as serious and will take the necessary measures in any case of discrimination for reasons of gender.

311. The Gender Implications of Legislation Law (Legislative Amendments) 5767-2007, which entered into force on January 25, 2008, requires the Authority to submit an opinion regarding gender implications both in regard to bills and proposed regulations. During 2012, the Authority submitted 63 such opinions on new bills and in the first half of 2013, 49 such opinions were prepared by the Authority, 20 of which were already filed to the Knesset for deliberations on various new bills.

312. The Authority also monitors the way women are portrayed in the media, in ceremonies and in various advertisements. During 2011, the Authority approached 15 advertisers regarding offensive advertisements, and in most cases the offensive advertisement was removed.

313. On the occasion of the International Day for the Elimination of Violence against Women, on November 27, 2011, the Government adopted Resolution No. 3884, on the establishment of a public committee for the examination of treatment of domestic violent men. The committee was charged with creating a plan to deal with such men, which will, *inter alia*, include reference to existing methods and required legislative amendments.

Implementation of the Prevention of Sexual Harassment Law 5758-1998

314. The Authority continued to distribute an information kit on the prevention of sexual harassment, as well as conducted a radio information campaign and an information and enforcement campaign in cooperation with the Ministry of Economics, in which a letter was sent to employers, workplaces were visited and codes, information kits and pamphlets were distributed.

315. The Code for the Prevention of Sexual Harassment was distributed to employers in five languages, and was also attached to the pay slips of employees in the Civil Service, during May 2011. This is the second year in which this campaign takes place, and it contributed to the awareness for sexual harassment.

Public Disorder in Beit Shemesh

316. During the period of August and December 2011, several incidents related to modesty occurred in Beit Shemesh, including a verbal attack on an eight year old girl. Following this incident and additional such incidents of public disorder, several suspects were detained by the Police, mainly for public disorder offences. Note that no complaint was filed by the eight year old girl or anyone on her behalf.

317. In addition, following these incidents, the Beit Shemesh police station took several enforcement steps and arrested seven suspects for assault, harassment and arson.

Women Segregation in the Public Sphere

318. One of Israel's challenges in the area of gender based equality protection has been recent attempts by some groups to exclude women from the public arena, especially within certain religious communities. The Government rejected these attempts and in December 2011 formed an inter-ministerial team whose task was to recommend various solutions. The inter-ministerial team concluded its work and reported its recommendations to the Government on March 11, 2012.

319. On January 5, 2012, the Attorney General appointed a team headed by the Deputy Attorney General (Civilian Affairs), to examine the marginalization of women from the public sphere. The team was established due to the increasing number of reports regarding various instances of discrimination against women and excluding them from the public sphere, inter alia, through verbal and physical violence. The team was assigned to examine the legal aspects of some of the more prominent examples of this phenomenon, and to reach recommendations to handle this phenomenon, either through criminal or administrative measures. The team was also asked to examine the necessity of legislative amendments.

320. Representatives from the Ministries of Transportation and Road Safety, Health, Interior, Communication, and Religious Services appeared before the committee, as well as representatives from the Police, the Commission for Equal Employment Opportunities, and the Second Authority for Television and Radio. The Team also heard the Legal Advisor to the Municipality of Beit Shemesh.

321. The team received applications from individuals, organizations and Knesset Members regarding the various topics it examined. These applications presented a variety of views and opinions regarding the phenomenon of segregation between men and women in the public sphere. These views were all examined and considered by the team.

322. Note that the Ministry of Justice team was established following the establishment of an inter-ministerial team for the prevention of exclusion of women from the public sphere, which was headed by the Minister of Culture and Sports. The representative of the Ministry of Justice to the inter-ministerial team also acted as a coordinator between the two

teams. The inter-ministerial team concluded its work and reported its recommendations to the Government on March 11, 2012.

323. The Ministry of Justice team submitted its report to the Attorney General in March 2013, and as a preliminary remark, the team emphasized that the phenomenon which some of its expressions are referred to as "exclusion of women" is a grievous phenomenon characterized by discrimination against any and all women. This discrimination undermines the foundations of the democratic State of Israel, which recognized the human value of any and all persons.

324. Following are the recommendations of the team on the specific issues:

(a) The separation between men and women during funerals which was found in certain cemeteries, as well as the prohibition on allowing women to eulogize amounts to wrongful discrimination. The team recommended that the Ministry of Religious Services will operate for the immediate cessation of these acts (with an exception in cases where the deceased's family expressed its will to implement such measures, in which the Jewish burial society is allowed to take such temporary means).

(b) Segregation between men and women in national ceremonies and events – the team noted that the responsibility to protect human rights is entrusted first and foremost on the public authorities. Thus, a Government Ministry or another public authority are not authorized to conduct a governmental or national event, or to auspice one, in which measures to segregate between men and women will be carried out. The team noted that women have a full and equal right to take part in these events, both as audience and as participants. The team determined that in such events there is a prohibition to post any signs, barriers or take any other means in order to direct the crowd for separate seating or separate participation in such a public event. That, even if it is conducted at the request of some of the participants.

(c) The team noted that the only exception to the abovementioned rule is when the event is of a religious nature, and the authority believes that the vast majority of the attendees want such separation.

(d) The team recommended that the Ministry of Health will act in order to end any segregation in Health Funds branches in which segregation which was deemed unwarranted by medical considerations between men and women occurs. The team also recommended that the Ministry of Health will operate immediately for the issuance of a Director General circular on this matter.

(e) The team noted that the problem of separation in certain public transportation bus lines still persists, and is occasionally accompanied by coercion and violence towards women. The team recommended that in all public transportation bus lines, including lines in which such segregation exists, the boarding of the bus by women will not be allowed through the back door (as is done in segregated lines) and all passengers will be required to board through the front door and pay directly to the driver. In addition, all passengers will be allowed to freely choose their seat. The team recommended that the Ministry of Transportation and Road Safety will order operators of public transportation to immediately cease from allowing passengers to board through the back door. In addition the team recommended that the Ministry will increase the enforcement and supervision on public transportation companies and act in order to ensure free and equal use of public transportation services.

(f) The team noted that signs calling for women to choose different routes or dress modestly express a message that women are not free to use any area of the public sphere equally. This infringes upon women human dignity. The team recommended that municipalities which hold the authority to regulate the matter of posting signposts in the

public domain and provide licenses for such signposts, must refrain from allowing segregating posts in its domain. The team recommended that while considering setting up signposts, the municipality will attach great importance to the severe infringement caused by the posting of such signs and act not only for their removal but also for the prosecution of the persons responsible according to the law. The team also recommended that the Ministry of Interior should also exert its monitoring and supervising authorities in order to ensure that the municipalities will uphold their duties regarding this issue.

(g) According to the team, the policy of the "Kol Ba-Rama" radio station not to broadcast women voices or hire women as broadcasters infringes the fundamental rights of equality and freedom of expression. The team noted that the fact that this station is intended for a religious public does not mitigate these discriminations. The team advised the Second Authority to conclude its deliberation with the station, for ending this policy, within a six month time frame and to ensure that until then the discriminating means will cease.

325. The team members were disputed regarding the question of whether a criminal legislative amendment is required in order to deal with this phenomenon. On the one hand it was held that the severity of the phenomenon warranted stricter effective measures, as criminal offence, than the administrative measures offered, while others held that the use of criminal law, which is one of the strongest tools that the Government wields over the public, is too powerful and intrusive to be used in regards to behavior which is, although wrong and offensive, not strictly criminal. The team recommended leaving this decision to the Attorney General based on the other recommendations specified throughout their report.

Adoption of the Report by the Attorney General

326. Following the submission of this report, in a meeting that was held on May 6, 2013, the Attorney General decided to adopt the team's recommendations regarding prohibition of women segregation, and to promote criminal legislation that will prohibit harassment of a person in a way of contempt or humiliation for reasons of religion or religious group, nationality, country of origin, gender, sexual inclination, opinion, political affiliation, personal status or parenting, all of the above with a purpose of preventing access and use of a public service or with the purpose of harming the conditions of receiving such a public service. It was concluded that a draft bill will be presented in the near future.

327. In addition to the above, in Government Resolution No. 4052 (woman/6) of December 29, 2011, the Government resolved that the Authority will operate an open hot-line designated for receiving complaints concerning women segregation. On January 8, 2012, the Authority published the opening of this hot-line. According to information received from the Authority, the complaints that were received were handled with the relevant authorities in each case. According to this resolution, the Ministry of Transportation, National Infrastructures and Road Safety has also opened such hot-line designated for complains regarding women segregation in public transportation.

Advancement of Arab Women

328. According to several Government Resolution that were approved between the years 2008 and 2012, and with the aim of advancement of Arab women, the Authority of the Advancement of the Status of Women has awarded 440 scholarships for Arab women studying for their first degree, including Bedouin, Druze and Circassian Students.

329. In addition, the Authority has conducted 55 business entrepreneurship courses for Arab women, which are intended, inter alia, for providing education completion, empowerment, leadership, providing business skills etc.

330. In the framework of a new project aimed at the advancement of Arab women, the Authority has opened in 2013, courses for economic empowerment and business planning

for Arab women, with the aim of assisting and encouraging them to open private businesses. The curricula includes self-empowerment, financial procedures and negotiation with banks, budget planning, establishing a private business, marketing, using the internet (basic information and for promotion of a private business), education for financial awareness and more.

331. All of the Authority's publications are disseminated in several languages including Arabic.

C. State of emergency (art. 4) and derogations from international standards

Question 12

Review of the Legislation Governing the State of Emergency

332. The State of Israel remained in an officially-proclaimed state of public emergency since May 19, 1948, four days after its founding, until the present day. The original declaration of a state of emergency was issued by the Provisional Council of State, in the midst of the war that began several months prior to the declaration of Israel's independence on May 14, 1948, with neighboring states and the local Arab population. Since then, the state of emergency has remained in force due to the ongoing state of war or violent conflict between Israel and its neighbors, and the constant attacks on the lives and property of its citizens. For additional information regarding the state of emergency in Israel please see Replies of the Government of Israel to the List of Issues to be taken up in connection with the consideration of the third periodic report of Israel (CCPR/C/ISR/Q/3/Add.1, Question 9, p. 28).

333. On May 8, 2012, Israel's High Court of Justice rejected a petition that was submitted in 1999 by the Association for Civil Rights in Israel, to cancel the declaration on state of public emergency in Israel. The Court decided to cancel a previous order nisi and to strike off the petition since the proceedings have been exhausted and especially due to the legislative progress to enact a law that will allow the future cancelation of the state of emergency. The Court noted that although the work is not done yet, it is in the opinion that the authorities should be allowed to continue and conclude the legislation activities which this petition assisted in promoting. The Court also noted that the Israeli reality is still sensitive and complex and does not allow leaving the authorities without the necessary powers they require in times of emergency. The Court further noted that "Israel is a normal state which is not normal – it is a normal state in the sense that it is an active democracy which observes basic rights, among them free elections, freedom of speech, independent courts and legal advice. However it is not normal since the threats over its existence have not yet been lifted, it is the only democracy under such threats and the fight against terrorism still continues and will probably continue in the near future." (H.C.J. 3091/99, *The Association of Civil Rights in Israel v. The Knesset*).

334. The Court also referred to several legislation processes that have reached their appropriate conclusion recently: the partial replacement of the Extension of Validity of State of Emergency Regulations Law (Supervision of Naval Vessels) [Consolidated Version] 5733-1973 with two new laws: the Shipping Law (Foreign Naval Vessel Under Israeli Control) 5765-2005, and the Shipping Law (Violations Against the Security of International Sailing and Maritime Facilities) 5768-2008. The Court further noted that additional bills in this matter are under various stages of legislation that indicates that the authorities understand that the time has come to part from the rest of the emergency legislation that was in force since the establishment of Israel. The Court stated that due to the circumstances and the measures taken, the Court's interference is not required.

335. In addition to the abovementioned information, in 2012, the link between the Prevention of Infiltration Law and the state of emergency legislation was severed. Furthermore, in the tenure of the previous Knesset (2009-2013), over 100 Supervision Orders that have been previously enacted according to the Supervision on Products and Services Law 5718-1957 have been annulled, leaving only 54 valid orders.

336. The current state of emergency is in force until December 31, 2013. The Knesset extended the state of emergency by only six additional months in order to expedite the separation of the current legislation.

337. For further information please see Israel's reply to Question no. 4 above.

D. Right to life (art. 6)

Question 13

338. Please see Israel's reply to Question no. 4 above.

Independence of the Turkel Commission for the Examination of the Flotilla Incident

339. As detailed in Israel's Follow-up to the Oral Presentation by the State of Israel before the Committee on Civil and Political Rights of October 2011, following the flotilla incident of May 31, 2010, the Government of Israel established by Government Resolution No. 1796, dated June 14, 2010 (hereinafter: the Government Resolution) an independent public commission headed by (retired) Supreme Court Justice Yaacov Turkel, for the purpose of examining the conformity of the actions taken by Israel in connection with the flotilla incident with the norms and requirements of International Law. As further mentioned in Israel's Follow-up report, in addition to the esteemed members of the Commission, two international observers were appointed to the Commission, as will be detailed further below. As noted by the Turkel Commission itself in its report, the observers were full participants in all aspects of the Commission's work.[7]

340. The establishment of such a Commission, a measure undertaken only in exceptional circumstances, further amplifies Israel's commitment to comprehensively investigate all aspects of the incident, above and beyond the robust mechanisms of investigation and review provided by Israeli law.

341. The Government Resolution determined that the Turkel Commission could request any individual or organization, Israeli or foreign, to testify before it or to relay information in another manner, on topics which it considered relevant to its deliberations, including the Prime Minister and members of the Israeli cabinet. As per military personnel, section 6 of the Government Resolution sets forth that the Turkel Commission may hear testimony from the IDF Chief of Staff and the head of the Expert Military Investigative–Team, General (Res.) Giyora Eiland.

342. With respect to other military personnel, the Commission's mandate created a special procedure for the collection of testimonies. Section 6 of the Government Resolution sets forth that Turkel Commission shall receive all the required documents for its review, and can also request the head of the Expert Military Investigative–Team, to provide it with the summary findings of the operational debriefings (also known as command investigations) conducted after the flotilla incident. Furthermore, if the Turkel Commission was to decide, after examining these documents, that there is a need for further

[7] The Report of the Public Commission to Examine the Maritime Incident of 31 May 2010 – Part 1 (hereinafter: The Turkel Report), published on January 23, 2011, pg. 17.

investigation, it had the authority to request the Expert Military Investigative–Team to instruct the team to do so, and provide it with the summary findings collected thereby.

343. In addition, on July 4, 2010, the Commission's jurisdiction was broadened and it was given authorities according to Sections 9-11 and 27(b) of the Commissions of Inquiry Law, subject to the abovementioned limitations, provided in Section 6 of the Government Resolution. These Sections of the Commissions of Inquiry Law allow the chairman of an inquiry commission to subpoena a person to testify before the committee or present documents or other exhibits in his/her possession; to require a witness to testify under oath; to force the appearance of a person who did not present him/herself following the subpoena; to collect testimony abroad; to impose a monetary fine on persons who refused to appear after being subpoenaed; to provide a witness with a warrant for expenses; and more.

344. A petition was submitted to the Supreme Court against the limitation on the ability of the Turkel Commission to directly hear testimonies by IDF personnel who took part in the military efforts to prevent the breach of the maritime blockade during the flotilla incident (H.C.J. 4641/10, *Uri Avneri et al. v. The Prime Minister et al.*).

345. During the deliberations on this petition, the parties agreed (in a decision that was given the status of court decision) to postpone the proceedings, leaving the case as "pending", since it was unknown at the time whether the Commission would need to subpoena soldiers to testify before it. It was agreed that insofar as the Turkel Commission would wish to subpoena soldiers to testify before it regarding the events of the flotilla, it could request the Government to enable it do so, and were the Government to refuse, the matter would be examined on merit by the Court.

346. In practice, the Turkel Commission used the authority granted to it by the Government Resolution to extend and deepen the scope of the investigations into operational aspects of the incident, where the Commission considered it necessary. It was resolved that a representative of the Commission would work opposite IDF personnel, who were appointed for this purpose and were not involved in the flotilla incident. Subsequently, additional debriefings were conducted according to the specific instructions and guidance provided by the Commission's representative. As part of these debriefings, the testimonies of numerous combat soldiers and IDF personnel which were directly involved in the incident were provided to the Commission.[8]

347. Furthermore, it is important to add that many senior officials, from both the political and the military ranks, testified before the Commission at length and in detail, including the Prime Minister, the Minister of Defense, the IDF Chief of Staff, the Military Advocate General and the Coordinator of Government Activities in the Territories (COGAT).

348. Given the extensive powers given to the Turkel Commission to hear witnesses and receive documents, and the procedure established in the Commission's mandate and employed vigorously by the Commission in order to present to it testimony of IDF personnel, the Turkel Commission was able to receive all of the necessary information it required from the military authorities.[9] As noted above, in the course of proceedings before Israel's High Court of Justice, the Court ruled that in the event that the Commission was interested in hearing direct testimony of military personnel and was unable to do so, the matter would be adjudicated by the Court. However, under the circumstances described above, the Turkel Commission did not find it necessary to directly subpoena soldiers to

[8] The Turkel Report, pg. 20-21.

[9] Note that while the abovementioned petition has not been erased, to date, the petitioners did not approach the court requesting it to deliberate.

testify before it. This was because its members were satisfied that the powers granted to the Commission, the information submitted to it and the extensive testimonies provided, including that of the IDF Chief of Staff which testified before it twice, were sufficient.

349. A significant indication as to the independence of the Commission can be found in the statements of the distinguished international observers, Nobel Peace Prize laureate Lord William David Trimble from Northern Ireland (UK), and former Canadian Judge Advocate General of the Canadian Forces, Brigadier General (ret.) Kenneth Watkin QC. In a letter attached to the first part of the Turkel Report, the two observers note that "[t]he Commission made enormous efforts, to get as much information as possible. This involved going back to the IDF for additional information, obtaining further staff to examine all the video material (hundreds of hours) including the CCTV downloaded from the Mavi Marmara and to collate the material so that it has been able to examine each use of force by the IDF. […] We have no doubt that the Commission is independent. This part of the report is evidence of its rigor."[10]

350. Finally, the Turkel Commission published the first part of the report in January 2011. Many of the determinations made by the Commission, based on the extensive information that was made available to the Commission, including its conclusion that the imposition and enforcement of the naval blockade on the Gaza Strip was lawful and complied with the rules of International Law, were also adopted by the UN-appointed Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident (the Palmer Report[11]).

351. In February 2013, the Commission concluded its work on the second part of its report pursuant to Section 5[12] of its mandate, in which the Commission reviewed the examination and investigation mechanisms in Israel for complaints and claims of violations of the laws of armed conflict and their compliance with Israel's obligations under international law[13].

352. Additional support to the Commission's independence can be found in the statements of the distinguished international observers accompanying the second part of its report. For example, Lord Trimble stated, inter alia: "[i]t is my observation that the members of the Commission and the international observers were free to deliberate and to recommend as we saw fit without interference from, and independently of, the Government of Israel". Brigadier General (ret.) Watkin QC had retired due to a previous commitment prior to the conclusion of the second part of the report; however, in his letter to the Commission he noted, inter alia, that: "since the completion of the last report the Commission has continued to independently and rigorously investigate the significant issues with which it has been entrusted".

353. Finally, Professor Timothy McCormack, a Professor of Law at Melbourne University and Special Adviser on International Humanitarian Law to the Prosecutor of the

[10] The Turkel Report, pg. 11.

[11] In regard to the Report of the UN Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident, please see Israel's Follow-up response to the Oral Presentation by the State of Israel before The Committee on Civil and Political Rights of October 2011 (Page 9).

[12] Section 5 of Government Resolution No. 1796 of June 14, 2010: "In addition the Commission will examine the question whether the examination and investigation mechanism in regard to complaints and claims concerning violations the laws of armed conflict in Israel in general, and the way it is implemented in regard to the present incident are compatible with the State of Israel obligations under international law".

[13] The second part of the Report is available online at the Turkel Commission's website – http://turkel-committee.com/content-107.html.

International Criminal Court in The Hague, who replaced Brigadier General (ret.) Watkin QC, wrote: "[a]ny reader of this report will see that it is comprehensive and rigorous. It is independent. It reveals, that taken as a whole, Israeli law and practice will stand comparison with the best in the world". All of these statements are an additional and unmistakable indication as to the independence of the Turkel Commission.

354. In regard to the Report of the UN Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident, please see Israel's Follow-up response to the Oral Presentation by the State of Israel before The Committee on Civil and Political Rights of October 2011 (Page 9).

Question 14

355. Please see the reply to Question no. 4 above.

E. Prohibition of torture, right to liberty and security of person, treatment of persons deprived of their liberty and fair trial (arts. 7, 9, 10, and 14)

Question 15

Prohibition of Torture and the "Necessity" Defense

356. An offence containing a prohibition of torture has not been legislated in Israel. However, acts and behaviors defined as torture under Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and Article 7 of the International Covenant on Civil and Political Rights (ICCPR) (causing pain or suffering, whether physical or mental) constitute offenses of assault (Sign Eight to chapter ten of the Penal Law), threat (Sections 192 or 428 of the Penal Law) or causing injury (Sign Four to Chapter Ten of the Penal Law).[14] Furthermore, abuse or cruel treatment towards a victim of an offence is expected to exacerbate the criminal punishment. Section 40(i)(a)(3),(4),(10) and (11) of the Penal Law, which was amended in the past year as part of Amendment No. 113 to the Penal Law (Construction of Judicial Discretion in Punishment), lists "the cruelty, violence and abuse by the perpetrator against the victim of the offence or his exploitation", and the damage from the offence or the abuse of power of the defendant towards the victim as aggravating circumstances for perpetrating the offence, according to which the appropriate scope of punishment will be determined in the verdict.

[14] See for example: Section 277 to the *Penal Law*:

Pressure by public servant

1. A public servant who is doing one of the following, is liable to three years imprisonment:
   (1) Using or ordering to use force or violence against a person, in order to extort from that person or from another person in whom he/she has an interest, a confession of an offense or information concerning an offense;
   (2) Threatening a person or ordering a person to be threatened, with bodily injury or damage to his/her property or of another person in whom that person has an interest in, in order to extort from him/her a confession of an offense or information about an offense.

And Section 280 to the *Penal Law*:

Abuse of office

1. A public servant who is doing one of the following, is liable to three years imprisonment:
   (1) While abusing his authority he performs or ordering to perform an arbitrary act that injures the rights of another person;
   (2) […].

357. The defense of "Necessity" remains in Israeli legislation, and this defense has neither been cancelled nor limited by legislation.

The Inspector for Complaints Against the Israel Security Agency (ISA) Interrogators (Hereinafter the "Inspector")

358. According to the Police Ordinance [New Version] 5731-1971, opening an investigation against an ISA employee is subject to the decision of the Attorney General or the State Attorney or one of his/her deputies. If so decided, such an investigation shall be conducted by the Department for Investigations against Police Officers (DIPO). However, in order to decide upon conducting such an investigation, a preliminary examination is to be made by the Inspector. Following such an examination, the Inspector's findings are transferred to his/her Supervisor who is a senior advocate in the State Attorney's Office, who decides if there is room to recommend on opening an investigation.

359. Following comprehensive deliberations, the Attorney General announced in November 2010, that the Inspector for Complaints against ISA Interrogators (hereinafter: the "Inspector"), which has been an administrative part of the Israel Security Agency, would become part of the Ministry of Justice and be subordinated – administratively and organizationally – to the Director General of the Ministry of Justice.

360. This reform, establishing an external inspector to examine complaints concerning ISA Interrogations was supported by the Head of the ISA, the State Attorney and the Director General of the Ministry of Justice.

361. Israel is pleased to announce that the procedure of transferring the Inspector to the Ministry of Justice is nearing completion. In June 2013, Colonel (Ret.) Jana Modzgvrishvily was chosen to serve as the Inspector. Mrs. Modzgvrishvily, who in the last four years served as the Chief Military Prosecutor, recently retired from 22 years of military service, in which she served in many positions in the military advocacy, including several years as a military judge. Following this nomination, the Ministry of Justice is operating to create the additional required positions. Following the completion of the manning of these positions, the unit in the ISA will be dispersed.

Case Law

362. In H.C.J. 1265/11, *The Public Committee Against Torture et al. v. The Attorney General* (6.8.12), the High Court of Justice reviewed complaints regarding the Inspector. The petition included complaints regarding the Inspector's authority to examine complaints against ISA Interrogators, the duty of the respondent and the Police (or another authorized body such as the Department of investigation of Police Officers (DIPO)) to investigate any complaint regarding an offence, and the question of organizational affiliation of the Inspector, who was at that time, an ISA employee.

363. The Court noted that a preliminary examination prior to a decision regarding opening a criminal investigation may be part of the decision making process in the State Attorney's Office and held that such a preliminary examination is an acceptable course of action.

364. The Court also noted that in regard to the authority to order a criminal investigation, as determined by the Court in previous rulings, the authorities are not obligated to automatically open an investigation following complaints, and such duty to open an investigation is conditioned on sufficient evidentiary infrastructure which justifies it.

365. The Court noted that in light of the principle authority to conduct a preliminary examination, and the need of sufficient evidentiary infrastructure to justify the opening of a criminal investigation, the mechanism of the Inspector and the Inspector's Supervisor (a

senior attorney in the Israeli State Attorney's Office of the Ministry of Justice, appointed by the Attorney General) is an appropriate balance between all the relative interests, in parallel to the recently completed process of the Inspector becoming part of the Ministry of Justice.

366. The Court also noted that conducting such a preliminary examination by one specific mechanism, who will not be an ISA employee, but an employee of the Ministry of Justice, will serve the public interest in safeguarding the ISA interrogation methods by ensuring that efficient interrogation tools are used within the boundaries of the law, which will assist in protecting confidential information.

367. The Court found that the availability of an appeal process, both by appealing to the Attorney General, followed by the possibility to petition for judicial review by the High Court Of Justice, provide adequate safeguards. The Court did not examine the cases of the specific plaintiffs but rather recommended that the period of appeal over a decision not to open an investigation in these specific cases will be extended in order to allow them to file an appeal to the Attorney General.

368. In H.C.J. 1266/11, *Mahmoud Sa'witi et al. v. The Attorney General* (21.10.12), the Public Committee against Torture and the Sa'witi family petitioned the High Court of Justice and requested the Court to instruct the Attorney General to order the Department of investigation of Police Officers (DIPO) to launch a criminal investigation against ISA investigators who were involved in Mahmoud Sa'witi's interrogation during which they presented Mr. Sa'witi with a false display according to which his father and wife had been arrested and detained.

369. The Court further noted that an assistant of the Attorney General replied to this application stating that the ISA has examined this issue and had emphasized that an arrest of an interrogatee's family member is legal when it is done under the same criminal sequence, and there is legal grounds for the arrest of the family member. On such circumstances, there is no hindrance to inform one relative about the detention of the other, including allowing them to meet. However, when a detainee's relative is not arrested and there are no legal grounds for his/her arrest, there is no justification to create a false display in which the detainee's relative is under arrest. The Attorney General Assistant also noted that there was no cause to take such an action, from which a false display was created as if Mr. Sa'witi's father had been arrested. The Court further noted that a previous petition to the High Court of Justice by the Public Committee Against Torture, to totally prohibit the use of family members as a coercive tool during interrogation was denied (H.C.J 3533/08, *Mison Sa'witi et al. v. The Israeli Security Service et al.* (9.9.09)).

370. The Court noted the abovementioned High Court of Justice ruling (H.C.J. 1265/11, *The Public Committee Against Torture et al. v. The Attorney General* (6.8.12)) and stated that also in the present case, the appropriate way to examine the specific allegations is by submission of an appeal to the Attorney General against the Deputy State Attorney's decision not to conduct an investigation against the ISA interrogators, according to the verdict in H.C.J. 1265/11. The Court, after receiving the consent of the Attorney General, stated that the date for such an appeal (that has expired already) should be extended in order to allow the petitioners to submit such an appeal.

371. In July 2012, the Public Committee against Torture – Israel, petitioned the High Court of Justice in order to instruct the Attorney General and the State Attorney to order a criminal investigation against a number of ISA interrogators who were involved in the interrogation of A.A.G (petitioner no. 1), for suspicions of use of torture and abuse during his interrogation. According to the complaint, petitioner no. 1 was subject to illegal interrogation means, including physical violence, sleep deprivation, mental stress and threats against his family members. It was also claimed that one of the rooms in petitioner no. 1's home was demolished and he was brought to watch the demolition. According to the

complaint, the Attorney General and the State Attorney, based on the recommendations of the Inspector's Supervisor, decided not to open such an investigation – which according to the petition is an unreasonable decision. It was also claimed, that not only that the Inspector's examination of this case did not refute A.A.G's complaint, but it noted that the examination of his complaint gave rise, in certain points, to lessons for the future. However the final decision was that no grounds were found to take legal measures against the interrogators. This case is still pending before the Court (5722/12, *A.A.G. et al. v. The Attorney General et al.*).

372. In addition, there are several additional pending petitions among them: H.C.J. 1494/12, *Anonymous v. The Attorney General et al.*, regarding the right to review examination material and H.C.J 7273/12, *Jihad Riad Mugrabi et al. v. The Attorney General*, regarding the time period to review an appeal against a decision not to open a criminal investigation against ISA interrogators for alleged violence and abuse, by the Attorney General.

Question 16

Alleged Cases of Torture, Ill-Treatment and Disproportionate Use of Force by Law-Enforcement Officials

373. Every complaint or report regarding torture, ill-treatment and disproportionate use of force against detainees, adults and children alike is investigated promptly by the relevant authorities.

374. A number of sections of the Penal Law provide criminal sanctions against acts of torture. Reference should also be made to the Basic Law: Human Dignity and Liberty. Moreover, strict guidelines relating to methods of interrogation of security suspects are also directed to prevention of torture.

375. Another relevant statutory provision is Section 12 of the Evidence Ordinance [New Version] 5731-1971 which invalidates any confession made by an accused person not made freely and voluntarily.

376. Section 34m of the Penal Law allows the defense of conducting an act by a person that was obligated or authorized to do so according to the Law (Section 34m(1)), and acting according to an order of an authorized authority to which he/she was obligated to obey, except if the order was clearly illegal (Section 34m(2)). Where an order is manifestly illegal, as would be the case with an order to commit acts of torture, acting under such order would clearly not constitute a defense for a person accused of committing such acts.

377. Furthermore, Israel's legislation provides for different supervision and oversight mechanisms, including the Israel Security Agency Law 5762-2002 that addresses the major relevant issues concerning the mandate, operation, and scope of functioning of the ISA. This, in order to ensure that the relevant authorities uphold the law in particular, and the prohibition on torture, ill treatment and disproportionate use of force, in particular.

378. For further information regarding the Inspector for Complaints Against the Israel Security Agency (ISA) Interrogators please see the reply to Question No. 15 above.

ISA Interrogators

379. The ISA is responsible by law for the safeguarding of Israel's security, regime, and state institutions, from terrorist threats, espionage and other threats. In order to fulfill its purpose, the Agency performs, among other things, investigations of suspects in terrorist activity. The main goal of such investigation is data gathering intended to foil and prevent terrorist acts.

380. The Israel Security Agency (ISA) operates in accordance with the ruling of the High Court of Justice, and specifically the ruling concerning ISA interrogations from 1999 (H.C.J. 5100/94, *The Public Committee against Torture v. The State of Israel*).

381. In addition, in 2009, the High Court of Justice, in a panel of three judges headed by the President Dorit Beinisch (retired), rejected a petition which claimed an alleged breach, by the State and the ISA, of the High Court of Justice's 1999 ruling concerning the ISA investigations. (H.C.J. 5100/94, *The Public Committee against Torture in Israel v. The State of Israel*).

382. The ISA and its employees act within the limits of the law and are subject to both internal and external supervision and review, including by the State Comptroller, the State Attorney's Office, the Attorney General, the Knesset and every instance of the courts, including the High Court of Justice.

383. The detainees undergoing ISA interrogation receive all the rights to which they are entitled according to international conventions to which Israel is a party and the Israeli law, including the rights to legal representations, medical care and visits by the International Red Cross.

384. The ISA directives provide minors with special protections warranted by their age. For example, actions concerned with interrogations involving a minor, including the very decision to detain a minor for interrogation, requires the approval of the highest ranks of the ISA. Furthermore, the interrogation hours are meticulously observed, as well as providing minors with sleep time. Additionally, minors are detained separately from adults. Finally, there is strict observance that minors are interrogated by an investigator which has undergone special training for investigation of youths.

Israeli Police

385. The Israeli Police and the Department for Investigation of Police Officers in the Ministry of Justice views instances of police officers' ill-treatment and disproportionate use of force against detainees with the utmost severity.

386. Serious efforts are being undertaken to eliminate any form of such abuse. Cases of alleged violence are investigated thoroughly and meticulously, using all means to exhaust the interrogation and bring to justice those found to be unnecessarily violent or acting in an unreasonable manner.

387. The Police Disciplinary Tribunal, residing in a case of unlawful use of force towards a non-officer, shall be composed of two police officers and a public representative. The purpose of convening such a tribunal is to elevate the public's trust in police treatment of complaints regarding the unlawful use of force. The tribunal may impose penalties ranging between fines, warnings, reprimands, confinement, demotion, or incarceration.

388. In certain cases, when the use of force is relatively trivial, the Department submits complaint fact sheets, judicially reviewed by a single Tribunal judge through an expeditious process, without legal counsel. The Tribunal considers the type of injury, the results of the use of force, the location of the offence, the officer's disciplinary record and his/her personal circumstances.

389. As detailed in Israel's previous reports, the Department for Investigation of Police Officers in the Ministry of Justice is responsible for most criminal investigations against police officers. Disciplinary proceedings are initiated by submitting a complaint to the Disciplinary Department of the Personnel Division at the Police Central Headquarters, or to any of its branches. Also, administrative sanctions may be imposed at any time during the proceedings, as well as after the proceedings are completed.

Israeli Prisons Service

390. Every prisoner or detainee under the care of the Israel Prisons Service (IPS) has access to the following complaint mechanisms concerning grievances regarding the staff and wardens', including claimed wrongful use of force:

- Filing a complaint to the director of the prison;
- Petitioning the relevant District Court in a prisoner's petition, in accordance with section 62A of the Prisons Ordinance, 5732-1971, and the Procedures (Prisoners Petitions) Regulations, 5740-1980;
- Filing a complaint to the Warden's Investigation Unit (WIU), through the IPS or directly to the Unit. This Unit is part of the Israeli Police, and its members are police officers. The findings of the WIU are subject to the State Attorney's Office scrutiny, who decides whether to institute disciplinary measures or criminal proceedings; or
- Filing a complaint to the Prisoners Complaint Ombudsman, who is a member of the Ministry of Public Security's internal comptroller unit that has the authority to inquire. Following the completion of the inquiry, and based on its findings, the complaint shall be forwarded to the WIU or the Disciplinary Branch in the IPS.

391. Additionally, Section 71 of the Prisons Ordinance establishes rules for Official Visitors in prisons. These Visitors are appointed by the Minister of Public Security and are comprised of lawyers from the Ministry of Justice and other Governmental Ministries, who are appointed on a yearly basis, either for a specific prison, or nationwide. Section 72 of the Prisons Ordinance grants official visitor's authorities to Supreme Court judges and the Attorney General [in prisons] throughout Israel, and to District and Magistrate Courts judges in prisons in their jurisdiction. Official Visitors are allowed to enter the prisons at any given time (unless special temporary circumstances apply), inspect the state of affairs, prisoners' care, prison management, etc. During these visits, the prisoners may approach the visitors and present their complaints, including grievances pertaining to use of force. Prisoners may also make a complaint with the director of the prison and ask for an interview with an Official Visitor. Attorney General's Guideline (No. 4.1201. (1.5.75), updated – 1.9.2002) broadened the scope of the above to also include detention facilities and detention cells in police stations.

392. In addition, Israeli prisons, the Israeli Prisons Service and the Ministry of Public Security are routinely subjected to inspection by the State Comptroller.

Audio/visual Documentation of Interrogations

393. The temporary provision in Section 17 to the Criminal Procedure (Interrogation of Suspects) Law 5762-2002 (Hereinafter the "Criminal Procedure (Interrogation of Suspects) Law"), provides the Police with an exemption from the obligation of audio or visual documentation of interrogations of suspects detained for security offences, an obligation that is set in Sections 7 and 11 to the Law. This temporary provision was enacted after it was revealed that in the special circumstances of a security interrogation, in which the relevant authorities deal with extreme terrorist organizations, the audio and visual documentation of the interrogations may assist these organizations to learn and draw conclusions regarding the interrogations procedure and by that assist and strengthen them for future interrogations, what may lead to foiling future interrogations and investigations.

394. In addition, such documentation may deter interrogatees from providing information, due to the fear that the cooperation with the interrogating authorities will be discovered to or revealed by their families, friends and the terrorist organization to which they belong to.

395. In July 2012, the temporary provision was examined once again, however, since there is no change in the security situation that requires such exemption, and due to improvements in the intelligence capabilities of the terrorist organizations, the Ministerial Legislation Committee decided that the temporary provision is still essential for the investigation and foiling of terrorist offences. Accordingly, the duration of the temporary provision was prolonged by additional three years during which similar arrangements in other states will be analyzed in order to examine the possibility of an alternative arrangement to the temporary provision (for example evidence confidentiality etc.). In addition, during this period, the term "security offence" is expected to be amended, inter alia, by narrowing its definition, and by adding the condition that such an offence is required to be carried out in circumstances in which there is a fear for harming state security or if the offence was carried out in connection to an act of terrorism.

396. The exemption from audio or visual documentation does not exempt the Police from their obligation to properly document security investigations, according to previous rulings, but this documentation may be conducted in writing.

Case Law

397. On February 6, 2013, the High Court of Justice rejected an appeal filed by "Adalah – the Legal Center for Arab Minority Rights in Israel" against the Ministry of Defense, in which the petitioners requested the Court to revoke Section 17 to the Criminal Procedure (Interrogation of Suspects) Law and to instruct the ISA to visually document interrogations of suspects in security offences. The Court determined, inter alia, that in this case, when the arrangement of the temporary provision and the definition of a "security offence" are being reviewed by the State, the petitioners should wait for the results of the examination, and therefore the Court found no room to intervene and dismissed the case (H.C.J. 9416/10, *Adalah the Legal Center for Arab Minority Rights in Israel et al. v. The Ministry of Defense et al.* (6.2.13).

Question 17

398. In regard to administrative detention please see the reply to Question 4 above.

Article 9 of the Covenant

399. Israel's derogations to Article 9 of the Covenant are reviewed periodically. At present, Israel has not changed its position in this matter.

Question 18

400. Please see the reply to Question no. 4 above.

Question 19

401. The most recent development in the efforts to fight terrorism is the current work on the Fight against Terrorism Bill, 5771-2011. In August 2011, this bill was approved by the Knesset in the first reading and is currently waiting to be reviewed by the Knesset Constitution, Law and Justice Committee. Significant efforts were invested in drafting this bill, which includes, inter alia, definitions of "act of terrorism", "terrorist organization", "member in a terrorist organization" etc. Some of the definitions were adapted to match similar definitions in other states with a justice system similar to Israel. In any case, all of these definitions were drafted carefully, in order to provide the law enforcement authorities with effective and precise tools in their fight against terrorist organizations and terrorism in general, while protecting human rights and due process rights.

402. This bill, upon its enactment, will continue the fight against terrorism and terrorism offences in the framework of the criminal law in the civil instances, and therefore accordingly, in these instances and proceedings, the defendants shall continue to enjoy all the substantial and procedural safeguards meant to protect the defendants and the transparency of the procedure.

403. This bill, upon its enactment, will allow the annulment of current legislation in the field of fighting terrorism, such as: the Prevention of Terrorism Ordinance 5708-1948 (Hereinafter the "Prevention of Terrorism Ordinance"), Prohibition of Financing Terrorism Law 5765-2005 and some of the Defense Regulation (State of Emergency) 1945.

Additional Safeguards and Remedies Available to Detainees

404. These include Amendment no. 42 to the Prisons Ordinance [New Version] 5732-1971 of May 2012, which added Sections 11B to 11E to the Ordinance. These sections refer to adequate detention conditions for prisoners, including adequate sanitation conditions, medical treatment and supervision according to an IPS physician's determination, bed and mattress, the ability to hold personal items, adequate food and water, cloths, items for personal hygiene, adequate lighting and ventilation and the ability to go outdoors, all according to the IPS Regulations. In addition, Section 11C provides the right to integrate in leisure or educational activities according to IPS Regulations. According to Section 11D, the Prisons Service Commissioner shall examine the possibility of rehabilitation of a prisoner who is an Israeli citizen or resident, and will take the necessary steps to ensure maximal integration of that prisoner in rehabilitation activities.

405. In addition, in 2010, the Prisons Service (Detention Conditions) Regulations entered into force. These regulations also specify rights and obligations in regard to detention. Also, in 2012, the Conditional Release from Incarceration Law 5761-2001, was amended and Section 7 to the Law regarding conditional release of a prisoner for medical reasons was expanded, and the Law currently allows the IPS conditional release committee to instruct an early release of a prisoner for medical reasons which include severe medical condition such as a prisoner who is given constant artificial respiration, advanced dementia, unconsciousness, cancer or a prisoner who has a transplant surgery, and all in accordance with the conditions specified in the Law. In addition, the Youth Regulations (Trial, Punishment and Modes of Treatment) 5773-2012, and the Youth Regulations (Trial, Punishment and modes of Treatment) (Version of Notice to a Suspected Minor of His/Her Rights Prior to Investigation) 5773-2013 that were issued pursuant to the Youth (Trial, Punishment and Modes of Treatment) Law 5731-1971, regulate, inter alia, specific instructions regarding the unique treatment of minors, including the obligation to inform the minor about his/her rights according to a specific version, prior to his/her investigation. For additional information please see the replies to Questions 15 and 16 above.

406. The Incarceration of Unlawful Combatants Law 5765-2002, as detailed in the previous periodic report, is currently under review towards introducing certain further amendments.

F. Freedom of movement (art. 12)

Question 20

407. Please see the reply to Question 4 above.

Question 21

408. Please see the reply to Question 4 above.

G. Freedom of religion, conscience and expression, right to peaceful assembly (arts. 18, 19 and 21)

Question 22

Freedom of Religious Worship

409. Freedom of religion and conscious are an important aspect of Israeli society, and include also the freedom from religion and the freedom of religious worship and the freedom to practice one's religion, which are all basic principles of Israeli law.

410. Freedom of religion was already mentioned in Israel's Declaration of Independence, but with the enactment of Basic Law: Human Dignity and Liberty has further gained the status of a basic constitutional right. Even though the right itself is not stated specifically therein, the High Court of Justice stated that freedom of religion has a central place in the Basic Law.

Administrative Measures

411. In 2011, the budget of non-Jewish communities stood at a total of 80 Million NIS (21.6 Million USD), which included, among others: 47 Million NIS (12.7 Million USD) for religious services, 19 Million NIS (5.13 Million USD) for development of religious buildings and nine Million NIS (2.43 Million USD) for the development of cemeteries.

412. In 2012, the Ministry of Interior has allocated 55 Million NIS (14.5 Million USD) for religious services for non-Jewish populations. In addition, the Ministry has allocated additional 24 Million NIS (6.315 Million USD) for development of religious sites and structures, of which 7.5 Million NIS (2 Million USD) for the development of cemeteries.

413. The Police is operating to protect the freedom of religious worship and access of persons of all religions to their places of worship without interruption. To this end, the Police invest great efforts and resources. Some of these religious events take place on daily or weekly basis and demand special deployment by the Police, for example, Muslims Friday prayers in the Temple mount, which takes place with the participation of thousands of worshipers. An additional example is Christian holidays' prayers, also with the participation of thousands of worshipers, that demand special deployment, traffic changes and use of special equipment.

Measures Taken to Preserve and Protect Muslim and Christian Religious Sites

414. The Ministry of Interior is operating to provide and ensure the freedom of religion and worship to each and every congregation and assists in construction and development of structures and building of religious purposes. The Ministry of Interior employs religious personnel, as Civil Service employees in order to provide religious services in mosques.

415. In the recent years there is a new development project in the Mount of Olive cemetery carried out by the Jerusalem Development Authority. The development program includes reconstruction of tombstones, cleaning the site, restoration of infrastructure, improving the security (including placing security cameras), fixing signposts and the establishment of an information center at the cemetery. The program budget is 80 Million NIS (21.6 Million USD), of which 600,000 NIS (162,000 USD) are spent annually on cleaning the cemetery. Note that since 2006, 15,000 tombstones were restored and the process is ongoing. In addition, more than ninety cameras were installed at the cemetery so far in order to prevent the vandalism of the tombstones. Security at the cemetery is further enhanced by 24 hours patrols.

416. In addition, please see the reply to Question no. 4 above.

Question 23

417. In principle, a person designated for security service must perform military service. Military service is a legal duty pursuant to the Law and it applies to every citizen. It is also a moral duty that stems from the State's security needs.

418. Section 36 of the Security Service Law (Consolidated Version) 5746-1986 (hereinafter: "the Law"), states that the Minister of Defense may exempt a person designated for security service (or an army veteran) from performing military service for a number of reasons including "different reasons". This term was interpreted by the Court as providing the Minister of Defense with the discretion to exempt persons for reasons of conscience.

419. In addition, relevant procedures for the drafting authorities were set for this purpose, according to which applications for exemption are handled. According to these procedures, inter alia, in order to review an application for reasons of conscience, opinions of the soldier's commanders, the military advocacy and the drafting authorities are required. All of these opinions are transferred to the relevant military official who determines whether to refer the applicant to the following committee.

420. In 1995 the head of the IDF's human resources branch decided to appoint a special committee (hereinafter: "the Committee") that will review applications of persons designated for security service, soldiers in active service and persons performing their reserve service for release from military service (or reserve service) for reasons of conscience, due to a pacifistic point of view. Prior to the establishment of the Committee, applications were reviewed in an individual and specific manner. The Committee is headed by a military official authorized to issue an exemption from security service, and is comprised of several members, including a public representative who is a person of the academia, a representative of the IDF's behavioral science department, an officer from the Meitav unit (in charge of classification and placement of all those who are designated for security service) and a representative from the military advocacy.

421. The Committee is responsible for recommending to the competent authorities whether to accept an individual's application for exemption from obligatory military service for reasons of conscience or to reject it. Note that the Committee does not possess the authority to decide. This authority is given only to those officials who have been delegated such an authority pursuant to Section 36 to the Law - namely the Committee's chairperson.

422. The Committee carefully examines the applications for exemption for reasons of conscience. If the Committee is satisfied that the main factor for the application's submission is the inherent use of violent force in the military framework, and the absolute objection of the applicant to war, in a way that prevents him/her from serving in a similar framework – at any position, then the committee will recommend to exempt the applicant from performing security service for reasons of conscience. However, if the Committee believes that the main reasons for the submission of such an application are different reasons, such as: the compelling nature of the military framework or personal convenience considerations the Committee's recommendation will be to reject the application.

423. If the Committee is satisfied that the applicant is clearly pacifistic, it recommends the competent authorities to exempt the applicant from security service on the basis of reasons of conscience. Prior to this recommendation, and in light of the current recognition in clear and sincere pacifistic views that justifies the grant of an exemption from security service, the Committee does not consider the IDF's human resources needs or the value of equally fulfilling the duty of security service.

424. The Committee is also authorized to recommend on allowing certain easements in the applicants service, such as: the permission not to hold weapons or to wear uniforms, etc. if it is satisfied that application stems from genuine conscience dilemmas. The abovementioned is true, mutatis mutandis, with regard to the placing of an exempted applicant in certain position or in particular branch that meets the applicant's conscience point of view (for example: the possibility of serving in a non-combat position or in a rear unit).

425. In addition, according to the relevant internal procedures of the drafting authorities, the Committee's chairperson's decisions may be appealed within 30 days. Any such appeal will be heard by a military official who is also authorized to issue an exemption from security service – the Committee's chairperson's commander, who is also authorized to issue an exemption from security service.

426. In regard to additional imprisonment and the principle of *ne bis in idem* – the relevant authorities do not consider an additional imprisonment, in regard to a person that was not recognized as a conscientious objector, to be a repeated imprisonment. As long as the person designated for security service has a legal duty to perform the security service, and he/she continues to refuse to perform his/her legal duty, it is to be considered as a new offence with a new factual infrastructure and new criminal intent and thus, according to the relevant case law, this justifies an additional indictment.

Question 24

Freedom of Association

427. The freedom to associate with persons or groups in order to pursue any lawful aim has long been recognized in Israel as a fundamental civil right and a cornerstone of any democratic regime. As with other basic freedoms to which it is related – speech and expression, assembly, thought and conscience – freedom of association is not absolute, and must be reconciled in appropriate circumstances with other legitimate fundamental interests, such as the maintenance of social order, public security, or the very existence of the State. (H.C.J. 507/85, *Bahij Tamimi v. The Minister of Defense* (16.9.87)).

428. *Limitations on the freedom of association* – As a rule, freedom of association may be restricted only through express legislative authorization. There are three types of statutory restrictions on the freedom to associate in Israeli law: the first type is found in statutes that regulate the formation and operation of corporations, cooperative associations and the like; the second class of restriction involves statutes which aim to prevent the formation or activity of subversive organizations, including terrorist groups; the third involves direct or indirect restrictions on the freedom to form professional associations in certain fields or the requirement that certain professionals belong to such an association.

429. *Activities of human rights organizations* – the State of Israel places no legal restrictions on the right of organizations to engage in activities for the promotion and observance of human rights. For legal purposes, these organizations are indistinguishable from any other organization: to the extent that they are registered as associations, they must comply with the applicable law, etc. In every other sense, human rights organizations fully enjoy the freedom to associate and to pursue their various aims. There are hundreds of organizations in Israel which work freely and fruitfully in all areas of human rights. The State has an extensive cooperation with many civil society organizations in many aspects of life.

430. *Freedom of opinion and expression* – While Basic Law: Human Dignity and Liberty, does not directly articulate the right to freedom of expression and opinion, it has been suggested that these rights fall within the ambit of the general right to human dignity

protected by the Basic Law (C.A. 2687/92, *Geva v. Walt Disney Co.*). The right to freedom of opinion and expression is not explicitly protected in Israel by constitutional legislation. The right to free speech has long been recognized as a supreme, constitutional norm, and any limitations on its exercise for reasons related to public order or the rights and reputation of others must meet strict standards of scrutiny regarding their justification and scope.

431. *Limitations on the freedom of opinion and expression* – With several exceptions, freedom of expression may be restricted by official action only if, in the specific circumstances of the case, the speech in question gives rise at least to a "near certainty" that the public peace, broadly construed, will be endangered, and only if other means to lessen the severity or the likelihood of such a violation of public peace are of no avail. (H.C.J. 73/53, *Kol Ha'am Ltd. v. The Minister of Interior*).

432. In criminal prosecutions stemming from prohibited forms of speech, such as incitement to racism, a less demanding standard of proof is applied than the "near certainty" test for prior restraints.

433. In addition, please see Israel's reply to Question 4 above.

Israeli Legislation Process

434. The State of Israel is a democratic state, which allows every democratically elected Knesset Member the right to present bills that reflect the best interests and will of his/her constituencies, in accordance with the law.

435. Every private bill presented by a Knesset Member goes through a lengthy process, including the preliminary approval of the Speaker of the Knesset and his/her deputies who examine, inter alia, if the bill includes any forbidden racial content or negation of the State of Israel as a Jewish State; a discussion held by the Ministerial Committee for Legislative Affairs regarding the Government's position; a discussion in the Knesset Plenary and only following the Knesset Plenary's approval – hearings before the relevant Knesset Committees, and later, the final approval of the Knesset Plenary, symbolizing the legislator's sanction to the final version of the law.

436. Note that the relevant Knesset Committee is authorized to make significant changes in the wording of the bill, and additional changes may be made by the plenary through reservations filed by Knesset members. This thorough and often prolonged process is aimed at ensuring that that the final law reflects due process and the will of the legislator.

437. Israeli courts have the competence of judicial review regarding any act of legislation, in light of the Basic Laws.

The Prevention of Harming the State of Israel by Boycott Law (5771-2011)

438. This Law is intended to protect Israeli citizens from damages caused by organized boycotts and to guarantee that no use of public financial sources will be made in order to support activities that may harm Israeli citizens. The Law does not limit a private person's consideration if and from whom to purchase goods and services and deals only with organized and deliberate boycotts.

439. An offence according to this law is not a criminal offence but amounts to a civil tort, which in certain cases may lead to compensation. The Law does not have any criminal sanctions or supervision mechanisms, and is subject to the courts' jurisdiction.

440. Several petitions were filed against this law, and on December 9, 2012, the Supreme Court residing as the High Court of Justice ordered the respondents to provide the reasons why this law or Sections 2-3 of the Law should not be cancelled. The petitions are still pending. (H.C.J. 5329/11, *Uri Avneri et al. v. The Knesset et al.*).

441. The wide public debate, the amendments that were made to this law and even the criticism all demonstrate the strong democracy and freedom of speech enshrined in the Israeli legal system.

The Obligatory Disclosure for Receiving Support by a Foreign Political Entity Law 5771-2001

442. Following a wide public debate on the non-transparent nature of foreign governmental funding of NGOs operating in Israel, and concerns raised that it is used to interfere with and influence Israeli politics, several Members of the Knesset initiated a private bill to increase the obligation of transparency required by NGOs receiving such funds, in order to enable better evaluation of their extent and impact. The Bill was enacted on February 21, 2011.

443. According to Section 2 of the Law, any association or company for the benefit of the public which receives a donation from a foreign political entity must notify the Associations Registrar (within one week following the end of that quarter) and specify the identity of the entity providing the donation, the donation's sum, the donation's goals and purposes and any conditions and obligation that were given to the foreign political entity in relation with that donation (both orally and in writing and both direct and indirect).

444. According to Section 4 of the Law, the Associations Registrar will publish the list of association and companies for the benefit of the public who submitted such notifications, together with the information issued in according to Section 2 of the Law on the Ministry of Justice' internet site.

445. According to Section 5(a), any association or company for the benefit of the public who receives a donation according to this Law and which operates its own website, shall publish the information which was included in its quarterly report to the Association Registrar in a noticeable manner.

446. According to Section 5(b) an association or company for the benefit of the public which receives a donation for a specific advertising campaign, must publish, in the frame of that campaign, the acceptance of that donation.

447. According to Section 6 of the Law, association or company for the benefit of the public must do their outmost to find out if any donations they receive originate from a foreign political entity.

448. The issue of transparency required of NGOs regarding contributions received from foreign political entities, has already been stipulated in the Law of Associations, which requires NGOs whose financial turnover exceeds a certain amount (300,000 NIS, (81,000 USD)) and which have received contributions that exceed 20,000 NIS (5,400 USD) from foreign governmental entities, to give an annual report about (1) the amount of the contribution, (2) its purpose, (3) the identity of the contributor, and (4) any conditions for receiving the contribution. As noted, this Law deals with the enhancement of existing obligation.

449. The Law does not prohibit or impose any restriction on receiving the contributions themselves or on the activities of NGOs. The commentary to the Law states that the Law balances between the right of organizations in a democracy to operate freely, and the right of the public to know who funds the organizations' activities.

450. There is nothing in the law to substantially change the currently existing situation in Israel, and there is nothing in the law to harm the democratic process or the standing of the civil society and non-governmental organizations in any manner.

H. Protection of the family (art. 23)

Question 25

The Citizenship and Entry into Israel Law (Temporary Provision), 5763-2003

451. Please see Replies of the Government of Israel to the List of Issues to be taken up in connection with the consideration of the third periodic report of Israel (CCPR/C/ISR/Q/3/Add.1, p. 53-54).

452. On January 11, 2012, the High Court of Justice issued its verdict in regard to additional petitions against the constitutionality of the Law (H.C.J. 466/07, 544/07, 830/07, 5030/07, *MK Zehava Galon et al. v. The Minister of Interior et al.*). The Court rejected these petitions and by a majority opinion of 6 out of 11 judges, found the Law to be constitutional. The purpose of the Law, according to both the majority and minority decisions, is to mitigate the security threat posed by terrorist organizations seeking to harm Israeli citizens. The majority judgments also held that, given this purpose, the Law is proportional in that it is a rational means to attaining this end and that the security benefits of the Law outweigh the negative impact of the restrictions that it places on family unification.

453. The majority judges agreed that the right for family life is a constitutional right, though; they stated that the scope of this right does not include its fulfillment precisely in Israel. It was further determined that if there is an infringement in constitutional rights, among them the right to equality, this infringement is in line with the restrictions paragraph of the Basic Law: Human Dignity and Liberty (H.C.J. 466/07, 544/07, 830/07, 5030/07, *MK Zehava Galon et al. v. The Minister of Interior et al.* (11.1.12)).

454. *Residents of the Golan Heights* – the Law states that if the person requesting the permit is a Syrian resident and his/her spouse is a member of the Druze community who lives in the Golan Heights, which is under Israeli jurisdiction, then the Minister of the Interior may consider it a special humanitarian reason (Section 3A1(e)(2)). This section is geared specifically towards allowing family unification for residents of the Golan Heights.

Family Visit Program for Prisoners from the Gaza Strip

455. The IPS directive number 04.42.00 stipulates that criminal and security prisoners are entitled to a visit once every two weeks. Following an Israeli initiative and an IPS decision of July 16, 2012, family visits to prisoners from Gaza Strip which are detained in Israel are now allowed. The visits are the result of cooperation between the Israeli authorities and the ICRC and are conducted together with the ICRC after security examination of the relatives entering Israel. The visits are arranged on a weekly basis (every Monday). Every week 50 prisoners are allowed to receive 150 visitors all together. Each prisoner is allowed to receive up to four visitors, not including the prisoner's children under the age of eight.

456. Note that recently, a petition was filed regarding this issue which is currently pending before the High Court of Justice (H.C.J. 4048/13, *Arshid Arshid v. The Military Commander of the West Bank*).

Maintaining Contact with Families

457. In order to maintain contact with their families, security prisoners are entitled to send and receive letters, they are entitled to receive family visits (unless there is a specific security prohibition on such visitations) and to meet with their attorneys (even where no legal proceedings are taking place in their regard). In exceptional cases these prisoners have the right to contact their relatives by phone.

Case Law

458. *Telephone use by Prisoners suspected of security-related offences* – In a recent decision by the Haifa District Court, the Court partially accepted the petition of a security prisoner who demanded to make a daily use of the telephone for a period of 30 minutes. The Court noted that the respondents pose no concrete information that justifies the conclusion that allowing the appellant to conduct phone calls, similarly to that provided to criminal prisoners, entails a threat to state security.

459. The Court further noted that, without expressing its opinion if indeed a 30 minute phone call will inflict an unreasonable burden on the security authorities, there is a variety of possibilities between total denial of phone calls and a 30 minutes daily phone call, and the security authorities may come up with a position that will balance the appellant rights and the burden upon them. The Court returned the issue to the IPS in order to further examine the requested easements in light of its decision. (C.A. 26844-01-13, *Aafan Abu Guwaid v. The Israeli Prisons Service et al.* (24.3.13)).

I. Rights of the child and equality before the law (arts. 24 and 26)

Question 26 (a)

GOI Reply

460. Please see the reply to Question no. 4 above.

Question 26 (b)

461. Please see the reply to Question no. 4 above.

United Nations CCPR/C/ISR/CO/4

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Human Rights Committee

Concluding observations on the fourth periodic report of Israel*

1. The Committee considered the fourth periodic report of Israel (CCPR/C/ISR/4) at its 3115th and 3116th meetings (CCPR/C/SR.3115 and 3116), held on 20 October 2014. At its 3127th meeting (CCPR/C/SR.3127), held on 28 October 2014, it adopted the following concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the new optional procedure for submission of reports and for the timely submission of its fourth periodic report in response to the list of issues prior to consideration of reports (CCPR/C/ISR/Q/4), under that procedure. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken by the State party during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the responses provided by the delegation orally.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The adoption of Amendment No. 4 to the Pupil's Rights Law 5761-2000 whereby sexual orientation and gender identity were added to the prohibited grounds of discrimination against pupils, in March 2014;

(b) The transfer of the function of Inspector for Complaints against Interrogators of the Israel Security Agency (ISA) to the Ministry of Justice, in June 2013;

(c) The establishment of a joint inter-ministerial team, headed by the Deputy Attorney General, tasked with the review and implementation of the concluding observations of human rights treaty bodies, in 2011.

* Adopted by the Committee at its 112th session (7–31 October 2014).

4. The Committee welcomes the ratification of the Convention on the Rights of Persons with Disabilities, on 28 September 2012.

C. Principal matters of concern and recommendations

Applicability of the Covenant, including to the West Bank, including East Jerusalem, Gaza Strip and the Occupied Syrian Golan

5. The Committee regrets that the State party continues to maintain its position on the non-applicability of the Covenant to the Occupied Territories, by claiming that the Covenant is a territorially bound treaty and does not apply with respect to individuals under its jurisdiction, but outside its territory, despite the interpretation to the contrary of article 2, paragraph 1, supported by the Committee's established jurisprudence, the jurisprudence of the International Court of Justice (ICJ) and State practice. It is further concerned at the position of the State party that international human rights law does not apply when international humanitarian law is applicable. The Committee reiterates its view on these matters (see CCPR/CO/ISR/3, para. 5; CCPR/CO/78/ISR, para. 11 and CCPR/C/79/Add.93, para. 10). The Committee notes that the State party maintains its reservation to article 23 of the Covenant. It also notes that the State party has not yet acceded to any of the two Optional Protocols to the Covenant (art. 2).

The State party should:

(a) Interpret the Covenant in good faith, in accordance with the ordinary meaning to be given to its terms in their context, including subsequent practice, and in light of the object and purpose of the Covenant, and review its legal position so as to acknowledge the extraterritorial application of the Covenant under certain circumstances, as outlined, inter alia, in the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant. In this respect, the Committee reiterates and underscores that the Covenant applies with regard to all conduct by the State party's authorities or agents adversely affecting the enjoyment of the rights enshrined in the Covenant by persons under its jurisdiction regardless of the location;

(b) Review its legal position and acknowledge that the applicability of international humanitarian law during an armed conflict, as well as in a situation of occupation, does not preclude the application of the Covenant;

(c) Reconsider its position regarding its reservation to article 23 of the Covenant with a view to withdrawing it;

(d) Consider acceding to the First Optional Protocol to the International Covenant on Civil and Political Rights providing for an individual complaint mechanism;

(e) Consider acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

Accountability for alleged human rights violations committed during the State party's military operations in the Gaza Strip

6. The Committee, while noting that the State party had implemented some of the recommendations of the second report of the Turkel Commission aiming at improving the investigation mechanisms into alleged violations of the laws of armed conflict, and that the implementation of other recommendations are currently being considered by a special Committee set up in January 2014, regrets the State party's failure to provide updated information on investigation into human rights violations related to the "Operation Cast

Lead" (27 December 2008-18 January 2009) conducted in the Gaza Strip. The Committee expresses its concern at allegations of human rights violations committed during the military operations in the Gaza Strip known as "Operation Pillar of Defence" (14-21 November 2012) and "Operation Protective Edge" (8 July-26 August 2014), inter alia, the disproportionate number of casualties among civilians, including children; the destruction of homes and other civilian infrastructure, including medical facilities and schools, in particular the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) schools used as shelters for civilians and other United Nations installations during the "Operation Protective Edge" (arts. 2, 6, 7, 9, 12, and 17).

The State party should continue reforming its investigative system, including, as an initial step, by implementing the recommendations of the second report of the Turkel Commission. It should ensure that all human rights violations committed during its military operations in the Gaza Strip in 2008-2009, 2012 and 2014 are thoroughly, effectively, independently and impartially investigated, that perpetrators, including, in particular, persons in positions of command, are prosecuted and sanctioned in a manner commensurate with the gravity of the acts committed, and that victims or their families are provided with effective remedies, including equal and effective access to justice and reparations.

Equality and non-discrimination

7. The Committee reiterates its concern (CCPR/C/ISR/CO/3, para. 6) that the principle of equality and non-discrimination is not explicitly codified in the State party's Basic Law: Human Dignity and Liberty 5752-1992, which serves as the State party's bill of rights, despite its recognition as a fundamental principle in the State party's legal system. The Committee, while noting that relevant legislation is currently under review, is also concerned that the Jewish and non-Jewish population are treated differently in several regards and that the State party's domestic legal framework maintains a three-tiered system of laws affording different civil status, rights and legal protection for Jewish Israeli citizens, Palestinian citizens of Israel and Palestinian residents of East Jerusalem (arts. 2 and 26).

The Committee reiterates its previous recommendation (CCPR/C/ISR/CO/3, para. 6) that the State party amend its Basic Law: Human Dignity and Liberty 5752-1992 to explicitly incorporate the principle of equality and non-discrimination. It should ensure equal treatment for all persons within its territory and subject to its jurisdiction, regardless of their national or ethnic origin, and in particular, pursue the review of all laws discriminating against Palestinian citizens of Israel and ensure that any future legislation is fully compatible with the principle of equality and non-discrimination.

8. The Committee is concerned that, despite the steps taken by the State party, Israeli citizens of Arab origin continue to be underrepresented in the civil service, in particular in decision-making positions (arts. 2, 25 and 26).

The State party should step up its efforts to achieve equitable representation of Israeli citizens of Arab origin in the civil service, in particular in decision-making positions in legislative and executive bodies, including the Knesset and the Government.

Punitive demolitions, planning and zoning regime in the West Bank and displacement of Bedouins

9. The Committee is concerned at the resumption of the policy of punitive demolitions in the West Bank since July 2014. It is also concerned about the discriminatory zoning and planning regime regulating the construction of housing and structures by Palestinians in Area C of the West Bank and by Palestinian Bedouins in the central West Bank, including

the East Jerusalem periphery, that makes it almost impossible for them to obtain building permits, while facilitating the State party's settlements in the Occupied Palestinian Territory (OPT). The Committee further notes with concern that, for this reason, many are forced to build without a permit and are at high risk of eviction. The Committee is further concerned at the demolition and forcible transfer of Bedouins residing in Area C of the West Bank and at plans to relocate a total of approximately 7,000 people in around 45 residential areas to three urbanized 'townships' elsewhere in the West Bank without taking into account their traditional pastoral economy, social fabric, and rural way of life. The Committee also expresses concern at demolitions, forced evictions and displacement of Bedouin citizens of Israel living in the Negev desert, and notes that the proposed legislation which seeks to legitimize such forcible displacement, including the Bill for the Regulation of the Bedouin Settlement in the Negev, is currently frozen. Finally, the Committee is concerned at the restricted access of Bedouins living in unrecognized and recently-recognized villages in the Negev to basic services, including adequate housing, water and sanitation, health care, education and public transportation (arts. 2, 7, 12, 14, 17, 26 and 27).

The State party should:

(a) Immediately put an end to conducting punitive demolitions given their incompatibility with the State party's obligations under the Covenant and provide effective remedies to victims of destruction of property, forced eviction and forcible transfer;

(b) Refrain from implementing evictions and demolition orders based on discriminatory planning policies, laws and practices affecting Palestinians, including Bedouins, in the West Bank, including the East Jerusalem periphery; remove discriminatory provisions from relevant planning and zoning legislation; provide for procedural protection and due process guarantees against forced evictions and demolitions; ensure the participation of Palestinians in the planning and zoning process and withdraw the so-called 'Bedouin Regulation' plan;

(c) Desist from any actions that may facilitate or result in forcible transfer and forced evictions, particularly of the Bedouin communities in the central West Bank, including the eastern Jerusalem periphery, and forced displacement and dispossession of Bedouins residing in the Negev;

(d) Ensure the participation of Bedouins in the Negev in any process concerning their relocation; ensure that any proposed plans for their relocation take due account of their traditional way of life and, where applicable, their right to ancestral land, and are carried out in accordance with relevant international human rights standards, in particular the principle of non-discrimination, the rights to be informed and consulted, to an effective remedy, and to the provision of adequate relocation sites, and withdraw the discriminatory Bill for the Regulation of the Bedouin Settlement in the Negev (the Prawer-Begin Bill).

State of emergency and administrative detention

10. While noting the ongoing legislative process regarding the future cancellation of the state of emergency, the Committee reiterates its concern at maintaining the state of emergency (see CCPR/C/ISR/CO/3, para. 7; CCPR/CO/78/ISR, para. 12 and CCPR/C/79/Add.93, para. 11). The Committee also remains concerned at the continuing practice of administrative detention of Palestinians, at the fact that in many cases the detention order is based on secret evidence and at the denial of access to counsel, independent doctors and family contacts (arts. 4, 9, and 14).

The Committee recalls, with reference to its general comment No. 29 (2001) on states of emergency that measures derogating from the provisions of the Covenant must be of an exceptional and temporary nature and are limited to the extent strictly required. It reiterates its previous recommendations (CCPR/C/ISR/CO/3, para. 7), and requests the State party to:

(a) Expedite the process of reviewing its legislation governing the state of emergency and the necessity of maintaining the state of emergency proclaimed since 1948, as well as revisiting the modalities governing the renewal of the state of emergency;

(b) End the practice of administrative detention and the use of secret evidence in administrative detention proceedings, and ensure that individuals subject to administrative detention orders are either promptly charged with a criminal offence, or released.

Counter-terrorism measures

11. While noting that the legislative process on the Fight against Terrorism Bill, 5771-2011 is underway, the Committee notes the absence of specific information on the definitions of terrorism, and on the legal safeguards afforded to persons suspected of, or charged with, a terrorist or related crime contained in the draft law currently under consideration (arts. 2, 7, 9, 10 and 14).

The State party should ensure that the new legislation governing the State party's counter-terrorism measures is in full compliance with its obligations under the Covenant. The State party should, inter alia, take into account the Committee's previous recommendations on this issue (CCPR/C/ISR/CO/3, para. 13).

Ongoing blockade of the Gaza Strip

12. The Committee is concerned at the long-standing blockade of the Gaza strip imposed by the State party. It notes with concern that the blockade continues to hamper the freedom of movement with only limited categories of persons able to leave Gaza, such as medical referrals; to negatively impact on Palestinians' access to all basic and life-saving services such as food, health, electricity, water and sanitation; and to delay reconstruction efforts in the Gaza Strip (arts. 1, 6, 7 and 12).

The State party should, in line with the Committee's previous recommendation (CCPR/C/ISR/CO/3, para. 8):

(a) Lift its blockade of the Gaza Strip, insofar as it adversely affects the civilian population and provide unrestricted access for the provision of urgent humanitarian assistance and construction materials needed for civilian reconstruction efforts;

(b) Ensure that any measures restricting the freedom of movement of civilians and the transfer of goods from, into and within Gaza are consistent with its obligations under the Covenant.

Excessive use of force by State party's security forces

13. The Committee expresses its concern at persistent reports of excessive use of lethal force by the State party's security forces, in particular the Israel Defense Forces, during law enforcement operations against Palestinian civilians, including children, , particularly in the West Bank, including East Jerusalem, and in the Access Restricted Areas of Gaza. While noting the new policy announced by the Military Advocate General in 2011, according to which criminal investigations are automatically opened into some incidents involving

fatalities in the West Bank, and the measures taken to investigate such incidents, the Committee remains concerned that accountability for such acts remains weak. The Committee is further concerned about damage to, and demolition of, properties during arrest operations, which seem disproportionate (arts. 2, 6, 7, 9, and 24).

The State party should:

(a) Take all necessary measures to prevent incidents of excessive use of force during law enforcement operations, including by ensuring that rules of engagement or open fire regulations of the State party's security forces in the West Bank, including East Jerusalem, and the Access Restricted Areas of Gaza, are consistent with article 6 of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(b) Ensure that prompt, thorough, effective, independent and impartial investigations are launched into all incidents involving the use of firearms by law enforcement officers, including members of the Israel Defense Forces, the Border Police and private security personnel contracted by the State party's authorities;

(c) Ensure that those responsible for the disproportionate demolition of properties and the excessive use of force during arrest operations are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are provided with effective remedies.

Torture and ill-treatment

14. The Committee reiterates its concern (CCPR/C/ISR/CO/3, para. 11) that to date, no crime of torture in conformity with article 7 of the Covenant has been incorporated into the State party's legislation. Furthermore, the Committee reiterates its concern that the "defence of necessity" continues to be legal and is used as a possible justification for torture. It also notes with concern that the Supreme Court implicitly allows the use of so-called "moderate physical pressure" in cases of "necessity". The Committee is also concerned about the exemption from the obligation to provide audio or visual documentation of interrogations in cases of persons detained for security offences. The Committee recalls that the prohibition of torture, cruel, inhuman or degrading treatment in article 7 is absolute, and according to article 4, paragraph 2, no derogations therefrom are permitted, even in time of public emergency (arts. 4 and 7).

The State party should explicitly prohibit torture, including psychological torture, and cruel, inhuman or degrading treatment by incorporating into its legislation a definition of torture that is fully in line with article 7 of the Covenant, and ensuring that the law provides for penalties commensurate with the gravity of such acts. It should also: (a) remove the notion of "necessity" as a possible justification for the crime of torture; (b) refrain from inflicting "moderate physical pressure" in cases of "necessity" and ensuring that interrogation techniques never reach the threshold of treatment prohibited by article 7 of the Covenant, and (c) provide for audio or visual documentation of interrogations in cases of persons detained for security offences.

15. The Committee is concerned at reports of the use of torture and other ill-treatment in the State party's detention facilities, including widespread, systematic and institutionalized ill-treatment of Palestinian children. It is particularly concerned that no preliminary investigations by the Inspector for Complaints against the Israel Security Agency (ISA) have led to judicial proceedings against alleged perpetrators (arts. 2, 7 and 24).

The State party should take robust measures to eradicate torture and ill-treatment against adult and child detainees and carry out prompt, thorough, effective, independent and impartial investigations into all allegations of torture and ill-

treatment, including in the case of complaints against the Israel Security Agency, hold perpetrators accountable and provide victims with effective remedies, including appropriate compensation.

Violence perpetrated by the State party's settlers against Palestinians in the West Bank, including East Jerusalem

16. The Committee is concerned at the acts of violence perpetrated by the State party's settlers against Palestinians and their property in the West Bank, including East Jerusalem, and at the lack of effective accountability and protection from such acts by the State party's authorities, partly due to deficiencies in investigating such cases. The Committee takes note of the measures taken by the State party to address this serious matter, including the establishment of an inter-ministerial team to deal with ideologically-motivated crimes (arts. 2, 6, 7, 14, 17 and 26).

The State party should take all necessary measures to prevent violence perpetrated by the State party's settlers and protect Palestinians effectively when such violence occurs. It should strengthen its efforts with a view to ensuring that prompt, thorough, independent and impartial investigations are launched, in a non-discriminatory manner, into all incidents of violence by private actors against Palestinians and their property, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and victims are provided with effective remedies.

Self-determination of Palestinians, access to natural resources, State party's settlements and related-activities, and the Wall

17. The Committee is concerned about continuing confiscation and expropriation of Palestinian land. It is also concerned at continuing restrictions on access of Palestinians in the OPT, including East Jerusalem, and of residents of the Occupied Syrian Golan, to natural resources, inter alia, agricultural land and adequate water supply. The Committee is further concerned about: (a) the resumption since 2013 of the practice of claiming land as State land; (b) the continued construction of the Wall in the West Bank, the limited allocation of permits for Palestinians to access their agricultural lands situated on the other side of the Wall, and the restricted number and opening hours of access gates; (c) the continuing construction and expansion of settlements throughout the (OPT), which has more than doubled, and the transfer of the State party's settlers to that Territory, and (d) the retroactive legalization of outposts. The Committee notes with concern that those acts undermine the enjoyment by Palestinians of a wide range of their Covenant rights, including the right to self-determination (arts. 1, 2, 9, 12, 17, 18 and 26).

The State party should:

(a) Ensure and facilitate non-discriminatory access of Palestinians in the (OPT), including East Jerusalem, to land, natural resources, water and sanitation;

(b) Put an end to the practice of expropriation of land and allocation of State land for the expansion of settlements;

(c) Cease the construction and expansion of settlements in the OPT, including East Jerusalem and the Occupied Syrian Golan, and all settlement-related activities, including the transfer of its own population thereto, and take measures aimed at the withdrawal of all settlers from those territories;

(d) Reroute the Wall consistent with the Advisory Opinion of ICJ on the Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory of July 2004, and ensure that Palestinians have full access to their lands and livelihood.

Freedom of movement

18. The Committee expresses concern, in conjunction with the concerns raised in paragraphs 12 and 17 above, at the restrictions on freedom of movement of residents of the OPT, including persons residing in the "Seam Zone" between the Wall and the State party. The Committee is further concerned at the treatment of Palestinians residents in East Jerusalem as aliens and the insecurity of their permanent residency status that can be revoked if they live outside the municipal boundary of Jerusalem (arts. 2, 12 and 26).

The State party should take all necessary measures with a view to ensuring respect for the right to freedom of movement for Palestinians throughout the OPT, comprising the West Bank, including East Jerusalem and the Gaza Strip, and ensure that any restrictions on freedom of movement are in line with its obligations under the Covenant. It should also ensure respect for the rights of Palestinian residents in East Jerusalem to freedom of movement and freedom to choose residence.

Juvenile criminal justice system

19. The Committee, while noting positive developments in the administration of juvenile military justice, including the increase in the age of majority in the military courts from 16 to 18 years and the adoption of a number of military orders providing for guarantees and safeguards for children, remains concerned that such reforms appear not to be effectively implemented in practice and that Palestinian children are still exposed to arbitrary arrest and detention and often do not enjoy full procedural rights (arts. 2, 7, 9, 10, 14 and 24).

The State party should ensure that any arrest and detention of a child is in conformity with article 9 of the Covenant. It should further ensure that children are:

(a) Only detained as a measure of last resort and for the shortest possible period of time;

(b) Treated at all times with respect and dignity and in accordance with their age, specific needs and vulnerability;

(c) Provided with safe and child-friendly complaint mechanisms, including during trials, regarding treatment at the time of arrest, interrogation and detention, and that proceedings are audio-visually recorded;

(d) Afforded, in practice, all fair trial guarantees in line with article 14 of the Covenant.

Refugees and asylum seekers

20. The Committee is concerned about the very low recognition rate of refugees in the State party, including of Eritreans and Sudanese from South Sudan seeking such status. While noting that the State party does not deport such persons to their country of origin, it is concerned that the lack of formal procedures at the border for those wishing to apply for refugee status and the lack of a clearly defined legal status for individuals who have not been recognized as refugees but whose continued presence in the country is tolerated, may expose them to the risk of refoulement. Furthermore, while welcoming the decisions of the High Court of Justice of 16 September 2013 and of 22 September 2014 declaring unconstitutional the mandatory detention of asylum seekers for a period up to three years and one year respectively, the Committee is concerned about the prolonged detention of a large number of asylum seekers over the course of past years and the lack of new legislation that would introduce a detention regime in line with the requirements of article 9 of the Covenant (arts. 2, 7, 9, 13 and 26).

The State party should:

(a) Review its policy of recognition of refugees;

(b) Ensure that formal procedures for asylum application are made available at its border;

(c) Create a legal status for failed applicants for refugees status who cannot be deported to their country of origin, allowing them to stay in the State party until return becomes possible, as well as having access to formal employment and basic services;

(d) Ensure that the new legislation abolishes the system of automatic detention of asylum seekers and requires that in each case, detention is reasonable, necessary and proportionate in light of the circumstances, and reassessed as it extends in time.

Protection of the family

21. The Committee reiterates its concern (CCPR/C/ISR/CO/3, para. 15) regarding the disproportionate and adverse restrictions imposed by the Citizenship and Entry into Israel Law (Temporary Provision) which suspends the possibility, with certain rare exceptions, of family reunification of Israeli citizens with Palestinian spouses living in the West Bank, East Jerusalem or Gaza Strip or with spouses living in several States classified by the State party as "enemy States". It also expresses concern at the decision of the High Court of Justice of 11 January 2012 upholding the constitutionality of this Law (arts. 17, 23, 24 and 26).

The Committee reiterates that the Citizenship and Entry into Israel Law (Temporary Provision) should be revoked and that the State party should review its laws, practices and policies with a view to bringing them in line with its obligations under articles 23 and 26 of the Covenant.

Freedom of opinion and expression and freedom of association

22. The Committee is concerned at the chilling effect that the Boycott Law (5771-2011),which provides that a call for economic, cultural, or academic boycott of people or institutions in the State party or the OPT for political reasons is a civil offence, and the so-called "Foreign Funding Law" (5771-2001), which imposes mandatory disclosure of foreign funds received by any association or company, may have on the freedom of opinion and expression and freedom of association (arts. 19 and 22).

The State party should ensure that individuals fully enjoy their rights to freedom of expression and association and that any restrictions on the exercise of such rights comply with the strict requirements of article 19, paragraph 3 of the Covenant as interpreted in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, and article 22, paragraph 2, of the Covenant.

Conscientious objection

23. The Committee remains concerned (CCPR/C/ISR/CO/3, para. 19) at the proceedings before the special Committee in charge of recommending to the competent authorities to grant or reject an individual's application for exemption from compulsory military service for reasons of conscience and at its lack of independence given that its membership comprises only one civilian member and all the rest serve as officials of the armed forces. The Committee reiterates its concern that individuals whose conscientious objection applications are rejected may be repeatedly imprisoned for their refusal to serve in the armed forces (arts. 14 and 18).

The Committee reiterates its previous recommendation that the special Committee making recommendations to the competent authorities on conscientious objection applications be made fully independent, and proceedings before it include hearings and provide for a right to appeal against negative decisions. The State party should also refrain from repeated imprisonment for refusal to serve in the armed forces that may constitute a violation of the principle of *ne bis in idem*.

Dissemination of information relating to the Covenant

24. The State party should widely disseminate the Covenant, the text of its fourth periodic report and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The report and the concluding observations should be translated into the other official language of the State party.

25. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 9, 12, 14 and 19 above.

26. The State party is invited to submit its next report, which will be its fifth periodic report, by 31 October 2018. To that end, the Committee will send the State party in due course a list of issues prior to reporting. The Committee also requests the State party, when preparing its next periodic report, to continue its practice of broadly consulting civil society and non-governmental organizations operating in the country.

United Nations CCPR/C/ISR/CO/4/Add.1

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Concluding observations on the fourth periodic report of Israel

Addendum

Information received from Israel on follow-up to the concluding observations*

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* The present document is being issued without formal editing.

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Concluding Observation no. 9

Non-application of the Covenant in the "Occupied Palestinian Territory"

1. As has been previously clarified, it is Israel's position that the International Convention on Civil and Political Rights (hereinafter: "ICCPR" or "the Convention") is not applicable beyond a state's national territory. For an elaboration of this position, please see sections 44-48 of Israel's 4th Periodic Report.[1]

2. Notwithstanding this position, in the spirit of openness with which Israel approaches the constructive dialogue with the honorable Committee, we respectfully present the following information.

Planning and Zoning in the West Bank

3. Against the background of the complex legal reality that was created following the Six Day War, Israel took upon itself to subject its military control of the West Bank to the *Hague Regulations Respecting the Laws and Customs of War on Land of 1907* ("the Hague Regulations"), and, accordingly, to maintain the laws that were in force in this area prior to June 1967.[2]

4. Subsequently, the planning and zoning laws applicable to the West Bank, as well as the regional zoning plans that derive from them, are mostly the original laws that were in effect prior to June 1967.[3] Indeed, the main source of law is the *Jordanian Planning of Cities Villages and Buildings Law (No. 79)* of 1966. These laws apply indiscriminately to all persons residing in the West Bank.

5. Note that the vast majority of Palestinians in the West Bank reside in Areas A and B, which include all Palestinian urban centers and most Palestinian village clusters. In those areas, the responsibility for planning and zoning has been transferred to the Palestinian Authority (hereinafter: PA), as part of the Oslo Accords.

6. In the remaining areas, the Central Supervisory Unit of the Civil Administration and other Israeli authorities in the West Bank operate in order to enforce the law and the local zoning plans without distinction between Israeli citizens or Palestinians residents.

7. The Civil Administration is constantly developing and advancing outline plans for the Palestinian and Bedouin populations in the West Bank. It is working on the development of roughly 90 different plans, which are at different stages of the procedural process. Approximately 20 of these plans have been prepared, approved for advancement and are currently in various stages of the statutory process. An additional ten plans have been prepared and are awaiting various approvals prior to their submission to the planning committees and the rest of the plans are currently classified as works in progress.

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[1] State of Israel, 4th Periodic Report to the Committee on Civil and Political Rights Concerning the Implementation of the International Convention on Civil and Political Rights, *see also*: http://www.justice.gov.il/Units/InternationalAgreements/IA/Reports/ReportsUnCommittees/Israel%20-%20ICCPR%204th%20Periodic%20Report%20-%2010.10.13.pdf.

[2] According to Article 43 of the Hague Regulations, the Military Commander is tasked with ensuring security and public order. Within the scope of these duties, the Military Commander and the institutions that he appoints are in charge of enforcing the planning and building laws which were in place prior to 1967.

[3] Note that at times the Military Commander is required to implement certain updates and amendments to the laws that apply in the West Bank. *See, for example, The Procedure regarding the Incorporation of West Bank Residents in the Planning Process (Judea and Samaria), 2014*, that will be addressed below.

8. The foregoing is expected to lead to the legalization of dozens of structures that had been constructed illegally. Moreover, in principle, the Civil Administration refrains from enforcing the law regarding illegal construction where an outline plan has been approved or even when a plan is going through the initial stages of the statutory process, even if a person initially violated the law and intentionally built the structure without a building permit.

Palestinian Participation in the Planning Procedure

9. The Civil Administration and the other relevant Israeli authorities operating in the West Bank are actively working to promote the participation of the Palestinian population in the planning process. The Civil Administration has invested substantial resources in an attempt to involve the Palestinian population in the planning process and thus optimize the outcome. Such integration is attempted at all stages of the process, including the preliminary stages of planning, the planning itself and the transition to the approved plans.

10. To this end, in September 2014, the Head of the Civil Administration introduced a new procedure titled "*The Procedure regarding the Incorporation of West Bank Residents in the Planning Process (Judea and Samaria), 2014*", which requires the relevant bodies to provide a formal setting for interested parties to present their positions regarding issues of planning and zoning, which in turn must be considered by the committee.

11. This procedure was examined by the Israeli Supreme Court[4] and was deemed to constitute appropriate involvement of the local population, enhancing effective Palestinian participation in the planning process. According to the Court's decision, this procedure will be re-examined and evaluated in the near future by the relevant authorities.

12. Unfortunately, information gathered clearly shows that the PA is applying great pressure on the Palestinian population, aimed at preventing any productive cooperation with the Civil Administration or the Civil Administration's planning authorities in the West Bank. The PA encourages Palestinians not to cooperate with the Israeli planning institutions and in fact actively hinder any cooperation with the planning and construction initiatives intended to promote the needs of the Palestinian population.

Enforcement

13. All enforcement procedures are subject to due process guarantees, such as the right to a fair hearing and the opportunity to take measures to rectify an infringement of the law (for example, by filing a request for a building permit or by proposing an amendment to a zoning plan).

14. Moreover, when an appeal is denied, no enforcement action is taken for a period of time that allows the submission of a petition to the High Court of Justice.

15. These judicial guarantees are available to everyone without any distinction based on religion, race or ethnicity.

16. The data concerning demolition of illegal construction reveals that throughout 2013 and 2014, 29% and 43% respectively of the new cases concerning illegal construction by Palestinians resulted in demolitions. Slightly higher demolition rates applied to Israelis residing in the West Bank, namely, 41% and 48% of the new cases concerning illegal construction in 2013 and 2014, respectively. Claims regarding discrimination in enforcement do not correlate with this data and are unfounded.

[4] H.C.J. 5667/11, *Dirat — Rafayia Village Council et. al. v. The Minister of Defense et. al.* (9.6.15).

Planning and Zoning for the Bedouin Population Residing in the West Bank

17. Over the years, the Civil Administration has operated extensively in order to accommodate the living conditions of the Bedouin population in the West Bank and to allow the establishment of permanent places of residence suitable to their specific needs, accommodating future development resulting from natural growth. Of the outline plans mentioned above, six are specifically designed to provide for the Bedouin population. These plans are currently in advanced stages of the statutory process.

18. In light of the unique tradition and culture of the Bedouin population, the planning undertaken for their benefit seeks to provide them with living arrangements compatible with the modern age while recognizing and providing for aspects of their lifestyle. This is done by mapping the population's preexisting construction clusters, assessing, *inter alia*, the unique elements of their lifestyle and their attachment to different areas. Based on these assessments, a customized plan is crafted to tailor to their way of life and needs, taking into account their future natural growth. These plans are developed with the aim of preserving each community's traditional way of life and geographical proximity to its current location. It should be stressed that when illegal construction is broad and geographically scattered, major difficulties arise in fulfilling the needs of the population in terms of the provision of energy and water; maintenance of functioning sewer and transportation systems; proper services and adequate infrastructure. Thus, a minimal level of centralization is essential.

19. The Civil Administration devotes great resources and invests undeniable amounts of resources in direct communications with the population in an attempt to integrate the community in characterizing their own wants and needs in order to provide the optimal plans for them. Such integration is attempted in all stages of the process, from the preliminary stages of planning, continuing with the planning itself, and concluding with the transition to the approved plans. As stated above, in 2014, the IDF and the Civil Administration introduced a specific procedure with the aim of ensuring the participation of the local population in planning procedures in the West Bank. For additional information, please see subtitle "Palestinian Participation in the Planning Procedure" on page 5 above.

Sealing and Demolition of Terrorists' Houses

20. Unfortunately, since its establishment, Israel has been under constant terrorist threats and attacks. In times of intense terrorist attacks that threaten the lives of Israeli citizens, Israel, as part of its obligation to ensure the right to life of its civilians, is forced to adopt exceptional measures in order to deter potential terrorists.

21. As explained above, in principle, the laws that were in force in the West Bank prior to June 1967, remain in force. Regulation 119 of the Defense [Emergency] Regulations, 1945, constitutes the basis for the issuance of orders by the Military Commander for taking measures, including, in severe cases, to demolish a property that is linked to perpetrators of severe acts of terrorism. Such orders are issued following an assessment made by the Military Commander indicating the need for the said measures to deter potential perpetrators from committing similar terrorist acts.

22. The exceptional nature of the measures adopted under Regulation 119 is always taken into account. Regulation 119 is used, both within Israel and in the West Bank, in times of escalation of terrorist activity, as a response to outbreaks of terrorist activities aimed against Israeli civilians. Following internal deliberations, in early 2005, Israel suspended the use of such measures. In 2008, following a sharp increase in terrorist attacks originating from parts of Jerusalem, limited measures were employed for a brief period only, in the eastern neighborhoods of Jerusalem. Over the period between 2008 and 2014, Israel had no need to resort to the exceptional step of ordering the demolition of terrorists' houses.

23. Following several attacks — including the murder of a police officer, the 2014 kidnapping and murder of three Israeli teenagers and the 2015-2016 wave of terrorist attacks — Israeli authorities decided to allow the use of the sealing and demolition of houses for purposes of deterrence, in line with Regulation 119, although only in specific and extreme circumstances.

24. The need to make limited use of such measures in the context of the current wave of violence stems from the unique challenges that Israel faces in the fight against terrorism. The current wave of attacks largely consists of acts by so-called "lone wolf" terrorists, who operate individually and unexpectedly, making it very difficult to prevent the attacks through intelligence gathering or other traditional measures. Deterrence becomes an essential tool in preventing these terrorist attacks.

25. Such measures are used in a relatively small number of cases, in a focused and non-arbitrary manner. Demolition or sealing orders are regularly brought before the High Court of Justice. In its judgments, the Court has allowed the use of Regulation 119 in very specific and narrow circumstances. The Court has also reiterated the need to periodically review the use of the Regulation, taking into account updated information regarding the effectiveness of the measures and any changes in the security situation. In a number of cases, the Court quashed demolition orders, or imposed limitations on the requested measures, due to proportionality or other considerations.

26. Enforcement Measures against Illegal Construction in the Eastern Neighborhoods of Jerusalem.

27. Illegal construction harms the local population, as it does not take into consideration planning policies and parameters that are needed to ensure quality of life, the welfare of the population and public needs. Enforcement measures against illegal structures are adopted in accordance with legal guarantees and following due process, subject to judicial review and the right to appeal, and are decided upon without distinction based upon race or ethnic origin.

28. The authorities exercise discretion in the execution of demolition orders and give priority to the demolition of illegal structures that pose an obstacle to the development of the city, for example, an illegal structure that blocks a sewer pipe system, a planned school, access roads, etc.

29. As of November 23rd, 2016, 64 demolition orders against illegal structures were carried out by the Jerusalem Municipality in the eastern neighborhoods of Jerusalem, of which only nine were inhabited (compared to 55 such orders in the western neighborhoods of which nine were inhabited). In 2015, 44 demolition orders against illegal construction were carried out by the Jerusalem Municipality in the eastern neighborhoods of Jerusalem, of which only six were inhabited (compared to 50 such orders in the western neighborhoods of which 14 were inhabited). In 2014, 35 demolition orders against illegal construction were carried out by the Jerusalem Municipality in the eastern neighborhoods of Jerusalem, of which only nine were inhabited (compared to 33 such orders in the western neighborhoods of which 14 were inhabited).

30. During 2014, a new procedure for demonstrating proprietary rights was initiated in order to expedite the issuance of building permits, thus reducing one of the major barriers to obtaining a building permit. This procedure was initiated with the aim of increasing the number of building licenses granted and reducing the need for demolition orders.

Involvement of the Arab population in the planning and zoning process

Outline Plans and basic planning for the Arab population throughout Israel

31. As of December 2016, 131 of 133 Arab localities have approved outline plans. Of these 133 localities: 71 have approved updated outline plans (from 2004 and onward); 17 have new outline plans undergoing statutory approval. It is expected that in the next two years, the approval procedures will be completed. New outline plans are in the process of being prepared for an additional 21 localities, including updating three of the above mentioned approved plans. Outline plans for 12 additional localities is scheduled to begin during 2017. Note that these updated outline plans, excluding those scheduled to be prepared in 2017, comprise 96% of the Arab population in the said 133 localities.

32. As of December 2016, 95 of the aforementioned outline plans for the Arab localities were promoted by the National Planning Administration. The rest of the plans are promoted by the local authorities, local councils or other governmental administrations.

33. The outline plans promoted by the Ministry of Interior have added, on average, 70% to the localities' existing development lands, in addition to existing areas within the locality which are approved but not yet developed.

34. The vast majority of the outline plans allow for a larger population than the population prediction for the relevant planning period.

35. In order to allow the construction of a large number of residential units in a short period of time, the Planning Administration is currently conducting a pilot study, in which it is promoting detailed planning in two Arab localities with several planning challenges (such as the need to divert national infrastructures etc.). This is in addition to the above-mentioned approval of outline plans.

36. In accordance with Government Resolutions No. 2332 (of December 14, 2014) and 959 (of January 10, 2016), concerning the Development and Empowerment of the Druze and Circassian Localities for the Years 2016-2019, which include the preparation of detailed plans for localities of these populations, the Planning Administration is promoting such detailed plans concerning private lands in 13 localities.

Infrastructure as a Basis for Development

37. The updated outline plans are aimed at providing solutions for residential areas, public areas, public open spaces, employment areas, commercial areas etc., as well as preparing the infrastructures needed for the planned and existing development. These solutions take into account a period of at least 20 years.

38. Note that the allocation of parks and open spaces are sometimes not made a priority by the locality and there are many cases in which approved open spaces have been converted to residential areas, or illegal private construction, contrary to the outline plan.

39. One of the common reasons for delays in approving outline plans — in both Jewish and Arab localities — is the lack of infrastructure at the regional level (such as a sewage system etc.). This issue was addressed in Government Resolution no. 208 of July 2015, which included a decision to promote a regional sewage-master plan.

Implementation of the Outline Plans

40. The implementation of the outline plans is carried out by means of detailed plans, which are promoted by each and every locality. Since many of the Arab localities find it difficult to promote detailed plans, and since these plans are essential for obtaining building permits, the National Planning Administration has taken upon itself to initiate a pilot of

detailed planning, granting budget and professional support for the promotion of 45 detailed plans in 12 Druze localities. A similar project is to be carried out for other Arab localities.

41. The position of the National Planning Administration is that lack of an updated outline plan should not delay the approval of a detailed plan that is compatible with national planning policy. Thus, in the majority of localities that do not have an approved updated outline plan, detailed plans were and continue to be promoted.

42. Note that there are no gaps between the resources that were allocated for planning in central areas and resources that were allocated for planning in peripheral areas.

Facilitating Housing Issues

43. On July 2015, the Government adopted a set of recommendations included in a comprehensive report analyzing housing issues in Arab localities. This Government Resolution (no. 208) includes close to 40 sections dealing with different aspects of this subject, including, among other things: promoting detailed planning and facilitating its approval, specifying measures to increase suitable land for housing development, facilitating registry issues especially in built-up areas and increasing the number of independent Arab building and planning committees and strengthening them.

Planning for the Bedouin Population

44. In regards to planning for the Bedouin population — there are 18 Bedouin localities with approved outline plans, including the city of Rahat, Lakiya, Hura, Kuseife, Tel-Sheva, Segev Shalom and Ar'ara. All of these plans include infrastructure such as schools, health clinics, running water, electricity, roads, pavements, etc.

45. An additional 11 localities that are under the jurisdiction of the Neve Midbar and A-Kasum Regional Councils also have approved outline plans.

46. In addition, the planning procedures for six additional localities are ongoing.

47. The strategic work of examining and setting rules for the planning of construction solutions for the Bedouin population in the Negev has been undertaken and completed. The work included the collection and presentation of demographic information and planning data. Following this strategic work, recommendations were formulated to expand existing localities and establish new ones, whilst regularizing some Bedouin localities at their current location. The report of stage one of this strategic work, which includes these recommendations, was submitted to the Ministry of Agriculture and Rural Development in November 2015.

48. In regards to the planning relating to the rest of the clusters in the Bedouin diaspora, following this work, ten leading planning companies were recruited to conduct feasibility studies with the planning areas and to examine special planning solutions for the population in that region. This process is being conducted with the participation of the population in each region and with emphasis on land arrangement and a wide range of housing arrangements. Currently, these companies are conducting field surveys and formulating the resulting data into planning recommendations that will be examined by the Authority for the Regularization of the Bedouin Housing Situation in the Negev, currently handling the bulk of issues in this area. This course of planning, with the special emphasis placed on the participation of the Bedouin population, is unprecedented in Israel.

49. Please note that in almost every planning team there is a position of a social advisor who is a senior member of each team, and his/her responsibility is to maintain contact between the planning team and the local population. The social advisor conducts surveys with the local population; examines the population's desires, requirements, needs and expectations, and later presents them to the planning team. Following the planning stage,

the social advisor presents the plan and the planning conception to the local population, in order to receive its view and remarks and to finalize the relevant planning solutions.

50. The Government encourages movement to regulated localities (regardless of the localities' nature as a city, town, village, etc.) by providing unique financial benefits to all residents of the Bedouin diaspora who pursue such movement, regardless of their economic situation and independent of any entitlement test. These benefits include, *inter alia*, the provision of land plots for free or at a very low cost, and compensation for the demolition of unauthorized structures.

51. The Bill for the Regulation of the Bedouin Localities in the Negev — Currently, the Bill is not being promoted by the Government of Israel.

52. In accordance with Government Resolution No. 2025 of September 23, 2014, the Authority for Planning and Development of Bedouin Housing in the Negev in the Ministry of Agriculture and Rural Development, is currently in the final stages of the preparation of a strategic plan for the socio-economic development of the Bedouin localities in the Negev. The main goals of this plan are the socio-economic advancement of the entire Bedouin population in the Negev, regularization of the Bedouin localities in the Negev and providing solutions for land claims. As a part of this process, the Authority has held meetings with prominent figures of the Bedouin populations in order to hear their views regarding housing solutions and the regularization of Bedouin localities.

Concluding Observation no. 12

GOI Reply

53. The Gaza Strip in not a part of the State of Israel, and as any other state, Israel has the right to control entry, exit and passage through its borders. This is true all the more so given that the Gaza Strip is controlled by a hostile terrorist organization which is in armed conflict with Israel.

54. Please note that the restrictions placed on movement to and from the Gaza Strip apply only to passage across the border with Israel. There remains the possibility of direct passage of goods and people through the Rafah crossing, which is controlled by Egypt on one side and by Hamas on the other. Israel has no control over this southern entry point into Gaza.

55. Despite the possibility of passage through the Rafah crossing, Israel has significantly eased restrictions on the entry of goods and persons to the Gaza Strip, as described below:

56. *Goods* — Israel is currently permitting the entry of almost any type of goods, as well as humanitarian aid, into the Gaza Strip, except for munitions and dual-use materials. The entry of dual-use materials, which are materials that can be used for terrorist acts against Israel, requires a designated permit and is subject to supervision mechanisms.

57. As of October 31, 2015, on an average day, over 700 truckloads of goods are transferred into the Gaza Strip.

58. Since September 2014, Israel has permitted the export of goods originating from the Gaza Strip to the West Bank (mainly agricultural products, furniture, textile products and iron) and enables the export of such goods abroad and even into Israel (mainly agricultural products and recently also furniture, textile products and iron).

59. *Building Materials* — Building materials, specifically concrete, are dual-use materials, as was demonstrated during the summer of 2014 when Hamas made use of such materials in order to launch rockets against Israel and to build a web of offensive underground tunnels. Israel therefore supervises the transfer of building materials in order

to defend itself against the construction or rehabilitation of these offensive tunnels or other infrastructures that may be used for terrorist purposes.

60. Despite the risk, Israel permits the transfer of building materials into the Gaza Strip. Such transfer is conducted through the Gaza Reconstruction Mechanism led by the Palestinian Authority with the assistance of United Nations agencies and with Israeli supervision.

61. Between October 2014 and May 2016 over 4.8 million tons of building materials, including concrete and aggregates, were transferred to the Gaza Strip.

62. In addition, as of May 16, 2016 the entry of building materials required for the construction of 127,216 homes were approved, of which 81,026 constructions were completed and 19,974 are currently under construction. In addition, materials required for the building of 12,926 new homes were also approved. Of the new homes to be constructed, over 6,570 have all or part of the building materials needed to complete the construction.

63. The transfer of building materials was also approved for 696 large scale building projects, some funded by the Palestinian Authority and some by foreign countries or international organizations. These projects include the construction of infrastructures such as roads, water, electricity, public buildings, medical facilities etc. Of these large scale projects, 109 have been completed and 407 are under construction.

64. It is important to note that 98% of the requests for building materials were approved. The remaining 2% were declined for technical reasons and not on security grounds.

65. Unfortunately, despite the supervision mechanism and cooperation with the United Nations organization, terrorist organizations often manage to acquire dual-use materials that have been allowed into the Gaza Strip for the benefit of the civilian population.

Movement of Persons

66. Over the last two years, with the aim of encouraging the local economy, Israel has increased the number of entry permits granted to merchants/businessmen. Nearly 800 merchants are permitted to exit and enter the Strip every day.

67. The number of permits issued to members of the Palestinian Authority official sports teams has also increased.

68. Israel provides permits for 200 persons each Friday in order to participate in the prayers on the Temple Mount (Haram El-Sharif).

69. Permits are also issued for Gaza residents to travel abroad in order to participate in conventions, special medical treatments abroad, and to pursue academic studies — mainly for advanced academic degrees. As a gesture of goodwill toward the Palestinian Authority, exit permits from the Gaza Strip for academic studies were granted on several occasions to students studying for first and second degrees.

70. In addition to an increase in the number of Palestinian employees of international organizations that are permitted to enter into Israel and the West Bank in the course of their work, Israel also increased the number of medical personnel and teams authorized to work in hospitals and undergo professional training in the West Bank and Israel.

71. In total there are approximately 1,200 persons passing through the Erez Crossing each day.

Concluding Observation no. 14

GOI Reply

The Crime of Torture

72. Acts and behaviors defined as "torture" under Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: "CAT") and Article 7 of the Covenant on Civil and Political Rights (hereinafter: "ICCPR") may constitute offences under the Israeli *Penal Law* 5737-1977 (hereinafter: the "*Penal Law*"). For further information, please see Sections 356-7 of Israel's 4th Periodic Report.

73. On 14 June 2010 the Israeli Government appointed the Public Commission to Examine the Maritime Incident of May 31, 2010 (hereinafter "the Turkel Commission").[5]

74. In February 2013, the Turkel Commission recommended, among other things, incorporating an offence prohibiting torture into the Israeli *Penal Law* (Commission's Recommendation No. 1).[6]

75. On January 5, 2014 the Israeli Government appointed a team headed by Dr. Joseph Ciechanover to review and implement the recommendations of the Turkel Commission (hereinafter: "the Implementation Team").[7]

76. In its report of August 2015, the implementation team lent its support to this recommendation, noting that "… the crime of torture that shall be defined is expected to set a ban, along the lines of the crime of torture in the Convention against Torture, which includes causing pain or suffering, whether physical or mental, by a public official in order to extract information or a confession from someone, blackmail him, and such similar purposes that will be defined by the law. […] It should be noted that under the emerging model, which is still under internal review, some offenses will not be defined as independent offenses, but will be included in the draft by reference to existing offenses prescribed in the *Penal Law* or other offenses in the draft with aggravating circumstances …".

77. On July 3, 2016, the Israeli Security Cabinet[8] adopted the recommendations of the Implementation team, including the abovementioned recommendation.

78. Currently, following extensive discussions, the relevant authorities are in the final stages of drafting a Bill on the prohibition of torture.

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[5] For further details of the composition of the Turkel Commission and its mandate, please *see*: www.turkel-committee.gov.il.

[6] http://www.turkel-committee.gov.il/files/newDoc3/The%20Turkel%20Report%20for%20website.pdf : "The Ministry of Justice should initiate legislation wherever there is a deficiency regarding international prohibitions that do not have a 'regular' equivalent in the Israeli Penal Law, and rectify that deficiency through Israeli criminal legislation. Thus, for example, the Ministry should ensure that there is legislation to transpose clearly into law and practice the absolute prohibition in international law of torture and inhuman and degrading treatment. This is in order to enable 'effective penal sanction' for those committing war crimes, as required by international law (Commission's Recommendation No. 1).".

[7] Government Resolution no. 1143 of the 33rd Government, "Appointment of the Team for the Review and Implementation of the Second Report of the Public Commission for the Examination of the Maritime Incident of May 31st 2010 (Regarding Israel's Mechanisms for Examining and Investigating Complaints and Allegations Concerning Claims of Violations of the Laws of Armed Conflict under According to International Law)" (January 5th 2014), www.pmo.gov.il/Secretary/GovDecisions/2014/Pages/dec1143.aspx.

[8] http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokeTirkel030716.aspx.

The Defense of Necessity

79. As in many other legal systems, the necessity defense, as stipulated in Section 34 (11) of the *Penal Law*, is one of the defense claims afforded to a defendant in criminal proceedings in Israel. In H.C.J 5100/94 *The Public Committee against Torture et. al. v. The State of Israel et. al.* (6.9.99), the High Court of Justice held that this defense could apply to a defendant accused of using unnecessary or excessive physical pressure.

80. The petition referred to in paragraph 370 of Israel's 4th Periodic report, in which the High Court of Justice is requested to order the initiation of a criminal investigation into the interrogation conducted against the petitioner, is still pending.

Audio or Visual Documentation of Interrogation

81. The Turkel Commission also recommended that there be full visual documentation of the ISA interrogations, according to rules that will be determined by the Attorney General in coordination with the Head of the ISA (Second Report, recommendation No. 15).

82. In this regard, the Implementation Team recommended that cameras be installed in all ISA interrogation rooms. According to the recommendation, these cameras are to broadcast, regularly and in "real-time", via closed-circuit to a control room located in an ISA facility in which interrogations are not conducted. The broadcast is to be accessible and available to a supervising entity on behalf of the Ministry of Justice at any time without prior notice. The supervising entity is to prepare a concise memorandum, but no record will be kept of the video transmission. The interrogators will have no indication of when the supervising entity is watching them in the control room. In the event that the supervising entity believes that illegal means have been used during the interrogation, it has an obligation to immediately report the matter to the Inspector for Complaints against ISA Interrogators in the Ministry of Justice. This outline is acceptable to the Head of the ISA and the Attorney General.

83. As mentioned above, the Israeli Security Cabinet adopted the recommendations of the Implementation team. Consequently, the Ministry of Justice is currently conducting the staff work required in order to implement this recommendation. The Ministry of Public Security and the Police have agreed that this outline will also apply to security interrogations conducted by the Police, subject to certain adjustments.

84. Today, the *Criminal Procedure Law (Investigation of Suspects)* 5762-2002 requires that the Israel Police carry out audio or visual recording of criminal suspect questioning (Sections 7 and 11), where the crime carries a penalty of imprisonment of ten or more years. However, a temporary provision in the law, which has been extended several times, states that this obligation to document does not apply to a police investigation of a suspect relating to a security offense and that the provisions of the law do not apply to interrogations by the ISA.

85. Recently, the Knesset approved Amendment No. 8 to the *Criminal Procedure (Interrogation of Suspects) Law* whereby the outline for the audio-visual documentation of ISA interrogations will also be applied to security interrogations conducted by the Police, subject to certain adjustments. According to this Amendment, the obligation to carry out audio or visual recordings of criminal suspect investigations will not apply to a police interrogation of a suspect in a security offence. Instead, the Amendment requires random inspections and supervision of these interrogations according to police procedures that are to be approved by the Minister of Public Security and the Attorney General. The Amendment provides that the supervising authority will be allowed to conduct such inspections in regard to all ongoing interrogations, at any time, without any advance notice and without the interrogators being aware of such inspections. The Amendment also added the requirement that the Ministers of Public Security and Justice report annually to the

Knesset's Constitution, Law and Justice Committee on the implementation of this Amendment. This Amendment will enter into force six months after the day of its publication (June 22, 2017). The first Annual report is scheduled for July 1, 2018.

86. Following the legislation of the temporary provision of June 2015, several non-governmental organizations filed a petition to the High Court of Justice, *inter alia*, against the constitutionality of this temporary provision (H.C.J 5014/15 *Adalah v. The Minister of Public Security*). Given the developments outlined above, this petition is still pending. A supplementary response is to be submitted to the Court on January 31, 2017.

Concluding Observation no. 19

GOI Reply

87. The State of Israel attaches great importance to strengthening and promoting the protection granted to minors in the military justice system in the West Bank, while simultaneously taking into consideration the unique circumstances and security situation in the West Bank. This is reflected in both legislation and practice.

88. The severity of the crimes committed by the Palestinian minors and their often ideologically-motivated nature create a unique set of demands from the criminal justice system. Terrorist organizations work to instill a sense of hatred through the indoctrination of children starting in pre-school and continuing all the way through adulthood, using children to advance their political goals. This education leads to many violent acts towards security forces and civilians, including throwing stones and Molotov cocktails and terrorist attacks using knives. 70-75% of crimes committed by the youth of the West Bank are violent.

89. The lack of cooperation on the part of the Palestinian Authority should also be noted, since it makes it almost impossible to provide alternatives to detention.

90. The Israeli judicial systems, as well as all law enforcement agencies, are committed to upholding the rights of minors. In addition, the relevant authorities investigate any complaint and/or allegations of ill-treatment or infringement of minor's rights.

91. Since 2008, an inter-ministerial team headed by the Deputy Attorney General (Criminal Law) has been tasked with assessing and reforming policies with regard to minors in the West Bank. As a result of these efforts, criminal law and practice regarding minors in the West Bank have undergone significant reform. These include:

- The establishment of a Juvenile Military Court;
- Raising the age of majority to 18;
- Introducing a special statute of limitation for minors;
- Improving notification to the family of the minor and to the minors themselves regarding their rights;
- Reducing detention periods.

92. In regard to the issue of reducing detention periods, please note constitutional budgetary difficulties are currently hampering the ability to reduce detention periods but this issue is constantly being reviewed. On January 7, 2016, the State notified the Court that the issue of resources required for further reducing some of the detention periods has not yet been resolved and that the Attorney General had requested the immediate and urgent involvement of the Ministers of Defense, Finance and Public Security in this matter. On December 26, 2016, with the agreement of the Attorney General, the Court issued an *order*

nisi requiring the State's response to the petition. (*H.C.J 4057/10 The Association for Civil Rights in Israel v. IDF Commander to Judea and Samaria*).

United Nations CCPR/C/ISR/5

International Covenant on Civil and Political Rights

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Human Rights Committee

Fifth periodic report submitted by Israel under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2019*, **

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Introduction

1. The GOI is pleased to introduce its Fifth Periodic Report. Since the submission of our Fourth Periodic Report, many developments relevant to the implementation of the Covenant have taken place. This report provides a comprehensive account of the most significant developments. Moreover, the comments made in the concluding observations by the Committee (CCPR/C/ISR/CO/4) dated November 21, 2014 are also addressed.

2. Israeli Non-Governmental Organizations (NGOs) were invited to submit comments prior to the compilation of the report, through both direct application, and a general invitation posted on the Ministry of Justice (MoJ) website.

3. This Report was compiled by the Counseling and Legislation (International Law) Department at the MoJ, in cooperation with other Governmental Ministries and agencies.

Reply to paragraph 1 of the list of issues (CCPR/C/ISR/QPR/5)

Significant Developments

4. Israel invests great efforts in promoting human rights, including civil and political rights and sees great importance in enforcing and protecting these rights. Since the submission of Israel's Fourth Periodic Report, significant new measures have been taken by the Israeli Parliament (the "Knesset") in this regard as will be detailed below.

5. On October 11, 2018, Israel ratified the 2014 Protocol to the ILO Forced Labor Convention of 1930. This ratification is a part of Israel's continuous commitment to the international efforts to combat and eradicate all forms of modern slavery, including forced labor. The Protocol will enter into force for Israel on October 11, 2019.

6. In March 2016, the GOI ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled of the World Intellectual Property Organization.

Legislation

7. On December 31, 2018, the Knesset legislated the *Prohibition of Consumption of Prostitution Services Law (Temporary Provision)* 5779-2018, which prohibits the consumption of sexual services. The Law was legislated as part of the ongoing efforts of the State to reduce prostitution and provide assistance and rehabilitation to persons in prostitution. According to the Law, the offense of consumption of prostitution services, which includes the presence in a location which is used for prostitution, is an administrative offense that can be fined for 2,000 NIS (540 USD) for first time offenders and double the sum for repeat offenders. According to the Law, he/she who is present in a location which is principally used for prostitution will be seen as being there for the purpose of consumption of such services, unless proven otherwise. Nevertheless, the Law authorizes the State Attorney's Office to indict an offender, in which case the court could impose a fine of up to 75,300 NIS (20,350 USD). The Law further enables the Minister of Justice to set alternative penalties to fines within the Law's Regulations, by means of indictment. The Law will come into force in 2020 for a period of five (5) years. Its extension will be determined in accordance with research on its effects. In addition, the Ministers of Public Security and of LSASS will conduct periodic reviews of its implementation and the overall progress of the efforts to reduce consumption of prostitution.

8. In June 2018, the Knesset legislated Amendment No. 132 to the *Penal Law* 5737-1977, which criminalizes a proposal to engage in prostitution to both adults and minors (Section 205D). For additional information, see the reply to Question 9.

9. In March 2018, the Knesset enacted the *Blocking of Telephone Numbers for the Prevention of Crimes Law* 5768-2018, which authorizes a police officer to block a publicized telephone number, if he/she has reasonable grounds to believe that this phone number is used for the commission of crime, including by the internet of other technological applications. This further enables the blocking of telephone numbers

publishing prostitution services, including that of a minor and drugs and dangerous substances offences.

10. In July 2017, the Knesset legislated the *Authorities for Prevention of Internet Use for the Commission of Offenses Law* 5777-2017, which authorizes courts to issue an order for blocking access to a website or for its removal from the internet. Such an order will be issued if it is crucial for the prevention of an ongoing offense set by the Law, such as offences relating to prostitution, child pornography, gambling and drugs and dangerous substances or terrorism. This law enables courts to issue three (3) kinds of orders: order for restricting the access to the relevant website, order for restricting the possibility of locating the relevant website or an order for the removal of a website from the internet – provided that the relevant site is stored on a server in Israel or is under the control of a person present in Israel. The aim of the Law is to provide law enforcement authorities with additional tools to combat the phenomenon of prostitution of minors in the virtual world.

11. The *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law* 5761-2000, was amended twice in 2017 (Amendments No. 4 and 5) in order to add "place of residence" and "wearing uniforms of security and rescue forces or their symbols" to reasons by which discrimination is prohibited. The Law is presumed to be violated, where it has been proven that a person whose business is providing products or public service, or operating a public place, delays the provision of a public service or product in the place of business, or the entrance to a public place – on the basis of race, religion or religious affiliation, nationality, country of origin, gender, sexual orientation, views, political affiliation, age, personal status, parenthood, place of residence or wearing uniforms of security and rescue forces or their symbols – while providing it without delay, in similar circumstances, to persons not related to that group.

12. For information on the *Counter Terrorism Law* 5776-2016, see Question no. 11.

13. Following the recommendation of the CRC Committee, a 2016 amendment to Section 203C of the *Penal Law* (amendment no. 127) increased the penalty for the offense of obtaining the service of an act of prostitution from a minor from three (3) years to five (5) years imprisonment. For additional information, see Annex II.

14. On December 9, 2014, the Knesset approved *Election Law (Legislative Amendments)* 5775-2014, which, *inter alia*, amended the *Knesset Election Law [Consolidated Version]* 5729-1969. The voting in Israel is conducted by notes carrying the letters of a specific party, which are placed in envelopes and inserted by the voters in ballot boxes. Prior to this amendment, notes that were marked by handwritten letters ware disqualified. This amendment, *inter alia*, revised Section 76(C) of the *Knesset Election Law*, clarifying that a blank note marked by a handwritten letter or letter and the party/list of candidates' label, by a blue pen, in Hebrew, Arabic or both, shall be regarded as a legal note.

15. For information on the *Limitation of Advertisement and Marketing of Tobacco Products Bill (Amendment No. 7)* 5779-2018, see Annex II.

Administrative Measures

16. Review and implementation of concluding observations – The work of the joint inter-ministerial team headed by the Deputy Attorney General (International Law), which was established in 2011 for review and implementation of concluding observations of UN human rights committees (for information on this team see Israel's fourth periodic report) has brought about several significant changes, notably:

17. Raising the marital age from 17 to 18 – Following the Concluding Observations the CEDAW Committee, in December 2013, the Knesset amended the *Marital Age Law* 5710-1950 in order to raise the minimum marital age from 17 to 18.

18. For information on the Inspector for Complaints against Israeli Security Agency (ISA) interrogators ("the Inspector"), see Questions 12 and 14.

19. In 2016, The Israeli Prisons Service (IPS) published its standing order No. 02.39.00 titled "Wardens rules of behavior" which includes an obligation to report any complaint or suspicion against ISA interrogators to the Inspector in the MoJ via the prison commander.

20. For relevant case law and information on training provided to Judges and lawyers, see Annex II.

Reply to paragraph 2 of the list of issues

A. Israel's Reservation to Article 23 of the Covenant

21. Israel's reservation to Article 23 regarding personal status is reviewed periodically. At present, Israel maintains its position on this matter. This reservation stems from Israel's constitutional system and respect for religious pluralism, and the autonomy of Israel's religious communities in matters of personal status.

B. Scope of Application of the Covenant

22. Having carefully reviewed the matter in recent years, Israel continue to maintain that the Covenant applies only to a State territory. The Covenant is implemented by the Government throughout the State of Israel. According to the Israeli legal system, international conventions, as opposed to customary international law, do not apply directly in Israel, unless they were formally legislated. Such is the case with the ICCPR which is implemented through a wide range of legal instruments, such as basic laws, laws, orders and regulations, municipal bylaws, and court rulings.

23. The applicability of the Convention to the West Bank has been the subject of considerable debate in recent years.

24. Moreover, in line with basic principles of treaty interpretation, Israel believes that the Convention, which is territorially bound, does not apply, nor was it intended to apply, to areas beyond a state's national territory.

25. Israel wishes to note however, that even if one follows the approach outlined, *inter alia*, in the Committee's GC No. 31 with respect to the scope of application of the ICCPR Covenant, its conduct would remain consistent with the Covenant requirements. Notably, for example, in jurisprudence of Israeli courts, including its Supreme Court, with respect to the West Bank refers to the provisions of the ICCPR and other human rights treaties. For related example, see Annex No. II.

C. Applicability of International Humanitarian Law

26. The relationship between different legal spheres, primarily the Law of Armed Conflict and Human Rights Law remains a subject of serious academic and practical debate. For its part, Israel recognizes that there is a profound connection between human rights and the Law of Armed Conflict, and that there may well be a convergence between these two bodies-of-law in some respects. However, in the current state of international law and state-practice worldwide, it is Israel's view that these two systems-of-law, which are codified in separate instruments, remain distinct and apply in different circumstances.

D. The Covenant Optional Protocols

27. Despite periodic consideration of its position on the matter, Israel is currently not prepared to ratify the first and second Optional Protocols to the ICCPR at this stage. Regarding the first protocol, as detailed throughout this report and in the previous reports, Israel's legal system affords numerous opportunities, for individuals and groups alike, to seek remedies and redress for any alleged violations of their rights.

Reply to paragraph 3 of the list of issues

28. Information on National Human Rights Institutions (NHRI) – For information on mechanisms for the protection of human rights, see Israel Core Document of 2008

(HRI/CORE/ISR/2008) and as amended in 2014 (HRI/CORE/ISR/2015) (Article 2(IV)(A)(vi) to (xiii)), additional mechanisms are listed below.

29. In recent years, the State Comptroller has been addressing Israel's adherence to the various Human Rights Treaties, including the ICCPR, in relation to NHRIs and the promotion and protection of human rights (the "Paris Principles"). In addition, in 2018, the State Comptroller Office' Director General (DG) and his chief of Staff published, in their personal capacities, a paper[1] exploring the State Comptroller Office as a suitable institution to serve as NHRI. Also, in December 2018, a seminar was held by the Minerva Center for Human Rights on the issue of NHRI, in which representatives of NGOs, the Academia and the Government took part, discussing this matter. In February 2019, two (2) researchers of the Minerva Center published a research paper on the matter of establishing an NHRI in Israel.[2] It is still early to assess the influence of these individual steps on the establishment of an Israel NHRI, however, these measures clearly indicate the importance provided to this matter in Israel.

30. For information on the Early Childhood Council and the Children's and Youth Complaints Commission for Out-of-home Placed Children, see Annex II.

31. Cooperation with Civil Society – Israel makes concerted efforts to include civil society in the legislation process, in developing public policy, and in a variety of projects within Government Ministries.

32. In particular, Israel strives to raise the level of civil society involvement in the UN Human Rights arena. For example, prior to compiling an initial and periodic report to the Human Rights Treaty Bodies, relevant and leading NGOs are approached, and invited to submit their comments and general remarks; in addition, a general invitation to submit alternative reports or specific remarks is posted on the MoJ web site. Civil Society contributions are given serious consideration during the drafting of the reports.

33. Since 2012, the Ministries of Justice and Foreign Affairs have been participating in a joint project with the Civil Society organizations, specifically relating to the reporting process to the UN Human Rights Committees. This project was initiated with the Minerva Center for Human Rights at the Hebrew University. Through this project, several draft reports are circulated to the relevant NGOs for their comments prior to submission. Additionally, discussions are held following the publication of the concluding observations.

34. In 2017, the Ministries of Justice and Foreign Affairs, have initiated the "*Round Tables*" project. This project consisted of six (6) sessions, which took place in different academic institutes around Israel – South, Center and North. The sessions were a unique platform, creating a discourse and further cooperation between NGO members, academics and representatives from the Government, on core human right issues: LGBT Rights, Israelis of Ethiopian descent, Bedouin population, women's rights, rights of people with disabilities and social and economic rights in the periphery.

Reply to paragraph 4 of the list of issues

Review of the Legislation Governing the State of Emergency

35. The State of Israel remains in an officially-proclaimed state of public emergency since May 19, 1948, four (4) days after its founding, until the present day. The state of emergency has been extended periodically (currently in force until January 4, 2020) due to the ongoing state of war or violent conflict between Israel and some of its neighbors, and the constant attacks on the lives and property of its citizens.

36. Over the past ten (10) years, the Israeli authorities have been reviewing the legislation connected to the existence of a declaration on a state of public emergency, in

[1] Marzel E., Gutman M. and Rodes A., From State Comptroller to Human Rights Commissioner – A Short but Required Path, State Audit Review, booklet No, 63 (p. 49) (1.8.18).

[2] Broude T. and Milikowsky N., Establishing an NHRI in Contested Political Space: A Deliberative Process in Israel, The Hebrew University of Jerusalem Faculty of Law, (February 2019).

order to enable its termination. As of June 2019, there were only Eight (8) laws and 23 orders connected (some only partially) to the state of emergency, compared to nine (9) laws and 165 orders in 2009. This process is ongoing.

37. For additional information, see Annex II, for relevant Case law, see Israel's 4th periodic report (p. 59).

Reply to paragraph 5 of the list of issues

38. Amendment No. 30 to the *Entry into Israel Law* 5712-1952 (of March 2018) - This Amendment authorizes the Minister of Interior to revoke a permanent residence permit which was issued pursuant to this law, if he/she is convinced that the permit's owner has acted in breach of allegiance against the State of Israel (defined as a terrorist act in accordance to the *Counter Terrorism Law* 5776-2016, aiding and abetting or solicitation of such an act, taking an active part in a terrorist organization; an act of treason (Sections 97 to 99 to the *Penal Law*) or severe espionage (Section 113(b) to that law)). Such a permit will not be revoked in regard to a person that at the time of the offence, 15 years has passed of the time he/she received the permit; or in regard to a person who at the time of his/her birth, one of his/her parents had a permanent residency permit, without the consent of the Minister of Justice and only after consultation with the relevant advisory committee. If following such revocation, the said person will be left without a permanent residence permit outside Israel, without the possibility to obtain such residence permit or without any citizenship, the Minister of Interior will provide him/her a temporary residence permit in Israel. In addition, if a person who had his/her permanent residence permit revoked, appeals this decision, the Minister of Interior will allow his/her entrance until the conclusion of the proceedings, unless the Minister is convinced that by doing so there is a substantial threat to State or public security.

39. As stated, this Amendment applies only to specific and severe offences and therefore there is no basis for any allegations that it will harm or compromise the presence of Palestinian residents in the Eastern Neighborhoods of Jerusalem (ENoJ).

40. The *Counter Terrorism Law* 5776-2016 – see Question 11.

Reply to paragraph 6 of the list of issues

Equality and Non-Discrimination

41. Equality before the law and non-discrimination are basic principles of Israel's legal system. For additional information see Israel Core Document of 2008 (HRI/CORE/ISR/2008) (Article 2(IV)(B)) and as amended in 2014 (HRI/CORE/ISR/2015) (Article 2(IV)(B)).

42. These principles are a cornerstone of the Israeli legal system as apparent in both legislation and adjudication. *Basic Law: Human Dignity and Liberty* serves as a foundation for prohibiting discrimination and as a guiding principle for the creation of further laws promoting equality. Furthermore, all existing laws are to be interpreted in light of this Basic Law's purposes, in a manner which recognizes values such as human dignity and equality. Many laws emphasize the principle of equality in diverse aspects.

43. The judicial effort in this regard is guided by the Supreme Court, which plays a pivotal role in the promotion of the principle of equality and non-discrimination through the development of jurisprudence, strongly relying on the principle of equality and non-discrimination as a constitutional principle, embodied in *Basic Law: Human Dignity and Liberty*. Amending this Basic Law is currently not under consideration.

Basic Law: Israel – National State of the Jewish People

44. On July 19, 2018, the Knesset legislated the *Basic Law: Israel – National State of the Jewish People* 5778-2018 (hereinafter: the "*Basic Law*") by an absolute majority of 62 votes.

45. The purpose of this *Basic Law* is to enshrine in a Basic Law the character of the State of Israel as the nation-state of the Jewish people and the state in which the Jewish people uniquely exercise their right of self-determination. This Basic Law is an addition to the existing Basic Laws which enshrine other aspects of Israel's core democratic values, as described above, and which together make-up the identity of the State of Israel as a Jewish and democratic state as established in its Declaration of Independence. According to the Israeli legal system, the Basic Law is of a constitutional nature, and as such it is formulated in a mostly declarative formulation.

46. The characteristics of the State of Israel as a Jewish state which can be found in this *Basic Law* include its existing name, flag, national anthem and other national symbols. Other features include Jerusalem as the capitol of the State, the Hebrew calendar as an official calendar and the Shabbat (Saturday) and Jewish holidays as official days of rest, while safeguarding rights of members of other religions to maintain their days of rest. The *Basic Law* also refers to Israel's status as the national home of the Jewish people by promising the open admittance of Jewish immigration and affinity between Israel and the Jewish Diaspora.

47. In addition, the *Basic Law* declares that the promotion and development of Jewish residence in the State is a national value, regarded as part of the continuing formation of a Jewish homeland in the State of Israel.

48. Furthermore, according to this *Basic Law*, the official language of the State of Israel is Hebrew, as the historic language of the Jewish people and in accordance with its modern revival. Arabic is granted a special status and its use in state institutions shall be set in law, and the special status previously given to Arabic shall be maintained. This includes the ongoing translation of the Government's Ministries' websites into Arabic by the Israeli Government, Arabic-speaking public schools, broadcasts in Arabic on Israel's national television and radio and the parallel use of Arabic, Hebrew and English, on intercity and local road signs.

49. As formally declared by the Attorney General (AG), this *Basic Law* does not derogate in any manner from human rights protected under other basic laws of Israel.

Petitions to the High Court of Justice (HCJ)

50. As of October 2019, 16 petitions were filed to the HCJ against the *Basic Law: Israel National State of the Jewish People*. These petitions are currently pending before an extended panel of the Supreme Court.

Equality between Israeli and Arab Population

51. The GOI is committed and invests great efforts in the promotion and advancement of equality for its nationals of all populations alike, and concerning all spheres of life. In the same manner, great resources are also invested in fighting any form of discrimination.

52. In regard to legislative measures, see information about The Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law 5761-2000, in the reply to Question 1, above.

53. For additional information and case law, see Annex II.

54. Concerning the *Citizenship and Entry into Israel Law (Temporary Provision)* 5763-2003, in regard to family reunification, see Question 23 below.

Reply to paragraph 7 of the list of issues

Arab Population's Representation in Israel's Civil Service (CS)

55. Data indicates a steady increase in the rates of Arab, Druze and Circassian employees in the CS. For More information, see Annex I.

56. Over the past several years, the Government instituted affirmative action programs and mandated target goals to significantly increase the number of minority employees

within the CS. For information on national conferences for the integration of Minority Populations in the MoJ and in the CS, on MoJ's conventions and actions to advance women (including Arab women) in the CS, enhancement of recruitment of women in CS tenders and minorities terms of employment, see Annex II.

Arab Representation in Directorates of Government Companies

57. In 2017, 12% on the total number of directors in government companies were Arabs. In 2017, there has also been an increase in the rate of women in government companies – of the 437 directors, 189 (43%) were women compared to 33% in 2007 and 40% in 2011). Nine (9) (4.7%) of these women were Arab.

Women's Participation in Political Parties

58. In the municipal elections of October 2018, Amendment No. 12 to the *Municipal Council Law (Funding of Elections)* 5774-2014 came into force. This amendment provides for 15% additional funding to bodies that run in the elections (e.g. political parties, independent lists etc.) in which at least one-third (1/3) of their elected and serving members are women. The additional funding begins after the State Comptroller provides a positive audit, and it maintained during their period of service (until the next elections). The Amendment applies to elections of city and local councils, but does not apply to regional councils.

59. In 2013 and in 2018 local elections, the Authority for the Advancement of the Status of Women (AASW) issued a general call to all political parties and local parties to include women on an equal basis on their list of candidates, thus giving due regard to the principle of equality. For additional steps by the AASW, see Annex II.

60. For statistical data on women elected in 2018 local election, see Annex I.

61. Attempts to prohibit or deter women's participation in political parties are regarded very seriously. For example, in the elections to the 20th Knesset, publications appeared arguing that unlawful coercion was exerted on ultra-Orthodox women to keep them from running in the elections. According to the allegations, a rabbi published statements relating to women considering running in any party not under the leadership of the "Great Torah Sages". These statements including threats that such a woman will have to leave her marriage without her ketubah (*the money due to her upon divorce*), harming her livelihood (it would be forbidden to study in her educational institutions or to purchase any product from her) and her children will be removed from their institutions of study. In light of the severity of these comments, the Deputy Attorney General (Public and Administrative Law), approached the Chairman of the Central Elections Committee that consequently issued a strong condemnation of acts of this kind and communicated this matter, together with a strong condemnation of acts of this kind to all the chairpersons of the parties running for the 20th Knesset.

62. For relevant case law, see Annex II.

Reply to paragraph 8 of the list of issues

A. In regards to non-application of Human Rights Conventions in the West Bank, see Question 2(B) above

B. Steps to refrain from interfering with the ownership and use of personal property in the ENoJ and the Golan Heights

63. The right to property is protected in the *Basic Law: Human Dignity and Liberty*. Every person may be the owner of property, including intellectual property, and may use it in any legal manner. A person cannot be denied of property arbitrarily. Any person who believes that his/her right to property was infringed or denied may access a court of law and seek remedies. For more information see Israel's Core Document of 2008 (HRI/CORE/ISR/2008) (Article 2(IV)(A)(iv), (para. 135)).

C. Water supply in the ENoJ

64. The issue of water supply in the ENoJ, beyond the security fence, has been pending before the Supreme Court since 2014. During this period, the State promoted the establishment of additional water supply infrastructure in these neighborhoods. The plan is to ensure reasonable access to water, and the new lines are intended to increase the amount of water supplied in these neighborhoods, in order to improve accessibility. For information on the water lines and additional water projects, see Annex II.

65. For information on access to land and planning in the ENoJ, see Question 22 below.

D. The Regularization of Settlement in Judea and Samaria Law – 5777-2017

66. The *Regularization Law* was passed by the Knesset on February 6th, 2017, in order to address the problem of buildings in the West Bank that were built without permit on land that is not "public property".

67. The *Regularization Law* aims to regulate these buildings by settling their land ownership and zonning status, and in the meanwhile to dismiss administrative measures taken to enforce their removal. According to its terms, the law applies to cases where the buildings were built in "good faith", namely, without knowing of the status of the lands in question; or alternatively, built with the State's consent, be it explicit or implicit. The Law only applies to pre-existing construction (built before February 2017). The Law provides two (2) tracks, based on the question of whether a specific individual can show ownership rights in the lands in question, or not. With respect to lands that were proved to be private property, the ownership would remain with the owner. Nevertheless, in certain circumstances, the usage would pass to the authorities and allocated to the current holders. The owner would be compensated, with annual payments of 125% of the value of usage rights of the land, or an equivalent lot in a different location, if possible. This is a temporary arrangement to apply until the question of the status of the West Bank is politically resolved (Section 3(2)). With respect to lands that were not proved to be private property, they will be registered as public property (Section 3(1)).

68. Several petitions[3] were filed to the HCJ claiming, *inter alia*, that the Law is both unconstitutional and constitutes a violation of international law. In another petition, the Court was requested to order the State to begin implementation of the Law.

69. Already during the Law's legislation process, the AG expressed his opinion that it was unconstitutional. The AG argued that the law constitutes a disproportionate infringement of the basic right to property, which is enshrined in *Basic Law: Human Dignity and Liberty*, and also that its provisions deviate from well-established doctrines of property law and regulatory taking law.

70. Concerning the petitions to the HCJ, the AG announced that he would not be defending the Law on behalf of the Government of Israel, which is being represented in the hearing by private counsel, and responded to the petition separately from the Government. In his response, the AG asked the Court to accept the petition and declare the law to be void (AG Response dated 22.11.17). In the meanwhile, the AG suggested a procedural arrangement, which was accepted by the Court as an interim order (17.8.17), according to which, the implementation of the Law would be suspended until a final ruling is made, while temporarily freezing enforcement measures. In December 4, 2017, the Supreme Court issued an *order nisi* pending oral arguments. In June 3, 2018, the petitions were argued in front of an expanded panel of nine (9) justices, and are now awaiting judgement.

Reply to paragraph 9 of the list of issues

71. Violence against women, including domestic violence and sex offenses is a social phenomenon that requires special, system-wide treatment, both in the social and in the criminal level. In recent years, the Government has been enhancing its efforts to combat

[3] H.C.J. 1308/17, *Silwad Municipality et. al. v. The Knesset et. al.* (pending).

these phenomena. Hereinafter are several prominent examples of related legislative amendments and administrative measures to counter and fight such violence.

72. For information on legislation amendments relating to gender based violence and legislation amendments and administrative measures on countering sexual harassment, see Annex II.

Countering Domestic Violence

73. A Joint Inter-ministerial Committee on Preventing Domestic Violence was established in 2014. The Committee included representatives from all Ministries. In February 2016, the Committee published its final recommendations. Subsequently on May 2016 a designated sub-committee for implementing the recommendations was established, headed by the Minister of LSAaSS. The Implementation Committee included ten (10) teams; each one focused on different issues: research, protection, information, vulnerable populations, legislation etc. The Implementation Committee recommendations were presented to the Minister of Public Security in October 2016. The recommendations include both aspects of strengthening the current protection and prevention systems, and developing new ones.

74. Israel is currently examining the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), a process that entails an in-depth examination of all aspects relating to combatting gender-based violence.

75. The Joint Review Team (established in 2003) continues to conduct periodic meetings to examine cases of femicide in order to prevent their recurrence. The team includes participants from the Police, the Ministry of Labor, Social Affairs and Social Services (MoLSAaSS), and the State Attorney's Office.

76. For additional information on measures used to counter domestic violence, see Annex II.

Enhanced Efforts within the Police

77. The policy of treatment of violence against women in general and domestic violence in particular is enforced by the Israel Police in a uniform, equal manner, regardless of religion, race or gender.

78. The Police have a unique apparatus of investigators and investigating officers to handle domestic violence and sexual offences. Designated training courses on domestic violence and sexual offences are conducted regularly for all investigators and patrol officers, including gender-sensitive courses. These trainings include, *inter alia*, lectures on the relevant legislation and legal aspects, culture-sensitive investigation, visits to assistance-centers and shelters for battered women, victim interview workshop, scene drill, and lectures about sexual harassment, treatment of victims and about domestic and spousal violence. General investigators who are not part of the apparatus also undergo, as part of their basic training, a course that includes detailed review of the guidelines for handling domestic violence offenses. Patrol-police personnel also study the principles of primary treatment of domestic violence offenses according to the relevant protocol.

79. In order to enhance reporting, the Police emphasize the need for better cooperation with a variety of actors relevant to the fight against domestic and sex offences. In this regard, see "Police-Social Worker Model" above. In addition, in order to raise awareness and enhance reporting, an ongoing discourse and collaboration was formed between the Police and leaders of minority groups; mainly concerning improving accessibility and encouraging women to approach the Police and file complaints.

80. For additional information on Police efforts to combat domestic and sexual violence, including: internal supervision, awareness raising, promotion of legislation, the use of electronic monitoring and investment of resources, see Annex II.

81. For additional information on investigation, indictments, sentences, compensation and availability of shelters for Victims of Domestic Violence, see Annex I attached to

Israel's 6th Periodic Report, concerning the implementation of the international Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

82. For information on treatment provided by the MoLSAaSS to battering men, see annex II.

83. For information on training provided to MoLSAaSS officials, see Annex II.

84. For information on enforcement efforts regarding sexual harassments, nationwide protest on December 2018 and New-Year Campaign against "Date Rape" Drug, see Annex II.

85. For statistical enforcement information, see Annex I.

Reply to paragraph 10 of the list of issues

Courts Authorized to Impose a Death Penalty

86. The authority to impose death penalty pursuant to the *Nazis and Nazi Collaborators (Punishment) Law*, 5710-1950 and the *Penal Law* 5737-1977, is granted to a District Court. According to the Courts (Offenses punishable by a Death Penalty) Law 5721-1961, such cases must be heard before a panel of three (3) judges, and the presiding judge must be a Justice of the Supreme Court of Israel.

87. In every case in which a death penalty may be imposed, the *Criminal Procedure Law [Consolidated Version]* 5742-1982, requires an automatic appeal to the Supreme Court, even if the defendant has not appealed the sentence or conviction. As with any other convicted person, a person sentenced to death has the right to petition the President of the State for pardon, clemency, or commutation of sentence.

88. A Specialized Military Court has jurisdiction over offenses for which there is a death penalty pursuant to the *Military Justice Law* 5715-1955.

89. In the West Bank a Military Court with a specific panel (as shall be detailed below), has jurisdiction over offenses for which there is a death penalty pursuant to the *Security Provisions Order [Consolidated Version] (Judea and Samaria) (No. 1651)* 5770-2009 and the *Defense (State of Emergency) Regulations*, 1945. According to Section 165 of the Order, such cases must be heard before a panel of three (3) judges, all of whom must be ranked Lieutenant Colonel or higher, and their decision must be unanimous. The Order also stipulates an automatic appeal to a Military Court of Appeals, which shall be held before a panel of five (5) judges, and additional procedural guarantees.

Imposition of Death Penalty within the Reporting Period

90. No death penalties were imposed or executed during the reporting period. Although several provisions in Israel's criminal legislation allow for the imposition of the death penalty, the death penalty has been carried out only twice since the establishment of the State. The first time was after a field trial on June 30, 1948, in the case of Meir Tobiansky, an IDF officer who was accused of treason. Tobiansky was later cleared of all the charges against him. The second time was in the case of Adolph Eichmann, a senior Nazi assault unit commander, who was one of the major organizers of the Holocaust. Eichmann was in charged of facilitating and managing the logistics involved in the mass deportation of Jews to ghettos and extermination camps during WWII.

91. The provisions enabling the death penalty refer to: (1) crimes against the Jewish people or crimes against humanity committed during the period of the Nazi regime, and for war crimes committed during the Second WW; (2) Genocide, conspiracy, incitement or attempt to commit genocide, or of acting as an accomplice to genocide; (3) maximum punishment for offenses constituting treason during armed hostilities; (4) offenses involving illegal use of firearms against persons, or use of explosives or inflammable objects with intent to kill or to cause grievous bodily harm (not applied or requested in practice).

92. The imposition of the death penalty on any person who was a minor at the time the offense was committed is prohibited.

93. On January 3, 2018, The Knesset approved by preliminary reading an amendment to the *Penal Law* 5737-1977 (*Amendment – A Death Sentence for a Person Convicted for Murder in Circumstances of Terrorism)*. This bill dealt with the sentencing of a death penalty for a murder offence, in case it is also considered as an act of terrorism according to the *Counter-Terrorism Law*. The bill also dealt with procedural amendments, according to which, a Military Court will be authorized to inflict the death penalty by a majority decision rather than a unanimous decision, and such a final verdict could not be mitigated. At that stage, the Knesset's Constitution, Law and Justice Committee focused on the cancelation of the requirement of a unanimous decision by a Military Court when sentencing a death penalty. In December 2017, the AG noted his objection to this bill stating that it does not co-inside with Israel's statements in international forums, and that although there are several provisions in Israeli law that allow inflicting a death penalty, these were legislated prior the legislation of the *Basic Law: Human Dignity and Liberty*, and the Current bill does not meet the requirements of this *Basic Law*'s limitation clause. Note that during the discussions held in the Knesset regarding this bill, General Recommendation No. 36 regarding Article 6 of the ICCPR (CCPR/C/GC/36) was addressed by the AG, in order to highlight and explain several difficulties in the bill's version. This bill has not been considered further.

Reply to paragraph 11 of the list of issues

The Counter-Terrorism Law

94. On June 15, 2016, as part of Israel's ongoing battle against terrorism, the Knesset enacted the *Counter Terrorism Law* 5776-2016. This detailed and carefully designed law is part of an effort to provide law enforcement authorities with more effective tools to combat modern terrorist threats while incorporating additional checks and balances necessary to safeguard against inappropriate violations of individual human rights. The Law provides, *inter alia*, updated definitions of "terrorist organization", "terrorist act" and "membership in a terrorist organization", detailed regulations for the process of designating terrorist organizations, and enhanced enforcement tools, both criminal and financial. The Law nullified previous legislation in the field of counter-terrorism such as the *Prevention of Terrorism Ordinance* 5708-1948, that was linked to a state of emergency. Additional legislation is currently being reviewed and amended in order to disconnect it from a state of emergency. This law does not create discrimination on the grounds of gender, race, color, decent or national or ethnic origin and does not subject individuals to racial or ethnic profiling or stereotyping. For statistical data on indictments according to this law, see Annex I.

95. On March 7, 2018, the Knesset approved Amendment No. 3 to the Law in which, among other things, it vested a Police District Commander with the authority to issue an order authorizing to delay the transfer of a terrorist's body to his/her relatives for up to ten (10) days for one (1) of the following three (3) grounds: a reasonable threat that the funeral will cause serious harm to life; a reasonable threat of the commission of a terrorist act; or a reasonable threat of incitement to terrorism or identification with a terrorist organization or a terrorist act during the funeral. Such an order may be extended from time to time, as necessary, by the Police General Commissioner until the implementation of the terms set for the funeral (Section 70B). Prior to this Amendment, the Police relied on Sections 3 and 4A to the *Police Ordinance* to delay the provision of a terrorist's remains to his/her relatives for the purpose of protecting public order. However, in the Jabarin case the HCJ ruled that these sections do not constitute sufficient legal basis for such delay and explicit legal authorization is required for such action (H.C.J. 5887/17 *Ahmad Moussa Jabarin et. al. v. The Israeli Police et. al.* (25.7.17)). In addition, this Amendment also vested the Police with the authority to set terms in regard to a funeral of a person who committed or attempted to commit a terrorist act and subsequently died ("a Terrorist"). According to this Amendment a Police District Commander is authorized to issue an order setting certain conditions in regard to a funeral of a terrorist, for the purpose of protecting the safety and

the security of the public, including the prevention of riots, incitement to terrorism or identification with a terrorist organization or a terrorist act. Such conditions may refer to the number and identity of the funeral participants, the funeral time and date, its route and in certain cases the place of burial, while considering the family's position on this issue. A Police District Commander may also order to deposit a guarantee in order to ensure the implementation of these conditions (Section 70A).

96. For related case law, see Annex II.

Reply to paragraph 12 of the list of issues

97. In February 2013,[4] the Turkel Commission concluded that Israel's mechanisms for examining and investigating complaints and claims of violations of the rules of the Laws of Armed Conflict ("LoAC") generally complied with its obligations under international law. The Commission nevertheless made several recommendations for further improving the Israeli system, among them the adoption of domestic legislation, a number of structural changes and the anchoring of existing policies in written directives and procedures.[5]

98. Since the issuance of the Turkel Report, the Government has steadily worked to implement the various recommendations. Notably, in January 2014, a professional inter-agency team of experts ("the Implementation Team"), headed by Dr. Joseph Ciechanover was appointed. The Implementation Team thoroughly reviewed the Commission's recommendations and considered the most effective measures for their implementation. The Implementation Team submitted its report to the Prime Minister in September 2015.[6] The Israeli Cabinet approved the Implementation Team's Report in July 2016 and instructed the Ministry of Finance (MoF) to address the allocation of the necessary funds. The MoF has allocated the required funds to the relevant agencies and the implementation of these recommendations continues. There is also an inter-agency team, which continues to regularly monitor the completion of this process and reports to the Prime Minister every six (6) months.

99. Below are a few examples of recommendations of the Turkel Commission that have been implemented:

- In accordance with recommendation No. 12, a unit was established in the Department of International Law in the MoJ, which is actively involved in giving legal advice on matters pertaining to the LoAC, thus strengthening the capacity of the AG to exercise his/her supervisory powers over the Military Advocate General (MAG).
- In April 2015, and in accordance with recommendations No. 7 and 13, two (2) new AG guidelines were published,[7] which deal with the relationship between the MAG and the AG and reinforce the avenue of review by the AG of decisions made by the MAG, thereby strengthening civilian oversight of the military justice system. According to the guidelines, the AG reviews appeals on the MAG's decisions

[4] The public commission for the examination of the maritime incident of May 31st 2010, Report Part Two – Israel's mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict according to International Law (5773), http://www.turkel-committee.gov.il/files/newDoc3/The%20Turkel%20Report%20for%20website.pdf.

[5] *Id*., at 360–461.

[6] The Implementation Team, Team for the Review and Implementation of the Second Report of the Public Commission for the Examination of the Maritime Incident of May 31st 2010, regarding Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Law of Armed Conflict According to International Law (5775), http://www.pmo.gov.il/Documents/ReportEng.pdf.

[7] "The Military Advocate General", the Attorney General's Directive 9.1002 (5760), http://www.justice.gov.il/En/Units/AttorneyGeneral/Documents/AGDirectiveMilitaryAdvocateGeneral.pdf; "The review of decisions of the Military Advocate General regarding incidents involving the death of an individual in the course of Israel Defense Forces operational activity, when serious violations of customary international law are alleged", Attorney General Guideline 4.5003 (5775), http://www.justice.gov.il/En/Units/AttorneyGeneral/Documents/AGDirectiveRightofReview.pdf.

regarding investigations and prosecutions of alleged serious violations of international law. The AG may also exercise his review function if he/she considers that it is required due to special public interests or implications. Since the publishing of these guidelines, this avenue of review has been utilized on several occasions.

- In accordance with recommendation No. 5, in July 2014, the IDF Chief of General Staff ordered the establishment of a General Staff Mechanism for Fact-Finding Assessments (FFAM), which would examine exceptional incidents. It is headed by a Major General and relies on high-ranking officers with relevant operational expertise in a variety of fields, who are outside the chain of command for the operational activity being examined. Thus far, it has reviewed hundreds of incidents. The FFAM has broad-ranging powers to obtain information both from within and outside the IDF. Once an FFAM examination is complete, the MAG decides whether the findings and collected materials meet the requirements for opening a criminal investigation. In order to make this decision, the MAG may request supplementary examinations and materials from the FFAM.
- In accordance with recommendation No. 9, in early 2017 a special unit specializing in operational affairs was established within the Military Police Criminal Investigation Division, which consists of experienced officers and investigators who undergo in-depth training with respect to the LoAC as well as operational affairs. This unit has thus far investigated dozens of cases.
- In recommendation No. 15 the Turkel Commission recommended strengthening the thoroughness and effectiveness of the investigations of the Inspector by requiring video recording of interrogations conducted by ISA, to be made according to rules that would be prescribed by the AG in coordination with the Head of the ISA. The Implementation Team recommended that cameras installed in all ISA interrogation rooms will broadcast regularly via closed circuit to a control room located in an ISA facility where interrogations are not conducted. The control room will be accessible and available to an external supervising entity on behalf of the MoJ at any time. The interrogators will have no indication of when the MoJ supervisor is watching them in the control room. The supervising entity must report immediately to the Inspector if he/she believes that illegal means have been used during the interrogation. The Israeli Security Cabinet adopted the recommendations of the Implementation team and after the completion of the necessary technical arrangements and recruitment of suitable supervisors by the MoJ, along with the completion of a work protocol, the supervisors began their work in January 2018. During 2018, hundreds of control and supervision hours were conducted by the supervisors.

Reply to paragraph 13 of the list of issues

100. In regards to non-application of Human Rights Conventions in the West Bank, see Question 2(B) above.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, liberty and security of person and treatment of persons deprived of their liberty

Reply to paragraph 14 of the list of issues

A. Prohibition of Torture in Legislation

101. Inter-Agency staff work on the Draft bill is still ongoing, thus, it is impossible at this stage to provide definitive information with respect to the specific definition of the offense that will be included in the draft bill or with respect to the time frame for the completion of the drafting process.

B. The "Necessity" Defense

102. The "necessity defense", as stipulated in Section 34(11) of the *Penal Law*, is one of the defense claims afforded to a defendant in the criminal proceedings in Israel and remains in Israeli legislation. In H.C.J 5100/94 T*he Public Committee against Torture et. al. v. The State of Israel et. al.* (6.9.99), the HCJ held that this defense could apply to a defendant accused of using unnecessary or excessive physical pressure.

103. The use of the so-called "necessity defense" with regard to ISA interrogations, is exceptional and represents a minute percentage of all ISA interrogations of persons that were suspects of terrorist activity.

104. According to the *Israel Security Agency Law* 5762-2002, the ISA internal rules and procedures as well as methods of interrogations are confidential.

105. A petition for disclosure of similar details was submitted to the Jerusalem District Court, in pursuance to the *Freedom of Information Law* 5758-1998, and rejected by the Court (Ad.P 8844/08 *The Public Committee against Torture v. the Supervisor of the Freedom of Information Law within the Ministry of Justice* (15.2.09)).

C. Steps to Refrain from Inflicting "Moderate Physical Pressure" in "Necessity" Cases

106. According to the *Israel Security Agency Law* 5762-2002, the ISA internal rules and procedures as well as methods of interrogations are confidential.

107. The ISA and its employees act within the limits of the law and are subject to both internal and external supervision and review, including by the State Comptroller, the Inspector at the MoJ, the AG, the State Attorney's Office, the Knesset and every instance of the courts, including the HCJ.

108. The ISA operates in accordance with the ruling of the HCJ, and specifically the ruling concerning ISA interrogations from 1999 (H.C.J. 5100/94 *The Public Committee against Torture v. The State of Israel*). Accordingly, the ISA interrogators have no authority to use any exceptional measures against interrogatees in the course of an investigation.

109. The detainees undergoing ISA interrogation receive all the rights to which they are entitled according to Israeli law and international conventions to which Israel is a party, including the rights to legal representation, medical care and visits by the International Committee of the Red Cross.

110. Furthermore, any case of alleged wrongdoing by an ISA investigator can be referred to the Inspector.

111. Investigations of Alleged Cases of Torture – complaints submitted to the Inspector are examined independently and impartially. The Inspector conducts a thorough preliminary examination of such complaints. The preliminary inquiry process includes reviewing all the relevant documents, and interviewing the complainant and his/her interrogators, as needed. The Inspector's unit concludes its inquiry with a recommendation on the measures that should be taken, such as: criminal investigation, prosecution, disciplinary action, drawing conclusions for the organization or recording the complaint.

112. Following such an examination, the Inspector's findings are transferred to the Inspector's supervisor, a senior advocate in the State Attorney's Office, who examines if there is sufficient evidence to recommend opening an investigation. The decision whether to open such an investigation was delegated to the Deputy State Attorney (Special Affairs). A criminal investigation is opened upon a reasonable suspicion that an offence was committed, based on the existing evidence that were gathered by the Inspector.

113. The Inspector's preliminary inquiry process has been reviewed and approved by the HCJ (H.C.J. 11/1265 *The Public Committee Against Torture in Israel vs. The Attorney General* (14.2.2011)) and its extensive and comprehensive work has been recognized in its ruling (H.C.J. 5722/12 *As'ad Abu-Gosh vs. The Attorney General* (12.12.2017), H.C.J. 9018/17 *Fares Tbeish et. Al. v. the Attorney General et. al.* (26.11.18)).

114. For statistical data, see Annex I.

115. To date, the complaints did not amount to prosecutions.

116. For information on positive updates concerning the Inspector and the ISA, see Annex II.

D. Audio and Visual Recording of Interrogations

ISA Interrogations

117. For information on the implementation of recommendation No. 15 of the Turkel Commission regarding ISA interrogations, see Question 12 above.

Police Investigations

118. The *Criminal Procedure (Investigation of Suspects) Law* 5762–2002 (Sections 7 and 11), requires that the Police carry out audio or visual recording of criminal suspect questioning, where the crime carries a penalty of imprisonment of ten (10) or more years.

119. On December 12, 2016, the Knesset approved Amendment No. 8 to the *Criminal Procedure (Interrogation of Suspects) Law*, which stipulates that this documentation obligation does not apply to police investigation of a suspect relating to a security offense. However, according to this Amendment, the questioning of a suspect in relation to a security offence is subject to random inspections and supervision according to police procedures, to be approved by the Minister of Public Security and the AG. The Amendment provides that the supervising authority, high-ranking Police personnel, will be allowed to conduct such inspections about every ongoing interrogation, at any time, without any advance notice and without the interrogators being aware of such inspections. According to this Amendment, the Knesset's Constitution, Law and Justice Committee is to receive annual reports on the implementation of this Amendment. In December 2017, all Special Investigations Branch officers received the "Protocol for Supervision and Control over Police Interrogation of Suspects in Security Offenses", which include the relevant instructions for such supervision and control and methods of reporting. The relevant procedures have been approved and the supervisors had begun operating in January 2018. For information on supervision during ISA security interrogations, see Question 12, above.

120. Several NGOs filed a petition to the HCJ against the constitutionality of this temporary provision. On January 15, 2017, the Court ruled that the petition was not ripe for adjudication, noting that the required implementing procedures were yet to be formulated. The Court stressed that these procedures must be strict, both concerning the number of inspectors and the working procedures. The Court therefore dismissed the petition without prejudice. (H.C.J. 5014/15 *Adalah v. The Minister of Public Security* (15.1.17)).

Reply to paragraph 15 of the list of issues

121. In regards to non-application of Human Rights Conventions in the West Bank, see Question 2(B) above.

A. Measures Taken to Eradicate Torture and Ill-treatment and the Establishment of an Independent Monitoring Mechanisms

122. See Question 14B and 14C.

Independent Monitoring of Detention Conditions

123. Every prisoner or detainee under the care of the Israel Prisons Service (IPS) has access to complaint mechanisms concerning grievances regarding the staff and wardens', including claims of wrongful use of force:

- Filing a complaint to the Prison Director;
- A prisoner's petition to a District Court;
- Filing a complaint to the Warden's Investigation Unit (WIU), through the IPS or directly to the Unit;

- Filing complaint to the Prisoners Complaint Ombudsman.

124. The *Prisons Ordinance* establishes rules for Official Visitors in prisons and further grants official visitor's authorities to Supreme Court judges, the AG, and to District and Magistrate Courts judges in prisons in their jurisdiction. For further information on official visitors, see Annex II.

125. Additional monitoring regarding protected persons is conducted by visits of the ICRC personnel.

126. For relevant case law, see Annex II.

B. Arrest conditions of Palestinians, including Children

IPS Detention Facilities – Adults

127. The conditions granted to security prisoners are determined by the IPS Order No. 03.02.00.

128. Due to ongoing security risks security prisoners pose, specific limitations are applied to their vacations, visits and conjugal visit rights. The need to impose such limitations was recognized, scrutinized and affirmed by the Supreme Court in several cases (for example: Pr.P.A 1076/95 *State of Israel v. Samir Kuntar* (13.11.96)).

129. Alongside these limitations, the security prisoners are offered a variety of services and benefits that enable their detention in appropriate and adequate conditions, whilst respecting their distinctive needs.

130. Breaches of order and discipline in detention facilities necessitate the use of disciplinary and administrative measures, which are carried out in accordance with IPS procedures.

131. Medical Care – Every IPS detention facility employs a general physician, a dentist, a necrology specialist, a psychiatrist and a professional medic who provide regular services. Examinations by expert doctors are available in the IPS medical center, prison infirmary and hospital clinics. Inmates are also allowed to consult with private doctors at their own expense. A medical examination is conducted daily and an inmate can be examined by a physician upon request. Where a need arises for specialist or if there is a need for hospitalization, proper arrangements are made with the relevant hospital and the MoH. In addition, the IPS operates a detention facility intended for prisoners with physical and mental problems, which cares for prisoners with chronic illnesses. Gynecological examinations are held when necessary and upon the request of female prisoners.

132. Generally, family visits are allowed for security-related inmates and are held according to IPS procedures. On June 4th 2019, the HCJ denied a petition and affirmed the Minister of Public Security's decision which denied family visits for Hamas affiliated security prisoners from the Gaza strip. This step is aimed to pressure the terrorist organization with the aim of advancing the return of Israeli citizens and the remains of Israeli soldiers held in captivity. This was approved by the Court, subject to periodic review and as the ongoing provision of other channels of communication with their families. (H.C.J 6314/17 *Fadi Sammy Namnam et. al. v. The Government of Israel et. al.* (4.6.19)).

133. Access to Legal Counsel – Prisoners are entitled to meet with their lawyers and receive consultations; these meetings are held with or without a divider, according to the circumstances. The exchange of legal material between the lawyer and the prisoner is subject to attorney-client privilege and the legal material is forwarded directly to the inmate.

Palestinian Minors in Military Juvenile Justice System

134. According to the law, minors are held in separate wings from adults.

135. In 2008, joint staff work was held by a special task force composed of senior officials from the MoJ, the MAG Office, the Military Courts, the Israel Police, the Ministry of Public Security and the ISA. As a result of this work, a number of significant

amendments have been introduced over the years to the Order, including: raising the age of majority to 18, special statute of limitation, shortening the detention periods and more.

136. Note that ISA's interrogations of minors are conducted by trained minors' interrogators, in accordance with special internal procedures and subject to approval of the senior ranks in the ISA. These procedures provide special protection to the minors, their legal rights, as well as their physical and mental state. The ISA meticulously observes the times of interrogation and hours of sleep provided to the minors.

137. For information on the specific detention periods, see Annex II.

C. Solitary Confinement

138. Solitary confinement – As will be detailed, there is no *incommunicado* detention in Israel. In Israel, solitary confinement is a punitive measure, and as such, it is imposed only in restricted circumstances, for short and limited periods, and must follow a disciplinary hearing. The manner and the extent of use of solitary confinement fully comply with international law standards.

139. Solitary confinement is used only in a limited and closed list of 41 **disciplinary** offences set in Section 56 of the *Prisons Ordinance* 5732-1971; thus, the Israeli practice adheres to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

140. Solitary confinement is extremely restricted and is used for short and limited periods, with a maximum of 14 days only. Where solitary confinement is prescribed for periods of over seven (7) days, there is a requirement to allow a seven (7) days break, following the first seven (7) days of confinement – which means that a prisoner will not spend more than seven (7) consecutive days in solitary confinement. In addition, a period of more than seven (7) days in solitary confinement can be imposed only by the Prison Director or his/her deputy, and must follow a disciplinary hearing. Prior to the disciplinary hearing, the prisoner receives a 48-hour notice, during which he/she can prepare his/her arguments and summon witnesses, if he/she wishes, to make /his/her case.

141. During the course of the solitary confinement, contact is maintained with the officials in the ward – prison guards and social workers as well as with physicians/paramedics per request, and attorneys, except for exceptional circumstances. These rules apply equally to criminal as well as security prisoners.

142. Separation is not a punitive measure but rather a preventive procedure regulated by the *Prisons Ordinance (New Version)* 5732-1971 and by IPS Order No. 04.03.00, which is intended to prevent a prisoner, including prisoners with mental disabilities, from harming her/himself or harming other prisoners or the prison's staff. Separation may also be used due to state or prison security. A prisoner held in separation may be held alone or together with another prisoner ("separation in a pair"), according to the reasons for separation as well as the prisoner's characteristics. The conditions provided in separation are similar to the conditions provided to all other prisoners, these include: medical care, meetings with an attorney, an hour in the prison yard, social worker and visits. The living conditions in the separation ward include a television, video game consoles, telephone, books and newspapers. This preventive measure of separation is subject to re-examination procedures, judicial review and appeal. The authority to hold a prisoner in separation is constantly monitored and requires timely reevaluation in order to minimize to separation time.

Solitary Confinement with regard to ISA interrogatees

143. Solitary Confinement is not used as an interrogation method nor as a punitive measure by the ISA. However, naturally, during interrogations there might be a need to separate between several detainees for the purpose of the investigation.

144. The detainees have continuous and frequent contact with the IPS personnel, as well as the medical personnel. They also meet with representatives of the ICRC and are brought before a judge to extend their arrest, where they are represented by their attorneys, all in accordance with the law.

145. Meeting with a lawyer during this period of time may be suspended for up to 21 days regarding interrogatees held in accordance with Section 35 of the *Criminal Procedure Law (Enforcement Powers – Arrests)*, due to the risk of potential harm of the suspect to national security. Postponing the meeting with a lawyer for more that 10 days and up the maximum period of 21 days requires court approval.

146. When ISA interrogatee is under investigation, his/her family or their lawyer are informed on their location and on their arrest.

Solitary Confinement and Separation of Minors

147. As mentioned above, holding a minor in solitary confinement is done only as a last resort. In addition to all the protection measures detailed above, a minor will see a social worker every day that he/she spends in the solitary confinement.

148. When considering holding a minor in separation, such decision is reviewed prior to the beginning of the separation itself. The use of such separation is only permitted when based on professional consideration.

Procedural Protections of Minors' Rights during Arrest and Detention

149. All aspects of the criminal process, including arrest, interrogation and detention, are conducted according to specific, clear, well-elaborated procedures, and are frequently subject to judicial review. These procedures are available to the public, either online or upon request by interested parties.

150. While in some incidents there might be rare and specific breaches of those procedures, these cases are investigated thoroughly and treated severely, and in no way are these indicative of a general practice.

151. In the event that a procedural violation occurs during any stage of the proceedings, the minor, through his/her parents or attorney (minors are represented by an attorney at all proceedings in the Military Juvenile Courts, including remand hearings), may lodge a formal complaint to the proper authorities. This entail the Investigative Military Police (IMP), the MoJ's Department for Investigation of Police Officers (DIPO), the Inspector for Complaints against ISA Interrogators and the Warden's Investigation Unit (WIU)) and may raise his/her arguments before the military judge during the hearings.

D. Allegations of Torture and Ill-treatment

152. See Question 14C above.

Israeli Police – Treatment of Alleged Ill-Treatment

153. The DIPO is an independent department within the MoJ. This department is specifically designated to investigate complaints of involvement of police personnel in the commission of offences (defined as offences punishable by one (1) year imprisonment or more).

154. The DIPO views with the utmost severity instances of police officers' ill-treatment and disproportionate use of force. Serious efforts are being undertaken to eliminate any form of such abuse. Cases of alleged violence are investigated thoroughly and meticulously, using all means to exhaust the investigation and bring to justice those found to have used unnecessary violence or acted in an unreasonable manner.

155. The DIPO is responsible for most criminal investigations against police officers. Disciplinary proceedings are initiated by submitting a complaint to the Disciplinary Department of the Personnel Division at the Police Central Headquarters, or to any of its branches.

156. In 2017, the DIPO reached a decision in 641 cases against police officers who were interviewed under caution (every case included one (1) police officer or more); 38.8% of these cases ended in criminal indictments (136 cases) or disciplinary proceedings (113 cases). Also, 85% of the criminal procedures against police officers that were concluded in

2017, ended with conviction, 3% of the cases ended with acquittal and 12% of the cases ended with a different decision.

157. In regards to non-application of Human Rights Conventions in the West Bank see Question 2(B) above.

Reply to paragraphs 16, 17, 18 and 19 of the list of issues

158. In regards to non-application of Human Rights Conventions in the West Bank, see Question 2(B) above.

Refugees and asylum seekers

Reply to paragraph 20 of the list of issues

A. Access to Fair and Efficient Asylum Procedures, Protection against Refoulement and an Independent Appeal Mechanism

159. On October 10, 2019, the PIA notified that Sudanese citizens who entered Israel illegally through the Egyptian Border will receive temporary residence permit pursuant to Section 2(a)(5) to the *Entry into Israel Law* for a period of one (1) one year at a time. Sudanese citizens holding a B/1 visa (temporary employment permit) will receive it for a period of one (1) year at a time. Persons from Darfur, the Blue Nile and the Nuba Mountains will receive temporary residence permit pursuant to Section 2(a)(5) to the law, and the previous notification in their passport will be deleted. Eritrean citizens who entered Israel illegally through the Egyptian Border will receive temporary residence permit pursuant to Section 2(a)(5) to the *Entry into Israel Law* for a period of six (6) months each time and the previous notification in their passports will be deleted. Eritrean citizens holding a B/1 visa (temporary employment permit) will receive it for a period of six (6) months at a time. The updated permits will be issued at the time of renewal of the existing permits.

160. Also, the Population and Immigration Authority (PIA) has issued a specific procedure[8] that regulates this issue (PIA Procedure No. 5.2.0012). The purpose of this procedure is to set the process of caring for asylum seekers in Israel and for those who have been recognized as refugees by the Minister of Interior. According to this procedure, handling of asylum applications is conducted pursuant to the Israeli law while observing Israel's obligations under the Convention and Protocol relating to the Status of Refugees of 1951 and 1967 respectively.

161. According to the procedure, the PIA must ensure that information sheets will be available at places of custody, at the PIA's offices and on its website. The information includes the manner of submitting an asylum application, the procedure for handling applications, obligations of the asylum seeker and the asylum seeker' rights to contact a legal representative of his/her choice and of the scope of representation to which he/she is entitled to in the process. According to the procedure, an asylum seeker will not be expelled from Israel, until completion of reviewing his/her asylum application, subject to the principle of *non-refoulement*.

162. The PIA has a designated unit that handles applications for asylum in Israel. The decisions of the PIA and of the Minister of Interior to deny an asylum application are subject to an appeal to the Detention Review Tribunal, and such appeals are filed frequently. Additional appeals may be filed to a District Court and with the Court's permission to the Supreme Court.

B. Legal Procedure to Relocate African Migrants

163. Israel had reached arrangements with two (2) third countries for the safe relocation of persons from Sudan and Eritrea who entered Israel illegally through the Egyptian border.

[8] See: https://www.gov.il/en/service/apply_for_asylum_in_israel (as of 25.7.19).

The Government considered this plan a more appropriate way to deal with the situation, due to the unique circumstances that Israel is facing and the geo-political context in the Middle East. A certificate of confidentiality signed by the Prime Minister was issued in respect of the identity of these countries and the details of the arrangements. For information on the criteria for such relocation that were approved by the AG, see Annex II.

164. The relocation to third countries policy was approved by the Supreme Court in the *Tzageta* case (after certain amendments made). In this case, in *ex parte* proceedings the State disclosed to the Court the arrangements it had reached with the third country, as well as all the measures that were taken in order to review and supervise their implementation. The Supreme Court rejected the argument that the third country discussed was unsafe, and stated that "[…] the appellants did not prove that the discussed third country is unsafe, that any of the substantive criteria outlined by the AG does not exist in that third country and that the persons being relocated face a threat there". Note that the ruling dealt with only one of the two third countries (Ad.P.Ap. 8101/15 *Tzageta et. al. v. The Minister of Interior et. al.* (28.7.17)).

165. Ultimately, for various reasons, the arrangements were not fully implemented. Anyone who wishes to leave Israel voluntarily to these countries can still do so with State assistance according to these arrangements. Based on routine examinations conducted by PIA, there have been no known cases of violations of the principle of *non-refoulement*.

C. The Detention of Asylum Seekers

Legislation update

166. In recent years a legal and constitutional debate took place between the State and the Supreme Court concerning this issue. On November 19, 2017, the Government approved a Resolution to close the Holot open facility within four (4) months and on March 2018, the facility was closed.

167. Up until several years, tens of thousands of people have entered Israel illegally, not through a border station. Initially, these people had been placed in custody under the *Entry into Israel Law* 5712-1952, for a relatively short period of time, given the limitations on the length of custody as set by this law. In light of the ever-growing dimensions of this phenomenon and its implications for the State of Israel and Israeli society, the Government raised the need to provide tools and additional means to deal with this phenomenon. Thus, the *Prevention of Infiltration (Offences and Jurisdiction) Law* 5714-1954 was amended several times. However, several provisions of these Amendments were annulled the HCJ (H.C.J. 7146/12 Naget Serg Adam et. al. v. The Knesset et. al. (16.9.13)), (H.C.J. 8425/13 *Gabrislasy et. al. v. The Knesset et. al.* (22.9.14)).

168. On December 17, 2014, Amendment No. 5 to the Law entered into force. This Amendment included three (3) key changes: (a) it stipulated that a person who enters Israel illegally may be held in detention for a period of up to three (3) months. This Section applies only to persons who entered Israel illegally after its enactment. (b) It also stipulated that the following persons would not be sent to Holot open facility: women, minors, persons above the age of 60, a parent who is responsible for a minor, a victim of a trafficking in person offence according to the *Penal Law*, and people who the Border Control Commissioner is convinced that their placement in the "Holot" facility may damage their health due to their age, state of health including mental health, and there is no way to prevent such damage. (c) The Amendment also instructed that the maximum period a person can be placed in "Holot" facility was 20 months. (c) According to the Amendment,

169. On August 11, 2015, the HCJ rejected most of the petition filed against this amendment and ruled that the new amendment is constitutional except for the provision that enabled illegal migrants to stay in "Holot" open facility, for up to twenty (20) months. The Court found this period was non-proportionate and gave the Knesset a six (6) month period to enact a new amendment to the Law. In the interim, the Court set a twelve (12) month period as the maximum. (H.C.J. 8665/14 *Dasseta v. the Knesset* (2.2.2015)).

170. Following this HCJ decision, in February 2016, The Knesset approved Amendment No. 6 to the *Prevention of Infiltration (Offences and Jurisdiction) Law* which sets the

maximum period a person can be held in "Holot" facility at 12 months. However as noted above the Holot open facility was later closed by the GOI.

Saharonim Facility

171. The "Saharonim" Detention Facility is located in the Negev, the southern part of Israel. The purpose of the facility is to detain persons who entered Israel illegally initially, immediately following their illegal entry into Israel, mainly from the Sinai Peninsula.

172. According to the *Prevention of Infiltration (Offences and Jurisdiction) Law* 5714-1954, persons who entered Israel illegally were held at "Saharonim" from the time of their entry into Israel for a maximum of three (3) months. The purpose of this initial period at "Saharonim" was to process these people, determine their identity and nationality, and explore alternatives for their relocation from Israel. Note that as of 2019, no new illegal entries from the Sinai Peninsula were recorded and therefore there are no new arrivals to the detention facility for this reason, but several dozens are still detained in the facility, mostly illegal migrants who violated the terms of their stay in Israel.

173. To date, as part of the Government policy, women and minors are not held at "Saharonim".

174. The facility is managed by the Israel Prison Service ("IPS"), and the conditions of the facility meet the relevant national and international standards and regulations of detention facilities.

Examination of asylum requests procedure

175. The rule set by the *Entry into Israel Law*, is that "a person who is not an Israeli citizen or an immigrant pursuant to the *Law of Return* 5710-1950, and is staying in Israel without a stay permit, shall be expelled from Israel as early as possible unless he/she voluntarily leaves before that". An exception to this rule stems from the State of Israel's commitment pursuant to the 1951 Refugees Convention. The principle of non-refoulement enshrined in Article 33 of the Refugee Convention constitutes a fundamental principle of international law and was enshrined into Israeli case law, two (2) decades ago through the HCJ ruling of H.C.J. 4702/94 *Al-Tai v. The Minister of Interior* (11.9.95). In the *Al-Tai* case, the former President of the Supreme Court, Justice Aharon Barak, determined that the principle of non-refoulement, according to which a person cannot be deported to a place where her/his life or liberty will be endangered, is not limited only to refugees. Justice Barak held that the principle of non-refoulement is applicable to any government authority decision dealing with the deportation of a person from Israel.

176. A custody order shall not be issued pursuant to the *Entry into Israel Law* against a person who is staying in Israel illegally before allowing him/her the opportunity to voice his/her claims, and the foreign national is provided with information on his/her legal rights, and he/she has the option to be represented in the hearing. According to the abovementioned PIA Procedure, the interview is conducted in the official language of the foreign national's state or another language he/she understands and if required, with the help of a translator. Within this framework, the Border Control Commissioner considers all the circumstances relating to that person, including his/her age or health. Additionally, should an asylum request be raised, the person will be given the opportunity to submit such request from custody and, the applicant shall not be deported until conclusion of review of the application.

D. The "Holot" Facility and Legislation Initiatives

177. As of July 2019, the Government has not brought forward any plans to reopen the facility.

178. In 2018, a private bill titled "Bill to Amend Basic Law Human Dignity and Liberty (Amendment – Validity of an Exceptional Law Regarding Persons Who Entered Israel Illegally) was filed by a Knesset member. According to this bill, a law concerning the prevention of illegal entrance into Israel, including instructions therein regarding the period

of stay in Israel or concerning exiting Israel of persons who entered Israel illegally, will be valid even if it does not meet subsection 8 to the Basic Law: Dignity and Liberty.

179. As of December 2018, this bill was taken off the Knesset's legislation schedule. The AG strongly opposed this bill and in his opinion he noted, *inter alia*, that "[…] This stands in direct contradiction to the most basic principles of Israel's constitutional law, which are based on its definition as a Jewish and democratic state, and recognize the fundamental rights given to every human being. These basic principles guarantee protection of human rights from harm by the Government that is not for a worthy purpose and is not proportionate. This recognition is anchored in international treaties to which the State of Israel is party, and is a cornerstone of international law."

E. Health Services for Non-Residents

180. For information on medical services available to migrants and foreign workers, see Annex II.

181. *Health Care for Foreign Workers* – In 2016, an amendment was made to the *Foreign Workers Order (Employee Health Benefits Package)* 5761-2001, which regulates the health services to which legal foreign workers in the care-giving field are entitled. According to this Amendment, a foreign worker in the nursing-care field who is found unable to fulfill his/her work duties due to a medical condition and had made the necessary arrangements to return to his/her country of origin is entitled to compensation in the amount of 80,000 NIS (20,800 USD), if ten (10) years have passed since they received a permanent working permit in Israel. The compensation is given towards medical expenses in the country of origin, given that their medical insurance will no longer apply. This amendment entered into force in November 2017.

182. Training – For information on national interpretation call center and training courses operated and provided by the MoH, see Annex II.

183. For relevant case law, see Annex II.

Administration of juvenile justice

Reply to paragraph 21 of the list of issues

184. In regards to non-application of Human Rights Conventions in the West Bank, see Question 2(B) above.

Arbitrary or unlawful interference with private life and protection of family

Reply to paragraph 22 of the list of issues

A. In regards to non-application of Human Rights Conventions in the West Bank, see Question 2(B) above

B. Planning in Arab Localities

Outline Plans and Basic Planning for the Arab Population

185. As of June 2018, 132 of 133 Arab localities have approved outline plans. Of these 133 localities: 76 have approved updated outline plans (from 2005 and onward) and 18 have new outline plans undergoing statutory approval. In the next two (2) years, these approval procedures are to be completed. New outline plans are in preparation for additional 29 localities, including updating seven (7) of the above-mentioned approved plans. Note that these updated outline plans, comprise 96% of the Arab population in the said 133 localities.

186. Note that local authorities do not have the authority to approve outline plans and these are usually examined and approved by the relevant district authority. The National Planning Administration (NPA) has promoted 95 of the aforementioned outline plans for the Arab localities. Five (5) outline plans are currently promoted by the Authority for Development and Housing of the Bedouin Population in the Negev; The rest of the plans are promoted by the local authorities of the local councils.

187. The outline plans promoted by the NPA have added, on average, 70% to the localities' existing development lands, in addition to existing areas within the locality which are approved, but not yet developed. The vast majority of the outline plans allow for a larger population than the population prediction for the relevant planning period.

188. In 2015, an inter-ministerial team headed by the MoJ was established with the aim of examining barriers in the field of housing for the Arab population (the 120 days team). In July 2015, the team published its recommendations, which were later adopted in relevant GRs that *inter alia*, refer to this issue. In the course of its work, the team became aware of a number of barriers regarding housing, both in the general population and in the Arab population. In order to break these barriers, in recent years an additional joint team headed by the MoJ and the MoF was established to review these barriers and recommend on solutions. The joint team is yet to form its final recommendations.

Access to Plans Information

189. Every outline plan promoted by the NPA, regardless of the nature of the locality concerned, is done with cooperation and close consultation with the head of the said local authority. The planning process includes public participation meetings and various other means for public information about the plan and the planning process.

190. The plan documents, when ready to be submitted for statutory approval, are first submitted for approval of the local authority. As of 2018, an outline plan for an Arab locality includes explanatory notes in Arabic, describing the main subjects of the plan, its purpose and objectives.

191. The statutory approval process of every plan includes depositing the plan for 60 or 90 days for public reference and objections. The plan's deposition is advertised on an official website, consisting all the main plans and its documents, alongside visible publication on billboards within the locality concerned, at the local and regional Building and Planning Committees and in (at least) three (3) newspapers. In localities where 10% or more of the population is Arab, all the advertisements are posted in Arabic and Hebrew and advertised in Arabic in at least one (1) local Arab newspaper.

192. Implementation of the Outline Plans – This is carried out by detailed plans by each locality. Since many of the Arab localities encounter difficulties in promoting the required detailed plans, and due to the plans' significance towards obtaining building permits, the NPA has taken upon itself to initiate a pilot of detailed planning, designating a budget (54 Million NIS (14.6 Million USD)) and professional support for promoting 45 detailed plans in 13 Druze localities. A similar project for other Arab localities will follow.

193. Parallel to supporting detailed plans by the NPA, the importance of strengthening the ability of Arab localities to promote and implement detailed planning within their own locality also became evident. This was addressed in GR No. 922 (see below), determining measures for achieving this goal, including strengthening Arab Local councils and setting up new Arab Local Building and Planning committees, allotting a budget of 100 Million NIS (27 Million USD) for this task.

194. To this end, the possibility of establishing new local building and planning committees by splitting them from the regional committees in which these councils currently belong is being examined. This, while addressing the difficulties that arose in many aspects, including some challenges regarding the local authorities' refusal to regulate enforcement of building and planning regulations, and the need to provide a comprehensive solution for the rest of the local committees.

195. As part of this task, a budget of 29 Million NIS (7.83 Million USD) was approved for supporting the financing of strategic planners in 33 minority local authorities with more

than 9,000 residents each, who are also members of regional building and planning committees. This, in order to strengthen planning capacities in these authorities.

196. For additional information (including on GR No. 4078 (29.7.18) and on the Committee for the Promotion of Priority Housing Areas, see Annex No. II.

197. As of September 2018, eleven (11) plans of priority housing areas were approved by the said Committee, totaling in over 14,500 housing units. Nine (9) additional plans are in various stages of approval (roughly 33,000 housing units). All these plans enable the acquirement of a building permit without needing any further planning process.

198. The position of the NPA is that lack of an updated outline plan should not delay approving a detailed plan that is compatible with the national planning policy. Thus, in the majority of the localities lacking approved updated outline plan, detailed plans were, and are, promoted continually in order to issue building permits.

Relevant Government Resolutions

199. For relevant GRs, see Annex II.

200. Druze and Circassian populations – The population of Druze and Circassians in Israel includes about 141,000 people in 22 localities. All these localities have approved updated outline plans, or are in the process of planning.

201. In accordance with Government Resolutions No. 2332 (December 14, 2014) and 959 (January 10, 2016), concerning the Development and Empowerment of the Druze and Circassian Localities for the Years 2016–2019, which include the preparation of detailed plans for localities of these populations, the National Planning Administration is promoting such detailed plans concerning private lands in 13 localities.

202. Affordable Housing – The Ministry of Construction and Housing (MoCH) has established a special website in Arabic containing the information presented in the Hebrew website and additional information designated for the Arab population. Such information covers the governmental program for affordable housing ("A Price for Residents"), the procedure for participating and upgrading participation in the program, financial benefits, the technical specifications of the available apartments, etc.

203. Furthermore, in 2015–2016, the MoCH widely published campaigns aimed at the Arab population through advertising "A Price for Residents" projects in Nazareth and Sakhnin. The MoCH continues to operate to promote linguistic accessibility for the Arab population.

Planning in the Eastern Neighborhoods of Jerusalem (ENoJ)

204. The new outline plan for the city of Jerusalem, which is currently under approval procedures, determines the planning policy in all of the city's neighborhoods and jurisdictions areas. This plan incorporates two (2) mechanisms in order to expand the residential building percentage in the ENoJ.

205. The first mechanism is an expansion of the residential building percentage in all the approved residential areas in the ENoJ. Currently the approved residential building percentage in these neighborhoods is between 37% to 70%, of permitted building from the overall size of the plot, while the new outline plan increases this percentage up to 180% (by allowing multi-story building), which, under certain conditions, may even reach 240%. According to the new outline plan in the boundaries of the Old City, the additional building rights may only reach 160%. Since 2005, hundreds of plans that are compatible with the abovementioned outline plan have been promoted, considerably expanding the residential building rights in the ENoJ.

206. In addition, the new plan sets 14 new polygons titled "proposed urban residential areas". The plans for some of these polygons are promoted by either the Jerusalem Municipality or the residents themselves. Hereinafter are several examples: a master plan for A-Swahra (2,500 residential units) and a detailed-plan for Dir Al-Amud and Al-Muntar (750 residential units) are promoted by the Municipality, a detailed-plan for Ein-Iluza (1,000 residential units) is promoted by the residents and an outline plan for Tel-Adessa

(2,500 residential units) is promoted by the residents. Note that every plan that is filed in accordance to the policy of the new Jerusalem outline plan receives the support of the planning institutions.

207. In the frame of every master plan promoted by the Jerusalem municipality, there is a structured procedure of public participation throughout all the planning stages.

208. The Jerusalem municipality, *via* the local committee for planning and construction, issues building permits in the ENoJ similar to any other area in the city. Following the submission of building permits applications, these applications are examined and if they correlate with the approved outline plans, a permit is issued. In 2019 (until mid July), 102 construction permits were given in the ENoJ out of 173 applications. In 2018, 184 construction permits were granted out of 331 applications and in 2017, 115 such permits were granted.

209. For relevant case law, see Annex II.

Educational Initiatives in the ENoJ

210. For information on GR No. 3790 (April 13, 2018) on the mitigation of social and economic gaps and the economic development of ENoJ, regarding education in the ENoJ, and information on the number of Classrooms under construction in the ENoJ, see Annex II.

Demolition of Illegal Structures

211. Illegal construction harms the local population, as it does not take into consideration planning policies and parameters that are required to ensure quality of life, the welfare of the population and public needs, and in many cases prevent the option of optimal development of the neighborhood (e.g. by building on future planned roads, public building plots etc.). Enforcement measures against illegal structures are taken in accordance with legal guarantees and following due process, subject to judicial review and the right to appeal.

C. The Bedouin Population

General

212. Bedouin population – There are more than 250,000 Bedouins living in the Negev desert area. About 76% of them live in urban and suburban centers which have been legally planned and constructed. The remaining 24% reside in hundreds of unauthorized and unregulated clusters mainly within the Al-Qasoum and Neve Midbar regional authorities. These clusters spread over roughly 500,000 dunams (500 Sq. Km), obstructing urban expansion in the greater Negev area and the common good of all Bedouin population.

Planning for the Bedouin population

213. There are 18 Bedouin localities with approved outline plans, including the city of Rahat, Lakiya, Hura, Kuseife, Tel-Sheva, Segev Shalom and Ar'ara. All of these plans include infrastructure such as schools, health clinics, running water, electricity, roads, pavements, etc. Additional 11 localities that are under the jurisdiction of the Neve Midbar and A-Kasum Regional Councils also have approved outline plans.

214. In addition, the planning procedures for six (6) additional localities are ongoing.

215. The strategic work of examining and setting rules for the planning of construction solutions for the Bedouin population in the Negev has been undertaken and completed. This process is conducted with the participation of the population in each region and with emphasis on land arrangement and a wide range of housing arrangements. For additional information, see Israel's 4th Periodic Report to the CESCR (p. 35).

216. Additional development plans are in process in several other Bedouin towns; Rahat, for example, will be approximately tripled in size (from 8,797 dunams (8.8 Sqr. KM) today to 22,767 dunams (22.8Sqr KM)). The project is estimated to cost approximately 500

Million NIS (135.13 Million USD). Other localities are also in the process of expansion, development of infrastructures and construction of industrial and employment areas.

217. The Government's current policy is to provide residence possibilities in the recognized localities. This is done either by encouraging relocation by offering financial and/or land incentives or by on-the spot regularization. Note that movement incentives are available to all residents of the Bedouin unauthorized who seek such movement, regardless of their economic situation and independently of any entitlement test. These benefits include, *inter alia*, provision of free of charge land plots or for a very low cost, and compensation for the demolition of unauthorized structures. On the spot regularization will enable a large majority of those currently residing in unrecognized areas to continue residing there in the future within regularized localities without the need to relocate anywhere else. Note that an unauthorized village with no acceptable planning prospects cannot be regulated.

218. For information on building plans for the Bedouin population (deposited and approved), see Annex I.

Demolition of Illegal Structures – Bedouin Population

219. Unauthorized building by some of the Bedouin population is carried out without any plans as required by the *Planning and Building Law* 5725-1965, and with no pre-approval by the planning authorities. It causes many difficulties in terms of providing services to the residents of these unauthorized villages.

220. Israel cannot overlook such disregard to the planning and zoning rules and is compelled to issue demolition warrants for these unauthorized structures. Initially, a warning is granted to the person who constructed the structure, so he/she may challenge the demolition through the judicial process. If the person fails to overturn the demolition warrant, he/she is required to demolish the unauthorized structure. Only in cases where the unauthorized structure is not demolished by the person who constructed it, the authorities will act to demolish it. Note that enforcement activities are conducted only against structures that were constructed after 2010 and are found in areas that do not belong to any local authority. All enforcement activities are conducted in accordance with the law.

221. Note that in regard to 2016, 2017 and 2018, the majority of the illegal structures (more than 90%) that were demolished by the State authorities were not used for residence, but were makeshift structures such as animal sheds, huts, shipping containers, fences, concrete floors, iron scaffolding, dirt piles etc. Only a very small percent of the demolished structures were inhabited, since the owners of these illegal structures that were built on State land without permits as required by Law, did not adhere to stop work orders that were issued during the building period.

222. For relevant statistics and case law, see Annex II.

Reply to paragraph 23 of the list of issues

The Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003

223. In May 2002, following a horrendous wave of terrorist attacks against Israeli population, the Government decided to temporarily suspend granting individuals legal status in Israel through the process of family reunification, regarding individuals who live in an enemy state or in an area from which terrorist activity is emanated against Israel. Subsequently, the *Citizenship and Entry into Israel Law (Temporary Provision)* 5763-2003 was enacted in July 2003, limiting the possibility of granting residents of the West Bank and Gaza Israeli citizenship or permanent residency pursuant to the *Citizenship Law* or the *Entry into Israel Law*, including by means of family reunification. This, due to the fact that dozens of Palestinians that received such Israeli status for the purpose of family reunification, had used it in order to engage in terrorist activities. The wave of terrorist attacks that began in October 2015 has shown that status given for the purpose of family reunification is still being misused for terrorist activity.

224. That said, the possibility of family reunification remains available in accordance with the law, the PIA procedures and lack of security preventions. The Law sets several easements regarding population with low security risk, to which, subject to all the relevant examinations, family stay permit may be granted (for example, a male spouse over the age of 35, who is a resident of the West Bank, or to a female spouse over the age of 25, who is a resident of the West Bank, with their minor children).

225. In addition, The Law enables entry to Israel for the purposes of medical treatment, employment, or other temporary grounds, for an overall period of up to six (6) months. In addition, the Law allows the granting of a temporary residence permit or a stay permit for humanitarian reasons or if he/she identifies with the State of Israel and its goals and he/she has significantly acted for the promotion of state' security, economy or another important matter of the state, or for another special state interest.

226. The Law's constitutionality has been scrutinized and upheld by the majority of the Supreme Court sitting twice in an extended panel of eleven (11) judges for the second time in January 2012. (H.C.J. 466/07, 544/07, 830/07, 5030/07 *MK Zehava Galon et. al. v. The Minister of Interior et. al.*).

227. The Law was extended several times and was valid until June 30, 2019. Due to the Knesset's dispersal, the law was extended automatically until December 17, 2019.

228. Nevertheless, following statements of the Supreme Court, the Minister of Interior has decided on a number of changes aimed at providing humanitarian relief for those to whom the Law applies. The Government gave notification that holders of temporary residency (A/5) visas will be able to extend the visa for a period of two (2) years, instead of one (1) year at a time.

229. In addition, the Government notified the Court that holders of temporary permits for stay in Israel granted by the Coordinator of Government Activities in the Territories (COGAT), whose family reunification applications were filed before the end of 2003 (the year the Temporary Provision was enacted) and there is no security prevention, would be granted temporary residence. This status includes registration in the Population Registry, entitlement to social security benefits and national health insurance for them and their minor children who were born after January 1998. They will also receive an Israeli identity document. This upgrade will be made available to persons who comply with several standard criteria (namely, that their marriage is an authentic and sincere one, that they live in Israel and that there are no security or criminal impediments to the upgrade).

230. For relevant statistics, see Annex I. for relevant case law, see Annex II.

231. In regards to health care, the National Health Insurance Regulations (Registration to a Health Fund, Rights and Obligations of Persons Who Receive a Permit Pursuant to the Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003) 5776-2016, which entered into force on August 1, 2016, established a health insurance that includes similar health services (according to different provisions) to those set by the National Health insurance Law relating to persons who hold temporary stay permits pursuant to Sections 3, 3A(2) or 3A1(a)(2) of the Citizenship and Entry into Israel Law.

Freedom of expression, assembly and association

Reply to paragraph 24 of the list of issues

A. The Entry into Israel Law 5712-1952

232. As a general rule, a person who is not an Israeli national does not have a vested right, or any constitutional right, to enter the State. The principle of sovereignty dictates that entry and stay in a state and the control of its national borders is subject to the state's discretion.

233. On March 6, 2017, the Israeli Knesset amended the *Entry into Israel Law* 5712-1952 (Amendment No. 28). According to this amendment, a person who is not an Israeli citizen or a permanent resident will not be granted a visa or any residency permit, if she/he or the

organization or body that she/he acts on its behalf, has knowingly published a public call to boycott Israel, as defined under the *Prevention of Damage to State of Israel through Boycott Law* 5771-2011, or if she/he has made a commitment to participate in such boycott. According to this amendment, the Minister of Interior has discretion to grant a visa or a residency permit despite this provision, under special grounds that will be noted.

234. In July 2017, The Population and Immigration Authority (PIA) published criteria that clarify the kind of organizations that this amendment refers to. The criteria clarifies that the Amendment refers to an organization that actively, consistently and continually supports and promotes a boycott of Israel; activist which hold high-ranking positions in such organizations; and prominent independent activists who take substantial, consistent and continuous action for the promotion of boycotts and similar activity against the State of Israel. An organization that is merely promoting a critical agenda against Israeli policy would not be banned from entering the State. As noted above, additional criteria were also set for exceptional cases of activists which although fall under the definition, their entry will be considered by the Minister of Interior. The Ministers' decisions under this law are subject to possible judicial review.

235. For additional relevant case law, including concerning Ms. Lara Alqasem and Mr. Omar Shakir, see Annex II.

236. Due to the lack of any constitutional right of non-nationals to enter Israel, claims raised that Amendment No. 28 breaches the constitutional rights of foreign nationals, including freedom of thought, opinion and speech, are unfounded.

237. For statistical data on the number of persons who were denied entry into Israel pursuant to this Amendment, see Annex I.

238. A petition regarding the constitutionality of the Amendment was filed to the HCJ. On February 28, 2018, after hearing comments made by the Court and after consulting with his attorney, the petitioners retracted their petition without prejudice. (H.C.J 3965/17 *Prof. Alon Harel et. al. vs. The Knesset et. al* (28.2.18)). For additional relevant case law, see Annex II.

B. Disclosure Requirements Concerning Beneficiaries of Donations by a Foreign Political Entity Law 5771–2011 (Hereinafter: "the Disclosure Requirement Law")

239. In 2016, an Amendment to the *Disclosure Requirement Law* introduces quarterly and annual reporting requirements to the Registrar of Non-profit Organizations applicable to non-profit organizations and charitable companies that receive contributions from foreign states, federations of states, and state-affiliated entities (hereinafter: "foreign political entities").

240. The quarterly report must include the identity of the contributor, the amount of the contribution, the purposes of the contribution, and the terms of the contribution. Quarterly reports submitted to the Registrar, as well as a list of beneficiaries that submitted such a report, are available on line. Failure to submit quarterly reports constitutes, in the case of a non-profit organization, a strict liability offense according to Section 64A of the *Non-profit Organization Law* 5740–1980, warranting a maximum fine of 29,200 NIS (7,900 USD), and in the case of a charitable company, an administrative offence warranting a fine of roughly 7,500 NIS (2,000 USD).

241. In addition to reporting requirements, the Law also requires the aforementioned organizations and companies to (a) publish the information included in their quarterly reports on their website, and, (b) when a foreign political entity provided funding designated specifically for a special public campaign, to publish the fact of the donation on the campaign.

242. According to the Amendment No. 1 to the law (detailed below), this reporting requirement applies only to donations that were made from 2017 onward. As of July 2019, 26 non-profit organizations filed reports on such foreign donations for 2017 and 20 organizations reported for 2018, respectively. As required by the law the details are published on the Registrar's website. Additional reports are expected to be filed during 2019.

243. Note that this legislation does not place any limits on the funding of NGOs, does not discriminate between NGOs and does not place any limit or restrictions on the activity of NGOs or their freedom of association.

Disclosure Requirements Concerning Beneficiaries of Donations by a Foreign Political Entity Law (Amendment-Increasing the Transparency of Donations from a Foreign Political Entity to Beneficiaries whose Primary Funding is from Contributions by a Foreign Political Entity) 5776-2016

244. This amendment aims to further enhance transparency with respect to those non-profit organizations and charitable companies whose primary source of funding is foreign political entity.

245. According to the amendment, non-profit organizations and charitable companies that receive the majority of their funding from foreign political entities within a given reporting year, are required to clearly indicate this fact in publications directed towards the public, including in publications appearing on billboards, television, newspaper, a website homepage, or internet campaigns. With respect to written reports prepared by the organization/company that are designated for a public audience, there is an additional requirement to provide a written notice to the reader that the names of the foreign political entity funders can be found on the Registrar's website.

246. The Amendment also introduces enhanced transparency requirements in such beneficiaries' interactions with public and elected officials. Letters or emails sent by such beneficiaries to public and elected officials on matters relating to the official's professional duties must mention the fact that the majority of their funding comes from foreign political entities. A representative of such a beneficiary wishing to participate actively in a Knesset Committee session must inform the chairperson of the committee that she/he is a representative of a beneficiary within the meaning of the amendment prior to the session, and if there was no opportunity to do so, then during its course. If, during the session, a representative is asked by a Member of Knesset (MK) whether she/he is a representative of a beneficiary within the meaning of the amendment, the representative is required to respond.

247. A violation of the aforementioned transparency requirements regarding publications and written correspondence with public and elected officials constitutes a strict liability offense in the case of non-profit organizations and an administrative offense in the case of public companies, warranting the aforementioned fines.

248. This amendment was approved by the Knesset plenary on July 12, 2016. Its application began on January 1, 2017.

249. The Law, whether in its previous or amended form, does not impose restrictions on the ability of civil society organizations to raise funds in support of their activities. Rather, it aims to enhance transparency with respect to non-profit organizations and charitable companies whose primary source of financing is from foreign political entities.

C. Human Rights Defenders and Aspects Regarding Freedom of Expression and Association in Israel

250. Israel has a very active civil society, with hundreds of NGOs active in a large number of issues, including human rights issues. Israel values such organizations that advance and promote human rights.

251. For information on Israel's constructive discourse with different NGOs, see Question no. 3, above.

252. The State of Israel, as a democratic society, places no legal restrictions on the right of organizations to engage in activities for the promotion and observance of human rights, which fully enjoy the freedom to associate and to pursue their various aims, according to the applicable law.

253. Accordingly, every person and every organization in Israel enjoy the freedom of assembly. The right of assembly was recognized in the Israeli legal system as a basic right,

which either derives from or stands alongside the right to freedom of expression. The Supreme Court has recognized it as a fundamental right of the Israeli legal system and as a cornerstone of our democracy (H.C.J 148/79 *Sa'ar v. The Ministry of Interior and The Police*).

254. To enable the full exercise of this right, AG Guideline 3.1200, further requires the allocation of police forces with the objective of protecting the demonstration and its participants from any form of external harassment.

255. Note that every complaint regarding harassment of human right defenders is examined thoroughly by the relevant authorities.

256. The Police does not discriminate between different populations and acts with equality according to the powers vested in it by law.

257. For relevant case law, see Annex II.

D. Inflammatory Comments made by Government Ministers

258. Indeed, there have been a few cases in which a number of politicians have made in the past inflammatory comments regarding certain persons or populations.

259. The freedom of political opinion and of expression of a political nature has been rigorously defended by Israeli courts as essential to the existence of democracy. The Supreme Court has consistently upheld the principle that freedom of expression entails the freedom not only to express popular opinions, but also those which the majority despises,[9] as well as the freedom to criticize government action.[10] The Supreme Court has repeatedly held that freedom of political expression is entitled to the highest degree of protection.[11]

260. According to the Israeli law, a MK has substantive immunity against legal action in regard to any spoken or written expressions of opinion or in regard to any act carried out either within or outside the Knesset, if these actions were carried out in the course of fulfilling his/her duties, or in order to fulfill his/her duties as a MK. This Immunity is absolute and cannot be lifted.

261. Actions of a MK that are not in the course of fulfilling his/her duties, may be subject to criminal charges, with the authorization of the AG.

Reply to paragraph 25 of the list of issues

262. In regards to non-application of Human Rights Conventions in the West Bank, see Question 2(B) above.

Freedom of Expression

263. The right to freedom of expression has long been recognized as a supreme, constitutional norm in Israel, and any limitations on its exercise for reasons related to public interest, public order human rights or the rights and reputation of others must meet strict standards of scrutiny regarding their justification and scope. While *Basic Law: Human Dignity and Liberty* 1992, does not directly articulate the right to freedom of expression and opinion, the Supreme Court regards these rights as constitutional rights protected in this Basic Law.

264. Generally, freedom of expression may be restricted only if the speech in question gives rise to at least "near certainty" that the public peace, broadly construed, will be endangered, and only if other means to lessen the severity or the likelihood of such a violation of public peace are of no avail. (H.C.J. 73/53, *Kol Ha'am Ltd. v. The Minister of Interior*).

[9] E.A. 2,3/84, *Neiman* v. *Chair of the Central Elections Committee of the Eleventh Knesset*.
[10] H.C.J. 351/72, *Kenan* v. *Council for Review of Films and Plays.*
[11] See for example H.C. 6396/96, Zakin v. The Mayor of Be'er- Sheva.

265. Certain types of speech are expressly forbidden by Knesset legislation. For example, The *Denial of the Holocaust Prohibition Law* 5746-1986, prescribes a maximum punishment of five (5) years' imprisonment for publications which deny or minimize the extent of the crimes against the Jewish people and humanity committed during the Nazi regime in Germany, with the intent of defending perpetrators of such crimes or of praising or identifying with them. In addition, various provisions in the *Penal Law* prohibit seditious utterances, incitement to racism, insult of a public servant, and speech that is calculated to outrage the religious beliefs of others.

266. Note that according to Police' procedure No. 03.300.227, any decision on an investigation of a reporter concerning an offense related to his/her professional work and any search at the reporter's home require authorization of a Police officer in the national level and the State Attorney's Office and will be conducted according to a court order.

The Annulment of the Press Ordinance Law 5777-2017

267. This law annulled the *Press Ordinance* which was enacted in 1933 and greatly infringed upon the freedom of speech, an important milestone in the area of the freedom of expression.

268. The *Press Ordinance* was Mandatory legislation enacted in 1933, which set the requirement to receive a Government license in order to print and issue a newspaper. The Ordinance also established the Minister of Interior's authority to close a newspaper that published information which is likely to endanger the public peace. The Ordinance later became part of Israel's legal system.

269. Due to its restricting nature on the freedom of expression several petitions were filed against this Ordinance. Following a 2014 petition to the HCJ against this Ordinance by the Association for Civil Rights in Israel, in June 2016, the abovementioned bill was issued, and later approved by the Knesset. (H.C.J. 6175/14, *The Association for Civil Rights in Israel et. al. v. The Minister of Interior et. al.* (26.6.17)).

A Bill concerning the prohibition on photographing and documenting of IDF soldiers

270. In 2018, several Knesset Members issued a Bill titled "*A Bill to Amend the Penal Law (Amendment – Prohibition on Documentation of IDF Soldiers)*" 5778-2018. This bill is aimed at adding a new offence to the Law, according to which, filming, photographing or recording IDF soldiers carrying out their duty, and publishing the content, including on social media and media networks, when the recordings are made with the intention of undermining the spirit of IDF soldiers and Israel residents, will be considered an offence punishable with up to five (5) years imprisonment. Moreover, if the person making the recording or the publishers are acting with the intent to harm state's security, the offence is punishable by up to ten (10) years imprisonment. During the legislation process before the Ministers Legislation Committee (The "Committee"), the AG voiced his objection to this version of the bill and noted a significant concern that this bill will fail to achieve its objectives while causing harm to individual rights and liberties. Specifically having a chilling effect on the freedom of expression, which receives strong constitutional protection in Israel, and possibly significantly harming the freedom of the press and the public's right for information. The AG noted that he is of the opinion that this bill is therefore unconstitutional and should not be advanced as it is. Instead, a proposal was made to amend Section 275 to the *Penal Law*, concerning obstruction to a police person in the line of duty, so that it will also include an obstruction to an IDF soldier in the line of duty. According to the proposal, such an offence will be punishable with up to three (3) years imprisonment (instead of one (1) year imprisonment). On June 2018, the Committee rejected to the original wording of this bill and decided to approve the alternative version. This version was approved in a preliminary hearing. The Committee further decided that the matter of a minimum punishment will be discussed in a later stage before the Knesset's Constitution, Law and justice Committee. Due to the current elections, this bill was not brought before the Knesset Constitution, Law and justice Committee, and in order to renew its legislation process it should be resubmitted.

Freedom of conscience and religious belief

Reply to paragraph 26 of the list of issues

Conscientious Objection

271. Since its inception, the IDF has respected the freedom of conscience as a fundamental human right. In this regard, Section 36 of the Israeli *Defense Service Law* provides the Minister of Defense with the authority to exempt a person eligible for conscription, or a person who is a member of the IDF reserves forces, on the grounds of conscience.

272. Persons eligible for conscription under the *Defense Service Law* may submit a request for an exemption to the regional military conscription bureau.

273. Request which show *prima facie* substantial grounds for an exemption for reasons of conscience are brought before the Special Military Committee. The committee is headed by the IDF's Chief Enlistment Officer at a rank of a lieutenant colonel or higher and comprised of a representative of the human resources branch, an officer at a rank of captain or higher with psychological training from the behavior science branch, a legal advisor from the Military Advocate General's Corps, and a civilian representative, usually from the Academia. All of the committee members are independent in formulating their recommendation.

274. The committee examines the requests in accordance with the law and the jurisprudence of the HCJ. The applicant may present evidence and call upon witnesses before the committee, in order to support his/her request and has the right to be represented by an attorney throughout the proceedings.

275. The committee is authorized to grant an exemption or to deny the request. The committee is also authorized, in certain cases, to recommend certain leniencies and adjustments to the applicant's service, such as permission not to carry arms or to wear uniforms during his/her service, or assignment to a non-combat unit, so as to ensure the applicant's military service will meet, to the extent possible, the requirements of their conscience and personal beliefs.

276. Where an applicant's request has been denied, that applicant is obligated by law, as is every other eligible person, to complete the enlistment procedures and conduct his/her military service. In the event that such a person continues to attempt to avoid enlistment, the military authorities are provided with legal authority to take certain steps in order to enforce the enlistment.

277. In the event that such a person continues to disregard the orders given to him/her by his/her commander to complete the enlistment process, the military authorities may order disciplinary proceedings and even file a criminal indictment in a military court against him/her. Criminal proceedings are, of course, filed based on the person's disobedience of a lawful order, rather than on the basis of their particular political views.

278. For related case law, see Annex II.

Right to take part in the conduct of public affairs

Reply to paragraph 27 of the list of issues

A. Amendment No. 62 to the Knesset Elections Law

279. Every four (4) years Israel holds general elections for the Knesset. According to Section 4 of *Basic Law: The Knesset*, these election are to be general, national, direct, equal, secret and proportional to the total number of votes. According to these principles, every Israeli citizen over the age of 18 (with few exceptions), present in the country on the day of elections, has the right to vote freely. One hundred (100) persons or more who are Israeli

citizens and residents may establish a party by registration, and every Israeli citizen that on the date of serving the party's list is over the age of 21 has the right to run and be elected in the democratic elections for the Knesset. Knesset seats are assigned in proportion to each party's percentage of the total national vote.

280. In March 2014, the Knesset approved Amendment No. 62 to the *Knesset Elections Law*. In the scope of this amendment, the electoral threshold for political parties to be elected to the Knesset was raised from 2% to 3.25%. In the explanatory notes for this amendment, the Knesset notes that the purpose of this threshold is to reduce the number of political parties represented in the Knesset by preventing the representation of very small parties and encouraging them to unite with other parties in one electoral list. The explanatory notes further state that such a rate for this threshold is common in other countries as well, and that several parties may run in a unified list, but still remain separate parties in the Knesset, provided that an advanced notice is provided to the Knesset Chairperson.

281. Minorities vote for Knesset lists (political parties) along with the entire political spectrum. In addition, Arab political parties have been consistently represented in the Knesset, as is the case in the current 21th Knesset. As of October 2019 (22th Knesset), there are 14 Arab Knesset Members (note that the total representation of the Arab population stands on 15 MK as MK Ofer Cassif was also entered the Knesset via the Joint Arab List Party. Of the 14 Arab MK, one (1) is Bedouin MK and three (3) are Druze MK. Also note that three of the Arab MKs are women. As of July 2019, (21st Knesset), there are 13 Arab MKs, of whom Eight (8) are Arab MK, two (2) are Druze and one (1) Jewish MK (including three (3) women). As of January 2019 (20th Knesset), there are 18 Arab Knesset Members, three (3) of whom are Druze, and three (3) are Bedouin MKs (two (2) of whom are women).

282. For information on two (2) petitions that were filed to the HCJ against this Amendment No. 62, see Annex II.

B. Amendment No. 44 to The Basic Law: The Knesset (Dismissal of a Knesset Member in accordance with Section 7A) 5777-2016

283. The right to vote and to be elected are of the most important rights in a democratic state, as they implement the public right to be represented in the House of Representatives, and express the fact that the electing public has legitimate positions that deserve to be heard be involved in the political discourse of shaping policy in the country. For this reason, the restrictions on this right should be reduced to minimum, and they must protect vital interests. In the past, the Knesset established within *Basic Law:* The Knesset, limitations on candidates and Knesset members in order to preserve the public's trust in the Knesset. Along with these restrictions, the Knesset, in section 7A of the *Basic Law*, established the right of democracy to protect itself against those who attempt to exploit the democratic tools in order to deny the very existence of the state or to violate its basic principles (see below). However, up until this Amendment, these limitations did not allow for the dismissal or suspension of the elected Knesset member.

284. This Amendment authorizes the Knesset to decide on the dismissal of a Knesset member from his/her tenure in the Knesset, if he/she acted, expressly or implicitly to incite to racism or in order to support an armed conflict, by of an enemy state or a terrorist organization, against the State of Israel. The proposed dismissal is dependent upon the approval of 90 Knesset Members in the Knesset Plenary, and can only be brought to a vote after it was approved by a three quarters (3/4) majority of the Knesset Committee, upon a request of 70 Knesset members (ten (10) of which are not obligated to agreements requiring their support to the Government).

285. The dismissed Knesset member has the right to appeal such decision to the Supreme Court.

286. Two (2) petitions were filed to the HCJ against the constitutionality of this Amendment. On May 2018, the Court affirmed this Amendment and rejected both of these petitions. The Court stated, *inter alia*, that although this amendment entails substantial infringement to basic rights, it does not infringe the Israel's basic principles. The Court

added that due to the purposes of this Amendment and the checks and balances prescribed therein, it does not negate Israel's core democratic identity. (H.C.J. 5744/*16 Adv. Shahar Ben Meir v. The Knesset et. al.* (27.5.18)).

C. Amendment No. 46 to *The Basic Law: The Knesset* 5777-2017

287. On March 14, 2017, the Knesset approved Amendment 46 to Section 7A(a) to the *Basic Law: The Knesset*. According to the previous version of the Section, a list of candidates will not participate in an elections to the Knesset, and no person shall be nominated in such elections, if the list's goals or actions or the acts of the person, as the case may be, include, specifically or implicitly, one of those: (1) the negation of the existence of the State of Israel as a Jewish and democratic state, (2) incitement to racism, (3) support in an armed struggle of an enemy state or a terrorist organization against the State of Israel. Amendment No. 46 added the possibility of preventing a person from being nominated in such election statements made by this person include one (1) or more of the three (3) prohibitions noted in this section. Note that this Amendment does not discriminate in its application against specific person or population, nor it refers only certain political side.

288. For relevant case law on political expression of Knesset Members, see Annex II.

289. For information about Arab representation in the 20th, 21st and 22nd Knessets and key roles in the 20th Knesset, see Annex I.

Dissemination of information relating to the Covenant

Reply to paragraph 28 of the list of issues

290. Since the submission of Israel's Fourth Periodic Report, the following measures have been taken to further disseminate the Covenant and related human rights issues among judges, lawyers and prosecutors.

291. For training of judges and lawyers on human rights, see Question 1 above.

292. Dissemination of Human Rights Conventions – see Israel's 4th periodic report (p. 7).

293. For information on cooperation with civil society organizations, see Question 3 above.

United Nations CCPR/C/PSE/1

International Covenant on Civil and Political Rights

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Human Rights Committee

Initial report submitted by the State of Palestine under article 40 of the Covenant, due in 2015*

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Introduction

1. The State of Palestine acceded to the International Covenant on Civil and Political Rights on 1 April 2014, without entering any reservations. The drafting of the present report – which is the first official report of the State of Palestine under this instrument – demonstrates the desire of the State to implement the Covenant at the national level and to fulfil its obligations under article 40. The report describes national measures, frameworks and procedures particularly as concerns the legislative, judicial, administrative and regulatory issues involved in the implementation of the Covenant, as well as factors and difficulties that affect its implementation.

2. The report explains the current status of the rights enshrined in the Covenant in the light of the long-standing Israeli colonialist occupation, the grievous crimes and violations associated therewith, the systematic and widespread practices and policies, as well as the attempts by the occupying power to enact a far-reaching body of laws, military orders and illegal racist policies that seek to consolidate the Israeli colonialist regime. This is the main obstacle preventing the Palestinian people from enjoying their fundamental and inalienable rights, chief among which is the right to self-determination.

3. The present report was prepared by a standing committee made up of the competent government bodies, in cooperation with relevant civil society institutions. In drafting the report, the State of Palestine drew from the provisions of the Covenant itself as well as from guidelines and general comments issued by the Human Rights Committee. In a spirit of partnership and national dialogue, the first draft of the report was sent to civil society institutions which then participated in comprehensive consultations at the national level in the State of Palestine including the West Bank, Jerusalem and the Gaza Strip. The constructive comments made served to enhance the report. In addition to this, the preparation of the report coincided with the development of the fourth national development plan, which is consistent with the obligations of the State of Palestine under the United Nations Agenda for Sustainable Development, of which civil and political rights are a part.

4. The State of Palestine wishes to make it plain that nothing in the present report exempts Israel, the occupying power, from its legal responsibilities under international law, particularly international humanitarian law, international human rights law and the advisory opinion given by the International Court of Justice in 2004 on the legal consequences of the construction of a wall in the Occupied Palestinian Territory. This includes a requirement upon Israel, as the occupying power, to respect the Covenant and to apply it to Palestinians. Moreover, the report in no way affects the right of the Palestinian people to exercise their immovable and inalienable historical rights, particularly the right to self-determination, return and independence.

Article 1

5. For more than 10,000 years the Palestinian people have uninterruptedly been born, grown and lived in the land of their ancestors, Palestine. During that time, they have preserved their national identity and their immovable right to self-determination along with other inalienable rights. Despite the historical injustice they have suffered, the unlawful and long-standing Israeli occupation and the denial of their right to self-determination and independence, the Palestinian people remain wedded to all their rights as recognized under international treaties and conventions as well as under resolutions concerning people's right to self-determination – and in particular the Palestinian people's right to self-determination – of the United Nations, international institutions, the Human Rights Council and the General Assembly as well as under resolutions 181 (1947) and 194 (1948) and under Security Council resolutions 242 (1967), 338 (1973) up to and including 2334 (2016).

6. The Palestine Liberation Organization (PLO) was established as an inclusive political framework and the sole legitimate representative of the Palestinian people, recognized at the level of the United Nations and internationally. It has guided the Palestinian people on their journey towards the realization of their inalienable rights, notably the right to self-determination, the right of return and the independence of the State of Palestine with

Jerusalem as its capital, on the basis of the natural, historical and legal right of the Palestinian Arab people to their homeland, Palestine.

7. The Palestinian National Council (PNC) adopted the National Charter and the PLO Statutes as the two supreme constitutional documents underpinning the Palestinian people's exercise of their right to self-determination. The Charter regulates the operations of the National Council as a representative institution for the Palestinian people and the highest legislative authority, and it envisages an executive body in the form of the Executive Committee.

8. The State of Palestine recognizes the right to self-determination for all, as proclaimed in the Declaration of Independence, which is an expression of the national will of Palestinians as represented by the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people.

9. The Declaration of Independence, which is a constitutional and foundational document, emphasizes the commitment of the State of Palestine to the principles and objectives of the United Nations and to the Universal Declaration of Human Rights. It further stipulates: "State of Palestine is the State of Palestinians wherever they may be. Therein they shall develop their national and cultural identity, enjoy full equality of rights, and have their religious and political beliefs and human dignity safeguarded under a democratic parliamentary system based on freedom of opinion; freedom to form parties; respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour, or between men and women, under a constitution that ensures the rule of law and an independent judiciary, in full consistency with the age-old spiritual and cultural heritage of Palestine embodying tolerance and religious coexistence."

10. The Palestinian Government promulgated the Palestinian Basic Law in 2001 (amended in 2003) to create a transitional document guaranteeing the fundamental rights and principles that enable the Palestinian people to exercise their right to self-determination and that enable the political process to achieve that end, until the adoption of an official constitution for the State of Palestine.

The Palestinian Basic Law, as amended in 2003, contains a body of articles intended to fulfil the Palestinian people's right to self-determination. These include:

- Article 2, which states that the people are the source of authority;
- Article 5, which stipulates that the system of governance in the State of Palestine is to be democratic;
- Article 26, which affirms the right of Palestinians to participate in the political process.

11. The Basic Law includes a raft of provisions relating to political participation and the democratic system of governance, such as the election of the Head of State (art. 34); the election of members of the Legislative Council and the definition of its role (art. 47); and the composition of the Legislative Council (art. 48). These measures are intended to fulfil the right to self-determination and the principle according to which the people are the source of authority. The Basic Law goes on to define certain components of the Palestinian political process; for example, in article 63 which defines the Council of Ministers as the basic executive organ of government.

Laws have been passed to regulate the mechanisms and means whereby the elective political process is conducted:

- Local Council Election Act No. 10 of 2005;
- Decree-Law No. 1 of 2007, which regulates general (presidential and legislative) elections.

The domestic laws of the State of Palestine address the importance of involving women in the political process and set quotas for them.

12. The first legislative and presidential elections were held in 1996. In 2005, voters were again called to the urns to elect a President, and a new Legislative Council was elected in 2006. The division of Palestinians and the refusal of Israel, the occupying power, to allow the electoral process in occupied Jerusalem has prevented further legislative and presidential elections from being held.

Exercising the right to self-determination under occupation

13. Israel, the occupying power, constitutes the fundamental obstacle in this connection and it works to prevent the Palestinian people from exercising their rights. In this it receives support and encouragement from parties intent upon undermining the international multilateral system, a system founded on laws and rights, and upon preventing the establishment of a democratic and equitable international order in which peoples, including the Palestinian people, can fulfil their inalienable rights. Chief among those rights is the right to self-determination, independence and return for Palestine refugees on the basis of General Assembly resolution 194, as well as the right to economic, social and cultural development.

14. The Government of the Israeli occupation continues to set up a colonialist system based on racist laws that deprive the Palestinian people of the right to self-determination and steal large portions of land for the construction of the wall and of illegal settlements. Furthermore, the occupying forces deliberately carry out arbitrary arrests and prosecute Palestinians in sham courts that lack minimum fair trial guarantees. The International Court of Justice, for its part, has also stated that the wall of expansion and annexation, and the system underpinning it, constitute a serious violation of the right to self-determination of the Palestinian people.

15. The Israeli system of expansion and colonialism over occupied Palestinian land is the principal cause hindering the Palestinian people’s exercise of natural and legal sovereignty over their own territory and resources. The occupying authorities disrupt the development of the Palestinian people and make constant structural changes to prevent Palestinians from enjoying their rights and their resources.

16. Israel, the occupying power, has been imposing a military and economic blockade on the Gaza Strip since 2007 and has been responsible for repeated military incursions and the destruction those incursions have wreaked. Moreover, the occupying authorities prohibit the entry of basic supplies, including foodstuffs, into the Gaza Strip and their repeated acts of aggression have not only killed and injured thousands of Palestinians but have damaged the environment and provoked a humanitarian crisis. The amount of groundwater suitable for human consumption has dropped to just 5 per cent of available groundwater supplies leading to concerns among United Nations agencies and others that the Gaza Strip will not be viable for life by 2020.

17. The occupying authorities continue to prevent millions of Palestine refugees from fulfilling their right and their desire to return to the homeland from which they were displaced, in accordance with General Assembly resolution 194 (1948).

18. Since its illegal annexation of Jerusalem, Israel, the occupying power, has been taking steps which it describes as “legal” or “administrative” but which are in fact racist measures that aim to change the legal condition and status of the occupied city. In this connection, it carries out acts of ethnic cleansing, seizes lands and property, forcibly evicts Palestinians, destroys their homes, breaks up their families and restricts residency. The purpose of this is to empty Jerusalem of its original Palestinian inhabitants and alter the demographic makeup of the city.

19. The unlawful policies and practices of Israel have impeded the Palestinian people’s right to an independent and geographically contiguous State of Palestine, with Jerusalem as its capital, a State where life is viable and which is able to develop economically, socially and culturally. They have likewise impeded the ability of the Palestinian Government to adopt and implement national policies in various areas of life. Nonetheless, attempts at national reconciliation have continued with a view to ending the division among Palestinians, and efforts are ongoing to put an end to the occupation and to ensure that the Palestinian people can exercise their right to self-determination and their natural and legal sovereignty over their own land.

Sustainable development and the right to self-determination

20. Despite the colonialist occupation policies that seek to undermine the developmental efforts of the State of Palestine, sustainable development nonetheless lies at the core of the vision of self-determination held by the leaders and government of the Palestinian people. This includes the right to dispose of natural resources as sovereign rights holders and the economic, social and cultural empowerment of citizens. This position of the State of Palestine has been expressed through its commitment to the 2030 Agenda for Sustainable Development; its adherence to the Rio Declaration and the principles enshrined therein concerning the rights to self-determination and development of peoples under foreign occupation; and its unreserved accession to human rights treaties. In fact, the Government of the State of Palestine believes that sovereignty over natural resources, enjoyment of the benefits of sustainable development and not being left behind are among the most important aspects of the exercise of the right to self-determination.

Article 2

Institutional measures

21. The State of Palestine cherishes a firm belief in the need to build a society where the principles of international law and of human rights can take root, just as it believes in protecting those rights against any violation or abuse. Palestine has taken a number of legislative measures and has rolled out measures and policies to help promote, develop and uphold human rights. In 2014, having acquired the status of non-member observer State of the United Nations, Palestine acceded to seven of the core human rights treaties.

22. In May 2014, the President of the State of Palestine issued a decree for the formation of a ministerial-level standing national committee to follow up on the obligations incurred by the State following its accession to international institutions, charters, covenants and protocols. The committee is chaired by the Ministry of Foreign Affairs and Migrants with members drawn from other ministries and competent institutions, and with the Independent Commission for Human Rights acting as observer. The ministerial-level committee established a subcommittee of technical experts as well as a subcommittee to harmonize domestic legislation with international treaties and to consolidate the status of the latter in the domestic legal panorama. These various committees are currently being formed and trained in order to ensure that human rights have a firm footing in all national institutions.

23. A department for international treaties has been set up inside the Ministry of Foreign Affairs and Migrants to strengthen human rights and implement measures aimed at fulfilling obligations arising from the accession of the State of Palestine to international treaties. Palestine has submitted initial reports under the human rights treaties to which it has acceded and has received a body of recommendations, which is acting to implement in line with its own national mechanisms.

24. The State of Palestine has incorporated the obligations arising from its accession to international treaties into its “Citizen First” national policy agenda for the years 2017–2022 and into its sectoral and intersectoral strategies, all of which together constitute the fourth national development plan and are consistent with the United Nations 2030 Sustainable Development Goals.

25. The State of Palestine has announced its commitment to the United Nations Agenda for Sustainable Development and, via a high-level committee on sustainable development, submitted its voluntary national review on the implementation of the Agenda to the high-level political forum on sustainable development. The review was discussed before the General Assembly of the United Nations in 2018.

Legislative measures

Incorporation of the Convention in the domestic legal order

26. The Declaration of Independence, the highest constitutional reference of the State of Palestine, sets forth the legal grounds for adherence to the Universal Declaration of Human

Rights, the International Bill of Human Rights and the principles of the United Nations. In addition to this, chapter II (entitled Public rights and freedoms) of the amended Basic Law also reaffirms the provisions enshrined in the Covenant. These include the right to personal freedom and security (arts. 11 and 12); the prohibition of coercion and torture (art. 13); the right to a fair trial (art. 14); the prohibition of medical experiments without legal consent (art. 16); the inviolability of private dwellings (art. 17); freedom of belief, worship and religious rites (art. 18); freedom of opinion and expression (art. 19); freedom of residence and movement (art. 20); the right to participate in political life, to form parties, trade unions and associations, to participate in elections and to hold meetings (art. 26); the right to establish newspapers and media outlets (art. 27); the prohibition of expulsion from, or denial of return to, the homeland and the prohibition of travel bans and of the deprivation of citizenship (art. 28); the obligation to care for children and mothers (art. 29); the right of recourse to law and of compensation for judicial errors (art. 30); and the right to compensation for harm resulting from violations of individual freedoms (art. 32). The Government of Palestine has introduced a number of legislative reforms since 1994 and has worked to enact a broad body of legislation and laws.

27. In the light of the different legislation and laws that have been imposed on the State of Palestine during various historical periods and for the purpose of laying the groundwork for a unified legal system and helping the State fulfil its obligations, the Supreme Constitutional Court issued its ruling No. 5/2017 interpreting article 10 of the amended Basic Law. That article reads: "Human rights and freedoms shall be protected and respected, and the State of Palestine shall work without delay to accede to regional and international declarations and treaties that protect human rights." The Court decreed that international treaties to which the State of Palestine has acceded are to take precedence over domestic law but to have a status inferior to that of the Declaration of Independence and the amended Basic Law. This is conditional upon the treaties in question having acquired force of law with the completion of the formal stages required for the issuance of a domestic law for their implementation. Thus, the domestic legal order rests on the duality of international and domestic law.

Legislative harmonization committee

28. On 7 March 2017 – acting on a decision of the national committee to follow up on the obligations incurred by the State following its accession to international institutions, charters, covenants and protocols – the Council of Ministers issued a decree for the formation of a legislative harmonization committee, to be headed by the Ministry of Justice. The task of the committee is to review existing laws and bills, and to decide on priorities vis-à-vis the updating or amendment of legislation to bring it into line with the international treaties to which the State of Palestine has acceded. The committee works in partnership with civil society institutions and the Independent Commission for Human Rights so as to ensure that the State of Palestine has a unified legal system that is consistent with international law.

Judicial remedies

29. The Declaration of Independence provides for equality and non-discrimination, under a constitution that guarantees rule of law and an independent judiciary. In the same vein, article 9 of the amended Basic Law states: "Palestinians shall be equal before the law and the courts, without distinction on the basis of race, sex, colour, religion, political views or disability."

30. The Palestinian judiciary is regulated by a set of peremptory norms and by the general principles of rule of law, equality, non-discrimination and judicial independence. The right of recourse to law is protected and guaranteed for all persons, and all Palestinians have the right to resort to their "natural judge", with legal procedures being regulated by law is such a way as to ensure the prompt settlement of cases. Court proceedings envisage two stages of judgment governed by the principles of good governance and of compensation for judicial errors. There is a dual court system:

- The regular courts, which deal with civil, criminal and administrative cases. These include the Supreme Court of Justice, which has the power to consider and adjudicate disputes relating to administrative decisions; therefore, it is competent to decree legal

protection for individuals who face any kind of discrimination from any government administrative body and to order the removal of that discrimination.

- The Supreme Constitutional Court which, under article 103 (1) of the amended Basic Law, has the power "to consider the constitutionality of laws and regulations etc., to interpret the provisions of the amended Basic Law and of domestic legislation and to adjudicate jurisdictional conflicts between judicial bodies and administrative bodies that have judicial jurisdiction".

Office of the Public Prosecution

31. The Office of the Public Prosecution is a division of the judiciary, its mandate set forth in the Code of Criminal Procedure (Act No. 3 of 2001). It alone is competent to launch and pursue criminal proceedings, and no other body may bring a criminal case. It is also the principal body responsible for conducting investigations and bringing charges. In addition, it has responsibility for enforcing sentences handed down in criminal cases and for bringing and pursuing disciplinary proceedings against judges and prosecutors. A number of specialized prosecution offices have been established in the Office of the Public Prosecution and a human rights unit has existed there since 2016. Under the law, the unit is responsible for following up on complaints received from the public and it works to ensure that human rights standards are incorporated into the Office's work.

Administrative remedies

32. Under Complaints Management System No. 8 of 2016, the general department for complaints within the Council of Ministers monitors the operation of complaints units in ministries, government bodies, governorate offices and security agencies, all of which receive complaints concerning the performance of the Government and its institutions from individual members of the public as well as from civil society groups. The general department for complaints and the complaints units undertake to provide a written reply to petitioners within a maximum of 30 days from the date a complaint was filed. The online complaints system for government institutions was consolidated in 2016. Other bodies also receive complaints, such as the legal affairs section of the Office of the President, the grievances and human rights office of the police and an online complaints department that receives complaints concerning the operation of the courts.

33. The Independent Commission for Human Rights (Bureau of Grievances), which was established under article 31 of the amended Basic Law, plays an important oversight role. Its mandate extends to cases involving human rights violations and complaints made by citizens; at the same time, it works to raise awareness about legal matters and it monitors national legislation and policies and the extent to which they are consistent with international human rights standards.

34. In addition to this, civil society institutions constitute important national mechanisms for the protection and promotion of human rights. Their mandates range from defending human rights, to advocating for the demands of specific groups such as women, children or persons with disabilities, to encouraging involvement in public life and elections.

Compensation

35. The right to compensation is enshrined in domestic legislation, first and foremost in the Basic Law, as amended, article 32 of which stipulates: "Any violation of any personal freedom, of the sanctity of the private life of human beings, or of any of the rights or liberties guaranteed under the Basic Law or any other law shall be considered a crime. Criminal and civil cases resulting from such violations shall not be subject to any statute of limitations. The National Authority shall guarantee just compensation to those who suffer harm in that connection." The issue of compensation is also addressed in the Civil Torts Act of 1944 while compensation for civil claimants is covered in the Code of Criminal Procedure.

36. Under article 106 of the amended Basic Law, court judgments are binding. Failing to enforce them or obstructing their enforcement in any way constitutes a crime punishable by imprisonment and – if the accused is a public official or anyone charged with public service

– dismissal. The prevailing party has the right to appeal directly to the competent court, and the Government is responsible for guaranteeing compensation.

37. The Code of Civil and Commercial Procedure (Act No. 2 of 2001) admits action against judges or prosecutors in the event that they conduct their work fraudulently or deceitfully, or commit a gross professional error that cannot be rectified, as well as in other cases where the law dictates that judges are responsible and liable for compensation.

Awareness-raising

Training

38. The Ministry of Foreign Affairs and Migrants and the Office of the United Nations High Commissioner for Human Rights (OHCHR), in coordination with relevant United Nations agencies and organizations, have developed and rolled out a training plan for national teams involved in the drafting of reports under the human rights treaties.

39. With a view to building the capacities of persons working in judicial service, several training courses on human rights were run between 2014 and 2020 for judges in regular and sharia courts, members of the Office of the Public Prosecution and law enforcement officials.

40. Thanks to coordination between the Ministry of Justice and the Ministry of Foreign Affairs and Migrants, a number of training courses on harmonization mechanisms have been held for members of the legislative harmonization committee.

Human Rights Day

41. Since acceding to international human rights treaties, the State of Palestine has been organizing annual activities as part of its commemorations of Human Rights Day. These activities – which take place through a partnership between the Ministry of Foreign Affairs and Migrants, the Ministry of Education and Higher Education, the Ministry of Justice, the Independent Commission for Human Rights, OHCHR and other partners – include the following:

- Supplying schools with posters bearing the Universal Declaration of Human Rights;
- Arranging for programmes to be broadcast on Palestinian television;
- Printing hundreds of leaflets with the Universal Declaration of Human Rights and the seven core human rights treaties to which the State of Palestine acceded in 2014; these have been distributed to ministries, government institutions and the governorates;
- Sending text messages containing rights-related information, in collaboration with Palestinian providers of mobile communication services and for a specified time period;
- Broadcasting films and conducting interviews regarding the human rights situation in Palestine.

Educational curricula

42. As per article 35 (1) of Decree-Law No. 8 of 2017 regarding public education, educational curricula for all stages of schooling are developed with a focus on the norms enshrined in national legislation and international human rights treaties. The State of Palestine has undertaken to introduce human rights principles into its school curricula, and the Ministry of Education has rolled out several programmes and projects aimed at raising awareness about human rights. They include:

- A citizenship programme encompassing activities and events on international human rights instruments;
- A programme to teach students about the concepts of human rights, international humanitarian law and related international instruments; this includes student meetings to discuss human rights violations in Palestine.

Publication of reports

43. The State of Palestine has sought to promote dialogue between the Government and civil society through national consultations to discuss the drafts of the initial reports prepared by official institutions for the human rights treaty bodies. The drafts are discussed and assessed with civil society and its views are then taken into account when drafting the final version of the reports. Moreover, the authorities form partnerships with civil society groups when drawing up plans to implement the recommendations made by the human rights treaty bodies.

44. Since Israel, the occupying power, bars civil society institutions in the Gaza Strip from accessing the West Bank just as it bars access to the Gaza Strip, two separate national consultative meetings were held on the present report: one in December 2017 at the Ministry of Foreign Affairs and Migrants with civil society institutions in the West Bank including those that operate in occupied Jerusalem; and another in March 2018 by videoconference at the Independent Commission for Human Rights with civil society institutions in the Gaza Strip. The consultations were attended by representatives from ministries of the State of Palestine and from civil society and human rights institutions working in the Occupied Palestinian Territory.

45. The final versions of the initial reports of the State of Palestine to the monitoring bodies established under the international human rights treaties have also been published on the website of the Ministry of Foreign Affairs and Migrants, as well as on the official website of all ministries concerned. Palestine undertakes to discuss its reports under the human rights treaties with the relevant treaty bodies and to follow up on the implementation of the concluding observations and recommendations those bodies make.

Equality and non-discrimination

46. The Declaration of Independence, which is the highest-ranking constitutional document of the State of Palestine, guarantees the fulfilment of rights and freedoms and decrees full and universal equality without discrimination. The Declaration also emphasizes the commitment of the State to the principles and objectives of the United Nations and to the Universal Declaration of Human Rights. Equality and non-discrimination are also enshrined in article 9 of the amended Basic Law, which states: “Palestinians shall be equal before the law and the courts, without distinction on the basis of race, sex, colour, religion, political views or disability.” As may be seen, the prohibition of discrimination is a general principle of supreme legal standing, which means that any legislation that does not take account thereof may be overturned on grounds of unconstitutionality by the Supreme Constitutional Court. Thus constitutional laws trace a legal pathway towards equality and non-discrimination.

47. Existing laws contain explicit provisions prohibiting discrimination and enjoining equality; for example, in legislation governing elections and the recognition of all citizens’ right to vote and to stand for election. In addition to this, the Civil Service Act No. 4 of 1998 and the Labour Code (Act No. 7 of 2000) both prohibit discrimination in working conditions between men and women. The Palestinian Children’s Act No. 7 of 2004 includes provisions to protect children against discrimination, while the Disability Rights Act No. 4 of 1999 guarantees the rights of persons with disabilities and protects them against all forms of discrimination.

48. Article 14 of the draft constitution of the State of Palestine of 2015 states: “All Palestinians are equal before the law, enjoy the same rights and have the duties prescribed by law, without distinction as to origin, race, sex, religion, social status, opinion or disability.”

49. The draft criminal code also envisages the criminalization of discriminatory acts, which it punishes by imprisonment and a fine. The text defines discrimination as: “Any differentiation among natural persons on the basis of national or social origin, colour, sex, family status, health status, disability, political opinion, trade union affiliation, or actual or presumed affiliation or non-affiliation with a race, nation, lineage or specific religion.”

50. A draft law on the protection of the family from violence includes a definition of discrimination against women that is consistent with the definition enshrined in the

Convention on the Elimination of All Forms of Discrimination against Women. The bill considers such discrimination to be a criminal offence and envisages appropriate penalties.

51. The political will and the commitment of the State of Palestine to prohibit all forms of discrimination, and to take all necessary measures in that connection, is well expressed in its accession to the Convention on the Elimination of All Forms of Discrimination against Women, to the International Convention on the Elimination of All Forms of Racial Discrimination, to the International Covenant on Civil and Political Rights, to the International Covenant on Economic, Social and Cultural Rights and to other international human rights treaties.

Challenges

52. Israel, the occupying power, geographically fragments the Occupied Palestinian Territory and attempts to destroy the Palestinian social fabric while subjecting Palestinians to a body of racist laws. Palestinians living in occupied Jerusalem are subject to the Permanent Residency Act while Palestinian civilians in the West Bank and Gaza Strip are subject to military law. At the same time, Israeli civil law is applied to Israeli colonists. Moreover, Israel continues to impose its policy of denying Palestinians – whether refugees or displaced persons living outside the Occupied Palestinian Territory – the right of return.

53. The report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, presented to the General Assembly in 2012, stated that: "Israel has created a regime of separation and discrimination, with two separate systems of law in Palestinian territory: one system applies to the settlers, and treats the settlements as de facto extensions of Israel and grants settlers the rights of citizens with the protections of a quasi-democratic State. In contrast, the Palestinians are subject to a system of military administration that deprives them of legal protection and the right to participate in shaping policies regarding the land in which they live. These separate systems reinforce a regime in which rights depend on national identity and citizenship. A dual system of roads, one for settlers and one for Palestinians, further entrenches the discriminatory separation between the two communities."

54. For its part, the Committee on the Elimination of Racial Discrimination has established that it has a mandate to consider complaints lodged by the State of Palestine against Israel, the occupying power, and its racist practices against the Palestinian people.

Foreigners

55. All laws that regulate rights and freedoms apply to citizens and foreigners without distinction, with the same limitations and the same guarantees. The State guarantees the right to take legal action and to have recourse to the courts, in line with the Declaration of Independence and the amended Basic Law, which recognize the principle of equality and the rule of law.

Article 3

56. To complement the legislative and policy measures adopted by the State of Palestine to prevent discrimination, as outlined above, additional legislative and policy measures have been adopted to ensure that women and men enjoy equal rights under the Covenant. They include:

Legislative measures

57. The Declaration of Independence states that women and men are equal in their enjoyment of all fundamental rights and freedoms, while the amended Basic Law envisages a number of general legal guarantees to ensure that women are able to exercise their right to equality, non-discrimination and equality of opportunity.

58. There is a supreme political will in favour of achieving equality between women and men, and this has translated into a body of legislative reforms and bills the purpose of which is to curb forms of behaviour that discriminate against women. One of these is the draft law

on the protection of the family from violence, which contains a definition of discrimination against women that is consistent with the Convention on the Elimination of All Forms of Discrimination against Women. Alongside the legislative harmonization committee, a committee for gender-fair legislation has also been created and a technical committee has been formed to review and update the system of laws governing personal and civil status. All these committees are working to review and draft legislation from a gender perspective and to bring it into line with international standards.

Policy measures

59. The Ministry of Women's Affairs was established in 2003 as a national institution for the advancement of women. Its purpose is to uphold the Government's commitment to formulating and implementing policies, strategies and measures to eliminate discrimination. At its inception, the Ministry adopted the Beijing Platform for Action.

60. Gender units have been reintroduced as part of the structure of governmental bodies, where they work to integrate gender-related issues into various sectors and to monitor government programmes and policies. There are units with special names, depending upon the nature of their activity: the "women's health development" in the Ministry of Health; the "general department for women's work" in the Ministry of Endowments; and the "unit for male and female statistics" in the Central Bureau of Statistics. The gender unit in the Ministry of Information is also working to institutionalize gender issues and to monitor, from a gender perspective, the laws, programming policies and plans that govern the media, broadcasting and production.

61. The Gender Policy Institute was established pursuant to a 2019 decree of the Council of Ministers. Its purpose is to produce studies and research that can be used as a foundation upon which to develop gender-equality policies.

62. In March 2018, the Council of Ministers issued decrees granting women the right to apply for passports and open bank accounts for their children and to take them to school.

63. At the level of national planning, the Palestinian government is working to include gender issues in national and sectoral policies and in general budgets. In that connection, the Government adopted its national development plan: "Building the State and Embodying Sovereignty 2014–2016", the priorities of which included greater protection for women, increased participation in the labour market and easier access to basic services. The Government also adopted its national policy agenda 2017–2022: "Citizen First" and its intersectoral plan for gender equality and justice 2017–2022.

64. A higher national committee was set up in 2012 for the implementation of Security Council resolution 1325 (2000) on women, peace and security. The committee aims to improve protection for women in the face of Israeli occupation and its members include governmental and non-governmental institutions, who represent the national coalition for the implementation of resolution 1325.

65. In 2010, most political parties signed a pledge to promote the involvement of Palestinian women in the political decision-making process, at a minimum level of 30 per cent. Among recent decisions taken by the Palestinian Central Council was one to roll out mechanisms for the implementation of that pledge and to bring domestic laws into line with the Convention on the Elimination of All Forms of Discrimination against Women.

66. Ever since 1996, gender has been incorporated into the surveys conducted by the Palestinian Central Bureau of Statistics, which now yield detailed gender-based data. The Bureau also has a national plan for monitoring sustainable development indicators 2030 and has conducted a survey on violence in Palestinian society between 2011 and 2019.

67. Civil society institutions that focus on women's activities also play an effective role as they seek to support and empower women in all fields. They work to promote community awareness about the rights and status of women and they play an important role in eradicating customs and practices that discriminate against women.

68. One expression of effective political will in this connection was the 2014 accession – with no reservations – of the State of Palestine to the Convention on the Elimination of All

Forms of Discrimination against Women. This represents a step forward in the national efforts to protect the rights of Palestinian women and to remove discriminatory provisions from existing legislation and policies. The State of Palestine submitted its initial report under the Convention in March 2017 and is currently in the process of implementing the concluding observations of the relevant treaty body.

69. The State of Palestine acceded to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2018, and to the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, the Convention on the Nationality of Married Women and the Convention on the Political Rights of Women in 2014. Moreover, as part of regional efforts towards the advancement of women, the State of Palestine joined the Arab Women Organization in 2003 and it ratified the statutes of the Women's Development Organization of the Organization of Islamic Cooperation, in 2013.

Public and private sector work

70. In the State of Palestine, labour is regulated by the Basic Law, as amended, and by the Civil Service Act No. 4 of 1998, as amended – as regards work in the public sector – and by the Labour Code of 2000 – as regards work in the private sector. These laws envisage equality between women and men as concerns the right to work, employment opportunities and wages. Quality of work is assessed using the same standards as those applied to the assessment of professional performance and promotion. These laws also respect women's right to have children and their right to paid maternity leave without any loss of seniority, benefits or promotion. As part of its plan of action, the legislative harmonization committee is reviewing amendments to the Public Pensions Act and the Civil Service Act, and is taking steps to ensure equal pay and pension rights. It is also reviewing the Labour Code to penalize discrimination and harassment in the workplace.

71. Although the involvement of women in the workforce has increased over recent years, it remains very low compared to that of men. In 2018, 21 per cent of all women of working age were participating in the workforce, as compared to 10 per cent in 2000. The comparable statistic for men in 2018 was 72 per cent. Moreover, there is a clear gap between the sexes in average daily wage, which for women is 92 shekels and for men 129 shekels, according to data collected by the Palestinian Central Bureau of Statistics. With a view to closing that gap, the harmonization committee is reviewing the Labour Code (Act No. 7 of 2000) to bring it into line with international standards and with recommendations of the Committee on the Elimination of Discrimination against Women regarding equal pay for men and women for work of equal value. For its part, the Ministry of Labour is increasing its oversight and sanctions to ensure that the law is duly applied.

Level of participation of women in political and public life

72. Statistics show that the number of women in positions of responsibility, in both the public and private sectors, as well as in parliament and in senior positions is low. Around 5 per cent of members of the Central Council and 11 per cent of the PLO National Council are women while the Executive Committee, which is the highest executive body in the Organization, has one woman.

73. The proportion of women on the Legislative Council increased after the 2006 elections, rising to 12.9 per cent, as compared to 5.6 per cent following the 1996 elections. Under Decree-Law No. 1 of 2007 regarding general elections, a "female quota" system was introduced as an interim special measure.

74. In the same way, Local Councils Act No. 10 of 2005 also envisages a "female quota" system. Nonetheless, the proportion of women in local elections, at the level both of candidacy and of electoral outcomes, remains very low, as the table below shows:

Election	*Proportion of female candidates*	*Proportion of successful female candidates*
2004–2005	19.2%	13.7%
2012	24.8%	21%
2017	26%	21%

75. As concerns student councils, despite an increase in the proportion of women in the student body of universities and colleges, prevailing societal norms still stand as a major obstacle to their participation. In fact, the proportional distribution of student council membership in Palestinian universities and institutes in the West Bank stood at 23.2 per cent female and 76.8 per cent male in 2015 and at 87.6 per cent male compared to 12.4 per cent female in 2016. There are no student councils at universities in Gaza with the exception of the Islamic University, which has two councils, one for males and one for females, each with 11 members.

76. Three women held ministerial posts during the eighteenth administration. Women also hold senior positions, such as head of the Palestinian Central Bureau of Statistics and head of the Bureau for Legal Advice and Legislation, while the governors of Ramallah and of Birah are women.

77. The number of female judges is increasing gradually, with four female sharia judges and two female officials authorized to conclude marriage contracts. The table below shows the number of judges in the State of Palestine in 2018:

	West Bank		*Gaza Strip*		*Palestine*	
Type of Court	*Male*	*Female*	*Male*	*Female*	*Male*	*Female*
Chief Qadi/Head of Supreme Court	1	0	0	0	1	0
Supreme Court	25	3	5	1	30	4
Court of Appeal	23	5	10	0	33	5
Court of first instance	64	9	8	1	72	10
Anti-corruption court	2	1	0	0	2	1
Magistrates' court	57	23	11	2	68	25
Total	**172**	**41**	**34**	**4**	**206**	**45**

78. There has been a tangible increase in the proportion of women holding positions in the Office of the Public Prosecution where, in 2018, 21 per cent of the members of the Office were women. Details are given in the table below:

	2016		*2017*		*2018*	
	Male	*Female*	*Male*	*Female*	*Male*	*Female*
Chief prosecutor	34	6	40	5	38	5
Deputy prosecutor	56	13	82	27	85	28
Assistant prosecutor	30	14	4	1	0	0

79. In 2019, 54 per cent of the staff of the Ministry of Foreign Affairs and Migrants were women. In addition, there were 12 women of ambassadorial rank, some holding influential international decision-making positions.

80. According to data from the Palestinian Central Bureau of Statistics, women accounted for 43 per cent of public sector workers in the State of Palestine in 2019, although the proportion of women decreases further up the ladder of the public administration, particularly as regards senior positions. In fact, women working in the civil service hold only around 12 per cent of posts at general-manager level and above. There has been no significant change in that figure, which stood at 11.7 per cent in 2015.

81. In 2017, women accounted for 33.3 per cent of editors-in-chief.

Combating domestic violence

82. As a complement to the process of legislative reform, ongoing efforts are being made to enact the decree-law to protect the family from violence, and to introduce legally binding and socially flexible provisions within a framework of norms to protect privacy and

confidentiality, which are necessary to obviate the risk of family disintegration. The draft decree-law will help to facilitate legal action, as all relevant cases are exempt from legal fees and are treated as urgent at every stage of proceedings. The bill defines all forms of violence and discrimination, and designates penalties for each, and it includes provision for protection orders for victims, children under guardianship, witnesses and anyone who provides assistance to a victim. In addition to this, the draft decree-law regulates the possibility of mediation in cases of minor offences or infractions. This possibility – which is admitted just once, with the approval of the parties and under the supervision of the Office of the Public Prosecution – does not impede a civil action from being brought before the competent court and, in the event of non-compliance with the mediation conditions, criminal proceedings are launched. The bill has been reviewed by the legislative harmonization committee and steps are currently being taken to enact it.

National mechanisms

83. With a view to institutionalizing the action taken to combat violence against women, a national anti-violence committee was established under a 2008 decree of the Council of Ministers. The committee drafted a strategy to combat violence against women 2011–2019 and, on the basis of an evaluation of that strategy, produced another for the period 2020–2030, consistent with the Sustainable Development Goals and the Convention on the Elimination of All Forms of Discrimination against Women. Moreover, in 2014, the committee adopted a "risk situation review system" for female victims of violence.

84. A national observatory on violence against women was established under a decree of the Council of Ministers in 2017. Its purpose is to provide a digitalized database of cases of violence to help in policymaking, in enforcing or amending legislation and in decision-making.

85. The Ministry of Social Development takes in female victims of violence and provides them with social, legal and psychological counselling services free of charge. In case of need, it refers them to centres that provide protection and shelter, either run by the Ministry or under ministerial supervision. These centres, in turn, provide the women with overnight accommodation, shelter, protection and rehabilitation.

86. The operation of the centres is regulated by the Protection Centre Regulations No. 9 of 2011 and by the National Referral Regulations of 2013. Moreover, a national referral team has been formed and a detailed procedural manual has been drafted. There are four protection centres providing such services in the West Bank – the Mehwar Centre, the Girls' Welfare Home, the Safe House and the Women's Emergency Protection Home – and two in the Gaza Strip – the Safe House and the Hayat Centre. Of the latter, only one provides shelter, which means it is not possible to handle every case in which a woman might request protection.

87. The Ministry of Social Development incorporates female victims of violence into its relief and development programmes as urgent special cases, and it organizes joint programmes with non-governmental organizations (NGOs). In 2017, the Ministry dealt with 336 cases involving female victims of gender-based violence.

88. In 2008, family protection units were established within the police to address cases of domestic violence and sex crimes. In the Gaza Strip, in the absence of any specialized family protection units, the police receive complaints from female victims of violence and help to resolve disputes with, as appropriate, the assistance of reconciliation committees.

89. In 2016, a special prosecutor's office was established to protect families from violence and to strengthen the role of the Office of the Public Prosecution in protecting female victims of violence. Furthermore, a gender unit has been set up in the Office of the Public Prosecution and a unified operations manual has been drafted for prosecutors to use when dealing with female victims of violence.

90. Family guidance and reconciliation units have been created in the sharia courts. An infrastructure has been set up in the courts of first instance with mediation and legal counselling services being provided before having recourse to the courts. In 2016, these units dealt with a total of 4,476 cases in the West Bank.

91. Since the beginning of 2017, female victims of violence have been exempted from all fees for medical reports issued by State-run hospitals, and the Ministry of Health has adopted a number of measures to speed up the handling and follow-up of issues related to women's health and safety. The procedural manual has been updated and registers created in which to record cases of gender-based violence.

92. Surveys on violence in Palestinian society, conducted in 2011 and 2019, showed that the prevalence of spousal violence suffered by women who are or have been married stood at 37 per cent in 2011, a figure that had dropped to 27 per cent in 2019. In 2019, moreover, 61 per cent of women preferred to remain silent about violence they might have suffered at the hands of their husbands, as compared to 65.3 per cent in 2011. Only 0.7 per cent of women sought assistance from a psychological, social or legal aid centre in 2011, a figure that had risen to 1.4 per cent by 2019.

93. Palestinian women are subjected to dual violence under the Israeli occupation, which not only threatens their human security but also contributes to further depriving them of their fundamental rights, including the right to self-determination and the right of return. Thus women are one of the groups most heavily impacted and affected by the policies and crimes of the Israeli occupation and the practices in which it engages that restrict livelihoods and deny access to public services such as education, employment and health care, as a result of which many women are constrained to give birth at border points with no access to reproductive health services. Added to this is the forced displacement of Palestinian Bedouins, the imposition of discriminatory policies and legislation in occupied Jerusalem, policies of deportation and the deportation of spouses and children, denial of family reunification and the dispersal of Palestinian families in various ways. The 2011 statistical survey shows that about half of Palestinian families have been directly subjected to violence by Israeli occupying forces and colonists.

94. The issue of marriageable age, divorce and custody is addressed in the reply to article 23.

Enrolment of girls in school

95. Article 24 (1) of the amended Basic Law states: "Education is the right of all citizens and is compulsory until, at least, completion of the basic level. Education is to be free of charge in State-run schools and institutes." In addition, the Decree-Law of 2017 regarding public education recognizes the equality of males and females to enrol in school under the same conditions and to study the same curricula.

96. There is a political will to develop new school curricula that take account of concepts of gender, that adopt standards of non-differentiation between the sexes, that affirm the importance and effectiveness of women's role in society and their involvement in political and public life and in decision-making posts and that introduce changes in line with concepts of gender.

97. The number of females and males in the education system – according to statistics from the Ministry of Education and Higher Education – is shown in the table below:

Years	*Number of students in all governorates and at all levels*	*Females*	*Males*
2014–2015	1 171 596	590 501	581 095
2016–2017	1 229 756	619 166	610 590
2018–2019	1 288 920	652 463	636 457

98. In the year 2016/17, school dropout rates in the State of Palestine stood at 0.71 at the basic level (0.89 for males and 0.53 for females) and at 2.44 for the secondary level (2.48 for males and 2.41 for females). The Ministry of Education is making efforts to reduce those rates to a minimum by opening new schools and new sections for female students, particularly in marginalized and remote areas. It is doing so despite the systematic destruction and demolition of Palestinian schools by the Israeli occupation authorities.

99. The Ministry of Education also seeks to reduce illiteracy rates by opening literacy centres. Data from the Palestinian Central Bureau of Statistics has shown a decline in illiteracy rates since 1997, which have fallen among Palestinians aged 15 and above from 13.9 per cent in 1997 to 2.8 per cent in 2018. Over the same period, the decline in illiteracy rates among females was from 20.3 per cent to 4.3 per cent.

Nationality

100. The Declaration of Independence defines Palestinian identity in the following terms: "The State of Palestine is the State of Palestinians wherever they may be; where they can develop their national and cultural identity and enjoy full equality of rights." Article 5 of the Palestinian National Charter states: "Palestinians are the Arab citizens who habitually resided in Palestine until 1947, whether those who were expelled therefrom or who remained therein. Anyone born to a Palestinian Arab father after that date, in or outside Palestine, is Palestinian."

101. According to the operational definition used by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), Palestine refugees are persons who resided in Palestine between June 1946 and May 1948, and who lost their homes and livelihoods as a result of the 1948 war. UNRWA services are available to all refugees who are registered with the Agency and reside in its areas of operation, to whom the aforementioned definition applies and who are in need of assistance. The offspring of those Palestinian refugees are likewise Palestinian refugees.

102. The exercise of the rights associated with Palestinian nationality is closely tied to the ending of the Israeli occupation, which imposes illegal and arbitrary controls over Palestinian civil affairs. Article 7 of the amended Basic Law states: "Palestinian nationality is to be regulated by law". Yet, while awaiting the issuance of such a law – the Israeli occupation being a major obstacle to its enactment – the issue of nationality in Palestine continues to be regulated by a body of other legislation. This includes the Civil Status Act of 1999, the unified provisions of Palestinian nationality decrees issued at the time of the British Mandate in 1925, the Jordanian Nationality Act of 1925, as amended, and a number of Israeli military orders. For its part, Israel arbitrarily imposes the Permanent Residency Act on the original Palestinians landholders, under which they are considered as residents in occupied Jerusalem.

103. Under Circular No. 42 of 2010, issued by the Palestinian Ministry of the Interior, Palestinian women who are married to non-Palestinians and who hold a Palestinian identity card are entitled to grant their children a Palestinian passport and register them on their own identity card before the children reach the age of 16. The same rules apply to Palestinian men married to non-Palestinians.

Legislation criminalizing rape

104. Criminal legislation makes rape and other sexual acts imposed upon a woman by coercion – such as indecent assault, inappropriate advances, abduction and indecent acts or comments – a criminal offence. It does not, however, impose deterrent penalties commensurate with the severity of the offence. In fact, a person who commits an act of rape faces a minimum term of imprisonment of 5 years, increased to 7 years if the victim is under 15. In cases where the victim is aged between 15 and 18 and the perpetrator is a legitimate or illegitimate ascendent of hers, the penalty is imprisonment for between 3 and 15 years.

105. Decree-Law No. 5 of 2018 was issued in March 2018 to abrogate article 308 of the Criminal Code (Act No. 16 of 1960). Its purpose is to ensure that a person who perpetrates a criminal assault against a woman cannot benefit from a suspension of criminal proceedings and seek impunity by marrying the victim.

Article 4

106. States of emergency are regulated under chapter VII of the amended Basic Law (arts. 110–114). Under those provisions, a state of emergency is to be declared only in cases where national security is threatened due to war, invasion, armed insurrection or natural disaster. The purpose of the state of emergency, the area it covers and its duration must all be clearly

defined. That duration cannot exceed 30 days, which can be extended for a further 30 days, with the approval of the Legislative Council.

107. Restrictions on fundamental rights and freedoms may be imposed only to the degree necessary to achieve the purpose set forth in the declaration of the state of emergency. Moreover, any arrests or detentions during the emergency are to be reviewed by the Prosecutor General or the competent court within a period of not more than 15 days. For its part, the Legislative Council – at its first meeting following the declaration of a state of emergency – has the right to question the executive about any action taken during that time. It should be noted, moreover, that in no case may any inalienable rights be infringed during a state of emergency.

Definition of terrorism in current legislation

108. Article 147 of the Criminal Code (Act No. 16 of 1960) contains the following definition of acts of terrorism: "All acts that aim to create a state of panic and give rise to a generalized public risk, and that are committed using explosive or incendiary devices, inflammable substances or epidemiological or bacterial agents."

109. Decree-Law No. 20 of 2015 on combating money-laundering and the financing of terrorism, as amended, contains the following definition: "(1) A terrorist or terrorist organization is any individual or group of terrorists who perpetrate any of the following acts: (i) Commit, attempt to commit or participate as an accomplice in any terrorist act using any means, directly or indirectly, organize acts of terrorism, or direct others to commit them; (ii) Contribute to acts of terrorism with a group of persons working to achieve a joint objective where the contribution is deliberate and has the aim of supporting a terrorist act or is made in the knowledge of the group's intention to commit a terrorist act."

110. Decree-Law No. 20 of 2015, as amended, includes provision for the creation of a national committee to combat money-laundering and the financing of terrorism as well as a committee for the implementation of Security Council resolutions concerning terrorist financing. The latter committee has responsibility for the prompt implementation of, in particular, Security Council resolutions 1373 (2001) and 1267 (1999) as well as of other associated resolutions and of Security Council resolution 2178 (2014) concerning foreign terrorist fighters. Moreover, a list has been drawn up with the names of individual terrorists and terrorist organizations while asset-freezing lists have been published in the Official Gazette. Via recourse to the competent court it is possible to enter a challenge against inclusion in the list or to appeal a decision of the committee.

Article 5

111. With the Palestinian Declaration of Independence – which is the supreme constitutional document in the domestic legal system – the State of Palestine undertakes to abide by the Universal Declaration of Human Rights and the principles and objectives of the United Nations. For its part, article 10 of the amended Basic Law guarantees respect for fundamental rights and freedoms. Thus, human rights principles are considered as constitutional norms and, if any piece of legislation is at odds therewith, it can be challenged on grounds of unconstitutionality before the Supreme Constitutional Court, the rulings of which are binding upon all authorities of the State. Rights and freedoms, moreover, are protected by the law and all violations are treated as offences in which neither criminal nor civil proceedings are subject to the statute of limitations. Fair compensation for persons who have suffered harm is envisaged under article 32 of the Basic Law. In its ruling No. 5/2017, the Supreme Constitutional Court decreed that international conventions and treaties, including human rights treaties, are to take precedence over domestic law once they have gone through the formal procedures. The Palestinian leadership is pursuing a policy aimed at promoting human rights in the State of Palestine by signing and acceding to human rights treaties and fulfilling the concomitant obligations, thereby further expanding the application of those rights at the national level.

Article 6

112. The right to life lies at the very heart of human rights and therefore enjoys full legal protection. In fact, the Palestinian Declaration of Independence and the amended Basic Law impose respect for human rights, foremost among them the right to life. Any violations of those rights are treated as offences in which neither criminal nor civil proceedings are subject to the statute of limitations.

Violation by the Israeli occupation of Palestinians' right to life

113. Israel, the occupying power, pursues – and has pursued since beginning its colonization more than 72 years ago – a systematic and broad-ranging policy that deliberately targets the right to life of the Palestinian people. This takes the form of collective persecution and punishment imposed by the occupiers against Palestinian civilians, and the implementation of policies and practices that flagrantly violate international human rights law. Indeed, the Israeli occupying forces resort to forms of physical elimination, massacres and alarming patterns of deaths and injuries as well as extrajudicial executions against Palestinian civilians and children. In many cases, the killing of Palestinians is the result of an excessive and unjustified use of force. In addition to this are the crimes and violence systematically perpetrated by Israeli settlers against Palestinian civilians.

114. During the ethnic cleansing of the Nakbah in 1948, the Israeli occupiers destroyed Palestinian villages and towns and committed more than 70 massacres during which they killed more than 15,000 Palestinians. Overall, more than 100,000 Palestinians and Arabs have fallen since the Nakbah, including 10,853 who died at Israeli hands between 29 September 2000 and 7 May 2019.

115. Israel, the occupying power, has used destructive force on a wide scale during its repeated attacks against the Gaza Strip. In 2014, at least 2,127 Palestinian civilians were killed while 11,036 were injured, the majority of the victims being women and children. In fact, 23 per cent of the dead and 32 per cent of the injured were women while children accounted for 27 per cent of the dead and 30 per cent of the injured.

116. During 2015, 175 Palestinians died at the hands of the Israeli occupation forces and Israeli settlers. In 2016, that figure stood at 105; in 2017 at 76 and in 2018 at 299.

117. Israel, the occupying power, continues its systematic policy of using excessive and deadly force against peaceful demonstrators in the Great Return March and to break the blockade in the Gaza Strip. Between the start of the March of return in March 2018 and May 2019, 16,800 persons have been injured; 136 persons have lost limbs and 272 people have been killed, including 54 children, 6 women, 4 paramedics and 3 journalists.

Enforced disappearance

118. Israel, the power responsible for the illegal occupation, arbitrarily detains and forcibly conceals hundreds of Palestinians, some of them in the so-called "cemeteries of numbers". Moreover, it discloses no information about those cemeteries or about the fate of Palestinians it has, over more than 53 years, detained or executed extrajudicially.

119. The State of Palestine has strengthened its own legal and administrative mechanisms to ensure systematic and effective control to prevent enforced disappearances. The amended Basic Law and the Code of Criminal Procedure identify the agencies invested with powers of arrest and detention; the designated locations and procedures for arrest and detention; the issuance of warrants and summonses; the extension of detention and pretrial custody; procedures for establishing identity; the right of accused persons to communicate with family members and avail themselves of the assistance of a lawyer; the submission of complaints by detained persons and inmates; and the reporting of detainees or inmates who are being held illegally. In addition to this, a number of governmental and civil society bodies are invested with powers of supervision over places of detention and custody.

120. Registers are kept of inmates in correctional and rehabilitation centres while a criminal fingerprint register has been developed for use in police stations. A series of standing guidelines for law enforcement officials has been issued by administrative authorities with

oversight and monitoring powers, regarding the obligation to abide by codes of conduct, laws and instructions.

Use of force and firearms by Palestinian security forces

121. Under articles 2 and 3 of Firearms and Ammunition Act No. 2 of 1998, it is forbidden to acquire or carry firearms without a licence from the Ministry of the Interior. The manufacture, repair, import and trade of weapons and ammunition is also prohibited, save in accordance with the terms of the licence. Article 8 of Decree-Law No. 8 of 2007, regarding preventive security, enjoins respect for the rights, freedoms and safeguards envisaged in Palestinian domestic law and in international treaties. Moreover, article 52 of Decree-Law No. 23 of 2011, regarding the police, states that officers may resort to the use of force and firearms only to the extent necessary to perform their legitimate duties and tasks. Moreover, such use must be the only means available once all other non-violent means have been exhausted, and the rules and procedures governing the use of force and firearms under current law must be followed. For its part, the Revolutionary Criminal Code criminalizes the resort to armed force in a manner contrary to the instructions imparted to law enforcement officials.

122. The Minister of the Interior issued Decree No. 211/2011 containing rules on the use of force and firearms by members of the Palestinian security forces. Under those rules, security personnel must refrain from using force except in circumstances of extreme peril and they must abide by the principles of necessity and proportionality while also safeguarding civil rights and freedoms. Circular No. 07/2017 reaffirms that police officers must abide by instructions and rules when using force and firearms.

123. With a view to ensuring accountability, and in the wake of events in the governorate of Bethlehem on Friday 18 September 2015 during which law enforcement and public security forces attacked a child, the head of the National Security Forces issued a circular according to which such actions are to be considered as individual acts committed by persons who were acting in violation of standing orders and instructions. As a consequence, an investigation was launched by order of the head of the National Security Forces with a view to identifying those responsible for the acts in question. The commission of inquiry concluded that accountability lay with the officers concerned and disciplinary action was taken against them, ranging from relief of duties to disciplinary confinement, imprisonment and delayed promotion.

Death penalty

124. The death penalty is envisaged for a number of offences under criminal legislation: the Criminal Code (Act No. 16 of 1960), the Mandate-era Criminal Code (Act No. 74 of 1936), the Revolutionary Criminal Code of 1979 and the Explosives Act, as amended, which is in force in the West Bank. The State of Palestine is working to abolish the death penalty from legislative texts, to which end a draft criminal code has been prepared which does not contemplate the death penalty for any offence. The draft code is currently being reviewed by a committee, which is seeking to ensure its consistency with international human rights treaties. The enactment of the draft criminal code is a priority for the State of Palestine in its process of legislative reform.

Procedural guarantees surrounding the death penalty

125. Courts of first instance are competent to consider offences of all kinds. The Code of Criminal Procedure (Act No. 3 of 2001) sets forth the procedures to be followed in criminal proceedings, which legislators have made particularly stringent in cases involving the death penalty. Under articles 244 and 245 of the Code, a lawyer must be present to represent the accused person, and a lawyer is to be appointed for persons who lack the means to engage one for themselves. In addition, any sentence of death must be handed down by consensus (art. 272) and “the sentence must be signed by the judges and read out in public in the presence of the prosecutor and the accused, while the convicted person must be informed of the right to appeal” (art. 277). Moreover, “a request for a retrial does not entail the suspension of the enforcement of the sentence, save in the case of a death sentence” (art. 380 (1)).

126. The Code of Criminal Procedure also states: “Sentences of death and of life imprisonment are automatically subject to appeal under the law even if the parties themselves do not appeal them” (art. 327); and “all sentences of death and of life imprisonment are automatically subject to appeal in cassation under the law even if the parties themselves do not appeal them” (art. 350).

127. As concerns amnesties or reduction of sentence, the President of the State of Palestine has the right to grant a special pardon or to commute sentences, whereas general amnesties and an amnesty for a particular crime can only be enacted by law (art. 42 of the amended Basic Law).

128. Under the amended Basic Law and the Code of Criminal Procedure, a sentence of death handed down by any court is not to be carried out until ratified by the President of the State of Palestine (art. 109 of the amended Basic Law and art. 409 of the Code of Criminal Procedure). In this regard, it should be noted that the President of the State of Palestine has not ratified any death sentence since 2005, which is evidence of a political will in the State of Palestine to suspend the death penalty.

129. According to article 7 (2) of Decree-Law No. 4 of 2016 concerning the protection of juveniles: “A juvenile shall not be sentenced to death”. This constitutes a legislative development in the State of Palestine that is consistent with standards enshrined in international human rights treaties. Moreover, the Decree-Law defines a juvenile as “a child who was under 18 at the time the criminal act was committed”.

130. Article 17 (2) of the Criminal Code (Act No. 16 of 1960) states that, if a death sentence is handed down against a woman who is pregnant, it is to be commuted to a term of life imprisonment with hard labour. Under article 215 of the Mandate-era Criminal Code (Act No. 74 of 1936): “If the court is faced with convincing evidence that a woman convicted of murder is pregnant, she is to be sentenced to a term of life imprisonment.” Moreover, under article 414 of the Code of Criminal Procedure (Act No. 3 of 2001): “A sentence of death may not be carried out against a pregnant woman. If the woman then gives birth to a living child, the court that handed down the sentence is to commute the death penalty to a term of life imprisonment.”

Military courts

131. In addition to the safeguards enshrined in the amended Basic Law, the Revolutionary Code of Criminal Procedure states that a sentence of death may not be carried out until it has been ratified by the Commander-in-Chief. Moreover, the body authorized to ratify a sentence may commute the death sentence to a lesser penalty, repeal or suspend it, or order a retrial of the condemned party. In addition, a death sentence handed down against a pregnant woman is to be suspended until she has given birth.

132. As a way of ensuring two levels of jurisdiction in the military justice system, Decree-Law No. 31 of 2016 was issued to amend the 1979 Revolutionary Code of Criminal Procedure. Under the Decree-Law, the Military Court of Appeal was established which is competent to hear any appeal against judgments and rulings handed down by the Standing Military Tribunal (a court of first instance) and those handed down by the Special Military Tribunal.

133. In June 2018, the State of Palestine became a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the State is seeking to implement the international obligations arising from that accession. This includes amendments to legislation on the death penalty by the committee responsible for harmonizing legislation with international covenants and treaties.

134. In 2014, the State of Palestine acceded to the Convention on the Prevention and Punishment of the Crime of Genocide.

Maternal mortality

135. Rates of maternal mortality – i.e., the death of women during pregnancy, childbirth and until the forty-second day after birth – are shown in the table below:

Year	*No. of cases recorded in the State of Palestine*	*West Bank*	*Gaza Strip*
2014	30	13	17
2015	20	5	15
2016	18	9	9
2017	8	3	5

136. A number of steps have been taken to reduce the incidence of such cases. A care programme for high-risk pregnancies is being rolled out alongside community awareness-raising campaigns on the health of mothers and children, and reproductive health in general. A health education guide is being drafted and a high-risk pregnancy care service is being developed in primary health-care centres. The mechanism for reporting maternal deaths – in State-run, private and UNRWA institutions – has been updated and linked to a computerized system in order to improve monitoring and help determine causes of death.

Abortion

137. Abortion is prohibited under current law, with the exception of therapeutic abortion. Article 8 (1) of Public Health Act No. 20 of 2004 states: "It is prohibited to perform an abortion on any pregnant woman in any way unless such action is necessary to save her life, as testified by two specialist doctors (at least one of whom must be a gynaecologist) and under the following conditions: (a) The prior written consent of the pregnant woman or, if she is unable to provide it, the written consent of her husband or guardian; (b) The abortion must take place in a health-care institution."

138. Abortions for pregnancies that were procured unlawfully (rape or incest) are carried out very limitedly. The initiative is taken by the Office of the Public Prosecution, which seeks a legal opinion from the Palestinian Fatwa Board before authorizing an abortion for a pregnancy resulting from rape or incest.

139. The Department for Women's Health and Development and the Community Health Division, which are both part of the Ministry of Health, provide integrated reproductive health-care services in all regions, including marginalized areas. In that connection, family planning services have been made available in primary health-care centres at nominal fees, contraceptives have been included on the list of essential medicines of the Ministry of Health, the family planning protocol has been updated to meet the standards of the World Health Organization (WHO) and medical teams have been trained in the use of the protocol with a view to avoiding unwanted pregnancies.

Legislative steps to reduce so-called "honour killings of women"

140. Legislation previously in force – notably article 340 of the 1960 Criminal Code and article 18 of the Mandate-era Criminal Code – envisaged circumstances whereby a person who committed the offence of "killing a woman for reasons of honour" could benefit from a reduction or outright cancellation of any penalty. However, Decree No. 7, issued in May 2011, rescinded all abrogating and mitigating circumstances relating to "honour killings of women" envisaged in those articles.

141. Decree-Law No. 10 of 2014 expressly prohibits perpetrators of "honour killings" from benefiting from the mitigating circumstances envisaged under article 98 of the 1960 Criminal Code, while Decree-Law No. 5 of 2018 states that article 99, which also envisages mitigating circumstances, is not applicable in cases involving offences against women and children.

Article 7

Prohibition of torture in existing legislation

142. Torture and cruel treatment are prohibited under article 13 of the amended Basic Law which states: "(a) No one may be subjected to coercion or torture. Accused persons and others

who are deprived of their liberty are to be treated correctly; (b) Any statement or confession given in violation of the provisions of the preceding paragraph is invalid."

143. Article 208 of the Criminal Code (Act No. 16 of 1960), which concerns the extraction of statements and information, states that anyone who subjects a person to any form of violence or force that is inadmissible by law, in order to extract a confession or information relating to an offence, is liable to a term of imprisonment of between 3 months and 3 years, unless the actions committed attract a harsher penalty.

144. Article 109 (b) of the Mandate-era Criminal Code also addresses the issue of acts of violence by public officials. According to that provision, any public official who subjects a person to force or violence or who orders them to be so subjected, for the purposes of extracting – either from the person concerned or from someone close to them – a confession or information relating to an offence, is considered to have committed a crime.

145. According to article 280 of the Revolutionary Criminal Code of 1979: "Anyone who subjects a person to any kind of force that is inadmissible by law, in order to extract a confession or information relating to an offence, or who orders such force to be used, shall be liable to a term of imprisonment of not less than 3 months. Where such acts of violence lead to illness or injury, the term of imprisonment shall be not less than 6 months. Where torture leads to a person's death, the perpetrator shall be liable to a term of imprisonment with hard labour of not less than 5 years."

146. Article 37 of the Correctional and Rehabilitation Centres Act prohibits torture or the use of force against inmates and states that inmates are not to be addressed using obscene or degrading language.

147. Under article 7 of the Decree-Law of 2016 concerning the protection of juveniles, it is prohibited to subject juveniles to physical or mental torture, or to punishment or treatment that is cruel, degrading or demeaning to human dignity.

148. The draft Palestinian criminal code includes the following definition of torture, which is consistent with the Convention against Torture: "Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

Accountability of law enforcement officials

149. With regard to disciplinary sanctions, the Palestinian Security Forces Service Act envisages penalties for anyone who violates their duty, while Decree No. 192 of 2009 of the Minister of the Interior underscores the need to hold law enforcement officials accountable for any violations of discipline. In the light of those provisions, the handbook of disciplinary violations for members of the Palestinian Security Forces considers abuse, torture or ill-treatment as first-degree violations which are liable to be penalized by dismissal from service. The Public Prosecutor, as the overall supervisor of the actions of law enforcement officials, holds full powers to pursue disciplinary action.

150. As concerns criminal sanctions, the Office of the Public Prosecution and the Office of the Military Prosecutor are – under the aforementioned laws – responsible for collecting evidence, carrying out inquiries, bringing charges and conducting the prosecution in cases involving torture and ill-treatment.

151. As concerns civil sanctions, the civil courts consider claims for compensation in accordance with general provisions and rules set forth in the Civil Torts Act No. 36 of 1944. Persons pursuing a civil suit also have the right to attach their claim to the criminal case, and the two are then considered together before the criminal court.

Inadmissibility of confessions obtained by torture

152. According to article 13 of the amended Basic Law, any statement or confession obtained via coercion or torture is invalid. Under article 214 of the Code of Criminal Procedure, in order for a confession to be valid, it must have been made freely and voluntarily, without pressure, physical or moral coercion, inducement or promise. Moreover, the confession must be consistent with the facts and it must constitute a clear and unequivocal acknowledgment of having committed the offence.

Oversight and complaints mechanisms

153. On the subject of oversight mechanisms, article 128 of the Code of Criminal Procedure stipulates the obligation to report the presence of any inmates who are being unlawfully detained. At the same time, article 6 of the Correctional and Rehabilitation Centres Act states that inmates must necessarily be admitted to and released from prison under a legal warrant. In order to reinforce that provision, articles 10–12 of the same Act confer the power to inspect correctional and rehabilitation centres on the following authorities, each within its own mandate: the Minister of Justice and the Minister of the Interior or their deputies; heads of governorates; the Public Prosecutor and deputy prosecutors; and judges of the Supreme Court and of central courts. Moreover, the Independent Commission for Human Rights, as well as international and local civil society institutions, also play a role in ensuring effective oversight by making visits and receiving and following up on complaints.

154. Since the State of Palestine acceded to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the authorities have worked to establish a national torture prevention mechanism. The United Nations Subcommittee on Prevention of Torture had been supposed to make a field visit to the State of Palestine in April 2019, and Palestine had welcomed the initiative and provided the Subcommittee with information to facilitate its task; however, Israel, the occupying power, refused to grant entry visas to the members of the Subcommittee thereby preventing the visit from taking place.

155. As concerns complaints, article 127 of the Code of Criminal Procedure and article 18 of the Correctional and Rehabilitation Centres Act both include provision for the right of inmates and detainees to file complaints. Such complaints are recorded in a special register so that they can be adequately followed up and addressed.

156. The structure of law enforcement agencies includes departments for handling complaints from inmates, each within its own area of jurisdiction. One of these is the human rights unit in the Office of the Public Prosecution and the Office of the Military Prosecutor, which takes steps to ensure that complaints are properly addressed. Those steps include:

- Referring the victim to a forensic doctor in order to get a medical report detailing any bodily injuries and the length of time the victim is incapacitated;
- Drafting crime scene investigation reports;
- Removing the person against whom the complaint is lodged from proximity to the inmate in order to protect the latter and ensuring that the preliminary investigation remains confidential;
- The Office of the Military Prosecutor refers the case to the competent court so that the accused person can be tried on charges of torture.

Cases of torture and inhuman practices (2014 to 2017)

	2014		*2015*		*2016*		*2017*	
Type of charge	*No. of cases*	*Legal action taken*	*No. of cases*	*Legal action taken*	*No. of cases*	*Legal action taken*	*No. of cases*	*Legal action taken*
Homicide	2	Court rulings handed down in both cases	10	Court rulings handed down in seven cases, three of them by military tribunals	7	Pending before military tribunals	1	Under investigation
Deprivation of liberty			3	Court rulings handed down in all three cases	13	Seven cases dismissed for lack of evidence and six pending before military tribunals	8	Two cases dismissed for lack of evidence, five under investigation and one pending before military tribunals
Torture							2	Under investigation
Abduction			1	Court ruling handed down	3	Court rulings handed down	1	Case dismissed for lack of evidence
Complaints by civil society institutions:								
Al-Haq							2	Under investigation
Independent Commission for Human Rights							14	Under investigation

Persons charged with maltreatment of detainees or extraction of information by force (2016 to 2018)

Number of persons charged, by agency

	Agency	*No.*
1	Police	137
2	General Intelligence Service	6
3	Preventive Security Service	5
4	National Security Forces	4
5	Medical services	4
6	Customs	3
7	Civil defence	2
8	Intelligence services	1

Number of cases, by legal action taken

	Legal action taken	*No.*
1	Cases kept on file	39
2	Cases resulting in acquittal	40
3	Cases resulting in conviction	24
4	Cases pending trial	34
5	Cases under investigation	36

Note: The discrepancy in the totals between the two tables is due to the fact that some persons were charged in multiple cases.

Compensation

157. Article 32 of the Basic Law, as amended, envisages the right to compensation for violations of public rights and freedoms. According to the Code of Criminal Procedure, persons who have suffered harm as a consequence of a crime or violation against them may file a civil case in pursuit of just compensation. The relevant provision is contained in article 194 (1), which states: "Anyone who has suffered harm as a consequence of an offence may submit a request to the prosecutor or to the court that is examining the case expressly invoking their civil right to compensation for the harm suffered as a result of the crime."

158. Under article 94 of the Palestinian Security Forces Service Act No. 8 of 2005, an officer who violates instructions shall bear any consequent civil liability. Such violations may include the infliction of torture or inhuman or degrading treatment. In the same way, article 173 of the Act addresses offences committed by non-commissioned officers and enlisted personnel of the security services.

Inmates condemned to death

159. Under current legislation, and specifically under article (59 (1) and (2) of the Correctional and Rehabilitation Centres Act, inmates facing death sentences are placed under round-the-clock surveillance, while the Public Prosecutor or his representatives, religious figures and the prison doctor can visit the inmate at any time.

Operational rues for law enforcement personnel

160. Codes of conduct, which govern working standards and ethics, expressly prohibit the use of torture and other cruel, inhuman or degrading treatment. These codes include the following: the code of conduct for judges, the code of conduct for members of the Office of the Public Prosecution, the code of conduct and ethics for police officers; the code of conduct for civil defence personnel; the code of conduct for members of the preventive security service; the code of professional conduct and ethics for members of the intelligence services, the handbook of disciplinary violations for members of the Palestinian security forces; the code of conduct concerning the use of force and firearms by members of the security forces; the code of ethics and conduct for members of the security forces; the procedural guide for health services; and the procedural guide for complaints units in the security services.

161. On 13 September 2009, the President of the State of Palestine issued instructions – which were circulated to the heads of all security agencies – to cease any form of torture or other practices harmful to human rights and dignity. On 14 May 2013, the President issued further instructions addressed to all agencies with powers to arrest, detain or conduct investigations, stressing the need to comply with laws prohibiting torture and to respect international treaties.

162. The Minister of the Interior has issued a number of decrees in this connection. Decree No. 149 of 2009 concerns compliance by the security services with rules and standards for treating detainees and precludes physical or psychological punishment of any kind or any form of torture against persons deprived of liberty. Decree No. 192 issued by the Minister of the Interior on 1 December 2009 concerns disciplinary offences committed by members of the Palestinian security forces that involve harming, torturing or ill-treating others in

violation of humanitarian values and legislation in force. First-degree violations are punishable by the administrative penalty of separation from service. A further decree in 2017 envisaged the formation of a team to monitor the human rights obligations of the Minister of the Interior.

163. Circular No. 6 of 2010, issued by the Director-General of the Palestinian police, prohibits the use of violence, torture or any other form of cruel or degrading treatment when dealing with citizens. In addition, several circulars issued by the general intelligence services contain instructions to staff to comply with the standards enshrined in the Convention against Torture and to observe all relevant laws. Circulars issued to members of the preventive security service also underscore the importance of abiding by legal procedures relating to summons, arrest, search, seizure and the taking of statements, as well as the need to take steps to ensure that summoned, arrested or detained persons are not subjected to ill-treatment.

Training

164. The Ministry of the Interior conducts ongoing human rights training for all members of the security forces, including awareness-raising about obligations stemming from the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention.

165. Palestinian security agencies have held 416 training courses, lectures and workshops on a range of human rights issues, including torture, dealing with children and women victims of violence, psychosocial counselling, family protection, categorization of inmates and relevant laws.

166. In 2017, the Ministry of the Interior and An-Najah National University signed a memorandum of understanding regarding academic qualifications for staff of the Ministry of the Interior, the security forces, the Ministry of Justice, the department of forensic medicine and the military medical services. The aim was to raise awareness about the Convention against Torture and to adopt the Istanbul Protocol as a training model with a view to establishing, on the basis of those criteria, a national team specializing in anti-torture issues.

167. In 2018, the Ministry of the Interior signed a cooperation agreement with the Muwatin Institute at Birzeit University for the development of a training curriculum on human rights issues, with the title: “A guide to human rights and democracy for security forces and State institutions”. The agreement also envisaged training for staff of the Ministry of the Interior and security forces on how to draft human rights training manuals.

Prohibition on the extradition, deportation, expulsion or forced removal of any person

168. Under article 7 of the Extradition Act of 1927, in force in the West Bank, and article 6 of the Extradition Act of 1926, in force in the Gaza Strip, a fugitive criminal is not to be extradited if the crime in questions is political in nature. The extradition of fugitive criminals in cases where they might be liable to be tortured is not prohibited under either Act. Extradition is also addressed in the 2005 General Intelligence Services Act, which states that provisions regarding persons accused of extraditable offences contained in treaties between the State of Palestine and other States must be observed in a manner that is not at variance with the law.

Combating torture at the international level

169. The accession of the State of Palestine to the Convention against Torture, without reservations, particularly as concerns the jurisdiction of the Committee against Torture under article 20 of the Convention, is an expression of the State’s political will to ban torture and of its engagement in the efforts of the international community to that end. In 2017, the accession of the State of Palestine to the Optional Protocol to the Convention was a further qualitative step and preventive measure aimed at banning torture and ill-treatment. Under a decree of the Council of Ministers on 19 August 2019, a national anti-torture preventive mechanism was set up in the State of Palestine as an independent body.

170. In January 2015, the State of Palestine, acting pursuant to article 12 (3) of the Rome Statute of the International Criminal Court, deposited a declaration accepting the jurisdiction

of the Court to consider, with retroactive effect, crimes committed since 13 June 2014. The State of Palestine then deposited its instrument of accession to the Rome Statute, which thus entered into effect.

171. In addition to this, the State of Palestine joined the International Criminal Police Organization (INTERPOL) in 2017, after which it set up its INTERPOL National Central Bureau, which has been properly equipped to carry out its duties and staffed with experienced police officers.

Correctional methods in schools

172. Article 4 (15) of the Decree-Law on Public Education of 2017 states: "It is prohibited to use violence as a means of discipline. All students are entitled to protection." In addition to this, the Ministry of Education and Higher Education has, since 2013, embraced a policy to reduce violence and promote discipline in State-run and private schools, which is applicable in all governorates and is part of a strategy to improve the quality of education and to create a safe and violence-free school environment. The strategy includes activities that are intended to consolidate the use of the policy among education-sector workers as a key reference with which to address issues related to school violence. The activities focus on capacity-building, establishing a system for referring cases of violence from schools to the competent institutions, improving the school environment and setting up educational guidance centres in schools exposed to the violence and violations of the Israeli occupation. A competition of creative innovations for fostering a safe school environment and curbing violence has been launched in some schools, and a training guide has been produced on how to deal with gender-based violence in schools.

173. Female circumcision is not prevalent in the State of Palestine.

Experimentation on human beings

174. The Basic Law, as amended, forbids experimentation on human subjects without the consent of the individual concerned. The relevant provision is contained in article 16, which reads: "It is unlawful to conduct any medical or scientific experiment on any person without prior legal consent." Moreover, article 60 of Public Health Act No. 20 of 2004 stipulates that sick persons have the right to receive a clear explanation of any proposed treatment, which they can consent to or refuse. They can also accept or refuse to participate in any research or training being conducted by the health-care institution.

Torture practised by Israel, the occupying power, against Palestinians

175. Israel, the occupying power, perpetrates various crimes of torture and other cruel, inhuman and degrading practices against the Palestinian people, and particularly against Palestinian prisoners and detainees being held in the prisons of the Israeli occupation. In fact, Palestinian inmates in those prisons, especially children, face harsh and inhuman conditions and, as of July 2019, 220 of them had died as a consequence of torture, medical neglect or direct targeting.

176. The 1999 "ticking time-bomb" ruling of the Israeli Supreme Court ruling left the door wide open to the use of torture and other cruel, inhuman and degrading treatment against Palestinian prisoners, on the pretext of "necessity". In fact, Israeli prison administrators and investigators exploit the Supreme Court's ruling to use harsh and prohibited physical means of interrogation against Palestinian prisoners under the pretext of "the seriousness of the situation". Moreover, such interrogations remain secret and are conducted in the absence of oversight by any external independent body.

177. In 2015 Israel, the occupying power, ratified a "force-feeding" law which allows for the forcible feeding of prisoners on hunger strike. In this way, the law provides an umbrella for the occupation authorities to use torture against hunger-striking prisoners and comes to constitute a form of subjecting individuals to medical experiments against their will.

178. The systematic Israeli policy of holding back the bodies of the dead is part of a broader policy of collective punishment used by the authorities against the Palestinian people. Indeed, the Israeli occupying authorities are still holding the bodies of 294 Palestinians, dating back

as far as 1967, and are refusing to hand them over to their families for humane burial in accordance with their religious beliefs.

179. Since 2007, the Israeli occupation has been imposing an illegal blockade on the Gaza Strip during which time it has carried out measures contrary to international law, launched repeated attacks and inflicted collective punishment that continues to this day. Under its illegal blockade, Israel has made life in the Gaza Strip a form of physical and psychological torture.

180. The Israeli aggression against the occupied Gaza Strip in 2014 had devastating consequences at various levels: economic, social, political, material and human. During the course of its attack Israel, the occupying power, committed war crimes and crimes against humanity, including the killing of civilians, the destruction of civilian property and the use of prohibited weapons. One of these was white phosphorus, which indiscriminately caused burns, disfigurements and permanent disabilities to hundreds of Palestinian civilians in the Gaza Strip. The attack and the associated collective punishments against the human rights of Palestinians in the Gaza Strip have given rise to harsh living conditions and filled life there with pain and suffering.

Article 8

181. Under the 2015 Decree-Law on combating money-laundering and the financing of terrorism, as amended, all monies obtained from human trafficking or the sexual exploitation of women and children are considered to be illegal assets and to constitute grounds for the offence of money-laundering, with offenders being liable to imprisonment and a fine.

182. Under the heading “Incitement to debauchery and undermining public ethics and morals”, articles 310–312 of the 1960 Criminal Code envisage penalties of up to 3 years’ imprisonment for anyone who has leads or attempts to lead a female aged under 20 into prostitution, or a person under the age of 15 into an act of sodomy, or who uses threats, intimidation, deception or narcotics to induce a female into an act of illicit intercourse. In addition, anyone who furnishes, rents or purchases a location to use for purposes of prostitution or who participates in the use of a location as a brothel is liable to a term of imprisonment of up to 6 months and/or a fine.

183. In order to promote its commitment to combat human trafficking, the State of Palestine has set up a national team with representatives from competent institutions to work on a draft law on human trafficking. The new law includes a definition of trafficking and envisages condign penalties, which become more severe if the victim is a child, lacks competency or is a person with a disability. The draft law also envisages the formation of a national committee with the task of developing a comprehensive national strategy to combat human trafficking, establishing a database, drafting reports, setting up mechanisms and providing support and protection for victims.

184. For its part, the draft criminal code contemplates two offences: human trafficking and enslavement. Enslavement means: “The exercise of any or all of the powers attaching to the right of ownership over a person, including the exercise of such power in the course of trafficking in persons, in particular women and children.”

185. The Ministry of Social Development runs several programmes to provide services to female victims of violence, including one for the protection and social rehabilitation of female victims of exploitation and trafficking. The State of Palestine is continuing to develop anti-human-trafficking mechanisms, in which regard a database is being complied wherewith to monitor and document trafficking offences. At the same time, a series of training and capacity-building programmes has been rolled out to help develop human resources in this field.

186. Thanks to the control it exercises over the Occupied Palestinian Territory, including Jerusalem, its fragmentation of Palestinian geographical unity using all possible means and the permanent obstacles it places on Palestinians’ freedom of movement, Israel, the occupying power, has hampered the efforts of the competent Palestinian authorities to combat human trafficking.

187. The State of Palestine acceded to the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2017. In addition, also in 2017, it acceded to the United Nations Convention against Transnational Organized Crime and to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. In 2018, it acceded to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. Moreover, the State of Palestine is a party to the 1904 International Agreement for the Suppression of the White Slave Traffic and the 1921 International Convention for the Suppression of the Traffic in Women and Children, while in 2013 it ratified the Arab Convention against Transnational Organized Crime and joined the Arab Network to Combat Human Trafficking.

Prohibition of forced and compulsory labour

188. The amended Basic Law and applicable labour laws prohibit all forms of forced or compulsory labour or exploitation of workers. According to article 25 of the Basic Law, work is the right of every citizen and labour relations are to be regulated in such a way as to ensure justice for all. The Law also envisages welfare, insurance and health and social care for workers.

189. The Labour Code (Act No. 7 of 2000) also states that work is the right of every citizen capable of performing it, on the basis of equality of opportunity and without discrimination of any kind. The Code includes legal safeguards for the protection of workers, such as terms and conditions of employment, working hours, wages, holidays, vocational health and safety requirements, insurance against workplace injuries and conditions for the employment of minors and women.

190. A labour inspectorate has been set up in the Ministry of Labour to monitor workplaces and thus protect workers and harmonize working conditions. The inspectorate has judicial oversight powers and can receive complaints and impose sanctions under the law.

191. The Ministry of Labour oversees contracts for domestic workers, and the Minister of Labour has issued a decree to regulate domestic work in such a way as to guarantee the rights of persons who operate in that sector while increasing penalties for employers who violate the law.

192. The results of a workforce survey conducted by the Palestinian Central Bureau of Statistics in 2019 show that 30 per cent of salaried employees in the private sector in the State of Palestine earn a monthly wage that is less than the minimum wage (1,450 shekels). The proportion of salaried employees earning less than the minimum monthly wage in the West Bank fell from 12 per cent to 10 per cent between 2018 and 2019, while it rose from 72 per cent to 80 per cent in the Gaza Strip, over the same period.

193. With regard to the enforcement of sentences of hard labour, which is one of the penalties envisaged in the current Criminal Code, the courts do hand down sentences to that effect; however, the sentence is applied as one of imprisonment without hard labour. This is because Palestinian correctional and rehabilitation institutions do not impose hard labour as a punitive measure.

194. Under article 399 of the Code of Criminal Procedure, anyone who has been sentenced to a term of imprisonment of up to 3 months is entitled to make a request to the Office of the Public Prosecution to serve that sentence outside a correctional and rehabilitation institution centre, as an alternative to deprivation of liberty, unless the sentence expressly excludes that option.

Article 9

195. Current domestic legislation guarantees individuals the enjoyment of freedom and personal security, which cannot be infringed except by law. In that connect, article 11 of the amended Basic Law stipulates: “Personal freedom is a natural right that is guaranteed and

may not be infringed. No one may be arrested, searched or detained, have their freedom or freedom of movement restricted in any way except by a court order issued in accordance with the law. The duration of pretrial detention is determined by law and no one can be detained or imprisoned except in places subject to the laws regulating prisons."

196. Article 29 of the Code of Criminal Procedure (Act No. 3 of 2001) states: "No person may be arrested or imprisoned except by order of the authority competent to do so by law. Such persons must be treated in a manner that preserves their dignity and may not be physically or morally harmed."

197. Article 12 of the Basic Law, as amended reads: "Persons who have been arrested or detained are to be informed of the reasons for their arrest or detention. They are to be promptly informed, in a language they understand, of the nature of the charges against them. They have the right to contact a lawyer and to be tried before a court without delay." Summonses and arrest warrants are to be signed and stamped by the competent authority and are to include the name, description and surname of the accused persons, the offences of which they stand accused and the articles under which they are being charged, their full address and the duration of detention, if any. The enforcing official must show the warrant to the persons being arrested and inform them of its contents (arts. 110 and 112 of the Code of Criminal Procedure).

198. Accused persons have the right to postpone their questioning for 24 hours until their lawyer can be present. However, in cases of flagrante delicto, necessity or where prompt action is required for fear of losing evidence, prosecutors can proceed with the questioning before the lawyer is present. Following the interrogation, the lawyer then has the right to examine any statements made by the accused (arts. 97 and 98 of the Code of Criminal Procedure).

199. Articles 3 (3) and 8 of the Crime Prevention Act No. 7 of 1954, which is in force in the West Bank, and articles 3 (8) and 8 of the Crime Prevention Act No. 48 of 1933, which is in force in the Gaza Strip, grant the administrative authority (the governor) powers of arrest in special cases, when necessary as an administrative measure in order to ensure public security and order. However, the governor may exercise this power only against persons whose presence at large poses a menace to the public and only in cases where those persons refuse to make a pledge of good conduct, a pledge that can be backed by a financial surety. Thus, this power may be exercised against persons in circumstances that indicate they are on the verge of committing an offence, habitual offenders or persons who pose a menace to the public if they remain at large without some form of financial surety.

Duration of custody and detention

200. Under the Code of Criminal Procedure, law enforcement officials are required to bring arrested persons, if they have not been released, before the competent prosecutor within 24 hours. Once the director of a detention centre has delivered an accused person to the Office of the Public Prosecution, the interrogation must take place within 24 hours, after which prosecutors must order either the detention in custody or release of the person concerned.

201. Following the interrogation, prosecutors may hold an accused person for 48 hours. That period may then be extended by the courts in accordance with the law. In other words, an arrested person may not be held for more than 48 hours before appearing before a judge, who is entitled to extend the detention for a period of up to 15 days or order the release of the person concerned having first heard his or her statement. Custody may be renewed for further periods up to an overall total of 45 days.

202. No one may be held in custody for more than 45 days unless a request is submitted to the court of first instance by the Public Prosecutor or one of his deputies. In such a case, the further period of detention may not exceed an additional 45 days. Before the end of that 3-month period, the Office of the Public Prosecution must bring the accused person before the competent court for trial, with the period of detention then being extended until the end of the trial. In no case may the overall period of detention be in excess of 6 months. This means that the sum total of all the periods of pretrial detention must not exceed 6 months, calculated from the first day of the arrest and detention of the accused person. Otherwise, the person concerned must be released immediately unless he or she is referred to the competent court

for trial. In no case, may custody continue for a period longer that the penalty prescribed for the offence for which the person was arrested. If the courts issue a ruling that an accused person is to be released, that release must be effected immediately, unless the individual concerned is imprisoned or detained for another reason. The period spent in detention is to be calculated as part of the sentence if the person concerned is convicted and sent to prison.

203. Although the question of pretrial detention is regulated in the Code of Criminal Procedure, the procedures and safeguards are left to the judge's discretionary authority. In particular, it is up to the judge to decide to extend custody after having heard statements from the Office of the Public Prosecution and the accused person, which may sometimes lead to an extension of the period of detention. Furthermore, the law does not specify a time limit for the trial but simply states that the proceedings are to begin within six months of the arrest. This explains the increase in the number of detainees who are still under trial.

204. The Ministry of the Interior has produced statistics concerning the number of detainees and convicted persons in institutions that are subject to the Correctional and Rehabilitation Centres Act.

Number of detainees in correctional and rehabilitation centres (2014–2017)

	2014		*2015*		*2016*		*2017*	
Centre	*Males*	*Females*	*Males*	*Female*	*Males*	*Females*	*Males*	*Females*
Bethlehem	1 011	50	1 034	43	1 001	49	683	38
Janin	2 526	75	2 226	71	1 590	60	1 210	98
Nabulus	3 035	0	1 905	0	1 744	0	1 174	0
Ramallah	2 453	67	1 465	73	1 278	84	1 058	72
Jericho	1 111	22	1 136	27	869	38	628	40
Hebron	972	0	574	0	578	0	481	0
Tulkarm	1 265	0	1 052	0	864	0	499	0
Total	**12 373**	**214**	**9 392**	**214**	**7 924**	**231**	**5 733**	**248**
Grand total	**12 587**		**9 606**		**8 155**		**5 981**	

Number of convicted persons in correctional and rehabilitation centres (2014–2017)

	2014		*2015*		*2016*		*2017*	
Centre	*Males*	*Females*	*Males*	*Females*	*Males*	*Female*	*Males*	*Females*
Bethlehem	457	23	531	16	466	12	297	22
Janin	1 096	23	1 016	22	763	29	664	41
Nabulus	1 517	0	835	0	805	0	512	0
Ramallah	1 087	14	573	21	568	32	482	22
Jericho	507	7	569	13	419	20	286	17
Hebron	449	0	261	0	251	0	179	0
Tulkarm	503	0	452	0	382	0	209	0
Total	**5 616**	**67**	**4 237**	**72**	**3 654**	**93**	**2 629**	**102**
Grand total	**5 683**		**4 309**		**3 747**		**2 731**	

Number of detained and convicted persons in military correctional and rehabilitation centres

Year	*No. of detainees*	*No. of convicted persons*
2014	190	498
2015	267	496
2016	322	575
2017	327	605
2018	49	112

205. Articles 62 and 63 of the Correctional and Rehabilitation Centres Act prescribe disciplinary penalties that can be imposed against inmates. Those penalties are: a caution, solitary confinement for up to 1 week or the withdrawal of certain benefits envisaged for the class of inmates concerned for a period of up to 30 days. Disciplinary sanctions may be imposed on the inmate only after an investigation and after taking the statement of the inmate and considering his defence. The grounds for the penalty must be made explicit and recorded in the register.

206. Under a 2012 decree of the Minister of the Interior, a criminal fingerprint register has been developed for use by the police. It serves to record and archive fingerprints and other information from suspects, convicted persons, detainees and inmates in correctional and rehabilitation institutions and detention centres, as well as fingerprints and other related evidence found at crime scenes by police experts.

Oversight

207. As noted earlier, domestic laws grant a number of different bodies the authority to supervise detention centres. As a way of ensuring that no one can be illegally detained, the law also includes provision for registers wherein to record admissions and releases.

208. Article 178 and 179 of the 1960 Criminal Code prescribe penalties for unlawful arrest or imprisonment. The relevant passage states: “Any official who detains or imprisons someone in a manner other than that prescribed by law is liable to a term of imprisonment of between 3 months and 1 year.” Moreover: “If the directors or guards of prisons, disciplinary institutions and correctional centres, or any official vested with their powers, admit a person without a warrant or order from the courts, or detain a person for longer than the decreed period, are liable to a term of imprisonment of between 1 month and 1 year.”

209. According to article 180 of the Code, the aforementioned officials, officers and enlisted personnel of the police and the gendarmerie and administrative officials who refuse to bring or delay bringing a detainee or a prison inmate before a competent court or judge, when asked to do so, are liable to a term of imprisonment of up to 6 months and to payment of a fine of up to 50 dinars.

210. Article 33 (3) of Ordinary Courts Act No. 5 of 2001 provides that the Supreme Court of Justice has jurisdiction to consider applications challenging imprisonment and requesting the release of unlawfully detained persons. According to article 34 (3) and (4) of the Act, applications and appeals before the Supreme Court of Justice by individuals and bodies must be brought on grounds of violation of law or regulations, of an error in the application or interpretation of law or regulations or of abuse of power, as set forth in law.

211. Article 131 of the Code of Criminal Procedure guarantees detained persons the right to apply for release on bail. It reads: “If the accused person has not been referred for trial, the application for release on bail is to be addressed to the judge authorized to issue the arrest warrant.” If the accused person has already been referred to the courts, then article 132 becomes applicable, which reads: “If the accused person has been referred for trial, the application for release on bail is to be addressed to the court competent to conduct the trial.”

212. Article 32 of the amended Basic Law guarantees fair compensation for persons who have suffered an abuse of their rights and freedoms, including unlawful arrest. This is reconfirmed under article 387 of the Code of Criminal Procedure, which states: “A person

acquitted following a retrial has the right to claim compensation from the State for damages arising from the earlier sentence."

213. According to annual compilations of complaints, which are produced by the Council of Ministers, there were 43 complaints concerning illegal detention in 2015 of which 34 were addressed; there were 71 such complaints in 2016 of which 64 were addressed; and there were 107 complaints in 2017.

Detention in psychiatric hospitals

214. There are two psychiatric hospitals in the State of Palestine: Gaza Hospital and Bethlehem Hospital. Patients can admit themselves or they can be brought in by their family who request their admittance. The police can bring in persons in their custody whom they suspect of having a mental disorder for them to be assessed by the hospital. The courts can also refer convicted persons who suffer from mental conditions that require admittance to a psychiatric hospital rather than to a correctional and rehabilitation centre.

215. In the first three of the aforementioned cases, the person is admitted on the basis of an assessment by the doctor on duty, who can contact a consultant psychiatrist in case of need. Definitive admittance to the hospital depends upon the outcome of that assessment. Medical staff discuss and assess cases and, if they agree that a person should be admitted, the case is assigned to a specialized doctor for follow-up for a duration of between 7 and 30 days, unless the case is particularly serious in which case that period can be extended. Persons are detained in psychiatric hospitals against their will only in very severe cases. If they appeal against their admittance, an assessment of their mental condition is conducted before deciding whether or not they can leave the institution. However, appeals are not officially recorded and there are no official statistics on the number of such cases.

Arbitrary administrative detention practised by Israel, the occupying power

216. Arbitrary administrative detention by Israel, the occupying power, is part of a systematic and broad-ranging government policy and constitutes a form of collective punishment against Palestinians. In fact, the occupying authorities have detained around 1 million Palestinians since 1967, heedless of any international standards regulating the rights of detainees.

217. Jurisdiction to bring a detainee before the military courts lies with the so-called "military command" of the Israeli occupation. In April 2002 the delay was extended to 18 days, which is evidence of the arbitrary and unjustified detention of Palestinians by the Israeli occupation. The duration of arbitrary administrative detention can extend to up to 6 months, which may then be further extended unconditionally. Moreover, all cases of arbitrary administrative detention come before the military courts sitting in camera and, using flimsy pretexts, no defence lawyer is given the opportunity to examine documents or information pertaining to the case. Moreover, of course, the public are not allowed to attend. Thus detainees are deprived of their right to a fair and public trial.

218. Israel, the illegal occupying power, uses unjust laws to arrest thousands of Palestinians arbitrarily. The unjust Israeli military laws that underpin administrative detention orders go back to the Emergency Act of 1945, which dates from the Mandate era. In fact, Palestinians suffer arbitrary administrative detention in the Occupied Palestinian Territory under three different legal systems: in the West Bank, Palestinians are detained under Military Decree No. 1651; in Jerusalem, they are detained under the Emergency Powers (Detention) Act of 1979, under which the Minister of Defence is authorized to issued orders for arbitrary administrative detention in state of emergency; and in the Gaza Strip, they are detained under the 2002 Incarceration of Unlawful Combatants Act.

Article 10

219. The legal system regulating prison conditions envisages rights and principles to ensure humane treatment and respect for the dignity of persons deprived of their liberty. Notably, article 13 (1) of the amended Basic Law requires that accused persons and others who are

deprived of their liberty be treated correctly. In addition, article 29 of the Code of Criminal Procedure states that persons who have been arrested are to be treated in a manner that preserves their dignity and they may not be physically or morally harmed. For its part, article 37 (2) and (3) of the Correctional and Rehabilitation Centres Act prohibits torture or the use of force against inmates. It also states that inmates are not to be addressed using obscene or degrading language. The Decree-Law concerning the protection of juveniles represents an important step by the State of Palestine towards achieving consistency with the standards enshrined in international human rights treaties, particularly as it has adopted the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. As part of its international obligations, the State of Palestine is reviewing laws and regulations that have a bearing on conditions of detention and deprivation of liberty, in order ensure that they comply with human rights standards.

220. The Correctional and Rehabilitation Centres Act includes a body of legal principles, safeguards and inmates' rights. They include:

- Prohibiting torture or the use of force against inmates (art. 37);
- Leaving inmates free to practise religious rituals and obligations (art. 37);
- The inspection of detention centres and the appointment of inspectors and social workers (sec. 4);
- The right to health care and medical services (sec. 5);
- Education for inmates (sec. 9);
- Training and employment for inmates (sec. 12);
- Visits and communication with the outside world (sec. 15).

221. The administration of correctional and rehabilitation centres is underpinned by a structure wherein tasks, responsibilities and specialized departments are all clearly defined; at the same time, administrators of security agencies have adopted codes of conduct and circulars to regulate the actions of their staff and to ensure that inmates are well treated. Implementing regulations have been drafted for the Correctional and Rehabilitation Centres Act, and a guide to operational procedures has been produced for the legal units of the Palestinian security services as well as a consolidated operational manual for the delivery of health services in correctional and rehabilitation centres. In partnership with civil society institutions, a list of rights of detained persons has been drawn up and circulated to all places of deprivation of liberty.

222. **Correctional and rehabilitation centres**

Detention facilities in the West Bank are divided into three categories depending upon duration of detention and on the authority to which they are affiliated:

- Permanent detention centres: These are subject to the Correctional and Rehabilitation Centres Act and are answerable to the General Directorate of Correctional and Rehabilitation Centres;
- Temporary detention centres (police custody): Arrested persons are subject to the Code of Criminal Procedure; detention lasts no more than 24 hours and is overseen by the Directorate General of Police;
- Detention facilities affiliated with the security services: These facilities are linked to the security agencies in the West Bank – Preventive Security, General Intelligence and Military Intelligence – and each is supervised by the administrators of the agency concerned. Military detainees are detained under warrants issued by the military prosecutor of Military Intelligence, and detention can be extended in accordance with the 1979 Revolutionary Code so that the detainees can then be brought before the military courts.

Correctional and rehabilitation centres in the Gaza Strip

A number of detention facilities have been opened in the governorates of the Gaza Strip to alleviate overcrowding in the main facility. These facilities are as follows:

- The Southern District correctional and rehabilitation centre located in the governorate of Khan Yunus, where prisoners from the southern governorates of the Gaza Strip (Rafah and Khan Yunus) are held;
- The Central District correctional and rehabilitation centre located in the governorate of Dayr al-Balah, where prisoners from that governorate are held;
- The North Gaza correctional and rehabilitation centre located in the town of Bayt Lahiya in the governorate of North Gaza, where prisoners from that governorate (Jabaliyah, Bayt Lahiya and Bayt Hanun) are held.

223. **Oversight mechanisms**

- The Code of Criminal Procedure and the Correctional and Rehabilitation Centres Act both grant inmates the right to lodge complaints;
- The oversight and inspection unit of the Department for Correctional and Rehabilitation Centres undertakes periodic visits to monitor fulfilment of obligations vis-à-vis inmates' rights;
- The Military Prosecutor has instructed staff of the Office of the Military Prosecution to inspect military-run detention centres;
- Medical oversight is performed by military medical services;
- Several memorandums of understanding have been signed between the Ministry of the Interior, the Independent Commission for Human Rights and local and international civil society institutions, under which those bodies are allowed to visit and inspect places of deprivation of liberty, examine conditions and conduct interviews with inmates.

224. **Statistics regarding visits and inspections**

Inspection of correctional and rehabilitation centres by government agencies

Agency	*Year*	*Number of visits to General Intelligence detention facilities*	*Number of visits to Military Intelligence detention facilities*	*Number of visits to Preventive Security detention facilities*
Office of the Public Prosecutor/senior prosecutors	2014	Twice a month	Periodic monthly visits	Periodic monthly visits
	2015			
	2016			
	2017			
	2018			

Inspection of correctional and rehabilitation centres by government agencies (police)

Agency	*Year*	*No. of visits*
Ministry of Justice	2015	1
	2017	2
Supreme Judicial Council	2014	14
	2015	16
	2016	15
	2017	19
Office of the Public Prosecutor/senior prosecutors	2014	14
	2015	11
	2016	25
	2017	36

Visits of inspection to correctional and rehabilitation centres by the Independent Commission for Human Rights

Year	*Number of visits to intelligence services detention facilities*	*Number of visits to police detention facilities*
2014	156	93
2015	156	96
2016	156	118
2017	156	114

Visits of inspection to correctional and rehabilitation centres by local civil society institutions (intelligence services)

Agency	*Year*	*No. of visits*
Hurryyat Centre	2014	132
	2015	144
	2016	132
	2017	156
Al-Haq	2014	114
	2015	78
	2016	114
	2017	126

Visits of inspection to correctional and rehabilitation centres by international organizations (intelligence services)

Agency	*Year*	*No. of visits*
International Committee of the Red Cross	2014	156
	2015	156
	2016	156
	2017	156
	2018	156

Visits of inspection to correctional and rehabilitation centres by international organizations (police)

Agency	*Year*	*No. of visits*
International Committee of the Red Cross	2014	44
	2015	65
	2016	35
	2017	47
Office of the High Commissioner for Human Rights	2014	0
	2015	1
	2016	0
	2017	2

225. The question of juveniles is addressed in the reply to article 24.

Disciplinary system

226. Under law and practice, disciplinary sanctions are limited to three types: a caution, solitary confinement for up to 1 week or the withdrawal of certain benefits envisaged for the

class of inmates concerned for a period of up to 30 days. Inmates have the right to challenge any sanctions. Statistics concerning disciplinary sanctions imposed in correctional and rehabilitation centres in 2015 and 2016 are shown in the table below.

		2015			*2016*		
Centre		*Caution*	*Solitary*	*Ban on visits and calls*	*Caution*	*Solitary*	*Ban on visits and calls*
Bethlehem	Men	2	4	23	0	26	28
	Women						
	Juveniles						
Janin	Men		78	74	6	49	41
	Women		5	3		3	4
	Juveniles		10	1	3	0	0
Nabulus	Men		145	182		58	167
	Women						
	Juveniles		15	2		5	4
Jericho	Men		38	15	5	40	7
	Women		1	1		1	0
	Juveniles						
Ramallah	Men					42	141
	Women						
	Juveniles						
Hebron	Men		58	39		56	21
	Women						
	Juveniles						
Tulkarm	Men		52	53		44	49
	Women						
	Juveniles					9	

Classification of inmates

227. The classification of inmates is dealt with under articles 24 and 25 of the Correctional and Rehabilitation Centres Act. Male inmates are held separately from female inmates while juveniles are placed in special centres. Inside the facility, inmates of both sexes are classified and distributed in separate sections: detainees, inmates being held in civil cases such as debt and maintenance payments, inmates with no previous convictions and inmates with previous convictions. Inmates facing sentences of death are kept separately and placed under constant supervision.

228. With a view to improving infrastructure, the Department for Correctional and Rehabilitation Centres developed a strategic plan 2014–2016 to build model correctional and rehabilitation structures in a number of governorates. The plan aims to respond to the needs of inmates, improve their living conditions and ensure that each individual has at least four square metres of space within dormitories. It also envisages the expansion of special sections and outside courtyards in new facilities, with areas set aside for services such as gyms, libraries, workshops, etc.

Health services

229. Military medical services, which are part of the military establishment, are responsible for the provision of medical care in correctional and rehabilitation centres. Inmates undergo a full medical examination within 24 hours of being admitted to a facility and before being released, with the results being recorded in their medical file. If the examination reveals any outward signs indicating that the inmate might have been tortured, the doctor complies a detailed medical report on the state of health of the individual concerned, and the director of

the facility is informed so that the necessary legal steps can be taken. If an inmate refuses to submit to a medical exam, the doctor is to record that refusal in the official register.

230. Some correction and rehabilitation centres continue to suffer from a shortage of medical clinics, as well as a lack of permanent doctors or nurses, and most do not have a dentist or a psychiatrist. This means that the prison administration is sometimes forced to take patients to government hospitals.

231. Medical visits and services (by number of inmates referred for treatment) are as follows:

	Centre	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*
2014	**Total**	**3 656**	**7 764**	**1 855**	**4 743**	**4 966**	**2 954**	**2 644**
2015	*Centre*	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*
	Total	**3 879**	**2 805**	**1 684**	**5 480**	**3 627**	**2 875**	**3 147**
2016	*Centre*	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*
	Total	**3 639**	**8 566**	**1 646**	**6 843**	**3 745**	**4 019**	**2 453**
2017	*Centre*	*Ramallah*	*Nablus*	*Bethlehem*	*Jericho*	*Janin*	*Hebron*	*Tulkarm*
	Total	**4 899**	**9 493**	**1 864**	**6 069**	**6 607**	**4 040**	**2 078**

Psychological guidance

232. The department for social welfare and psychological guidance, which is part of the Department for Correctional and Rehabilitation Centres runs specialized programmes to examine the social conditions of inmates and, in cooperation with the Ministry of Social Development and civil society institutions, it gives inmates access to psychiatrists and social workers. If necessary, cases are duly referred to psychiatric hospitals outside the correctional and rehabilitation centres.

233. The following statistics were compiled by the Ministry of the Interior regarding periodic visits by counsellors and social workers to correctional and rehabilitation centres where they provide psychosocial support, hold lectures, run psychological release sessions and social interventions, conduct interviews and perform various other activities.

	2014		*2015*		*2016*		*2017*	
Centre	*Entity*	*No. of visits*	*Entity*	*No. of visits*	*Entity*	*No. of visits*	*Entity*	*No. of visits*
Bethlehem	Ministry of Social Development	42	Ministry of Social Development	43	Ministry of Social Development	49	Ministry of Social Development	40
			Treatment and Rehabilitation Centre for Victims of Torture	13	Treatment and Rehabilitation Centre for Victims of Torture	18	Treatment and Rehabilitation Centre for Victims of Torture	42

	2014		2015		2016		2017	
Centre	*Entity*	*No. of visits*	*Entity*	*No. of visits*	*Entity*	*No. of visits*	*Entity*	*No. of visits*
Janin	Ministry of Social Development	30	Ministry of Social Development	28	Ministry of Social Development	34	Ministry of Social Development	14
	Defence for Children International		Defence for Children International	28	Defence for Children International		Treatment and Rehabilitation Centre for Victims of Torture	90
			Treatment and Rehabilitation Centre for Victims of Torture		Treatment and Rehabilitation Centre for Victims of Torture			
Nabulus	Ministry of Social Development	52	Ministry of Social Development	56	Ministry of Social Development	73	Ministry of Social Development	66
	Defence for Children International	3	Defence for Children International				Palestinian Counselling Centre	20
	Centre for Democracy and Conflict Resolution		Centre for Democracy and Conflict Resolution				Defence for Children International	3
Ramallah	Ministry of Social Development	31	Ministry of Social Development	47	Ministry of Social Development	75	Ministry of Social Development	58
	Treatment and Rehabilitation Centre for Victims of Torture		Treatment and Rehabilitation Centre for Victims of Torture	38	Treatment and Rehabilitation Centre for Victims of Torture		Treatment and Rehabilitation Centre for Victims of Torture	70
	Defence for Children International		Defence for Children International	6				
Jericho	Ministry of Social Development	39	Ministry of Social Development	25	Ministry of Social Development	40	Ministry of Social Development	38
	Treatment and Rehabilitation Centre for Victims of Torture		Treatment and Rehabilitation Centre for Victims of Torture		Treatment and Rehabilitation Centre for Victims of Torture		Treatment and Rehabilitation Centre for Victims of Torture	71
	Defence for Children International		Defence for Children International		Defence for Children International		Defence for Children International	
Hebron	Ministry of Social Development	7	Ministry of Social Development	19	Ministry of Social Development	13	Ministry of Social Development	9
	Treatment and Rehabilitation Centre for Victims of Torture		Treatment and Rehabilitation Centre for Victims of Torture	23	Treatment and Rehabilitation Centre for Victims of Torture		Treatment and Rehabilitation Centre for Victims of Torture	33

	2014		2015		2016		2017	
Centre	*Entity*	*No. of visits*	*Entity*	*No. of visits*	*Entity*	*No. of visits*	*Entity*	*No. of visits*
Tulkarm	Ministry of Social Development	31	Ministry of Social Development	36	Ministry of Social Development	31	Ministry of Social Development	30
	Defence for Children International		Defence for Children International		Defence for Children International		Defence for Children International	2

Rehabilitation

234. Working with the competent ministries, the Department for Correctional and Rehabilitation Centres is preparing rehabilitative plans and programmes to improve conditions for inmates and to raise their levels of education and culture. To that end, it also runs literacy courses. The table below shows the number of adult inmates who have received education in correctional and rehabilitation centres run by the Directorate General of Police.

Programme	*Literacy*	*Parallel education (intermediary level)*	*General secondary*
2015	73	25	22
2016	64	23	5
2017	36	17	12

235. Article 41 of the Correctional and Rehabilitation Centres Act stipulates that inmates are to acquire a vocation or skill and to be given vocational training while serving their sentence in order to help them earn a living following their release. In fact, the Department for Correctional and Rehabilitation Centres provides many inmates with training in areas such as food preparation, shoemaking, photography, design, hairdressing, embroidery and other skills. In 2015, a total of 97 inmates in different centres benefited from these training programmes, and 69 in 2016.

Homes for older persons

236. The “Beit al-Ajdad” centre, administered by the Ministry of Social Development, is the only government-run centre of its kind. It provides care and protection for older persons who have no one to look after them and it provides basic life services and health care in an appropriate psychosocial and environmental setting. The Ministry of Social Development has developed a national strategic plan for the care of older persons 2016–2020.

Palestinian prisoners in the jails of the Israeli occupation

237. The Israel Prison Service continues to strip Palestinian prisoners and detainees of their fundamental rights, with hundreds of them still denied the right to receive family visits and the right to education and health. Moreover, they are subjected to various forms of torture and to practices that constitute a violation of the right to humane treatment, such as being transferred from one prison to another or to the courts on long journeys in conditions that give rise to suffering and pain in a vehicle known as the “bosta”.

238. From 1967 to July 2019, a total of 220 Palestinian prisoners died in the prisons of the Israeli occupiers. Of that number, 75 were murdered, 7 were shot inside prisons, 65 died as a result of deliberate medical negligence (a form of torture and maltreatment that is practised broadly and systematically by Israel against Palestinian prisoners) while 73 died under direct torture.

239. In 2018, more than 1,800 prisoners in Israeli prisons, or about a quarter of the total, were ill. This included at least 26 who were suffering from cancer and at least 80 with some kind of disability (physical, psychological or sensory). Others were suffering from serious

and chronic conditions or from gunshot wounds inflicted by the occupiers. All these individuals are experiencing wretched conditions as a consequence of deliberate medical neglect, severe torture, ill-treatment and inattention, all of which serves to worsen their state of health.

240. Palestinian female prisoners in the jails of the Israeli occupation also suffer difficult health conditions as a consequence of the policy of medical negligence. This includes being denied medication or being given out-of-date medicines, as well as being deprived of necessary surgical procedures. They lack access to gynaecological care, which is especially problematic for those who were pregnant when detained. They are forced to give birth with their hands bound, regardless of the pain they endure in labour and childbirth.

241. Arbitrary solitary confinement is one of the harshest random punishments inflicted against Palestinian detainees by administrators of the jails of the Israeli occupation. The individual concerned is detained alone for long periods in a cramped, dark and dirty cell that lacks the minimum requirements for a humane and dignified life, giving rise to serious health complications.

Article 11

242. Enforcement Act No. 23 of 2005 regulates the procedures surrounding the settlement and implementation of court rulings concerning financial obligations, including contractual debts. Under articles 155 and 156 of the Act, debtors – once they have been duly informed – must refer to the enforcement department to propose a settlement for the debt they have been ordered to pay, in a manner that is consistent with their financial capacities. If debtors fail to propose an appropriate settlement, the enforcing judge can – as a last resort and at the request of the creditors – order the imprisonment of debtors in the following cases: if the debtors refuse or neglect to pay their debt even though they possess sufficient assets to do so; if the debtors have surrendered part of their assets to a third party or concealed them in order to prevent the creditors from receiving their due; or if it is apparent that the debtors intend to flee without settling the debt they have been ordered to pay.

243. The judge can order imprisonment for a term of not more than 91 days a year, in a single case of unpaid debt, and the term of imprisonment may not exceed 21 days if the sum in question is no greater than 500 Jordanian dinars. The order of imprisonment is revoked and the party concerned is released immediately once a settlement has been agreed or the debt has been settled. No order of imprisonment may be issued in cases of debts between spouses, antecedents and descendants, or persons with mental disorders.

Article 12

244. The Palestinian Nakbah of 1948 was a tremendous tragedy for the Palestinian people, a process of ethnic cleansing during which the Palestinian people suffered destruction and were expelled from their land to be replaced by others. Of the 1.4 million Palestinians who were living in historic Palestine in 1948, 800,000 were then driven from their villages and towns. According to UNRWA records, the number of registered Palestine refugees in 2018 was around 6 million; i.e., nearly half of all the Palestinians in the world.

245. In 1948 the United Nations adopted resolution 194, which affirmed the right of Palestinians displaced from their homes to return as soon as possible. However, in the face of United Nations resolutions and recommendations, Israel, the occupying power, violates Palestinians' right of return while, at the same time the racist Israeli Law of Return allows any Jew of any nationality to enter, live and settle.

246. During the war of 1967, Israel, the occupying power, invaded the rest of the Palestinian territory, forcibly displacing and deporting more than 200,000 Palestinians from their homeland.

247. Following the occupation of Palestinian territory in 1967, an identity card system was introduced under a military order issued by the Israeli occupiers. Under the system, all Palestinians then in the West Bank, including Jerusalem, and in the Gaza Strip, were required

to obtain an identity card issued by Israel, the occupying power, as a condition for so-called "permanent residence". In addition, the Israeli occupation authorities conducted a census of Palestinians to establish a new register of residents of the Occupied Palestinian Territory.

248. Israel, the occupying power, then imposed identity cards on the Palestinians who had been registered in that census, with distinct and discriminatory cards for each area: blue for Jerusalem, orange for the West Bank, red for the Gaza Strip. No Palestinian who was not present in the Occupied Palestinian Territory at the time was registered in this census, irrespective of whether the absence was a result of displacement or for any other reason. The occupiers do not recognize Palestinians who were not registered in the census, considering them to have lost their identity and their right to "reside" in their homeland.

249. Subsequently, the authorities of the Israeli military occupation imposed arbitrary decrees, procedures and conditions that have led to thousands of Palestinians having their identity cards withdrawn, thereby losing their status as "resident". And in order to have the cards restored, they have to go through a complex process the outcome of which, in most cases, was negative.

250. Israel, the occupying power, through its control of the "population register", monopolizes the residence files and the issuance of identity cards and permits so that no Palestinian passport can be issued unless linked to an identity card number in the register.

251. The consequence of all these colonialist policies, military decrees and arbitrary procedures has been to deprive hundreds of thousands of Palestinians of entry and residence in their own homeland.

Jerusalemites in their occupied city

252. Israel, the occupying power, distinguishes between Israelis and Palestinians in matters of citizenship, residence and civil status issues generally. Indeed, while Israelis receive full rights of permanent residence in occupied Jerusalem – a city that has been forcibly annexed in violation of international law – the Israeli occupiers force Palestinians, the original owners of the land, to carry permanent "residence" cards issued by the occupying authorities.

253. Palestinians can easily lose their right to return to Jerusalem if their "residence" is cancelled. In fact, under the guidelines of the occupying power, Palestinian Jerusalemites lose their right to "residence" if they reside in a foreign country for seven years, if they obtain residency in a foreign country or if they acquire a foreign nationality. Moreover, they lose their rights in any case if they are unable to prove that Jerusalem is their "centre of life". Since 1967, the right of "residence" has been withdrawn from more than 14,500 Palestinians as part of what is clearly a discriminatory policy aimed at emptying occupied Jerusalem of its Palestinian population, forcibly deporting them and altering the city's demographic character. Moreover, since 2003, the authorities of the Israeli occupation have placed a freeze on applications for family reunification, meaning that Palestinians in occupied Jerusalem or within the Green Line are forced to apply for reunification for their Palestinian husbands/wives in the West Bank or the Gaza Strip.

254. Israel, the occupying power, controls all Palestinian crossing points as well as land borders, airspace and territorial waters. It imposes restrictions on foreign trade and the movement of goods, and it restricts and hinders access to agricultural land and fishing zones. It also places harsh restrictions on the movement of Palestinians, not allowing them to travel without prior Israeli authorization as the West Bank, Jerusalem and the Gaza Strip remain separated.

255. The racist wall of annexation and expansion that was built by Israel, the occupying power, on occupied Palestinian land is one of the main bulwarks of the colonialist system of occupation, as well as being a blatant violation of international law, of the advisory opinion of the International Court of Justice and of Palestinians' right of movement. Indeed, 80 per cent of the wall lies inside the borders of the West Bank in such a way as to fragment Palestinian territory even further. The wall of annexation and expansion has isolated more than 12 per cent of the area of the West Bank and has led to the imposition of restrictions on around 1.9 million people who live in areas near the structure and/or colonies. Palestinians

thus isolated require a permit just to leave or return to their homes for purposes of work, study, medical treatment or accessing their farmland.

256. Israel, the occupying power, has instituted a system whereby it uses discriminatory permits to restrict movement, which it imposes on the basis of addresses on identity cards. Palestinians need Israeli permits to travel to and enter certain areas of the Occupied Palestinian Territory, such as occupied Jerusalem and the buffer zones between the wall and the Green Line, as well as travel permits to move between the West Bank and the Gaza Strip. The fact is, moreover, that the process of obtaining such permits is complex and almost impossible.

257. Israel, the occupying power, has severed the connecting tissue of Palestinian territory via a complex network of military checkpoints reinforced by military deployments across the West Bank. It has blocked access to main roads with a series of reinforced checkpoints made up of concrete blocks and steel doors. Between November 2014 and November 2016, OHCHR counted around 85 fixed checkpoints in the West Bank.

258. The Karamah crossing is the only crossing point from the West Bank abroad. Since 1967 – under flimsy security-related pretexts and without a court order – tens of thousands of Palestinians have been arbitrarily denied the right to travel. Between 2014 and 2017, a total of 8,874 people were turned back from crossing points and prevented from travelling by the Israeli occupation authorities, while in 2015, 83,895 persons were prohibited from travelling under a prior decree issued by the occupying power, according to statistics from the Authority for Civil Affairs.

259. By imposing an illegal blockade on the Gaza Strip since 2007, Israel, the occupying power, is implementing a policy of collective punishment against 2 million Palestinians. The blockade has made it almost impossible to leave the Gaza Strip as exit permits are rejected even when presented on medical or humanitarian grounds. The occupying authorities also restrict access to Gaza by land and sea thereby hindering access to fundamental life necessities and exacerbating poverty and unemployment.

260. The Israeli attack against the Gaza Strip in 2014 led to the forced displacement of 65,000 persons. In addition to this, the Israeli policy of arbitrary administrative demolition of Palestinian homes constitutes one of the most important tools of indirect forced displacement. Since 2009, the Government of the Israeli occupation has doubled the use of its policy of destroying homes and facilities, as a means of collective punishment. In that connection, as of March 2019, 5,884 Palestinian homes and facilities in the West Bank, including Jerusalem, had been destroyed displacing 9,210 Palestinians and affecting the lives of a further 71,672.

261. Israel, the occupying power, has denied United Nations special rapporteurs entry into the Occupied Palestinian Territory, in contravention of the relevant recommendations of the Human Rights Council. In addition, the Israeli occupation authorities have a policy of curbing the international presence and limiting the ingress of foreigners and of staff of international organizations, while those who come from abroad to express their solidarity are arrested and deported from the Occupied Palestinian Territory.

Right of movement under Palestinian legislation

262. Article 20 of the amended Basic Law stipulates: “Freedom of residence and movement is guaranteed within the limits of the law.” Under article 11, no prohibition may be placed upon freedom of movement except by court order, in accordance with the law, while article 28 reads: “No Palestinian may be expelled from the homeland, prevented from returning or leaving, stripped of nationality or handed over to any foreign entity.”

263. The law places certain conditions upon the issuance of travel bans whereby the courts can issue travel bans in accordance with article 277 of the Code of Civil and Commercial Procedure if they are satisfied that a defendant intends to travel – without providing a financial surety – in order to evade a financial obligation.

264. According to article 1l of the General Intelligence Service Act, the head of the Service can ask the Public Prosecutor to issue a ban to prevent a foreigner from entering or leaving the country, or to prevent a citizen from travelling, for reasons related to national security.

Such decrees are subject to review by the Supreme Court of Justice. For example, in Case No. 234/2017 the Court overturned a decision by the Office of the Public Prosecution to prevent a citizen from travelling on the grounds that prosecutors did not provide the Court with any evidence, information or court order that explained why the ban had been applied. The Court thus upheld the provisions of the amended Basic Law.

265. Any citizen with an identity card number, irrespective of age, is entitled to a Palestinian passport valid for five years. If all supporting documentation is provided, the issuance of a regular passport takes one day. Information relating to the processing of passport applications, based on data from the Ministry of the Interior, is shown in the following table.

Year	*Applications processed*
2015	231 505
2016	246 949
2017 (up to April)	82 920

Article 13

266. As indicated above, as a consequence of the policies they pursue and their control over all crossing points, it is the authorities of the Israeli occupation who control entry, exit and deportation to and from the Occupied Palestinian Territory and thereby prevent the State of Palestine from accomplishing its duty to grant humanitarian or political asylum. The control it exercises also opens the way for Israel to practice forced deportation against foreigners.

Article 14

The judiciary

267. Article 97 of the Basic Law, as amended, stipulates: “Judicial authority is independent and is exercised by courts of different kinds and levels. The law determines how courts are to be formed and their jurisdiction, and they issue their rulings in accordance with the law. Sentences are pronounced and enforced in the name of the Palestinian Arab people.” Article 98 of the Basic Law reads: “Judges are independent and, in their administration of justice, are subject to no authority other than that of the law. No one may interfere with the administration of justice.”

268. The 2002 Judiciary Act regulates the appointment and employment of judicial personnel while the Supreme Court has the jurisdiction to consider any objections related to administrative matters affecting judges. For its part, article 16 of the Act states that, in order to exercise judicial authority, a person must possess full legal competence, hold a diploma in statutory or sharia law, not have been convicted for a breach of honour or trust, be of sound character and good reputation and terminate membership of any political party or political organization.

269. According to articles 47–55 of the same Act, the president of each court is to supervise the judges who work there, a task that also involves alerting them to any violations they might commit. If the violations persist, the Public Prosecutor can bring disciplinary proceedings before the Disciplinary Board, which is made up of the two most senior judges of the Supreme Court and the most senior judge of the Court of Appeal. If the Board is of the view that the proceedings need to be pursued, the offending judge is summoned to appear and is informed of the subject matter of the case and the evidence. The trial is conducted in camera unless the judge in question requests that it be held in public, and a decision is rendered after having heard the case for the prosecution and the judge’s own defence. The penalties at the Board’s disposal are a caution, a censure or dismissal. A ruling for dismissal does not affect the judge’s remuneration rights.

270. The work of lawyers is regulated by Act No. 3 of 1999 concerning the legal profession, which sets forth the conditions for registration in the register of lawyers practising statutory law. The Act also envisages the formation of the Bar Association and defines its objectives, membership conditions, the rights and duties of lawyers registered with the Association, regulations for the training of lawyers, disciplinary boards and the financial affairs of the Association.

The courts

271. The Palestinian judiciary is divided as follows: (a) The regular judiciary, which includes the various levels of criminal court (magistrates' courts, courts of first instance, appeal and cassation) and of civil court (magistrates' courts, courts of first instance, appeal and cassation); (b) Sharia courts (sharia and religious courts); (c) The Supreme Constitutional Court; (d) Special courts; (e) Military courts.

Special courts

272. The law provides for the possibility of creating specialized courts. These include electoral appeals courts; municipal courts; income tax appeal courts; first instance courts dealing with matters relating to customs and excise and anti-corruption courts.

Military courts

273. Under article 101 (2) of the amended Basic Law, military courts are to be established under special laws and have no mandate or jurisdiction beyond military matters. The military judiciary is an independent body that enforces the law against members of the Palestinian security forces who have committed offences. The structure of the system of military tribunals and their areas of jurisdiction are set forth in articles 119–123 of the Revolutionary Code of Criminal Procedure, which provide for a central military tribunal, a standing military tribunal, a military court of appeal, a special military tribunal and a military field court.

Customary courts

274. Article 114 of the amended Basic Law repealed all provisions then in force to govern states of emergency. As a consequence, there are no customary courts in the State of Palestine.

Religious courts

275. Under article 101 (1) of the amended Basic Law, sharia and religious courts deal with matters related to personal status. There are sharia courts for Muslims with three different levels: courts of first instance, appeal courts and the Supreme Sharia Court, the latter dealing exclusively with questions relating to the interpretation of the law. There are also ecclesiastical courts for Christians, which deal with personal status matters in accordance with the relevant laws of Christian religious communities.

Fair trial guarantees

276. Palestinian legislation – first and foremost the Declaration of Independence – envisages equality and non-discrimination under a constitution that guarantees the rule of law and an independent judiciary. In addition, the amended Basic Law, the Code of Criminal Procedure and the Judiciary Act all contain basic principles intended to ensure respect for fair trial standards. The most important of these are the right of recourse to a "natural judge"; the presumption of innocence; the right of arrested or detained persons to be promptly informed of the reasons for their arrest; the right to legal aid; the right to be tried before an independent, neutral and competent court; and the right to public trial and sentencing in criminal, civil and commercial courts, unless the court decides to hold proceedings in camera.

Legal aid

277. Article 14 of the amended Basic Law states: "Accused persons are innocent until proven guilty at a legal trial during which they have enjoyed the guarantees necessary for their defence. Persons accused of a major offence must have a lawyer to defend them."

278. Legislators have taken action to ensure that accused persons are able to contact their lawyers at every stage of the trial. In that connection, articles 244–245 of the Code of Criminal Procedure state that, if an accused person does not appoint a defence lawyer the court shall, at its own expense, do so on that person's behalf.

279. A bill has been drafted for a legal aid fund, the purpose of which is to ensure that all categories of person have access to legal remedies. Under the bill, when questioning a person accused of a major offence or of a crime that attracts a term of imprisonment of more than 1 year, the Office of the Public Prosecution or the competent court must appoint a lawyer from the list of lawyers held by the fund, to represent and defend that accused person according to law.

Interpreters

280. The right of accused persons to avail themselves of the services of an interpreter during questioning and trial is enshrined in article 264 of the Code of Criminal Procedure as a supplementary right to the right to defence. Indeed, questioning takes place in Arabic and if any of the accused persons and/or witnesses do not speak that language, the president of the court is to appoint a licensed interpreter.

281. The appointment of a sign-language interpreter is regulated under articles 267 and 268, according to which, if the accused is a person with mutism or a person who is deaf or unable to write, the president of the court is to appoint an interpreter who is accustomed to addressing the accused person or persons with a similar condition, either by signs or by other technical means. However, if the accused is able to write, the court clerk is to transcribe the questions and comments and to show them to the accused who will then respond in writing. The clerk then reads out the replies before the court.

Trial without delay

282. Article 12 of the amended Basic Law stipulates that anyone who has been arrested or detained is to be brought to trial without delay. The time limits for completing the investigation and referring the accused before a competent court are set forth in the Code of Criminal Procedure.

Trials in absentia

283. According to article 291 of the Code of Criminal Procedure, a court can decide to try an accused person in absentia if that person fails to hand himself in once he has been duly informed and the period of grace has been published in the Official Gazette. Accused persons are not allowed to appoint a representative for a trial in absentia. According to article 296 of the Code, if the accused hands himself in or is arrested before the penalty handed down expires under the statute of limitations, the sentence and all the other proceedings are annulled as a matter of course and a retrial is held in accordance with normal procedures. Challenges against sentences handed down in absentia are addressed in articles 314–322 of the Code as one way to appeal against sentences. Persons convicted in absentia for less serious offences and misdemeanours can challenge the sentence within 10 days of being informed thereof. Challenges from civil claimants are not admitted.

Evidence and witnesses

284. Provisions relating to evidence are contained in articles 205–236 of the Code of Criminal Procedure. Evidence in criminal proceedings can be established using all means of proof, unless the law states that specific means must be used. It the evidence does not indict the accused or is insufficient for a conviction, the court is to hand down an acquittal. Any sentence can be based only on evidence that was presented during the trial and that was discussed during the proceedings, publicly and in the presence of the parties concerned. During the course of proceedings the court can – either at the request of the parties or on its own initiative – order the submission of any evidence it deems necessary to clarify the truth. The court may hear testimony from persons who spontaneously present themselves to provide information in the case.

285. Under article 77 of the Code of Criminal Procedure, prosecutors or investigators may summon anyone whom they believe can give testimony that might uncover the truth, irrespective of whether or not the names of such persons appear in the reports or complaints. They may also hear testimony from persons who present themselves spontaneously.

Review by higher judicial bodies

286. Criminal cases are tried at two levels. Courts of the first level are magistrates' courts and courts of first instance. Courts of the second level are the courts of appeal and courts of first instance sitting as courts of appeal. The Court of Cassation deals with legal questions and not with the subject matter of cases; i.e., it does not consider the factual basis of disputes but examines appeals relating to the application of the law.

Compensation

287. Article 30 (3) of the amended Basic Law regulates the question of compensation for judicial error. Article 387 of the Code of Criminal Procedure states that a person acquitted following a retrial has the right to claim compensation from the State for damages arising from the earlier sentence. Moreover, the State may take back compensation paid out to civil claimants, informants or false witness who occasioned the original sentence.

Policies

288. At the policy level, a strategic plan for the justice sector and rule of law has been adopted for the period 2017–2022. It aims to establish a legally structured justice system that operates efficiently and effectively to ensure fair trials, as well as justice-sector institutions that operate within an integrated institutional and regulatory framework.

289. A presidential decree was issued in September 2017 for the creation of a "national committee for the development of the justice sector and the judiciary". The tasks of the committee include reviewing the system of judicial legislation and producing a comprehensive vision for the advancement of the justice sector and the judiciary. In addition, the Ministry of Justice is making efforts to amend the Judiciary Act, also with a view to the advancement of the judiciary, particularly vis-à-vis the problem of lengthy legal proceedings.

290. On 15 July 2019 – in accordance with recommendations made by the "national committee for the development of the justice sector and the judiciary" – the President of the State of Palestine issued two Decree-Laws. The first envisaged the dissolution of the Supreme Judicial Council and the formation of a transitional supreme judicial council for a period of one year tasked with establishing courts of different levels, regulating justice, drafting bills to reform the judiciary and restore public trust, promoting opportunities for accessing justice and cutting the length of legal proceedings, then re-establishing the Supreme Judicial Council in accordance with the law. The other Decree-Law amended the Judiciary Act No. 1 of 2002 so as to reduce the retirement age for judges to 60.

291. The State of Palestine ratified the Riyadh Arab Agreement on Judicial Cooperation in 1983. Under that treaty, citizens of States parties, each within its own borders, have the right to bring legal action before judicial bodies in order to demand their rights, and they have the right to legal aid.

Indicators relating to the work of regular courts in 2017, according to the Supreme Judicial Council

		2017	*2016*	*2015*	*2014*
Magistrates' courts	Total number of civil and criminal cases received and processed, excepting traffic violations	86 655	81 734	85 100	84 585
	Civil and criminal cases in which judgment was rendered, as a percentage of all cases processed	59%	62%	65%	60%

Indicators relating to the work of regular courts in 2017, according to the Supreme Judicial Council

		2017	*2016*	*2015*	*2014*
Courts of first instance	Total number of rights-related and criminal cases received and processed	22 607	20 986	20 195	18 217
	Rights-related and criminal cases in which judgment was rendered, as a percentage of all such cases processed	32%	32%	34%	31%
Courts of first instance sitting as courts of appeal	Total number of rights-related and criminal cases received and processed	8 762	9 173	9 320	5 984
	Rights-related and criminal cases in which judgment was rendered, as a percentage of all such cases processed	67%	67%	65%	52%
Court of Appeal of Ramallah	Total number of cases received and processed (appeals concerning penalties, rights, enforcement)	7 180	6 455	7 759	6 818
	Cases in which judgment was rendered, as a percentage of all cases received and processed (appeals concerning penalties, rights, enforcement)	76%	72%	75%	78%
Court of Appeal of Jerusalem	Total number of cases received and processed (appeals concerning penalties, rights, enforcement)	4 263	3 687	2 915	2 273
	Cases in which judgment was rendered, as a percentage of all cases received and processed (appeals concerning penalties, rights, enforcement)	77%	75%	80%	85%
Court of Cassation	Total number of cases received and processed (appeals concerning rights, penalties)	5 426	4 405	3 475	2 651
	Cases in which judgment was rendered, as a percentage of all cases received and processed (appeals concerning rights, penalties)	33%	34%	33%	41%
Supreme Court of Justice	Total number of cases received and processed	485	543	524	616
	Cases in which judgment was rendered, as a percentage of all cases processed	58%	59%	57%	55%
Supreme Court	Total number of cases received and processed	56	54	38	40
	Cases in which judgment was rendered, as a percentage of all cases processed	25%	13%	5%	40%
Juvenile courts	Total number of cases received and processed	723	607	-	-
	Cases in which judgment was rendered, as a percentage of all cases processed	47%	41%	-	-

Obstacles placed by the Israeli occupiers on the right to take legal action

292. Israel, the occupying power, enacts military laws and orders that prevent court rulings from being implemented, or even issued. These include Military Order No. 1060 under which Palestinian courts have no jurisdiction to consider land ownership claims in relation to disputes with Israeli colonists. In other words, the courts have no mandate to consider

objections from Palestinians related to land ownership when a decision has been made to confiscate their land. Moreover, the occupiers' control over the roads and the hindrance of movement constitute obstacles to accessing the courts and to enforcing judicial decisions and rulings.

Israeli military courts

293. The Israeli military courts are an integral part of the colonialist system and of the persecution of the Palestinian people. Such courts have been established by military order ever since the beginning of the occupation, and the judges and prosecutors who operate in them are all part of the Israeli military. These courts exist illegally within the occupying State, a situation that has persisted for more than 40 years and that has turned the prosecution of civilians before military tribunals from an exception to a permanent state of affairs. The proportion of cases examined by Israeli military courts in the occupied West Bank, wherein convictions are handed down against Palestinians stands at between 95 and 99 per cent.

294. Palestinian detainees can be held in Israeli prisons for 90 days without charge, and that period can be extended. The vast majority of Palestinian detainees are held in prisons outside the Occupied Palestinian Territory where they are often subjected to torture and degrading treatment in order to extract confessions. In addition, the authorities of the Israeli occupation place obstacles that hinder contact between detainees and their lawyers while, using the pretext of "confidential cases", the military courts can consider charges against detainees without allowing them or their legal representatives to examine them. Thus, having been informed about a case by the military prosecutor, the court decides on the legality of detention and whether it is to be extended or revoked. Moreover, trial proceedings are conducted in Hebrew, a language that the Palestinians do not know. Court documents are also in Hebrew, including those that accused persons are compelled to sign during their detention. The rulings of military courts cannot be challenged or appealed in other courts that are outside the system of military occupation.

Article 15

295. The principle of the non-retroactive nature of laws is enshrined in article 15 of the amended Basic Law, which reads: "Punishment is personal and collective punishment is forbidden. There can be no crime and no punishment except as determined by law. Penalties are to be imposed only by court order and can apply only to actions committed after the entry into force of the law." The non-retroactive nature of laws is also upheld in current criminal legislation under which no penalty can be handed down that was not envisaged in the law at the time the offence was committed, with the proviso that the law more favourable to the accused person is the one that should be applied, if that more favourable law came into force before a definitive sentence was handed down.

Article 16

296. An individual acquires legal personality (legal standing) as an embryo, even before birth, and that personality persists throughout a person's life, until death. Article 17 of the Palestinian Children's Code (Act No. 7 of 2004), as amended, states: "All children have the right to respect for their legal personality."

297. As concerns legal agency, article 943 of the Compendium of Legal Judgements of A.H. 1293 states: "A minor incapable of discernment is one who does not understand sale and purchase; i.e., does not understand that they represent, respectively, a surrender and a gain of property, and who does not recognize immoderate and flagrant fraud." It should be noted that females possess legal capacity on an equal footing with males.

298. Civil, criminal and administrative laws do not distinguish between the testimony of a woman and of a man or give a different weight to one or the other. Cases where testimony is accepted or heard by way of consultation or where legal agency is denied are one and the same for men and for women. However, in the sharia courts, and as concerns contracts of marriage, the testimony of one man is equivalent to that of two women.

299. As concerns financial arrangements between spouses, a system of separation of assets is applied under which each spouse keeps what they own and what they earn during their life together and each retains the right to keep, administer and dispose of their assets independently without having to seek the consent or approval of the other. The wife keeps her original family name and uses it in all official transactions.

300. The procedures and documents required to report a birth and record it in the official register are detailed in Civil Status Act No. 2 of 1999, be it for citizens, foreigners or children of unknown parents. A foetus retains the right to its share of inheritance even before birth and, if a live birth follows, the infant is entitled to the share of the inheritance acquired as a foetus. Palestinians in occupied Jerusalem who wish to record their children in the population register and obtain birth certificates face the arbitrary and complex procedures imposed by the occupation authorities.

301. According to article 43 of the Civil Status Act, a Palestinian who can show that one parent is Palestinian may, at the age of 16, obtain an identity card. However, the occupying authorities, which control the population register system, arbitrarily deny many Palestinians an identity card even if they reside within the Occupied Palestinian Territory.

302. The Ministry of the Interior and the Ministry of Health are working on an automated programme for registering births and deaths, via links with hospitals. Under the programme, the hospitals automatically communicate such events to the population register so that birth and death certificates can be issued. The Bureau of the Chief Qadi is also involved, for the recording of marriages and divorces. The programme uses identification codes for different geographical divisions, which are then linked to the registers; however, the latter are under the control of the Israeli occupiers and this hinders the implementation of the programme.

Article 17

303. Article 17 of the amended Basic Law states that homes are sacrosanct and may not be monitored, entered or searched other than under a duly reasoned court order issued in accordance with the law. Any actions taken in violation of those provisions are invalid and anyone who suffers harm as a consequence thereof is entitled to fair compensation.

304. Article 181 (1) of the 1960 Criminal Code stipulates: “Any official who, acting in that capacity, enters a person’s home or any annexes of that home in a manner other than as allowed by law is liable to a term of imprisonment of between 3 months and 3 years and to payment of a fine of between 20 and 100 dinars.”

305. Procedures regulating searches are set forth in articles 39 to 52 of the Code of Criminal Procedure. According to those provisions, homes may be entered and searched only as part of an investigation, under a warrant issued by the Office of the Public Prosecution or in the presence of a representative from the Office, and on the basis of charges that a person dwelling in the home that is to be searched has committed or was involved in committing a crime, or if there is a strong indication that the person possesses objects relating to the crime. The search warrant – duly reasoned – must be drawn up by a law enforcement official.

306. According to those provisions of the Code of Criminal Procedure, it is possible to enter without a warrant only in exceptional cases: requests for assistance from within, such as in fire or flood, cases of flagrante delicto and cases where a suspect is being pursued.

307. As concerns the privacy and confidentiality of correspondence, communications and personal information, article 4 of Cable and Wireless Communications Act No. 3 of 1996 underscores the need to protect the privacy and confidentiality of communications on Palestinian territory, which cannot be violated save by the public authorities, in exceptional cases and within the limits of the law.

308. Article 356 of the 1960 Criminal Code criminalizes abuse of authority on the part of officials of the postal or telephone service. This includes examining, destroying or misappropriating correspondence or revealing its contents to anyone other than the addressee, offenders being liable to imprisonment or a fine. In an exception to that provision, the Code of Criminal Procedure gives the Public Prosecutor or his deputies the power to seize letters,

parcels and the like when they are associated with a crime or the perpetrator of a crime. In addition, and also exceptionally, a magistrate can authorize the interception and recording of cable and wireless communications when such is necessary to uncover the truth behind a crime that attracts a term of imprisonment of not less than 1 year (art. 51).

309. On 6 May 2019, the Council of Ministers issued Decree No. 3 concerning the personal data of citizens. Under the Decree, providers of Internet and communications services are forbidden from using, directly or indirectly, subscribers' personal data for commercial purposes, without prior permission from the persons concerned.

310. Israel, the occupying power, arbitrarily seizes correspondence and parcels entering and leaving the State of Palestine. This leads to delays in the dispatch and receipt of those items and violates Palestinians' right to privacy, as private correspondence and parcels are broken open and their contents perused. In 2010 Israel, the occupying power, arbitrarily detained more than 10 tons of postal correspondence and parcels. Most of these were emptied of their contents or arbitrarily destroyed before finally being released in 2018, after having been withheld for eight years.

311. According to annual compilations of complaints, which are produced by the Council of Ministers, there were 105 complaints concerning violations of the sanctity of private life in 2014. In 2015, there were 89 such complaints of which 85 were addressed; there were 312 such complaints in 2016 of which 256 were addressed; and there were 123 complaints in 2017.

312. With regard to the storage of personal information, the Directorate for Civil Status is responsible for keeping records on natural, personal and family details. Such records are confidential and, other than by the persons concerned, can be accessed only exceptionally and under a court order. In addition, alterations or corrections can be made to personal status records only under a definitive ruling handed down by a competent court, with the exception of those concerning nationality, religion or profession and certain civil status entries such as marriage or divorce.

313. Articles 358 to 367 of the 1960 Criminal Code cover the offences of slander, defamation and denigration. A case can be brought against a person responsible for slander, defamation or denigration only on the basis of a complaint of the injured party or that party's heirs. Injured parties may also accompany their complaint with a request for compensation for any material or moral harm suffered. The same matter is addressed in articles 201–209 of the Mandate-era Criminal Code**.**

314. Decree-Law No. 16 of 2017 regarding cybercrime met with great protest and criticism as a consequence of which it underwent wide public debate with the involvement of representatives of civil society. In the wake of those community discussions, the original Decree-Law was replaced with Decree-Law No. 10 of 2018 regarding cybercrime, which takes account of the right of individuals to the confidentiality of their electronic data. Article 22 of the Decree-Law prohibits the arbitrary or unlawful interference in the privacy of any person or in the affairs of that person's family, home or correspondence. The Decree-Law allows the Office of the Public Prosecution or the competent court – exceptionally and only for the purposes of uncovering the truth and achieving justice – to get a subscriber's electronic data from an Internet service provider, all procedures being governed by legal conditions set forth in the Code of Criminal Procedure.

Article 18

315. Palestine is the cradle of the Abrahamic religions and the location of the holy sites. The preservation of religious belief, as well as equality and non-discrimination on religious grounds, are enshrined in the Declaration of Independence as being integral to the fulfilment of the Palestinian spiritual and cultural heritage of tolerance and coexistence down the centuries.

316. Article 18 of the amended Basic Law reads: "Freedom of belief, worship and the practice of religious rites are guaranteed, provided they do not impinge upon public order or

public morals.” Under article 4 (1) of the Basic Law, Islam is the official religion of the State of Palestine while the sanctity of other Abrahamic religions is to be respected.

317. Under the heading “Crimes affecting religion and the sanctity of the dead”, articles 273–278 of the Criminal Code (Act No. 16 of 1960) envisage imprisonment or a fine for anyone who publicly insults the prophets, who destroys or defiles a place of worship, a slogan or anything else that a group of persons hold to be sacred, thereby intending to denigrate a religion followed by any group of persons, or who without cause or legitimate excuse interferes with religious rites or insults the religious feelings or beliefs of others.

318. Under the heading “Offences relating to religion and public monuments”, articles 146–150 of the Mandate-era Criminal Code (Act No. 74 of 1936) state that anyone who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons, or who wilfully disturbs any meeting of persons assembled for religious worship, or who commits any trespass in any place of worship, or who wounds the religious feelings of any person, or who destroys any religious monument, is guilty of a misdemeanour.

319. The different religious communities independently regulate their own spiritual affairs, practise religious rites and organize personal status matters in accordance with the personal status laws applicable to each community.

320. The Samaritan community lives in Mount Gerizim in Nablus and it owns synagogues where members of the community can practise their religious rites and beliefs, one inside the old Samaritan quarter in the city of Nablus and another in the centre of the Samaritan quarter on Mount Gerizim.

321. Churches accredited by the State of Palestine were granted official recognition under a presidential decree of 2008. They are: the Greek Orthodox Patriarchate, the Latin Patriarchate, the Armenian Orthodox Patriarchate, the Custody of the Holy Land, the Coptic Orthodox Patriarchate of Jerusalem, the Syriac Orthodox Patriarchate, the Ethiopian Orthodox Patriarchate, the Maronite Patriarchal Exarchate of Jerusalem and Palestine, the Melkite Greek Catholic Patriarchate, the Evangelical Lutheran Church in Jordan and the Holy Land, the Episcopal Church in Jerusalem and the Middle East, the Syriac Catholic Patriarchal Exarchate and the Armenian Catholic Patriarchal Exarchate.

322. With a view to alleviating the financial burdens on churches and their property, Decree-Law No. 9 of 2014 was enacted under which recognized Christian communities are exempted from certain taxes and fees. Under article 2 of the Decree-Law, transactions undertaken, claims made and property used by the Christian communities are exempted from taxes and fees of all kinds.

323. A presidential decree was issued in 2012 that brought into being a supreme committee for church affairs in the State of Palestine. The committee deals with affairs of concern to local churches, including questions related to the law, to real estate and to institutional matters. It also coordinates with local, regional and international bodies on church affairs and activities related to inter-religious dialogue.

324. With a view to ensuring the free practice of religious rituals and respect for ecclesiastical rights, the State of Palestine signed the Comprehensive Agreement with the Vatican in June 2015, the purpose of which is to regulate and protect the rights of Palestinian members of the Roman Catholic Church.

325. The State of Palestine guarantees all Palestinians the right to religious holidays. In addition to the holidays envisaged in the Labour Code and the Civil Service Act, Council of Ministers Decree No. 217 of 2004 grants holidays for the religious feasts of Eastern and Western Christianity, while Council of Ministers Decree No. 6 of 2016 grants holidays for the religious festivities of the Samaritan community.

326. According to a 2017 survey of Palestinians on Palestinian territory, conducted by the Central Bureau of Statistics and disaggregated by religion, Muslims number 4,615,683, Christians 46,850, followers of other religions 1,384 and non-declared 1,509, among a total population of 4,665,426.

Religious education

327. A module on Islamic education and a module on Christian education has been integrated into the basic curriculum followed in Palestinian schools. Under a decree issued on 9 August 2018 by the Minister of Education, twelfth-grade Christian textbooks have been integrated into the general secondary examination taken by Christian students.

328. Children from the Samaritan community of Mount Gerizim pursue their education in Palestinian schools. The community has its own school attached to the Ministry of Education, which, in addition to Samaritan children, is attended by others living near the Samaritan neighbourhood. The school, which follows the curriculum prescribed for other Palestinian schools, is also used to impart evening classes in Hebrew and theology to members of the community.

Violations and attacks against holy sites by the Israeli occupiers

329. Israel, the occupying power, controls the holy sites, including the Al-Aqsa Mosque, the Dome of the Rock, the Church of the Holy Sepulchre and other locations. In violation of freedom of belief, the authorities of the Israeli occupation use closures, checkpoints and the enforcement of a punitive and discriminatory system of permits to restrict the right of Muslims and Christians to visit holy sites. The effect of these measures is that the vast majority of persons are denied the practice of their religion.

330. As the policy of incitement, discrimination and racist hate speech on the part of the Israeli authorities continues, the Al-Aqsa Mosque is witnessing daily violations by the Israeli Government and settlers. At the same time Israel, the occupying power, is seeking to enforce the temporal and spatial division of the Al-Aqsa Mosque. Serious violations took place in July 2017 reaching the point that prayers at the Mosque were forbidden and security cameras and electronic gates were installed accompanied by a systematic policy of repeated intrusions. In addition to this, during the course of 2018, the Israeli occupying authorities issued 176 decrees to remove Palestinians from the Al-Aqsa Mosque, including clerics and staff. Israel, the occupying power, has also sought to pass discriminatory, racist and anti-religious laws, one example being laws banning the call to prayer.

331. The occupying forces allow attacks by Israeli settlers against persons frequenting the Ibrahimi Mosque/Tomb of the Patriarchs to continue and to escalate. In addition, the occupiers ill-treat worshippers and erect checkpoints and, in 2014, they banned the call to prayer from the Mosque on 624 occasions. The call to prayer was also banned on 590 occasions in 2015, on 644 occasions in 2016 and on 631 occasions in 2018.

332. Since 1967, Israel, the occupying power, has been carrying out systematic attacks on Christian holy sites, imposing restrictions and augmenting pressures. This has included a policy whereby arbitrary and exorbitant taxes are imposed on holy sites and restricted access for Palestinian Christians to the Church of the Holy Sepulchre and other churches. At the same time, Israeli settlers continue to desecrate Christian and Islamic places of worship and cover them in racist slogans, without being held accountable.

Article 19

333. Freedom of opinion and expression is a constitutional right guaranteed under the Declaration of Independence and upheld in the Basic Law, as amended, article 19 of which reads: “Freedom of opinion is not to be infringed. All persons have the right to express and disseminate their opinions orally, in writing or through any other means of expression or art, as provided by law.”

334. The right to establish and the freedom to work in newspapers and media outlets are enshrined in article 27 of the amended Basic Law, as is the prohibition of censorship and control, with the exception of financial controls. Moreover, it is forbidden to issue cautions to a newspaper or media outlet, suspend, seize or abolish it save in accordance with the law and under a court order. This is upheld in the Printing and Publications Act of 1995, article 2 of which states: “The press and printing are to be free, and freedom of opinion is guaranteed for all Palestinians, who can openly express their views in speech or writing, pictorially or

graphically, using any means of expression and information." Articles 3 to 5 of the same Act regulate the right of citizens, political parties, cultural and social organizations and unions to express their views and ideas, to make their accomplishments known and to circulate and disseminate news, information and statistics. Under the Act, all natural and legal persons, including political parties, have the right to own newspapers.

335. Article 21 of Decree-Law No. 10 of 2018 regarding cybercrime envisages freedom of opinion and expression in digital media. It guarantees freedom of the press and printing, including paper, visual, audio and digital publications, and freedom of artistic and literary creativity. No legal action may be taken to block or confiscate any artistic, literary, or intellectual work, or against the creators of such works, except by court order. No punishments of deprivation of liberty may be imposed for crimes committed because of the public nature of artistic, literary or intellectual work.

336. The code of conduct for Palestinian media professionals enjoins acceptance of democratic principles and respect for the opinions of others. It states that the media must systematically pursue freedom and democracy, preserve the cultural and national identity of the Palestinian people (without leading to isolation), adopt the values of tolerance and acceptance of others' opinions, and give due coverage to matters of public interest through documented information while remaining attentive to marginalized groups and areas.

337. As a way of generalizing access to information via the Internet, the Palestine Telecommunications Company provides citizens with Internet services, directly or through licensed service providers. According to data from the 2017 census, 51.7 per cent of Palestinian households have Internet access, with the total number of high-speed Internet subscribers in the State of Palestine standing at 357,071 in 2017, as compared to 119,488 in 2010.

338. Articles 17–23 of Printing and Publications Act No. 9 of 1995 explain the procedures involved in obtaining a licence to issue publications or set up institutions, such as printing presses, publishing and distribution houses, research foundations, polling companies, press offices, translation bureaux and advertising agencies. Decree No. 18 of 2018 of the Council of Ministers regulates the systems and mechanisms whereby licences are granted to terrestrial and satellite radio and television stations, satellite broadcasting companies and offices of satellite and media production companies. Under article 5 (8) of the Decree, for a station to obtain a licence it must first gain technical approval from the Ministry of Communications and Information Technology and endorsement of its financial standing from the Ministry of the Interior. The decision to grant or refuse a licence is then made by the Ministry of Information within 60 days of the date of the application and the station is given an exclusive frequency once it has fulfilled all the technical requirements. Any decision to refuse a licence can be appealed before the High Court of Justice.

339. Licensed media organizations as of March 2018, according to data from the Ministry of Information, are shown in the table below:

Advertising agencies	370	Producers of stamps and seals	14
Printing presses	274	Information offices	26
Publishing and distribution houses	121	Polling companies	5
Libraries	255	Magazines	226
Press offices	145	Newspapers	112
Press agencies	38	Study and research foundations	156
Translation bureaux	56	Media production companies	90
Licensed radio and television stations	52	Licensed rebroadcasting companies	3
Licensed broadcasting companies	4 of which the occupiers have arbitrarily closed 2.	Offices of Arab and international satellite channels	5
Licensed national satellite channels	2	National satellite television channels awaiting a licence	2

Foreign media outlets

340. In order to obtain a licence, foreign channels must fulfil the same conditions and go through the same procedures as those outlined above and, in addition, must obtain approval from the Council of Ministers. Thus, an additional 30 days are granted for the issuance of a decision, and a decision to refuse a licence can be appealed before the High Court of Justice. There is no requirement for the owner of the foreign channel to be Palestinian.

341. As of 2015, most of the foreign satellite stations operating in the State of Palestine broadcast via the 9 accredited and licensed Palestinian satellite-broadcasting service companies, which serve some 150 Arab and foreign satellite stations. Four Arab and foreign satellite channels are licensed to operate directly from their own offices, without using the Palestinian broadcasting service offices. There are 78 accredited foreign media outlets and 53 Arab satellite television stations, but none in the Gaza Strip apart from the Al-Jazeera office. Other satellite broadcasters operate via media offices licensed to work with foreign reporters.

Legal restrictions on freedom of opinion and expression

342. Article 37 of the Printing and Publications Act prohibits the publication only of the following material:

- Any confidential information concerning the police and the security forces, their weapons, equipment, locations, movements or training;
- Material that disparages religions and religious doctrines that enjoy freedom under the law;
- Material that would damage national unity, incite crime, disseminate hatred, discord and conflict or give rise to sectarianism among members of society;
- Minutes of the confidential meetings of the National Council and of the Council of Ministers;
- Material or news intended to undermine confidence in the national currency;
- Material or news that would harm the dignity or personal freedom of individuals or damage their reputation;
- News, reports, letters, articles and images that are contrary to public morals;
- Advertisements promoting medicines, medical preparations, cigarettes and the like, unless publication is authorized in advance by the Ministry of Health.

343. Under article 23 of the same Act, a printing and publication licence cannot be revoked or withdrawn as long as there is no violation of the conditions under which it was granted, except where the licence expires automatically in cases where publication is suspended for an extended period of time, the length of which is defined by law depending upon the periodicity of the publication concerned. Newspapers issued by political parties are exempted from these provisions and do not lose their licence irrespective of how long they suspend operations. Moreover, a printing licence cannot be revoked as a penalty for a violation of publishing conditions. Such penalties are limited to monetary fines in limited cases set forth in article 47. A court can impose a temporary interruption of publication for a period of up to 3 months.

344. Slander, defamation and denigration are addressed in articles 188–199 and 358–367 of the Criminal Code (Act No. 16 of 1960) and in articles 201–209 of the Mandate-era Criminal Code. They are treated as offences that undermine the honour and dignity of individuals and that may be caused by a misunderstanding of the framework governing freedom of opinion and expression. Under current law, forms of behaviour that unduly and without legal justification undermine the honour and dignity of individuals, and that are contrary to freedom of opinion and expression, are punishable offences. The legal provisions relevant to such offences can constitute a challenge to freedom of opinion and expression due to errors committed when seeking to define the behaviour of an accused person using the terms set forth in the law. In order to promote freedom of opinion and expression, the State

of Palestine is preparing a draft criminal code that does not envisage such offences at all and is consistent with the International Covenant on Civil and Political Rights.

345. Decree-Law No. 16 of 2017 regarding cybercrime was met with a wave of criticism as a consequence of which it underwent debate within the community, with the involvement of civil society institutions, and a body of amendments was adopted which was then presented to the legislative harmonization committee. Subsequently, the original Decree-Law was replaced with Decree-Law No. 10 of 2018 regarding cybercrime, in which ambiguous provisions were removed, penalties lightened and substantial amendments introduced. Discussions are still ongoing between governmental bodies and civil society institutions to reach an optimal regulatory framework on cybercrime. This is evidence of a political will in the State of Palestine to safeguard freedom of opinion and expression and to involve civil society in the process of achieving consistency with international standards.

346. A unified draft law on the media is currently being prepared which will include electronic media, publicity and advertising, audiovisual media, classification of productions by age category, and the Printing and Publications Act. A committee has been formed to prepare, in cooperation with other competent bodies, a first draft of the new law on the basis of international standards governing the right to freedom of opinion and expression.

347. A national mechanism to report on the safety of journalists and on questions related to impunity was launched in November 2019. The mechanism – which reports on crimes and violations against journalists – envisages a team that includes relevant government ministries, the Palestinian Journalists' Syndicate (as the national partner of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in the State of Palestine) and civil society institutions. The mechanism documents violations against journalists and submits its reports to UNESCO. It also offers vocational training on how to document human rights violations against journalists, in cooperation with the Independent Commission for Human Rights and OHCHR.

348. In August 2016, the State of Palestine officially signed the Declaration on Media Freedom in the Arab World, which entails a clear commitment to the principles of media freedom, press independence, access to information and the defence of journalists' rights.

349. With a view to promoting freedom of the media and the press, in June 2016 a cooperation agreement was signed between the Palestinian Journalists' Syndicate and the Office of the Public Prosecution of the State of Palestine. One of the most significant provisions of the agreement is that journalists are not to be detained by the Office of the Public Prosecution in cases related to freedom of opinion and expression. Moreover, the head of the Syndicate or his representative is entitled to be present when a journalist is being questioned, and they are to be informed of all the steps taken against journalists accused of offences related to the practice of their profession. In cases of flagrante delicto, the Syndicate is to be informed within 24 hours of any measures taken against a journalist. In addition, a line of communication has been established in order to deal with the daily problems that can arise in journalists' work.

350. In 2017 and in collaboration with the Palestinian government and partner institutions, the Palestinian Journalists' Syndicate launched a policy paper for the reform and development of the Palestinian media, the purpose being to set up mechanisms to support and develop the Palestinian press.

351. In September 2014, the media development centre at Birzeit University launched a nationwide initiative aimed at promoting the media in Palestine. The initiative – which covered legal reform, academic development, gender, infrastructure, media training, vocational safety, self-regulation, media and society, and public media – was signed by the Office of the Prime Minister with the participation of national institutions. The aim was to improve the status of official and unofficial Palestinian media outlets and bring them into line with international standards governing media freedom.

352. In partnership with national and international human rights institutions, the Ministry of the Interior has issued a manual on dealing with journalists in the field. The manual has been used in the course of several interactive workshops between representatives of the security services and the Palestinian Journalists' Syndicate.

353. Under their code of ethics and conduct, members of the Palestinian security forces must ensure the freedom of visual, audio and written media and the freedom of media professionals and journalists to work in all fields, and that they must facilitate journalists' access to information in a timely manner, in accordance with the law. Law enforcement agencies have also issued instructions and circulars stressing the need to respect the work of journalists. These include Circular No. 06/2017 issued by the Directorate General of Police, which reminds all police officers of the need to respect journalists, facilitate their work, protect them and guarantee their personal safety, the aim being to guarantee the exercise of freedom of opinion and expression and to protect the journalistic profession. In addition to this, Circular No. 08/2012, also issued by the Directorate General of Police, emphasizes the importance of respecting legal procedures when filing any report or complaint against a journalist and of monitoring by the competent authorities.

Court rulings

354. The national courts are eager to abide by the obligations arising from the country's accession to International Covenant on Civil and Political Rights and to highlight self-criticism and constructive criticism as aspects of freedom of opinion and expression. In that connection, in May 2017, the Nablus Magistrates' Court handed down a ruling in criminal case No. 3525/2016 in which it acquitted an accused person on charges of broadcasting false news liable to undermine national prestige, in violation of article 132 (1) of the 1960 Criminal Code; of inciting sectarian strife, in violation of article 150 of the Code; of defamation, in violation of article 193; and of insulting the Head of State or his deputy, in violation of article 132 (2). The Court ruled that the statements of the accused person in the course of a televised interview on a satellite channel were made in the context of his political views and did not constitute an offence. In its consideration of the charges, the Court drew on the provisions of article 19 of the Basic Law, as amended, which is consistent with article 19 (2) of the International Covenant on Civil and Political Rights, with article 32 of the Arab Charter on Human Rights, with article 19 of the Universal Declaration of Human Rights and with General Assembly resolution 53/144 of 1998, all of which reaffirm the right to freedom of expression.

Israeli violations against journalists and media organizations

355. In an effort to cover up the truth by suppressing the media and eradicating freedom of expression, Israel, the occupying power, obstructs the work of journalists, including Palestinian journalists. The year 2014, in particular, witnessed a series of bloody crimes against Palestinian journalists, especially during the Israeli attack against Gaza during which 17 journalists, one of them an Italian national, lost their lives.

356. In 2016, Israel, the occupying power, attacked 176 journalists and 18 media outlets. The same figures for 2017 were 458 and 48 respectively. The pace of Israeli violations against journalists and media freedom then escalated, with 679 violations in 2018. Violations range from arbitrary detention to the imposition of harsh and indiscriminate conditions on journalists such as bail payments and house arrest. Journalists have also been directly targeted with tear gas canisters and a number have been injured by live fire and rubber bullets.

357. Two photographers, Yasser Murtaja and Ahmed Abu Hussein, were killed after being fired on by soldiers of the Israeli occupation while covering the Great Return March in the Gaza Strip in April 2018. In November 2019, the journalist Moaz al-Amarna lost his left eye while covering an attack by the forces of the Israeli occupation against Palestinian protesters in Hebron.

358. The year 2018 also saw new Israeli legislation to restrict freedom of opinion and expression and the work of the press. This took the form of the approval by the Israeli Knesset of a law prohibiting the filming of soldiers of the Israeli occupation which, via the imposition of fines, would prevent journalists from recording the crimes committed by the occupying military forces. This is in addition to the arbitrary legal action taken against Palestinians to prevent them from exercising their freedom of opinion and expression.

Article 20

359. The commitment of the State of Palestine to the principles and objectives of the United Nations is enshrined in the Declaration of Independence. Article 150 of the 1960 Criminal Code envisages imprisonment or a fine for anyone whose writing, speech or actions seek to foment, or result in, sectarian or racial strife, or who seeks to incite conflict between the communities and groups of the nation.

360. In the same context, article 8 (d) of the Printing and Publications Act states that journalists must refrain from publishing anything that might fuel violence, intolerance or hatred or that would incite racism or sectarianism. Article 37 of the Act prohibits any material that disparages religions and religious doctrines that enjoy freedom under the law, or that would disseminate hatred, discord and conflict or give rise to sectarianism among members of society.

361. Under article 24 of Decree-Law No. 10 of 2018 regarding cybercrime, anyone who creates a website, an electronic application or an online account, or who disseminates information via the Internet or via any other form of information technology for the purpose of displaying any written words or behaviours that might lead to racial or religious hatred or to racial discrimination against a particular group on grounds of ethnicity, community, colour, appearance or disability, is liable to imprisonment and/or a fine.

362. Article 66 of the Decree-Law regarding general elections prohibits the use of electoral propaganda containing any criticism of or incitement against other candidates on grounds of their sex, religion, community, profession or disability, or that would provoke tribal or sectarian strife among the groups in society, or that would cause any conflict that could affect the unity of the Palestinian people.

363. The greatest cause of provocation remains the Israeli colonialist occupation, under whose yoke the State of Palestine languishes. At the same time Israel, the occupying power, uses official discourse and media platforms as a means of inciting racism against Palestinians, spreading inflammatory and racist statements, allegations and ideas calling for the killing of Palestinians and justifying the violations, massacres and crimes committed against them. Among these racist statements was one published by the newspaper *Israel Today* on 18 May 2016: “The ethnic cleansing of Palestinians was a victory for justice”.

364. Official Israeli discourse also incites against the struggle of the Palestinian people, especially Palestinian prisoners. Such allegations seek to criminalize the legitimate resistance of the Palestinian people against the occupation and their right to self-determination, which has been upheld in international resolutions. The prevalent Israeli narrative stigmatizes the Palestinian struggle and Palestinian prisoners with the word “terrorism”; moreover Israel, the occupying power, has launched an inflammatory campaign against financial allocations for Palestinian prisoners – who are victims of Israeli arbitrary detention – on the pretext that such payments are a form of “support for terrorism”. This constitutes a violation of international law, including the Geneva Conventions; in fact, according to the Fourth Geneva Convention, the Detaining Power shall provide for the support of those dependent on the internees, if such dependents are without adequate means of support or are unable to earn a living.

Article 21

365. Article 26 (5) of the amended Basic Law guarantees the right to hold private meetings without the presence of police officers and to hold public meetings, marches and gatherings within the limits of the law. This right is regulated under Public Assemblies Act No. 12 of 1998, which defines a public meeting as “any public gathering where at least 50 people have been invited to attend in an open public place, including public squares, fields, stadiums, parks, etc.”

366. Signed written notification must be delivered to the governor or director of police at least 48 hours before a public meeting is due to be held, specifying the venue, time and purpose of the gathering. The governor or director of police may place conditions on the duration or course of the meeting in order to safeguard the movement of traffic, which are to

be conveyed in writing to the organizers within 24 hours of the delivery of the notification. If the organizers receive no written reply, they may hold the public meeting as specified in their notification.

367. Decree No. 1 of 2000 of the Minister of the Interior, which contains the implementing regulations of the Public Assemblies Act, states that the director of police may request a meeting with the organizers to discuss the details of a public gathering. Such a meeting can serve to ensure that participants stay away from trouble spots and that the gathering does not violate the law or threaten public order. The director of police may impose security requirements as a way of ensuring the public safety.

368. The implementing regulations stipulate that the response from the police to a written request to hold a public gathering should take the form of a written authorization setting forth the conditions and security requirements, as determined by the director of police, in addition to any other conditions. The police have the right, in accordance with the law, to terminate and break up a gathering if it departs from its purpose, violates the conditions under which it was authorized, disturbs security and public order or is marred by rioting that endangers the well-being or property of citizens.

369. The code of conduct concerning the use of force and firearms by members of the Palestinian security forces takes full account of the principles of necessity, proportionality, graduality and accountability, while also reconciling the maintenance of security and public order with the safety of citizens. The code prohibits the arbitrary use of force and firearms while article 20 of the text describes the procedures to be followed to disperse a non-violent gathering, and article 22 the procedures for dispersing an unlawful gathering.

370. As concerns accountability, following the events that took place during the vigil before the court complex in Birah and Bethlehem in March 2017, a commission of inquiry – with members from the Independent Commission for Human Rights and the Bar Association – was established by decree of the Prime Minister and the Minister of the Interior to uncover the truth behind the incident. In the light of the findings of the commission of inquiry, the Prime Minister signed a document regarding the implementation of its recommendations on the "court complex" events.

371. Beginning in September 2018, the nation's governorates, and Ramallah in particular, witnessed a series of public protests against a decree-law on social security. These peaceful rallies, which continued for five months, were characterized by very high levels of discipline on the part of security forces and adherence to the principles of freedom of peaceful assembly and freedom of opinion. No violent incidents took place and the protests came to an end in January 2019 when the protesters' demands were met and the decree-law on social security was withdrawn.

372. In June 2018, human rights activists staged a peaceful public protest in Bethlehem demanding a series of political changes. The protest was met with discipline on the part of the security forces, who withdrew as soon as they had ascertained that the situation was stable and secure and that there were no disruptions or threats to public order. After that, only the traffic police remained on hand to ensure the movement of vehicles and the right of way.

373. Palestinians also staged a great wave of weekly peaceful demonstrations along the fence delimiting the Gaza Strip. The demonstrators were demanding the right of return of Palestinian refugees, as enshrined in General Assembly resolution 194, and the lifting of the illegal blockade of the Gaza Strip imposed by Israel, the occupying power. According to the report of the United Nations independent international commission of inquiry on the protests in the Occupied Palestinian Territory, the demonstrations were "civilian in nature" and the demonstrators were generally unarmed, while the Israeli occupying forces used excessive force against them. This led to the death and injury of thousands of demonstrators, including children, women, persons with disabilities, journalists and paramedics, who were deliberately targeted.

Article 22

374. The Palestinian Declaration of Independence stipulates that all Palestinians are to enjoy full equality of rights under a democratic parliamentary system that is based on freedom of opinion and the formation of political parties. For its part, article 26 of the amended Basic Law states that Palestinians have the right to participate in political life, both individually and collectively. In particular, they have the right to form and join political parties, trade unions, associations, federations, leagues, clubs and popular institutions, in accordance with the law.

Associations

375. Historically speaking, associations have always played a prominent role in Palestinian society and have been involved in many aspects of cultural, social, rights-related and voluntary work as well as in services and other areas. The right to form associations and the exercise of all non-profit activities are regulated by legislation. The Charitable Associations and Civil Society Bodies Act of 2000, and its implementing regulations, set forth the procedures for forming such groups. Article 1 of the Act reads: "Palestinians have the right freely to engage in social, cultural, professional and academic activities, which includes the right to form and manage associations and non-governmental bodies in accordance with the provisions of this Act."

376. The formalities for registering an association are explained in article 4 of the Act. An application for registration is to be presented to the competent department of the Ministry of the Interior, after which the Minister must issue a decision within no more than two months from the date the application was made. If, two months after the application was presented to the competent department, no decision has been taken, the association or body is automatically considered to be registered by law. If the Minister of the Interior rejects an application for registration the decision must be duly reasoned and the applicants have the right to lodge an appeal before the competent court within 30 days of the date they receive written notification of the rejection. Under article 14 of the Act, associations and bodies are exempt from taxes and customs duties on the movable and immovable assets required to achieve their objectives as set forth in their statutes. As of 2018, there were 3,982 registered associations in the State of Palestine.

Political parties

377. Palestinian parties and factions have played an important role in national history. Most of them came into being as factions and forces created to resist the occupation then, thanks to their revolutionary and popular legitimacy, earned the right to continue to exist. Many political factions and forces were incorporated into the framework of the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people, although their internal affairs continue to be governed by their own statutes. The amended Basic Law affirms the right to form and join political parties, while articles 48–53 of Elections Act No. 13 of 1995 explain how to register political groupings with a view to participating in elections.

378. Israel, the occupying power, violates the right of Palestinians to form and join political parties, as Palestinian factions and parties are considered illegal under the military laws and orders issued by the authorities of the unlawful Israeli occupation. In that context, the occupying authorities consider the affiliation of Palestinians to political parties to be a crime and, thus, persons who do belong to a party are liable to arbitrary arrest. The Israeli occupiers also violate the right to form associations and institutions and, between 2000 and 2009, closed more than 35 institutions in occupied Jerusalem, including the Palestinian Prisoner Society.

Trade unions

379. The Palestinian trade union movement emerged in the early 1920s. The right to form trade unions is regulated under the Labour Code (Act No. 7 of 2000), and the Ministry of Labour registers unions and monitors their activities. As of 2019, there were 566 trade union organizations registered with the Ministry.

380. As of June 2019, members of trade and professional unions accounted for 19.3 per cent of the workforce. Male members of trade and professional unions accounted for 17.2 per cent of the male workforce, and female members of trade and professional unions accounted for 30.7 per cent of the female workforce.

381. The right to strike is regulated under article 67 of the Labour Code. The party intending to strike must provide the other party and the Ministry of Labour with written notification explaining the reasons for the action. Such notification is to be given two weeks before the intended strike action, or four weeks in the case of public institutions, and it must be signed by 51 per cent of the employees of the establishment concerned or, in the case of closure, by the same percentage of the managing board. Striking and closure are not permitted while proceedings are underway to consider a collective dispute.

382. A ministerial committee has been formed that is cooperating with partner institutions to study and draft a new bill to regulate trade unions in the light of standards concerning union freedom and plurality. The bill is intended to regulate the formation of trade union organizations, employers' organizations and public-sector unions.

Article 23

383. Under the Personal Status Act, marriage is a contract between a man and a woman whom it is permissible for him to marry, for the purpose of forming a family and procreating. The Personal Status Act No. 61 of 1976 is applicable to personal status matters in the West Bank, while the law applicable in the Gaza Strip is the Family Rights Act No. 303 of 1954. For its part, the sharia court in Jerusalem applies the current personal status laws of the Hashemite Kingdom of Jordan, notably the Jordanian Personal Status Act No. 36 of 2010. These laws are all based on Islamic sharia. As for the Christian communities, each applies its own personal status laws in its own ecclesiastical court.

384. The personal status laws of Muslims and Christians coincide on certain general principles concerning marriage, the most important of which are: that a contract of marriage can be concluded only between a man and a woman; that the full and free consent of both parties is a core condition for a marriage to be valid; and that personal status documents must be registered before sharia or ecclesiastical courts.

Marriageable age

385. In order to fulfil its obligations under human rights treaties and to implement treaty body recommendations, chiefly those of the Committee on the Elimination of Discrimination against Women, the State of Palestine issued Decree-Law No. 21 of 2019 to amend certain pieces of personal status legislation that fixed marriageable age. The Decree-Law states that eligibility for marriage requires both parties to be of sound mind and both to be at least 18 years of age.

Rights and duties of spouses

386. Marital relations are based on reciprocity of rights and duties wherein each partner treats the other well, and the wife obeys her husband in all permissible matters while the husband is responsible for maintaining the household. Both spouses are responsible for the upbringing of their children and for administering their children's assets until they attain their majority. These responsibilities fall chiefly upon the father even if the children are under the custody of their mother or relatives. Legislation also requires the wife to live in the home of her legal husband and to move home when he does, and a marriage contract may not include any clause that is at variance with that provision. A wife may not refuse to live in her husband's home save for a legitimate reason the validity of which is to be decided by the courts. Moreover, personal status laws forbid women who have custody of children from travelling without consent from the children's guardian.

387. The husband and wife hold their financial assets independently, and each has the right to own, administer and supervise their own funds and property independently of the other. In

the case of divorce, both spouses retain their own assets even if those assets were acquired during their married life.

Divorce and separation

388. A man has the right to divorce his wife of his own will and for any reason, even without her consent, and he must register the divorce with the sharia court. If the divorce takes place in absentia, the court must notify the wife within one week of the registration. For her part the wife can insist that the marriage contract give her the right to opt for a divorce. In such a case, she can dissolve the marriage union if her husband violates his marital obligations as enshrined in the law and in the marriage contract. To that end, she can bring a case for separation before the sharia court via consensual or court-mediated *khul'* proceedings. A woman also has the right to demand that the judge award her compensation if her husband has divorced her arbitrarily and on irrational grounds. An award of compensation does not affect the divorced woman's other marital rights, including the right to maintenance. As concerns the Christian communities, some of them admit divorce, such as the Orthodox, while others admit separation, such as the Catholics.

Child custody

389. Under the Personal Status Act, a mother has the right to keep custody of her children as long as she has the necessary capacity. After the mother, custody reverts to the next woman in the line of succession provided for in the Hanafi school. The woman who retains custody forfeits that right if she marries a man who is not in a degree of consanguinity that precludes marriage to the child in her custody (*mahram*). Her right is restored if the reason for its removal no longer subsists.

390. According to the 1976 Personal Status Act, a mother's custody over her children lasts until they attain their majority. For female custodians other than the mother custody ends, in the case of a boy, when he reaches the age of 9, and in the case of a girl, when she reaches the age of 11. Under the Family Rights Act, a judge can extend the woman's custody over a girl from the age of 7 up to the age of 9 and, over a boy, from the age of 9 up to the age of 11, if the child's interest so warrant.

391. As concerns the right of children to meet and visit their parents, Circular No. 59/2012 issued by the Bureau of the Chief Qadi reaffirms the right of the non-custodian parent to host the children once a week for up to 24 hours, taking account of their age, circumstances and best interests. The hosting period may be extended, with the agreement of the two parties and with due sureties. Family reconciliation plays an important part in determining and achieving children's best interests.

Family reunification

392. The fact that the authorities of the Israeli occupation control the Palestinian population register means that many families are separated, because thousands of Palestinians are prevented from entering or leaving the country or because one of the spouses is from the Gaza Strip. Moreover Israeli citizenship laws, which are rooted on racial and national discrimination, prevent the reunification of families in which one spouse is a Palestinian from Jerusalem and the other is a Palestinian from the West Bank or the Gaza Strip.

Polygamy and forced marriage

393. A man may marry up to four wives on condition that he treats them all equally, while a wife may stipulate in the contract of marriage that her husband cannot take other wives. If he then does so, she has the right to take action. All the Christian schools prohibit polygamy.

394. Article 34 (3) of the 1976 Personal Status Act and article 36 of Family Rights Act No. 303 both state that a marriage is invalid if it takes place under duress. For its part, article 44 (8) of the Children's Act, as amended, prohibits subjecting children to forced marriage.

395. According to the Palestinian Central Bureau of Statistics, about 20 per cent of the women who married in 2017 were under the age of 18. In 2010 that figure stood at 24 per cent.

Article 24

396. Article 29 of the amended Basic Law imposes a national obligation to care for children and mothers. Children, moreover, have the right to comprehensive protection and care; they are not to be exploited for any purpose and they are to be protected against abuse and ill-treatment. If children are sentenced to a penalty of deprivation of liberty, they are to be held separately from adults and they are to be reformed while being treated in a manner consistent with their age.

397. The Children's Act, as amended, envisages the right of children to be recorded in the civil register as soon as they are born. According to articles 17–19 of the Civil Status Act, someone is to be charged with responsibility for informing the Ministry of the Interior of the birth and for providing information about the infant after which, once the birth has been duly registered, a birth certificate is issued. Article 16 of the Children's Act states that children have the right to an appropriate name that is not insulting or degrading. As concerns children of unknown parents, the Ministry of Social Development oversees the registration procedures and, having verified that the child's dossier is complete, sends it to the Ministry of the Interior so that the infant can be registered and a birth certificate issued.

398. Article 947 of the Compendium of Legal Judgements states that a person with discernment is one who "is able to administer and preserve his assets and who can guard against imprudence and dissipation".

399. Article 18 of the Children's Act stipulates: "Every Palestinian child has, as soon as they are born, the right to Palestinian nationality, in accordance with the provisions of the relevant law." However, as stated earlier, the occupation prevents the issuance of a Palestinian law regulating the right to nationality.

Juveniles

400. The Decree-Law of 2016 concerning the protection of juveniles embraces the concept of the best interests of the child; this includes restorative justice, mediation and reparation measures. Article 1 of the Decree-Law defines a juvenile as: "A child who is under the age of 18 when he or she commits a criminal offence or is in a situation that places him or her at risk of delinquency." The age of criminal responsibility is 12.

401. In order to ensure their best interests, units for juveniles were set up in 2016 as part of the structure of the police and of the Office of the Public Prosecution. Specialized judges have been appointed, a digital system has been introduced to control the duration of cases, efforts are being made to ensure the confidentiality of trial proceedings and legal fees have been waived. Beginning in 2013, the Ministry of Social Development has been recruiting lawyers in the West Bank in order to provide free legal aid for children, while memorandums of understanding have been signed with NGOs that provide such services.

402. The Prosecutor General has instructed that juveniles should be detained only as a last resort; if they are held in custody, they should be placed in social welfare institutions; they should be kept separate from adults, both at court and in places of detention, and no juvenile under the age of 15 should be held in custody at all. As a consequence, there has been a perceptible decrease in arrests of juveniles by juvenile-court prosecutors, from over 600 arrests in 2016 to 158 in 2017.

403. Under a 2010 decree of the Council of Ministers, the Ministry of Social Development set up a national commission for juvenile justice. Subsequently, in 2016, the same Ministry developed a strategic plan for juvenile justice and set up a committee to monitor the implementation of the Decree-Law concerning the protection of juveniles. The Ministry has also developed a procedural guide for the referral of juveniles in which the roles of the various organs of the judiciary and of other governmental bodies are explained, as well as a guide to alternatives to detention. Moreover, a memorandum of understanding has been concluded between the Supreme Judicial Council and the Ministry regarding follow-up on issues related to juvenile justice.

404. Dar al-Amal is a social welfare institution for the detention and custody of juveniles in the West Bank while Dar al-Rabea performs the same function in the Gaza Strip. Both

institutions take in children between the ages of 13 and 18. There is no equivalent institution for female juveniles although the care home for girls has, over past years, taken in girls who are in conflict with the law. These institutions are part of the Ministry of Social Development and are periodically visited by the Office of the Public Prosecutor, the Independent Commission for Human Rights and NGOs.

405. A total of 236 children were held in Dar al-Amal in 2014, 170 in 2016 and 205 in 2017, while, in 2014, there was a single case of a girl in conflict with the law being held in the care home for girls. The low number of girls may be attributed to the prevailing societal culture whereby such cases are often resolved very quickly, before they even reach the courts. Work is currently underway to improve Dar al-Amal and to adopt a system of education and of medical and psychological testing for the young inmates. In the course of 2015, 900 juveniles were held in Dar al-Rabea which, in coordination with the Palestinian Centre for Democracy and Conflict Resolution, provides free legal aid to juvenile offenders. A reformation committee has been set up inside the institution to follow up on cases involving juveniles.

Arrest and torture of Palestinian children by the Israeli occupation forces

406. Thousands of Palestinian children have fallen victim to the systematic and widespread Israeli practice of arbitrary detention. Between 2000 and 2020, some 18,000 Palestinian children were held in the prisons of the Israeli occupation. And detained children have been subjected to various forms of torture, abuse, humiliation and denial of the most basic human rights.

407. One of the findings of the report of Defence for Children International on children arrested by the Israeli occupation forces was that 324 out of the 429 Palestinian children arrested between 2012 and 2015 were subjected to physical violence. Israeli interrogators used verbal abuse, threats and solitary confinement to extract confessions from a number of detained children. All children convicted by the occupation forces between 2012 and 2015 received custodial sentences.

Prohibition of discrimination

408. According to article 3 of the Children's Act, as amended: "(a) All children are to enjoy the rights envisaged in the present Act without discrimination on grounds of sex; colour; nationality; religion; language; national, religious or social origin; wealth; disability; birth; parentage or discrimination on any other grounds; (b) The State is to take all appropriate measures to protect children from discrimination of all kinds, in order to ensure effective equality and to guarantee the rights enshrined in the present Act."

409. Inheritance rights are addressed under current personal status laws.

Children deprived of a family environment

410. Children's right to alternative care arrangements is covered under existing legislation, with article 32 of the amended Children's Act stating: "Children who have been deprived of a natural family environment, whether permanently or temporarily, have the right to alternative care: (a) In an alternative (foster) family that provides guardianship and care; (b) In public or private social welfare institutions, if no foster family is available."

411. The Ministry of Social Development also provides care services for orphans, with cash payments to all children who have lost their father or both their parents. Children of unknown parentage and orphans deprived of a family environment are sometimes cared for in private institutions or foster families under the supervision of the Ministry of Social Development. There are currently five child welfare institutions in the State of Palestine.

412. The placement system is regulated by the Foster System Regulations, which were endorsed by the Council of Ministers in 2013. Under the Regulations – which apply to children of unknown parentage and children deprived of care within their own families – foster families must fulfil certain conditions. A placement database has been set up and a procedural manual developed on how to interact with children of unknown parentage and children born outside marriage.

413. Adoption in its globally accepted sense does not exist in the State of Palestine, the alternative being a system of tutelage or placement. Under the tutelage system the needs of the tutored child are fully addressed and the child enjoys rights equal to the sponsor's own offspring with the exception of the legal rights stemming from family lineage such as those relating to marriage, inheritance, etc. The following documents can be issued for a tutored minor: a birth certificate with an invented four-part name, a custody document and, possibly, a passport.

414. Decree-Law No. 10 of 2019 concerns evidence linked to adoption among Christian communities. The purpose of the Decree-Law is to enable the adoption of children of unknown parents by Christian families if the evidence points to the children themselves being Christian.

Protection against human trafficking

415. Article 42 of the Children's Act, as amended, dictates that children must be protected from all forms of exploitation, including sexual exploitation. Article 44 (5) of the Act states that the sexual or economic exploitation of children constitutes a threat to children's well-being, one to which they must not be exposed. According to article 47, a child is at risk of delinquency if he or she is found, lives or works in an environment related to prostitution, debauchery or immorality or similar illicit actions. One task of child counsellors is to undertake preventive and therapeutic intervention in all cases where the well-being of children is threatened (art. 52).

416. In 2017, the State of Palestine acceded to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Child labour and the economic exploitation of children

417. Article 14 of the Children's Act, as amended, prohibits the employment of children under the age of 15. It also prohibits employing children in hazardous work or in any form of labour that might impede their education or damage their health. Violations of these provisions are punishable with a fine of between 1,000 and 2,000 Jordanian dinars, with the penalty being increased in accordance with the number of victims. For repeat offences, the penalty can even extend to the full or partial closure of the establishment concerned. Article 43 of the Act prohibits the use of children for begging or their employment in unlawful conditions.

418. The table below shows the proportion of children aged 10–17 who work, with or without pay, according to data from the Central Bureau of Statistics:

Year	*Total*	*Boys*	*Girls*
2016	3.9%	7.4%	0.3%
2017	3.4%	6.6%	0.1%
2018	3%	6%	0.2%

419. There is a widespread phenomenon of "disguised begging", whereby children sell simple items, usually at places such as Israeli military checkpoints or traffic lights. The Ministry of Social Development coordinates with other bodies to monitor such children and takes action to protect them. In 2017, 27 cases of begging were addressed, 12 involving boys and 15 involving girls. One obstacle to protecting children from economic exploitation lies in the fact that the Israeli occupiers deliberately impede the access and operations of the Palestinian police, making it difficult for them to arrest persons suspected of involvement in the economic exploitation of children. Moreover, the economic situation in the Gaza Strip, which has been worsened by the Israeli blockade, has left many schoolchildren looking for work, sometimes hazardous work.

420. With a view to formulating policies to protect children from economic exploitation, and in partnership with civil society institutions and trade unions, the Minister of Labour issued Decree No. 80 of 2013 for the formation of the National Committee on Child Labour.

421. The Office of the Public Prosecutor for Juveniles and the relevant police departments and ministries conduct field visits to places of work and take appropriate action if they discover any violations. The Ministry of Labour receives complaints, which it verifies then pursues before the courts. Child victims of economic exploitation are offered rehabilitation in vocational training centres run by the Ministry of Labour then reintegrated into society where they continue to be monitored via the child protection network. Ministries also carry out awareness-raising campaigns on child labour and exploitation in various fields.

422. The outcome of an inspection conducted by the Ministry of Labour in 2015 showed that visits had been carried out in 4,727 establishments employing 55,179 workers of whom 167 were found to be children. The following action was taken in regard of child-labour offences: cautions issued in 3 cases; dismissal in 4 cases because the work being performed was of a kind prohibited for children; guidance provided for the child and the employer in 8 cases; establishment closed and child dismissed in 1 case; warnings issued in 40 cases; and matter referred to the Ministry of Social Development in 2 cases. In addition to this, 16 cases in which children were being exploited inside the Green Line were referred to the Ministry of Social Development for it to apply protection measures in accordance with the law.

Article 25

423. The Declaration of Independence stipulates that the State of Palestine is for Palestinians wherever they may be and is to be governed by a democratic parliamentary system. The Basic Law, as amended, states that the people are the source of authority and that the system of governance in the State of Palestine is to be democratic, representative and based on political and party pluralism. According to electoral laws, presidential and legislative elections are to be held every four years while the central electoral commission is responsible for managing, supervising and ensuring the impartiality of the electoral process.

Conditions governing elections and candidacy for elections

424. Decree-Law No. 1 of 2007 regarding general elections regulates both presidential and legislative elections. Article 28 (1) of the Decree-Law states that the right to vote applies to all Palestinians in the West Bank, including Jerusalem, and the Gaza Strip, irrespective of their religion, opinions, political affiliation, social or economic status or educational attainments.

425. Article 27 of the Decree-Law stipulates that, in order to be eligible to vote, an individual must be Palestinian, be at least 18 years of age and be registered in the definitive electoral roll. For the purposes of the Decree-Law a person is deemed to be Palestinian:

(a) If he or she was born within the borders of Palestine as delineated at the time of the British Mandate or had the right to acquire Palestinian citizenship under laws in effect at that time;

(b) If he or she was born in the Gaza Strip or West Bank, including Jerusalem;

(c) If the provisions of paragraph (a) above apply to any of his or her ascendants, regardless of their place of birth;

(d) If he or she is the spouse of a Palestinian woman or Palestinian man, as defined above.

426. Under article 36 of the Decree-Law regarding general elections, candidates for the post of President must be Palestinian born to Palestinian parents, be at least 40 years of age, be permanently resident on Palestinian territory and fulfil the conditions required to exercise the right to vote.

427. Under article 45 of the Decree-Law, candidates for membership of the Legislative Council must be Palestinian, be at least 28 years of age, be registered in the definitive electoral roll, not have been convicted for a serious offence or for a breach of honour or trust and be permanently resident on Palestinian territory.

428. Article 7 of Local Council Election Act No. 10 of 2005 stipulates that, in order to be eligible to vote in local council elections, an individual must be Palestinian, be at least 18 years of age, be resident in the relevant electoral district for a period of at least 6 months prior to the election, be registered in the definitive electoral roll and not have lost legal capacity.

429. Under article 18 of the Decree-Law, candidates for membership of local councils must be registered in the definitive electoral roll, fulfil the conditions required to exercise the right to vote, not have been convicted for a breach of honour or trust or for a major offence, not be a functionary or employee of the Ministry of Local Government, the security services or a local body, or a lawyer serving one of those institutions, be resident in the electoral district where they are standing for a period of at least one year prior to the election and not be a candidate in another district or on another list.

Legislation depriving citizens of their right to vote and stand as candidate in elections

430. Under, respectively, articles 29 (1) and 37 of the Decree-Law regarding general elections, persons can be deprived of their right to vote or to stand for President if a definitive court order has been issued against them depriving them of that right or depriving them of legal capacity, if they have been convicted for a breach of honour or trust and have not been rehabilitated or if they have acquired Israeli nationality.

431. According to article 326 of the Commercial Code (Act No. 12 of 1966): “Persons who are bankrupt lose their political rights in the month in which their bankruptcy is declared. They may not vote or be elected to municipal councils or to professional bodies and they may not discharge public duties or functions.”

Electoral system

432. Under current electoral laws, presidential elections take place by direct, free and secret universal ballot. Members of the Legislative Council and of local councils are elected by secret ballot using a list-based system of proportional representation.

433. As a way of promoting women’s right to political participation and to involvement in general and local elections, electoral laws have embraced a “female quota” system. In fact, the Decree-Law regarding general elections and the Local Council Election Act both set minimum levels for female representation on electoral candidate lists. However, the level of female representation is still only at the levels dictated by the law and has not yet reached 30 per cent, which was the level set in political parties’ self-imposed pledge.

434. Electoral legislation also envisages the allocation of seats for Palestinian Christians in some local electoral districts and in legislative elections, as well as a seat for the Samaritan community in the Nablus district.

435. Voters who are illiterate or have a disability that prevents them from marking the ballot paper for themselves can, with the agreement of the staff at the voting station, seek assistance from a person of their trust. The ballot is then to be monitored by the electoral commission.

Local elections of 2017

436. During the local council elections of May 2017, 587 lists were presented with a total of 4,822 candidates, with women accounting for 26 per cent of all candidates. On 199 councils, the candidates won by acclamation as only one electoral list had been presented for the district.

437. The 2017 elections were monitored by 78 local and international institutions. In addition, there were 914 accredited journalists, as compared with 557 in previous elections. The central electoral commission considered 102 administrative appeals concerning the 2017 election and, of 34 cases referred to the local-council electoral appeals court, 4 were admitted.

438. Israel, the occupying power, imposes severe restrictions on Palestinians’ freedom of travel thereby hindering the movement of voters and of staff of the central electoral commission. It also rejects any arrangements that might allow prisoners to participate in the voting process and it arrests members of the Legislative Council. In addition to this, Israel

engages in numerous forms of harassment against Jerusalemites, such as threats of forced deportation, something that led to their decreased participation in the second legislative elections. In 2004, the occupying authorities closed voter registration centres in Jerusalem and arrested the people working there.

Public office

439. Article 26 (4) of the amended Basic Law stipulates that access to public office and public-service posts is to be governed by the principle of equal opportunity. Moreover, appointment and promotion in State functions is to be marked by equality and non-discrimination among candidates, and criteria of competence and experience are to be applied in the selection of candidates. A minimum quota of 5 per cent is set for the employment of persons with disabilities.

440. Under article 24 of the Civil Service Act, as amended, persons appointed to public office must be Palestinian or Arab, be at least 18 years of age, be free from any illnesses that might impede the discharge of their duties (persons with disabilities may be employed if their disability is not such as would prevent them discharging their duties) and not have been convicted for a major offence or for a breach of honour or trust, unless they have been rehabilitated.

441. According to article 96 of the Act, the service of public functionaries ends when they reach the mandatory age of separation, if they are unfit for duty, if they resign, if they lose their post, if they are pensioned off or dismissed from service, if a definitive sentence is handed down against them for a major offence or for a breach of honour or trust, or if they die. Jurisdiction to consider disputes relating to public office lies with the High Court of Justice.

Article 26

442. Equality, non-discrimination, rule of law, equality before the law and the courts, and a guaranteed right for all persons to have recourse to justice are enshrined in the Declaration of Independence and in the amended Basic Law. The Palestinian judicial system provides remedies without discrimination while numerous legal and administrative provisions exist that explicitly prohibit discrimination. These include article 18 of Decree No. 3 of 2006 of the Supreme Judicial Council, which concerns a code of conduct for the judiciary and states: “In the discharge of their judicial functions judges must, in their words and deeds, treat all persons equally, whether or not they are parties to the case, and must not discriminate between them on grounds of religion, race, colour or for any other reason.”

Article 27

443. The legal and political system of the State of Palestine contains no restrictions that may prevent anyone from exercising their right to culture or to profess their religion and practise their religious rites. This is clearly set forth in the Declaration of Independence, which is the highest-ranking document in the legislative hierarchy of the State of Palestine. It stipulates that the State of Palestine is the State of Palestinians wherever they may be. Therein they shall develop their national and cultural identity, enjoy full equality of rights, and have their religious and political beliefs and human dignity safeguarded under a democratic parliamentary system based on equality and on non-discrimination in public rights on grounds of race, religion or colour, or between men and women.

444. It should also be emphasized that any mention of individual ethnic, religious or linguistic characteristics within Palestinian society in no way compromises the Palestinian identity of such groups or implies that they are “minorities” in the Palestinian legal system. On the contrary, they are part of the Palestinian “whole”, which has its own ethnic, linguistic and cultural specificities.

445. Palestinian society is characterized by its harmony, its seamless national fabric and its Palestinian identity. One expression of this is to be found in its cultural associations and

centres, museums and religious rituals. By way of example, Palestinian Samaritans perform their religious rituals at their synagogues in Nablus (Mount Gerizim) and still speak to one another using the Samaritan language, an ancient Semitic tongue. A number of Samaritan institutions have been established including the Samaritan Legend Association, a Samaritan youth club, a Samaritan study centre and the Samaritan Museum in Mount Gerizim, which celebrates Samaritan heritage.

446. In order to preserve Armenian culture, a club for local Armenians has been established, as well as an association for Armenian youth, the Araks Catholic club and an Armenian charitable association in Jerusalem. Armenian Palestinians continue to use the Armenian language among themselves and have access to a cultural infrastructure that includes the library and museum of the Monastery of St. Jacob. Other institutions have been created such as the Association of St. Mark in Jerusalem, the Syriac Club, the St. Ephrem Syriac Orthodox Society. The magazine *Al-Hikma* seeks to revive Syriac culture and the St. Ephrem school has been founded for the teaching of Aramaic.

447. Palestinians of African descent in Jerusalem run an association that acts as an important community centre for political and cultural events. Palestinian Copts use Coptic in their religious rites and rituals, while the Coptic Church owns a number of civil institutions of which perhaps the best known are the Coptic schools. Famous Coptic churches and monasteries in Jerusalem include the Monastery of the Sultan, the Monastery of Saint Anthony, the Monastery of St. George and the Church of the Blessed Virgin. In Jericho there is the Monastery and Church of St. Anthony and the Monastery and Church of Sts. Zacchaeus and Andrew. Palestinians of Moroccan origin have established a Moroccan women's association in Jerusalem. The Moroccan quarter itself contained dozens of archaeological sites, the most famous being the Afdaliyyah School, but the bulldozers of the Israeli occupiers destroyed the 135 archaeological buildings there.

448. The ongoing violations being committed by Israel, the occupying power, and its systematic and widespread racist policies effectively prevent the State of Palestine from acting to guarantee Palestinians' right to culture. These violations include forcibly entering, confiscating and closing institutions, cancelling events, suppressing cultural activities that express Palestinian identity, etc., particularly in occupied Jerusalem, as part of a plan to Judaize the city.

449. The State of Palestine promotes the active involvement of all Palestinian people in the administration of public affairs. Conditions governing voting and candidacy, as set forth in current electoral laws, do not discriminate between Palestinians on grounds of race, colour, descent, religion or national or ethnic origin. With regard to temporary measures, the municipality of Bethlehem has a permanent seat for Syriacs, while Priest Saloum Amram Yitzhaq was elected to the Palestinian Legislative Council in 1996.

450. The State of Palestine acceded to the International Convention on the Elimination of All Forms of Racial Discrimination in 2014. It is working to implement the concluding observations issued by the Committee on the Elimination of Racial Discrimination following its consideration of the initial report of the State of Palestine, and is taking action and applying measures to protect the rights of the groups protected under the Convention.

International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the fifth periodic report of Israel*

1. The Committee considered the fifth periodic report of Israel[1] at its 3841st and 3842nd meetings,[2] held on 2 and 3 March 2022. At its 3868th meeting, held on 22 March 2022, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its fifth periodic report in response to the list of issues prior to reporting prepared under that procedure.[3] It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative, policy and institutional measures:

(a) Government Resolution No. 550, which aims, inter alia, to promote diversity and the inclusion of the Arab population in the private and public sectors, in 2021;

(b) Amendment No. 137 to Penal Law 5737-1977, which recognizes racist motives as an aggravating circumstance for the offence of murder, in 2019;

(c) Amendment No. 20 to the Legal Aid Law 5732-1972, which grants free legal aid to victims of serious sexual offences throughout criminal and administrative proceedings, in 2017.

C. Principal matters of concern and recommendations

Implementation of the Covenant and its Optional Protocol

4. The Committee notes the information provided by the State party on court cases that referred to the provisions of the Covenant and that law enforcement officials, members of the Israel Defense Forces, Israel Prison Service, Israel Security Agency and legal practitioners are provided with training on human rights, including international human rights law. It

* Adopted by the Committee at its 134th session (28 February–25 March 2022).

[1] CCPR/C/ISR/5.

[2] See CCPR/C/SR.3841 and CCPR/C/SR.3842.

[3] CCPR/C/ISR/QPR/5.

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regrets, however, that the State party has not yet acceded to the two Optional Protocols to the Covenant and maintains its reservation to article 23 of the Covenant (art. 2).

5. **The State party should continue and strengthen its efforts to raise awareness among judges, prosecutors, lawyers, law enforcement officers, security forces, civil society actors and members of the general public about the Covenant and its applicability in domestic law, including by providing training on the provisions of the Covenant. Furthermore, it should consider acceding to the two Optional Protocols to the Covenant and withdrawing its reservation to article 23 of the Covenant.**

Applicability of the Covenant to the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

6. The Committee reiterates[4] its concern that the State party maintains its position that the Covenant does not apply with respect to individuals under its jurisdiction, but outside its territory, despite the interpretation to the contrary of article 2 (1) supported by the jurisprudence of the Committee, various other treaty bodies, the International Court of Justice and State practice. It is further concerned at the State party's position that international human rights law does not apply when international humanitarian law is applicable (art. 2).

7. **Recalling its previous recommendations,[5] the Committee urges the State party to:**

(a) **Interpret the Covenant in good faith, in accordance with the ordinary meaning to be given to its terms in their context, including subsequent practice, and in light of the object and purpose of the Covenant, and review its legal position so as to acknowledge the extraterritorial application of the Covenant under certain circumstances, as outlined, inter alia, in the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant. In this respect, the Committee reiterates and underscores that the Covenant applies with regard to all conduct by the State party's authorities or agents adversely affecting the enjoyment of the rights enshrined in the Covenant by persons under its jurisdiction, regardless of the location;**

(b) **Review its legal position and acknowledge that the applicability of international humanitarian law during an armed conflict, as well as in a situation of occupation, does not preclude the application of the Covenant.**

National human rights institution

8. The Committee notes that, notwithstanding the general support expressed by the State party for the establishment of a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), no such institution has yet been established (art. 2).

9. **The State party should step up its efforts to establish a national human rights institution in line with the Paris Principles, including by ensuring the pluralism of its membership and the diversity of its composition, and allow civil society organizations to participate in this process.**

Non-discrimination

10. The Committee expresses its deep concern about the Basic Law: Israel – The Nation-State of the Jewish People of 2018, which may exacerbate pre-existing systematic and structural discrimination against non-Jews in the State party. It is particularly concerned that, under this Law, the right to self-determination is "unique to the Jewish people", Hebrew is the State language while Arabic is downgraded to a language with "special status" and the development of Jewish settlements is viewed as a "national value" (art. 2).

[4] CCPR/C/ISR/CO/4, para. 5; and CCPR/C/ISR/CO/3, para. 5.
[5] Ibid.

11. **The Committee reiterates the recommendations made by the Committee on the Elimination of Racial Discrimination[6] and the Committee on Economic, Social and Cultural Rights[7] that the State party review and amend the Basic Law: Israel – The Nation-State of the Jewish People with a view to eliminating its discriminatory effect on non-Jewish people and ensuring the equal treatment of all persons within its territory and subject to its jurisdiction, in conformity with the Covenant.**

12. The Committee takes note of the measures aimed at promoting representation of the Arab population and women in the civil service and amendment No. 12 to the Municipal Council Law (Funding of Elections) 5774-2014 aimed at enhancing women's representation in political parties. However, it remains concerned at the continuing underrepresentation of these groups in the civil service and in government, particularly in decision-making positions, including in the regional councils and the Knesset (arts. 2, 25 and 26).

13. **Bearing in mind the Committee's previous recommendations,[8] the State party should strengthen its efforts to achieve equitable representation of Israeli citizens of Arab origin and women in the civil service and in government, particularly in decision-making positions in legislative and executive bodies, including the Knesset.**

Settlement activities and the wall

14. The Committee is deeply concerned at the continued construction and expansion of Israeli settlements and unauthorized outposts in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, and the transfer of the State party's population thereto, despite the recommendations made by different treaty bodies,[9] the Security Council,[10] the Human Rights Council[11] and the General Assembly.[12] It notes with concern the State party's interference with the full access of Palestinians and the Syrian Arab population to their lands and livelihood in the occupied territories, through wrongful expropriation, confiscation, requisitions and encroachment. It is further concerned that, despite the ruling of the High Court of Justice that the Regularization Law of 2017 is unconstitutional, there remain other alternative mechanisms under Israeli law allowing for the retroactive legalization of unauthorized outposts and structures in settlements. It notes with deep concern the continued construction of the wall in the West Bank, which significantly restricts Palestinians' enjoyment and exercise of rights and freedoms, including freedom of movement and access to land, especially agricultural land, property and natural resources (arts. 1, 2, 9, 12, 17, 18 and 26).

15. **Recalling its previous recommendations,[13] the Committee urges the State party to:**

(a) **Cease the construction and expansion of settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, and all settlement-related activities, including the transfer of its own population thereto;**

(b) **Put an end to the practice of expropriating private land owned by Palestinians and the Syrian Arab population and declaring it as "State land" for settlement purposes;**

(c) **Take immediate steps to dismantle the wall in line with the advisory opinion of the International Court of Justice on the legal consequences of the construction of the wall in the Occupied Palestinian Territory of 9 July 2004,[14] with a**

[6] CERD/C/ISR/CO/17-19, para. 14.
[7] E/C.12/ISR/CO/4, para. 17.
[8] CCPR/C/ISR/CO/4, para. 8.
[9] CERD/C/ISR/CO/17-19, paras. 4 and 43; and E/C.12/ISR/CO/4, para. 11.
[10] Resolution 2334 (2016).
[11] Resolution 31/36.
[12] Resolution 75/97.
[13] CCPR/C/ISR/CO/4, para. 10.
[14] Para. 163.

view to ensuring Palestinians' full access to their lands and livelihoods and the enjoyment of their Covenant rights, including the right of self-determination.

State of emergency

16. While noting serious security concerns affecting the State party and the ongoing review **of the national legal framework on emergencies and related measures**, the Committee remains deeply concerned that the State party maintains the state of emergency and continues to resort to emergency measures. It also notes with concern that emergency measures taken during the two-year state of emergency in response to the coronavirus disease (COVID-19) pandemic have further restricted the enjoyment of Covenant rights by Palestinians in the Occupied Palestinian Territory, especially in the Gaza Strip (art. 4).

17. **Recalling its previous recommendations,**[15] **the Committee calls on the State party to ensure that revisions to the national legal framework on emergencies and related measures, including those relating to the protection of public health in response to the COVID-19 pandemic, as well as any restrictions, are made in strict accordance with the conditions outlined in the Covenant, particularly in the Committee's general comment No. 29 (2001) and its statement on derogations from the Covenant in connection with the COVID-19 pandemic (2020).**[16]

Counter-terrorism measures

18. The Committee is concerned that Counter Terrorism Law 5776-2016 contains vague and overbroad definitions of "terrorist organization" and "terrorist act" and may be used to oppress and criminalize legitimate political or humanitarian acts, as illustrated by the designation, in October 2021, of six Palestinian civil society organizations as terrorist organizations based on secret information. It is further concerned about the use of secret evidence in counter-terrorism proceedings, which is inaccessible to defendants and their lawyers, thereby violating their right to a fair trial. It is also deeply concerned that amendment No. 30 to the Entry into Israel Law of 2018, providing for the revocation of permanent residency on the vague ground of "breach of allegiance against the State of Israel", which is defined as a terrorist act under the Counter Terrorism Law, has been used to revoke the permanent residency of Palestinian residents and human rights defenders advocating for the rights of Palestinians, including human rights lawyer, Salah Hammouri (arts. 2, 9, 12 and 14).

19. **The State party should review its Counter Terrorism Law 5776-2016 with a view to ensuring that the definitions of "terrorist organization" and "terrorist act" therein, as well as the powers conferred by and the limits on the exercise of the Law, are in full compliance with the Covenant and the principles of legal certainty, necessity, proportionality and the rule of law. It should also clarify the definition of "allegiance against the State of Israel", including under amendment No. 30 to the Entry into Israel Law, and refrain from using this provision to control the demographic composition in the State party or to silence human rights defenders advocating for the rights of Palestinians. Furthermore, the State party should ensure that persons suspected of or charged with terrorist acts or related crimes are provided, in law and in practice, with appropriate procedural safeguards, in accordance with the Covenant, particularly its articles 9 and 14.**

Violence against women

20. While noting the provision of training to investigators and patrol officers on handling cases of violence against women and the opening of a 24-hour emergency centre for victims of domestic violence, the Committee remains concerned at underreporting by victims of violence against women and the lack of impact assessment of measures taken to combat such violence. It regrets the lack of disaggregated data on cases of violence against women, which would allow for targeted prevention and protection measures (arts. 2, 3, 6, 7 and 26).

[15] CCPR/C/ISR/CO/4, para. 10.
[16] CCPR/C/128/2.

21. **The Committee recommends that the State party:**

(a) **Address the underreporting of violence against women, including by ensuring that all women have access to information about their rights and available remedies, and conduct awareness-raising campaigns about the unacceptability and adverse impact of violence against women;**

(b) **Intensify efforts to investigate all allegations of violence against women, prosecute and, if found guilty, punish perpetrators with penalties commensurate with the gravity of the offences, and provide effective remedies to victims, including by strengthening training of relevant public officials, including judges, lawyers, prosecutors and law enforcement officers;**

(c) **Establish a reliable system for the collection of statistical data on violence against women, disaggregated by race or ethnic origin, in order to effectively target measures to ensure their protection.**

Past human rights violations

22. While noting the progress made in implementing the recommendations of the Turkel Commission, including the establishment of a special unit within the Military Police Criminal Investigation Division, the Committee regrets the lack of updated information on investigation into human rights violations in the Gaza Strip related to "Operation Cast Lead" (27 December 2008–18 January 2009), "Operation Pillar of Defence" (14–21 November 2012), and "Operation Protective Edge" (8 July–26 August 2014), and their outcomes (arts. 2, 6, 7, 9, 12, and 17).

23. **Bearing in mind the Committee's previous recommendations,**[17] **the State party should continue and strengthen its efforts to implement the recommendations of the Turkel Commission, including by impartially and thoroughly investigating all allegations of human rights violations committed during the military operations in the Gaza Strip in 2008–2009, 2012 and 2014, bringing perpetrators, including those with command responsibility, to justice, and providing victims or their families with effective remedies and guarantees of non-repetition.**

Settler violence in the West Bank, including East Jerusalem

24. While noting information provided by the State party on the investigations conducted into "ideologically based offences" by settlers in the West Bank, including East Jerusalem, the Committee remains concerned about: (a) a significant increase in the number and severity of incidents of settler violence in recent years;[18] (b) the involvement of the Israeli security forces in such violence; and (c) a very low rate of indictments and convictions of perpetrators, fostering a general climate of impunity. The Committee notes with concern the underreporting by victims, owing to their lack of trust in the authorities and fear of reprisals, and the lack of access for victims to justice and effective remedies (arts. 2, 6, 7, 14, 17 and 26).

25. **Recalling its previous recommendations,**[19] **the Committee urges the State party to intensify its efforts to prevent and combat violence perpetrated against Palestinians by the Israeli settlers in the West Bank, including East Jerusalem, as well as by Israeli security forces alongside these settlers, and to provide adequate protection to victims. To this end, the State party should ensure that all allegations of settler violence are thoroughly and impartially investigated, that perpetrators are prosecuted and, if found guilty, punished with penalties commensurate with the gravity of the offences, and that victims are provided with effective remedies.**

[17] CCPR/C/ISR/CO/4, para. 6.
[18] A/76/336, para. 17.
[19] CCPR/C/ISR/CO/4, para. 16.

Excessive use of lethal force

26. The Committee is deeply concerned by continuing and consistent reports of the excessive use of lethal force by the Israeli security forces against Palestinian civilians, including children, and the lack of accountability for these acts, resulting in a general climate of impunity. It is particularly concerned about excessive force used in policing demonstrations, including the Great March of Return between March 2018 and December 2019, during which 183 people, including children, paramedics, journalists and persons with disabilities, were shot dead. It is also concerned that no perpetrator has been brought to justice for excessive force used against 260 Palestinians, including children, during the escalation of hostilities in Gaza in May 2021 (arts. 6, 7 and 21).

27. **Bearing in mind the Committee's previous recommendations,[20] the State party should take all necessary measures to prevent the excessive use of force during law enforcement operations, including by:**

(a) **Ensuring that rules and regulations governing the engagement of, or opening of fire by, the Israeli security forces in the West Bank, including East Jerusalem, and the Gaza Strip, and their practice, are consistent with the Committee's general comments Nos. 36 (2018) on the right to life and 37 (2020) on the right to peaceful assembly, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement;**

(b) **Ensuring that prompt, thorough, effective, independent and impartial investigations are launched into all incidents involving the excessive use of force by the Israeli security forces, that perpetrators are prosecuted and, if found guilty, punished, and that victims are provided with effective remedies;**

(c) **Providing regular training to all members of the Israeli security forces on the use of force, the employment of non-violent means and crowd control, and ensure that the principles of necessity and proportionality are strictly adhered to in practice.**

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

28. The Committee is deeply concerned that, despite the affirmation in the State party's report of 2017[21] that its authorities were in the final stage of drafting a bill on the prohibition of torture, no such law has been adopted. It is also concerned that the State party continues to recognize the defence of "necessity" as a legal justification for torture and that an independent monitoring mechanism has not been established for detention facilities. While noting real-time monitoring of the interrogation rooms of the Israel Security Agency through closed-circuit television, the Committee remains concerned that no recording, apart from a concise memorandum, is kept of the video transmission of the actual interrogations, leaving torture victims without audio or visual documentation to be used as evidence in courts (arts. 7 and 14).

29. **Bearing in mind the Committee's previous recommendations,[22] the State party should place an absolute ban on torture, including by incorporating into its legislation, such as the draft basic law on the rights of suspects and defendants, a definition of torture that is fully in line with article 7 of the Covenant, and removing the notion of "necessity" as a possible justification for the crime of torture. It should also establish an independent and effective monitoring mechanism for all detention facilities within its territory and occupied territories, keep audio and visual documentation of all interrogations taking place in the facilities of the Israel Security Agency and ensure that such documentation can be used as evidence in courts.**

30. The Committee is deeply concerned about reports of the widespread and systematic practice of torture and ill-treatment by Israel Prison Service guards and the Israeli security

[20] Ibid., para. 13.
[21] CCPR/C/ISR/CO/4/Add.1, para. 78.
[22] CCPR/C/ISR/CO/4, para. 14.

forces against Palestinians, including children, at the time of arrest and in detention. It is particularly concerned about the use of physical and psychological violence, sleep deprivation, stress positions and prolonged solitary confinement, including against children and detainees with intellectual or psychosocial disabilities. It also notes with concern a very low rate of criminal investigations, prosecutions and convictions concerning allegations of torture and ill-treatment (arts. 7, 9, 10 and 24).

31. **In view of the Committee's previous recommendations,[23] the State party should take all necessary measures to end the practice of torture and ill-treatment against Palestinian detainees, particularly children, in line with the Covenant and international standards, as reflected in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). In particular, it should consider abolishing the use of solitary confinement against children and developing alternative measures where necessary. It should ensure that all allegations of torture and ill-treatment are promptly, impartially, thoroughly and effectively investigated, that perpetrators are prosecuted and, if found guilty, are punished with sanctions commensurate with the severity of the crime, and that victims are provided with full reparation, including rehabilitation and adequate compensation.**

32. The Committee is particularly concerned that, pursuant to amendment No. 3 to the Counter Terrorism Law of 2018, the Israeli police authorities have been withholding the bodies of Palestinian militants and civilians who allegedly committed terrorist acts and were killed by the Israeli security forces. It is further concerned that the bodies were used as leverage for the release of the bodies of Israelis held by Palestinian militant groups, and that the authorities set conditions for the release of bodies, including the payment of deposits and specific requirements for the funerals, including a limited number of participants and immediate burial. It expresses concern that the practice of withholding the bodies of the deceased and denying the right of their families to bury them may amount to collective punishment and to torture and ill-treatment (arts. 6 and 7).

33. **The State party should review amendment No. 3 to the Counter Terrorism Law of 2018, allowing for the withholding of bodies of deceased Palestinians, with a view to bringing it into conformity with the Covenant, and immediately return the bodies of deceased Palestinians to their families.**

Liberty and security of persons

34. The Committee is concerned about the widespread practice of arbitrary arrest and detention, including in facilities located in Israel, of Palestinians, including journalists, human rights defenders and children, in violation of international humanitarian law and the Covenant. It is further deeply concerned about the continuing practice of administrative detention of Palestinians, including children, without charge or trial and without the guarantee of fundamental legal safeguards, as in the case of human rights defender Salah Hammoudi. It notes with concern the use of secret evidence in administrative detention proceedings and routine approvals and renewals by military courts of administrative detention orders, even in cases involving detainees with serious health issues, such as Amal Nakhleh who was a minor at the time of his arrest (art. 9).

35. **Bearing in mind the Committee's previous recommendations,[24] the State party should immediately put an end to the widespread practice of arbitrary arrest and detention, including administrative detention, of Palestinians, in particular children. It should ensure that Palestinian detainees, including those held in administrative detention, are provided with all legal and procedural safeguards, including the rights to be informed of the reason for their arrest and detention, to access legal counsel, to be brought promptly before a judge and to notify a person of their choice of their detention, in line with article 9 of the Covenant and the Committee's general comment No. 35 (2014) on liberty and security of person.**

[23] Ibid., para. 15.
[24] Ibid., para. 10.

Freedom of movement

36. The Committee reiterates[25] its deep concern about the continuing restrictions on freedom of movement imposed by the State party throughout the Occupied Palestinian Territory, including East Jerusalem, through its discriminatory permit regime and the designation of access-restricted areas. It is further concerned that, in enforcing movement and access restrictions, the Israeli security forces often use lethal force, such as live ammunition, leading to deaths and serious injuries of, inter alia, Palestinian commuters from the West Bank to the Israeli settlements or Israel, Gazan farmers whose lands were designated as an access-restricted area, and Gazan fishermen fishing along the coast of Gaza, where the authorized fishing zones are often reduced or entirely closed (arts. 2, 12 and 26).

37. **Bearing in mind the Committee's previous recommendations,[26] the State party should ensure that any restrictions imposed on the freedom of movement of Palestinians from, into and within the Occupied Palestinian Territory, including East Jerusalem, are consistent with the requirements for permissible restrictions set forth in article 12 (3) of the Covenant. It should also ensure that the enforcement of restrictions on movement and access in the Occupied Palestinian Territory, including East Jerusalem, is fully in line with the Covenant, the advisory opinion of the International Court of Justice of 2004 and other international standards (see para. 27 (a) above), that all members of the Israeli security forces found responsible for excessive use of force are held accountable and appropriately sanctioned and that victims of those acts receive effective remedies.**

Blockade of the Gaza Strip

38. The Committee is deeply concerned about the long-standing air, sea and land blockade of the Gaza Strip imposed by the State party, which amounts to the collective punishment of the residents of Gaza, and about its adverse impact on the enjoyment of the right to freedom of movement and other rights under the Covenant, including access to basic and life-saving services. It is also concerned about the decrease in the approval rate of applications for exit permits from Gaza and reported delays and even denials of applications for exit permits submitted on behalf of patients in need of medical treatment (arts. 1, 6, 7 and 12).

39. **Recalling its previous recommendations,[27] the Committee urges the State party to lift the blockade of and closures in the Gaza Strip and end the practice of collective punishment. The State party should ensure that any measures restricting the freedom of movement of civilians and the transfer of goods from, into and within Gaza are consistent with its obligations under the Covenant. It should also take the necessary measures to provide unrestricted access for urgent humanitarian assistance and to make its exit permit system more transparent and effective, including by prioritizing requests for patients in need of medical treatment and those accompanying patients, especially child patients.**

Treatment of refugees and asylum seekers

40. The Committee is concerned about the persisting low recognition rate of refugees in the State party and the reported lack of coherent and transparent rules and criteria for the refugee status determination procedure. It is further concerned at significant waiting times for the asylum procedure, lack of access to free legal aid throughout asylum proceedings and the automatic detention of asylum seekers and refugees who enter the country irregularly. It also notes with concern reports that, despite the State party's assurance that the third countries were safe and there has been no known case of the violation of the prohibition of non-refoulement, some Sudanese and Eritrean refugees who were relocated from Israel to undisclosed third countries have been subjected to ill-treatment and human trafficking (arts. 2, 6, 7, 9, 13 and 26).

[25] Ibid., paras. 12 and 18.
[26] Ibid., para. 18.
[27] Ibid., para. 12.

41. **Recalling its previous recommendations,[28] the Committee recommends that the State party:**

(a) **Introduce dedicated legislation governing the rights of refugees and asylum seekers and relevant procedures, in conformity with international human rights and refugee laws;**

(b) **Make asylum procedures more effective and reduce the waiting times, including by increasing the financial and human resources of the competent authorities handling asylum applications;**

(c) **Provide asylum seekers with access to free legal aid throughout asylum procedures, including appeal proceedings;**

(d) **Review its policy of relocating Sudanese and Eritrean refugees to undisclosed third countries, with a view to finding safe and durable solutions for them in line with the principle of non-refoulement.**

Demolition and forced eviction in the West Bank, including East Jerusalem

42. The Committee is concerned about the State party's increased and intensified practice of the demolition of Palestinian houses and other infrastructure – such as schools and water, sanitation and hygiene structures – in the West Bank, including in Sheikh Jarrah, amid the COVID-19 pandemic, and the forced evictions and forcible transfer of those whose homes are destroyed. While noting the State party's claim that demolitions are limited to illegal constructions, the Committee regrets that Palestinians have been systematically deprived of their land and housing rights for decades, and the restrictive zoning and planning regime in the West Bank makes it almost impossible for Palestinians to obtain construction permits, leaving them with no choice but to build illegally and risk demolition and eviction. In this respect, the Committee expresses its deep concern that the systematic practice of demolitions and forced evictions based on discriminatory policies have led to the separation of Jewish and Palestinian communities in the Occupied Palestinian Territory, which amounts to racial segregation (arts. 2, 7, 12, 14, 17, 26 and 27).

43. **The Committee strongly reiterates its previous recommendations[29] that the State party refrain from implementing evictions and demolition orders based on discriminatory planning policies, laws and practices affecting Palestinians, and also Bedouin, in the West Bank, including East Jerusalem. The State party should review and reform its planning and zoning regime and construction permit system in order to prevent forced evictions and demolitions resulting from the fact that it is impossible for Palestinians to obtain construction permits and ensure that affected populations are allowed to participate in the planning process. It should also ensure that procedural safeguards and due process guarantees are provided against forced evictions and demolitions.**

Family reunification

44. The Committee is concerned that the Citizenship and Entry into Israel Law (Temporary Order) continues to prohibit family reunification of Israeli citizens with their Palestinian spouses living in the West Bank or Gaza Strip, or with spouses living in States classified as "enemy States". It is further concerned that, under the Law, East Jerusalem residents are required to either surrender their residency and live in the West Bank or apply for an annual permit for the non-resident spouse. It also notes with concern that Palestinian women whose residency status depends solely on that of their spouses may be reluctant to report domestic violence or file for divorce (arts. 17, 23, 24 and 26).

45. **The Committee strongly reiterates its previous recommendations[30] that the State party revoke the Citizenship and Entry into Israel Law (Temporary Order), with a view to removing disproportionate and adverse restrictions on the right to family life. The**

[28] Ibid., para. 20.
[29] Ibid., para. 9.
[30] Ibid., para., 21.

State party should also address the vulnerability of women whose residency status solely depends on that of their spouses and take adequate protection measures, including in cases of domestic violence or divorce.

Conscientious objection to military service

46. The Committee reiterates[31] its concern about the predominantly military nature of the membership of the special military committee that decides on requests for conscientious objection to compulsory military service. It is further concerned that conscientious objectors continue to be subjected to repeated punishment and imprisonment for their refusal to serve in the army (arts. 2, 14, 18 and 26).

47. **The Committee reiterates its recommendations**[32] **that the State party take concrete measures to diversify the membership of the special military committee that handles requests for conscientious objection, with a view to making it fully independent and impartial. The State party should also put an end to the practice of repeated punishment and imprisonment of conscientious objectors, which may amount to a violation of the right not to be tried or punished again for the same offence.**

Freedom of expression

48. The Committee is deeply concerned about serious restrictions on the right to freedom of expression in the State party, in particular:

(a) The chilling effect of:

(i) Amendment No. 28 to the Entry into Israel Law, which allows the authorities to deny entry into Israel and the Occupied Palestinian Territory to any foreigner who publicly calls for a boycott of Israel;

(ii) The amendment of 2016 to the Disclosure Requirements Concerning Beneficiaries of Donations by a Foreign Political Entity Law, which requires non-governmental organizations that receive more than half of their funding from foreign sources to indicate that fact in every communication to the public;

(b) Increasing reports of the arbitrary arrest and detention of journalists and human rights defenders, as well as threats, intimidation, harassment and attacks directed against them, and of smear and defamation campaigns aimed at discrediting civil society organizations and discouraging support and funding for their work;

(c) The use of counter-terrorism legislation to criminalize the work of civil society organizations and their members, such as the designation, in October 2021, of six Palestinian civil society organizations as "terrorist organizations" and the declaration of these organizations as "unlawful" by the Israeli military commander in the West Bank (art. 19).

49. **Bearing in mind the Committee's previous recommendations,**[33] **the State party should:**

(a) **Review the above-mentioned laws that may restrict the exercise of freedom of expression with a view to bringing them into line with article 19 of the Covenant;**

(b) **Guarantee the effective protection of journalists and human rights defenders against any kind of threat, pressure, intimidation, attack and arbitrary arrest and detention, and ensure that such acts are independently and thoroughly investigated, those responsible are brought to justice and victims are provided with effective remedies;**

(c) **Refrain from intimidating, harassing, arresting, detaining or prosecuting for terrorist offences journalists and human rights defenders who are exercising their right to freedom of expression, and ensure that six Palestinian organizations designated**

[31] Ibid., para., 23.
[32] Ibid.
[33] Ibid.

as "terrorist" and declared "unlawful" are provided with procedural safeguards, including access to evidence, and the right of appeal to an independent body. The Committee further recalls that any restrictions on the right to freedom of expression on national security grounds must comply fully with the strict requirements of article 19 of the Covenant and the Committee's general comment No. 34 (2011).

Participation in public affairs

50. The Committee is concerned about legislation of the State party that may have discriminatory effects on the exercise of the right to participate in public affairs by members of minority groups, particularly the Arab population, including:

(a) Amendment No. 62 to the Knesset Elections Law, which raises the threshold for political parties to be elected to the Knesset from 2 per cent to 3.25 per cent;

(b) Amendment No. 44 to the Basic Law: The Knesset, which allows the expulsion of a Knesset member from tenure upon the approval of 90 Knesset members, on two grounds: incitement to racism; and support for armed struggle of an enemy State or a terrorist organization;

(c) Amendment No. 46 to the Basic Law: The Knesset 5777-2017, which expands the grounds for disqualifying candidates from election to the Knesset, including for "the negation of the existence of the State of Israel as a Jewish and democratic State" (arts. 2, 25 and 26).

51. **The State party should bring its electoral regulations and practices as well as its laws concerning political parties into full compliance with the Covenant, including its article 25. In particular, it should review the aforementioned amendments with a view to ensuring that members of minority groups, especially the Arab population, are not disproportionately affected in exercising their rights under article 25 of the Covenant.**

D. Dissemination and follow-up

52. **The State party should widely disseminate the Covenant, its fifth periodic report and the present concluding observations with a view to raising the awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into the official languages of the State party.**

53. **In accordance with rule 75, paragraph 1, of the Committee's rules of procedure, the State party is requested to provide, by 25 March 2025, information on the implementation of the recommendations made by the Committee in paragraphs 9 (national human rights institution), 29 (prohibition of torture and other cruel, inhuman or degrading treatment or punishment) and 43 (demolition and forced eviction in the West Bank, including East Jerusalem) above.**

54. **In line with the Committee's predictable review cycle, the State party will receive in 2028 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies to the list of issues, which will constitute its sixth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in 2030 in Geneva.**